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PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

SENATE—*Thursday, July 22, 1976*

The Senate met at 9:30 a.m. and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God of all life, Lord of history, Judge of the nations, we thank Thee for this new day, for its open doors of promise, for hours to be filled with constructive endeavor, and for the hope of new beginnings. Quicken in us the desire to do our very best for the Nation and the world. May we never break faith with yesterday's promises or leave unrepaired any of yesterday's wrongs. If any action here may make the world better, any word cheer despondent hearts or brace a weak will, or any prayer hasten Thy kingdom, there let us speak and pray. This day, O Lord, grant us the graces of courtesy, charity, sincerity, and diligence in our service.

We pray in the name of Him who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 22, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. LEAHY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, July 21, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Multinational Corporations of the Committee on Foreign Relations, and the Water Resources Subcommittee of the Committee on Public Works be authorized to meet during the session of the Senate today.

I should say for the information of the Senate that about 40 witnesses from Illinois and other Midwestern States will attend this public works subcommittee meeting which has to do with dam and lock No. 26 and for which arrangements were made several weeks ago. I make such an explanation for the benefit of the acting Republican leader, which is the reason for it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WATERGATE REORGANIZATION AND REFORM ACT OF 1976

Mr. MANSFIELD. Mr. President, yesterday was a red letter day with the passage of the Watergate reform legislation. I think that great credit should go to the members of the Government Operations Committee, headed by Senator RIBICOFF, and including Senators JAVITS, MCCLELLAN, PERCY, JACKSON, WEICKER, MUSKIE, METCALF, ROTH, CHILES, NUNN, BROCK, GLENN, and ALLEN for reporting the legislation.

Great credit should go to the full Judiciary Committee for its relentless inquiry into the Watergate affair and also to, and especially to Senator TUNNEY for his work in the area of international conglomerates and to Senator ROBERT C. BYRD for the role he played in the incisive questioning of the FBI at that time which had a large part in breaking the issue open, and also to all the members of the so-called Watergate Committee under the splendid chairmanship of our former colleague, Senator Sam Ervin.

Mr. President, less than 5 years ago, Watergate was only a name for an apartment-office building complex on the Potomac. Today it means criminal actions by public officials reflecting not only a disregard of the rule of law but an active attempt as well to undermine the constitutional fiber of our Republic.

The passage yesterday of the "Watergate Reform Act" completes the constructive response of the Senate to this national threat. No public institution can ever be fully insulated from such abuse, but checks can be incorporated into our institutions that should prevent future epidemics similar to Watergate. Yesterday's Senate action attempts to meet that challenge. I would express the hope, Mr. President, that the House would not be too far behind the Senate in bringing this legislation to its ultimate conclusion.

It is the culmination of the efforts begun by the Senate following the Watergate burglary. And it was the Senate that took the early initiative to right that national wrong. It was the Senate that perceived in late 1972 the full constitutional significance of the actions known as the Watergate dirty tricks. The resignation for the first time in 200 years of a President and Vice President and the conviction and punishment of most of the coconspirators who hatched the evil plots and subplots and carried them out was a great victory for the Constitution which provided for separate responsibilities for the three branches of Government. The Legislature fulfilled its constitutional role as fully as did the judiciary.

I do not intend to attempt to write a chronological history of Watergate and its aftermath. It would fill hundreds of CONGRESSIONAL RECORDS. I wish only to recite my pride in the Senate which played a significant—an indispensible role—in bringing to the public's attention the meaning and ramifications of the Watergate affair. The strength of our Government is truly derived from the people and it would be the people who would demand the ultimate transfer of Presidential power—not the Senate or the House or the courts. It was the Senate that commenced this process.

I recall my remarks to that first meeting of the Democratic conference in January 1973:

> The Federal Election Campaign Contributions Act, which we enacted in the 92nd Congress and which was put into effect this past year, may also need refinement and modification to reduce undue paper-shuffling and other burdens without compromising the principle of full disclosure. There are also some specific matters relating to the past elections which warrant investigatory attention. One is the so-called Watergate Affair which appears to have been nothing less than a callous attempt to subvert the political processes of the nation, in blatant disregard of the law. Another is the circulation by mail of false allegations against our colleagues, Senator MUSKIE, Senator JACKSON, and Senator HUMPHREY, during the Florida primary campaign, with the clear intent, to say the least of sowing political confusion.
>
> Still another is the disconcerting news that dossiers on Congressional candidates have been kept by the FBI for the last 22 years. This practice has reportedly been stopped. It would be well for the appropriate committees to see to it that appointed employees in the agencies of this government are not placed again in the position of surreptitious meddling in the free operation of the elec-

toral process. The FBI has, properly, sought to avoid that role in other situations. We must do whatever is necessary to see to it that neither the FBI, the military intelligence agencies or any other appointive office of the government is turned by its temporary occupants into a secret intruder into the free operation of the system of representative government in the United States.

On November 17, 1972, I addressed letters to Chairman EASTLAND of the Judiciary Committee and Chairman ERVIN of the Government Operations Committee. I requested that these two Chairmen get together and make a recommendation to the Leadership on how to proceed to investigate these and related matters, to the end that the Senate's effort may be concentrated. I renew that request today.

Mr. President, I ask unanimous consent that the two letters to which I then referred be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NOVEMBER 17, 1972.

Hon. SAM J. ERVIN, Jr.,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C. 20510

DEAR SAM: I have, today, sent a letter regarding the so-called Watergate Affair to Senator Eastland as Chairman of the Judiciary Committee. A copy of the letter is enclosed. You will note that it is my suggestion that the circumstances surrounding the Watergate Affair and other dubious campaign incidents be thoroughly investigated.

As I wrote Senator Eastland, the Judiciary Subcommittee on Constitutional Rights would seem to me to be an appropriate instrument for the conduct of this investigation by the Senate. It occurs to me, too, that the Government Operations Committee might be equally or even more adaptable to this purpose.

In any event, may I suggest that you and Senator Eastland discuss this matter and make a recommendation to the Senate for a single instrument of investigation. It seems to me imperative to concentrate the energy and resources of the Senate on an inquiry into the substance of the Watergate Affair. It has raised the very fundamental question of the right of every American to assurance from government of the integrity of the Federal electoral process.

As Majority Leader, I am prepared to give full support to whatever you may agree is necessary in the way of funds, staff and subpena powers to pursue a complete and impartial investigation which will lay bare all the facts on the Watergate Affair and other insidious campaign practices. With the election behind us, it seems to me that we can proceed to an inquiry into these matters in a dispassionate fashion. In truth, the question is not political; it is Constitutional. At stake is the continued vitality of the electoral process in the governmental structure of the nation.

I am taking the liberty of sending a copy of this letter to Senator Eastland.

Sincerely,

————.

NOVEMBER 17, 1972.

Hon. JAMES O. EASTLAND,
Chairman, Committee on Judiciary, U.S. Senate, Washington, D.C.

DEAR JIM: With the election over, it seems to me that it is time to examine fully into the circumstances surrounding the so-called Watergate Affairs. More is at stake than the impact which this episode may have had on one party or the other in the last election. Indeed, enough is already known of the facts to make clear that the matter is not to be dismissed as a "political caper" or some sort of playful escapade. Watergate was not politics as usual. It was, to say the least, politics at its most unusual. It was not politics Amercan-style.

The Watergate incident contains implications of great gravity for all political activity in this nation. What may be involved is not only a question of federal crimes which are, properly, subject to juridical disposition but also a cynical and dangerous intrusion into the integrity of the electoral processes by which the people of the nation choose the trustees of federal office. While the former are of primary interest to the judiciary, the latter is of profound concern to the Congress. That other questionable electoral practices may have been pursued in this or past elections, in my judgment, does not diminish by one iota, the need for Senate inquiry into the Watergate Affair.

It would be my hope, therefore, that as Chairman of the Judiciary Committee, you would see fit to ask the Subcommittee on Constitutional Rights, as an appropriate group, under instructions to use the full powers of subpeona, to inquire into this affair. Under the distinguished chairmanship of Senator Ervin, that subcommittee did much in the 92nd Congress to spotlight the laxity with which employees of entrenched agencies of government take it upon themselves, on occasion, to tred on the rights of individuals which are the precious heritage of every American. In a very fundamental sense, an insidious tampering with the electoral processes, as in the Watergate Affair, constitutes the most serious flaunting of these rights.

If your Committee concurs that this question warrants the most thorough investigation, it would be my hope that an inquiry might be conducted without political consideration and with the chips falling where they will in this affair and related matters. In the latter connection, I would note, for example, the spurious letters with regard to Senator Muskie, Senator Jackson and others which were introduced into the Florida primary. On that basis, perhaps, useful corrective legislation might be proposed for the consideration of the Senate in the 93rd Congress.

I am taking the liberty of dispatching a similar letter to Senator Ervin in his capacity as Chairman of the Government Operations Committee.

Sincerely,

————.

Mr. MANSFIELD. Mr. President, following the conference on January 4, the Democratic Policy Committee adopted a resolution urging an immediate investigation of campaign activities. Pursuant to that resolution, on February 7, 1973, the Senate adopted by a unanimous vote of 77–0, Senate Resolution 60 creating the Senate Select Committee on Presidential Campaign Activities under the chairmanship of Sam Ervin of North Carolina.

The Ervin committee, composed of a bipartisan membership of seven Senators, needs no elaboration, for its superb work is still a living memory to every American.

Following the final report of the Ervin committee and its stimulation of the Rodino impeachment proceedings, the Government Operations Committee, under the able leadership of Senator RIBICOFF and with the cooperation and recommendations of the Judiciary Committee, began the laborous task of translating these lessons into law. I commend all those who have played a part in this history—on both sides of the aisle—and I wish to register my pride in the Senate as this capstone is placed on this national drama.

We have acted in a timely way—a responsible way. The next generation and the next will be rewarded by the responsible bipartisan actions of the 93d and 94th Congresses.

The PRESIDING OFFICER (Mr. MORGAN). The Senator from Michigan.

Mr. GRIFFIN. Mr. President, the statement made by the majority leader outlining the chronology and record of the Senate with respect to the Watergate affair is most appropriate and interesting.

His remarks bring to mind a resolution, Senate Resolution 302, which has been on the calendar for a considerable period of time—a resolution that would establish a select Senate committee to investigate allegations of improper activities and corruption in the labor-management relations field, particularly with respect to the Teamsters Union.

Perhaps it is particularly appropriate that I mention this matter while the distinguished Senator from Arkansas (Mr. McCLELLAN) who chaired the McClellan Investigating Committee in the 1950's, happens to be in the Chamber.

It would be difficult to point to any situation where there is a greater need today for vigorous Senate investigation than the area to which I have referred.

Back in the 1950's, when the McClellan committee operated as a bipartisan investigating committee, half Democrat and half Republican, there was a thorough and comprehensive investigation. Such an investigation was needed at that time.

I suggest that it is obvious to the American people that the time has come again—to have a similar comprehensive investigation.

It should have started much earlier this year. We are late in the session now. I recognize that it would be difficult, perhaps, to gear up a select committee and get it going before adjournment of this Congress. But it could be done.

I want to recognize, of course, that there has been some activity within the Senate Committee on Government Operations with respect to this problem. But I must say that there has not been nearly as much activity and effort as the situation warrants. But, as I have said before, like Watergate, I think this situation calls for establishment of a select committee with an adequate staff which can focus and direct its full and undivided attention on this particular problem.

Accordingly, I hope the example that was set with respect to the Watergate matter will now be followed in the area of labor-management abuses which so obviously require investigation and reform.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. MORGAN). Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 30 minutes, with statements therein limited to 5 minutes.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:10 a.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2447. An act to amend title 4 of the United States Code to make it clear that Members of Congress may not, for purposes of State income tax laws, be treated as residents of any State other than the State from which they were elected.

S. 3295. An act to amend and extend laws relating to housing and community development.

H.R. 11504. An act to amend section 502 of the Merchant Marine Act, 1936.

H.R. 13308. An act to amend the Federal Aviation Act of 1958 to extend the authority of the Secretary of Transportation with respect to war risk insurance.

H.R. 14231. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 2:11 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that, on reconsideration by the House and two-thirds of the Members agreeing, the bill (H.R. 12384) to authorize certain construction at military installations and for other purposes, was passed, the objections of the President notwithstanding.

The message also announced that, on reconsideration by the House and two-thirds of the Members agreeing, the bill (S. 3201) to authorize a local public works capital development and investment program, to establish an antirecessionary program, and for other purposes, was passed, the objections of the President notwithstanding.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

PROPOSED AMENDMENTS TO THE BUDGET REQUEST FOR THE LEGISLATIVE BRANCH (S. Doc. No. 94–238)

A letter from the President of the United States transmitting proposed amendments to the budget request for the fiscal year 1977 in the amount of $2,513,975 for the legislative branch (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

UPSTREAM WATERSHED PROTECTION PROJECTS

A letter from the Director of the Office of Management and Budget transmitting, pursuant to law, eleven work plans for upstream watershed protection (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Audit of Federal Deposit Insurance Corporation for the Year Ended June 30, 1975" (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Greater Emphasis on Competition Is Needed in Selecting Architects and Engineers for Federal Projects" (with an accompanying report); to the Committee on Government Operations.

UPSTREAM WATERSHED PROTECTION PROJECTS

A letter from the Director of the Office of Management and Budget transmitting, pursuant to law, six work plans for upstream watershed protection (with accompanying papers); to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLELLAN, from the Committee on Appropriations, with amendments:

H.R. 14262. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1046).

By Mr. EAGLETON, from the Committee on Labor and Public Welfare, with an amendment:

S. 1681. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to cosmetic safety (Rept. No. 94–1047).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

William A. Ingram, of California, to be U.S. district judge for the northern district of California.

William W. Schwarzer, of California, to be U.S. district judge for the northern district of California.

By Mr. HRUSKA, from the Committee on the Judiciary:

Cecil F. Poole, of California, to be U.S. district judge for the northern district of California.

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Robert C. Chase, of Virginia, to be Deputy Director of the Community Services Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, July 22, 1976, he presented to the President of the United States the following enrolled bills:

S. 2447. An act to amend title 4 of the United States Code to make it clear that Members of Congress may not, for the purposes of State income tax laws, be treated as residents of any State other than the State from which they were elected.

S. 3295. An act to amend and extend laws relating to housing and community development.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ROBERT C. BYRD:

S. 3689. A bill to reorganize the executive branch of the Government to create a Department of Health, a Department of Education, and a Department of Welfare, and for other purposes. Referred to the Committee on Government Operations.

By Mr. EAGLETON:

S. 3690. A bill for the relief of R. Dean Dawes and others. Referred to the Committee on the Judiciary.

By Mr. McGOVERN (for himself and Mr. ABOUREZK):

S. 3691. A bill to provide emergency loans and loan guarantees to farmers adversely affected by major disaster or emergency conditions occurring in 1976, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. BROOKE:

S. 3692. A bill to amend the National Housing Act to provide for the insurance of equity adjusted mortgages, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S.J. Res. 207. A joint resolution relating to the withdrawal of all minerals in certain areas of the Los Padres National Forest, California, from all forms of appropriation under the mining law and from disposition under all laws pertaining to mineral leasing. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERT C. BYRD:

S. 3689. A bill to reorganize the executive branch of the Government to create a Department of Health, a Department of Education, and a Department of Welfare, and for other purposes. Referred to the Committee on Government Operations.

HEALTH, EDUCATION, AND WELFARE REFORM ACT

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a bill which, if enacted, will break up the Department of Health, Education, and Welfare—DHEW—into three separate and distinct departments, each to be headed by a Cabinet-level appointee.

I am introducing this legislation because my observations of, and experience with, the operations of the Department of HEW over a long period of time have brought me to the conclusion that the Department of HEW—as presently constituted—is cumbersome, inefficient, and unmanageable. In addition, HEW is properly responsible, neither to the American people—whom it is designed to serve—to the Congress, which is attempting—though unsuccessfully—to exercise a sufficient amount of oversight to prevent waste, mismanagement, and abuse; nor to the President, who constitutionally is authorized to direct the operations through his appointive Secretary of that Department.

When DHEW was founded in 1953, it had roughly 30,000 employees. It now has 130,000 employees. Of those 130,000 employees, 5,000 are assigned to the Secretary's Office alone.

During the past year, newspapers and periodicals throughout the Nation have carried stories detailing the overpayments and underpayments occurring in many programs which are administered by the Social Security Administration.

The Office of Education—OE—the budget of which has increased from $231 million in 1953 to $6 billion in fiscal year 1977, is continuing to increase, both in terms of dollars expended and numbers of persons employed. Yet many persons—including myself believe that the quality of education is declining rather than improving.

Mr. President, I do not believe that any one individual, regardless of his competence or intellect, can effectively grasp the necessary understanding of all of the programs presently administered by DHEW, nor, concomitantly, can he provide necessary guidance and maintain the necessary control of them. Certainly, the recent disclosures of large overpayments in welfare programs would justify and support the establishment of a Department of Welfare. Such a department could hopefully provide an effective return to the Government in the form of corrections of welfare abuses; elimination of welfare cheaters; and monetary savings, which should accompany such improvements.

I am introducing this legislation because I believe that having a separate Cabinet-level officer for each of those three departments—and making that Cabinet officer directly responsible and answerable for the actions of his own respective separate department—will promote more economical and efficient operations of health, education, and welfare programs.

Over the past two decades, the Federal Government has increased drastically both in size and complexity. The number of Cabinet-level departments has increased from 9 to 12; the number of major independent agencies has increased from 27 to 41; and the number of domestic programs has increased to well over 1,400.

I believe that now is the time to stop creating new Government-sponsored programs and bureaus and to concentrate our efforts toward reinforcing and making more efficient and responsible, those presently authorized and in operation. Therefore, as one step in this direction, I am introducing this bill today, and I urge the Senate Government Operations Committee to hold early hearings on my bill and to favorably report it to the Senate.

By Mr. McGOVERN (for himself and Mr. ABOUREZK):

S. 3691. A bill to provide emergency loans and loan guarantees to farmers adversely affected by major disaster or emergency conditions occurring in 1976, and for other purposes. Referred to the Committee on Agriculture and Forestry.

EMERGENCY AGRICULTURAL RELIEF ACT OF 1976

Mr. McGOVERN. Mr. President, I send to the desk for appropriate reference the Emergency Agricultural Relief Act of 1976 with the cosponsorship of my junior colleague from South Dakota (Mr. ABOUREZK). Mr. President, I am reluctant to introduce legislation this late in the 94th session of the Congress and I am completely aware of the press of business before the Senate in its schedule to adjourn for the upcoming elections. I am compelled to do so, however, in response to the most devastating drought conditions in the upper Midwest since the tragic droughts of the 1930's. Virtually every county in South Dakota has been designated a disaster area along with many counties in the adjoining States of Minnesota, North Dakota, and Wisconsin. In northeast South Dakota, during this year's growing season—April, May, and June—precipitation totaled 3.5 inches. This is but 38 percent of the normal precipitation usually received during this period. A check of climatic data dating back to 1890 indicates that this year's growing season for this area is the driest on record. Comparative rainfall amounts for this same period were 3.9 inches in 1900 and 4.65 inches in 1936.

The oats crop in South Dakota is projected at the lowest since 1936 and 78 percent below the 1974 level. Wheat production is expected to be 48 percent below the 1974 crop. Other small grain crops, along with hay and alfalfa, are similarly affected.

Dairy and beef foundation herds are feeling the crunch of drought conditions even more. With feed at a premium, sales barns are reporting record numbers of milk cows and producing heifers reaching the slaughter markets. At the moment, no one is able to assess the replacement value of this loss but it is obvious to every one of my constituents that these figures will run into the millions of dollars.

The ripple effect of the drought in other economic sectors of the State has not yet been felt. Economists at the State level of government are hard at work in an effort to determine the ultimate losses that will soon appear on the main streets of our small town and cities. Rainfall deficits ranging from 3½ to 9 inches can mean nothing but hard times down the line for small businessmen, wage earners, and consumers.

On July 1, 1976, my Subcommittee on Agricultural Credit and Rural Electrification in conjunction with the Subcommittee on Agricultural Production, Marketing and Stabilization of Prices chaired by my able colleague from Kentucky (Mr. HUDDLESTON) held oversight hearings on the effectiveness and responsiveness of our disaster programs.

Lt. Gov. Harvey Wollman, South Dakota Secretary of Agriculture, Bob Duxbury and South Dakota Farmers Union President Ben Radcliffe were joined by witnesses from Minnesota and Wisconsin who uniformly assessed the present disaster programs as fragmented, uncoordinated and operating under confusing and overlapping criteria. These witnesses also testified regarding the ineffectiveness of present programs to respond to multiple disaster designations where the long range of protracted conditions have a deeper effect on the whole community as distinguished from a single isolated situation for a short period of time. Indeed, in South Dakota, the incidences of multiple designation are most evident—27 counties have been cited in 3 of the last 5 years and an additional 18 counties have received this designation twice in the last 5 years. I refer to this hearing dialog in this statement, Mr. President, to indicate to Members of this body that there have been hearings on this problem and that a record is available. Few suggest that permanent legislation regarding disaster designations is not desirable. My purpose in introducing this legislation is not to cover that need, though, in my opinion, we must direct our efforts that way in the coming year. The purpose of this bill is to deal directly and forthrightly with a cruel and immediate situation—financial assistance now, when it is most urgently needed.

The legislation I send to the desk today addresses itself through three separate titles to three distinct categories where I feel that Federal assistance should be forthcoming.

The first category deals with dairy and beef operators and involves the restoration of foundation livestock herds. Senators recall the Emergency Livestock Credit Act of 1974 where we reacted quickly when the bottom fell out of the cattle market. This title is fashioned after that situation but is restricted to the restoration of breeding stock which farmers were forced to sell because of short feed supplies. It would provide an emergency 90 percent guaranteed loan to restore foundation herds at average 1974–1975 levels of like quality and breed. Under its provisions, the FmHA would be authorized to subsidize 50 percent of the interest payments for the first two years and would provide a 7-year term with a provision for an extension in the event of clear need.

Title II would aid eligible farmers with proven grain losses. Eligibility would require a proven loss of at least one-third of normal crop return and would include all grains plus various crops of hay. These loans would follow the guarantee types expressed in title I as well as the interest subsidy provision but be limited to a maximum of $60,000. Since loans under title I and title II come from private sources and carry the guarantee of the Government, they are exempt from any general limitation imposed by statute on expenditures and net lending—budget outlays—of the United States. The interest subsidy would involve only a minimal outlay of Government funds. Outstanding guarantees under title I are limited to $500,000,000 and under title II to $200,000,000 and shall be administered under the fund created in section 309 of the Consolidated Farm and Rural Development Act.

The third title of the act would authorize emergency direct loans to farmers whose "backs are against the wall" and who may be forced to abandon farming unless immediate assistance is available. I envision these loans to be made principally to young farmers who have a net land equity of less than $50,000 and a net operational equity of $25,000. The maximum limit for these loans would be $30,000, carry a 1-percent interest payment and a 10-year term. The bill provides for a $5,000 forgiveness limit should their areas continue to receive drought designations in 2 of the next 5 years. This title would involve a budget outlay of an undetermined amount but one which I feel that this Congress should be willing to advance a commitment.

Mr. President, let me emphasize that this measure is in the nature of an emergency. Its authority is scheduled to expire next year. I view it as a real test of this body's commitment to the farmers of our country whom we are all prone to praise in times of plenty and to forget in times of their great need. If we want them to continue to feed our Nation and provide billions of dollars each year in exports to bail us out of a bad balance of trade situation, then let us show our gratitude by passing this urgently needed legislation.

I ask unanimous consent that the text of the legislation I propose be printed at the conclusion of my remarks as well as a July 8, 1976, statement on rainfall from the National Weather Service, Sioux Falls, S. Dak.; an article from the Rapid City Journal dated July 1, 1976, entitled "Farm Disaster Laws Not Working Well, Panel Told"; an article from the Sioux Falls Argus Leader dated July 2, 1976, entitled "McGovern Committee Hears Diversity of Drought Strategies"; and two articles from the Brookings, S. Dak., Daily Register dated July 13, 1976, entitled "Drought Shrivels State Wheat Crop" and "Drought Impact Just Starting."

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 3691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Emergency Agricultural Relief Act of 1976.

TITLE I—LOAN GUARANTEES TO RESTOCK FOUNDATION HERDS

Sec. 101. (a) The Secretary of Agriculture is authorized and directed to provide financial assistance in restocking foundation livestock herds depleted as a result of natural disaster or emergency to bona fide farmers and ranchers (1) who are primarily and directly engaged in agricultural production, (2) who have substantial operations in breeding, raising, fattening, or marketing livestock, (3) whose livestock operations in breeding, raising, fattening, or marketing are located in areas designated as major disaster or emergency by the President under sections 5121 to 5202 of Title 42, United States Code, or designated as an emergency by the Secretary under section 1961 of Title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended) during the calendar year 1976 and, (4) who have been forced to sell off livestock causing a reduction in normally-constituted foundation herds as a result of such major disaster or emergency conditions. In cases of corporations or partnerships, such financial assistance shall be extended only when a majority interest in such corporations or partnerships is held by stockholders or partners who themselves are primarily and directly engaged in such agricultural production. For the purposes of this Title, the term "livestock" shall mean beef cattle, dairy cattle, sheep, and goats and the offspring, including dairy cattle raised and maintained for the primary purpose of marketing dairy products, and "normally-constituted foundation herd" shall mean the average number of livestocks in the farmer's foundation herd during the three years immediately preceding calendar year 1976 or, if the farmer has had a livestock operation for less than those three years, during the years in which the farmer has had a livestock operation.

(b) Pursuant to this authorization and direction, the Secretary shall guarantee loans, including both principal and interest, made by any legally organized lending agency to the bona fide farmers and ranchers described in subsection (a) of this section for the purpose of financing the purchase of livestock for restoration of foundation livestock herds, which otherwise meet the purposes and conditions of this Title. As used in this Title, a guaranteed loan is one which is made, held, and serviced by a legally organized lending agency and which is guaranteed by the Secretary hereunder: *Provided,* That the term "legally organized lending agency" shall be deemed to include the Federal Financing Bank only to the extent that such Bank may hold the guaranteed portion of such loans.

(c) No contract guaranteeing any such loan shall require the Secretary to guarantee more than 90 per centum of the principal and interest on such loan.

(d) No fees or charges shall be assessed by the Secretary for any guarantee provided by him under this Title.

(e) Loans guaranteed under this Title shall bear interest at a rate to be agreed on by the lender and borrower.

(f) Loans guaranteed under this Title shall be for the period reasonably required by the needs of the borrower, taking into consideration the security the borrower has available, but not exceeding an original term of seven years. Loans may be renewed for not more than three additional years.

(g) As additional financial assistance, borrowers to whom loans are made that are guaranteed under this Title shall be reimbursed by the Secretary for one-half of the amount of payments made by the borrower during the first two years of the loan repayment period on interest accrued during such period, on submission to the Secretary of proof of such interest payments: *Provided,* That such reimbursements shall not exceed $5,000 for each guaranteed loan.

Sec. 102 As a condition to the Secretary of Agriculture contracting to guarantee a loan under this Title—

(a) The lender shall certify that—

(1) the lender is unwilling to provide credit to the loan applicant in the absence of a guarantee authorized by this Title;

(2) the loan applicant is directly and in good faith engaged in agricultural production and has a substantial operation in breeding, raising, fattening, or marketing livestock; and

(3) the loan is for the purpose of financing the purchase of livestock, and the loan does not exceed the amount necessary to permit the restoration of the loan applicant's foundation herd to the level of his normally-constituted foundation herd.

(b) The loan applicant shall—

(1) submit data showing (i) that he sold foundation herd livestock as a result of a major disaster or emergency occurring in 1976, (ii) that such sale reduced his foundation herd to a size smaller than his normally-constituted foundation herd, and (iii) the number of livestock by which the normally-constituted foundation herd was reduced;

(2) certify that he will be unable to obtain financing in the absence of the guarantee authorized by this Title; and

(3) certify that the loaned monies will be used to purchase only livestock of the same or comparable kind and breed that was lost from the normally-constituted foundation herd as a result of the major disaster or emergency.

(c) The Secretary shall make determinations that—

(1) the loan applicant conducted his livestock operation at the time of loss to his normally-constituted foundation herd in an area that has been designated by the President under sections 5121 to 5202 of Title 42, United States Code, as a major disaster or emergency or by the Secretary under section 1961 of Title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended) as an emergency during calendar year 1976; and

(2) there is reasonable probability of accomplishing the objectives of this Title and repayment of the loan.

Sec. 103. Loans guaranteed under this Title shall be secured by collateral adequate to protect the Government's interest, as determined by the Secretary of Agriculture.

Sec. 104. Loans otherwise meeting the purposes and conditions of this Title, that contain repayment arrangements by which the borrower is not required to begin repayment of principal until up to two years after the loan is made, shall be eligible for loan guarantees under this Title.

Sec. 105. Loan guarantees outstanding under this Title shall not exceed $500,000,000 at any one time.

Sec. 106 (a) Subject to the provisions of section 101(c) of this Title, the fund created in section 309 of the Consolidated Farm and Rural Development Act shall be used by the Secretary of Agriculture for the discharge of the obligations of the Secretary under contracts of guarantee made pursuant to this Title. Such fund may also be utilized by the Secretary to pay administrative expenses of the Secretary necessary to carry out the provisions of this Title.

(b) The Secretary is further authorized to utilize such fund to purchase, on such terms and conditions as he may deem appropriate, the guaranteed portion of any loan made pursuant to this Title and to pay such expenses and fees incident to such purchases.

Sec. 107. Contracts of guarantee under this Title shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

Sec. 108. Any contract of guarantee executed by the Secretary of Agriculture under this Title shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the itme it became a holder.

Sec. 109. The provisions of this Title shall become effective on enactment of this Act and the authority to make new guarantees under this Title shall terminate on June 30, 1977.

Sec. 110. (a) The provisions of section 310B(d)(6) of the Consolidated Farm and Rural Development Act shall apply to loans guaranteed under this Title.

(b) Contracts of guarantee executed pursuant to the provisions of this Title shall be fully assignable.

Sec. 111. The Secretary of Agriculture is authorized to issue such regulations as he determines necessary to carry out the provisions of this Title. The proposed regulations shall be issued as soon as possible, but in no event later than thirty days from the date of enactment of this Act. Insofar as practicable, the Secretary shall complete action on each loan guarantee within 30 days after its receipt.

TITLE II—OPERATIONAL LOAN GUARANTEES AFTER DISASTER LOSS TO CROPS

Sec. 201. (a) The Secretary of Agriculture is authorized and directed to provide financial assistance for operational expenses in maintaining a farm, to bona fide farmers—

(1) who are primarily and directly engaged in agricultural production, (2) whose farm operations are located in areas designated as major disaster or emergency by the President under sections 5121 to 5202 of Title 42, United States Code, or designated as an emergency by the Secretary under section 1961 of Title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended) during calendar year 1976, and (3) who have suffered a proven loss in the production of grain and hay in 1976, amounting to at least one-third of the normal crop, as a result of such major disaster or emergency conditions. In cases of corporations or partnerships, such financial assistance shall be extended only when a majority interest in such corporations or partnerships is held by stockholders or partners who themselves are primarily and directly engaged in such agricultural production. For the purposes of this Title, the term "grain" shall mean corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oil seeds, the term "hay" shall mean grasses or legumes, or a combination thereof, that are harvested by mowing and cured to be fed as a roughage to livestock, and the term "normal crop" shall mean the average yearly crop of grain and hay produced by the farmer during the five years immediately preceding 1976, but such average shall not include yearly crops produced in a year in which the crop was affected by a major disaster or emergency condition.

(b) Pursuant to this authorization and direction, the Secretary shall guarantee loans, including both principal and interest, made by any legally organized lending agency to the bona fide farmers described in subsection (a) of this section for the purpose of financing the continued operation of their farms, which otherwise meet the purposes and conditions of this Title. As used in this Title, a guaranteed loan is one which is made, held, and serviced by a legally organized lending agency and which is guaranteed by the Secretary hereunder: *Provided,* That the term "legally organized lending agency" shall be deemed to include the Federal Financing Bank only to the extent that such Bank may hold the guaranteed portion of such loans.

(c) No contract guaranteeing any such loan shall require the Secretary to guarantee more than 90 per centum of the principal and interest on such loans.

(d) No fees or charges shall be assessed by the Secretary for any guarantee provided by him under this Title.

(e) Loans guaranteed under this Title shall bear interest at a rate to be agreed on by the lender and borrower.

(f) Loans guaranteed under this Title shall be for the period reasonably required by the needs of the borrower taking into consideration the security the borrower has available, but not exceeding an original term of seven years. Loans may be renewed for not more than three additional years.

(g) As additional financial assistance, borrowers to whom loans are made that are guaranteed under this Title shall be reimbursed by the Secretary for one-half of the amounts of payments made by the borrower during the first two years of the loan repayment period on interest accrued during such period, on submission to the Secretary of proof of such interest payments: *Provided,* That such reimbursements shall not exceed $5,000 for each guaranteed loan.

Sec. 202. As a condition to the Secretary of Agriculture contracting to guarantee a loan under this Title—

(a) The lender shall certify that—

(1) the lender is unwilling to provide credit to the loan applicant in the absence of a guarantee authorized by this Title;

(2) the loan applicant is directly and in good faith engaged in agricultural production;

(3) the loan is for the purpose of financing the farm operation and the loan does not exceed the actual amount of proven loss to crops suffered by the loan applicant as a result of major disaster or emergency conditions occurring in 1976: *Provided,* That principal balance outstanding at any one time on loans guaranteed under this Title for any borrower shall not exceed $60,000.

(4) in the case of any loan to refinance the farm operations of a loan applicant (i) the loan and refinancing are absolutely essential in order for the loan applicant to remain in business, (ii) the lending agency would not refinance such loan in the absence of a guarantee, and (iii) the lending agency is not currently refinancing similar loans to others without such guarantees.

(b) The loan applicant shall—

(1) submit data showing (i) the loss in production of grain and hay during 1976 incurred as a result of major disaster or emergency conditions occurring in 1976, and (ii) that as a result of the loss, the total crop of grain and hay that he produced in 1976 amounted to less than two-thirds of his normal crop; and

(2) certify that he will be unable to obtain financing in the absence of any guarantee authorized by this Title.

(c) The Secretary shall make determinations that—

(1) the loan applicant conducted his farm operation at the time of the loss to his grain and hay crop in an area that has been designated by the President under sections 5121 to 5202 of Title 42, United States Code, as a major disaster or emergency or by the Secretary under section 1961 of Title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended) as an emergency during calendar year 1976; and

(2) there is reasonable probability of accomplishing the objectives of this Title and repayment of the loan.

Sec. 203. Loans guaranteed under this Title shall be secured by collateral adequate to protect the Government's interest, as determined by the Secretary of Agriculture.

Sec. 204. Loan guarantees outstanding under this Title shall not exceed $200,000,000 at any one time.

Sec. 205 (a) Subject to the provisions of section 201(c) of this Title, the fund created in section 309 of the Consolidated Farm and Rural Development Act shall be used by the Secretary of Agriculture for the discharge of the obligations of the Secretary under contracts of guarantee made pursuant to this Title. Such funds may be utilized by the Secretary to pay administrative expenses of the Secretary necessary to carry out the provisions of this Title.

(b) The Secretary is further authorized to utilize such fund to purchase, on such terms and conditions as he may deem appropriate, the guaranteed portion of any loan made pursuant to this Title and to pay such expenses and fees incident to such purchases.

Sec. 206. Contracts of guarantee under this title shall not be included in the total of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

Sec. 207. Any contract of guarantee executed by the Secretary of Agriculture under this title shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

Sec. 208. The provisions of this title shall become effective upon enactment of this Act and the authority to make new guarantees under this title shall terminate on June 30, 1977.

Sec. 209. (a) The provisions of section 310B (d)(6) of the Consolidated Farm and Rural Development Act shall apply to loans guaranteed under this title.

(b) Contracts of guarantee executed pursuant to the provisions of this title shall be fully assignable.

Sec. 210. The Secretary of Agriculture is authorized to issue such regulations as he determines necessary to carry out the provisions of this title. The proposed regulations shall be issued as soon as possible, but in no event later than thirty days from the date of enactment of this Act. Insofar as practicable the Secretary shall complete action on each loan guarantee application within thirty days after its receipt.

TITLE III—DIRECT LOANS TO FARMERS IN DISASTER AREAS

Sec. 310. (a) The Secretary of Agriculture shall make loans in any area which has been designated as a major disaster or emergency by the President under sections 5121 to 5202 of title 42, United States Code, or designated as an emergency by the Secretary under section 1961 of title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended) on two or more separate occasions since January 1, 1971, to bona fide farmers (1) who are primarily and directly engaged in agricultural production, (2) who at the time of application for a loan under this title hold equitable assets in farm real estate of less than $50,000 and other unencumbered non-real estate assets of less than $25,000, and (3) who can show to the satisfaction of the Secretary (i) that such loans are necessary to the continued existence of their agricultural units, (ii) that the borrowed funds will be fully utilized within one year after the date received, and (iii) that they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan.

(b) In cases of corporations or partnerships, loans shall be made under this title only when a majority interest in such corporations or partnerships is held by stockholders or partners who themselves are primarily and directly engaged in such agricultural production and the corporation or partnership meets the other criteria and conditions set out in subsection (a) of this section and this title.

Sec. 302. Loans may be made under this Title for (1) paying costs incident to reorganizing the farming system for more profitable operation, (2) purchasing livestock, poultry, and farm equipment, (3) purchasing feed, seed, fertilizer, insecticides, and farm supplies and to meet other essential farm operating expenses, including cash rent, (4) financing land and water development, use, and conservation, (5) refinancing existing indebtedness, and (6) other farm and home needs including but not limited to family subsistence.

Sec. 303. (a) Loans made under this title shall not exceed $30,000 in amount.

(b) The Secretary of Agriculture shall make all loans under this title at a rate of interest of one per centum per annum.

(c) The period for repayment of loans under this title shall be for the time period reasonably required by the needs of the borrower, but for a period not exceeding ten years.

(d) Loans made under this title shall be made upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided*, That the security is adequate to assure repayment of the loan; except that if such security is not available because of the disaster, the Secretary shall accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the major disasters or emergencies and which in the opinion of the Secretary, together with his confidence in the repayment ability of the loan applicant, is adequate security for the loan.

(e) In the administration of the loan program under this title, in the case of occurrence of two or more separate major disasters or emergencies as designated by the President under sections 5121 to 5202 of Title 42, United States Code, or the Secretary under section 1961 of Title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended), that directly affect a borrower's farm operation within the first five years following the making of a loan, the Secretary may cancel the principal of a loan to such borrower except that the total amount so canceled shall not exceed $5,000.

SEC. 204(a). The Secretary of Agriculture is authorized to utilize the fund created in section 309 of the Consolidated Farm and Rural Development Act for carrying out the purposes of this title.

(b) There are authorized to be appropriated to the fund created in section 309 of the Consolidated Farm and Rural Development Act such additional sums as the Congress shall from time to time determine to be necessary to carry out the purposes of this title.

SEC. 305. The provisions of this title shall become effective upon enactment of this Act and the authority to make new loans under this title shall terminate on December 31, 1977.

SEC. 306. The Secretary of Agriculture is authorized to issue such regulations as he determines necessary to carry out the provisions of this title. The proposed regulations shall be issued as soon as possible, but in no event later than thirty days from the date of enactment of this Act. Insofar as practicable, the Secretary shall complete action on each loan application within thirty days of its receipt.

SPECIAL AGRICULTURAL WEATHER STATEMENT

EASTERN SOUTH DAKOTA DROUGHT WORSENS DURING JUNE

The average precipitation for northeast South Dakota during this year's growing season . . . April, May and June . . . totaled 3.50 inches. This is 38 percent of the normal precipitation usually received during this period. A check of climatic data dating back to 1890 indicates that this year's growing season for northeast South Dakota is the driest on record. Some comparative rainfall amounts for this same period are . . . 3.90 inches in 1900 and 4.65 inches in 1936.

The same situation is true for east-central South Dakota where the average growing season's precipitation through June was 4.13 inches. This is 44 percent of the normal precipitation usually received during this same period. This again is the driest on record for this three month period. Some comparative rainfall amounts for this same period are . . . 4.42 inches in 1934 and 4.84 inches in 1973.

The southeast portion of South Dakota has received an average of 6.19 inches for this growing season or 61 percent of normal. However . . . along the Minnesota, South Dakota and Iowa border east of a line from Wentworth to Vermillion . . . the growing season precipitation deficiencies are as great as in northeast South Dakota.

There is another area of large precipitation deficiencies in south-central South Dakota from Pierre to the Nebraska border.

Some rain occurred in eastern South Dakota during the first week of July but the amounts varied greatly and the area coverage was spotty.

Growing season—April, May June—Precipitation and departure from normal by station

Precipitation and departure from normal:

NORTHEAST

Leola	5.90	−2.99
Aberdeen	3.20	−4.96
Mellette	4.71	−4.45
Webster	3.23	−6.26
Milbank	1.95	−6.52
Summit	2.70	
Waubay	2.44	
Ashton	4.85	
Conde	4.21	
Wilmot	2.59	

EAST CENTRAL

Redfield	6.77	−2.08
Raymond	3.73	−4.18
Clark	3.94	−4.91
Watertown	3.80	−5.26
Clear Lake	3.01	−6.63
Miller	2.76	−6.33
Huron	3.69	−4.78
Brookings	5.02	−4.81
Gann Valley	3.33	−4.83
Forestburg	4.77	−4.27
Howard	4.71	−5.02
Flandreau	4.59	−5.40
Wentworth	4.10	−5.91
Wessington Spr	4.70	−4.45
Madison	4.40	
Bryant	5.71	
Iroquois	2.83	
Wolsey	3.87	

SOUTHEAST

White Lake	6.35	−3.18
Mitchell	6.88	−2.56
Alexandria	7.33	−2.56
Sioux Falls	4.19	−5.80
Armour	5.98	−3.50
Parkston	7.99	−2.37
Marion	5.52	−4.63
Menno	8.26	−2.20
Wagner	6.41	−3.99
Centerville	5.54	−5.06
Vermillion	5.40	−4.49
Pickstown	6.06	−4.28
Bridgewater	6.35	

[From the Rapid City (S. Dak.) Journal, July 1, 1976]

FARM DISASTER LAWS NOT "WORKING WELL," PANEL TOLD

(By Andy Montgomery)

WASHINGTON.—South Dakota witnesses Thursday sharply disputed Ford administration contentions that present farm disaster assistance laws are "working well."

Their disagreement was underscored by word that South Dakota crop and pasture losses stemming from the drought and a late frost had mounted to an estimated $700 million by mid June.

"This," South Dakota Secretary of Agriculture Robert Duxbury told two Senate Agricultural subcommittees, "does not include losses to the livestock end of our industry.

"Realism causes us to lower our economic goals for 1976," he testified. "Very simply, we hope our farm and ranch families can remain in business and meet their financial obligations."

But Duxbury suggested that "these . . . simple goals" cannot be met unless the executive branch and the Congress "effect some appropriate forms of aid at the earliest possible date."

He and other witnesses, including some from Minnesota and Wisconsin, stressed the need for coordination of federal disaster relief programs as a starter.

But whether Congress will act this year on legislation to alleviate the economic hardships suffered by midcontinent farmers and ranchers remains in doubt.

What is not in doubt is that the time, according to Sen. George McGovern, "has come for us to examine the effectiveness of our federal response to intermediate type disasters which are regional in scope and which continue over a protracted time."

McGovern said that while the federal government is primed to move quickly in cases of major disasters, like the 1972 Rapid City flood, it lags "when the disaster is not as dramatic or occurs gradually over a longer period of time."

McGovern, who spearheaded the hearing, emphasized that "clearly the loss to our citizens can be just as great, and recovery just as low, as in the case of more publicized disasters."

He urged government red tape be eliminated and programs be better coordinated so relief can be dispatched faster to those hard hit by emergencies.

On that point Under Secretary of Agriculture John A. Knebel said his agency and the President "have made and are making efforts to provide all assistance possible to drought victims."

He took note of the concern by cattlemen and farmers "that the drought may have damaged this season's hay crops to the extent that sufficient hay may not be available in the coming months to feed livestock.

"It is possible," Knebel indicated, "to cover this eventuality by extending the period of the presidential emergency." He promised evaluation of the hay and other feed crops "will be made to determine if extensions of the emergency declarations should be made."

But over all, he summed up, "the present laws pertaining to farm disaster assistance appear to be working well Certainly they have been applied readily recently and they appear broad enough to cover foreseeable needs."

Ben H. Radcliffe, president of the South Dakota Farmers Union, warned panel members "there is little doubt . . . but what we are now faced in South Dakota with the most devastating drought since the dust bowl era of the 1930s."

He said, "if we are to survive 1976 without a complete economic catastrophe in South Dakota and other states in our region we will have to establish both short and long range disaster programs."

Unless this is accomplished, he added, both young farmers and farmers nearing retirement "will simply give up."

MCGOVERN COMMITTEE HEARS DIVERSITY OF DROUGHT STRATEGIES

(By Paul Fanlund, Argus-Leader Staff Writer)

After a three-hour Senate hearing recounting the drought woes of the Upper Midwest Thursday, Sen. George McGovern sounded confident the session produced momentum on several fronts for improved federal assistance.

The joint session brought together two Senate Agriculture subcommittees, one chaired by McGovern, and was intended primarily to consider options for long-term drought response planning. But it also focused attention on more immediate concerns, one being the proposed extension of the 30-day federal emergency period.

"There was a great deal of testimony (urging) that the 30-day emergency designation be extended to upwards of 90 days," McGovern said in a telephone interview. He said Sen. Hubert Humphrey (D-Minn.), Sen. Walter Huddleston (D-Ky.), and he have cosigned a letter to President Ford urging the extension.

The President has designated 134 counties in South Dakota, Minnesota, and Wisconsin as disaster areas, qualifying them for federal assistance. The 30-day emergency period expires July 16.

Undersecretary of Agriculture John Knebel was quoted as saying an evaluation of the emergency extension would be completed by July 14.

Various witnesses, however, reportedly testified the emergency designation is of little use. To qualify for assistance under applicable federal programs, farmers must have less than a 30-day supply of hay, and few meet that criterion.

The lack of effective short-term programs provides a major impetus for formulating long-term proposals, McGovern said.

"I have been generally impressed with the manner in which federal agencies act in response to natural disasters with coordinated programs for assistance," McGovern said. "However, we don't do as good a job when we face long-term economic disasters."

To that end, McGovern has proposed eight possible alternatives for long-term drought planning. Of those, he said Thursday, he considers the expansion of the Federal Crop Insurance Program to be a key.

The proposal would make insurance available to all counties, for all crops, and for all acreage. Currently crop insurance can vary significantly from county to county. Many adjacent South Dakota counties insure different crops.

The outlook is good for expansion of the insurance, partially due "to the strong bipartisan backing" provided by Sen. Robert Dole (R-Kan.), McGovern said.

He said two other long-term options deserve careful consideration, one being the providing of low-interest, long-term disaster loans with forgiveness provisions up to $5,000. The loans could be designed similar to the type of Small Business Administration disaster loan that helped Rapid City recover from the 1972 flood, McGovern aide said.

Another option is to help farmers replace foundation stock through delayed taxation and supplemental loan programs for the purchase. Currently there are no such provisions.

Other topics surfaced at the hearing, which brought together McGovern's Subcommittee on Agricultural Credit and Huddleston's Subcommittee on Agricultural Production, Marketing, and Price Stabilization.

One issue which arose was the computation of drought benefits on the previous five calendar years.

"Farmers and ranchers in South Dakota are suffering through their third and fourth drought in the last five years," McGovern said. "The programs for help that are currently available are piecemeal in their approach and assistance is generaly based on five-year averages of production.

"The result is that those who need the most help get the least," he added.

"We pressed them hard on it," McGovern said, referring to those officials from agencies concerned with drought planning present at the hearing.

He said current agency management of the drought also attracted attention.

"There needs to be some streamlining of agencies," McGovern said, adding that drought programs are spread over nine separate operations.

"There should be one local point where the states and counties can come for assistance," he said. "The agencies themselves admit confusion has developed because they were formed one at a time."

Amid the gloomy drought news, however, McGovern sees one positive element—an increase in support for the Oahe irrigation project.

He said that judging from his mail many people have been changing their minds. "It does supply a new lift for those pressing Oahe," he added.

A longtime Oahe advocate himself, McGovern said. "Every calamity has some benefit."

[From the Brookings (S. Dak.) Daily Register, July 13, 1976]

OATS, BARLEY SMALLEST SINCE "DIRTY THIRTIES": DROUGHT SHRIVELS STATE WHEAT CROP

SIOUX FALLS, S. DAK.—Severe drought has cut South Dakota's wheat crop to the smallest in 13 years, while oats and barley crops will be the smallest since the "Dirty 30s," according to Crop and Livestock Reporting Service Estimates.

All small grain and corn crop estimates are below last year because of growing-season rainfall deficits ranging from 3½ to more than 9 inches, the service said Monday in its first crop estimates.

All but the extreme western part of the state has been seriously affected by the drought, with the northeast and east-central areas hardest hit.

Small grains, pastures and hay crops have suffered the most damage, the service said, and rain is needed soon to rescue corn and bean crops that are beginning to show stress because of continued hot, windy weather.

All wheat crops are expected to produce 33 million bushels, the smallest crop since 1963, the service said, despite a 3 per cent increase over 1975 in acres planted.

Such a crop would be 48 per cent below last year and 42 per cent below the 1974 crop.

Winter wheat production is forecast 28 per cent below last year, spring wheat 58 per cent lower and durum wheat 71 per cent lower.

Based on July 1 conditions, the corn crop is forecast to total 73.5 million bushels, 12 per cent lower than last year and 4 per cent below 1974. An average yield of 35 bushels per acre is expected, which is 2 bushels less than last year.

The oats crop is forecast as the smallest since 1936 with a production estimate of 21.2 million bushels. Such a crop would be 78 per cent below last year and 74 per cent below 1974.

An oats yield of only 11 bushels per acre is expected, compared with 44 bushels last year.

Barley, forecast to total 2.8 million bushels, would be the smallest crop since 1934 and 84 per cent lower than 1975. Barley yields will average only 7 bushels per acre, the service said, the second lowest on record.

Rye production is estimated at 2 million bushels, 11 per cent below last year and 51 per cent lower than the 1974 crop.

The drought has forced early maturation of small grains, and harvesting is in full swing, the service said.

A majority of oats and barley fields in the eastern part of the state have already been cut for hay and silage or abandoned to livestock grazing. Other farmers are reporting difficulties in harvesting because of the short straw, the service said.

Corn is beginning to tassel, and moisture is needed immediately for normal development to continue, the service said.

Topsoil moisture is short over the entire state except in the Black Hills and in a small southwest area.

[From the Brookings (S. Dak.) Daily Register, July 13, 1976]

DROUGHT IMPACT JUST STARTING

SIOUX FALLS, S. DAK.—South Dakota economic and agricultural experts say the effect of the drought on the state's economy will not be known until at least this fall.

"There's no question the drought's going to restrict the economy in South Dakota a great deal, but to what extent is almost impossible to speculate," Max Gors, secretary of Commerce and Consumer Affairs, said today in a telephone interview.

"We have no indication of what the effect will be."

Chester Leedom, district director of the Small Business Administration, said that, a few weeks ago, the state was already beginning to feel the impact on businesses that are directly involved in serving the rural community, such as implement dealers and those who deal directly in farm products.

"But I think this fall we will see the impact felt by the business community in general," he added. "At the moment, the economy is being assisted by a good tourist year, and it's a little hard to really tell where we'll be this fall."

Dan Bucks, commissioner of the state Planning Bureau, said his agency is assessing the possible economic impact of the drought on the income levels and economic activitiy in the state.

"We have not concluded that analysis as of yet, and we have not had the opportunity to report to Gov. Kneip," he said. "We anticipate that we will have some conclusions within the next few weeks."

Bucks said the Planning Bureau is relying in part on raw data supplied by the Agricultural Stabilization and Conservation Service and the state Crop and Livestock Reporting Service.

"This is a complicated economic problem to assess," he added. "The difficult part is discussing the long term effects of the reduction in the livestock herds in the state.

"The selling off of livestock herds might artificially raise the gross farm receipts in one year, but the impact will not be felt for two or three years as a consequence of the state's reduced capacity for livestock production," he said.

"The other complicating factor in the agricultural sector is price fluctuation," Bucks added.

Mr. ABOUREZK. Mr. President, I want to commend my distinguished colleague and friend, Senator McGOVERN, for recognizing the urgent need for this legislation. As a cosponsor, I strongly support this legislation and I commend the Senator for his expeditious work in introducing the bill in such a timely fashion.

Certainly, most of our colleagues do not have to be told of the incredible situation now unfolding in South Dakota and other Upper Midwestern States. During the last few months, the dramatic and regrettable series of events which is paralleled only by that which unfolded in the harshest years of the thirties, has occurred once again. The lack of virtually any rain first caused a total loss of small grain crops in more than 50 counties in South Dakota alone. The continued lack of rain caused the loss of nearly all available hay and feed for cattle. The loss of feed meant the selling off, first, of expendabe cattle. But, the rain still did not come to any satisfactory degree and now registered cattle and foundation herds, which have taken decades to build, are also being sold for slaughter. Then came the grasshoppers—something which farmers in our State rightfully compare to a plague. Grasshoppers which strip every growing stalk down to the bare ground are now abounding in the State with no end to their anticipated damage in sight. And now, I have been informed that the first farmers are beginning to make their exit from the farms. They cannot take it anymore. Farmers are now completing the most sorrowful chapter in the entire story by moving off their farms as a result of this terrible drought.

I wish that I could commend the Federal Government for their swift action to stave off this tragic series of events. After all, we have proved in times past that we, the Government, are capable of immediate action without concern for expense or inconvenience. In 1972, in response to the disastrous flood in the Black Bills of South Dakota and Hurricane Agnes along the eastern seaboard, swift and meaningful Government action insured. In times of disaster, the U.S. Government has also been swift in assisting other countries with billions of dollars worth of assistance. In Peru, for example, following the earthquake, U.S. representatives were flown down en masse to establish a useful and far-reaching disaster program.

Unfortunately, because of congressionally imposed legal restraints and foot-dragging by the Federal agencies assigned responsibility for administering disaster programs, assistance to farmers during this most difficult time has been very slow in forthcoming. Some of the provisions of these programs need to be changed by law while others can be expanded through a decision by the appropriate officials within the administration. But, all of them need to be considered soon if we are to provide real assistance to these drought-stricken farmers who deserve every ounce of assistance which we can provide.

Certainly no one can expect that this bill will provide an immediate panacea for the tremendous difficulties now experienced by our farmers in the upper Midwest. Frankly, I don't believe it is designed to do that.

What this bill is designed to do is provide a long-term, well-considered solution to many of the shortcomings of present disaster relief programs. The bill will be the forerunner of certain sections in the 1977 farm bill which will deal with disaster programs.

It addresses many of the most significant problems which continue to plague our farmers and ranchers. First, the bill provides for a 90-percent Government-guaranteed loan program to restock livestock herds which have dwindled as a result of the severity of natural disasters such as this year's drought.

Second, it would provide a guaranteed loan program to eligible farmers who have suffered a significant grain loss as a result of the disaster.

Third, the bill will provide needed 1-percent loans with a forgiveness feature of $5,000 to those who have been financially hurt the most. Perhaps more than any other single item, the need to reinstate this program was established during the 20 meetings on the drought which I sponsored last month. I am extremely pleased that this provision has been incorporated into this legislation.

Mr. President, I am proud to lend my support to this bill. It is perhaps the most significant step so far in meeting the urgent and undeniable needs of the thousands of drought-stricken farmers. While, it may not come in time to be of direct assistance to those who have been so crippled by the disaster this year, it will provide the help we need so badly in time for future catastrophes.

By Mr. BROOKE:

S. 3692. A bill to amend the National Housing Act to provide for the insurance of equity adjusted mortgages, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

YOUNG FAMILIES' HOUSING ACT

Mr. BROOKE. Mr. President, over the last 6 years there has been a steady decline in the number of families who can afford to buy their own homes. According to the Department of Housing and Urban Development, the proportion of American families able to afford a median-priced, new house has declined from 54.7 percent in 1970 to 39.6 percent in 1975—after income tax consideration. And the decline over the same time period in the proportion of families able to afford to buy existing homes, while less, has also been substantial.

Because only a small percentage of American families are in the market to buy a home in any one year, there has not been a widespread public awareness of this shift in home ownership potential or its likely impact on our way of life in the years ahead. But the stark reality is that if most American families had to buy their homes today, they could not afford to buy the house they live in.

Of course, those who are most adversely affected by this change in housing patterns are young families who are seeking to buy a home for the first time. As the generation of the postwar baby boom moves into the housing market, they are finding themselves unable to buy the homes their brothers and sisters bought just a few years ago.

According to data prepared by Dr. Henry Schechter, director of urban affairs, AFL–CIO, the number of primary families headed by persons in the 25- to 34-year age group will increase from 24.1 million or 13.5 percent of the population in 1975 to 26.8 million or 16.4 percent of the population in 1980. Compared with a projected total net increase of 5.1 million families in the 1975–80 period, there would be an increase, in the 25- to 34-year ago group, of 2.9 million, equal to 57 percent of the total increase in family formations.

Yet as this 24- to 35-year-age group grows and seeks to acquire housing, they will find themselves priced out of the homeownership market. Based on 1974 income and housing expenses, Dr. Schechter calculates that houses sold at prices of $35,000 and up would be beyond the economic reach of all but about 20 to 30 percent of families headed by a person in the 25- to 34-year-age group at prevailing interest rates.

Of course, there is some talk these days about changing lifestyles and young people not wanting the burdens of homeownership. But recent surveys have shown that 80 percent of the young families in America want to own and live in a single-family home on a moderate size lot. It is not that these families do not want to own a home, they just cannot afford it.

Homeownership is the principal way in which our people acquire equity and a stake in our society. And I believe that if the majority of the young families who make up the backbone of our work force are economically disenfranchised by being deprived of the opportunity for homeownership, our society will suffer the consequences.

Over the last few months I have been working with Dr. Kenneth Rosen, of Princeton University, on a proposal to expand homeownership opportunities for young families, and the bill which I introduce today is designed to accomplish that objective. The bill would, first, establish a new type of FHA-insured, mortgage instrument to reduce monthly payments during the early years of the mortgage, and second, establish a new type of tax exempt savings account to allow first-time home buyers to accumulate the equity needed to buy a house.

Mr. President, it is my understanding that the chairman of the Housing Subcommittee, Senator SPARKMAN, will soon announce the scheduling of hearings on this bill during the month of August. I ask unanimous consent that Dr. Rosen's paper outlining the economic theory behind the bill and the text of the bill itself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Young Families' Housing Act of 1976".

EQUITY ADJUSTMENT MORTGAGES

SEC. 2. (a) This section may be cited as the "Equity Adjusted Mortgage Insurance Act".

(b) Title II of the National Housing Act is amended by adding at the end thereof the following new section:

"EQUITY ADJUSTED MORTGAGE INSURANCE

"SEC. 247. (a) In accordance with such rules and regulations as he may prescribe, the Secretary is authorized, upon application by the mortgagee, to insure equity adjusted mortgages offered to him which are eligible for insurance and meet the requirements of section 203(b) of this title, except as such requirements are modified by the provisions of this section, and to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

"(b) To be eligible for insurance under this section, a mortgage shall—

"(1) be executed by a mortgagor who shall have paid on account of the property at least 10 per centum of the Secretary's estimate of the cost of acquisition in cash or its equivalent;

"(2) have a maturity not to exceed 30 years; and

"(3) bear interest at a rate agreed to by the mortgagor and the mortgagee.

A mortgage is not eligible for insurance under this section unless the Secretary finds that the mortgagee has made no charges in the form of points or a discount in connection with the mortgage.

"(c) (1) An equity adjusted mortgage insured under this section shall provide for an initial reduction in the amount of each monthly payment required under the mortgage during the first year after the execution of the mortgage, and for subsequent adjustments, at the close of each year beginning with the close of one year after the executive of the mortgage and ending with the close of the year before the last year of the life of the mortgage (or at the close of such prior years as the mortgagor elects), to the amount of monthly payments required under the mortgage during each succeeding 12-month period.

"(2) The intial reduction referred to in paragraph (1) shall be determined as one-twelfth of the product of the principal amount of the mortgage multiplied by one-half of the average annual percentage rate of increase in the Consumer Price Index during the 36-month period preceding the date of execution of the mortgage.

"(3) The monthly payment during each succeeding 12-month period referred to in paragraph (1) shall be determined as the monthly payment required under the mortgage—

"(A) reduced by an amount equal to one-twelfth of the product of the principal balance of the mortgage remaining unpaid at the close of the 12-month period preceding the date of the adjustment multiplied by one-half of the average annual perecntage rate of increase in the Consumer Price Index during the 36-month period preceding the date of the adjustment; and

"(B) increased by an amount necessary to amortize over the remaining life of the mortgage the amount of the adjustment during that 12-month period, plus accrued interest (at a rate determined under paragraph (4)), except that at the close of one year before the last year of the life of the mortgage (or at the close of such prior year as the mortgagor elects), no reduction under clause (A) shall be made.

"(4) The amount of each reduction shall bear interest at a rate determined by the mortgagee as the average rate on mortgages originated by the mortgagee during the month preceding the date of the reduction.

"(e) Notwithstanding any other provision of this title, the Secretary shall determine and establish a premium charge for mortgage insurance under this section which shall be calculated with reference only to the actuarial risks involved in the mortgage insurance program conducted under this section, specifically taking into account the amount of downpayments required in connection with loans insured under this section and the commensurate risks. Such premium may be charged as a single fee or added to the monthly payment under the mortgage.

"(f) As used in this section—

"(1) the phrase 'monthly payment required under the mortgage' means that monthly payment which would be required fully to amortize the amount of the loan over the life of the mortgage in equal monthly installments; and

"(2) the term 'Consumer Price Index' means the Consumer Price Index published each month by the Bureau of Labor Statistics of the Department of Labor.".

INDIVIDUAL HOUSING ACCOUNTS

SEC. 3. (a) SHORT TITLE.—This section may be cited as the "Individual Housing Account Act".

(b) ALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as 221 and by inserting after section 219 the following new section:

"SEC. 220. INDIVIDUAL HOUSING ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction amounts paid in cash during the taxable year by such individual to an individual housing account.

"(b) LIMITATIONS.—

"(1) MAXIMUM ANNUAL DEDUCTION.—The amount allowable as a deduction under subsection (a) to an individual for any taxable year may not exceed $2,500. In the case of a married couple filing separate returns, the sum of the amounts allowable to each of them under subsection (a) for the taxable year may not exceed such amount.

(2) MAXIMUM LIFETIME DEDUCTION.—The amount allowable as a deduction under subsection (a) to an individual for all taxable years may not exceed $10,000. In the case of a married individual, the $10,000 amount in the preceding sentence shall be reduced by an amount equal to the sum of the amounts allowed as deductions for all taxable years to his spouse.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) INDIVIDUAL HOUSING ACCOUNT.—For purposes of this section, the term 'individual housing account' means a trust created or organized in the United States for the exclusive benefit of an individual, or in the case of a married individual, for the exclusive benefit of the individual and his spouse jointly, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of $2,500 on behalf of any individual or in excess of $10,000 on behalf of an individual for all taxable years.

"(B) The trustee is a bank (as defined in section 401 (d)(1)) or another person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust funds will be invested in life insurance contracts.

"(D) The interest of an individual and the balance in his account is nonforfeitable.

"(E) The assets of the trust will not be comingled with other property except in a common trust fund or common investment fund.

"(F) The entire interest of an individual or married couple for whose benefit the trust is maintained will be distributed to him, or them, not later than 120 months after the date on which the first contribution is made to the trust.

"(d) Tax Treatment of Distributions.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an individual housing account shall be included in gross income by the payee or distributee for the taxable year in which the payment or distribution is received, unless such amount is used exclusively in connection with the purchase of a principal residence for the payee or distributee. The basis of any person in such an account is zero.

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to an individual housing account to the extent that such contribution exceeds the amount allowable as a deduction under subsection (a) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in an individual housing account to his former spouse under a divorce decree or under a written instrument incident to a divorce is not to be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest, at the time of the transfer, is to be treated as an individual housing account of the spouse, and not of such individual. After the transfer, the account is to be treated, for purposes of this subtitle, as maintained for the benefit of the spouse.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—Any individual housing account is exempt from taxation under this subtitle unless such account has ceased to be an individual housing account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the individual for whose benefit an individual housing account is established, that individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be an individual housing account as of the first day of that taxable year. For purposes of this subparagraph the individual for whose benefit any account was established is treated as the creator of the account.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an individual housing account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit an individual housing account is established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED TO PURCHASE RESIDENCE.—If a distribution from an individual housing account to an individual for whose benefit such account was established is made, and not used in connection with the purchase of a principal residence for such individual, the tax liability of such individual under this chapter for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includable in his gross income for such taxable year.

"(2) DISQUALIFICATION CASES.—If an amount is includable in the gross income of an individual for a taxable year under subsection (e), his tax under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

"(3) DISABILITY CASES.—Paragraphs (1) and (2) do not apply if the payment or distribution is attributable to the taxpayer becoming disabled within the meaning of section 72 (m)(7).

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(h) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 401(d)(1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual housing account described in subsection (c). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) REPORTS.—The trustee of an individual housing account shall make such reports regarding such account to the Secretary and to the individual for whom the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(2) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Paragraph (10) of section 62 of such Code (relating to retirement savings) is amended—

(A) by inserting "or housing" after "Retirement" in the caption of such paragraph, and

(B) by inserting before the period at the end theerof the following: "and the deduction allowed by section 220 (relating to deduction of certain payments to individual housing accounts)".

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, certain individual retirement annuities, and certain retirement bonds) is amended—

(1) by inserting "INDIVIDUAL HOUSING ACCOUNTS," after "ACCOUNTS," in the caption of such section,

(2) by redesignating paragraphs (2) and (3) of subsection (a) as (3) and (4), and by inserting after paragraph (1) the following:

"(2) an individual housing account (within the meaning of section 220(c)),", and

(3) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO INDIVIDUAL HOUSING ACCOUNTS.—For purposes of this section, in the case of an individual housing account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable as a deduction under section 220(b)(1) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the individual housing account and a distribution to which section 220(d)(2) applies shall be treated as an amount not contributed.".

(d) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR INDIVIDUAL HOUSING ACCOUNTS.—An individual for whose benefit an individual housing account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an individual housing account by reason of the application of section 220(e)(2)(A) or if section 220(e)(4) applies to such account.", and

(2) by inserting, "or an individual housing account described in section 220(c)" in subsection (e)(1) after "described in section 408(a)".

(e) FAILURE TO PROVIDE REPORTS ON INDIVIDUAL HOUSING ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "OR INDIVIDUAL HOUSING ACCOUNTS" after "ANNUITIES" in the caption of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 220(i) to file a report regarding an individual housing account at the time and in the manner required by such section shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.".

(f) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 220 and inserting in lieu thereof the following:

"Sec. 220. Individual housing accounts.
"Sec. 221. Cross references.".

(2) The table of sections for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, individual housing accounts, certain 403(b) contracts, certain individual retirement annuities, and certain retirement bonds.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the item relating to section 6693 and inserting in lieu thereof the following:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on individual housing accounts.".

(g) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1976.

THE HOUSING CRISIS AND THE NEW HOMEOWNER INCENTIVE PLAN

(By Kenneth T. Rosen)

The United States is today in the midst of a housing crisis of unprecedented proportions. The magnitude of this crisis can be best appreciated by considering the simple fact that nearly two-thirds of all American families could not afford to purchase the home in which they now live. Of more immediate concern, however, is the fact that most new entrants to the housing market (young families and other first time homebuyers) cannot afford to purchase *any* home at all. The proximate causes of the crisis are: high and rapidly rising home prices, high mortgage interest rates, substantial and often prohibitive downpayment requirements, and high maintenance and utility costs.

The consequences of these market conditions are that an increasing number of Americans are becoming "housing poor" and that the institution of homeownership has over the past few years become available only to the fortunate few. Those fortunate few include households who entered the market prior to the inflationary induced surge in housing prices and mortgage interest rates, and those families earning an annual income over $20,000. This of course excludes most low and middle income households, most minority households, and most young families.

Thus, the "American Dream" of universal homeownership is virtually dead in the present economic and institutional environment. This frustration of a basic societal goal can be expected to lead to increasing consumer and political dissatisfaction and will quickly lead to a national perception of the magnitude of the "housing crisis."

The purpose of this paper is to briefly examine the magnitude of the housing crisis and to outline a proposal (the New Home Owner Incentive Plan) which may alleviate the worst aspects of the "affordable housing problem."

THE NATURE OF THE HOUSING CRISIS

Three factors are at the core of the "affordable housing problem": 1) high mortgage interest rates, 2) substantial and often prohibitive downpayment requirements, and 3) high maintenance of utility costs. This paper deals with the interest and downpayment problem by proposing 1) an improved mortgage instrument (the equity adjusted mortgage) and 2) an earmarked tax-free savings account for the first time home-buyer (the individual housing account). Before describing these proposals further it is perhaps useful to provide some detail on the nature of the housing crisis.

The origins of the present housing problem can be explained by examining the interaction of two major factors: 1) the highly inflationary environment of the past five years and 2) the outdated institutional mechanisms, built for a non-inflationary world, which define the mortgage lending system.

The highly inflationary environment of the past five years has of course had adverse effects on the entire economy. The housing sector, however, has been especially damaged by the inflationary forces. In particular the relative cost of homeownership has risen substantially since 1970. As Table I that follows shows, the cost of homeownership has risen at an annual rate of 8.3% compared to an overall rate of change in the CPI of 7.7%.

The major elements of this relative price rise have been rapidly rising sales rices, rising mortgage interest rates, and rising utility and maintenance costs. The sales price of a new home has risen at an annual rate of 9.4%, while an existing home has risen at a rate of 10.7%.

TABLE I.—HOUSING COSTS

	Homeownership component CPI (1)	Sales price of new home (2)	Sales price of existing home (3)	Effective mortgage interest rate (4)	Gas and electricity housing component CPI (5)	Down payment requirement on new home (6)	Per capita disposable real income (7)	Overall CPI (8)
1970	128.5	$28,900	$23,030	8.45	107.3	$8,178	$2,610	116.3
1971	133.7	30,300	24,810	7.74	114.7	7,787	2,682	121.3
1972	140.1	32,200	26,710	7.60	120.5	7,470	2,779	125.3
1973	146.7	35,600	28,920	7.95	126.4	8,018	2,944	133.1
1974	163.2	38,900	32,040	8 92	145.8	9,413	2,844	147.7
1975	181.7	42,500	35,330	9.01	169.6	10,158	2,830	161.2
Annual rate of change (percent)	8.3	9.4	10.7	1.3	11.6	4.8	1.7	7.7

Source: Federal Reserve Bulletin, Federal Home Loan Bank Board Journal, Bureau of the Census (C-27) National Association of Realtors.

The major effect of this inflationary surge, however, has been on the interest rate on the mortgage loan. The mortgage interest rate is a function of the expected inflation rate and a real interest component. The high inflation rates of the past five years have raised the contract interest rate and so raised the monthly carrying costs of a conventional mortgage by nearly 20%. Compared with a 1 to 2% inflation world, the present monthly carrying costs of a conventional mortgage are nearly 50% higher than would be expected in a low inflation economy.

This inflationary surge may also have a potentially positive impact on the housing market as the households' ability to pay for housing over the life of the mortgage may increase. During most periods of normal economic growth, the households' money income would be expected to rise at a rate greater than or equal to the rate of inflation. In this normal case, the nominal amount of a mortgage loan that could be supported, would rise in an inflationary world. Of course, the recent inflationary experience was far from normal. In 1974 and 1975, real per capita disposable income fell, and a large number of individuals experienced unemployment and falling real income. Over the long-run, however, the expectation of rising real income in the economy is probably valid for the vast majority of households. This would allow the household over the life of the mortgage to support at least a constant real stream of mortgage payments, which in an inflationary world implies a rising nominal path of mortgage payments.

These two inflationary effects can then be juxtaposed with the traditional institutional mechanisms of the mortgage market. The institutional arrangements of the mortgage market were basically established for a low inflation world. The standard mortgage instrument is a level payment, amortized loan. This loan is not well adapted to an inflationary environment. It takes no account of inflation-induced rises in money income or inflation-induced increases in the underlying value of the property. Thus, from the borrower's viewpoint, the standard mortgage instrument completely ignores the positive inflation-induced dynamics of the housing market. However, the standard mortgage instrument does attempt to anticipate the negative influences of an inflationary environment on the particular contract. Through the calculation of the mortgage interest rate, (and so the household's monthly payments) the lender attempts to incorporate expectations of inflation over the life of the loan.

It is this situation which has created a *dynamic mismatch* between the cost of the mortgage loan to the borrower and the borrower's ability to pay. This dynamic mismatch, which only takes into account the negative impact of inflation, but ignores the positive impact of inflation on the borrower's income and property value, is a major element of the housing crisis.

The extent of this mismatch can best be illustrated by a simple example. For this example, we assume that a household with an income of $15,000 takes out a $30,000, 8½%, 25-year mortgage. Further, we assume that the economy experiences a 5% annual average inflation over the life of the mortgage, and that the household experiences a 2% real income growth per year. These figures correspond to past experience and to likely forecasts of future conditions.

This example is presented in Table II. The top portion of Table II shows the conditions that would probably prevail in a world with no inflation. In this situation the household would pay a 3½% interest rate on his mortgage loan, which would imply an annual payment of $1,272 (about $106 a month) to amortize a $30,000, 25-year mortgage loan. The lower portion of the table presents the conditions that would prevail in a 5% inflation world. In this scenario the household would pay an 8½% interest rate on his loan, which implies an annual payment of $2,898 (about $242 a month) to amortize a $30,000 25-year mortgage loan. Thus a 5% inflation rate more than doubles the household's monthly payment obligation.

More important than this initial change in monthly payment is the major distortion in the time path of payments relative to income that a moderate inflation rate induces. The initial payment-income ratio, for the mortgage instrument described previously, in the 5% inflation world is 19.3%. This compares to only 8.5% in the no inflation world. However, by the last year of the mortgage, the household in the 50% inflation world is paying only 3.3% of income to amortize the mortgage. It is this sharp "tilt" in the payment/income time path that causes many of the problems of the mortgage market. Inflation, by forcing up the initial payment income ratio has prevented millions of households from purchasing a home.

Recognition of the limitations of the standard mortgage in an inflationary environment if fairly widespread in the academic and research worlds. A major study undertaken at MIT, entitled *New Mortgage Designs for Stable Housing in an Inflationary Environment*, has evaluated the theoretical and empirical aspects of a number of alternative mortgage instruments. These included the variable rate mortgage, the price level adjusted mortgage, and various combinations of these and other instruments. In addition, the four largest savings and loan associations in California have on their own proceeded to adopt the variable rate mortgage.

TABLE II.—IMPACT OF INFLATION ON THE MORTGAGE INSTRUMENT

NO INFLATION WORLD; 3½ PERCENT MORTGAGE INTEREST RATE; $30,000 MORTGAGE

Year (1)	Annual nominal payment (2)	Annual real[1] payment (3)	Annual nominal income (4)	Payment income (2)/(4)
1	1, 272. 24	1, 272. 24	15, 000	8. 48
5	1, 272. 24	1, 272. 24	16, 561	7. 68
10	1, 272. 24	1, 272. 24	18, 285	6. 95
15	1, 272. 24	1, 272. 24	20, 188	6. 30
20	1, 272. 24	1, 272. 24	22, 289	5. 70
25	1, 272. 24	1, 272. 24	24, 609	5. 16

5 PERCENT INFLATION WORLD; 8½ PERCENT MORTGAGE INTEREST RATE; $30,000 MORTGAGE

Year (1)	Annual nominal payment (2)	Annual real[1] payment (3)	Annual nominal income (4)	Payment income (2)/(4)
1	2, 898. 84	2, 753. 89	15, 000	19. 32
5	2, 898. 84	2, 130. 91	21, 038	13. 77
10	2, 898. 84	1, 648. 86	29, 507	9. 82
15	2, 898. 84	1, 275. 85	41, 385	7. 00
20	2, 898. 84	987. 23	62, 108	4. 66
25	2, 898. 84	763. 90	87, 109	3. 32

[1] After adjustment for inflation-induced changes in the value of money.

Nevertheless, despite such research and real world experimentation, the concept of an alternative mortgage instrument has generally stirred much political and consumer opposition. The reason is that the alternatives proposed require substantial changes in the existing institutional environment. These changes are often perceived as complicated maneuvers stacked against the consumer and in favor of the lender. These perceptions, whether or not justified by the swift adaptation of the mortgage to the facts, will continue to provide obstacles to the swift adaption of the mortgage to the problems of inflation.

EQUITY ADJUSTED MORTGAGE (EAM)

With these institutional constraints in mind, it seems appropriate to propose an alternative way to reduce inflation-induced high interest rates.

The equity adjusted mortgage instrument (EAM) is an attempt to correct the dynamic mismatch between mortgage payments and income induced by inflation. The EAM necessitates little change in the existing institutional and legal situation. It merely involves formalizing a simple incremental borrowing procedure on the part of households. This annual increment in borrowing is based on the assumption that both property values and money incomes normally rise at a minimum of one half the rate of inflation on an annual basis.

The mechanism for obtaining an equity adjusted mortgage would be as follows. The individual would contract with the mortgage lender to borrow on terms identical to those which now obtain. There would, however, be a provision in the agreement to allow the borrower *automatically* to receive an additional loan each year, equivalent to one half the rate of inflation in the past year multiplied by the amount of the mortgage principal outstanding at that time. This loan would then be applied directly to his annual payments due in that year, thereby reducing his monthly payments by the amount of the incremental loan (after the additional amount necessary to amortize the additional annual loans have been taken into account). The additional loan would of course be made at current market rates.

The impact of the equity adjusted mortgage can probably best be seen by examining a simulated example of the loan. For this illustration, it is assumed that a household with an income of $15,000 in the initial year purchases a $40,000 house, with a $30,000, 8½% mortgage loan amortized over 25 years. These terms and prices closely reflect the median conditions and terms currently prevailing in the market. It is also assumed that there will be a constant 5% rate of inflation (a constant 5% rate of inflation was assumed for purposes of this example. However, the adjustment formula proposed is merely ½ multiplied times the percentage change in the CPI for all items in the past 36 months, multiplied times the principal balance of the mortgage outstanding) over the life of the mortgage, that real income of the household will rise at 2%, and that the value of the house will rise at the rate of inflation. We can then compare the dynamic aspects of the standard mortgage instrument and the equity adjusted mortgage.

In examining the comparative paths (see Table III), we find that monthly payments in the initial year fall dramatically for the equity adjusted mortgage loan. They drop nearly 25% compared to the payments due on a standard mortgage. Moreover, initial monthly payments drop from 19% to 14% of the household's income. This implies that given the existing institutional rule-of-thumb, a household earning only $11,000 per year would now be able to purchase the median priced ($40,000) home.

TABLE III.—EQUITY ADJUSTED MORTGAGE[1]

5 PERCENT INFLATION; 8½ PERCENT INTEREST RATE; $30,000 MORTGAGE

Year (1)	Principal outstanding (2)	Annual nominal payment (3)	Equity adjustment [0.025*(2)] (4)	Actual nominal payment (5)	Real payment (6)	Money income (7)	Payment income (5)/(7)	Property value (9)
1	$30,000	$2,899	$750	$2,149	$2,149	$15,000	$14.2	$40,000
5	31,879	3,295	797	2,498	1,957	21,038	11.9	51,051
10	30,202	3,751	755	2,996	1,840	29,507	10.1	65,155
15	23,635	4,267	484	3,803	1,730	41,385	9.2	83,156
20	11,464	4,699	287	4,412	1,664	62,108	7.1	106,130
25	0	5,143	0	5,143	1,519	87,109	5.9	135,451

[1] The numbers in this table are hand calculated approximations, an exact estimate of the payment streams could easily be programed.

This focus on the initial year of mortgage payments is extremely relevant, since lenders view the relationship of these payments to money income as the major determinant of the amount of the mortgage loan (and thus the amount of housing) the consumer can purchase. It is quite clear that in this respect the (EAM) is superior to the standard mortgage instrument.

In terms of the dynamic relationship of monthly payments to income, the equity adjusted mortgage again provides a better match between payment obligations and household income levels. In both instruments, payments as a percentage of money income declines over the life of the mortgage. The only difference is that the payment-income ratio declines more slowly in the case of the EAM than in the standard mortgage. (It is possible to design an equity adjusted mortgage loan that would allow the payment-income ratio to remain constant at the initial level. This would further reduce initial year payments and lower the entry income level to $8,000.) It is not until the 9th year of the loan that the payment-income ratio of the equity-adjusted mortgage is as high as that on the standard mortgage loan. In terms of actual monthly payments, the EAM mortgage naturally shows a rising payment stream. Again, however, it is not until the 9th year of the loan that the payments on this loan exceed those on the conventional mortgage. Moreover, it should be emphasized that the rise in money income has *more than offset* the rise in actual monthly payments.

To summarize the EAM allows a better matching of mortgage loan payments and the borrower's income by taking advantage of inflation induced rises in income and property values. If instituted, this will substantially increase home ownership opportunities for middle income and young families.

Several objections may be raised concerning the EAM. The first potential objection concerns the fact that for the first few years of the mortgage loan the nominal amount of the loan outstanding may increase. While this may be perceived as a "problem" by some lenders, it in fact makes perfect economic sense. As long as money income and property values rise faster than the increase in the mortgage liability there is no increase in lender risk. This point leads directly to the second problem, that the individual borrower's income and the individual property value may not rise at a rate of ½ the rate of inflation. In these individual cases, increased risk and increased debt burden may be incurred. Two complementary solutions to these risks appear possible. First, the FHA can take a pioneering role in introducing the mortgage instrument by providing insurance based on projected actuarial risks. FHA did provide this pioneering role in the 1930's when the level amortized mortgage was introduced. The second potential solution is to allow and encourage the rapidly growing and vigorous private insurance sector to enter this market. In most normal economic circumstances, and for the vast majority of properties and individuals, however, the expected secular rise in money income and property values will of course materialize.

INDIVIDUAL HOUSING ACCOUNT (IHA)

The second part of the Home Ownership Incentive Plan involves devising a mechanism to allow the first-time home-buyer to accumulate the substantial downpayment required to purchase a new home. In the five years since 1970, the median downpayment on the median priced home has increased by nearly $2,000. The present median downpayment requirement of $10,158 on the median priced home is clearly a major barrier for the first time entrant to the housing market.

In order to deal with the downpayment problem it is proposed that the household be allowed to deduct up to $2,500 per year from his gross federal income, and put this money in a segregated individual housing account (IHA). He would be allowed to accumulate up to $10,000 in this account. At any point the household would be allowed to withdraw this money and use it towards the purchase of a home. As long as the IHA was applied towards the purchase of a home, *no* tax would have to be paid on this sum or the interest income which has accrued in this account. These special IHA accounts should be restricted to first-time homebuyers, as this group of households would not have had the advantage of equity accumulation in an existing home.

It is clear that the IHA account idea is quite similar to the Individual Retirement Accounts (IRA) which have recently been introduced. The same sets of institutions would presumably respond to this incentive scheme. However, the individual participating would be very different. Since the program would be restricted to first-time homebuyers it would benefit young and low-and moderate income households.

The one potential objection to the IHA idea, concerns the potential loss in tax revenue. Clearly the IHA involves a tax expenditure. It is, however, a potentially valuable tool as it allows the government to stimulate housing without disrupting the entire set of financial markets and it provides a focused subsidy to disadvantaged (in the housing market) households. It also provides a very efficient and cost-effective way to stimulate savings for housing investment.

SUMMARY

The design and impact of the Home Ownership Incentive Program is two-fold. First, by the better matching the households' income and mortgage payment stream it will reduce the initial monthly payment barrier by nearly 25%. This will substantially increase the homeownership market, bringing it within the reach of nearly 60% of all American families (versus only approximately ⅓ of all families who can afford homeownership at present). Second, by helping the household accumulate the downpayment requirement it will increase funds available to the housing industry, encourage increased savings, and assure that homeownership will become financially feasible for many more families.

In this way, this program contributes to the goal of a decent home in a suitable living environment at an affordable cost.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S.J. Res. 207. A joint resolution relating to the withdrawal of all minerals in certain areas of the Los Padres National Forest, Calif., from all forms of appropriation under the mining law and from disposition under all laws pertaining to mineral leasing. Referred to the Committee on Interior and Insular Affairs.

Mr. CRANSTON. Mr. President, I introduce for appropriate reference legislation to prevent mining on certain lands in the Los Padres National Forest, Calif. I am pleased that my colleague from California (Mr. TUNNEY) is joining me as a cosponsor of this measure.

Mr. President, a private company has filed an application with the Department of the Interior for a preference right lease to mine for phosphates in the Los Padres National Forest near the Sisquor and Sespe Condor Sanctuaries, about 50 miles north of Los Angeles. The same company already owns 25 gypsum mining claims in the same area.

The final environmental impact statement on the proposed preference right lease concludes that extensive environmental damage will occur should the lease be issued and the mining take place. A major adverse impact would be on the California condor, officially classified as endangered species by the Secretary of the Interior. Only about 60 condor remain and all can be found within the proposed mining area. According to the EIS, noise, air, and water pollution would disturb the condor's feeding and breeding habitats, causing an irreversible decline in the condor population.

In addition, the EIS spells out adverse impacts on other wildlife, esthetics, recreation opportunities, soils, vegetation, and transportation and conflicts with the Ventura County general plan.

In my opinion, the economic benefits in no way justify the permanent environmental damage from the proposed mining. There is no overriding need to mine these particular mineral deposits. Adequate supplies of phosphates exist elsewhere in the United States to meet our current needs. Phosphate recycling, discovery of new sources, and reductions in phosphate use may eliminate any future demand.

The Secretary of the Interior is now considering whether to issue the preference right lease on the Los Padres National Forest. Although the potential environmental danger is clear, there is a question as to whether the Secretary can deny the lease on the basis of environmental considerations or requirements of the Endangered Species Act of 1973. Under the Mineral Leasing Act of 1920, the Secretary must issue the lease if valuable mineral deposits are discovered. The U.S. Geological Survey has confirmed that the applicant has found valuable deposits of phosphates in the 2,434-acre area of the Los Padres National Forest.

The legislation I am introducing today terminates all mining in this area of the Los Padres National Forest. It covers not only the proposed phosphate mining, but also the mining of other minerals such as gypsum which exists in the same area of the forest.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed at this point in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 207

Whereas an application has been filed with the Department of Interior for a preference right lease to mine for phosphates on 2,434 acres in the Los Padres National Forest, Cailfornia, near the Sisquor and Sespe Condor Sanctuaries;

Whereas mining on 25 gypsum mining claims in the same area is also proposed:

Whereas the mining would create severe noise, air and water pollution which would disrupt the sole feeding and breeding habitat of the California condor;

Whereas the Cailfornia condor is officially classified as an endangered species by the Secretary of Interior;

Whereas the proposed mining would adversely impact other wildlife, air quality, soils, vegetation, scenic values, recreation, land use, and the Ventura County General Plan; and

Whereas there are adequate deposits of phosphates and gypsum elsewhere in the United States to meet our present needs: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, all minerals in the following described area situated within the Los Padres National Forest, California, are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto:

T. 6N., R. 24 W., S.B.M.

Sec. 1: Lots 1, 2, (N1/2NE1/4), T. 6 N., R. 23 W., S.B.M.

Sections 5: S1/2SW1/4

6: SW1/4NE1/4, N1/2SE1/4, N1/2SE1/4SE1/4, W1/2, (Lots 3, 4, 5, 6, 7, SE1/4NW1/4, E1/2SW1/),

7: S1/2NE1/4, NE/4SE1/4, NW1/4 (Lots 1, 2, E1/2NW1/4),

8: All,
9: SW1/4, S1/2SE1/4,
15: N1/2,
16: N1/2N1/2, SE1/4NE1/4,
17: N1/2NE1/4, NE1/4NW1/4.

ADDITIONAL COSPONSORS

S. 600

At the request of Mr. Brock, the Senator from New York (Mr. Buckley) was added as a cosponsor of S. 600, to amend the Internal Revenue Code of 1954.

AMENDMENT NO. 1886

At the request of Mr. Stone, the Senator from Arkansas (Mr. Bumpers), the Senator from Tennessee (Mr. Brock), the Senator from Minnesota (Mr. Humphrey), the Senator from South Carolina (Mr. Thurmond), the Senator from Kansas (Mr. Dole), the Senator from Utah (Mr. Garn), the Senator from California (Mr. Tunney), and the Senator from Illinois (Mr. Percy) were added as cosponsors of amendment No. 1886, intended to be proposed to the bill (H.R. 10612), to reform the tax laws of the United States.

SENATE RESOLUTION 491—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. EAGLETON submitted the following resolution:

S. Res. 491

Resolved, That bill (S. 3690) entitled "A bill for the relief of R. Dean Dawes and others", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity in the amount, if any, legally or equitably due from the United States to the claimant.

AMENDMENTS SUBMITTED FOR PRINTING

CRIME CONTROL ACT OF 1976—S. 2212

AMENDMENT NO. 2058

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

AMENDMENTS NOS. 2059 AND 2060

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted two amendments intended to be proposed by him to the bill (S. 2212), supra.

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENTS NOS. 2061 AND 2062

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI (for himself and Mr. Montoya) submitted two amendments intended to be proposed by them jointly to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2064

(Ordered to be printed and to lie on the table.)

Mr. FANNIN submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 2063

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill (S. 3219) to amend the Clean Air Act, as amended.

PUBLIC PARTICIPATION IN GOVERNMENT PROCEEDINGS ACT—S. 2715

AMENDMENTS NOS 2065 THROUGH 2068

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted four amendments intended to be proposed by him to the bill (S. 2715) to amend the Administrative Procedure Act to permit awards of reasonable attorney fees and other expenses for participation in proceedings before Federal regulatory agencies, and for other purposes.

ADDITIONAL STATEMENTS

AMERICA AT THE MOVIES

Mr. SYMINGTON. Mr. President, I recently spent a delightful evening at the world premiere of "America at the Movies." The film was shown to the largest movie audience in Washington history at the Opera House in the Kennedy Center; and does great credit to Director George Stevens of the American Film Institute and his associates.

"America at the Movies" is an exciting collection of scenes from 83 films which illustrate how the American character and spirit have been portrayed on the screen. The film was created and produced for the American Revolution Bicentennial Administration by the American Film Institute and was a most fitting highlight of the Bicentennial week in Washington. The film captures the vigor and the wide range of American filmmaking, our native art form, and I hope that many Americans will have an opportunity to see it when it is shown in theaters around the country later this year.

Following the Washington premiere, "America at the Movies" was shown at the Berlin International Film Festival on the eve of Independence Day. I would share with my colleagues the review of the film which appeared in Variety, a leading film industry publication.

I ask unanimous consent that the review be printed in the Record.

There being no objection, the review was ordered to be printed in the Record, as follows:

[From Variety, July 14, 1976]

America at the Movies

(U.S.-Color-B&W)

(The Yanks (circa 1776–1976) as mirrored in their own films. Unslushy, yet warmly realistic overview of the past 200 years, and the drive that produced "US." A special sell with nice potentials in the short term, bountiful residual values to follow.)

Berlin, July 4.—Unset release of American Revolution Bicentennial presentation of an American Film Institute production. Produced by George Stevens Jr.; film design, James R. Silke; narration written by Theodore Strauss; spoken by Charlton Heston; associate producer, Harrison Engle; editor, David Saxon; title music arranged and conducted by Nelson Riddle; historical consultant, Arthur Schlesinger Jr.; design consultant, Ivan Chermayeff; for ARBA: John W. Warner, Administrator, Jack Masey, project director. Reviewed at Berlin Film Festival, July 3, '76. Running time, 116 MINS.

A Bicentennial glimpse at the essence of the U.S. and its people as depicted in its films, this American Film Institute team effort which ripped the U.S. non-competitively in Berlin provides an occasion for laughs, tears, sheer enjoyment, nostalgia but also one for ponderation of the persistence of certain values throughout the ups-and-downs of American history.

With the perhaps primary celebratory function successfully accomplished, it should be stressed that pic not only provides buffs with that "isn't that so and so" recall kick, but also in more general terms gives pleasure to the viewer in stressing the human factor and/contribution in the historical amalgam. Never preachy, pic works also as a painless and pleasurable mosaic of the moods and inner strengths, more than of the outward facts and details that compose the 200 year-old Yankee fresco.

There's no question of being a flagwaving version of "That's Entertainment"—nor was it designed to be. The kicks, recalls and triggered emotions are different, as are the audience targets. Though the eye has its share, the impact is emotional more than visual. Pic looks a good U.S. home market money spinner, an effective offshore tv-cultural entry and a residual vault perennial of many uses (tv, schools, vid-disks, etc.).

For the record, some statistical facts should be noted. Ninety-two scenes featuring 86 performers in 83 films made by 54 directors, 113 scriptwriters and 73 producers are included, a gamut running from "Birth of a Nation" to "2001."

Pic is (in this view) successfully divided into five thematic segments: the Land, The Cities, the Families, the Wars, the Spirit. Some might have wanted more, some less, some different. It's the sort of film which every viewer will wish to have shaped, or re-shaped, himself. Discussions about inclusions—and exclusions—will be endless. (Only a few outside nixes limited choice: Universal, the Samuel Goldwyn estate and "Gone With The Wind" refused use of material.)

But, since the pic must be judged on what is included, full credit should go to the score of consultants and technicians who worked with coordinating producer-editor George Stevens Jr. (head of Institute) and project director (for the American Bicentennial Administration) Jack Masey to make this massive effort a winner.

Well-known "obvious" candidates for inclusion alternate with offbeat surprise choices (four films by Mike Nichols, for instance, whose aptness is enhanced by the way they fit the theme being illustrated). Juxtaposition often results in double takes as recognition-recall is followed by realization of how aptly set fits the overall mood-picture.

There are apt and familiar sequences from "Giant" or "Grapes of Wrath," example, but where a less immediately recalled shot of Jack Lemmon placing Gotham "under arrest" (in "The Out Of Towners"), or the irresistible "Miracle Worker" pump sequence with Patty Duke and Anne Bancroft take on a new, added dimension. Of such things, the film has a fortunate abundance.

Nor is pic primarily heavy-handed and "important," with a number of lighter moments contributed as well by the ubiquitous Marx Brothers, Laurel & Hardy, Buster Keaton, Harold Lloyd and on down (in time) to Woody Allen. Chaplin, as is his wont, manages to steal the show with two excerpts from "Modern Times," one of the film's very apt finale which also winds the compilation.

Technically, it's a massive superlative effort. Sparsely commented (by Charlton Heston, as penned by Theodore Strauss) it is also devoid of image gimmickery, original ratios where possible being retained, editing (David Saxon) being straightforward and designed, like the rest, to let the material speak for itself. Which is most eloquently, and often movingly, does.

THE 1976 OLYMPICS—PRECEDENT FOR FUTURE FLAPS?

Mr. DOMENICI. Mr. President, during the past 2 weeks we have witnessed a flagrant violation of the sanctity of international agreement, national pride and human dignity. I refer to the bewildering and unyielding decision of the Canadian Government to refuse the members of the Republic of China's Olympic team their right to compete in the 21st Olympics. I also refer to the shameful actions of the International Olympic Committee, which, by acceding to the demands of the Canadians, irreparably damaged the long-standing efforts to keep the Olympics free from political exploitation. Consequently, I take this opportunity to object most strenuously to the Canadian Government's abuse of the privilege of hosting these games, and also the International Olympic Committee's lack of resolve and strength.

This issue is a complex one. Therefore, let us examine the facts to discern which parties are at fault, and for what reasons.

The rules regarding team participation in the Olympics and the terms agreed to by the host city and International Olympic Committee are explicit. Individuals can only participate as nationals of a country. However, by "country" the IOC does not refer to political regimes; National Olympic Committees represent geographical areas. No discrimination is allowed against any country or person on grounds of race, religion or politics. All member nations of the IOC are eligible to participate in the games, under the name, flag and anthem recognized by the IOC.

Cities, not countries, are the hosts of the Olympic games. The IOC has explicitly stated that cities "must guarantee that the games will be organized to the satisfaction of, and in accordance with, the requirements of the IOC." Countries support their cities; bids to hold the games, and provide similar guarantees to the IOC.

Now, let us examine these roles with respect to Taiwan and the present Olympics.

The IOC recognizes Taiwanese athletes as representatives of the Republic of China, with a right to have the Republic's anthem played, and to be considered Chinese.

When the games were awarded to Montreal in 1970, representatives of that city consented to the requirements of a host city as set down by the IOC. Further, the Canadian Government agreed to receive and give full and equal freedom to all countries recognized by the IOC. In a letter to the IOC in 1969, when Montreal was bidding for the games, Mitchell Sharp, Canada's Secretary of State for External Affairs, wrote:

> I would like to assure you that all parties representing the National Olympic Committees and International Sports Federation recognized by the IOC will be free to enter Canada.

Today, the members of the Republic of China's Olympic team are not competing in Montreal. These rules, set down by the IOC and agreed upon by the city of Montreal and the Government of Canada, have been violated in the grossest fashion. In addition, the Canadians waited until just before the games were scheduled to start, before announcing their decision. Why? Obviously, for political reasons. The government of Pierre Trudeau has openly admitted that its actions resulted from demands made by the People's Republic of China. In addition, Communist China has attempted to gain recognition by the IOC, but it will only compete if Taiwan is refused recognition. A political explanation, however, is not the matter at issue. The Canadians are free to pursue whatever foreign policy they desire. What is deplorable is that they allowed Montreal to be chosen for the Olympics and then reneged on their promises.

The decision of the International Olympic Committee to accept the terms for Taiwan's participation laid down by the Canadian Government are not so easy to understand. Lord Killinan, president of the committee, stated that he had attempted a compromise in the interest of all the athletes who had trained for 2 years and more for the Olympics. Granted, it would be disappointing to expend all that effort and then have one's dreams shot down. But what about the teams that train for future Olympics and then 2 months or less before the games are denied their right to compete.

A precedent has been set, and perhaps participation in the next Olympics will be by invitation only. The IOC has also said that to stop the games would damage the ideals of the Olympic movement. Ideals cannot be compromised, yet that is what the IOC has done by its own actions. Taiwan could play the anthem of the Republic of China, but they could not be recognized as such. Sadly, we see that politics has trampled upon the values of sports and free athletic competition, and all the world is the loser.

When an institution fails to fulfill the reasons for its original establishment, that institution should be questioned. Such is the case with the Olympic games. They were originally intended to be a gathering of athletes from all corners of the world, in the spirit of peaceful competition to determine which individuals were truly the greatest in their field. Nowadays, national contingents will gather to compete as a team, almost as if they were fighting an all-out war, for the greater glory of their country. And today we have seen that a country will ignore the terms which it agreed to in gaining the right to host the Olympics, simply because of its foreign policy. The Olympic spirit is gone.

I devoutly wish these remarks had not been required, because I realize that as an advocate of separation of sports and politics, I should, under normal circumstances, remain silent. Under the circumstances where politics has already demolished the Olympic spirit, to remain silent would be just as wrong. This is particularly true when the nation most adversely affected is our longtime friend, the Republic of China, and the next Olympic games are scheduled to be held in the Soviet Union. Ignoring this matter now could lead to even further problems in Moscow in 1980, perhaps even for the United States. If that happens, I hope this Nation will take a lsson from the Taiwanese in preserving our national identity with pride and dignity.

Finally, Mr. President, I request unanimous consent that an article from yesterday's Washington Star, by Mr. Henry S. Bradsher, be printed in the Record. It provides some food for serious thought about the precedent established in this year's Olympic Games.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, July 20, 1976]

'76 Olympics Flap a 1980 Precedent?

(By Henry S. Bradsher)

The exclusion of Taiwan's team from the Montreal Olympics by the Canadian government has created a touchy problem for the Soviet Union.

The next summer Olympics are scheduled to be held in Moscow in 1980. The Canadian refusal to grant visas to athletes from the Republic of China (Taiwan) set a precedent which will be awkward whichever attitude the Kremlin decides to adopt toward granting visas for the Moscow Olympics.

The precedent could make it easier for the Soviet Union to bar disliked countries from the next games. But it also could make the Soviets more vulnerable to pressure from friends like some Arab nations to bar countries like Israel—and run the risk of having the games canceled, or at least lose their Olympics status, with possibly huge financial losses as a result.

In bidding for the games, the Soviets promised the International Olympics Committee to admit teams which the IOC recognizes. Canada made such a pledge, too.

But after it was awarded the games, Canada decided to break off diplomatic relations with the Republic of China government on Taiwan and recognize the People's Republic based in Peking. It then refused to accept a Taiwanese team. Despite much huffing and puffing by other nations, including a U.S. threat to boycott the games, Canada got away with it.

Soviet officials have commented that they would not bar Taiwan from their games, even though Moscow recognizes Peking rather than the Taipei regime. That is an easy choice, however, considering the hostile relations between the Soviet Union and China, and common interests of Moscow and Taipei which have developed into an undercover friendship.

From the dim perspective of four years in advance, the problem does not appear to U.S. government officials to be Taiwan's admission to the 1980 games. The problem is more likely to be other countries whose governments have bad relations with Moscow at that time.

MEALS-ON-WHEELS—AN EXCELLENT PROGRAM

Mr. PELL. Mr. President, I am delighted to join as a cosponsor of S. 3585, the Home Delivered Meals Act of 1976.

This important legislation builds upon the foundation of an enormously successful and widely respected group of volunteer organizations, the Meals-on-Wheels home delivered meals project. Meals-on-Wheels began in the United States 22 years ago, and has spread to the point where there are now almost 2,000 home delivered meals programs in the country, each operating in the way that best fits the special needs of their participants and the special problems of their local geography and climate.

This legislation is a fitting and appropriate compliment to the title VII, senior citizens nutrition program which is authorized in the Older Americans Act. As a strong supporter of these existing title VII services, I welcome these additional home-served meals as really completing the picture when it comes to getting decent and nutritious meals to our senior citizens.

I am particularly aware of the fine work which Meals-on-Wheels has accomplished because a resident of my State of Rhode Island, Mr. Joseph Brown, is this year's president of the National Association of Home Delivered and Congregate Meal Programs. Mr. Brown, executive director of Rhode Island Meals-on-Wheels, recently testified on the advantages of S. 3585. Last year this service delivered 123,566 meals to 1,183 Rhode Island clients. More than 400 volunteers worked to bring these meals to program participants: the elderly, the disabled, and the homebound. In addition, these very important volunteers perform other sevices, which are almost as important as the good food itself. They are company for the homebound, and can also spot the first signs of medical emergencies and get medical aid on the way, if that becomes necessary.

I am especially impressed by the volunteers spirit which makes these programs run, and run at a cost far below that of programs in which a full staff must be hired. Meals-on-Wheels works with a very limited paid staff, and, therefore, can deliver more meals for the same dollar, than most congregate programs.

Mr. President, we have a real need for both onsite programs and Meals-on-Wheels programs for the elderly and the homebound. This legislation, S. 3585, will help us immensely to get this food to those who really need it, when they need it and where they need it, and will certainly provide a fine compliment to the excellent title VII programs which are already in place. I am proud to be a cosponsor of it.

I ask unanimous consent to have printed in the Record the testimony of Mr. Joseph Brown of Rhode Island, president of the National Association of Home Delivered and Congregate Meals, and executive director of Rhode Island Meals-on-Wheels.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Joseph Brown

Gentlemen, it is indeed a pleasure and an honor to have this opportunity to present my testimony before the Senate Committee on Nutrition. I am Joseph Brown, President of the National Association of Home Delivered and Congregate Meal Programs, and Executive Director of Rhode Island Meals on Wheels.

At the present time there are about eleven hundred private, non-profit Meals on Wheels programs and between eight and nine hundred Title VII congregate meal programs in the United States.

What is Meals on Wheels? Basically, it is a program in which volunteer drivers and helpers deliver hot noon-time meals to the homes of the homebound and handicapped elderly people.

The concept of Meals on Wheels originated in London during the second World War. As a result of the extensive bombing of the city, many elderly people were unable to get proper food or to prepare it. Then several volunteer organizations established a home delivery, or "Meals on Wheels" program. It proved so successful that it was continued after the war and spread throughout England and the commonwealth nations, and then throughout major cities of Europe and other parts of the world.

Meals on Wheels started here in the United States in Philadelphia in 1954 and has since spread throughout many areas of the country until I believe there are nearly two thousand different home delivered meal programs in the United States at the present time.

Some programs provide just the hot noon-time meal, while others include a cold supper meal as well. Our Meals on Wheels program in Rhode Island provides a meal each day consisting of hot soup, crackers, salad, meat, potatoes, vegetable, bread and butter, dessert and milk. So you can see that they do get a good, nutritious meal. We have had the services of Miss Sybil Kaplan, a nutritionist from the Co-operative Extension Service of the University of Rhode Island, as a consultant from the beginning of our program. She has helped us in many areas so that I feel that with her help and advice we are delivering the highest quality and quantity of food—the equal of any in the country. However, we have discovered that many of our clients use this noon-time meal for two meals a day, and for a few of them it is actually divided up for three meals. Most of our routes run five days a week although we do have two that deliver seven days a week year round.

Our program started about seven and one half years ago with a hundred dollar donation from each of five downtown Providence churches, with two routes and seventeen clients. It has now grown to be one of the largest in the country.

At the present time we are operating 44 routes, taking hot meals to about 600 different people daily. These meals are delivered by about 400 volunteers each week. Last year we delivered a total of 123,566 meals in Rhode Island to 1,183 different clients.

We purchase our meals from many different food services—hospitals, nursing homes, commercial restaurants, a college, a vocational high school, a retirement home, a bank, and even an Indian Long House where they are also preparing Title VII meals.

We deliver in almost every area of the state—cities, suburbs and large rural areas. One of our rural routes covers over fifty miles to deliver meals to twelve isolated, homebound elderly persons.

The cost of the meals is on a sliding scale basis from fifty cents to a dollar and a half per meal. The majority pay a dollar. A few do not pay anything, but we have found that most elderly people have a lot of pride and dignity and want to pay their own way. Because of this we have emphasized from the beginning that it is not a charity program. It is a service that is available to any elderly person who needs it.

Our motto is "We Care" and our volunteers have certainly demonstrated that they do. Even in severe winter storms only a few of the routes have ever had to be cancelled for lack of volunteers. Our volunteers are like the old-time postmen: "neither snow, nor rain, nor heat . . . stays these couriers from the swift completion of their appointed rounds."

Each week the volunteers receive new "route sheets", planned and typed by our office secretary, giving clear directions for getting to each client and including whatever explicit instructions that are needed, such as "back door, second floor," "watch out for dog," "deaf—knock hard and walk in," etc.

I really cannot say enough about the volunteers. They are the heart and soul of the Meals on Wheels program. Many of them do far more than deliver meals. They go back another time and help individual clients by shopping, doing errands, taking them to doctors and clinics, etc. They also act as an information and referral agency, as does our office staff.

To the elderly person, Meals on Wheels is more than just a hot meal. For many of them the daily social contact is of as much value, if not more so, than the hot meal. The volunteer may be the only person they see all day long and while the visits are brief, the volunteer brings in a lot of warmth and friendliness with the meal. This visit is really the highlight of the day for many of these lonely people. When you see them sitting at the window just waiting for the volunteer, you realize how much it means to them.

We have seen amazing improvements take place in the outlook of homebound people who have started receiving Meals on Wheels. One example—the visiting nurses asked us to put on two very elderly sisters. When we first went to their home it was in great disorder, and the ladies were unkempt, wearing bathrobes and with hair uncombed. Within a few days they started to get dressed, comb their hair, straighten up the house, etc., because someone was coming to see them! In other words, they now had a purpose in living—something to look forward to. This benefit was of course in addition to that of getting the hot nutritious meals they needed.

The nutritional value of the meals has also brought dramatic changes in many individuals. One example is the elderly woman who kept telling us, "I was supposed to be dead by now, but instead I'm getting better, thanks to Meals on Wheels." Another is a lady in such poor condition that after receiving meals for just two weeks her doctor was amazed at her progress. He asked her, "What have you been doing?" She answered, "Just Meals on Wheels," to which he replied, "Well, God bless Meals on Wheels."

Another very important aspect of the Meals on Wheels program is that it provides a daily check on people living alone, some of whom are very frail and who see no one for long periods of time. Many times volunteers have found an elderly person who has fallen and was unable to get up, or was unconscious or in great need, and in a number of cases they have saved their lives by getting help for them in time.

We have a very close working relationship with all the other social agencies in Providence and in Rhode Island. Clients are referred to us by many different agencies and individuals including district nurses, doctors, hospital social services, SRS, The Association for the Blind, Title VII outreach workers, relatives and friends as well as self referrals. The urgency of these requests is perhaps the most convincing evidence of the very great need for this service.

The most important point that I want to get across to you today is that these Meals on Wheels programs enable thousands and thousands of elderly citizens to remain in their own homes, which is their greatest desire, rather than having to go to a nursing home. There is almost universal agreement among professionals that most elderly people are far better off in their own homes under nearly any circumstances than in an institution of any kind. A study made of persons entering institutions showed that of those aged 65 and over, "50% suffered emotional and physiological shock, and 24% died within the first six months of institutionalization."[1] Another very important point to consider here is the substantial savings to the state and federal governments of money that would otherwise be spent on nursing home care.

While the present Meals on Wheels and Title VII programs cover large areas of the country, there are still many, many areas where no program like this is available to the homebound elderly person. This is one of the major concerns to which I feel this committee needs to address itself. While the present programs should be given additional money to meet their current needs, let us not forget that there are still vast areas of the country where there are no nutrition programs at all. There is just as great a need for the service in those areas. In our program in Rhode Island, while we are serving about 600 meals a day, the demand is so great that we still have a long waiting list. There has been a waiting list almost from the beginning even though we have continually added routes. We hope to keep on adding routes as fast as we can get volunteers until there is no one on the waiting list. I think if I give you some examples from this list it will demonstrate the great need for this program in every city and town. (Exhibit 2)

With the right leadership and foresight, hundreds of new programs could be started with a very small outlay of money. The operation can be kept simple, and many, many more needy elderly people could be served at little cost. For example, our total cost last year was only $1.89 per meal. This low cost was possible only through the use of volunteers.

The greatest asset of the private Meals on Wheels programs is the thousands of volunteers who gladly give of their time, abilities, automobiles and gas. Because of this, the volunteer programs can deliver two or three times as many meals for the same amount of money as the Title VII programs are able to do. This is not discounting the value of the Title VII programs. They are doing an excellent job, but I would certainly recommend that they continue with and further expand their home delivered meals programs to help meet the great need. Also, each project director should be allowed to respond to the local need for home delivered meals up to the amount of 33⅓% of their total meals. Many of them have not been allowed home delivered meals or have been restricted to 10%. What I would like to emphasize is that wherever there are existing Meals on Wheels programs or where volunteers want to start a private Meals on Wheels program they should be given first priority for federal funds.

The success of this program will depend upon a real co-operative effort between the private, non-profit Meals on Wheels programs, the Area Agencies on Aging, and Title VII directors; but I know this can be achieved. An excellent example of this is the wonderful cooperation we have had in Rhode Island between the State Division on Aging and Rhode Island Meals on Wheels. We have worked closely together for over seven years. This relationship started when we applied for and received Title III funds through their office. This money allowed us to expand our program much faster then we could otherwise have done. After Title III funding ended, we received wide community financial support from church organizations, service clubs, businesses, local and state governments, private foundations and individuals. At the present time we are receiving no direct federal funds.

Our Meals on Wheels organization has agreements with all of the project areas in Rhode Island except one, to provide home delivered meals for them. This has worked out very well for the Title VII directors and for Meals on Wheels; and the most important thing is that all the clients have been better served as a result.

Because of the success of our program the state asked Rhode Island Meals on Wheels to be the grantee agency for Title VII for the city of Providence. We have continually enlarged this program so that the elderly in all areas of the city are presently being served congregate meals. At one of our meal sites we have the only seven day a week program in New England. The weekend meals have been of particular value to the older men living in rooming houses who have no place to go on weekends as most of the less expensive restaurants in down-town Providence are closed on Saturday and Sunday.

Most of our Title VII funds are going into food, as we have been able to secure local meal sites where we have not had to pay any staff, facility or utility charges. It may be difficult to find these sites, but it can be done, thus allowing more money to be spent for meals.

At the present time we have seven sites serving group meals, plus home delivered meals, five or seven days a week. We are providing about 2,000 meals a week under this program. We have responded to the need for congregate meals in all areas of the city and at the present time there is no waiting list at any site except at the Jewish Community Center, where we are limited in the number of Kosher meals that can be provided each day.

Our Title VII program has an excellent advisory committee made up of all senior citizens. They have been very active in many phases of the program. We serve certain dishes according to the ethnic background of the majority of the participants at each site wherever possible.

The present Title VII nutrition program has helped to meet the social and nutritional needs of great numbers of our elderly citizens. The proposed legislation will fill the greatest gap in the nutritional needs of our elderly people.

In conclusion, I strongly endorse the proposed legislation as it will help to meet what is probably the greatest need of the elderly in the United States today.

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[1] State Communities Aid Association. Consultation, Communities and Health: A Demonstration of a Statewide information and consultation Service. (New York, New York 1961) Page 57.

EXAMPLES OF WAITING LIST

83-year old woman in Providence, nearly blind. Very frail. Difficult to cook for herself.

82-year old woman in Providence, nearly blind, suffering with arthritis. Goes up and down stairs on hands and knees.

73-year old woman with a blood disorder. Medication causes dizziness. No incentive to cook.

86-year old woman, can't cook for herself anymore. Lives with sister in 80's but they don't get along so doesn't get the help she needs.

Couple in 70's. Woman depressed, unable to cook because of hardening of arteries to the brain. Husband has heart condition, tries to help but just can't cook properly.

82-year old woman recovering from broken hip. Handicapped by failing eyesight and general weakness.

75-year old man suffering with pulmonary emphysema. Doctor suggested MOW as he is no longer able to go out for meals.

80-year old man who is ill. Has been living mainly on water and peanut butter sandwiches.

89-year old woman just out of hospital for coronary deficiency.

82-year old woman living in very poor hotel room, just out of hospital. No cooking facilities, unable to go out.

82-year old woman. Very frail, but caring for invalid sister. Had been sending out for meals but can no longer afford it.

87-year old man, weakness in legs, considered to be caused by malnutrition. Very important that he get proper food.

86-year old widow in Cranston. Nearly blind, living alone. Fell and fractured her right arm. No relatives.

80-year old man. Had been found on floor after lying there for a day or two, then nine weeks in the hospital with viral pneumonia. Now home alone, does not cook properly for himself.

THE AIR FORCE ASSOCIATION POSITION PAPER: UNIONIZATION OF THE MILITARY

Mr. THURMOND. Mr. President, recently the Air Force Association's Board of Directors met in Colorado Springs, Colo. At that meeting, a position paper on unionization of the military was unanimously adopted. Mr. George M. Douglas, the president, Air Force Association, sent me a copy of the fine position paper of the association.

This paper concludes that the evidence is overwhelming against military unionization. My bill, S. 3079, with 30 Senators cosponsoring, would prohibit unionization of the military segment of the Armed Forces. I ask unanimous consent that the letter of George M. Douglas and the Air Force Association's Position Paper: "Unionization of the Military," be printed in the RECORD.

There being no objection, the letter and paper were ordered to be printed in the RECORD, as follows:

AIR FORCE ASSOCIATION,
Washington, D.C. June 23, 1976.

Hon. STROM THURMOND,
U.S. Senate, Washington, D.C.

DEAR SENATOR THURMOND: The Air Force Association Board of Directors, meeting recently in Colorado Springs, unanimously adopted a "Position Paper on Unionization of the Military." The action was taken on behalf of our more than 145,000 members around the country, many of whom are active union members.

Knowing of your deep concern with this issue, we believe you will be interested in reading our statement. A copy is attached.

We welcome your comments, and if you wish, our professional staff will be pleased to discuss the paper with you.

With every good wish, I am
Respectfully,
GEO. DOUGLAS,

AIR FORCE ASSOCIATION POSITION PAPER: UNIONIZATION OF THE MILITARY

(NOTE.—The following statement was adopted unanimously by the Air Force Association Board of Directors, meeting on May 29, 1976 in Colorado Springs, Colorado.)

Any plausible reaction to the military unionization movement must begin with the acknowledgement that unions are a fundamental element in our democratic system, and that organized labor is a major contributor to our defense posture.

Beyond that, the AFL–CIO must be recognized as a potent force in keeping our citizens alert to the threat posed by the Soviet Union and to the resulting need for a strong American military establishment. Indeed, during the past twelve months the Air Force Association has issued three special reports to its leaders, each directly related to the AFL–CIO, and each recommended as a valuable source for remarks in support of AFA objectives.

The first of these reports carried a message from the AFL–CIO Executive Council which called upon "the President, the Congress, and the American people to do what must be done to provide for the common defense." We hailed it as "a perceptive and concise analysis of our defense position vis-a-vis the Soviet threat."

The second report was the reprint of an article by Aleksandr Solzhenitsyn, the Nobel Prize-winning Russian author who was exiled from his native country in 1974. The article was entitled "The Third World War Has Ended." Author Solzhenitsyn had visited this country under the sponsorship of the AFL–CIO and his message to America was a breakthrough in obtaining wider recognition of the nature and criticality of the Soviet Threat.

Our third report carried excerpts from an article by George Meany, President of the AFL–CIO, which featured an incisive analysis of detente. It strongly supported the theme of our current Statement of Policy.

If, as surveys indicate, there has been a swing in public opinion toward greater recognition of the Soviet Threat and greater interest in a larger U.S. Defense Budget, the AFL–CIO deserves much credit for this important shift in public attitude.

Against this background, it would seem that Mr. Meany and the majority of other labor leaders, plus the rank and file of organized labor, will find it difficult to support the proposal to be considered by the American Federation of Government Employees, an AFL–CIO affiliate, at its convention in September. This proposal would have the AFGE serve as bargaining agent for uniformed military personnel.

Clyde M. Webber, the National President of AFGE, in testimony before the Defense Manpower Commission, reported that "the mutual benefits of bringing military personnel into AFGE" was based on the premise that the pay systems of uniformed military and civilian government employees were linked by statute. AFGE claims to represent more than 390,000 civilian employees in the Department of Defense.

Mr. Webber makes the point that pay scales for both civilian and uniformed government personnel are based on comparability with industry pay scales, and that budgetary considerations of defense personnel costs always include both the expenses for civilians and for the uniformed military as a single entity.

Although noting that the original concept of military unionization centered primarily on pay, Mr. Webber told the Commission that "other areas of mutual concern have also come to the fore." He identified several of these areas as "common or similar problems in the pension subsidies of both civilian and military personnel, changes in the health care system for both groups, identification of military and civilian positions in the regular operation of military installations. . . ."

In all of his statements on the subject, Mr. Webber has, in effect, configured military personnel in a peacetime setting, as civil servants in uniform.

Leo Pellerzi, General Counsel of the AFGE, put it more succinctly to the Wall Street Journal when he stated, "It is a volunteer Army and that means people are selecting a military career as a means of livelihood, and not for patriotic reasons. Servicemen today aren't responding to an attack on the country. They want to be paid."

Our initial reaction to this is clear cut. If, as Mr. Pellerzi states, the All-Volunteer Force is producing people who select military careers merely as a means of livelihood, and "not for patriotic reasons," the nation has only one logical alternative: go back to the draft.

As for Mr. Webber's comparability argument, we have long since noted that the comparability concept is based on the assumption that military and civilian jobs are "comparable" to begin with.

More than a year ago, in a special report to AFA leaders, we commented on this assumption with the question, "Are they?", and added: "Are many civilian employees called upon to uproot their families involuntarily every few years . . . to endure 24-hour alert duty assignments . . . to work overtime without additional compensation . . . to serve in remote and isolated areas . . . to give up certain freedoms and rights . . . risk injury, personal disability, or death, in battle?"

Proponents of military unionization invariably respond to this with the argument that firemen and policemen are unionized, and even go on strike now and again. While we believe that these jobs, for which we have the greatest respect, can be compared to military service only in relation to hazardous duty assignments, it behooves us to consider what can happen when firemen and policemen strike.

Admiral John S. McCain, Jr. (USN-Ret.), in a recent newsletter published by the Public Service Research Council, describes an incident and poses a question which deserves serious consideration: "During the fireman's strike in Kansas City, Missouri, late last year," the Admiral reports, "firefighters from surrounding communities would not cross the so-called 'picket lines' of the striking Kansas City firemen. The situation became so dangerous to the citizens that the National Guard was called in to help quell the raging fires throughout that city. If the military is unionized this would also mean the National Guard. Would they, under unionization, eschew as firemen in areas surrounding Kansas City, the moral law of helping a neighbor, and not cross the so-called 'picket lines'?"

When you project a military man's right to strike into a combat situation you, of course, come up with an impossible situation which turns critics of military unionizaton into fanatics.

But the leaders of the Amercan Federation of Government Employees have made it clear that they are referring to the peacetime training mode of military people when they talk about unionization—and we are inclined to believe them. We can't believe that union authority could extend into warfare, or that union leaders could sell the idea, or would even try.

The Supreme Court has repeatedly ruled that only the military has the constitutional authority to participate in defense activity. As recently as March of this year, the Court stated (*Greer* v. *Spock*): "One of the very purposes for which the Constitution was ordained and established was to 'provide for the common defense,' and this Court over the years has on countless occasions recognized the special constitutional function of the military in our national life, a function both explicit and indispensable."

It also seems logical to assume that union leaders, at least at the outset, would shy away from supporting the right to strike for unionized military personel. The specter of a military unit being unable to cross a picket line to save lives, as projected by Admiral McCain, presents another unsalable item for union leaders. On the other hand, the right to strike (or sit-down, stay-home, play-sick maneuvers) is a union's ultimate weapon. This presents something of a dilemma. But it is not the immediate problem.

Assuming wartime duty and the right to strike are eliminated from the equation, how does military unionization stack up?

First, it's worth considering the observation of AFGE's legal counsel, Mr. Pellerzi, that "servicemen today aren't responding to an attack on the country" as part of his justification for unionizing servicemen.

This betrays complete misunderstanding of the training function in military life, and no appreciation of what military readiness really means. You can't separate training from combat that neatly—not without the danger of unnecessarily losing military lives and failing to carry out missions in the process. Again it points to the basic fallacy in the union's argument—that of thinking of military people as civil servants in uniform.

With this as a basic premise, AFGE leaders argue that uniformed military people deserve access to the same rights—through unionization—as those available to civilians who work for the Department of Defense. All this, presumably, as a part of the "democratic process" and supported by the First Amendment.

But the Supreme Court doesn't seem to agree. The Court stated (again in the *Greer* v. *Spock* decision of March 3, 1976): "A military organization is not constructed along democratic lines and military activities cannot be governed by democratic procedures. Military institutions are necessarily far more authoritarian; military decisions cannot be made by vote of the interested participants . . . (T) he existence of the two systems military and civilian) (does not) mean that constitutional safeguards, including the First Amendment, have no application at all within the military sphere. It only means that the rules must be somewhat different."

In 1974 the Supreme Court enlarged on the latter point (*Parker, Warden, et al.* v. *Levy*) in these words: ". . . while military personnel are not excluded from First Amendment protection, the fundamental necessity for obedience, and the consequent necessity for discipline, may render permissible within the military that which would be constitutionally impermissible outside it."

Indeed, the Supreme Court, in repeated decisions over the past twenty-five years, has drawn a clear distinction between military people and civilians. The Court in 1955 (*U.S. ex rel. Toth* v. *Quarles*) had this to say on the subject: "This Court has long recognized that the military is, by necessity, a specialized society separate from civilian society. We have also recognized that the military has, again by necessity, developed laws and traditions of its own during its long history. The difference between the military and civilian communities result from the fact that 'it is the primary business of armies and navies to fight or be ready to fight wars should the occasion arise.' "

Note the reference to "or be ready to fight wars" in that decision. That's what the military training mission is all about. Anything that might compromise that mission presumably would not be upheld by the highest tribunal in the land.

Could unionization compromise it?

In 1953 (*Orloff* v. *Willoughby*) the Supreme Court had this to say: " 'An army is not a deliberative body. It is the executive arm. Its law is that of obedience. No question can be left open as to the right to command in the officer, or the duty of obedience in the soldier.' "

And the Court enlarged on this point in 1974 (*Parker, Warden, et al.* v. *Levy*) in these words: ". . . within the military community there is simply not the same autonomy as there is in the larger civilian community. The military establishment is subject to the control of the civilian Commander in Chief and the civilian departmental heads under him, and its function is to carry out the policies made by those civilian superiors."

What if union policies do not agree with those of the Commander in the field or with those of the Commander in Chief in the White House or with "the civilian departmental heads under him"?

The answer, of course, is that military people have no alternative but to fulfill "the duty of obedience in the soldier" or face prosecution under the Uniform Code of Military Justice—a Code which the Supreme Court has ruled (*Parker* v. *Levy*, 1974) " 'cannot be equated to a civilian criminal code.' "

Military people must not be faced with this dilemma. If they are, something must give—and it could be national security. The stakes are too high for that risk.

In courtroom parlance, the evidence is overwhelmingly against military unionization, and adequate statutory provisions seem to exist to prevent it. Thus, in expressing our unalterable opposition to unionization of the military, the Air Force Association calls upon the Administration to exercise its authority and prohibit it.

FUNDS FOR DIABETES RESEARCH

Mr. CLARK. Mr. President, a constituent of mine recently sent me a letter that I would like to share with my colleagues.

Mrs. Elmer Johnson of Waukon, Iowa, wrote of her experiences with diabetes and of her strong support for increased Federal efforts to combat this debilitating disease.

The Senate included a substantial increase for diabetes research within the 1977 Labor-Health, Education, and Welfare appropriations. I want to express my hope that Mrs. Johnson's letter will help convince the conferees of the great importance of this increased funding, which will permit an expansion of research and training activities by the National Institute of Arthritis, Metabolism, and Digestive Disease.

Of equal significance is S. 2910, now under consideration by the Senate Labor and Public Welfare Committee. This bill would initiate a comprehensive plan to fight diabetes mellitus.

I ask unanimous consent that Mrs. Johnson's letter, which underscores the need for prompt congressional action to expand diabetes research programs, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Waukon, Iowa,
July 13, 1976.

Dear Senator Clark: I understand the Senate and House Appropriation Sub-Committees on Health and Diabetic Research are putting together the Appropriation Bills for the fiscal year 1977, which begins October 1, 1976. I surely hope the 75 million will be appropriated for Diabetic Health and Research, including blindness caused from the Diabetic condition.

I have been a Diabetic for over fifty years and am among some of the first to take Insulin at the Mayo Clinic, Rochester, Minnesota. I have gone there many, many times for hospitalization, care and treatment in the past fifty years. In 1934, when I was to have my baby, the question arose: Could they save me and the baby? Up until this time a Diabetic mother would either lose her life or the child, or both. Dr. Wilder came up with the theory that if the baby was taken at seven months via Caesarean Section, it might be possible to save both lives. This was done and proved successful for me. Because of his theory, many mothers and babies are now living.

About fourteen years ago I lost my sight overnight due to my Diabetic condition. I was told nothing could be done for me, so I lived in darkness for all these years until September 1975 when I went to the Mayo Clinic for my regular check-up. I was told they had done a few operations for Diabetic blindness, called "Viprecomy". After weeks of tests and deliberation, I decided to have the surgery as I had nothing to lose, I was blind. On a Tuesday morning the surgery was performed and two days later they removed the bandage. I would count the surgeons' fingers. With special glasses, I can now see to get around without a "white feeler", as I call it. It is not perfect vision, but to have light is wonderful. I hope this is a start for something much better. I do feel I have given much to research with no financial assistance, no insurance, no Social Security.

We all recognize the increasing nationwide rise of Diabetes. The need for a cure constantly challenges us and gives a compelling urgency for the overcoming of this disease.

I strongly urge you to use your influence in procuring financial assistance for this cause.

Mrs. Elmer Johnson.

ADDRESS BY RICHARD L. ROUDEBUSH, ADMINISTRATOR OF THE VETERANS' ADMINISTRATION, AT GROUNDBREAKING CEREMONIES OF THE AUGUSTA VA REPLACEMENT HOSPITAL.

Mr. THURMOND. Mr. President, I was recently privileged to hear the address of the Honorable Richard L. Roudebush at the groundbreaking ceremonies for the Augusta VA replacement hospital in Augusta, Ga., on July 10, 1976.

On this day, Mr. Roudebush properly attributes advanced hospital facilities, such as that being constructed at Augusta, as significantly improving the health care of our Nation's veterans and appropriately identifies the occasion as one in keeping with a national commitment, at the beginning of our Nation's third century, to increase the quality of the lives of those who have made sacrifices to preserve our freedom.

Mr. President, in order to share this excellent address with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY THE HONORABLE RICHARD L. ROUDEBUSH

These ceremonies this morning mark the official start of a project that will make better health care possible for citizens who have earned such care by service in the Nation's armed forces.

This is a day of importance to veterans of this area and a day of importance to the Veterans Administration.

It is the kind of day that VA officials look forward to, a day when growth and progress are obvious, and I am extremely glad to be here sharing it with you.

I feel honored to be associating with the distinguished persons who are on this platform and are part of the program and I am grateful for the interest shown by all who have chosen to be a part of our audience.

VA has had a long and successful history in providing medical treatment in this community but today we open a new era that will enable us to go far beyond what we have done in the past and what we are doing now. We break ground for what will be one of the finest hospitals in the entire VA system.

It will be a hospital that is needed and deserved by those who will use it. It will be a hospital of which all citizens of Augusta and of this area will be proud. And it will be a hospital that will carry on the tradition of VA service that is so firmly established here.

I think that this tradition is important and that it is important to emphasize the fact that this is a replacement hospital only in that it is replacing outmoded physical facilities. The non-physical attributes of a great hospital that have been so abundant here will be here beyond the period of construction, beyond the time that activities move to a new location and the hospital of the future begins its important work.

I speak of such attributes as the skill of the hospital's administration and staff, the dedication and loyalty of employees, the personal interest and the compassion they show and the esprit de corps that exists here.

These things have made the hospital successful, in both divisions and in the many activities conducted here in behalf of the very special citizens who have earned the right to its services.

To those who have conducted the affairs of the Augusta VA Hospital so well, I express my thanks and that of VA for what you are doing. I join you in looking forward to the greater opportunity the new hospital will give you to carry on your work more productively, more successfully and to the greater comfort and benefit of your patients.

Of course, there are those other than VA employees . . . and many of them . . . who have had a part in making the Augusta VA Hospital successful and who will play a big part in its future.

No community where VA is located has given more valuable official support, no greater citizen support.

Veterans organizations and other groups in this area have provided help in many ways. They have not only given us the volunteers to whom we all owe such a great debt, they have given us wise counsel and the cooperation and assistance of their membership in countless projects that have helped the hospital give better service.

And, of course, the relationship we have had with the Medical College of Georgia has been invaluable. This affiliation has not only made our hospital better, it has made the improvement and expansion we start today feasible and wise. We look forward to an even more productive association in the future.

The fact that this is the first ceremony of this kind that VA has conducted since the start of our third century as a nation may have little historical significance. But I think that the progress that is manifest by our gathering here this morning is in keeping with the aims and aspirations of the American people that have been described so profusely and so fluently during the past days and weeks.

We have been reminded as we have never been reminded before of the heritage that is ours and we have celebrated as never before our pride in our country and our gratitude that we have the good fortune to be Americans.

We have also had our responsibilities as citizens of this great nation described for us on countless occasions during the last few days, and we have been told of the great tasks and challenges that confront us.

The Bicentennial weekend is over. It was a memorable period that did honor to our country and it was observed in a manner appropriate to an important anniversary and in a way complimentary to the citizens of a great nation.

One week later we gather here in a smaller, quieter ceremony than those of a few days ago to signify that as the work of the Nation continues, we are still building and we are still improving the institutions and services that we recently celebrated so proudly.

President Ford said in his Bicentennial Message to the American people that what he termed the "great American adventure" has stirred the hopes and quickened the imagination of men and women throughout the world during the last 200 years and that it will continue to do so.

He said, "We have tried and will continue to strive to make the lives of individual men and women in this country and on this earth better lives—more hopeful and happy, more prosperous and peaceful, more fulfilling and more free. This is our common dedication and it will be our common glory as we enter the third century of the American adventure."

No one undertaking will accomplish more than a very minor portion of what the President is talking about. What we do here at this site, today and in the period ahead, will affect a relatively small number of persons, measured against all our citizens and those throughout the world who look to us for help and leadership.

But what we do here is in keeping with the President's message. We are acting to make the lives of individual men and women better lives, as he said. What we do will eventually lead to their lives being more hopeful, happy, peaceful and fulfilling . . . our "common dedication," as the President expressed it.

And we will be doing something more to further the American adventure that President Ford talked about. He said that a hallmark of that adventure has always been an eagerness to explore the unknown, which we have done while clinging to the wisdom and experience of the past. This we will do at this new hospital, conducting medical research and always looking for new information, while educating and training by disseminating existing knowledge and instructing in proven practices and techniques.

But I don't want to make too much of the fact that today's program follows the Bicentennial so closely and that this is a fitting way for VA and for this community to complete a week of celebration.

This is a facility that has been planned over a long period and this program could well have taken place at a less unique time in our history. This is an observance that is ceremonial. The ground would have been broken and the building would have been started whether we were here or not.

What is important is how well we have planned and how well we will proceed with the work ahead of us. What is important is how skillful we are in making this new facility the important institution we have in mind, in how it accomplishes the mission we envision for it and takes its place with and complements the work of other hospitals in this area, in this VA medical district and throughout VA.

I think there is reason for great optimism that it will, in fact, be one of the finest hospitals in the country. That is our goal and we have the assets that I mentioned earlier that will help us reach it . . . VA determination that it will be as good a hospital as we know how to make it, the skill and dedication of employees, a productive medical school affiliation and the unstinting support of friends in this area.

I would be remiss, and my remarks would be lacking, if I did not also mention the interest and the support given the Augusta VA Hospital by members of both houses of Congress. We are grateful that they have seen the need for this facility and have responded with such sympathy and understanding. I am certain that the hospital will have their attention and their assistance in the future as it has to this time.

It is good to be with you on a day of such importance and of such promise. Let me once again express my gratitude and that of VA for your participation.

We are here to start the construction of a building that will be attractive and convenient, modern and serviceable in all respects . . . a building of which we will all be proud.

We are also here to reaffirm our belief in the importance of this hospital and to rededicate ourselves to its mission and to its future success.

We are here to proclaim that VA wants . . . and that the American people want . . . the very best health care possible for veterans of this area.

Let us proceed now with the rest of this program . . . and get on with the construction.

UNTIMELY AND UNJUSTIFIED CRITICISM OF DRUG ENFORCEMENT ADMINISTRATOR

Mr. HRUSKA. Mr. President, this past weekend the Permanent Subcommittee on Investigations of the Senate Government Operations Committee issued a report highly critical of Federal efforts to halt drug abuse in this country.

The report seems to indicate that our narcotics problems are due to inadequate efforts by the Drug Enforcement Administration of the Department of Justice.

Unfortunately, the report is untimely and completely misses the mark. It is simplistic in its conclusions and contributes little to the American public's understanding of the problem of drug abuse and its causes.

We in the Congress must recognize that the police alone cannot keep our streets, suburbs, and rural areas safe from drugs and crime.

The new Administrator of the Drug Enforcement Administration, Peter F. Bensinger, made the point very clearly when he said:

> How can we have effective narcotic enforcement when the judges put one out of every three offenders convicted of a narcotics offense out on the streets on probation? One out of every two persons convicted in 1975 in Federal courts on narcotics charges was either given probation or a sentence that would make them eligible for parole in one year or less.

Mr. President, it is easy to criticize law enforcement agencies, but DEA is fighting a drug war with one hand tied behind its back, and if the Senate really wants to help curb the illegal traffic of narcotics in the United States, then I suggest that it consider the urgent need for stronger sentencing and more realistic bail as a meaningful deterrent.

Mr. President, there is currently pending in the Judiciary Committee a bill that would address this problem head-on. The bill, S. 3411, was introduced on May 11, 1976, by this Senator and others at the request of the administration. The provisions of S. 3411 were the result of the President's April 27, 1976, message to the Congress on Drug Abuse in this Nation.

In his April 27 message, the President stated:

> Justice Department statistics show that one out of every four persons convicted of trafficking in heroin received no prison sentence at all. One out of every three received a sentence of less than three years. And since convicted traffickers are eligible for parole upon the completion of one-third of their sentence, even those who receive longer sentences rarely served more than a few years.

Mr. President, laws that permit this to happen must be changed, or our efforts to detect and arrest lawbreakers cannot be expected to succeed. Deterrence—certainty that a conviction will mean substantial jail time—must be achieved. S. 3411 can bring this about.

The distinguished Senator from Indiana (Mr. BAYH) and I have announced our intention to hold prompt hearings on this bill in the Judiciary Committee. If the Senate's schedule permits, we will encourage early action on the Senate floor prior to adjournment.

The report issued by the Senate Government Operations Subcommittee does not do justice to the Drug Enforcement Administration competent staff, or to the facts. For example, the report criticizes DEA's inadequate internal security. Although this may have been true a year and a half ago, the new Administrator has increased the DEA Internal Security force from 29 to 51 since January of this year. The report does not reflect these changes.

Mr. President, the report also criticizes the "street-level" enforcement efforts of DEA, but in the past 9 months DEA arrests of major drug traffickers have increased 106 percent.

Criticism also was made of poor DEA interagency relations within the Federal Government. This is not the case. Administrator Bensinger has made a personal and concerted effort to step up cooperation between DEA and the FBI, the Customs Service and the Internal Revenue Service. Unfortunately, the Government Operations Subcommittee report does not reflect these recent good faith efforts by DEA to put its own house in order and get on with the business at hand—fighting the illicit drug traffic in this country.

Mr. President, I am not attempting to defend any past abuses within the Drug Enforcement Administration that the Government Operations Subcommittee may have found in its preliminary report. The fact is, however, that the agency, under its present leadership, has made every effort to improve its performance in an area that is one of the most complicated, dangerous, and sophisticated law enforcement tasks facing the Federal Government today. The subcommittee definitely needs to update its report. I hope it will do so in the near future. In the meantime, I believe my colleagues and the American people should be aware that the report is misleading and untimely.

TRIBUTE TO MRS. OLIN D. JOHNSTON

Mr. HOLLINGS. Mr. President, I wish to call attention today to the recent death in Spartanburg, S.C., of a great lady and the wife of one of the Senate's most distinguished former members, Mrs. Olin D. Johnston.

I am sure that all who knew her will agree that Mrs. Johnston was an extraordinary woman, mother, and wife. Certainly, she was the major influence in the life and success of her husband, so recently a member of this body, the late Senator Johnston, and through him she made a vast contribution to her native State and to her country.

If there were two qualities that Mrs. Johnston possessed above all others, they were an indomitable spirit and loyalty—indomitable in the face of every hardship and loyal to the things she held most dear: her husband and family, her friends and the principles of good politics and sound government that have made our country and my State a better place in which to live. I well remember her participation in the "Lady Bird Special" whistlestop tour through South Carolina when the late President's wife campaigned in 1964. Mrs. Johnston was an able and articulate spokeswoman for her party and her Presidential candidate at a time and a place where such support was not universally appreciated or understood. She was unflinchingly loyal, unshakable in her determination.

Participation was a hallmark of Mrs. Johnston's life. She and Senator Johnston were married in 1924 when he was a member of the South Carolina Legislature, and she remained at his side in the political arena through his years of service as Governor of our State and as a U.S. Senator. Due to her keen insight, her strong and intelligent arguments and her eloquence in behalf of her positions, she quickly gained many friends active in politics in South Carolina and soon was an expert in the field of public service and government. She managed her husband's campaign for the governorship in 1930 and remained active in all his political campaigns from then on. It was a tradition of involvement she passed on to her children.

A schoolteacher, Mrs. Johnston worked at the grassroots to better the educational process in our State. A graduate of Anderson College, she was perhaps its most famous alumnus and most ardent supporter. She she was the first recipient of the Alumni Service Award given by the college, and in June of this year the Anderson College Board of Trustees voted unanimously to honor Mrs. Johnston by naming her an honorary life member. She was only the second person to be so honored by the college. She served for many years as a trustee and was instrumental in locating the Olin D. Johnston Memorial Library on the campus.

After her retirement to Spartanburg, she became involved in numerous civic activities. She was also an active member of the Southside Baptist Church there and was a leader in the Baptist Foundation in South Carolina.

I am honored today, as I have been for years, to say that Mrs. Johnston was my friend. Elected to serve the remaining 2 years of Senator Johnston's last term in office, I have always been encouraged by her support and receptive to her advice and counsel.

Senator's Johnston's memory is secure in the Senate and in his native State. I am certain that the memory of his wife will be just as beloved among those who treasure concerned, active, and warm human beings whose commitments through the years have done so much to improve our lives.

I know there are many in this Chamber today who had the honor of serving alongside Olin Johnston, and I know that they join me in expressing our heartfelt condolences to the children Senator and Mrs. Johnston have left behind: Mr. Olin D. Johnston, Jr., Mrs. Salli Scott, and Mrs. Elizabeth Patterson. These three may take great pride in the example of warmth, integrity, and public service set by their parents.

FROM THE SECRETARY'S STANDPOINT

Mr. THURMOND. Mr. President, I have recently read an excellent interview with Dr. David Mathews, Secretary of Health, Education, and Welfare, in the current issue of American Education.

In the interview, Dr. Mathews candidly explains his philosophy of government and the aspirations he has for the Department of Health, Education, and Welfare.

Mr. President, Dr. David Mathews is a young educator who has devoted himself to making government work. He is an excellent example of a young man dedicated to the public interest. He has done an outstanding job in harnessing the Federal bureaucracy at HEW and in trying to make it more responsive to the needs of our people, and I believe his views will be of interest to my colleagues.

Mr. President, in order to share the interview with my colleagues, I ask unanimous consent that the interview with Dr. Mathews as it appeared in the July 1976 issue of American Education be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

FROM THE SECRETARY'S STANDPOINT: AMERICAN EDUCATION, JULY 1976

Q. Dr. Mathews, as educator, historian, and now as Secretary of Health, Education, and Welfare, what do you feel to be the people's uppermost concerns about their government?

A. In a way, the American people right now are re-examining some fundamental issues. Essentially, they're asking two kinds of questions. They're asking about the proper relationship between people and government—any kind of government, at any kind of level. How much can a government do for us? How much are we willing to pay for what the government does for us, both in terms of money and in terms of involvement in our lives?

The second kind of question that the American people are asking concerns the proper relation among the different levels of government. How much should the Federal Government do? How much should the State governments do? How much should local governments do?

It is important for all of us to hear these questions and to examine the issues. It is particularly important that those of us in HEW, the largest Department in the Federal Government, consider these issues because a great many public concerns focus on the very things we deal with daily.

Q. People say it is hard, maybe impossible, to change the bureaucracy. What kinds of things are you doing as Secretary to bring the bureaucracy around to serving the public?

A. If you ask the people in HEW what they do, they will tell you that they are very much in the business of serving the public. But it doesn't necessarily follow that what we intend to be helpful actually turns out to be helpful or is perceived as being helpful.

We and the public are somewhat ambiguous about what we want. Much of what we all need to do, as citizens, is to meet one another and become more aware of the ambiguity of our social ambitions. I don't know if we will ever make our ambitions less ambiguous, but at least we should be more honest in facing that ambiguity. We would have a better understanding of our problems if we did.

Public values and interests change. The major problem of a large agency is staying current with public interest. HEW needs to maintain an open conversation so that people feel they are being heard and find their values and wishes reflected in what the bureaucracy does. We have to fine-tune our processes constantly and look for new ways to get conversations going. We're not necessarily inventing new ways, but we are certainly looking at a lot of old inventions and adaptations of new ones—public hearings, requests for public comments before we develop regulations, invitations to editors to write special editorials for our intra-department publication. All of these are examples of ways to improve and expand conversations. Most important, we must convey to people that we want to talk to them and that we are quite willing to listen to what they have to say.

Q. Obviously you're looking to keep in closer touch with the people. But in your position as Secretary you seem rather far removed from many groups. In what ways will your actions have an impact on, say, the students in this country?

A. I hope that HEW can improve the quality of its impact on the lives of all citizens of this country. I hold to a very old-fashioned proposition that students are citizens. They may be a little bit younger than other citizens, but they are citizens—and not a special class of citizens, either. They seem to be more like than unlike the rest of our citizens.

I try to spend a lot of time outside Washington talking with anybody who will talk to me about the problems of government and the problems of the Department. During my first four months as Secretary. I traveled 10,000 miles and covered 15 States. Since then I have tried to devote at least one day a week to visiting some of the sites of the projects which the Department funds, looking in the eye people whom we are supposed to be helping. I hope other members of this Department will—I know they are trying to—do the same. This is one way we can keep ourselves current. As a large Department, we have to rely on computer printouts and statistical reports, but I think we need to supplemental our data with direct personal experience as much as we can.

Q. There seems to be a hue and cry about education. What do you think people are really saying when they criticize education in the country today?

A. They are saying a lot of things with a great many hues and a great many cries. There is concern about the quality of education and whether it's enough to teach only basic skills like reading and writing. There is also concern in the higher education community about the bureaucratization of higher education. The tendency to encumber educators with forms and formulas and turn them into bureaucrats threatens to curtail our capacity for educating in this country. Those issues form a body of controversy as wide and varied as the American people. They are legitimate and need to be addressed.

Q. You have been quoted as saying that, on broad issues of the day, educators seem to be "out of it." Exactly what do you feel is wrong with the attitude of educators?

A. I don't believe that the problem is attitude. Obviously, there have been very creative periods in American higher education. We developed the land-grant colleges about 100 years ago in such a period. We developed initiatives in elementary and secondary education for the disadvantaged and the handicapped in such a period. The community college movement, which produced a different type of institution, occurred in such a period. Right now, the program, the debates, and the professional seminars in higher education seem to focus far too much on narrow issues. I'm not saying the issues are not important, but I find a dearth of attention to some of the major concerns of the people of this country.

We live in a time when we have run to the limits of our theoretical understanding about most of what we experience. The economy is an example. We don't have the economic understanding to explain what we now experience. We don't have adequate social policies or theories of social action to give us guidance on what we should do about welfare and health care in this country. I find a great vacuum in conceptual development.

It occurs to me that if higher education has a particular responsibility, it is to develop the kind of concepts that enable people to understand what is happening to them and to take some constructive action. All of the surveys of how Americans see themselves report they feel frustrated. "Meaninglessness" is a word they often use. I would like to see all of education, particularly higher education, devoting more of its time to major social issues, to problems that have meaning to people.

Q. It appears that educators and institutions of education have come to depend on HEW and the Federal Government for some type of leadership role. Is this good, or should HEW be more concerned with teaching people how to fend for themselves on a local level?

A. I don't think we have to teach people to do things for themselves. A healthy country is one that is founded on a body of self-reliant, resilient citizens, working in their individual capacity or in their institutions. I would be very worried about our country if we became, either individually or collectively through institutions, totally dependent on others. But, in another sense, we all have to depend on someone else in a partnership. I can't conceive of a first-rate education system in this country without the Federal Government acting as a partner in the role a partner should play.

Q. From your standpoint as Secretary of HEW, what is a good partnership in education?

A. I think a good partnership begins with an effort to define what the different levels of government can do best. With such definitions, all levels of government can get together. The Federal Government can do certain things better than State governments. We ought to continue to use the Federal Government in those situations where it is more effective than other governments. There are also things that State governments can do better than the Federal Government. State governments are closer to the people in many ways. They have a capacity to see a situation in a more particular way and to respond to it. They should do the things that require this sort of capability.

But, State governments should also be encouraged to expand into fields in which they have not been particularly active or interested over the past several years. Civil rights, for example, was an area in which a great many States took no interest 20 years ago. If we are going to have standards of fairness in the country that apply to all people, we can't afford to exempt State governments from this responsibility.

If there is an undeveloped art in the country, it is the art of partnership. Partnership is infinitely more difficult than any other kind of relationship. But social problems are so large they don't seem to yield to any kind of quick solution. I don't think we can exempt any level of government from attending to them. If we cannot exempt other levels of government, we have to tackle problems inherent in the art of partnership.

JUSTIFIABLE PRIDE IN AMERICAN SYSTEM—STRONG ARGUMENT FOR RATIFICATION OF GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, here in the United States we have abolished slavery. We have abolished forced labor. We have securely established the political rights of women. We guarantee freedom of association.

In view of these facts, Mr. President, our failure to ratify the Genocide Convention remains an unsolved mystery to me.

The Senate and the people of the United States should, through adoption of this convention, proclaim to all the nations and all the peoples of the world our faith in our own culture and traditions.

Through adoption we would announce to friend and foe alike that the most ambitious experiment in human history—America—works and works exceedingly well.

It is not chauvinistic patriotism on our part to announce these facts to the world; rather, it is a laudable willingness to share our national experience with all nations, both old and new.

Therefore, once again, I urge my colleagues to push for early consideration and overwhelming ratification of the Genocide Convention. By so doing we will be performing a great service not only for all the peoples of the world, not only for the United Nations, but just as much for the United States.

SURVIVOR BENEFITS FOR PUBLIC SAFETY OFFICERS KILLED IN LINE OF DUTY

Mr. HRUSKA. Mr. President, last Monday when the Senate passed H.R. 366, public safety officers' death benefits legislation, I was regrettably absent because of a death in the family. I have long supported legislation which would provide a gratuity to the surviving dependents of officers killed while serving the public interest, but I am opposed to a bill providing for a Federal plan of group life insurance for public safety officers. My reasons for opposition will be elaborated on later in my remarks.

While it is important that the survivors of public safety officers tragically killed be provided for, it is even more important that steps be taken to avoid unnecessary deaths of police officers and firefighters. I am informed that the Law Enforcement Assistance Administration, which will administer the new program if the legislation is enacted, strongly believes that many deaths could be avoided if preventive action was taken. By preventive action, I mean assuring that these public safety officers are in good physical and mental condition. Situations where injury or death in the line of duty are possible would occur less frequently if the officers involved were physically up to their demanding tasks.

I commend LEAA for the attention it has given to urging police agencies around the country to adopt occupational fitness programs. Adoption of such programs will hopefully continue, thus avoiding the need to make some of the payments called for by H.R. 366.

Mr. President, I am especially opposed to the amendment to provide group life insurance for public safety officers. My opposition does not stem from any lack of appreciation or understanding for the valuable contributions made by public safety officers in this country. Rather, my opposition is based on the simple proposition that I do not believe the Federal Government should be in the business of providing general or group life insurance for public safety officers.

There are a number of reasons why I oppose enactment of this legislation. First, contrary to what many of the sponsors of this legislation claim, life insurance is readily available to public safety officers from the same sources that provide high quality life insurance to each and every one of us. The testimony during the hearings on this measure are replete with evidence that private insurance companies are ready and willing to provide this kind of coverage.

Second, many of these insurers are fully prepared to offer this coverage to public safety officers under the same terms and at the same prices as it is offered to other citizens. Where some insurers feel there is an extra hazard in insuring this kind of occupation, the additional premiums amount to only a few dollars a year.

Third, it should be noted, and with particular emphasis, that the Congress is currently considering legislation to provide a lump sum gratuity to the survivors and families of public safety officers who are killed in the line of duty by a criminal act or an apparent criminal act.

The bill, S. 2572, has been approved by the Senate Judiciary Committee and reported to the floor of the Senate.

With the availability of this death benefit during the duty hours of a public safety officer, it would seem somewhat extraordinary that the Congress approve the purchase, out of Federal funds, ordinary life insurance to protect against off-duty mishaps and natural events that are not a function of these occupations. Having provided for coverage of these officers who are exposed to certain risks, why should we now single out a particular class of citizen when other public service employees, many of them also in higher hazard classification, may legitimately feel that they are entitled to the same consideration.

Fourth, as with so many other aspects of life in this country, Federal assumption of responsibility in this area is not the answer. The Congress has declared and reaffirmed on numerous occasions, its belief that law enforcement is primarily a State and local responsibility.

The Congress has intended that law enforcement be the province of State and local governments, and that a national police force be avoided at all costs. The establishment of the Law Enforcement Assistance Administration via passage of the Omnibus Crime Control and Safe Streets Act of 1968, is evidence of the clear intent of the Congress in this regard.

Now, this Senator does not contend that Federal life insurance policies will ipso facto result in the creation of a national police force; such a simplistic analysis would be wide of the mark. However, we should always be mindful of the maxim that "he who pays the piper, calls the tune."

In addition, the benefits for public safety officers will differ from one jurisdiction to the next. Cost and expenses vary from region to region across the country; from urban areas to the rural countryside. Other aspects of public safety officers' benefits such as pay, working conditions, hospitalization, pension plans, and so forth, differ from jurisdiction to jurisdiction. Why should life insurance be singled out for special treatment?

Most police departments now have plans of group life insurance in effect. The need for it is so tailored to the circumstances and conditions in each locality. The Federal Government should not disrupt such programs by entering the field.

Mr. President, I have set forth and I believe to be compelling arguments against the adoption of S. 230. I am not against benefits for our public safety officers, who I respect and support to the fullest degree. What I am against is the intrusion of the Federal Government one more time into an area that is clearly the domain of the private sector, and not the Federal Government. Local public safety officers deserve adequate and high quality life insurance coverage, but not at the direction and bidding of the Federal Government.

THE WORLD FOOD CONFERENCE OF 1976

Mr. HUMPHREY. Mr. President, the World Food Conference of 1976 met in Ames, Iowa, June 28–July 1. It was sponsored by the World Food Institute of Iowa State University, one of our Nation's land-grant institutions long recognized for its contribution in agriculture. The theme of the conference was "The Role of the Professional in Feeding Mankind."

Scientists and professionals from 69 countries attended this conference. The objectives of the conference were defined as the "bringing together of natural and social scientists to examine the world food situation, to explore the crucial points at which breakthroughs may be sought and to channel creative energies toward the discovery and adoption of superior methods and husbandry of material resources for the production, distribution, and utilization of food."

The conference discussions focused on assessing the world food situation, analyzing the constraints in meeting world food needs, and suggesting methods to overcome these constraints. Subplenary sessions were conducted on national and international policy, technology, and change, natural and human resources, and the impacts of the world food situation on people, environment, and development. Additionally, workshops were held on institutional resources, technology for food production and preservation, impacts of the food situation on people, food production policies, distribution and marketing policies, physical resources for food production, impacts of the food situation on national and world development, consumer policies, impacts of the food situation on environment, selection, and use of technologies, maintaining and improving plant and animal resources, and human resources.

I would like to call the attention of my colleagues to two of the major addresses presented at this conference. These are "People and Food in One World" by Dr. Clifton R. Wharton, Jr. and "The World Food Situation Now and in the Year 2000" by Mr. Sartaj Aziz.

Dr. Wharton is president of Michigan State University and has served as chairman of the Office of Technology Assessment's Food Advisory Committee.

Dr. Wharton noted that there exists today—as compared to 20 years ago—a higher degree of consensus among scientists regarding agricultural development strategies. In spite of this, he feels that the levels of agricultural development reached in many developing countries falls far short of the state of knowledge of agricultural development. Wharton suggests this is due partly to the scientific community's failure to work well with politicians who make food policy here and abroad. Wharton stated:

> I fully realize that this is a very, very sensitive subject. But one cannot ignore the extent to which either the failure to adopt the right food policies or the adoption of wrong policies in many cases has had a reverberating multiplier impact in other nations around the world. This has been true both for the developing nations and for the industrial ones. The international impact of domestic policies works both ways.

Increasingly, leaders of developing countries are realizing that agricultural development policies must be an integral part of their government plans. Wharton cites policies aimed at the small farmer, bettering the quality of rural life, and changes in land ownership as examples of such efforts.

In conclusion, Wharton points out many of the often conflicting questions that policy makers face in decisionmaking. He strongly urges the experts to enter into a more rigorous dialog with such policymakers.

Mr. Aziz is the Deputy Director of the World Food Council, which was created by the U.N. World Food Conference in 1974. He commented on the current world food situation and his projections for the year 2000. Aziz summarized the current situation by saying:

> The improvement in the food situation is in effect more superficial than real. When we go beyond the statistical assessment of the current food situation to look at factors which really brought about the food crisis of 1972–75, we find them largely unchanged.

Aziz states that the developed countries have not adopted a new set of agricultural, food, and trade policies which are required to meet today's needs. He also criticized the developing countries for failing to devise adequate development strategies to combat fundamental agricultural problems. Aziz projects that over the next 30 years, the developing countries demand for cereals will increase by 162 percent.

In discussing the differences between those who are optimistic and pessimistic about the future world food situation, Aziz states the following:

> The main distinction between these two lines of argument is not one of fact but of judgment about what might happen in the future. The pessimistic line is obviously more sensitive to the outer limits set by finite physical resources of land, water, and fossil fuels and the inner limits imposed by constraints on man's ability to manage complex technological and political systems. The optimistic view is based on the assumption that pushed for survival, man will have no option but to push the frontiers of these limits to make the best use of available physical and human resources. It also assumes that much larger financial resources will be forthcoming to undertake the major effort involved and political and economic institutions which are part of the agricultural system will be restructured for the purpose.

I have long been actively involved in the food policy decisionmaking processes of this country, effecting both our domestic and international programs. The points that both of these men have made are vital contributions to the continuing international discussion of the world food problem and its solution. The policies that we choose to employ between now and the end of this century are perhaps the most crucial choices that will have to be made. It remains of utmost importance for policymakers to face these decisions and have the scientific community's advice and active participation in this process.

Mr. President, I commend this initiative by Iowa State University and ask unanimous consent that these two speeches be printed in the RECORD.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

THE ROLE OF THE PROFESSIONAL IN FEEDING MANKIND: THE POLITICAL DIMENSION

(By Clifton R. Wharton, Jr.)

INTRODUCTION

The invitation to participate in this conference was most welcome. Partly because participation provides relief from some of the concerns and problems which consume much of the time and energy of university administrators these days. Partly because the invitation was a welcome reaffirmation that I am viewed by some as still a practitioner of the Third World developer's art. But most importantly, the invitation was welcome because of the opportunity it affords to meet with many friends of long standing with whom in the past I have held dialogue on many of the issues to which this conference is addressed.

It is the spirit of continuation of the dialogue with these old and respected colleagues, and new ones as well, that I have prepared my remarks and look forward to your reactions and views. Thus, I am returning to my old professional love and to my old friends.

In one sense, it seems as though I have not been away. If your papers, journal articles, books, and the general news stories are valid measures, the food/population problems are just as severe as ever or more so.

The world is not only threatened with temporary food shortages, but with chronically acute shortages, as far as we can see ahead. Food reserves are dangerously low, and production to feed the underfed millions is not at all assured. For example, only 21 out of 62 countries reached the 3.4 percent annual growth target set forth in the FAO World Indicative Plan for 1961/63–1975.

The population side of the equation continues its inexorable press. Between 1961 and 1971 population grew faster than food production in 42 out of 92 developing nations. The stark fact is that many thousands, if not millions, of people in the food deficit nations are very likely to die of starvation in the next decade before excessive population can be brought under control.

And the issues of international distributive justice are still with us. The U.S., Canada, Western Europe, Japan and other so-called developed nations continue to consume a disproportionate share of food and energy in terms of global resources.

My assigned task was to deal with the universality and diversity of the world's food problems and their solutions from the perspective of people and food in one world. But these problems are not new and much of what might be said would be old and repetitive. Moreover, the technical, economic and human factors which are involved in diagnosing and resolving problems of food production and distribution will be most competently handled by the other speakers in this conference—Drs. Swaminathan, Burton, Castillo and Oluwassanmi. Having benefited from their previous works in these areas, I have decided to strike out in a different direction.

THE "CONSENSUS" AND THE "GAP"

In preparing for today, my thoughts turned back almost thirty years ago when my interest in foreign aid and technical assistance was stimulated by George Marshall's announcement of his European plan and the subsequent announcement by President Truman for the developing world. Any historical review of the intervening years down to the present reveals impressive strides and progress.

But the review also leads me to two interesting conclusions:

First is the conclusion that there is a very sizable consensus within the various professions and disciplines as to what technically is required to achieve significant, sustained agricultural development.

I have been impressed in recent years by the frequency with which one can read a journal article, speech, or book in which the statistics that are used, the arguments or analyses that are advanced, and the conclusions that are reached have a high degree of conformity. Conformity in the sense that, while there may be minor variations on appropriate strategies, there is among us a far greater degree of consensus today than there was fifteen or twenty years ago.

If one goes back to the earliest days when agricultural development in the developing world was set as a deliberate policy goal, there existed a similar degree of conformity in what were then perceived to be the solutions. But the conformity was largely without any evidence based upon experience or research focused upon the needs, resources, and conditions of developing nations. Much of the consensus, when tested, turned out to be invalid.

Few of us today would argue for those early panaceas of undifferentiated and unadapted technological transfer or of simplistic and imitative building of a land-grant university as ideal strategies to achieve agricultural development abroad.

Our situation today is that we have had almost thirty years of experience testing and implementing a variety of projects, programs, and strategies. We have conducted extensive research under a variety of socio-economic and agronomic conditions in most regions and nations of the developing world. Much has been learned; much remains to be learned.[1]

On the whole this cumulative experience has brought us to the stage where, while we may disagree on minor details, by and large we have significantly large areas of consensus among the various disciplines and professions about the key factors and strategies to impact the complex process called "agricultural development."

My second conclusion is that despite this consensus and despite the admitted progress which has been made over the years, few nations or regions have achieved the levels of agricultural development which matches our stage of knowledge on the "art" of agricultural development. Despite the predictable constraints, I believe that any objective assessment of our progress to date would conclude that we have not come even reasonably close to what we know to be possible. There is a significant gap between the potential and the actual—and it appears to be growing.

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[1] For example, only recently have some come to realize the importance which must be given to the productivity and welfare of the subsistence farmer, the small farmer, the peasant agriculturist. Similarly, some of my colleagues in the biological sciences still only grudgingly recognize the importance of the social sciences and interdisciplinary approaches to impact successfully the complex intricacies of agricultural development.

These two conclusions juxtaposed against each other have recently become a growing concern, and I have been trying to wrestle with the question "why?" Why does the global food crisis persist at such an acute level—a level which is higher than what is warranted with our tested, and proven knowledge? Is it merely the normal lag in the process of implementation between all research and its application? Or are there other variables which we have ignored that may be significant?

There is one possible explanation in which I have become increasingly interested and paradoxically it was sharpened by the theme of this conference.

The theme of this conference is "The Role of the Professional in Feeding Mankind." Professionals may be classified into several groups, each of which is an important actor in the world food "drama." But have we been defining "professional" too narrowly?

There is perhaps a neglected cluster of professionals who are rarely mentioned in discussions of the global crisis. I refer to the role of "professional politicians."

The politicians are the persons who must adopt, finance, advocate and defend the policies, programs, and projects recommended by the scientific and technical professionals. Have we neglected the politicians' critical role? Have we, who consider ourselves as agricultural development professionals, paid sufficient attention to the political professional?

Often the professional politicians see the policies formulated, choices to be delineated, and issues to be resolved from quite different perspectives than do the agricultural development professionals. How many times has a perfectly valid scientific solution—or even a set of equally viable alternatives—been frustrated by the decision of the political professional?

Is there a dimension to this which has been responsible for the frustration that one feels as one looks at the attainable versus the reality in the continuing global food crisis?

(Parenthetically I must add that in light of the low esteem in which a few politicians are currently held, I am using the term "politician" as T. V. Smith once defined the much maligned word: "A politician is a person who can compromise the issues without compromising himself.")

Without downgrading the role of contribution of persons whom we normally consider as "professionals," I believe we must expand our definition of professionals by including politicians. Most important, this redefinition must be applied equally in the developing world, the industrial world and the post-industrial world—if we are to achieve the levels of agricultural development that we all would like and consider possible.

PROFESSIONAL POLITICIANS IN THE DEVELOPING WORLD

There are two political requirements for achieving significant, sustained agricultural development:[2] First, that the political leadership have a genuine *commitment* to the goal of agricultural development; and second, that they have an *understanding* of the process.

On the issue of *commitment*, one is forced to ask the question "why have so many governments failed to adopt policies or to carry out programs and projects even in those problem areas where there is virtually universal agreement on the technical strategies that are required?" In some nations, even where there is expressed commitment to agricultural process, the gap between reality and the commitment is wide. Why has this happened? Is it because we have not concentrated our attention in this critical arena?

I realize that the policy area in its full political trappings is probably the most sensitive arena into which foreign aid and technical assistance could venture. One of the traditional "commandments" of foreign aid by outsider non-citizens has been: "Thou shall not intrude into the national political policy-making of host nations." Candidly, I admit that I have taken that same position for many, many years. And I believe the prohibition was correct—at least for former times. But as I look at how our problems internationally are becoming more and more strongly interrelated in a resource limited world, I am beginning to wonder to what extent we may not find ourselves increasingly forced to adopt a stronger position on the issues which impinge on food policy and policy implementation in *all* nations.

I fully realize that this is a very, very sensitive subject. But one cannot ignore the extent to which either the failure to adopt the right food policies or the adoption of wrong policies in many cases has had a reverberating multiplier impact in other nations around the world. This has been true both for the developing nations and for the industrial ones. The international impact of domestic policies works both ways. Indeed, the disputes and conflicts experienced at the first and even most recent meeting of the World Food Council are dramatic examples of these political issues coming to the fore. The growing acerbity in the debates of the United Nations and its agencies are symptomatic of the burgeoning politicization of world development issues. We in the United States have never really faced up to the political dimension of the agricultural development process in the developing world and are now being forced to consider that set of variables in international arenas.

From another perspective, it could be argued that the situation today is far more appropriate for a candid dialogue on the political issues of agricultural development among the concerned parties than ever before.

One of the most significant changes in recent years has been the growing recognition by political leadership in the developing world that their "tenure in office" depends to a great extent on their capacity to lead and to achieve agricultural development. This change has been especially notable in the food deficit nations where policies to improve agricultural production in their own countries to secure help from food surplus countries to meet the basic food needs of their people have assumed increasing primacy. This growing sensitivity has been evident regardless of the political ideological form of government or how the political leadership was attained.

The basic ingredient in this newly emerging political sentiment among political leaders has been the adoption of pronouncements and policies which will favor agriculture, the rural areas, and the farming poor. More specifically, some of the various expressions of this new political sentiment include:

Getting people back on the land and acknowledging that the future of the Third World lies with peasant or small farmers.

Allocating more resources and social services to rural areas to increase agricultural production and the rural quality of life.

Adopting policies which address centuries old institutional rigidities related to the ownership and operation of land.

More than at any previous time, there is a greater awareness of the need to adopt strong policies favoring agriculture or which reflect a higher priority for this sector. Thus, the time may now be far more propitious to face the constellation of political issues which we have traditionally avoided.

The second neglected dimension is fostering a greater understanding of the agricultural development process among the professional politicians. In all candor, I believe that we have been less than successful in achieving the desired, minimal levels of understanding among political leaders.

Lest you believe that my view is wholly negative, I readily concede that we have had some impact upon the next tier—those agricultural and developmental professional experts who advise the professional politician. Such persons do play a significant role in establishing the framework for policies and resolving the very complex issues and choices which confront heads of state and other political officials. Our influence among these advisory professionals has included such activities as workshops, training materials, advanced degree training and the services of advisory teams. Efforts have also been made, such as those of my former colleague Art Mosher[3] to reach the middle echelon worker or bureaucrat so as to provide such officials with a better understanding of the agricultural development process.

Yet, while it is manifestly true that we have had "advisory teams nad experts"—both national and foreign—who have sat at the elbow of Ministers and even Prime Ministers or Presidents in Third World nations, the fact remains that on the whole our impact has been minimal. How many times can we point to individuals or instances where we or our works have facilitated the professional politicians to acquire a sound understanding of the agricultural development process and of a proper strategy to bring it to pass?

But our greatest area of neglect has been our low level of concern for this political dimension, broadly defined. If we are to become more serious about the political variables in the agricultural development formulae, we should be seeking answers to such questions as the following:

What are the political consequences of alternative agricultural policies, reallocation of resources, land reform measures and related questions? In a given country, which citizens or groups stand to lose as a result of the policy change we are considering as part of new rural development strategy? In other words, who is likely to oppose the change? How are they connected to the political decision-makers? How can the strength of their opposition be blunted?

Are there ways of introducing change—or is there a pace of change—which will either neutralize opposition or strengthen the hand of supporters? Will the political professionals, that is the high level governmental decision-makers, see their political futures as tied closely to one or another segment of those likely to gain or lose as a result of the agricultural development strategy under consideration?

How can we maximize consensus behind the policy which makes good use of scientific knowledge?

What are the international consequences of alternative policies? How can food surplus nations be persuaded that the deficit nations are taking all reasonable measures to help themselves?

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[2] Admittedly, there are a number of other political requirements such as political stability which are also key variables.

[3] Among Mosher's books are *Getting Agriculture Moving* (1966); *Creating a Progressive Rural Structure* (1969); *To Create a Modern Agriculture* (1971); and *Serving Agriculture as an Administrator* (1975).

We should understand that when confronting development policy, a political leader is often faced with the dilemma of maintaining the popularity or support he or she needs to stay in power, on the one hand, and, on the other, making tough decisions which may work hardship and be unpopular over the short run. The tough decision may be dictated by the relevant technology, and over the long run, may be critically important to increased food production and to the broader population.

But it may also lose supporters. For example, enforcing minimum price supports on grain to benefit producers is likely to raise prices temporarily to urban consumers. Or investing in rural infra-structure often comes at the cost of restricting urban services. Or expanding lower level education for rural youth may temporarily hold down the expansion of urban universities. Land reform decisions are among the most difficult and call for careful analysis and bold decision-making which balance equity and production variables. In these situations, the political decision-makers may be faced with choices which directly affect their own future in office. Only the professional politician can judge the correct balance, but as developmental professionals we must seek understanding of the trade-offs involved and be prepared with research delineating the relevant variables. This role is essential if we are to continue as useful advisers and continue to have the ear of the political professionals.

PROFESSIONAL POLITICIANS IN THE INDUSTRIAL AND POST-INDUSTRIAL NATIONS

The issue of our neglect of the professional politician is not limited to those in the developing world. Those in the industrial and post-industrial nations of the world must be included in this calculus as well. Indeed, there is reason to believe that their role in the agricultural development process is of equal importance.

This is true whether such persons occupy positions in national bilateral programs or in international organizations. For example, Robert McNamara's adoption of low-income, peasant agriculture as a high priority developmental goal for the World Bank has had an incalculable impact upon efforts in the Third World. Similarly, Dr. John A. Hannah's long-standing commitment to the centrality of agricultural development was reflected during his recent tenure as leader of the U.S. Agency for International Development. In both instances, I view their roles as that of professional politicians impacting and carrying out policies related to agricultural development.

Even in the advanced industrial and post-industrial nations there is a need to include the professional politician more deliberately in our calculus. Let me choose the United States as a case in point.

Recent actions by the U.S. Congress, such as the addition of Title XII to the Foreign Aid Act, reflect the resurgence of awareness and commitment to the centrality of agricultural development abroad if the chronic world food crisis is to be satisfactorily treated. Yet despite these developments, the policy debate has been limited. Once the impact of the first Russian wheat agreement eased and the Arab oil embargo declined, attention shifted away from the food/energy crises. But the march toward an even tighter global economy marches inexorably forward.

The world economy is global and is gradually forcing a realization that neither the rich nations nor the poor can achieve their goals in independent isolation. We in the United States must recognize this reality if we are to play our proper role in meeting the challenge of people and food in one world.

There are several vital policy issues that must be faced and debated by our elected officials, our political leaders. For example, how do we deal with our "food power?" The United States and the few other food surplus nations have the awesome power to decide the fate of the human masses of the world. The United States, for example, has a larger proportion of the world grain market than the Arab countries have of the energy market. Furthermore, the United States gained more from the rise in food prices than we lost in oil prices. Some wag has said that "the Arabs have the crude but America has the food." And food is power which we must find ways of using—both wisely in our own long-term self-interest and in the interest of humanity.

World leaders and our own thoughtful critics know that many policies have not always been oriented to the needs of the maximum number of human beings or the poorest of the poor.

The U.S. and other food surplus countries need to debate the policy alternatives to determine what should be our contribution to global food problems. While recognizing that most of the world's food must be produced in the food deficit countries, should we produce food at our full capacity with due regard for the long-term protection of our basic fertility and natural resources?

When dealing with a universally needed commodity, can the U.S. and the other food surplus nations show the way toward a developmental human policy? Can we use our food power more even-handedly and gain wide respect in the world community for such policies?

What are the optimal policies and procedures for resolving the understandable conflicts between prices paid to producers, whether controlled or freely negotiated in world markets, and the effect of such prices on the cost of living of urban dwellers? How do we balance the prices paid to producers for contributions to world food reserves with the effect of such prices on the cost of living in both the giving and receiving countries?

Should the allocations of food on concessionary terms or to world food reserves be made under policies and procedures designed to strengthen the political commitment of leaders of food deficit nations and the policies which they espouse to maximize their own production and minimize their continued dependence upon us? Can this be done without charges of economic imperialism?

How do we develop a sound national food policy which includes international considerations and more than purely economic factors?

How do we use our "food power" with restraint for the high purpose of advancing human welfare for the largest number?

In seeking to resolve the complex and often conflicting policy issues involved above, elected politicians in the industrial and post-industrial nations will need the best scientific and technical advice possible—the insights of the experienced old development hands. Our elected officials will also need to direct and utilize the services of a veritable army of competent public servants who can devise the short-term and long-term policies and procedures to give effect to our national aims and purposes. Most important, the professional politician will need the encouragement and support of an informed and enlightened public who are committed to make the maximum contribution possible to the alleviation of world suffering.

Thus, farsighted and sensitive political leadership, aided by knowledgeable scientists and researchers, by competent public servants who can assist in devising creative operational policies and procedures, and supported by an informed and sympathetic public opinion—all together can help resolve inevitable conflicts of interest. They can forge wise and humane political decisions and put the United States and other food surplus nations in a position to make a maximum contribution toward alleviating world hunger.

CONCLUSION

The purpose of my talk today has been not so much to provide answers as to raise questions.

All of us will continue to work to develop and improve our respective disciplinary and interdisciplinary contributions to world agricultural development—new developments in fertilizer uptake, better processes for hybridization, improved economic incentives, more efficent marketing/storage arrangements—these and many other developments will continue from your creative and fertile genius. These will come. But taking advantage of and adopting that new technology, that new scientific development, that consensus developmental strategy also rests with the political process. Thus, a pivotal role will be played by those who are involved in making the decisions on agricultural development policy and its implementation—the professional politician.

In conclusion, I hope that I have made clear that I see "The Role of the Professional in Feeding Mankind" in a context which widens the ordinary usage of the term to include professional politicians and their advisers who are confronted with differing aspects of the world food crisis. Politicians, who despite their differing requirements and constraints, are committed to agricultural development and understand the process.

The emphasis which I have given to these other actors, not usually thought of as "professional," is in no way meant to diminish the importance of the biological scientists, technical agriculturists, economists, social scientists and others from all countries whose contributions to helping resolve global food problems is basic and undisputed. I genuinely believe that we need to widen the spectrum in order to embrace all aspects and dimensions of the problem.

There is not only room for adding these "others" to our deliberations, but without their inclusion we are not facing the realities of the situation. Indeed, their exclusion may well account for our limited success to date. There have always been significant political variables at work that related to the agricultural development process, but to a large extent we have failed to include the political dimension in our developmental assistance strategy.

There is little doubt that the greatest source of unity among the nations of the Third World is their universal desire for economic development and human progress. The new international economic order for which they are striving will in the final analysis be resolved by the political process both domestically and internationally. Agriculture and the people dependent upon agriculture continue to constitute the largest single segment of this basic world problem.

Those of us whose insights, knowledge and energies have concentrated upon this highest priority sector have a significant role to play. And our role as professionals will be enhanced by broadening our definition to include the politician.

When I look at the key world developmental issues over the next 25 years—food policy, population policy, distributive justice, resource "wars"—I have concluded that most solutions will be rooted in the ability of the political processes, both national and international, to deal with them effectively. And remembr that, if the political process fails to deal with these basic human issues of hunger and survival, the inevitable alternatives will be growing interpersonal violence, domestic upheaval, and wars.

The World Food Situation: Today and in the Year 2000

(By Sartaj Aziz)

Food is one of the most complex, economic, political and moral problems of our times. Despite a great deal of discussion and debate, particularly in the past four years, the underlying issues are still very confused and different groups of people in different parts of the world continue to look at the food problem from their own particular angle. The food situation itself and forecasts about its future are clouded by so many imponderables that predictions swing from deep pessimism to cautious optimism. International discussions about environment, population, food, habitat and water are all part of a sudden realization that without a major restructuring of relationships and concepts, the world simply cannot continue the patterns of producion and distribution of the past 25 years for the rest of this century.

2. Similarly, the search for solutions to the food problem quickly run into deep moral and political dilemmas which go far beyond the problem of food. Will the rich nations of the world continue to treat the world as a vast market or is there any hope of its evolution into a genuine international community? Is there any common ground between self-interest and the moral imperatives of feeding the whole of mankind? Is it possible for developing countries to achieve, within a system based on freedom of ownership, mobility and consumption, a minimum of equality to secure everyone's basic needs of food, clothing, shelter, medicine and education? But before we get into these complex questions, let us look at the present food situation and its future outlook.

THE PRESENT FOOD SITUATION

3. In 1972, the world faced an unexpected food crisis partly because total grain production in that year fell, for the first time since the War, by 33 million, instead of increasing by 25 million tons to meet the annual increase in demand. This depleted the North American grain stocks on which the world had depended for two decades. In the next three years, world production of cereals[1] increased from 1,280 million tons to only 1,360 million tons, or an average of 2.0 percent per year, hardly keeping pace with the average increase in demand. As a consequence, grain prices throughout these four years were two or three-times higher than the pre-1972 levels. Many countries suffered shortages and distress, while higher food prices kept commercial demand for cereals relatively low. About half of a million persons died of starvation in many parts of Africa and Asia. Food suddenly became a global issue. In 1975, the developing countries harvested bumper crops, and crops in the USA and Canada, encouraged by high prices, also reached record levels. Although European crops were badly affected by adverse weather, the world food situation began to improve in the short run. Prices of wheat in June 1976 are considerably lower than the record level reached in October 1974. If crops in 1976 turn out to be as good as expected, we may even begin to rebuild stocks from their precarious levels of the past four years. In other words the short-term food situation has "improved". It should, however, be emphasized that current prices of wheat and rice are more than twice as large as the pre-1972 level of $60 and $140 a ton respectively. Even after allowing for inflation the real cost of food has increased, and an average Indian with a per capita income of $130 and an average consumption of 200 kgs. has to spend about 20 percent of his income on cereals alone at current world prices, against about 10 percent which he needed to spend at world prices before 1972.

4. The improvement in the food situation is in effect more superficial than real. When we go beyond the statistical assessment of the current food situation to look at factors which really brought about the food crisis of 1972–75, we find them largely unchanged.

5. The food reserves which for two decades provided stability of food supplies and prices were based on incidental surpluses mainly in the USA and Canada, rather than a consciously designed international system. Despite discussions in many different fora the world is nowhere near a dependable system of food security. The need to rebuild grain reserves to protect the world against undue fluctuations in supplies and prices is widely accepted, but opinions and interests differ about the size and management of such reserves. The USA has proposed at the International Wheat Council, a food security reserve of 30 million tons but in a loosely managed system that will not interfere with the commercial markets or prices. The EEC and some other exporting countries are prepared to share a part of the burden providing stocks are built up as a part of a formal grains agreement and are triggered by price movements within agreed limits. In other words, the US wants to have food security at market prices and most developed importing countries are looking for market stability. Meanwhile the risks of continued insecurity are growing and are particularly ominous for the developing countries. Most developed importing countries have already secured their future import requirements by signing long-term purchase agreements.

6. The gradual slow-down in food production in developing countries from an average of 3.1 percent in 1952–62 to 2.9 percent in 1962–70, which increased their net cereal imports from 3 million tons in 1950–51 to 33 million tons in 1969–71, has also continued. Despite an increase of 5 percent in 1975, the average annual increase in food production for 1971–75, is two percent. The total cereal imports of developing countries have consequently increased from 33 million in 1969–71 to about 50 million tons in 1975–76. The cumulative excess costs of these imports in the past three years, because of higher food prices has been estimated at $12 billion.

7. The chronic problem of hunger and malnutrition, which in many ways is the real food problem, has perhaps become more serious, notwithstanding the temporary relief provided by the large 1975 crops. In 1972 the number of people suffering from serious under-nutrition was estimated at 460 million—being about 20 percent of total population in Africa and Asia and 13 percent in Latin America. Even if the proportion of such people has not increased, the absolute number has gone up and the world is probably moving away from its declared goal of abolishing hunger and malnutrition in a decade, 20 months after this was agreed at the World Food Conference.

8. Finally, and perhaps most seriously, the policies in developed and developing countries which in effect brought about the recent food crisis in the first place, have remained largely unchanged. In the developed countries the problems of evolving a new set of agricultural, food and trade policies for a period of food scarcity have hardly been tackled. Even in the developing countries, which are becoming increasingly aware of the importance of agricultural development, very few countries have been able to devise strategies and policies that can attack the food problem in a fundamental sense. In addition to these four major factors, any assessment of the present food situation must take note of many other striking factors: the continued maldistribution of food in the world, with over-consumption in the developed countries and widespread undernourishment in the developing countries; a dramatic change in the patterns of world grains trade, with 80 percent of world exports coming from only one region (USA and Canada) and the developing countries as a group now importing almost half the world grain exports, and centrally planned economies of East Europe emerging as substantial importers; a marked improvement in fertilizer availability, but with no longer-term international policy to prevent cyclical swings in supplies and prices that has characterized the world fertilizer situation for the past fifteen years.

THE FUTURE OUTLOOK

9. The food prospects for 1990 and perhaps the year 2000 will depend very much on what we do or choose not to do in the next five years. Any assessment of the future food outlook is only partly a statistical exercise, primarily to determine the likely demand for food, but whether that demand can be met adequately or whether the world faces recurring famines and food shortages, will depend very much on the efforts of the developing countries to increase their production, on the willingness of developed countries to assist these efforts, on the agricultural and trade policies of main food exporting and importing countries and finally on the feasibility and efficacy of international arrangements to manage the world food economy.

10. Thus any meaningful assessment of the food outlook for the next ten or twenty years must go beyond statistical projections into the policy implications of all three interrelated aspects of the food question: (i) the projected demand for food; (ii) the likely production or supply of food; and (iii) the likely distribution of available food supply. Each of these three elements involves difficult political issues and conflicts of interests between different groups of countries.

Demand for food

11. The demand for food can be predicted much more easily and with a greater degree of accuracy than its supply. It must be emphasized, however, that statistical projections can be made on reasonably sound assumptions for a decade or so. Those for longer periods become progressively less reliable and vary with policy changes or inherent adjustments in the preceding period.

12. The two main determinants of changes in demand over the long run are population and income growth. The projected demand for cereals, wheat, rice and coarse grains for the years 1980, 1990 and the year 2000 are presented in Annex I, and the implications of these projections for per capita demand for food are given in Annex II. The main conclusions that can be drawn from these projections are summarized below:

(a) In the developed countries total demand for cereals is likely to increase over the 30-year period by 72 percent or 1.8 percent per annum, from 387 million tons to 665 million tons, but the demand for coarse grains is expected to increase by about 90 percent, from 275 million tons to 520 million tons. In fact about 80 percent of the total projected increase in the demand for cereals in the developed countries is attributable to feed uses of grains.

(b) In the developing countries the total demand for cereals could, however, increase from 387 million tons to 1,015 million tons, or by 162 percent, if the underlying assumptions turn out to be realistic. This will imply an annual average increase of 3.3 percent for the 30-year period for cereals. (The average increase will be somewhat higher if non-cereal foods were to be included.)

(c) In the centrally planned economies consisting mainly of East Europe, USSR and China, the demand for cereals is likely to increase at the slowest rate—about 70 percent over 30 years (or 1.8 percent per annum)—despite an increase of 128 percent in the demand for feeds. This is because the average population growth rate in China and some other centrally planned Asian countries in this group is much slower then that in other developing countries and the proportion of grain fed to livestock in USSR and East Europe will be a somewhat smaller proportion of total consumption than in the developed countries, increasing from 50 percent in 1970 to 59 percent in the year 2000 against 73 percent in the developed countries.

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[1] Throughout this paper cereals include rice expressed in paddy equivalent.

(d) If the current consumption trends were to continue, per capita consumption in developed countries would increase from about 3,000 calories to 3,242 calories and protein consumption from 95 to 100 grams. Such increments could certainly be categorized as further 'over-consumption'. In the developing countries the average increase in consumption from 2,211 calories to 2,615 calories will be unevenly distributed between different regions, but would provide a welcome improvement if it can be achieved. It is also clear that except for the middle-income developing countries, the demand for cereals for direct consumption will not decline appreciably.

13. If the projections for the period 1990–2000 were based on low population assumptions of the United Nations for the developing countries, the demand growth for that period would be only marginally lower. These demand projections do therefore provide a fairly realistic order of magnitude for the future.

Food availability

14. Factors which are likely to affect the supply of food in the future are much more uncertain and unpredictable, and include the physical resource base, availability of financial resources, technological progress, access to internal and international markets, and social and institutional factors. It is clear, however, that the projected increase of less than two percent per annum in the demand for cereals in the developed countries and the centrally planned economies is less than the average increase these two groups of countries have achieved in the preceding two decades (see Annex III). It is therefore reasonable to assume that despite some years of bad harvest, these groups of countries will be able to increase their production of cereals to meet their own long-term demand. The developed exporting countries could also produce a sizeable surplus to meet the commercial demand for cereals from other countries and a marginal quantity for concessional sales to developing countries.

15. The projected increase of 3.3 percent in the demand for cereals in the developing countries is, however, considerably faster than the average increase of 2.8 percent in production attained by these countries in the past two decades, and 2.5 percent in the past five years (1970–75). The average increase of the past two decades is quite remarkable and is faster than that achieved by the developed countries. But the bulk of it was eaten up by unprecedented population growth. The key question in the food debate is therefore whether the developing countries as a group can produce over the next 25 years an additional 600 million tons of cereals (or 550 million tons if the lower demand projections are used) over and above their current production of about 400 million tons?

16. It is in the context of this key question that two distinct lines of argument have been presented in the current debate on the food problem. The pessimists emphasize many unfavourable factors and predict mass starvation within this generation. The pressure of growing demand for food, they point out, is ecologically undermining some of the major food producing systems in the world. There is over-fishing, over-grazing, deforestation and soil erosion in many parts of the world. Many experts predict worsening weather patterns and unusual frequency of droughts and floods. Some draw attention to the changing economics of agricultural production with cultivation moving into marginal land and modern technology requiring still larger inputs of energy and capital. Future increments in production, they argue, would be possible at prices that cannot be sustained by consumers particularly in developing countries.

There is also a great deal of skepticism in the current strained atmosphere of international cooperation about increasing the flow of external resources for food production to the required levels. On top of these are the social and political constraints which prevent the small farmer and landless workers from participating in the process of economic and social development.

17. Another group of economists and scientists, however, argue that mass starvation can be avoided if the food problem is tackled resolutely both at the national and international levels. There is no shortage of physical resources of land and water for several decades to grow more food; even with the backlog of existing technology, production in most developing countries can be doubled in 10 to 15 years. In fact only through larger food production and the resultant favourable economic and social climate, it is emphasized, can the demographic transition to a lower population growth be reached in the future.

18. The main distinction between these two lines of argument is not one of fact but of judgement about what might happen in the future. The pessimistic line is obviously more sensitive to the outer limits set by finite physical resources of land, water and fossil fuels and the inner limits imposed by constraints on man's ability to manage complex technological and political systems. The optimistic view is based on the asumption that pushed for survival, man will have no option but to push the frontiers of these limits to make the best use of available physical and human resouces. It also assumes that much larger financial resources will be forthcoming to undertake the major effort involved and political and economic institutions which are a part of the agricultural system will be restructured for the purpose.

19. In the light of this very wide range of possibilities there is no point in concentrating on supply projections in purely statistical terms. Different countries or regions have different resource endowments and different capacities to use them. The agricultural system of each country is affected not only by its own internal political and economic institutions, but also by external trade and economic relationships. Between the purely subsistence agriculture and highly capital and energy intensive modernized agriculture there is a wide variety of systems that are constantly evolving in different parts of the world. What each country or region will produce in the next 25 years will depend on positive and negative influences of all these factors taken together.

20. The commitment of the international community at the World Food Conference held in November 1974, to abolish hunger and malnutrition within a decade, is based on the optimistic prospect of incerasing food production in the developing countries at an annual rate of about 4 percent per annum. The World Food Council has already begun work on the concrete implications of this goal in terms of requirements for investment and inputs and by identifying a group of food priority countries whose food problem is more serious or whose production potential is significant, to allow adequate concentration of efforts on these countries. But there is no assurance so far that adequate financial and policy support will be forthcoming for the attainment of this goal.

21. If these efforts succeed only in maintaining the average annual growth of 2.8 percent attained in the past 20 years, the food gap of developing countries will increase to 85 million tons by 1985. The gap will, of course, be larger if the slow-down that has occurred in the first half of the 1970's cannot be reversed.

Distribution of food

22. The distribution aspects of the food problem, the third element in the future outlook for food, is almost as important as the production aspect, but has received very little attention in the food debate so far.

23. At the international level, a solution of the food problem is closely connected with the problem of international distribution of food and that in turn is intimately linked to the agricultural and trade policies of the US which accounts for more than 60 percent of world grain exports. But the US policies, unlike the past two decades, are no longer fully determined by the US Government. Since 1970, as a matter of deliberate policy, the role of the Government in agriculture has been curtailed through the liquidation of Government held stocks, reductions in food aid and elimination of price support operations. Thus paradoxically, while the dependence of the world on the US grain exports has been increasing, the US Government has been shifting this responsibility to the uncertain and erratic forces of the market. Even the modest international framework agreed at the World Food Conference to regulate the world food economy within certain agreed parameters of objectives and guidelines has not yet been created. These comments on the present precarious state of affairs do not of course imply any reflection on the efficacy of the market system in an ideological sense. The market has a very useful role to play in providing incentives to producers and determining prices, but agriculture is such a volatile sector that no country can afford to leave the entire management of such a critical commodity as food to vagaries of the market. Even the US has not done so in the preceding 20 years. If we depend only on the market, the rich will eat and the poor will starve, the rich farmer will benefit and the small farmer will go bankrupt.

24. Another aspect of international distribution of food is the problem of over-consumption in the rich countries. The relationship between affluence in some countries and hunger in others has not been fully investigated but it is clear that as long as the available food supply is distributed according to commercial demand rather than nutritional needs, the over-consumption in the rich countries will be an important cause of hunger and malnutrition in years of food shortages. Today about 30 percent of the world population in the rich countries uses about two-thirds of the world grains supply, about 60 percent indirectly as livestock feed. In other words, per capita consumption of grain in the rich countries is three times that in the developing countries. The total quantity of grain fed to livestock—about 400 million tons—is more than the quantity consumed by human beings in India and China taken together. This relative over-consumption is of course harmful in itself. In the last 20 years the average longevity of the US citizen has not increased at all, despite a 30 percent increase in food consumption because of diseases associated with over-consumption.

But how would a reduction in grain consumption in the rich countries help to improve nutrition in the poor countries? The only long-term solution is a corresponding transfer of incomes to the poor to create effective demand for food, but that will take time. In the meanwhile, it is necessary to determine a kind of food consumption ceiling or maximum and a food consumption floor or minimum along with selected policy instruments that can be used to curtail consumption at least in years of bad crops when prices go up beyond agreed limits. Even if marginal shifts are achieved in consumption, the supply in the world markets will improve and developing countries with food shortages will be able to buy food at reasonable prices.

25. At the national level the problem of food distribution is not merely a question of distributing free or subsidized food in schools or factories, but is linked to the whole pattern of ownership of land and other assets, income distribution and employment opportunities. Even if all the required financial resources, inputs and technology were available, the poorest quarter of the population, which has very little land or no land and no employment prospects, will not be able to benefit from them and will remain hungry. The crux of the food problem lies in evolving a pattern of development that will involve the small farmer and the landless labourer in employment and production. China, with about one-fifth of the world population, has already demonstrated the success of a development strategy based on basic human needs and a more egalitarian approach to the distribution of the fruits of progress.

CONCLUSION AND MAIN ISSUES

26. This brief analysis of the current food situation and its future outlook leads to some significant conclusions. These and the issues they raise are summarized below:

The short-term food situation has "improved" in a superficial sense, but the main long-term factors which brought about the recent food crisis are still very much there.

The future demand for cereals is likely to grow at about 3.3 percent per annum in the developing countries and at less than 2 percent per year in the developed countries and the centrally planned economies over the next 25 years. Changes in assumptions about population growth and incomes will not drastically alter these projections at least for the period up to 1990.

The developed countries and the centrally planned countries could conceivably increase their food production at a rate that covers their projected demand for food, but the required increase needed in the developing countries is considerably faster than the growth achieved in the preceding 15 years. The key question is whether developing countries can accelerate their food production on a sustained basis over the next 20–25 years.

There is considerable potential for increasing production in developing countries by expanding the area under cultivation and by improving yields from existing areas in the majority of developing countries. This will require much larger investment from domestic and external sources, assured supply of all inputs at reasonable prices, intensified research and training efforts. Even more important, a sustained increase in production will require a major restructuring of political and economic institutions and other measures to provide larger incomes and employment opportunities to the poorest segment of the population in developing countries.

The distribution aspects of the food problem, both at the national and the international level and almost as important as the production aspect, without an orderly system of food distribution, either in an agreed international framework or a combination of active national policies, the world food economy will remain at the mercy of uncertain market forces.

The over-consumption of food in the rich countries, besides being undesirable in itself is at least one factor in the relative scarcity of supply for the poor. It is important to devise policy mechanisms that will discourage over-consumption at least in years of bad crops.

At the national level the problem of food distribution is intimately linked to patterns of ownership, income distribution and employment opportunities. Technical solutions to the food production problems can go only some distance and may even be counterproductive unless they can tackle the distribution aspects of the food problem.

27. To sum up, the food problem of the next 25 years is essentially manageable, but it will require a tremendous national and international effort. In seeking solutions, it is important not to look for simple alternatives such as larger production versus better distribution, or population control versus larger production. All three elements—increased production, improved distribution and lower population growth—are inter-related and must be pursued simultaneously.

28. While these longer-term tasks are being undertaken, the world must evolve a dependable system of food security and food distribution that will effectively replace the system that disappeared in the early 1970's and prevent future disasters. The principal responsibility for this rests, I feel, with the United States. As Barbara Ward said recently:

"There is perhaps a profound significance in the fact that all these problems of world community have come to a head just as America approaches its Second Centennial. Certainly no nation is called upon today for a comparable effort of leadership. To hold in one's hand the living or dying of half a million children, to be the only power capable of beginning the building of grain reserves, to be the chief state with power and wealth enough to rise above the narrow temptations of naked market power—here is a challenge unequal in history. And if it is not met, it is with foreboding that America's friends will recall the words of Thomas Jefferson, founding father and tutelary genius of the new republic: 'Indeed, I tremble for my country when I reflect that God is just'."

OVERREGULATION OF OUR COLLEGES BY THE FEDERAL BUREAUCRACY

Mr. THURMOND. Mr. President, from time to time beginning last year, I have attempted to bring to the attention of the Senate the problem of overregulation by overgovernment in our colleges. In the first of these statements, I pointed out the plight of little Hillsdale College in Michigan. President Roche of Hillsdale College still fights to stop HEW from meddlesome intrusion into the affairs of that small college.

Later, I pointed out the deep concerns of the presidents of Catholic University, Georgetown University, American University, and George Washington University. The leaders, among college educators, are tired of the Federal Government trying to run the colleges.

When will we in the Senate begin to pay attention to the concerns of the leaders in higher education? When will we say to the bureaucrats, "Stop"? To my colleagues in the Senate, I say the time is now. It is time that we consider the unnecessary cost with which the colleges are faced, their loss in independence and the redtape monster who always stands ready to interfere in every move they make. I say the time to act is now.

It is time we permit our colleges to once more chart their own courses and be the masters of their destinies. It is time that we give true meaning to the Declaration of Independence, which the presidents of the local universities in Washington, D.C., published earlier this year.

Recently, an article appeared in U.S. News & World Report, which stresses the urgency of this problem.

Mr. President, I ask unanimous consent that the article in U.S. News & World Report, "Another Campus Revolt—This Time Against Washington," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Another Campus Revolt—This Time Against Washington

A mood of rebellion is spreading among college educators who are finding themselves increasingly under the thumb of a benevolent despot—the federal bureaucracy.

Since 1960, more than 50 billions in Government dollars has flowed from Washington, D.C., to the campuses of the nation.

This money enabled them to absorb soaring enrollments, upgrade faculties and expand research—much of it for the Government.

Now educators are having to pay the price for that largess.

They are under mounting pressure to comply—just as public utilities, television stations and drug companies have to—with federal regulations on what they can and can't do, or risk a cutoff of Government support.

STREAM OF GUIDELINES

This means compliance with a never-ending stream of Washington's guidelines on student admissions, faculty hiring and promotion, curriculum changes, degree requirements, fees, class size, facilities, salaries, pensions, discipline and athletics.

Many of these guidelines have their origin in a rule requiring "affirmative action" by institutions to apply laws that bar discrimination against women and racial minorities whether as students or teachers. This rule is sometimes blamed by college officials for producing a lowering of standards, with "reverse discrimination" against white males.

Campus administrators also must deal with a wide variety of other federal statutes and rules that cover matters ranging from occupational safety to environment and health. Federal research-and-development contracts often change course content and direction.

Today, colleges and universities are becoming restive—and even defiant on occasion.

Some are refusing to participate in any federally aided programs. Many are appealing to Congress and the courts for help against what Texas A & M President Jack K. Williams calls "bureaucratic blackmail."

Meantime they are having to live with these hard facts:

Nearly 400 federal programs now directly affect higher education. About 50 executive agencies and two dozen congressional committees crank out bills, regulations, program guidelines, criteria standards and audit requirements for colleges and universities.

Even a $5,000 federal grant can have attached to it regulations covering 100 or more pages of bureaucratic fine print. An affirmative-action plan drawn up by the University of California at Berkeley to guarantee equality of educational and employment opportunities alone required 70,000 statistical calculations.

It is the Government's power of the purse that usually brings compliance.

STRINGS ATTACHED

Congress is now investing almost 10 billion dollars a year in higher education, as shown in the chart on page 92. Every penny of this money has strings attached. Institutions that fail to stay in line can lose all federal financial assistance. This has never happened, however, because, as one federal official put it, "the sanctions for noncompliance are just too overwhelming."

Adds Richard W. Lyman, president of Stanford University: "In the U.S. today, a major university cannot divorce itself from Government support and remain a major university."

Educators got a taste of what divorce would be like when the Government cut back on research-and-development contracts in the early 1970s. Environments shrank at graduate schools as scholarship money dried up. Many institutions had to phase out major research projects, and at some a freeze was put on faculty hiring.

LOOKING FOR HELP

In their struggle to get out from under the Government's thumb, university officials look for help from David Mathews, Secretary of Health, Education, and Welfare, who had first-hand knowledge of their problems as president of the University of Alabama.

Secretary Mathews acknowledges that the independence and diversity of higher education is endangered by "the enormous pressure for uniformity" applied by federal agencies. Further, he concerned that redtape is especially burdensome to small institutions with small staffs.

Mr. Mathews told U.S. News & World Report that HEW has launched studies aimed at easing the paperwork load, and that institutions are now getting more access to the development of regulations.

The Secretary pointed out, however, that much of HEWs bureaucratic machinery is the result of social legislation of the last 10 years, which has conferred great benefits as well as problems on colleges and their students.

With the help of Government tuition loans, college enrollments have grown by more than 6.5 million since 1956. In approximately the same period, higher education's land, buildings and equipment increased in value from about 18 billion dollars to more than 67 billion. Much of this was financed with federal dollars. Secretary Mathews said:

"Somebody has to monitor all this spending. Inevitably, the bureaucracy follows the dollar. But the regulations are aimed at protecting people from any capriciousness in bureaucracy and providing uniformity in administration of the law."

At present, as a result, the long arm of Government reaches into almost every corner of the campus. Harvard President Derek C. Bok described the scope this way in his most recent report to the university's board of overseers:

"Rules have been issued to regulate the internal operations of educational institutions by requiring them to grant equal admission to women and minority groups to institute grievance procedures in cases of alleged discrimination and to open confidential files for student inspection.

"Tax laws have been amended in ways that affect the incentive to make charitable contributions to colleges and universities. . . . Congress has cut certain programs and expanded others in ways that dramatize the power of the purse to alter the shape and priorities of the university. Congress has demonstrated that it is even prepared to regulate the curriculum. Although never enacted into law, the House of Representatives passed a bill in 1974 to induce all medical schools to require every student to complete six weeks of training in a health facility situated in a medically underserved area."

Confusion over the Government's role in education, critics say, is heightened by the multitude of agencies that are empowered to enforce the same or similar policies.

In the area of equal-employment opportunity, for example, authority is shared by four different bodies—HEW, the Labor Department, the Equal Employment Opportunity Commission and the Internal Revenue Service.

Widespread among educators is the conviction that many Government dictums have been poorly thought out. President Lyman of Stanford spoke of a tendency to "legislate or regulate first and ask questions afterward, if at all."

An example of this often cited by college administrators is the Family Educational Rights and Privacy Act of 1974, sponsored by Senator James L. Buckley (Cons.-Rep.), of New York, which denies potential employers and other third parties access to grades and other school records without the permission of the student who is involved.

The law slipped through Congress without public hearings and with little debate. It developed into an administrative nightmare and eventually had to be sent back to Congress for major repair work.

Barbara Pearson, director of affirmative-action programs at the University of Southern California, commented that Congress passes laws with the best of intentions but "regulations that the bureaus put out drive us up the wall." She added that some agencies "seem more interested in poundage than the contents" of the reports they receive from universities.

Typical of the impasse that often develops between universities and Government was Michigan State's struggle to get approval of its affirmative-action plans for equality of campus educational and employment opportunities.

Michigan State was told in 1975 that it would have to draft a whole new set of affirmative-action standards to keep a million dollars' worth of federal contracts. It got two weeks to come up with a new plan that would have cost an estimated $100,000 to develop.

After frantic negotiations, HEW finally relented—by approving an affirmative-action plan originally submitted by MSU in 1970.

PANIC FOR WEEKS

The university's relations with the Government have improved since then, but administrators are still jittery. Said Robert Perrin, vice president for university and federal relations: "You get a Government envelope in the mail in the morning and it can throw the whole university into a panic for weeks."

At other institutions, the mood ascends to a high pitch of indignation.

"We stand at the gates of the kingdom of chaos," said President Jack K. Williams of Texas A & M. He maintained that the Equal Employment Opportunity Commission "is at war with us" and HEW "is too often our enemy, too often an agency acting from overstimulated idiocy."

A complaint of Chancellor Archie Dykes of the University of Kansas is this: "We've had to add to our legal staff because our lawyers spend so much time corresponding with the Federal Government. They hire lawyers to write to our lawyers, and we have to hire more lawyers to reply."

At the University of North Carolina in Greensboro, Donald J. Reichard, director of institutional research, said 10 reports required by HEW last year swamped his computer facilities. "All other uses of the computer stopped," he recalls. "For a six-month period we did nothing but HEW reports."

One report from Greensboro to the Office of Civil Rights was 1,187 pages in length and weighed more than 12 pounds.

Costs are equally staggering.

Compliance with five federal programs is costing Harvard up to 8.3 million dollars a year. At the University of Rochester, Government red tape is estimated to add 1 million dollars annually to operating costs.

The University of Kansas, which gets about 24 millions in federal funds annually, spends more than $750,000 a year on compliance reports.

Result: Some institutions now are flirting with the idea of getting along without federal funds.

The presidents of four universities in the Washington, D.C., area—American, Catholic, Georgetown and George Washington—have issued a "1976 Declaration of Independence," pledging to refuse federal money that encroaches on academic freedom. They asserted:

"Government interference is disrupting higher education to a point where institutional autonomy is seriously threatened. Without the vigorous evercise of independence the American system of higher education . . . will certainly collapse."

Said Charles U. Daly, Harvard's vice president for government and community affairs: "If it came to the point where we really felt we were sacrificing the guts of academic freedom, then we certainly would consider giving up federal aid, and I hope we'd have the courage to give it up.

"That obviously would be extraordinarily difficult for Harvard, and it would be a suicidal decision for a great many financially weaker institutions."

Robert L. Sproull, president of the richly endowed University of Rochester, agrees and commented: "Of course we could exist without federal grants and contracts, but we'd be a much different institution. And the country and the 21st century would be weaker for it.

"But nobody in Washington cares about the 21st century. It's all they can do to care about next week, and nothing—absolutely nothing—goes beyond the first Tuesday in November."

In fact, about 75 private colleges and universities receive either no Government aid or assistance in amounts of less than 2 per cent of their budgets.

Many educators, however, learned last October that there may be no escape from bureaucratic entanglements.

HEW ruled that, as of October 1, any college enrolling students who receive individual aid through Government loan and grant programs is to be considered a "recipient institution"—subject to a wide range of Government controls.

The ruling covers millions of students attending almost every institution of higher education in the country.

Brigham Young University and Hillsdale College in Michigan are leading a group of schools in efforts to nullify or at least modify this latest interpretation of a "recipient institution."

Few, however, see a way out from under Washington's lengthening shadow across higher education.

The president of Baylor University Abner V. McCall, concedes that although Baylor refuses to accept building grants or Government loans, it has been lassoed by the new recipient-institution ruling.

Mr. McCall adds ruefully: "If you're in for a penny, you're in all the way."

In that situation, educators are besieging Congress and HEW with demands for a bigger voice in developing legislation affecting their institutions and in drafting regulations for the administration of new laws. Two principal aims:

First, get Congress to assume responsibility for monitoring regulations affecting education to make sure they're working fairly.

Second, change employment rules designed for business and industry but unworkable for universities.

In courts, too, educators are challenging bureaucratic demands.

A VICTORY

When the State of Maryland was threatened with the loss of 65 million dollars in federal aid to its 28 public colleges because of alleged failure to eliminate racial segregation, it obtained a federal-court injunction restraining HEW's civil-rights office from carrying out its threat. The court held that the Government had acted "arbitarily and whimsically."

Beyond those measures, Frederic W. Ness, president of the 1,400-member Association of American Colleges, is advising college officials to be more alert to what goes on in Congress. "Sometimes we have been caught napping," he said.

From Stephen Bailey, vice president of the American Council on Education, comes a further admonition to the academic hierarchy: to continue improving their old "image" in Washington, where, unfairly or not, they have had a reputation for being "exclusive, self-indulgent, patronizing and sloppy."

On more and more campuses there is rising talk of organizing a common front of faculty members, alumni and administrators in the battle against the federal bureaucracy.

Until a more effective challenge is mounted, however, many educators share the feeling of Harvard's Derek Bok that "it is unlikely that higher education will do much more than fight a series of rear-guard actions to ward off the more menacing forms of Government intervention."

SENATOR PATRICK LEAHY—FRIEND OF SMALL BUSINESS

Mr. McINTYRE. Mr. President, I would like to call my colleagues' attention to an article about our friend, the distinguished junior Senator from Vermont, that appeared in the June issue of the Small Business Reporter.

The article is appropriately titled "Senator PATRICK LEAHY: Committed to the Needs of Small Business."

I say "appropriately titled," Mr. President, because I am keenly aware and deeply appreciative of Senator LEAHY's commitment to the needs of small business. The Senator and I not only represent neighboring States and occupy adjoining offices, we share a deep concern about this vital element in our economy.

As the article notes, Senator LEAHY comes by this commitment and concern naturally, for his father was a small businesman and the Vermont economy is characterized by a preponderance of small enterprises.

Although his committee assignments do not include small business matters directly, this does not discourage Senator LEAHY from keeping abreast of small business' problems, scrutinizing small business legislation, cosponsoring worthwhile small business legislation and, indeed, preparing his own small business legislation.

I am particularly appreciative of Senator LEAHY's vigorous cosponsorship of my Energy Research and Development Free Enterprise Act, for I am certain his efforts helped win Senate approval of this legislation. And I am equally grateful for his legislative interest in reducing bureaucratic redtape, another of my primary concerns.

Mr. President, I ask unanimous consent that the Small Business Reporter article on Senator LEAHY be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATOR PATRICK LEAHY: COMMITTED TO THE NEEDS OF SMALL BUSINESS

U.S. Sen. Patrick J. Leahy (D-Vt.) says he's particularly sympathetic to the needs of small businessmen because his father was one and because Vermont is a state of small enterprises.

"I really couldn't help but have been affected by my own personal experience in growing up in a home that was in the front of my father's printing plant in Montpelier," the senator, 36, recalls.

"The printing plant was attached to the back of our house, and we lived in the front," he says. "I lived there until the time I was married. That certainly affected my thinking a great deal."

In a telephone interview, Leahy reminisced at length about his childhood days at The Leahy Press.

Until he retired three years ago, the senator's father was a small businessman, Leahy said. His father's former colleagues have been anything but bashful about giving the senator advice, he said with a laugh. "A lot of his former business associates have felt free to contact me at some length to fill me in on their feelings."

Asked what he would do if he had to weigh the interests of small businessmen against those of consumers, Leahy replied he doesn't think those interests very often conflict.

"For the most part," he said, "most of the things that benefit consumers have benefitted the small businessman and vice versa. Small businesses are well served when the consumers have faith in the marketplace and also have money to spend. That's almost axiomatic."

Although his committee assignments don't include small business matters directly, Leahy said, he tries to keep up with the reports by the Select Committee on Small Business.

He also encourages small businessmen who have requests to contact him on a toll-free Wats line (1-800-642-3193). Those who express an interest in his activities, he said, have their names placed on his "Editors' briefing" list.

As for legislation he's endorsed, Leahy said he's particularly proud of co-sponsoring Senate Bill 2845, now law, which was better known as the Energy Research and Development Free Enterprise Act.

"What it does," he said, "is increase small business participation in federal energy research and development programs. It requires the federal Energy Research and Development Agency (ERDA) to direct 20 per cent of its funding to small businesses.

"Most of the energy breakthroughs in the past," Leahy said, "have come from small entities. What this bill does is insure that all the energy research money isn't going to just be taken by three or four giant energy companies, like the major oil and nuclear power companies.

"This bill," he said, "requires that at least 20 per cent of the funding is going to small businesses that may be working on anything from wind power to more efficient motors for cars."

Not only did he co-sponsor the bill, he said, but he testified on behalf of it and "worked hard for passage."

Leahy said he also supported the Small Business Emergency Relief Act (H.R. 5541) "which provides relief to small businesses caught in the squeeze between fixed price federal contract commitments and the rising costs of materials, supplies and energy."

What the bill, now law, does is provide flexibility in federal contracts which failed, when written, to allow for "the almost unprecedented inflation increases of the last few years," he said.

The senator was a co-sponsor of Senate Bill 2498, which gave eligibility for Small Business Administration assistance to some kinds of agricultural enterprises.

"What that does," Leahy said, "is bring most small agricultural activities—family farms and so on—under SBA. It's very important in a state like Vermont where a great many of our small businesses are, of course, farms, family farms."

Another bill the senator co-sponsored was Senate Bill 408, now law, which abolished fair trade laws.

Just last April the Senate adopted Senate Resolution 104, Leahy said, which gives the Select Committee on Small Business jurisdiction over all proposed legislation primarily relating to the SBA. Leahy, again, was co-sponsor.

"What that means," he says, "is that small businesses would have far more voice in the Senate than they now do. It wouldn't be just the larger businesses with a voice; small businesses would have a much bigger voice than they do now."

Leahy says he is preparing legislation of his own designed to "cut red tape in bureaucracy," which was something his father complained about while in business, Leahy recalls. "I'm sure small businessmen will be interested in that."

POLITICALIZATION OF THE OLYMPICS

Mr. PEARSON. Mr. President, politics and nationalism have never been completely absent from the modern Olympic games. But to argue that international athletics have been politicized, does not require that this continue; it is time that this trend be stopped. It is time for the International Olympics Committee, supported strongly by the United States, to develop new procedures to prevent the use of the Olympics in the future as an arena for international politics. Unless far-reaching changes are made, I do not believe that the games, as they are now organized, will be a tradition worth continuing.

There have been two separate, but equally disturbing developments during the XXIst Olympiad in Montreal; the host government of Canada's opposition to the participation of the athletes from the Republic of China—Taiwan—and the boycott of the games by 28 African nations because a rugby team from New Zealand had played in South Africa. Thus, 29 nations with over 700 athletes who had trained for years to participate in these games, will not be present. This represents an elimination of nearly 25 percent of the countries—from 115 to 86—and over 10 percent of the athletes. Reducing the competition demeans the accomplishments of the remaining athletes. For example, the world record holder in the 1500 meter run is now prevented from entering the race.

The African withdrawal is an empty gesture that has nothing to do with the Olympics. The Africans protested the willingness of New Zealand to play rugby, a non-Olympic sport, in South Africa. There is a great deal of hyprocrisy in this action. Many of these African nations have imported South African products for years, thus helping that nation far more than any tour by a rugby team.

The Africans could hardly have selected a less logical victim than New Zealand. Long a strong critic of South Africa's racial policies, New Zealand has set an example for a viable multiracial society. New Zealand's Maori population enjoys opportunities, assistance, and integration. The African nations' decision to pick on a small country because its government refused to stop a privately financed sports club from playing in another country, interferes with the democratic principle of free travel. Success in this endeavor would create a bad precedent for the future.

Damaging as it is to the games, any government has the right to pull out, despite the unfortunate consequences to themselves, their athletes and the cause of international harmony. More disturbing is the action of the Canadian Government, which in effect, denied the Taiwanese athletes participation.

The Republic of China was the delegation's name when Canada sought the 1976 games. Ottawa's refusal to issue visas to athletes from a long-standing member of the International Olympic Committee, for whatever political reasons, is an inexcusable breach of faith. By allowing the Canadian decision to stand, the International Olympic Committee has renounced their authority to determine which nations should be represented. Such a precedent is more far reaching and ominous than the African boycott.

The 1980 summer Olympics are scheduled to be held in Moscow. If we sanction the Canadian precedent, will the Soviet Union also exclude nations from the next games, and, if so, on what grounds? The possibilities seem endless. If the Canadians can exclude the Chinese of Taiwan at the request of the Chinese of the mainland, will the Soviets exclude the West Germans at the request of the East Germans? Will they exclude the Israelis at the request of the Arabs? Will they exclude the United States at the request of African nations who are upset because a private American women's gymnastic team visits South Africa?

Unless we undertake prompt action to prevent future exclusion of Olympic teams for political reasons, the spirit of Olympic competition will be destroyed. Consequently, I urge both the International Olympic Committee and the Soviet Government to issue public pledges that no athletic team will be denied participation at the Moscow Summer Olympics. If the Soviet Union should decide, for whatever reason, to refuse any athletic team permission to participate, then the IOC should select an alternative site for the games. Of course, the United States should also reaffirm its pledge to admit all Olympic athletes to the 1980 winter games at Lake Placid.

The purpose of establishing the modern Olympics was to provide a vehicle for the nations of the world to compete peacefully on the athletic field. If the Olympics become nothing more than just another forum for political hostilities, they will not be worth continuing.

TOWARD A NATIONAL SMALL BUSINESS POLICY

Mr. HUMPHREY. Mr. President, a strong independent small business sector is essential to the development of a vigorous economy. I know of few people who would challenge such a statement. But too often, both the administration and the Congress have virtually ignored the needs of the small business person.

During the past year a new congressional interest in small business enterprise has emerged, however, little legislative action has been taken to deal with the problems that face the independent business person.

When one considers the size of the small business sector, such Federal indifference and inaction becomes an especially acute problem. Small business accounts for 43 percent of the U.S. gross national product—GNP—and 48 percent of the business portion of the GNP. Small business employs over half of the workers in the Nation's labor force. But still little is done to help the small business sector hold steady, much less grow and prosper. Never has an entity so large been so effectively overlooked by so many.

Congress must significantly raise its awareness of the impact of its action on small business, if it hopes to handle effectively the problems facing the small business sector of our economy. Bills cannot fail to achieve the mission for which they were designed. Only authors of bills and those who administer their programs can. As the authors of bills, we in Congress must accept part of the responsibility for the unexpected negative effects that sometimes result from our legislation.

Too often, the Federal Government becomes aware of the specific nature of a bill's negative impact on small business after the bill becomes law. While a bill is being debated and hearings on it being conducted, its impact on small business is rarely ever discussed. Congress usually reviews the impact of legislation on business, but there is a tacit assumption that big business equals all business. Small business is forgotten.

This situation must end. I propose that we consider a procedural change that will permit the Senate Select Committee on Small Business to consider for 30 days *all* bills that affect small business, prior to the reporting of these bills to the Senate. The committee would be authorized to determine a bill's impact on small business and to issue a report to Congress explaining the specific nature of the impact.

With such a procedure, Congress will address the needs of small business before a bill is voted on. For example, with this review mechanism in place, Congress may well have foreseen many of the problems that the Employee Retirement Income Security Act has created for small business. The bill could then have been amended to prevent any ERISA-provoked terminations of small business pension plans.

INFORMATION-STATISTICS

As chairman of the Joint Economic Committee, I am well aware that economic policymakers must have solid economic information before they can devise effective policies. In the case of the small business sector, almost no good economic information is available.

Since statistics on business production, sales, inventories, profits, borrowing, failures, and others are not broken down by any measure of business size, it is impossible to determine exactly what the condition of smaller businesses is. Without such information, it is also difficult to determine precisely what kind of legislation is necessary to insure a strong small business sector.

As a prerequisite for effective small business legislation and policies, the Federal agencies responsible for collecting economic information must break down the statistics according to business income level, asset size, and employee number.

Therefore, I propose that an Executive task force headed by the Office of Management and Budget, and including the Small Business Administration and all agencies responsible for economic data collection, be formed to determine how such information can be collected and disseminated.

CAPITAL FORMATION

Capital formation has always figured as a central problem facing small business. Because small firms are usually the last in line for bank borrowing, they are especially hard hit during recessions. When one considers that small business relies more heavily than big business on short-term bank borrowing and retained earnings to fund future expansion and general operations, the proportions of this sector's capital formation problems grow larger.

Federal Trade Commission data show that manufacturing firms with assets of under $10 million had 41 percent of their debt in the form of short-term bank loans in the third quarter of 1975. Firms with assets of $10 million to $25 million had

37 percent of their debt in short-term bank loans. But the share for firms with assets of $100 million to $250 million was 23 percent.

Although small firms are heavily dependent on short-term borrowing, the number of short-term loans under $100,000 fell consistently in 1974 and 1975. A slight increase was registered in the first quarter of this year, but the number of small short-term loans still remained well below prerecession periods.

The recession has dealt a heavy blow to small business earnings and, therefore, retained earnings, an important small firm capital source. In the third quarter of 1975, sales for manufacturing concerns with assets of under $1 million fell very slightly, but their after-tax earnings fell by an alarmingly high 51 percent. For manufacturing businesses with assets of $1 million to $5 million, 1975 third quarter sales increased by 2.6 percent, but net profit still fell 23 percent. Net profits for firms selling durable goods with assets of under $5 million fell 49 percent in the third quarter of 1975. But for large manufacturing firms, sales rose 4 percent and net profits rose almost 7 percent in that same time period.

Equity financing for small business has been virtually non-existent in the past 2 years. There have been only 10 public stock issues for firms with net worths of $5 million or less during 1974 and 1975.

TAX POLICY

Definitive action must be taken to help small business attain the money it needs to operate and grow. I believe that initially, the temporary increase in the corporate income surtax exemption from $25,000 to $50,000 should be made permanent. But the long term goal of Congress should be graduation of the corporate income tax rates. The Department of the Treasury, by request of the Joint Economic Committee and the Senate Select Committee on Small Business, is determining the effective corporate income tax rates according to corporate asset and income level. Once these figures are available, an equitable graduation scheme can be designed to assure that all corporations pay their fair share of income tax.

To assist in the formation of new, independent businesses, I would recommend that the loss carry forward period for new ventures should be extended to 10 years. For firms with losses of less than $1 million to carry forward, the loss carry-forward period should be extended from 5 to 7 years. Also, to increase the potential reserve of funds retained in a small business, the accumulated earnings credit should be increased from $150,000 to $250,000.

SMALL BUSINESS ADMINISTRATION

The Small Business Administration must also do a better job. The market for the sale of the guaranteed portion of SBA small business loans must be greatly expanded.

To do so, steps should be taken to make certain that the guaranteed portion will be honored by the Federal Government under all circumstances. It must be made the equivalent of any Federal security. Also, the SBA's efforts to remove itself from its credit checking function should be pursued aggressively. By allowing the banks to make the key decisions on what firms are reasonable credit risks, loan guarantee applications can be approved or rejected quickly and efficiently.

FEDERAL REGULATIONS

Two other areas that have especially troubled small business people are the large amounts of Federal paper they must process and the regulation of their firms by Federal agencies. I believe that the new Office of Advocacy within the Small Business Administration should play a central role in helping to reduce concern over these two issues.

To determine how to effectively reduce the amount of Federal paper that small firms must process and the cost of doing so, the Small Business Administration's Counsel for Advocacy should be directed to undertake a study with the assistance of the Office of Management and Budget. The study will determine the level of information submitted to the Federal Government by small business, the cost of submitting this information, and a plan for reducing both the level of information submitted and the cost of submitting it. The General Accounting Office should be given the power to review and comment on all aspects of this study.

Additionally, although the Office of Management and Budget must approve all Federal forms before an agency can issue them, it has done nothing to use this power to streamline the Federal paperwork operation. The General Accounting Office should, therefore, be directed to study OMB's efforts in behalf of reducing the paperwork burden of small business. The study should evaluate the staff and financial resources, processes, and anything else that would bear on OMB's ability to effectively manage the Federal paperwork system.

To make Federal regulatory agencies more responsive to the special compliance problems that small businesses face, I propose that a grievance board be created within the SBA's Advocacy Office and chaired by the Counsel for Advocacy. If a small business person has a regulatory compliance problem, he could petition the grievance board to determine what can be done to resolve his dilemma. When practical, agents from the Advocacy Office's grievance board could contact officials at the problem agency to represent the position of small business petitioners.

Agents of the grievance board should be stationed in each SBA regional office. In time, they could act as a sort of small business field service patterned after the extensive agricultural service that is already in place.

In addition, the Occupational Safety and Health Administration should find a way to expand its onsite prior consultation service without affecting in any way its inspecting function. One should not be broadened at the expense of the other. If OSHA is to be effective, both functions must be fulfilled.

ESTATE TAXES

A final problem that has received much attention this year is the forced liquidation of small businesses to pay Federal estate taxes. I cochaired Minnesota field hearings with Senator MONDALE that studied this issue.

After reviewing the testimony of my fellow Minnesotans, it became clear to me that the estate tax exemption level should be increased. I support a tax credit approach that would give a $50,000 estate tax credit, the equivalent of a $200,000 tax exemption, to small business estates. This one reform should remove the need for liquidating any small businesses to pay Federal estate taxes.

Mr. President, a national small business policy has long been needed. My proposals can form the basis of that policy.

If we follow them, congressional concern for small business will enter a new active phase. No longer will the interests of small business be overlooked. Small business will hold its rightful and important place in legislative debates in the U.S. Congress. The small business sector will not just struggle to hold steady. It will grow and prosper. And the entire American economy will surely grow and prosper along with it.

SOVIET CIVIL DEFENSE

Mr. THURMOND. Mr. President, the Congress must give more attention to the accelerating imbalance in civil defense preparedness between the Soviet Union and the United States.

The July 19, 1976 issue of the Chicago Tribune included an article on this subject entitled, "Soviet A-Defense Gains Told."

This is a subject on which the Senate Armed Services Committee should give early and thorough consideration.

I ask unanimous consent that the article published in the Chicago Tribune be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET A-DEFENSE GAINS TOLD

WASHINGTON.—The belief is growing among a few Pentagon insiders that the Soviet Union has improved its civil defense capabilities to the point where it could emerge from a nuclear war with relatively little damage.

Defense sources suggest that Russian civil defense capabilities are so extensive the Soviet Union could cut its deaths in a nuclear war to about 10 million people—less than the number who died in tne purges of the 1930s.

The balance would be in the Soviets' favor in an attack against the United States, which has virtually no civil defense capability, sources said. They said a Soviet attack on the U.S. could inflict about 10 times more casualties than the Soviets would suffer.

The disparity in civil defense readiness is used as an argument for increased accuracy of U.S. missiles, but a Pentagon spokesman said last week there is no intelligence data to back up the argument.

Speculation about Russian civil defense superiority first surfaced publicly Feb. 26, when defense research director Malcolm R. Currie told reporters that the Russians "have a very intensive" civil defense program with substantial "hardening" in industrial centers.

"Hardening" is reinforcement of structures to withstand the effects of a nuclear blast.

"They're postured to survive any war as an industrial power," Currie said.

To counter the substantial nuclear protection, Currie suggested, the accuracy of U.S. nuclear weapons should be improved to permit direct and damaging strikes on hardened facilities.

Behind the closed doors of the Senate Armed Services Committee, Currie was questioned about the speculation by staff member Larry K. Smith. The testimony was recently declassified.

Currie said his information came from a defense study task force "that I put together last summer." He said the study group had "nothing to do with intelligence per se, and they are not from the Defense Department.

"The board consists of leaders from industry, from academic life primarily," he said.

Elmo Zumwalt, a former chief of naval operations and a Senate candidate in Virginia, has been using the figures cited by Currie.

On July 9 the Boston Globe published a story saying: "President Ford was recently informed, in utmost secrecy, that if the Soviet Union launched a nuclear war tomorrow, 10 times as many Americans would die as would Russians in U.S. retaliatory strikes."

Defense spokesman William I. Greener denied that any official group from the Pentagon has told the President that, saying, "I know of no such report."

IOWA COMMISSION ON THE STATUS OF WOMEN STUDIES EMPLOYMENT

Mr. CLARK. Mr. President, the Iowa Commission on the Status of Women has recently completed an exhaustive study of the employment situation for women in Iowa.

Entitled, "A Study of the Underemployment and Underutilization of Women in Iowa," the report is apparently the first of its kind in the country.

Although the study concentrated on employment in Iowa, its methods and results are of interest to the entire country.

The findings indicate that although employment opportunities for women are improving, we still have a long way to go to achieve equity.

The study found:

> Women are not employed as supervisors, managers or as skilled craft workers in numbers representative of their availability in the work force. They are paid less than men, both in terms of years of experience with their current employer and years of experience in their present position. Notably, college educated women are underemployed in the higher pay levels and managerial positions in comparison to college educated men. Another serious problem in Iowa is the overrepresentation of women in the lower paying, lower skilled jobs.

And it concludes by noting that:

> There are women who desire fuller work experiences, are prepared to accept the requirements of more responsible positions, and have the education to hold higher level positions. Employing the full talents of these women would benefit both the employee and the organization.

I want to congratulate the Iowa Commission on the Status of Women for undertaking this project. It undoubtedly will have an impact on future job opportunities for women by increasing the awareness of everyone to the need for ending job and salary discrimination and assuring full utilization of the capabilities of every individual in society.

I ask unanimous consent that the concluding chapter of the report be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Chapter VI—Summary and Conclusions

This chapter will present (a) an introduction explaining the concerns of the study, (b) a review of the research objectives and procedures used in conducting the study, (c) a summary of the major findings, (d) the general conclusions, and (e) recommendations for further research.

INTRODUCTION

In the early twentieth century, women typically worked only when they were young and single and left the work force when they married. They were employed primarily in jobs which were extensions of their traditional nurturing and supportive role in the family. Beginning with World War II and continuing through post-war industrial expansion, demands for labor encouraged significant numbers of older and married women to enter the labor force. This trend in working patterns has continued, and today the female labor force is representative of the entire adult female population. In contrast, however, the occupational composition of the female labor force appears relatively unchanged. National statistics show that women are still clustered in the traditional jobs of the early twentieth century, and earn only about 60 percent of the average earnings of men.

To examine this apparent inequality in employment opportunities, the Iowa Commission on the Status of Women sought and received federal funds to study the Iowa work force to determine the existence and extent of underemployment and underutilization of women in business and industry within the state. Original data was to be gathered to determine whether or not a problem existed, to what extent, and the factors contributing to the problem.

This investigation of underutilization and underemployment of women was restricted to full-time employees in Iowa. Only private sector businesses and industries were sampled; public and educational system employers were excluded. The focus of the study was on women in general and did not isolate the problems of minority women. Only women presently employed full-time were sampled, therefore, no conclusions can be drawn regarding unemployed women. The study did not attempt to analyze the effects that the employment of women may have on the family structure or any other societal institution.

RESEARCH OBJECTIVES AND PROCEDURES

The survey method was chosen for study since it allowed for the gathering of information from a large number of respondents over a wide geographic area with minimum cost. The specific questionnaire used in the study was developed by the Employment Project staff and the steering committee of the Advisory Task Force and was pre-tested in September. The questionnaire was designed to collect four kinds of information: work related, personal, attitudinal, and aspirational.

A sample of 261 firms was selected from the 1,449 employers in the universe of employers submitting Equal Employment Opportunity (EEO–1) Reports in 1974. The sample was stratified to insure representation of five geographic areas within Iowa (central, southwest, northwest, northeast, and southeast) and representation of firm sizes (employers were grouped by number of employees: 1–49, 50–99, 100–249, 250–499, and 500 or more employees). Consideration was also given to the sample's representation of industry types (agriculture and construction, manufacturing, transportation and utilities, wholesale and retail trade, finance and insurance, and service industries) and community sizes (populations less than 2,500; 2,500 to 10,000; and over 10,000).

Data was collected by field researchers who contacted individual employers and requested permission to survey their employees. Employees were randomly selected from lists of full-time personnel furnished by employers; an equal proportion of male and female employees were included in the sample. Researchers used a table of random numbers to insure the selection of a random sample. Employees were requested to complete the questionnaire on-site or to complete and return the questionnaire in a postage paid envelope. Of the 13,582 questionnaires distributed, 5,995 usable questionnaires or 44 percent were returned. The returned questionnaires were representative of the geographic areas, employer sizes, community sizes and industry types mentioned above.

Participation in the study was voluntary for both employers and employees; thus, nonrespondent bias may affect the universality of the findings. Another major limitation of the study was the fixed response statements used in the questionnaire; the appropriate choice may not have been provided to express the exact situation or feelings of respondents.

An additional limitation of the study was the inclusion of only those firms employing 100 or more persons in Iowa and required to submit EEO–1 reports. It is possible that employers subject to the equal employment opportunity requirements are doing more to promote equality of opportunity for women than those employers not subject to such requirements. Therefore, the results may be biased in showing a better situation than actually exists among all employers in Iowa. Although the study had these limitations, there is sufficient theoretical base and related empirical research to conclude that the methodology provided an adequate framework for deriving significant new data and insights.

SUMMARY OF MAJOR FINDINGS

Underutilization of women

The term underutilization was used in this study to describe a situation in which fewer numbers of women are employed in specific occupations than would be expected in view of their availability in the work force. Women were considered to be underutilized when they comprised less than 34 percent of any occupational category. The criteria of 34 percent was selected because it represented the proportion of the Iowa work force who are women, according to 1974 EEO–1 summary data. The occupational categories were service, laborer, operative, craft, sales, office/clerical, technical, professional, and managerial. Women were considered underutilized in supervisory positions and at certain pay levels when the proportion of women was significantly lower than the proportion of men in these categories. This criteria was established because underutilization in supervisory positions and at certain pay levels was determined through an equal sampling of female and male employees.

The findings revealed that women were underutilized in certain occupations and at certain pay levels. Specifically, it was found that: Women in Iowa are underutilized in laborer, operative, craft, and technical positions and at pay levels from $10,000 through $17,500.

Women were substantially underutilized in managerial and craft positions, but only slightly underutilized in operative and technical positions. It was found that women were not underutilized in positions paying under $10,000 or in service, office/clerical, sales, and professional positions.

Underemployment of women

The term underemployment was used in this study to describe a situation in which an individual's education or experience is greater than others in similar jobs or at similar pay levels. Female respondents were considered underemployed if their education or experience was significantly higher when compared to male respondents in similar job categories and at similar pay levels.

Generally, the findings suggest that underemployment of women exists in Iowa. Specifically, it was found that: Women in Iowa are underemployed when compared to men in terms of years of experience in their current positions in office/clerical occupations and at pay levels under $10,000. Women are also underemployed when compared to men in terms of years of experience with their current employer at pay levels under $15,000.

The study was unable to support the hypothesis that women are underemployed in relation to their education or total years of working experience. Additionally, women in Iowa did not perceive themselves as underemployed any more frequently than men.

College graduates were considered a unique group of employees since they are often earmarked for more responsible and higher paying jobs. The study attempted to determine if college educated women were underemployed in relation to college educated men. Specifically, it was found that: Women college graduates in Iowa are underemployed in managerial positions and at pay levels above $10,000 when compared to men college graduates. Women college graduates feel that they are underemployed in their present posititon in the organization to a greater extent than do men college graduates.

The study was unable to support the hypothesis that women college graduates were underemployed in relation to men college graduates in technical or professional occupations.

Employee mobility

Mobility of respondents was analyzed through a study of the travel required in the respondents' present job, the amount of travel respondents would be willing to accept, respondents' willingness to move to a different town for a better job, and respondents' willingness to change employers for a better job. Mobility was considered important because it is often essential in order to gain the experience necessary for the better paying, more responsible positions in an organization.

Analysis of employee mobility revealed that over twice as many men as women were required to perform some travel in their jobs. Substantial numbers of both male and female employees, however, were willing to travel in a job if it was required; over four-fifths of the men and three-fifths of the women were willing to travel in any job.

Both male and female employees expressed a willingness to change employers to obtain a job with more pay or more responsibility. About two-thirds of both men and women would change employers to obtain a better job. Significantly fewer women than men, however, were willing to move to a different town to obtain a better job. Only about half as many women as men were willing to move to obtain a better job.

Employee aspirations

Hierarchial aspirations. Hierarchial aspirations were determined by analyzing the difference between a respondent's current position in the organizational hierarchy and the position the respondent wished to be in five years from now. A positive difference was considered to indicate a desire for upward movement in the organization. This analysis was considered important to determine the validity of the presumption that only men desire to move up in organizations.

This study found that almost three-fourths of both men and women in Iowa had aspirations to move up in their organizations. Men and women had similar hierarchial aspirations when viewed by age, education, job category, and marital status. Age seemed to have the most pervasive effect on hierarchial aspirations; as age increased, aspirations for both men and women decreased. Thus, it appears that more Iowans under 35 years of age aspired to higher level positions than did older Iowans.

Education also appeared to influence men's and women's aspirations. Generally, education appeared to be positively related to employee hierarchial aspirations; the higher the education level, the greater the aspirations. Occupation also affected employee aspirations; it was found that both men and women in office/clerical, professional, and technical positions had higher aspirations than did men and women in service, operative or craft positions. The hierarchial aspirations of men decreased as their income increased; in contrast, the aspirations of women remained fairly constant throughout all income levels.

Occupational aspirations. Occupational aspirations were determined through an analysis of respondents' choices of the occupational category they would ultimately like to hold. This analysis of occupational aspirations provided an indication of respondents' general career perferences and was important in determining whether or not sex was a differentiating variable.

Few occupational categories had similar proportions of respondents aspiring to and presently holding those jobs. For example, twice as many employees aspired to managerial and professional jobs as presently held them; and twice as many respondents held operative, office/clerical and sales positions as there were respondents aspiring to them. Thus, it appears that satisfaction of all occupational aspirations would be difficult.

About 50 percent of both men and women respondents desired to remain in their present occupations. In five of the eight occupational categories (service, office/clerical, sales, technical, and professional), however, a higher proportion of women than men were satisfied with their current occupations. In addition, the occupational aspirations for men and women clearly differed. The majority of men in the sample appeared to have a single career goal, to become managers. The majority of women in the sample did not have a single career goal; however, many did show a tendency to aspire to the more responsible, and higher skilled positions. For example, only 6 percent of the women held technical jobs, while 10 percent ultimately aspired to that occupation; 23 percent of the women wanted professional positions, while only 7 percent worked as professionals; and 22 percent of the women ultimately aspired to managerial positions, while only 7 percent held these jobs. Twenty-eight percent of the women aspired to office/clerical positions; however, 48 percent of the women were presently employed as office/clerical workers. Thus, although women had more diverse goals than men, the majority of women aspired to the more responsible and higher skilled jobs.

Job satisfaction

Job satisfaction was defined as the feelings employees have about their jobs. Five job dimensions were considered to have a major influence on employees satisfaction with the job: (1) nature of the work, (2) nature of employee remuneration, (3) opportunities for promotion, (4) type of supervision, and (5) attributes of co-workers.

A relatively large proportion of both men and women were satisfied with the work they were performing, the supervision they received, and their co-workers. In addition, the perceptions of men and women toward these three job elements differed only slightly. Both men and women appeared to be less satisfied with their promotional opportunities and pay then with the other dimensions of their jobs. There was a differentiation between men and women with regard to promotional opportunities and pay; women were much less satisfied with these two dimensions of their jobs than were men. Both male and female employees appeared to be even less satisfied with their promotional opportunities than with their current pay.

CONCLUSIONS

This study found that both underutilization and underemployment of women exist in Iowa. Women are not employed as supervisors, managers, or as skilled craft workers in numbers representative of their availability in the work force. They are paid less than men, both in terms of years of experience with their current employer and years of experience in their present position. Notably, colleged educated women are underemployed in the higher pay levels and managerial positions in comparison to college educated men.

Another serious problem in Iowa is the over-representation of women in the lower paying, lower skilled jobs. Overutilization of women in pay levels under $7,500 may be due to the concentration of women in service and office/clerical jobs. Notably, even college educated women are overutilized in office/clerical positions. Women comprise 56 percent of all service workers and 81 percent of the office/clerical workers. Forty-seven percent of the women in contrast to only 10 percent of the men are employed in these two job categories. This concentration of women in lower paying jobs is of greater concern when it is noted that 40 percent of the women are either sole or primary wage earners. Furthermore, a number of women are earning supplemental income essential to their families' support.

Employers may feel that women are absent from higher paying, more responsible jobs because of their own occupational choices and preferences. Although this study does reveal that female employees are typically less educated, have fewer dependents, have worked a shorter period of time, and are less likely to be married than male employees, this does not mean that women are satisfied with these lower paying occupations. A closer scrutiny of the female work force reveals that many female employees are career-oriented. Women wish to move up in their organizations and the majority wish to hold technical, professional and managerial positions. A substantially larger number of women are willing to travel than are presently required to travel in their jobs and 60 percent of the women are willing to change employers for a better job. The desire of many women for the higher paying, more responsible jobs is further indicated by their extreme dissatisfaction with their current pay and promotional opportunities. A significantly higher proportion of college educated women than college educated men perceived themselves as underemployed.

The study shows that there are women who desire fuller work experiences, are prepared to accept the requirements of more responsible positions, and have the education to hold higher level positions. Employing the full talents of these women would benefit both the employee and the organization. With minimal effort, employers should be able to make some immediate progress toward greater utilization of women in managerial and supervisory positions.

There is little evidence, however, that women desire skilled craft positions. Thus, it will be difficult to substantially increase the proportions of women in these positions immediately. Efforts are needed to encourage women to consider these fields. One method would be to increase the number of female role models in those jobs. It appears from this study that as the number of female role models in non-traditional jobs increases, the number of women aspiring to those jobs will increase.

SUGGESTIONS FOR FURTHER RESEARCH

Progress toward equality of employment opportunity can be made and can be beneficial to both women employees and organizations. Achieving such progress, however, is more difficult than merely suggesting its possibility. How is career-orientation developed among women? How is a supportive work atmosphere for women created in the traditional male dominated occupations? What are the differences in career motivation between men and women? How can the aspirations of women who desire more responsible, higher skilled jobs be fulfilled? Further research should be directed toward answering these questions.

In-depth research in a small number of organizations with groups of selected employees is required. Various educational models need to be developed and tested concerning women's motivation, assertiveness, and technical and managerial skills. The impact of these models must be evaluated. In sum, tools need to be developed to assist both employers and employees in obtaining full equality of employment.

Furthermore, research such as this study must be conducted periodically to ascertain the extent of underemployment and underutilization of women in Iowa. Such periodic research could serve to evaluate Iowa's progress toward achievement of equality of opportunity. Other areas which might be pursued in further research are the underemployment and underutilization of women in the public sectors of government and education; the impact of affirmative action plans; career pathing for women and work atmospheres that are supportive to women in non-traditional jobs.

THE CONTROL OF NUCLEAR PROLIFERATION

Mr. SYMINGTON. Mr. President, yesterday I commented on the new section of the Foreign Assistance Act relating to nuclear transfers.

The text included the amendment as approved by the Senate.

I ask unanimous consent that the final text of the amendment as enacted into law June 30, 1976 be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

NUCLEAR TRANSFERS

SEC. 305. Chapter 3 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 669. Nuclear Transfers.—(a) Except as provided in subsection (b), no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of—

"(1) providing economic assistance;

"(2) providing military or security supporting assistance or grant military education and training; or

"(3) extending military credits or making guaranties;

to any country which—

"(A) delivers nuclear reprocessing or enrichment equipment, materials, or technology to any other country; or

"(B) receives such equipment, materials, or technology from any other country;

unless before such delivery—

"(i) the supplying country and receiving country have reached agreement to place all such equipment, materials, and technology, upon delivery, under multilateral auspices and management when available; and

"(ii) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

"(b)(1) Notwithstanding the provisions of subsection (a) of this section, the President may, by Executive order effective not less than 30 days following its date of promulgation, furnish assistance which would otherwise be prohibited under paragraph (1), (2), or (3) of such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

"(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

"(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

"(2)(A) The Congress may by joint resolution terminate or restrict assistance described in paragraphs (1) through (3) of subsection (a) with respect to a country to which the prohibition in such subsection applies or take any other action with respect to such assistance for such country as it deems appropriate.

"(B) Any such joint resolution with respect to a country shall, if introduced within 30 days after the transmittal of a certification under paragraph (1) with respect to such country, be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.".

A TRIBUTE TO MAURICE TEPASKE

Mr. CLARK. Mr. President, the personality of Iowa is best illustrated by its small towns, and when we point to the accomplishments and progress of these communities, we often look to Sioux Center, a city of nearly 4,000 in northwest Iowa.

Led for many years by its dynamic mayor, Maurie TePaske, Sioux Center has become known as nearly ideal city. Its citizens—possessing a strong Dutch heritage—are immensely proud of the way their city looks and the way it is operated.

It is not overstating the point to say that Maurie TePaske made Sioux Center what it is today.

Maurie died last week, and some of Sioux Center—and Iowa as well—died too.

For while Maurie TePaske and Sioux Center were virtually synonomous, he did not confine his interests and hard work to his home community. He was a moving force in the Iowa League of Municipalities, and once served as its president. He worked hard to expand the medical school at the University of Iowa so that the State would have a better supply of doctors. He was often an active participant in political campaigns, and gave countless hours to his church.

News of his death came as a shock to those of us who had become accustomed to his boundless energy, his never-ending drive for the attainment of new goals. It just cannot be the same without him.

But I am confident that he will serve as an inspiration for leaders of the future who will look to Maurie as an example of how one person's commitment and hard work can bring so much achievement and enrich the lives of so many people.

I extend my deep sympathies to his widow, Vera, and to his family. They can be comforted in knowing that Maurie TePaske was a good man, who lived a rich and fulfilled life, giving his all for his fellow man. Few people have left such a rich legacy.

Mr. President, James Flansburg has written a very sensitive column in the Des Moines Register that captures what Maurie has meant to Sioux Center and to Iowa. I ask unanimous consent that this column and another story from the Des Moines Register be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Des Moines Register, July 19, 1976]

SIOUX CENTER'S TEPASKE: HE WILL MAKE HEAVEN BETTER

(By James Flansburg)

Sioux Center is probably as close to being an ideal small town as any place in the country.

Its community services and facilities are superior to those in many towns that are much larger. In a time when many small towns were fading because of the change in the farm economy, Sioux Center was growing, primarily because its citizens wanted it to grow and they knew how to make it do so.

Leading all of this for the 30 or 32 or 34 years that he was mayor was Maurice A. TePaske, the human dynamo. He helped Sioux Center's residents understand how the simple construction of a swimming pool or paved streets or development of a library system can enhance a community's image and its appreciation of itself.

San Francisco, for example, is a great city only because its residents think it is a great city. So it is with Sioux Center.

Maury—he insisted on being called Maury—was a lawyer who had boundless energy. Using the dictating machines in his car, he'd work as he drove—enough to keep four or five secretaries busy.

"I've always tried to do at least two things at the same time so I'd be fully occupied," he once said.

His interests were enormously varied. It was Maury who persuaded Iowa's smallest towns and biggest cities to see a common interest and band together as a unified lobbying force. It was Maury who persuaded and nagged and paved the political way for the University of Iowa to expand its medical college and increase the supply of doctors in the state.

A few years ago, on one of his crusades, he drove the four hours from Sioux Center to Des Moines, dictating all the way, picked up a friend in Des Moines and drove on to Iowa City for a meeting. "Sandwich? Coffee?" he asked. "I always carry them so I don't have to stop."

Halfway to Iowa City, still driving and his dictation done for the moment, he changed his suit as the car sped along the interstate. "It's always a good idea to be fresh pressed," he said.

The meeting over, he drove the friend back to Des Moines and then went on home to Sioux Center.

That energy got dozens of jobs done over the years, and Maury wanted no credit for it. Maury knew where his reward would be, for Maury believed in God and doing God's work.

He had no use for mere mortal ideology. He served and supported Democrat Harold Hughes and Republican Robert Ray with equal fidelity and vigor.

He may have been preparing to serve Democrat Jimmy Carter even though he was important and high in Republican councils.

Two or three weeks ago, Maury called the old reporter at The Register and asked, "Do you remember a couple of years ago when I asked you if you thought the nation was ready to be led by a man of God?"

The old reporter remembered and also recalled trying to dissuade Maury from his notion that there was any sort of religious revival stirring or that a truly and openly pious man could tap it for support.

Last week as Jimmy Carter, perhaps a man of God, won the Democratic nomination for president, Maurice TePaske, undoubtedly a man of God, died.

He was in his car, going somewhere, dictating machine at the ready; undoubtedly coffee and sandwiches available for the hitchhiker he always picked up, and probably listening to the classical music he loved so much.

Measured by deeds, he was 347 years old and undoubtedly had a freshpressed suit to meet God for his first assignment to change things for the better.

[From the Des Moines Register, July 15, 1976]

EX-SIOUX CENTER MAYOR DEAD

SIOUX CENTER, IOWA.—Maurice A. TePaske, 60, widely known Iowa municipal leader from Sioux Center, died Tuesday night of an apparent heart attack in Des Moines.

TePaske had served as mayor of Sioux Center for 34 years, was a past president of the League of Iowa Municipalities and was active in the Republican Party.

Polk County Medical Examiner R. C. Wooters said TePaske was driving a car near Twenty-seventh and Center streets about 9:30 p.m. Tuesday when he pulled over to the curb and slumped over the wheel. He was pronounced dead on arrival at Broadlawns Polk County Hospital.

Services will be at 11 a.m. Friday at the First Reformed Church in Sioux Center.

TePaske became mayor of Sioux Center in 1940 at the age of 24, the city's youngest mayor. He was re-elected repeatedly, always without opposition, until stepping down two years ago.

He was elected president of the League of Iowa Municipalities in 1962, served as Sioux County Republican chairman and held several offices in his church.

Known as a tireless worker, TePaske equipped his Sioux Center law office with eating and sleeping facilities and often worked through the night. He held City Council meetings at 6 a.m., serving pancakes and sausages to council members.

He was a graduate of Northwestern Junior College at Orange City, Grinnell College and the University of Iowa College of Law.

Surviving are his wife, Vera, three children and a grandson.

NATIONAL CAPTIVE NATIONS WEEK

Mr. PROXMIRE. Mr. President, I would like to take this opportunity to ask my colleagues to join with me in proclaiming this 18th annual observance of National Captive Nations Week—July 18–24.

As this Nation celebrates its second full century of freedom from foreign domination, we must not forget the plight of the millions of innocent, exploited people in what were formerly the sovereign states of Estonia, Latvia, Lithuania, and others. These states were absorbed economically, politically, and culturally by the Soviet Union, under the guise of "freely determined elections," or "to insure defensible boundaries." These annexations were never recognized by the democratic nations of the world. Violations of human rights, suppression of dissent, and religious persecution have characterized Soviet rule since 1939–40.

Yet, for many of the people of these former nations, the spirit of hope still strongly persists. The belief remains that the numbing subversion of liberty and individual expression will someday be ended.

Our support and recognition of the enduring struggle of these people will help to keep the spark of hope from being extinguished.

I salute the courageous efforts of the people in the captive nations, as well as all others who have taken up their cause of deep concern and commitment to liberty, human rights, and freedom for all peoples of all nations.

ATOMS FOR LEASE

Mr. SYMINGTON. Mr. President, Dr. Harold M. Agnew, director of Los Alamos Scientific Laboratory, has made a recent suggestion for one of the more interesting, and what may well be one of the most practical ways of preventing the plutonium in spent fuel rods from nuclear power reactors getting into weapons programs.

In a recent article "Atoms for Lease," in the May 1976 issue of the Bulletin of the Atomic Scientists, Dr. Agnew proposes that all nuclear fuel suppliers lease rather than sell nuclear fuel and require the return to the leaser all spent fuel for reprocessing; and I am sure this article will be considered carefully by those who truly appreciate this evergrowing danger of nuclear proliferation.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ATOMS FOR LEASE

(By Harold M. Agnew)

It wasn't until India tested its peaceful nuclear explosives that some of the nuclear powers officially expressed concern over the possibility of nuclear proliferation by other nations that had not by treaty or other mechanism foregone the development of nuclear explosions. Canada, the supplier of the reactor to India, was considered in no small way responsible for contributing to India's capability.

What was ignored was the fact that since the end of World War II the United States in particular had been exporting what was and is the key to success in the nuclear field, namely knowledge. We have been training mathematicians, chemists, physicists, engineers in the disciplines required to develop nuclear energy for electrical power or for peaceful explosives. I suspect that half of the key scientists involved in India's program received some part of their professional training in the United States. It is too late to stop this transfer of knowledge because a generation has been taught, and all the needed information has been published and distributed.

There is also no question in my mind that many countries will in the future, and for the next 50 years, have no alternative but to exploit nuclear energy if their people are ever to realize a fraction of their expectations. Although the United States has been inefficient in its use of energy, and with available technology can and will make do with less, the greater part of the rest of the world cannot utilize less energy but must utilize more. And that energy must be available at a reasonably low cost.

The dilemma, of course, is that if developing nations are supplied the means to exploit nuclear energy, how can those nuclear supplier nations who provide the technology and supply the hardware hope to retard the proliferation of nuclear explosives and still provide the means of increasing the standard of living of these nations through needed nuclear energy?

The procedure that we and the rest of the nuclear suppliers have been following is replete with loopholes. The Non-Proliferation Treaty to me is a license to steal. If a nation signs, the nuclear suppliers are obliged to provide all requested assistance in the nuclear field, but a signator can withdraw from the treaty with no penalty and only 90 days notice. Safeguards of the International Atomic Energy Agency can prevent the covert diversion of plutonium from a reactor, but they do not restrict overt utilization for any purpose.

Presently, when the nuclear suppliers sell a reactor to a nation, they also sell the nuclear fuel and leave it up to the purchaser to solve the problem of disposing of the spent fuel elements which contain plutonium, residual uranium-235, and fission products.

A reactor without fuel poses no threat to nuclear proliferation. If the supplier nation simply leased the fuel on the basis of its energy content to the nation purchasing the reactor—instead of selling it—and if the fuel then reverted back to the supplier after it had served its purpose, the question would not arise as to what the receiving nation might do with the plutonium which resided in the spent fuel rods.

The question of recycle need never arise as far as the buyer is concerned since the buying nation had contracted for energy only, not fuel elements. The plutonium, fission products, etc., would belong to the supplier nation. The supplier nation would decide what was to be done, not the recipient nation.

The multitude of fears and questions which have arisen with regard to providing reactors to the Middle East, Korea, etc., need not exist. There would be no need for those nations ever to even consider having a recycling plant because they would own no fuel to recycle.

Recently it has been reported that the nuclear suppliers have all agreed to certain controls with regard to their sales. However, if they would simply all agree never to sell the fuel but simply to lease it based upon delivering an amount of thermal energy, a great deal of concern by the world could be alleviated. It would also make much simpler the concept of regional recycling and waste disposal centers.

Leasing is a common practice in the West; the large computer suppliers and copy machine manufacturers have been doing it for years.

I find it hard to understand why this concept has been to date turned down by our State Department, the Arms Control and Disarmament Agency, and other key officials. Only Senator Stuart Symington has pursued this suggestion, and asked why we don't consider leasing and thereby control the eventual disposition of the spent fuel with its plutonium content.

Such a procedure will not prevent major industrial nations from developing a nuclear industry or from developing nuclear explosives, but it will preclude the government of an underdeveloped or small nation which has a legitimate need for nuclear power from being tempted into developing nuclear explosives for whatever reasons they may at the time believe are relevant. It would also clear the air with regard to a nation's eventual intentions. If a nation refused to accept a nuclear power contract wherein the fuel was provided only through a lease agreement with title remaining with the supplier, then it clearly was interested in more than clean cheap energy to benefit its people.

WATERGATE REORGANIZATION AND REFORM ACT CAN RESTORE PUBLIC TRUST

Mr. HUMPHREY. Mr. President, In 1973 I was an original cosponsor of legislation providing for the appointment of a new independent prosecutor in the Watergate case.

At that time, I stated that—

> It is the faith and confidence of the people in their government that gives meaning to democratic government. Without that faith and confidence, the government cannot govern.

I also said that—

> What the American people want today are public servants who are hard working, who respond to public need, who are deeply concerned about the problems which affect the people they represent.

That is why I fully support the Watergate Reorganization and Reform Act of 1976, S. 495, passed by the Senate on July 21.

This bill will establish a permanent, independent Office of Special Prosecutor, to be filled by a Presidential appointee for 3 years, with confirmation by the Senate. The Prosecutor could be removable only for committing a felony or extraordinary improprieties.

The appointee could not have held high-level positions in a political campaign during the 5 years preceding the nomination. The Prosecutor would have the job of investigating and prosecuting allegations against the President, Vice President, FBI Director, Cabinet members, high-paid White House staff, any Federal official paid more than $25,000 a year and U.S. judges.

This legislation also establishes an Office of Government Crimes within the Department of Justice to investigate criminal allegations against public officials. This office would have jurisdiction over all criminal violations of Federal law which are related to the employees' Government work. It also gives the Department jurisdiction over criminal violations of Federal laws governing lobbying, conflict of interest, campaigns and election to public office, and other matters the Attorney General believes are appropriate.

The new Office would be headed by a Director appointed by the President and confirmed by the Senate and would serve at the pleasure of the President. No person may be appointed Director if he has actively participated in a political campaign on behalf of a candidate for elective office during the 5 years preceding the appointment. The Director of this Office would also report to the Attorney General, no matter who else supervises his work.

Another important provision of this bill will authorize the Attorney General to promulgate rules and regulations requiring the disqualification on a particular matter of any Justice Department employee, including a U.S. attorney if participation by that person may result in a personal, financial, or partisan political conflict of interest. Present departmental regulations only cover financial conflicts of interest. This provision would require the Attorney General to broaden those regulations.

I am particularly gratified that this bill includes the thrust of original legislation which I introduced, in establishing an Office of Congressional Legal Counsel to represent the interests of Congress in certain types of litigation. The counsel would be appointed jointly by the President pro tempore of the Senate and the Speaker of the House for a 4-year term.

The counsel would defend the Congress or its Members in civil actions involving official duties and would bring civil actions to enforce congressional subpenas, when authorized by one House of Congress. He would intervene on behalf of Congress in cases where the constitutionality of a law is challenged, when authorized by both Houses of Congress.

This legislation also would require full and complete public financial disclosure by the President, Vice President, Members of Congress, justices, and judges of the United States, Federal employees compensated at a rate equal to or greater than the rate of pay for grade GS–16, and members of the Armed Forces compensated at or above the grade O–7, as well as candidates for Federal elected office.

The bill spells out detailed requirements for information to be included in the reports, including the amount and source of each item of income exceeding $100 and the identity of each item received in kind valued in excess of $500.

The financial disclosure statement must disclose the identity and category of value of any business asset, liability, or transaction in real property or securities, at the close of the preceding calendar year, with a value over $1,000.

These reports must be filed by May 15 of each year. The Comptroller General would make the reports public within 15 days of receipt and would conduct random audits of no more than 5 percent of the reports filed each year, to help assure their accuracy.

Criminal and civil penalties are provided for willful failure to file reports and for willful falsification of information, with fines up to $10,000 and imprisonment of up to 1 year.

Mr. President, we have seen what Watergate has done to the credibility of our Government and I believe that we, as Government officials, owe it to ourselves and the American people to achieve the enactment of this bill without delay.

A FARM MIRACLE

Mr. TOWER. Mr. President, this morning I had the privilege of addressing the State presidents and other officers of the Future Farmers of America at a breakfast hosted by General Motors and attended by a large number of my colleagues in the Senate and the House.

What I saw, and what I heard, give me cause for optimism in this Bicentennial Year.

I followed to the podium two of the finest speakers I have heard—both national officers of FFA. They exemplified the many FFA leaders whom I have had the pleasure of meeting and talking with—young men and women of extraordinary talent and intelligence.

One of the finest of the FFA national leadership is a young man from my own State of Texas, a young man that every Texan is proud of for his accomplishments and his energy, Bobby Tucker. To me, Bobby and his fellow FFA officers represent the promise of the future in our country. As we begin our third hundred years of democracy in America, I think it is important to consider what these young people, and the farm families they come from, have done, and what they promise in the future.

The Dallas Morning News recently editorialized that food production in America represented "a farm miracle." Pointing out that 4 out of 100 families are engaged in farming, providing food and fiber for the other 96 and for millions around the world, the News stated that "We should never forget the miracle they perform for us so regularly."

Mr. President, I cannot say it more eloquently than the author of this editorial in the Dallas Morning News. For the benefit of my colleagues, I would ask that the editorial entitled "A Farm Miracle" be printed in the RECORD, and I would commend its message to every American.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Dallas Morning News, July 19, 1976]

A FARM MIRACLE

Another miracle is blossoming out there in rural America. The news is good:

A bumper wheat crop is forecast by the U.S. Department of Agriculture. And a record corn crop is predicted.

A billion-dollar cotton crop can be produced in Texas if market conditions continue and good harvest weather prevails, says economist Charles Baker of the Texas Agricultural Extension Service.

Cattle numbers are high, and with high yields of feed grains in prospect, feedlots should be brimming full, predict livestock specialists.

The outlook for vegetable, fruit and nut production is favorable this season, they say. Moisture in the soil promises great hopes for fall gardens.

In other words, this nation's great food and fiber producing machine, a miracle even in this age of high technology, rolls right on schedule, right on expectation, right on forecast and prediction. The world can depend on it.

In this year of Bicentennial celebrations and political conventions, we have heard many expressions of what America has done, what it can do and what it needs to do. We are called a people who have made great achievements, and a nation with even greater achievements yet to make.

But in our urban settings, where most of us now live, where most decisions affecting our lives are made, where the television cameras usually are focused, we seem to dwell on matters urban. Our thoughts seldom stray beyond the city limits. Perhaps this is right, for most of our problems lie within the cities of America.

But we should never forget that America can move forward to greater achievements, it can center its thoughts and efforts on urban problems because it has the time to do so. Americans do not have to spend most of their labors producing their food and fiber needs. They have time to do other things.

This is not so in most countries. For example, 14 per cent of the people in France are engaged in agriculture; in Russia 32 per cent; in Brazil 44 per cent; in Yugoslavia 53 per cent; in India 68 per cent.

In the United States only 4 per cent are engaged in agriculture. Only 4 families out of every 100 feed themselves and 96 other American families plus much of the population of all the world. Indeed this is a miracle.

But it is more. It is a condition that allows Americans to move toward greater achievements and toward solutions to problems in the cities. Unlike people in other countries, most—nearly all—of us do not have to expend labor and time working in the fields growing food and fiber.

It is a condition also that gives us the wealth to do greater things. That's because we must spend only 15 per cent of our income on food. In France, food takes 26 per cent of a worker's income; in Russia, 35 to 40 per cent; in Yugoslavia, 39 per cent; in Brazil, 47 per cent; in India, 64 per cent.

Because of this condition, most of us direct our energies and thoughts toward matters urban. We become self-centered in our concerns and assumptive in our expectations.

But on occasion, each of us should let our thoughts and prayers go out beyond the city limits to those 4 families out of 100 who are making it possible for the rest of us to do the things we do. We should never forget the miracle they perform for us so regularly.

THE ECONOMY NEEDS EXTENSION OF TAX REDUCTION THROUGH ALL OF 1977

Mr. HUMPHREY. Mr. President, I urge that in debating economic policy we separate the facts from the rhetoric with which we have been bombarded. Administration rhetoric leaves the impression that the economy is surging forward with inexhaustible strength and that, if we have an economic problem, it is to avoid overheated boom conditions.

The facts are otherwise.

Let me summarize the facts:

First. Economic growth has slowed markedly. Data released this week show that real gross national product rose at an annual rate of only 4.4 percent in the second quarter, less than half the first quarter rate.

Second. The personal consumption sector is no longer a source of the extra strength needed to sustain rapid recovery. In the first quarter, personal consumption, in real terms, rose at almost a 9-percent rate. In the second quarter it grew at only a 4.1-percent rate. Again, the growth rate was more than cut in half.

Third. Our exports have shown no growth at all in real terms since the fourth quarter of last year. Imports, by contrast, have grown rapidly as domestic production requirements have risen. Hence our net export balance has dropped and will likely continue to do so.

Fourth. The growth of industrial production slowed to a crawl in June.

Fifth. The unemployment rate has been stuck on a plateau between 7.3 and 7.6 percent since last February.

Sixth. The recovery in housing seems almost to have ceased. Housing starts in the second quarter remained at the first quarter's unsatisfactory 1.4 million rate. Data on building permits confirm this weakness in the housing sector.

Seventh. The latest surveys, both official and private, have indicated a surprising and disturbing weakness in business investment plans.

Where is the strength which promises assured continuation of vigorous recovery? Examining the economy sector by sector, the strength is simply not there. We are experiencing economic recovery, but it is a recovery which requires continued support and strengthening.

Actions by Congress last year and this have initiated and sustained recovery so far. Mr. Nessen, however, tried to tell us the other day that we had the President to thank for such good economic news as we have had. We in the Congress know otherwise. Congress initiated and passed the major tax reduction which served to initiate recovery. As late as December 1974, the President was proposing a 5 percent tax increase, while some of us were advocating substantial tax reductions in order to stimulate purchasing power and economic recovery.

It was only in January 1975, that the President agreed to some form of tax reduction rebate. Congressional actions on tax reductions and the budget have continued to support recovery.

This is no time to falter. Congress must continue to exercise its responsibility to the American people. The Senate's decision to continue present tax reductions through all of 1977 was clearly a wise one. The consumer needs to know now—today—that this continuation is assured.

ANNORA CONWAY—"MY AMERICA" CONTEST WINNER

Mr. McINTYRE. Mr. President, we all thrilled to the atmosphere of unity and renewed pride and purpose that prevailed throughout the land over the Independence Day weekend, and we all hope that atmosphere will persist and proliferate.

There have been innumerable heartwarming stories, to, about how individual Americans are observing our Bicentennial Year—so many, in fact, that some have not had all the attention they deserve.

A case in point is the experience of an 11-year-old girl from my State of New Hampshire, and I did like to take this opportunity to offer her my congratulations and to call her accomplishment to public attention.

Annora Mae Conway is the daughter of Mr. and Mrs. Thomas J. Conway of Dover, N.H. Annora is in the sixth grade of Garrison School, and this spring she entered the nationwide "My America" Bicentennial competition jointly sponsored by the Pennsylvania Bicentennial Commission and the National Education Association.

This contest, open to children from kindergarten through 12th grade, invited entries in the arts, crafts, letters, or sciences pertaining to "My America—Yesterday—Today—Tomorrow."

Annora delights in working with her hands, and inspired by visits to Calef's in Barrington, N.H., and by pictures she has seen in Yankee magazine, she decided to create a model of a country general store, circa 1800.

This she did, fashioning the store itself and everything in it—from shopkeeper to merchandise—from materials she found around her house. Her only expenditure was for a box of popsickle sticks from a hobby shop, for Annora painstakingly glued some 800 of these sticks to the exterior of her model store to create the wood siding effect.

Annora's entry won first place in the Garrison School competition and then went on to capture the New Hampshire State championship.

As a State winner, Annora, her parents, and her school principal, George Rivers, and Mrs. Rivers, joined winners, parents, and principals from all the other States for a week-long visit to Pennsylvania where three national winners were selected.

The Pennsylvania visit, arranged by the national contest sponsors, featured stops in Pittsburgh, Lancaster, Philadelphia, and Valley Forge, an awards presentation banquet in Pittsburgh, a visit with the Bicentennial Wagon Train in Lancaster, stops at a number of historic sites, another gala dinner, and attendance at the national Fourth of July celebration at Valley Forge.

For Annora the high point may well have been receiving the silver medal, denoting her State championship, from Pennsylvania's Lt. Gov. Ernest Kline, but I am certain she, her parents, and principal and Mrs. Rivers will cherish each and every memory of that week-long event.

Mr. President, not only do I congratulate Annora on her well-deserved honor, I would also like to thank the sponsors of the "My America—Yesterday-Today and Tomorrow" contest for so generously rewarding all those boys and girls who spoke their faith in America by submitting winning entries.

OVERREGULATION OF HOUSING

Mr. HATFIELD. Mr. President, no segment of our economy has felt the impact of our recent economic condition more acutely and has recovered more slowly than the housing industry. Homebuilding continues as a rather sluggish element in the overall economic recovery. In addition, unemployment in the construction trades continues to be unacceptably high. For 2 years this industry has been suffering from an unemployment rate which is double the national average.

Increasingly, many Americans cannot hope to own their own homes due primarily to high interest rates and soaring housing prices. At the same time, the homebuilding industry is shackled by an assortment of backbreaking costs and a staggering amount of redtape and regulation. Overregulation and an increasing paperwork burden at all levels of government are pushing prices higher and slowing economic recovery.

Mr. President, a recent New York Times article by Robert Lindsey discusses this complex issue. I believe it is a thoughtful account of the myriad of problems facing this important industry. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, July 18, 1976]

How Government Is Pushing Up the Cost of Housing

(By Robert Lindsey)

San Diego.—When Jerry Degan, a San Diego builder began selling a three-bedroom, two-bath home in the Lark Haven housing development here a little more than two years ago, its price tag was $32,990. When his company finished the final section of the 500-unit project recently, the price of the similar home was $52,990.

Mr. Degan says that more than $5,000 of that price increase was accounted for by delays in approval of building plans, changes in building codes, new environmental protection regulations, and other governmental factors.

"People want builders to build cheaper houses," he says, angrily. "But I don't think they understand the costs that are being heaped on us, and that we have to pass them on to the consumer.

"I'm telling you: the American way of life, the dream of everyone owning his own home, is in danger in the name of the environment, and people had better get ready for it."

These strong words are common in the building industry these days. From New England to Honolulu, home builders are screaming about growing governmental restrictions on development, often under the name of "slow growth" policies. They are complaining of more and more red tape delaying housing developments, of more and more demands from communities for "up front" money to subsidize schools, build streets and parks, utilities and other facilities, and of tightening building codes and planning ordinances that aggravate delays and add to costs.

Critics of the housing industry and some builders themselves maintain that many of the industry's problems stem from sins of the past—a legacy of the anything goes, poorly planned crowded subdivisions, of environmental abuses, corner-cutting in construction, of land fraud schemes, and payoffs to planning and building inspectors that are endemic in some parts of the country.

No single factor accounts for the spiraling cost of new homes. There are the increased wages for carpenters, plumbers, and other tradesmen; higher prices for lumber and other materials; a scarcity of land close to urban and suburban areas; high mortgage interest rates, and rising property taxes that inflate monthly payments.

Nevertheless, builders around the country say the regulatory pattern that has emerged in many communities and within the Federal Government is adding measurably to the price of new homes. And high prices for these homes probably constitute one of the principal obstacles to a full-scale recovery of the nation's depressed housing industry.

The median price of a new home nationally is now in excess of $43,000, which some researchers say excludes perhaps 70 percent of Americans from the new home market.

The pricing picture appears to have created two classes of Americans—those who already own a home whose value has gone up with inflation, allowing them to accumulate equity that can be traded up to buy a bigger, better home; and those first-time buyers who must produce high down payments and take on high monthly payments.

To deal with the prices confronting first-time home buyers, builders in recent years unveiled two lower-cost approaches: selling individual apartments as condominiums, and then stripped-down, small "no frills" houses. Neither approach fired up the depressed single-family housing industry, although the no frills homes and condominiums have sold well in a few areas.

"Builders have undoubtedly been attempting to cut down on lot size and amenities in order to bring new housing more within the grasp of first-time purchasers," the Federal Home Loan Bank Board says. But "at best this is a slow, not an instant process."

"Moreover, builders have been frustrated in their attempts" by higher prices for land and lumber, the agency reports.

"Builders admit that many factors go into the equation of higher prices, but also insist the escalation in government-imposed cost increases will have to abate if the increase in home costs is to be slowed.

"There's a sayinig in this business that every time the city council meets, the price of housing goes up," said Sanford Goodkin, a Del Mar, Calif., housing industry consultant. "The city will say: "We want you, Mr. Builder, to build residences for under $40,000,' then adopt environmental restrictions and regulations that create the need for amenities and open spaces that make it impossible to do it," he says.

Two or three years ago it generally took nine months for a developer to obtain approval for a housing tract after buying the land, Mr. Goodkin said. "It now can take two years because of the bureaucracy. And this all adds to the price of a house. On a $30,000 house, I have estimated that the cost per day of delays is $11 to $17 a day.

"You have the environmental delays and requirements, impact fees, fees for parks and libraries and sewers," Goodkin continued. "Very few cities have publicly stated 'No growth' policies, but a lot of them are trying to manage growth by adding these fees and making it more difficult on developers."

"It's the New York City syndrome; they say we can't allow ourselves to go bankrupt, that we have to shift some of our costs to the developer, and, of course, some of this no growth feeling results from a legitimate concern over land use, a desire to control growth.

"San Diego says it doesn't want to become a Los Angeles, and Los Angeles says it doesn't want to become New York.

"Some of the towns around Boston are making it impossible to build moderate priced homes because of this no growth business," asserts Louis Chaitman, who heads the Builders Association of Greater Boston. He cited a proposed ordinance in the town of Norwood, "where they want the developer to provide a 70-foot wide street with six inches of hot tar, a foot of gravel underneath, granite curbstones, sidewalks on both sides of the street, and everything (utilities) underground." The current requirement, he said, is for a 40 foot wide street with less expensive features.

He estimates various new regulations added $8,000 to $10,000 to the average new home price in the Boston area over five years.

In northern Virginia, according to a study made by the National Association of Home Builders, the cost of developing a typical single family house lot increased 74 percent, to $10,613, between 1969 and 1975. The cost of street development increased 115 percent, to $1,262 the study said; sewer and water tap fees increased 490 percent, to $1,625; and the cost of engineering and planning doubled to about $1,000.

Michael Castleman, a Houston real estate consultant, says a new subdivision needs approval of "well over a dozen" separate major agencies, plus several departments within the larger agencies, each of which can delay the project and add to costs. These include the Federal Department of Housing and Urban Development; the Environmental Protection Agency; the Federal Insurance Administration; the Texas Water Quality Board; the Texas Public Utilities Commission; Texas Department of Health; Texas Water Rights Commission; Texas Parks and Wildlife Commission, plus municipal agencies.

"The nature of development is that you must put up front-end money when you acquire land, so developers have money tied up while they are waiting for approval," Mr. Castleman says.

"I've got one client who's going to sell some town home lots to individuals, and needs H.U.D. registration; he's been waiting since February for approval, and the meter on his interest alone is running at $1,000 a day.

Carla Hills, the Secretary of H.U.D., has said publicly that she is aware of the delays, and that she is attempting to speed the approval process. But builders who were interviewed said they had seen no improvement .

Mr. Degan of San Diego said delays at the local level were equally as frustrating.

On the Lark Haven project, for example, he said, "one day they told us the garage doors had to be a foot wider, so we had to go back and change everything.

"Or, you have a guy in the city engineering department who goes to the city council and says the streets are only lasting us 20 years; we'd better make the builders give us streets that will last 35 years.

"But this alone adds $500 to $600 on the price of a house. You're saving the taxpayers 20 years from now, but you're making it so people can't buy a house today," Mr. Degan says.

THE OZONE PROBLEM—A TIMETABLE FOR ACTION

Mr. McINTYRE. Mr. President, for 2 years prestigious scientists have been sounding the alarm about the release of billions of pounds of fluorocarbons into the atmosphere. In testimony before congressional committees and at scientific conferences, these scientists have warned repeatedly that the chemical is causing partial destruction of the earth's protective ozone shield. The result, they say, could be an increase in ultra-violet radiation, potential disruption of the food chain and global weather conditions, and an increase in thousands of cases of skin cancer.

These predictions have caused widespread concern in the chemical manufacturing industry, in Congress and State legislatures, and in the Federal agencies charged with protecting the health and welfare of our people.

The culprit in the early findings is an inert, colorless, tasteless, and odorless gas which is used as the propellant in more than half the aerosol sprays manufactured in this country. Best known under the name Freon 11 and 12, whose trademark is owned by E. I. du Pont de Nemours & Co., fluorocarbons are also produced by five other American companies.

Highly capital intensive, the chemical is manufactured at only 14 plants throughout the country with about 4,000 people directly holding jobs in fluorocarbon manufacturing, sales, and research. The annual payroll is estimated at about $80 million. According to Business Week, Du Pont says its fluorocarbon business accounts for only 1 percent of its $7 billion annual sales, or about $70 million annually. According to the Commerce Department, Du Pont—the Nation's largest manufacturer of fluorocarbons—has also captured 25 percent of overseas sales.

Worldwide production approaches 2.3 billion pounds including about 1 billion pounds in the United States of which roughly 500 million pounds is used in aerosol sprays. Fluorocarbons are also used in a host of other products. For example, air conditioners in homes, businesses, and automobiles, refrigerators and freezers all use the chemical as a coolant. It is used as a blowing agent in making styrofoam coffee cups or insulation for houses, boats or railroad cars, or in making stuffing for chairs or cushions and to make plastic furniture. Fluorocarbons are an ingredient in many fire extinguishers and cleaning fluids and solvents to clean electronic equipment.

But its major use in this country, of course, is as a propellant by the millions of pounds in aerosols for everything from deodorants to hair sprays, polishes, medicines, and waxes. As a result of its widespread use—concentrated in personal care products such as underarm sprays—fluorocarbons from aerosols are the major source of emissions. An outright ban on the use of fluorocarbon propellants would reduce emission levels by about one-half, bringing those levels back to the amounts manufactured in the early 1960's. Indeed, use of fluorocarbons has skyrocketed in the last 10 years. Back in 1958, only 175 million pounds of the chemical was manufactured in the United States. And as a result of the long lifetimes of fluorocarbon molecules, ground level emissions of 10 and 15 years ago are only now reaching the stratosphere. Many billions of pounds of fluorocarbons are in use as a coolant in refrigerators and freezers and will not begin the long rise to the stratosphere until the units are discarded and the chemical leaks into the atmosphere.

The enormous amounts of the chemical being emitted into the atmosphere attracted the interest of a number of scientists both in industry and in private research at universities here and abroad. Congressional hearings were held as long ago as 1974 and the warnings were very serious indeed. We have been told, for example, that fluorocarbons may be eroding the capacity of the ozone layer to absorb ultraviolet radiation as a result there may be 30,000 new skin cancer cases by 1990.

The fear is that this man-made chemical is so stable that it does not interact with the environment until it reaches the stratosphere some 10 to 30 miles above the Earth. Scientists such as Dr. F. Sherwood Rowland of the Department of Chemistry at the University of California believe that fluorocarbons are already causing at least a 1 percent average depletion of ozone. They say that fluorocarbon molecules, under the influence of ultraviolet radiation, are broken down into free chlorine atoms which then decrease gradually the average concentration of ozone by means of catalytic chain reactions.

These sobering warnings have prompted a number of responses in the industrial and public sectors. Millions of dollars are being spent on research by fluorocarbon manufacturers. Some companies are turning to alternatives in packaging not dependent on fluorocarbon propellants. Gillette Co. recently announced a decision to market hair spray in a pump-type dispenser. Roll-on applicators and pumps are being used for other personal products and Johnson Wax of Racine, Wis., decided to eliminate fluorocarbon propellants entirely from its aerosol products. Consumer groups have been waging an antiaerosol campaign, claiming they are 60 to 70 percent propellant and not cost effective.

In other actions, an increasing number of State legislatures and municipalities have begun consideration of bans on fluorocarbons in aerosols. Oregon chose not to wait for Federal action and passed a law to ban fluorocarbon 11 and 12 in sprays effective March 1, 1977.

In addition, the National Academy of Sciences is studying the problem and a Federal task force released a report nearly a year ago based on the findings of 13 Government agencies and one interagency committee. The report concluded that the ozone depletion theory is "legitimate cause for concern."

The 109-page report also said that unless new scientific evidence is found to remove the cause for concern, fluorocarbons should be restricted after January 1, 1978, to replacement fluids in existing refrigeration and air-conditioning equipment and to closed recycled systems or other uses not involving release to the atmosphere. In short, they would ban use of fluorocarbons in aerosol sprays beginning January 1, 1978.

Dr. Warren Muir, cochairman of the Federal Interagency Task Force on the Inadvertent Modification of the Stratosphere, has concluded:

> In light of all the evidence available to us and the most recent scientific findings we are reinforced in our preliminary assessment and continue to firmly support the conclusions and recommendations of our report . . . that the validity of the theory and the predicted amounts of ozone reduction have not been seriously challenged.

Ms. Carroll Leslie Pegler, cochairperson of the IMOS Task Force, said:

> The current opinion of the Executive Branch of the Federal Government is that the reduction in average ozone concentration due to the release of certain fluorocarbon compounds, if it is occurring as predicted, is a serious problem with serious environmental and human health consequences.

One of the early researchers into the ozone problem, Dr. Ralph J. Cicerone of the Space Physics Laboratory at the University of Michigan, has said the following:

> I recommend that aerosols be banned as quickly as possible. I base that on three factors. One is my reading and other scientists' reading of the evidence. The second factor is frankly my personal sense of values; that these (aerosols) are non-essential uses of these chemicals. The third factor is that over half of the fluorocarbons 11 and 12 are used in aerosol containers, so that this is over half the problem.

Last April, months before the IMOS report was completed, I said in a long statement to the Senate that it is the "timebomb" quality of the ozone depletion problem that has convinced me we must be ready to move—and move fast—with restrictions on fluorocarbons if the early warnings are further substantiated.

The evidence indicates there is a 10- to 15-year period before fluorocarbons released at ground level reach the stratosphere to interact with ozone. In addition the scientists say the process is irreversible. And they warn that there is enough of the chemical en route to the ozone layer to cause serious depletion of the ozone shield by 1985 or 1990—even if all discharges were stopped today.

On the other hand there are reputable scientists who argue on behalf of industry that not enough is known about ozone depletion to say with certainty how great a depletion will occur. They urge a go-slow approach with more scientific studies to measure, for example, the lifetime of fluorocarbons in the lower atmosphere and the total amount of chlorine reaching the stratosphere.

Most of us are not scientists and thus it is clear we must rely on the best available evidence in making a decision on the best course of action. For that reason I have been working for more than a year to shape legislation which will provide a mechanism for restrictions on the use of fluorocarbons—if necessary.

The amendment sponsored by my colleague Senator Bob Packwood of Oregon, myself, and a number of other Senators, is consistent with this goal when viewed in relation to the other provisions of the ozone protection section of the Clean Air Act Amendments of 1976. Those provisions, which were hammered out during many months of effort involving a number of Senators, will make possible a coordinated examination of the scientific warnings with in-depth research reports this year and again in October of 1977. Moreover, the research program must be followed by a deadline for action on this problem and it is for that reason that I believe the Packwood amendment is a more responsible alternative than the regulation section agreed to by the Senate Public Works Committee by a 9–5 vote.

Mr. President, I hope we will not see substantiating evidence that fluorocarbons do cause average ozone depletion, causing increased incidence of skin cancer and possible changes in the Earth's weather and ecology. But I also believe it would be highly irresponsible for Congress to refuse to set in motion a mechanism to provide appropriate action should the theory be confirmed in subsequent research.

Now I am sure all of us have been exposed to the industry's claim that the Packwood amendment would impose a so-called "negative burden of proof" requiring industry to disprove the ozone depletion theory. The fact is that under the proposed legislation the Administrator of the Environmental Protection Agency would coordinate a number of investigations to study the scientific data and determine if no significant risk exists. Under the Packwood amendment, the EPA Administrator would waive restrictions on use of fluorocarbons if no significant risk exists. On the other hand, a decision that restrictions are necessary would constitute a finding—after exhaustive study—that a significant risk does exist. Such a finding would constitute a need for a ban on fluorocarbons in aerosols and those restrictions—under our amendment—would go into effect on January 1, 1978, although subject to modification by the EPA Administrator to accommodate any new evidence or provide for essential uses to benefit public health or welfare.

In contrast, the provisions in the committee bill make no allowance for small-scale essential uses. In addition, there is the possibility the EPA Administrator could choose an inadequate response, despite the evidence. Under the committee's approach, either branch of the Congress could then veto the proposal, or, the Congress would be forced to live with an unsatisfactory proposal because to disapprove the regulations would eliminate any action.

Such an approach would invite unnecessary confusion and thwart a timely resolution of this problem. It would legislate the possibility of delay when the facts may warrant a strong and timely response.

I believe the Packwood amendment overcomes those obstacles by providing a responsible and responsive mechanism for action based on exhaustive studies and research. It responds to the people's need for responsible action by Members of Congress. It would give manufacturers time to develop safe substitutes for fluorocarbon propellants. It would give State legislatures and local municipalities a clear signal that action will be taken—if needed—and discourage a crazy-quilt, patchwork series of State and local regulations which would be a nightmare for businessmen and consumers alike.

As I told the Senate more than a year ago, we have a unique opportunity to ask ourselves what we want to see happen in our world. With judicious use of our votes we can seize the opportunity to structure a systematic method of research followed by a deadline for action so that future generations can say they like what is happening in their world.

Mr. President, I ask unanimous consent that the text of the amendment being sponsored by myself, Senators PACKWOOD, BUMPERS, GARY HART, BROOKE, HATHAWAY, HATFIELD, ABOUREZK, HOLLINGS, and LEAHY be printed in the RECORD to be followed by articles from the June 30 issue of the Wall Street Journal and the April 5 issue of Business Week entitled "Aerosols: The Moment of Truth Draws Near."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On pages 58 and 59, strike section 153 and insert in lieu thereof the following:

"SEC. 153. (a) On and after January 1, 1978, except as provided in subsection (b), it shall be unlawful for any person to manufacture, produce, import, or export from the United States, aerosol containers containing halocarbons.

"(b) The Administrator shall consider the available reports, consult with appropriate Federal agencies and scientific entities, and afford the opportunity for public hearing, and if he then—

"(1) finds that no significant risk to the public health, safety, or welfare is, or may be posed by the discharge of halocarbons into the ambient air from aerosol containers, then he may, by rule, modify or rescind the prohibition in section 153(a) in whole or in part consistent with that finding, or

"(2) determines that a particular use of halocarbons in aerosol containers is essential for the public health or welfare and an adequate substitute for halocarbons is not available, he may grant specific exemptions from the prohibitions of this section to allow the use of small quantities in such situations.

"(c) From time to time the Administrator may revise any of the regulations issued pursuant to this section in the light of new evidence as to the need for such regulations.

"(d) Nothing in this section shall limit, restrict, or otherwise detract from the authority provided in section 154 of this Act, or any authority under the Consumer Produce Safety Act.

[From The Wall Street Journal, June 30, 1976]

DEFENDERS OF FLUOROCARBONS ARE SET BACK AS RESEARCH CENTER CONCEDES TEST ERROR

(By Jeffrey A. Tannenbaum)

NEW YORK.—The fluorocarbon industry has suffered a setback in its defense of the man-made gases, which are widely used in aerosol sprays and refrigerants and linked in a controversial theory to possible increasse in human skin cancer.

In Boulder, Colo., the National Center for Atmospheric Research, operated by several universities, has written to scientists painfully conceding that the results of one of its experiments earlier this year were wrong. The fluorocarbon industry had seized upon the experiment as evidence possibly "exonerating" its products.

Although the correction was issued a month ago, unlike the original report it hasn't received widespread attention. Partly because of industry public-relations efforts, the experiment generated a flurry of publicity in May suggesting that the fluorocarbon flap was just a "scare" after all.

However, Allan L. Lazrus, a research chemist who signed the corrective letter for the Boulder center, said in an interview that the theoretical case against fluorocarbons appears sound. "It's absolutely not a 'scare,'" he said. "The evidence we have seems to vindicate the theory." An apparently growing number of scientists and other observers say they expect eventual government action to curtail fluorocarbon use, probably through a ban on fluorocarbon aerosols.

Most of the fluorocarbon industry, for its part, insists that if the Boulder center's corrected results don't destroy the case against the gases, something else will come along and do so. James P. Lodge Jr., an atmospheric scientist retained by fluorocarbon makers and users as their scientific spokesman, continues to insist that "the whole thing seems to resemble a structure held together with Tinker Toys, Scotch tape and rubber bands."

STRENGTH OF THEORY

However, while agreeing it is possible that fluorocarbons may yet be found innocent in the case against them, most scientists—including some in the chemical industry—deem that unlikely. A scientist at Dow Chemical Co., which makes raw materials (and substitutes) for fluorocarbons, says, "Most of the research going on . . . is aimed at ironing out details. I don't think there's going to be any thunderbolt knocking out the theory."

Earlier, some in the industry thought the Boulder center's experiment may have been just such a thunderbolt. According to the theory, first advanced two years ago by University of California chemists Mario J. Molina and F. Sherwood Rowland, the fluorocarbon gases are wafted to the stratosphere and are broken down by ultraviolet radiation from the sun.

As the type of fluorocarbons involved contain the chemically active element chlorine, their breakdown, in theory, sets off a complex and awesome series of chemical reactions. In those reactions, the chlorine is released and destroys part of the shield of ozone, a form of oxygen, that prevents much potentially harmful ultraviolet radiation from reaching the earth's surface. More radiation then reaches the earth, causing an increase in skin cancer rates and possibly other harmful effects.

In a key test of the theory, scientists measured the amount of hydrochloric acid in the stratosphere. Theoretically, each chlorine atom released by the fluorocarbons sets off a catalytic chain reaction that converts tens of thousands of ozone molecules to ordinary oxygen, which can't filter out certain wavelengths of ultraviolet light. But the chlorine eventually combines with other types of atoms to produce such substances as hydrochloric acid.

Tests were tending to confirm the ozone-depletion theory by finding predicted amounts of hydrochloric acid that couldn't readily be accounted for in any other way. But last March, reporting on one of several studies of balloon samples of stratospheric air, the Boulder center disclosed that it had found significantly less hydrochloric acid than predicted by the theory.

If correct, this finding was a blow to the theory, because if predicted amounts of hydrochloric acid weren't present, predicted amounts of ozone presumably weren't being destroyed. What was happening to the chlorine released by the fluorocarbons? Messrs. Rowland and Molina themselves suggested that some of it, instead of depleting ozone, might be combining with substances already in the upper atmosphere to form chlorine nitrate.

Suddenly, the beleaguered defenders of fluorocarbons had some sorely needed ammunition. Last month, the industry-sponsored Council on Atmospheric Sciences claimed that the formation of chlorine nitrate in effect reduced the predicted depletion of ozone by fluorocarbons 80% to 90% in a key part of the stratosphere. Independent scientists tended to come up with lower figures but also saw a substantially reduced threat.

However, late last month the Boulder center quietly issued a "Dear Colleague" letter to scientists saying that the amount of hydrochloric acid had been badly understated. In preparing solutions containing known quantities of chemicals, for purposes of comparison with the stratospheric samples, a laboratory assistant had used the wrong amounts of two key chemicals, throwing off the results of the experiment. Then a safeguard procedure to detect such an error "was improperly omitted in this instance," the center wrote.

In theory, the possibility of chlorine-nitrate formation remains, but new research results tend to reduce its importance. Last month, Philip L. Hanst, a senior scientist at an Environmental Protection Agency research facility in North Carolina, reported on an examination of infrared absorption spectra of stratospheric air. The spectra, in effect a type of photograph of the stratosphere, "fail to indicate chlorine nitrate at any altitude," Mr. Hanst reported. The experiment also placed a low limit on the amount that theoretically could be present, he added. Some other scientists dispute those findings.

Messrs. Rowland and Molina say they are holding to their original predictions that fluorocarbons will deplete the ozone shield 7% to 13%, possibly within 50 to 80 years.

UNCERTAINTIES REMAIN

Many industry scientists continue to dispute this. They say that the Molina-Rowland theory still can't satisfactorily acount for the Boulder center's revised results. They say that chlorine-nitrate formation, although undoubtedly "less of a factor" than thought before, still could prove significant. They say many uncertainties about the stratosphere remain, so that any estimates of ozone depletion are "very dubious" at best.

Debate also continues over what the effects of ozone depletion—and thus of more ultraviolet light reaching the earth—would be. Many scientists appear to agree that for each 1% decrease in ozone, there would be a 2% boost in usually nonfatal human skin cancer.

However, new calculations suggest that even greater increases might result. National Cancer Institute statisticians, reporting last month in the American Journal of Public Health, presented assumptions and calculations leading to the conclusion that skin cancer would rise 25% to 50%, depending on geographic location, for a 10% decrease in ozone. "We emphasize that such estimates should be considered crude until the many assumptions can be investigated," they said.

A ban on fluorocarbon aerosols is likely within two or three years even though all the scientific questions mightn't be resolved soon, according to Arthur D. Little Inc. of Cambridge, Mass., a major consulting company. "Scientists aren't going to be allowed to go on for years debating the nuances of this thing," says Richard Williams, staff member. Given doubt over whether to ban a product, he maintains, the regulators "would rather err on the side of protecting the public," especially when they perceive the products involved as less than absolute necessities.

[From Business Week, Apr. 5, 1976]

AEROSOLS: THE MOMENT OF TRUTH DRAWS NEAR

The ax that has hovered over the $500-million fluorocarbon industry seems ready to deliver its death blow. The National Academy of Sciences has completed its long-awaited study on whether fluorocarbons, more correctly called chlorofluorocarbons and used mainly as propellents for aerosol sprays, pose a threat to the earth's protective ozone layer. The NAS is delaying release of the report by a month so that it can evaluate "new and major pieces of information" that it says have just come in over the transom, but some copies of the report have "leaked." And the consensus among scientists who have seen them is that the NAS data will severly damage the "innocent-until-proven-guilty" stance that fluorocarbon suppliers have fought for.

In fact, some users have already handed down their "guilty" verdicts. The industry was dealt a severe psychological blow last year when S. C. Johnson & Son announced a switch to hydrocarbon propellents for its spray polishes. Now more fluorocarbon users are preparing to abandon the product. "We used to have some products that were only available in aerosol dispensers, but now everything is also offered in non-aerosol forms," says a spokesman for Gillette Co., one of the heaviest fluorocarbon users. And the Environmental Protection Agency has recommended that pesticides be packaged in nonaerosol containers.

A BIG LOSER

This turn of events is bad news for E. I. du Pont de Nemours & Co. Although Du Pont says that its fluorocarbon business accounts for only 1% of its $7 billion annual sales, which would make it $70 million, a recent Commerce Dept. study indicates a $250 million fluorocarbon market for Du Pont in the U.S. alone. Moreover, Commerce says that Du Pont has also captured 25% of overseas sales.

The fluorocarbon business is clearly important to Du Pont, no matter which figure is correct. The company has spent more than $5 million to find alternatives for its Freon 11 and 12, the most commonly used fluorocarbons in aerosols. "The more we research the alternatives, the better the existing product proves to be," claims Donald R. Strobach, senior research chemist.

Still, Du Pont is girding for what it sees as an inevitable ban. Last year it ceased all new-product development for fluorocarbons and ordered its 12-person fluorocarbon technical staff to study alternatives. Strobach says the researchers will present their plans to Du Pont management next month, and he concedes that there are some promising alternatives.

Roy L. Schuyler, vice-president and general manager of Du Pont's organic chemicals department, claims that Du Pont scientists began "wondering what was happening to fluorocarbons in the atmosphere" as much as six years ago. Still, the safety of the chemicals was not publicly questioned until 1974.

At that time, two University of California chemists published a paper charging that fluorocarbon molecules float up into the stratosphere, where ultraviolet rays liberate their chlorine atoms (BW–Feb. 17, 1975). The chlorine then reacts with ozone to form oxygen, which does not have ozone's capacity to filter out harmful solar radiation. There is the suspicion that the subsequent thinning of the ozone layer leads to increased skin cancer and even climatic changes.

THE DATA

At least 55 studies, financed by industry, universities, and government, are now being pressed. Most of the data unearthed so far suggest that fluorocarbons do deplete ozone. There is no longer any question that they reach upper atmospheric levels. And although aerosols are still the main culprit, the danger of fluorocarbons used as refrigerants, their other main application, has also come to light. A recent Arthur D. Little study indicates that aerosols account for about 62% of the fluorocarbons released into the atmosphere, while refrigerants leak about 25%.

Most fluorocarbon backers had previously contended that refrigerants could be syphoned off easily when refrigerators and other cooling devices are discarded. But now Du Pont and others admit that it would require the use of heavy pressurized equipment to pump out the fluorocarbon coolants, and that this is not feasible.

The industry, however, is not ready to wave the white flag. The Manufacturing Chemists Assn., for example, has conceded that fluorocarbons "are currently believed to affect stratospheric ozone," but it quarrels with the extent of the effect. "The important question is one of quantity," MCA spokesmen advised the NAS panel on atmospheric chemistry. The chemical industry insists that two more years of scientific studies should be completed before federal agencies ban fluorocarbons.

It seems unlikely that they will get this much time. "Unless the predictions change substantially, there is reason to believe that the amount of eventual reduction in average ozone concentration resulting from fluorocarbons is unacceptable," states Warren R. Muir, cochairman of a 14-agency federal task force on fluorocarbons. Thus far the EPA is the only agency with regulatory jurisdiction over aerosol products to take a stand. But the Food & Drug Administration and the Consumer Product Safety Commission have been bombarded with petitions from environmental groups, such as the Natural Resources Defense Council. The two agencies say that they will move when the NAS study and recommendations are completed.

ALTERNATIVES

Du Pont may have an ace in the hole if the predicted bans become reality. According to Strobach, the company is researching a prime contender to fill the production gap. He says that adding an extra hydrogen molecule to the fluorocarbon molecule would cause the total molecule to break apart before it reaches the ozone layer. For use in refrigerants, Strobach says, Du Pont is eyeing Freon 22, a much heavier fluorocarbon that is not suspected of damaging ozone.

With at least some alternatives on the horizon, Du Pont has been able to take a more fatalistic attitude than other MCA members. "We have thrown ourselves on the mercy of uncommitted scientists, and if they shift to the 'ban it' group's position, we'll go along with it," Strobach says. "We will let scientific opinion rule."

CAPTIVE NATIONS WEEK

Mr. PERCY. Mr. President, on the occasion of Captive Nations Week, just concluded, I would like to commend the Chicago Captive Nations Committee which continues its excellent work to sustain public concern for the peoples who live in such difficult circumstances in Eastern Europe and elsewhere in the world.

This year's Captive Nations Week Parade in Chicago was larger than ever, and there were important press conferences and receptions in connection with it. The organizing abilities and attention to detail shown by Viktors Viksnins, chairman of the Chicago Captive Nations Committee, made a major contribution to the success of these events.

THE ARMENIAN HERITAGE OF AMERICA

Mr. KENNEDY. Mr. President, we are a nation of immigrants, and in celebrating our Nation's Bicentennial, it is especially appropriate that Americans honor the diverse heritage of our immigrant forebears—including the millions of Americans of Armenian descent.

Today, countles Armenians live in the United States as well as in other lands—many awaiting the time when their once independent homeland becomes free again. Through centuries of conflict, oppression, conquest, and exile, the Armenian people have never foresaken their aspiration for freedom and liberty. This commitment to a democratic heritage is shared by all Armenian Americans, and is one reason why all Americans welcome the Armenian people to our shores.

The history of the Armenian struggle for independence—a struggle much like our own country's—is replete with acts of courage and sacrifice in behalf of ideals which all Americans cherish.

Armenians of American heritage can be found in every facet of American life. Wherever we look, in business and in the labor movement, in public service, and in the sciences, at every level of our Government we find citizens of Armenian heritage. And we can find Armenian Americans at the vanguard of those who champion greater international protection for human rights, a cause which all Americans embrace.

America is a stronger and wiser Nation for the contributions of its citizens of Armenian descent. As Americans, they have assisted in the building of a great nation, and have contributed to the rich fiber of America's diverse heritage.

Mr. President, on the occasion of the Bicentennial, Dr. Gregory H. Adamian, the president of Bentley College in Waltham, Mass., delivered a thoughtful tribute to Armenian Americans. His statement has been recognized as an eloquent presentation of what our Bicentennial means, and I ask unanimous consent that it be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

ARMENIAN BICENTENNIAL COMMEMORATION
PHILADELPHIA, PA.

(Delivered by Dr. Gregory H. Adamian, President, Bentley College, Waltham, Mass.

With genuine pride yet humility, I stand before you on this 24th day of April 1976, an auspicious occasion with a three fold purpose, any one of which could stand by itself as a renowned event: the celebration of the Bicentennial year of American Independence—the birth of a nation; the 61st anniversary of the deliberate premeditated massacre of the Armenian people—the death of a nation; and the dedication of this majestic sculpture of Meher, created by that gifted talent, Koren Der Harootian. His work of art, to be presented to America from the Armenian/American community on this day, will forever stand as a monument depicting not only our gratitude to America, but our affirmation of the principles upon which this great nation was founded.

Today is a day where human emotions are indistinquishably united, a day of joy and happiness as we celebrate a very special national birthday; a day of solemnity and sorrow as we reflect upon that infamous year of 1915 when 1.5 million Armenians were massacred in the first genocide of the civilized world; yet, also, a day of appreciation and thanks for the opportunity afforded us to be free, to live in freedom in a troubled world where freedom is only a dream.

How appropriate and fitting that we commemorate this day at this magnificent site, in the City of Brotherly Love, the very cradle of liberty—where a nation was born and cynics witnessed the initiation of the greatest experiment in the governance of man and in the history of mankind.

It was here in Philadelphia that freedom, equality and justice emerged without benefit of proto-type but from the agonies, desperation and determination of an eminent group of visionaries who assembled to chart a blueprint for a heretofore untested republic. It was here in Philadelphia that the first Continental Congress met in Carpenters Hall in 1774 to denounce England's laws. It was also here in Philadelphia, that, in 1775, the Second Continental Congress met in the State House, known now as Independence Hall. It was also here in Philadelphia, in 1776 (200 years ago), that Thomas Jefferson wrote the Declaration of Independence with the help of Philadelphia's greatest patriot, Benjamin Franklin. Even the Constitution of the United States, one of the world's most remarkable and enduring documents was written in Philadelphia in the year 1787.

Truly, ladies and gentlemen, granting the historical significance of the Boston Tea Party, Paul Revere, and the Minutemen of Lexington and Concord whose bravery and perseverance struck the first blow for the revolution, and not forgetting Ticonderoga, Bunker Hill, Valley Forge and a host of other actions and events, Philadelphia, nevertheless, is considered the birthplace of this nation and was the seat of the national government during most of the Revolutionary War.

As we celebrate this Bicentennial year, in this historic city, in the presence of a grateful people, the principles, the ideals, the vision and the faith of the brilliant and courageous colonial heroes of the revolution march before your very eyes, as though they relieve, almost brought back to life 200 years later because our democratic republic flourishes today in the embodiment of that experimental dream launched in 1776.

The foundations of the republic as set forth in the Declaration of Independence and in the Constitution of the United States and as described in the writings and eloquent speeches of Washington, Jefferson, Franklin, Hamilton, Adams and so many others together constitute the fabric by which this nation still remains as the envy and hope of the world. Life, liberty and property, respect for individuals, religious freedom, the work ethic, the flexibility to accommodate diverseness and the right to dare to be different are the fibers, which on the surface, appear to contain the seeds of inevitable destruction. On the contrary, however, they have generated and perpetuated a national, deep rooted respect for the rights of others.

How can we simultaneously celebrate this Bicentennial birthday on the one hand; and the death of the Armenian nation, on the other hand? Frankly, it is not only possible, but plausible and appropriate. There is a striking parallel here, a unique resemblance of purpose, of course, of determination, of the right to worship one's God and of the insatiable quest for freedom.

Armenia was the first nation in the world to adopt Christianity in the year 301. In fact, Christianity was already 100 years old in Armenia, when Constantine of the Catholic faith saw the cross in the heavens in the fourth century. In 451 at the Battle of Vardanantz on the plains of Avarair, in a heroic stand likened to the Battle of Thermopylae when 300 Spartans defended their country so admirably in early Greek history, the Armenians fought the mighty Persian Empire—and at the scene of that battle coined the watchword "Death if not understood is death, but death if understood is immortality."

Later in the fifth century, an Armenian Catholic wrote to the Persian king who sought to convert them from Christianity, in these immortal words, "From this faith no one can move us, neither angels nor men, neither sword nor fire, for your torments our endurance, for your sword, our necks." Can you imagine this kind of impassioned eloquence fifteen hundred years ago? I cannot help but observe a similarity of spirit in the days of the American revolution when Nathan Hale said, "I only regret that I have but one life to lose for my country," or when Patrick Henry said "Is life so dear or peace so sweet as to be purchased at the price of chains and slavery, give me liberty or give me death."

Even more meaningful, my fellow Armenian/Americans, the death of our nation has precipitated a rebirth of our people, now scattered the world over. Yes, the first Christian nation, one of the few biblical people still in existence, the doormat at the crossroads of the Middle East overrun from every direction by rival empires, struggled and fought, won and lost, suffered and endured but never surrendered its faith. In its two thousand and five hundred years of turbulent existence, while the Byzantines, the Cilicians, the Mongols and the Phoenicians, their adversaries and contemporaries, faded into oblivion—the Armenian people have survived, retained their heritage and contributed significantly to their adopted lands.

Even the greatest national tragedy ever to strike the Armenian people, the day we commemorate today, April 24, 1915, did not destroy the Armenian spirit. That calamitous day in our history, that day of infamy when 1.5 million of our ancestors and relatives were brutally butchered by a degenerate hoard of oppressors, will never be forgotten. On this day, commemorated the world over, wherever Armenians have settled, we mourn our loved ones as we recollect the systematic, Turkish government sponsored, annihilation of the Armenian people by massacres and contrived deportations with neither food nor actual destination. Practically every church and monastery was desecrated, plundered and destroyed. Almost the entire nation of men, women and children were wiped from the face of the earth. This April 1915 slaughter and all its revolting details was reported across the world, but the world was already engaged in a war and conflict without inclination or resources to protect a helpless minority.

Ironically, however, this was nothing new for the Turks because in 1822 they massacred 50,000 Greeks, in 1850—12,000 Nestorians and Armenians, in 1869—11,000 Syrians in Damascus and Lebanon, in 1876—15,000 Bulgarians, in 1896—50,000 Greeks in Crete and in 1895–96, over 100,000 Armenians.

In fact, it seems almost incomprehensible that the terrible slaughters of 1915 were merely a repeat on a more grandiose scale of what happened twenty years before, as a prelude.

Talaat and Enver Pasha carried on Sultan Abdul-Hamid's insane but succcessful policy, "The way to get rid of the Armenian problem," he said, "is to get rid of the Armenians." Dr. Sacher, the Chancellor of Brandeis University, a neighbor of Bentley College, wrote recently in his book, "The Course of Our Times," in a nightmare world of mass killers, all sanctions were turned upside down, atrocity became virtue to be praised, and murder became patriotism to be saluted.

In 1918 Ambassador Morgenthau referred to the Turks in these words, "They, the Turks, were lacking in what we may call the fundamentals of a civilized community. They have no alphabet, and no art of writing, no books, no poets, no art, and no architecture. They built no cities and established no lasting state. They know no law except the rule of might and they had practically no agriculture and no industrial organization. They were simply wild and marauding horsemen whose one conception of tribal success was to pounce upon people who were more civilized than themselves and plunder them."

Let me quote the words of the British Premier W. E. Gladstone after the massacres in 1895—twenty years before the mass Genocide of 1915—his eloquence would be difficult to equal. He said, "Such a government as that, which can countenance and cover the perpetration of such outrages, is a disgrace in the first place to Mohammed the

Prophet whom it professes to follow; that it is a disgrace to civilization at large; and that it is a curse to mankind. There is not a criminal in a European jail, there is not a cannibal in the South Sea Islands whose indignation would not arise and overboil at the recital of that which has been done; which has too late been examined, but which remains unavenged. We may ransack the annals of the world, but I know not what research can furnish us with so portentous an example of the fiendish misuse of the powers established by God."

Can you imagine, ladies and gentlemen, the rhetoric of a Gladstone if he could have written about the tragedy of 1915. I suggest that words could not and cannot express the savagery and the reprehensible inhuman behavior of one people against another. Unfortunately, history was to see it again. This time in World War II, when that alleged super race, the German Nazis, systematically exterminated six million Jews, but using more sophisticated twentieth century tools for inflicting torture and death.

History certainly does repeat itself, because the annals and records of civilization are replete with instances of war, cruelty, inhumanity and death. The height of irony, of course, is that the Turkish government to this day denies the massacres of April 1915. If this first Genocide of the twentieth century had not gone unpunished, but rather its perpetrators brought before the bar of world opinion and justice, might the holocaust committed against the Jews by the Germans have been avoided or prevented? The dignity of man and the cause of human rights demands recognition of the past as our hope for the future

I was privileged in 1950, twenty-six years ago, to bring 70 boy scouts to historic Valley Forge as their scoutmaster to participate in a national Boy Scout Jamboree. During that two weeks of camping on that hallowed site, I vividly recollect one thrilling evening when on the side of a hill after a convocation, each of 50,000 boy scouts lit a candle. It was an astonishing and inspirational moment, to see the darkness instantly disappear. What power we have if, individually yet together, we act to generate light from abject darkness or to illuminate the mind from ignorance.

I don't remember who said it, but one of those unforgettable sayings is, "How much better it is to light a candle than to curse the darkness." America epitomizes that saying, and in its two centuries of life, has pursued the tenets described in the Declaration of Independence with diligence and unbelievable progress. Equality is still revered as attainable, even though many have decried its futility. We Americans refuse to say no to almost any experiment in improving the quality of life instead we say, why not!

The wonders of this republic with its affirmation of democracy and the rights of the governed seek to give everything to everybody. Whatever your skill, whatever your talent, whatever your aspirations, the richness of this great land presents opportunities almost beyond belief.

Throughout these 200 years, America, the land of the free and haven for the oppressed, has opened its heart, opened its arms and welcomed millions upon millions to its shores. On one day alone in 1907—12,000 immigrants went through Ellis Island and 3000 per day was a common occurrence. Each before the Statue of Liberty was presented to the United States from the people of France in 1884—40 million immigrants had found refuge in these United States. Hundreds of thousands continue even today to migrate to this great nation

In conclusion, my fellow Armenian/Americans, as the son of an immigrant who was welcomed to these shores, and on behalf of a diversified but grateful Armenian/American community, let this statue of Meher be the everlasting symbol, the essence of which proclaims our national Bicentennial and the Commemoration of Armenian Martyrs' Day.

Meher symbolizes the story of man on earth. It describes the legendary deeds of generations of mighty and powerful men in Armenia in the tradition of heroic folk tales that dramatize the story of a nation. It embodies the national Armenian goal, the freedom and dignity of man, and the fellowship and prosperity of mankind.

Meher in Armenian mythology dates back to biblical times when he does battle and defeats kings but has no desire to be king. Meher resists any encroachment of freedom including paying tribute to the tax collector of the king. Meher throws away his sword before he grapples with a lion because the lion does not carry a sword. Meher does not covet the lands and possession of other people. He fights only when he is attacked and never is the aggressor. Meher, in fact, personifies that Armenian dream of independence and freedom, a dream that was nurtured, found expression and has been fulfilled in America. In fact, the legend of Armenia's Meher, fits the mold of the philosophy of America.

With all our hearts and every mind, Armenian/Americans as well, refuse to curse the darkness but instead light the candles and thus join with all Americans in celebrating this Bicentennial birthday, commemorating Armenian Martyrs' Day and praying for the preservation of this land of opportunity, liberty and freedom.

JUSTICE JOHN PAUL STEVENS

Mr. PERCY. Mr. President, in December of 1975, when John Paul Stevens was nominated by President Ford to be a Justice of the Supreme Court, many members of the legal profession were hard put to aline a particular political or judicial point of view with Mr. Stevens. Seven months later, Justice Stevens still cannot be labeled, and this attribute was the subject of an article written by John P. McKenzie in the Washington Post.

During his brief tenure, Justice Stevens has consistently demonstrated a high level of scholarship, technical excellence, and thoughfulness. Despite the extraordinarily heavy workload thrust upon him when he first arrived on the bench, his energy and prolific writing have enabled him to meet—even surpass—the challenge. Having known Justice Stevens for many years, I can testify to his unique abilities. I am not at all surprised at his excellent record thus far on the Supreme Court. I am certain his high standards of excellence will continue.

Mr. President, I ask unanimous consent that an article from the Washington Post about Justice Stevens be printed in the Record:

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, July 18, 1976]

STEVENS EMERGES AS A MASTER OF DISSENT ON HIGH COURT

(By John P. McKenzie)

When John Paul Stevens took his seat on the Supreme Court in January, knowledgeable lawyers predicted that he would behave unpredictably. Their predictions came true.

Stevens, who has refused to label himself liberal or conservative, has made a record that has defined labeling by others.

He has voted in the center of an increasingly conservative court, but not in the manner of centrist Justice Lewis F. Powell Jr. who dissented only half a dozen times in the nine-month term that ended July 6. Instead, Stevens has fired off dissents right and left, disagreeing freely with both wings of the court.

He joined the Burger court majority in a series of rulings drastically curtailing safeguards for criminal defendants, but disagreed strongly with decisions restricting the rights of prison inmates to hearings on transfers and other administrative actions.

He voted to strike down a state law giving husbands the right to veto abortion decisions, but dissented when the majority also struck down a broad veto for parents when their unwed teenage daughters want abortions. He was in the 7-to-2 majority to uphold capital punishment, but joined with two other justices in a swing move that struck down mandatory death sentences.

Stevens came to the high court in mid-term but caught up with his colleagues in the dissent department. His 16 dissenting votes exceeded those of six other justices for the whole term. Only Justice William J. Brennan Jr. and Thurgood Marshall, the outnumbered liberals on the court, dissented more often.

Unlike many nay-sayers, Stevens left no doubt about what he was for. He rarely failed to explain his concurring or dissenting votes in a separate written opinion.

Appointed by President Ford to replace retired Justice William O. Douglas, Stevens displayed his independence mostly in disagreement with the four appointees of President Nixon—Chief Justice Warren E. Burger and Justices Powell, Harry A. Blackmum and William H. Rehnquist. He voted with them in three-fourths of the cases, but, oddly, each time he dissented he disagreed with Burger.

His prolific writing produced opinions ranging from the eloquent to the murky.

Dissenting when the court sustained Social Security rules that made it harder for illegitimate children to collect survivor insurance, Stevens wrote:

"The reason why the United States government should not add to the burdens that illegitimate children inevitably acquire at birth is radiantly clear: we are committed to the proposition that all persons are created equal."

Less clear, however, was Stevens' brief dissent as the court upheld Maryland's aid to religious colleges:

". . . I would add emphasis to the pernicious tendency of a state subsidy to tempt religious schools to compromise their religious mission without wholly abandoning it. The disease of entanglement may infect a law discouraging wholesome religious activity as well as a law encouraging the propagation of a given faith."

Between those two stylistic extremes there were many opinions of workman-like precision and a few moments of unusual clarity.

Dissenting when the court ruled out hearings and federal court suits for prisoners who are transferred—for disciplinary reasons, for convenience or "for no reason at all"—Stevens protested that the prisoners were being treated as though their convictions had deprived them of all rights, a position the court had discarded in this century.

"If the immate's protected liberty interests are no greater than the state chooses to allow, he is really little more than the slave described in the 19th century cases," Stevens said.

Stevens had no such sympathy for public employees who are discharged without a hearing when state law fails to afford a hearing. Writing for a bare 5-to-4 majority, Stevens said federal courts should not require hearings even to correct mistaken firings. He said:

"We must accept the harsh fact that numerous individual mistakes are inevitable in the day-to-day administration of our affairs. The United States Constitution cannot feasibly be construed to require federal judicial review for every such error . . . The due process guarantee of the Fourteenth Amendment is not a guarantee against incorrect or ill-advised personnel decisions."

Workers on the public payroll—or at least some of them—did score one important breakthrough as the court ruled, 5 to 3, that firings of non-policy employees for lack of partisan political loyalty are unconstitutional.

This time Stevens did not participate because the case came from the Seventh U.S. Circuit Court of Appeals in Chicago where he sat from 1970 to 1975 and handled similar patronage cases.

But the majority quoted extensively from a 1972 Circuit Court opinion by Stevens on the subject in which Stevens denounced patronage dismissals as "at war with the deeper traditions of democracy embodied in the First Amendment."

Stevens wrote a sharp dissent as the court ruled, 5 to 4, that Congress lacked the power to set wage and hour standards for state and local government workers. Said Stevens:

"The court holds that the federal government may not interfere with a sovereign state's inherent right to pay a substandard wage to the janitor at the state capitol. The principle on which the holding rests is difficult to perceive.

"The federal government may, I believe, require the state to act impartially when it hires or fires the janitor, to withhold taxes from his pay check, to observe safety regulations when he is performing his job, to forbid him from burning too much soft coal in the capitol furnace, from dumping untreated refuse in an adjacent waterway, from overloading a state-owned garbage truck or from driving either the truck or the governor's limousine over 55 miles an hour. . . . I agree that it is unwise for the federal government to exercise its power in the ways described by the court's majority . . . My disagreement with the wisdom of this legislation may not, of course, affect my judgment with respect to its validity."

According to court sources, Stevens has amazed some of his fellow justices by his ability to hit full stride as a justice so quickly, shouldering a full load of work and then some and delivering opinions with dispatch. He has kept lawyers on their toes, peppering them with questions from the bench.

"His performance is entirely consistent with his work on the court of appeals," said Don H. Reuben of Chicago, a member of the American Bar Association committee that unanimously gave Stevens its highest rating last fall. "He's able, articulate and hard to label."

Reuben's prediction for the future: more unpredictable behavior.

DIEGO GARCIA

Mr. KENNEDY. Mr. President, a year ago, we first learned the shocking story of the deportation from the island of Diego Garcia of 1,151 islanders, some of whose families had been there for generations, to make way for the U.S. support facility there. At the time, we had reason to believe that we had been misled by the administration on this issue; and we were deeply concerned to learn that the United States had paid for this forced movement of peoples through a secret arrangement with Great Britain.

I would like to be able to report that the United States and British Governments have recognized their shared responsibility for the fate of these people. But I cannot. Instead, if reports are accurate, we continue to neglect these people, just as we thought little of them when the original agreement was signed with Britain to let us use the island. The Defense Department has placed a high priority on the Diego Island base; so high that the administration has defied congressional efforts to seek direct negotiations with the Soviet Union on Indian Ocean arms control.

But the administration has placed no priority at all on seeing that something is done about the more than 1,000 human beings who are directly involved. This kind of insensitivity is never excusable; how much less so, now, when the administration in some areas is now professing a concern for human rights and human values—a time when the American people have indicated that these rights and values must be a major part of our foreign policy.

Mr. President, I ask unanimous consent that an article from the London Sunday Times, by Mr. Will Ellsworth-Jones, be printed in the Record, and I commend it to my colleagues.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Year Later, the Poverty, Squalor, and Neglect Go on

(Will Ellsworth-Jones reports from Mauritius)

The scandal of Diego Garcia, in which Britain deported more than 1,000 islanders to make way for an American base in the Indian Ocean, was revealed almost a year ago and Sunday Times reporter Will Ellsworth-Jones described the poverty and despair of the islanders in their new homes in Mauritius. Last week he returned to Mauritius and discovered that the governments involved are still neglecting the islanders. And, although American servicemen have moved on to the main island of Diego Garcia, there still stand on two adjoining islands the emptied homes, furniture and cooking oils still in place, a pitiful reminder of what the islanders lost when Britain ordered that they should go to new homes. Some of the islanders deported by the British Government from their homes on Diego Garcia in the Indian Ocean to make way for an American naval base, have now had to turn to private charity organisations to help them survive the squalid poverty of their life in Mauritius where they were dumped from 1970 onwards.

The Americans, who were allowed to use the British island as a base in return for a secret cut-price deal on Polaris missiles, have always left it to the British to look after the islanders. Britain, having paid the Mauritian Government £650,000 for the resettlement of the 1,151 islanders, has virtually washed its hands of them although claiming to be "very conscious of humanitarian considerations throughout."

The Mauritian Government which received the money more than three years ago, has still been unable to decide how to spend it. It has been left to organisations like the Sisters of Mother Theresa to try to relieve some of the poverty which many of the islanders still suffer.

One of the nuns confirms what one can see with one's own eyes: "They are poorer than the poor of Mauritius. They don't have enough food and some of their children are under-nourished. They need some more medicine and they lack especially clothing."

Since The Sunday Times first reported on the problems of the islanders in September last year this is what has happened. The US Congress has voted construction funds to develop Diego Garcia into a "support facility" rather than the "communications facility" it was originally claimed to be. The runway on the island will now be able to take jumbo jets and, in emergencies, B–52 bombers. Although the "facility" is described as "austere," the Pentagon has managed to include in its budget £60,000 for a radio and television station to comfort servicemen living on the island.

In January this year, five years after starting to clear the islands, the British Government sent an expert to Mauritius to advise the government there on the problems of resettling the islands. In March the Mauritian prime minister, Sir Seewoosagur Ramgoolam, received a deputation from the islanders and, while sympathetic to their problems, said he was waiting for the experts report before deciding what to do.

The expert, Mr. Russ Prosser, adviser on social development at the Ministry of Overseas Development, has now completed his report and the Mauritian government says it is studying it before deciding how to implement it.

Neither the British nor Mauritian governments will say officially at this stage what the report contains. But sources in Mauritius suggest that, not surprisingly, that what the islanders need is a package welfare scheme, with housing, job training and social workers and one overall agency to deal with their problems.

The inevitable decline in the number of islanders has continued with at least five more dying since September without being given any compensation for being deported from their homes on Diego Garcia and the adjoining islands of Peros Banhos and Salamon where some of them had lived for five generations.

Visiting the islanders nine months after last seeing them in Mauritius it seems that virtually nothing has changed.

Gaetan Duval, leader of the opposition in the Mauritian Parliament, claims: "They might as well be dead as far as the government is unconcerned. We have an election coming up and there are not enough of them to be important in an election."

Take Mrs. Elian Chamona who was deported to Mauritius from the island of Peros Banhos early in 1973. She has been living in a one-room hovel, which is little more than a chicken shack, ever since. Since September her eldest son has gone to crew a trawler with her husband so that now only six children have to sleep in the same room as her.

Relatives have now given her a table and to add to her only other possessions, an iron bed, four chairs and a cupboard. The chairs now go on top of the table at night so there is room for the children to sleep on the floor.

Zaie Laurent lives in the same slum area of Mauritius as Mrs. Chamona in a shack which, if anything, is smaller than hers. In September we reported: "It seems unlikely that his wife will survive long enough to receive any compensation." She is still alive but two months ago she had to be moved into a spartan old people's home, run again, not by any government, but by the Sisters of Mother Theresa.

The only compensation for Zaie, who is 71, is that this means he no longer has to be on the steps of the church. For, combining the old-age pension of his wife with his own, he receives 106 rupees a month—the pound is worth about 11.60 rupees—so that with the nuns caring for his wife he now has enough money to survive on his own. The Mauritius government pays out old-age pensions to 57 islanders, public assistance to 74 and family allowances to 78.

Since last September Jean Desir, a 68-year-old native of the Salamon Island, has at least made the first step towards obtaining electricity, something the Mauritians who live around him already have.

On April he paid 30 rupees and, with the help of contributions from volunteers, this was enough to have wiring, light bulbs and switches installed, although he is still waiting to be connected to the mains. So he is happy to show off his light bulb even if there is no electricity for it yet. But at the same time his health has deteriorated since last September, he sits at home now, nursing a heart illness, and again one wonders whether compensation will arrive in time to be of any use to him.

That he even managed the light bulb is due to the help of a social worker, Mrs. Helen Mustique, who again is paid not by any government but by church funds. Excluding government plans, projects and promises, she and nuns appear to be the only people who are actually doing anything for the islanders. She suggests that in the islands where they lived they did not need to go looking for work; a paternalistic boss told them what work to do and they did it. Their only skill was cutting coconuts and Mauritius does not harvest coconuts.

Apart from revisiting islanders I saw last September it was also possible to see some more islanders for the first time and here I came across one of the worst cases in this sorry story.

Claude Jayansingh, aged 42, was working as a carpenter on Peros Banhos "about five years ago" repairing the boat used for transporting coconuts when he was cut on the foot by a piece of flying metal. He confirms what other islanders have said: that after Britain bought the islands in 1967 the nurse who used to look after them left, so the wound was untreated, turned gangrenous and he had to go to the Seychelles to have his leg cut off. He then returned to Peros Banhos before being transported to Mauritius.

He was of course promised compensation for his injury by the Peros Banhos administration but has received none, even the crutches he hobbles about on he had to make himself. He has a pension of 81 rupees a month to support his wife and four children and his wife earns 30 rupees a month as a washerwoman. He lives in a three-room wooden shack, the largest room houses the nets of an experimental fish station and for guarding them he lives in the adjoining two rooms rent free. In a couple of years, therefore, he has lost a leg and his home and has been compensated for neither.

It will be of no comfort for him to know that, according to a fisherman who visited Peros Banhos illegally last year, while American pop music comes over loud on the trawler's radio from Diego, nothing has been touched on the islands of Peros Banhos and Salamon.

The fisherman says: "Their homes are still standing and you can see how they had to leave everything. Their furniture is still there, their cooking oil, some of their documents. There's even an old pram that had to be left. All their animals have died except their donkeys which just roam wild. It's sad to see such a beautiful island abandoned and slowly being overgrown."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CRIME CONTROL ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2212, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Crime Control Act of 1976".

SEC. 2. The "Declaration and Purpose" of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended as follows:

(a) by inserting between the second and third paragraphs the following additional paragraph: "Congress finds further that the financial and technical resources of the Federal Government should be used to provide constructive aid and assistance to State and local governments in combating the serious problem of crime and that the Federal Government should assist State and local governments in evaluating the impact and value of programs developed and adopted pursuant to this title."; and

(b) by deleting the fourth paragraph and substituting in lieu thereof the following new paragraph:

"It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by Federal assistance. It is the purpose of this title to (1) encourage, through the provision of Federal technical and financial aid and assistance, States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of and designed to deal with their particular problems of law enforcement and criminal justice; (2) authorize, following evaluation and approval of comprehensive plans, grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage, through the provision of Federal technical and financial aid and assistance, research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals.".

SEC. 3. Section 101(a) of title I of such Act is amended by inserting a comma after the word "authority" and adding "policy direction, and control".

PART B—PLANNING GRANTS

SEC. 4. Section 201 of title I of such Act is amended by adding after the word "part" the words "to provide financial and technical aid and assistance".

SEC. 5. Section 203 of title I of such Act is amended to read as follows:

"SEC. 203. (a) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State or by State law and shall be subject to the jurisdiction of the chief executive. Where such agency is not created or designated by State law, it shall be so created or designated by no later than December 31, 1979. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations, including organizations directly related to delinquency prevention.

"The State planning agency shall include as judicial members, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer. These judicial members shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership. Additional judicial members of the State planning agency as may be required by the Administration pursuant to section 515(a) of this title shall be appointed by the chief executive of the State from the membership of the judicial planning committee. Any executive committee of a State planning agency shall include in its membership the same proportion of judicial members as the total number of such members bears to the total membership of the State planning agency. The regional planning units within the State shall be comprised of a majority of local elected officials.

"(b) The State planning agency shall—

"(1) develop, in accordance with part C, a comprehensive statewide plan and necessary revisions thereof for the improvement of law enforcement and criminal justice throughout the State;

"(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice; and

"(3) establish priorities for the improvement in law enforcement and criminal justice throughout the State.

"(c) The court of last resort of each State may establish or designate a judicial planning committee for the preparation, development, and revision of an annual State judicial plan. The members of the judicial planning committee shall be appointed by the court of last resort and serve at its pleasure. The committee shall be reasonably representative of the various local and State courts of the State, including appellate courts.

"(d) The judicial planning committee shall—

"(1) establish priorities for the improvement of the courts of the State;

"(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State; and

"(3) develop, in accordance with part C, an annual State judicial plan for the improvement of the courts of the State to be included in the State comprehensive plan.

The judicial planning committee shall submit to the State planning agency its annual State judicial plan for the improvement of the courts of the State. Except to the extent disapproved by the State planning agency for the reasons stated in section 304(b), the annual State judicial plan shall be incorporated into the comprehensive statewide plan.

"(e) If a State court of last resort does not create or designate a judicial planning committee, or if such committee fails to submit an annual State judicial plan in accordance with this section, the responsibility for preparing and developing such plan shall rest with the State planning agency. The State planning agency shall consult with the judicial planning committee in carrying out functions set forth in this section as they concern the activities of courts and the impact of the activities of courts on related agencies (including prosecutorial and defender services). All requests from the courts of the State for financial assistance shall be received and evaluated by the judicial planning committee for appropriateness and conformity with the purposes of this title.

"(f) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least $50,000 of the Federal funds granted to such agency under this part for any fiscal year will be available to the judicial planning committee and at least 40 per centum of the remainder of all Federal funds granted to the State planning agency under this part for any fiscal year will be available to units of general local government or combinations of such units to participate in the formulation of the comprehensive State plan required under this part. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required undr this part. In allocating funds under this subsection, the State planning agency shall asure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such funds made available to the judicial planning committee and such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

"(g) The State planning agency and any other planning organization for the purposes of this title shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is to be taken at that meeting on (A) the State plan, or (B) any application for funds under this title. The State planning agency and any other planning organization for the purposes of this title shall provide for public access to all records relating to its functions under this Act, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.".

Sec. 6. Section 204 of title I of such Act is amended by inserting "the judicial planning committee and" between the words "by" and "regional" in the first sentence; and by striking the words "expenses, shall" and inserting in lieu thereof "expenses shall".

Sec. 7. Section 205 of title I of such Act is amended by—

(a) inserting ", the judicial planning committee," after the word "agency" in the first sentence;

(b) deleting "$200,000" from the second sentence and inserting in lieu thereof "$250,000"; and

(c) inserting the following sentence at the end thereof: "Any unused funds reverting to the Administration shall be available for reallocation among the States as determined by the Administration.".

Sec. 8. Part B is amended by inserting at the end thereof the following new section:

"Sec. 206. At the request of the State legislature (or a legislative body designated by it), the comprehensive statewide plan or revision thereof shall be submitted to the legislature for its approval, suggested amendment, or disapproval of the general goals, priorities, and policies that comprise the basis of that plan or revision prior to its submission to the Administration by the chief executive of the State. The State legislature shall also be notified of substantial modifications of such general goals, priorities, and policies, and, at the request of the legislature, these modifications shall be submitted for approval, suggested amendment, or disapproval. If the legislature (while in session) or an interim legislative body designated by the legislature (while not in session) has not approved, disapproved, or suggested amendments to the general goals, priorities, and policies of the plan or revision within forty-five days after receipt of such plan or revision, or within thirty days after receipt of substantial modifications, such plan or revision or modifications thereof shall then be deemed approved.".

Part C—Grants for Law Enforcement Purposes

Sec. 9. Section 301 of title I of such Act is amended by—

(a) inserting after the word "part" in subsection (a) the following: ", through the provision of Federal technical and financial aid and assistance,";

(b) deleting the words "Public education relating to crime prevention" from paragraph (3) of subsection (b) and inserting in lieu thereof "Public education programs concerned with the administration of justice";

(c) deleting the words "and coordination" from paragraph (8) of subsection (b) and inserting in lieu thereof ", coordination, monitoring, and evaluation";

(d) inserting after paragraph (10) of subsection (b) the following new paragraphs:

"(11) The development, demonstration, evaluation, implementation, and purchase of methods, devices, personnel, facilities, equipment, and supplies designed to strengthen courts and to improve the availability and quality of justice; the collection and compilation of judicial data and other information on the work of the courts and other agencies that relate to and affect the work of the courts; programs and projects for expediting criminal prosecution and reducing court congestion; revision of court criminal rules and procedural codes within the rulemaking authority of courts or other judicial entities having criminal jurisdiction within the State; training of judges, court administrators, and support personnel of courts; support of court technical assistance and support organizations; support of public education programs concerning the administration of criminal justice; equipping of court facilities; and multiyear systemwide planning for all court expenditures made at all levels within the State.

"(12) the development and operation of programs designed to reduce and prevent crime against elderly persons."; and

(e) inserting the following sentence after the second sentence of subsection (d): "The limitations contained in this subsection may be waived when the Administration finds that such waiver is necessary to encourage and promote innovative programs designed to improve and strengthen law enforcement and criminal justice.".

Sec. 10. Section 302 of title I of such Act is amended by redesignating the present language as subsection (a) and adding the following new subsections:

"(b) Any judicial planning committee established pursuant to this title may file at the end of each fiscal year with the State planning agency, for information purposes only, a multiyear comprehensive plan for the improvement of the State court system. Such multiyear comprehensive plan shall be based on the needs of all the courts in the State and on an estimate of funds available to the courts from all Federal, State, and local sources and shall, where appropriate—

"(1) provide for the administration of programs and projects contained in the plan;

"(2) adequately take into account the needs and problems of all courts in the State and encourage initiatives by the appellate and trial courts in the development of programs and projects for law reform, improvement in the administration of courts and activities within the responsibility of the courts, including but not limited to bail and pretrial release services, and provide for an appropriately balanced allocation of funds between the statewide judicial system and other appellate and trial courts;

"(3) provide for procedures under which plans and requests for financial assistance from all courts in the State may be submitted annually to the judicial planning committee for evaluation;

"(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of courts and court programs, including descriptions of (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the maximum extent practicable, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

"(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment provided for courts and related purposes;

"(6) provide for research, development, and evaluation;

"(7) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would, in the absence of such Federal funds, be made available for the courts; and

"(8) provide for such fund accounting, auditing, monitoring, and program evaluation procedures as may be necessary to assure sound fiscal control, effective management, and efficient use of funds received under this title.

"(c) Each year, the judicial planning committee shall submit an annual State judicial plan for the funding of programs and projects recommended by such committee to the State planning agency for approval and incorporation, in whole or in part, in accordance with the provisions of section 304(b), into the comprehensive State plan which is submitted to the Administration pursuant to part B of this title. Such annual State judicial plan shall conform to the purposes of this part.".

Sec. 11. Section 303 of title I of such Act is amended by—

(a) striking out subsection (a) up to the sentence beginning "Each such plan" and inserting in lieu thereof the following:

"(a) The Administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan or an approved revision thereof (not more than one year in age) which conforms with the purposes and requirements of this title. In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974 a State shall submit a plan for carrying out the purposes of that Act in accordance with this section and section 223 of that Act. No State plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity. No State plan shall be approved as comprehensive unless it includes a comprehensive program, whether or not funded under this title, for the improvement of juvenile justice.";

(b) deleting paragraph (4) of subsection

(a) and substituting in lieu thereof the following:

"(4) specify procedures under which local multiyear and annual comprehensive plans and revisions thereof may be submitted to the State planning agency from units of general local government or combinations thereof to use funds received under this part to carry out such plans for the improvement of law enforcement and criminal justice in the jurisdictions covered by the plans. The State planning agency may approve or disapprove a local comprehensive plan or revision thereof in whole or in part based upon its compatibility with the State comprehensive plan or revision thereof in whole or in part based upon its compatibility with the State comprehensive plan and subsequent annual revisions and modifications. Approval of such local comprehensive plan or parts thereof shall result in the award of funds to the units of general local government or combinations thereof to implement the approved parts of their plans;";

(c) inserting after the word "necessary" in paragraph (12) of subsection (a) the following language: "to keep such records as the Administration shall prescribe";

(d) deleting subsection (b) and substituting in lieu thereof the following:

"(b) Prior to its approval of any State plan, the Administration shall evaluate its likely effectiveness and impact. No approval shall be given to any State plan unless and until the Administration makes an affirmative finding in writing that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State and that, on the basis of the evaluation made by the Administration, such plan is likely to contribute effectively to an improvement of law enforcement and criminal justice in the State and make a significant and effective contribution to the State's efforts to deal with crime. No award of funds that are allocated to the States under this part on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.";

(e) inserting in subsection (c) after the word "unless" the words "the Administration finds that"; and

(f) inserting after subsection (c) the following new subsection:

"(d) In making grants under this part, the Administration and each State planning agency, as the case may be, shall provide an adequate share of funds for the support of improved court programs and projects. No approval shall be given to any State plan unless and until the Administration finds that such plan provides an adequate share of funds for court programs. In determining adequate funding, consideration shall be given to (1) the need of the courts to reduce court congestion and backlog; (2) the need to improve the fairness and efficiency of the judicial system; (3) the amount of State and local resources committed to courts; (4) the amount of funds available under this part; (5) the needs of all law enforcement and criminal justice agencies in the State; (6) the goals and priorities of the comprehensive plan; (7) written recommendations made by the judicial planning committee to the Administration; and (8) such other standards as the Administration may deem consistent with this title.".

SEC. 12. Section 304 of title I of such Act is amended to read as follows:

"SEC. 304. (a) State planning agencies shall receive plans or applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such a plan or application is in accordance with the purposes stated in section 301 and in conformance with an existing statewide comprehensive law enforcement plan or revision thereof, the State planning agency is authorized to disburse funds to implement the plan or application.

"(b) After consultation with the State planning agency pursuant to subsection (e) of section 203, the judicial planning committee shall transmit the annual State judicial plan approved by it to the State planning agency. Except to the extent that the State planning agency thereafter determines that such plan or part thereof is not in accordance with this title is not in conformance with, or consistent with, the statewide comprehensive law enforcement and criminal justice plan, or does not conform with the fiscal accountability standards of the State planning agency, the State planning agency shall incorporate such plan in the State comprehensive plan to be submitted to the Administration.":

SEC. 13. Section 306 of title I of such Act is amended by—

(a) inserting the following between the third and fourth sentences of the unnumbered paragraph in subsection (a): "Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary."; and

(b) amending subsection (b) by striking "(1)" and inserting in lieu thereof "(2)".

SEC. 14. Section 307 of title I of such Act is amended by deleting the words "and of riots and other violent civil disorders" and substituting in lieu thereof the words "and programs and projects designed to reduce court congestion and backlog and to improve the fairness and efficiency of the judicial system".

SEC. 15. Section 308 of title I of such Act is amended by deleting "302(b)" and inserting in lieu thereof "303".

PART D—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

SEC. 16. Section 402 of title I of such Act is amended by—

(a) deleting "Administrator" in the third sentence of subsection (a) and inserting in lieu thereof "Attorney General"; and

(b) adding the following sentence at the end of the second paragraph of subsection (c): "The Institute shall also assist the Administrator in the performance of those duties mentioned in section 515(a) of this title.".

SEC. 17. Part D is amended by adding the following new section:

"SEC. 408. The Administration is authorized to make high crime impact grants to State planning agencies, units of general local government, or combinations of such units. Any plan submitted pursuant to section 303 (a)(4) shall be consistent with the applications for grants submitted by eligible units of local government or combinations of such units under this section. Such grants are to be used to provide impact funding to areas which are identified by the Administration as high crime areas having a special and urgent need for Federal financial assistance. Such grants are to be used to support programs and projects which will improve the law enforcement and criminal justice system.".

PART E—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

SEC. 18. Section 445 of title I of such Act is amended by—

(a) deleting the word "or" in paragraph (a)(2) and inserting "or nonprofit organizations," after the second occurrence of the word "units," in that paragraph; and

(b) inserting the following at the end of subsection (a): "In the case of a grant to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.".

PART F—ADMINISTRATIVE PROVISIONS

SEC. 19. Section 501 of title I of such Act is amended by inserting the following sentence at the end thereof: "The Administration shall establish such rules and regulations as are necessary to assure the proper auditing, monitoring, and evaluation by the Administration of both the comprehensiveness and impact of programs funded under this title in order to determine whether such programs submitted for funding are likely to contribute to the improvement of law enforcement and criminal justice and the reduction and prevention of crime and juvenile delinquency and whether such programs once implemented have achieved the goals stated in the original plan and application.".

SEC. 20. Section 507 of title I of such Act is amended to read as follows:

"SEC. 507. Subject to the Civil Service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out its powers and duties under this title and is authorized to select, appoint, employ, and fix compensation of such hearing examiners or to request the use of such hearing examiners selected by the Civil Service Commission pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out its powers and duties under this title.".

SEC. 21. Section 509 of title I of such Act is amended by deleting the language "reasonable notice and opportunity for hearing" and substituting in lieu thereof the following: "notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code,".

SEC. 22. Section 512 of title I of such Act is amended by striking the words "June 30, 1974, and the two succeeding fiscal years" and inserting in lieu thereof "June 30, 1976, through fiscal year 1981".

SEC. 23. Section 515 of title I of such Act is amended to read as follows:

"SEC. 515. (a) Subject to the general authority of the Attorney General, and under the direction of the Administrator, the Administrator shall—

"(1) review, analyze, and evaluate the comprehensive State plan submitted by the State planning agency in order to determine whether the use of financial resources and estimates of future requirements as requested in the plan are consistent with the purposes of this title to improve and strengthen law enforcement and criminal justice and to reduce and prevent crime; if warranted, the Administration shall thereafter make recommendations to the State planning agency concerning improvements to be made in said comprehensive plan;

"(2) assure that the membership of the State planning agency is fairly representative of all components of the criminal justice system and review, prior to approval, the preparation, justification, and execution of the comprehensive plan to determine whether the State planning agency is coordinating and controlling the disbursement of the Federal funds provided under this title in a fair and proper manner to all components of the State and local criminal justice system; to assure such fair and proper disbursement, the State planning agency shall submit to the Administration, together with its comprehensive plan, a financial analysis indicating the percentage of Federal funds to be allocated under the plan to each component of the State and local criminal justice system;

"(3) develop appropriate procedures for determining the impact and value of programs funded pursuant to this title and whether such funds shall continue to be allocated for such programs; and

"(4) assure that the programs, functions, and management of the State planning agency are being carried out efficiently and economically.

"(b) The Administration is also authorized—

"(1) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

"(2) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

"(c) Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate.".

SEC. 24. Section 517 of title I of such Act is amended by adding the following new subsection:

"(c) The Attorney General is authorized to establish an Advisory Board to the Administration to review programs for grants under sections 306(a)(2), 402(b), and 455(a)(2). Members of the Advisory Board shall be chosen from among persons who, by reason of their knowledge and expertise in the areas of law enforcement and criminal justice and related fields, are well qualified to serve on the Advisory Board.".

SEC. 25. Section 519 of title I of such Act is amended to read as follows:

"SEC. 519. On or before December 31 of each year, the Administration shall submit a comprehensive report to the President and the Congress on activities pursuant to the provisions of this title during the preceding fiscal year. The report shall include—

"(a) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this title;

"(b) an explanation of the procedures followed by the Administration in reviewing, evaluating, and processing the comprehensive State plans submitted by the State planning agencies;

"(c) the number of comprehensive State plans approved by the Administration without substantial changes being recommended;

"(d) the number of comprehensive State plans approved or disapproved by the Administration after substantial changes were recommended;

"(e) the number of State comprehensive plans funded under this title during the preceding three fiscal years in which the funds allocated have not been expended in their entirety;

"(f) the number of programs funded under this title discontinued by the Administration following a finding that the program had no appreciable impact in reducing and preventing crime or improving and strengthening law enforcement and criminal justice;

"(g) the number of programs funded under this title discontinued by the State following the termination of funding under this title;

"(h) a financial analysis indicating the percentage of Federal funds to be allocated under each State plan to the various components of the criminal justice system;

"(i) a summary of the measures taken by the Administration to monitor criminal justice programs funded under this title in order to determine the impact and value of such programs; and

"(j) an analysis of the manner in which funds made available under section 306(a)(2) of this title were expended.".

SEC. 26. Section 520 of title I of such Act is amended by—

(a) striking subsection (a) and inserting in lieu thereof the following:

"(a) There are authorized to be appropriated such sums as are necessary for the purposes of each part of this title, but such sums in the aggregate shall not exceed $250,000,000 for the period July 1, 1976, through September 30, 1976, $1,000,000,000 for the fiscal year ending September 30, 1977, $1,100,000,000 for the fiscal year ending September 30, 1978, $1,100,000,000 for the fiscal year ending September 30, 1979, $1,100,000,000 for the fiscal year ending September 3, 1980, and $1,100,000,000 for the fiscal year ending September 30, 1981. From the amount appropriated in the aggregate for the purposes of this title, such sums shall be allocated as are necessary for the purposes of providing funding to areas characterized by both high crime incidence and high law enforcement and criminal justice activities or serious court congestion and backlog, but such sums shall not exceed $12,500,000 for the period July 1, 1976, through September 30, 1976, and $50,000,000 for each of the fiscal years enumerated above and shall be in addition to funds made available for these purposes from the other provisions of this title as well as from other sources. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter, there shall be allocated for the purpose of part E an amount equal to not less than 20 per centum of the amount allocated for the purpose of part C.";

(b) deleting the words "as was expended by the Administration during fiscal year 1972" in subsection (b) and inserting in lieu thereof "that such assistance bore to the total appropriation for the programs funded pursuant to part C and part E of this title during fiscal year 1972".

SEC. 27. Section 601 of title I of such Act is amended by—

(a) inserting after "Puerto Rico," in subsection (c) the words "the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands,"; and

(b) inserting at the end of the section the following new subsections:

"(p) The term 'court of last resort' shall mean that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two or more courts with highest and final appellate authority, court of last resort shall mean that highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch.

"(q) The term 'court' or 'courts' shall mean a tribunal or tribunals having criminal jurisdiction recognized as a part of the judicial branch of a State or of its local government units.".

SEC. 28. Section 261(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (88 Stat. 1129) is amended by deleting the words "during fiscal year 1972" and inserting in lieu thereof "that such assistance bore to the total appropriation for programs funded pursuant to part C and part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, during fiscal year 1972".

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled respectively by the Senator from Arkansas (Mr. McClellan) and the Senator from Nebraska (Mr. Hruska), with 30 minutes on any amendment, except an amendment to be offered by the Senator from Indiana (Mr. Bayh) on which there shall be 2 hours, with 20 minutes on any debatable motion, appeal or point of order.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with the time taken out of neither side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, has an order been entered into for the Senate to meet at 9 o'clock tomorrow morning?

The PRESIDING OFFICER. It has.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 10 A.M. MONDAY, JULY 26, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until the hour of 10 a.m. Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the time will be charged to neither side. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Gary Hart). Without objection, it is so ordered.

CRIME CONTROL ACT OF 1976

The Senate continued with the consideration of the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

Mr. MORGAN. Mr. President, I ask unanimous consent that Carroll Leggett and Bob Jackson, of my staff, be granted the privileges of the floor during the consideration and voting on the matter now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Mr. Paul Summitt, Mr. Dennis Thelen, Mr. Kenneth Feinberg, Miss Mabel Downey, and Mr. Larry Gage be granted the privilege of the floor during the consideration and voting on S. 2212.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. I ask unanimous consent to add to that list the names of Eric Hultman, Tom Hart, and J. C. Argetsinger of the committee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. McCLELLAN. I yield myself 10 minutes.

Mr. President, the authority for the Law Enforcement Assistance Administration—LEAA—will expire on September 30 of this year. S. 2212, as reported, would extend for 5 years the authority of the LEAA to provide financial and technical assistance to State and local governments for improved and strengthened law enforcement and criminal justice activities. It would also make amendments to the Omnibus Crime Control Act of 1968 to make the program more responsive to the needs of the courts, to provide for better monitoring and evaluation, to provide increased funding to meet the special problems confronting high crime areas and overburdened courts, and to make other changes designed to improve the operations of the LEAA program.

At the outset, Mr. President, I want to thank my colleagues for their interest in and contributions to this measure. All are concerned about "an intolerable situation in this Nation when our own citizens cannot walk the streets without facing the dangers of robbery, mugging, and other street crimes."—Hearings, page 5. I particularly wish to recognize the able assistances and cooperation of the distinguished Senators from Massachusetts and Nebraska (Mr. KENNEDY and Mr. HRUSKA) in the hearings and the processing of this legislation. Their active participation and commitment of staff have, in my judgment, greatly assisted in identifying weaknesses in the present program and in drafting provisions designed to make the LEAA participation in the fight against crime more effective. We have seen in recent weeks a number of newspaper articles and studies critical of LEAA. I believe that this bill as reported will go a long way in providing the statutory basis to deal with those problem areas.

Mr. President, the need for LEAA and Federal financial aid to State and local law enforcement and criminal justice agencies is as great or greater today than when the Safe Streets Act was enacted in 1968. The words I spoke in this Chamber on May 1, 1968, during the consideration of the original act are just as appropriate today:

> . . . crime and the threat of crime, rioting, and violence, stalk America. Our streets are unsafe. Our citizens are fearful, terrorized, and outraged. They demand and deserve relief from this scourage of lawlessness, which today imperils our internal security. The skyrocketing incidence of major crimes during the decade of the 1960's has reached intolerable proportions. From decent, law-abiding citizens a clarion call for relief from this threat and danger reverberates across the land.
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> The Federal Government has a clear responsibility to help meet and to repel this threat. For the Congress, this means the enactment of remedial legislation and the appropriation of funds to assist the States and units of local government to devise and implement programs to combat crime. (Cong. Rec., 90th Cong., 2d Sess., p. S 4748, daily ed.)

The situation has not gotten better. The level of crime in this country, particularly crimes of violence has continued to increase at an alarming rate. There has been a 35- to 40-percent increase in the rate of violent crimes and crimes against property since 1969. I have a series of tables reflecting these increases which I ask unanimous consent to have printed in the RECORD following these remarks as exhibits A, B, and C.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits A, B, and C.)

Mr. McCLELLAN. Every citizen should be aware of the crisis that confronts us, because without the cooperation, assistance, and sacrifice of the victim and those who witness criminal conduct there can be no solution. Citizens must get involved. The "Crime Clocks" for 1974, as graphically set out by the FBI in its uniform crime reports, show 19 serious crimes are committed every minute and one murder is committed every 26 minutes. I ask unanimous consent that this table be printed in the RECORD following my remarks as exhibit D.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit D.)

Mr. McCLELLAN. Mr. President, in the face of this rising crime rate there are those who complain that LEAA has spent over $4 billion for nothing and should be abolished. I disagree completely. Of course, improvements can always be made and weaknesses should be corrected. This legislation is designed to improve the program. But it should be remembered that LEAA funds constitute only about 5 percent of the total resources expended by State and local governments for law enforcement and criminal justice purposes. Moreover, we cannot ascertain what the situation would be today if we had not started in 1968 to give a Federal priority to the solution of crime problems. To carry to its logical conclusions the reasoning of those who would abolish or drastically cut the LEAA program, we would do likewise with all parts of the criminal justice system, including police prosecutors, courts, and corrections. All of these institutions with resources far beyond LEAA's contribution have failed to halt the upsurge in crime.

Mr. President, notwithstanding LEAA's limited role, I believe the agency has made a meaningful and lasting contribution to the solution of law enforcement problems. I ask unanimous consent to insert exhibits E, F, and G, following my remarks, which show LEAA's fiscal history for each year and a table indicating funds made available to each State since 1968.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits E, F, and G.)

Mr. McCLELLAN. Mr. President, the Omnibus Crime Control and Safe Streets Act of 1968 created the first major Federal block grant program. Accordingly most of the funds disbursed have been expended through a system in which the States are given the major responsibility to evaluate their needs and to establish priorities for fund allocation under the program. For example, Mr. Cal Ledbetter, a member of the Arkansas House of Representatives, noted in his testimony in subcommittee hearings on S. 2212 (hearings, p. 134):

> Mr. Ledbetter . . . You may recall, in Arkansas, I would say due to LEAA, we have such things as a new criminal code, a juvenile code, a public defender system, minimum training standards for policemen, a law enforcement training academy in Camden, and hundreds of policemen going to college in Arkansas. Much of this has been made possible by LEAA and the Arkansas Commission on Crime and Law Enforcement.
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> I would say enormous benefits have come to Arkansas from the LEAA program. In the year 1968, we had no law enforcement training academy. Now in Arkansas anybody who has the general power of law enforcement must go through the law enforcement training academy and take an 8-week course.
>
> * * * * *
>
> Also prior to the Safe Streets Act we had no college courses of any kind for policemen. Today we have 15 colleges that offer courses in law enforcement and criminal justice.
>
> * * * * *
>
> Today, because of improvements in physical facilities and more trained personnel made possible in part through LEAA funds, the Arkansas correctional system is vastly improved.
>
> * * * * *
>
> The community correctional center in Little Rock is one of the most modern institutions in the country. It was financed by LEAA.

These are just a few of the improvements in the criminal justice system in my State resulting from the LEAA program. Since 1968, this type of benefit can be multiplied over and over again across the Nation. LEAA and the States have made over 80,000 grants during this period.

Mr. President, notwithstanding these obvious benefits from the LEAA program, witnesses have in the course of the hearings on S. 2212 and related bills brought to our attention some problems that should be alleviated or minimized by legislative action. The amendments to existing law, as reported in the subject bill, are discussed in detail in the text and section-by-section analysis of the committee's report. It is appropriate, however, to discuss at this point several of the more important amendments and to emphasize some of the reasons therefor.

LEGISLATIVE PARTICIPATION

S. 2212, as reported, makes amendments to present law that would reflect added recognition of the necessity for commitment of State legislatures to the program. The bill provides that the State planning agency must be legislatively created or designated no later than December 31, 1979, and that the legislature may upon request require the State planning agency to submit the comprehensive State plan to it for approval, disapproval, or suggested amendment. This latter feature is to encourage State legislatures to establish formal machinery for the routine legislative review of and comment on the annual criminal justice comprehensive plan. Although it should be emphasized that comments or other action resulting from the legislative review are not binding upon the State planning agency, when coupled with legislative activities surrounding approval of matching funds or other oversight, it should prove a mechanism for maximum input from a State legislature heretofore not statutorily available without getting it into administrative details properly within the jurisdiction of the executive branch.

JUDICIAL PARTICIPATION AND COURT PLANNING

It has been readily apparent for some time that, from a number of standpoints, the court systems of the various States were not participating in the LEAA program at the desired level. The judiciary tended to be underrepresented on the State planning agencies. It tended to receive less than an appropriate share of Federal funds as compared to other components of the criminal justice system. The courts had little independent planning capability and minimal input into the comprehensive plan of some of the States. To deal with these problems the committee incorporates to a large extent the concepts proposed by Senator **KENNEDY** in S. 3043. The bill as reported would require that each State planning agency include, as a minimum, three judicial members. In addition, the administration must assure that the membership of each planning agency is fairly representative of all components of the criminal justice system. This provides a mechanism for the administration to require that a large State planning agency include more than three judicial members where necessary to provide fair judicial representation. It is contemplated that the concept of proportional representation will be applied to the larger planning agencies to maintain the judicial representation at a ratio equivalent deemed to be fair for the smaller planning agencies with only the three judicial members mandated by the statute. In recognition of the fact that some large planning agencies may necessarily have to operate through an executive committee, the bill further requires that any such committee must include the same proportion of judicial members as the whole State planning agency. While these provisions do not go as far in mandating judicial representation as some urge, they are a considerable step toward better representation and deserve a period of trial and evaluation.

Perhaps more important to effective judicial participation in the program is the bill's provisions that authorize the establishment and funding of judicial planning committees. These committees, expert on judicial matters, will be in a position to provide planning input for the annual State comprehensive criminal justice plan, as well as utilize part C block grant funds to develop a systemwide multiyear comprehensive plan for the improvement of the courts. In addition, a new line item authorization is included to provide special funding to areas characterized by serious court congestion and backlog.

A comment should be made concerning time for implementation of "judicial plans." Although not discussed in the committee report, creation of judicial planning committees and procedures for incorporation of judicial plans into the comprehensive State plan may cause problems with respect to the current planning cycle. Most of the discussion on this subject with respect to "phasing in" local government plans is equally applicable to "phasing in" judicial plans. It might be anticipated that guidelines would provide a period for orderly establishment of judicial planning committees and submission of judicial plans at a point in the next planning cycle to minimize disruption of the current State planning cycle.

LOCAL GOVERNMENT PLANS

The bill, as reported, amends section 304(a)(4) of the act in two ways to strengthen the role of local governments or combinations of local governmental units.

First, the procedures now required to be included in the State comprehensive plan with respect to submission of plans by such units will no longer be limited by population. Second, where such entities comply with the procedures and the plan or portion thereof comports with the statewide comprehensive plan, priorities, and programs, the State planning agency must award funds on the basis of this plan without the necessity for project applications for each project the governmental unit intends to pursue. Consistent with the overall philosophy of the Omnibus Crime Control and Safe Streets Act, recognizing the dominant State role in law enforcement and criminal justice, the local planning provisions are flexible and contemplate that each State will adopt procedures suitable for its own particular system. As noted in the committee report:

> It has been impressed upon this Committee that flexible procedures are needed to permit this amendment to function and achieve its benefits. Therefore, States may need to develop a variety of procedures dependent upon the structure of the State planning process.

There was no intent to prescribe procedures which States must follow in dealing with local plans. Although the committee report includes an example of how the procedures might function, this example is by no means intended to be the "model" for the States. It represents only one alternative which could be utilized. The report notes that—

> The State is still responsible for the overall comprehensive plan requirements . . . A statutory requirement for more than a "procedure" would have to entail matters too detailed for legislation which would have applicability among all the States and numerous local governments and could result in an imbalance in the planning efforts of the entire State. It could also result in the breakdown in the legal grant relationships between State and local units of government.

It must also be recognized that the timing of the implementation of new statuory provisions could have a serious negative impact upon existing activities. All States are currently engaged in developing the fiscal year 1977 comprehensive State plans. These plans are due August 31, 1976. To require States to totally revamp their plans or redo planning already substantially completed at this critical juncture would be detrimental to the timely progress of the program and would seriously jeopardize the efficient flow of funds for activities. Some States may be able to respond to certain new plan requirements; however, as noted in the committee report, States will only be required to develop new procedures in fiscal year 1977, and "implement them as soon as possible thereafter."

EVALUATION AND MONITORING

Any program that expends public funds to accomplish stated objectives should have appropriate machinery for evaluation and monitoring the operation of the program. Some critics fault the administration for inadequate efforts to evaluate and monitor the expenditure of Federal funds under the LEAA program to assure that they are expended not only in accordance with the act but also in the most efficient manner possible. Much of this criticism is outdated since it is premised on a situation that existed prior to concentrated evaluation activities pursuant to the provisions of the Crime Control Act of 1973. The committee report details some of these efforts. Notwithstanding these obvious improvements, it was felt that a stronger statutory emphasis on evaluation and monitoring would encourage and assist the administration in perfecting its programs in this area, as well as provide the basis for more effective congressional oversight. Accordingly, S. 2212 amends the Omnibus Crime Control and Safe Streets Act to, among other things, incorporate "evaluation" of the program as one of the purposes of the act; require the administration to evaluate each State's comprehensive plan and to make findings as to the plan's likely impact and effectiveness; require the administration to develop procedures to determine the impact and value of programs funded under the act; and create new and comprehensive reporting requirements designed to provide Congress with the information necessary for effective oversight activities. It is not anticipated that these new requirements will result in excessive reporting demands upon the States or large increases in expenditure of funds for "statistical" purposes. In all likelihood, many of the report requirements are already being utilized by LEAA.

It should also be noted that S. 2212

amends section 301(b) (8) of the act providing for establishment of Criminal Justice Coordinating Councils to clarify and expand their functions to include improvement of monitoring and evaluation of all law enforcement and criminal justice activities within their jurisdictional area. These councils were originally intended to provide total resource planning and coordination of law enforcement and criminal justice activities. As amended, this provision is designed to encourage, in addition, total resource monitoring and evaluation.

PERIOD OF AUTHORIZATION

S. 2212, as reported, authorizes continuation of the LEAA program for 5 years—through fiscal year 1981. Virtually all of the witnesses before the committee who directed their attention to the period of authorization supported a 5-year extension of the program. There are at least three good reasons for adopting such a period of authorization.

First, a short authorization period promotes instability in long term criminal justice and law enforcement planning and funding by State and local recipients of LEAA funds. As stated in the committee report:

> One of the key features of the LEAA program is the comprehensive planning process. Each State is required to review its law enforcement and criminal justice programs and establish needs and priorities for resource allocation. To be effective, this planning must necessarily have long-range implications. A shorter period would be disruptive of this planning process and allow States to give consideration only to short-term needs.
>
> An abbreviated LEAA program and the uncertainty as to future assistance which a short authorization period would entail would have further adverse effects on State and local efforts. The nature of individual projects would change drastically from the innovative efforts leading to permanent beneficial effects which the Congress expects to projects which merely support normal operational expenses. Jurisdictions would be hesitant to make a commitment to many significant undertakings or to hire new personnel because of the possibility of abrupt loss of support.
>
> Short-term programs would also encourage the purchase of equipment by localities, since a tangible benefit lasting for some time would be guaranteed. Equipment purchases would also be attractive, since they require no follow-up planning or evaluation.
>
> There could also be a chilling effect on the raising of matching funds by localities. Local officials may not wish to make a substantial investment in a program which would possibly remain in existence for a brief period, or which might be drastically changed in nature.
>
> One particularly striking example of the negative results which might occur because of a limited re-authorization is in the area of LEAA's corrections effort. The objective of LEAA's corrections program is to develop and utilize hypotheses concerning techniques, methods, and programs for more effective correctional systems and improved capabilities of corrections, with special attention to offender rehabilitation and diversion of drug abuse offenders. Developing and demonstrating innovative, system-oriented programs and monitoring and evaluating the outcome of such efforts require substantial time, effort, and funding commitments. A short time period such as two years would be an unrealistic time frame in which to try to accomplish such objectives.
>
> Numerous States are now developing correctional and court master plans with LEAA encouragement and support. It has been demonstrated that the planning, development, and implementation of the process exceeds two years. We cannot expect that States, particularly those which are only beginning the process, would commit resources to these major efforts without assured LEAA technical and financial assistance.
>
> Other major corrections program efforts, such as the Comprehensive Offender Program Effort (COPE), which is now in the initial funding stages, could not have been developed and come to fruition if such a two year limitation were imposed when COPE was first conceived as an inter-agency Federal effort. Furthermore, participating States would not consider a major allocation of resources to develop COPE plans if there were no authority to continue the LEAA program beyond two years.

Second, a shorter period of authorization than 5 years would interfere with effective implementation of new programs and responsibilities imposed on LEAA and the States by this legislation. This measure, for example, contains new evaluation and monitoring responsibilities at all levels of the system. It makes provision for new judicial planning committees and increased participation of the courts. It incorporates effective provisions for local government planning. New provisions give added emphasis to court congestion and high crime areas. All of these changes need time and stability—not only for orderly economical implementation, but for accumulation of data and information as a basis for evaluation.

Finally, one of the objections to a long period of authorization is that it would detract from Congress' review and oversight responsibilities. On the contrary, it facilitates such responsibilities by providing a meaningful period of time to evaluate. Moreover, Congress may conduct oversight activities at any time. The 5-year period would indeed provide the opportunity for detailed review unhurried by budget deadlines. These considerations lead to the conclusion that a 5-year authorization is both reasonable and responsible.

Mr. President, I hope that after due deliberation this body will approve the bill as reported, and that it will be expeditiously processed through the other body and become law, so that this very worthwhile program may be continued.

Mr. President, I yield back the remainder of my time.

EXHIBIT A

CRIMES OF VIOLENCE: 1969–1974

PERCENT CHANGE OVER 1969

Limited to murder, forcible rape, robbery and aggravated assault.

1969	0
1970	10
1971	20
1972	23
1973	32
1974	47

Violent crime up 47%.

Rate up 40%.

EXHIBIT B

CRIME AND POPULATION: 1969–1974

PERCENT CHANGE OVER 1969

Crime = Crime index offenses.

Crime rate = Number of offenses per 100,000 inhabitants.

1969	0
1970	8
1971	12
1972	8
1973	12
1974	32

Crime up 38%.

Crime rate up 32%.

Population up 5%.

EXHIBIT C

CRIMES AGAINST PROPERTY: 1969–1974

PERCENT CHANGE OVER 1969

Limited to burglary, larceny-theft and motor vehicle theft.

1969	0
1970	8
1971	12
1972	7
1973	12
1974	31

Property crime, up 37%.

Rate, up 31%.

EXHIBIT D

CRIME CLOCKS: 1974

Serious crimes 19 each minute.

Violent crimes murder, forcible rape, robbery or assault to kill one every 33 seconds.

Murder one every 26 minutes.

Forcible rape one every 10 minutes.

Aggravated assault one every 70 seconds.

Robbery one every 71 seconds.

Burglary one every 10 seconds.

Larceny-theft one every 6 seconds.

Motor vehicle theft one every 32 seconds.

EXHIBIT E

CONGRESSIONAL RESEARCH SERVICE

V. FUNDS AUTHORIZED, REQUESTED, AND APPROPRIATED FOR LEAA, FISCAL YEARS 1968–76

[In thousands of dollars]

Fiscal year	Authorization [1]	Budget request [2]	Appropriation
1968	100, 111	------	------
1969	100, 111	98, 600	63, 000
1970	300, 000	296, 507	208, 119
1971 [3]	650, 000	532, 200	529, 000
1972	1, 159, 000	698, 400	698, 919
1973 [4]	1, 175, 000	855, 000	855, 597
1974	1, 000, 000	991, 125	870, 675
1975 [5]	1, 000, 000	886, 400	895, 000
1976	1, 250, 000	769, 784	809, 638

[1] Authorizations for fiscal years 1968–70 are found in Public Law 90–351, sec. 520 (82 Stat. 208); for fiscal years 1971–73 in Public Law 91–644, sec. 7(8) (84 Stat. 1838); and for fiscal years 1974–76 in Public Law 93–83, sec. 2, amending sec. 520 (87 Stat. 214).

[2] The 1969 budget request was made by the Johnson administration; no budget request was made for fiscal year 1968 because the enabling legislation was not enacted until June 19, 1968. Subsequent budget requests have been made by the Nixon (1970–75) and Ford (1976) administrations.

[3] The inital fiscal year 1971 budget request and appropriation was $480,000,000. After passage of the 1971 LEAA amendments, an additional $52,200,000 was requested, and $49,000,000 was appropriated in a supplemental appropriations act.

[4] The initial fiscal year 1973 appropriation was $350,597,000. Subsequently, the administration requested and received a supplemental appropriation of $5,000,000.

[5] The initial fiscal year 1975 appropriation was $880,000; an additional $15,000,000 was appropriated in a supplemental appropriation act, "to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974, to remain available until Aug. 31, 1975" (Public Law 94–32).

EXHIBIT F

The appropriations broken down by type of expenditure are as follows:

VI. LEAA APPROPRIATIONS HISTORY, FISCAL YEARS 1969-76

[In thousands of dollars]

	1969 actual	1970 actual	1971 actual	1972 actual	1973 actual	1974 actual	1975 actual	1976 estimated
Pt. B—Planning grants	19,000	21,000	26,000	35,000	50,000	50,000	55,000	60,000
Pt. C—Block grants	24,650	182,750	340,000	413,695	480,250	480,250	480,000	405,412
Pt. C—Discretionary grants	4,350	32,000	70,000	73,005	88,750	88,750	84,000	71,544
Total, pt. C	29,000	214,750	410,000	486,700	569,000	569,000	564,000	476,956
Pt. E—Block grants			25,000	48,750	56,500	56,500	56,500	47,739
Pt. E—Discretionary grants			22,500	48,750	56,500	56,500	56,500	47,739
Total pt. E			47,500	97,500	113,000	113,000	113,000	95,478
Technical assistance		1,200	4,000	6,000	10,000	12,000	14,000	13,000
Research, evaluation and technology transfer	3,000	7,500	7,500	21,000	31,598	40,098	42,500	32.400
LEEP	6,500	18,000	21,250	29,000	40,000	40,000	40,000	40,000
Educational development			250	1,000	2,000	2,000	1,500	500
Internships			500		500	500	500	250
Sec. 402 training			500	1,000	2,250	2,250	2,250	2,250
Sec. 407 training					250	250	250	250
Total, education and training	6,500	18,000	22,500	31,000	45,000	45,000	44,500	43,250
Data systems and statistical assistance		1,000	4,000	9,700	21,200	24,000	26,000	25,622
Juvenile Justice and Delinquency Prevention Act (title II)							[1] 15,000	39,300
Management and operations	2,500	4,487	7,454	11,823	15,568	17,428	21,000	23,632
Departmental pay costs					14,200			
Total—Obligational authority	60,000	267,937	528,954	698,723	841,723	870,526	[2] 895,000	809,638
Transferred to other agencies	3,000	182	46	196	14,431	149		
Total appropriated	63,000	268,119	529,000	698,919	855,597	870,675	895,000	809,638

[1] An additional $10,000,000 previously appropriated for LEAA was reappropriated, to remain available until Dec. 31, 1975, to carry out title II of the Juvenile Justice and Delinquency Prevention Act.

[2] Does not reflect the $7,829,000 transferred to other Justice Department Agencies.

EXHIBIT G

The following table indicates the amount of funds made available to each State since 1968 under the Law Enforcement Assistance Administration program:

VII. PARTS B, C, AND E ALLOCATIONS AND AWARDS BY FISCAL YEAR AS OF DEC. 31, 1974

[Amount in thousands; fiscal years]

State	1969-71	1972	1973	1974	1975(½)	Total
Alabama	$12,859	$11,165	$11,175	$10,197	$10,186	$55,582
Alaska	2,451	1,489	2,084	2,321	1,174	9,519
Arizona	8,890	5,474	6,941	7,961	7,567	36,833
Arkansas	7,845	5,098	7,592	9,215	5,959	35,709
California	72,368	60,447	64,390	64,260	57,198	318,663
Colorado	9,183	9,775	15,991	8,655	12,697	56,301
Connecticut	10,950	8,220	9,681	9,510	8,731	47,142
Delaware	3,279	2,316	2,139	2,205	1,770	11,709
Florida	26,574	19,864	21,287	19,831	22,492	110,048
Georgia	16,379	15,147	18,323	19,794	16,349	85,992
Hawaii	3,331	2,630	3,544	6,974	2,443	18,922
Idaho	4,016	2,632	2,733	2,590	2,275	14,246
Illinois	38,729	28,826	35,849	38,512	33,036	174,952
Indiana	17,996	13,258	15,223	15,623	15,516	77,616
Iowa	9,285	7,158	8,589	8,795	8,634	42,461
Kansas	8,539	5,793	6,597	6,899	6,614	34,442
Kentucky	13,052	8,518	11,927	9,693	11,733	54,923
Louisiana	13,940	13,282	14,962	14,771	11,818	68,774
Maine	4,427	2,672	3,454	3,571	3,020	17,144
Maryland	14,316	14,588	12,380	11,764	15,452	68,500
Massachusetts	21,879	15,317	20,247	19,111	16,246	92,800
Michigan	32,504	23,809	30,519	25,757	26,707	139,206
Minnesota	14,053	10,822	11,125	13,140	11,255	60,395
Mississippi	8,002	6,915	8,664	6,861	6,743	37,185
Missouri	17,402	15,758	22,410	21,687	17,960	95,217
Montana	3,571	2,169	2,944	3,025	2,168	13,927
Nebraska	5,840	4,311	6,772	4,802	4,400	26,125
Nevada	3,220	1,770	2,931	3,317	1,799	13,037
New Hampshire	3,401	2,425	3,152	2,840	2,327	14,145
New Jersey	24,985	22,155	26,435	24,332	25,468	123,375
New Mexico	4,422	3,524	3,462	5,257	3,616	20,281
New York	59,800	53,310	60,823	55,205	57,015	286,153
North Carolina	17,591	13,427	15,529	15,026	14,878	76,451
North Dakota	3,136	1,810	2,534	2,578	1,943	12,001
Ohio	36,827	33,432	39,760	39,409	30,934	180,362
Oklahoma	9,474	6,951	8,264	10,012	7,558	42,259
Oregon	7,550	7,734	10,361	16,582	7,376	49,503
Pennsylvania	40,985	31,998	35,557	34,509	35,761	178,810
Rhode Island	4,200	2,946	3,234	3,037	2,935	16,352
South Carolina	10,371	8,491	9,954	8,789	7,707	45,312
South Dakota	2,888	1,963	2,879	3,525	2,170	13,425
Tennessee	13,267	10,378	11,361	11,414	11,392	57,812
Texas	38,415	33,846	36,553	42,123	35,015	185,952
Utah	4,252	2,904	3,823	4,085	3,722	18,786
Vermont	2,244	1,367	1,816	2,132	1,465	9,024
Virginia	16,146	12,572	14,508	13,923	13,800	70,949
Washington	11,637	9,170	10,848	10,608	9,612	51,875
West Virginia	7,023	5,219	5,738	5,072	5,134	28,186
Wisconsin	15,654	11,069	12,761	13,605	14,226	67,315
Wyoming	2,074	1,227	1,754	2,143	1,387	8,585
District of Columbia	10,533	6,228	5,547	4,796	4,004	31,108
American Samoa	452	249	388	363	274	1,726
Guam	878	473	599	599	430	2,979
Puerto Rico	8,969	6,711	7,777	8,377	7,871	39,705
Virgin Islands	1,239	924	589	624	598	3,974
Total	763,192	611,727	716,529	711,806	650,610	3,453,865

Mr. HRUSKA. Mr. President, I rise in favor of the pending measure, S. 2212, and in support of the remarks of the distinguished chairman of the Subcommittee on Criminal Laws and Procedures. His untiring efforts on behalf of not only this bill, but other legislative measures to reduce and control crime, are genuinely appreciated by this Senator and I am sure by the majority of my colleagues.

Mr. President, the Law Enforcement Assistance Administration was established by Congress in 1968 with the strong assurances that the Federal Government was not assuming from States and localities the responsibility for law enforcement.

Under the Constitution, police powers are clearly the responsibility of the States. The Omnibus Crime Control and Safe Streets Act of 1968 recognized this fact without reservation or qualification. In passing that legislation the Congress declared:

> Congress finds . . . that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

With the approval of this legislation the first major funding role for the Federal Government in the area of law enforcement and criminal justice was created. It was in response to public and private commissions and congressional testimony that new funds, new ideas, and new thinking were provided in this vital area of national concern. It also established a new mechanism to provide Federal assistance to State and local governments—the block grant.

The block grant approach was significant. In comparison to categorical grant programs where control is retained at the Federal level, the block grant centers power for decisionmaking and the setting of spending priorities at the State and local level.

Because of the requirement for a comprehensive plan to be developed by the State criminal justice planning agency, a mechanism for involving State and local agencies and private groups into the funding and decisionmaking process was created.

NOT A RESPONSE TO CRIME PROBLEM IN AMERICA

The bill, S. 2212, authorizing the extension of the LEAA program for 5 years should not be viewed as the Federal Government's direct response to the rising crime problem in America. Certainly, LEAA programs can help the State and local law enforcement authorities in many ways, but the key to cutting our crime rate still rests in bulk with the effectiveness of these officials. LEAA funds still amount to only 5 percent of the total outlay of Federal, State and local money for law enforcement activities. LEAA can contribute to finding solutions to our crime problems, but its programs are not ends in themselves.

It should be well and firmly noted that LEAA has no direct role or control of State and local law enforcement activities; nor any dominance or undue influence. Any effort in such direction could well be construed as favoring the concept of a national police force—and therefore reprehensible.

LEAA PROGRAM SUPPORTED BY THOSE IN THE "FRONT LINE"

Mr. President, since its inception, the Law Enforcement Assistance Administration has made many notable contributions to the efforts of this Nation to deal with the crime problem. By any reasonable measure, the LEAA program has been a success. Evidence for this comes from all over the country and from the witnesses who appeared before committees of this Congress.

Recently, self-appointed critics and ad hoc committees have voiced concerns with the LEAA program. They say that LEAA has not reduced crime despite the expenditure of substantial funds over the last 7 years and should be abolished or renewed for only 1 year. These people have made the mistake of attributing to LEAA powers which it does not have and responsibilities it cannot assume.

It may well be asked Mr. President, to whom are we going to listen? I believe we should listen to the people who deal with the crime problem on a day-to-day basis; the law enforcement officers and local officials who see face to face the crime problem and the victims of crime. It is fine for us in the Senate to wring our hands over the crime problem. But out there on the firing line, out there where crime in the streets is more than a rhetorical statement, the LEAA funds have met a vital need of our cities and States.

Every Federal program created by Congress and which spends millions of dollars annually is subject to criticism from some quarter. Generally, it is the theoreticians and academics who, though well intended, find fault with the stated goals of a program and its actual results.

Although such criticism is healthy and, indeed, in some cases welcome, when it comes down to the hard decision whether to kill a program or continue it, it is the opinion of this Senator that one must listen first and foremost to the people most directly responsible for the day-to-day operation of the program. A commander preparing for battle is more likely to receive sound advice from his officers in the field than from theoreticians far removed from the conflict.

Mr. President, the committee in considering this bill and in formulating it listened to well over 100 witnesses. They came from all aspects and all sources of law enforcement, and they are many.

There have resulted from this testimony and from the experience of the last 3 years some amendments to the present law. They are proposed in the bill which is before us. We will consider them, and others that will be proposed.

These amendments are of some variety, but they are all calculated to adjust programs which have been in operation for some time and upon which experience has been gained.

We believe that the amendments incorporated in the bill are very wholesome and are designed to improve a very sound and developing program.

There is only one aspect that I shall comment on here, and that is the duration of the program.

There are arguments all the way from a reauthorization for 1 year to 5 years. The bill provides for a 5-year extension, and my own belief is that it should stay at 5 years.

We heard testimony again and again, not only on this program, but also on others that when this type of approach is used without some assured time period in which to formulate State and local budgets, the program suffers from a lack of continuity, it suffers from unwise and disadvantageous planning and expenditure of funds.

The program has proved itself and it should be authorized for 5 years so that the State and local authorities can proceed with their criminal justice and law enforcement planning accordingly.

Many criminal justice practitioners have responded to recent criticisms of LEAA and rallied to its defense. In an article that appeared in the Omaha World-Herald, Chief Richard Andersen of the Omaha Police Department, a nationally recognized expert on law enforcement, said that the city of Omaha received $1.7 million from LEAA and "it has not gone to waste here," Chief Andersen said the LEAA money has been used to build the police department laboratory and it has been used for more extensive training that the Omaha Department could not have otherwise afforded.

In another article which appeared in the Wichita Kansas Eagle, James Williams, president of the Kansas Peace Officers Association, said that the LEAA program has been very effective and crime probably would be higher had it not been for LEAA funding to Kansas law enforcement agencies. Agent Williams said that LEAA has provided funds for manpower and equipment, enabling law enforcement authorities to make more and better arrests.

I could go and on, Mr. President. Criminal justice practitioners in Topeka, Kans.; Houston, Tex.; Baltimore, Md.; Denver, Colo.; Rochester, N.Y., and New Orleans, La. have spoken out in support of LEAA. They say LEAA funds have been helpful in fighting the war on crime. They say the crime rate would be worse if LEAA funds had not been available. They even say it would be disastrous if LEAA were not continued by the Congress.

On May 18, 1976, Lawrence E. Walsh, president of the American Bar Association, appeared before the Senate Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary and stated that criticisms of the LEAA program often result in our ignoring its successes. He cited numerous programs with which LEAA funds have enabled the ABA to undertake numerous worthwhile programs in the public interest. These included programs for educating judges, programs to establish a network of volunteer attorneys to assist prison parolees to be reintegrated successfully into society, the development of a model procurement code for State and local governments, and a program to educate elementary and secondary school students about the operation of our laws and our justice system so they will have a better appreciation of our laws.

At the same appropriations hearings, Anthony Travisono of the American Correctional Association called LEAA one of the most vital agencies within the Department of Justice. Mr. Travisono stated:

> It is the fond hope of the Association and its membership that the LEAA will continue to receive strong support and encouragement from the Congress. The agency is new. The agency is in the midst of a journey, the end of which is not clearly in sight. But if our country's history contains any lessons truly learned, one such lesson is that resolve, perseverance, and dedication to the task at hand are both uncompromising and unequivocal demands in the solution of national problems.

Ralph Tabor representing the National Association of Counties in these appropriations hearings said that the LEAA program is of vital importance to the Nation's counties. Mr. Tabor said:

> The LEAA program is a vital source of funds for improvement of the criminal justice system at the county level. It funds not only innovative programs, but a regional and local criminal justice planning system never before available

COURT PROGRAMS

The Subcommittee on Criminal Laws and Procedures received testimony from numerous representatives of the State and local court systems in the country. These witnesses called for amendments to the LEAA Act to assure effective participation of the court systems in several States in the LEAA program. The committee was sensitive to this criticism and recognized that some changes in the structure of the LEAA program were necessary to insure adequate court funding. The amendments, approved by the committee, incorporate many of the concepts proposed by Senator KENNEDY in S. 3043. These amendments preserve the integrity of the current State comprehensive planning process and recognize the need for the SPA to have the final authority over the contents of the comprehensive plan for all aspects of law enforcement and criminal justice in the State.

S. 2212, as reported by the committee, specifies that the supervisory board of each SPA include, as a minimum, three court representatives. One from the highest court of the State, one from the Court Administrators Office and one from a local trial court. The bill also specifies that the Administrator have authority to require a State to include additional judicial members on the supervisory board of the SPA to provide adequate court representatives on the board.

S. 2212 also responds to the needs of the court system by authorizing the establishment of a judicial planning committee—JPC—in each State. Each JPC can be established by the court of last resort of each State and the members of the committee reasonably representing all of the courts of the State and correctional jurisdictions. The JPC is authorized to establish priorities for the improvement of the courts of the State, to develop programs and projects for court improvement in the State and to prepare an annual court plan for the expenditure of LEAA funds awarded by the SPA for use by the courts.

The committee considered and decided not to adopt a proposal that would have given the court plan prima facie validity. Instead, the committee specified that approval of the annual State judicial plan is vested in the SPA. The committee also considered proposals to specify that one-third of all Federal funds distributed to a State by LEAA be earmarked for exclusive use of the courts. Instead, the committee specified that each State should assure that an adequate share of funds be set aside for court programs and require LEAA to carefully review each court plan to assure that courts receive an adequate share of funds.

It is significant that many of the recommendations contained in the committee bills parallel many of the recommendations made in the report of the special study team on law enforcement in State courts. This report was commissioned by LEAA and was prepared by Dean F. X. Irving of Seton Hall Law School, Judge Henry Pennington of Kentucky, and Dr. Peter Haynes. The amendments for courts contained in S. 2212 are consistent with the position on this report taken by the National Conference of State Criminal Justice Planning Administrators.

I anticipate that there will be strong support for these amendments and that substantial benefit and improvements will occur in the next 5 years as a result of these amendments.

AUTHORITY OF THE ATTORNEY GENERAL OVER LEAA

Since its inception, LEAA has operated under the general authority of the Attorney General. In creating LEAA, the Congress intended to assure that LEAA would be independent of the Attorney General in its day-to-day operations. The purpose was to assure that the State and local nature of the program would not be overshadowed by Department of Justice programs. Amendments have been made to S. 2212 to clearly define in the statute the actual relationship between the Attorney General and the Administrator of LEAA. The amendments make no substantive change to the LEAA legislation.

PARTICIPATION BY THE LEGISLATURES IN THE LEAA PROGRAM

The committee heard testimony from representatives of State legislature during the hearings on the LEAA authorization bill. The legislators called on Congress to provide a more specific role for State legislatures in the operation of the LEAA program.

Some legislative involvement in the program was assured by amendments in 1971 and 1973 which required the legislatures to appropriate funds to match the LEAA funds provided to the State. The committee felt that additional legislative participation could be assured without infringing on the proper jurisdiction of the chief executive of the LEAA program in each State.

The committee included amendments to the LEAA Act to provide the State planning agencies must be designated by State law through an act of the legislature. In addition, the act would be amended to require that the general goals, priorities, and policy that form the basis of the comprehensive plan prepared under the LEAA program be submitted to the legislature for its approval, disapproval, or suggested amendments. These amendments are written to specify that the action of the legislature is not binding on the Governor but serves instead as a means by which the legislature can express its approval or disapproval of the basis upon which the plan is prepared and assure that its views are given consideration by the State planning agency.

LOCAL GOVERNMENT PLANS

Mr. President, the Advisory Commission on Intergovernmental Relations also recently studied the LEAA program. The ACIR study thoroughly examined many of the issues relevant to the operation of the LEAA block grant program. It sent survey questionnaires to each of the 50 States and did an intensive evaluation of 10 States.

The ACIR endorsed the LEAA program and recommended that it be continued by the Congress with certain changes. One of the most significant changes, recommended by the ACIR and adopted by the Senate Judiciary Committee, requires the States to establish procedures under which plans may be submitted to the State planning agency by units of local government. The committee agreed with ACIR that it would be inappropriate and inconsistent with the operation of the LEAA program to establish a separate program of block grants to cities and counties in the State.

The committee agreed with ACIR, however, that there was a need to reduce the time spent by States and units of local government on grant administration to provide more time and funding for criminal justice system improvement.

The committee amendment requires establishment of procedures whereby a comprehensive plan and groupings of applications can be submitted by a unit of local government in the State to the State planning agency. These then would be approved in whole or in part by the State planning agency and approval of the plans and the parts will result in the award of funds to units of local government to implement the approved parts of the plan. Such action must assure that all of the statutory conditions and requirements of the act are met. Procedures to be established must address such questions as matching funds, buy-in, the one-third personnel limitation, the 90-day application approval or denial procedure. The committee report details how these procedures could operate.

In my view, this amendment could go a long way toward eliminating redtape and the need for duplicative applications and procedures which now exist in some States.

5-YEAR REAUTHORIZATION

One of the most significant features of this bill is a provision to authorize the LEAA program for a period of 5 years. It was the view of the committee that such a 5-year reauthorization could best serve to promote the purposes of the Congress in enacting the Safe Streets Act and in adopting the amendments suggested by the committee.

The subcommittee received testimony and statements from more than 100 witnesses including public officials and representatives of the private sector. Testimony was presented by the Attorney General, Members of Congress, State legislators, and the Advisory Commission on Intergovernmental Relations. The subcommittee also received testimony from a number of criminal justice practitioners representing law enforcement, courts, corrections, and juvenile justice. Virtually all of these witnesses called for the re-enactment of the LEAA program while making constructive suggestions for changes in the program. These changes have in many respects been included in the legislation under consideration today.

The comprehensive planning process carried out by each State is a central feature of the LEAA program. Each State is required to undertake a total and integrated analysis of its problems regarding law enforcement and criminal justice and to establish goals, priorities, and standards for the improvement of criminal justice efforts. Every State in the Nation has established goals and standards for criminal justice improvements. The vast majority of these States have received LEAA funds for establishing these goals and standards, utilizing the works of such groups as the National Advisory Commission on Criminal Justice Standards and Goals.

An abbreviated LEAA program would render meaningless such standards and goals. There would be no incentive for the States to find the long-range solutions that are necessary to improve the criminal justice system.

A short-term reauthorization also could have a negative effect on evaluation. Meaningful evaluation of complex criminal justice programs cannot be completed within 1 year or even 2 or 3 years. There are many factors which impact on crime and it is often difficult to identify those projects which have an effect on crime. For example, projects relating to recidivism, one of the most critical problems facing the criminal justice system, require several years to design, implement, and evaluate. LEAA has many such efforts underway now and anticipates initiating many more. These efforts would have to be abandoned or curtailed in face of a short-term reauthorization.

In considering the period of reauthorization for LEAA, the committee paid serious attention to the Congressional Budget and Impoundment Control Act. That act, as we all know, has as one of its primary objectives the development of long-term programs. The extension of the LEAA program for 5 years would be consistent with this act.

CONCLUSION

Mr. President, the LEAA program is ambitious. It deals with one of the most serious problems facing this country.

The measure before us will enable LEAA to significantly improve its performance and will lead over the next 5 years to many improvements in the criminal justice system. It will help add to the successes of the LEAA program and be of substantial benefit to the people in this country. I urge the swift passage of S. 2212.

Mr. PASTORE. Mr. President, will the Senator yield to me?

Mr. HRUSKA. I am happy to yield.

Mr. PASTORE. I congratulate the Senator from Nebraska for the very thoughtful statement that he just made.

As he well knows, I am chairman of the Subcommittee of the Committee on Appropriations that is responsible, in large measure, for the funds that are allocated to LEAA, and he is the ranking Republican on that particular subcommittee.

I associate myself with everything that the distinguished Senator has said. I think it is pure nonsense to argue the fact that we still have crime and for that reason we ought to do away with LEAA.

No one here can prophesy, nor can they in any way indicate how much more serious it would be if we did not have this program.

As a matter of fact, this is not a national police force. It has helped considerably, and if we take this help away from the law enforcing agencies of this country no one knows how much more serious the present critical situation will become.

Naturally, we have been very careful where we put the money and how much money we put, and we have always been very careful about that. But I reiterate what the Senator from Nebraska has said. We have had a parade of witnesses come before our committee, and it is true that some people have said, "Well, you don't need this program because we haven't reduced crime."

We can certainly argue that if we did remove this program the situation would become even more critical than it is today.

Street crime is a scourge of the present day. I know that our police departments are frustrated. I know that they are working hard. I know that we are developing all the techniques and technology to scientifically detect crime and culprits. But the fact still remains that we have a juvenile delinquency situation in this country today and our committee agreed in conference on $75 million, and that is money for prevention of crime, and I am telling the Senator that once we take a young person and put him in jail or put him in a reformatory it is going to cost us five times more than the money that we will spend to make sure that some of these youngsters do not get into trouble.

I am hopeful that the Senate will pass this bill.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. McCLELLAN. The Senator speaks of the continuing need for this program and the allegations that have been made that it has done no good, that crime has continued to increase, and therefore that the program has failed. If we apply the same argument, the same logic, we would do away with courts and law enforcement officers. We would do away with everything.

Mr. PASTORE. We have a lot of faults around here, too.

Mr. McCLELLAN. The fact is that the law enforcement assistance program has helped. As the Senator points out, we do not know how much more serious the situation would be today if we had not had the program for 8 years.

I thank the Senator for yielding.

Mr. HRUSKA. Mr. President, will the Senator yield briefly for a unanimous-consent request?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. Mr. President, on behalf of the senior Senator from Illinois, I ask unanimous consent that during the proceedings and votes on the pending bill, Robert Sloan, Stewart Statler, and Dan Levine of the Committee on Government Operations and Bill Coates of the Judiciary Committee be accorded the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 225

Mr. McCLELLAN. Mr. President, I have three technical or perfecting amendments which I send to the desk.

The PRESIDING OFFICER. Without objection, they will be considered en bloc.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. McClellan) proposes certain technical amendments numbered unprinted amendment 225.

The amendments are as follows:

On page 25, delete lines 7 through 18 and insert in lieu thereof the following:

"Sec. 408. (a) The Administration is authorized to make high crime impact and serious court congestion grants to State planning agencies, units of general local government, or combinations of such units. Such grants are to be used to provide impact funding to areas which are identified by the Administration as high crime or serious court congestion areas having a special and urgent need for Federal financial assistance. Such grants are to be used to support programs and projects which will improve the law enforcement and criminal justice system or the capability of the courts to eliminate congestion and backlog of criminal matters.

"(b) Any application for a grant under this section shall be consistent with the approved comprehensive State plan or an approved revision thereof."

On page 34, strike out line 15 and insert in lieu thereof "units.

"(r) The term 'evaluation' means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this title.".

On page 9, line 19, delete the word "These" and insert in lieu thereof the following: "The local trial court judicial officer and, if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other".

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

AMENDMENTS NOS. 2049, 2050, AND 2051

Mr. HATHAWAY. Mr. President, I call up three printed amendments, Nos. 2049, 2050, and 2051, and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments are as follows:

On page 16, line 22, strike out the quotation marks, the semicolon, and the word "and" and insert in lieu thereof:

"(13) the development of programs to identify the special needs of drug-dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers) and the establishment of procedures for effective coordination between State planning agencies and single State agencies designated under section 409(e)(1) of the Drug Abue Office and Treatment Act of 1972 and section 303(a) of the Comprehensive Alcohol Abuse and Alocoholism Prevention, Treatment and Rehabilitation Act of 1970."; and

On page 24, line 26, strike out "and" and insert the following new subsection (b):

"(b) deleting 'and' at the end of paragraph (7) of subsection (b); changing the period to a semicolon at the end of paragraph (8) of subsection (b) and inserting 'and' thereafter; and adding the following new paragraph to that subsection:

"'(9) to conduct studies and undertake programs of research, in consultation with the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, to determine the relationship between drug abuse and crime, and between alcohol abuse and crime; to evaluate the success of the various types of treatment programs in reducing crime; and to report its findings to the President, the Congress, the State planning agencies, and units of general local government."; and".

On page 25, line 1, strike "(b)" and insert in lieu thereof "(c)"

On page 32, line 2, strike out "and".

On page 32, line 5, strike out both periods and the quotation marks and insert in lieu thereof "; and

"'(k) a description of the Administration's compliance with the requirements of section 454 of this title.'".

Mr. HATHAWAY. Mr. President, since the amendments are closely related to one another, and are almost identical to amendments sponsored by Chairman RODINO when this bill was considered in the House, I have asked that they be considered together as a single amendment.

At the suggestion of the distinguished floor manager of the bill, Senator MCCLELLAN, I have agreed to make certain modifications in my amendments. For that reason, these three amendments should be considered substitutes for the amendments numbered 2038 through 2040, which I submitted earlier this week.

All three of my amendments concern the need for a heightened Federal awareness and commitment to determining the relationship between drug abuse and crime, and between alcohol abuse and crime, and to designing and implementing criminal justice programs that recognize that relationship.

My first amendment, as modified, authorizes the States to use LEAA money to develop programs to identify the special needs of drug and alcohol dependent offenders, and to coordinate such efforts with the State drug abuse and alcoholism treatment agencies.

My second amendment authorizes the National Institute on Law Enforcement and Criminal Justice to conduct studies and undertake programs of research, to determine the relationship between drug abuse and crime, and between alcohol abuse and crime.

The third amendment requires the LEAA to report to Congress and the President on its compliance with the provision in the current law requiring the issuance of guidelines for drug abuse treatment programs in correctional institutions, and for persons on parole.

The major difference between my original amendments and the modified versions is that my amendments would have made the State programs and the NILE-CJ research program mandatory, whereas the modification is permissive, in keeping with the overall desire in this bill to avoid overly categorizing LEAA programs. Since I believe that goal is a good one, and in keeping with the need to simplify the LEAA bureaucracy, I have agreed to the changes and hope the amendments, as so modified, will be accepted.

Mr. President, all three of these amendments correspond closely to amendments offered by House Judiciary Committee Chairman PETER RODINO to H.R. 13636. The only differences, in fact, concern a slightly increased emphasis in my amendments on the relationship between alcohol abuse and crime.

The combination of these amendments will serve to promote the study and the dissemination of information regarding the relationship of crime to alcohol and drug abuse. There is, at the present time, some argument as to the precise nature of the relationship between drug and alcohol abuse and various crimes and a vacuum of hard data on the nature of these relationships. Studies utilizing the experience and expertise of the National Institute of Law Enforcement and Criminal Justice, with the unique health and welfare perspectives of NIAAA and NIDA, may uncover hitherto unsuspected or unsubstantiated relationships between substance abuse and street crime and ways of preventing or diminishing the scope of criminal activity.

The Subcommittee on Alcoholism and Narcotics, of which I am chairman, concluded in its report on the Drug Abuse Office and Treatment Act Amendments of 1975 that the drug abuse epidemic had not abated. Rather, we discovered that heroin addiction had spread from major metropolitan areas to smaller and geographically more remote communities. Moreover, the supply situation had undergone a marked change, with increases in the supply of Mexican grown heroin, continued traffic in heroin from the Golden Triangle region of Southeast Asia, and the resumption of opium production by the Government of Turkey.

Add to these developments the paucity of information and reliable data on the relationship of polydrug abuse and alcohol abuse to crime, and it becomes incumbent on the treatment and criminal justice systems to consider matters of common interest.

Federal and State efforts, legislatively and administratively, have been undertaken and have attempted to shift community response and resources from incarceration to a community care approach to drug abuse and alcoholism. This is particularly noteworthy in the States that have decriminalized public intoxication, freeing law enforcement, court, and correctional resources to deal with serious crime. But a relatively small portion of LEAA's resources have been focused on the vast number of criminal offenders whose crimes can be associated with alcohol and other drug abuse.

It is hoped that these amendments will serve both to raise questions and to elicit answers on the local, State, and Federal level regarding this poorly understood relationship between crime and the abuse of drugs and alcohol. These provisions can lead to the fulfillment of the mandate of this act by improving the operation of the law enforcement and criminal justice system and the reduction of crime.

As I noted earlier, Mr. President, these amendments were offered in the House by Chairman RODINO, and accepted by the Committee on the Judiciary of that body. The House committee report points to information that this country is experiencing a new epidemic of drug abuse and can be expected to experience a significant increase in drug related crime. The committee report goes on to state:

> In the White Paper on Drug Abuse prepared by the Domestic Council and in the President's recent message to Congress, it was estimated that the direct cost of drug abuse to the nation ranges between $10 billion and $17 billion a year and law enforcement officials have estimated that up to 50 percent of all property crimes are committed by addicts to support their expensive habits.

Add to this the significance of the finding that alcohol is associated with 64 percent of all murders, 41 percent of all assaults, 34 percent of all forcible rapes, and 29 percent of all other sex crimes, and the magnitude of the relationship between substance abuse and crime becomes apparent. While we cannot assume a strict casual relationship, the association between drugs and alcohol abuse and crime indicates these substances may facilitate behavior which may result in violence to persons and property.

At the present time, the House committee report states:

> There is only sporadic coordination between the State Planning Agencies . . . and the Single State Agencies.

These amendments are thus designed to mandate procedures for the joint effort of State planning agencies and single State agencies in identifying the treatment needs of alcohol and drug abusers, promote research in this area, and insure the wide dissemination of findings.

It is almost 9 years since the President's Commission on Law Enforcement and the Administration of Justice reported that a significant reduction in crime would be possible through an infusion of Federal money to police, courts, and correctional agencies, and through increased operational and basic research into the problems of crime.

I recognize that there has been considerable controversy over the role of the Law Enforcement Assistance Administration since the enactment of laws based on that report. There have been arguments about money wasted on excessive bureaucracy or expensive but useless hardware. There have also been arguments about how much, or how little, crime has actually been reduced as a result of LEAA efforts. But while I believe the LEAA can be faulted in some areas, it is foolish to blame national crime statistics on that agency. And I still believe it should be given a chance to fulfill its original goal of all-around improvement in the criminal justice system. With the reforms in S. 2212, and the assistance of my amendments, I believe it is still possible to accomplish this task.

Mr. McCLELLAN. Mr. President, I examined the original amendments, as did the staff of the subcommittee, and the principal objection to the original amendments was that they were mandatory in character. Since they are now made permissive, I have no objection.

Unless there is objection on the part of Senator HRUSKA, I am willing to accept the amendment.

Mr. HRUSKA. Mr. President, I join the Senator from Arkansas in the thoughts he has expressed.

As I understand it, the purpose of the amendment is to enable the LEAA to include in its jurisdiction and in the scope of the State plan the problems of alcoholism, drug abuse, and their relationship to crime, but it does not mandate anything or make it mandatory that a certain amount of funds for such programs be adopted in those plans. Is my understanding correct?

Mr. HATHAWAY. The Senator is correct.

Mr. HRUSKA. I commend the Senator for his proposal. It deals with a very troublesome and vexatious area. I believe it will be helpful, and I would think that the LEAA authorities and administration would welcome such an amendment. I suggest its approval.

Mr. HATHAWAY. I thank the Senator from Nebraska and the Senator from Arkansas.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Unless the Senator is offering an amendment, he must seek time.

Mr. KENNEDY. Mr. President, will the floor manager yield me 10 minutes?

Mr. McCLELLAN. I yield.

Mr. KENNEDY. I thank the Senator.

Mr. President, I support S. 2212, a bill to reauthorize the Federal Law Enforcement Assistance Administration.

I believe that the legislation we are considering today reflects very clearly the efforts that a number of members of the Committee on the Judiciary have made in recent years. I commend the chairman of the Criminal Law Subcommittee, one of the senior members of the Committee on the Judiciary, for his willingness to examine new and additional suggestions to improve the Law Enforcement Assistance Act and to reconsider some of the older suggestions that have been made over the years. He has held hearings and listened to the various views expressed during the course of the hearings. He has worked very closely with members of the committee in the fashioning of this piece of legislation, and he has my thanks.

It has been a real pleasure, as a member of that committee, to work with the chairman, with his staff, and with the ranking minority member, the Senator from Nebraska.

The measure which is presented to the Senate today is a combination of the different recommendations and suggestions that have been made. The willingness of the chairman and the Senator from Nebraska to consider these various suggestions and proposals that have been put forward by me and other members of the committee is very reassuring, not only to me personally but also to those who are concerned that the LEAA program be an effective tool in the fight against crime in the United States.

This bill incorporates the major reform features of S. 3043, the LEAA reauthorization bill I introduced last February with broad bipartisan support. It is the culmination of a battle many of us have waged for the last 6 years to reform and reorganize one of the more poorly organized agencies of the Federal Government.

S. 2212, like S. 3043, makes sweeping changes in the internal structure and management of LEAA, provides, at long last, detailed congressional oversight and evaluation procedures to improve LEAA's efficiency and impact on crime, and recognizes the need for Federal financial and technical assistance to the neglected stepchild or our criminal justice system—the courts.

The comprehensive reforms suggested in S. 3043 and incorporated today into S. 2212 are designed to meet many of the criticisms leveled at the agency during the past few years. I have long been one of those vocal critics, questioning not the concept of Federal assistance to aid localities in the war on crime, but the nature and administration of that assistance. Since 1968, LEAA has distributed over $5 billion of the American taxpayers' money in order to combat crime, and yet the Nation's soaring crime rate has risen almost 60 percent during that period. Certainly LEAA is not to be held solely responsible for this rise in crime. The war on crime is primarily a local battle and LEAA's role is, by necessity, limited. The issue is not whether LEAA can cure the Nation's crime problem, but whether LEAA can make a more meaningful contribution to the war on crime—I believe it can.

The litany of criticisms leveled at the agency in recent years has been substantial. These criticisms can generally be grouped into three areas: First, improper and insufficient evaluation of programs by LEAA and lack of meaningful congressional oversight; second, poor planning priorities resulting in the neglect of our local criminal courts, the pivotal center of our criminal justice system, plagued today with unconscionable backlogs and trial delays; in this regard, I might add, there are not many States as bad as my own State of Massachusetts. And, third, the failure of LEAA to meet the needs of both our cities and local counties.

S. 2212 attempts to deal comprehensively with all of these criticisms. Like S. 3043 it is not a palliative, but offers comprehensive reforms and gives LEAA an opportunity, long overdue, to contribute in a meaningful way to the local struggle against crime. S. 2212 is designed to assure that the American taxpayer will receive a better return on his investment in the war on crime than on the $5 billion spent so far.

S. 2212 makes the following major changes in the structure and administration of the LEAA program:

First. It makes clear, after 8 years of ambiguity and misinterpretation, that LEAA is a crime fighting vehicle and that the primary purpose of the LEAA program is to prevent and reduce crime and detect, apprehend, and rehabilitate criminals;

Second. It places the Federal program back under the control of the Department of Justice, a step I and others have been urging for years.

Third. It allows State and local judiciaries to establish their own planning committees to plan for the judicial needs of the State. Such independent planning committees are essential if court planning is to succeed. The committees would, however, work closely with the State planning agency in developing a judicial plan consistent with the State's overall comprehensive plan.

Fourth. It authorizes cities, urban counties, or local government units to submit a comprehensive plan to the State planning agency. If approved, a mini-block-grant award would be made to such government units with no further action on specific project applications being required at the State level:

Mr. President, this provision provides the type of comprehensive assistance to our cities which I and others have been trying to incorporate into the LEAA program since 1970. It allows our cities—where crime continues to run rampant—to engage in comprehensive criminal justice planning without being sidetracked by bureaucratic conditions imposed on them by the States.

Fifth. It provides that Federal LEAA funds be directed to areas of the country faced with high crime incidence whether such areas be located in urban or rural sections of the Nation. Thus, not only our cities but our rural areas as well will benefit from this provision.

Sixth. It provides special financial and technical assistance to alleviate court congestion and trial delay. Without relieving our courts of such backlog and congestion, other law enforcement measures aimed at reducing crime—fairer sentencing policies, additional police, prison reform—will be of little value. I have consistently stated in recent months that financial and technical aid to State and local criminal courts is an essential prerequisite for a successful attack on crime. This bill provides the courts with such aid.

Seventh. The statutory prohibition on LEAA grants for personal compensation is modified, allowing LEAA funds to be used by localities to hire more personnel, such as judges, police, and correctional officers in order to carry out innovative programs.

Eighth. Major changes are made for the first time in the evaluation, auditing, and monitoring functions of LEAA. The bill would make LEAA responsible for evaluating and auditing, not only the comprehensive plans submitted for approval, but also the impact of programs already approved in order to determine whether such programs were of any value in reducing and combating crime. A detailed scheme for the proper evaluation and auditing of programs is laid out in the bill.

Ninth. An advisory board, authorized by the Attorney General, is established at the national level to make recommendations as to how the national discretionary funds should be spent.

Tenth. Extensive congressional oversight of LEAA is provided for the first time with LEAA being required to submit an annual report detailing its policies and priorities for reducing crime, its evaluation procedures, the number of State plans approved and disapproved and the number of LEAA programs discontinued.

Eleventh. It authorizes LEAA to establish and implement new programs designed to aid our Nation's elderly citizens in their losing struggle against crime.

Twelfth. This bill provides the various State legislatures with an opportunity to offer suggestions and recommendations to the State planning agencies, to be incorporated into the overall comprehensive plan. Up to now the State legislatures have had no input whatsoever in the LEAA program, seriously undercutting any possibility for a truly integrated State criminal justice plan for combating crime. This would change with the enactment of S. 2212.

Mr. President, this bill, like S. 3043, is a step in the right direction. It makes the fundamental changes necessary if LEAA is to wage a more effective war on crime. It attempts to answer the critics by reconstructing and refining the Federal role in combating crime. It incorporates the structural and administrative changes which, I believe, are essential to insure that particular responsibility.

Mr. President, despite past LEAA failures I do not believe that we should abandon the potential for leadership that the Federal law enforcement assistance program holds. We need LEAA. Our States and cities desperately need the funds that it provides. But they also need more than that.

LEAA was initially developed as a prototype of the block grant or special revenue sharing program. As such, it lacked significantly in both focus and evaluation. No doubt that many Federal dollars were wasted in the course.

But rather than throwing out the good with the bad; rather than sacrificing LEAA's potential for achievement and success on the basis of the past records of poor performance; rather than simply throwing up our hands about the Nation's crime problem and saying—like we do about the weather—while we care, there is not much that we can do, we must reshape and restructure LEAA to fulfill the country's objectives and expectations. LEAA must be reformed now, and S. 2212 goes a long way in achieving that reform.

I want to urge upon my colleagues the enactment of this legislation. I think it is an important piece of legislation. I think that finally, this year, we have had the opportunity to begin a new debate on the subject of crime in America. This bill has developed from that debate.

It is interesting, Mr. President, that the issues which most bother the people in my part of the country are the problems of the economy—jobs and inflation—and the issue of energy, because we are so highly dependent on petroleum products; we pay almost twice the amount for energy that other parts of the Nation pay, other parts which have the benefit of cheaper resources.

But the third most important matter which concerns people in my part of the country is the issue of crime. Nevertheless, despite the fact that here in the Congress we have hearing after hearing on the economy, and despite the fact that great attention is focused on the issue of energy, we have not really had enlightened, forthright debate and discussion on the issue of crime.

I think, to a great extent, this can be traced to the fact that in recent years there were those who thought they could simply talk about "law and order" and "domestic tranquility." They really did not get into the deeper issues of violence and crime. They never were willing to make the hard and difficult effort necessary to attack the growth of crime here in the United States. Talk without action avails us nothing.

Well, Mr. President, today we are finally going beyond that, beyond the superficial slogans, beyond the labels. We are going beyond the stereotypes about who is "hard" and who is "soft" on crime. Hopefully, we can—as this particular legislation reflects—really begin the important discussion and debate about what really is effective in the war on crime and what really works. Crime is a matter which is of enormous concern to all the American people. They have every right to expect their Federal, State and local governments to provide them with the kind of protection which is the first order of Government.

I think that this legislation and the bipartisan nature of the process that resulted in the fashioning and development of it signals for the first time since I have been on the Criminal Law Subcommittee the type of interaction necessary if a successful war on crime is to be waged.

I think this legislation is a strong piece of legislation. It is a tribute to the chairman of the Criminal Laws Subcommittee and to the ranking minority member. The drafting of this legislation offered all of us the opportunity to debate and discuss the war on crime, sifting out the good programs and eliminating the poor ones. The result has been a stronger piece of legislation.

Finally, I would add that in this effort, LEAA and the Department of Justice have been most helpful in working with the Congress.

In particular, Attorney General Levi and Deputy Attorney General Tyler have been most responsive and cooperative. Such cooperation has been the rule, not the exception.

So Mr. President, this is a good piece of legislation. I think, quite frankly, it is the most important effort that we have yet made in attempting to deal candidly and forthrightly with the problem of crime in our society.

Many ask, "How can we fight crime in America?" Mr. President, the answers are available. Once we streamline the administration of criminal justice, once we establish more just sentencing practices, once we provide certain punishment of the offender, and once we succeed in working together to recodify our Federal criminal code—all issues which the Senate will have a chance to deal with during the not too distant future—I think we will really be taking the kind of meaningful steps necessary to attack crime and provide safety and security for all the American people. The time to begin is now.

Mr. McCLELLAN. Mr. President, I do not know if anyone else here has an amendment.

Mr. HRUSKA. I have an amendment.

The PRESIDING OFFICER. The Senator from Nebraska.

UP AMENDMENT NO. 226

Mr. HRUSKA. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. HRUSKA) proposes unprinted amendment numbered 226.

The amendment is as follows:

On page 34, after Section 28, add two new sections as follows:

"SEC. 29. Section 521 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting at the end of the section the following new subsection:

(e) There is hereby established a revolving fund for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt illicit commerce in such goods and property. Notwithstanding any other provisions of law, any income or royalties generated from such projects together with income generated from any sale or use of such goods or property, where such goods or property are not claimed by their lawful owner, shall be paid into the revolving fund. Where a party establishes a legal right to such goods or property, the Administrator of the fund may in his discretion assert a claim against the property or goods in the amount of Federal funds used to purchase such goods or property. Proceeds from such claims shall be paid into the revolving fund. The Administrator is authorized to make disbursements by appropriate means, including grants, from the fund for the purpose of this section.

"SEC. 30. Section 301(c) of the Omnibus Crime Control and Safety Streets Act of 1968 is amended by inserting at the end of the section the following:

In the case of a grant for the purpose of supporting projects that will acqure stolen goods and property in an effort to disrupt commerce in such property, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary."

Mr. HRUSKA. Mr. President, this is an amendment which seeks to establish a revolving fund for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt illicit commerce in such stolen goods and stolen property.

In popular parlance, the operation which I have just described is called the "Sting," and it is the one which has created a method whereby there are operations which result in the arrest and, Mr. President, happily, in a high percentage of convictions and guilty pleas of thieves who use the fencing operation as a means of disposing of their ill-gotten and stolen articles.

The proceeds of such operations have so far been greater than the cost of the operation. The revolving fund is proposed to facilitate the creation of additional operations of that kind.

Mr. President, I took the precaution of writing to the chairman of the Senate Committee on the Budget to ascertain whether or not this proposal would in any way infringe or run contrary to the Budget and Impoundment Control Act of 1974.

I did this in the form of a letter dated July 7 and addressed to the senior Senator from Maine who is chairman of that committee on the Senate side.

In a letter dated July 21, 1976, Senator MUSKIE did respond favorably on the amendment saying that it was consistent with the Budget Act in all of its aspects.

Mr. President, I ask unanimous consent that the letter of July 7 directed to the Senator and his reply of July 21 be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 7, 1976.

Hon. EDMUND S. MUSKIE,
Chairman,
Senate Committee on the Budget,
Washington, D.C.

DEAR ED: When the Senate reconvenes on July 19, S. 2212, a bill to reauthorize the Law Enforcement Assistance Administration (LEAA), will be one of the first items of business.

I am considering an amendment to S. 2212 that would permit the establishment of a revolving fund within LEAA for the purpose of acquiring, and subsequently, disbursing the proceeds or income generated from the sale or use of stolen goods and property.

The amendment is prompted by the two anti-fencing operations which have been conducted recently in the Washington, D.C. area under the auspices of the FBI, the Metropolitan Police Department, and other federal and local law enforcement agencies. Both of these operations now known as "Sting" and "Got You Again," were financed in large measure by LEAA. The amendment I am considering would permit LEAA, through proceeds acquired in the revolving fund, to assist other communities nationwide in setting up similar law enforcement operations.

Attached is the language of the amendment. Although an informed staff contact indicated approval of the amendment's conformity with the Budget and Impoundment Control Act, it would be appreciated if written verification could be provided to me prior to consideration of S. 2212 on the Senate floor.

With kind personal regards,
Sincerely,
ROMAN L. HRUSKA,
U.S. Senator.

SEC. 408. There is hereby established a revolving fund for the purpose of acquiring stolen goods and property to disrupt illicit commerce in such property. Notwithstanding any other provisions of law, title to such goods and property shall vest in an Administrator of the revolving fund and any income or royalties generated from such projects together with income generated from any sale or use of such property shall be paid into the revolving fund. The Administrator is authorized to make disbursements by appropriate means, including grants, from the fund and to accept gifts and bequests which shall be paid into the special account for the purposes of this section.

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C., July 21, 1976.

Hon. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR ROMAN: This is in response to your letter of July 7 inquiring whether an amendment to S. 2212, the bill to reauthorize the Law Enforcement Assistance Administration, is consistent with relevant provisions of the Congressional Budget and Impoundment Control Act.

You advise that the amendment is intended to authorize the LEAA to finance anti-fencing operations through a revolving fund established by the amendment. The revolving fund would be funded by income and royalties generated from other such anti-fencing projects, income generated from the sale or use of property obtained through such operations, and gifts and bequests. The operation of the fund would not be subject to the appropriations process.

I have asked the staff of the Budget Committee to examine this question. They have advised me that the amendment is not inconsistent with the Budget Act.

With regard to the Budget Act, the question presented by this amendment is whether the amendment constitutes "backdoor spending" in violation of Section 401 of the Budget Act. In general, Section 401 permits the creation of new spending authority only to the extent it is provided for in advance by appropriation acts. The purpose of the section is to discourage the creation of new federal obligations without a prior enactment pursuant to the appropriation process.

It is the opinion of the Budget Committee staff that the amendment you propose is not inconsistent with Section 401. Although the amendment would authorize the administrator of the revolving fund to receive and disburse funds generated in connection with certain anti-fencing operations, those amounts are not "new spending authority" in terms of Section 401. Rather, these amounts are accounted for in budgetary terms as "receipts" when they are received by the fund and "negative receipts" when they are expended from the fund.

One portion of the amendment does create new spending authority without an appropriation in advance. Specifically, part of the amendment authorizes the administrator to accept gifts and bequests to be paid into the fund. Gifts and bequests, in budgetary terms, are considered to be budget authority. However, such gifts and bequests are exempt from Section 401 by express provision of Section 401(d)(3).

I hope this advice clarifies the issue for you. Please let us know if we can be of any further assistance.

With best wishes, I am
Sincerely,
EDMUND S. MUSKIE.

Mr. HRUSKA. Mr. President, LEAA has funded, in the last 2 years, a number of projects to intercept and stop illicit commerce in stolen goods. The Sting operations which have received so much publicity in the District of Columbia were funded by LEAA. As a result of these projects, the Metropolitan Police Department has acquired property far in excess of the cost of the grant. The bulk of the property was returned to its rightful owners and the rest will be sold at public auction. Under current law, the proceeds from the sale of this property must be paid into the Treasury. This amendment would allow such income to be retained in a special account for the funding of further programs and projects in this area.

A basis for a claim on such property is established and the Administrator may assert such claim in the amount of the LEAA funds which went into the actual recovery of stolen property. It is not intended that this authority be exercised when the amounts are relatively small. Because administrative costs of this fund should be held to a minimum, and there is no intent to utilize such an amendment for numerous claims relating to small personal property of victims of these burglaries, it is anticipated that the Administrator will exercise discretion and concentrate such efforts on the recovery of amounts of Federal funds expended upon the larger or most costly items. The funds so recovered can then be used again and the cost of recovery would be minimized. Such discretion is in the best interest of the Government in that it maximizes the use of the Federal funds.

In effect, it would put this income on the same basis as other LEAA accounts which authorize LEAA to take back unexpended funds from States and to expend these funds without fiscal year limitations. Trafficking in stolen goods is a major factor in burglaries, robberies, and other crimes that prey on the citizens of this country. This amendment would provide a continuing base of support for procedures to disrupt such trafficking and could materially contribute to the goals for LEAA established by this Congress.

The amendment will serve to deal with a problem which law enforcement and criminal justice officials indicate has become significant. The vast majority of increases in reported crime are in the area of larceny and burglaries. These crimes would not be profitable if it were not for the fences and other illegitimate channels that exist now for the sale and disposition of stolen propery. Furthermore, it is well recognized that transactions in stolen goods provide a source of income for drug addicts and provide funds for the illegal transactions of organized crime.

Credit card organizations readily recognize the benefits which fencing operations can provide through the removal from circulation of stolen credit cards. One LEAA-supported project recovered approximately 2,500 credit cards in a very short time.

A psychological aspect of antifencing operations exists. Knowledge that the risk of apprehension will be increased can have a deterrent effect on burglaries and robberies. This deterrent effect can be expected to result in a decrease in the theft of goods which are readily identifiable. This would apply to all identifiable goods which have manufacturers' numbers, service records, identification through police-funded "ident" programs, or other items such as bonds, checks, stocks, automobiles, boats, et cetera.

Mr. President, my staff has presented this amendment to the Budget Committee staff. Counsel for the committee indicated that the provisions of this amendment did not in any way conflict with the provisions of the Budget Act. Action on this amendment would be consistent with the provisions of the Budget Act and would not create any new spending authority as defined by that act.

This amendment will also permit the States to utilize part C block grant money for projects to acquire stolen goods and property which are aimed at disrupting illegal commerce in such property. The States currently have authority to use part C funds for the purpose of supporting projects such as the recent "sting" operations in Washington, D.C. However, these operations must be conducted with as much security as possible. When a local government is required to go through the appropriation and budgeting process in order to obtain matching funds for these projects, significant numbers of people may become aware of the activity. A casual or careless mention of the fact that matching funds are going to such projects could conceivably endanger the lives of the police officers conducting the antifencing operation.

The sole purpose of this amendment is to permit the project to go forward with the normal governmental approaches but without the approvals attendant to the budgeting and appropriation process which could bring the proposed project to the attention of a large number of people.

Mr. President, I ask unanimous consent to have printed in the RECORD certain news stories about the recent antifencing operations in the District of Columbia.

There being no objection, the news stories were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 7, 1976]

POLICE HOODWINK D.C. THIEVES ONCE MORE

(By Timothy S. Robinson)

Monday, March 1, was a crucial day for the fledgling H&H Trucking Co., located on 12th Street NW in a rundown commercial area of the low-income Shaw neighborhood. How well H&H was received by its customers that day would determine how much longer it could remain in business.

The problem was that the weekend newspapers had been full of stories of how police officers and FBI agents posing as Italian gangsters had been running another fencing operation, "PFF Inc.," in a Northeast Washington warehouse and had arrested more than 100 of their customers at a phony party they staged there on the night of Feb. 23.

So, on Monday, the undercover police officers posing as black street criminals running the four-week-old H&H fencing operation on 12th Street NW were fearful that their customers would guess that it, too, was a trap.

"Are you the cops?," asked most of the 11 customers who came into H&H on March 1 to fence stolen property.

"If we told you we were, you probably wouldn't believe us; and if we told you we weren't you probably wouldn't believe us," answered one of the tough-talking undercover policemen behind the counter at H&H. "Now, either sell what you've got to sell, or get the f - - - out of here."

All customers sold their stolen articles to the undercover policemen that day and business at H&H generally flourished for the next four months it was open. It did so well, in fact, and the police at H&H wound up with so many suspects that they slowed their buying until they went out of business with the mass arrests made yesterday.

This second large-scale phony fence operation to be run by police, the FBI and prosecutors here worked much the same as the PFF warehouse operation that was closed Feb. 28, although its outer trappings were different.

In place of PFF's white, long-haired undercover officers posing as Italian gangsters with names like Pasquale, Angelo Lasagna and Rico Rigatone who said they worked for a Mafia "don" H&H was run by black officers who said they were working for a "Jew" they sometimes referred to as "Mr. Rosencranz" or other names.

While many of PFF's customers were burglars who brought in stolen office machinery and the like, many more of H&H's customers were street robbers who came in to fence stolen credit cards and other items within minutes of having taken them from their holdup victims, according to sources close to the police fence operation.

At one point, according to these sources, H&H was so overwhelmed with customers, the police thought they would have to shut it down early lest they be unable to handle all the suspects they were accumulating.

In order to slow the volume of their business, the undercover officers told customers they were short of money and would have to pay less for some items and stop buying others altogether for a time. This action inadvertently bolstered the confidence of some thieves dealing with H&H.

"I know you guys aren't the cops," one H&H customer is quoted as telling the undercover police officer behind the counter. "Those cops up in Northeast (at PFF) never ran out of money. You guys run out of money."

However, as time went on, more and more H&H customers apparently became suspicious, according to law enforcement sources, especially after a man who had been arrested in the PFF phony fence operation came into H&H and recognized the system of buzzers and alarms used to let H&H customers into the building.

(Like the PFF warehouse, the H&H office was elaborately equipped with false walls, hidden television cameras, electronic alarms and security devices and was staffed with hidden, heavily armed policemen guarding the undercover "front men.")

But despite these suspicions, customers kept coming to H&H. And, theorized the police running H&H, others who seemed certain it was a police operation sent subordinates and friends in to sell their stolen property for them.

Several "customers" who came into the H&H garage discussed the first sting operation with the undercover officers and even kidded about the prospect of the countermen also being policemen, police said.

One suspect, known to the undercover officers as "Chicago Bob," said, "I know y'all are the cops, but I'd deal with you anyway," one officer said. He said "Chicago" would pose for the hidden cameras and even showed up one day with a bag over his head.

By mid-May, the police and prosecutors supervising the H&H operation had begun making plans to put H&H out of business and arrest its customers sometime in July.

They had very successfully ended the PFF, Inc., fake fencing operation in February with an imaginary Mafia party to which all of PFF's customers were invited to meet the "don" who supposedly ran PFF. As the more than 100 party-goers were taken one-by-one to a back room to meet the "don," they were promptly arrested.

Among the ideas discussed for making the surprise mass arrests ending the H&H operation were another party—which however, the police feared would tip their hand to several thieves who had been arrested earlier at the PFF party and, after being released on bail, had become H&H customers. A funeral, a wedding, an outing to watch a Redskins football training camp scrimmage, and a get-together to watch the mid-July All Star baseball game on a large-screen television at H&H's office, were also considered.

"We had this idea where we would have a funeral—(say) someone in the operation had died," said one source. "It would be at a funeral home, and when the customer/mourner came to pay his respects, the undercover officer would sit up in the casket, flash his badge and say, 'I'm a cop.' Can you imagine the look on the crook's face?"

The funeral idea was discarded, however, because funerals are religious in nature and police were afraid that using a funeral as a ruse would offend law-abiding citizens.

The wedding idea was even more elaborate as the officers described it. FBI agent Bob Lill would perform a bogus wedding ceremony of two persons, and the guests—H&H's customers—would be invited to an elaborate reception afterward. The organization would provide cabs and limousines to take guests to the secret reception. But, instead, they would be taken to jail. This idea also was discarded, however, as too elaborate.

The idea of inviting all of H&H's customers to a nonexistent Redskins scrimmage at RFK stadium—arresting them as they arrived—was dropped when police discovered that it would cost $15,000 to turn on the lights at the stadium.

The All-Star baseball game ruse was abandoned both because baseball is simply not very popular here and because law enforcement officials decided to make the arrests before the game's date, July 13.

Yesterday was finally selected as the best day to put H&H out of business for both practical and publicity reasons. The police would be mobilized to make mass arrests because of their preparations and extra strength for the July 4 weekend events and yet would not otherwise be too busy yesterday during a lull in Bicentennial events until the Queen of England comes here today.

Police and prosecutors also figured that yesterday's arrests and press conference would get maximum publicity today because of a similar lull in news making activities between the holiday weekend and the Queen's visit.

SCORES ARRESTED IN 2D OPERATION, "GOT YA AGAIN"

(By Timothy S. Robinson and Alfred E. Lewis)

For the second time in four months, police and FBI agents rounded up scores of criminal suspects yesterday who unwittingly had been selling stolen goods to undercover officers running a fake fencing operation.

The newly revealed police fencing ruse was accompanied mostly by black officers operating for the past seven months from behind an auto parts counter at what was called the H&H Trucking Co.

The fence was located in a one-story garage-front building at 2018 12th St. NW in the inner-city Shaw neighborhood.

At 5 a.m. yesterday morning, teams of police and FBI agents began serving arrest warrants on 140 suspects identified by the undercover officers as having sold them $1.2 million worth of stolen credit cards, checks and bonds, stereo sets, televisions, radios, cameras and automobiles.

Half of the suspects charged in yesterday's warrants with selling stolen goods at H&H Trucking were previously convicted criminals or suspects in crimes free on bail awaiting trial. Nine of them had been arrested in the first local police fence operation four months ago.

The first stage of the roundup began several weeks ago when the undercover officers sold many of the suspects $10 tickets for a "GYA raffle" for a nonexistent Cadillac Eldorado grand prize. GYA, police revealed yesterday, stood for "Got Ya Again."

Many of the suspects accommodatingly wrote their names and addresses on their raffle tickets, supposedly so they could be contacted if they won. That enabled police and FBI agents to show up at their homes yesterday morning to arrest them.

Other suspects were arrested during the rest of the day as they wandered into H&H Trucking in response to other ruses arranged by the undercover officers: a planned fishing trip, offers of counterfeit money and a request to help the undercover officers unload some stolen goods off a truck.

More than 70 suspects had been arrested by the time the operation was revealed at a 2 p.m. press conference, after which the undercover officers returned in a closed van to H&H Trucking where they waited and arrested more unaware suspects.

By early this morning, 14 more persons had been arrested, police said. In addition, police said they believe that as many as 12 others involved in the H&H ruse are already in custody in other jurisdictions.

Charges under which suspects are being held to include receiving stolen property, poster, possession of stolen mail matter and violation of various federal and local gun statutes.

All those arrested here yesterday were being processed and interviewed at the police training academy in Anacostia before being transferred to the central cellblock at police headquarters to await court appearances today.

Twenty-five of those charged in the warrants were already in custody here on various other charges, police said.

Washington police and prosecutors, the FBI and the Bureau of Alcohol, Tobacco and Firearms secretly set up H&H Trucking last fall, three months before another fake fencing operation running simultaneously under their supervision was ended with mass arrests Feb. 28.

That first operation, called PFF, Inc., and run out of a Northeast Washington warehouse, became popularly known as the "Sting" after its existence was made public. The undercover officers operating PFF were white and impersonated Italian gangsters supposedly working for a Mafia "don."

The eight black officers operating H&H Trucking impersonated innercity street criminals who told their customers that they worked for "a Jew."

FBI agent Charles E. Harrison, the undercover officer who appeared most often behind the counter at H&H Trucking, said at yesterday's press conference that 50 per cent of the people selling him stolen property appeared to be narcotic addicts.

At one point, Harrison said, he recognized a man coming into H&H as a former high school classmate of his. After watching the man make his way through H&H's elaborate system of lookouts and alarms, Harrison stayed away from the counter until he left.

"He finally got to meet me this morning," Harrison said yesterday, when the man returned to H&H and was arrested.

As they did in the original "Sting" fencing operation, the undercover officers videotaped all transactions involving stolen goods so that the tapes could be used as evidence in future trials. Prosecution of suspects arrested after the original "Sting" has already produced 70 convictions with no acquittals.

While many of the original "Sting" customers were office burglars who fenced typewriters and office machines, H&H Trucking's customers included many home burglars who fenced household items, street robbers who came in to sell stolen credit cards minutes after robberies, and other suspects who sold H&H guns—71 guns in all.

About 40 of the suspects named in yesterday's arrest warrants had sold the undercover police officers stolen welfare checks—a fact that led U.S. Attorney Earl J. Silbert to say that most of the stolen property "was taken from those in the city who can least afford to lose it."

Nine of the suspects named in the warrants as having sold stolen goods to H&H Trucking had also been arrested months earlier for dealing with the PFF fake fencing operation. They had been released on bail pending trial.

According to D.C. Police Chief Maurice Cullinane, 51 per cent of those arrested so far for selling to H&H Trucking are recidivists—repeat offenders free on bail or back on the street after previous convictions.

"This shows where our criminal justice system is breaking down," Cullinane said at yesterday's press conference. "The criminal justice system is far too lax and is failing to protect the people. I'm taking this opportunity to ask for some cooperation from the courts.

"All I can do is bring to the attention of the public that recidivists are being released by the courts . . . and the result is a higher crime rate."

Cullinane added that he didn't think "our founding fathers ever meant a right to bail to be a right to go on a crime spree." The arrests of the large number of recidivists, he said, was "an indictment of the system."

H&H Trucking (listed on its sign as a "subsidiary of GYA, Inc., Baltimore, Md."—with GYA standing for "Got Ya Again") opened for business nearly seven months ago on 12th Street NW between U and V Streets.

The undercover officers portrayed H&H as a legitimate business in which its employees illicitly dealt in stolen merchandise while their boss—"that Jew"—was away. The fast-talking men behind the counter were surrounded by empty auto parts boxes they had collected from real truck repair shops. When unsuspecting, law-abiding citizens came into H&H for mechanical help with their trucks, the countermen told them that H&H's workers did only "contract work."

Undercover agent Harrison said he sometimes refused to buy certain stolen items "to give the air of being a minority fence with very little money." While the undercover officers strived to maintain a strong "local flavor" for the operation, they occasionally told customers they were bankrolled by out-of-town criminals.

Actually H&H bought all its stolen goods with money from an $87,000 grant from the federal Law Enforcement Assistance Administration.

One of the more unusual items fenced at H&H was a $6,000 part for a landing gear of a jet. The part was originally destined to go to an overseas firm, officials said.

Some customers would offer to commit crimes for the H&H countermen, but the offers were rejected to avoid entrapment charges against the police, law enforcement officers said.

"One individual pleaded for us to give him the name of somebody to rub out," undercover agent Harrison said.

Police began making plans about two months ago to close down the H&H operation, and considered several ruses such as the fake "party" that closed out the original "Sting" operation with 60 arrests at the PFF warehouse.

However, police decided instead to have the suspects come into H&H Trucking in small numbers through the day, while relying on police arrest teams to round up the others.

One police team went to the home of a suspect to serve the warrant, only to find he was away briefly. When the suspect arrived home and was told the police were looking for him, he called the H&H garage and told officers there that he had a lot of typewriters to fence in a hurry because "the cops are after me and I've got to get out of town."

The undercover officers told the unwitting suspect to come on down to H&H and sell the property, sources said. He was arrested there.

A police team attempting to serve a warrant on a woman suspect found only her two infant children at home, Cullinane said yesterday. "The officers even changed the diapers" of one of her children, Cullinane said, and called a social service agency to care for the children while continuing their search for the woman.

The defendants who were arrested yesterday acted with "surprise and disbelief," said one law enforcement officer. He said the scene at the D.C. police department training academy, where the arrested suspects were taken for questioning, was subdued as the prisoners sat handcuffed to chairs in the police gymnasium.

Cullinane, Silbert and Washington FBI office chief Nick Stames yesterday praised the cooperation among the many law enforcement organizations working on the fake fence operation. Cullinane pointed out that "no single agency can pull off an operation as large as this one." He added that he was "surprised at the tremendous success" of the second operation, especially after the publicity about the first one.

The joint operation involved as many as 10 area law enforcement organizations that traced the stolen property, including such agencies as the U.S. Postal Service, the U.S. Secret Service, the General Services Administration and law enforcement groups from counties surrounding the District of Columbia.

The operation was under the direct supervision of D.C. Police Lt. Robert Arscott and FBI agent Robert Lill, both of whom also directed the first Sting operation here.

Mr. HRUSKA. By this amendment, the proceeds recovered from these operations could be used again for the same purpose. Of course, proper accounting must be made of such proceeds.

I recommend the amendment and trust that it will receive approval.

The PRESIDING OFFICER. The question is on agreeing to the amendmen of the Senator from Nebraska.

Mr. McCLELLAN. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 227

Mr. McCLELLAN. Mr. President, I send to the desk another perfecting amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. McCLELLAN) proposes an unprinted amendment numbered 227.

The amendment is as follows:

On page 14, line 20, delete the phrase "approval, suggested amendment, or disapproval" and insert in lieu thereof "review, comment, or sugested amendment".

On page 15, line 2, delete the phrase "approval, suggested amendment, or disapproval" and insert in lieu thereof "review, comment, or suggested amendment".

On page 15, line 5, delete the phrase "approved, disapproved, or suggested amendments" and insert in lieu thereof "reviewed, commented on, or suggested amendments".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. BIDEN. Will the Senator yield for a request?

Is it possible to receive 10 minutes' time to speak to this bill?

Mr. McCLELLAN. The Senator can offer an amendment that he can withdraw and I will give him time. I do not want to give up all the time, but I do want to accommodate the Senator. How much time do I have left on the bill?

The PRESIDING OFFICER. The Senator from Arkansas has 38 minutes. The Senator from Nebraska has 50.

Mr. McCLELLAN. How much time do I have?

The PRESIDING OFFICER. Thirty-eight minutes.

Mr. McCLELLAN. I yield the Senator 8 minutes.

Mr. BIDEN. Mr. President, as we begin debate on this legislation, I want to express a few thoughts on the problem of crime and the role of the Law Enforcement Assistance Administration.

The question of crime in the streets is of paramount importance in our country today, as it was when we were all running around talking about it 4, 6, and 8 years ago.

Virtually every recent poll indicates that crime and the economy are the two most prominent issues in the eyes of the American people today.

And when they talk about crime—when the people of Delaware ask me about crime—they are not talking about tax fraud or securities thefts or price fixing.

They are concerned about something far more basic.

Americans, young and old—in my State and I suggest probably in others—are worried about being mugged on the subway.

Women are worried about being raped on the way to their automobiles after work.

Businessmen worry about being robbed while carrying the day's receipts to the bank.

And, most important of all, they worry that their Government does not seem to be doing much about it.

And, unfortunately, they appear to be right.

Let us take the bill before us, to reauthorize the Law Enforcement Assistance Administration for 5 years.

Despite some major changes, this bill maintains the initial philosophy of the LEAA—that the Federal Government should exercise little or no guidance in this area—we should just send the money back to the States and let them do as they please. Giving only broad guidelines.

Many have argued that the Federal Government should not become any more involved than this because it is a question of States' rights.

Or because we might be setting up a national police force.

Frankly, Mr. President, I think this argument begs the question.

I think it represents an abdication of our responsibility to the American people.

More importantly, I think this argument has drastically hindered the effectiveness of LEAA.

Let us just take the example of the block grant program to States.

Congress has provided broad guidelines as to how this money should be spent.

LEAA has expanded these guidelines to 200 pages of computer printout.

State and local governments spend hours and hours trying to comply with these guidelines and then, by and large, LEAA rubberstamps the plan.

Thus, the guidelines do not appear to serve a function.

The 20th Century fund called this setup a "paper charade" and I agree.

The LEAA seems to feel that its major function is to get the money to the States, regardless of whether the plan really complies with the law.

Because this program is a cross between a categorical grant and a blank check to the States. It has not been effective either way.

To those who feel that the Federal Government should not become involved in local law enforcement activities, I say vote against this bill.

If one truly believes there should be no involvement, then there should be no money either.

But, personally, I cannot buy the argument that the Federal Goverment should not be involved.

We have a responsibility to be involved.

More importantly, the American people expect us to be involved?

There is a crime problem out there.

We have not acted to remedy that problem.

LEAA certainly has not had much success.

Yet, what does this bill propose?

That, for the most part, we continue business as usual.

I am pleased to see that it finally recognized that we have to spend more money on the courts.

But let us look at what this bill, and the hearings on this bill, have ignored.

This bill has done little to remedy the block grant "paper charade."

What we could do would be to substitute direct payments to specific local and State agencies for specific purposes in place of block grants, and we could insist that State planning agencies coordinate the effort.

But that is about all; right now, unfortunately, the planning agencies do not even do that.

They control the expenditure of 5 percent of the State's law enforcement budget, but what kind of input do they have on the rest of the State's budget?

Very little, I submit.

We could restructure the current system of discretionary grants as well.

Under this procedure, at present, local agencies have been able to "end run" the State planning agency and get a grant which might even conflict with the State plan.

We have to either abolish, or make more effective the research arms of LEAA.

It does no good for the Federal Government to pay to fund innovative techniques in criminal justice if these techniques are not followed up through their adoption in State plans.

We also have to do something about LEAA's evaluation techniques—and its evaluation philosophy.

Every time the LEAA reauthorization bill has come up, LEAA has assured us that it is trying something new in order to judge how well its programs work.

Yet, by and large, problems still remain with LEAA and its oversight function.

The General Accounting Office has done several studies noting the ineffectiveness of LEAA programs and the ineffectiveness of LEAA's evaluation techniques.

Yet, LEAA continues to claim that, for the most part, States should have the responsibility for evaluation—even though it is Federal money they are spending.

Witness the GAO study entitled "Difficulties of Assessing Results of Law Enforcement Assistance Projects To Reduce Crime."

LEAA's response to this study, which criticized LEAA's failure to adopt some sort of guidelines of goals for States to use, was, "LEAA has and will continue to lend technical assistance and support to States to the greatest extent possible, but the primary role for project evaluation must remain with the States."

Since that statement was made in 1974, LEAA has taken some steps with regard to evaluation following a congressional mandate to do so.

But the philosophy that it is a State responsibility remains.

Witness this statement by the Attorney General in the hearings: "I want to say that the philosophy of the act in leaving many of these matters"—and he is talking about evaluation—"to State councils is the proper way to proceed.

"The States have to learn, too."

Yet, as Senator KENNEDY pointed out in the hearings, one report notes that as of January 1975, LEAA could account for only 39.9 percent of the total 1974 part C block grant funds it distributed.

And they call that oversight and evaluation?

Mr. President, it seems clear that we must strengthen LEAA's evaluation techniques, perhaps to the point of forcing the agency to come up with standards and goals which States must meet before receiving funds.

Finally, Congress has a responsibility to determine LEAA's priorities, rather than leaving it to the Agency and the States.

Do we want SWAT teams or speedy justice?

Do we prefer bulletproof vests or toilets in every jail cell?

Do we encourage adoption of mandatory minimum sentencing or improved footwear?

Unfortunately, we have been too slow in setting priorities.

I note with interest thanks to the efforts of Senator KENNEDY, that courts will receive more attention and hopefully more money under the current bill.

But even that money is not specific enough.

We should be deciding how much money goes to courts, how much to police, how much to juveniles and how much to prisons.

We have done this on a piecemeal basis.

In 1970, we provided funds for prisons; in 1974, we provided funds for juvenile delinquency; now, this year, we are providing funds for courts.

But when are we going to look at the whole picture?

Were we justified in establishing part E of the act for corrections?

Are the assumptions we made in 1970 and 1974 still valid?

The GAO does not seem to think so, at least with regard to prisons.

The PRESIDING OFFICER. The Senator's 8 minutes have expired.

Mr. BIDEN. I ask unanimous consent that I be able to proceed for 2 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. I yield 2 minutes to the Senator.

Mr. BIDEN. I thank the Senator.

The GAO has said that we are wasting our money in that area.

But you will not find that out by reading the hearings.

And that is what distresses me so about LEAA and our consideration of it.

We have not taken the fundamental critical look at the program that so many studies such as the one by the 20th century fund has called for.

Because we have not done so, it is difficult for those of us who criticize the program to offer substantive suggestions.

We can hypothesize as to what we think might improve the program.

We can offer suggested areas of change.

But we cannot say with any certainty that these changes will do any good.

That is why I call for an overhaul of the Agency and a thorough study to find out what is good and what is bad about the Agency.

Let us find out if we have given it too broad or too narrow a mandate.

Let us find out what programs are working and what ones are not.

Let us not continue throwing money at the program, but look at it critically.

Mr. President, during the course of this debate, I will be proposing three amendments which I hope will help alleviate some of the concerns I have expressed in my statement.

My first amendment would reauthorize the Agency for only 15 months, rather than for 5 years.

This 15-month period, which has been approved by the House Judiciary Committee, will give us time to do the major restructuring of the Agency.

My second amendment deals with prisons.

This amendment would require the Agency to work with the States to come up with minimum standards for prisons.

In doing this, we can make sure our money is spent wisely.

My third amendment also deals with prisons.

This amendment would require LEAA to do a study on available prison space and the possible effect of mandatory minimum sentencing legislation on such space.

Since States will probably be considering revisions in sentencing structure, I think we have to determine our prison needs so that we can then begin prison construction if necessary.

I will have more to say on these amendments as they come up.

I thank the manager of the bill for extending me this time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time for the quorum call not be charged to either side.

Mr. BIDEN. Mr. President, will the Senator withhold that request and yield to me for a unanimous-consent request?

Mr. McCLELLAN. I yield.

Mr. BIDEN. I ask unanimous consent that two members of my staff, Pete Wentz and Ted Kaufman, be given the privilege of the floor during the consideration and voting on S. 2212.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I yield to the Senator from Georgia.

UP AMENDMENT NO. 228

Mr. NUNN. Mr. President, I have three amendments, and I send these three amendments to the desk and ask unanimous consent that they be considered en bloc since they address exactly the same point although in different language.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the amendments will be considered en bloc.

The amendments are as follows:

On page 10, line 23, immediately after the word "State", insert the following: "or the judicial agency authorized by State law to perform such function"

On page 11, line 2, immediately after the word "resort", insert the following: "or the judicial agency authorized by State law to perform such function"

On page 11, line 22, immediately after the word "resort", insert the following: "or the judicial agency authorized by State law to perform such function"

Mr. NUNN. Mr. President, I conversed with both the manager of the bill and the ranking minority member on these three amendments which are all directed to exactly the same point.

I can explain these amendments in very short time.

Section 203 of this legislation establishes the court of last resort in each State as the designated judicial planning committee. In my own State of Georgia the General Assembly of Georgia several years ago created a judicial agency called the judicial council composed of some supreme court members and some members of other courts throughout our State, which were charged with the responsibility of planning and coordinating the responsibilities which are contemplated by this legislation. This body has been functioning exceptionally well in the last 2 years. Therefore, at this time it possesses a great deal of experience and expertise in this area.

I commend the Committee on the Judiciary for recognizing that our court system should be a priority consideration. However, because in the State of Georgia—and perhaps other States may be in the same situation—we already have a judicial counsel formed, we feel strongly that we would like to continue under this apparatus rather than having the highest court in the State make the planning decisions exclusively.

So this amendment really goes to the point and provides that the committee version, as it now stands, would govern unless the State has designated another body to do the planning as contemplated by this bill.

It would not apply only to Georgia. This amendment would apply to any State that had already established a different kind of agency and different kind of apparatus.

The Judicial Planning Committee is to establish priorities for court improvements, define, develop, and coordinate court improvement programs and projects and develop a multiyear comprehensive plan, along with an annual plan, for improvement in the State court system.

In my own State of Georgia, the general assembly created a judicial agency, the judicial council, which was charged with the planning and coordination responsibilities whch are contemplated by this legislation. This body has been functioning for several years now and therefore possesses a great deal of experience and expertise in this area.

With this in mind, I propose to make a minor change in the wording of section 203(c) of this bill to recognize the possibility that some States may have statutorily created judicial agencies of the kind existing in Georgia and, if this is the case, to authorize them, rather than the court of last resort, to establish or designate the Judicial Planning Committee. If we do not provide this alternative, States which have already created judicial planning agencies will be placed in a difficult legal position, as well as the fact that we would be setting back the cause of judicial improvement in these States.

I understand that this amendment is acceptable to both the majority and the minority, and I hope it will be agreed to.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. NUNN. I yield.

Mr. McCLELLAN. As I understand, Georgia already has the mechanism for doing substantially what is required by the proposed legislation.

Mr. NUNN. The Senator from Arkansas is correct.

Mr. McCLELLAN. The Senator simply does not want to tear up what now exists.

Mr. NUNN. That is correct. It would give more flexibility in a State such as Georgia, where we already have a functioning body that is doing an exceptional job, and the Supreme Court of Georgia is represented on it. It is a broad-based apparatus, and we have found it politically necessary in order to move forward with many of the judicial reforms that this bill contemplates to have this kind of broad representation and not to have it strictly engineered by the Supreme Court of Georgia.

Mr. HUMPHREY. Mr. President, inasmuch as it is progressive, and if it will facilitate the proceedings in situations such as exist in the State of Georgia, I have no objection. I am willing to accept the amendment.

Mr. McCLELLAN. I have no objection. I think that should be a prerogative left to the State to determine, so long as we do have court representation. Inasmuch as a procedure already exists in the State of Georgia and this simply would recognize it, I have no objection.

Mr. NUNN. I thank the Senator from Arkansas and the Senator from Nebraska.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

Mr. NUNN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc by the Senator from Georgia.

The amendments were agreed to en bloc.

UP AMENDMENT NO. 229

Mr. BIDEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 4, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 25, between lines 4 and 5, insert the following:

(c) adding at the end of such section the following new paragraph:

"The Institute shall, before March 30, 1977, survey existing and future needs in correctional facilities in the Nation and the adequacy of Federal, State and local programs to meet such needs. Such survey shall specifically determine the effect of anticipated sentencing reforms such as mandatory minimum sentences on such needs. In carrying out the provisions of this section, the Director of the Institute shall make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education and Welfare, the General Accounting Office, Federal, State and local criminal justice agencies and other appropriate public and private agencies.".

Mr. BIDEN. Mr. President, the amendment I now propose goes to the problem of prison capacity and its impact on the effectiveness of our criminal justice system.

No one questions the fact that many of our Nation's prisons are overcrowded and that this overcrowding is taken into consideration many times in sentencing and parole decisions.

To give some perspective on the problem, it might be useful to look at some statistics.

In the United States in 1974, 20,600 murders, 55,210 rapes, 440,000 robberies, 450,000 aggravated assaults, 3 million burglaries, 5.25 million larcenies, and 975,000 auto thefts.

Yet, despite all these crimes, it has been estimated that we only have prison space for 250,000 prisoners.

Assuming that our law and order authorities apprehended all those felons and assuming every 10 of those crimes were committed by the same person, we still do not have space for all those guilty of crime.

And we know of the overcrowded conditions that already exist.

Just think what would happen if we did not have suspended sentences and probation and everyone had to go to jail.

Where would we put them?

In my State, for example, we have a new prison that already is well over its capacity. In many jurisdictions, judges, in fact, are refraining—and stating they are refraining—from giving people long sentences or even sentencing them at all, because there is no place to put them.

It seems to me that it does little good to improve our courts to provide speedy trials or talk of changes in sentencing structure to insure that more criminals go to jail until we have some idea of the scope of the problem.

With such a condition, it is little wonder that we have made so little progress in our ability to reform the criminal so that he will conform to the laws of the land.

If our prisons are incapable of acting as a deterrent; if we are unable to protect society from dangerous people who repeat criminal acts and if we are unable to mete out punishment which fits the crime, we will surely continue to lose the war on crime.

My amendment proposes that the National Institute of Law Enforcement and Criminal Justice which is within the Department of Justice, find out what is happening.

The Institute is required to study the need for more prison space now and in the future and to determine whether existing programs can meet that need.

Furthermore, the Institute is specifically mandating to study the effect of sentencing reforms such as mandatory minimum sentencing on prison space.

For instance, the Institute might look at the effect of Illinois mandatory minimum law on its prison, or it might hypothetically analyze the effect of Senator KENNEDY's bill to provide mandatory minimum sentences for certain Federal crimes, or it might look at my State of Delaware, where tough enforcement of a mandatory minimum sentence for a conviction of first degree robbery appears to be having a deterrent effect.

What effect has it had on prisons, and what effect has it had on prisoners? We do not have that, I submit.

In summary, Mr. President, I firmly believe that until we have sufficient prison capacity, our prison system will be neither just nor effective and that efforts to strengthen law enforcement or judicial capability will, in large part, be an exercise in futility.

If adopted, my amendment will at least tell us the scope of the formidable task ahead of us.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

Mr. HRUSKA. Mr. President, will the Senator yield me 3 minutes?

Mr. McCLELLAN. I yield 3 minutes.

Mr. HRUSKA. Mr. President, I might say in regard to this amendment it is directed to a very meritorious subject. There are efforts in the making to consider bills which would reform our sentencing structure. They are to be found not only in Congress but also in State legislatures.

As against that, and in consideration of those legislative proposals, it would be very useful to have a survey made to obtain estimates of existing facilities in correctional areas. It would be helpful to ascertain from available statistics and available records the estimates of what impact such sentencing reform would have on correctional institutions.

However, I suggest to the Senator from Delaware that the time which he would allow for such a survey is rather limited, in my judgment. We have not had the advantage of considering this amendment in advance, but it would not seem that for a project that ambitious, and having that wide a scope, March 30, 1977, for a final report would be sufficient for those purposes.

What thoughts does the Senator from Delaware have on that point?

Mr. BIDEN. I think the Senator raises a valid point. I am not sure it would be as debilitating as he might suggest, but I have no objection to seeking to modify my amendment to make it June 30, 1977, giving it an additional 3 months, does the Senator have any particular suggestion he would like to make?

Mr. HRUSKA. Would the Senator consider September 30, 1977?

Mr. BIDEN. I would not object to that, if the Senator would like for me to modify the amendment in that respect.

Mr. HRUSKA. I would suggest it does give a little more latitude. Also a report would be available prior to the opening of Congress in the following year so that it could be taken into consideration in regard to the sentencing reform bills that might be before Congress.

Mr. BIDEN. I think that is a valid point, and I thank the Senator for his suggestion.

Mr. President, I ask unanimous consent that my amendment be modified to read, "The Institute shall before September 30, 1977."

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and the amendment is modified to read, "September 30, 1977."

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

Mr. McCLELLAN. On whose time?

Mr. BIDEN. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. McCLELLAN. Mr. President, this is the first opportunity I have had to read the amendment, and I see no objection to it, except that we just continue to pile up studies upon studies. I guess another one will not hurt, but I doubt if it will do much good. Unless there is other objection to it, I will accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BIDEN. I yield back my time.

Mr. McCLELLAN. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified, of the Senator from Delaware.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 230

Mr. JAVITS. Mr. President, I send three amendments to the desk and ask unanmious consent that they be jointly considered.

The PRESIDING OFFICER. The clerk will report the amendments. The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) for himself and Mr. ROTH proposes amendments en bloc numbered 230.

The amendments are as follows:

On page 8, line 16, strike the period and insert the following new paragraphs:

"There is established in the Administration the Office of Community Anti-Crime Programs (hereinafter in this subsection referred to as the 'Office'). The Office shall be under the direction of the Deputy Administrator for Policy Development. The Office shall—

"(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime prevention and other law enforcement and criminal justice activities;

"(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Division of the Department of Justice) designed to encourage and assist citizens participation in law enforcement and criminal justice activities; and

"(3) provide information on successful programs of citizen and community participation to citizen and community groups."

On page 10, after line 22, add the following:

"(4) assure the participation of citizens and community organizations at all levels of the planning process.".

On page 15, after line 20, insert a new subsection (c) and redesignated all following subsections accordingly:

"(c) deleting the words "the approval of" from paragraph (7) of subsection (b) and inserting in lieu thereof "notification to."

The PRESIDING OFFICER. Is there objection to the amendments being considered en bloc? The Chair hears none, and it is so ordered.

The Senator from New York.

Mr. JAVITS. Mr. President, 2 years ago, I and Senators PERCY, GRAVEL, McGOVERN and WILLIAMS introduced S. 3337, the Community Anti Crime Assistance Act. Our bill was developed in close coordination with Congressman JOHN CONYERS, the distinguished chairman of the House Subcommittee on Crime, together with several other Members.

In passing H.R. 13636, the House included in this year's LEAA reauthorization legislation, several provisions which taken together closely track the substance and purpose of our original joint effort. I commend the Members of the House Judiciary Committee and of the House itself for placing such a high priority on this program. I strongly support these provisions particularly the specific authorizations for this program.

I understand that the CONYER's subcommittee held 10 days of hearings and heard 45 witnesses who strongly support the community anti-crime program. In 1973 and 1974, Public Law 93–83 was amended to provide that LEAA may make grants from its 15 percent discretionary funds to private nonprofit organizations. In addition, citizens and community groups became requisite members of supervisory panels of State Planning Agencies. Funding authority was inserted in the act in section 301(b), which authorizes community patrol activities and neighborhood participation in crime prevention to obtain Federal funding with the approval of the local government or local law enforcement and criminal justice agencies. Even so, it was stated in the hearings that LEAA did not effectively implement the spirit and letter of the law and actively promulgate community incentives.

Mr. President, I have discussed all of the House provisions with the managers of the bill and had intended to offer all four for inclusion in the Senate bill. I am introducing three amendments to S. 2212 which taken as a whole address the issues of neighborhood and citizen participation in crime prevention programs. The language of the amendments is identical to language in sections 102, 105, and 106 of H.R. 13636.

The first proposal amends existing law to require the Administrator of LEAA to create a coordinating organizational mechanism for community anti-crime programs under the Deputy Administrator for Police Development. This entity would provide technical assistance to community organizations to enable them to apply for grants from LEAA for programs to reduce and prevent crime. The grants would be made from the sums authorized to be administered through the LEAA discretionary fund for this purpose. Community groups would receive assistance from the administration in developing applications for programs to their state planning agencies.

This organizational change would allow LEAA to act in a coordinated capacity with those Federal agencies which already have authority to assist in community program to prevent crime. The Community Relations Division of the Department of Justice is one such agency. ACTION has developed volunteer programs through VISTA which should be studied, and other grant agencies such as the Department of Health, Education, and Welfare—HEW—have developed juvenile delinquency programs and anti-dropout programs. Care should be taken not to duplicate already existing programs as well as to replicate projects proven successful in other geographical areas. Dissemination of data on successful programs to citizens and community groups is an additional responsibility of the Office.

The second would assure the participation of citizens and community organizations in all levels of the planning process by requiring in section 203 of the act that LEAA take steps to achieve representation of citizens groups, church, organizations, poverty groups, civil rights groups and others on supervisory councils and regional planning boards. Since professional law enforcement personnel are already well represented, this gives nonprofessional concerned citizens a strong voice.

The third proposal amends section 301(b)(7) of the present law to allow citizen groups when applying for block grants to the State Planning Agencies—SPA's—to do so with notification to, rather than approval of, the local government office. This would lessen the possibility of politically determined decisions on such programs.

Mr. President, there is impressive evidence that urban dwellers are more willing than ever to take a personal role in fighting crime and the fear of crime. Throughout the Nation, the great potential of the private sector—not only as represented by our citizens, but also by business, labor and civic organizations—is being harnessed by law enforcement and criminal justice agencies in most constructive and unprecedented programs to prevent crime. These should be fully utilized and expanded and are a major anticrime factor.

Mr. President, under the administration of former Mayor John V. Lindsay and our present Mayor, Abraham Beame, New York City has demonstrated the success of a wide range of such programs involving the use of civilian volunteer and private sector organizations. Indeed, in early 1971, I introduced legislation: The Emergency Urban Crime Reduction Act—reintroduced in this Congress as S. 1644—one of the purposes of which was to provide Federal funding for activities of this kind.

In the New York City program one set of activities was designed to increase patrol coverage of neighborhoods and buildings:

First. Auxiliary police: The Auxiliary Police was established by law to allow volunteers trained by the police to perform patrol and other support services.

Second. Citizen patrols: There are an estimated 75 groups with over 3,000 members in civilian patrols, often using their own automobiles and communications equipment. For some years, the police department was wary of these efforts, but it now works closely with them, encouraging discipline and professionalism, and coordination with local police.

Third. Tenant patrols: The city's housing authority with 500,000 residents itself constitutes one of the Nation's largest cities, with its own police force of 1,600 members. The housing authority has done pioneering work in development of tenants patrols to guard lobbies and hallways and tour project areas. In a few short years, the authority recruited 11,000 residents in this program, providing them with jackets for identification and communications equipment.

Fourth. Blockwatcher: The Blockwatchers program is an attempt to formalize a relationship with citizens to serve as eyes and ears for the police. Blockwatchers are trained in basic identification and crime reporting procedures and agree to notify the police of any suspicious conditions they observe.

Fifth. Private patrols: The business community has also organized similar programs to intensify patrol coverage. The most ambitious effort has been sponsored by the Association for a Better New York under which private building owners in midtown have supplemented their nighttime security forces, linked together with the police by a communications network, and moved private guards out of the buildings and onto the streets. Sixty doormen and building superintendents have also been trained by the police as Blockwatchers.

A second range of activities is aimed at improving security systems:

First. Street lighting: The New York City government has committed more than $40 million to relight 3,700 miles of streets—more than half the city's streets—with high intensity lighting that deters crime and encourages people to go out at night.

Second. High-rise security: Also available is funding for basic security improvements in city housing of such items as stronger locks, brighter lighting, window gates and bell-buzzer intercoms systems.

Third. Operation identifications: Along with many other cities, New York City is participating in this experimental program under which citizens use engraving tools to mark valuable property with identifying numbers so that the property can be identified if stolen. Decals notifying of participation in this program are placed on doors and windows to deter break-ins.

Fourth. Merchants security: Using a Federal grant of $250,000 the city has sponsored a program to provide sophisticated, high-quality alarm and camera surveillance systems of the type usually used by banks and jewelers for 700 local merchants like cleaners, grocers, candy stores, taverns, and hardware stores, at substantially reduced rates. The Program should deter crime and help stabilize commercial areas. The alarms systems are connected to the central station of a private alarm company, which screens calls and then contacts the police, and the cameras take pictures of everyone in the premises every 30 seconds, aiding the police in identifying robbers, and deterring shop-lifting, bad-check passing, and robbery. The alarms will cost $6 a month, and the camera $8 a month.

Fifth. Block security: New York City tested a new crime fighting program that is unique in the Nation. The block security program provides matching grants to local associations—block associations, tenants organizations, merchants civic and neighborhood groups—to help finance locally designed and managed security programs.

Mr. President, a critically important byproduct of these programs is greatly improved channels of communication between the police and the community. Scores of persons participating in these activities have testified as to the renewed sense of community which accompanies concerted action on behalf of the public interest.

Mr. JAVITS. Mr. President, the purpose of these amendments and the reason why they are three separate ones, is to deal with the germaneness problem on the bill. They are germane, I understand, in the separate parts.

The purpose is to establish a mechanism within the LEAA administration to deal specifically with the problem of neighborhood citizen participation in crime prevention programs.

In many areas, and particulary in the big cities like my own New York City these are absolutely indispensable, Mr. President, because of the great strain upon the resources of police forces. They are doing an enormous range of work, the citizens groups and the individual volunteers. As I have indicated, they are engaged in auxiliary police, citizen patrols, tenant patrols in housing and other projects, and block watchers. That is a matter of very great interest to my cosponsor on this amendment, the Senator from Delaware (Mr. Roth) where they have a very active and well-articulated block-watcher program.

Mr. President, very much the same ideas are contained in the House bill, and I commend Congressman John Conyers and his colleagues on the House Judiciary Subcommittee on Crime for their excellent work in this field.

I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, it is my understanding that the Senator from New York proposes that the appropriation of $15 million be waived.

Mr. JAVITS. I am proposing to eliminate only that portion of my proposal dealing with the $15 million authorization. But I favor the appropriation which is now law.

Mr. HRUSKA. Be eliminated, and the appropriation, therefore, would be available for reprograming at the instance of the LEAA Administrator.

Mr. JAVITS. What I am doing is that: I am not proposing anything about the appropriation which is now in law. I am simply not including in my amendments a line authorization for $15 million. That is all I can do.

Mr. HRUSKA. I take it that that would leave to the discretion of LEAA the devotion of any part of that $15 million to this particular program, and they can reprogram other portions of that $15 million; am I correct in my understanding?

Mr. JAVITS. If, in the final analysis, out of the conference that is the way it emerges.

Mr. HRUSKA. Yes, assuming that it is in the form of a law.

Mr. JAVITS. The interpretation of my amendment the Senator has stated correctly, but I hope specific authorization for this program will prevail ultimately.

Mr. HRUSKA. Very well.

I would have no objection, Mr. President. I do not know whether the chairman of the committee has any thoughts on it or not.

Mr. JAVITS. Mr. President, can I suggest momentarily the absence of a quorum?

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield such time as he may desire to my cosponsor, the Senator from Delaware (Mr. Roth).

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I am pleased to join Senator Javits in offering this amendment. I believe the use of some funds for community crime prevention will provide a valuable source of seed money for these programs. And, if the programs in Delaware are reliable illustrations, our investment will be returned not merely twofold or threefold, but many times over. The community of Jefferson Farm provides an excellent example of what dedicated, trained, concerned citizens can do.

Jefferson Farm is a family community of about 900 homes in New Castle County, Del. During the past 2 or 3 years, the residents of Jefferson Farm had become increasingly concerned over the incidence of neighborhood crime. I think it is fair to say that they were also frustrated by the same failures that all of us here in the Senate are acutely aware of: low rates of apprehension, and actual convictions, coupled with releases without rehabilitation. But mostly it was the crime itself. In a period of 9 months, there were 80 burglaries. Almost 1 out of every 10 homes was broken into.

What sets the people of Jefferson Farm apart is their decision not to stand idly by and leave the battle to the police, but to join together. Although they did not and they do not actually apprehend criminals, their efforts have made a remarkable impact.

Led by the President of the Jefferson Farm Community Association, Robert Kelly, the residents organized along the lines suggested by the New Castle County crime prevention unit. After residents attended a series of training sessions, a "team captain" was designated for each block in Jefferson Farm, and residents began patrolling the streets, simply looking for suspicious activity. When any was spotted, the block captain was called. He or she, in turn, notified the local police.

In the past several months of operations, the block watch has had considerable success. In the same community that had 80 burglaries in 9 months, they recently have had only 3 burglaries in 5 months. On the first night of operation, a drug dealing operation was broken up. And, as Rob Kelly said to me, there has been an incredible rapport developing between young people and adults. Neighbors are bound together by a sense of community spirit and achievement. The police and citizens now respect and value each other.

About one-quarter of Jefferson Farms residents help in the block watch. This, to me, is amazing when I consider that in some communities we have difficulty getting that many people to vote.

But the residents of Jefferson Farm have basically just extended the principle of neighbor helping neighbor. Block watchers drive through the neighborhood in marked cars. They are trained to observe, to carefully note the physical descriptions of persons who appear out of place or the license numbers of autos which seem suspicious. They do not carry weapons. They do not confront people. They do not use force. But they are watchful.

Jefferson Farms' success has spurred other communities in New Castle County to develop block watch programs. A State legislator from the area who has been very active in helping with this effort, Bob Connor, estimated that about 16 communities had started such programs. A few evenings ago representatives met to discuss the formation of a county-wide block watch.

The citizens of Jefferson Farm and the other communities have done a remarkable job, but they deserve help and encouragement. The small, portable radios which Jefferson Farm's block watchers use cost $1,000 each. Although training is not expensive, it is difficult to operate on a large scale. Information on how to prevent crime needs to be distributed and that costs money, even if it is not much.

It is for this reason that I urge my colleagues to support this amendment. By encouraging and supporting these local programs, we do ourselves and our communities a very great service.

Mr. BIDEN. Will the Senator yield 1 minute?

Mr. ROTH. I am happy to.

Mr. JAVITS. I have the time, but I am happy to.

Mr. BIDEN. I would like to associate myself with the remarks of the senior Senator from Delaware. He is absolutely right. There has been a remarkable job done.

I commend the Senator from New York for pursuing this matter to insure that this kind of circumstance continues, not only in our State, but around the Nation.

The PRESIDING OFFICER (Mr. FORD). The Senator from New York.

Mr. JAVITS. Mr. President, I have discussed this matter with both Senator HRUSKA and Senator MCCLELLAN and I am prepared to make a modification which I hope will be satisfactory to the managers of the bill.

The PRESIDING OFFICER. The Senator will state his modification.

Mr. JAVITS. I will send it to the desk, as well, but the modification would come, Mr. President, at the very beginning in the new paragraphs to be added, which will read as follows:

> There shall be established in the administration an appropriate organizational entity for the coordination and management of community anticrime programs. This entity shall be under the direction of the Deputy Administrator for Policy Development.

And so on.

Mr. President, I suggest the absence of a quorum momentarily.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 231

Mr. JAVITS. Mr. President, for myself and Senator ROTH, I send a modified amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

> On page 8, line 16, strike the period and insert: and by adding the following:
>
> "(a) There shall be established in the Administration an appropriate organizational unit for the coordination and management of Community Anti-Crime Programs. Such unit shall be under the direction of the Deputy Administrator for Policy Development. Such unit shall—
>
> "(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime prevention and other law enforcement and criminal justice activities;
>
> "(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Division of the Department of Justice) designed to encourage and assist citizens participation in law enforcement and criminal justice activities; and
>
> "(3) provide information on successful programs of citizen and community participation to citizen and community groups."

Mr. JAVITS. Mr. President, the change which I have made simply leaves to the administrator what shall be the appropriate organizational unit for the purpose instead of setting up by statute an office.

I hope that under these circumstances the amendment is accepted.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Arkansas.

Mr. MCCLELLAN. Mr. President, we have examined this amendment. With the modification made by the distinguished Senator from New York, I have no objection to the amendment. I am willing to accept it, if that is agreeable with the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, I concur with that conclusion. I have no objection to it. In fact, I will vote for it.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. MCCLELLAN. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New York, as modified.

The amendment, as modified, was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

If no Senators yield time, equal time will be charged against both sides.

The Chair will state again that the time is being charged equally to both sides.

Mr. MCCLELLAN. Mr. President, ascertain whether there are any more amendments to the bill.

UP AMENDMENT NO. 232

Mr. BIDEN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Delaware (Mr. BIDEN), proposes an unprinted amendment No. 232.

The assistant legislative clerk proceeded to read the amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 32, line 14, after "1976," insert "and".
>
> On page 32, line 15, beginning with the comma following "1977" strike out all to the period in line 19.
>
> On page 33, line 2, strike out "each of the fiscal years enumerated above" and insert in lieu thereof "the following fiscal year".

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. How much time have I on this amendment?

The PRESIDING OFFICER. Thirty minutes equally divided. Fifteen minutes to each side.

Mr. BIDEN. Mr. President, the present bill, S. 2212, would reauthorize the Law Enforcement Assistance Administration for a period of 5 years.

My amendment would reduce this time to 15 months, or until October 1, 1977. An identical time period has been approved by the House Judiciary Committee.

Mr. President, there are two primary objectives of my amendment. First, I believe that LEAA has been an ineffective and wasteful agency which must be totally restructured. This amendment will give us time to do that.

Second, this amendment will also force us to exercise our oversight responsibility with regard to this agency, a function which Congress has failed to do with respect to this as well as most of our other Federal agencies. No one can deny that crime in the streets is a major problem today just as it was in 1968 when LEAA was created.

Recent polls rank fear of crime first or second in the minds of the American people, just as it did in 1968. The American people are afraid to walk the streets at night—or even in the daytime—just as they were in 1968. The American people are concerned about rape, burglary, mugging and murder—just as they were in 1968. The American people are asking, just as they were in 1968, what are we doing about it?

And I would like to ask that question—what are we doing about it? We have created the LEAA.

We have changed its responsibilities each time it has been reauthorized, just as this proposal does—changes which are necessary, but changes which have not gone far enough.

Why do we continue to attack the problem on a piecemeal basis? Why do we amend the law in one section here and in another there, but never look at the interrelationship? Why do we ignore studies suggesting that LEAA must be totally revamped or permitted to expire? Let us look at what was done this year.

The Judiciary Committee made an important step forward by providing for increased participation and funding for State court systems. But what about our prisons? What about the GAO studies which show our prison expenditures are being wasted?

In the 716 page hearing record one can only find traces of a discussion of this problem. The same holds true for the juvenile justice situation.

Mr. President, I do not think things have really changed a whole lot from 1973 when the distinguished Senator from Michigan (Mr. HART) offered an amendment similar to mine.

At that time, he argued in favor of a 2-year rather than 5-year authorization listing his reasons as follows:

> First, we have continued serious questions about LEAA's performance; second, there is a new director at LEAA and his policies are unknown; third, the House has decided that a 2-year authorization is needed for oversight; fourth, a substantial number of Senators and Representatives feel that further reforms may be needed.

Mr. President, aside from the second reason given above, these considerations are just as valid today as they were then. And for those very same reasons, we should only extend the LEAA for 15 months as I propose, in order to carry out the major restructuring of LEAA that is needed. Our crime problem is much too important to be considered every 5 years.

Each time Congress has taken a look at LEAA, we have made a constructive change. In 1970, the first reauthorization Congress added what is now known as part E, providing funds for correctional facilities.

In 1973, the second reauthorization, Congress provided that the States should be more specific in their criminal justice plans.

And now in 1976, the Senate Judiciary Committee has recognized that State judicial systems have been neglected in many State plans and has acted to provide for more judicial participation in the formulation of such plans.

As can be seen from these amendments, it is obvious that LEAA needs continuous oversight and monitoring—and continuous improvement. Only once since the creation of LEAA has Congress affected its duties in a nonreauthorization year. That was in the Juvenile Justice and Delinquency Prevention Act of 1974. Yet, that act, which is funded apart from LEAA did not result in a fundamental change in LEAA's operation.

It seems to me that with the continued criticism of LEAA by both private and governmental groups, as well as the evidence that major changes must be made when the Agency is reauthorized, we cannot allow LEAA to exist for another 5 years without oversight.

We cannot give the Agency a "clean bill of health" for 5 more years.

We must force ourselves to utilize our oversight power and oversight responsibility.

This is especially true in light of recent studies such as one done by the 20th century fund call for major restructuring of the Agency, or even of its abolition.

This 15-month extension will give us an opportunity to attempt that major restructuring.

My criticism—and the need for this amendment—stem from the fact that crime is such a major problem that we cannot afford to deal with it only once every 5 years. It is an ongoing challenge.

What are the arguments against a short-term reauthorization?

First, as expressed in the committee report, we learn that a short-term reauthorization will deprive States of the assurance of Federal funds which they need to engage in long-term planning, a necessity for a criminal justice program.

It should be pointed out, however, that LEAA's grants to States only last on a yearly basis. Thus, States already face the problem. LEAA itself may accept part of a long-term program in one year, and then reject it the next.

Furthermore, I think that State and local governments can rest assured that if my amendment is adopted, our commitment to help them remains.

We just want to improve the performance of the Agency involved. The funds will be available so long as they will be wisely spent. If we do not restructure the Agency, it may run into so much opposition that someday we will abolish it.

Second, it is argued that a short-term reauthorization will cause State and local governments to spend more money on hardware and unneeded equipment rather than on significant improvements in the criminal justice system. Anyone who has studied the program knows that that problem is already a major flaw with LEAA. The length of the reauthorization is not the deciding factor as to whether hardware is purchased or not.

LEAA can deal with the problem now simply by exercising greater oversight and being more critical in analyzing State plans.

And, if LEAA will not do it, then we in Congress may have to amend the law to take care of the problem.

Third, it is also argued that a short-term reauthorization will have a severe impact upon corrections.

This argument troubles me because I believe that prison facilities should be the basis of a new approach to our criminal justice system. We cannot talk about bringing fairness into our sentencing structure when we have inhumane prisons. We cannot talk of mandatory minimum sentences when we have overcrowded jails.

We cannot talk of giving a criminal his "just desserts" when courts rule, rightly so, that some of our jails are a "cruel and unusual punishment" so we have got to start there.

The problem with this legislation, however, is that it does not address the problem of corrections. A recent study by GAO indicates that LEAA funds for prisons "did not result in adequate improvements of overall jail conditions."

The GAO made several recommendations, but they were never discussed in the hearings. The committee has not taken the GAO's advice in this area—the House has, by approving a set of standards for prisons. I would rather see us extend this agency for 15 months to give the Judiciary Committee a chance to consider amending the law to make our correctional program more effective. We cannot wait through 5 years of unfavorable GAO reports before acting.

In conclusion, Mr. President, while the bill before us does make a significant improvement over present law, particularly in the area of funds for courts and for programs to combat crime perpetrated against the elderly, it does not represent the major restructuring of LEAA which is necessary.

I would hope that by following the lead of the House Judiciary Committee and limiting the extension to 15 months we could give ourselves the time, and, in effect, the requirement to restudy and structure the Agency.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I yield myself 5 minutes.

As reported by the Judiciary Committee, S. 2212 authorizes continuation of the LEAA program through the next 5 fiscal years—fiscal year 1981. It was the judgment of the committee that a 5-year authorization would best achieve congressional policies in enacting the Safe Streets Act and provide necessary stability to the program. That judgment was based upon a variety of considerations.

First, one of the key features of the LEAA program—and one of its most important contributions—is comprehensive criminal justice planning. To be truly effective, such planning must have long-range implications. A shorter authorization period would disrupt the planning process and allow States to consider only short-term needs.

Second, a shorter authorization period would make States and local governments hesitant to commit themselves to many significant undertakings or to hire new personnel because of the danger of an abrupt loss of support. It is unreasonable to expect these governments to commit resources to major efforts without assured technical and financial assistance.

Third, a short-term program would encourage the purchase of equipment by localities rather than the development of other types of improvements of the criminal justice system since a long-term tangible benefit would be guaranteed.

Fourth, a shorter period of authorization could have a chilling effect on the raising of matching funds. Local officials will not wish to make a substantial investment in a program that will be in existence for only a short time or might be drastically changed in nature.

Fifth, developing and demonstrating innovative, system-oriented programs requires substantial time. So too, meaningful evaluation of complex criminal justice programs cannot be completed within 2 or 3 years. It is often difficult to identify those projects that reduce crime without long-term review and assessment. Yet meaningful evaluation is one of the primary goals of S. 2212.

Sixth, nongovernmental organizations engaged in criminal justice research—at universities and in private research firms—must be assured of long-term support before they can invest their own limited resources.

Finally, one of the primary objectives of the Congressional Budget and Impoundment Control Act of 1974 was the development of long-range planning capability by the Federal Government. Extension of the LEAA program for 5 years would be consistent with that objective.

For these reasons, the committee concluded that 5 years was the most suitable period of authorization for LEAA and that any shorter term would be ill-advised and contrary to the objectives of Congress in establishing the program.

The committee was particularly interested in the views of those witnesses appearing before the Subcommittee on Criminal Laws and procedures regarding the term of LEAA reauthorization. While most of the witnesses had comments regarding operation of the LEAA program and suggested some legislative revision, nearly all those appearing strongly endorsed continuation of the program, and recommendations were generally of a constructive nature. Only one witness testified against reauthorization of the Agency.

Mr. President, if we are going to limit this program to 15 months, I suggest we could better serve the national interest by simply abolishing it. If it is no better now, after the 8 years we have had it in operation, and after the thorough study made in the hearings in support of the pending bill, if we do not now know whether this program is meritorious and whether it should be continued, I do not think we would know in the next 15 months.

Mr. President, I would like to point out some very distinguished citizens and officials of our country who—very respectfully, I am sure—disagree with the distinguished Senator from Delaware. Here is a list of those who appeared before our committee, Mr. President. Incidentally, we held hearings on this bill last October, November and December, as I recall. The committee was not given the benefit of the views of the distinguished Senator from Delaware at that time, but other Senators and other distinguished officials throughout the country did let us know how they felt about it.

Mr. President, I read from the list of those who appeared before the committee and testified, and who supported the 5-year extension of this act:

Attorney General Levi.

Deputy Attorney General Tyler.

LEAA Administrator Velde.

Governor Byrne of New Jersey.

Representative Cal Ledbetter of Arkansas, on behalf of the National Conference of State Legislators.

Attorney General Slade Gorton of Washington.

Richard Harris, Director of the Virginia Division of Justice and Crime Prevention, on behalf of the National Conference of State Criminal Justice Planning Administrators.

Philip Elfstrom, Kane County, Illinois, Board of Commisioners, on behalf of the National Association of Counties.

Sheriff John Duffy of San Diego, California.

Representatives of the Advisory Commission on Intergovernmental Relations.

Chief Judge James Richards, Lake County, Indiana, Superior Court.

Governor Noel of Rhode Island.

Justice Harry Spencer, Nebraska Supreme Court, Associate Judge William Grimes, New Hampshire Supreme Court, Judge Henry V. Pennington, Kentucky Circuit Court, all three representing the American Bar Association.

I ask unanimous consent to have printed in the RECORD at this point a list of other distinguished witnesses who appeared before the committee supporting the extension of the LEAA, who did not necessarily designate the 5-year period, but supported continuation of the program.

Mr. FORD. Mr. President, will the Senator yield?

Mr. McCLELLAN. Yes, if I can get a ruling from the Chair.

The PRESIDING OFFICER. Will the Senator repeat the request?

Mr. McCLELLAN. I asked unanimous consent that the list of witnesses who testified respecting the extension of this program for an indefinite period be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Senator Thomas Eagleton of Missouri.

Senator J. Glenn Beall of Maryland.

Senator Robert Morgan of North Carolina.

Karl McFarlane, National Association of Regional Councils.

Congressman Claude Pepper of Florida.

Mayor Wise of Dallas, Texas.

Mayor Maynard Jackson of Atlanta, Georgia.

Mayor Sloane of Louisville, Kentucky.

All three mayors on behalf of the U.S. Conference of Mayors and the National League of Cities.

District Attorney Carol Vance of Houston, Texas.

Chief Justice Howell Heflin of Alabama.

Marion Opala, Court Administrator of Oklahoma.

David Levine, Greenville, South Carolina.

Richard Clement, President, and Glen King, Executive Director, International Association of Chiefs of Police.

Milton Rector, National Council on Crime and Delinquency.

Amos Reed, Association of State Correctional Administrators.

Chief Justice Walter McLaughlin, Massachusetts Superior Court.

Judge Harold Birns, New York State Supreme Court.

Michael Codd, Police Commissioner of New York, New York.

Mr. FORD. Mr. President, will the Senator from Arkansas give me a minute to associate myself with his remarks?

Mr. McCLELLAN. I yield to the distinguished Senator from Kentucky.

Mr. FORD. I thank the distinguished Senator from Arkansas.

If the amendment of the Senator from Delaware is allowed to prevail, it would mean that in the State of Kentucky, where we have set up a 3-year program, which is an educational incentive program for our law enforcement people over a 3-year period to give them an additional pay incentive for further education of 240 hours a year going in and 40 hours additional each year, and the programs of judicial reform, the new prison that we have going up there where funds are being made available and the planning is there, if we cut this off at the end of 15 months, then we are making a mistake. We have to have long-range planning.

There are people out there who are doing things that are right under this program, and I hope that the committee's 5-year extension of LEAA will be accepted and we will not allow it to disintegrate in the 15 months.

I thank the Senator.

Mr. McCLELLAN. I thank the distinguished Senator from Kentucky.

Mr. President, I do not wish to belabor it any further. It does seem to me that this program has been tested. It has not been perfect, but there is abundant evidence of good results from it not only in the State of Kentucky, and in my State, but also in States and communities throughout the Nation. We either should continue it or for a reasonable length of time to give those who participate in it the opportunity to develop programs that will carry over into future time, to give time for their implementation, in my judgment, or we should simply vote against this bill and kill the bill.

We are talking about reviewing it. We have reviewed it. We have had long hearings on it. The hearings conducted were last fall. If there has been any development since that would change the situation, I know nothing about it.

As to all those who wanted to kill the program, discontinue it, and have a shorter period of time, everyone had an opportunity to be heard. I think this is a mistake to try to kill it here in the Chamber.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield to the distinguished Senator from Rhode Island.

Mr. PASTORE. What we have to bear in mind is that here we are dealing with the authorization. This program is subject to scrunity every year when it comes to the funding aspect of it. It comes under our subcommittee. We go into it in detail. If at that time there is any neglect or faults to be found, they can be corrected, or the amount of money can either be entirely shut off or limited in amounts below the authorization figure.

But the point is that we have to give

some assurance to local authorities that they can depend in some way upon this program in the future so that they can make proper plans. We have found that to be so as the distinguished Senator knows, having been a Governor of his State as I was a Governor of my State. The same is so when we are building a highway. I mean, unless we have a comprehensive program that is stretched over a period of time it is not only going to cost us more if we do it bit by bit, but we simply cannot do the proper planning. To cut this down to 15 months or to 18 months I say we might as well do away with the program. If that is the way the Senator feels about it, then just stand up and vote against the whole program.

Mr. HRUSKA. Mr. President, will the Senator yield me 4 minutes?

Mr. McCLELLAN. I yield to the Senator. The Senator has control of half the time if he wants it.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. McCLELLAN. How much time do I have remaining on the amendment?

The PRESIDING OFFICER. The Senator has 5 minutes remaining. The Senator from Delaware has 4 minutes remaining.

Mr. McCLELLAN. I yield to the Senator 4 minutes.

Mr. HRUSKA. Mr. President, the pending amendment is totally unacceptable. It flies in the face of two governing principles which we cannot ignore. One of the principles is this: In our Federal budgeting processes we require not only a request for funds but a projection into the future overall of 5 years and in the Budget and Impoundment Act, there is a similar requirement for a 5-year projection.

There is a reason for that 5-year projection, and that is that to have a lesser period of time, 15 months only, means that provision can only be made for short-term needs. Long-term needs which are more numerous than short-term needs will be totally neglected and impossible to implement. It will be difficult to hire personnel because there is no assurance for a given program for employment of experts and technical people, as well as for clerical and support personnel, if there is no assurance beyond 15 months, there will be difficulty in getting qualified personnel.

The short-term authorization would also encourage the purchase of hardware and/or the use of training.

There would not be on a short-term basis any ability for followup evaluation or planning. There would be a chilling effect on the raising of match money by localities. There would be a lack of stability to programs which could lead to a waste of funds.

This matter has been thoroughly canvassed, Mr. President, and the overwhelming amount of testimony from witnesses cited by the chairman of the subcommittee indicates that there should not be any serious consideration given to a term as short as 15 months. Five years was the overwhelming desire for this program by the Judiciary Committee, and I subscribe to the thoughts expressed by the Senator from Rhode Island, that there is a flexibility and there is a control over the program in the budgeting process which is much more desirable, with more commonsense and is much more useful to the overall administration of the LEAA program.

Mr. President, as reported by the committee, S. 2212 authorizes continuation of the LEAA program through fiscal year 1981. Because the types of programs ultimately funded by the States will be determined by the length of reauthorization of the LEAA program, the committee felt 5 years would best promote achievement of the policies of the Congress in enacting the Omnibus Crime Control and Safe Streets Act and would give needed stability to this important Federal assistance program.

One of the key features of the LEAA program is the comprehensive planning process. Each State is required to review its law enforcement and criminal justice programs and establish needs and priorities for resource allocation. To be effective, this planning must necessarily have long-range implications. A shorter period would be disruptive of this planning process and allow States to give consideration only to short-term needs.

An abbreviated LEAA program and the uncertainty as to future assistance which such an authorization period would entail, would have further adverse effects on State and local efforts. The nature of individual projects would change drastically from the innovative efforts leading to permanent beneficial effects which the Congress expects, to projects which merely support normal operational expenses. Jurisdictions would be hesitant to make a commitment to many significant undertakings or to hire new personnel because of the possibility of abrupt loss of support.

Short-term programs would also encourage the purchase of equipment by localities since a tangible benefit lasting for some time would be guaranteed. Equipment purchases would also be attractive since they require no followup planning or evaluation.

There could additionally be a chilling effect on the raising of matching funds by localities. Local officials may not wish to make a substantial investment in a program which would possibly remain in existence for a brief period, or which might be drastically changed in nature.

One particularly striking example of the negative results which might occur because of a limited reauthorization is in the area of LEAA's corrections effort. The objective of LEAA's corrections program is to develop and utilize hypotheses concerning techniques, methods, and programs for more effective correctional systems and improved capabilities of corrections, with special attention to offender rehabilitation and diversion of drug abuse offenders. Developing and demonstrating innovative, system-oriented programs and monitoring and evaluating the outcome of such efforts requires substantial time, effort, and funding commitments. Two years is an unrealistic period to accomplish such objectives.

Numerous States are now developing correctional and court master plans with LEAA encouragement and support. It has been demonstrated that the planning, development, and implementation of the process exceeds 2 years. We cannot expect that States, particularly those which are only beginning the process, would commit resources to these major efforts without assured LEAA technical and financial assistance.

Other major corrections program efforts, such as the Comprehensive Offender Program Effort—COPE—which is now in the initial funding stages, could not have been developed and come to fruition if such a 2-year limitation were imposed when COPE was first conceived as an interagency Federal effort. Furthermore, participating States would not consider a major allocation of resources to develop COPE plans if there were no authority to continue the LEAA program beyond 2 years.

A final example of the need for an extended period of authorization is the LEAA evaluation effort which was discussed earlier. Meaningful evaluation of complex criminal justice programs cannot be completed within 2 or 3 years. Because of the many factors which impact on crime, it is often difficult to identify those projects which reduce crime without long-term review and assessment. For example, projects relating to recidivism, which is one of the most challenging aspects of criminal justice improvement, require several years to design, implement, and evaluate. Moreover, nongovernmental organizations engaged in criminal justice research—at universities and in private research firms—must be assured of the long-term potential for support of studies into complex crime-related issues before they can invest their own resources in these areas.

In determining the period of reauthorization for LEAA, the committee paid serious attention to the thrust of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344). That legislation has as one of its primary objectives the development of long-range planning capability by the Federal Government. Extension of the LEAA program for 5 years would be consistent with this objective.

The committee was particulary interested in the views of those witnesses appearing before the Subcommittee on Criminal Laws and Procedures regarding the term of LEAA reauthorization. While most of the witnesses had comments regarding operation of the LEAA program and suggested some legislative revision, nearly all those appearing strongly endorsed continuation of the program, and recommendations were generally of a constructive nature. Only one witness testified against reauthorization of the Agency.

Of those appearing before the subcommittee, the following specifically supported extension of the program for 5 years:

Attorney General Levi.

Deputy Attorney General Tyler.

LEAA Administrator Velde.

Governor Byrne of New Jersey.

Representative Cal Ledbetter of Arkansas, on behalf of the National Conference of State Legislators.

Attorney General Slade Gorton of Washington.

Richard Harris, Director of the Virginia Division of Justice and Crime Prevention, on behalf of the National Conference of State Criminal Justice Planning Administrators.

Philip Elfstrom, Kane County, Illinois, Board of Commissioners, on behalf of the National Association of Counties.

Sheriff John Duffy of San Diego, California.

Representatives of the Advisory Commission on Intergovernmental Relations.

Chief Judge James Richards, Lake County, Indiana, Superior Court.

Governor Noel of Rhode Island.

Justice Harry Spencer, Nebraska Supreme Court.

Associate Judge William Grimes, New Hampshire Supreme Court.

Judge Henry V. Pennington, Kentucky Circuit Court, all three representing the American Bar Association.

By way of summary, it should be clear that:

First. Comprehensive planning concept of current program, whereby each State sets long-range needs and priorities, would be defeated by 1-year reauthorization.

Second. Short-term reauthorization would allow consideration only of short-term needs.

Third. Projects would change from innovative efforts leading to permanent beneficial changes to projects which would merely support normal operational expenses.

Fourth. Jurisdictions would be hesitant to make a commitment to significant projects or hire new personnel because of possible loss of support.

Fifth. Short reauthorization would encourage purchase of hardware or use of training—a tangible benefit lasting some time would be guaranteed.

Sixth. Short-term programs would permit no followup evaluation or planning.

Seventh. There would be a chilling effect on raising of match money by localities, since program might be changed or eliminated in near future.

Eighth. Congressional Budget Act has long-range planning as one of main objectives. Talks in terms of 5-year planning.

Ninth. Would assure stability to this aspect of Federal assistance. Would be particularly important to localities in time of fiscal difficulties.

Tenth. A short-term reauthorization would only serve to diminish returns from investments already made and narrow the scope of future efforts.

Eleventh. Numerous States are now developing long-range corrections, court, communications, and information-system plans with LEAA encouragement and support. States, particularly those which are only beginning the process, cannot be expected to commit resources for major reform efforts without assured LEAA technical and financial assistance.

Twelfth. LEAA's corrections program has as its objective the development and implementation of techniques, methods, and programs for more effective correctional systems, with special attention to offender rehabilitation and diversion of drug abuse offenders. Developing and demonstrating innovative, system-oriented programs and monitoring and evaluating their outcome requires substantial time, effort, and funding commitment. Several years are needed as a realistic time in which to accomplish such objectives.

I yield the floor, and yield back the remainder of my unused time.

Mr. BIDEN. Mr. President, I only have 4 minutes remaining. I shall try as quickly as possible to respond to the argument.

First of all, the Senator from Rhode Island (Mr. PASTORE) stands up and tells us, in his very eloquent manner, that the way is to go back on a year-to-year basis, that they have to go back for money.

I point out that every time some of us try to do that we are told that we should not be legislating on appropriations bills.

The Senator from Nebraska says that there are certain governing principles. If there is any governing principle in this body it is that we do not exercise oversight. That is the governing principle of this Congress, as a practical matter.

That is why, Mr. President, 2 years ago we introduced what everyone now calls sunset legislation. No one paid attention to it then. They started listening to the American people, and now distinguished chairmen from committees all over this Congress are talking about sunset legislation.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BIDEN. Not on my time. I only have 4 minutes.

Mr. PASTORE. Yes. But the Senator mentioned the Senator from Rhode Island.

Mr. BIDEN. I understand that, but I only have 4 minutes' time.

If we receive unanimous consent to extend my time for 2 minutes, I shall yield.

Mr. PASTORE. I understand that we have at least 1 minute remaining, do we not, on this amendment?

Mr. McCLELLAN. There are 3 minutes remaining.

Mr. PASTORE. I invite the Senator to come to my subcommittee and to see how exhaustively we look into these matters.

This business about sunset and sunrise, twilight and dawn—I mean we do not need that at all. We do not need that at all.

If the Senator will just come to my committee, he will see how meticulously we look at every item, and he would be refreshed, he would be edified, and have confidence in this Senator.

Mr. BIDEN. My main concern is that the Senator from Rhode Island will not be here next year.

Mr. PASTORE. But there are a lot of good people in this world. Do not forget that.

Mr. BIDEN. Very quickly, Mr. President, if I may continue, as to the arguments about comprehensive planning, they can still comprehensively plan because as the Senator from—I will not mention any names—as various Senators indicated——

Mr. PASTORE. Say it.

Mr. BIDEN. As various Senators indicated they have to come back each year for their money. They know there is no certainty that the money will be there. So if the argument says they will not be able to comprehensively plan, if we do not extend for 5 years, the same argument holds true, if we take the Senator's argument, that they have to come back year-by-year. And it has also been argued that it inhibits States making major commitments. I do not believe that is correct. I do not have time to expand on that further. I mentioned that earlier.

Then there is the argument about the encouragement of the purchase of equipment. If Senators are worried about the purchase of equipment let us pass amendments now directing under what conditions they can do that.

I point out, Mr. President, that the list that the chairman introduced of those in support of this legislation consisted primarily of State officials. Can anyone tell me a time when a State official who was receiving money came to us and said, "Reduce the time in which you're going to give me money"? Of course, every State official is going to come here and say, "Extend it 5 years." If we made it 10 years, they would say 10 years. If we made it 20 years, they would say 20 years. They want surety that they are going to continue to get dollars, wasted or not, from the Federal Treasury, because they do not have to account to their taxpayers for that. They do not want to go to the State and raise their taxes. They are going to come in here and ask for 5 years, and I suggest that we look at who is asking for the extension of 5 years.

Mr. President, we in Congress have a real sham going with the American people. They want the Federal Government involved in crime control, if they want it involved anywhere. We are advertising to the American public that our war on crime to help them in the States is LEAA.

In 1968, we had a President riding to the White House on the twin horses of law and order and everybody was standing up here telling us that LEAA was going to wage that battle. It has not done a bloody thing. They know it has not changed anything. It has not helped significantly in any place. That is our one weapon that we are advertising to the folks, and we wonder why they think we are ineffective here. We wonder why they think we do not know what we are doing. We tell them we have a program. We have spent $4 billion on it so far. So we should go back to them and level and say it is not designed to impact on the crime program in their State, or if it is so designed, we tell them to go back to restructure it so that it can be done.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Arkansas has 2 minutes remaining.

Mr. McCLELLAN. Mr. President, if this program is no good, let us abolish it. It is charged that the program is ineffective because crime has increased since we inaugurated the program. If that is a logical argument, a fair argument, against this program, then I say that the courts are doing no good. We should abolish the courts because crime still increases. We should abolish the Attorney General's office because crime still increases. If one uses that kind of logic in the weighing of this bill, he places himself in the position of opposing all appropriations for law enforcement.

The law enforcement assistance program has done a great deal of good; I know it has done so in my State. I believe almost every Member of this body could verify that it has done a great deal of good in his State.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. PASTORE. I have not met one law enforcement officer who is not for this program. To whom are we listening? We are listening to a lot of people who are not giving the time and the attention to go back home and speak to their law enforcement officers.

The judges of the juvenile courts call me every day. I addressed them in Rhode Island during the last recess of the Senate. I have talked to nearly every police officer in my State, every superintendent of police, and they all tell me that without this program now, they would be handicapped. To argue here that this program is responsible for the increase in crime——

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. PASTORE. Are we to do away with the hospitals because people still die? What are we talking about here?

The PRESIDING OFFICER. Time still has expired.

The question is on agreeing to the amendment.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD of West Virginia. I announce that the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 12, nays 80, as follows:

[Rollcall Vote No. 403 Leg.]

YEAS—12

Abourezk
Bayh
Biden
Bumpers
Clark
Cranston
Eagleton
Hartke
Helms
Mansfield
Proxmire
Weicker

NAYS—80

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Burdick
Byrd,
 Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Culver
Curtis
Dole
Domenici
Durkin
Eastland
Fannin
Fong
Ford
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott,
 William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NOT VOTING—8

Buckley
Garn
Goldwater
Metcalf
Mondale
Packwood
Scott, Hugh
Tunney

So Mr. BIDEN's amendment was rejected.

UP AMENDMENT NO. 233

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

The PRESIDING OFFICER. The Senate will come to order so that the amendment can be heard. Will the clerk suspend until the Senate Chamber is in order?

The clerk may proceed.

The legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN) proposes unprinted amendment No. 233.

Mr. BIDEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed wtih.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line 16, after "1978," insert "and".

On page 32, line 17, beginning with the comma following "1979" strike out all to the period in line 19.

On page 33, line 2, strike out "each of the fiscal years enumerated above" and insert in lieu thereof "the following three fiscal years".

Mr. BIDEN. I yield to the Senator from Maryland.

Mr. BEALL. Mr. President, I ask unanimous consent that David Rust and Tim Miller of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I request that the distinguished senior Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, my colleagues who are still here, I will be very brief, for my part. I will take less than 3 minutes.

This is merely a change in the last amendment, which was badly defeated, which stated that we cut back the life of LEAA from 5 years to 15 months. My present amendment would cut it back to 3 years and not 15 months.

Mr. President, my intent is not to eliminate LEAA. My intent is to force a major restructuring of LEAA through congressional oversight. I do not believe we can allow the singlemost important and, if not the only, Federal program that deals with crime in the streets at the State level, crime within the States, to have a 5-year extended life.

There has been a great deal of criticism of it from the GAO report, the 20th Century Fund, and others.

Major arguments against my amendment have been that it would inhibit comprehensive planning at the State level; second, that it would inhibit States from making a major monetary commitment; and, third, that it would encourage the purchase of hardware.

Mr. President, I think these arguments are frivolous. It, in fact, requires that each year each State has to come back to us in these tough budget times and ask for dollars. If, in fact, they are going to be inhibited by a 3-year extension, they are also going to be inhibited by the fact that they have to come back in this economy every year for continued funding.

Second, if they are going to be inhibited from making a major commitment with regard to 3-year authorization instead of 5, they are going to be inhibited now from doing that.

Third, if they are worried about the purchase of equipment instead of other activities, we should directly address that problem by amending the present legislation, whether or not it is extended for 3 or 5 years.

Mr. President, as I said earlier today on the other amendment, one of the governing principles, it seems in this body and Congress as a whole, and recognized by our constituents, is that we get so busy that we do not exercise our oversight functions.

The PRESIDING OFFICER. Will the Senator suspend until I get order in the Chamber. The hubbub is so great it is hard for me to hear the speaker and, I assume, for everyone else.

Will the Senators and aides kindly stop conversing in the Chamber so that we can hear the speaker? Will the Senate Chamber please come to order?

The Senator may proceed.

Mr. BIDEN. Mr. President, my amendment does not end LEAA. My amendment does not prevent comprehensive planning. My amendment merely cuts down the time from 5 to 3 years to force us to exercise our responsibility to oversee an agency which is not functioning to the expectations of, I submit, ourselves and/or the American public.

I would like to reiterate that the American public wants the Federal Government involved in crime control. They are not so sophisticated as to think their major problem is white collar crime or corporate crime. What they are concerned about is crime in the streets.

We cannot affect that directly because it is within State jurisdictions, but they want us involved in aiding in that effort. Yet the fact of the matter is this very program which we hold out to the American people as the major Federal effort to help them with their primary concern of crime control is not doing the job. To extend it for another 5 years means, as a practical matter, that we will not take a look at it for another 5 years. It means we are locked in for 5 years.

When some of us stand up to amend it in the interim period we will be lectured with the principle that we should not legislate on an appropriation bill. I do not believe that we can allow this agency, which I firmly believe is not functioning as well as it should, to continue for 5 years without being looked at. That is just what we will be doing if we pass the legislation in its present form.

Mr. President, there were a number of Senators, 43 in all, who 3 years ago voted to—yes, on June 28, 1973—cut the agency to 2 years in order to force us to exercise our oversight function—43 Members, many of whom voted against the 15-month extension.

I would like to ask those Members who supported cutting it back to 2 years in 1973 whether or not, if they reject the 3 years, that they are now saying that their doubts have been allayed; that LEAA is functioning better now than it did then and functioning up to the capacity they feel it should in order to satisfy the American people that we are making the commitment we claim to be making under this legislation.

I submit that that is probably not the case.

I am sorry more of our colleagues are not here to listen to more debate on this subject. I will not bore those who have already heard it with my first speech about why this should be done.

In conlusion, Mr. President, it seems to me that we had better not confuse ourselves. I want to ask those Senators who are going back to their States and who campaigned on a platform that they were going to help in the war against crime—and we had an answer or at least a partial answer, the LEAA in 1968, are they going to go back and say:

> Yep, I had a chance to look at it once more in 3 years, but I decided things were so good and we were doing our job that we are going to extend it 5 years.

I do not want to have to go back without restructuring this agency in line with recommendations of the 20th Century Fund, the GAO, and others.

All I want to do is take another look at it, and I suggest we do that as quickly as we can.

I should point out, the House Judiciary Committee says we should use only 15 months, not 5 years.

We are caught up now. We have liberals, conservatives, Democrats, and Republicans all talking about "Sunset" legislation. All talking about the fact that the only way Congress really, because of its busy schedule, will exercise its oversight function is if, in fact, at periodic intervals all programs must be reauthorized.

I hope we consider exercising that oversight function in 3 years and not 5.

I yield the floor, Mr. President.

Mr. McCLELLAN. Mr. President, I yield myself 3 minutes.

I want to make this observation. We are talking about opportunities to overhaul this bill and this agency.

Mr. President, the pending bill was introduced on July 29, 1975. Hearings were held on it, October 2, 8, 9, 22, and 23, November 4, December 4, 1975 and March 17, 1976.

Talk about overseeing the program, we have had the opportunity. The committee held hearings over this long period of time. There was the opportunity for the distinguished Senator from Delaware to appear to submit his proposed restructuring of it. He has had all of this time.

Now that this review has been completed, let us give the time and opportunity for the States and the local units of government to make their plans over a period of years in order that they may get the most beneficial results from this Federal assistance.

We have had the bill before us, had committee hearings, and the distinguished Senator, as I recall, has not raised his voice before the Judiciary Committee about this bill. Maybe I am mistaken but I do not recall that he appeared before the committee.

Mr. BIDEN. No, I had too much faith in those on the committee to do much about that.

Mr. McCLELLAN. I do not know about depending on somebody else. The Senator had just as much responsibility as any other Senator if he wanted reconstruction after a certain fashion that pleased him. He had an obligation to be there, to give his views to the committee, and not wait until we get the bill on the floor to say that he wants another year or so to restructure the bill.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. McCLELLAN. I yield the floor.

Mr. BIDEN. Mr. President, I am sure the distinguished chairman is not suggesting that because I may have made an error 6 months ago I should continue my erroneous ways.

Second, Mr. President, the report which I relied heavily upon, submitted by the GAO, I did not have and was unaware of until April 5, 1976.

It may have come out earlier, but to the best of my knowledge, that is when it came out and that is the first time I was aware of it.

Third, I assume some of the very gentlemen who argued most vociferously against long-term extension last time would, in fact, maintain that position in committee.

Fourth, I have gotten some religion. I have had a chance to look at it and I found out I should have been doing more about it. I want to make sure I can do more about it.

Fifth, Mr. President, we are going to strap upon a potentially new administration a bill to lock them in for 5 years that they may not, in fact, be very crazy about.

It seems to me it is inappropriate now in this election year to bind the upcoming administration, whether it be Ronald Reagan or Jimmy Carter, or President Ford—he has spoken on this and he is the only one—to a 5-year extension of a program.

I do not see what significant damage is done by limiting it to 3 years. None of the arguments raised as to the effect of limiting the life from 5 to 3 years are very persuasive in this Senator's opinion.

Last, Mr. President, we people from small States sometimes have complexes about the size of our State and, although I am very delighted to be associated with Rhode Island, I am from Delaware.

Mr. McCLELLAN. I beg the Senator's pardon.

Mr. BIDEN. That is all right.

Mr. McCLELLAN. My reference to the distinguished Senator as being from Rhode Island was inadvertent.

Mr. BIDEN. I was just kidding.

Mr. McCLELLAN. I would be proud to be a Senator from Rhode Island, Delaware, or Arkansas.

Mr. BIDEN. I thank the Senator, very much. So would I.

Mr. HRUSKA. Mr. President, will the Senator yield 5 minutes?

Mr. McCLELLAN. I yield 5 minutes to the Senator.

Mr. HRUSKA. Mr. President, all the arguments presented on the first amendment on this subject are equally applicable to the present amendment.

One of the key features of the LEAA program is the comprehensive planning process. It is absolutely impossible, it is so filled with difficulty and so filled with obstruction, to formulate and implement a comprehensive program in such a short period of time.

The short period of time, Mr. President, results in many handicaps.

First of all, we ought to realize and should realize that the Budget Act itself in the Federal Government calls for a 5-year projection. The Budget and Impoundment and Control Act calls for a 5-year projection.

It has been the studied policy of Congress, of the Federal Government, in seasoned programs to engage in longer periods of time in reauthorization for the simple reason it does a more effective job. With a short period of time, it means that only short-term projects will be considered and implemented.

The difficulty in recruiting personnel on short-term plans are obvious and should be avoided if at all possible.

The effect of reauthorization for a shorter period of time would be not only that comprehensive multiyear planning would be destroyed, but the nature of the project supported would change since most officials would hesitate to make a substantial local matching investment in a program whose existence would be reduced.

A short-term reauthorization would increase investment of resources in purchasing of equipment because a lasting benefit could be guaranteed. Lasting benefits would not be guaranteed if the programs were no more than the purchase of equipment.

The programs requiring several years for establishment and evaluation would be discarded since such efforts would require a substantial funding commitment.

Mr. President, there is every reason to reject this pending amendment, as there was for rejecting the amendment voted upon previously. I urge that be done with a larger margin than on the first amendment of 15 months.

I yield the floor and yield back the remainder of my time.

The PRESIDING OFFICER. Do all Senators yield back their time?

Mr. BIDEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes.

Mr. BIDEN. I yield myself 1 minute and then I shall yield back my time.

Mr. President, one of the compelling reasons why we should not wait for another 5 years to restudy this program is that, to the best of my knowledge, subsequent to the Judiciary Committee hearings on this bill, two major documents came out partially criticizing LEAA and suggesting limiting the life and/or abolishing the agency.

There is likely to be, in my opinion, mounting evidence to that effect. One is the report of the 20th Century Fund Task Force on Law Enforcement Assistance Administration, which, to the best of my knowledge, came out in March 1976.

The second one is the one I already referred to, which is the report by the GAO, dated April 5, 1976.

Both reports raise many issues which were not raised in the Judiciary Committee. I believe in the interest of exploring whether or not we are wisely and effectively spending the taxpayers' money, we should not, in effect, discard these compelling arguments for 5 years.

I think that should be taken into consideration.

I yield back the remainder of my time and ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLELLAN. I would like to make one observation. If we are going to withhold enactment of needed legislation such as this, which is expiring, on the theory that the next President, whoever he may be, might disagree with it, we might just as well finish up the appropriations bills, pass them, and go home. There is no reason for us to continue to function.

Mr. CANNON. Will the Senator yield for a question?

Mr. McCLELLAN. I yield.

Mr. CANNON. As one who is a cosponsor of legislation to require the justification of agencies every 4 years, I am wondering what is magic about the 5 years on this vis-a-vis 3? Would we really be better off to have a review at the end of a 3-year period, or a rejustification, particularly in light of the support for another amendment, another proposition, that has been offered now to require justification of all of these agencies every 4 years?

Mr. McCLELLAN. If that passes, of course, this Agency would be subject to that general provision.

Mr. CANNON. I understand.

Mr. McCLELLAN. I have no objection to that and I may vote for it. The point is that so many people supported the 5-year period. If one refers to magic, I read off the names of very distinguished people who support it. There could be a handicapping of State and local agencies in their planning. If they know the program will be cut off in 3 years' time, some plans cannot be completed in that time. There is no assurance the law would be renewed or not renewed, or what the provisions of the renewal would be. There is nothing magic.

Mr. CANNON. If we provided for a 3-year provision, it would insure a review at the end of that time.

Mr. McCLELLAN. We just finished reviewing it. We have had a long review of it now.

Mr. CANNON. I understand that, and I support the program. I voted with the chairman on the last amendment. I must say that I have questions now when it comes to the issue of 3 years versus 5 years. I wondered if there was any particular magic to a 5-year period rather than a 3-year period in light of my support of a review of all programs every 4 years.

Mr. McCLELLAN. As I understand, the House bill contains a 15 months authorization period. This does give us some bargaining power in conference. If we are going to have the program, I believe we ought to have it for a 5-year period. If we do not want it after this very recent and thorough review in which everyone had the opportunity to give their views, we ought to let the program lapse. I believe in it. I am sure the Senator from Nevada believes in it.

Mr. CANNON. I said to my chairman I supported him and I voted with him last time. But I do think we need to have a periodic review of all these programs. That is why I am a cosponsor of the 4-year requirement for a review. I am sorely tempted to vote for the Senator's 3-year proposal here in light of the fact that I do not see any overriding basis for precisely a 5-year vis-a-vis a 4-year life.

Mr. McCLELLAN. There is no magic in any particular time. Again, anticipating a conference, it may come out at 3 or 4 years.

It seems to me that we can review things too much or review them too often. We do have oversight committees. If anything is wrong they can make special investigations. We do not have the time any more, with Government as big as it is, to review these things every year. We know that. It is just impossible.

I do not know anything that is so bad about this program that it should not be continued for another 5 years, with the provisions which are in this bill. It seems to me that this bill is a good bill. It has been worked on very hard.

Mr. CANNON. I thank my chairman.

Mr. BIDEN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. McCLELLAN. Someone has suggested the other legislation referred to by the Senator from Nevada was amended in committee to increase the period of review to 5 years.

Mr. ROTH. In the committee legislation in the Government Operations Committee it was 4 years. After hearings it was decided that to review all agencies would take a period of 5 years. So the proposal that will be considered by the full committee is the 5-year period.

Mr. BUMPERS. Mr. President, I rise in support of the Biden amendment. Pat Moynihan once remarked sardonically that nobody knows a darn thing about crime. While my disenchantment with easy solutions to the problem-fraught criminal justice system is not as deep, I have very real doubts that simply throwing huge sums of money at crime is the panacea we first thought it would be.

As Governor of my State for 4 years, I had firsthand experience with LEAA on an almost daily basis. From that vantage point I was able to view the program's evolution and to pinpoint both its successes and when it fell short of the mark. And it was that experience that taught me that we are still very much in the throes of experimenting, testing, and evaluating to determine how best to cope with the crime in our society. In short, we do not begin to have all the answers.

LEAA is a controversial program. It has had its strong critics. Some have argued that it has been poorly administered from the start at all levels. They point to the five administrators at the national level during the program's brief 7-year history as an indication, if nothing else, of a lack of continuity in planning and direction.

Others are convinced that funds have been mishandled and that the program's priorities have been confused and its emphasis misplaced. Certainly, in the early years there was a questionable concentration on the purchase of communications equipment, riot-control hardware, and other sophisticated technology to the exclusion of other equally deserving projects.

Still others question the expense of the program. Is it cost effective? Where are the tangible results? How can we honestly believe that LEAA is worth the $5 billion that has already been spent and an additional $5.4 billion, if this bill passes, when crime rates continue to escalate? I will add that State legislatures which appropriate matching funds to sustain LEAA are among the program's severest critics in this regard.

There are and have been deficiencies in LEAA, but there have also been many benefits. I can attest directly to at least two of these in my State.

First, LEAA funds have been used to establish public defender programs in several communities in Arkansas, including Little Rock. They were long overdue.

Second, and of equal importance, is the fact that the Arkansas penitentiary system, as well as many county and municipal jails, has been dramatically upgraded and expanded with the help of LEAA funds. Winston Churchill once said that how far a society has traveled on the road to civilization is mirrored by its prison system. And from the prison farms of Arkansas to the monolithic concrete and iron cages of the cities, LEAA has had an appreciable effect on prison conditions.

But I return to the point that overall we are still woefully ignorant about penology. We simply do not yet know how best to utilize funds in a massive spending program. Since this is the case, I would urge my colleagues to exercise caution in enacting multiyear authority for the continuation of LEAA. A block grant of authority for 5 years covers too long a period of time. As my colleagues know, the House enacted authority for funding only through fiscal year 1977 and at lower levels than those adopted by the Senate committee. I personally agree with the House's conservatism.

The argument will be raised that a 5-year authorization gives LEAA a better planning opportunity. It is said that 5 years will better enable programs to be implemented and to flourish into successful operations without the threat of a reduction in funds looming each year. Yet I am convinced that LEAA has not grown sufficiently to the stage where we can allow it to fly, unrestrained, for 5 years, in whatever direction it chooses. Accordingly I strongly support and endorse a shorter period which will enable Congress to scrutinize LEAA closely and check its reins as it continues to mature.

There are many good things about S. 2212. First, the additional participation by the judiciary as members of the State planning agency is long overdue. Crowded criminal dockets are a desperate malady within our criminal justice system. I practiced law and know how delay can warp and kill a case. I believe swift and certain justice can have a real deterring effect on crime and better participation from our criminal bench will certainly aid in attaining this laudable goal.

Second, annual block grants from the State level to local governments will certainly provide better flexibility to local efforts and reduce the heavy burden of bureaucratic redtape. This provision, which originated with Senator Kennedy, is commendable and should ease the bureaucratic strain on law enforcement.

Third, I strongly approve of the large authorization of discretionary funds for programs aimed at high-crime areas.

The one noticeable deficiency in the bill is the lack of adequate authority for juvenile programs. Senator Bayh has made an impassioned plea for more funding for juvenile programs and as part of his effort, has cited the depressing statistics relating to juvenile crime. The fact that over 60 percent of all crimes committed in this country today are by young people under age 22 should give us all pause and provide us with a clear indication of where the best use of our Federal money should be made.

Like programs aimed at our high-crime areas, it seems eminently sensible to me that we should direct our programs at this age group. Correction officials in Arkansas have told me repeatedly that this is where the battle should be waged. I would much rather attempt the rehabilitation of a boy in his early teens than try to change a man in his midthirties.

One final point. I am firmly convinced that if we are to make headway against crime, we will have to revise community attitudes and, at the same time, change law enforcement's attitude toward the community. Too often, we hear of the defensiveness of police officials and the open resentment of communities against those same officials who are endowed with the responsibility to protect them. Too often, our law enforcement agencies have felt like outsiders without the support or even the interest of the communities which they serve and for whom they often risk their lives. Too often, law enforcement has felt at odds with the judiciary, prosecutors, and public defenders even though the goals that all are striving to attain are the same.

In this regard, LEAA programs can foster an additional respect for law enforcement as well as a community awareness of how best to understand and assist its police officials. I cannot stress community relations enough. It is communities where the police force and segments of its population are at odds that invariably suffer the higher crime rates.

Mr. President, I appreciate the opportunity to express my views on S. 2212 and urge once again that the Senate exercise restraint in the authorization of the program.

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. BIDEN. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Hartke). All time has been yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GLENN assumed the chair as Presiding Officer at this point.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. Tunney), the Senator from Montana (Mr. Metcalf), and the Senator from Minnesota (Mr. Mondale) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from Utah (Mr. Garn), and the Senator from Oregon (Mr. Packwood) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. Hugh Scott) is absent on official business.

The result was announced—yeas 45, nays 48, as follows:

[Rollcall Vote No. 404 Leg.]

YEAS—45

Abourezk
Bayh
Beall
Biden
Bumpers
Cannon
Chiles
Church
Clark
Cranston
Culver
Durkin
Eagleton
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Humphrey
Inouye
Jackson
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Moss
Muskie
Nelson
Nunn
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stone
Symington
Weicker
Williams

NAYS—48

Allen
Baker
Bartlett
Bellmon
Bentsen
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Ford
Glenn
Goldwater
Griffin
Hansen
Hruska
Huddleston
Javits
Johnston
Laxalt
Long
McClellan
McClure
McGee
Montoya
Morgan
Pastore
Pearson
Pell
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—7

Buckley
Garn
Metcalf
Mondale
Packwood
Scott, Hugh
Tunney

So Mr. Biden's amendment was rejected.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), and the Senator from California (Mr. Tunney) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from Utah (Mr. Garn), the Senator from New York (Mr. Javits), the Senator from Oregon (Mr. Packwood), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. Hugh Scott) is absent on official business.

The result was announced—yeas 48, nays 43, as follows:

[Rollcall Vote No. 405 Leg.]

YEAS—48

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Ford
Glenn
Goldwater
Griffin
Hansen
Hruska
Huddleston
Inouye
Johnston
Laxalt
Long
McClellan
McClure
McGee
Montoya
Morgan
Pastore
Pell
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Young

NAYS—43

Abourezk
Bayh
Biden
Bumpers
Cannon
Chiles
Church
Clark
Cranston
Culver
Durkin
Eagleton
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Humphrey
Jackson
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Moss
Muskie
Nelson
Nunn
Pearson
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stone
Symington
Williams

NOT VOTING—9

Buckley
Garn
Javits
Metcalf
Mondale
Packwood
Scott, Hugh
Tunney
Weicker

So the motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, if I may have the attention of the distinguished chairman of the committee, the Senator from Arkansas (Mr. McCLELLAN), and the distinguished Republican member of the committee, the Senator from Nebraska (Mr. HRUSKA), it appears to me that since the hour of 2 o'clock is approaching, it might be well at this time to lay aside the pending bill and return to the tax bill.

Mr. BEALL. Will the Senator yield?

Mr. MANSFIELD. Surely.

Mr. BEALL. The Senator from Delaware and I have amendments that I think the Senate is going to accept. May we have those considered?

Mr. MANSFIELD. Will the Senator wait until tomorrow?

Mr. BEALL. Yes.

Mr. MANSFIELD. Mr. President, before we turn to the tax bill, I would like to suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SPARKMAN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 234

Mr. BEALL. Mr. President, I send an amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 21, between lines 15 and 16 insert the following:
>
> "(d) deleting 'and' after paragraph 14 of subsection (a), deleting the period at the end of paragraph 15 and inserting in lieu thereof ': and', and adding the following new paragraph after paragraph 15:
>
> "'(16) Provide for the development of programs and projects for the prevention of crimes against the elderly, unless the State Planning Agency makes an affirmative finding in such plan that such a requirement is inappropriate for the State.'"
>
> On pages 21 and 22, renumber subsections (d), (e), and (f) of section 11 as subsections (e), (f), and (g) respectively.

Mr. BEALL. Mr. President, the amendment to S. 2212 which I have sent to the desk will strengthen efforts to combat crimes against the elderly. I am offering this amendment in lieu of amendments Nos. 1787 and 1788, which I introduced on June 8, 1976.

Mr. President, the National Crime Panel Survey Report, which was issued in November 1974, stated that:

> During the first 6 months of 1973, crimes of violence and common theft, including attempts, accounted for approximately 18 million victimizations of persons age 12 and over, households, and businesses.

On July 22, 1975, the Department of Justice reported that:

> Serious crime in the United States rose 18 percent during the first 3 months of 1975. Attorney General Levi called this epidemic of crime one of the terrifying facts of life, which we have come to accept as normal, and which we must not accept as normal.

In his June 19, 1975, message to Congress on crime, President Ford stated:

> Law makes human society possible. It pledges safety to emery member so that the company of fellow human beings can be a blessing instead of a threat. It is the instrument through which we seek to fulfill the promise of our Constitution: To insure domestic tranquility.
>
> But America has been far from successful in dealing with the sort of crime that obsesses America day and night—I mean street crime, crime that invades our neighborhoods and our homes—murders, robberies, rapes, muggings, holdups, break-ins—the kind of brutal violence that makes us fearful of strangers and afraid to go out at night.
>
> I sense, and I think the American people sense, that we are facing a basic and very serious problem of disregard for the law. Because of crime in our streets and in our homes, we do not have domestic tranquility.

The President went on to note:

> For too long, law has centered its attention more on the rights of the criminal defendant than on the victim of crime. It is time for law to concern itself more with the rights of the people it exists to protect.

Recent crime statistics are startling to every individual in this country, and indeed they may reveal inadequacies in our present criminal justice system. But these statistics are particularly disconcerting to senior citizens, who are less able to resist becoming victims of crime.

In addition, elderly persons, recognizing their vulnerability to personal attack, are more cautious and security conscious than other groups and therefore expose themselves less frequently to risk situations. Certainly, commonsense seems to tell us that since elderly people are less able to resist a criminal assault, they would be more attractive victims to a criminal.

The current data does not reveal how many senior citizens are actually exposed to a high crime-risk situation in a given period of time. As stated by the LEAA Administrator in a presentation to the U.S. Senate Special Committee on Aging's Subcommittee on Housing for the Elderly, on August 2, 1972:

> A senior citizen who either locks himself in his apartment in fear of even venturing out into a once familiar and safe neighborhood or one who must take elaborate and unpleasant precautions whenever taking a short trip through an urban area does, in fact, reduce the chances of being victimized by crime.

A survey of various American cities shows a clearer picture of the crime threat confronting older persons. For example, a survey by LEAA of victimization rates in Baltimore, Md., indicated that persons 50 years old and older had twice the victimization rate for robbery with injury than persons aged 20 to 24 years old.

Moreover, elderly persons were found to be victims of personal larceny at a rate of 19 per 1,000 as compared to a rate of 6 per 1,000 for 20-year-olds.

Many elderly people have the feeling that they must always remain at home in order to combat crime, or if they must go out, never to venture onto the city streets alone. The picture is a bleak one. Because they travel mostly by bus or subway, older people must wait for public transportation at designated points—and these points are well known to would-be assailants. Mail boxes in unguarded vestibules are the province of thieves who know when social security checks arrive.

In addition, let me note that no segment of our population is more directly affected by crime or the fear of crime. Senior citizens are all too often the victims of crimes while millions of others change their lifestyles in an effort to avoid being victimized by street criminals. It is time for us to attack this problem by developing, on the State and local level, comprehensive plans for effectively combating crimes against the elderly.

In developing the 1973 amendments to the Older Americans Act, Congress directed the State and local agencies on aging to coordinate their activities with other governmental units to maximize services to the elderly. "Toward a New Attitude on Aging," recommended the establishment of "formal liaison between social service agencies and police departments so that the elderly victims of crime can obtain all necessary assistance."

On August 13, 1975, I chaired the Labor and Public Welfare Committee's Subcommittee on Aging hearings on "Crime and the Elderly." In part, I wanted to explore the degree of coordination which exists between local aging offices and police departments. The subcommittee took testimony from police and aging officials representing Maryland subdivisions. We found that coordination is most likely to occur when LEAA funds a project which involves, in whole or in part, an effort to combat crimes against the elderly.

During the August 13th hearing, I asked the Honorable Charles R. Work, Deputy Administrator of the Law Enforcement Assistance Administration the following question:

> Do you suggest or ask State or local law enforcement agencies to consult with State and or area agencies on aging in formulation of their State plans?

Mr. Work replied,

> We do not at the present time, Senator, require such a consultation. However, we encourage consultation with all levels of government and with all concerns in state and local governments in the formulation of those State plans.

Mr. President, the pending amendment would amend section 303 of the Omnibus Crime Control and Safe Streets Act of 1968 which sets the criteria that each State's comprehensive plan must contain in order for it to be eligible for funding. The amendment would require that each State plan "provide for the development of programs and projects for the prevention of crimes against the elderly" unless the State Planning Agency determines that such a provision is unnecessary in that State.

I believe that one of the most significant by-products of the enactment of this amendment would be the tendency to encourage different departments and different agencies of our Federal, State, and local governments to exchange ideas and, in doing so, insure that crime prevention services will be provided to our senior citizens in a more coordinated and comprehensive fashion. I would certainly expect that the Law Enforcement Assistance Administration would work closely with the Administration on Aging in the Department of Health, Education, and Welfare in implementing the provisions of this amendment. I would similary expect that both agencies would encourage their State and local counterparts to participate in an ongoing dialog designed to maximize the crime prevention effort insofar as it relates to our Nation's vulnerable senior citizens.

I would like to commend the Judiciary Committee for incorporating language into section 301 which would allow and encourage part C grants—Grants for Law Enforcement purposes—to be used for "the development and operation of programs designed to reduce and prevent crime against elderly persons." Chairman McCLELLAN, Senator HRUSKA and the other members of the Judiciary Committee have shown great sensitivity to this pressing problem.

Mr. President, I have discussed this amendment with the chairman of the subcommittee and the ranking minority member. I understand, if I am not mistaken, that the amendment is acceptable to them.

Mr. McCLELLAN. Mr. President, I have had a discussion with the distinguished minority member on the committee with respect to this amendment. I have no objection to it and I think he has no objection to it.

Mr. HRUSKA. Mr. President, I concur with the chairman. We have studied this amendment carefully. The essence of it is that it is permissive, not mandatory, and it will enable States to take advantage of situations that they cannot do now. I have no objection. In fact, I shall vote for the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on an amendment to be offered by the Senator from North Carolina (Mr. MORGAN) dealing with grants to States for antitrust enforcement, there be a limitation of debate of 20 minutes, equally divided between Mr. MORGAN and Mr. McCLELLAN.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. No; I withdraw that request.

Mr. MUSKIE. Mr. President, the Senate has before it S. 2212, a bill to extend for 5¼ years the authority of the Law Enforcement Assistance Administration—LEAA—to strengthen and improve law enforcement and criminal justice activities by providing financial and technical assistance to State and local governments. The bill also provides increased funding for high-crime areas and seeks to improve the operations of the LEAA program.

S. 2212 extends the authorization for LEAA from July 1, 1976, through September 30, 1981, at a level of $250 million for the transition quarter, $1 billion for fiscal year 1977, and $1.1 billion for fiscal years 1978, 1979, 1980, and 1981. S. 2212 restructures the LEAA program to strengthen court planning and provides more emphasis on monitoring and evaluation of projects and programs.

Since Congress has already approved the LEAA appropriation for fiscal 1977 at a level of $753 million, an amount consistent with the first budget resolution, let me speak briefly on the relationship of this bill to the budget resolution and then turn to the need for the Federal Government to continue to assist State and local governments to control the alarming increase in crime.

The first budget resolution for fiscal 1977 sets budget authority at $3.4 billion and outlays at $3.5 billion for law enforcement and justice, one of the 17 functions of the budget. The regular 1977 appropriation bills that significantly affect this function have already been enacted. These include an appropriation of $753 million for LEAA programs, some $247 million less than the level authorized by S. 2212. Taking account of these appropriation actions, the budget resolution targets for the law enforcement and justice function have been fully subscribed.

There are many potential demands for supplemental appropriations in this function, including additional funds for LEAA up to the amounts authorized by S. 2212, benefits for public safety officers and victims of crime, antitrust enforcement, and the judiciary. Supplemental appropriations for these programs pose a threat to the first budget resolution guidelines for this function, and would either have to come from amounts allocated to the Appropriations Committee for other programs or additional amounts would have to be provided in the second budget resolution. The Appropriations Committee will thus be called upon to exercise continued vigilance with regard to the budget totals. At this point in time, however, I would like to commend the Appropriations Committee for an effective job in cutting the bills but leaving the muscle in law enforcement and justice programs—including LEAA programs.

Citizens across the country expect no less. They do not want wasteful Federal programs, but they do want programs that will control crime. In cities, towns, and villages, large and small, citizens are fed up with ever rising crime rates. The people want something done about a problem that stalks every American wherever he or she goes. According to the latest uniform crime report, a serious crime is committed every 3 seconds, a larceny-theft every 6 seconds. A forcible rape every 10 minutes, and a murder every 26 minutes.

With all of our knowledge, we still do not know precisely the causes or the means necessary to eradicate crime in a democratic society. Many attribute the rapid rise in crime to a changing and permissive society where standards and mores are much less strict than they were even a few years ago. Much of the violent crime plaguing our country today is committed by those between 10 and 20 years of age—an age group that had little effect on crime rates a generation ago. The State of our economy is undoubtedly also a major factor. Poverty and unemployment go hand-in-hand with high crime rates.

Congress has appropriated about $5.1 billion for LEAA during the last 8 fiscal years. It can be asked why crime continues to soar. We purposely did not create a Federal police force when we passed the Omnibus Crime Control and Safe Streets Act of 1968. That act declared in clear and unmistakeable terms that "crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively." Federal grants and contributions to State and local governments under the LEAA program total 5 percent of the amounts spent by State and local governments for crime control and justice. The other 95 percent of the amounts spent for law enforcement must come from appropriations made by State and local jurisdictions.

Even so, there is an abundance of evidence from State and local officials that the LEAA program has had a positive impact on reducing crime from levels that might have been much greater had the program not been in operation.

In my State, LEAA moneys have been used to begin projects and programs that have significantly improved the overall quality of Maine's criminal justice system.

It was LEAA money that funded the Maine Criminal Law Revision Commission which completely revised and improved the Maine criminal code. With the help of LEAA funds, Maine has one of the Nation's statewide fully integrated radio communication networks that ties together State, county, and local law enforcement agencies.

The University of Maine for the first time now offers college-level degree programs in criminal justice at its Bangor, Augusta, and Portland campuses; and all police officers must graduate from the new police academy.

These and other programs would not have been possible without LEAA money. Much of this success is due to the fact that Congress gave the States a flexibility in expending block grants according to their particular needs and priorities.

So I want to commend the chairman of the Judiciary Committee, the manager of this bill, and the members of the committee, for their efforts in continuing and strengthening LEAA. I commend the Appropriations Committee for their efforts to hold the budgetary lines for law enforcement and justice programs generally.

I support this bill.

Mr. PELL. Mr. President, I join today with the Senate Judiciary Committee in supporting S. 2212, the Crime Control Act of 1976. I believe the committee has done a commendable job in reporting a bill which meets in great part the many documented deficiencies in the Law Enforcement Assistance Administration.

I know this task has not been an easy one. There came from many quarters—within the Senate as well as from responsible commentators elsewhere—calls that the Administration should be disbanded. The leading newspaper in my own State editorialized for discontinuance of LEAA funding. There has indeed been a history of waste, questionable projects and misguided priorities in that agency. I believe that it is now time for Congress to right the original mistakes, give the Administration a new set of priorities and goals and see what steps can be taken to reorder our sadly deficient system of criminal justice.

In every poll of national concerns crime is listed as one of the issues most on the minds of America's citizens. Despite the drawbacks of LEAA it seems imprudent to close down the very agency charged with the responsibility of looking at crime in a comprehensive manner and seeking solutions to these complex problems.

I am pleased that the bill places emphasis in two particular areas: crime against the elderly and funding for the judiciary.

In many parts of the country crime against the elderly is a terrible crisis. Our senior citizens are afraid to move about the city, at night or in the daytime, and are often victims of gangs or individuals who roam about looking for easy prey. A recent LEAA study indicated that citizens over 50 years old were two to three times as likely to be victims of property crimes as young persons. I believe that insufficient attention has been devoted to this problem which is of great concern to our Nation's 30 million elderly citizens. I therefore joined with my colleague from Maryland, Senator Beall in supporting S. 1875, to require that State plans include a comprehensive program to combat crime against the elderly in order for States to receive LEAA funding.

Although the committee did not accept S. 1875 in full, I am pleased to note that they did include language to authorize LEAA funding of State programs containing comprehensive plans to meet the problem of crime against the elderly. However, the bill should go further. I hope the Senate will strengthen this legislation by requiring each State, unless waived by LEAA, to submit a comprehensive plan detailing ways to reduce crime against the elderly. In this way greater attention would be given to the plight of millions of elderly Americans while at the same time sections of the country where this problem is not so prevalent would be free from unneeded bureaucratic entanglements.

I was also pleased to join with the distinguished Senator from Massachusetts (Mr. Kennedy) in cosponsoring S. 3043, a bill which provided much of the impetus for language in S. 2212 giving new emphasis and increased funding for the courts. The evidence that our courts need added attention is awesome. It has been presented to congressional committees and is most compelling. The criminal justice system must be adequately funded if the battle against crime is to make any headway at all. Court congestion and calendar backlogs must be relieved if swift, yet deliberative justice is to be provided for those who come before the judiciary. I believe that this bill establishes the right priorities in emphasizing the long ignored part of the law enforcement system, the courts.

UNANIMOUS-CONSENT REQUEST—H.R. 71

Mr. MANSFIELD. Mr. President, yesterday the Senate obtained unanimous consent to limit debate on H.R. 71. The leadership failed to specifically provide for the consideration of the amendment of the Senator from New Hampshire (Mr. Durkin). This was an unintended oversight. I ask unanimous consent that the consent agreement be modified to provide for the consideration of the Durkin amendment and that 1 hour be provided for its consideration, to be equally divided and controlled in the usual manner.

Mr. HRUSKA. Reserving the right to object, Mr. President, what is the substance of the Durkin amendment?

Mr. MANSFIELD. This was an amendment he was going to offer this morning.

Mr. McCLELLAN. I know, but——

Mr. MANSFIELD. The only thing is that it doubles the time from 30 minutes to 1 hour, which we had intended to ask for yesterday when we asked for 2 hours' limitation. This would have been included in the one I asked for, but because of the leadership oversight, was not. We have to take the blame. I felt that it was on obligation.

Mr. McCLELLAN. I shall not object to making it an hour at this time, but I reserve the right to ask for more time if we find it is needed at that time.

Mr. MANSFIELD. Of course.

Mr. HRUSKA. Further reserving the right to object, Mr. President.

Mr. McCLELLAN. And there is a question about germaneness, too. I would not want to waive the right to that.

Mr. MANSFIELD. This is an amendment that would have been offered this morning, so it would have been in order. We were supposed to ask for an hour for Mr. Durkin, and 2 hours for Mr. Bayh. All it does is extend from one-half hour to an hour the time for Mr. Durkin.

Mr. HRUSKA. The reason I asked, Mr. President, for a statement of the substance of the amendment is to determine whether or not it is germane.

Mr. MANSFIELD. "In the usual form" is the request, so it has to be germane.

Mr. President, I withdraw my request.

AMENDMENT OF THE AGRICULTURAL ACT OF 1954, AS AMENDED

Mr. HUMPHREY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3052.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 3052) to amend section 602 of the Agricultural Act of 1954, as follows:

Strike out all after the enacting clause, and insert:

> That section 602 of the Agricultural Act of 1954, as amended, is amended by adding at the end thereof a new subsection as follows:
>
> "(f) Effective October 1, 1976, the Secretary of Agriculture is authorized to provide appropriate orientation and language training to spouses of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this Act or other authority: *Provided*, That the facilities of the Foreign Service Insttiute or other Government facilities shall be used wherever practicable, and the Secretary may utilize foreign currencies generated under title I of Public Law 83–480 to carry out the purposes of this subsection in the foreign nations to which such officers, employees, and spouses are assigned. There are hereby authorized to be appropriated such sums, not to exceed $35,000 annually. The Secretary shall submit to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry not later than ninety days after the end of each fiscal year a detailed report showing activities carried out under authority of this subsection during such fiscal year.".
>
> Amend the title so as to read: "An Act to authorize orientation and language training for spouses of certain officers and employees of the Department of Agriculture.".

Mr. HUMPHREY. Mr. President, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. Talmadge, Mr. Humphrey, Mr. McGovern, Mr. Dole, and Mr. Bellmon conferees on the part of the Senate.

AUTHORIZATION FOR CERTAIN SMALL BUSINESS LOAN PROGRAMS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of calendar No. 802, S. 3369.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 3369) to amend the Small Business Act to increase the authorization for certain small business programs.

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*
>
> Section 1. Subparagraph 4(A) of section 4(c) of the Small Business Act is amended by striking out "$6,000,000,000" and inserting in lieu thereof "$8,500,000,000".
>
> Sec. 2. Subparagraph 4(B) of section 4(c) of the Small Business Act is amended by striking out "725,000,000" and inserting in lieu thereof "$1,100,000,000".
>
> Sec. 3. Subparagraph 4(C) of section 4(c) of the Small Business Act is amended by striking out "$525,000,000" and inserting in lieu thereof "$575,000,000".
>
> Sec. 4. Subparagraph 4(D) of section 4(c) of the Small Business Act is amended by striking out "$450,000,000" and inserting in lieu thereof "$550,000,000".

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of calendar Nos. 967 and 968.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAMES J. CALDWELL

The bill (H.R. 2943) for the relief of the estate of James J. Caldwell, was considered, ordered to a third reading, read the third time, and passed.

MONTANA WILDERNESS STUDY ACT OF 1976

The Senate proceeded to consider the bill (S. 393) to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Montana Wilderness Study Act of 1976".

Sec. 2. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132), the Secretary of Agriculture (hereinafter known as the "Secretary") shall, within five years after the date of enactment of this Act, review certain lands designated by this section, as to their suitability for preservation as wilderness, and report his findings to the President, as follows:

(1) certain lands in the Beaverhead National Forest, Montana, which are generally depicted on a map entitled "West Pioneer Wilderness Study Area: and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the West Pioneer Wilderness Study Area;

(2) certain lands in the Beaverhead and Gallatin National Forests, Montana, which are generally depicted on a map entitled "Taylor-Hilgard Wilderness Study Area" dated April 1976, comprising approximately two hundred and eighty-nine thousand acres, which shall be known as the Taylor-Hilgard Wilderness Study Area;

(3) certain lands in the Bitterroot National Forest, Montana, which are generally depicted on a map entitled "Bluejoint Wilderness Study Area" and dated April 1976 comprising approximately sixty-one thousand acres, which shall be known as the Bluejoint Wilderness Study Area;

(4) certain lands in the Bitterroot and Deerlodge National Forests, Montana, which are generally depicted on a map entitled "Sapphire Wilderness Study Area" and dated April 1976, comprising approximately ninety-four thousand acres, which shall be known as the Sapphire Wilderness Study Area;

(5) certain lands in the Helena and Deerlodge National Forests, Montana, which are generally depicted on a map entitled "Elkhorn Wilderness Study Area" dated April 1976, comprising approximately seventy-seven thousand acres, which shall be known as the Elkhorn Wilderness Study Area;

(6) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Ten Lakes Wilderness Study Area" and dated April 1976, comprising approximately thirty-four thousand acres, which shall be known as the Ten Lakes Wilderness Study Area;

(7) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Middle Fork Judith Wilderness Study Area" dated April 1976, comprising approximately eighty-one thousand acres, which shall be known as the Middle Fork Judith Wilderness Study Area;

(8) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Big Snowies Wilderness Study Area" and dated April 1976, comprising approximately ninety-one thousand acres, which shall be known as the Big Snowies Wilderness Study Area;

(9) certain lands in the Gallatin National Forest, Montana, which are generally depicted on a map entitled "Hyalite-Porcupine-Buffalo Horn Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area; and

(10) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mt. Henry Wilderness Study Area" and dated April 1976, comprising approximately twenty-one thousand acres, which shall be known as the Mt. Henry Wilderness Study Area.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act, except that any reference in such subsections to areas in the national forests classified as "primitive" shall be deemed to be a reference to the wilderness study areas designated by this Act and except that the President shall advise the Congress of his recommendations with respect to such areas within seven years after the date of enactment of this Act: *Provided, however*, That the Secretary shall give at least sixty days' advance public notice of any hearing or other public meeting concerning such areas.

(c) The maps referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

Sec. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(b) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

(c) Nothing herein contained shall (1) limit the President in proposing, as part of his recommendation to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value, or (2) limit the authority of the Secretary of Agriculture to establish, protect, study, or make recommendations to the President and Congress with respect to additional wilderness study areas within national forests in the State of Montana.

Sec. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that relevant portions of the committee report describing this bill be printed in the Record at this time.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

PURPOSE

S. 393, as amended, would direct the Secretary of Agriculture to study ten areas of land located within certain National Forests in Montana as to their suitability or nonsuitability for preservation as wilderness. The Secretary would be required to complete the studies and report his findings to the President within five years after enactment of the bill. The President would be required to advise Congress of his recommendations with respect to such areas within seven years after enactment. S. 393, as amended, would also direct the Secretary to administer the areas so as not to diminish their presently existing wilderness character and potential until Congress determines otherwise.

BACKGROUND

In 1967, the Forest Service initiated a national inventory of all National Forest roadless and undeveloped areas 5,000 acres in size or larger and of smaller areas contiguous to existing Primitive Areas or Wilderness. The inventory identified a total of 1,499 such areas encompassing 56 million acres. The Forest Service then conducted a nationwide review of the inventoried areas to select areas with the most merit for specific study as possible additions to the Wilderness System. Out of the inventory of 1,449 areas, 274 areas were selected as wilderness study areas. Of this number, 36 areas totalling approximately 1.6 million acres were selected in Montana.

S. 393 would prescribe a formal wilderness study for approximately 1,032,321 acres of National Forest lands in Montana to determine their suitability as wilderness. The ten areas involved are basically from among those identified by the Forest Servcie in its inventory of all roadless areas, and (with the exception of portions of three of the ten) are from among the areas that were not selected as wilderness study areas through the nationwide review process.

UP AMENDMENT NO. 235

Mr. MANSFIELD. I send to the desk a technical amendment. Before it is called up let me explain that. In the past, the Interior Committee has not placed authorization language in wilderness study bills. Instead, funds for wilderness study have come from ongoing authority under the general budget category "National Forest Protection and Management." S. 393 thus contains unnecessary authorization language. The Interior Committee has discussed this matter with the Budget Committee and agreed to delete the authorization language. My amendment would effect that deletion.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. Mansfield) proposes unprinted amedment No. 235:

On page 10, lines 20 through 22, strike section 4 in its entirety.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD subsequently said: Mr. President, earlier today the Senate passed Calendar No. 967, S. 393.

I ask unanimous consent that the action taken by the Senate be vitiated and that S. 393 be returned to the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—S. 2212 AND H.R. 10612

Mr. JAVITS. Mr. President, I ask unanimous consent that Brian Conboy be permitted the privileges of the floor on the LEAA bill, and that Gregory Fusco be granted the privileges of the floor on the tax bill to follow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIME CONTROL ACT OF 1976

The Senate continued with the consideration of the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

AMENDMENT NO. 2048

Mr. MANSFIELD. Mr. President, I call up amendment No. 2048 on behalf of the Senator from Indiana (Mr. BAYH).

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes amendment No. 2048 to S. 2212:

On page 33, strike lines 11 through 16, inserting in lieu thereof the following:

"(b) striking subsection (b) and inserting in lieu thereof the following:

"'(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least the same level of financial assistance for juvenile delinquency programs that such assistance bore to the total appropriation for the programs funded pursuant to part C and part E of this title during fiscal year 1972; namely, 19.15 per centum of the total appropriation for the Administration.' ".

On page 34, strike lines 16 through 23, inserting in lieu thereof the following:

"SEC. 28. Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (88 Stat. 1129) is amended by striking subsection (b) and inserting in lieu thereof the following:

"'(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least the same level of financial assistance for juvenile delinquency programs that such assistance bore to the total appropriation for the programs funded pursuant to part C and part E of this title during fiscal year 1972; namely, 19.15 per centum of the total appropriation for the Administration.' ".

Mr. MANSFIELD. Mr. President, this is an amendment on which there is a 2-hour limitation. It is anticipated that we will be able to turn to this amendment, barring unforeseen circumstances, about 15 minutes after we convene tomorrow morning, at approximately 9:15.

TAX REFORM ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate turn to the consideration of the Tax Reform Act of 1976, as agreed to under a previous commitment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum. First, what is the pending business?

The PRESIDING OFFICER. The pending amendment is amendment No. 1901 by the Senator from New York.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPARKMAN). Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Robert Hamrin of the Joint Economic Committee staff be granted privilege of the floor during consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAKER). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senator from New York will suspend while we receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

The following message from the House of Representatives was communicated to the Senate by Mr. Hackney, one of its reading clerks:

The House of Representatives having proceeded to reconsider the bill (H.R. 12384) entitled "An Act to authorize certain construction at military installations and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the reconsideration of the bill (H.R. 12384) at 3:30 p.m. today.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. JAVITS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 10612, and the amendment to H.R. 10612, amendment No. 1901.

Mr. JAVITS. Mr. President, I ask unanimous consent that Senator CHURCH may be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, this amendment is presented on my behalf and on behalf of Senators RIBICOFF, PELL, HUMPHREY, MAGNUSON, DURKIN, and CHURCH.

Mr. President, there is not a great deal of money involved in this amendment, but it does involve a very important result for the museums, the libraries, and the universities of the United States. That is why I have spent a rather considerable amount of time in developing a the factual background.

The amendment seeks to make it possible for artists and others who are responsible for original works in the field of arts and letters, to make gifts of their own work to nonprofit institutions, to wit, museums, libraries, and universities, and to have a tax deduction from income. It is not a question of deducting from taxes paid. An artist could deduct from income the value of their work up to the amount of $25,000 per year, or the gross income to the taxpayer for that year attributable to the sale of his work, but not exceeding $25,000, with a carry forward in the event the work is more valuable.

Mr. President, the basic reason for the amendment is that the universities, libraries, and museums of the country are suffering from an existing provision of law which dates from 1969. Before 1969, the law was indeed just general and broad. If an artist gave his work to a museum, whatever was the value of that work was a gift, just like any other gift.

At that time, the tax code was amended so that the artist was deprived of that opportunity. All a painter could deduct was the cost of his canvas and paint. But the collector was not deprived of that opportunity. If he were a buyer of art and the value appreciated—let us say he bought a painting for $500 and it became worth $50,000—he could give that to a museum and get a full $50,000 charitable deduction, and he can do that today. So the law discriminated as between the man or woman who did the work and the person who acquired such a work, even if he acquired it from that very same artist.

Another anomaly in the law was if that artist died and his estate had to be valued for tax purposes, his estate had to pay an estate tax on the full value, not on the value of the paint and the canvas but on the full value.

These are the anomalies which the 1969 law introduced.

There is not much involved, as I said. The estimate of the Treasury Department on my bill is about $5 million a year. It is an order of magnitude that, obviously, they cannot calculate exactly. It is about $5 million a year. That estimate comes from the Treasury Department experts. But the consequences of this proposal for the American people are very great. Let me just describe to my colleagues what has happened.

The museums have suffered a drastic dimunition of gifts from artists, particularly those who have done contemporary work within this very same period from 1969 until today. I believe most of my colleagues have heard from museums precisely for that reason.

Let me give an example of the New York City Museum of Modern Art, one of the great museums of the country. During the 2-year period, 1968–69, the New York City Museum of Modern Art received 125 donations by artists of their own works. In the 4-year period, 1972–75, the museum received only 28 donations. In the critical and very valuable field of painting and sculpture, the reduction was from 42 works of art received in 1968 and 1969, to only one received in 1972–75.

The artists feel very strongly about this as evidenced from a very interesting point. The National Endowment on the Arts, which we established, and I am very proud to have been one of its initiators, wrote a letter to Senator Long on April 29, 1976, stating these very considerations which I have described, and many others.

I ask unanimous consent that that letter may be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

April 29, 1976.

Hon. Russell B. Long,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: The National Endowment for the Arts strongly recommends favorable consideration of S. 1435, the bill pending before your Committee which relates to the tax consequences of charitable contributions by creative artists and others of literary, musical, and artistic compositions, and similar property.

The bill under consideration would enable an artist to deduct from his adjusted gross income 75 percent of the fair market value of his works which he contributes to non-profit institutions. Such legislation would restore part of the deduction available to creative artists prior to passage of the Tax Reform Act of 1969. (Of course, the Endowment would prefer to see the full deduction, i.e., 100 percent of the work's fair market value, restored.) The restoration of this deduction, far from being a windfall to individual artists is, in our view, an essential measure which must be taken in order to rectify the inequities existing under present law.

As you know, certain tax benefits attend the transfer, sale, or contribution of a capital asset. Under the Tax Reform Act of 1969, however, Section 1221 of the Internal Revenue Code of 1954 was amended to exclude from the definition of a capital asset (and therefore from the tax advantages) a copyright, literary, musical or artistic composition, a letter or memorandum, or similar property when any of the above are in the hands of the taxpayer whose personal efforts created the property. Thus, in accordance with Section 170(e) of the Internal Revenue Code, when a taxpayer-creator donates one of his works to a non-profit institution, the allowable deduction is computed by reducing the fair market value of the work by the amount of the appreciation of such property. As a result, the artist may deduct from his adjusted gross income only the cost of the materials utilized to create the work. However, in the hands of a collector or one who procures a work of art from the creator the work is characterized as a capital asset and the collector who contributes the same work to a non-profit institution enjoys the benefits of deducting a portion of the fair market value of the work from his adjusted gross income.

The pending legislation, by affording the creative artist the same benefits as the purchaser/collector, would rectify the inequities which exist under the present law. The present distinction in the tax benefits available to donors of creative works based upon the donor's status as either a purchaser and collector on the one hand, or, on the other, a creative artist, is, in our view, contrary to the basic concept of equal treatment under the law. In any case, once the work is received by the donee/non-profit institution it is considered a capital asset regardless of the status of the donor. Therefore, we believe that the law as presently written could be viewed as having an unconstitutional taint in that it creates two classes of donors and applies to each separate and unequal treatment without justification.

The arbitrary treatment of the creative artist continues to affect the artist's estate after his death. Ironically (and unfairly), while he is entitled to deduct only the value of the utilized materials in cases of charitable contributions of his works during his lifetime, all works which become part of an artist's estate are taxed, for estate tax purposes, at 100 percent of their fair market value. As a result, under present law, an artist is faced with the undesirable alternative on the one hand, of selling, donating (without the attendant tax benefits), or otherwise transferring his works during his lifetime, or, on the other, subjecting his family to estate tax liability for the full fair market value of the creative works which become part of his estate.

Further, another adverse consequence of present law is a reported substantial reduction in donations of creative works to non-profit institutions, such as museums, universities and libraries subsequent to passage of the 1969 Act.

By conferring on creative artists equitable tax treatment with respect to the donation of their works during their lifetime, S. 1435 would help to rectify the above described problems in a manner consistent with the nation's growing support and encouragement of the Arts, as manifested in the National Foundation on the Arts and the Humanities Act of 1965, as amended. Any adverse effect on the Federal Treasury caused by restoration of the deduction previously available to creative artists for the donation of their works would, in our view, be more than compensated for by the salutary benefits to this nation's artistic community, its cultural institutions, and the massive public audience they serve.

For the above stated reasons, the National Endowment for the Arts strongly recommends favorable consideration of the bill now being studied. Such legislation is necessary in order to restore equality of treatment for our nation's artists and authors under our tax laws, and should provide the incentive for the contribution of more of their valuable works of art and literature to our libraries, universities, and museums, thereby enriching to a significant extent the cultural life of the nation.

The Office of Management and Budget has informed us that there is no objection to the submission of this report, although the Administration has not yet established a position as to the merits of this proposed legislation.

Sincerely,

Nancy Hanks,
Chairman.
Jamie Wyeth.

Mr. JAVITS. That letter protested very seriously both the diminution of the work moving to artists and the discrimination against artists as compared to collectors or other people who buy art. That letter was signed not only by Nancy Hanks, the chairman, but by a prominent member of the National Council of the Arts, Jamie Wyeth, one of our leading artists. Artists have been here to talk to Members of the Senate respecting the deep feeling which exists concerning this matter.

I do not feel this is the kind of thing that is a matter of deep opposition—and I hope it is not—or anybody getting passionate about it. I hope it will be evaluated in terms of its meaning to the culture of the country.

One of the points which has been made to me relates to the valuation which may be put on a work of art which is, under this amendment if it becomes law, gifted to a museum. Of course, before 1969 we had very serious trouble with the question of valuation. That was one of the reasons for the 1969 law which tightened up on philanthropic and charitable matters all along the line except, I think, in this case. It really was retrogressive; it backtracked on itself.

But valuation was a problem. Now the Department of the Treasury advises me that very material progress has been made in the matter of valuation, and an art advisory panel of a very high order has been developed to advise the IRS commissioner. I have a list of the members, and it is certainly one of the premier lists in this country. The panel meets 3 times a year, and does the evaluation under the general supervision and jurisdiction of a representative of the Treasury Department.

I have before me a charter for the Art Advisory Panel of the Commissioner of Internal Revenue, which lists the work which they do, and which is dated March 3, 1975. Included in the list of those on the art advisory panel, for example, is Adelyn Breeskin, the curator of the National Collection of Fine Arts, and a whole list, from Kansas City, New York, Cleveland, Washington, Boston, Los Angeles, Toledo, Ohio, of curators and directors of the leading museums of art in the United States.

I am assured by the Treasury Department itself that they are perfectly satisfied that the question of valuation is now very tightly handled, and that we need have no worry on that score. To me, this is a very major point advocating my amendment.

One other very interesting point which should especially interest us as Members of Congress is that not only the museums around the country have suffered from this dearth—and as I say, I think probably most Members have heard from museums on this subject—but the Library of Congress has suffered from it, because the Library itself collects literary, artistic, and musical donations in the way of original manuscripts and scores.

I ask unanimous consent that the charter and the membership list for the Art Advisory Panel of the Commissioner of Internal Revenue to which I referred be printed in the RECORD at this point.

There being no objection, the charter was ordered to be printed in the RECORD, as follows:

THE ART ADVISORY PANEL OF THE COMMISSIONER OF INTERNAL REVENUE

This Charter is prepared and filed in accordance with the provisions of the Federal Advisory Committee Act, Pblic Law 92-463, enacted October 6, 1972.

A. *Official Title*. The Committee's official designation is: The Art Advisory Panel of the Commissioner of Internal Revenue.

B. *Objectives and Scope*. The Committee's objectives and scope of its activity are: to assist the Internal Revenue Service by reviewing and evaluating the acceptability of property appraisals submitted by taxpayers in support of the fair market value claimed on works of art involved in Federal Income, Estate, or Gift taxes in accordance with sections 170, 2031, and 2512 of the Internal Revenue Code of 1954. This activity is based on the authority to administer the Internal Revenue law conferred upon the Secretary of the Treasury by section 7801 of the Code and delegated to the Commissioner of Internal Revenue.

C. *Time Period*. The period of time necessary for the Committee to carry out its purpose is indeterminate as the need recurs regularly during the audit of Federal Income, Estate and Gift tax returns. Two-day Panel meetings have been held three times a year since 1968.

D. *Reporting*. The agency or official to whom the Committee reports is the Commissioner of Internal Revenue.

E. *Support Service*. The agency responsible for providing the necessary support for the Committee is the Internal Revenue Service.

F. *Duties*. A description of the duties, all of which are solely advisory, for which the Committee is responsible follows:

1. Prior to a meeting of the Panel, each panelist independently examines copies of photography of the works of art and reviews the text of appraisal reports secured and submitted by the taxpayer in support of his claimed valuation. The panelists are not told the identity of the taxpayer, or of his appraiser, or the tax consequences of adjusting the valuation up or down.

2. At the Panel meeting each member is invited to express his opinion as to the acceptability of the claimed valuation. In the event a panelist disagrees with the taxpayer's valuation, the panelist may state his estimate of value and his reasoning.

This reasoning may include such matters as, challenging the authenticity of the claimed artistic attribution, citing sales prics of comparable works of art, introducing other export opinions, and reassessing the work's condition, historic importance, or aesthetic qualities. Somtime experts are identified for needed further studies or for possible use as government witnesses in event of litigation. In some circumstances, a panelist might serve as such a witness. Discussion on each appraised item continues until a consensus of value is reached. The consensus of value is announced as the official advisory conclusion by the chairman of the Panel who moderates the discussions. This full time IRS employee, who specializes in the appraisal of personal property, then so informs the IRS director of the district from which the case was referred.

G. *Annual Operating Costs*. The estimated annual operating cost in dollars and man-years is as follows: Since panelists are not paid for their time or services, the major operating costs consist of reimbursing the panelists for their travel and lodging expenses for three two-day meetings in Washington, D.C. each year. This amounts to approximately $6,000. One man-year of regular employee staffing is required to administer the Panel and to handle the preparation and follow through on the approximately 750 art appraisals reviewed annually by the Panel.

H. *Number and Frequency of Meetings*. The estimated number and frequency of committee meetings are: three two-day meetings each year.

I. *Termination Date*. The services of the Committee are expected to be needed for two years. Unless formally continued, the termination date will be two years from the filing date.

J. *Filing Date*. The date of filing of this Charter is March 3, 1975.

ART ADVISORY PANEL OF THE COMMISSIONER OF THE INTERNAL REVENUE

PRESENT MEMBERS—1976

Mrs. Adelyn D. Breeskin, Curator, Twentieth Century Paintings and Sculpture, National Collection of Fine Arts, Smithsonian Institution, Washington, D.C.

Mr. Ralph T. Coe, Assistant Director and Curator of Paintings and Sculpture, William Rockhill Nelson Gallery of Art, Kansas City, Missouri.

Mr. Everett Fahy, Director, Frick Collection, New York, New York.

Mr. Stephen Hahn, Owner, Director, Stephen Hahn Gallery, New York, New York.

Mr. Edward B. Henning, Curator of Contemporary Art, Cleveland Museum of Art, Cleveland, Ohio.

Mr. Sidney Janis, Owner, Sidney Janis Gallery, New York, N.Y.

Mr. James Maroney, Jr., Associate, Hirschl & Adler Galleries, New York, New York.

Mr. Thomas Kesser, Director, Guggenheim Museum, New York, New York.

Dr. John Seymour Thacher, Director (Ret.), The Dumbarton Oaks Research Library and Collection, Washington, D.C.

Mr. Maurice Tuchman, Senior Curator, Los Angeles County Museum of Art, Los Angeles, California.

Mr. Robert C. Vose, Jr., President, Vose Galleries, Boston, Massachusetts.

Mr. Otto Wittmann, Director, Toledo Museum of Art, Toledo, Ohio.

Mr. JAVITS. The Manuscript Division of the Library of Congress reports the following. They say:

> Prior to the enactment of the Tax Reform Act of 1969, the Manuscript Division received an average of 15 to 20 new manuscript gifts each year from authors and musical composers. The following table illustrates the gifts to the Library of Congress in this field:

Calendar year 1968	20
Calendar year 1969	17
Calendar year 1975	2
Calendar year 1976 to date	3

This is similar to the comparison I made for the Museum of Modern Art in the city of New York.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Donations by artists of their own works of art to the Museum of Modern Art

Year, number of artists, and number of works of art:

PAINTING AND SCULPTURE		
1967	2	10
1968	1	1
1969	17	41
1972	1	1
1973	0	0
1974	0	0
1975	0	0
DRAWINGS		
1968	5	31
1969	8	23
1972	2	4
1973	2	6
1974	2	3
1975	0	0
PRINTS		
1968	7	12
1969	6	17
1972	2	2
1973	5	7
1974	3	5

Mr. JAVITS. This clearly illustrates that the very, very drastic fall off in donations is attributed to this particular change in law made in 1969. Also, the Music Division of the Library of Congress reports as follows:

> It is estimated that some 35 well-known composers have ceased making gifts to the Library of Congress, including Samuel Barbour, Aaron Copland, and Walter Piston.

Likewise, the Prints and Photographs Division of the Library of Congress reports that a number of leading artists have ceased donating their original works to the Library of Congress since 1969. Mr. President, this is simply a way of demonstrating the results since 1969. The facts speak for themselves.

Who will be benefited and who will be hurt if we pass this particular measure? As I said, the order of magnitude is very small: $5 million a year. The National Endowment for the Arts, for example, will give grants to museums for acquisition. That is Federal taxpayers' money. And yet, when it comes to facilitating the giving by the artist of his own work, we seem to be holding back. Would we rather pay for it with taxpayers' money? That is what it comes down to, especially with the very tightened up procedure regarding valuation which I have just described.

The other people who pay for it are students. Students are very much interested, and the letter from the National Endowment on the Arts, which, by the way, is very current—it is dated April 28, 1976—makes that very clear. Students are apparently very much interested, Mr. President, from what these artists say—and the Endowment experts certainly ought to know what they are talking about—in the sketches and other preliminary works which go into the development of a major work of art. This is the very thing that the artists will not give on the present basis, but would be very much interested in giving on the basis of some ability to at least get the value of the gifts applied on their art-related income.

Again I emphasize that any deduction they receive must be from any income earned from their particular art; otherwise they do not get it, and with the limit that I have described, $25,000 a year.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. JAVITS. I am glad to yield.

Mr. TOWER. I think what concerns some is that someone could go out and get a phony appraisal, and get a big tax writeoff. Is there any assurance in the Senator's amendment that it would be an honest, professional appraisal, reflecting the true value?

Mr. JAVITS. There is no question about it. Not only do we make clear that it is a true value, but the Internal Revenue Service is satisfied, as I stated before the Senator came in, that it has tight procedures for an accurate valuation. The Commissioner of Internal Revenue has a panel which passes on these items in three meetings every year, composed of some of the most distinguished artists and directors of museums in the United States, and gives them an airtight valuation.

Mr. TOWER. I might say I think the amendment of the Senator from New York is eminently sensible and reasonable. Based upon the figures he has cited, I hope it will reverse the trend toward the diminution of the donation of these works by their original authors or composers. So I hope the amendment of the Senator from New York will be agreed to.

Mr. JAVITS. I appreciate that very much, Senator TOWER. I think it is great that the distinguished Senator from Texas feels as he does.

Mr. President, the other point that I wish to emphasize on the tax point, which has been made to me and which I think is very important to answer—because, as I say, I have no feeling of strident opposition about this amendment. It is something really in the general public interest. My point is to respond to the charge that the artist has not earned the money he has used to acquire the work of art.

Mr. President, neither has the stock investor who bought stock at $2 a share, if it is worth $50 when he gives it away. He gets the tax benefit in the full $50. He even gets the benefit for donating a property that is fully depreciated. If he gives a property to a museum which is fully depreciated, he gets the full value, whatever it may be, as a charitable donation. And there are many other instances. Do we penalize an American who organizes a little company, puts in a thousand dollars, is able to borrow a million, pays back the million, and then finds his thousand worth a million?

Do we say, "Oh, that is too bad. He didn't actually go out and spend money for it"?

We do no such thing. So I really do not think that argument is a fair one. With the fact that the artist can go out and sell his work, and indeed he does, but instead of selling it he gives it to a museum, why should he not even have the benefit of a philanthropic deduction like everyone else? The facts are that donations have dried up in a very real way the source of gifts for museums and libraries. As I pointed out a minute ago, it is happening even the Library of Congress, not withstanding the great public spirit which is involved in that particular Library.

Mr. President, for the moment I shall yield the floor because I wish very much to hear what the manager of the bill might think about this particular amendment.

Mr. LONG. Mr. President, much as I love art, I love the Government more. At least I love the solvency of this Government more.

From a theoretical point of view this is exactly the same loophole that we closed with the Nixon papers problem in the 1969 Tax Reform Act.

Now, it involves a thing of value on which a person has paid no tax. When he gives this thing of value away and takes what we call the charitable deduction for giving away something on which he has paid no tax, as was the case with the Nixon papers, it amounts to what a tax purist would call a double deduction, what he gave away were tax-free earnings of the same value. Suppose we are talking in terms of capital property worth $25,000. If he had earned $25,000 and then he gave the $25,000 to charity, from the tax point of view it would then be a wash; he would owe the money on the $25,000 income, but he would be entitled to a deduction for the $25,000 he gave away, so he would be even.

But if this is an artist with $25,000 or more of income from his paintings, this contribution is something that this artist has painted on which he has paid no tax for the income and will pay no tax under the amendment, then when he proceeds to give it away he gets a $25,000 deduction against his painting income. For that person or one of those very fortunate people who finds himself in the 70-percent tax bracket, that would then cost the Government $17,500 for this person to give away something that is worth $25,000.

Suppose the Government, on the other hand, thought the painting was worth the Government buying it, and the Government just bought it from him for what it is worth, the same $25,000. He would then pay the Government $17,500 in taxes, and the Government would be $10,000 better off to buy it and give it to the museum than for him to give it himself. So, really, if one wanted to save the Government money, one would say:

> Rather than give the thing to a museum, how about letting Uncle Sam buy the thing from you, set yourself a price and we will buy it; we shall donate it for you.

The Government would make a fortune that way compared to what it would cost to do it this way.

There was a time when these charitable gifts amounted to a double deduction. A person could make a lot of money by giving something of value away. He could make more money giving some thing of value away than he could by keeping it. He could make more money by giving something of value away than by selling and taking a capital gain out of it. That was because there were circumstances in the law where he could find a way to deduct it twice. Obviously, one cannot give something away even against a 70-percent tax bracket. One cannot make money by giving it away if he only is deducting it one time because if it is worth $10 and he gives it away against a 70-percent bracket he has saved $7 but it has cost him a net of $3. But if he can deduct it two times he can make money. And that is what made some people so very charitable back in the days when they could have the double deduction. One would say, "Why do these rich men give all the stuff away?" Because they could deduct it twice.

When we first went to work in the Tax Reform Act of 1969 to try to close out loopholes, the biggest loophole we had to close was what is known as a charitable deduction. Twenty-three percent of people who reported gross adjusted income of $5 million or more paid no income tax because of the charitable deduction. And one would say, "Why are those men so charitable?" It was not because they were getting a deduction; it was because a lot of them were getting a double deduction. They were making a profit by giving money away or giving away things of value.

So when we permit one to give away something which is his but on which he has paid no tax and will pay no tax, under those circumstancces it amounts to a double deduction.

That was the problem pertaining to the Nixon papers, and as everyone knows we passed a law to say that a Member of Congress cannot do that, a President cannot do that, nobody can do that; and President Nixon, as we know, suffered from that.

This, Mr. President, simply opens up that same problem all over again which was the biggest fiasco that ever occurred in the tax law. Some of the history of this thing absolutely would make one wonder how do these people in Congress do these things. And it is just exactly the opposite problem from that which was criticized by the Senator from Massachusetts where we drafted an amendment narrowly.

Where we drafted one broadly, there was one fine lady, a member of the Driscoll family who lived in Philadelphia. She joined a Catholic order as a nun. She had a lot of income coming to her. So some Member of Congress said it was not fair to make that lady pay taxes on income when she had taken a vow of poverty and dedicated everything she had to the Lord. So we then had a dedicated Member of Congress fight for a bill to relieve the burden of his constituent, who had taken this vow of poverty, and say she would not have to pay a tax on that income which she had dedicated to our Merciful Maker.

Then we go down the road a few years and then we find that 23 percent of the millionaires are paying no tax. They are taking advantage of a law that we passed for that nun who had dedicated everything she had to charity.

So, Mr. President, here we get started with the same kind of thing all over again, not in the name of religion this time, but in the name of art where they take a double deduction. The tax purists will just go up in smoke when they see an amendment of this sort offered by Members. From their point of view, here we go with double deductions again. And from my point of view, Mr. President, it does not upset me all that much, but it is something that those who served and worked with the Treasury and with the tax law down through the years, trying to fix it so everyone will pay some modicum of taxes of a reasonable nature, find themselves completely frustrated in having worked in that vineyard so long to see an amendment like this come in. Having closed an area of potential tax avoidance, they see it opened again.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Alabama.

Mr. ALLEN. The Senator from New York justified, I believe, this amendment by saying that this deduction is open to the collector in whose hands the object may have appreciated greatly in value. I do not feel the answer would be to create another loophole just because there is a loophole there.

I wonder if the chairman, in view of the remarks of the distinguished Senator from New York, might not have the committee consider the advisability of closing the loophole where the collector is able to claim a deduction through appreciated value. I wonder if that could not be done possibly from the floor?

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. ALLEN. I am asking the Senator from Louisiana, who has the floor.

Mr. LONG. I would be happy to look into it, but of course I think that is a capital gains situation.

Mr. ALLEN. This art problem, is not a big avoidance area, I understand.

Mr. KENNEDY. If the Senator will yield, we tried to add that to the minimum tax in 1969. I offered such an amendment simply to include it in the minimum tax, and I think we got 14 votes for it.

Mr. ALLEN. To eliminate the collectors windfall?

Mr. KENNEDY. No; to include that part of appreciation as an inclusion in the provisions that would be included in the minimum tax.

Mr. ALLEN. The Senator may have had too many other provisions in there. If this would be offered separately, I think it would get a whole lot more votes.

Mr. KENNEDY. We offered it both as an inclusion in the minimum tax and separately. We did not get over 20 votes in either one. It does not mean it was not meritorious.

Mr. ALLEN. The Senator can offer it again.

Mr. LONG. In that case, one would owe a capital gains tax if he sold it. In this case, he would owe ordinary income. In one case, the difference would be a maximum of 35 percent tax that one would avoid paying, and in the other case it would be a difference of 70 percent.

One other thing is involved in this. The Treasury has tried to find some way of preventing even what is not a matter of double deduction but just a matter of preventing someone from taking advantage of the tax collector in this art field, and that involves this amendment. For example, someone buys a painting. About 5 or 10 years later, he gives it away. When he gives it away, he puts a value on it of about 10 times what he paid for it. He may give it to a museum or a hospital. Some people have run out of a market in museums to give some of these things, and they give them to hospitals nowadays.

The interest of the receiver and the interest of the giver are not like the interests of the parties in the ordinary buying and selling situation. In the ordinary situation, the buyer is interested in making the price higher and the seller is interested in making the price lower. In this case, at least the receiver has no interest in keeping the value down. In the hope of getting a valuable gift, he is glad to go along with the idea of making it as valuable as possible.

So the Treasury sets up a committee to look at those art contributions and try to hold the value to what they think would be appropriate under the circumstances.

If you give something to a museum or a library and you are in the 70-percent bracket, you only save 70 cents on the dollar. But if you can give it away at an appraisal that is twice what the thing is worth, you would make a big profit on that out of Uncle Sam. So the Treasury has tightened up in this area.

That problem exists even with a hometown artist who gives something to the local museum. That also has the complication of a double deduction tied to it. You have the potential of the evaluation being high on one hand and a double deduction on the other, and that gets down to a lovely tax gimmick. So for those in a high tax bracket, it could amount to a great degree of tax avoidance.

This opens up the potential of people who are gifted—and who undoubtedly will make a fine contribution to society—being among those taxpayers who pay no income tax. I, for one, having been on the committee for a while, feel somewhat sensitive about picking out one person who made a great deal of money and who pays no income tax. We open that potential with this amendment.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. ALLEN. It seems that, under this proposal, a painter, toward the end of the year, might find that he had earned about $25,000 in selling paintings; and on the last day of the year he might paint something and give it away, with a $25,000 valuation, and offset his income.

Mr. LONG. That is exactly the point.

Mr. ALLEN. If he were a musician, he might have a song, a piece of sheet music, that perhaps had not been too much of a hit, and he might give that away and wipe out his tax liability. It would seem that a fellow might go on for years and years and never pay any taxes, or just pay it in script, more or less.

Mr. LONG. Yes, this also would apply to musical compositions.

It should be kept in mind that this was an area of tax abuse before the 1969 act because of the appreciation of value problem, even for one who sought it and then gave it.

Incidentally, that is still an area—the matter of buying and giving works of art—of tax avoidance. It is not the lush thing it was once was. If you take an area that is still a good tax avoidance area to begin with, a good tax shelter area, and then make it twice as sweet, one can see how that then opens the potential for all the painters and composers and artists and writers to come in a few years down the road. Then we are going to pull the tax returns and talk about how hard we work to see that somebody who makes a great deal of money pays some tax. Then here are 500 people who made more than $200,000 and paid no taxes. We are going to help these people donate a picture to a museum.

That is the sort of thing Congress thought it was doing for the Philadelphia nun. They started out thinking that she was not going to have to pay taxes on what she gave to the church, and it works out that it is the largest area of tax avoidance. That sets us out in the same area with a double deduction for those people. Technically, it is not a double deduction, but it works out the same way.

Mr. ALLEN. I believe the Senator pointed out that it would be cheaper for the Government to make grants under the Arts and Humanities Commission and have the artists pay their regular taxes, just as everybody else does. The Government would make money that way.

Mr. LONG. The Senator is correct.

As I said, applied to a painting valued at $25,000, if this amendment were adopted, the Government would save $10,000 by just buying it for what it is worth and hanging it in the Library of Congress or the Capitol.

The Government has no interest in paying more than the price—that is, more than anybody else would pay for it. If the museum wants it, it is not going to cost them a nickel to get it. They have every incentive to go along with fixing a high price. Then all they have to contend with is some artist who was appointed by the Government but who is sympathetic to the art fraternity and would like to see these paintings hanging in the museums around the country and in the hospitals and in the libraries.

If it is only worth half that much, half of what the Government or anybody else would have paid—and, therefore, what the Government theoretically would have paid—then it is an even more lush proposition; because if it is worth only $12,500, then it has cost the Government $17,500. If the fellow can get away with an appraisal at twice what anybody would pay for it, since he is giving it away, anyway, then it has cost the Government $17,500, and he has given away something that is worth $12,500.

Mr. ALLEN. I may have misunderstood the Senator from New York. I understood him to say that this deduction could carry on over into succeeding years. Is that correct?

Mr. LONG. The excess could carry over.

Mr. ALLEN. A fellow might make some contributions, and he would be getting the benefit of that for years to come, and it would help to wipe out his tax liabilities.

Mr. LONG. That is the case. There is a carryover in this.

From my point of view, I like to encourage art; I like to encourage the arts. It seems to me that perhaps we should do more than we are doing now. But I am sure that this would be overdoing it. At least, that is how I feel about it.

Mr. ALLEN. I thank the Senator.

Mr. JAVITS. Mr. President, this is an amazing place. We really stand the world on its head. We deal with a billion dollars, $2 billion, $3 billion, $50 billion, and it is all OK. Suddenly, we get very moral because it is artists and it involves $5 million. It is a big precedent and it is stirring up a witches' brew. Lord knows what it is going to do to this country. Even the chairman would have us believe that if the United States bought an art work, that would be cheaper than the tax deduction. For the life of me, I cannot understand how you figure that kind of mathematics. And the Treasury now certifies that it has an accurate and exact valuation procedure. Are they crooks, too? Someone thinks they are, because the whole argument is premised on the fact that they are going to get away with something—somebody is cheating, or somebody has been suborned, or somebody has friends.

Mr. President, there are some arguments that cannot be answered except by an appeal to the normal commonsense of people. That is what this amendment is all about. The museums are starved for these works. There is a way to solve the problem. It is a reasonable way. It does not involve a great deal of money. That is why I proposed it.

I must say that to build upon that, this monstrous structure of cupidity and venality and fraud, getting away with things, is really pushing the thing way beyond any kind of reason.

Second, Mr. President, the argument about the Nixon papers is completely invalid here—nothing but a red herring across this legislation—because the amendment expressly states that anybody who is employed by the United States or any State or political subdivision cannot have the benefit of this particular section for anything that they have done or written in that employ.

Mr. President, really, I do not know that all this deserves quite the amount of heart which seemingly has to be put into anything that touches some peculiar and particular sensibility. Finally, Mr. President, if this same artist died and the work of art which we are talking about his giving were a part of his estate, his estate would be taxed to the full value, exactly what we are talking about in terms of a deduction.

As to the loopholes which were closed in 1969. I voted for them and I advocated them with the greatest of devotion. Sometimes, we go too far. In this particular case, we did. Experience indicated that we went far beyond where we should have gone.

All I am asking the Senate is, let us pull back a little bit in order to help our museums, our libraries, and our universities, period. That is what it is all about.

It is no big precedent, no big deal. It does not involve any great amount of money. We give this to any Member on the floor, in any appropriation bill, without blinking an eye, if he really asks for it. It is a very, very, helpful thing to highly desirable cultural institutions in the United States. That is the way I hope, very much, that the Senate will look at it.

Mr. LONG. Let me urge the Senator to take a pencil and write down these figures which I am going to give him. He may not realize their importance. Let us assume that there is no gimmick whatever in the appraisal. Let us assume that the appraisal is precisely correct. Let us assume that the man gives a picture worth $10,000 that he has painted. Let us assume that he has income from his painting of $10,000 or more, and that he has outside income from other sources, which puts him in a 70-percent bracket.

Mr. JAVITS. If the Senator will yield, we are not talking about a deduction from income from outside sources. This says only art-related income, nothing else, only what he earned out of that particular profession by selling works of art.

Mr. LONG. But if a person is in the business of painting, if painting is his business, then if you count his income from all sources, he could be in a 70-percent tax bracket. So, then let us assume that he gives a $10,000 picture and he is in a 70-percent bracket. That is an extreme case, but let us assume that for a moment.

Mr. PELL. If the Senator will yield for a question, how could a man be in a 70-percent bracket from earnings when 50 percent is the top bracket? He can only be in a 70-percent bracket from investment income.

Mr. LONG. If he has investment income as well as earnings, if he is in the painting business, he could be deducting this against a 70-percent tax bracket. So we assume that the appraiser is completely correct. This could presumably be worth a 70-percent deduction against a $10,000 item. That would be $7,000. Now, he would have saved $7,000 on taxes. If the Government bought the picture from him, he would owe the Government the $7,000 in taxes and he would have to pay it. The Government, having paid $10,000 to him and having possession of the picture, and having collected $7,000 in taxes from him, would find that the net cost to the Government of acquiring the picture was only $3,000. So here is something that this man can give and the cost to the Government, if he gives it to some museum or library, would be $7,000. It would only cost the Government a net of $3,000 to buy it and give it itself or, for that matter, buy it and keep it.

The Government could buy it and give it and it would only cost the Government $3,000. So the tax advantage would be so great that this man could make a very substantial saving, over and above what it would cost the Government. The saving to him would be more than twice what it would cost the Government for the Government to buy it and give it away or buy it and keep it. So this does open up the potential of a double deduction—that is, a transaction which works out the same as a double deduction, although not technically a double deduction, because he has achieved a deduction with regard to income on which no tax has yet been paid and will not be paid. By doing so, it amounts to a very substantial subsidy, far beyond that which the Government would be willing to do on any basis of outright expenditure. Therefore, Mr. President, I feel that the amendment should not be agreed to.

I ask for the yeas and nays on the amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I rise in support and to compliment the Senator from New York on his leadership on this amendment, the leadership he has shown in so many fields related to the arts and education.

I think what we should look at are the basic facts of the case as they are today. For example, if Renaissance Italy had a tax system like ours, it would have meant that Michelangelo could only have deducted the cement and the cost of the paint for the Sistine Chapel or the marble that went into the "Pieta" in St. Peter's Basilica; or Leonardo da Vinci could have deducted only the paint and the plaster that went into the "Last Supper," or Donatello the bronze in his magnificent equestrian statues. Obviously, that would be ridiculous.

We come to more recent times and we see why it is ridiculous. It means that an artist who is dead or an artist whose works have been bought by somebody else can have his works deducted, but an artist who is alive and producing cannot deduct for his works if he chooses to do so. With Picasso dead, his pictures will fetch whatever deduction is agreed to. But if Picasso were alive today and gave a painting to the Museum of Modern Art, he would not be permitted to deduct more than the cost of the canvas and the paint that is on it. By the same token, Jamie Wyeth, if he gave a painting today, could deduct nothing but the canvas and the paint. But if he gave that painting to Mr. Jones or Mr. Smith, then Mr. Jones or Mr. Smith could give it to a museum and deduct it at the full value and give him a gift and pay a gift tax on it. That would obviously be a way of skirting the law as it would stand today.

What we have here is a situation pretty similar to our own papers. We cannot deduct anything but the cost of the paper and the ink when we give our papers. But if we leave them to our estates, our estates can deduct whatever the agreed-on value is.

The possibility that the Treasury Department will be sympathetic toward any such giving is, I think, not justified when we look at the history of the Treasury Department-IRS judgments. Their judgments often seem stringent to the interests of a particular taxpayer. As a rule, the IRS people seem to look at gifts with a sharp, cold-eyed scrutiny, as indeed they should, to look after the interests of the taxpayers as a whole.

I hope that when we see the ridiculous situation that the amendments of 1969 pushed us into in this respect, where an artist can only give away the cost of the canvas and the paint, that we will correct this situation and that we will adopt this amendment. If we find it has been a little bit generous, generous for a good cause, we can tighten it up at another time and, I am sure, the panel the IRS sets up will do its own tightening.

I urge my colleagues to support this amendment.

Mr. RIBICOFF. Mr. President, I rise in support of the amendment that will restore a limited tax deduction to artists for donations of their own work to museums and other public institutions.

Today, an artist is only entitled to a deduction for out-of-pocket expenses when he donates his work to a museum, even though his contribution may be worth thousands of dollars at fair market value. Until 1969, donating artists were allowed a deduction for the full market price of their works.

A survey of 45 museums conducted last year showed that donations of works by living artists totaled $440,000 during the year before the deduction was all but eliminated. Last year, the same museums reported only $130,000 in similar donations.

Present law has denied the public access to contemporary art works of great significance by both well-known artists and new artists whose work the public has not yet had the opportunity to see. Because there are fewer donations of important works by living artists today than there were 5 years ago, our appreciation of the many new trends and directions of contemporray art has been dealt a serious blow. Our access to an important educational and cultural resource has been greatly limited by the cutback of the artist's tax deduction.

Since the change in the artist's tax deduction, the National Endowment for the Arts has tried to compensate for the drop-off in contributions by increasing grants to museums for contemporary art.

If the artist's tax deduction is reinstated, it is likely that these grants would taper off to the level of several years ago, when the deduction for fair market value was allowed.

So any revenue impact estimate should take into account not only the cost of the deduction itself, but also corresponding fluctuations in the level of grants for contemporary art provided by the National Endowment for the Arts.

By limiting the amount of the maximum deduction that an artist can claim for these donations to $25,000 of income earned on the sale of other works by the artist, it will again be customary for well-known artists to contribute major works to museums. To lesser known artists, availability of this tax deduction will provide an even greater incentive to contribute their works to museums.

Consequently, adoption and enactment of this amendment will lead to increased public access to major works of well-known artists and to greater public appreciation of talented new artists.

Mr. JAVITS. Mr. President, I believe we have very thoroughly explored this matter, probably more than really is required, and I am prepared to vote on it.

Mr. ALLEN. Mr. President, I am in the process of preparing an amendment to the amendment, and while it is being prepared I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TOWER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 236

Mr. ALLEN. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment No. 236: On page 3 after line 13 add the following:
>
> "(7) No deduction shall be allowed under this section for the unrealized appreciation in literary, musical, or artistic compositions."

The PRESIDING OFFICER (Mr. THURMOND). The Senator from Alabama.

Mr. ALLEN. Mr. President, the amendment offered by the distinguished Senator from New York would create another loophole, or another tax expenditure, in the tax laws at a time when we are seeking to close loopholes, rather than open up new loopholes.

The distinguished Senator from New York, in offering his amendment, pointed out that when this loophole, which he is seeking to create again, was closed in 1969, it did not cover the situation where a collector or other owner of art, sculpture, or musical composition gives that to a charitable institution. He is able to count as a charitable gift not the cost to him of that item, but the supposed value of it at the time of the gift.

He pointed out that while that loophole was left, the loophole was closed as to the original artist making a contribution of a work of art, that he would not be allowed to claim the then valuation of this contribution.

So the amendment is offered to allow the original artist, musician, or sculptor, or any other type of artistry, to give his original production and to claim, as a charitable contribution, the value of that work of art. That valuation would be set and he would get credit for that even though he paid no tax on the unrealized appreciation in the value. It is limited to $25,000 in any 1 year, except that any unused portion of the contribution could be carried over for a 5-year period.

It would seem to me that this would open up a tremendous loophole and would enable some artists to avoid taxes ad infinitum, just to pay off in musical compositions, paints, etchings, or what have you.

The limit is $25,000 or the income from his own works created that year or in previous years, whichever should be less.

The amendment at the desk takes note of the distinguished Senator's argument that the collector or the secondary owner of a work of art is able to make a gift, claim the then value and and get credit for the appreciated value without paying any tax. So the purpose of this amendment is to seek to close the loophole that now exists, and, at the same time, to prevent the creation of still another loophole by this amendment. In other words, it operates on the amendment of the Senator from New York and, at the same time, operates against the secondary owner in that he would not be able to claim any unrealized appreciation in the value of the gift.

Mr. President, the valuation that is sometimes put on a work of art does not necessarily bear too much resemblance to the market value. One can come a whole lot nearer getting an inflated appraisal for gift purposes than to go to a purchaser of that object and sell such object for cash.

This amendment would say that no deduction shall be allowed under this section for the unrealized appreciation in literary, musical, or artistic composition. That would diminish greatly the amount that the original owner could claim as the value of the gift and, at the same time, would prevent someone from buying a painting for $500 and some years later claiming it is worth $2,500. This does not allow any appreciation.

Mr. HASKELL. Will the Senator yield for a question?

Mr. ALLEN. Let me cover one more point.

Well, I will yield.

Mr. HASKELL. First, I want to congratulate the Senator on his amendment. I want to ask a question merely to emphasize something the Senator said.

If I have a work of art, which I do not have, if there is not a ready applicant for that work of art and if I am going to give it to a museum or a museum wants it—I think the distinguished Senator from Louisiana mentioned this—there is really no reason for them to keep the value down. Would the Senator say that would be correct?

Mr. ALLEN. I certainly would.

Mr. HASKELL. For that reason, they would probably accommodate me and put the value almost wherever I wanted it. This, of course, would result in Uncle Sam, in effect, underwriting my tax liability.

Mr. ALLEN. I think that would certainly be a fair assumption from the facts.

Mr. HASKELL. I thank the Senator.

Mr. ALLEN. I am sure that 90 percent or more of the Senators from time to time as they have conducted their campaigns for office have pledged they are going to seek to close loopholes in the tax law. I would say at least 90 percent if not 95 percent have made that pledge. I think the Republican Party is going to say it is going to close loopholes; the Democratic Party in its platform I am sure—I have not bothered to read it, and I do not suppose anybody here in the Chamber has bothered—will say it favors closing tax loopholes. The amendment of the Senator from New York creates another loophole.

The amendment of the Senator from Alabama closes an existing loophole and, at the same time, will prevent the creation of still another loophole.

The amendment was prepared by the staff of the committee at my request. I can vouch for the expertise of the staff of the committee, expertise that we all recognize. This was not after consulting with the chairman, but we all have access to the staff of the committee. The amendment was drawn at my suggestion to accomplish this purpose. I am assured by Dr. Woodworth that it will accomplish the purpose I have outlined.

Mr. PELL. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. PELL. Under the same logic of the Senator from Alabama, why should the loophole elimination be restricted exclusively to unrealized appreciation in literary, musical or artistic composition? Why, under that same logic, should it not also include unrealized appreciation in securities and real estate?

Mr. ALLEN. I think it should. I think it would be well to have the Senator offer an amendment to that effect.

Mr. PELL. I have no intention of offering such an amendment.

Mr. ALLEN. The reason I did it was because I saw it in the language of the original amendment. I was trying to follow the language of the original amendment. That is the reason.

Mr. PELL. Since I intend to vote against the amendment, I would not seek to enlarge it at this time, but under that logic I would think the Senator from Alabama would have included them all.

Mr. ALLEN. I merely followed the language of the amendment itself, so it would not be too great a departure from the language of the original amendment.

The PRESIDING OFFICER. The Senator from Alabama will suspend.

MILITARY CONSTRUCTION AUTHORIZATIONS, 1977—VETO

The PRESIDING OFFICER (Mr. THURMOND). Under the previous order, the hour of 3:30 p.m. having arrived, the Senate will now proceed to the consideration of the President's veto message on H.R. 12384, which the clerk will state.

The assistant legislative clerk read as follows:

> Veto message on H.R. 12384, authorizing certain construction at military installations, and for other purposes.

The Senate proceeded to reconsider the bill.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The time on the veto message is to be equally divided beween and controlled by the majority and minority leaders, or their designees, with the vote on reconsideration of the bill to occur no later than 4 p.m.

Mr. SYMINGTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that Mr. James Smith of the staff of the Committee on Armed Services——

The PRESIDING OFFICER. A quorum call is in progress.

Mr. SYMINGTON. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that James Smith of the staff of the Committee on Armed Services and Paul Donnelly of my staff have the privilege of the floor at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. Mr. President, shortly the Senate will vote to override the veto by the President of H.R. 12384, the fiscal year 1977 military construction authorization bill.

The House of Representatives has already voted to override the President's veto of the same bill.

The President says that section 612 would "prohibit certain base closures or the reduction of civilian personnel at certain military installations unless * * *" certain conditions are met.

The purpose of section 612, however, is not to prohibit base closures and significant reductions, but to formalize a process whereby the Department of Defense can effect such closures and reductions in a more orderly and efficient manner.

One has only to look at the various major base realinement actions attempted by the Department of Defense in the past few years which are fraught with problems—litigation, delay, indecision, decision changes—to recognize that this is an area within the Defense Department which needs improved management controls.

The Congress itself has been partly to blame because, on the one hand we have been attempting to reduce Defense expenditures, yet on the other delegations affected by Defense cutbacks in their districts or States have worked to stave off those cutbacks.

Section 612 seeks to solve part of this problem. For major realinement actions a formalized process and schedule is specified which will let everyone involved know precisely where they stand regarding any action.

Second, quoting again from the veto message:

> By imposing unnecessary delays in base closures and reductions the bill's requirements would generate a budgetary drain on the defense dollar . . .

We beg to differ. Section 612 will not impose unnecessary delays. The provision was carefully drafted to coincide with the procedures and time schedules currently used by the Department of Defense to effect base closures.

Most major realinements which were announced by the Pentagon in 1974 and 1975 have still not been executed because the decisions were so hastily made. Some already have been successfully challenged in the courts.

Major realinements announced in early 1976 which would come under the purview of this provision can be decided in the November-December 1976 time frame and executed beginning 90 days later, if justified, in plenty of time to meet civilian manpower authorizations for the end of fiscal year 1977.

Considering that the Defense Department does its planning and budgeting on a 5-year basis, it is difficult for us to understand why a requirement to study major realinement actions for 1 year could in any way impose "unnecessary delays".

Third, quoting again from the veto message, "section 612 raises serious questions by its attempt to limit my powers over military bases." The issue of separation of powers was given careful attention during the drafting of this provision.

The prerogative and obligations of the Chief Executive to decide a force structure and a base structure are not affected by this provision.

The President continues to decide which bases are candidates for major realinement. The President continues to make the decisions on major realinements.

Invariably, any major realinement affects thousands of individual's lives and has catastrophic effect on the local economy in question. And such action or actions, when the pressures of war do not exist, should be decided with care, and with due consideration for the economic impact.

The role of Congress in reviewing and validating such decisions is obligatory. It is really no different than our role in determining whether this country should invest in any new weapons system.

Finally, the veto message alledges—

> For realinement proposals already announced for study, section 612 could increase fiscal year 1978 budgetary requirements for defense by $150 million and require retention, at least through fiscal year 1977 of approximately 11,300 military and civilian personnel positions not needed for essential base activities.

We are at a loss to explain this allegation. As already mentioned, time is running on the actions announced earlier this year in March and April and decisions on these actions can be announced in December 1976 and implemented, if justified, in early 1977, well before the end of fiscal year 1977.

We question the management of the Pentagon when last January it came to the Congress with a budget which reflected a reduction in civilian manpower of 12,000 based on proposed base closures; and then, 3 months later, announcements were made that the Pentagon would "study candidate actions" which, if implemented, will "save" 12,000 civilian spaces.

In the future let us hope that base realinement studies would precede budget submissions, so that personnel reductions proposed in the Defense budget would be a result of realistic study.

Mr. President, section 612 is logical and proper legislation. It will bring order out of what is clearly disorder. It will bring visibility to decisions that in the past have been made in the dark. It will formalize a process that today has no logical rationale.

During the development of section 612, the Pentagon steadfastly refused to comment, let alone cooperate, on this legislation or its impact, choosing instead to simply urge the President to veto it. For these reasons I am convinced this veto should be overridden and H.R. 12384 should become law.

Mr. President, I ask unanimous consent that a letter sent to all Senators, signed by nine from both parties, be printed in the RECORD.

The PRESIDING OFFICER (Mr. CURTIS). Without objection, it is so ordered.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 20, 1976.

DEAR COLLEAGUE: On July 2, the President vetoed H.R. 12384, the Military Construction Authorization bill.

This bill passed the House last May 7 by a vote of 299 to 17 and the Senate May 20 by a vote of 80 to 3.

In his veto message to the House, the President cited his objections to section 612 of the bill as the sole reason for returning the measure without his approval.

As you know, this section specifically deals with closures, significant reductions, and realignments of military installations.

Rather than an effort to provoke a confrontation with the executive, this section was designed to accommodate the legitimate concerns and problems involved in any major base realignment.

A great many members of Congress represent communities and constituents which are, have been, or could be affected by proposed base realignments; and when a closure or a reduction is announced, surely the Congress has the right to know the military's justification for the action, if for no other reason than the necessity of explaining it to affected constituents.

The House of Representatives has scheduled an override vote on this measure for Thursday, July 22. If the House is successful in this effort, we would urge you to join with us in voting to override this veto.

Sincerely,
Stuart Symington, Edward W. Brooke, Thomas F. Eagleton, William D. Hathaway, Edmund S. Muskie, John Tower, James L. Buckley, Jacob K. Javits, Edward M. Kennedy.

Mr. SYMINGTON. Mr. President, I am glad to yield to my chairman for a question.

Mr. STENNIS. Mr. President, I have another major matter to which I must attend out of the Chamber, and that is the reason I asked the Senator to yield at this point, only to say that this matter does present a problem and this amendment, as I understand it, even though I did not have any direct part in working it out, is very capably handled and, as I understand it, largely tracks the present practice by the DOD in handling of these matters.

Mr. SYMINGTON. That is correct.

Mr. STENNIS. In that way, it is a relatively mild amendment, as I see it.

Mr. SYMINGTON. That is correct.

Mr. STENNIS. I do not wish to impinge on the prerogatives nor the responsibilities of the executive branch of this Government in connection with this very question, and that is my political philosophy anyway, being a constitutionalist, if I may. But I do think we have a practical matter here. There may be no complete solution to it. But this is a relatively mild amendment. It is a matter that tries to meet the situation. It does not give Congress the veto power over the proposed change. I would not favor that by any means. But, on the whole, with what I have already said, I am going to support the motion to override in this case.

I thank the Senator.

Mr. SYMINGTON. I thank very much my able chairman of the Committee on Armed Services, because we took great care not to impinge on the constitutional aspects of the question to which he so ably referred.

Mr. President, I yield to the ranking minority member of the Military Construction Subcommittee, the senior Senator from Texas.

Mr. TOWER. Mr. President, officials in the Department of Defense several weeks ago indicated to the members of the Armed Services Committee that they would urge the President to veto the military construction authorization bill because of the provisions contained in the section alluded to by the Senator from Missouri. I regret that he accepted their advice.

The only allegedly objectionable portion of this bill is section 612 setting forth procedures for the submission of information to Congress with regard to base closures and reductions. I emphasize that neither the nature of the information which Congress would require, nor the timetable which these procedures would follow is a significant departure from current practice. As the Members of this body well know, the National Environmental Policy Act has already drastically altered the procedures required of our Government for implementing virtually any sort of change that can be shown to affect—in the slightest way—the well-being of fish, fowl, or people's pocketbooks. As a result we have witnessed a dramatic upswing in the involvement of our Federal courts in reviewing proposed changes to our national defense base structure.

I am certain that I am not the only Member of this body who has questioned the wisdom of involving our Federal courts and judges in this process, but such is the outgrowth of people exercising their rights under due process of a law enacted by Congress.

The provisions of section 612 are not a solution to this fundamental problem. However, it would insure that full and complete information including that developed by DOD in complying with the requirements of the National Environmental Policy Act, would be formally transmitted to Congress and made a part of the public record of this body. This will serve simply to insure that Members of Congress can rely on having scheduled access to the detailed justification and supporting evidence with respect to base closures and reductions which would significantly affect their constituents. The people indeed have a right to expect that Congress not stand idly by as a simple witness to the judicial process on these vital matters. The creation of this statutory requirement will insure a thorough airing of legitimate concerns in the proper, public forums of this body.

It is my firm belief that section 612 of this act will serve to permit a more orderly and responsible sequence of events in situations now clouded by uncertainty and misinformation and characterized all too frequently by a lack of foresight and understanding as to the extremely broad range of potential impacts. Mr. President, I urge my colleagues on both sides of the aisle to join in voting to override the veto of this important legislation.

I do not take lightly the idea of advising an override of a veto.

The PRESIDING OFFICER. The time of the Senator from Missouri has expired.

Mr. TOWER. Mr. President, will the Senator from South Carolina yield me 1 minute?

The PRESIDING OFFICER. The majority leader or his designee has 15 minutes remaining.

Mr. TOWER. Will the Senator yield me that 1 minute?

Mr. THURMOND. I do not have a minute to spare now. I might yield it to the Senator later.

Mr. HATFIELD and Mr. SYMINGTON addressed the Chair.

Mr. THURMOND. Mr. President, I yield to the Senator one additional minute which I shall cut off of my own time.

Mr. TOWER. Mr. President, I do not take lightly the idea of asking the Senate to override a veto by the President whom I have supported steadily throughout this Congress and whose vetoes I voted to sustain virtually every time.

I think in this instance this was a poorly advised step the President took. I think Congress has the right to review matters that give this kind of impact.

I, therefore, ask the Senate to override the veto.

UNANIMOUS-CONSENT AGREEMENT

Mr. SYMINGTON. Mr. President, there are so many Senators who wish to speak on this matter. I ask unanimous consent that an additional 20 minutes be allowed on this bill.

The PRESIDING OFFICER. Is there objection?

Will the Senator include in his request how he wishes the time divided?

Mr. HATFIELD. On each side 20 minutes?

Mr. SYMINGTON. On each side.

The PRESIDING OFFICER. Will the

Senator state the unanimous-consent request again?

Mr. SYMINGTON. Mr. President, I ask unanimous consent, to be safe, because this is an important matter, that we have an additional 30 minutes, with 15 minutes to be allowed to each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. I yield to my distinguished colleague from Missouri.

Mr. EAGLETON. Mr. President, I am pleased at this time to yield to our distinguished colleague from Maine, and then I shall speak after the distinguished Senator from Massachusetts has spoken.

The PRESIDING OFFICER. Who yields time?

Mr. SYMINGTON. I am pleased to yield 2 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I join the distinguished Senator from Missouri (Mr. Symington) in urging the override of this veto.

Mr. President, I congratulate Senator Symington for his efforts on the military construction bill and join with him to urge the Senate to promptly override the President's veto of this important measure.

The most disturbing aspect of the President's veto was the attack directed on one particular portion of the bill, section 612—the base closure provision. A provision I had recommended to the Armed Services Committee and supported on the Senate floor in May. A provision drafted very carefully, with Senator Symington's support and assistance, to provide an opportunity for full review and analysis by Congress and concerned citizens before a proposed closure or reduction of a major military installation could be instituted. The provision was carefully worded to assure an appropriate congressional role without infringing upon or limiting the President's constitutional powers as Commander in Chief, yet President Ford found this provision "highly objectionable" and based his rejection of the bill on this one provision.

I learned of the President's veto while I was enroute to Bicentennial celebrations in Bangor, Maine, and was struck by how contrary this veto was to the spirit of our founders. Their prevailing concern for an open responsive government is clearly served by this provision which the President chose to veto as arbitrary, inefficient, and a threat to his powers. The President's criticisms of this provision are appropriate if the first priority of government is to serve itself but they are empty phrases when the primary task of government is to respond to and serve the people.

President Ford would have been well advised, before he described this provision as arbitrary and inefficient, to consider the situation we face in Aroostook County, Maine, following the proposal to reduce Loring Air Force Base by 85 percent, and view the behavior of the Air Force in this matter from the perspective of those citizens still presumptious enough to believe that government exists to serve them. His concern for the administrative convenience of his own military planners might then have been properly tempered.

He might listen to Martin Krautner, the town manager of Limestone, who testified during a hearing in May that local businessmen in his community would lose between 20 to 97 percent of their business with an average loss of some 45 percent and face a simultaneous increase in local property taxes of more than 30 percent.

He might consider the testimony of Richard McKeon of the Limestone Chamber of Commerce who described the gradual conversion of his community over the last 30 years from an agricultural economy with over 240 farms to a mixed economy dependent on the stability provided by Loring Air Force Base. Those individuals who left farming for jobs at the base or in support of the base do not have the capital it now takes to return and in many cases the land is no longer available but consumed by housing expansions related to the military activities.

Mr. President, I shall read from some testimony that was given by Terry St. Peter, the city manager of Caribou, Maine, in connection with the proposed closing of Loring Air Force Base. If I might read that I think it puts the human element that is involved in these cases very nicely.

> I would like to make one other comment, though, I recognize that the military has as its prime function the defense and protection of the United States. I recognize the argument that military decisions cannot be based on the effect of a local economy alone, or even primarily.
>
> But I would submit that the military has a larger obligation, and our Government—civilian and military—must consider its actions very carefully. The economic consequences of such decisions could be as drastic, at least to some people, at least to an area, as military or diplomatic consequences in other circumstances.
>
> If the Military Establishment never considered northern Maine to locate a base, if the area did not offer certain advantages for defense, this area would have been none the worse off. People would have lived here, farmed, gone about their routine ways. The local economy would have been in balance.
>
> But that is not what has happened. More than 25 years ago the U.S. Government deemed it wise and necessary to locate a Strategic Air Command base here. It did so, I gather, to establish a significant deterrent aimed at the Soviet Union.
>
> This was fine. The local people, for the most part, welcomed the base here, seeing it as necessary to the defense of their country and enjoying the social, cultural and economic benefits such a base provides.
>
> Indeed, I think many military people at the base will agree—as I have heard them say—the area people made them feel at home and gave them a good reception.
>
> At the same time, many area people, and people who moved to the area, tied their livelihood into the existence of the base. Why shouldn't they? The base was here. Base personnel needed services; people seized opportunities.
>
> Had the base not been here, local people would not have made investments here; they would not have tied their lives to this area. Because the base was here, however, they did.
>
> The military does have an obligation then. It can't dismiss its offspring that were created solely because the base was here, any more than a military man or anyone else can ignore his illegitimate children who were created because of his presence. The condition caused by their presence must not be dismissed as not their responsibility under the guise that it is not part of their mission.
>
> I submit then that the military has a serious obligation to consider the local effects of their proposed action—not just a procedural obligation—and that if they sincerely determine that B–52's at this base are no longer necessary, then they look at other ways that they can productively utilize this base.

The concerns which these individuals and others voiced were very much in the minds of Congress as we enacted section 612 of this bill and are concerns which I and other Members have repeatedly tried to impress upon the Executive in so many matters. The particular working of this provision are detailed in the relevant section of the committee report (94–856) which I request unanimous consent to have reprinted in the Record at this point. But the message can be paraphrased quite simply, "Be candid and open and provide the opportunity for people to evaluate, alter or challenge" your decisions.

In matters which affect as many lives as base realinements do, we cannot allow this basic principle to be subordinated to executive convenience or military expedience.

I was further disturbed by the President's veto because I believe this legislation contained a well-thought-out program of priority construction essential to our military operations within and outside the United States. A significant part of this year's construction is $12,173,000 for modernization of facilities at the Portsmouth Naval Shipyard in Kittery, Maine, and $4,058,000 for construction of medical facilities at Brunswick Naval Air Station. Both of these facilities play a vital role in our Nation's defense and we in Maine are proud of that role and appreciate the commitment to continuing and improving those facilities which this construction program represents.

The military does have an obligation then, and it is that obligation, Mr. President, to which this amendment is addressed.

The military simply cannot arbitrarily, without explaining its reasons, without justifying its reasons, without taking into account its impact, pull these bases out irresponsibly without sufficient time given to the problem that is created by the decision.

That is all this amendment does. It is reasonable. It was carefully worked out by Senator Symington and his committee staff, and I think the President was ill advised, indeed, to veto it.

Mr. President, I ask unanimous consent to have printed in the Record the language of the report pertaining to base realinements.

There being no objection, the material was ordered to be printed in the Record, as follows:

BASE REALINEMENTS

> The committee is concerned that current procedures used by the Department of Defense to effect base closures or significant re-

ductions are not adequately defined. Nearly every base closure announcement made in recent years has been the subject of litigation that is costly and time consuming. The committee, in adding Section 612 to the bill, is seeking, not to unnecessarily limit the flexibility of the Department to realign its base structure, but to put into law the base realignment procedures essentially as they are now accomplished by the Department of Defense. The committee feels that Section 612 will have the following beneficial effects: (1) it sets a specific time table so that everyone affected by a potential action can plan accordingly, (2) it insures that all parties concerned with such a proposed action will have the opportunity to be heard and to contribute to the decisionmaking process, and (3) it affords the opportunity for the Congress to influence the decision if there is inadequate justification. The committee emphasizes that Section 612 is not a means for the Congress to approve or disapprove of every base closure or significant reduction; to the contrary, the committee feels strongly that decisions on base realignments are properly made by the Department of Defense. Section 612 simply formalizes the decision-making process insuring that the Congress has the opportunity to exercise its Constitutional obligation with regard to "raising and supporting" the armed forces.

The provision first places a prohibition on (1) any base closure, (2) any significant reduction, defined as a reduction of more than 250 civilian employees or 50 percent of the civilian force employed as of the end of the fiscal year preceding the year in which Congress is notified that such action is a "candidate", and (3) any construction in support of such a closure or significant reduction, until certain actions are taken.

There are four sequential actions required. First, the Secretary of the military department concerned must notify the Congress of a "candidate" action. Notification to Congress includes public notice, notice to the Armed Services Committees, and notice to affected Congressional delegations, as well as formal notification to the Speaker of the House and the President Pro Tem of the Senate. The notification should include the rationale for the action being selected as a "candidate", and the estimated personnel and economic impacts to the extent that they can be determined without detailed study.

A period of at least nine months must then expire during which time the decisionmaking process is pursued. During this period the Department is to cooperate fully with affected parties. The committee recognizes that "full cooperation" is not a readily definable term and that the test of "reasonableness" will have to be applied. The committee expects the Department of Defense to respond to every reasonable request for information that can be accommodated within the time frame specified. The requirement for "full cooperation" must not delay the base realignment process. The provisions of the National Environmental Policy Act will pertain during this period and the committee expects each potential action to be assessed in accordance with the Act and that Environmental Impact Statements will be prepared, when required. The committee considers that the candidate base closure and reduction actions announced in late March and early April of 1976 are now in the nine-month study period and that preliminary notification has been accomplished.

The decision of the Secretary of the military department concerned will follow the aforementioned study period. The decision, together with supporting documentation and estimates of the consequences of the decision will be furnished to the same parties that received notice of the candidate action.

Finally, a 90-day period must expire before the decision may be implemented. This waiting period is to give the Congress the opportunity to remedy the decision, if warranted; and, more importantly, to permit those people affected by the decision to make provisions to accommodate the decision.

The committee recognized that such a deliberate process, while appropriate during time of peace, was not tolerable in time of national emergency and has given the President the authority to override the provisions, if he deems it necessary.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. MANSFIELD. Mr. President, will the Senator yield me half a minute?

Mr. SYMINGTON. I yield a half-minute to the distinguished majority leader.

TIME-LIMITATION AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time which has been added on not exceed 30 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield 3 minutes to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I support the override of the veto of H.R. 12384, the military construction authorization bill.

The provision that caused the veto, section 612 of the bill, is one I helped to develop. I believe the reasoning contained in the veto message indicates a misunderstanding of the purpose and the impact of the provision.

The requirements of section 612 for a 9-month study period, a report to the Armed Services Committee of both Houses of Congress with a detailed justification for the decision reached, and a 90-day waiting period before implementation apply only to major base closures and realinements. In fact, over 50 percent of the civilian personnel at a base, or 1,000 individual employees must be affected.

This means that a very small fraction of military base realinements will come under the provisions of section 612. But it will apply to those actions which would impact on the lives and careers of a large number of civilian employees.

I believe that such individuals must be absolutely assured that the uprooting and relocation, or the career termination, associated with base realinement is absolutely necessary for purposes of national security, military efficiency, or economy.

Second, I would point out that section 612 does not mandate action by the Armed Services Committees of either House. Certainly hearings can be held, and action suggested and taken, but there is no requirement that positive steps be taken in either House. Thus, the principle of separation of powers remains inviolate while the inherent right of congressional review stands.

In recent years, we have witnessed a gradual erosion of the faith of the American people in their Government. Many decisions made by so-called faceless bureaucrats which severely affect our citizens are seemingly made in the most arbitrary and capricious manner. In the measure we are discussing today, an attempt has been made to enact into law a reasonable and thorough study process—one already mandated by the National Environmental Policy Act—so that all the facts concerning a proposed base realinement may be publicly arrived at and publicly aired.

In addition, and this is critical, by requiring that the decision and the reasons for the decision be presented to committees of the Congress, the individuals whose futures are involved, will be assured that the conclusions flow from the data gathered. Congressional review before any action is taken will alleviate any fears that exercises to develop environmental impact statement are simply empty charades designed to justify previously arrived at decisions. This assurance of equitable decisions made in the national interest will make difficult and unpleasant conclusions easier to live with and more palatable to accept.

For these reasons, Mr. President, and because of the cogent arguments presented by my colleagues, I urge the veto of H.R. 12384 be overridden.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the vote occur at 4:20 p.m. instead of 4:30 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, how much time is that for each side?

Mr. MANSFIELD. That gives 10 additional minutes on each side. Now there are 25 minutes on each side.

Mr. THURMOND. I think that will be all right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. THURMOND. Mr. President, I yield 3 minutes to the distinguished Senator from South Dakota.

Mr. McGOVERN. Mr. President, I do not think anyone in the Senate has spoken out more sharply than I have in opposition to the excessive use of the veto by President Ford; but on this particular issue, it seems to me that the President has very clearly come down on the side of prudence and wisdom.

I support the President's veto of this measure on the grounds he has outlined.

For 13 years, as a Member of the Senate, I have tried to get legislation seriously considered and enacted by this body that would provide for some systematic, alternative planning to provide jobs for people employed at military bases or military installations that are excessive to the national defense needs of this country.

Certainly, no one can argue that President Ford has been soft on national defense or that he is the kind of President or the kind of Commander in Chief who is going to make cuts that would jeopardize the defense of this country.

He makes a valid point when he argues that what we are doing with this provision in the bill that led to the veto override is simply wasting money on personnel and installations that are excessive to the defense requirements of the country.

It was precisely for the same reason

that President Johnson vetoed similar legislation more than a decade ago, in 1965, because he saw, very correctly, that it would be impossible for the executive branch to move on closing down these needless installations.

All we are going to accomplish if we override this veto is to provide 1 year for the Chamber of Commerce and the various groups in these affected communities to come here and lobby for special legislation to save these wasteful, surplus facilities that add nothing to the defense interests of the country.

I do not know whether the administration's estimate is right, but they estimate that in the current fiscal year, it will add another $150 million in waste to the operations of these facilities, which are no longer needed.

It would be better if Congress at long last would face up to the necessity of systematic economic conversion planning legislation. I hope very much that, instead of taking this course under pressure from those who feel threatened by this veto, Congress will take the more prudent course of turning at long last to conversion planning legislation.

Mr. President, our party—speaking as a Democratic partisan who fully supports the Democratic ticket—is committed to a $5 billion to $7 billion reduction in military outlays. It is in our platform. Our candidate is for it. This is not the way to start implementing that platform, by hollering the first time the President of the United States proposes to make some reductions in personnel and installations that are wasting the taxpayers' money.

I hope the veto will be sustained.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. THURMOND. I yield 5 minutes to the distinguished Senator from Ohio.

Mr. TAFT. Mr. President, I support the President in his veto of this measure. It may come as a surprise to some to see me do so, because in this bill is included some $35.8 million for facilities at Wright-Patterson Air Force Base in the State I represent.

However, I point out that the arguments that have been made by the distinguished Senator from South Dakota are correct, that this imposes an arbitrary limit and improper limitations that are going to be very onerous upon the executive branch in trying to streamline our Defense Establishment at a time when we all know we need to streamline it. Who can imagine that the Soviets, if they wanted to change base facilities, would impose upon themselves a delay of 1 year in making that particular change?

Let me go on to the other facilities, to consider what the needs of the armed services may be in this respect, and I particularly turn to section 612, and refer to subsection 3 of that section.

It says that you have the delay as to any funds that are going to be used for any construction conversion rehabilitation at any other installation which will or may be required as a result of a relocation of civilian personnel for such other installation by reason of any closure or reduction to which this section applies.

So that if you think you are helping yourself in the military construction authorization, you are doing exactly the opposite. You are going to cut yourself off from using any of the funds that it authorizes for new installations that may be necessary to our national defense by putting yourself under the restriction that is in the bill at the present time.

I think we will be hurting ourselves very severely if we impose that kind of limitation.

It seems to me that in these times, particularly when we are facing a large defense budget—and I think we have to face it, and I am glad Congress has done so—we need to be able to take effective and quick steps toward economy, where that is important, where we can eliminate nonessential services or nonessential bases. We all know that is practicable. That simply is not going to happen with the kind of political pressures we are going to get in Congress if we override the veto. It is not going to happen, because we will have special interests involved in particular areas. I do not blame them. We are not running the armed services of the United States for the purposes of the EDA or the CCC or something else, to try to help out particular communities. We are running it to make it the most effective, most cost-effective, best teeth-to-tail ratio we can get. If we do not go along with the President and sustain this veto and get this provision out of the bill, I think we are going to long rue the day, not only from the point of our overview establishment, but from the point of not being able to make the expenditures we want to make because we shall not know what bases are necessary. There will be no way the Army or Navy or Air Force can have an inventory or know what their bases are going to be a year hence if we pass this. Can they justify saying, we have to go ahead and build some installations or some bases because they were authorized by Congress in another particular area to meet some particular need? I doubt that they can. I hope the Senate will go along with sustaining the President's veto on it.

Mr. HATFIELD. Will the Senator yield?

Mr. THURMOND. I yield to the distinguished Senator from Oregon 5 minutes.

Mr. HATFIELD. Mr. President, I think this is a time that Congress should stand up and speak with a straight tongue rather than a forked tongue. I do not think there is a person running for Congress or the Senate, this year or any year, who has not made a speech on Government waste and cutting down Federal expenditures. The Democratic candidate for President made his campaign on the waste by Government in Washington.

I think the point here is that Congress has mandated the President to begin to pare the Armed Forces to a better teeth-to-tail ratio of combat-to-support activities, consolidating units and so forth. Now we come along, when the President has made a proposal for such efficiencies, and we want to delay it.

Reference has been made to President Johnson's veto back about a decade ago. Let me point out one very important difference: the language which President Johnson vetoed was never voted on by either House or the Senate because they saw the language was clearly a constitutional issue; rather, they went back and redrafted the bill. It mandated Congress to take certain action. This wording, which is very well worded—it is legally worded to circumvent that constitutional question. It really does not mandate Congress to do anything. It merely states that Congress shall have a delay, we shall require delay by this action, for review.

We can review now. We do not need this language to review. Congress has that authority now on any actions the President may wish to take.

I do not think we can speak out of both sides of our mouths at the same time. That is exactly what we are doing here if we do not vote to sustain the President, as I see it.

I might point out that Oregon would have some bases affected in some of our reserve installations, but I think we ought to help get these communities weaned off of the military budget. Again, we talk about military spending, and we have done very little to help in the conversion from military economies in these local communities to a free enterprise economy base. That should be our action.

I also wish to indicate that I think it is right that Congress assert itself in the areas of war and declarations of war, as we have done, and war powers of the President. But here is clearly an action as Commander in Chief, and I do not think the Congress has any role to play in trying to tell the Commander in Chief how to administer those functions on a day-to-day basis, which this is.

Let me point out one further thing: For those who are affected and who are very concerned about the implication of this in their districts, the authorization for the civilian personnel already has been removed. So I think it ought to be pointed out clearly that in these cases which would be most immediately affected, the civilian personnel has already been computed in as being eliminated from the military program in those bases.

I hope that the Senate will speak forthrightly today, stand firm on this business of asserting our rights and jurisdiction in those areas of warmaking powers and military affairs where we should, but at the same time, recognize that the President of the United States, as Commander in Chief, is exercising a ministerial function here that we should be applauding, rather than trying to frustrate it.

Mr. EAGLETON. Mr. President, will the Senator from Missouri yield me 1 minute?

Mr. SYMINGTON. I yield 1 minute to my distinguished colleague.

Mr. EAGLETON. Mr. President, I thank my colleague from Missouri.

Mr. President, in a few moments, we shall vote to override the President's veto of this significant bill. Before we do, however, I wish to express my sincere appreciation to my colleagues from Missouri, the floor manager and architect of the key amendment on base closures. He has put forth extraordinary efforts to establish a more rational and open process for the military departments to follow when proposing base closures or reductions.

Perhaps more than any other Member of Congress, STUART SYMINGTON, is eminently qualified to address this problem. As the first Secretary of the Air Force and as chairman of the subcommittee responsible for this amendment, he brings to this issue a degree of knowledge, expertise, and perspective not enjoyed by the rest of us.

In the past 2 years, I have joined with my colleagues in viewing with growing dismay the manner in which the Ford administration has seen fit to close, for all practical purposes, a major installation in western Missouri, Richards-Gebaur. The conduct of the executive branch over these many months is but a further illustration of a basic unwillingness or inability to gauge the human and economic hardship that can befall a community by such a proposal. Such insensitivity to the needs of localities certainly belies the campaign rhetoric emanating from the White House.

The bill before us today insures that the bureaucrats will no longer be the final arbiters of such proposals. The base closure section, authored by my distinguished colleague, will insure order and foresight—most importantly, it will demand justification.

In closing, Mr. President, I submit that we in the Senate are fortunate to have Stuart Symington in a leadership role on this issue. The people of western Missouri are well represented by his unrelenting efforts to prevent the precipitous and ill-conceived decision to force the closure of Richards-Gebaur Air Force Base without regard either for overall cost savings or for the impact on the Kansas City area.

I want to thank my colleague publicly for his leadership in this situation, his authorship of this amendment. It means a lot to all of us, especially in western Missouri.

Mr. SYMINGTON. I thank my colleague.

Mr. KENNEDY. Will the Senator yield?

Mr. SYMINGTON. I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I, too, want to thank the distinguished senior Senator from Missouri for his leadership in this issue.

I am going to vote to override the veto. We can take any one of the bases that have been closed by this administration or the past administration, whether in my State or the State of the Senator from Oregon. We can find no place where they also show what is going to be the economic impact on the community, the additional Federal costs for welfare, for transferring functions, for pension and early retirement, for medicaid, for unemployment benefits, or for food stamps when a base is closed. There is not a businessman in this country who would make a decision like those made by the Defense Department on any one of these base closings without analyzing all of the costs involved. The people affected have the right to know the full justification for such actions and we, in the Congress, are entitled to know what the cost impact is going to be on the local community and on the Federal budget as a whole.

Mr. President, I want to know whether a base closing is going to be a net saving for the American taxpayer, and whether it is militarily justifiable. In the case of our own State, that has not been done. I think we are warranted, in representing the people of our State, to vote to override this veto, to insist, to demand that those rudimentary rules of equity and justice be followed by the Department of Defense.

I urge my colleagues to support the action taken in the House in overriding President Ford's veto of the military construction authorization bill, H.R. 12384.

On May 7 this bill passed the House by a vote of 299 to 17. On May 20 this bill passed the Senate by a vote of 80 to 3. On July 2 President Ford vetoed this legislation.

In his veto message to the House, President Ford stated that the only reason he returned this measure without his approval was section 612 of this legislation.

Section 612 of the military construction authorization bill contains important base realinement provisions. These provisions prohibit major base closures and significant reductions of civilian personnel unless the proposed action is reported to Congress.

Section 612 insures that Congress will be notified when an installation becomes a "candidate for study" and provides a period of at least 9 months for the Military Department to study and identify the full range of impacts which the proposed base realinement or closure will have.

Section 612 also requires that the final decision to close or significantly reduce an installation covered by the bill would have to be reported to the Armed Services Committees of the Congress with a detailed justification of the action.

In addition, section 612 guarantees that no action can be taken by the military at least 90 days following the submission of the detailed justification to the Armed Services Committees of the Congress.

President Ford claims that this provision is unacceptable for the standpoint of sound Government policy.

President Ford has stated in his veto message that section 612:

> Would substitute an arbitrary time limit and set of requirements for the current procedures whereby base closures and reductions are affected, procedures which include compliance with NEPA and adequately take into account all other relevant considerations and afford extensive opportunity for public and congressional involvement.

He claims that these provisions would impose unnecessary delays in base closures and reductions, and generate a budgetary drain on the defense dollar.

It is obvious that President Ford has spent little time in analyzing the consequences of previous base realinements.

It is obvious that President Ford is unaware of the manner in which previous realinements occurred in Massachusetts.

The Commonwealth of Massachusetts has experienced firsthand the drastic consequences of ill defined and erratic procedures in implementing base realinements.

The Commonwealth of Massachusetts has experienced firsthand the crippling economic consequences of inadequate leadtime and cooperation in preparing local communities to adjust to major base realinements and closures.

Massachusetts can point to the Boston Naval Shipyard, the Boston Naval Station, the Chelsea Naval Hospital, Otis Air Force Base, and Westover Air Force Base.

These were major Department of Defense installations which were closed in Massachusetts in recent years.

Over 15,000 persons in Massachusetts were unemployed as a result of these actions.

In fact, since 1970 Massachusetts has lost more than 50 percent of Department of Defense personnel employed in the State. That is an overpowering economic burden.

The people of Massachusetts would like to know what current procedures President Ford is referring to in his veto message which provided them an opportunity for involvement in those decisions?

And the people of the Commonwealth would like to have some justification for those decisions. As an elected representative of the people of Massachusetts, I feel that they are entitled to an answer.

I have asked repeatedly for a justification of those decisions. We have been told that many of these decisions were made to effect cost savings. And I have asked for figures—just exactly what are these cost savings—and I have not been satisfied with the answers provided.

Base realinement decisions have a ripple effect on local communities. Businesses, housing, education, and employment are affected.

These decisions have to be considered in human terms. It is essential that citizens and communities whose lives are affected by Government decisions have the assurance that those decisions are made with equity and reason. The provisions contained in section 612 of the Military Construction Authorization Act are essential in the development of sound Government policy. These provisions are not designed to hamper the military, but to create a more open environment for decisions to be made and greater public participation in those decisions.

These provisions require detailed justification for base realinements and closures. The people we represent have a right to expect this. At the very least, they are entitled to a rational and equitable explanation of Government decisions.

These provisions are not designed to cost the Federal Government money, but to adopt an adequate and reasonable approach to base realinements which would better serve the Nation. I would like to express my continued appreciation to the distinguished chairman of the Military Construction Subcommittee, Senator SYMINGTON, for his leadership in including these base realinement provisions in the military construction authorization legislation. On this matter as on others, the Senator has provided this body with thoughtful analysis and equitable judgment. The citizens of Missouri as well as the citizens of Massachusetts and every other State have been fortunate to have the distinguished Senator representing them, protecting their interests and the national interest as well.

Mr. President, I also want to indicate the strong support of the Governor of Massachusetts for a Senate override of President Ford's veto. I ask unanimous consent that the text of the Governor's statement appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> On behalf of the Commonwealth of Massachusetts, I would like to indicate my strong support of an override of the President's veto of the Military Construction Authorization bill HR 12384.
>
> As a Governor, I can emphasize with the Department of Defense's concern for consolidation and efficiency regarding the location and use of military personnel and installations. However, I cannot agree with a policy that seems to cause irreparable damage to certain areas of the country and which passes the savings of one department on to other agencies in the form of debits. Based on analyses of past military closings in the Commonwealth, the savings incurred by the closing of six major military installations in the last two years has been passed on to the Department of Labor, Health, Education, and Welfare, HUD, Commerce and others in the form of increased costs and administrative burdens. Not to mention the added expense to state government. Of what value is a $2 million dollar savings for the Department of Defense, when the relocation cost associated with the base closing is $50 million. Is this in the best interest of the Department and is this consolidation vital to the National Security.
>
> In the course of the last two years, the New England area has seen a drastic reduction in the level of military personnel and installations. At present, there are only two remaining installations in Massachusetts, and one of these—Fort Devens—was recommended for reduction by Sec. Hoffman in March of this year—a reduction that will diminish the civilian payroll from 1607 to 761 and the military personnel from 5728 to 1356. Is this merely a reduction or an indication that a seventh major installation is soon to be closed?
>
> To prevent future closings that are neither economic nor efficient nor in the best interest of DOD, I support HR 12384. HR 12384 is not in violation of the separation of powers doctrine, nor is it construed as a restraint to Department of Defense policy implementation. HR 12384 is an acknowledgement of the fact that military installations in this country affect more than our national security. As clearly manifested by prior studies of Massachusetts' base closings, installations have major social, environmental and economic effects. To request that the Department of Defense consider these elements in their decision-making processes and notify the Congress of their intent, in my opinion, represents a step in the direction of rational comprehensive planning and systematic evaluation of the governmental decision-making process. I am supportive of HR 12384 and ask for your support. No longer can decisions be made without considering the full range of their consequences, no longer can the actions of one department be seen independent of other federal agencies. HR 12384 is the first step in this direction. HR 12384 is a vital piece of legislation.

Mr. MANSFIELD. Will the Senator yield me 2 minutes?

Mr. DOLE. Will the Senator yield?

Mr. THURMOND. Mr. President, I yield 1 minute to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I wish to say that I am not very impressed by the comments, because I have heard these comments from the President of Lockheed, I have heard similar comments from other industries that are dependent upon military spending. Their one argument is that if they are not building military weapons, if they are not supporting military bases, they are going to be on welfare. Mr. President, I think that is a fallacious argument. It has been used to justify every kind of military expenditure I have heard of in the last 10 years, at least.

Mr. KENNEDY. I say to the Senator, come to Massachusetts with me.

Mr. HATFIELD. I shall be happy to go to Massachusetts at any time. The Senator is saying to the Senate today, "If you don't continue to spend money in Massachusetts, I think everybody is going to be on welfare." I think that is fallacious.

Mr. BROOKE. If the Senator will yield, I do not think that is what the Senator is saying, at all. I do not think we are saying that everybody will be on welfare. All we are saying is we want to know the economic impact. We are saying, at least, give the people an opportunity to have an economic impact statement made when we make the determination so that the people whose lives will be affected by it will have an opportunity to see that their Government is acting fairly.

Mr. HATFIELD. Has the Senator asked for an economic impact statement?

Mr. BROOKE. Yes; we have asked for an economic statement. We are expecting one soon.

Mr. DOLE. Will the Senator yield?

Mr. SYMINGTON. I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I shall vote to override the veto. Let me suggest that my interest in closing a base in western Missouri is because it also involves Kansas. The point is that the unit there is not being eliminated. It is going to be relocated; it is being moved to Illinois. That is the whole point. It's not simply a matter of saving money. It is a matter of where the unit is to be located.

But, the Senator from Kansas would like to discuss some aspects of the provision in this bill for congressional review of base closing decisions that relate to his constituents.

In reviewing the Senate debate on this bill and on the particular provision that led to the veto, the provision—section 612—was intended to address the Air Force decision to close Richards-Gebaur Air Force Base in Missouri.

The Senator from Kansas has had a great deal of interest in the Air Force decision to close Richards-Gebaur, and feels very strongly that the decision should be carefully reviewed.

This Senator has been in very close communication with the Department of the Air Force and it is my understanding that there are two parts to the Air Force plan for Richards-Gebaur.

First, there is the decision to transfer the headquarters of the Air Force communications service to Scott Air Force Base near Belleville, Ill. As I understand, this relocation involves about half of the personnel in question.

Then there is the reduction of about half the civilian personnel that would not be relocated, but simply eliminated.

In checking with the Air Force, I have learned that the decision to relocate the headquarters of the Air Force communications service was made and announced on November 22, 1974. This announcement included 1,436 military and 902 civilian personnel. Section 612, which requires congressional review of such decisions, does not apply where announcements were made prior to January 1, 1976.

So, it is the understanding of the Senator from Kansas that this provision, section 612, which was intended primarily to address the situation at Richards-Gebaur, will not in any way affect or delay the relocation of the headquarters of the Air Force communications service. That is my understanding, based on the interpretation of the Air Force.

In reviewing the Senate debate on this matter, I understand from the remarks of the Senator from Missouri (Mr. SYMINGTON) that the 9-month study period provided under section 612 will end for Richards-Gebaur in December 1976. Then, according to this provision, as I understand, there will be a 90-day period for the Congress to review the Air Force decision.

According to the Air Force interpretation, the study period and review period only apply to the reduction of civilian slots at Richards-Gebaur announced on March 21, 1976, which includes 775 of the civilian personnel in question.

The Air Force has advised me that the reduction in civilian slots would not be put into effect sooner than about March 1977, and possibly later, based on present plans.

So it appears to me that this provision may have no effect whatsoever on the base closing at Richards-Gebaur.

However, as indicated in the report of the Senate Committee on Armed Services this provision will hopefully clarify and provide some greater degree of uniformity in the decisionmaking process for future base closings.

This will be an improvement for all parties and on that basis, the Senator from Kansas will vote to override the veto. I do not believe this amendment will make much difference, but it does clarify some points, does indicate the concern we have.

Mr. HATHAWAY. Will the Senator yield?

Mr. SYMINGTON. I yield to the distinguished Senator from Maine.

Mr. HATHAWAY. Mr. President, I want to commend the Senator for his leadership in this matter. I hope the Senate votes to override the veto. This effort in which we are involved is not an effort to provoke a confrontation with the administration; it is simply a procedure designed to accommodate the legislative concerns in problems that are involved in any major base realinement.

Mr. President, I rise in support of the motion to override the President's veto of H.R. 12384, the Military Construction Authorization Act.

Ironically, the President vetoed this bill not because of the items and projects it authorized, but because it contained, in section 612, a codification of procedures and safeguards already in general use by the Armed Forces when any branch of the service wishes to reduce, realine, or close a base or other military installation.

This section was not inserted merely to provide some sort of abstract protection for the existence of bases. Rather, it was put in to assure that base closings and reductions be effected in an objective manner with time for congressional review.

This is a reasonable approach to the problems which occur when a facility is sought to be closed. I cannot see where this measure, which minimizes confusion by setting forth orderly procedures, is the proper reason for a veto.

This is not an effort to provoke a confrontation with the Executive; this section instead was designed to accommodate the legitimate concerns and problems involved in any major base realinement.

I urge my colleagues to vote for overriding the President's veto.

Mr. THURMOND. Mr. President, I rise in support of the President's veto. Under our tripartite system of Government, Congress makes the laws. It is the duty of the executive branch, headed by the President, to administer the law. The Supreme Court, of course, interprets the law. The executive branch is authorized, and has the power to determine the location of military bases, to close military bases, to relocate them, combine them, consolidate them, in such a way as the Commander in Chief feels is best for the Armed Services of the United States.

It seems to me there is a very serious constitutional question involved here, just as President Johnson said it was a few years ago when he vetoed a similar law.

Aside from that though, if the President of the United States feels that by combining some bases or eliminating some this will promote efficiency or economy or both, then are we going to say, "We are going to tie your hands and not allow you to do it"?

Now, Mr. President, the present policy of the administration is similar to this law. But suppose an emergency arose and it was necessary to combine during war or otherwise or to reallocate or to separate, then his hands would be tied if we passed a law.

We do not need a law to protect what the people who are opposing the President's veto are asking for. The present policy gives them that. The present policy protects them. But if some emergency comes, the President ought to have the flexibility as commander in chief to take the action necessary to protect the people of this country.

This is so not only to protect them in time of war but to protect them in time of peace by saving money, if we can.

Now, Mr. President, there has been something said here about going on welfare, and so forth, if you close these bases. That was answered by the able Senator from Oregon.

I want to say this: The Defense Department is not a welfare agency. The Defense Department is not a socioeconomic agency, and it is not proper to charge up to the Department of Defense the task of just giving people jobs.

We talk about the Defense bill every year. Those who oppose Defense talk about how large it is. Well, what the President is trying to do here is to eliminate as many jobs as he can. For instance, in the year 1978 he says $150 million alone can be saved. But if you tie his hands he cannot save the taxpayers that $150 million. So there is going to be a burden on the taxpayers of this Nation.

He says that in the year 1978 there are 11,300 jobs that will not be required in Defense. Are you going to tie his hands and say, "You cannot eliminate those jobs"?

Mr. President, after all, I think the taxpayers of this country want to save as much money as they can. I think it would be a mistake to follow any policy here that is going to increase the tax burden on the people of this Nation or that is going to handicap the Commander in Chief of this Nation from performing his duties.

It seems to me that if we enter this field we are putting the Defense Department into the political arena, and that is the very place you do not want to put it. The Defense Department should stay out of the political arena. The Defense Department should be free of and above that. Of course, it is natural for a Congressman not to want a base closed. It is natural that a Senator would want to keep a camp or a fort in his State or in his district. But, after all, if we have somebody who has the courage to do what is best for this Nation, that man being designated as the President, let us not tie his hands so that he cannot act.

I feel it was a mistake to put this amendment in the bill and it seems to me, from any standpoint you look at it, that we ought to leave this matter as it is and we ought to sustain the President's veto in this instance.

Mr. President, if the distinguished Senator from Missouri wants me to yield time, I will be glad to yield time.

Mr. President, do I have any time left?

The PRESIDING OFFICER. The Senator has 5 minutes remaining. The Senator from Missouri has 30 seconds.

Mr. THURMOND. Mr. President, I yield 1 minute to the distinguished majority leader, and 1 minute to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. Mr. President, I am interested in the argument for upholding the President's veto from those who either have no bases in their States or bases which will not be disqualified because they have a missile capacity or they are overburdened, almost drowning in bases, as is the case in some other States.

I wonder why we do not spend more time and attention in trying to do away with and liquidating some of our bases overseas? We have about 1,800, and we get nothing in the way of return as far as most of them are concerned.

I wonder why we are against the idea of Members being informed of possible closings? What is wrong with being informed so that we can know what to do with facing up to a difficulty, in some instances a calamity?

Mr. President, I hope that we would learn by example, and I have, because Glasgow Air Force Base, the most modern base in the United States, was built at a cost of $150 million, and 10 years later was liquidated. No word ahead of time. Just liquidated. Since that time we have been trying to find a use for it. Had we had the notice this bill gives, maybe we could have done something.

The PRESIDING OFFICER. The Senator from Missouri has 1 minute.

Mr. SYMINGTON. First, I would present to my colleagues the fact that the distinguished chairman of the Senate Armed Services Committee, who was forced to leave, came in and fully supported the overriding of this veto.

With respect to one other matter that was brought up on the floor, the legislation says:

> (d) This section shall not apply to any closure or reduction if the President certifies to the Congress that such closure or reduction must be implemented for reasons of any military emergency or national security or if such closure or reduction was publicly announced prior to January 1, 1976.

Mr. President, I thank the distinguished Senator from South Carolina for yielding me those 2 minutes, and I yield back the remainder of the time.

Mr. THURMOND. Mr. President, just to make this last statement, I want to congratulate the able Senator from Missouri for the fine job he has done on the military construction bill. I have never worked with a gentleman who has been more courteous and who has worked more cooperatively. I just want to say it has been a pleasure to work with him.

Mr. SYMINGTON. I thank the able Senator for his kind remarks.

Mr. THURMOND. Mr. President, I believe I have about 2 minutes, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. Does Senator BYRD want to speak on the veto?

Mr. HARRY F. BYRD, JR. Yes.

Mr. THURMOND. I will be pleased to yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I see nothing unreasonable about the section in question.

It does not give Congress a veto over the closing of any base. Congress cannot prevent the closing of any base under this legislation.

What it does do is to require the administration to give justification for its decision and to give the estimated fiscal, economic, and budgetary impact of the base closings. The Congress should have information to determine whether the proposed closing is in fact, an economy move—or whether it is a politically motivated proposal, with the idea of expanding another base elsewhere. One shall vote to override the Presidents veto as I do not believe it to be justified.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, in closing, I just want to say that the Deputy Secretary of Defense, Mr. Clements, wrote the chairman of the Armed Services Committee, Senator STENNIS, a letter dated June 1, 1976, which contains this paragraph:

> In August 1965, President Johnson considered a provision similar to the proposed section 612 and vetoed the FY 1966 Military Construction Authorization Act. President Johnson concluded that "We cannot commit ourselves, for the prolonged period required by this bill, to delay action necessary to meet the realities of the troubled world in which we live. The limitations upon the Commander-in-Chief and the Executive Branch of the Government here sought to be imposed are a clear violation of the separation of powers. The Attorney General has so advised me.

So, Mr. President, it seems to me from any standpoint that we look at the President's veto here should be sustained.

I yield back my time.

Mr. HUDDLESTON. Mr. President, I have had the opportunity to review President Ford's veto message concerning H.R. 12384. Frankly, I am appalled at the reasoning contained in that message. The simple fact of the matter is that based on many past experiences some oversight procedure for the Department of Defense suggested base closures and realinements is desperately needed.

Though I am sure many of my colleagues have similar stories to recount, my guess is there is probably no better example of the need for this scrutiny than the case of the Lexington Blue Grass Army Depot, LBAD. LBAD by the Army's own statistics is the most efficient and effective installation of its kind in the country. Yet in November of 1974, despite assurances to the contrary, the Department of Defense announced the elimination of some 2,800 civilian jobs at LBAD. Until the day of the announcement, the employees of LBAD and the entire Kentucky congressional delegation had not had any input into the Army's decision-making process.

Prior to the 1974 announcement and to the present day, LBAD has maintained its top ranking within the Army Materiel Command structure. Yet, unless stopped by pending litigation, the Army intends to go ahead with the cutback. If the oversight procedures provided for in section 612 of H.R. 12384 had been in effect, a thorough, impartial review of the Army's suggested moves could have been completed and whatever called for actions necessary could have been taken. Had a set procedure been in effect, much needless communication and time-consuming effort could have been avoided. Rather, a clear-cut decision based on all the best available information could have been made.

The President indicates that section 612 is an attempt to limit his powers over military bases. In all my dealings with the President thus far on the LBAD matter, he has deferred any judgment on reviewing the case to the Department of Defense. I, therefore, have much difficulty in seeing how the organized structure called for in section 612 will hamper the President's movements.

Finally, the President, in his veto message, seems to complain of the "opportunity for public and congressional involvement" which section 612 provides. I see no way such involvement can help but improve present procedures. Surely, the President does not view the input of concerned citizens and their elected representatives as detrimental to our national defense. In order to reasonably protect the future livelihoods of the employees of those installations which would be covered by section 612, from an unwarranted cutback such as has been proposed for LBAD, I urge my colleagues to join with me in voting to override the President's veto of H.R. 12384.

The PRESIDING OFFICER. All time having expired, the question is, Shall the bill (H.R. 12384) pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. TUNNEY), the Senator from Indiana (Mr. HARTKE), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The yeas and nays resulted—yeas 51, nays 42, as follows:

[Rollcall Vote No. 406 Leg.]

YEAS—51

Allen
Bayh
Beall
Bentsen
Biden
Brock
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Dole
Durkin
Eagleton
Eastland
Ford
Glenn
Gravel
Hart, Philip A.
Haskell
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McGee
McIntyre
Mondale
Montoya
Moss
Muskie
Pastore
Pearson
Pell
Sparkman
Stennis
Stevenson
Stone
Symington
Tower
Williams

NAYS—42

Abourezk
Baker
Bartlett
Bellmon
Bumpers
Clark
Culver
Curtis
Domenici
Fannin
Fong
Goldwater
Griffin
Hansen
Hart, Gary
Hatfield
Helms
Hollings
Hruska
Laxalt
Leahy
Mathias
McClellan
McClure
McGovern
Morgan
Nelson
Nunn
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott,
  William L.
Stafford
Stevens
Taft
Talmadge
Thurmond
Weicker
Young

NOT VOTING—7

Buckley
Garn
Hartke
Metcalf
Packwood
Scott, Hugh
Tunney

The PRESIDING OFFICER. On this vote, the yeas are 51 and the nays 42. Two-thirds of the Senators present and voting, not having voted in the affirmative, the bill, on reconsideration, fails of passage.

TAX REFORM ACT OF 1976

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from New York. The Chair would observe that the amendment of the Senator from Alabama being in the third degree is therefore not in order.

Mr. JAVITS. Mr. President, may we have order?

I am prepared to vote, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ALLEN. Mr. President, if the Chair will obtain order in the Senate——

The PRESIDING OFFICER. The Senate will be in order.

Mr. ALLEN. Mr. President, when the hour of 3 o'clock arrived, the Senator from Alabama had the floor, but under the previous order the veto message of the President on the military construction bill was to be considered, and the Senator from Alabama temporarily lost the floor.

At that time, there was pending the committee amendment to the tax bill, the Javits amendment, and then the amendment of the Senator from Alabama.

The Chair has correctly ruled that the amendment of the Senator from Alabama is not in order, which would leave us, then, discussing the Javits amendment.

I am glad we have a larger attendance than we had at 3 o'clock, because this is an important matter, and a matter that I would like to discuss.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Alabama is entitled to be heard. The Chair solicits the cooperation of Senators.

The Senator may proceed.

Mr. ALLEN. Mr. President, the Javits amendment creates a loophole that was closed by the Senate in 1969. It reopens that loophole. It provides that an original artist of a musical, literary, or artistic composition can make a donation of that artistic work to a charitable organization and claim the appraised value of that composition as a charitable deduction, thus creating a loophole that was closed in 1969. Its limit would be $25,000, which could be carried over for a period of 5 years, or the limitation of the income of such artist on similar artistic compositions earned during that year, or whichever should be less; but if less, if he does not use up the entire contribution, then it could be carried over for 5 years.

The argument was made that the second owner of such a composition was not deprived of later making a charitable contribution and claiming the appreciated value of the artistic composition on his income tax returns as a charitable deduction, and the point was apparently made that since the secondary owner could do this, why not the original artist?

The Senator from Alabama offered an amendment that would prevent creating this loophole that was closed in 1969, and would also close the loophole having to do with the secondary owner, the collector, the purchaser from the original artist, as well as applying that same rule to the original artist. That was to be accomplished by seeking to add an amendment that "No deduction shall be allowed under this section"—which includes the new amendment and the old loophole—"for the unrealized appreciation in literary, musical, or artistic compositions"—the very thing that the Javits amendment refers to.

This amendment was drawn at my request by Larry Woodworth, the distinguished staff member for the Finance Committee, to accomplish this purpose.

The amendment which the Senator from Alabama has offered would prevent the creation of another loophole, and at the same time close an existing loophole, so it is a double-barreled amendment to prevent the creation of loopholes and closing an additional loophole.

Mr. President, inasmuch as the amendment of the Senator from Alabama has been held not to be in order, the same result could be accomplished if the amendment of the Senator from New York could be tabled, under a promise to reintroduce, then, the Javits amendment with the added amendment of the Senator from Alabama, which would prevent one loophole and close another. At the proper time, after the distinguished Senator from New York has had an opportunity to speak, the Senator from Alabama will follow that course, moving to lay on the table the Javits amendment, under a promise to reintroduce the Javits amendment as modified by the amendment that has been held now to be in the third degree.

That is what the Senator from Alabama will plan to do.

Mr. GOLDWATER. Mr. President, I have listened with a great deal of interest to the argument, particularly the viewpoint expressed by the Senator from Alabama.

This has always been a subject that has interested me. It is not generally known, but I engage in art and sell a little of my own once in a while.

I have never been able to understand why an artist, starting from scratch, has not been allowed to deduct a reasonable amount from his income tax for the appreciation of his art. Usually you have to wait 150 to 200 years to realize the full value of the art. But an artist creates a painting, a sculpture, a photograph, or anything of artistic value; he does it with his hands, he does it with his own initiative, on his own time. I will have to admit that the basic initial expenses are not high, but this art can appreciate, and it can appreciate very rapidly and to a very high value. Yet the artist is not allowed to have the benefits of the Internal Revenue Service, where they would apply to any other sale.

I am thinking, for example, if any one of us this afternoon bought a work of art, regardless of what we paid for it, within 5 years it might appreciate, say, 500 percent.

The artist gets no benefit from that at all, although it is accurately possible to tell what an artist's work is going to be worth in a year, 5 years, or 10 or 15 years under today's conditions. There are many people engaged in this field, appraisers, who can tell you the value of the art today, tomorrow, or 10 years or 15 years from now.

If we bought a piece of land at the same time this afternoon, and it appreciated 500 percent in 5 years, we could sell that land and take our tax benefits from it. So I am not able to understand this argument opposing the artist's benefiting from the Internal Revenue law.

I have called the attention of my colleagues to an unusual thing that happened just about 2 weeks ago, or it might have been 3. One of America's most talented artists, a boy of Mexican extraction named Ted DeGrazia—he and I went to school together, and he has become one of the most popular artists in the West.

When he found that he could not take any benefits from taxation at all by deduction of expenses, and so forth, he took about 200 of his paintings out in the desert, piled them up, and burned them.

Nobody knows which paintings he burned. But we had put an estimate on those 200 paintings of well over $30,000. Since that time to prevent him from doing this again, because he is that kind of a man, a foundation has been set up that will enable him to benefit during his life from his work, not create a work of art from nothing at practically no expense, sell it at $5,000 to $15,000 and have to pay the full tax on it and not benefit at all where others in other businesses would benefit.

Talking to the Senator from Alabama, who speaks about people who give art and make deductions, I might say if it were not for this source, we would not have many art galleries in America.

Mr. RIBICOFF. Mr. President, will the Senator yield at that point?

Mr. GOLDWATER. I yield.

Mr. RIBICOFF. I commend the Senator from Arizona for his comments.

Is it not true that if we look at the entire history of civilization, cultures and people are judged by the universality of their art?

Mr. GOLDWATER. That is correct.

Mr. RIBICOFF. That is true, whether it is music, sculpture, or painting. And the value of these paintings, a symbolism of how a nation progresses, is symbolized by the art.

Some people think that art museums of all kinds are only found in major cities. I know in my own State of Connecticut, whether it be Hartford, Bridgeport, New Haven, or New Britain, practically every town of any size has an art museum, and children go there to learn and understand the cultures of other civilizations and their own.

I am sure that in the State of Arizona, in Tucson and in Phoenix, there are art museums where thousands and thousands of people go.

I cannot understand why, if an artist creates a painting worth $5,000, and sells that painting to Mr. Jones, and Mr. Jones contributes that painting to an art museum, he can take a charitable deduction, but on the same day if that same artist gives that painting worth $5,000 to the same art museum, he cannot take an art deduction.

This is something of value. This is a great talent, and we should nurture this talent. Are we not in the position, by denying these artists of the opportunity to give these paintings, of beggaring thousands of people and hundreds of museums in every one of our States?

Out of curiosity to try to determine that, I found in 1969 before the deduction went out a survey was made of 45 museums of this country and they received donations of works by living artists totaling $440,000. Last year the same museums reported only $130,000 in similar donations. This is ironic.

The National Endowment for Arts which has been founded by this Congress and for which we make appropriations, in fiscal 1970 contributed $100,000 to museums to compensate them for the drop off of works being contributed by artists. In 1976, the National Endowment of Arts made grants of $560,000.

Would it not be better, instead of us appropriating money to allow the purchase of these paintings, if we allowed those artists to make those contributions?

I think this one of the great problems we have. It is not only a question of the great artists of antiquity, the great artists of 100 years ago, 200 years ago, or 50 years ago. Should we not be encouraging contemporary artists? Should we not be encouraging the young men and women with talent, the men and women who are on their way up in painting, sculpture, or music, to assure them that we want their works exhibited, to let them know that we appreciate their talents, that we want art museums?

I understand there are some 2,000 museums in the United States. So, this is not only major cities. Here we are taking such a short-sighted point of view, when we are not talking about huge sums of money, but what we are trying to do is say we are going to encourage the advancement of art.

I saw, I think, on the 60 Minutes show the situation of that Arizona Mexican artists burning those paintings. I saw the frustration of the man the Senator was talking about, when he considered the lack of appreciation by this Nation of his creativity. I thought as I saw those paintings go up in smoke how poorer we are in this Nation that we do not have the talent and the art of this man displayed in museums of our country.

I hope that we do not take a narrow point of view, but that we realize where a nation's wealth is really centered. It is not only in machinery. It is not only in crops. It is not only in goods. But it is in the artistic talents of our people. I would hope that the time never comes that we shunt aside and say that America disowns the talent of its people.

I commend the Senator from Arizona for the point of view he is making.

Mr. GOLDWATER. I thank my friend from Connecticut. I point out that because of the great interest of a large number of people in buying works of art and providing these works for museums and for universities—I might say, it would be interesting to know what the total value of the art in the University of Alabama is that has been given to the University of Alabama.

In fact, that would go for every university represented in this Chamber. But the fact that we have been doing this on an increased scale since World War II has caused many young artists to, in effect, blossom out. I know Western art is becoming very popular, very valuable, probably in some cases overvalued. But it has created a whole new school of young men and young women who are able to sit down and paint or sculpt and know that they can get at least their time back where the artist of old could not do that.

Mr. RIBICOFF. What is interesting is that we are depriving the public domain in the increased value of this art.

I read with great interest this latest book on the Rockefeller family. It was pointing out how the brother who was president of the Chase Manhattan Bank started to buy modern work of art to display in the bank, and many of the directors complained that he was wasting the bank's money on the art. He stated that probably the future would show that the best investments the Chase Manhattan Bank had ever made were the paintings that he purchased, and the author started to point out the increase in value of these paintings.

I have noticed with great interest now when I go through the major corporations of America, my own insurance companies in Hartford, and other corporations that I have been through, I see the works of art on the walls. And in talking to these hardheaded tough bankers, insurance executives, and businessmen they laugh, they appreciate the art, but they point out the increase in the value of the art over a short span of years from the time they purchased it.

So if an artist gives a painting to the University of Alabama museum, the University of Connecticut museum or the University of Arizona museum and takes a tax deduction of $5,000—if he had sold this to John Jones for $5,000 and in 5 years it would increase to $25,000, that value would be to the individual—the museums at the University of Connecticut, the University of Arizona, or the University of Alabama would be the beneficiary of this incretion. I think it is so short-sighted for us to try to cut off this practice that we did cut out in 1969, and now we are trying to say that we want to encourage our artists. It is really so short-sighted and we are shortchanging thousands of museums throughout our Nation and depriving millions and millions of Americans in every town in this Nation from the opportunity to be encouraged and nurtured by art.

Mr. GOLDWATER. I reiterate the point that the Senator made earlier, and that is the perpetuation of culture. It is the perpetuation of civilization. It is the perpetuation of man's ideas.

We in Arizona have had our lives influenced more by the Indian and the Spaniard and the Mexican than by any other source.

Second, we look upon collections from those sources as being of extreme value. We do not want our young people to grow up thinking that all that beauty we have inherited from these different peoples just happened to be there.

I can say this, inasmuch as I have been associated intimately with museums all my life: If we did not have the people of wealth and the companies of wealth to buy good paintings and good works of art to give, the young children would never know what a work of art resembled; or, even more important, they would not be able to understand, say, the Renaissance period, which is most difficult for a person born in Arizona to understand. They can understand the Alamo and Davey Crockett a lot better. But the chance that our young people have to benefit because of the generosity of people in the Rockefeller class or below the Rockefeller class cannot be added up.

The Senator spoke about a big bank. Our two biggest banks in Arizona have the two biggest private art collections in the State, and they make no bones about it. That is the most valuable thing they own.

Mr. RIBICOFF. With respect to the Renaissance, what is ironic is that the great princes and kings and queens subsidized the great artists of the time. They were court artists. Whether they were musicians or sculptors or painters, they lived at the court, and they were subsidized. The great art that they created was part of the great value and asset of these countries. But we do not subsidize artists here. We do not put them on the payroll. We have a democracy, so we do not have a king who subsidizes artists out of the exchequer.

What we are saying is that, for the small amount of a tax deduction, we should treat the artist the way we would treat anybody else who gives a work of art. We are making it possible to encourage the talent we have in America. We, as a Nation, cannot afford to throw away or neglect or deride this talent.

I hope we will look at this matter in a broad-gaged way, because man, indeed, does not live by bread alone, and I think the Senate understands that. I do not want to see the Senate take the position that we are a body of know-nothings, with no appreciation for other things in life which the artist has to give to American society.

Mr. GOLDWATER. I thank the Senator for what he has said.

I merely want to repeat that I rose to support the amendment of my friend from New York. We might not agree on every little thing, but in this field I think we generally agree.

I would hate to see the Senate take the shortsighted position that has been offered by the Senator from Alabama, in which we say, in effect, "Let us go backward." I know that the great items of art I have seen in this wonderful State are things that his people cherish, just as my people cherish the wonderful things we have.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HUMPHREY. Mr. President, I commend the Senator from Arizona and the Senator from Connecticut for the very fine argument they have presented here today against the amendment that has been proposed, which would deny any deductions for the unrealized appreciation of literary, musical, and artistic compositions. I think the case has been well made.

I thought, with what was said here, that if an entrepreneur purchases a piece of art from an artist and holds that piece of art and gives it as a gift, it is a deductible item. But if the artist who creates the piece of art, whether it is music, literature, sculpture, or a painting, where a value is placed upon it, makes the contribution himself, it is not deductible. I do not think it makes any sense from an economic point of view.

On both counts, I think it is bad policy.

We need to be using the tax laws of this country to give some respect and recognition to the people in the fields of art.

The Senator from Arizona said it well: Civilizations will be judged not so much by their machines as they will by their culture and basically by their arts.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. ALLEN. My amendment takes care of the very situation about which the Senator is talking. It does prevent the unrealized appreciation of value of the secondary holder the Senator is talking about from having a deduction. We are not only trying to prevent the opening of this loophole which was closed back in 1969, but also, we are seeking to close the loophole that presently exists for the secondary owner the Senator is talking about. We have covered that situation.

We have made some progress in this country, and we continue to make it, and it need not be just in the great metropolitan centers, as has been indicated by this discussion. Universities, colleges, and small museums spread across this land could benefit greatly if there were in the tax laws some regard for the contribution and the talent of our artists.

I hope and pray that the position which his been held by the Senator from Arizona will be sustained here. I hope that in our desire for what we call a short run, plugging a so-called loophole, we do not actually destroy what has started in this country—namely, some very commendable progress in the arts field. We have made great strides. Thank goodness for the Arts Council for the Humanities. Thank goodness for what we have done for many of our great cities by private philanthropy. This is a way be can help more of our communities than have been helped thus far.

I thank the Senator from Arizona

for his statesmanlike presentation. He has done a great service for the people in America who have never had a chance to be recognized by their Government and by the policies of this Government in their contributions as artists in the American society.

Mr. GOLDWATER. I thank my friend.

Mr. LONG. Mr. President, what I object to about the Javits amendment is that a person, by giving a work of art which he painted, if he is in a high tax bracket, makes twice as much as he does by selling it. I object to seeing Uncle Sam being taken for a ride on a double deduction.

We had a lot of conversation about people giving, and what we discovered down through the years was that people were able to deduct it twice. And we closed that loophole in this charitable contribution area.

I always thought that when someone gave something, there should be a little of himself in what he gave.

Incidentally, this was the No. 1 reason why millionaires were not paying income tax. They would give something of appreciated value, and they would not pay the tax on the appreciation. When they gave something that appreciated in value, in view of the fact that the appreciation had not been taxed to begin with and they were able to deduct the present day value, that amounted to a double deduction.

One can understand that if you are just deducting twice, even if you are in a 70 percent bracket, you are still giving the other 30 percent. So one would worship at the shrine of this fine, lovely man: "Look at what he did for charity. Look at what he did for the church. He gave this million-dollar object, even though it only cost him 30 percent." But if he can deduct twice, we can look at this wonderful citizen and say, "He gave us a million dollars, and he only made a $400,000 profit out of it."

We closed that loophole, which is being reopened here. It reminds me, Mr. President, of that story they told back in World War II when they had cost-plus contracts and they had a 90-percent tax rate. Three men sat down for a few rounds of cocktails down at the Mayflower Lounge. When the tab came around, one of them said, "Let me have it, I am a 90-percent tax bracket. It won't cost anything but 10 percent.

The second man said, "No, let me have it." He said, "I am on an expense account. It won't cost me nothing."

And the other man said, "No, let me have it." He said, "I am on a cost-plus contract, I will make a 10-percent profit out of this."

So as long as you have a 70-percent tax bracket to contend with and a double deduction, a person can make a 20-percent profit by giving something away.

In this case, let us take the minimum it would provide on a maximum tax rate. You start out with a man with a 70-percent tax rate. He gives his own work of art, worth $25,000. Let us assume the appraisal is exactly right, not one penny missing on the appraisal.

Mr. JAVITS. Will the Senator yield for a factual correction?

Mr. LONG. Yes, I yield.

Mr. JAVITS. He has been using the 70-percent figure constantly. Is it not a fact that the deduction can only be at a 50-percent rate at the most, because this is earned income by the artist from his own artwork?

Mr. LONG. No, because he can have other investment income and wind up under a 70-percent tax bracket.

Mr. JAVITS. He cannot under the terms of this amendment.

Mr. LONG. Yes, he can, because there is nothing that can keep him from having other investment income. The way it works out——

Mr. JAVITS. He cannot deduct it from investment income, only art-earned income.

Mr. LONG. He can deduct it from earned income. All he has to have is $25,000 of earned income.

Mr. JAVITS. That is simply, flatly untrue. The amendment says the earned income from his art work.

Mr. LONG. I say to the Senator, I know it says that and that is all I am saying. If he has $25,000 of earned income from the art work, if that is all the income he had, then he would be at a tax bracket of 50 percent. I understand that. But if he has other investment income, he can very well be running his income up above $100,000. If he is single, he can well be in a 70-percent tax bracket.

So let's look at the top bracket, at a 70-percent rate. Then, if he gives this away, in view of the fact that this is what would otherwise be income and he had paid no tax on it, that is, he pays no tax on the income he would have made on it. He has had a $17,500 tax saving at the expense of Uncle Sam.

Suppose he sold it to somebody for $25,000. After taxes, he would have $7,500 left. But by giving it to somebody, he has a tax saving against other taxes he would pay of $17,500.

Mr. HUMPHREY. Will the Senator yield?

Mr. LONG. So he winds up two and a half times better off, at the expense of Uncle Sam, than he would have been if he had sold it to somebody.

Mr. HUMPHREY. Will the Senator yield?

Mr. LONG. Yes.

Mr. HUMPHREY. Will the Senator mind telling us how many artists he has in mind that have all this unearned income? Most artists I have met are poorer than church mice and wander around in sandals, not because of a life style but because they have not much more. I would be interested in knowing who these people all are. Rembrandt is dead. Picasso is gone. The folks that I know out my way who are artists are poorer than some of the folks who are trying to farm on dry land. I just do not know where they got all that other income.

Mr. HASKELL. Will the Senator yield?

Mr. LONG. Those of them who are not very successful would not care, because it would not make much difference if they were in a 14-percent tax bracket. It would not mean anything. They would not be giving it away, they would be selling it to make the money. It is only those in a substantial tax bracket who are interested in it.

Mr. HUMPHREY. Not always, I say to the Senator. I think that is true——

Mr. LONG. Only 99 percent of us.

Mr. HUMPHREY. There may be need of some safeguards, but it is my judgment—I am not one of the arty types. I do not know all about all this. But I have been around the Minnesota Institute of Fine Arts. I have been over to the Walker Art Gallery. I ran the art program for the Government back in the WPA days. I was manager of the music projects and of the arts project. May I say they did a lot of good for this country, the best thing that ever happened for this country, and the Government of the United States paid for it.

Mr. LONG. Does the Senator want to make this such a lush loophole that for a person in the top tax bracket, it would be twice as cheap for the Government to buy the thing as it would to let the man give it away? As it is right now, the Government would be twice as well off. It would cost the Government $17,500 for the man to use this gimmick who is in the top bracket—those are the people who want this. If he is in the top bracket, it would cost the Government $17,500 for him to give it away. If the Government bought the picture, it would not cost the Government but $7,500. It would cost the Government twice to give it away what it would to buy the picture.

Mr. HASKELL. Will the Senator yield?

Mr. LONG. I yield.

Mr. HASKELL. I say to the Senator from Louisiana that this has been portrayed as in aid of the arts. I find that very difficult to follow, because, assuming a work of art is, in fact, worth what the appraisal says, quite obviously, the individual could sell it. I fail to see how this will cause more pictures to be painted, more songs to be written, or more plays or novels to be written because, if they are worth what they are going to be given away at, they can be sold.

This has been portrayed here as helping the arts. I submit that all it is going to do is help that very tiny fraction of the artists who are, in fact, very wealthy people. The Senator from Louisiana has demonstrated how, under the amendment of the Senator from New York, an individual can make more money by giving it away than by selling it. But that does not mean he is going to paint more pictures.

Mr. LONG. That is right.

The mathematics are this: Assuming the appraisal is honest and exactly correct, which is not a safe assumption at all, because it might be twice what it should be, but assuming it is correct, that it is exactly right, then, if the artist is in a 50-percent bracket or less—if his tax bracket is less than 50 percent, he is better off selling it, and that is what he is going to do. If he is in a tax bracket above 50 percent, he makes money giving it away rather than selling it.

Mr. HASKELL. So I would think that

this cannot possibly help create works of art. It is not a cultural benefit; it is merely a benefit to a very few who are in a very high tax bracket to get more take-home pay.

Mr. LONG. That is about the size of it, and frankly, let me say, gentlemen, this thing of giving away works of art and this thing of giving away paintings, giving away various things, has become such an expanded loophole, just on the appreciated value alone, not to mention what the Senator from Alabama is talking about—just the area on appreciation of value is becoming such a gimmick already that they are running out of museums to give the stuff to and they are looking for hospitals. Next they will be looking for motels to put the stuff on display so as to claim the benefit of this.

This type of thing is such that if we want to help the budding artist, the guy who is trying to make it and work his way up, it would be a lot cheaper for the Government just to buy the stuff. That way the little fellow who is trying to make it can be helped. The fellow in the 50 percent bracket is not likely to quit anyhow.

Mr. MAGNUSON. Will the Senator yield?

Mr. LONG. Yes.

Mr. MAGNUSON. The Senator keeps talking about the Government buying paintings.

Mr. LONG. It would be cheaper.

Mr. MAGNUSON. But who is going to distribute them? Where are they going to go?

Mr. LONG. Embassies abroad.

Mr. MAGNUSON. There is not a good restaurant in New Orleans that has not some fine art, and it is up there for sale. The Senator talks a great deal about people in the 50- and 70-percent bracket. I will guarantee that of the thousands of artists in the United States, there would not be 2 percent that are in the 50-percent tax bracket.

Mr. LONG. Assuming that the appraisal is correct, this thing will not help any artist unless he is in a 50-percent tax bracket or better.

So we have got to have at least a 50-percent tax benefit if he is to benefit from it, unless he is chiseling on the appraisal, which is a distinct possibility.

Mr. MAGNUSON. He could be in a lower bracket, and it would be helpful.

Mr. LONG. Assuming the price is right, if he is in a lower bracket, he would be better off selling it; he would be better off after taxes selling it.

Mr. MAGNUSON. That is the Senator's figure. That is not correct, I think.

Mr. LONG. That is not my figure but a figure worked out by the joint committee and everybody else.

I would challenge the Senator to show where a man in a bracket below 50 percent would be better off by giving it away than selling it.

This brings us to the old problem we had many years ago where these rich people would give this stuff away and talk about what a wonderful thing they were doing, that the Pearly Gates would open up wide when they show up there. We showed that it did not cost them anything to give it away. They made a 40-percent profit.

Mr. MAGNUSON. Mr. President, will the Senator yield further for one question?

Mr. LONG. Yes.

Mr. MAGNUSON. I understand the amendment of the Senator from New York, and those who spoke for it, is to help the original painter. I have no objection, none of us have, if some very wealthy person, and those are the people who sell to museums, they are the ones, and if they are abusing some sort of a loophole, to close it. But what we are talking about moneywise here in the Treasury is a comparatively very small amount.

I am thinking about the person who paints, who himself paints. I am tempted to vote "present" on this amendment. I do not know whether I am the only one in the Senate, but I have several good paintings, and I do not know just what to do with them now. After listening to the Senator from Louisiana, I do not know whether to burn them up. I do not think that the cultural world will be more deficient if I do it, but there are a lot of young artists, and they grow, and they do not have much income, they never do, and I think we are discouraging them.

Suppose we do subsidize these people a little taxwise. Every great form of art in the world, all the great pictures, the great sculptures, the great plays have all been subsidized by whatever government there was, whether it be a monarchy or whether it be a form of republic, and they still do. They subsidize them.

Mr. LONG. When you make the Government, in effect, enter into an arrangement without the Government's consent where, in effect, after taxes the Government has paid the man 2½ times what he could sell it for to NELSON ROCKEFELLER. That is really taking the Government into pretty different situations.

Mr. MAGNUSON. I cannot imagine a situation as the Senator says there.

Mr. LONG. Let us just compare it to a simple case of earned income. Suppose a man is in the 70-percent tax bracket.

Mr. MAGNUSON. But they do not have any earned income.

Mr. LONG. Then they would not benefit. All right.

Mr. MAGNUSON. That is right. Then they would not benefit.

Mr. LONG. If a person has income, if a person finds himself in a 70-percent tax bracket, and that person finds $100,000 of additional income, now, if he pays the tax on the income, which would be $70,000, and then he gives it away, he gets a deduction worth $70,000, and that is how it is supposed to be.

But if he makes $100,000, and before he pays any tax he gives it away, and he gets a $70,000 savings against taxes by Uncle Sam, then his after-tax figure is $70,000 made on Uncle Sam by way of taxes. If he had gone ahead and kept the income and paid the tax he would have $30,000 after taxes. So he is 1⅓ times better off by virtue of giving away something of value which would otherwise be income than he would be by paying the tax on the income and then giving it away.

So when one gets the benefit of the deduction on something where he has not paid the tax to begin with, that is what they call a double deduction, and by doing it that way, he is twice as well off, if he is in a high tax bracket, than he would be if he had sold the thing and paid the tax.

Mr. JAVITS. Mr. President, I shall just take 2 minutes because really I am deeply disheartened by this debate. We are talking at the outside, by the Treasury's own estimate, of $5 million a year, their very outside estimate.

Senator RIBICOFF just gave some very interesting figures showing that the total gifts to the museums, which are the principal beneficiaries, are estimated to be approximately $500,000.

So we are not dealing with any very material proposition. It is easy enough to try to damn something with the word "loophole." But, my friends, does the word "loophole" fit in our mouths when we look at oil and gas and 1 million other things in these tax laws, including charitable deductions as a whole? Why are they not loopholes? Everything described here applies to all sorts of charitable deductions. They are a loophole, too. If a man buys a share of stock and it costs him $10, and 10 years later it it worth $20,000, and he makes a gift to a hospital, he gets a $20,000 deduction.

Let us look at what the present parliamentary situation is. Senator ALLEN wishes to table this amendment. Whether he tables it or not, he is going to give us an amendment which will really sink every art institution in the country, to wit, not only will the artist not be able to contribute his original work but the people who normally contribute the great works to museums—and now you are talking about tens of millions of dollars, you are not talking about the $550,000—they too are going to be wiped out by this amendment.

So, as I say, that is pretty disheartening when you balloon something into that size.

The factual situation is uncontroverted. Museums did get important gifts from artists themselves. Those gifts have dried up, and an effort is being made to revive the practice because it is considered to be highly useful in the public interest. The artists themselves want it this way. They think this will be a real inducement for what they wish to do. You have the best evidence of that, which is the letter of the National Endowment of the Arts signed by most of the members of its council, the leading name being Jamie Wyeth, who is himself one of the leading artists in the country. Artists have been lobbying down here, as Members know. This is because they feel this will produce a flow of art to the museums.

Finally, we are asked to pass this amendment here. The principal conferee in respect of the Senate is going to be Senator LONG himself. My colleagues, I know Senator LONG very well. I have served with him a long time. I can guarantee you that whether his figures are right or wrong, when, as and if this amendment comes back to the Senate, no artist will be able to collect more for making the gift than for selling this art.

The last point, and then I am really through, is that when artists give, they give young, when art is new and, therefore, when prices are low, the appraisal will be low. There is no challenge here to the fact that the IRS now has been thoroughly and effectively equipped for honest appraisals. They have an arts panel of leading museum directors of the country—and they themselves say that, it is not anything that I have invented—which is an established unit of business, which meets three times a year for 2 days, and appraises everything. So there is no getting away with valuations.

The encouragement is to an artist to give early rather than to sell or hold until such time as his art does appreciate into astronomical figures. That is the kind of thing we want to encourage.

Other than those factors, I think my colleagues from Connecticut, Minnesota, and Washington, and certainly Senator GOLDWATER, have made the whole argument.

Mr. LONG. Mr. President, will the Senator yield?

Mr. JAVITS. Yes.

Mr. LONG. The Senator says he is confident that if it went to conference and the Senator from Louisiana was one of the conferees that he was sure it would not come back in such a fashion that a person would make more money by giving it away than by selling it.

If the Senator will find a way to modify that amendment—or I will be glad to work with him, if I can—if we can find a way to modify that amendment to where he will make the same thing by giving it away than he would by selling it, so far as I am concerned, I would take the amendment by looking at it. But that is not what the amendment will do, and that is why I oppose it.

Mr. JAVITS. I will rely on the Senator from Louisiana in conference because the Senator knows, as I do, having been around here a long time, if we pull this thing up now we are going to have the same go-around.

So, I am ready to accept——

Mr. LONG. If the Senator would modify that amendment, or change it so it works as he just described it, as far as I am concerned I would be happy to go along with the amendment, but not as he has it now.

Mr. JAVITS. Mr. President, as I say, the Senator and I both have been around for a long time.

The Senator from Alabama intends to move to table. As far as I am concerned——

Mr. RIBICOFF. If the Senator will yield, I would not reject the generous offer of the chairman of the Finance Committee. I would rather take my chances on his accepting the amendment than in fighting the Senator's amendment.

I suggest, since this tax bill is going to be around for another 2 or 3 weeks, that with his offer, this amendment be temporarily laid aside, that those of us who are interested call upon the same able counsel, as a member of the Finance Committee I guess I am entitled to use this, as the distinguished Senator from Louisiana, and see if we cannot come up with an amendment to achieve what the Senator from Louisiana suggests, because it is not my intention that someone makes money on the gift.

Mr. JAVITS. Nor mine.

Mr. RIBICOFF. The artist that makes his contribution, as indicated by the distinguished Senator from Washington, is usually in his young years. These gifts of his paintings are not just being made for money. It is being made for recognition and pride.

Many of these artists would take pride in their paintings hanging in their home town museums, for children and people, their townspeople, to view them.

As the Senator says, they are generally given at a younger year. Their appraisals at that time are relatively low, as to what they will be at a later date.

These curators of museums all over the country are knowledgeable and sophisticated. They are not going to downgrade the quality of their museum by taking unworthy works of art. If this is not a worthy work of art, they will not accept it. They will only accept it if it is worthy to hang in that museum.

I think I understand what the Senator, the chairman, is talking about. He wants to make sure somebody in the 70 percent bracket does not make money.

I think language can be drawn to assure that he does not make an undue profit.

Mr. JAVITS. If the Senator will yield to me, I like his suggestion but for one deficiency.

Our chairman is quite a passionate man and he has argued very deeply against the basic principle of this amendment.

He is a gentleman, and I have kept my word with him, I am sure he will keep his with me. If he tells me that, OK, that is over, he will accept the basic principle of trying to encourage the artist through some form of reasonable deduction, then I am willing to take the proposition the Senator from Connecticut mentions.

Mr. RIBICOFF. I say, the Senator may know the Senator from Louisiana well; I think I know him better, serving with him on the Finance Committee, and the one thing I know, the Senator from Louisiana does not harbor any grudge and he knows there are differences of opinion. We all have our points of view. He has made a proposition. Knowing the distinguished chairman of the Finance Committee, when he makes an offer, he will comply with it. He will live up to it.

I am willing to accept what he has proffered and I believe that we might have an opportunity to do so.

Now, the Senator from Alabama may not accept it. But when it comes to these matters, in all due respect to the Senator from Alabama, I will take the Senator from Louisiana on my side.

Mr. HUMPHREY. If the Senator will yield, I just urge that the proposition that has been proposed here by the distinguished Senator from Louisiana be accepted.

This amendment, as he explains it, does leave us with many difficulties. I do not think any of us should permit the factual presentation here to go unheeded.

The Senator from Louisiana said he wanted to work out something that was reasonable, that would not permit what we might call a ripoff in terms of tax deductions, and I believe in him. I believe he will do it.

I suggest to the able Senator from New York that he follow the suggestion of the Senator from Connecticut.

Mr. JAVITS. May I say to the Senator from Louisiana, if he adopts the formula Senator HUMPHREY just made, then if he does, I am willing.

Mr. ALLEN. Reserving the right to object, I would like to suggest that we are only covering one aspect of the question. The Senator from New York pointed out there is a big loophole here that allows the second owner to make a contribution and obtain the benefit of the unrealized appreciation in value. The amendment of the Senator from Alabama not only would prevent the opening of another loophole, it would at least partially close another loophole.

I would like the distinguished chairman of the committee to also consider the possibility of at least partly closing this other loophole on the secondary owner.

Mr. LONG. I do not know whether we can move in both directions. One amendment moves in one direction and the other moves in the other direction. I do not know that it is possible to move in two directions at the some time.

I understand the problem the Senator is talking about and it may very well be that something ought to be done about it.

As the Senator from Massachusetts suggested, such an amendment was proposed. It might have been a broader amendment than we have now, but it failed to carry.

I was disposed to vote for the Senator's amendment, especially suggested as a substitute to that of the Senator from New York, as I told the Senator. But I just do not know how I can move in both directions—one to encourage people in that area, and the other to discourage people in the other area.

I understand there are two different situations. One is that a person buys a painting, and the other is that a person paints a painting. But I am afraid that I would risk winding up being what most politicians are regarded as—and I may be myself, for that matter—a hypocrite if I proceeded to commit myself in both directions at the same time.

Just because I would like to be able to remain true to the commitments I make, I do not think I am able to make them in both directions at the same time.

But it is perfectly all right with me for the Senator to offer an amendment and we will dispose of it on its merits, once we dispose of this one.

Mr. JAVITS addressed the Chair.

Mr. LONG. But please understand, as far as I am concerned, what we are talking about is to modify this amendment so that a person would be no better off by donating his work of art than he would by selling it; I would be willing to go along with that.

That is all right with me. That is perfectly fine. But now, to go beyond that point, I would have some doubts.

Not to go very far beyond, but to go a long distance beyond, that I would have doubts about.

With regard to the other matter, that matter has been raised before and the Senate did not buy it—I think that was during the 1969 Tax Act. I find a lot of sympathy for the argument made by the Senator from Alabama, and I would like to reserve rights on that right now.

When this one has been disposed of, I think we could vote on that.

Mr. JAVITS. Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, I did not hear the request.

Mr. JAVITS. I asked unanimous consent to withdraw my amendment as the yeas and nays have been ordered and I need unanimous consent.

The PRESIDING OFFICER. Is there objection?

The Chair hears none.

Without objection, it is so ordered.

AMENDMENT NO. 2057 (AS MODIFIED)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and I offer this on behalf of myself and the Senator from South Carolina (Mr. THURMOND).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. THURMOND, proposes an amendment numbered 2057, as modified.

The amendment is as follows:

On page 248, at the end of title VI, add the following new section:

SEC. 605. DISALLOWANCE OF FIRST-CLASS AND CERTAIN LUXURY TRAVEL AS A BUSINESS EXPENSE TAX DEDUCTION.

(a) IN GENERAL.—Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting immediately after subsection (g) the following new subsection:

"(h) FIRST CLASS TRAVEL EXPENSES.—Notwithstanding the provisions of this section or section 212 (relating to expenses for production of income), no deduction shall be allowed for any expense paid or incurred for the transportation of any person (1) by commercial vehicle in excess of an amount which is equal to the lowest priced, generally available, unrestricted fare, tariff, or ticket for such person on the same vehicle to the same destination at the same time of day and at the same time of year, as determined by the Secretary or his delegate, or (2) by noncommercial vehicle in excess of an amount which is equal to the lowest priced, generally available, unrestricted fare, tariff, or ticket for such person on a commercial vehicle for such transportation, except such excess shall be deductible if commercial transportation substantially similar to transportation by noncommercial vehicle is not available for such transportation as determined by the Secretary or his delegate."

(b) DISALLOWANCE OF TRAVEL BY SUPERSONIC COMMERCIAL AIRCRAFT AS A BUSINESS EXPENSE TAX DEDUCTION.—Notwithstanding the provisions of section 162 (relating to trade or business expenses) or section 212 (relating to expenses for production of income) of the Internal Revenue Code of 1954, no deduction shall be allowed for any expense paid or incurred for the transportation of any person by supersonic commercial aircraft in excess of an amount which is equal to the retail price of a coach class fare ticket for the transportation of such person by nonsupersonic commercial aircraft to the same destination at the same time of day and at the same time of year, as determined by the Secretary or his delegate.

(c) DISALLOWANCE OF FIRST CLASS TRAVEL BY OFFICERS AND EMPLOYEES OF THE UNITED STATES TRAVELING ON APPROPRIATED FUNDS.—No funds appropriated by any Act of Congress may be obligated for the transportation of officers and employees of the United States by commercial vehicle in excess of an amount which is equal to the lowest priced, generally available, unrestricted fare, tariff or ticket for such person on the same vehicle to the same destination at the same time of day and at the same time of year, as determined by the Secretary or his delegate. If there is no such fare ticket, the preceding sentence shall be applied in accord with regulations of the Secretary.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to transportation that begins after December 31, 1976.

Mr. KENNEDY. Mr. President, this is a modification, although a very minor modification, of the amendment that was printed in the RECORD today, that I put in last night.

It is substantially the same amendment. I will explain very briefly what this amendment does. This amendment is offered by the Senator from South Carolina and myself.

The PRESIDING OFFICER. Will the Senator withhold?

This amendment is an amendment to a committee amendment already agreed to. It will require unanimous consent to consider it.

Mr. LONG. Mr. President, I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. What is the amendment? Will somebody tell us that?

Mr. KENNEDY. It deals with the differences in terms of expenses between first-class fare and tourist fare in the airline industry. I intended to offer it after the Inouye amendment. Of course, I can add it to a different section, but this would be the area of the legislation which the amendment would be related to.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The Senator may proceed.

Mr. KENNEDY. Mr. President, the Internal Revenue Code allows a tax deduction for "ordinary and necessary" business expenses. Over the years, the tax deduction for business deductions has been abused in some areas as a subsidy for "expense account living." Travel and entertainment expenses have been a particular and continuing source of controversy, confusion, and injustice in the tax laws.

With a corporate tax rate of 48 percent, each dollar of deductible expenses saves the corporation 48 cents in tax. In the case of first-class travel, the Treasury—and, therefore, the average taxpayer—pays half the cost of the first-class ticket.

The principal effect of the amendment will be on first-class air travel. It is a legitimate business decision to travel by air instead of by car or train or bus or ship. But once the decision is made to travel by air, the business objective is achieved by traveling in coach class. The executive travels on the same flight, and arrives at the same time and in the same place. This is all that is required to implement the valid business decision, and it is all that should be allowed as a deductible business expense. The additional cost of first-class travel is primarily a luxury item and should not be deductible.

Abuse of the current deduction in the case of private jets is also prevented by the amendment. In certain cases, the use of private planes can be justified as a business decision, involving factors such as greater flexibility in scheduling and the need to fly to places not served by commercial flights. But in cases where use of the private jet is not justified by legitimate business factors, the deduction will be disallowed.

Since the amendment is likely to increase the demand for coach class seats, the airline industry will meet the demand and the traveling public will benefit. A first-class seat now takes up the space of 1½ coach seats. As airlines modify their cabin space, the total number of available seats per plane will increase, thereby relieving the crowded conditions and waiting lists that coach passengers now endure during peak travel periods, and producing a more rational allocation of space throughout the entire airplane.

The amendment may well lead to lower air fares. In California and Texas, intrastate airlines have been offering all-coach service for several years at fares that often average 50 percent less than CAB-regulated interstate airlines. The all-coach configuration is a significant element in the success that intrastate airlines have had with low cost air transportation. To the extent the amendment facilitates this development, citizens will benefit as both taxpayers and travelers.

Thus, the amendment is justified on grounds of both tax equity and airline efficiency. The large annual Treasury subsidy for first class air travel should be ended.

Mr. President, this amendment is a simple amendment. What it does do is obviously allow a business deduction for air transportation at the coach or tourist rate. It does not seem to me to be really justified that the American taxpayer should pay half of the rate for people who are traveling first class. That, in effect, is what is being paid when a corporate official travels first class and when the corporation is taxed at the 48-percent rate. Therefore, it means that on the difference in amount that is paid between coach and first class, half of it is being paid by the ordinary taxpayer. I would hope that this amendment would be accepted.

Over a 2-year period this amendment will produce approximately $165 million in 1977 and $315 million in 1978. So it is not an insignificant revenue raiser.

It seems to me the amendment is justified and it is a way in which we can pick up some important revenue. Not only can we pick up important revenues but I think there are the other attendant benefits that may come into play. We will find perhaps that the airlines will even lower their fares when they put more seats in the planes. This may well benefit the traveling consumer.

Mr. ALLEN. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. ALLEN. I wonder if the Senator would consider a modification of his amendment along these lines: Members of the House and Senate are allowed reimbursement for their airplane travel to their home. When I get on an airplane, as I walk back to the tourist class of the airplane I pass many of my colleagues in the House and Senate in the first class. I am wondering, inasmuch as the Senator is concerned about the taxpayer, if what is sauce for the corporate employee should not also be sauce for the public employee. I wonder if the Senator would mind modifying his amendment to say that no Member of Congress should apply for a reimbursement on his trips home for an amount greater than the tourist class fare?

Mr. KENNEDY. I say to my colleague the sauce that was applied to the goose has already been applied to the gander.

Mr. ALLEN. The Senator did not explain that. I am glad to hear that.

Mr. KENNEDY. I am glad to mention that on pages 2 and 3 of the amendment it states:

> (b) DISALLOWANCE OF FIRST CLASS TRAVEL BY OFFICERS AND EMPLOYEES OF THE UNITED STATES TRAVELING ON APPROPRIATED FUNDS.—No funds appropriated by any Act of Congress may be obligated for the transportation of officers and employees of the United States by commercial vehicle in excess of an amount which is equal to the retail price of a coach class fare ticket for such person on the same vehicle to the same destination on the same day at the same time of year, as determined by the Secretary or his delegate. If there is no such fare ticket, the preceding sentence shall be applied in accord with regulations of the Secretary.

Clearly, that is what is intended.

Mr. ALLEN. That is the purpose of the amendment, to put in the modification.

Mr. KENNEDY. It will apply as well to the other officials and it will apply to the Concorde, as well.

Mr. ALLEN. That would be what reimbursement? Just the tourist?

Mr. KENNEDY. The coach level.

Mr. ALLEN. Is there a coach level on the Concorde?

Mr. KENNEDY. Nothing is deductible above the coach level. So, if someone chooses to fly the Concorde, the portion deductible as a business expense cannot exceed the cost of a coach fare on the nonsupersonic jets. The Concorde fare from Washington to Paris is $827. The ordinary coach fare is $437. That excess of nearly $400 would not be deductible.

Mr. CANNON. If the Senator will yield, there may be a problem here. Incidentally, I support the amendment but I hope he would not overly restrict it in this sense: There already is in effect an executive order, I believe, with respect to some Government personnel travel. The provision is unless no other class of service is available. In some instances, and this may well apply to Members of Congress as well, it may be that if one seeks booking and cannot get a tourist class booking, he may have to take a first-class booking. That should not be disallowed.

Furthermore, there are some flights on which there is only one class of service, some carriers and some routes on which there is only one class of service. So I think there should be an escape provision to make it clear that where only that class of service is provided that would be the maximum amount.

Mr. KENNEDY. The Senator is quite correct. My amendment, with regard to Government travel, allows first-class travel if the lower-cost travel is not available. As to planes or flights that have one class of service, the full cost of the ticket would be deductible if the business traveler chose that single-class flight. The only exception is the Concorde. I do not think we should subsidize the Concorde in any manner and the Concorde is a single-class plane. Other situations would be covered by regulations by the Secretary. The amendment deals with other situations, for example, the case of the private business jets.

If it is flying between two points that are actually covered by commercial service, obviously they would provide the deduction for what would be the coach fare between those areas where there is a scheduled flight. If it is going to go to areas, for example, where there is no scheduled flight, they will have to leave that particular subject matter to the regulations of the Secretary of the Treasury to work out.

Mr. CANNON. If the Senator will yield further, do I understand the language is not so inflexible that it would preclude the Secretary from making appropriate regulations to cover those situations?

Mr. KENNEDY. The Senator is correct. There will be a small but important number of areas in which there will have to be regulations established by the Secretary, areas which the Senator has identified. In terms of the volume, in terms of the amounts of resources and money, it is relatively small as an amount, but it is important. The Secretary would have the authority to establish those regulations.

But we would be addressing the major issue in question, and that is the use, today, of the first-class fares to be deducted as a business expense, when the business traveler could get to his or her location just as quickly, at the same time without providing that additional cost to the taxpayer.

If the businessman wants to travel first class he can travel first class, but the only deduction that he receives in terms of a business expense would be the amount of the coach fare. So he can still travel first class if he wants to, but the difference and the distinction between the coach fare and the first-class fare would have to be considered not a business deduction.

Mr. CANNON. If the Senator will yield further, I was not referring to that so much as I was to the matter of congressional travel, that I did not want to see that get locked in so that a person would not be able to be reimbursed under certain circumstances.

Present travel regulations provide that it is possible for a Member of Congress to go by chartered aircraft under certain circumstances where there is no scheduled service available, or no other convenient service available for the purpose of the trip. I would want to make clear that this would not preclude reimbursement under that type of situation, for which we have very carefully drawn travel regulations now applying to Members of Congress in that area.

Mr. KENNEDY. Well, I would feel that the language we have read here would cover those circumstances. Quite frankly, I believe that it does. It is intended to. The Senator has identified those few rare but nonetheless important situations where as to Government officials, because of an inaccessible place in a distant part of the world, it is necessary for them, in carrying forward governmental responsibilities, to travel first class or travel in a chartered vehicle, because coach travel is unavailable, and be able to receive reimbursement.

Obviously that ought to be permitted, and I believe is so, under the language of the amendment. I would make it very clear in terms of legislative history that that is certainly the intention.

What we are attempting to prevent is, obviously, the common situation where traveling first class is charged off as a business expense and is picked up by the American taxpayer to the tune of half of that increase, and that will amount to some $300 million in 1978 and $165 million in 1977. This is just in the airlines; there will be some recovery in both shipping and the railroads, although those figures were not available either from Amtrak, the ICC, or the other agencies; we were only able to get it through the CAB.

Mr. CANNON. I thank the Senator for clarifying that.

Mr. MAGNUSON. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. I yield.

Mr. MAGNUSON. There are times when you travel 3,000 or 3,500 miles when there is a reason to take first class. It is because there is more leg room, and you do not become so exhausted as you do in tourist class. The Senator well knows that if you sit for 7 long hours, the way some of the tourist classes are now made, not for short trips, but three abreast, and sit there hunched up like this, that you are willing to pay a little more to get a place where you can sit comfortably. On short trips that, of course, does not mean as much.

I hope there is flexibility, so that the Secretary of Transportation—in this case would it be he, or the CAB?

Mr. KENNEDY. This would be the Secretary of Transportation.

Mr. MAGNUSON. A lot of it is due to the fact of the way the airlines build their seats. On the tourist seats on some of the airlines it is different. Some of them are good. Some of them are just terrible for a long trip.

I hope there is some flexibility, as the Senator says there is, in certain cases, and some of them might be physical, that there could be a ruling on this.

When you mentioned the California airline and Texas International, of course, those are all short trips. They are not long trips. You do not mind going from Los Angeles to San Francisco; it takes about an hour, I guess; or from here to New York. But when you take long, long trips, it is a little different for some people, particularly people who might have some physical problems that they have just got to have a little more leg room and a little more elbow room.

I hope there is enough flexibility to make some decent room available in that particular case.

Mr. KENNEDY. Well, there would not be in terms of just the comfort of any of the traveling public. I think if there were circumstances in which those people, because of physical or medical necessity or for some similar reason were unable to travel coach class, then they would be allowed to do so and could deduct the full price either as a business expense, a medical expense, or a combination of both, depending on regulations established by the Treasury Department. But I want to make it clear that generally the language is quite explicit and quite precise, in terms of business deductions that will actually be considered business deductions, they will be considered only at the coach rates. If the individual wants to fly and has the individual resources to fly first class, it will be quite open to him to do it. But the question, you know, is whether the taxpayer ought to be underwriting that kind of additional luxury.

The Senator and I know, and I do not think there is a Member of this body who does not know, that there is not a great deal of work done in that first-class area. There is some, but not a great deal. You can go on any of those trans-Atlantic flights or across the country, and the lights are out for movies, and they are serving food or drinks or the rest, and we do not see that great deal of work going on. Perhaps more work is being done in the coach section, by younger people who are paying the full tariff, or older people who are paying the full tariff, and are getting no tax benefit whatsoever.

I know there are those who say, "Well, if we start down this road, Senator, should we not try to do the same on meals or hotels, and all the rest?"

I think all that area has to be considered. I know the Finance Committee has given consideration to that. In the 1969 act they did make tightening provisions in some areas.

It is a matter of judgment, and it is difficult to know whether you are going to allow X, Y, or Z to stay in such and such a hotel, and what you are going to allow for meals and the rest. I recognize that and understand that, and I would hope that would be a matter of consideration by the members and staff of the Finance Committee, to make what recommendations they can.

But we are not talking about that circumstance here. We are talking about when scheduled carriers, whether airline, shipping, or railroad, leave point A and arrive at point B at a certain time. The question is whether the Federal Treasury will underwrite that additional increment between coach and first-class fare, which amounts to several hundred million dollars each and every year.

I really think that cannot be justified, when we realize the business purpose can be achieved by getting the individual to the particular place in coach.

Mr. CURTIS. Mr. President, I rise in opposition to this amendment. Let us consider it a little bit.

Will this amendment make any significant contribution to our budget problems? Not at all. It does inject the Government into the area of business decisions. If we have a right to say that in a certain trip you are penalized taxwise on the kind of airline ticket you got, what is going to happen when we carry that over into other business expenses? Suppose someone needs an automobile to earn his livelihood. Are we going to put him in the smallest foreign bug that he can buy? What about the business executive that is along in years, who ordinarily, if he was traveling at his own expense with no tax deduction, would travel first class? What about the blind professional man who because of the handicap that is his he travels to another city to transact law business and we say to him, "You take your chances on being pushed around in a crowded coach or else have part of your expenses denied."

How about the busy man who, at the end of a long working day, makes a late trip and in order to add to his efficiency the next day, he chooses to ride in comfort? If that pleases him and he thinks he feels better, the chances are he will make more money the next day to pay taxes on.

But if the Government is going to make business decisions then we have carried our tax writing far too far. If we can say to the airline traveler, "You must travel coach or not get your legitimate business deduction written off," we can also say to every person who uses an automobile to transact their business and to make a living, "You will have to buy the smallest compact there is because after all that will get you from one point to the other"

Also, Mr. President, there are business decisions whereby salesmen and others feel that, as part of their public relations and part of their ability to impress their client and make a sale, they have to do things first class. And if they do, make a sale, and earn a big commission, the Federal Government gains because they pay taxes on all of that.

If we adopt this amendment, we are not going to gather enough revenue to be noticeable down at the Treasury. But we do start out on a very bad business practice.

Are we going to say to Governor Wallace, who was shot down when he was running for the highest office in the land, that if he has to make a business trip—he may always be Governor, I do not know, but sometime he may be in business—if he makes a business trip, that he has to be crowded in the coach section or else have part of his legitimate expenses rejected as a business deduction?

And it does not stop there. It can go on to repairs that are a business deduction. There are uniforms that are a business deduction. Are we going to say that a taxpayer cannot make the business decision as to what quality of uniforms will be best for his business? Are we going to put a lid on it?

It is very impractical. If it is applied to executive business airplanes it could very well lead to the grounding of all airplanes.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. CURTIS. I yield.

Mr. LONG. As a practical matter, airlines are having enough difficulty in maintaining their first-class seats, and this amendment, in my judgment, would mean that there simply would not be any first-class seats. In other words, there would not be enough people to use them. As a result, we just would not have any first-class seats on any of the commercial airplanes. I think that would be the result. So, in effect, it would deny everyone the benefit of it.

The Senator has said that, if one wanted to buy a first-class ticket and pay the difference, he could have it. But as a practical matter one could not buy a first-class ticket because there would not be any first class. There would not be enough business once he made this additional add-on to the cost of first class if one chooses.

In addition to that, the Senator would deny them the deduction for going overseas on the Concorde. If we are going to do it, we ought to apply it to the Concorde. So one could not deduct the expense of going overseas if one takes the Concorde. That means goodby Concorde because the Concorde costs more now anyway. If all those who take the Concorde cannot deduct the cost of it that means fewer will take it.

So, I could just see those people over there in the French Embassy and in France saying, "It was a great campaign to get the Concorde over here, we proceeded to listen to all their entreaties, and those people just worked hard so the Concorde be permitted to fly," and all that. Then they find, yes, we told them we could fly the Concorde, but we shot them down with the tax law, shot them out of the air with the tax law. That is what it would amount to.

So as a practical matter if we say the business community cannot deduct the expense of using these things, then they are not going to use it. That would mean that flying on the Concorde could cost about three times as much as it would flying on any of the other American airlines.

Mr. CURTIS. I thank the distinguished chairman.

Here is another situation. Some of our high military people, members of the Cabinet, and others, contend that if they fly their own airplane they can go to three or four cities that are requesting their appearance in the same time that they could only visit one of those States if they waited for the commercial schedules.

I believe that is true. But if it is true for them it is also true for business executives. And if we restrict business travel deductions to the equivalent of coach transportation there will be no business airplanes. I do not think that is fair treatment to the taxpayers who are using their airplanes honestly and for actual business transactions. They would be punished because probably there is a feeling that executive airplanes make a lot of trips or some trips where it is not for a business purpose and it might be personal.

Certainly, we should not do away with the private flying because there are some abuses. We can figure out some other way, by better audits or otherwise, to reach those situations where a company-owned plane is used for purposes other than legitimate trips.

Mr. President, again I ask, what sort of exercise are we going through here? We cannot fool anybody by picking flyspecks here and there and telling people that we have improved the revenue when we have not. We can orate about flyspecks in the budget, and it contributes nothing to bringing revenues in line with expenditures.

Let us not invade the field of business judgment as to what expenses fit a particular situation, and let us reach the abuses by better auditing.

I have always felt that money would be well spent by Congress providing adequate money to increase the number of auditors. I think that when income tax returns are audited, the more that are audited, the more money you are going to take in. Everybody is just a little more careful.

If we are traveling in our own automobiles and some police cars are cruising around here and there, everybody is a little more careful.

If we want to stop abuses by providing adequate auditors so that the chances of tax returns being looked over will be greater, everybody will be a little more careful. They do not do so much guessing. They do not estimate in their own favor. They keep better books. They have a better memory in remembering some income they had.

Mr. President, this amendment will contribute nothing to the financial problems of the country. It will start a program of the Government making business decisions for people. It will adopt a policy that, if led to its ultimate conclusion, will have an adverse effect on our economy and certainly would be far afield as to what the Government's role should be in deciding what is a legitimate business expense.

One need not be a representative of a big company to be involved in this. There are many individuals who deduct car expenses and who make a modest living. They are out in it day after day. If we adopt the principle as to where one is to ride in an airplane, somebody will come in and propose that everybody who uses a car and has a business expense should use the smallest compact that is on the market, notwithstanding the fact that the individual might be out in all sorts of weather day after day, notwithstanding the fact that a safety hazard might be involved.

Mr. President, I hope the amendment is rejected.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, I thought we were talking about tax reform. This may be good for window dressing, and it may sound good to go back home and say we are not going to let people deduct first-class air fare. But when people stop to think that we are not only doing that but also are going to tell them how they are going to conduct their business, they will find out that it is more than tax reform.

In a few moments, I am going to move to table this amendment, and if it is not tabled, I am going to offer an amendment to require that one can only deduct economy motel bills, that you can only deduct moderate-priced meals, that law offices can only use the cheapest typewriters, that they cannot use electric typewriters.

This is beyond the realm of imagination, to my mind. I go to the Raleigh-Durham Airport in the morning, and I am provoked when I get on Eastern Airlines, on coach fare, and two big corporation jets fly in with two or three corporate executives, when they can fly in a commercial plane.

Are we going to tell everybody in the country how to operate every facet of their business? Are we going to say, "If you don't operate the business in the most economical manner that we in Government think possible, you can't deduct it"? That is what we are doing. It will sound great in the newspapers to say, "You can't deduct first-class fare," but it goes far beyond that.

Mr. President, I move that the amendment lie on the table.

Mr. KENNEDY. Mr. President, will the Senator withhold that, so I can respond to some of the matters, without losing his right?

Mr. MORGAN. I withhold the motion.

Mr. KENNEDY. I mention to the Senator that under the Internal Revenue Code, on trade or business expenses, it says:

> There shall be allowed as a deduction ordinary and necessary expenses.

It seems to me that "ordinary and necessary expenses" should be able to be interpreted as including coach travel.

The Senator from North Carolina has stated that he does not believe that the Federal Government should be into that particular area, into that particular field. The Senator from North Carolina does not seem to be as concerned as I am and as I think the great majority of American people are about expense account living.

It seems to me that we are talking about a very narrow area here that is easily definable in terms of what the abuses are. We are not getting into the cheap paper. We are not getting into the cheap pencils or the cheap typewriters. What we are talking about here is something that is clearly definable, where there is a particular kind of abuse in instance after instance. It is going to provide close to $500 million to the Federal Treasury in a 2-year period.

Mr. MORGAN. Will the Senator tell me where he got those figures?

Mr. KENNEDY. The Civil Aeronautics Board.

Mr. MORGAN. Does the Senator know how they computed that—the estimates?

Mr. KENNEDY. They are giving us the fair and accurate assessment on it that was computed both last year and this year by the Bureau of Economics at the CAB. Does the Senator have other figures?

Mr. MORGAN. I do not have any figures. But those figures remind me of a lot of others that we all bounce around here, for which I have no support, and I have no way of knowing how they were compiled.

Mr. KENNEDY. They have done a detailed study, my staff reminds me, over an 18-month period that the Senator is welcome to examine.

I fail to understand the argument that we are interfering with business decisions when we are talking about trying to bring some kind of rationality, some kind of sense, to the ordinary taxpayers who travel on the airlines. They are paying for all of their seats, and they end up paying for half of the seat of the person in first class; and the person in first class is getting all the goodies, while the one paying for them is sitting in back. In effect, that is what they are paying because of the kind of deduction.

Perhaps we cannot do all the things the Senator from North Carolina says should be done in terms of telephones, paper, typewriters, and all the rest. I refuse to feel that this amendment is not justified simply because we think we can raise strawmen and give exaggerated kinds of situations which are not the kinds of abuses that are taking place in the country today.

Mr. MORGAN. Mr. President, I say again that the oratory sounds good, it sounds great. But the same logic applies. If we are going to say to the corporate executive, you have to fly the cheapest route, then the same logic applies that when you get downtown in Washington, you have to find the economy hotel. I say to you, Mr. President, I do not fly first class, even when I am entitled to be reimbursed. It just seems to me we are getting down to the point where we are trying to tell every business how to conduct every single facet of the business. Here we are dealing with a $400 billion budget and at 6:30 at night, when many of us have other engagements. We have already given to the Internal Revenue Service the authority to determine what is a proper and ordinary expense to be deducted. The Internal Revenue Service has adequate authority. I think we are just wasting the time of Congress to come down to trying to write into the tax law every single item and standard that can be deducted.

Mr. MAGNUSON. Will the Senator allow me to ask the Senator from Massachusetts one more question?

Mr. MORGAN. Yes.

Mr. MAGNUSON. Does this deal only with air travel?

Mr. KENNEDY. No.

Mr. MAGNUSON. Does it deal with railroads?

Mr. KENNEDY. It deals with railroads, deals with ships.

Mr. MAGNUSON. If I wanted to go to Seattle by train, I would have to ride a coach all the way to Seattle; is that right?

Mr. KENNEDY. That is about all you can get now.

Mr. MAGNUSON. No, no; they have to have a sleeper, too. That is first class. But it does apply to trains.

Mr. KENNEDY. It applies to trains and ships. It applies to all those luxury liners and all the others.

Mr. MAGNUSON. I do not go on luxury liners.

Mr. KENNEDY. The Senator should.

Mr. MAGNUSON. I would like somebody in this body to take a train trip from here to Seattle by coach. They would be a basket case when they get through.

Mr. KENNEDY. Will the Senator tell us how many people go across country by train as a business expense at the present time?

Mr. MAGNUSON. Some people do not like to fly and they go by train. I do not have any figures, but a lot of people go by train. The only way they can go on that long trip is to go—I do not think they call it first class—yes, they call it first class and coach, the same as airlines.

Mr. WEICKER. Will the Senator from North Carolina yield for 10 seconds?

Mr. MORGAN. I yield without losing my right to the floor.

Mr. WEICKER. I support his motion to table for one reason and one reason only. This Senator cannot get his 6 feet 6 into an airline coach seat.

Mr. MORGAN. If we go to these lengths with planes and trains, then, for the same reason, we would have to say businesses cannot deduct the expense of operating an automobile that is used in the course of their business if it has more than six cylinders, if it has a stereo in it, or has any more than just the bare necessities.

Mr. LONG. Will the Senator yield?

Mr. MORGAN. I yield to the Senator from Louisiana.

Mr. LONG. This general philosophy of trying to say in the tax law what a person can do and cannot do can really be taken a long way. We went into some of these areas when Joe Clark made some speeches about expense account living. It prompted some comment by the late President John Kennedy about expense account living. We got into whether a businessman who takes somebody out to lunch should be permitted to buy anything more than the blue plate special and whether he should be allowed to deduct the cost of a cocktail if he entertained someone. Then we had the argument, I recall, about whether or not he could deduct taking his wife to the convention with him. Finally, it was agreed that if it was somebody else's wife, he could deduct it, but not his own. If he took his secretary, or took somebody else's wife and called her his secretary, he could deduct it, but not if he took his own wife. If we had gone along with that thing, we would have built in this country even a bigger industry of call girls and camp followers. But thank the merciful Lord, we realized that wives have a place in the lives of men.

It is just as my Uncle Earl said, when those wives started going down there to the State legislature with their husbands, a lot of that carousing and so forth would come to an end. The people were there and ready to do business the following day.

This thing of trying to pass judgment on what a man should do and should not do—the Government knowing better than he does how he should run his life, and that the Government ought to know better than the business what they ought do—really can be taken to an extreme.

I fully agree with the Senator from North Carolina. I think that sometimes we ought to recognize that a businessman who is running a business might come nearer to knowing what is good for his business than some of us in Government.

Mr. MORGAN. If this amendment should pass, does the Senator think we should consider whether or not to allow a person to travel in from the airport by bus or be allowed to take a taxi?

Mr. LONG. Yes, of course. I just want to make one more point. It is not always better politics to be one of those who want to take the view that he is against people who make money and who are successful in life. I have found that ever since we had that fight about whether the wife can go to the convention with her husband that whenever I go to a convention and there is a meeting of the wives somewhere, I always make that speech. I tell them that they can look at me because I am the fellow who made it possible for a wife to come to a convention. If I do say it, it is a tremendous asset.

If this philosophy is followed, we will be saying that you cannot spend more than a certain amount if you entertain somebody at dinner. You cannot spend more than a certain amount if you have a convention in a hotel, and that will be closing down the good hotels—that is, the best ones. It will be closing down all the best restaurants. Admittedly, it is cheaper to level people down to a lower level than it is to pull everybody up to the best, but what most people want in this country is the opportunity to work so they can enjoy good things. They live to have something they can strive for. I fear that this philosophy will change things so there will not be very much they can strive for.

Mr. THURMOND. If the Senator will hold up a minute, I want to get off this thing.

Mr. President, I ask unanimous consent to withdraw my name as a sponsor. I had not seen the amendment and I was informed about only a portion of it, but it is much broader than I had thought, and I cannot support it. I wish to get my name off it. Therefore, I ask unanimous consent to withdraw my name.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I knew it was too good to last.

[Laughter.]

Mr. CURTIS. Will the Senator yield.

Mr. LONG. Yes.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from North Carolina has the floor.

Will the Senator yield?

Mr. MORGAN. I would like to yield, but I really do not think this amendment deserves all this attention and I have a previous engagement. I do not know whether others do. I just move that we table the motion.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. KENNEDY. I ask for the yeas and and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered. The clerk will call the roll.

The clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting the Senator from Rhode Island (Mr. PASTORE) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from New York (Mr. JAVITS), the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 53, nays 34, as follows:

[Rollcall Vote No. 407 Leg.]

YEAS—53

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Brock
Brooke
Byrd,
  Harry F., Jr.
Case
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Glenn
Goldwater
Gravel
Griffin
Hansen
Hathaway
Helms
Hruska
Huddleston
Inouye
Johnston
Laxalt
Long
Magnuson
Mathias
McClellan
McClure
McGee
McIntyre
Montoya
Morgan
Muskie
Nunn
Packwood
Pearson
Percy
Ribicoff
Schweiker
Scott,
  William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker

NAYS—34

Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hollings
Humphrey
Jackson
Kennedy

Leahy
Mansfield
McGovern
Moss
Nelson
Pell
Proxmire
Randolph
Roth
Stafford
Stevenson
Stone
Williams

NOT VOTING—13

Abourezk
Beall
Buckley
Garn
Hartke
Javits
Metcalf
Mondale
Pastore
Scott, Hugh
Symington
Tunney
Young

So the motion to lay on the table Mr. KENNEDY's amendment was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from South Carolina.

AMENDMENT NO. 2055

Mr. THURMOND. Mr. President, I call up my amendment numbered 2055.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an amendment numbered 2055.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . APPLICATION OF EARNED INCOME CREDIT TO INDIVIDUALS WITH DISABLED ADULT DEPENDENTS.

(a) IN GENERAL.—Subparagraph (A) of section 43(c)(1) (relating to definition of eligible individual) is amended to read as follows:

"(A) maintains a household (within the meaning of section 44A(f)(1)) in the United States which is the principal place of abode of that individual and—

"(i) a child of that individual, or

"(ii) a child of that individual who is disabled (within the meaning of secton 72(m)(7)),

with respect to whom the taxpayer is entitled to claim a deduction under section 151(e)(1)(B) (relating to additional exemption for dependents).".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to taxable years beginning after December 31, 1976.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Will the Senator suspend until we have order in the Senate Chamber?

Senators will please take their seats.

The Senator from South Carolina.

Mr. ROBERT C. BYRD. If the Senator will yield, I would like to announce that there will be no further rollcall votes tonight.

Mr. THURMOND. Mr. President, I move to modify my amendment, on page 2, line 1, by striking the word "child" and substituting therefor "daughter or son," and on page 2, line 5, strike "(B)".

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

Will the Senator advise the Chair as to where the amendment goes? At the appropriate place? Under which title does it go?

Mr. THURMOND. Under title IV.

Mr. LONG. I ask unanimous consent that the amendment be in order to title IV.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be an amendment to title IV.

Mr. THURMOND. Mr. President, I will make a brief statement. I do not think there is objection to the amendment. I think it will be helpful to a number of families in this country.

This amendment will provide a refundable tax credit equal to 10 percent of the first $4,000 of earnings, phased out as adjusted gross income rises from $4,000 to $8,000. It will be available only for those who maintain a household for a disabled adult dependent daughter or son—within the meaning of section 72(m)(7) of the Internal Revenue Code—with respect to whom the taxpayer maintains a household and whom the taxpayer is entitled to claim a deduction under section 151(e)(1) of the Internal Revenue Code—relating to additional exemption for dependents.

Mr. President the background on this amendment begins with a constituent who supports a completely disabled son, over 18 years of age, on a small income. In making an inquiry to the Internal Revenue Service, I received the following response:

To be eligible for the Earned Income Credit, you must:

(1) maintain a household for the entire year in the United States which is the principal place of abode for you and at least one of your children who was under 19 years of age or a student and whom you are entitled to claim as your dependent.

(2) not be entitled to exclude from your gross income any amount of income that is earned outside the United States or from sources within the possessions of the United States;

(3) have a taxable year that represents a full 12 months; and

(4) file a joint return if you are married.

Unfortunately there are no provisions in the law that would include handicapped or disabled dependents who are over 19 years of age. Therefore, since Mrs. Todd's son is over 19 and not in school, she would not be entitled to receive the Earned Income Credit.

We assure you that the Internal Revenue Service has no intention of dealing other than fairly with all taxpayers. However, it is our responsibility to administer the tax laws in the form the Congress has given them to us.

Mr. President, my amendment will permit the Internal Revenue Service to allow earned income credit to deserving taxpayers who support disabled adult dependents. That is all it does. As I understand, there is no objection to the amendment.

Senator DOLE of Kansas wishes to be added as a cosponsor. I ask unanimous consent for this to be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I believe it is a very meritorious amendment. I favor the amendment. I hope the Senate will agree to it.

Mr. PROXMIRE. This amendment sounds like an excellent amendment. Will the chairman enlighten us as to how much revenue loss is involved here, if it is significant?

Mr. LONG. It is negligible. At one time we had agreed to the amendment and it was in the bill but in the reprinting and agreeing to the substitute to title IV the amendment was inadverteny omitted. The committee had previously agreed to it. That is, the Senate itself had previously agreed to this amendment. But when the substitute to title IV was agreed to it inadvertently was omitted. So the amendment is a meritorious one which was considered by the committee and agreed to.

As the Senator said, the way it appears at first blush to the Senator is, in fact, the way it is. It is a meritorious amendment.

Mr. PROXMIRE. I thank the Senator.

Mr. THURMOND. Mr. President, from the information we received by telephone the revenue loss would be somewhere between $5 million and $10 million.

Mr. President, I ask unanimous consent that the distinguished Senator from Michigan (Mr. GRIFFIN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is all time yielded back?

Mr. THURMOND. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina, as modified.

The amendment, as modified, was agreed to.

ADDITIONAL STATEMENT SUBMITTED

Mr. CURTIS. Mr. President, there is included in title XII of H.R. 10612 a provision dealing with the administrative summons used by the Internal Revenue Service to obtain information in tax investigations.

This morning, representatives of the Department of Justice presented to the Committee on Finance with respect to a potentially serious problem under the proposed rules on the administrative summons.

For the benefit of my colleagues, I submit for inclusion in the RECORD the testimony to which I have referred, together with certain related documents.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SCOTT P. CRAMPTON, ASSISTANT ATTORNEY GENERAL, TAX DIVISION, DEPARTMENT OF JUSTICE, ON SECTION 1205 OF H.R. 10612, ADMINISTRATIVE SUMMONS PROVISION OF THE TAX REFORM BILL OF 1976 BEFORE THE SENATE COMMITTEE ON FINANCE, JULY 22, 1976

My name is Scott P. Crampton and I am Assistant Attorney General in charge of the Tax Division, Department of Justice. We welcome the opportunity to present the views of the Department of Justice on Section 1205 of the Tax Reform Bill of 1976 captioned "Administrative Summons." This section would amend the Internal Revenue Code of 1954 by redesignating Section 7609 as 7611 and inserting new Sections 7609 and 7610. Proposed Section 7609 is entitled "Special Procedures for Third-Party Summonses" and proposed Section 7610 would provide for fees and costs of witnesses in these new procedures. We believe this proposal, if enacted, would seriously interfere with the enforcement of the tax laws, particularly in the organized crime and white-collar crime areas, and further overburden the federal judicial system.

In principal part and with certain exceptions, Section 1205 of the bill would require notice to the person, usually the taxpayer and hereinafter referred to as such, identified in a summons issued to a third-party record keeper by the Internal Revenue Service. The taxpayer would be given 14 days within which to notify the record keeper not to comply with the summons. Once the taxpayer thus barred compliance, the Government could only obtain enforcement through a court proceeding in which the taxpayer would have a right to intervene and to litigate the matter. A summons to require testimony relating to records would be treated as a summons to produce records. The civil and criminal statutes of limitations would be suspended during the period of such court action, including appeals, if the person barring compliance is the taxpayer. A John Doe summons could only be served after a court proceeding.

Under present law, a taxpayer or third party cannot intervene in a summons enforcement proceeding unless he has a legally protectable interest. *Reisman* v. *Caplin,* 375 U.S. 440 (1964). However, in *Donaldson, et al.* v. *United States,* 400 U.S. 517 (1971), the Supreme Court said this meant a significantly protectable interest. In that case, the Court held against the taxpayer because he had no "proprietary interest" in the records sought and they were not protected by an attorney-client or other legally recognized privilege. It is worth noting at this point that, although the district court had denied the intervention of the taxpayer in *Donaldson,* stays were granted pending appeal; that the summonses were issued on September 12 and 13, 1968, with respect to tax liabilities for 1964 through 1967, inclusive, and that the date of the Supreme Court's opinion was January 25, 1971, or some two years and four months after issuance of the summonses. In this context, one can understand the concern the Supreme Court expressed by saying that to allow the taxpayer to intervene in such case would "stultify the Service's every investigatory move" (p. 531). We completely agree and believe that the word "stultify" was used in the dictionary sense: "to impair, invalidate, or reduce to futility."

As the Supreme Court pointed out in *Donaldson,* the statute (Section 7601, Internal Revenue Code of 1954) imposing the duty on Treasury Department officers to "proceed . . . and to inquire after and concerning" all persons "who may be liable to pay any internal revenue tax" has its roots in the first modern general income tax act, the Tariff Act of October 3, 1913, Sec. II, 38 Stat. 178, and, beyond that, in Section 3122 of the Revised Statutes of 1874. Thus, the express requirement that the Secretary or his delegates go to third-party sources to "canvass and to inquire," as the Supreme Court put it (p. 523, *supra*), is a historical procedure. The implied requirement or practice probably goes back to the beginning of the country. Never was it considered that a taxpayer could or should have the right to prevent this except where he had some legally protectable right in or to the papers at issue. As the late Justice Douglas put it in his concurring opinion in *Donaldson,* "it is difficult to see how the summoning of a third party, and the records of a third party, can violate the rights of the taxpayer."

Thus, the proposal would create a completely new legal right, which, we believe, would be used to frustrate fair and uniform enforcement of the revenue laws. Existing law is a necessary adjunct to the self-assessment system. Many millions of taxpayers are subject to withholding. Declarations of their incomes and the taxes withheld and paid over are routinely submitted to the Government by their employers as required by law. Their incomes are known and their ability to reduce their taxes is limited. Therefore, the proposed section would benefit, primarily, those taxpayers the major part of whose income is not subject to withholding. Congress has recognized that they may not always comply and has enacted criminal sanctions for any person who willfully fails to keep any records or supply any information required by the statutes or the regulations thereunder (Section 7203, Title 26, U.S.C.). However, the Government cannot compel an individual to produce those records against a claim of self-incrimination under the Fifth Amendment. When the individual taxpayer fails to keep records or fails to produce or falsifies the records he has kept, the Government must go to third-party sources to determine the tax liability. Even under existing law, this is not something the Internal Revenue Service undertakes, other than as a last resort, for it is a tedious, time-consuming, and expensive process to reconstruct the income and the tax of an individual or corporation by third-party sources. In fairness to all other taxpayers, however, it is a statutory duty that must be carried out. But it is the breakdown, or alleged breakdown, of the self-assessment system that renders it necessary.

Apparently, the right to privacy is the principal consideration underlying this proposal; yet it would confer this right only on the person named in the summons. The necessity for this highly selective grant of a right to privacy was recognized in the Report of the Senate Finance Committee, fn. 3, p. 369, in the CCH Report, No. 28, dated June 16, 1976, where it is stated:

"Of course, the Service would not be required to send a notice to each person to whom the X corporation wrote a check during the period under examination; not only would this be impossible administratively, but the identity of these persons would not even be known by the Service until the records had been examined."

It might be questioned why the "privacy" of "X corporation" should be respected and that of the thousands of persons having transactions with it not be? And what about the privacy of other individuals in multi-party transactions, not named in the summons, whose status and interest in the records are identical to that of the one who is named? Therefore, it is highly likely that persons other than those named in the summons would attempt to intervene. It could be questioned whether the proposal offers equal protection of the laws to persons whose interests in a record are identical. A court conceivably could permit such persons to intervene.

The foregoing illustrates, and the Report of the Senate Finance Committee concedes, that it is not administratively possible to give equal protection to the "privacy" of all persons involved in commercial transactions. Thus, the effect of this provision would, primarily, be to protect the "privacy" of the individuals who had *not* complied with the requirements of the self-assessment system. It is true that, occasionally, what appear on their face to be adequate records are checked by reference to third-party sources. This is because, as the Supreme Court said in *Holland* v. *United States,* 348 U.S. 121 (1954), p. 132, some records are "more consistent than truthful" and Congress never intended a "set of blinders which prevents the Government from looking beyond the self-serving declarations in a taxpayer's books." It is important, then, to emphasize just whose "privacy" is being protected by this proposal. If neither the record keeper nor the taxpayer objects to the summons, the transactions of hundreds or even thousands of other individuals may be laid bare. Therefore, unlike the historically recognized privileges, there is no uniform standard for the proposed selectivity of persons whose privacy is to be legally protected. There is only the common denominator of being listed on a summons.

Aside from the unfairness of this provision to the millions of taxpayers who fully comply with the law and the highly selective "privacy" that would be protected, we have the following specific objections to the proposal:

1. The delays resulting from taxpayer intervention could effectively frustrate efforts of the Internal Revenue Service to reconstruct income and tax by resort to third-party records. Of the approximately 500 Special Agent summons cases handled by the Tax Division each year, it is most often some special relationship between the taxpayer and the record keeper that accounts for the failure of the latter to comply. If taxpayers are allowed to intervene of right, it could very well take two years for the agents to obtain the records of the first bank and the number of summons enforcement proceedings would only be limited by the number of record keepers involved, most of whom may not even be known until after the records of the first are obtained.

2. The already overburdened courts, in which some 1,100 summons enforcement cases are currently being brought (about 500 Special Agent summons cases and 600 Revenue Agent summons cases), would be further swamped at a time when the Speedy Trial Act means that criminal trials will be occupying more of the courts' time. It would mean substantial increases in the number of agents and the number of lawyers handling such cases. A prime consideration would then be whether the investigation was administratively feasible. The areas most affected would be the organized crime and white-collar crime drives, because those categories of taxpayers have developed delay and noncompliance to a fine art. This proposal would further the process of turning the district courts into administrative tribunals.

Although the statute of limitations would not run when the taxpayer intervened, it would continue to run when the person named in the summons was the nominee of the taxpayer. This is commonly the case (the use of nominees) as to organized and white-collar crime figures. As stated earlier, it is possible that the courts would permit intervention of persons with identical relationships to the records at issue. If the taxpayer did not intervene, the statute of limitations would run. And, there is, of course, the problem that the statute would be running when the record keeper is contesting the summons alone.

4. There would probably be motions to suppress evidence in subsequent proceedings on the ground that there had been some failure on the part of Government to comply with some aspect of this proposal.

Although we object to the subject proposals, we wish to assure you, Mr. Chairman, that we have a sincere concern with the privacy of individuals. In the sustained effort to comply with the Freedom of Information Act on the one hand and the Privacy Act on the other hand, we are constantly on guard against an inadvertent disclosure that would provide information to one at the expense of the privacy of another. We literally have to make a line-by-line, paragraph-by-paragraph analysis of many documents; and, because of the complex nature of the areas of law we administer, sometimes it takes an experienced tax lawyer to determine what should be turned over and what should be withheld. Knowledgeable defense counsel are now inundating us with requests under these two acts as discovery weapons in current criminal tax cases, including those under investigation by grand juries. This has increased the strain on our limited manpower resources, particularly on our trial attorneys, since the attorney handling the case must, of course, be consulted concerning the documents involved which may range in the thousands. In other words, F.O.I. and Privacy Act provisions are being used effectively and with resulting delay of criminal justice, both at the administrative and subsequent stages. We foresee the proposal here as providing another vehicle for the same result at the investigative stage.

Although we disagree with other aspects of the proposal, we think it may be advisable to have a statutory requirement of notice to a taxpayer that the Internal Revenue Service may be serving summonses on third parties. As noted earlier, there are circumstances when the taxpayer does have a right to intervene under the *Reisman* and *Donaldson* decisions of the Supreme Court. A notice was suggested by a committee of the Section of Taxation, A. B. A., see 26 *The Tax Lawyer* 591, in which the Committee on Civil and Criminal Tax Penalties discussed studying the advisability of registers in each Internal Revenue Service District or Federal Judicial District where such summons would be listed. We think it may be preferable to give the taxpayer notice directly rather than to make a public record at the investigative stage. This notice provides the taxpayer with a last opportunity to substantiate the items on his returns and, thus, to obviate the necessity (in most instances) for a summons. The taxpayer is then in the best position to safeguard his own privacy.

The following examples illustrate our concern about this provision as a means for delay:

1. Taxpayer is in an illegal business and refuses to substantiate the items on his returns. As direct evidence of specific items of income is unavailable, the Government undertakes to reconstruct his taxable income by the net worth method (see *Holland* v. *United States, supra*). A summons is issued to his only known bank (bank A); he intervenes in the ensuing court proceeding, and it takes from a year to eighteen months to gain access to the records of that bank. In going over the records of that bank, leads to banks or brokerage accounts B, C, and D are obtained, and it appears that property is held for him in the names of nominees. If only nominees intervene in summons proceedings, the statute of limitations is not suspended. At any rate, each proceeding, which could take from one to two years, results in the discovery of leads to additional record keepers, and so on. Obviously, if taxpayer has dealt with multiple institutions which become known through this unraveling process, it may not be feasible at all to develop this type case. Had this proposal been the law, many of the famous net worth cases on prominent racketeers probably could never have been made. See, e.g., *Costello* v. *United States,* 350 U.S. 359 (1965).

2. In an audit of Contractor Jones, a revenue agent obtains documentary evidence, which Jones corroborates, of a bribe paid to Federal Procurement Officer Smith. Smith's return is audited to see if he reported the item. There are items on Smith's return which could include the bribe. Smith refuses to furnish his records from which the reported items may be checked; third-party summons are issued, and Smith intervenes. The agents foresee a year, or perhaps years, of litigation. In the meantime, the Title 18, U.S.C., offense has been referred to the Federal Bureau of Investigation and is soon ready for the grand jury. The alternatives, then, are: (1) to proceed with the Title 18 offense without the Title 26 offense, or (2) to investigate the Title 26 offense by grand jury. The result of the first choice is to weaken the case and to divide offenses which should be joined; the second choice bypasses the careful review process which is essential to uniform enforcement of the revenue laws. Often it is not a simple process to determine whether an item is or is not on a return: considerable investigation and expertise in tax law may be required.

In summary and in conclusion: This proposal would hamstring the investigative procedures of the Internal Revenue Service. It would require large manpower resources in the Internal Revenue Service, in the Tax Division, and in the Offices of the United States Attorneys. It would further overburden the Federal court system. And, most importantly, it would afford procedures whereby those who would thwart the self-assessment system could do so with impunity. Thank you, again, for permitting us to present the view of the Department of Justice on this matter.

Office of the Attorney General,
Washington, D.C., July 21, 1976.
Hon. Russell B. Long,
Chairman, Senate Committee on Finance, U.S. Senate, Washington, D.C.

Dear Senator Long: We wish to express the Administration's opposition to Section 1205 of your Committee's version of H.R. 10612, the House-passed tax revision bill.

Section 1205 would add a new Section 7609 to the Code which would require notice to the taxpayer of a summons issued to a person whose business consists "in whole or in part" of keeping records of "business transactions or affairs of other persons." The taxpayer could stay compliance by the person summoned by giving him notice not to comply, forcing the Government to seek enforcement of the summons in a United States District Court where the taxpayer would intervene to challenge the enforcement of the summons. Exceptions are provided, *inter alia,* for summonses to discover assets for purposes of collecting assessments or judgments, or if there is reason to believe notice may lead to concealment or destruction of records, intimidation, or bribery. A so-called John Doe summons could only be served after court review.

Under present law, of course, a taxpayer or third party cannot intervene in a summons enforcement proceeding unless he has a legally protectable interest, *Reisman* v. *Caplin,* 375 U.S. 440 (1964); *Donaldson* v. *United States,* 400 U.S. 517 (1971).

Any valid objection that a taxpayer may have to a tax investigation may be asserted when the investigation results in proceedings against him. If the taxpayer were given the right to force summons enforcement proceedings and to intervene therein, the number of possible enforcement proceedings in any one case would only be limited by the number of record keepers. In a complex net worth case requiring the production of thousands of documents from hundreds of institutions, corporations, or individuals, we can envision litigation in hundreds of summons enforcement cases in multiple jurisdictions. Because investigators often encounter leads to additional financial institutions only through the records of others, and because the net worth method of proof requires that all leads be exhausted (see *Holland* v. *United States,* 348 U.S. 121 (1954)), the enactment of this proposal could well spell the end of the net worth and the bank deposits method of proof for determining the tax liability of an uncooperative taxpayer.

Although taxpayer intervention would toll the running of the statute of limitations, time would still be on the side of the taxpayer because witnesses die, their memories fade, and records are lost or destroyed. It should also be noted that the statute of limitations would not be tolled when the records sought were in the names of nominees of the taxpayer and only those nominees, at the urging of the taxpayer, intervened.

Enactment of this proposal would have an immeasurable, adverse effect on the courts who would be forced to act as reviewing administrators for the taxpayers primarily benefited by this legislation—those well-financed litigants whose primary tactic is to retard the judicial process, delay the determination of their tax liability, and make litigation for the Government as expensive as possible. In our view, proposed Section 7609 would seriously impede Internal Revenue Service investigations and would degrade the quality of the criminal and civil tax cases that are presented to the courts for determination.

We have no objection to a statutory requirement of notice to a taxpayer that the Internal Revenue Service will be serving summonses on third parties. Indeed, representatives of our Tax Division and the Internal Revenue Service met with members of the Staff of the Joint Committee on Internal Revenue Taxation and discussed such a proposal with them. This proposal included a 14-day period in which taxpayer could obviate the necessity for summonses on third parties by substantiating the items on his returns.

We understand that the Finance Committee will be holding hearings on this Bill during the week of July 20, 1976. In view of the importance of this subject to tax enforcement, it is requested that a time be reserved by the Committee to permit a representative of the Department to explain our position to the full Committee.

Sincerely,

Edward H. Levi,
Attorney General.

The Secretary of the Treasury,
Washington, D.C., July 21, 1976.
Hon. Russell B. Long,
Chairman, Senate Finance Committee, U.S. Senate, Washington, D.C.

Dear Russell: I have become quite concerned that one of the provisions of Title XII of H.R. 10612, Section 1205, dealing with procedures in the use of administrative summons by the Treasury, will turn out to have a serious unintended effect.

In general, and with limited exceptions, Section 1205 provides a taxpayer with a legal right to stop a summoned third party from giving information to the Internal Revenue Service from the summoned party's own records in the course of an IRS inquiry into suspected noncompliance with the revenue laws, a right to compel the government to institute a court action in order to obtain that information from the third party, a right to be a party to that action, and a right to appeal the court's decision if he does not like the outcome.

I support the Committee's purpose in protecting taxpayer privacy and limiting the opportunity for abuse in the use of the administrative summons. However, I believe the instances of actual abuse are rare, and the provisions adopted by the Committee will have the unintended result of seriously jeopardizing the ability of the IRS to administer the revenue laws in cases of noncompliance. Also, I am alarmed over the implications of the Committee's amendment on other enforcement efforts by the Treasury and the Department of Justice.

It is possible, in my view, to protect the individual taxpayer while not undermining the government's ability to enforce the laws against serious offenders. It is essential this matter again be considered and a modification made in the Committee's amendment.

I have instructed my staff to brief the staff of the Joint Committee on Internal Revenue Taxation on my concerns and to provide them our recommended changes to this section of the bill. We are not suggesting any alterations in the protection afforded an individual under present law and current judicial decisions.

I believe that you will agree a change is required.

Sincerely yours,

William E. Simon.

July 22, 1976.

Treasury Analysis of Problems Presented by Section 1205

Section 1205 as reported by the Senate Finance Committee will require that whenever, in the course of an IRS inquiry into suspected violations of the revenue laws, the IRS serves an administrative summons on a third party record keeper, *e.g.*, a bank, to inspect the bank's business records containing information relating to the suspected violation, the Service must give a notice of the summons to the person to whom the information in those bank records pertains, ordinarily the taxpayer who is the subject of the IRS inquiry or a party related to the taxpayer. The section then gives that person the right to stop the bank from voluntarily allowing the Service to look at the bank's records. In such a case the government must commence a court action to enforce the summons. In that court action the person to whom the notice was given is provided an absolute right to intervene and standing to raise objections to the IRS obtaining the information from the bank. Either side may appeal the court's decision. This procedure is to apply even though the records sought by the summons pertain to a corporation, trust, or syndicated partnership, *i.e.*, a person who is not an individual.

Privacy is the purpose which the Committees intended be served by the provision. If enacted, however, enforcement of the internal revenue laws will be the one area of law enforcement in which the law will also provide the person suspected of violating the law with a right to have both an advance notice of the inquiry, a right to stop it at its start, a right to stop a third party from giving relevant information to the government, a right to compel the government to institute court proceedings to obtain the information from the third party, and a right to be a party and have standing in that court proceeding, as well as the attendant opportunities during all of the resulting delay to destroy evidence of his violation, collude with witnesses, or take other steps in an attempt to make sure the inquiry, if it can start up again, goes nowhere. Obviously, this is not what the Committees had in mind.

Of particular concern is the fact that the more serious the suspected noncompliance with the revenue laws, the more useful and valuable will section 1205 be for the tax evader. As an example, assume the suspected violation is a tax evasion scheme involving several individuals operating through several different corporations, trusts or other entities. The IRS will have very little verified detail at this point but is charged by law to make inquiries and investigations to determine whether what is suspected is in fact the case. The investigation will require the painstaking seriatim checking of information from each of many different third-party sources, the information from the first source providing verification of some detail and a lead to the next source, and so on. Thus, a series of summonses may be necessary to obtain this information, each addressed to a different bank in a different location. When the first summons is served on a bank to look at the bank's records pertaining to one of the persons involved in the suspected evasion, *e.g.*, the suspected evader, his wholly-owned corporation, a dummy trust, etc., section 1205 will require that individual or entity be given notice the summons was served on the bank. That person will then notify the bank not to give the information.

The government will then have to begin a court action against the bank, the person to whom the bank records pertain will intervene in that action and appeal to a higher court if the decision goes against him. A year or more will have expired before appeals are exhausted. Meanwhile the IRS does not have even the information from the first source and is thus without verification of details and leads to the second source. When it finally obtains the information from the first bank and thus the lead to the second, and it serves a summons on the second bank, the entire process of notice, objection, court action, intervention, and appeals will start all over again, perhaps even in a different judicial district. Also, by the time the IRS is able to obtain information from the first or second bank, leads to other sources obtained from that information will prove barren because that source and its information will long since have disappeared or become otherwise unavailable.

Obviously, the more serious the suspected tax violation and the more culpable the evader, the more certain the foregoing will be the natural response to the initial inquiry the IRS is obliged to make; and, ironically, the more sophisticated and financially able the tax evader, the more able he will be to afford using section 1205 for this obviously unintended purpose.

The potential for protracted delay and unnecessary interference with enforcement of the revenue laws can also be seen in even a simple tax evasion case based upon one of the usual methods for proving such a case, *viz*, net worth method, bank deposit method, or cash or net expenditures method. Where one of these methods is used, case law requires the IRS locate and inspect all bank accounts, savings accounts, institutions where loans have been made, and other entities where the taxpayer may have obtained nontaxable funds, in order to properly give him credit in the foregoing computations. In order to do so it is necessary to contact these entities in the area where the taxpayer resides or where he does business. If this taxpayer happens to be doing business in a large city, this may require contacting numerous institutions. It is obvious that if the taxpayer in question conducted business in various parts of the United States, the foregoing task would be magnified many times. Add to this the very real probability that the enactment of section 1205 in its present form will lead to an increase in the number of instances in which such institutions will request a summons, thus triggering the notice, stay of compliance, necessity of commencing a court action, intervention by the taxpayer and appeals described above, and the probable result will be inability to move an examination into alleged tax evasion except at an exceedingly slow pace with enormous cost to the government, the courts, and the summoned third party which must also be subjected to these court actions. A similar problem faces the IRS in determining whether a non-filer had an obligation to file. Many institutions may have to be contacted for the IRS to obtain the information necessary to make this determination.

The magnitude of the problem may be seen from data collected by IRS showing that it had to serve approximately 15,000 summons during the period February through May, 1976, on third parties who were banks, savings and loans, brokerage houses, credit unions, insurance companies, and taxpayer's representatives (*e.g.*, attorneys and accountants). An estimated 2,200 of these summons were served during this period in aid of collecting a tax debt (a category of summons exempted from section 1205). This leaves approximately 12,800 summons served during this four-month period which would have been potentially tied up in litigation had section 1205 been in force. Projected to a 12-month period, the figures would be 38,400.

The Senate version of section 1205 does include a limited exception dispensing with the notice and intervention procedures provided the government can convince a court in advance there is reasonable cause to believe the giving of notice may lead to destruction of records, collusion with or intimidation of witnesses, or flight. The scope of this exception, however, will provide little protection against the abuse described above. Although potentially helpful in cases involving racketeers with known records or predisposition to bribery, violence, or flight, it would not appear to fit the case of a tax evasion scheme involving persons not in that category. Further, it affords scant protection against abuse of section 1205 in the early stages of an inquiry. The investigation has to start somewhere, and in the early stages the IRS will not likely have information sufficient to make out a case for the exception, *i.e.*, reasonable cause to believe flight, destruction, intimidation, etc., may occur. Yet if the verification of the suspected violation is in the records of a number of different third parties, something which the IRS is trying to ascertain, it is this early stage of investigation which is most vulnerable to abuse under section 1205, providing as it does, a means of preventing for a protracted period the IRS obtaining even initial verification of certain details and leads to further success.

Further, the suspension of the running of the statute of limitations provided by the Senate version of section 1205, though helpful, is not the answer since it applies only when the taxpayer, not his corporation, partner, trust, accountant, lawyer, etc., stays compliance. Furthermore, it would not solve the problem of evidence and witnesses becoming unavailable or otherwise lost during the protracted delays.

The crux of the problem lies in the fact that section 1205 goes beyond requiring the IRS give notice to the taxpayer when, in the course of its inquiry, it turns to obtaining information from third-party sources upon the first service of the first third-party summons. The real problem lies in the provisions of the section which then provide that taxpayer with an absolute right to stop compliance with that summons and compel the government to institute litigation in which the taxpayer will be guaranteed the right to intervene with standing as a party. As a practical matter, the intended objective of providing the taxpayer with a means of defending against unwarranted invasion of privacy can be accomplished without the necessity of giving the taxpayer these latter powers.

ADMINISTRATIVE OFFICE OF THE
U.S. COURTS,
Washington, D.C., July 20, 1976.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: I write to you today to express my concern in respect of the potential impact of Section 1205 of your Committee's version of the Tax Reform Bill of 1976, H.R. 10612, 94th Cong., 1st Sess., on the judicial branch of the federal government

Pursuant to section 7602 of the Internal Revenue Code of 1954, the Secretary of the Treasury or his delegate is authorized to issue what has been referred to as an administrative summons to require the production of books, papers, records, or other data for examination relevant to a lawful inquiry concerning any internal revenue tax return or liability. The summons may be directed to a taxpayer under investigation or to any third-party having possession, custody, or care of the materials sought for examination. Testimony of such persons, including testimony under oath, also may be required. The summons may be enforced by a United States district court pursuant to Int. Rev. Code of 1954, §§ 7604, 7402(b). Penalties for failure to obey a summons are provided in Int. Rev. Code of 1954, § 7210.

Section 1205 of the Tax Reform Bill of 1976, *supra*, if enacted will add a new section 7609 to Internal Revenue Code of 1954 [hereafter referred to as proposed section 7609]. Proposed section 7609 adds new procedural requirements in respect of an administrative summons served on a third-party who is a record keeper. If a record keeper is served with a section 7602 summons requiring the production of (or testimony with respect to) any portion of records made or kept of the business transactions or affairs of any individual [generally the taxpayer under investigation and hereinafter referred to as such] identified in such summons, notice shall be given to any taxpayer so identified, provided no notice is required if the summons is in aid of collection of the liability of any person against whom an assessment has been made or a judgment rendered. Notwithstanding any other law or rule of law, any taxpayer entitled to such notice shall have the right to intervene in any section 7604 enforcement proceeding and further, shall have the right to stay compliance with the summons by the third-party record keeper by giving the requisite written notice as prescribed in the proposed section. Action on the part of a taxpayer to stay compliance causes the tolling of statutes of limitations in respect of his liability for tax for past taxable years and to criminal prosecution. If the taxpayer gives the prescribed notice, absent his subsequent consent the government may not examine the records required to be produced pursuant to that summons prior to obtaining an order of authorization to examine from a court of competent jurisdiction. Apparently jurisdiction over authorization proceedings is vested in the United States district courts pursuant to Int. Rev. Code of 1954, § 7402(a). In accordance with criteria prescribed in the proposed section, the government may petition the court in an ex parte proceeding for authorization to dispense with notice requirements in respect of a particular taxpayer. If the court grants the petition, the taxpayer further loses his right to stay compliance by the third-party record keeper. It is unclear whether he also loses the right to intervene in any enforcement proceeding. Any "John Doe" summons to be served on a third-party record keeper must be authorized in advance by a United States district court. Finally, proposed section 7609 requires that an enforcement proceeding and any "proceeding under this section" take precedence on the docket over all other cases, except as to other cases the court considers of greater importance.

A summary of statistics relevant to civil caseloads in United States district courts is included in Attachment A to this letter. From these statistics, it is clear that there has been a dramatic and progressive nationwide increase in the civil filings in United States district courts. The number of civil cases pending at the close of each reporting period also continues to rise at an alarming rate. For example, in Fiscal Year 1975, the last full fiscal year for which figures are available, 117,320 civil cases were filed in federal district court. Of this total, 31,779 cases involved the United States as either plaintiff or defendant, and 1,673 of these were classified as tax suits. At the close of Fiscal Year 1974, 107,230 civil cases remained pending. The same figure for Fiscal Year 1975 is 119,767. At the close of the first half of Fiscal Year 1976, the number had risen to 133,775.

These figures should be compared with the estimated potential number of administrative summonses which would be subject to the procedural requirements of proposed section 7609. Using figures supplied by the Internal Revenue Service, Attachment B computations result in an estimate of 38,400 such summonses annually.

Under proposed section 7609, these summonses represent not only the potential for actions by the government to obtain authorization to examine records and actions in aid of enforcement of such summonses, but also a potential source of many types of spin-off litigation. Litigation which may be fostered by the proposed legislation includes actions to determine sufficiency of notice, to define "record keeper", to determine the rights which may be raised exclusively by the record keeper, to determine the propriety of exeception-from-notice proceedings and John Doe authorization proceedings, and to determine if suppression is an appropriate remedy for failure of the government to comply with the requirements of proposed section 7609. In addition, it is likely that sources which formerly provided data without requiring a summons will begin requesting summonses in the future, thus causing the total number of summonses to increase.

It is clear from the sheer magnitude of this investigatory program that even if only a relatively small proportion of the summonses results in new litigation, the impact upon the federal judiciary will be staggering and could be crippling.

At the direction of the Judicial Conference of the United States, I transmitted on January 15, 1975, for the consideration of Congress two proposed bills to provide for, respectively, the creation of thirteen additional circuit judgeships for the United States Courts of Apeals, and the creation of fifty-two additional district judgeships for the United States District Courts. These proposals were based upon the then current civil and criminal caseloads of federal judges. Although the Senate has passed a bill providing for forty-four new district judgeships (S. 287 (April 1, 1976)) and a bill providing for seven new circuit judgeships (S. 286 (Oct. 2, 1975)), the fact remains that no new district judgeships have been created since 1970 and no new circuit judgeships have been created since 1968.

On January 3, 1975, the Speedy Trial Act of 1974, Pub. L. No. 93–619, 88 Stat. 2076 [hereinafter referred to as the Speedy Trial Act] became law. Title I of this act mandates specific time limits for many phases of the process of bringing criminal defendants to trial in federal district courts. When fully implemented, this legislation is expected to have a particularly heavy impact upon the work of the federal judiciary. Its effects already are being felt. Effective July 1, 1976, the first set of comprehensive time limits prescribed by 18 U.S.C. §§ 3161 (b), (c), (f), and (g) (Supp. IV, 1974), became operational. More stringent time limits become operational the first day of every July until July 1, 1979, when the final, most strict time limits become effective. As a result of the implementation process, an ever-increasing proportion of judicial resources continues to be devoted to criminal trials. The pending civil caseload continues to grow as a consequence of both this fact and the accelerated rate of new filings. Our estimates in 1975 indicated that an additional fifteen to twenty judgeships, over and above the sixty-five requested in the proposed bills, would be necessary to cope with the demands of the Spéedy Trial Act in respect of criminal cases and to permit the trial of civil cases to continue.

As Attachment A further indicates, the median time intervals from filing to disposition for civil cases involving trials all exceed one year. With the dedication of an ever-increasing proportion of judicial resources to criminal trials, these median times can be expected to increase. I can foresee only even greater time intervals between filing and disposition in civil cases.

These problems can only be exacerbated by new types of litigation. With new legislation, an evolutionary process usually takes place and caseloads usually grow gradually. In respect of proposed section 7609, however, direct, immediate, and substantial consequences can be anticipated unless the Internal Revenue Service abandons completely the administrative summons as an investigatory tool with respect to third-party record keepers. Furthermore, the impact will be not only on litigation involving the administrative summonses, but also on all types of civil litigation pending in federal district courts.

I note with concern also the inclusion in proposed section 7609 of a provision giving priority to actions in respect of administrative summonses. In accordance with proposed subsection 7609(h) (2):

"Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date."

If the priority provision of proposed section 7609 were enacted, it would constitute at least the thirtieth statute calling for the expediting of cases on the dockets of federal courts. Unfortunately, there is no general rule for the ordering of priorities in federal courts contained in the United States Code. Furthermore, for the most part there are no priorities among the priorities established by previous enactments.

The language contained in this proposed section is very similar to the priority provision of the Freedom of Information Act, 5 U.S.C. § 552(a) (4) (D) (Supp. IV, 1974). Although it provides priority over all cases, the provision is effective subject to the discretion of the court concerning cases of greater importance.

As a consequence of this clause invoking the discretion of the court, it would appear that priority afforded under proposed section 7609 will be inferior to priority granted civil actions arising under statutes mandating a first precedence. Furthermore, and more importantly, for the reasons set forth earlier detailing the necessity of dedicating a greater proportion of judicial resources to criminal trials to achieve compliance with the Speedy Trial Act, your Committee should take no comfort in any priority provision with respect to civil actions. Even for civil actions which are afforded priority status, it is evident that speedy trials will be impossible and that inordinate delays may be anticipated in all civil litigation.

The position of the Chief Justice of the United States concerning the creation of new judgeships is well known. In a recent address before the National Conference on the Administration of Justice in St. Paul, Minnesota, he stated that the sixty-five proposed judgeships were "desperately needed" to deal with the current workload of the federal judiciary.

It is with appreciation for these problems concerning court caseloads and workloads for individual judges that I analyze proposed section 7609. While I am concerned with the prospect of ever-increasing delays in the disposition of civil actions, I would be remiss if I failed to point out the premonition of the Supreme Court in *Donaldson* v. *United States*, 400 U.S. 517 (1971). This case articulates the Court's resolution of the problem of the right of a taxpayer to challenge a third-party administrative summons. In holding that a taxpayer may not intervene in an enforcement action unless he can articulate a "significantly protectable interest," the protection of which otherwise would be impaired or impeded, the Court stated that to hold otherwise and grant an absolute right to intervene would "stultify" the Internal Revenue Service's every investigative move. *Donaldson, supra*, 400 U.S. at 531 and 536.

One of the purposes of proposed section 7609 is to overrule the holding of the Supreme Court in *Donaldson* in respect of the taxpayer's right to intervene in an enforcement action. Proposed section 7609 would grant every taxpayer the absolute right to intervene regardless of the existence of a "significantly protectable interest," the protection of which otherwise would be impaired or impeded, and the "usual process of balancing opposing equities." *Donaldson, supra,* 400 U.S. at 531.

The report of your Committee emphasizes that the administrative summons is a necessary investigative tool for the Internal Revenue Service. S. Rpt. No. 94–938, 94th Cong., 2d Sess. 367–374 (June 10, 1976). At the same time, it is the intent of your Committee to protect from unreasonable infringement the civil rights of taxpayers, including the right to privacy. The report makes clear that the Committee believes the approach taken will afford a "reasonable and *speedy*" means to challenge such summonses. S. Rpt. No. 94–938, *supra,* at 368 (emphasis added). Further, the Committee intends that any taxpayer still will be able to assert any defense available to him with respect to any evidence obtained by summons in any later court action in which the taxpayer is involved, regardless of whether he waives his rights under proposed section 7609. S. Rpt. No. 94–938, *supra,* at 370. However, it is clear that these provisions are not intended to expand or create any new substantive rights of taxpayers. S. Rpt. No. 94–938, *supra,* at 370. Finally, the report states as follows:

> "The Committee does not wish these procedures to so delay tax investigations by the [Internal Revenue] Service that they produce a problem for sound tax administration greater than the one they seek to solve. Accordingly, the Committee amendment provides that the disposition of court actions involved be heard on as expeditious a schedule as possible." S. Rpt. No. 94–938, *supra* at 371.

Since the Committee purports to grant no new substantive rights to taxpayers, it is important to question how the grant of an absolute right to intervene impacts upon normal judicial principles of standing. With respect to the doctrine of standing, it is inescapable that judicial policy determinations have blended with Constitutional limitations. See *Flast* v. *Cohen,* 392 U.S. 83 (1968). The doctrine of standing is related intimately to the Constitutional requirement that there must be a justiciable case or controversy before a federal court can act. See *Massachusetts* v. *Mellon,* 262 U.S. 447 (1923). A court must decide a judicial controversy, not assume a position of authority over the governmental acts of another and coequal branch, an authority not possessed by the federal judiciary. *Massachusetts* v. *Mellon, supra.* Court developed doctrines such as standing have been founded upon a recognition of the necessity, if government is to function constitutionally, for each branch to keep within its power, including the courts, and a recognition of the inherent limitations of the judicial process, arising especially from its largely negative character and limited resources of enforcement. See *Rescue Army* v. *Municipal Courts,* 331 U.S. 549 (1947).

My purpose in expressing my views on proposed section 7609 is not to offer an opinion in respect of matters which are of a legislative policy nature. At the same time, I believe it is imperative that Congress should have relevant information regarding the impact of new legislation upon the Judiciary's continuing ability to fulfill its responsibilities and perform its functions in our government.

For all of the reasons set forth above, I believe proposed section 7609 contains the potential for adding a staggering and devastating new element to the workload of federal district courts. At the present time when more and more judicial resources are being consumed by criminal trials, we operate under the fear that the caseloads of federal judges may reach the breaking point. We risk impairing the standards of justice and denying civil litigants their day in court.

I can foresee the possibility of the federal courts becoming the final arbiter of how and when administrative summonses may be used not as a consequence of decisional case law, but as a consequence of the failure of the judiciary to adjudicate in a timely manner the many actions pending on civil court calendars.

Sincerely,

ROWLAND F. KIRKS,
Director.

Attachments.

ATTACHMENT A

U.S. DISTRICT COURT STATISTICS

	Fiscal year		
	1974	1975	1976 (1st half)
All civil cases:			
Filed	103, 530	117, 320	65, 061
Terminated	97, 633	104, 783	51, 053
Pending (at close)	107, 230	119, 767	133, 775
U.S. civil cases:			
Filed	27, 585	31, 779	19, 784
Terminated	26, 702	27, 949	14, 677
Pending (at close)	22, 325	26, 155	31, 262
U.S. civil tax cases:			
Filed	1, 872	1, 673	840
U.S. plaintiff	458	381	213
U.S. defendant	1, 414	1, 292	627
Terminated	1, 706	1, 761	740
Pending (at close)	2, 415	2, 327	2, 427

MEDIAN TIME INTERVALS FROM FILING TO DISPOSITION (MONTHS)

All civil cases	9	9	8
No court action	7	7	6
Court action:			
Before pretrial	8	7	6
During or after pretrial	16	16	15
Trial	16	16	16
U.S. civil cases	6	6	6
No court action	4	4	4
Court action:			
Before pretrial	7	7	6
During or after pretrial	15	15	14
Trial	16	15	13
U.S. civil tax cases	12	12	12
No court action	9	11	9
Court action:			
Before pretrial	8	9	7
During or after pretrial	19	17	16
Trial	20	17	20

Note: Excerpts from—(1) Annual Report of the Director of the Administrative Office of the U.S. Courts 1975, app. I; (2) Semi-Annual Report of the Director of the Administrative Office of the U.S. Courts 1976, appendix; (3) Annual Report of the Director of the Administrative Office of the U.S. Courts 1974, app. I.

ADMINISTRATIVE SUMMONSES

	February to May 1976	Estimate 12-mo period
Summonses issued:		
Total	28, 500	85, 500
3d party	20, 500	61, 500
Recordkeepers [1]	[2] 15, 000	45, 000
Other	5, 500	16, 500
Summonses issued in aid of collection:		
Total	5, 500	16, 500
3d party		
Recordkeepers	[3] 2, 200	6, 600
Other		
Summonses potentially subject to proposed sec. 7609 requirements [4]		38, 400

[1] Defined as banks, savings and loan associations, credit unions, brokerage houses, insurance companies, and taxpayers representatives (including attorneys and accountants).

[2] Approximately 5,500 of 15,000 were issued by collection function of IRS. Of this total 60 percent (or 3,300) issued by collection function were not in aid of collection.

[3] Estimated.

[4] Computed as follows: Summonses issued to 3d-party recordkeepers (45,000) less summonses issued to 3d-party recordkeepers in aid of enforcement (6,600) equals 38,400. [Summonses issued to 3d-party recordkeepers in aid of enforcement equals 40 percent of summonses issued by collection function annualized—see footnote (2) (40 percent × 5,500 × 3=6,600).]

Source: Computations based upon figures supplied by the Internal Revenue Service.

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND TO RESUME CONSIDERATION OF S. 2212 AND H.R. 10612

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business of not to exceed 30 minutes with statements limited therein to 5 minutes each, at the conclusion of which the Senate resume consideration of S. 2212, the bill to amend the Omnibus Crime Control and Safe Streets Act, and that at the hour of 2 p.m., or not later than the hour of 2 p.m., the Senate resume consideration of the unfinished business, the tax reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE RECORD OF THE 94TH CONGRESS—MESSAGE FROM THE PRESIDENT

The Presiding Officer laid before the Senate a message from the President of the United States which was ordered to lie on the table.

(The message from the President is printed in today's House proceedings.)

Mr. GRIFFIN. Mr. President, today the President sent to the Congress a message in writing having to do with his legislative agenda. Will that automatically be printed in the RECORD or does it require unanimous consent?

The PRESIDING OFFICER. It is the understanding of the Chair that the House will print it in total and the Senate will cross-reference it.

Mr. GRIFFIN. I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 9 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order there will be a period for the transaction of routine morning business of not to exceed 30 minutes with statements therein to be 5 minutes each. At the conclusion of routine morning business the Senate will resume consideration of S. 2212, the Omnibus Crime Control and Safe Streets Act. The pending question at that time will be on the adoption of the amendment by Mr. BAYH, amendment No. 2048. There will be rollcall votes on amendments and motions in relation to the bill, S. 2212. Action will continue thereon until no later than the hour of 2 p.m., at which time the Senate will resume consideration of the tax reform bill with amendments thereto in order and votes occurring thereon.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 6:58 p.m., the Senate adjourned until tomorrow, Friday, July 23, 1976, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 22, 1976:

THE JUDICIARY

Donald G. Brotzman, of Colorado, to be U.S. district judge for the district of Colorado, vice Alfred A. Arraj, retiring.

CONSUMER PRODUCT SAFETY COMMISSION

Thaddeus A. Garrett, Jr., of Ohio, to be a Commissioner of the Consumer Product Safety Commission for a term of 7 years from October 27, 1975, vice Richard O. Simpson, term expired.

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be members of the board of directors of the Corporation for Public Broadcasting for terms expiring March 26, 1982:

Charles H. Crutchfield, of North Carolina, vice Robert S. Benjamin, term expired.

Clyde M. Reed, of Kansas, vice Frank E. Schooley, term expired.

Charles W. Roll, Jr., of New Jersey, vice Thomas W. Moore, term expired.

Leslie N. Shaw, of California, vice Virginia Bauer Duncan, term expired.

Paul M. Stevens, of Texas, vice Jack Wrather, term expired.

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, section 3447:

ARMY PROMOTION LIST

To be colonel

Bragalone, Raymond A., [redacted].
Chisolm, Patrick D., [redacted].
Crum, Luther G., Jr., [redacted].
Erkelens, Henri F., [redacted].
Jay, James W., [redacted].
Kershner, Clark L., [redacted].
Young, James H., [redacted]. .

VETERINARY CORPS

To be colonel

Eddy, Gerald A., [redacted].

ARMY NURSE CORPS

To be colonel

Barbieri, Marian G., [redacted].

ARMY PROMOTION LIST

To be lieutenant colonel

Abbey, Charles W., [redacted].
Abernethy, Robert J., [redacted].
Abrams, Creighton W., [redacted].
Acinapura, Joseph N., [redacted].
Adams, Joseph F., [redacted].
Adamson, Edwin T., [redacted].
Adcock, Jerry W., [redacted].
Agee, Robert T., [redacted].
Albers, Darwin D., [redacted].
Alderson, Kenneth M., [redacted].
Alexander, Terry L., [redacted].
Allard, John A., [redacted].
Allred, James R., [redacted].
Allshouse, Marcia A., [redacted].
Alvis, John M., [redacted].
Anderson, Charles J., [redacted].
Anderson, John E., [redacted].
Anderson, Phil C., [redacted].
Andrews, James H., [redacted].
Andrews, John W., [redacted].
Andrews, William R., [redacted].
Anjier, Louis J., [redacted].
Anselm, Donald C., [redacted].
Arbogast, Gordon W., [redacted].
Armstrong, Robert C., [redacted].
Arnold, Billy R., [redacted].
Arnold, Joseph E., [redacted].
Ashley, Adrian A., [redacted].
Asiello, John F., [redacted].
Askew, Lattice Jr., [redacted].
Atkinson, John H. II, [redacted].
Aucoin, James S., [redacted].
Authier, Edward E., [redacted].
Avery, John J., [redacted].
Axtell, Richard C., [redacted].
Ayers, Thomas III, [redacted].
Babbitt, Leroy A., [redacted].
Bacon, Carlton E., [redacted].
Bacon, William E., [redacted].
Bailey, Glenn A., [redacted].
Bailey, William E., [redacted].
Bains, William J., [redacted].
Baird, Norval E., [redacted].
Baker, Alfred W., [redacted].
Baker, Donald D., [redacted].
Baker, Mark A., [redacted].
Baker, Rudolph, [redacted].
Bakkeby, William M., [redacted].
Baldwin, Byron S., [redacted].
Banks, New V., [redacted].
Banning, Raymond D., [redacted].
Barbour, Donald A., [redacted].
Barclay, Douglas H., [redacted].
Barney, Daniel G., [redacted].
Barr, Grady W., [redacted].
Bartlett, Charles M., [redacted].
Bartlett, Henry D., [redacted].
Bassett, Sterling P., [redacted].
Batts, Robert W., [redacted].
Baumgarten, John R., [redacted].
Bavis, Robert J., [redacted].
Bayer, Lawrence W., [redacted].
Beal, Patrick G., [redacted].
Beckett, George T., [redacted].
Beckett, Ronald L., [redacted].
Becking, Ernest A., [redacted].
Beebe, Merrell S., [redacted].
Behrens, Robert W., [redacted].
Belenski, Alexander, [redacted].
Bell, Edward F., [redacted].
Benca, John P., [redacted].
Bender, Joseph F., [redacted].
Bender, Lynn A., [redacted].
Benning, Robert M., [redacted].
Bennis, John M., [redacted].
Bent, Robert E., [redacted].
Benton, Hubert F., [redacted].
Bentz, Willim A., [redacted].
Benvenuto, James V., [redacted].
Bergeron, Andrew L., [redacted].
Berinato, John, Jr., [redacted].
Berk, Clarence G., [redacted].
Berkley, Clyde J., [redacted].
Berman, Jay M., [redacted].
Bernardi, Roger L., [redacted].
Bertish, George D., [redacted].
Bertocci, David I., [redacted].
Biegel, Alfred, [redacted].
Bierden, Donald F., [redacted].
Bilund, James A., [redacted].
Bisantz, Anthony E., [redacted].
Bizic, Peter, Jr., [redacted].
Black, Wendell W., [redacted].
Blackburn, John T., [redacted].
Blackstone, Anthony, [redacted].
Blair, Larry A., [redacted].
Blair, Patrick J., [redacted].
Blair, William J., [redacted].
Blanchard, Frederick D., [redacted].
Blanda, Frank T., [redacted].
Blount, Howard P., [redacted].
Blue, James R., [redacted].
Boland, Raymond G., [redacted].
Bolton, Peter A., [redacted].
Bondshu, Arthur F., [redacted].
Bonthuis, Robert E., [redacted].
Bonville, George P., [redacted].
Book, Claire E., [redacted].
Boozer, Wilburn L., [redacted].
Borden, Donald F., [redacted].
Bortel, James L., [redacted].
Bosserman, David C., [redacted].
Bottoms, Bernard L., [redacted].
Bourland, James T., [redacted].
Bowen, Earl T., [redacted].
Bowers, Billy J., [redacted].
Bowers, Paul G., [redacted].
Bowles, Norborn S., [redacted].
Boyd, Quinton P., [redacted].
Boyd, Reese L., [redacted].
Boyd, Thomas J., [redacted].
Bradford, Loyce A., [redacted].
Bradford, William B., [redacted].
Bradley, Larry E., [redacted].
Bradshaw, James D., [redacted].
Brady, Noel P., [redacted].
Bragg, Stacy C., [redacted].
Brandon, Eddie L., [redacted].
Brannon, John D., [redacted].
Brauch, Gilbert M., [redacted].
Brauer, Paul F., [redacted].
Braxton, George H., [redacted].
Brayboy, James E., [redacted].
Breit, William M., [redacted].
Breland, Marshall W., [redacted].
Brennan, Lawrence, [redacted].
Brennan, Richard P., [redacted].
Brice, Donald A., [redacted].
Bridgman, Cain A., [redacted].
Briggs, Joseph, [redacted].
Brisker, Morton S., [redacted].
Britton, Johnnie W., [redacted].
Britton, Joseph D., [redacted].
Brizee, Harold R., [redacted].
Brock, Orvile L., [redacted].
Brookshire, George, [redacted].
Brown, Earl D., [redacted].
Brown, Edward A., [redacted].
Brown, Elwyn L., [redacted].
Brown, James P., [redacted].
Brown, Robert A., [redacted].
Brown, Robert E., [redacted].
Browning, Clifton J., [redacted].
Broyles, Robert F., [redacted].
Brumblay, Robert H., [redacted].
Brummett, Henry U., [redacted].
Bruner, Edward F., [redacted].
Brunson, Jackie L., [redacted].
Bryans, Wallace A., [redacted].
Buckner, Richard A., [redacted].
Bulger, Dennis B., [redacted].
Bunton, Terry R., [redacted].
Burch, Charles G., [redacted].
Burch, Edgar F., [redacted].
Burgess, Peter D., [redacted].
Burgin, Charles M., [redacted].
Burke, Charles G., [redacted].
Burke, Paul F., [redacted].
Burleson, Dale D., [redacted].
Burlingame, John C., [redacted].
Burns, Frank L., [redacted].
Burns, James E., [redacted].
Burns, Ray L., [redacted].
Burns, Robert A., [redacted].
Burns, William C., [redacted].
Burton, Lance J., [redacted].
Busdiecker, Roy F., [redacted].
Butler, Irvin S., [redacted].
Butler, Perry C., [redacted].
Butts, Don E., [redacted].
Byers, Donald M., [redacted].
Byrd, Joseph L., [redacted].
Byrne, Alan H., [redacted].
Byrnes, James B., [redacted].
Cabrinha, Joseph W., [redacted].
Cady, Stephen A., [redacted].

Cain, Carolyn H., [redacted].
Cairns, Robert B., [redacted].
Callander, Robert D., [redacted].
Campbell, Dale G., [redacted].
Campbell, Stanley W., [redacted].
Campbell, Verne D., [redacted].
Candler, Harry W., [redacted].
Canonico, Dolores, [redacted].
Carboni, John N., [redacted].
Carey, Carl D., [redacted].
Carey, William R., [redacted].
Carlsen, Donald D., [redacted].
Carr, Edward L., [redacted].
Carr, Richard M., [redacted].
Carter, Robert A., [redacted].
Carson, James M., [redacted].
Carson, Robert A., [redacted].
Carter, Norman D., [redacted].
Casani, Andrew B., [redacted].
Case, David W., [redacted].
Case, James W., [redacted].
Castleman, Robert J., [redacted].
Castro, John P., [redacted].
Cates, William E., [redacted].
Celata, Donald V., [redacted].
Chamberlin, Charles, [redacted].
Chambers, James E., [redacted].
Champagne, Shelton, [redacted].
Champion, John E., [redacted].
Chancey, Jeff E., [redacted].
Chandler, Richard J., [redacted].
Chandler, William S., [redacted].
Channon, James B., [redacted].
Chaplinski, Charles, [redacted].
Chapman, Donald R., [redacted].
Cherry, Jack W., [redacted].
Chesney, Ralph M., [redacted].
Chester, Michael Q., [redacted].
Chinen, Paul Y., [redacted].
Chladek, Gary F., [redacted].
Christopher, John C., [redacted].
Christophersen, Frederick, [redacted].
Chun, Merton M., [redacted].
Chunco, William R., [redacted].
Ciccarelli, John E., [redacted].
Ciraulo, Robert L., [redacted].
Claassen, Walter E., [redacted].
Clanzy, Rufus F., [redacted].
Clark, Herman J., [redacted].
Clark, Vernon L., [redacted].
Clarke, Richard D., [redacted].
Clement, Robert D., [redacted].
Cleveland, Clyde K., [redacted].
Click, Ira M., [redacted].
Clough, Stanley M., [redacted].
Coates, Richard R., [redacted].
Coburn, John G., [redacted].
Coffee, Charles W., [redacted].
Cole, Julian V., [redacted].
Cole, Perry E., [redacted].
Cole, Richard B., [redacted].
Cole, Warner B., [redacted].
Coleman, Ronald A., [redacted].
Coley, William Jr., [redacted].
Collier, William P., [redacted].
Collins, Clifton E., [redacted].
Collins, Jon D., [redacted].
Comfort, Gary L., [redacted].
Cone, Billy J., [redacted].
Conner, Dan A., [redacted].
Conrad, Joseph C., [redacted].
Contos, Charalampos, [redacted].
Conway, Peter, [redacted].
Cook, Clariss M., [redacted].
Cook, Rollie D., [redacted].
Cooke, Joseph D., [redacted].
Cooksey, James K., [redacted].
Coonelly, Thomas F., [redacted].
Cooper, Nelson J., [redacted].
Copeland, Richard L., [redacted].
Corcoran, George M., [redacted].
Corcoran, James R., [redacted].
Cornelson, John C., [redacted].
Coseo, David P., [redacted].
Coughlin, James P., [redacted].
Coulter, Holland B., [redacted].
Counts, John E., [redacted].
Cours, John D., [redacted].
Courson, Donnie C., [redacted].
Covington, Benjamin, [redacted].
Cowan, Bruce M., [redacted].
Cowling, Bobby W., [redacted].
Cox, Laddie M., [redacted].
Craft, Jack J., [redacted].
Crew, David E., [redacted].
Crews, Ephraim W., [redacted].
Crisler, Herbert T., [redacted].
Crittenden, John H., [redacted].
Cronin, George, [redacted].
Crook, Louis M., [redacted].
Cropsey, Karl S., [redacted].
Crowther, James I., [redacted].
Crumley, Dennis V., [redacted].
Crump, Harry F., [redacted].
Culp, Dennis K., [redacted].
Cundiff, Brian H., [redacted].
Cunningham, Donald, [redacted].
Cunningham, Frank I., [redacted].
Curbow, Elmer E., [redacted].
Curcio, Anthony J., [redacted].
Custer, Bert H., [redacted].
Cuttino, Peter F., [redacted].
Czechut, Mark, [redacted].
Dacas, Kenneth J., [redacted].
Daignault, David W., [redacted].
Daly, Jerome R., [redacted].
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Delora, Jo A., [redacted].
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Meier, William C., [redacted].
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Pope, Cecil D., [redacted].
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Quickmire, Carl R., [redacted].
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Raab, Robert H., [redacted].
Racine, Armand E., [redacted].
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Ramsey, Yancy S., [redacted].
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Reitz, Wilson, Jr., [redacted].
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Renn, John W., [redacted].
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Residori, Lawrence, [redacted].
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Rice, Lewis A., [redacted].
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Ringmacher, Nelson, [redacted].
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Robert, Emile A., [redacted].
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Rochon, Everette C., [redacted].
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Rodriguez, Robert, [redacted].
Rohr, Paula M., [redacted].
Romano, Thomas A., Jr., [redacted].
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Vamvakias, Nicholas, [redacted].
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Word, Alan A., [redacted].
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Wulf, Bruce L., [redacted].
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Wynn, Robert E., [redacted].
Yamachika, Roy T., [redacted].
Yeomans, William A., [redacted].
York, Val D., [redacted].
Young, Danny A., [redacted].
Yrjanson, Robert E., [redacted].
Yule, Richard G., [redacted].
Zaleski, Stephen J., [redacted].
Zaremba, Walter C., [redacted].
Zielenski, Peter T., [redacted].
Zimmerman, John B., [redacted].
Zimmers, Joe L., [redacted].
Zipperer, Frank E., [redacted].
Zynda, Gerald I., [redacted].

CHAPLAIN CORPS

To be lieutenant colonel

Allen, Bobby G., [redacted].
Askew, Reuben S., [redacted].
Bruns, James D., [redacted].
Burnett, Donald O., [redacted].
Clanton, Charles T., [redacted].
Cunningham, Aaron J., [redacted].
Curtiss, John B., [redacted].
Daniels, Barnabas P., [redacted].
Delahunty, Thomas P., [redacted].
Dodd, Joseph K., [redacted].
Downes, Thomas J., [redacted].
Erickson, Ralph D., [redacted].
Fagan, Walter G., [redacted].
Farriester, Clifford, [redacted].
Flower, Edward E., [redacted].
Ford, John D., [redacted].
Ford, Martin M., [redacted].
Fraser, John R., [redacted].
Geary, Wesley V., [redacted].
Graham, William H., [redacted].
Graves, Joseph A., [redacted].
Hajtas, Francis, [redacted].
Hall, Glenn P., [redacted].
Hill, Donald G., [redacted].
Hollis, William R., [redacted].
Howells, Carlton R., [redacted].
Johnson, Leroy, [redacted].
Keene, Jack, [redacted].
Knutsen, Roger B., [redacted].
Konynenbelt, Marvin, [redacted].
Logue, Charles D., [redacted].
Manly, Charles G., [redacted].
Pearson, John C., [redacted].
Petcovic, William L., [redacted].
Pusey, Paul M., [redacted].
Scilley, George R., [redacted].
Sharber, Pete, [redacted].
Smith, Billy T., [redacted].
Southwell, Robert E., [redacted].
Sutherland, Jack E., [redacted].
Torer, Roland R., [redacted].
Tucker, Walter C., [redacted].
Vanderland, Elwin C., [redacted].
Vaughan, Curry N., [redacted].
Vruwink, Paul H., [redacted].
Warren, Donald C., [redacted].
Wood, Clyde J., [redacted].
Woodberry, Jerry M., [redacted].

JUDGE ADVOCATE CORPS

To be lieutenant colonel

Badami, James A., [redacted].
Bonfanti, Anthony J., [redacted].
Cohen, Robert E., [redacted].
Cuthbert, Thomas R., [redacted].
Davis, Ronald W., [redacted].
Degiulio, Anthony P., [redacted].
Eckhardt, William G., [redacted].
Foreman, Leroy F., [redacted].
Forys, Conrad W., [redacted].
Gideon, Wendell R., [redacted].
Gilligan, Francis A., [redacted].
Greene, Fred K., [redacted].
Handcox, Robert C., [redacted].
Harris, Harold E., [redacted].
Hemmer, William J., [redacted].
Iskra, Wayne R., [redacted].
Kile, Daniel A., [redacted].
Knapp, Thomas A., [redacted].
Lagrua, Brooks B., [redacted].
Lurker, Ralph L., [redacted].
McBride, Victor G., [redacted].
Murphy, James A., [redacted].
Murray, Charles A., [redacted].
Naughton, John F., [redacted].
Pauley, Earl A., [redacted].
Piotrowski, Leonard, [redacted].
Price, James F., [redacted].
Rankin, Thomas M., [redacted].
Rice, Leonard E., [redacted].
Rohn, Gordon F., [redacted].
Rose, Lewis J., [redacted].
Sherwood, John T., [redacted].
Toomepuu, Tonu, [redacted].
Turner, John A., [redacted].
Vanbroekhoven, Rollin A., [redacted].
Whitten, William M., [redacted].
Woodward, Joe L., [redacted].
Wosepka, James L., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Amos, Oscar D., [redacted].
Bazany, James L., [redacted].
Bolte, Gordon L., [redacted].
Bouchelion, Horace, [redacted].
Bowles, Robert L., [redacted].
Breunle, Phillip C., [redacted].
Brickhouse, Eugene, [redacted].
Brothers, Chauncy P., [redacted].
Brouillette, Robert, [redacted].
Brown, Carl D., [redacted].
Brown, Herman D., [redacted].
Bulger, Carl S., [redacted].
Carestia, Ralph R., [redacted].
Carter, Jimmie B., [redacted].
Chin, Gordon O., [redacted].
Clearwater, Robert, [redacted].
Connolly, James C., [redacted].
Constable, Joseph F., [redacted].
Cundiff, David E., [redacted].
Daniels, Ernest P., [redacted].
Dawson, Arthur W. Jr., [redacted].
Doronzio, Paul A., [redacted].
Dunson, George L., [redacted].
Eason, Lloyd J., [redacted].
Eckert, Richard E., [redacted].
Edwards, Joseph D., [redacted].
Erskine, John F., [redacted].
Feuerbacher, Charles, [redacted].
Fishburne, Francis, [redacted].
Fitzgerald, Barry E., [redacted].
Fowler, David L., [redacted].
Fox, Charles E., [redacted].
Fuller, Gary L., [redacted].
Garber, David L., [redacted].
Grady, Milton, [redacted].
Grider, Robert J., [redacted].
Guinn, Joe L., [redacted].
Guthrie, Jack N., [redacted].
Hansen, Richard N., [redacted].
Hanson, Thomas M., [redacted].
Hantman, Richard K., [redacted].
Harris, Jesse J., [redacted].
Hauer, Richard W., [redacted].
Heaton, Billy A., [redacted].
Helin, Donald D., [redacted].
Helton, Bobby K., [redacted].
Helton, Jimmy D., [redacted].
Hennessy, Albert G., [redacted].
Hill, Arthur E., [redacted].
Hill, Thomas W., [redacted].
Holland, Leon L., [redacted].
Huff, Fred V., [redacted].
Hyde, Gary P., [redacted].
Inberg, Darlow L., [redacted].
Intermill, Ronald W., [redacted].
Isgrig, Frederick A., [redacted].
Janke, Thomas A., [redacted].
Juchau, Simmeon V., [redacted].
Jungck, Robert R., [redacted].
Keel, Robert H., [redacted].
Kendall, William F., [redacted].
Kozuki, Robert J., [redacted].
Lamke, Charles L., [redacted].
Lang, Huey P., [redacted].
Lemmers, Dean P., [redacted].
Lillard, Joseph K., [redacted].
Lombard, James E., [redacted].
Mahoney, James V., Jr., [redacted].
Maruca, Robert T., [redacted].
McCormack, John C., [redacted].
McLean, John M., [redacted].
McShane, Franklin J., [redacted].
Meyer, Gregory C., [redacted].
Miketinac, Bruce T., [redacted].
Mikkelsen, Richard, [redacted].

Miller, William C., [redacted].
Mills, Wade T., [redacted].
Modderman, Melvin E., [redacted].
Momiyama, Augustine, [redacted].
Monk, Merrill E., [redacted].
Mueller, Hans J., [redacted].
Murphy, Thomas W., [redacted].
Neely, James M., [redacted].
Newberry, Joseph H., [redacted].
Newman, Ronald G., [redacted].
Nolan, Kenneth J., [redacted].
Nomani, M. Rizwan, [redacted].
Oberhofer, Thomas R., [redacted].
Oliver, Gerald C., [redacted].
Perry, William R., [redacted].
Pfetsch, John J., [redacted].
Prince, Howard T., [redacted].
Pugh, Paul M., [redacted].
Radcliffe, John H., [redacted].
Reid, Charles M., [redacted].
Riley, Harold E., [redacted].
Romo, Jacob M., [redacted].
Ryan, Lawrence J., [redacted].
Sandifer, Calvin P., [redacted].
Savage, Linnaeus B., [redacted].
Schafer, Thomas E., [redacted].
Schlaeppi, Lloyd A., [redacted].
Sheek, Alton J., [redacted].
Simmons. Armond C., [redacted].
Simon, Vern J., [redacted].
Sisk, Michael G., [redacted].
Smith, James M., [redacted].
Spiker, James E., [redacted].
Stepp, Wendell, [redacted].
Stockmoe, Lyle D., [redacted].
Sylvester, Ernest J., [redacted].
Timberlake, John S., [redacted].
Wahl, George H., [redacted].
Ward, John R., [redacted].
White, Miles H., [redacted].
Williams, Charles, [redacted].
Worthington, Elliot, [redacted].
Wright, Robert E., [redacted].
Yearby, Calvin G., [redacted].
Zucker, Milchael D., [redacted].

ARMY MEDICAL SPECIALISTS CORPS

To be lieutenant colonel

Beasley, Marcia L., [redacted].
Eazer, Willard E., [redacted].
Hawkes, Harold W., [redacted].
Hobbs, Betty L., [redacted].
Jeffrey, Therese M., [redacted].
Klavins, Ruta, [redacted].
Meier, Theodocia T., [redacted].
Putnam, Joicey M., [redacted].
Walker, Hilda L., [redacted].
Webb, Annie J., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Ackerman, Larry J., [redacted].
Armstrong, Tommy S., [redacted].
Beattie, Robert J., [redacted].
Botard, Robert W., [redacted].
Coats, Max E., Jr., [redacted].
Groves, Michael G., [redacted].
Hickman, Robert L., [redacted].
Howarth, Robert A., [redacted].
Jennings, Paul B., [redacted].
McGovern, Lawrence, [redacted].
Nix, Marvin S., [redacted].
Roberts, Clifford R., [redacted].
Sims, James E., [redacted].
Strahler, Eugene G., [redacted].
Taylor, James F., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Bartelt, David F., [redacted].
Biddle, William M., [redacted].
Boddie, Julia A., [redacted].
Brogan, Mary A., [redacted].
Butler, Mary C., [redacted].
Buzzard, Rita V., [redacted].
Christ, Linda N., [redacted].
Fenlon, Eileen M., [redacted].
Fladeland, Donovan, [redacted].
Foltz, Mary J., [redacted].
Foster, Imogene, [redacted].
Fox, Eileen L., [redacted].
Hildebrand, Teddy L., [redacted].
Hopson, Minnie L., [redacted].
Humphries, Marilyn, [redacted].
Irvine, Leona R., [redacted].
Lebel, Rita A., [redacted].
Loehrer, Edward O., [redacted].
Marsh, Carolyn J., [redacted].
Mathews, Charles T., [redacted].
Michel, George H., [redacted].
Morris, Wayne S., [redacted].
Phillips, Angeles E., [redacted].
Rivera, Aida L., [redacted].
Sanders, Bobbye J., [redacted].
Sargeant, Francis L., [redacted].
Sokoloski, James L., [redacted].
Spine, Mary L., [redacted].
Stafford, Crystal M., [redacted].
Stepulis, Ruth H., [redacted].
Sullivan, Gerald E., [redacted].
Throwe, Gerald J., [redacted].
Verret, Blaise C., [redacted].
Walsh, Edith V., [redacted].
Warnock, Glenda, [redacted].
Winnicki, Michael L., [redacted].
Wise, Mary J., [redacted].
Yamagata, Joyce E., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Gaines, Robert W. Jr., [redacted].
Gardiner, Barry N., [redacted].
Gurll, Nelson J., [redacted].
Larossa, Donato D., [redacted].
Moores, William Y., [redacted].
Morgan, Andrew M., [redacted].
Pokorny, William J., [redacted].
Reckard, Craig R., [redacted].
Ricks, Robert E., Jr., [redacted].
Todd, Robert C., [redacted].

IN THE NAVY

The following-named officers of the U.S. Navy for temporary promotion to the grade of chief warrant officer, W–3 subject to qualification therefor as provided by law:

Aardahl, Lyle N.
Adcock, Daniel W.
Aldridge, Charles T. J.
Aldridge, Kenneth N.
Allensworth, Timothy
Alvarez, Don J.
Andersen, Richard E.
Anderson, William J.
Applebee, Harold J.
Arndt, Richard B.
Arquette, Daniel J.
Askins, William D.
Atwood, Jack D.
Bagley, Neil W.
Baker, Troy G.
Bales, James L.
Balles, George M.
Barclay, Bruce M.
Barela, Aladino D.
Barger, David L.
Barger, Edward B., Jr.
Barnett, Donald R.
Barnett, Eben E., II
Bauder, John T.
Beane, William L., Jr.
Beasley, Ronald L.
Benish, Roger W.
Bennett, Paul W.
Berner, Mark D.
Bernicken, James F.
Berreitter, Jan A.
Best, Thomas H., Sr.
Biegler, Loren W.
Blanchard, Tyrone R.
Bodine, Daniel L.
Boeckmann, Raymond J.
Bondurant, James P.
Booth, Grady L.
Bowman, Bruce E.
Bradberry, Billy E.
Brandt, Donald E., Jr.
Brick, Thomas J.
Brinkley, George W.
Brock, Michael D.
Bromaghim, Ward M.
Bullard, Bobby J.
Bumgarner, Elmo L.
Burke, Larry D.
Butler, John E.
Caddell, Murray N.
Cameron, John B.
Campbell, Larry R.
Campbell, Robert K.
Caramello, Joseph J.
Carawon, Bruce C.
Carbaugh, Lewis H., Jr.
Cardens, James T.
Carlton, Melvin D.
Carter Harry F.
Cary, John D.
Case, Russell T.
Casper, J. Kip
Castle, William R.
Cayse, James F.
Chenoweth, Wayne G.
Clark, Doyle G.
Clayburn, Michael W.
Clayton, Leroy A.
Clifford, Jimmy T.
Clifft, John D.
Cobb, David L.
Coday, Harold G.
Coleman, Arthur D.
Coleman, Robert W.
Colman, Hubert E.
Conahan, Francis C.
Contreras, Gregorio A.
Cope, James O.
Cordray, David R.
Couch, William S.
Cowan, David L.
Crabtree, Richard E.
Cranford, James W.
Crawford, George F.
Crossman, Oliver A.
Cunha, Christopher V.
Cunningham, Ronald E.
Curtin, Timothy P.
Daugherty, Michael A.
Davidson, James E.
Davis, Billy G.
Davis, Lloyd D.
Davis, Owen F.
Davis, Robert E.
Davis, Terry T.
Dazelle, Kirk W.
Deberg, William F.
Delaney, John T., IV
Deseve, Darryl D.
Dickerson, Larry G.
Dombrow, Charles M., Jr.
Donado, Paul
Donohue, Thomas
Doran, James W.
Dowden, Richard C.
Drajna, Fred A.
Dunn, James P., Jr.
Dunsmore, Marcus L.
Duran, Luis M.
Edwards, John W.
Elrod, Herman C.
Elswick, Larry A.
Estep, Alfred J.
Evans, Thomas L.
Fairchild, David R.
Faries, William R.
Farr, Craig L.
Fenton, William C., Jr.
Ferebee, Terrance V.
Ferris, John A.
Feuillerat, Robert A.
Fitzsimmons, William M.
Florida, Frank E.
Floyd, Walter, Jr.
Fone, Raymond B.
Fortson, Frank S., III.
Foster, Robert C.
Fowler, William S.
Franken, Ronald D.
Frazer, Neil S.
Frederick, Robert E.
Free, James R., Jr.
Freeman, James B.
Fulgham, Donald R.
Gaddy, John D.
Garner, Andrew C.
Garren, Garry C.
Gascho, Gerald C.
Gelardi, Lydia C.
Gilbert, Melvin L.
Golden, Richard V.
Granlund, Richard
Green, Robert L.
Greene, Ronald M.
Green, Clifton M.
Gregoire, Normand L.
Griffin, John R.
Guidry, Dell J., Jr.
Gunter, Danny O.
Hagan, Pascal W.
Hugue, Donald
Hall, Randal R.
Hallewas, Pieter W.
Hallman, Lyston L.
Hamilton, Wesley E.
Hanson, Alvin C., Jr.
Hanson, James II.
Hardgrave, Billy D.
Haupt, Francis J.
Haynie, Robert E.
Hays, John W.
Heck, Carl H.
Hedgpeth, Lewis F., Jr.
Heller, Richard B.
Herward, James D.
Hessler, Harold R.
Higgins, Lloyd D., Jr.
Hightshoe, Ronnie L.
Hill, Thomas G.
Hinnefeld, Garrett J.
Hoffer, Robert H., Sr.
Hoffman, Robert B. Jr.
Hogan, Harry E.
Hogue, Charles W.
Holder, Walter W.
Holik, Manfred
Holtzclaw, Winston M.
Holyfield, Milton L. Jr.
Hoover, Daniel L.
Hoover, Foster T.
Hopkins, Raymond J., Jr.
Howell, Carleton T. Jr.
Huckaby, Bobby J.
Hunt, John A.
Hunter, Stanley O.
Hurdle, Daniel C., Jr.
Hurley, Lawrence E.
Iles, Douglas M.
Isaacson, Leroy D.
Isbell, Carlton R.
Iverson, Robert G.
Ivey, James A.
Jaeger, Herald R.
Jaeh, Roland H.
James, Edwin M., III
Jans, James E.
Jensen, Albert H.
Johnson, Gary C.
Johnson, Ronald P.
Johnston, Sydney L.
Jones, William J.
Judd, Michael R.
Kaufman, David L.
Kearney, Thomas E.
Keast, Jerry L.
Kell, George E., Jr.
Keller, William G.
Kelly, Herbert C., Jr.
Kelly, James L., Jr.
Kelly, Larry D.
Kemp, Alfred D., Jr.
Kieffer, John R.
King, James C.
King, James R.
King, Kenneth J.
Kirst, Alfred O.
Kitchen, Glen E.
Kitchens, Jessie K.
Kitts, Joseph C.
Kline, Robert S.
Koch, Danny D.
Koehn, Hubertus J.
Krueger, George A.
Kunkel, David S.
Lambert, Richard A.
Lane, James A.
Lane, Monroe A.
Langford, Thomas I.
Lanman, George W., Jr.
Lapoint, John T.
Large, Ralph B.
Laucella, Richard J.
Laughinghouse, Vernon P.
Lawrence, Robert E.
Layne, Claude R.
Leasure, Rodger M.
Leonard, Guy J.
Leonard, Rondal R.
Lester, Deloss M.
Lewis, Christopher H.
Licciardi, Dominick, Jr.
Lindsey, Keith A.
Litchford, Larry J.
Longest, James A.
Lupton, Gary A.
Lutz, Jack W.
Mahaffey, Joseph W.
Marx, Keath L.
Mason, Leo
McBain, Wayne H.
McConnell, Jerry C.
McCoy, William R.
McGriff, Charles E.
McKinney, Lawrence A
McKinzie, Larry E.
McElroy, Ronald J.
McNeal, Garrel R.
McPherson, Richard G.
Meaker, Michael J.
Merkling, Kurt C.

Miller, George P.
Miller, Kenneth W.
Mills, Dennon W.
Mills, Lester D., Jr
Mills, Lowell C.
Mixon, James F.
Moak, Roger C.
Moody, Bryan T., Jr.
Moore, Herman C., Jr.
Moore, Paul A., Jr.
Moore, William C.,
Morgan, John W.
Morris, Charles C ,
Morris, Leland
Morrow, Benedict
Morton, George H.
Moyer, John W.
Mundy, Merlin E., Jr.
Murphree, James F.
Murphy, Rayond E.
Myers, Charls A.
Myers, Donald O.
Naylor, James G.
Nielsen, Robert D.
Noha, Joseph P., Jr.
North, Albert L
Nutting, Dwight P.
Odell, Joseph M.
Olson, Warren H.
Omoore, Francis E.
Onken, Charles R.
Overton, Robert W., Jr
Owen, Charles W.
Painter, Dewey E.
Parks, Lowell L.
Patton, Gary D.
Pearson, Norman E.
Peattie, James A
Peoples, Donald J.
Perriman, Ronald O.
Pesses, Thomas M.
Peters, Frank C.
Peters, John W.
Peyton, Michael T.
Piepenhagen, Hans C.
Pierce, Donald A.
Ploeg, Lee R.
Poe, Richard R.
Pratt, Walter J.
Price, Floyd W.
Pugh, Ray E
Quijada, Richard H.
Randall, Charles R.
Randall, Joseph L.
Rasberry, John H.
Ratliff, James D.
Reed, Ralph G.
Reid, Robert E., Jr.
Ritchey, Leonard E.
Roberts, Richard H.
Roberts, Ulric M.
Rose, Thomas A.
Russell, William M
Ryan, James F.
Ryan, Robert J.
Sage, William R.
Saig, Stewart F.
Sayre, Roscoe R.
Scalia, August
Schieber, William M.
Schulmeister, Arnold F
Schumacher, Wayne
Schwartz, Gerald M.
Scott, George L.
Scott, Gordon F., Jr.
Scott, Michael F.
Shick, Harold D.
Shirer, Glenn S., Jr.
Shull, Kenneth G.
Shuttlesworth, Jack L.
Sinclair, Charles E.
Sitton, William E.
Sizemore, Jack
Skalski, Francis W.
Smith, Robert L.
Smith, Thomas R.
Smith, William J.
Snyder, Robert G.
Sparks, Gerald V.
Speer, William W.
Sperlich, James L.
Spiller, Ralph H., Jr.
Stang, David H.
Staples, Richmond E.,
Stark, Timothy B.
Starnes, John H.
Steib, John F., Jr.
Stewart, Robert E.
St. John, Charles W.
Stoddard, Leon B.
Stolarz, Robert M.
Stoneking, Robert H.
Stuart, Daniel W.
Stuedemann, John A.
Suhr, Thomas W.
Swartz, Melvin C., Jr.
Tanner, Marvin M.
Taylor, Charles R.
Terrebrood, Gerald F.
Theobald, Robert L.
Thompson, Carl W.
Thornberry, Donald E.
Thornton, Fred D., Jr.
Thorson, Robert C.
Tilley, Ronald C.
Todd, Wiley W.
Tonder, Paul A.
Trapp, James L.
Truman, Donald W.
Tuton, Philip E.
Ursery, Ronald M.
Vandermeer, Raymond R.
Vann, Jarvis W.
Verhasselt, Ray L.
Viar, Lawrence E.
Wakefield, Gregory A.
Walden, Jerry L.
Walden, William R.
Waller, Donald R.
Walsh, Richard B.
Waltemyer, Clyde L., Jr.
Ward, Carl E.
Warosh, James W.
Webber, Ronald F.
Weeks, James D.
Weidetz, Alvin L., Jr.
Weisinger, Jack P.
Welch, Brian W.
Welch, Lawrence N.
Wells, Gene R.
Whitaker, Samuel M.
White, Merion D.
White, William J.
Whitehead, Charles E.
Whitted, George W.
Wickersham, Francis M.
Widmann, Jeffrey B.
Wiggins, Henry Jr.
Wilder, John A.
Williams, Nanathiel Jr.
Willits, Larry L.
Wilmoth, Dean L.
Wise, Terry P.
Wood, Richard A.
Woods, Joseph
Woods, Paul S., Jr.
Woodson, Bobby D.
Woolum, Gairey L., Sr.
Wrightson, David J.
Wykowski, Henry S., Jr.
Wynne, Claude E., Jr.
Yates, William U.
Young, John H.
Young, Leroy

The following named officers of the United States Navy for temporary promotion to the grade of chief warrant officer, W-4 subject to qualification therefor as provided by law:

Acosta, Hector
Adair, George C.
Adams, Donald E.
Akley, Larry D.
Alger, Richard L.
Allen, Ethan E.
Allen, Kenneth R.
Alvarez, Honorio B.
Anderson, Herman C.
Anderson, Howard J.
Anderson, Robert K.
Anderson, William B., III
Andrews, William F.
Armstrong, Rodger B.
Arsta, Charlie L.
Artley, Fred C.
Ashworth, Robert A.
Atchison, Roger G.
Ausen, John M.
Ausmus, Dewey L.
Aversano, Anthony J.
Aycock, Joe E.
Baernthaler, Klaus
Bagley, Raymond C.
Ballard, John C.
Balstad, Richard H.
Barber, R. D.
Barber, Richard D.
Barclay, Ray F., Jr.
Barfield, Havis W.
Barker, Harvey W.
Barrett, William J.
Bartholomew, David L.
Bartke, Harrold L.
Barton, Hershel V.
Bavuso, Matteo
Baxter, Lowell C.
Baylor, Edward K.
Beardin, Larry D.
Beare, Lloyd A.
Beason, Edward P.
Beatty, Arthur
Beckett, Terrence N.
Beckman, John W.
Bell, Dennis E.
Bell, John S., Jr.
Bence, Ronald P.
Bennett, Thomas R.
Benning, Vale J.
Berry, Donald O.
Bertram, Wayne R.
Bertrand, Richard E.
Bettis, Bobby G.
Billick, Dan R.
Bird, Harry R.
Bishop, James F., Jr.
Blackie, John A.
Blocker, Gerald C.
Bobo, Billy J.
Bobo, Jerry L.
Bolden, Joseph W.
Bolding, Larry L.
Bonebrake, Richard R.
Book, Roy L.
Borgmann, Frederick W.
Bothe, James J.
Boughter, Chris E.
Boyd, Curtis F.
Boyle, David J.
Bradley, Dennis L.
Bradley, Gene F.
Brammer, Russell C.
Brandon, Earl L.
Bratsch, Roger D. J.
Brayman, Thomas E.
Breitwieser, Gene P.
Brenner, Robert F.
Brewer, Clayton R.
Brice, Allen G.
Briggs, Frederick L.
Britts, Haven J.
Brooks, Edgar T.
Brown, Richard A.
Brown, Richard F.
Brown, Robert E.
Brown, Theodore E.
Browngardt, Robert P.
Brueggeman, James E.
Burford, Vernon A.
Burns, Robert J.
Burris, William O.
Byrne, Edward M.
Calhoun, Jimmy R.
Callahan, Alvin E.
Camaisa, Rody B.
Campbell, Cager W.
Campbell, Donald L.
Campbell, Leonard M.
Campbell, Willis E.
Canfield, Merton A.
Caretti, Louis S.
Carey, John D.
Carne, Richard G., Jr.
Carrigan, Charles D.
Carroll, Charles E.
Carter, Charles T.
Caton, Robert N.
Chamberlain, Charles E.
Chambers, Harold D.
Chapman, Davey S.
Chastain, David M.
Chenoweth, Charles E.
Cherry, Stephen W.
Chitwood, Orvis H., Jr.
Choate, Edward H.
Christian, Jerry D.
Christophersen, Oscar E.
Church, Richard L.
Clark, Donald D.
Clark, Jimmy
Clarke, Alfred R.
Clements, David L.
Cloonan, John T.
Cloughley, Richard E.
Coen, Ronald L.
Columb, Ortha I.
Connell, James L.
Conwell, Robert A.
Cooney, John F.
Cooper, Gary D.
Cormier, Edward N., Jr.
Countryman, Larry D.
Coupland, Steve J.
Cox, Anderson H.
Cox, Elbert D.
Cox, Frank E.
Cox, Frederick M.
Cozart, William R., Jr.
Crain, Robert L., Jr.
Crane, Alvin E.
Cranmer, John M.
Crickman, Frederick P.
Crisp, Floyd A.
Crooks, Dennis J.
Cubbedge, Carlon E.
Cudia, David T.
Cummings, Paul D.
Curry, Dennis S.
Cutler, William D.
Dallamura, John P.
Damme, Richard W.
Davies, Thomas W.
Davis, Edward S., Jr.
Davis, Neil C.
Davis, William L.
Day, Raymond F., Jr.
Dean, Alvin E.
Dechene, Philip E.
Delancey, James D.
Delong, Richard C.
Devoid, Ralph E.
Dinkins, Charles L.
Dirkes, Ernest A.
Dodds, Robert L.
Doehring, Robert F.
Donohoe, James P.
Donovan, Gene D.
Dorso, John M.
Dougherty, Patrick J.
Dougherty, Thomas J.
Dragone, Joseph A., Jr.
Dreiling, Richard E.
Drier, Melvin F.
Driver, John E.
Dryfka, John E.
Duffy, Mark E.
Dumond, James C.
Dunnagan, Alvia J.
Dunning, James L.
Duran, John J.
Earnest, William G.
Eastlick, Arthur L.
Edmundson, William H.
Edwards, Kenneth P.
Edwards, Thomas M.
Eggett, Andrew J.
Eiben, Norman G.
Emberton, James M.
English, Samuel A.
Ennis, James W
Espy, Ira J.
Etzel, John A.
Everett, Arthur B.
Faulkner, Norman H.
Favaro, Duane E.
Fehrs, Thomas L.
Ferdinandsen, Alan T.
Ferrara, Bernard J.
Ferren, Donnie L.
Finister, Harold L.
Fisher, Robert Jr.
Fisk, Ronald L.
Floe, Dale M.
Flowerree, Robert D.
Floyd, George F.
Flynn, Kevin A.
Foltz, Richard J., Jr.
Ford, William P.
Forgays, Reginald E
Formby, Roy G.
Fortier, Ormond L.
Foster, Timothy W.
Fowler, Boyd C.
Fowler, John J.
Freese, Allen P.
Freiberg, Roy E.
Fritz, Daniel E.
Garrahan, Richard
Garthwaite, Robert L.
Gates, Richard W.
Gaughan, James A.
Gavasso, Joseph C.
Gebbie, Larry A.
Gelsomino, Michael J.
Geno, Harold
Gibbons, Thomas G.
Gibson, James B., Jr.
Gibson, Richard E.
Giles, James
Gillum, Jerry L.
Girard, Donald D
Giunta, Joseph F.
Giusti, Gerald J.
Glover, Andrew L.
Godfrey, Thomas J.
Goerg, Frederick C.
Goforth, George T.
Golinski, Matthew G.
Goodell, Edward C.
Goodwin, John T.
Goss, Marlin E.
Goudy, Robert K.
Goudy, Robert F.
Goyette, Richard L.
Gray, Charles R.
Greene, Bobby E.
Gregory, Thomas
Greksouk, John G.
Gremp, Robert E.
Griggs, Edward C.
Gross, Jerry L.
Gschwend, David A.
Gunn, Terrell L.
Hackett, George R., Jr.
Haffner, Guy A.
Haggard, Henry C.
Haimes, Arthur S.
Hale, John F.
Hale, Roy G.
Hall, Neely C., Jr.
Hall, Richard W.
Halliday, Alvin L.
Hallinan, Joan E.
Hanley, Claude R.
Harmon, Frederick G.
Harmer, Donald W.
Harold, Thomas L.
Harrell, Horace J.
Harrington, Curtis R.
Harrington, Festus M.
Harris, Lester L.
Harry, Robert M.
Hart, Monte A.
Hartfield, Daniel T.
Hartsock, Thomas P.
Harvey, James L.
Harvison, Lynn D.
Hassall, David R.
Hasselbacher, Delmar E.
Hathaway, William K.
Haugen, Clinton J.
Haugland, David V.
Havrilesky, Peter
Hawk, Bruce L.
Haworth, James R.
Hayes, Lon L.
Haynal, James R.
Headrick, James O.
Hebert, Charles E., Jr.
Heckel, Fredrick R.
Held, Rene
Helton, James N.
Henderson, William H.
Hennings, Elwood W.
Henry, Kirby D.
Hestekin, John A.
Heuchert, Richard H.
Hewitt, Earl J., Jr.
Hickey, Edmund B.
Hicks, Clayton T.
Hicks, Daniel E.
Hicks, Edward K.
Hight, Harvey B.
Hill, Robert W.
Hillman, Cecil M.
Hines, Milton
Hisey, Howard A.
Hobbs, Hurshel B., Jr.
Holcomb, William K.
Hollis, Lon E.
Hollon, Maurice C.
Holmes, Doyle E.
Holt, Lonnie D.
Hopkins, Michael R.
Hornbrook, Charles B., Jr.
Hornung, Eugene H.
Howard, Bobby J.
Howard, Donald R.
Howard, Frank W.
Hubbard, Calvin E.
Hudgens, Robert T.
Hugghins, Harold T.
Hughes, Richard L.
Hull, Roger L.
Hunter, Thomas G.
Hurd, William D.
Hutcheson, James E.
Hutt, Eden A.
Iannetta, John M.
Jackson, Robert B.
Jacobs, Thomas E.
James, Bobby C.
James, Robert O.
Jeffcoat, James M.
Jensen, Gordon M.
Jessen, Carl D.
John, Paul M.
Johnson, Arthur L.
Johnson, James W.
Johnson, Paul N.

Johnson, Thomas S., Jr.
Johnston, James E.
Johnston, Wilford P.
Joiner, Hollis K.
Jones, Carlos
Jones, Edgar J.
Jones, Stanley C.
Julian, Karl D.
Kadrlik, Milo W.
Kall, James E.
Karcher, Raynor J.
Kellum, William C., Jr.
Kelly, Carl J.
Kelly, Richard C.
Kennedy, Bruce H.
Kenyon, Robert J.
Kern, Phillip E.
Kidd, James B.
Kidd, John D.
Kiese, Manfred G.
Kilgore, Herman L.
Kilpatrick, James H., Jr.
Kincade, Jerry G.
King, George H., Jr.
Kirkpatrick, Gerald E.
Kleis, Louis P., Jr.
Knall, Daniel J.
Knapik, Paul P., Jr.
Krueger, Lloyd E.
Krug, Norman E.
Kuder, Arlen C.
Kuhnert, Howard J., Jr.
Kummet, Marvin L.
Kwiatkowski, Eugene E.
Landick, Richard E., Jr.
Lane, Donald P.
Lane, Richard D.
Langenohl, Frederick C.
Langmaid, Robert V., Jr.
Larkin, James M.
Lavaliere, Wayne E.
Lavan, Thomas J.
Lawrence, James R.
League, Howard B.
Lechtenberg, Richard C.
Lee, Ronald A.
Lentz, Joe B.
Lesperance, Robert F.
Lessard, Kenneth A.
Link, Spencer F.
Linn, Paul E.
Lister, Robert C.
Little Benerson V.
Little, Charles E.
Little, William T., Jr.
Livingston, John S.
Locke, Gary W., Jr.
Loftis, Garland T., Sr.
Logan, David J.
Logan, William H.
Londot, Jack L.
Lopez, Clyde C.
Love, Charles E., Jr.
Love, Thomas J.
Lovejoy, Jay E.
Lowdermilk, Richard F.
Lowell, Robert O.
Lowen, Kenneth J.
Lucero, Seferino
Lucie, George R.
Luther, Ellsworth R., Jr.
Lutz, James R.
Lyles, James F.
Lynch, William A.
Maggard, Andrew J.
Mahar, Joseph C.
Majchrowicz, Edward J.
Malboeuf, Ernest J.
Malloch, James E.
Malone, Robert G.
Manges, Joseph
Mansmith, James E.
Marsh, Robert D.
Marsh, Robert W., Jr.
Marsh, William H.
Martin, John D.
Martin, Kenneth R.
Martin, Norman R.
Mason, George J.
Massetti, Ennio
Mathews, Carl L.
Matteson, Robert A.
Mayers, Joseph
McAvinia, Thomas F.
McBrayer, Gary D.
McCarley, Theodore K.
McCarthy, Joseph E.
McCleer, James L.
McClimont, Thomas E.
McDaniel, Robert L.
McDonald, Robert L.
McDonough, James F.
McGee, Thomas E.
McGuire, David N.
McWane, Rodney R.
McWilliams, George R.
Mead, Willie J.
Medice, Robert L.
Middleton, Leroy R.
Miller, Paul H.
Mills, Charles W.
Milne, Marion K.
Mitchell, Elmer R.
Mone, Frederick P.
Moore, Earl S.
Moore, Lavonne H.
Mora, Jesus R., Jr.
Morgan, Charles E.
Morgan, Charles F.
Morgan, Walter C.
Morris, Leon
Morrison, Herbert E.
Moseley, Benny J.
Mott, Charles W.
Moyer, Milton J.
Mueller, John C.
Mueller, Robert A.
Mullen, George A.
Mumford, Donald E.
Munn, Kenneth L.
Murphy, Larry E.
Murray, Wendel A.
Murtomaki, Charles H.
Mustin, James O.
Nahill, Francis J.
Nason, Richard O.
Nassar, Albert N.
Nechvatal, Charles J.
Neil, Robert H.
Neste, Carl A.
Neville, Thomas A.
New, Melvin R.
Nichols, Paul M.
Nicol, William W.
Nunan, Robert E.
Oakes, James R.
Oliver, Richard H.
Olsen, Frederick L.
Olson, John T., Jr.
O'Neal, William T.
Orlekoski, Michael G.
Page, Alfred L.
Palmer, Charles F.
Panovec, Joseph V.
Parker, James A.
Parks, James F.
Parsons, James F.
Partesius, John S.
Patino, Donald V.
Patkus, Joseph T.
Peach, Ellis E.
Pearl, John E., Sr.
Pecora, James E.
Pedersen, George T., Jr
Peele, Franklin D.
Peeples, Alvin D.
Pelletier, Ronald W.
Percival, William L.
Perritti, Frank V., Jr.
Perry, Allen B.
Perry Eugene J.
Peszynski, Walter F.
Peters, Gerhart J.
Peters, John W.
Petrick, Robert G.
Pettit, Jimmie L.
Phillips, William J., Jr.
Pickens, Thomas G.
Piercy, Kenneth R.
Piszko, Martin N.
Pittman, Norward T.
Pohl, Matthew J.
Porter, David P.
Porter, Thomas E.
Price, John E.
Pridgen, Joel B.
Priolo, Gary P.
Pritchard, Jimmie D.
Proctor, Robert E.
Rabold, Frank L.
Ragghianti, Charles F.
Rahmann, Calvin J.
Rand, Benjamin W.
Rasmussen, Anker M.
Ratcliff, Thomas P.
Ray, Harold L.
Reed, Frank G.
Reel, George W.
Reinke, Gerald G.
Reinoehl, Phillip W.
Rhudy, Carl E.
Rice, Charles O.
Rice, Glenn, Jr.
Rich, Jerome E.
Richards, Daniel R.
Richardson, Donald C.
Richter, Ronald W.
Riddle, Richard A.
Riddlebarger, Devereaux P.
Riegger, Robert R.
Rinehart, Eugene V., Jr.
Rinehart, Walter R.
Ritzel, Charles J.
Robey, Olen W.
Robinson, Earl A.
Robinson, Frank J.
Robinson, Richard S.
Robinson, Warren E.
Rockwood, Donald J., Jr.
Rogers, Thomas E.
Rohrscheib, James V.
Ross, Albert J., Jr.
Rozwadowski, Francis J.
Rundberg, Edward E.
Runyon, Donald R.
Ruspoli, Frank J.
Russell, Perry B.
Rutland, Roger W.
Ryder, Leon E.
Safford, Russell M.
Salinas, Amando S.
Santonil, Rosendo T.
Satterwhite, Dudley M.
Sawyer, Carl W.
Schad, Roderick F.
Schaefer, Andrew C.
Schaffer, Lawrence C., Jr.
Schier, Robert M.
Schmidt, Charles O.
Schneider, Richard C.
Schroeder, William
Schuhl, Robert W.
Sciuto, John J.
Scott, Donald C.
Scott, Joseph M.
Sears, James A.
Seegar, Marion L.
Shaffer, Clarence W.
Shaw, Richard D.
Shears, Howard F., Jr.
Sheehan, Leroy E.
Sherrill, James D.
Sherry Ronald E.
Shierling, Johnnie W.
Shinabery, Willard E.
Shreve, Julius G.
Siemers, Uwe
Simmons, Norman R.
Singletary, Joe, W.
Siver, Donald F.
Skaw, Larry R.
Skelley, Willard R., Jr.
Small, Frederick E.
Smith, Chester B.
Smith, David L.
Smith, Howard P.
Smith, James L.
Smith, John F.
Smith, Lester C.
Smith, Robert C.
Smith, Robert J.
Smith, Robert M.
Smith, Ronnie L.
Snyder, Larry D.
Soderlund, John H.
Solak, Lawrence E.
Sosnovske, David E.
Souders, Ralvin A.
South, Michael L.
Sowers, Bobby G.
Sparks, Howard F.
Spatt, Frank R.
Spear, Earl J.
Spears, Buddy W.
Spears, Tommie E.
Speir, William F.
Squire, Orin L.
Staehr, James P.
Stanek, David M.
Stanko, George E.
Stankoski, John S.
Stanley, Jerry S.
Stapp, Alton E.
Stephen, Herbert A.
Stephens, Hugh L.
Stepp, Robert L.
Stevens, Richard O.
Stoneking, Thomas C.
Stowe, Abraham R.
Strange, Gary E.
Strong, Franklin E.
Stuck, James R.
Sutter, William W.
Sutton, Frank C.
Tanner, Marshall E., Jr.
Tanner, William E.
Tarantino, John F.
Tarr, Robert M.
Tarter, Arlan G.
Tavares, Michael H.
Taylor, Donald W.
Taylor, Henry H.
Taylor, Robert E.
Terry, Robert J.
Thiel, John W.
Thomas, Donald R.
Thompson, Byron H.
Thompson, Clarence E.
Thompson, Jerry D.
Thompson, Robert M.
Thompson, Stelio G.
Thomson, Bruce L.
Thornhill, Billy H.
Timmons, Bobby J.
Tims, Charles E.
Toomey, Thomas P.
Tosato, Francis L.
Townsend, Paul, Jr.
Trammell, William J.
Treadway, Alton G.
Troino, Rocco J.
Tucker, Charles W.
Turley, Brian D.
Turner, Donald P.
Turner, James P.
Turner, James S., Jr.
Tuttle, Donald E.
Valade, Gerald R.
Vancleave, Jerry M.
Vanicek, Errol D.
Vanness, Henry A.
Varley, John C.
Vasseur, Roy D.
Ventgen, Robert J.
Verbic, Alan R.
Vettese, Anthony
Villanueva, Anastacio L.
Wade Phillip M.
Walden, Billy F.
Walker, Charles R.
Wallace, Howard A., Jr.
Walsh, William C.
Walsh, William F.
Walter, Frederick S.
Watson, Chester A., Jr.
Watson, Donald R., Jr.
Watson, John L.
Weaver, Sterrie L., Jr.
Wegrzyn, Raymond R.
Welch, Robert W.
Wertz, Bruce N.
Westfall, Donald L.
Whitaker, Lawrence W.
Whited, Fred L.
Wiedenbeck, Elmer W.
Wilke, James G.
Willecke, Waldo L.
Williams Comer L.
Williams, Donald P.
Williams, Frank L.
Williams, Thomas Y.
Wilson, Earl G.
Wilson, William C.
Wemberley, Clay A.
Winslow, Hal W.
Wippel, Lawrence F.
Wise, John T.
Wolfe, Myron D.
Wolking, Fred L.
Wood, James W.
Wood, Ronal D.
Wooten, Donald C.
Worley, James L.
Worley, Melvin E.
Wreath, Clarence F.
Wright, Larry W.
Wyatt, William D.
Yanik, Ronald V.
Yavorosky, Vincent M.
Yeater, Edward T.
Yeatts, Harold
Yoneda, Minoru M.
Zabetakis, Nick
Zeitler, George D.
Zengen, Ralph H., Jr.
Zetsch, Kurt J., Jr.
Zinn, Harry B.

IN THE MARINE CORPS

The following-named temporary disability retired officer for reappointment to the grade of captain in the Marine Corps, subject to the qualifications therefor as provided by law:

Morgan, Freddie M.

The following-named (Marine Corps enlisted commissioning education program) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Davis, Billy H.
Lynn, Douglas C.
Matthews, James D.

The following-named (Navy enlisted scientific education program) graduate for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Kelley, David A.

HOUSE OF REPRESENTATIVES—*Thursday, July 22, 1976*

The House met at 10 o'clock a.m.

Rev. J. Walter Martin, Temple Baptist Church, Newport News, Va., offered the following prayer:

Our Lord and our God, Creator of all the universe, Giver of all good gifts including life itself to Thee we pray. Lord, we know it is not so much what Thou hast given to us as it is what we do with what Thou hast given that makes the difference. This august assembly of brilliant minds, leaders of men, meet today to speak and vote their convictions and their decisions will determine our Nation's direction. Grant that they might not be selfish nor narrowminded, but judge with honor and integrity. May they seek and find the divine leadership of the Lord God Almighty for Thou hast promised that when we seek Thee we shall be found of Thee. In the name of Jesus. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate having proceeded to reconsider the bill (S. 3201) entitled "An act to authorize a local public works capital development and investment program, to establish an antirecessionary program, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved that the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2054. An act to amend sections 203 and 204 of the Communications Act of 1934.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1026. An act to designate certain lands as wilderness.

NEEDED ACTION AGAINST NAZI WAR CRIMINALS LIVING IN UNITED STATES

(Mr. EILBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EILBERG. Mr. Speaker, at this time there are 53 people living in the United States who have been accused of being Nazis and of committing war crimes during World War II.

There appears to be hard evidence in some cases and others may be nothing more than unsubstantiated charges. However, in virtually every instance the Justice Department appears to be unconcerned about bringing about a swift and just conclusion.

After much prodding by me, the Immigration and Naturalization Service began investigating these cases in earnest—why this was not done many years ago I cannot say. It was determined several months ago that there is enough evidence to warrant action against some of these people and that additional evidence and witnesses, who are willing to testify, are available in Israel.

For some unknown reason the Justice Department is not pursuing this matter at more than the slowest possible speed, if at all. It has not closed any cases where no evidence is available and it has not acted in cases where action is clearly necessary.

On June 25, I wrote to Attorney General Edward H. Levi asking why no action is being taken in this matter. So far he has not replied.

Today, I will place in the Extensions of Remarks copies of my correspondence with the Attorney General about this problem.

A REAL CHAMPION

(Mr. ROUSH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROUSH. Mr. Speaker, I want to commend and congratulate Matt Vogel of Fort Wayne, Ind., who won the 100 meter butterfly swimming event in the Olympic events at Montreal yesterday.

Matt's teammates came in second and third and they are all to be congratulated. But in Indiana we are especially proud of Matt Vogel. His time was less than one-tenth of a second shy of Mark Spitz' 4-year-old record of 54.27. Matt's was 54.35.

Our winner was a 1975 graduate of R. Nelson Snider High School. He lives in Fort Wayne with his parents, Dr. and Mrs. Lloyd Vogel when he is not in school at the University of Tennessee where he is a sophomore.

Matt Vogel was a standout swimmer in northeastern Indiana before attending the University of Tennessee. He has been swimming competitively for 10 years. He made the U.S. Olympic team by qualifying third in the Olympic trials. At the age of 10, he started winning medals while swimming for the Huntington, Ind., YMCA under coach Glen Hummer. He swam for the Huntington Y for many years. Winning has been a way of life for him.

The Huntington YMCA, the Southeast YMCA at Fort Wayne, all of his friends in the State of Indiana and all Americans are proud of this gold medal winner. We look forward to welcoming him home.

CALL OF THE HOUSE

Mr. CEDERBERG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 532]

Abzug
Addabbo
Anderson, Ill.
Andrews, N.C.
Archer
Ashley
Boggs
Bowen
Brademas
Brinkley
Buchanan
Byron
Carney
Chappell
Chisholm
Clay
Conyers
Derwinski
Diggs
Dingell
Esch
Eshleman
Fish
Flynt
Forsythe
Goldwater
Harkin
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Hinshaw
Holland
Holtzman
Horton
Howe
Jarman
Jones, Tenn.
Jordan
Koch
Krueger
Litton
Long, Md.
Lott
Matsunaga
Meeds
Melcher
Mitchell, Md.
Murphy, N.Y.
Neal
Nix
Nolan
O'Hara
Pepper
Peyser
Pressler
Rangel
Rees
Riegle
Rodino
Rousselot
Santini
Scheuer
Schneebeli
Shipley
Shuster
Solarz
Stanton,
James V.
Steelman
Stephens
Stuckey
Teague
Treen
Udall
Waxman
Wilson, C. H.
Wolff
Young, Alaska
Young, Ga.

The SPEAKER. On this rollcall 353 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

COMMUNICATION FROM THE SECRETARY OF THE SENATE

The SPEAKER laid before the House the following communication from the Secretary of the Senate:

The Senate having proceeded to reconsider the bill (S. 3201) entitled "An Act to authorize a local public works capital development and investment program, to establish an antirecessionary program, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO,
Secretary.

PUBLIC WORKS EMPLOYMENT ACT OF 1976—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following veto message from the President of the United States:

To the Senate of the United States:

I am today returning without my approval, S. 3201, the Public Works Employment Act of 1976.

This bill would require $3.95 billion in Federal spending above and beyond what is necessary. It sends a clear signal to the American people that four months before a national election, the Congress is enacting empty promises and giveaway programs. I will not take the country down that path. Time and time again, we have found where it leads: to larger deficits, higher taxes, higher inflation and ultimately higher unemployment.

We must stand firm. I know the temptation, but I urge Members of Congress to reconsider their positions and join with me now in keeping our economy on the road to healthy, sustained growth.

It was almost five months ago that the Senate sustained my veto of a similar bill, H.R. 5247, and the reasons compelling that veto are equally persuasive now with respect to S. 3201. Bad policy is bad whether the inflation price tag is $4 billion or $6 billion.

Proponents of S. 3201 argue that it is urgently needed to provide new jobs. I yield to no one in concern over the effects of unemployment and in the desire that there be enough jobs for every American who is seeking work. To emphasize the point, let me remind the Congress that the economic policies of this Administration are designed to create 2 to 2.5 million jobs in 1976 and an additional 2 million jobs in 1977. By contrast, Administration economists estimate that this bill, S. 3201, will create at most 160,000 jobs over the coming years—less than 5 percent of what my own policies will accomplish. Moreover, the jobs created by S. 3201 would reduce national unemployment by less than one-tenth of one percent in any year. The actual projection is that the effect would be .06 percent, at a cost of $4 billion. Thus, the heart of the debate over this bill is not over who cares the most—we all care a great deal—but over the best way to reach our goal.

When I vetoed H.R. 5247 last February, I pointed out that it was unwise to stimulate even further an economy which was showing signs of a strong and steady recovery. Since that time the record speaks for itself. The present 7.5 percent unemployment rate is a full one percent lower than the average unemployment rate of 8.5 percent last year. More importantly, almost three and a half million more Americans now have jobs than was the case in March of last year. We have accomplished this while at the same time reducing inflation which plunged the country into the severe recession of 1975.

S. 3201 would authorize almost $4 billion in additional Federal spending—$2 billion for public works, $1.25 billion for countercyclical aid to state and local governments, and $700 million for EPA waste water treatment grants.

Beyond the intolerable addition to the budget, S. 3201 has several serious deficiencies. First, relatively few new jobs would be created. The bill's sponsors estimate that S. 3201 would create 325,000 new jobs but, as pointed out above, our estimates indicate that at most some 160,000 work-years of employment would be created—and that would be over a period of several years. The peak impact would come in late 1977 or 1978 and would add no more than 50,000 to 60,000 new jobs in any year.

Second, S. 3201 would create few new jobs in the immediate future. With peak impact on jobs in late 1977 or early 1978, this legislation would add further stimulus to the economy at precisely the wrong time: when the economy is already far into the recovery.

Third, the cost of producing jobs under this bill would be intolerably high, probably in excess of $25,000 per job.

Fourth, this bill would be inflationary since it would increase Federal spending and consequently the budget deficit by as much as $1.5 billion in 1977 alone. It would increase demands on the economy and on the borrowing needs of the government when those demands are least desirable. Basic to job creation in the private sector is reducing the ever increasing demands of the Federal government for funds. Federal Government borrowing to support deficit spending reduces the amount of money available for productive investment at a time when many experts are predicting that we face a shortage of private capital in the future. Less private investment means fewer jobs and less production per worker. Paradoxically, a bill designed as a job creation measure may, in the long run, place the opposite pressures on the economy.

I recognize there is merit in the argument that some areas of the country are suffering from exceptionally high rates of unemployment and that the Federal government should provide assistance. My budgets for fiscal years 1976 and 1977 do, in fact, seek to provide such assistance.

Beyond my own budget recommendations, I believe that in addressing the immediate needs of some of our cities hardest hit by the recession, another measure before the Congress, H.R. 11860 sponsored by Congressman Garry Brown and S. 2986 sponsored by Senator Bob Griffin provides a far more reasonable and constructive approach than the bill I am vetoing.

H.R. 11860 would target funds on those areas with the highest unemployment so that they may undertake high priority activities at a fraction of the cost of S. 3201. The funds would be distributed exclusively under an impartial formula as opposed to the pork barrel approach represented by the public works portions of the bill I am returning today. Moreover, H.R. 11860 builds upon the successful Community Development Block Grant program. That program is in place and working well, thus permitting H.R. 11860 to be administered without the creation of a new bureaucracy. I would be glad to accept this legislation should the Congress formally act upon it as an alternative to S. 3201.

The best and most effective way to create new jobs is to pursue balanced economic policies that encourage the growth of the private sector without risking a new round of inflation. This is the core of my economic policy, and I believe that the steady improvements in the economy over the last half year on both the unemployment and inflation fronts bear witness to its essential wisdom. I intend to continue this basic approach because it is working.

My proposed economic policies are expected to produce lasting, productive jobs, not temporary jobs paid for by the American taxpayer.

This is a policy of balance, realism, and common sense. It is a sound policy which provides long term benefits and does not promise more than it can deliver.

My program includes:

Large and permanent tax reductions that will leave more money where it can do the most good: in the hands of the American people;

Incentives for the construction of new plants and equipment in areas of high unemployment;

More than $21 billion in outlays in the fiscal year beginning October 1 for important public works such as energy facilities, waste water treatment plants, roads, and veterans' hospitals representing a 17 percent increase over the previous fiscal year; and

A 5¾-year package of general revenue sharing funds for State and local governments.

I ask Congress to act quickly on my tax and budget proposals, which I believe will provide the jobs for the unemployed that we all want.

GERALD R. FORD.

THE WHITE HOUSE, *July 6, 1976.*

The SPEAKER. The objections of the President will be spread at large upon the Journal.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. HARSHA) and pending that, I yield myself 5 minutes.

Mr. Speaker, Alexander Hamilton wrote in the Federalist Papers that the authors of the Constitution created the veto as an unusual instrument to be reserved for extreme occasions and anticipated that it would be rarely resorted to.

During the first 20 years of our nationhood—throughout the administrations of Presidents Washington, Adams, and Jefferson—there were only two vetoes in all.

During the entirety of the first 70 years of our history as a Nation, during the administrations of the first 15 American presidents, the veto was asserted in all only 50 times, fewer than the number of times it has been asserted by one president in the past 23 months.

The veto quite clearly was never intended as a device to enthrone the President, nor to frustrate and obstruct the repeated asserted manifest will of the people's elected Representatives in the lawmaking branch of Government.

Those who wrote the Constitution would have been appalled and incredulous at the suggestion that any single American President in a period of less than 2 years would seek to nullify 53 laws duly enacted by the Congress of the United States.

This legislation presently before us is, therefore, a critical and classic test of the capacity of Congress to work its will and to serve the Nation's needs. This bill has been passed by this House on five separate occasions by overwhelming bipartisan majorities of better than 3 to 1.

Every reason which impelled us to support it on those earlier occasions is present today.

Unemployment has remained higher over a longer period than at any time since World War II. In the past month it has increased by 200,000 additional Americans who are out of work.

In the private construction industry and the building trades, 18 percent of the work force is unemployed, and in many localities more than 40 percent are unemployed.

Meanwhile building projects lie dormant, architectural plans gather dust, and public needs go unmet.

Twenty-eight of our States are running out of money to perform badly needed water pollution abatement works.

The Nation's cities, both large and small, are caught in a nutcracker vise between rising costs and diminishing revenues, their local treasuries crippled by the prolonged economic recession. Such basic services as sanitation, police, and fire protection have suffered as a result.

This bill presently before us is not perfect. Probably it is not exactly the way any one of us would have written it in every detail. But it does represent the composite will of the Congress of the United States. It does address these recognized needs responsively and responsibly, in total harmony with the adopted congressional budget resolution. The President is emphatically and categorically mistaken to describe it as a "budget buster." It is not that. It was fully included in the budget resolution.

It is ironic that the administration seems quite willing to continue to pay $19 billion in unemployment compensation but unwilling to spend $4 billion putting Americans back to work on needed projects of capital investment.

It is an incredible illusion to contend that somehow it is inflation to spend $4 billion adding to the wealth of the country and putting Americans to work but somehow not inflationary to spend $19 billion paying Americans not to work.

And surely it is an outworn economic fallacy as well as bankrupt social policy to maintain that the only way to abate inflation is to maintain high unemployment.

Let us by our vote today give reassurance to the American public that Congress does care, that the system does work, and that we begin our third century of nationhood with a renewed determination that the needs of the Nation will be met and the will of the people shall prevail.

Mr. CONTE. Mr. Speaker, I rise in support of the Local Public Works Employment Act, and urge my colleagues to join me in voting to override the President's veto of this measure.

As an initial cosponsor of the major provisions of this legislation, I have spoken many times in support of this approach to the unemployment which continues to plague our Nation. When the House voted to override the veto of the predecessor of this bill last February 19, I voted to override along with more than two-thirds of my colleagues. But then, we were thwarted by the Senate's failure to override. I am gratified, therefore, by yesterday's Senate vote of 73 to 24 in favor of the override, and am confident that the House will follow suit today.

Although we have been this route before, I would like to take this opportunity to outline some of the more important features of this legislation and to indicate exactly how it will alleviate the economic malaise which we presently face.

Title I authorizes $2 billion through fiscal year 1977 to fully fund State and local public works projects for which onsite labor could begin within 90 days. Funding would be triggered when the national unemployment rate is 6.5 percent or more for the most recent 3 consecutive months. Seventy percent of the funds would be targeted for States and localities with unemployment rates which exceed the national average. The targeting of funds and the 90-day commencement requirement will insure that the money provided under this act goes only to those areas which need it the most, and only when it will immediately put people to work.

In those respects, this measure differs significantly from the so-called emergency jobs bill, the justifiable veto of which I voted to sustain on June 5, 1975. I did so because the bill was loaded with some 3,3 billion worth of pork-barrel projects and ill-advised Government procurement which would have done little to create the immediate jobs so desperately needed at that time.

The portions of that vetoed bill which were genuinely job creating, the portions which I wholeheartedly supported, were easily provided for in a continuing resolution coupled with a separate appropriation for summer youth employment. The continuing resolution provided the public service CETA jobs, the community service jobs for the elderly, the work study jobs, and the work incentives—WIN—program at the same level of funding as was provided in the vetoed bill.

The remainder of the job-creating portion of that bill is before us today. This is not a pork-barrel bill; it is a measure which will not only provide meaningful employment for our unemployed, but will also provide lasting benefits to our taxpayers who are fortunate enough to already have a job. With the funds authorized in this bill, States and municipalities will be able to move forward with such things as the construction of public buildings, water and sewer facilities, streets and roads, recreational facilities, and other construction projects which will immediately put people to work.

Funds will be directed at those sectors of the economy which experience the highest unemployment rates. This bill strikes unemployment at its most serious point—the construction industry and building trades, where unemployment exceeds 17 percent nationally and is above 40 percent in many cities. This bill will put nearly 400,000 Americans to work, mostly in the private sector, and the result will be lasting projects on which the taxpayers will be able to see a ready return on their investment.

Mr. Speaker, I cannot emphasize too strongly the importance of this measure to the people who live in districts such as mine, where unemployment continues to be significantly above the national average. Because of New England's dependence on imported petroleum, the past few years' exorbitant increases in energy costs caused the recession to hit New England harder than the rest of the country. Although I am pleased that the economy as a whole is picking up, pockets of New England have been left behind by the general recovery.

This bill will deal with that problem, and insure that the entire Nation will benefit from the overall improvement in economic conditions.

Mr. Speaker, let us also not forget that by focusing funding on those areas which have the greatest unemployment problem, we are also significantly reducing the inflationary impact which an overall infusion of $2 billion in Government would otherwise have.

The Nation is spending $19 billion this year on unemployment compensation. The recession has been so prolonged that every month 200,000 more workers are exhausting their entitlement to unemployment compensation. This bill will immediately put people back to work, and keep present recovery in progress.

Mr. Speaker, the override of this veto will demonstrate our continued determination to revive the economy to its full potential. I urge my colleagues to follow the example set by the Senate yesterday and vote to override the President's veto of this Local Public Works Employment Act.

Mr. HARSHA. Mr. Speaker, I yield myself 15 minutes.

Mr. Speaker, I urge this House to vote to sustain the President's veto on the bill S. 3201.

My distinguished and eloquent friend, the gentleman from Texas, just alluded to the number of vetoes this administration has made. I term that, rather than a reflection on the administration, as an indictment of the fiscal irresponsibility of this Congress.

The best that can be said about the bill S. 3201 is that the other body has done it again this time with full complicity by the House. We allowed ourselves in the House to accept nongermane and conflicting, and indeed contradictory provisions under virtual dictation from the other body.

Now under the bill S. 3201 we would embark on a brandnew categorical aid program without the slightest taint of consideration of what is in it. To sum that up I would only observe: First, I do not think we should be trying to do what we are attempting to do; and second, even if we should, I have grave and serious doubts that it would do the job as alleged.

Title II of this bill provides $1,250 million over five calendar quarters for grants to cities and States to maintain existing public services. Grants shall be on the basis of revenue-sharing entitlements with an unemployment factor for each jurisdiction.

This provision is unwise and unneeded, since this House just very recently has passed a 3¾-year extension of revenue sharing, authorizing some $25 billion for this purpose. The Senate is presently considering that legislation.

Now, title II of this bill was never considered by the appropriate committee, the Committee on Government Operations, but was taken by the House conferees in conference as a Senate amendment.

This provision, furthermore, adds no new jobs, no new jobs to municipal rolls, but merely maintains current municipal employment. In other words, it takes the incentive away from the cities to properly manage their affairs and permits them to rely on the Federal Government to bail themselves out.

Furthermore, a section of title II specifically prohibits the use of these funds for any construction other than to maintain basic services.

Now, beyond these considerations, I am very concerned over the Talmadge-Nunn amendment regarding waste water treatment works construction grant funds. This amendment would set aside a special pot of $700 million, on pure political bargaining grounds, to benefit those States which receive less on the basis of need. In so doing, we transform this vital high priority program into a species of general revenue sharing.

Now, on the surface, nobody gets hurt—this time around. The needs formula beneficiaries get theirs, supposedly, and other States get theirs; but what about the budget process? What about the $17 billion that we have authorized in H.R. 9560, which is now the Senate bill S. 2710, for the clean water construction grants program? What about the balance of the $9 billion, which has been available since early this year for construction through September 30, 1977? Do any of us really think that the Committee on Appropriations will not take this into account? Does anyone here think that the total pot to be shared by all States—needs formula beneficiary and Talmadge-Nunn beneficiary—will not be accordingly reduced?

Those of us who are from California, Connecticut, Delaware, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, or Virginia, should take note of what I am saying. No Talmadge-Nunn money will go to these States. This extra $700 million, I submit, will be deducted from the pot of funds available for the construction grant program, and your particular State will not get a dime.

The SPEAKER pro tempore (Mr. McFALL). The time of the gentleman from Ohio has expired.

Mr. HARSHA. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, note that if a Member represents one of these States, he is one of 242 Members of this body, a clear majority, whose State will suffer by the Talmadge-Nunn amendment, and I think he should do something about it. The other body certainly did, because those States not represented by these 242 Members, just happen to be represented by 66 votes in the other body. What I am saying is that 33 States in the other body with their 66 votes are dictating policy for States which have 242 votes in the House of Representatives. I submit we should have the courage to stand up for the interest of the States represented by a majority of the Members of this House. No one should doubt that this $700 million will ultimately come out of allotments to the States represented by these 242 Members.

Mr. Speaker, when we changed the formula for construction grants we endeavored to come up with a formula that is as equitable as possible.

We changed the old needs formula. We adopted part of the Talmadge-Nunn formula to try to alleviate some of the problems. Twenty States get less money under the new formula than they would under the old formula. Yet they accepted this fact in order to see that all States were treated more equitably and do get on with the program of cleaning up the Nation's waters.

I submit that it is totally unfair to those 20 States to take funds from them as we did under the new formula for construction grants to appease those States interested in the Talmadge-Nunn formula and then turn around and give the Talmadge-Nunn States an additional bonus of $700 million. That is what you call having your cake and eating it too. That is simply a ripoff and not fair to the rest of the States involved.

Mr. Speaker, this bill has been painted as a panacea for all the ills of the country. It is a cruel hoax on the American people and will cause many times more harm by fueling the fires of inflation than any good it might possibly do. I urge the House to vote to sustain the President's veto.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I agree with my Public Works Committee ranking member, Mr. HARSHA, on his remarks relating to the overall fiscal irresponsibility of this Congress. I think the President has wisely and prudently used the veto power in behalf of taxpayers of this country. However, on this bill I respectfully disagree. Therefore, I rise in support of S. 3201, the Local Public Works Employment Act of 1976, the President's objections notwithstanding. I do so because there is an urgent need for this bill, which would provide $2 billion for local public works projects, $1.25 billion for countercyclical grants to State and local governments, and $700 million for grants for the construction of waste treatment plants. This bill has now been with the Congress, in one form or another, for a year and 3 months. A similar version was vetoed in January which contained $6.125 billion for essentially the same programs and those amounts were scaled down to meet the President's objections. As a conferee I tried to remove title II, the countercyclical provision, but failed.

As ranking minority member of the Economic Development Subcommittee of the Public Works Committee, I want to express my gratitude to Chairman JONES, Mr. WRIGHT, and subcommittee Chairman ROE for their splendid efforts in seeing this bill through the House and conference. Even though this legislation does have provisions, such as title II, that are redundant and unnecessary I feel the good outweighs the bad for there is currently no legislation before Congress or before the President to fill the need of job creation. This is the only bill Congress has to alleviate unemployment, especially in the construction and related industries. Earlier this year when the President vetoed H.R. 5247, a similar measure to the one before us today, there was a proposal to expand the community development program to provide funds to urban areas with high unemployment. That proposal was dropped in the housing bill conference.

Critics of this bill state that the job impact is not worth the price but I say we dare not measure the cost of job creation in terms of dollars alone. Whatever jobs created, in addition to new jobs that are created in the normal course of economic activity, would be a relief to the swollen ranks of the unemployed and the burden of unemployment compensation, currently in excess of $16 billion annually. The savings in unemployment compensation reduction alone could possibly offset the cost of this bill.

I do not think there is one Member of this body who has not asked his constituents whether they are willing to assist the unemployed by creating jobs. This bill goes a long way toward that objective. Congress must see this task through.

I support the administration in its efforts to reduce taxes, provide incentives in the private sector, and extend general revenue sharing. When the administration is right, I will support the administration. However, when the administration is wrong, I will oppose and I do so today and ask you to vote to override the President's veto.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of S. 3201, the President's objections notwithstanding. I do so principally because of title I, the public works provision which authorizes $2 billion for the construction of local public works facilities. The language of this provision has been carefully drafted to address the excessive unemployment in the construction and related industries and to provide States and local governments with needed facilities such as schools, libraries, courthouses, and other needed public works facilities. This title, although not the level of authorization as originally conceived, is the only portion of this bill that the Public Works Committee has considered in full.

I am extremely disappointed that other unrelated and unnecessary provisions were added by the Senate. These provisions duplicate legislative efforts of the House. The House of Representatives has already passed a revenue-sharing extension. It has passed the Water Pollution Control Amendments of 1976 which will provide funds for the construction of waste water treatment facilities. If the Senate would act quickly on these measures, there would clearly be no need for the other provisions of this bill. In addition, a great deal more jobs would be created as a result of the previously mentioned legislation. A combination of a public works bill, revenue sharing, and a water pollution control bill would have a significant impact on job creation.

On June 3 the House passed H.R. 9560, the water pollution control amendments. As ranking minority member of the Water Resources Subcommittee I actively worked for the passage of this measure. This bill included $17 billion for the construction of waste water treatment facilities and it improved the allocation formula. The revised allocation formula included in H.R. 9560 answers the objection to the current allocation formula that the Talmadge-Nunn amendment was designed to correct. In light of this legislation there is clearly no need for title III of this bill. Unfortunately, once again the other body has made a Christmas tree out of our original, streamlined bill and I am most disappointed in this action.

Despite these additions with the resultant shortcomings of the bill, I still support this measure. I do so because it is the only public works job-creating measure which the Congress has before it.

The national unemployment rate is still 7.5 percent. Many States such as my own have unemployment rates above the national average. The construction industry has an unemployment rate double that of the national unemployment rate. This bill, particularly title I, will create jobs and will make some impact on reducing unemployment in my California congressional district and the other areas of the country having a higher than average unemployment problem. For these reasons, I will vote to override the veto, even though the President does make a good case for some of the unnecessary and duplicative provisions of the bill.

Mr. WRIGHT. Mr. Speaker, I yield 4 minutes to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I rise to urge the Members of the House to join with me in voting to override the President's veto of Senate 3201, the Public Works Employment Act of 1976.

There is no need for a long explanation of the need to override the veto, because the House already demonstrated that we understand the need for action to combat unemployment when we passed this bill by an overwhelming vote of 328 to 83, with strong bipartisan support. All Members will recall that we had an override of the President's veto earlier during the year on a bill similar to this, but larger. On that bill, we overrode the President's veto by a vote of 319 to 98.

In my view, this bill is crucial to maintain the momentum of economc recovery. This bill is an integral part of the economic recovery program which has been put into effect by this Congress. It will provide jobs for many of the Nation's unemployed. It will provide a critical stimulus to the faltering construction industry, and will provide emergency assistance to many States and counties that have literally been devastated by the recession.

Mr. Speaker, only the other day I was taking a ride with a couple of friends in my area, and we went by two stadiums, one in Everett and the other in Chelsea. They looked at those and one said, "I wonder if a city today would be able to build such a stadium as that." Those were built during the WPA days, some 35 years ago. They are still monuments being put to good use so many times during the course of a year.

This program now will give to the cities, to the States, to the counties, programs for which plans have already been formulated, for instant work within 90 days for those who have already had their plans formulated. The single, most important factor which we must not forget is that the national unemployment rate today is 7.5 percent. In December 1975, it was 9.3 percent. It came down to 7.3 percent, and it has risen in the last month 0.2 percent. More than 7 million Americans are still unemployed.

We know that this bill will decrease unemployment by 0.4 percent. It is a stimulus. It can start the economy moving again as it did in bringing it down from 9.4 percent to 7.3 percent. Let us say that if we can bring it down from 7.5 percent to about 7.1 percent, we will keep the stimulus going and keep the economy moving. That is what we want to do.

Many regions of the country—I am looking at the gentleman from New Hampshire—are suffering. At the present time, unemployment in Massachusetts is about 8 percent, and in all of New England it is about 8 percent. However, for the most part in the construction industry it is about 20 percent.

This is a good bill. This is a bill, Mr. Speaker, wherein it is time that we put it squarely before the American people: Are we going to work to give a further stimulus to help relieve unemployment? In 1975, we spent $20 billion on unemployment compensation. This year, we are going to spend $18 billion, in the year 1976. We have bills for welfare, bills for food stamps, all kinds of other programs. About $50 billion was lost in Government revenues on taxes alone in 1975.

How much this year? Pretty close to the same.

State and local governments lost $27 billion in taxes last year. Over $1 trillion in output will be lost from 1974 to 1980 if we continue the road that we are going.

This bill I think is the best, the most direct, probably the only way we can help at this particular time.

I ask my colleagues on both sides of the aisle to override the President's veto.

Mr. HARSHA. Mr. Speaker, I yield 6 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, this is a bill which is too late to do any good. In fact, it is a bill that is so poorly timed, in my opinion, it would actually be harmful to the economy.

We were all concerned about the rising unemployment figures in the United States a year ago. But since that time, the sound policies of the Ford administration and the fact that the Members of the House and the Senate, many of us, have banded together to sustain vetoes, have caused the economy to turn around. We are now working our way out of a recession. We have an unemployment rate which is too high, but which is going down. In fact, the economists had been worried not because we are not recovering from the recession, but because we may be recovering too fast from the recession and that the speed of the recovery might actually cause a rekindling of the fires of inflation. After all, the fundamental problem of the economy of the United States of America and, I might even say, of the whole world, is still inflation.

So here we have a bill which is designed, in my opinion, mainly to influence the votes of the people who will be going to the polls in November. I want votes just as much as anybody possibly could; but I certainly do not intend to try to get political advantage from a situation which I think in the long run will be harmful to this country and its people.

Instead of that, it seems to me, it would be well for this Congress to band together in an effort to stimulate the private enterprise system and to make sure that it is able to expand and that we are able to keep the money supply at a rate which will stimulate jobs without inflation, which, in turn, will take care of the unemployed much better than the leaf-raking proposals which are in this bill.

It seems to me also that passing a bill like this over the veto of the President is putting the Congress in a position where we are in effect asking for inflation and the Executive is not

Because the President happens to be of my party, if the majority Members think it is good politics to ask for more inflation, then so be it. I do not happen to think it is. I happen to think the American people are really sick unto death of inflation. I think they are sick unto death of Government harassment. I also think the people, who might possibly get jobs if this bill becomes law, will find themselves at a dead end. They will have jobs which are taking years out of their lives but which are not going to be any kind of stepping stones upon which they can build a good life for themselves in a permanent career which will benefit themselves and their families.

It is, in my opinion, a cruel hoax to fund a program like this which, in effect, seeks to build confidence of the American people in a job system which cannot be sustained.

We are not—at least I hope we are not—going to make a permanent program out of this so that we will have people getting into it with the hope that they will be building for the future when actually they will not be.

Mr. Speaker, in this country we have probably the most sophisticated and best unemployment compensation system that exists in the world today, or ever has existed in the world. I think it is good, though there are many improvements I would like to make in it. I would certainly like to tie it closer to retraining people who find themselves structurally unemployed, but nevertheless it is essentially a good system.

The reason that most people who think of themselves as fiscal conservatives, as I do, support the unemployment compensation system is because it gives us flexibility so we do not have to press the panic button whenever we have a rise in unemployment. The unemployment compensation keeps the individual and his family from undue hardship and starvation. He can look for a job which fits his capabilities, or if he has to, he can retrain and acquire another skill.

It seems to me that this bill tries to go both ways. We not only have the unemployment compensation system, which I think is good, but here we are trying to set up a separate Government program which would have the effect of putting people to work in jobs which are not really jobs; all they are is a Federal handout thinly disguised. This bill, in effect, presses the panic button, with no real panic remaining.

So, Mr. Speaker, it is my hope that the House of Representatives will remember what the people of this country really want. They want good jobs, they want less inflation, and they want better prices at the supermarket. This is no way to give them any of these things.

Mr. Speaker, I hope the veto of the President will be sustained.

Mr. WRIGHT. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, the House must override President Ford's veto of S. 3201, the Public Works Employment Act of 1976. This jobs bill represents the centerpiece of Congress efforts this year to create a workable jobs program and start putting Americans back to work. It is nothing less than the heart of the economic stimulus package Congress adopted in the first budget resolution for fiscal year 1977. For anyone who is concerned about the state of the economy, who wants to see the recovery continue, and who wants to put the country back to work again, there is no more important vote than the vote to override President Ford's veto of this job-creating legislation—this the fiscal year 1977 jobs bill.

During the last year Congress provided the economic leadership to end the recession and while the President was still calling for a tax increase and later vetoeing the tax cut and a series of job-producing bills. The Nation was in the worst recession since the days of Herbert Hoover. The Congress passed the bills to turn it around. In the first and second budget resolutions for fiscal year 1976, we adopted a fiscal policy designed to stimulate the economy without spurring inflation. The President warned of $100 billion deficits, runaway inflation, and something called crowding out. Nevertheless, Congress stood firm; we lived within our budget, our policies worked, and the administration's bogeymen failed to materialize. The deficit was not $100 billion. Inflation was reduced and the credit markets were not strained.

Today we must continue the job we began last year. The President has chosen the worst possible moment to veto this jobs bill. The latest economic statistics indicate that the recovery is again lagging. In June, 200,000 American workers lost their jobs. It so happens that the bill before us today will create around 200,000 jobs. Unemployment rose 0.2 to 7.5 percent of the work force. Among minorities, the increase was much higher. The rise in unemployment is not the result of young people trying to find summer jobs. It reflects lost jobs among heads of families, most of whom are ordinary working people just trying to pay the mortgage and put food on the table.

The President says that the jobs bill costs too much. He says that $3.25 billion is too much to spend for jobs. This is partisan political nonsense. In May, Congress adopted a budget resolution for fiscal year 1977 that was designed to sustain the recovery, hold the line on inflation and reduce the deficit by one-third. This jobs bill is within the targets contained in that budget. It is not inflationary because of the slack in the economy. Indeed its passage will be an important element in helping us meet the targets contained in that budget. The House has shown by its action so far that it can live within that budget. All but two of the appropriations bills have already been passed by this House—far ahead of the normal schedule—and we are adhering to the fiscal 1977 spending targets. But ceilings on spending is only part of the story. In order to achieve the growth, employment and inflation goals assumed in the budget resolution, Congress must also pursue a jobs program consistent with those assumptions.

In short, if we are to hold the line on unemployment, we must override President Ford's veto of S. 3201. Enactment of this sound public works bill is the surest way to sustain the economic recovery and achieve the employment goals assumed in our budget resolution and reduce Federal spending for unemployment compensation, welfare, and other recession caused spending.

The spending for these programs are automatic, and unless we make the economy move, our Federal expenses in those areas automatically go up. Therefore, if the economy does not continue to function according to the targets in the budget resolution for the fiscal year 1977, our spending will rise.

Mr. Speaker, I want to compliment the Committee on Public Works and Transportation and particularly the gentleman from Texas (Mr. WRIGHT), who also serves on the Committee on the Budget and who dovetailed this bill into the budget resolution and in conference reconciled the Senate action and now has brought the bill here today.

I hope the override will be substantial so that we can proceed to accomplish two things: First, to reduce the unemployment rate which, as was pointed out by the majority leader, went up by 200,000 jobs last month. We have been predicting that this recovery would begin to slide off. There is no magic to this. We can see the trends as they work in this country, and as inventories were restored and housing starts were past the first surge we could not sustain the early growth rate of the economy. So what is happening now is the sort of thing that always occurs during the first part of a recovery; it goes up, and then it begins to slide off. This bill is necessary to take up that slack which will accumulate during the rest of this fiscal year and is expected to continue into fiscal year 1977; it is terribly important.

Finally, Mr. Speaker, I would conclude with this: we have two distinct policies in any budget resolution. One is to establish control over spending, and that is always the part that causes many people to say, "Well, that is all the budget resolution is, to put on ceilings." But it has a second part, and that is to establish a fiscal policy to be certain that the economic policy works. This bill is part of that policy.

Mr. Speaker, I urge an override of the veto.

The SPEAKER pro tempore (Mr. BRADEMAS). The time of the gentleman from Washington (Mr. ADAMS) has expired.

Mr. WRIGHT. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I thank the gentleman for yielding.

Does the gentleman intend to insist with the Committee on Appropriations that title I be funded at a $2 billion level, that title II be funded at a $1.250 billion level, and that title III be funded at a $700 million level?

Mr. ADAMS. Yes. That is what this committee recommended as the authorization. This fits in with the outlay and budgetary proposals, and I think we should be consistent.

Mr. BROWN of Michigan. If the gentleman will yield further, the gentleman, I think, knows that it is represented that this bill, according to high estimates, would produce 300,000 jobs. What reduction in unemployment would that constitute?

Mr. ADAMS. Two-tenths of 1 percent.

Mr. BROWN of Michigan. I thank the gentleman.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, could my good friend, the gentleman from Washington (Mr. ADAMS), explain where the Humphrey-Hawkins bill fits into this? I know the gentleman's committee also has money in the congressional budget to start up the Humphrey-Hawkins bill. Just how much money have you budgeted for make work, unwanted, unneeded jobs?

The SPEAKER pro tempore. The time of the gentleman from Washington (Mr. ADAMS) has again expired.

Mr. ADAMS. Mr. Speaker, will the gentleman yield me an additional 30 seconds?

Mr. WRIGHT. No. The gentleman on the other side has the same amount of time.

Mr. HARSHA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, I thank my distinguished colleague, the gentleman from New Hampshire (Mr. CLEVELAND), for yielding.

There was reference made here earlier to Alexander Hamilton and Hamilton's writings in the Federalist Papers on the use of the veto.

I think it is only right to say for the record that James Madison was also one of those authors.

James Madison, in fact, is considered the principal author of the Constitution, the foremost authority on that document in his own time, and a constitutional authority even today.

Mr. Speaker, James Madison said that the functions of the national government would be confined essentially to declaring war, making peace, regulating foreign commerce, and negotiating foreign treaties, and that all domestic concerns would be left to the States and the people.

I think it is for that reason, and not for some of the reasons that were advanced earlier, that there was very limited use of the veto power by the executive branch in the early years of the Republic. Furthermore, I think such legislation as we are debating here was more compatible with what the Founding Fathers understood to be feudalism than with a free society.

Mr. Speaker, I thank the gentleman for yielding.

Mr. CLEVELAND. Mr. Speaker, I thank my colleague, the distinguished gentleman from Illinois (Mr. CRANE), for his contribution.

In that regard, I, too, was sent to the reference books by the oratory of the distinguished gentleman from Texas (Mr. WRIGHT), my good friend, for whom I have great esteem.

The thing that sent me to the reference books was his impassioned attack on the use of the veto by our President, Mr. Ford. I think that any debate such as this should try to put things into perspective, particularly as we harken back to the beginnings of our country in this Bicentennial Year.

Mr. Speaker, I think the record should certainly contain the following information, that apparently the alltime champ in the use of vetoes was a President who, by the way, bears a very distinguished name. He may have been misguided as to his selection of a political party, but this was Grover Cleveland. And Grover Cleveland, in his first term, had more than 400 vetoes.

We might ask if this meant that he was a bad President. I think the historical fact is simply that when Grover Cleveland was President, he was faced with a Congress controlled by the other political party.

Therefore, Mr. Speaker, I think it is fair to suggest that President Ford, being a Republican President faced with a Congress that is controlled by a 2-to-1 majority of the other party, is doing pretty much what Grover Cleveland and others found necessary to do in the public interest.

In that connection, Mr. Speaker, there is a little good news out of this sorry story which we are discussing here today. The good news is that the President's resort to the use of the veto has certainly, in this particular exercise, at least, saved the taxpayers of this country $2 billion. For those concerned about inflation and excessive spending that is good news.

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. CLEVELAND. I am sorry, but we are so very short of time that I cannot yield to the gentleman.

Mr. Speaker, I do not think there is any Member here who realistically does not think that this House, for reasons already stated by the distinguished majority leader, is going to override this veto. But I do think that the President's use of the veto, on the record, will show that he cut down the original extravagance from $6 billion to $4 billion.

So I submit again that the use of the veto is not only important, but it has been a great thing for the taxpayers of our country—particularly those people in this country who are still concerned with the economy and recognize inflation as the No. 1 economic problem.

I realize that jobs are a problem too. I sympathize with the people who are unemployed. I sympathize with the majority leader, the gentleman from Massachusetts (Mr. O'NEILL), who cited the high unemployment rates in New England. But I would point out the record of the State of New Hampshire, the State from which I come, wherein the rate of unemployment is much less, under 5 percent. This is because New Hampshire, for a great number of reasons but mainly through fiscal restraint and provident management of our affairs, has put our State into a position in which it has become so attractive to industry that industries are fleeing from other parts of New England, just as fast as they can move out, and are moving into New Hampshire.

The SPEAKER. The time of the gentleman has expired.

Mr. HARSHA. Mr. Speaker, I yield 1 additional minute to the gentleman from New Hampshire.

Mr. CLEVELAND. Mr. Speaker, I regret that I do not have more time to discuss the issues of the bill except under leave to extend. This is called a jobs bill by some, but if I were to label the bill, then my label would be inflationary or irresponsible. But it is attractive to label bills in an election year so this has been labeled as a jobs bill.

It seems to me, Mr. Speaker, if some in this House of Representatives were really interested in getting people back to work, instead of going through this year and a half exercise with this bill, with its doubtful results, they would have spent more time on their oversight functions. They would have done the job of investigating why job creating programs do not work, and acted to make sure they did work.

We have a great many housing projects, and in my district we have a number of housing projects that are being held up by Government redtape. Congress does not have the guts to cut the redtape.

We have billions of dollars designated for sewage treatment plants that should be spent to clean up the waters of this country, yet both Houses of the Congress have not yet had the guts to cut the redtape, and go to work on that.

Further, we have a problem facing this country where there are an estimated 3 million illegal aliens holding jobs and yet the Congress has not seen fit to fully address itself to that problem.

It is important to oppose this bill and sustain the veto, not despite the fact that this is an election year, but precisely because it is an election year. Because it is the first election year in recent memory in which the proper role of the Federal Government in relation to State and local governments, the private sector of the economy and the individual citizen is being addressed in varying degrees by both major parties. And because the parties have been compelled to face this issue by the growing disappointment and disillusionment of the American public with the performance of the Federal Government.

I do not view this bill in isolation, Mr. Speaker, but in the larger context of what we in the Congress are doing for and doing to the American public. In this connection, I have to say that this bill is sadly deficient in both the policy of its approach and in its specific provisions.

The issue is not whether the Federal Government ought to help combat unemployment and stimulate creation of jobs. Of course, it should. But the real issue is how. Do we strengthen or weaken the role of State and local governments? Do we encourage them to economize, streamline their operations, and improve their efficiency, or do we reduce their incentive to do so? Do we promote jobs in the private sector or do we build a greater direct dependence of the individual on the Federal Government for his paycheck? Do we concentrate our efforts on direct job creation by Federal expenditure or do we promote longer term, sustainable growth in private, taxpaying business and industry through long-range economic development? To the extent that we view direct Federal investment as a job-creating tool—and I consider this valid; it produces facilities of lasting benefit to our States and communities—do we focus our efforts on making priority programs already on the books work? Or do we duck our responsibilities by creating yet another new program to throw money at the problem?

Finally, do we preserve and protect the job-creating capacity of the private sector, or do we subject it to continuing inflation which leads to recession and loss of jobs? What I am asking, Mr. Speaker, is that the House recognize that there are jobs and then there are jobs: direct Government jobs in public service employment; private jobs created by direct Federal investment, and private jobs stimulated by Government investment in economic development and flourishing in a climate supportive of the private sector. And I submit that there are fundamental policy differences in the mix of the approach we take.

In this context, let us take a look at their so-called jobs bill. It wears the stamp of political expediency if only because it contains an extra $700 million in water pollution control funds for a select 33 States or so to which they would not be entitled on the basis of need. It is a matter of record that perhaps half of them will not even be able to spend the money. This was written into the conference report even though the House has recently passed a water pollution control bill authorizing $17 billion for this program over 3 years, allocated under a compromise allocation formula based on a reasonable and fair combination of population and need.

This bill also contains $1.25 billion in so-called countercyclical assistance to States and localities, with the stated objective of linking these jurisdictions, with all their economic problems, with the

Federal Government, with all its deficit problems. It is still a shell game and the taxpayer still gets nicked.

Its distribution formula, based partly on local unemployment, totally ignores the fact that local unemployment rates are a poor measure of the fiscal condition of local governments. This provision further ignores the fact that since this bill was first considered, the House has acted to extend the general revenue sharing program for 3¼ years at a cost of $25 billion. So the Congress can hardly be accused of a lack of concern.

But the main problem with this portion of the bill is that it would not create one new job. We have absolutely no evidence that it will. It is expressly intended to preserve public payrolls rather than create new jobs, much less private jobs. It even goes so far as to prohibit construction as an eligible use of funds in most cases. To the extent that it is used for payrolls, a large portion could be absorbed by pay increases won by powerful municipal employee unions in our larger cities. What is more, there is absolutely no assurance that it would even be used for jobs of any sort at all. Under the terms of this conference report, the money could go for services as well as wages. Therefore, it is totally misleading to the American public to call this part of the bill a jobs bill. And remember, this plus the water pollution authorization represents nearly half the total bill.

Now, I will concede that there is some merit in the $2 billion for local public works jobs, if it can be made to work. At the same time, it is a reflection of the fact that Congress had ducked its responsibility to make sure that priority programs already on the books, authorizing many times over the amount of funds contained in this bill, work as Congress intended.

I supported this portion of the bill standing alone, however, and I think it reflects no credit on the House of Representatives that twice in a row the other body succeeded in attaching the unneeded water pollution control funds and countercyclical assistance, despite refusal of this House to approve them on its own initiative and on their own merits.

While I support this aspect of the bill, I also feel that there is merit in the position of my friend and colleague from Michigan (Mr. BROWN), expressed in a letter circulated to Members. He points out that procedural delays are likely to hamper full implementation of the public works portion contained in title I, particularly in view of the requirement that projects can get under way within 90 days.

Parenthetically, I find some irony that at least in this bill, Congress has recognized the potential for delay and, therefore, built in requirements for accelerated approval and the 90-day requirement for commencement of construction. My only problem here is that I wonder if these can be met, and, if so, why Congress does not get up the courage to apply the same streamlining to other job-creating programs Government-wide.

A greater concern, moreover, is that the prospect of 100-percent Federal financing of projects may—at least over the short run—lead to a net decrease or dip in the total volume of public works projects gotten under way. It is altogether likely that localities, lured by the prospect of 100-percent Federal financing, may delay projects in the pipeline which require some non-Federal matching funds until they find out how much they can get without coughing up a dime.

In my opening remarks, I mentioned that job-creating housing projects and projects for construction of wastewater treatment facilities are being delayed by redtape. The same goes for highways. And here is something that should come as a shocker.

During hearings of our Economic Development Subcommittee last year, we received testimony from the Economic Development Administration to the effect that procedural delays are hampering or killing off EDA projects. George Karras, Director of EDA's Office of Public Works, conceded that worthwhile projects, if threatened with extensive delay to meet environment assessment requirements, would be dropped in favor of others. Please note that I am talking about procedural delays, not substantive environmental objections which might warrant a project being dropped.

Projects creating short-term construction jobs and long-term employment sustained by economic development are thus being foreclosed and Congress is doing nothing about it.

It is ironic that the hearings at which he testified were on a bill intended as a companion measure to this job bill we are again considering today. It's purpose was to streamline and accelerate processing of projects, safeguarding procedural requirements where warranted rather than abandoning them. The fact that the big money approach in this jobs bill was pushed, and the other measure sank from sight, is a sad commentary on the ability of Congress to really tackle the tough ones when something as important as jobs is as stake.

One final point, Mr. Speaker. In my opening remarks I mentioned that this bill cannot be viewed in isolation. On the 28th of June, this House voted 251 to 146 to remove obligation limitations on the highway program from the Transportation Appropriations Act for fiscal year 1977. At that time, with far more concern for budget deficits than I detect today in this Chamber, the Budget Committee and the Appropriations Committee and the administration strongly supported that limitation. Despite the decisive vote for its removal, the Budget Committee has been trying to undermine the House position and persuade the House conferees to yield to the conferees from the other body and accept this limitation.

This says volumes to me. The highway trust fund is a self-financing, balanced-budget program financed by users of the system. Highway construction creates jobs. It creates jobs in the construction industry and related industries providing materials and equipment. And by its improvement of the accessibility of our communities, it promotes long-term economic development and that means jobs—real jobs, lasting jobs, jobs in private business and industry. Yet we are asked to hold down spending for this program so as to artifically reduce the Federal deficit which is caused by general fund programs like the one before us today. It will be interesting to see how many who vote to override this veto today will be disposed to vote down or recommit that transportation appropriations conference report if it comes back from the conference with an antijob limitation on spending for the Federal-aid highway program.

In conclusion, Mr. Speaker, I would only point out that massive and continuing Federal deficits are largely responsible for inflation, and that inflation is largely responsible for the recession and its impact on jobs. President Ford, again in an election year, has shown considerable courage in refusing to bow to political pressures and sign inflationary legislation. That has had no small part in our recovery to date from the recession.

I urge that this veto be sustained and that the Congress turn to the task of enacting legislation stimulating jobs in the private sector by making programs already on the books work and meet the priority objectives for which those programs were enacted in the first place. I am fundamentally convinced that this is what the American people want.

The SPEAKER. The time of the gentleman has again expired.

Mr. WRIGHT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I rise to urge my colleagues to vote to override the President's veto of the Public Works Employment Act of 1976, S. 3201.

Certainly the veto is a valuable and integral part of our systems of checks and balances. It has become obvious, however, that President Ford has abused the veto power by using it for purely political purposes. The veto of the public works employment bill is his 52d veto in less than 2 years in the White House—a most remarkable and unfortunate record.

The bill before us today was passed in the House by a vote of 328 to 83, and in the Senate by a margin of 70 to 25. Yesterday, the Senate voted 73 to 24 to override the President's veto.

The vote in the Senate yesterday and the vote today in the House, represents an opportunity for this Congress to demonstrate to the American public that we intend to take positive action to put Americans back to work in productive and worthwhile jobs.

We can no longer brush the problem of unemployment under the rug. The national unemployment rate last year was 8.3 percent, and unemployment in the construction industry was 18.1 percent. These realities may be acceptable to the Ford administration, but they certainly are not acceptable to me, nor to a majority of the American public. We should not forget that these percentage figures are not merely numbers, but they represent human beings—men and women trying to provide for the basic needs of their families.

Creating 350,000 jobs will not solve our problems overnight, but it is a step in the right direction.

I believe that a strong vote to override, from both sides of the aisle, will send an encouraging message to the American people that the Congress is not going to play a game of partisan football with the serious problem of unemployment. Rather, we are going to act as one team—for the well-being of this Nation.

Mr. WRIGHT. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, we must recognize the fiscal situation which confronts the country and the serious problem presented by the measure before us. There are some of us who represent districts where there is no great requirement for public works at this time. The job situation is of course much more serious in many areas.

The House will, of course, work its will with respect to the issue before us. I did feel it appropriate to express my concern. The Committee on Appropriations will have no alternative other than to give full consideration to the will of the House.

Mr. WRIGHT. Mr. Speaker, I yield 4 minutes to the distinguished chairman of the Subcommittee on Economic Development of the Committee on Public Works and Transportation, the gentleman from New Jersey (Mr. ROE).

Mr. ROE. I thank the gentleman from Texas.

Mr. Speaker, the thought occurred to me that in every serious situation there is a little bit of warmth and history. I notice that the gentleman from Texas and one of the other gentlemen talked about the history of our country in their presentation. They were remarking about Alexander Hamilton. I would like the House to know something. Alexander Hamilton founded the city of Patterson, which was the first industrial city in the United States.

As I listened to the compassion that was expressed here by Members of the minority side, they said it was so terrible that our people are out of work; is it not too bad? We really have great heart and compassion, but these people who are out of work can go and find their own jobs. Maybe what we ought to do is stand up and say, "Three cheers for compassion for the 7½ million people in the United States who are out of work." I think that is a very, very poor approach to this entire situation.

Really, basically, the eyes of America are on this vote today. This matter has been before the House for a year and a half. I do call to the minority leader's attention when he commented it is too little too late, if there had not been so much obstruction and so much adversity that affected this particular program, it would have passed before.

Really what we are talking about is what kind of economic policy do we want for the future of this country? The decision is very simple, and it is very clear. How can we justify spending $40 billion of the people's money for unemployment compensation, designed to deliberately keep people out of work, when they cannot pay their rent, they cannot pay their mortgage, they cannot educate their children, and they cannot even buy the necessities? Where is the compassion for those people? We give them all the compassion in this body, but we cannot do anything to try to provide them with jobs. That is what we are saying. Then we moan and groan over unemployment compensation; we moan and groan about welfare. What do the people want? Do they want a dole, or do they want jobs? Do they want productive jobs in this country?

I say to the Members that the cities of America and the towns are going to hell in a hand basket because this administration continually practically refuses to allow any aid to go into those cities whatsoever.

Let me conclude on this point. I do not think we have to belabor the matter, but let me give the Members a caution: The unemployment compensation funds of 20 of the States in this Nation are bankrupt; their trust funds are bankrupt. My State has borrowed $457 million from the Federal Treasury, along with 19 other States.

I call this to the attention of the gentleman from Michigan, by the way. The gentleman I know would support my contention that it is between $400 million and $550 million which the State of Michigan alone has borrowed from the Federal Treasury and which has to be paid back, along with the 18 other States, for a total of $3.6 billion.

Does it make sense? Should we not be using the financial resources of our Nation for constructive policies for the recovery of our country? That is a basic question before us today.

Mr. Speaker, I rise once again to strongly urge the House to override the President's veto of S. 3201, the Public Works Employment Act of 1976. There is no need for any lengthy or detailed explanation of this bill. The House has passed this bill by overwhelming margins on five separate occasions. The last time, just 3 weeks ago, we voted 328 to 83 to adopt the conference report to S. 3201. There is no question that these votes are conclusive evidence that this House clearly understands the need for this legislation and overwhelmingly favors its passage.

Mr. Speaker, let me call attention to the fundamental issue facing the House today: either we are going to make up our minds to put the people of this country back to work, in meaningful and productive jobs or we must acquiesce to the President's veto and sustain a policy of more unemployment compensation and welfare with the deliberate intention of keeping more than 7 million people out of work. This is the basic decision we must make today—is it going to be paychecks for work performed with dignity and respect through private sector jobs, or are we going to accept the fact that millions of Americans are out of work and all we can do is provide them with welfare and unemployment checks. Either we make our commitment to full employment and full production a reality in this country by supporting this bill once again or we can join the administration's policy of veto which says no to the American people who are ready, willing and able to work.

Mr. Speaker, just so the record is clear let me briefly comment on several points in the President's veto message—a message that is full of inconsistencies and false accusations. First of all, this bill is not inflationary. All the funds authorized under the Public Works Employment Act of 1976 were provided for in the first concurrent budget resolution passed by the Congress last May. Second, the President's assertion that this bill would create "relatively few new jobs" and that "at most some 160,000 jobs would be created" with the peak impact in late 1977 and 1978 is false. Although it is impossible to calculate the total number of jobs created with absolute precision, the most authoritative analyses available estimate that the programs contained in this legislation would create at least 375,000 new jobs.

Under title I of the bill—the local public works program—the AFL–CIO building and construction trades department estimates that at least 200,000 new job opportunities would be generated in the construction and related supply industries. Under title II—the antirecession grants program—the Congressional Budget Office estimates that at least 105,000 jobs would be created. And under title III of the bill, which provides for water pollution control grants to States, the Council on Environmental Quality estimates that some 70,000 jobs will be stimulated in the construction of needed waste treatment facilities. The sum of these estimates comes to a total of 375,000 direct jobs even without considering the number of indirect jobs that will be induced by these payrolls. In addition, this bill has been very carefully designed to avoid the long time lag that is sometimes associated with public works construction. Under title I of the bill priority will be given to those projects that are "ready to go," that is, those projects that have been planned for some time but have been put on the shelf due to the lack of necessary funding. This bill also requires that to be eligible a project must be able to engage in actual on-site labor within 90 days; and, applications must be acted upon by the Department of Commerce within 60 days.

Subsection (c) of section 108 of this bill set up a priority system for applications when the national unemployment rate is 6½ percent or more by requiring the Secretary to give priority to applications of State and local governments when their unemployment rate is in excess of the national rate and thereafter to give priority to State and local governments whose unemployment rate is in excess of 6½ percent but less than the national rate. Priority is to be given to applications submitted by States or local governments based on unemployment rates for the 3 most recent consecutive months.

Our committee intended the average unemployment rate of the 3-month period would be used to qualify. This would be consistent with the criteria contained in title II of this bill.

Mr. Speaker, there are thousands of projects in communities all across this Nation that could be initiated immediately if the funding was available. In a recent survey of unmet public facility needs in 75 cities the building and construction trades department found that over $2.5 billion worth of public works projects stood "ready to go" if the necessary funding was available. All of these projects could be initiated within 6 months and the majority were ready to enter into construction within the 90 days required under S. 3201. Mr. Speaker, there is absolutely no question that the dollars provided for under S. 3201 could be translated into meaningful and productive jobs for thousands of unemployed people in this Nation.

Evidently the President does not believe that we can afford to put our unemployed people back to work. But I say we cannot afford not to put our people back to work. If we can spend $19 billion in unemployment compensation surely we can invest $4 billion to put our people back to work, in meaningful and productive jobs and assist our State and local governments in their economic recovery. Just this week we voted to extend unemployment compensation coverage and increase the Federal and State unemployment compensation taxable wage base from $4,200 to $8,000.

Mr. Speaker, at the present time 21 States have gone broke. They have had to borrow over $3 billion in Federal funds in order to continue paying State unemployment benefits. Several more States will be forced to borrow from the Federal Government trust fund by the end of the year. What is even worse is that both the Federal and State unemployment trust funds are broke—the State and Federal unemployment compensation deficits together will total $14.7 billion in fiscal 1977, $18.6 billion in fiscal year 1978 and may increase to $27.3 by 1985 save our efforts this week to change certain financing provisions in the program. The crucial question here today is whether we are going to make a modest effort to help put some of our people back to work—and yes, hopefully reduce skyrocketing costs of our Federal and State unemployment programs. It does not take an economist to tell me that $4 billion invested in productive jobs is a better way to help the unemployed than constantly increasing our Federal outlays for unemployment compensation.

The President stated in his veto message that the best way to create new jobs is to "encourage the growth of the private sector." Once again, the President has overlooked the fact that the majority of jobs created by S. 3201—more than 300,000 jobs—will be jobs in the private sector. Title I of this bill is explicitly designed to alleviate the persistent problems in the construction and materials industries. Ironically, the President offered an "alternative" bill which has already been rejected by this Congress. The countercyclical community block grant bill the President favors could not and never can be considered a substitute for S. 3201.

Mr. Speaker: On June 27 in a solid display of unity, the Republican mayors attending the 44th annual meeting of the U.S. Conference of Mayors joined their Democratic colleagues in urging the President not to veto S. 3201. The President did not listen. Yet every mayor from every city, county, town or parish in this country desperately needs the assistance provided for under this bill. This bill is not an election year boondoggle—nor a polictical pork barrel, as the President asserts. This bill is an investment in America. It is a bill that will provide paychecks, not welfare checks. It is a bill that will provide badly needed public facilities to communities throughout this Nation—facilities that will provide lasting benefits to the people of this country. The jobs created under this legislation are not leaf-raking or quick-fix public jobs—the majority are private sector jobs—jobs which will stimulate the depressed construction and maaerials industries—jobs which will assist our States and local governments to maintain essential services.

Mr. Speaker, we have a very basic decision to make here today—either we are going to turn our economy around and put our people back to work to rebuild America or we can join the President and say no to the American people—no jobs and more vetoes.

Mr. Speaker, I urge my colleagues to join with me in voting to override the President's veto of S. 3201.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I would like to ask the gentleman from New Jersey this question. When we do override this veto and the bill becomes law, is it intended the unemployment rate will be an average of the 3 most recent consecutive months or must it be 3 consecutive months in which each monthly rate must meet the criteria of that section? The language in the bill provides in part:

> The Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of the national unemployment rate and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of 6½ per centum, but less than the national unemployment rate.

Mr. ROE. That is my understanding, that is that our committee intended the average unemployment rate of the 3-month period would be used to qualify. This would be consistent with the criteria contained in title II of this bill.

Mr. OBERSTAR. That is the seasonally adjusted average, of all 3 months, not to be disqualified by a low rate in any one of those 3 months?

Mr. ROE. That is correct.

Mr. Speaker, I ask the Members to please give this some commonsense consideration. Let us help the people of this country. Let us put to work in America the resources of America and not spend all of our money overseas when we need the help here.

Mr. HARSHA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in opposition to the motion to override the veto of S. 3201, the Public Works Employment Act.

This bill provides too much too late, and would be a far greater stimulant to increase inflation than it would be to reduce unemployment. With a price tag of $4 billion, it would reduce the unemployment rate by less than one-tenth of 1 percent, but would rekindle inflation and throw millions of jobs into jeopardy.

We are following the proper course now. By stimulating the private sector, between 2 and 2½ million jobs are being created each year—solid jobs not threatened by imminent inflation.

As a result, unemployment has been steadily dropping and will continue to do so. For those without work, we have voted to extend unemployment compensation to see them through.

If we can resist the temptation to gesture at the problem with massive amounts of money through this fall, we stand a fair chance of breaking the inflation/recession cycle. If we legislate to the causes rather than the symptoms of the problem, we can create an economic climate that will reduce the unemployment problem from a national epidemic to a few pockets of hard-core unemployed that can be dealt with on an individual basis.

Voting to sustain the President's veto will bring us close to this goal. It is the responsible course, and I urge my fellow Members to join with me in doing so.

Mr. HARSHA. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, as we began this debate the gentleman from Texas (Mr. WRIGHT) made mention of the veto power in the Federalist papers and made a big to-do about the fact that during the Washington, Adams, and Jefferson administrations there were probably only two or three vetoes registered during those years. Of course, if one wants to play the numbers game on vetoes, I could mention the more than 600 vetoes that were registered through Franklin Roosevelt's tenure as President or even during the 80th Congress when Harry Truman was presiding there were 76 vetoes as I recall in one Congress.

I submit the President is on good ground in the numbers of vetoes he has cast against what he considers to be ill-advised legislation adopted by a Democratic-dominated Congress. The Democrat Party has dominated the Congress during all of my 20 years here and has been noted for its profligate spending. The only checkrein the country has had on this reckless spending is the power of the President to veto.

Since last year we have 3½ million more people employed than at the same time last year. Why? Because of what has happened in the recovery of the economy through private enterprise. Moreover we are going to put an additional 2½ million more people to work practically all through private enterprise.

What has the President saved by the

taxpayers by those 51 or 52 vetoes? He saved $13 billion of Federal spending. That is what can actually be traced to those vetoes.

As I listened to the majority leader he condemns the vetoes on the one hand and on the other hand takes credit for the recovery. I should point out the President's vetoes have been sustained on the key propositions, so if there is any credit to be given for the recovery it is to be given to the policies of the administration in hanging in there and having confidence in the private enterprise system to do the job.

The gentleman from Washington said that this is a "centerpiece" of the Democratic Party's program to put people to work. If it is the centerpiece and we have got 7 million people unemployed and we are going to put at most 250,000 people to work, how can the gentleman say then that this is the answer to the problem of unemployment?

I do not see the gentlewoman from Texas (Miss JORDAN) on the floor or the Senator from Ohio (Mr. GLENN), both of whom gave keynote addresses at the Democratic Convention.

Oh, I have watched them; I listened to them very carefully and heard them admonish your delegates, "Let us not overpromise what we cannot deliver." I could not help remark at the time, what an indictment they were making against your side over what you have been doing for the last several years, overpromising time and again what you cannot deliver.

I submit that in this bill that is what the problem is. This bill will cost the taxpayers $4 billion we do not have. To spend $25,000 of Federal money for every job supposedly to be created by this legislation is ridiculous.

I submit that for a fraction of that per-job cost we can provide millions of additional jobs with a simple tax credit for private industry to create meaningful, productive jobs of long lasting character.

The SPEAKER pro tempore (Mr. BRADEMAS). The time of the gentleman from Illinois has expired.

Mr. HARSHA. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, the gentleman from Ohio, who was just good enough to yield to me, pointed out the change in the formula and how that discriminates against a number of States with regards to this whole subject of public works.

If I might make one further point it would be that we had another veto on the $6 billion version of this bill earlier this year and it was sustained. Now we have a scaled-down version. It is only $4 billion. It kind of reminds me of being just a little bit pregnant. If the proposition is wrong and the formulas are wrong, as enunciated by the gentleman from Ohio then whether it is $6 billion or $4 billion, it ought to be sustained.

And finally, Mr. Speaker, If the recovery continues as it has been, there will not be any need for additional Federal stimulus. I would like to put my confidence in the private enterprise system as being far better able to cope with this problem than the Government itself.

Yes, as the gentleman from New Jersey made mention, the eyes of America are on us, and I say there are many more brownie points to be gained in voting to sustain the veto of this $4 billion pie in the sky legislation. It certainly is no panacea for the problem of unemployment and to regard it as such when it at most may improve the picture by two-tenths of 1 percent is hypocritical.

I am going to vote to sustain the President on this one.

Mr. HARSHA. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, once again the President has acted courageously and responsibly to reduce unneeded and inflationary Government spending by vetoing the public works bill, S. 3201. I strongly urge my colleagues to support this necessary veto.

The President's decision reflected sound economic sense and was consistent with his goals of reducing Government spending and inflation, and promoting stable economic growth. Unfortunately, it seems that Congress prefers to continue its habit of reckless and irresponsible Government spending. If Federal spending could cure unemployment we would be overemployed right now. The real uncertainty in our economy is caused by public concern, of both producers and consumers, that our Government has lost control of its spending.

S. 3201 is a slightly scaled down, yet equally bad, version of the public works bill which was rejected earlier this year. The bill before us today may create many temporary jobs. However, the bulk of these jobs will be on low priority projects and will come a year or more from now, when the economy is expected to be in pretty good shape.

Stripped of euphemistic titles, much of this bill is actually just the old public works "pork barrel" into which Congress wants to pump a lot more lard in the name of helping the economy. Any spending bill which creates temporary jobs costing taxpayers $25,000 each can hardly be considered a sound or responsible way to try to improve the economy.

In times of economic crisis, public works projects are a matter of Federal responsibility in helping to bring the economy out of a recession. But, a huge expenditure on public works at this time is fiscally irresponsible and wholly unwarranted. Congress is once again demonstrating its inability to respond to current economic problems except by burying them under piles of money.

By vetoing this bill, the President showed how serious he is about reducing Government spending. The Senate has already overridden that veto and the House will probably do the same. Nevertheless, I will certainly support the President's veto of S. 3201. How can any Representative who is truly concerned about reducing Government spending and fighting inflation do otherwise?

Mr. HARSHA. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Speaker, I urge my colleagues to vote to sustain the President's veto of S. 3201.

In recent days I have been in contact with the officials at the Department of Commerce and in the Economic Development Administration concerning the implementation of this legislation. In short, it is unworkable if the intent of this legislation is to provide jobs on meaningful and deserving public works projects.

As we know, the bill requires the Department of Commerce to adopt regulations within 30 days following enactment of the bill; to reject applications for funding of projects within 60 days after receipt of such applications or the project is considered approved; and, to be funded, projects must be on-going, that is, on-site labor being performed, within 90 days from the time of approval of the application.

Now, in the context of this time frame in the statute, let us look at the experience of EDA in approving grants for projects under its jurisdiction. Although statistics are not immediately available, the best estimate I have been able to obtain is that EDA has been able to approve only some 400 such grants in its best year and the total funds allocated have amounted to a fraction of the funds authorized under title I of S. 3201; to be specific, $160 million maximum, as compared with the $2 billion which we are authorizing in this bill and which the chairman of the Committee on Appropriations says we are going to appropriate.

I would suggest that in a 2-month frame under the present procedure of EDA, they could handle 67 projects and in order to spend the $2 billion, every one of those projects would have to amount to approximately $30 million.

In addition, since each of these projects must be approved by EDA on a project-by-project basis and most, if not all, will require environmental impact statements, it should be pointed out that environmental clearance involves a two-step process. First, an environmental assessment is made which takes anywhere from 7 days to 3 months, and if that assessment or analysis concludes that the project would have a significant impact on the environment, an environmental impact statement (EIS) is required. The time for preparation of such an EIS ranges from 6 months to 1½ years. In view of this, EDA feels it will be essential that it receive an exemption from compliance with the National Environmental Protection Act, since compliance with that act would be impossible. However, I have been advised by the EPA general counsel that EPA has no authority to grant such an exemption.

Such exemption would have to be statutorily established, and it is not established in this legislation. Similarly, these projects would require A-95 reviews, which, in and of themselves, often take more than 60 days. Added to this is the requirement by some States for State review and compliance.

What does this all mean? I suggest that it means that only ongoing projects where all preliminary approvals have been obtained can legitimately be funded, irrespective of whether or not those projects are desirable, meaningful, and are in areas of high construction trade unemployment; in many, if not most cases, adding massive stimulus where it is not needed, while other areas will be ignored. These latter areas amount to areas represented by a majority of this House, I suggest.

Voting to override the veto of this legislation may appear to be politically smart at the outset, but I suggest that it will be a political detriment when its promise ends in disappointment for your constituent communities. Now, the foregoing, of course, only relates to title I and does not attempt to deal with the shortcomings of the countercyclical assistance of title II, with which most Members are familiar, especially the gentleman from Texas (Mr. BROOKS).

I would say in that context, why did the majority Members oppose an increase in general revenue sharing, as the administration had requested, when in effect we are putting $1.25 billion of general revenue sharing in this bill? I can understand why my former colleague from the Michigan State Senate, presently Mayor of Detroit, is interested in this countercyclical money. In a Detroit news article headed, "Mayor's Friend Escapes Fiscal Ax," it points out that a campaign worker is being kept on the municipal payroll. I will insert this entire article at this point in my remarks:

[From the Detroit News, July 12, 1976]

MAYOR'S FRIEND ESCAPES FISCAL AX

(By David Ashenfelter)

Mayor Young takes care of his friends.

Cassandra Elaine Smith, 29, former director of the now-defunct city Youth Department, is no exception.

While some city department heads vainly tried to protect their agencies from the mayor's fiscal hatchet squad this summer, Miss Smith offered to make any sacrifice, including her agency and staff, to ease Detroit's financial crisis.

Although her department has been wiped out and her staff either swept into the street or into other city agencies, she has been retained by the Young administration.

Miss Smith was appointed July 1 to a three-year stint as acting city assessor, a $31,500-a-year job, and a $4,300-a-year promotion for the former Cass Technical High School speech and English teacher.

She replaces City Assessor William B. Knapp, who insiders say fell into disfavor with city Finance Director Dennis O. Green. Green appoints and supervises the three-member board of assessors, which directs the appraisal of commercial and residential property and conducts appeal hearings for property owners unhappy about their assessments.

Knapp reverted to civil service status and now runs the assessors' office staff.

Deputy Mayor William Beckham said Miss Smith, a black, was appointed acting assesor for two reasons. "She's a capable administrator and she'll bring racial balance to the board of assessors."

The other two assessors, June Ridgeway and Stanley Gruszkowski, are white, he said.

"We could have looked around for a certified assessor," Beckham said, "but why bring in someone else who may not have the same philosophies as the mayor. We feel Cassandra has the same direction as the mayor and the ability to do the job."

Beckham said she will be appointed to the full rank of assessor when she qualifies for the job.

She plans to enroll in assessing courses—at her own expense and on her own time during the next six to nine months—to prepare for state tests which will determine whether she is certified as an assessor.

Miss Smith is a Wayne State University graduate with a degree in education and political science.

She was active in Democratic politics, was a member of the Wayne County Charter Revision Commision and participated in Young's successful campaign for mayor in 1973.

During the campaign she quickly earned a reputation as a thorough organizer and a tireless worker, city officials say.

Two months after Young took office, she was appointed director of the Youth Department, where she was regarded as a highly-skilled administrator.

During her reign the Youth Department's annual budget grew from $150,000 to $2.8-million.

Beckham once said her personality has "a disarming effect" on hostile youth.

Perhaps they're hoping she'll have the same effect on Detroit property owners, who pay the highest city taxes in the state.

In view of the problems I have anticipated, I would like to pose some questions to the proponent of the bill, if I could have the gentleman's attention. I would ask this question of the gentleman: Does he contemplate that such rules as the Secretary will adopt will make eligible the funding of all public works projects, since the statute refers to eligible projects as local public works projects including, but not limited to, those public projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this act (section 103); and, section 105 authorizes grants for projects under the provisions of any State or local law, but limits the grant to only the State or local share of the cost of such project?

Mr. WRIGHT. I would answer the gentleman by saying that we have already listed in the CONGRESSIONAL RECORD enough projects that are ready to go, with all this preliminary work already done. All that has to be done is put the money out. There are enough projects ready to take up this entire program. We do not anticipate a lot of paperwork. There is no need for it. We expressly provide against it.

I would remind the gentleman also of the experience of EDA, operating on a smaller budget last year, where we gave $500 million for the EDA for the title X public works impact program and got every penny of it out for investment in useful construction projects, most of which have been completed. What the gentleman says is absolutely not applicable. This program can get underway almost immediately.

Mr. BROWN of Michigan. I respectfully disagree with the gentleman, if he includes in his definition of "ready to go" that NEPA and the requirements of this act have been complied with.

I have other questions to pose to the gentleman from Texas but time will not permit. I, therefore, insert in the RECORD at this point the substance of a letter I directed to EDA in which I have raised many questions concerning the implementation of this legislation. Obviously, I have not received answers to these questions.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 20, 1976.

Mr. JOHN W. EDEN,
Acting Assistant Secretary for Economic Development Administration, Department of Commerce, Washington, D.C.

DEAR MR. EDEN: In anticipation of the consideration by the House of Representatives of the President's Veto of S. 3201, the Public Works Employment Act of 1976, and its probable override, I am writing to request information relative to your planned implementation of this legislation.

My questions are as follows:

(1) Is it to be presumed that the rules, regulations, and procedures to be prescribed by the Secretary will not be subject to the Administrative Procedures Act since such regulations must be prescribed within 30 days from the enactment of S. 3201?

(2) Do you contemplate that such rules will make eligible the funding of all local public projects since the statute refers to eligible projects as "local public works projects including but not limited to those public works projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this Act" (Sec. 103); and, Sec. 105 authorizes grants for projects under the provisions of any State or local law, but limits the grant to only the State or local share of the cost of such projects?

(3) How do you intend to interpret the second sentence of Sec. 103(a) relative to the authorization of grants for the completion of plans, specifications, etc. since the language limits such grants to "additional architectural and engineering work or related planning" . . . "where either architectural design or preliminary engineering or related planning has already been undertaken"?

(4) Due to what must be a typographical error in the Conference Report, I am unable to understand the last sentence of Sec. 104 and, therefore, would ask your interpretation of this sentence.

(5) What do you contemplate will be the "satisfactory assurances" required under Sec. 106(d) that "on-site labor can begin within 90 days of project approval"?

(6) How do you intend to interpret the requirements of Sec. 107 with respect to the assurance "that adequate consideration is given to the relative needs of various sections of the country"; consideration of the severity and duration of unemployment in proposed project areas; consideration of the income levels and extent of underemployment in proposed project area; and, consideration of the extent to which proposed project will contribute to the reduction of unemployment?

(7) Under the time constraints and conditions of eligibility imposed by the statute, do you expect any projects with respect to which substantial preparation has not as yet been accomplished will be funded under this statute?

(8) How do you intend to treat the priority and preference provisions of Sec. 108(b) and 108(c) since Sec. 108(b) gives priority and preference to public works projects of local governments, but Sec. 108(c) provides for priority to applications submitted by States or local governments having unemployment . . . in excess of the national average?

(9) In view of the priority and preference requirements above mentioned, the factors which must be considered under Sec. 107 and the provisions of Sec. 108(g), do you believe it to be possible from a practical standpoint for you to satisfy the requirements of the statute within the 60-day time frame provided by the statute for approval of projects?

(10) What has been the average annual number of project approvals made by EDA in the last few years and what has been the annual dollar amount of such projects?

(11) Does the appropriations measure for your Administration insofar as it relates to administrative expenses contemplate extra personnel which will be needed if applications under S. 3201 are to be handled in the time frame contemplated by the statute?

With best regards,

Sincerely,

Garry Brown.

Mr. Speaker, I would also like to bring to the attention of my colleagues the anticipated cost of each job under this bill as pointed out by the Member of the other body, the gentleman from Idaho. In debate on this bill in the other body yesterday, July 21, as reported in the Congressional Record at pages S12125–6, he points out that the study of the public works impact program of 1971, a similar accelerated public works program, the cost per man month, not year, was $3,788, and the average job lasted less than 1 month. I would urge my colleagues to review the full text of his remarks.

Mr. Speaker, I also think it appropriate to bring to the attention of my colleagues the Washington Star editorial of July 10, 1976, in which the President's veto of this legislation is praised as being the proper action if the public interest is to be served:

[From the Washington Star, July 10, 1976]

The Jobs Bill Veto

Crocodile tears are being shed in several quarters over President Ford's veto of the $3.95 billion jobs bill.

Democrats accuse Mr. Ford of kowtowing to the Republican right in an effort to head off the nomination of Ronald Reagan. Big-city mayors claim it shows that Mr. Ford is callous about the problems of big cities. Rep. Bella Abzug declared that Mr. Ford "appears determined to keep Americans out of work."

Most of this is nonsense. Some benefit may accrue to Mr. Ford in his fight for the GOP nomination, but we have no doubt that he would have vetoed the bill whether or not he was in a party contest with Mr. Reagan. He vetoed a similar $6 billion bill last February and gave Congress every reason to expect that he would do the same on this bill.

It is understandable that many mayors, struggling to make budget ends meet, are disappointed. The cities were in line for $1.25 billion in "countercyclical" anti-recession funds from the bill. But to contend that the veto shows Mr. Ford is insensitive to city problems is to exhibit a disregard for the truth. The President has indicated his concern for the cities in his program to help bail out New York. In fact, the secretary of the treasury approved another big federal loan to New York about the time Mayor Beame complained that Mr. Ford's veto was "a cruel blow to the hopes" of the nation's cities.

Representative Abzug's charge that Mr. Ford wants to keep Americans out of work is so preposterous as to be unworthy of comment, except to say that overblown rhetoric is typical of Mrs. Abzug.

Mr. Ford vetoed the bill on grounds that it would contribute to inflation and would do little to help the unemployment problem. We think he was right.

It has been too much of a struggle to get the rate of inflation within reasonable bounds to take a chance of refueling it with heavy government spending on dubious programs.

Sponsors of the bill claimed that it would create or preserve 300,000 jobs but Mr. Ford estimated the figure at no more than 160,000. Even the higher number would not make much of a dent in the total unemployment figure of approximately 7 million.

Mr. Ford's position is that the best way to combat unemployment is to keep the economy moving toward full recovery rather than to pour billions of federal dollars into inflationary make-work projects. Progress is being made—the number of unemployed has dropped more than a million from a year ago and there is reason to believe that it will continue to decline.

Congress should sustain the President's veto.

Mr. Speaker, let me conclude by saying this bill does not hold a candle to the cost-effectiveness, immediate job production potential, of the legislation which I introduced and this House earlier passed only to be buried in the conference with other body when its fate was so ordained by the majority leaders of this House.

It is obvious this House, especially its majority, would rather enact inferior, irresponsible legislation authored by its own, then much better, more responsive and responsible legislation, if the latter is authored by a Member of the minority.

Promise will again lead to disappointment but, hopefully, the American people are getting wiser and this time will pin the blame on the donkey where it belongs.

The SPEAKER pro tempore (Mr. Brademas). The time of the gentleman from Michigan (Mr. Brown) has expired.

CALL OF THE HOUSE

Mr. MINETA. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 533]

Abzug
Addabbo
Anderson, Ill.
Andrews, N.C.
Ashley
Breaux
Brinkley
Buchanan
Clay
Conyers
D'Amours
Davis
Derwinski
Drinan
Eilberg
Flynt
Forsythe
Gibbons
Harkin
Harsha
Hayes, Ind.
Hays, Ohio
Hinshaw
Howe
Jarman
Jones, Okla.
Jones, Tenn.
Jordan
Krueger
Leggett
Litton
Mathis
Matsunaga
Meeds
Melcher
Moorhead, Pa.
Murphy, N.Y.
Pepper
Peyser
Reuss
Roybal
Ryan
Satterfield
Scheuer
Schneebeli
Shipley
Sikes
Stanton, James V.
Steelman
Stuckey
Teague
Udall
Ullman
Wiggins
Young, Alaska
Young, Ga.

The SPEAKER pro tempore. On this rollcall 376 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PUBLIC WORKS EMPLOYMENT ACT OF 1976—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. Wright) for the remaining 8 minutes.

Mr. BINGHAM. Mr. Speaker, I rise in support of the motion to override. I have been an enthusiastic supporter of this legislation since it was first introduced and now, in the face of a second ill-conceived Presidential veto of public works legislation, I feel the time has come for Congress to state unequivocally that we will not tolerate the callousness our unelected President seems to hold for the unemployed.

Congress has addressed itself responsibly to the unemployment crisis, seeking time and again to alleviate some of the trauma of joblessness without setting off a new spiral of inflation. I believe we have been prudent in our approach to this problem. But today we must rededicate to this Congress No. 1 priority—putting people back on the job and getting this country working again. That is what this bill is all about; it creates or preserves jobs for more than 300,000 Americans who are waiting for work. And more particularly, it addresses the unemployment crisis where it has struck most severely—in the construction industry. While the national unemployment figure hovers near the unconscionably high rate of 8 percent, the figure for the construction industry is closer to 20 percent. And in the New York City area, the figures for construction union workers is downright obscene, running between 55 and 95 percent. Such a state of affairs simply cannot go unattended.

More people were out of work last month than in any other June since World War II. And yet the Ford administration fiddles with numbers and comes up with the boast that we are on the road to whipping inflation and unemployment. Well, I need not remind my colleagues here in the House that this is a very tough road for those 7 million Americans who cannot find work, and the millions more who have given up trying. When the President preaches fiscal responsibility, he fails to recognize not only these human costs, but also the economic costs of festering unemployment. The Joint Economic Committee says that the cost of unemployment benefits alone was $20 billion in 1975.

This bill before us again today would begin to relieve this burden on the Federal Treasury and restore to hundreds of thousands of Americans their right to gain worthwhile employment; the jobs this legislation provides will also cost less than 1 percent of the annual Federal budget.

Beyond those which I have already mentioned, this bill will provide many additional benefits. It will fund construction of many sorely needed schools and libraries in our ailing urban communities. It will help to assure that our essential city services—health, police, and fire protection—are maintained. It will put more consumer dollars back into circulation, speeding the process of economic recovery and providing still more jobs.

Mr. Speaker, this bill will also put this Congress on the record once again as a compassionate body which displays sensitivity to what joblessness means to those millions of Americans who are presently idled by the cruel forces of cyclical inflation and recession. I do not know how many of my colleagues have had the opportunity to see what the idleness and hopelessness wrought by these forces can do to our communities. I do not know how many have really seen the bombed-out ghettos of places like the South Bronx, but I am certain that very, very few of those who have will be reluctant to take this first step toward what must become a national commitment to full employment, a national commitment to putting Americans back to work.

Congress has already supported this legislation in no uncertain terms, but the President has thwarted us with his promiscuous use of the veto power, even after we sought to compromise. I believe the time has come for us to treat this abuse of the veto power as it deserves and join together with our colleagues in the Senate to override and put this vital legislation to work.

Mr. JONES of Alabama. Mr. Speaker, in all of my experience as a Member of the House of Representatives, I have never felt more strongly that we should override the President's veto of the Public Works Employment Act of 1976 in order to demonstrate to the people of this Nation that the Congress is genuinely concerned about putting people to work in productive employment.

At a time when this Nation is pouring out $19 billion a year to support millions of its citizens in enforced idleness, we would surely be derelict if we failed to approve an investment of less than one-quarter of that amount to take many of them off the dole and put them to work building public facilities that are an essential investment for the future.

The Committee on Public Works and Transportation, which I have the honor to chair, labored long and hard to fashion this legislation so that it would provide immediate and noninflationary assistance for victims of this disastrous recession. I want to pay the highest tribute to JIM WRIGHT who has managed this bill and to BOB ROE, the chairman of the Economic Development Subcommittee, for the enormous time and effort they have put into this bill. They drew upon all the experience of the past to avoid the errors of the past; they weighed most carefully every responsible proposal for antirecession action that was placed before us, including the "benign neglect" recommendations of the administration.

The conference report we submitted to the Congress just 3 weeks ago was endorsed by overwhelming majorities in both the House and Senate, because the elected representatives of the American people were convinced it was in the interest of the American people.

This legislation is a measured response to the desperate needs of jobless men and women in every corner of this great land. It can provide at least 400,000 productive jobs, mostly in the private sector and most especially in the terribly depressed construction industries where every dollar of public investment has a multiplier effect on the entire economy.

Frankly, I am deeply disappointed that the President would see fit to pass up this opportunity to achieve good and sound goals for the utilization of America's idle manpower through lasting capital investment in our communities.

Mr. Speaker, this legislation has the support of both Democrats and Republicans, of the Governors of our States, the mayors of our towns and cities, and, most importantly of all, the jobless men and women of this great country who rightly look to the Congress for hope and help.

The overriding of a Presidential veto is a grave responsibility, Mr. Speaker, but in this hour of national distress we have no alternative but to respond to the still graver need of our Nation's jobless millions.

Mr. ROUSH. Mr. Speaker, I rise today in support of the effort to override the President's veto of S. 3201, the Public Works Empoyment Act of 1976. I have supported this bill all along, through a previous Presidential veto. I support it now when in the spirit of compromise and conciliation we have cut $2 billion from the bill. We dare not cut more.

The bill before the House today provides for some 300,000 jobs for Americans who are presently out of work, jobs in useful pursuits, building needed facilities for communities throughout the Nation.

These jobs are badly needed. The latest economic figures indicate that unemployment is still a grave problem and that the temporary upsurge in the economy is a shaky one.

So I cannot understand the President complaining about this bill because he feels it would require Federal spending "above and beyond what is necessary."

With 7 million unemployed Americans out looking for jobs this summer, with a 17-percent unemployment rate in the construction industry, how can this jobs bill be considered Federal spending "above and beyond what is necessary."

I think it important to remember that unemployment is extremely costly to the American people. Currently we are spending some $19 billion yearly on the costs of unempoyment. That is Federal spending and it contributes to the deficit.

It has been estimated that each percentage point of unemployment costs the Federal Government—namely the taxpayer—$14 billion in lost tax revenue and $2 billion in unemployment payments.

We cannot afford to have people out of jobs at the present rate. The June unemployment rate was 7.5 percent in comparison with the May rate of 7.3 percent and this was the highest June unemployment rate since World War II. We cannot afford for it to continue and we cannot sit around waiting for it to go away.

The bill before us would put people back to work right away. It is well within targets set by Congress for overall spending. We cannot expect to reduce the unemployment rate to 6 percent by the end of the year, cut the deficit, as Congress has planned, if we are unable to provide the jobs that bring in taxes and reduce unemployment benefit lines.

Let us remember that the deficit everyone deplores is the result of recession. Our efforts to climb out of it have been showing some tentative results, while recent indicators reflect a partially slowing of that economic momentum we have worked so hard to produce. This is no time to ignore an essential ingredient in that effort.

The President's worry about Government spending and inflation is highly selective. We never hear him accusing his proposed $101 billion defense outlay—an $8 billion increase over fiscal 1976—of causing inflation. Why is it that only spending for jobs, for health programs, education needs, environmental concerns merit his condemnation of Government spending.

Once again it is a matter of priorities. Vetoing this bill is poor economics. We cannot provide the sound economic underpinnings that are necessary unless we get over this recession. The bill we are voting on today is an important step in that direction. I hope that this body will overwhelmingly ratify our previous decision.

Mr. JOHNSON of California. Mr. Speaker, the issue before the House today—whether to sustain or override the President's veto of S. 3201 (the Public Works Employment Act of 1976)—is vital to our national economic recovery. I strongly urge that we again override the President's veto. The House has consistently shown its overwhelming support for this type of legislation. We voted 339 to 57 on the original bill and 328 to 83 on the conference report. Earlier this year we voted to override the President's veto of a similar, larger bill by a vote of 319 to 98.

Mr. Speaker, I believe that the Congress of the United States has clearly demonstrated that it will not accept unemployment of 7.5 percent because this means that we still have over 7 million people unemployed in this country. This is totally unacceptable. In the construction industry unemployment levels are even worse; joblessness in the construction trades remains at 17 percent—and in many cities the materials and construction trades unemployment levels are running as high as 40 percent.

The bill that is before you today is directed at alleviating the persistently high levels of unemployment that the country has been experiencing for the past 2 years. The deepest recession since the thirties is not over when millions of people are still unemployed.

And yet we know that there are ample construction opportunities to help relieve some of this unemployment. The AFL–CIO's Building and Construction Trades Department made a recent survey of 12 cities in the United States and found that in these 12 cities alone there was more than $2.9 billion in construction projects "ready to go" if the necessary funding were available. It simply does not make any sense to keep doling out the unemployment compensation checks when there are thousands of worthwhile projects sitting on the shelf—projects that could help alleviate the high levels of unemployment in our cities, if the necessary financing were available.

Too many of the major cities and the small towns of this Nation are not recovering from this recession as fast as we thought they would. Unemployment remains high, particularly in the older central city areas, and middle and upper income people and business continue their exodus to the more prosperous suburbs. City officials have had to cut back on essential services, as well as delay capital improvement projects because of declining tax revenues and the constant battle to equalize income and expenditures. The problem of our cities is not just unemployment—the problem lies much deeper. Our cities are experiencing a frightening erosion of their economic foundation which has offset any improvements from the Nation's cyclical recovery. The deterioration of the physical environment in our cities continues in tandem with their economic decline. Public buildings badly in need of repair have been neglected. And meanwhile plant closings and industrial migration have intensified the severe unemployment problems. Under title II of this bill funds are available to help our State and local governments maintain their essential services—without raising their taxes. The assistance is directed to those areas that have been hard hit by the current recession—areas that need assistance to make it through the budget squeeze brought on by high unemployment. The triggering of the funds available under this countercyclical program is a significant feature. No funds would be authorized under this title unless national unemployment was at least 6 percent. And at the local level funds would be allocated according to the unemployment rate of the individual jurisdiction.

Mr. Speaker, with unemployment increasing again last month to 7.5 percent and with city after city in this Nation still facing severe economic problems brought on by the current recession, there is a very real need for this bill. Regardless of the President's veto these facts are clear. There is no need for more evidence—this country needs the assistance provided for under S. 3201. I strongly urge my colleagues to join with me today in voting to override the President's veto of this vital piece of legislation.

Mr. WON PAT. Mr. Speaker, I rise to urge my colleagues here in the House to override the President's veto of S. 3201, the Public Works Employment Act of 1976.

Millions of unemployed Americans need this legislation now. They cannot wait any longer until some miraculous economic recovery provides the jobs these people need to feed, house, and clothe themselves and their families.

I fully respect the President's concern over a balanced budget. But, when the crunch comes, as it has, the choice must be for jobs.

Earlier this year, the Congress failed by a narrow margin of three votes to override the veto of a previous measure. Since that time, we have worked to develop this bill that achieves the creation of new employment and at the same time accommodates the viewpoint of the White House. The conference report on this measure was adopted 70 to 26 by the Senate and 328 to 83 by the House. I consider it a well reasoned and sensible piece of legislation. Yesterday, the Senate voted to override the veto. I trust that the House will join in agreement of this action today.

The unemployment situation on Guam is particularly acute. Our current level of unemployment is approximately 15 percent or roughly twice the national rate of 7.5 percent. If enacted into law, S. 3201 will guarantee that Guam, the Virgin Islands, and American Samoa, will share no less than one-half of 1 percent of the total amount provided—$2 billion, or approximately $10 million.

These funds are desperately needed by the territorial governments, and especially Guam which has suffered heavy economic blows in recent years. Our problems on Guam were additionally complicated recently when the island was devastated by Typhoon Pamela which caused $500 million in damage to the civilian and military communities.

Mr. Speaker, we in the Congress have an obligation to the people we serve. We cannot permit runaway inflation and rampant joblessness to erode the foundations of our economy. Nor can we sit idly by and watch millions of our citizens remain unemployed for months and even years at a time. The bill we have before us today reflects, I believe, the sense of responsibility we in the Congress strongly believe is ours. The measure is not designed as a permanent remedy to our present problems. Rather, it seeks only to provide the people with an opportunity to work for their livelihood until the economy can be restored to normal and private industry can again take up the slack in the unemployment market.

For this reason, I strongly urge that my colleagues in the House join the Senate to override the veto on S. 3201.

Mr. OTTINGER. Mr. Speaker, I take the floor with some trepidation; perhaps the administration will discover a way to veto a motion to override another veto. But I think we have got them this time, and I want to congratulate the Democratic leadership and the Public Works Committee for their persistent efforts to overcome the economic myopia of the Ford administration.

The difficulties faced by an unemployed worker—to maintain a home with no income and to cope with the sense of loss and waste that pervades his everyday existence—can no longer be ignored. The bill before us today offers hope to the millions of workers who continue to be unemployed or who are threatened with the loss of municipal jobs despite cheery assurances that the recession has "bottomed out."

In my own district in Westchester County, N.Y., the unemployment picture remains essentially the same as it was 1 year ago when we were nearing the depths of the recession. The unemployment rate is still above 7 percent, with the larger, urban communities suffering rates of 8 or 9 percent. Unemployed construction workers account for a quarter of those persons receiving unemployment compensation and the number of them who are employed has dropped by approximately 20 percent in the last year.

Certainly, the work is there to be done—the construction of a library in New Rochelle, housing to fill the gaping emptiness left by Urban Renewal in Ossining, recreation facilities in Yonkers, a neighborhood center in Mount Vernon, the renovation and rejuvenation of the city centers in New Rochelle, Mount Vernon, and Yonkers. It is my hope that some of the $2 billion authorized in title I of this legislation will be directed to these necessary projects.

In some communities in Westchester vital safety and health services—policemen, firemen, teachers—are being cut back for the lack of operating funds in their budgets. The countercyclical assistance authorized in title II will provide over $1 million to maintain adequate police and fire protection and the excellence of the school systems in the county. It seems ridiculous to require these essential services to be curtailed as employees are laid off, only to rehire them under CETA 60 days later on new jobs that must be created.

The action we take today will demonstrate the Congress' appreciation and understanding of our economic problems. It is a positive act to restore the Nation's economic balance and get back to work. The benefits which will flow from this legislation—an increased demand for new goods, a significant reduction to the demands now being placed on Government for welfare and unemployment compensation, and a balanced Federal budget in the very near future—are worthy of every Member's support and I strongly encourage that support.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in support of the veto override of the public works employment bill, S. 3201, and urge my colleagues to join me in casting a vote to override.

Contrary to the view of the President, this employment bill is not inflationary. To emphasize this point, let me remind my colleagues that this bill—totaling an expenditure of $3.95 billion—represents less than 1 percent of the total Federal budget. It is less than one-quarter of 1 percent of the estimated gross national product for this year. It is a small expenditure in comparison to the better than $100 billion outlay for national defense. Incidentally, while on the subject of defense, the defense outlay is an increase of $8 billion over the defense figure for fiscal year 1976 while this public works bill has been reduced by some $2 billion from the figure represented in the previously vetoed public works measure. In this perspective, the bill is not inflationary nor is it the action of a spendthrift Congress. Indeed, if one considers the question of inflationary Government action—it is necessary to look not at a relatively small expenditure of $3.9 billion, but at the overall character of the national economy. To judge actions having inflationary impact one must look at the overall expenditure of public money and raise questions about the impact of all expenditures in the public budget. Judging an inflationary impact lies in looking at the Federal fiscal policy as a whole—at taxing and spending. It is ironic that the President should look to the inflationary character of a program that is one one-hundredth of the national budget.

With this in mind, I urge my colleagues to join me in casting a vote to override the veto to S. 3201 as a way to stem the growing unemployment and provide recovery assistance to our great cities that have suffered so severely from recession and inflation. A vote for the override is a vote to assist those areas where many of our 7 million unemployed citizens live.

In urging support for the veto override of S. 3201, I remind my fellow Members of the Congress that a vote for this public works bill is a responsible action by a responsible Congress.

Mr. KASTENMEIER. Mr. Speaker, I greatly regret that, once again, we must debate the merits of creating jobs. I greatly regret that, once again, we must go through the process of explaining how unemployment impacts on the budget; how it affects lives; how it is not deferrable as an issue. For, the fact is that, because of this long battle we have been forced to wage with the White House, people who could be working are still unemployed. I regret that most of all.

The President says the bill, at $3.9 billion, is too expensive. We have heard this argument over and over again with regard to innumerable social programs. What we do not hear from the White House is that unemployment is costing us $50 billion a year in lost revenue and increased costs for unemployment compensation, welfare, food stamps, and other income maintenance programs. I say this is too expensive.

The President says the bill is inflationary. But, we know, because we have seen, that we have reduced inflation as we have reduced unemployment. With 23 percent of our plant capacity idle, this bill is hardly likely to increase inflation. What we do not hear, however, is the inflationary impact of, for example, a $101 billion defense budget—$8 billion more than in fiscal 1976. The only programs, seemingly, that the President considers inflationary are social programs aimed at helping our people.

The President refers to this legislation as "empty promises and giveaway programs." Promises are not empty if they are made good, and that is what this bill attempts to do—create the jobs which Congress has promised to create. And, programs are not giveaway that require a day's work for a day's wage. The charge of empty promises and giveaway programs sounds more like campaign rhetoric to me and I find it astounding that the President can play politics with people's lives—7 million people officially listed as unemployed and the additional millions who are working only parttime.

These people want a job now, not at the end of this decade. This bill will not only provide additional jobs but will help sustain the economic recovery necessary to create even more jobs. We can do no less for this country and its people than to override this veto.

Mr. RANGEL. Mr. Speaker, I rise today on behalf of S. 3201, a bill which this country desperately needs. Recent statistics reveal that the unemployment rate is once again rising and though President Ford seems able to disregard such trends, I find it impossible to do so.

This bill will create over 300,000 jobs, most of which will come not in 1977 or 1978, but now. Public works projects, particularly in our Nation's cities, are already planned and merely await the funding which this bill will provide. Many of the jobs will be in the sagging construction industry where unemployment has reached the 20-percent level.

We have brought the cost of the legislation down to $3.95 billion from the $6.2 billion level which the President vetoed earlier this year. Now his veto of this revised version again clearly indicates a callous indifference to the plight of more than 7 million unemployed Americans. S. 3201 may well constitute our final opportunity during this Congress to clearly address the critical unemployment problem in this Nation. I, as a representative from a district with an unemployment rate of more than double the national average, will be deeply disturbed if we do not vote to overcome this latest example of President Ford's obsession with blocking important jobs legislation. I urge you to vote today to override. The following editorial from the New York Times supports this position of all conscionable Americans:

UNWISE VETO

> Though urged by Republican mayors around the country to sign it, President Ford has vetoed the $3.95 billion public works employment bill and denounced it as an effort by the Democratic majority in Congress to enact "empty promises and giveaway programs." The bill would lead, Mr. Ford asserts, to "larger deficits, higher taxes, higher inflation and, ultimately, higher unemployment."
>
> This is a heavy load of denunciation to be laid on this legislation aimed at creating more jobs, when the unemployment rate has gone back up to 7.5 percent, with more than seven million Americans out of work. The bill is not a massive boondoggle; it represents less than 1 percent of the total Federal budget and less than one-fourth on one percent of anticipated gross national product in 1977.
>
> Mr. Ford says the bill's scaled-down size from the $6 billion public works jobs bill he vetoed in February is irrelevant, contending that "bad policy is bad whether the inflation price tag is $4 billion or $6 billion."
>
> Obviously—indeed, simplistically—any appropriation can be denounced as inflationary, including the $101 billion defense outlay (an $8 billion increase over fiscal 1976) that the President has proposed for the current fiscal year. The real question, however, is whether the budget as a whole, in terms of outlays, taxes and deficit, is inflationary—or insufficiently stimulative—and whether particular outlays represent a constructive use of the public's money.
>
> Congress has not acted irresponsibly on the budget as a whole or on this particular public works employment bill. The proposed $4 billion public works bill falls within the Congressional budget resolution of $413 billion for fiscal 1977. That spending total, given anticipated revenues of $363 billion, would result in a $50 billion budget deficit. This is a more realistic budget than President Ford has proposed and would bring down unemployment sooner without worsening inflation.
>
> The President wants to limit outlays to $394 billion—a figure that would involve real slashes in virtually every social program, while only defense and energy outlays would rise. Such a budget ceiling would in fact be deflationary or depressive; Mr. Ford has sought to ward off that danger by proposing a further $10 billion tax cut. He still recommends a $43 billion budget deficit, with higher Social Security and unemployment taxes making up some of the difference.
>
> The President has thus sought to further his right-wing philosophy—and his campaign not only against the Democrats but against Governor Reagan—by this unwise veto.
>
> The $4 billion public works bill would help the hard-pressed cities. It would create jobs for the unemployed; even if the President were right and Congress wrong in predicting that the bill would create only 160,000 rather than 300,000 jobs, these would help absorb many laid-off construction workers and the counter-cyclical revenue-sharing to cities and states would save the threatened jobs of many policemen, firemen and other municipal works. The bill would also provide needed funds for facilities to prevent water pollution.
>
> The targeting of public expenditures to help the cities, the construction industry and the unemployed makes sense during this period of slow recovery from the serious 1973–75 recession. Congress ought to pass the public works jobs bill over the President's veto.

Mr. BURKE of Florida. Mr. Speaker, I rise and stand in support of the President's veto of S. 3201—the Public Works Employment Act of 1976. And in so doing, I cite to the House of Representatives that what we are presently witnessing in this attempt to overturn the President's decision is another instance in which a Democrat-controlled Congress is playing upon the genuine needs and concerns of the American people for purposes which can hardly go beyond crass political gain. I say to you, Mr. Speaker—and to you my colleagues—that unless we can rise above the expediency of immediate political gain and address ourselves to the requirements of a long-term and healthy economic recovery, we shall, indeed, be guilty of the vilest form of deception. For we will be holding out to the American people the hope of a solution to their economic troubles, but will in fact be acting to deliver only larger deficits, higher taxes, higher inflation, and ultimately higher employment.

Mr. Speaker, while the passage of this bill might be of political advantage to some Democratic candidates in November, nevertheless the American people will all suffer considerable economic damage by inflation and our economic recovery will be pushed backward instead of forward as we need.

It is about time—if we are going to be truthful to the American people—that we recognize that neither House in the Congress holds a monopoly over the concerns for the welfare of the American people. Those who disagree with the provisions of this bill are just as intent upon the alleviation of the economic ills which beset this country as those who support it. There is no disagreement over the desired ends. The only disagreement which exists in this Congress is over the means to achieve that end.

The President's economic policies are designed to create from 2 to 2.5 million jobs in 1976 and over 2 million jobs in 1977. However, the provision which is before the House can create at the most

160,000 jobs. And even then, no more than 50,000 jobs would be created in any one year. Furthermore, the peak effect of this measure would not be felt until sometime in late 1977 or early 1978. In other words, this bill would only allow for the stimulation of the economy at a time when the present economic recovery is in an advanced state. This would most likely set off another round of inflation and unemployment. And what gains would be accrued? S. 3201 would have only 5 percent of the impact which the President's proposals would have and would be able to reduce unemployment by only one-tenth of 1 percent over the next several years. And, each job that was created would cost the American taxpayer $25,000. Thus, the net gain tends to pale into insignificance when compared with the costs and the potentially disastrous consequences which could result.

Mr. Speaker, in addition, it must not be forgotten that this measure would add $1.5 billion to an already huge budget deficit in 1977. This action would increase the demands upon an already inflated economy and would in turn place more demands upon the borrowing needs of government. As should be clear to all by now, this would have the effect of reducing the amount of money which would be available for productive investment and serve to reduce the possibility of creating jobs in the private sector. Ironically, this bill, in my opinion which purports to have been designed to create more jobs will do exactly the opposite. Instead of more jobs being made available to the American people, this bill could in fact reduce the number of jobs by dampening the expansion forces in the private sector. Thus, what is needed is not more jobs in the public sector but more jobs and capital in the private sector. The more private capital that is invested for productive purposes, will mean more jobs will be made available. It should not be forgotten that the best and most effective way to create new jobs is to pursue balanced economic policies that encourage the growth of the private sector without risking a new round of inflation. This is the core of the President's economic policy—a policy designed to produce lasting productive jobs and not the temporary jobs paid for by the American taxpayer.

In conclusion, I implore my colleagues to look beyond the November election and help support an economic policy which will serve the long-range interests of the American people and their economy. Certainly that is the more difficult path to follow. But, it is one of which the American people are deserving. And, if only we could all lay to rest the penchant for demogogery, then, we could find the necessary support in the body politic for sound economic policies.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I strongly urge my colleagues to join the Senate in voting to override the President's veto of S. 3201, the Public Works Employment Act of 1976. Congress has been trying to provide jobs for unemployed Americans for well over a year. The House originally passed a $6 billion jobs bill, H.R. 5247, in May of 1975. Unfortunately, the President also vetoed this legislation saying its cost was too high. Since the President's veto my colleagues in the House and Senate have nevertheless continued their enthusiastic support for jobs legislation. However, Congressional efforts to provide jobs have repeatedly been thwarted by the current administration. Hundreds of thousands of jobless Americans have gone without aid because the President has failed to recognize that work is an important national priority.

The latest demonstration of congressional concern for the unemployed came just yesterday when the Senate voted, by a strong margin, to override the President's veto of S. 3201. Today the House has the opportunity to finally enact this important legislation into law and provide desperately needed assistance to America's jobless.

In addition to providing $2 billion for direct public works employment projects, this legislation provides $1.25 billion in antirecession aid to the States and localities. Since the beginning of the recession, hundreds of communities have been forced to lay off employees because of a shortage of funds. In many cases this has caused a curtailment of essential services for the citizens of these communities. This situation must not be permitted to continue. The Federal Government has a responsibility to these communities to protect jobs and essential services.

The President's veto of S. 3201 demonstrates again his concern for big business at the expense of unemployed Americans; his desire to placate the "haves" at the expense of the "have-nots." He advocates stimulating corporate growth with nothing more secure than the mere hope that jobs will trickle down to those in need. But unemployment rose by 0.2 percent in June despite the President's "hope" to bring about economic recovery. We must recognize that the President's hope is an illusion, that it is critical to the national well-being that we provide public works employment for the jobless. I urge my colleagues to demonstrate again their concern for the unemployed and vote to override the President's veto of S. 3201.

Mr. BIAGGI. Mr. Speaker, I rise to indicate that I will vote to override the President's veto of S. 3201 the Public Works Employment Act of 1976. I am confident by virtue of yesterday's Senate vote to override, that the forces behind putting Americans back to work, and aiding State and local governments in their economic recovery plans will prevail.

Many of us in Congress were most disappointed with the President's veto of this legislation, which had been revised to meet his earlier objections to H.R. 5247. The total price tag of this legislation was almost cut in half from its predecessor, a major concession. Yet the President, again chose to veto. His case may have been stronger before, it is certainly weak today.

I consider the countercyclical aid for units of State and local government to be a very important vehicle which will allow for real economic recovery on the local level. The bill is designed to provide emergency assistance to aid cities and State governments maintain basic municipal services which have been reduced or eliminated due to the recession. Many large cities including New York and Detroit have been forced to make drastic cutbacks in such vital services as law enforcement and sanitation. The funds under countercyclical aid could aid in restoring these services by providing for the rehiring of laid-off personnel.

As this Congress does battle with its number one economic problem, unemployment, no legislation especially one which could provide 350,000 direct jobs should be overlooked as a solution. Let us not be persuaded by the specious arguments of the President, the fact is Americans need work today, this bill provides them with the opportunity and should be signed into law at once.

Mr. BADILLO. Mr. Speaker, it is imperative that the President's veto of the public works employment bill be overridden. We are not dealing, as the President claims, with too much money, or coming to terms with our own election-year free-spending. We are dealing with people's lives.

One of the most devastating problems assailing this country is unemployment. Our statistics show that the unemployment rate is dropping. Last month it was down to 7.5 percent and everyone applauded. But what that means is that, in many instances, people's unemployment insurance has run out and they are just not being counted any more. What that means is only that the President has a nice number to flash before the press. But it does not reflect what is really happening. In New York State, for example, the unemployment figure was 8.9 percent, in New York City the figure was 9.7 percent. And in my own district in the South Bronx, the figure may be as high as 30 to 40 percent. Those are real figures, and that tells a very different story about the need for a Public Works Employment Act.

What we are talking about with this bill is putting people to work. And putting people to work restoring and renewing neighborhoods like those in my district that have deteriorated to a point where their residents can no longer care about them, or care about themselves. People need health care centers and child care facilities and libraries and parks if they are to survive. And this is a bill that will provide both the intangible benefits of hope and pride, as well as the real result of jobs and income for people like the residents of the 21st Congressional District.

Mr. FORD of Michigan. Mr. Speaker, I rise in strong support of S. 3201, the Local Public Works Employment Act, and urge all my colleagues to join with me to override President Ford's veto of this vital legislation.

The purpose of this bill is clear. It will create 200,000 jobs, mostly in private industry, for the construction of public works projects that have had to sit on the shelf because there was no money available. Some 90,000 State and local government employees will not be laid off because of the assistance that title II will provide to communities hard pressed to maintain basic services customarily provided. Title III of this bill authorizes $700 million for the construction of publicly owned wastewater treatment plants. About 60,000 construction workers will find work building these plants.

This legislation will also do a great deal more. It will provide Federal, State, and local governments with increased tax revenues. The heavy cost of welfare expenditures and unemployment compensation will be reduced. Businesses, large and small, will have new customers ready and able to purchase goods and services that are out of reach for the unemployed.

Above all, however, will be the real, though perhaps intangible, benefit to the workers who will now work again—the pride, the security, and the banishing of fear that comes with the ability to provide for themselves and their families through a job—not a Government handout.

Mr. Speaker, the President in his veto message to Congress called this jobs bill an empty promise and a giveaway program. He urges us to resist this "election year temptation." It will only lead us, he claims, to "larger deficits, higher taxes, higher inflation," and even higher unemployment.

Mr. Speaker, if the unemployment rate was at 4 percent instead of 7.5 percent, we would have a surplus in fiscal year 1977 of some $4 billion, and not a deficit. Why? Because unemployment will cost this country at least $15 billion in fiscal year 1976 in unemployment benefits alone. Food stamps, welfare, and unemployment compensation are repugnant words to ears of the fiscal conservatives who are ever protesting Government interference in the free enterprise system.

Yet it is this administration and its conservative economic policies that are forcing Federal, State, and local governments to shell out billions to feed, clothe, and otherwise sustain the people, when for a much smaller cost they could put them back to work. If this bill passes it will lead to smaller, not larger, deficits, and to more tax revenue, not higher taxes.

Mr. Speaker, the administration gives dire warnings that the cost of a jobs bill is inflation. No economist that I am aware of has yet established that for every person we put back to work we must be willing to accept some additional increment of inflation. Few economists can agree to what level the unemployment rate must sink before the competition for scarce skilled labor becomes so great as to become inflationary. Let us assume for a minute that it is above 3 percent—perhaps even as high as 5 percent. We have 7.5 percent unemployment nationally. This bill will mean about 350,000 jobs. There are more than 7 million unemployed. Can it realistically be argued that this legislation is inflationary?

One more point about inflation. All the dire prophecies about inflation as a necessary tradeoff for jobs seems to presuppose that nothing we can do in the way of improving labor mobility, improving employability by training and the elimination of job discrimination, can reduce inflation. That is simply a false and unfair assumption.

I ask all of my colleagues to join me in overriding the President's veto of this important legislation.

Mrs. MINK. Mr. Speaker, I join my many Colleagues today in strongly urging that this honorable body listen to the cry of the American worker in overriding President Ford's veto of S. 3201, the Public Works Employment Act of 1976. As you all know, the Senate yesterday voiced its disapproval of the veto by an overwhelming majority of 73 to 24, and I cannot see how we can do otherwise.

Enactment of this bill into law would create some 300,000 jobs which would contribute tremendously in our efforts to reduce unemployment and to get this Nation back on the road to economic recovery. The current recovery, to use a familiar misnomer, has lowered unemployment to about 7.5 percent, still higher than any of the unemployment peaks of the past 30 years. After 8 years of Republican economic steering, Americans have been asked to tolerate the current rate of unemployment as a way of life.

Achieving full employment is properly the responsibility of the Federal Government, and it can be done through more prudent management of the economy than the Ford administration has provided. Historically, public works programs have been used to create jobs during severe downturns in the economy. During the Great Depression, millions of Americans were employed in highly productive and constructive jobs which resulted in lasting improvements in communities across this land.

In his veto message, the President accuses the Congress of enacting legislation containing "empty promises and give-away programs" just prior to a national election. I beg to differ with the President for it has been his vetoes that have stood in the way of progressive employment legislation over the last 2 years. He has criticized this legislation as one which offers "relatively few new jobs," after, just 5 months ago, vetoing similar legislation, H.R. 5247, which would have had an even greater impact upon the problem of unemployment. He cannot have it both ways.

President Ford, in his veto message, says that this bill "would create few new jobs in the immediate future," adding "further stimulus to the economy at precisely the wrong time: when the economy is already far into the recovery." Quite the contrary, this bill is specifically designed to create new jobs within 90 days of the time of obligation of Federal funds.

Mr. Speaker, once again we hear the familiar cry of inflation as a justification for keeping 7 million people unemployed. I might remind our colleagues that the total value of lost production resulting from unemployment during the period 1970–75 is about $565 billion. At a time when the unemployment rate in the construction industry is 17 percent, it is absurd to call this modest program inflationary. The $3.95 billion cost of this legislation is less than the margin of error in the forecasts of this year's deficit.

President Ford knows perfectly well that the present huge deficit is the direct result of high unemployment. For every 1 percent unemployment above 4 percent, the U.S. Government loses $13.6 billion in revenue and incurs some $2.4 billion in debts for unemployment compensation, food stamps, welfare, and other assistance programs. To allow unemployment to prevail at the present rate, letting recovery take its "normal course," threatens to pitch the national economy back into even deeper stagnation.

Mr. Speaker, it just makes good sense to invest this minimal amount to reduce not only the number of unemployed, but the National Treasury's deficit as well.

Mr. ASHBROOK. Mr. Speaker, I rise in support of the President's veto of S. 3201, the Public Works Employment Act of 1976. This bill would authorize almost $4 billion in Federal spending—money which we simply do not have—while doing little to solve our unemployment problem.

I guess we have entered the political season. It is the time when politicians are most apt to make empty promises and vote for costly boondoggles as part of their reelection efforts. This may be good politics but it is bad for the long-term interests of the Nation.

For more than a decade Congress has overpromised, overtaxed and overspent. We have paid dearly for these profligate policies. We have suffered high unemployment, double digit inflation and soaring interest rates.

Now the economy is finally starting to recover from these wrong-headed policies. The rate of inflation has dropped dramatically, the unemployment rate is declining and interest rates have come down.

The liberal-dominated Congress, however, wants to embark on another round of budget-busting. They say they want to "stimulate" the economy—an economy that was spent into the worst recession since the Great Depression by liberal politicians. I urge my colleagues to reject this line of thinking and sustain the President's veto of S. 3201.

Furthermore, although this bill would add yet another $4 billion to the budget deficit, it would do little to reduce unemployment. Proponents of the bill optimistically say it would create as many as 325,000 jobs. The actual number, however, would be far less.

Administration economists forecast that the bill would create no more than 60,000 extra jobs in any year, with a total of less than 160,000 years of employment created over 5 or more years. The lower figure finds support in an independent study prepared by economist Alan Fechter of the Urban Institute. According to Fechter, each $1 billion provides only 30,000 to 60,000 jobs. In addition, the Federal money may displace up to 50 percent of State and local funds being used to provide public services. In short, the grandiose assertions by sponsors of this bill are without foundation.

Not only would this legislation result in few jobs and have little impact on unemployment. The cost per job would be incredibly high. Estimates are that it would cost more than $25,000 per job. Such a high cost is hard to justify.

The cheapest, most effective way to get our unemployed citizens back to work is to revitalize the private sector of our economy. To do this we must reduce—not increase—Federal spending and start balancing the budget. Huge budget deficits only lead to more inflation and higher interest rates. Federal borrowing to cover these deficits depletes the capital that is needed by the private sector for plant expansion and the construction of new businesses—key elements in providing more jobs for Americans.

Mr. GILMAN. Mr. Speaker, I rise in support of the vote to override the President's veto of S. 3201, the Public Works Employment Act of 1976.

While I share the concern of the President and other Members of Congress over the extent of Federal spending and its affect on the Nation's economy, I am firmly convinced of the need for timely funding of programs that will help to alleviate our serious unemployment problem.

While current figures indicate a national economic recovery, the State of New York is still suffering from our economic siege. The State's administration has informed us that the State's rate of recovery is well below the national average. A recent study revealed that 59 percent of all nongovernment jobs lost over the past 2 years were lost in the State of New York. New York State's unemployment statistics for the months of January and February of this year, ranged from between 6 and 12 percent. I think my colleagues will agree with me when I say that New York State's economic situation still remains bleak.

The unemployment situation in my own congressional district has been even more severe. Unemployment figures in the seriously depressed construction industry has been running between 60 and 80 percent. These figures clearly indicate the need for immediate relief.

The Public Works Employment Act is designed to provide this necessary relief within 90 days with the eventual creation of 350,000 jobs concentrated mainly in the construction industry. It is my contention that the employment benefits greatly outweigh the disadvantage of expending the substantial appropriation necessary for the implementation of this legislation.

Moreover, at a time when governments are in economic distress, these funds will be a boost to local governments in their completion of necessary projects. It is estimated that title II funding in countercyclical aid to local governments with unemployment rates exceeding 4.5 percent in my congressional district, will provide my congressional district with approximately $1.5 million, funding which is sorely needed for the continuation of necessary services.

Accordingly, I urge my colleagues to join with our colleagues in the Senate, and vote to override the veto of this important legislation.

Ms. ABZUG. Mr. Speaker, the Members of the House will soon be voting on as important a piece of legislation as we have produced in this Congress. I am particularly gratified that this Congress and the Public Works Committee, on which I serve, has not been discouraged by the President's veto of the first jobs bill, but has persisted in coming out with new legislation.

I was proud to sponsor both the House version of the bill we are considering today, and H.R. 5247, the original jobs bill we passed, which is the forerunner of S. 3201. I was also proud to serve on the conference committee of H.R. 5247. I most earnestly hope that the House will now complete the effort we initiated in early 1975, when H.R. 5247 was introduced, and pass this bill to put people back to work.

Despite President Ford's rhetoric of antirecessionary interests, it is clear from his actions that he is unwilling to take affirmative steps to overcome the unemployment and economic downturn we are still experiencing. It is the obligation of the Federal Government to the American people during periods of retarded economic development to initiate programs that will bring a reversal of these conditions. A decision to override this latest Presidential veto, of the Public Works Act, would mean that we could finally begin the process of long-term economic recovery in both the geographic and economic parts of our Nation which have been hit most severely.

The critical situation in several industries, particularly the construction industry, and the high unemployment rate among many States indicate the need for the positive action which this bill provides.

It has been my sad experience with this bill to repeatedly bring to the attention of the Congress the overwhelming unemployment rates of several States which clearly illustrate the need for the legislation. Despite the claims of the administration about a strong economic recovery, the unemployment statistics for May of 1976 provide us with continuing evidence of the problem. My own State of New York suffers from an unemployment rate of 8.9 percent and its neighbor New Jersey now has 9.2-percent unemployment. Both of these, though intolerably high, are not at all uncommon. Florida has 9.9-percent unemployment and Michigan similarly, has 9.7 percent of its population out of work. Connecticut has an unemployment rate of 9.1 percent; Rhode Island has 9.5-percent unemployment; California, 9.6 percent; and Alaska, 9.7 percent; nearly a tenth of the working population of these States is without jobs. These figures mandate that we override this second Presidential veto.

The positive impact of the public works program provided for in this legislation will create the foundations for a healthy economy in the future. Well-planned public works projects have been instituted in the past with great effectiveness. In 1962, for example, a $900 million project was undertaken which supported 7,700 projects. This program provided for a bulwark against economic decline in many areas. In the same manner by creating and maintaining 300,000 jobs, the legislation we are considering today will generate a significant increase in the amounts of capital to the economy.

The lack of positive action by the administration and the continuation of the Ford policy of vetoing significant legislation passed by the Congress has forced those State and local governments, particularly hard hit by the recession, to raise taxes and limit employment to maintain vital services. S. 3201 meets this problem directly. Seventy percent of funds appropriated by the bill will be granted to those States and localities which have had unemployment rates above the national average for over 3 months. This provision, which I successfully offered in the House Public Works Committee to the first public works bill we passed that the President vetoed, guarantees that the aid provided by the bill will be an effective economic stimulant in those areas which are in the greatest need.

This bill will also insure that essential municipal services such as sanitation, police and fire protection will be continued without increasing costs for taxpayers, simultaneously much of the blight which has affected our cities as a result of the faltering economy will be repaired.

A report compiled by the Congressional Budget Office offered definitive findings indicating that the countercyclical assistance contained in this legislation will be a valuable employment stimulus. The countercyclical provision is included in this legislation because it, like public works program, is an effective aspect of a national policy of economic recovery.

The President's reference to "empty promises and give away programs" in his veto message to S. 3201 is misleading, or else represents a basic misunderstanding of the workings of our economy. The public works job bill shifts Government funds from costly unemployment and social welfare payments into the creation of productive jobs necessitated, by the failure of the administration to act positively against the recession, and designed to put an end to our depressed economic conditions. The administration relies on what it claims are the "high costs" of this bill as a rationale for rejecting it. The President is not the only one who is concerned about excessive Government spending. I and many of my colleagues have spoken out against wasteful Government spending, particularly in the area of military procurement; but the way to avoid a continually increasing debt is not to avoid undertaking programs which will strengthen the American economy and generate additional tax revenue.

A study done by the Congressional Budget Office demonstrates that, when national unemployment exceeds 4 percent, every percentage point decrease in the level results in a decrease of $2 billion in Government social welfare expenditures, and a $14 billion increase in Federal tax revenues. It is irresponsible of us to ignore, as does the administration, effective measures to generate economic improvements which will enable us to realize this $16 billion decrease in the annual deficit.

I am not in favor of big spending. I favor this bill because it will eventually have the effect of reducing Government spending. By enacting the programs it contains, we will be saving the large sums that we must now spend to overcome the negative impact of high unemployment, revitalization of the sluggish construction industry, and strengthen the overall national economy. The return on this investment is far greater than any so-called "savings" which would result from doing nothing and permitting the recession to continue. It is the costs of hardship and a depressed economy that are too high for us to permit them to continue.

GENERAL LEAVE

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, at this point in the RECORD on the subject of the Presidential veto of S. 3201, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WRIGHT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Oklahoma (Mr. ALBERT) the Speaker of the House of Representatives.

Mr. ALBERT. Mr. Speaker, first of all I want to commend the great Committee on Public Works and Transportation for proceeding as it has during this session of the Congress. It has proved itself to be one of the finest committees in the House. I commend them for bringing this legislation to the floor.

Mr. Speaker, this legislation does two things. It provides for jobs and it provides for public works designed to improve the communities of this country, to make it possible for private industry and public bodies to have those facilities which are essential to the development of our country.

The distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL) stated that it has been the activities of the Democratic Congress that have given the President something to talk about in the way of an improving economy, although that has slipped again in recent weeks.

It has been the majority party that has brought about what progress we have had, not the Ford vetoes. The Democratic sponsored tax cut initiated the first upturn we have seen since the Ford recession started.

The distinguished and beloved minority leader, who is respected by all Members of the House, and his distinguished predecessor, Gerald R. Ford, who served by my side for many years, and the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL) who has assisted in the leadership of the minority, have an unbroken record going back about 20 years of leading the Republican Party to defeat at the polls, and they are doing their best to repeat the process today.

Mr. Speaker, I listened to the Clerk as he read the veto message of the President of the United States of this public works bill, and I listened closely. It was the classic message of conservative, reactionary, job-killing vetoes of legislation badly needed and much desired by the American people. Having said that it is the classic job-killing veto, I will prove my statement.

I would like to read to you a few excerpts from a veto message, and I would ask the Members of the House to listen very closely.

The document reads that this bill, and I quote, "unbalances the budget—It does not accomplish the purpose of creating employment for which it is designed." It would "require a huge bureaucracy." And—

> It is not too much to say that if such a measure becomes law it further weakens the economic situation by threatening the credit of the United States . . . .

These words are very familiar—I think exactly the thoughts of President Ford in vetoing the Public Works Employment Act.

In fact, however, what I have just read to you is a quotation from July 11, 1932, from President Hoover's veto message concerning the Emergency Relief and Construction Act of 1932.

On the eve of the greatest depression this Nation has ever known, President Hoover vetoed a progressive, job-creating public works bill sponsored by a Democratic Congress. Now, some 44 years later, almost to the day, an equally conservative Republican President has again demonstrated the lack of economic understanding and human sensitivity which has enshackled the Republican Party and kept it in minority status in this Nation and in this Government for two generations.

What, I ask you, has the conservative Republican leadership learned in the last 50 years? In 1932, they said that public works bills do not effectively create jobs. In 1976, President Ford still takes the same position—notwithstanding all of the experience to the contrary of the 1930's with the WPA, TVA, and other agencies; and notwithstanding our more recent experiences with the Area Redevelopment Act, with the Public Works and Economic Development Act, and with the Appalachian and other regional development commissions, which have proven beyond the shadow of a doubt the efficacy of public works in creating jobs and stimulating the economy.

Where President Hoover worried about draining away private capital, the current administration talks about "crowding out" private capital, still failing, after 50 years of experience, to understand a fundamental lesson of American economic history—that good public investments create far more new capital than they initially cost.

President Hoover justified his veto of the 1932 public works measure because it pushed the budget into deficit. A good, strong, expansionary Federal deficit was, of course, exactly what America needed in 1932. With it, we might have avoided the worst of the depression. But, here is President Ford in 1976, still sounding the trumpet for a balanced budget during recession.

Well, we are not yet out of our recent very severe recession, the worst since the Great Depression itself. Unemployment went up again last month to 7.5 percent and millions of Americans cannot find work. The Democratic Congress planned, in its budget, to stimulate the economy with this public works measure, and I think we had better stay with our plan rather than with President Ford's and President Hoover's.

And what, finally, of inflation? Mr. Hoover worried about it and so, of course, does President Ford. Inflation is a serious problem—far more so now than in the 1930's. But economists have learned a few things about inflation—even if the conservative Republican leadership has not.

We know, for example, that this bill is not inflationary, that it will create new jobs. It puts money into a general economy, and into specific industries, with enormous idle capacity in manpower and machinery. This bill is not going to push us up against the limits of our ability to produce, thereby stimulating inflation.

If the Republican leadership have failed sadly in learning the economic lessons of the last 50 years, they have failed even more sadly to learn the moral lessons of our last half century.

The American people—and the Democratic Party—have concluded that unemployment is immoral. It is antisocial. It strikes at the heart of American society, the family, ruining lives, destroying dreams, creating criminals, truly a cancer in the body of our Nation.

Simple justice, as well as sound economics, dictates that we do everything in our power to rid our Nation of this evil. Unfortunately, the Republican administration has not yet come to understand the immorality of unemployment.

As I read President Ford's veto message, and then laid President Hoover's message beside it and compared them point by point, I could only wonder at how totally the conservative Republican leadership has failed to learn the lessons of the last 50 years of American economic experience and moral development.

The same economic arguments, the same moral stance, which motivated President Hoover's misguided veto of a public works measure in 1932 now motivates President Ford's equally ill-conceived veto of the Public Works Employment Act of 1976. The minds of the Republicans have been possessed by a demon mythology for half a century. Will it ever be exorcised?

It is said, my colleagues, that those who do not learn from history are condemned to repeat it.

Let us then learn, as President Ford apparently has not, from the tragic history of the 1930's. Let us not repeat the fearfulness and suffering of that unfortunate era. Let us not, with President Ford, condemn our Nation once again to the agony of rampant unemployment and near depression.

Let us instead, Democrats and Republicans alike, learn from the tragic errors of our past and vote, now, overwhelmingly, to override the veto of the Public Works Employment Act of 1976.

Mr. LEGGETT. Mr. Speaker, I rise in support of the effort to override the President's veto of S. 3201.

Full employment must remain a goal of a responsible public policy. It is a goal which can be obtained through economically sound, well designed legislation like the public works employment bill which is before us yet another time today.

This is long needed legislation, despite recent claims by the President that it will lead to "larger deficits, higher taxes, higher inflation, and ultimately higher unemployment." The plain truth is that it will provide almost 400,000 jobs, mostly in the private sector, at a time when more than 7 million Americans are without work. While this bill would provide relief to a relatively small proportion of the unemployed, to me, some relief is better than no relief. I am committed to the idea that any American who wants to work should have the opportunity to work.

Yet, Mr. Ford says that we cannot provide jobs under this bill because it will put an unbearable stress on and overstimulate the economy and ultimately lead to higher inflation. Well, let me remind him that this bill can and will provide jobs and do so without sparking a new round of inflation because there is still slack in the economy. The truth is that S. 3201 can help move us along toward a full economic recovery.

Mr. Ford says that we cannot have this bill and we cannot provide work for some 400,000 people because the cost per job is an intolerably high $25,000 per job. This is nonsense. Simple arithmetic clearly indicates that the cost per job would be substantially less, about half of his estimate.

Finally, Mr. Ford claims that this bill will have a relatively insignificant impact on providing jobs to the unemployed. So he says, the bill is adequate and should not be enacted. This Mr. President is not good sense, it is nonsense. This is no answer to the 7 million unemployed Americans. What they need are jobs—good respectable jobs. We must take the initiative and help these Americans find work.

Let me say, finally, that while this bill is not a panacea it is certainly a needed step toward a full economic recovery. I urge my colleagues to override President Ford's veto of S. 3201.

Mr. MATSUNAGA. Mr. Speaker, I rise in support of the motion to approve, notwithstanding the President's veto, S. 3201, the proposed Local Public Works Employment Act of 1976.

There are three important features of this bill, Mr. Speaker, and all of them deserve to be enacted:

Antirecession grants to State and local governments, so that continuation of their essential services can be assured despite severe fiscal straits;

Grants to States for wastewater treatment plants; and

Some $2 billion in local public works projects, targeted for areas of high unemployment.

Over the past few years, the economy of the United States has endured a debilitating recession, and both private and public sectors have suffered. One of the most damaging consequences of the recession has been that many essential public services and public works projects have been neglected or suspended due to lack of funds.

The economy has been suffering in recession much too long, and it is our responsibility to take active measures toward a recovery. Through the implementation of the appropriate economic policy, we can see the economy back to its full potential, insuring the American people of a secure livelihood and healthy environment in the future.

I fully agree, Mr. Speaker, that if we are to avoid worsening inflationary pressures in our efforts to stimulate the economy to more efficient levels of activity, we must implement these stimulatory programs with discretion. In so doing, it is of foremost importance that we initiate measures where the need for Federal spending is most severe, and where revenues will go to the most efficient and beneficial use. The deplorable deterioration in the quality and number of public works projects and services is in serious need of remedy. By providing aid to State and local projects, as the pending legislation would do, we would be generating many highly useful and beneficial jobs while at the same time meeting the genuine need for better governmental services at the local and State levels.

In his veto message, President Ford warns that we must reduce the demand for Federal funds, and admonishes that Federal spending will reduce private investment and stimulate the economy at the wrong time. But it is clear that no private firm is going to undertake pollution abatement or public works projects on its own. Federal spending is needed now to meet the increasing need for progressive public works programs. This same administration told us last year that the congressional budget targets would drain too much capital from the private sector, thus inhibiting economic recovery. His fears have proven unfounded. I submit that the President's prediction is no more valid today than it was then.

The impact on the economy of the spending called for in S. 3201 will be immediate, as most of the projects have already been planned and are lacking only in funds. In my own home State of Hawaii, in the city and county of Honolulu alone there is almost $90 million worth of badly needed public works projects which are ready to begin in 30 to 90 days, provided the requisite Federal funding is made available.

The Public Works Employment Act will provide the funds required to begin critically needed projects throughout the Nation. It will provide for a highly efficient use of Federal funds on projects of the highest priority and greatest benefit. Its timely impact on the economy will lead to a full and early recovery.

It is our responsibility, as Members of the Congress, to guide the economy to a vigorous recovery and insure the American people of a healthy and prosperous future. We can do this by resolving our Nation's biggest problem today—unemployment, the reduction of unemployment will not only help to increase Federal revenues, it will also help to restore faith in our American system—so necessary in the celebration of our Nation's Bicentennial birthday. I strongly urge an "aye" vote to override the veto.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 310, nays 96, not voting 26, as follows:

[Roll No. 534]

YEAS—310

Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clausen, Don H.
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Esch
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Goodling
Green
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harrington
Harris
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Holland
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hyde
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Karth
Kasten
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
LaFalce
Landrum
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss

Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pike
Pressler
Preyer
Price
Pritchard
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—96

Abdnor
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Cederberg
Clancy
Clawson, Del
Cleveland
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
du Pont
Erlenborn
Eshleman
Findley
Frenzel
Gibbons
Goldwater
Gradison
Grassley
Hagedorn
Hall, Tex.
Hansen
Harsha
Hillis
Holt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Colo.
Kelly
Ketchum
Kindness
Lagomarsino
Latta
McClory
McCollister
McDonald
McEwen
Madigan
Mahon
Mann
Martin
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Paul
Pickle
Poage
Quie
Quillen
Rhodes
Robinson
Rousselot
Satterfield
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Steiger, Ariz.
Symms
Taylor, Mo.
Thone
Treen
Vander Jagt
Waggonner
Whitehurst
Wiggins
Winn
Wylie

NOT VOTING—26

Abzug
Anderson, Ill.
Andrews, N.C.
Brinkley
Clay
Derwinski
Flynt
Harkin
Hayes, Ind.
Hays, Ohio
Hinshaw
Howe
Jones, Tenn.
Jordan
Krueger
Litton
Murphy, N.Y.
Pepper
Peyser
Schneebeli
Shipley
Stanton, James V.
Steelman
Teague
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Mr. Derwinski and Mr. Jones of Tennessee for, with Mr. Schneebeli against.

Mr. Anderson of Illinois and Mr. Young of Alaska for, with Mr. Steelman against.

Until further notice:

Ms. Abzug with Mr. Young of Georgia.

Mr. Teague with Mr. Andrews of North Carolina.

Mr. Pepper with Mr. James V. Stanton.

Mr. Murphy of New York with Mr. Hayes of Indiana.

Mr. Clay with Mr. Hays of Ohio.

Mr. Flynt with Mr. Brinkley.

Mr. Howe with Mr. Harkin.

Mr. Shipley with Mr. Krueger.

Ms. Jordan with Mr. Litton.

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

MILITARY CONSTRUCTION AUTHORIZATION ACT—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President on the bill (H.R. 12384) to authorize certain construction at military installations and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Missouri (Mr. ICHORD) for 1 hour.

Mr. ICHORD. Mr. Speaker, I yield myself 30 minutes, and I yield 30 minutes to the gentleman from Virginia (Mr. WHITEHURST).

Mr. Speaker, I strongly urge that the House pass the bill H.R. 12384 over the veto of the President. The issue on this vote, Mr. Speaker, is very clear, it is very simple.

It is simply a matter of whether or not we want the House to exercise its oversight responsibility in the field of military base closures, military base reductions, and military base realinements or whether we want to abdicate that responsibility and leave it solely up to the Department of Defense and to the Commander in Chief.

The sole reason for the veto of the President was based upon section 612 contained in H.R. 12384. The President specifically stated in his veto message that he approved of the remainder of the bill.

Section 612 would place into law a scheduled procedure that the Defense Department must follow in implementing proposed base closures or reductions or realinements. The President acknowledged in his veto message that there were no constitutional objections to section 612. His chief objection, according to the veto message, is that section 612 would cause unnecessary delay in the base closures and reductions proposed thus far this year by the Defense Department.

To that I say, Mr. Speaker, the President's argument is invalid, and that he was ill-advised to veto H.R. 12384 on that basis.

I submit, Mr. Speaker, that the veto message on its face indicates that the President was ill-advised. I sincerely feel that the advisers to the President were not aware of the scope and the content of section 612. I think that they really believe it was the original amendment offered by the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Let me briefly review the history of section 612. The Members will recall that in the consideration of the military procurement bill the gentleman from Massachusetts (Mr. O'NEILL) offered an amendment which I personally thought was ill-advised, and I was designated by the Committee on Armed Services to speak against that amendment.

The House in its wisdom—and, I think, very wisely so, rejected the original O'Neill amendment by an overwhelming vote. Later on the gentleman from Massachusetts (Mr. O'NEILL) modified his amendment and offered that amendment to this bill, H.R. 12384, the military construction bill. The Committee on Armed Services also thought that that amendment was not properly drafted, so we sat down with the gentleman from Massachusetts (Mr. O'NEILL) and came up with a compromise which was offered by the gentleman from Massachusetts (Mr. O'NEILL) and adopted on a voice vote.

In the meantime the Senate was proceeding with its version of the military construction bill, and it adopted an amendment similar to section 612 contained in the House bill.

We then went to conference to reconcile the differences. The House conferees and the Senate conferees sat down and very carefully considered this provision. We looked at it long, and we looked at it hard. We came up with the best language of both versions in order to constitute the final version of section 612.

Mr. Speaker, I review this history to point out to the Members of the House that this is not a fly-by-night provision. It is not a spur of the moment provision. It has been very carefully considered by the House Committee on Armed Services, by the Senate Committee on Armed Services, by the House Committee on Armed Services conferees, and by the Senate Committee on Armed Services conferees. It is a result of a compromise. It is very carefully drawn. There is no doubt whatsoever about its constitutionality; and the President has acknowledged the constitutionality, I think, in his veto message.

Mr. Speaker, I repeat, I feel very strongly that the advisers to the President were not aware of the changes that had been made.

There is no doubt about the constitutionality of this provision whatsoever, so it is a question as to whether the House wants to live up to its oversight responsibility. I submit, Mr. Speaker, that if the Members of the House and the Members of the Senate have the responsibility of locating bases and have the responsibility of building up military bases, then they also have the responsibility of exercising oversight in regard to base closures and base realinements.

By the Defense Department's own admission when it announced earlier this year those bases that are candidates for possible realinement, the Department stated that studies of whether to actually implement a base closure for major reduction would require at least 4 to 9 months. For the most part, the major base realinements covered under the reporting procedures mandated in section 612 would take at least 9 months of study before reaching a final decision.

The fact is, Members of the House, that the Defense Commission on Military Manpower has recommended that communities be given a notice of 3 years before a military base is reduced or relocated. Thus, all Congress essentially is requiring under section 612 is that it have at least 90 days in which to review the justification submitted by the Defense Department on any major base closure or reduction.

This is a very important point, Mr. Speaker. This provision 612 does not apply to all base closures. It does not apply to all base reductions. It only applies to major base closures and major base reductions.

There has to be a reduction of at least 50 percent of the civilian personnel or at least 1,000 civilian employees before the amendment operates. It does not operate against a base which has less than 500 civilian employees. It only requires the Department of Defense to make sure that a base closure or a base reduction is justified.

Mr. Speaker, section 612, I would point out, is not intended to discourage or to delay possible savings from a reduction of base activities. Its purpose is to provide the means for Congress to insure that the savings claimed by the Defense Department will indeed occur and that the base reductions are not being done capriciously or arbitrarily, as I state they have been done in the past, but are in the best interests of our national defense.

A good example, I would point out to the gentleman from Ohio (Mr. LATTA) who is now on his feet, occurred just a few months ago about the same time this controversy over proposed base closures and reductions developed.

I specifically refer the gentleman from Ohio (Mr. LATTA) to a Navy proposal announced in 1974 to relocate most of the elements of the Bureau of Naval Personnel from Washington to New Orleans. The Navy estimated at that time that the relocation would result in a savings of $5 million a year. Then after Congress appropriated some $21 million for new construction at New Orleans to accommodate the relocated Bureau of Personnel, the Navy determined in a reevaluation the proposed move was not economically feasible. Has Congress had the benefit of reviewing the justification data, to be required under section 612, for such a major move, this situation would have been avoided.

I am sure that the Members of the House can point to many similar reductions and base closures.

Now, I will yield to the distinguished gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Missouri knows, having been here back in 1965, that this matter has been before the House of Representatives prior to this moment. I refer the gentleman to a veto message sent up here by the late President Johnson to H.R. 8439 where the very same effort was made in a piece of legislation to do what is being proposed here. President Johnson in his veto message said:

> By the Constitution, the executive power is vested in the President. The President is the Commander in Chief of the armed forces. The President cannot sign into law a bill which substantially inhibits him from performing his duty. He cannot sign into law a measure which deprives him of power for eight months of the year even to propose a reduction of mission or the closing of any military installation, and which prohibits him from closing, abandoning or substantially reducing in mission any military facility in the country for what could be a year or more and must be 120 days. The times do not permit it. The Constitution prohibits it.

That is the end of the quotation from the veto message of President Johnson. I might say further that a Democrat Congress never even undertook to override that veto. The bill did not become law.

Mr. ICHORD. Mr. Speaker, I yielded to the gentleman from Ohio for a question and not for a speech.

I agree with the gentleman from Ohio wholeheartedly on everything he has said. I would agree with the gentleman from Ohio that there was no veto override attempt, but the gentleman from Ohio has misunderstood the facts, or else he has been misinformed by his staff, as the President, I feel, was misinformed by the Department of Defense. Let me point out the differences between section 611 in H.R. 8439 and section 612 in H.R. 12384.

Mr. LATTA. Mr. Speaker, will the gentleman yield further?

Mr. ICHORD. I do not yield further at this time. The gentleman from Ohio asked me a question and I am going to tell him where he is misinformed about the provisions of H.R. 8439 and section 612.

To begin with, I will state for the benefit of the gentleman from Ohio that in H.R. 8439 the provision prohibited the Commander in Chief from relocating military units.

Section 612 does not contain any such prohibition.

Second, the provision in the bill that the gentleman from Ohio is talking about forbade the President from even proposing any base closures or reductions any time after April 30 each year.

Under Section 612 the President would be free to propose a base closure or reduction at any time.

Third, under H.R. 8493 the President would have been required to wait at least 12 days, or even longer, if spanning a sine die period, before implementing any closing or reduction. Under section 612 no more than 90 days waiting period is required before the President could implement a closing or reduction.

I agree with the gentleman from Ohio, if there had been a veto vote, I would have voted to sustain the President on that particular amendment, and this is why I am seriously questioning whether the gentleman has very closely studied section 612.

Fourth, the amendment in H.R. 8439 restricted all possible base reductions of any significance. This section 612 only applies to major base reductions, major base closures, major realinements. It only applies if there is a reduction of more than 1,000 civilian employees or 50 percent of the civilian employees. It does not even apply to a base where there are less than 500 employees. That is the difference.

Mr. LATTA. Mr. Speaker, will the gentleman yield further?

Mr. ICHORD. I yield to the gentleman from Ohio.

Mr. LATTA. I would like to thank the gentleman for yielding. I have great respect for him. He is a good friend of mine, and I have great respect for his legal mind. The gentleman knows and I know we cannot make a constitutional determination on how large or how small a closing is going to be. If we have a constitutional question involved, it is involved whether there are 5 people, 500 people, or 1 base, 2 bases, 10 bases, or 100 bases. You cannot base your argument on such flimsy reasoning.

Mr. ICHORD. I have already pointed out the differences between the two provisions. There is no analogy whatsoever, and the gentleman, even though he would have voted to sustain the veto on H.R. 8439, if there had been such a veto vote, should change his mind and vote in favor of the veto today.

Mr. DAVIS. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from South Carolina.

Mr. DAVIS. I thank the gentleman for yielding.

I rise in strong support of the motion to override.

In response to the gentleman from Ohio, I would only question him on the constitutionality on the fact that we are here recapturing some of our own constitutional obligations. The Constitution plainly states that the Congress, not the Executive—not OMB, not the Commander in Chief—is responsible for raising and maintaining the armies and the navies. I would say that is the constitutional question, whether or not we are going to stand up and do what the Constitution says that we should do.

Mr. ICHORD. I appreciate the gentleman's comment.

Mr. LATTA. Mr. Speaker, will the gentleman yield further?

Mr. ICHORD. I would state to the gentleman I am limited on time. The gentleman from Virginia has time, and I am sure he will yield to the gentleman from Ohio.

I would like to save my time for the Members who have requested to speak.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. RANDALL).

Mr. DAVIS. Mr. Speaker, I rise to urge your support of the motion to override the President's veto of H.R. 12384, the fiscal year 1977 military construction authorization bill.

In his message of July 2, 1976, the President pointed to section 612 of the bill as the culprit prompting the veto. That section would prohibit certain base closures or civilian personnel reductions at military installations unless the proposed actions are reported to Congress and a period of 9 months elapses during which time the Department concerned would be required to identify the environmental impact of the proposed action. Subsequently, the justification for the action would be reported to the Armed Services Committees.

The basic reason for section 612 was to place into the law a procedure for the reasonable and orderly realinement of military base structures and civilian personnel reductions. It was not the intent to usurp reasonable prerogatives of the Department of Defense in arriving at judgments on base realinements and personnel reductions. That was made clear in the conference with the Senate on the bill.

Nonetheless, Congress has a constitutional obligation to review justifications for changes in the status of military facilities. Certainly the constitutional mandate to raise and support armies and to provide and maintain the Navy bespeaks not only the requirement that the Congress provide for adequate military facilities in the first instance, but that facilities be maintained, realined, or disposed of only in the best interests of national security.

We must not leave such decisions exclusively to unilateral action within the Department of Defense. Rather, the Congress should exercise its responsibility to review the justifications and decisions with regard to the realinement of facilities.

Clearly, the intent of section 612 is to provide by statute the basic ground rules and procedures and the schedule to be followed in making decisions to close, move, or realine military facilities. There was no intent to impede or slow down the process, but rather to insure that all factors, including environmental impact and the best interests of national security, be given careful nonpartisan consideration in the process by all concerned in the executive and legislative branches.

Indeed, such procedures if openly discussed with the Congress early on in the planning phase could save time rather than stretching the process as alleged by the President. Also, such programing would clear away much of the unnecessary secrecy that often has accompanied planning for realinement of military facilities.

Mr. Chairman, the procedures stipulated in section 612 of the bill make good sense, and I urge the wholehearted support of this motion to override the veto and thereby establish statutory procedures that are long overdue.

Mr. RANDALL. Mr. Speaker, let us put this override issue squarely in its proper perspective. First, the gentleman from Ohio may ask me to yield, but I am not going to yield to him because he has already been accorded a lot of time. The question of constitutionality raised now by the gentleman from Ohio (Mr. LATTA) was not raised by the President in his veto message. The President never mentioned constitutionality at all at any point in his veto message. He seemed to put his veto on some kind of money-saving basis, and that seems rather strange for a President who has always been for a strong defense.

Now let us take a moment to consider the matter that Congress has a duty to perform its oversight over the military departments.

The Constitution has been mentioned in this debate. The late chairman of the House Armed Service Committee, the gentleman from South Carolina, Mendel Rivers, had the constitutional provision posted in the committee room, which reads—article I, section 8:

> The Congress shall have power . . . To raise and support armies . . . To provide and maintain a navy . . .

To say now in this debate there is no constitutional authority in Congress is to resort to a scare tactic.

Mr. SYMINGTON. Mr. Speaker, will the gentleman yield?

Mr. RANDALL. I yield to the gentleman from Missouri.

Mr. SYMINGTON. I thank the gentleman for yielding.

As I understand it a very fine, long standing, and effective air base known as Richards-Gebaur in the Kansas City area is affected by this bill.

Mr. RANDALL. On page 31 of the report we will find that Richards-Gebaur Air Force Base is one of the four Air Force bases which were covered, under the retroactive clause—back to January 1, 1976.

Mr. SYMINGTON. I thank the gentleman because I am very anxious to see this veto overridden. I have visited the base and talked to personnel. I know what the impact of removing that base would be on the life of the community. We cannot underestimate the importance of being cautious about any decision to disrupt it, given the magnitude of social and economic consequences of such action.

I thank the gentleman for yielding.

Mr. RANDALL. I thank the gentleman for his contribution.

As many Members know, the gentleman is busily engaged in Missouri on a decision which will be made Tuesday, August 3. He has canceled several commitments to be here on the House floor today. He deserves the commendation of the people at Richards-Gebaur and the Kansas City area for his presence and help in this override effort.

Now just a word about what this is all about. As Al Smith used to say, let us look at the record. It is all summarized on page 20 of the report which seems pretty self-explanatory. The report states the base closure section, which is section 612, does not apply if the base has less than 500. It does not apply if the President certifies that such closure must be implemented for reasons of military emergency or national security. All it does is to give 9 months for the evaluation of the impact which will result from the base closure.

It all boils down to a matter of oversight. Congress has not only a responsibility but an obligation to exercise its oversight over all military installations. The Johnson veto of 1966, which the gentleman from Ohio mentioned, was too restrictive. It was an absolute restriction. This is a qualified restriction which provides the Executive must come back and explain the reduction or closure. All this does is to assure the Congress and the courts and all other persons that they have a voice that can be heard. It is not just a report on the environmental impact but also the economic impact on the communities near the location of these bases. Let me urge all of my colleagues to override the President's veto of H.R. 12384—the military construction authorization bill of 1977.

Mr. WHITEHURST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, my colleague, the distinguished chairman of our Military Installations and Facilities Subcommittee has given you the basic reasons for a much needed procedural schedule to be followed by the Department of Defense in realining base structures.

Section 612 of H.R. 12384, the fiscal year 1977 military construction authorization bill, places into the law such a schedule for the Department of Defense to follow in realining military base structures. The President vetoed the bill because of this provision.

Mr. Speaker, during our conference with the Senate on section 612 we worked out the very best compromise possible. We were careful to stay within the constitutional bounds. We removed some of the objections voiced by DOD. In fact, the section as finally perfected was much better than we might have had, had either the House or Senate version been adopted. It was certainly the best that we could do, and I might say fulfills the constitutional obligation of Congress to review the reasons and justifications for closing, moving, or otherwise changing the structure of our military establishments. It is a provision that has long been needed to assure that all factors involved in such changes be carefully considered by both the executive and legislative branches during the early stages of planning.

Mr. Speaker, I urge my colleagues to vote for passage of the bill over the objections of the President.

Mr. Speaker, I yield 5 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, the veto message we are considering today finds the majority bogged down in its customary confusion. After belaboring us with copious rhetoric demanding that the Pentagon budget be cut, and espousing military economy as a vital concern, we suddenly find them urging us to protect waste in the military.

I am quite surprised that the distinguished majority leader should be author of an amendment that appears to undermine his own party's platform. His amendment would have the effect of perpetuating unneeded military facilities, at great cost to the taxpayer. The Department of Defense has saved more than $5 billion since 1969 simply by closing down bases and facilities that do not fit in with the defense concepts of the 1970's. This House today has the opportunity to save the taxpayers another $150 million per year, according to estimates of outmoded military establishments now under study for reduction in service. Of course, if the Defense Department is permitted to adjust its facilities to meet its needs, there is the potential of saving billions in the future.

Perhaps the majority leader has not bothered to read the Democrat platform, adopted in New York just a few days ago. I cannot say that I would blame him, for it is a confusing document. In the defense section it states:

> The Department of Defense can be operated effectively and efficiently and its budget reduced, without in any way compromising our defense posture.

Now, it would seem to me that allowing the Pentagon to phase out unnecessary facilities falls right smack into that category—economy without weakening our defenses.

If the majority is sincere about economy; if the majority really wants to strike a blow against waste of tax dollars; if they support the Democratic Party platform; then they will join us in sustaining the President's justified veto of a pure and simple attempt to make a policy of waste.

In closing, let me say that the Democratic platform is perfectly worthy of many of its predecessors, since it is made up completely of rhetoric going both ways at the same time, promising to save and yet promising to spend.

Mr. Speaker, I congratulate the majority party for having wrought a document which is completely compatible with the terrible platforms in the past. This time I think the American people are going to become more aware of that platform and its deficiencies, because there are many of us who are certainly going to remind them of it as the days go by.

I think it is going to be rather interesting to see the presidential candidate of the Democratic Party still try to carry on an anti-Washington campaign, while he also tries to live with that Democratic platform, which will build up a bigger, more all-encompassing Federal establishment, than there has ever been before.

Mr. WHITEHURST. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, let me say that I shall vote to sustain this veto.

President Johnson convinced me that he was right when he vetoed similar legislation on August 21, 1965. President Johnson sent us a veto message and said:

> I regret that I must return H.R. 8439 without my approval.
>
> I have been advised by the Attorney General that certain provisions of the bill are repugnant to the Constitution.

I might say to my friend who spoke a little bit earlier on this subject and said we are trying to reclaim some authority; we cannot reclaim something we never had in the first place. We still have a separation of powers under our Constitution. I hope we always will. We are Members of the legislative body. It is the function of the executive branch to administer our laws.

Continuing with the veto message of President Johnson, he said:

> The bill authorizes a military construction program. The objectional provisions appear in section 611 which applies to all military installations in the United States and Puerto Rico.
>
> Section 611 provides that no military camp, post, station, base, yard, or other installation or facility, shall be closed, abandoned, or substantially reduced in mission until 120 days after reports of the proposed action are made to the Committees on Armed Services of the Senate and House of Representatives.

Then he goes on to say:

> By the Constitution, the Executive power is vested in the President. The President is the Commander in Chief of the Armed Forces. The President cannot sign into law a bill which substantially inhibits him from performing his duty. He cannot sign into law a measure which deprives him of power for eight months of the year even to propose a reduction of mission or the closing of any military installation, and which prohibits him from closing, abandoning or substantially reducing in mission any military facility in the country for what could be a year or more and must be 120 days. The times do not permit it. The Constitution prohibits it.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will yield if the gentleman will give me a couple more minutes in which to finish.

Mr. ICHORD. The gentleman told us what President Johnson said about an entirely different section, section 611 of H.R. 8439.

Mr. LATTA. It concerned the same subject matter.

Mr. ICHORD. Would the gentleman tell us what President Ford said about section 612 in H.R. 12384?

Mr. LATTA. I am just getting to that.

Mr. ICHORD. In regard to the constitutionality.

Mr. LATTA. I do not care what President Ford said or did not say or forgot to say. That does not resolve the question in my mind over the constitutionality of this bill. If he neglected to raise the question in his veto message, that is his prerogative. His failure to do so does not make it constitutional.

Mr. ICHORD. The gentleman, as a duly elected Member of Congress, does have a duty to read the Constitution.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The time of the gentleman from Ohio has expired.

Mr. LATTA. Will the gentleman from Missouri yield me 2 additional minutes?

Mr. ICHORD. I yielded the gentleman from Virginia about 5 minutes a while ago.

Mr. WHITEHURST. Mr. Speaker, I yield 2 additional minutes to the gentleman from Ohio.

Mr. LATTA. May I just go on to say how political this is, and that is what it is all about. President Johnson was a Democratic President with a Democratic House and Senate. Today, we have a different political situation. We have a Republican President but still have a Democratic Congress. The same question is before us but under different conditions. What was unconstitutional under President Johnson is still unconstitutional under President Ford. When this same question was before us back in 1965, we had a Member of this House by the name of Donald Rumsfeld, now Secretary of Defense, he spoke out on this question then and do the Members know what he said at that time?

Mr. ICHORD. Will the gentleman yield further?

Mr. LATTA. Let me read the statement, unless the gentleman wishes to read it.

Mr. ICHORD. I have read it.

Mr. LATTA. Does the gentleman agree that at that time the now Secretary of Defense agreed with President Johnson on this issue?

Mr. ICHORD. And I agree with the Secretary of Defense with regard to section 611 of H.R. 8439.

Mr. LATTA. I can state that today the same question is at issue, whether or not the President of the United States shall continue to utilize his executive powers without a threat of or opportunity to veto that power by the Congress. Are we to deny him the right to close unneeded bases and make the overburdened taxpayers continue to pay for their operation? I think not. Are we going to set a precedent of making the Commander in Chief of our Armed Forces wait for this Congress to act in the future on every military decision which needs to be made? If we are we are in jeopardy from a military standpoint. President Johnson pointed that out in his veto message. He said:

> In addition to the constitutional principle involved, effective national defense in this nuclear age requires flexibility in the management of our defense installations, including the assignment of their respective missions.

Mr. ICHORD. I agree with the gentleman from Ohio as to section 611 of H.R. 8439, but we are dealing with section 612 of H.R. 12384.

Mr. LATTA. Let me just read this to the gentleman.

The SPEAKER pro tempore. The time of the gentleman from Ohio has again expired.

Mr. WHITEHURST. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I cannot yield further because I want to get into the RECORD the pertinent language in this bill and then the Members can compare it to the language objected by President Johnson:

> (A) the Secretary of Defense or the Secretary of the Military Department concerned notifies the Congress in writing that such military installation is a candidate for closure or significant reduction; and then
>
> (B) a period of at least nine months expires following the date on which such notice was given, during which period the Department concerned has identified the full range of environmental impacts, as required by the National Environmental Policy Act of 1969, that may result from the proposed closure or reduction.

With the exception of the environmental impact provision, which we did not have back in 1965, we have practically the same language. The same question is before us, and to try to raise the question that we have a smaller amount here, or a modification here is a lot of hokum. The same issue is involved, and I think President Johnson was right in 1965. And I think the only way we can be right today is to vote to sustain President Ford's veto of similar language.

Mr. WHITEHURST. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I urge the House to override the veto of the President of this military construction bill. The President was wrong in vetoing this bill. President Johnson was wrong when he made the statement the gentleman from Ohio (Mr. LATTA) has cited.

The issue here is quite simple. It is the issue of whether or not the Congress of the United States has a right to know what executive agencies are doing, not only for the people in our districts but to the people in our districts. As a coequal branch of Government we in the Congress must be informed of decisions by any executive agency which impacts on our people.

I have found in 3 years of dealing with the Defense Department that they are no better at informing us than the Post Office Department or OSHA or anybody else. They tell us what they want us to know and nothing else. For a long time the policy of the Defense Department on base closures and transfers was to tell the individual Congressman nothing until 2 hours before the press release was put out saying that "X" base was closed, transferred, or cut back.

That type of policy is not fair either to the Member of Congress or to the people he represents.

Secretary of the Army Callaway is to be commended for adopting a new policy during his regime which at least informed Members some months ahead of base realinements and allowed the Members to comment upon them. In most cases, the Army has done that in the last year or so. But that is a complete departure from the past and all services do not follow the procedure.

I have some trepidation about the position in which I find myself today. The gentleman from Massachusetts (Mr. O'NEILL) is nodding that he has the same trepidation. I do agree with him and his amendment on this occasion. I know that many Members would like to use Defense spending as welfare for their districts. I am not among them. I do not think Members of this House should condone spending Defense dollars simply for jobs that ought to be abolished. But I think the Defense Department ought to be willing to come forward, within the process this bill provides, and justify such decisions. If the cost savings are there, they should take the facilities out of my district or any Member's district. And I say that as one who has consistently supported defense spending.

Consider the case of the Aberdeen Proving Ground in Maryland. Some years ago the Army said they had to move certain ballistic and ordnance testing to New Mexico where the sky is clear, because there was occasionally too much fog over Chesapeake Bay. So they got to New Mexico, and the sandstorms were so bad that the visibility was not any better than the Maryland fog. In the meantime the taxpayers footed the bill for the mistake.

This very morning there is a hearing before the subcommittee on military construction chaired by the gentleman from Florida (Mr. SIKES) concerning a proposed consolidation of Army armament research affecting several bases. Suddenly the Army needs $7 million that 3 months ago they failed to mention, to accomplish this consolidation. And there are many other instances where the armed services have been mistaken.

Mr. Speaker, the root cause of these base closures is the constant cuts in defense spending this liberal Congress has made, even though the Communists continue to arm. It is interesting to see the same antidefense Congressmen now crying about the results of their votes against defense.

I will say to the gentleman from Massachusetts that I do not think cuting $5 billion to $7 billion annually from the Defense budget can be done as the Democratic patform demands. But the real issue before us today is whether the Congress should exercise its constitutional right of oversight over the policy decisions of the Defense Department. The people at the Pentagon do not have any corner on wisdom or logic.

The formula for congressional review in this bill is a good formula. It protects the individuals that are affected in these districts and at the same time does not tie the hands of the executive branch.

I hope that the President in the future will at least see the wisdom of consulting with Members of Congress. I think if he had asked the minority members and the people on my side of the aisle, he would not have found this veto necessary. We are not taking anything away from his prerogatives. All we are asking for is a strong defense policy; and a policy that provides proper protection for the people of our districts. This bill allows both.

Mr. WHITEHURST. Mr. Speaker, I yield 5 minutes to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Chairman, I would like to commend the gentleman from Missouri for his statement about the President's misapprehension on the effect of section 612. In fact, it is my understanding the President objected specifically to section 612 because it allowed Congress to have a veto power over the Pentagon decisions. Clearly, as the chairman of the subcommittee and the gentleman from Virginia (Mr. WHITEHURST) pointed out, that is not the case in this particular measure. It has been suggested that this amendment represents an unconstitutional invasion of the Executive power and prerogatives. A comprehensive study by the Library of Congress clearly refuted that, and indicated that this is a legitimate exercise of the Congress oversight responsibility.

I think the gentleman from Missouri is also correct that the President's veto message admits as much.

We have been told that a 9-month delay in effecting base closures is intolerable. As the gentleman from Missouri pointed out, the President's own commission, the Defense Manpower Commission, recommended a 3-year phase-in period to minimize any economic dislocations that would accompany any sort of substantial reduction.

I would like to cite just briefly my own interest in this particular measure, and how I came to help write section 612.

A few months ago I was called into an office to be given a preliminary briefing before a release was to appear in the paper that Loring Air Force Base was scheduled for an 83-percent reduction in military manpower and a 70-percent reduction in civilian personnel. No final decision had been made. Loring was simply a preliminary candidate. They use the words, "preliminary candidate" and "potential candidate," to try to soften the death blow.

Since that time a great deal has happened that has affected the thousands of people in the area of Limestone, Maine. The business people have been unable to determine whether or not they should restock their inventories, teachers are looking for jobs, the housing market has been depressed, and the Director of the Small Business Administration in Maine has testified he will be reluctant to approve any SBA loans in the general area. The projected unemployment levels are somewhere between 22 and 25 percent.

Mr. Speaker, I think in the face of this type of doubt and uncertainty, at least the Pentagon has the obligation to respond to some questions; so I asked what criteria was used for the base reduction at Loring.

The answer was: "We can't tell you that."

Then I asked how the military hoped to save $24 million since the same number of B–52's and KC–135's would be used and the same number of personnel would be utilized elsewhere.

The reply was: "We can't answer that."

I asked, "Is there any other single-mission base in this country that has not been scheduled for closure or reduction?"

I was told there was, but when I asked for a further explanation, they said, "We can't give you an answer."

When we witness the death of a human being, a friend, or a family member, we have to accept a higher order and a higher reasoning, but when we are asked to witness the economic death of a community, I think we should not have to simply accept on the blind faith the directives of the Pentagon.

Mr. Speaker, Maine people are very proud of their products, their industries, and their military installations. I would like to read to the Members a sign that greets visitors as they come into Limestone. The sign says:

> Welcome to Limestone, Home of the World's Best Potatoes, Biggest Bombers, and Mightiest Tankers.

As a rather poignant example of the despair that hangs over that community right now, let me quote a statement made by a leading businessman in Limestone, Tom Cyr. He suggested that the sign might be changed to read:

> Welcome to Limestone, Home of the World's Best Potatoes, the States Highest Unemployment Rate, the Greatest Number of Unoccupied Buildings, and the Highest Mil Tax Rate in the State of Maine.

I would agree with the gentleman from Maryland (Mr. BAUMAN) that if we will in fact save money and we will achieve economies while providing for our national defense, then I can not come down here and be heard to complain and object. But we should insist on the Pentagon and the military explaining to us the full justification of exactly how those savings will be achieved. We are not seeking to override or reject or reverse decisions, but what we are seeking to do is to give the Committee on Armed Services the power to act as a check against arbitrary and purely political decisions which are made and which affect the lives of thousands of people.

Mr. WHITEHURST. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Speaker, we will be voting today, to sustain or override the President's veto of the fiscal year 1977 military construction bill. I urge you to sustain the veto.

The President vetoed the fiscal year 1977 military construction authorization bill because of section 612, which imposes an arbitrary restriction upon the President's ability to fulfill his constitutional responsibilities as Commander in Chief. It mandates a 1-year delay in the closure or realignment of military installations, thus preventing the President from taking expeditious Executive action to improve our defense posture and to avoid waste and inefficiency.

A similar provision caused President Johnson to veto the fiscal year 1966 Military Construction Act.

If allowed to become law, section 612 would delay the closure and realinement actions announced for study earlier this year by the Defense Department, and thus defer the opportunity to effect savings at the rate of $150 million annually.

Section 612 also would require the retention of approximately 11,300 military and civilian personnel positions in nonessential base activities at least through fiscal year 1977. It is noteworthy that the Congress has already deleted the civilian spaces from the fiscal year 1977 defense authorization bill, clearly an inconsistent action.

Some Members have taken the position that section 612 does no more than assure that Members of Congress are informed about prospective closures or realinements in time to accommodate their responsibilities to constituents. That is not the case. The Defense Department already has well-established procedures for notifying Congress prior to taking action on closures or realinements. What is at issue is whether the Department should be forced to delay needed economies for 12 months or more in cases where far less time would be sufficient to accommodate the concerns of Members of Congress and to meet the statutory requirements of the National Environmental Policy Act (NEPA).

Congress constantly admonishes the Department of Defense to increase efficiency and even mandates personnel cuts on the assumption that such economies can be effected. Section 612 works in just the opposite direction. We must recognize that since 1968 the Defense Department has been reduced by nearly 1,800,000 military and civilian personnel. Clearly these reductions in numbers must be accompanied by some changes in the base structure if good management is to be assured.

Mr. WHITEHURST. Mr. Speaker, I yield the remaining 5 minutes on this side to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER of Massachusetts. Mr. Speaker, I urge the House to override the President's veto of H.R. 12384, the military construction authorization bill.

This bill, particularly section 612, provides simple justice for those of our constituents who would be devastated by arrogant actions taken by the military in the name of economy. Section 612 provides a 1-year time period for those people and their elected representatives to gather the necessary economic data which will either support or refute the Defense Department's data that its proposals are being taken to save tax dollars.

My colleagues, if we are going to disrupt the lives of our constituents; force them to move to distant parts of the country; compel them to seek retraining in new occupations, and even force some of them to seek welfare assistance, the least we can do is to force the military to justify its proposals.

It is time that we reasserted the role of Congress in the oversight of Federal Government programs. For too long the military has been allowed to present its proposals to the Congress where we have acted on them with little or no investigation. Section 612 will reverse that trend and compel the Pentagon to fully explain their actions.

I fully support the President's call for cost efficient spending. However, a close examination of DOD's proposals of base closures and reductions in force in some instances are not justified by the economics of the situation. I seriously question whether there will be a savings to the Federal Government in all of the decisions, what about the expenditures, the Departments of Labor, Health, Education, and Welfare, Commerce, and other Federal agencies will have to make in order to assist those displaced by the military's action.

I wish to warn those of my colleagues who are today's beneficiaries of the military's largesse, that they may, some day, be the targets tomorrow of the military ax. This bill will afford them the same protection we seek for those States which are presently slated for action by the Pentagon.

The President contends that this section will curtail his powers. I disagree. This section does not reduce Presidential prerogative. The bill clearly provides an exemption from the provisions of section 612 so that the President may act decisively in a state of emergency. The President will still act as Commander in Chief and make all final decisions.

What section 612 does is to prevent the Secretary of efense from restraining the Pentagon from acting arbitrarily, without listening to the voice of the people through their elected Representative in this Congress. It is not unreasonable to give Congress the power to examine Defense Department figures on base closings. It is not unreasonable to require the Defense Department to justify base closings on the basis of hard facts. This is our responsibility. We should be guided by it in overriding this veto today.

Mr. ICHORD. Mr. Speaker, I yield such time as he may consume to the gentleman from Guam (Mr. WON PAT).

Mr. WON PAT. Mr. Speaker, today the House is voting on a matter which directly affects the basic principles of the prerogatives and responsibilities of Congress.

The President has vetoed an annual military construction bill, objecting to provisions for congressional involvement in proposed military base realinement, included in the bill as the O'Neill amendment.

Contrary to the views of the Executive, these provisions are not only justified and proper but are badly needed and long overdue. Too much hardship has been caused to thousands of Federal employees and communities all over our Nation by questionable, almost capricious, actions by military services in making drastic changes in operational levels at military bases.

In Guam the military services are the dominant factors in the local economy. Abrupt base realinements, almost arrogantly implemented without explanation or consideration for individuals affected or local government, have caused severe adverse condition.

The provisions of this bill objected to by the Executive do not institute a system requiring congressional approval of base realinements. In fact, they would not require any congressional action at all. What they would do is require the services to present justifications for realinements, many of which in the past have proven to be of dubious wisdom, and allow time for congressional review and local adjustments, by those affected, to the results of the service decisions.

This is not expecting too much. Congress should certainly require no less. To contend base realinements are strictly a matter for the Executive to be concerned with is fallacious. It requires Congress to establish bases and Congress to keep them open. Certainly Congress should be involved in major reductions or closures.

Adequate safeguards are included in this bill that routine operations and manning fluctuations are not affected. Allowances are made for extraordinary circumstances when the bill's requirements are waived.

The President, in vetoing this bill, contends it would cause unnecessary delays in implementing base realinements. To the contrary, it provides necessary delays that the reasons for realinements can be reviewed outside the Department of Defense and, equally important, allows time for adjustments by those affected to minimize their impact. It is rare that the need for immediate military action in such matters offsets the negative impact of precipitous realinements.

The provisions of this bill are needed and justified and the President's objections are not valid. I strongly urge my colleagues to vote to override this veto.

Mr. ICHORD. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Massachusetts (Mr. O'NEILL).

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I rise in strong support of efforts to override the President's veto of the Military Construction Authorization Act, H.R. 12384. This veto, like many others before by President Ford, demonstrates the lack of concern of the White House in addressing the human needs of the people, especially when those needs are caused by actions of the Federal Government.

The President's veto of H.R. 12384 was based on the inclusion of section 612 of the bill, provisions dealing with the elimination or reduction of large military installations. Under section 612, a 1-year transition period is granted to communities whose major military facilities are slated to be closed or significantly reduced. During this 1-year transition, the military department concerned must justify its initial decision to close or reduce the installation from a fiscal, economic, budgetary, environmental, strategic, and operational standpoint. This justification must then be submitted to the Congress for its review.

I am greatly disappointed, Mr. Speaker, that the President felt that he needed to veto the Military Construction Authorization Act. This legislation had been carefully drafted and worked out in both Houses of Congress. In assisting in the initial drafting and formulation of section 612, I, along with others, made every attempt to insure that this section would represent good government policy. In then working with the House Armed Services Committee and representatives of the Senate, I felt that we had arrived at a very reasonable compromise which was in the interests of both the people and the Government.

The reasons given for the President's objection to section 612 center on three major contentions. First, he states that "this provision is unacceptable from the standpoint of sound government policy." Second, he feels that this action will significantly increase defense spending and result in "arbitrary increases in the tax burden of the American people." And third, he argues that section 612 would limit the President's power over military bases.

Mr. Speaker, I feel that the President is either wrong or has misrepresented section 612 on each of these three points. Its provisions do represent good public policy, it may actually save the taxpayers dollars, and it makes no serious incursions on the powers of the President. I would now like to explore in greater depth each of these points.

The President first objected to section 612 on public policy grounds, feeling that the transition period of approximately 1 year amounted to an arbitrary time limit for the relocation of major military bases. However, if one genuinely considers "sound government policy," it is only reasonable that communities affected by a major closing or reduction should have a year's adjustment period to lessen the severe unemployment and economic consequences. For this section does not deal with just small military bases, but very large installations whose closures or reductions amount to thousands of lost jobs in the local communities affected. In almost all of the bases affected by section 612, enormous hardships are going to fall on towns and cities, individuals and families who are suddenly left without jobs or their economic livelihood due to these closings.

To appreciate fully the magnitude of the effect of base closures or reductions on particular communities, it is instructive to refer to a base in my congressional district, Fort Devens, in Ayer, Mass. Fort Devens presently has a total military and civilian work force of approximately 6,300 individuals. Through the reduction proposed by the Army, 93 percent of military personnel and 51 percent of civilian personnel would be cut, leaving a mere 1,100 work force at the fort. This represents an overall personnel cut of 82 percent.

Mr. Speaker, Ayer, Mass., where Devens is located is not a huge community which can easily bear such a cut. Even with the presence of the fort, the population has rarely exceeded 13,000 to 14,000. And as one might expect, its economy is almost totally based on the very large fort. In addition, towns such as Fitchburg, Leominster, Harvard, Lancaster, Gardner, and many others in the surrounding area are very dependent on Fort Devens. Indeed, if the total local impact of Fort Devens on Massachusetts is totaled, it reaches over $120 million.

The President speaks of "sound government policy," but is it good public policy to wreak havoc in these people's lives without giving any period of transition or adjustment? Is it good public policy to throw thousands of people out of work when unemployment is already high? It is clear to me that sound public policy includes much more than the President's feared unnecessary delays. Affected individuals and towns must be given time to adjust to these monumental changes. And President Ford is blind to the needs of these people if he does not also see why a year's adjustment period is required at the very least.

The second argument that the President makes against section 612 is that it will result in unnecessary defense spending at the expense of the taxpayer. Yet this argument is also specious if one more closely analyzes the way in which the Defense Department plans for base relocations. Until now, the Pentagon merely had to utter the magic words of "defense savings" in order to justify their moves. The Congress almost always took these claimed savings at face value without investigating the situation for itself. And what has resulted is that savings which were supposed to flow from base closings have not always been realized, or even worse, moves have sometimes proved to be a waste of taxpayers' dollars.

Section 612 will insure that the Defense Department makes no major base relocations without adequately studying all of the costs which may result from the move. The detailed justification for the decision which must be submitted to the Congress will weed out those proposed relocations whose tabulated costs prove to be more of a liability than an asset. And to that end, I am confident that this procedure will be more effective in saving the taxpayers' dollars.

Let us again refer to the specific experience of Fort Devens. In the closing of the Fort, the Army has figured that an annual cost reduction would result in the vicinity of $7.3 million. This figure is quite impressive, until we realize that the Army will have to spend $50 million in new building construction to house the transferees from Devens.

To this figure must be added compensation such as severence pay and retirement annuities to those who sever themselves from the Armed Forces, the cost of mothballing existing facilities, the cost of consolidating and relocating military functions and programs, and the cost of moving troops, equipment, and civilian personnel. Other expenditures such as the planning and reuse of Fort Devens, the retraining and education of military employees in the new installations, and the loss of new facilities recently constructed must also be figured in. From this standpoint it can be seen that the Defense Department has to go a long way into the future in order just to reach the break-even point. And this does not even raise the issue of other related government expenses associated with relocation, such as the cost of additional unemployment compensation, food stamps, and assistance to troubled towns, school systems, and affected businesses.

The President refers to this legislation as bringing about waste and inefficiency. But, Mr. Speaker, I say to the President, the long-run implications of this bill will represent the taxpayer far better than the present system of base relocations which the Defense Department now uses.

The third point which the President raises in his veto message is that section 612 attempts to limit the power of the Commander in Chief over military bases. The President says that he "must be able if the need arises, to change or reduce the mission at any military installation if and when that becomes necessary." Neither I nor other drafters of language which eventually became section 612 disagree with this assertion. We did not want to limit the President's flexibility in meeting a threat to the Nation.

For this very reason an exception was included in section 612 which waived those provisions in the event of a military emergency, or if national security reasons dictated such a waiver. The exception reads as follows:

> (d) This section will not apply to any closure or reduction if the President certifies to the Congress that such closure or reduction must be implemented for reasons of any military emergency or national security or if such closure or reduction was publicly announced prior to January 1, 1976.

I think it can be seen from this waiver that the Congress will not have unduly limited the President's power in the passage of H.R. 12384, especially given the fact that the Congress is charged with overseeing Government expenditures and with minimizing those expenditures wherever possible.

Mr. Speaker, I am sorry that the President felt unable to sign the military construction authorization with the inclusion of section 612. This veto is but another example of the President's failure to understand or deal with the general welfare of the people. These major base closings and reductions have enormous impacts on people's lives and yet he is not even willing to grant a simple adjustment period so that these people can more adequately cope with lost jobs, failing businesses, and lost revenue to the communities. His reasons for vetoing this bill simply do not stand up to close investigation, and for this reason I find the veto even more troubling.

The President has, I believe, acted against the best interests of the American people by this decision. However, we now have the opportunity to override the veto by voting for the Military Construction Authorization Act, H.R. 12384, once again. I would like to urge all of my colleagues to support this measure, to show the President that the Congress more adequately reflects the true needs of the people.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I rise to support a congressional override of the President's veto of H.R. 12384, Military Construction Authorization.

This bill authorizes $3.3 billion for military construction and family housing. I commend the Armed Services Committee for their hard work on an excellent piece of legislation, finely tuned to a more equitable executive-legislative balance. The committee has also written a bill that reverses the recent upward trend in military construction expenditures; it is a fiscally sound piece of legislation.

Apparently, President Ford vetoed this bill due to the provisions dealing with the closing of military bases. Simply put, these provisions require the administration to notify the Congress 1 year in advance of plans to close or significantly cut large military bases. The Pentagon would be required to carry out a study of the economic, strategic, environmental, and operational consequences of any proposed action. A detailed report must then be filed with the House and Senate Armed Services Committees. Such notification of Congress is not an infringement of the constitutional powers of the President, but instead insures that Congress has all relevant information to evaluate the Pentagon's plans. Communication between the Executive and Congress can only facilitate cooperation and coordination of efforts to determine potential effects of base closings.

Another important aspect to the military construction authorization is contained in section 608. This section provides for a transfer of land at the Lakehurst Naval Air Station in New Jersey from the Navy to the Airship Association, a nonprofit corporation which is planning to erect a lighter-than-aircraft museum on the 14-acre site. This action is long overdue, given the pioneering effort in airship flight at Lakehurst. Such a museum will be a boon to the State of New Jersey, the Navy training program, and the Nation as a whole.

For the second time today, I urge all my colleagues to override an ill-conceived veto.

Mr. O'NEILL. Mr. Speaker, I rise to urge my colleagues to override the President's veto on the military construction authorization bill. When the House considered this legislation on the floor on May 7, I offered an amendment which would establish a time-phased procedure for the Department of Defense to follow in implementing proposed base closures or reductions within the United States, thus enabling the Defense Department to accurately assess the economic impact such an action would have on the overall Federal budget. The Senate included similar language in the bill they considered in committee and passed, and the conferees agreed on language acceptable to both bodies of Congress. In the conference report the conferees wrote:

> . . . decisions on base realinements are made by the Department of Defense and not by the Congress, but that the Congress does have a constitutional obligation to review the justification for such decision just as the Congress reviews the justification for any Department of Defense budget request. . . . Despite the Defense Department's opposition, the conferees are convinced that Section 612 is good legislation that can only benefit all concerned.

Mr. Speaker, I think we can all agree that the House Committee on Armed Services as well as the Senate Committee on Armed Services would never approve legislation which would impede the functioning of the American military forces.

The purpose of section 612 is simple and straightforward. It requires the Department of Defense to submit a report to the Congress detailing the impact of the closures or reductions of military installations on the Federal budget. Presently there is no such procedure required. This would require an economic impact statement.

Mr. Speaker, I might say that on the opposite side of the aisle the floor manager of the bill on the minority side in the committee, the gentleman from Virginia (Mr. WHITEHURST), as I understand, is going to vote to override the veto. I am also delighted to see the gentleman from Maine (Mr. COHEN) and the gentlewoman from Massachusetts (Mrs. HECKLER) in support of overriding the veto. I am also surprisingly delighted to see that I am on the same side of the aisle with the gentleman from Maryland (Mr. BAUMAN), because that does not happen too often.

Mr. Speaker, we are asking that we do with the military legislation exactly what the 94th Congress is doing with the congressional budget in all other phases of Government.

I think this is fair. I think that the members of the House and Senate Committees on Armed Services have done an excellent job in reaching these conclusions.

I think the President has acted extremely unwisely.

I do hope we can override the veto.

Mr. ZEFERETTI. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from New York.

Mr. ZEFERETTI. Mr. Speaker, I rise in strong support of the remarks made by the gentleman from Massachusetts, the majority leader (Mr. O'NEILL), and in strong support of a vote to override the veto.

Mr. Speaker, for a number of years now the various armed services have periodically dropped economic bombshells on individual States and entire congressional districts in the form of military facility closings.

Some of the largest military bases in the world have been arbitrarily shut down by the Pentagon with minimum warning and maximum economic devastation.

Perhaps by accident or by design, the overwhelming majority of these closings have taken place in the Northeast and Midwestern United States. Some of the oldest, most effective, and historical facilities in the Nation have been padlocked in this manner, throwing hundreds of thousands of civilian Government employees onto the streets. Most of these people have been career Government workers, who found that their investment in Federal service counted for nothing. The economies of the affected areas, largely dependent upon significant Federal payrolls have been methodically devastated, with no real reason.

Cumulatively, there has been a concentration of these facilities in a few areas of the country, leaving the Northeast and the Midwest where the majority of Americans live and the majority of our economic wealth produced, almost totally denuded of military facilities.

Some examples of facilities that have been closed are: the Brooklyn Navy Yard, the Brooklyn Army Terminal, Westover Air Force Base, Springfield Armory, Chelsea Naval Hospital, Otis Air Force Base, the Boston Naval Shipyard that saw the loss of 5,600 jobs alone. Within the last 5 months the Defense Department has announced a closing or reduction of no less than 98 military installations in the United States.

Almost always the all purpose rationale for these lightning-like moves is that the economy will benefit and military cost savings will result. Such logic is open to serious question. No longer are those people who represent those affected areas the only critics of this reasoning.

For the first time in recent history, the Congress has sought some oversight over this process through section 612 of the military construction authorization bill which the President to my regret has vetoed. Section 612 directed DOD to establish a procedure for economic analysis and a rigid reporting schedule for military facility realinements. Our purpose was to permit Congress to assess each proposal and exercise oversight for realinement of bases just as it does in authorizing establishment of new military facilities; a legitimate extension and assertion of congressional constitutional authority.

The President, in his veto, indicated that he felt that here was an example of an attempt by Congress to usurp the President's authority—such is not the case. If Congress has the right to authorize new facilities, and appropriate funds for construction at new and old facilities, it most certainly possesses authority to oversee realinement of existing facilities.

My congressional district has been

economically maimed by military facility realinements and we are in the process of losing the following facilities: Fort Hamilton with the loss of 600 civilian jobs and the Navy Resale System with a loss of 800 civilian jobs and an annual payroll of $12 million.

The conferees have brought a good bill to both houses of Congress. Both the House and Senate passed the bill with minimal opposition. It is absolutely critical that we not only proceed with the military construction program but that we assert Congress authority to prevent the destruction of local economies as has so often happened in the past. For these urgent reasons, I call upon the House to override the President's veto and prevent the abuse of power that has characterized these actions in the past.

Mr. DODD. Mr. Speaker, I rise to urge my colleagues in the House to join with me in voting to override the President's veto of an important military construction measure intended to promote the national security of our great country.

I submit, that, in vetoing this bill, the President has jeopardized more than $3.3 billion in needed military construction projects—including about $1.2 million for four projects at Naval and Defense Department facilities in eastern Connecticut.

Placing such projects in jeopardy is an unwise decision—especially on the shaky grounds on which the President based his veto.

In his veto message, the President indicated that his objections to this military construction measure centered primarily on section 612 of the bill, which would establish new procedures designed to end the confusion, maneuvering, and mistrust which has always accompanied past base closures and reductions.

This section of the bill provides that in case of any plan to: First, close a base in the United States employing 500 or more civilians or, second, cut by more than 1,000 persons or by 50 percent the civilian work force at any base, then the Defense Department would have to notify Congress and allow a 1-year review procedure before such reduction proposals are implemented.

This interval is necessary, Mr. Speaker, to allow the localities involved, and their elected representatives, the Congress, to carefully analyze the Defense Department proposals to determine their full economic impact and fiscal and military validity.

This analysis is necessary for a number of cogent reasons:

First. It will provide communities and the Congress with information with which to fight any arbitrary, capricious or militarily unwise decision by a service or the Defense Department to cut back its bases.

Second. It will mandate that the Defense Department properly study and justify on economic, military, and environmental grounds such decisions.

Third. It will allow Congress to fulfill its constitutional obligation to review such base reduction justifications, just as it is charged with the responsibility to examine the justifications for startup or expansion of existing military facilities.

Fourth. Should a base reduction or closure prove justified, then this information, and the year-long period itself, will help affected communities to better adjust to these changes.

Mr. Speaker, the President contends that section 612's review procedures will cause needless delay in proposed base closures and reductions.

I can assure you, as a supporter of this provision, that its intent and result are not to prevent or delay economies in the defense budget—we just want to be as certain as possible that such economies are wise.

I might add, that this military construction bill also contains provisions for the President to waive the requirements of section 612 for reasons of military emergency or national security. So section 612 will in no way interfere with the military posture of this Nation.

Regrettably, existing procedures governing base closures or realinements are woefully inadequate, and in far too many cases, such actions now end up costing American taxpayers more than they allegedly "saved."

Such actions in the past have taken a great psychological toll, also, Mr. Speaker, as threats of questionable base realinements have created unrest in surrounding communities and interfered with the peace of mind necessary for our Defense Department civilians to carry out their assigned missions—to help defend this country.

The issues raised by section 612 transcend the parochial interests of any one region of the United States, or of either party. This is not a question of the "Northeast versus the South," or of "Democrat versus Republican."

The broad bipartisan support that this provision enjoys is a convincing demonstration of this fact, and of the wisdom of this measure as part of the overall military construction bill.

Therefore, this veto must be overridden.

Mr. ANDERSON of California. Mr. Speaker, I rise to ask my colleagues to vote to override the President's veto of the military construction authorization bill. (H.R. 12384).

In President Ford's veto message to Congress, his one and only objection to this legislation centered on section 612.

Generally, section 612 of the bill would prohibit certain base closures or the reduction of civilian personnel at certain military installations unless the Congress is notified in advance of the proposed action; with adequate time elapsing, and sufficient study done before a decision is implemented.

The President justified his objection by saying that the Defense Department actions to "reduce, realine, and close military installations" have reduced "annual Defense costs by more than $4 billion."

I cannot quarrel with the philosophy of a strong, but cost-efficient defense. However, I do not think the President's veto is warranted.

My question is does this $4 billion saving include estimates of unemployment compensation, manpower retraining, and relocation expenses resulting from a Defense decision to close a base?

In my area of southern California, Fort MacArthur has been cited for closing by the Army. The Department of Defense has called it a "single mission post with a high per capita operating cost." This runs contrary to a 1974 study by the General Accounting Office—GAO—detailing that it would actually cost the Government more to close the fort than to keep it open.

This fort has been an integral part of the community of San Pedro, Calif., for nearly a century. This 310 acre facility was vital to the economic and social climate of the area. It provided jobs, generated revenue, and contributed to the local tax base.

Mr. Speaker, many factors are involved in the closing of a fort. The unsubstantiated claim of "saving money" is simply not good enough. When the Congress amended this act to include an oversight policy, we recognized this. Apparently, the President does not.

Mr. STEIGER of Wisconsin. Mr. Speaker, how ironic that when President Johnson vetoed similar legislation in 1965 the House yielded without a fight. Now, when President Ford vetoes this bill we have a chance to vote on the veto. I look forward to the period sometime ahead when the next Democratic President exercises his veto to see what happens to all in the majority who have spoken today.

The debate on the military construction bill in 1965 took place on June 10 in the House and I want to include as a part of my remarks the full remarks of our then colleague, DON RUMSFELD, along with the remarks of the gentleman from Missouri, TOM CURTIS:

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. CURTIS).

Mr. CURTIS. Mr. Chairman, I hope I will not take the 4 minutes, but I was a little bit concerned lest this debate go by on the assumption that there were those in the House who did not take serious objection to what the Committee on Armed Services is suggesting be done in this area in section 608. I was very pleased that the gentleman from Wisconsin (Mr. LAIRD) made the points he did. I think that this form of section 608 is unconstitutional. I have respect for the gentleman from South Carolina's judgment in constitutional areas, but there are those who feel that it is unconstitutional.

Let me point out another thing. This does not give the power to the Congress. The Committee on Ways and Means constantly has these problems. I have been insisting over a period of years that when something is written in about a retention of power in the Congress, affecting matters of concern to the Ways and Means Committee it says the Congress and not the Committee on Ways and Means, even though it might be a tax matter or a tariff matter. If it is to accomplish what the gentleman says, it should be the Congress and not the Committee on Armed Services. Of course, the matter would be rather automatically referred to the Committees on Armed Services when it comes to the House and the Senate in compliance with the words, to the Congress.

Then, second, this is not the Congress that acts. This is one House of the Congress or either House acting upon what the respective Committee on Armed Services might do.

I believe somebody had better look at the books on constitutional law. If we were to have something in this bill to reserve some power in the Congress, for which I can see some merit, although in this area I am not so sure, I do question the propriety and constitutionality to proceed in this fashion.

I believe we are all aware of what is going on here. I merely wish to say for the Record that there are many in the House who have been looking forward to some real reform in expenditures areas in the executive department, not the least of which is in respect to the military establishment. The McCormack-Curtis amendment, which I coauthored with our Speaker in 1958, was designed to try to bring about some of these efficiencies, not merely in the Military Establishment, but in respect to the whole process of Government procurement.

I wish that this issue over the propriety and constitutionality of section 608 had been fought out by the leadership on the Democratic side of the aisle, but I notice that the sponge has been tossed in. That is why I have been rather quiet on the thing. However, I did not want the day to go by without having a record made to demonstrate that many of us have serious reservations about it. I regret that the Democratic leadership did not make a fight for its own executive administration. I stood ready to assist.

This matter was not cleared with the leadership by the members of the Armed Services Committee on either side of the aisle and yet they profess to speak in the name of the Congress. Where are the House leaders today on an issue which affects basically the structure of the Congress and the relationship of the Congress with the executive? The administration is strongly opposed to this, and on sound grounds, in my judgment.

Mr. Rumsfeld. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The Chairman. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. Rumsfeld. Mr. Chairman, I wish to commend the gentleman from Missouri and associate myself with his remarks and particularly to his statement in opposition to section 608.

Whether or not the constitutionality of this section can be questioned as has been suggested today by several knowledgeable Members, it appears to me that the section is unwise. I consider it a proper delegation of legislative authority to permit the Secretary of Defense to effect economy in the conduct of the Department of Defense through the closing and/or consolidation of U.S. military facilities across the globe where he can demonstrate that it is in the best interests of the country from both a military as well as an economy standpoint.

Further, a reading of this section raises questions in my mind as to whether or not the words "substantially reduce" might inhibit the Secretary of Defense in the conduct of U.S. military affairs. I have great respect for the chairman and his Committee on Armed Services, but in this case, I must say that I am hopeful that section 608 is removed from the bill.

What they said then applies more to section 612 and the veto should be sustained.

Mr. OTTINGER. Mr. Speaker, while I strongly oppose section 612, which was added to this legislation by the amendment of my colleague from Massachusetts and which is also the reason cited by the President in vetoing this bill—I nevertheless will vote to override the veto. The House has spoken on this issue, and I believe the overriding issue is abuse by the President of his veto power.

I am very concerned that many of us who believe that the Defense Department is receiving a disproportionate share of the Federal budget are unwilling to accept those cuts in spending which are close to home. If we are sincere in our efforts to reduce Federal and defense spending in a way which will not reduce defense capability, we should not throw up barriers to Defense Department initiatives to make needed cutbacks.

We are all aware of how easy it is for some groups to influence the actions of the Department of Defense, and for my part I believe that in most cases these efforts are not in line with the best interests of the Nation.

Section 612 will only expand the opportunities to obstruct redirection of our defense dollars, giving a period of 12 months for review by DOD and Congress, with all of the accompanying pressures and delays, of proposed reductions in our military base structure. I just can't believe that this section represents a significant improvement in our decision-making procedures.

Despite my opposition to the policy, however, I will support the motion to override the veto. The Congress has spoken expressing the view of the vast majority of its elected representatives, although contrary to my position. I prefer that Congress, expressing the beliefs of the vast majority of the American people, work its will on these matters rather than accept the negative, minority rule government sought to be enforced by this administration time and time again through abuse of the veto.

I encourage all of my colleagues to say "no" to government by veto, and to say "no" to this veto.

Mr. CONTE. Mr. Speaker, I rise in support of this motion to override the President's veto of the military construction authorization bill. The President vetoed this bill because of his objections to section 612, which requires a 1-year transition period for communities whose major military facilities are slated to be closed or significantly reduced. During this transition period, the military departments concerned must justify their decision to close or reduce the installation from a fiscal, economic, environmental, and operation standpoint. As a strong supporter of this section when it was introduced as the so-called O'Neill amendment, I urge my colleagues to override this veto.

In recent years, the Congress has properly sought a greater role in the oversight of Federal programs and policies. Recent examples of this trend include the passage of the Budget Control and Impoundment Act, the War Powers Act, and proposed checks on our intelligence-gathering agencies. Section 612 seeks to extend this oversight to an area which impacts both on the Federal budget and on our Nation's security, without infringing upon the President's traditional and legitimate responsibilities as Commander in Chief.

Mr. Speaker, I believe I can honestly say that few Members of this House have been more concerned than I about the need to cut wasteful defense spending. Ever since I was elected to Congress, back in 1958, my major goal has been to reorient our Federal spending priorities away from unnecessary defense spending and toward greater efforts in the development of our human and natural resources.

If a base closing is going to save money without compromising the national defense—fine, let it be closed. But what this section 612 does is insure that all of the economic implications of that closing are considered. Let us make sure that money will still be saved once unemployment compensation, manpower retraining and relocation expenses, military construction and transfer costs, and the other manifestations of the economic dislocation associated with base closings are taken into consideration.

The Congress has a responsibility to insure that closings are not made for economically unjustifiable reasons, in order to insure the maximum benefit for our taxpayers' dollars.

Mr. Speaker, the override of this veto is necessary to maintain our oversight capability over base closings, and I urge my colleagues to join me in voting to override the President's veto.

Mrs. MINK. Mr. Speaker, I urgently call on my colleagues to join in efforts to override President Ford's veto of H.R. 12384, the Military Construction Authorization Act for fiscal year 1977. It is extremely difficult for me to accept the rationale for the President's disapproval of this legislation, when in his own veto message he states that the bill "is generally acceptable, providing a comprehensive construction program for fiscal year 1977 keyed to recognized military requirements."

His veto is based on section 612 of the bill which provides that certain base closures or reductions in civilian personnel cannot be implemented until 9 months after it is reported to Congress. I believe that Congress should be provided this limited opportunity to carefully review and analyze the impact that a reduction in force or base closure would have in any particular community. We owe this much to our constitutents. Secretly arrived at decisions suddenly popped to our communities which drastically affect their future can no longer be tolerated. This O'Neill amendment to which the President objects gives our people at least some advance notification of any intended reductions or closures. This I believe is the very least they are entitled to have.

To require the Department of Defense to provide detailed justification for reductions or closures, as well as impact statements certainly does not appear unreasonable to me. To require less invites chaos for thousands of Americans whose employment security could be tossed to the winds overnight.

Section 612 was adopted as an amendment on May 7, 1976, as part of H.R. 12384. It established a policy requiring notification of all reductions or closures of military bases. I believe the DOD needs to openly justify all base closures, as well as plan them well enough in advance so that the people affected can make intelligent decisions regarding their own future.

Startling news of closing, reduction, or consolidation of more than 98 military installations in the United States was abruptly announced about 4 months ago. The shock of prospective unemployment or relocation came upon thousands of Americans in these affected locations.

The intent of section 612 is to avoid this kind of sudden confusion.

I was shocked to learn of this veto. All we are insisting on is a system of checks and balances. Congress needs to be consulted and given the opportunity to review the implications and ramifications of these far-reaching decisions.

Mr. Speaker, for the above reasons, I urge a vote to override this ill-conceived veto of the Military Construction Authorization Act, 1977.

Mr. DOMINICK V. DANIELS. Mr. Speaker, on July 2, 1976, the President vetoed H.R. 12384, the military construction authorization bill. In his veto message to the Congress the President claimed that section 612 of the bill, which would establish a period during which the Congress could review the military and social implications of a proposal to close or reduce operations at a military installation, would waste money and cause serious delays. He also indicated that congressional review of base closings may be unconstitutional.

I submit that the President is wrong both on a practical and on a constitutional level. The President says that the 9-month period during which the military would have to file a report outlining the implications of closing a base represents an unreasonable delay. But right now it takes the Department of Defense from 5 to 9 months to make a final decision to close a base after designating it as one they may wish to close. The closure of large bases, the only ones affected by this legislation, almost always requires the full 9 months to be decided upon. Thus, the only change advocated by this bill is allowing the Congress 90 days to study the implications of a decision to close a large military installation. Even if it were necessary, and I doubt that it would be, the cost of keeping a base open an extra 90 days would be nothing near the $150 million estimated by the President. But even if it were, it would be a worthwhile investment to guarantee that the move was in the best national interests. It is also important to allow those affected by the proposed closing an opportunity to express their views. Americans have always preferred justice and legality to interim measures that claim to save money.

I am shocked at the administration's adamant refusal to permit Congress its rightful oversight role. Congress has a clear right and responsibility to review national defense interests as well as the effect that defense interests have on employment, the environment, and the economy. Indeed, I can think of few other examples wherein Congress' constitutional oversight role is better exemplified. It is only within the Congress that all interests can be fairly and openly discussed, debated, and finally resolved.

The history of decisions made exclusively within the executive branch of the Government is one too littered with arbitrariness, parochialism, and caprice. Recognizing that very danger, the Constitution clearly indicates that the best form of government for this Nation is one in which each branch of the Government is balanced and checked by the other, that the one may not swallow up the other.

Mr. Speaker, more is at stake than merely the desire of the Congress to have some advance warning of military base closures. At stake once again is the issue of whether the executive branch of Government may reserve for itself alone an absolute power to make decisions critical to the national welfare. It is an issue that I had thought we resolved in the long debate concerning impoundments during the tenure of the previous administration. It is apparent, however, that the battle must be fought over and over, that there is something about the Oval Office which causes men to clamor for the kind of power that this Nation rejected 200 years ago.

The authors of this legislation were careful not to encroach upon Presidential powers. For this reason, the bill does not give the Congress automatic veto power over decisions to close bases. It simply says that Congress must be told of a decision to close a base and established a timetable for enacting decisions to close bases, a timetable consistent with the military's own consideration. This is clearly in concert with article I, section 8 of the Constitution which allows the Congress "to make rules for the government and the regulation of land and naval forces." Justice Jackson further clarifies this issue in a concurring opinion to *Youngstown* v. *Sawyer*, 343 U.S. 579 (1952). He says:

> Congress alone controls the raising of reveenues and their appropriation and may determine in what manner and by what means they shall be spent for military procurement.

In H.R. 12384, the Congress is attempting to exercise its responsibility to oversee defense policy and insure that those affected by base closings are given a full opportunity to express their views. But we are faced by an administration that has repeatedly shown indifference toward the needs of the American people. It is appropriate that such an administration should attempt to deny the Congress, the people's representatives, their constitutional right to review the often arbitrary and reckless decisions of the executive.

It is a characteristic of some leaders to attempt to expand their powers through unconstitutional and irritational means. I fear that we are faced with such a situation in the President's decision to veto H.R. 12384. Under the guise of protecting Presidential power, the President is actually encroaching on the power of Congress to review defense policy. It is essential that we exercise our constitutional responsibility to override the President's veto.

Mr. FLOWERS. Mr. Speaker, back in the middle of January word began leaking out of the Defense Department that the Ford administration planned to close several military installations. One of those mentioned was Craig Air Force Base, which is located in Dallas County, Ala., part of the district I am privileged to represent.

I was alarmed by these reports, and so were the people of Dallas County. Naturally, we sought to establish that Craig was indeed on the list of bases to be closed. But that was not easy. In fact, it was impossible. We talked with one Air Force official after another without satisfaction.

Weeks and weeks went by. There was bewilderment. There was uncertainty. There was frustration. Precious time was being lost. Because everything was up in the air, we could not map strategy for trying to save Craig, nor could community leaders develop a plan for replacing Craig in the local economy.

Finally, on March 11, the Air Force confirmed our worst fears—Craig was to be closed. But a lot of questions remained unanswered—then and now.

How could one of the Nation's most efficient military installations suddenly become expendable? How much money would the closing actually save the Government, considering the additional unemployment benefits that would have to be paid out? Did the Air Force take into consideration the impact the closing would have in a geographic area plagued with chronic unemployment? What criteria would the Air Force use in conducting its environmental impact study? And, finally, just when did they want to end operations at Craig?

I want answers. The people of Dallas County want answers. But those answers are not forthcoming. Several of my colleagues are experiencing the same frustration and the communities they represent are suffering the same indignities. Those of you not affected this year may end up in the same boat as us next year, or the year after. This is not a regional issue nor a partisan issue. It is a matter that should concern us all.

I urge my colleagues to vote to override the President's veto of the military construction authorization bill. This measure will provide the Congress at long last with a mechanism for oversight of base closings and reductions and will insure that the socioeconomic impact of such actions receive due consideration.

The immediate result, of course, would be to delay base closings now planned by the Ford administration. But the long-range result would be a more orderly and responsive process for military realinements—a process that would spare other communities the agony endured by Dallas County, Ala.

We in the Congress pride ourselves on having expanded our oversight responsibilities during the past few years. We moved boldly in the cases of the War Powers Act and the Budget Control and Impoundment Act. Dare we do less now, with the livelihood of thousands of Americans at stake?

Mr. SCHEUER. Mr. Speaker, President Gerald Ford, in his veto message of H.R. 12384, a bill "to authorize certain construction at military installations and for other purposes," singles out section 612 as "legislation that would result in waste and inefficiency at the expense of meeting our essential military requirements."

Section 612, added on the floor of the House on May 7 through the efforts of our colleague from Massachusetts (Mr. O'Neill), would prohibit certain base closures or the reduction of civilian personnel at certain military installations unless the proposed closure or reduction is reported to this Congress and a period is 9 months passes during which time the military department concerned would be required to file an impact statement on the economic effects of the proposed action on the locality and State involved.

Following this impact statement, the final decision to close or significantly reduce personnel at a military installation would have to be reported to the Armed Services Committees of this Congress with a detailed justification. No action could then be taken for an additional 90 days. Of course, section 612 also includes a limited Presidential waiver for reasons of national security.

Mr. Speaker, as our colleague from Massachusetts (Mr. O'NEILL) repeatedly pointed out, the economic depression in a local community caused by the sudden closure of a base may take many years to overcome—if it can be overcome at all. This amendment would simply delay such closures or significant reductions in personnel to insure that adequate notice is taken of these economic impacts. Just as we require an industry to file an environmental impact statement before building a plant on a river to insure that the plant is not going to seriously disrupt aquatic life in the river, this section requires the Government to assess the economic impacts of its actions.

Mr. Speaker, unfortunately we in Government cannot always be governed by rational arguments like the ones that have been made throughout the debates on section 612 on the floor of this House. However, the equity arguments which can be made for section 612 are overwhelming.

Mr. Ford's veto message is just another example of the Federal Government's massive discrimination against our declining regions—the Northeast and north-central industrial corridors. If all regions in the United States were starting out on equal footing with respect to military and civilian personnel, then we in the Northeast and Midwest would not be so sensitive to unchecked closings of military bases.

However, as I pointed out on the floor of this House on April 9, 1976, the Northeast is already at a disadvantage—in fact, our attempts for economic stability are being undercut daily by the Federal Government.

Before one analyzes potential effects of military base closings one should realize that there already is a tremendous disparity in the current allocation of the Federal paycheck. In 1973, according to the Department of Commerce, military and civilian paychecks made up 10 percent of the total payroll dollars of our 14 fastest growing States: Arizona, Florida, Colorado, Alaska, Idaho, Mississippi, Utah, Arkansas, Virginia, Hawaii, South Carolina, North Carolina, Tennessee, and New Mexico.

During that same time period, in the five States which are declining the fastest—New York, Massachusetts, Connecticut, Ohio, and Illinois—the Federal military and civilian pay checks only accounted for 2.5 percent of the total payroll dollars of those States. The Federal payroll stimulus is going where it is needed the least—to the fastest growing States—and not to where it is needed the most—to the most rapidly declining States.

Compounding this four to one discrimination against our declining States is an equally unfair allocation of military construction dollars. Fiscal year 1976 Department of Defense military construction authorizations included $102 million for the northeast and midwest corridors with a population of 85.5 million people. The same bill included $800 million for the Southern States with a population of only 54.1 million—a pattern of discrimination of 12.6 to 1.

Aside from the immediate employment payoffs of such a biased construction allocation, we know that for every dollar spent on military construction in a State, the multiplier effect results in an increase of the payroll of that State by $2.50.

Thus, from a basepoint of the current 4-to-1 disparity in the Federal military and civilian payrolls, we compound the differential:

First, by the immediate employment payoffs of the military construction;

Second, by the multiplier effects of the construction; and

Third, by the further disparity in the Federal payroll—through the military and civilian personnel who will be employed in the new military facilities, so unfairly distributed—'till the memory of man runneth not.

As we are all aware, the economic stimulus a military base or facility provides to a community is great. It is an unfortunate economic fact that the hardship caused by a sudden base closure is equally great.

Since my April floor statement even newer data has been developed by the Congressional Research Service—CRS—verifying these discriminatory tactics. All three of the charts I will use were circulated by CRS on May 20, 1976:

PERCENT INCREASE IN FEDERAL CIVILIAN AND MILITARY WAGE AND SALARY DISBURSEMENTS BY REGION AND SUBREGION, 1964–74

[Dollar amounts in millions]

Region	1964	1974	Percent change
United States	$27,765	$58,134	109.4
Northeast	4,767	8,519	78.7
New England	1,373	2,227	62.2
Middle Atlantic	3,395	6,292	85.3
South	11,909	26,173	119.8
South Atlantic	7,372	16,508	123.9
East south-central	1,710	3,631	112.3
West south-central	2,828	6,033	113.3
North-central	4,554	9,204	102.1
East north-central	1,707	3,480	103.8
West north-central	2,865	5,724	99.8
West	6,535	14,238	117.8
Mountain	1,635	3,774	130.8
Pacific	4,900	10,465	113.6

This first chart deals with the total percentage increase in civilian and military payroll from 1964 to 1974 broken down by region and subregion. I would like to point out the following items:

The Northeast and Northcentral regions of the United States, with more than 85.5 million population, had less than $18 billion in payroll disbursements in 1974. However, the South, with a population of only 54.1 million, had more than $26 billion in disbursements.

From 1964 to 1974 the Federal payroll more than doubled—109.4 percent increase.

During the same time period, the payroll in the Northcentral region just barely doubled—102.1 percent increase—while the payroll in the Northeast only increased by 78.7 percent. However, the South and West regions experienced growth percentages far above the national average—119.8 percent for the South and 117.8 percent for the West.

RELATIVE POSITION OF FEDERAL WAGE AND SALARY DISBURSEMENTS BY REGION AND SUBREGION, 1964, 1969, AND 1974

Region	1964	1969	1974
United States	100.0	100.0	100.0
Northeast	17.2	15.4	14.7
New England	4.9	4.4	3.8
Middle Atlantic	12.2	11.0	10.8
South	42.9	44.4	45.0
South Atlantic	26.6	27.9	28.4
East south-central	6.2	6.0	6.2
West south-central	10.2	10.5	10.4
North central	16.4	15.7	15.8
West north-central	10.3	9.8	9.8
East north-central	6.1	5.9	6.0
West	23.5	24.5	24.5
Pacific	17.6	18.6	18.0
Mountain	5.9	5.9	6.5

This second chart illustrates the relative position of each region with respect to wage and salary disbursements. Again, allow me to make some observations:

The Northeast and Northcentral regions, with 85.5 million people or 41 percent of our Nation's population have only 30.5 percent of the Federal payroll dollar. However, the South, with a population of 54.1 million people or 26 percent of the Nation's population has 45 percent of the Federal payroll dollar.

Note also that the Northeast and Northcentral regions have the smallest shares of the Federal payroll dollar and that the long-run trend shows a definite decline in these already miniscule shares. At the same time, the South and West have continued to make gains in their disproportionate share of the Federal payroll dollar.

PER CAPITA FEDERAL WAGE AND SALARY DISBURSEMENTS BY REGION AND SUBREGION

Region	1964	1974	Percent change
United States	$145.08	$275.02	89.6
Northeast	102.32	172.40	70.2
New England	124.58	183.32	47.2
Middle Atlantic	94.23	168.85	79.2
South	201.14	389.77	93.8
South Atlantic	260.99	497.11	90.5
East south-central	134.82	270.73	100.1
West south-central	154.73	293.88	89.9
North central	84.95	159.91	88.2
East north-central	45.16	85.08	88.4
West north-central	181.24	343.64	89.6
West	207.45	382.11	84.2
Pacific	205.17	399.79	86.3
Mountain	214.60	376.16	83.3

This final chart illustrates the per capita wage and salary disbursements for each region in the United States. Again:

Note that the lowest per capita disbursement levels are to be found in the northeast and north-central regions are being discriminated against.

National per capita wage and salary disbursements for 1974 are $275.02. The northeast—at $172.40—and the north-central—at $159.91—regions are significantly lower than the national average. Of course, the south—at $389.77—and the west—at $382.11—regions are significantly above the national average.

Finally, the national percentage change in per capita wage and salary disbursements from 1964 to 1974 is 89.6 percent. The northeast region with a growth rate of 70.2 percent falls far below the average and the south at 93.8 percent falls far above the average.

Mr. Speaker, what do these charts tell us? They tell me that there is a systematic discrimination against the northeast and north-central regions of the country. They tell me that the South and West receive more than their share of Federal civilian and military employees, more than their share of military construction, and more than their share of the Federal payroll dollar. They tell me that the longrun trend is for this massive discrimination to continue unabated. And finally, they tell me that before the Defense Department decides to close down any more bases anywhere in this country, they should be forced to assess the economic impacts of their actions.

In short, Mr. Speaker, section 612 of this military construction authorization puts into law something that the Defense Department should have been doing for the past 20 years—mandating an economic impact statement for significantly disruptive governmental action.

I urge all my colleagues to vote to override this veto.

Mr. BADILLO. Mr. Speaker, earlier today I rose in support of overriding the President's veto on the public works employment bill, and for many of the same reasons that I supported that override, I now must take what for me is the exceptional step of rising in support of overriding the President's veto of the military construction authorization bill.

There are many reasons that I have voted against every military construction appropriation and authorization bill since I have been in Congress. Chief among them is that I perceive that a great deal of our military spending is a gross misuse of Federal dollars that should be going to social programs. However, this bill, through section 612, restored to the Congress some oversight over Pentagon actions in the closing of military bases. And that section is why the President vetoed the bill.

I started by saying that my reasons for voting to override the veto were similar to those for overriding the public works employment bill, and those reasons have to do with the lives of the people who are affected by the bills. The military has arbitrarily decided to close military bases across the country—arbitrarily, unilaterally—and without regard to the havoc they are wreaking on the lives of citizens who depend on those bases for employment and support systems.

And yet the President says that it is not "sound Government policy" to have congressional review of base closings. The President says that to leave these bases open will increase defense spending enormously. We did not hear him speak those critically important words when the appropriations for unworkable missiles and unusable airplanes were passed. But, it seems, peoples' lives and livelihoods are expendable. And Congress, of course, shall have nothing to say about it.

But, Mr. Speaker, Congress must have something to say about it. Because Congress represents those people at Fort Devens, and the other bases that will close. Section 612 will permit the review of those closings, will permit the Members of this body to look at, and pass judgment on, how the arbitrary decisions of the Pentagon will affect the lives of Americans. And that is why I shall support this override.

Mr. ICHORD. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER. The Chair will state that the gentleman has 1 minute remaining.

Mr. ICHORD. Mr. Speaker, I yield myself the remaining 1 minute.

Mr. Speaker, at the outset I stated that the only issue in this veto override was whether or not the Congress is willing to live up to its responsibility to exercise oversight responsibility in the field of base closures and base reductions.

Section 612 is the only issue that was objected to by the President, however, the President did acknowledge that the section was constitutional. Section 612 institutionalizes a procedure which the Congress should have set up many, many years ago.

For these reasons I urge a favorable vote on overriding the veto.

GENERAL LEAVE

Mr. ICHORD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of overriding the veto of the President of the United States on H.R. 12384.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 270, nays 131, not voting 31, as follows:

[Roll No. 535]

YEAS—270

Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Badillo
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Byron
Carter
Chappell
Chisholm
Cleveland
Cohen
Collins, Ill.
Conlan
Conte
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fish
Fisher
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Green
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harris
Hawkins
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Kazen
Ketchum
Keys
Koch
Krebs
LaFalce
Lagomarsino
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCormack
McDade
McDonald
McEwen
McFall
McHugh
Madden
Maguire
Mahon
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Moss
Mottl
Murphy, Ill.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
Obey
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Railsback
Randall
Rees
Reuss
Richmond
Riegle
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Ruppe
Russo
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sikes
Sisk
Slack
Snyder
Solarz
Spellman
Spence
Staggers
Stark
Steiger, Ariz.
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
White
Whitehurst
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NAYS—131

Abdnor
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Bedell
Bell
Bergland
Bevill
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Burton, Phillip
Butler
Carney
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conable
Conyers
Coughlin
Dellums
Devine
Dickinson
Edwards, Ala.
Erlenborn
Fenwick
Findley
Fithian
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Gibbons
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hechler, W. Va.
Hutchinson
Hyde
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kastenmeier
Kelly
Kemp
Kindness
Landrum
Latta
Leggett
Lent
Levitas
Lott
Lujan
McClory
McCloskey
McCollister
McKay

McKinney
Madigan
Mann
Martin
Michel
Milford
Miller, Ohio
Moorhead, Pa.
Mosher
Murtha
Myers, Ind.
Myers, Pa.
Nolan
O'Brien
Paul
Pressler
Pritchard
Quie
Quillen
Rangel
Regula
Rhodes
Robinson
Roush
Ryan
Sarasin
Sebelius
Sharp
Shriver
Shuster
Simon
Skubitz
Smith, Iowa
Smith, Nebr.
Stanton,
J. William
Steed
Steiger, Wis.
Stephens
Symms
Taylor, Mo.
Thone
Treen
Vander Jagt
Wampler
Whalen
Whitten
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Fla.

NOT VOTING—31

Abzug
Anderson, Ill.
Andrews, N.C.
Brinkley
Clay
Derwinski
Duncan, Tenn.
Esch
Flynt
Harkin
Harrington
Hays, Ohio
Hinshaw
Howe
Jones, Tenn.
Jordan
Karth
Krueger
Litton
Murphy, N.Y.
O'Hara
Pepper
Peyser
Risenhoover
Schneebeli
Shipley
Stanton,
James V.
Steelman
Teague
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Mr. Anderson of Illinois and Mr. Steelman for, with Mr. Duncan of Tennessee against.

Mr. Jones of Tennessee and Mr. Teague for, with Mr. Schneebeli against.

Mr. Flynt and Mr. Pepper for, with Mr. Harrington against.

Until further notice:

Mr. Murphy of New York with Mr. Andrews of North Carolina.

Mr. O'Hara with Mr. Derwinski.

Mr. Shipley with Mr. Karth.

Mr. Young of Georgia with Mr. Brinkley.

Mr. Howe with Mr. Young of Alaska.

Ms. Abzug with Mr. Esch.

Mr. Clay with Mr. James V. Stanton.

Mr. Harkin with Mr. Hays of Ohio.

Ms. Jordan with Mr. Risenhoover.

Mr. Krueger with Mr. Litton.

Mr. RICHMOND changed his vote from "nay" to "yea."

Mr. CONYERS changed his vote from "yea" to "nay."

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO HAVE UNTIL MIDNIGHT SATURDAY, JULY 24, 1976, TO FILE A REPORT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct may have until midnight Saturday, July 24, 1976, to file a report.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

Mr. BOLLING. Mr. Speaker, direction of the Committee on Rules, I call up House Resolution 1284 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1284

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13777) to establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a normal open rule providing for 2 hours of general debate and providing that the bill be read by titles instead of by sections. There was no opposition to the rule before the Committee on Rules. I know of no opposition to the rule.

Therefore, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Missouri has explained, House Resolution 1284 permits the House to resolve itself into the Committee of the Whole for the consideration of H.R. 13777, the Federal Land Policy and Management Act of 1976. The rule provides that the measure will be open to all germane amendments at the conclusion of 2 hours of general debate, and the bill is to be read for amendment by titles instead of by sections.

The primary purposes of H.R. 13777 are to establish a public land policy; to establish guidelines for its administration; and to provide for the management, protection, development, and enhancement of the public lands. To these ends, the legislation proposes to achieve the following objectives:

First. Create a mission for the public lands administered by the Secretary of the Interior through the Bureau of Land Management.

Second. Authorize BLM sufficiently for it to carry out the goals mandated by law for the public lands under its jurisdiction.

Third. Enact standards to be followed by BLM and the Forest Service in the administration of various resources under their control consistent with statutory purposes.

Fourth. Establish procedures to facilitate congressional oversight of public land operations of the Secretary of Interior.

Fifth. Eliminate obsolete statutes and parts of statutes from the law.

The cost estimate for fiscal 1977 is $14 million. Authorizations in the bill total $75 million for a 5-year period.

It is my understanding that there has been a certain amount of controversy surrounding the passage of this legislation. This controversy has arisen in part because of jurisdictional questions and in part because of environmental concerns. However, I know of no opposition existing at this time from anyone to the adoption of this rule; and I urge its approval.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there where—ayes 393, nays 0, answered "present" 3, not voting 36, as follows:

[Roll No. 536]

YEAS—393

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson,
Calif.
Andrews,
N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen,
Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammer-
schmidt
Hanley
Hannaford

Hansen
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

ANSWERED "PRESENT"—3

Bafalis
Burton, John
Frenzel

NOT VOTING—36

Abzug
Anderson, Ill.
Andrews, N.C.
Brinkley
Clay
Derwinski
Diggs
Duncan, Tenn.
Esch
Evins, Tenn.
Flynt
Guyer
Harkin
Hays, Ohio
Hébert
Hinshaw
Howe
Jones, Tenn.
Jordan
Karth
Krueger
Litton
McEwen
Mikva
Murphy, N.Y.
O'Hara
Pepper
Peyser
Risenhoover
Schneebeli
Shipley
Stanton, James V.
Steelman
Teague
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

Mr. Howe with Ms. Abzug.

Mr. Jones of Tennessee with Mr. Guyer.

Mr. Teague with Mr. Anderson of Illinois.

Mr. Flyht with Mr. Derwinski.

Mr. Pepper with Mr. Esch.

Mr. Murphy of New York with Mr. Krueger.

Mr. Hébert with Mr. Duncan of Tennessee.

Mr. Hays of Ohio with Mr. Andrews of North Carolina.

Mr. Clay with Mr. Karth.

Mr. Diggs with Mr. McEwen.

Mr. Evins of Tennessee with Mr. Brinkley.

Mr. Harkin with Mr. Mikva.

Mr. O'Hara with Mr. Schneebeli.

Mr. Shipley with Mr. Litton.

Mr. Young of Georgia with Mr. Peyser.

Mr. Risenhoover with Mr. James V. Stanton.

Ms. Jordan with Mr. Steelman.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MELCHER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13777 to establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Montana (Mr. Melcher).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13777, with Mr. Giaimo in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Montana (Mr. Melcher) will be recognized for 1 hour, and the gentleman from Arizona (Mr. Steiger) will be recognized for 1 hour.

The Chair recognizes the gentleman from Montana (Mr. Melcher).

Mr. MELCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for several years the House Interior Committee has been developing a bill to implement the recommendations of the Public Land Law Review Commission. H.R. 13777 is a comprehensive reform bill dealing primarily with the public lands in the 11 Western States and Alaska.

It is the kind of bill that affects, directly or indirectly, all of our citizens and a number of industries throughout the country. It is not perfect and in no way does it satisfy all of the principal users of our public lands. Yet, all agree that a bill is needed now.

In directing the role the public lands have played in the development of the economy and institutions of the United States, the Congress has enacted thousands of public land laws. Some of them are still viable. However, in many instances they are obsolete and, in total, do not add up to a coherent expression of congressional policies adequate for today's national goals.

The executive branch has tended to fill in missing gaps in the law. This has not always been done in a manner consistent with a system balanced in the best interests of all the people.

This bill, the Federal Land Policy and Management Act, represents a major step in modernizing the public land laws.

The bill will accomplish these major objectives:

One. Establish a mission for the more than 450 million acres of public lands administered by the Bureau of Land Management. Located almost entirely in the 11 Western States and Alaska, their resources are highly varied and of tremendous value.

Two. Give the Bureau of Land Management sufficient authority to carry out the goals and objectives established by law for the lands under its jurisdiction.

Three. Enact into law guidelines and standards to be followed by the principal public land management agencies.

Four. Establish procedures to facilitate congressional oversight of public land management.

Five. Weed out the body of law and those parts of statutes which are obsolete.

This is a comprehensive bill. Amendments will be offered which will clarify and strengthen some of its provisions. Once the House has worked its will, I am confident that the result will provide a modern concept and direction for our Federal agencies in managing our public lands while at the same time satisfying a need for closer congressional oversight of the future use and management of the public lands and their vast resources.

Mr. Chairman, I began my remarks by saying that this bill is needed. I can only repeat that statement and urge my colleagues to join with me in passing the bill now.

Mr. Chairman, I reserve the remainder of my time.

Mr. STEIGER of Arizona. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Montana has stated the case well. I would just like to call to the attention of the House for the record the fact that, indeed, this was a long overdue process, the revision of public land laws, as any time such an attempt as this is launched, it attracts predictably all of those who have a specific and special interest. We had those; in fact, we have had them for the last 4 years, which is how long it has taken us to construct this bill.

I will tell the Chair and my colleagues that it is clear that this bill is a long way from being perfect, but that does not take away from the fact that the existing unrevised laws are grossly imperfect. We are much in the position of the man who is lying on the floor; he cannot fall out of bed; and, therefore, I suspect things have got to get better. But if anybody is looking to this document for perfection, he will be disappointed.

Mr. Chairman, the committee has worked 4 years on this matter. I am not entirely satisfied, as I am sure the gentleman from Montana is not entirely satisfied, but this is the best we were able to bring to the Members.

Mr. Chairman, I yield back the remainder of my time.

Mr. MELCHER. Mr. Chairman, I yield 5 minutes to our colleague, the gentleman from Ohio (Mr. SEIBERLING), a member of the Committee on Interior and Insular Affairs.

Mr. SEIBERLING. Mr. Chairman, while I generally support the concept of legislation to provide management authority for the Bureau of Land Management—BLM—there are specific provisions in H.R. 13777 which I do not consider in the public interest. Unless these provisions are substantially changed, I cannot support the legislation.

Of particular concern are the provisions dealing with BLM's law enforcement authority and withdrawals that are made to protect our public lands. Several amendments will be offered to make much needed improvements in these provisions. While I will speak in more detail on the amendments when they are offered, I would like to make general comments on some of them at this time.

LAW ENFORCEMENT

The BLM currently has very limited law enforcement authority, mainly relating to the protection of certain animals and resources on the public lands. Yet with increased public use of these lands, crimes of all types are increasing—crimes against people as well as against natural resources. A BLM employee can witness a crime being committed, but the most he can do is either drive many miles to the local sheriff or else make a citizens arrest, which throws him into personal jeopardy, both legal and physical. In many cases it is extremely difficult to convince local officials to enforce Federal laws and regulations, since often there are no corresponding State laws and since the local officials do not have the immunities of a Federal officer.

Except for the California desert, H.R. 13777 does very little to improve this situation. The bill would require the Interior Department to rely to the maximum practicable extent on State and local police to enforce Federal laws and regulations. It requires the Secretary to annually negotiate and offer a reasonable law enforcement contract to State and local enforcement officials. Only if the officials lack authority to contract or decline the Secretary's contract, could the Secretary designate Federal personnel to enforce Federal laws or regulations.

I intend to offer an amendment that would clarify the Secretary's authority for law enforcement. It would still require the Secretary to achieve maximum feasible reliance upon local law enforcement officials, and would authorize him to offer contracts to appropriate local law enforcement officials. It would not require him to offer these contracts each and every year. It would, however, allow him to designate trained Federal personnel to carry out Federal law enforcement responsibilities, whether or not the local officials accept the contracts. And it would assure that our Federal laws are adequately enforced and that our public lands are fully protected.

WITHDRAWALS

H.R. 13777 has two major provisions concerning withdrawals—section 204, which concerns the review of new withdrawals, and section 404, which concerns the review of existing withdrawals. Together these are two of the most objectionable provisions in the legislation.

A withdrawal is basically a protective mechanism, made either by the executive or legislative branch, to provide that a particular tract of public land be exempt from the application of certain public land laws. Withdrawals by the Secretary of Interior have, in particular, been the only protection many sensitive areas have against the abuses permissible under the mining law of 1872 which allows private individuals not only the rights to certain minerals on public lands, but to obtain actual title to the land itself.

Section 204 of H.R. 13777 would require a review of new withdrawals on tracts as small as 5,000 acres every 5 years. Such withdrawals could be vetoed by a resolution of either House. This provision is burdensome, time consuming, and counterproductive. Indeed, it is, in effect, not merely a review. The withdrawals would have to be rejustified, and be subject to a veto, every 5 years. Presumably, if the administration did not recommend continuation of the withdrawal, it would lapse.

Mrs. MINK will offer an amendment, which I strongly support, to increase the time and acreage involved. This would ease the situation considerably, while retaining close congressional oversight. Withdrawals would still be subject to disapproval by a resolution by either House.

Section 404 would require the Secretary to review existing withdrawals within 10 years of enactment, except for certain lands such as national parks. Either House could veto any of these withdrawals. While the intent of the provision is to exert congressional authority over these withdrawals, the language as drafted is very confusing. It is not clear whether the review would include public lands in Alaska, which are already being reviewed as a result of the Alaska Native Claims Settlement Act. References to section 202 dealing with new withdrawals leave unclear whether these new areas must be reviewed again every 5 years and subject to possible vetoes.

My amendment to section 404 merely clarifies the scope and intent of the provision. The amendment would retain the requirement that the Secretary review within 10 years existing withdrawals. Recommendations would then be made to Congress on terminating withdrawals, which either House could veto within 90 days. Congress would, of course, retain its existing authority to take legislative action on any withdrawal, should we wish to exercise it.

In addition to these amendments, I will support those to be offered by my colleague from Texas (Mr. ECKHARDT) on grazing. I will also support amendments which I understand will be offered by my colleague from Montana (Mr. MELCHER) to remove existing wildlife refuges from the withdrawal review requirements of section 404.

The amendments I have cited would remove what I consider to be the major objections to the legislation. If adopted, they would assure that H.R. 13777 is a reasonable measure to go to conference and to give the BLM the authority it needs to manage, and protect, our Nation's public lands.

Mr. STEIGER of Arizona. Mr. Chairman, I yield such time as he may consume to the distinguished ranking minority members, the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I rise in support of H.R. 13777, the Federal Land Policy and Management Act of 1976.

This legislation, as reported by the Interior Committee, is complex and in some respects controversial.

I believe, however, that this bill is necessary and that it will go a long way toward bringing order to the management of our Nation's extensive public lands, toward restoring congressional authority and supervision over the Bureau of Land Management, and toward securing a satisfactory balance between the desire to develop publicly owned lands in the United States and the need to preserve their environmental integrity.

This bill is not "perfect" legislation.

Not every aspect of H.R. 13777 pleases me.

But the legislation, given the polarity of opinion and strength of feeling on both sides, represents a workable and acceptable compromise.

I would only remind my colleagues that many Members and private organizations have agreed to support H.R. 13777 precisely because of the compromises it contains, and, may I caution my colleagues, that if these compromises are "undone" by floor amendments it is very possible that many supporters of this bill, including myself, could no longer support it.

Mr. Chairman, I stress that we do need an organic act for BLM lands.

One of the most important reasons for adopting this bill is that it provides for congressional oversight and control over an executive agency which, at present, is free to act mostly of its own accord.

I frequently receive letters from environmentalists reminding me that—

> Congress must be responsive to the wishes and needs of all the people—and not just a selected few.

On numerous occasions I have been urged by representatives of these same groups to support legislation which sought to limit the administration's authority over environmental issues, or which carefully sought to outline policies for the management and protection of our Nation's land and resources.

I fail to understand, therefore, the vociferous opposition voiced by environmental groups to legislation which seeks to accomplish just such ends: To vest authority with the people and the Congress rather than with an uncontrolled agency; to limit executive discretion over national land management; and to carefully outline procedures for the withdrawal, acquisition, sale, and exchange of public lands.

The management or withdrawal of Federal lands is an extremely important matter, a matter which must not be left solely in the hands of an often unresponsive and unyielding bureaucracy.

To approve this legislation is to take a step toward increasing the accountability of our Government.

This legislation does not mean that Congress will irresponsibly or arbitrarily interfere in the operations of the Bureau of Land Management.

On the contrary, the BLM will retain its authority to propose and carry out withdrawals.

The important difference is that these withdrawals will be subject to the veto of either House of Congress.

Further, the Bureau is required to report, within 10 years, to the Congress on the status of public lands it has already withdrawn, again, not too much to ask if we desire executive policy to be in line with the objectives of the people's elected representatives.

This, Mr. Chairman, is the first important reason to adopt this bill, it reasserts congressional authority over the Bureau of Land Management.

The second important reason to support H.R. 13777 is that it would establish a comprehensive land use management policy for federally owned and managed lands.

As stated in the bill itself—

> The national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts.

We must end what often has been a historic pattern of casual or even reckless withdrawal of public lands.

It is essential that Congress be informed of, and able to oppose if necessary, withdrawals which it determines not to be in the best interests of all the people.

Further, this legislation emphasizes that our goal should be the multiple use of Federal lands consistent with the preservation and protection of our Nation's resources.

According to the bill, the concept of multiple use encompasses "the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people."

At present, almost two-thirds of all public lands have been withdrawn for single-purpose use, primarily the preservation of wilderness.

It seems inconsistent for some to decry our country's increasing energy dependence on foreign imports, and yet, at the same time to continue restricting the development of more and more of our Federal lands.

Why, for example, do we continue to so severely restrict the discovery and mining of valuable minerals or energy resources available to us within the United States?

Of course, I realize that not all public lands should be opened to development and use.

We must not neglect environmental considerations.

Instead, H.R. 13777 establishes a process whereby all existing withdrawals and all proposed withdrawals are examined by Congress and evaluated in the light of our congressionally approved goal of multiple land use.

The application, wherever environmentally sound, of multiple-use requirements for Federal lands is the second major reason I urge my colleagues to support this bill.

Mr. Chairman, the third important reason to adopt this legislation is that it establishes a more realistic policy for the leasing of public lands for grazing.

The present grazing fee formula is unrealistic because it ties the fees to the fair market value of the land.

Consequently, when beef prices are low, cattlemen find themselves unable to meet rental payments which not only causes economic hardship to the individual cattleman, but deprives the taxpayer, who in actuality, is lessor for all public lands.

This bill assures that higher grazing fees will be charged when cattle prices are high and lower rental fees when the cattle market is depressed.

Such a flexible fee formula is necessary in a market as sporadic as the cattle business.

It prevents the cattlemen from going broke when beef prices are down and it lets the taxpayer receive a higher rent for his grazing lands when beef prices are up.

Further, the bill increases the duration of the grazing permits so long as certain carefully outlined conditions are met, thus allowing the livestock producer to plan in the long run.

It provides for the creation of grazing advisory boards to aid BLM in its management decisions and directs that 50 percent of the grazing fees be used for range and habitat improvement.

Finally, I might point out to my colleagues the importance of the provisions in title IV of this legislation.

Deserts are a delicate resource which must be protected from abuse, and this bill goes far toward setting down guidelines for better desert management.

Under this bill the Department of the Interior is required, by 1979, to develop a comprehensive management plan for the California desert.

Such an action is important, and long overdue.

Mr. Chairman, this legislation is not an environmental nightmare.

Its purpose is not to reverse years of Federal efforts and successes in preserving and protecting our environment for future generations.

Instead, it seeks to reassert congressional control over the actions of the BLM which, at most, have gone too far in the search for environmental preservation, and at the very least, have not been directly accountable to the people's elected representatives.

Again, there are aspects of this bill which displease me.

But I support it because the compromises have been carefully constructed.

The provisions in this bill do not satisfy everyone.

But they secure the support of those on the opposite sides of two extremes, those who desire the multiple use of all of our Federal lands, and those who do not wish to develop any of our Federal lands.

This bill strikes an acceptable balance, and for that reason I urge my colleagues to support it.

Mr. MELCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the need for the bill is probably most acutely felt in the Western States where most of our public lands are. Now, some of the communities in our Western States badly need the legislation, badly need the relief that will be presented by the legislation. They find that their interests are so entertwined with Federal lands that unless we do modernize them, unless we do revise them, we are handicapping these western communities. I want to assure the House that our goal in all the 3 years that the committee has considered this legislation, our paramount goal is that we act in the public interest in dealing with our public lands.

For those who are interested in the environmental aspects of the bill, and there are many of us that are, I want to point to three particular areas. The bill provides for range improvement, for improvement of our habitat for both livestock and wildlife. This is essential. Much needs to be done in our public lands in this regard and the bill take the first giant constructive step taken by Congress in a great number of years to develop those goals or to implement those goals.

Second, there has been a demand throughout the country for at least a decade that Bureau of Land Management lands also be reviewed, as the Forest Land Service has been, for possible inclusion of portions of our land within the wilderness system. This bill does that.

Third, the bill does carry with it a provision for the California desert area so long sought by Members from California and by enlightened environmentalists throughout the country.

Mr. Chairman, I commend the bill to the House and I hope we can have prompt passage of it.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Hawaii (Mrs. MINK), a member of the committee.

Mrs. MINK. Mr. Chairman, I thank the chairman of the subcommittee for yielding.

Mr. Chairman, I must rise in opposition to H.R. 13777, the so called BLM Organic Act, unless we today approve substantial changes to the version that was reported out of the Committee on Interior and Insular Affairs. While I fully appreciate the need for legislation to facilitate and modernize the management of approximately 451 million acres, or 60 percent of our Nation's public lands, by the Bureau of Land Management, H.R. 13777, as currently drafted, contains many provisions that are completely unacceptable from an environmental and administrative standpoint.

One of the primary deficiencies of the bill is the way it would treat existing and future withdrawals. Withdrawals have traditionally been the only vehicle by which public lands could be offered protection from the operation of the mining laws—protection which is necessary if lands to be dedicated to uses such as parks, recreation areas, wildlife refuges and wilderness areas are to retain their intrinsic characteristics and not to be subject to claim staking and the degradation of the environment often associated with mining activities.

While H.R. 13777 would retain the Secretary of Interior's authority to make, modify, or revoke withdrawals, his actions would be severely limited by requirements that all future withdrawals exceeding 5,000 acres be subject to a veto by either House of Congress. It should be noted that 5,000 acres of land is a very small amount of land judged by land management standards in Alaska and the Western States, where most of our public lands are located. While I most certainly do not object to congressional oversight in withdrawal matters, it should be pointed out that Congress has always had the option of exercising oversight authority on public lands management decisions, and this is as it should be.

However, I cannot agree to an oversight procedure which would allow either House of Congress to veto relatively minor withdrawal decisions. To do so would open the door to subjecting each and every withdrawal decision to intense lobbying pressure by the mining industry, which quite naturally opposes withdrawing lands from the operation of the mining laws—laws which are outdated and constitute a virtual giveaway of public lands to the mining industry.

Even more unworkable than the 5,000-acre veto provision, is the stipulation that future withdrawals will last for only a maximum of 5 years, at which time they would have to once again undergo the full withdrawal justification procedures and face renewed opposition from the mining industry and a possible congressional veto. This is patently ridiculous. Withdrawal decisions are not creatures of whim, and in most cases are made only after years of careful study and evaluation. Indeed most withdrawals require preparation of an environmental impact statement, a process which, in itself, can consume several years.

Thus, if withdrawals are restricted to a maximum duration of 5 years, the Secretary will be overwhelmed with almost endless paperwork and field studies to justify, and continually rejustify, land management decisions. This can only accomplish one of two things—either the operating budget of the Department of the Interior will have to be increased astronomically, or management personnel will have to divert their attention away from legitimate management functions to comply with the paperwork requirements of the law. As chairwoman of the Mines and Mining Subcommittee of the Committee on Interior and Insular Affairs I have heard many complaints by Department of the Interior officials deploring the increase in paperwork occasioned by the passage of recent legislation, and I am convinced that Congress must guard against increasing this load except where absolutely necessary. Likewise, I am apprehensive of the added burden the withdrawal provisions of H.R. 13777 would place on the already heavy work schedules of the House and Senate Interior Committees. For these reasons I am strongly opposed to reviewing all withdrawal decisions on tracts over 5,000 acres, and limiting the duration of withdrawals. If Congress absolutely deems it necessary to exercise control over the withdrawal system, I suggest that we limit review to withdrawals involving 25,000 acres or more, and establish a duration period of 15 years.

Another objectionable feature of H.R. 13777 is section 404 which would require a review of existing withdrawals, and direct that they be rejustified subject to the veto and duration requirement just discussed. This section represents another flagrant concession to mining interests which are continually attempting to reopen withdrawn areas to exploitation under the mining laws. The major reason for the concession stems from industry claims that up to 67 percent of our public lands have been withdrawn from mineral exploration and development. The Subcommittee on Mines and Mining held hearings on this very matter last November and December, and it is clear from those hearings that most of the lands currently closed to mining are withdrawn on a temporary basis only. Most of the withdrawals involve lands in Alaska withdrawn pending classification or disposal under the Alaska Native Claims Act, and Forest Service roadless areas pending review for suitability for inclusion in the wilderness system. Thus, much of the acreage will shortly be returned to exploration and development status. I submit, therefore, that a review of existing withdrawals, with its $10 million price tag, will constitute little more than a fruitless paperwork exercise that will further detract from legitimate land management duties. We must not forget that Congress already can, and does, exercise oversight jurisdiction and enact legislation to remedy what it considers to be poor land management decisions—a recent example being the legislation to prevent transfer of three wildlife refuges to BLM management. With such powers available I believe it is totally unnecessary to require the Department of Interior to undertake a laborious and expensive review of existing withdrawals with a view toward rejustifying them to the satisfaction of the Congress.

Finally, Mr. Chairman, section 604 of the bill would repeal the Executive's authority to withdraw land to create or expand wildlife refuges. In an age where wildlife values are increasingly threatened by man's activities, such authority is absolutely necessary to facilitate swift and forceful action to protect threatened wildlife or ecosystems from the perils of development. Section 604 must be amended to retain the Executive's authority in this area.

There are many other provisions of H.R. 13777, which I find objectionable, and these include: The grazing fee formula, which could actually lower the current inadequate fee; the ineffective provisions in the bill concerning law enforcement authority; the unnecessary inclusion of the Forest Service in the bill; the reinstatement of recently abolished grazing district advisory boards; the long duration of grazing leases; a review of BLM lands having wilderness potential limited to those lands identified as having wilderness characteristics rather than a required review of all roadless tracts exceeding 5,000 acres; and, the lack of a deadline for the President's submission of wilderness recommendations to Congress.

I hope this bill will be satisfactorily amended to correct these deficiencies. If not, I plan to vote against it.

AMENDMENT TO H.R. 13777 OFFERED BY MRS. MINK

On page 26, on lines 22 and 24, strike the word "five" and insert in lieu thereof the word "fifty".

Explanation: This amendment triggers Congressional review and possible veto of withdrawal decisions only if the aggregate of land to be withdrawn exceeds fifty thousand acres.

AMENDMENT TO H.R. 13777 OFFERED BY MRS. MINK

On page 27, line 2, strike the word "five" and insert in lieu thereof the word "twenty".

Explanation: This amendment would allow withdrawal decisions to remain effective for up to twenty years, rather than requiring an expensive and time consuming review every five years.

Mr. **STEIGER** of Arizona. Mr. Chairman, I plan to yield to the gentleman from California, but I think that the gentle reader of the RECORD is now seeing this breathless controversy unrolling before his very eyes, because we have the gentleman from Ohio (Mr. SEIBERLING), a man with no public lands in his State; we have the gentlewoman from Hawaii (Mrs. MINK), the gentle, articulate lady with no public lands in her State, announcing their plan to support this legislation in the event their amendments are successful. Then, we have those of us who live in public lands States who, should their amendments be successful, will not support this bill. So, breathless readers of the RECORD, read on for what occurs.

Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California (Mr. DON H. CLAUSEN), a member of the committee.

Mr. **DON H. CLAUSEN**. Mr. Chairman, as members of the Public Lands Subcommittee we have worked long and diligently over the years to attempt to advance a public land management policy, particularly as it relates to the lands under the committee's jurisdiction. We were guided in our efforts by the recommendation that came from the Public Land Law Review Commission as well as concerns expressed by the land managing agencies and members of the general public. I would like to commend the members of the committee, and in particular the chairman, the gentleman from Montana (Mr. MELCHER), and the very able and distinguished ranking minority member, the gentleman from Arizona (Mr. STEIGER), who have played the leading role in coordinating the drafting of this legislation.

I would like to ask that the membership not be swayed totally by that which will be presented in the form of amendments later on, but to recognize that this legislation is going to be written in the conference, as is the case in most legislation which comes before the Congress. We will go to the conference between the Senate and the House, and I would like to see us go to the Conference with the strongest possible negotiating position so the public land States of the West will be protected.

To give you some idea of its efforts in perfecting this bill, the Public Lands Subcommittee held 16 hearings and 31 markup sessions in the 93d Congress and 5 hearings and 26 markup sessions in this Congress. In addition, the full Interior Committee held 5 markup sessions before reporting the bill out on May 13 of this year. I believe that these figures reflect the high degree of diligence and sincerity put forth by our Public Lands Subcommittee in developing this very complex and comprehensive piece of legislation.

We recognize, however, that even after our exhaustive efforts, there are those that are still not completely satisfied with what we have done. While I would agree that this bill is not perfect, it certainly goes a long way in providing a solid framework for the House to work its will in developing a modern concept and direction for our Federal agencies in managing our public lands.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I understand that the gentleman from Arizona, while I was out of the room, indicated that there were no public lands in the State from which I come, the State of Ohio. Is that correct?

Mr. STEIGER of Arizona. Public domain lands.

Mr. DON H. CLAUSEN. We recognize the gentleman has a national park in his State of Ohio.

Mr. SEIBERLING. We also have many thousands of acres of the Wayne National Forest which takes a good percentage of the entire State of Ohio and which, while it does not come under BLM, is nevertheless public land. So, we are not unaware of the problems associated with public lands.

Mr. STEIGER of Arizona. If the gentleman will yield to me, I think the record ought to be clear. I know the gentleman from Ohio understands it. We have very carefully excluded all forest lands in the State of Ohio from this bill, as we have indeed all lands east of the Mississippi that are in the national forest system, from this bill. The gentleman understands that, the record understands that, and the 11 people in attendance understand that.

Mr. SEIBERLING. I understood the gentleman made the statement that there were no public lands in my State, which is a patently incorrect statement. I wish to correct the record.

Mr. MELCHER. Mr. Chairman, I have no further requests for time.

Mr. STEIGER of Arizona. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Colorado (Mr. JOHNSON), a member of the subcommittee.

Mr. JOHNSON of Colorado. Mr. Chairman, I support this bill.

Before I get into the main reason that I wanted to take the floor, I would like to tell those few Members here present that the work done on this bill has, I feel, followed the legislative process more carefully than any bill that I have ever had the privilege of working on. The gentleman from Montana (Mr. MELCHER) and the gentleman from Arizona (Mr. STEIGER) insisted that we go through this bill line-by-line, word-by-word. I do not know how many redrafts we had. The staff was there. I am sure they are sick of repreparing drafts. As I recall, we had at least four or five drafts, and this is a very carefully drawn bill. Obviously, we cannot satisfy everybody; but nevertheless a lot of effort went into this bill and, to me, it epitomizes the best about the legislative process.

Mr. Chairman, I am going to offer two amendments to the bill, not to change the bill in any respect so far as withdrawals or any of the controversial features of the bill are concerned.

I am going to offer one amendment which contains language which was originally provided in the Coal Leasing Act. The Coal Leasing Act has been vetoed by the President, and the language which I hope that will be adopted and added to this BLM Organic Act will provide for an increase of the royalties from 37½ percent to 50 percent to the States. The additional 12½ percent will be used for purposes other than roads and schools and will contain the previous language provided by the gentleman from Wyoming (Mr. RONCALIO).

The second portion of that amendment will incorporate language that was included in the Coal Leasing Act, which provided that the prototype oil shale lease moneys from those leases known as Colorado Tract A, Colorado Tract B, Utah Tract A, and Utah Tract B, which moneys are held by the States, or yet to be received by the States for roads and schools, may be used by State legislatures for planning and maintenance of public services, and there should not be any controversy about that particular amendment.

The second amendment which I am going to offer will have some controversial aspects, but I think it is worth drawing to the attention of those few Members who are present. Under the prototype lease programs which were authorized a few years ago, whereby 5,000-acre tracts were leased to various oil companies, the Colorado Tract A 5,000 acres, for which the winning bid was $217 million, won by Gulf Oil and Standard of Indiana, were to be strip-mined, the original understanding of the Department of the Interior at that time was that in the event the Department of the Interior and the lessees concluded that it was necessary to have additional lands for the dumping of the spent shale and the overburden material, the Interior Department had the authority to grant additional lands. It turns out, from a recent opinion rendered by the Solicitor's Office of the Department of the Interior, that the Secretary does not have authority for additional leases for lands outside of the oil shale lease, and so the companies that are involved have requested that additional land. The Secretary of the Interior and the EPA said they had no objections, in the hearings that were held before our subcommittee chaired by the gentlewoman from Hawaii, Mrs. MINK. There have been hearings in the subcommittee. Whether or not the bill could be reported out yet this year is problematical.

So I thought I would offer the amendment on this bill and let the House work its will on that particular subject.

Mr. STEIGER of Arizona. Mr. Chairman, I yield such time as she may consume to the lovely and very able member of the committee, the gentlewoman from California (Mrs. PETTIS).

Mrs. PETTIS. Mr. Chairman, the matter of protecting the great California Desert from destruction has been before this body since 1972. Unfortunately, the record of the executive agencies, the Congress, and, more recently, the judiciary, has not been good wtih respect to recognizing the unique values and resources of the desert and the need for a comprehensive, multiple-use plan for the desert. Thus, in 1976, the provisions in title IV of the bill now before us—creating a California Desert Conservation Area and mandating the development and implementation of a land use plan by June 30, 1979—are vitally needed.

As Members know from my previous statements on the use of the California Desert, the desert is one of the most ecologically fragile sections of the national resource lands, and is clearly one of the most threatened. A 1968 report by the Bureau of Land Management comments:

> For all its dryness and desolation; for all its wasteland appearance; the California Desert is a unique storehouse filled with innumerable treasures of great value to man. Far from being monotonous, the desert is rich in variety. In truth, the real wealth of the desert lies in its variety: of history, of geology, of geography, of vegetation, and of animal life; variety also in its value to man in the forms of recreational use, livestock grazing, mining, watersheds, scientific exploration, nature study, open space.

The natural topography of the land includes vast open spaces, rugged mountains, rivers, and sand dune systems. It is the home of more than 700 species of flowering plants, 217 of which are to be found nowhere else. Some of these plants last only a season while others, like the creosote bush, are approximately 1,000 years old. It is the habitat for nearly 200 species of wildlife, including such diverse species as the desert bighorn sheep, the desert tortoise and roadrunner, as well as the endangered Mojave chub and desert pupfishes and the desert slender salamander.

In addition, there exists in the California Desert one of the largest and richest concentrations of prehistoric art in the world: Indian rock carvings known as petroglyphs and huge desert land figure drawings called intaglios. Some of them are thought to be at least 5,000 years old.

As a BLM resource planner recently remarked:

> We have the executive order concerning the impact of off-road vehicle (ORV) events on the public lands but we have neither the regulations nor the means of enforcing them when we get them.

It is sad to say, but despite its jurisdiction over and responsibility for millions of acres of land, the BLM has no capability to be more than a custodial agency. This is especially true in the California Desert. Without police powers, BLM officials are unable to take action to protect the land and the users of the land. This problem is becoming increasingly serious as more and more people come to the desert to visit and live. In 1968, the estimated number of visitor days of recreation was 5 million. That number is expected to reach 17 million this year.

Among the people who come to the desert there is no agreement about what use should be made of the desert resources. A recent public opinion poll of citizens visiting the desert revealed that the majority want more protection of desert wildlife and ecology, 54.1 percent of those responding; while others want more protection for historic areas, 38.6 percent; less developments of all kinds, 37.1 percent; more campgrounds, 28.8 percent; more control over recreational and other public uses, 22 percent. Other citizens want more places for organized recreation, 15.4 percent; more roads and sightseeing places, 14.1 percent; more development of mineral resources, 10.9 percent; more places for ORV use, 10.7 percent; more motels and eating places, 9.8 percent.

It is because of these differing viewpoints that the long-range, multiple-use plan called for in title IV of this legislation is badly needed. The vehicle selected to develop such a plan is the California Desert Conservation Area Advisory Committee. This body will bring together conservationists, recreationalists, miners, cattlemen, residents of the desert and their local government officials, as well as representatives of the State and Federal Governments. Working together, these women and men will be able to formulate the final plan for protection, use and management of the national resource lands in the California desert.

Without the authority to enforce Federal laws and regulations, the new plan will not have much practical meaning. Already, unique desert plants and trees are being uprooted and taken to urban areas; animal and reptile habitats are being destroyed; prehistoric art is being vandalized and removed from the desert; large ORV events are resulting in long-lasting damage to the desert "pavement" and other natural barriers to erosion.

In the absence of an Organic Act and the law enforcement authorities provided the Desert Ranger Force in H.R. 13777, the BLM has had to resort to civil actions in court or, in some cases, stand by helplessly while individuals or companies misuse or abuse resources entrusted to BLM's care.

Each day Congress delays in designating the California Desert Conservation Area prolongs the degradation and abuse of the area, spreading damage that sometime is irremediable.

American naturalist Aldo Leopold once observed that—

> There is yet no ethic dealing with man's relation to land and to the animals and plants which grow upon it. Land . . . is still property. The land-relation is still strictly economic, entailing privileges but not obligations. The extension of ethics to this third element in the human environment is, if I read the evidence correctly, an evolutionary possibility and an ecological necessity . . . Individual thinkers since the days of Ezekiel and Isaiah have asserted that the despoliation of land is not only inexpedient, but wrong. Society, however, has not yet affirmed their belief.

Mr. Chairman, I would hope that my colleagues will today affirm their belief by passing this necessary piece of legislation.

Mr. STEIGER of Arizona. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Chairman, today we are considering a bill which will determine how more than 450 million acres of public land will be managed. Although this issue may seem remote to my colleagues from the East and Midwest, in fact, this land is our land, and its diverse resources belong to all the American people.

The administration and every major conservation organization have long urged enactment of a basic statute, an "organic act," for the Bureau of Land Management. Yet both the administration and conservationists now oppose H.R. 13777 in its present form. In recent weeks, the Merchant Marine and Fisheries Committee has been negotiating with the Interior Committee on matters related to its jurisdiction.

Of particular concern are the withdrawal procedures of section 204 which would seriously jeopardize the principal method of adding new units to the National Wildlife Refuge System. I hope you will support the amendments which will be offered to remedy this and other related problems.

However, a number of serious problems remain in the bill, and I support the adoption of amendments to correct these problems. These amendments are reasonable, and without them it seems unlikely that conferees could resolve the vast differences between H.R. 13777 and S. 507, which passed the Senate earlier this year.

There are three principal areas of concern: First, the procedure by which withdrawals of public lands are made; second, the structure of grazing permits, and third, the adequacy of BLM's enforcement authority under the bill. With respect to withdrawals, under existing law, the Interior Department may set aside areas of the public lands from entry under the mining law of 1872, thus protecting sensitive areas with wildlife, recreational and archeological values from mining. H.R. 13777 repeals that withdrawal authority and in its place substitutes a congressional review procedure.

While I do not disagree that Congress should more diligently exercise its oversight authority, I believe that H.R. 13777 bends too far in that direction and will result in additional paperwork and a reluctance on the part of the Department to propose such withdrawals. Of more importance, however, is the likely possibility that the mining industry will descend on Congress every time a withdrawal is proposed to urge that it be disapproved.

To help remedy this, I believe the amendments which raise the acreage which triggers congressional review from 5,000 to 50,000 acres and lengthens the effective period of withdrawals from 5 to 20 years should be adopted.

In regard to grazing permits, the livestock industry has long enjoyed privileged treatment on public lands since the West was settled. Cattle and sheep grazed free until 1936 when a fee of 5 cents per animal unit month was set. An animal unit month—AUM—is the amount of forage consumed by one cow or five sheep in a month.

Grazing fees have remained low in the ensuing years and have never been comparable to fees charged for pasturing livestock on private lands. For example, in 1975 the fee per AUM on BLM-administered lands was $1. But the average grazing fee in 1975 was $5.75 per AUM in the 11 Western States; $4.11 in the Lake States; $4.42 in the Corn Belt; and $6.50 in the Northern Plains.

Although the western livestock industry contends that low grazing fees help the consumer, I doubt that the low fees help consumers in the rest of the country since only about 7 percent of the beef cattle use public lands. Indeed, the reduced fees on public lands may cause a competitive disadvantage for farmers who raise the other 93 percent of the Nation's cattle.

While no one wishes to be unfair to those who use the public lands, I for one also do not want to be unfair to the rest of the public—and the public is not receiving a fair return on the use of its land. Section 210 of the bill will only make this situation worse by tying grazing fees to the Cost of Production Index, which will inevitably go up and thus push grazing fees down.

Furthermore, section 211 will tighten the grip of the livestock industry on the public lands by requiring mandatory 10-year grazing permits in most cases, instead of giving BLM discretion about the length of the permit. This will make it more difficult to restore grazing lands to a productive condition. By BLM's own estimate, at present only 17 percent of the grazing lands are in excellent or good condition; 46.8 percent of the big game habitat—in the lower 48 States—is in unsatisfactory condition.

Section 212 would establish local grazing advisory boards which would be dominated by livestock interests. This type of board controlled by one group was abolished by the Federal Advisory Committee Act which required that advisory boards fully reflect the views of all the public's interests.

Amendments being offered by Mr. ECKHARDT will help to correct the problems in these sections.

With respect to BLM's enforcement authority, it is important to note that crime of all types is increasing on the public lands, yet in most cases, BLM is now powerless to do anything about it. Except for a few specific statutes such as the Wild Horse Act, BLM does not have authority to make arrests for violations of laws and regulations relating to the land and its resources or to protect the ever-increasing number of visitors to those lands.

Section 302(c) requires BLM to offer contracts to State and local officials to enforce Federal natural resource laws and regulations. Only if those officials do not have authority or refuse to sign such contracts can BLM itself enforce the law. Requiring BLM to defer to local agencies for enforcement, regardless of the local agencies capabilities, is in my view unwise.

Congresman SEIBERLING's amendment would provide BLM with necessary flexibility so that where necessary BLM could exercise enforcement authority and, additionally, could rely on State and local officials for assistance. The bill already provides such authority for the California desert, and it seems only logical to provide similar authority for all BLM lands.

In summary, the amendments I have described will improve some of the bill's most objectionable provisions, and I urge their adoption.

Mr. DODD. Mr. Chairman, I will support the amendment of the gentleman from West Virginia (Mr. HECHLER), and urge the full support of this most important amendment to bring more "sunshine" to Government.

This amendment is particularly appropriate at this time, because I fear it is an understatement to say that many people have lost faith in this Government which exists to serve them.

In part, this has been caused by the too many instances of Government officials making decisions favorable to corporations in which these officials hold an undisclosed financial interest.

Our colleague's amendment is a responsible step toward solving this problem—to begin dealing decisively with these potential conflicts of interest and the lack of confidence they cause.

This amendment deals with potential conflicts of interest among Federal officials making policy governing the management of the most sacred of our public trusts—our public lands. This measure would require every policymaker in the Department of Interior, and that Agency's Bureau of Land Management, to file a public statement of their known financial interests in any matters administered by these two agencies.

By requiring such public disclosure we will be guaranteeing that "open government" will be an important guiding concept regarding Federal land management.

Also, I think that our colleague should be commended for offering this amendment, Mr. Chairman, because it shows his own personal commitment to open government, and how he is willing to do the hard, legislative work necessary to bring such an amendment to the House floor.

In fact, this is the fifth time that our West Virginia colleague has proposed such an amendment to various bills before the House that deal with the operations of Federal agencies. Each time the House has recognized the wisdom of such a measure, and has adopted the previous four. We should do so again.

Mr. Chairman, such continued, effective effort on behalf of open government is something we have come to expect often from our colleague from West Virginia. He deserves our respect for this leadership.

We should pass this amendment in recognition of the soundness of his proposal and because it is in the best interests of the American people.

Mr. DOWNEY of New York. Mr. Chairman, the purpose of H.R. 13777, the Public Land Policy and Management Act, is a laudable one; it is an attempt to rationalize the policy formation and management process of the Bureau of Land Management. Heretofore, the Bureau of Land Management had no legislative mandate; instead policy guidelines were based on a mass of 3,000 separate public land laws, some of which are obsolete, some of which are contradictory in nature, and some of which are duplicative—implying a senseless and needless waste of time and effort.

While the purpose of the bill is a valid one, I feel that the clean bill is clearly unacceptable as it contains several problematic provisions. Let me more clearly enumerate my objections.

First, section 204, the new land withdrawal review, while establishing greater congressional oversight authority, does so in such a brief time frame that we would be seriously overburdened by the excessive paperwork. I will support amendments lengthening the time frame of review and also increasing the acreage size of the lands which would be subject to congressional scrutiny. Also, a particularly troublesome aspect of this provision is the inclusion of wildlife refuges within the congressional purview, an inclusion which may conflict with existing Interior Department authority.

We must not ignore the possibility that the frequency of congressional review, in connection with wildlife refuges would afford the mining and the grazing interests a greater opportunity to lobby Congress to reject these wildlife withdrawals, a rejection which would seriously undermine conservation efforts to preserve our precious national resources.

Another problematic set of provisions are those which pertain to grazing interests, sections 210–212. In section 210, the Santini-Steiger formula will establish a grazing fee at less than the fair market value, and for all intents and purposes subsidizes these interests. I would rather establish a grazing fee retaining the fair market value concept, a concept which is just and equitable, neither unduly favoring, nor unduly undermining, the grazing interests. Furthermore, section 211, regarding the issuance of 10 year leases should only be assented to if "management allotment" plans are required prior to leasing. Only detailed and well thought-out plans for land usage could prevent the perpetration of land abuses. The submission of these management allotment plans would clearly promote the act's intent—the protection and preservation of the Government's property. The last section in this particular set, section 212 creating regional advisory boards, unnecessarily duplicates existing local advisory boards. I would favor those amendments which would eliminate this section entirely.

Last, I am deeply concerned with the weakened effect the law enforcement provision would have on the implementation of the act. In the absence of sufficient Bureau of Land Management legal authority and control, the regulatory efforts and effects of the bill would be negligible. While local, State, Federal cooperation is desirable, the requirement that the Bureau of Land Management could only take over if local authorities refuse to, could only result in undue restrictions in the enforcement of public land laws. Local cooperation should be promoted, but this imposed cooperation only acts as a restraint on the circumstances under which the Bureau of Land Management, or the Department of the Interior, could utilize its own personnel for law enforcement purposes. I sincerely believe the act's purpose could only be effectuated if the enforcement provision is strengthened in the direction of greater Bureau autonomy.

In summary, I would strongly support the Public Land Policy and Management Act if the above provisions are amended, per my objections.

Ms. ABZUG. Mr. Chairman, I rise to express my strong opposition to section 212 of this bill, which establishes grazing advisory boards and provides that they shall have "twice as many livestock representatives as wildlife representatives."

I chair the Government Information and Individual Rights Subcommittee, which has jurisdiction over the Federal Advisory Committee Act. That statute expressly requires that advisory committee legislation "require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee."

Section 212 on its face is violative of this provision, and for that reason alone, it should be stricken from the bill.

Speaking more generally, the Advisory

Committee Act sets forth standards and procedures governing advisory committees. Among those provisions is a "sunset" requirement that the existence of each advisory committee be reviewed every 2 years. If section 212 is removed from this bill, the Secretary will still have the power to establish these advisory boards. What we will not have the power to do—and what this bill would do—is to create these boards in perpetuity. In addition, if the section is stricken and the boards are created administratively under the Advisory Committee Act, the Secretary will have to assure equal representation from all interested parties. That is what the law requires, and that is the fair way to proceed.

I urge that section 212 be removed from this bill.

Mr. STEIGER of Arizona. Mr. Chairman, I have no further requests for time.

Mr. MELCHER. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will read the bill by titles.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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Sec. 212. Grazing advisory boards.
Sec. 213. Management of certain horses and burros.

TITLE III—BUREAU OF LAND MANAGEMENT

Sec, 301. Establishing of Bureau.
Sec. 302. Enforcement authority.
Sec. 303. Service charges, reimbursement payments, and excess payments.
Sec. 304. Deposits and forfeitures.
Sec. 305. Working capital fund.
Sec. 306. Studies, cooperative agreements, and contributions.
Sec. 307. Contracts for surveys and resource protection.
Sec. 308. Advisory councils.
Sec. 309. Rules and regulations.
Sec. 310. Public land program report.
Sec. 311. Bureau of Land Management wilderness study.
Sec. 312. Search and rescue.

TITLE IV—DESERT LANDS

Sec. 401. California desert conservation area.
Sec. 402. Conveyances for recreation purposes.
Sec. 403. King range.
Sec. 404. Withdrawal review.

TITLE V—RIGHTS-OF-WAY

Sec. 501. Authorization to grant rights-of-way.
Sec. 502. Cost-share road program authorization.
Sec. 503. Right-of-way corridors.
Sec. 504. General provisions.
Sec. 505. Terms and conditions.
Sec. 506. Suspension or termination of rights-of-way.
Sec. 507. Rights-of-way for Federal agencies.
Sec. 508. Conveyance of lands.
Sec. 509. Existing rights-of-way.
Sec. 510. State standards.
Sec. 511. Effect on other laws.
Sec. 512. Coordination of applications.

TITLE VI—EFFECT ON EXISTING RIGHTS; REPEAL OF PRIOR LAWS; APPROPRIATION, AUTHORIZATION, AND EFFECTIVE DATE

Sec. 601. Effect on existing rights.
Sec. 602. Repeal of laws relating to homesteading and small tracts.
Sec. 603. Repeal of laws relating to disposal.
Sec. 604. Repeal of laws relating to administration of public lands.
Sec. 605. Repeal of laws relating to rights-of-way
Sec. 606. Appropriation authorization.
Sec. 607. Severability.

TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "Federal Land Policy and Management Act of 1976".

DECLARATION OF POLICY

SEC. 102. (a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership unless as a result of the land use planning procedure provided for in this Act it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before the date of enactment of this Act be reviewed in accordance with the overall land use planning goals set forth in this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide habitat for fish and wildlife; and that will provide for outdoor recreation;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to Congress review of disposals, acquisitions, and exchanges in excess of a specified acreage;

(11) regulations or plans for the protection of public land area of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specified statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

DEFINITIONS

SEC. 103. As used in this Act—

(a) The term "areas of critical environmental concern" means areas within the public lands where special management attention is required when such areas are developed or used to protect, or where no development is required to prevent irreparable damage to, important historic, cultural, or scenic values, or natural systems or processes, or life and safety as a result of natural hazards.

(b) The term "holder" means any State or local governmental entity or agency or any person receiving a right-of-way under title V of this Act.

(c) The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated maangement of the various resources without impairment of the productivity of the land, with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) The term "public involvement" means the opportunity for participation by affected citizens in rulemaking, decisionmaking, and planning with respect to the public lands, including public meetings or hearings held at the local level, advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(e) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) lands located on the Outer Continental Shelf; and

(2) lands in trust for the benefit of Indians, Aleuts, and Eskimos.

(f) The term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purposes listed in title V of this Act.

(g) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term "sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands without significant impairment of the productivity of the land.

(i) The term "wilderness" as used in section 311 shall have the same meaning as it does in section 2(c) of the Wilderness Act.

(j) The term "withdrawal" means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land from one department, bureau or agency to another department, bureau or agency.

(k) An "allotment management plan" means a document based on available information and prepared in consultation with the lessees or permittees involved, which applies only to livestock operations on the public lands or on lands within the National Forest System and which, to the extent the Secretary concerned finds desirable and available information permits:

(1) prescribes the manner in, and extent to, which livestock operations will be concluded in order to meet the multiple-use, sustained-yield, economic and other objectives determined for the lands by the Secretary concerned; and

(2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the lands to meet the livestock grazing objectives of the allotment management plan; and

(3) contains such other provisions relating to livestock grazing found by the Secretary concerned to be consistent with the provisions of this Act and other applicable law.

(l) The term "principal or major uses" includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

(m) The term "department" means a unit of the executive branch of the Federal Government which is headed by a member of the President's Cabinet and the term "agency" means a unit of the executive branch of the Federal Government which is not under the jurisdiction of a head of a department.

(n) The term "lands in the National Forest System" refers only to public domain lands within forest reserves created out of the public domain.

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Melcher: Page 7, line 1, after "values," insert "fish and wildlife resources".

Mr. MELCHER. Mr. Chairman, this is a perfecting amendment to make clear that protection of fish and wildlife resources may be a basis for designating lands as an "area of critical environmental concern" deserving special management attention.

Mr. Chairman, this is an amendment that has been accepted by the majority of the committee and also, as I understand it, by the minority members of the committee. I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. Melcher).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms: On page 3, strike all of subparagraph (1), lines 9 through 12, and renumber the succeeding paragraphs accordingly.

Mr. SYMMS. Mr. Chairman, this is an issue that we have discussed in committee, and I think that the bill would be better if this provision were left out.

What this amendment would strike out of the bill is this: that—

> The public lands be retained in Federal ownership unless as a result of the land use planning procedure provided for in this Act it is determined that disposal of a particular parcel will serve the national interest;

Mr. Chairman, I think it would be better just to leave that unstated. I say that because in the States that are public-land States such as my State where 67 percent of the land is owned by the Federal Government, it becomes a great problem. We have several million acres of land in Idaho, and the water to irrigate it with and that is a resource we have to produce food and fiber for the hungry and the needy of the world.

The Federal land policy in the past was to allow this land to be disseminated as it was need to States or private citizens, in accordance with the Carey Act and others which are still on the books and operative. I would point out to the Members that we should clarify some of the older laws on the books and point out they are still on the books, and that the Federal policy is not to expand its acreage but to disseminate land and convert public lands into private lands, as has happened in many cases.

Mr. Chairman, I think the amendment is self-explanatory and the Members can undersatnd its effect. I think there is no reason for us to have a lengthy debate on it.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman from Idaho (Mr. Symms) has read subsection (1) of section 102, which reads that public lands are to be retained in Federal ownership unless they are disposed of after finding that the disposal will serve the national interest.

The gentleman indicates that it might be better for the Nation if the lands were separated so that they could be used to grow food and fiber.

Would such a purpose not be in the national interest, and therefore comply with the finding of subsection (1) so that there is no need to strike the title?

Mr. SYMMS. The gentleman may well be correct, but it is a policy position. I have some fear of a clouded situation, and the gentleman may have his own interpretation.

I am not trying to strike the title, just that policy provision, so that the issue is not clouded.

Mr. YATES. I used the word "title." I meant the word "section."

Mr. MELCHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the particular lines that the gentleman's amendment would strike are policy declarations.

We feel that this is the implementation of the Public Land Law Review Commission report; and as such, that the words speak for themselves, so that the land that is now in Federal ownership will be managed in the national interest; but in those cases subject to land-use planning, it is felt that the disposal of a particular parcel should be allowed and that that procedure should also be followed.

Mr. Chairman, I think the policy statement was good and sound.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. Symms).

The amendment was rejected.

The CHAIRMAN. Are there any further amendments to title I?

If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—PLANNING FUTURE PUBLIC LAND USE

INVENTORY AND IDENIFICATION

Sec. 201. (a) The Secretary shall prepare and maintain on a continuing basis, to reflect changes in conditions and identifications of resource values, an inventory of all public lands and their resources, giving priority to areas of critical environmental concern. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands. The Secretary of Agriculture shall develop and maintain on a continuing basis a comprehensive and appropriately detailed inventory of all National Forest System lands and renewable resources. This inventory shall be kept current so as to reflect changes in conditions and identify new and emerging resources and values.

(b) As funds are made available, the Secretary shall ascertain the boundaries of the public lands, provide means of public identification thereof including, where appropriate, signs and maps, and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity to such public lands.

LAND USE PLANNING

Sec. 202. (a) The Secretary shall develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of all public lands. Land use plans shall be developed for all public lands regardless of whether such pans previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses. The Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for lands in the National Forest System.

(b) In the development and revision of land use plans, the Secretary concerned shall—

(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) consider present and potential uses of the public lands and of lands in the National Forest System;

(5) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(6) weigh long-term benefits to the public against short-term benefits;

(7) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plan; and

(8) to the extent consistent with the laws governing the administration of the public lands and lands in the National Forest System, coordinate the land use inventory, planning, and managemnt activities of or for such lands with the land use planning and management programs of the States and local governments within which the lands are located and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary concerned shall keep continuously apprised of all State, local, and tribal land use palns; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; and assist in resolving, to the extent possible, any inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public participation, on a continuing basis, of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans under this section shall conform to State and local plans to the maximum extent consistent with Federal law and the purposes of this Act.

(c) Any classification of public lands or any land use plan in effect on the date of enactment of this Act is subject to review in the land use planning process conducted under this section, and all public lands, regardless of classification, are subject to inclusion in any land use plan developed pursuant to this section. The Secretary may modify or terminate any such classification consistent with such land use plans.

(d) With respect to public lands designated for retention in Federal ownership, the Secretary shall manage such public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under this section when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provision of law it shall be managed in accordance with such law.

(e) The Secretary may issue management decisions to implement land use plans developed or revised under this section in accordance with the following:

(1) Exclusions of one or more of the principal or major uses made by a management decision shall remain subject to reconsideration, modification, and termination through revision by the Secretary or his delegate, under the provisions of this section, of the land use plan involved.

(2) Any management decision or action pursuant to a management decision that excludes one or more of the principal or major uses of two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate. If within ninety days from the giving of such notice (exclusive of days on which either House has adjourned for more than three consecutive days), either House adopts a resolution of nonapproval of the action, then the action shall be promptly terminated by the Secretary.

(3) Withdrawals made pursuant to section 204 of this Act may be used in carrying out management decisions, but public lands shall be removed from or made subject to the operation of the Mining Law of 1872 or transferred to another department, bureau, or agency only by withdrawals.

(f) (1) In managing the public lands under a land use plan, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law, regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands: *Provided*, That unless otherwise provided for by law, the Secretary may permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way under section 507 of this Act, withdrawals under section 204 of this Act, and, where the proposed use and development are similar or closely related to the programs of the Secretary for the public lands involved, cooperative agreements under subsection (b) of section 306 of this Act. Nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as infringing on the responsibility and authority of the States for management of fish and resident wildlife. However, the Secretary concerned may designate areas of public lands and of lands in the National Forest System where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety. Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. Nothing in this Act shall modify or change any Federal law relating to migratory birds. Except as provided in section 207, section 311, and subsection (f) of section 401 of this Act and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

(2) The Secretary shall insert in any instrument providing for the use, occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such instrument upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance with applicable State or Federal air or water quality standards or implementation plan: *Provided*, That such violation occurred on public lands covered by such instrument and occurred in connection with the exercise of rights and privileges granted by it. The Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect public health or safety or the environment. When other applicable law contains specific provisions for suspension, revocation, or cancellation of an instrument authorizing use, occupancy, or development of the public lands, the specific provisions of such law shall prevail.

(g) The Secretary shall allow an opportunity for public involvement and participation and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.

SALES

SEC. 203. (a) A tract of the public lands (except and designated as wilderness) may be sold under this Act where, as a result of land use planning required under section 202, the Secretary determines that—

(1) such tract of the public lands because of its location and other characteristics is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal agency; or

(2) such tract of the public lands was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract of the public lands will serve important public objectives, including but not limited to, expansion of communities and economic development which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

(b) Where a tract of the public lands in excess of two thousand five hundred acres has been designated for sale, such sale may be made only after the end of the ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the day the Secretary has submitted notice of such designation to the Senate and the House of Representatives, and then only if neither House has adopted a resolution stating that such House does not approve of such designation.

(c) Sales of public lands shall be made at a price not less than their fair market value as determined by the Secretary.

(d) Sales of public lands under this section shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper in order (1) to assure equitable distribution among purchasers of lands, or (2) to recognize equitable considerations or public policies, including but not limited to, a preference to users, he may sell those lands with modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

(1) the State in which the land is located;

(2) the local government entities in such State which are in the vicinity of the land;

(3) adjoining landowners;

(4) individuals; and

(5) any other person.

(e) The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bidding at his invitation no later than thirty days after the receipt of such offer or, in the case of a tract in excess of two thousand five hundred acres, at the end of thirty days after the end of the ninety-day period provided in subsection (b) of this section, whichever is later, unless the offeror waives his right to a decision within such thirty-day period. Prior to the expiration of such periods the Secretary may refuse to accept any offer or may withdraw any land or interest in land from sale under this section when he determines that consummation of the sale would not be consistent with this Act or other applicable law.

(f) The Secretary shall issue all patents or other documents of conveyance after any disposal authorized by this Act. The Secretary shall insert in any such patent or other document of conveyance he issues, except in the case of land exchanges, for which the provisions of subsection 206(b) of this Act shall apply, such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest. The Secretary may correct such patents or documents where necessary in order to eliminate errors. In addition, the Secretary may make corrections of errors in any documents of conveyance which have heretofore been issued by the Federal Government on public lands.

(g) All conveyances of title issued by the Secretary, except those involving land exchanges provided for in section 206, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except as provided in section 206, and except further that if the Secretary makes the findings specified in section 209(a), the minerals may then be conveyed to the surface owner or prospective surface owner, as the case may be, as provided in section 209.

(h) The Secretary shall not make conveyances of public lands containing terms and conditions which would, at the time of the conveyance, constitute a violation of any law or regulation pursuant to State and local land use plans, or programs. At least sixty days prior to offering for sale or otherwise conveying public lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance.

(i) No tract of land may be disposed of under this Act, whether by sale, exchange, or donation, to any person who is not a citizen of the United States, or in the case of a corporation, is not subject to the laws of any State or of the United States.

(j) The Act of July 31, 1958 (72 Stat. 438, 7 U.S.C. 1012a, 16 U.S.C. 478a), is amended to read as follows: "When the Secretary of Agriculture determines that a tract of National Forest System land is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof: *Provided, however,* That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands."

(k)(1) Notwithstanding the provisions of the Act of September 26, 1968 (43 U.S.C. 1431–1435), hereinafter called the "1968 Act", with respect to applications under the 1968 Act which were pending before the Secretary as of the effective date of this subsection and which he approves for sale under the criteria prescribed by the 1968 Act, he shall give the right of first refusal to those having a preference right under section 2 of the 1968 Act. The Secretary shall offer such lands to such preference right holders at their fair market value (exclusive of any values added to the land by such holders and their predecessors in interest) as determined by the Secretary as of September 26, 1972.

(2) Within three years after the date of approval of this Act, the Secretary shall notify the filers of applications subject to paragraph (1) of this subsection whether he will offer them the lands applied for and at what price; that is, their fair market value as of September 26, 1972, excluding any value added to the lands by the applicants or their predecessors in interest. He will also notify the President of the Senate and the Speaker of the House of Representatives of the lands which he has determined not to sell pursuant to paragraph (1) of this subsection and the reasons therefor. With respect to such lands which the Secretary determined not to sell, he shall take no other action to convey those lands or interests in them before the end of ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the date the Secretary has submitted such notice to the Senate and House of Representatives. If, during that ninety-day period, either House adopts a resolution stating the length of time such suspension of action should continue, he shall continue such suspension for the specified time period.

(3) Within five years after the date of approval of this Act, the Secretary shall complete the processing of all applications filed under the 1968 Act and hold sales covering all lands which he has determined to sell thereunder.

SEC. 204. (a) On and after the effective date of this Act the Secretary is authorized to make, modify, extend, or revoke withdrawals only in accordance with the provisions and limitations of this section. The Secretary may delegate this withdrawal authority only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate.

(b)(1) Within thirty days of receipt of an application for withdrawal, and whenever he proposes a withdrawal on his own motion, the Secretary shall publish a notice in the Federal Register stating that the application has been filed or the proposal has been made and the extent to which the land is to be segregated while the application is being considered by the Secretary. Upon publication of such notice the land shall be segregated from the operation of the public land laws to the extent specified in the notice. The segregative effect of the application shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of the lands by the Secretary, or (c) the expiration of one year from the date of the notice.

(2) The publication provisions of this subsection are not applicable to withdrawals under subsection (e) hereof.

(c)(1) On and after the date of approval of this Act a withdrawal aggregating five thousand acres or more may be made (or such a withdrawal or any other withdrawal involving in the aggregate five thousand acres or more which terminates after such date of approval may be extended) only for a period of not more than five years by the Secretary on his own motion or upon request by a department or agency head. The Secretary shall notify both Houses of Congress of such a withdrawal no later than its effective date and the withdrawal shall terminate and become ineffective at the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and the House of Representatives, either House has adopted a resolution stating that such House does not approve the withdrawal.

(2) With the notices required by subsection (c)(1) of this section and within three months after filing the notice under subsection (e) of this section, the Secretary shall furnish to the committees—

(1) a clear explanation of the proposed use of the land involved which led to the withdrawal;

(2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the Nation;

(3) an identification of present users of the land involved, and how they will be affected by the proposed use;

(4) an analysis of the manner in which existing and potential resource uses and users are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses, including an economic analysis of such continuation or termination;

(5) an analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;

(6) a statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;

(7) a statement of the consultation which has been or will be had with other Federal departments and agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

(8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy;

(9) a statement of the expected length of time needed for the withdrawal;

(10) the time and place of hearings and of other public involvement concerning such withdrawal;

(11) the place where the records on the withdrawal can be examined by interested parties; and

(12) a report prepared by a qualified mining engineer, engineering geologist, or geologist which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases,

evaluation of future mineral potential, present and potential market demands.

(d) A withdrawal aggregating less than five thousand acres may be made under this subsection by the Secretary on his own motion or upon request by a department or an agency head—

(1) for such period of time as he deems desirable for a resource use; or

(2) for a period of not more than ten years for any other use, including but not limited to use for administrative sites, location of facilities, and other proprietary purposes; or

(3) for a period of not more than five years to preserve such tract for a specific use then under consideration by the Congress.

(e) When the Secretary determines, or when the Committee on Interior and Insular Affairs of either the House of Representatives or the Senate notifies the Secretary, that an emergency situation exists and that extraordinary measures must be taken to preserve values that would otherwise be lost, the Secretary notwithstanding the provisions of subsections (c)(1) and (g) of this section, shall immediately make a withdrawal and file notice of such emergency withdrawal with the Committees on Interior and Insular Affairs of the Senate and the House of Representatives. Such emergency withdrawal shall be effective when made but shall last only for a period not to exceed one year and may not be extended except under the provisions of subsection (c)(1) or (d), whichever is applicable, and (b)(1) of this section. The information required in subsection (c)(2) of this subsection shall be furnished the committees within three months after filing such notice.

(f) All withdrawals and extensions thereof, whether made prior to or after approval of this Act, having a specific period shall be reviewed by the Secretary toward the end of the withdrawal period and may be extended or further extended only upon compliance with the provisions of subsection (c)(1) or (d), whichever is applicable, and only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period no longer than the length of the original withdrawal period. The Secretary shall report on such review and extensions to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate.

(g) All applications for withdrawal pending on the date of approval of this Act shall be processed and adjudicated to conclusion within ten years of the date of approval of this Act, in accordance with the provisions of this section. The segregative effect of any application not so processed shall terminate on that date.

(h) Notwithstanding any provision of the Administrative Procedures Act, all new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (e) of this section) shall be promulgated on the record after an opportunity for an agency hearing.

(i) In the case of lands under the administration of any department or agency other than the Department of the Interior, the Secretary shall make, modify, and revoke withdrawals only with the consent of the head of the department or agency concerned, except when the provisions of subsection (e) of this section apply.

(j) The Secretary shall not make, modify, or revoke any withdrawal created by Act of Congress, make a withdrawal which can be made only by Act of Congress, modify, or revoke any withdrawal creating national monuments under the Act of June 8, 1906 (16 U.S.C. 431-433), or modify or revoke any withdrawal adding lands to the National Wildlife Refuge System.

(k) There is hereby authorized to be appropriated the sum of $10,000,000 for the purpose of processing withdrawal applications pending on the effective date of this Act, to be available until expended.

ACQUISITION OF LAND

SEC. 205. (a) Notwithstanding any other provision of law, the Secretary, with respect to the public lands and the Secretary of Agriculture, with respect to units of the National Forest System, are authorized to acquire pursuant to this Act by purchase, exchange, donation, or eminent domain, lands or interests therein: *Provided*, That with respect to the public lands, the Secretary may exercise the power of eminent domain only if necessary to secure access to public lands, and then only if the lands so acquired are confined to as narrow a corridor as is necessary to serve such purpose. Nothing in this subsection shall be construed as limiting the authority of the Secretary of Agriculture to acquire land by eminent domain.

(b) Acquisitions pursuant to this section shall be consistent with the mission of the department involved and with applicable land-use plans.

(c) Lands and interests in lands acquired by the Secretary pursuant to this section or section 206 shall, upon acceptance of title, become public lands, and, for the administration of public land laws not repealed by this Act, shall remain public lands. If such acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to the first section of the Act of June 28, 1934 (43 U.S.C. 315) (commonly known as the "Taylor Grazing Act"), they shall become a part of that district. Lands and interests in lands acquired pursuant to this section which are within boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable thereto.

(d) Lands and interests in lands acquired by the Secretary of Agriculture pursuant to this section and section 206 of this title shall, upon acceptance of title, become National Forest System lands subject to all the laws, rules, and regulations applicable thereto.

(e) In exercising the authority to acquire by purchase granted by subsection (a) of this section, the Secretary may use the Land and Water Conservation Fund to purchase lands which are necessary for proper management of public lands which are primarily of value for outdoor recreation purposes.

EXCHANGES

SEC. 206. Anything set forth in section 203 (a) through (g) of this Act to the contrary notwithstanding, and without compliance with the provisions of section 203 (a) through (g):

(a) A tract of public land or interests therein may be disposed of by exchange by the Secretary and a tract of land or interests therein within the National Forest System may be disposed of by exchange by the Secretary of Agriculture where the Secretary concerned determines that the public interest will be well served by making that exchange: *Provided*, That when considering public interest the Secretary concerned shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, and minerals: *Provided further*, That lands which are part of the National Forest System may be exchanged under the authority of this section only for lands within units of the National Forest System.

(b) In exercising the exchange authority granted by subsection (a) or by section 205 (a) of this Act, the Secretary concerned may accept title to any non-Federal land or interests therein in exchange for such land, or interests therein which he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land or interest to be acquired. For the purposes of this subsection, unsurveyed school sections which, upon survey by the Secretary, would become State lands, shall be considered as "non-Federal lands". The values of the lands so exchanged either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary concerned as the circumstances require so long as payment does not exceed 20 per centum of the total value of the lands or interests transferred out of Federal ownership. The Secretary concerned shall make every effort to reduce the amount of the payment of money to as small an amount as possible.

(c) Lands acquired by exchange under this section by the Secretary which are within the boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable to the National Forest System. Lands acquired by exchange by the Secretary under this section which are within the boundaries of national park, wildlife refuge, wild and scenic rivers, trails, or any other system established by Act of Congress may be transferred to the appropriate agency head for administration as part of, and in accordance with, the laws, rules, and regulations applicable to such system.

RECORDATION OF MINING CLAIMS AND ABANDONMENT

SEC. 207. (a) The owner of an unpatented lode or placer mining claim located prior to the date of this Act shall, within the three-year period following the date of the approval of this Act and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after the date of this Act shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, or a detailed report provided by the Act of September 2, 1958 (72 Stat. 1701), relating thereto.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

(b) The owner of an unpatented lode or placer mining claim or mill site located prior to the date of approval of this Act shall, within the three-year period following the date of approval of this Act, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill site sufficient to locate the claimed lands on the ground. The owner of an unpatented lode or placer mining claim or mill site located after the date of approval of this Act shall, within ninety days after the date of location of such claim, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill site sufficient to locate the claimed lands on the ground.

(c) The failure to file such instruments as required by subsections (a) and (b) shall be deemed conclusively to constitute an abandonment of the mining claim or mill site by the owner; but there shall, however, be no abandonment if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill site.

RECORDABLE DISCLAIMERS OF INTEREST IN LAND

Sec. 208. (a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document or disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative costs of issuing the disclaimer as determined by the Secretary. All receipts shall be deposited to the then-current appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quit-claim deed from the United States.

CONVEYANCE OF RESERVED MINERAL INTERESTS

Sec. 209. (a) The Secretary, after consultation with the appropriate agency head, may convey mineral interests owned by the United States where the surface is in non-Federal ownership, regardless of which Federal agency may have administered the surface, if he finds (1) that there are no known mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(b) Conveyance of mineral interests pursuant to this section shall be made only to the record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(c) Before considering an application for conveyance of mineral interests pursuant to this section the Secretary shall require the deposit of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance. If the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess.

(d) Moneys paid to the Secretary for administrative costs pursuant to subsection (b) shall be paid to the agency which rendered the service and deposited to the appropriation then current.

GRAZING FEES

Sec. 210. (a) Notwithstanding any other provision of law and except where a smaller fee is necessary to meet the objectives of other federally sponsored programs and except where the costs of collection of the fee would exceed the amount collected, the Secretary, with respect to the commercial grazing of domestic livestock on the public lands under the Taylor Grazing Act (43 U.S.C. 315) and the Act of August 28, 1937 (43 U.S.C. 1181a–1181j), and the Secretary of Agriculture, with respect to the commercial grazing of livestock on lands within the National Forest System in the eleven Western States, shall charge an annual fee per animal unit month for such grazing which shall be computed for group I land by multiplying $1.70 by the beef price index minus the cost of production index plus 100 and for group II land, by multiplying $1.40 by the beef price index minus the cost of production index plus 100, where:

(1) Lands will be designated as group I land or group II land as determined by the District Manager in the case of the Bureau of Land Management, and the Forest Supervisor in the case of the Forest Service, using the immediate preceding year or the most recent range survey to determine the amount of forage required for one animal unit month.

(a) Group I land shall be that which requires less than 11 acres to provide sufficient forage for one animal unit month.

(b) Group II land shall be that which requires 11 acres or more to provide sufficient forage for one animal unit month.

(c) The land classifications described in paragraphs (a) and (b) shall be carried to the district or forest unit level. Existing allotment management plans shall be classified as group I land or group II land. All future allotment management plans shall also be classified as group I land or group II land.

(2) The beef price is the price reported to the Statistical Reporting Service, United States Department of Agriculture, representing average prices received for beef cattle in the eleven Western States.

(3) The Cost of Production Index is an index of prices paid by farmers for commodities and services, interest, taxes, and farm wages as collected and published by Statistical Reporting Service, in agricultural prices, United States Department of Agriculture.

(b) The term "animal unit month of grazing" as used in this section means the forage required by the grazing of one cow and calf or its equivalent for a period of one month. One cow shall, for the purpose of this definition, be considered the equivalent of one horse or five sheep or goats.

(c)(1) Congress finds that a substantial amount of the Federal range lands are deteriorating in quality, and that installation of additional range improvements could arrest much of the continuing deterioration and could lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production. Congress therefore directs that 50 per centum of all moneys received by the United States as fees for grazing domestic livestock on public lands (other than from ceded Indian lands) under the Taylor Grazing Act and the Act of August 28, 1937, and on lands in the National Forest System under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region, or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of the on-the-ground range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for on-the-ground range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any other appropriations made to the respective Secretary for planning and administration of the range betterment program and for other range management. Such rehabilitation, protection, and improvements shall include all forms of range land betterment including, but not limited to, seeding and reseeding, fence construction, weed control, water development, and fish and wildlife habitat enhancement as the respective Secretary may direct after consultation with user representatives. The annual distribution and use of range betterment funds authorized by this paragraph shall not be considered a major Federal action requiring a detailed statement pursuant to section 4332(c) of title 42 of the United States Code.

(2) The first clause of section 10(b) of the Taylor Grazing Act (48 Stat. 1269), as amended August 6, 1947 (43 U.S.C. 315i), is hereby repealed. All distributions of moneys made under section 21j(c)(1) of this Act shall be in addition to distributions made under section 10 of the Taylor Grazing Act and shall not apply to distribution of moneys made under section 11 of that Act. The remaining moneys received by the United States as fees for grazing domestic livestock on the public lands shall be deposited in the Treasury as miscellaneous receipts.

(3) Section 3 of the Taylor Grazing Act, as amended (43 U.S.C. 315), is further amended by—

(a) Deleting the last clause of the first sentence thereof, which begins with "and in fixing," deleting the comma after "time", and adding to that first sentence the words "in accordance with governing law".

(b) Deleting the second sentence of section 3.

DURATION OF GRAZING LEASES

Sec. 211. (a) Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on lands described in subsection (c)(1) of section 210 of this Act shall be issued for a term of ten years subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease: *Provided*, That such terms and conditions shall provide that, except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(b) Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that—

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years; or

(3) it will be in the best interest of sound land management to specify a shorter term: *Provided*, That the absence from an allotment management plan of details the Secretary concerned would like to include but which are undeveloped shall not be the basis for establishing a term shorter than ten years.

(c) So long as (1) the lands for which the permit or lease is issued remain available for domestic livestock grazing in accordance with land use plans prepared pursuant to section 202 of this Act, (2) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the lease specified by the Secretary concerned, and (3) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

(d) All permits and leases for domestic livestock grazing issued pursuant to this section shall incorporate an allotment management plan developed by the Secretary concerned in consultation with the lessees or permittees involved. The Secretary concerned may revise such plans from time to time after such consultation. In addition to such other terms and conditions the Secretary concerned deems appropriate for an allotment management plan as defined in subsection (k) of section 103 of this Act, he shall specify therein the numbers of animals to be grazed and the seasons of use: *Provided*, That such plans shall not refer to livestock operations or range improvements on non-Federal lands except where the non-Federal lands are adjacent to, or intermingled with, the Federal lands subject to the plan. The Secretary concerned shall grant to lessees and permittees the right of appeal to him from decisions of the Bureau or the Forest Service which specify the terms and conditions of allotment management plans. The preceding sentence of this subsection shall not be construed as limiting any other right of appeal from decisions of such officials.

(e) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein.

GRAZING ADVISORY BOARDS

SEC. 212. (a) For each Bureau district office and National Forest headquarters office in the eleven Western States having jurisdiction over more than five hundred thousand acres of lands subject to commercial livestock grazing (hereinafter in this section referred to as "office"), the Secretary and the Secretary of Agriculture shall establish and maintain at least one grazing advisory board of not less than seven advisers.

(b) The function of grazing advisory boards established pursuant to this section shall be to offer advice and make recommendations—

(1) to the head of the office involved concerning the management of livestock grazing and wildlife habitat in his area, including, but not limited to, types, location, ownership, and general specifications for range improvements; seasons of use and carrying capacity of the range; and rules and regulations governing livestock grazing and wildlife habitat management under applicable law; and

(2) to the Secretary concerned on proposed rules and regulations relating to livestock grazing and wildlife habitat management on public lands and lands in the National Forest System.

(c) Except in the case where, in the judgment of the appropriate official an emergency shall exist, such official shall request the advice and recommendations of the boards in advance of issuance or modification of grazing leases and permits in cases where the lessee or permittee disagrees with the terms and conditions of a proposed lease or permit or there is a dispute among lessees or permittees over allocation of range resources; issuance of general standards and criteria for livestock grazing operations and wildlife habitat management; and issuance of rules and regulations relating to livestock grazing management. In no case shall an adviser participate in any advice or recommendation concerning a privilege or application therefor in which he is directly or indirectly interested. When, in the judgment of the Secretary concerned, time or lack of funds does not permit the convening of a board for the purposes of this subsection, he may solicit the advice and recommendations of the members of the board by other means.

(d) The number of advisers on each board and the number of years an adviser may serve shall be determined by the Secretary concerned in his discretion. Each board shall consist of livestock representatives, wildlife representatives, and local government representatives, as follows:

(1) one local government representative, or two if the Secretary concerned so decides, and

(2) twice as many livestock representatives as wildlife representatives.

Livestock representatives shall be lessees or permittees in the area administered by the office concerned and shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary concerned. Wildlife representatives shall, by education or experience, be capable of offering expert advice and recommendations on the management of wildlife habitat in such area and shall be appointed by the Secretary concerned. Local government representatives shall be elected officials of local government having jurisdiction over lands in such area and shall be appointed by the Governor of the State in which such officials serve. In the event that appointments to a board are not made by a Governor within a reasonable time specified by the Secretary concerned, that Secretary shall make the appointments.

(e) Each grazing advisory board shall meet at least once annually.

(f) Except as may be otherwise provided by this section, the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1) shall apply to grazing advisory boards.

(g) The provisions of this section shall expire December 31, 1985.

MANAGEMENT OF CERTAIN HORSES AND BURROS

SEC. 213. (a) Section 3 of Public Law 92-195 (16 U.S.C. 1333) is amended by striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) Any wild free-roaming horse or burro which the Secretary determines must be removed from an area in order to preserve and maintain the habitat in a suitable condition for continued use while also maintaining a thriving natural ecological balance and harmonious multiple-use relationship in that area shall be treated as a habitat removal animal for purposes of this section.

"(c) The Secretary may order wild free-roaming horses and burros to be captured and removed in a humane manner when in his judgment—

"(1) they are habitat removal animals within the meaning of subsection (b); or

"(2) they are old, sick, or lame; or

"(3) it is an act of mercy.

"(d) The Secretary is authorized to sell or donate animals which are habitat removal animals within the meaning of subsection (b) on written assurance that such animals will receive humane care and handling and that humane methods will be used in the disposal of such animals. The Secretary shall establish procedures which give priority to persons seeking such animals to keep and maintain for domestic use.

"(e) When the Secretary determines wild free-roaming horses or burros to be old, sick, lame, or habitat removal animals or when it is an act of mercy, he may order them to be destroyed in a humane manner. No habitat removal animal shall be destroyed pursuant to this subsection unless in the judgment of the Secretary such action is the only practical way to remove such animal from the area or range.

"(f) Upon sale or donation, as provided in subsection (d) of this section, or destruction, as provided in subsection (e) of this section, animals shall lose their status as wild free-roaming horses and burros and shall no longer be considered as falling within purview of this Act.".

(b) Sections 9 and 10 of such Public Law (16 U.S.C. 1339, 1340) are renumbered as sections 10 and 11, respectively, and the following new section is inserted after section 8:

"SEC. 9. In administering this Act, the Secretary may use or contract for the use of aircraft or motor vehicles. Such use shall be undertaken only under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.".

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

AMENDMENTS OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer a series of amendments.

The Clerk read as follows:

Amendments offered by Mr. MELCHER: Section 201, page 11, lines 13-16, delete the sentence "The Secretary of Agriculture shall develop and maintain on a continuing basis a comprehensive and appropriately detailed inventory of all National Forest System lands and renewable resources.".

Section 202, page 12, lines 10-12, delete the sentence "The Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for lands in the National Forest System.".

Page 12, delete line 14 and substitute the following: "The Secretary of Agriculture shall coordinate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approved tribal land resource management programs; and the Secretary shall—".

Page 12, line 24, delete the words "and of lands in the National Forest System".

Page 13, lines 10-11, delete the words "and lands in the National Forest System" and line 19, delete the word "concerned".

Page 14, line 13, insert "of the Secretary" after "land use plans".

Section 205, page 32, line 23, add the following after the phrase "with respect to": "the acquisition of access over non-Federal lands to".

Page 34, lines 5-6, delete "and section 206 of this title".

Mr. MELCHER. Mr. Chairman, I ask unanimous consent that these amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

Mr. STEIGER of Arizona. Mr. Chairman, reserving the right to object, I will say to my friend, the gentleman from Montana, that there are two amendments in the group he has at his desk and I would be constrained to object to them.

I can support all but two of them. I do not want to be put in the position of having to object to all of the others. If he would isolate those two amendments, if my friend, the gentleman from Montana, would amend his unanimous consent request to strike amendments numbered 9, 10 and 11 and then we consider the others separately, I would have no objection.

Mr. MELCHER. I so modify my unanimous-consent request.

The CHAIRMAN. Is there objection to the unanimous-consent request of the gentleman from Montana (Mr. MELCHER) to consider his amendments numbered 1 through 8 en bloc?

There was no objection.

Mr. MELCHER. Mr. Chairman and members of the Committee, the purpose of my amendments is to eliminate the applicability of title II of the bill to lands within the National Forest System where other existing law now provide statutory criteria for the activities in question. For example, the Humphrey-Rarick Act now provides for resource inventories and land use planning. Also, there is a substantial body of law now dealing with acquisition and exchange of lands by the Forest Service.

My amendments will preserve in H.R. 13777 the following new criteria and authority:

First. A requirement that the Secretary of Agriculture coordinate national forest plans and programs with those of Indian tribes.

Second. Authority for the Forest Service to acquire lands outside of national forests for the purpose of gaining access to national forest lands.

Third. A requirement that the Secretary of Agriculture consider State and local needs in determining whether an exchange is in the public interest.

I urge that the committee accept these amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Montana (Mr. MELCHER).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. MELCHER: Section 206, page 34, line 21, adds the words "under this Act" after the word "Secretary".

Page 34, line 24, add the words "under applicable law" before the word "where".

Mr. MELCHER. Mr. Chairman, this amendment is a conforming amendment. Along with the other remarks that I have just made I would add that the amendment would remove from this bill provisions where the Department of Agriculture and the Forest Service are now governed by other applicable law.

Mr. STEIGER of Arizona. Mr. Chairman, I have no problem with amendment No. 9 just offered by the gentleman from Montana.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

The CHAIRMAN. The Chair would inquire of the gentleman from Arizona (Mr. STEIGER) if the gentleman has any objection to considering the amendments numbered 10 and 11 en bloc of the gentleman from Montana? The Chair would add that these amendments have not been offered as yet.

Mr. STEIGER of Arizona. Mr. Chairman, I appreciate what the Chair is attempting to do to expedite this process.

Mr. Chairman, I will withdraw my objection to the amendments numbered 10 and 11 as to their being considered en bloc.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Page 35, lines 6–9, change the colon to a period, and delete the words "*Provided further*, That lands which are part of the National Forest System may be exchanged under the authority of this section only for lands within units of the National Forest System."; and line 12, delete the word "concerned".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Page 35, line 20, delete the word "so" and add the following after the word "exchanged": "by the Secretary under this Act and by the Secretary of Agriculture under applicable law relating to lands within the National Forest System."

Mr. MELCHER. Mr. Chairman, this again deals with the remarks I made earlier concerning the rest of the amendments and brings it into line with our intent to only deal with the Forest Service in certain instances. In this particular regard this amendment would conform with my previously expressed remarks.

Mr. STEIGER of Arizona. Mr. Chairman, would the gentleman from Montana yield for a question for the record?

Mr. MELCHER. I will be glad to yield.

Mr. STEIGER of Arizona. I point to the gentleman's amendment No. 8, which is found no page 34 of the bill, in which we strike reference to 206 as applicable to Forest Service lands, and then we proceed to modify 206 to conform with what I thought was the gentleman's main thrust. I do not see the purpose of striking 206 as applicable to the Forest Service. In fact, if the gentleman recalls, one of the main efforts of my concern was that we not generically treat Forest Service exchanges differently from BLM exchanges. As I read this language in amendment No. 8, we are doing exactly that.

I consider this a very basic part of the bill. My attempt, if the gentleman will recall, was to bring about conformity to public land management, wherever that conformity was possible. Clearly this is one in which the only objection is the parochial interest of the agencies involved, and the possibility is a very simple one, so it seems to me that we would advance the cause if we would not delete the reference to section 206 as it applies to the Forest Service.

Mr. MELCHER. Section 206 does not add any new authority to the Forest Service; it just modifies it in two respects: equalization and the criteria that are involved.

Mr. STEIGER of Arizona. If the gentleman will yield further, the problem, as my friend knows, is that the Forest Service adheres to its own parochial rules with regard to exchanges. This 206 sets out not only specific criteria but broadens the applicability of exchanges. I would tell my friend, the gentleman from Montana, that by deleting the reference to 206, the Forest Service is able to retain its current totally parochial point of view and not be forced into conformity with this new matter. If the gentleman would simply withdraw his amendment No. 8, we could probably press right on.

Mr. FOLEY. Mr. Chairman, I rise in support of the amendments offered by Mr. MELCHER to those portions of sections 201–206 of H.R. 13777 which relate to lands in the National Forest System. The bill, as reported by the Committee on Interior and Insular Affairs, includes several matters which are properly under the jurisdiction of the Committee on Agriculture under rule X, clause (1)(a) of the Rules of the House of Representatives.

H.R. 13777 deals primarily with public lands administered by the Department of the Interior. It includes as well a number of provisions which change the laws relating to the national forests administered by the U.S. Department of Agriculture. Although lands in the national forest system are defined in the bill to refer to lands within the forest reserves created out of public domain, the bill has the effect of amending comprehensive statutes which deal with forestry in general which originated within the Committee on Agriculture.

One of the basic general forestry statutes which would be amended by the bill is the Forestry and Rangeland Renewable Resources Planning Act of 1974, familiarly known as the Humphrey-Rarick Act. There are acquired lands in all 44 States in which the national forests exist and in forests created from the public domain in 28 of these States. Attempts to change basic Forest Service legislation so as to affect management of forests created from the public domain would have farreaching administrative implications.

I have discussed with the gentleman from Montana (Mr. MELCHER) the issues presented by these provisions and have reached agreement on the proposed amendments in the interest of committee comity. I have appreciated the willingness of the gentleman from Montana to cooperate in attempting to resolve these issues.

The proposed amendments meet some of the jurisdictional questions by deleting from the bill the provisions that relate to the Humphrey-Rarick Act. Proposed legislation which seeks to strengthen that act and deals in major ways with forestry in general is now pending before the Committee on Agriculture.

The amendments also make certain

other changes in the provisions of H.R. 13777 that relate to the national forests but leaves intact a number of other provisions which affect forestry in general and also involve matters properly under the jurisdiction of the Committee on Agriculture. One of these matters is section 203(j) which deals with disposition of national forest lands for use as townsites. This provision amends an act which was handled in the House exclusively by the Committee on Agriculture and affects all lands in the National Forest System.

I am not interposing any jurisdictional objection to this provision and other provisions of H.R. 13777 relating to lands in the national forests in the interest of committee comity but this should not be construed as derogating from the jurisdiction of the Committee on Agriculture over the matters in controversy.

The CHAIRMAN. The Chair will advise the gentleman from Arizona that we have already agreed to amendment No. 8.

Mr. STEIGER of Arizona. I thought we just adopted the concept of the amendment, I will state to the Chair, but I do not question the Chair's ruling.

The CHAIRMAN. The Chair will tell the gentleman from Arizona that the the question is on amendment No. 11. Amendments Nos. 1 through 8, and 9, and 10 have already been agreed to.

Mr. STEIGER of Arizona. I will tell the Chair that in the future I will be much more attentive to the proceedings. I thank the Chair. My quarrel with amendment No. 8 is redundant and futile.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Page 17, lines 11 and 12, strike out present text and insert the following: "ment. Nothing in this Act shall modify or change any provision of Federal law relating to migratory birds or to endangered or threatened species. Except as provided in section".

Mr. MELCHER. Mr. Chairman, I have a series of amendments which I offer at this time, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

Mr. STEIGER of Arizona. Mr. Chairman, I am constrained to object. Let us do them one at a time and I will not be so apt to doze off.

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The gentleman from Montana (Mr. MELCHER) is recognized with respect to the amendment on page 17, lines 11 and 12.

Mr. MELCHER. Mr. Chairman, the first amendment we are dealing with here is easy to understand. It is a declaration that the act shall not modify or change any provision of Federal law relating to migratory birds or to endangered or threatened species.

I urge the Committee to accept the amendment.

Mr. MILLER of Ohio. Mr. Chairman, will the Clerk read the amendment again? As I understood it, the Clerk read all of the first sentence starting with "Nothing in this Act shall modify or change" but also a part of the second sentence which says "Except as provided in section" which was read by the Clerk.

The CHAIRMAN. Without objection, the Clerk rereport the amendment.

There was no objection.

The Clerk reread the amendment.

Mr. MILLER of Ohio. I thank the Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Page 26, line 1, after "withdrawals" insert "but".

The CHAIRMAN. Does the gentleman from Montana renew his request that the amendments be considered en bloc?

Mr. MELCHER. Mr. Chairman, I do ask unanimous consent that the amendments be considered en bloc because they make more sense if they are.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

Mr. STEIGER of Arizona. Yes, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MELCHER. Mr. Chairman, this exception on page 26, line 1, makes clear that section 204 is a grant to the Secretary of authority to make, modify, extend, or revoke certain classes of withdrawals.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Page 27, line 11, after "Representatives," insert "if".

Mr. MELCHER. Mr. Chairman, this is a correction of a typographical error on page 27.

PARLIAMENTARY INQUIRY

Mrs. MINK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state it.

Mrs. MINK. Mr. Chairman, I have an amendment at the desk which goes to page 27, that same section. The approval of the amendment which is now under consideration would, would it not, preclude my offering the amendment on page 27, line 2?

The CHAIRMAN. The Chair will advise the gentlewoman her rights will be protected. The title is open to amendment at any point and the pending amendment does not affect that portion of the bill.

Mrs. MINK. I thank the Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana, Mr. Melcher.

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Page 32, lines 9 through 15, strike out present text and insert the following:

"(j) The Secretary shall not: make, modify, or revoke any withdrawal created by Act of Congress; make a withdrawal which can be made only by Act of Congress; modify or revoke any withdrawal creating national monuments under the Act of June 8, 1906 (16 U.S.C. 431–433); or modify, or revoke any withdrawal which added lands to the National Wildlife Refuge System prior to the date of approval of this Act or which thereafter adds lands to that System under the terms of this Act. Nothing in this Act is intended to modify or change any provision of the Act of February 27, 1976 (90 Stat. 199–200; 16 U.S.C. 668 dd(a))."

Mr. MELCHER. Mr. Chairman, this amendment makes clear that H.R. 13777 is not to be construed to modify the provisions of the National Wildlife Refuge System Act of February 27, 1976.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Page 35, line 6, after "fiber," Strike out "and minerals" and insert the following: "minerals, and fish and wildlife".

Mr. MELCHER. Mr. Chairman, this amendment makes clear that fish and wildlife goals are valid objectives for exchanges.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. MINK

Mrs. MINK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MINK: On page 26, on lines 22 and 24, strike the word "five" and insert in lieu thereof the word "twenty-five".

Mrs. MINK. Mr. Chairman, as I indicated in the statement I made during general debate, there are two matters in this one paragraph which I find seriously objectionable. If this committee would cure this defect, I believe I could support the legislation. This section goes to paragraph (c)(1) of section 204 and relates to the limitations upon the authority of the Secretary to withdraw lands, in particular, lands for intended mining uses. Under current practices, the Secretary has the authority to make such withdrawals for reasons of preservation of the area or of the resource or for some other finding. The reservations and withdrawals made by the Secretary are, of course, subject to oversight considerations by both Houses and, indeed, our committees have exercised that authority to engage in discussions, investigations, and oversight responsibilities.

I find this provision objectionable because, in effect, what it will do is require that every single withdrawal or recommendation by the Secretary would have to come to the Congress for consideration and for approval or disapproval.

Mr. Chairman, in discussing this matter just a few minutes ago with the chairman of the subcommittee, the gentleman advises me that within recent times almost all the withdrawals over 5,000 acres have been in excess of 20,000 acres; so that with the limitation of 5,000 acres or more currently in the bill what we are, in effect, saying with this language is that all these withdrawals will, in fact, have to come to the Congress for consideration.

While the second amendment I intend to offer is not being considered now, and deliberately, because I think these two ought to be weighed separately, still taken together they suggest how onerous this provision is going to be. This section also says that the withdrawal shall be valid only for 5 years, which means that the Department of the Interior is going to interminably have to be pushing paper or writing justifications, doing the impact statements and coming to the respective committees of both Houses in order to have the withdrawals not only, first, approved, but also to renew them and to continue them beyond the 5-year period.

It seems to me that while the Congress, of course, has the responsibility in all of these matters dealing with public lands, that the Secretary ought to be given the discretion with regard to much of this disposal. So, I would hope that the committee would consider the amendment which I have offered here changing the 5,000 acres to 25,000 acres so that only in the withdrawals where the acreages under consideration exceed 25,000 acres would this procedure have to be followed, and both Houses of the Congress need to be notified with the elaborate explanations which are contained in the balance of this section on pages 27, 28, and 29.

Mr. MELCHER. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I want to make certain that the gentlewoman understands any remark I might have made concerning withdrawals. From 1970 through the entire year 1974, there were 24 withdrawals made that were 5,000 acres or greater. In this year, up until now, there have been two withdrawals proposed that were over 5,000 acres, and those two total approximately 20,000 acres.

I cannot quarrel with the gentlewoman's remarks concerning the 5-year period that is now in the bill. If it were 10 years and an amendment were offered only to that extent, I think we would find a lot of willing acceptors here, but I feel that the 5,000 acres, since it has only involved two withdrawals so far this year and 24 withdrawals during 5 years of a size 5,000 acres or greater during 5 calendar years, and two of that size or greater so far this year, I do not think that is an overwhelming burden for congressional oversight and review. I would hope that the gentlewoman could see our viewpoint on this, that we feel that there should be congressional review and that this is a reasonable acreage floor to establish.

Mrs. MINK. I appreciate the comments of the distinguished chairman of the subcommittee, but I feel that, really, he has not responded to the issue. I believe that the facts will indicate that on almost all occasions with the 5,000-acre limitation as provided in the bill, every single withdrawal would be subject to approval by the House and the Senate. Is that not the case, that in almost every one of these cases the acreages would exceed 5,000 acres?

Mr. MELCHER. If the gentlewoman would yield further, I will say that there are hundreds of withdrawals, perhaps thousands of withdrawals, of less than 5,000 acres. The bulk of the withdrawals made during any calendar year are of less than 5,000 acres.

Mrs. MINK. Well, it would still seem to me that to put the House to the necessity of having to act on a yes-or-no approval of hundreds of the small withdrawals is far in excess of what would be reasonable requirements of oversight by the entire House. The committees of both the House and the Senate have the responsibility to review these determinations, and in fact this has been done. I would hope that this committee would approve the amendment raising the acreage to 25,000 before imposing upon this House the affirmative duty to approve or disapprove, which I assume the House would not be taking lightly and Members would have to study each individual issue presented by the committees.

I would like to advise the distinguished chairman of the subcommittee that the amendments I am offering are being offered separately, and I welcome his support of my second amendment, which is intended to lengthen the time period before a renewal must again be submitted to the Congress in terms of withdrawals.

Mr. STEIGER of Arizona. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Hawaii (Mrs. MINK).

Mr. STEIGER of Arizona. Mr. Chairman, I rise not only in some sort of routine opposition but because this is one of the very basic thrusts of the disputes in this bill.

The gentlewoman and her similar-thinking friends on the committee have tried seven or eight times to expand this acreage so that the oversight of the Congress would be diminished. There were those of us—and I include myself—who felt that the Secretary should have the opportunity of making no withdrawals without the review of Congress.

The 5,000 acres already represent a very strong compromise. I will tell my friends that the concept of turning public land withdrawal options loose again to the whim of the Secretary, inevitably prompted by some Under Secretary, has led to some of the grossest mismanagement of this opportunity.

This bill does not actually correct this with the 5,000 acreages. If this Congress were acting responsibly, if the committee had had the courage of its convictions, we would have had no acreage limitations. We would have said that every withdrawal is the responsibility of the Congress, because clearly the previous Secretaries of the Interior have abused that withdrawal privilege.

I will say to the Members that if we accede to this auction process that the gentlewoman has sponsored, we further jeopardize those public land States and the people who make a living thereon. While we will hear again and again during the rest of the afternoon how obscene it is to make a living on public lands, there are many good people who do so, and they sustain many people who do not live on public lands.

So I will tell my friends that on this one we draw the line. If the gentlewoman wishes to insist and if she should prevail, then the compromise which is permitted, the 5,000 acres, so far as I am concerned, has been breached, and those of us who have been committed to this bill will have no further responsibility to support it.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield for a question?

Mr. STEIGER of Arizona. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, will our esteemed colleague from Arizona give us an example of those instances where the Secretary of the Interior in the past decade or two has abused this privilege?

Mr. STEIGER of Arizona. Mr. Chairman, I think one example, which we do not address in this bill, is taking 1,800 acres of southern Utah for the preservation of the side-blotched uta. I will tell my friend how he can identify it and I will tell the Secretary how he can identify it. It is a noxious lizard, some inch and a half in length, which abounds as a pest in the nearby community of Kanab. The sole purpose of protecting the side-blotched uta, and the same with the sandhill tortoise and other esoteric creatures, half of which I think are figments of the Secretary's imagination, is to prevent mining.

I would tell my friend and those Members who would still the mining industry of this country and the good faith of the people of this Nation, who never have heard of the side-blotched uta and cannot spell side-blotched uta—and I am hopeful that no one will ask me how to spell it because I do not know either, but I think it is with a j—the record is replete with thousands of withdrawals that are capricious, that are at the whim of some group or some local pressure group.

That is the reason we need the protection, as meager as it may be, of this body to prevent promiscuous withdrawals. This is the place to draw the line.

Mr. SANTINI. Mr. Chairman, will the gentleman yield for a question with regard to the side-blotched uta?

Mr. STEIGER of Arizona. I yield to the gentleman.

Mr. SANTINI. Mr. Chairman, I think it is also significant, and the record will reflect, that I made specific inquiry in July 1975, of the Secretary or his representative in committee: Is it true that there has been this preposterous exercise of administrative discretion to provide a breeding ground for who knows what?

I thought it had fur on it, but I was advised it merely has scales. I made that specific inquiry.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. STEIGER) has expired.

(On request of Mr. SANTINI and by unanimous consent, Mr. STEIGER of Arizona was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, if the gentleman will yield further, the Secretary's representative, in wide-eyed expectation, made note of the inquiry from Congress and retreated to make the investigation. To date neither this Member nor the subcommittee nor the full committee has been advised of the status of the breeding grounds of the side-blotched uta.

That is illustrative, I think, of the point that the gentleman makes that there have been abuses in the exercise of administrative discretion, and it is incumbent upon us as legislative Representatives to assume some responsibility and some accountability for these same abuses notwithstanding our love and devotion for the survival of the side-blotched uta.

Mr. Chairman, I thank the gentleman for yielding.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I would like to relate to our colleagues on the floor one of the reasons why I am supporting this particular position.

After the elections in 1968, between November of 1968 and Inaugural Day when there was about to be a change in the administration, Secretary Udall, operating under an Executive order from President Johnson, came forth with a withdrawal of literally thousands of acres. Now, this kind of thing can lead to all sorts of Executive mischief without any kind of congressional oversight and review.

Mr. Chairman, I think this is one of the functions that this Congress needs to assume more often.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am strongly in favor of the amendment offered by our colleague, the gentlewoman from Hawaii (Mrs. MINK). It seems to me that in this discussion somehow the shoe appears to be somewhat on the wrong foot. Since the purpose of withdrawals is to protect the lands that belong to the people of this country, it would seem to me that the granting of permission to use the land ought to be the area where Congress raises questions, and that the protection and preservation of those lands should be encouraged in any way we can, and not made difficult.

Mr. Chairman, I strongly support the amendment.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment, and I rise to correct some possible misunderstandings.

First of all, the language in the bill requires that if a withdrawal of over 5,000 acres is made, the Congress will be so informed that that withdrawal was made, and that if within 90 legislative days either House takes an affirmative step disapproving the withdrawal, the withdrawal is not valid. That is congressional oversight responsibility. Since there is now no system of congressional review and congressional oversight of withdrawals, this is the first positive step that Congress has taken to make that responsibility felt and to exercise that responsibility. So I think the principle is good.

Now, what we are talking about in the gentlewoman's amendment is when we exercise that responsibility. The bill says if it is over 5,000 acres, we have the opportunity to review it. If we do nothing, if neither House does nothing, then the withdrawal goes into effect, but we do have that opportunity within 90 legislative days to object. Then if we do object, in the exercise of our congressional responsibility, then the Secretary cannot make the withdrawal.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, if the gentleman was responding to my remarks, I am afraid that my remarks were not very clear.

I think the bill is absolutely clear, and I think the amendment enormously increases the possibility of passage of the bill, certainly in my particular opinion, because I think the question of where congressional review ought to come is at the point where one asks, Are these public lands going to be open to exploitation?

It is not their withdrawal from exploitation that needs to be checked. It is their use that needs to be supervised, in my opinion.

Mr. MELCHER. Mr. Chairman, I thank the gentlewoman from New Jersey (Mrs. FENWICK); but I think the issue is, Do we want congressional review and where do we establish the point for the congressional reveiw process to take hold?

We have selected 5,000 acres simply because there are not too many withdrawals that are greater, than 5,000 acres. We believe it will not be burdensome for Congress and that it is our responsibility to meet the problem of congressional review for all those withdrawals above that.

The committee feels that Congress will exercise its authority in the public interest, and we feel that sometimes withdrawals are made that are contrary to the public interest and that we have the responsibility to correct that situation.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I want to ask the chairman of the subcommittee, and I think I know what his answer is, but in the committee we took action to require during that 90-day period positive action on the part of Congress in order to negate any Executive action so that every Member of the House or the Senate has a chance to state his or her point of view as it relates to withdrawal; is that not correct?

Mr. MELCHER. That is correct. During that period, of 90 legislative days, the Members of Congress can exercise their responsibility and their authority by attempting to get either body to disagree with the Secretary's withdrawal in case it is against the public interest.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I ask the gentleman this question: It is not the Congress as a whole, but either House that has the veto power, which is quite a different situation than that which the gentleman from California (Mr. DON H. CLAUSEN) stated; is that not correct?

Mr. MELCHER. That is correct. Either House may act by adopting the resolution of disapproval.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I feel that there is a fundamental legislative responsibility here that should be addressed in both the gentlewoman's amendment and comments.

We are substantially endorsing the concept of the Department of the Interior's infallibility if the pending amendment is adopted.

They have made and will make mistakes in the exercise of their withdrawal authority. The question in that context is, Should these mistakes be subject to any congressional scrutiny?

Mr. Chairman, I believe that the contention that this will impose upon our body some overwhelming and onerous responsibility is totally specious and misplaced. There were two withdrawals this last year, one of 12,000-plus acres and another of 7,000. Assuming that they were in the best interest of God, country, and land use, they would not have been subject to reversal by this body. But in any event, they would hardly impose an "onerous" burden.

If they had involved, for example, the creation of another protective habitat for the cousin to the side-blotched uta, the blue-bellied lizard perhaps this body would desire to pursue at least a passing inquiry as to whether or not that was the best exercise of administrative discretion and in the interest of this Nation.

Mr. Chairman, 5,000 is a rational threshold, but 25,000 is a preposterous loophole through which every possible potential for administrative abuse in the withdrawal authority could be exercised.

If a 25,000 acre floor is placed in this legislation it will effectively wipe out and eradicate any congressional oversight because any infounded withdrawal will then be made within the 5,000 to 25,000 acres in order to avoid congressional scrutiny.

I think it is a fair and rational compromise to set a 5,000-acre ceiling. I think it is a fair assumption of our legislative responsibility that there have been mistakes made in the past and they can be avoided in the future, but I think it is imperative that the position of the committee be maintained.

Mr. RONCALIO. Mr. Chairman. I move to strike the requisite number of words.

Mr. Chairman, first of all I want to welcome this opportunity which is the first one in the entire 94th Congress where I have joined issue with my good friend and colleague and soulmate, the gentleman from Nevada (Mr. SANTINI).

Mr. Chairman, I think there are times, and there are many, when we have to ask guidance from ourselves such as on the death blow we gave to the subsidizing of the synthetic fuels program with $6 billion last fall when my good friend from Colorado left the Chamber, thank you for saving me from myself.

Let me say, Mr. Chairman, that had it not been for the authority inherent in the Secretary of the Interior and the President of the United States, the great Grand Teton National Park would never have been created into a national park as it is today, which is one of the most magnificent areas on the face of God's earth, that would never have occurred had it had to have been done by legislation of this Congress. It would never have been done.

It was almost common knowledge in Wyoming some 40 years ago that anyone who would have advocated legislation to create such a park would have been met with guns at the city limits of Jackson Hole, Wyo.

It was only by a ruse that Franklin D. Roosevelt and his old curmudgeon Harold Ickes were able to make such a withdrawal and create that land into a national park which today has earned from the ranchers there, whose parents vehemently opposed it 40 years ago, eternal gratitude for the machinery that made it possible.

So, Mr. Chairman, I believe this amendment should be adopted. To permit a 5,000-acre withdrawal would be a healthy limitation upon the abuse of the machinery necessary to preserve portions of America for the people.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to my colleague, the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I thank my good friend the gentleman from Wyoming (Mr. RONCALIO) for yielding to me. I regret that the gentleman from Wyoming finds himself in opposition to my decision.

However, I think it is important to clarify for the record that Teton National Park was not created by withdrawals, and that national parks are not the subject matter of this particular amendment.

Grand Teton Park was not created by withdrawal, it was created by a congressional act.

Mr. RONCALIO. No, I beg to differ with the gentleman from Nevada, the gentleman is totally in error, thoroughly, totally, and completely in error. It was created by Executive proclamation based upon the withdrawal concept because it was impossible to get a bill passed in either the House or the Senate which would have withdrawn that land, which resulted in 97 percent of the tax bill in the Grand Teton Park going into the Federal Government.

Mr. SANTINI. That was a national monument; was it not?

Mr. RONCALIO. It is a national park. It has been amended by legislation.

Mr. SANTINI. But it was created as a national monument under executive authority.

Mr. RONCALIO. That is precisely correct.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Every national monument is a part of the National Park System.

Mr. RONCALIO. It is now.

We are quibbling about how it came into being and that is what withdrawals are all about. The gentlewoman from New Jersey talked about how they came into being. I think the 5,000-acre limitation is about right. It will save abuses by the Executive and the Congress.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for yielding.

The gentleman certainly has no doubt but what Congress would approve such a withdrawal.

Mr. RONCALIO. I am not about to pass judgment on what this Congress or any other Congress might approve or disapprove. As I say, the Lord gives us the wisdom and the faith to go along with that which we cannot do anything about, and the guts to fight what we can do something about.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SEIBERLING. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, first of all, let me point out that the much bandied about withdrawal of 1,800 acres to protect the side-blotched uta, or whatever it is called, is a withdrawal that would be permitted by the bill as already written, without congressional review. So that is not a very good example.

Second, let me say that we all should know what the real issue is behind the opposition to this particular amendment. It is to expand the ability of private mining interests to go anywhere they want on the public lands, staking out claims and obtaining title to the taxpayers' lands without the Federal Government's having any effective means of blocking it other than by an act of Congress.

The purpose of withdrawal by the Secretary, without waiting for the lengthy process of legislation, is to be able to act promptly to set aside lands that have higher values for other public uses. The Congress can always overrule the Secretary's withdrawal. So the issue is whether the Secretary is going to have flexibility to act to protect threatened areas from private interests who for reasons, which may or may not be in the national interest may want to go in, stake out a claim under the 1872 mining law, and acquire title to the land. We really ought to change that law. A lot of things have happened since 1872, and just maybe that is not the best way to develop our mining resources any more. But for various reasons we have not gotten around to doing that. We are trying to preserve by this amendment a reasonable but still very limited authority of the Secretary to protect areas that are very important for public reasons.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for yielding.

I must remind the gentleman from Ohio that the Secreatry will exercise his authority for withdrawal as he sees necessary under the terms of the bill, Under emergency terms he acts promptly, and there is no review. Under other conditions where it is not of an emergency nature, he makes the withdrawal as he sees fit, and in the amount of acres as he believes the public interest it should be.

The bill only carries with it when it is over 5,000 acres that either House has the option of within 90 legislative days to disagree with him. The bill does not in any way limit or interfere with his authority to make the withdrawal.

Mr. SEIBERLING. It puts a limit of 1 year on emergency withdrawals, and it puts a 5,000-acre limit on other discretionary withdrawals. The gentleman knows there can be varying degrees of an emergency.

Mr. MELCHER. Will the gentleman yield further?

Mr. SEIBERLING. I yield to the gentleman.

Mr. MELCHER. The bill in no way puts a 5,000-acre limit on withdrawals. He makes a withdrawal in the amount that he believes necessary to protect the public interest, and it is only in those cases where the withdrawal is over 5,000 acres that Congress could possibly disagree with him, or more accurately either House could possibly disagree with him.

Mr. SEIBERLING. It gives either House the opportunity to veto a particular withdrawal, which in effect bypasses the normal legislative process.

Mr. MELCHER. I do not believe it bypasses the legislative process, and I believe that the consensus of either House by a majority vote disagreeing with the withdrawal would be a move in the public interest. I think we would find that either House would only move by a majority vote to disagree with the withdrawal when they felt the Secretary was wrong. I think in those cases where the majority feels he is wrong, he should be controlled.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of Colorado. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am surprised—somewhat surprised—by the statements for the amendment because it seems to me I have heard those Members, and I have agreed with them time after time, talk about the need for congressional oversight. I have heard some of the very Members who are standing here today talking in favor of the amendment speak about the arbitrary and capricious nature of executive orders and executive decisions in other areas of the Government, and I have agreed with them.

It seems to me the principle of congressional oversight is sound whether it applies to the Defense Department, the CIA, the FBI, or the Interior Department. I do not think we can pick and choose. I have noticed people around here who tend to say the Defense Department or the CIA can be arbitrary and capricious but they think HUD and HEW and the Department of the Interior can do no wrong. On the other hand, there are people who think HUD and HEW can make arbitrary decisions but they want to turn everything over to the Defense Department.

I think it has been proven time after time that granting authority to the executive branch, whether the Defense Department or the Department of the Interior or the Agriculture Department or the CIA tends to result inevitably in the abuse of the authority. I do not understand why the people who are proposing this amendment think the Department of the Interior is immune from making arbitrary and capricious decisions.

The gentleman from Wyoming made a good point about the establishment of the Jackson Hole area. Nevertheless the people's will, it seems to me, should prevail, and that is all that the language of the bill provides. I think the language of the bill is perfectly valid. I do not understand why people are abandoning the principle of congressional oversight here.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I thank the gentleman from Colorado for yielding.

Mr. Chairman, we can invoke the threat of the Executive or the benevolence of the Executive, but the threat or the benevolence is, of course, always in the eye of the beholder.

I think the gentleman should be aware, as I think he is, but the record also should be aware that the Fish and Wildlife people have come out with a list of 1,700 endangered plant species and they qualify for protection by withdrawal in the same manner as any wildlife, so we must realize that the opportunities for withdrawal are endless, and so when we add those withdrawals to the 67 percent of the land which has already been withdrawn, for better or for worse, we must take all that into consideration. We will be derelict if we let them withdraw the 5,000 acres.

My friend is talking about an action that took place 82 years ago or thereabouts. The protection of the Grand Tetons is as nothing compared to the protection of the entire country.

The gentlewoman is concerned about the lands in the West, as are many people in Brooklyn or Honolulu, but the people who live in the West are assumed to be only rapacious and interested in the destruction of the land.

But I suspect on a man-for-man, person-for-person basis that the love of the land is as valid in the West as it is even in New Jersey, with all due respect.

I will tell the Members who think that somebody in the executive branch has got a better handle on what connotes protection than the Congress does are engaging in the sheerest kind of sophistry and that is not worthy of this group.

The gentleman from Colorado has made an excellent point in the selective invoking of executive dangers and powers. I suspect even in the interest of inconsistency this is one we ought to recognize, but 67 percent of the land has already been lost to so-called exploitation. We had better wake up.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I recognize that the mining companies have love of the land but they love it in order to exploit it and not to preserve it for the enjoyment of present and future generations.

Mr. JOHNSON of Colorado. The gentleman is ignoring the fact that the multiple-use concept is the law of the land. If it is to be changed this Congress should change it.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(By unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 1 additional minute.)

Mr. JOHNSON of Colorado. Time and again we all have run into examples where we have given broad grants of authority to the executive branch and they have abused it, inevitably abused it. I do not understand why we do not learn. The gentleman has learned that other agencies have. I have supported him. I do not understand why the gentleman is inconsistent on this.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, because there are differences; where there is an irrevocable decision, where money is being spent or arms shipped to the Middle East, the Congress must either exercise the veto or the matter is decided and that is the end of it; but if land is set aside by the Secretary and exempt from the Mining Act and that private company cannot go in, the land will still be there and the minerals will be there and Congress at any time can open them up.

Mr. JOHNSON of Colorado. I agree with the gentleman on the first example; but on the second example, I submit that because he has a disagreement with the land law respecting public lands, he is trying to give this authority to the executive branch, because the Congress will not change the law.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(At the request of Mr. RONCALIO, and by unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 1 additional minute.)

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I think the quotation from Ralph Waldo Emerson, not that consistency is the hobgoblin of little minds, it is that foolish consistency is the hobgoblin of little minds.

I recognize that one department's exercise can be another department's abuse. I recognize that the executive, as well as the legislative branch does this; but I think my position is still valid.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, to put this into perspective on the amount of land we are talking about, when we talk about 67 percent of the public land, we are talking about the same amount of land that lies east of the Mississippi, minus the State of Minnesota; so when we take a State like Idaho, which I come from, it is twice the size of the State of Ohio, and 67 percent of the State of Idaho is owned by the Federal Government, believe me, the best managed land in Idaho is that which is not owned by the Federal Government, but the public lands owned by the State of Idaho are managed much better from environmental conservation and productive management than the Federal lands.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, as a member of the subcommittee, I have sat for a year and a half and have listened to this same argument in session after session. It was as confusing then as it is today on the floor.

The real culprit, Mr. Chairman, is the 1872 Mining Act, which lies unmodified and unamended, unchanged, and causes some interests in this debate to be on one side of a logical principle and some on the other side of a logical principle, where they are not usually found. Until that 1872 Mining Act is changed and made relevant for today, we must have such protection and, for this reason, I will support the amendment of the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. Mr. Chairman, I thank the gentleman for yielding.

I think that it is unfair to suggest that in offering the amendment to increase the acreage limitation to 25,000 acres, that I am not aware and conscious of the fact that the executive branch is capable of abuse of its authority. In fact, my offering of the amendment is in recognition of that possibility; but it is offered in the spirit of trying to make this legislation responsible and effective.

I do not believe that having the House of Representatives or the Senate, for that matter, having to review all these withdrawals of such small acreages of 5,000 acres is a responsible function of this body. Given an abuse of executive authority by the Department of Interior with respect to a withdrawal, which is, in essence, an act of trying to preserve an asset of the public domain, then it is already possible for the Committee on Interior to review the withdrawal, to review the arguments of abuse, to review the denials of exploitation which will be coming from the mining industry and the Committee on the Interior could act at that point. This does not in any way deprive the jurisdiction of our committee from functioning in this area of oversight and review.

What I am objecting to is calling upon the House and the Senate, or either body, to have to exercise in each one of these instances affecting small acreages a responsibility of trying to decide whether the executive was right or wrong. I doubt very much whether there will be very many Members of this House who will find the time to analyze the decisions of the executive, to review these decisions. I submit that the public domain, although it exists in a limited number of States in the West, is the responsibility of every Member of this Congress. Therefore, the decisions made by the executive, which I do not feel will be lightly made, should be honored except under extraordinary conditions.

I submit that my amendment of 25,000 acres is a reasonable one and ought to be agreed to by the committee. Any such abuses that would go to acreages of less than 25,000 acres would still be reviewable by the Committee on Interior and Insular Affairs, and I am sure that committee members—all of whom have spoken in opposition to my amendment—would very assiduously follow their responsibilities in the committee and see to it that the Congress would be asked to exercise its judgment on these matters. So, I would hope that my amendment would be agreed to.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I think the point must be emphasized in terms of meaningful oversight, that the two withdrawals last year were hardly onerous. I do not know what it is we fear in terms of the response of this body if it is given a choice of 5,000 versus 25,000. Implicit in this amended proposition is the assumption that this body is going to run helter-skelter down the path of intimidation by the much berated mining entities. I rather doubt it, and I think in the isolated instances of potential abuse that do exist, this body should have at least the option to review and evaluate that possible abuse.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii (Mrs. MINK).

The question was taken; and on a division (demanded by Mrs. MINK) there were—ayes 16; noes 14.

Mr. SYMMS. Mr. Chariman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred one Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Idaho (Mr. SYMMS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 193, answered "present" 1, not voting 47, as follows:

[Roll No. 537]

AYES—191

Adams
Addabbo
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bonker
Brademas
Brodhead
Brown, Calif.
Buchanan
Burke, Calif.
Burton, John
Burton, Phillip
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Coughlin
D'Amours
Daniels, N.J.
Delaney
Dellums
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Giaimo
Gilman
Goodling
Gradison
Gude
Hall, Ill.
Hamilton
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Kasten
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McDade
McHugh
Madden
Madigan
Maguire
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Moss
Mottl
Myers, Pa.
Nedzi
Nix
Nolan
Nowak
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pickle
Pike
Price
Pritchard
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Roush
Roybal
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Stokes
Studds
Thompson
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wilson, C. H.
Wirth
Wolff
Wydler
Wylie
Yates
Zeferetti

NOES—193

Abdnor
Alexander
Allen
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Bennett
Bergland
Bevill
Boggs
Bolling
Bowen
Breaux
Breckinridge
Brooks
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conlan
Cotter
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dent
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Edwards, Ala.
English
Erlenborn
Evans, Colo.
Findley
Flowers
Fountain
Frey
Fuqua
Gaydos
Gibbons
Ginn
Goldwater
Gonzalez
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Hanley
Hansen
Harsha
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lujan
McCollister
McCormack
McDonald
McEwen
McFall
McKay
McKinney
Mahon
Mann
Martin
Mathis
Matsunaga
Melcher
Michel
Milford
Mills
Mitchell, Md.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Murphy, Ill.
Murtha
Myers, Ind.
Natcher
Neal
Nichols
Oberstar
Passman
Paul
Perkins
Pettis
Poage
Pressler
Preyer
Quie
Railsback
Randall
Rhodes
Risenhoover
Roberts
Robinson
Rose
Rousselot
Runnels
Santini
Satterfield
Schulze
Sebelius
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Nebr.
Snyder
Spence
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Ullman
Vander Jagt
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Yatron
Young, Fla.
Young, Tex.
Zablocki

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—47

Abzug
Anderson, Ill.
Andrews, N.C.
Brinkley
Broomfield
Chisholm
Clay
Crane
Derwinski
Duncan, Tenn.
Esch
Eshleman
Evins, Tenn.
Flynt
Green
Harkin
Hays, Ohio
Hébert
Heinz
Hinshaw
Howe
Jones, Tenn.
Jordan
Karth
Krueger
Landrum
Litton
Mazzoli
Mosher
Murphy, N.Y.
O'Hara
Pepper
Peyser
Quillen
Riegle
Rostenkowski
Ruppe
Schneebeli
Shipley
Stanton, James V.
Steed
Steelman
Symington
Teague
Wright
Young, Alaska
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Ms. Abzug for, with Mr. Hébert against.

Mr. Young of Georgia for, with Mr. Landrum against.

Mrs. Chisholm for, with Mr. Young of Alaska against.

Mr. Clay for, with Mr. Flynt against.

Mr. Murphy of New York for, with Mr. Howe against.

Mr. Pepper for, with Mr. Teague against.

Mr. Rostenkowski for, with Mr. Steed against.

Mr. Symington for, with Mr. Jones of Tennessee against.

Mr. Peyser for, with Mr. Steelman against.

Mr. Riegle for, with Mr. Duncan of Tennessee against.

Mr. Eshleman for, with Mr. Quillen against.

Messrs. GIAIMO, TRAXLER, ST GERMAIN, MEZVINSKY, O'BRIEN, WIRTH, PATTERSON of California, ROE, PRICE, ANNUNZIO, DOMINICK V. DANIELS, GOODLING, FARY, HUGHES, and BEARD of Rhode Island changed their vote from "no" to "aye."

Mr. RUNNELS changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. MINK

Mrs. MINK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MINK: On page 27, line 2, strike the word "five" and insert in lieu thereof the word "fifteen".

Mrs. MINK. Mr. Chairman, this amendment that the House will be voting on shortly—and I assume the debate will not be prolonged—is a far more important amendment than the one so closely defeated. It goes to the same section of the bill and it relates to the Secretary's authority to withdraw land from mining, which is essentially the use here under contention.

The Secretary of the Interior is not likely to make these decisions to deny the use of public lands without thorough examination.

Most of us on this side of the aisle are critical of the Department of the Interior because we are aware of enormous pressures brought to bear on decisions with respect to denial of uses of our public resources. Therefore, when the Secretary makes a decision not to have public lands mined or used for such purposes, it ought to be honored by the Congress. It ought not be casually overruled. Withdrawal is an act for preservation.

The provisions of this bill will make it possible for the mining industry to lobby this House and if either this House or the Senate chooses to disapprove the decision of the Secretary, the public lands will be exposed to exploitation.

Under the guise of wanting to enlarge the authority of the House regarding oversight responsibilities, this section offers this House power to disapprove the Secretary's decision to preserve our public lands. The Secretary's decision to protect our lands from harmful exploitation ought to be supported. It ought not to willy-nilly be subject to attack by industry by forcing a vote on each withdrawal. That is what is at stake here.

In this section, in addition to the 5,000-acre maximum, all withdrawals in excess of 5,000 acres now will be subject to a resolution of disapproval by the House or Senate. There is also the limitation that after a withdrawal is allowed, it could only last for 5 years, which means that under the requirements of this bill, which are fairly extensive, almost the very minute that a withdrawal is approved, the Secretary and all of the functionaries in the Department are going to have to go back to the drawing boards, re-do all of the environmental impact studies and justifications, and be prepared in a short period of time to come to the Congress for another review as to whether or not it should be extended for another 5 years.

I submit these decisions are not going to be lightly made, and, when made, will be designed to preserve the public lands for a much greater interest, which is within the responsibility of the Secretary.

I would hope that my amendment, which will simply provide that once a withdrawal has been approved by either House because a resolution has not been offered to disapprove it, that at least the integrity of that decision would be honored for 15 years. That is all my amendment will do. I hope this committee will approve it, and I feel it is highly justified and will strengthen this position.

Mr. MELCHER. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the subcommittee chairman, the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. I thank the gentlewoman for yielding.

The committee is willing to adhere to the admonishment of the gentlewoman, and we are willing to accept in lieu of 5 years, 10 years, which would accomplish the goal she gets out to do. I find that 15 years is a rather odd figure. We are willing to accept 10.

Mrs. MINK. I am very pleased to note the gentleman's generosity. But in committee we argued for a 25-year sanctity for the withdrawal term, and it was already in the spirit of compromise that I offered the 15 year amendment. So I believe I have gone down to the end. I simply cannot see the rationale for making it 10 years for the sake of further compromise. I hope the committee will consider this provision very carefully and accept the 15-year basic term for all withdrawals.

Mr. STEIGER of Arizona. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would simply like to point out that this particular Pied Piper, this particular circus that we are dancing in, the gentlewoman from Hawaii is asking us to believe that every Secretary's decision from now on out is going to be so sacred and so valid and the Secretaries are going to be so omniscient that they can see all of the energy and research needs for this country for the next 15 years, they do not need any congressional advice.

I will simply state that not only has every Secretary not been omniscient, but the Secretaries of the Interior have proven themselves uniformly ill-equipped to make the kind of decision we are talking about, that instead of a 5-year period it will be 15 years.

Mr. Chairman, I agree with the gentleman from Montana (Mr. MELCHER). If 5 years is somehow administratively offensive, let us go for 10 years.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I have an amendment at the desk, and when I can be recognized, I will offer that amendment providing for a 10-year period.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

I would just like to point out to the members of the Committee that this whole thought process of withdrawals of mineral lands is operating under a premise that somehow the politicians and the bureaucrats are going to be able to know where the minerals are. Coming from a mining State, a State where mining is a big and an important industry affecting our lives and our livelihoods, I know we have found out that mining engineers, in order to extract minerals from the Earth, have to mine where the minerals are.

We cannot be making these arbitrary withdrawals haphazardly without doing violence to our economy and to our real environmental life, which requires putting bread and butter on the table and providing warm houses to sleep in. I think the whole concept is wrong. I prefer to stay with the 5 years. Ten years is better than 15 years, and even 5 years is probably too many.

AMENDMENT OFFERED BY MR. MELCHER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MRS. MINK

Mr. MELCHER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER as a substitute for the amendment offered by Mrs. MINK: In section 204(c)(1) on page 27, line 2, strike the word "five" and insert in lieu thereof "ten".

Mr. MELCHER. Mr. Chairman, there has been adequate debate on this matter. It is a question of whether the House wants to move or not. I think we ought to move, and therefore, I have offered the amendment providing for the 10-year provision.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the Melcher substitute and in support of the Mink amendment.

I just want to say that the notices that went to Members from the various conservation groups that are supporting the amendment in question mention the Seiberling amendment. The Seiberling amendment would change the period from 5 years to 25 years. The amendment offered by the gentlewoman from Hawaii (Mrs. MINK) would change the period from 5 years to 15 years. That is a considerable compromise, and I think it is a reasonable one. We should not allow it to be whittled down some more.

There is no provision for this in the

Senate bill, and, therefore, there will only be before the conference whatever the House votes today. It seems to me that we should give the Secretary some flexibility for sound land management, so that the mining corporations cannot go in and take the public land in cases where there are other more significant public interests involved.

Therefore, Mr. Chairman, I oppose the Melcher substitute and support the Mink amendment.

Mr. LEGGETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this legislation touches on programs and laws under the jurisdiction of the Committee on Merchant Marine and Fisheries. We have offered some eight amendments to the Committee on Interior and Insular Affairs that would overcome our concerns as they relate to these matters, and the chairman of the subcommittee, Mr. Melcher, has very generously accepted five of those and rejected the other three. We are not going to offer the other three amendments.

I rise in support of some period of unimpaired withdrawal in excess of 5 years. I will probably sound my voice in favor of the amendment offered by the gentlewoman from Hawaii (Mrs. Mink). I think that some period in excess of 5 years in clearly required.

I would like to reaffirm with the chairman of the subcommittee that with respect to refuge lands, with which my Subcommitee on Fishery and Wildlife Conservation and the Environment is concerned, we are not concerned there in light of the amendments that have been offered and accepted by the House. That relates to refuges, and I have reference to the time period for review. They can be reviewed.

However, the legislation, H.R. 5512, which the Congress passed earlier this year that resulted in the enactment of Public Law 94–223, still requires that before any lands which are placed or accepted as refuge lands in the National Wildlife Refuge System such lands can only be taken out of refuge status by a subsequent act of Congress. Consequently, any withdrawn lands that are placed in the National Wildlife Refuge System pursuant to this legislation, then they can only be taken out of that system by a subsequent act of Congress. I will ask the gentleman, is that correct?

Mr. MELCHER. If the gentleman will yield, yes, that is correct.

Mr. LEGGETT. All right. Mr. Chairman, I am not going to pursue that any further. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. Melcher) as a substitute for the amendment offered by the gentlewoman from Hawaii (Mrs. Mink).

The question was taken; and on a division (demanded by Mrs. Mink) there were—ayes 75, noes 55.

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii (Mrs. Mink), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: On page 41, strike line 10 and all that follows through line 7 on page 43. Insert in lieu thereof the following:

Sec. 210(a)(1) The Secretary with respect to the commercial grazing of livestock on the public lands under the Taylor Grazing Act (43 U.S.C. 315) and the Act of August 28, 1937 (43 U.S.C. 1181a–1181j), and the Secretary of Agriculture with respect to the commercial grazing of livestock on lands in the National Forest System, shall charge, commencing with the calendar year 1980, an annual fee or fees per animal unit month for such grazing which shall be the approximate fair market value of the forage provided as determined by them.

(2) The Secretary and the Secretary of Agriculture, after notice and opportunity for public comment, shall make studies to determine the basis for establishing fair market value fees for the use of forage to be provided from the public lands and lands in the National Forest System and report to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 1979, the results of such studies and the basis they intend to use for establishing fees for the use of forage to be provided from such lands. Each ten years after such initial study the Secretary and the Secretary of Agriculture shall review such basis and similarly report to the President of the Senate and the Speaker of the House of Representatives.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Chairman, the portion of the bill which is stricken by this amendment is that portion which sets up a grazing lease formula, a grazing lease formula that is, I believe, extremely artificial and deficient in its terms.

Indeed, in the supplemental views of the gentleman from Nevada (Mr. Santini) and of the gentleman from Arizona (Mr. Steiger), the principal advocates of the formula, which appear on page 227, they say:

While we are fully supportive of the grazing fee provisions in section 210, we recognize that two inadvertent omissions in the language of this section have the undesirable effect of leaving ambiguous the procedures intended by the Committee in calculating the grazing fee.

Section 210 makes reference to a Cost of Production Index; however, the definition of this term contained in subsection 210 is deficient in that a base period for calculation is not stated. The appropriate base period is 1964–68.

Section 210 also refers to a Beef Price Index; however, this term is not defined.

This amendment to section 210 will change the method of computing fees charged for the privilege of grazing privately owned animals on public lands.

The formula in the bill, to which I have referred, to be used to compute fees is unfair. The best estimate now available for fair market value of forage on the public lands is about $1.94 per animal unit month. This bill would set the base for computation of fees at $1.70 for lands requiring less than 11 acres to provide an animal unit month of grazing. Under the formula this would figure out to $1.48 had the formula been applicable in 1976. Of course, the formula would not be in effect to set grazing fees until 1977.

Mr. YATES. Mr. Chairman, will the gentleman tell us what this amendment does? Does it strike the provision in the bill which establishes a new formula, thus leaving the present law in force and effect?

Mr. ECKHARDT. That is precisely what it does.

Mr. YATES. And the present law, if the committee report is correct, says that such grazing fees are established by the Secretary of the Interior on the basis of reason.

Mr. ECKHARDT. That is right.

Mr. YATES. So that they are required to establish a reasonable fee. There is a very serious question as to whether the formula established by this committee does create a reasonable fee, is that correct?

Mr. ECKHARDT. I think it is quite clear that it sets fees that are unreasonable because under the formula the amount per animal month would continue to go down instead of up.

Mr. YATES. Mr. Chairman, I want the gentleman from Texas to know that I support his amendment. I think it is a good amendment.

Mr. ECKHARDT. I thank the gentleman.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Is it not true that under the fee formula set up in the bill that those who are fortunate enough to be grazing their cattle on public lands would have a competitive advantage over private land owners who are, by the very nature of our free enterprise system, paying what the market value of the land is for grazing purposes?

Mr. ECKHARDT. That is true, it is at about the rate of 70 cents per animal month. Using the estimates of the Department of Agriculture, the formula would bring the figure down to $1.24 in the year 1977, the first year that this would be applicable, that is 70 cents below what would be the fair market value as has been estimated by the Department of Agriculture and the Department of the Interior.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SANTINI. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, I believe the fundamental premise must be understood by the membership if they are going to vote in support of the existing amendment, and that is that the gentleman from Texas (Mr. Eckhardt) is proposing that we return to the status quo which everybody concedes is chaotic and inequitable.

The status quo is that public land grazing fees will be based upon a leased rate index. The leased rate index in turn is computed on the basis of what it costs to graze on private lands.

For those Members who have had the good or the bad fortune to visit my district and the grazing areas, they know there is quite a difference between the lush pastures of the outlying areas of Las Vegas, central Nevada, and some areas of northern Nevada when compared to the lush pastures of the gentleman from Texas' district.

The point is that we have an existing formula that all parties of interest concede is a bloody mess. The problem is what solution are we going to provide in substitution therefor?

I believe that the formula that was adopted both by the subcommittee and the full committee that recognizes the cost of doing business and the price of beef cattle has the central ingredient in the formula and says that there are two different types of public grazing areas, some very sparse and some very lush, and that this point should be a factor in any formula that we offer in a statutory context. I believe that that formula, contrary to the representations of my distinguished colleague, the gentleman from Texas, will increase the cost of grazing if the price of cattle is increased. It is fair in the sense that it recognizes a cost of doing business and that the livestock industry on the public lands is not the livestock industry that enjoys the benefits of private land grazing. They do not have the same water resources; they do not have the same fencing; they do not have the herd control; they do not have the foliage opportunity; and they do not have the same handling rate. It is an entirely different industry operation.

We worked for 16 months and received the support of both the subcommittee and the full committee in recognizing that this formula was fair, that it was equitable, and that it would take into account the basic realities of public land grazing, which are not the realities of private land grazing.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I will be happy to yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The gentleman is absolutely correct that grazing lands differ greatly. It is true that in my county, which, incidentally, few people perhaps know is about the third largest population of cattle of any county in Texas, there are lush grazing lands; but the cost of using those lands is vastly higher than the figures involved here. On the other hand, lands around Pecos and around the King Ranch, the brush country, mesquite country, is not any better than much of this land. In fact, much of it is far poorer then the best of the Federal lands. What we are talking about is an estimate by those departments of government of a fair market value for the use of the land.

Mr. SANTINI. I want to retrieve some of my time to finish my presentation.

Mr. ECKHARDT. I thank the gentleman.

Mr. SANTINI. If my formula had been in effect in 1973 or in 1974, the formulas would have been higher in both of those years, because the price of beef was higher in both of those years. It would have surpassed the existing lease rate index formula that the gentleman proposes as a temporary solution, and a road to nowhere.

This matter has been studied. It was studied in 1966. As a result of that study in 1966, the lease rate index formula was implemented. That formula was ill advised and aborted at birth, and I hope we will not renew the aborted effort.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEAVER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I sympathize with the gentleman from Nevada. He has labored long and hard to come up with an equitable formula. I sympathize with the cattlemen of this country who are presently selling the product of their hard work and their investment for $50 to $100 a head less than it cost them. But, Mr. Chairman, we have here a formula in the present bill with two variables, and if the functions of these two variables get askew, we could actually have the fee go to zero. There would be no fee at all. So all we are seeking is a fair market value.

Presently the average for private lands for such forage is about $5.50 an animal unit a month. The Bureau of Land Management is charging only $1.54. We are asking fair market value to be determined by the Department of the Interior and they should take into consideration the price cattlemen are getting for their cattle, and if they are not getting enough for the cattle that should be taken into consideration in the formula.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the Department of Agriculture estimated for me how the formula would work in future years. In 1977 the fee per animal unit month would be $1.24; in 1978, $1.16; in 1979, $1.14; in 1980, $1.12; in 1981, $1.09; and in 1982, $1.07.

So will the gentleman agree with me that this seems a topsy-turvey method of calculation in which the cost of the lease goes down as time passes by?

Mr. WEAVER. Yes. It is just not a satisfactory formula.

Mr. ECKHARDT. And of course the difficulty is that the formula is not corrected from year to year with respect to various factors that ought to be taken into account. There is no base period, as has been indicated by the gentleman who advocates it.

Mr. WEAVER. Exactly, and the formula of the gentleman from Texas simply states fair market value.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Illinois.

Mr. YATES. Is it not true the amount paid in this bill may amount to a ripoff of the taxpayers of the country because of the low prices that will be received in grazing fees? The Secretary of Agriculture for Forest Service lands and the Secretary of the Interior are now required to establish reasonable fees. As a matter of fact they have not been establishing reasonable fees. They have been establishing fees that are at too low a level when one compares the fees with what those fees are with respect to private lands. There is no doubt about the discrepancy in the value between the two types of lands, but the fact remains the taxpayers are not receiving a fair return for their grazing fees. The formula established in this bill makes it worse.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Nevada.

Mr. SANTINI. The gentleman has conceded the formula is not fair, nor is it a reflection of the value of the public land grazing.

Mr. WEAVER. I believe the formula is too low in general. That does not take into consideration the fact that cattlemen are losing money today. I understand that.

Mr. SANTINI. As far as the question of fair grazing fees, I do not think anyone contends there is a comparison between the public and the private lands. The proposed amendment would only continue or perpetuate the existing grazing fee calamity.

Mr. WEAVER. I agree with the gentleman there is a difference between public and private lands in general.

Mr. SANTINI. But this amendment is dragging us into the morass that we have been trying to extricate ourselves from.

Mr. MELCHER. Mr. Chairman, I rise in opposition to the amendment.

Much of what has been said here about not receiving a fair market value for the use of public lands in grazing is correct. But the gentleman from Texas offers us an amendment which says that we are going to study this until 1980 and then impose some sort of fair market value. I am greatly in favor of a better approach for grazing fees than is found in the bill but I cannot accept this amendment as a sound way of getting at that. I find myself in a position of hoping for a better arrangement in conference than probably what we are going to get here on the floor.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, the amendment does not do precisely what the distinguished chairman of the subcommittee has said. The amendment requires fair market value. The study is to direct the agency's attention to the very important question of further perfecting the method of determining fair market value. The fair market value would be the same as is established now and the amendment mandates upon the Department the duty of looking at the matter further.

Mr. MELCHER. I reviewed the matter further and I still see it says commencing with the calendar year 1980.

Mr. ECKHARDT. That is not correct. The amendment says in the first paragraph that fair market value shall be the determinate factor at this time. It would go into effect and be in effect continuously from 1976, which has already been applied, through 1977 and on down the line.

As far as the study, the fair market value is not contingent upon the finality of the study.

Mr. MELCHER. Mr. Chairman, the first paragraph says that the Secretary shall charge, commencing with the calendar year 1980, an annual fee or fees per animal unit month for such grazing which shall be the approximate fair market value. I find that it is 1980.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, there is probably a good reason for the committee taking the action, but the question occurs to me, why not put the lands up for a free bid without having the bureaucracy determine the market values in a settlement?

Mr. MELCHER. The question of putting public lands up for bid has been reviewed continuously by Congress and the Departments. We find in many instances that the smaller operators would be simply outbid by the larger operators and we would have no small operators left, so we continuously have supported the type of operation on BLM lands and Forest Service lands where there is a continuation of a permit or leases based on other criteria other than the highest bidder. This generally serves to protect the small operators.

Mr. STEIGER of Arizona. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment of the gentleman from Texas.

I also rise in opposition to what I know are the sincere, well-intentioned mouthings and utterings of good men who are dead wrong in their various assumptions.

Mr. Chairman, I have never seen so many people so dedicated to a subject about which they knew so little. The equation that has been made constantly, and has been made three or four times this afternoon, between the comparability of private grazing land and public grazing land simply is not operable, period. The fact it appears to some to be applicable seems to be enough to launch an esoteric argument, to those I will simply say as far as this Member is concerned the formula that was hammered out here takes into account all the comparable values involved in this entire situation. It is really not that complex. It has been made complex by the imagery that somehow this is an environmental issue. I will tell my friends, as I suspect most of them know, this is not an environmental issue. This is an issue for people who are going to use public lands for a very specific use. It is an attempt made in this bill to stabilize the industry and stabilize a return to the country. It is an honest attempt. It is the closest we have ever come in my 10 years in Congress to achievement. It does not need more study. It does not need more rhetoric. It does not need more input from the Committee on the Interior. It just needs to be listened to.

Mr. Chairman, I am going to tell my friends that I am going to yield back the balance of my time, because in this situation we must vote down the amendment of the gentleman from Texas, for a very good reason. The gentleman from Texas has no public grazing in his State and, therefore, the gentleman's interest is objective, and everybody knows that is the worst kind of interest.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, no grazing in my State?

AMENDMENT OFFERED BY MR. YATES AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ECKHARDT

Mr. YATES. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. YATES as a substitute for the amendment offered by Mr. ECKHARDT: Page 41, strike out line 10 on page 41 and all lines thereafter on page 41.
>
> Strike out all language on pages 42, 43, 44, and on through line 19 on page 45.

Mr. YATES. Mr. Chairman, my amendment proposes to do what I thought was done by the amendment offered by the gentleman from Texas, which was to strike out the portion of the bill which establishes a new formula for grazing fees. I will continue the present formula which is in the law.

According to the report of the committee itself on page 11, it is said as follows:

> Existing law calls for "reasonable fees."

Mr. Chairman, my amendment proposes to continue to permit the Secretary of Agriculture and the Secretary of the Interior to establish reasonable fees for grazing on public lands without respect to this kind of a jerrybuilt formula which has been placed into this bill.

I do have some interest in the matter and some knowledge about it because, as chairman of the Appropriations Subcommittee which deals with the public lands, we have been presented with evidence showing that, over the years, grazing fees are inadequate. The grazing lands of the West are being grazed out. They need rehabilitation. Our committee is now placing a substantial amount of money into the rehabilitating of grazing lands so that they will become useful again. A greater comparability will exist with the private lands.

The private lands now receive as much as four or five times more for grazing fees, depending on the condition of the lands, than do the public lands, no matter how lush or how plentiful the public lands are. While it is true that these are not now the condition of the public lands, for the most part, that the distinguished gentleman from Nevada has described, the fact is that with the funds and with the program that our committee has established and which has been voted on in the appropriations bill by the House, that a program for rehabilitating those lands is being established.

I think there ought to be a scale of higher fees. As I read the gentleman's formula in the bill, if there is an inefficient operator whose costs of production are higher than they should be, he is protected nevertheless. He will not have to pay for his inefficiency. The formula in this bill makes no difference between efficient and inefficient producers. No such formula is established for the private lands. They can lease their land for whatever the market will bear. I think public lands should operate under the same standard—what the market will bear, a reasonable fee.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I appreciate the sincerity with which the gentleman offers his observations and his substitute amendment, but I wonder if the gentleman is informed of the fact that the ingredients in my formula were agreed to by the Secretary of the Interior, the Secretary of Agriculture and advanced and advocated—but that OMB ultimately put the ax to what would have been a comparative formula that we are examining in the committee bill this afternoon. The Secretaries examined these considerations, and felt that a fair market reflection should include that basic formula factors that I have urged.

Mr. YATES. I did not know that, but I do know what is contained in the letter of the Secretary of the Interior on page 53 of the report. It says:

> The Committee Print of H.R. 5224, which is now under consideration by the full Committee, is completely unacceptable to the Administration. This bill constitutes a serious infringement on the power of the executive in the day to day administration of the public lands. When considered as a whole, this bill would create a statutory quagmire which would be impossible to administer.

I submit that the formula that is in this bill for grazing fees sustains the statement by the Secretary that this would create a statutory quagmire impossible to administer.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word, and I wish to speak against the substitute amendment.

Mr. Chairman, I hope Members will listen to me on this proposition. The amendment I am offering is a very moderate amendment. What the amendment does is this, during the 10-year period from 1969, permits the Department to continue its present program to move these grazing fees by stages to fair market value, so I do not roll that back to the present time.

Presently, the grazing fees on the better lands are about $1.50. Now, that is approximately what the Santini formula would bring at the present time, but the difficulty is that if we used the formula proposed in the bill, the Santini formula, we go down from about $1.48 in 1976, as I pointed out before, to $1.24 next year, and then to $1.16 the next year, and so on down to 1981, to $1.07.

What I am urging is to leave the husbandry of our public lands to the Department of Agriculture and to the Department of the Interior during this interim period, not to command the structured fee contained in the Santini formula. That is what I am arguing for.

I think if we want to strike a middle ground, we should vote down the proposed amendment, we should vote for my amendment, and then we will continue the present program and ultimately bring about the proper formula, which I think is fair market value.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding.

May I ask the gentleman what is the preposterous basis on which he hypothecates that within 2 years the fee is going to be reduced, because we have to be dealing with an unknown quantity.

Mr. ECKHARDT. That is to a certain extent true. In other words, we are going to have to make an estimate with respect to future years.

Mr. SANTINI. If the gentleman will yield further, I can hypothecate it up to 10 years if the gentleman wants.

Mr. ECKHARDT. Let me say this to the distinguished gentleman: I have had these matters figured out on his formula. There is no question that if the figures upon which the formula is based continue in accordance with the present trend, the figure will be down by about 50 percent.

Mr. SANTINI. From the standpoint of deductive reasoning, the gentleman puts the figures in between to fit his conclusion.

Mr. ECKHARDT. Before we get into these details, I hope the gentleman will agree with me that the amendment offered by the gentleman from Illinois (Mr. YATES) is much too strict at the present time.

Mr. YATES. Mr. Chairman, will the gentleman yield, since he has mentioned my name?

Mr. ECKHARDT. I yield to the gentleman from Illinois (Mr. YATES).

Mr. YATES. I thank the gentleman for yielding.

The gentleman proposes to establish the formula of fair market value. The formula which I say is in the present law is reasonable value. How much difference is there between the two formulas?

Mr. ECKHARDT. At the present time, about the difference between $1.50 and $1.95. If the gentleman's amendment went into effect, we would have to immediately move the rate from about $1.50 to $1.95.

Mr. YATES. But the gentleman's amendment does not go into effect until 1980.

Mr. ECKHARDT. But presently the Department is moving the figure upward.

The CHAIRMAN. The amendment offered by the gentleman from Texas (Mr. ECKHARDT) is a perfecting amendment to section 210. The "substitute" offered by the gentleman from Illinois (Mr. YATES) is, in effect, a motion to strike the entire section against which no point of order was raised.

The first vote will be on the perfecting amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 14, noes 40.

So the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YATES) to strike out the section.

The question was taken; and on a division (demanded by Mr. YATES) there were—ayes 14, noes 46.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. JOHNSON OF COLORADO

Mr. JOHNSON of Colorado. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of Colorado: Add a new section at the end of Title II to read as follows:

MINERAL REVENUES

SEC. 214. (a) Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. 191) is further amended by deleting "52½ per centum thereof shall be paid into, reserved" and inserting in lieu thereof: "40 per centum thereof shall be paid into, reserved", and is further amended by striking the period at the end of the proviso and inserting in lieu thereof the following language: ": Provided further, That an additional 12½ per centum of all moneys received from sales, bonuses, royalties, and rentals of public lands under the provisions of this Act and the Geothermal Stream Act of 1970 shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said additional 12½ per centum of all moneys paid to any State on or after January 1, 1976, shall be used by such State and its subdivisions as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.".

(b) Funds now held or to be received, by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as 'C–A'; 'C–B'; 'U–A' and 'U–B' shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services."

Mr. JOHNSON of Colorado (during the the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. JOHNSON of Colorado. Mr. Chairman, this amendment has two portions to it. Both of them have previously been adopted by this body and included in the Coal Leasing Act which has been vetoed by President Ford.

The first section, section (a), contains a proviso that would increase the royalties to the States from 37½ to 50 percent. The additional 12½ percent would be spent for purposes other than roads and schools, and pursuant to the legislative will in each State, it would be spent for planning, construction, and maintenance of public facilities, and provision of public services.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, this is the same language on which the House worked its will and passed overwhelmingly, and then the bill was vetoed by the President; is that correct?

Mr. JOHNSON of Colorado. These two provisions were contained in the Coal Leasing Act that was passed, and the President, as I understand from the newspaper accounts, indicated that he was in favor of section (a) providing for the increase in lease payments to the States.

Mr. MELCHER. Mr. Chairman, the gentleman is offering to the House something which the House has overwhelmingly approved before, and I hope we can accept the amendment without further ado.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, I would like to commend the gentleman for offering his amendment, and I hope it receives strong support.

Mr. JOHNSON of Colorado. I thank the gentleman.

Mr. DON H. CLAUSEN, Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I appreciate the gentleman from Colorado, yielding to me and want to commend him for offering this amendment.

We have been working for years to bring about some form of equity for our counties and political subdivisions that do not receive an adequate share of the revenues from mineral leases on public lands, and, in particular, the geothermal energy leases. The counties with a high percentage of their tax base lost due to Federal ownership are desparately in need of revenue sources that will broaden their tax base and permit them to meet the increasing costs associated with demands and services of the public at large and the other factors associated with Federal land ownership and management.

I strongly support the amendment and urge my colleagues to do likewise.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I would like to congratulate the gentleman on his visionary language, and I hope the Committee will support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. JOHNSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gude:

Strike out lines 20 through 23 on page 51 and all of page 52 and page 53 and renumber subsequent sections accordingly.

Mr. GUDE. Mr. Chairman, if my colleagues will refer to the bill, they will see that this amendment would strike out all of section 213, which begins on page 51 at line 21.

I am proposing this amendment in order to maintain the protection for the wild horses and burros which was established by the 92d Congress. This section as presently written threatens the entire justification for the Wild, Free-Roaming Horses and Burros Act of 1971. If the section is adopted, a great young people's lobby would be betrayed, and much of the recent Supreme Court decision upholding the constitutionality of the act would be negated.

Wild, free-roaming horses and burros would be threatened with extinction.

Mr. Chairman, what, in effect, this section, section 213, would do is make it possible for the Interior Department to round up wild horses and burros which are the property of the U.S. Government, round them up at the taxpayers' expense, and donate them to pet food companies, which then could slaughter them in a humane manner, its a real sweetheart deal if you read it carefully. It means that the wild horses and burros could in the future be harassed, run down, and rounded up with airplanes and motorized vehicles. After expending the taxpayers' money in the roundup, the Department of the Interior could turn around and donate the animals to pet food companies.

Mr. Chairman, I know that we are trying to help private business; but I think with this item we are going a little too far. We could work out language in regard to this section of the bill with the Bureau of Land Management if they would be willing to sit down and discuss amendments.

Mr. Chairman, there is no doubt that the herds of wild horses have increased in the West as a result of legislation that was passed by this Congress in 1971; but now that these herds have increased, I know of no reason to pass this legislation which provides that the larger herds will be donated to private citizens to be utilized for profitmaking purposes.

Therefore, Mr. Chairman, I certainly hope and urge that this amendment be adopted.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

Does the gentleman realize that 1 horse on the range eats what 3 cows or 2½ cows would eat?

Mr. GUDE. I am sure the gentleman is absolutely correct, but I do not see why we should be fattening wild horses and then donating them to pet food companies; and that is just what the legislation does.

Mr. SYMMS. If the gentleman will yield further, this section is in the bill to improve the ability to protect rangeland.

Mr. GUDE. If we are going to subsidize the pet food industry, I think the Members should know about it. I am not aware they need such a subsidy.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. There are certain parts of the country; for example, the Death Valley National Monument, where wild burros are a very serious threat to the natural ecology.

I am just wondering what the effect of this amendment would be on the ability of the Secretary to control burros in that particular type of situation.

Mr. GUDE. I would say to my colleague, the gentleman from Ohio, that under the present law, the BLM has the authority to dispose of excess horses, to round them up; and I think possibly they might use some more authority if they would be willing to sit down and talk out some language, but this language is totally unacceptable as far as I am concerned.

Mr. SEIBERLING. If the gentleman will yield further, the gentleman's amendment may be a good amendment; but for the purpose of clarification, what is "excess"?

In certain cases wild burros, for example, are gradually taking the forage away from the native species such as mountain goats. That is putting them on the endangered-species list.

I think the gentleman from Maryland (Mr. Gude) will concede that we have to make a choice as to whether the native species are more important to preserve than the wild burros.

Can the gentleman assure us that if this amendment is adopted, we are not going to take away from the Secretary that authority?

The CHAIRMAN. The time of the gentleman from Maryland (Mr. Gude) has expired.

(By unanimous consent, Mr. Gude was allowed to proceed for 1 additional minute.)

Mr. GUDE. Mr. Chairman, to answer the gentleman from Ohio (Mr. Seiberling), I would say there certainly is language at present whereby the Secretary could arrive at an ecological balance so that all of the species in an area are protected. As an alternative we should not provide the Interior Department with authority to round up excess animals and give them away. They are the property of the Federal Government, and the taxpayers foot the bill when they are given away.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Nevada.

Mr. SANTINI. The amendment of the gentleman from Maryland (Mr. Gude) would prohibit the transfer of title, so that the title would remain in the United States Government; is that true?

Mr. GUDE. That is correct. My amendment leaves the law as it presently is.

Mr. SANTINI. What then happens in the event a horse is transferred to a family and Jane ends up with an ear bitten off by the horse? If we have a tort liability situation, what are the risks of the Federal Government in a transfer of this type, and what are the liabilities that attach to it?

Mr. GUDE. I direct that question to BLM.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MELCHER. Mr. Chairman, I must point out to the Members that I have to oppose this amendment. If we have any concern at all for humane treatment of wild horses and wild burros, then we had better allow the Secretary to get rid of the excess. There are many areas where the numbers have increased to the point that the range can no longer support them. They are becoming debilitated. It is inhumane to leave them that way.

The bill approaches the matter by allowing the Secretary reasonable ways to remove the excess and to handle them in a humane way.

I recommend to the committee that we reject the amendment.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I would like to point out to the gentleman from Montana, and to my colleagues, that the present law states—

> The Secretary may order wild free-roaming horses or burros to be destroyed in the most humane manner possible when he deems such action to be an act of mercy or when in his judgment such action is necessary to preserve and maintain the habitat in a suitable condition for continued use.

I think there is no doubt that the Secretary has the authority presently. I think this language is poorly drawn and I am sure we can do much better and it can be worked out in conference with the Senate.

Mr. MELCHER. I can only report that the Secretary has vigorously informed us that the existing law does not allow them to utilize the best means of disposing of the excess. They say it is absolutely essential that the law be amended to allow them to do so.

Mr. STEIGER of Arizona. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment offered by my friend, the gentleman from Maryland (Mr. Gude).

Mr. Chairman, I want to tell my friend, the gentleman from Maryland (Mr. Gude) that he is long remembered in the West. He is especially better remembered, if not more fondly, for his authorship of that monstrosity, the wild horse and burro bill.

I will also tell my friend that this fond demonstration of his pathological dependence upon energy is marvelous to behold. He has advised this House, in full view of the record, that we are in the process of driving herds of poor burros and wild horses to the pet food factory.

I will tell my friend exactly what is happening. Even Mr. Seiberling, the John Wayne of western Ohio, recognizes that we have a very serious management problem here. What we have is as the result of the concern of Mr. Gude's now 13-year-old son, that these burros and wild horses now are starving to death.

There are a few exceptions with the

burros, some burros die from gunshot wounds.

But, these animals are starving to death because there is not sufficient feed for them on the grounds reserved for them by Mr. Gude's concern for them.

What I want to tell my friends is that the language that created this bill, to all your amazement, was faulty language. The courts and the Secretary ruled that we are not able to gather the surplus. That these wild horses and burros are doomed to starve to death unless language in this bill is rewritten.

Now along comes Mr. Gude, out of the East, riding once again in an air-conditioned four-door car and he tells us that we must stop and reconsider. While we negotiated, the burros and the horses were starving to death.

I will ask that the Members take into consideration the highly emotional state of the gentleman from Maryland (Mr. Gude) and that they recognize that his intentions are excellent and that his knowledge is nonexistent. I ask my colleagues to vote this down immediately.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

If the gentleman from Arizona would give me his attention, I understand that there is nothing in "Gude's Law" that impairs the inherent right of defense when attacked by a burro. Can the gentleman enlighten me on that?

Mr. STEIGER of Arizona. That is correct.

Mr. SEIBERLING. So, therefore, he is not pitching his opposition to this amendment on the ground that he is in personal danger?

Mr. STEIGER of Arizona. If the gentleman will yield, I feel I could rise above whatever personal reaction I may have to burros, either generically or individually.

Mr. SEIBERLING. I thank the gentleman.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Maryland.

Mr. GUDE. I would like to have the record corrected. The gentleman from Arizona has stated that I actually ride a mustang, and I wish to have it made clear that I ride a two-door Pinto. In any case, I am amazed that the gentleman from Arizona, who wants to donate horses, which have been grazing and eating up all of this valuable grass ever since we passed this act, to the pet food companies. I guess this is to assist the companies and make up for the 5 years they have not been able to get these wild burros and horses.

I thank the gentleman.

Mr. SEIBERLING. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Gude).

The question was taken; and on a division (demanded by Mr. Gude) there were—ayes 9, noes 34.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: On page 46, line 9, strike the colon and all that follows thereafter through line 12. Insert in lieu thereof a period.

On page 48, line 18, after the period, insert the following: "Except in cases of emergency, no permit or lease shall be cancelled under this subsection without two years prior notification."

Mr. ECKHARDT. Mr. Chairman, as the bill is written, section 211(a) sets the term of a grazing lease at 10 years and sets the conditions under which the Secretary may change or cancel the lease, but it also contains a provision which states that no permit or lease shall be canceled without 2 years' prior notification except in the case of an emergency. I think this provision is misplaced, and I think it more properly belongs in section 211(e). This subsection deals with the procedures to be followed when a lease is canceled.

My amendment would simply move the provision setting a condition of the cancellation of the lease from section 211(a) to section 211(e).

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for yielding.

Mr. Chairman, I find no fault with the amendment and am willing to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: On page 46, line 20, strike the colon and insert in lieu thereof a period. On line 20, strike the words "Provided, that" and all that follows through line 24.

Mr. ECKHARDT. Mr. Chairman, this amendment would eliminate the provision in section 211(b)(3) which prohibits the Secretary from drawing a lease for less than 10 years because of lack of details in an allotment management plan.

Allotment management plans deal generally with livestock grazing. For example, the legislation requires the Secretary shall specify therein the number of animals to be grazed and the seasons of use. These plans are vital management tools used to prevent overgrazing and halt the deterioration of public grazing lands.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I thank the gentleman for yielding, but we have taken care of the very problem the gentleman has described in other sections of the bill. The allotment management plan is a separate entity and the committee found a great number of allotment management plans could not be fully approved until probably the year 2000, so in the interim we wanted this section to apply. But the responsibility of canceling or modifying a lease if there is overgrazing is inherent with the Secretary of Interior and the Secretary of Agriculture and we do not disturb that.

Mr. ECKHARDT. Mr. Chairman, with that assurance I ask unanimous consent that I may be permitted to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: On page 48, at line 20, strike section 212, Grazing Advisory Boards, in its entirety.

Mr. ECKHARDT. Mr. Chairman, this is a simple amendment—it eliminates section 212 of the bill. This section establishes grazing advisory boards.

These grazing advisory boards would offer advice and make recommendations concerning: The management of livestock grazing and wildlife habitat; the rules and regulations relating to livestock grazing and wildlife habitat management.

These boards would consist of livestock representatives, wildlife representatives and local government representatives. There would be, however, twice as many livestock representatives as wildlife representatives.

In 1972, after a number of abuses had been discovered, Congress overwhelmingly approved the Federal Advisory Committee Act. We passed this bill because advisory committees had become too numerous, were too influential, and duplicated work done elsewhere. This legislation mandated badly needed reforms of the advisory committee system, and required that advisory committees be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee.

In response to this act, the Interior Department terminated grazing advisory boards authorized by the Taylor Grazing Act. This action was upheld on June 14 of this year by the Federal District Court of Nevada. These boards were based on grazing being the predominate use of public lands, not on the modern concept of multiple-use management.

In place of these outdated boards, Interior established broad-based, multiple use advisory boards.

The Interior Department in its letter of November 21, 1975 to the Interior Committee specifically recommended against the creation of statutory grazing boards and reaffirmed this stand in a letter to me dated June 23, 1976.

But now the grazing interests are before Congress requesting a special privilege: to be the one use of public lands distinguished by having a legisatively mandated advisory board. The rationale offered for granting this privilege to a special interest is that these boards would provide expert advice on forage and that they would be helpful in allocating range improvement funds.

These arguments are unconvincing. First, these boards will have a great deal of influence on how wildlife habitat is managed and, with wildlife representatives outnumbered two to one, it is not difficult to guess how most of the range improvement money will be spent. Second, livestock interests are represented on multiple use councils established by section 308. Where they have expert advice to offer, either on forage or on allocating range improvement funds, their advice will be heard. Since grazing is only one of many uses on the public lands, it should not be given a special status.

Moreover, if grazing advisory boards are established, we will have set a bad precedent. How long will it be until strip mining interests request a strip mining advisory board with twice as many strip mining representatives as livestock representatives? If we start making exceptions for special interests, we will gut the Advisory Committee Act.

Mr. Chairman, establishing these boards would be an unwise concession to a special interest. They are an example of bad public policy. They should be eliminated.

Mr. MELCHER. Mr. Chairman, I rise very briefly to oppose the amendment.

We have been all over this in the committee for years. We have allowed local areas the advice in setting up range improvements to use a grazing advisory board. The bill provides that half the grazing fees will be used for direct improvement of grazing lands in these areas. We find grazing boards can perform an ideal function in that regard.

We do not quarrel with the comments made by the gentleman from Texas when the gentleman points out the need for a broader based advisory board to advise the Secretary, but those will be provided by the Secretary under existing law and under the terms of the bill itself; but for the local areas, we think the grazing advisory boards are essential.

Mr. Chairman, we hope the amendment will be defeated.

Mr. SANTINI. Mr. Chairman, I move to strike the last word. I rise in opposition to the amendment.

Mr. Chairman, I only wish to advise those Members who are yet awake or at all concerned with the importance of this amendment to understand that these grazing advisory boards have been retained by the Forest Service. I am sure the gentleman from Texas was unaware, or at least did not intend to mislead this body.

It is not a novel entity that was concocted as a result of subcommittee endeavor. This board since 1934 has functioned in an advisory capacity only. It has absolutely no determinative authority of any kind. It is imperative that some communication be maintained in terms of the grazer and the administrator. I believe this board does that. I know the Forest Service has recognized that and that is why they continued the boards.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I just want to supplement the gentleman's observations and remarks. The gentleman from Texas makes it appear that this is totally innovative, that this is a new exercise.

As a matter of fact, the boards of the Bureau of Land Management have been in effect for 35 years and it is simply a continuation of existing practice.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title II? If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III—BUREAU OF LAND MANAGEMENT

ESTABLISHMENT OF BUREAU

SEC. 301. (a) The Bureau of Land Management established by Reorganization Plan Numbered 3, of 1946 (5 U.S.C. App. 519) shall have as its head a Director Appointments to the position of Director shall hereafter be made by the President, by and with advice and consent of the Senate. The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management. He shall carry out such functions and shall perform such duties as the Secretary may prescribe with respect to the management of lands and resources under his jurisdiction according to the applicable provisions of this Act and any other applicable law.

(b) Subject to the discretion granted to him by Reorganization Plan Numbered 3 of 1950 (43 U.S.C. 1451 note), the Secretary shall carry out through the Bureau all functions, powers, and duties vested in him and relating to the administration of laws which, on the date of enactment of this section, were carried out by him through the Bureau of Land Management established by section 403 of Reorganization Plan Numbered 3 of 1946. The Bureau shall administer such laws according to the provisions thereof existing as of the date of approval of this Act as modified by the provisions of this Act or by subsequent law.

(c) In addition to the Director, there shall be an Associate Director of the Bureau and so many Assistant Directors, and other employees, as may be necessary, who shall be appointed by the Secretary subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter 3 of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Nothing in this section shall affect any regulation of the Secretary with respect to the administration of laws administered by him through the Bureau on the date of approval of this section.

ENFORCEMENT AUTHORITY

SEC. 302. (a) The Secretary may issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation lawfully issued pursuant to this Act shall be fined no more than $1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

(c)(1) Where the Secretary determines that assistance is necessary to enforce any Federal law or regulation relating to the public lands or their resources he shall offer a contract to the regulatory and law enforcement officials of any State or political subdivision thereof with the view of achieving maximum feasible reliance upon such regulatory and law enforcement officials in administering such regulations and laws. The Secretary shall negotiate annually with such officials who have authority to enter into contracts for such purposes and offer them a reasonable contract under which such officials will enforce such Federal regulations and laws. In performance of their duties under such contracts, such officials and their agents are authorized to execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall reimburse such States or political subdivisions thereof for the expenditures incurred and liabilities assumed by them in rendering such service. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities with the local law enforcement agency. While exercising the powers and authorities provided by such contract pursuant to this section, such local law enforcement agencies and their officials and agents shall have all of the immunities of Federal law enforcement officials and officers.

(2) In those instances where State and local enforcement officials do not have authority to enter into contracts under this section, or where the Secretary offers a contract to State and local law enforcement officials as provided in this section and the offer of such contract is not accepted within the time specified by the Secretary, the Secretary may designate Federal personnel to carry out his enforcement responsibilities on the public lands. Such personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

(d) In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

(e) Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 401 of this Act for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of this subsection.

(f) Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS

Sec. 303. (a) Notwithstanding any other provision of law, the Secretary may establish reasonable filing and service fees and reasonable charges, and commissions with respect to applications and other documents relating to the public lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for reasonable costs with respect to applications and other documents relating to such lands. The moneys received for reasonable costs under this subsection shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. As used in this subsection, "reasonable costs" include but are not limited to the costs of monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of public lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

DEPOSITS AND FORFEITURES

Sec. 304. (a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fullfill the requirements of his contract or permit or does not comply with the regulations of the Secretary; or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to the public lands shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on those public lands which has been rendered necessary by the action which has led to the forfeiture compromise, or settlement.

(b) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (43 U.S.C. 1181a–1181j), shall be expended for the benefit of such land only.

(c) If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the Secretary, upon application or otherwise, may cause a refund of the amount in excess to be made from applicable funds.

WORKING CAPTIAL FUND

Sec. 305. (a) There is hereby established a working capital fund for the management of the public lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), and regulations promulgated thereunder, supplies and equipment services in support of Bureau programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Secretary for the Bureau.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations, and funds of the Bureau, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated a sum not to exceed $3,000,000 as initial capital of the working capital fund.

STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS

Sec. 306. (a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands.

(b) Subject to the provisions of applicable law, the Secretary may enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

CONTRACTS FOR SURVEYS AND RESOURCE PROTECTION

Sec. 307. (a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

ADVISORY COUNCILS

Sec. 308. (a) The Secretary is authorized to establish advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens' interests concerning the problems relating to land use planning or the management of the public lands located within the area for which an advisory council is established. At least one member of each council shall be an elected official of general purpose government serving the people of such area. To the extent practicable there shall be no overlap or duplication of such councils. Appointments shall be made in accordance with rules prescribed by the Secretary. The establishment and operation of an advisory council established under this section shall conform to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 1).

(b) Notwithstanding the provisions of subsection (a) of this section, each advisory council established by the Secretary under this section shall meet at least twice a year with such meetings being called by the Secretary.

(c) Members of advisory councils shall serve without pay, except travel and per diem will be paid each member for meetings called by the Secretary.

(d) An advisory council shall furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands within the area for which the advisory council is established and such other matters as may be referred to it by the Secretary.

RULES AND REGULATIONS

Sec. 309. The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act, and of other laws applicable to the public lands and the Secretary of Agriculture, with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5 of the United States Code, without regard to section 553 (a)(2). Prior to the promulgation of such rules and regulations, such lands shall be administered under existing rules and regulations concerning such lands to the extent practicable.

PUBLIC LANDS PROGRAM REPORT

Sec. 310. (a) For the purpose of providing information that will aid Congress in carrying out its oversight responsibilities for public lands programs and for other purposes the Secretary shall prepare a report in accordance with subsections (b) and (c) and submit it to the Congress no later than one hundred and twenty days after the end of each fiscal year beginning with the report for fiscal year 1979.

(b) A list of programs and specific information to be included in the report as well as the format of the report shall be developed by the Committees on Interior and Insular Affairs of the House and Senate after consulting with the Secretary and shall be provided to the Secretary prior to the end of the second quarter of each fiscal year.

(c) The report shall include, but not be limited to, program identification information, program evaluation information, and program budgetary information for the preceding current and succeeding fiscal years.

BUREAU OF LAND MANAGEMENT WILDERNESS STUDY

Sec. 311. (a) Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890) and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness: *Provided*, That prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present in such areas: *Provided further*, That the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedure specified in section 3(d) of the Wilderness Act.

(b) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act: *Provided*, That, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act, and mineral development, access, exchange of lands, and ingress and egress for mining claimants and occupants.

(d) Where the President recommends pursuant to subsection (b) of this section that a roadless area or island is not suitable for inclusion in the wilderness system, that recommendation shall take effect unless disapproved by a resolution of either the Senate or the House of Representatives before the end of one hundred and twenty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day such recommendation has been submitted to the two Houses

SEARCH AND RESCUE

SEC. 312. Where in his judgment sufficient search, rescue, and protection forces are not otherwise available, the Secretary is authorized in cases of emergency to incur such expenses as may be necessary (a) in searching for and rescuing, or in cooperating in the search for and rescue of, persons lost on the public lands, (b) in protecting or rescuing, or in cooperating in the protection and rescue of, persons or animals endangered by an act of God, and (c) in transporting deceased persons or persons seriously ill or injured to the nearest place where interested parties or local authorities are located.

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

Mr. STEIGER of Arizona. Mr. Chairman, reserving the right to object, and I shall not object, what is the plan for the rest of the evening? Are we going to finish the bill tonight, or rise at a time certain?

Mr. MELCHER. Mr. Chairman, we plan on finishing the bill. We have only two amendments to this title, one of which we are prepared to accept on this side.

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentleman from Montana and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Seiberling: On pages 56 and 57, strike all of Subsection (c) and insert a new Subsection as follows:

"(C)(1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts, such officials and their agents are authorized to execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.

(2) The Secretary may designate Federal personnel to carry out law enforcement responsibilities with respect to the public lands and their resources. Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection."

Mr. SEIBERLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Chairman, this amendment would make some changes in the provisions on page 56 of the bill for law enforcement in public lands.

Mr. Chairman, at present the Bureau of Land Management—BLM—custodian of 450-million acres of public lands, has totally inadequate authority to manage and protect those lands and their resources. My amendment to section 302 of H.R. 13777 would clarify the Secretary of the Interior's authority for law enforcement on these lands. It would give the BLM authority to offer contracts to local law enforcement officials for enforcing Federal law and regulations on public lands. It would also allow the Secretary to designate trained Federal personnel to carry out law enforcement responsibilities.

As presently drafted, H.R. 13777 directs the Secretary to offer contracts to State and local law enforcement officials. However, only if those authorities refuse such a contract can the Interior Department exercise enforcement authority. Curiously, the bill gives the necessary authority for the California desert, but does not do so for the rest of our public lands, where similar problems exist.

Except for a few specific statutes such as the Wild Horse and Burro Act, BLM officials have no power to make arrests for violations of natural resources laws and regulations, even if those violations and committed in the presence of a BLM official.

BLM currently has only seven special agents, hired in the past year. They can make arrests for crimes against wild horses, but not for crimes against natural resources or people. They are authorized to investigate violations of natural resources laws such as land fraud, theft of timber and minerals, but once their investigation is complete, they have to call on another Federal agency to make the arrest. Or if there is an applicable State law, he can try and persuade State or local officials to make the arrest. But many States do not have specific laws protecting the diverse resources of the public lands, and enforcement of State laws is uneven, because of the variation in laws throughout the West.

Although the FBI can sometimes assist, that agency cannot take on an interstate transportation of stolen property case unless it involves property valued at a minimum of $50,000. In cases involving wildlife violations, the Fish and Wildlife Service has authority for migratory birds and endangered species, but its enforcement personnel are severely overburdened and thus not always able to assist BLM.

Crimes of all types are increasing on the public lands. Theft of artifacts has become an increasing problem since such artifacts are highly treasured by collectors. Cactus are being dug up by the truckload from the desert areas and later sold as houseplants. Tons of lava rock have been plundered for sale as decoration. Trespassers have built structures on public lands. Offroad vehicles have ripped up huge areas, leaving scars on fragile lands that may last for generations. Sand and gravel have been taken from public lands to build roads.

Last year, 50,000 Christmas trees were cut and stolen from BLM and Forest Service land in Utah. Even if one of BLM's seven special agents had been present at the time this theft occurred, he could not have arrested the thieves, unless he made a citizen's arrest, which is hazardous both personally and legally, since he would then be liable to a law suit.

My amendment would help remedy this situation. It would still direct the Secretary to achieve "maximum feasible reliance" in using local law enforcement officials to enforce Federal laws and regulations. But he would also have the backup authority to designate trained Federal personnel to carry out these enforcement responsibilities when needed.

Furthermore, my amendment does not change the language in subsection (d) which authorizes the Secretary to cooperate with State and local law enforcement officials, and to reimburse them, for enforcement of State or local laws. This will provide additional assistance for crimes against people, with reliance for enforcement left at the State and local level.

Mr. SANTINI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the consequence of the amendment would be the establishment of a Federal police force on the public lands. In my particular instance that would mean Federal police jurisdiction in 71 percent of my State. I know the great civil libertarian tendencies and inclinations of my distinguished colleague and eminent legal scholar from Ohio would find that somewhat offensive if he had to assume that burden and responsibility within the boundaries of his congressional district of Ohio.

But, I think there is an even more fundamental reason to support the committee language and to oppose the gentleman's amendment. That is the fact that we are asking our already beleaguered, undermanned and, in some instances, inefficient Bureau of Land Management entities to assume the responsibility of traffic policeman. It is inherently disastrous. One primary responsibility is resource management. The other primary responsibility is law enforcement. I submit that the examples of where this arrangement has been applied by the Forest Service apply here. When we use the local deputy sheriff or the local law enforcement entity to assume responsibility for protecting what he regards as his land, and that person is given the proper training—that person is far more efficient because that man or woman lives on that land. He or she is a trained law enforcement officer. That person is far more capable of meeting responsibilities of law enforcement than the graduate botanist. They are excellent resource managers. They are not law enforcement officers.

We have had tragic episodes in trying to pervert and convert the botanist into a law enforcement officer when he is confronted with resistance.

I again urge my colleagues to recognize the particular sensitivities involved. Would you wish to invite within your jurisdiction a Federal police force responsible for the enforcement of criminal laws in your particular jurisdiction?

It is unworkable, undesirable, and pernicious. I urge my colleagues to vote in opposition.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

The gentleman's description of what is in this amendment bears no resemblance to the amendment.

The amendment reads that when the Secretary determines that assistance is necessary, he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials.

Does that sound like it is unworkable?

Mr. SANTINI. Therein is a loophole one could drive 14 camels through if they wanted to have a desert patrol. That kind of language simply invites the Secretary's judgment that he does not need to rely on local law enforcement, that he can rely instead on the mounties he has installed in the local jurisdiction.

Mr. SEIBERLING. If the gentleman will yield further, then the gentleman ought to have his own amendment, because that language is substantially identical as to what is already in the bill.

Mr. SANTINI. My language is conditioned, as the gentleman well knows, upon the requirement that the Secretary must first proceed to determine if local law enforcement is willing and able to assume the local law enforcement responsibility. If it is, it can. It is a matter of condition precedent.

The CHAIRMAN. The time of the gentleman from Nevada has expired.

(On request of Mr. SEIBERLING and by unanimous consent, Mr. SANTINI was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Ohio.

Mr. SEIBERLING. There is nothing in this amendment that says anything about a Federal mounted force.

Mr. SANTINI. If they are going to walk across the sands of Nevada, they are in real trouble.

Mr. SEIBERLING. Let me ask the gentleman, if he will yield, does the gentleman think the Secretary can do anything effective to develop any kind of Federal force if under the language of the present bill he has to annually offer a contract to local people? He can only then contract for his own staff 1 year at a time.

That does not make any sense.

Mr. SANTINI. With respect to the gentleman's query, the remarkable thing is that we have demonstrable evidence with the examples of the forest service and their contractual arrangements with the local law enforcement that it can and does work.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to ask the author of the amendments a question or two.

On page 58, line 14, section (e), does the gentleman's amendment address itself to that section at all?

This is the section that says:

> Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert range force.

Mr. SEIBERLING. If the gentleman will yield, no, it has no effect on subsection (e) whatsoever.

Mr. KETCHUM. As I understand the amendment—and please correct me if I am wrong—what the gentleman's amendment elects to do is to relieve the Secretary of some of the problems that exist in the language of the bill.

If he cannot contract, he can go right ahead and move in with a police force.

Mr. SEIBERLING. All it does is to eliminate the onerous and unworkable requirement of section 302(c) (1) and (2) whereby the Secretary must negotiate annually with any State or political subdivisions. And I do not know how he can negotiate with any and all simultaneously, but that is what it says. Otherwise he cannot have his own force.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman. The gentleman answered my question when he used the word "annually." As long as it does not affect the subsection previously referred to, I can see no reason for not supporting the amendment.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, it extends the concept of subsection (e) and permits the Secretary to have law enforcement authority on all other public lands and not just the California desert.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I thank the gentleman for yielding.

I find that the amendment is drawn quite similarly to the provision the Forest Service now has. It has been workable with the Forest Service. I am not speaking for the committee, but I personally find no objection to the Seiberling amendment.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I would like to join my colleagues in supporting the amendment, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 70, between lines 3 and 4, add a new section to read as follows:

"SUNSHINE IN GOVERNMENT

"SEC. 313. (a) Each officer or employee of the Secretary of the Interior and the Bureau of Land Management who—

"(1) performs any function or duty under this Act; and

"(2) has any known financial interest in any person who (A) applies for or receives any permit, lease, or right-of-way under, or (B) applies for or acquires any land or interests therein under, or (C) is otherwise subject to the provisions of, this Act,

shall, beginning on February 1, 1977, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Secretary of the Interior shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, I have an amendment at the desk which is printed in the June 14, 1976 RECORD at page 17901.

Mr. Chairman, the purpose of this amendment is to bring more sunshine in Government. It is cosponsored by my colleague, Representative GARY A. MYERS.

It is the same provision which the Congress adopted last December for the Federal Energy Administration and some of the employees of the Interior Department administering Public Law 94-163—the Energy Policy and Conservation Act. On May 20, 1976, the House adopted this provision for ERDA employees in H.R. 13350, which authorized appropriations for fiscal year 1977 for ERDA. Earlier this month, the House added it to H.R. 9560 for employees of the Environmental Protection Agency who administer the water pollution control program and to H.R. 6218 for employees of Interior administering the Outer Continental Shelf leasing program.

Our amendment requires officers and employees of the Interior Department who perform any function under H.R. 13777 to file annually statements of any known financial interest in the person or persons subject to this bill. Such statements would be available to the public and would have to be reviewed by Interior. Positions at Interior that are of a nonregulatory or nonpolicymaking nature could be exempt from this requirement by the Secretary of the Interior.

The amendment does not prevent Interior employees from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, Interior and other Federal agencies require their employees who are at the GS-13 level or above and in a decisionmaking position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. Our amendment does.

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found "deficiencies" in the system at Interior and several agencies, including in the collection and timely review of such statements, the identification of employees who should file such statements, and the resolution of problems associated with the statements. At Interior, the GAO said of the 1,435 additional employees who should file statements, over 1,100 were below the GS-13 level.

Our amendment makes it clear that Interior must look at the positions to determine who should file and not base their decision on the grade level of the employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for Interior to define what a "known financial interest" is. Indeed, an example of such a definition Interior published proposed regulations defining this term on March 22, 1976 for the purposes of Public Law 94-163. That definition, which is not yet finalized, of course, is as follows:

> Any pecuniary interest of which an officer or employee is cognizant or of which he can reasonably be expected to have knowledge. This included pecuniary interest in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline or distributing (other than at the retail level) coal, natural gas, or petroleum products, or in property from which coal, natural gas, or crude oil is commercially produced. This further includes the right to occupy or use the aforesaid business or property, or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest where the business arrangement from which the benefit is derived or expected to be derived has been entered into between the parties or their agents. With respect to officers or employees who are beneficiaries of "blind trusts," the disclosure is required only of interests that are initially committed to the blind trust, not of interests thereafter acquired of which the employee or officer has no actual knowledge.

I urge adoption of our amendment.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, the gentleman from West Virginia (Mr. HECHLER) has offered to this bill the "sunshine" provisions that have been carried in several bills that have passed the Congress.

We find no objection to the amendment, and we thank the gentleman for offering it. It has our support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KETCHUM

Mr. KETCHUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KETCHUM: Page 65, line 17, insert "(a)" immediately before "The".

Page 65, line 23, immediately after "regulations" insert a comma and the following: "except as provided under subsection (b),".

Page 66, immediately below line 6, insert the following:

(b) (1) No rule or regulation prescribed by the Secretary or the Secretary of Agriculture under subsection (a) may take effect, except in accordance with the provisions of paragraph (2).

(2) (A) The Secretary or the Secretary of Agriculture, as appropriate, shall transmit to each House of the Congress any proposed rule or regulation described in paragraph (1), together with a detailed statement justifying such proposed rule or regulation.

(B) Any such rule or regulation may take effect upon the expiration of a period of 60 legislative days after the date on which such rule or regulation and such statement are transmitted to the Congress under subparagraph (A), unless before the expiration of such period the Congress adopts a concurrent resolution disapproving such rule or regulation.

(3) For purposes of this subsection, the term "legislative day" means any day on which either House of the Congress is in session.

Mr. KETCHUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California.

There was no objection.

Mr. KETCHUM. Mr. Chairman, this amendment has been offered to each authorizing bill this year. As a matter of fact, the most recent time it was offered was yesterday.

This amendment simply requires that all regulations promulgated by the Secretary shall be subject to the review of Congress. I do not think I need to pursue this any further. We have been through the debate innumerable times this year.

Mr. Chairman, I am simply asking for support of this amendment to bring the bill in compliance with all other authorizing bills that we have passed this year.

Mr. MELCHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have to oppose the amendment.

This would give direct congressional review of what the agencies do, in this case the Department of the Interior, and in some instances, the Forest Service, in developing regulations. That is good up to a point. There are hundreds of regulations adopted by the Interior Department and also by the Forest Service. A review of each and every one of them would mean a complete inundating with paperwork, and I feel that it would have to be narrowed down to just which regulations we are interested in.

We do have congressional review in various parts of the bill, such as a review of withdrawals, et cetera; but this amendment would be too much.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I certainly agree with the chairman of the subcommittee.

Suppose we should review, for instance, a rule setting up a certain amount of money in a leased parcel. I doubt that that could be constitutionally upheld.

The kind of review involved of this agency may deal with private and personal rights that should be reviewed in a judicial setting and not in a legislative or political setting.

Mr. Chairman, I think amendments of the type offered here, when offered without thoughtful application to the particular bill involved, are extremely dangerous.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

This amendment has been debated over and over and over again. It has been accepted each and every time by this House.

The point is that the people of the United States are so overregulated that they cannot stand it, and they require that the body which passes these bills insist upon a review so that at least we bear the responsibility.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. KETCHUM).

The question was taken; and on a division (demanded by Mr. KETCHUM) there were—ayes 20, noes 35.

Mr. KETCHUM. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The CHAIRMAN. The pending business is the demand by the gentleman from California (Mr. KETCHUM) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to title III? If not, the clerk will read.

The Clerk read as follows:

TITLE IV—DESERT LANDS

CALIFORNIA DESERT CONSERVATION AREA

SEC. 401. (a) The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population;

(2) the California desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the California desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use, which are certain to intensify because of the rapidly growing population of southern California;

(4) the use of all California desert resources can and should be provided for in a multiple use and sustained yield management plan to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, where appropriate, of off-road recreational vehicles;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the public lands in the California desert; and

(6) to insure further study of the relationship of man and the California desert environment, preserve the unique and irreplaceable resources, including archeological values, and conserve the use of the economic resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional management authority must be provided to the Secretary to enable effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection and administration of the public lands in the California desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality.

(c) (1) For the purpose of this section, the term "California desert" means the area generally depicted on a map entitled "California Desert Conservation Area—Proposed" dated April 1974, and described as provided in subsection (c) (2).

(2) As soon as practicable after the date of approval of this Act, the Secretary shall file a revised map and a legal description of the California Desert Conservation Area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and a map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) The Secretary, in accordance with section 202 of this Act, shall prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California Desert Conservation Area. Such plan shall take into account the principles of multiple use and sustained yield in providing for resource use and development, including rights-of-way and mineral development and the maintenance of environmental quality. Such plan shall be completed and implementation thereof initiated on or before June 30, 1979.

(e) During the period beginning on the date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage, use, and protect the public lands, and their resources now in danger of destruction, in the California Desert Conservation Area, to provide for the public use of such lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

(f) Subject to valid existing rights, nothing in this Act shall affect the applicability of the United States mining laws on the public lands within the California Desert Conservation Area, except that all mining claims located on public lands within the California Desert Conservation Area after the date of approval of this Act shall be subject to such reasonable regulations as the Secretary may prescribe to effectuate the purposes of this section. Any patent issued on any such mining claim shall recite this limitation and continue to be subject to such regulations. Such regulations shall provide for such measures as may be reasonable to protect the scenic, scientific, and environmental values of the public lands of the California Desert Conservation Area against undue impairment, and to assure against pollution of the streams and waters within the California Desert Conservation Area.

(g) (1) The Secretary, within sixty days after the date of approval of this Act, shall establish a California Desert Conservation Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 309 of this Act.

(2) It shall be the function of the advisory committee to advise the Secretary with respect to the preparation and implementation

of the comprehensive, long-range plan required under subsection (d) of this section.

(h) The Secretary of Agriculture and the Secretary of Defense shall manage lands within their respective jurisdictions located in or adjacent to the California Desert Conservation Area, in accordance with the laws relating to such lands and wherever practicable, in a manner consonant with the purpose of this section. The Secretary, the Secretary of Agriculture, and the Secretary of Defense are authorized and directed to consult among themselves and take cooperative actions to carry out the provisions of this subsection, including a program of law enforcement in accordance with applicable authorities to protect the archeological and other values of the California Desert Conservation Area and adjacent lands.

(i) The Secretary shall report to the Congress no later than two years after the date of approval of this Act, and annually thereafter, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

(j) There are authorized to be appropriated not to exceed $40,000,000 for the purpose of this section, such amount to remain available until expended.

CONVEYANCES FOR RECREATION PURPOSES

SEC. 402. (a) The Recreation and Public Purposes Act of 1926 (43 U.S.C. 869–4), as amended, is further amended as follows:

(1) The second sentence of subsection (a) of the first section of that Act (43 U.S.C. 869 (a)) is amended to read as follows: "Before the land may be disposed of under this Act it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall provide an opportunity for participation by affected citizens in disposals under this Act, including public hearings or meetings where he deems it appropriate to provide public comments, and shall hold at least one public meeting on any proposed disposal of more than six hundred forty acres under this Act."

(2) Subsection (b) (1) of the first section of that Act (43 U.S.C. 869(b)) is amended to read as follows:

"(b) Conveyances made in any one calendar year shall be limited as follows:

"(1) For recreational purposes:

"(A) to any State or the State park agency or any other agency having jurisdiction over the State park system of such State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, hereinafter referred to as the State, or to any political subdivision of such State, six thousand four hundred acres, and such additional acreage as may be needed for small roadside parks and rest sites of not more than ten acres each.

"(B) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

"(C) No more than twenty-five thousand six hundred acres may be conveyed for recreational purposes under this Act in any one State per calendar year. Should any State or political subdivision, however, fail to secure in any one year, six thousand four hundred acres, not counting lands for small roadside parks and rest sites, conveyances may be made thereafter if pursuant to an application on file with the Secretary of the Interior on or before the last day of said year and to the extent that the conveyance would not have exceeded the limitations of said year".

(3) Section 2(a) of that Act (43 U.S.C. 869–1) is amended by inserting "or recreational purposes" immediately after "historic-monument purposes".

(4) Section 2(b) of that Act (43 U.S.C. 869–1) is amended by adding ", except that leases of such lands for recreational purposes shall be made without monetary consideration" after the phrase "reasonable annual rental".

KING RANGE

SEC. 403. Section 9 of the Act of October 21, 1970 (84 Stat. 1067), is amended by adding a new subsection (c), as follows:

"(c) In addition to the lands described in subsection (a) of this section, the land identified as the Punta Gorda Addition and the Southern Additions on the map entitled 'King Range National Conservation Area Boundary Map No. 2,' dated July 29, 1975, is included in the survey and investigation area referred to in the final section of this Act.".

WITHDRAWAL REVIEW

SEC. 404. (a) The Secretary shall, within ten years of the date of approval of this Act, review withdrawals, existing on the date of approval of this Act, of all Federal lands in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, other than withdrawals of the public lands administered by the Bureau of Land Management and of lands which, on the date of approval of this Act, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, and the National Trails System. Notwithstanding the first sentence of this subsection, he shall review withdrawals of the public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas) which closed the lands to appropriation under the Mining Law of 1872 or to leasing under the Mining Leasing Act of 1920.

(b) In the review required by subsection (a) of this section, the Secretary shall determine whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of other relevant programs. The Secretary shall report his findings to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands and a statement of the actions the Secretary plans to take under the authority of section 204 of this Act. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together with his recommendations for action by the Secretary, if authorized by section 204 of this Act, or for legislation. Unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for mare than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives either House has adopted a resolution indicating otherwise, the Secretary shall effectuate the recommendations of the President insofar as they are authorized under section 204 of this Act.

(c) There are hereby authorized to be appropriated not more than $10,000,000 for the purpose of this section to be available until expended to the Secretary and to the heads of other departments and agencies which will be involved.

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: On pages 78 and 79, strike Section 404 (a) and (b), and insert the following:

"SEC. 404. (a) The Secretary shall, within ten years of the date of enactment of this Act, review withdrawals existing on the date of approval of this Act, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming of: (1) all Federal lands other than withdrawals of the public lands administered by the Bureau of Land Management and of lands which, on the date of approval of this Act, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, and the National Trails System; and (2) all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive natural areas) which closed the lands to appropriation under the Mining Law of 1872 or to leasing under the Mineral Leasing Act of 1920.

"(b) In the review required by subsection (a) of this section, the Secretary shall determine whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of other relevant programs. The Secretary shall report his recommendations to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together with his recommendations for action by the Secretary, or for legislation. The Secretary may act to terminate withdrawals in accordance with the recommendations of the President unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for more than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives either House has adopted a resolution indicating otherwise."

Mr. SEIBERLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Chairman, this is a very simple and I hope noncontroversial amendment to clarify the language of section 404. Section 404 would require the Secretary to review withdrawals in 11 States but because of the language on line 18 of the section it could be construed as requiring a review of withdrawals in all other States and this could be interpreted as an amendment to the Alaskan Native Claims Settlement Act where withdrawals are specifically provided for.

This was not the intention of the committee. The amendment would simply clarify the language to make it clear that the committee does not intend that.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I thank the gentleman for yielding. If the gentleman will accept a modification to his amendment which would appear after the words "National Trails System" we would include the words "other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service," and the amendment then is completely acceptable to us.

Mr. SEIBERLING. Mr. Chairman, that sounds all right to me if the gentleman would advise what the effect of it is.

Mr. MELCHER. Mr. Chairman, will the gentleman yield further?

Mr. SEIBERLING. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I ask unanimous consent to modify the amendment offered by the gentleman from Ohio.

The Clerk read as follows:

In section 404(a) after the phrase "the National Trails System" insert "other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service,"

Mr. MELCHER. Mr. Chairman, such an amendment is at the desk for a different section of the bill but it would properly modify the gentleman's amendment.

The CHAIRMAN. Is there objection to the modification of the gentleman's amendment?

There was no objection.

Mr. SEIBERLING. Mr. Chairman, I have already outlined the essential purpose of the amendment. There are some other minor changes which I do not consider to be substantive ones with two possible exceptions which I will clarify.

On page 78 in line 21 it provides that the Secretary shall review withdrawals of public lands administered by the Bureau of Land Management and the lands in the National Forest System except those in wilderness areas and my amendment would also add:

. . . and those areas formally identified as primitive natural areas.

The other substantive change is this.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, if the gentleman will suspend his explanation I will be happy to accept his amendment.

Mr. SEIBERLING. I thank the gentleman. I will be happy to suspend it for that purpose.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING), as modified.

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV? If not, the Clerk will read.

The Clerk read as follows:

TITLE V—RIGHTS-OF-WAY

AUTHORIZATION TO GRANT RIGHTS-OF-WAY

SEC. 501. (a) The Secretary, with respect to the public lands and, the Secretary of Agriculture, with respect to lands within the National Forest System (except in each case land designated as wilderness), are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Federal Power Act of 1935 (16 U.S.C. 791);

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation; or

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through such lands.

(b)(1) The Secretary concerned shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose those plans, contracts, agreements, or other information reasonably related to the use, or intended use, of the right-of-way, including its effect on competition, which he deems necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary concerned, prior to granting a right-of-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity, when he deems it necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way. Such disclosures shall include, where applicable, (A) the name and address of each partner; (B) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; and (C) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(c) Nothing in this title shall be deemed to limit in any way the authority of the Secretary concerned to make grants, issue leases, licenses, or permits, or enter into contracts under other provisions of law, for purposes ancillary or complementary to the construction, operation, maintenance, or termination of any facility authorized under this title, but such action shall not be in substitution for or inconsistent with the provisions of this title.

COST-SHARE ROAD AUTHORIZATION

SEC. 502. (a) The Secretary, with respect to the public lands, is authorized to provide for the acquisition, construction, and maintenance of roads within and near the public lands in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management of such lands and for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of timber and other products from the public lands, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That, where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of timber and other products from public lands shall not, except when the provisions of the second proviso of this subsection apply, be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate: *Provided further*, That when timber is offered with the condition that the purchaser thereof will build a road or roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads.

(b) Copies of all instruments affecting permanent interests in land executed pursuant to this section shall be recorded in each county where the lands are located.

(c) The Secretary may require the user or users of a road, trail, land, or other facility administered by him through the Bureau, including purchasers of Government timber and other products, to maintain such facilities in a satisfactory condition commensurate with the particular use requirements of each. Such maintenance to be borne by each user shall be proportionate to total use. The Secretary may also require the user or users of such a facility to reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates: *And provided further*, That unexpended balances upon accomplishment of the purpose for which deposited shall be transferred to miscellaneous receipts or refunded.

(d) Whenever the agreement under which the United States has obtained for the use of, or in connection with, the public lands a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

RIGHT-OF-WAY CORRIDORS

SEC. 503. In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating such corridors and in determining whether to require that rights-of-way be confined to them, the Secretary concerned shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary concerned shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

GENERAL PROVISIONS

SEC. 504. (a) The Secretary concerned shall specify the boundaries of each right-of-way as precisely as is practical. Each right-of-way shall be limited to the ground which the Secretary concerned determines (1) will be occupied by facilities which constitute the project for which the right-of-way is given, (2) to be necessary for the operation or maintenance of the project, (3) to be necessary to protect the public safety, and (4) will do no unnecessary damage to the environment. The Secretary concerned may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) Each right-of-way or permit granted or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project. In determining the duration of a right-of-way the Secretary concerned shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The right-of-way or permit shall specify whether it is or is not renewable and the terms and conditions applicable to the renewal.

(c) Rights-of-way granted, issued, or renewed pursuant to this title shall be given under such regulations or stipulations, in accord with the provisions of this title or any other applicable law, and subject to such terms and conditions as the Secretary concerned may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

(d) The Secretary concerned prior to granting a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by that Secretary, including the terms and conditions required under section 505 of this Act.

(e) Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(f) The holder of a right-of-way shall pay annually in advance the fair market value thereof as determined by the Secretary granting or issuing such right-of-way: *Provided*, That when the annual rental is less than $100, the Secretary concerned may require advance payment for more than one year at a time: *Provided further*, That the Secretary concerned may waive rentals where a right-of-way is granted in reciprocation for a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder. The Secretary concerned may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however*, That such costs need not be reimbursed in any situation where there is in existence a cooperative cost share right-of-way program between the United States and the holder of a right-of-way. Rights-of-way may be granted, issued, or renewed to a Federal, State, or local government or any agency or instrumentality thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, for such lesser charge as the Secretary concerned finds equitable and in the public interest. Such rights-of-way issued at less than fair market value are not assignable except with the approval of the Secretary issuing the right-of-way. The moneys received for reimbursement of reasonable costs shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended.

(g) (1) The Secretary concerned shall promulgate regulations specifying the extent to which holders of rights-of-way under this title shall be liable to the United States for damage or injury incurred by the United States caused by the use and occupancy of the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims caused by their use and occupancy of the rights-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(h) Where he deems it appropriate, the Secretary concerned may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to him to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary concerned.

(i) The Secretary concerned shall grant, issue, or renew a right-of-way under this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

TERM AND CONDITIONS

SEC. 505. Each right-of-way shall contain such terms and conditions as the Secretary concerned deems necessary to (a) carry out the purposes of this Act and rules and regulations issued hereunder; (b) protect the environment; (c) assure compliance with applicable air and water quality standards and siting requirements established by or pursuant to law; (d) protect Federal property and economic interests; (e) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the lands adjacent to or traversed by such right-of-way; (f) protect lives and property; (g) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; (h) protect the public interest in the lands; and (i) minimize damage to scenic and esthetic values giving consideration to the route for the right-of-way which causes the least damage to the environment.

SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY

SEC. 506. Abandonment of the right-of-way or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary concerned may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and, and with respect to easements, an appropriate administrative proceeding pursuant to section 554 of title 5 of the United States Code, the Secretary concerned determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary concerned determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary concerned shall give written notice to the holder of the grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way, except that where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control, the Secretary concerned is not required to commence proceedings to suspend or terminate the right-of-way.

RIGHTS-OF-WAY FOR FEDERAL AGENCIES

SEC. 507. The Secretary concerned may provide under applicable provisions of this title for the use of any department or agency of the United States a right-of-way over, upon, under, or through the land administered by him, subject to such terms and conditions as he may impose.

CONVEYANCE OF LANDS

SEC. 508. If under applicable law the Secretary concerned decides to transfer out of Federal ownership any lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576), the lands may be conveyed subject to the right-of-way; however, if the Secretary concerned determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be carried out, the terms and conditions of the right-of-way complied, with, or the lands protected, he shall (a) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (b) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

EXISTING RIGHTS-OF-WAY

SEC. 509. (a) Nothing in this title shall have the effect of terminating any right-of-way or rights-of-use heretofore issued, granted, or permitted. However, with the consent of the holder thereof, the Secretary concerned may cancel such a right-of-way and in its stead issue a right-of-way pursuant to the provisions of this title.

(b) When the Secretary concerned issues a right-of-way under this title for a railroad and appurtenant communication facilities in connection with a realinement of a railroad on lands under his jurisdiction by virtue of a right-of-way granted by the United States, he may, when he considers it to be in the public interest and the lands involved are not within an incorporated community and are of approximately equal value, notwithstanding the provisions of this title, provide in the new right-of-way the same terms and conditions as applied to the portion of the existing right-of-way relinquished to the United States with respect to the payment of annual rental, duration of the right-of-way, and the nature of the interest in lands granted. The Secretary concerned or his delegate shall take final action upon all applications for the grant, issue, or renewal of rights-of-way under subsection (b) of this section no later than six months after receipt from the applicant of all information required from the applicant by this title, and if the Secretary concerned shall not have taken final action upon any such applications within such six-month period, the right-of-way application shall be deemed to have been granted, issued, or renewed in the form applied for, and the Secretary concerned shall promptly thereafter issue such a grant confirming such right-of-way. In the event the Secretary concerned or his delegate does not take final action within nine months after the initial application for a right-of-way grant is submitted by an applicant, notwithstanding the fact that the applicant was required by the Secretary or his delegate to provide information supplemental to that set forth in its initial application, he shall report in writing to the House and Senate Committees on Interior and Insular Affairs promptly thereafter the reasons why final action has not been taken on such application.

STATE STANDARDS

SEC. 510. The Secretary concerned shall take into consideration and, to the extent practical, comply with State standards for right-of-way construction, operation, and maintenance of rights-of-way for similar purposes if those standards are more stringent than Federal standards and if the lands concerned are adjacent to State lands.

EFFECT ON OTHER LAWS

SEC. 511. (a) Effective on and after the date of approval of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, under, or through such lands except under and subject to the provisions, limitations, and conditions of this title: *Provided,* That nothing in this title shall be construed as affecting or modifying the provisions of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532–538) and in the event of conflict with, or inconsistency between, this title and the Act of October 13, 1964, the latter shall prevail. Any pending application for a right-of-way under any other law on the effective date of this section shall be considered as an application under this title. The Secretary concerned may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of lands covered by this title for highway purposes pursuant to sections 107 and 317 of title 23 of the United States Code.

(c) (1) Nothing in this title shall be construed as exempting any holder of a right-of-way issued under this title from any provision of the antitrust laws of the United States.

(2) For the purposes of this subsection, the term "antitrust laws" includes the Act of July 2, 1890; the Act of October 15, 1914; the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894.

COORDINATION OF APPLICATIONS

SEC. 512. Applicants before Federal departments and agencies other than the Department of the Interior or Agriculture seeking a license, certificate, or other authority for a project which involve a right-of-way over, upon, under, or through public lands or National Forest System lands must simultaneously apply to the Secretary concerned for the appropriate authority to use public lands or National Forest System lands and submit to the Secretary concerned all information furnished to the other Federal agency.

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: Page 81, line 7, insert after "(16 U.S.C. 791)" the following: "and except that nothing in this Act shall be construed as expanding the authority of the Secretary of Interior or the Secretary of Agriculture in the siting of systems for generation of electric energy on public lands;".

Mr. SEIBERLING. Mr. Chairman, the subparagraph starting on line 3 of page 81 states that the Secretary is authorized to grant or renew rights of way on such lands for systems for generation, transmission, and distribution of electric energy.

Now, the word "generation" obviously brings in the question of power generating plants. There was no debate in the Committee on the Interior concerning any expansion of power plant siting authority of the Secretary of the Interior or the Secretary of Agriculture as granted in this section.

The idea behind this title was to apply it to linear rights of way, as in utility and transportation corridors. However, I believe, that the words "systems for generation" go beyond that.

The purpose and function of this amendment is quite simple. It would retain status quo authority for the siting of "systems for generation of electric energy." It would not diminish existing authorities for the siting of powerplants, but it would not expand such authority at this time, when there has been no debate in the House Interior or Senate Interior Committees on the implications of granting powerplant siting authority beyond what is already in existing law.

So the amendment simply says that nothing in the act shall be construed as expanding the authority of the Secretary of the Interior or the Secretary of Agriculture in the siting of systems for generation of electric energy on public lands.

Now, while section 605 of the bill repeals certain acts as they relate to rights of way authority of the Secretary of the Interior, the 1911 act in its entirety is not being repealed and this amendment does not diminish basic existing authority for the Secretary of the Interior to site systems for the generation of electric energy. It would allow expansion of the authority for the Secretary of the Interior for the transmission and distribution of electric energy.

Other provisions, such as fair market value, would not apply to this amendment. This amendment applies only to the siting of a generating plant.

Mr. MELCHER. Mr. Chairman, I rise in opposition to the amendment.

I want to point out that as I read the amendment, which is presented rather late for our observation, that it appears to me that the amendment would say that in case of a permit granted to someone for a generation plant, or any appurtenances thereto, that the rest of the title which would, in any way be an expansion of authority or direction to the Secretary to make requirements, would not be in effect.

So, in other words, I am afraid that on electrical generation plants, that whatever advancement we made in title V that is in the public interest would not be effective and could not be used by the Secretary. He would have to go back to old law. Basically, that would be a 1901 act, and would have to carry in the stipulation for the permit only those requirements of previous law and he would be required to invoke the more stringent requirements that we are mandating in this title.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Does not the gentleman agree that at no time in the Interior Committee—I do not know about the subcommittee—did the Interior Committee have any indication that they were expanding the power of the Secretary as to plant siting?

Mr. MELCHER. That is correct.

Mr. SEIBERLING. That is not what we thought we were doing.

Mr. MELCHER. That is correct, and so the only point where plant siting specifically comes into play in this bill is in title V. Section 505 deals with State siting laws and requires that the Secretary will have to stipulate in the permit that State siting requirements are part of the requirements of the permit. Now, that is already in the bill, but there has been some confusion and we are offering a clarifying amendment to section 505 which will very definitely say that State siting acts will apply. I think that will take care of the concerns of the gentleman.

Mr. SEIBERLING. Is it the position of the gentleman from Montana that section 501(a) does not expand the authority of the Secretary of the Interior with respect to siting plants?

Mr. MELCHER. We think that the whole title expands the authority, expands the responsibility requiring that he must make certain stipulations, if he should grant a permit; but to solve the concerns of whether or not State siting laws with regard to generation plants will remain in effect and be a part of the requirements of the permit, we very explicitly say in section 505 that State law will have to be a part of those stipulations.

Mr. SEIBERLING. One other question: Did the subcommittee have hearings on powerplant sitings?

Mr. MELCHER. No, the subcommittee did not have hearings on powerplant sitings, but the subcommittee has taken note that there is a concern that State siting laws regarding powerplants will be taken into consideration and must be part of the stipulations for a permit on Federal lands, and must be in effect if there is to be a generation plant located on Federal lands.

Mr. SEIBERLING. In other words, the gentleman's amendment will make State siting laws supersede any less stringent Federal legislation. Is that correct?

Mr. MELCHER. That is correct.

Mr. SEIBERLING. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Montana has expired.

(On request of Mr. Ottinger and by unanimous consent Mr. Melcher was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from New York.

Mr. OTTINGER. Is there any objection, then, to the amendment of the gentleman from Ohio, which merely says that there is nothing in here that expands the authority of the Secretary of the Interior with respect to siting?

Mr. MELCHER. Yes; I would have an objection in regard to the language as presented because it would seem to say that the further requirements in title V could not be applied if there were an expansion of authority. There are many constructive and needed points in the public interest in title V and other sections that are an expansion and further requirements imposed on the Secretary if he grants a permit.

Mr. OTTINGER. This only applies with respect to the siting of powerplants and with the specific requirements with respect to State laws applying. It seems to me that it can only do good and no harm to accept the amendment of the gentleman from Ohio. I would strongly urge the gentleman from Montana to do so.

Mr. MELCHER. I am afraid that some of the other requirements would not be in effect because they are an expansion of the Secretary's authority and, therefore, under that language, would not be utilized by the Secretary.

Mr. SEIBERLING. If the gentleman will yield, I must say that I am rather astounded that we would extend the Secretary's power to authorize powerplant sitings without having any hearings or any debate on the subject. That is not a very sound way to proceed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Seiberling).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Melcher; page 82, line 1, strike out "title" and insert "Act".

Page 91, lines 9 through 23, page 92, lines 1 through 3, strike out present text and insert the following:

"Sec. 505. Each right-of-way shall contain—

"(a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and otherwise protect the environment; (iii) assure compliance with applicable air and water quality standards and siting requirements established by or pursuant to applicable Federal or State law; and (iv) assure compliance with State standards for public health and safety, environmental protection, and construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards; and

"(b) such terms and conditions as the Secretary concerned deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the lands adjacent to or traversed by such right-of-way; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto."

Page 96, lines 9–15, delete all of Sec. 510 and renumber Secs. 511 and 512 accordingly.

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. MELCHER. Mr. Chairman, as 505 is presented in the committee bill, we allow to the Secretary some discretion in whether or not he has to carry out the purposes of this act and whether he is going to protect the environment and whether or not he is going to assure compliance with applicable air and water quality standards and siting requirements established by or pursuant to law.

We have changed "pursuant to law" to say "pursuant to Federal and State law," to clarify that State siting laws are exactly what we are talking about. I feel that (a), (b), and (c) should be mandatory.

Furthermore, then we have allowed (d), (e), (f), (g), (h), and (i) to be somewhat discretionary with the Secretary, and we allowed on those points that the stipulation for right-of-way shall contain such terms and conditions as the Secretary deems necessary.

Furthermore, section 510 seems to some people to mean State siting laws where it refers, "to State law" and "to State standards."

In order to clarify that, we have made the thrust of section 510 a part of section 505, to get it in context with the direct stipulation of adhering to State siting laws.

Mr. Chairman, I think it is a constructive amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I would be glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, with respect to the amendment, it states that "Each right-of-way shall contain * * * terms and conditions which will"—and now I am going down to "iv"—"assure compliance with State standards for public health and safety, environmental protection, and construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards;".

However, that does not apply to "siting." That only requires compliance with State standards for rights-of-way, and it seems to me that in view of the colloquy that we had with respect to my previous amendment, if the gentleman is going to do what I understood him to say the amendment would do, the word, "siting," must be inserted in the last portion of this amendment in front of the word, "construction." If the word, "siting," were inserted, then I would have no problem with this amendment, and I would then refrain from offering an additional amendment to section 510.

Mr. MELCHER. Mr. Chairman, it would be repetitious, but I find no objection to it.

Mr. SEIBERLING. Mr. Chairman, I ask unanimous consent that in the amendment offered by the gentleman from Montana (Mr. MELCHER), in the fourth line from the bottom of the first page of the amendment, the word, "siting," be inserted before the word, "construction."

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentleman for yielding, and I urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER), as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there further amendments to title V? If not, the Clerk will read.

The Clerk read as follows:

TITLE VI—EFFECT ON EXISTING RIGHTS; REPEAL OF PRIOR LAWS; APPROPRIATION AUTHORIZATION, AND EFFECTIVE DATE

EFFECT ON EXISTING RIGHTS

SEC. 601. (a) Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right existing on the date of approval of this Act.

(b) Notwithstanding any provision of this Act, in the event of conflict with or inconsistency between this Act and the Acts of August 28, 1937 (43 U.S.C. 1181a–1181j), and May 24, 1939 (53 Stat. 753–4), insofar as they relate to management of timber resources, and disposition of revenues from lands and resources, the latter Acts shall prevail.

(c) All withdrawals, reservations, classifications, and designations in effect as of the date of approval of this Act shall remain in full force and effect until modified under the provisions of this Act or other applicable law.

REPEAL OF LAWS RELATING TO HOMESTEADING AND SMALL TRACTS

SEC. 602. Effective on and after the date of approval of this Act, the following statutes or parts of statutes are repealed except insofar as the listed homestead laws apply to public lands in Alaska:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Homesteads				
Revised Statute 2289				161, 171.
Mar. 3, 1891	561	5	26: 1097	161, 162.
Revised Statute 2290				162.
Revised Statute 2295				163.
Revised Statute 2291				164.
June 6, 1912	153		37: 123	164, 169, 218.
May 14, 1880	89		21: 141	166, 185, 202, 223.
June 6, 1900	821		31: 683	166, 223.
Aug. 9, 1912	280		37: 267	
Apr. 6, 1914	51		38: 312	167.
Mar. 1, 1921	90		41: 1193	
Oct. 17, 1914	325		38: 740	168.
Revised Statute 2297				169.
Mar. 31, 1881	153		21: 511	
Oct. 22, 1914	335		38: 766	170.
Revised Statute 2292				171.
June 8, 1880	136		21: 166	172.
Revised Statute 2301				173.
Mar. 3, 1891	561	6	26: 1098	
June 3, 1896	312	2	29: 197	
Revised Statute 2288				174.
Mar. 3, 1891	561	3	26: 1079	
Mar. 3, 1905	1424		16: 991	
Revised Statute 2296				175.
Apr. 28, 1922	155		42: 502	
May 17, 1900	479	1	31: 179	179.
Jan. 26, 1901	180		31: 740	180.
Sept. 5, 1914	294		38: 712	182.
Revised Statute 2300				183.
Aug. 31, 1918	166	8	40: 957	
Sept. 13, 1918	173		40: 960	
Revised Statute 2302				184, 201.
July 26, 1892	251		27: 270	185.
Feb. 14, 1920	76		41: 434	186.
Jan. 21, 1922	32		42: 358	
Dec. 28, 1922	19		42: 1067	
June 12, 1930	471		46: 580	
Feb. 25, 1925	326		43: 981	187.
June 21, 1934	690		48: 1185	187a.
May 22, 1902	821	2	32: 203	187b.
June 5, 1900	716		31: 270	188, 217.
Mar. 3, 1875	131	15	18: 420	189.
July 4, 1884	180	Only last paragraph of sec. 1.	23: 96	190.
Mar. 1, 1933	160	1	47: 1418	190a.

The following words only: "Provided, That no further allotments of land to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96; U.S.C. title 48, sec. 190).

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 2310, 2311				191.
June 13, 1902	1080		32: 384	203.
Mar. 3, 1879	191		20: 472	204.
July 1, 1879	60		21: 46	205.
May 6, 1886	88		24: 22	206.
Aug. 21, 1916	361		39: 518	207.
June 3, 1924	240		43: 357	208.
Revised Statutes 2298				211.
Aug. 30, 1890	837		26: 391	212.

The following words only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3, 1891	561	17	26: 1101	

The following words only: "and that the provision of 'An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes,' which reads as follows, viz: 'No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws,' shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Apr. 28, 1904	1776		33: 527	213.
Aug. 3, 1950	521		64: 398	
Mar. 2, 1899	381	6	25: 854	214.
Feb. 20, 1917	98		39: 925	215.
Mar. 4, 1921	162	1	41: 1433	216.
Feb. 19, 1909	160		35: 639	218.
June 13, 1912	166		37: 132	
Mar. 3, 1915	84		38: 953	
Mar. 3, 1915	91		38: 957	
Mar. 4, 1915	150	2	38: 1163	
July 3, 1916	220		39: 344	
Feb. 11, 1913	39		37: 666	218, 219.
June 17, 1910	298		36: 531	219.
Mar. 3, 1915	91		38: 957	
Sept. 5, 1916	440		39: 724	
Aug. 10, 1917	52	10	40: 275	
Mar. 4, 1915	150	1	38: 1162	220.
Mar. 4, 1923	245	1	42: 1445	222.
Apr. 28, 1904	1801		33: 547	224.
Mar. 2, 1907	2527		34: 1224	
May 29, 1908	220	7	35: 466	
Aug. 24, 1912	371		37: 499	
Aug. 22, 1914	270		38: 704	231.
Feb. 25, 1919	21		40: 1153	
July 3, 1916	214		39: 341	232.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Sept. 29, 1919	64		41: 288	233.
Apr. 6, 1922	122		42: 491	233, 272, 273.
Mar. 2, 1889	381	3	25: 854	234.
Dec. 29, 1894	14		28: 599	
July 1, 1879	63	1	21: 48	235.
Dec. 20, 1917	6		40: 430	236.
July 24, 1919	26	Next to last paragraph only.	41: 271	237.
Mar. 2, 1932	69		47: 59	237a.
May 21, 1934	320		48: 787	237b.
May 22, 1935	135		49: 286	237c.
Aug. 19, 1935	560		49: 659	237d.
Mar. 31, 1938	57		52: 149	
Apr. 20, 1936	239		49: 1235	237e.
July 30, 1956	778	1, 2, 4	70: 715	237 j, g, h.
Mar. 1, 1921	102		41: 1202	238.
Apr. 7, 1922	125		42: 492	
Revised Statute 2308				239.
June 16, 1898	458		30: 473	240.
Aug. 29, 1916	420		39: 671	
Apr. 7, 1930	108		46: 144	243.
Mar. 3, 1933	198		47: 1424	243a.
Mar. 3, 1879	192		20: 472	251.
Mar. 2, 1889	381	7	25: 855	252.
June 3, 1878	152		20: 91	253.
Revised Statute 2294				254.
May 26, 1890	355		26: 121	
Mar. 11, 1902	182		32: 63	
Mar. 4, 1904	394		33: 59	
Feb. 23, 1923	105		42: 1281	
Revised Statute 2293				255.
Oct. 6, 1917	86		40: 391	
Mar. 4, 1913	149	Only last paragraph of section headed "Public Land Service."	37: 925	256.
May 13, 1932	178		47: 153	256a.
June 16, 1933	99		48: 274	
July 26, 1935	419		49: 504	
June 16, 1937	361		50: 303	
Aug. 27, 1935	770		49: 909	256b.
Sept. 30, 1890	J. Res. 50		26: 684	261.
June 16, 1880	244		21: 287	263.
Apr. 18, 1904	25		33: 589	
Revised Statute 2304				271.
Mar. 1, 1901	674		31: 847	271, 272.
Revised Statute 2305				272.
Feb. 25, 1919	37		40: 1161	272a.
Dec. 28, 1922	19		42: 1067	
Revised Statute 2306				274.
Mar. 3, 1893	208		27: 593	275.
The following words only: "And provided further: That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."				
Aug. 18, 1894	301	Only last paragraph of section headed "Surveying the Public Lands."	28: 397	276.
Revised Statute 2309				277.
Revised Statute 2307				278.
Sept. 21, 1922	357		42:990	
Sept. 27, 1944	421		58:747	279–283.
June 25, 1946	474		60:308	279.
May 31, 1947	88		61:123	279, 280, 282.
June 18, 1954	306		68:253	279, 282.
June 3, 1948	399		62:305	283, 284.
Dec. 29, 1916	9	1–8	39:862	291–298.
Feb. 28, 1931	328		46:1454	291.
June 9, 1933	53		48: 119	291.
June 6, 1924	274		46: 469	292.
Oct. 25, 1918	195		40: 1016	293
Sept. 29, 1919	63		41: 287	294, 295.
Mar. 4, 1923	245	2	42: 1445	302
Aug. 21, 1916	361		39: 518	1075.
Aug. 28, 1937	876	3	50: 875	1181c.
2. Small tracts				
June 1, 1938	317		52: 609	682a–e.
June 8, 1954	270		68: 239	
July 14, 1945	298		59: 467	

REPEALS OF LAWS RELATED TO DISPOSAL

SEC. 603. (a) Effective on and after the date of approval of this Act, the following statutes or parts of statutes are hereby repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Sale and Disposal Laws				
Mar. 3, 1891	561	9	26: 1099	671.
Revised Statute 2354				673.
Revised Statute 2355				674.
May 18, 1898	344	2	30: 418	675.
Revised Statute 2365				676.
Revised Statute 2357				678.
June 15, 1880	227	3, 4	21: 238	679–680.
Mar. 2, 1889	381	4	25: 854	681.
Mar. 1, 1907	2286		34: 1052	682.
Revised Statute 2361				688.
Revised Statute 2362				689.
Revised Statute 2363				690.
Revised Statute 2368				691.
Revised Statute 2366				692.
Revised Statute 2369				693.
Revised Statute 2370				694.
Revised Statute 2371				695.
Revised Stature 2374				696.
Revised Statute 2372				697.
Feb. 24, 1909	181		35: 645	
May 21, 1926	353	The 2 provisos only	44: 591	
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25: 854	700.
2. Townsite Reservation and Sale				
Revised Statute 2380				711.
Revised Statute 2381				712.
Revised Statute 2382				713.
Aug. 24, 1954	904		68: 792	
Revised Statute 2383				714.
Revised Statute 2384				715.
Revised Statute 2386				717.
Revised Statute 2387				718.
Revised Statute 2388				719.
Revised Statute 2389				720.
Revised Statute 2391				721.
Revised Statute 2392				722.
Revised Statute 2393				723.
Revised Statute 2394				724.
Mar. 3, 1877	113	1, 3, 4,	19: 392	725–727
Mar. 3, 1891	561	16	26: 1101	728.
July 9, 1914	138		38: 454	730.
Feb. 9, 1903	531		32: 820	731.
3. Drainage Under State Laws				
May 20, 1908	181	1–7	35: 171	1021–1027.
Mar. 3, 1919	113		40: 1321	1028
May 1, 1958	P.L. 85-387		72: 99	1029–1034.
Jan. 17, 1920	47		41: 392	1041–1048.
4. Abandoned Military Reservation				
July 5, 1884	214	5	23: 104	1074.
Aug. 21, 1916	361		39: 518	1075.
Mar. 3, 1893	208		27: 593	1076.
The following words only: "Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of and abandoned military reservation not exceeding twenty acres in one place."				
Aug. 23, 1894	314		23: 491	1077, 1078.
Feb. 11, 1903	543		32: 822	1079.
Feb. 15, 1895	92		28: 664	1080, 1077.
Apr. 23, 1904	1496		33: 306	1081.
5. Public Lands; Oklahoma				
May 2, 1890	182	Last paragraph of sec. 18 and secs. 20, 21, 22, 24, 27.	26:90	1091–1094, 1096, 1097.
Mar. 3, 1891	543	16	26:1026	1098.
Aug. 7, 1946	772	1, 2	60:872	1100–1101.
Aug. 3, 1955	498	1–8	69:454	1102–1102g.
May 14, 1890	207		26: 109	1111–1117.
Sept. 1, 1893	J. Res. 4		28: 11	1118.
May 11, 1896	168	1, 2	29: 116	1119.
Jan. 18, 1897	62	1–3, 5, 7	29: 490	1131–1134.
June 23, 1897	8		30: 105	
Mar. 1, 1899	328		30: 966	
6. Sales of Isolated Tracts				
Revised Statute 2455				1171.
Feb. 26, 1895	133		28: 687	
June 27, 1906	3554		34: 517	
Mar. 28, 1912	67		37: 77	
Mar. 9, 1928	164		45: 253	
June 28, 1934	865	14	48: 1274	
July 30, 1947	383		61: 630	
Apr. 24, 1928	428		45: 457	1171a.
May 23, 1930	313		46: 377	1171b.
Feb. 4, 1919	13		40: 1055	1172.
May 10, 1920	178		41: 595	1173.
Aug. 11, 1921	62		42: 159	1175.
May 19, 1926	337		44: 566	1176.
Feb. 14, 1931	170		46: 1105	1177.
7. Alaska Special Laws				
Mar. 3, 1891	561	11	26, 1099	732.
May 25, 1926	379		44: 629	733–736.
May 29, 1963	P.L. 88-34		77: 52	
July 24, 1947	305		61: 414	738.
Aug. 17, 1961	P.L. 87–147		76: 384	270–13.
Oct. 3, 1962	P.L. 87–742		76: 740	
July 19, 1963	P.L. 86–66		77: 80	687b–5.
8. Pittman Underground Water Act				
Sept. 22, 1922	400		44: 1012	356.

(b) Section 3 of the Act of August 30, 1949 (43 U.S.C. 687b-2), is amended to read as follows:

"SEC. 3. Notwithstanding the provisions of any Act of Congress to the contrary, any person who prospects for, mines, or removes any minerals from any land disposed of under this Act, shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949.".

REPEAL OF LAW RELATING TO ADMINISTRATION OF PUBLIC LANDS

SEC. 604. (a) Effective on and after the date of approval of this Act, the following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Mar. 2, 1895	174		28: 744	176.
2. June 28, 1934	865	8	48: 1272	315g.
June 26, 1936	842	3	49: 1976 title I.	
June 19, 1948	548	1	62: 533	
July 9, 1962	P.L. 87-724		76: 140	315g-1.
3. Aug. 24, 1937	744		50: 748	315p.
4. Mar. 3, 1909	271	2d proviso only.	35: 845	772.
June 25, 1910	J. Res. 40		36: 884	
5. June 21, 1934	689		48: 1185	871a.
6. Revised Statute 2447				1151.
Revised Statute 2448				1152.
7. June 6, 1874	223		18: 62	1153; 1154.
8. Jan. 28, 1879	30		20: 274	1155.
9. May 30, 1894	87		28: 84	1156.
10. Revised Statute 2471				1191.
Revised Statute 2472				1192.
Revised Statute 2473				1193.
11. July 14, 1960	P.L. 86-649	101-202(a), 203-204(a), 301-303.	74: 506	1361, 1362, 1363-1383.
12. Sept. 26, 1970	P.L. 91-429		84: 885	1362a.
13. July 31, 1939	401	1, 2	53: 1144	

(b) Effective on and after the date of approval of this Act, the implied authority of the President to make withdrawals and reservations resulting from acquiescence of the Congress (U.S. v. Midwest Oil Co., 236 U.S. 459) and the following statutes and parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Oct. 2, 1888	1069		25:527	662.
Only the following portion under the section headed U.S. Geological Survey: The last sentence of the paragraph relating to investigation of irrigable lands in the arid region, including the proviso at the end thereof.				
Mar. 1, 1893	183	21	27:510	33 U.S.C. 681.
Aug. 18, 1894	301	4	28:422	641.
Only that portion of the first sentence of the second paragraph beginning with "and the Secretary of the Interior" and ending with "shall not be approved."				
May 14, 1898	299	10	30: 413	687 a-4.
Only the fifth proviso of the first paragraph.				
June 17, 1902	1093	3	32: 388	416.
Only that portion of section three preceding the first proviso.				
Apr. 16, 1906	1631	1	34: 116	561.
Only the words "withdraw from public entry any lands needed for townsite purposes", and also after the word "case", the word "and".				
June 27, 1906	3559	4	34: 520	561.
Only the words "withdraw and".				
Mar. 15, 1910	96		36: 237	643.
June 25, 1910	421	1, 2	36: 847	141, 142, 16 U.S.C. 471(a).
All except the second and third provisos.				
June 25, 1910	431	13	36: 858	148.
Mar. 12, 1914	37	1	38: 305	975b.
Only that portion which authorizes the President to withdraw, locate, and dispose of lands for townsites.				
Oct. 5, 1914	316	1	38: 727	569(a).
June 9, 1916	137	2	39: 219	
Under "Class One", only the words "withdrawal and."				
Dec. 29, 1916	9	10	39: 865	300.
Aug. 19, 1935	561	"Sec. 4"	49: 661	22 U.S.C. 277c.
In "Sec. 4", only paragraph "c" except the proviso thereof.				
Mar. 3, 1927	209	4	44: 1347	25 U.S.C. 398d.
Only the proviso thereof.				
May 24, 1928	729	4	45: 729	49 U.S.C. 214.
Dec. 21, 1928	42	9	45: 1063	617(h).
Mar. 6, 1946	58		60: 36	617(h).
First sentence only.				
June 16, 1934	557	"Sec. 40(a)"	48: 977	30 U.S.C. 229a.
The proviso only.				
May 1, 1936	254	2	49: 1250	
May 31, 1938	304		52: 593	25 U.S.C. 497.
July 20, 1939	334		53: 1071	16 U.S.C. 471(b).
May 28, 1940	220	1	54: 224	16 U.S.C. 522a.
All except the second proviso.				
Apr. 11, 1956	203	8	70: 110	620g.
Only the words "and to withdraw public lands from entry or other disposition under the public land laws".				
Aug. 10, 1956	Chapter 949.	9772	70A: 588	10 U.S.C. 4472, 9772.
Aug. 16, 1952	P.L. 87-590.	4	76: 389	616(c).
Only the words "and to withdraw public lands from entry or other disposition under the public land laws".				

(c) The second sentence of the Act of March 6, 1946 (60 Stat. 36; 43 U.S.C. 617(b), is amended by deleting "Thereafter, at the direction of the Secretary of the Interior, such lands" and by substituting therefor the following: "Lands found to be practicable of irrigation and reclamation by irrigation works and withdrawn under the Act of March 6, 1946 (43 U.S.C. 617(h)".

REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY

SEC. 605. Effective on and after the date of approval of this Act, section 2477RS. (43 U.S.C. 932) is repealed in its entirety and the following statutes or parts of statutes are repealed insofar as they apply to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 2339				661.
The following words only: "and the right-of-way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed: but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damages shall be liable to the party injured for such injury or damage."				
Revised Statutes 2340				661.
The following words only: ", or rights to ditches and reservoirs used in connection with such water rights,"				
Feb. 26, 1897	325		29: 599	664.
Mar. 3, 1899	427	1	30: 1233	665. 958 (16 U.S.C. 525).
The following words only: "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plots of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby."				
Mar. 3, 1875	152		18: 482	934-939.
May 14, 1898	299	2-9	30: 409	942-1 to 942-9.
Feb. 27, 1901	614		31: 815	943.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
June 26, 1906	3548		34: 481	944.
Mar. 3, 1891	561	18–21	26: 1101	946–949.
Mar. 4, 1917	184	1	39: 1197	
May 28, 1926	409		44: 668	
Mar. 1, 1921	93		41: 1194	950.
Jan. 13, 1897	11		20: 484	952–955.
Mar. 3, 1923	219		42: 1437	
Jan. 21, 1895	37		28: 635	951, 956, 957.
May 14, 1896	179		29:120	
May 11, 1898	292		30: 404	
Mar. 4, 1917	184	2	39: 1197	
Feb. 15, 1901	372		31: 790	959 (16 U.S.C. 79, 522).
Mar. 4, 1911	238		36: 1253	961 (16 U.S.C. 5, 420, 523).
Only the last two paragraphs under the subheading "Improvement of the National Forests" under the heading "Forest Service."				
May 27, 1952	338		66: 95	
May 21, 1896	212		29: 127	962–965.
Apr. 12, 1910	155		36: 296	966–970.
June 4, 1897	2	1	30: 35	16 U.S.C. 551.
Only the eleventh paragraph under Surveying the public lands.				
July 22, 1937	517	31, 32	50: 525	7 U.S.C. 1010–1012.
Sept. 3, 1954	1255	1	68: 1146	931c.
July 7, 1960	Public Law 86–608.		74:363	40 U.S.C. 345c.
Oct. 23, 1962	Public Law 87–852.	1–3	76: 1129	40 U.S.C. 319a–c.
Feb. 1, 1905	288	4	33: 628	16 U.S.C. 524.

APPROPRIATION AUTHORIZATION

SEC. 606. (a) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act, but no amounts shall be appropriated to carry out after October 1, 1978, any program, function, or activity of the Bureau under this or any other Act unless such sums are specifically authorized to be appropriated as of the date of approval of this Act or are authorized to be appropriated in accordance with the provisions of subsection (b) of this section.

(b) Consistent with section 607 of the Congressional Budget Act of 1974, beginning May 15, 1977, and not later than May 15 of each even numbered year thereafter, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the two-fiscal-year period beginning on October 1 of the calendar year following the calendar year in which such request is submitted. The Secretary shall include in his request, in addition to the information contained in his budget request and justification statement to the Office of Management and Budget, the funding levels which he determines can be efficiently and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or limitations imposed by any official or agency of the executive branch.

(c) Nothing in this section shall apply to the distribution of receipts of the Bureau from the disposal of lands, natural resources, and interests in lands in accordance with applicable law, nor to the use of contributed funds, private deposits for public survey work, and townsite trusteeships, nor to fund allocations from other Federal agencies, reimburements from both Federal and non-Federal sources, and funds expanded for emergency firefighting and rehabilitation.

SEVERABILITY

SEC. 607. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: On page 98, after line 24, insert the following new subsection:

"(d) Nothing in this Act, or in any amendments made by this Act, shall be construed as permitting any person to place, or allow to be placed, spent oil shale, overburden, or byproducts from the recovery of other minerals found with oil shale, on any Federal land other than Federal land which has been leased for the recovery of shale oil under the Mineral Lands Leasing Act of 1921 (30 U.S.C. 181–263)."

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

Mr. STEIGER of Arizona. Mr. Chairman, I object. We do not have a copy of the amendment.

The CHAIRMAN. Objection is heard. The Clerk will read.

(The Clerk concluded the reading of the amendment.)

Mrs. SCHROEDER. Mr. Chairman, I am offering my amendment to assure that Congress does not inadvertently come to a decision on a matter which Congress is still in the early processes of discussing. The matter is whether or not we want to permit the public lands to be given, or cheaply transferred, to the oil shale industry so that the industry can dump its waste products on them. The matter is not any nickel and dime matter, either. It could involve hundreds of millions of dollars of the people's lands.

A bit of background is in order. In late 1973 and early 1974, the Department of the Interior instituted a prototype oil shale leasing program in the States of Colorado, Utah, and Wyoming. The program, which is still in the works, was created under the authority of the Mineral Leasing Act of 1920, which says that areas of up to 5,120 acres of oil shale lands may be leased by the Department so that we can see if oil shale can work.

Two tracts were set aside in each of the States I have mentioned. The tracts in Colorado went for over $200 and $100 million. The two tracts in Utah for lesser, but substantial amounts. And nobody bid on the ones in Wyoming. Each of the tracts which were offered for bidding were near to the maximum of 5,120 acres which the law permits.

Now, after the tracts had gone through the competitive bidding process, the Department of the Interior came forth and withdrew tracts from use adjacent to the ones which had been leased. It stated that these tracts were to be used for the eventual disposal of spent oil shale and overburden from the tracts which had been paid for. The tracts which were withdrawn are actually larger in area than those which were leased. So suddenly, a 10-square-mile lease tract began looking like a 20-square-mile tract.

What is worse, it began to appear that the real intentions in the prototype were to dig a couple holes 3 miles across and 1,500 feet deep in the lease tracts and, by dumping the extracted and processed material next door, create a couple new formations in the Rocky Mountains. These plans made little sense when compared to the talk in the environmental impact study on the oil shale prototype program about backfilling, reclamation, and revegetation of the tracts. They seem to eliminate one of the basic parts of the oil shale prototype program—that the "prototypes" were supposed to show how environmental considerations would be met in later oil shale commercialization projects.

In any event, the Department's actions prompted our colleague, CHARLES VANIK, to write to the Comptroller General for an opinion as to their legality. As the following correspondence shows, the Interior Department's actions are of very questionable legality:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRPSENTATIVES,
Washington, D.C., January 7, 1974.

Hon. ELMER STAATS,
Comptroller General,
General Accounting Office,
Washington, D.C.

DEAR MR. STAATS: The Federal Prototype Oil Shale Leasing Program recently announced by Secretary of the Interior Morton will soon begin with bidding on the first of six tracts of land in Colorado, Utah, and Wyoming. Each state contains two lease tracts of about 5100 acres apiece that Secretary Morton hopes will provide "enough industrial experience" to allow informed decisions to be made on the continuation and expansion of the oil shale program.

Each tract will support one of several mining techniques, among them a "strip mining technique that will mine the oil shale rock before it is crushed and retorted to yield its kerogen contents. This surface mining technique appears to be the cheapest and most efficient oil recovery method, but also the most destructive to the Rocky Mountain Western Slope lands where all of the prospective tracts are located.

After the oil is recovered, the remaining crushed shale, the consistency of flour and effectively sterilized by the heat of the retorting process, is *discarded*. It has no practical use, at least not in the huge quantities that a commercial oil shale operation will produce. Most of the operations foresee mining of shale of an average quality of about 30 gallons of oil per ton of shale. A 50,000 barrel-a-day commercial plant like Secretary Morton hopes will be developed by the Prototype Program will have over 69,000 tons of waste shale each day.

Compounding the disposal problem is the fact that the crushed and processed rock will have a greater volume than its parent rock since it has been broken up—with a consequent increase in the inter-particle spaces. Authorities estimate that the processed shale will have a volume at least 12% more than the original, and perhaps up to 40% more. This spent shale cannot be immediately returned to its original site since access to other oil shales might then be blocked.

The Department of the Interior's "Environmental Impact Statement" attempted to anticipate the tremendous problems that the massive amounts of waste would bring. The Final Lease Form, published in the Federal Register of November 30, 1973, further anticipated disposal of spent shale in section 10 of its initial remarks:

"10. Withdrawal of additional lands: The Department recognizes that in some situations lands outside the leased tracts may be required under other statutes than the Mineral Leasing Act for roads or other purposes in connection with the prototype oil shale leasing program. Moreover, since this is a prototype rather than a general leasing program, the Department may in the future find it desirable to conduct investigations, studies, and experiments under section 101 of the Public Land Administration Act (43 USC 1362), particularly in connection with the disposal of spent shale. In order to facilitate these possible future investigations, studies, and experiments, the Department is withdrawing from all forms of appropriation under public land laws, including the mining laws, certain lands in the vicinity of the tracts offered for lease."

An examination of the Public Lands Administration Act cited, shows this:

"43 USC 1362: The Secretary of the Interior may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the improvement, management, use, and protection of the public lands and their resources under his jurisdiction."

Using this authority as precedent, the Secretary of the Interior will allow millions of tons of shale waste to be dumped on adjacent Federal lands that are not leased by the oil companies under the Prototype Leasing Program. This seems to me a very severe stretching of the apparent intent of 43 USC 1362. It allows private, profit-making industry to use the public's lands as garbage pits for their spent shale wastes—and at no cost to the industry.

In view of the profit making potential of oil shale, a potential which increases almost daily as the price of available liquid oil skyrockets, it makes no sense to allow this government-sanctioned abuse of our public lands without compensation.

I would appreciate it if your office could review and examine all aspects of this waste shale dumping on non-leased public lands and report your findings to me. I would hope a preliminary assessment could be available several days before February 1, 1974, so that it can be submitted before that deadline for comments solicited in the January 3, 1974 Federal Register announcement of Colorado and Utah public land withdrawals (pages 832–34).

There are several areas that are worthy of attention in your considerations:

Did the enacting legislation for 43 USC 1362 foresee this use of its authority? Did it intend to authorize disposal of mining wastes? Did it foresee the dumping of wastes of this extent?

Is this utilization of the Code within the law? Can the Secretary indeed interpret the Code as he has?

Is it reasonable and proper to allow this proposed use, and probable abuse, of public lands without a single penny of compensation? Why shouldn't the oil companies be required to pay for the use of and damage to non-leased public lands? Why should the Federal government subsidize these private companies for their financial gain?

If non-leased land dumping *is allowable*, what are the enviromnental repercussions? Shouldn't a NEPA statement be required in *each* instance of waste shale disposal in addition to the already published very general EIS that covered the Prototype Leasing Program?

If there is any way that my office might aid you in your examination, please do not hesitate to contact us.

Sincerely yours,

CHARLES A. VANIK,
Member of Congress.

COMPTROLLER GENERAL OF
THE UNITED STATES,
Washington, D.C., January 30, 1974.

Hon. CHARLES A. VANIK,
House of Representatives.

DEAR MR. VANIK: Your letter of January 7, 1974, raises several questions concerning a proposal by the Department of the Interior (hereafter "the Department") to withdraw from all forms of appropriation and to reserve certain public lands in the vicinity of other public lands which are to be leased under the Department's "prototype oil shale leasing program."

Proposals to withdraw approximately 6,560.04 acres in Colorado and 840 acres in Utah appear at 39 F.R. 832 and 833 (January 3, 1974). Each notice of proposed withdrawal states that the subject lands are

"* * * to be used in investigations, studies and experiments by the Department of the Interior, or with others in the improvement, management, use and protection of the lands and their natural resources under section 101 of the Public Land Administration Act (43 U.S.C., section 1362), and pursuant to paragraph 10 of the notice of sale of shale leases published in the November 30, 1973 issue of the Federal Register, 38 FR 33187–33199."

Section 101 of the Public Land Administration Act is paraphrased in the portion of the proposed withdrawal notice quoted above. Section 10 of the Department's notice of sale of shale leases, 38 F.R. 33188, reads as follows:

"*Withdrawal of additional lands:* The Department recognizes that in some situations lands outside the leased tracts may be required under other statutes than the Mineral Leasing Act for roads or other purposes in connection with the prototype oil shale leasing program. Moreover, since this is a prototype rather than a general leasing program, the Department may in the future find it desirable to conduct investigations, studies, and experiments under section 101 of the Public Land Administration Act (43USC 1362), particularly in connection with the disposal of spent shale. In order to facilitate these possible future investigations, studies, and experiments, the Department is withdrawing from all forms of appropriation under public land laws, including the mining laws, certain lands in the vicinity of the tracts offered for lease."

As you point out, the Department's prototype oil shale leasing program involves the leasing of certain public lands in Colorado, Utah and Wyoming. While a specific mining technique is not mandated for a majority of the tracts under the Department's program, several probable techniques require a "retorting" process whereby oil is recovered from the oil shale rock, leaving huge residues of "retorted" or "spent" shale. Your figures indicate that over a ton of shale is required to produce one barrel of oil by retorting, and that the shale residue is greater in volume than the original shale by virtue of the retorting process.

Your specific questions concerning the use of withdrawn lands outside the leased tract for disposal of spent shale are as follows:

Did the enacting legislation for 43 U.S.C. 1362 foresee this use of its authority? Did it intend to authorize disposal of mining wastes? Did it foresee the dumping of wastes of this extent?

Is this utilization of the Code within the law? Can the Secretary indeed interpret the Code as he has?

It is reasonable and proper to allow this proposed use, and probable abuse, of public lands without a single penny of compensation? Why shouldn't the oil companies be required to pay for the use of and damage to nonleased public lands? Why should the Federal Government subsidize these private companies for their financial gain?

If nonleased land dumping *is* allowable, what are the environmental repercussions? Shouldn't a NEPA statement be required in *each instance* of waste shale disposal in addition to the already published very general EIS that covered the Prototype Leasing Program?

We would offer several general observations before proceeding to these questions. First, section 10 of the notice of sale of shale leases as well as the Department's 1973 environmental impact statement clearly envision that some outside lands will be required for disposal of spent shale in some cases. However, the extent of this cannot be determined at the present time since it is dependent upon such factors as the mining techniques which lessees employ, and the extent to which disposal can be accomplished on the leased tracts. For example, the Department's environmental impact statement indicates that *in situ* recovery is the only option to be afforded for the two Wyoming tracts (vol. III, pg. IV–6). Consequently, no outside lands would be required for disposal. On the other hand, use of some outside lands for disposal seems probable with repect to the Colorado and Utah tracts (vol. III, pgs. IV–10–30). The need for outside lands will generally be greatest in the early stages of mining and production, since initial disposal on the leased tracts would impede mining operations. Secondly, actual arrangements for the use of outside lands for spent shale disposal have yet to be made. The Department's proposed lease for the mining tracts does not of itself confer any access to outside lands. The Department's environmental impact statement (vol. III, pg. V–86) states:

"An oil shale lessee or any other party will have to make separate applications for rights-of-way for roads, power transmission lines, telephone and telegraph lines, and pipelines and for special land use permits and other rights to use land outside the tract subject to the oil shale lease for purposes connected directly or indirectly with oil shale development. * * *"

Thus, provision of outside lands for disposal purposes will be accomplished separate and apart from the lease or any other arrangements now existing. Thirdly, the Department has informally advised us that it has not at present determined what specific authorities and procedures would be employed in actual arrangements for the use of outside lands.

As a result of the foregoing, the questions which you raise cannot be fully answered at the present time. However, we hope that our responses will be of assistance in formulating comments on the proposed withdrawals.

With reference to your first question, section 101 of the Public Land Administration Act, 43 U.S.C. 1362, provides:

"The Secretary of the Interior may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the improvement, management, use, and protection of the public lands and their resources under his jurisdiction."

Closely related is section 102 of the same act, 43 U.S.C. 1363, which provides:

"The Secretary of the Interior may enter into cooperative agreement involving the improvements, management, use, and protection of the public lands and their resources under his jurisdiction. The provisions of this section shall apply only in those cases where the making of cooperative agreements for such purposes is neither expressly authorized nor expressly prohibited by other provisions of laws."

The relatively brief legislative history of the act does not disclose any consideration of whether section 101 or 102 might apply to disposal of mining wastes; nor, for that matter, does the legislative history indicate any efforts to specifically detail projects or uses contemplated by these sections.

The Public Land Administration Act was based upon draft legislation proposed by the Department, and sections 101 and 102 were enacted in the same form as proposed. Compare H.R. 7004, 86th Cong., 1st sess. (May 7, 1959). The general purpose of these sections was to extend to all public lands under the jurisdiction of the Department the same authority for investigations, studies, and cooperative agreements which theretofore applied only under certain specific statutes. See H. Rept. 1249, 86th Cong., 2d sess., 1; S. Rept. No. 1755, 86th Cong., 2d sess., 1. The Department's letter transmitting the proposed legislation noted that then existing statutes not only limited authority for such activities to particular categories of public lands, but also to particular purposes. H. Rept. No. 1249, *supra*, 3, 4. Accordingly, it appears that both sections 101 and 102 were designed to provide general authority to undertake or support activities not specifically prohibited or authorized by other statutes.

Your second question is whether this authority may be applied to the use of outside lands for disposal of spent shale under the circumstances discussed herein. As noted previously, it is not clear at present exactly what authority and procedures the Department will employ in actually making outside lands available for shale disposal. Thus it is possible that other statutory authority might ultimately be invoked apart from, or in conjunction with, the Public Land Administration Act. However, considering the Public Land Administration Act alone, we would offer the following comments.

We doubt that the mere general provision of outside lands for use in disposal of shale could of itself be considered an investigation, study, or experiment within the purview of section 101. On the other hand, we understand that there are a number of factors and alternatives to be considered in terms of disposal techniques. For example, level filling a canyon or gorge from bottom to top might adversely affect wildlife which feed at the base of such locations. Therefore, a graded filling operation might be preferable if feasible from an engineering viewpoint. Questions also exist concerning the types of vegetation which can grow in a deposit of spent shale. In sum, it appears that legitimate investigative or experimental activities could possibly be undertaken in connection with shale disposal. Accordingly, we believe the broad authority conferred by the act could be utilized for shale disposal provided that such disposal is undertaken in conjunction with specific and meaningful investigative, study or experimental activities.

Your third question is whether compensation should be obtained for use of outside lands for shale disposal. For consideration here is the so-called "user charges" statute, section 501 of the Independent Offices Appropriation Act, 1952, 65 Stat. 290, 31 U.S.C. 483a, which provides:

"It is the sense of the Congress that any work, service publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945) to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the fullest extent possible, and the head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts: *Provided*, That nothing contained in this section shall repeal or modify existing statutes prohibiting the collection, fixing the amount, or directing the disposition of any fee, charge or price: *Provided further*, That nothing contained in this section shall repeal or modify existing statutes prescribing bases for calculation of any fee, charge or price, but this proviso shall not restrict the redetermination or recalculation in accordance with the prescribed bases of the amount of any such fee, charge or price."

We have observed that the very broad language of this section contemplates that persons who receive special benefits from the Government should provide compensation therefor. 48 Comp. Gen. 24, 27–28 (1968). The matter of compensation for Federal benefits is also the subject of BOB Bulletin No. 58–3 (November 13, 1957) and BOB Circular No. A–25 (September 23, 1959). Circular No. A–25 states in part, pages 1–2:

"3. *General policy*. A reasonable charge, as described below, should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit.

* * * * *

"b. *Lease or sale*. Where federally owned resources or property are leased or sold, a fair market value should be obtained. Charges are to be determined by the application of sound business management principles, and so far as practicable and feasible in accordance with comparable commercial practices. Charges need not be limited to the recovery of costs; they may produce net revenues to the Government."

In our opinion, 31 U.S.C. 483a would apply to any arrangement for disposal of spent shale on outside lands absent specific statutory authority to the contrary. Again, the matter of compensation will depend upon the precise statutory authority and procedures utilized by the Department. If the Department invokes a statute or existing statutory regulations which contain provisions relating to compensation, such provisions would presumably be governing.

Your fourth question relates to the environmental repercussions of shale disposal on outside lands and whether environmental impact statements would be required in each instance of such disposal in addition to the Department's existing environmental impact statement. We believe that making outside lands available for shale disposal of the magnitude contemplated could be a major Federal action significantly affecting environmental quality, and thus subject to the environmental impact statement requirement under section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Accordingly, the real issue here is whether the Department's 1973 general environmental impact statement for the prototype oil shale leasing program is sufficient to cover the actual and ultimate provision of outside lands.

The 1973 statement does address potential impacts of shale disposal both on and under the lease tracts and on outside lands, and discusses environmental impacts on specified outside lands which the Department considers likely areas for disposal. At the same time, the statement recognizes that such discussion is necessarily hypothetical and tentative at present since it is unknown precisely what outside lands will be involved, what disposal techniques will be employed, and what new technologies and alternatives may become relevant by the time disposal is actually required (presumably when detailed development plans are submitted several years from now). Department officials have informally advised us that while they have no current plans to file additional environmental impact statements, such action will be taken if warranted by circumstances existing at the time detailed development plans are submitted.

In addition to the specific questions which you have raised, our review indicates another legal issue concerning the use of outside lands for shale disposal. The basic statutory foundation for the prototype oil shale leasing program is section 21 of the Mineral Lands Leasing Act, as amended, 30 U.S.C. 241. This section authorizes the Secretary of the Interior to lease shale oil deposits on public lands containing such deposits, *or land adjacent thereto*, as may be required for the extraction and reduction of the leased minerals * * *" (italics supplied). Section 21 further provides that no lease under that section may exceed 5,120 acres. Each of the six tracts to be leased under the prototype oil shale leasing program approaches 5,120 acres without consideration of any outside lands which may be required for shale disposal. As noted previously, the Department's proposals to withdraw outside lands in connection with the leasing operations include over 6,500 acres in Colorado and over 800 acres in Utah.

It could be argued that section 21 contemplates a 5,120-acre limitation upon all surface lands required for the extraction and reduction of minerals in a mining operation under any single lease, particularly since this action specifically authorizes inclusion of adjacent lands in the basic lease. In any case where mining of oil shale could not as a practical matter be accomplished without the existence of offsite disposal facilities, outside lands used for this purpose could be regarded as "required for the extraction and reduction of" shale oil within the meaning of section 21. Somewhat analogous considerations involving maximum amounts of land provided for pipeline rights-of-way under section 28 of the Mineral Lands Leasing Act, 30 U.S.C. 185 proved fatal to the Department's original trans-Alaska pipeline program in *Wilderness Society* v. *Morton*, 479 F. 2d 842 (D.C. Cir.

1973). See particularly part I of the court's opinion, 479 F. 2d at 851–875.

While in our opinion legal issues regarding the effect of the 5,120-acre limitation upon provision of outside lands for shale disposal are potentially quite serious, they appear to be premature at the present time. Presumably, actual applications for outside lands will not be made for some time, and then will require consideration of the specific authorities relied upon. It should also be noted that use of outside lands for purposes specifically authorized by law—such as rights-of-way for tramroads (43 U.S.C. 956) and power and communications lines (43 U.S.C. 959)—would clearly not conflict with the 5,120-acre limitation. See *Wilderness Society, supra,* 479 F. 2d at 879–881.

Finally, it is noted that the Department has proposed legislation which, if enacted, would apparently overcome the problem of acreage limitations in relation to outside lands. See S. 1040 and H.R. 5442, 93d Congress. Section 112(a) of these identical bills provides in part as to mineral leases:

"The lessee shall have, under his lease, the right to use, free of charge, so much of the surface of the leased area as may be reasonably required for the actual extraction and removal of the mineral subject to his lease. The lessee shall also, upon payment of fair market rental and upon such terms and conditions as the Secretary may prescribe, have the right to lease for the amount of the surface reasonably necessary for other operations under the lease and access thereto of (1) the leased area, and (2) where the leased area is inadequate, nearby leasable lands. * * *"

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

[From the Federal Register, Vol. 59, No. 2, Thursday, January 3, 1974]

COLORADO

LANDS FOR OIL SHALE PURPOSES PROPOSED WITHDRAWAL AND RESERVATION

DECEMBER 21, 1973.

The Bureau of Land Management, U.S. Department of the Interior has filed an application Colorado 19889 for the withdrawal from all forms of appropriation under the public land laws including the mining laws (30 U.S.C. ch. 2(1970)) and, mineral leasing laws (30 U.S.C. 181–301(1970)) the following described national resource lands to be used in investigations, studies and experiments by the Department of the Interior, or with others in the improvement, management, use and protection of the land and their natural resources under section 101 of the Public Land Administration Act (43 U.S.C. Sec. 1362) and pursuant to paragraph 10 of the notice of sale of oil shale lease published in the November 30, 1973 issue of the Federal Register (38 FR 33187–33199):

STATE PRINCIPAL MERIDIAN, COLORADO

T. 1 R.R. 101 W.
Sec. 10, SE¼SW¼;
Sec. 15, NW¼, N½SW¼, SW¼SW¼, SE¼SE¼SW¼, and SW¼SW¼SE¼;
Sec. 16, SE¼NE¼, S½SW¼ and SE¼;
Sec. 17, SE¼SE¼;
Sec. 20, E½NE¼, and E¼NE¼SE¼;
Sec. 23, lots 1, 2, 3, 4, 5, NE¼, E½NW¼, NE¼SW¼ and N½SE¼;
Sec. 22, W½NE¼, NW¼, N½SW¼ and W½SE¼;
Sec. 26, S½NW¼, SW¼, S½SE¼;
Sec. 27, lots 2, 3, 4, 5, 6, 7, NE¼, SE¼NW¼, NE¼SW¼ and N½SE¼;
Sec. 28, S½SE¼NE¼, SE¼NE¼ SE¼NE¼SW¼, SE¼SW¼ and SE½;
Sec. 33, N½NE¼, NE¼NW¼, S½SW¼SE¼ and SE¼SE¼;
Sec. 34, NE¼, E½NW¾, N½NW¼NW¼, SW¼ and N½SE¼;
Sec. 35, lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SW¼SW¼SE¼ and N½S½SE¼;
Sec. 36, SE¼NE¼SW¼, SE¼SW¼SW¼, SE¼SW¼ and W½SE¼;
T. 2 S., R. 101 W.
Sec. 1, lots 6, 7, 8 and S½NW¼;
Sec. 2, lots 5, 6, 7, 8, S½N½, SW¼ and W¼SW¼SE¼;
Sec. 3, lots 5, 7, 8, S½NE¾, S½NW¼, SW¼N½SE¼, SW¼SE¼ and NW¼SE¼SE¼;
Sec. 4, lots 5, 6, S½NE¼, N½N½SE¼ and SE¼SE¼;
Sec. 9, NE¼NE¼NE¼;
Sec. 10, NE¼, E½NW¼, N½NW¼NW¼, NE¼SW¼, NE¼SE¼SW¼, N½SE¼ and N½S½SE¼;
Sec. 11, W½NE¼, NW¼, N½SW¼, N½S½SW¼ and NW¼SE¼.

The area described aggregates approximately 6,560.04 acres of national resource lands.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal should present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202 prior to February 1, 1974.

The Department's regulations (43 CFR 2351.4(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing or potential demand for the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the Federal Register. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

DALE R. ANDRUS,
State Director,

[FR Doc.74–24 Filed 1–2–74;8:45 am]

UTAH

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

DECEMBER 21, 1973.

The Bureau of Land Management, U.S. Department of the Interior, has filed an application, serial No. Utah 24667 for the withdrawal from all forms of appropriation under the public land laws including the mining laws (30 U.S.C. ch. 2(1970)) and mineral leasing laws (30 U.S.C. 181–301(1970)) the following described national resource lands to be used in investigations, studies and experiments by the Department of the Interior, or with others in the improvements, management, use and protection of the lands and their natural resources under section 101 of the Public Land Administration Act (43 U.S.C. section 1362), and pursuant to paragraph 10 of the notice of sale of oil shale leases published in the November 30, 1973 issue of the Federal Register, 38 FR 33187–33199.

On or before February 1, 1974, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal, may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 3103, Federal Building, Salt Lake City, Utah 84138.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the Federal Register. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SALT LAKE MERIDIAN, UTAH

Uintah County

T. 10 S., R. 24 E.
Sec. 35.
T. 11 S., R. 25 E.
Sec. 5, SW¼NW¼, W½SW¼;
Sec. 6, SE¼NE¼, NE¼SE¼.

The areas described aggregate 840 acres.

WILLIAM G. LEAVELL,
Acting State Director.

[FR Doc. 74–121 Filed 1–2–74; 8:45 am]

Mr. Chairman, the problem which my amendment will correct is that H.R. 13777, I believe inadvertently, would give to the Department of the Interior the power which it does not now have to give substance to its transfers of the extra lands. Both sections 202 and 501 of H.R. 13777 can be construed as permitting the Secretary of the Interior to set aside public lands for purposes such as spent oil shale dumping. My amendment, by adding a new subsection to section 601 of H.R. 13777, simply further clarifies that whatever the powers granted to the Secretary, these powers do not include any to grant public lands for the use of spent oil shale dumping.

Besides the fact that the giving of such power to the Secretary of the Interior would, in essence, mean the transformation of the ongoing prototype program in oil shale development into something much more grand, there are other factors which come to bear:

First, the Subcommittee on Mines and Mining of the House Interior and Insular Affairs Committee has had under consideration bills which would prohibit such dumping and bills which would specifically permit such dumping. The subcommittee held hearings on the issue in June and July, but it has yet to proceed further. Thus, even within the committee which has reported H.R. 13777, the issue has still to be decided.

Second, if we would grant through the backdoor approach of H.R. 13777, a power to the Secretary of the Interior which he could use to give extra lands to those oil shale developers who were successful at bidding on the prototype program, we are not only being unfair to the people of the United States, who own the lands, by not dealing with land disposition in an up front manner, we are also being quite unfair to those oil shale companies which were unsuccessful bidders on the prototype tracts. In other words, if these companies had known that these free, or nearly free parcels, would be part of the final deal, might they not have bid higher sums? Do we in Congress want to open up a legal can of worms in which those who were unsuccessful bidders sue the Government because the substance of what they were bidding has been extensively altered after the fact?

I urge that my colleagues accept and support the clarification on this issue which my amendment offers.

Mr. MELCHER. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, there

is nothing in this bill that deals with oil shale. That is covered by other law; it is under the Mineral Leasing Act. We have nothing in this bill that deals with oil shale.

The gentlewoman's amendment is only a disclaimer to the effect that nothing in the bill will be construed as dealing with oil shale. It is perfectly attuned to what the bill provides, and I find no objection at all to the amendment.

Mr. McCORMACK. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Washington.

Mr. McCORMACK. In the case of in-situ oil recovery, there is a practice of removing some of the underburden and overburden to obtain access to the oil shale, and this is added to the side of the slope because it is the same kind of material, completely untreated, that has fallen there naturally. It may roll down the side of the hill for several thousand feet.

Would the gentlewoman from Colorado (Mrs. Schroeder) consider that sort of removal as prohibited under her amendment unless all the land on which the rock might fall is included in the oil shale lease?

Mrs. SCHROEDER. Again, my amendment does not really intend to do anything except to hold the law in abeyance, right where it is.

I want to make sure that nothing in this act can be construed as changing the law as it is right now.

I think the chairman of the subcommittee has very correctly stated that nothing in the act is to do that; but the gentlewoman from Hawaii (Mrs. Mink) is having hearings on the whole oil shale problem. I think her bill should come out soon, and that would deal with that, and we would have an opportunity to discuss it.

My amendment is an additional disclaimer to make sure that nothing may be interpreted by anybody to cause him to think that it might change the law as it is right now.

Until the subcommittee that the gentlewoman from Hawaii chairs has time to act on that, my amendment would not affect that matter in any respect.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I interpret the language the same as the gentlewoman from Colorado (Mrs. Schroeder) does, except that the explanation offered on the gentlewoman's copy says that this amendment would prohibit mining companies from dumping, et cetera.

As I understand it, what the gentlewoman is saying is that there is no authority now to dump, and that what she wants to say is that the fact is that no authority exists now to dump off the lease.

By that token, the gentlewoman is not prohibiting it; is that correct? I do not see anything like that in the language. I see it in the explanation.

Does the gentlewoman interpret the language as prohibiting it?

Mrs. SCHROEDER. No, I do not interpret the language as prohibiting it. I interpret the language as saying the law is as the law is right now, and nothing in this act should be construed as amending it either way.

That is why the last line, at the bottom, says "other than Federal land which has been leased."

Mr. STEIGER of Arizona. In the gentlewoman's opinion, if an outfit were to obtain a lease for the development of oil shale, and another lease specifically provides for the dumping of this spent shale, would this language prohibit the acquisition of two leases?

Mrs. SCHROEDER. Currently, as the gentleman knows, that has been stopped. That is why the gentlewoman from Hawaii is having hearings.

Yes, that would stop that at the moment and would hold the law in abeyance, as it is right now, until the subcommittee has had a chance to work on that and decide what should be done.

Mr. STEIGER of Arizona. If the law says that one could do it now, he could still do it now, even with the language of the gentlewoman's amendment?

Mrs. SCHROEDER. If that is what the law is, that is right.

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentlewoman from Colorado.

I hope that we accept the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. Schroeder).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Melcher: Page 98, after line 24 insert the following subsection.

"(d) Nothing in this Act shall be construed as modifying, revoking, or changing any provision of the Alaska Native Claims Settlement Act (33 U.S.C. 1601–1624)."

Mr. MELCHER. Mr. Chairman, this is a perfecting amendment to make clear that H.R. 13777 does not modify, revoke, or change any provision of the Alaska Native Claims Settlement Act.

I urge adoption of the amendment.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. We agree with the gentleman from Montana (Mr. Melcher) and urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. Melcher).

The amendment was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Giaimo, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13777) to establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes pursuant to House Resolution 1284, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KETCHUM

Mr. KETCHUM. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. KETCHUM. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Ketchum moves to recommit the bill H.R. 13777 to the Committee on Interior and Insular Affairs with instructions to report it back forthwith with the following amendment:

Page 65, line 17, insert "(a)" immediately before "The".

Page 65, line 23, immediately after "regulations" insert a comma and the following: "except as provided under subsection (b),".

Page 66, immediately below line 6, insert the following:

(b)(1) No rule or regulation prescribed by the Secretary or the Secretary of Agriculture under subsection (a) may take effect, except in accordance with the provisions of paragraph (2).

(2)(A) The Secretary or the Secretary of Agriculture, as appropriate, shall transmit to each House of the Congress any proposed rule or regulation described in paragraph (1), together with a detailed statement justifying such proposed rule or regulation.

(B) Any such rule or regulation may take effect upon the expiration of a period of 60 legislative days after the date on which such rule or regulation and such statement are transmitted to the Congress under subparagraph (A), unless before the expiration of such period the Congress adopts a concurrent resolution disapproving such rule or regulation.

(3) For purposes of this subsection, the term "legislative day" means any day on which either House of the Congress is in session.

The SPEAKER. Does the gentleman from California desire to be heard on the motion to recommit?

Mr. KETCHUM. I do, Mr. Speaker.

The SPEAKER. The gentleman is recognized.

Mr. KETCHUM. Mr. Speaker, this motion to recommit with instructions simply contains the instructions that were in the amendment I offered earlier today relative to regulatory reform, and which has been adopted to almost every authorizing bill we have passed this year. It simply requires congressional review of regulations promulgated under this act.

If the recommital motion is accepted, I will then find the bill suitable.

Mr. STEIGER of Arizona. Mr. Speaker, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Speaker, I urge my colleagues to accept the recommital motion so that we may get on with the passage of the bill. I understand my friend, the gentleman from Montana (Mr. Melcher) has no serious objection to the language.

The SPEAKER. Does the gentleman from Montana desire to be heard on the motion to recommit?

Mr. MELCHER. I do, Mr. Speaker.

The SPEAKER. The gentleman is recognized.

Mr. MELCHER. Mr. Speaker, on the same day that we overrode the veto on the jobs bill I would fear that if we adopted this motion to recommit containing this particular amendment, that we would be creating a great number of jobs on the congressional staffs of the committees that would have to oversee the various regulations.

The amendment of the gentleman from California (Mr. Ketchum) that is included in his recommittal motion simply does not identify a certain number of regulations, so this would require that all regulations covering public lands be reviewed by Congress. It would be an extension of congressional oversight, that is true, but I am afraid since it does not limit which regulations, or does not set a priority on the regulations that we would be reviewing hundreds and perhaps thousands of regulations each year.

I think it is too much of a burden, although I appreciate the principle that is involved. If they were priority regulations, I would be in support, but, unfortunately, I must oppose it.

Mr. KETCHUM. I simply say to the body that this language is precisely the same as that in the amendment which it adopted yesterday to the Outer Continental Shelf bill, which they adopted to ERDA, where no specific regulations are stipulated and it simply says if we are silent for 60 days, it may take effect, but if we choose to veto those regulations, we may.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. KETCHUM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 128, nays 198, answered "present" 1, not voting 105, as follows:

[Roll No. 538]

YEAS—128

Abdnor
Archer
Armstrong
Ashbrook
AuCoin
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Breaux
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Carter
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Daniel, Dan
Daniel, R. W.
Dickinson
Duncan, Oreg.
Emery
Erlenborn
Findley
Flowers
Fountain
Frenzel
Gaydos
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hamilton
Hammerschmidt
Harsha
Hefner
Henderson
Horton
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
McCollister
McDonald
Mann
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Neal
Nichols
Paul
Pettis
Quie
Regula
Rhodes
Rose
Rousselot
Runnels
Russo
Santini
Sarasin
Satterfield
Schroeder
Schulze
Sebelius
Sharp
Shriver
Shuster
Sisk
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Stuckey
Symms
Talcott
Taylor, Mo.
Thone
Treen
Waggonner
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wright
Wydler
Wylie
Yatron
Young, Fla.

NAYS—198

Adams
Addabbo
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Bingham
Blanchard
Boggs
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Collins, Ill.
Conte
Corman
Cornell
Coughlin
D'Amours
Davis
de la Garza
Delaney
Dellums
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Florio
Foley
Ford, Mich.
Forsythe
Fraser
Giaimo
Gibbons
Gilman
Gonzalez
Gude
Haley
Hall, Ill.
Hall, Tex.
Hanley
Hannaford
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hillis
Holt
Holtzman
Howard
Jenrette
Jones, Ala.
Kastenmeier
Kazen
Keys
Koch
Krebs
LaFalce
Leggett
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
Madden
Maguire
Mahon
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Morgan
Mosher
Moss
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Railsback
Rangel
Rees
Reuss
Rinaldo
Roberts
Rodino
Rogers
Rooney
Roybal
Ryan
St Germain
Sarbanes
Scheuer
Seiberling
Sikes
Simon
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Steed
Stephens
Stratton
Studds
Taylor, N.C.
Thompson
Thornton
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wilson, C. H.
Wilson, Tex.
Wolff
Yates
Young, Tex.
Zablocki

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—105

Abzug
Alexander
Allen
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Badillo
Bell
Biester
Blouin
Boland
Brinkley
Broomfield
Butler
Chappell
Chisholm
Clancy
Clay
Conlan
Conyers
Cotter
Crane
Daniels, N.J.
Danielson
Dent
Derwinski
Devine
Duncan, Tenn.
du Pont
English
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fithian
Flynt
Ford, Tenn.
Frey
Fuqua
Green
Hansen
Harkin
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hightower
Hinshaw
Holland
Howe
Jarman
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Krueger
Lagomarsino
Landrum
Latta
Lehman
Litton
McEwen
McKinney
Madigan
Mathis
Mazzoli
Meyner
Mills
Moorhead, Pa.
Mottl
Murphy, N.Y.
Nix
O'Hara
Pepper
Peyser
Quillen
Randall
Richmond
Riegle
Risenhoover
Robinson
Roe
Roncalio
Rosenthal
Rostenkowski
Roush
Ruppe
Schneebeli
Shipley
Stanton, James V.
Stark
Steelman
Stokes
Sullivan
Symington
Teague
Traxler
Vander Jagt
Winn
Wirth
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Roncalio for, with Mr. Jones of Tennesee against.
Mr. Blouin for, with Mr. Boland against.
Mr. Wirth for, with Mr. Zeferetti against.
Mr. Stark for, with Mr. Chappell against.
Mr. Mottl for, with Mrs. Meyner against.
Mr. Hébert for, with Mr. Teague against.
Mr. Mathis for, with Mr. Krueger against.

Until further notice:

Mr. Mills with Mr. Allen.
Mr. Badillo with Mr. Evans of Colorado.
Mr. Rosenthal with Mr. Ford of Tennessee.
Ms. Abzug with Mr. Hightower.
Mr. Rostenkowski with Mr. Howe.
Mr. Murphy of New York with Mr. Lehman.
Mr. Moorhead of Pennsylvania with Mr. Harkin.
Mr. Flynt with Mr. Karth.
Mr. Alexander with Mr. Holland.
Mr. Hawkins with Mr. Evins of Tennessee.
Mrs. Chisholm with Ms. Jordan.
Mr. Clay with Mr. Andrews of North Carolina.
Mr. Jones of Oklahoma with Mr. Nix.
Mr. Landrum with Mr. Randall.
Mr. Mazzoli with Mr. Risenhoover.
Mr. Dent with Mr. Evans of Indiana.
Mr. Dominick V. Daniels with Mr. Roush.
Mr. Danielson with Mr. Richmond.
Mr. Cotter with Mr. James V. Stanton.
Mr. Green with Mr. Broomfield.
Mr. Fuqua with Mr. Riegle.
Mr. Hays of Ohio with Mr. Biester.

Mr. Pepper with Mr. Conyers.
Mr. O'Hara with Mr. Roe.
Mrs. Sullivan with Mr. Shipley.
Mr. Stokes with Mr. English.
Mr. Symington with Mr. Butler.
Mr. Traxler with Mr. Conlan.
Mr. Litton with Mr. Crane.
Mr. Brinkley with Mr. Clancy.
Mr. Fithian with Derwinski.
Mr. Frey with Mr. du Pont.
Mr. Lagomarsino with Mr. Duncan of Tennessee.
Mr. Hansen with Mr. Esch.
Mr. Latta with Mr. Eshleman.
Mr. Heinz with Mr. Devine.
Mr. Madigan with Mr. Young of Alaska.
Mr. Quillen with Mr. Robinson.
Mr. McKinney with Mr. Winn.
Mr. Ruppe with Mr. McEwen.
Mr. Peyser with Mr. Vander Jagt.
Mr. Schneebeli with Mr. Steelman.

Mr. EMERY changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ALLEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 169, nays 155, answered "present" 2, not voting 106, as follows:

[Roll No. 539]

YEAS—169

Abdnor
Addabbo
Allen
Annunzio
Archer
Armstrong
AuCoin
Baucus
Beard, R.I.
Beard, Tenn.
Bennett
Bergland
Biaggi
Boggs
Brademas
Breaux
Brooks
Brown, Calif.
Brown, Mich.
Broyhill
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Carney
Cederberg
Clausen, Don H.
Clawson, Del
Cochran
Collins, Ill.
Collins, Tex.
Conte
Corman
Daniel, R. W.
de la Garza
Delaney
Dickinson
Diggs
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Edwards, Ala.
Eilberg
Erlenborn
Fary
Fascell
Findley
Fisher
Flood
Flowers
Fountain
Giaimo
Gibbons
Goldwater
Gonzalez
Guyer
Hagedorn
Hamilton
Hanley
Harsha
Hefner
Henderson
Holt
Howard
Hubbard
Hutchinson
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kasten
Kazen
Kemp
Leggett
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
McClory
McCollister
McCormack
McDonald
McFall
McKay
Madden
Mann
Martin
Matsunaga
Melcher
Milford
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Mosher
Moss
Murtha
Myers, Ind.
Neal
Nichols
Oberstar
O'Brien
O'Neill
Patterson, Calif.
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Quie
Railsback
Rangel
Rees
Reuss
Rhodes
Rooney
Rousselot
Ryan
St Germain
Santini
Sarasin
Sebelius
Seiberling
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Nebr.
Snyder
Staggers
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Weaver
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Wydler
Young, Fla.
Young, Tex.
Zablocki

NAYS—155

Adams
Ambro
Anderson, Calif.
Ashbrook
Ashley
Aspin
Baldus
Bauman
Bedell
Bevill
Bingham
Blanchard
Bolling
Bonker
Bowen
Breckinridge
Brodhead
Brown, Ohio
Buchanan
Burke, Fla.
Burton, John
Burton, Phillip
Carr
Carter
Cleveland
Cohen
Conable
Cornell
Coughlin
D'Amours
Daniel, Dan
Davis
Dellums
Derrick
Dingell
Dodd
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Fenwick
Fish
Florio
Foley
Ford, Mich.
Forsythe
Fraser
Frenzel
Gaydos
Gilman
Ginn
Goodling
Gradison
Grassley
Gude
Hall, Ill.
Hall, Tex.
Hammerschmidt
Hannaford
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hicks
Hillis
Holtzman
Horton
Hughes
Hungate
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Pa.
Jones, Ala.
Kastenmeier
Kelly
Ketchum
Keys
Kindness
Koch
Krebs
Levitas
Lujan
McCloskey
McDade
McHugh
Madigan
Maguire
Mahon
Meeds
Metcalfe
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Mink
Mitchell, Md.
Moore
Morgan
Murphy, Ill.
Myers, Pa.
Natcher
Nedzi
Nolan
Obey
Ottinger
Passman
Patten, N.J.
Pattison, N.Y.
Paul
Poage
Pritchard
Regula
Richmond
Rinaldo
Roberts
Rodino
Rogers
Rose
Roybal
Runnels
Russo
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sharp
Sikes
Smith, Iowa
Solarz
Spellman
Spence
Stanton, J. William
Steed
Stuckey
Studds
Thone
Thornton
Treen
Tsongas
Vigorito
Waxman
Whalen
Whitten
Wolff
Wylie
Yates
Yatron

ANSWERED "PRESENT"—2

Bafalis
Haley

NOT VOTING—106

Abzug
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Badillo
Bell
Biester
Blouin
Boland
Brinkley
Broomfield
Butler
Chappell
Chisholm
Clancy
Clay
Conlan
Conyers
Cotter
Crane
Daniels, N.J.
Danielson
Dent
Derwinski
Devine
Duncan, Tenn.
du Pont
English
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fithian
Flynt
Ford, Tenn.
Frey
Fuqua
Green
Hansen
Harkin
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hightower
Hinshaw
Holland
Howe
Jarman
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lehman
Litton
Lundine
McEwen
McKinney
Mathis
Mazzoli
Meyner
Mills
Moffett
Moorhead, Pa.
Mottl
Murphy, N.Y.
Nix
Nowak
O'Hara
Pepper
Peyser
Quillen
Randall
Riegle
Risenhoover
Robinson
Roe
Roncalio
Rosenthal
Rostenkowski
Roush
Ruppe
Schneebeli
Shipley
Stanton, James V.
Stark
Steelman
Stokes
Sullivan
Symington
Teague
Traxler
Vander Jagt
Winn
Wirth
Young, Alaska
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. Roncalio against.
Mr. Boland for, with Mr. Blouin against.
Mr. Zeferetti for, with Mr. Wirth against.
Mr. Chappell for, with Mr. Stark against.
Mrs. Meyner for, with Mr. Mottl against.
Mr. Teague for, with Mr. Hébert against.
Mr. Krueger for, with Mr. Mathis against.
Ms. Abzug for, with Mr. Moffett against.
Mr. Duncan of Tennessee for, with Mr. Biester against.
Mr. Young of Alaska for, with Mr. Peyser against.
Mr. Robinson for, with Mr. Schneebeli against.
Mr. Quillen for, with Mr. Eschleman against.
Mr. Andrews of North Dakota for, with Mr. Clancy against.
Mr. Conlan for, with Mr. Devine against.
Mr. Hawkins for, with Mr. Helstoski against.

Until further notice:

Mr. Murphy of New York with Mr. Karth.
Mr. Cotter with Mr. Green.
Mr. Flynt with Mr. Brinkley.
Mr. Rosenthal with Mr. Ford of Tennessee.
Mr. Young of Georgia with Mr. Fuqua.
Mr. Rostenkowski with Mr. Andrews of North Carolina.
Mr. Dominick V. Daniels with Mr. Hays of Ohio.
Mr. Nix with Mr. English.
Mrs. Chisholm with Mr. Dent.
Mr. Pepper with Mr. Anderson of Illinois.
Mr. Clay with Mr. James V. Stanton.
Mr. Danielson with Mr. Broomfield.
Mr. Badillo with Mr. Bell.
Mr. Randall with Mr. du Pont.
Mr. Alexander with Mr. Landrum.
Mr. Frey with Mr. Esch.
Mr. Evans of Colorado with Mr. Lehman.
Mr. Roe with Mr. Crane.
Mr. Shipley with Mr. Butler.
Mr. Evins of Tennessee with Mr. Litton.
Mr. Stokes with Mr. Fithian.
Mr. Risenhoover with Mr. Conyers.
Mr. Harkin with Mr. Hightower.
Mr. Holland with Mr. Derwinski.
Mr. Howe with Mr. Heinz.
Mr. Evans of Indiana with Mr. Jones of Oklahoma.
Ms. Jordan with Mr. Lundine.
Mr. LaFalce with Mr. Latta.
Mr. Lagomarsino with Mr. Mazzoli.
Mr. McEwen with Mr. Mills.
Mr. Moorhead of Pennsylvania with Mr. Nowak.
Mr. Steelman with Mr. Riegle.
Mr. Roush with Mrs. Sullivan.
Mr. Ruppe with Mr. Symington.
Mr. Traxler with Mr. Vander Jagt.

Mr. GILMAN and Mr. ANDERSON of California changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill, S. 507 to provide for the management, protection, and development of the national resource lands, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to

the request of the gentleman from Montana?

There was no objection.

The Clerk read the Senate bill as follows:

S. 507

An act to provide for the management, protection, and development of the national resource lands, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "National Resource Lands Management Act".

(b) TABLE OF CONTENTS.—

Sec. 2. Definitions.
Sec. 3. Declaration of policy.
Sec. 4. Rules and regulations.
Sec. 5. Public participation.
Sec. 6. Advisory boards and committees.
Sec. 7. Annual report.
Sec. 8. Director.
Sec. 9. Appropriations.

TITLE I—GENERAL MANAGEMENT AUTHORITY

Sec. 101. Management.
Sec. 102. Inventory.
Sec. 103. Land use plans.

TITLE II—CONVEYANCE AND ACQUISITION AUTHORITIES

Sec. 201. Authority to sell.
Sec. 202. Disposal criteria.
Sec. 203. Sales at fair market value.
Sec. 204. Size of tracts.
Sec. 205. Competitive bidding procedures.
Sec. 206. Right to refuse or reject offer of purchase.
Sec. 207. Reservation of mineral interests.
Sec. 208. Conveyance of reserved mineral interests.
Sec. 209. Terms of patent.
Sec. 210. Conforming conveyances to State and local planning.
Sec. 211. Authority to issue and correct documents of conveyance.
Sec. 212. Recordable disclaimers of interests in land.
Sec. 213. Acquisition and exchange of land.
Sec. 214. Omitted lands.

TITLE III—MANAGEMENT IMPLEMENTING AUTHORITY

Sec. 301. Studies, cooperative agreements, and contributions.
Sec. 302. Service charges, reimbursement payments, and excess payments.
Sec. 303. Working capital fund.
Sec. 304. Deposits and forfeitures.
Sec. 305. Contracts for cadastral survey operations and resource protection.
Sec. 306. Unauthorized use.
Sec. 307. Enforcement authority.
Sec. 308. Cooperation with State and local law enforcement agencies.
Sec. 309. California desert area.
Sec. 310. Mineral revenues.
Sec. 311. Recordation of mining claims.

TITLE IV—AUTHORITY TO GRANT RIGHTS-OF-WAY

Sec. 401. Authorization to grant rights-of-way.
Sec. 402. Rights-of-way corridors.
Sec. 403. General provisions.
Sec. 404. Terms and conditions.
Sec. 405. Suspension or termination of rights-of-way.
Sec. 406. Rights-of-way for Federal agencies.
Sec. 407. Conveyance of lands.
Sec. 408. Existing rights-of-way.
Sec. 409. State standards.
Sec. 410. Effect on other laws.
Sec. 411. Interagency coordination.

TITLE V—CONSTRUCTION OF LAW, PRESERVATION OF VALID EXISTING RIGHTS, AND REPEAL OF LAWS

Sec. 501. Construction of law.
Sec. 502. Valid existing rights.
Sec. 503. Repeals of laws relating to disposal of national resource lands.
Sec. 504. Repeal of laws relating to administration of national resource lands.
Sec. 505. Repeal of laws relating to rights-of-way.

SEC. 2. DEFINITIONS.—As used in this Act:

(a) "The Secretary" means the Secretary of the Interior.

(b) "National resource lands" means all lands and interests in lands (including the renewable and nonrenewable resources thereof) now or hereafter administered by the Secretary through the Bureau of Land Management, except the Outer Continental Shelf.

(c) "Multiple use" means the management of the national resource lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including recreation and scenic values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment, with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of land without permanent impairment of the quality and productivity of the land or its environmental values.

(e) "Areas of critical environmental concern" means areas within the national resource lands where special management attention is required to protect important historic, cultural, or scenic values, or natural systems or processes, or life and safety as a result of natural hazards.

(f) "Right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse national resource lands granted for the purposes listed in title IV.

(g) "Holder" means any State or local governmental entity or agency, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title IV.

SEC. 3. DECLARATION OF POLICY.—(a) The Congress hereby declares that—

(1) the national resource lands are a vital national asset containing a wide variety of natural resource values;

(2) sound, long-term management of the national resource lands is vital to the maintenance of a livable environment and essential to the well-being of the American people;

(3) the national interest will be best realized if the national resource lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts; and

(4) except where disposal of particular tracts is made in accordance with title II, the national interest will be best served by retaining the national resource lands in Federal ownership.

(b) The Congress hereby directs that the Secretary shall manage the national resource lands under principles of multiple use and sustained yield in a manner which will, using all practicable means and measures: (i) assure the environmental quality of such lands for present and future generations; (ii) provide for, but not necessarily be limited to, such uses as provision of food and habitat for wildlife, fish and domestic animals, minerals and materials production, supplying the products of trees and plants, human occupancy and use, and various forms of outdoor recreation; (iii) include scientific, scenic, historical, archeological, natural ecological, air and atmospheric, water resource, and other public values; (iv) continue certain areas in their natural condition; (v) balance various demands on such lands consistent with national goals; (vi) assure payment of fair market value by users of such lands; and (vii) provide maximum opportunity for the public to participate in decisionmaking concerning such lands.

SEC. 4. RULES AND REGULATIONS.—The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the Administrative Procedure Act (60 Stat. 237), as amended. Prior to the promulgation of such rules and regulations, the national resource lands shall be administered under existing rules and regulations concerning such lands.

SEC. 5. PUBLIC PARTICIPATION.—In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the national resource lands.

SEC. 6. ADVISORY BOARDS AND COMMITTEES.—In providing for public participation in the planning for and management of the national resource lands, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, may establish and consult such advisory boards and committees as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards and committees shall be representative of a cross section of groups interested in the management of the national resource lands and the various types of use and enjoyment of such lands.

SEC. 7. ANNUAL REPORT.—The Secretary shall prepare an annual report which he shall make available to the public and submit to the Congress no later than 120 days after the close of each fiscal year. The report shall describe, in appropriate detail, activities relating or pursuant to this Act for the fiscal year just ended, any problems which may have arisen concerning such activities, and other pertinent information which will assist the accomplishment of the provisions and purposes of this Act. The report shall contain a detailed list and description of all transfers of national resource lands out of Federal ownership for the fiscal year just ended. It shall include such tables, graphs, and illustrations as will adequately reflect the fiscal year's activities, historical trends, and future projections relating to the national resource lands.

SEC. 8. DIRECTOR.—Appointments made on or after the date of the enactment of this Act to the position of the Director of the Bureau of Land Management, within the Department of the Interior, shall be made by the President, by and with the advice and consent of the Senate. The Director shall have a broad background and experience in public land and natural resource management.

SEC. 9. APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act.

TITLE I—GENERAL MANAGEMENT AUTHORITY

Sec. 101. Management.—The Secretary shall manage the national resource lands in accordance with the policies and procedures of this Act and with any land use plans which he has prepared pursuant to section 103, except to the extent that other applicable law provides otherwise. Such management shall include:

(1) regulating, through permits, licenses, leases, or such other instruments as the Secretary deems appropriate, the use, occupancy, or development of the national resource lands not provided for by other laws including long term leases to permit individuals to utilize national resource lands for habitation, cultivation, and the development of small trade or manufacturing concerns: *Provided, however,* That no provision of this Act shall be construed as authorizing the Secretary to require any Federal permit to hunt or fish on the national resource lands;

(2) requiring appropriate land reclamation as a condition of use, and requiring a performance bond or other security guaranteeing such reclamation in a timely manner from any person permitted to engage in an extractive or other activity likely to entail significant disturbance to or alteration of the national resource lands;

(3) inserting in permits, licenses, leases, or other authorizations to use, occupy, or develop the national resource lands, provisions authorizing revocation or suspension, after notice and hearing, of such permits, licenses, leases, or other authorizations, upon final administrative finding of a violation of any applicable regulations issued by the Secretary under any Act applicable to the national resource lands or upon final administrative finding of a violation on such lands of any applicable State or Federal air or water quality laws or regulations: *Provided,* That any such suspension shall be terminated no later than the date upon which the Secretary determines the cause of said violation has been rectified: *Provided further,* That the Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect public health or safety or the environment: *Provided further,* That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the national resource lands, the specific provisions of such law shall prevail; and

(4) the prompt development of regulations for the protection of areas of critical environmental concern.

Sec. 102. Inventory.—(a) The Secretary shall prepare and maintain on a continuing basis an inventory of all national resource lands, and their resource and other values (including outdoor recreation and scenic values), giving priority to areas of critical environmental concern. Areas containing wilderness characteristics as described in section 2(c) of the Act of September 3, 1964 (78 Stat. 890, 891), shall be identified within five years of enactment of this Act. The inventory shall be kept current so as to reflect changes in conditions and in identifications of resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change in the management or use of national resource lands.

(b) As funds and manpower become available, the Secretary shall provide (i) means of public identification of national resource lands, including signs and maps, and (ii) State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in the proximity of national resource lands.

Sec. 103. Land Use Plans.—(a) The Secretary shall, with public participation, develop, maintain, and, when appropriate, revise land use plans for the national resource lands consistent with the terms and conditions of this Act. The Secretary, insofar as he finds feasible and proper or as may be required by the enactment of a national land use policy or other law, coordinate such plans with the land use plans, including the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended, of State and local governments and other Federal agencies and consider current use and zoning patterns of land affected by the use of national resource lands.

(b) In the development and maintenance of land use plans, the Secretary shall:

(1) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and social sciences;

(2) give priority to the designation and protection of areas of critical environmental concern;

(3) rely, to the extent it is available, on the inventory of the national resource lands, their resources, and other values;

(4) consider present and potential uses of the lands;

(5) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(6) weigh long-term public benefits; and

(7) consider the requirements of applicable pollution control laws including State or Federal air and water quality and noise standards, and implementation plans.

(c) Whenever any proposed change in the permitted uses on any national resource lands would affect authorization for use of such lands, persons holding leases, licenses, or permits concerning the use to be affected and State and local governments with jurisdiction in the affected area shall be given written notice by the Secretary of such proposed change sufficiently in advance to permit such persons to initiate such administrative review processes available to them under the authorization before such change is put into effect.

(d) Areas identified pursuant to section 102 as having wilderness characteristics shall be reviewed within fifteen years of enactment of this Act pursuant to the procedures set forth in subsections 3 (c) and (d) of the Act of September 3, 1964 (78 Stat. 890, 892–893): *Provided, however,* That such review shall not, of itself, either change or prevent change in the management or use of the national resource lands.

TITLE II—CONVEYANCE AND ACQUISITION AUTHORITIES

Sec. 201. Authority To Sell.—Except as otherwise provided by law, and subject to the requirements of section 3 of this Act, the Secretary is authorized to sell national resource lands. Any tract of the national resource lands may be sold if the Secretary, in accordance with the guidelines he has established for sale of national resource lands and after preparation pursuant to section 103 of a land use plan which includes such tract, determines that the sale of such tract will not cause needless degradation of the environment and meets the disposal criteria of section 202.

Sec. 202. Disposal Criteria.—(a) Except as to conveyances under sections 208, 213, and 214, a tract of national resource lands may be transferred out of Federal ownership under this Act only where, as a result of land use planning required under section 103, the Secretary determines that—

(1) such tract, because of its location and other characteristics, is difficult to manage as part of the national resource lands and is not suitable for management by another Federal agency; or

(2) such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract will serve objectives which cannot be achieved prudently or feasibly on land other than such tract and which outweigh all public objectives and values which would be served by maintaining such tract in Federal ownership.

(b) Where the Secretary determines that land to be conveyed under clause (3) of subsection (a) is of agricultural value and is desert in character, such land shall be conveyed either under the sale authority of section 201 or in accordance with existing law.

Sec. 203. Sales at Fair Market Value.—Sales of national resource lands under this Act shall be at not less than the appraised fair market value as determined by the Secretary.

Sec. 204. Size of Tracts.—The Secretary shall determine and establish the size of tracts of national resource lands to be sold on the basis of the land use capabilities and development requirements of the lands; and, where any such tract which is judged by the Secretary to be chiefly valuable for agriculture is sold, its size shall be no larger than necessary to support a family-sized farm.

Sec. 205. Competitive Bidding Procedures.—Except as to sales under sections 208 and 214, sales of national resource lands under this Act shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper (i) to assure equitable distribution among purchasers of national resource lands, or (ii) to recognize equitable considerations or public policies, including but not limited to a preference to users, he is authorized to sell national resource lands with modified competitive bidding or without competitive bidding.

Sec. 206. Right To Refuse or Reject Offer of Purchase.—Until the Secretary has accepted an offer to purchase, he may refuse to accept any offer or may withdraw any land or interest in land from sale under this Act when he determines that consummation of the sale would not be consistent with this Act or other applicable law. The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bid at his invitation no later than thirty days after the submission of such offer.

Sec. 207. Reservation of Mineral Interests.—All conveyances of title issued by the Secretary under this Act, except conveyances under section 213, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe: *Provided,* That, where prospecting, mining, or removing minerals reserved to the United States would interfere with or preclude the appropriate use or development of such land, the Secretary may (1) enter into covenants at the time of conveyance of such land or thereafter which provide that such activities shall not be pursued for a specified period, or (2) convey the minerals in the conveyance of title in accordance with the provisions of section 208(a) (1) and (2).

Sec. 208. Conveyance of Reserved Mineral Interests.—(a) The Secretary may convey mineral interests owned by the United States where the surface is in non-Federal ownership, regardless of which Federal agency may have administered the surface, if he finds (1) that there are no mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(b) Conveyance of mineral interests pursuant to this section shall be made only to the record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(c) Before considering an application for conveyance of mineral interests pursuant to this section—

(1) the Secretary shall require the deposit by the applicant of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance: *Provided*, That, if the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and, if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess; or

(2) the applicant shall have conducted, and submitted to the Secretary the results of, such an exploratory program, in accordance with standards promulgated by the Secretary.

(d) Moneys paid to the Secretary for administrative costs pursuant to subsection (c)(1) of this section shall be paid to the agency which rendered the service and deposited to the appropriation then current.

SEC. 209. TERMS OF PATENT.—The Secretary shall insert in patents or other documents of conveyance he issues under this Act such terms, convenants, conditions, and reservations which he deems to be essential to insure proper land use and protection of the public interest: *Provided*, That a conveyance of lands by the Secretary, subject to such terms, covenants, conditions, and reservations, shall not exempt the grantee from compliance with applicable Federal or State law or State land use plans.

SEC. 210. CONFORMING CONVEYANCES TO STATE AND LOCAL PLANNING.—At least ninety days prior to a sale or other conveyance of national resource lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located in order to afford the appropriate body or bodies the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning, the use of such lands prior to such conveyance. The Secretary shall also promptly notify such public officials of the issuance of the patent or other document of conveyance for such lands.

SEC. 211. AUTHORITY TO ISSUE AND CORRECT DOCUMENTS OF CONVEYANCE.—Consistent with his authority to dispose of national resource lands, the Secretary is authorized to issue deeds, patents, and other indicia of title, and to correct such documents where necessary. In addition, the Secretary is authorized to make corrections on any documents of conveyance which have heretofore been issued on lands which would, at the time of their conveyance, have met the description of national resource lands.

SEC. 212. RECORDABLE DISCLAIMERS OF INTERESTS IN LAND.—(a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document of disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing, notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer, and the applicant has paid to the Secretary the administrative costs of issuing the disclaimer, as determined by the Secretary. All receipts shall be credited to the appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quit-claim deed from the United States.

SEC. 213. ACQUISITION AND EXCHANGE OF LAND.—(a) The Secretary is authorized to acquire, by purchase, exchange, or donation, lands or interests therein where necessary for proper management of the national resource lands: *Provided*, That lands or interests in land may be acquired pursuant to this title by eminent domain only if necessary in order to secure access to national resource lands: *Provided further*, That any such lands or interests acquired by eminent domain shall be confined to as narrow a corridor as is necessary to serve such purpose.

(b) Acquisitions pursuant to this Act shall be consistent with applicable land use plans prepared by the Secretary under section 103.

(c) In exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal lands or interests therein and in exchange therefor he may convey to the grantor of such lands or interests any national resource lands or interests therein which are located in the same State as the non-Federal land to be acquired, and (1) which he finds proper for transfer out of Federal ownership pursuant to section 202, or (2) the values of which and the objectives which such lands or interets may serve if retained in Federal ownership he finds to be outweighed by the values of the non-Federal lands or interests and the public objectives they could serve if acquired. The values of the lands or interests so exchanged either shall be equal, or if they are not equal, shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require: *Provided*, That such payment shall not exceed 30 per centum of the total value of the lands or interests transferred out of Federal ownership.

(d) Lands or interests in lands acquired pursuant to this section or section 301(c) shall, upon acceptance of title, become national resource lands, and, for the administration of public land laws not repealed by this Act, shall become public lands. If such acquired lands or interests are located within the exterior boundaries of a grazing district established pursuant to section 1 of the Taylor Grazing Act (48 Stat. 1269), as amended, they shall become part of that district.

(e) Lands or interests in lands acquired under this section or section 301(c) which are within the boundaries of the national forest system may be transferred to the Secretary of Agriculture for administration as part of, and in accordance with, the laws, rules, and regulations applicable to, the National Forest System. Such transfer shall not result in the reduction in the percentage of in-lieu payments receivable by State and local governments. Lands or interests in lands acquired under this section or section 301(c) which are within the boundaries of the National Park, Wildlife Refuge, Wild and Scenic Rivers, or Trails System, or any other system established by Act of Congress, may be transferred to the appropriate agency head for administration as part of, and in accordance with the laws, rules, and regulations applicable to such system.

SEC. 214. OMITTED LANDS.—(a) The Secretary is hereby authorized to convey to States or their political subdivisions under the Recreation and Public Purposes Act (44 Stat. 741), as amended, but without regard to the acreage limitations contained therein, unsurveyed islands determined by the Secretary to the public lands of the United States. The conveyance of any such island may be made without survey: *Provided, however*, That such island may be surveyed at the request of the applicant State or its political subdivision if such State or subdivision donates money or services to the Secretary for such survey, the Secretary accepts such money or services, and such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management. Any such island or survey shall not be conveyed without approval of such survey by the Secretary prior to the conveyance.

(b)(1) The Secretary is authorized to convey to States and their political subdivisions under the Recreation and Public Purposes Act, but without regard to the acreage limitations contained therein, lands other than islands determined by him after survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys (hereinafter referred to as "omitted lands"). Any such conveyance shall not be made without a survey: *Provided*, That the prospective recipient may donate money or services tq the Secretary for the surveying necessary prior to conveyance if the Secretary accepts such money or services, such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management, and such survey is approved by the Secretary prior to the conveyance.

(2) The Secretary is authorized to convey to the occupant of any omitted lands which, after survey, are found to have been occupied and developed for a five-year period prior to January 1, 1975, if the Secretary determines that such conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership. Conveyance under this subparagraph shall be made at not less than the fair market value of the land, as determined by the Secretary, and upon payment in addition of administrative costs, including the cost of making the survey, the cost of appraisal, and the cost of making the conveyance.

(c)(1) No conveyance shall be made pursuant to this section until the relevant State government, local government, and areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262) and/or title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4) have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(2) The provisions of section 210 of this Act shall be applicable to all conveyance under this section.

(d) The final sentence of section 1(c) of the Recreation and Public Purposes Act shall not be applicable to conveyances under this section.

(e) No conveyance pursuant to this section shall be used as the basis for determining the baseline between Federal and State ownership, the boundary of any State for purposes of determining the extent of a State's submerged lands or the line of demarcation of Federal jurisdiction, or any similar or related purposes.

(f) The provisions of this section shall not apply to any lands within the National Forest System, as defined in the Act of August 17, 1974 (88 Stat. 480), the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic River System.

(g) Nothing in this section shall supersede the provisions of the Act of December 22, 1928 (45 Stat. 1069), as amended, and the Act of May 31, 1962 (76 Stat. 89), or any other Act authorizing the sale of specific omitted lands.

TITLE III—MANAGEMENT IMPLEMENTING AUTHORITY

SEC. 301. STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS.—(a) The Secretary may conduct investigations, studies, and experiments, on his own initative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the national resource lands.

(b) The Secretary may enter into contracts or cooperative agreeemnts involving the management, protection, development, acquisition, and conveying of the national resource lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the national resource lands, including the acquisition of rights-of-way for such purposes. The Secretary may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

SEC. 302. SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS.—(a) Notwithstanding any other provision of law, the Secretary may establish filing fees, service fees and charges, and commissions with respect to applications and other documents relating to national resource lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for extraordinary costs with respect to applications and other documents relating to national resource lands. The moneys received for extraordinary costs under this subsection shall be deposited with the Treasury in a special account and are hereby appropriated and made available until expended. As used in this subsection, "extraordinary costs" include but are not limited to the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of the national resource lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

SEC. 303. WORKING CAPITAL FUND.—(a) There is hereby established a working capital fund for the management of national resource lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and regulations promulgated thereunder, supplies and equipment services in support of Bureau of Land Management programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Bureau of Land Management.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations and funds of the Bureau of Land Management, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated not to exceed $3,000,000 as initial capital of the fund.

SEC. 304. DEPOSITS AND FORFEITURES.—(a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary, or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to national resource lands, shall be credited to a separate account in the Treasury and are hereby appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on the national resource lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) The Secretary may require a user or users of roads, trails, lands, or facilities under the jurisdiction of the Bureau of Land Management to maintain such roads, trails, lands, or facilities in a satisfactory condition commensurate with the particular use requirements and the use made by each user, the extent of such maintenance to be shared by the users in proportion to such use or, if such maintenance cannot be so provided, to deposit sufficient money to enable the Secretary to provide such maintenance. Such deposits shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, to cover the cost to the United States of the maintenance of any roads, trails, lands, or facilities under the jurisdiction of the Bureau of Land Management: *Provided*, That nothing in this subsection shall be construed to require a user to provide maintenance or deposits to repair any damages attributable to general public use rather than the specific use of such user.

(c) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874), as amended, shall be expended for the benefit of such lands only.

(d) If any portion of a deposit or amount forfeited under this section is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the amount in excess shall be transferred to miscellaneous receipts.

SEC. 305. CONTRACTS FOR CADASTRAL SURVEY OPERATIONS AND RESOURCE PROTECTION.—(a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bueau of Land Management. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

SEC. 306. UNAUTHORIZED USE.—The use, occupancy, or development of any portion of the national resource lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

SEC. 307. ENFORCEMENT AUTHORITY.—(a) Any violation of reglations which the Secretary issues with respect to the management, protection, development, acquisition, and conveying of the national resource lands and property located thereon and which the Secretary identifies as being subject to this section shall be punishable by a fine of not more than $1,000 or imprisonment for not more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from using, occupying, or developing the national resource lands in violation of laws or regulations relating to lands or resources managed by the Secretary.

(c) For the specific purpose of enforcing any Federal law or regulation relating to lands or resources managed by the Secretary, the Secretary may designate any employee to (1) carry firearms; (2) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; and (3) make arrests without warrant or process for a misdemeanor the employee has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

SEC. 308. COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—In the administration and regulation of the use, occupancy, and development of the national resource lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of the use, occupancy, and development of national resource lands.

SEC. 309. CALIFORNIA DESERT AREA.—(a) The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, and educational resources which are unique and irreplaceable;

(2) the desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the desert environment and its resources, including certain rare and endan-

gered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use;

(4) because of the proximity of the California desert to the rapidly growing population centers of southern California, these threats are certain to intensify;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the California desert; and

(6) to insure further study of the relationship of man and the desert environment and preserve the unique and irreplaceable resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional authority must be provided to the Secretary to enable effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection, development, and management of the California desert within the framework of a balanced program of multiple use, sustained yield and maintenance of environmental quality as provided in this Act.

(c) (1) For the purpose of this section, the "California desert area" is the area generally depicted on a map entitled "California Desert Area—Proposed", dated April 1974, and on file in the Office of the Director of the Bureau of Land Management.

(2) As soon as practicable after this Act takes effect, the Secretary shall file a map and a legal description of the California desert area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) The Secretary, in accordance with section 103, shall prepare and implement a comprehensive, long-range plan for the management, use, and protection of the national resource lands within the California desert area. Such plan shall be completed and implementation thereof initiated on or before June 30, 1980.

(e) During the period beginning on the date of enactment of this Act and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage and protect the national resource lands, and their resources now in danger of destruction, in the California desert area, provide for the public use of such lands in an orderly and reasonable manner, and establish a uniform desert ranger force.

(f) The Secretary, within sixty days of enactment of this Act, shall establish a California Desert Area Advisory Committee in accordance with the provisions of section 6. The committee shall advise the Secretary concerning the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

(g) The Secretary shall administer the national resource lands in the California desert area in accordance with the provisions of this Act and such other Acts as may be applicable. The Secretaries of Agriculture and Defense shall manage lands within their respective jurisdictions located in or adjacent to the California desert area, in accordance with the laws relating to such lands and, wherever practicable, in a manner consonant with the purpose of this section. The Secretaries of the Interior, Agriculture, and Defense are authorized and encouraged to consult among themselves and take cooperative actions to implement this subsection.

(h) The Secretary shall report to the Congress no later than two years after the enactment of this Act, and annually thereafter in the report required in section 7 of this Act, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

(i) There is authorized to be appropriated for fiscal years 1977 through 1981 not to exceed $40,000,000 to effect the purpose of this section, such amount to remain available until expended.

SEC. 310. MINERAL REVENUES.—(a) Section 35 of the Act of February 25, 1920 (41 Stat. 437, 450), as amended, is further amended by—

(1) striking "52½ per centum" in both places and inserting in lieu thereof "30 per centum";

(2) striking "37½ per centum" and inserting in lieu thereof "60 per centum";

(3) striking "December 31 and June 30" and inserting in lieu thereof "March 31 and September 30"; and

(4) striking "or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct;" and inserting in lieu thereof "and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (1) planning (2) construction and maintenance of public facilities, and (3) provision of public services;".

(b) (1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended. Such loans shall be confined to the uses specified for the 60 per centum of mineral revenues to be received by such States and subdivisions pursuant to section 35 of such Act. All loans shall bear interest at a rate not to exceed 3 per centum and shall be for such amounts and durations as the Secretary shall determine. The Secretary shall limit the amounts of such loans to the portion of the 60 per centum of anticipated mineral revenues to be received by the recipients of said loans pursuant to said section 35 for any prospective 10-year period. Such loans shall be repaid by the loan recipients from that portion of the 60 per centum of mineral revenues to be derived from said section 35 by such recipients, as the Secretary determines.

(2) The Secretary, after consultation with Governors of the affceted States, shall allocate such loans among the States and their subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(3) Loans under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure that the purpose of this subsection will be achieved. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this subsection.

SEC. 311. RECORDATION OF MINING CLAIMS.—(a) Each mining claim under the Mining Law of 1872, as amended (Revised Statutes 2318–2352; 30 U.S.C. 22), shall be recorded by the claimant with the Secretary within two years after the date of enactment of this Act or within thirty days of location of the claim, whichever is later. Any claim not so recorded shall be conclusively presumed to be abandoned and shall be void.

(b) Any claim recorded pursuant to subsection (a) for which the claimant has not made application for patent within ten years after the date of recordation of the claim shall be conclusively presumed to be abandoned and shall be void: *Provided, however,* That, upon a showing that a mineral survey cannot be completed within said ten-year period, the filing of an application for a mineral survey which states on its face that it was filed for the purpose of proceeding to patent shall be acceptable for the patent application purpose of this subsection if all other applicable requirements under the general mining laws have been met and if the applicant subsequently prosecutes diligently his application for patent to completion.

(c) Such recordation or application shall not render valid any claim which was not valid on the date of enactment of this Act, or which becomes invalid thereafter.

TITLE IV—AUTHORITY TO GRANT RIGHTS-OF-WAY

SEC. 401. AUTHORIZATION TO GRANT RIGHTS-OF-WAY.—(a) The Secretary is authorized to grant, issue, or renew rights-of-way over, upon, or through the national resource lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, or water, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Act of June 10, 1920 (41 Stat. 1063), as amended;

(5) systems for transmission or reception of radio, television, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tramways, airways, livestock driveways, or other means of transportation; and

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, or through the national resource lands.

(b) (1) The Secretary is authorized to provide for the acquisition, construction, and maintenance of roads within and near the national resource lands in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management of such lands and the other resources thereof. Financing of such roads may be accomplished (A) by the Secretary using appropriated funds, (B) by requirements on purchasers of timber and other products from the national resource lands, including provisions for amortization of road costs in contracts, (C) by cooperative financing with other public agencies and with private agencies or persons, or (D) by a combination of these methods: *Provided,* That, except when the provisions of the second proviso of this subsection apply, where roads of a higher standard than those needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of timber and other products from the national resource lands shall not be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate: *Provided further*, That it is understood that when timber is offered with the condition that the purchaser thereof will build roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads.

(2) Copies of all instruments affecting permanent interests in land executed pursuant to this subsection shall be recorded in each county where the lands are located.

(3) Whenever the agreement under which the United States has obtained for the use of, or in connection with, the national resource lands a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

(c)(1) The Secretary shall require, prior to granting, issuing, or renewing a right-of-way pursuant to this title that the applicant submit and disclose any or all plans, contracts, agreements, or other information or material reasonably related to the use, or intended use, of the right-of-way which the Secretary deems necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which shall be included in such right-of-way.

(2) If the applicant is a partnership, corporaton, association, or other business entity, the Secretary, prior to granting, issuing, or renewing a right-of-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include, where applicable: (A) the name and address of each partner in the entity; (B) the name and address of each shareholder owning 3 per centum or more of the shares of such entity, together with the number and percentage of any class of voting shares which such shareholder is authorized to vote; and (C) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity; and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly by the affiliate.

SEC. 402. RIGHTS-OF-WAY CORRIDORS.—(a) In accordance with section 28(s) of the Mineral Leasing Act of 1920 (41 Stat. 437, 449), as amended by the Act of November 16, 1973 (87 Stat. 576, 582), and the report submitted by the Secretary pursuant thereto, the Secretary shall, consistent with applicable land use plans, designate transportation and utility corridors on national resource lands and, to the extent practical and appropriate, require that rights-of-way be confined to them. In designating such corridors and in determining whether to require that rights-of-way be confined to them, the Secretary shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

(b) In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way across national resource lands, the use of rights-of-way in common shall be required to the extent practical, and each right-of-way granted, issued, or renewed pursuant to this title shall reserve to the Secretary the right to grant additional rights-of-way for compatible uses on or adjacent to such right-of-way.

SEC. 403. GENERAL PROVISIONS.—(a) The Secretary shall specify the boundaries of each right-of-way granted, issued, or renewed pursuant to this title as precisely as is practicable. Each right-of-way shall be limited to the ground which the Secretary determines: (1) will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed, (2) to be required for the operation or maintenance of the project, and (3) to be necessary to protect the environment or public safety. The Secretary may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) The Secretary shall determine the duration of each right-of-way or other authorization to be granted, issued, or renewed pursuant to this title. In determining the duration the Secretary shall take into consideration, among other things, the cost of any facility placed on the right-of-way and its useful life.

(c) Rights-of-way shall be granted, issued, or renewed pursuant to this title under such regulations or stipulations, in accordance with the provisions of this title or any other law, and subject to such terms and conditions as the Secretary may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

(d) The Secretary, prior to granting or issuing a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations imposed or with regulations issued by the Secretary. The Secretary shall issue regulations or impose stipulations which shall include, but shall not be limited to: (1) requirements to insure that activities on the right-of-way will not violate applicable air and water quality standards or applicable transmission, powerplant, and related facility siting standards established by or pursuant to law; (2) requirements designed to control or prevent (A) damage to the environment (including damage to fish and wildlife habitat), (B) damage to public or private property, and (C) hazards to public health and safety; and (3) requirements to protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be regularly revised. Such regulations shall be applicable to every right-of-way granted or issued pursuant to this title and to any subsequent renewal thereof, and may be applicable to rights-of-way not granted or issued, but renewed pursuant to this title.

(e) Mineral and vegetative materials, including timber, within or without a right-of-way granted, issued, or renewed pursuant to this title may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(f) No right-of-way shall be granted, issued, or renewed pursuant to this title for less than the fair market value thereof as determined by the Secretary. The Secretary may, by regulation or, prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however*, That such costs need not be reimbursed in any cooperative cost share right-of-way program between the United States and the holder of the right-of-way: *Provided further*, That rights-of-way may be granted, issued, or renewed to State or local governments or agencies or instrumentalities thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profit-making corporations or business enterprises, for such lesser charge as the Secretary finds equitable and in the public interest.

(g)(1) The Secretary shall promulgate regulations specifying the extent to which holders of rights-of-way granted, issued, or renewed pursuant to this title shall be liable to the United States for damage or injury incurred by the United States in connection with the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims arising in connection with the rights-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(h) Where he deems it appropriate, the Secretary may require a holder of a right-of-way granted, issued, or renewed pursuant to this title to furnish a bond, or other security, satisfactory to the Secretary to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary.

(i) The Secretary shall grant, issue, or renew a right-of-way pursuant to this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

SEC. 404. TERMS AND CONDITIONS.—Each right-of-way granted, issued, or renewed pursuant to this title shall contain such terms and conditions as the Secretary deems necessary to: (1) carry out the purposes of this Act and rules and regulations hereunder; (2) protect the environment; (3) protect Federal property and monetary interests; (4) manage efficiently national resource lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the national resource lands adjacent to or traversed by said right-of-way; (5) protect lives and property; (6) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and (7) protect the public interest in the national resource lands.

SEC. 405. SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY.—Abandonment of a right-of-way granted, issued, or renewed pursuant to this title or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and an appropriate administrative proceeding pursuant to section 554 of title 5, United States Code, the Secretary determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary shall give written notice to the holder of the ground or grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided, however,* That where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control the Secretary is not required to commence proceedings to suspend or terminate the right-of-way.

Sec. 406. Rights-of-Way for Federal Agencies.—(a) The Secretary may reserve for the use of any department or agency of the United States a right-of-way over, upon, or through national resource lands, subject to such terms and conditions as he may impose.

(b) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.

Sec. 407. Conveyance of Lands.—If, under applicable law, the Secretary decides to transfer out of Federal ownership, by patent, deed, or otherwise, any national resource lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576), the lands may be conveyed subject to the right-of-way. If, however, the Secretary determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be implemented, the terms and conditions of the right-of-way complied with, or the national resource lands protected, he shall (1) reserve the United States that portion of the lands which lies within the boundaries of the right-of-way, or (2) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

Sec. 408. Existing Rights-of-Way.—Nothing this title shall have the effect of terminating any rights-of-way or rights-of-use heretofore issued, granted, or permitted by the Secretary. However, the Secretary may cancel such a right-of-way or right-of-use with the consent of the holder thereof and in its stead issue a right-of-way pursuant to the provisions of this title.

Sec. 409. State Standards.—The Secretary shall take into consideration and, to the extent practicable, comply with State standards for rights-of-way construction, operation, and maintenance if those standards are for similar purposes as, and more stringent than, applicable Federal standards and if the national resource lands are adjacent to lands to which such State standards apply.

Sec. 410. Effect on Other Laws.—(a) After the date of enactment of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, or through national resource lands except under and subject to the provisions, limitations, and conditions of this title: *Provided,* That any application for a right-of-way filed under any other law prior to the date of enactment of this Act may, at the applicant's option, be considered as an application under this title or the Act under which the application was filed. The Secretary may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of national resource lands for highway purposes pursuant to sections 107 and 317 of title 23, United States Code.

Sec. 411. Interagency Coordination.—Applicants before any Federal agency other than the Department of the Interior seeking a license, certificate, or other authority for a project which will involve national resource lands shall simultaneously apply to the Secretary for the appropriate authority to use national resource lands and submit to the Secretary all information furnished to such other Federal agency.

TITLE V—CONSTRUCTION OF LAW, PRESERVATION OF VALID EXISTING RIGHTS, AND REPEAL OF LAWS

Sec. 501. Construction of Law.—(a) Except as provided in section 410, the authority conferred upon the Secretary by this Act is in addition to all other authority vested in him by law, and nothing in this Act shall be deemed to repeal any such other authority by implication.

(b) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States, or—

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on national resource lands;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto;

(5) as modifying the terms of any interstate compact;

(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands;

(7) as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national resource lands; or

(8) as amending, limiting, or infringing the existing laws providing grants of lands to the States.

Sec. 502. Valid Existing Rights.—All actions by the Secretary under this Act shall be subject to valid existing rights.

Sec. 503. Repeal of Laws Relating to Disposal of National Resource Lands.—(a) The following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. HOMESTEADS				
Revised Statute 2289				161, 171.
Mar. 3, 1891	561	5	26: 1097	161, 162.
Revised Statute 2290				162.
Revised Statute 2295				163.
Revised Statute 2291				164.
June 6, 1912	153		37: 123	164, 169, 218.
May 14, 1880	89		21: 141	166, 185, 202, 223.
June 6, 1900	821		31: 683	166, 223.
Aug. 9, 1912	280		37: 267	
Apr. 6, 1914	51		38: 312	167.
Mar. 1, 1921	90		41: 1193	
Oct. 17, 1914	325		38: 740	168.
Revised Statute 2297				169.
Mar. 3, 1881	153		21: 511	
Oct. 22, 1914	335		38: 766	170.
Revised Statute 2292				171.
June 8, 1880	136		21: 166	172.
Revised Statute 2301				173.
Mar. 3, 1891	561	6	26: 1098	
June 3, 1896	312	2	29: 197	
Revised Statute 2288				174.
Mar. 3, 1891	561	3	26: 1097	
Mar. 3, 1905	1424		33: 991	
Revised Statute 2296				175.
Apr. 28, 1922	155		42: 502	
May 17, 1900	479	1	31: 179	179.
Jan. 26, 1901	180		31: 740	180.
Sept. 5, 1914	294		38: 712	182.
Revised Statute 2300				183.
Aug. 31, 1918	166	8	40: 957	
Sept. 13, 1918	173		40: 960	
Revised Statute 2302				184, 201.
July 26, 1892	251		27: 270	185.
Feb. 14, 1920	76		41: 434	186.
Jan. 21, 1922	32		42: 358	
Dec. 28, 1922	19		42: 1067	
June 12, 1930	471		46: 580	
Feb. 25, 1925	326		43: 981	187.
June 21, 1934	690		48: 1185	187a.
May 22, 1902	821	2	32: 203	187b.
June 5, 1900	716		31: 270	188, 217.
Mar. 3, 1875	131	15	18: 420	189.
July 4, 1884	180	Only last paragraph of sec. 1.	23: 96	190.
Mar. 1, 1933	160	1	47: 1418	190a.
The following words only: "Provided, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96: U.S.C. title 43, sec. 190)."				
Revised Statutes 2310, 2311				191.
June 13, 1902	1080		32: 384	203.
Mar. 3, 1879	191		20: 472	204.
July 1, 1879	60		21: 46	205.
May 6, 1886	88		24: 22	206.
Aug. 21, 1916	361		39: 518	207.
June 3, 1924	240		43: 357	208.
Revised Statute 2298				211.
Aug. 30, 1890	837		26: 391	212.
The following words only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act."				

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3, 1891	561	17	26: 1101	

The following words only: "and that the provision of 'An Act making appropriations for sundry civil expense of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes,' which reads as follows, Viz: 'No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall been permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws,' shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Apr. 28, 1904	1776		33: 527	213.
Aug. 3, 1950	521		64: 398	
Mar. 2, 1889	381	6	25: 854	214.
Feb. 20, 1917	98		39: 925	215.
Mar. 4, 1921	162	1	41: 1433	216.
Feb. 19, 1909	160		35: 639	218.
June 13, 1912	166		37: 132	
Mar. 3, 1915	84		38: 953	
Mar. 3, 1915	91		38: 957	
Mar. 4, 1915	150	2	38: 1163	
July 3, 1916	220		39: 344	
Feb. 11, 1913	39		37: 666	218, 219.
June 17, 1910	298		36: 531	219.
Mar. 3, 1915	91		38: 957	
Sept. 5, 1916	440		39: 724	
Aug. 10, 1917	52	10	40: 275	
Mar. 4, 1915	150	1	38: 1162	220.
Mar. 4, 1923	245	1	42: 1445	222.
Apr. 28, 1904	1801		33: 547	224.
Mar. 2, 1907	2527		34: 1224	
May 29, 1908	220	7	35: 466	
Aug. 24, 1912	371		37: 499	
Aug. 22, 1914	270		38: 704	231.
Feb. 25, 1919	21		40: 1153	
July 3, 1916	214		39: 341	232.
Sept. 29, 1919	64		41: 288	233.
Apr. 6, 1922	122		42: 491	223, 272, 273.
Mar. 2, 1889	381	3	25: 854	234.
Dec. 29, 1894	14		28: 599	
July 1, 1879	63	1	21: 48	235.
Dec. 20, 1917	6		40: 430	236.
July 24, 1919	26	Next to last paragraph only.	41: 271	237.
Mar. 2, 1932	69		47: 59	237a.
May 21, 1934	320		48: 787	237b.
May 22, 1935	135		49: 286	237c.
Aug. 19, 1935	560		49: 659	237d.
Mar. 31, 1938	57		52: 149	
Apr. 20, 1936	239		49: 1235	237e.
July 30, 1956	778	1, 2, 4	70: 715	237 f,g,h.
Mar. 1, 1921	102		41: 1202	238.
Apr. 7, 1922	125		42: 492	
Revised Statute 2308				239.
June 16, 1898	458		30: 473	240.
Aug. 29, 1916	420		39: 671	
Apr. 7, 1930	108		46: 144	243.
Mar. 3, 1933	198		47: 1424	243a.
Mar. 3, 1879	192		20: 472	251.
Mar. 2, 1889	381	7	25: 855	252.
June 3, 1878	152		20: 81	253.
Revised Statute 2294				254.
May 26, 1890	355		26: 121	
Mar. 11, 1902	182		32: 63	
Mar. 4, 1904	394		33: 59	
Feb. 23, 1923	105		42: 1281	
Revised Statute 2293				255.
Oct. 6, 1917	86		40; 391	
Mar. 4, 1913	149	Only last paragraph of section headed "Public Land Service."	37; 925	256.
May 13, 1932	178		47: 153	256a.
June 16, 1933	99		48: 274	
July 26, 1935	419		49: 504	
June 16, 1937	361		50: 303	
Aug. 27, 1935	770		49: 909	256b.
Sept. 30, 1890	J. Res. 59		26: 684	261.
June 16, 1880	244		21: 287	263.
Apr. 18, 1904	25		33: 589	
Revised Statute 2304				271.
Mar. 1, 1901	674		31: 847	271, 272.
Revised Statute 2305				272.
Feb. 25, 1919	37		40: 1161	272a.
Dec. 28, 1922	19		42: 1067	
Revised Statute 2306				274.
Mar. 3, 1893	208		27: 593	275.

The following words only: "And provided further, That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Aug. 18, 1894	301	Only last paragraph of Section headed "Surveying the Public Lands."	28: 397	276.
Revised Statute 2309				277.
Revised Statute 2307				278.
Sept. 21, 1922	357		42: 990	
Sept. 27, 1944	421		58: 747	279-283.
June 25, 1946	474		60: 308	279.
May 31, 1947	88		61: 123	279, 280, 282.
June 18, 1954	306		68: 253	279, 282.
June 3, 1948	399		62: 305	283, 284.
Dec. 29, 1916	9	1-8	39: 862	291-298.
Feb. 28, 1931	328		46: 1454	291.
June 9, 1933	53		48: 119	291.
June 6, 1924	274		46: 469	292.
Oct. 25, 1918	195		40: 1016	293.
Sept. 29, 1919	63		41: 287	294, 295.
Mar. 4, 1923	245	2	42: 1445	302.
Aug. 21, 1916	361		39: 518	1075.
Aug. 28, 1937	876	3	50: 875	1181c.

2. Sale and Disposal Laws

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3, 1891	561	9	26: 1099	671.
Revised Statute 2354				673.
Revised Statute 2355				674.
May 18, 1898	344	2	30: 418	675.
Revised Statute 2365				676.
Revised Statute 2357				678.
June 15, 1880	227	3, 4	21: 238	679, 680.
Mar. 2, 1889	381	4	25: 854	681.
Mar. 1, 1907	2286		34: 1052	682.
June 1, 1938	317		52: 609	682a-e.
July 14, 1945	298		59: 467	
June 8, 1954	270		68: 239	
Revised Statute 2361				688.
Revised Statute 2362				689.
Revised Statute 2363				690.
Revised Statute 2368				691.
Revised Statute 2366				692.
Revised Statute 2369				693.
Revised Statute 2370				694.
Revised Statute 2371				695
Revised Statute 2374				696.
Revised Statute 2372				697.
Feb. 24, 1909	181		35: 645	
May 21, 1926	353	The two provisos only.	44: 591	
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25: 854	700.

3. Townsite Reservation and Sale

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statute 2380				711.
Revised Statute 2381				712.
Revised Statute 2382				713.
Aug. 24, 1954	904		68: 792	
Revised Statute 2383				714.
Revised Statute 2384				715.
Revised Statute 2386				717.
Revised Statute 2387				718.
Revised Statute 2388				719.
Revised Statute 2389				720.
Revised Statute 2391				721.
Revised Statute 2392				722.
Revised Statute 2393				723.
Revised Statute 2394				724.
Mar. 3, 1877	113	1, 3, 4	19: 392	725-727.
Mar. 3, 1891	561	16	26: 1101	728.
July 9, 1914	138		38: 454	730.
Feb. 9, 1903	531		32: 820	731.

4. Drainage Under State Laws

Act of	Chapter	Section	Statute at Large	43 U.S. Code
May 20, 1908	181	1-7	35: 171	1021-1027.
Mar. 3, 1919	113		40: 1321	1028.
May 1, 1958	P.L. 85-387		72: 99	1029-1034.
Jan. 17, 1920	47		41: 392	1041-1048.

5. Abandoned Military Reservation

Act of	Chapter	Section	Statute at Large	43 U.S. Code
July 5, 1884	214	5	23: 104	1074.
Aug. 21, 1916	361		39: 518	1075.
Mar. 3, 1893	208		27: 593	1076.

The following words only: "Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Aug. 23, 1894	314		28: 491	1077, 1078.
Feb. 11, 1903	543		32: 822	1079.
Feb. 15, 1895	92		28: 664	1080, 1077.
Apr. 23, 1904	1496		33: 306	1081.

6. Public Lands; Oklahoma

Act of	Chapter	Section	Statute at Large	43 U.S. Code
May 2, 1890	182	Last paragraph of sec. 18 and secs. 20, 21, 22, 24, 27.	26: 90	1091-1094, 1096, 1097.
Mar. 3, 1891	543	16	26: 1026	1098.
Aug. 7, 1946	772	1, 2	60: 872	1100-1101.
Aug. 3, 1955	498	1-8	69: 445	1102-1102g.
May 14, 1890	207		26: 109	1111-1117.
Sept. 1, 1893	J. Res. 4		28: 11	1118.
May 11, 1896	168	1, 2	29: 116	1119.
Jan. 18, 1897	62	1-3, 5, 7	29: 490	1131-1134.
June 23, 1897	8		30: 105	
Mar. 1, 1899	328		30: 966	

7. Sales of Isolated Tracts

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statute 2455				1171.
Feb. 26, 1895	133		28: 687	
June 27, 1906	3554		34: 517	
Mar. 28, 1912	67		37: 77	
Mar. 9, 1928	164		45: 253	
June 28, 1934	865	14	48: 1274	

Act of	Chapter	Section	Statute at Large	43 U.S. Code
July 30, 1947	383		61: 630	
Apr. 24, 1928	428		45: 457	1171a.
May 23, 1930	313		46: 377	1171b.
Feb. 4, 1919	13		40: 1055	1172.
May 10, 1920	178		41: 595	1173.
Aug. 11, 1921	62		42: 159	1175.
May 19, 1926	337		44: 566	1176.
Feb. 14, 1931	170		46: 1105	1177.
8. Alaska Special Laws				
Mar. 3, 1891	561	11	26: 1099	732.
May 25, 1926	379		44: 629	733–736.
May 29, 1963	P.L. 88–34		77: 52	
July 24, 1947	305		61: 414	738.
May 14, 1898	299	1	30: 409	270.
Mar. 3, 1903	1002		32: 1028	
Apr. 29, 1950	137	1	64: 94	
Aug. 3, 1955	496		69: 444	270, 687a–2.
Apr. 29, 1950	137	2–5	64: 95	270–5, 270–6, 270–7, 687a–1.
July 11, 1956	571	2	70: 529	270–7.
July 8, 1916	228		39: 252	270–8, 270–9.
June 28, 1918	110		40: 632	270–10, 270–14.
July 11, 1956	571	1	70: 528	
Mar. 8, 1922	96	1	42: 415	270–11.
Aug. 23, 1958	P.L. 85–725	1, 4	72: 730	
Aug. 17, 1961	P.L. 87–147		75: 384	270–13.
Oct. 3, 1962	P.L. 87–742		76: 740	
Apr. 13, 1926	121		44: 243	270–15.
Apr. 29, 1950	134	3	64: 93	270–16, 270–17.
May 14, 1898	299	10	30:413	270–4, 687a to 687a–5.
Mar. 3, 1927	323		44: 1364	
May 26, 1934	357		48: 809	
Aug. 23, 1958	P.L. 85–725	3	72: 730	
Mar. 3, 1891	561	13	26: 1100	687a–6.
Aug. 30, 1949	521		63: 679	687b to 687b–4.
July 19, 1963	P.L. 88–66		77: 80	687b–5.
9. Pittman Underground Water Act				
Sept. 22, 1922	400		42: 1012	356.

(b) Section 7 of the Taylor Grazing Act (48 Stat. 1269, 1272), as amended by section 2 of the Act of June 26, 1936 (49 Stat. 1976), is further amended to read as follows:

"The Secretary of the Interior is authorized, in his discretion to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6964), or within a grazing district, which are more valuable or suitable for any other use than for the use provided for under this Act, or proper for acquisition in satisfaction of any outstanding lieu, exchange or land grant, and to open such lands to disposal in accordance with such classification under applicable public land laws. Such lands shall not be subject to disposition until after the same have been classified and opened to disposal.".

(c) Section 2 of the Act of March 8, 1922 (42 Stat. 415, 416), as amended by section 2 of the Act of August 23, 1958 (72 Stat. 730), is further amended to read:

"The coal, oil, or gas deposits reserved to the United States in accordance with the Act of March 8, 1922 (42 Stat. 415), as added to by the Act of August 17, 1961 (75 Stat. 384), and amended by the Act of October 3, 1962) (76 Stat. 740), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands patented under the Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided,* That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: *Provided further,* That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase.".

(e) Section 3 of the Act of August 30, 1949 (63 Stat. 679), is amended to read:

"Notwithstanding the provisions of any Act of Congress to the contrary, any person who prospects for, mines, or removes any minerals from any land disposed of under the Act of August 30, 1949 (63 Stat. 679), shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949.".

SEC. 504. REPEAL OF LAWS RELATING TO ADMINISTRATION OF NATIONAL RESOURCE LANDS.—The following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 2, 1895	174		28: 744	176.
June 28, 1934	865	8	48: 1272	315g.
June 26, 1936	842	3	49: 1976, title I.	
June 19, 1948	548	1	62: 533	
July 9, 1962	P.L. 87–524		76: 140	315g–1.
Aug. 24, 1937	744		50: 748	315p.
Mar. 3, 1909	271	2d proviso only.	35: 845	772.
June 25, 1910	J. Res. 40		36: 884	
June 21, 1934	689		48: 1185	871a.
Revised Statute 2447				1151.
Revised Statute 2448				1152.
June 6, 1874	223		18: 62	1153, 1154.
Jan. 28, 1879	30		20: 274	1155.
May 30, 1894	87		28: 84	1156.
Revised Statute 2450				1161.
Feb. 27, 1877	60	1	19: 244	
The following words only: "Section twenty-four hundred and fifty is amended by striking out in the fourth line the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute 2451				1162.
Feb. 27, 1877	69	1	19: 244	
The following words only: "Section twenty-four hundred and fifty-one is amended by striking out, in the first and second lines, the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
Revised Statute 2456				1163.
Sept. 20, 1922	350		42: 857	
The words" ". . . and sections 2450, 2451, and 2456 be amended to read as follows;" and all words following in the Act.				
Revised Statute 2457				1164.
Mar. 3, 1891	561	7	26: 1098	1165.
Revised Statute 2471				1191.
Revised Statute 2472				1192.
Revised Statute 2473				1193.
July 14, 1960	P.L. 86–649	101–202(a), 203–204(a), 301–303.	74: 506	1361, 1362, 1363–1383.
Sept. 26, 1970	P.L. 91–429		84: 885	1362a.
July 31, 1939	401	1, 2	53: 1144	

SEC. 505. REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY.—(a) The following statutes or parts of statutes are repealed insofar as they apply to national resource lands:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 2339				661.
The following words only: "and the right-of-way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injuries or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage."				
evised Statutes 2340				661.
The following words only: ", or rights to ditches and reservoirs used in connection with such water rights,".				
Feb. 26, 1897	335		29: 599	664.
Mar. 3, 1899	427	1	30: 1233	665, 958 (16 U.S.C. 525).
The following words only: "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby."				
Mar. 3, 1875	152		18: 482	934-939.
May 14, 1898	299	2–9	30: 409	942–1 to 942–9.
Feb. 27, 1901	614		31: 815	943.
June 26, 1906	3548		34: 481	944.

Act of	Chapter	Section	Satute at Large	43 U.S. Code
Mar. 3, 1891	561	18–21	26: 1101	946–949.
Mar. 4, 1917	184	1	39: 1197	
May 28, 1926	409		44: 668	
Mar. 1, 1921	93		41: 1194	950.
Jan. 13, 1897	11		29: 484	952–955.
Mar. 3, 1923	219		42: 1437	
Jan. 21, 1895	37		28: 635	951, 956, 957.
May 14, 1896	179		29: 120	
May 11, 1898	292		30: 404	
Mar. 4, 1917	184	2	39: 1197	
Feb. 15, 1901	372		31: 790	959 (16 U.S.C. 79, 522).
Mar. 4, 1911	238		36: 1253	961 (16 U.S.C. 5, 420, 523).
Only the last two paragraphs under the subheading "Improvement of the National Forests" under the heading "Forest Service."				
May 27, 1952	338		66: 95	
May 21, 1896	212		29: 127	962–965.
Apr. 12, 1910	155		36: 296	966–970.

(b) Notwithstanding the provisions of subsection (a) of this section, the following statute is repealed in its entirety, subject to valid existing rights.

Act of	Chapter	Section	Statute at Large	U.S. Code
Revised Statute 2477.				43 U.S.C. 932.

MOTION OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MELCHER moves to strike out all after the enacting clause of the Senate bill S. 507 and to insert in lieu thereof the provisions of H.R. 13777, as passed by the House, as follows:

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TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "Federal Land Policy and Management Act of 1976".

DECLARATION OF POLICY

SEC. 102. (a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership unless as a result of the land use planning procedure provided for in this Act it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before the date of enactment of this Act be reviewed in accordance with the overall land use planning goals set forth in this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide habitat for fish and wildlife; and that will provide for outdoor recreation;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to Congress review of disposals, acquisitions, and exchanges in excess of a specified acreage;

(11) regulations or plans for the protection of public land areas of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

DEFINITIONS

SEC. 103. As used in this Act—

(a) The term "areas of critical environmental concern" means areas within the public lands where special management attention is required when such areas are developed or used to protect, or where no development is required to prevent irreparable damage to, important historic, cultural, or scenic values, fish and wildlife resources, or natural systems or processes, or life and safety as a result of natural hazards.

(b) The term "holder" means any State or local governmental entity or agency or any person receiving a right-of-way under title V of this Act.

(c) The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the rsources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without impairment of the productivity of the land, with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) The term "public involvement" means the opportunity for participation by affected citizens in rulemaking, decision-making, and planning with respect to the public lands, including public meetings or hearings held at the local level, advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(e) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) lands located on the Outer Continental Shelf; and

(2) lands held in trust for the benefit of Indians, Aleuts, and Eskimos.

(f) The term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purposes listed in title V of this Act.

(g) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term "sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands without significant impairment of the productivity of the land.

(i) The term "wilderness" as used in section 311 shall have the same meaning as it does in section 2(c) of the Wilderness Act.

(j) The term "withdrawal" means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land from one department, bureau or agency to another department, bureau or agency.

(k) An "allotment management plan" means a document based on available information and prepared in consultation with the lessees or permittees involved, which to the extent the Secretary concerned finds desirable and available information permits:

(1) prescribes the manner in, and extent to, which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic and other objectives determined for the lands by the Secretary concerned; and

(2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the lands to meet the livestock grazing objectives of the allotment management plan; and

(3) contains such other provisions relating to livestock grazing found by the Secretary concerned to be consistent with the provisions of this Act and other applicable law.

(l) The term "principal or major uses" includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

(m) The term "department" means a unit of the executive branch of the Federal Government which is headed by a member of the President's Cabinet and the term "agency" means a unit of the executive branch of the Federal Government which is not under the jurisdiction of a head of a department.

(n) The term "lands in the National Forest System" refers only to public domain lands within forest reserves created out of the public domain.

TITLE II—PLANNING FUTURE PUBLIC LAND USE

INVENTORY AND IDENTIFICATION

SEC. 201. (a) The Secretary shall prepare and maintain on a continuing basis, to reflect changes in conditions and identifications of resource values, an inventory of all public lands and their resources, giving priority to areas of critical environmental concern. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands. This inventory shall be kept current so as to reflect changes in conditions and identify new and emerging resources and values.

(b) As funds are made available, the Secretary shall ascertain the boundaries of the public lands, provide means of public identification thereof including where appropriate, signs and maps and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity to such public lands.

LAND USE PLANNING

SEC. 202. (a) The Secretary shall develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of all public lands. Land use plans shall be developed for all public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.

(b) In the development and revision of land use plans, the Secretary of Agriculture shall coordinate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approved tribal land resource management programs; and the Secretary shall—

(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) consider present and potential uses of the public lands;

(5) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(6) weigh long-term benefits to the public against short-term benefits;

(7) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

(8) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of the States and local governments within which the lands are located and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall keep continuously apprised of all State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; and assist in resolving, to the extent possible, any inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public participation, on a continuing basis, of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall conform to State and local plans to the maximum extent consistent with Federal law and the purposes of this Act.

(c) Any classification of public lands or any land use plan in effect on the date of enactment of this Act is subject to review in the land use planning process conducted under this section, and all public lands, regardless of classification, are subject to inclusion in any land use plan developed pursuant to this section. The Secretary may modify or terminate any such classification consistent with such land use plans.

(d) With respect to public lands designated for retention in Federal ownership, the Secretary shall manage such public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under this section when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provision of law it shall be managed in accordance with such law.

(e) The Secretary may issue management decisions to implement land use plans developed or revised under this section in accordance with the following:

(1) Exclusions of one or more of the principal or major uses made by a management decision shall remain subject to reconsideration, modification, and termination through revision by the Secretary or his delegate, under the provisions of this section, of the land use plan involved.

(2) Any management decision or action pursuant to a management decision that excludes one or more of the principal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate. If within ninety days from the giving of such notice (exclusive of days on which either House has adjourned for more than three consecutive days), either House adopts a resolution of nonapproval of the action, then the action shall be promptly terminated by the Secretary.

(3) Withdrawals made pursuant to section 204 of this Act may be used in carrying out management decisions, but public lands shall be removed from or made subject to the operation of the Mining Law of 1872 or transferred to another department, bureau, or agency only by withdrawals.

(f) (1) In managing the public lands under a land use plan, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law, regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands: *Provided*, That unless otherwise provided for by law, the Secretary may permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way under section 507 of this Act, withdrawals under section 204 of this Act, and, where the proposed use and development are similar or closely related to the programs of the Secretary for the public lands involved, cooperative agreements under subsection (b) of section 306 of this Act. Nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as infringing on the responsibility and authority of the States for management of fish and resident wildlife. However, the Secretary concerned may designate areas of public lands and of lands in the National Forest System where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety. Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. Nothing in this Act shall modify or change any provision of Federal law relating to migratory birds or to endangered or threatened species. Except as provided in section 207, section 311, and subsection (f) of section 401 of this Act and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

(2) The Secretary shall insert in any instrument providing for the use, occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such instrument upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance with applicable State or Federal air or water quality standard or implementation plan: *Provided*, That such violation occurred on public lands covered by such instrument and occurred in connection with the exercise of rights and privileges granted by it. The Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect public health or safety or the environment. When other applicable law contains specific provisions for suspension, revocation, or cancellation of an instrument authorizing use, occupancy, or development of the public lands, the specific provisions of such law shall prevail.

(g) The Secretary shall allow an opportunity for public involvement and participation and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.

SALES

SEC. 203. (a) A tract of the public lands (except land designated as wilderness) may be sold under this Act where, as a result of land use planning required under section 202, the Secretary determines that—

(1) such tract of the public lands because of its location and other characteristics is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal agency; or

(2) such tract of the public lands was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract of the public lands will serve important public objectives, including but not limited to, expansion of communities and economic development which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

(b) Where a tract of the public lands in excess of two thousand five hundred acres has been designated for sale, such sale may be made only after the end of the ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the day the Secretary has submitted notice of such designation of the Senate and the House of Representatives, and then only if neither House has adopted a resolution stating that such House does not approve of such designation.

(c) Sales of public lands shall be made at a price not less than fair market value as determined by the Secretary.

(d) Sales of public lands under this section shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper in order (1) to assure equitable distribution among purchasers of lands, or (2) to recognize equitable considerations or public policies, including but not limited to, a preference to users, he may sell those lands with modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

(1) the State in which the land is located;

(2) the local government entities in such State which are in the vicinity of the land;

(3) adjoining landowners;

(4) individuals; and

(5) any other person.

(e) The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bidding at his invitation no later than thirty days after the receipt of such offer or, in the case of a tract in excess of two thousand five hundred acres, at the end of thirty days after the end of the ninety-day period provided in subsection (b) of this section, whichever is later, unless the offeror waives his right to a decision within such thirty-day period. Prior to the expiration of such periods the Secretary may refuse to accept any offer or may withdraw any land or interest in land from sale under this section when he determines that consummation of the sale would not be consistent with this Act or other applicable law.

(f) The Secretary shall issue all patents or other documents of conveyance after any disposal authorized by this Act. The Secretary shall insert in any such patent or other document of conveyance he issues, except in the case of land exchanges, for which the provisions of subsection 206(b) of this Act shall apply, such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest. The Secretary may correct such patents or documents where necessary in order to eliminate errors. In addition, the Secretary may make corrections of errors in any documents of conveyance which have heretofore been issued by the Federal Government on public lands.

(g) All conveyances of title issued by the Secretary, except those involving land exchanges provided for in section 206, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except as provided in section 206, and except further that if the Secretary makes the findings specified in section 209(a), the minerals may then be conveyed to the surface owner or prospective surface owner, as the case may be, as provided in section 209.

(h) The Secretary shall not make conveyances of public lands containing terms and conditions which would, at the time of the conveyance, constitute a violation of any law or regulation pursuant to State and local land use plans, or programs. At least sixty days prior to offering for sale or otherwise conveying public lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance.

(i) No tract of land may be disposed of under this Act, whether by sale, exchange, or donation, to any person who is not a citizen of the United States, or in the case of a corporation, is not subject to the laws of any State or of the United States.

(j) The Act of July 31, 1958 (72 Stat. 438, 7 U.S.C. 1012a, 16 U.S.C. 478a), is amended to read as follows: "When the Secretary of Agriculture determines that a tract of National Forest System land is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof: *Provided, however*, That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands."

(k)(1) Notwithstanding the provisions of the Act of September 26, 1968 (43 U.S.C. 1431–1435), hereinafter called the "1968 Act", with respect to applications under the 1968 Act which were pending before the Secretary as of the effective date of this subsection and which he approves for sale under the criteria prescribed by the 1968 Act, he shall give the right of first refusal to those having a preference right under section 2 of the 1968 Act. The Secretary shall offer such lands to such preference right holders at their fair market value (exclusive of any values added to the land by such holders and their predecessors in interest) as determined by the Secretary as of September 26, 1972.

(2) Within three years after the date of approval of this Act, the Secretary shall notify the filers of applications subject to paragraph (1) of this subsection whether he will offer them the lands applied for and

at what price: that is, their fair market value as of September 26, 1972, excluding any value added to the lands by the applicants or their predecessors in interest. He will also notify the President of the Senate and the Speaker of the House of Representatives of the lands which he has determined not to sell pursuant to paragraph (1) of this subsection and the reasons therefor. With respect to such lands which the Secretary determined not to sell, he shall take no other action to convey those lands or interests in them before the end of ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the date the Secretary has submitted such notice to the Senate and House of Representatives. If, during that ninety-day period, either House adopts a resolution stating the length of time such suspension of action should continue, he shall continue such suspension for the specified time period.

(3) Within five years after the date of approval of this Act, the Secretary shall complete the processing of all applications filed under the 1968 Act and hold sales covering all lands which he has determined to sell thereunder.

SEC. 204. (a) On and after the effective date of this Act the Secretary is authorized to make, modify, extend, or revoke withdrawals but only in accordance with the provisions and limitations of this section. The Secretary may delegate this withdrawal authority only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate.

(b)(1) Within thirty days of receipt of an application for withdrawal, and whenever he proposes a withdrawal on his own motion, the Secretary shall publish a notice in the Federal Register stating that the application has been filed or the proposal has been made and the extent to which the land is to be segregated while the application is being considered by the Secretary. Upon publication of such notice the land shall be segregated from the operation of the public land laws to the extent specified in the notice. The segregative effect of the application shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of the lands by the Secretary, or (c) the expiration of one year from the date of the notice.

(2) The publication provisions of this subsection are not applicable to withdrawals under subsection (e) hereof.

(c)(1) On and after the date of approval of this Act a withdrawal aggregating five thousand acres or more may be made (or such a withdrawal or any other withdrawal involving in the aggregate five thousand acres or more which terminates after such date of approval may be extended) only for a period of not more than ten years by the Secretary on his own motion or upon request by a department or agency head. The Secretary shall notify both Houses of Congress of such a withdrawal no later than its effective date and the withdrawal shall terminate and become ineffective at the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and the House of Representatives, if either House has adopted a resolution stating that such House does not approve the withdrawal.

(2) With the notices required by subsection (c)(1) of this section and within three months after filing the notice under subsection (e) of this section, the Secretary shall furnish to the committees—

(1) a clear explanation of the proposed use of the land involved which led to the withdrawal;

(2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the Nation;

(3) an identification of present users of the land involved, and how they will be affected by the proposed use;

(4) an analysis of the manner in which existing and potential resource uses and users are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses, including an economic analysis of such continuation or termination;

(5) an analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;

(6) a statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;

(7) a statement of the consultation which has been or will be had with other Federal departments and agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

(8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy;

(9) a statement of the expected length of time needed for the withdrawal;

(10) the time and place of hearings and of other public involvement concerning such withdrawal;

(11) the place where the records on the withdrawal can be examined by interested parties; and

(12) a report prepared by a qualified mining engineer, engineering geologist, or geologist which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present and potential market demands.

(d) A withdrawal aggregating less than five thousand acres may be made under this subsection by the Secretary on his own motion or upon request by a department or an agency head—

(1) for such period of time as he deems desirable for a resource use; or

(2) for a period of not more than ten years for any other use, including but not limited to use for administrative sites, location of facilities, and other proprietary purposes; or

(3) for a period of not more than five years to preserve such tract for a specific use then under consideration by the Congress.

(e) When the Secretary determines, or when the Committee on Interior and Insular Affairs of either the House of Representatives or the senate notifies the Secretary, that an emergency situation exists and that extraordinary measures must be taken to preserve values that would otherwise be lost, the Secretary notwithstanding the provisions of subsections (c)(1) and (g) of this section, shall immediately make a withdrawal and file notice of such emergency withdrawal with the Committees on Interior and Insular Affairs of the Senate and the House of Representatives. Such emergency withdrawal shall be effective when made but shall last only for a period not to exceed one year and may not be extended except under the provisions of subsection (c)(1) or (d), whichever is applicable, and (b)(1) of this section. The information required in subsection (c)(2) of this subsection shall be furnished the committees within three months after filing such notice.

(f) All withdrawals and extensions thereof, whether made prior to or after approval of this Act, having a specific period shall be reviewed by the Secretary toward the end of the withdrawal period and may be extended or further extended only upon compliance with the provisions of subsection (c)(1) or (d), whichever is applicable, and only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period no longer than the length of the original withdrawal period. The Secretary shall report on such review and extensions to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate.

(g) All applications for withdrawal pending on the date of approval of this Act shall be processed and adjudicated to conclusion within ten years of the date of approval of this Act, in accordance with the provisions of this section. The segregative effect of any application not so processed shall terminate on that date.

(h) Notwithstanding any provision of the Administrative Procedures Act, all new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (e) of this section) shall be promulgated on the record after an opportunity for an agency hearing.

(i) In the case of lands under the administration of any department or agency other than the Department of the Interior, the Secretary shall make, modify, and revoke withdrawals only with the consent of the head of the department or agency concerned, except when the provisions of subsection (e) of this section apply.

(j) The Secretary shall not: make, modify, or revoke any withdrawal created by Act of Congress; make a withdrawal which can be made only by Act of Congress; modify or revoke any withdrawal creating national monuments under the Act of June 8, 1906 (16 U.S.C. 431–433); or modify, or revoke any withdrawal which added lands to the National Wildlife Refuge System prior to the date of approval of this Act or which thereafter adds lands to that System under the terms of this Act. Nothing in this Act is intended to modify or change any provision of the Act of February 27, 1976 (90 Stat. 199–200; 16 U.S.C. 668dd(a)).

(k) There is hereby authorized to be appropriated the sum of $10,000,000 for the purpose of processing withdrawal applications pending on the effective date of this Act, to be available until expended.

ACQUISITION OF LAND

SEC. 205. (a) Notwithstanding any other provision of law, the Secretary, with respect to the public lands and the Secretary of Agriculture, with respect to the acquisition of access over non-Federal lands to units of the National Forest System, are authorized to acquire pursuant to this Act by purchase, exchange, donation, or eminent domain, lands or interests therein: *Provided*, That with respect to the public lands, the Secretary may exercise the power of eminent domain only if necessary to secure access to public lands, and then only if the lands so acquired are confined to as narrow a corridor as is necessary to serve such purpose. Nothing in this subsection shall be construed as limiting the authority of the Secretary of Agriculture to acquire land by eminent domain.

(b) Acquisitions pursuant to this section shall be consistent with the mission of the department involved and with applicable land-use plans.

(c) Lands and interests in lands acquired by the Secretary pursuant to this section or section 206 shall, upon acceptance of title, become public lands, and, for the administration of public lands laws not repealed by this Act, shall remain public lands. If such acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to the first section of the Act of June 28, 1934 (43 U.S.C. 315) (commonly known as the Taylor Grazing Act), they shall become a part of that district. Lands and interests in lands acquired pursuant to this section which are within boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable thereto.

(d) Lands and interests in lands acquired by the Secretary of Agriculture pursuant to this section shall, upon acceptance of title, become National Forest System lands subject to all the laws, rules, and regulations applicable thereto.

(e) In exercising the authority to acquire by purchase granted by subsection (a) of this section, the Secretary may use the Land and Water Conservation Fund to purchase lands which are necessary for proper management of public lands which are primarily of value for outdoor recreation purposes.

EXCHANGES

Sec. 206. Anything set forth in section 203 (a) through (g) of this Act to the contrary notwithstanding, and without compliance with the provisions of section 203 (a) through (g):

(a) A tract of public land or interests therein may be disposed of by exchange by the Secretary under this Act and a tract of land or interests therein within the National Forest System may be disposed of by exchange by the Secretary of Agriculture under applicable law where the Secretary concerned determines that the public interest will be well served by making that exchange: *Provided,* That when considering public interest the Secretary concerned shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife.

(b) In exercising the exchange authority granted by subsection (a) or by section 205 (a) of this Act, the Secretary may accept title to any non-Federal land or interests therein in exchange for such land, or interests therein which he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land or interest to be acquired. For the purposes of this subsection, unsurveyed school sections which, upon survey by the Secretary, would become State lands, shall be considered as "non-Federal lands". The values of the lands exchanged by the Secretary under this Act and by the Secretary of Agriculture under applicable law relating to lands within the National Forest System either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary concerned as the circumstances require so long as payment does not exceed 20 per centum of the total value of the lands or interests transferred out of Federal ownership. The Secretary concerned shall make every effort to reduce the amount of the payment of money to as small an amount as possible.

(c) Lands acquired by exchange under this section by the Secretary which are within the boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable to the National Forest System. Lands acquired by exchange by the Secretary under this section which are within the boundaries of national park, wildlife refuge, wild and scenic rivers, trails, or any other system established by Act of Congress may be transferred to the appropriate agency head for administration as part of, and in accordance with, the laws, rules, and regulations applicable to such system.

RECORDATION OF MINING CLAIMS AND ABANDONMENT

Sec. 207. (a) The owner of an unpatented lode or placer mining claim located prior to the date of this Act shall, within the three-year period following the date of the approval of this Act and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after the date of this Act shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), and affidavit of assessment work performed thereon, or a detailed report provided by the Act of September 2, 1958 (72 Stat. 1701), relating thereto.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

(b) The owner of an unpatented lode or placer mining claim or mill site located prior to the date of approval of this Act shall, within the three-year period following the date of approval of this Act, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill site sufficient to locate the claimed lands on the ground. The owner of an unpatented lode or placer mining claim or mill site located after the date of approval of this Act shall, within ninety days after the date of location of such claim, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill site sufficient to locate the claimed lands on the ground.

(c) The failure to file such instruments as required by subsections (a) and (b) shall be deemed conclusively to constitute an abandonment of the mining claim or mill site by the owner; but there shall, however, be no abandonment if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill site.

RECORDABLE DISCLAIMERS OF INTEREST IN LAND

Sec. 208. (a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document or disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative costs of issuing the disclaimer as determined by the Secretary. All receipts shall be deposited to the then-current appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quit-claim deed from the United States.

CONVEYANCE OF RESERVED MINERAL INTERESTS

Sec. 209. (a) The Secretary, after consultation with the appropriate agency head, may convey mineral interests owned by the United States where the surface is in non-Federal ownership, regardless of which Federal agency may have administered the surface, if he finds (1) that there are no known mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(b) Conveyance of mineral interests pursuant to this section shall be made only to the record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(c) Before considering an application for conveyance of mineral interests pursuant to this section the Secretary shall require the deposit of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance. If the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess.

(d) Moneys paid to the Secretary for administrative costs pursuant to subsection (b) shall be paid to the agency which rendered the service and deposited to the appropriation then current.

GRAZING FEES

Sec. 210. (a) Notwithstanding any other provision of law and except where a smaller fee is necessary to meet the objectives of other federally sponsored programs and except where the costs of collection of the fee would exceed the amount collected, the Secretary, with respect to the commercial grazing of domestic livestock on the public lands under the Taylor Grazing Act (43 U.S.C. 315) and the Act of August 28, 1937 (43 U.S.C. 1181a–1181j), and the Secretary of Agriculture, with respect to the commercial grazing of livestock on lands within the National Forest System in the eleven Western States, shall charge an annual fee per animal unit month for such grazing which shall be computed for group I land by multiplying $1.70 by the beef price index minus the cost of production index plus 100 and for group II land, by multiplying $1.40 by the beef price index minus the cost of production index plus 100, where:

(1) Lands will be designated as group I land or group II land as determined by the District Manager in the case of the Bureau of Land Management, and the Forest Super-

visor in the case of the Forest Service, using the immediate preceding year or the most recent range survey to determine the amount of forage required for one animal unit month.

(a) Group I land shall be that which required less than 11 acres to provide sufficient forage for one animal unit month.

(b) Group II land shall be that which requires 11 acres or more to provide sufficient forage for one animal unit month.

(c) The land classifications described in paragraphs (a) and (b) shall be carried to the district or forest unit level. Existing allotment management plans shall be classified as group I land or group II land. All future allotment management plans shall also be classified as group I land or group II land.

(2) The beef price is the price reported to the Statistical Reporting Service, United States Department of Agriculture, representing average prices received for beef cattle in the eleven Western States.

(3) The Cost of Production Index is an index of prices paid by farmers for commodities and services, interest, taxes, and farm wages as collected and published by Statistical Reporting Service, in agricultural prices, United States Department of Agriculture.

(b) The term "animal unit month of grazing" as used in this section means the forage required by the grazing of one cow and calf or its equivalent for a period of one month. One cow shall, for the purpose of this definition, be considered the equivalent of one horse or five sheep or goats.

(c)(1) Congress finds that a substantial amount of the Federal range lands are deteriorating in quality, and that installation of additional range improvements could arrest much of the continuing deterioration and could lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production. Congress therefore directs that 50 per centum of all moneys received by the United States as fees for grazing domestic livestock on public lands (other than from ceded Indian lands) under the Taylor Grazing Act and the Act of August 28, 1937, and on lands in the National Forest System under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region, or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of on-the-ground range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for on-the-ground range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any other appropriations made to the respective Secretary for planning and administration of the range betterment program and for other range management. Such rehabilitation, protection, and improvements shall include all forms of range land betterment including, but not limited to, seeding and reseeding, fence construction, weed control, water development, and fish and wildlife habitat enhancement as the respective Secretary may direct after consultation with user representatives. The annual distribution and use of range betterment funds authorized by this paragraph shall not be considered a major Federal action requiring a detailed statement pursuant to section 4332 (c) of title 42 of the United States Code.

(2) The first clause of section 10(b) of the Taylor Grazing Act (48 Stat. 1269), as amended August 6, 1947 (43 U.S.C. 315l), is hereby repealed. All distributions of moneys made under section 210(c)(1) of this Act shall be in addition to distributions made under section 10 of the Taylor Grazing Act and shall not apply to distribution of moneys made under section 11 of that Act. The remaining moneys received by the United States as fees for grazing domestic livestock on the public lands shall be deposited in the Treasury as miscellaneous receipts.

(3) Section 3 of the Taylor Grazing Act, as amended (43 U.S.C. 315), is further amended by—

(a) Deleting the last clause of the first sentence thereof, which begins with "and in fixing," deleting the comma after "time", and adding to that first sentence the words "in accordance with governing law".

(b) Deleting the second sentence of section 3.

DURATION OF GRAZING LEASES

Sec. 211. (a) Except as provided in subsection (b) of this section, permits and leases for domestic livestcok grazing on lands described in subsection (c)(1) of section 210 of this Act shall be issued for a term of ten years subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease.

(b) Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that—

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years; or

(3) it will be in the best interest of sound land management to specify a shorter term: *Provided*, That the absence from an allotment management plan of details the Secretary concerned would like to include but which are undeveloped shall not be the basis for establishing a term shorter than ten years.

(c) So long as (1) the lands for which the permit or lease is issued remain available for domestic livestock grazing in accordance with land use plans prepared pursuant to section 202 of this Act, (2) the permittee or lessee is in compliancce with the rules and regulations issued and the terms and conditions in the lease specified by the Secretary concerned, and (3) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

(d) All permits and leases for domestic livestock grazing issued pursuant to this section shall incorporate an allotment management plan developed by the Secretary concerned in consultation with the lessees or permittees involved. The Secretary concerned may revise such plans from time to time after such consultation. In addition to such other terms and conditions the Secretary concerned deems appropriate for an allotment management plan as defined in subsection (k) of section 103 of this Act, he shall specify therein the numbers of animals to be grazed and the seasons of use: *Provided*, That such plans shall not refer to livestock operations or range improvements on non-Federal lands except where the non-Federal lands are adjacent to, or intermingled with, the Federal lands subject to the plan. The Secretary concerned shall grant to lessees and permittees the right of appeal to him from decisions of the Bureau or the Forest Service which specify the terms and conditions of allotment management plans. The preceding sentence of this subsection shall not be construed as limiting any other right of appeal from decisions of such officials.

(e) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein. Except in cases of emergency, no permit or lease shall be canceled under this subsection without two years prior notification.

GRAZING ADVISORY BOARDS

Sec. 212. (a) For each Bureau district office and National Forest headquarters office in the eleven Western States having jurisdiction over more than five hundred thousand acres of lands subject to commercial livestock grazing (hereinafter in this section referred to as "office"), the Secretary and the Secretary of Agriculture shall establish and maintain at least one grazing advisory board of not less than seven advisers.

(b) The function of grazing advisory boards established pursuant to this section shall be to offer advice and make recommendations—

(1) to the head of the office involved concerning the management of livestock grazing and wildlife habitat in his area, including, but not limited to, types, location, ownership, and general specifications for range improvements; seasons of use and carrying capacity of the range; and rules and regulations governing livestock grazing and wildlife habitat management under applicable law; and

(2) to the Secretary concerned on proposed rules and regulations relating to livestock grazing and wildlife habitat management on public lands and lands in the National Forest System.

(c) Except in the case where, in the judgment of the appropriate official an emergency shall exist, such official shall request the advice and recommendations of the boards in advance of issuance or modification of grazing leases and permits in cases where the lessee or permittee disagrees with the terms and conditions of a proposed lease or permit or there is a dispute among lessees or permitees over allocation of range resources; issuance of general standards and criteria for livestock grazing operations and wildlife habitat management; and issuance of rules and regulations relating to livestock grazing management. In no case shall an adviser participate in any advice or recommendation concerning a privilege or application therefor in which he is directly or indirectly interested. When, in the judgment of the Secretary concerned, time or lack of funds does not permit the convening of a board for the purposes of this subsection, he may solicit the advice and recommendations of the members of the board by other means.

(d) The number of advisers on each board, and the number of years an adviser may serve shall be determined by the Secretary concerned in his discretion. Each board shall consist of livestock representatives, wildlife representatives, and local government representatives, as follows:

(1) one local government representative, or two if the Secretary concerned so decides, and

(2) twice as many liveistock representatives as wildlife representatives.

Livestock representatives shall be lessees or permittees in the area administered by the office concerned and shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary concerned. Wildlife representatives shall, by education or experience, be capable of offering expert advice and recommendations on the management of wildlife habitat in such area and shall be appointed by the Secretary concerned. Local government representatives shall be elected officials of local government having jurisdiction over lands in such area and shall be appointed by the Governor of the State in which such officials serve. In the event that appointments to a board are not made by a Governor within a reasonable time specified by the Secretary concerned, that Secretary shall make the appointments.

(e) Each grazing advisory board shall meet at least once annually.

(f) Except as may be otherwise provided by this section, the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1) shall apply to grazing advisory boards.

(g) The provisions of this section shall expire December 31, 1985.

MANAGEMENT OF CERTAIN HORSES AND BURROS

SEC. 213. (a) Section 3 of Public Law 92–195 (16 U.S.C. 1333) is amended by striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) Any wild free-roaming horse or burro which the Secretary determines must be removed from an area in order to preserve and maintain the habitat in a suitable condition for continued use while also maintaining a thriving natural ecological balance and harmonious multiple-use relationship in that area shall be treated as a habitat removal animal for purposes of this section.

"(c) The Secretary may order wild free-roaming horses and burros to be captured and removed in a humane manner when in his judgment—

"(1) they are habitat removal animals within the meaning of subsection (b); or

"(2) they are old, sick, or lame; or

"(3) it is an act of mercy.

"(d) The Secretary is authorized to sell or donate animals which are habitat removal animals within the meaning of subsection (b) on written assurance that such animals will receive humane care and handling and that humane methods will be used in the disposal of such animals. The Secretary shall establish procedures which give priority to persons seeking such animals to keep and maintain for domestic use.

"(e) When the Secretary determines wild free-roaming horses or burros to be old, sick, lame, or habitat removal animals or when it is an act of mercy, he may order them to be destroyed in a humane manner. No habitat removal animal shall be destroyed pursuant to this subsection unless in the judgment of the Secretary such action is the only practical way to remove such animal from the area or range.

"(f) Upon sale or donation, as provided in subsection (d) of this section, or destruction, as provided in subsection (e) of this section, animals shall lose their status as wild free-roaming horses and burros and shall no longer be considered as falling within the purview of this Act.".

(b) Sections 9 and 10 of such Public Law (16 U.S.C. 1339, 1340) are renumbered as sections 10 and 11, respectively, and the following new section is inserted after section 8:

"SEC. 9. In administering this Act, the Secretary may use or contract for the use of aircraft or motor vehicles. Such use shall be undertaken only under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47 (a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.".

MINERAL REVENUES

SEC. 214. (a) Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. 191) is further amended by deleting "52½ per centum thereof shall be paid into, reserved" and inserting in lieu thereof: "40 per centum thereof shall be paid into, reserved", and is further amended by striking the period at the end of the proviso and inserting in lieu thereof the following language: ": *Provided further*, That an additional 12½ per centum of all moneys received from sales, bonuses, royalties, and rentals of public lands under the provisions of this Act and the Geothermal Stream Act of 1970 shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said additional 12½ per centum of all moneys paid to any State on or after January 1, 1976, shall be used by such State and its subdivisions as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.".

(b) Funds now held or to be received, by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as "C–A"; "C–B"; "U–A" and "U–B" shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.

TITLE III—BUREAU OF LAND MANAGEMENT

ESTABLISHMENT OF BUREAU

SEC. 301. (a) The Bureau of Land Management established by Reorganization Plan Numbered 3, of 1946 (5 U.S.C. App. 519) shall have as its head a Director. Appointments to the position of Director shall hereafter be made by the President, by and with the advice and consent of the Senate. The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management. He shall carry out such functions and shall perform such duties as the Secretary may prescribe with respect to the management of lands and resources under this jurisdiction according to the applicable provisions of this Act and any other applicable law.

(b) Subject to the discretion granted to him by Reorganization Plan Numbered 3 of 1950 (43 U.S.C. 1451 note), the Secretary shall carry out through the Bureau all functions, powers, and duties vested in him and relating to the administration of laws which, on the date of enactment of this section, were carried out by him through the Bureau of Land Management established by section 403 of Reorganization Plan Numbered 3 of 1946. The Bureau shall administer such laws according to the provisions thereof existing as of the date of approval of this Act as modified by the provisions of this Act or by subsequent law.

(c) In addition to the Director, there shall be an Associate Director of the Bureau and so many Assistant Directors, and other employees, as may be necessary, who shall be appointed by the Secretary subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter 3 of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Nothing in this section shall affect any regulation of the Secretary with respect to the administration of laws administered by him through the Bureau on the date of approval of this section.

ENFORCEMENT AUTHORITY

SEC. 302. (a) The Secretary may issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation lawfully issued pursuant to this Act shall be fined no more than $1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

(c) (1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts, such officials and their agents are authorized to execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all of the immunities of Federal law enforcement officials.

(2) The Secretary may designate Federal personnel to carry out law enforcement responsibilities with respect to the public lands and their resources. Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

(d) In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administratiron and regulation of use and occupancy of the public lands.

(e) Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 401 of this Act for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of this subsection.

(f) Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS

SEC. 303. (a) Notwithstanding any other provision of law, the Setretary may establish reasonable filing and service fees and reasonable charges, and commissions with respect to applications and other documents relating to the public lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for reasonable costs with respect to applications and other documents relating to such lands. The moneys received for reasonable costs under this subsection shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. As used in this subsection, "reasonable costs" include but are not limited to the costs of monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of public lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

DEPOSITS AND FORFEITURES

SEC. 304. (a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary; or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to the public lands shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on those public lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (43 U.S.C. 1181a–1181j), shall be expended for the benefit of such land only.

(c) If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the Secretary, upon application or otherwise, may cause a refund of the amount in excess to be made from applicable funds.

WORKING CAPITAL FUND

SEC. 305. (a) There is hereby established a working capital fund for the management of the public lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), and regulations promulgated thereunder, supplies and equipment services in support of Bureau programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Secretary for the Bureau.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations, and funds of the Bureau, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and acquired annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated a sum not to exceed $3,000,000 as initial capital of the working capital fund.

STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS

SEC. 306. (a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands.

(b) Subject to the provisions of applicable law, the Secretary may enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

CONTRACTS FOR SURVEYS AND RESOURCE PROTECTION

SEC. 307. (a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

ADVISORY COUNCILS

SEC. 308. (a) The Secretary is authorized to establish advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens' interests concerning the problems relating to land use planning or the management of the public lands located within the area for which an advisory council is established. At least one member of each council shall be an elected official of general purpose government serving the people of such area. To the extent practicable there shall be no overlap or duplication of such councils. Appointments shall be made in accordance with rules prescribed by the Secretary. The establishment and operation of an advisory council established under this section shall conform to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 1).

(b) Notwithstanding the provisions of subsection (a) of this section, each advisory council established by the Secretary under this section shall meet at least twice a year with such meetings being called by the Secretary.

(c) Members of advisory councils shall serve without pay, except travel and per diem will be paid each member for meetings called by the Secretary.

(d) An advisory council shall furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands within the area for which the advisory council is established and such other matters as may be referred to it by the Secretary.

RULES AND REGULATIONS

SEC. 309. The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act, and of other laws applicable to the public lands and the Secretary of Agriculture, with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5 of the United States Code, without regard to section 553(a)(2). Prior to the promulgation of such rules and regulations, such lands shall be administered under existing rules and regulations concerning such lands to the extent practicable.

PUBLIC LANDS PROGRAM REPORT

SEC. 310. (a) For the purpose of providing information that will aid Congress in carrying out its oversight responsibilities for public lands programs and for other purposes, the Secretary shall prepare a report in accordance with subsections (b) and (c) and submit it to the Congress no later than one hundred and twenty days after the end of each fiscal year beginning with the report for fiscal year 1979.

(b) A list of programs and specific information to be included in the report as well as the format of the report shall be developed by the Committees on Interior and Insular Affairs of the House and Senate after consulting with the Secretary and shall be provided to the Secretary prior to the end of the second quarter of each fiscal year.

(c) The report shall include, but not be limited to, program indentification information, program evaluation information, and program budgetary information for the preceding current and succeeding fiscal years.

BUREAU OF LAND MANAGEMENT WILDERNESS STUDY

SEC. 311. (a) Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890) and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness: *Provided,* That prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present in such areas: *Provided further,* That the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedure specified in section 3(d) of the Wilderness Act.

(b) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act: *Provided,* That, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act, and mineral development, access exchange of lands, and ingress and egress for mining claimants and occupants.

(d) Where the President recommends pursuant to subsection (b) of this section that a roadless area or island is not suitable for inclusion in the wilderness system, that recommendation shall take effect unless disapproved by a resolution of either the Senate or the House of Representatives before the end of one hundred and twenty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day such recommendation has been submitted to the two Houses.

SEARCH AND RESCUE

SEC. 312. Where in his judgment sufficient search, rescue, and protection forces are not otherwise available, the Secretary is authorized in cases of emergency to incur such expenses as may be necessary (a) in searching for and rescuing, or in cooperating in the search for and rescue of, persons lost on the public lands, (b) in protecting or rescuing, or in cooperating in the protection and rescue of, persons or animals endangered by an act of God, and (c) in transporting deceased persons or persons seriously ill or injured to the nearest place where interested parties or local authorities are located.

SUNSHINE IN GOVERNMENT

SEC. 313. (a) Each officer or employee of the Secretary of the Interior and the Bureau of Land Management who—

(1) performs any function or duty under this Act; and (2) has any known financial interest in any person who (A) applies for or receives any permit, lease, or right-of-way under, or (B) applies for or acquires any land or interests therein under, or (C) is otherwise subject to the provisions of, this Act, shall, beginning on February 1, 1977, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

TITLE IV—DESERT LANDS

CALIFORNIA DESERT CONSERVATION AREA

SEC. 401. (a) The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population;

(2) the California desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the California desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use, which are certain to intensify because of the rapidly growing population of southern California;

(4) the use of all California desert resources can and should be provided for in a multiple use and sustained yield management plan to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, where appropriate, of off-road recreational vehicles;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the public lands in the California desert; and

(6) to insure further study of the relationship of man and the California desert environment, preserve the unique and irreplaceable resources, including archeological values, and conserve the use of the economic resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional management authority must be provided to the Secretary to enable effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection and administration of the public lands in the California desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality.

(c)(1) For the purpose of this section, the term "california desert" means the area generally depicted on a map entitled "California Desert Conservation Area—Proposed" dated April 1974, and described as provided in subsection (c)(2).

(2) As soon as practicable after the date of approval of this Act, the Secretary shall file a revised map and a legal description of the California Desert Conservation Area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and a map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) The Secretary, in accordance with section 202 of this Act, shall prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California Desert Conservation Area. Such plan shall take into account the principles of multiple use and sustained yield in providing for resource use and development, including rights-of-way and mineral development and the maintenance of environmental quality. Such plan should be completed and implementation thereof initiated on or before June 30, 1979.

(e) During the period beginning on the date of approval of this Act and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage, use, and protect the public lands, and their resources now in danger of destruction, in the California Desert Conservation Area, to provide for the public use of such lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

(f) Subject to valid existing rights, nothing in this Act shall affect the applicability of the United States mining laws on the public lands within the California Desert Conservation Area, except that all mining claims located on public lands within the California Desert Conservation Area after the date of approval of this Act shall be subject to such reasonable regulations as the Secretary may prescribe to effectuate the purposes of this section. Any patent issued on any such mining claim shall recite this limitation and continue to be subpect to such regulations. Such regulations shall provide for such measures as may be reasonable to protect the scenic, scientific, and environmental values of the public lands of the California Desert Conservation Area against undue impairment, and to assure against pollution of the streams and waters within the California Desert Conservation Area.

(g)(1) The Secretary, within sixty days after the date of approval of this Act, shall establish a California Desert Conservation Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 309 of this Act.

(2) It shall be the function of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

(h) The Secretary of Agriculture and the Secretary of Defense shall manage lands within their respective jurisdictions located in or adjacent to the California Desert Conservation Area, in accordance with the laws relating to such lands and wherever practicable, in a manner consonant with the purpose of this section. The Secretary, the Secretary of Agriculture, and the Secretary of Defense are authorized and directed to consult among themselves and take cooperative actions to carry out the provisions of this subsection, including a program of law enforcement in accordance with applicable authorities to protect the archeological and other values of the California Desert Conservation Area and adjacent lands.

(i) The Secretary shall report to the Congress no later than two years after the date of approval of this Act, and annually thereafter, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

(j) There are authorized to be appropriated not to exceed $40,000,000 for the purpose of this section, such amount to remain available until expended.

CONVEYANCES FOR RECREATION PURPOSES

SEC. 402. (a) The Recreation and Public Purposes Act of 1926 (43 U.S.C. 869-4), as amended, is further amended as follows:

(1) The second sentence of subsection (a) of the first section of that Act (43 U.S.C. 869(a)) is amended to read as follows: "Before the land may be disposed of under this Act it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall provide an opportunity for participation by affected citizens in disposals under this Act, including public hearings or meetings where he deems it appropriate to provide public comments, and shall hold at least one public meeting on any proposed disposal of more than six hundred forty acres under this Act."

(2) Subsection (b)(i) of the first section of that Act (43 U.S.C. 869(b)) is amended to read as follows:

"(b) Conveyances made in any one calendar year shall be limited as follows:

"(i) For recreational purposes:

"(A) To any State or the State park agency or any other agency having jurisdiction over the State park system of such State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, hereinafter referred to as the State, or to any political subdivision of such State, six thousand four hundred acres, and such additional acreage as may be needed for small roadside parks and rest sites of not more than ten acres each.

"(B) To any nonprofit corporation on nonprofit association, six hundred and forty acres.

"(C) No more than twenty-five thousand six hundred acres may be conveyed for recreational purposes under this Act in any one State per calendar year. Should any State or political subdivision, however, fail to secure, in any one year, six thousand four hundred acres, not counting lands for small roadside parks and rest sites, conveyances may be made thereafter if pursuant to an application on file with the Secretary of the Interior on or before the last day of said year and to the extent that the conveyance would not have exceeded the limitations of said year".

(3) Section 2(a) of that Act (43 U.S.C. 869-1) is amended by inserting "or recreational purposes" immediately after "historic-monument purposes".

(4) Section 2(b) of that Act (43 U.S.C. 869-1) is amended by adding ", except that leases of such lands for recreational purposes shall be made without monetary consideration" after the phrase "reasonable annual rental".

KING RANGE

SEC. 403. Section 9 of the Act of October 21, 1970 (84 Stat. 1067), is amended by adding a new subsection (c), as follows:

"(c) In addition to the lands described in subsection (a) of this section, the land identified as the Punta Gorda Addition and the Southern Additions on the map entitled 'King Range National Conservation Area Boundary Map No. 2', dated July 29, 1975, is included in the survey and investigation area referred to in the first section of this Act."

WITHDRAWAL REVIEW

SEC. 404. (a) The Secretary shall, within ten years of the date of enactment of this Act, review withdrawals existing on the date of approval of this Act, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming of: (1) all Federal lands other than withdrawals of the public lands administered by the Bureau of Land Management and of lands which, on the date of approval of this Act, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service, the National Wild and Scenic Rivers System, and the National Trails System; and (2) all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive natural areas) which closed the lands to appropriation under the Mining Law of 1872 or to leasing under the Mineral Leasing Act of 1920.

(b) In the review required by subsection (a) of this section, the Secretary shall determine whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of other relevant programs. The Secretary shall report his recommendations to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together with his recommendations for action by the Secretary, or for legislation. The Secretary may act to terminate withdrawals in accordance with the recommendations of the President unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for more than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives either House has adopted a resolution indicating otherwise.

(c) There are hereby authorized to be appropriated not more than $10,000,000 for the purpose of this section to be available until expended to the Secretary and to the heads of other departments and agencies which will be involved.

TITLE V—RIGHTS-OF-WAY

AUTHORIZATION TO GRANT RIGHTS-OF-WAY

SEC. 501. (a) The Secretary, with respect to the public lands and, the Secretary of Agriculture, with respect to lands within the National Forest System (except in each case land designated as wilderness), are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Federal Power Act of 1935 (16 U.S.C. 791);

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation; or

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require right-of-way over, upon, under, or through such lands.

(b)(1) The Secretary concerned shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose those plans, contracts, agreements, or other information reasonably related to the use, or intended use, of the right-of-way, including its effect on competition, which he deems necessary to a determination, in accordance with the provisions of this Act, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary concerned, prior to granting a right-of-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity, when he deems it necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way. Such disclosures shall include, where applicable, (A) the name and address of each partner; (B) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; and (C) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the

case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(c) Nothing in this title shall be deemed to limit in any way the authority of the Secretary concerned to make grants, issue leases, licenses, or permits, or enter into contracts under other provisions of law, for purposes ancilliary or complementary to the construction, operation, maintenance, or termination of any facility authorized under this title, but such action shall not be in substitution for or inconsistent with the provisions of this title.

COST-SHARE ROAD AUTHORIZATION

SEC. 502. (a) The Secretary, with respect to the public lands, is authorized to provide for the acquisition, construction, and maintenance of roads within and near the public lands in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management of such lands and for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of timber and other products from the public lands, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That, where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of timber and other products from public lands shall not, except when the provisions of the second proviso of this subsection apply, be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate: *Provided further*, That when timber is offered with the condition that the purchaser thereof will build a road or roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads.

(b) Copies of all instruments affecting permanent interests in land executed pursuant to this section shall be recorded in each county where the lands are located.

(c) The Secretary may require the user or users of a road, trail, land, or other facility administered by him through the Bureau, including purchasers of Government timber and other products, to maintain such facilities in a satisfactory condition commensurate with the particular use requirements of each. Such maintenance to be borne by each user shall be proportionate to total use. The Secretary may also require the user or users of such a facility to reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost of the United States of accomplishing the purposes for which deposited: *Provided*, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates: *And provided further*, That unexpended balances upon accomplishment of the purpose for which deposited shall be transferred to miscellaneous receipts or refunded.

(d) Whenever the agreement under which the United States has obtained for the use of, or in connection with, the public lands a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

RIGHT-OF-WAY CORRIDOR

SEC. 503 In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating such corridors and in determining whether to require that rights-of-way be confined to them, the Secretary concerned shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary concerned shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

GENERAL PROVISIONS

SEC. 504. (a) The Secretary concerned shall specify the boundaries of each right-of-way as precisely as is practical. Each right-of-way shall be limited to the ground which the Secretary concerned determines (1) will be occupied by facilities which constitute the project for which the right-of-way is given, (2) to be necessary for the operation or maintenance of the project, (3) to be necessary to protect the public safety, and (4) will do no unnecessary damage to the environment. The Secretary concerned may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) Each right-of-way or permit granted or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project. In determining the duration of a right-of-way the Secretary concerned shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The right-of-way or permit shall specify whether it is or is not renewable and the terms and conditions applicable to the renewal.

(c) Rights-of-way granted, issued, or renewed pursuant to this title shall be given under such regulations or stipulations, in accord with the provisions of this title or any other applicable law, and subject to such terms and conditions as the Secretary concerned may prescribe regarding extent, duration, survey, location, construction, maintenance and termination.

(d) The Secretary concerned prior to granting a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by that Secretary, including the terms and conditions required under section 505 of this Act.

(e) Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(f) The holder of a right-of-way shall pay annually in advance the fair market value thereof as determined by the Secretary granting or issuing such right-of-way: *Provided*, That when the annual rental is less than $100, the Secretary concerned may require advance payment for more than one year at a time: *Provided further*, That the Secretary concerned may waive rentals where a right-of-way is granted in reciprocation for a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder. The Secretary concerned may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however*, That such costs need not be reimbursed in any situation where there is in existence a cooperative cost share right-of-way program between the United States and the holder of a right-of-way. Rights-of-way may be granted, issued, or renewed to a Federal, State, or local government or any agency or instrumentality thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, for such lesser charge as the Secretary concerned finds equitable and in the public interest. Such rights-of-way issued at less than fair market value are not assignable except with the approval of the Secretary issuing the right-of-way. The moneys received for reimbursement of reasonable costs shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended.

(g) (1) The Secretary concerned shall promulgate regulations specifying the extent to which holders of rights-of-way under this title shall be liable to the United States for damage or injury incurred by the United States caused by the use and occupancy of the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims caused by their use and occupancy of the rights-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(h) Where he deems it appropriate, the Secretary concerned may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to him to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary concerned.

(i) The Secretary concerned shall grant, issue, or renew a right-of-way under this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

TERMS AND CONDITIONS

SEC. 505. Each right-of-way shall contain—

(a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and otherwise protect the environment; (iii) assure compliance with applicable air and water quality standards and siting requirements established by or pursuant to applicable Federal or State law; and (iv) assure compliance with State standards for public health and safety, environmental protection, and siting construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards; and

(b) such terms and conditions as the Secretary concerned deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the lands adjacent to or traversed by such right-of-way; (ii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto.

SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY

SEC. 506. Abandonment of the right-of-way or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary concerned may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and, and with respect to easements, an appropriate administrative proceeding pursuant to section 554 of title 5 of the United States Code, the Secretary concerned determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary concerned determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary concerned shall give written notice to the holder of the grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way, except that where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control, the Secretary concerned is not required to commence proceedings to suspend or terminate the right-of-way.

RIGHTS-OF-WAY FOR FEDERAL AGENCIES

SEC. 507. The Secretary concerned may provide under applicable provisions of this title for the use of any department or agency of the United States a right-of-way over, upon, under, or through the land administered by him, subject to such terms and conditions as he may impose.

CONVEYANCE OF LANDS

SEC. 508. If under applicable law the Secretary concerned decides to transfer out of Federal ownership any lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576), the lands may be conveyed subject to the right-of-way; however, if the Secretary concerned determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be carried out, the terms and conditions of the right-of-way complied with, or the lands protected, he shall (a) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (b) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

EXISTING RIGHTS-OF-WAY

SEC. 509. (a) Nothing in this title shall have the effect of terminating any right-of-way or rights-of-use heretofore issued, granted, or permitted. However, with the consent of the holder thereof, the Secretary concerned may cancel such a right-of-way and in its stead issue a right-of-way pursuant to the provisions of this title.

(b) When the Secretary concerned issues a right-of-way under this title for a railroad and appurtenant communication facilities in connection with a realinement of a railroad on lands under his jurisdiction by virtue of a right-of-way granted by the United States, he may, when he considers it to be in the public interest and the lands involved are not within an incorporated community and are of approximately equal value, notwithstanding the provisions of this title, provide in the new right-of-way the same terms and conditions as applied to the portion of the existing right-of-way relinquished to the United States with respect to the payment of annual rental, duration of the right-of-way, and the nature of the interest in lands granted. The Secretary concerned or his delegate shall take final action upon all applications for the grant, issue, or renewal of rights-of-way under subsection (b) of this section no later than six months after receipt from the applicant of all information required from the applicant by this title, and if the Secretary concerned shall not have taken final action upon any such applications within such six-month period, the right-of-way application shall be deemed to have been granted, issued, or renewed in the form applied for, and the Secretary concerned shall promptly thereafter issue such a grant confirming such right-of-way. In the event the Secretary concerned or his delegate does not take final action within nine months after the initial application for a right-of-way grant is submitted by an applicant, notwithstanding the fact that the applicant was required by the Secretary or his delegate to provide information supplemental to that set forth in its initial application, he shall report in writing to the House and Senate Committees on Interior and Insular Affairs promptly thereafter the reasons why final action has not been taken on such application.

EFFECT ON OTHER LAWS

SEC. 510. (a) Effective on and after the date of approval of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, under, or through such lands except under and subject to the provisions, limitations, and conditions of this title: *Provided,* That nothing in this title shall be construed as affecting or modifying the provisions of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532–538) and in the event of conflict with, or inconsistency between, this title and the Act of October 13, 1964, the latter shall prevail. Any pending application for a right-of-way under any other law on the effective date of this section shall be considered as an application under this title. The Secretary concerned may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of lands covered by this title for highway purposes pursuant to sections 107 and 317 of title 23 of the United States Code.

(c) (1) Nothing in this title shall be construed as exempting any holder of a right-of-way issued under this title from any provision of the antitrust laws of the United States.

(2) For the purposes of this subsection, the term "antitrust laws" includes the Act of July 2, 1890; the Act of October 15, 1914; the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894.

COORDINATION OF APPLICATIONS

SEC. 511. Applicants before Federal departments and agencies other than the Department of the Interior or Agriculture seeking a license, certificate, or other authority for a project which involve a right-of-way over, upon, under, or through public lands or National Forest System lands must simultaneously apply to the Secretary concerned for the appropriate authority to use public lands or National Forest System lands and submit to the Secretary concerned all information furnished to the other Federal agency.

TITLE VI—EFFECT ON EXISTING RIGHTS; REPEAL OF PRIOR LAWS; APPROPRIATION AUTHORIZATION, AND EFFECTIVE DATE

EFFECT ON EXISTING RIGHTS

SEC. 601. (a) Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right existing on the date of approval of this Act.

(b) Notwithstanding any provision of this Act, in the event of conflict with or inconsistency between this Act and the Acts of August 28, 1937 (43 U.S.C. 1181a–1181j), and May 24, 1939 (53 Stat. 753–4), insofar as they relate to management of timber resources, and disposition of revenues from lands and resources, the latter Acts shall prevail.

(c) All withdrawals, reservations, classifications, and designations in effect as of the date of approval of this Act shall remain in full force and effect until modified under the provisions of this Act or other applicable law.

(d) Nothing in this Act, or in any amendments made by this Act, shall be construed as permitting any person to place, or allow to be placed, spent oil shale, overburden, or byproducts from the recovery of other minerals found with oil shale, on any Federal land other than Federal land which has been leased for the recovery of shale oil under the Mineral Lands Leasing Act of 1921 (30 U.S.C. 181–263)."

(e) Nothing in this Act shall be construed as modifying, revoking, or changing any provision of the Alaska Native Claims Settlement Act (33 U.S.C. 1601–1624).

REPEAL OF LAWS RELATING TO HOMESTEADING AND TRACTS

SEC. 602. Effective on and after the date of approval of this Act, the following statutes or parts of statutes are repealed except insofar as the listed homestead laws apply to public lands in Alaska:

1. Homesteads

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statute 2289				161, 171.
Mar. 3, 1891	561	5	26: 1097	161, 162.
Revised Statute 2290				162.
Revised Statute 2295				163.
Revised Statute 2291				164.
June 6, 1912	153		37: 123	164, 169, 218.
May 14, 1880	89		21: 141	166, 185, 202, 223.
June 6, 1900	821		31: 683	166, 223.
Aug. 9, 1912	280		37: 267	
Apr. 6, 1914	51		38: 312	167.
Mar. 1, 1921	90		41: 1193	
Oct. 17, 1914	325		38: 740	168.
Revised Statute 2297				169.
Mar. 31, 1881	153		21: 511	
Oct. 22, 1914	335		38: 766	170.
Revised Statute 2292				171.
June 8, 1880	136		21: 166	172.
Revised Statute 2301				173.
Mar. 3, 1891	561	6	26: 1098	
June 3, 1896	312	2	29: 197	
Revised Statute 2288				174.
Mar. 3, 1891	561	3	26: 1079	
Mar. 3, 1905	1424		36: 991	
Revised Statute 2296				175.
Apr. 28, 1922	155		42: 502	
May 17, 1900	479	1	31: 179	179.
Jan. 26, 1901	180		31: 740	180.
Sept. 5, 1914	294		38: 712	182.
Revised Statute 2300				183.
Aug. 31, 1918	166	8	40: 957	
Sept. 13, 1918	173		40: 960	
Revised Statute 2302				184, 201.
July 26, 1892	251		27: 270	185.
Feb. 14, 1920	76		41: 434	186.
Jan. 21, 1922	32		42: 358	
Dec. 28, 1922	19		42: 1067	
June 12, 1930	471		46: 580	
Feb. 25, 1925	326		43: 981	187.
June 21, 1934	690		48: 1185	187a.
May 22, 1902	821	2	32: 203	187b.
June 5, 1900	716		31: 270	188, 217.
Mar. 3, 1875	131	15	18: 420	189.
July 4, 1884	180	Only last paragraph of sec. 1.	23: 96	190.
Mar. 1, 1933	160	1	47: 1418	190a.

The following words only: "Provided, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96; U.S.C. title 48, sec. 190).

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 2310, 2311				191.
June 13, 1902	1080		32: 384	203.
Mar. 3, 1879	191		20: 471	204.
July 1, 1879	60		21: 46	205.
May 6, 1886	88		24: 22	206.
Aug. 21, 1916	361		39: 518	207.
June 3, 1924	240		43: 357	208.
Revised Statutes 2298				211.
Aug. 30, 1890	837		26: 391	212.

The following words only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3, 1891	561	17	26: 1101	

The following words only: "and that the provision of 'an Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes,' which reads as follows, viz: 'No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws,' shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Apr. 28, 1904	1776		33: 527	213.
Aug. 3, 1950	521		64: 398	
Mar. 2, 1899	381	6	25: 854	214.
Feb. 20, 1917	98		39: 925	215.
Mar. 4, 1921	162	1	41: 1433	216.
Feb. 19, 1909	160		35: 639	218.
June 13, 1912	166		37: 132	
Mar. 3, 1915	84		38: 953	
Mar. 3, 1915	91		38: 957	
Mar. 4, 1915	150	2	38: 1163	
July 3, 1916	220		39: 344	
Feb. 11, 1913	39		37: 666	218, 219.
June 17, 1910	298		36: 531	219.
Mar. 3, 1915	91		38: 957	
Sept. 5, 1916	440		39: 724	
Aug. 10, 1917	52	10	40: 275	
Mar. 4, 1915	150	1	38: 1162	220.
Mar. 4, 1923	245	1	42: 1445	222.
Apr. 28, 1904	1801		33: 547	224.
Mar. 2, 1907	2527		34: 1224	
May 29, 1908	220	7	35: 466	
Aug. 24, 1912	371		37: 499	
Aug. 22, 1914	270		38: 704	231.
Feb. 25, 1919	21		40: 1153	
July 3, 1916	214		39: 341	232.
Sept. 29, 1919	64		41: 288	233.
Apr. 6, 1922	122		42: 491	233, 272, 273.
Mar. 2, 1889	381	3	25: 854	234.
Dec. 29, 1894	14		28: 599	
July 1, 1879	63	1	21: 48	235.
Dec. 20, 1917	6		40: 430	236.
July 24, 1919	26	Next to last paragraph only.	41: 271	237.
Mar. 2, 1932	69		47: 59	237a.
May 21, 1934	320		48: 787	237b.
May 22, 1935	135		49: 286	237c.
Aug. 19, 1935	560		49: 659	237d.
Mar. 31, 1938	57		52: 149	
Apr. 20, 1936	239		49: 1235	237e.
July 30, 1956	778	2, 2, 4	70: 715	237 f, g, h.
Mar. 1, 1921	102		41: 1202	238.
Apr. 7, 1922	125		42: 492	
Revised Statute 2308				239.
June 16, 1898	458		30: 473	240.
Aug. 29, 1916	420		39: 671	
Apr. 7, 1930	108		46: 144	243.
Mar. 3, 1933	198		47: 1424	243a.
Mar. 3, 1879	192		20: 472	251.
Mar. 2, 1889	381	7	25: 855	252.
June 3, 1878	152		20: 91	253.
Revised Statute 2294				254.
May 26, 1890	355		26: 121	
Mar. 11, 1902	182		32: 63	
Mar. 4, 1904	394		33: 59	
Feb. 23, 1923	105		42: 1281	
Revised Statute 2293				255.
Oct. 6, 1917	86		40: 391	
Mar. 4, 1913	149	Only last paragraph of section headed "Public Land Service,"	39: 925	256.
May 13, 1932	178		47: 153	256a.
June 16, 1933	99		48: 274	
July 26, 1935	419		49: 504	
June 16, 1937	361		50: 303	
Aug. 27, 1935	770		49: 909	256b.
Sept. 30, 1890	J. Res. 50		26: 684	261.
June 16, 1880	244		21: 287	263.
Apr. 18, 1904	25		33: 589	
Revised Statute 2304				271.
Mar. 1, 1901	674		31: 847	271, 272.
Revised Statute 2305				272.
Feb. 25, 1919	37		40: 1161	272a.
Dec. 28, 1922	19		42: 1067	
Revised Statute 2306				274.
Mar. 3, 1893	208		27: 593	275.

The following words only: "And provided further: That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Aug. 18, 1894	301	Only last paragraph of section headed "Surveying the Public Lands."	28: 397	276.
Revised Statute 2309				277.
Revised Statute 2307				278.
Sept. 21, 1922	357		42: 990	
Sept. 27, 1944	421		58: 747	279–283.
June 25, 1946	474		60: 308	279.
May 31, 1947	88		61: 123	279, 280, 282.
June 18, 1954	306		68: 253	279, 282.
June 3, 1948	399		62: 305	283, 284.
Dec. 29, 1916	9	1–8	39: 862	291–298.
Feb. 28, 1931	328		46: 1454	291.
June 9, 1933	53		48: 119	291.
June 6, 1924	274		46: 469	292.
Oct. 25, 1918	195		40: 1016	293.
Sept. 29, 1919	63		41: 287	294, 295.
Mar. 4, 1923	245	2	42: 1445	302.
Aug. 21, 1916	361		39: 518	1075.
Aug. 28, 1937	876	3	50: 875	1181c.

2. Small tracts

Act of	Chapter	Section	Statute at Large	43 U.S. Code
June 1, 1938	317		52: 609	682a–e.
June 8, 1954	270		68: 239	
July 14, 1945	298		59: 467	

REPEAL OF LAWS RELATING TO DISPOSAL

SEC. 603. (a) Effective on and after the date of approval of this Act, the following statutes or parts of statutes are hereby repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Sale and Disposal Laws				
Mar. 3, 1891	561	9	26: 1099	671.
Revised Statute 2354				673.
Revised Statute 2355				674.
May 18, 1898	344	2	30: 418	675.
Revised Statute 2365				676.
Revised Statute 2357				678.
June 15, 1880	227	3, 4	21: 238	679–680.
Mar. 2, 1889	381	4	25: 854	681.
Mar. 1, 1907	2286		34: 1052	682.
Revised Statute 2361				688.
Revised Statute 2362				689.
Revised Statute 2363				690.
Revised Statute 2368				691.
Revised Statute 2366				692.
Revised Statute 2369				693.
Revised Statute 2370				694.
Revised Statute 2371				695.
Revised Statute 2374				696.
Revised Statute 2372				697.
Feb. 24, 1909	181		35: 645	
May 21, 1926	353	The 2 provisos only.	44: 591	
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25: 854	700.
2. Townsite Reservation and Sale				
Revised Statute 2380				711.
Revised Statute 2381				712.
Revised Statute 2382				713.
Aug. 24, 1954	904		68: 792	
Revised Statute 2383				714.
Revised Statute 2384				715.
Revised Statute 2386				717.
Revised Statute 2387				718.
Revised Statute 2388				719.
Revised Statute 2389				720.
Revised Statute 2391				721.
Revised Statute 2392				772.
Revised Statute 2393				723.
Revised Statute 2394				724.
Mar. 3, 1877	113	1, 3, 4,	19: 392	725–727.
Mar. 3, 1891	561	16	26: 1101	728.
July 9, 1914	138		38: 454	730.
Feb. 9, 1903	531		32; 820	731.
3. Drainage Under State Laws				
May 20, 1908	181	1–7	35: 171	1021–1027.
Mar. 3, 1919	113		40: 1321	1028.
May 1, 1958	P.L. 85–387		72: 99	1029–1034.
Jan. 17, 1920	47		41: 392	1041–1048.
4. Abandoned Military Reservation				
July 5, 1884	214	5	23: 104	1074.
Aug. 21, 1916	361		39: 518	1075.
Mar. 3, 1893	208		27: 593	1076.
The following words only: "Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of an abandoned military reservation not exceeding twenty acres in one place."				
Aug. 23, 1894	314		23: 491	1077, 1078.
Feb. 11, 1903	543		32: 822	1079.
Feb. 15, 1895	92		28: 664	1080, 1077.
Apr. 23, 1904	1496		33: 306	1081.
5. Public Lands; Oklahoma				
May 2, 1890	182	Last paragraph of sec. 18 and secs. 20, 21, 22, 24, 27.	26:90	1091–1094, 1096, 1097.
Mar. 3, 1891	543	16	26:1026	1098.
Aug. 7, 1946	772	1, 2	60:872	1100–1101.
Aug. 3, 1955	498	1–8	69:454	1102–1102g.
May 14, 1890	207		26: 109	1111–1117.
Sept. 1, 1893	J. Res. 4		28: 11	1118.
May 11, 1896	168	1, 2	29: 116	1119.
Jan. 18, 1897	62	1–3, 5, 7	29: 490	1131–1134.
June 23, 1897	8		30: 105	
Mar. 1, 1899	328		30: 966	
6. Sales of Isolated Tracts				
Revised Statute 2455				1171.
Feb. 26, 1895	138		28: 687	
June 27, 1906	3554		34: 517	
Mar. 28, 1912	67		37: 77	
Mar. 9, 1928	164		45: 253	
June 28, 1934	865	14	48: 1274	
July 30, 1947	383		61: 630	
Apr. 24, 1928	428		45: 457	1171a.
May 23, 1930	313		46: 377	1171b.
Feb. 4, 1919	13		40: 1055	1172.
May 10, 1920	178		41: 505	1173.
Aug. 11, 1921	62		42: 159	1175.
May 19, 1926	337		44: 566	1176.
Feb. 14, 1931	170		46: 1105	1177.
7. Alaska Special Laws				
Mar. 3, 1891	561	11	26: 1099	732.
May 25, 1926	379		44: 629	733–736.
May 29, 1963	P.L. 88–34		77: 52	
July 24, 1947	305		61: 414	738.
Aug. 17, 1961	P.L. 87–147		76: 384	270–13.
Oct. 3, 1962	P.L. 87–742		76: 740	
July 19, 1963	P.L. 86–66		77: 80	687b–5.
8. Pittman Underground Water Act				
Sept. 22, 1922	400		44: 1012	356.

(b) Section 3 of the Act of August 30, 1949 (43 U.S.C. 687b–2), is amended to read as follows:

"SEC. 3. Notwithstanding the provisions of any Act of Congress to the contrary, any person who prospects for, mines, or removes any minerals from any land disposed of under this Act, shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949.".

REPEAL OF LAW RELATING TO ADMINISTRATION OF PUBLIC LANDS

SEC. 604. (a) Effective on and after the date of approval of this Act, the following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Mar. 2, 1895	174		28: 744	176.
2. June 28, 1934	865	8	48: 1272	315g.
June 26, 1936	842	3	49: 1976, title I.	
June 19, 1948	548	1	62: 533	
July 9, 1962	P.L. 87–724		76: 140	315g-1.
3. Aug. 24, 1937	744		50: 748	315p.
4. Mar 3, 1909	271	2d proviso only.	35: 845	772.
June 25, 1910	J. Res. 40		36: 884	
5. June 21, 1934	689		48: 1185	871a.
6. Revised Statute 2447				1151.
Revised Statute 2448				1152.
7. June 6, 1874	223		18: 62	1153; 1154.
8. Jan. 28, 1879	30		20: 274	1155.
9. May 30, 1894	87		28: 84	1156.
10. Revised Statute 2471				1191.
Revised Statute 2472				1192.
Revised Statute 2473				1193.
11. July 14, 1960	P.L. 86–649	101–202(a), 203–204(a), 301–303.	74: 506	1361, 1362, 1363–1383.
12. Sept. 26, 1970	P.L. 91–429		84: 885	1362a.
13. July 31, 1939	401	1, 2	53: 1144	

(b) Effective on and after the date of approval of this Act, the implied authority of the President to make withdrawals and reservations resulting from acquiescence of the Congress (U.S. v. Midwest Oil Co., 236 U.S. 459) and the following statutes and parts are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Oct. 2, 1888	1069		25:527	662.
Only the following portion under the section headed U.S. Geological Survey: The last sentence of the paragraph relating to investigation of irrigable lands in the arid region, including the proviso at the end thereof.				
Mar. 1, 1893	183	21	27:510	33 U.S.C. 681.
Aug. 18, 1894	301	4	28:422	641.
Only that portion of the first sentence of the second paragraph beginning with "and the Secretary of the Interior" and ending with "shall not be approved."				
May 14, 1898	299	10	30: 413	687 a–4.
Only the fifth proviso of the first paragraph.				
June 17, 1902	1093	3	32: 388	416.
Only that portion of section three preceding the first proviso.				
Apr. 16, 1906	1631	1	34: 116	561.
Only the words "withdraw from public entry any lands needed for townsite purposes", and also after the word "case", the word "and".				
June 27, 1906	3559	4	34:520	561.
Only the words "withdraw and".				
Mar. 15, 1910	96		36: 237	643.
June 25, 1910	421	1, 2	36: 847	141, 142, 16 U.S.C. 471(a).
All except the second and third provisos.				
June 25, 1910	431	13	36: 858	148.
Mar. 12, 1914	37	1	38: 305	975b.
Only that portion which authorizes the President to withdraw, locate, and dispose of lands for townsites.				
Oct. 5, 1914	316	1	38: 727	569(a).
June 9, 1916	137	2	39: 219	
Under "Class One.", only the words "withdrawal and."				
Dec. 29, 1916	9	10	39: 865	300.
Aug. 19, 1935	561	"Sec. 4"	49: 661	22 U.S.C. 277c.
In "Sec. 4", only paragraph "c" except the proviso thereof.				
Mar. 3, 1927	299	4	44: 1347	25 U.S.C. 398d.
Only the proviso thereof.				
May 24, 1928	729	4	45: 729	49 U.S.C. 214.
Dec. 21, 1928	42	9	45: 1063	617(h).
Mar. 6, 1946	58		60: 36	617(h).
First sentence only.				
June 16, 1934	557	"Sec. 40(a)"	48: 977	30 U.S.C. 229a.
The proviso only.				
May 1, 1936	254	2	49: 1250	
May 31, 1938	304		52: 593	25 U.S.C. 497.
July 20, 1939	334		53: 1071	16 U.S.C. 471(b).
May 28, 1940	220	1	54: 224	16 U.S.C. 522a.
All except the second proviso.				
Apr. 11, 1956	203	8	70: 110	620g.
Only the words "and to withdraw public lands from entry or other disposition under the public land laws."				
Aug. 10, 1956	Ch. 949	9772	70A: 588	10 U.S.C. 4472, 9772.
Aug. 16, 1952	P.L. 87–590.	4	76: 389	616(c).
Only the words "and to withdraw public lands from entry or other disposition under the public land laws."				

(c) The second sentence of the Act of March 6, 1946 (60 Stat. 36; 43 U.S.C. 617(b)), is amended by deleting "Thereafter, at the direction of the Secretary of the Interior, such lands" and by substituting therefor the following: "Lands found to be practicable of irrigation and reclamation by irrigation works and withdrawn under the Act of March 6, 1946 (43 U.S.C. 617(h))".

REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY

SEC. 605. Effective on and after the date of approval of this Act, section 2477RS. (43 U.S.C. 932) is repealed in its entirety and the following statutes or parts of statutes are repealed insofar as they apply to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statutes 2339				661.
The following words only: "and the right-of-way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed: but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damages shall be liable to the party injured for such injury or damage."				
Revised Statutes 2340				661.
The following words only: ", or rights to ditches and reservoirs used in connection with such water rights,"				
Feb. 26, 1897	335		29: 599	664.
Mar. 3, 1899	427	1	30: 1233	665. 958 (16 U.S.C. 525).
The following words only: "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plots of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby."				
Mar. 3, 1875	152		18: 482	934–939.
May 14, 1898	299	2–9	30: 409	942–1 to 942–9.
Feb. 27, 1901	614		31: 815	943.
June 26, 1906	3548		34: 481	944.
Mar. 3, 1891	561	18–21	26: 1101	946–949.
Mar. 4, 1917	184	1	39: 1197	
May 28, 1926	409		44: 668	
Mar. 1, 1921	93		41: 1194	950.
Jan. 13, 1897	11		20: 484	952–955.
Mar. 3, 1923	219		42: 1437	
Jan. 21, 1895	37		28: 635	951, 956, 957.
May 14, 1896	179		29:120	
May 11, 1898	292		30: 404	
Mar. 4, 1917	184	2	39: 1197	
Feb. 15, 1901	372		31: 790	959 (16 U.S.C. 79, 522).
Mar. 4, 1911	238		36: 1253	961 (16 U.S.C. 5, 420, 523).
Only the last two paragraphs under the subheading "Improvement of the National Forests" under the heading "Forest Service."				
May 27, 1952	338		66: 95	
May 21, 1896	212		29: 127	962–965.
Apr. 12, 1910	155		36: 296	966–970.
June 4, 1897	2	1	30: 35	16 U.S.C. 551.
Only the eleventh paragraph under Surveying the public lands.				
July 22, 1937	517	31, 32	50: 525	7 U.S.C. 1010–1012.
Sept. 3, 1954	1255	1	68: 1146	931c.
July 7, 1960	Public Law 86–608.		74: 363	40 U.S.C. 345c.
Oct. 23, 1962	Public Law 87–852.	1–3	76: 1129	40 U.S.C. 319a–c.
Feb. 1, 1905	288	4	33: 628	16 U.S.C. 524.

APPROPRIATION AUTHORIZATION

SEC. 606. (a) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act, but no amounts shall be appropriated to carry out after October 1, 1978, any program, function, or activity of the Bureau under this or any other Act unless such sums are specifically authorized to be appropriated as of the date of approval of this Act or are authorized to be appropriated in accordance with the provisions of subsection (b) of this section.

(b) Consistent with section 607 of the Congressional Budget Act of 1974, beginning May 15, 1977, and not later than May 15 of each even numbered year thereafter, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the two-fiscal-year period beginning on October 1 of the calendar year following the calendar year in which such request is submitted. The Secretary shall include in his request, in addition to the information contained in his budget request and justification statement to the Office of Management and Budget, the funding levels which he determines can be efficiently and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or limitations imposed by any official or agency of the executive branch.

(c) Nothing in this section shall apply to the distribution of receipts of the Bureau from the disposal of lands, natural resources, and interests in lands in accordance with applicable law, nor to the use of contributed funds, private deposits for public survey work, and townsite trusteeships, nor to fund allocations from other Federal agencies, reimbursements from both Federal and non-Federal sources, and funds expended for emergency firefighting and rehabilitation.

SEVERABILITY

SEC. 607. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13777) was laid on the table.

GENERAL LEAVE

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the bill H.R. 13777 just passed.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL MIDNIGHT FRIDAY, JULY 23, 1976, TO FILE REPORT ON H.R. 14566

Mr. VIGORITO. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight, Friday, July 23, to file a report on the bill H.R. 14566, to enable Freestone peach growers to finance a nationally coordinated research and education program to improve their competitive position and expand their markets for peaches.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 8800, ELECTRIC VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 8800, to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 14233—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1977

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 14233, the Department of Housing and Urban Development-independent agencies appropriations bill, 1977.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 14234, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION ACT, 1977

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 14234) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 8410, PACKERS AND STOCKYARDS ACT AMENDMENTS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speakers table the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none, and appoints the following conferees: Messrs. POAGE, MELCHER, BERGLAND, WEAVER, HARKIN, HIGHTOWER, BEDELL, SEBELIUS, THONE, and SYMMS.

UNFINISHED AGENDA OF LEGISLATIVE BUSINESS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–564)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

In the weeks remaining in this session of the 94th Congress there is an opportunity to write a legislative record of which we can all be proud. Over the past 23 months I have sent legislative proposals to the Congress dealing with many vital areas of national concern. Some of these proposals have been enacted, some are nearing enactment, but many others have been stalled in the legislative process.

Today I am calling on the Congress to turn its full and undivided attention to this unfinished agenda of legislative business. If you do, the record you will take to the people will be a good one.

The agenda is long, even though it does not include everything that should be passed by the Congress before it goes home. For example, I have not included here the appropriation bills which must be passed. Most of the agenda items have been debated at length by the Congress and the time for action has arrived.

The priority categories for action are familiar ones:

—tax reductions coupled with spending restraint
—crime control
—restoring the integrity of the Social Security System
—catastrophic health care protection for those covered by Medicare
—restrictions on forced, court ordered busing
—revenue sharing and block grants
—regulatory reform
—energy
—indemnification of swine flu manufacturers
—the remainder of my defense program plus defense cost saving legislation
—and other legislation ranging from agriculture to the environment; from higher education to reform of the Federal retirement system.

In the agenda that follows, I have listed the specific legislation that needs to be passed by the Congress. I am convinced that the passage of these bills is in the real interest of all of the American people.

TAXES

PERMANENT TAX REDUCTION

This proposal would provide a $28 billion permanent income tax reduction effective July 1, 1976. Major provisions affecting individual income taxes include an increase in personal exemptions from $750 to $1,000, a reduction in tax rates, and substitution of a flat standard deduction for the low income allowance and percentage standard deduction.

ESTATE AND GIFT TAX ADJUSTMENT ACT

This legislation would raise the estate tax exemption from $60 thousand to $150 thousand and make all transfers of assets between spouses exempt from estate and gift taxes. The estate tax rate structure would be altered so that taxes on the largest estates would remain unchanged.

In addition, this legislation would make it easier to continue the family ownership of a small farm or business following an owner's death. This would be accomplished by liberalizing present rules governing installment payments of estate taxes attributable to a small family farm or closely-held business by providing a 5-year "grace" period before such payments must begin, reducing the interest rate on those payments, and by extending the installment period from 10 to 20 years.

JOBS CREATION INCENTIVE ACT

This legislation would encourage construction of new facilities and expansion of old facilities in areas experiencing unemployment in excess of 7 percent in order to increase employment opportunities in these areas. The increased construction would be encouraged by allowing very rapid amortization for nonresidential buildings and capital equipment.

BROADENED STOCK OWNERSHIP

Tax incentives to encourage broader ownership of common stock by working men and women would be provided by this proposal. Taxes on funds invested in stock-purchase plans established by employers or directly by individuals would be deferred provided such funds are invested for at least 7 years.

* * * * *

CRIME CONTROL AMENDMENTS TO THE CRIMINAL CODE

Amendments would provide for the imposition of a mandatory term of imprisonment in certain cases. A mandatory term of imprisonment would be imposed if the offender: (1) commits an extraordinarily serious crime involving kidnapping, aircraft hijacking, or trafficking in hard drugs; (2) commits a violent offense after previously having committed a violent offense. A separate amendment would provide mandatory prison sentences for anyone who uses a gun in the commission of a crime. This amendment would also ban the importation, manufacture, assembly, sale or transfer of cheap, easily concealable handguns (the so-called "Saturday Night Specials").

NARCOTIC SENTENCING AND SEIZURE ACT OF 1976

This legislation would improve the ability of law enforcement officials to put traffickers of hard drugs into prison, take the easy profits out of drug trafficking, and improve the capacity of law enforcement officials to detect and apprehend drug smugglers. Major features of the proposal would require (1) minimum mandatory prison sentences for persons convicted of opiate (heroin and similar narcotic drugs) trafficking, (2) denial of bail to persons arrested for opiate trafficking, (3) the forfeiture under certain conditions of negotiable instruments used or intended to be used in illegal opiate trafficking, and (4) masters of boats—including pleasure vessels—to report their arrival to Customs authorities within 24 hours.

CRIME CONTROL ACT

The Administration's proposal would extend the Law Enforcement Assistance Administration (LEAA) for five years, place LEAA under the general policy direction of the Attorney General, authorize LEAA to allocate up to $50 million annually to high crime impact areas, eliminate provisions in current law which require maintenance of previous LEAA spending for juvenile delinquency programs at the 1972 level, and place special emphasis on improving the operation of State and local court systems. This legislation is designed to continue a vital Federal financial and technical assistance program to State and local governments so that they can improve their ability to enforce the law.

JUSTICE DEPARTMENT REORGANIZATION AND REFORM ACT

The proposed legislation would provide a constitutional means of helping curb corruption in Government. It would establish within the Department of Justice a permanent Office of Special Prosecutor, whose head would be appointed by the President with Senate confirmation, and a Government Crimes Section in the Criminal Division to investigate and prosecute job-related criminal violations of Federal law committed by any elected or appointed Federal Government officer or employee. A proposed Government Crimes Section in Justice would have responsibility for investigating criminal violations of Federal lobbying and campaign laws. This legislation would also require designated officers and employees of the Federal Government to file comprehensive annual financial statements.

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SOCIAL SECURITY

SOCIAL SECURITY IMPROVEMENT AMENDMENTS

Two legislative proposals have been submitted to Congress to help insure a secure and viable Social Security system.

The "Social Security Amendments of 1976" would increase Social Security payroll contributions and thereby stop the immediate, short-term drain on the Social Security trust funds—which are now expected to pay out about $4 billion more in benefits each year than they take in.

The "Social Security Benefit Indexing Act" would correct a serious flaw in the method of computing benefits which, if left unchanged, would create severe long-range financial pressures on the trust funds. The two measures are necessary first steps to solve both the short and long-range financial problems of the Social Security system.

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CATASTROPHIC HEALTH PROTECTION

MEDICARE IMPROVEMENTS OF 1976

The proposed "Medicare Improvements of 1976" is designed to provide greater protection against catastrophic health costs for the 25 million aged and disabled Americans eligible for Medicare. An estimated 3 million beneficiaries would pay less in 1977 as a result of the proposed annual limits of $500 for hospital services and $250 for physician services. The legislation would also provide for moderate cost-sharing for Medicare beneficiaries to encourage economical use of medical services and would slow down health cost inflation by putting a limit on Federal payments to hospitals and physicians.

* * * * *

BUSING

SCHOOL DESEGREGATION STANDARDS AND ASSISTANCE ACT

The purpose of this legislation is to maintain progress toward the elderly elimination of illegal segregation in public schools while preserving community control of schools. The legislation would get guidelines for Federal courts concerning the use of busing in school desegregation cases. It would require that courts determine the extent to which acts of unlawful discrimination have caused a greater degree of racial concentration in a school or school system than would have existed otherwise and to confine the relief provided to correcting the racial imbalance caused by those unlawful acts. The legislation would also limit the duration of court-ordered busing, generally to a period of no longer than five years.

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GENERAL REVENUE SHARING AND BLOCK GRANTS

GENERAL REVENUE SHARING: EXTENSION AND REVISION OF THE STATE AND LOCAL FISCAL ASSISTANCE ACT

This proposal would extend and revise the highly successful general revenue sharing program which expires on December 31, 1976. The program would be extended for five and three-quarters years, and the current method of funding with annual increases of $150 million would be retained. The basic revenue sharing formula would be retained but the existing per capita restraint would be eased. Civil rights and public participation provisions would be strengthened while reporting requirements would be made more flexible.

FEDERAL ASSISTANCE FOR COMMUNITY SERVICES ACT

This proposal would improve and strengthen the program of social services established under Title XX of the Social Security Act. The $2.5 billion provided annually by the Federal Government would be distributed as a block grant to the States, with no requirement for State matching funds. Most Federal requirements and prohibitions on the use of Federal funds would be eliminated. Services to low-income Americans would be emphasized; Federal funds would be focused on those whose incomes fall below the poverty income guidelines.

FINANCIAL ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION

This proposal would consolidate 24 programs of Federal assistance to State and local education agencies for nonpostsecondary education purposes into one block grant. Three-quarters of the Federal support would have to be used for disadvantaged and handicapped students, with greater flexibility for States to target funds among programs in accordance with their own priorities. Administrative requirements on the States would be greatly reduced through reduction of Federal regulations and simplification of reporting procedures, and public participation would be required in the State planning process.

FINANCIAL ASSISTANCE FOR HEALTH CARE ACT

This proposal would consolidate meddicaid and 15 categorical Federal health programs into a single $10 billion block grant to the States. The proposal is designed to overcome some of the most serious defects in the present system of Federal financing of health care and to permit States to meet their citizens' health needs in a more effective manner.

It would achieve a more equitable distribution of Federal health dollars among States, and eliminate the present State matching requirements. It would also reduce Federal redtape, give States greater flexibility in providing for delivery of health care services to those with low income, and expand public participation in health planning.

CHILD NUTRITION REFORM ACT OF 1976

This proposal would establish a single comprehensive block grant to provide Federal funds for States to feed needy children. It would consolidate into a single authority the 15 complex and overlapping child nutrition programs currently administered by the Department of Agriculture. This new approach would concentrate Federal spending on the nutritional needs of poor children, while eliminating the substantial Federal subsidies now provided for nonneedy children. It would also ease the heavy administrative burden being imposed on State and local governments by the complicated requirements and inflexible mandates of the present programs.

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REGULATORY REFORM

AGENDA FOR GOVERNMENT REFORM ACT

The Agenda for Government Reform Act would authorize a major review of Federal regulatory activities. It would require the President, over a 4-year period, to submit specific proposals to the Congress for the reform of Federal regulatory activities affecting certain sectors of the American economy (e.g., transportation, agriculture, public utilities, etc.). It is designed to produce reforms to guarantee that Government policies do not infringe unnecessarily on individual choices and initiative nor intervene needlessly in the marketplace, to find better ways to achieve our social goals at minimal economic cost, to insure that Government policies and programs benefit the public interest rather than special interests, and to assure that regulatory policies are equitably enforced.

AVIATION ACT OF 1975

The Aviation Act is designed to provide consumers better air transportation services at a lower cost by increasing real competition in the airline industry, removing artificial and unnecessary regulatory constraints and ensuring continuance of a safe and efficient air transportation system. It would introduce and foster price competition in the airline industry; provide for the entry of new airline service; eliminate anti-competitive air carrier agreements; and ensure that the regulatory system protects consumer interests rather than special industry interests.

MOTOR CARRIER REFORM ACT

The Motor Carrier Reform Act would benefit the consuming public and the users of motor carrier services by eliminating excessive and outdated regulations affecting trucking firms and bus companies. It would stimulate competition in these industries, increase their freedom to adjust rates and fares to changing economic conditions, eliminate restrictions requiring empty backhauls, underloading, or circuitous routing, and enhance enforcement of safety regulations.

FINANCIAL INSTITUTIONS ACT

The Financial Institutions Act is intended to remove Federal restrictions on the interest rates and services banks and savings and loan associations can offer to the public. It is designed to offer more competitive returns to small savers and a more diversified range of services to all banking customers.

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ENERGY

NEW NATURAL GAS DEREGULATION

This bill is designed to reverse the declining natural gas supply trend as quickly as possible and to insure increased supplies of natural gas at reasonable prices to the consumer. Under the proposal, wellhead price controls over new natural gas sold in interstate commerce would be removed. This action will enable interstate pipelines to compete for new onshore gas and encourage drilling for gas onshore and in offshore areas.

ALASKAN NATURAL GAS TRANSPORTATION SYSTEM

This bill was designed to expedite the selection and construction of a system for the transportation of natural gas from the North Slope of Alaska to the lower 48 States through the establishment of new administrative and judicial procedures. The bill is necessary because of expected prolonged litigation of any Federal Power Commission decision and to assure that all necessary considerations are brought to bear in selecting a system. The bill would enable reaching a decision on this vital issue by no later than October 1, 1977 while still providing adequately for the detailed technical, financial and environmental studies that must be completed to assure a decision in the public interest, with participation by both the Congress and the Executive.

NUCLEAR FUEL ASSURANCE ACT

This legislation would authorize the Energy Research and Development Administration to enter into cooperative agreements with private firms wishing to finance, build, own and operate uranium enrichment plants and authorize work on an addition to a government-owned enrichment plant. Existing capacity is fully committed. Additional capacity is needed to meet domestic demands for fuel for commercial nuclear power plants and to enable the U.S. to maintain its position as a leading world supplier of nuclear fuel and equipment for peaceful purposes. This legislation would permit a transition to a private competitive uranium enrichment industry, ending the Government monopoly and avoiding the need to spend Federal funds for capacity that can be provided by private industry.

COMMERCIAL PRICING FOR URANIUM ENRICHMENT SERVICE

This legislation would permit the Energy Research and Development Administration (ERDA) to revise the basis for establishing its prices for uranium enrichment services to domestic and foreign customers. It would enable ERDA to include cost elements in its price which should be associated with a commercial-industrial activity (e.g., provisions for taxes, insurance, and return on equity). The bill would end an unjustifiable subsidy by the taxpayers to domestic and foreign customers.

SYNTHETIC FUELS

The Administration supports legislation to amend the Energy Research and Development Administration's existing authorities to provide $2 billion in loan guarantees during 1977 for the commercial demonstration of synthetic fuel production from coal, oil shale, and other domestic resources. A total of $6 billion in loan guarantees is expected to be necessary over the 1976 to 1978 period in order to reach the 1985 objective of 350,000 barrels per day of synthetic fuel production capacity. With the enactment of the Energy Independence Authority legislation these ERDA projects will be transferred to the Energy Independence Authority.

WINTERIZATION ASSISTANCE ACT

This proposal would establish within the Federal Energy Administration, a grant program for States to assist low income persons, particularly the elderly, in winterizing their homes in order to reduce the long-term consumption of energy. The combined savings in fuel, estimated to be thousands of barrels a day, would not only lessen America's dependence on imported fuels, but would also lower heating bills of low-income persons and families.

BUILDING ENERGY CONSERVATION STANDARDS ACT OF 1975

This proposal would establish thermal (heating and cooling) efficiency standards for all new homes and commercial buildings to conserve energy. It is anticipated that this program will save the equivalent of 350,000 barrels of oil per day in 1985. Standards would be promulgated by HUD and primary responsibility for enforcement would be with State and local governments through building codes.

UTILITIES ACT OF 1975

This bill is designed to help restore the financial health of electric utilities. It would eliminate undue regulatory lags involved in approving proposed rate changes and assure that rates adequately reflect the full cost of generating and transmitting electricity. Though many States have already adopted similar programs, enactment of the bill will establish certain standard regulatory procedures across the Nation, resulting in more equitable treatment of utilities.

FEDERAL ENERGY ADMINISTRATION EXTENSION ACT

The Administration has proposed a simple extension of the Federal Energy Administration for 18 months. This will provide the continuity needed to insure FEA's ability to implement the complex programs contained in the Energy Policy and Conservation Act of 1975 and to adequately administer oil price controls.

ENERGY INDEPENDENCE AUTHORITY OF 1975

This Act would establish a $100 billion Energy Independence Authority, a self-liquidating corporation designed to encourage the flow of capital and provide financial assistance, through loans and loan guarantees, to private enterprise engaged in the development of energy sources and supplies important to the attainment of energy independence but which would not otherwise be financed.

This bill also seeks to expedite and facilitate the Federal regulatory and licensing process and to hasten the commercial operation of new energy technologies subsequent to the research and development phase.

NUCLEAR POWERPLANT SITING AND LICENSING PROCEDURES

This legislation is intended to shorten and improve the licensing process for nuclear facilities by allowing licensing procedures for reactor sites and standardized reactor designs to be completed at an earlier point in time. It would require the Nuclear Regulatory Commission to assure expeditious reactor siting and licensing hearings consistent with the public safety, exclude from consideration any issue which has either been decided or which could have been raised and decide in previous proceedings, and coordinate planning and scheduling of siting and licensing procedures with State agencies.

ELECTRIC POWER FACILITY CONSTRUCTION INCENTIVE ACT

This legislation is designed to provide tax incentives to stimulate the construction of new electric power generating facilities other than petroleum fueled generating plants. Construction costs of electric utilities would be reduced through changes in the investment tax credit and allowances for amortization and depreciation. These provisions would encourage utilities to reactivate their plans for the construction of nuclear plants and coal-fired plants that were cancelled or deferred in 1974 and 1975.

ENERGY FACILITIES PLANNING AND DEVELOPMENT ACT

This bill is designed to expedite the development of energy facilities. The Federal Energy Administration would be required to develop a National Energy Site and Facility Report with appropriate Federal, State, industry and public input. Information in this report would be utilized by the Federal Government, the States and industry in developing and implementing plans to insure that needed energy facilities are sited, approved and constructed on a timely basis. At the Federal level, FEA would be responsible for coordinating and expediting the processing of applications to construct energy facilities.

NATURAL GAS EMERGENCY STANDBY ACT

This legislation would provide a limited exemption from the regulation of natural gas in interstate commerce. It would grant the Federal Power Commission authority to allow companies which transport natural gas in interstate commerce to meet the natural gas requirements of their high priority users by purchasing natural gas (a) from sources not in interstate commerce and (b) from other companies on an emergency basis free from the provisions of the Natural Gas Act, except for reporting requirements.

CLEAN AIR ACT AMENDMENTS

The Administration favors legislation which would stabilize auto emission standards at the levels specified by EPA for model year 1977 for three years and imposes stricter standards for two years thereafter. With respect to significant deterioration and stationary source standards, changes are needed to achieve a better balance among environmental, energy and economic needs.

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DEFENSE

Proposed changes to the Defense budget will be transmitted to the Congress in a separate message. These changes will include revised authorization and appropriation requests. These changes will:

1. Request approval of vital Defense programs deleted in Congressional action thus far.
2. Request deletion of unneeded increases the Congress added to the Defense program.
3. Request approval of a series of legislative proposals which would produce major economies without impairing our national defense capabilities.

In addition to changes in the Defense budget, the Congress should enact the following legislation.

MILITARY CONSTRUCTION APPROPRIATION AUTHORIZATION, FISCAL YEAR 1977

This legislation authorizes fiscal year 1977 appropriations for new construction for Defense, the military departments and the Reserve Components. On July 2, 1976, H.R. 12384 was vetoed because it contained a provision which would have seriously restricted the Executive's ability to carry out certain military base closures and reductions. Congress should reenact this otherwise acceptable legislation without the objectionable base closure provisions.

UNIFORMED SERVICES RETIREMENT MODERNIZATION ACT

The Administration's legislation proposes substantial revisions to the uniformed services nondisability retirement system designed to increase its effectiveness both as an element of the compensation system and as an element of the personnel management system. These revisions would be phased in gradually with appropriate provisions for saved-pay. Major features of the proposal include:

—increased multipliers for members with long service (over 24 years).

—an early retirement annuity for members who retire short of a full career (less than 30 years) with an increased annuity when they would have reached 30 years of service.

—use of the highest average basic pay for one year instead of terminal basic pay in computing retirement annuities.

—integration of military and social security retirement benefits at age 65.

—payments to both voluntary and involuntary separatees who leave before completing 20 years of service.

RESTRAINT ITEMS REQUIRING PERMANENT LEGISLATION

1. Wage Board pay reform.
2. Phase out commissary direct labor subsidy.
3. Eliminate 1% "kicker" from retired pay adjustment computation.
4. Eliminate administrative duty pay for Reserve and National Guard Commanders.
5. Reduce the number of annual paid drills for the National Guard.
6. Eliminate dual compensation of Federal employees for National Guard and Reserve annual training.
7. Revise cadet and midshipmen pay policy.

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INTERNATIONAL

BRETTON WOODS AGREEMENT ACT AMENDMENTS

This legislation would authorize the United States to accept fundamental amendments to the Articles of Agreement of the International Monetary Fund. The amendments to the Articles generally concern: members' exchange arrangements; reduction in the role of gold in the international monetary system; changes in the characteristics and uses of the special drawing right; and simplification and modernization of the Fund's financial operations and transactions. The bill would also authorize the United States to consent to an increase in its quota in the Fund equivalent to 1,705 million Special Drawing Rights.

PROTECTION OF INTELLIGENCE SOURCES AND METHODS

This legislation is designed to protect intelligence sources and methods from unauthorized disclosures. It provides for criminal and civil sanctions against those who are authorized access to such intelligence information and who reveal it to unauthorized persons. The bill contains provisions to prevent damaging disclosures of intelligence sources and methods in the course of prosecution and also includes safeguards to adequately protect the rights of an accused. Injunctive relief would be provided in those instances in which unauthorized disclosure is threatened and serious damage to intelligence collection efforts would result.

FOREIGN INTELLIGENCE SURVEILLANCE ACT

This legislation is designed to insure that the Government will be able to collect necessary foreign intelligence while at the same time providing assurances to the public that electronic surveillance for foreign intelligence purposes will not be abused. The proposed bill would provide a procedure for seeking a judicial order approving the use, in a particular case, of electronic surveillance to obtain foreign intelligence information. It also would establish standards that must be satisfied before any such order could be entered. The bill follows the framework of existing law governing such surveillance undertaken for criminal law enforcement purposes, with appropriate adjustments to meet the special needs and purposes of foreign intelligence investigations.

EXPORT ADMINISTRATION ACT EXTENSION

This legislation would extend the Export Administration Act from September 30, 1976, to September 30, 1979. The Act authorizes the President to regulate exports of U.S. goods and technology to the extent necessary to protect the domestic economy from an excessive drain of scarce materials, to further the foreign policy of the United States and to control exports when necessary for purposes of national security. The Administration also has requested that the maximum civil penalty under the Act be raised from $1,000 to $10,000 and that criminal penalties be raised from $10,000 to more meaningful levels.

FINANCIAL SUPPORT FUND

This legislation would authorize the President to accept membership for the United States in a new, $25 billion Financial Support Fund agreed to by the Organization for Economic Cooperation and Development (OECD). The Fund would be available for a period of 2 years to provide short to medium-term financing to participating OECD members faced with extraordinary financing needs. The proposal for the Fund was developed as part of a comprehensive response to the economic and financial problems posed by severe increases in oil prices.

The Administration's proposal would permit U.S. participation in the Fund by authorizing the Secretary of the Treasury to issue guarantees. The bill would authorize appropriations of such sums as are necessary to meet obligations on guarantees issued by the Secretary but not to exceed an amount equivalent to approximately $7 billion.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (IBRD), INCREASED UNITED STATES PARTICIPATION

This legislation would authorize the the Secretary of the Treasury as the United States Governor to the IBRD (World Bank) to vote for an increase of $8.4 billion in the authorized capital stock of the Bank. It would also authorize him to subscribe, on behalf of the United States, to an additional 13,005 shares of capital stock and authorize appropriations of approximately $1.57 billion for the increase in United States participation.

IMPLEMENT AGREEMENT BETWEEN THE UNITED STATES AND TURKEY

This proposed joint resolution would approve the new Defense Cooperation Agreement with the Government of Turkey and authorize the President to implement the Agreement.

ECONOMIC COERCION ACT OF 1975

This proposal would prohibit any business enterprise from using economic means to coerce any person or entity to fail to do business with or otherwise to discriminate against any United States person on the ground of race, color, religion, sex or national origin. The prohibition would be enforced by civil actions brought by aggrieved persons or by the Attorney General.

INCREASED PARTICIPATION IN THE ASIAN DEVELOPMENT FUND

This legislation would authorize appropriations of $50 million which would permit the United States to make the first of three scheduled contributions to a multi-donor replenishment of the Asian Development Fund.

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U.S. GRAIN STANDARDS ACT AMENDMENTS AGRICULTURE

The Administration proposed a bill to amend the United States Grain Standards Act to improve the grain inspection system. Specifically, the bill would:

—retain the Federal, State and private grain inspection system now in effect, but authorizes USDA to perform original inspection on an interim basis during suspension or revocation proceedings against an official inspection agency, or where other qualified agency or person is not willing or able to provide service;

—authorize USDA to conduct monitoring activities in foreign ports for grain officially inspected under the Act;

—eliminates the potential for conflict of interest from the present grain inspection system;

—require official inspection agencies to comply with certain training, staffing, supervisory and reporting requirements;

—provide for the suspension or revocation of official inspection agencies for violation of the Act;

—provide for the triennial designation of all official inspection agencies; and,

—require the payment of grain inspection fees which would make the program largely self-supporting.

FEDERAL CROP INSURANCE ACT

The Administration proposed a bill to amend the Federal Crop Insurance Act and to repeal the disaster payment provisions for feed grains, cotton, and wheat under the Agricultural Act of 1949. The proposed amendments would permit the Federal Crop Insurance Corporation to offer insurance on a nationwide basis on feed grains, cotton, and wheat and thus provide the producers of those commodities with protection from the financial losses attributable to crop failures. It would also permit the Corporation to reinsure policies written by private insurance companies thereby expanding the availability of this valuable service. This program would save an estimated $250 million in government outlays annually and place the cost of and responsibility for maintaining crop insurance on the producers who would benefit from it.

RESTRUCTURE AGRICULTURE CONSERVATION PROGRAM

The Administration proposed a bill to update the conditions under which the Federal Government provides financial assistance to agricultural producers for needed soil, water, woodland, and wildlife conservation and evironmental enhancement measures on agricultural lands. Specifically, the bill would:

—provide for financial assistance to those agricultural producers *who are financially unable* to fully carry out needed conservation practices; and,

—*limit financial assistance* under the Act to *enduring type* practices pertaining to soil, water, woodland, and wildlife conservation on agricultural lands and *emphasize long-term agreements* as opposed to *annual or short-term* conservation practices.

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ENVIRONMENT

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

The 1976 amendments proposed to the Act would affect future funding of the waste water treatment grant program. They would focus Federal funding on the construction of treatment plants and associated interceptor sewers; eliminate the eligibility of that portion of each project designed to serve reserve capacity for future population growth; and authorize the Administrator of EPA to extend the July 1, 1977 deadline for compliance with secondary treatment and water quality standards on a case-by-case basis for periods not to exceed six years. In addition, extensions of appropriation authorizations were proposed for FY 76 and FY 77.

COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

The Comprehensive Oil Pollution Liability and Compensation Act of 1975 would establish a $200 million domestic fund which would be available to compensate individuals who suffer damages from oil spills in U.S. waters. The bill would create a uniform nationwide system of strict liability for oil spill damages and a standard procedure for settlement of claims. It would also implement two international conventions which deal with oil pollution caused by tankers on the high seas.

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INCOME ASSISTANCE

NATIONAL FOOD STAMP REFORM ACT

This proposal would concentrate food stamp program benefits on those truly in need, significantly improve program administration, and correct abuses and inequities of the current program. A standard deduction would replace the present set of complex itemized deductions; eligibility would be limited to those whose net income is below the poverty level; families would be required to spend 30 percent of household income for stamps; a more realistic measure of actual income over the preceding 90 days would be used to determine eligibility; categorical eligibility for public assistance recipients would be eliminated; and able-bodied recipients would be required to seek, accept, and retain gainful employment.

WORK INCENTIVE (WIN) PROGRAM AMENDMENTS OF 1976

The purpose of the Work Incentive (WIN) program is to help recipients of Aid to Families with Dependent Children (AFDC) shift from welfare to self-support through employment. The proposed WIN amendments would redesign the program to help more AFDC applicants and recipients move into the mainstream of the economy with greater efficiency and less cost to the taxpayers. It would revise WIN to ensure that employable AFDC applicants and recipients in WIN areas are exposed to job opportunities, and will actively search for and accept suitable jobs. The legislation would extend to AFDC applicants the employment services presently provided only to AFDC recipients—i.e., direct placement and labor market exposure—and would terminate the less effective work and training components of the WIN program.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) AMENDMENTS OF 1976

This proposal would simplify the administration of the Aid to Families with Dependent Children (AFDC) program and focus the resources devoted to this program on the most needy. For example, it would standardize the disregard for work-related expenses, thereby eliminating one of the troublesome inequities of the AFDC program, and it would eliminate the dual work registration requirement for unemployed fathers which would remove an extra burden on the individual and reduce administrative work. It would also require that an applicant for AFDC under the unemployed fathers program apply for and accept any unemployment compensation benefits to which he is entitled. Currently, as a result of a Supreme Court decision, an individual who is eligible for unemployment compensation benefits has the option of applying for either unemployment compensation benefits or AFDC benefits. An individual's first recourse should be to unemployment benefits for which his employer has contributed and to which he is entitled.

LOW INCOME HOUSING CONTRIBUTIONS

This proposal would amend the definition of "income" used in determining eligibility and maximum rental charges under the low-income public housing program, to conform the criteria used in public housing to those used in the lower-income housing assistance program under section 8 of the United States Housing Act of 1937. Present law provides for a number of exclusions from income, among which are exclusions for minor children, extraordinary medical or other expenses, and a flat deduction of 5 percent of the family's gross income (10 percent in the case of elderly households). The amendment would require exclusions only for the number of minor children in the household and for the extent of medical or other unusual expenses. This would promote equity between tenants and public housing authorities and between tenants and Federal taxpayers.

UNEMPLOYMENT COMPENSATION AMENDMENTS

This proposal would expand coverage under the regular employment insurance system to additional groups of workers and would make urgently needed changes to strengthen the financing of the sytem. The permanent extended unemployment insurance program would be made more responsive to changes in the economy. A National Commission on Unemployment Compensation would be established to comprehensively study the system and proposed changes, and make recommendations for further improvements.

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VETERANS

MEDICAL INSURANCE FOR VA HOSPITAL CARE

Many veterans who receive free medical care at VA hospitals have health insurance. This proposal would require the insurance companies to reimburse the VA for hospital care provided to veterans who do not have disabilities resulting from active military service. The proposal reflects the Administration's belief that the Federal taxpayer should not bear the cost of treating people with no service-connected disabilities when to do so will benefit only third parties, including insurance companies, who are legally liable for the disability or injury necessitating such treatment.

TERMINATION OF VETERANS EDUCATIONAL BENEFITS

This proposal would terminate VA education benefits for those men and women who decide in the future to enter the peacetime All-Volunteer Force. The educational assistance programs for veterans, from their inception, were designed as readjustment benefits for those who served during wartime. They were never intended to be a continuing benefit and both the World War II and Korean conflict GI bill programs were terminated within a reasonable period after the cessation of hostilities. The Vietnam conflict officially ended in May 1975; the draft, in June 1973. With the advent of a peacetime, All-Volunteer Force, GI bill educational benefits are no longer appropriate for those who enter military service in the future.

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OTHER

INDEMNIFICATION OF SWINE FLU MANUFACTURERS

This proposal is essential to implementation of the National Influenza Immunization Program. Current law bars the Federal Government from agreeing to indemnify vaccine manufacturers for losses from injuries which may result from the Federal Government's activities in the immunization program. The Administration proposal would enable HEW to agree to indemnify the manufacturers against claims attributable to inoculation with the vaccine, except claims arising out of the negligence of the manufacturer.

STUDENT LOAN AMENDMENTS

This proposal would correct certain abuses in the Federal guaranteed student loan program that have resulted in high default rates under that program. Specifically, the proposal would amend Title IV of the Higher Education Act to eliminate proprietary schools as eligible lenders, and amend the Bankruptcy Act to make student loans nondischargeable in bankruptcy during the five-year period after the first installment becomes due. The proposal would also prohibit borrowers who default on guaranteed loans from receiving a basic educational opportunity grant or any further guaranteed loans.

FEDERAL IMPACT AID AMENDMENTS OF 1976

This bill would reform the impact aid program by targeting funds only on those school districts that are truly adversely affected by Federal activities. It would provide support to local education agencies only for those children whose parents both live and work on Federal property. These people do not pay property taxes, and the Administration believes that the Federal Government has a responsibility to help pay the cost of educating their children, but not to help pay the costs of educating other children whose parents pay local property taxes.

COMPREHENSIVE HEALTH PROFESSIONS EDUCATION ACT

The Administration's proposal would provide Federal support to those medical and dental schools that agree to meet certain conditions. Unlike prior programs of Federal assistance which were directed towards increasing the aggregate numbers of doctors and dentists in the Nation, the Administration proposal would shift the emphasis of Federal support for health professions schools from merely increasing enrollments to addressing national problems of medical specialty and geographic maldistribution. The proposal is designed to produce more primary care physicians and to provide greater access to health professionals.

HIGHER EDUCATION ACT AMENDMENT AND EXTENSION

This bill would extend for 4 years those higher education programs which have demonstrated their effectiveness in meeting the post-secondary education needs of the Nation. The bill would extend the most effective student assistance programs, namely, the basic educational opportunity grant program, the work-study program, the State student incentive grant program, and the guaranteed student loan program. Programs to strengthen developing institutions and the Teacher Corps program would also be extended. The bill would also simplify and clarify the requirements relating to accreditation and institutional eligibility.

CLOSURE OR TRANSFER OF PUBLIC HEALTH SERVICE HOSPITALS

This proposal is one of several Administration initiatives designed to reform Federal financing and direct delivery of health care. It would authorize HEW to transfer to community use or close the eight Public Health Service hospitals which are underutilized and which essentially serve only one occupational group. The proposal reflects the conclusion that maintenance of a Federal hospital system for some 200,000 merchant seamen is an inappropriate and inefficient use of resources, particularly in light of low hospital occupancy rates, the excess supply of hospital beds, the availability of alternative health care facilities, and the substantial capital investment which would be required to continue operation of the hospitals.

REPEAL THE ONE PERCENT ADD-ON IN THE COST-OF-LIVING ADJUSTMENT OF THE CIVIL SERVICE RETIREMENT SYSTEM

Federal civilian and military retirement systems automatically increase benefits to compensate for changes in the Consumer Price Index (CPI). Since 1969, these automatic adjustments have included a 1 percent add-on which has been compounded with each subsequent CPI adjustment. This bill would eliminate the 1 percent add-on provision in the civil service retirement law which has been progressively over-compensating Federal retirees for changes in the cost of living. The Congress has passed legislation to eliminate the 1 percent add-on in the military, foreign service, and CIA retirement systems, but only if it is also eliminated for the civil service retirement system.

WAGE BOARD PAY REFORM

The basic principle governing Federal blue-collar employees' pay rates is that they should be comparable with prevailing rates and pay practices in the non-Federal sector in the same locality. This bill would eliminate aspects of present law governing wage board pay rates that are inconsistent with that principle and therefore result in Federal blue-collar workers earning more than their counterparts in the private sector. Among other things, the bill would eliminate use of wage rate data from outside the local area involved. It would also eliminate the present requirement for each grade to have five steps, and would substitute a step-rate structure that would accord with the predominant industry practice.

INCREASED AUTHORIZATION FOR CERTAIN SMALL BUSINESS LOAN PROGRAMS

This legislation would increase the total amount of loans, guarantees, and other obligations which the Small Business Administration (SBA) may have outstanding at any one time. These revised ceilings will permit SBA to increase the number of loans made to those small businesses who otherwise would be unable to obtain credit in the private sector.

FEDERAL PROCUREMENT ACT

A number of recommendations made by the Commission on Government Procurement—including proposals to consolidate the basic Federal procurement acts and modernize the provisions for awarding contracts—would be implemented by this bill.

REORGANIZATION ACT EXTENSION

This proposal would extend the President's authority to submit plans for the reorganization of executive agencies to the Congress. This authority expired on April 1, 1973. The legislation is designed to restore the authority necessary for the President to propose reorganization in order to foster both efficiency and flexibility in the structure of the Executive branch.

STOCKPILE DISPOSAL

This legislation would authorize disposal from the national stockpile and supplemental stockpile of industrial diamond stones, antimony, tin, and silver. The amounts of these four materials recommended for disposal are in excess of adequate stockpile requirements, and their sale would result in estimated receipts of $746 million in fiscal year 1977.

PATENT MODERNIZATION AND REFORM ACT

This legislation would substantially strengthen the American patent system by improving the strength and reliability of issued patents through procedural reforms in the patent examination and issuance process. It would also simplify procedures for obtaining patents, make more complete and precise the disclosure of information about technology contained in patents, and add new provisions concerning enforcement of patents.

WINTER OLYMPIC GAMES ASSISTANCE

This legislation would authorize Federal financial assistance for the construction of certain permanent, unique sports facilities needed for the 1980 Winter Olympic Games at Lake Placid, New York. The total amount of special Federal assistance under both existing authorities and this legislation would not exceed $28 million plus the financing of certain increases in construction costs.

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These are important legislative proposals dealing with matters of the National interest, and I urge the Congress to move with dispatch to enact them.

GERALD R. FORD.

THE WHITE HOUSE, *July 22, 1976.*

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to ask the distinguished majority leader as to the program for the balance of this week and next week.

Mr. O'NEILL. Mr. Speaker, will the minority leader be kind enough to yield?

Mr. RHODES. I yield to the majority leader.

Mr. O'NEILL. I thank the minority leader for yielding.

We have completed the work for the week, and we will adjourn until Monday next.

The program for the House of Representatives for July 26, 1976, is as follows:

Monday, District day, no bills.

H.R. 11743, national agricultural research, votes on amendments and bill;

H.R. 10133, USDA executive adjustments, under an open rule, with 1 hour of debate, the rule having been previously adopted;

H.R. 7743, Pennsylvania Avenue development, under an open rule, with 1 hour of debate;

H.R. 13955, Bretton Woods Agreement, under an open rule, with 1 hour of debate; and

H.R. 13720, debt collection practices, under an open rule, with 1 hour of debate.

Tuesday: H.R. 13555, mine safety and health, votes on amendments and bills;

H.R. 14514, State food stamps cashouts, under an open rule, with 1 hour of debate; and

H.R. 13876, international banking, under an open rule, with 1 hour of debate.

Wednesday: H.R. 11656, Government in the sunshine, under an open rule, with 2 hours of debate;

H. Res. 1350, Select Committee on Narcotics; and

H.R. 8401, nuclear fuel assurance, under an open rule, with 2 hours of debate.

Thursday and Friday: H.R. 2525, Indian health care improvement, under an open rule, with 1 hour of debate;

H.R. 11909, Indian Claims Commission, under an open rule, with 1 hour of debate;

H.R. 12944, Federal Insecticide, Fungicide and Rodenticide Act extension, under an open rule, with 1 hour of debate; the rule having been previously adopted; and

H.R. 9719, payments in lieu of taxes, under an open rule, with 1 hour of debate.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. RHODES. I would like to inquire, if I may, of the distinguished majority leader as to what plans there are, if he knows, for bringing the legislative appropriations bill up. I have had several requests for information on this side as to when it might be scheduled.

Mr. O'NEILL. If the minority leader will yield further, I have not spoken with the committee chairman on that, so I really have no answer for the gentleman.

Mr. RHODES. It was scheduled or tentatively scheduled, I think, last week, and it has been removed. I assume that there has been some delay.

Mr. O'NEILL. It is tentatively scheduled for the future.

Mr. RHODES. I see.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Did the gentleman from Massachusetts say that the bill was tentatively scheduled for the future?

Mr. O'NEILL. That is what I understand.

Mr. BAUMAN. I remember one great statement made here in the House that the future lies before us.

Mr. O'NEILL. That is a true statement.

Mr. BAUMAN. I agree with the gentleman. The gentleman previously told the House several weeks ago before we adjourned that it would be brought up next Tuesday specifically, and it is not listed for next Tuesday. Will it ever be brought up for the House to consider and offer amendments?

Mr. O'NEILL. If I did say that it was going to be brought up Tuesday, then it was taken off the Calendar at the request of the chairman. It is customary to do that. When the chairman wants to reinstate it on the program, he will inform the leadership and we will do so.

Mr. BAUMAN. I thank the gentleman.

Mr. O'NEILL. If the gentleman will yield further, may I say that it is the intention to work next Friday if we need to in order to complete the program. I am sure that the gentleman is aware that we made a semi-agreement that we would ask unanimous consent to come in Wednesday and Thursday of next week at 10 o'clock and not have to work on Friday. But the gentleman in the White House, President Ford, sent a message saying we were not doing enough work around here. He is playing politics, just as the gentleman from Arizona is in opposition to the gentleman from California, Mr. ROUSSELOT's candidate for President. I know that the gentleman from California, Mr. ROUSSELOT, very much wants us not to work next Friday.

He said:

> Show that fellow down there who is running the Congress.

In fairness to the President, I would point out Mr. Ford said that there are 75 pieces of legislation still pending that he would like to have passed. I understand it is election fever. One day he talks about this wild spending Congress and the next day he says we have not passed enough legislation. We are trying to stay within the authorization levels requested by the President of the United States, just as we have in previous years. I believe the RECORD shows the Congress of the United States has been under the budget requests of the Presidents in every year but one since 1943. So when the gentleman sees the President, I ask the minority leader if he will give the President my best.

Mr. RHODES. Mr. Speaker, I will say to the distinguished majority leader that I will give the President the gentleman's best and I will also tell him that the gentleman has read the President's message and that he will comply with all 76 requests.

Mr. O'NEILL. Do not go too far.

ADJOURNMENT TO MONDAY, JULY 26, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PRESIDENT FORD AND ATTORNEY GENERAL LEVI SUPPORT IMPROVED WATERGATE REFORM ACT

(Mr. McCLORY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McCLORY. Mr. Speaker, at this time I would like to voice my support for President Ford's substitute proposal to S. 495, the Watergate Reform Act of 1976, introduced yesterday as H.R. 14795 by the gentleman from Michigan (Mr. HUTCHINSON). This bill represents a sincere effort on the part of the President, the Attorney General, as well as numerous Members of Congress and their staffs, to formulate a constitutionally acceptable and practically workable alternative to that reported by the Senate Committee on Government Operations.

It is certainly my wish, and doubtless the wish of every Member of this Congress, that the events of the past 3 years will never be permitted to reoccur. Watergate has come to represent at once a scar and a triumph for our system of government. We have found ourselves embarrassed and distressed by the abuses of power which spawned it and which, of course, antedated the Watergate period and which involved earlier administrations. Yet, we are proud that the checks and balances created 200 years ago are both workable and effective under the severest of tests. Watergate has thus come to emit an amalgam of connotations; it is my hope that one of them will be reform. This view is expressed eloquently by President Ford in his words and actions.

H.R. 14795, briefly, seeks to address itself to three major reforms:

First, the establishment of the office of a permanent independent special prosecutor; second, the creation of the office of Congressional Legal Counsel; and third, the expansion of financial disclosure requirements for certain specified officers and employees of the Federal Government.

The establishment of the Office of Special Prosecutor, contained in title I of the bill, differs from that in the original version of S. 495 in that it makes the Special Prosecutor an appointee of the President, by and with the advice and consent of the Senate. Individuals holding this position will do so only for a single 3-year term and are ineligible if during the 5 years preceding such appointment [they] held a high level position of trust and responsibility on the personal campaign staff of, or in an organization or political party working on behalf of, a candidate for any elective office. The Special Prosecutor will have jurisdiction to investigate and, if necessary, prosecute all allegations or complaints indicating possible violations of Federal criminal law by certain Government officials including the President, Vice President, and Members of Congress. He will also be independent of the control of the Attorney General and removable by the President only for reasons "of extraordinary impropriety." Title I would also establish by statute a section on Government crimes and an Office of Professional Responsibility within the Department of Justice. This has already been done informally by the creation, by Attorney General Levi and Assistant Attorney General Richard Thornburgh, of the Public Integrity Section of the Department's Criminal Division.

Title II is designed to create an Office of Congressional Legal Counsel to represent the Congress in judicial proceedings.

Last, title III requires that certain Federal officials, including the President, Vice President, Federal judges, members of Congress, and specified Federal employees file annual financial statements. The reports should contain such items as the amount and source of income, gifts—in excess of $500—and the value of assets held by the individual.

I believe that the forgoing is a meaningful and necessary product of the past few years. Attorney General Levi will testify tomorrow before the House Judiciary Committee on title I of the bill and Deputy Assistant Attorney General Mary C. Lawton is scheduled to testify next week, again before the Judiciary Committee, on the financial disclosure provisions of title III. I trust that following their testimony and the conclusion of those hearings, the House will see fit to join the Senate in presenting to the President legislation which will discourage abuses of power, whether of the types related to the Watergate period, the current exposés among Members of Congress—or those which occur in the Judiciary.

THE IMMORALITY OF LIMITING GROWTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, there is growing concern in many quarters that the United States is slowly backing away from its commitment to innovation—the creative results of basic and applied research and development. I share this concern.

I do not feel, as some others do, that science and technology hold all the answers to our problems—progress lies as much in the selection of value systems as it does in the application of science—but I firmly believe that without science and technology, material progress slows dramatically and the nonsecular spiritual advances which more typically arises from first having had material wants satisfied are impaired.

History certainly shows this. Through man's long advance through the stone, bronze and iron ages to the modern era, man has increased his productivity by enhancing his muscle power. Going back in history for more than 40,000 years, we find the size of the average person's brain was comparable to the average size of that of people today, yet progress over thousands of years was extremely slow. The reason for this slow improvement lies in the fact that man's material welfare depends upon his productivity, which is a function of the quality of his tools, which in turn depends on how hard he thinks about them. This thinking and doing builds on itself—very slowly at first, and then accelerating—proceeding, thankfully, on a geometric instead of arithmetic scale.

Because substitutes for muscle power were very limited until about 200 years ago, improvements in the quantity and quality of man's food, clothing, and shelter came slowly.

It is no coincidence that this material progress was greatly accelerated 200 years ago—at the time of the birth of our Republic.

Three things of monumental importance happened in 1776. It was no coincidence at all that 1776 was the year of our Declaration of Independence—the greatest single statement of political freedom and guarantor together with the Bill of Rights of personal freedom, the year of Adam Smith's "The Wealth of Nations"—the greatest single statement of economic growth, and the year of James Watt's first successful use of the steam engine, the benchmark from which most measure the true beginning of the industrial age and our unparalleled material progress. Those three events were not accidental, nor were they unrelated. They were specifically related through attitudes concerning the essential, concommitant nature of political and economic freedom and of political and economic progress.

Look at the difference between 1776 and 1976. Compare the living standard today with then. Men and women were working 12 to 18 hours a day and 6 or more days a week. Child labor was the norm; as a matter of fact, children had to work for families to survive. Horses and oxen were plowing the fields and pulling wagons and carts. Electrical power consisted of Benjamin Franklin pondering over the effects of his kite in an electrical storm. The internal combustion engine was a hundred years away from even being invented. Machines were in their infancy. Sail and flowing water were the means of waterborne commerce. No running water in homes. It was a hard life by today's standards even for the wealthiest.

We know what we have today by contrast. Prosperity has reached a level never known in the world's history. Workers' real wages have reached a level unprecedented in any economy. We produce in 1 hour the wheat it took them 1 week to produce. We travel in 5 hours the distance across America it took them 2 full seasons to travel. Instead of a campaign to open the Appalachians, we have walked on the moon. Of all the figures one can recite, the most revealing is that: one-half of all the goods produced in the past 10,000 years, from the beginning of man's quantifiable economic history in 8000 B.C., have been produced in the United States in the past 200 years.

We had the material resources—our vast quantities of natural resources. We had human resources—the never-ending flow of immigrants that came to America because of its vision and its living standards. We had sufficient capital—money for the investment essential to assure continued growth in jobs and productivity. And we had a spirit of creativity, of innovation, of finding those proverbial "better mouse traps."

During the course of this 200-year period we started into a knowledge explosion—the harnessing of brainpower the very way we had earlier learned to harness musclepower. For example, the invention and use of sophisticated computers allows us to do calculations in seconds which many men would have taken months to have completed previously. Inasmuch as economic growth depends in great measure upon the growth of knowledge and the entrepreneurial drive to put that knowledge into productive effect, this knowledge explosion offers us all kinds of promise for the future, if we take advantage of it. That is the question we are now facing: Is America on the verge of abandoning its commitment to innovation?

It becomes more apparent every day that an influential part of the American public has evidently decided it is living comfortably enough—that these persons are not prepared to make much of a sacrifice for further increases in production to help others.

Ever since World War II governments here and in all of the industrial countries have taken it for granted that steady and rapid growth is essential to social and economic stability. As unbelievable as it is, that assumption is now under rather strong attack. We are now actually being told by some that it is morally wrong to seek endless growth. This is what Alvin Toffler in "Future Shock," B. F. Skinner in "Beyond Human Dignity," the Club of Rome, Barry Commoner and others are trying to tell us. This view is acquiring a growing influence in public policy in this country, manifesting an almost "stop the world, I want to get off" approach to problem solving. Of course, few problems are solved this way.

The questions here are fundamental to the way this and other industrial countries run.

It seems to me that the moral case is for growth—not against growth. That moral case is the disadvantaged—the poor, the infirmed—those who are without adequate food, clothing, shelter, and medical care to share with most Americans and many citizens of other lands the abundance of the 20th century.

I consider it the greatest immorality of all—not to mention the epitome of arrogance—to take a policy position that says we ought to slow the growth which serves as a prerequisite for getting these people out of poverty, for eradicating disease and hunger, for giving them the tools they need to be self-sustaining and independent from control by or subservience to central authority no matter what its form, for giving them the tools with which to improve their living standard, for giving them the material base from which to exercise choice as to their own lives.

I cannot see how persons can rationalize not helping the less advantaged through reasoning that because some aspects of technological growth have produced bad side effects we ought to stop growth. It seems to me that we ought to remedy the bad side effects and maintain our commitment to growth.

If we abandon our commitment to growth, we dim the poor's hopes for overcoming their plight, for increasing their living standard in real or relative terms. The great public achievements of past generation have been financed out of expanding wealth—increasing the size of the total economic pie. Are we to tell these people that we are going to slow the growth essential for improving their standard of living? That they had just better learn to live with their conditions?

I do not see any reason in the world to adopt and communicate such a policy. As a matter of fact, I have been working to get this Congress to adopt a policy 180° to the contrary—one that would remove the disincentives now found in our laws—principally our tax laws—to the formation of the investment capital needed to assure continued growth, a continued expansion of the economic pie.

What does such growth mean to the American people, for example purposes? In their lead editorial of November 2, 1975, "The Questions About Economic Growth," the Washington Post sets forth a study of this growth during the past generation:

> In 1950, GNP per capita—computed in today's dollars, to keep inflation from distorting the comparison—was $4370. Currently it is just over $7000, although in the same period the American population grew from 152 million to 214 million. That represents a staggering increase in national wealth. As husbands and wives say to each other: Where did all that money go? What difference did it make? Did it all go into pop-top aluminum cans and electric lawn-mowers?
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> The biggest change produced by this enormous wave of prosperity has unquestionably been in the level of education. In 1950, half of all adult Americnas had no more than a ninth-grade education. Today, half of all adults have finished high school and have done at least some college work. Among young adults in their late twenties in 1950, one out of every 13 had finished four years of college. Today, it is approaching one out of every four. These numbers explain much of the transformation of this country's culture and politics. If a wise man had been asked a generation ago how this country might best use the coming wealth, he probably would have answered first education. But the costs have been formidable. The country was spending about $9 billion on education, including the universities, in 1950. Today the total is $119 billion. It was 3.4 percent of GNP in 1950; it is nearly 8 per cent now.
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> Another immense rise in expenditure came, of course, in health care. The country spent $12 billion on it in 1950, and spends around 10 times as much now. Here again, its share of GNP has almost doubled. What have we bought for this huge sum? First of all, a significant reduction in the infant mortality rate. It was 29 per thousand in 1950, and it's around 18 per thousand now. For the population as a whole, life expectancy at birth was 68 years in 1950 and is 71 now—although not all of that gain is owed directly to better medical care. The death rates for several large groups of diseases, most notably cardiovascular diseases, have hardly changed at all over the past generation. Doctors increasingly admonish the country that there is a clear pattern of self-destructiveness in the way a great many Americans live, and any further large improvements in Americans' health is going to require changes in our behavior. We are rich enough, for example, to afford a diet that is not as good for us as the food we ate when we were poorer. As for drinking, the death rates for cirrhosis of the liver are up sharply. Medical care can do wonders—but it appears that the greatest single contribution to the health and longevity of Americans in the past couple of years was not any great scientific breakthrough but simply the 55 mph speed limit on the highways.
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> Greater wealth has meant vastly broadened protection of the elderly. In 1950, 3.5 million people were getting federal Social Security checks. Currently 32 million get them and the purchasing power of the average check has doubled. The fear of destitution in old age has always been one of the darkest shadows on human hopes and, although it persists, at least a part of the new national wealth has gone into alleviating it.

A significant commentary on this subject appeared in a recent issue of Smithsonian magazine, authored by Norman Macrae, the deputy editor of the London publication, the Economist, supervising its economic articles. Mr. Macrae has written extensively on the economic outlook during the next hundred years and is regarded as a specialist on the matter. I intend to read this article into the Record in a moment, but for those who wish to pursue this matter further, I call their attention to another article by Mr. Macrae, "Will America Blow the World's Chance for an Abundant Cheap Lunch?", in the Washington Star of October 26, 1975.

I cannot underscore too greatly the importance of what Mr. Macrae is saying in the Smithsonian and other articles.

I commend this article to the attention of all my colleagues. The article follows:

UNITED STATES CAN KEEP GROWING—AND LEAD—IF IT WISHES

(By Norman Macrae)

It is fashionable to say that economic growth will slow down from now on. I think it is much more likely to accelerate. The world's economic history is that, after a big surge when Man stopped being a mainly migratory animal in about 8000 B.C., real gross world product per capita stood practically still for 10,000 years to about 1776. Then it exploded. Real incomes have increased in 19 of the 20 decades since 1776 because of an increase in every decade in our knowledge and control over energy and matter. To this has been added, in the last two decades, a breakthrough in the processing of information, plus a nascent breakthrough in the distribution of information.

Economic growth depends mainly on the advance of knowledge, plus the entrepreneurial drive to put that knowledge into productive effect. Mathematical and other logical calculations which would have taken a month for any team to complete 25 years ago can now be done in much less than a second. This would be an odd prelude to a period during which the world's advance in knowledge by deduction, induction or serendipity abruptly slowed down.

If my guess is right, Man's main problem in the next few decades will be the same as in the last 20 decades: namely, that he is likely to be given some very dangerous toys to play with during another period of vertiginous economic advance, and may use them unwisely unless political leadership in the world continues to be very sophisticated indeed.

Through some happy accident, the two empires which as a result of very temporary dynamism led the two successive centuries of material advance—the British in the period 1776 to 1876 and the Americans from 1876 to 1976—have handled the task of world leadership rather surprisingly well. The right sides eventually won some of the big hot wars and, especially, the cold ones. This has been particularly true of these last dangerous 30 years of the American century. If we are going to look forward in bewilderment 25 to 30 years, let us also look back in wonder on the same time span. We still barely recognize the progress that has been made the world over and the escapes we have achieved.

In 1946 the average age of death of an Indian peasant was the late twenties; now it is the middle fifties. In 1946 real gross world product was one-quarter of what it is now. The political situation was that the principal arbitrating power in the free world had just plopped into the hands of two apparently small and unknown men—Truman and Attlee—by what was seen as an outrageous historical mistake. That was also the year in which one of my countrymen was, as an act of idealism, giving the secret of the nuclear bomb to a mad Russian dictator, whose qualifications for thus holding in his hands the power to destroy the planet were not comfortingly advertised by the fact that he was soon to want to condemn his doctors to death for not making him feel better on the increasingly frequent occasions when he went to bed roaring drunk.

I am sometimes accused of being too optimistic in what I write. I think, however, that anybody who has been a journalist during the last 30 years has really been living in a state of evaporating nervous breakdown. Now we come to one reason why it may not continue to evaporate.

I am sorry if this seems rude, but I am frankly worried that the American people, with all their power for dynamism and good, may be about to desert what should be their manifest and now rather easy destiny of leading the rest of us toward a decent world society and an abundant cheap lunch. The Americans in 1976 are now showing the same symptoms of a drift from economic dynamism that the British did at the end of their century in 1876. We Britons are experts at describing a drift from economic dynamism because we have spent 100 years observing it at close quarters. There were two signs of British decay by the 1870s.

First, the upper class just about then began to regard business as something rather vulgar, and to look upon new factories as things that were ecologically unfair to their pheasants and wild ducks. That is exactly the mood of America's intellectual upper class now.

Second, after about the 1870s a progressive person in British public life no longer meant a person who believed in progress, or a person who was eager to get down to the roots of the ways of doing things in order to cut and graft wherever an improvement in production or effectiveness or competitiveness or individual liberty could be obtained. A progressive person began to mean a chap who did not like progress and change very much, but who was decently eager to pass on in welfare benefits a larger part of the growth in national income which his own antigrowth attitudes now made it more difficult to attain. That is exactly the change that has also happened in America in these years just before 1976. Most of America's new senators and congressmen since about 1970 might have belonged to the Fabian Society of 1903. Nearly all American public women are Mrs. Pankhurst suffragettes; one can most easily envisage them in bicycling bloomers.

If this gloomy view is right, world leadership is likely to pass into new hands quite early in the next century. If one had been guessing in the 1870s who would take over world leadership from the British, one would have guessed Bismarck's Prussia and been quite wrong. If one is guessing in the 1970s who will take over from the Americans, I would guess Japan and probably be equally wrong. But one is left praying for one's children that it will be a sophisticated, freedom-loving country, because some bizarre dangers as well as great opportunities lie in the years ahead.

The bizarre dangers will include, first, the biophysical. The present orthodox way of creating a human being—namely by copulation between two individuals giving no thought to what the product will be—may quite soon change. Sex is already 99.99 percent for fun, and technology is bound to home in on the preplanned twice-in-a-lifetime occasion when it will be for reproduction. Our children will probably "progressively" be able to order babies with the shape, strength and level of intelligence that they choose, as well as alter existing human beings by inserting artificial intelligence, retuning brains, or artificially providing pleasure by stimulating the pleasure centers of the brain.

And lots of even more horrid things. The pace and sophistication with which some of these things are not done will hang on the world's leading nations, whom other peoples will most wish to emulate or will most fear to fall behind.

One thermonuclear explosion can now release more energy than the explosions of all the TNT in all the wars of history. A thermonuclear bomb is soon going to be almost portable. Quite small groups of fanatics and terrorists and individual criminals will therefore have the capability of destroying the planet. We have not made the slightest advance toward thinking what we will do as that power of blackmail escalates.

It is probable that nuclear weapons technology will come into the hands of lunatic governments before long. Of the 140 or so governments in the world, about two-thirds are run by people who are afraid they might be executed after a violent coup d'etat tomorrow. This does not make for a calm and unexcitable state of mind in what will become the profession of nuclear trigger-minder.

The responsibility for this lies largely with ex-colonial powers such as my own. We British left behind in the power structures of those countries ex-Sandhurst cadets and ex-London-School-of-Economics socialists. Those are the two least suitable types for ruling anything in this last quarter of the 20th century; they are now fighting civil wars against each other across all the parts of the map that were once colored in imperial pink. So we economists had better look for ways of correcting these mistakes made by experts in foreign policy.

A major need will be to pump much of the growth in the world's income into the poorest countries.

Unfortunately, two fashionable methods of trying to make poor countries richer won't work. First, nothing but harm will come from conferences on international stability that pass motions in favor of repealing the laws of supply and demand. All those attempts at creating buffer stocks are helping by definition to lock poor countries into products that are going to be over-supplied and unprofitable. Secondly, government-to-government aid does not work. To enable some African government to spend more just by putting money into its hands, and saying it need not worry about the foreign exchange consequences of inflating its internal money supply, does not necessarily raise its real GNP but may just raise its inflation; it is exactly the same as saying that the American government can safely increase its money supply and its inflation because the foreign exchange barrier to American expansion is not large. Why do people not see this?

One way in which the real GNP's of poor countries have been raised, though sometimes in the least essential fields, is by transfer of technology through multi-national corporations. It is fine that Volkswagen Brazil and Coca-Cola in several countries have raised their productivity to levels commensurate with those back home, but the most urgent need in the poor countries is not necessarily to raise productivity in motor cars and soft drinks. Aid schemes in the future will have to incorporate performance contracts whereby multinational service corporations can make a profit if they raise nutrition standards, health care standards, educational attainments or provide infrastructure in shantytowns. If the governments of any poor countries do not want such multinational service corporations, then they need not have them. But aid should be tied to projects that will raise incomes in this way, and in which performance contracts are open to bids in the market place.

The objective should be to raise ever more countries to the sort of income level where their governments will be composed of people who think of themselves and their political opponents as heading slowly toward comfortable retirement, instead of racing to get their brothers-in-law to the firing squad first. Probably the best definition of the sort of government that will not start nuclear fighting is one where the decisionmakers assume that they personally will end their lives in the local equivalent of Southern California, a dacha outside Moscow or the House of Lords. This seems usual at annual GNPs of $1,000 per capita.

Ecologists say that the main barriers in the way of further growth will be a shortage of (1) energy, (2) food, (3) raw materials, plus (4) high birthrates and (5) high pollution. But these seem to me to be the five least likely barriers to growth in the next 20 years. Energy, food and raw materials are all three in high elasticity of supply, their production is now in a state of exploding technological innovation, and yet their current selling price to advanced countries is well above even present-day marginal cost of production. The same broad considerations apply to birth control devices and to antipollution techniques—i.e., advancing technology and subsidized oversupply. If we do run into temporary shortages of supply, it is much more likely to be in areas where we do not allow a market mechanism to operate properly, such as water and nonacademic education.

Just as the first, or British, century of industrial advance from 1776 to 1876 was based on the transport revolution of the railways and on steam power, just as the second or American century of 1876 to 1976 was based on the transport revolution of the automobile and on manufacturers' assembly lines, so the third century of 1976 to 2076 is likely to be based on the third and by far the biggest transport revolution—that of telecommunications—allied to knowledge processing. Remember that once a telecommunications system is in being, no greater strain is put on it by ringing China than by ringing the house next door. This is likely to change the whole pattern of our lives, because it probably means that an increasing number of us will no longer have to live near our places of work. We will be able to live in Tahiti, if we want to, and telecommute daily to our New York or Frankfurt or Tokyo office in order to have daily contact with the computers and colleagues with whom we work.

Sociologically, this suggests that the age of urbanization may be about to end and the problems of reruralization about to begin. This will have these consequences for America's three main institutions, which are, in reverse order of importance, its business corporations, its governments and its mechanisms for living together (by which I mean what takes over from church, family, pioneer spirit, small-town togetherness, the probably failed experiment of suburbia, and so on).

We are in any event bound to change the nature of our business corporations. In the industrial countries we have grown rich during the age of hierarchical business corporations, in which each executive arranges what the man below him will do with his hands, all the way down to the man turning a screw on the assembly line. Now, two rather fundamental things have happened. First, we have begun to realize that workers in rich countries don't like working in such places. Secondly, the rich countries are moving out of the postmanufacturing age, but they still have great hierarchical corporations in which executives sit behind their desks trying to arrange what the man below will do with his imagination. This no longer works. New forms of business organization will have to be found, probably changing big corporations into confederations of entrepreneurs. The firms and countries that will go bust in these circumstances are those that try to replace hierarchical corporations by even more ossified forms of hierarchy—say, by deciding that you mustn't have a boss trying to arrange what free men do with their imaginations, but can have a trade union committee doing so instead.

The process will be abetted by two factors to which I have already referred, the need to move more industry to the poorer countries and telecommunicating. As a prototype for the most successful sorts of firm in 30 or 40 years' time, it may be sensible to visualize small groups of systems designer organizers, all living in their own comfortable homes in pleasant parts of the world and communicating with others in the group (and with the systems designers) by picturephone: arranging for the telecommunication of the latest computerized learning program for making a better mousetrap (or, more probably, for making the next-successor-but-five to integrated circuits) to about 2,000 quickly trainable, even if only newly literate, workers assembled before their two-way teaching computer terminals by some just tolerably efficient organizing subcontractor (also taught by long-distance telecommunicated lessons) in West Africa or Pakistan.

Changes in government and society will differ from country to country. I will talk about America here. The American system has been to set up lots of competing governments—both in Washington and at the local level (where the overlapping among thousands of local authorities leaves any foreign journalist at first feeling stupid because he cannot work out who is supposed to be doing what, then feeling relieved because he discovers that Americans don't know who is supposed to be doing what to whom, either, and then feeling bewildered when he discovers that those who are supposed to be doing something don't know what they are supposed to be doing). This system of government has one huge advantage, but it also has one growing disadvantage.

The advantage, as Madison saw when he created it, is that multigovernment saves America from being ruled by a "tyrannous majority," or indeed any tyranny. The disadvantage is that it is the most inefficient system that could be conceived for spending money. I have a theory that across most of the world the marginal productivity of new employees in the government sector has for some time been negative, which is awkward because the government sector has become the fastest-growing area of new employment.

Suppose you were an inquiring Martian and asked the normal questions to assess productivity in the public sector over the last 20 years. By how much have crime rates gone down? How far has the legal system become more expeditious? By how much is the urban environment more beautiful and its infrastructure better fitted to meet changing demands? By how much has welfare spending strengthened the family structures of the urban poor and advanced the other intentions most vital for making the poor happy, including especially making them more confident about the atmosphere in which their children are passing their teens? By how much has the huge spending on defense made it certain that you will win in less than Austerlitz's painless ten minutes any war threatened by little countries in, say, Southeast Asia? The answer has to be that, over the past 20 years, and after vast expenditure of the taxpayer's dollars, we are failing each of these tests of productivity ever more abysmally.

In the free industrial countries we now pick the purveyors of about three-fifths of our goods and services (detergents, for example) through competitive consumer choice, and we pick the purveyors of the often most essential other two-fifths of our services and goods (such as city management) through casting votes. At present the mechanism for picking purveyors of detergents (free market competition plus mendacious advertising plus independent assessments by consumers' associations) is plainly working better than the mechanism (known as the great democratic process) for picking presidents and mayors. This is not a matter of personalities. Elections are the right way of picking whom we want to decide on great issues of peace and war and compassion, but the present government system—namely a fixed, settled, job-protecting bureaucracy with the public just being allowed to vote for whichever plastic, public-relations figure of a mayor it wants to put over it—cannot be as efficient as a competitive market system for choosing the best rapidly changing technology for managing a city's sewage system. We are going to have to move toward voter participation in defining what the community wants from a public service, and then to extend new sorts of market competition to find who can most efficiently provide it.

A difficulty here is that it will make employment in the public bureaucracy the most insecure of jobs, where at present people have come into it after having been promised that it is the most secure job. When a single customer switches from one detergent to another, that does not automatically render all the employees making the first detergent redundant. In those parts of the public sector where we can bring about reprivatization by voucher schemes, as in education, gradual change will be possible. But a lot of public services have to be provided collectively, so I am envisaging a system where a community will move toward running its environmental services by choosing one performance contractor over another.

The most vital economic question in advanced democratic countries is probably whether we can get our overswollen bureaucracies and public service unions to accept this before they themselves become sufficiently large and powerful totally to resist it. Once you've failed in this, as my own country of Britain already may have done, then your grim prospect is that productivity in the most vital community services will, relative to the new technological opportunities being offered, inevitably decline. You may conceivably be past this stage in America, too, but my hope is that the new telecommuting age—making it possible for many people to live away from their jobs and thus in smaller communities—may reverse this.

The most fascinating conclusion for a frequent visitor to America in the months around its 200th birthday is that the country is obviously on the verge of another change in location and thus life-styles. The two previous runs of this drama had such unexpected results. First, there was the hugely successful period a century ago between about the 1870s and 1880s. In one decade the per capita murder rate in the cow towns and mining settlements was ten to 20 times that of New York City today. Then the homesteaders brought west with them the settled family structures which produced just about the most decent, as well as progressive, small-town neighborhood system the world has seen.

Then, in a single decade between the 1950 and 1960, many things went wrong as the poor poured into the cities and the middle class moved out to the suburbs, unexpectedly making both worse than they were. The influx into the cities proved to be of cowboys, not homesteaders, as family structures of the new immigrants broke down. Meanwhile, in suburbia, Mom went on tranquilizers, the kids on drugs and the working father onto martinis. American universities and planners were not ready for the urban crisis and they castigate their seniors for not recognizing that from the early 1950s on, the rural-to-urban migration had begun to involve 500,000 people a year. However, they say that they've got professors of urban affairs and large urban departments all in place to study the problem now.

Meanwhile, it is unpopular to point out, the tide flows on. In the first years of the 1970s there has been a population rise of just over 350,000 a year in America's nonmetro areas, and telecommuting will surely cause this to increase faster. The new lifestyles associated with this are the most interesting topics for discussion. As an Englishman with no tradition of understanding new frontiers, I always come to the United States eager to listen to such discussion. The silences so far are deafening.

NEW EVIDENCE THAT GUN CONTROL LAWS DO NOT REDUCE CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. STEIGER) is recognized for 10 minutes.

Mr. STEIGER of Arizona. Mr. Speaker, about 9 months ago, I addressed this body to point out that the advocates of gun control laws had presented no evidence that any form of prohibitive firearms legislation had achieved its stated objective of reducing crime. I urged each Member to ask the advocates of gun laws: "Where has such a law reduced crime?"

During these ensuing 9 months, I have listened to many statements in this Chamber and elsewhere that this or that type of gun law "should reduce crime" or "will undoubtedly reduce crime," but I have listened in vain for any evidence that existing State and local gun control laws have in fact reduced crime.

As you know, the distinguished members of the Judiciary Committee have now approved a firearms prohibition bill. It is my understanding that the bill will prohibit the manufacture and importation of certain handguns which the advocates and the press call "Saturday night specials," which, if pressed, they describe as "cheap, small, easily concealable handguns." But price or cheapness is nowhere mentioned in that bill. And some of the handguns which it would prohibit are anything but small, and anything but cheap.

For instance, for a hundred years, one of the most popular handguns in my district of Arizona, and indeed throughout the West, has been the Colt .45 caliber Single Action Army, the famous "Frontier" or "Pacemaker" model which was originally adopted by the U.S. Army in 1873, and which quickly became a favorite of ranchers and law enforcement officers throughout the West. That same gun, with only a few modifications, is still made today, and is still a favorite among the ranchers and sportsmen in my district. That gun is a foot long, and weighs close to 2½ pounds; the price of the least expensive model is $246.50. The Judiciary Committee's bill would prohibit the future manufacture of that famous handgun, while ostensibly prohibiting only "small and cheap handguns." I submit that the Single Action Army is neither.

There are many other iniquitous provisions in the Judiciary Committee's bill. That bill imposes a 14-day waiting period before a dealer may deliver a handgun, and it limits handgun purchases to one gun per month. It increases the fees of firearms dealers, and it places additional restrictions and requirements to be written by the Bureau of Alcohol, Tobacco and Firearms. Those are dangerous tools to give an agency which has publicly proclaimed its intention to eliminate three out of every four licensed dealers.

But my purpose today is not to discuss the details of the bill, rather to point out that the restrictions which the bill would impose—waiting period, restrictive licensing of dealers, even the prohibition of manufacture of certain types of handguns—are not new; all of those approaches have been tried by various States in the past. Further, far more restrictive requirements than those imposed by the Judiciary Committee's bill have also been tried. Nine months ago, I pointed out that there was no evidence that any of those measures have succeeded, wherever tried.

Now I bring you additional evidence that gun laws do not reduce crime, even those gun laws far more restrictive than proposed by the Judiciary Committee. I call your attention to a statistical study entitled "Handguns, Gun Control Laws and Firearm Violence" which appeared in the October 1975 issue of Social Problems. This most revealing scientific study was written by Douglas R. Murray of the Department of Sociology, University of Wisconsin and was supported in part by a National Center of Health Statistics grant. By no stretch of the imagination can this study be dismissed as "merely pro-gun propaganda."

In this study, the author first explores the history and literature of gun control legislation, pointing out that there has been amazingly little empirical research into the effectiveness of firearms laws. He notes that even the President's Commission on Law Enforcement and Administration of Justice made sweeping claims for the effectiveness of gun control laws, but without producing evidence to support those claims.

In Murray's study, a multiple regression analysis was used in an attempt to correlate crime statistics to the gun control laws of the various States, taking into consideration the social factors which numerous studies have shown to have a direct relationship upon crime rates.

Murray explored three hyoptheses: First, that gun control legislation can substantially reduce violence; second, that gun control legislation will reduce access to handguns among those who misuse handguns, and third, that there is a relationship between access to handguns and acts of violence involving handguns.

On the first point Murray states:

> It is implicit in the arguments of the proponents of such (firearms) legislation that such laws should play a significant part in lessening crime. . . . The results of this regression analysis indicate that, in general, the severity of handgun control laws has no significant effect on the violent crime rates of the 50 states.

On the second point, Murray writes:

> The failure of gun laws to control the use of firearms in the commission of violent crimes may be a consequence of the fact that these laws do not effectively limit access.

He tests this hypothesis statistically and finds:

> The conclusion is clear. Gun control laws do not have any apparent effect on a large enough proportion of the population or on those critical elements of the population who want them.

Murray then writes:

> At this stage of the analysis, the data have indicated that gun laws have no effect on either handgun ownership or on crime rates, suggesting that this type of legislation is totally irrelevant to its stated purpose. Therefore a return to the basic theory of firearms control legislation seems in order. As stated, the primary reason for the existence of these laws is to control access to guns so that guns are less likely to be used in acts of violence. Thus far, the relationship between gun laws and crime rates is non-existent.

Murray then tests the third hypothesis, is that there is a relationship between access to handguns and acts to violence involving handguns.

Again he finds:

> On the basis of these data, it seems quite unlikely that the relative availability of handguns plays a significant part in explaining why some states have higher rates of acts of violence associated with firearms.

Murray notes that this conclusion is supported by the findings of Marvin E. Wolfgang, whose "Patterns of Criminal Homicide," based on an extensive study of murders in Philadelphia, is a standard text book in the field of criminology. Although Wolfgang is a "very strong proponent of the strictest of gun legislation," his book states:

> Several students of homicide have tried to show that the high number of, or easy access to, firearms in this country is causally related to our relatively high homicide rate. Such a conclusion cannot be drawn from the Philadelphia data.

Mr. Speaker, I submit that the Murray study demolishes some of the most cherished assumptions held by the proponents of firearms control laws.

While some might contend that Murray's conclusions are in error, where is the evidence to refute his conclusions? The proponents of firearms laws have had ample opportunity to show that gun laws work; they have not, for they cannot.

Murray suggests that we reexamine the theory that gun laws will reduce crime, for his study shows that "gun laws have no effect on either handgun ownership or on crime rates." But that is the primary reason for the existence of these laws, and the assumption which is the basis for the Judiciary Committee's bill.

How can we pass such a law in the face of the evidence that it will not work when far more restrictive laws have failed to work?

THE HIGHWAY TRUST FUND AND THE BUDGET CONTROL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. ADAMS) is recognized for 60 minutes.

Mr. ADAMS. Mr. Speaker, apparently, there have arisen some questions that should be answered about the relationship between the highway trust fund and the congressional budget process.

I should like to address myself to the several points that have been raised regarding this issue.

Placing a limit on highway trust fund spending for a fiscal year does not violate the integrity of the trust fund in any way. It does not diminish the amount of money that is in the trust fund. It does not permit the diversion of trust fund moneys to some other purpose.

Placing a limit on highway trust fund spending for a fiscal year does provide a safeguard against a sudden and devastating increase in the Federal deficit that would be totally unanticipated and particularly difficult to explain.

Just so that Members understand how this could happen it should be remembered that last year highway program commitments ballooned a cool $1 billion suddenly and unexpectedly in the final month of the fiscal year. In fact, the program managed to obligate $700 million in the last 24 hours of that fiscal year. This occurred even though the Senate, during the course of a debate on removing the presidential deferral had been assured it would not happen.

No one is trying to tell the Public Works Committee how much money should be expended from the trust fund in a given year. We would welcome the Public Works Committee setting of a ceiling each fiscal year which they could adjust when necessary as part of the overall budget process each year. All that is required is for the Public Works Committee to set a program level from which the Budget Committee can set outlays, first in the target resolution, and later in the second budget resolution which sets ceilings in the overall Federal outlays for the upcoming fiscal year.

Congress now has a budget procedure—a new budget procedure—and to make it work we need to have some idea of how much money we can reasonably expect will be spent each year by such programs as the highway trust fund. The Public Works Committee is welcome to set any ceiling it wishes and the House will work its will. But, without any ceiling at all, we are vulnerable to sudden and vast increases in the amount of money that Congress must spend. Such unanticipated increases in expenditures will either swell the deficit or crowd out other programs as a result of the fixed ceiling contained in the second budget resolution.

What the Budget Committee seeks here is not increased power at the expense of some other committee. We seek merely a reasonable approach to a serious budgetary issue, commonsense and a degree of order without which we cannot achieve fiscal responsibility.

Let me recall for the House some of the reasons why Congress embarked on this venture of budget control. It is a deliberate effort to restore the power of the purse to the Congress where it rightfully belongs. The key to control of spending and setting priorities in the congressional budget process is to provide allocations to each function of government within an overall ceiling on Federal expenditures. This ceiling represents the will of Congress with respect to fiscal policy and program priorities. Living within a ceiling—which when it is subtracted from revenues gives a surplus of deficit—is not an easy matter, and may well involve difficult choices.

Those who resist setting any limits on the highway program rightly point out that its expenditures, like those in many other programs, are not easily subject to control through the annual appropriations process. This does not allow the Congress to avoid the impact that such a program on the congressional budget program embodied in the resolutions adopted jointly by this House and the other body.

Our self-imposed aggregate ceilings do not rise and fall in response to changes in these so-called uncontrollable programs. The aggregate ceiling is firm and fixed, and therefore it is the controllable programs which must take the brunt and be adjusted to make up for changes any programs which do not have annual restraints. Given this situation, we on the Budget Committee are obligated to bring to the attention of the House the manner in which policies and priorities in our budget resolution effect each other. Setting a limitation on highway obligations is just such an instance. We do not argue that highway obligations are sure to rise and bust the budget in the absence of a limitation, but those of us on the Budget Committee who are responsible for the budget resolution target scoring and presenting the second resolution ceilings in fall must assure compliance with the resolution targets to the best of our ability.

The conference agreement on H.R. 14234, the Transportation appropriations bill, includes a Senate-passed provision limiting obligations under the Federal-aid highway program. The Budget Committee has expressed its support for such a limitation.

In fiscal year 1977, funds available for obligation by the States will total at least $11.9 billion and could rise to as much as $14 billion in fiscal year 1977 if current obligations continue to lag behind expectations.

In order to preclude an inordinate rise in the fiscal year 1977 program and to control outlay levels in future years, the outlay figure in the budget resolution assumed total obligations of $7.2 billion in fiscal year 1977. This represents an increase of $500 million over the amount requested by the President, and is in line with projected construction plans submitted by State highway departments.

It should be made clear that any additional outlays resulting from the lack of a ceiling will add to our overall budget deficit. Under the unified budget, Federal expenditures and revenues from all budget sources including this fund are taken into account in determining the deficit or surplus, regardless of whether they are attributable to a particular trust fund, or whether a particular fund is in surplus or deficit. Thus, if total revenues remain as assumed in the budget resolution and outlays are increased—whether for highway or any other activity—the deficit will be higher.

A ceiling on obligations would not result in a diversion of funds from the highway trust fund; the Federal-aid highway law itself prevents that from happening. Money remaining in the trust fund, in fact, earns interest for the fund—at a rate of some $600 to $700 million a year.

The enactment of budget authority for programs financed by trust funds such as the highway program is specifically exempted by the Budget Act only from the new backdoor spending controls; however, the exemption is only from those controls and not from the expenditure and revenue controls of the new budget process itself. The statement of managers on the conference report on the Budget Act legislation states this clearly:

> The managers note that these exemptions relate only to the procedures in section [401] and that the programs are fully subject to the Congressional budget process.

If the Senate provision similar to the provision both Houses adopted last year is accepted, the obligation ceiling would be $7.2 billion, plus whatever funds are obligated in certain exempted programs. The Congress can be assured that its overall outlay targets will not be breached by unplanned activity and a pattern of smooth flow in highway program levels can be continued.

In considering the desirability of this provision, it is equally important to identify certain features that clearly are not intended as part of a limitation.

A limitation on obligations is not intended as a means for the administration to reorder program priorities, but only a measure of overall economic impact in this significant Federal program. The Appropriations Committee has made this clear in their directions regarding the ceiling.

Nor is a limitation on obligations intended to discourage highway construction as a means of generating significant job stimulus. The increase from the administration proposal of $6.7 billion to more than $7.2 billion is a part of our congressional economic recovery package. A review of the highway program and the States' capability to move forward will be part of the preparation for the second budget resolution, and an upward revision of the ceiling could be provided in a supplemental appropriations bill. Additional flexibility could also be provided as part of our budget for programs of public works acceleration. A balanced program of targeted spending to produce jobs and economic recovery is our first order of business. To the extent transportation construction can contribute to this program, we should utilize it—but in a way consistent with a recovery path that is leading us toward a balanced budget within 2 to 3 years.

Based on all these factors, it is my position that the House should continue an obligation ceiling on the Federal-aid highway program for fiscal year 1977.

CLEAN AIR ACT AMENDMENTS OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 20 minutes.

Mr. PREYER. Mr. Speaker, the Clean Air Act Amendments of 1976 (H.R. 10498) as reported by the Committee on Interstate and Foreign Commerce, have sparked considerable controversy. This bill is worthy of serious discussion and careful analysis, as it attempts to cover a wide range of environmental issues, taking into account matters affecting energy, cost, air quality, and the public health.

The importance of the "no significant deterioration" provision in this bill can hardly be overstated. The way it is handled may very well plot a new course for future industrial development in this country.

This provision, in part, deals with the question of what should happen in regions where air quality is already better than the national standard. Should it be the national policy to allow these areas to become uniformly dirty up to the levels of the national air standards, or should existing clean air be protected?

How this question is answered is of real concern to the clean air States, of which my own State of North Carolina is one. These States fear that an overly rigid insistence on keeping their air clean will seriously handicap future development, because the "cleanest" States are often the least developed.

The industrial States, on the other hand, fear that if all States are allowed to pollute to the national standards, incentives are created to develop in rural areas, thereby draining industrial development from urban areas. For example, if electric utility companies are allowed to build in clean air areas without the use of scrubbers and other pollution control equipment which would be required in polluted, urban areas, then the companies would likely build in the rural areas.

The bill confronts this problem through a balanced approach, rather than giving a categorical answer. It recognizes a number of factors. For one thing, it blocks off the escape hatch, discouraging industry to avoid new technology by moving to rural areas. One way it does this is to require new plants constructed in clean air areas to install just as good or better control technology as is required for areas—primarily urban—where plants have already been constructed. This makes economic sense for such a plant since available scientific evidence indicates that stricter, rather than more lenient, air standards will be required in the future, and it would be much more costly for such a plant to retrofit.

Second, the bill says to the clean air States that there must be a national policy to reasonably protect our clean air resources, and that policy sets a ceiling on what level of pollution clean air States can reach. A clean air area cannot simply go up to the national ambient air level standards—and then stop. The clean air amendments say that clean air areas can go up to a maximum of the secondary standard or 90 percent of the primary standard—when there is no secondary—whichever is lower.

It also sets limits on the amounts clean air areas can increase pollution. It says that there are a few areas—national parks and wilderness areas over 25,000 acres in size—in which there is an esthetic—and not only health—interest in preserving them permanently in their pristine condition. This may restrict basic polluting industries in the immediate vicinity in regions like southern Utah that are interlaced with parks, but it affects only about 1 percent of the land area in the Nation. These are called class I areas.

There remain class II and class III areas in which substantial growth in pollution is permitted. A class II designation allows pollution increases not to exceed 25 percent of the national standard. In many clean rural areas, this will not allow increases anywhere close to the national standard. For example, if an area has a pollution level of 10 and if the national standard is 100, that area could only increase pollution by 25 to the level of 35. If the area had a pollution level of 70, under class II, it could grow to 95.

A class III area could increase pollution up to 50 percent of the national standard. Thus, in an area with a pollution level of 10, pollution could increase to a level of 60. An area with a level of 70 could increase to a level of 100, because although 70 plus 50 percent of 100—or 50—equals 120, under no condition may pollution exceed the national secondary standard—which has been set at 100 in this example.

The important point about class II and class III is that it is up to the States to determine whether to adopt class II—small to moderate increase in pollution—or class III—moderate to substantial increase. This is a basic change in the present law—that is, to allow the States to make this decision, rather than allowing EPA to make it.

The minority report argues that the process by which this is done would "significantly increase the administrative burdens of the States." Such a decision should not be unduly complicated, of course, but the decision to shift from class II to class III is so important to the future of an area that it should not be done lightly—as, say, at the request of a Governor. What the classification process does is require the States to take a serious look at the nature of industrial growth in their State, rather than simply letting growth beget growth.

States will be required to think ahead. What will happen to an area of a State when it reaches the national standard? Should a margin be left for a new powerplant in the future before the air is filled up with too many "dirty" industries? H.R. 10498 provides for planned growth of pollution and planned economic growth in general. It allows the States to balance the benefits of economic growth against the benefits from clean air—which is also an economic benefit if the State is a tourist region. The bill helps prevent the temptation for a State to reap short-term economic benefits by "selling air." It helps meet the Nation's fundamental needs—to maintain industrial growth while rationing scarce clean air.

While it sounds logical to let all regions of the country go to one and the same national level of pollution, it would be a foolish kind of consistency to do so. As mentioned earlier, there is almost certainly no threshold level for air pollution below which no health danger exists. Dr. John Finklea, Director of the National Research Center of the EPA, confirms this point. He says:

> In general, the apparent safety margins in the primary standards have decreased as more complete health information becomes available.

Recent studies also show harm to vegetation, crops, buildings, and textile materials from air pollution at levels below the air standards. Visibility, though not always a health matter, will be greatly reduced if pollution is allowed to increase up to the level of the standards. For example, visibility in the Grand Canyon, where objects can now be seen as far as 50 to 100 miles, would be reduced to 12 miles or less.

Furthermore, air pollution is not stationary, but travels hundreds of miles. The phenomenon of "acid rain" is found even in remote rural areas of New England. In fact, the Forest Service warns of a serious problem from the chronic exposure to low levels of various pollutants to our forests.

There has been much discussion about the monetary costs utilities consumers would have to assume because of the "no significant deterioration" provision. According to an EPA analysis, H.R. 10498 will increase the average residential electric bill and the costs of other household goods and services by 1.9 to 2.3 percent, or approximately $9 to $14 per year through 1990. This means that, by 1990, the average residential customer can expect to pay between 75 cents and $1.15 extra per month in return for the multiple benefits of cleaner air.

The electric utility industry conducted an independent study, and came up with strikingly similar results. The utility industry concluded that the maximum conceivable increase by 1990 would be 3.8 percent or $2.40 per month. Other utility industry data show that cost increases might be insignificant as 29 cents or less per month in certain areas of the country. Clean air is a good and, like all good things, it costs money. The cost is most reasonable balanced against the benefits.

In short, then, we need the standards set out in the "no significant deterioration" section of this bill to stimulate the development of new technologies to meet these problems. And we can do this at a minimal cost. It is within our capacity, if we have the will, to develop new, clean industrialization in clean air areas. It will save these areas, and the new technology can be applied back to the cities, making them more livable as well. It is clear that this provision is backed by eminently sound reasoning and good judgment.

DESEGREGATION: A VIEW FROM THE FEDERAL BENCH

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS), is recognized for 5 minutes.

Mr. **DIGGS**. Mr. Speaker, on June 3, 1976, Federal Appellate Judge George Edwards of the sixth judicial circuit court of appeals addressed the conference of the American Issues Forum in Chicago on the issue of desegregation.

Judge Edwards, a native Michigander and one of the our State's proudest exports, carefully outlines the history and present situation of the problem of desegregation of our public facilities.

I believe his address is an important reference work on this subject. and commend it to the attention of my colleagues:

DESEGREGATION: A VIEW FROM THE FEDERAL BENCH

(By Judge George Edwards)

Desegregation of schools is only one aspect of a much larger problem best known as race prejudice in America. In positive terms the challenge is how to provide equal protection of the laws and equality of opportunity for all Americans.

My role today is limited by the position I hold. As a federal appellate judge from another circuit, it would be inappropriate for me to comment on Chicago's problems or the court remedies which may be sought. In the four states which comprise my circuit (Michigan, Ohio, Kentucky, and Tennessee) we have ample difficulties of our own.

One more introductory note. You have a right to wonder whether your speaker is a legal theorist who lives exclusively with law books and legal logic. I was born and grew up in Dallas, Texas, a long time ago when it was a very small and very Southern city. I have lived and worked most of my life in Detroit, where I served my city as Director of its Housing Commission, President of its City Council, and Judge of its Juvenile Court. I served in elective office as Circuit Judge and Justice of the Michigan Supreme Court until in the middle of my second term I resigned to take the post of Police Commissioner of Detroit in 1962 and 1963 in the midst of a racial crisis. I have never figured out what if any credit I could claim in the Doomsday Book for helping to postpone—but certainly not prevent—the terrible Detroit riot of 1967 which I had to live through as a bystander.

Now I live in Cincinnati, Ohio, on the Mason-Dixon line and work in a federal court with jurisdiction over two Northern and two Southern states. Life has never been dull.

In the time allotted me I plan to do three things: First, describe the history of the problem today; second, share some thoughts about "busing"; and third, express a citizen's concern about the growing problem of urban apartheid we deal with.

The problem of today began long before this country was a nation. In 1619 a Dutch ship landed at Jamestown in the British colony of Virginia. It carried 20 Negro slaves from the coast of Africa. By the outbreak of the Civil War 241 years later, it is estimated that there were four million slaves in the United States—all of these or their progenitors had been brought here in the holds of slave ships sailing the infamous Middle Passage from Africa to the Americas. That Passage, where millions of captive Africans suffered and hundreds of thousands died in torture, is one of history's worst examples of man's inhumanity to man.

On a typical slave ship, the 'tween decks hold where the slaves were kept was three and one-half to five feet high. The slaves were compelled to lie "spoonfashion." The space was divided on the basis of 18 inches by five and one-half feet. Every man, but not the women and children, was ironed to another and then to a bar running the length of the hold. There were no sanitary facilities. The presence of a slave ship on the open sea was frequently made known by its stench long before its topsails could be seen. If provisions ran low on a bad voyage, the sick or the weak among the slaves were thrown overboard so as to divide the food with the most likely to survive to market. Depending on wind and weather, the voyage from the African slave coast to the east coast of America might take anywhere from one to three months. It is estimated that 20% of all the slaves embarked died on the voyage.

One could wish that much better could be reported about slavery in the colonies and in the United States after independence. There are, of course, many individual instances of kind masters and cherished slaves. Such stories pertain, however, almost exclusively to the house servants and not to the field hands who comprised the great majority of slaves. But the fact is that slavery as an institution treated human beings as wholly-owned physical property—disposable at the will, whim and caprice of the master. Slaves until the Emancipation Proclamation of 1863 had no legal rights in courts. It was a crime to perform a marriage ceremony between two slaves. The master had the right to breed the female slave to the male slave *he* chose. He also had a right to use the female slave for his own sexual gratification—and if we compare African skin color to the skin color of American "blacks," we know how often that privilege was exercised. Fathers among the slaves had no rights at all in relation to children, and usually had no relationship. Slave mothers usually reared their young—but their children could be and frequently were sold away from them like any other animal produce. Guns, chains, whips, and bloodhounds were the means of enforcing slavery. By law, up to the very end of the Civil War, black-skinned men, women, and children were treated like animals rather than like human beings.

It would, of course, distort history to fail to note that there were those who protested. In time their numbers grew to be legions, but the growth of abolition influence was slow and faltering.

The most inspiring and prophetic sentence in American history was written in 1776. It still haunts us 200 years later. In the Declaration of Independence Jefferson wrote:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that are Life, Liberty and the Pursuit of Happiness."

Viewed in the context of its times, this was a strange assertion. Nothing really could have been much less self-evident under the rule of George III of England. This was a declaration of revolt against absolute monarchy, made with high hope in the founding of the first nation dedicated to equality of man in the history of the world.

Implicit though ignored in that ringing phrase, and in the Constitution which followed, was the deadly contradiction to which we have already referred. The equality sought was not extended to Negro slaves. The Constitution itself made this clear. It contained matter of fact references to the institution of slavery but did not employ the word. Where the context showed clearly the reference was to slaves, the Constitution used the term "persons"—a term likewise employed to describe all citizens of the new country.

Some who drafted these documents clearly knew what they were doing. Three Virginians, Jefferson, Madison and Mason, were among the most influential drafters of the Declaration of Independence, the Constitution, and the Bill of Rights. All three were thinkers and philosophers far ahead of their time. All in the face of hopeless odds expressed their opposition to both slave trade and slavery. Though each owned slaves themselves, it seems likely that they wrote with deliberation and that they meant in God's own time for the unqualified declarations of equality and freedom to apply to black as well as white, slave as well as free.

During the first 90 years of the Republic, the courts, in dealing with cases involving slavery, found the freedom language of the Bill of Rights to be indigestible material. The answer lay in redefining terms. The use of the word "person" in the Constitution was ignored. Slaves, for purposes of the law, were not citizens, they were not even men, they were chattels; they were things.

For Chief Justice Taney of the Civil War Supreme Court, even a freed slave remained in a sub-human class—a thing less than a citizen—less than a man. It was a bad stroke of fate for the young nation that a judge with such deeply ingrained prejudice was to lead the Court in the *Dred Scott* case. Speaking of both Negro slaves and freed men at the time of the Revolution, here are Taney's words:

"They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the Negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race."

Most historians believe that the *Dred Scott* decision made the Civil War inevitable.

Let us pause to take note of the tragedy of that conflict. When North fought South more men died than have died in all other wars in which the United States has engaged. The Civil War cost 617,000 dead—359,000 from the North, 258,000 from the South.

However, many purposes may originally have been involved in the Civil War, the Emancipation Proclamation followed by the Thirteenth, Fourteenth and Fifteenth Amendments established that the release of the Negro from slavery and his restoration to full citizenship was one fundamental war aim and result.

Those who wrote the Thirteenth and Fourteenth Amendments sought to make the matter crystal clear. The Thirteenth Amendment abolished slavery. The Fourteenth

Amendment made all persons born in the United States citizens and then provided:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

When we reread these words, we are led to wonder how, if we were now to undertake the task, we could devise words more specifically designed to establish and command complete equality for all persons under the law of our land.

And, for a time in the immediate aftermath of the Civil War and the Reconstruction Period, the Fourteenth Amendment was read clearly and enforced. In 1879 the United States Supreme Court, in *Strauder* v. *West Virginia,* struck down a criminal conviction because West Virginia did not include its Negro citizens in its jury panels. The opinion of the Court reads today like one from this decade.

A long hiatus followed, however. Congress found reconstruction government a long, bitter, and expensive experience. The abolitionists of the North, having won their legal victory, lost followers and enthusiasm. And in the South, bitter men who had met but never accepted defeat organized the Ku Klux Klan and lynch law to repeal in actual fact the hated Amendments which they could not strike from the books. Between the Civil War and the 1940's there were probably 5,000 lynchings.

Segregation was the Klan's substitute for slavery. It had never been a part of the pre-Civil War Southern culture. The freest of contact and association had been the rule between master and body servant. Slavery served to define the station of each and to make clear the inferior status of the slave. Once slavery was legally dead, segregation was needed in order to reassert Negro inferiority and to require his acceptance of inferior facilities in every aspect of his life.

By 1896 segregation as a system had prevailed overwhelmingly and had been written into the laws of all of the southern states. In practice segregation had penetrated the nation.

In that year, the United States Supreme Court found itself confronted by the first constitutional test of segregation by state law. A man named Plessy, ⅞ white by birth, went into a railroad comppartment reserved by Louisiana law to whites. He was arrested and charged with being a Negro and, hence, in violation of the Louisiana railroad segregation law. It was established to the satisfaction of the Louisiana courts that one of Plessy's eight great-grandparents had been a Negro, and he was convicted. Plessy's appeal seems to have been directed primarily at the illogic of the Louisiana view that the "inferior" Negro was so potent that one Negro great-grandparent outweighed seven white great-grandparents.

In the end, the United States Supreme Court found this Louisiana view of the facts permissible, and then turned to deal with the Fourteenth Amendment point which *Plessy* had raised somewhat as if by afterthought.

The mandatory language gave the Court little trouble. It simply assumed the inferiority of the Negro as a fact, and proceeded from there to reason that when the law recognized that fact no damage had been done. The key sentence in the Court's holding runs:

"A statute which implies merely a legal distinction between the white and colored races—a distinction which is founded in the color of the two races, and which must always exist so long as white men are distinguished from the other race by color—has no tendency to destroy the legal equality of the two races."

As there were brave men who fought (and sometimes died fighting) against the Ku Klux Klan and lynch law, so there were in the courts. John Marshall Harlan's dissent in *Plessy* made sure that all who read knew that the Fourteenth Amendment and the doctrine of equality and freedom had been betrayed by the Court, which was their guardian.

The opinion, which all except Harlan signed, held that, where facilities for the races were equal, the law could require them to be separate. And it illustrated its point of reference to separate schools for Negro and white children.

What followed represents tortured pages of legal history. The Court reiterated the *Strauder* holding barring states from employing all-white jury panels for criminal trials. It declared violative of the Fourteenth Amendment a Louisville, Kentucky ordinance which had specifically forbidden Negro occupancy of certain areas of the City of Louisville. But it held to the *Plessy* separate-but-equal rule in a series of cases which produced some ludicrous, if not obscene, results. These included the criminal indictment and conviction of Berea College because its founders' understanding of Christianity required them to teach Negro and white students without discrimination. In another case, confronted by the fact that Oklahoma had no Negro graduate schools even under the *Plessy* doctrine, the Court had to rule that a qualified Negro student had to be accepted. Oklahoma complied by using a segregated three-sided anteroom adjacent to the classroom wherein a student named McLaurin received his education.

While these cases were haunting the conscience of the Court, the fact was that in most Southern states and cities not even the vaguest pretense was maintained of compliance with the *Plessy* doctrine. Separate schools there were for white and Negro children. But equal, they were not.

In 1954, after protracted argument and briefing, the Supreme Court overruled *Plessy* in *Brown* v. *The School Board of Topeka.* It did so in a relatively brief opinion. Written by Chief Justice Earl Warren, the opinion was notable for its clarity and for the fact that it was signed by all of the Justices of the Court, including three from Southern states.

The Warren opinion attacked the separate-but-equal doctrine directly, citing authority for the proposition that there could be no such thing. The opinion concluded:

"We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been of the equal protection of the laws guaranteed by the Fourteenth Amendment."

The Court ordered the dismantling of the dual school system of the South and the desegregation of schools which were segregated on the basis of race. You know the cases which have followed:

Cooper v. *Aaron*—where President Eisenhower ultimately sent federal troops to confront a defiant governor.

Green v. *County School Board*—where the Supreme Court called for a school board desegregation plan which "promises realistically to work now."

Swann v. *Charlotte-Mecklenburg Board of Education*—where Chief Justice Burger wrote for a unanimous Court:

The decree provided that the buses used to implement the plan would operate on direct routes. Students would be picked up near their homes and transported to the schools they were to attend. The trips for elementary school pupils average about seven miles and the District Court found that they would take "not over 35 minutes at the most." This system compares favorably with the transportation plan previously operated in Charlotte under which each day 23,600 students on all grade levels were transported an average of 15 miles one way for an average trip requiring over an hour. In these circumstances, we find no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation. Desegregation plans cannot be limited to the walk-in school.

Keyes v. *School District No. 1 Denver*—where in a Northern city the Supreme Court found segregation by a state and local action and applied the desegregation order to the entire school system.

Bradley v. *Milliken*—where the Supreme Court affirmed findings of an unconstitutionally segregated school system in Detroit but, by a 5–4 vote, rejected planning for a metropolitan area desegregation because in its view the proofs of state and suburban discrimination were not sufficient to justify that remedy.

The more recent cases in Louisville, Kentucky, Wilmington, Delaware, and Indianapolis, Indiana—where on proofs of area discrimination which the Supreme Court considered stronger, area wide desegregation plans were approved.

I have been talking about the desegregation of America's schools. But I know that some people have adopted the word "busing" to describe the total problem. Let us be clear about how we use language and history. Busing of school students started long before the Supreme Court told the country that segregated schools were unconstitutional. Until the late 1960's the overwhelming majority (in fact almost all) students bused were white students bused to white schools—and everybody thought that was fine. It was only when the courts began using busing, as Chief Justice Burger put it, as "one of the tools" of desegregation that the protests arose. Let's be frank about it. It is not the school bus that is the problem. It's who is on the bus—and where the bus is going—that counts. When black children were provided with bus transportation to formerly all white schools, or vice versa, "busing" suddenly became an anathema.

The morning after Labor Day in 1971 my wife and I drove down to Detroit from our cottage through the rural Thumb country of Michigan. We passed—and stopped for—dozens of yellow school buses picking up hundreds of farm children—all white. It reminded us that busing gave us the fine system of consolidated schools all over rural America with well nigh unanimous approval.

That was also the morning when the school desegregation order for Pontiac, Michigan, went into effect. On the car radio we heard that the fleet of buses had been bombed and set afire. Proofs in a federal court criminal trial later showed that this was the work of the Ku Klux Klan. The Ku Klux Klan doesn't hate buses. Its whole history shows that it simply hates blacks.

I suggest that the very fate of America and the fate of democracy in the world may depend upon this nation's ability to quell the fires of race hatred which the Klan and its cohorts engender.

How can I best tell you of my concerns for your success in your deliberations today? I am, like all judges, sworn to follow and uphold the Constitution of the United States. But I also am one who believes in it. I consider it the shining example of man's best hope in a difficult world. With George Mason of Virginia, I feel that when our forefathers wrote the Constitution and the Bill of Rights, they were walking on "enchanted ground." But if I had doubts about the wisdom of our forefathers, I would still feel that their inspiring words made exceedingly practical sense for America today.

As an appellate judge reading hundreds of case histories of conflict and crime in a four-state area, I feel frequently like the pathologist in the basement of the hospital reading frozen section slides from a patient upstairs. Let me tell you what I see. I see an increasingly segregated America. I see a strange and dangerous kind of apartheid developing. The pattern is being repeated in most of our biggest cities. The white population's move to the suburbs increasingly leaves the central cities to the blacks. If the current trends continue, we may in a decade or so have a dozen or more central cities with 90% or more of their residents black.

How could we, if we wanted to, create a more dangerous condition than this—the downtown district owned by whites and occupied by them by the thousands upon thousands in daytime hours—all the rest of the central city occupied by black residents—the central city surrounded by a white suburban ring in a state dominated by whites. If you add a large white majority of policemen, firemen, and school teachers dealing with crime and fires and children in black neighborhoods while black youth in the central city has the highest percentage of unemployment in America, such a picture presents a certainty of race conflict. Indeed it may come to threaten domestic conflict comparable to a second Civil War.

I am not one who accepts the inevitability of evil. Mankind and, yes, I think especially this nation of ours, has the capacity for intelligent and compassionate action—the sort of capacity which has brought you here today. I could not refuse your invitation to speak to this meeting simply because I am so grateful that some group has the good sense to try to consider the problems facing us and seek to plan for solutions.

And there, my friends, is where the judicial branch of government is almost powerless. In this country—as in no other in the world—our courts are guardians of the conscience of the country as it is expressed in the Constitution. But the courts are called upon to pass judgement on what has happened rather than to plan improvement or even to avoid disaster.

The most dangerous fact in America today is that concern about the problem of race in America is centered solely in the judicial branch of government. The executive and legislative branches are studiously looking the other way—and at times it would appear—any other way.

Should I take time to read you some presidential rhetoric?

There is cause for hope and faith in our democracy in what is happening here tonight. For the cries of pain, the hymns of protest of depressed people have summoned into convocation all the majesty of this great government, the government of the greatest nation on earth. Our mission is at once the oldest and most basic of this country, to right wrong, to do justice, to serve man. In our time we have come to live with the moments of great crisis. Our lives have been marked with debate about great issues. Issues of war and peace, issues of prosperity and depression, but rarely in any time does an issue lay bare the secret heart of America itself. Rarely are we met with the challenge not to our growth or abundance or welfare, security, but rather to the values and purposes of the meaning of our beloved nation. The issue of equal rights for American Negroes is such an issue. And should we defeat every enemy, should we double our wealth and conquer the stars, should we be unequal to this issue, then we will have failed as a people and as a nation. For with a country as with a person, what has a man profiteth if he shall gain the whole world and lose his own soul? There is no Negro problem, there is no southern problem, there is no northern problem, there is only an American problem. (1965, Johnson, the Voting Rights Act, a joint session of Congress.)

There are, of course, many programs which could alleviate potential conflict while we seek ultimate solutions:

1. Both federal and state governments should act to provide funds for quality education in the cities where the declining tax base is heading us toward schools which are totally unequal to those in the surrounding suburbs.

2. Both federal and state governments should recognize the need for lower classroom sizes (less than 20 students per teacher) particularly in the early grades, and particularly in the most economically depressed areas.

3. Both federal and state governments should recognize the desperate need for a jobs for youth program for the cities wherein unemployment among black youth has reached staggering proportions. What was done in the worst of America's depressions in the 1930's can surely be done again.

4. Finally, the *Gatreaux* case has pointed toward the feasibility of desegregation of housing in segregated suburban areas. Those who know the history of housing in the last 40 years know that the role that the Federal Housing Agency played in developing the segregated suburbs and our present problem of increasing apartheid. The executive and legislative branches could employ the same agency to undo the damage it has done.

Ten years ago the Supreme Court pointed out in *Jones* v. *Mayer Co:*

"At the very least, the freedom that Congress is empowered to secure under the Thirteenth Amendment includes the freedom to buy whatever a white man can buy, the right to live wherever a white man can live. If Congress cannot say that being a free man means at least this much, then the Thirteenth Amendment made a promise the Nation cannot keep."

In closing I turn to an authority from still more ancient history and quote from Romans 13:8:

"8. Owe no man any thing, but to love one another: for he that loveth one another hath fulfilled the law.

"9. For this, Thou shalt not commit adultery, Thou shalt not kill, Thou shalt not steal, Thou shalt not bear false witness. Thou shalt not covet; and if there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbor as thyself.

"10. Love worketh no ill to his neighbor: therefore love is the fulfilling of the law.

"11. And that, knowing the time, that now it is high time to awake out of sleep: for now is our salvation nearer than when we believed.

"12. The night is far spent, the day is at hand: let us put on the armour of light."

NEED FOR CONGRESS TO UNDERTAKE MAJOR OVERHAUL OF SSI ALCOHOLIC AND DRUG ADDICT PROVISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, the Social Security Act through the supplemental security income program provides for income maintenance to indigent drug addicts and alcoholics who are unable to work to support them while they receive treatment for their addiction.

Rehabilitation of individuals with alcoholic and drug problems can be a long and difficult process and the SSI provision certainly placed new and difficult burdens on the Social Security Administration—primarily the rehabilitative treatment and representative payee requirements. The Public Assistance Subcommittee has dealt with one of the problems in the law by eliminating the requirement for representative payee in certain cases through a provision in H.R. 8911, a major SSI bill now pending before the House. The early passage of this legislation should help make the alcoholic and drug provision more workable.

Even with the passage of H.R. 8911, however, the program will still be a difficult one to administer. I am concerned that Social Security in its eagerness to reduce the administrative difficulty has gone out of its way to avoid providing SSI maintenance to identifiable addicts and alcoholics, thereby, in essence, sabotaging the provision.

The problem lies with the interpretation of section 1611 which has a significant adverse impact on the admission of drug addicts and alcoholics to the SSI rolls. First, can a person be admitted to the SSI rolls if his disability is solely that of severe drug addiction or alcoholism? Second, can a person who is otherwise eligible either because of physical disability or age but who, at the same time, has a significant history of drug addiction or alcoholism be admitted to the rolls without enforcement of the rehabilitative treatment and representative payee provisions?

Unfortunately, the law as written and the committee reports accompanying the legislation are far from clear as to the exact intent and scope of the law. Subsequently, HEW, in interpreting the law, has chosen to interpret it narrowly—in effect, declaring that alcohol and drug addiction in and of themselves will not qualify a person for SSI; instead, another disabling condition to which addiction contributes must be present. Further, if another disabling condition is present, Social Security then chooses to ignore any addiction or alcoholism problem, if at all possible.

As a result, the drug and alcohol addiction portion of the SSI program is a shambles. According to data provided to social security by the States, approximately 40,000 of the 3 million on State rolls in December 1973 who were converted to SSI rolls had a history of drug and alcohol abuse. As of May 30, 1976, however, there were only 12,229 "certified" addicts and alcoholics on the SSI rolls, approximately 1,200 of whom have been added since January 1974. This hard core of addicts and alcoholics was identified in a special redetermination process of the 40,000 cases.

Under the redetermination process, if a recipient could be certified as disabled—due to heart attack, advanced liver damage, and so forth—without reference to his alcohol or drug problem, he was to be placed on the rolls in that status, thus exempting the persons from the rehabilitative treatment and representative payee requirements. At the same time, Social Security was relieved of the enormous administrative burdens of the treatment and payee provisions. Only if a person could qualify in no other fashion was a significant alcohol and drug problem cited as a contributing factor to overall disability which then qualified the person for SSI. Social Security has, therefore, minimized if not directly subverted the impact of the law; and, acting directly contrary to the wishes of Congress, is paying Federal funds to at least some identifiable addicts and alcoholics without requiring that they receive rehabilitative treatment. As of now, no hard data is available as to how many of the 40,000 with a history of drug or alcohol abuse remain on the SSI rolls over and above those certified as addicts or alcoholics; social security will have this information by late July or early August.

As a result, the program is near total failure. In my opinion, Congress should clarify the situation either by exact definition in legislation of the conditions under which addicts and alcoholics are to be admitted to SSI rolls, or removal entirely of addicts and alcoholics from SSI to other and more effective programs for their maintenance and treatment.

COMMITTEE COMMENTARY ACCOMPANYING SSI LEGISLATION

No where in the various committee reports issued during consideration of the SSI legislation is it clearly stated that alcoholism and drug addiction in and of themselves were to be considered sufficiently disabling to qualify for SSI. The House report (92–231) reads:

> Your committee believes that those people who are disabled, in whole or in part, as a result of the use of drugs or alcohol should not be entitled to benefits under this program unless they undergo appropriate, available treatment in an approved facility, and the bill so provides. Your committee, while recognizing that the use of drugs or alcohol may indeed cause disabling conditions, believes that where the condition is susceptible to treatment, appropriate treatment at Government expense is an essential part of the rehabilitation process of people so disabled.

This discussion really does no more than clarify that addicts and alcoholics are not to be automatically barred and to establish rehabilitative treatment as one precondition for admitting addicts to the rolls.

The Senate amended the House bill and actually prohibited SSI eligibility for medically determined addicts and alcoholics. Instead, the Senate bill "establishe(d) a program under the new title, title XV of the Social Security Act (now repealed), designed to require appropriate professional care and treatment of alcoholics and addicts utilizing existing agencies and mechanisms." The Senate receded in the conference report.

THE SSI LAW AND HEW'S INTERPRETATION

Section 1611(3)(A) of the Social Security Act reads:

> No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).

However, the definition of disability referred to above reads:

> An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).
>
> For purposes of subparagraph (A); an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

Therefore, the Secretary of HEW argues that addiction to alcohol or drugs is not necessarily likely to result in death, to last 12 months or longer, or automatically to prohibit a person so addicted from gainful employment citing instances where addicts and alcoholics do indeed have work records though perhaps sporadic in nature. HEW regulations, consequently, require that another disability condition to which the addiction contributes be present.

The SSA Claims Manual reads:

> For new claimants, the presence of a condition diagnosed or defined as addiction to alcohol or drugs will not, by itself, be the basis for a finding that an individual is or is not under a disability. As with any other condition, the determination of disability in such instances is based on the medical evidence available (i.e., symptoms, signs and laboratory findings). DA or A may be symptomatic of a functional nonpsychotic disorder. It is where disability is established due to such disorders, and the individual is a DA or A, that such DA or A conditions may most often be found to contribute to a finding that disability exists.
>
> Some former recipients of Aid to the Permanently and Totally Disabled (APTD) who have been converted to title XVI rolls may have been determined to be disabled where DA or A was the only impairment. Such individuals would not meet the title XVI standards discussed above. However, under the conversion provisions, their disability status is protected so long as they continue to meet the definition of disability under the applicable State plan even though they do not meet the definition of disability applicable to new claims.

OUTSIDE OPINION

Outside opinion is, of course, mixed not only as to proper interpretation of the law as written but also as to the broader question of the proper role, if any, of SSI in drug and alcohol abuse. Those States which previously used less stringent standards in placing an addict or alcoholic on the State welfare rolls are distressed since addicts and alcoholics, ruled ineligble for SSI, are back on local public assistance rolls.

The National Association of Social Workers argues:

> The exclusion of those with addiction as a primary diagnosis and the pegging of eligibility to requirements for treatment and representative payees are discriminating provisions.

The Community Council of Greater New York agrees:

> It is urged that following the pattern established by the Department of Social Services in New York, that alcoholism and addiction be treated as medical problems. Where these problems are so extreme as to prevent a person's gainful employment, they should be included in the list of SSI eligibility criteria.

Others consider the law virtually impossible to interpret or administer. Robert C. Cohen, director of the State of Wisconsin Bureau of Social Security Disability Insurance—speaking for himself and not for the State—cites the abysmal lack of treatment facilities, argues that the treatment of addiction per se is often futile as is reflected in the high recidivism rates because of the presence of other, more significant underlying factors, and questions "whether or not drug addiction and alcoholism are actually disease entities in the same way that other impairments considered in the Social Security Act and the SSI laws consider impairments". He continues:

> My own suggestion for legislative correction of the problem with drug addiction and alcoholism is to remove these provisions from the law. They aren't going to work.

OTHER FEDERAL DRUG AND ALCOHOL ABUSE PROGRAMS

As mentioned earlier, various federally funded programs address the problem of drug and alcohol abuse. The figures below were supplied by OMB and indicate, by department, estimated expenditures for fiscal year 1976 as of March 24, 1976. Over three fourths—76.5 percent—of the Federal money, $561 million is spent for drug and alcohol abuse treatment and rehabilitation; these figures, by department, are broken out in the second column. State and local moneys are not reflected in these figures.

FISCAL YEAR 1976 (ESTIMATED)

	All drug and alcohol abuse activities [1]	Drug and alcohol abuse treatment and rehabilitation
Executive Office of the President	450, 000	450, 000
Department of Agriculture	1, 955, 000	NA
Department of Commerce	200, 000	200, 000
Department of Defense—Military	78, 479, 000	59, 703, 000
Department of Defense—Civil	647, 000	647, 000
Department of HEW	510, 001, 000	380, 003, 000
Department of Justice	26, 805, 000	20, 736, 000
Department of Labor	1, 251, 000	NA
Department of State	100, 000	58, 000
Department of Transportation	10, 727, 000	352, 000
Department of HUD	7, 198, 000	7, 106, 000
Veterans Administration	93, 259, 000	91, 314, 000
ACTION	1, 372, 000	NA
Civil Service Commission	277, 000	NA
USIA	283, 000	NA
Total	733, 004, 000	560, 569, 000

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[1] Treatment and rehabilitation; training; research; prevention; education and information; planning, evaluation and coordination.

NEED FOR LEGISLATIVE ACTION

Congress should legislatively clarify its wishes in this area of SSI. If Congress intends that SSI serve alcoholics and addicts, the law should state clearly that alcohol and drug addiction in and of themselves constitute sufficient disability to merit SSI support if income criteria are met and rehabilitative treatment agreed to. It may further be necessary to modify the law's general definition of disability—section 1614(a)(3)(A) and (B)—in regard to addiction since the current definition is predicated on the applicant's ability or inability to work. Past experience demonstrates that different doctors and administrators will view the same addicts in different ways in regards to capacity for work.

The second option is to remove SSI from the alcohol and drug abuse area entirely and direct persons so addicted to other programs for maintenance and treatment. Again, even with this option, a problem exists. Congress must clarify whether persons who without question qualify for SSI as disabled, for example, a paraplegic, but who are also addicted to drugs or alcohol will receive SSI: First, without strings or; second, only if they agree to treatment or; third, not at all—referring them to other maintenance and support programs.

I urge Congress to acknowledge the current confusion and disarray regarding SSI and drug and alcohol addiction and to act quickly to resolve the problem.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, because of circumstances beyond my control, I was not able to be present in the Chamber for the passing of H.R. 10210, which extends unemployment compensation coverage to certain previously uncovered workers, increases the amount of the wages subject to the Federal unemployment tax, and increases the rate of such tax. Had I been present, I would have voted "aye" on H.R. 10210.

PANAMA CANAL: LATIN AMERICAN SUPPORT FOR SURRENDER NOT "UNANIMOUS"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in its massive propaganda campaign to secure public support for its projected Panama Canal give away treaty or treaties, the State Department has used many ploys. Among them has been the erroneous assertion that Latin America is practically "unanimous" in its support of Panamanian demands for the United States to cede its sovereign control over the U.S.-owned Canal Zone and, ultimately, the canal itself, to Panama.

American Cause, a Washington based organization headed by former Senator George Murphy, has made a recent survey among 12 Latin American countries and reports that only 3 approved the Panamanian demands. This result confirms the views expressed during the 1975 Latin American Conference on Freedom and Security in which other Members of the Congress and I were participants. Latin Americans recognize the value of the Panama Canal and do not wish to see its security endangered by surrender of U.S. sovereign control over the Canal Zone. American Cause asks this pertinent question: Who wishes to give the Panama Canal away and why?

The indicated report follows as part of my remarks:

PANAMA CANAL

We have been told by much of the Liberal press and our Department of State that "all of Latin America will turn against the United States" unless we surrender control of the Panama Canal. Of 12 Latin American countries questioned by American Cause, only three said they would like to see the United States give up control of the canal. Coincidentally, these three are countries already under the domination of leftist dictatorships.

With the removal of still another excuse for the State Department's canal policy, American Cause must again ask: Who wants to give it away and why?

COMMENTS TO THE ILLINOIS CONGRESSIONAL DELEGATION, JULY 21, 1976, BY HON. BENEDICT GARMISA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, yesterday my fellow Illinois colleagues and I met with the Honorable Mr. Benedict Garmisa, Chairman of the Illinois Transportation Study Commission. We met in order to study various problems raised by mandatory compliance with certain Federal standards relating to highway construction.

As Representative Garmisa convincingly demonstrates in his statement which follows, compliance with this vast amount of regulations is exceedingly time consuming, thereby costing taxpayers millions of dollars at both the State and Federal levels. By requiring compliance with such a myriad of time-consuming Federal regulations, actual construction costs, due to inflation, have literally skyrocketed over the projected estimates arrived at years before. Today the planning time for a major highway project in Illinois is nearly 8 years compared to a time of 1 or 2 years before 1966.

These requirements specified by the Federal Government are designed to alleviate problems, not to cause them. We must look into this problem now to see if there is some way in which to correct this situation while at the same time assure ourselves that these Federal programs are achieving their intended purpose.

Also, the Illinois Transportation Study Commission has prepared a "white paper" regarding this problem which was presented to members of the delegation. I plan to send this paper to the chairman and various members of the House Committee on Public Works and Transportation for their consideration. I am hopeful that this will result in positive action on this problem.

As Representative Garmisa shows us, it is a problem that will not wait. His statement follows:

COMMENTS TO THE ILLINOIS CONGRESSIONAL DELEGATION, JULY 21, 1976, BY HON. BENEDICT GARMISA

Let me first of all express our appreciation to you for taking the time from your busy schedules to meet with us today.

Our purpose in requesting this meeting is to discuss with you what we feel is a matter of vital concern to us all as we seek to represent the citizens of our great state in our various capacities. The matter I refer to is what we have called, for lack of a better phrase, federal red tape problems in our transportation programs in Illinois.

Although I suspect that it comes as no surprise to you, I can tell you today that short of a total reversal of our present trends in transportation and the economic climate, we will be faced with a crisis of considerable magnitude in our ability to meet even modest transportation needs from available revenues within the next one to three years. I would add that, at least in the short run, the situation appears most serious with regard to our highway programs, which we will use today to attempt to illustrate a situation which is widespread throughout all of our transportation programs in Illinois.

In the foreseeable future we believe it will very likely be necessary to consider some combination of a cutback in some of our priority transportation objectives, as well as some means of increasing revenues, which of course implies some form of tax increase either directly or indirectly. I am sure you can appreciate as well as I do, neither of these possibilities is going to be very popular with the electorate. Public reaction to the recent consultant report we received suggesting a cutback in the proposed supplemental freeway system to modern 2- and 4-lane highways in some areas is a good example.

As we assess the options we have open to us in this regard, which the Study Commission is now doing, it is our feeling that we must consider every possible means of maximizing the delivered product we get from the transportation dollars we spend.

As we review Illinois transportation programs from this perspective we have become increasingly concerned over the waste of our fiscal resources as the result of red tape delays. We recognize that the federal government has no monopoly on red tape problems—red tape exists at the state level and in our local units of government (at least those outside of Cook County). However, the role of the federal government is magnified in the transportation area due to the substantial size of federal financial participation.

To our view, the resultant situation is all too often one where the state or local agency who administers the federal-aid projects is held responsible for the delivery of projects in the eyes of the taxpayer but where the same state or local agency has insufficient authority—because of federal rules and regulations—to move the project efficiently to a conclusion. Worse yet, when we question the wisdom of various of these federal rules and regulations, it is difficult or impossible to find anyone in the federal system who will accept the responsibility for defending them. The usual scenario goes something like this:

We ask locally who we should talk to? We are told that regional headquarters makes the decisions. At regional headquarters we are told direction and policy comes from Washington. In Washington we are told Congress sets the policy. However, when we read the congressional acts, we don't understand how the bureaucrat determined his position or justifies his voluminous PPM's.

At this point, let me give you very briefly some specifics in the form of highlights from the "white paper" we have prepared for you.

As we see it, six major pieces of Federal legislation have resulted in Federal highway administration regulations and guidelines that have extended the planning time for a major highway project from one or two years before 1966 to nearly eight years at present:

The Transportation Act of 1966.

The National Historic Preservation Act of 1966.

The Federal-Aid Highway Act of 1968.

The National Environmental Policy Act of 1969.

The Federal-Aid Highway Act of 1970.

The Clean Air Act of 1970.

As the result of these acts and the blizzard of PPM's, administrative directives, and requirements that followed, we were required to conduct five major reviews of ongoing highway projects in Illinois since September of 1969. Two of these reviews involved trips to all district offices to review each and every project they had underway. In every instance, needed and desirable highway projects were delayed, often from one to two years. Each time, we went back to the Federal Highway Adminstration and certified that we *really, really, really* had considered the social, economic, and environmental effects of these projects.

Using Interstate I–255 in East St. Louis as a "worst case" example, after 17 years, the project was no closer to completion than it was in 1957, but since 1957, the costs had escalated by more than 383%—from $37.8 million in 1957, to $182.7 million in 1974.

By way of contrast: The East-West tollway between Chicago and the Quad Cities which was not subject to the Federal requirements took only 12 months from the Governor's approval to acceptance of bids for construction. Prior to the existing maze of Federal requirements, the Stevenson Expressway in Chicago was designed, constructed, and open to traffic in 30 months, and I–180 near Hennepin was completed, including land acquisition, in 24 months.

The result of these Federal requirements, in our present inflationary climate, is an unconscionable waste of the taxpayer's money—at both the State and Federal level:

In Illinois alone, virtually all of our $704.1 million of fiscal year 1976 Federal-Aid Highway projects were identified as needed and desirable improvements at the State level at least 5 years ago.

The period from 1969 to 1974 (when the work was programmed) has largely been eaten up complying with Federal requirements.

During this 5-year period, the construction cost index increased from 113 to 202—a 79% increase in construction costs alone.

Had they been initiated in 1969 when initially indicated at the State level, this $704.1 million in Illinois Federal-aid projects would have cost only $393.4 million for a saving of $264.2 million to the Federal Government and a saving of $46.6 million to the State government in matching costs.

And this is only one level of government, in one State, for one year, using conservative figures.

Excluding the costs of the A–95 clearinghouse operations, we think that without being forced to meet the Federal requirements, we could still look at the same things and do the same technical job as at present, with a saving of $10 million per year in administrative costs alone.

We must in some fashion become aware of the implications of what we are doing to ourselves from an efficiency and cost standpoint.

We feel that it may be appropriate that the Congress, through formal hearings by the appropriate committees undertake a reevaluation of the Federal legislation which has brought us to our present circumstances. This review should, we feel, assess the costs of continuing on our present course—both from the standpoint of the basic congressional mandate and from the standpoint of implementation of these mandates by Federal employees who are responsible to the Congress for their execution.

It is our suggestion that during the course of such a review the full range of possible solutions be considered. Our suggestions have diligently (and painfully I might add) avoided the temptation of citing the specific for fear that the larger problems would be lost. Areas such as meaningful "certification acceptance", the correction of faults in specific regulations, and corrections in the process by which regulations are developed and issued are more appropriately presented in the hearing process.

Recognizing, however, that major improvements will take time, and we contend that we have passed the time when piecemeal or "band-aid" improvements are practical, we recommend that the Congress consider with extreme care the impact of all new legislation. Similarly, the Congress should consider changes in existing legislation in light of experience to date.

Let us conclude by saying thank you again for being here to listen to us and that we stand ready to be of any further assistance possible relative to alleviation of this problem area.

AN EXPLANATION OF THE FULL EMPLOYMENT AND BALANCED GROWTH ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

Mr. LAFALCE. Mr. Speaker, it is possible that the Humphrey-Hawkins bill might come before us on the floor of the House of Representatives in the near future. It is a measure which deserves the closest attention as to its possible economic impact and therefore, I would like to offer for our consideration three weekly columns which I have devoted to this subject. In the first, I simply set forth the provisions of the bill. The second column examined the arguments in favor of the measure, and the third column analyzed some of the arguments against this bill. Of necessity, the columns had to be brief, and the points made could not be presented in any depth, but I believe that they do present a summary which might prove helpful. The columns follow:

THE HUMPHREY-HAWKINS BILL: EXPLANATION

Within the next few weeks, my colleagues and I will be voting on H.R. 50, the Full Employment and Balanced Growth Act, or as it is often known, the Humphrey-Hawkins Bill, after its two prime sponsors, Sen. Hubert Humphrey and Rep. Augustus Hawkins. The measure has received a great deal of coverage by the media, so you may be familiar with it. However, because the approach toward full employment endorsed in this legislation has aroused so much discussion, much of it distorted because of campaign rhetoric in the presidential primaries of both parties, I believe that a detailed examination of the bill, its merits and its flaws, would be a worthwhile subject for a series of weekly columns. Therefore, I will devote the next few columns to a discussion of this measure, since I have serious reservations about its provisions, and am uncertain whether or not the measure should be enacted. My decision will depend upon what the final version will look like after the amendment process is completed.

This week, I will begin by describing what the bill sets out to do. In the weeks ahead, I will examine both its strengths and its weaknesses.

The aim of the Humphrey-Hawkins Bill is to guarantee that "all adult Americans able, willing, and seeking work have the right to useful paid employment at fair rates of compensation." This policy would set a national goal of three percent as an unemployment, or full employment, figure to be obtained within a period of four years. As you are well aware, the unemployment rate in our area of Western New York is presently over twelve percent. Although the national average is lower, attaining a three percent figure in this span of time, would still be a considerable achievement.

Under the bill, the President would be required to set longer-run goals for employment, production, purchasing power, and other priority purposes than are established. In developing this Plan, the President would be assisted by an advisory committee consisting of twelve members (four appointed by the President, four by the House of Representatives, and four by the Senate) and the Council of Economic Advisors. Along with the Plan, he would also be required to give a report on achieving economy and efficiency in government which would include a review of Federal rules and regulations and an annual evaluation of the economic and social impact of one-fifth of the existing federal programs.

Shortly after the Plan is submitted, the Board of Governors of the Federal Reserve System will set forth in a separate statement a description of how the coming year's monetary policy supports the goals of the Full Employment Act.

Next the bill outlines some methods for achieving its goal of closing the unemployment gap. It establishes a system of comprehensive and flexible employment policies to create jobs in both the private and public sectors of the economy. First, it creates a countercyclical employment program to be brought into existence during periods of high unemployment and phase out when unemployment drops again. It would be a comprehensive program, which would include, as appropriate, public service employment, standby public works programs, grants to state and local governments, community development, and skill training in both the public and private sectors. A high level of coordination would be maintained among the federal, state, and local governments and the private sector to provide for successful implementation of the policy.

Second, comprehensive employment policies would be established to reduce the chronic unemployment in depressed regions of the country and in the inner cities. The aim would be to attract private employment through low-interest credit.

Third, a youth employment program would enable a smoother transition from school to work by developing apprenticeship and on-the-job training programs in the private sector. There would also be a provision for disadvantaged youths to receive education, training, medical services, and counseling to prepare them for self-sustaining employment.

Fourth, a Full Employment Office would be set up to provide counseling, training and referral to job opportunities for adult Americans, who despite a serious effort to obtain a job, were unable to do so in the general economic environment. And if necessary, it would provide them with a job in a federally funded public or nonprofit employment project. This provision is often referred to as making the government the employer of "last resort."

These are the basic provisions of the Full Employment and Balanced Growth Act. As you can see, it is quite comprehensive. In the next few columns I shall speak, both in praise and criticism of the Bill, hoping to give you an understanding of the complexity of both the decision-making and problem-solving process.

THE HUMPHREY-HAWKINS BILL: THE PROS

Last week I set forth the provisions of HR 50, the Full Employment and Balanced Growth Act. In this week's column, I'd like to point out some of its economic advantages.

Let me begin by first stating that the goal of achieving full employment is a laudable one. However, it has not been the policy of all Administrations. In fact, some administrations have espoused a policy of greater unemployment as a means of combating inflation. Additionally, the concept of full employment as a national policy is not a new one. In 1946, Congress enacted an employment bill which set a goal of "maximum employment, production, and purchasing power."

Moreover, in any discussion of the effects of unemployment, we must consider the sociological effects upon the individual. Much more is lost when an individual is not gainfully employed than the economic loss of goods and services. Unemployment compensation may provide money, but it does not provide the opportunity for an individual to maintain his self-respect through making a valuable contribution to society. It is easy for most of us, the 92.5% who are employed, to forget about the other 7.5% who do not have jobs. And, it is likely that this figure is actually much higher, for it does not include those people who are discouraged and have given up looking for work; those who have part-time and would like full-time employment; those who have jobs, but are working for incomes below the poverty level; or those who are skilled in one area, but must work in another and are therefore not using real potential.

Further, it has been estimated that a recession causes a 15 to 25% increase in heart attack deaths; a 30 to 35% increase in alcoholism; a 15 to 20% increase in the infant death rate; a 15 to 100% increase in mental disorders; and a 15 to 25% increase in suicides.

Second, a unified approach to the country's economic policies, which the bill attempts to accomplish, is urgently needed. As any individual knows, we must plan for the future, whether we are a family, a corporation, a state, or a country.

No one questions the need for an energy plan, and there should be no question about the need for an economic plan. With such planning, we would be able to harmonize the policies of the executive and legislative branches, and the Federal Reserve Board, so that they would mesh in a coherent fashion. Such combined action would be much more effective than separate, isolated activities on the part of each of these branches of the government.

Third, we have closely approached the 3% figure of unemployment, the goal of the Humphrey-Hawkins Bill, seven times in the past twenty years. For those individuals sixteen years of age or older the unemployment rate was as follows: 1951 (3.3%); 1952 (3.0%); 1953 (2.9%); 1966 (3.8%); 1967 (3.8%); 1968 (3.5%). We should always try to improve our past performances, and the fact that we have reached it before supports the argument that it certainly can be done.

Fourth, unemployment is the greatest single cause of our present budget deficit. It causes a sizeable loss of tax revenues and the lack of growth in the Gross National Product. It is estimated that during 1953–1975, unemployment caused the forfeit of 3.3 trillion fiscal 1977 dollars of total production of goods and services and their utilization. If we had full employment, it would be the best way of eliminating the deficit and achieving the elusive goal of a balanced budget.

Clearly, we must attempt to cope with the unemployment problem and we must do better than we have done. The aim of the Humphrey-Hawkins Bill is to do just that. Jobs would be created through this bill in three separate ways. Two-thirds to three-fourths of the newly created jobs would be created in the private sector. Then there would be many others in which only marginal Federal assistance would be needed. Finally, there would be a provision for public service employment, or what is commonly referred to in the bill as the government as the employer of last resort. This concept is endorsed by conservatives such as Arthur Burns, Chairman of the Federal Reserve Board. It is also supported by the Chamber of Commerce as a necessary means of creating jobs. And as Alice Rivlin, Director of the Congressional Budget Office has testified, ". . . we are spending around $19 billion to pay people not to work, and only about $5.3 billion to create jobs, and one wonders if that is an appropriate way to allocate Federal resources."

It is quite clear, therefore, that widespread agreement exists as to the need for a policy to cope with the problem of unemployment. Humphrey-Hawkins, as I have just stated, has considerable merit. However, I do have quite serious reservations about some of its provisions or lack thereof, and next week I will discuss these.

HUMPHREY-HAWKINS: THE CONS

I have spent the past two weeks looking at the Humphrey-Hawkins Bill, first explaining, and then setting forth, its positive aspects. Now I would like to discuss some serious reservations I have concerning it.

The Humphrey-Hawkins Bill has been heralded by its supporters as the chief means of bringing about full employment. Indeed, it has been marketed as if it were a magic wand which would bring instant full employment. Nothing could be further from the truth. The bill only creates mechanisms to be utilized to achieve its purpose. Mechanisms, in my judgment, which in large part already exist under a different guise, and which could now be used. Hence, there is a great danger of creating unfulfillable expectations, in short, over promising.

Secondly, assuming that the promises within the bill could be met, is it realistic to seek an unemployment level of 3 percent within a four year period? Almost every economist contends the economic growth rate that would be necessary to achieve that level would be unacceptably inflationary. The Congressional Budget Office says that this, by itself, might add two full points to the rate of inflation by 1982.

This raises another difficulty: the lack of balance among three separate but most related concerns: full employment, inflation and energy. There clearly is a relationship among the three, and given the growing scarcity of our energy resources, it becomes imperative to have a balanced plan which considers the trade-offs that might be necessary so that we do not have unacceptable unemployment, excessive inflation, or energy exhaustion.

Getting to some of the specifics, I have always believed that the government should be the employer of "last resort". However, under what conditions and at what wages? Certainly we cannot make the wages competitive with the private market, or else no effective incentive to seek employment in the private sector exists. I am adamant on the point that the "prevailing wage" section of the "last resort" provision must be changed. Not only is it a disincentive to seek employment in the private sector, but it could be highly inflationary.

I should add that I favor public service jobs as a "last resort". Indeed, it is ironic that we will pay individuals unemployment compensation for 65 weeks and get nothing in return. If, instead, we limit it, for example, to 26 weeks, giving the individual that time to seek employment in private industry, and then, cease unemployment compensation and phase into public employment under the "last resort" provision, we might have an acceptable compromise. This would, I think, provide a positive incentive to diligently seek employment in the private sector, and, at the same time, minimize unproductive government expenditures.

Another cause for concern is the creation of additional bureaucratic machinery. Right now we have a Council of Economic Advisors. The bill creates an Advisory Council to the Council of Economic Advisors. Where do we end? Next we might have Advisors to the Advisors to the Advisors—the advice could get awfully confusing.

Additionally, we now have many—too many—legislative committees in Congress; on top of that we have an Appropriations Committee, and also a Budget Committee. Each must act to effect any financial legislation. The bill would add to the cumbersome process by insisting that the Joint Economic Commission also concur. Again, enough is enough.

Finally, as an attorney, I doubt the constitutional ability of the legislative branch to insist that the President submit and therefore recommend, a bill to the Congress, even if the President disagrees with the Congress. If Congress wants to pass a certain bill, fine; but to mandate that the President recommend and submit such a bill to Congress transgresses, in my judgment, the separation of powers concept of the U.S. Constitution.

TIME FOR A CHANGE: FIRST-YEAR EARNINGS LIMITS FOR SOCIAL SECURITY BENEFICIARIES ARE EVEN MORE STRINGENT THAN THE GENERAL LIMITATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 5 minutes.

Mr. MATSUNAGA. Mr. Speaker, many Members of the House, including myself, have introduced legislation to liberalize or eliminate the earnings ceiling which tends to penalize social security recipients who earn "too much" in supplementing their meager fixed incomes.

The implications for the proposed changes are far-reaching, and I fully understand the care with which the Congress is approaching them.

Recently, however, a related anomaly was brought to my attention—a relatively simple one that I believe we in Congress can agree should be ended.

I refer to the first year in which social security benefits are received. Even though benefits are paid for only part of the year—that part after the beneficiary reaches the required age—the earnings limitation applies to the entire year's earnings, not just that part of the year during which benefits are received.

That seems to me to be a clear inequity, and I am today introducing legislation to correct it. I trust that this bill will be acted on in a favorable and timely fashion by the Ways and Means Committee and the House.

I include at this point the text of the bill:

H.R. 14827

A bill to amend title II of the Social Security Act to provide that an individual's earnings in months before his or her first month of entitlement to benefits thereunder shall not be taken into account in determining whether or not such benefits (for the year in which such first month falls) are subject to deduction under the earnings test

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 203(f)(3) of the Social Security Act is amended by striking out ", except that, in determining" and inserting in lieu thereof the following: "; except that (A) in computing an individual's excess earnings for the taxable year in which occurs the first month for which such individual is entitled to a monthly insurance benefit under any particular subsection of section 202, for purposes of determining whether or to what extent deductions from such benefit may be required under subsection (b) of this section, there shall be excluded (unless such individual was entitled to a monthly insurance benefit under another such subsection for the month preceding such first month) any earnings of such individual for any month before such first month (with any net earnings or net loss from self-employment in such year being prorated in an equitable manner under regulations of the Secretary), and (B) in computing".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to taxable years ending after the date of the enactment of this Act.

A STRONG AND DYNAMIC MEXICAN ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. REES) is recognized for 5 minutes.

Mr. REES. Mr. Speaker, there have been several recent insertions in the RECORD which contend that the Mexican economy is weak and characterized by growing instability. I strongly disagree with these statements, as I have had many years of experience with Mexico as a businessman and find no hard evidence to support these allegations.

I firmly believe that the Mexican economy is fundamentally sound and that it will continue to strengthen as it recovers from the recent world depression. The strong economy and political stability of Mexico are most evident when contrasted with the rest of Latin America, where many countries are ruled by military dictatorships or other nonelected governments, and where the economies are in shambles, harassed by inflation and low production.

Mexico's healthy political atmosphere has grown stronger with each successive government since the Mexican Revolution in 1910. We are now witnessing the orderly transition of power, which has become characteristic of Mexican Government, as the administration changes hands from President Echeverria to President-elect Jose Lopez Portillo.

Despite the rhetoric we may hear from some people on both sides of the border, I consider Mexico to be a great friend of the United States, and I hope that we will do everything to strengthen that friendship.

I would like to include in my remarks two short articles, the first by the president of the American Chamber of Commerce of Mexico, Al Wichtrich, and the second by a prominent West German banker, Dietrich Hoffman:

[From the Mexico City News, June 6, 1976]

BUSINESS AND FINANCE—ECONOMIC WEEK

(By Felix Arciniega)

American Chamber of Commerce president Al Wichtrich said last week in Aguascalientes that U.S. businessmen have "enormous confidence" in presidential candidate Jose Lopez Portillo. Wichtrich predicted a substantial increase in U.S. capital coming to Mexico next year. "Lopez Portillo's economic policies and the recovery of the U.S. economy will attract investors' dollars which have lagged in the past few year," he said.

HEALTHY ECONOMY AND POLITICAL STABILITY IN MEXICO OFFER A GOOD FIELD FOR INVESTMENTS

(By Dr. Dietrich Hoffman)

"Mexico has a sound economy and a stable political climate as a result of which it is different from other Latin American countries. For this reason, it is an excellent field for investments." This statement was made by Dr. Dietrich Hoffman, Vice President of the Gemeinschaften Bank, the fourth largest private bank in West Germany.

Hoffman arrived in the country for the purpose of seeing President Echeverria and the Minister of the Treasury and Public Credits, Lic. Mario Ramon Beteta.

He said: "We came here to expand our economic relations with Mexico in all aspects."

He furthermore stated that the Gemeinschaften Bank as a major depository of the savings accounts of West German workers intends to use this money for different development programs and social works in Mexico.

"If there were not political and economic tranquillity in Mexico, we would certainly not make any investments in that country. This is another proof of the trust we have in Mexico," Mr. Hoffman declared.

The German banker said he would stay in Mexico for one week during which he would see Lic. Fernandez Hurtado, Director of the Bank of Mexico, and Mr. Norman Decker, the German ambassador to our country.

MEXICO'S HYPOCRISY: THE DEMISE OF THE NEWSPAPER, EXCELSIOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, I read with sadness of the toppling of one of the few independent voices in the Latin American press, the Mexico City newspaper, Excelsior. Excelsior, and its director general, Julio Scherer Garcia, had become acclaimed throughout this hempishere. In 1971 Elie Abel, dean of the Columbia University Graduate School of Journalism, honored Scherer with these words:

> A tireless dedication to professional excellence clearly marks the career of Julio Schere Garcia and the distinguished newspaper, Excelsior, which he directs. Excelsior was the first publication in Mexico to receive Cabot honors in 1943. It has long been a fine newspaper—and Julio Scherer Garcia has been associated with Excelsior for almost a quarter century, since he began a brilliant career as a political reported. He has been director general since 1968. Under his editorial leadership, Excelsior has attained new heights of quality and influence. It is regarded as one of the truly great newspapers of the hemisphere, notable specially for its comprehensive and balanced news report, and for its journalistic enterprise. Surveying the Latin American press last December, The Times of London called Excelsior the most influential daily newspaper in Latin America.

As I understand it, Excelsior's troubles began last year when it forthrightly spoke out against Mexico's vote in favor of the anti-Zionist resolution, which ultimately lead to the resignation of Foreign Minister Emilio Rabasa. Excelsior took President Echeverria at his word that he wanted a relaxation of the traditional controls that hampered the press. Its reporters delved into previously ignored social problems and its editorial staff even directly criticized policies of the government. All of this activity created enemies in the government, who sought to silence Excelsior. I am appending the New York Times editorial, and the Washington Post news analysis which detail exactly how the government undermined Excelsior.

What angers me the most is that Mexico pontificates about the need to protect human rights in the international forum. It has broken off relations with Chile because of the repression there. It has aggressively supported strengthening the OAS Commission on Human Rights. But these actions have a hollow ring when one looks at the Mexican Government's lack of respect for freedom of the press. The Mexican Government should be reminded that protection of human rights begins at home.

I do want to mention that I personally benefited from Excelsior's excellent reporting. As I became more concerned about the repression in Uruguay, I found Excelsior to be an authoritative source of information. I might add that I used excerpts from Excelsior in the additional views on Uruguay I prepared for the foreign assistance appropriations bill report.

Finally, I am appending a letter I received from Armando Vargas, chief Washington correspondent for Excelsior in which he explains his reasons for resigning from the newspaper.

EXCELSIOR,
Washington, D.C., July 13, 1976.

HON. EDWARD I. KOCH,
House of Representatives,
Longworth House Office Building,
Washington, D.C.

Attention: Charles Flynn, Staff Assistant.

DEAR MR. KOCH: This letter has the purpose of informing you that as of this date I have resigned from my position as Chief Correspondent of Mexico's daily newspaper, Excelsior. The attached clippings speak for themselves.

On July 8, 1976, the freedom of the press as well as the dignity and integrity of hundreds of professional journalists suffered a devastating blow when the strongest, most prominent, and most influential newspaper of the country was stabbed in the back by the Government of Mexico.

The liberal editors, who for the last eight years have been trying to expand both the freedom of information and of opinion, were betrayed by a minority of conservative workers who succeeded in manipulating a number of the workers on the production staff. This minority, encouraged and supported by the Government of Mexico, the official political party of Mexico, and with the undeniable blessing of the President of Mexico, were only the perpetrators of a crime which implies enormous and terrible consequences for the Mexican social and political systems.

The eminent poet, Octavio Paz, who until that ill-fated day was the editor of plural, the monthly literary magazine published by Excelsior, told me—"The transformation of Excelsior into a loudspeaker for the applause and eulogies to the powerful is a signal that the authoritarian shadow of darkness, already covering most of our Latin America, is advancing upon Mexico."

I was in Mexico from Wednesday, July 8, through Sunday, July 11. I lived through those tragic events. I remained with my colleagues and friends, witnessing the murder of a newspaper which up until then had been a proud example of what a free journalistic institution should be.

I refuse to be used as a legitimizer of this crime against freedom. I have a family. I am in a foreign country. I have no fortune. But dignity, integrity, and solidarity are concepts in which I believe as strongly as I despise their perversions.

Today I proudly join the ranks of the millions of unemployed, along with hundreds of my dear colleagues—editors, reporters, foreign correspondents, columnists, and photographers—who live and abide by the same principles and values which are cherished by any person who truly believes in freedom and democracy.

Sincerely,

ARMANDO A. VARGAS.

[From the New York Times, July 13, 1976]

MEXICO'S NEW PRESIDENT LOSES A FREE PRESS

José López Portillo has, as expected, been elected overwhelmingly as the new President of Mexico to succeed Luis Echeverria Alvarez next Dec. 1. It would miss the point to emphasize the obvious: Mr. López Portillo was the only official candidate and his triumph was a foregone conclusion.

More important, in Mexico's unique circumstances, is the fact that he spent many months campaigning throughout the country, selling himself as though he had immediate opposition and seeking to get a feeling for the nation's problems as seen from the grass roots. One result of his intensive effort may have been his success in reversing the hitherto rising trend of abstention from voting, which had previously suggested a growing alienation of the citizenry from Mexico's ruling Institutional Revolutionary Party.

Mexico's basic long-term problem, with which Mr. López Portillo will have to struggle, is the population explosion. Here is a classic case of a nation whose death rate has been reduced sharply by modern advances in public health and medicine while its birth rate continues extraordinarily high. The result is a rate of natural increase sufficient to double the population every 20 to 25 years.

The corollary of that rapid population growth in a nation that has an extraordinarily large percentage of children and adolescents, as well as increasing numbers of young people coming of age annually and requiring jobs whose availability cannot be increased as rapidly as the growth in population. The result is a huge rate of unemployment and grinding poverty in much of the nation's rural areas as well as in the extensive and rapidly increasing urban slums.

In these conditions the surprise is not that there have been signs of political dissidence, as in the student explosion of 1968, but that the ruling party has been able to retain as much stability as it has.

President Echeverria rode the stormy waves of Mexican political life the past few years by appropriating as his own the symbols of radicalism, loudly proclaiming his devotion to the third world and his advocacy of a basic redistribution of the world's wealth between the haves and the have-nots.

Useful as this political rhetoric may have been to him, its negative result was to scare off potential foreign investors as well as to frighten Mexican entrepreneurs. Yet large-scale and rapidly increasing capital investment is badly needed if Mexico is to have the jobs, the housing, the public utilities and the other essentials required to give its growing population even a minimally satisfactory standard of living.

The challenge facing Mr. Lopez Portillo when he takes over the presidency is to exhibit the political skill essential to contain the nation's internal tensions, while making possible the more rapid economic development required to meet the Mexican people's material needs.

President Echeverria's term has only a few more months to go; but his Government has just taken a fateful step whose consequences could be felt long after he is out of office. That step is the silencing of the most important independent journalistic voice of Mexico, the newspaper Excelsior. The paper itself continues to appear; but all that made it fresh, interesting and valuable in a democratic society has vanished to be replaced by conformist attitudes that would never have had a chance in the previous, genuine Excelsior.

The manner in which this journalistic coup d'etat was carried out is particularly disturbing. For months a propaganda campaign was directed against Excelsior. Government-tolerated—and almost certainly Government-encouraged—squatters were permitted to seize a large and valuable tract of land the newspaper owned. Then, almost immediately after the presidential election, a well-financed rebellion was organized within the paper's staff to create a situation in which the editors risked armed conflict if they sought to carry out their normal duties.

The editors bowed to the threat of force and quit their employment. The bully boys of Lenin in 1917 or of Hitler in 1933 could not have done a more efficient job of enslaving a once proud and free newspaper. But this act of totalitarian suppression discredits those who now boast of Mexico's stability and democracy; while it presents a moral challenge of the first magnitude to President Echeverria's elected successor.

[From the Washington Post, July 11, 1976]

COUP AT MEXICAN PAPER SMOTHERS PROMINENT VOICE OF DISSENT

(By Marlise Simons)

MEXICO CITY, July 10.—The dramatic conservative palace coup in Mexico's leading independent newspaper, Excelsior, has stunned the country's political and intellectual circles since it has, in effect, smothered Mexico's main critical forum.

The surprise is all the greater since there is overwhelming evidence that the reform-minded government of President Luis Echeverria itself engineered the removal of Excelsior's liberal editor and his senior assistants.

The move came only four days after Mexico's voters approved Jose Lopez Portillo as their new president in an uncontested election July 4. Lopez Portillo, Echeverria's hand-picked successor, takes office Dec. 1.

Over the past five years, Echeverria has frequently encouraged "constructive criticism" by the press and just last week he noted that greater freedom of expression was one of his administration's main accomplishments.

Only Excelsior and its three magazines, however, took full advantage of the relaxation of traditional controls and constantly sought to extend the boundaries of press freedom.

Not only did its younger reporters delve into previously ignored social problems, but its editorial writers and independent columnists also began criticizing the government's economic policies often with a directness unknown here for more than five decades.

Under the leadership of the now-deposed editor, Julio Scherer, 50, the newspaper gained a reputation as one of the most prestigious publications in Latin America as it attracted the country's leading intellectuals to write on its pages and even poet Octavio Paz to edit its literary magazine.

Its daring liberal view of domestic affairs and its frequent anti-Americanism also angered local and foreign businessmen and bankers to the point that they organized an advertising boycott against the newspaper in 1972. Among supporters of the boycott, which was abandoned as unsuccessful in changing Excelsior's policies after four months, were such U.S. companies as General Motors and Sears Roebuck.

For most of the past five years, Excelsior's Christian Democrat policies concurred with the government's own rhetoric on the abuses of over-concentrated wealth and the need for drastic social change.

On many issues considered taboo, however, Excelsior also attacked the government, noting for example that it had repressed independent union activity, that it was unwisely sustaining an over-valued currency and that it had failed to produce a much-promised report explaining the violent deaths of 30 students in June 1971.

Last fall, the administration became angered by Excelsior's criticism of its handling of foreign policy, particularly on the issues of Spain's execution of several Basque terrorists, which the administration condemned, and of Mexico's support for a U.N. resolution equating Zionism with racism. The resignation of Foreign Minister Emilio Rabasa last December was directly related by observers to Excelsior's attack.

Since then, a broad propaganda offensive has been launched against Excelsior in the country's media, with growing evidence of government involvement in the campaign. One official was even quoted as complaining that "we gave you press freedom and now look what you do."

At first, Excelsior did not recognize the attacks as the first skirmishes of a battle for its editorial independence. Even after a 215-acre property owned by the newspaper was invaded by a group led by a government politician June 10, Excelsior withheld an open denunciation of the campaign for fear of exacerbating the situation on the eve of the general elections.

Then, a small group of conservative reporters, led by the editor of Excelsior's afternoon edition, Regino Diaz Redondo, began agitating among printers and arguing that

Scherer and his group were threatening the surivival of the newspaper.

This week, when it became known privately that Diaz Redondo was coordinating his campaign with senior officials of the Interior Ministry and that he had ample funds with which to assure cooperative members' votes, Excelsior executives finally realized that the government was fully determined to oust Scherer and his group.

The night before the decisive meeting of the paper's members on Thursday, the right-wing group took over the presses and forcibly prevented publication of a full-page advertisement signed by 50 leading intellectuals giving their support to Scherer and denouncing the campaign against freedom of expression.

After the dissidents held their minority assembly and voted the suspension of the editor and six other senior staff members, more than 200 reporters and photographers joined Scherer in walking out rather than face a violent battle for physical control of the editor's office. The rebels, so the management said, had brought in outside aid for the takeover.

Excelsior executives are linking the government's efforts to weaken the paper's political strength to the formation of a massive new newspaper group three months ago. At that time the daily El Sol was bought from the government and the El Universal group was bought from its previous owners. Industry sources maintain that one of the principal shareholders of the new group—known as the Mexican Editorial Organization—is President Echeverria.

THE HELSINKI FINAL ACT

(Mr. du PONT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. du PONT. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus," dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Shvartsman family.

Yakov Solomonovich Shvartsman

Yakov Shvartsman is a 27 year old driver. He lives in Kishinev with his wife, Leika and son, Boris. He has been deprived of employment for over two years and is in desperate financial straits.

He applied for visas in 1972 and was refused in 1973 on the basis of military "secrets" acquired while in the army. Since his army group was demobilized in 1969, certainly those "secrets" have either been forgotten or become completely obsolete.

In a recent plea from Israel, Leika Shvartsman's mother writes:

"I, Bluma Boguslavsky, turn to you with an earnest plea to help my children who were refused visas . . .

"We arrived in Israel on September 24, 1973 and my children were supposed to arrive 10 days later. But when they came to OVIR expecting to receive the promised visas, they were refused. Even though my son-in-law was not involved in matters of a secret nature while serving in the army, this was the reason given for the refusal.

"Yakov Shvartsman staged a hunger strike, and for this he spent 15 days in prison. My son and family are being haunted constantly. He has been without employment for the past three years and they do not allow him to register for work. For a livelihood he has to depend on his parents who themselves receive a negligible pension.

"The five years requirement for obtaining a visa ended 19 months ago, but they still refuse to give him an affirmative answer.

"Once again, we as parents earnestly appeal to you to help our children. We thank you in advance and we hope for a successful outcome."

U.S.S. "FORRESTAL" REVIEW OF TALL SHIPS

(Mr. WYDLER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. WYDLER. Mr. Speaker, on July 4, our Nation celebrated its Bicentennial. I was pleased to be present aboard the U.S.S. *Forrestal* in New York Harbor, which served as the principal ship of the U.S. Fleet in reviewing the parade of tall ships in the harbor. It was a magnificent sight on a magnificent day for our country. The highlight of the day's ceremony was when the President of the United States, Gerald R. Ford, came aboard the *Forrestal* and rang the ship's bell, exactly at 2 p.m. Thousands of bells across the country were rung at the same time, in honor of our Nation and its history of freedom. The President's words on the occasion were an inspiration to all Americans and to the future of our country. They follow:

Remarks of the President

Secretary Middendorf, Ambassador Mosbacher, Admiral Kidd, Captain Barth, John Warner, Your Excellencies, ladies and gentlemen:

At the outset, let me express my gratitude and appreciation on behalf of all of the American people for everybody who had any part in making Operation Sail a success. I congratulate each and every one of you for a superb job.

It is a great pleasure for me to join my fellow Americans and the citizens of the world in this celebration of America's 200th birthday. No tribute could be more spectacular than the grand international armada, which filled this great harbor today.

The magnificent array of tall ships and naval vessels, the proud emissaries of 30 other nations, form an escort of special grace and beauty as the United States of America enters its third century of independence.

As we view this dramatic scene, we are reminded that America is a proud family of many peoples from many lands. We are reminded as well how the sea and ships have played a vital role in the life of our country. Our discoverers and explorers were sea voyagers from many nations. Our earliest colonists, seeking a new life in a new land, first had to test their strength and spirit against the Atlantic.

The U.S. Navy and the navies of our allies played a leading part in winning and defending the freedom we celebrate today. That tradition of strength and courage spans two centuries, from the time of John Paul Jones to the battles of Midway and Layte Gulf.

Since we became a nation the sea has also been a passageway for millions and millions of people from all over the world who have come to America to share its bounty and its opportunity and to enrich our future in return.

In this harbor stands the Statue of Liberty, herself an immigrant from France, lifting her torch to those who come to join the American adventure.

As we close the log of our second century, we begin an uncharted voyage toward the future. What may lie along that course and where it may finally take us, we cannot know.

But, we do know this: Americans have always moved ahead with confidence, as we do now, with a firm reliance on the protection of divine providence and guided by the fixed star of freedom.

So, let us journey together into the seas of tomorrow. For America, the future is a friend.

Thank you very kindly.

MULTINATIONAL BUSINESS ENTERPRISE INFORMATION ACT OF 1976, H.R. 13756

Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, in view of the increasing amount of money invested in foreign subsidiaries and the great impact such investments have upon our foreign relations and domestic economy, I am today introducing legislation, originally introduced by Congressman Jonathan Bingham, to create a program to "gather, analyze, and publish information on multinational corporations on an aggregate and individual firm basis."

This bill would amend the Export Administration Act of 1969 by directing the Secretary of Commerce to assemble and provide to Congress essential information on tax, income, employment, and trade between U.S. companies and their foreign affiliates. The bill reaffirms that Congress "shall have the full authority and responsibility for the handling of the information it receives, including its publication," according to Congressman Bingham.

This bill will supply the information that the Government and public need to protect their interests and to assure that the actions of U.S.-based corporations with their subsidiaries abroad are responsible and consistent with American domestic and foreign policies.

This bill will require the furnishing of information, which includes the names, locations, total assets, and incomes, commodities produced, total direct investment, financial transactions, consolidated net income, taxes paid, mergers and value of acquisitions and employment data of all foreign affiliates and branches of American firms.

This bill is an information bill and not a regulatory bill. In no way does this bill interfere with the operations of the corporations abroad. It merely allows the Government to analyze the multinationals and their economic and political impact at home and abroad.

This bill will fill gaps in our knowledge that would, in turn, enable us to judge more accurately the impact of the foreign operations of U.S. firms upon our domestic economy and upon our lives. It would produce better public understanding of the effects of international business upon jobs, and would lead to improved regulatory policies with respect to the foreign operations of American businesses.

The text of the bill is as follows.

H.R. 14819

A bill to amend the Export Administration Act of 1969 to establish a program for gathering and analyzing information with respect to multinational enterprises, and to require publication of such material on a regular basis

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Multinational Business Enterprise Information Act of 1976".

Sec. 2. (a) The Congress finds that the impact of, multinational business enterprises on the domestic economy, on commercial intercourse and overall relations with foreign nations, and on United States foreign policy is significant. The Congress also finds that the Government at present lacks the broad, detailed information it needs to assess the full effect of multinational business enterprises in order to produce meaningful economic and commercial policies.

(b) It is, therefore, the purpose of the Congress to establish a means by which such detailed information on multinational business enterprises may be gathered, analyzed, and made publicly available on a regular basis.

Sec. 3. The Export Administration Act of 1969 is amended by adding at the end thereof the following new section:

"INFORMATION ON MULTINATIONAL BUSINESS ENTERPRISES

"Sec. 15. (a) For purposes of this section—

"(1) the term 'multinational business enterprise' means a United States business enterprise which conducts business operations both in the United States and in one or more foreign countries, either directly or through one or more affiliates, and whose principal headquarters may or may not be located in the United States;

"(2) the term 'United States business enterprise' means a business enterprise carried on by—

"(A) a citizen or resident of the United States;

"(B) a partnership or corporation created or organized in the United States or under the laws of the United States, of any State, possession, or commonwealth of the United States, or of the District of Columbia; or

"(C) two or more such citizens, residents, partnerships, or corporations;

"(3) the term 'foreign affiliate' means a business enterprise which is not a United States business enterprise and is directly or indirectly owned by a United States person to the extent of 10 per centum or more of its voting stock for an incorporated business enterprise or an equivalent interest for an unincorporated business enterprise;

"(4) the term 'branch' includes (A) the operations or activities conducted by an incorporated or unincorporated person in its own name in a different location, but not through an incorporated entity, and (B) the foreign business of United States mutual insurance companies;

"(5) the term 'Secretary' means the Secretary of Commerce; and

"(6) the term 'commodity grouping' means products of 5, and never less than 4, digits according to present Standard Industrial Classification as prepared by the Office of Management and Budget.

"(b)(1) The Secretary shall establish and maintain a program to gather, on a mandatory basis, information with respect to multinational business enterprises. Such information shall include, but is not limited to, with respect to each multinational business enterprise—

"(A) the amount of total direct investment by such business enterprise in each of its foreign affiliates and branches, financial transactions between such business enterprise and each of its foreign affiliates and branches, the amount, of consolidated net income of each of its foreign affiliates and branches reported separately, the amount of taxes paid by such business enterprise and by each of its foreign affiliates with respect to foreign affiliate and branch operations, reported separately, and information about all mergers, net book value of acquisitions, liquidations, and investments in foreign countries involving such business enterprise;

"(B) the gross sales by commodity grouping (and, whenever possible, by product line) of such business enterprise and of each of its foreign affiliates in each foreign country in which such affiliate is doing business, reported separately, the dollar amount by commodity grouping (and, whenever possible, by product line) of articles which such business enterprise imports from each foreign country and of articles which such business enterprise exports to each foreign country, the dollar amount of trade by commodity grouping (and, whenever possible, by product line) which such business enterprise carries on with each of its foreign affiliates, reported separately, and the trade by commodity grouping (and, whenever possible, by product line) of each of its foreign affiliates reported separately;

"(C) employment data showing both the number of American and foreign employees of such business enterprise and of each of its foreign affiliates by country and by level of compensation;

"(D) the total dollar amount of research and development expenditures by such business enterprise, and the dollar amount of research and development expenditures by each of its foreign affiliates, by country and by activity;

"(E) the name and location of each foreign affiliate and foreign branch of such business enterprise, the total assets and income of each such foreign affiliate and foreign branch and a description of the commodities produced by each such foreign affiliate and foreign branch; and

"(F) the dollar amount of all expenditures made in the United States or in foreign countries, by foreign country, directly or indirectly through any agent or pursuant to any contractual arrangement.

"(2) The information initially gathered under paragraph (1) with respect to each multinational business enterprise, shall cover the two calendar years immediately preceding the date of submission of such information by such business enterprise. Such information shall be gathered every two years thereafter and shall cover the immediately preceding two calendar years. Under regulations prescribed by the Secretary, such information may be gathered, with respect to any multinational business enterprise, on a taxable year basis, in lieu of a calendar year basis.

"(3) No information shall be required under paragraph (1) with respect to any multinational business enterprise which establishes to the satisfaction of the Secretary that its aggregate assets are less than $50,000,000.

"(c)(1) The Secretary shall make available, as provided in paragraph (2), all information gathered under this section and statistical data derived from such information and shall publish on a regular basis statistical aggregates derived from information furnished under this section.

"(2) Upon request the Secretary shall furnish to the Adjustment Assistance Coordinating Committee, the International Trade Commission, and any committee of the House of Representatives or the Senate (or any joint committee of the Congress) information gathered under this section, statistical data derived from such information and statistical aggregates in advance of its publication under paragraph (1) and, to the extent possible, any additional statistical data requested which has not been published and can be derived from such information.

"(3) The provisions of subsection (b) of section 552 of title 5, United States Code, shall not apply to information gathered under this section.

"(d) The Secretary is authorized to prescribe such rules and regulations and to issue such orders as may be necessary to carry out the provisions of this section. The Congress has full authority and responsibility over the information it receives.

"(c)(1) Whoever fails to furnish any information required pursuant to the authority of this section, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, or order promulgated, pursuant to the authority of this section, may be assessed a civil penalty not exceeding $10,000 in a proceeding brought under this paragraph.

"(2) Whenever it appears to the Secretary that any person has failed to furnish any information required pursuant to the authority of this section, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, or order promulgated pursuant to the authority of this section, he may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, seeking a mandatory injunction commanding such person to furnish such information or to comply with such rule, regulation, or order. Upon a proper showing by the Secretary of the relevance to the purposes of this section of such information or of such rule, regulation, or order, a permanent or temporary injunction or restraining order may be granted without bond, and such person may also be subject to the civil penalty provided in paragraph (1) if the court finds that such penalty is necessary to obtain compliance with such injunction or restraining order.

"(3) Whoever willfully fails to submit any information required pursuant to the authority of this section, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, or order promulgated pursuant to the authority of this section, shall, upon conviction, be fined not more than $10,000 or, if a natural person, may be imprisoned for not more than one year, or both; and any owner, officer, director, or agent of any business enterprise who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

"(f) Sections 6, 7, 8, 10, and 14 of this Act shall not apply with respect to this section.".

BREAK UP BIG OIL?—YES

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I would like to bring to the attention of my colleagues an article from the Washington Post, June 20, entitled "Break Up Big Oil?—Yes," written by Senator GARY HART.

As a member of the Subcommittee on Energy and Power, I have listened to and studied the arguments for and against divestiture. The conclusion I have reached is that without divestiture, both a successful energy policy and our free enterprise system remain severely threatened.

Senator GARY HART raises a number of points of central concern to both critics and advocates of divestiture. I commend Senator GARY HART for his effective article and highly recommend it to my colleagues.

[From the Washington Post, June 20, 1976]

YES

(By GARY HART)

This Nation confronts a crossroads in its economic evolution. We can continue our present course toward increased concentration of corporate power regulated by a massive government bureaucracy. Or we can employ established antitrust measures such as divestiture to replace government-regulated, concentrated industries with market forces and sharply reduced government interference.

As a radical free enterpriser, I believe we must make this hard choice soon. Otherwise, ordinary citizens will continue to be ground down by gigantic public and private institutions whose existence is justified on grounds of "efficiency," stability and predictability. Thus, the issue of divestiture.

Efforts are under way to create an image of a mad Congress attacking the oil industry like Carrie Nation going at a saloon with a hatchet. And it's been charged that politicians are out to "punish Big Oil" in the interests of political expediency. But the notion of rationally restructuring the major oil companies along functional lines is neither frivolous nor vindictive.

Over the past 50 years there has hardly been a session of Congress in which one committee or another did not examine some aspect of the competitive structure of the petroleum industry or an attorney general who did not have a major antitrust suit for the oil industry on his desk. This reflects long-standing concern for the lack of genuine competition in the oil industry.

Concentration ratios in the oil industry are not the highest in American industry. But economic control cannot be measured simply by the percentage of the marketplace occupied by a single firm. Through an intricate web of intercorporate ties, cooperative arrangements and joint ventures, the 20 largest oil companies accounted for 76.3 per cent of the crude oil produced in the United States in 1973, and the same 20 companies controlled about 93.5 per cent of the country's reserves in 1970. The 16 largest firms controlled 92 per cent of all crude oil transported through pipelines in the United States in 1973, and the 20 largest companies maintained 82.9 per cent of the total U.S. refining capacity. And in marketing, the top 20 companies controlled 77.2 per cent of gasoline sales in 1973.

It is not the degree of concentration, therefore, but the over-all control of crude oil—coupled with cooperative business arrangements and vertical integration—that results in a largely non-competitive petroleum industry. The implications of such concentrated economic and political power in an industry so vital to our economy are massive.

OBSOLETE POLICIES

There is nothing sacred, or irrevocable, or particularly efficient, about the existing structure of the petroleum industry. It is largely the result of public policy during an era when oil was cheap and plentiful. This structure was created by deliberate governmental decisions to provide tax loopholes and a myriad of other economic incentives to the oil industry, as well as a failure to apply established antitrust principles. Now obsolete, these policies preserve an industry that controls the bulk of the supply of crude oil through restrictions on competition.

The structure of an industry that has developed along these lines is certainly open to question. The integrated nature of most of the oil industry not only inhibits competition, but it also results in the kind of concentration that invites federal regulation. In supporting divestiture, I am also supporting a return to a petroleum market free from government interference.

Divestiture would ensure the lowest price for petroleum and petroleum products and the most efficient allocation of resources. With genuine competition at every level of the business, companies would be forced to charge prices that reflect their true costs and a reasonable rate of return on their investment. Competitors would be able to grow and prosper, not because they control the bulk of production and transportation, but because they are efficient and offer the consumer the best product at the lowest price. That is the essence of our free enterprise system

But divestiture does raise a number of valid concerns:

1. Would divestiture result in companies so small that they could not pursue our stated goal of energy independence?

2. Would divestiture make the oil companies inefficient?

3. Would divestiture undercut the ability of oil companies to bargain with the Organization of Petroleum Exporting Countries (OPEC)?

The answer to all three questions is a resounding "no."

Industry representatives argue that divestiture would create "mini" companies unable to generate the capital needed to invest in high-risk ventures such as off-shore exploration for crude oil reserves. This is simply not true. Following divestiture, Exxon's domestic assets for production alone would be in excess of $11 billion, larger than such giant firms as ITT and U.S. Steel. Exxon's other successor companies would each be among the 20 largest American firms in total assets. The smallest company affected by divestiture, Marathon Oil, would have production assets in excess of $883 million. A firm of that size would still be among the top 200 on the "Fortune 500" list. Any well-managed firm of this size would have little difficulty in generating needed capital to produce a product so vital to our highly industrialized economy

Critics of divestiture also suggest that vertical integration produces efficiencies that result in lower consumer prices. But the "continuous flow" from the ground to the gasoline pump that industry representatives point to does not exist. Major integrated firms buy, sell and exchange with other firms as much crude as they produce for themselves. By controlling a supply of crude far in excess of their own refinery needs, they control much of what is sold to independent firms.

Still, nonbranded independents have consistently undercut the majors' price at the pump from 2 to 5 cents per gallon, and have pioneered the development of multi-pump and self-service stations. Despite their relative disadvantage in the crude market, the nonintegrated companies have operated more efficiently than the integrated firms in the refining and particularly in the marketing of petroleum products.

It has also been suggested that divestiture would increase our dependence on OPEC oil while weakening the position of American-based oil multinationals abroad. The fact is that the world's major refiners are also the world's major producers. Because each OPEC price increase raises the value of their reserves outside OPEC, the large domestic refiners have no real interest in lower crude prices. These firms provide ready markets for OPEC oil and in return are guaranteed a secure oil supply.

The key is the tie between crude production in the OPEC countries and refining in the consuming nations such as the United States. Vertical integration facilitates the oil giants' traditional role as the marketers of OPEC oil, effectively discouraging competitive pressure which might otherwise be brought to bear on OPEC prices. By divorcing refining from crude oil production and creating an intermediate market for crude oil, we would be unleashing a powerful economic force with a genuine interest in lower prices. OPEC would no longer have access to marketers voluntarily allocating its production and thus facilitating its price fixing. At the very least, divestiture would serve to weaken the OPEC cartel and help frustrate spiraling oil prices.

The notion that divestiture will result in smaller companies less able to bargain with OPEC misses the point. As long as the international companies have their refining and marketing activities tied to crude concessions in OPEC, they cannot really bargain. And, as long as they own raw energy resources outside of OPEC, they have no incentive to do so.

In the Northern Securities Co. case in 1904, the Supreme Court stated:

"It is the history of monopolies in this country and in England that predictions of ruin are habitually made by them when it is attempted, by legislation, to restrain their operations and to protect the public against their exactions."

Congress must confront the problem of excessive economic concentration in the marketplace. The failure of previous government efforts to create true competition in the oil industry through legislation and regulation justifies legislative initiatives to establish a competitive, free market.

DR. HELMUT R. R. WAKEHAM

(Mr. WAMPLER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, it was recently my pleasure to tour the research and production facilities of Philip Morris in Richmond, Va., in connection with my interest in tobacco research.

The following article, which appeared in the Washington Star, Wednesday, July 21, 1976, illustrates the contributions made by Dr. Helmut R. R. Wakeham in the important field of tobacco research during his association with Philip Morris.

HIS FIRM FINDS RESEARCH PAYS

(By Donald Saltz)

By coincidence, when Dr. Helmut R. R. Wakeham joined Philip Morris, Inc., 18 years ago as a researcher into the properties of textile fibers, the company's sales and earnings began to take off.

The once moderate-sized cigarette maker has jumped by leaps and bounds to become, with Reynolds Industries, one of the leaders in cigarette sales. The growth rate at Philip Morris has been tops in the tobacco industry. Sales, now at an annual rate of more than $4 billion, have more than doubled since 1972.

"The tobacco business is recession-proof, as is our Miller Brewing operation," said Wakeham, who is now vice president of science and technology. "As a company, we have the largest (cigarette) sales abroad of all U.S. companies, and we have 25 percent of the market in the United States."

That percentage of the U.S. market, aided primarily by the company's Marlboro brand, which alone has more than 15 percent of the domestic market, has been growing by at least a percentage point each year.

Wakeham, whose expertise was in textile research, joined Philip Morris to utilize his skills in fibers for cigarette filter materials.

"Soon after that Philip Morris began buying small non-tobacco companies with the idea toward building them into larger businesses, but we found that when we put our ing small non-tobacco companies with the accounting procedures, personnel and quality-control programs into effect, these acquisitions were not suitably profitable," Wakeham said.

One such acquisition was American Safety Razor, which in addition to making standard razor blades produced 40 percent of all surgical blades made in the United States. Philip Morris later bought two hospital supply specialty firms, and still later the Clark Chewing Gum Co.

The Clark division, which had sales of about $25 million a year, has since been sold.

Miller Brewing, acquired in 1970, has seen its beer volume jump annually by as much as 42 percent (in '75) as Miller's market share rose from 6.2 to 8.6 percent in the latest full year. Miller, whose production last year couldn't match demand, is now the fourth-largest U.S. brewer.

"Miller and the other divisions have their own research departments," Wakeham noted. "In the tobacco part of the company's business we have 450 people involved in research."

The firm also has a land development and homebuilding company and packaging, paper and chemical divisions.

Wakeham, who describes himself as a "research smoker," said the American blend of cigarette tobacco—a mixture of flue-cured, burley and Oriental (aromatic) blends—has become popular throughout the world.

Smokers in many foreign countries prefer stronger tobaccos, however, Wakeham said.

"The effort to reduce tar content in cigarettes is challenging because it also makes the cigarette milder and bland," Wakeman said. "Generally low-tar cigarettes have not been good sellers because they tasted too bland.

"We came up with the Merit low-tar blend and tested it on 30,000 to 35,000 people we had used before for gum and razor blade tests. They liked it and Philip Morris made a major and unusual decision—that Merit would not be regionally test-marketed but would go immediately into national distribution. A $30 million marketing program began in January," Wakeham said.

Merit became an immediate success, he said, and will recover initial marketing expenses in the first year. The new brand already has 1.5 percent of the U.S. market of more than 600 billion cigarettes a year.

"We keep reminding corporate headquarters in New York that this is a product of research," Wakeham said.

CONFERENCE REPORT ON H.R. 14234

Mr. McFALL submitted the following conference report and statement on the bill (H.R. 14234) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes:

Conference Report (H. Rept. No. 94–1361)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14234) "making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numebred 1, 18, 42, 48, 49 and 50.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 8, 9, 11, 13, 15, 17, 19, 20, 30, 31, 32, 33, 34, 35, 37, 38, 41, 43, 44, 45, 46, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62, and 63, and agree to the same.

Amendment numbered 2. That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,250,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,900,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$74,350,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$72,326,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$29,876,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$52,900,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$75,000,000": and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "together with $5,000,000 for the programs authorized by section 11(c) (6) and (7) of the Department of Transportation Act, as amended, and $3,000,000 for the Minority Resource Center, as authorized by section 906 of Public Law 94–210,"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$575,700,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$482,600,000"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$61,200,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$58,700,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$65,900,000"; and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,077,700,000"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment amended to change the "Sec. 316" to "Sec. 319"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 7, 10, 12, 26, 27, 36, 40 and 61.

John J. McFall,
Sidney R. Yates,
Tom Steed,
Edward I. Koch,
Bill Alexander,
Robert Duncan,
George H. Mahon,
Silvio O. Conte,
Jack Edwards,
Elford A. Cederberg,
Managers on the Part of the House.

Birch Bayh,
John L. McClellan,
Robert C. Byrd,
John C. Stennis,
Warren G. Magnuson,
John O. Pastore,
Thomas F. Eagleton,
Clifford P. Case,
Milton R. Young,
Ted Stevens,
Charles McC. Mathias, Jr.,
Richard S. Schweiker.
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14234) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes, submitted the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Transportation Planning, Research, and Development

Amendment No. 1: Appropriates $28,000,000 as proposed by the House instead of $31,000,000 as proposed by the Senate. The conferees direct that $3,000,000 shall be allocated to a multi-modal demonstration project at South Bend, Indiana.

Grants-in-Aid for Natural Gas Pipeline Safety

Amendment No. 2: Appropriates $2,250,000 instead of $2,000,000 as proposed by the House and $2,500,000 as proposed by the Senate.

Coast Guard

Acquisition, Construction, and Improvements

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows: $241,000,000, of which not to exceed $5,000,000 may be transferred to the appropriation "Pollution Fund".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included language permitting the transfer of not to exceed $5,000,000 to the Pollution Fund only as a temporary mechanism to meet emergency cleanup requirements until a supplemental budget request can be submitted for this fund. If funds are transferred from essential Acquisition, Construction, and Improvement projects, the conferees expect that restoration of those funds will be submitted in a supplemental budget request. The conferees direct that no funds be transferred from the projects at Sitka and Kodiak, Alaska.

Alteration of Bridges

Amendment No. 4: Appropriates $10,900,000 instead of $9,600,000 as proposed by the House and $12,300,000 as proposed by the Senate.

Federal Aviation Administration

Operations

Amendment No. 5: Provides that $250,000,000 of the appropriation be derived from the Airport and Airway Trust Fund as proposed by the Senate. The conference agreement includes a total of 53,917 positions. The increase of 60 positions over the House bill is for the administration of the airports program.

Research, Engineering and Development (Airport and Airway Trust Fund)

Amendment No. 6: Appropriates $74,350,000 instead of $72,000,000 as proposed by the House and $76,700,000 as proposed by the Senate.

The conferees direct that no part of the reduction be applied to the development of the Microwave Landing System or to the programs for wind sheer detection and avoidance. The conferees also feel that it is necessary for the Aerosat programs to proceed as planned because of the United States' international commitments made with the approval of the Congress.

Grants-in-Aid for Airports (Liquidation of Contract Authorization) (Airport and Airway Trust Fund)

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows: "$355,000,000; and for airport planning grants $15,000,000 to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That the sum appropriated for airport planning grants shall be available for obligation upon the date of enactment of this Act.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees recognize the obligation of the Government to liquidate the contracts entered into under this program and expect that a supplemental request will be submitted if additional cash is required later in the fiscal year.

Federal Highway Administration

Highway-Related Safety Grants (Liquidation of Contract Authorization)

Amendment No. 8: Appropriates $26,820,000 as proposed by the Senate instead of $25,820,000 as proposed by the House.

Amendment No. 9: Provides that $20,320,000 of the appropriation be derived from the Highway Trust Fund as proposed by the Senate instead of $19,320,000 as proposed by the House.

Railroad-Highway Crossings Demonstration Projects

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to include projects at Terre Haute, Indiana under section 163 of Public Law 93–87.

Access Highways to Public Recreation Areas on Certain Lakes

Amendment No. 11: Provides that the appropriation remain available until September 30, 1979 as proposed by the Senate instead of September 30, 1980 as proposed by the House.

Baltimore-Washington Parkway

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

In lieu of the sum named in said amendment insert "$1,500,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Alaska Roads Study

Amendment No. 13: Appropriates $200,000 as proposed by the Senate.

National Highway Traffic Safety Administration

Traffic and Highway Safety

Amendment No. 14: Appropriates $72,326,000 instead of $68,000,000 as proposed by the House and $89,326,000 as proposed by the Senate. The conferees have made the following changes from the amounts provided by the House:

Standards development and enforcement	+$500,000
Support engineering systems	−170,000
Driver pedestrian research	−300,000
Emergency medical services	+245,000
Alcohol public education	+300,000
Manpower development	+200,000
Enforcement technologies and procedures	+185,000
Drug and alcohol research	+366,000
Automotive fuel economy	+3,000,000

The conferees intend that this appropriation should be available for both Public Law 92–513 and 94–163.

Amendment No. 15: Provides as proposed by the Senate that $26,746,000 of the appropriation shall be derived from the Highway Trust Fund instead of $25,750,000 as proposed by the House.

Amendment No. 16: Provides that $29,876,000 of the appropriation shall remain available until expended instead of $27,260,000 as proposed by the House and $45,926,000 as proposed by the Senate.

Amendment No. 17: Provides as proposed by the Senate that $8,616,000 of the amount appropriated to remain available until expended shall be derived from the Highway Trust Fund instead of $8,550,000 as proposed by the House.

Amendment No. 18: Deletes language proposed by the Senate to earmark $13,500,000 for the construction of the Compliance Test Facility at East Liberty, Ohio.

State and Community Highway Safety (Liquidation of Contract Authorization)

Amendment No. 19: Appropriates $88,500,000 as proposed by the Senate instead of $83,300,000 as proposed by the House.

Amendment No. 20: Provides as proposed by the Senate that $83,360,000 of the appropriation shall be derived from the Highway Trust Fund instead of $78,160,000 as proposed by the House.

Federal Railroad Administration

Railroad Research and Development

Amendment No. 21: Appropriates $52,900,000 instead of $51,500,000 as proposed by the House and $54,300,000 as proposed by the Senate.

The conference agreement includes $3,750,000 for industry problems, $2,250,000 for freight car management, $6,100,000 for safety research and $4,850,000 for administration.

Rail Service Assistance

Amendment No. 22: Appropriates $75,000,000 instead of $60,000,000 as proposed by the House and $100,450,000 as proposed by the Senate.

Amendment No. 23: Appropriates $5,000,000 for programs authorized by section 11(c) (6) and (7) of the Department of Transportation Act, as amended, instead of $10,000,000 as proposed by the Senate and appropriates $3,000,000 for the minority Resource Center instead of $3,050,000 as proposed by the Senate.

The conferees expect that the Department of Transportation will expeditiously implement the various programs contemplated by the Minority Resource Center legislation to insure that minority firms have an equal opportunity to participate in all aspects of the railroad rehabilitation program.

Grants to the National Railroad Passenger Corporation

Amendment No. 24: Appropriates $575,700,000 instead of $495,200,000 as proposed by the House and $603,700,000 as proposed by the Senate.

The conferees expect Amtrak will continue to operate the national rail passenger system within the appropriations provided. The conferees note the appreciable cost reductions made by the Corporation in fiscal year 1976 as being consistent with the instructions of the conference committee and expect the Corporation to continue to take further steps to reduce costs and increase productivity. The conferees further expect that Amtrak will make every reasonable effort to promote the success of experimental routes during the demonstration period required by law.

The conferees are concerned by the size and trend of payments required under present railroad incentive contracts and believe that future contracts should be tightened. Incentive criteria for payments for on-time performance must be set to be more prudent and consistent with the public interest.

The conferees note with some concern the estimated cost of $35 million annually required to meet Interstate Commerce Commission provisions of service. Amtrak and the Federal Railroad Administration are directed to study this matter and report to the appropriate Committees of the Congress recommendations for reducing or eliminating high-cost regulatory requirements.

The General Accounting Office has completed an audit of the Corporation's travel and entertainment expenses. While no abuses were reported by the GAO, the conferees are concerned that Amtrak rgulations governing the description of expenses are not being followed in all instances. The Corporation is instructed to take action to assure that its regulations on expense accounts are followed. In addition, the conferees direct Amtrak to tighten its regulations in order to bring them more in line with the public interest in light of the large Federal investment in the Corporation.

The conferees have included language in the bill which will prohibit the lease or purchase of vehicles for the use of Amtrak's officers and employees except when such officers and employees are in official travel status. The conferees intend this action to remove the use of such vehicles in traveling to and from work as has been the previous practice for such employees. The conferees do, however, understand the need for Amtrak's President to have the use of such service, and therefore exclude the present policy of providing a vehicle for him from this provision.

Amendment No. 25: Provides that $482,600,000 of the appropriation shall be available for operating losses instead of $414,700,000 as proposed by the House and $498,000,000 as proposed by the Senate.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows: "Corporation, including $62,600,000 which shall be avaliable for the payment of additional operating expenses of the National Railroad Passenger Corporation, resulting from the operation, maintenance, and ownership or control of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, and not more than $93,100,000 shall be available for capital improvements: *Provided, however,* That none of the funds herein appropriated shall be used for the lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the President, of the National Railroad Passenger Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Railroad Rehabilitation and Improvement Financing Funds

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows:

Railroad Rehabilitation and Improvement Financing Funds

The Secretary of Transportation is hereby authorized to expend proceeds from the sale of Fund anticipation notes to the Secretary of the Treasury and any other monies deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505–507 and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210) for the uses authorized for the Fund, in amounts not to exceed $70,000,000, to remain available until September 30, 1978. The Secretary of Transportation is also authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210) in such amounts and at such time as may be necessary to pay any amounts required pursuant to the guarantee not to exceed $400,000,000 principal amount of obligations under sections 511 through 513 of such act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That the aggregate principal amount of guarantees and commitments to guarantee obligations under section 511 of Public Law 94–210 shall not exceed $400,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees do not intend that the action limiting the aggregate principal amount of obligation guarantees under section 511 of Public Law 94–210 to $400,000,000 should be considered a precedent with regard to other loan guarantee programs in the Federal Government.

Urban Mass Transportation Administration

Research, Development, and Demonstrations and University Research and Training

Amendment No. 28: Appropriates $61,200,000 instead of $57,000,000 as proposed by the House and $65,000,000 as proposed by the Senate. The conference agreement restores the $2,000,000 included by the House for the demostration project authorized by section 148 of Public Law 94–280 and includes the following additions to the House bill:

Shuttle and Loop Transit	$3, 000, 000
AGT socioeconomic research	125, 000
Accelerating walkway	400, 000
Special projects	250, 000
Management techniques	425, 000

The conferees recognize the possible need to obligate funds during fiscal year 1977 to implement certain new reporting requirements under section 15 of the Urban Mass Transportation Act. The conferees intend to request additional information from UMTA on this program.

Amendment No. 29: Earmarks $58,700,000 of the appropriation for research, development, and demonstrations instead of $54,500,000 as proposed by the House and $62,500,000 as proposed by the Senate.

Liquidation of Contract Authorization

Amendment No. 30: Appropriates $1,700,000,000 as proposed by the Senate instead of $1,718,000,000 as proposed by the House.

Amendments Nos. 31 and 32: Delete "such" and "as are necessary" from the proviso as proposed by the Senate.

Projects Substituted for Interstate System Projects

Amendment No. 33: Appropriates $400,000,000 as proposed by the Senate instead of $575,000,000 as proposed by the House.

Amendments Nos. 34 & 35: Delete "such" and "as are necessary" from the proviso as proposed by the Senate.

TITLE II—RELATED AGENCIES

National Transportation Safety Board

Salaries and Expenses

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to earmark $300 of the appropriation for official reception and representation expenses.

Interstate Commerce Commission

Salaries and Expenses

Amendment No. 37: Appropriates $57,036,000 as proposed by the Senate instead of $56,400,000 as proposed by the House.

The conference agreement includes 2205 positions.

The conferees recognize that the Railroad Revitalization and Regulatory Reform Act of 1976 imposed certain new responsibilities on the Commission. The conferees have provided substantial sums for contractual support necessary to discharge these responsibilities and expect the Commission to make certain internal adjustments in Commission personnel so that the intent of Congress regarding railroad rate regulation can be achieved.

The conferees direct that the Commission and/or the rail services planning office expeditiously complete an evaluation of certain rail lines in Luzerne County, Pennsylvania pursuant to section 205(e) (2) of Public Law 93–236, as amended.

Amendment No. 38: Earmarks $1,999,400 of the appropriation for the office of rail public counsel as proposed by the Senate instead of $1,363,400 as proposed by the House. The conference agreement includes 21 positions for the office of rail public counsel.

The Panama Canal

Canal Zone Government

Operating Expenses

Amendment No. 39: Appropriates $65,900,000 instead of $65,800,000 as proposed by the House and $66,000,000 as proposed by the Senate.

Department of the Treasury

Office of the Secretary

Investment in Fund Anticipation Notes

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to provide $70,000,000.

National Transportation Policy Study Commission

Amendment No. 41: Appropriates $1,000,000 as proposed by the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 42: Deletes language proposed by the Senate to amend section 302 of Public Law 94–134 and to exempt uncommitted funds from the fiscal year 1977 limitation. Language to amend section 302 of Public Law 94–134 has been included under amendment No. 64. The conferees direct FAA to give first priority in fiscal year 1977 to those applications which were in process during the transition period, but were not approved during that period. The conferees have deleted the Senate language with respect to the exemption of uncommitted funds without prejudice to the consideration of a supplemental request to increase the fiscal year 1977 limitation.

Amendment No. 43: Limits obligations for Highway-related safety grants to $21,000,000 as proposed by the Senate.

Amendment No. 44: Limits obligations for State and Community Highway Safety to $129,000,000 as proposed by the Senate.

Amendments Nos. 45 & 46: Change Section numbers.

Amendment No. 47: Limits commitments for the Urban Mass Transportation Act of 1964, as amended, to $2,077,700,000 instead of $1,947,000,000 as proposed by the House and $2,083,000,000 as proposed by the Senate.

Amendments Nos. 48 & 49: Delete language proposed by the Senate to exempt unobligated section 17 funds from the limitation on commitments for mass transportation. The deletion of this language is made without prejudice to the consideration of a supplemental request to increase the fiscal year 1977 limitation.

Amendment No. 50: Deletes language proposed by the Senate to exempt from the limitation on commitments for mass transportation certain uncommitted funds for sections 3, 6, 9, 10, and 11 of the Urban Mass Transportation Act of 1964, as amended.

Amendments Nos. 51, 52, 53 & 54: Change Section numbers.

Amendment No. 55: Inserts language as proposed by the Senate prohibiting the use of funds provided under this act to implement the provision of section 155 of title 2 of the Canal Zone Code relating to the establishment of employment standards, pay levels, and other conditions of employment within the Canal Zone.

Amendments Nos. 56, 57, 58, 59 & 60: Change Section numbers.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to limit obligations for certain highway construction programs ot $7,200,000,000.

Amendment No. 62: Deletes language proposed by the House to limit the issuance of securities, obligations or loans authorized by 45 U.S.C. 602 to $746,000,000.

Amendment No. 63: Changes Section number.

Amendment No. 64: Restores House provision to amend Section 302 of Public Law 94-134.

Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1976 amount, the

1977 budget estimates, and the House and Senate bills for 1977 follows:

New budget (obligational) authority, fiscal year 1976	[1] $5,925,893,775
Budget estimates of new (obligational) authority, fiscal year 1977	[2] [3] 5,173,292,357
House bill, fiscal year 1977	[3] 5,296,077,357
Senate bill, fiscal year 1977	[3] 5,411,139,357
Conference agreement	[3] 5,311,839,357
Conference agreement compared with:	
New Budget (obligational) authority, fiscal year 1976	−614,054,418
Budget estimates of new (obligational) authority, fiscal year 1977	+138,547,000
House bill, fiscal year 1977	+15,762,000
Senate bill, fiscal year 1977	−99,300,000

[1] Includes $90,059,000 advance appropriation for fiscal year 1977 and $561,000,000 advanco appropriation for fiscal years 1978 and 1979.

[2] Includes $76,000,000 of budget estimates not considered by the House, contained in Sen. Doc. 94-203 and 94-206, and excludes $255,000,000 of budget estimates ocnsidered by the House reduced by Sen. Doc. 94-196.

[3] Includes $15,421,779 advance appropriation for fiscal year 1978.

John J. McFall,
Sidney R. Yates,
Tom Steed,
Edward I. Koch,
Bill Alexander,
Robert Duncan,
George H. Mahon,
Silvio O. Conte,
Jack Edwards,
Elford A. Cederberg,
Managers on the Part of the House.

Birch Bayh,
John L. McClellan,
Robert C. Byrd,
John C. Stennis,
Warren G. Magnuson,
John O. Pastore,
Thomas F. Eagleton,
Clifford P. Case,
Milton R. Young,
Ted Stevens,
Charles McC. Mathias, Jr.,
Richard S. Schweiker,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 14233

Mr. BOLAND submitted the following conference report and statement on the bill (H.R. 14233) "making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes:

Conference Report (H. Rept. No. 94–1362)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14233) "making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 13, 20, 23, 25, 38, 40, 41, 42, and 43.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 6, 8, 15, 16, 17, 19, 21, 22, 24, 30, 33, 34, and 39, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"HOUSING COUNSELING ASSISTANCE

"For contracts, grants, and other assistance, not otherwise provided for, of providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, $3,000,000."

And the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$62,500,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$50,000,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$55,000,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$419,000,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$39,000,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$376,844,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: in lieu of the sum proposed by said amendment insert $813,000,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$710,000,000"; and the Senate agree to the same.

Amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "*Provided*, That $5,800,000 shall be available for construction of a research and education facility at Dallas, Texas; $10,000,000 for construction of facilities on government-owned land for a TARGET data processing center; $534,000 for design of nursing home care facilities at Wilkes-Barre, Pennsylvania; $500,000 for design of a new blind rehabilitation center and eye, ear, nose and throat clinic at Birmingham, Alabama; $3,500,000 for the design of a clinical and ambulatory care addition and renovation of existing areas at the Oklahoma City, Oklahoma, Veterans Administration Hospital; and $460,000 for the design of a new clinical building at the Mountain Home, Tennessee, Veterans Administration Hospital"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 7, 28, 29, 31, 32, 35, and 37.

Edward P. Boland,
Joe L. Evins,
George E. Shipley,
J. Edward Roush,
Bob Traxler,
Max Baucus,
Louis Stokes,
Yvonne Brathwaite Burke,
George Mahon,
Burt L. Talcott,
Joseph M. McDade,
C. W. Bill Young,
Elford A. Cederberg,
Managers on the Part of the House.

William Proxmire,
John O. Pastore,
John C. Stennis,
Mike Mansfield,
Birch Bayh,
Lawton Chiles,
J. Bennett Johnston,
Walter D. Huddleston,
John L. McClellan,
Frank E. Moss,
Charles McC. Mathias,
Clifford P. Case,
Hiram L. Fong,
Edward W. Brooke,
Henry Bellmon,
Milton R. Young,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14233) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report:

TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

The additional amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), entered into after September 30, 1976, shall not exceed $675,000,000 including not more than $35,000,000 for the modernization of existing low-income housing projects, which amounts shall be in addition to balances of authorization heretofore made available for such contracts: *Provided*, That the total new budget authority obligated under such contracts entered into after September 30, 1976, shall not exceed $14,870,400,-

000, which amount shall not include budget authority obligated under balances of authorization heretofore made available: *Provided further*, That of the total herein provided, excluding funds for modernization, not more than $120,000,000 shall be used only for contracts for annual contributions to assist in financing the development or acquisition of low-income housing projects to be owned by public housing agencies other than under section 8 of the above Act: *Provided further*, That of the amount set forth in the second proviso, not more than $85,000,000 shall be used only for projects on which construction or substantial rehabilitation is commenced after the effective date of this Act except in the case of amendments to existing contracts: *Provided further*, That of the amount set forth in the second proviso, not less than 15 per centum shall be used only with respect to new construction in non-metropolitan areas.

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

The committee of conference agrees that the $85,000,000 earmarked for new public housing construction includes the 15 per centum for projects in non-metropolitan areas, and the anticipated $17,000,000 for Indian housing and $8,000,000 for amendments to public housing annual contributions contracts.

The committee of conference also expects that the maximum of $120,000,000 earmarked for public housing, including a maximum of $85,000,000 for new or substantially rehabilitated construction, and the maximum of $35,000,000 for modernization of public housing will *all* be fully utilized by the Department.

Finally, it is agreed that the 15 per centum set forth for new public housing construction in non-metropolitan areas shall be exclusive of any contract authority used for Indian housing.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Provided further, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein.

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 3: Restores language proposed by the House and stricken by the Senate making available any excess rental charges under section 236(g) of the National Housing Act to liquidate contract obligations for a number of programs under the housing payments account.

The committee of conference is agreed that this action shall not prejudice any suit now or hereafter before the courts in this area.

The conferees note that HUD has testified that, in calculating the need for $575,600,000 in public housing operating subsidies, the Department has presumed implementation of a revised performance funding formula developed by the Urban Institute. The conferees expect that the Department will emplement the revised formula retroactive to April 1, 1976, so that public housing authorities whose fiscal years began on April 1, 1976, will be able to operate under the revised formula during this fiscal year.

Amendment No. 4: Deletes language proposed by the House and inserts language as proposed by the Senate making technical changes in the wording of the Federal Housing Administration Fund appropriation.

Amendment No. 5: Restores language proposed by the House and stricken by the Senate for housing counseling assistance and appropriates $3,000,000 instead of $5,000,000 as proposed by the House.

Amendment No. 6: Appropriates $3,148,000,000 for community development grants as proposed by the Senate, instead of $3,048,000,000 as proposed by the House.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to provide a minimum of $100,000,000 in community development grants for small communities in standard metropolitan statistical areas.

Amendment No. 8: Deletes language proposed by the House earmarking $100,000,000 in community development grants for small communities in standard metropolitan statistical areas as proposed by the Senate.

Amendment No. 9: Appropriates $62,500,000 for comprehensive planning grants, instead of $50,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

The committee of conference understands that the Department has too narrowly restricted the use of community development funds for planning activities. The conferees direct that these funds be made available for comprehensive planning in accordance with Section 105(a)(12) of the Housing and Community Development Act of 1974.

Amendment No. 10: Appropriates $50,000,000 for the rehabilitation loan fund, instead of $25,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

Amendment No. 11: Appropriates $55,000,000 for research and technology, instead of $53,000,000 as proposed by the House and $60,000,000 as proposed by the Senate.

The committee of conference agrees that within the funds provided, not less than $4,500,000 shall be allocated to the Urban Reinvestment Task Force research program.

Amendment No. 12: Appropriates $419,000,000 for salaries and expenses of the Department, instead of $417,000,000 as proposed by the House and $421,000,000 as proposed by the Senate. The committee of conference agrees that the amount provided will fund 15,570 positions distributed as follows:

Housing Programs	8,278
Government National Mortgage Association	39
Community Planning and Development	1,483
New Communities	80
Federal Insurance Administration	298
Interstate Land Sales	115
Policy Development and Research	182
Fair Housing and Equal Opportunity	464
Federal Disaster Administration	168
Departmental Management	156
Office of General Counsel	200
Field Legal Services	315
Office of Inspector General	491
Administration and Staff Services	1,617
Field Direction	555
Field Administration	1,129
Total	15,570

Amendment No. 13: Deletes language proposed by the Senate appropriating $4,300,000 to be used at the discretion of the Secretary of Housing and Urban Development for the foreclosure of the new community in Gananda, New York.

TITLE II—INDEPENDENT AGENCIES

Consumer Product Safety Commission

Amendment No. 14: Appropriates $39,000,000 for salaries and expenses, instead of $41,100,000 as proposed by the House and $37,000,000 as proposed by the Senate.

Environmental Protection Agency

Amendment No. 15: Appropriates $259,900,000 for research and development as proposed by the Senate, instead $265,000,000 as proposed by the House. The committee of conference is agreed that any additional positions required for the Chesapeake Bay study must be released by the Office of Management and Budget and not absorbed by the agency.

Amendment No. 16: Inserts language limiting availability of research and development funds until September 30, 1978, as proposed by the Senate, instead of until expended as proposed by the House.

Amendment No. 17: Inserts language limiting availability of abatement and control funds until September 30, 1978, as proposed by the Senate, instead of until expended as proposed by the House.

Amendment No. 18: Appropriates $376,844,000 for abatement and control, instead of $398,044,000 as proposed by the House and $371,844,000 as proposed by the Senate. The committee of conference is an agreement with the recommendations contained in the report of the Senate except that $15,000,000 shall be available for the "Clean Lakes" program as proposed by the House, instead of $10,000,000 as proposed by the Senate.

The committee of conference is also agreed that $1,000,000 shall be made available for providing grants to State associations of rural water districts for the purpose of establishing training and technical assistance programs to assist rural water systems in complying with the provisions of the Safe Drinking Water Act and the reprogramming of funds for such purposes as proposed in the Senate report.

Amendment No. 19: Appropriates $5,000,000 for scientific activities overseas as proposed by the Senate, instead of $6,000,000 as proposed by the House.

Amendment No. 20: Restores language proposed by the House and stricken by the Senate limiting 1976, transition period, and 1977 funds for areawide planning grants authorized by section 208 of the Federal Water Pollution Control Act to 75 percent of project costs.

The committee of conference agrees that the 75 percent limitation on the Federal contribution authorized by Section 208 of the Federal Water Pollution Control Act is not intended to apply to any funds that may be made available by court actions.

Council on Environmental Quality

Amendment No. 21: Appropriates $2,800,000 for the Council on Environmental Quality and Office of Environmental Quality as proposed by the Senate, instead of $2,915,000 as proposed by the House.

Office of Science and Technology Policy

Amendment No. 22: Appropriates $2,300,000 for salaries and expenses as proposed by the Senate.

The committee of conference is agreed that none of the funds provided shall be used to fund major contracts for the pursuance of a 2-year survey of the overall Federal science and technology effort in the absence of additional information.

Office of Consumer Affairs

Amendment No. 23: Appropriates $1,581,000 for the Office of Consumer Affairs as proposed by the House, instead of $1,645,000 as proposed by the Senate.

National Aeronautics and Space Administration

Amendment No. 24: Appropriates $2,761,425,000 for research and development as proposed by the Senate, instead of $2,767,425,000 as proposed by the House.

The committee of conference accepts the concept that terrestrial energy development should be responsibility of the Energy Research and Development Administration. However, it also believes that work on the solar satellite segment of a solar satellite power generation system should be pursued by the National Aeronautics and Space Administration. Therefore, the committee of conference directs that within the total provided in this Act, $2,500,000 should be augmented with $2,500,000 appropriated to ERDA and used in a cooperative effort to continue studies leading to the potential development of a solar satellite power system.

The committee of conference also agrees that NASA may issue Request for Proposals covering the Large Space Telescope only after fiscal year 1978 budget has been submitted to the Congress containing an estimate for funding of development of the LST. This is not to be construed as an endorsement of development funding for the project.

Amendment No. 25: Appropriates $118,090,000 for construction of facilities as proposed by the House, instead of $120,290,000 as proposed by the Senate.

Within the amount provided, the conferees agree that a total of $7,855,000 is provided for modifications of a second shuttle mobile launcher at the Kennedy Space Center and that $6,000,000 is provided for initial modification of the 40 x 80 foot wind tunnel at the Ames Research Center.

The committee of conference also agrees that NASA may proceed with the Lunar Sample Curatorial Facility from within available funds or by reprogramming the necessary amount from lower priority items in the 1977 or prior year construction of facilities appropriation account.

Amendment No. 26: Appropriates $813,000,000 for research and program management, instead of $809,000,000 as proposed by the House and $813,455,000 as proposed by the Senate.

NATIONAL SCIENCE FOUNDATION

Amendment No. 27: Appropriates $710,000,000 for research and related activities, instead of $681,400,000 as proposed by the House and $738,000,000 as proposed by the Senate.

Amendments No. 28 and 29: Reported in technical disagreement. The managers on the part of the House will offer motions to recede and concur in the amendments of the Senate to insert language limiting the use of funds in the bill for any program to the amounts provided herein, and to limit funds to meet minima in any other Act to amounts proportionate to the total funds authorized.

Amendment No. 30: Appropriates $59,000,000 for science education activities as proposed by the Senate, instead of $64,000,000 as proposed by the House.

Amendments No. 31 and 32: Reported in technical disagreement. The managers on the part of the House will offer motions to recede and concur in the amendments of the Senate to insert language limiting the use of funds in the bill for any program to the amounts provided herein, and to limit funds to meet minima in any other Act to amounts proportionate to the total funds authorized.

VETERANS ADMINISTRATION

Amendment No. 33: Appropriates $4,218,032,000 for medical care as proposed by the Senate, instead of $4,222,232,000 as proposed by the House.

Amendment No. 34: Appropriates $101,633,000 for medical and prosthetic research as proposed by the Senate, instead of $97,433,000 as proposed by the House. The committee of conference recognizes the importance of diabetes research but is in agreement that funds should not be earmarked for a specific area of research.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $405,681,000 for construction, major projects, instead of $399,131,000 as proposed by the House and $388,847,000 as proposed by the Senate.

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

The approved projects and amounts for construction, major projects, are as listed in the House report with the following exceptions: (1) add $3,500,000 for the design of a clinical and ambulatory care addition and renovation of existing areas at the Oklahoma City, Oklahoma, VA Hospital; (2) add $3,050,000 for a columbarium/mausoleum at the National Memorial Cemetery of the Pacific in Hawaii; (3) add $460,000 for the design of a new clinical building at the Mountain Home, Tennessee, VA Hospital; and (4) delete $460,000 for laboratory expansion and research at the Seattle, Washington, VA Hospital.

Amendment No. 36: Restores language proposed by the House and stricken by the Senate earmarking four construction projects, and inserts amended language proposed by the Senate earmarking two construction projects.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $92,001,000 for construction, minor projects, instead of $92,561,000 as proposed by the House and $92,501,000 as proposed by the Senate.

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 38: Appropriates $2,100,000 for grants to the Republic of the Philippines as proposed by the House, instead of $500,000 as proposed by the Senate.

TITLE IV—GENERAL PROVISIONS

Amendment No. 39: Corrects spelling of a word as proposed by the Senate.

Amendment No. 40: Restores language proposed by the House and stricken by the Senate to prohibit the use of funds in this Act by the Environmental Protection Agency to administer or promulgate any program to tax, limit or otherwise regulate parking that is not specifically required pursuant to subsequent legislation.

Amendment No. 41: Restores language proposed by the House and stricken by the Senate relating to Federal Housing Administration mortgage insurance in Merced County, California.

Amendment No. 42: Deletes language proposed by the Senate relating to any illegal usage of passenger motor vehicles. The committee of conference is deeply concerned over the continuing use of government vehicles and drivers to transport agency heads and others to and from work that may be in violation of the letter as well as the spirit of the law. In deleting the language of the Senate, the committee of conference does not in any way condone or accept any illegal use of government vehicles.

Amendment No. 43: Deletes section number change as proposed by the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1976 amount, the 1977 budget estimates, and the House and Senate bills for 1977 follows:

New budget (obligational) authority, fiscal year 1976	$53,205,140,000
Budget estimates of new (obligational) authority, fiscal year 1977	[1] 45,306,198,000
House bill, fiscal year 1977	42,982,730,000
Senate bill, fiscal year 1977	43,336,200,000
Conference agreement	43,284,615,000
Conference agreement compared with:	
New Budget (obligational) authority, fiscal year 1976	−9,920,525,000
Budget estimates of new (obligational) authority, fiscal year 1977	—2,021,583,000
House bill, fiscal year 1977	+301,885,000
Senate bill, fiscal year 1977	−51,585,000

[1] Includes $14,600,000 of budget estimates not considered by the House, contained in Sen. Doc. 94–197 and Sen. Doc. 94–210.

Edward P. Boland,
Joe L. Evins,
George E. Shipley,
J. Edward Roush,
Bob Traxler,
Max Baucus
Louis Stokes,
Yvonne Brathwaite Burke,
George Mahon,
Burt L. Talcott,
Joseph M. McDade,
C. W. Bill Young,
Elford A. Cederberg,
Managers on the Part of the House.

William Proxmire,
John O. Pastore,
John C. Stennis,
Mike Mansfield,
Birch Bayh,
Lawton Chiles,
J. Bennett Johnston,
Walter D. Huddleston,
John L. McClellan,
Frank E. Moss,
Charles McC. Mathias,
Clifford P. Case,
Hiram L. Fong,
Edward W. Brooke,
Henry Bellmon,
Milton R. Young,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 8800

Mr. TEAGUE submitted the following conference report and statement on the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles:

CONFERENCE REPORT (H. REPT. NO. 94–1363)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That this Act may be cited as the "Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.".

SEC. 2. FINDINGS AND POLICY.

(a) The Congress finds and declares that—

(1) the Nation's dependence on foreign sources of petroleum must be reduced, as such dependence jeopardizes national security, inhibits foreign policy, and undermines economic well-being;

(2) the Nation's balance of payments is threatened by the need to import oil for the production of liquid fuel for gasoline-powered vehicles;

(3) the single largest use of petroleum supplies is in the field of transportation, for gasoline- and diesel-powered motor vehicles;

(4) the expeditious introduction of electric and hybrid vehicles into the Nation's transportation fleet would substantially reduce such use and dependence;

(5) such introduction is practicable and would be advantageous because—

(A) most urban driving consists of short trips, which are within the capability of electric and hybrid vehicles;

(B) much rural and agricultural driving of automobiles, tractors, and trucks is within the capability of such vehicles;

(C) electric and hybrid vehicles are more reliable and practical now than in the past because propulsion, control, and battery technologies have improved, and further significant improvements in such technologies are possible in the near term;

(D) electric and hybrid vehicles use little or no energy when stopped in traffic, in contrast to conventional automobiles and trucks;

(E) the power requirements of such vehicles could be satisfied by charging them during off-peak periods when existing electric generating plants are underutilized, thereby permitting more efficient use of existing generating capacity;

(F) such vehicles do not emit any significant pollutants or noise; and

(G) it is environmentally desirable for transportation systems to be powered from central sources, because pollutants emitted from stationary sources (such as electric generating plants) are potentially easier to control than pollutants emitted from moving vehicles; and

(6) the introduction of electric and hybrid vehicles would be facilitated by the establishment of a Federal program of research, development, and demonstration to explore electric and hybrid vehicle technologies.

(b) It is therefore declared to be the policy of the Congress in this Act to—

(1) encourage and support accelerated research into, and development of, electric and hybrid vehicle technologies;

(2) demonstrate the economic and technological practicability of electric and hybrid vehicles for personal and commercial use in urban areas and for agricultural and personal use in rural areas;

(3) facilitate, and remove barriers to, the use of electric and hybrid vehicles in lieu of gasoline- and diesel-powered motor vehicles, where practicable; and

(4) promote the substitution of electric and hybrid vehicles for many gasoline- and diesel-powered vehicles currently used in routine short-haul, low-load applications, where such substitution would be beneficial.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced electric or hybrid vehicle" means a vehicle which—

(A) minimizes the total amount of energy to be consumed with respect to its fabrication, operation, and disposal, and represents a substantial improvement over existing electric and hybrid vehicles with respect to the total amount of energy so consumed;

(B) is capable of being mass-produced and operated at a cost and in a manner which is sufficiently competitive to enable it to be produced and sold in numbers representing a reasonable portion of the market;

(C) is safe, damage-resistant, easy to repair, durable, and operates with sufficient performance with respect to acceleration, cold-weather starting, cruising speed, and other performance factors; and

(D) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any applicable requirement of Federal law;

(3) "commercial electric or hybrid vehicle" includes any electric or hybrid vehicle which can be used (A) for business or agricultural production purposes on farms (e.g., tractors and trucks) or in rural areas, or (B) for commercial purposes in urban areas;

(4) "electric vehicle" means a vehicle which is powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and which may include a nonelectrical source of power designed to charge batteries and components thereof;

(5) "hybrid vehicle" means a vehicle propelled by a combination of an electric motor and an internal combustion engine or other power source and components thereof;

(6) "project" means the Electric and Hybrid Vehicle Research, Development, and Demonstration Project established under section 4(a);

(7) "Secretary" means the Secretary of Transportation; and

(8) "small business concerns" shall have the meaning prescribed by the Administrator after consultation with the Small Business Administration.

SEC. 4. DUTIES OF THE ADMINISTRATOR.

(a) The Administrator shall promptly establish, as an organizational entity within the Energy Research and Development Administration, the Electric and Hybrid Vehicle Research, Development, and Demonstration Project.

(b) The Administrator shall have the responsibility for the overall management of the project. The Administrator may enter into any agreement or other arrangement with the National Aeronautics and Space Administration, the Department of Transportation, the National Science Foundation, the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Agriculture, or any other Federal agency, pursuant to which such agency shall conduct such specified parts or aspects of the projets as the Administrator deems necessary or appropriate and within the particular competence of such agency, to the extent that such agency has capabilities which would enable it to contribute to the success of the project and the attainment of the purposes of this Act.

(c) In providing for the effective management of this project, the Administrator shall have specific responsibility to—

(1) promote basic and applied research on electric and hybrid vehicle batteries, controls, and motors;

(2) determine optimum overall electric and hybrid vehicle design;

(3) conduct demonstration projects with respect to the feasibility of commercial electric and hybrid vehicles (A) by contracting for the purchase or lease of electric and hybrid vehicles for practical use, and (B) by entering into arrangements, with other governmental entities and with nongovernmental entities, for the operation of such vehicles;

(4) ascertain consumer needs and desires so as to match the design of electric and hybrid vehicles to their potential market; and

(5) ascertain the long-term changes in road design, urban planning, traffic management, maintenance facilities, utility rate structures, and tax policies which are needed to facilitate the manufacture and use of electric and hybrid vehicles in accordance with sections 13 and 14.

SEC. 5. COORDINATION BETWEEN THE ADMINISTRATOR AND OTHER AGENCIES

(a) In carrying out the project established under section 4, the Administrator shall, to the maximum extent practicable, consult and coordinate with the Secretary, with respect to any functions of the Administrator under this Act which relate to regulatory activities or other responsibilities of the Secretary, including safety and damageability programs.

(b) Each department, agency, and instrumentality of the executive branch of the Federal Government shall carefully consider any written request from the Administrator, or the head of any agency to which the Administrator has delegated responsibility for specified parts or aspects of the project, to furnish such assistance, on a reimbursable basis, as the Administrator or such head deems necessary to carry out the project and to achieve the purposes of this Act. Such assistance may include transfer of personnel with their consent and without prejudice to their position and rating.

SEC. 6. RESEARCH AND DEVELOPMENT.

The Administrator, acting through appropriate agencies and contractors, shall initiate and provide for the conduct of research and development in areas related to electric and hybrid vehicles, including—

(1) energy storage technology, including batteries and their potential for convenient recharging;

(2) vehicle control systems and overall design for energy conservation, including the use of regenerative braking;

(3) urban design and traffic management to promote maximum transportation-related energy conservation and minimum transportation-related degradation of the environment; and

(4) vehicle design which emphasizes durability, length of practical lifetime, ease of repair, and interchangeability and replaceability of parts.

SEC. 7. DEMONSTRATIONS.

(a) Within 12 months after the date of enactment of this Act, the Administrator shall develop data characterizing the present state-of-the-art with respect to electric and hybrid vehicles. The data so developed shall serve as baseline data to be utilized in order (1) to compare improvements in electric and hybrid vehicle technologies; (2) to assist in establishing the performance standards under subsection (b)(1); and (3) to otherwise assist in carrying out the purposes of this section. In developing any such data, the Administrator shall purchase or lease a reasonable number of such vehicles or enter into such other arrangements as the Administrator deems necessary to carry out the purposes of this subsection.

(b)(1) Within 15 months after the date of enactment of this Act, the Administrator shall promulgate rules establishing performance standards for electric and hybrid vehicles to be purchased or leased pursuant to subsection (c)(1). The standards so developed shall take into account the factors of energy conservation, urban traffic characteristics, patterns of use for "second" vehicles, consumer preferences, maintenance needs, battery recharging characteristics, agricultural requirements, materials demand and their ability to be recycled, vehicle safety and insurability, cost, and other relevant considerations, as such factors and considerations particularly apply to or affect vehicles with electric or hybrid propulsion systems. Such standards are to be developed taking into account (A) the best current state-of-the-art, and (B) reasonable estimates as to the future state-of-the-art, based on projections of results from the research and development conducted under section 6. In developing such standards, the Administrator shall consult with appropriate experts concerning design needs for electric and hybrid vehicles which are compatible with long-range urban planning, traffic management, and vehicle safety.

(2) Separate performance standards shall be established under paragraph (1) with re-

spect to (A) electric or hybrid vehicles for personal use, and (B) commercial electric or hybrid vehicles. Such performance standards shall represent the minimum level of performance which is required with respect to any vehicles purchased or leased pursuant to subsection (c). Initial performance standards under paragraph (b) (1) shall be set at such levels as the Administrator determines are necessary to promote the acquisition and use of such vehicles for transportation purposes which are within the capability (as determined by the Administrator) of electric and hybrid vehicles.

(3) Such performance standards shall be revised, by rule, periodically as the state-of-the-art improves, except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c) (2).

(4) Before entering into contracts for the production of vehicles under subsection (c) (2), the Administrator shall transmit to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate, the performance standards developed under paragraph (1), as revised and currently in effect.

(c) (1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b) (1), contract for the purchase or lease of 2,500 electric or hybrid vehicles which satisfy the performance standards set forth under subsection (b) (1). The delivery of such vehicles shall be completed within 39 months after the date of enactment of this Act. If the Administrator determines, on the basis of responses to the solicitation for proposals for such contracts, that less than 2,500 of the electric or hybrid vehicles which satisfy performance standards under subsection (b) (1) will be available within such delivery period, the Administrator shall (A) immediately forward this information along with a detailed justification of such determination to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate, and (B) contract for the purchase or lease of the maximum number of such vehicles (up to 2,500) that will be available within such delivery period. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and types of uses of such vehicles.

(2) (A) The Administrator shall, within 6 months after the required amendment of such standards pursuant to subsection (b) (3), and not later than 54 months after the date of enactment of this Act, contract for the purchase or lease of 5,000 advanced electric or hybrid vehicles, which satisfy such amended standards. The final delivery of such vehicles shall be completed within 72 months after the date of enactment of this Act. If the Administrator determines, on the basis of responses to the solicitation for proposals for such contracts, that less than 5,000 of the electric and hybrid vehicles which satisfy performance standards set forth under subsection (b) (3) will be available within the delivery period (including any extension under subparagraph (B)), the Administrator shall (i) immediately forward this information along with a detailed justification of such determination to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate, and (ii) contract for the purchase or lease of the maximum number of such vehicles (up to 5,000) that will be available during such delivery period. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and types of uses of such vehicles.

(B) The Administrator shall extend the delivery period for such vehicles for a period not to exceed 6 additional months, if he finds that such an extension in delivery date would result in the delivery of advanced electric and hybrid vehicles which would add to the total number of vehicles to be purchased or leased (up to 5,000) and which would not otherwise be available. If the Administrator finds that such an extension is appropriate and necessary for the delivery of such vehicles, he shall so notify the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate.

(d) The Administrator, in supervising the demonstration of vehicles acquired under subsection (c), shall make such arrangements as may be necessary or appropriate—

(1) (A) to make such vehicles available to Federal agencies and to State or local governments aid other persons for individual or business use (including farms). The individuals and businesses involved shall be selected by an equitable process which assures that the Administrator will receive accurate and adequate data on vehicle performance, including representative geographical and climatological information and data on user reaction to the utilization of electric and hybrid vehicles. Such individuals and businesses shall be given the option of purchasing or leasing such vehicles under terms and conditions which will promote their widespread use;

(B) to pay the differential operating costs of such vehicles to the extent necessary to assure the adequate demonstration of such vehicles;

(2) for demonstration maintenance projects, including maintenance organization and equipment needs and model training projects for maintenance procedures; and

(3) for the dissemination of data on electric and hybrid vehicle safety and operating characteristics (including nontechnical descriptive data which shall be made available by the Government Printing Office) (A) to Federal, State, and local consumer affairs agencies and groups; (B) to Federal, State, and local agricultural and rural agencies and groups; and (C) to the public.

(e) (1) At least 60 days prior to entering into any contract for the purchase or lease of any electric or hybrid vehicle under subsection (c) (1) or any advanced electric or hybrid vehicle under subsection (c) (2), the Administrator shall determine (A) if the purchase or lease of the number of such vehicles specified in such subsection (c) (1) or (c) (2) will, with high probability, displace the normal level of private procurement of such vehicles which would conform to the applicable performance standards promulgated pursuant to subsection (b) and which would be used in the United States, and (B) if such displacement will occur, the necessary extent of such displacement in order to carry out the purposes of this Act. At the time any such determination is made, the Administrator shall transmit such determination, along with all relevant information in support thereof, to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce of the Senate.

(2) The Administrator shall reduce the number of vehicles for which he shall contract for the purchase or lease under subsection (c) (1) or (c) (2) by the number determined under paragraph (1) (A) as modified by paragraph (1) (B), except in no event shall he contract for the purchase or lease pursuant to subsection (c) (1) of less than 1,000 electric or hybrid vehicles, and in no event shall he contract for the purchase or lease pursuant to subsection (c) (2) of less than 2,500 advanced electric or hybrid vehicles unless he determines on the basis of responses to the solicitations for proposals for such contracts, under the provisions of (c) (1) or (c) (2), that lesser numbers of such vehicles which satisfy the applicable performance standards will be available within the delivery periods. All other provisions of subsection (c) shall apply.

SEC. 8. CONTRACTS

(a) The Administrator shall provide funds, by contract, to initiate, continue, supplement, and maintain research, development, and demonstration activities which are necessary to carry out the purposes of the project. The Administrator may enter into such contracts with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

(b) In addition to the requirements of sections 4 and 5, the Administrator, in the exercise of his duties and responsibilities under this section, shall consult with the Department of Transportation, the Environmental Protection Agency, the Federal Energy Administration, the National Aeronautics and Space Administration, the Department of Agriculture, and representatives of other appropriate Federal agencies, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in electric and hybrid vehicle research, development, and demonstration.

(c) Each contract under this section shall be entered into in accordance with such rules as the Administrator may prescribe in accordance with the provisions of this section. Each application for funding shall be made in writing in such form and with such content and other submissions as the Administrator shall require. The Administrator may enter into contracts under this section without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

SEC. 9. ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS.

(a) The Administrator shall take such steps as are feasible to assure that small business concerns have a realistic and adequate opportunity to participate in the project.

(b) To assist in accomplishing the objectives of subsection (a), the Administrator shall reserve, for contracts with small business concerns, a reasonable portion of the funds made available pursuant to this Act for research, development, or demonstration of electric or hybrid vehicles.

(c) The Administrator shall, in addition to the requirements set forth in subsections (a) and (b)—

(1) include in all contracts for research, development, or demonstration of electric or hybrid vehicles such terms, conditions, and payment schedules as may assist in meeting the needs of small business concerns, and shall take steps to avoid the inclusion in such contracts of any terms, conditions, or penalties which would tend to prevent such concerns from participating in the program under this Act; and

(2) make planning grants available to qualified small business concerns which require assistance in developing, submitting, and entering into such contracts.

SEC. 10. LOAN GUARANTEES.

(a) It is the policy of the Congress to assist in the introduction into the Nation's transportation fleet of electric and hybrid vehicles and to assure that qualified small business concerns and other qualified borrowers are not excluded from participation in such development due to lack of adequate capital. Accordingly, it is the policy of the Congress to provide guarantees of loans made for such purposes.

(b) In order to encourage the commercial production of electric and hybrid vehicles, the Administrator is authorized to guarantee, and to enter into commitments to guarantee, principal and interest on loans made by lenders to qualified borrowers, primarily small business concerns, for the purposes of—

(1) research and development related to electric and hybrid vehicle technology;

(2) prototype development for such vehicles and parts thereof;

(3) construction of capital equipment related to research on, and development and production of, electric and hybrid vehicles and components; or

(4) initial operating expenses associated with the development and production of electric and hybrid vehicles and components.

(c) Any guarantee under this section shall apply only to so much of the principal amount of the loan involved as does not exceed 90 per centum of the aggregate cost of the activity with respect to which the loan is made.

(d) Loan guarantees under this section shall be on such terms and conditions as the Administrator determines, except that a guarantee shall be made under this section only if—

(1) the loan bears interest at a rate not to exceed such annual percent on the principal obligation outstanding as the Administrator determines to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar loans and risks by the United States;

(2) the terms of such loan require full repayment over a period not to exceed 15 years;

(3) in the judgment of the Administrator, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the activity with respect to which the loan is made;

(4) in the judgment of the Administrator, there is reasonable assurance of repayment of the loan by the qualified borrower; and

(5) no loan shall be guaranteed by the Administrator under subsection (b) unless the Administrator finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

(e)(1) The amount of the guarantee of any loan shall not exceed $3,000,000, unless the Administrator finds that a higher guarantee level for specific loan guarantees is necessary in order to carry out the purposes of this Act. If the Administrator makes such finding, he shall immediately report that finding to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate.

(2) The aggregate amount of guarantees outstanding under this section at any one time shall not exceed $60,000,000.

(f) As used in this section, the term "qualified borrower" means any partnership, corporation, or other legal entity which (as determined by the Administrator) has presented satisfactory evidence of an interest in electric or hybrid vehicle technology and is capable of performing research or completing the development and production of electric or hybrid vehicles or any components thereof in an acceptable manner.

(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the interest charges which become due and payable on the unpaid balance of any such loan if the Administrator finds—

(A) that the borrower is unable to meet interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of his project, and that the probable net cost to the Federal Government in paying such interest will be less than that which would result in the event of a default; and

(B) that the amount of such interest charges which the Administrator is authorized to pay shall be no greater than the amount of interest which the borrower is obligated to pay under the loan agreement.

(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payments in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of interest under paragraph (1)) from such assets of the defaulting borrowers as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.

(h) No loan guarantee shall be made, or interest assistance contracts entered into, pursuant to this section, after the expiration of the 5-year period following the date of enactment of this Act.

(i) An applicant seeking a guarantee under this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 2 of the Shipping Act of 1916 (46 U.S.C. 802), for determining such citizenship, except that the provisions in subsection (a) of such section 2 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable. The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

SEC. 11. USE OF ELECTRIC AND HYBRID VEHICLES BY FEDERAL AGENCIES.

The Postmaster General of the United States Postal Service, the Administrator of the General Services Administration, the Secretary of Defense, and the heads of other Federal agencies shall—

(1) carry out a study of the practicability of using electric and hybrid vehicles in the performance of some or all of the functions of their agencies; and

(2) arrange for the introduction of electric and hybrid vehicles into their fleets as soon as possible.

For competitive procurement purposes in purchasing such vehicles, life-cycle costing and any beneficial air pollution control characteristics of electric and hybrid vehicles shall be fully taken into account. If the head of the agency involved determines that electric or hybrid vehicles are technologically practicable, but that they are not completely economically competitive with conventional vehicles, the Administrator may, for purposes of the demonstration program described in section 7, pay to such agency the incremental costs of the electric or hybrid vehicles, including differential operating costs.

SEC. 12. PATENTS.

Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder), entered into, made, or issued by the Administrator pursuant to section 8 of this Act.

SEC. 13. STUDIES.

(a) The Administrator shall conduct a study to determine the existence of any tax, regulatory, traffic, urban design, rural electrical, or other institutional factor which tends or may tend to bias surface transportation systems toward vehicles of particular characteristics. The Administrator shall submit a report to the Congress on the findings and conclusions of such study, within 1 year after the date of the enactment of this Act. The report shall include any legislative or other recommendations of the Administrator.

(b) The Administrator shall conduct a continuing assessment of the long-range material demand and pollution effects which may result from or in connection with the electrification of urban traffic. Such assessment shall include a statement of the Administrator's current findings in each report submitted under section 14. Any environmental impact statement which may be filed under a Federal law with respect to research, development, or demonstration activities under this Act shall include reference to the matters which are subject to assessment under this subsection.

(c) The Administrator shall perform, or cause to be performed, studies and research on incentives to promote broader utilization and consumer acceptance of electric and hybrid vehicle technologies. A description and a statement of the findings of such studies and research activities shall be included in each report submitted under section 14.

(d) The Secretary shall conduct a study of the current and future applicability of safety standards and regulations to electric and hybrid vehicles. The Secretary shall report the results of such study to the Administrator and the Congress within 1 year after the date of enactment of this Act.

(e) The Administrator shall conduct a study to determine the overall effectiveness and feasibility of including regenerative braking systems on electric and other automobiles in order to recover energy. In such study the Administrator shall—

(1) review the history of regenerative braking devices;

(2) describe relevant experimental test data and theoretical calculations with respect to such devices;

(3) assess the net energy impacts and cost effectiveness of such devices;

(4) examine present patents and patent policy regarding such devices; and

(5) determine whether regenerative braking should be used on some of the advanced electric or hybrid vehicles to be purchased or leased pursuant to section 7(c)(2). The Administrator shall submit a report to the Congress on the findings and conclusions of such study within 1 year after the date of enactment of this Act.

SEC. 14. ANNUAL REPORT.

The Administrator shall submit to the Congress annually a report on all activities being undertaken or carried out pursuant to the provisions of this Act, including—

(1) such projections and estimates as may be necessary to evaluate the progress of the project and to indicate the extent to which, and the pace at which, the objectives of this Act are being achieved; and

(2) a statement of the extent to which imported automobile chassis or components are being used, or are desirable, for the production of vehicles under section 7, and of the extent to which restrictions imposed by law or regulation upon the importation or use of such chassis or components are impeding the achievement of the purposes of this Act.

Each such report shall also include any recommendations which the Administrator may deem appropriate for legislation or related action which might further the purposes of this Act.

SEC. 15. AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT.

(a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended (1) by redesignating subsection (d) thereof as subsection (e) thereof; and (2) by inserting immediately after subsection (c) thereof the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward ground propulsion systems research and development. Such development shall be conducted so as to contribute to the objectives of developing energy- and petroleum-conserving ground propulsion systems, and of minimizing the environmental degradation caused by such systems.".

(b) Section 102(e) of such Act, as redesignated by paragraph (1) of this subsection, is amended by striking out "and (c)" and inserting in lieu thereof "(c), and (d)".

(c) Section 203 of such Act (42 U.S.C. 2473) is amended (A) by redesignating subsection (b) thereof as subsection (c) thereof, and (B) by inserting immediately after subsection (a) thereof the following new subsection:

"(b) The Administration shall, to the extent of appropriated funds, initiate, support, and carry out such research, development, demonstration, and other related activities in ground propulsion technologies as are provided for in sections 4 through 10 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.".

SEC. 16. AUTHORIZATION FOR APPROPRIATIONS.

(a) There are authorized to be appropriated to the Administrator, for purposes of carrying out this Act, (1) not to exceed $30,000,000 for the fiscal year ending September 30, 1977, except that at least $10,000,000 of such authorization shall be allocated for battery research and development; (2) not to exceed $40,000,000 for the fiscal year ending September 30, 1978; (3) not to exceed $25,000,000 for the fiscal year ending September 30, 1979; (4) not to exceed $20,000,000 for the fiscal year ending September 30, 1980; and (5) not to exceed $45,000,000 for the fiscal year ending September 30, 1981. Any amount appropriated pursuant to this section shall remain available until expended, and any amount authorized for any fiscal year prior to the fiscal year ending September 30, 1981, but not appropriated, may be appropriated for any succeeding fiscal year through the fiscal year ending September 30, 1983.

(b) Any moneys received by the Administrator from vehicle sales or leases or other activities under this Act may be retained and used for purposes of carrying out this Act, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended; but the amount authorized to be appropriated for any fiscal year under subsection (a) shall be reduced by the amount of the moneys so received in that year.

OLIN E. TEAGUE,
DON FUQUA,
MIKE MCCORMACK,
GEORGE E. BROWN, Jr.,
RAY THORNTON,
CHARLES A. MOSHER,
BARRY M. GOLDWATER, Jr.,
Managers on the Part of the House.

WARREN G. MAGNUSON,
FRANK E. MOSS,
JOHN V. TUNNEY,
HOWARD H. BAKER, Jr.,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing vote of the two Houses on the amendment of the Senate to the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicles, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment struck out all after the enacting clause and inserted a substitute text. The differences between the House bill and the Senate amendment, and the substitute agreed to in conference, are noted below. Minor technical and clarifying changes are not discussed.

SUMMARY

The Electric and Hybrid Vehicle Research, Development and Demonstration Act is the result of a committee of conference designated to reconcile the differences between the House and Senate versions of H.R. 8800.

The major areas of difference between the House bill and the Senate amendment deal with the electric and hybrid vehicle demonstration program, particularly in the amount of time provided for specific demonstration activities, and the amount of discretion in the conduct of the demonstration left to the Administrator of the Energy Research and Development Administration (ERDA). The House bill includes a 4½-year demonstration schedule with scheduled events occurring at dates certain after enactment and with exact numbers of demonstration vehicles specified. The Senate amendment includes a 5-year demonstration schedule, with provision for extension to a maximum of 7 years. Dates after enactment of scheduled events and exact numbers of demonstration vehicles are specified, but provision is made for a time extension and changes in the number of vehicles delivered in the event of designated conditions. The conference substitute establishes a 6-year demonstration program with dates certain and exact numbers, but does provide flexibility for a time extension and number changes, conditioned upon specified events or determinations, and for the exercise of the Administrator's discretion in conducting the program.

The substitute reported by the committee of conference establishes within the Energy Research and Development Administration a comprehensive research and development project which will focus on basic and applied research on electric and hybrid vehicle batteries, controls, motors, and overall vehicle design, with early emphasis on battery technology. The Energy Research and Development Administration shall also carry out a three-stage demonstration project to provide for (a) the development of baseline data to delineate the performance and other characteristics of existing electric and hybrid vehicle technology, (b) contracting for the purchase, or lease of 2,500 electric or hybrid vehicles which represent the best available state-of-the-art technology, and (c) contracting for the purchase or lease of 5,000 advanced electric or hybrid vehicles. Such advanced vehicles must represent a significant improvement over present state-of-the-art vehicles.

The Administrator shall, through contracts and loan guarantees, carry out the research, development, and demonstration project. The Administrator may utilize other Federal agencies to the extent they may have relevant expertise. The Administrator shall protect and enhance the participation of small businesses concerned with electric and hybrid vehicle technology. The Administrator shall reserve a reasonable portion of funds to be made available for the research, development, and demonstration project for contracts with such small businesses.

The Administrator must undertake a number of studies on various factors which may hinder or encourage the utilization of electric and hybrid vehicles. He shall also make annual reports on the progress of the project.

A total of $160 million is authorized over 5 years to achieve the purposes of the project.

SHORT TITLE

House bill

The House bill provides that this act shall be cited as the "Electric Vehicle Research, Development and Demonstration Act of 1975".

Senate amendment

The Senate amendment provides that this act shall be cited as the "Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976".

Conference substitute

The committee of conference accepted the short title in the Senate amendment.

FINDINGS AND POLICY,

House bill

The House bill does not contain a specific section entitled "Findings and Policy," but does contain separate sections on Findings (section 2) and Policy and Goals (section 3). In section 2 of the House bill the Congress finds that vehicles propelled by electric power can satisfy many important transportation functions, and that such vehicles can meet these needs while utilizing less liquid fuel and emitting fewer pollutants and less noise than automobiles powered by internal combustion engines.

The House bill also finds that the economic, political and environmental consequences of demands to fuel the internal combustion engine have an adverse economic and political impact on individual citizens and the Nation as a whole. Such demands undermine our balance of payments, contribute to inflationary trends, and inhibit energy conservation efforts.

In addition, the House bill finds that new propulsion technologies utilizing electric batteries have improved significantly and are likely to continue to improve during the next decade. A practical electric or hybrid vehicle would alleviate many of the problems to which the internal combustion engine now contributes. The House bill finds that the state of the automobile industry and the conditions of the marketplace are not conducive to developing a parctical alternative to conventional vehicles without Federal assistance.

Section 3 of the House bill declares that the United States will follow a policy to encourage research, development, and demonstration designed to promote utilization of electric and hybrid vehicles where practicable and beneficial. The purposes of the Federal involvement in developing such alternative technologies are to promote conservation of liquid fuel and to reduce environmental pollution. The Federal effort should also direct itself towards removing institutional barriers to the introduction of electric and hybrid vehicles and to broadening the range of applications of such vehicles for use by consumers and industry.

Senate amendment

The Senate amendment is substantially similar to sections 2 and 3 of the House bill, except that it emphasizes the adverse effects on national security and foreign policy of our continued dependence on foreign sources for petroleum supplies. Like the House provision, the Senate amendment finds electric or hybrid vehicles desirable because they reduce consumption of liquid fuel and emit fewer environmental pollutants. The Senate amendment does not refer explicitly (as does the House bill) to the adverse effects of fuel imports on our balance of payments, the likelihood of indefinite liquid fuel shortages, or the need to alleviate the depressed state of the automobile industry.

Conference substitute

The committee of conference accepted the substance of the Senate amendment, which encompassed many findings from the House bill. The committee of conference also accepted the findings of the House bill that (1) the Nation's balance of payments is threatened by continued dependence on foreign sources for foreign petroleum, and (2) that the substitution of electric or hybrid vehicles for conventional vehicles should be actively promoted under Federal auspices where practical and beneficial.

DEFINITIONS

House bill

Among the terms defined in the House bill, of particular interest are the definitions of "electric vehicle", "hybrid vehicle", and "commercial electric or hybrid vehicle". "Electric vehicle" means a vehicle powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electric current, which may also include a nonelectrical source of power designed to charge batteries. "Hybrid vehicle" is defined as a vehicle propelled by a combination of an electric motor and an internal combustion or alternative engine. The term "commercial electric or hybrid vehicle" means a vehicle suitable for purposes of business or agricultural production on farms or rural transportation and commercial purposes in urban areas.

Senate amendment

The definitions in the Senate amendment are similar to those in the House bill. However, the Senate bill adds a definition of "an advanced electric or hybrid vehicle". An "advanced electric or hybrid vehicle" is a vehicle which minimizes the total amount of energy to be consumed during fabrication, operation, and disposal, and which represents a substantial improvement over existing electric or hybrid vehicles with respect to the total amount of energy so consumed. Such a vehicle must be capable of being mass produced and operated at a cost and in a manner which is sufficiently competitive to enable its production and sale in numbers representing a reasonable portion of the market. This vehicle also must be safe, damage-resistant, easy to repair, durable, and operate with sufficient performance with respect to acceleration, cold-weather starting, cruising speed, and other performance factors. Such vehicle must be able to be produced, operated, and disposed of in compliance with any applicable requirement of Federal law.

Conference substitute

The committee of conference accepted the definitions common to both the House and Senate versions. The Senate definition of an "advanced electric or hybrid vehicle" was also accepted.

DUTIES OF THE ADMINISTRATOR

House bill

The House bill directs the Administrator to establish promptly an electric vehicle research, development, and demonstration project within the Energy Research and Development Administration. The Administrator shall manage the project, but may enter into such arrangements and agreements with other Federal agencies as the Administrator deems necessary or appropriate to conduct parts or aspects of the project within the particular competence of such agencies. In carrying out his management duties, the Administrator has specific responsibility for various aspects of basic and applied research on electric and hybrid vehicle batteries, controls, motors, and overall vehicle design. He shall also demonstrate the feasibility of electric and hybrid vehicles by contracting for their practical manufacture and arrange with other government agencies and non-government entities for the operation of such vehicles.

He shall ascertain (a) consumer needs and desires in order to insure that the design of such vehicles match their potential market, and (b) various other factors which affect the manufacture and use of electric and hybrid vehicles.

Senate amendment

The Senate amendment is nerly identical to the House bill, except for the addition of a subsection which amends the National Aeronautics and Space Act of 1958.

Conference substitute

The committee of conference accepted the language common to the House and Senate versions regarding the duties of the Administrator. The conferees also decided that the subsection in the Senate bill which amended the National Aeronautics and Space Act should be made a separate section of the conference substitute.

Section 4(c)(5) of the conference substitute gives the ERDA Administrator specific responsibility for ascertaining long-term changes in *inter alia,* road design, urban planning, traffic management, and maintenance facilities needed to facilitate the manufacture and use of electric and hybrid vehicles. The assignment of ultimate responsibility to ERDA for these activities does not necessarily imply that the activities should be conducted directly or exclusively by the ERDA. These areas are examples of the parts of the program that the ERDA Administrator may appropriately delegate pursuant to an agreement with another agency with existing expertise. Such agreements are permitted by section 4(b) of the conference substitute, and coordination is encouraged by section 5 of the conference substitute. The Administrator may find it advisable to delegate certain portions of the studies mandated by section 13 to the Department of Transportation in addition to the study the Secretary of Transportation is required to conduct under section 13(d).

COORDINATION BETWEEN THE ADMINISTRATOR AND OTHER AGENCIES

House bill

No provision.

Senate amendment

The Senate amendment directs the Administrator of ERDA to consult and coordinate with the Secretary of the Department of Transportation (DOT) to the maximum extent practicable concerning any functions of the Administrator under this act which relate to the regulatory activities or other responsibilities of the Secretary, including safety and damageability programs. The Senate amendment also authorizes the Administrator, or any agency to which the Administrator has delegated responsibility for specified parts or aspects of the electric or hybrid vehicle project, to obtain the assistance of any other department, agency, or instrumentality of the Executive Branch on written request, on a reimbursable basis, and with the consent of the other department, agency, or instrumentality.

Conference substitute

The committee of conference accepted the provision contained in the Senate amendment. The conferees stress that a close working relationship between ERDA and DOT is highly important to the success of the project. The Administrator and the Secretary shall cooperate and insure that the expertise in each department is appropriately utilized.

RESEARCH AND DEVELOPMENT

House bill

The Administrator shall direct research and development relating to energy storage technology and overall design to promote energy conservation. Other research objectives include design for maximum practical lifetime, ease of repair, and interchangeability and replaceability of parts. Research and development under this project shall seek optimum transportation-related energy use and minimum transportation-related degradation of the environment. The Administrator shall also investigate regenerative braking systems and may investigate flywheel and other such advanced energy storage systems.

Senate amendment

No specific provision.

Conference substitute

The committee of conference accepted the provisions of the House bill.

DEMONSTRATION PROJECT

House bill

Within 1 year after the enactment of this act, the Administrator shall contract for the production of a reasonable number of urban passenger and commercial electric vehicles for the purpose of evaluation tests of current state-of-the-art vehicles.

Within this same time period, the Administrator shall develop initial performance standards. Such standards shall take into account the factors of energy conservation, urban traffic characteristics, patterns of use for "second vehicles," consumer preferences, maintenance needs, battery recharging characteristics, agricultural requirements, demands for materials and their ability to be recycled, vehicle safety and insurability, and other relevant considerations, as they apply to or affect vehicles with electric or hybrid propulsion systems. Such performance standards are to be developed utilizing the best current state-of-the-art and the state-of-the-art expected to result from the research and development program mandated under this act.

Within 15 months of enactment, the Administrator shall contract for the production of at least 2,500 urban passenger and commercial electric vehicles which meet the initial performance standards. These performance standards shall be revised periodically, as the state-of-the-art improves. Within 42 months after the date of enactment, the Administrator shall contract for the production of 5,000 urban passenger and commercial electric or hybrid vehicles which have advanced components and designs. Before entering into such contracts, the Administrator shall notify the Congress of the performance standards as revised and then in effect. The Administrator shall provide for the introduction of electric and hybrid vehicles into the fleets of State and local governments and Federal agencies, and for citizens and businesses to use such vehicles in order to facilitate the evaluation of vehicle performance and consumer reaction to such vehicles. The Administrator shall arrange for demonstration maintenance projects and model training projects on maintenance procedures, and for the dissemination of data on electric and hybrid safety and operating characteristics to State and municipal consumer affairs agencies and groups, and Federal, State, and local farm and rural agencies and groups.

Senate amendment

Within 12 months of enactment, the Administrator of ERDA shall develop baseline data characterizing the best current state-of-the-art with respect to electric and hybrid vehicle technology. This baseline data shall serve in order to evaluate improvements in electric and hybrid vehicle technology, to assist in establishing the performance standards for the demonstration contracts, and otherwise to assist in carrying out the purposes of this act.

Within 18 months of enactment, the Administrator shall promulgate performance standards for state-of-the-art electric and hybrid vehicles for (1) personal use vehicles and (2) commercial electric or hybrid vehicles. Vehicles contracted for will, at a minimum, satisfy these performance standards.

Within 6 months of the date of promulgation of such performance standards, the Administrator shall contract for the purchase or lease of at least 2,500 electric or hybrid vehicles (or such other number as the Administrator determines is appropriate for the adequate demonstration of such vehicles) which satisfy such performance standards. Such contracts should represent a cross-section of the available technologies, and types and uses of such vehicles.

Within 54 months, the Administrator shall promulgate revised performance standards for advanced electric or hybrid vehicles which are to be substantial improvements over present state-of-the-art electric or hybrid vehicles. Within 6 months after the promulgation of performance standards for advanced electric or hybrid vehicles, the Administrator shall contract for the purchase or lease of at least 5,000 advanced electric or hybrid vehicles (or such other number as the Administrator determines is appropriate for the adequate demonstration of such vehicles) which satisfy the final performance standards. If no such vehicles satisfy such performance standards within such 5-year period, such contracts shall be entered into as soon as practicable thereafter, but no such contracts shall be entered into more than 7 years after the date of enactment of this act.

The Administrator shall arrange to make such vehicles available to Federal agencies, to State or local governments, and to citizens for individual or business use. Individuals and businesses involved shall be selected by an equitable process. The Administrator should take care that accurate and adequate data on vehicle performance, including representative geographical and climatological information and user reaction is thus obtained. The Administrator may pay the operating costs of such vehicles. The Administrator shall carry out demonstration maintenance projects and disseminate data on electric and hybrid vehicle safety, and other operating characteristics.

Conference substitute

The conference substitute sets forth a demonstration program which generally incorporates the dates and numbers certain approach of the House bill, but with the increased flexibility of the Senate amendment in terms of a lengthened schedule and provision for date and number changes in the event of specified determinations. The compromise establishes a program goal of demonstrating electric or hybrid vehicles culminating with the delivery of 5,000 advanced electric or hybrid vehicles for demonstration of the improved technology within 6 years or with an extension within 6½ years after the date of enactment. Scheduled activities in the demonstration program preceding the delivery of 5,000 advanced vehicles are timed to provide administrative flexibility, but at the same time, realistically support this delivery objective.

Within 12 months after the date of enactment, the Administrator shall develop data characterizing the present state-of-the-art of electric and hybrid vehicles. Based on the belief that much relevant data is already available, such as the interim results of the U.S. Postal Service project and the existing ERDA electric vehicle program, the conferees urge the Administrator to strive for the earlier publication of this baseline data before the outside limit of 1 year. Early availability of the baseline data would enable the Administrator to use the time saved to provide more time for the other parts of the demonstration. In order to develop such data, the Administrator shall purchase or lease a reasonable number of such vehicles or enter into such arrangements as he deems necessary.

Within 15 months of enactment, the Administrtor shall promulgate the first performance standards comprising (1) the best state-of-the-art in existence at such time and (2) the state-of-the-art projected to result from the research and development program prescribed under this act by the date for contracting. The provisions of the conference substitute for the first performance standards generally follow the House bill provisions; however, the committee of conference also provides that vehicle procurement cost should be taken carefully into account. Such performance standards shall represent the minimum level of performance required by any vehicle purchased or leased pursuant to this act. Again, the conferees urge the Administrator to strive for early promulgation of performance standards.

The conferees emphasize that the term "performance standard" does not mean a design specification. ERDA shall not design the vehicles to be contracted for under this section. Performance standards will specify minimum levels of performance which may include a series of designated categories, such as safety, battery cycles and range. The performance standards may also specify varying priorities for increased performance levels within and among the designated categories in order to provide a basis for choosing among technologies which exceed the minimum standards and to guide both those who respond to the subsequent solicitation for proposals and those who evaluate the proposals.

Within 6 months after the date of promulgation of the first performance standards, the Administrator shall contract for the purchase or lease of 2,500 electric or hybrid vehicles, which satisfy such performance standards. The committee of conference intends that the Administrator determine the proper combination of electric and hybrid vehicles.

The delivery of the 2,500 vehicles shall be completed within 39 months of the date of enactment. If the Administrator determines, on the basis of responses to the solicitation for proposals for such contracts, that less than 2,500 electric or hybrid vehicles, which satisfy such performance standards will be available within the delivery period, the Administrator shall so notify the Congress and contract for the maximum number of such vehicles (up to 2,500) that will be available within the delivery period. Vehicles purchased or leased should represent a cross-section of the available technologies and types of uses. The conferees intended that this provision for such a cross-section will result in participation by a number of competent manufacturers. The Administrator shall supervise the demonstration of such vehicles and arrange to make such vehicles available to Federal agencies, to State or local governments, and to persons for individual or business use (including agricultural use). The Administrator shall make such vehicles available to individuals or businesses on an equitable basis consistent with the need to obtain accurate and adequate data to evaluate the performance of such vehicles.

Within 48 months, the Administrator shall revise the performance standards to reflect the criteria for advanced electric or hybrid vehicles. Such vehicles shall represent a significant improvement over present state-of-the-art electric or hybrid vehicles regarding energy consumption and other operating characteristics.

Within 6 months of the promulgation of the performance standards for advanced electric or hybrid vehicles, the Administrator shall contract to purchase or lease 5,000 advanced electric or hybrid vehicles, which satisfy the updated performance standards for advanced vehicles. Delivery of such vehicles shall be completed within 72 months after the date of enactment of this act.

If the Administrator determines, on the basis of responses to the solicitation for proposals for such contracts, that less than 5,000 advanced electric or hybrid vehicles which satisfy the performance standards will be available within the delivery period, the Administrator shall so notify the Congress and contract for the maximum number of such vehicles (up to 5,000) that will be available. The Administrator shall extend such delivery period an additional 6 months, if he finds and notifies Congress that such extension would result in the delivery of additional vehicles toward the 5,000 total that would otherwise be unavailable during the specified delivery period. The advanced electric or hybrid vehicles purchased or leased should, to the extent practicable, represent a cross-section of the available technologies and types of uses of such vehicles. The conferees intend that this provision for such a cross-section will result in participation by a number of competent manufacturers. The Administrator shall supervise the demonstration of such vehicles and arrange to make such vehicles available to Federal agencies, to State or local governments, and to persons for individual or business use (including agricultural use). The Administrator shall make such vehicles available to individuals or businesses on an equitable basis consistent with the need to obtain accurate and adequate data to evaluate the performance of such vehicles. The Administrator may pay the differential operating costs of such vehicles, where necessary for the purposes of the demonstration project. Such payments should be of short duration and in any case should not be for more than 4 years. The Administrator shall also carry out demonstration maintenance and training projects with respect to upkeep procedures, and disseminate information on such vehicles' safety and other characteristics to Federal, State and local consumer groups and the general public.

Subsection (e) specifies procedures by which the Administrator shall avoid or minimize the displacement of private purchases of electric and hybrid vehicles for use in the United States resulting from the Federal purchase or lease of vehicles under subsections (c)(1) and (c)(2) to support the demonstration project. Subsection (e)(1) requires the Administrator to make determinations on displacement at least 60 days prior to entering into contracts for electric and hybrid vehicles under subsection (c)(1) and for advanced electric and hybrid vehicles under subsection (c)(2). Subsection (e)(1)(A) specifies that the Administrator first shall determine if the Federal purchase or lease of the specified numbers of vehicles (2,500 or 5,000) will, with high probability, displace the normal level of private procurement of vehicles, which could meet the applicable performance standards, for use in the United States. This determination will be in the form of the number of vehicles which will, with high probability, be displaced.

The Administrator, in determining the likelihood of displacement, shall make a demonstrable attempt to ascertain the number of electric and hybrid vehicles which would have been procured by the private sector in the absence of the contracting requirements of section 7(c)(1) and (c)(2) of the conference substitute. In making such determination, the Administrator shall examine the productive capacity of electric and hybrid vehicle manufacturers, past and projected sales estimates, projected demand for such vehicles, and such other information as the Administrator deems relevant.

In determining displacement, it is important to note that the conference substitute refers only to the displacement of electric and hybrid vehicles used within the United

States which conform to the applicable performance standards of subsection (b) of the conference substitute.

The Administrator will then, under subsection (e)(1)(B), determine the extent, if any, to which the displacement determined in (e)(1)(A) is necessary to carry out the purposes of the act in the demonstration project. In determining such necessity, the Administrator must fully consider the purposes of the demonstration program including the public interest benefits of demonstrating electric and hybrid vehicles.

The committee of conference recognizes the demonstration project is a critical part of the act. A demonstration project will insure that present and future state-of-the-art electric vehicles will be put into use in different regions of the country, so that their performance can be evaluated under various driving conditions (such as diverse climatological, topographical, and geographical circumstances) and for various business and personal uses. Such utilization will serve not only to evaluate technical performance and identify problems, but also acquaint the public with this mode of propulsion and ascertain consumer preferences and reservations. It is hoped that the resulting consumer awareness and the creation of an electric vehicle "second car" market will advance the state-of-the-art, therapy permitting the Nation to reduce its dependence on foreign sources of petroleum. Proper conduct of the demonstration project shall insure that sufficient numbers of different vehicle types shall be purchased or leased to gather enough data to permit proper evaluation. In order to realize these important benfits, some displacement may be necessary.

The conferees are convinced that the numbers of electric or hybrid vehicles (2,500) and advanced electric or hybrid vehicles (5,000) to conduct properly the demonstration project are realistic and desirable targets which must not be reduced without clear cause.

The results of the Administrator's determination will be a number of vehicles to be contracted for, taking into account both displacement and the purposes of the act. The Administrator will transmit this determination with any relevant supporting information to the House Committee on Science and Technology and the Senate Committee on Commerce. The determination must be made and transmitted with supporting information at least 60 days before he contracts for such vehicles. The 60-day period will provide the Committees with an opportunity to review the determination and information before the Administrator proceeds with the reduced number of purchases.

Subsection (e)(2) directs the Administrator to use the new number of vehicles for purposes of solicitations under subsection (c)(1) and (c)(2) in place of the vehicle numbers (2,500 and 5,000 respectively) in those subsections. However, the numbers for which the Administrator must solicit proposals shall not be less than 1,000 and 2,500, for subsections (c)(1) and (c)(2) respectively, notwithstanding the Administrator's determination under subsection (e)(1). The numbers to be used in subsections (c)(1) and (c)(2) therefore shall be the higher of the numbers determined under section (e)(1) and 1,000 or 2,500, respectively. The procedures in subsections (c)(1) and (c)(2) for reduction of the number of vehicles contracted for in the event of insufficient proposals meeting applicable performance standards and all other procedures therein shall apply even if maximum numbers specified in subsections (c)(1) or (c)(2) to be contracted for is altered as a result of this subsection.

The conferees selected the 1,000 and 2,500 vehicle level, notwithstanding displacement, to insure that there is a minimum demonstration under this act.

Where the total number of demonstration vehicles is reduced because of the Administrator's determination on displacement, the Administrator shall attempt to obtain on a voluntary basis or for reasonable compensation the participation of private purchasers of comparable vehicles in the performance measurement and maintenance data aspects of the demonstration program, in order to achieve the statistical data base which would be available in the absence of this displacement.

The schedule in the conference substitute for delivery of the advanced electric or hybrid vehicles could result in first demonstration of these vehicles in the 1983–84 timeframe. These time requirements should be considered as outside deadlines and the conferees encourage ERDA to make every effort to achieve initial demonstration of advanced vehicles which satisfy the applicable performance standards at the earliest possible date. Certainly, the planning for demonstration activities should not proceed on the basis of merely scheduling for the statutory deadlines. While the schedule may be demanding at certain points, the conferees believe that it is realistic and includes enough leeway for ERDA to move on a faster schedule. Of course, the conferees intend that ERDA will keep the Congress fully and currently informed on the progress of the demonstration, and in particular any scheduling difficulties which may arise under section 7.

CONTRACTS

House bill

No provision.

Senate amendment

The Senate amendment states that funds shall be provided by contract to initiate, continue, supplement, and maintain research, development, and demonstration programs for activities necessary to the purposes of the program. The Administrator shall consult with specified agencies and establish procedures for periodic consultation with representatives of science, industry, and other groups which have special relevant expertise. Each contract shall be made in writing and in accordance with rules prescribed by the Administrator. Section 3709 of the revised statutes (41 U.S.C. 5) need not apply to contracts under this section.

Conference substitute

The committee of conference adopted the language of the Senate amendment.

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS

House bill

The Administrator of the Energy Research and Development Administration shall reserve for contracts with small business concerns, a reasonable portion of the funds made available for the demonstration. The Administrator shall take into account the special needs of small business concerns in all contracts, terms, conditions, and payment schedules and avoid the inclusion in all such contracts of any provision which would impede participation by such small business concerns. The Administrator shall make planning grants available to qualified small business concerns.

Senate amendment

The House bill and Senate amendment contain essentially similar provisions regarding small business enterprises. The Senate amendment, however, states that such reservation of funds should be for research and development, as well as the demonstration program.

Conference substitute

The committee of conference accepted the House and Senate provisions to include the reservation of funds for small businesses for the research, development, and demonstration project. The conferees intend that the Administrator provide planning grants to small businesses, but only where such small businesses evidence satisfactory interest in and capability for research, development, or demonstration of electric or hybrid vehicle technology. The conferees intend that while a reasonable portion of funds should be reserved for small businesses, if sufficient proposals from small businesses which fulfill the requirements of the act are not forthcoming, the Administrator may make the funds available to other qualified persons for the research, development and demonstration project. The conference substitute provides that the Administrator in consultation with the Small Business Administration shall define small business for the purposes of this act.

LOAN GUARANTEES

House bill

The House bill directs the Administrator to guarantee principal and interest on loans made to qualified borrowers (primarily small business concerns) for research and development related to electric and hybrid vehicle technology, prototype development for such vehicles and their components, construction of capital equipment related to research, or initial operating expenses associated with such development and production.

Such guarantees are to be limited to no more than 90 percent of the total cost of the activity with respect to which the loan is made. The Administrator shall fix the terms and conditions of the loan guarantees except that (1) the loan guarantee must bear interest at a rate which reasonably compares with rates prevailing in the private sector for similar loans and risks; (2) maturity may not exceed 15 years; (3) the amount of the loan (when combined with other resources) must be sufficient to carry out the activity for which the loan is made; and there must be reasonable assurance of repayment. Loan guarantees for any single borrower shall be limited to $3 million, and the aggregate amount of guarantees outstanding at any one time is limited to $60 million. The House bill limits loan guarantees to citizens or nationals of the United States. The House bill authorizes the Administrator to enter into contracts to pay interest due on guaranteed loans which the borrower cannot pay if the Administrator finds it is in the public interest to permit the borrower to continue with the project, and if the Administrator determines that the probable Federal cost of the interest payment will be less than the cost which would result from a default. In the event of a default, the House bill authorizes the Administrator to make payments on defaulted loan guarantees and directs the Attorney General to take appropriate action to recover any such payments from assets associated with the loan activities or other contractual surety.

Senate amendment

Under the Senate amendment, the Administrator is authorized to guarantee, and make commitments to guarantee, the interest, and the principal balance of, loans and other obligations to facilitate those projects involving research or development of electric or hybrid vehicles.

Applications shall be made in writing to the Administrator in accordance with his requirements and conditions. Modifications may be made to the provisions of the guarantee if the Administrator finds that the notification is equitable, not prejudicial to the interests of the United States, and has been consented to by the holder of the obligation. Guarantees may be made to a variety of agencies, institutions, and individuals.

All guarantees issued by the Administrator shall constitute general obligations of the United States backed with the full faith and credit of the United States. No obligation shall be guaranteed unless the Administrator finds that no other reasonable means of financing or refinancing is reasonably available to the applicant. The Senate bill places no limitation on the citizenship or nationality for eligibility for loan guarantees under this act. Sixty million dollars is authorized to pay the interest on and the principal balance of any obligation guaranteed by the Administrator on which the obligor has defaulted. The outstanding indebtedness guaranteed shall not exceed $60 million.

Conference substitute

The conference substitute substantially follows the House bill with three significant modifications. First, the language of the Senate amendment which requires that "no obligation shall be guaranteed by the Administrator unless the Administrator finds that no other reasonable means of financing or refinancing is reasonably available to the applicant" was accepted by the conference. Second, the conferees agreed that loan guarantees should be limited to $3 million per single qualified borrower, unless the Administrator finds that a higher guarantee level for a specific loan guarantee is necessary in order to carry out the act. If the Administrator makes such finding, he is immediately to notify the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate. The conferees intend that such higher loan guarantee be given only in those few circumstances where the Administrator finds it necessary to carry out a large, but promising research, development, or demonstration project.

Third, the committee of conference narrowed the House bill's restriction on the nationality of an applicant for a loan guarantee.

The Administrator shall direct careful attention to overseeing such loan guarantees, and only such funds as are necessary to meet a reasonably expectable default rate should be held in reserve so as not to compromise the project's goals.

USE OF ELECTRIC AND HYBRID VEHICLES BY FEDERAL AGENCIES

House bill

The heads of the United States Postal Service, the General Services Administration, the Secretary of Defense, and other Federal agencies shall arrange to introduce electric and hybrid vehicles into their fleets as soon as possible. For competitive procurement purposes, life-cycle costing and the beneficial emission characteristics of electric and hybrid vehicles shall be fully taken into account. In any case where the head of the agency determines electric or hybrid vehicles are practical, but not economically competitive with conventional vehicles, the Administrator may pay the incremental costs of the electric or hybrid vehicles as part of the demonstration program to assure that the maximum number of electric and hybrid vehicles are placed in use by Federal agencies.

Senate amendment

The Senate amendment is substantially similiar to the House bill. In the Senate amendment the various agencies shall carry out a study of the practicability of electric and hybrid vehicle use in the performance of some or all of the functions of their agencies and are to arrange for the introduction of such vehicles into their fleets to the maximum extent practicable. If he deems it necessary for the purposes of the demonstration program, the Administrator may pay the incremental costs of electric and hybrid vehicles, including operating costs, where such vehicles are practicable but not completely economically competitive with conventional vehicles.

Conference substitute

The conference substitute substantially accepted the language of the House and Senate bills. The various agencies are directed to carry out studies of the practicability of utilizing electric and hybrid vehicles to perform some or all of the vehicular functions of their agencies and to arrange for the introduction of electric or hybrid vehicles into their fleet where such vehicles can be so used as soon as possible. If the head of an agency determines that electric or hybrid vehicles are technologically practicable, but not completely economically competitive with conventional vehicles, the Administrator may pay for purposes of the demonstration project the incremental costs of the electric or hybrid vehicles, including differential operating costs.

PATENTS

House bill

The House bill contains no patent provisions, although it is assumed that section 9 of the Federal Nonnuclear Energy Research and Development Act would apply to any contract or grant entered into under this act.

Senate amendment

The Senate amendment included language which was virtually identical to section 9 of the Federal Nonnuclear Energy Research and Development Act relating to patents. Under the provisions, title to inventions made or conceived under the program would lie with the United States with the appropriate waiver provision to assure the commercial availability of the technology.

Moreover, the Senate amendment provides for compulsory licensing of patents when the Administrator determines that it is reasonably necessary to the development, demonstration, or commercial application of any electric or hybrid vehicle invention, process or system or component thereof. When the necessary finding by the Administrator is made, the district courts are authorized to order that the patent be licensed at such reasonable royalty fee schedule and on such reasonable nondiscriminatory terms and conditions as the court shall determine.

Conference substitute

The conference substitute explicitly provides that the patent policy of the Federal Nonnuclear Energy Research and Development Act of 1974 will apply to any contract entered into, made, or issued by the Administrator pursuant to section 8 of this act. In administrating waivers under the patent provisions, the conferees intended that the Administrator take care to recognize the benefits of involving small business in the projects envisioned by this act, and grant waivers where reasonable in recognition of this policy. There is no mandatory licensing provision.

STUDIES

House bill

The House bill directs the Administrator to study any tax, regulatory, traffic, urban design, or other institutional factor which may bias surface transportation systems toward particular types of vehicles, and to report to the Congress on findings and conclusions within 1 year after the enactment of the act.

The Administrator shall conduct a continuing assessment of the long-range effects of demand for materials and pollution which may result from the electrification of urban traffic. A statement of his findings thereon shall be included in his annual report (and in any environmental impact statement filed under Federal law with respect to activities under this legislation). The Administrator is also to perform studies and research on incentives to promote broader utilization and consumer acceptance of electric and hybrid vehicle technology.

The Secretary of Transportation is directed to study the current and future applicability of safety standards and regulations for electric and hybrid vehicles, and to report to the Administrator and to the Congress within 240 days after the enactment of this act.

Senate amendment

The Senate amendment is essentially similar to the House bill. However, the Administrator shall carry out an additional study to determine the overall effectiveness and feasibility of including regenerative braking systems for electric vehicles and other automobiles. The Administrator shall submit this report to the Congress 1 year after the date of enactment of this act. The Senate amendment also gives the Secretary of Transportation 1 year to carry out a study on safety.

Conference substitute

The committees of conference accepted the House and Senate language with the additions and changes noted in the Senate amendment. The conferees feel that the Secretary's report will provide important guidance for the Administrator in promulgating performance standards for the demonstration program. The conferees urge that the DOT report be completed as soon as possible to accomplish the purposes of this act.

REPORT TO CONGRESS

House bill

The House bill requires a semiannual report to the Congress on all activities undertaken or carried out pursuant to this legislation. The Administrator shall also forward to the Congress any recommendations for legislation or other actions he deems necessary to further the purposes of this act.

Senate amendment

The Senate amendment requires a report and materials similar to those required by the House provisions; however, the Senate amendment calls for an annual report.

Conference substitute

The committee of conference accepted language common to the House and Senate versions but calls for an annual report. The committee of conference intends that the annual report should be in the nature of an evaluation of the progress of the project and should include (1) projections and estimates as to the extent to which the purposes of the act are being achieved, (2) an assessment of the progress and projections of the ability to meet the timetables set forth in the act, and (3) if any difficulties in meeting the timetables are encountered, a detailed analysis of the reasons for such difficulty and projected timetables that might be required and a justification for such projections.

AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT

House bill

No provision.

Senate amendment

Section 4 of the Senate amendment amends the National Aeronautics and Space Act of 1958. The Senate amendment recognizes NASA's expertise and competence in scientific and engineering systems as well as in the development of propulsion systems. The Administrator may utilize NASA's capabilities to further the purposes of the demonstration program.

Conference substitute

The committee of conference agreed to adopt the Senate provision, but decided to create a separate section 15 to amend the National Aeronautics and Space Act. The committee agreed that the Administrator of ERDA should take full advantage of the special knowledge, experience, and competence within NASA; however, NASA under this authority shall not establish a separate program under this act for any research, development, and demonstration and shall confine itself to the duties and projects which the Administrator may assign. The conferees intend this amendment will insure that NASA is eligible for "pass-through" funds from ERDA. The inclusion of the amendments to the National Aeronautics and Space Act does not affect the eligibility of any other Federal agency for funds on a "pass-through" basis.

AUTHORIZATION FOR APPROPRIATION

House bill

The House bill authorizes to be appropriated for purposes of this Act not more than: $10 million for the fiscal year 1976 and the 3-month transition period following; $40 million for the fiscal year 1977; $30 million for the fiscal year 1978; $60 million for the fiscal year 1979, and: $20 million for the fiscal year 1980.

Senate amendment

The Senate amendment provides authorization for not more than: $10 million for the fiscal year ending September 30, 1977; $40 million for the fiscal year ending September 30, 1978; $25 million for the fiscal year ending September 30, 1979; $25 million for the fiscal year ending September 30, 1980, and; $60 million for the fiscal year ending September 30, 1981.

Conference substitute

The conference substitute authorizes not more than: $30 million for the fiscal year ending September 30, 1977; $40 million for the fiscal year ending September 30, 1978; $25 million for the fiscal year ending September 30, 1979; $20 million for the fiscal year ending September 30, 1980; and: $45 million for the fiscal year ending September 30, 1981. Recognizing the importance of battery technology to the success of the demonstration program, the committee of conference specified that a least $10 million of the funds authorized for the fiscal year 1977 shall be allocated for battery research and development.

Olin E. Teague,
Don Fuqua,
Mike McCormack,
George E. Brown, Jr.,
Ray Thornton,
Charles A. Mosher,
Barry M. Goldwater, Jr.,
Managers on the Part of the House.

Warren G. Magnuson,
Frank E. Moss,
John V. Tunney,
Howard H. Baker, Jr.,
Ted Stevens,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Flynt (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Pepper (at the request of Mr. O'Neill), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Rinaldo) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 15 minutes, today.

Mr. Steiger of Arizona, for 10 minutes, today.

(The following Members (at the request of Mr. Waxman) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Adams, for 60 minutes, today.

Mr. Preyer, for 20 minutes, today.

Mr. Diggs, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Conyers, for 5 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. Alexander, for 60 minutes, today.

Ms. Holtzman, for 30 minutes, today.

Mr. Rostenkowski, for 5 minutes, today.

Mr. LaFalce, for 10 minutes, today.

Mr. Matsunaga, for 5 minutes today.

Mr. Rees, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Conte, to revise and extend his remarks and to include extraneous matter at the conclusion of the remarks of Mr. Wright on the veto.

Mr. Scheuer, to revise and extend his remarks immediately preceding vote on veto of H.R. 12384.

Mr. Dodd, to revise and extend his remarks immediately preceding vote on veto of H.R. 12384.

Mr. Steiger of Wisconsin, to revise and extend his remarks immediately preceding vote on veto of H.R. 12384.

Mr. Foley to revise and extend his remarks immediately following the remarks of Mr. Melcher in the Committee of the Whole today on H.R. 13777, relating to sections 201 and 206.

(The following Members (at the request of Mr. Rinaldo) and to include extraneous matter:)

Mr. Snyder.
Mr. Steiger of Arizona.
Mr. Rinaldo.
Mr. J. William Stanton.
Mr. Sarasin.
Mr. Crane in three instances.
Mr. du Pont.
Mr. Broomfield.
Mr. McCollister in five instances.
Mr. Brown of Ohio.
Mr. Pritchard.
Mrs. Smith of Nebraska.
Mr. Symms.
Mr. Archer in three instances.
Mr. Ashbrook.
Mr. Moore.
Mr. Whalen.
Mr. Paul.

(The following Members (at the request of Mr. Waxman) and to include extraneous matter:)

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Bolling.
Mr. Badillo in two instances.
Mr. Lehman.
Mr. Diggs.
Mr. Harrington in five instances.
Mr. Downey of New York.
Mr. Ottinger.
Mr. Mineta in two instances.
Ms. Abzug in three instances.
Mr. Conyers.
Mr. Milford.
Mr. Vanik in three instances.
Mr. Eilberg.
Mr. Hawkins.
Mr. Carney.
Mr. Matsunaga in two instances.
Mr. Long of Maryland in 10 instances.
Mr. Koch.
Mr. Traxler in two instances.
Mr. McDonald in three instances.
Mr. Krueger.
Mr. Ichord.
Mr. Fountain.
Mr. Nolan.
Mr. Blanchard.
Mr. Kastenmeier.
Mr. Ginn.
Mr. Ambro.
Ms. Schroeder.
Mr. Dingell.
Mr. Bingham.
Mr. Edgar.
Mrs. Spellman.
Mr. Bennett in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1026. An act to designate certain lands as wilderness; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2054. An act to amend sections 203 and 204 of the Communications Act of 1934.

ADJOURNMENT

Mr. WAXMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 21 minutes p.m.) under its previous order, the House adjourned until Monday, July 26, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3676. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1977 for the Energy Research and Development Administration (H. Doc. No. 94–565); to the Committee on Appropriations and ordered to be printed.

3677. A letter from the Assistant Secretary of Transportation for Administration, transmitting notice of two new systems of records for the Department of Transportation, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3678. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T–1), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3679. A letter from the Assistant General Counsel for International, Conservation and Resource Development Programs, Federal Energy Administration, transmitting notice of certain meetings related to the International Energy Program; to the Committee on Interstate and Foreign Commerce.

3680. A letter from the Administrator of General Services, transmitting a prospectus proposing an extension to the present lease for space in the building at 2300 E. Devon Avenue, Des Plaines, Ill., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

Received From the Comptroller General

3681. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Federal Deposit Insurance Corporation for fiscal year 1975, pursuant to section 17(c) of the Federal Deposit Insurance Act [12 USC 1827(c)] (H. Doc. No. 94–566); to the Committee on Government Operations and ordered to be printed.

3682. A letter from the Comptroller General of the United States, transmitting a report that better controls are needed over biomedical research supported by the National Institutes of Health; jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

3683. A letter from the Comptroller General of the United States; transmitting a report on the need for the General Services Administration and the Department of Defense to emphasize competition in selecting architects and engineers for Federal projects; jointly, to the Committees on Government Operations, Armed Services, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Report pursuant to section 302(b)(2) of the Congressional Budget Act of 1974 (Rept. No. 94–1357). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8046. A bill to amend the Internal Revenue Code of 1954 to provide that the rental value of a parsonage furnished to the surviving spouse of a minister be excluded from gross income; with an amendment (Rept. No. 94–1358). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 10101. A bill to amend the Internal Revenue Code of 1954 to exempt certain aircraft museums from Federal fuel taxes and the Federal tax on the use of civil aircraft, and for other purposes; with amendments (Rept. No. 94–1359). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 10902. A bill relating to the income tax treatment of securities which are acquired for business reasons and not as an investment; with amendments (Rept. No. 94–1360). Referred to the Committee of the Whole House on the State of the Union.

Mr. McFALL: Committee of conference. Conference report on H.R. 14234 (Rept. No. 94–1361). Ordered to be printed.

Mr. BOLAND: Committee of conference. Conference report on H.R. 14233 (Rept. No. 94–1362). Ordered to be printed.

Mr. TEAGUE: Committee of conference. Conference report on H.R. 8800 (Rept. No. 94–1363. Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOWEN:

H.R. 14808. A bill to abolish the Environmental Protection Agency and transfer its administrative authority over various environmental programs to other appropriate agencies, and for other purposes; to the Committee on Government Operations.

By Mr. COHEN (for himself, Ms. Abzug, Mr. Anderson of Illinois, Mr. Badillo, Mr. Boland, Mr. Cleveland, Mr. Downey of New York, Mr. Edgar, Mr. Edwards of California, Mr. Eilberg, Mr. Emery, Mr. Ford of Tennessee, Mr. Gaydos, Mr. Hall of Texas, Mr. Hefner, Mr. Heinz, Mr. Helstoski, Mr. Koch, Mr. Matsunaga, Mr. Miller of Ohio, Mr. Mineta, Mr. Mosher, Mr. Murphy of New York, Mr. Robinson, and Mr. Simon):

H.R. 14809. A bill to amend title 38 of the United States Code in order to provide that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator rather than deducted from amounts awarded under the claims; to the Committee on Veterans' Affairs.

By Mr. COHEN (for himself, Ms. Abzug, Mr. Anderson of Illinois, Mr. Badillo, Mr. Boland, Mr. Cleveland, Mr. Downey of New York, Mr. Edgar, Mr. Edwards of California, Mr. Eilberg, Mr. Emery, Mr. Ford of Tennessee, Mr. Gaydos, Mr. Hall of Texas, Mr. Hefner, Mr. Heinz, Mr. Helstoski, Mr. Koch, Mr. Matsunaga, Mr. Miller of Ohio, Mr. Mineta, Mr. Mosher, Mr. Murphy of New York, Mr. Robinson, and Mr. Simon):

H.R. 14810. A bill to amend title II of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that title (or under title XVIII of such act), in cases where the claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants; to the Committee on Ways and Means.

By Mr. DELANEY (for himself, Mr. Dan Daniel, Mr. Beard of Rhode Island, Mr. Dodd, Mr. Moorhead of California, and Mr. D'Amours):

H.R. 14811. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for amounts paid by a taxpayer for tuition to provide an education for himself or for his dependents; to the Committee on Ways and Means.

By Mr. GRASSLEY (for himself and Mr. Pressler):

H.R. 14812. A bill to encourage the establishment of wind erosion control and wildlife habitat areas which meet standards prescribed by the Secretary of Agriculture; to the Committee on Ways and Means.

By Mr. JONES of Oklahoma:

H.R. 14813. A bill to amend the Walsh-Healey Act to permit employment not in excess of 10 hours in any one day and not in excess of 4 days in any one week; jointly to the Committees on Education and Labor, and the Judiciary.

By Mr. LEHMAN:

H.R. 14814. A bill to protect from certain willful injury any broadcaster or reporter employed by or under contract with any broadcasting station or any newspaper or periodical circulated to the general public; to the Committee on the Judiciary.

By Mr. LEHMAN:

H.R. 14815. A bill to amend the Internal Revenue Code of 1954 to provide for a credit against the Federal income tax for certain higher education expenses; to the Committee on Ways and Means.

By Mr. MAGUIRE (for himself and Mr. Mineta):

H.R. 14816. A bill to amend title 5, United States Code, to revise the method by which cost-of-living adjustments are made in civil service retirement annuities; to the Committee on Post Office and Civil Service.

By Mr. NATCHER:

H.R. 14817. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. O'HARA:

H.R. 14818. A bill to provide scholarships for the dependent children of public safety officers who are the victims of homicide while performing their official duties, and for other purposes; to the Committee on Education and Labor.

By Mr. OTTINGER:

H.R. 14819. A bill to amend the Export Administration Act of 1969 to establish a program for gathering and analyzing information with respect to multinational enterprises, and to require publication of such material on a regular basis; to the Committee on International Relations.

By Mr. PATTEN:

H.R. 14820. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PERKINS:

H.R. 14821. A bill to amend title 38 of the United States Code to provide that monthly social security benefit payments shall not be considered to be income for the purpose of determining eligibility for a pension under that title; to the Committee on Veterans' Affairs.

By Mr. SCHEUER (for himself, Mr. Conyers, Mr. Charles H. Wilson of California, Mr. Bingham, Ms. Chisholm, Mr. de Lugo, Mr. Hawkins, Mr. Ottinger, Mr. Richmond, Mr. Rosenthal, Mr. Flood, Mr. Badillo, Mr. Drinan, Mr. Diggs, Mr. Miller of California, Mr. Zeferetti, Mr. Fraser, and Mr. Mitchell of Maryland):

H.R. 14822. A bill to establish a national system of maternal and child health care; jointly to Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. ASHLEY:

H.R. 14823. A bill to amend the River and Harbor Act of 1970 relating to the demonstration program for winter navigation of the Great Lakes-Saint Lawrence Seaway System; to the Committee on Public Works and Transporation.

By Mr. BEDELL (for himself, Mr. Meeds, Mr. McKay, Mrs. Schroeder, Mr. Pressler, and Mr. Abdnor):

H.R. 14824. A bill to authorize appropriations for purposes of making certain grants under the Indian Elementary and Secondary Assistance Act, the Elementary and Secondary Education Act of 1965 and the Adult Education Act; to the Committee on Education and Labor.

By Mrs. COLLINS of Illinois (for herself, Mr. Mikva, Mr. Metcalfe, Mr. Mitchell of Maryland, Ms. Abzug, Mr. Roe, Mr. Breckinridge, Mr. Mineta, Mrs. Spellman, Mr. Wolff, Mr. Preyer, and Mr. McKinney):

H.R. 14825. A bill to amend the Elementary and Secondary Education Act of 1965 to preserve the eligibility of certain children for assistance through grade three, notwithstanding improvements in their reading aptitude; to the Committee on Education and Labor.

By Mr. HALL of Texas:

H.R. 14826. A bill to repeal titles XV and XVI of the Public Health Services Act; to the Committee on Interstate and Foreign Commerce.

By Mr. MATSUNAGA:

H.R. 14827. A bill to amend title II of the Social Security Act to provide that an individual's earnings in months before his or her first month of entitlement to benefits thereunder shall not be taken into account in determining whether or not such benefits (for the year in which such first month falls) are subject to deduction under the earnings test; to the Committee on Ways and Means.

By Mr. MORGAN (by request) (for himself, and Mr. Fisher):

H.R. 14828. A bill to complement the Vienna Convention on Diplomatic Relations; to the Committee on International Relations.

By Mr. ST GERMAIN (for himself, Mr. Reuss, Mr. Ashley, Mr. Moorhead of Pennsylvania, Mr. Stephens, Mr. Minish, Mr. Annunzio, Mr. Rees, Mr. Mitchell of Maryland, Mr. Fauntroy, Mrs. Boggs, Mr. Patterson of California, Mr. Blanchard, Mr. Hubbard, Mr. LaFalce, Mrs. Spellman, Mr. Tsongas, Mr. Derrick, Mr. Hayes of Indiana, Mr. Hannaford, Mr. Allen, Mr. D'Amours, and Mr. Lundine):

H.R. 14829. A bill to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mrs. SCHROEDER (for herself, Mr. Rose, and Mr. Long of Louisiana):

H.R. 14830. A bill to provide for a 50-percent reduction of the burden on respondents in the censuses of agriculture, drainage, and irrigation taken in 1979 and thereafter, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STEED:

H.R. 14831. A bill to rescind certain budget authority recommended in the message of the President of July 1, 1976 (H. Doc. 94–542) and in the communication of the Comptroller General of July 15, 1976 (H. Doc. 94–556), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. SYMINGTON:

H.R. 14832. A bill to clarify and reaffirm the intent of Congress with respect to the transmission and sale of electric power and energy generated or purchased in the southwestern power area; to the Committee on Interior and Insular Affairs.

By Mr. SYMINGTON (for himself and Mr. Rogers):

H.R. 14833. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for services furnished by physician extenders; to the Committee on Ways and Means.

By Mr. VANDER VEEN (for himself, and Mr. Anderson of California):

H.R. 14834. A bill to amend the Internal Revenue Code of 1954 to increase the standard deduction; to the Committee on Ways and Means.

By Mr. VANDER VEEN (for himself, Mr. Fisher, and Mr. Conable):

H.R. 14835. A bill to amend the Internal Revenue Code of 1954 to encourage the preservation and rehabilitation of historic buildings and structures, and for other purposes; to the Committee on Ways and Means.

By Mr. WRIGHT:

H.R. 14836. A bill to direct the Administrator of General Services to acquire by exchange certain property in the possession of the Texas National Guard; to the Committee on Armed Services.

H.R. 14837. A bill to amend title XVI of the Social Security Act to provide for a partial exclusion of veterans' pensions from an individual's income for purposes of determining his or her eligibility for supplemental security income benefits; to the Committee on Ways and Means.

By Mr. HYDE:

H.J. Res. 1029. A resolution to authorize the President to proclaim the second Sunday in September of each year as Bataan Day; to the Committee on Post Office and Civil Service.

By Mr. MAGUIRE:

H.J. Res. 1030. A resolution appropriating funds for the Department of Health, Education, and Welfare; to the Committee on Appropriations.

By Mr. STEIGER of Wisconsin:

H.J. Res. 1031. A resolution designating the composition known as "The Stars and Stripes Forever" as the national march of the United States; to the Committee on Post Office and Civil Service.

By Mrs. BOGGS:

H. Con. Res. 682. A resolution to authorize the printing of a booklet entitled "Black Americans in Congress"; to the Committee on House Administration.

By Mr. SKUBITZ (for himself, Mr. Brown of Ohio, Mr. McCloskey, Mr. Young of Florida, Mr. Latta, Mr. Devine, Mr. O'Brien, Mr. Guyer, Mr. Del Clawson, Mrs. Pettis, Mr. Winn, Mr. Myers of Indiana, Mr. Taylor of Missouri, Mr. Kindness, Mr. Ashbrook, and Mr. Gilman):

H. Con. Res. 683. A resolution expressing the sense of the Congress in favor of eliminating the reduction in veterans' pensions which results when cost-of-living increases in social security or railroad retirement benefits occur; to the Committee on Veterans' Affairs.

By Mr. SKUBITZ (for himself, Mr. Edwards of Alabama, Mr. Buchanan, Mr. J. William Stanton, Mr. Miller of Ohio, Mr. Ketchum, Mr. Bauman, Mrs. Holt, Mr. Schulze, Mr. Sebelius, Mr. Jeffords, Mr. Rousselot, Mr. Grassley, Mr. Hutchinson, and Mr. Burgener):

H. Con. Res. 684. A resolution expressing the sense of the Congress in favor of eliminating the reduction in veterans' pensions which results when cost-of-living increases in social security or railroad retirement benefits occur; to the Committee on Veterans' Affairs.

By Mr. SKUBITZ (for himself, Mr. Johnson of Pennsylvania, Mr. Findley, Mr. Cochran, Mr. Snyder, Mr. Wampler, Mr. Goldwater, Mr. Beard of Tennessee, Mr. Steiger of Arizona, Mr. Don H. Clausen, Mr. Thone, Mr. Moore, Mr. McDade, Mr. McCollister, and Mr. Levitas):

H. Con. Res. 685. A resolution expressing the sense of the Congress in favor of eliminating the reduction in veterans' pensions which results when cost-of-living increases in social security or railroad retirement benefits occur; to the Committee on Veterans' Affairs.

By Mr. SKUBITZ (for himself, Mr. Pressler, Mr. Cohen, Mr. Martin, Mr. Ruppe, Mr. Frenzel, Mr. Forsythe, Mr. Hyde, Mr. Symms, Mrs. Smith of Nebraska, Mr. Lagomarsino, Mr. Carter, Mr. Shriver, Mr. Abdnor, Mr. Pritchard, and Mr. Hillis):

H. Con. Res. 686. A resolution expressing the sense of the Congress in favor of eliminating the reduction is veterans' pensions which results when cost-of-living increases in social security or railroad retirement benefits occur; to the Committee on Veterans' Affairs.

By Mr. BALDUS (for himself, Mr. Cornell, Mr. Kastenmeier, and Mr. Simon):

H. Res. 1417. A resolution expressing the sense of the House of Representatives concerning an assessment by the Secretary of Agriculture of our whey supply situation; to the Committee on Agriculture.

By Mr. COTTER:

H. Res. 1418. A resolution concerning committee hearings on the future telecommunications policy of the Nation; to the Committee on Interstate and Foreign Commerce.

By Mr. FINDLEY:

H. Res. 1419. A resolution relating to the negotiation of voluntary restraints on subsidized palm oil production and to the negotiation of voluntary restraints on palm oil imports into the United States; jointly to the Committees on Banking, Currency and Housing, and International Relations.

By Mr. MOSS:

H. Res. 1420. A resolution authorizing participation by counsel on behalf of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce in any judicial proceeding concerning certain subpenas; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

434. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States relative to human life, which was referred to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 14838. A bill for the relief of Karin, Michael, and Andreas Ehard; to the Committee on the Judiciary.

By Mr. RODINO (by request):

H.R. 14839. A bill for the relief of Lucia Jurkauskas; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H.R. 14840. A bill for the relief of Leung, Tak-Ming; to the Committee on the Judiciary.

By Mr. ULLMAN:

H.R. 14841. A bill for the relief of Pedro and Lourdes Gonzalez; to the Committee on the Judiciary.

By Mr. KINDNESS:

H. Con. Res. 687. A resolution expressing the consent of Congress to John E. Dolibois accepting appointment as Honorary Vice-Consul of Luxembourg for the State of Ohio; to the Committee on International Relations.

PETITIONS, ETC.

Under clause 1 of rule XXII,

524. The SPEAKER presented a petition of the City Council, Philadelphia, Pa., relative to the proposed Consumer Communications Reform Act of 1976, which was referred to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 13555

By Mr. DOMINICK V. DANIELS:

(Technical amendments.)

Page 76, line 22, insert a single quotation mark immediately before the period.

Page 93, line 1, strike out "of" and insert in lieu thereof "to".

Page 94, line 6, strike out "Act" and insert in lieu thereof "section".

Page 103, line 22, insert "alleged" immediately before "violation".

Page 111, line 17, strike out "citattion" and insert in lieu thereof "citation".

Page 114, line 10, strike out "and".

Page 114, line 15, strike out the comma which appears immediately after "from" and insert a comma immediately after "entering".

Page 117, line 8, strike out "domage" and insert in lieu thereof "damage".

Page 121, line 3, strike out the comma.

Page 124, line 12, strike out the second period.

Page 145, line 4, strike "inspections" and insert in lieu thereof "investigations".

Page 147, line 3, strike out "Enlistment" and insert in lieu thereof Entitlement".

Page 149, line 14, strike out "admendments" and insert in lieu thereof "amendments".

Page 153, line 9, strike out "numher" and insert in lieu thereof "number".

H.R. 13955

By Mr. PAUL:

Amendment No. 1: On page 2, strike lines 1 through 4.

Amendment No. 2: On page 3, strike lines 17 through 25.

Amendment No. 3: On page 5, add the following new section:

"Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States alienate any gold to any trust fund established by the Board of Governors of the International Monetary Fund, or to any other international organization or its agents, or to any person or organization acting as a purchaser on behalf of any central bank or governmental institution."

Amendment No. 4: On page 5, add the following new section:

"Notwithstanding any other provision of law, the Secretary of the Treasury, in his capacity as a Governor of the International Monetary Fund, shall report the names and addresses of the purchasers of gold sold or otherwise alienated by the International Monetary Fund or any Trust Fund established by the International Monetary Fund, together with the amounts purchased and prices paid by each purchaser, to the Congress within five (5) days of such sales."

H.R. 14032

By Mr. OTTINGER:

(Limitation on whole animal tests.)

Page 112, strike out the period in line 20, and insert in lieu thereof a semicolon and the following: "except that in prescribing tests the Administrator in his discretion shall give preference to available tests which do not involve the use of animals and which provide an adequate and accurate means for ascertaining the effect of a chemical substance or mixture on humans and the environment."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of July 21, 1976, page 23219.

HOUSE BILLS

H.R. 14476. June 21, 1976. Judiciary. Establishes within the Department of Justice the Division of Government Crimes to be headed by an Assistant Attorney General for Government Crimes. Grants the Assistant Attorney General jurisdiction over criminal violations of Federal law committed by specified elected, appointed, or special Federal Government officials or employees, and over Federal crimes relating to lobbying, campaigns, and elections. Requires the appointment of a temporary special prosecutor in prosecutions and investigations where participation by the Attorney General or the Assistant Attorney General for Government Crimes involves a conflict of interest.

H.R. 14477. June 21, 1976. Interstate and Foreign Commerce. Prohibits the sale of beverage containers without a minimum refund value of five cents. Requires labeling of refund values on all such containers. Prohibits sale of metal beverage containers with detachable openings.

H.R. 14478. June 21, 1976. Ways and Means. Amends the Internal Revenue Code to eliminate in the case of taxpayers over age 65 the one percent floor on the deduction for medicine and drugs, and the three percent floor on the deduction for medical expenses.

H.R. 14479. June 21, 1976. Public Works and Transportation. Amends the Railroad Revitalization and Regulatory Reform Act of 1975 to direct the Secretary of Transportation to conduct a study of freight transportation in the Midwest including the effects on railroads which could be caused by possible changes in the capacity of the lock system of the Mississippi River and the Illinois Waterway navigation system. Prohibits the expansion of the present lock capacity on the Mississippi or Illinois River prior to the submission of the Secretary's study to Congress one year from the enactment of this Act.

H.R. 14480. June 21, 1976. Ways and Means. Amends the Internal Revenue Code to increase the rate of tax imposed on tax preferences. Reduces the amount of tax preference exempt from such tax.

H.R. 14481. June 21, 1976. Ways and Means. Amends the Social Security Act to authorize payment under the Medicare program for specified services performed by chiropractors, including x-rays, and physical examination, and related routine laboratory tests.

H.R. 14482. June 21, 1976. Appropriations. Amends the Third Supplemental Appropriations Act of 1957 to provide that unexpended funds subject to disbursement by the Clerk of the House of Representatives shall be returned to the Treasury of the United States 4 months after the close of the fiscal year for which such funds are appropriated.

H.R. 14483. June 21, 1976. Banking, Currency and Housing; Government Operations. Establishes the Minority Business Development and Assistance Administration in the Department of Commerce. Creates the position of the Assistant Secretary of Commerce for Minority Business Development and Assistance to direct such administration. Enumerates the powers of the Administration. Provides for the transfer (from existing agencies) of functions pertaining to minority business enterprises.

H.R. 14484. June 22, 1976. Ways and Means. Makes permanent the existing temporary authority for reimbursement of States for interim assistance payments under the Supplemental Security Income program of the Social Security Act.

Extends for 1 year the eligibility of supplemental security income recipients for food stamps.

Extends for 1 year the period during which payments may be made to States for child support collection services under the program of Aid to Families with Dependent Children of the Social Security Act.

H.R. 14485. June 22, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct a replacement lock and dam on the Mississippi River near Alton, Ill. Withdraws all authority with respect to channel construction and modification on the Upper Mississippi River.

Directs the Upper Mississippi River Basin Commission to prepare a master plan for the management of the Upper Mississippi River.

H.R. 14486. June 22, 1976. Public Works and Transportation. Amends the Streambank Erosion Control Evaluation and Demonstration Act of 1974 to direct the Secretary of the Army, acting through the Chief of Engineers, to designate areas along the streambank of the Ohio River which are susceptible to erosion. Requires that the Secretary prohibit vessels from operating within 200 feet of such shorelines.

H.R. 14487. June 22, 1976. Veterans' Affairs. Names a Veterans' Administration hospital.

H.R. 14488. June 22, 1976. Judiciary. Revises the Federal Criminal Code. Revises the Federal Rules of Criminal Procedure. Establishes a Criminal Victim Compensation Fund to compensate the victims of criminal offenses for financial loss.

H.R. 14489. June 22, 1976. Government Operations. Directs the Administrator of General Services to grant priority to occupants in the purchase of surplus Government housing being disposed of under the Federal Property and Administrative Services Act of 1949.

H.R. 14490. June 22, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on (1) articles assembled abroad with components produced in the United States, and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 14491. June 22, 1976. Science and Technology. Establishes a National Earthquake Hazards Reduction Conference.

Enumerates the duties of the Conference, including (1) the formulation of a national program to develop capabilities for earthquake hazards reduction, (2) the establishment of means for disseminating earthquake prediction information and technical assistance (3) the coordination of earthquake and related hazard research programs, and (4) the establishment of an earthquake prediction board.

H.R. 14492. June 22, 1976. Judiciary. Prohibits certain petroleum companies engaged in the production, transportation, refining, or marketing of petroleum assets from controlling any interest in another aspect of the petroleum industry. Directs the Federal Trade Commission to require divestment of ownership interests by affected companies.

Establishes a Temporary Petroleum Industry Divestiture Court to hear cases arising under this Act.

H.R. 14493. June 22, 1976. Veterans' Affairs. Extends the delimiting period in the case of any eligible veteran who is pursuing, during his or her tenth year of eligibility, a program of education.

H.R. 14494. June 22, 1976. Ways and Means. Amends the Social Security Act to authorize payment to married couples of old-age, survivors and disability insurance benefits which have been computed on the basis of their combined earnings record.

H.R. 14495. June 22, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to require the participation of optometrists in the activities of the National Professional Standards Review Council and of local professional standards review organizations.

H.R. 14496. June 22, 1976. Interstate and Foreign Commerce. Establishes a program of financial and technical assistance for the development of resource recovery systems in the Environmental Protection Agency. Directs the Administrator of the Environmental Protection Agency to regulate wastes which are hazardous to health.

Establishes criteria for approval and implementation of State and regional discarded materials plans. Creates a nonprofit corporation to assist in stimulating the market for resource recovery facilities.

H.R. 14497. June 22, 1976. Interstate and Foreign Commerce; Ways and Means. Establishes a national health insurance system for maternal and child health care.

H.R. 14498. June 22, 1976. Veterans' Affairs. Extends the delimiting period in the case of any eligible veteran who is pursuing, during his or her 10th year of eligibility, a program of education.

H.R. 14499. June 22, 1976. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to alter the services provided at, transfer control of, or close specified hospitals of the Public Health Service.

H.R. 14500. June 22, 1976. Merchant Marine and Fisheries. Extends provisions of the Fishermen's Protective Act of 1967 providing for reimbursement to fishermen for confiscation of fishing vessels by foreign countries.

H.R. 14501. June 22, 1976. Interstate and Foreign Commerce. Amends the Natural Gas Act to limit Federal Power Commission authority to regulate prices of new natural gas produced from offshore Federal lands. Requires that prices for the sale of other new natural gas be consistent with the ceiling established for offshore natural gas.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 14502. June 22, 1976. Permits a State which no longer qualifies for the hold harmless limitation on its liability for optional additional supplementary security income payments under the Social Security Act to elect to continue to include the bonus value of food stamps in its supplementation payments under condition that it pass through a part of the 1976 cost-of-living increase in supplemental security income benefits and all of any subsequent increases in such benefits.

H.R. 14503. June 22, 1976. Public Works and Transportation. Designates a new postal facility in Youngstown, Ohio, as the "Michael J. Kirwan Post Office."

H.R. 14504. June 22, 1976. Judiciary. Incorporates the National Ski Patrol System, Incorporated.

H.R. 14505. June 22, 1976. Ways and Means. Amends the Internal Revenue Code to: (1) allow a limited tax credit for qualified savings deposits and investments; (2) increase the maximum tax deduction for retirement savings; (3) exclude from gross income dividends received from domestic corporations; (4) allow a limited tax exclusion for capital gains income; (5) provide for nonrecognition of gain on the sale or exchange of qualified small business property; (6) increase the number of installments in which the estate tax may be paid in the case of an interest in a closely held business; and (7) reduce the corporate normal tax rate, the surtax rate, and the surtax exemption.

H.R. 14506. June 22, 1976. Interior and Insular Affairs. Authorizes the Secretary of the Interior to design and construct drainage works to alleviate high groundwater conditions in and adjacent to Moses Lake, Washington.

H.R. 14507. June 22, 1976. Rules. Amends the Congressional Budget Act of 1974 to require Congress to review each Federal program at least every six years as though it were being proposed to be enacted for the first time. Prohibits the extension of budget authority for any such program beyond such six year period until the Congressional committees with jurisdiction over such programs conduct such reviews.

H.R. 14508. June 22, 1976. Judiciary. Permits the Secretary of Housing and Urban Development to initiate a civil action to enforce Federal prohibitions against discriminatory housing practices. Allows Federal courts to award private plaintiffs bringing suit to enforce such prohibitions reasonable attorney fees whether or not such individuals are financially able to bear the cost.

H.R. 14509. June 22, 1976. Banking, Currency and Housing. Provides that elderly persons residing in dwelling units receiving Federal assistance shall be entitled to specified rights concerning lease terminations.

H.R. 14510. June 22, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14511. June 22, 1976. Judiciary. Authorizes the admission of a certain individual to the United States for permanent residence.

H.R. 14512. June 23, 1976. Banking, Currency and Housing. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 14513. June 23, 1976. Banking, Currency and Housing. Creates the National Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 14514. June 23, 1976. Ways and Means. Permits a State which no longer qualifies for the hold harmless limitation on its liability for optional additional supplementary security income payments under the Social Security Act to elect to continue to include the bonus value of food stamps in its supplementation payments under condition that it pass through a part of the 1976 cost-of-living increase in supplemental security income benefits and all of any subsequent increases in such benefits.

H.R. 14515. June 23, 1976. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to construct the flood control project for the Santa Ana River in California.

H.R. 14516. June 23, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct the project for navigation improvements in the Los Angeles Harbor.

H.R. 14517. June 23, 1976. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty under such Act shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

H.R. 14518. June 23, 1976. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make its provisions, formerly applicable to persons between 40 and 60 years of age, applicable to anyone 40 years of age or older.

H.R. 14519. June 23, 1976. Ways and Means. Amends the Internal Revenue Code to allow a tax deduction in an amount not to exceed $1,000 for amounts paid by the taxpayer to an eligible educational institution for tuition for the attendance of the taxpayer or any eligible dependent.

H.R. 14520. June 23, 1976. Post Office and Civil Service. Revises the formula for determining when to make cost-of-living adjustments in Federal civil service annuities. Eliminates the one percent increase which is automatically added on to such adjustments.

EXTENSIONS OF REMARKS

WASTE OIL RECOVERY PROJECT BEGINS IN CINCINNATI

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1976

Mr. VANIK. Mr. Speaker; on May 18, a Cincinnati environmental group and the Standard Oil Co. of Ohio teamed together to launch a bold and innovative program to recover and recycle waste oil generated in the Greater Cincinnati area. As I have outlined to my colleagues on many occasions, waste oil is a serious threat to the environment when it is disposed improperly. The primary source of waste oil is the automobile. Each time a motorist decides to have his oil changed, 4 or 5 quarts of waste oil is generated.

This used oil is still valuable. Despite the water and metal contaminants that the oil picks up during use, the essential lubricating qualities of the oil are still intact. Through a rerefining process the contaminants of the oil can be removed, and the waste oil—now reconditioned—can be used again as a lubricating oil.

Because of a number of economic and regulatory causes, the rerefining industry today is quite small. Each year our Nation produces approximately 1.1 billion gallons of waste oil, but the rerefining industry has an annual capacity of only about 200 million gallons per year. A major reason rerefiners are having such a difficult time is that they have no guaranteed source of waste oil.

As I have noted, the primary source of waste oil is the automobile. However, up to 40 percent of all drivers change their own oil. Exactly what they do with the waste oil they take out of their crankcases is a mystery. Some dump it in the garbage, or in the backyard, or down a sewer. Unless these "self-changers" can be convinced to return their waste oil to convenient collection centers, we will continue to suffer a chronic pollution of the atmosphere from indiscriminate disposal.

This collection problem is exactly what the Cincinnati waste oil recovery experiment is designed to solve. Eight or nine months ago, representatives of a local environmental group in Cincinnati, called the Cincinnati Experience, approached representatives of the Standard Oil Co. of Ohio with a proposal to use company-owned stations as waste oil collection centers. After evaluating the proposal, the Sohio representatives agreed to use 64 company-owned stations in the greater Cincinnati area as collection centers. The major thrust of the program was designed to provide those people who change their own oil with a convenient place to dispose their oil.

The program was initiated on May 18 when Sohio's president, Charles Spahr, poured the first quart of waste oil into a station storage tank. Major publicity for the program has been conducted through public service broadcasts developed by the Cincinnati Experience. Each of the 64 participating Sohio stations is already equipped with a 500–1,000 gallon storage tank for waste oil. At these stations the company will accept waste oil that individuals bring in. Sohio has arranged to have a local refiner empty the tanks and rerefine the oil.

Mr. Speaker, it has only been 6 weeks since this program was established. It is still premature to gage the success of the program. Nevertheless, Sohio should be congratulated for its leadership and service to the Cincinnati community. It should be mentioned that Sohio is turning over its proceeds from the sale of waste oil to the Cincinnati Experience. I am hopeful that this program can be expanded to other communities in Ohio. Equally important, Sohio should consider diverting a small proportion of its advertising budget to publicize their waste oil recovery efforts. The more people learn about the dangers of waste oil, contamination, the more successful we will be in eliminating a chronic environmental pollutant and in conserving an important natural resource.

CAPTIVE NATIONS WEEK

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1976

Mr. GIAIMO. Mr. Speaker, this past week marked the 18th annual commemoration of Captive Nations Week.

This year's remembrance falls at an especially significant time, for July also is the month we celebrate our Bicentennial. The juxtaposition of our Bicentennial—and the 200 years of freedom we honor—and the ever-present reality of Communist oppression of the captive nations are particularly poignant and underscore the continuing importance of Public Law 86–90 which set aside the third week in July as Captive Nations Week.

Two hundred years ago, we proudly proclaimed to the world the inalienable right to life, liberty, and the pursuit of happiness. We do not pretend, of course, that we always have met the high standards we set for ourselves. That we have these standards and that we try to live up to them are what set us so far apart from government and political philosophies that practice repression and seek to oppress others.

As our Independence Day celebrations served as a dramatic reminder of the freedoms we have, so too is Captive Nations Week a dramatic reminder that there are millions behind the Iron Curtain who yearn for the freedoms we sometimes take for granted.

Alexandr Solzhenitsyn noted so eloquently:

> New generations are growing up which are steadfast in their struggle with evil; which are not willing to accept unprincipled compromises; which prefer to lose everything—salary, conditions of existence and life itself—but are not willing to sacrifice conscience, nor willing to make deals with evil. . . . Whenever you help the persons persecuted in the Soviet Union, you not only display magnanimity and nobility, you're defending not only them but yourselves as well. You're defending your own future.

WHALE OIL

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. COLLINS of Texas. Mr. Speaker, I have always heard the proverb that "necessity is the mother of invention." History shows that this is definitely the case with energy resources. If domestic oil and gas prices go too high, America will find an alternative.

I look back on the energy situation in 1856 when oil was first discovered in the United States. The great demand for oil at that time was to provide illumination. Coal oil was one source; whale oil was the major source. They also used lard and tallow. But demand grew greater for illumination. The population was growing. Larger factories needed better lighting. The widespread emphasis on free education required more light in the classroom and at home. In addition, the industrial revolution introduced more complicated machinery and tools requiring more oil.

With all of this demand, the price of whale oil went up and up. By 1856, it was selling for $2.50 per gallon. When you realize that there are 31-plus gallons in a barrel, this means that a barrel of whale oil was selling for $78.75—and that was back when a dollar was real money. Necessity required an alternative.

Petroleum was discovered out in Pennsylvania in 1856. By 1860, they had developed a simple process where 70 percent of crude petroleum could be converted into illuminating oil at a processed cost averaging 7 cents a gallon. It could be sold to consumers at 12 cents a gallon. Consumers had been faced with whale oil selling at $2.50 a gallon, which was more than they could pay, so a new, unknown, competitive source entered the field and within 4 years illuminating oil was selling for 12 cents a gallon, which was 1/20 of the going rate. The market now had this competitive, viable alternative—petroleum—for American homes and factories.

Today America faces another energy crisis. Invention can only evolve from the open marketplace. Oil and gas must seek their natural price level without artificial price controls. Any American with an ounce of commonsense knows that American crude oil must sell at $12 a barrel just as Americans today pay Arab countries $12 a barrel for their crude oil. But instead we only buy American oil at a $5.25 a barrel because of price controls.

Everyone who understands energy realizes that gas on a comparative Btu basis should be receiving $1.80 Mcf given the world oil price. But instead price controls it at 55 cents. American oil and gas must move and sell at the natural world price. Our congressional artificial price controls and barriers have caused the United States to become more and more dependent on imports. In the past 5 years imports of oil have risen from 20 percent to 43 percent of our domestic needs.

If oil and gas prices rise too high in the open market, alternatives will develop. Remember whale oil. Where there is a will, there is a way. But the marvelous ability of a free market to find alternatives can only operate without controls, which bring stagnation and more dependence on foreign imports.

PROTECT BROADCASTERS FREEDOM

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. LEHMAN. Mr. Speaker, on the night of April 30, Emelio Milian, the news director of radio station WQBA in Miami, was seriously injured by a bomb planted in his car.

Milian had been the target of many threats in recent months because of his strong editorials against previous terrorist bombings in Miami.

Any attempt to silence a news broadcaster who exercises his constitutional right to freedom of speech represents an attack on the rights of all of us.

We must make it clear to terrorists that they may not seek to deny us the fundamental rights and freedoms upon which our democratic nation is based.

Unfortunately, an apparent oversight in the current law has prevented the Federal Bureau of Investigation from entering this case.

The antiterrorist expertise of the FBI is needed to bring those responsible for this immoral and senseless act to justice.

It is my belief that any attack on a broadcaster or reporter who exercises his constitutional rights under the first amendment should be considered a Federal offense within the jurisdiction of the Federal Bureau of Investigation.

I am, therefore, introducing legislation for this purpose and I call for its prompt passage.

The text of the bill follows:

H.R. 14814

A bill to protect from certain willful injury any broadcaster or reporter employed by or under contract with any broadcasting station or any newspaper or periodical circulated to the general public

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 13 of title 18, United States Code, is amended by adding after section 245 the following new section:

"§ 246. Protection of broadcasters and reporters.

"(a) If any person willfully injures or attempts to injure any individual who is—

"(1) employed as a broadcaster or reporter by, or

"(2) under contract as a broadcaster or reporter with,

any broadcasting station or any newspaper or periodical circulated to the general public and such person takes such action as a result of any broadcasting or reportorial work carried on by such individual for such station, newspaper, or periodical in the course of such employment or under such contract, such person shall be fined not more than $100,000, or imprisoned not more than 50 years, or both; and if death results such person shall be subject to imprisonment for any term of years or life.

"(b) If there is probable cause to believe that any person has violated this section, the Federal Bureau of Investigation shall conduct an investigation of such violation.

"(c) For the purposes of this section, the term—

"(1) 'broadcasting station' means any broadcasting station as defined by section 3dd of the Federal Communication Act (47 U.S.C. 153dd),

"(2) 'broadcaster' means any individual who broadcasts material normally reported in a newspaper, news periodical, or newscast and includes any individual who orally presents such material in any broadcast,

"(3) 'broadcasting' means any broadcasting as defined by section 3(o) of the Federal Communication Act (47 U.S.C. 153(a)) and includes the act of orally presenting any material by means of the dissemination of radio communication,

"(4) 'reporter' means any individual who investigates, gathers, or writes material normally reported in a newspaper, news periodical, or newscast, and

"(5) 'reportorial work' means the lawful investigation or gathering, or writing of information for purposes of reporting material normally reported in a newspaper, news periodical, or newscast.".

Sec. 2. The table of sections of chapter 13 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"246. Protection of broadcasters and reporters.".

PERSONAL EXPLANATION

HON. ALLAN T. HOWE

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. HOWE. Mr. Speaker, on July 19 and 20, the House of Representatives amended and passed H.R. 10210, the Unemployment Compensation Act Amendments of 1976. I regret that I could not be present for the voting. Unfortunately, I had to be in Salt Lake City, Utah, at that time for my trial. Knowing I would be absent, I arranged ahead of time to have myself paired on each of the votes, but unfortunately there were not enough pairs to balance mine and I was not recorded. I would now like to insert for the Record the votes I would have cast if I had been here:

For the rule.

For the Ullman amendment to require coverage of agricultural workers of employers with four or more workers in twenty weeks or who paid $10,000 in quarterly wages (as opposed to $5,000 in the bill).

Against the Ketchum amendment to strike out language which extends coverage to State and local government employees.

For the Pickle amendment to reduce the taxable wage base to $6,000 (as opposed to $8,000 in the bill).

Against the Corman amendment to establish a federal minimum benefit standard (50% of weekly wage or ⅔ State average).

For the Sisk amendment to prohibit payment of unemployment compensation to illegal aliens and professional athletes.

For the Burlison amendment to expand the purposes of the National Commission on Unemployment Compensation to examine problems of fraud and abuse in unemployment compensation programs and present measures for preventing fraud.

For the duPont amendment to expand the purposes of the National Commission on Unemployment Compensation by reorganizing the ways in which unemployment statistics are gathered and used.

CAPTIVE NATIONS WEEK

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1976

Mr. RINALDO. Mr. Speaker, this week we are commemorating the 18th anniversary of Captive Nations Week. I join with my colleagues in offering moral support and encouragement to captive nations throughout the world.

In the last 65 years, we have made tremendous advances in science, medicine, and technology; the first quarter of our century witnessed a flowering of the arts and literature to rival the age of Shakespeare; we Americans have sat in our livingrooms and watched a man walk on the Moon.

Yet millions of people are denied the right of choosing their own governments; they are restrained from practicing the religion of their choice; they are prohibited from emigrating to other countries. Whether it is in the Baltic States, China, Southeast Asia, Africa, or Eastern Europe, these people live in constant fear of arrest and persecution.

These captive people should not and must not be forgotten. To this day, they have resisted the totalitarian regimes imposed by Communists. I believe they will continue to resist so long as they have a ray of hope that they are not forgotten by the free peoples of the world.

Alexsandr Solzhenitsyn, who knows the cruelty and injustice of Moscow, has said that "in communism, this whole created being—man—is reduced to matter." Especially now, as the U.S. Congress commemorates the captive nations, we must reaffirm our belief in this "whole created being" and in the fundamental doctrine enunciated 200 years ago by Thomas Jefferson: that governments derive their just powers from the consent of the governed.

The United States must not forsake these fundamental beliefs for the phantasm of détente. We have never approved of Soviet hegemony in Eastern Europe, and we should not do so now. The truths of 1776 are still self-evident: any policy of détente with the Soviet Union must consider human and moral factors as well as political realities.

Mr. Speaker, our 200th birthday was an event celebrated by people around the world. But there are those who could not join in the festivities; who could not share our joy; who, in their daily lives, do not share our freedoms.

It is they we remember this week. For them, the light of freedom should be held against the black night of totalitarianism. Although we have won and kept our liberty for 200 years, in the largest sense our task is not done. The example we set will be viewed by the world's oppressed as a token of our commitment to freedom for all people.

We should not disappoint them.

CONTINUING THREAT TO THE REPUBLIC OF SOUTH KOREA

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. MURPHY of New York. Mr Speaker, a brief article on the international news wires recently brings into sharp focus the continuing threat to the Republic of South Korea. Prior to the House debate on the Security Assistance Act, there was a lengthy colloquy in this chamber, led by Mr. Wilson of California and myself, on the true facts concerning the security and stability of the Republic of Korea itself, and that nation's interrelationships with all the other countries of East Asia.

The news article I refer to concerns the deaths of three soldiers of the Army of the Republic of Korea, killed in defending their country from armed infiltrators from North Korea.

The point is quite clear: there still remains in Korea an undeclared war. North Korean Dictator Kim Il-Sung has plainly stated that the only thing which deters him from descending upon the South is an American presence, the removal of which will signal the absorbtion of yet another democracy into the Communist pit.

In my earlier remarks, I outlined in considerable detail the concerns of other governments, particularly in Asia, that any display of weakness by the United States in upholding its commitments to South Korea could be viewed as vacillation in other similar commitments throughout Asia. Those concerns have been echoed again and again by leaders of many nations, particularly members of the House of Representatives of Japan, and by leading newspapers around the world.

It was necessary that this Congress support to its fullest extent the International Security Assistance and Arms Export Control Act of 1976, and it is most fortunate that the Congress met that challenge after a full airing of our individual differences.

But we cannot stop with simple financial aid. The perfidy of the North is an ever-growing legend, and the Asian neighbors of both Koreas and increasingly concerned about the maintenance of peace, security, and stability in the Korean peninsula. Any threat to the security of South Korea is a direct threat to the peace and stability of Japan and the rest of East Asia.

As one sage stated, "The price of liberty is eternal vigilence," and if I might add a thought to that: Our eternal vigilance must continue in a well-informed environment.

We Americans of the Western Hemisphere can hardly begin to fully understand the background, culture, and development of Eastern thought, government, and social and economic approaches to global unity. But we are offered a unique opportunity to enter into an exchange of information with many distinguished leaders of the Japanese Diet, a government which is very directly affected by any flexion of international attitudes toward either North or South Korea, or the continuing conflict between the two.

The impact of that conflict is no more evident than in the news article I referred to: Men are dying at gunpoint, by handgrenades, and from ambush, in this continuing attempt to keep South Korea free.

But we are not alone in our concern that the Republic of Korea should remain apart from the Communist aggressors. I have received a continuing flow of mail from leading legislators of Japan and other countries, in support of our continuing presence and advocacy of a stable and secure Korean peninsula.

I bring to your attention some of these letters which show the obvious concern and continued interest of the leaders of the Japanese Government, as well as news articles from the Korea Herald, the China News, and others. Our Pacific allies are making it abundantly clear that there is considerable support for an American presence to continue in South Korea. It is such hard evidence as this that brings to the forefront our need to remain resolutely behind the Republic of Korea in the defense of its sovereignty and its very life and existence, in the face of mounting pressure from the North.

HOUSE OF REPRESENTATIVES,
Tokyo, June 18, 1976.

Hon. JOHN M. MURPHY,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. MURPHY: Professor Victor Johnson has shown me the Special Order discussion concerning Korea in the House of Representatives on May 24, 1976 in the Congressional Record for that day. Let me say, I have greatly appreciated and enjoyed your remarks in that discussion.

I am glad that my letter to the Washington Post was useful to you. The editorial in the Washington Post March 19, 1976, to which my letter was a response, was really a vicious attack on President Park of South Korea and, since the United States is an ally of South Korea, the editorial was a surprise to us in Japan. So far as I am personally concerned, the Washington Post fails to realize that the basic issue in South Korea is national survival. The readiness of North Korea to again invade South Korea is ignored by the Washington Post and a number of other American and Japanese newspapers.

As you correctly noted in your remarks, the Washington Post refused to publish my letter on the grounds that it was too long. In view of the type of news published in the Washington Post I believe that was only a pretext—especially as a Sunday edition of the Post often weighs nearly four pounds.

Our Diet group, the Seirankai, has been seriously concerned about the situation in South Korea ever since the collapse of the Government of South Vietnam in April 1975, for the security of South Korea is directly linked to the peace and security of Japan. Last November, 1975, one group sent a letter to a number of American Congressmen to express our concern. The letter was sent to all members of the Senate Armed Services Committee, the Senate Foreign Relations Committee, the House Armed Services Committee and the House International Relations Committee. Since you are concerned about the same situation, and as our concern here has not lessened, I am enclosing a copy of that letter for your information.

Professor Johnson has also shown me the debate in your House of Representatives on June 2, 1976 when restrictions on military aid and food allotments to South Korea were debated. I am deeply impressed by the very able and understanding defense of South Korea's position which you, Congressman Derwinski, Congressman Zablocki, and Congressman Charles H. Wilson made of South Korea's position and needs.

I am wondering if there may be ways in which our group, the Seirankai, could assist you and other American Congressmen in, (1), defending the position of South Korea, (2), creating in the United States a better understanding of the basic issues in South Korea and, (3), developing in the U.S. an understanding how vital South Korea is in the defense of East Asia. Our group is concerned about the rapid increase of Soviet military power in East Asia, especially the increase in submarines, other types of naval power and air power. Our basic concern is the peace and security of Japan but the peace and security of Japan, are one element in the peace, security and defense of East Asia. Our national interests are deeply involved in this total complex of factors. So I will be interested in hearing from you as to any type of cooperation which we might jointly undertake, even if it is only a greater exchange of information which may be helpful to all concerned.

With best personal wishes,
Sincerely,

EIICHI NAKAO,
Representative, Yamanashi Prefecture,
Chairman, Seirankai.

HOUSE OF REPRESENTATIVES,
Tokyo, Japan, November 21, 1975.

We are writing this letter to you as representatives of a group of concerned members of The Japanese National Diet, the national legislature of Japan. Our group, consisting of twenty-eight members, is known as the *Seirankai* and is one element of the Liberal-Democratic Party which forms the present Cabinet.

Our group is deeply concerned about the maintenance of peace, security and stability in the Republic of Korea. Most of the members of our group have visited the Republic of Korea in recent months and we have returned with feelings of deep concern about the future maintenance of peace, security and stability there. As conditions in Korea are related to various factors affecting the safety and welfare of Japan, our concern about conditions in Korea is all the greater.

Our recent visits to the Republic of Korea have shown that the press and other elements of the mass media have not presented a balanced view of the real situation there. We feel that the threat of invasion by North Korea is a very real and ever-present threat. The threat of invasion conditions every phase of daily life of the people of the Republic of Korea and can never be ignored. To ignore it would be to invite disaster. The secret tunnels constructed by North Korea under the Demilitarized Zone could be for only one purpose—for a surprise attack on the Republic of Korea—but the tunnels are only one example, though a dramatic one, of a wide range of constant threats by the North Korean Government towards the Republic of Korea. Actions of the North Korean Government provide continuing indications that North Korea would again invade the Republic of Korea if a suitable opportunity should arise. We anticipate these threats to the peace and security of the Republic of Korea will continue for the foreseeable future and any sign of weakness or any lessening of vigilance by the Republic of Korea, its allies and supporters could invite another invasion by North Korean military forces, large elements of which are stationed near the Demilitarized Zone. In our view, any threat from North Korea towards the Republic of Korea should be regarded with the utmost seriousness.

At the time of the collapse of the Republic of Viet Nam, there was great apprehension, not to say alarm, in both Japan and the Republic of Korea as to the intentions and to the continued role and presence of the United States in East Asia and particularly in the Republic of Korea. Threatening statements by North Korean leaders, especially those of Kim Il-sung during his visit to Peking in May, 1975, added to rising apprehensions in both Japan and the Republic of Korea. The statements of Kim Il-Sung during his visits to Peking, Africa and Europe during this past spring, 1975, are not forgotten here. Statements of support for the Republic of Korea from President Ford, Secretary of State Kissinger and ex-Secretary or Defense Schlesinger helped to allay to some extent some of the stronger fears and apprehensions of political leaders in Japan and the Republic of Korea. The statements of ex-Secretary of Defense Schlesinger were especially appreciated. But, if we may speak frankly, despite the statements of President Ford, Secretary of State Kissinger and ex-Secretary of Defense Schlesinger, a certain creditability gap remained. Confidence in the intentions of the United States concerning peace and security in the Republic of Korea and East Asia improved during the summer and early autumn of this year, especially after the visit of Prime Minister Miki to Washington in August, but the events in Washington of the first week of November have had an unsettling effect here. Now the fears and concerns as to the intentions of the United States which were so strong at the time of the collapse of the Republic of Viet Nam are appearing again. Once more, questions as to how to best defend Japan, the Republic of Korea and this area of East Asia are being debated and are of growing concern to political leaders here. In these discussions and debates the intentions of the United States are of major concern.

The National Diet of Japan has ultimate responsibility for the defense and security of our country. As members of the Diet we give paramount consideration to those factors. The defense and security of Japan are based on the U.S.-Japan Security Treaty. The safety and defense of Korea are also matters of major importance in the defense of Japan. The security treaty between the United States and the Republic of Korea is likewise a major factor in the defense of Korea. Consequently, as you are undoubtedly aware, the intentions, actions and anticipated actions, of the United States in the event of any attack on the Republic of Korea are matters of great concern to us. Because of these circumstances we have resorted to this direct expression of our concern to you, for as a member of the Congress of the United States your duties bring you into close study of the matters set forth here.

Please be assured we do not intend to interfere in any way in the internal affairs of the United States. However, we believe that the peace and security of the Republic of Korea affect the vital interests of the United States as much as they do the vital interests of Japan, the Republic of Korea itself and the whole of East Asia. We are among those who believe that a threat to the peace any place is a threat to the peace everywhere. As Governor Brown of California recently said at a luncheon in San Francisco for the Emperor and Empress of Japan, "the world is becoming a global village". We concur in the sentiment expressed by Governor Brown especially in respect to the maintenance of peace.

We have had some hesitation about writing to you concerning these matters, but the press of events is such that we have decided that a direct exchange of opinions with some of our counterparts in the Congress of the United States, especially those concerned with these matters in the course of their legislative duties, will be the most expenditious and most helpful types of communication at this time. With this is mind, we hope you will understand why we have taken these matters up with you directly.

If you can do so, we will greatly appreciate hearing from you as to your personal views and opinions of the matters discussed in this letter. Your views and opinions will be of assistance to us when considering what course Japan should take in these same matters in the period ahead.

With all good wishes, we are,

Yours most sincerely,

Michio Watanabe.
Ichiro Nakagawa.
Kazuo Tamaki.
Eiichi Nakao.

Three Soldiers Laid to Rest

The remains of the three ROK Army soldiers who were killed in a counterinfiltration operation at the mideastern front over last weekend were buried yesterday at the National Cemetery, Tongjaktong, Seoul, in a solemn funeral ceremony sponsored by the Army.

A eulogy made by a representative of the 2102nd Army Unit, the home of the unfortunate trio, spoke highly of their courageous confrontation with the Communist agents and renewed the unit's will to fight to the last for the defense of the country.

Their first encounter with the three-man band of armed north Korean agents was last Saturday night. It came after Sgt. Min Kyong-un, 25 and Pvt. Kim Chong-myong sighted a suspicious man in military uniform hiding in bush at 6:40 p.m. just south of the Demilitarized Zone.

Sgt. Min and Pvt. Kim were on their way back to their guard post after receiving rations from their platoon camp. Min immediately covéred the man with his M16 rifle and sent Kim to his platoon headquarters, some 300 meters away, to report. His platoon leader 2nd Lt. Pak Chae-won, 24, received the report.

Pak immediately formed two search squads and kept a tight cordon around the suspected area. By creeping, Lt. Pak neared the bush for up to 7 meters. He exclaimed, "Hands up and come out," but there was no response. The platoon leader fired a blank shot and then ordered all-out fire with the ensuing silence.

One of the ROK soldiers was hit. So Lt. Pak ordered his men to throw hand grenades and then the Communists threw two back. After a while, the shoot-out was ended leaving one dead enemy, three rucksacks, a Japanese camera, 31 rolls of unused film and an AK rifle.

The second Communist agent was found at a nearby Army unit at around 4:10 a.m. Monday. S. Sgt. Kim Song-jo, 30, of the 2032nd Army Unit and his ambush squad encountered a vague shape moving before them in dense fog. As soon as Sgt. Kim challenged, the vague figure began to run. Kim ordered all-out fire and throwing a hand grenade.

June 8, 1976.

Hon. John M. Murphy,
House of Representatives,
Washington, D.C.

Dear Sir: I have just returned from another visit to South Korea which I have visited both in my capacity as a theologian and as a psychiatrist, I have found the Korean people, as always, delighting in the joy of God-given freedom and ever-thankful for the continued support of the American people. At times, however, many of our friends there do express concern at some of the recent statements made by misinformed members of our government who express the opinion that we should consider withdrawing our troops and support from South Korea. Such an act would, in effect, be leaving them to the mercy of the nearby merciless Communist aggressors, although I am convinced that the South Koreans would valiantly fight to the last man to preserve the freedom they have won and treasure so much.

I am writing to all members of our government to express my personal concern for the people of South Korea, and to urge that you personally do everything you can to see that we continue to support and defend South Korea as well as other freedom-loving nations which currently are being threatened by the Janus-like and perfidious monster of Communism.

The people of South Korea are some of the warmest, most devoted to freedom, and most supportive of the United States that I have ever know in any part of the world. I believe we have a moral obligation to do all that may be required on their behalf, and I earnestly seek your support in this regard. If I can help in any way, I would be delighted to correspond with you further on this matter.

With warm greetings,

Basil Jackson, M.D.

[From the Korea Herald, July 4, 1976]

Tunnel Akin to Wooden Horse

(By Frank Cranston)

If ever they hold a competition to select the loneliest place in the world, there will obviously be many entries, but my money will be on a spot few would select—about 100 meters underground and some 800 meters from the light of the sun.

The place is directly under the median line of the Demilitarized Zone, which has separated south Korea from its northern neighbor since the long intermission in the suspended Korean War, which began in 1950.

Two smart-looking Republic of Korea soldiers, who stand guard underground near Chorwon, about 100km northeast of the south Korea capital, Seoul, are about two meters from their potential adversaries. However, they cannot be shot at or harassed, as are the Americans and south Koreans at Panmunjom from time to time, because the two meters between them and the north is the concrete block in an extraordinary excavation dug by the north Koreans as part of an invasion plan to which they might still see as of strategic viability.

What the two south Korean soldiers can never know is when the north will detonate a huge explosive charge designed to bring the tunnel crashing in upon them. Seven south Korean soldiers were killed by booby-traps hastily installed in the workings by the northerners as they fled last year.

The Chorwon tunnel, which I visited recently during a tour of south Korea, is a remarkable engineering feat and tribute not only to the abilities of north Korean miners, but also to the capabilities of the Swedish mining equipment which constructed it—and for which the Swedes have yet to be paid.

About 3.5km long, the tunnel was within 300 meters of its planned breakout point when the south Koreans, alerted by information from two north Korean army defectors, discovered it. Another tunnel, almost finished was discovered earlier a few kilometers west of Panmunjom.

The south Koreans say there is a high probability of their being 100 tunnels other than the two they have intercepted and that five more are suspected.

American officers say the ROK people are being devious and that they know the precise location of all the other north Korean excavations and have the entire 260km border wired for sound so they can immediately detect any renewed north Korean subterranean activity.

"You can tell them we have a suitable welcome prepared for the north Koreans," said Maj. Park Yong-ho after we inspected the tunnel. And from the numbers of tanks, field pieces and other works around us, he seemed to have thought of most things appropriate for a military reception.

Entrance to the Chorwon Tunnel is down an intersecting shaft dug last year above the point at which the north Koreans had proposed to build four or five separate exits.

108M BELOW SURFACE

The hills surrounding the area are very steep and rise to about 500 meters above sea level. The entrance is about 150 meters inside the DMZ where both sides have agreed to place no fortifications though the ultimate exit points were to have been 150 meters south of the south Korean barbed wire delineating the southern edge of the DMZ.

Rough steps have been formed in the rather narrow intersecting tunnel which descends quite steeply to a point 108 meters below the surface.

At the 108-meter level one enters the north Korean tunnel, a massive affairs in which a long line of electric bulbs disappears into the gloom in either direction. To the right, 300 meters away, is the point at which the north Korean diggers had to stop their labors when the ROK troops began to drill the intersection.

The tunnel, which the ROK people say could take three average-sized Korean infantry men abreast, is drilled through solid granite and in one's admiration for the engineering it is easy to overlook that it represents also probably one of the most massive examples of political cynicism since the Wooden Horse.

According to two north Koreans who slipped across the DMZ into the south, Kim Pu-song and Yu Tae-yon, work on the tunnels was started in July 1972, at a time when north Korea had agreed to hold dialogue with south Korea the ultimate objective of which was the reunification of the country.

With the mandatory steel helmet extending my height to about 2.1 meters I was able to walk without stooping down for almost the whole length of our march. At most points my outstretched arms could not touch the sides which, at most places, are about 2.2 meters apart.

The major demonstrated also that the holes drilled for explosives invariably pointed south.

About 600 meters from the entrance to the main tunnel it suddenly widened out into a small chamber about four meters wide and maybe five meters long. This the major explained, was probably a rest area or a passing point for equipment along the narrow-gauge railway which had been laid but removed by the northerners as they withdrew.

Just a few meters further along was another chamber, about three times as large as the first. In this, to one side. are two big concrete platforms with threaded steel bolts embedded in them, the site apparently for air compressors, lathes or some other equipment.

And further along the concrete wall is equipment with which the two ROK soldiers are able to communicate by telephone to the surface and sounds which might come through.

The cool calm of the tunnel contrasted sharply with the heat of northern summer and the bustle of the world we had left as the major explained some more details of the workings.

Nowhere in modern military history is there anything to match this massive work. The investment in labor and money must have been enormous and was multiplied many times along the border as the Pyonyyang authorities talked unification on the surface and prepared to do something about their version of it under the ground.

Seoul authorities estimate that about 15,000 workers were employed on the tunnel project, being held incommunicado from their own villages and housed in special construction camps during their labors. The diversion of economic resources adversely affected north Korea's near-bankrupt economy.

It was part of a plan, the defectors said, for a blitzkrieg offensive against south Korea in which the objective was the military and political destruction of the ROK within about three days.

STRATEGIC VALUES

The first waves of troops through the tunnels were to have been the 56,000 specially-trained guerrillas in north Korea's order of battle. They were to have harassed the ROK lines from behind, creating confusion and chaos while the main bodies of 490,000 regular troops came through tunnels or, with their armor, crashing through the followed by up to three million reservists of one sort or another.

The tragedies inherent in it all are manifest—the cost to north Korea, the extreme wariness with which Seoul must now view any "peace" overture from Pyongyang and the resources south Korea must divert to maintaining 100 per cent military preparedness and efficiency.

As we reemerged into the sunshine, panting at the pace with which the major had led us back up the intersection tunnel, it was time to gaze back up the hills toward the huge United Nations flag which marks one of the check points, to the barbed-wire fence which runs along the median line, and the yellow flags which delineate it. To gaze and wonder at the slaughter which would have occurred had it been tried.

As we drove back through the DMZ and then through the north of the south Korean fortifications, the tranquility of the rice paddies seemed to belie that war could have easily started here.

[From the China News, June 30, 1976]

UNITED STATES AND ASIAN DEFENSE

Why do such countries as Malaysia, Thailand and the Philippines insist on fighting Communism with one hand tied behind their back?

All three recognized the Chinese Communists despite the knowledgeable and well-intentioned counsel of this country.

Former Prime Minister Tunku Abdul Rahman has since admitted that Malaysia's decision was a mistake.

As things are going, Malaysia may soon be involved in an all-out anti-Communist war.

The Chinese Communists are busily engaged in boring from within.

Officially, the barrier provided by the Republic of China is gone. One of Malaysia's principal assets, however, is the fact that many of its Chinese continue to be strongly opposed to Communism and to side with the free Chinese government on Taiwan.

The Thais also feel increasing pressure from Communist insurgents.

Yet Thailand sent the Americans packing and now stands alone. Talk of making ASEAN into a military alliance is not likely to save Bangkok.

The Thai decision to break the American connection was ostensibly an outgrowth of U.S. retreat from Indochina.

Most free Asians do not condone the American withdrawal from South Vietnam, Cambodia and Laos. It was hasty. Promises were not kept.

At the same time, the whole of the blame cannot be placed on U.S. shoulders.

There were also indigenous failures. If the defenders of free Indochina had fought as hard as their attackers, the Americans might not have departed.

The United States did not wish to leave Thailand. It stood ready to provide extensive air and naval support.

Yet the Thais somehow construed any American presence as an invitation to the Communists to send in their guerrillas and attempt to organize insurgent armies.

Is the absence of the Americans making any difference in the Communist intention?

The Philippines is bargaining with the Americans about the U.S. air and naval presence. Not only do the Filipinos want more money and more control; they also want the Americans to depart within a few years.

Again, there seems to be a presumption that the country which stands alone will not have to fight the Communists.

This is true only if the country is prepared to surrender.

Japan is potentially the strongest country in Asia. If the Japanese rearm, they will have the capability of resisting any conceivable Communist attack and containing any insurgency.

But the Japanese are not asking the Americans to leave. They know when they are well off—and well defended.

The South Koreans are directly under the gun. Their danger is more immediate than that of the Philippines, Malaysia or Thailand.

Seoul is not inviting the Americans to go. To the contrary, the Koreans are doing everything in their power to persuade U.S. forces to remain on guard along the 38th parallel.

This does not reflect weakness on the part of the Republic of Korea. Its armed forces are the biggest and strongest among the free countries of East Asia.

What the Koreans understand—as perhaps some of our other neighbors do not—is that U.S. support is essential if war is to be averted.

North Korea is biding its time, hoping that the United States will depart again, as it did in 1949. Behind the Communists of Kim Il-Sung are those of Peking and Moscow.

Whether the Chinese and Russian Communists want another Korean war is beside the point. If one breaks out, they will be compelled to support it.

America keeps the peace in Korea—and in the Taiwan Straits as well. Although U.S. forces in Taiwan number only 2300, they symbolize the existence of the mutual assistance treaty between the United States and the Republic of China and of the U.S. Taiwan Defense Command. The Communists will not attack so long as these are in place.

Southeast Asia has misjudged the Americans by regarding Indochina as proof that the United States will never again fight for and with others.

Northeast Asia has not made the same mistake and consequently is more secure than its neighboring region to the south. Those who are not alone and realize they cannot survive alone are much less likely to become dominoes.

WOMEN AND THE JUDICIARY

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Ms. ABZUG. Mr. Speaker, Jimmy Carter has pledged to appoint more women to high Federal positions, including the Federal bench, when he becomes President. Regrettably, the same cannot be said for the incumbent, who had—and flubbed—his chance to demonstrate a similar commitment when William O. Douglas resigned from the Supreme Court last year.

The current issue of Juris Doctor includes an excellent article on this subject by Emily Jane Goodman, a prominent attorney in New York. I think that it is well worth reading and include it in the RECORD at this point:

THE BOYS ON THE BENCH

(By Emily Jane Goodman)

Summer of 1976. The Bicentennial. And the Supreme Court of the United States remains a private club. For men only.

The profession of law has always been and still is dominated by men, the minority sex. We are a nation of laws made, interpreted, and enforced by men. Women—lawyers and nonlawyers—suffer because of the boys' club atmosphere surrounding the legal profession, and therefore our laws. The bar has institutionalized the inferior status of women. Nowhere is that clearer than in the judiciary.

Of course, despite recent, now defunct, rumors that a woman would be appointed to the Supreme Court, no female has ever sat on that lofty bench. In addition, courts all around the country, on every level, in every jurisdiction, are sex segregated. The judiciary appears to have its own quota, a ratio of more than 99 to one.

The total number of women judges in the United States district courts is *three*, and in the circuit courts of appeals *one*. Statistical presence of women judges in state court systems is similar. In New York, for example, there has never been a woman on the highest court, the court of appeals, or the intermediary appellate bench. In Manhattan—"The Big Apple"—there are *three* women in the supreme court, *one* in criminal court, *two* in court of claims (narcotics), *two* in civil court. There are, however, and perhaps predictably, a number (though not a great enough number) of women judges in family court.

There is no shortage of reasons for the lack of women on the bench. Women have been excluded from the resource pool from which judges are selected or elected. The most obvious reason is there are few women attorneys; even today only 7 percent of the profession is female. An even smaller percentage of women lawyers are found in positions that attract the prestige, money, and political connections that make judges.

Despite the ongoing debates as to whether judges should be appointed or elected, the distinction appears to be irrelevant in terms of how many women judges either system produces. In many jurisdictions there is a complex screening machinery for judicial appointments and pre-election selection by a variety of good government, special executive, or legislative blue-ribbon panels and bar associations. These, too, was likely to be male dominated. Within these so-called reform schemes, the patterns and ways of discrimination are not always apparent.

For example, every potential New York judge, male or even female, is "invited" to be interviewed by the prestigious Bar Association of the City of New York. But the only candidates referred by the judge makers to the Women's Bar Association for interview are female aspirants, some of whom will be screened out by their sisters. (Similarly, white male would-be judges are not referred to, let us say, the Harlem Lawyers Association or the Puerto Rican Bar Association.) Therefore, every woman judge will have been approved by men and women. But potential male judges will not have even appeared before the women's professional organizations. The effect may be to have women do some of the "dirty work" by rating and eliminating from further consideration perhaps one or two out of three women lawyers; but in this process the women at the bar will not have been given the opportunity to apply their standards to male aspirants.

In addition to the institutionalized obstacles to keep women out of court, there is also "special" discriminatory treatment reserved for the few women who do approach the bench or ascend to judgeships. As illustrations:

Judge Nanette Dembitz, while seeking to run for a seat on New York's court of appeals, was asked by the state bar association how she could also *manage her family*.

A United States district court judge was asked in a similar interview what she would *wear* if appointed to the bench.

San Francisco Municipal Court Judge Ollie Marie-Victoire was removed from sitting on prostitution cases because of her pattern of dismissing them on grounds of anti-woman selective prosecution and denial of equal protection.

Judge Constance Baker Motley, of the federal district court in New York, was asked by the defendants in a sex discrimination case to disqualify herself on the basis of being a woman.

Chief Justice Susie Sharp, of the North Carolina Supreme Court, was told by an attorney in her trial court, "Honey, I don't think you understand my case very well."

It is obvious that no male judge or potential judge would be challenged in such ways.

Many women lawyers, and some men, profoundly resent sexist attitudes from the bench, reflected by such examples as: judges who ask the clients of women, "You're not part of women's lib, are you?"; judges who say divorcing women are lucky to have *any* men; judges who pinch the faces of women lawyers appearing before them, who comment on their skirts, legs, boots, pants, or hats, and who ask, "Are you old enough to be an attorney?" These people don't seem to get the point of the feminist movement. They will have to change their ways.

Having women, particularly feminists, in the law—including the judiciary—is bound to make major changes in our legislation, interpretation, and enforcement. The courtroom is bound to change, too—beginning with the aura of pervasive sexism.

However, the bar and its clients are mistaken if they think—*if* they think about it—that feminist lawyers and their clients will be satisfied merely with an occasional token woman running for judicial office, or even doubling the number of women judges in any local court (to two).

The prospect of an occasional woman judge or a few women pitted against one another for the "woman's seat" is totally unsatisfactory. Moreover, prospective women judges cannot automatically count on support from their sisters if they have not been advocates of meaningful change in our laws and legal system so that women cease being an oppressed majority.

It is unfortunately true that even with so few women judges, some of them have already been accused by people both in and out of the women's movement of adopting "male values," being "male identified," playing the part of the one who's "made it," and showing insensitivity for litigants and lack of judicial temperament in, for instance, family court and criminal cases. It is fair to ask why women should be expected to be more brilliant, better looking, and also more *just* than their brothers.

Allowed to use their unique experience and follow their own value system—up to now inculcated for the wrong, Victorian, and male-benefiting reasons—women may bring to the bench a more fundamental fairness which could become our society's prevailing value for the right reasons. Evidence indicating that women have different values is already developing. A recent study showed congresswomen voting less for military expenditures than their male colleagues. It may be that women in our legislatures and our courts will say, "We reject the governing property laws that force us to evict people who cannot pay their rent (in a society which does not give them jobs)" or "Our laws permitting a husband to rape or beat his wife because she is his property must fall."

Feminists, in the legal profession or not, are concerned not only with placing women in key positions but also with the appointees' or electees' positions on feminist issues. It is said that it is not the judge's role to hold preconceived opinions.

However, judicial candidates run or are appointed on the basis of their commitments to political parties, political ideas, and past achievements. The bench is hardly apolotical. In the case of our newest Supreme Court appointee, Associate Justice John Paul Stevens, his lack of support for women's rights and equality was express and explicit.

Even if women are not inherently more "moral" or "better" people, we must challenge and eliminate the basic sexual and economic reasons that have been used by men in power to keep women and other "outsiders" out of our governing institutions, including law and the legal system. In this there is revolution.

Our world is treading along the edge of disaster. There is no reason to believe that the men in power will retreat from their present course. But it is possible—just *possible*—that women can literally change the world without falling into the sorrowful corruption we have grown accustomed to seeing.

Law, and particularly the judiciary, is a logical area in which this can happen.

The bar may not yet take the demands of feminism seriously. But a woman's work is never done.

GORDON POLKOW DEDICATED TO THE SCOUTING MOVEMENT

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. J. WILLIAM STANTON. Mr. Speaker, earlier this year, my district lost one of its truly fine citizens with the untimely death of Gordon Polkow of Geneva, Ohio. For 35 of his 47 years, Mr. Polkow was dedicated to the scouting movement, first as a Scout and then as the Scoutmaster of Troop 58. His tireless efforts in behalf of young people were in the best tradition of instilling youth with respect for our Nation and its environment. While Gordon Polkow did not live a long life, he nonetheless gained great satisfaction from witnessing his investment in America's future bear fruit as the boys he influenced and inspired grew to manhood and took their places in their communities. Gordon Polkow's living legacy is more valuable than any material bequest, for in giving so generously of himself to Geneva's youth, in effect he will continue to be a positive force for years to come.

THE NORTHEAST—OUR NEW APPALACHIA?

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. HARRINGTON. Mr. Speaker, on July 11, 1976, the Boston Sunday Globe published an article entitled "The Northeast—Our New Appalachia?" The article, authored by Martin Nolan, demonstrates the increasing alarm that has been developing in response to the continued economic decline of the industrial Northeast. Mr. Nolan compares the blighted urban areas of the Northeast to the rural Appalachian region, a comparison which in 1976 finds the Northeast wanting.

Mr. Nolan correctly perceives that the balance-of-payments disparity, by which the northern industrial States pay out billions more in taxes than they receive in Federal outlays, has become a prohibitive drain on the economy of the mature industrial regions. The time has come for a reversal of this inequitable situation; the resources of the Federal Government should be redirected to alleviate the ailing economies of our oldest industrial regions, as these regions once used their wealth to develop the rest of the country.

Mr. Nolan presents a convincing argument in favor of a united approach to this problem by the depressed industrial States involved. He indicates there is hope for some relief in the future by citing the Democratic Party platform's pledge to redirect Federal resources to urban areas having the greatest need. Perhaps the most noteworthy aspect of this article is that it is written from a national perspective, in the sense that Mr. Nolan sees the continued decline of the Northeast as a detriment to the economy of the entire Nation, as opposed to an exclusively regional problem.

The text of the article follows for the benefit of my colleagues:

[From the Boston Globe, July 11, 1976]

THE NORTHEAST—OUR NEW APPALACHIA?

WASHINGTON.—The statistics have accumulated in cold, gray, familiar detail: Industries migrate, population declines, cities suffer blight and an entire regional economy stagnates.

From New England through the mid-Atlantic states, the oldest and proudest quadrant of the Republic now faces a condition beyond economics, involving sociology, culture and political psychology. The Northeast is the new Appalachia.

With New York City as its precursor, an entire region may be on the verge of going on welfare, placed in a supplicant status by a scarcity of natural resources as well as by Federal policies of aid formulas and spending.

The Old South and the New Sunbelt are becoming the "superpowers" in national politics and economics. The Northeast and the Midwest are a declining influence in American society.

In the early 1960s, when the Kennedy Administration sponsored "depressed area" legislation, much of the South benefited from special aid to Appalachia. But since that time more and more Federal and private investment, combined with a rapid two-way migration pattern, have left parts of the Northeast poorer than the most remote hollow in Appalachia.

According to Ralph R. Widner, former executive director of the Appalachia Regional Commission and now president of the Academy for Contemporary Problems in Ohio, the large cities in the Northeast and Midwest have become "the nation's new cotton fields."

Widner, who is working with a coalition of northern politicians notes that "the rural poor of the South and elsewhere now reside in the cities of the Northeast." These migration patterns have led to the threshold of an enormous political problem of restoring the balance of the nation's economy.

But the resolution of regional differences is a form of American genius precisely 200 years old. The next four presidential years and the next several congresses have the potential of producing a political and economic regional harmony as far-reaching as the document issued by the first American Congress in Philadelphia.

The cultural homogenizing of American society, which has been going on for 200 years, is reducing rather than fortifying regional differences. In Phoenix, city brochures boast of art museums and the Phoenix Suns. The wealth that oil has brought to Houston has since brought symphony orchestras and Gordie Howe.

Politics, however, remains a numbers game and sophisticated leadership seems required if regional political unity is to follow the increasing cultural unity of America.

Northeast governors and congressmen have begun to lobby for equalizing energy costs and nationalizing welfare at precisely the time that their older, poorer section of the country is beginning to lose its political clout.

The slide of both wealth and population to the Sunbelt states may accelerate in the next half decade. After the 1980 census, the anticipated loss of nothern congressional seats will give the South and West a majority in the House of Representatives for the first time in history.

But at least one Northeasterner still holds national power. Rep. Thomas P. O'Neill Jr., the Cambridge Democrat unopposed for election as Speaker of the House of Representatives.

"You know, the wealth of the big states in the Northeast helped to build this nation," O'Neill says. "Now it's time for the wealthier states with their oil and natural resources to come to the aid of the older parts of the country.

"The new Southerners are much more national-minded and much less parochial then they used to be. When you look at people like (US Rep.) Andy Young, (D-Ga.), for instance, you can see that in the South and in the Southwest more liberal Democrats are being elected. You saw what they did on the New York City aid bill and on the bill to save the railroads of the Northeast. It is a realization that we're all in this together and that if Rhode Island's economy goes under because of the railroad it will spread to Illinois in a few days and from there beyond. So I think that the new breed of Southernor resembles Jimmy Carter and I think he's willing to consider aid for the older parts of the country."

The debate on the form of that aid has begun at a unique and ironic time in American politics. This month, a former peanut farmer from Georgia is expected to receive the nomination for President. With the exception of Lyndon Johnson, who reached the White House from the Vice Presidency, a Southerner has not been nominated for President by a major party since the Whigs chose Zachary Taylor of Louisiana in 1848.

The South has been the backwater of politics and culture, looked down upon by much of the rest of the nation, and no more so than by the very stage of Jimmy Carter's triumph, New York City. The world's pre-eminent citadel of urbanity has traded its silver spoon for a tin cup and when the city greets Jimmy Carter, it will do so not as a haughty host, but as a meek mendicant.

Jimmy Carter finished fourth in the New York primary, he finished fourth in Massachusetts' primary. He now seems to be slighting the Northeast in a search for running mates (as indeed are Ronald Reagan and Gerald Ford).

So Madison Square Garden may be an Appomattox reversed, with Jimmy Carter allowing the satraps of the subjugated province to keep their swords and horses for spring plowing.

But the platform on which Carter will stand also takes into account that the Democratic Party is still a national organization.

Tucked away in an innocuous corner of the platform is a paragraph entitled "special needs of older cities." In contrast to the low-key austerity of the rest of the platform this section of the party documents notes that a number of large older cities, "including the nation's largest city have been forced to undertake even greater social responsibilities, thus leading to unprecedented fiscal crises.

"There is a national interest in helping such cities in their present travail and a new Democratic President and Congress shall undertake a massive effort to do so."

As some of the Hibernian flourishes in that rhetoric suggest, the paragraph was authored by Daniel Patrick Moynihan, a Senate candidate from New York.

He sped the paragraph through the platform drafting subcommittee headed by Massachusetts Gov. Michael S. Dukakis.

Along with that commitment to "a massive effort" was another paragraph on economic development urging "the targeting of Federal resources into the areas of greatest need."

The attempt to redress the balance of Federal spending is not only a Democratic effort, but a Republican one.

Richard M. Rosenbaum, chairman of the New York Republican State Committee and a protege of Vice President Nelson Rockefeller, is urging his party to adopt a program of "social security for our aging cities."

He has distributed to his colleagues statistics on the political, social and economic contributions of the Northeast to the nation and the Republican Party.

In 1964, GOP presidential candidate Barry Goldwater won cheers throughout the Sunbelt by suggesting the Northeast ought to be sawed off the mainland and floated out to sea.

According to a study by a respected nonpartisan publication on government, The National Journal, "Federal tax and spending policies are causing a massive flow of wealth from the Northeast and Midwest to the fast-growing southern and western regions of the nation."

According to the Journal report, the Great Lakes states suffer more of a disparity than New England, but both regions are showing a balance-of-payments deficit, as compared with the South and the Far West.

In the "balance of payments," that measure how much taxpayers receive in Federal spending for their dollars, the Northeast annually exports $10.7 billion for which it receives nothing in return. The Midwest loses $20 billion annually.

The South, meanwhile, has a favorable balance of trade with its northern neighbors of $11.5 billion—that is, the South receives that much more in various Federal programs than it sends to Washington in taxes.

Massachusetts taxpayers are out-of-pocket $462 million in this formula and Mississippi taxpayers are $1.6 billion better off under Federal spending policies.

Defense spending, of course, is a major factor with the rapid decline of northeastern naval and air facilities and their subsequent acceptance in the South and West.

O'Neill insists the rapid acceleration of that process was "a political vendetta by the Nixon Administration, no question about it. We lost all these shipyards because Nixon hated the Northeast, he hated Massachusetts. There's no question about that. But I think that that was because Nixon was at heart a hater."

The House majority leader then displays a leprechaun-like twinkle in his eye and says, "I don't think Carter can be vindictive, do you? He's seen the light, hasn't he?"

Making sure Carter and his Southern colleagues see the light of adjusting aid formulas has been a project of Rep. Michael J. Harrington (D-Beverly), who has been producing survey after survey from the Library of Congress showing how aid formulas of nearly every major Federal spending agency have consistently favored the South and West over the Northeast.

Hartingen, who was one of the original architects of the New England Congressional Caucus, a group of 25 House members, now talks of expanding the caucus coalition idea to 14 states, from Maine to Michigan and Wisconsin.

Harrington also talks of the need "to put our own house in order. We've got to end the cutthroat competition between New York and Massachusetts for business, and present a united front."

Harrington notes that New England itself has not been "too much open to change.

"They're pretty uptight Yankees, a lot of them, and so we find that we educate our best young people and our best young decide to gamble somewhere else."

Harrington applauds the effort of New York Gov. Hugh L. Carey to bring governors together in a way that Harrington is trying to bring members of the House from Northeast and Midwest states behind the idea of equalizing aid formulas.

"If we could equalize energy costs and nationalize the cost of welfare," Harrington says. "This work is going to be very important over the next four years—until the next census. And that's where Tip O'Neill is going to be important—in providing leadership to make sure that we get a fair shake."

COL. ELMER MUNSHOWER

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. BYRON. Mr. Speaker, with the recent passing of Col. Elmer Floyd Munshower, Frederick County, Md., lost one of its most distinguished citizens. Colonel Munshower led a full and complete life including a business and military career as well as active participation in local and State politics .

He entered the Maryland National Guard in 1906 and served as a lieutenant on the Mexican border in 1916. Later as a captain, he served with great distinction with the 29th Division at Verdun. He was promoted to major and served as commanding officer of the First Battalion, Maryland National Guard.

In 1937 after serving as alderman and mayor of Frederick, Colonel Munshower was appointed head of the Maryland State Police by Gov. Harry Nice. He served in that capacity for 2 years, and later he became involved in reorganization of the Baltimore County Police Department as a consultant.

During World War II, Colonel Munshower served as commanding officer of Camp A. P. Hill in Virginia, an important training camp. He then served as superintendent of the Maryland State Reformatory for Males where he instituted a series of important reforms.

In addition to all these accomplishments, Colonel Munshower was active in civic and public organizations in Frederick.

Colonel Munshower served as an inspiration to many young people in his community. He will be greatly missed by all those who worked and lived close to him.

MORALS, ETHICS AND ECONOMICS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. HAWKINS. Mr. Speaker, I would like to inform the Members that the National Council of the Churches of Christ in the U.S.A.—N.C.C.—has compiled a statement regarding the necessity of full employment. This organization has committed itself to the moral and ethical concern for the shaping of a just economic order in addition to the right and need to work. Their views are based on the religious belief that one's sense of identity and worth is associated to the feeling of contributing creatively and responsibly to meet the needs of society.

The statement follows:

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A. RESOLUTION ON FULL EMPLOYMENT

The Governing Board of the National Council of Churches, since its inception, has been committed to the moral and ethical concern for the shaping of a just economic order and the right and need to work. In a policy statement of 1954, the General Board stated that: "Every able-bodied adult has an obligation and the right to an opportunity to serve the community through work." In a policy statement of 1958, the General Board stated:

> The government should give continued consideration to both short-run and long-term measures to restore and maintain employment levels. The government has a responsibility to use, when needed as stabilizers and other aids, the vast resources available in its fiscal, monetary, public works, and other economic powers.

These policy statements are rooted in the Christian conviction that one's sense of identity and worth is closely related to the feeling of contributing creatively and responsibly to meet the needs of society. In 1976, the NCC recommits itself to a full employment economy as an essential element of a more just economic order.

Through the Employment Act of 1946, the U.S. Government committed itself to the goal of maximum employment. Unfortunately, the federal government has failed to implement the aims of this Act, and our nation has suffered prolonged periods of high unemployment rates. According to the Bureau of Labor Statistics, at the last quarter of 1975, the unemployment of non-white youth in the labor force in metropolitan poverty areas reached 49.7 per cent. This failure has denied millions of men and women the adequate opportunity to develop their talents and to receive fair compensation for their labor. Government, moreover, has lost substantial revenues needed to finance enlightened social welfare programs, and society itself has suffered from a decreased production of goods and services. Unemployment in the years 1953–1974 resulted in these staggering fiscal losses:

$2.6 trillion in production of goods and services;

$1.5 trillion in wages and salaries;

$760 billion in federal, state, and local taxes;

$653 billion in private business investment.*

In the last two years alone we have lost $400 billion in Gross National Product. The struggle for racial justice has been impeded, the campaign against crime is being lost, and our nation's commitment to the eradication of poverty, the preservation of the environment, the maintenance of adequate health care and educational opportunities has been weakened.

The Bicentennial is a fitting time for our country to fulfill the promises of full employment and fair opportunity—critical elements of a responsible and just society. All persons should be guaranteed the right to benefit from adequate job training or retraining and to obtain jobs suited to their individual qualifications at adequate compensation in either the private or the public sector. The President should be required by statute to propose and Congress should enact annual national budgets which move the economy to full employment and maintain it in that condition.

Accordingly, we urge Congress to enact legislation requiring the President to submit annually to Congress a Full Employment and National Purposes Budget calculated to create enough private and public employment at fair rates of compensation to meet national priorities in energy, resource development, mass transportation, housing, education, health care and other essential fields. Within an interim period of two years, our nation should strive to attain an unemployment rate of no more than 3 percent. This goal should be pursued in ways that will relieve the unjust proportion of unemployment borne by youth, elderly, women and minorities. The fiscal policies of the Federal Reserve System (such as the setting of interest rates) should be coordinated with a government program to achieve the goal of full employment. Legislation should include an administrative appeals procedure for persons unable to secure jobs. The federal government should be seen as the employer of last resort for the men, women, and youths who cannot locate jobs in the private economy.

Cooperation and input by private and nonprofit agencies and local and regional units of government are necessary for the full employment effort. We ask the Unit Committee of the Division of Church and Society and other appropriate units of the National Council of Churches to implement this resolution and continue the Full Employment Program of involving the member communions in education, organizing, and legislative development.

Therefore, the Governing Board of NCC asserts that full employment is an essential element of a more just economic order and that every individual should be guaranteed the right and the opportunity to a job at adequate compensation. We commit ourselves to the task of shaping a national policy of full employment which would provide the hopes for a better and more productive life for ourselves, our families and our neighbors. We call upon the Federal Government to make full employment the nation's number one priority.

The General Secretary is asked to communicate this resolution to the President, the Congress of the United States, the platform committees of the two major political parties and the constituency of the churches.

THE NEED FOR A RATIONAL COAL DEVELOPMENT POLICY

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. BROWN of Ohio. Mr. Speaker, in the 3 years since the Arab oil embargo brought our energy shortage into sharp focus, Congress has found itself unable adequately to address our complex energy problem. As a result, the basis of this problem—inadequate conservation measures and lagging production rates—still remain with us today. In fact, recent data suggest that the United States is now further behind in balancing consumption and domestic production of its energy resources than it was prior to the Arab oil embargo.

When we talk of energy in the United States today, most people think of oil and natural gas. No doubt this is primarily because the United States now depends on oil and gas for 75 percent of its energy. However, this was not always the case. At the turn of the century, coal accounted for over 90 percent of our energy needs, while today, coal supplies only about 18 percent of our energy.

Since our proven reserves of oil and natural gas are dwindling at an alarming rate, it is clear that we must move with great speed to develop alternative sources of energy to ease our dependence upon these two fuels. The so-called exotic sources of energy—nuclear, wind, and solar power are examples—will not be viable alternatives until the mid-to late-1980's, and it is estimated that many of these sources will not be commercially feasible on a large scale until much later than that. This demonstrates the importance of developing existing sources of energy in order to meet our energy needs during the critical next 15 to 20 years.

The largest single source of energy now available to us in the United States is coal. According to the FEA, proven coal reserves which are economically recoverable with existing technology amount to three times the energy contained in the Middle East's oil reserves. Coal currently accounts for more that 90 percent of the Nation's proved energy reserves. Accordingly, if the United States is to bring its energy production and consumption into balance, then our coal reserves must be developed and utilized. Because of this fact, coal production is forecast to increase from the 603 million tons produced in 1974 to 1,040 million tons produced in 1985. However, uncertainties regarding our energy and environmental policy may discourage investment in the development of coal resources, thereby resulting in a serious inhibition of coal production. Indeed, there is evidence suggesting that the U.S. coal industry is already falling behind in its program for new mine openings. Accordingly, in the next several years, the industry's newly enlarged capacity will be underutilized.

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*Source of Figures: Research Paper No. 1 of the Full Employment Action Council, Washington, D.C.

The importance of coal to the United States' overall energy policy emphasizes the fact that we must insure that mine openings and development proceed at as rapid a pace as possible, consistent, of course, with the protection of our environment. To date, Congress has not taken the action necessary to provide this assurance. In fact, Congress has been primarily responsible for injecting uncertainty into the energy and environmental areas.

Congress must act to set a mining policy that strikes a fair balance between the concerns of environmentalists and the development of a strong U.S. energy policy. Although clean air and the preservation of our land and water resources must be given serious consideration, we must nevertheless begin developing our vast coal reserves at a quicker pace if we are to meet our future energy needs. Let us hope that we have not delayed too long already.

NATIONAL HEALTH INSURANCE

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. McCOLLISTER. Mr. Speaker, during our recent recess, the Democrat National Convention met and adopted a plank in their platform endorsing the basic thrust of the Kennedy-Corman national health insurance bill pending before the House. Since this endorsement of the measure by the party which controls the House by a 2-to-1 margin may mean that the measure may soon be before the membership, I am introducing into the RECORD today a timely article on the subject by Mr. John B. O'Day, C.L.U., on the consequences of adding the burden of financing a national health insurance system to our present social security system:

NATIONAL HEALTH INSURANCE: SOCIAL SECURITY CAN'T HANDLE IT

(By John B. O'Day, C.L.U.)

There now can be doubt that the Social Security system is incapable of handling any national health insurance scheme. A review of the 1976 report of the Social Security trustees shows that the Old Age, Survivors, and Disability Trust Funds are in serious trouble. The trouble is not just short range; it extends well into the 21st century.

Calculating and collecting taxes to pay benefits to 32 million people based on death and long term disability is not a simple task. But it is a Sunday School Picnic—a piece of cake—a walk in the park, compared to administering a national health insurance program covering 215 million.

The present Social Security system must be restored to financial health. It must strive to regain and keep the confidence of the public. It must not be saddled with national health insurance, or any other scheme, that could destroy its integrity as social insurance and turn it into a mechanism of public welfare.

$1,790.00 SOCIAL SECURITY TAX NOT ENOUGH

The sad news from the Social Security trustees is that an annual tax of up to $1,790.00 per job is not enough to pay this year's benefits to the retired, disabled and survivors. The deficit is estimated at $4.3 billion.

The deficit will be about $3 billion more than 1975 despite this year's increase of up to $140.00 on each job paying over $14,100.

Projecting the deficits into the future, as shown on the "Red Ink" chart below, the trustees have reported that by 1979 deficits will have exhausted the disability trust fund and the larger old age and survivors fund would be similarly exhausted between 1981 and 1984. Other Social Security programs such as Medicare are subject to the same fund exhaustion, the trustees warn.

This year, the trustees painted a much grimmer picture than previous reports. Bad as the news was in 1975, it was understated by 50%. The deficits will be twice as much.

Last year's assumptions concerning fertility rates, prices, wages and productivity have been revised considerably presenting more realistic deficit projections, the trustees reported.

The country is faced with some hard choices. President Ford has proposed a 0.6% increase in the tax rate which would affect all jobs with the top jobs taxed at about $2,050. Congress will probably wait until after election with a number of lawmakers supporting a substantial increase in the wage base only. Both present problems. Increasing the tax rate (regressive) affects lower paid workers and increasing the wage base substantially raises the aggregate benefits the SS funds must eventually pay out. Some would look to general revenues for the solution but every dollar drawn would have to be borrowed—with almost no hope of repayment—and added to the National Debt.

No one can say for sure just how much Americans are willing to pay for Social Security. The 10% plateau formerly believed to be the ceiling was surpassed in 1971 and present law calls for a tax rate of 12.1% in 1978.

Today it takes 100 workers to support 30 Social Security beneficiaries and there will be a time when this ratio descends to 2 to 1. The future SS tax burden on workers is already destined to be heavier without adding national health insurance to Social Security.

Today's 50 year old worker has seen his SS tax grow 2,984 per cent since he started work. The chart "Social Security Tax Without National Health Insurance" shows that the maximum SS tax per job has grown from $60 to $1,790 in the first two thirds of this worker's employment. At this rate, before he retires, the SS tax on his job will actually be higher than his total base income his first year on the job.

PREACH WHAT YOU PRACTICE

Social Security is in trouble. But think how devastating this trouble would be if national health insurance had been a part of the Social Security system.

Since President Franklin D. Roosevelt stripped health insurance from the original Social Security proposal, Congress has performed wisely in avoiding several formidable attempts to include it. Perhaps it's time in this election year to ask individual Senators and Congressmen to preach what Congress has practiced . . . to tell the people about the difficulty facing Social Security . . . to show them that Social Security just cannot handle national health insurance.

RED INK—OLD-AGE, SURVIVORS AND DISABILITY FUNDS BY CALENDAR YEAR

[In billions of dollars]

	Income	Outgo	Surplus o deficit (-
1971	40.9	38.5	2.4
1972	45.6	43.3	2.3
1973	54.8	53.1	1.6
1974	62.1	60.6	1.5
1975	67.6	69.2	1.5
1976	73.8	78.2	4.3
1977	83.0	86.9	3.9
1978	91.6	96.8	5.2
1979	100.9	106.9	5.9
1980	110.6	117.8	7.2
1981	120.6	129.2	8.6

Note: 1976 estimate based on current data. Outlook for 1977–81 based on "intermediate" assumptions for economic growth and wage, price, and unemployment levels. Details may not add to totals due to rounding.

Source: Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds.

CAPTIVE NATIONS REMARKS

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. WHALEN. Mr. Speaker, since 1959, the United States has recognized the third week of July as a time of reflection and concern for the plight of those people held captive in their own countries.

The basic premise upon which American life is based is our dedication to the individual's inherent human rights. Two hundred years ago this past week, we began an unparalleled experiment which incorporated the firm belief that all men, having been created equal, are endowed with certain transcendent rights—the right to life, liberty, and the pursuit of happiness. As we work to assure the equality of rights in our own country, we must not believe that is where our responsibility ends. If we are to be faithful to our convictions, we must be concerned that liberty and equality prevail throughout the world.

Our purpose in designating the third week of July as Captive Nations Week, is not just to pay homage to those rights and freedoms which we, ourselves, enjoy. Rather, this special week is set aside to remind us of the millions of people who remain under captive rule all over the world. There are over two dozen nations, nearly half of which are under Soviet rule where basic human rights are denied.

This week, by rededicating ourselves to support the principles which have guided our own Nation these past two centuries, we will offer hope and support to those who seek justice and freedom for their own countries.

TAX CREDIT FOR HIGHER EDUCATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. LEHMAN. Mr. Speaker, I am today introducing a bill which would provide a Federal income tax credit for a portion of the costs of higher education. Similar legislation has been introduced before, but I believe that there is a particular urgency now that demands our speedy consideration.

Few would deny the benefits that higher education provides our Nation, both to individuals and to society. Graduates of postsecondary institutions, colleges, and universities as well as vocational and technical schools, tend to earn more money and pay more taxes than high school graduates, while providing much of the creativity and inventiveness that is the heart of our society. They also give generously of their time and their talents to their communities, providing voluntarily many services that could not be offered without them. Any Federal investment in higher education, then, is an investment in a better life for all of us.

Sadly, though, a number of recent trends have combined to limit the opportunities of middle-income people in seeking education beyond high school. Schools have faced inflation and rapidly escalating costs at the same time that enrollments have fallen off. The inevitable result has been forced increases in tuitions and in the other costs of attendance. There are, of course, both public and private sources of scholarship and loan money, but most middle-income families find that their incomes are too high for their children to be eligible.

A related problem is the growing tendency for families to have more than one student enrolled in postsecondary programs at the same time. The costs of educating one child may be high, but the thousands of dollars involved in the education of two or more is more often than not prohibitive.

My bill seeks to provide at least a partial remedy. Like S. 3487, a similar bill introduced in the other body by the distinguished Senator from Minnesota, Mr. Mondale, this bill takes a two-step approach to a tax credit. A family—or a student who pays his or her own expenses—may take a credit of 50 percent of the first $200 in expenses, 25 percent of any expenditure between $201 and $500, and 5 percent of any expenditure between $501 and $1,000. The maximum credit available under this formula is $200. For each additional enrolled student in the family, the credit is 75 percent of the first $200, 50 percent of the amount between $201 and $500, and 20 percent of any expense between $501 and $1,500, for a maximum possible credit of $500. The expenses used in figuring the credit include tuition and fees, as well as books, supplies, and equipment, but not room and board or transportation.

Under my bill, a family which has three students in postsecondary institutions at the same time, and which has sufficient eligible expenses for the maximum credit, would be entitled to apply a credit of $1,200 against Federal income taxes.

This Nation has always believed in the need for an educated citizenry, since Thomas Jefferson wrote:

> Enlighten the people generally, and tyranny and oppressions of body and mind will vanish like evil spirits at the dawn of day.

In Jefferson's day, only the very wealthy and the very fortunate had full educational opportunity, but this country has through its history expanded the educational system and assisted more and more students at both the elementary and secondary and the postsecondary levels. Now, however, if present trends continue and government does not intervene, we may soon find only the very rich and the very poor at institutions of higher education. It is the middle-income families who bear the brunt of costs for most social programs, and we must now assure them that they will not be left out or denied their rights to education.

Mr. Speaker, a copy of my bill follows:

H.R. 14815

A bill to amend the Internal Revenue Code of 1954 to provide for a credit against the Federal income tax for certain higher education expenses

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR HIGHER EDUCATION EXPENSES

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44 the following new section:

"Sec. 44A. Expenses of Higher Education.

"(a) General Rule.—There shall be allowed to an individual as a credit against the tax imposed by this chapter for the taxable year an amount (determined under subsection (b)) equal to a portion of the expenses of higher education paid or incurred by the individual during the taxable year for himself and for any dependent.

"(b) Determination of Amount.—

"(1) Amount when expenses are paid for only one individual.—If expenses of higher education are paid or incurred by the taxpayer during the taxable year only for his own education or only for the education of one dependent, the amount of the credit allowable under subsection (a) for the taxable year shall be an amount equal to the sum of—

"(A) 50 percent of so much of such expenses as does not exceed $200,

"(B) 25 percent of so much of such expenses as exceeds $200 but does not exceed $500, and

"(C) 5 percent of so much of such expenses as exceeds $500 but does not exceed $1,000.

"(2) Amount when expenses are paid for more than one individual.—If expenses of higher education are paid or incurred by the taxpayer during the taxable year for his own education and for the education of a dependent, or for the education of more than one dependent, the amount of the credit allowable under subsection (a) for the taxable year shall be the sum of—

"(A) an amount determined under paragraph (1) by only taking into account expenses of higher education paid or incurred by the taxpayer during the taxable year for his own education (or if no such expenses were paid or incurred during the taxable year for his education, for the education of one dependent designated by the taxpayer); plus

"(B) an amount determined for each dependent who is not designated under subparagraph (A) equal to the sum of—

"(i) 75 percent of so much of the expenses of higher education which are paid or incurred by the taxpayer during the taxable year for the education of such dependent as does not exceed $200,

"(ii) 50 percent of so much of such expenses for the education of such dependent as exceeds $200 but does not exceed $500, and

"(iii) 20 percent of so much of such expenses for the education of such dependent as exceeds $500 but does not exceed $1,500.

"(3) Proration of credit where more than one taxpayer pays expenses.—If expenses of higher education of an individual are paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) with respect to the expenses of higher education of that individual shall be an amount which bears the same ratio to the amount of the credit which would be allowable with respect to such expenses if only one taxpayer paid or incurred them as the amount of such expenses paid or incurred by each taxpayer paying or incurring such expenses bears to the total amount of such expenses paid or incurred for the taxable year by all such taxpayers.

"(c) Definitions.—For purposes of this section—

"(1) Expenses of higher education.—The term 'expenses of higher education' means—

"(A) tuition and fees required for the enrollment or attendance of a student at a level above the twelfth grade at an institution of higher education and

"(B) fees, books, supplies, and equipment required for courses of instruction above the twelfth grade at an institution of higher education.

Such term does not include any amount paid, directly or indirectly, for meals, lodging, transportation, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, transportation, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, transportation, or similar expenses shall be determined under regulations prescribed by the Secretary or his delegate.

(2) Institution of higher education.—The term 'institution of higher education' means—

(A) an educational institution (as defined in section 151(e)(4))—

"(i) which regularly offers education at a level above the twelfth grade; and

"(ii) contributions to or for the use of which constitute charitable contributions within the meaning of section 170(c); or

"(B) a business or trade school, or technical institution or other technical or vocational school in any State, which (i) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; and (ii) is accredited by a nationally recognized accrediting agency or association listed by the United States Commissioner of Education; and (iii) has been in existence for 2 years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subparagraph.

"(3) State.—The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(d) Special Rules.—

"(1) Adjustment for certain scholarships and veterans' benefits.—The amounts otherwise taken into account under subsection (a) as expenses of higher education of any individual during any period shall be reduced (before the application of subsection (b)) by any amounts received by such individual during such period as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includible in gross income, or

"(B) an education and training allowance under chapter 33 of title 38 of the United States Code or educational assistance allowance under chapter 34 of such title.

"(2) NONCREDIT AND RECREATIONAL, ETC., COURSES.—Amounts paid for expenses of higher education of any individual shall be taken into account under subsection (a)—

"(A) in the case of an individual who is a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction for which credit is allowed toward a baccalaureate or higher degree, and

"(B) in the case of an individual who is not a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 relating to retirement income),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to work incentive program expenses),

"(5) section 41 (relating to contributions to candidates for public office), and

"(6) section 42 (relating to taxable income credit).

"(f) DISALLOWANCE OF EXPENSES AS DEDUCTION.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any expense of higher education which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to any expenses of higher education with respect to which the taxpayer, under regulations prescribed by the Secretary or his delegate, elects not to have the provisions of this section apply.

"(g) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 44 the following:

"Sec. 44A. Expenses of higher education.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 of this Act apply to taxable years beginning after December 31, 1976.

NEW LEADERSHIP FOR THE CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. HAMILTON. Mr. Speaker, a Washington newspaper reporter who covers the U.S. Congress commented to me the other day that it had been quite a while since he wrote a news story on legislation before the Congress. His comment called to my attention the fact that although the Congress has been much in the news recently it has not been there because of what should be its principal function, lawmaking.

Two subjects now dominate discussion about the Congress. One is the surge of interest in overhauling the internal procedures of the House as a result of the WAYNE HAYS-Elizabeth Ray revelations and the second is what the new leadership of the Congress will be like in 1977.

With the announcement by House Speaker CARL ALBERT, Senate majority Leader MIKE MANSFIELD, and Senate Minority Leader HUGH SCOTT that they will retire at the end of this Congress, the turnover in the Congress will constitute one of the most complete changes in congressional leadership in recent history. Three of the top leadership posts in the next Congress will be filled by a man new to the job. The present House majority leader THOMAS P. O'NEILL, is considered Speaker ALBERT's certain successor, but a spirited contest to succeed Mr. O'NEILL as majority leader is going on among at least three contenders. In the Senate several Senators have already announced for the majority leadership post, and several are expected to announce soon for minority leader.

Speaker ALBERT, who has often been criticized for ineffective leadership, has probably had a more significant and creative leadership than many persons realize. Mr. ALBERT has presided over the House during the historic Nixon impeachment proceedings and during major efforts of internal congressional reform. He has supported these far-reaching reforms which dramatically modified the seniority system, checked the power of committee chairmen and spread the action among more Members. The Congress has become a far more open, accountable and democratic institution during his tenure as Speaker.

No Member would claim that Speaker ALBERT has been a flashy, publicity-wise politician. Indeed his 5-minute news conferences, given each day before the House convenes, are famous among House newsmen for the lack of hard news they produce. But all Members would praise him for his fairness, decency, and integrity. His style is to seek a consensus, to work behind the scenes and to avoid, if possible, confrontation with the President or powerful congressional committee chairmen. He employs the tools of persuasion and conciliation among his colleagues and he will leave the Congress with wide respect and much affection. Senators MANSFIELD and SCOTT have provided similar leadership in the Senate.

The leaders of Congress set its style and character, and, as its leadership changes, the Congress itself will undoubtedly change. Most of the Congress-watchers think that the new leaders will bring stronger, more assertive leadership. It seems to me much too early to reach any conclusions about that, but it is not too early for Members of Congress to reflect on the frustration and failures of the present Congress and its low standing in public esteem and to decide what kind of leadership the Congress wants and needs.

Members of the Congress must decide how vigorous they want their leadership to be. Complaints are often heard in Congress that the leadership is not energetic enough. But Members are ambivalent about leadership. They want leaders who will work hard to mobilize support for legislation, but they do not want their leaders to be tyrannical. They want their leaders to be articulate and effective on television and with the news media. And they want them to be approachable, sensitive to their problems, and willing to press for reform in House procedures. In short, Members want leaders who will begin to restore the Congress to high public esteem. It is also my hope that the new leaders will operate with some vision of where this country ought to be heading, and how the Congress can help it get there.

I do not think it is possible for the leaders of the Congress to wield absolute authority, as some leaders of the Congress did in days past. There is a lot of nostalgic nonsense spoken and written about how things would be much better if "Czar" Reed, "Uncle Joe" Cannon, or "Mr. Sam" Rayburn were only at the helm today. The new leadership will preside over a dramatically changed Congress. Today the Congress is more independent, more aggressive, younger and much harder to lead than Congresses even several years ago. It is a formidable challenge for even the most skillful of political leaders to lead a House comprised of 435 Representatives from widely different constituencies and interests at a time when the intensity of lobbying activity in Washington has increased manyfold.

The new leaders, whoever they are, will have their hands full. Congress is made up today of able, independent, and strong-minded people who will not yield to a dominating leadership. The new leaders will have to operate by persuasion and they will find that they have no choice but continue to try to make the Congress more open, more accountable and more responsive. They will need a sure sense of where the votes are and what the rank and file Members want. They must be able to "feel" the mood of the Congress and help guide it in the direction they think it should go. The art of democratic leadership in the Congress is to be out in front of its Members—but not very far.

CONGRESSIONAL REFORM: RULE XXII

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. PRITCHARD. Mr. Speaker, we can all take pride in the fact that the Congress is a good example of how a representative democracy works. But, the Congress—and the House of Representatives in particular—is far from being a model of operating efficiency. Archaic and inefficient rules and procedures only hamper our purpose and make it more difficult to carry our responsibilities as elected Representatives.

A fitting example of such a rule which breeds wasteful and costly inefficiency has to be House rule XXII, which limits to 25 the number of Members who may cosponsor any particular bill.

Prior to 1967, the House rules prohibited the cosponsorship of bills entirely—only the author's name appeared on the bill. Finally, in 1967, the House amended its rules—by adopting House Resolution 42—to allow up to 25 Members' names to appear on a single bill. To facilitate additional cosponsors. Members soon learned they could evade the rule by reintroducing identical bills.

Three major criteria underscore the desirability for ending the "25 rule" of cosponsorship—cost, confusion, and continuity.

Many of us are unaware of the expenses incurred in just the printing of one bill. For each bill that is introduced, 3,000 copies are made. For a two-page bill, the printing cost is $78. An eight-page bill—which is the average bill length—is $328. For a 20-page bill, the cost amounts to $659.

Duplicate bills result in duplicative costs; 16,989 bills have been introduced in the House during the 94th Congress as of June 1976. Of that number, 6,644—39 percent—were duplicate bills. When an average-sized bill of eight pages is reintroduced on a different day, the additional cost in printing alone is $102. When that figure is multiplied by the 6,644 duplicates introduced, we find that $677,688 has already been wasted on unnecessary bill duplication in this session.

Another adverse result of bill duplication is confusion. There is no Member or office that has been exempt from the difficulty of tracking the path of an issue whose volume of duplicate legislation is continually multiplying. These difficulties incurred by congressional staff are magnified for the individual citizen attempting to follow a bill through the legislative process. The exact same bill often winds up with four different numbers.

Finally, rule XXII breeds a lack of continuity amongst the two Halls of Congress. The Senate has long and successfully operated under the unlimited cosponsorship rule. Of the 3,665 bills that have been introduced in the Senate during the 94th Congress as of June 1976, only 23—less than 1 percent—have been duplicate bills.

As a means of ending this unnecessary and expensive procedure, I strongly urge the adoption of House Resolution 1317, that will strike the 25 limit from rule XXII.

Perhaps the two most widely discussed issues thus far in this Presidental election year are budgetary responsibility and confidence in those whom the American people have chosen to govern. In a small way, this proposed House rule change touches upon both of these questions. The adoption of this rule change could not only save almost $1 million each Congress, it will be a step, granted a small one, toward modifying the rules of the House so that we may more efficiently proceed with the business of the American people.

ASSOCIATION OF THE BAR SUPPORTS ABZUG BILL TO PROHIBIT DISCRIMINATION ON THE BASIS OF AFFECTIONAL OR SEXUAL PREFERENCE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Ms. ABZUG. Mr. Speaker, I am pleased to note that the Association of the Bar of the city of New York has expressed its support for H.R. 5452, my bill to outlaw discrimination in public accommodations, public facilities, public education, federally assisted opportunities, employment, housing sale, rental financing, and brokerage, and federally assisted education programs on the basis of a person's affectional or sexual preference.

This bill would extend the full protection of our civil rights statutes to homosexuals. Its enactment would not be necessary if the Supreme Court had done its job and recognized that the right of privacy includes the right of consenting adults, in private, to engage in such sexual conduct as they may choose without interference by the Government and without being subjected to discrimination because of such activities.

More than a dozen of our States have repealed their laws against such conduct: Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Indiana, Maine, New Mexico, North Dakota, Ohio, Oregon, South Dakota, and Washington. Private groups calling for an end to such discrimination include the American Bar Association, the American Psychiatric Association, the American Federation of Teachers, the National Board of the YWCA, the American Civil Liberties Union, the National Organization for Women, the National Federation of Priests' Councils, and the American Law Institute.

The time for action by Congress or the courts is now, and I hope that it will be forthcoming soon.

The statement of the Association of the Bar is included at this point:

[31—The Record of the Association of the Bar (May/June 1976)]

FEDERAL LEGISLATION PROHIBITING DISCRIMINATION ON THE BASIS OF AFFECTIONAL OR SEXUAL PREFERENCE

(By The Special Committee on Sex and Law)

SUMMARY AND RECOMMENDATION

The Committee urges adoption of H.R. 5452.[1] This bill would amend the Civil Rights Act of 1964 and certain other laws[2] to prohibit discrimination in public accommodations, public facilities, public education, federally assisted opportunities, employment, housing sale, rental, financing, and brokerage, and education programs receiving federal financial assistance on the basis of a person's affectional or sexual preference.

"Affectional or sexual preference" is defined in the bill to mean "having or manifesting an emotional or physical attachment to another consenting person or persons of either gender, or having or manifesting a preference for such attachment." This legislation would extend the protections of the federal civil rights laws to homosexuals.

INTRODUCTION AND BACKGROUND

The Kinsey reports on human sexuality are generally credited with giving impetus to the reexamination of laws and attitudes towards homosexuality.[3] Social, religious, medical and legal attitudes on this subject have undergone significant change in recent years. Psychiatric opinion, which for many years had classified homosexuality as a personality disorder, has changed dramatically. In 1973, the American Psychiatric Association (APA adopted the position that "by itself, homosexuality does not meet the criteria for being a psychiatric disorder."[4] The APA simultaneously adopted the following resolution with respect to discrimination against homosexuals:

"Whereas homosexuality per se implies no impairment in judgment, stability, reliability, or general social or vocational capabilities, therefore, be it resolved that the American Psychiatric Association deplores all public and private discrimination against homosexuals in such areas as employment, housing, public accommodation, and licensing, and declares that no burden of proof of such judgment, capacity, or reliability shall be placed upon homosexual's greater than that imposed on any other persons. Further, the American Psychiatric Association supports and urges the enactment of civil rights legislation at the local, state, and federal level that would offer homosexual citizens the same protections now guaranteed to others on the basis of race, creed, color, etc. Further, the American Psychiatric Association supports and urges the repeal of all discriminatory legislation singling out homosexual acts by consenting adults in private."[5]

Similar resolutions urging an end to discrimination against homosexuals have been adopted by the American Federation of Teachers (AFL–CIO), the American Personnel and Guidance Association, the American Psychological Association, the National Board of the YWCA, the National Conference on Jewish Men and Women, the National Educational Association (NEA), and the National Organization for Women (NOW).

Religious attitudes on homosexuality are changing. The National Federation of Priests' Councils, a national organization of Catholic priests, has urged an end to discrimination against homosexuals. An organization of gay Catholics has been formed, called "Dignity," and its members include a Jesuit priest. In 1972 the United Church of Christ ordained an acknowledged homosexual into its ministry. The Council for Christian Social Action of the same church in 1969 adopted a resolution which states in part: "Even while we proclaim a unity under God which transcends our division . . . we still honor variations among men in their political loyalties, lifestyles, and sexual preferences."[6] The Episcopal Diocese of New York's statement, "On Private Sexual Morality,"[7] states: "We favor repeal of those statutes that make such [private sexual] practices among competer and consenting adults criminal acts." The Episcopal Bishop of New York issued a public statement in support of local legislation prohibiting discrimination against homosexuals in New York City. The Unitarian Universalist Association of Churches and Fellowships of North America has established an Office on Gay Affairs.

The law and legal opinion have also been changing in their treatment of and view of

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Footnotes at end of article.

homosexual conduct. In 1955, the Model Penal Code of the American Law Institute recommended removal of criminal penalties for sexual acts in private between consenting adults, on the grounds that "No harm to the secular interests of the Community is involved in a typical sexual practice in private between consenting adult partners." [8] There are no federal penalties for such acts. In 1961, Illinois became the first state to repeal all prohibitions against private homosexual acts involving consenting adults. Subsequently, Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Indiana, Maine, New Mexico, North Dakota, Ohio, Oregon, South Dakota, and Washington have enacted similar legislation. In 1973, the American Bar Association adopted the following resolution:

"Resolved, that the legislatures of the several states are urged to repeal all laws which classify as criminal conduct any form of noncommercial sexual conduct between consenting adults in private, saving only those portions which protect minors or public decorum." [9]

The Report in support of the American Bar Association resolution stated: "Such provisions apply to both heterosexual and homosexual conduct, but are most often applied against homosexuals, both in enforcement of the statutes themselves and as the basis for discrimination against homosexuals on the ground that they are most likely violating the law." [10] This Committee and the Committee on Criminal Courts, Law and Procedure of this Association have previously issued a report in support of legislation to repeal the prohibition against consensual sodomy in the New York Penal Law. This Committee and the Committee on Civil Rights of the Association have previously issued a report in support of local New York City legislation to prohibit discrimination against homosexuals, and this Committee and the Committee on State Legislation have previously issued a report in support of similar state legislation introduced in the New York Legislature.

There is ample evidence of discrimination against homosexuals in employment and other areas covered by the proposed legislation. The federal government itself participates in such discrimination. The United States Civil Service Commission has an official exclusionary policy directed against homosexuals under the heading of dismissal for "such case as will promote the efficiency of the service." [11] The military services make considerable efforts to exclude homosexuals.[12] Homosexuals are also subject to attempts to exclude them from immigration into the United States or from citizenship once they are here on the basis that homosexuality per se is evidence of a lack of "good moral character." [13] In a background study done for the National Institute of Mental Health's Task Force on Homosexuality, it was found that sixteen percent of the sample had had employment difficulties attributable to attitudes toward their homosexuality, including nine percent who had lost jobs on these grounds.[14]

Much of the resistance to hiring or renting or selling property to homosexuals, and much of the resistance to legislation prohibiting discrimination against homosexuals, has stemmed from the belief that all homosexuals are alike and behave in a stereotyped fashion. Such attitudes and beliefs were revealed in the study by the National Institute of Mental Health's Task Force and in the testimony in opposition to anti-discrimination legislation at hearings held by the New York City Council. Opponents fear that if anti-discrimination legislation were enacted, employers would be forced to hire and landlords forced to rent to any homosexual applicant, whether or not such applicant would otherwise be a suitable employee or tenant.

These apprehensions are not well founded. It is clear from the work of Kinsey and the National Institute of Mental Health Task Force and from the growing number of openly homosexual men and women that gay and women span the entire range of personality types, employment positions, and other characteristics, just as heteorsexuals do. The final report of the National Institute of Mental Health's Task Force stated:

"Homosexuality is not a unitary phenomenon, but rather represents a variety of phenomena which take in a wide spectrum of overt behaviors and psychological experiences.

"Homosexual individuals can be found in all walks of life, at all socioeconomic levels, among all cultural groups within American society, and in rural as well as urban areas. Contrary to the frequently held notion that all homosexuals are alike, they are in fact very heterogeneous." [15]

Such attitudes had an effect on employment practices and policies, the Task Force found:

"Present employment policies generally deal with the homosexual individual as if homosexuality were a specific and homogeneous category of behavior, and tends to ignore the wide range of variation that exists." [16]

The consequences of these attitudes and policies, the Task Force found, were severe, both for the affected gay individuals themselves and for society.

"Individual homosexuals suffer in being isolated from much of society and from the fact that they live in a culture in which homosexuality is considered maladaptive and opprobrious. Their families suffer in feeling responsible and in adjusting to the problem. Society at large inevitably loses in a number of ways—loss of manpower, economic costs, human costs, etc. For these reasons (among others), efforts must be made at both the individual and social levels to deal with the problems associated with homosexuality." [17]

The Task Force concluded that employment policies and practices with respect to homosexuals should be changed.

"It is recommended that there be a reassessment of current employment practices and policy relating to the employment of homosexual individuals with a view toward making needed changes. Discrimination in employment can lead to economic disenfranchisement, thus engendering anxiety and frustrating legitimate achievement motivation." [18]

Legislation prohibiting discrimination based on sexual orientation would not require an employer to hire or a landlord to rent to an individual who was unacceptable for reason other than sexual orientation, any more than legislation prohibiting discrimination against women or against racial and ethnic minorities has that effect. All such legislation does require is that for an individual otherwise qualified, sex, race, national origin, or sexual orientation in and of itself cannot be a disqualification for employment, housing, or public accommodations.

Objection to legislation prohibiting discrimination against homosexuals is sometimes voiced by those concerned over the prospect of having children taught by homosexual teachers. This objection is frequently based on the fear that homosexuals are child molesters and may seduce their children. Researchers on the subject, however, agree that child molestation is primarily engaged in by a distinct category of persons who are exclusively attracted to children. "The man who is sexually interested in children is rarely a homosexual with well-developed interests in adult males . . . more often, the offender is a single or married male who lives a relatively conventional life with only sporadic or no adult homosexual contact." [19]

Thus, there is no more reason to fear the homosexual teacher than the heterosexual one, and this fact is beginning to be acknowledged by school systems. The Board of Education of the District of Columbia in May 1972 adopted a resolution prohibiting discrimination in hiring in the District's school system based on sexual orientation,[20] and the Pennsylvania State Commissioner of Education granted state certification to a publicly-acknowledged homosexual. The District of Columbia school system has subsequently reported that no problems have arisen as a result of its anti-discrimination policy.[21] As indicated above, both the National Educational Association (NEA) and the American Federation of Teachers (AFT) have urged an end to discrimination against gay teachers. Cases specifically involving school teachers have begun to appear. The Supreme Court of California has held that a homosexual school teacher's loss of employment without evidence of a connection between the teacher's private life and the ability to perform as a teacher was a violation of due process under the Fourteenth Amendment.[22] A federal district court held recently that homosexuality per se could not be grounds for dismissal or refusal to hire a teacher, although the teacher's transfer from teaching duties in that case was ultimately upheld because he had failed to reveal prior membership in a gay students' organization on his teaching application.[23]

Homosexuals in other professions, including the legal professional, have also in the past been denied the right to engage in their profession because of their sexual orientation, and have had to seek relief from the courts.[24]

Homosexual groups seeking the benefits of corporate status, and gay student organizations seeking the same rights and benefits as other student organizations have had to resort to the courts to gain the protection and benefits routinely granted to other similarly-situated non-gay groups.[25]

Passage of federal anti-discrimination legislation will eliminate virtually all of the discrimination against gay people discussed above. In those instances which may not be specifically covered by pending legislation, such as the granting of corporate status by a state to an organization, resort to the courts might still be necessary in some cases, but the existence of a federal policy against discrimination based on sexual orientation would reduce the instances in which such judicial relief would be necessary.

Since 1972, at least twelve American cities have enacted some form of gay civil rights legislation: Detroit, Minneapolis, San Francisco, Seattle, Columbus, St. Paul, the District of Columbia Portland, Ann Arbor and East Lansing, Michigan, Alfred, New York, and Palo Alto, California. (The City of Toronto in Canada has also taken similar action.) In New York City, a City Civil Service and Personnel Department Policy prohibits discrimination based on sexual orientation in hiring by the City government. These various local provisions, however, vary in the scope of their protection, and of course extend only over limited jurisdictions. There is, therefore, in this area as in the area of civil rights legislation for other minorities and for women, a need for uniform national legislation. The pending federal legislation, by amending the Civil Rights Act of 1964 and certain other laws, would provide such uniform national protection against discrimination.

CONCLUSION

The Committee recommends enactment of H.R. 5452 as a necessary measure to provide uniform national protection against the discrimination suffered by gay men and women in the United States.

Adopted: June, 1975.

Respectfully submitted,

CAROL BELLAMY,
Chair.

FOOTNOTES

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[1] Introduced by Congresswoman Abzug on March 25. 1975, and co-sponsored by Repre-

sentatives Burton, Koch, Nix, Dellums, Fauntroy, Harrington, McCloskey, Stark, Solary, Richmond, Bingham, Rosenthal, Mitchell (Maryland), Fraser, Brown (California), Mineta, Waxman, Badillo, Rangel, Chisholm, Holtzman, Schroeder, and Studds. Referred to the Committee on the Judiciary.

[2] Act to prescribe penalties for certain acts of violence or intimidation, 42 U.S.C. 3631; Education Amendments of 1972, P.L. 92–318.

[3] A. Kinsey, W. Pomeroy & C. Martin, SEXUAL BEHAVIOR IN THE HUMAN MALE (1948); A. Kinsey, W. Pomeroy, C. Martin & P. Gebhard, SEXUAL BEHAVIOR IN THE HUMAN FEMALE (1953).

[4] *New York Times*, December 16, 1973; *New York Times*, April 9, 1974.

[5] *Id.*

[6] RESOLUTION ON HOMOSEXUALS AND THE LAW, adopted April 12, 1969, Council for Christian Social Action of the United Church of Christ.

[7] Resolution, ON PRIVATE SEXUAL MORALITY, adopted by the Council of the Episcopal Diocese of New York, March 18, 1971.

[8] AMERICAN LAW INSTITUTE, MODEL PENAL CODE § 207, Comment 227–78 (Tent. Draft No. 4, 1955).

[9] 4 HUMAN RIGHTS 67 (1974).

[10] *Id.* at 68–69.

[11] 5 U.S.C. § 7501 (a). *See generally*, Note, *Government-Created Employment Disabilities of the Homosexual*, 82 Harv. L. Rev. 1738 (1968), and *Government Employment and the Homosexual*, 45 ST. JOHN'S L. REV. 303 (1967).

[12] Army Regulations AR 40–501, 2–34(A) (2) (December 5, 1960), for example, list "overt homosexuality" as a cause for rejection for employment, enlistment, or induction. Such discrimination is beginning to be fought, however. See "Homosexual Challenges Service Discharge," *New York Times*, p. 1, May 26, 1975.

[13] At least one federal court, however, has held that the Immigration and Naturalization Service's policy cannot be applied to exclude a person from citizenship who has engaged only in private consensual homosexual conduct. *In re Labady*, 326 F. Supp. 924 (S.D. N.Y. 1971).

[14] REPORT OF THE TASK FORCE ON HOMOSEXUALITY, National Institute of Mental Health (1972).

[15] *Id.* at p. 2.

[16] *Id.* at p. 6.

[17] *Id.* at p. 2.

[18] *Id.* at p. 6.

[19] J. Gagnon and W. Simon, SEXUAL ENCOUNTERS BETWEEN ADULTS AND CHILDREN at p. 11 (1970). In V. Defrances, PROTECTING THE CHILD VICTIM OF SEX CRIMES BY ADULTS at p. 38 (1969), a study of sex crimes against children over a five year period from 1962–1967 revealed that 10 to 12 female children were victims for every male child victim, and that the offenders against female children were heterosexual while the offenders against male children were homosexual. Thus the percent of homosexual child molesters for that period was less than the percent of homosexuals in the total population as indicated by the Kinsey studies, supra at note 3. See also Gebhard and Gagnon, Male Sex Offenders Against Very Young Children, 121 Am. J. Psychiatry 576 (1964) (Out of a study group of 60 male sex offenders against children under 5, all but 7 were convicted for offenses against female children); REPORT OF THE COMM. ON HOMOSEXUAL OFFENSES AND PROSTITUTION, Great Britain.

57 at 45–46 (1963); and P. Gebhard, J. Gagnon, W. Pomeroy and C. Christenson, SEX OFFENDERS (1965). Nor does there seem to be any basis for fear that homosexual teachers, while they may not be interested in young children, may molest adolescents. For example, in the history of the New York City school system, while there have been many reported cases of molestation of females, as of 1971 there had only been one reported case of molestation of a male. 20 Questions About Homosexuality (1972, Gay Activists Alliance, New York, N.Y.).

[20] The resolution, adopted May 28, 1972, reads as follows:

"The District of Columbia Board of Education, after discussion and consideration, hereby recognizes the right of each individual to freely choose a life style, as guaranteed under the Constitution and the Bill of Rights. The Board further recognizes that sexual orientation, in and of itself, does not relate to ability in job performance or service.

"Therefore it is resolved that henceforth it shall be the policy of all departments and services of the educational system under the jurisdiction and control of the District of Columbia Board of Education to promote a policy of non-discrimination in hiring, employment, promotion, tenure, retirement and/or job classification practices, within such jurisdiction and control, relative to the sex or the personal sexual orientation of any individual(s) regardless of past, present, and/or future status of such individual(s).

"This policy is to be implemented forthwith and published through the regular channels."

[21] Telegram from Marion Barry, President, District of Columbia Board of Education, to Dr. Bruce Voeller, April 17, 1974, on file at the offices of the National Gay Task Force, New York, N.Y.

[22] *Morrison* v. *State Board of Education*, 1 Cal. 3d 214, 461 P. 2d 375, 82 Cal. Rptr. 175 (1969).

[23] *Acanfora* v. *Board of Education of Montgomery County*, 491 F. 2d 498 (4th Cir. 1974), *cert. denied* —— U.S. —— (1974).

[24] *In re Kimball*, 33 N.Y. 2d 586, 347 N.Y.S 2d 453 (1973).

[25] *Owles* v. *Lomenzo*, 31 N.Y. 2d 965, 341 N.Y.S. 2d 108 (1973); *In re Thom*, 53 N.Y 2d 609, 347 N.Y.S. 2d 571 (1973); *Woods* v. *Davison*, 351 F. Supp. 543 (N.D.Ga. 1972); *Gay Students Organization of the University of New Hampshire* v. *Bonner*, 367 F. Supp. 1088 (D.N.H. 1974), *aff'd* 509 F.2d 652 (1st Cir. 1974).

JULY IS THE MONTH WHICH MARKS TWO GREAT REVOLUTIONS

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. DU PONT. Mr. Speaker, July is the month which marks the commemoration of two great revolutions for independence, the American and the French. July 14 is Bastille Day, the French national celebration of the 1789 Paris uprising that led to the French Revolution and the establishment of the First Republic in France. The United States has, just this month, feted the Bicentennial of its own 1776 struggle for independence.

In the midst of these proud celebrations of independence, however, it is important to remember those who, despite their desire and their efforts to establish their freedom, are not free but captive. Not only freedom but the dignity of civil and human rights are denied to these citizens of the captive nations.

Just as more than ceremonies devoted to the memory of 1776 are necessary to maintain and promote the democratic values and ideals for which the United States stands, more than words of sympathy and commemoration are needed to improve the status of those citizens of East Europe denied their freedom by the Soviet Union. On May 14, 1976 the House of Representatives took concrete action when it voted to establish a Commission on Security and Cooperation in Europe to monitor the Helsinki agreement. The establishment of this Commission signaled the U.S. intent to take seriously the Soviet Union's agreement to abide by the Basket Three provisions concerning cooperation in freer cultural and educational exchanges as well as increased contacts between separated friends and families and the ability to emigrate. The high hopes of Basket Three to date have remained largely high hopes. However, in the establishment of the Commission and in its commemoration of Captive Nations Week, the U.S. Congress reaffirms its pledge to help those people who through their wealth of ideas, efforts, and feelings have given so much to the heritage of freedom and democracy of the United States.

SEYMOUR'S GRAND LADY MISS KATHARINE MATTHIES

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. SARASIN. Mr. Speaker, America has been built from the love, dedication, and involvement of the citizens of this country, of their concern over the world around them and the future that we all can build. One such individual, the pride of Seymour, Conn., is Miss Katharine Matthies, a lifelong resident of that town.

Miss Matthies has been quietly devoting herself to improving the well-being of her fellow citizens for a number of years. In honor of her many contributions, the Seymour Bicentennial Commission selected Miss Matthies to be the grand marshal of the Seymour Bicentennial parade. While this honor traditionally is given to a prominent male citizen of the town or a military man, the commission selected Miss Matthies because of her "deep sense of loyalty to her town and community in general. The committee felt that Miss Matthies has demonstrated over the years a deep concern for the welfare of others by awarding financial assistance to many local and area organizations, to individuals and to the town of Seymour."

The honor bestowed upon Miss Matthies was certainly well-deserved, giving Seymour the opportunity to show respect and admiration to her for her outstanding example of citizenship.

Miss Matthies, the honorary vice president general of the National Society, Daughters of the American Revolution, has received many honors for her efforts on behalf of others. Most recently, the Connecticut Society, Sons of the American Revolution, presented the National Society, Sons of the American Revolution's Medal of Appreciation to Miss Matthies for her dedication to duty in chapter, State and National DAR offices.

Her participation in community organizations is extensive. She holds an active membership in over 55 organizations, including the State Audubon Society; the National Parks Association; the Museum of Natural History; the Humane Society; New Haven Women's Philatelic Society; the Antiquarian and Landmarks Society; the Brooklyn Botanic Gardens; American Legion Auxiliary, Emil Senger Unit 10; the Society for the Protection of the New Hampshire Forests, the National Wildlife Association, the Connecticut Arboretum Association, the DAV auxiliary, the Marine Historical Association.

Miss Matthies has served as director of the Seymour Public Library, including several terms as president from 1957 through 1967. She served as the president of the Seymour Red Cross and the Seymour Public Health Association, and is honorary director of Griffin Hospital.

All of Miss Matthies activities are oriented toward preserving and improving that which is beautiful in the life of America—its environment, its history, its education and its people. Her devotion to others is nothing short of outstanding, her life is a model for all who know her or have been touched by her concerns, and she is providing this country with one of the most important gifts—a rich legacy of compassion, concern, and dedication.

POLITICS CAN BE RIGHT

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. BOLLING. Mr. Speaker, we recall with sadness in recent weeks the death of an able and dedicated congressional employee, Wes Barthelmes.

Let us draw strength and hope—for ourselves and for our country—from the editorial tribute in the July 15 Oregon Journal which follows:

POLITICS CAN BE RIGHT

In the wake of Watergate and spy stories and sex scandals, it is too easy to believe that all is rotten in Washington.

That all is not was emphasized recently in an unusual eulogy on the Senate floor.

The person memorialized was not a senator or a congressman or a high government official. He was a Senate staffer, one of the legion of congressional employes who can type and whose dedication to principle and knowledge of government makes the system work.

Wes Barthelmes, who died at 54 of brain cancer, was not well known in Oregon. But he helped hundreds of people here—who never knew his name—as administrative assistant to former Rep. Edith Green.

Later he moved to the Senate side, and it was there that his memory was honored in a remarkable ceremony by two senators for whom he had worked—Joseph Biden of Delaware and Frank Church of Idaho—and by Edward Kennedy of Massachusetts, for whose late brother Robert Barthelmes had worked.

Kennedy, the last to speak, explained why Barthelmes' death "is such an enormous loss to Capitol Hill and the nation" in a comment that has meaning for us all:

"I am saddened to think that those young people who may have become discouraged with politics as a career as a result of Watergate did not have the opportunity to know Wes.

"For him, politics was the finest way to use your own talents to the fullest, to test your own endurance and energy to its limits, and most importantly to use that talent and energy to help the most vulnerable members of our society, those disadvantaged by illness or handicaps, by age or by poverty.

". . . He will always be in our memory to remind us of the best we can hope to become, a compassionate person who made the world a better place."

NEW YORK STATE SENATE RESOLUTION ON PRESIDENTIAL PRIMARIES

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. KOCH. Mr. Speaker, on June 26, 1976, the New York State Senate adopted a resolution introduced by Senate Majority Leader Warren M. Anderson urging Congress to revise the present system of Presidential primary elections. The resolution calls for a national regional primary system and proposes the division of the country into regions, each composed of States sharing mutual interests.

I would like to bring this resolution to the attention of our colleagues:

SENATE RESOLUTION NO. 83

Senate resolution of the State of New York memorializing the Congress of the United States to revise by legislation the present system of presidential primary elections by instituting a national regional presidential primary system

Whereas, with the completion of the final presidential primaries of 1976 in the states of California, Ohio and New Jersey the nation enjoys a temporary respite from the weekly barrage of presidential primaries which commenced in mid-February in the state of New Hampshire; and

Whereas, it is the well-reasoned belief of the Senate speaking on behalf of the citizenry of New York State that the system of presidential primaries as they have been conducted this year and in past presidential election years is not only financially burdening to the nation's taxpayers but also contributive to a growing sense of confusion shared by the electorate in their conscientious search to choose a candidate most qualified to serve as President of the United States; and

Whereas, The present system of presidential primaries has made it virtually impossible for all but the extremely wealthy to enter the weekly cross-country forays into state primary elections, thereby forcing candidates dependent on federal funding and their own moderate resources to select state primaries where their chances for success at the polls appear to warrant making the run; and

Whereas, It would seem to be in the best interests of the nation's voters that a National Regional Presidential Primary System, if it were to be adopted by Congress and implemented by the states, would go far to eradicate the ills and misconceptions that exist under the present system of presidential primaries; and

Whereas, The Senate of the State of New York, while demurring to the wisdom of Congress, proposes that such a National Regional Presidential Primary System could be divided into six regional elections to be held in six national regions, such as in the Northeast, Southeast, Midwest, Southwest, Northwest and the Picific. Such regions would be composed of states within such regions which enjoy, as nearly as possible, a community of interests on questions of national, international and statewide interests; and

Whereas, Primary elections would be held in each of the states within such region on the same day and according to the applicable provisions of each state's election law and such regional elections would be conducted at uniform intervals of two or three weeks; now, therefore, be it

Resolved, That the Congress of the United States be and is hereby with all due respect, memorialized to undertake a study designed to formulate legislation in implementing a National Regional Presidential Primary System; and be it further

Resolved, That copies of this resolution, suitably engrossed, be transmitted to the President and Vice-President of the United States, the Secretary of the Senate and the Clerk of the House of Representatives of the United States and to each member of the Congress of the United States from the State of New York.

HAWAII GOVERNOR'S BICENTENNIAL CONFERENCE ON AGING IS MAJOR SUCCESS—MATSUNAGA

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. MATSUNAGA. Mr. Speaker, last month I was privileged to participate in the Hawaii Governor's Bicentennial Conference on Aging in Honolulu. There were hundreds of delegates and dozens of panel participants in a wide-ranging conference that lasted 5 days.

Many of the features of the Hawaii conference were unique—the strong emphasis on intercultural problems of the elderly, the presence of some 75 youth delegates, the keynote address by U.S. Commissioner on Aging, Arthur Flemming. But perhaps the most important product of the conference was the reaffirmation of the need to improve our efforts to draw on older Americans themselves as a valuable resource for the country.

For my part, I was happy to trace for the 1,600 delegates some of the achievements and remaining tasks of the House Select Committee on Aging, of which I chair the Subcommittee on Federal, State and Community Services. Under the leadership of its distinguished chairman, the gentleman from Missouri, Mr. WM. J. RANDALL, the full committee has undertaken a number of important initiatives to improve the quality of life for older Americans.

In the hope that they will be of interest to my colleagues and other readers of the RECORD, I insert at this point the text of my remarks to the conference, and of a resolution from the Hawaii State Commission on Aging relating to the conference.

GROWING OLD IN PARADISE: LESSONS FOR THE NATION

(By Hon. SPARK M. MATSUNAGA)

Ladies and gentlemen, Aloha:

Thank you Mr. Ted Hussey for that gracious introduction. I'm reminded of what Adlai Stevenson once said, after listening to a 15-minute personal tribute from someone introducing him at a speaking engagement. Stevenson got up, thanked the person and said. "After listening to all the great things said about me, I can hardly wait to hear myself talk."

I'm very happy to be here with you today at this Governor's Conference on Aging to commemorate the Bicentennial of our Nation's birth. Combined with the program so far, what you will be experiencing as delegates over the next few days promises to be one of the most exciting and productive conferences of this kind ever held in Hawaii—or anywhere else in America. Its success will no doubt be attributable to dozens of people responsible for organizing and staging the conference, but I'd like to single out one person for a special word of praise. I refer, of course, to the conference director, and the chairman of the Hawaii Commission on Aging for the past two years—Mrs. Shimeji Kanazawa.

It's been over a year since Shim first spoke to me about taking part in the conference. I was happy to accept her invitation, but she didn't stop there. She told me, "We're trying to get Commissioner Flemming to participate, too—could you help us convince him?" And you can ask Dr. Flemming—I managed to bring up the topic every time I saw him during the months that followed, and he agreed to come.

Then Shim said to me, "We're trying to get a grant from the Administration on Aging to help bring young people to the conference—could you help us?" Shim, as those who know her, is very persuasive, and I did a little informal lobbying with Dr. Flemming. Again, the result was favorable.

So I feel a special kinship with this conference and its participants. The more than one year of work Shim Kanazawa, Riley Yee, Renji Goto and their colleagues have put in on the conference is self-evident, and I was pleased to lend a hand when it was necessary.

It's been just over a year, also, since I was named by the Speaker of the House to serve on a new Select Committee on Aging in the House of Representatives. Some of you may know that the Senate has had a committee on aging since 1961. I had been trying to get a similar committee established in the House for years—I had sponsored resolutions to create an aging committee for several Congresses, but without success. Finally, in 1974, a major committee reform proposal came to the Floor of the House. I joined with other interested Members of the House in support of an amendment creating a permanent Select Committee on Aging. As a sponsor and staunch supporter of the measure, I was elated over the overwhelmingly success of the amendment—the vote was 323 to 84. The select committee held its first meeting at the beginning of this Congress, in March 1975.

In the brief time allotted me this afternoon, I would like to share with you a few of the highlights of this past year—an accounting of my stewardship, so to speak, to let you know what this new Select Committee on Aging, and I as the chairman of its subcommittee on Federal, State, and community services, have been doing.

After a preliminary round of briefings from agencies that run programs for which my subcommittee was responsible. I directed the staff to prepare for field hearings where we could find out first-hand from older Americans and those who serve them the dimensions of the problems they were facing, how present Federal programs were working in the field, and ways to seek improvement. Hearings were held in Connecticut, New Jersey, California, and New York, to seek the viewpoints of those directly involved in elderly programs, and to save those witnesses the expense and trouble of traveling to Washington, D.C.

Over the Thanksgiving recess last fall, I brought my subcommittee to Hawaii. My purpose was two-fold: To determine what gaps existed, if any, in the programs serving the elderly, and to focus national attention on the successes that many of those programs had enjoyed.,

My subcommittee traveled to each of Hawaii's four counties, held six hearing sessions, heard many witnesses, and published four volumes of hearings. I sent copies of the hearings to many of you, but if anyone wishes a copy of any of the hearing volumes, please drop me a note.

What we found in Hawaii was both heartening and, in some instances, disquieting.

We found State and local officials cooperating on aging programs to a degree seldom seen on the mainland. Area agencies on aging in other States have come to us in Congress, pleading that they be rescued from the clutches of their State office of aging. In Hawaii there was none of that—area agencies have their differences with the State office, of course, but they talk them over regularly, and iron them out. What we saw in Hawaii was mutual respect for abilities and intentions.

We found a transportation system in Honolulu providing free rides to those aged 65 years or older, at all times of the day and night.

We found a growing number of day care centers for the elderly—including the first and oldest one in the country at Kuakini Hospital.

We found hundreds of older persons serving as volunteers—foster grandparents, senior companions and RSVP volunteers—serving others and keeping themselves more involved in meaningful activities.

We found outstanding programs at the Hawaii State Senior Center, and other centers in the State, which compare favorably with the best in the country.

But while most of what the subcommittee saw and heard was encouraging, there were moments that reminded us of how far we yet need to travel to bring a decent life to all senior citizens in America.

We found elderly people in Kona on the big island living in shacks with no plumbing.

We found seniors on the neighbor islands, and rural parts of Oahu, who couldn't take advantage of free buses—because there were no buses.

We found two out of three elderly tenants living in substandard apartments. Of those who owned homes, a large percentage faced major housing deficiencies.

We found that thousands of senior citizens have no access at all to a senior center.

We found that, contrary to stories of abuse among food stamp recipients, 70% of the older Americans in Hawaii eligible for food stamps were not even receiving them.

We found that many of those who worked in programs serving the elderly were unaware of many federal programs designed to benefit them. There was confusion and general lack of reliable information about available resources.

We found apprehension about personal safety so acute that many of the elderly wouldn't leave their own homes, even during daylight hours.

And perhaps the most heartrending story my subcommittee heard came from the lips of a young OEO outreach worker from the Waianae-Nanakuli district office. Let me quote directly from that dedicated young woman's eloquent testimony:

"We found a 75-year-old man living in a duck pen—not a duck pen converted into living quarters, but one he actually shared with the ducks. His social security check was going to the landlord; the old man said it was being saved for him, so that he could return to the Philippines. When we asked him if he would like to come to our meals program, he said, 'No need kau-kau; I eat house slop.' "

The tragic irony in this story, the outreach worker added, was that the man was qualified for a free return trip to the Philippines under the terms of the ILWU-Sugar Growers Contract.

That such a situation could still exist in the Paradise of the Pacific, with one of the most enlightened social service systems in the nation, is shocking and horrifying. It dramatically illustrates the gaps and deficiencies in the present system. We must heed the word Dr. Flemming spoke, in opening the 1971 White House Conference on Aging:

"The cry of older persons throughout our nation is, act: Do not write about me, do not even talk about me—but act."

And so my subcommittee and I went back to Washington, and began a variety of actions. The Select Committee on Aging is not a legislative committee, and that means it cannot report bills to the House floor itself. But we acted in every manner at our disposal.

To grapple with the problems of lack of information about federal programs, I directed the compilation of an easy-to-read directory of federal programs benefitting the elderly. It should be ready for distribution later this summer.

After further subcommittee hearings on crime victimization of the elderly, I was successful in including several of my proposals, in legislation now approved by the House Judiciary Committee, that will focus on reducing crime against the elderly.

We began a major inquiry into transportation problems of the elderly across the country, and issued a sharply worded report just last month, with recommendations for changes in the law and in current regulations.

Recognizing that the Older Americans Act, which funds state offices and area agencies on aging, is the key to comprehensive service delivery to the elderly, I worked with other senior members of the aging committee—both democrats and republicans—to insure better funding levels.

We testified before the House Appropriations Committee and succeeded in raising its recommended funding levels, but their response was inadequate, so we went to the House floor and offered amendments for increased funding. All the amendments were adopted. The Appropriations Committee is now considering the funding level for next year. This time, when senior members of the Select Committee on Aging, myself included, certain recommendations in behalf of the elderly the Appropriations Committee was much more responsive. The result: the fiscal year 1977 appropriations level for the Older Americans Act—the period beginning October 1 of this year—will be at least $482 million, or about 60% higher than the amount actually being expended right now.

As for senior centers, I personally offered a floor amendment doubling the amount appropriated for FY 1976 to help construct and renovate multi-purpose senior centers under title V of the Older Americans Act. That brought the total to $5 million, and it marked the first time a single dollar had been appropriated under title V since it was first enacted in 1973. The amount for 1977 will be at least $10 million, and I am presently considering another floor amendment later this month to double that, to $20 million. I know Hawaii will get its fair share of this money.

These are a few of the major steps the House Select Committee on Aging has taken since I chaired the hearings in Hawaii last November. I should emphasize, however, that they are but interim steps: Identifying the areas of greatest, most immediate need, and directing our inadequate resources toward them. "Cast me not off in the time of old age" the Psalmist said, "foresake me not when my strength faileth." This is the short-run task.

Looking ahead, what may well be an even large task lies ahead.

The Census Bureau reported this week that, between now and the year 2030, if present trends continue, the proportion of American aged 65 and older will grow from about one in ten today to one in six. In Hawaii the growth will be even faster, as our relatively young population ages.

Not only will our elderly population be larger, and larger proportionately, but it will be different in composition. They will be better educated, more mobile, more active in every way. They will be more involved in national and international events, as this conference clearly envisions. The focus of Federal and other programs for the elderly will have to shift to reflect these changes.

We should be prepared, as I have heard Shim Kanazawa say, for the "graying" of the university, and of other community institutions now thought of as completely within the province of the young. I pledge my best efforts toward meeting both the immediate, and the long-range challenge.

I have said many times, even before I entered public life, that one can judge the quality of a society—even its capacity for survival—by examining the way that society cares for its elderly citizens. I trust that generations from now, archeologists will determine that America remained great for centuries, and that greatness was reflected most brilliantly in its concern for its elderly. What you here at this conference, and I in Congress, are about, is assuring that old age in America will be, as Cicero described it, "The crown of life, our play's last act."

Thank you very much.

RESOLUTION NO. 51

To report to the Honorable George R. Ariyoshi, Governor, State of Hawaii, the completion of all major activities scheduled for the Hawaii Governor's Bicentennial Conference on Aging and to thank him for conducting this most meaningful, landmark conference

Whereas, the Honorable George R. Ariyoshi, Governor, State of Hawaii, opened the Hawaii Governor's Bicentennial Conference on Aging at 10:30 a.m. on June 8, 1976, in the Kauai Room of the Sheraton-Waikiki Hotel with an overflow crowd of participants, young and old, attending the most colorful and enthusiastic ceremony; and

Whereas, the Kupuna Luncheon honoring the Eight Outstanding Older Americans of Hawaii for 1976 with over 1,600 attending was held immediately thereafter, having as its keynote speaker the first U.S. Commissioner on Aging to visit Hawaii, Dr. Arthur S. Flemming; and

Whereas, in his wisdom Governor Ariyoshi has taken the bold step of creating the new Executive Office on Aging in his Office by the signing of H.B. No. 62 passed by the 1976 Hawaii State Legislature; and

Whereas, the "Overview On Aging," Congressional Reports on Aging, the Seniors Speak Out On National Issues, and the Governor's Aloha Reception concluded the opening day of the Conference with great success; and

Whereas, the second conference day with its International Panel presenting research papers pertaining to the aging in Hawaii, New China, Sweden, Japan, Philippines and Yugoslavia, the conduct of the first of three Mini-Workshop Sessions, the Youth Delegates Meeting, and the evening Medical Input Programs were conducted; and

Whereas, the final day of major activities which included the discussion of the role of the University, the two concluding sessions of the mini-workshops, Aikane Luncheon with discussion on the "Future of Aging," were held and now this Aloha Banquet tonight; and

Whereas, there never was such hospitality provided at a conference on aging anywhere that we know of, on a continuous daily basis, as was provided in the Hawaiian Hospitality Room; and

Whereas, the conference support and coordination were made possible by your Commission on Aging members and staff, staff from the Department of Social Services and Housing, the County Area Agencies on Aging, many private agencies, citizen volunteers too numerous to mention, all pitching in together under the untiring leadership of the Director of your Conference, Mrs. Shimeji Kanazawa; now, therefore, be it

Resolved, That the Hawaii Governor's Bicentennial Conference on Aging participants, one and all, do hereby extend their congratulations for a most successful and meaningful conference on aging and heartfelt thanks to Governor Ariyoshi for his sensitivity to the needs of the aging and aged, his farsightedness and thoughtfulness, his deep concern, courage, and willingness to find new and innovative ways to solve human problems; and be it further

Resolved, That we, the conference participants shall endeavor to carry out with renewed energy and understanding what we have learned at this landmark image-changing conference on aging where the young and old exchanged thoughts and ideas; and be it further

Resolved, That a true copy of this Resolution, adopted this evening of Thursday, June 10, 1976, be presented to the Honorable George R. Ariyoshi, Governor of this great State of Hawaii and Mrs. Ariyoshi; the President of the Senate and Speaker of the House of the Hawaii State Legislature; the Chief Justice of the State Supreme Court; and the President of the United States of America; the United States Commissioner on Aging; Chairman of the Federal Council on Aging; Hawaii's Congressional Delegates; the United States Senate Special Committee on Aging; the United States House of Representatives House Select Committee on Aging; and other community leaders who enthusiastically supported this unique multi-cultural participatory conference.

IN MEMORY OF MRS. ANDREW J. SUSCE

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. CARNEY. Mr. Speaker, the Ohio Senate recently passed a resolution regarding the untimely passing of Mrs. Andrew J. Susce.

I wish to offer my most sincere sympathy and condolences to the family and friends of Mrs. Susce. She was truly a very warm and understanding individual who will be greatly missed. I insert in the RECORD the resolution passed by the Ohio Senate at this time.

The resolution follows:

IN MEMORY OF MRS. ANDREW SUSCE

On behalf of the members of the Senate of the 111th General Assembly of Ohio, we offer our most sincere sympathy and condolences to the family and friends of Mrs. Andrew Susce on the untimely passing of one of Ohio's finest citizens.

Her personal sacrifices of time and energy to family, friends, and community will certainly live beyond and will long be remembered by all those who knew and loved her.

The patience and wisdom which can only be gained through sharing your life with others were hallmarks of her life as she lived and shared life to its fullest.

The warmth and understanding which she always extended to others will stand not only as a tribute to a truly fine human being, but will also stand as an exemplary life which manifested all those virtues which inspire and assist others.

The memories of the many times of joy and the problems shared together will greatly help in easing the sense of loss which is felt by her family and many friends.

May we, thus, offer this token of the profound sympathy we share with family and friends in honor of a truly magnanimous person.

RICHARD F. CELESTE,
Lieutenant Governor.
Senator PAUL E. GILLMOR,
Second Senatorial District.
Senator DONALD E. LUKENS,
Fourth Senatorial District.

CUBANS KEEP LOW PROFILE IN ANGOLA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. McDONALD. Mr. Speaker, Cuban mercenaries are still fighting and dying in Angola and no one seems to know if any are really going home. But Angola is being treated to all the benefits of a mercenary army and the Cuban soldiers are, evidently, happily looting Angola, while preparing it for the all leveling and grinding poverty of Marxism. The article from the Washington Star of July 14, 1976, by Hugh Mulligan of the Associated Press follows:

CUBANS KEEP LOW PROFILE IN ANGOLA

(By Hugh A. Mulligan)

LUANDA.—The bulky, pudgy-faced men wandering around downtown in Fidel Castro peak caps and green fatigues seemed a bit old for Cuban soldiers, and they conversed loudly among themselves in Russian.

The top security guards at the recent trial of 13 white mercenaries all wore Angolan army uniforms. But they listened to the proceedings in Spanish, not Portuguese, on their translation head sets and smoked Havana cigars during the court recesses.

Out at "Cuban Beach," so called because the Cubans swim where the barbed wire begins, the bearded Che Guevara types in the baggy trunks playing volleyball turned out to be Bulgarians.

With the Russians trying to look like Cubans and the Cubans trying to look like Angolans, and everyone else trying to look like someone else, especially the few remaining Portuguese, it's a bit puzzling in the Angolan revolutionary drama to tell the players by their uniforms.

The Angolan government insists the 15,000 Cuban soldiers who helped the Marxist Popular Movement win the civil war in February are being phased out and sent home at the rate of several hundred a month.

But this is difficult to confirm since both Luanda's airport and harbor are off limits and heavily guarded with the Cubans in charge of security.

American, Canadian and British pilots and airline maintenance men who spend a lot of time at the field report that occasional planeloads of Cubans still arrive in the country, including a number of female soldiers and even dependents.

But the only ones they say they ever see going home are the dead in aluminum boxes ticketed to Havana.

The government radio's on-the-hour invective against "killer bandits" and "neo-colonialist marauders in the countryside" leaves little doubt that the sporadic but heavy guerrilla fighting by the defeated UNITA faction near the South African border and along the vital Benguela Railroad is taking its toll of Cuban units engaged in mopping up operations.

A Yugoslav freighter which left Luanda for Havana recently may have had some homebound troops aboard. A Portuguese businessman, one of the few left, said that from his office window overlooking the port he could see Cuban noncommissioned officers supervising the loading of sports cars, limousines, motor bikes and some new earthmoving equipment and forklift trucks "liberated" from downtown automobile showrooms or left behind by the Portuguese who fled after independence. In general, however, the Cubans have kept a very low profile in Luanda, rarely getting into trouble at the few beer gardens serving beer for a few hours a day, always going about in their own groups, avoiding the prostitutes who work from the street corners of the slums, now that the bordellos have been closed as counterrevolutionary.

Around the country, according to people who traveled about since the war ended, the Cuban military bearing is less exemplary.

"In Lubango," said a young woman who was allowed to visit her sick mother there, "they are breaking into houses and stealing the furniture to send home to Cuba. Some soldiers are going home from the airport, and every plane is loaded with automobiles taken away from the shop owners and business people. All the taxis already are in Havana; those that weren't taken off to Lisbon when the Portuguese fled."

Lubango, she said, "is a terrible place now. People disappear in the night and are not heard from again. Some are sent to pick coffee. My best friend, a teacher and a leader in the Popular Movement, was taken off to prison for six months for criticizing the behavior of the troops."

Angola's coffee harvest, once a $500 million-a-year export item second only to oil in the national budget, is now ready for picking and the army, with Cuban advisers, is helping round up the laborers.

Drunks and petty criminals are immediately sentenced to help with the harvest, as is anyone caught lounging around town without a work permit, which is why the beaches are always empty.

With most of the professional class and the skilled workers gone to Portugal, Angola has a desperate need for the Cuban doctors, engineers, electronic technicians and mechanics coming to help rebuild Angola.

WARREN, MICH., CHOIR TO TOUR POLAND

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. BLANCHARD. Mr. Speaker, I am pleased to publicly recognize an upcoming tour of Poland by the Warren Woods Concert Choir of Warren, Mich., a community in the 18th Congressional District which has many residents of Polish heritage.

The tour will be taking place during the next few weeks under the auspices of Friendship Ambassadors, a nonprofit foundation which has sponsored a number of such tours of foreign countries in recent years by groups of American performing artists.

The Warren Woods Concert Choir, specifically, will be appearing in the Polish cities of Warszawa, Lublin, Krakow, Katowice, Wroclaw, Zelazowa Wola, Zakopane, Wieliczka, Kazimierz, Oswiecim, Chorzow, Klodzko, and Polanica.

I am sending a letter to the officials of those cities, which the members of the choir will be taking with them. I believe the city of Warren and the State of Michigan are also preparing items which will be suitable for presentation to these officials.

I would like to take this opportunity to express my gratitude to these cities and their leaders for their hospitality in cooperating in this undertaking.

At a time when there is often misunderstanding and mistrust among nations in different parts of the world, I believe it is especially important for contacts of this type to continue, in order to establish and strengthen the bonds of friendship which hopefully one day will unite all people.

CAPTIVE NATIONS WEEK

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. COUGHLIN. Mr. Speaker, only a few days ago the United States was celebrating its Bicentennial, commemorating the dissolution of our ties with an empire that failed to respect the wishes and aspirations of the people of the American colonies. While this struggle is history to our generation, the striving for freedoms in which we have such pride continues today. Thus, we mark Captive Nations Week from July 18 through 24.

It would be far too easy to ignore the plight of the Captive Nations of Europe as engrossed as we are with our own interests and problems in our Bicentennial Year. To do so, however, would be to fail in our responsibility as the foremost representative democracy in the world today. We have observed Captive Nations Week for 18 years and must continue to remind the world that tyranny still stifles the lives of millions.

The people of Hungary, Czechoslovakia and, most recently, Poland have shown through their actions that they remain intent in wanting roles in shaping the world in which they live. Individually, and in groups, the people of Albania, Bulgaria, Estonia, Latvia, Lithuania, and Romania all have demonstrated that they want to exercise control over their own destinies, free from the imposition of dogmatic and arbitrary restraints forced upon them. We all have heard time and time again about the notorious repressions and their courage in speaking out against them at great personal risk.

The Helsinki Agreement is now 1 year-old and there has been no evidence of tangible improvements in the lives of the people of Eastern Europe. It is not hard to understand why many there wonder whether we have not forgotten them or, worse yet, sold them out in deference to some vague concept of promoting harmony throughout the world.

While we cannot advocate an end to the search for a system of mutually beneficial agreements with the Soviet Union, we must be careful and prudent. Our constant vigilence is necessary so we do not lose sight of the condition of life in Eastern Europe as we work for lasting peace.

Finally, we live now in a global community facing problems of global proportions. To allow the millions who call Eastern Europe their home to be smothered in repressive societies is a betrayal to humanity and our own ideals that we can ill afford.

Many geniuses no doubt are being crushed behind what essentially remains an Iron Curtain. Individual freedom and initiative are being smothered. Irrational fear of authority and the police still dominates the lives of these people.

Until such oppression and abuse are eliminated, the least we can do is to remind the world that it exists and that we never will recognize it as the acceptable state in which millions live.

WILLIAM RYAN, NEW PRESIDENT OF THE NATIONAL ASSOCIATION OF BLUE SHIELD PLANS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. CRANE. Mr. Speaker, in recent years a considerable amount of attention has been focused on the many complexities of the health care field. As Congress continues to deliberate on our health care problem, I would urge that before a major health public policy is formulated, that we evaluate all the possible alternatives and costs in the light of today's environment and that of the future. We have witnessed, in the private sector, a rapid growth of the role of private health insurance coverage. Before the National Health Insurance debate reached national prominence, private sector carriers had been and continue to be dedicated in identifying and improving areas of health coverage, and they continue to work in seeking appropriate solutions to this problem. Currently, over 90 percent of the American population, under the age of 65, is covered by some form of health care coverage. It is appropriate at this time, as Mr. William Ryan assumes his new duties as the president of the National Association of Blue Shield Plans, to compliment him and the association for their salutary dedication to the health care system and their contribution to our voluntary, free enterprise system.

Mr. Ryan, a native Chicagoan, has 29 years of experience in the health care prepayment field. Blue Shield and its new president have committed themselves in providing a better relationship and understanding between the subscriber and the provider of health care services.

I would like to include Mr. Ryan's remarks before the annual business meeting of Blue Shield plans wherein he details the commitments and challenges that lie ahead.

The article follows:

1976 Annual Business Meeting of Blue Shield Plans Report to the Conference

(By William E. Ryan)

This is my first opportunity to speak to you as the president of your Association. While I know many of you well and have shared with you a variety of trials and tribulations and triumphs, you have a right to ask me at this point how I view this position and this Association; how I view your role and mine; and what I see in the future.

I've always said any candidate for president of any important organization demands some egotism. I don't consider myself an egotist, but when what you're trying to accomplish is right . . . when the people you work with are knowledgeable and dedicated . . . then the confidence you exhibit comes very close to egotism.

While I have been in Blue Cross and Blue Shield for 30 years, I am not a technician and will not pretend to be one. My role is to take a broad look at our needs and make certain that we have that outstanding group of intelligent, experienced, technical people to help define and meet the needs of our system.

I see my role as that of a motivator, arbiter, politician on occasion, catalyst and, in a collective way, the conscience of Blue Shield. It is my job to make sure that as people we have integrity; that there is integrity in the words "Blue Shield"; that we are what we say we are; and that we deliver when we say we will deliver.

On many occasions I will have to be the national voice for Blue Shield. And in that role I will have to bring the enthusiasm and the conviction which will convince listeners that Blue Shield is indeed a unique organization that is making important contributions today, and an organization which the health care system cannot do without in the future.

If I am to make certain of my integrity and yours, I am going to need your help . . . all of you . . . the chief executive, the board chairman, the senior corporate officer, the EDP expert, and the thousands of office personnel who make up the Blue Shield family. For without your dedication to your job, your commitment to make your Plan one of the best, your success in meeting performance standards we set collectively, my voice can be only a hollow promise.

I did not take this office as NABSP president two-and-a-half months ago to be a weak, vacillating voice in what has become an especially stormy environment. But only you in the Plans do the things that give me credibility when I speak before national forums.

If I am to "tell it like it is" to our various publics, I only feel it will be fair to apply that same standard inside our Blue Shield family. I will have to be critical if criticism is indicated. I will have to throw tough decisions before you to settle as a family, knowing there will not be total agreement but that there will be loyalty to the decision once it is made.

I may even have to challenge you more than you may like, because from my perspective as I travel around the country that is what I believe we must do. I know all of you won't always agree with me and, with our federation makeup, that is to be expected. My goal will be to move us ahead, as we have done during a sometimes turbulent past . . . to come together, to close ranks, and pull together when we are challenged. It is for this reason that—up front—I've taken this opportunity to discuss what I perceive as my leadership responsibility to you.

BLUE SHIELD TODAY

Now, let me share my views on where Blue Shield is today; the environment in which we find ourselves; our relationships with key groups; and how I believe we must move to strengthen Blue Shield's role in the future.

Today, we are a major industry in this country. With 73 million private market subscribers and 13 million persons served under government programs, we impact on the health care financing needs of 35 percent of our citizens. We began as "an idea whose time had come," and in one generation we became the industry's leader. We worked and built in an aura of public confidence and public acceptance.

Those were the 1940's, 50's and 60's.

Although we still are the industry's focal point, the environment of the mid-1970's is unlike the past when we were accepted and venerated simply because we were Blue Shield. Those days are gone. That public aura of acceptance has been replaced by a skeptical society which questions and interrogates as no other before it.

The news media, just back from writing the rise and fall of an American presidency, have been given a booster shot in the investigative arm. There are no sacred cows or sacrosanct institutions. The media want to know everything, from the intimacies of the presidential bedrooms to the policies of the corporate boardrooms. As a result, the news media are exposing each day what they perceive as weaknesses in public and corporate officials—including our own.

Government, particularly the federal government, is playing an increasing role in our lives. The turn of the century may have been the age of finance and from 1912 to 1969 could be catalogued as the ages of production and marketing. Now, we are in that critical stage where the future of our economic life is at a cross road. Are we to remain basically a voluntary, free enterprise system, or are we going to have government intrusion in our economic institutions to the ultimate point where we find ourselves becoming a welfare state?

We in Blue Shield will be an integral part of that decision. We face the threat of certain legislative proposals which could mire the nation in a quicksand of high demand, costly, tax-financed health care services. And that could trigger economic consequences that could deliver a dangerous blow to an already precarious economy.

Couple these attitudes and forces with a plain, simple abhorrence of bigness—Big Business, Big Labor, Big Government, Big Anything—and we can easily understand the kind of environment in which we are operating.

The new environment means we had better quickly discern between our assets—and there are many—and our liabilities, refine our strengths, and employ them as tools to eliminate our weaknesses. It means capitalizing on our strengths, among them our experience, our personnel, and administrative expertise, and those ingredients which have made us unique and which we believe can be helpful to our subscribers in the future. It means re-evaluating our unique principle of service benefits in a critical environment where cost concerns are a primary issue.

RELATIONSHIP WITH MEDICINE

One of Blue Shield's key features is our relationship with physicians which is now being questioned? To those who find fault with this, I ask: What is our purpose? What makes us unique?

If our purpose is to provide the best health care financing system in the world, and if one of our unique and desired features is predictability of cost, we must have physician support, involvement, and participation. An effective working relationship between medicine and Blue Shield has been one of our hallmarks, and I intend to see that it is continued for the benefit of our subscribers.

Most of our executives at Blue Shield are not physicians. But after 30 years in this field where I have worked closely with physicians and have come to know many of them well, I'm not sure I have the guts or the patience and understanding to do what they do. They provide for their patients continually improved care, and yet are prey to a great deal of criticism, the threat of professional liability suits, and gradual encroachment in the way in which they conduct their professional lives. Yet without their commitment effective prepayment is unrealistic.

Over the years, we at Blue Shield have asked a lot of medicine, and we, too, have invaded some of its prerogatives. Our relationship has had changes during the past and I'm sure there will have to be changes in the future.

But we have not turned our backs on each other because there is something inherently right in the philosophy that has brought us together. The essence of that philosophy must be maintained—not for the physicians—nor for Blue Shield—but for the public we serve.

GOVERNMENT

There is little question that the future of our industry is being molded every day in Washington. There are those who would supplant our existing system with an unproven, unwieldy, expensive and inefficient government financed and administered program. We are living in a time when we cannot afford to roll over and play dead.

Public officials not only in Washington but in the statehouses and insurance departments of state governments must understand our business, our operations and most importantly our financial condition. They must be educated. They need to know the importance of adequate reserves, which provide venture capital so we can develop new programs to serve people better. They need to understand that we—just as every family or business—must have financial security against the vicissitudes of the economy.

They also need to know—and will increasingly demand to know—the success of our efforts to impact on health care costs. We cannot afford paper-tiger cost containment programs. We must continue to help control health care costs because this is an essential element of what we offer our subscribers. This effort demands equal awareness by the public, the profession, and Plans.

An article in the May 10 issue of U.S. News and World Report begins by stating that "the cost of health care in the U.S. is rising at an astronomical rate and there is no relief in sight." The article cites inflation as a major part of the problem of rising costs. I often have thought it ironic that those people in Washington who cry loudest about rising health care costs and see nationalized health insurance as a panacea to rising costs often are the very ones who contribute most to deficit federal spending—one of the greatest causes of inflation.

We must drive home the point that a bureaucratic approach to delivering and financing health care simply won't work. The science of medicine is continually changing, and this means health care delivery and financing must reflect these changes in order for people to receive the benefits of scientific progress. Where there is change, one must identify the problem, investigate and develop solutions, make decisions, and then take action. Unfortunately, the bureaucratic process won't allow this to happen with any reasonable speed to be meaningful. Our system, also, must guard against some of these bureaucratic pitfalls.

NEWS MEDIA

If we are going to communicate, we can't afford to continue to leave the news media to our critics. My clipping service tells me we are. Very little of what is being said about us by the news media today is positive. It's our fault. We're not giving them the positive. We're not telling them the story of our contributions to this country and its people.

In our corporate planning, we have developed a positive news media contact program to help reverse this trend. During the past two months, I already have met with the editorial boards of Time, Newsweek, Medical World News, Medical Economics, and I have met with a correspondent for Business Week. We have scheduled similar meetings with other publications in the near future.

This is one important way in which the public can learn of our contributions and capabilities, and how—with 40 years of experience—we view some of the legislative proposals being put forth today.

BLUE CROSS

The unusual environment in which we are working today is demanding that we—both Blue Shield and Blue Cross—become a more efficient and more effective system. It means we must continue to strengthen the federation of Plans by creating a more uniform system.

We can't afford to be without sophisticated computer systems which can link our Plans. We can't afford to ignore further product expansion. And we can't afford not to address the subject of regionalization if this is the most effective and efficient way to handle a particular problem, especially in the administration of government programs.

This calls for close cooperation and coordination between the National Association of Blue Shield Plans and the Blue Cross Association. I am pleased to report that in the past several years, we have made significant strides toward eliminating duplication, waste, and competition. Working with Walter McNerney and with the two associations' executive committees, we will continue to coordinate our efforts for maximum impact.

CONCLUSION

The unusual environment in which we are working demands more than ever before dynamic, aggressive, no-nonsense leadership from the Association and within our Plans. In a recent magazine article, T. F. Bradshaw, president of Atlantic Richfield, stated: "American business is in a new game these days and the successful executive is the one who recognizes this fact and responds to it. . . . He must do more than think about issues; he must talk about them in public and he must act to change them when he believes they need changing."

We as chief executives no longer can afford the luxury of confining ourselves to the executive suite. Today's environment is different and it dictates that we lead the public discussion of health care and the role the government will play in the future. We must reflect organizations willing to change, willing to improve on behalf of the people they serve. Blue Shield nationally or locally cannot behave like pet rocks, unable to move, unable to grow, unable to change, unable to communicate. Today's environment doesn't provide a niche for pet rocks or mediocrity, both of which will be left behind when the fate of our industry finally is decided.

THE FUTURE

In looking to the future, I look at our future—the young people who are beginning to make their careers with us. Our generation was provided a vibrant progressive organization with great potential for future growth.

The new generation is provided with a mature organization which is beginning to manifest some grown-up problems. More is expected of us because we have been around awhile. Our way of doing business has become more complex because our benefits are broader and we must work with not only physicians and hospitals but a growing list of ancillary health personnel and services. We face a more discerning market whose primary concern is rising health care costs. And because our claims load is greater, we must wrestle with the complexities and the virtually unlimited promise and bugs of EDP technology. Finally, at times the younger generation is confronted—yes, confronted—by some executives who place too much emphasis on maintaining the status quo.

If we have had success and grown, it has been because we have not been satisfied with our past accomplishments. We have continually sought to use our experience to investigate new and better ways of meeting public needs.

We can't maintain our track record if we can't be flexible, innovative, and willing to experiment. It is going to put greater stress on all of us, but we will be stronger for it and we will continue to build a future which our young people can put their faith and careers in.

As a national association, I believe we must also continually re-examine our way of doing things and make adjustments when they become necessary. We don't pay claims. We aren't under the production pressures you face. We are under pressure, however, to make certain that you get the kind of technical assistance and leadership that you deserve. But we really don't mind that pressure. Because by serving you better, we can move ahead to have a stronger more unified, more effective system. And that helps me to articulate forcefully and with integrity, just what Blue Shield means to the nation.

THOMAS EMERSON

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Ms. ABZUG. Mr. Speaker, this month's Juris Doctor includes an article written upon the retirement of Prof. Thomas Emerson, a dear friend of mine and one of the great guardians of the Constitution in general and the first amendment and privacy in particular.

Tom argued on the winning side of Griswold against Connecticut, the first Supreme Court case to recognize the existence of a constitutional right of privacy. This victory led inexorably to the decision in Roe against Wade that abortion is a woman's right.

Professor Emerson was also a coauthor of the definitive article on the equal rights amendment, which appeared in the Yale Law Journal several years ago. His books include "Political and Civil Rights in the United States," "The System of Freedom of Expression," and "Toward a General Theory of the First Amendment."

Few men in our history have wrought such great changes in constitutional law as has Thomas Emerson. I am proud to salute him.

The article follows:

[From Juris Doctor, July–August 1976]

A CIVIL LIBERTIES ADDICT

This was a sad spring for all who value civil liberties. It marked the retirement of Thomas Emerson, a constitutional law professor at Yale Law School for 30 years and one of the most influential civil libertarians in the country.

I first heard of Tom Emerson in 1952, the year that David Haber and he published the first edition of *Political and Civil Rights in the United States*. It was not an auspicious year for the subject matter of the book. It was a time when Emerson, in the interest of full disclosure, would describe his background in the New Deal, the Progressive Party, and the National Lawyers Guild to his students and state that he "probably could not gain government security clearance today."

There is no need to recount in detail the extraordinary scholarly contribution that Emerson has made. In the words of Dean Louis Pollak of the University of Pennsylvania Law School—his former student and colleague—*Political and Civil Rights and The System of Freedom of Expression* "are more than merely authoritative: they are works which reordered the line of inquiry for those who have come after." There cannot be higher praise for a scholar. *The System* is a deceptive book because it is so straightforward and unspectacular in style. There are few metaphorical flourishes and the analysis proceeds in an orderly, almost inevitable way. But when one reads it for the help it can provide in tackling an elusive problem, one discovers unsuspected depths. It is a commonplace that free expression is a difficult area to teach. It is even more difficult to write about. Emerson has done so with a richness that places *The System* beside Zechariah Chafee's work *Free Speech in the United States* as a twin tower of First Amendment scholarship.

I have had opportunity to observe Emerson at close range. I am still in awe of his incredible diligence, his painstaking and systematic research, and his willingness to examine all sides of a question dispassionately without compromising his personal values. As the junior author of the third edition of *Political and Civil Rights* (1967)*, I often marveled that it was he who took on the largest load, who was always prepared to do a little extra, and who, again and again, met impossible deadlines calmly and efficiently.

I can think of no law teacher whose life and work more plainly reflect moral and ethical ideals. Perhaps the most dramatic evidence was his refusal to withdraw from a leadership position in the National Lawyers Guild after that organization was attacked during the McCarthy period as a Communist front.

Emerson also has courageously confronted the systematic abuse of governmental power, particularly through improper investigative techniques. In 1949, he and David Helfeld published a long and biting article criticizing the Federal Loyalty Program and the FBI. J. Edgar Hoover responded by stating that the article contained "inaccuracies, distortions, and misstatements" concerning the FBI, and that its opinions were "most frequently expressed on the pages of *The Daily Worker*." The late 1940s were not years in which one lightly took on J. Edgar Hoover. A generation later, history was repeated. Emerson prepared two of the major papers at the 1971 Princeton conference on the FBI, discussing among other things constitutional abuses that the bureau had perpetuated. Director Hoover declined an invitation to attend, stating that some of the pre-conference statements of the participants were "obviously partisan" and that the "FBI is a lawfully composed and operated public agency." We now know that the Princeton conference aired merely a fraction of the lawlessness engaged in by the FBI and its late director. Emerson, with courage as well as prescience, anticipated the truth by decades.

It would be like plucking stars to discuss all the constitutional and public issues that Emerson's craft has influenced. He can take much credit both as scholar and lawyer for the development of a right to privacy, grounded in the Bill of Rights. Dean Pollak has described how the first edition of *Political and Civil Rights*, published in 1952, anticipated the Supreme Court's 1965 decision in *Griswold v. Connecticut* (which invalidated restrictions on birth control), and how Emerson the lawyer, carefully sorting out the theoretical complexities and tactical alternatives, briefed and argued the case in the Supreme Court. More recently, Emerson has been a leader in providing the intellectual underpinnings for the still-pending Equal Rights Amendment. He was proud, though slightly embarrassed, to be the only man invited to sit on the dais at a Washington dinner celebrating congressional passage of the ERA.

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*The first volume of the fourth edition was published this year by Paul Bender of Pennsylvania Law School, Burt Neuborne of NYU Law School, and Professor Dorsen.

At the age of 69, Tom Emerson is still as addicted to concepts of fairness and equality as he was 45 years ago. He has never wavered; he has never permitted transitory events to affect his philosophy or his actions. Yet he has managed to retain a soft and conservative style. I have never heard Emerson say a personally unkind word about anyone, and I have never heard anyone who knows him disparage his qualities as a man. I have never seen him trim a position to suit the fashion, the company, or his career. He is no ordinary professor of law.

—NORMAN DORSEN.

TRIBUTE TO MR. LARRY COLLINS AND VDC

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. MINETA. Mr. Speaker, I am pleased to report to you today on the outstanding contribution of one of my constituents, Mr. Larry Collins, who, as a representative of the Volunteer Development Corps, has helped the people of Thailand improve their economy and welfare by establishing an insurance cooperative there.

The Volunteer Development Corps—VDC—is a private, nonprofit organization which provides short-term, volunteer, technical assistance to cooperatives in developing countries at their request. It is funded mostly by the U.S. Agency for International Development, and it draws half its resources from U.S. cooperatives. Six national cooperatives sponsor VDC. They are: The Agricultural Cooperative Development International; American Institute of Cooperation; Credit Union National Association; Foundation for Cooperative Housing; National Council of Farmer Cooperatives; and National Rural Electric Cooperative Association. Through the VDC, 150 years of U.S. cooperative experience is on tap.

Cooperatives in developing countries have asked VDC for assistance in areas for organizing financing for poultry processing, improving milk processing, and repairing fishing craft, to managing multiple unit housing more efficiently, assembly line production of prefab housing, erecting buildings, and establishing data gathering systems. To date, VDC has completed or is at work on 83 projects in 32 countries in Latin America, Africa, Asia, and the West Indies.

Last October, the Cooperative League of Thailand asked VDC for help in establishing an insurance cooperative. VDC in turn sought the services of Mr. Larry Collins of Los Altos, Calif. Mr. Collins is a University of California graduate in economics, 1937, and later managed co-ops there. He helped Japanese Americans in war relocation centers organize post exchange facilities as consumer co-ops, and served as Red Cross field officer with the 442d Combat Team in Europe during World War II. He later helped organize farm supply co-ops in Berkeley, Calif., and from 1949–58 was manager of Co-op Insurance Service in Berkeley. From 1958–74 Mr. Collins was west coast regional manager for Mutual Service Insurance Companies of St. Paul, Minn. After being contacted by VDC, Mr. Collins came out of retirement to accept the assignment in Thailand. On February 5 of this year he and his wife left the United States to begin the job.

After a comprehensive and thorough study, Mr. Collins recommended that the Cooperative League of Thailand charter an insurance cooperative that would be owned by all types of cooperatives. These would include the 620 agricultural credit cooperatives with 332,000 members and $23.7 million in working capital, the 142 thrift and credit cooperatives with 267,000 members and $46 million in working capital, and 99 consumer cooperatives with 132,000 members and $3.3 million in working capital. These co-ops would provide the insurance co-op's basic financing. In his 48 page report, Mr. Collins also recommended training for the insurance co-op's top management and other key personnel, and suggested a timetable for phasing the co-op into operation. During his time there, he met extensively with co-op leaders and Government officials to explain his proposed plan.

Mr. Collins and his wife returned to Washington on June 22, and reported back to VDC, to two of VDC's sponsoring organizations, to AID officials, and to his representatives on Capitol Hill.

Because of his special contribution to the people of Thailand who are so in need of trained, technical expertise; and because he came out of retirement after a long and fruitful career in business to donate his time to this cause; and because of the fine work that VDC is doing to promote economic development in the developing countries, I submit this tribute to Mr. Larry Collins and VDC for the record.

MAINLAND CHINA, TAIWAN, AND US

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. McDONALD. Mr. Speaker, while the recent withdrawal of a few American military advisers on Quemoy and Matsu is insignificant in military terms, its symbolism is enormous. All of non-Communist Asia has watched with a mixture of horror and fascination the American retreat after our abandonment of Southeast Asia. Insofar as anyone can tell, our rush to embrace Communist China has brought us no rewards, but the pellmell rush continues with a momentum of its own. The Washington Star of July 6, 1976, had an editorial which points out some reasons for rethinking this approach. I commend it to the attention of my colleagues:

[From the Washington Star, July 6, 1976]

MAINLAND CHINA, TAIWAN AND US

The withdrawal of the few Americans still in Quemoy and Matsu on official business amounts to very little in people or tangible instruments of force. But it matters because it hints at a more important disengagement: from Taiwan.

For bargaining purposes at least, the People's Republic of China has made it a condition of "normalizing" relations with the United States that we not only pull out our last military and technical aid establishments from Taiwan but that we also repudiate our long-term support of Taiwan's independence. What we are called upon to do—and what, to a startling degree, we have already done in statements by Secretary Kissinger and Presidents Nixon and Ford—is to admit that Taiwan is a province of the People's Republic and that it's none of our business what may happen to it once Peking gets ready to "normalize" its way across the Formosa Strait.

Chinese irredentism about Taiwan is understandable and likely to be at least as tenacious as Taiwan's long insistence on the prospect of retaking the mainland in the name of the Republic of China. The messianic dynamism of any communist regime comes on the stronger in this case because Taiwan presents such a challenging example of non-communist success.

Taiwan's burgeoning economy has been described as "Japan 10 years ago." It took off under the refugee government and is still on an up-curve, competing in world markets and giving its people the second highest living standard in East Asia.

Politically, Taiwan's leadership still projects something of a siege mentality, and social controls are a good deal tighter than ours, although it goes without saying that it's Liberty Hall compared with the People's Republic. Furthermore, there have been honest efforts to correct power imbalances within Taiwan by bringing the indigenous population into the government.

It was not only the dominance of a refugee elite that kept them out of it after the Chiang Kai-shek government fled the mainland in 1948. Partly, their comparative lack of representation has reflected the subordinate position they occupied under the Japanese who had controlled Taiwan since 1895. Short on education and government experience, the native people were considerably less qualified for leadership roles than the newcomers.

It is to be expected that the People's Republic would be eager to reap the benefits of Taiwan's economic successes and even more eager to get rid of such dramatic evidence that a politically freer society can hold together. The hope of humbling the United States a little before opening up full diplomatic and trade relations is on yet another plane of enticement for a nation that, for all its breaks with the past, has not forgotten how the West used to humiliate old China.

Still, there is a good chance that—for the moment, anyway—the PRC will remain a paper dragon, more adept at ceremonial displays of fire-breathing than devouring small neighbors. The possibility of a new power struggle when Mao goes has necessarily more immediacy for the present leadership in

Peking than foreign invasions. So does the reality of border tensions where China abuts the Soviet Union.

All of which adds up to a call for creative nonaction from the United States. Taiwan deserves our continuing loyalty, but if we prefer to calculate foreign policy in terms of realpolitik rather than morals, there is an equally strong case for standing firm. What, exactly, is to be gained for our side by conceding to the PRC?

"Because it's there" is supposed to sum up a lot of persuasive thinking about the need for a rapprochement with the PRC. "You can't ignore 800 million people," it's said.

Well, Taiwan is there, too—a going concern, a historic friend. You can't ignore 16 million people either.

CITIZENS AND RELIGIOUS LEADERS IN MICHIGAN ORGANIZE BEHIND THE HAWKINS-HUMPHREY FULL EMPLOYMENT BILL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. CONYERS. Mr. Speaker, a group of citizens in Metropolitan Detroit have launched one of the most impressive projects of social and political action that I have had the privilege of being associated with. They are organizing both employed and unemployed people around the issue of full employment and economic justice, and are working closely with Detroit's religious community.

Spearheaded by the Detroit Industrial Mission, which sponsored in May an interfaith conference on full employment, the Michigan Interfaith Full Employment Committee has already enlisted several hundred members, disseminated information about the Hawkins-Humphrey full employment bill, conducted workshops on economic issues, and is now in the process of meeting with local, State, and Federal officials to develop ways to deal with the unemployment crisis. It should be no surprise that such an organization has formed in Metropolitan Detroit which last year had an official average unemployment rate of 17.4 percent, among teenagers an unemployment rate of 50 percent, and which today, despite the heralded economic recovery in the Nation, suffers an official jobless rate of 14 percent.

Recognizing that chronic unemployment contributes to every major problem in society—the financial insolvency of our cities and the disintegration of communities; the divisions along class and ethnic lines that arise as a result of widespread economic insecurity; the intolerable demoralization of the young; the terrible increase in crime and drug use—the Michigan Interfaith Full Employment Committee is determined to sharpen moral awareness of the need for a full employment economy. Working with religious leaders in Metropolitan Detroit, one of the fruits of their effort has been a moving statement of support for full employment legislation, which I wish to bring to the attention of my colleagues:

A STATEMENT FROM RELIGIOUS LEADERS IN MICHIGAN ON FULL EMPLOYMENT

We, the elected and appointed heads of religious bodies in Metropolitan Detroit and Michigan, join with those of the National Council of Churches, the United States Conference of Catholic Bishops, and the National Jewish Community Religious Agencies in addressing a widespread evil in our midst, the evil of unemployment.

Today thousands of people in Michigan cry for deliverance from the debilitating, destructive condition of joblessness. As the U.S. Catholic Bishops said, "The current levels of unemployment are unacceptable and their tremendous human costs are intolerable."

All kinds of work needs to be done—essential health services are shortened, fire, police and many other services are understaffed. The environment needs attention; homes and stores are deteriorating. Thousands need work; there is work to be done, but we haven't found the public intelligence to put them together.

We find it difficult to believe that the industrial, labor, academic and political leadership of Michigan cannot or will not find ways to solve this problem. We are familiar with argument for inaction. There are those who argue that we inevitably will have either inflation or unemployment, and because inflation affects more people, therefore, unemployment is preferable. The thesis appears false because currently we have both unemployment and inflation. If we can have both, we can also have neither.

Others argue that it is in the self-interest of business to have large numbers of unemployed people to keep labor costs down and to keep working class people under control. If that is true, we condemn such self-interest. If it is not true, then now is the time to give the lie to this argument. Otherwise, Americans must face strong evidence that our economic system is socially and morally a failure.

If unemployment is not forthrightly addressed and full employment remains a hollow promise, the prospects for our society are grim. Already unemployment is threatening the progress made in race relations as the numerous conflicts of seniority with affirmative action indicate. It threatens other aspects of our lives. Family life deteriorates; increasing numbers of people feel worthless, insignificant and desperate. Crime increases; respect for one another's person and property loosens; law is mocked, leaders ridiculed. Those who have jobs are fearful of losing them. The potential is social chaos and the demise of democracy as we know it.

We therefore address a call to the economic and political leadership of Detroit and Michigan. We know that much must be done nationally. We know there is movement at the federal level; for example—the current Humphrey-Hawkins Bill for full employment. But we feel there is also too much waiting for Washington to act. Our region has the resources, the brains, the structure through which to act. We have, above all, the need.

We call on the Governor and the Michigan Legislature to establish a commission with power to act to share the jobs we have, to create jobs by setting people to work on the needs of the state, to demand of the federal government that rightful portion of revenue which is ours in order better to finance needed action, to devise ways that the affluence of Michigan can be used to meet the needs of Michigan, galvanizing our people into sharing.

We address a call to the people of Detroit and Michigan, and to ourselves. We speak particularly to the thousands of us in churches and synagogues. It is a call to consciousness of our condition. It is a call to care, to look up from our secure jobs, from our preoccupations with private life and private consumption, to feel what is happening, to learn the facts, to share and to act. We call for action to inform ourselves, such as the Interfaith Conference on Full Employment to be held in May. We call for pastors and rabbis and congregational leaders to engage their people in analyzing our situation and carrying out whatever is possible to change it at the local level. We call for pressure on our unions, businesses, and the levels of government to take the needed actions to put Michigan to work and heal the poverty and hopelessness that stands in such contrast to the luxurious new shopping structures that dot our region.

It is time for prayer, for knowledge, and for deeds. It is a time for us to place the health of our total community above both public apathy and individual aggrandizement and comfort. We believe it is possible once we summon up the will.

SIGNED

The Rev. Dr. Howard Christensen, President, Michigan Synod, Lutheran Church in America.

The Rev. William H. Daniels, Minister, Detroit Metropolitan Association, United Church of Christ.

His Eminence John Cardinal Dearden, Archbishop, Roman Catholic Archdiocese of Detroit.

The Most Rev. Joseph L. Imesch, Auxiliary Bishop, Archdiocese of Detroit.

Mr. Lewis S. Grossman, President, Jewish Community Council of Metropolitan Detroit.

The Most Rev. Thomas J. Gumbleton, Auxiliary Bishop, Archdiocese of Detroit.

The Most Rev. Arthur H. Krawczak, Auxiliary Bishop, Archdiocese of Detroit.

The Rev. Donald Lester, Executive Presbyter, The Presbytery of Detroit.

Bishop Dwight E. Loder, Bishop, Michigan Area—United Methodist Church.

The Rt. Rev. H. Coleman McGehee, Bishop, Episcopal Diocese of Michigan.

The Most Rev. Walter J. Schoenherr, Auxiliary Bishop, Archdiocese of Detroit.

The Rev. John Sundquist, Director, American Baptist Churches of Southeastern Michigan.

The Rev. Duane Vore, Executive Director Elect, Michigan Council of Churches.

The Rev. Eric White, Director, Michigan Association of Christian Churches.

The Rev. Robert L. Wietelmann, President, Michigan District, The American Lutheran Church.

The Rev. Edward B. Willingham, Jr., Executive Director, Christian Communication Council of Metropolitan Detroit Churches.

PANAMA CANAL: GROWING OPPOSITION TO SURRENDER

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. MURPHY of New York. Mr. Speaker, in earlier remarks in the CONGRESSIONAL RECORD, I have stressed the massive volume of misinformation now being disseminated, not only by the Department of State, but by other ill-informed groups, in a propaganda blitz designed to gather support for this administration's negotiations toward a new Panama Canal Treaty which would relinquish U.S. possession and control of that vitally important waterway.

The negotiations have been pursued following the wholly unauthorized 1974

Kissinger-Tack "agreement of principles," begun during the previous administration's search for issues which might distract public attention from domestic problems.

Not only was that agreement an unauthorized one, but it also directly contradicted the prevailing opinion of the Congress and the people of the United States. There is a steadily growing opposition nationwide to the continued attempts of the State Department to negotiate away the interests of the United States in the Panama Canal. In my earlier remarks, I quoted a special feature article by the Americanism Educational League quoting statements by recognized leaders of this country who know the Isthmian question and understand the broad significance it has for national defense and hemispheric security, as well as the interoceanic commerce of all nations. The Americanism Educational League has issued a timely sequel of additional statements by more well-known experts and well-informed citizens and commentators; I quote that statement as part of my remarks:

More—From People Who Know—About Panama

(Editor's Note.—Many informed Americans are speaking out on the issue of our Panama Canal and Canal Zone, whose cession to the Republic of Panama is being currently negotiated by the U.S. State Department. Here we present a cross-section of well-documented views, as a sequel to "From People . . . . Who Know . . . . About Panama".)

Running Panama at the moment is a talkative left-wing despot who staged a coup in 1968 and has suspended democratic elections. He studied his economics from Allende, and openly praises Castro. He has talked publicly about the need for a guerrilla war of liberation if the U.S. does not give in to his demands.—William F. Buckley, Jr., Author and commentator

Our operation of the Panama Canal and our exercise of sovereignty in the Canal Zone has been a source of stability in the Western Hemisphere and a boon to world commerce. Our presence there has been completely honorable and we have nothing to be ashamed of or to apologize for.—Senator James B. Allen, Democrat, Alabama

Spokesmen for the State Department are misrepresenting the facts, as when they make the statement that the United States Canal Zone belongs to the Republic of Panama and has been temporarily under the jurisdiction of the United States since 1903.—Donald M. Dozer, Professor, Latin American History, University of California, Santa Barbara

Panama has difficulty picking up its own garbage; they do just a passable job. And they cannot run the electric power company efficiently . . . . power failures are common. Recently the Riba-Smith supermarket had to dump all its ice cream and meats due to a 5-hour shutdown of the government electric plant. No way could the Panamanians operate the Canal!—A 43 year resident of the Isthmus, who for some reason says he's "afraid of a firing squad."

It has become increasingly evident that General Omar Torrijos has been cozying up to Fidel Castro as part of his effort to push the United States into giving up sovereignty over the Canal and Canal Zone. When Torrijos talks about riots and demonstrations if Panama doesn't gain sovereignty, it sounds like a self-fulfilling prophecy.—Congressman Steve Symms, Republican, Idaho

Any cessation by the U.S. of a dominant military position in any isthmian canal would certainly lead to grave political and diplomatic problems elsewhere in Latin America; it would be taken as a precedent of weakness.—Hanson W. Baldwin, Former Military Editor, the New York Times

The gloomy picture of a Panamanian tinderbox ready to ignite into a Vietnam of Central America is heavily discounted by the U.S. intelligence community. Col. R. D. Heinl, Jr., USMC (Ret.), News Military analyst

The Panama Canal is vital to our national security and the defense of the hemisphere. It has served as a major link in our chain of defenses in two world wars, the Korean war, the Cuban crisis and the Vietnam conflict, because it provides the shortest and easiest route for flexible deployment of military forces and material. It is also important to our country's economic well being.—Senator James L. Buckley, Conservative-Republican, New York.

The Panama Canal Co. rolled up a deficit of approximately $10 million this past fiscal year despite a 20% tolls increase. This seems hard to believe . . . has the Executive Branch told the Panama Canal Co. to show a big deficit, to be used to 'educate the American public' to the necessity for the U.S. to divest itself of the Panama Canal? . . . Over $12 million in accounting practice changes were made in the last two fiscal years, all on the loss side of the ledger—Mason L. Flint, President, Gatun (Canal Zone) Civic Council.

Panama has always been as vulnerable to new political revolution stirrings in Latin America as Cuba is to the Trade Winds. Indeed, it has long been identified by Latin American scholars as the Land of Endemic Revolution, endless intrigue and governmental instability. There have been 59 changes in government in Panama in 70 years.—Congressman Matthew J. Rinaldo, Republican, New Jersey

Torrijo's stubborn insistence that the U.S. withdraw its military forces from the Zone is a give-away of Torrijos-Castro plans for the future. With the exit of the U.S., the Canal will be administered and policed by a Cuba-Panama axis. The rumored presence of a group of Russian engineers in Panama, mapping guided missile sites, throws possible light upon Communist plans for the future.—Harold Lord Varney, President, Committee on Pan American Policy

Twenty-three years ago, when I was chief U.S. negotiator of what became the treaty of 1955, the question of giving up the canal was not even raised. Who knows what further demands will be made on us 23 years hence? Nobody from the Third World seems to be raising questions about the vast territories the Soviets have seized and hold by force, because they know Communists don't crede because they know Communists don't cede Former Assistant Secretary of State/Ambassador to Colombia

I can remember years ago when the standard of living in Panama was so low that many people starved. Thanks to the Americans, we have plenty now. The world should know that when we have a fire or flood the Americans are the first to rush to our aid. Our crippled have been taken care of and treated for their ailments in the fine hospitals in the United States.—Diego Gonzales, Republic of Panama

You and I know that the U.S. is not the "bad guy" down there. The Panamanian people we all know and respect are not the ones who threaten the U.S. with hints of violence and sabotage if we don't give up the Canal. It is a small band of power-hungry men, spiritual brethren of Fidel Castro.—Arthur J. O'Leary, Former Deputy Comptroller, Panama Canal Company

THE IMPACT OF DIVESTITURE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. ARCHER. Mr. Speaker, some thought-provoking questions about divestiture have been raised in a recent study by Resource Planning Associates, Inc. I have asked Brian Johnson, an LBJ intern in my office, to summarize this study and I commend the following to my colleagues for their information:

The Impact of Divestiture

I. INTRODUCTION

"What would be the effect on the gasoline jobber, the fuel distributor, and the consumers they serve, if the largest oil companies were compelled to divest?" To answer this impending question, Resource Planning Associates, Inc. (RPA), of Cambridge, Massachusetts, an independent research organization, conducted a three month study which was completed on April 29, 1976. Their study provides a thoughtful and thorough look at the impact of divestiture if it is promulgated. Therefore, I would like to share some of their observations with you.

II. OIL—GAS—INDUSTRY—IMPACTS ON GASOLINE JOBBERS

The implications of RPA's study regarding gasoline jobbers becomes more obvious by identifying the impact of total divestiture in terms of the various segments of the industry. Or more specifically, how these changes would affect the price and supply of product to the jobbers. According to RPA, in the production segment, without divestiture, refiners would benefit from purchasing advantages (i.e., more liberal credit terms or greater crude oil transportation cost support by their producer) that are not available to nonintegrated refiners. However, because this advantage would be eliminated with divestiture, jobbers who now purchase gasoline from integrated refiners would most likely experience a price increase. As the influencing factors of price or supply of gasoline change, divestiture in the refinery segment would have a significant impact on competition within the distribution segment and, therefore, on jobbers. For example, the former major refiners' marketing operations, in relationship to other distribution-segment competitors, would probably suffer a competitive disadvantage because of a reduction in brand support. This disadvantage could even spill over to branded jobbers of former majors, but probably not to the same degree. Furthermore, as the rate of shutdowns and replacements of old or inefficient refineries increased, gasoline jobbers in those geographic areas most affected would suffer severe repercussions. As for the marketing segment, under divestiture, a cut in supplies to both branded and nonbranded jobbers served by some refiners would occur because of a rather accelerated rate of marketing withdrawals by former majors in certain regions. Especially through the divestiture of the production, refining, and marketing segments of the oil industry, one can readily see the unequivocally threatening and detrimental consequences of total divestiture on gasoline jobbers.

III. OIL—GAS—INDUSTRY—IMPACTS ON CONSUMERS

As with gasoline jobbers, the impact of total divestiture on consumers has been identified in terms of how changes in various segments of the industry would affect the price and supply of gasoline to the consumer.

RPA's study suggests that in the production segment, a number of changes could occur that would affect crude oil production costs. The study specifically notes that cost increases could occur because of increased inventory and decreased capacity utilization; increased sales, accounting and legal costs; and increased cost of debt from greater uncertainty about future sales volume and market price. Of even greater concern is the unfortunate possibility that our domestic supplies might gradually be reduced over the next 5–10 years. This would be a direct result from diverting oil-company capital to foreign areas in which integration is possible and attractive, and delaying investment in domestic exploration and production to focus on divestiture. Inevitably, this could result in an increased demand for OPEC oil, with an accompanying increase in price. Here, we must ask ourselves, "would divestiture affect the bargaining relations between the major U.S. oil companies and OPEC?" In the refining segment, divestiture would provide cost decreases from movement of some refined product out of branded channels, and a reduction in brand support activities. Overall, however, these positive effects would be outweighed by cost increases from somewhat lower refinery capacity utilization; additional sales, accounting, and legal costs; and increased cost of debt and equity capital. In the marketing segment, increases in price should occur from increased equity and debt costs in a segment that has traditionally experienced low profitability and would, under divestiture, be unsupported by other, more profitable company operations. This in turn could discourage new investment. RPA's study clearly illustrates the negative impact total divestiture would have on consumers.

IV. PETROLEUM—FUEL OIL—INDUSTRY—IMPACTS ON FUEL OIL DISTRIBUTORS

To discern precisely the conclusions of RPA's study regarding the impact of total divestiture on fuel oil distributors, we must examine individually—fuel oil retailers and wholesalers. The RPA study notes that the small percentage of retailers currently supplied by inefficient refineries might be forced to close earlier because of divestiture. With divestiture, wholesalers currently supplied by a major or semimajor refiner might have to pay higher prices. This, in turn, could force wholesalers to accept reduced margins or lose some sales because their customers are much more sensitive to price changes than retailers' customers. Additionally, wholesalers' supplies would be adversely affected by accelerated refiner withdrawals, particularly in regions far from refineries. More specifically, accelerated withdrawals would occur for two reasons; the necessity for divested refineries—wishing to increase their efficiency and return on investment (ROI)—to withdraw from unprofitable regions; and the forced withdrawal of divested refineries from certain fuel oil and gasoline markets simultaneously. Compared with the impact of divestiture on gasoline jobbers, the impact of divestiture on fuel oil distributors is smaller, but nevertheless, most significant.

V. PETROLEUM—FUEL OIL—INDUSTRY—IMPACTS ON CONSUMERS

An identification of the impact of total divestiture in terms of its effects on the price and supply of fuel oil to consumers facilitates one's understanding of RPA's study. According to the study, in the production segment of industry, costs should be high with divestiture. Furthermore, investment could be delayed while divestiture is carried out. Couple this with the exportation of some exploration and production capital, and domestic supplies would be reduced slightly during the 1980s. Prices should increase in the refining segment with the advent of increased inventory costs, higher capital costs, and more frequent changes in the refinery mix—further burdened by the addition of marginally profitable refiners raising prices to achieve an adequate ROI. Then too, reduced domestic investment could cause some regional shortages in the 1980s. As with crude transportation, the costs in the production **transportation segment** should rise because the cost of capital would rise, there would be less incentive for new owners to reduce costs, and some overhead costs would rise. Here again, some crude shortages might occur in the 1980s, resulting from reduced investment in this higher risk segment. According to RPA, "the impact of divestiture on the fuel oil consumer probably would be a small increase in the price of heating . . . and relatively small, short-lived shortages in some regions." Obviously, the impact of divestiture on fuel oil consumers is enough to see why divestiture is needless and unproductive.

VI. CONCLUSION

The negative effects of divestiture completely overwhelm the positive effects in my analysis of the Resources Planning Associates assessment of the impacts of oil industry divestiture on gasoline jobbers, fuel oil distributors and the customers they serve. And if we assume divestiture does not take place in the near future, then over the next 5–7 years, RPA foresees a number of important structural changes occurring in the gasoline industry as refining and marketing segments adjust to new market conditions. The results of the analysis by RPA show that behind these projected structural changes is a powerful drive to increase efficiency in gasoline distribution and retailing which will happen in the near future with crucial implications in these segments. For me, it is apparent—that as this nation faces an awesome energy crisis—that as the petroleum industry competitively struggles to provide us with the necessary energy resources—divestiture must be thrust aside, forgotten.

CAYMAN ISLANDS WAITING FOR HAVEN INVESTIGATION TO BLOW OVER

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. VANIK. Mr. Speaker, on June 25, 1976, I reported to you the editorial reaction of the Caymanian Compass to the decision in *United States* v. *Field,* 38 AFTR 2d 76–5081 (C.A. 5, May 13, 1976). In that decision, the U.S. Court of Appeals for the Fifth Circuit held that Mr. Anthony R. Field, the managing director of the Grand Cayman branch of the Castle Bank & Trust Co., could not refuse to testify before a Federal grand jury in Miami on the ground that to do so could send him to jail back home for violating Caymanian bank secrecy laws. The Miami grand jury is investigating the use of the Castle Bank & Trust Co. of Nassau, the Bahamas, by wealthy Americans for purposes of cheating our Treasury out of millions or perhaps billions of dollars in taxes.

Today I would like to call attention to an article in the July issue of the Cayman Islands Nor'wester magazine, which also addresses the Field decision and makes some other observations about our Internal Revenue Service and about bank secrecy laws such as those in the Cayman, the Bahamas, and Switzerland. Entitled, "Future Prospect Is Steady Expansion," the article concludes that "the go-go years" for Caymanian banking are over and "We are down to good, solid, conservative banking." It calls the IRS "the one dark cloud on the horizon" and says the Field case "may be merely a perturbation, or it may be the first step on the ladder of tax haven harassment." The author is not quite sure, simply because he and the Caymanian banking community are not quite sure of the intentions of the IRS. He adds:

> It is perhaps time to reconsider exactly where Cayman stands with respect to all this. At the present moment the financial community is trying hard to keep an extremely low profile, hoping that the whole thing will blow over without them being noticed, and most probably it will.
>
> If, on the other hand they are noticed and the I.R.S. decides to slug it out, some very drastic rethinking will be required, because nobody slugs it out with the I.R.S. and wins.
>
> The problem is that banking in the islands might suffer considerable damage in an indiscriminate I.R.S. rampage after the tax avoider and tax evader. In the tax haven business one has to bend to a certain extent with the wind, and it is best to have decided how much one intends to bend before the wind arrives.
>
> Discussing the validity of bank secrecy is rather like discussing toilet habits; it is not something one does in polite circles. It is one of the basic assumptions of the tax haven business. It may be desirable, but is it essential in a financial centre?
>
> If a man is frank and honest in his dealings, does he need the protection of total bank secrecy? It might be argued that bank secrecy is only essential to the suitcase-full-of-money men that haunt the banker's nightmares.

Mr. Speaker, bank secrecy laws are essential to the existence of tax havens, and tax havens are essential for many American tax cheaters, whether they make their money through legal or illegal means. The whole thing will not blow over as the author hopes. I wish to assure my colleagues that the Ways and Means Oversight Subcommittee will continue to exercise vigilance over the IRS investigation of the tax havens. We will not permit the investigation to be suspended or subverted to benefit powerful interests. Congress must demand diligent and undeterred action on the part of the IRS to ferret out U.S. tax cheaters.

PANAMANIAN BUSINESS LEADER EXILED BY TORRIJOS OPPOSES U.S. TREATY WITH THE RULING DICTATORSHIP

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. SNYDER. Mr. Speaker, the highly regarded weekly newsletter, Hemisphere Hotline, published by Virginia Prewett, carried an item entitled "Opposition to Torrijos/Oppression in Panama," in the July 2 issue.

Few Americans are as well informed on Latin American affairs as Virginia Prewett, who has specialized in that area for 25 years as a foreign correspondent, columnist and commentator.

She quotes Guillermo Ford, the former president of the Panama Chamber of Commerce, now exiled by dictator Omar Torrijos, as saying, "I speak for many thousands of silenced Panamanians to say that we do not want the United States to make the proposed treaty with the oppressive, unconstitutional regime of Omar Torrijos or any of his like." He knows well the "Maximum Leader's" intent to nationalize the Canal, hike tolls sky high, and nationalize all businesses.

The State Department has been telling us that all Panamanians want the proposed new treaty it has been negotiating by which we would surrender the Canal Zone and interoceanic canal to Panama. Evidently that agency does not consider Panamanians who cannot speak out under the dictatorship of the man who betrayed Panama's democratic hopes by seizing power through a coup d'etat in 1968. They fear the treaty and more U.S. money will perpetuate his power.

The American people overwhelmingly oppose giving away our $7 billion investment in the Canal Zone through the surrender President Ford intends to make if reelected. Would that Guillermo Ford's statement had some influence on Gerald Ford.

Mr. Speaker, the item referred to in the July 2 Hemisphere Hotline follows:

OPPOSITION TO TORRIJOS/OPPRESSION IN PANAMA

WASHINGTON, D.C.—Panama's Torrijos regime on June 22 at last held its long-heralded celebration of the 150th anniversary of the first hemisphere meeting, the Congress of Panama, called in 1826 by Simon Bolivar.

Beginning in the summer of 1975, Torrijos sent representatives and messages around Latin America inviting all Latin American presidents to the meeting, which was to have had strong overtones of supporting Panama's demands for an end to the U.S. presence in the Panama Canal Zone. Panama's Foreign Minister Aquilino Boyd and others have mentioned "the year 2000" as the very latest any vestige of U.S. presence may remain there under the new Canal treaty now being negotiated.

But after Torrijos' much-publicized visit to Havana in January, and his announcement that he had invited Fidel Castro to attend the June 22 "summit," one by one Latin American presidents sent regrets. In the end, a much-reduced formula was resorted to: ambassadors representing their countries at the Organization of American States were invited.

Meanwhile, signs are multiplying that Torrijos' domestic situation is increasingly uncertain. On June 22, while the sesquicentennial celebration was on, 150 demonstrators in Panama shouted leftist slogans, including one "Tratado cochino!" ("pig treaty!"), that indicated pointed disapproval of the new treaty. Although some U.S. officials commend Torrijos for his ability to "keep the extreme left under control," either that control is slipping, or Torrijos is using leftist militants to renew yet again the threat he holds over the U.S.—that if the new treaty is not concluded, terrorists may sabotage the Canal.

OPPOSITION TO TORRIJOS

On June 25, a spokesman for Panamanian democratic opposition to Torrijos sent a message to U.S. leaders in the name of Panamanians who cannot speak out because of the strongman ruler's severe political and press controls. Señor Guillermo Ford, former president of the Panama Chamber of Commerce, is one of the eleven opposition leaders exiled by Torrijos last January after the business community organized an anti-Torrijos general strike. His message to Washington, sent via trusted intermediaries to U.S. journalists, is:

"I speak for many thousands of silenced Panamanians to say that we do not want the United States to make the proposed treaty with the oppressive, unconstitutional regime of Omar Torrijos or any of his like."

Sr. Ford lives in strict seclusion in Miami; his name is known to be on a "to-be-eliminated" list in Panama.

On April 8, William R. Drummond, president of the Canal Zone Police Union Local 1798, AFGE, testified before the House Panama Canal Subcommittee that the homes and businesses of Panamanians who led the business strike have been the targets of "as much as ten bombings". He said that Col. Rodrigo García, second in command of the Panama National Guard and described by Drummond as "an ardent anti-Communist", suspects that "the Communists are behind these bombings."

Drummond testified that Torrijos' Vice President and second cousin, Gerardo González, is leader of the Communist Party in Panama. Drummond said: "In the week of March 30, 1976, Col. García ordered a search of the Vice President of Panama's apartment for evidence of explosive devices in connection with these bombings."

On June 22, a package left Belfast-style on top of a car exploded, injuring a newsvendor. The incident demonstrates growing instability in Panama.

Torrijos' controlled press blames the bombing on "rightist terrorists". His opposition blames it on the leftist militants, who have on a number of occasions marched and shouted, demanding that the U.S. get its military completely out of Panama in three years.

MORE DRUMMOND TESTIMONY

The April testimony before the House subcommittee gains significance as evidences of ferment break through the surface in Panama.

The setting of bombs in Panama has anti-U.S. overtones. Drummond said that in March three low-power bombs exploded in front of the Panama branch of the Chase Bank. These are among those that National Guard Col. García believes were set "by Communists".

According to Drummond's testimony, the Jan. 20–22 general strike was sparked when "on Jan. 15, 1976, in David, a city close to the Panama-Costa Rica border, a young unidentified resident of that city, after having made an anti-Communist statement at a public meeting, was accosted while leaving by the Panama D.E.N.I. (political police). The D.E.N.I., while trying to effect the boy's arrest, shot him in the foot.

"The people present at this meeting, several hundred in number, rushed to the boy's aid and took him from the custody of the D.E.N.I. The boy was transported to the hospital for treatment.

"On Jan. 23, 1976, in the city of Panama, a riot broke out near the U.S. Embassy when five . . . busloads of hoodlums from the Chorrillo slum area, led by Mayor Garrido of the Panama National Guard and Genero Barcenas, Sheriff of the Chorrillo area of that city, attacked a group of peaceful demonstrators who had met in front of their own headquarters (The A.P.E.D.E.—the Panamanian Association of Executives and Managers) to protest the government's deportation of its citizens on Jan. 20, 1976."

According to the testimony by Canal Zone Police official Drummond, "The U.S. Marine Midland Bank, located in the area, was stoned, cars were overturned and reportedly burned and many people were hurt. In grave condition from a knife wound in the stomach was Rodrigo Sánchez, a prominent and respected lawyer in Panama. Another (A.P.E.D.E.) member was also seriously wounded in the stomach with a knife . . . In both these latter cases the Guardia Nacional stationed within the area refused to give assistance. These men were refused service at any of the nearby public hospitals."

DEMOCRATIC OPPOSITION SUFFERS

Witness Drummond then detailed how Panamanians accuse Torrijos of covering up political motivations in the death of a young woman, Betsy Marlene Mendezabal, 19, and the disappearance "of her boyfriend, Jorge Falconett." Both were students. The girl's body was found. The girl's parents, despite their repeated requests, were unable to get an autopsy performed, due to opposition from the authorities.

Drummond revealed that all of the democratic parties of Panama this spring signed a political pact in opposition to Torrijos.

In his testimony, the Canal Zone Police spokesman cited three instances in which the Panama National Guard (the country's armed forces) had deliberately infringed on the authority of the Zone police, in one instance arresting an individual within the Zone—where they have no jurisdiction—and removing him at gunpoint.

SEE YOU AT THE TOP—CONCERNED CITIZEN DOES SOMETHING

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. STEIGER of Arizona. Mr. Speaker, I would like to share some information with you and my fellow Americans about a man, a book, and a course which is already affecting the lives of many of our people and could well have a positive effect on our Nation's future. The man is Zig Ziglar, the book is "See You at the Top," and the course is appropriately entitled, "The Richer Life Course."

Mr. Ziglar, a dedicated Christian, was raised by a devoted mother who gave him an abundance of love, discipline, encouragement, and spiritual guidance. His worklife started at age 10 in a grocery store in Yazoo City, Miss. Since that time he has traveled over 2,000,000 miles sharing his enthusiastic message of optimism and expertise with audiences of all kinds and ages. He actively sells America to all Americans and expends considerable energy motivating our youth to positively channel their talents and energy to create for themselves a richer life—and a better America—in which to live that life. As one of our country's most versatile speakers, he has shared the platform with such outstanding Americans as Ronald Reagan, General Chappie James, Norman Vincent Peale, former Supreme Court Justice Arthur Goldberg and others.

Mr. Ziglar wrote "See You at the Top" because he strongly felt that his philosophy offered real hope and specific guidance for those who seek the "more" way of life. The book was an immediate hit with the man on the street as well as many business institutions Mr. Ziglar serves. Over a dozen of these companies have bought from 1,000 to 4,000 copies. The biggest and most pleasant surprise occurred when teachers and institutional leaders started buying personal copies and getting permission to teach the book as a course. Leading the parade was Mrs Mamie McCullough, a high school teacher, who heard Zig speak and picked up a copy of the book which "changed her life." Immediately recognizing the commonsense value of the philosophy, Mrs. McCullough, with the enthusiastic support of principal W. A. Childs, started teaching the book as a course at Central High School in Thomasville, Ga. Self image and performance improvement of class members was dramatic and according to Mr. Childs the effect on the faculty and student body was "substantial".

With this beginning and with encouragement from many teachers, parents, principals, and concerned citizens around the country, Zig Ziglar and the staff of We Believe, Inc. started putting together a complete course in personal growth. Educator Carroll Phillips was brought in to write a Leader's Guide and Creative Ideas Manual. Mr. Ziglar personally recorded 15 hours of motivational-instructional material to coincide with the book and manuals so that "The Richer Life Course" could be easily and effectively taught with a minimal amount of preparatory time.

The philosophy of "See You at the Top" is effective because it deals with symptoms and causes and not just the problem. Mr. Ziglar strongly believes that drugs, alcoholism, obesity, promiscuity, crime, irresponsibility, et cetera are not problems, but symptoms of problems. The book and course builds individual confidence while stressing that life offers opportunity to the committed individual with initiative, who accepts personal responsibility for his activities. In short, it is a "hope filled," but no nonsense, no free lunch philosophy that works if the individual will.

The universal truth and acceptance of his message is evidenced by the fact that endorsements enthusiastically come from men like Dr. Norman Vincent Peale and former Congressman Ed Foreman as well as prison inmates, medical doctors, educators and housewives representing every race, creed and color.

Throughout the book and course, Mr. Ziglar stresses that you can get everything you want in life, if you help enough other people get what they want. He believes that health, success and happiness are available to those who build their lives on the foundation stones of honesty, faith, character, integrity and loyalty. The purpose of the book is serious, but the style is so unique and the humor so wholesome and contagious that you are persuaded to take your responsibilities seriously while retaining the capacity to laugh at yourself.

Significantly, "See You at the Top" is an idea book that teaches how to build a healthy self-image, how to reach your objectives, and how to build an attitude foundation so solid that your attitude controls your circumstances instead of your circumstances controlling your attitude. The book and course vividly describes how we acquire destructive habits and exactly what we can do to avoid or eliminate these destructive habits while building good habits. I'm confident this information will be instrumental in keeping thousands of our youth off the junk heap of human misery by giving them precise directions on how to build a solid, happy, productive life.

The philosophy is an eye opener as it deals with solutions to America's problems ranging from pornography and alcoholism, to a declining faith in our capacity to solve our problems and maintain our position of world leadership. Mr. Ziglar's approach to selling the benefits of a strong family unit fills a much needed void in our educational system. His own 29-year marriage to the former Jean Abernathy of Jackson, Miss., serves as an excellent example.

Significantly his approach offers a definite plan to teach our citizens that you don't "pay the price" for success, happiness, good health, and so forth. For the first time, many of them will realize that when you compare success and failure, happiness and misery, good health and poor health, that you enjoy the price of success, good health, happiness, and so forth. You pay the price for failure.

His religious beliefs are deep and strong, but his efforts are primarily directly at selling the personal benefits of a solid moral foundation, perseverance in our quest for success, resourcefulness in applying our ability, personal responsibility for our actions, honest effort for our daily wages and faith in Almighty God as the hope for America. His challenging question, "If everyone in America was doing exactly what you are doing, would our country be getting better—or worse?" will surely make us sit up and think—and then get busy to make certain that America's tomorrows are better than its yesterdays.

OLYMPIC GAMES IN MONTREAL

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. BROOMFIELD. Mr. Speaker, the Olympic games are predicated on an ideal—pure amateurism, pure competition—that is belied by the circumstances of the 20th century. No realistic comparison can be made between the Greek city-states of 776 B.C.—when the Olympics were first held—and the world today in which some 150 independent nations compete for power and influence.

Indeed, the international environment has changed dramtically since the games were revived in 1896. We have gradually seen nations subsidize their athletes, making them professionals in all but name, in order to enhance national prestige; we have seen crass commercialism creep into the games; and we have seen at Munich the ugliness of international terrorism injected into the Olympiad.

This year's Olympic host, the Government of Canada, has now taken the lead in further debasing the Olympic ideal by permitting political considerations to dictate standards of eligibility for competition in the games. By going back on its own word, the Canadian Government, by humiliating the Republic of China and making it impossible for the athletes from Taiwan to compete on honorable terms, the Canadian Government was true to its slavish desire to cultivate the Chinese People's Republic, but overlooked the Olympic creed, which begins, "The most important thing in the Olympic games is not to win but to take part."

It is one thing for shoe manufacturers to engage in an unseemly scramble to place their brand names on the feet of Olympic competitors; for Fascist dictators to attempt to turn the Olympics into a spectacle of ethnic superiority; or when terrorists vent their own brand of venom and mayhem on the Olympic arena. But it is quite another thing for Canada, a sovereign nation with a long tradition of democracy and respect for the rights of others, to use its position as Olympic host to force the exclusion of the Republic of China, an IOC member in good standing.

The question of Chinese representation is obviously important in many respects. It does not, however, have any particular significance in the Olympic context. The statement that Canada cannot permit the Republic of China to "pretend" to represent the people of China may be an acceptable statement of Canadian foreign policy. But it is presumptuous and it is wrong to force this judgment on a gathering of Olympic athletes and to jeopardize this and future games by interjecting emotional political issues into the Olympics.

Four years from now, the summer Olympics will be held in Moscow. One would hope that the Soviets will honor and abide by their commitment to the IOC and not attempt to exercise restraint or control over the participants. But if they wish to destroy the Moscow games by denying the right of participation to nations that do not meet their standards of ideological purity, they need only refer to the Canadian example.

THE SOVIET DAY OF SHAME

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. BIAGGI. Mr. Speaker, it is with sincere regret that I call to mind the Czechoslovakian "Soviet Day of Shame." On August 21, 1968, the Soviet Union sent a military occupying force into Czechoslovakian territory in gross violation of Czechoslovakian sovereignty and the United Nations Charter. This aggressive action was unprovoked and eventually resulted in the virtual enslavement of the Czechoslovak people. In 1970 the Members of Congress overwhelmingly condemned the actions of the Soviet Union and called upon the President to take such steps as may be necessary to end the antagonistic Soviet occupation. Members of Congress have since supported efforts to end the totalitarian regime in Czechoslovakia and I heartily commend those efforts.

I believe the Congress should again show our support for basic freedoms to exist in Czechoslovakia by pledging our support to the Czech-Slovak resistance, and calling for an end to the political and economic injustices which exist there. As a nation celebrating 200 years of liberty and equality we can well understand the urgency and desire this small and proud nation has for attaining its usurped independence. The Soviets have not only denied them their freedom but in the process has violated specific provisions outlined in the United Nations Charter of which the Soviet Union is a party to. Among these provisions, the Soviet occupation:

First, violated the sovereignty of a member state of the U.N.—article 2, section 1;

Second, was carried out in violation of article 2, section 7 prohibiting outside intervention in matters essentially within the domestic jurisdiction of any state;

Third, is in conflict with article 2, section 4 prohibiting the use of military force in the relations between members of the United Nations;

Fourth, and violated the principle of self-determination of peoples—article 1, section 2.

After recently observing Captive Nations Week, and when considering our own love for democratic principles, it especially becomes encumbent upon our world leadership position to rise in support of Czechoslovakia's protest and mighty resistance against this immoral occupation by a foreign power. It is important to the spirit of democracy and the principles of self-determination that Congress extends its sincere support and cooperation to the Czech and Slovak people in this time of need.

In recognition of 8 long years of sorrow and repression by the Soviet Union, I pledge my support toward observance of the "Soviet Day of Shame," and I enjoin my colleagues to also express their dismay with the policies of the Soviet Union toward Czechoslovakia by their support.

SOVIET PROMISES: MERELY EMPTY WORDS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. KOCH. Mr. Speaker, ostensibly the Soviet Union represents a bastion of freedom and rights for all. The constitution of the U.S.S.R. espouses many of the high ideals and principles which we cherish here in the United States, such as freedom of religion, promised in article 124 of the Soviet Constitution, and freedom of speech, press and assembly, guaranteed in article 125. Furthermore, the Soviet Union joined the United States and 33 other nations in signing an agreement in Helsinki which pledges the signatories to "facilitate wider travel by their citizens."

Based on these facts, one might conclude that Russian citizens enjoy many rights and suffer few restrictions. I think it is important to show the truth: these "pledges" are merely words.

To see the weakness of the promise of "religious freedom" in the U.S.S.R., one need only look at the case of Pastor Georgi Vins, the leader of a Baptist movement in the Soviet Union. Vins has suffered because of his normal religious activities. During the past 13 years of harassment by Soviet authorities, he was sentenced to 3 years in prison by the Moscow City Court in November 1966. He was arrested again in March 1974 and kept in prison in Kiev without a trial until January 1975 when he was condemned to 5 years in prison to be followed by 5 years in exile in Siberia for "unauthorized religious activities." The persecution of Vins and his family establishes the fact of continuing religious repression in the Soviet Union.

The claim of "freedom of speech" has been exposed as untrue largely thanks to the courageous actions of men like Alexandr Solzhenitsyn and Andrei Sakharov. But untold numbers still suffer because they dare to speak freely, because they dare to speak the truth. One tragic example is that of Mustafa Dzhemilev, who has been tortured and imprisoned for the past 10 years for campaigning for human rights in the U.S.S.R. Specifically, Dzhemilev spoke out on behalf of fellow Crimean Tatars who wish to return to their ancestral homeland, Crimea, on the Black Sea. In 1944, between 200,000 and 250,000 Tatars were unjustly deported from the Crimea to Central Asia on a charge of collaborating with the German invaders. They were officially obsolved in 1967, but the estimated 110,000 Tatars who perished during the deportation can never be brought back. But even in light of the new Soviet "attitude", authorities have allowed only a small number to return. Protest of this policy, and efforts to maintain the Crimean heritage have met only false countercharges, and long prison sentences have met the "dissenters."

And last, the "pledge" to facilitate wider travel by their citizens also lacks substance. The well-known case of Valentyn Moroz, the courageous Ukrainian historian now in a Soviet prison, only scratches the surface of the problem. New cases appear daily, and old ones remain unresolved. Vladimir Slepak is the longest waiting refusenik in Moscow. For more than 7 years, he has suffered constant persecution in his appeal for exit visas for himself and his family. His wife, Masha, recently took the desperate step of divorcing her husband so that she and her son could apply to leave Russia independent of her husband's case. She is in need of immediate medical attention which she could get in Israel, but her visa request has been denied notwithstanding her health—Soviet officials say that they do not recognize the divorce, and that they do not break up families. More pretty word masking the truth.

But Vladimir Slepak continues his fight for freedom; he has recently joined the group to "Assist Fulfillment of the Helsinki Accords in the U.S.S.R.," a body formed in May of this year to collect documentation from Soviet citizens about violations of the Helsinki Accord for report to the international community. This Congress just passed a law which establishes a Commission to do substantially the same thing, to monitor compliance of the signatories with the Helsinki agreement. I am proud to say that I was one of the cosponsors of the original bill introduced in the House by Mrs. FENWICK of New Jersey. Such "oversight groups" can have the important result of matching Soviet actions to Soviet words before the international community. It would be my hope that this might inspire the U.S.S.R. to live up to its pledges, and thus, much of the senseless persecution which does exist today might be abated. I ask my colleagues to join me in making the voice of the Congress heard in the Kremlin. Let us take the Soviets to task and urge them to discontinue their present policy of promising freedom while delivering injustice.

SPEECH BY JOHN S. WARNER

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. MILFORD. Mr. Speaker, as we all know, in recent months there has been considerable public debate on what the Central Intelligence Agency should and should not do, should and should not have done, and what it must do and not do in the future.

However, what has been overlooked in all this disection of the agency, has been what the CIA does on a regular and routine basis, what its functions are exactly and how they are carried out.

My good friend, Orval Hansen, of Purcell, Hansen & Valdez, attorneys at law, here in Washington, has provided me with the remarks of one of his brothers in the Air Force Reserve, John S. Warner, former General Counsel of the Central Intelligence Agency.

His remarks were made before the Reserve Officers Association of the U.S. Air Force chapter No. 1, on May 4, 1976.

I agree with my friend Mr. Hansen that they are an excellent review of the CIA and its workings.

The article follows:

SPEECH BY JOHN S. WARNER TO RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES, AIR FORCE CHAPTER NO. 1

Thank you Colonel Berke, and good evening colleagues and friends.

I have devoted most of my adult life to two organizations, the Air Force and the Air Force Reserve, and the Central Intelligence Agency. It is a great pleasure, therefore, to be here combining those two interests by speaking to Air Force Reserve officers about the CIA. Of course, the bond between the two organizations is not limited to the fact that I have been associated with both; the organizations share a common genesis and a common purpose. CIA and the Air Force are siblings, both having been established under the National Security Act of 1947, then known as the Unification Law for the military services. Thus, we have the same birthdate of September 18, 1947, and we both are dedicated to serve this country in peace and in war.

While the public appreciates the utility of both organizations when war is upon us, there is a somewhat more grudging support in time of peace. In a sense, some segments of the public lament the fact that the world we live in is the sort of place which requires an Air Force and a CIA and at times transfers its distaste for this reality into a dislike for these organizations as though repealing the National Security Act would somehow erase all war, all evil, and all injustices.

The National Security Act of 1947 was an effort to apply the lessons learned in World War II with an eye to the future. As to intelligence, most of you will remember that our Government had in its possession all of the information needed to have avoided the surprise attack on Pearl Harbor. The purpose then of creating CIA was to put in one place—by law—the responsibility for collecting, or receiving, all intelligence relating to our national security. Thus, the Director of Central Intelligence is by law the principal intelligence advisor to the President—just as the Chairman of the Joint Chiefs of Staff, based on the same law, is the principal military advisor to the President. It should be noted that, in fact, CIA is the principal purveyor of foreign intelligence to the Congress.

You may have noted I said Director of Central Intelligence, not Director of the Central Intelligence Agency. The former is purposefully in the law. After I have outlined to you a bit about what the Agency does and does not do, I shall return to this point because it bears upon the relationship of the Agency with the intelligence components of the military services.

What does CIA do?—in short, it collects and analyzes information and then disseminates finished intelligence to the President, the policy advisors to the President, and to the Congress.

Some of you may not realize that CIA is composed of a large staff of analysts—historians, political scientists, economists, linguists, medical doctors, chemists, and physicists to mention just a few of the many specialties. Indeed, our personnel have the ability, the expertise and the academic credentials to staff fully a major university and all of its departments. They cannot publish much of what they work on, and their reputations do not grow as rapidly as they would if they worked at a university. They endure this because they believe that the analytical work which they do is essential to our national security.

It may be of interest to note how this President receives his intelligence from CIA. There is prepared each day a three- to four-page briefing called the President's Daily Bulletin. This contains all significant intelligence on foreign happenings in the last 24 hours—obviously this is, what is known in intelligence jargon, an all-source brief. There are only three other copies—to Secretary of State, Secretary of Defense, and the Director of Central Intelligence. This brief is presented personally to the President each morning by a CIA officer—there are frequent questions by the President as to the significance of each item; or there may be a request for information on other topics. This face-to-face with feedback is truly a marvelous situation to assure that CIA is meeting the foreign intelligence needs of the President.

Of course the President is also sent all National Intelligence Estimates, such as the annual review of the current and future status of the Soviet Strategic Forces. From time to time the President will ask for an opinion with respect to alternate courses of action involving a foreign policy matter—the CIA review, however, is limited only to the foreign reactions to such alternatives. The Director of Central Intelligence is present at all meetings of the National Security Council and normally will brief on topical foreign intelligence items at the beginning of the meeting. Finally, the Director of Central Intelligence meets with the President at a set time weekly for discussion of whatever matters either deems appropriate.

Now, how does CIA collect foreign intelligence? There are six major areas—

1. From unclassified publications, both U.S. and foreign—trade journals, official releases, academic treatises, to name just a few.

2. Monitoring of public broadcasts in foreign countries—both commercial and Government sponsored.

3. From other U.S. Government agencies—CIA receives all foreign intelligence reports of such agencies as State Department, the three military services and others.

4. Contrary to the popular conception, CIA does conduct foreign intelligence collection activities within the United States. The FBI has no charter to collect what is called "positive foreign intelligence"—their role is counterintelligence and law enforcement. What are these activities?

a. Working on a voluntary and unpaid basis with American citizens who are made fully aware that CIA is asking them for information regarding foreign matters. If someone does not wish to cooperate, we simply walk away. I must say, however, that the response over the years has been and continues to be not only forthcoming, but enormously productive.

b. Now to another collection area within the U.S. At any one time there are some 200,000 to 300,000 foreigners in this country, including the diplomatic personnel at hundreds of installations. Are they not legitimate targets for collection of foreign intelligence? Possibly, lacking access to significant information at this time, wouldn't you think that we would be derelict in our responsibilities if we did not attempt to make arrangements with some of these foreigners against the day, back in their country, when they could be of assistance?

5. This leads to the next area of collection—espionage, that is, the clandestine collection of information about subjects of importance to the security of the United States, information which cannot be secured by other means. Some American people recoil at the word "espionage," but most Americans seem uniformly convinced that their President should have the best and most complete information before decisions are made. They are becoming aware that information, which is freely available in this country merely by reading the aviation journals and congressional publications, is not available in other countries and would never become available if CIA did not obtain it. It is recorded in the Bible that Moses sent a man from each tribe to "spy out the land of Canaan," and Joshua sent spies to Jericho, although in good spy fashion the Bible does not mention their names. Few nations have not used spies in both peace and wartime and espionage is firmly based in customary international law and the established practice of nations.

6. And now the sixth area of collection—that is collection of intelligence by technical means—for example the U–2 program. Most people remember the U–2 as a result of the Francis Gary Powers shootdown over Russia and the subsequent break-up of the Summit Conference in Paris between President Eisenhower and Khrushchev. But where was the Strategic Air Command getting the information for their target folders for the previous four years? How many billions of dollars were not appropriated and spent because our Government was able to judge precisely the strategic forces of the U.S.S.R.? Today, follow-on programs continue. Information is collected continuously from high in the sky and from the ocean depths. Before these programs, the U.S. intelligence community estimated the numbers of Soviet ICBMs and aircraft—today we count them. While some may disagree with the results of the Strategic Arms Limitation Talks with the Soviet Union, verification of the facts by intelligence at least gives our Government the option of considering SALT agreements.

Quickly, a few of the don'ts about CIA. We, by law, are prohibited from performing any law-enforcement or internal security function—also we are denied by law any police or subpoena authority. There have been some actions over the years which many have considered to be in violation of these prohibitions. These are our misdeeds and I am not here to defend such CIA activities as the mail opening program or the break-in at Fairfax City.

Another function of the Agency should be briefly covered, i.e., covert action. Simply put, covert action projects are clandestine efforts to influence events; for example, through political action, propaganda, paramilitary activities or economic action. This function has been the most controversial and the least popular, in large measure because critics have failed to distinguish the means from the ends. It is possible to dispute whether the United States national interest is truly served in any particular case by resorting to covert action. But this, it must be noted, is a policy argument addressing the ends of United States foreign policy. The American people must realize that all significant covert action projects are approved by the President and, in addition, six committees of Congress are informed of such activity. Admittedly, if clandestine operations are to remain clandestine, a broad-gauged public debate on each project is out of the question. However, covert action is merely one aspect of foreign policy. The broad outlines of foreign policy *are* debated in public and both Congress and the Executive remain accountable to the electorate for such policy.

More serious than the debate about ends is the question of means. Those who argue that the United States should never resort to covert action are, in effect, restricting U.S. foreign policy options to diplomatic protests on the one hand and sending in the Marines on the other. In a complex world such simplistic approaches are unrealistic, unworkable and dangerous. Indeed, such outright condemnation of an important tool of U.S. foreign policy has been rejected by no less a body than the Senate Select Committee which stated in its final report issued last week, and I quote:

> Given the open and democratic assumptions on which our government is based, the Committee gave serious consideration to proposing a total ban on all forms of covert action. The Committee has concluded, however, that the United States should maintain the option of reacting in the future to a grave, unforeseen threat to the United States national security through covert means.

I might add that last year there were riders offered to the Defense Appropriation Act in both Houses to prohibit covert action by CIA. In recorded votes both the House and Senate soundly rejected the riders.

Now it is time to turn to the relationship of the Director of Central Intelligence to the other intelligence components of the Government, including those of the three military services and the Defense Intelligence Agency of the DOD. As I stated earlier, by law, the Director of Central Intelligence is the principal intelligence advisor to the President. But also, by law, the intelligence components elsewhere in the Government have a role. With respect to national estimates and other finished intelligence, the matter can be put very simply—all foreign intelligence components of the Government and CIA have access to the same raw intelligence. A draft estimate is prepared and reviewed by all—again with all having access to the same raw intelligence. Under law, however, the final responsibility rests upon the Director of Central Intelligence—therefore, tne estimates are his and signed by him. Others may concur or they may take a dissent to a sentence, a paragraph or the whole estimate, but they are required to state their reasons for dissent—and, if I may, so frequently do.

Another aspect of the title "Director of Central Intelligence" relates to coordination of foreign intelligence activities throughout the Government. He is charged by law with this responsibility and with making recommendations to the National Security Council with respect to such activities affecting the national security. Additionally, he is charged with the responsibility of making budgetary decisions on all national intelligence programs. This is indeed a heavy responsibility when one considers that over 80 percent of foreign intelligence dollars are appropriated other than to CIA—and most of this within the Department of Defense.

Now as to the publicity over the last two years—certainly the military has received its share of brickbats over the years. Its efforts to warn the American people of the threat posed by Soviet bombers, missiles, submarines and modern conventional forces, have been derided as an attempt to scarce the public into accepting larger defense spending to somehow benefit the military rather than protecting the country. Still, at its worst, congressional and public scrutiny of the military has not seriously damaged it. Media attacks on the military have not been sustained when compared to the barrage of criticism and half-truths which have been spread about the Agency over the past two years. Agency critics have exposed every blunder, every misstep and mistake and although the Agency has been able to defend itself on specific issues, the overall impression which was left was of an organization which had run amok.

Now it is true that some few things which the Agency has done it ought not to have done. But I must point out that the misdeeds were corrected before the advent of any of the investigations. During the spring and summer of 1973, a thorough in-house investigation was conducted and the DCI issued a set of directives to correct all actions which were inappropriate for the Agency to conduct. Neither the reporters nor the investigating committees brought forth any new missteps or misdeeds which had not been uncovered and corrected by CIA itself, but each issue was unveiled with great fanfare and then periodically rediscovered week after week and month after month. In addition, events were constantly blown out of proportion. The normal detail of CIA employees to other Government agencies was called "infiltration"; an Army vulnerability study of the New York subway was ascribed to CIA plotting because one of its officers read the report; and conspiracy theorists proclaimed CIA complicity in the assassination of President Kennedy.

In essence, Agency critics have engaged in a verbal variant of the old Oriental torture in which the victim is repeatedly nicked and cut with sharp knives. No one cut is serious, but in the aggregate, they are deadly. These critics so magnified Agency mistakes, so distorted its actions, and so misstated its purposes, that it was a wonder that the American people did not rise up in righteous indignation to demand the very abolition of CIA.

At first, a majority of Americans appeared to be deeply concerned that the Agency might really be an invisible government, operating without Executive branch control, but the Rockefeller Commission and the Senate and House Select Committees have revealed that this was not the case. The public was concerned that CIA activities were directed against ordinary American citizens, that the Agency was accumulating vast files on Americans and exerting a chilling influence on first and fourth amendment rights. In fact, most of the so-called CIA files on American citizens, unrelated to espionage or Agency employment consist of unsolicited documents received from other Government agencies.

The aura of sensationalism, overstatement and exaggeration backfired against the critics because by appealing to emotions, the underlying philosophical, ethical and political problems were obscured. Instead of engendering a great national debate on intelligence activities, the issue was drawn in such a way as to force the electorate into two camps, those who had a doctrinaire and rabid hatred or fear of CIA and those who did not.

As the months wore on and the initial shock of the various revelations wore off, a majority of the American people came to see that behind the smoke was very little fire and that the Agency, far from trampling upon the rights of U.S. citizens, was dedicated to protecting those rights. Moreover, the media audience, regularly exposed to the derring-do of "I Spy" and the electronic gadgetry of "Mission Impossible" found the House and Senate revelations of CIA activities rather commonplace. If anything, the public fancy was caught by dart guns and voice alteration devices rather than the more serious issues. The general view became one of surprise that CIA had not done more, rather than shock that it had done too much.

I am, of course, pleased that the pendulum of public opinion has shifted, but I am concerned that the new popular mood represents an equally distorted view of the Agency. We can do without mindless critics but we are not seeking unthinking partisans either. All we desire is that the American people have a somewhat better appreciation of this country's need for intelligence so that thoughtful debate on the serious issues can begin.

Clearly the time is ripe for such discussion because we are, in a sense, at a crossroads in our history and in the history of the Intelligence Community. Today we live in a world that is still fragmented into East and West, industrialized and underdeveloped, resource rich and resource dependent. Worldwide economic interdependence, rapid transportation and communications, and the enormous reach of modern weapons present us with an unparalleled opportunity and incentive to advance the cause of peace, but, at the same time, increasing political frustration, communal strife, terrorism and nuclear proliferation pose dangers which threaten chaos. It is necessary that the American people become more aware of these problems and come to realize that intelligence is essential because it enables us to negotiate solutions rather than confront crises, and it enables us to make peace through knowledge rather than stumble into conflict through misunderstanding. Today there are no simple solutions because we are not facing simple problems and, hence, have more need for CIA and the Intelligence Community than ever before.

Another issue which should be addressed is the secrecy issue and this is related to the public perception of the Intelligence Community. The question is often asked, not just by our critics, but by many thoughtful Americans, whether in a democracy we can accommodate a secret organization with a secret budget, secret agents and secret operations. The fear is expressed that secrecy prevents a free discussion of important policy issues and is undesirable because it helps to cover mistakes and abuses.

I would note that the CIA leadership is firmly committed to eliminating the fetish of secrecy which surrounded intelligence in the past. The signs are up on the parkways leading to CIA. Newspapermen, businessmen and students have been invited to our Headquarters for briefings. CIA officials are making themselves available to respond to legitimate public inquiry through general discussions of our activities. I believe, moreover, that CIA can and should respond to the public's need for assurance by reporting fully to congressional committees or other bodies appointed by the public's representatives to receive and retain this sensitive information and to make value judgments about our functions and activities.

But secrecy has never been entirely eliminated in American society. Our military forces must be responsive to our public, but our public does not demand that our war plans be published. Our judicial system must meet the public's standards of justice, but our judicial conferences and grand jury proceedings are not conducted in public. It is even necessary for the Congress to conduct some of its business in executive session, while remaining accountable to the voters for the legislation it passes. Finally, I need not remind you of the extent to which the media will go to protect its new sources.

Similarly, CIA needs to keep some secrets. If our potential adversaries learn of our access to carefully hidden information, they could identify the individual who gave it to us or they could correct the technical leak that allowed us to pick it up. If our officers abroad are identified, they can be carefully followed by local authorities or targeted by local terrorists. I here point out the brutal murder of Richard Welch in Athens of December last year. I believe it is feasible, therefore, to explain to the American people the functions and activities of CIA and the Intelligence Community while at the same time maintaining the necessary secrecy of the sources and methods of our intelligence, which would dry up if publicized. Indeed, I would go further and state that I believe it essential that we Americans tighten up the secrecy of our intelligence sources and methods if American intelligence is still going to lead the world in its development of new techniques and in providing our national leaders and our people the kind of intelligence support we Americans expect, i.e., second to none.

Our laws now provide for criminal penalties for the unauthorized disclosure of certain census information, income tax information, Selective Service information, and cotton and other agricultural statistics. I think it reasonable that there should also be penalties for the unauthorized disclosure of foreign intelligence sources and methods upon which the safety of the nation could well depend.

Gaining the essential trust of the American people and tolerance for necessary secrecy requires us to consider how we can assure the public that the Agency operates within its charter and within the bounds set by the Constitution. It is not enough for the Agency to observe that it uncovered its mistakes by itself. I can report, however, that the Agency and its lawyers have reviewed the organizational dynamics which led to the problem and have developed procedures and mechanisms to prevent its recurrence.

In place of an overly rigid application of the principle of compartmentation are Agency regulations requiring consultation with the Agency lawyers on all activities whose legality is not clearly established. I am pleased to state that a very definite pattern of consultation with Agency lawyers by the Director has set the tone over the past couple of years.

Paralleling these steps taken by the Agency are other steps taken by the President to clarify the mission of CIA and other elements of the Intelligence Community. Executive Order 11905, issued February 18, 1976, represented a giant step forward. It more specifically defines the duties and responsibilities of CIA. It sets clear restrictions on intelligence activities to ensure that the rights of American citizens are not violated, and it sets up an Intelligence Oversight Board to which the General Counsel and the Inspector General must report all questionable activities. I believe these steps not only reinforce the ability of the Agency to uncover any abuses or questionable activities, it goes a long way to prevent abuses from developing.

I would conclude by saying that the men and women who make up the Intelligence Community are doing everything they can to win the trust of the American people. You have heard me use the words law and lawyers a number of times tonight. CIA was created by law and its people are as fully aware as all Americans that this is a nation governed by law and not by men, except as they serve the law. The dedicated men and women at CIA are striving to improve the quality of intelligence, but they are well aware that only by maintaining scrupulous care that intelligence activities are conducted in a constitutional and lawful manner can intelligence serve its true purpose, the protection of American freedoms.

CLEAN AIR OR FEDERAL LAND USE CONTROL?

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. SYMMS. Mr. Speaker, for the past 2 successive years, Congress has failed to pass a land use bill. Why then are some environmental advocates on Capitol Hill so determined to implement a "back door" aproach to land use control through environmental legislation? How, you may ask is that coming about? Simple—with the nondegradation provisions of H.R. 10498, the Clean Air Act Amendments.

Nondegradation is a term to describe an issue which is concerned with controlling the air quality over areas of the country where it is better than the national standards intended by Congress to protect the public health and welfare—we are talking about clean air.

Environmental obstructionists do not want to see this air degraded from its present state, citing arguments that any pollution whatever is damaging to public health and that we cannot allow these undeveloped areas to become as "dirty" as the big industrial centers of the Northeast. Now all this sounds pretty good, right?

But stop to think of what kind of program will be needed to insure that these vast sections of the country remain clean forever. Do not concentrate on the issue of whether or not we should protect the air over such rare natural wonders as the Grand Canyon or Yellowstone National Park. We want to keep the air clean in these areas, too, and no one is talking about locating large facilities in such national treasures. But just think about the other places in the country where the air is also crystal clean, like the hills of Virginia, the plains of Kansas, or the forests of Oregon. How will we implement a program to make sure that that air stays clean forever?

It is simple. The answer is to control, if not stop, industrial growth in those areas. Even the tightest air pollution control techniques will not completely eliminate all emissions, so unless you want to build nothing but "pencil factories" you must control major facility siting. You must control forestry operations, and you must control energy and resources development. If you do not, then those clean areas will sooner or later become "dirty" like our cities; right?

So you must control the siting of all "dirty" industrial plants, as the environmental obstructionists like to characterize them. What is another name for this? Land use planning, of course. Again, you are not talking about a health problem which the environmentalists like to throw out when dealing with "environmental" issues—you are talking about facilities siting and whether or not you can or cannot build something on your own land. You are talking about something which is pure and simply land use control, mandated by the Federal Government and based on a single criterion—the quality of the air over that land.

The amount of development—siting, if you will—will depend on the proximity of any large national parks or wilderness areas, the type and size of the plant and the local topography and meterology. Let us assume you wanted to build a new plant in an area close to no park or wilderness area and in a flat area with little or no wind. You would expect to be able to build about anything you wanted to, right? Wrong.

You would first have to spend 1 year taking air quality monitoring data around the proposed plant site. Then, you would have to do a study to show the anticipated emissions from such a plant using a computer "diffusion modeling technique" which would approximate the emissions from such a plant. You would then have to take these results to the State air pollution control agency which would apply a strict set of guidelines, set by EPA, to determine if the anticipated emissions from your proposed plant would violate the allowable pollution increment—for sulfur dioxide and particulates—dust, soot, and so forth—if the Senate version is adopted—or for all six pollutants for which there is a national standard if the House bill is passed into law.

The studies which have been done by the Government—EPA/FEA—on this issue have only concerned themselves with electric utility plant siting. The conclusion of the first report said that large coal-fired powerplants can be built. However, the body of the report itself contains so many caveats clarifying that statement that it brings its validity into serious question. In effect, industry has determined, large powerplants can be built if the surrounding terrain is relatively flat, if there are no nearby class I areas—parks and wilderness areas, and if there are no new plants which have already located in the vicinity which have used up part of the allowable increment for the appropriate pollutants produced by the powerplant.

What these studies by EPA assume, however, is that the full increment in the area will be available for such a plant to locate, that the plant will use up the entire allowable increment, and that since a powerplant produces more emissions than any other type of plant, then if you can locate such a powerplant, there will be no problems locating any other type of basic industrial facility.

All these assumptions are unfortunately wrong. One, recent work by the Chamber of Commerce on this issue has produced data obtained from EPA's regional offices which shows that the increment in vast Western areas of the country is not fully available. More specifically, natural emissions from coniferous forests, sulfur mist from sulfur beds and pollens and wind-blown dust raise the background level of natural pollution so high in many areas that the full increment is not available for use by new industrial facilities. In fact, in some places these natural pollutants actually violate the strictest national air quality standard set by EPA to protect public health.

Two, the assumption is used in all the reports that the powerplant which can be built in a particular test area by using up all the available increment. The reports make no mention of the social and economic impacts resulting because no other plants could then be built in the area. We believe that this assumption is true and is a real problem. What other types of facilities could then be located in such an area in order to use the electrical power produced by the already-located powerplant? Growth will have to be dispersed in order to find an available increment, and sprawl will be encouraged.

Third, the last assumption is wrong because even though it is true that a powerplant produces the most emissions, it is also true that other basic industries can also be severely affected, perhaps in different ways but certainly in the one long-term manner in which all major industries will be affected: long-term growth in the country once all the increments have been used up.

The big unanswered question that neither EPA, nor the Congress, nor the environmentalists have ever addressed and have no answer for is—what will happen to our country socially, economically, and in our basic style of living when all growth is stopped 10 or possibly 15 years from now when every available increment has been used up?

The present way in which industry maintains the economic productivity of its old facilities is to either modernize the existing facility or replace it with a new one. Under nondegradation, neither will be possible. Decadent plants will have to be abandoned, jobs will be lost, and the economy and the entire Nation will suffer. Growth and expansion will be brought to a screeching halt. I do not think anyone wants to see that—but the only way to stop it from happening is to stop nondegradation on the House floor when we consider H.R. 10498, Clean Air

Act amendments. Our colleague from Florida, BILL CHAPPELL, will offer an amendment to the bill on the floor to strike section 108 of the bill—the nondegradation provisions. Both industry and labor groups have recognized the threat to the economy posed by this bill; so I ask my colleagues to join in support of the effort to remove the nondegradation provisions from this legislation. As I said before this provision will amount to nothing more than Federal land use control through the back door and enforced by unelected bureaucrats.

MRS. DOROTHY SIBBING: NINETY YEARS YOUNG

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. ANDERSON of California. Mr. Speaker, July 15, 1976 was a very special occasion for Mrs. Dorothy Sibbing of Hawthorne, Calif., her family and friends. For on that day she celebrated her 90th birthday—certainly a time for celebration in a lifetime that has lasted almost half of the history of the United States.

Dorothy Sibbing was born on July 15, 1886 in the town of Quincy, Ill. At that time, there were no automobiles or airplanes. The Civil War was recent history, being only 20 years old, and we were still in the process of settling what is now the Western United States. In 1909, Dorothy was married to Anton Sibbing, and in 1959 she and her husband—since deceased—celebrated their golden wedding anniversary.

Besides raising their son, Harold, the Sibbings found time to be active community members. Dorothy became a State officer of the Loyal Order of Moose in Illinois, and was a cofounder of Moose Heart, a children's home in the State.

In 1941 the Sibbings moved to Hawthorne, Calif. Mrs. Sibbing now resides in the very same house her family moved into at that time.

Since then, of course, the family has grown. Dorothy has five grandchildren, and 7 great-grandchildren. They have undoubtedly brought her much happiness, and they have had the opportunity to know and love a person whose years are more than matched by her experience, wisdom, and capacity to give happiness and love. Besides being the "First Lady" of her clan, Mrs. Sibbing is still an active member of St. Joseph's Parish in Hawthorne.

Dorothy's life has encompassed some of the great events in our Nation's history. During this Bicentennial year, many of us have taken the opportunity to recall those times. Yet for most Americans alive today, they are only episodes from a history book. For Dorothy Sibbing, they are living memories and experiences from a rich and rewarding life.

Mrs. Sibbing was alive during the Spanish-American War, World Wars I and II, Korea, and the Vietnam conflict. The Roaring Twenties—and the Great Depression of the 1930's—are matters of personal experience. She has lived under the administrations of 16 Presidents: Cleveland, Harrison, McKinley, Theodore Roosevelt, Taft, Wilson, Harding, Coolidge, Hoover, Franklin Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, and Ford.

She can recall the first flight of the Wright Brothers as it was reported in the news; and this week has seen the first pictures taken from the surface of Mars. Her life has been rich with the march of history, but richer yet has been her long and successful marriage, and the satisfaction of sharing her life with a warm, growing, and vital family.

On July 15, the family and friends of Dorothy Sibbing shared their happiness with her, as she celebrated turning 90 years young. I am sure that the festivities that day must have been a marvelous experience, especially in honor of a person as special as Mrs. Sibbing.

My wife Lee joins me in congratulating Dorothy Sibbing on reaching this milestone in her life, and we wish her many years of happiness and good health to come.

ENERGY ACTION NO. 5

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. DINGELL. Mr. Speaker, on July 20, 1976, the Federal Energy Administration transmitted to the Congress Energy Action No. 5, a proposal to exempt naphtha, gas oils, and a range of other products, including benzene, toluene, lubricating oils and greases, from both price and allocation controls. The Congress has 15 calendar days during which it may express its disapproval of this proposed exemption. If not disapproved by either House on or before August 4, 1976, the exemption will take effect on September 1, 1976.

Irrespective of congressional action on this proposal, price and allocation controls will continue to be administered by the Federal Energy Administration over gasoline, naphtha-based jet fuel, kerosene-based jet fuel, aviation gasoline, propane, and butane. In addition, Energy Action No. 5 does not change existing FEA allocation controls applicable to naphtha used as a feedstock for synthetic natural gas plants. Naphtha consumed for this purpose remains under allocation controls, pending completion of an environmental impact statement regarding the environmental consequences of exemption of naphtha for such feedstock uses from the allocation regulations.

In its findings and views in support of Energy Action No. 5, the Federal Energy Administration concluded that:

> (1) naphthas, gas oils and other products covered by the proposed exemption are not now in short supply;
>
> (2) projected supplies of naphthas, gas oils and the other products will be sufficient to satisfy demand over the period 1976 through 1978;
>
> (3) exemption of naphthas, gas oils and other products from the Mandatory Petroleum Allocation and Price Regulations will not adversely affect the supply of any other oil or refined product subject to the Emergency Petroleum Allocation Act (EPAA);
>
> (4) competition and market forces will be adequate to protect consumers following exemption of naphthas, gas oils and other products from regulation:
>
> (5) anticipated price increases during the next two years will be minimal and may be directly related to crude oil cost increases;
>
> (6) exemption of naphthas, gas oils and other products from regulation will not result in inequitable prices for any class of users of the exempted products or any user of other petroleum products;
>
> (7) exemption of naphthas, gas oils and other products from the price and allocation regulations is consistent with the attainment of the objectives set forth in Section 4(b) (1) of the EPAA;
>
> (8) no adverse state or regional impacts are anticipated to result from the proposed exemption;
>
> (9) no adverse impacts on the availability of goods or services, the Gross National Product, small business or the supply and availability of energy resources as a fuel or feedstock for industry are anticipated to result from the proposed exemption;
>
> (10) the exemption will have a positive effect on competition; and
>
> (11) no adverse effect on employment or consumer prices is anticipated to result from the proposed exemption.

Mr. Speaker, these conclusions follow from an analysis which parallels the analysis submitted by the Federal Energy Administration in support of Energy Actions No. 3 and No. 4. Those energy actions related to the exemption of middle distillates, including heating oils, diesel fuels and kerosene, from both price and allocation controls. That analysis was premised upon the conclusion that refinery capacity will be adequate to satisfy projected demand for middle distillates. The conclusion of adequate refinery capacity, made in the analysis supporting Energy Actions No. 3 and No. 4, also supports the analysis submitted by the Federal Energy Administration in justification of Energy Action No. 5. That is to say, it follows logically that if refining capacity is more than adequate to satisfy projected demand for the major product categories comprising middle distillates, surplus capacity is likely to exist for the production of the minor products covered by Energy Action No. 5, products which account for less than 6 percent of the barrel of crude oil.

The House has expressed its will with respect to Energy Actions No. 3 and No. 4 by failing to disapprove these proposals. The Congress received assurances from the Federal Energy Administration that the price levels of sensitive consumer products, such as No. 2 home heating oil, would be carefully monitored and appropriate action would be taken, including reimposition of controls, if the prices of these products rose substantially above the levels which would have prevailed under continued regulation. Reassured by this promise, the House has accepted the fundamental premise of the FEA analysis regarding the existence of adequate refinery capacity.

In view of the similarity between the analysis supporting Energy Action No. 5, and that which supported Energy Actions No. 3 and No. 4, I believe it would be inappropriate for me to present substantially the same question to the House with respect to Energy Action No. 5. Therefore, I do not propose to take any action with respect to disapproval of Energy Action No. 5. I believe this course is consistent with the will of the House as expressed by the acquiescence of the House in decontrol of middle distillates.

Section 551(f)(4)(A) of the Energy Policy and Conservation Act provides a means for bringing this matter before the House by permitting a privileged motion to be made to discharge the committee from consideration of a resolution of disapproval after such a resolution has been referred to the committee for 5 days. Because the rights of Members who may disagree with my position are adequately protected by this procedure, I do not believe it incumbent upon me, as chairman of the Subcommittee on Energy and Power, to schedule hearings on this matter and I do not plan to schedule any such hearings.

I hope this information regarding Energy Action No. 5 and my position will be of assistance to Members in planning the course of action which they deem appropriate.

MRS. SYLVIA HERMAN—LANGLEY PARK, MD., WOMAN OF THE YEAR

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mrs. SPELLMAN. Mr. Speaker, at the recent Prince George's County dinner of the National Conference of Christian and Jews, Mrs. Sylvia Herman was recognized as the Langley Park, Md., Woman of the Year. In tribute to her achievements, the Maryland State Senate adopted a resolution authored by the Honorable Meyer M. Emanuel, Jr., State Senator from Prince George's County. Because Mrs. Herman has demonstrated a rare degree of dedication, imagination, and plain hard work in striving to improve the community in which she lives, I believe it would be most fitting to include in the text of the CONGRESSIONAL RECORD the Maryland State Senate Resolution adopted in Mrs. Herman's honor. Inspiration is often found in the accomplishments of others—Mrs. Herman's achievements will no doubt inspire many Americans.

[Senate of Maryland Resolution No. 48]

A SENATE RESOLUTION CONCERNING SYLVIA HERMAN

For the purpose of congratulating Sylvia Herman as being Langley Park Woman of the Year.

Sylvia Herman has been the dynamic motivating force for the new positive identity for Langley Park and for numerous projects to make Langley Park a desirable community. As chairman and one of the originators of the Langley Park Neighborhood Improvement Committee, she has spent many eighteen-hour days in study, research, and communication for the upgrading of the community.

During 1975, Mrs. Herman spoke before the Langley Park Rotary Club, Langley-White Oak Lions Club, Prince George's County Executive, Prince George's County Council, Prince George's Board of Education, Maryland-National Capital Park and Planning Commission, Takoma-East Silver Spring Commission, a special workshop of the Maryland Committee for the Humanities and Public Policy, and a special task force of Langley Park ministers.

Mrs. Herman is a multifaceted woman who found time during 1975 to serve as wife and mother; cheerful friend to many; to enroll in a degree program at University College at the University of Maryland; to host a weekly radio program on WGTS–FM; to serve as community editor of the Langley Park Voice; to serve as Project Director of the Langley Park "Civic Literacy" project; to serve as Langley Park's representative to Prince George's Community Development Advisory Committee; to serve as chief Republican Election Judge for Precinct 17–10; to serve as a county education advisory committee; to actively participate in the Langley Park-McCormack, and Buck Lodge PTAs; and to appear at many public hearings.

Sylvia Herman was the unanimous choice as Langley Park Woman of the Year. To help celebrate International Woman's Year as designated by the United Nations for 1975, the Langley Park Voice sponsored a contest to find Langley Park's Woman of the Year. Mrs. Herman was selected based on conversations with representatives from the humanities, the business community, the clergy, community organizations, and a telephone survey of 150 residents of Langley Park; now, therefore, be it

Resolved by the Senate of Maryland, That Mrs. Sylvia Herman be extended the congratulations of this Body on being named Langley Park Woman of the Year; and be it further

Resolved, That copies of this Resolution be sent to Mrs. Sylvia Herman, Community Editor, Langley Park Voice, Langley Park, Maryland.

MORE JOBS FOR THE DOLLAR

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. MOORE. Mr. Speaker, today's House vote to override the President's veto of the $3.95 billion Public Works Employment Act, S. 3201, fails to stretch a tax dollar far enough to provide lasting jobs for our unemployed. Our nationwide unemployment rate of 7.5 percent merits sound congressional action to create lasting tax-creative jobs in the private sector, not tax-consumptive jobs as provided in this bill. Under the provisions of S. 3201, 160,000 new jobs at most will be created at a tax cost of $25,000 per job and a temporary reduction in unemployment of only one-tenth of 1 percent. This is too high a cost for too little in return.

Mr. Speaker, I abhor our present rates of unemployment, but I respectfully remind my colleagues that the unemployment rate stood at 8.5 percent in March of last year and it is down to 7.5 percent today with 3.5 million more Americans at work without fueling the fires of inflation.

With this road to economic recovery in mind, I believe a vote to sustain the President's veto of S. 3201 is a vote to continue a sound job creation policy in the private sector that is expected to provide up to 2.5 million new jobs by the end of this year and 2 million more in 1977. It is a vote to pave the way for permanent income tax reductions of more than $10 billion which in turn will permit a quick and major increase in the take-home pay of all taxpayers. With a resultant stimulation of consumer buying power and private investment, more jobs will be required to keep pace with consumer demands. This, I believe, is the right path toward full employment.

Government infusion of funds in the private sector must be carefully balanced with the ability of communities to use those funds to provide jobs, our national need to minimize deficit spending that feeds inflation and unemployment, and the reality that tax-consumptive jobs only postpone a return to the unemployment lines if private enterprise has not been stimulated by consumer confidence in Government's ability to encourage lasting jobs in the private sector. President Ford's budget represents the use of public works expansion within the limits of time and job creation restraints. In 1976, the President's budget targets $18 billion for public works projects with $11 billion going to State and local governments for this purpose. In 1977, spending for public works would increase by 17 percent or by over $3 billion. I believe this is a credible and well-balanced commitment.

Unlike the President's proposals for employment, S. 3201 provides funds for sudden-decision public works projects that are even then expected to take 9 months to filter down to the project location. It would add approximately $1.5 billion to our deficit in 1977 alone. That is money we do not have and would have to borrow. But the biggest disappointment found in S. 3201 is the small number of jobs actually created. Mr. Speaker, this is paying lipservice to the needs of our unemployed, not providing large-scale lasting employment with non-Federal paychecks.

Our tax dollars must be stretched to provide Louisiana taxpayers and those elsewhere in the Nation with a maximum return on their investment in government. I cannot in good conscience report to my constituents that this method of short-lived employment is a wise and prudent expenditure of their tax dollars. Therefore, my vote today to sustain the President's veto was cast in hopeful expectation that Congress would look toward a realistic and lasting solution to unemployment such as the Jobs Creation Act rather than this unfortunate proposal.

FEDERAL REGULATORY AGENCIES: HAS THE GAME GOTTEN OUT OF HAND?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. CRANE. Mr. Speaker, it has taken a long time, but Americans seem finally to be coming to the realization that

Government regulatory agencies, originally meant to serve the public, are now in the process of becoming enemies of the public.

As far back as 1931, in his book "Farewell to Reform," John Chamberlain noted the primary effect of the new regulatory agencies was to give dominant business groups a greater control over their respective economic interests than they had previously enjoyed. In his book, "The Triumph of Conservatism," Prof. Gabriel Kolko insists that it was the dominant business groups themselves who shaped and promoted the so-called "progressive" reforms as a means of continuing their own dominance.

It is becoming obvious to all that agencies such as the Civil Aeronautics Board serve the airlines, not the consumer, just as the Interstate Commerce Commission serves the truckers, and the interests of the Teamsters Union, not the consumer. Prof. Murray Rothbard points out that—

> One of the most significant ways in which the government could aid the poor is by removing its own direct roadblocks from their productive energies.

The Government bureaucrats who serve as regulators are, more often than not, more of a menace to our free society than the alleged evils they seek to regulate. In an important article, "Who's Regulating the Regulators?," William Hoffer reports that—

> Bureaucrats at the Consumer Safety Product Safety Commission . . . ordered 80,000 brightly colored lapel buttons a few Christmases back, to remind parents to purchase safe toys for their children. Before the buttons could be distributed, an obscure inspector realized that they were colored with lead paint and, if licked by children, could cause lead poisoning. So the Consumer Product Safety Commission was forced to ban all 80,000 of its own safety buttons.

Unfortunately, this example is all too typical. Also typical is the manner in which bureaucrats in one agency work in direct opposition to bureaucrats in another agency. Mr. Hoffer tells this story:

> The U.S. Department of Agriculture is extremely concerned that deadly South American fire ants may swarm up from Mexico and reach as far north as Philadelphia. So planners at Agriculture developed an emergency control program, only to be prohibited by the Environmental Protection Agency from using the only pesticides known to be effective against the fire ants.

It is high time that we restored free enterprise in such fields as air transportation, trucking, railroads, and a host of other areas now stifled by governmental regulations and controls. It is also essential that we permit business to do its job, free of the burdensome and often unnecessary regulations imposed upon it by Government agencies.

I wish to share with my colleagues the article, "Who's Regulating the Regulators?," by William Hoffer, as it appeared in the June 1976 issue of TWA Ambassador, the magazine published by Trans World Airlines, and insert it into the RECORD at this time:

WHO'S REGULATING THE REGULATORS?

(By William Hoffner)

Bureaucrats at the Consumer Product Safety Commission in Washington ordered 80,000 brightly-colored lapel buttons a few Christmases back to remind parents to purchase safe toys for their children. Before the buttons could be distributed, an obscure inspector realized that they were colored with lead paint and, if licked by children, could cause lead poisoning.

So the Consumer Product Safety Commission was forced to ban all 80,000 of its own safety buttons.

Increasingly, it seems, Washington calls upon the nation's taxpayers to pay for such foolishness. The right hand of the country's regulators, commissioners, inspectors and other assorted agency watchdogs doesn't know what their left hand is doing. As it becomes ever more ponderous and expensive, government also becomes more ineffective.

A simple statistic illustrates how the federal goverment has exploded in our faces. Regulatory agencies proclaim their commands in the pages of the Federal Register. In 1937, its first full year of publication, the Federal Register printed 3,450 pages of administrative monologue. By 1973 the figure had jumped more than tenfold to 35,591 pages, in 1974 to 45,422 pages, and last year to 60,221 pages.

By one count, the 24 major regulatory agencies employ 105,000 persons and spend up to $3.8 billion a year to police virtually every aspect of American life. The real cost of regulation in artificially inflated prices, lost productivity and business costs has been estimated by the Office of Management and Budget at $130 billion a year, although this figure is disputed by Congress' General Accounting Office.

"Our economic system, founded with our nation 200 years ago, has come more and more under government control," warns Thomas A. Murphy, chairman of General Motors. "Very conspicuously in the marketplace, the government, by mandate and edict, is substituting its sovereignty for that of the individual consumer. Government, rather than the buying public, is increasingly determining the kinds of products and services offered for sale, and government regulations are influencing their costs and consequently their prices.

"What is of greatest concern is that each intrusion of government, because it takes decision-making power away from the individual consumer, diminishes his economic freedom."

Over the 200-year history of our nation, as government grew more complex, Congress realized it couldn't possibly study the full implications of all its laws. Increasingly, it adopted the practical approach of enacting broad statutes while at the same time creating regulatory agencies to attend to the details. With the chaotic alternatives awful to contemplate, we the public—and many of the regulatees—have come to accept much of this regulation as good.

As bureaucracy has grown bigger, however, less control has remained in the hands of duly-elected representatives—to a point where calls for reform are now being raised by various consumer and business groups, Congress, and the President himself.

The situation is aggravated by the fact that the thousands of non-elected bureaucrats who run the agencies have the full force of law behind them. Citizens can go to jail for violating their regulations. Yet the bureaucrats do not answer to the American voter, and this leaves them free to pursue their own—often narrow—interests.

The agencies have long been criticized for one-sided attitudes, and in the social awareness decade of the '60s this characteristic took an unexpected twist. Many observers came to feel that the new-found power of regulatory agencies is a direct cause of the nation's high rate of inflation.

To understand, we must first look at the traditional type of regulatory agency, one example of which is the Federal Power Commission. Established in 1920 to regulate the interstate business of the electric and natural gas industries, FPC has almost limitless authority to determine which utility companies can do business in the U.S., and how much they can charge their customers. Obviously, the commissioners must be knowledgeable about the utility industry—and there is the rub. Too often, industry experts seem to shuttle back and forth between regulatory jobs and jobs in the very industries they're supposed to regulate.

A recent study conducted by the General Accounting Office reports that one out of every six employees of the Federal Maritime Commission indicated conflict-of-interest violations on financial disclosure statements.

The Subcommittee on Oversight and Investigations of the House Government Operations Committee studied the records of 120 commissioners appointed to nine agencies in the past 15 years and concluded that 30 per cent had been recruited from the industry they were supposed to regulate. What seems even more ominous, 38 per cent, upon leaving their federal jobs, went to work for companies in the industry they had been regulating.

These regulatory liaisons have predictable results. The Food and Drug Administration often seems reluctant to ban products in which drug companies have invested heavily, despite obvious health hazards (a notable example is feminine hygiene deodorant). The Federal Communications Commission, only recently and under extreme duress, allowed open competition with American Telephone and Telegraph.

The individual citizen is virtually powerless to understand the inner workings of America's mysterious regulatory government. Many of the most crucial hearings are held behind closed doors. And when information finally comes out of the secret meetings, it is generally camouflaged in the most obscure "legalese" possible.

Until recently, the business world—that segment of the American public that has the resources to joust with regulatory government—was understandably silent about government by non-elected officials. That attitude has changed, and business is now adding its voice, to the rising tide of consumer complaint against ill-conceived government regulation. Business has been moved to prtoest because of a frightening development—a new type of government agency that differs dramatically from its predecessors.

Faster than a speeding bulletin, more powerful than any local government, able to leap 220 million lives in a single bound, the Super Agency has taken over the American government!

The '60s and early '70s brought a wide array of socio-economic problems, and few can argue against the lofty goals of ecology, equal opportunity, safety and sufficient energy. But each new crisis gave birth to at least one new super bureaucracy: the Environmental Protection Agency, Equal Employment Opportunity Commission, Occupational Safety and Health Administration, Consumer Product Safety Commission, Federal Energy Office, and a myriad of subagencies. Today, for example, a utility must comply not only with the regulations of the Federal Power Commission, but also the EPA, EEOC, OSHA and FEO.

The Super Agency bureaucrat is not an industry specialist—he is a crusader. And each bureaucrat from each agency seems to think his crusade is the most important one. This leads to interesting problems.

The Food and Drug Administration requires meat-packing plants to be clean and sanitary. Surfaces easiest to clean are usually tile or stainless steel. But tile and stainless steel reflect noise, and often fail to meet the standards of the Occupational Safety and Health Administration.

An OSHA regulation states that women need lounge facilities in their restrooms. But the Equal Employment Opportunity Commission says that if an employer provides lounges for women he must also provide them for men.

The U.S. Department of Agriculture is extremely concerned that deadly South American fire ants may swarm up from Mexico and reach as far north as Philadelphia. So planners at Agriculture developed an emergency control program, only to be prohibited by the Environmental Protection Agency from using the only pesticides known to be effective against the fire ants.

At U.S. Steel's Clairton Works in Clairton, Pennsylvania, EPA has required construction of a special $3.7-million hood to trap fumes from the coke ovens. Now planners have discovered that power plants for the 800-horsepower fans inside the hood will cause more pollution than the original coke ovens. And OSHA inspectors say the hood produces a noisy, unsafe working environment. And the Commerce Department complains about rising steel prices.

"There is a committee, a board, an agency, or a commission in Washington for just about everything . . .," acknowledged President Ford in a speech to the U.S. Chamber of Commerce. "In the nearly 90 years since we created the first federal regulator commission, we have built a system of regulations which abounds with contradictions and excesses, all to the detriment of the public."

The President recently chaired a special meeting of commissioners of all major regulatory agencies to persuade them to consider the inflationary impact of proposed new regulations. For example, does the American public really want to spend $30 billion a year to reduce the level of occupational noise by five decibels? Does it want to pay $300 for an airbag system in every new car?

Senator J. Glenn Beall, Jr. (R.-Md.), has approached the same problem from the legislative side by introducing a bill to require a price tag on every proposed regulation; so the public can weigh the cost of the regulation against its possible benefits.

Common Cause, the self-styled "citizens' lobby," thinks it is about time the American public had a voice in the regulatory process. Its "Government in the Sunshine" legislative proposals have been approved by the U.S. Senate and, as of the writing, are under consideration by the House.

The new laws would require all top-level agency employees to file annual financial disclosure statements, and would require a two-year waiting period before an ex-commissioner could accept a job in an industry he formerly regulated. "Government in the Sunshine" would also require 47 federal agencies and commissions to open their hearings to the public.

Several legislators have recognized the long-standing problem of bureaucratic inertia—once a job has been created, it is extremely difficult to abolish. Representative Abner J. Mikva (D.-Ill.) and Senator Joseph R. Biden, Jr. (D.-Del.), have attempted a unique solution in their Regulatory Agency Responsibility Act: unless both Congress and the President declare a regulatory agency should remain in business, it would be abolished October 1.

A similar bill has been introduced by Senators Charles H. Percy (R.-Ill.) and Robert C. Byrd (D.-W. Va.) to extend the phase-outs over a five-year period. That bill, because of its less frantic approach, stands a better chance than the Mikva-Biden legislation.

Action of some kind is virtually certain. Congress and the President seem to agree with the American public that regulatory agencies have grown too big for their bureaucratic britches.

They have finally seen the dangers warned about in 1839 by Alexis de Tocqueville:

"Above this race of men stands an immence and tutelary power, which takes upon itself alone to secure their gratifications and to watch over their fate. That power is absolute, minute, regular, provident, and mild . . .

"For their happiness such a government willingly labors, but it chooses to be the sole agent and the only arbiter of that happiness; it provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs their industry, regulates the descent of property, and subdivides their inheritances.

"What remains, but to spare them all the care of thinking and all the trouble of living . . .?

"Such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes, and stupefies a people, till each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is the shepherd."

NAZI WAR CRIMINALS IN THE UNITED STATES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. EILBERG. Mr. Speaker, since March 30, 1976, I, in my capacity as chairman of the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary, have been attempting to secure from Attorney General Edward H. Levi satisfactory explanation why the Immigration and Naturalization Service has not progressed further in its investigation of Nazi war criminals residing in the United States. At this time, there are 53 people living here who have been accused of being Nazis and of committing war crimes during World War II.

There appears to be hard evidence in some cases while others may be nothing more than unsubstantiated charges. However, it was determined several months ago that there is enough evidence to warrant action against some of these people and that additional evidence and witnesses, who are willing to testify, are available in Israel.

Furthermore, for some unknown reason the Justice Department appears to be unconcerned about bringing a swift and just conclusion and is not pursuing this matter at more than the slowest possible speed, if at all. It has not closed any cases where there is a lack of evidence and it has not acted in cases where action is clearly necessary and warranted.

Today, I place in the Record copies of my correspondence with Attorney General Edward H. Levi:

Committee on the Judiciary,
U.S House of Representatives,
Washington, D.C., June 25, 1976.
Hon. Edward H. Levi,
Attorney General, Department of Justice, Washington, D.C.

Dear Mr. Attorney General: I call attention to your letter of May 26, 1976 regarding alleged Nazi war criminals residing in the U.S. and hasten to add that the statements contained therein are certainly not responsive to my inquiry of March 30, 1976.

Although it appears that the Department of Justice views the matter of alleged Nazi war criminals as a non-priority issue, the public is genuinely interested and I feel it is incumbent upon you to bring this matter to a conclusion as soon as possible.

As I have stated previously, the Government of Israel has been responsive in supplying evidence and potential witnesses, but in both the Immigration and Naturalization Service and the Department of Justice, there seems to be a reluctance to proceed with denaturalization or deportation as the case may be. I know that after meeting with Major Gershon Lengsfelder, Chief of Investigation, Nazi War Criminal Office of Israel, he too is frustrated because the Immigration and Naturalization Service is not making proper use of available evidence in the alleged Nazi war criminal cases.

I urge you again to assign adequate and capable personnel to investigate all allegations, to interview every possible witness and to expedite the preparation of cases.

Mr. Attorney General, it is incongruous to me that the investigation of alleged Nazi war criminals continues to drag on and on, but additional personnel can be immediately transferred to the Florida area to expedite the naturalization of Cubans residing there.

I trust you will respond promptly and supply me with an up-to-date status report on each alleged Nazi in the United States.

Sincerely,

Joshua Eilberg,
Chairman.

Office of the Attorney General,
Washington, D.C., May 26, 1976.
Hon. Joshua Eilberg,
Chairman, Subcommittee on Immigration, Citizenship, and International Law, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: I am responding to your letter concerning the progress of the Immigration and Naturalization Service investigations regarding alleged Nazi war criminals residing in the United States and, specifically, the results to date of the visit of Sam Bernsen, General Counsel of INS, to Israel.

I am advised that since Mr. Bernsen returned from Israel, INS has received 21 affidavits relating to the identification of 14 alleged Nazi war criminals in the United States. In addition, INS has initiated requests to Israel regarding 18 new suspects. Thus, Israel is now assisting INS in 73 cases.

I am also informed that information furnished by Israel has substantially contributed to the development of prima facie cases of war crimes concerning 7 individuals. Three of these cases involve U.S. citizens who are subject to revocation of naturalization and have been referred to the appropriate INS District Office for action. Another substantially similar case is now being reviewed for referral. In addition, an Order to Show Cause in a deportation hearing is now being issued with regard to a permanent resident alien. As I understand has been discussed with you, 2 cases have been developed in which there is evidence of war crimes, but not a statutory basis for deportation at this time.

In view of the foregoing, INS believes the assistance of the government to Israel has been valuable and is being utilized effectively. We look forward to their continued contribution in these important matters.

Sincerely,

Edward H. Levi,
Attorney General.

MARCH 30, 1976.

Hon. EDWARD H. LEVI,
Attorney General,
Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: Considerable time has passed since the General Counsel of the Immigration and Naturalization Service, Sam Bernsen, met with Israeli officials to discuss matters of evidence relative to alleged Nazi war criminals residing in the United States.

I know of no progress made since that meeting and I am fearful that the Immigration and Naturalization Service is not expeditiously and diligently proceeding to obtain and evaluate every possible shred of evidence that could be used in the denaturalization, deportation or extradition of the alleged Nazi war criminals.

I trust, Mr. Attorney General, that you will do everything in your power to cause the Immigration Service to proceed with this inquiry. I would appreciate being advised of what success, if any, has been accomplished.

With kindest regards,

Sincerely,

JOSHUA EILBERG,
Chairman.

YOU MUST NOT SLEEP

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. McDONALD. Mr. Speaker, Mr. Tom E. Moore, of Springfield, Va., entered an essay in the annual essay contest of the U.S. Naval Institute, 1975, concerning aspects of foreign and defense policies of this country. His essay reports an almost total lack of intelligence or concern for the threats against Norway and Denmark, our partners in NATO. The essay was not a winner in the contest, possibly because it was too graphic in pointing out our diplomatic failures since 1933, with special emphasis on the Kissinger years. The essay says:

> Under detente, and following Helsinki, the high policy of this country appears to have assumed an extremely low profile, in spite of our official warnings concerning "fishing in troubled waters."

The essay has been condensed, and updated somewhat, to cover the events which had been predicted in it originally, which have taken place. The essay suggests possible U.S. action which should deprive the Warsaw Pact nations of certain initiatives. It is almost categorical to state that there is little likelihood of any of the actions taking place under Mr. Ford or his present Secretary of State. Mr. Moore has other ideas concerning positive action which this country should take in gaining the advantage over the opposition, and some of these were covered in a previous essay, "Let's Establish an Organization of Food Exporting Countries," page E1937, on April 9, 1976.

The title of the essay is derived from a poem in the Norwegian language, by Arnulf Overland, warning his countrymen in 1936 against just the kind of complacency which we evidence in 1976: "You must not sleep . . . as Europe burns!"

"YOU MUST NOT SLEEP!"

Several years ago, an article which appeared in "Life" Magazine set out the basic Soviet world strategy of control of the major sea lanes. In retrospect, it may be observed easily that the principal areas of the world which have given us a condition of national heartburn have been areas which happen to lie adjacent to or astride of those shipping lanes. This would tend to corroborate the "Life" appraisal. It falls into place as a present-day extension of Russian grand policy formulated originally by Peter the Great, reinforced lately by pronouncements and actions of high Soviet officialdom.

From the Russian viewpoint, NATO cannot be tolerated as a funcational entity, as it stands in the way of Russian policy. The entire Mediterranean area is in a state of turmoil, with strong implications that Russian interests are involved, while, in our own backyard we have Panama, which is continually festering, Cuba, and unrest in Latin America, generally.

A subtle shift has been undertaken lately by the Soviets, a shift which has been ignored almost totally by the American press, and possibly also by the government in the interests of what now goes for detente. In our official enthusiasm for detente, an enthusiasm without much public support, we are expected to believe that the "now friendly" (i.e., post Helsinki) Soviets have renounced overt aggression against other nations. This notion just will not stand the light of day. The action along the Southern flank of NATO has distracted our attention from the play which is forming along the Northern flank, in the Scandinavian area. This strategic shift requires our closest attention, and our unswerving and positive action.

The tactics being employed against NATO are different in different locations. In the nations of the Southern flank, domestic Communists are the Quislings, a "Fifth Column." Communists are to be found in the Scandinavian countries, certainly, but not in numbers of great consequence. Aggressive activities in the Scandinavian region are extra-national, involving direct threats by the Soviets, with the other Warsaw Pact nations as active allies, wherever Soviet threats are not single-handed.

"Aftenposten," of Oslo, and "Berlingske Tidender," of Copenhagen, newspapers of world-renowned stature, have kept their readers informed of the ominous Soviet and Warsaw Pact threats. Early in 1975, these papers published detailed accounts of naval surveillance and espionage in and near their territorial waters. "Berlingske Tidende" covered a circumnavigation of the island on which Copenhagen stands, by three Warsaw Pact naval vessels, of different nationalities to skirt the narrowly-defined meaning of aggressive action. The mission was one of familiarization of personnel wtih the territorial waters, landmarks, beacons, transmitters, and any other intelligence which could have been gathered. Ships of the three navies patrolled and played war games in the Oresund and Kattegat, international waters, but waters which are of considerable economic, political, and military importance to Denmark.

Also, early in 1975, "Aftenposten" reported Russian naval (OKEAN) maneuvers in force, just beyond the territorial limit, along the West coast of Norway, as far South as Stavanger, in plain view of anyone who happened to look. This brazen threat was calculated as a major ploy in a war of nerves, for the purposes of intimidation of Norway, and for no other conceivable purpose.

"Na," a Norweigan magazine, discussed extensive reports of known or suspected intrusions into the fjords of Western Norway by Russian submarines over the past several years. The objectives of the enemy pressence are matters of uneasy speculation, as the fjords offer sale locations for various operations of value to the Russian submarine fleet, including the obvious safe positions from which missiles could be launched, either at Norwegian targets or farther afield. Such intrusions into Norwegian territorial waters are direct threats to the nations of the NATO alliance. Tactical defense against these intrusions is a ticklish operation at best. Political considerations of the Norwegian government prevent naval forces from taking action to destroy the submarines. The magnitude of the task of patrolling the fjords is beyond the strength of Norwegian defense forces. Norway has not asked for NATO support in patrolling the fjords, although the threat would seem to warrant it.

Virtually no space was given in American newspapers, and no television or radio news coverage, concerning the gambits designed to intimidate our Northern allies. It can be postulated also that no statement of international purpose or concern, or no gentle warning was issued from the upper echelons of our government. Indeed, the writer has good evidence that our military intelligence was unaware of many of these activities.

In October 1975, a small news item appeared on the last page of an issue of the Washington "Star" reporting a heavy Russian military build-up along the Norwegian border, and drastically-increased naval concentrations between the North Cape and Spitzbergen. The "Star" reported that "Aftenposten" had editorialized that while negotiations were pending between the two countries concerning mineral rights on Spitzbergen and oil exploration in the Barents Sea, the heavy military concentrations, both of land and sea forces, could not be interpreted as promoting a friendly and sincere atmosphere for negotiation. It may be assumed that Russian interests in the Barents Sea are concerned with the movements of their ever-growing submarine fleet, as the closeness of the Norwegian defense forces could compromise their secrecy. An additional factor in the game is the supposed richness of oil deposits under the Barents Sea, which Russia wants to control.

"Aftenposten" reported that Russia had protested Norwegian Army field exercises in the vicinity of Tromso as being "provocative." (A glance at a map shows that Tromso is about 200 miles from the closest point of Russian terirtory, "as the crow flies.")

Russia has little to fear from the armed forces which Denmark and Norway can muster. They could not stand up to an onslaught so well as did Finland in the Winter Wars. The Russians are infinitely better-equipped and better-trained than they were at that time. In a sense, nothing which NATO can mount on the entire continent of Europe, and from the United Kingdom, including all U.S. forces stationed there, should give the Warsaw Pact forces serious problems, or more than a brief delaying action.

Recent history, including Angola, has demonstrated that the Communist nations are not averse to stirring up wars, using local personnel, or even Russian or Cuban personnel, in conventional warfare or "civil wars." Viet Nam is an example, also. They have put modern military equipment into guerrilla hands, and they have trained guerrilla forces, as in Mozambique, Tanzania, and Zambia. They have provided any assistance necessary to add to the embarrassment of the Western powers.

It must not be assumed that they are strongly averse to a conventional war to secure so valuable a prize as all of Scandinavia. Such a prize would be a major realization of the dreams of Peter the Great by the present-day heirs of his imperialism.

There seems to be a reluctance on the part of NATO authorities to commit themselves on the harassments which have been brought to their notice, and this is felt within the alliance to be a result of the detente with which we are so enamored, officially. Apparently, we are unwilling to say simply, "Not one step further!"

If our Northern allies should be put to the test, what would be the reaction in and from the United States? What can this country do to establish a major opposition to an ill-advised Russian military adventure, which is suggested strongly as the underlying motive of the recent Russian and Warsaw Pact nations' threats in the Scandinavian area? Would such aggression serve as a second "Pearl Harbor," in the light of our government's dalliance with detente?

Factors from which Russian mistrust of the United States' intentions may originate go all the way back to 1933, and extend forward to the headlines in tomorrow's newspapers. All are drawn from what is perceived to be our weakness and lack of national purpose. These factors may include:

A constant history of concessions given to the Russians, with no hard bargaining, and no *quid pro quo*, as a universally-predictable move by the U.S. in every negotiation; often discussed in newspapers before the negotiations are convened;

Our "lend-lease" aid to Russia, delivered in such a way that our intelligence never gained access to information on Russian weakness, as a condition under which Russia agreed to accept our aid, never to be returned nor paid for;

The sell-out of Eastern Europe at Yalta, despite admonition by Sir Winston Churchill, which permitted unopposed establishment of puppet governments beyond the legitimate boundaries of Russia, the greatest flowering of "good old 'Uncle Joe'" diplomacy;

Allowing Russia to "get a lick in" at Japan, when the war was over, for all practical purposes;

Failure of the United States to take decisive diplomatic and economic steps in Finland, and failure to warn the Russians against encroachments and extortions in that country to the present time;

Failure of the United States to react in Hungary and Czechoslovakia, and failure to smash the Berlin Wall and the line of fortifications separating East from West Germany. Failure of the United States to pursue the wars in Korea and Indochina to successful conclusions;

The long wrangle about the shape of a table and the prisoners of war, and the final capitulation of this country on every issue in the "shell game" on Viet Nam, much like the "shell game" in Korea;

The enthusiastic pursuit of SALT I and SALT II, with perennial concessions to the Soviets in the hope of gaining a minor point of protocol. Negotiating with the Soviets, in the first place, with the record of the Russians in treaty conformance, generally; and

The trade deals with Russia, including "credits" given to Russia to help them to "buy" grain and technology, thereby bolstering them against internal collapse from failures of their domestic policies and the burden of war production. The resulting inflation here served to reduce our ability to pay defense costs, while providing them with war material in the most literal sense.

It is little wonder that we are rated as a "paper tiger." We may have to fight another war to prove otherwise. But, with what?

The problems along the Southern flank of NATO do not seem to be of great concern. We negotiate with Panama to give away our canal so the Russians will have it eventually. We are lulled into complacency by the events looming in Italy, with the ridiculous expression that "Russia does not want a Communist government there." We will not tell faltering states that we will not tolerate unfriendly governments. We look for normalization of relations with Cuba. We compromise our stand on Communism in Chile in deferrence to the noisy liberal claque in Congress. We do everything wrong. Are we asleep, or merely dozing? What will it take to awaken us, the rattle of our own chains?

The Russian variety of "noninterference" has been demonstrated amply in Czechoslovakia, in heavy-handed suppression of the yearnings for freedom. Little known to us is the denationalization of the Baltic States, where genocide reigns supreme. All of these nations masquerade as "independent." This country has not raised its voice in the defense of freedom in the Eastern European countries when opportunities for such expression have occurred, and when genuine concern could have been beneficial, as their patriots sacrificed their lives. And, we are the heirs of patriotic sacrifice! Under détente and following Helsinki, the high policy of this country appears to have assumed an extremely low profile, in spite of our official warnings concerning "fishing in troubled waters."

Would we feel a compulsion in dealing with the harassments being mounted against our Scandinavian allies, with a clear and unmistakable pronouncement that a threat against their well-being is a threat to ours? We have not done so to this point in time; we haven't even been aware of the threats which are being made, although mutual defense is what NATO was all about when it was set up.

Even if we had the will to do so, following Viet Nam, we cannot field a significant military expedition rapidly enough to prevent a take-over of the Scandinavian countries in conventional warfare. This is a factor being tested in the present Soviet threats. We are in a situation where the strength of our declining naval forces is all that appears to keep the danger of a major war in check. What is the measure of our determination? This is the unkown factor.

Insofar as the defense of our allies is concerned, we have succeeded the Russians as "the great enigma."

The enigma may be serving a useful purpose in the present situation, if, indeed, it has a purpose. Perhaps in meetings of the great statesmen of NATO, positive assurances of our national purpose may have been given, although the secrecy of such possible assurances must have been kept unusually well, for Russian intelligence hasn't seemed the wiser for it. The sum total of our expressions of policy and doctrine have been the exact opposite!

It is important that our allies should know of our awareness of and concern for the threats being made against them by the Russians. Perhaps it would be well if the Russians should have some inkling, also. They should know definitely what the United States can be counted on to do. In the negotiations between Norway and Russia to establish boundaries in their regional waters, it is important that Russian expansionism which would hamper Norway's free exercise of traditional littoral rights should be prevented. Russia's only claim to these waters is that they lie adjacent to land extorted from Finland. The United States should offer its friendly service (to Norway!) in the negotiations. Such advances could be accepted or rejected by Norway, of course, but the point would not be missed by the Russians.

The United States should join with Norway and Denmark in cautioning the Russians and the other Warsaw Pact nations most earnestly against military adventures which could result in ultimate war. The United States should prepare the way by alerting the NATO alliance, with adequate publicity, to our intentions in this direction, and then should press forward with all deliberate determination.

We must be alert. Our national purpose must be unmistakable. The lack of intelligence on Russian provocations against the Northern flank of NATO, and the lack of comment by the responsible press here, is regrettable. Even more regrettable is the evidence that this country is unaware of what is taking place; or, if aware, is unwilling to roil the waters of detente in calling for a halt. A false move by Russia in the region common to Russia and Norway, or in the Baltic Sea, could be the beginning of Armageddon. Our diplomats should express this in a way which would not fail to be understood in the Kremlin. Our people should support this position with every means. "Gentlemen may cry for peace, but there is no peace!" Tomorrow, our turn will come. "You must not sleep . . . as Europe burns!"

THE GUTIERREZ FAMILY

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. BADILLO. Mr. Speaker, I have today put in a private immigration bill to allow a Peruvian couple to stay in New York although they are not citizens. Dolores Moya Machado and Fernando Gutierrez Lazo were the parents of a 5-year-old son who died 2 days ago. Jesus spent 3 of his 5 years in a battle with leukemia, and fought to stay alive until his father, who had been deported 2 years ago, was allowed to fly to New York to see him 3 days ago. Ms. Machado, who has supported herself and her son as a houseworker, did not leave her son's side for the week before he died. He is to be buried in New York, and her greatest wish, and that of the boy's father, is to remain near their son. We think of ourselves as a compassionate people, and I am hopeful that their pleas will not go unheeded by our Government.

The following articles, which have appeared daily since Sunday in the New York News, provide a history of their lives and compelling justification for their being allowed to remain in the United States:

DYING BOY TO GET WISH—SEE DAD

(By William Sherman)

A 5-year-old boy who is dying of leukemia in Queens General Hospital, was granted his last wish yesterday—to see his dad one more time. Hospital personnel and a U.S. State Department officer managed to slice through 3,600 miles of red tape that stretched to Lima, Peru.

The boy, Jesus Guitterez, has only a few days to live, according to doctors. On Friday, his mother Dolores put the youngster on the telephone with his father Fernando.

"I want to see you," the boy told his father, a construction worker in Lima. "Please come."

WAS ILLEGAL ALIEN

The trouble was, Fernando was deported from this country last year as an illegal alien. And Peruvian officials had refused him an exit visa Friday afternoon. A hospital spokesmen said, "They demanded proof that he would return."

Fernando called Dolores at the hospital, where she is keeping a vigil, and told her he couldn't come. In desperation, she turned to Stuart Gotkin and Sandy Young, hospital emergency room coordinators.

Despite their extra work load due to the hospital strike, Young and Gotkin got on the telephone beginning at 8 p.m. Friday. Young called the mayor's office and got nowhere, Gotkin began calling the State Department in Washington and was told that a telegram would be sent to the U.S. Embassy in Lima.

ONE LAST GAMBLE

Five hours passed and they got no word from Lima. Then Fernando called and said nobody had contacted him. Shortly before midnight, Young tried one last gambit. He called the U.S. Embassy in Lima and began pleading his case. It was 11 p.m. in Lima and no top officials were around, but Young finally got to talk with Sgt. David Matthews, the officer on duty.

"I hold Matthews that the father had the money and the passport but no visa. He was great. He took down the information and promised to start working on it," Young recalled yesterday. "At 8 a.m. this morning I got a call from him. He said he spoke to his boss, they talked to some Peruvian brass, I don't know who, and they persuaded them to let him come."

Yesterday at noon, Fernando was getting his immunization shots in Lima, and he was expected to arrive here this morning.

The boy has had leukemia for three years and has been receiving treatment at Queens General. His mother Dolores, 30, is a maid who lives with her brother in Far Rockaway. She and Fernando entered this country illegally several years ago. Fernando was deported, but she was allowed to remain here because of her son's illness, according to Young.

Red Tape Is Cut and Dad Joins His Dying Son

He was born on Chirstmas Day, 1970.

"It is not by accident that he comes to us today," said Fernando Guitterez at the time, "We must name him Jesus."

The baby's mother agreed heartily, tears of humility and appreciation streaking her face over such good fortune. Imagine having your first baby, your very first child, on Christmas Day . . .

Yesterday, Dolores Guitterez cradled her son's head in her arm and the tears were back in her eyes and rolling down her cheeks. The gift that came her way five and a half years ago on Christmas Day was being taken from her.

"He could be dead in 15 hourse or 15 days; it would be a miracle if he lasted longer than that," said a spokesman for Queens General Hospital, the expression on his face warning against depending on any miracle.

Jesus Guitterez is in the last stages of terminal leukemia, and the doctors are reduced to easing the pain that is racking his body. There is medicine for that, of course, medicine that must be given in larger doses at more frequent intervals as the condition worsens.

"He doesn't cry when the nurse comes with the needles," said Stuart Gotkin, emergency room coordinator. "He shouts, he yells. He knows he's dying and he's angry. He doesn't want to die."

When he wasn't yelling at doctors and nurses and their confounded needles, which kept jabbing holes in his painfully swollen left arm, young Jesus was yelling for his father.

The last time father and son saw each other was late last November, shortly before the Immigration Department put Fernando Guitterez on a plane and returned him to his native Peru for being an illegal alien.

The boy's mother is also here illegally, but has been allowed to stay to attend her stricken child. She is employed as a maid. But she has not worked since her son's most recent admission to Queens General last week.

She feels she must be there when Jesus awakens from his drug-induced sleep, which is the only surcease available in his travail. For three days, she and her boy have subsisted on juices alone. They have grown haggard together.

For all of his mother's love, it was importance that Jesus see his dad, too. He kept calling for him. Last week, when they spoke by phone, Jesus inquired of his father: "Papa, why do you not come to see me?"

That's when Gotkin and his associate, Sandy Young, got involved.

"He's a proud little kid. He doesn't want people to feel sorry for him," explained Gotkin. "The least anybody could do was to get his father here, let the kid see his father one last time."

The people at immigration complied, yards of red tape were cut, rules were bent, and very early yesterday, Fernando Guitterez arrived at Kennedy Airport, following a 3,600-mile, sleepless flight from Lima.

An hour later, speechless in his grief, Fernando Guitterez was embracing his son, wanting to pick him out of his deathbed and run away from this horrible thing that had ravaged him and left his wasted body black and blue.

Outside Jesus' room, his uncle, Pedro Moya, recalled when Jesus kicked a soccer ball for the first time on a field in Far Rockaway, where he lived.

Then, Pablo shook himself loose from nostalgia and mused aloud about the future, which was closing in on all of them—Jesus, his mother and father and all those who love him.

"We will have to bury him," he said. "We will probably have to raise money for his burial. But if the boy is buried here, will they ask his mother and father to go away and leave their only child here? There is not enough money to send him with them if they must go back to Peru."

Boy Dies After Seeing Dad—His Final Wish Did Come True

(By Peter Coutros)

Jesus Guitterez was 5 years old. He spent the last two years dying. Yesterday, only hours after his last wish had been fulfilled when he was reunited with his father, the youngster was dead of leukemia.

"It seemed as though he stayed alive just to see his father," said Sandy Young, who, along with another emergency room coordinator at Queens General Hospital, worked to bring the father, Fernando, back here from Peru. He had been deported there as an illegal alien last year.

MOTHER AT BEDSIDE

Fernando flew in from Lima on an overnight, 3,600-mile flight for the reunion early Sunday. Jesus' spirits were obviously buoyed, and for the first time in weeks, he was able to hold his pain-racked body upright without the support of pillows.

Despite his apparent comeback, Jesus' mother, Dolores, remained resolutely at her child's bedside, as she had since he was hospitalized a week ago.

CHILD DIED

Mindful of the doctors' prognosis, which indicated that Jesus might survive "anywhere between 15 hours and 15 days," Fernando, too, stayed at the boy's side, occasionally resting his head alongside his son's.

Shortly after 4 a.m. yesterday, Fernando sensed that Jesus had stopped breathing. He tried to stir the boy and, when his efforts failed, he ran into the corridor to call a nurse, who confirmed his fears.

Hopeful that research will promote a cure that may spare other youngsters, the agony undergone by Jesus, his mother agreed to the hospital's request for an autopsy.

As the boy's uncles, Pedro and Robert Moya, began arrangements for their nephew's funeral, it remained to be decided where the boy would be buried.

BURIAL SITE UNCERTAIN

His mother, also an illegal alien, clings to the hope that the Immigration Service will defer her deportation indefinitely, in which case Jesus will be buried somewhere near where he lived in Far Rockaway, Queens.

If she must go, she will take the boy's body with her to Peru.

Even as Jesus' heart was yielding to the inevitable, scores of New Yorkers were opening their hearts to his family.

BORN ON CHRISTMAS

En route to a bingo game Sunday night, Mrs. Alma Miranda of South Ozone Park, Queens, vowed that if she won, her winnings would be donated to the family.

I have three children of my own, and I thank God every day for their good health," she explained. "I was going to bring the money to the hospital with my daughter, Denise. She was born on Christmas Day, too, just like the Guitterez boy."

Theodora Grafas is married to Stephanos, a general contractor in Woodside. She read about Jesus' plight yesterday and suggested that Stephanos reach for his checkbook and do the right thing. He did.

In Greek, Theodora means "a gift of God." Someone must have known something about her when she was named.

In Memory of a Brave Little Boy Who Died

(By Peter Coutros)

Granted his normal span of years, Jesus Guitterez might have grown up to sire a child, plant a tree, write a line of poetry that would generate a smile or a tear. But his life was terminated at the age of 5, when he was barely out of infancy—he never rode a bike or sledded on a snowy hill—and now he is mourned by people he never knew. And by those whom he did.

In a world that has to reach all the way to Mars for something good, something positive, Jesus left a legacy of love to be shared by many.

"He was such a good little boy," said Mrs. Eleanor Zwicker. "The leukemia had debilitated him badly and he couldn't keep up with the other kids, but he was always in there trying. And similing, just like his mother."

Among the domiciles dusted and mopped by Jesus' mother, Dolores, is Mrs. Zwicker's bungalow in Far Rockaway, Queens, not too distant from where Jesus lived.

Last year, Mrs. Zwicker bought the youngster a small red wagon. Recently she purchased another toy for him, but, before she could get it to him in Queens General Hospital, he had lost his fight.

After discarding the toy ("I couldn't possibly give it to another child"), Mrs. Zwicker drove to the Dennis O'Conner funeral home to pay her respects to Jesus.

At 9:30 this morning, the Rev. Bruno Arcenas will officiate at a Mass at St. Mary's Star of the Sea Church, after which interment will take place in St. Charles Cemetery, Farmingdale, L.I.

"There will be a choir and at least part of the service will be conducted in Spanish," said the Rev. John Wallace, a member of the church's staff.

The Brooklyn Diocese, which is providing the burial plot for the child, has also expressed interest in supporting the mother's efforts to be allowed to remain here and not be deported to Peru because of her status as an illegal alien.

Similarly concerned is Anthony Palumbo, public relations man for Assemblyman Gerdi

E. Lipschultz, whose district includes the Guitterez home.

"The child is an American citizen, so he has every right to be buried here," said Palumbo, "His mother wants to stay here because she wants to be able to visit his grave. Are we going to say no to that, are we going to separate them?"

DRAWING UP PETITIONS

Palumbo said petitions would be drawn up and presented to Congress to promote a bill that would allow the mother to remain here.

As Palumbo spoke of his plan to get a million signatures on the petition, Assemblywoman Lipschultz was affixing her own name to a check to help defray the family's expenses.

"In Hebrew, the word 'chai' stands for life," she explained. "The same symbols denote the number 18."

Then she made out a check for double that—$36—to go with other acknowledgements from people whose lives and hearts were touched by a boy they never met.

ENERGY CONSERVATION: A KEY TO RESOLVING THE NATIONAL ENERGY DILEMMA

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. BROWN of California. Mr. Speaker, the recent House debate on appropriations for energy conservation research, development, and demonstration underlines the interest and importance of this approach to encouraging energy conservation. While there are many other actions that can be taken to encourage conservation, such as those contained in H.R. 14205, the "Omnibus Energy Conservation Act", and H.R. 12169, the FEA authorization extension, I wish to take this time to discuss energy conservation research.

The main focus of energy conservation research is in the Energy Research and Development Administration. The funding levels in ERDA have been totally inadequate for this program area. This is what the dispute over the appropriations for energy conservation was all about. The funding level that is now in ERDA for energy conservation is, thanks to congressional initiative, about half of what it should be. This may seem like faint praise, but if the congressional initiatives had not been made, the funding for energy conservation would be only half of what it now is. Therefore, we have made progress.

The "Omnibus Energy Conservation Act" contains a major section on energy conservation research, development, and demonstration, as part of an overall, coordinated Federal conservation program. This act, and the legislation which preceded it, goes a long way toward adopting the recommendations which were recently made by the National Advisory Council on Research in Energy Conservation. This council, which is associated with the American Institute of Architects, published its first annual report last December. Since this matter is of interest to my colleagues, I would like to insert its executive summary and the letter which transmitted it, in the Record at this time.

The material follows:

National Advisory Council on
Research in Energy Conservation,
Alexandria, Va., June 23, 1976.

Hon. George E. Brown, Jr.
U.S. House of Represntatives, Rayburn House Office Building, Washington, D.C.

Dear Mr. Brown: The enclosed copy of Energy Conservation Research: A Key to Resolving the National Energy Dilemma, outlines a major deficiency in our current policy and recommends remedial actions. It will be helpful to you as you deliberate upon pending energy legislation and policy questions.

The document is the first annual report of The National Advisory Council On Research In Energy Conservation. A collection of major national organizations organized the Council in order to provide leadership in identifying specific policy needs and opportunities for capturing the tremendous potential which energy conservation offers for solving our energy problems.

Since organizing the Council, we have been pleased with the more encouraging rhetorical position which energy conservation has enjoyed. Due in part to the work of ourselves and many others, national recognition of the need for a more prominent role for energy conservation is rapidly rising. However, the national leadership within the Federal Government has not yet converted this consciousness into adequate action. I believe that careful review of the enclosed report will provide you specific ideas for appropriate action—ideas you may either develop as your own initiative or use to provide informative support to others. The constituency supporting energy conservation is broader than any other energy constituency, but its effective mobilization still awaits the necessary positive leadership. We hope that this report will help you in providing such leadership.

A few specific highlights you will find of particular interest are:

The potential annual savings from energy conservation could equal more than $30 billion per year.

Energy conservation in the built environment, the specific focus of the report, offers the most attractive near-term conservation opportunities, but present policies will not capture this potential.

A comprehensive "innovational" strategy for energy conservation needs to be developed if the nation is to solve the complex problems of energy.

Technology required for increased energy efficiency exists in many instances, but institutional and attitudinal changes must take place in order to bring about the widespread adoption of conservation measures.

Despite a more favorable climate for conservation, national leadership in promoting energy conservation and organizing the conservation constituency remains a priority need.

After reviewing the document, should you wish to discuss the matter further, or to explore appropriate legislative suggestions, please contact me directly or Mr. Charles Williams.

Sincerely,

Leo A. Daly, *FAIA, Chairman.*

Energy Conservation Research—A Key To Resolving the National Energy Dilemma

(The First Annual Report of The National Advisory Council on Research in Energy Conservation, December, 1975)

EXECUTIVE SECRETARY

The National Advisory Council on Research in Energy Conservation has prepared this study as its first annual report. Organized in December of 1974, the Advisory Council is a private-sector forum established for the purpose of promoting an effective national program of energy conservation research. Beginning with this report, and through future reports and activities, the Advisory Council hopes to develop workable blueprints for transforming energy conservation into an actual, as opposed to a rhetorical, component of national energy policy.

This report clearly shows that energy conservation should become one cornerstone of a comprehensive energy policy, but that present national activities do not give conservation the priority which it should and must have. As the report points out, delay in undertaking and funding energy conservation research will reduce the nation's flexibility in dealing with future energy problems. Without a reorientation of energy priorities, the opportunity to shape a more favorable and secure energy future may be irretrievably lost.

Highlights of the report's key features and points are:

A concept of energy conservation which stresses energy efficiency instead of a reduced standard of living or diminished quality of life;

A role for energy conservation as a complementary strategy to increasing the supply of fuels;

Overall frameworks for strategically evaluating the dynamics of national energy policies;

Integrated views of: (1) present supply/demand forecasts; (2) varying estimates of the conservation potential in different sectors of the economy; (3) present energy conservation research (with concentration on the federal government's R&D efforts);

A rationale for devoting priority attention to energy conservation in the built environment;

A comprehensive framework for a balanced, national research program in energy conservation;

Initial suggestions as to appropriate funding levels and the general composition of such a research program.

Energy conservation can be viewed from a number of perspectives. As defined in this report it means the reduction of demand for energy from nonrenewable resources. This concept entails:

Reducing demand on large-scale, centralized generation and distribution systems;

Increasing the efficiency of energy consuming systems, and;

Increasing reliance on small, on-site or end-use conversion systems and nondepletable energy sources (such as solar).

Drawing on this definition, the source of energy may be more important from a conservation standpoint than the amount of energy which is consumed in a particular situation.

Just as energy conservation can be defined in various ways, it can be achieved through a variety of strategies. A major focus of the report is the achievement of greater energy efficiency through technological and institutional changes. Although a leaner and more efficient energy system will also require attitudinal and life-style adjustments, these factors have not been extensively considered in this report. While some life-style changes may be both desirable and beneficial, the report stresses that forced conservation either through pricing or regulation is undesirable and unnecessary.

Special attention is devoted to energy conservation in the built environment. This area of concentration was chosen because it is still grossly neglected despite the fact that it offers one of the largest, near-term conservation payoffs. As detailed in the full report, energy conservation in the built environment is more fully consistent with the most desirable energy strategy—one characterized by increased reliance on renewable resources, diversity of input capabilities, minimization of pollution, and improved system efficiencies—than are many other alternatives for conservation which are currently receiving priority attention.

Conservation in the built environment is examined in the broader context of ongoing and planned conservation research. Because the federal government appears likely to play a dominant role in conservation research and development for the foreseeable future, federal programs and research projects are most carefully scrutinized. The report seeks to identify major research gaps and suggests corrective action. Included in this analysis are suggestions as to an appropriate framework for structuring a national research program for enegy conservation in the built environment and recommended funding levels for the program outlined.

The report's general conclusions may be summarized as follows:

No sufficient national strategy or plan (including provisions for needed research and development) for achieving energy conservation exists.

Present plans, which address only one aspect of the energy problem, depend upon a strategy of refilling supply lines through further exploitation of fossil fuels and relying upon nuclear energy as a replacement prior to the exhaustion of nonrenewable resources.

Present energy policies place conservation in an undesirable context of having a negative effect upon individual quality of life.

The need for effective energy conservation is real, urgent, and of long-term duration.

Although energy conservation is supposed to be a major component of national energy strategy, present and proposed funding levels belie the reality.

If such an imbalance continues, it will probably cause the nation to miss capturing most of the conservation potential for at least two decades.

The conservation potentials associated with the built environment are sufficient to close the projected energy supply gap over the next three decades; however, there are severe doubts that present policies will capture that opportunity.

In order to remedy the shortcomings associated with the present approach to energy conservation, the Advisory Council recommends:

That the federal government declare a high priority national program to achieve a nation of energy efficient buildings as the basis of a dramatically expanded research and development program;

That a national energy conservation strategy be developed based upon forecasted advances in knowledge and technical capabilities which could be achieved with a high priority research and development program;

That funding for energy conservation should be rapidly increased to approximately $300 million per year—about 1 percent of the value of potential annual savings to be derived from conservation measures;

That, of the total funding recommended, $170 million per year be designated for the built environment;

That achievement of energy conservation should be regarded as a complex innovational problem and that a comprehensive innovation strategy should be developed to replace the present concentration on small-scale demonstration projects.

These recommendations reflect the belief that the technology necessary to achieve substantial energy savings is presently available in most cases. In the short term, attitudinal and institutional problems must be identified and overcome if energy conservation technology is to be disseminated throughout the economy. In addition, a comprehensive research and development program must be initiated to develop second generation technologies and new strategies for implemeting energy conservation over the long-term. By acting now where possible and by planning for the future, the nation can capture the potential of energy conservation and ease the transition to an era of new demands upon our energy resources.

IS THERE AN AMERICAN IDEA?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. CRANE. Mr. Speaker, as we celebrate the 200th anniversary of the birth of our Nation we should be ever mindful of the fact that America is based on an idea—an idea of individual freedom and the right of every person to go as far as his ability will take him.

In the years since the Declaration of Independence many of the beliefs held by our Founding Fathers have undergone significant alterations. Where Jefferson, Adams, Madison, and Monroe viewed government as a necessary evil, something to be feared and limited since it was the institution which had, in all previous ages, deprived men of their freedom, today we often view government as a positive good. How many of our traditional rights have we been willing to turn over to the state in return for "security" or one of the other enticements offered by those who advocate larger government? The answer, unfortunately, is far too many.

In an article in the July issue of The Freeman, Herbert V. Prochnow, former president of the First National Bank of Chicago and Deputy Under Secretary of State, declares that, "'There is an American Idea."

Mr. Prochnow declares that—

> No country up to the settlement of America ever conceived of citizenship in the generous measure we have come to know them here. The idea that individual liberty is an inalienable right of every human being had barely come to sunrise. The energies of all mankind, for all the centuries, were occupied with the stern realities of political despotism. . . . With the colonization of America came a new note—a new citizenship in the world—the beginning of freedom, with all its manifold blessings, for the common man.

If freedom is to continue in our country, Mr. Prochnow declares, that continuation,

> Is predicated upon the discharge by each of us of definite responsibilities. Make no mistake about that. The men who laid the foundations of America had not though in their minds that the priceless privileges of citizenship could be earned and retained except through the valiant discharge of the responsibilities associated with that citizenship. Men have had to struggle and to die to gain the liberty which is the bulwark of American citizenship, and they have had to be on guard to retain what they have won.

The best way to celebrate the Bicentennial is to rededicate ourselves to the eternal vigilance which is the price of all freedom. If we insist upon turning over to the state the responsibility for our lives and our well-being, that freedom can be lost in America as it has been lost in almost all other societies in the world's history which have been free.

I wish to share with my colleagues the article, "There Is An American Idea," as it appears in the July issue of The Freeman and insert it into the RECORD at this time.

THERE IS AN AMERICAN IDEA

(By Hebert V. Prochnow)

As the world hums with the rising clamor of confusing opinion and propaganda, ever more positively, skillfully, dominantly presented, it is imperative that you and I understand clearly the significance of our citizenship and the American idea upon which it is firmly based.

For there is an American idea.

It came with the Pilgrim Fathers and the William Tells of many races, who found homes here.

It took as its emblem the freedom of the eagle and the independence of the pioneer.

It overleapt the hurdles that had blocked human progress in many other lands for centuries.

It blew through the sordid runways of outworn civilizations with the cleanness of mountain winds.

It amazed the world with the rich outpourings of its untrammeled spirit.

It made men cry: "Give me liberty or give me death."

It dedicated itself in strength, humility, and tolerance, to the care of the needy and sick in this land and in all others.

It brought forth a beneficent downpouring of free thought, free speech, a free press, and a free pulpit.

It proclaimed the dignity of labor and the right to the profits of personal effort.

It erected the little white church and synagogue in 250,000 communities.

It created a nation of men with free bodies, free minds, free opinions, and free souls.

It brought forth in only 200 years, the greatest wealth and the highest standard of living any people in history have ever known.

That is the American idea.

History is the story of man's struggle for liberty. Perhaps we need that reminder more than any other today. We need to be reminded that there has always been a struggle for liberty. In whatever period of history you may muse, the battle for liberty—political, economic, physical, intellectual, artistic, moral—is going on. Upon a free body, a free mind, free opinions, and a free soul have hinged most of man's achievements. Only with the reasonable attainment of freedom has man been able to reach after the finer and gentler things, the motifs and objectives of life, and the final objective—truth.

"We hold these truths to be self-evident," reads the Declaration of Independence,

". . . that all men are created equal.

". . . that they are endowed by their Creator with certain inalienable rights,

". . . that among these are life, liberty, and the pursuit of happiness."

Here are the great privileges of American citizenship—a free, independent citizen's stake in the nation. These are his equality, and his inalienable right to life, liberty, and the pursuit of happiness.

And these are dearly bought privileges that have come down through the decades. Far back in the 1770's man was literally earning his bread by the sweat of his brow. Working hours were double those of today. The wilderness had to be tamed with the bare hands, and its forests grubbed out by the roots. Almost everyone was poor. Hunger and storm were more punitive then than our imagination can picture. Malaria, smallpox, and all the tyranny of the bacterial world were still enthroned. The business cycle was as restless then as now. But those early citizens placed independence, liberty, equality at the top of the list of privileges of citizenship, and in the balance they placed their lives, fortunes, and honor.

Equally as important as the privileges of citizenship are the hard-won rights and weapons by which life, family, and property are defended. There are the privileges not only of equality before the courts, free speech, and a free press, but also the privilege to convert time and ability into earnings honestly won in fair competition by giving value received—the right to have and to hold these earnings in any proper form, free from piracy of any kind. The right to assemble peaceably and petition the government for the redress of grievances. The right of habeas corpus. The sanctity of family and home. The freedom to worship as conscience, and conscience alone, dictates. The right to vote regardless of race, color, or sex. These are great privileges which have become so habitual that they are often overlooked. But nothing else is more precious.

No country up to the settlement of America ever conceived of the privileges of citizenship in the generous measure we have come to know them here. The idea that individual liberty is an inalienable right of every human being had barely come to sunrise. The energies of all mankind, for all the centuries, were occupied with the stern realities of political despotism. The privileges were invariably enjoyed by the favored few. With the colonization of America came a new note—a new citizenship in the world—the beginning of freedom, with all its manifold blessings, for the common man. Out of the dream of liberty have come seemingly exhaustless privileges—equal rights to justice within the law, freedom of the pulpit, a beneficent downpouring of free thought, free speech, and a free press.

But the continuance of these privileges of citizenship is predicated upon the discharge by each of us of definite responsibilities. Make no mistake about that. The men who laid the foundations of America had no thought in their minds that the priceless privileges of citizenship could be earned and retained except through the valiant discharge of the responsibilities associated with that citizenship. Men have had to struggle and to die to gain the liberty which is the bulwark of American citizenship, and they have had to be on guard to retain what they have won.

If a citizen demands wise government, he must recognize that wise government is the product of an intelligent citizenry, and nothing else.

If a citizen demands that crime be in the cell and not in the saddle, he must support honest law enforcement without any personal reservations whatsoever.

If a citizen demands unfair advantages for his industry, union, or geographical section, he must remember that the price of class and sectional selfishness is national destruction.

If a citizen demands sound fiscal policies, he must realize that every dollar which a government expends must eventually be repaid by the toil of its citizens in the creation of wealth.

If a citizen demands that his country protect him, he must cooperate unselfishly in giving his time and money to maintain the institutions which afford that protection.

If a citizen demands freedom of worship for himself, he must be tolerant of all creeds.

If a citizen demands freedom of speech, he must not encourage its suppression in those who disagree with him, nor must he use it maliciously to destroy the governmental and other institutional framework of freedom.

If a citizen demands a paternalistic government to assume responsibilities which he himself rightfully should discharge, he must not forget that a nation's strength comes largely from each citizen standing on his own feet, and that the paths of benevolent despotism and personal decadence lead eventually to the destruction of the privileges of free citizens.

If a citizen demands of his fellow citizens that they work increasingly for a great nation by developing communities in which men may have pride, let him as a citizen, grateful for the privileges which are his, dedicate himself in a spirit of humility to those responsibilities.

When the viewpoint that the privileges of citizenship are inseparable from its responsibilities begins to prevail everywhere in America, the unreal days that have harassed this generation may be forgotten, and time may become enriched beyond our present vision.

Then American may continue in the future, as in the past, to become increasingly the land of our pride. It will excel in the detail and in the sum of those essentials which measure a nation's true greatness. It may set time's farthest sea-mark in freedom for the individual. It may explore new frontiers in the achievement of quick and genuine justice; it may reach new breadths of opportunity, take new strides in the intelligence and farsightedness with which its citizens, fully aware of their privileges and responsibilities, blend self-interest and community interest. It may reduce burdensome and costly complications of government, attain new records in the present distribution of the desirable things of life, and in the future protection of the resources of nature and knowledge as a heritage to posterity.

If, as citizens, we but take these as our objectives, all this can be—and shall be—our America.

Then with an appreciation over the world of what American citizenship implies, there will be created an epic opportunity for America in strength, humility, and tolerance to be of worldwide service. The road America has pioneered may then become a broad highway for the swifter advancement of the peoples of less fortunate nations. This is the vision for us and our children's children. This is American citizenship—thankful for its privileges—faithful to its responsibilities.

CAPTIVE NATIONS WEEK

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. PAUL. Mr. Speaker, this week is the 18th annual observance of Captive Nations Week. Perhaps this year more than any other year since 1959 when this observance began, the celebration of Captive Nations Week stands in stark contrast to the foreign policies our Government is pursuing. Since last we observed this week, the nation of Angola has been captured by the Communists, and a People's Tribunal has executed an American citizen. Furthermore, our representative to the United Nations has said that the U.S. Government will aid the Communist guerrillas in their struggle to enslave two of the last remaining civilized nations on the continent of Africa, Rhodesia and South Africa. The observance of Captive Nations Week is an activity that, if successful, ought to become unnecessary. Yet the policies of this administration are such that we shall be observing this week for a long time to come.

We ought to do more than remember the 800,000 Cambodians who have been killed since the spring of 1975 by the Communists. We ought to do more than remember the Balt sailors massacred by the Soviets for trying to escape to Sweden. We ought to do more than remember the unspeakable crimes committed by the Communists, crimes that have been documented time and time again by men such as Aleksandr Solzhenitsyn, Richard Wurmbrand, John Noble, and Alexander Dolgun. Words without corresponding actions are hypocritical, and I am afraid that the annual observance of Captive Nations Week is becoming one of the most hypocritical activities this Government engages in.

Are we really concerned with the tragedy of the captive nations, or are we implementing the Sonnenfeldt doctrine, which says that we ought to support a closer union between the countries of central Europe and the Soviet Union? Are we too unintelligent to realize that every bit of economic aid that we give to the Soviet Union only cements the grip of the Communists over the Russian people and the peoples of Europe? If we are opposed to Communist tyranny, why do we continue to support it against its innocent victims? Why has this Congress not acted to give the most eloquent and courageous opponent of communism, Solzhenitsyn, honorary American citizenship? Why has this Congress never invited Solzhenitsyn to present a formal speech to a combined session of the House and the Senate? I suspect that it is because anticommunism, as represented by the annual observance of Captive Nations Week, is something that is good politics for the ethnics back home in the district, but is not something that is to be taken seriously. After all, one cannot be an anti-Communist and a proponent of détente at the same time.

I look forward to the day when there will be no more captive nations and when this observance will have become unnecessary. But that day will come only if the same anti-Communist spirit that informs Captive Nations Week guides and directs the foreign policy of these United States.

A TRIBUTE TO WILLIAM M. MINTO

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. ARCHER. Mr. Speaker, probably no event that took place over the recent 4th of July weekend captured the hearts and imaginations of Americans and people throughout the world as much as the parade of tall ships that gathered from all corners of the Earth to honor our Nation.

The sight of these magnificent vessels and the hundreds of other ships, large and small, that participated in Operation Sail was one that none of us who saw it in person or at home on our television sets will soon forget. It was a majestic sight, recalling for all of us the excitement and glamour of our Nation's seafaring past—giving us a renewed insight into the wonder of man's ability to harness the wind for his own productive use.

For a group of people from Houston, Tex., the events of the day took on a very special meaning.

William M. Minto, "skipper" of Sea Explorer Ship 825, was seeing another of his dreams come true—his Scouts sailing in the greatest peaceful assembly of sailing ships in the history of the world.

Not only did they participate, Bill Minto and Scouts helped sail the 72-foot schooner *Skookum III* to a third place finish in class C on the segment of the race from Bermuda to Newport, R.I.

While this may well be the most memorable achievement of Mr. Minto's 50-year career in Scouting—for others it serves as a fitting tribute to the years he has spent in working with young people and helping them become the kinds of Americans we must have to carry us through another 200 years of success as a Nation.

Mr. Minto has been honored in the past—notably as a recipient of Scouting's Silver Beaver Award and other recognitions of his service to Scounting and America's youth—but I wanted to share this brief story with my colleagues in the House of Representatives today so they, too, might be able to share in this recognition he so richly deserves.

Perhaps the feeling for Mr. Minto in Houston is best summed up by the following comment made recently by the mother of one of his Scouts, Mrs. Lloyd A. Nesbitt: "Both the parents and Sea Scouts, past and present, of Sea Explorer Ship 825 would like to see our Mr. Bill Minto recognized for his outstanding contribution and his fine example to the youth of this area. He is our candidate for Mr. Bicentennial."

SOCIAL SECURITY ACTING TO IMPROVE ITS COMPUTER OPERATIONS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. VANIK. Mr. Speaker, during recent months, as a result of Ways and Means Oversight Subcommittee hearings, I have been quite critical of computer operations at the Baltimore social security headquarters.

I have just received a letter from Commissioner Cardwell describing a personnel change which will help improve the efficiency of the extensive social security computer systems. The employee union and social security management are to be congratulated for this action in the public interest. I am looking forward to additional changes in the months ahead designed to improve the quality of the social security systems.

Following is the Commissioner's letter:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Baltimore, Md., July 20, 1976.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Oversight, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of June 3, 1976, you pointed out that in several instances the General Accounting Office observed large-scale systems being put into a stop condition while changing shifts.

We had been aware of the problem for some time and had concluded lengthy negotiations with AFGE Local 1923 to modify the hours of work. Agreement was reached in March 1976, and employees were notified with sufficient lead time for personal arrangements.

On June 28, 1976, approximately 350 employees in EDP Operations had their hours of work changed to provide a minimum of 15 minutes of shift overlap.

As a result, we have eliminated the stopping of equipment prior to a shift change and we have improved communications between operations personnel from one shift to the next.

Sincerely yours,
JAMES B. CARDWELL,
Commissioner of Social Security.

DEBT COLLECTION PRACTICES ACT

HON. ROBERT (BOB) KRUEGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. KRUEGER. Mr. Speaker, on July 19 the House considered the debt collection practices bill under suspension of the rules. As you know, this procedure requires an affirmative vote of two-thirds for passage, and the bill failed, with 201 voting for and 175 voting against. I opposed this legislation, and would like to explain why.

First, the Banking and Currency Committee report on the bill cites many cases of harassment and threats and other bad debt collection practices to justify enactment of this legislation. Certainly, such practices are abhorrent, but there is no obvious need for Federal legislation, since 37 States and the District of Columbia now have laws regulating debt collection practices. The failure of the remaining 13 States to enact such legislation does not make a convincing case for the necessity of Federal intervention, since we usually permit States to choose whether or not they wish to enact legislation regulating activities exclusively intrastate in nature. Given the diversity of the various States in size, population, and economic activity, it is preferable for the States themselves to choose whether or not to enact legislation of this type.

Second, the committee makes a good case for enactment of a Federal statute to control interstate debt collection practices, which are beyond the reach of the laws of any individual State. Indeed, if the Congress were to confine itself to this one proven gap in existing law, it could establish rules and regulations for this type of activity which might then serve as guidelines for appropriate State action to limit intrastate collection activities. Unfortunately, H.R. 13720 goes far beyond this point.

Third, the bill defines a debt collector as a person whose primary business is the collection of any debt, or to whom an outstanding obligation against another person is referred for collection by a third party—excluding attorneys. Therefore, only professional debt collection agencies and professional debt collectors are subject to the bill's provisions. It does not affect actions brought directly by creditors against their debtors.

In this respect, the bill seems to pursue a policy of selective enforcement, since it goes after the smaller debt collection agencies while ignoring the activities of larger companies which have vertically integrated so that they seek collection of debts owed them through their own agents. As the dissenting views state, if a practice is bad, it is bad no matter who engages in it. Clearly, the bill should be changed to give equal treatment to all debt collectors.

Fourth, passage of this controversial measure under suspension of the rules would preclude attempts to amend it and to correct its defects. In cases such as this one, use of the suspension procedure amounts to a legislative "gag-rule," and I do not support an attempt to push this legislation through the House without benefit of thorough debate and amendment.

Finally, even though the bill has these serious problems and use of the suspension procedure to achieve its enactment is distasteful, I might have swallowed hard and supported the bill because of the grave nature of some of the debt collection activities brought to the attention of the Congress, the Justice Department, and the Federal Trade Commission could perhaps improve upon the bill in their administration and enforcement of the bill's provisions. However, the legislation reported by committee is so specific in its language that it leaves the enforcers little leeway in writing regulations, eliminating the last possibility that States might be permitted to take into account factors of importance to them which the Congress failed to recognize.

If and when this legislation again comes before the House, I hope that we will consider it under rules which allow full debate and amendment. In this way we can enact responsible legislation that penalizes disreputable debt collectors without imposing unnecessary and unwise restrictions upon the freedom of State governments to act in their own right.

SPECIAL BICENTENNIAL RESOLUTION

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. GINN. Mr. Speaker, the Clinton Lodge No. 54 F. & A.M. of Savannah, Ga, at a recent meeting adopted a special

Bicentennial resolution. This resolution is an inspiring statement that reflects the very highest traditions that have made out Nation great. I insert in the Record, and I commend it to the attention of my colleagues:

Resolution

Whereas, the United States of America is celebrating its 200th year of independence and,

Whereas, the ideals of freemasonry were an inspiration to the founding fathers of our nation and,

Whereas, our membership desires to join with the nation in recognizing this landmark;

Now, therefore; be it hereby resolved: that Clinton Lodge No. 54 F. and A.M., in regular communication assembled, goes on record as joining the United States of America in celebrating the 200th anniversary of the independence of our country and joins in the prayers of the free world invoking the blessings of the Supreme Architect of the Universe to preserve and maintain the liberties and freedoms of intellect, as well as activities, which are enjoyed in this great country so that they may continue as an example for freedom-loving people everywhere and as a wholesome environment for our own citizens, enabling us and our future generations to continue the principles of independence we have established, which allows people of all cultures to live peacefully and harmoniously; and,

Be it furthermore resolved: that this resolution be spread upon the minutes of Clinton Lodge No. 54 F. and A. M. and copies hereof be sent to the Most Worshipful Grand Lodge of the State of Georgia, our Senior United States Senator and our District United States Congressman.

ENERGY CRISIS HAS NOT GONE AWAY; IT IS GETTING WORSE

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. EDGAR. Mr. Speaker, I would like to insert in the Record an article which recently appeared in the Delaware County Daily Times, of Chester, Pa. John LaSala, Region III Administrator of the Federal Energy Administration, who is a constituent of mine, reminds us that there is indeed an energy crisis and that it is vital that we commit ourselves to dealing with our mounting energy problems. I believe that this article will be of interest to my colleagues:

Energy Crisis Has Not Gone Away; It Is Getting Worse

(By Gerry Oliver)

If you've gotten used to letting your car gobble up gasoline or you don't mind hearing the sound of a television set whether or not you're watching, you should be ashamed.

The energy crisis may have run out of print in recent months but it is still with us—even more so.

According to Joseph A. LaSala, the Nether Providence man who is Region III administrator for the Federal Energy Administration, the "crisis" has worsened considerably in the last 2½ to 3 years.

"Unfortunately, the energy crisis has been characterized as a gasoline shortage or home heating fuel shortage. In truth, it has been from the first day—and even more so now—our increasing dependence on foreign products for meeting our energy needs," La Sala explained.

Oil imports before October, 1973, when scarcities and price wars first erupted in this country, had reached 28 per cent.

"This country is now importing 43 Per cent of the fuel for our energy needs," LaSala reported.

He also pointed out that the real problem toward solving the energy crisis is government inaction on "the definition of a national energy policy."

LaSala saw little hope of Congress taking any action on such a definition this year because of the presidential election. However, he said, concerned people should be checking their congressional candidates to see how they stand on the matter.

"We have to make a judgment pretty dam quick," LaSala said.

He said ERDA—Energy Research and Development Association—continues to "put resources into research on the sun, windmills, geo-thermal and other sources of energy but it is unrealistic to expect effects from these sources during this century.

LaSala referred to a recent comment by Shah of Iran who reportedly stated:

"We have 40 years of oil left and you have 400 years of coal. Why don't you let us keep our oil and you use your coal?"

From LaSala's point of view, use of the extensive coal supplies in Pennsylvania and West Virginia would be the most practical thing to do.

Besides helping to resolve the energy problems of the next quarter century, it would also provide badly needed jobs for the sagging labor market, he said.

However, he said "the capital commitment needed from private enterprise to carry out the research and implement a program to meet anti-pollution standards and safety requirements will not come until the government points the way."

While he doesn't discount the "infinite technologies" such as the sun, nuclear power and geo-thermal sources as ultimate sources of world energy, he said right now the sun "can serve only as a supportive source of energy."

The concern over safety in the development of nuclear power as a major energy source is over-exaggerated, LaSala feels.

"The chances of danger are not sufficient to warrant stopping development of nuclear power," LaSala said.

He also pointed out that the difficulties inherent in another oil embargo "would be magnified beyond anything we went through before" because of this country's increased dependence on foreign productivity.

What he feels are vital to the resolution of this country's continued energy problems is "a national commitment to the resources we can work with best."

This would involve development of nuclear power and coal as the two most practical resources in this country now, LaSala said.

If he could affect action, he said he would also "make energy conservation mandatory and revise building codes."

He pointed to the World Trade Center in New York City, one building which reportedly uses more energy in one day than the entire city of Syracuse, N.Y.

"This kind of thing should be stopped," he said.

He recognizes the difficulty of getting congressional action on the matter because "Congress is made up of 435 individuals who represent their constituencies and the goals of many of these constituencies are naturally opposed to each other.

"Action won't come until people get roused up enough to make themselves heard," he said.

LaSala pointed out that while people have gotten used to paying higher prices for their gasoline, propane and vacation fuel, usage is still being monitored and is "under control."

He is hopeful that "there is today a public perception that if we're importing nearly 50 per cent of the fuel needed to supply our energy, we really aren't free anymore, despite the lovely verbiage about freedom expounded during the recent July 4 celebration.

ESTABLISHMENT OF AN OFFICE OF INSPECTOR GENERAL FOR HEW

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. FOUNTAIN. Mr. Speaker, fraud and program abuse in the multibillion-dollar operations of the Department of Health, Education, and Welfare have reached crisis proportions. It is essential that remedial action be taken without further delay.

Earlier this week, with other Representatives as cosponsors, I introduced a bill to establish an Office of Inspector General for the Department of Health, Education, and Welfare. The bill, H.R. 14761, is based upon information obtained during more than 18 months of study and investigation by the Intergovernmental Relations and Human Resources Subcommittee of the Committee on Government Operations, and is now being considered by the subcommittee.

This bill is badly needed to provide leadership and coordination for activities designed to promote economy and efficiency and to prevent and detect fraud and abuse. I believe it merits the support of every Member of the House, and I invite their attention to it.

I am including with my remarks an announcement I made earlier this week concerning the introduction of the bill and a statement explaining provisions of the bill and the reasons for its introduction:

Statement

Washington, D.C.—Representative L. H. Fountain (D.-N.C.), Chairman of the Intergovernmental Relations and Human Resources Subcommittee, House Committee on Government Operations, today introduced a bill to create an Office of Inspector General for the Department of Health, Education, and Welfare.

The bill, which is being cosponsored by 27 other Representatives, is based upon information obtained during more than 18 months of study and investigation by Fountain's subcommittee. It is anticipated that a similar bill will be introduced in the Senate by Senator Sam Nunn (D.-Ga.) and other Senators.

Representative Fountain made the following comment: "Fraud and program abuse in the multibillion dollar operations of the Department of Health, Education, and Welfare have reached crisis proportions.

"It is essential to have a high-level official in the Department whose sole responsibility is to direct and coordinate activities designed to promote economy and efficiency and to prevent and detect fraud and program abuse.

"I do not question in any way the sincerity and the good intentions of the present HEW Secretary and Under Secretary. They have taken some commendable steps to implement recommendations made by the subcommittee. Unfortunately, in view of their heavy burden of responsibility for program operations, there is no way they can devote the undivided attention necessary to effectively combat fraud and abuse. And, as those familiar with the Department are aware, significant improvements in HEW's operations have a way of not happening without constant high-level effort and attention.

"For example, it was disclosed more than a year ago that HEW had only ten investigators in its central investigative unit. But, even though Congress made available funds for additional investigators last year, our hearings in May disclosed that only two investigators had been added.

"We also found more than a year ago that two separate sets of investigators looking into fraud and abuse in the Medicare and Medicaid programs were not allowed to tell each other who they were investigating, even though the same providers might be suspected of fraud under both programs. Despite assurances of prompt corrective action, HEW regulations still did not permit exchange of information more than a year later.

"Effective remedial action must be taken without further delay. I believe the establishment of an Office of Inspector General will make such action possible."

Under Fountain's bill, the HEW Audit Agency and the Department's Office of Investigations would be transferred to a new Office of Inspector General. The Inspector General would be responsible for directing and coordinating activities designed to promote economy and efficiency and to prevent and detect fraud and abuse in HEW's programs and operations.

The new unit would have specific responsibility for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies in HEW's programs and operations, and for recommending and monitoring necessary corrective action.

The Inspector General would report directly to the Secretary. In order to permit a high degree of objectivity and independence, the Inspector General would be appointed by the President, with the advice and consent of the Senate, for a fixed term of office, could be removed only for cause, and could not be assigned responsibility for operating programs the Office is charged with monitoring.

Whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies in Department programs, a report to the HEW Secretary and appropriate committees of Congress would be immediately required.

The bill is being introduced because of serious problems and deficiencies in HEW procedures and operations disclosed by the Subcommittee investigation, including the following:

HEW's investigative resources were found to be ridiculously inadequate. Its central investigators with a 10-year backlog of uninvestigated cases.

Information needed by both HEW and Congress for effective action against fraud and abuse was simply not available.

Units responsible for combating fraud and abuse and for promoting economy and efficiency were scattered throughout HEW in a haphazard, fragmented, and confusing pattern, with no single unit having the overall responsibility and authority necessary to provide effective leadership.

Personnel of most such units lacked independence because they reported to and were hired and fired by officials directly responsible for the programs involved. Honest and thorough reports concerning serious problems might often embarrass their own superiors.

Even when serious deficiencies did become known to responsible officials, corrective action was sometimes not taken until literally years later.

Bills to establish a more limited Office of Inspector General were considered at hearings in late May. The Fountain bill is designed to provide for a stronger and more effective Office of Inspector General, while responding at the same time to specific objections expressed by HEW.

A subcommittee meeting to consider the bill is scheduled for 10 a.m. Thursday, July 22, in Room 2247 of the Rayburn Building.

STATEMENT CONCERNING H.R. 14761

BACKGROUND

H.R. 14761, a bill to establish an Office of Inspector General for the Department of Health, Education, and Welfare, is based upon information obtained during more than eighteen months of study and investigation by the Intergovernmental Relations and Human Resources Subcommittee of the Committee on Government Operations.

After preliminary work beginning in late 1974, the Subcommittee held hearings on HEW procedures and resources for prevention and detection of fraud and program abuse in April, May and June, 1975. A comprehensive report on the Subcommittee's continuing investigation was approved by the full Committee in January 1976.[1]

Hearings relating directly to establishment of an HEW Office of Inspector General were held during May 1976. During the hearings, consideration was given to the overall concept of an Office of Inspector General, as well as to specific provisions of pending bills.

MAGNITUDE OF FRAUD AND ABUSE IN HEW PROGRAMS

HEW's operations present, in the words of one of its Assistant Secretaries, "a vast potential for fraud and program abuse".[2]

HEW administers around 300 separate programs, with expenditures estimated to total about 145 billion dollars during fiscal year 1977—more than one-third of the entire national budget.[3] A substantial percentage of this huge amount is not under the direct control of HEW, but is disbursed by non-Federal entities such as States, localities, educational institutions, fiscal agents, intermediaries, carriers and grantees.[4]

Although evidence presented at the Subcommittee's 1975 hearings made it abundantly clear that tremendous losses are being incurred through fraud and abuse in HEW programs, witnesses from the Department were unable to provide reliable information on which a specific estimate of losses could be based.[5]

Since that time, the Secretary has estimated that losses totaling $750 million annually from fraud and abuse are being incurred under the Medicaid program.[6]

The New York State Welfare Inspector General has estimated Medicaid losses in that State alone at more than $500 million per year.[7]

DEFICIENCIES DISCLOSED BY SUBCOMMITTEE INVESTIGATION

Serious deficiencies disclosed by the Subcommittee's investigation in the resources, procedures and organizational structure being used by HEW to combat fraud and abuse and promote economy and efficiency include the following:

Resources: HEW's investigative resources were found to be ridiculously inadequate. Although HEW had more than 129,000 full-time employees, its central investigative unit had only ten investigators, with a ten year backlog of uninvestigated cases. Only one individual was assigned to guard against fraud and abuse in the Medicaid program, which accounted for nearly $7 billion in Federal expenditures alone during fiscal 1975.[8]

Footnotes at end of article.

The Subcommittee found that, at least partially because of its fragmented organizational structure, HEW had failed to make effective use of the limited resources it had.[9]

Information: Information needed by both HEW and the Congress for effective action against fraud and abuse was simply not available. There was no central source of data concerning fraud and abuse nor, evidently, had any meaningful attempt been made to evaluate the overall fraud and abuse problem.[10]

Even when information was—or should have been—readily available, it was sometimes subject to lengthy delay in being provided to Congressional committees requesting it because of HEW's "clearance" processes. Even the Under Secretary was unable to explain why a four page report repeatedly requested by the Subcommittee was not provided for more than 11 months.[11]

Moreover, on at least one occasion, admittedly inaccurate information was provided to a Congressional committee concerning the adequacy of HEW's investigative resources.[12]

Corrective Action: Even when serious deficiencies did become known to responsible HEW officials, corrective action was sometimes not taken until literally years later, if taken at all. For example, although HEW officials testified that much program abuses come about because of badly designed legislation, the Department was unable to find a single instance in which it had clearly taken the initiative to call such a situation to the attention of the appropriate Congressional committees.[13]

Organizational Structure: Units responsible for combating fraud and abuse and for promoting economy and efficiency were scattered throughout HEW in a haphazard, fragmented and confusing pattern, with no single unit having the overall responsibility and authority necessary to provide effective leadership. Personnel of most such units lacked independence because they reported to and were hired and fired by officials directly responsible for the programs involved.[14]

The HEW Audit Agency and the central Office of Investigations reported to different Assistant Secretaries, with no high-level departmental official having overall responsibility for coordination and leadership of audit and investigative activities. The Subcommittee specifically recommended that these two units be placed under the overall direction of a single official who would have such responsibility but would have no program responsibilities. This official would be held directly responsible for informing the Secretary of serious problems disclosed by audits and investigations and of the progress or lack of progress in correcting such problems.[15]

CHANGES MADE BY HEW

During testimony in May 1976, HEW witnesses acknowledged the existence of serious fraud and abuse problems and the need for corrective action. However, they opposed the enactment of H.R. 5302 and similar bills then being considered, arguing that major changes already made by the Department would be adequate and that legislation was not necessary. HEW witnesses also objected to a number of specific provisions of H.R. 5302.[16]

Without in any way questioning the sincerity and good intentions of the present Secretary and Under Secretary, it should be noted that some of the assurances of remedial action have a familiar ring. In a February 27, 1976 memorandum discussing the creation of a new Office of Investigations to succeed the former Office of Investigations and Security, the Under Secretary stated that this step marked the beginning of what would be "an intensive effort to ensure that every dollar appropriated for expenditures through the Department is expended for the purposes for which Congress intended." In an April 11, 1975 memorandum, in discussing the establishment two years previously of the Investigations Division of the Office of Investigations and Security, then Secretary Weinberger had referred to the development of a "coordinated campaign to ensure that every dollar appropriated for expenditure through this Department is expended for the purposes for which the Congress intended." [17]

At least two important improvements recommended by the Subcommittee have been put into effect. A formerly separate investigative unit in the Social Security Administration has been combined with the central Office of Investigations, and the requirement that each investigation initiated by that office be cleared in advance by the Secretary or Under Secretary has been removed.[18]

However, in many respects the amount of measurable progress achieved since the Subcommittee began its investigation is far short of what is needed to alleviate the overwhelming problems facing the Department.

For example, it has been more than a year since the Subcommittee's investigation disclosed that the Department had only ten investigators, with a ten year backlog of uninvestigated cases, in its central investigative unit. But, even though Congress made available funds for a substantial number of additional investigators last year, our hearings in May disclosed that only two investigators had been added.[19]

During May 1975, our investigation disclosed that two separate sets of investigators looking into fraud and abuse in the Medicare and Medicaid programs were not allowed to tell each other who they were investigating, even though the same providers might be suspected of fraud under both programs. Despite assurances of prompt corrective action, hearings in May 1976—more than a year later—disclosed that HEW regulations still did not permit such exchange of information.[20]

Although testimony by HEW witnesses suggested that "a clearly defined working relationship between the Office of Investigations and the Audit Agency" regarding reporting of possible fraud was a recently established innovation, other evidence indicated that such a relationship had previously existed, even if less clearly defined. The two units have not been placed under the overall supervision of a single official, as recommended by the Subcommittee.[21]

Until recently, officials of the Department did not know how many different units within HEW were engaged in activities specifically related to the promotion of economy and efficiency. A study performed at the request of the Subcommittee indicated that there were 63 such units, with a total of 3,642 employees directly engaged in such activities.[22]

Administrative steps have been taken in certain instances which are intended to provide greater independence for auditors and investigators; such actions could, of course, be reversed without notice. Moreover, although great emphasis was placed upon the "total" independence of the Director of the Office of Investigations, he apparently did not feel free to respond to Subcommittee questions without submitting his answers for Departmental clearance.[23]

During her testimony, the Under Secretary indicated that responsibility for directing and coordinating all departmental efforts relating to fraud and program abuse had been placed under her direct and personal supervision; she is, in effect, acting as an Inspector General. The Under Secretary expressed confidence that she had adequate time to carry out both her oversight responsibilities and other duties. However, the record clearly indicates that the Under Secretary can give only limited attention to a task which would be very difficult for someone with no other responsibilities. Although the Under Secretary has eight people on her immediate staff, she testified that none of them assist her directly in her fraud and abuse responsibilities. Moreover, the Under Secretary's travel schedule indicated that she was out of Washington on other matters on all or parts of 73 days during the first five and one-half months of 1976; while she was gone, no deputy was assigned to carry out her fraud and abuse responsibilities.[24]

Another HEW official subsequently acknowledged that, under present organizational arrangements, only the Secretary and the Under Secretary have responsibility for being informed about all significant activities being carried out by the Department for the purpose of promoting economy and efficiency and preventing and detecting fraud and program abuse, and that neither of them can possibly take the time necessary to carry out this responsibility.[25]

Another strong argument against Secretaries or Under Secretaries acting simultaneously as de facto Inspectors General, if one is needed, is the rapid turnover associated with those positions. During the approximately 23 years since HEW was established in 1953 there have been ten Secretaries and eleven Under Secretaries. The average tenure of Secretaries and Under Secretaries has been well under two and one-half years; the longest time anyone has served as Secretary is three years and eighteen days.[26]

EFFECT OF H.R. 14761

It is anticipated that HR 14761, if enacted, would have the following effect on some of the major problem areas disclosed by the Subcommittee's investigation:

Resources: HR 14761 would have no direct effect on the level of resources available to promote economy and efficiency and prevent and detect fraud and program abuse. However, it would help to achieve more effective use of such resources through better coordination. It also provides assurance that Congress will be informed without delay in the event available resources are inadequate.

Information: Requires that the Secretary and Congress be kept fully and currently informed about serious problems and deficiencies in HEW operations. Would eliminate lengthy delays resulting from HEW "clearance" procedures by requiring that reports of the Inspector General be submitted directly to the Secretary and the Congress without such clearance.

Corrective Action: Provides for the Inspector General to make recommendations for corrective action and to keep the Secretary and Congress informed about the progress of such corrective action.

Organizational Structure: Establishes a central unit to provide leadership for and coordinate activities relating to the promotion of economy and efficiency and the prevention and detection of fraud and program abuse. While only the Audit Agency and the Office of Investigations would initially be transferred to the new Office of Inspector General, additional units and functions could be transferred to the Office under appropriate circumstances. In order to safeguard the objectivity and independence of the Office, the Inspector General would be appointed by the President, by and with the advice and consent of the Senate, for a fixed term and could be removed only for cause. No program operating responsibilities could be assigned to the Office.

Perhaps most important, HR 14761 would provide for a high-level official with no program responsibilities who would be responsible for giving undivided attention to the promotion of economy and efficiency and the prevention and detection of fraud and abuse in HEW programs and who would have a term of office long enough to permit real progress toward those goals.

FOOTNOTES

[1] House Report 94–786, hereafter cited as "Report."

[2] 1975 Hearings, p. 7.

[3] Report, p. 13; 1977 expenditure estimate obtained from HEW.

[4] 1975 Hearings, pp. 14–15.

[5] Report, pp. 8, 15–17.

[6] Statement at March 26, 1976 news conference, based on data supplied by the Medical Services Administration.

[7] Testimony before the Subcommittee on Oversight and Investigations, House Committee on Interstate and Foreign Commerce, February 13, 1976, pp. 85–86.

[8] Report, pp. 9–10, 34–35.

[9] Report, pp. 9, 36–37.

[10] Report, pp. 8, 15–16.

[11] 1975 Hearings, pp. 2–3, 379; 1976 Hearings, pp. 24–25, 115.

[12] Report, p. 36; 1976 Hearings, p. 38.

[13] Report, pp. 10, 40; 1976 Hearings, pp. 49–50, 63.

[14] Report, pp. 8–9, 27–30.

[15] Report, pp. 11, 21–22.

[16] 1976 Hearings, pp. 17–22.

[17] 1975 Hearings, p. 309; 1976 memorandum in Subcommittee files.

[18] Report, p. 11; 1976 Hearings, pp. 20–21.

[19] 1975 Hearings, p. 47; 1976 Hearings, pp. 35–36.

[20] 1975 Hearings, pp. 113–116, 175–177; 1976 hearings, pp. 50–51.

[21] Report, p. 11; 1976 Hearings, pp. 20, 59, 112 (Question 7).

[22] 1976 Hearings, pp. 47–48, 81–99.

[23] 1976 Hearings, pp. 21, 28, 59, 60, 112 (Question 6), 115.

[24] 1976 Hearings, pp. 21, 44–47.

[25] 1976 Hearings, pp. 61–63.

[26] Information supplied by Congressional Reference Service, Library of Congress.

THE ECONOMIC STATUS OF OUR OLDER CITIZENS

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. TRAXLER. Mr. Speaker, as we all realize, no group has suffered more from the effects of inflation than the more than 21 million Americans over the age of 65. In order to ease their plight, it is up to the Congress to do more. I firmly believe that we can do more. We must hasten to act in order to prevent further deterioration of the economic status of our older citizens who are on fixed incomes.

During the 94th Congress I have been pleased to see that we have succeeded in focusing much greater attention than ever before on the problems and needs of older persons in this country. The Committees on Aging in both the House and the Senate have taken initiative in addressing the problems of income security, health care, housing, transportation, and nutrition facing our Nation's senior citizens. We have made progress in many of these areas, but much more needs to be done. It is estimated that one quarter of Americans aged 65 or older are living at poverty level. If this figure is accurate, we have a long way to go before we will have fulfilled our obligation to older persons in this country.

We must pledge to do all that we can to insure that older Americans can live their retirement years in good health and economic security. We must not relax until we can say without hesitation that this country is providing for the critical needs of its older citizens.

There are two measures that I have introduced that I am convinced would provide a level of protection against the ravages of an economic force that is yet beyond our control: inflation.

One of these bills amends title II of the Social Security Act to provide that the automatic cost-of-living adjustments in social security benefits be made on a semiannual basis, rather than on an annual basis as is presently done.

The second bill calls for the development and publication of a separate Consumer Price Index for senior citizens. This index would be used to determine cost-of-living adjustments to be made to social security recipients over the age of 65.

In a report issued by the Senate Special Committee on Aging these proposals were among the recommendations that the committee strongly advocated. Also, these two measures have long been endorsed by the National Council of Senior Citizens, as well as a number of other senior citizens organizations.

The reason for adoption of these measures should be clear: at current rates of inflation, a year is far too long to wait for a necessary increase in social security benefits. The adjustment mechanism for cost-of-living increases must be responsive to the actual need, not a mechanism adopted for the sake of convenience. If adjustments for cost of living were made twice a year the effects of inflation would be far less damaging to those citizens living on fixed incomes.

The idea of a separate Consumer Price Index for senior citizens is one that has been debated for many years. The principal argument that I find in favor of this proposal is that our older Americans as they advance in years tend to spend a larger, disproportionate percentage of their incomes on goods and services that are particularly subject to inflation, such as health care and utilities. Our cost-of-living adjustments must adequately compensate older persons for these indicative expenditures. It is conceptually preferable that a Consumer Price Index for use in adjusting social security income levels for older Americans be calculated from an accurate survey of expenditures made in those areas where they make them.

Mr. Speaker, I am convinced that these measures could be of inestimable value to older citizens and a positive step toward achieving the goal of an economically secure senior citizenry. I hope that every Member of Congress will join me in this effort to see to it that the needs of our Nation's older persons are met, and met as soon as possible.

STANLEY SCHNEIDER IS KIWANIS PRESIDENT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. ASHBROOK. Mr. Speaker, on Wednesday, June 23, Stanley E. Schneider, Crestline, Ohio, businessman, and 18-year veteran of Kiwanis membership was named president of that worldwide service organization, as a climax of its 61st annual convention in San Diego. Schneider, who had been serving as president-elect of Kiwanis International, will assume his new office on October 1. This is particularly meaningful to me for three reasons. I am a Kiwanian. Stan Schneider is from my district and, more important, he is a friend and a great American.

His election came toward the end of Kiwanis' largest convention—21,000 men, women, and children and its first in San Diego. President Schneider will succeed Ted R. Osborn, Lexington, Ky., businessman who has held his post since October 1, 1975.

As leader of Kiwanis International, Stan Schneider will be spokesman for nearly 285,000 members in 7,000 clubs located in 52 countries and geographical areas of the world. His assumption of the presidency finds Kiwanis larger, more widespread, and enjoying an average younger age for its members than ever before in its 61-year history.

When he delivered his inaugural address Wednesday evening, June 23, in the San Diego Sports Arena, our new president announced Kiwanis' new major emphasis program, which the organization will undertake during his term of office. He said in his introductory remarks:

> Free men can no longer tolerate the soaring rate of crime which characterizes our society. We can no longer yield ground to those who have no respect for life or property. We can no longer stand by and allow fear of crime to play a daily role in our lives. Slowly, but surely, fear of crime is narrowing and shrinking your world of movement and mine. When personal security can no longer be a reality, our cherished guarantees of the sanctity of the home and of freedom of movement within our communities are made meaningless by the grimmer reality of a rapidly accelerating crime rate.
>
> What can Kiwanis do? Professional law enforcement agencies tell us with one voice that responsible citizen involvement is the key factor in reducing crime. They tell us, too, that crime will continue to erode our communities and our way of life until responsible citizens become so outraged that they resolve to become involved in lawful carefully structured programs to oppose crime. If Kiwanis is to merit its reputation as being the number one service organization in the world, we cannot avoid entering into the arena—and entering immediately. We must, among all organizations, lead the way in showing the public what can be done, and what must be done.
>
> Thus, I announce to you that the 1976–77 Major Emphasis of Kiwanis International will be the
>
> SAFEGUARD AGAINST CRIME PROGRAM
>
> Our Safeguard Against Crime program will focus upon four objectives.
>
> First, we will create greater understanding among people in our communities of what can be done—the practical possibilities, and the necessity, for establishing safeguards against crime. In accomplishing this, we will make full use of the media, the distribution of printed materials, and the organization of community forums to stimulate public cooperation and public action.
>
> Secondly, we will provide specific counsel to selected groups—especially home residents—as to equipment and practices which will help them to establish safeguards against crime. These will include counsel on identification of personal property, information in home security, and the reporting of crime and the threats of crime.
>
> Thirdly, we will provide direct services to those who need them in setting up safeguards against crime. These can include making available such items as engraving tools for identifying property, demonstrating home security equipment, and providing the leadership for the organization of block watches or other cooperative endeavors.
>
> Our fourth program objective will be to make every effort to bring about greater understanding of, and respect for, law enforcement and the administration of justice as our ultimate and long-range hope for bringing about a major reduction of crime and a major alleviation of fear in today's society.
>
> My confidence that that Safeguard Against Crime program is a sound choice for Kiwanis was strongly reinforced one month ago in a conversation I had in Ottawa, Ontario, when it was my privilege to meet with the men who hold top responsibility for the Federal Bureau of Investigation and the Royal Canadian Mounted Police.
>
> Throughout the past several months, as we have been preparing for the launching of our 1976–77 program, we have enjoyed the excellent cooperation of both of these organizations.
>
> Our plans were thoroughly discussed in my meeting in Ottawa with Commissioner Nadon of the Royal Canadian Mounted Police and Director Kelley of the Federal Bureau of Investigation. Both of these leaders in the fight against crime spoke of the problems, not only in the United States and Canada, but throughout the civilized world. They pointed out the dire need for citizen participation in defending our homes against potential criminals and the strong role Kiwanians could play in this effort. Their considerable interest in our new program is briefly illustrated in this closing portion of our filmed discussion.

President Schneider then went on to announce the Kiwanis International theme for 1976–77 which will be "Lead the Way" and the five "objectives" for the year which will implement that theme:

> Lead the Way by Living our Faith Daily
>
> Lead the Way by Building better Communities in a Better World
>
> Lead the Way by Uniting with Youth Organizations to Motivate Responsible Citizenship
>
> Lead the Way by Emphasizing Family Unity to Strengthen Respect for Life and Property, and
>
> Lead the Way by Sharing Opportunities for Service with Others.

He closed by saying

> All Can Go . . . From Here to There,
> If Some Would Lead the Way—
> From Despair to Fulfillment,
> From Destruction to Creation,
> From Apathy to Action.

From Fear to Peace of Mind.
Many wish to go . . . From Here to There,
And we Shall Lead the Way.

Stan, himself, is well qualified to lead Kiwanis and to insure the success both of the new major emphasis program and the theme and objectives for the coming year.

An automotive retail and investment executive, Schneider had served as Kiwanis International president-elect for 1 year after his election in June 1975, at the 60th Kiwanis International convention in Atlanta, Ga.

Stan has also served 1 year as treasurer, 1 year as vice president, and two 2-year terms as a trustee of Kiwanis International. He has been president of the Kiwanis Club of Crestline, Ohio, lieutenant governor and governor of the Ohio Kiwanis District, member and chairman of several district committees, and chairman of the Kiwanis International Committees on Inter-club Relations and Fellowship, and Membership Development. He has also been a member of the International Committee on Boys and Girls Work. He is a member of the Kiwanis International Foundation's Board of Trustees.

Currently, President Schneider is serving as a member of the executive committee of Kiwanis International, as chairman of the Board Committee on Key Clubs, and as a member of its Committee on Convention.

A Kiwanian for 18 years, the new president has served two terms as a member of the City Council of Crestline, has been a member of the County Elections Board, and a member of the Volunteer Fire Department. He was one of the principal organizers of the United Fund in Crestline and was chairman of a local school bond issue campaign.

He is a member of the National Automobile Dealers Association, the National Guard Officers Association, the Aircraft Owners and Pilots Association, the Veterans of Foreign Wars, the Marine Corps League, and the Association of the U.S. Army.

Stan Schneider has also been active with local and area council affairs of the Boy Scouts. He is a past trustee and chairman of the commission on stewardship and finance for the First United Methodist Church.

He and his wife, Millie, a fifth grade social studies teacher, have three daughters.

REFORM OF CENSUS OF AGRICULTURE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mrs. SCHROEDER. Mr. Speaker, I am today introducing legislation which will dramatically reduce the paperwork burden imposed on farmers by the census of agriculture.

While it is important that reliable agricultural information be collected and published, it is neither necessary nor desirable for family farmers to be forced to fill out incredibly detailed forms which many times ask questions for which farmers just do not have answers.

The most recent census of agriculture has met with great resistance throughout rural America because of the unreasonable burden it has placed on farmers. It appears as if much too little thought and effort has gone into considering the average farmer's time and frustration in filling out these forms.

The result has been an agricultural census which is a marketer's dream, but a farmer's nightmare. I believe that now is the time to deal with this issue before plans are made for the next census of agriculture which will be taken in 1979.

The bill which I am introducing comes after extensive hearings on this issue which the House Subcommittee on Census and Population, which I chair, and the Subcommittee on Family Farms and Rural Development, which is chaired by Congressman ROSE, have held during this Congress.

My bill would require the Bureau of the Census to reduce, by at least one-half, the paperwork burden imposed on farms with annual sales of $50,000 and less. It is anticipated that this class would include over 80 percent of the farmers in the United States when the agricultural census is next conducted. For those farms with sales of more than $50,000, the bill would require the reduction of respondent burden to the maximum extent feasible which, for these farms, would also result in much less paperwork. The effect of such a provision will undoubtedly force the Bureau of the Census to make much greater use of sampling techniques in 1979—something it should have been doing all along.

My bill would also do two other things. First, it would require the Bureau of the Census to continue to collect certain limited information on very small farms, and to continue to consider them as farms. Last year, the Bureau of the Census and the Department of Agriculture wanted to increase by 400 percent the minimum sales required for an establishment to be considered as a "farm." This would have resulted in hundreds of thousands of farms being technically redefined out of existence.

Because of an adverse congressional response to this redefinition, the action was later rescinded. But I think that the Congress ought to preclude any future attempts to redefine large number of farms out of existence. Therefore, my bill provides that any future changes in definitions which would increase the sales to qualify as a "farm" cannot exceed inflationary trends.

Third, my bill recognizes the fact that there have been great changes in the ownership structure of farms in recent years which are not fully understood or documented. Therefore, the bill calls upon the Bureau of the Census to improve upon its collection of data on the farm ownership structure of the United States.

Mr. Speaker, I hope that the Congress will soon have the opportunity to vote on this important legislation which will help to get the Government off the farmer's back.

The full text of the bill follows:

H.R. 14830

A bill to provide for a 50-percent reduction of the burden on respondents in the censuses of agriculture, drainage, and irrigation taken in 1979 and thereafter, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Agricultural Census Amendments Act of 1976".

STATEMENT OF FINDINGS

SEC. 2. The Congress hereby finds—

(1) that the census of agriculture, drainage, and irrigation has increased in complexity and detail to the extent that the reporting burden now imposed on farmers is unreasonable and possibly counterproductive.

(2) that the respondent burden of such census can be substantially reduced by the increased use of sampling and survey techniques without any loss of necessary data;

(3) that in order to develop a comprehensive policy for the rural areas of the United States, and to recognize the continued existence of small farming enterprises and their contributions to our Nation, it is necessary to continue to collect and publish information on such farming enterprises; and

(4) that significant changes in the ownership structure of farms in the United States have developed in recent years which need to be better understood and documented.

REDUCTION OF RESPONDENT'S BURDEN BY 1978 AGRICULTURAL CENSUS

SEC. 3. The Secretary of Commerce shall—

(1) determine the reporting burden on establishments which, on an annual basis, have average sales of agricultural products of $50,000 or less, and such burden on all other establishments, in the 1974 census taken under section 142 of title 13, United States Code,

(2) take steps which he considers to be consistent with the purposes of such section and which will assure that in the census taken in 1979 under such section—

(A) in the case of establishments which, on an annual basis, have average sales of agricultural products of $50,000 or less, the reporting burden will be equal to or less than one-half of the reporting burden determined by him under paragraph (1) with respect to such establishments, and

(B) in the case of other establishments, the reporting burden will be reduced to the maximum extent feasible, and

(3) not later than June 30, 1977, prepare and transmit to the Congress a report which—

(A) sets forth his determinations under paragraph (1) of the respondent burden in the 1974 census, and

(B) states what steps have been or will be taken under paragraph (2) to reduce the respondent burden in the census taken in 1979 under such section and his evaluation of such steps.

CLASSIFICATION OF FARMS USED FOR 1974 AGRICULTURAL CENSUS

SEC. 4. (a) The statistical classification of farms in effect on June 30, 1976, with respect to the 1974 census taken under section 142 of title 13, United States Code, shall be effective, for purposes of that census, on and after the effective date of this Act.

(b) The Act of March 15, 1976 (Public Law 94-229) is amended by striking out section 2 thereof.

CLASSIFICATION OF FARMS TO BE USED IN FUTURE AGRICULTURAL CENSUSES

SEC. 5. The statistical classification of farms effective with respect to censuses taken in

1979 and thereafter under section 142 of title 13, United States Code, shall be prescribed in such a manner as not to exclude any establishment which, for the calendar year to which the data collected relates, has sold or would normally sell more than a minimum value of agricultural products. For purposes of the preceding sentence, the term "minimum value" means, with respect to any census, $250 adjusted by a percentage equal to the percentage change in the index of prices received by farmers (maintained by the Department of Agriculture) from January 1, 1969, through January 1 of the year to which the data collected in such census relates.

OWNERSHIP STRUCTURE OF UNITED STATES FARMS

SEC. 6. The Department of Commerce, in cooperation with the Department of Agriculture, shall develop methods of improving the collection, analysis, and publication of data relating to the ownership structure of farms within the United States, and the Department of Commerce shall collect, analyze, and publish such data.

A VOICE FROM AMERICA'S PAST

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mrs. SMITH of Nebraska. Mr. Speaker, during the Fourth of July observance, it was my privilege to attend Sunday worship at Lexington, Nebr.'s Chapel of the Lake. The sermon offered by the Reverend Harvey L. Moore on that occasion was one of the most inspired and moving I have ever heard.

In keeping with our observance of the Nation's Bicentennial, I insert the Reverend Moore's message at this point in the RECORD:

A VOICE FROM AMERICA'S PAST

A Sermon Given by the Reverend Harvey L. Moore, Minister, First Presbyterian Church, Lexington, Nebraska, at the Chapel of the Lake, Johnson's Lake, Nebraska, on Our Bicentennial Anniversary of the United States of America, July 4, 1976.

I am a voice from America's past. I am indeed glad for the opportunity, on this 200th anniversary of our beloved country, to visit with you this morning. You will soon recognize who I am as I continue to talk. My name has been a household word in America for well over a hundred years.

Now, I am quite aware of all that's happened in the country since I lived and died here long ago. This country has been through rough times in recent years—there's no denying that—at times, things still seem very uncertain. You have your share of critics and cynics and some have all but lost faith in the American dream.

Well, it really wasn't much different when I lived. We, too, had our trials and our spoilers. It seemed at times to many that *we* wouldn't make it, but we did. Out of that great earlier victory in American history, I bring you hope today. I bring you faith and assurance for the future of the country.

Let me share with you some things from my life that maybe you haven't heard about me—yet. There has been much written of my life but not nearly enough about my personal faith in God. That was the foundation of my life as it has also been the foundation of America. One of your recent Presidents said, "You can't explain free government in any other terms than religious." [1]

Footnotes at end of article.

No, it wasn't my good fortune to be alive in 1776. My Grandfather, though, whom I was named after, saw the light of 1776. He was a Captain in the Virginia Militia. George Washington, the Father of Our Country, was his President. My Grandfather's friend was Daniel Boone, and Boone told him of a land of "blue grass, game and fish, tall timber and clear running waters." [2] My Granddad moved to a place by the Green River in Kentucky.

My own father, then six years old, saw my Grandfather killed by Indians. Dad was a good man—hard-working, law-abiding, honest. He didn't get any book learning but he could sign his name.

My parents were Christians—first of the Free Will Baptists, and then later, Presbyterians, when we moved to Indiana. Our home was a place of prayer, the Bible read every morning and evening, and Father always gave Thanks at the table.

My mother was a fine Christian woman and this had the greatest effect upon my life. As I have said at other times: "I remember her prayers, and they have always followed me. They have clung to me all my life." [3]

Well, I was born shortly before the turn of the 19th century. My mother died when I was nine years of age. She called my sister, Sarah, and me to her bedside, placed her feeble hand on my head, and told us she hoped we would worship God.

I share all of this about my early training to show you what an influence a Christian family, the Bible and prayer had on me early in life, and so, eventually, on my country. I'm sure that Bible verse is still right when it says: "Train up a child in the way he should go and when he is old, he will not depart from it . . ." (Prov. 22: 6).

I did manage to get a little formal education in a log cabin school but most of my learning I got on my own. The Bible was one of the main books I read.

By the time I was 21, I had lived in Kentucky, Indiana, and then Illinois. That rugged frontier life with all the hard work that followed made me into a strong man.

When I was about 22, I hit out on my own. I hired out on a boat going down the Mississippi. For a time, I worked in a store as a clerk, was a Captain in the Army, and a land surveyor. I spent a good number of years studying law and then practicing law for many more years. I finally got into politics.

Some, in writing later of my life, spoke of my "determination and courage to drive on in the face of adversity." [4] I surely would have to admit that my life was no bed of roses. Seemingly, I had more than my share of failure but there were the successes as well.

I said once that "I have felt His hands upon me in great trials and submitted to His guidance." He took me through; the courage came from His presence with me and His strength. How can you otherwise explain the record someone wrote of my years:

Lost job, 1832. Defeated for Legislature, 1832. Failed in business, 1833. Elected to Legislature, 1834. Sweetheart dies, 1835. Had nervous breakdown, 1836. Defeated for Speaker, 1838. Defeated for nomination for Congress, 1843. Elected to Congress, 1846. Lost re-nomination, 1848. Rejected for Land Officer, 1849. Defeated for Senate, 1854. Defeated for nomination for Vice-president, 1856. Again defeated for Senate, 1858. Elected President of the United States, 1860. [5]

Someone wrote of that High Office of President that one might enter that job as a doubter of God but one would leave a believer. Though my belief in God was strong, when I became President, I had not really committed myself to Christ. That was still to happen while I was President.

My farewell address to the good folks of Springfield as I left for Washington and the Presidency, spoke of my faith in God. I said on that occasion, ". . . I now leave with a task before me greater than that which rested upon Washington. Without the assistance of that Divine Being who ever attended him, I cannot succeed. With that assistance, I cannot fail. . ." [6]

I found that I would need that Divine Assistance in the years that lay ahead more than I could ever imagine. I had two great challenges in my Presidency: the freeing of the slaves, and the Civil War. I did not want war but that was what it finally came to in order to gain the blacks freedom. I spoke of the Slavery Issue in these words: "I know there is a God, and that He hates injustice and slavery. I see the storm coming, and I know that His hand is in it. If he has a place and work for me—and I think He has—I believe I am ready . . . I am nothing, but truth is everything. I know I am right, because I know that liberty is right, for Christ taught it and Christ is God . . . Douglas doesn't care whether slavery is voted up or down but God cares and humanity cares, and I care: and with God's help, I shall not fail. I may not see the end, but it will come, and I shall be vindicated and these men will find that they have not read their Bibles aright . . ." [7]

The War was terrible and my pain and anguish during those years when brother fought brother cannot be measured. Peace, not War, was my dream and goal, and so the Lord Himself seeemd to inspire from me those words in the Second Inaugural Address:

"With malice toward none; with Charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow and his orphan, to do all which may achieve and cherish a just and a lasting peace . . . among ourselves, and with all nations . . ." [8]

The Bible became my constant companion as President. I told Mr. Speed, my close friend who was somewhat of a sceptic, "I am profitably engaged in the reading of the Bible. Speed, you are wrong. Take all of this book upon reason that you can, and the balance on faith, and you will live and die a happier man." [9]

Prayer to God was one of my greatest resources. I said once, "I have been driven many times upon my knees by the overwhelming conviction that I had nowhere else to go."

The Church also meant a great deal to me. Though I never joined any church, while in Springfield I did engage to rent a pew and worshipped regularly at the First Presbyterian Church. While President, my wife and I attended the New York Avenue Presbyterian Church. I used to attend the Wednesday evening prayer meeting in that church as well, and received great help.

My personal acknowledgement of Christ as personal Saviour came finally when my son, Willie, died. His death was my greatest sorrow. "That blow overwhelmed me. It showed me my weakness as I had never felt it before. When I left Springfield, I asked the people to pray for me. I was not a Christian. When I buried my son, the severest trial of my life, I was not a Christian. But when I went to Gettysburg and saw the graves of thousands of our soldiers, I then and there consecrated myself to Christ. Yes, I do love Jesus . . ." [10]

A gentleman once asked me, in the midst of the crisis of the Civil War, "Will our country come through safe and live?" The words I gave to him then can well apply to you now, on this 200th anniversary of America.

I said then: "I do not doubt—I have never doubted—that our country would finally come through safe and undivided. I do not rely on patriotism of our people (alone). . . . I do not trust in the bravery and devotion of the boys in blue (by themselves). Nor yet do I rely on the loyalty and skill of our generals. But the God of our Fathers who raised up this country to be the refuge and asylum of the oppressed and downtrodden of all nations, will not let it perish now . . . God will bring us through safe."[11]

At Gettysburg, when I had my deep and most profound experience with Christ, I uttered these words:

"Fourscore and seven years ago, our fathers brought forth upon this continent a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal.

Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battlefield of that war. We have come to dedicate a portion of that field as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.

But in a larger sense, we cannot dedicate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract. The world will little note, nor long remember, what we say here, but it can never forget what they did here. It is for us, the living, rather to be dedicated here to the unfinished work which they who fought here thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion, that we here might resolve that these dead shall not have died in vain, that this nation, under God, shall have a new birth of freedom and that government of the people, by the people, and for the people, shall not perish from the earth. . . ."[12]

I, Abraham Lincoln, a President of the United States, pray with you on this Bicentennial Sunday.

"God Bless America!"

FOOTNOTES

[1] Eisenhower, Dwight D.: A speech.

[2] Sandburg, Carl: *Abraham Lincoln, The Prairie Years*, P. 21.

[3] Johnson, William J.: *Abraham Lincoln, The Christian*, P. 22.

[4] Gard, Grant: *Don't Talk About It, Do It*, P. 4.

[5] *Ibid.*, P. 4.

[6] "The Lincoln Home," (Pictorial History and Guide Book).

[7] Johnson, *op. cit.*, P. 65–66.

[8] *Ibid.*, P. 174.

[9] *Ibid.*, P. 148.

[10] *Ibid.*, P. 172.

[11] *Ibid.*, P. 110.

[12] Frank and Waynal: *World's Famous Orations*, "Gettysburg Speech," P. 254.

FOREIGN EXCHANGE PROGRAM

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. NOLAN. Mr. Speaker, during these times of coldness and hostility in the international affairs, it is comforting to hear of successful foreign exchange programs between universities of different countries. One such example is the foreign exchange program between Saint John's Preparatory School at Collegeville, Minn., and the Stift Melk at Melk, Austria. In celebration of the foreign exchange program's 10th anniversary, Father Alan Steichen, headmaster of Saint John's Preparatory School, delivered the following speech on May 27, 1976 at the Fest Akadamdie at Melk. The Deputy Chief of Mission at the American Embassy in Vienna and the American Consul from Salzberg were there to represent the United States.

The text follows:

SPEECH BY FATHER ALAN J. STEICHEN

Father Abbot Burkhardt, Father Petrus, Dr. Wegscheider, monks of Melk Abbey, parents, students and friends:

I am pleased to have this opportunity to speak to you today about a program which has great significance for all mankind in the twentieth centry. I speak to you about the foreign exchange program which has been in continuous operation for the past ten years between your own Melk Abbey and Saint John's Preparatory School in the United States. While this program is small when measured in mere numbers of participants, it is immensely significant nonetheless. It is significant in a truly Benedictine sense—the sense of providing a model for mankind to ponder upon. We who are sons of Saint Benedict know that our influence is not measured in numbers, for if that were the only criteria we would be miniscule. Yet Benedictine monasticism has never been miniscule. Quite the contrary, Benedictine monasticism can claim responsibility for the very continuation of Western culture as we know it. Your own monastery here at Melk has had a very direct participation in the preservation of culture through your religious dedication and scholarly pursuits.

How is this possible? How is it possible for small monasteries to have been responsible for such an immense task? Certainly the answer must lie in the examples of vitrue and scholarship which monasteries have provided mankind. When a young man enters a monastery he enrolls in a "school of the Lord's service." And in turn, he teaches the wisdom he has learned to others, wishing them to take this message to the whole world. Thus, emanating from his own small community, the world at large is profoundly affected.

Why then is our small exchange program so important? Not because it has affected a great number of people directly, but because it has provided a model of brotherhood for all the world to see. Just two weeks ago we completed an evaluation of our school by scholars from universities, private and public schools and representatives of the clergy. And in the course of their evaluation they interviewed a number of our students who have participated in the foreign exchange program. Their conclusion was that this experience was perhaps the most important experience these young students had had in the formation of their understanding of brotherhood and peace. Now many of these students have already taken their place in society—in government, in religion, and in the various professions. These students will carry out the message of peace and brotherhood which they learned here at Melk. In a way far more profound than the negotiations of statesmen, these participants can speak to the world of international understanding.

And this understanding is so very important today. We are living in an era in which we must learn that all of us are brothers. As the economist Kenneth Burke characterized our times in a speech at St. John's, we are all living in a spaceship—and the name of the spaceship is the "Planet Earth." Our own survival as a planet is dependent upon learning brotherhood.

These are the reasons that I am pleased to be here on the occasion of the Tenth Anniversary of our program. It has not always been an easy program. There have been problems in the past and there will continue to be problems. But we have succeeded in our mission! We have shown the world that brotherhood can survive. And you at Melk should be justly proud of your participation. You have shown us warmth and love. You have made our students, faculty and parents feel that Melk is their home. You have sent to us your own sons and daughters to learn about our American culture. You have allowed some of your finest faculty members to join us in America to deepen our understanding. And therefore we say, "Thank You."

THE NUCLEAR FUEL ASSURANCE ACT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. BINGHAM. Mr. Speaker, next week the House is scheduled to act on H.R. 8401, entitled the Nuclear Fuel Assurance Act. The original purpose of this bill was to guarantee that the United States have an adequate supply of enriched uranium for which we must now plan if we are to have plants on-line producing enriched uranium.

I wholeheartedly support this goal. I believe it is imperative that we retain all our energy options: to do so in the nuclear field means to maintain an adequate supply of reactor fuel to guard against any contingency. It is this conviction—that we should guarantee a supply of enriched uranium in case we should make the considered judgment that nuclear fission is an economically viable, environmentally-sound source of energy—which has led me to support section 4 of the pending legislation. This section provides for the construction of a new government-owned uranium enrichment plant alongside the existing facility at Portsmouth, Ohio.

However, there are contained in sections 2 and 3 provisions for "privatization" of the enrichment industry and creation of a new, Government-guaranteed export market for enriched uranium. While I believe there are many compelling reasons for opposing an unwise proposal, today I would like to call my colleagues' attention to just one single aspect which I believe illustrates the ill-conceived nature of the administration's proposal.

Sections 2 and 3 would provide hidden subsidies and out-front market guarantees of up to $8 billion for private investors seeking to expand the uranium enrichment market. ERDA is already accumulating a stockpile aimed at "backstopping" the contracts of such ventures; ERDA has apparently manipulated the uranium market prices upward and still higher prices are expected should H.R. 8401 pass unamended. This is but one reason that the American Public Power Association opposes this bill.

If such manipulation of the enrichment market continues in conjunction with the privatization scheme embodied in the administration's bill, there is considerable speculation that, as a recent article in Science magazine put it, it may have "a glut" of enriching capacity by 1985. The argument here is that it is not just improvident, but also unecessary for Congress to commit the Federal Treasury to underwriting the creation of new markets for nuclear fuel. It is precisely this argument which has caused the pronuclear Oil, Chemical and Atomic Workers Union to lobby vigorously against sections 2 and 3, in support of an amendment I shall offer to strike these sections—the "privatization" scheme—from the legislation.

The fact is, as a letter from the president of the OCAW union accurately states:

> The present three Government diffusion plants plus the additional add-on plant at Portsmouth, Ohio, will provide more than sufficient enriched uranium . . . the building of a fifth gaseous diffusion—enrichment—plant by—private and foreign investors—would provide excess capacity.

I commend this letter to my colleagues' attention, as well as the letter from the American Public Power Association:

ENCLOSURE NO. 1

OIL, CHEMICAL AND ATOMIC
WORKERS, INTERNATIONAL UNION,
Denver, Colo., June 21, 1976.

To: All Members of the U.S. House of Representatives.

DEAR HOUSE MEMBER: On behalf of the approximately eight thousand workers in the gaseous diffusion plants represented by my Union, I am writing to urge you to take a strong position against the Nuclear Fuel Assurance Act, H.R. 8401.

We oppose the sections of this bill which would turn over uranium enrichment to private corporations under terms which would be very beneficial to these corporations but detrimental to U.S. taxpayers, to electricity consumers and to the future of the existing Government-owned gaseous diffusions plants.

The present three Government diffusion plants plus the Government additional add-on plant at Portsmouth, Ohio, will provide more than sufficient enriched uranium to fuel the 185 thousand megawatt nuclear power plants which are projected by ERDA to be operating by 1985. (The present number of operating plants is sixty.) The principal object of the bill is to authorize ERDA with the Uranium Enrichment Associates to negotiate a fifth (private) gaseous diffusion plant.

The building of the fifth gaseous diffusion plant by UEA would provide excess capacity. In the first draft of the UEA-ERDA contract, any surplus capacity would be met by curtailing operations at the lower-cost government plants. Other private centrifuge enrichment plants would be covered by the bill but the technology is not yet proved on a commercial scale so that these projects are much further down the road.

The comparative costs of the UEA venture with the Government add-on plant at Portsmouth are clearly brought out by the $3.5 billion estimate for the UEA plant as against $2.5 billion for the Portsmouth add-on. The difference in interest rates is enormous. UEA has stated that they expect the return to investors on the $3.5 billion to run 15% after taxes. This compares with normal U.S. Government bond interest on $2.5 billion for Portsmouth. The high return to UEA investors is expected in spite of the fact that the money of U.S. investors would be fully guaranteed by the Government under the Nuclear Fuel Assurance Act.

As uranium enrichment is highly capital-intensive, the cost per kilogram of UEA enriched uranium would be much higher than that from the Government plants. The prices for Government uranium would have to be raised in order to make UEA uranium commercially competitive. As the cost of uranium enrichment is a substantial fraction of the costs of nuclear power, increasing the price of fuel grade uranium would be another setback to the program of nuclear power expansion in this country.

My Union notes with dismay that 60% of the ownership of the UEA consortium will be foreign. UEA states that this will not lead to further disclosures of U.S. secret enrichment know-how to foreign interests. The record of the handling of classified knowledge over the past several years hardly reassures us. Once in the hands of foreign powers, control of the classified knowledge is lost and it may readily diffuse to third parties, including non-signers of the nuclear non-proliferation treaty.

The bill states that any contract between UEA and ERDA will require specific approval by Congress at a later date. But the passage of the Nuclear Fuel Assurance Act would, in fact, give the green light to UEA and ERDA to go ahead with the drafting of a contract. Under the terms of the Act, this contract would be clearly disadvantageous to the Government and the public. It is my strong conviction that the time to stop this contract is NOW.

Sincerely yours,

A. F. GROSPIRON,
President.

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, D.C., June 24, 1976.

Hon. JONATHAN B. BINGHAM,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BINGHAM: The American Public Power Association, representing more than 1,400 local publicly-owned electric utilities throughout the country, urges you to support section 4 and to oppose sections 2 and 3 of H.R. 8401, the Nuclear Fuel Assurance Act. Sec. 4 of H.R. 8401, would authorize $255 million for Federal construction and operation of an expansion of an existing Government-owned uranium enrichment facility. We believe such a program would supply fuel for nuclear power plants at the lowest cost to the consumer, prevent monopolization, and protect national interests.

At the association's annual conference last week, APPA members adopted a resolution opposing "Federally-subsidized privately-owned commercial gaseous diffusion plants." Accordingly we urge you to oppose sections 2 and 3 of H.R. 8401 which would provide $8 billion in Government guarantees to private plants. Under the plan proposed in sections 2 and 3, the public would bear the risks while private industry would reap the benefits. It has been estimated that the private enrichment plant would result in an increase in the cost of nuclear fuel by approximately $700 million a year—a cost that consumers would have to pay. The General Accounting Office has termed this concept "excessively generous" and has said, "Its fundamental short-coming is that it shifts most of the risks during construction and proving the plant can operate to the Government."

Sincerely,

ALEX RADIN.

SENATE—*Friday, July 23, 1976*

The Senate met at 9 a.m. and was called to order by Hon. JOHN C. CULVER, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elston, D.D., offered the following prayer:

Our Father God, reverently we pause in Thy presence to welcome the new day and to place our lives upon the altar of public service. By Thy grace may we strive to lift every moment of this day into the higher order of Thy kingdom. Grant us wisdom higher than our own and to the gift of wisdom add some wit lest we become morose and our ways monotonous. Endow us with creative insight, disciplined thought, precise expression, and sound judgment. At the end assure us of Thy goodness and mercy which never ceases.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 23, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JOHN C. CULVER, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. CULVER thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, July 22, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate go into executive session to consider the nominations of Mr. Poole and Mr. Chase.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Cecil F. Poole, of California, to be a U.S. district judge for the Northern District of California.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

COMMUNITY SERVICES ADMINISTRATION

The second assistant legislative clerk read the nomination of Robert C. Chase, of Virginia, to be Deputy Director.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. MANSFIELD. I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMERICA AND ASIA

Mr. MANSFIELD. Mr. President, yesterday the distinguished Secretary of State, Mr. Henry Kissinger, made a speech in Seattle, Wash., entitled "America and Asia."

I have not had a chance to go over the speech in detail, it having been placed on my desk only this morning, but I do wish to commend the Secretary of State for placing the proper emphasis on Asia and the Pacific in relation to the foreign policy of this Nation. He states:

> We are at peace for the first time in more than 15 years.

That is true; but the path to peace has been strewn with many obstacles, some of which could have been avoided.

He states also:

> From here (the Pacific Northwest), America looks out across the Pacific toward the nations—new and old—of Asia.

He states further:

> No region in the world is more dynamic, more diverse or more complex than Asia:—In the past generation Americans have fought three major wars in Asia.

May I say, incidentally, one of them totally unnecessary and certainly tragic.

Again quoting:

> We have learned the hard way that our own safety and well-being depend upon peace in the Pacific, and that peace cannot be maintained unless we play an active part.

I agree with that statement, though I must say that our primary concern is not the Asian mainland but the Pacific. We are not an Asian power; we are a Pacific power.

Continuing:

> Our prosperity is inextricably linked to the economy of the Pacific basin. Last year our trade with Asian nations exceeded our trade with Europe. Asian raw materials fuel our factories; Asian manufacturers serve our consumers; Asian markets offer outlets for our exports and investment opportunities for our business community.
>
> And our ties with Asia have a unique human dimension. For generations Americans have supplied an impulse for change in Asian societies; Asian culture and ideas in turn have touched our own intellectual, artistic and social life deeply.

Furthermore, he states:

> American foreign policy has known both great accomplishment and bitter disappointment in Asia.

No statement could be truer. Then he says, further on:

> By the late 1960's, however, old policies confronted new realities: American disenchantment with a war we would not win and could not end;

A war which, I might say again, we should not have entered, and we were caught in an impasse which was of our own creation.

Then he goes on to state:

> We have helped our allies and friends augment their own strength, while we have gradually reduced our own military presence in Asia by 130,000 men in addition to the 550,000 troops we withdrew from Vietnam.

Correct; and all to the good. He states further:

> Much will depend on our actions and on the confidence of Asian nations in our steadiness. Indeed, all the strands of our global policy meet in Asia:
>
> Peace in Asia is crucial for global peace.
>
> The need to resolve conflicts and to ease tensions is nowhere more acute than in Asia.
>
> And the effort to shape new patterns of international cooperation holds great promise in Asia where the developing nations are among the world's most dynamic and self-reliant.

Then he makes this interesting observation, which I think too few of us are aware of:

> All the world's major powers—the United States, Japan, China, the Soviet Union, Western Europe—have significant interests in Asia.

It is there where we have, we might say, an interdiction of all the great powers of the world, except those of Western Europe, and it is the only place today where that occurs.

Farther on, the Secretary of State has some pertinent things to say about Japan and its importance to us, about Korea, about our relationship with China, and other matters relative to Southeast Asia, and Asia as a whole.

I wish to commend the Secretary of State—and I shall read his speech more carefully as I find time—for the speech which he has made, for the emphasis which he has placed on Asia, and for the recognition which this region is gradually getting in this country because of its importance in trade, in aid, in defense, and in relation to our economic security.

We are not a European nation; we are not an Asian nation; but we are an Atlantic power, we are a Pacific power, and later during the course of this session I shall have more to say about Asia and its implications for us.

Mr. President, I ask unanimous consent that the full text of the Secretary's significant speech be printed in the Record at this point.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Address by the Honorable Henry A. Kissinger

A little more than two weeks ago this nation celebrated its 200th birthday. In the process of that celebration, Americans learned that despite the agony, the turmoil and the constitutional crisis of the last decade we are still proud to be Americans, and still proud of what America means to the world. We felt once again that our country is free, and vibrant with life and change. We saw that tolerance and hope and dedication are far more a part of the American national character today than hatred, division and despair.

To the generation that came to maturity in the late Sixties or early Seventies, these truths may have been apparent for the first time. For my generation, it was, rather, a reminder of basic verities about America which had been in danger of being obscured by the turmoil of a decade. But for all of us, of whatever generation, it was an uplifting experience.

Certainly the events of one celebration, however inspiring, cannot by themselves solve the long-term problems that our nation will face in its third century. But they illuminate the road before us as we enter our electoral campaign. They tell us that it is time to move away from the counsels of timidity, fear and resentment which have done so much to corrupt our public dialogue.

Ours is not a nation bent on domination, as we were told four years ago. Ours is not a nation in retreat, as we have been told too often this year. Ours is a nation which understands that America cannot be at peace if the world is at war; that America cannot be prosperous if the world is mired in poverty; that America cannot be true to its heritage unless it stands with those who strive for freedom and human dignity. In short, we know that our lives, liberty and pursuit of happiness depend on the world in which we live and that America's leadership is crucial to shaping what kind of world that will be.

We face today, as we have for several years, international conditions quite unlike those known by earlier generations of Americans. We have designed a foreign policy capable of mastering those new challenges; a foreign policy for the last quarter of the 20th century based on four propositions:

First, American strength is essential to the peace of the world and to the success of our diplomacy. We should not bemuse ourselves with false choices between defense or domestic needs, between security or social justice. Unless we pursue all these objectives we are likely to achieve none of them. Security cannot be the sole goal of our policy, but no other achievements can endure without it.

Second, our alliances with the great democracies of North America, Western Europe, and Asia are the bedrock and the top priority of our foreign policy.

Third, in an age of thermonuclear weapons and strategic balance, we have a moral as well as a political obligation to strive mightily toward the overriding goal of peace. We are ready to use our strength to resist blackmail or pressure; we must also be prepared to negotiate longstanding disputes, foster habits of moderation and develop more constructive ties with potential adversaries. The American people and the people of the world ask for a peace more secure than a balance of terror constantly being contested.

Forth, security and peace are the foundation for addressing the positive aspirations of peoples. Prosperity, human rights, protecting the environment, economic development, scientific and technical advance and cultural exchange have become major concerns of international diplomacy. In these spheres, the destinies of nations are interdependent and a world of order and progress requires new forms of cooperation among all nations—rich and poor, industrialized and developing.

We want our children to live in a world of greater peace and justice. We want them to have the opportunity to apply their own genius, in their own time, to the betterment of mankind. To do so we, in our time, must help shape an international order that welcomes the participation of all nations and responds to the deepest concerns of all peoples.

We have come a long way already. We are at peace for the first time in more than 15 years. Our collaboration with the great industrial democracies is steadily expanding into new fields, while its fundamental basis is stronger than it has been in years. We have made progress toward peace in the Middle East and, partly because of our unique role there, the elements for major new advances exist. In Asia, we have—as I will discuss in greater detail—solidified our ties with both our friends and our potential adversaries. Here in the Western Hemisphere we are building a new relationship based on equality and mutual respect. We have inaugurated a hopeful new policy in Africa. And with respect to the Soviet Union we have combined a determination to resist expansion with a readiness to build relations on a more stable and lasting basis—we are, and will be, conciliatory but vigilant.

The people of the Pacific Northwest hardly need to be told of the strength or role of America. Yours is a region but recently carved from a wilderness by men and women of courage and vision. Here the pioneer spirit that is so much a part of our history lives on, and from here America looks out across the Pacific toward the nations—new and old—of Asia.

And it is America's relations with Asia that I would like to discuss with you today.

THE ASIAN DIMENSION

No region in the world is more dynamic, more diverse or more complex than Asia:

In the past generation Americans have fought three major wars in Asia. We have learned the hard way that our own safety and well-being depend upon peace in the Pacific, and that peace cannot be maintained unless we play an active part.

Our prosperity is inextricably linked to the economy of the Pacific basin. Last year our trade with Asian nations exceeded our trade with Europe. Asian raw materials fuel our factories; Asian manufacturers serve our consumers; Asian markets offer outlets for our exports and investment opportunities for our business community.

And our ties with Asia have a unique human dimension. For generations Americans have supplied an impulse for change in Asian societies; Asian culture and ideas in turn have touched our own intellectual, artistic and social life deeply.

American foreign policy has known both great accomplishment and bitter disappointment in Asia. After World War II we sought above all to contain communist expansion. We essentially succeeded. We forged a close alliance with democratic Japan. We and our allies assisted South Korea in defeating aggression. We provided for the orderly transition of the Philippines to full independence. We strengthened the ties with Australia and New Zealand that had been forged as allies in two wars. We spurred the development of the Pacific basin into a zone of remarkable economic vitality and growth.

By the late 1960's, however, old policies confronted new realities: American disenchantment with a war we would not win and could not end; acute rivalry between the major communist powers; and, above all, Japan's burgeoning power and prosperity. It was becoming apparent that our commitments in Asia too often dictated our interests; that we sometimes acted as though our stake in our allies' security was greater than their own; that estrangement with China no longer served either nation's interests nor the cause of global stability; that our economic dealings not infrequently resembled patron-client relationships.

Throughout the first half of this decade, therefore, we have been fashioning a new policy for Asia. We have been bringing our commitments into balance with our interests. We have helped our allies and friends augment their own strength, while we have gradually reduced our own military presence in Asia by 130,000 men in addition to the 550,000 troops we withdrew from Viet-Nam. We have strengthened our relations with Japan, begun a new relationship with the People's Republic of China and searched for political solutions to Asian regional conflicts. We have encouraged Asian nations in their self-reliance and in their efforts at regional cooperation. We have welcomed Asian nations in new multilateral efforts to improve the global economic system.

While a great deal has been accomplished, Asia remains a region of potential turbulence. The collapse of Viet-Nam last year produced concern about a more general American retreat from Asia. Happily, such fears have subsided, largely because American policy has buttressed the inherent strength and resilience of the nations of Asia. But there are no grounds for complacency. Soviet activity in Asia is growing. North and South Korea remain locked in bitter confrontation. Hanoi represents a new center of power and its attitude toward its neighbors remain ambiguous and potentially threatening. Most developing nations remain afflicted by social and political tensions. And the scramble for oil and ocean resources raises the specter of possible future territorial disputes.

Much will depend on our actions and on the confidence of Asian nations in our steadiness. Indeed, all the strands of our global policy meet in Asia:

Peace in Asia is crucial for global peace.

The need to resolve conflicts and to ease tensions is nowhere more acute than in Asia.

And the effort to shape new patterns of international cooperation holds great promise in Asia where the developing nations are among the world's most dynamic and self-reliant.

Let me now discuss each of these challenges in turn.

ASIAN SECURITY

First, the problem of security in Asia.

All the world's major powers—the United States, Japan, China, the Soviet Union, Western Europe—have significant interests in Asia. All would be directly affected by conflict there. Yet the security of none of these powers is determined exclusively—and in some cases not even primarily—by events in Asia. Therefore, no nation should believe that it can enhance its security by deflecting conflicts from one continent to another. If the European balance is upset, our security and the security of Asian countries will be affected. If the Asian balance is jeopardized, serious repercussions will be felt in Europe. Neither in Europe nor in Asia can we permit others to dictate our destiny or the destiny of those whose independence is of concern to us.

Security policy for Asia must therefore be formed in global terms. Yet its requirements are uniquely complex. In Europe two alliance systems face each other directly across a clear line drawn down the center of the continent. The principal danger is external attack by organized military forces. The strengths and weaknesses of both sides are relatively calculable.

In Asia the balance is more multiple and fluid. The focal point is not solely between East and West—it includes the contention between the two major communist powers, and the threats are highly diverse.

In some areas, such as Korea, the principal danger lies in armed attack across an established frontier. In others, such as Southeast Asia, the more immediate threats involve insurgency. Governments confront the difficult challenge of nation-building. Most are burdened by complex social problems arising from religious, racial and cultural differences. Virtually all must contend with armed dissidents who are frequently ready to accept outside assistance.

As President Ford stated in Honolulu last December, the linchpin of our Asian security effort must be a strong and balanced US military posture in the Pacific. Only if we are perceived to be clearly capable of supporting friends can we discourage aggression against them. Only by showing that we understand the necessities of the regional balance of power can we encourage free countries to see to their self-defense. To the extent that the nations of Asia achieve a margin of security the political forces that stand for democracy and human liberty are encouraged. By the same token, unilateral withdrawals from Asia diminish our security as well as our influence even over the domestic evolution of friendly countries.

It goes without saying that an American commitment is vital only if it is perceived to be as much in the interest of our allies as of ourselves. No nation should conduct its policy under the illusion that it is doing the United States a favor by permitting us to contribute to its defense. Those who seek to adjust their defense relationships with us will find us prepared to accommodate their desires in a spirit of reciprocity.

At the same time let there be no doubt about this Administration's firmness with regard to our treaty commitments. Allies needing our support will find us constant; adversaries testing our resolution will find us steadfast.

It is not possible to enumerate all our security interests in Asia in one speech. Let me therefore discuss three areas of special importance or complexity: Japan, Korea and Southeast Asia.

No relationship is more important to the United States than our alliance with Japan. Mutual security remains fundamental to our collaboration, but in a new era we have extended our partnership to a broad range of common interests: easing tensions in Asia, solving regional and global problems, and combining our vast economic strengths to spur stable and non-inflationary world economic growth.

In the early 1970's, Japan and the United States passed through an inevitable period of adjustment from dependence and American predominance to equality and mutual responsibility. There were frictions over textiles and monetary policies and over the timing of our essentially parallel China policies. But these difficulties have been overcome; they proved to be the growing pains of a more mature and equal relationship. Today our relations with Japan are better than they have ever been. There are no significant bilateral disputes. We have developed a clearer common perception of our security requirements, which will be further enhanced by the recently formed Joint Committee on Defense Cooperation. We have injected greater balance and reciprocity into our economic relations. We have learned to identify and deal with potential difficulties before they become politically explosive. We have consulted with greater frequency and frankness and in greater depth than in any previous period. Both nations are displaying sensitivity to the intangibles of our relationship, and have built a wide base of public support for closer cooperation.

Our relationship with Japan plays a central role in furthering stability and progress in Asia and the world. Our security relationship is crucial for the global balance of power.

Japan is our largest overseas trading partner. Each of us seeks to improve relations with Moscow and Peking; to ease tensions in Korea; to encourage a stable political evolution in Southeast Asia. Each of us cooperates in the development of effective international efforts to promote stable economic growth, strengthen bonds among the industrial democracies, and shape more positive ties between the industrial and developing countries.

Japan and the United States share a common dedication to the principles of democracy. And so, close consultation on key regional and global issues is at the heart of our respective policies. The United States will make every effort to strengthen these bonds.

Americans fought and died to preserve South Korea's independence. Our experience and our sacrifice define our stake in the preservation of this hard-won stability; treaty obligations of mutual defense define our legal obligations. Our support and assistance will be available where it has been promised. In fulfilling our commitments we will look to South Korea to assume the primary responsibility for its own defense, especially in manpower. And we will continue to remind the South Korean Government that responsiveness to the popular will and social justice are essential if subversion and external challenge are to be resisted. But we shall not forget that our alliance with South Korea is designed to meet an external threat which affects our own security, and that of Japan as well.

Difficult as the situation still remains in Korea, it is the friendly nations of Southeast Asia that, in the wake of Indochina, are facing the greatest adjustment to new conditions.

Nations which once looked to us for their security almost exclusively have been forced by events into greater self-reliance and broader cooperation among each other. The members of the Association of Southeast Asian Nations—the Philippines, Indonesia, Thailand, Malaysia and Singapore—are determined to preserve their independence by hastening the pace of regional consolidation. All face serious problems that are endemic to the process of development; all seek to sustain and expand their relations with us; all hope that we will retain an active interest in their destiny.

President Ford, in his speech in Honolulu last December, and in his visits to the Philippines and Indonesia, affirmed our continuing interest in the well-being and safety of Southeast Asia. We shall encourage the efforts of the ASEAN countries to bolster their independence; we welcome Southeast Asian regional cooperation. Clearly our effort cannot substitute for, but only supplement regional efforts. But we are prepared to continue to provide military assistance, though with greater emphasis on cash and credit sales. We will, as well, maintain our military presence in the Western Pacific, especially our mobile naval and air power. We are in the process of negotiating a new base agreement with the Philippines. We will promote new patterns of economic cooperation. And we will cooperate with ASEAN countries, consistent with their own initiatives and concepts.

EASING TENSIONS TO STRENGTHEN PEACE

Second, let me turn to the problem of easing tensions.

In the thermonuclear age, we have no more important obligation than to push back the shadow of nuclear confrontation. If crises occur, they must not result from any lapse of vision on our part. Accommodation without strength or principle leads to appeasement; but in the thermonuclear age, reliance on power—not coupled with a spirit of conciliation—can spell catastrophe for all of mankind.

Thus the United States, in concert with its Allies, seeks to reach beyond security toward better relations—based on strict reciprocity and principle—with former or potential adversaries.

No nation is more important to this process than the People's Republic of China. Together we have turned a dramatic new page, following a generation of mutual suspicion and hostility. There have long been deep sentimental attachments between the American and Chinese peoples which have provided an important bond between our two nations even in the most difficult times. But it was mutual necessity that impelled us both to launch a fresh beginning in 1969. Our shared concern that the world remain free from domination by military force or blackmail—"hegemony" as we have described it in our various communiques—provided the strategic foundation for a new relationship. This mutual interest continues and is the basis for durable and growing ties.

Both sides derive benefits from constructive relations—improved prospect for maintaining a global equilibrium, reduced dangers of conflict in Asia, mutually beneficial trade and cultural exchanges and expanded possibilities for cooperative or parallel action on specific global issues. We have made significant progress in improving relations with China over the past several years. We have established liaison offices in each other's capitals. We have increased trade and promoted exchanges. Frequent and wide-ranging talks with Chinese leaders—including visits by two American presidents and many Congressional delegations—have deepened our mutual understanding. On some international issues there is substantial compatibility in our perspective and, where our interests diverge, we are diminishing the risks of miscalculation.

It is important to recognize that China's perception of the United States as a strong and resolute force in international events is an important factor in shaping our relations. We will keep Chinese views in mind in framing our approach to important international questions. But, equally, if so subtle and complex a relationship is to prosper, the People's Republic of China must take our concerns and problems into account as well. We must deal with each other on the basis of equality and mutual benefit—and a continuing recognition that our evolving relationship is important for global stability and progress.

The new relationship between the United States and the People's Republic of China is now an enduring and important feature of the international scene. We are determined to work to improve it further. While difficult issues remain, we intend to continue to move toward the normalization of our relationship in keeping with the principles of the Shanghai Communique.

On the Korean Peninsula, too, we are prepared to make serious efforts to ease tensions.

In recent years North Korea and its friends have mounted a major diplomatic campaign—especially in the so-called non-aligned forums and the United Nations—to alter the institutional arrangements of the armistice agreement which ended hostilities in Korea 23 years ago and helps to keep the peace today. They insist upon unconditional dissolution of the United Nations Command, which, together with North Korea and China, is a signatory to the armistice agreement. They have gone so far as to claim that if the Command is dissolved, the armistice agreement itself would cease to exist. At the same time, North Korea demands the unilateral withdrawal of American forces from Korea. They propose that the issues of peace and security on the Peninsula be discussed in bilateral talks with the United States alone, excluding the Republic of Korea which represents two-thirds of the Korean population.

North Korea's proposals are designed not to promote peace but to isolate our ally, to precipitate unilateral American withdrawal and to dissolve the existing legal arrangements into amorphous general negotiations.

The United States will never accept such proposals. No nation that truly believes in peace should support them; no country interested in genuine non-alignment should lend itself to so one-sided an approach.

We do not maintain that present arrangements in the Korean Peninsula must remain forever frozen. On the contrary, the United States favors new negotiations to promote security and to ease tensions there. We are prepared to discuss a new legal basis for the existing armistice. We are also ready to replace the armistice with more permanent arrangements.

But this Administration cannot, and will not, negotiate behind the back of our South Korean ally over issues which affect its very existence.

Nor will the United States agree to terminate the U.N. Command without new arrangements which preserve the integrity of the armistice agreement—the only existing legal arrangement which commits the parties concerned to keep the peace—or which establish a new permanent legal basis. And the United States will not undermine stability and hopes for negotiation by withdrawing its forces unilaterally.

The United States position with respect to Korea is clear:

First, we urge a resumption of serious discussions between North and South Korea.

Second, if North Korea's allies are prepared to improve their relations with South Korea, then and only then, will we be prepared to take similar steps toward North Korea.

Third, we continue to support proposals that the United Nations open its doors to full membership for South and North Korea without prejudice to their eventual reunification.

Finally, we are prepared to negotiate a new basis for the armistice or to replace it with more permanent arrangements in any form acceptable to all the parties.

In this spirit, we proposed last September a conference including North and South Korea, the United States and the People's Republic of China—the parties most immediately concerned—to discuss ways of preserving the armistice agreement and of reducing tensions in Korea. We noted that in such a meeting we would be ready to explore possibilities for a larger conference to negotiate more fundamental and durable arrangements.

Today, President Ford has asked me to call again for such a conference.

Specifically, the United States Government is prepared to meet with South Korea, North Korea and the People's Republic of China during the coming session of the United Nations General Assembly. We propose New York, but we are ready to consider some other mutually agreeable place. We are willing to begin immediate discussions on issues of procedure and site. Such a conference could provide a new legal structure for the armistice if the parties agree. It could replace it with more permanent arrangements. It could ease tensions throughout Asia.

We urge other parties to respond affirmatively. Any nation genuinely interested in peace on the Peninsula should be prepared to sit down and talk with the other parties on ways to improve the existing situation.

Southeast Asia, as much as Northeast Asia, requires our careful attention. Indochina, an arena of war for generations, has yet to find a positive and peaceful role. Viet-Nam has been unified by force, producing a new and strong power in the region, and communist regimes have taken over in Laos and Cambodia. The relations of the Indochinese states with one another are unsettled and unclear, as are Hanoi's longer term ambitions. Our policy is designed to bolster the independence of our friends, encourage the restraint of former foes, and help chart a more constructive pattern of relations wtihin the region.

We have said on many occasions that for us the Indochina war is over. We are prepared to look to the future; we are willing to discuss outstanding issues; we stand ready to reciprocate gestures of good will. We have conveyed our willingness to open discussions with the Vietnamese authorities, with both sides free to raise any issues they wish.

For us the Americans missing in action remain the principal concern. Let there be no mistake: there can be no progress toward improved relations with Hanoi without a wholly satisfactory accounting for these men. Nor will we yield to cynical efforts to use the anguish of American families to extort economic aid. If the Vietnamese meet our concerns for the missing in action and exhibit restraint toward their neighbors, they will find us ready to reciprocate and to join in the search for ways to turn a new page in our relations.

NEW PATTERNS OF COOPERATION

Beyond security, beyond the imperative of easing tensions, lies a new dimension of international relations—to help shape a global structure that responds to the aspirations of peoples and assures our children a world of prosperity, justice and hope. We must meet this challenge because:

There cannot be enduring tranquility in a world scarred by injustice, resentment and deprivation;

There cannot be assured prosperity in a world of economic warfare and failed development; and

There cannot be an enduring international order in a world in which millions are estranged from decisions and practices which determine their national well-being.

As the world's strongest economy, the United States has accepted responsibility for leadership in this agenda of interdependence. In many international forums over several years, we have put forth comprehensive initiatives to produce concrete progress on the most compelling issues of our interdependent world: food, energy, commodities, trade, technology, the environment, and the uses of mankind's last frontiers, the oceans and outer space.

Nowhere are the possibilities and benefits of economic cooperation greater than in Asia. The record of developing countries in Asia is extraordinary. Most grew at annual rates of six to seven percent a year for the entire decade prior to the 1973 oil embargo; Asian economies have flourished, even in the face of global recession.

The secret of their economic performance is no mystery. Rich in natural resources, fertile land and industrious people, East Asia—with few exceptions—is not burdened with massive overpopulation. Most countries in the area possess talented entrepreneurs and skilled administrators; most governments have rejected the confining straitjacket of statist economic practices; virtually all provide a hospitable climate for foreign investment.

If growth and vitality are a common feature, the developing nations of Asia otherwise reflect a considerable diversity. Some, despite abundant resources, remain among the world's poorest in terms of per capita income. Others are rapidly approaching the ranks of the advanced nations. Some export principally raw materials and foodstuffs, while others have joined Japan as industrial workshops for the world.

Although the impulse for regional integration is apparent, the Asian-Pacific market economy is open and accessible to the world. The United States, Japan and others supply capital, market, management skills and technology. We in turn obtain from the developing countries of Asia reliable supplies of important raw materials, fair treatment of our investments and expanding markets for our trade.

Economic development does not automatically ensure tranquility between states or within them. But it can enhance the ability of governments to obtain public support, strengthen the legitimacy of institutions, and consolidate national independence. These factors are of particular importance for Asian nations beset—as they often are—by the problems of national building and domestic dissidence.

Cooperative relations between the industrialized nations and the developing nations of Asia are both inescapable and vital.

The United States and the developing nations of Asia share important interests:

We should both value an international economic system which ensures steady, noninflationary growth and expands the opportunities of our citizens.

We must both recognize that if economic development is to strengthen stability, it must enhance national self-reliance. The developing nations of Asia need concessional foreign assistance far less than support for their efforts to participate in the international economy on a more equal footing.

We must deal with each other on the basis of parity and dignity, seeking responsible progress on issues, to liberalize trade, to expand investment opportunities, and to transfer technology.

We must cooperate to improve the effectiveness of established institutions such as the Asian Development Bank. We must be ready to create new instruments—for example, the proposed International Resources Bank—to address the new range of issues in the field of commodities.

The nations bordering the Pacific have an opportunity to usher in an era of cooperation which will enhance the prosperity of their peoples and give an impetus to the well-being of mankind.

AMERICA'S STRENGTH AND SPIRIT

Three times in the past 35 years many thousands of American lives have been lost in wars on the Asian continent. For us World War II began and ended there. A blatant communist attempt to conquer Korea was defeated there. And the tragedy of Viet-Nam, with its 50,000 dead and the wave of bitterness it created her at home, was played out there.

It must not happen again. It will not happen again if America's policy, profiting from the past, takes charge of its future, making aggression too costly to attempt and peace too tempting to reject.

Our greatest challenge abroad is to continue to act on the knowledge that neither peace nor prosperity—for ourselves or anyone else on our small planet—is possible without the wisdom and the continuing active involvement of the United States. Our size, our economy, our strength and our principles leave us no alternative but to be concerned with events in the world around us.

Our greatest foreign policy need at home is steadiness, cohesion and a realization that in shaping foreign policy we are engaged in an enterprise beyond party and not bounded by our electoral cycles. Today, Americans—of whatever party or political conviction—can have confidence that their country, as always, has the substance and the strength to do its duty:

We have the military and economic power together with our allies to maintain the balance of stability upon which global peace must rest.

We have the wisdom to see that an enduring peace requires dedicated and realistic measures to reduce tension.

And we have the vision to fashion new relationships among all nations in an interdependent world, to work toward a true and lasting world community.

The bond between America's spirit and America's achievement, between her courage and her responsibility was expressed by a great poet here in Seattle. As Theodore Roethke said:

> "I feel my fate in what I cannot fear.
> I learn by going where I have to go."

That is the American way. We are a people accustomed to, and capable of, forging our own destiny. We are ready, as Americans always have been ready, to face the future without fear. We shall go where we have to go. We shall do what we have to do.

The ACTING PRESIDENT pro tempore. Does the majority leader seek further recognition?

Mr. MANSFIELD. No.

Mr. GRIFFIN. Mr. President, I yield back the time for the minority.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate message from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:17 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the enrolled bill (S. 2054) to amend sections 203 and 204 of the Communications Act of 1934.

The enrolled bill was subsequently signed by the President pro tempore.

At 2:24 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. POAGE, Mr. MELCHER, Mr. BERGLAND, Mr. WEAVER, Mr. HARKIN, Mr. HIGHTOWER, Mr. BEDELL, Mr. SEBELIUS, Mr. THONE, and Mr. SYMMS were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes, with amendments in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The Acting President pro tempore laid before the Senate the following letters, which were referred as indicated:

Proposed Legislation by the Department of the Navy

Two letters from the Secretary of the Navy transmitting a draft of proposed legislation to approve the sale of certain naval vessels and for other purposes (with accompanying papers); to the Committee on Armed Services.

Report of the Special Representatives for Trade Negotiations

A letter from the Special Representative for Trade Negotiations transmitting, pursuant to law, a report summarizing reviews and hearings conducted during the preceding 6-month period (with accompanying papers); to the Committee on Finance.

Report of the Comptroller General

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Better Controls Needed Over Biomedical Research Supported by the National Institutes of Health" (with an accompany report); to the Committee on Government Operations.

Report of the Office of Water Research and Technology

A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, the 1975 annual report of the activities and accomplishments of the Office of Water Research and Technology (with an accompanying report); to the Committee on Interior and Insular Affairs.

Notice of Meetings Related to the International Energy Program

A letter from the Assistant General Counsel of the Federal Energy Administration transmitting, pursuant to law, a copy of a notice of meetings related to the International Energy Program (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary, without amendment:

H.R. 1762. An act for the relief of Mrs. Lessie Edwards (Rept. No. 94–1049).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 488. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 13359 (Rept. No. 94–1050).

By Mr. MATHIAS, from the Committee on the Judiciary, without amendment:

H.R. 1558. An act for the relief of Doctor Gernot M. R. Winkler (Rept. No. 94–1051).

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976—CONFERENCE REPORT—(REPT. NO. 94–1048)

Mr. MOSS submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles, which was ordered to be printed.

TAX REFORM ACT OF 1976—SUPPLEMENTAL REPORT—(REPT. NO. 94–938, PT. 2)

Mr. LONG, from the Committee on Finance, submitted a supplemental report on an additional committee amendment (amendment No. 2082) to be proposed to the bill (H.R. 10612) to reform the tax laws of the United States, which was ordered to be printed.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, July 22, 1976, he presented to the President of the United States the enrolled bill (S. 2054) to amend sections 203 and 204 of the Communications Act of 1934.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUMPHREY (for himself and Mr. PERCY):

S. 3693. A bill to declare a national policy on investment in the private sector of the U.S. economy. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. ABOUREZK:

S. 3694. A bill to prohibit the Secretary of Agriculture from assessing additional charges against farmers and stockmen for livestock feed furnished them under section 407 of the Agricultural Act of 1949 in connection with any natural disaster which occurred in 1975. Referred to the Committee on Agriculture and Forestry.

By Mr. ABOUREZK:

S. 3695. A bill to authorize the Secretary of Commerce to enhance and validate certain export expansion activities. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. PHILIP A. HART:

S. 3696. A bill for the relief of Je-An Pak and his wife, Soon-Pyo Pak. Referred to the Committee on the Judiciary.

By Mr. ABOUREZK (for himself and Mr. MCGOVERN):

S. 3697. A bill to assist farmers and ranchers to replace foundation herds of cattle such farmers and ranchers are forced to sell as the result of natural disasters. Referred to the Committee on Agriculture and Forestry.

By Mr. BURDICK:

S. 3698. A bill to amend title 5 of the United States Code to provide for the award of attorney's fees to Federal employees in certain proceedings. Referred to the Committee on Post Office and Civil Service.

By Mr. PROXMIRE:

S. 3699. A bill to amend the Truth in Lending Act, the Federal Trade Commission Act, and the Equal Credit Opportunity Act. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY (for himself and Mr. PERCY):

S. 3693. A bill to declare a national policy on investment in the private sector of the U.S. economy. Referred to the Committee on Banking, Housing and Urban Affairs.

THE INVESTMENT POLICY ACT OF 1976

Mr. HUMPHREY. Mr. President, a vast majority of the people in this country, irrespective of political affiliation or their place in the economy, are in basic agreement on certain fundamental aspects of our free enterprise system. One of these basic tenets is the importance of capital investment in the private sector. It is also a matter of general agreement that in order for our system to function and our country to prosper, there must exist sufficient incentive to induce adequate levels of capital investment.

It is only when one begins to get into the specifics of incentives themselves, and the wisdom and timing of various alternatives in this regard, that we reach areas of great controversy. Despite the apparent unanimity on the basic and fundamental proposition and its importance to the Nation as a starting point in the formulation of policy, there never has been any official enunciation or recognition of the vitally important underlying policy itself. I feel that this is an oversight and that it should be corrected by a legislative statement of national policy.

During the postwar reconstruction period of 1946, the Congress and the administration recognized the need to legislate a national policy for continuing high levels of employment and production in a free and competitive economy. The original legislation as passed by the Senate stated that it was the "responsibility of the Federal Government to foster free competitive private enterprise and the investment of private capital." Unfortunately, the emphasis on investment was deleted during conference. As a result, the National Policy on Employment, enacted into law on February 20, 1946 known as the Employment Act of 1946, concerns itself with employment, production, and purchasing power without explicitly recognizing that an investment policy is necessary in accomplishing the stated goals.

As the country's economy continued to expand in the intervening years, Congress was content to go along with the status quo, dealing with specific problems as they arose. However, the dismal performance of the U.S. economy during the last few years has caused many persons in and out of Government to reassess some of the fundamental aspects of our so-called free enterprise system and what makes it work. The staff of the Joint Committee on Internal Revenue Taxation recently produced a scholarly review entitled, "Capital Formation." This study points up the need for new and sound policies to insure increased investment in the private sector, reviews the past performance of the economy, and the various proposals on investment incentives which have been advanced. While the study does not specifically call for a statement of basic policy such as herein proposed, it certainly demonstrates that such a need exists.

As an aid to the national dialog, which will continue on specific incentive measures, it is necessary and appropriate to put first things first and to establish a basic National Investment Policy.

The bill I am introducing today has been drafted for this purpose. No new agencies are created or additional expenditures required by this legislation. It states important national policy. It further requires the President and his Council of Economic Advisers to focus on this policy in their recommendations and reports to the Congress, and calls for the cooperation and coordination of the Federal agencies in carrying out the policy objectives set forth.

Mr. President, I am hopeful that this bill will be given a high priority on the legislative schedule for enactment in this session of the Congress.

Mr. PERCY. Mr. President, I am delighted to join the distinguished Senator from Minnesota (Mr. Humphrey) in introducing the Investment Policy Act of 1976. This measure will, for the first time in our history, declare a national policy in support of sufficient incentives to assure maximum investment in private enterprise.

Neither the need for capital investment, nor the knowledge of that need, are new. But many economic analysts indicate the need will grow to critical proportions over the next decade, and both the executive and legislative branches must begin to grapple with the difficult question of how the necessary levels of investment in the private sector can best be reached.

The Joint Economic Committee, under the chairmanship of Senator Humphrey, held hearings on June 9 of this year on potential shortages in the productive capacity and financial capital that will be required to maintain the economic upswing and accommodate our growing work force. The hearings made an important contribution by demonstrating the level of concern about existing and potential effects of Government policy on investment in the private sector. More important, they demonstrated divergence of expert opinion on the ideal Government policy in this area.

To achieve full employment during the next 10 years, we will need at least 19 million new jobs. A large percentage of investment during this period—it was 62 percent during the decade of the sixties—must be devoted solely to replacing and modernizing existing equipment, meeting environmental standards, providing safer workplaces, and financing other expenditures that maintain and improve the quality of our lives. Adequate investment is the key to attaining the level of productivity necessary to meet these goals.

For the past decade I have worked with the Treasury Department, the Senate Finance Committee, and the House Ways and Means Committee to make our depreciation and amortization schedules more realistic and to make permanent and adequate the investment tax credit.

We must not be lulled into complacency now by the existence of excess capacity in industry at this particular point in time. The economy is on a steady upward track. Today's excess can quickly turn into the large production bottlenecks that occurred in 1973 and lead to spiraling price increases.

The Investment Policy Act will assist in avoiding this potential pitfall. It will make assessment of our capital needs and the development of Government policies to meet them a national priority.

Mr. President, I urge early action on this legislation.

By Mr. ABOUREZK:

S. 3695. A bill to authorize the Secretary of Commerce to enhance and validate certain export expansion activities. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. ABOUREZK. Mr. President, the bill which I am introducing today, if enacted, would greatly reform the State export data collection system in the United States.

State export promotion agencies are currently forced to use, in some cases, figures that have been outdated for many years. Also, because the territory of the Department of Commerce's field offices are often irregular, many opportunities for coordination between the field offices and State agencies are lost.

The legislation I am introducing today would direct the Secretary of Commerce to establish and implement a procedure to insure that each shipper's export declaration contains the address and state origin of each exporter. This information would then be disseminated on a semiannual basis. This more accurate and timely information would be a great asset for State export promotion agencies in their quests for additional markets.

Also, this legislation would direct the Secretary of Commerce to make the necessary adjustments in field office boundaries of the Department of Commerce, so that they are contained by State boundaries. In the case of less populated States, two or more States could be served by the same field office. This would be a great help in coordinating efforts between the Department of Commerce field offices and State and local agencies.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Professional and Technical Assistance to Exporting Act of 1976."

FINDINGS AND PURPOSE

Sec. 2. The Congress finds—

(1) that foreign trade contributes to the economic welfare of all participating nations and to the standard of living of citizens of those nations;

(2) that the expansion of this Nation's exports is urgently needed to enable the United States to carry out its international responsibilities, to finance imports, to stimulate domestic employment, and to permit the pursuit of policies fostering international trade which benefits its citizens and the citizens of all participating nations; and

(3) that the proper role of government in achieving export expansion is to provide, where necessary, appropriate numbers of professional personnel as well as accurate measurements facilities and procedures to determine progress toward increasing exports.

DEFINITIONS

Sec. 3. As used in this Act, the term—

(1) "United States" means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the insular possessions, and the Panama Canal Zone;

(2) "Secretary" means the Secretary of Commerce;

(3) "field office" means a regional or district field office of the Department of Commerce which is responsible for promoting domestic and international commerce and which is located in the United States.

EXPORT MEASUREMENT

Sec. 4. (a) To measure adequately the progress of the export expansion programs carried out by the Secretary, more accurate and definitive measurements than those already in use must be established and implemented.

(b) The Secretary shall establish and implement a procedure within the Bureau of Census of the Department of Commerce to insure that each shipper's export declaration contains the address (including the State) of the exporter. Total exports for each State, by country of destination and by schedule B commodity groups, will be compiled in a semi-annual report for each of the field office areas established under section 5.

(c) An evaluation of the measurement program established under this section shall be carried out by the Office of Field Operations, Department of Commerce, in cooperation with its field offices. Not later than eighteen months after the date of enactment of this Act, the Secretary shall transmit a report on such evaluation to the Congress including therein information on the implementation of such procedures, an analysis of results, and recommendations as to improvements.

(d) To carry out the purposes of this section, there are authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1978.

FIELD STRUCTURE

Sec. 5. (a) The Secretary shall make such adjustments as may be necessary to conform the area served by each field office to the boundaries of a State (or of two or more contiguous States in the case of States which have small populations).

(b) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated not to exceed $100,000 for the fiscal year ending June 30, 1977, except that more of the funds authorized under this subsection shall be available for any employee occupying a position not established or recognized by law.

By Mr. ABOUREZK (for himself and Mr. McGOVERN):

S. 3697. A bill to assist farmers and ranchers to replace foundation herds of cattle such farmers and ranchers are forced to sell as the result of natural disasters. Referred to the Committee on Agriculture and Forestry.

THE EMERGENCY LIVESTOCK REPLACEMENT ACT

Mr. ABOUREZK. Mr. President, I am introducing a bill today, along with my distinguished colleague, Senator GEORGE McGOVERN, entitled the Emergency Livestock Replacement Act. The bill would provide direct assistance to farmers who are forced to sell their most valuable livestock as a result of a natural disaster.

This year, people living in the upper Midwest have experienced one of the severest droughts that area has ever known. Most crop and weather experts have called it one of the worst in history and second only to the disastrous years of the 1930's. According to State agriculture officials, the effect of this drought has been almost a complete loss of crops in the affected areas resulting in financial losses totaling nearly a billion dollars.

In addition to crop farmers, those hardest hit have been the livestock producers. Pastures have dried up and withered away with the lack of adequate rain. Hay is so scarce that farmers are traveling hundreds of miles to obtain adequate feed. Fortunately, the South Dakota Farmers Union and other farmers unions in the upper Midwest have taken it upon themselves to locate available hay out of their States and have provided information to farmers on the location and availability of hay. But hay is extremely scarce.

South Dakota Lt. Gov. Harvey Wollman announced recently that if we are to sustain the present livestock numbers, an additional 2.5 million tons of hay will be required this year. Even if the hay is located, however, the problem is not solved. According to the most recent reports, hay is selling for up to $100 a ton, and additional transportation costs have been ranging from $25 to $35. Fortunately, the railroads have agreed to lower their freight rates for the shipment of hay and the Federal Government is subsidizing the farmers for two-thirds the cost of the shipment of hay up to $27 per ton.

But, this has not been enough to make the difference. If the average rancher is forced to locate and purchase hay at $70 a ton including transportation costs, his costs per cow will reach more than $250 for feed alone assuming he needs approximately 3½ tons per cow which, as I understand it, is a conservative estimate.

Faced with such stark facts about the incredible costs of keeping their herds, farmers are now selling off their cattle at an incredible rate. In fact, sales volumes are so high that livestock auctions are now limiting the number of cattle an individual can bring in.

According to the most recent statistics, State exports of beef during the month of June increased a phenomenal 45 percent over the same month 1 year ago. A total of 75,025 head were exported from South Dakota during June 1975. This year that figure skyrocketed to 110,082 head. Of course, these figures do not even take into account the thousands of head which are slaughtered within the State. Certainly, the percentage would then be even greater.

With this incredible volume, the price is naturally severely depressed. According to State agriculture officials, the average market price has plummeted by more than $30 a head.

Farmers are losing money either way they go. If they try to hold on to the cattle, they are faced with highly inflated feed prices. If they sell the cattle, they sacrifice an unacceptable cut in the market price. And when it comes to replacing those cattle after the drought ends, they are going to be forced to pay out a significant amount of money in the margin between what they got when they sold and what they had to pay when they bought back.

Mr. President, this situation has brought me to the realization that a program was needed to provide farmers certain assistance during times of disaster to help alleviate this problem. The legislation I am introducing today is designed to do that.

Under my legislation, the program would go into effect upon the President's designation of the area as a disaster. It would continue for a period of 2 years following that disaster designation. The Agricultural Stabilization and Conservation Service—ASCS—will be responsible for the administration of the program.

The program would limit each farmer or rancher to 100 head and would be available to all farmers without regard to their present financial status.

Following the disaster designation, upon the request of the farmer, the ASCS appraiser would visit a farm to establish a written appraisal for the cattle to be sold. The receipt of sale would be filed with the ASCS for certification. At any time during the 2 years following the date of the disaster designation, a farmer can purchase cattle for replacement purposes. After purchase, the ASCS would again appraise the newly purchased cattle to determine comparability to those the farmer is replacing. If the producer was required to pay more for comparable cattle at the time of repurchase, the U.S. Department of Agriculture would reimburse the farmer for the difference.

Basically, the legislation would create an insurance program for livestock producers faced with the disastrous circumstances resulting from natural disasters such as the drought we have experienced this year.

I sincerely hope that the Congress will consider this bill at the earliest possible moment. Our farmers simply cannot stand to continue to lose the phenomenal financial losses which they have for much longer.

Mr. President, I ask unanimous consent that the text of the Emergency Livestock Replacement Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Livestock Replacement Act".

SEC. 2. (a) Whenever the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") determines that the farmers and ranchers in any area of the United States cannot, without extreme financial hardship, continue to maintain their foundation herds of cattle as the result of a natural disaster in such area, the Secretary is authorized to designate such area as a disaster area for purposes of this Act and to provide the farmers and ranchers in such area with foundation herd indemnification protection as hereinafter authorized.

(b) Any farmer or rancher in any area so designated by the Secretary may obtain foundation herd indemnification protection by filing a written application therefor with the Secretary in such manner as the Secretary shall prescribe.

(c) As soon as practicable after any farmer or rancher has filed an application with the Secretary for foundation herd indemnification protection under this Act, the Secretary shall make a written appraisal of the dollar value of the foundation herd of cattle designated by such farmer or rancher. In no event shall the designated foundation herd consist of more than 100 head of cattle.

(d) In order to be eligible for the foundation herd indemnification protection provided for in this Act a farmer or rancher must sell the foundation herd designated by him within 15 days after the date of the appraisal of such herd by the Secretary. If a farmer or rancher fails to sell such designated foundation herd within such 15 day period he may obtain a new appraisal by the Secretary.

SEC. 4. (1) Any farmer or rancher in any area designated as a disaster area for purposes of this Act who makes application for and is granted foundation herd indemnification protection under this Act and who purchases a replacement foundation herd of cattle within two years after the date on which such area is designated a disaster area for purposes of this Act shall be paid a replacement payment as provided in paragraph (2).

(2) The amount of the replacement payment paid to any farmer or rancher in any case shall be an amount equal to the difference between the amount such farmer or rancher had to pay to obtain a replacement foundation herd and the Secretary's appraised dollar value of the foundation herd sold by such farmer or rancher; but a farmer or rancher shall be entitled to a replacement payment only (A) to the extent that the amount paid for the replacement herd exceeds the Secretary's appraised dollar value of the foundation herd sold by the farmer or rancher, and (B) in an amount necessary to purchase a replacement foundation herd of a quality and quantity comparable to the foundation herd sold by the farmer or rancher.

(b) In no event shall the Secretary pay any amount in excess of an amount which is more than —— per centum greater than the appraised dollar value of the foundation herd of cattle sold by the farmer or rancher.

SEC. 5. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this Act.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 7. This Act shall become effective October 1, 1977.

By Mr. PROXMIRE:

S. 3699. A bill to amend the Truth in Lending Act, the Federal Trade Commission Act, and the Equal Credit Opportunity Act. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, I am today introducing a bill to implement the recent recommendations of the Federal Reserve Board for amendments to the Truth in Lending Act. The accompanying letters from the Board explain those recommendations in greater detail.

These proposals appear to be constructive suggestions for improvement and clarification of the act, and I believe they deserve public presentation and discussion. Among them are provisions of real potential benefit to consumers. The bill would require inclusion of credit insurance premiums in the disclosed finance charge unless consumers were given an unqualified right to cancel the insurance coverage. The bill would also extend the protections now enjoyed by credit card holders, with respect to liability for unauthorized use, to the holders of noncredit fund transfer cards used increasingly in EFT systems.

As the sponsor of the original Truth in Lending Act I am becoming more and more concerned that its beneficial purposes are being frustrated by unnecessarily complex disclosure requirements which consumers may ignore or fail to understand.

In addition, the very complexity of the requirements may impose significant costs and other burdens on creditors despite their good faith efforts to comply with the law. I would therefore hope that this bill will spur even further thought by interested parties on ways to make truth in lending more efficient and effective.

I note in particular that the Federal Reserve Board, in correspondence transmitting these recommendations, identifies four areas in which the Truth in Lending Act might be substantially simplified. These include further reduction of specific disclosure requirements, total preemption of similar State laws, elimination of the act's coverage of agricultural credit, and limiting the penalty provisions of the act to those violations that constitute material misstatements of credit terms.

This bill does not include provisions to implement these four suggestions, for I believe they are controversial and need careful study. But I am encouraged that the Board is devoting its attention to this subject, and am hopeful these suggestions will in time generate fruitful legislative proposals.

Mr. President, I am not committed wholeheartedly to the provisions of this bill at this time. We will want to give them a careful review through hearings, so that all those affected by them can comment. But I repeat my belief that these are constructive proposals, and my conviction that they merit serious attention.

I ask unanimous consent that two letters from the Federal Reserve Board, and the text of the bill, be printed in the RECORD.

There being no objection, the bill and letters were ordered to be printed in the RECORD, as follows:

S. 3699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1. Definitions

(a) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended—

(1) by inserting "credit" following "include" in the second sentence of subsection (f);

(2) by striking the comma following "credit card" in subsections (j) and (n) and inserting in lieu thereof "or funds transfer card,";

(3) by inserting "or funds transfer card" following "credit card" the first time it is used in subsections (m) and (o); and

(4) by striking "credit" the first time it appears in subsection (1), by inserting "or funds transfer card" following "card" the second time it appears in such subsection, and by striking the period at the end of such subsection and adding at the end thereof the following: ", or for transferring funds into, out of, or between accounts of the cardholder without effecting an extension of credit."

(b) Section 103 of such Act (15 U.S.C. 1602) is amended by adding at the end thereof a new subsection as follows:

"(s) The term "funds transfer card" means any card or device existing solely for the purpose of transferring funds into, out of, or between accounts of the cardholder without effecting an extension of credit."

Sec. 2. Voluntary credit insurance

(a) Section 106(b) of the Truth in Lending Act (15 U.S.C. 1605(b)) is amended—

(1) by striking "and" the second time it appears in paragraph (1); and

(2) by striking the period at the end of paragraph (2) and adding "; and" in lieu thereof.

(b) Section 106(b) of such Act (15 U.S.C. 1605(b)) is amended by adding at the end thereof a new paragraph as follows:

"(3) the debtor is given fifteen days after consummation of the transaction to cancel the insurance and receive a full refund of any premiums paid."

(c) Sec. 106(d) of the Truth in Lending Act (15 U.S.C. 1605(d)) is amended to read as follows:

"(d) The following items shall not be included in the computation of the finance charge with respect to any transaction:

"(1) Fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction.

"(2) The premium payable for any insurance in lieu of perfecting any security interest otherwise required by the creditor in connection with the transaction, if the premium does not exceed the fees and charges described in paragraph (1) which would otherwise be payable.

"(3) Taxes.

"(4) Any other type of charge which is not for credit and the exclusion of which from the finance charge is approved by the Board by regulation."

Sec. 3. Timing of annual report

Section 114 of the Truth in Lending Act (15 U.S.C. 1613) is amended by striking "Not later than January 3 of" and "after 1969,", and by capitalizing "each" the first time it appears in such section.

Sec. 4. Right of rescission

Section 125(a) of the Truth in Lending Act (15 U.S.C. 1635(a)) is amended by striking "residence" and inserting "dwelling" in lieu thereof.

Sec. 5. Voluntary periodic statements

Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631–1645) is amended by striking § 126 (15 U.S.C. 1636) entirely.

Sec. 6. Comparative index of credit costs

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by striking paragraph (5) and by redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively.

Sec. 7. Sales not under open end credit plans; charges payable in event of late payment or delinquency

(c) Section 128(a)(9) of the Truth in Lending Act (15 U.S.C. 1638(a)(9)) is amended to read as follows:

"(9) Any charges payable in the event of late payments or delinquency."

(b) Section 128(a)(10) of the Truth in Lending Act (15 U.S.C. 1638(a)(10)) is amended to read as follows:

"(10) A statement indicating that a security interest is taken in any property which is the subject of the extension of credit and a clear identification of any other property in which a security interest is held or is to be retained or acquired by the creditor in connection with the extension of credit."

Sec. 8. Consumer loans not under open end credit plans; charges payable in event of late payment or delinquency

(a) Section 129(a)(7) of the Truth in Lending Act (15 U.S.C. 1939(a)(7)) is amended to read as follows:

"(7) Any charges payable in the event of late payment or delinquency."

(b) Section 129(a)(8) of the Truth in Lending Act (15 U.S.C. 1639(a)(8) is amended to read as follows:

"(8) A statement indicating that a security interest is taken in any property which is acquired with the proceeds of the extension of credit and a clear identification of any other property in which a security interest is held or is to be retained or acquired by the creditor in connection with the extension of credit."

Sec. 9. Liability of Holder of Funds Transfer Card

(e) Section 133 of the Truth in Lending Act (15 U.S.C. 1643) is amended—

(1) by adding "or funds transfer card" to the end of the section title;

(2) by striking the comma following "credit card" each time it appears in subsection (b) and inserting "or funds transfer card," in lieu thereof;

(3) by inserting "or funds transfer card" following "credit card" in subsection (c); and

(4) by striking the period at the end of subsection (d) and adding "or funds transfer card." in lieu thereof.

(b) Section 133(a) of such Act (15 U.S.C. 1643(a)) is amended to read as follows:

"(a) A cardholder shall be liable for the unauthorized use of a credit card or funds transfer card only if the card is an accepted card; the liability is not in excess of $50; the card issuer gives adequate notice to the cardholder of the potential liability; the card issuer has provided the cardholder with a self-addressed, prestamped notification to be mailed by the cardholder in the event of the loss or theft of the card; the unauthorized use occurs before the cardholder has notified the card issuer that an unauthorized use of the card has occurred or may occur as the result of loss, theft, or otherwise; and the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it. For the purposes of this section, a cardholder notifies a card issuer by taking such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information."

Sec. 10. Fraudulent use of funds transfer card

(a) Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended—

(1) by inserting "or funds transfer card" at the end of the section title;

(2) by inserting "or funds transfer card" following "credit card" each time it appears in subsections (a), (b), (c), and (f);

(3) by striking the semi-colon following "credit card" in subsection (d) and inserting "or funds transfer card;" in lieu thereof; and

(4) by striking the semi-colon following "credit cards" in subsection (e) and inserting "or funds transfer cards;" in lieu thereof.

Sec. 11. Business funds transfer cards

(a) Section 135 of the Truth in Lending Act (15 U.S.C. 1645) is amended—

(1) by inserting "and funds transfer cards" at the end of the section title;

(2) by inserting "or funds transfer cards" following "credit cards" the first time it appears in such section; and

(3) by striking "credit" the second and third times it appears in such section.

AMENDMENTS TO THE FEDERAL TRADE COMMISSION ACT

Sec. 12. Timing of annual report

Section 18(f)(5) of the Federal Trade Commission Act (15 U.S.C. 58(f)(5)) is amended by striking "not later than March 15 of each year."

AMENDMENTS TO THE EQUAL CREDIT OPPORTUNITY ACT

Sec. 13. Timing of annual report

Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691(f)) is amended by striking "Not later than February 1 of" and "after 1976," and by capitalizing "each" the first time it appears in such section.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, D.C., July 16, 1976.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Our letter of June 25 transmitted a draft bill encompassing a number of recommendations by the Board for simplifying changes in the Truth in Lending Act as a result of your request. After further review the Board now recommends three additional changes in the Act. A draft bill that would implement these changes is enclosed. The Board also suggests that your Committee study four additional areas for simplification, described below. The Board does not make unconditional recommendations in these four areas because simplification of the Act in these respects might result in loss of certain consumer protections. The Board believes that adoption of its recommendations for simplification would not deprive consumers of essential information needed to shop for credit or to understand their credit arrangement, such as the amount of credit, finance charge, annual percentage rate, and repayment terms.

The first recommendation for further simplification would eliminate the itemization of certain charges enumerated in Section 106 (d), which requires that such charges be disclosed if they are to be excluded from the finance charge. The Board believes that such itemization is not necessary for the protection of consumers. Section 106(e) does not contain an itemization requirement for similar charges in real property transactions in order to exclude them from the finance charge, and no problems seem to have arisen because of the lack of such a requirement.

The second recommendation would eliminate disclosure of the type of security taken in connection with a credit transaction. The Board believes that this disclosure, which is ordinarily couched in highly technical language, provides little, if any, useful information to the consumer in making a credit decision. It might alos be noted that this requirement has given rise to a considerable amount of litigation and may impose substantial burdens without concomitant consumer benefits.

The third recommendation would limit the requirements of Sections 128(a) and 129(a) regarding clear identification of property taken as security for a closed-end credit transaction to make it inapplicable to those items of property that are being purchased as part of the credit transaction. Since the property taken as security is usually limited to the item being purchased, this change would in most cases eliminate disclosure of a fact of which consumers are generally already aware.

The additional four areas that your Committee may wish to consider involve potential adverse impacts on consumers that should be weighed carefully against the benefits of simplification before Congress determines that such disclosures are eliminated. The first of these concerns preemption of inconsistent State laws, State exemptions, and the validity of laws providing greater consumer protection (Sections 111 (a), 123, and 171). The Board believes that the benefit from a preemption of all similar existing State laws in this area by the Federal statute may outweigh any loss of protection to consumers and would justify such action by Congress. In this respect, the drafters of the Uniform Consumer Credit Code, which was originally designed in part to afford States a basis for obtaining an exemption from Chapter 2 of the Truth in Lending Act, have abandoned that approach. The prefatory note to that Act states in part (at p. xxxiv):

"[T]his Act evidences the conclusion that Congress has preempted the field of disclosure and any attempt of States to remain in the field by enacting statutes and regulations of their own cause [sic] substantially more harm than good."

As an alternative to the adoption of substantially similar laws by a Sate, the Code would incorporte the Federal disclosure law by reference so as to provide a State with the authority to enforce the Federal law.

The second area that the Board questions involves enforcement of the Act. Much of the present complexity of the Act and Regulation Z reflects the impact of the civil liability considerations. The threat of severe penalties for relatively minor technical violations has led many creditors to seek greater certainty by requesting official Board amendments and interpretations, which further complicate the regulation. Although private causes of action provide an important enforcement tool for the Act, the Board believes that Congress should carefully review the present civil liability provisions to determine whether modifications in them might reduce needless litigation and the resulting regulatory complications.

The Board has taken one action and is considering another that may assist in reducing unnecessary litigation. The Board has adopted procedures implementing the provisions of Public Laws 94–222 and 94–239, which provide a defense for creditors relying upon letters issued by duly authorized officials of the Board in connection with Regulations B and Z. In addition, the Board is considering the development of standardized Truth in Lending disclosure forms, or portions of forms, on which creditors could rely in complying with the Act. These forms could prove especially beneficial to creditors, such as small retailers, who do not have access to, or cannot afford, specialized legal counsel to design their forms.

While these measures should to some extent reduce the present volume of litigation and alleviate confusion resulting from the complexity of the Act and the regulation, the Board urges that Congress also study the possibility of limiting the penalty provisions of the statute to violations that actually interfere with the consumer's ability to make meaningful comparisons of credit terms. Only a limited number of terms seem to be genuinely helpful in this regard. These probably include the annual percentage rate, the finance charge, the amount financed, and the repayment schedule. It may be that civil liability should be incurred only for material misstatements of these terms, leaving technical violations to be dealt with by administrative remedies. Under present law a creditor may be penalized for purely technical violations of which the consumer may have been unaware at the time and which in no way entered into the decision to accept or reject the credit terms offered. This situation lends itself to abuse and has overburdened some courts with Truth in Lending litigation.

The third area relates to Sections 128(a) and 129(a), which require, among other things, disclosure of certain terms and amounts used in determining the amount financed in closed-end credit transactions. By introducing a variety of terms and figures into the disclosures, these provisions certainly contribute to the length and complexity of the disclosures to consumers. However, they specify the mathematical progression to be used by the creditor in determining the amount financed and also provide information that consumers may find useful in understanding the terms of the credit transaction.

Fourth, your Committee may also wish to consider whether the coverage of credit for agricultural purposes within the scope of the Truth in Lending Act is necessary. Coverage of such credit has caused numerous complexities in Regulation Z. There is a question whether an Act designed to protect consumers should include a type of credit that is related primarily to business or commercial activity.

The suggestions mentioned have been developed through an extensive review of the Act's requirements performed by the Board's staff with the assistance of several outside consultants. This review related primarily to those provisions of Truth in Lending that were contained in the original Act and for the most part affect only closed end credit transactions. Each section of that Act was carefully examined as a candidate for elimination or modification, attempting to balance creditor burdens in providing the information with the consumer protections that the information provides. Of course, the provisions regarding open end credit are equally complex and certainly warrant further attention by Congress and the Board. Since the recent Fair Credit Billing Act amendments are so closely related to open end credit, however, we believe that proposals for simplification in this area should await further experience.

I hope that you will find this discussion useful in your continuing efforts in the field of consumer protection.

Sincerely yours,

STEPHEN S. GARDNER.

CHAIRMAN OF THE
BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, D.C., June 25, 1976.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to transmit with this letter a draft bill encompassing seven recommendations by the Board of Governors for improvement of the Truth in Lending Act. These recommendations appear in the Board's 62nd Annual Report in which they are discussed in more detail. A staff study of the feasibility of more sweeping changes is nearing completion and we will forward to you the results of that study in the very near future.

The first recommendation would delete the requirement that creditors who choose to send periodic billing statements in connection with credit other than open-end credit include certain disclosures with such statements.

The second recommendation would amend Sections 128(a)(9) and 129(a)(7) of the Act to require disclosure only of charges payable in the event of delinquency or late payment and not of charges payable on default.

The third recommendation would eliminate from the Act Section 127(a)(5) under which creditors of open-end credit accounts are permitted to make an elaborate disclosure of "the average effective annual percentage rate of return received from accounts under the plan for a representative period of time."

The fourth recommendation would amend Section 125 of the Act so that the right of rescission would not apply to credit contracts involving a security interest in a vacant lot.

The fifth recommendation would provide that in order for credit insurance to be classified as voluntary, and its cost excluded from the finance charge, the creditor must grant an absolute right of insurance cancellation for a reasonable time after its purchase. If, within that time period, a customer decides that he or she does not want the credit insurance, the customer could cancel the insurance and receive a full refund of all premiums paid.

The sixth recommendation would expand the scope of Section 133 of the Truth in Lending Act, which applies a limitation on liability for unauthorized use of credit cards, to cover funds transfer cards as well. The scope of Section 134, which provides for fines of up to $10,000 and imprisonment for up to 10 years for fraudulent use of a credit card, would be expanded correspondingly to apply also to the fraudulent use of funds transfer cards.

A final recommendation would permit the Board to submit the annual reports required by the Truth in Lending Act, the Equal Credit Opportunity Act, and the Federal Trade Commission Act at the same time and as components of the Board of Governors' *Annual Report.*

The first recommendation would eliminate a requirement that creditors of closed-end credit who choose to send periodic billings include the annual percentage rate, the date by which payment must be made in order to avoid additional finance or other charges; and also include any other items that may be specified by the Board. Since there is no requirement that all creditors send such periodic statements, the rule seems to penalize those creditors who do send payment reminders and may discourage the sending of such statements. Elimination of this provision should have no serious negative impact on consumers.

The second recommendation would eliminate a requirement that has led to much litigation without, the Board believes, providing meaningful information for consumers. The reference to charges payable on "default" in Sections 127 and 128 could be construed to require disclosure of *any* charges assessed against a debtor in the event of a judgment. It might also be interpreted to include those charges that a debtor may have to pay on repossession of collateral. A number of courts have held recently that the act of acceleration of a detailed credit contract is a charge that requires disclosure.

The third recommendation would eliminate a statutory provision implemented by an entire section in Regulation Z which is rarely, if ever, used.

The fourth recommendation would eliminate the right of rescission in vacant lot transactions. The primary purpose of the right of recission is to give a consumer time in which to reconsider the important act of pledging a home as securing for a loan. It presently applies to transactions involving credit purchases of vacant lots that are intended ultimately to become the consumer's "residence". The Board does not feel that the same considerations for affording protection exist in such situations. Further the Interstate Land Sales Full Disclosure Act already gives the consumer a right of revocation for many such vacant lot transactions.

The fifth recommendation is supported by evidence from the Federal Trade Commission and the results of a university survey[1] indicating that penetration rates approaching 100 per cent are being achieved by certain creditors in the sale of optional credit life and disability insurance. These high penetration rates raise the possibility that some creditors may be leading borrowers to believe that insurance coverage is necessary to obtain their loans, despite disclosures to the contrary. The university survey found that nearly 20 per cent of those consumers who purchased credit life insurance and nearly 15 per cent of those who purchased credit disability insurance believed, either because of misrepresentation or misunderstanding, that the insurance was required to obtain credit. In light of this evidence, the Board feels that remedial legislation is warranted.

The sixth recommendation would standardize treatment of credit cards and funds transfer cards under the Act. At present, limitations on cardholder liability apply only to cards with a credit feature—for example, to cards used in automated teller machines which have overdraft privileges. Cards used in automated teller machines to transfer funds are not considered credit cards under the Act.

Unauthorized use of a funds transfer card can result in substantial loss of a cardholder's savings and checking balances. Consistency in the treatment of funds transfer and credit cards is also desirable in that it would help assuage consumer fears and facilitate public acceptance of non-credit cards to the benefit of both consumers and card issuers. Public acceptance of funds transfer cards would, in turn, advance acceptance of electronic funds transfer systems (EFTS).

In this latter connection, the Board would also suggest that Congress reconsider the continuing need for Section 132 of the Act which prohibits the unsolicited issuance of credit cards and has posed a marketing hurdle to the entry of new competition into the credit-card field. In the Board's view, the abuses that Congress sought to correct by this section can be cured effectively by Section 133, which prevents consumer liability for the unauthorized use of an *unaccepted* credit card. Further investigation by Congress may indicate that the prohibition on unsolicited issuance could be relaxed or eliminated with no adverse effect on consumers, thereby encouraging competition in the credit-card field.

The final recommendation would avoid duplication and fragmentation of effort by providing for unified submission of the annual reports required of the Board by Congress. This would replace present provisions under which the Truth in Lending Act report must be submitted by January 3, the Equal Credit Opportunity Act report by February 1, and the Federal Trade Commission Act report by March 15.

A draft bill embodying the Board's recommendations is enclosed, along with an enclosure showing the changes in existing law which would be made by our proposals.

In the Board's view, prompt enactment of these recommendations would result in desirable improvement of the present provisions of the Truth in Lending Act, and of the procedures under which the Board is accountable to Congress for the discharge of its duties.

Sincerely yours,

Arthur F. Burns.

ADDITIONAL COSPONSORS

S. 2020

At the request of Mr. Ribicoff, the Senator from Rhode Island (Mr. Pastore) was added as a cosponsor of S. 2020, to provide optometric coverage under Part B medicare payments.

S. 3319

At the request of Mr. Glenn, the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Humphrey), and the Senator from Colorado (Mr. Gary Hart) were added as cosponsors of S. 3319, to amend the Emergency School Aid Act.

S. 3684

At the request of Mr. Baker, the Senator from Missouri (Mr. Eagleton) was added as a cosponsor of S. 3684, to amend the Federal Aviation Act of 1958, as amended.

SENATE RESOLUTION 448

Mr. ABOUREZK. Mr. President, last June 10, the Senate adopted Senate Resolution 448, a resolution urging U.S. policy with respect to Lebanon. During the debate on that legislation, the Senator from Ohio (Mr. Taft) asked to be added as a cosponsor of the resolution, but was not.

I ask unanimous consent that the Senator from Ohio be added as a cosponsor of Senate Resolution 448. He has been active in this area, and I want the Record to reflect that he requested to be added at that time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE JOINT RESOLUTION 206

At the request of Mr. Stone, the Senator from Ohio (Mr. Taft) and the Senator from West Virginia (Mr. Randolph) were added as cosponsors of Senate Joint Resolution 206, proposing a National Leadership Conference on Energy Policy.

SENATE CONCURRENT RESOLUTION 131

At the request of Mr. Abourezk, the Senator from Iowa (Mr. Clark) was added as a cosponsor of Senate Concurrent Resolution 131, relating to increases in social security benefits.

AMENDMENTS SUBMITTED FOR PRINTING

POSTAL REORGANIZATION ACT AMENDMENTS OF 1976—H.R. 8603

AMENDMENTS NOS. 2069 AND 2070

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes.

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[1] *Consumer Credit Life and Disability Insurance,* edited by Charles Hubbard. The College of Business Administration, Ohio University, 1973.

AMENDMENT NO. 2071

(Ordered to be printed and to lie on the table.)

Mr. WILLIAMS submitted an amendment intended to be proposed by him to the bill (H.R. 8603), supra.

AMENDMENT NO. 2072

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to the bill (H.R. 8603), supra.

AMENDMENTS NOS. 2079, 2080 AND 2081

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. ABOUREZK, Mr. CANNON, Mr. HATFIELD, Mr. HATHAWAY, Mr. MCGOVERN, and Mr. WEICKER) submitted three amendments intended to be proposed by them jointly to the bill (H.R. 8603), supra.

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2073

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2074

(Ordered to be printed and to lie on the table.)

Mr. BROOKE submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENTS NOS. 2075, 2076, AND 2077

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted three amendments intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2082

(Ordered to be printed and to lie on the table.)

Mr. LONG (on behalf of the Committee on Finance) submitted an amendment intended to be proposed to the bill (H.R. 10612), supra.

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 2078

(Ordered to be printed and to lie on the table.)

Mr. NELSON. Mr. President, an amendment that I am submitting to the Clean Air Amendments of 1976 would ban, effective January 1, 1977, aerosol spray containers containing specific fluorocarbons known to be harmful to the atmosphere, unless the EPA finds that their continued use poses no unreasonable risk of injury to health or the environment.

We can no longer wait to take action to effectively reduce the threat to the environment and human health posed by continued emission of these fluorocarbon propellants. The evidence indicates that we must act promptly to protect the public health.

Some 55 studies have been, or are being conducted, which indicate that specific fluorocarbons deplete the ozone layer in the upper stratosphere, thereby reducing the protection to the Earth from dangerous ultra-violet radiation.

The National Academy of Sciences Committee on the Impact of Stratospheric Change, which has been studying the subject for several years, has prepared a report, recommending that nonessential uses of fluorocarbons in aerosol spray cans be eliminated, according to a panel member as reported in the Philadelphia Inquirer, March 19, 1976, and Business Week, April 5, 1976. Mr. President, I ask unanimous consent that the first article be printed in the RECORD following these remarks and printing of the amendment. The NAS study, due in August, 1976, involves participation by four agencies: NSF, EPA, NOAA, and NASA.

Here are the facts, as scientists have concluded:

Erosion of the ozone layer can cause increases in the incidence of skin cancer and mutation of plant life.

A petition filed by 10 States, the Natural Resources Defense Council, Inc., and Environmental Defense Fund, Inc., seeks to have Consumer Product Safety Commission declare that pressurized consumer products containing certain fluorocarbon propellants be banned as hazardous. The States participating in the petition are: Minnesota, New York, Michigan, Oregon, Wisconsin, New Hampshire, Colorado, Florida, Vermont, and Massachusetts. I ask unanimous consent that a Wall Street Journal article describing the petition be printed in the RECORD following these remarks.

The petition cites the following dangers:

A report of the Federal Task Force on Inadvertent Modification of the Stratosphere, "Fluorocarbons and the Environment," June 1975—IMOS Report—says that current estimates indicate that even without further growth in fluorocarbon use above the 1972 level the eventual, equilibrium reduction of ozone would be about 7 percent. If the use of fluorocarbons continues to grow at the rate at which it grew during the 1960's, a reduction of between 10 percent and 15 percent will occur early in the next century.

A 7 percent reduction in the ozone content of the stratosphere will cause an additional 42,000 to 140,000 cases of skin cancer each year in the United States, and an additional 126,000 to 420,000 cases worldwide. A 15 percent reduction will cause an additional 90,000 to 300,000 cases of skin cancer each year in the United States and an additional 270,000 to 900,000 cases worldwide, the petition contends, based on the IMOS study.

Even if no additional fluorocarbons are released, further reduction in the average concentrations of ozone would continue, reaching a maximum in about a decade. The naturally occurring ozone formation necessary to counter this decrease would take at least a century or more, the IMOS Report concludes.

New laboratory and atmospheric measurements of the key chemical reactions and their rates have led to refinements and downward revisions of the expected amounts of ozone reduction, the petition notes. However, the petition points out that other new measurements have led to upward revisions of the estimates. The petition states—page 27:

> The net result of the new information, taken as a whole, is that the overall estimates of ozone reduction are approximately the same as those of more than a year ago.

It concludes—pages 27–29:

> At the same time, the new estimates are fortified by stronger experimental data than were available for the earlier estimates.

Climatic changes may result from fluorocarbon influence on the Earth's temperature.

According to information in the petition—page 36–7—studies by Dr. V. Ramanathan of the Langley Research Center of the National Aeronautical and Space Administration—NASA—indicate that in the cool temperatures in the lower atmosphere, fluorocarbon molecules absorb heat radiation from the Earth's surface and trap a substantial portion of it. This result in a "greenhouse effect" that may warm the Earth enough to cause significant climatic changes with respect to rainfall ice-cover and a partial melting of the polar ice caps.

Approximately 50 percent of all world use of pressurized products containing these ozone-depleting fluorocarbons and similar compounds as propellants is by U.S. consumers.

A recent Arthur D. Little study, contracted by the Environmental Protection Agency—EPA—says that aerosols account for about 62 percent of the fluorocarbons released into the atmosphere, with refrigerants—enclosed uses—leaking about 25 percent. The remaining 13 percent of fluorocarbons are used in both enclosed and nonenclosed ways, such as in solvents and as foam-blowing agents to make plastic products.

Alternatives to aerosols and alternative propellants that are not known to harm the ozone layer exist, and new ones are being developed by the aerosol industry. In fact, many manufacturers of consumer products that have been using aerosol sprays now are advertising and promoting nonaerosol containers. S. C. Johnson and Son of Racine, Wis., manufacturers of wax products, have ended the use of fluorocarbon propellants in the production of its broad line of consumer products.

The EPA has recommended that pesticides be packed in nonaerosol containers.

FDA Commissioner Alexander M. Schmidt, M.D., in an interview with U.S. News & World Report, Inc., February 23, 1976—pages 52–55—cited "fluorocarbons as a spray propellant" as an example of products that need to be removed from the market because of "a very strong suspicion rather than absolute proof" of risk to humans. He states:

> We already have banned use of vinyl chloride in aerosols because of the cancer risk.

> Now there is a theory that fluorocarbons may destroy the ozone layer in our atmosphere that filters out ultraviolet light. The fear is that the result may be an increase in skin cancer.
>
> There are quite a bit of data that show this thesis is correct. I don't think we can afford to wait a decade or two decades for incontrovertible proof that the ozone is disappearing. The National Academy of Sciences is studying the available evidence now. We will have their report within the next year, and will then make a decision.

Finally, retail prices of nonaerosols are less costly to consumers. An article by Sidney Margolius in the Washington Star, February 14, 1976, notes the comparative lesser costs of nonaerosol consumer products.

Mr. President, I ask unanimous consent that the Margolius column be printed in the Record following these remarks.

What the Nelson amendment does; how it differs from the Public Works Committee recommended bill on stratospheric ozone protection—section 153—and from the Packwood aerosol amendment:

Banning propellants:

Nelson amendment—bans, effective January 1, 1977, the manufacture, production, importation, export or sale of aerosol containers containing as propellants "trichloromonofluoromethane, difluorodichloromethane, or any other saturated chlorofluorocarbon compound not containing hydrogen," unless the EPA prior to that date, finds that such substances pose no unreasonable risk of injury to health or the environment.

This is similar to a law enacted in the State of Oregon May 23, 1975, except that the Oregon law is effective March 1, 1977. Mr. President, I ask unanimous consent that the text of the Oregon law be printed in the Record following these remarks.

It is also comparable to an amendment phasing out PCB's, which the Senate passed as part of the Toxic Substances Control Act, March 26, 1976 (Congressional Record, p. 8291).

This effectively bans products containing the fluorocarbon propellants known to cause ozone depletion, specifically those compounds identified chemically as P-11 (trichlorofluoromethane), P-12 (dichlorodifluoromethane), and other fluorocarbon compounds with similar physical and chemical properties (such as P-114, dichlorotetrafluoroethane) that are chemically inert and do not contain reactive bonds or unsaturated bonds, unless they are found not to pose unreasonable risks.

It is our understanding that compounds that do not contain unsaturated bonds and do not contain hydrogen bonds appear to be chemically stable and do not break down in the lower atmosphere, and therefore are most likely to drift into the stratosphere, where they break down and form chlorine atoms, which in turn react with ozone and reduce its concentration in the stratosphere.

The committee bill (part B—Ozone Protection, sec. 15)—Does not mandate a ban of such aerosol containers. It authorizes the EPA to propose by January 1, 1978, regulations to restrict the manufacture and use of aerosols containing halocarbons—a much larger family of fluorocarbons than the Nelson amendment bans—if the EPA finds that "halocarbon emissions from aerosol containers may reasonably be anticipated to cause or contribute to the endangerment of public health or welfare" (p. 58 of S. 3219 as reported Mar. 29, 1976). Such proposals would be submitted to Congress by April 1, 1978, and after public hearings, the EPA shall promulgate final regulations, which shall take effect if not disapproved by either House within 90 days.

In other words, the committee bill: First, does not ban the specific fluorocarbons known to deplete the ozone layer unless the EPA finds that they or other halocarbons "may reasonably be anticipated to endanger public health," and second, not until July 1978—some 1½ years after the Nelson amendment would become effective.

The committee bill does contain an "Expedited Regulation" provision—section 154, page 59—which authorizes EPA to take immediate action to ban or restrict the manufacture, production, sale, import, export or use of aerosol containers discharging halocarbons into the atmosphere, if it is "necessary to protect the public health or welfare from significant risk of harmful effects which may reasonably be anticipated to arise in whole or in part from" such emissions.

This provision of the committee bill also requires the administration, in promulgating any expedied regulations for a ban, to take into account the public need for aerosol containers, the costs and feasibility of such action, and all other costs related to depletion of stratospheric ozone.

My amendment would not affect this provision, which I support.

My amendment also would not affect the committee bill's provision authorizing EPA to propose regulations to control halocarbon emissions from other sources than aerosols if necessary to protect the public health.

The Packwood amendment—bans effective January 1, 1978—1 year after the Nelson amendment is effective—the manufacture, production, import or export of aerosol containers containing halocarbons—like with committee bill with respect to halocarbons affected but broader than the Nelson amendment, which affects specific fluorocarbons.

EPA may lift or modify the ban if it "finds that no significant risk to the public health, safety, or welfare is, or may be posed by the discharge of halocarbons into the ambient air from aerosol containers." The burden of proof is on the agency to find "no significant risk before lifting the ban."

Congressional review and lifting or modifying a ban:

Nelson amendment—shifts the burden of proof to petitioners, and allows for lifting or modifying the mandated ban only: First, after petitions have been presented to EPA, based on "new scientific evidence showing that such change in the prohibition presents no unreasonable risk to the public health, safety or welfare" resulting from the discharge of the specifically banned fluorocarbons into the ambient air; second, after EPA has considered the new evidence, consulted with experts and Federal agencies, and afforded the opportunity for a public hearing; and third, after both Houses of Congress have approved the changes recommended by EPA within 90 days of its proposal.

The criteria for a new finding is that there be "no unreasonable risk" rather than "no significant risk" to the public health, as the committee and Packwood amendments require. This criteria is similar to language in the Medical Devices Safety Act with respect to basis for changing device classifications, as recently enacted into law; and to the PCBS amendment passed by the Senate.

Committee bill—allows a change in a ban if either Houses does not disapprove within 90 days.

Packwood amendment—does not contain congressional review.

Exemptions:

Nelson and Packwood amendments—both contain provisions allowing EPA to grant specific exemptions from a ban, for the use of small quantities of the banned substances, if such aerosol containers are essential for the public health or welfare—such as medical devices—and adequate substitutes for the banned substances are not available, except that the Nelson amendment goes only to its limited banned fluorocarbons, while the Packwood amendment addresses all halocarbon-containing aerosols.

Committee bill—does not contain such exemptions.

Provisions in Nelson amendment not in committee on Packwood amendments:

Prohibition against stockpiling, identical to that in the Consumer Product Safety Act.

Specifies that this act shall not preempt existing authority to regulate aerosols in the Consumer Product Safety Act—also in Packwood amendment—the Food, Drug and Cosmetic Act, or any other act.

To summarize the basic differences: the Nelson amendment limits the ban, but mandates it sooner than the other amendments, and makes it incumbent on Congress to lift or modify such ban by affirmative action.

The Nelson amendment does not ban all aerosols—only those containing propellants which scientific evidence has identified as harmful to the ozone layer, and thus to human health and the environment.

Mr. President, I believe this is a rational compromise which addresses the problem at the earliest possible time, without undue hardship on the industry or the consumer.

The amendment has the support of several environmental organizations, including the Natural Resources Defense Council, Inc., and the Center for Science in the Public Interest, which responded to our request for comment on the amendment. They have also endorsed the Packwood amendment, with the qualification that they preferred an earlier ban, and stronger measure.

I ask unanimous consent that the text

of the amendment be printed in the RECORD, along with articles on the subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2078

On page 58, beginning with line 2, strike out all through line 7 on page 59 and insert in lieu thereof the following:

"SEC. 153. On and after January 1, 1977, except as provided in subsections (b) and (c), it shall be unlawful for any person to manufacture, produce, import, export to or from the United States, or sell in commerce any aerosol container containing as a propellant trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen, unless the Administrator finds prior to such date, on the basis of a study by the National Academy of Science and other available scientific information, that no unreasonable risk to the public health or the environment results from the use of such containers.

"(b)(1) Any person may petition the Administrator to modify or rescind the prohibition in subsection (a) in whole or in part, by presenting new scientific evidence showing that such change in the prohibition presents no unreasonable risk to the public health, safety, or welfare posed by the discharge of trichloromonofluoromethane, difluorochloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen into the ambient air from aerosol containers.

"(2) In determining whether to modify or rescind such prohibition pursuant to subsection (a), the Administrator shall consider new scientific information, available reports, and any other material as he deems necessary, and consult with appropriate Federal agencies and scientific entities, and afford the opportunity

"(3) If he then finds that no unreasonable risk to the public health, safety or welfare is, or may be, posed by the discharge of trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen into the ambient air from aersol containers, he may propose by rule to modify or rescind the prohibition in subsection (a) in whole or in part, consistent with that finding, and shall submit such rule to Congress, which rule shall not take effect unless approved by a joint resolution of Congress within 90 calendar days.

"(c) If the Administrator determines that a particular use of trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen in aerosol containers is essential for the public health or welfare, and that an adequate substitute for such compound is not available, he may grant exemptions from the prohibitions in subsection (a) to allow the use of small quantities in such particular case.

"(d) The Administrator shall by rule prohibit manufacturers or importers of aerosol containers containing trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen from stockpiling (within the meaning of section 9(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2058(d)(2)) any such containers so as to prevent such manufacturers or importers from circumventing the purpose of this section.

"(e)(1) From time to time the Administrator may revise any regulations issued pursuant to subsection (b)(3) of this section in light of new evidence as to the need for such regulations, subject to approval by the Congress as provided in such subsection (b)(3).

"(2) From time to time the Administrator may revise any of the regulations issued pursuant to subsection (c) and (d) of this section in the light of new evidence as to the need for such regulations.

"(f) Nothing in this section shall limit, restrict, or otherwise detract from the authority provided in section 154, or any authority vested in the Consumer Product Safety Commission, or any health-related authority vested in the Secretary of Health, Education and Welfare.

On page 59, line 10, strike "1978" and insert in lieu thereof "1977".

[From the Wall Street Journal, June 30, 1976]

DEFENDERS OF FLUOROCARBONS ARE SET BACK AS RESEARCH CENTER CONCEDES TEST ERROR

(By Jeffrey A. Tannenbaum)

NEW YORK.—The fluorocarbon industry has suffered a setback in its defense of the manmade gases, which are widely used in aerosol sprays and refrigerants and linked in a controversial theory to possible increases in human skin cancer.

In Boulder, Colo., the National Center for Atmospheric Research, operated by several universities, has written to scientists painfully conceding that the results of one of its experiments earlier this year were wrong. The fluorocarbon industry had seized upon the experiment as evidence possibly "exonerating" its products.

Although the correction was issued a month ago, unlike the original report it hasn't received widespread attention. Partly because of industry public-relations efforts, the experiment generated a flurry of publicity in May suggesting that the fluorocarbon flap was just a "scare" after all.

However, Allan L. Lazrus, a research chemist who signed the corrective letter for the Boulder center, said in an interview that the theoretical case against fluorocarbons appears sound. "It's absolutely not a 'scare,'" he said. "The evidence we have seems to vindicate the theory." An apparently growing number of scientists and other observers say they expect eventual government action to curtail fluorocarbon use, probably through a ban on fluorocarbon aerosols.

Most of the fluorocarbon industry, for its part, insists that if the Boulder center's corrected results don't destroy the case against the gases, something else will come along and do so. James P. Lodge Jr., an atmospheric scientist, retained by fluorocarbon makers and users as their scientific spokesman, continues to insist that "the whole thing seems to resemble a structure held together with Tinker Toys, Scotch tape and rubber bands."

STRENGTH OF THEORY

However, while agreeing it is possible that fluorocarbons may yet be found innocent in the case against them, most scientists—including some in the chemical industry—deem that unlikely. A scientist at Dow Chemical Co., which makes raw materials (and substitutes) for fluorocarbons, says, "Most of the research going on . . . is aimed at ironing out details. I don't think there's going to be any thunderbolt knocking out the theory."

Earlier, some in the industry thought the Boulder center's experiment may have been just such a thunderbolt. According to the theory, first advanced two years ago by University of California chemists Mario J. Molina and F. Sherwood Rowland, the fluorocarbon gases are wafted to the stratosphere and are broken down by ultraviolet radiation from the sun.

As the type of fluorocarbons involved contain the chemically active element chlorine, their breakdown, in theory, sets off a complex and awesome series of chemical reactions. In those reactions, the chlorine is released and destroys part of the shield of ozone, a form of oxygen, that prevents much potentially harmful ultraviolet radiation from reaching the earth's surface. More radiation then reaches the earth, causing an increase in skin cancer rates and possibly other harmful effects.

In a key test of the theory, scientists measured the amount of hydrochloric acid in the stratosphere. Theoretically, each chlorine atom released by the fluorocarbons sets off a catalytic chain reaction that converts tens of thousands of ozone molecules to ordinary oxygen, which can't filter out certain wavelengths of ultraviolet light. But the chlorine eventually combines with other types of atoms to produce such substances as hydrochloric acid.

Tests were tending to confirm the ozone-depletion theory by finding predicted amounts of hydrochloric acid that couldn't readily be accounted for in any other way. But last March, reporting on one of several studies of balloon samples of stratospheric air, the Boulder center disclosed that it had found significantly less hydrochloric acid than predicted by the theory.

If correct, this finding was a blow to the theory, because if predicted amounts of hydrochloric acid weren't present, predicted amounts of ozone presumably weren't being destroyed. What was happening to the chlorine released by the fluorocarbons? Messrs. Rowland and Molina themselves suggested that some of it, instead of depleting ozone, might be combining with substances already in the upper atmosphere to form chlorine nitrate.

Suddenly, the beleaguered defenders of fluorocarbons had some sorely needed ammunition. Last month, the industry-sponsored Council on Atmospheric Sciences claimed that the formation of chlorine nitrate in effect reduced the predicted depletion of ozone by fluorocarbons 80% to 90% in a key part of the stratosphere. Independent scientists tended to come up with lower figures but also saw a substantially reduced threat.

UNDERSTATEMENT OF FINDINGS

However, late last month the Boulder center quietly issued a "Dear Colleague" letter to scientists saying that the amount of hydrochloric acid had been badly understated. In preparing solutions containing known quantities of chemicals, for purposes of comparison with the stratospheric samples, a laboratory assistant had used the wrong amounts of two key chemicals, throwing off the results of the experiment. Then a safeguard procedure to detect such an error "was improperly omitted in this instance," the center wrote.

In theory, the possibility of chlorine nitrate formation remains, but new research results tend to reduce its importance. Last month, Philip L. Hanst, a senior scientist at an Environmental Protection Agency research facility in North Carolina, reported on an examination of infrared absorption spectra of stratospheric air. The spectra, in effect a type of photograph of the stratosphere, "fail to indicate chlorine nitrate at any altitude," Mr. Hanst reported. The experiment also placed a low limit on the amount that theoretically could be present, he added. Some other scientists dispute those findings.

Messrs. Rowland and Molina say they are holding to their original predictions that fluorocarbons will deplete the ozone shield 7% to 13%, possibly within 50 to 80 years.

UNCERTAINTIES REMAIN

Many industry scientists continue to dispute this. They say that the Molina-Rowland theory still can't satisfactorily account for the Boulder center's revised results. They say that chlorine-nitrate formation, although undoubtedly "less of a factor" than thought before, still could prove significant. They say many uncertainties about the stratosphere remains, so that any estimates of ozone depletion are "very dubious" at best.

Debate also continues over what the effects of ozone depletion—and thus of more ultraviolet light reaching the earth—would be. Many scientists appear to agree that for each 1% decrease in ozone, there would be a 2% boost in usually nonfatal human skin cancer.

However, new calculations suggest that even greater increases might result. National Cancer Institute statisticians, reporting last month in the American Journal of Public Health, presented assumptions and calculations leading to the conclusion that skin cancer would rise 25% to 50%, depending on geographic location, for a 10% decrease in ozone. "We emphasize that such estimates should be considered crude until the many assumptions can be investigated," they said.

A ban on fluorobarbon aerosols is likely within two or three years even though all the scientific questions mightn't be resolved soon, according to Arthur D. Little Inc. of Cambridge, Mass., a major consulting company. "Scientists aren't going to be allowed to go on for years debating the nuances of this thing," says Richard Williams, staff member. Given doubt over whether to ban a product, he maintains, the regulators "would rather err on the side of protecting the public," especially when they perceive the products involved as less than absolute necessities.

[From the Philadelphia Inquirer, Mar. 19, 1976]

Aerosols Hurt Ozone, Panel Finds

(By Joel N. Shurkin)

A panel of the prestigious National Academy of Sciences (NAS) has determined that fluorocarbon propellants, such as those found in most aerosol spray cans, are, in fact, a major threat to the environment. It will recommend that all their non-essential use be eliminated, a panel member said.

The panel, which spent almost a year reviewing previous research on fluorocarbons, confirmed a previous scientific conclusion: The chemicals damage the layer of ozone that protects the earth from dangerous ultraviolet radiation.

The statistical data supporting a ban look more and more persuasive, a member of the scientific panel, mainly comprising chemists and meteorologists, told The Inquirer yesterday. "The odds are against there being no danger."

Erosion of the ozone layer could cause increases in the incidence of skin cancer and mutation of plant life.

The panel will issue its report to the NAS' Committee on the Impact of Stratospheric Change, which will hold hearings at the end of next month.

That committee will then issue its own report under the stamp of the prestigious academy which will include whatever recommendations it thinks appropriate.

The panel report will probably be strongly opposed by the chemical industry, which maintains that research on the problem is not substantial enough to warrant any action for several years.

The DuPont Co., a major manufacturer of a refrigerant called Freon and other fluorocarbon products, has proposed that any government action be delayed for two years pending further study.

But the NSA panel, formed last year to look into the controversy, will report that it is too dangerous to wait.

"By the time you measure an ozone depletion, it's already too late," the panel member said.

The panel will not recommend an immediate ban on all uses of fluorocarbons, the source said, because of economic dislocation it would cause in the chemical industry.

Instead, the panel will recommend that non-essential uses be phased out.

Two years ago, researchers in California, using computer projections, said they believed that fluorocarbons, once discharged or leaked, rise into the stratosphere and interact with the ozone layer that surrounds the earth.

The researchers, whose findings have been duplicated independently by other scientists, believe that chlorine atoms in the fluorocarbons may destroy ozone ions, thus letting in too much radiation.

Howard Lewis, a public affairs official for the NAS, which was angry about premature disclosure of the report, said that if anyone asked him to confirm The Inquirer story, he would state that "there have been two major findings in the last few days" that prompted the panel to withdraw its report.

Lewis would not say what the findings were or how they might affect the report.

Two committee members interviewed yesterday by The Inquirer, however, confirmed the panel's recommendations, and made no mention of the report being withdrawn or of any findings that would alter its conclusions.

One of the sources emphasized that it was still possible to find a chemical reaction that would counteract ozone depletion, but none has been found so far. Scientists have studied between 100 and 150 different chemical reactions so far.

The source said that the present uses of fluorocarbons should be examined to see how important they are. The panel will recommend that superfluous uses, perhaps including use of such products as aerosol deodorants, should be phased out.

Other more important uses, such as refrigeration, could be eliminated when substitutes are found.

Fluorocarbons are used in most home spray products except shaving creams.

[From the Wall Street Journal, Dec. 24, 1975]

Ban on Fluorocarbons in Spray Products Is Sought by Resources Council, 10 States

New York.—The Natural Resources Defense Council and 10 states petitioned the federal Consumer Product Safety Commission to ban the use of fluorocarbon propellants in aerosol products.

There is growing scientific debate over the theory that chlorine atoms in certain fluorocarbons reach the upper atmosphere where they destroy natural ozone. The ozone shield filters out much of the harmful ultraviolet radiation from the sun. More radiation reaching the earth's surface, the theory goes, could result in more skin cancer in humans, damaged crops and changed climate.

A previous petition from the resources council was denied by the consumer-products commission last summer. The Food and Drug Administration also rejected the group's petition to ban fluorocarbon-containing aerosol products.

The latest petition cites "new scientific evidence" supporting the ozone-depletion theories, the council said. It asks the commission to act without waiting for a report on the issue due next April from the National Academy of Sciences.

"In light of the remarkable unanimity on this issue within the scientific community, it is unlikely that the National Academy of Sciences study will reach conclusions significantly different from those in this petition," the council said in a letter to Richard Simpson, outgoing chairman of the consumer-products commission.

The Aerosol Education Bureau, part of a large industry-sponsored effort to oppose a precipitate ban on fluorocarbon-containing products, issued a statement saying, "It would be inappropriate to impose restrictions on the use of fluorocarbons without proving the hypothesis, and we have a few years to do that." The statement was attributed to James P. Lodge, an atmospheric chemist retained by the industry as a spokesman.

States joining the resources council's petition are Colorado, Florida, Massachussets, Michigan, Minnesota, New Hampshire, New York, Oregon, Vermont and Wisconsin. Other co-petitioners are the Environmental Defense Fund and the Minnesota Public Interest Research Group.

Two of the states joining the petition—New York and Oregon—already have passed laws that would ban the use of fluorocarbon-spray products. More than a dozen other states are considering such action.

While the council said the consumer-products agency "has the legal authority to ban the use of a major portion of all aerosol products containing fluorocarbons," in reality the agency regulates a relatively small number of these products.

The FDA regulates all food, drug and cosmetic aerosol products. That includes haircare and underarm deodorant products, which, alone, account for more than 70% of all fluorocarbon emissions from aerosol cans in the U.S., according to the resources council. The Environmental Protection Agency regulates aerosol pesticides.

A council spokesman didn't rule out the possibility of another petition to the FDA, but he said the renewed petitioning of the consumer-products agency was an attempt to "break the logjam."

[From the Washington Star, Feb. 14, 1976]

Nonaerosols Are Cheaper, Too

(By Sidney Margolius)

Consumers have a chance to save on toiletries and cleaning products as more manufacturers abandon aerosol spray cans or at least make alternative forms of their products available.

Their flight has been impelled largely by charges that the fluorocarbon gases used as the propelling agent in aerosols for personal products are affecting the ozone concentration in the earth's stratosphere.

The argument is still continuing but no less an expert group than the American Chemical Society has confirmed that fluorocarbon concentrations have been reported in the atmosphere and have increased recently.

While the U.S. Commerce Department has denied any proven danger and the U.S. Product Safety Commission recently decided 3–2 that there was "insufficient evidence" to ban use of fluorocarbons, certainly the manufacturers are voting with their feet. Trade reports say that sales of aerosol cans dropped over 25 percent in 1975. In hair sprays, pump dispensers are taking over; in deodorants, it's roll-ons.

Several supermarkets even have curtailed or discontinued selling aerosols altogether, as in the case of the Berkeley co-ops in the San Francisco Bay area.

Whatever the dangers, you pay a high price for varying convenience and also often forfeit some product effectiveness. For one reason, aerosols are wasteful compared to alternative forms. Various estimates say that 20 to 90 percent of the contents of an aerosol can are the propellant itself. Moreover, you lose a lot of even the relatively small amount of product when using an aerosol. Much goes into the air.

Those manufacturers who package their products in both aerosol and nonaerosol forms themselves are now advertising the savings. Thus, the Vitalis pump-spray package states it provides almost twice as many applications per ounce as aerosol containers.

The Clairol Final Net pump-spray package claims it provides three times as much usable products per ounce because it's a "concentrate with 100 percent usable ingredients. No propellant, no waste, no aerosol fumes."

The savings are pyramided by the fact that not only do you get several times more product but most often the nonaerosol version costs less.

Researcher Jane Harmon found these comparative costs for a number of products sold in different forms:

Lysol cleanser—aerosol, 17 ounces, $1.19; pump spray, 17 ounces, 89 cents.

Fantastik cleanser—aerosol, 7 ounces, 99 cents; pump spray, 33 ounces, $1.79.

Carbona—aerosol, 7 ounces, $1.49; liquid, 8 ounces, $1.09.

Pine Sol disinfectant—aerosol, 17 ounces, 89 cents; liquid, 28 ounces, $1.49.

Windex—aerosol, 15 ounces, 89 cents; pump spray 20 ounces, 69 cents.

Jubilee cleaner—aerosol, 10.5 ounces, $1.39; liquid, 14 ounces, $1.19.

Guardsman polish—aerosol, 14 ounces, $1.37; liquid, 32 ounces, $2.49.

Private-brand lemon furniture polish—aerosol, 14 ounces, 99 cents; liquid, 14 ounces, 99 cents.

Easy Off cleaner—aerosol, 16 ounces, $1.45; liquid, 16 ounces, 89 cents.

Of course, a low-priced brand can throw out the usual price difference in favor of nonaerosols.

One regional supermarket chain sells its house brand of men's aerosol hair spray at less than half the tag on the national brand's aerosol or pump forms. In at least some types of products the nonaerosol form also is considered more effective. A leading hair spray manufacturer has said that its pump product is able to apply more product where wanted than its aerosol version.

Similarly, Ban Roll-On's claim of greater effectiveness in helping stop wetness than a number of sprays was judged by the Council of Better Business Bureaus to be substantiated.

The council's national advertising division said that their study of the test data submitted showed that the Ban Roll-On formulation lasted at least 21 percent longer than a number of leading spray formulations. In general, the roll-on was found to provide 51 days of "protection" compared to 37 days for the longest-lasting sprays.

The roll-on adherents claim that it isn't possible to put as much anti-wetness ingredients in the aerosol can because the higher concentration would clog the nozzle. Most other brands of antiperspirant now also offer roll-on versions.

One warning: Some of the new packages with pumps can mislead as to the amount of product provided. An oversized box may contain just the pump and, for example, only 4 ounces of hair spray. Too, in buying refills, avoid buying the packages that contain another pump.

SENATE BILL 771

(Including Amendments by Senate April 23 and by House May 23)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits sale of aerosol spray containing certain saturated chlorofluorocarbon compounds not containing hydrogen after [*July 1, 1976*] March 1, 1977.

Provides penalties.

A BILL FOR AN ACT RELATING TO THE ENVIRONMENT; AND PROVIDING PENALTIES

Be it Enacted by the People of the State of Oregon:

Section 1. The Legislative Assembly finds that:

(1) Scientific studies have revealed that certain chlorofluorocarbon compounds used in aerosol sprays may be destroying the ozone layer in the earth's stratosphere;

(2) The ozone layer is vital to life on earth, preventing approximately 99 percent of the sun's mid-ultraviolet radiation from reaching the earth's surface;

(3) Increased intensity of ultraviolet radiation poses a serious threat to life on earth including increased occurrences of skin cancer, damage to food crops, damage to phytoplankton which is vital to the production of oxygen and to the food chain, and unpredictable and irreversible global climatic changes;

(4) It has been estimated that production of ozone destroying chemicals is increasing at a rate of 10 percent per year, at which rate the ozone layer will be reduced 13 percent by the year 2014;

(5) It has been estimated that there has already been one-half to one percent depletion of the ozone layer;

(6) It has been estimated that an immediate halt to production of ozone destroying chemicals would still result in an approximate three and one-half percent reduction in ozone by 1990; and

(7) There is substantial evidence to believe that inhalation of aerosol sprays is a significant hazard to human health.

Section 2. After March 1, 1977, no person shall sell or offer to sell in this state any aerosol spray which contains as a propellant trichloromonofluoromethane, difluorodichloromethane or any other saturated chloroflurocarbon compound not containing hydrogen.

Section 3. Violation of the provisions of section 2 of this Act is a Class A misdemeanor.

NOTICE OF HEARINGS ON THE NARCOTIC SENTENCING AND SEIZURE ACT OF 1976, S. 3411

Mr. BAYH. Mr. President, the Subcommittee To Investigate Juvenile Delinquency has scheduled July 28 and August 5 for hearings on S. 3411 and related measures, designed to make more effective the Federal effort to curb traffic in dangerous drugs, which are pending before the subcommittee.

We intend to give attention to the stark reality that many who sustain the illegal flow of heroin do so while on bail and that once they are convicted few spend substantial time in custody. While I am especially concerned that the constitutional rights of criminal defendants are fully secured, I am likewise concerned that within such a framework our citizens are fully protected. In addition to a review of pretrial detention we intend to develop a record on the following proposals: mandatory minimum sentences for drug traffickers; forfeiture of the proceeds of illegal drug transactions; increased authority to permit customs officers to search persons suspected of smuggling money out of the country; stricter arrival reporting requirements for small privately-owned vessels; increases in the cash value of goods possessed by narcotics violators subject to forfeiture; and other related concerns, including the effectiveness of the Internal Revenue Service effort to prosecute narcotic law violators.

The subcommittee plans to hear testimony on July 28, 1976 from the Honorable Edward H. Levi, Attorney General of the United States; Mr. Peter Bensinger, the Administrator of the Drug Enforcement Administration; Mr. Richard Thornburgh, Assistant Attorney General, Criminal Division; Mr. Earl Silbert, U.S. Attorney for the District of Columbia, and other representatives from the Department of Justice. Likewise, Mr. David Macdonald, Assistant Secretary of the Department of the Treasury; Mr. Donald Alexander, the Commissioner of the Internal Revenue Service; Mr. Vernon Acree, Commissioner of Customs and other Treasury Department officials will appear. The Department officials will be present primarily to explain and discuss President Ford's drug message to the Congress and the recommended legislation.

On August 5, the subcommittee plans to hear testimony from a number of legal scholars and various associations with special interest in these matters.

The hearing on July 28 is scheduled to begin at 9:30 a.m. in room 1318 of the Dirksen Office Building. On August 5, the hearing will begin at 9:30 a.m. in room 2228 of the Dirksen Office Building.

Anyone interested in these hearings, or desiring to submit a statement for our record should contact Mr. John M. Rector, staff director and chief counsel of the subcommittee at 202-224-2951 or A504, U.S. Senate, Washington, D.C. 20510.

NOTICE OF HEARINGS

Mr. PROXMIRE. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold oversight hearings on the Treasury Department's program to enforce compliance with equal employment opportunity requirements by financial institutions which are Federal contractors.

The hearings will be held on August 2 and 3, 1976. They will begin each day at 10 a.m., room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding these hearings should contact Elinor Bachrach, room 5300, Dirksen Senate Office Building, 202-224-7391.

NOTICE OF HEARING

Mr. MOSS. Mr. President, the Subcommittee on Census and Statistics of the Senate Committee on Post Office and Civil Service will hold a hearing on Thursday, July 29, 1976, to consider legislation providing for a mid-decade census of population and the improved administration of Federal programs, the benefits of which are determined on the basis of population. The specific legislative proposals to be considered are S. 3688 and H.R. 11337. The hearing will begin at 10 a.m. in room 6202, Dirksen Senate Office Building.

Any individual or organization wishing to testify or submit a written statement for the hearing record should, as soon as possible, contact Mr. Arthur Eck, Senate Committee on Post Office and Civil Service, 6206 Dirksen Senate Office Building, Washington, D.C. 20510 (202-224-5451).

HEARING CANCELLATION

Mr. ABOUREZK. Mr. President, I wish to announce that the hearings on S. 3274, the grand jury reform bill, scheduled to be held by the Subcommittee on Constitutional Rights on Tuesday, July 27, have been canceled for that date. They will be rescheduled in the fall.

NOTICE OF HEARING

Mr. PROXMIRE. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold a 4-day oversight hearing on the community development block grant program, authorized by the Housing and Community Development Act of 1974, on August 23 through August 26, 1976.

The hearing will begin at 10 a.m. each morning and will be held in room 5302, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

ALL-AMERICAN ROUTE FOR SHIPPING NATURAL GAS FROM ALASKA

Mr. STEVENS. Mr. President, shortly before the recess the Senate passed a bill which would expedite the decision on the transportation system for the vast reserves of natural gas in the Prudhoe Bay field of Alaska. As the Senate knows, there are three basic routes proposed for such a system.

I have been, and continue to be, a strong supporter of the route which would build a gas pipeline roughly parallel to the present oil pipeline. On the southern coast of Alaska the gas would be liquefied, loaded on tankers, and shipped to regasification plants on the west coast of the lower 48 for transport where needed in the contiguous States. I have supported that line not only because it is better for my home State but because it is the best system for the Nation. The Alaska route would result in more jobs for American workers, less environmental damage, greater tax revenues for American jurisdictions, more control of the system and—most important—the vitally needed gas would be supplied to the lower 48 more quickly.

I am pleased that the national executive committee of the American Legion in early May jointed on support of the all Alaskan, all-American system. At their meeting in Indianapolis on May 5 and 6 they passed a resolution of support of the all-Amerian gas line. I commend that resolution to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution No. 5.

Committee: Economic.

Subject: Support an all-American route for shipping natural gas from Alaska.

Whereas, The American Legion by virtue of Resolution No. 4-1975, urged a national energy policy to protect a strong and viable domestic economy; and

Whereas, The Alaska Pipeline is nearing completion and transportation of natural gas from the oil fields in Alaska will be available approximately October 1979; and

Whereas, It is proposed that a gas pipeline paralleling the oil pipeline be built in Alaska, to be connected to a liquified natural gas (LNG) plant, and then transported by LNG tankers to the west coast of the United States; and

Whereas, The sending of LNG will result in greater employment of U.S. workers, both construction and in permanent employment, than if the gas were to go through Canada; and

Whereas, There will be greater amounts of monies paid in taxes to the United States government for a LNG system than for a pipeline through Canada; and

Whereas, There are questions of national security for a pipeline through another country; now, therefore, be it

Resolved, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 5-6, 1976, that The American Legion support legislation in Congress to secure an all-American route for shipping natural gas from Alaska.

S. 3219, CLEAN AIR ACT AMENDMENTS OF 1976

Mr. RIBICOFF. Mr. President, earlier this month I called to our colleagues' attention the very distressing fact that Connecticut has the second most severe problem in the country for photochemical oxidents, which are primarly caused by motor vehicles. This pollution often exceeds Federal standards established to guard the public health throughout the State of Connecticut. Some claim that this pollution is based in New York and New Jersey. I am advised, however, that even if these two States were to disappear, Connecticut would still be in violation of Federal health standards for smog and carbon monoxide.

Through the efforts of citizen groups, the Connecticut Department of Environmental Protection and certain industries, some progress has been made to improve air quality in my State. Since 1971, for example, the annual levels of sulfur dioxide have been reduced almost 50 percent in many areas of Connecticut. During the same period particulate levels have been reduced by almost 25 percent. Although these are important developments, much more needs to be done, not only in my region of the United States but throughout the Nation.

Positive and meaningful initiatives must be undertaken to improve the air we breathe and to provide effective protection of our country's air resources. We must face the fact that polluted air is expensive, costing Americans approximately $12 billion annually, including $5 billion for medical bills alone. The measure now before us—S. 3219—is a comprehensive bill designed to improve the country's air by the end of this decade. This bill proposes the first thorough revision of the Clean Air Act of 1970 and, in a number of important ways, strengthens the enforcement provisions of that law.

As the distinguished chairman of the Environmental Pollution Subcommittee, Mr. Muskie, so properly noted in his individual views to the report accompanying the bill, S. 3219 "continues the effort to preserve and enhance the quality of the Nation's air." There are, however, a number of shortcomings in this legislation which must be corrected if it is to achieve substantive results.

One defect, for example, is the substantial relaxation of the automobile emission standards required for cars produced in 1978 and afterward. However, data is available which proves that not only can existing standards be met but significant fuel economy can be realized as well. I believe it would be a serious mistake to postpone from 1978 to 1979 the imposition of strict standards for hydrocarbons and carbon monoxide and to delay until 1980 a nitrogen oxide emission standard which is six times weaker than levels now being achieved in California under a stricter law. We have proof that auto manufacturers can meet and surpass current auto emission standards with an increase in gas mileage at the same time. I would, therefore, encourage our colleagues to support the proposed amendments of the gentleman from Colorado, Mr. Gary Hart, which will modify the automobile emission section of the bill to guarantee adequate public health protection.

On the other hand, some pending amendments could gravely damage whatever improvements in pollution control are proposed by this measure. Before hastily acting on these debilitating proposals we should bear in mind the results of a 1975 FEA poll in which 94 percent of the persons interviewed indicated they wanted clean air kept that way and desire to prevent the spread of air pollution to all parts of the Nation. This same poll dramatically revealed that three-quarters of the respondents said they would be willing to pay higher prices to pay for clean air.

One of the most controversial features of this bill is the provisions of section 6 which would protect relatively clean air from undue degradation. Some have charged that the nondegradation proposals will result in a nongrowth policy. However, some 16 States, including Connecticut, maintain that concentrations of air pollutants at or near secondary standards would produce such effects as to seriously threaten, if not destroy, their current economic base. I should also note that Connecticut was one of 20 States which joined the Sierra Club or submitted independent suits requesting the courts to require a nondegradation policy.

The issues before us in this legislation have broad potential ramifications. The original act provides essential safeguards against further deterioration of the quality of breathable air and sets up a timetable designed to reduce the most important forms of pollution. We are about to undertake the third major effort in the last decade to enact an effective clean air law and I would urge our colleagues not to undermine this effort.

CZECHOSLOVAK SOCIETY OF ARTS AND SCIENCES CONGRESS MEETS IN WASHINGTON

Mr. HRUSKA. Mr. President, the Czechoslovak Society of Arts and Sciences in America will hold its eighth biannual congress on the campus of Georgetown University from August 12 through 15, 1976. The theme will be "the Contribution of Czechs and Slovaks to North America."

Many of the society members, college professors, researchers, artists, musicians, and writers, come from the ranks of political refugees who escaped Czechoslovakia after the Nazi occupation of 1939, after the Communist coup of 1948, or after the invasion of the Warsaw pact powers in 1968. Others are American-born artists and scientists who share with their fellow Czechs and Slovaks an intense feeling of devotion to this country. America has given them the opportunity of self-expression in an atmosphere of freedom. They have, therefore, devoted this year's eighth congress of their society to a discussion of the contribution of Czechs and Slovaks to this country and to Canada since the first wave of refugees reached these shores in the 17th century.

THE CZECHOSLOVAK SOCIETY OF ARTS AND SCIENCES IN AMERICA

The first Czech refugees from religious persecution by the Hapsburg counter-reformation during the Thirty Years War, 1618–48, arrived in New York—then New Amsterdam. The most prominent one among them was Augustin Herman, later known as Lord of Bohemia Manor. During the 18th century Moravian Brethren immigrated and established the Moravian Brethren Church of America, with centers in Bethlehem, Pa., and Winston-Salem, N.C. But while a great many Czech and Slovak emigrants settled in the United States starting in the 1860's, before 1939 it was rare for a university professor, writer, or artist to leave Czechoslovakia for permanent settlement abroad.

Then came World War II. The Nazi onslaught precipitated the emigration or escape of some 20,000 persons. Among these exiles at least one-fourth were intellectuals. At the war's conclusion, some returned to Czechoslovakia. Many, however, remained in the United States, Canada, England, France, and other Western countries. A still greater exodus began in 1948 after the February coup in Czechoslovakia. In the decade following that coup, over 60,000 people escaped to the West. It is estimated that about one-tenth of these emigrees, some 6,000, were intellectuals, scholars, and professional people. Most of them found their way to the United States, Canada and Australia, while a few hundred established themselves in Western Europe and various countries in Central and South America, Asia, and Africa. In the 1950's it became increasingly difficult for Czechs and Slovaks to emigrate from Czechoslovakia either legally or by illegally crossing the borders, and the influx of Czech and Slovak refugees into the United States was reduced to a trickle. But after the liberalized Dubcek regime was crushed by the invasion of the Warsaw powers in August, 1968, another large exodus followed, again largely consisting of intellectuals, some of whom were admitted to the United States or Canada. But, this time a majority stayed in Western Europe.

During the fifties, intellectuals who had managed to leave Czechoslovakia and gain permanent residence in the in the United States felt increasingly the need of maintaining and further developing Czechoslovak culture. In Czechoslovakia, history was being rewritten as if Orwell's "1984" had been advanced by 30 years, and the writings of past and present Czech and Slovak authors were on the proscribed lists. In 1958, a group of scholars led by the late Prof. Vaclav Hlavaty, a mathematician at the University of Indiana, and Dr. Jaroslav Nemec of the National Library of Medicine began to organize these intellectuals throughout the world into the Czechoslovak Society of Arts and Sciences in America.

Mr. President, the society is known among Czechs and Slovaks as SVU, an abbreviation of its name in the Czech or Slovak languages. Those living in the Western World welcomed its establishment enthusiastically and have supported it loyally. Comments in the controlled press of Czechoslovakia range from outright condemnation to reluctant acknowledgment of its significance. From its inception the society has maintained its nonpolitical character and refused to become an instrument of the so-called cold war. The membership, of course, is opposed to any totalitarian ideology, be it of the right or the left, knowing that culture and freedom are inseparable.

SOCIETY ACTIVITIES

The organization has embarked upon an ambitious publishing program and the society held its first nationwide congress in April 1962, in Washington, D.C. Since that time, the society's congresses have been held biannually at Columbia University, New York University, Georgetown University, and George Washington University.

OFFICERS AND MEMBERSHIP

Mr. President, present membership in the society exceeds 1,500. Miloslav Rechcigl, Jr., of the Agency for International Development, is president. He is assisted by five vice presidents; Dr. Alexej Borkovec of the U.S. Department of Agriculture; Dr. Jan Gavora of the Animal Research Institute of Ottawa; Dr. Josef Skvorecky, a well-known Czech writer and publisher of Toronto; Dr. Ernest Sturc of the International Monetary Fund, and Prof. Zdenek Suda of the University of Pittsburgh. Secretary General of the Society is Prof. John G. Lexa of New York University. Dr. Frank Meissner of the Inter-American Development Bank is treasurer of the society, and Dr. Jiri Skvor, known under the pen name Pavel Javor, a well-known Czech poet associated with Radio Canada International in Montreal, is editor of the society's literary quarterly Promeny. The society has local chapters in Washington; New York City; Albany-Schenectady-Troy, N.Y.; Cleveland; Chicago; Los Angeles; Montreal. Toronto, and Edmonton, Canada; London; Zurich, Bern, and Geneva, Switzerland; Munich and Stuttgart, West Germany; and Sydney and Melbourne, Australia. Apart from its biannual congresses in the United States, the society held its first European Conference at Horgen near Zurich in June 1970; a second European conference organized by the society's Swiss chapter will be held at Interlaken, Switzerland, September 17–19, 1976, on the theme "The History of Czech and Slovak Philosophy."

Members of the society are teaching at about 100 colleges and universities in the United States and Canada as well as in Western Europe. Inquiries about the society should be directed to the secretary general, Dr. John G. Lexa, at 47-16 Austel Place, Long Island City, N.Y. 11101.

It is my pleasure, Mr. President, to salute this fine organization, which is a source of pride to all of us of Czech and Slovak heritage, for the outstanding work it has done to preserve the traditional values of our native land. May the eighth congress be an overwhelming success.

WATERGATE REORGANIZATION AND REFORM ACT

Mr. STONE. Mr. President, on Wednesday, July 21, 1976, the Senate passed the Watergate Reorganization and Reform Act of 1976 by a vote of 91 to 5. Due to illness, I was unable to be present to vote on this extremely important piece of legislation. If my vote had been needed on any amendments or to insure final passage, I would have come in and I would have voted in favor of the bill. However, the Government Operations Committee staff assured me that my presence would not be necessary and I am very pleased to see that they were correct and that the bill passed by so large a margin.

The passage of the Watergate Reform Act marks a significant step toward safeguarding our democratic institutions from abuses by officials in any branch of the Government. The Office of the Special Prosecutor, which the bill establishes, would insulate the Federal prosecution team from improper influence in investigations involving high-level officials of the legislative, executive, or judicial branch. The bill also establishes a much needed congressional legal counsel to assist Congress in enforcing and defending its powers.

Of particular interest to me are the financial disclosure provisions. The Senate has passed disclosure provisions in the past, but never such comprehensive ones as those contained in title III of the Watergate reform bill. I have always considered financial disclosure a necessary responsibility of public officeholding and I have made it my personal practice to disclose the sources and amounts of my income, my joint income tax return each year, and my net worth. I am gratified that the Senate has gone on record so strongly in favor of the public disclosure of financial interests and I am hopeful that the House will follow suit before the end of this Congress.

IS NATO MILITARILY VIABLE?

Mr. TAFT. Mr. President, as part of the series which I have promised the Senate on the critical question of whether NATO is militarily viable, I would like to bring to the attention of the membership what I believe to be one of the most brilliant articles I have seen on the needs and the future of NATO.

This article, "New Weapons Technologies: Implications for NATO," appeared in the summer 1975 issue of Orbis. It is written by a gentleman whom I have the honor to know personally, Mr. John Morse, a former Deputy Undersecretary of Defense for International Security Affairs. As this article conclusively shows, Mr. Morse is one of the most perceptive thinkers in this country on the question of NATO's military viability.

While I do not agree with everything Mr. Morse suggests in this article—in particular, I do not think antitank infantry is an effective answer to the capability of armored forces—I do agree with him that what NATO needs, if it is to be viable, is a complete and objective reexamination of its military concepts, strategy, and doctrine. I see little reason to think that NATO can be militarily viable until it is restructured to deal effectively with the Soviet threat to the Transatlantic sealanes, on which all our resupply and reinforcement of the ground forces in Europe depends. Nor do I understand how we can hope to stop a Soviet conventional attack with our current NATO doctrine of Forward Defense, which experience has shown is probably the worst way to fight the likely type of Soviet attack.

As we examine the question of whether NATO is militarily viable, we must remember how important that question is to us, as Americans. If the NATO forces in Europe could not stop a Soviet conventional attack, then the United States would inevitably be left the only choice of a strategic nuclear confrontation with the Soviet Union. If we faced that situation then we would have to ask ourselves whether we were not "holding the bag" for the Europeans, and whether continued participation in NATO would be in our national interest. If NATO is to serve the interest of all its members, it must be based on both a U.S. strategic nuclear capability, and on a fully adequate European conventional defense capability.

Mr. President, I ask unanimous consent that this article by Mr. John Morse, "New Weapons Technologies: Implications for NATO," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW WEAPONS TECHNOLOGIES: IMPLICATIONS FOR NATO

(By John H. Morse)

Writing in Round Table in the autumn of 1973, Michael Howard described the paralysis of NATO in this gloomy passage:

> NATO strategy and the NATO force structure has taken so much labour to construct—it is the result of such agonizing disagreements, such precarious compromises—that no senior NATO official cares even to contemplate proposals for its alteration. Even to suggest them is to be branded as irresponsible. The mere prospect of dismantling this system and reconstructing the defence of Western Europe on different principles is almost intolerable. As a result, the official view within the Alliance is that there can be no alternative to the existing arrangements, sustained by American forces at or about their existing levels, except a slide of Western Europe into neutralism, impotence, and "Finlandization."[1]

This is the classic situation of a military system still geared to fight, for both political and military reasons, the kind of war it fought and won more than thirty years earlier. Since 1945, Western military leaders have made no major changes in their military concepts, methods of operation, doctrines, tactics or force postures. They have improved their armed forces primarily by developing better versions of familiar weapon systems, but they continue to rely on infantry, tanks, airplanes, ships, carriers and the customary logistic systems to carry out for the most part the same roles and missions that won the last world war. New technologies have been applied chiefly to improving familiar weapon systems at great cost rather than to developing new techniques in the art of war. This is a dangerous situation. Hitler shattered a similarly vulnerable structure at the start of World War II, to mention but one of many examples in history.

Rapidly advancing technology is the driving force that demands frequent and often drastic changes in approaches to military problems. Systems possessing superior adaptability remain viable and will eventually prevail over inflexible ones. Large and long-established systems like NATO and its military services find it difficult or impossible to adjust in peacetime to changing strategic-technological environments. Only firmly enforced governmental directives or fiscal constraints, or hostilities that last long enough to permit changes imposed by necessity, can serve to overcome the inertia of bureaucracies and the understandable commitment of political and military leaders to tried and tested practices of the past.

Many military men will agree with these assessments, and a few political leaders intuitively will sense that they are correct. However, no one has yet found a way to update existing systems effectively in peacetime. One purpose of this article is to suggest a possible method, as well as to emphasize the necessity for and inevitability of change.

II

The assumption that current military thinking, strategies and concepts determine the development of new weapons and weapon systems is not always valid. For example, the U.S. massive retaliation strategy and the formation of air forces as separate armed services grew out of the advent of nuclear weapons and airplanes, not from expressed military requirements or strategies. Today missiles threaten the utility of the strategic concepts developed over the past generation—massive retaliation as well as flexible response. The improved accuracy of missiles and other technological advances cast doubt on the utility of the air force as a separate service. Progress in technology has in a few short years substantially altered some of the assumptions on which existing strategic and operational concepts, force structures, and the organization of military units and services are based.

The tank broke up static defense warfare and brought maneuver again to the battlefield when Hitler's generals visualized and then applied its potential in their famous blitzkrieg strategy so successfully employed against France in 1940. The tank came first to protect men, and then new ways of using it were devised. Now, antitank technologies of several kinds threaten to reduce or alter the role of tanks. Today's submarine calls into question the feasibility of large-scale sea transport during hostilities and current concepts for the defense of Europe. Highly accurate missiles now threaten tanks, airplanes, ships—any surface or airborne objects—as never before.

But any suggestion for significant changes in military systems or thought always raises a host of questions and leads inevitably to a series of investigations whose effect is often to study new proposals to death, thus preventing or interminably delaying their adoption. If it is possible to visualize in outline form the changes in military concepts that modern technology will eventually force upon us, perhaps the normal and essential study process can be focused and made more constructive. The first step is to examine some well-established technological trends.

Several of these can be identified in the field of conventional weaponry.[2] In sum, they (1) tend to put more and more destructive capability at the disposal of smaller and smaller units, and (2) make it possible for small units or even the individual soldier to operate more effectively. Individuals or small units that can call in firepower as needed or possess unprecedented levels of firepower conferred by highly accurate weapons, simple to operate and in many instances easily portable, can create more havoc than ever before. The trends in new weapons technology are favorable to small units, concealment, swift movement and rapid communications. The thrust in these directions comes from such technical developments as the following:

(1) More destructive energy in smaller packages. While the nuclear weapon is the most obvious example of this development, it applies to conventional explosives as well, albeit less dramatically.

(2) The revolution in delivery accuracy. For the first time in history, a weapon fired from a distance of a thousand miles can be as precisely targeted as one fired from a thousand feet.

(3) The revolution in delivery speed. Explosive charges, nuclear or conventional, small or large, can arrive on target over almost any distance in minutes or seconds rather than the hours, days, weeks or even months once required. It is technically possible to deliver explosive charges directly from factories to targets, if desired.

(4) Vastly improved mobility and communications. Mobility on land and sea and in the air continues to increase, and the same is true of facilities for command, control and communications. Night operations are more feasible than ever before.

(5) Enhanced ability to destroy quickly whatever can be located. This means that the side not initially prepared has little time avalaible to protect its forces, and the first battle in a future conflict may be decisive, especially if an offensive force possessing weapons incorporating high degrees of accuracy and high levels of firepower is able to destroy the opponent's forces in a surprise attack.

These trends will continue to have profound effects on the future conduct of warfare. If anything, the rapidity of technological change will accelerate. Newer technologies, such as lasers or charged particle beams, may modify existing trends somewhat, in ways that cannot now be easily foreseen. But the emerging technologies of both conventional and nuclear warfare can benefit the defense, provided defending units have adequate warning time, and prevent a surprise attack. Today, surprise can be more deadly than ever before.

A combination of technological, fiscal and political pressures over the next decade will force drastic, even revolutionary changes in military concepts and doctrines, force structures and weapon systems. Such changes will occur in military forces throughout the world and in most types of warfare. While the principles of war based on the unchanging characteristics of human nature will hold firm, the conduct of war is likely to be modified significantly by new technologies.

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[1] Michael Howard, "NATO and 'the Year of Europe,'" *Round Table*, October 1973, p. 455.

[2] Nuclear issues, such as escalation and the best roles for tactical nuclear weapons have attracted so much thought and attention that major conventional possibilities have been largely overlooked until recently. A fuller understanding, and exploitation, of conventional potential may ease the nuclear problems that have proved so intractable to date.

For example, large-scale conventional wars may become so difficult or so expensive to wage as to remove the incentive for threats or actual aggression; or it may be that any aggression will have to be a quick-strike, disarming (conventional or nuclear) attack. Extended conventional hostilities, if any occur, will likely resemble those of the Vietnam war more than those of the two world wars. Terrorists and civil dissidents will further develop their power to disrupt our increasingly complex societies; their operations, if fully exploited, may be decisive in a future war.

III

Who benefits most from the new developments in weapons technology? As always, much depends on such intangible factors as relative skills in exploiting technology, and the morale, drive and levels of political will of opposing forces. But there seems to be some hope for the first time that, if the West skillfully exploits today's technological trends, the NATO-Warsaw Pact balance of forces can be tilted in favor of the Western allies—a balance within which Soviet massed forces and blitzkrieg tactics may count for less. The Atlantic alliance may be able to evolve an adequate defense capability within the resource limits its members are likely to allocate for their defense. In the future, sheer mass may be not only less effective than in the past, but dangerous for the side that concentrates its forces. They may be vulnerable to either conventional or nuclear attacks to a greater extent than before. The use of massed military force to overwhelm an opponent has been a favored Russian tactic for centuries.

This important change—stemming primarily from revolutionary advances in weapons delivery accuracy—must be taken into account by military planners. It has many important implications in addition to its threat to massed forces. For example, wherever it is possible to find and kill a soldier with a single shot, his elimination requires one bullet rather than the 30,000 fired to inflict a single casualty in World War II. His removal from battle does not require the use of a larger weapon, such as a 500- or 1,000-pound (or a kiloton) bomb to compensate for the normal miss-distances of many existing delivery systems. Therefore, fewer men, less ammunition, less complex and expensive logistic support systems will be needed to destroy some targets. There can be less of the unintended, undesired collateral damage that has proved so costly in political and fiscal terms in past wars. Because many weapons will be smaller or more portable or more accurate—or all of these—both parties will be compelled to devote greater effort to hiding targets, finding them, or preventing their formation.

While this simple example is in part theoretical, it serves to highlight the major gains to be realized as we approach the ultimate in delivery accuracy. We are moving rapidly in that direction. The accuracy and effectiveness of several weapon systems, such as the Soviet SAM-6 ground-to-air and Sagger anti-tank missiles supplied to Egypt and Syria, came as quite a shock during the October 1973 Middle East war. Today we routinely achieve one shot/one kill results at long distances on testing ranges. During the Middle East conflict, some weapons approached this level of efficiency several several times in actual combat. In little more than a week, the fighting consumed more than $2.5 billion worth of Israeli-U.S. equipment and probably an equal amount on the Arab-Soviet side. All this was attained with first-generation guidance systems.

In judging our rate of progress in this and other technical fields, we should keep in mind that scientists, engineers and military officers are naturally conservative in predicting the rapidity and extent of technological advances. The many technical obstacles to progress are usually most apparent to those trying to develop the technology, leading often to overly conservative estimates as to what can be achieved and how soon. In any event, we can anticipate that each new generation of guidance systems will improve on the previous one. Already some accurate night and all-weather guidance systems are on the horizon. It would be rash to underestimate the potential for rapid progress in the next decade.

Both NATO and Warsaw Pact countries could develop and fully exploit the new technologies for warfare. If the Soviets do, and the West does not, NATO will be in even worse straits than at present. But the situation is serious enough as it is. Most observers, including a majority of Europeans, regard present Soviet military power facing Western Europe as superior to that of NATO, at least in mass and numbers of men and weapons. U.S. attempts to reassure the Europeans concerning the NATO-Warsaw Pact military balance and the resolve of the United States in preserving European security have failed to alter this pessimistic assessment.

Consequently, the Soviet leadership may have little incentive to alter its present military concepts and forces—except to add to them—at least until it sees NATO introducing changes whose effect would be to nullify current Soviet advantages. The present Soviet force posture represents a heavy investment not likely to be abandoned or replaced without serious cause. Why should the Soviets give up large numbers of tanks, blitzkrieg capabilities and tactics so long as they seem to serve Moscow's political and military purposes in Europe? At the same time, the existing military situation, Soviet conservatism and new weapon technologies offer promising opportunities to NATO leadership.

More than 2,000 years ago, Chinese strategist Sun Tzu observed that the good general always remembers that his prime target is the mind of his opponent. He also said that the clever general wins without killing. The present Soviet leadership is mostly old, careful and conservative; the next generation of military leaders may inherit the deep-seated caution of its forebears. The deployment and skillful application of new technologies by NATO forces could serve to perpetuate and reinforce the inherent caution of Soviet military planners.

Under battlefield conditions created by new technologies, any aggressor must assume that even small defending forces could present a dangerous threat and put up stubborn resistance to an invading force. In addition to more destructive power directly available to smaller units, it will be possible to call in still more firepower to hit targets quickly and accurately from long distances. Thus, NATO could construct a defensive system that would present grave problems to any invader. An aggressor would not be certain of his ability to cope with all counterattacks before or even after his forces seized territory. Massing for an invasion would be more perilous for attackers and hence less feasible than at present, since their large, massed forces would provide excellent targets for a defender. Small units possessing highly destructive, accurate weapons will be able to move more rapidly and hide more easily than larger forces. Territorial or citizen reserve forces can assume more important roles in such a concept of operations and force structure. New combinations of such indigenous manpower defending home territories in conjunction with fewer, but better trained, standing military units would be equally effective and less costly than present NATO armies.

Even wiping the target area clean by means of high-yield nuclear explosives, or mini-nukes, would not assure success against a cleverly designed defense. Furthermore, the introduction of tacticaly nuclear weapons would risk nuclear escalation, confronting the aggressor with the possibility that the resulting destruction would outweigh the value of his original objective, or hurt him badly, or both. Occupation of a nuclear wasteland is not an attractive prospect, and such territory might not be easy to control for any length of time.

A nuclear aggressor must set out to decimate *all* opposing units and have plans for an alternative strategy if that effort fails. When counterattacks, either conventional or nuclear, can come from almost anywhere and from any distance, the planner faces serious problems. Uncertainties are multiplied for the aggressor as the defenders' access to and use of nuclear weapons becomes more feasible, and their presence and precise locations become less discernible. Some of the new technology can be used to enhance the safety, control and accuracy of nuclear weapons, even when they are widely dispersed.

Full exploitation of new technologies in conventional weaponry offers the real possibility of effective deterrence and defense, without primary reliance on nuclear weapons. The need for the early release of nuclear weapons for battlefield use would probably be much less pressing than many think it is today. But regardless of how effective conventional defense may seem to be, the presence of invulnerable nuclear capabilities is essential at all times to complicate planning by the other side.

IV

There is a great deal of discussion today about standardization of weapons and rationalization of roles in NATO. Although these are extremely important long-range goals, of even more importance and much greater potential impact is standardization of new concepts and doctrines to exploit fully the potential inherent in the new technologies—concepts and doctrines designed to take advantage of the traditional caution of the Soviet planner, enhance prospects for the deterrence of conflict in Europe, and instill hope in the NATO countries about the prospects for a favorable military balance. What we need most at this point is a commonly understood and accepted set of modern concepts and doctrines supported by all members of the Atlantic alliance. This is not an unrealistic goal; it can be attained once people visualize the true potential of modern technology to build effective defenses against traditional forms of military attack. With such agreed concepts as a first step, we can start building and deploying the new defenses. Without such agreement, we can move only fitfully in this direction, as we are now doing under the irresistible pressures of technology. We need a coherent framework of ideas and directives at this point to accelerate and coordinate our efforts. It is indeed a challenging task for our leadership.

There are encouraging signs that such agreed concepts may emerge in the years ahead. In a number of symposia and meetings being held on both sides of the Atlantic, leading statesmen and scholars are addressing the issues of the new technology and its implications. Fiscal pressures on defense budgets are mounting both in Europe and the United States, and some alliance leaders seem to appreciate the fact that changes are needed. If and when new doctrinal concepts emerge, a number of advantages inherent in new technologies will become evident:

(1) The existing NATO framework, which links independent nations still far from being united in a common cause, will be more

proficient in the conduct of its mission namely, to deter and, if necessary, repeal aggression. When each nation can more confidently assume responsibility for its own defense as well as contribute to the common defense, a loose association among Atlantic nations should serve the purposes of security better than the present system does. Nations not now a part of NATO, such as Sweden and Spain, can better provide for their own security and even contribute to NATO's deterrence and defense goals if they share a common defense doctrine with the alliance. Last, but not least, a new and mutually acceptable role for France will probably emerge.

(2) Rationalization and standardization problems may be eased if the traditional large armed forces involving several nationalities with their nationally produced armaments become less prominent in NATO planning. Under new concepts of defense and deterrence, accepted by all members, it may be easier to agree on types of weapons, relative roles, national contributions, and sharing for the production of a new generation of weapons based on the most advanced technologies for conventional and nuclear defense.

(3) Similarly, U.S.-European differences will be eased as we reach a clearer and more accurate understanding of what European nations can and will do to defend themselves, and how the United States can help. This would lead to a greater contribution by Europeans to their own defense and provide some relief for the United States to focus more on its own vital defense problems.

(4) Clearer European-American understandings on security issues will help to ease the other political and economic differences that always exist to some extent within NATO or any other alliance.

(5) The exposure of policymaking elites to the constructive potential of new technology is vital to the formation of agreed concepts for its best use and will disclose those areas that need additional funding for R&D and procurement. The resulting concentration of effort may save money and curtail duplication of national and international programs.

(6) Sounder guidance from political leaders to military officers can be expected, once the former better grasps the significance of the major technological trends and their potentially revolutionary impact on military forces and the conduct of warfare.

Some understanding of the impact of modern technology on existing military weapon systems may assist alliance members in reaching a broad consensus on new concepts and doctrines. Since current trends favor the submarine over the surface ship, smaller, faster, less vulnerable surface units with enhanced striking power will be needed, and in greater numbers. Serious doubts arise about the ability of any navy at any cost to keep open lengthy or numerous sea lanes, and of most oil dependent economies to operate for long without seaborne supplies. Oil moves in highly vulnerable 200,000-ton tankers. Exact movements of surface ships are not hard to follow, and the Soviets have large numbers of modern, elusive submarines. Conservation of energy in future military operations may be crucial. Some of the new technology offers better results with less energy expended.

In the air, technological trends operate in general against manned aircraft and in favor of stand-off attack and remotely-piloted airborne vehicles. The future utility of manned aircraft in hostile and increasingly lethal battlefield environments seems doubtful at best. To put men in airplanes is an expensive undertaking which presents formidable problems in design, added weight and reduced operational performance. Remotely-piloted vehicles and missiles may eventually replace manned aircraft in many missions now assigned to tactical airpower along the NATO central front. This, too, can mean substantial savings of energy and resources.

On land, today's technology tends to erode the utility of the tank as we know it and to favor a defense using small, numerous, accurate-firing and hard-hitting attack units of several kinds. New mines also can hamper tank operations. Moreover, the tank consumes large quantities of fuel, since it gets only three miles or less per gallon. The day of the massed tank assault against well-prepared defenses may be over, although the issue is by no means clear at this point. Nevertheless, growing doubts with regard to tank utility may serve to enhance deterrence even now.

Political leaders and military strategists must be prepared to ask basic, searching questions of those who advocate weapon systems that run counter to the visible technological and economic trends. To go against the stream of natural advance is not only costly but often futile and dangerous. This is not to say that we should *never* do so, only that we should realize what we are doing and have good reasons to back up our decision. The burden of proof must rest upon those who would challenge the nature or validity of technological trends and their logical implications. All exceptionally expensive systems should be particularly suspect, and it is not surprising that most "against the stream" systems are costly.

V

Although comprehensive, coherent and widely endorsed new defense concepts of the sort suggested here are now in sight, a number of legitimate questions will arise as these concepts move toward more general recognition and eventual adoption. A major area of concern is the cost of the new technology. Much can be done to keep it down. In every war fought by the United States, the enemy's weapons have been less sophisticated and elaborate, but their performance and reliability were often as good or better, and they were far less expensive. We have had time in previous conflicts to redesign weapons, mass produce them and eventually win. Our opponents, without the "handicaps" of wealth and sophisticated equipment, have performed quite well on the battlefield. The Soviets could do the same. Their less complex equipment is good.

Profligate habits stemming from 200 years of unbroken victories and decades of unprecedented affluence are hard to break. Because giant corporations often make large profits on vast projects, there is normally little incentive to develop or produce simple and cheap equipment. The "nothing is too good for our boys" syndrome has also pushed us in this direction. Over the past fifteen years the United States has spent about $120 billion on military R&D, and the expenditures of other NATO members bring this figure to a higher total for the alliance as a whole. We have vast technological resources waiting to be exploited, but to tap these resources requires a particular frame of mind seldom found in affluent societies. However, there always exist a few nonconformist individuals who can get effective technical results inexpensively by a "baling wire" approach: they combine several technical developments intended for different purposes to create products not visualized up to that time, and at relatively low cost. A considable amount of "baling wire" is stored in our mine of accumulated technology. All we need in order to use it is to develop the necessary frame of mind and find and encourage the right individuals. Tight money helps.

The process of technological transfer or "pick up" is easier and cheaper than original R&D. Each generation of technology makes its predecessors cheaper and easier to exploit, and by more people. Thus, the French nuclear weapon capability cost far less than the early American atomic program, and today almost any nation can afford to join the nuclear club if weapons-grade fissionable material is available to it. Also, by not insisting on the latest and best in every item of equipment, we could afford to procure many systems quite adequate for the purposes proposed in this article, and we could do it without vast outlays of money. There are encouraging signs of some movement in the direction of more resourcefulness and economy in our thinking about new weapons. Mass production and rationalization of production among our allies would offer additional savings.

In examining weapon budgets one should consider cost exchange ratios as well as actual costs. What gain does one secure in firing a certain weapon? What are the relative costs? A $15,000 missile that destroys a manned aircraft costing several million dollars is certainly cheap. In fact, much of the technology called for by the concepts outlined here will not be expensive in unit costs. Much of it will be well within the capacity of alliance members to buy or produce in quantities sufficient to preserve a deterrent relationship between NATO and the Warsaw Pact. Savings achieved in manpower could go to finance new equipment.

The question of how much the new concepts would save in money and manpower may be less pertinent today than the question of what to do when political and fiscal pressures force reductions in NATO forces. Do we then stretch the thin defensive line even thinner in the face of growing Soviet strength, after having declared for years that the line is already at the breaking point? Or do we adopt a new approach based on new technology to counter the USSR's massive forces and keep them in sufficient doubt as to potentially disastrous consequences should they move?

It is difficult to estimate costs and manpower requirements until we have laid out specific new concepts, doctrines and force postures. The first step must be the approved concept, and this is not yet in existence. Some governmental and private research groups are looking into a variety of operational concepts, force postures and their capabilities. Once agreement is reached on the concepts and doctrines, we can move quickly to the subsequent steps.

A number of technical problems require additional attention. Target location, identification and tracking, which have always been a problem, are high on the list of problem areas. The new technology compels both the offense and defense to avoid concentrations and detection of their forces. The validity of the new concept depends largely on the theory that aggressors cannot avoid detection and crippling attacks to the same extent that defenders can. If aggressors are forced to put more manpower and equipment in motion, the defenders, properly organized and equipped, are in a better position to locate and hit anything that moves. To monitor the aggressor's movements we have available such modern means as small, inexpensive, remotely-controlled vehicles equipped with television cameras. They are hard to detect electronically or visually and easy to operate. Stay-behind forces can be used, and surveillance satellites can provide vitally important data about the movement of enemy forces and activities behind his battle lines. As we put greater investments of talent and funds into R&D for surveillance, our capabilities, already formidable, will be vastly enhanced.

It is true that every measure has its countermeasure, but one can never predict when (or if) a countermeasure will appear. During the Yom Kippur war, the Israelis never fully countered the SAM-6 Soviet missile that destroyed so many Israeli planes. A measure/countermeasure struggle is a regular feature of conflict, but in many instances preparation of countermeasures cannot begin until actual hostilities are underway, and this may be too late—especially in a short war. This is another factor of uncertainty that will complicate the calculations of both the aggressor and defender in future conflicts, and possibly discourage hostilities.

New concepts and doctrines need not be seen as perfect in all respects in order to represent major improvements over those in current use and to serve the basic purpose well. The problems that many see in the new approach are mostly somewhat different versions of existing problems and can be overcome through improvements brought about by intensive efforts. The speed with which changes can be introduced in present military force structures and equipment will depend on the strength of pressures applied. Major conventional hostilities, for instance, would bring about many changes within a year, if fighting lasted that long. Without hostilities, these changes might still occur, but very slowly. Technology and tight budgets will force them eventually, whether we like it or not. Inevitably, change will occur; the armored, steam driven battleship followed the wooden sailing ship, and the tank replaced the cavalryman, after some resistance and several tests in war.

VI

A decided change in national thinking and attitudes will accompany and tend to support the new concepts and advancing technology. Americans conditioned by 200 years of geographic invulnerability, capped by forty years or so of unprecedented power and affluence, have become accustomed to think in terms of certainty. Probably no other people would adopt a national policy of "assured destruction" or think in terms of assured war-winning capabilities. We too readily forget that uncertainty and surprise are the natural state of mankind and of conflict and that we cannot buy certainty or assurance with any amount of money or technology—though it seemed for a while that we might. We have overlooked the obvious fact that, with a judicious combination of wisdom, high morale, money and technology, we can create and maintain crucial uncertainties in the mind of any potential adversary at almost any level of hostilities. In this dangerous age, such a policy may be sufficient to preserve the peace. We may not need to instill certainty of unacceptable consequences in the adversary's mind so long as we create serious doubts about the eventual results.

Critical to the future of NATO are the morale and political will of our allies, and these attributes, in turn, are vitally affected by the credibiity of our deterrence and defense concepts. Europeans have yet to shake the inferiority complex engendered by defeat in World War II and the persistent Soviet menace since the early postwar period. Given their postwar weakness and the U.S. willingness to participate heavily in the defense of Europe over the years, it is only natural that they have allowed this country to assume as much of the load as it would. The time has come to transfer much of the defense burden back to Europe and to help the Europeans do more for themselves.

Some observers maintain that the state of morale and political will in Europe is so low that a serious Soviet threat to invade (unlikely as that may be) would induce preemptive surrenders. If this estimate reflects the true condition, the United States could be wasting time and money by maintaining a military presence in Europe. On the other hand, there is a real possibility that modern defense concepts might offer more hope and raise morale and political will on the continent.

It is significant that the relatively poorly trained and inexperienced Egyptian infantry destroyed a number of Israeli tanks with the Soviet Sagger missile, and that this initial success—as success is likely to do—induced high morale and elation among Egyptian troops. There has been no similar experience in Europe, nor any apparent effort by either political or military authorities there to emphasize the implications of the 1973 Yom Kippur war for European antitank defense. If it were possible to convince Europeans that a soldier, firing a modern antitank weapon, could have a 90 per cent probability of hitting a tank, a 90 per cent chance of destroying it if it was hit, and only a 10 per cent chance of being killed himself as he disclosed his firing position, we might expect heightened morale and a stronger determination to resist invasion. After all, students threw Molotov cocktails at tanks in Budapest, knowing that they had little chance of knocking out the tanks, and a high probability of being killed. Wide discussion of the new technology and its advantages for the defense might go far to improve the psychological climate in Europe and thus strengthen deterrence. That climate at present is the weakest part of the European security system.

VII

It is customary to think of nuclear issues as the most difficult and intractable aspects of defense and deterrence in Europe. Yet it is entirely possible, and even probable, that nuclear roles will fall more naturally into place if current and long-term conventional defense potentials are fully and skillfully exploited. Conventional operations can now achieve some battlefield results that many observers once thought possible only by using nuclear weapons. Now conventional *and* nuclear capabilities tend to force dispersion and concealment on both sides and discourage troop concentrations. It has become much more difficult than before for either the offense or the defense to take advantage of mass formations. For the first time nuclear and conventional weaponry suggests congruent battlefield strategies, and the side that fails to take full advantage of both may be in serious trouble if a conflict erupts.

It is imperative for NATO to be fully prepared in both modes. The major obstacles to achieving this state of readiness are neither fiscal nor technical, but mental. The primary need is to develop and test several new concepts for European defense and deterrence, applying the latest conventional and nuclear weapon technologies in innovative ways. This can be done on a competitive and cooperative basis by several different institutions. U.S. and European military services can boast of many highly qualified individuals. Moreover, there are thousands of recently retired officers relatively free of the constraints that unavoidably limit freedom of thought and expression within any military system. A number of American "think tanks" are staffed with civilian analysts well qualified to participate in developing defense concepts, and several European equivalents are gaining solid reputations. There is no lack of expertise in the areas of defense and national security. All it takes is for senior government officials to decide that such studies should be undertaken and see that they are adequately funded and staffed. A task force approach has frequently proved successful in the past.

As soon as several versions of new concepts are in hand, they can be evaluated in light of existing or anticipated political and economic developments. The more promising concepts can be tested further. Technical performance can be checked through test ranges and military maneuvers. Polls and solicitation of the views of experienced political leaders can be used to assess political reactions to, and the feasibility of, the various concepts. Perhaps most important of all, financial estimates can be developed with some accuracy by costing out a complete military system and force posture for each concept. A systematic approach of this nature would have several advantages:

(1) It would provide for the allies' participation in working out the best ways to deter attack against their homelands and to defend them with modern technology in the event deterrence fails. For the United States to develop such concepts for Europe makes as much sense as it does for Europe to develop them for us.

(2) It would serve to focus and coordinate better the efforts of many groups working on defense issues in the United States.

(3) It would tend to improve Congressional/Defense Department relationships to the extent that Congress sees evidence of more coherent and systematic thinking that takes full account of new technologies. Congressional criticism probably stems in large part from intuitive feelings that defense thinking has changed little over the past thirty years, and hence is wasteful. Congress cannot legislate "progressive" thinking but is likely to recognize it if and when it appears.

(4) The public's understanding and support of new defense concepts would increase if it could be convinced that Congress was satisfied with them.

In contemplating any approach to big problems there is always the tendency to think big. Americans particularly are prone to "bigness" in studies, programs and the like. But such an approach would complicate these problems, which are difficult enough without adding unnecessary handicaps. The President should carefully choose three to five independent military and civilian experts, ask them to define the problem, assess the feasibilities, and work out procedures most likely to produce a report of practical value to Western defense stratetgists. A competent group would recognize the need for inputs beyond its own collective talents, and would be prepared to seek the assistance of others having the requisite political, economic, technological and military expertise.

If such an examination of NATO is successful, it might be prudent to extend the group's purview to treat defense problems in other parts of the world. Many of the findings relevant to NATO will surely be applicable elsewhere.

A fundamental reassessment of NATO's mission to defend Europe, and the strategies and capabilities needed to carry it out, is long overdue. While the flexible response called for by present NATO strategy is sound in principle, its implementation needs new thinking. It is dangerous to retain the current shaky defense structure indefinitely. The means for revamping it are present, thanks to new and emergent weapons technologies.

ANTINUCLEAR PETITION—DRIVE OVER 400,000 STRONG

Mr. GRAVEL. Mr. President, the Task Force Against Nuclear Pollution, Inc.—P.O. Box 1817, Washington, D.C. 20013—has collected, sorted, and computerized over 400,000 signatures on petitions asking Congress to keep nuclear power out of our lives.

The petition-drive, which is endorsed by Ralph Nader, is no ordinary petition-drive. When petitions are received, they are sorted according to congressional district, and the names are added to the task force's growing communication network. The petitions are never lost; they are taken to legislators at all levels of government over and over again.

Mr. President, I admire and appreciate the efforts of the thousands of citizens who, through the petition-drive, are helping to make democracy work. Our generation, and all the generations that hope to follow us, should be grateful to these volunteers who are helping to protect us from the economic, environmental, moral, and safety hazards of atomic power.

The signatures are on petitions that read as follows, or are similar:

> I petition my representatives in government to sponsor and actively support legislation to: (1) foster wide use of solar—including wind—power now, and (2) phase out operation of nuclear power plants as quickly as possible.

Mr. President, I ask unanimous consent that the June 1976 report of the task force listing numbers of signed petitions by congressional district be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

TASK FORCE AGAINST NUCLEAR POLLUTION

Congressmen listed by last name; Number: Congressional District; Un: Unidentified.

ALABAMA

1. Edwards	50
2. Dickinson	101
3. Nichols	106
4. Bevill	36
5. Jones	150
6. Buchanan	67
7. Flowers	197
Un	506
Total	1,213

ALASKA

At Large—Young	233

ARIZONA

1. Rhodes	529
2. Udall	1,226
3. Steiger	305
4. Conlan	252
Un	611
Total	2,923

ARKANSAS

1. Alexander	144
2. Mills	364
3. Hammerschmidt	1,963
4. Thornton	180
Un	1
Total	2,652

CALIFORNIA

1. Johnson	793
2. Clausen	2,798
3. Moss	2,100
4. Leggett	425
5. Burton (John)	1,258
6. Burton (Phillip)	1,169
7. Miller	683
8. Dellums [2]	3,661
9. Stark [2]	457
10. Edwards	423
11. Ryan [2]	444
12. McCloskey	153
13. Mineta	540
14. McFall	882
15. Sisk	1,029
16. Talcott	3,490
17. Krebs	1,079
18. Ketchum	143
19. Lagomarsino	951
20. Goldwater	779
21. Corman	361
22. Moorhead	348
23. Rees	1,266
24. Waxman	1,850
25. Roybal [2]	234
26. Rousselot	366
27. Bell	1,356
28. Burke	411
29. Hawkins	89
30. Danielson	131
31. Wilson (Chas.)	167
32. Anderson	333
33. Clawson	335
34. Hannaford	426
35. Lloyd	239
36. Brown	228
37. Pettis	296
38. Patterson	117
39. Wiggins	327
40. Hinshaw	889
41. Wilson (Bob)	922
42. Van Deerlin	483
43. Burgener	967
Un	988
Total	36,385

COLORADO

1 Schroeder	1,046
2 Wirth	824
3 Evans	375
4 Johnson	843
5 Armstrong	368
Un	174
Total	3,630

CONNECTICUT

1 Cotter	1,036
2 Dodd	2,258
3 Giaimo	1,871
4 McKinney	1,344
5 Sarasin	1,001
6 Moffett [2]	221
Un	2,335
Total	10,116

DISTRICT OF COLUMBIA

At Large—Fauntroy	1,723

DELAWARE

At Large—duPont	4,249

FLORIDA

1 Sikes	180
2 Fuqua	689
3 Bennett	112
4 Chappell	222
5 Kelly	173
6 Young	266
7 Gibbons	116
8 Haley	191
9 Frey	109
10 Bafalis	534
11 Rogers	797
12 Burke	185
13 Lehman	272
14 Pepper	322
15 Fascell	706
Un	119
Total	4,993

GEORGIA

1 Ginn	90
2 Mathis	36
3 Brinkley	103
4 Levitas	475
5 Young	45
6 Flynt	129
7 McDonald	120
8 Stuckey	169
9 Landrum	105
10 Stephens	369
Un	408
Total	2,049

HAWAII

1 Matsunaga	489
2 Mink	200
Total	689

IDAHO

1 Symms	516
2 Hansen	200
Un	2
Total	718

ILLINOIS

1 Metcalfe [1]	91
2 Murphy	13
3 Russo	154
4 Derwinski	672
5 Fary	8
6 Hyde	342
7 Collins	23
8 Rostenkowski	30
9 Yates	84
10 Mikva	987
11 Annunzio	28
12 Crane	384
13 McClory	536
14 Erlenborn	295
15 Hall [1]	1,253
16 Anderson	640
17 O'Brien	135
18 Michel	71
19 Railsback	179
20 Findley	302
21 Madigan	658
22 Shipley	152
23 Price	182
24 Simon [1]	436
Un	1,425
Total	9,080

INDIANA

1 Madden	135
2 Fithian	239
3 Brademas	971
4 Roush	299
5 Hillis	186
6 Evans	66
7 Myers	1,673
8 Hayes	181
9 Hamilton	757
10 Sharp	372
11 Jacobs	162
Un	240
Total	5,281

IOWA

1 Mezvinsky [2]	2,364
2 Blouin [2]	1,120
3 Grassley	387
4 Smith	1,826
5 Harkin [2]	907
6 Bedell [2]	255
Total	6,859

KANSAS

1 Sebelius	733
2 Keys	550
3 Winn	708
4 Shriver	1,803
5 Skubitz	2,010
Un	58
Total	5,862

KENTUCKY

1 Hubbard	130
2 Natcher	318
3 Mazzoli	642
4 Snyder	157
5 Carter	259
6 Breckinridge	314
7 Perkins	118
Un	14
Total	1,952

LOUISIANA

1 Hébert	276
2 Boggs	649
3 Treen	55
4 Waggonner	650
5 Passman	16
6 Moore	571
7 Breaux	61
8 Long	125
Un	9
Total	1,827

MAINE

1 Emery	1,415
2 Cohen	1,117
Un	26
Total	2,558

MARYLAND

1 Bauman	295
2 Long [2]	253
3 Sarbanes	26

Footnotes at end of table.

TASK FORCE AGAINST NUCLEAR POLLUTION—Continued

4 Holt	449
5 Spellman	457
6 Byron	286
7 Mitchell [2]	146
8 Gude	1,049
Un	776
Total	3,737
MASSACHUSETTS	
1. Conte	6,345
2. Boland	1,376
3. Early	697
4. Drinan [2]	479
5. Tsongas	1,168
6. Harrington [2]	1,000
7. Unknown	204
8. O'Neill	711
9. Moakley [2]	283
10. Heckler	936
11. Burke	227
12. Studds [2]	655
Un	2,059
Total	16,140
MICHIGAN	
1. Conyers	272
2. Esch	971
3. Brown	381
4. Hutchinson	513
5. Vander Veen	273
6. Carr	398
7. Riegle	61
8. Traxler	262
9. Vander Jagt	278
10. Cederberg	334
11. Ruppe	462
12. O'Hara	233
13. Diggs	219
14. Nedzi	327
15. Ford	251
16. Dingell	226
17. Brodhead	359
18. Blanchard	367
19. Broomfield	566
Un	15
Total	6,768
MINNESOTA	
1. Quie	440
2. Hagedorn	490
3. Frenzel	122
4. Karth	1,144
5. Fraser	1,706
6. Nolan	311
7. Bergland	299
8. Oberstar	193
Un	75
Total	4,780
MISSISSIPPI	
1. Whitten	15
2. Bowen	32
3. Montgomery	19
4. Cochran	153
5. Lott	332
Un	3
Total	554
MISSOURI	
1 Clay	347
2 Symington	185
3 Sullivan	176
4 Randall	374
5 Bolling	170
6 Litton	274
7 Taylor	224
8 Ichord	635
9 Hungate	184
10 Burlison	54
Un	83
Total	2,706
MONTANA	
1 Baucus	426
2 Melcher	213
Un	2
Total	641
NEBRASKA	
1 Thone	305
2 McCollister	108
3 Smith	96
Total	509
NEVADA	
At Large—Santini	355
NEW HAMPSHIRE	
1 D'Amours	1,202
2 Cleveland	1,620
Un	2
Total	2,824
NEW JERSEY	
1 Florio	1,014
2 Hughes[1]	4,526
3 Howard	842
4 Thompson	1,008
5 Fenwick[2]	2,405
6 Forsythe	1,497
7 Maguire	2,174
8 Roe	962
9 Helstoski[2]	1,078
10 Rodino[2]	915
11 Minish	1,305
12 Rinaldo	1,176
13 Meyner	866
14 Daniels[2]	419
15 Patten	1,402
Un	3,549
Total	25,138
NEW MEXICO	
1 Lujan	1,252
2 Runnels	175
Un	20
Total	1,447
NEW YORK	
1. Pike	2,961
2. Downey	761
3. Ambro [1]	1,906
4. Lent	1,185
5. Wydler	1,296
6. Wolff [2]	738
7. Addabbo	34
8. Rosenthal [2]	103
9. Delaney	29
10. Biaggi	93
11. Scheuer [2]	282
12. Chisholm [2]	19
13. Solarz	58
14. Richmond [2]	41
15. Zeferetti	43
16. Holtzman [2]	37
17. Murphy	940
18. Kich	1,841
19. Rangel	940
20. Abzug [2]	1,782
21. Badillo [2]	17
22. Bingham	21
23. Peyser	2,280
24. Ottinger [2]	2,757
25. Fish [2]	5,511
26. Gilman	1,933
27. McHugh [2]	9,177
28. Stratton	1,057
29. Pattison [2]	7,575
30. McEwen	1,688
31. Mitchell	617
32. Hanley	1,691
33. Walsh	796
34. Horton	762
35. Conable	335
36. LaFalce	5,340
37. Nowak	1,970
38. Kemp	1,583
39. Lundine	1,696
Un	13,908
Total	75,790
NORTH CAROLINA	
1. Jones	415
2. Fountain	1,903
3. Henderson	336
4. Andrews	1,339
5. Neal	620
6. Preyer	386
7. Rose	136
8. Hefner	671
9. Martin	477
10. Broyhill	323
11. Taylor	1,821
Un	504
Total	8,931
NORTH DAKOTA	
At Large—Andrews	229
OHIO	
1 Gradison	987
2 Clancy	621
3 Whalen	281
4 Guyer	149
5 Latta	332
6 Harsha	210
7 Brown	336
8 Kindness	70
9 Ashley	1,178
10 Miller	188
11 Stanton (J. Wm)	474
12 Devine	174
13 Mosher	428
14 Seiberling [2]	663
15 Wylie	133
16 Regula	144
17 Ashbrook	210
18 Hays	117
19 Carney	395
20 Stanton (James)	253
21 Stokes	163
22 Vanik	1,033
23 Mottl [2]	560
Un	170
Total	9,269
OKLAHOMA	
1 Jones	2,205
2 Risenhoover	1,627
3 Albert	414
4 Steed	593
5 Jarman	253
6 English	671
Un	92
Total	5,855
OREGON	
1 AuCoin	4,490
2 Ullman	969
3 Duncan	1,430
4 Weaver [2]	5,091
Un	52
Total	11,931
PENNSYLVANIA	
1 Unknown	688
2 Nix [2]	1,020
3 Green	469
4 Eilberg	626
5 Schulze	777
6 Yatron	445
7 Edgar [2]	803
8 Biester	1,265
9 Shuster	286
10 McDade	2,955
11 Flood	4,400
12 Murtha	741
13 Coughlin	746
14 Moorhead	54
15 Rooney	1,213
16 Eshleman	1,850
17 Schneebeli	1,568
18 Heinz	83
19 Goodling	1,371
20 Gaydos	132
21 Dent	112
22 Morgan	208
23 Johnson	967
24 Vigorito [2]	438
25 Myers	175
Un	2,404
Total	25,796
Puerto Rico	11

Footnotes at end of table.

RHODE ISLAND	
1 St Germain	2,359
2 Beard	4,343
Un	2,011
Total	8,713
SOUTH CAROLINA	
1 Davis	186
2 Spence	696
3 Derrick	194
4 Mann	222
5 Holland	505
6 Jenrette	54
Total	1,857
SOUTH DAKOTA	
1 Pressler	79
2 Abdnor	57
Total	136
TENNESSEE	
1 Quillen	155
2 Duncan	375
3 Lloyd	278
4 Evins	2,424
5 Fulton	4,998
6 Beard	565
7 Jones	50
8 Ford	65
Un	68
Total	8,978
TEXAS	
1 Hall	35
2 Wilson	126
3 Collins	374
4 Roberts	75
5 Steelman	289
6 Teague	131
7 Archer	446
8 Eckhardt	95
9 Brooks	149
10 Pickle	5,297
11 Poage	185
12 Wright	110
13 Hightower	17
14 Young	63
15 de la Garza	104
16 White	51
17 Burleson	130
18 Jordan	212
19 Mahon	40
20 Gonzalez	1,654
21 Krueger	785
22 Casey	168
23 Kazen	563
24 Milford	114
Un	1,615
Total	12,828
UTAH	
1 McKay	451
2 Howe	723
Total	1,174
VERMONT	
At Large—Jeffords	6,054
VIRGINIA	
1 Downing	191
2 Whitehurst	75
3 Satterfield	217
4 Daniel (Robert)	86
5 Daniel (Dan)	86
6 Butler	130
7 Robinson	941
8 Harris	437
9 Wampler	123
10 Fisher	1,071
Un	68
Total	3,423
WASHINGTON	
1 Pritchard	3,113
2 Meeds	3,397
3 Bonker[2]	5,939
4 McCormack	1,073
5 Foley	429
6 Hicks	1,200
7 Adams	2,369
Un	650
Total	18,170
WEST VIRGINIA	
1 Mollohan	198
2 Staggers	660
3 Slack	216
4 Hechler[2]	93
Total	1,167
WISCONSIN	
1 Aspin[1]	2,159
2 Kastenmeier[1]	4,499
3 Baldus	6,063
4 Zablocki	108
5 Reuss	825
6 Steiger	1,270
7 Obey	11,492
8 Cornell	1,636
9 Kasten	1,565
Un	521
Total	30,138
WYOMING	
At Large—Roncalio	182
Nationwide total	401,223

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[1] Supports Moratorium on nuclear power.

[2] Moratorium bill cosponsor.

ARMY POSTPONES TANK SELECTION

Mr. CASE. Mr. President, I commend the administration for its wise decision to work toward greater standardization of major components in the new generation of NATO tanks.

The Army's announcement yesterday that it will delay final selection of the American XM-1 tank should help the efforts to obtain a higher level of standardization with the new West German tank.

The views of the Senate Appropriations Committee were expressed in the following language approved Wednesday for the report on the fiscal year 1977 Defense Department appropriation bill. The report language which I offered and which was modified at the suggestion of the Senator from South Carolina (Mr. THURMOND) said:

> The Appropriations Committee is concerned about reports that there have been difficulties in working out an agreement on use of common components in the proposed new tanks for NATO forces. The Committee encourages the Defense Department to work out agreements on a mutual basis to standardize parts and components to the greatest extent feasible. This language is not intended to delay the U.S. XM-1 development program.

I do not think the delay until the end of the year is an undue one in view of the potential benefits in lowered costs and battlefield efficiency if standardization can be achieved on major components. The Army's decision was a good one and worthy of our support.

I ask unanimous consent to have printed in the RECORD two articles on the issue.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 22, 1976]

ARMY POSTPONES TANK SELECTION—DECISION WILL ALLOW STUDY OF COMPONENTS COMMON WITH WEST GERMAN VERSION

(By John W. Finney)

WASHINGTON.—The Army, in what could develop into a major step toward standardization of weapons among the Atlantic allies, reluctantly and unexpectedly delayed today its selection of a new main battle tank.

The delay, directed by the defense department, is designed to give the Army time to study the possibility that West Germany and the United States could incorporate some common components, such as gun, turret or tracks, into their new tanks.

As recently as Tuesday, Army officials had fully expected that the long-awaited selection of a new main battle tank for the army, known as the XM-1 would be made. The choice, which had been scheduled to be announced on Tuesday afternoon, was between competing tanks developed by the General Motors Corporation and the Chrysler Corporation.

The Army had planned to buy 3,325 of the new tanks at a total cost of $4.9 billion.

At a Pentagon news conference today, however, Army Secretary Martin R. Hoffman announced that the selection of the winning tank was being delayed until late this year to permit the two companies to incorporate into their proposed design tank components common with the West German tank.

WOULD SUBMIT DESIGNS

The expectation was that the American companies would submit designs using some tank components developed in West Germany. Conversely, West Germany will study the possibility of incorporating some American-developed components in its new Leopard II main battle tank.

The delay in the American tank program was the latest turn in what has proved to be a rocky road toward getting the two major allies in the North Atlantic Treaty Organization to agree on a common tank, or at least common components. The tank has become a major symbol of whether the allies could make any tangible progress toward their oft-stated goal of standardizing their weapons, thus improving the efficiency and reducing the cost of their forces.

In 1974 the two allies agreed that there should be a comparative evaluation of the XM-1 and Leopard II tanks, with the understanding, at least at that time, that the winning tank would be adopted by the two nations. The German tank is scheduled to be delivered in September to the Army's proving grounds at Aberdeen, Md., for the four-month competition against the two American tanks. Mr. Hoffman held out the possibility that the two nations might still select the winner as their common tanks.

PRIDE INVOLVED

Because of institutional pride on both sides, however, it is now accepted by both American and West German defense leaders that it is unrealistic to expect that either army would adopt a tank developed by the other side. In recent months, therefore, the emphasis has shifted to adoption of common components for items that must be serviced or supplied in the field, such as engines, transmissions, guns and fire control systems.

The issue then shifted as to whether the common components should be adopted before or after tanks had gone into production.

The United States Army, which has repeatedly warned against delay, argued that common components could be agreed upon after its tank had gone into production in 1979. West German representatives expressed concern that, once the tank was in production, the American Army, if only because of the expense involved, would be reluctant to incorporate common components.

In a meeting early this month at the Pentagon, Defense Secretary Donald H. Rumsfeld and West German Defense Minister Georg Leber agreed in principal that the two nations should move toward common components.

RUMSFELD EMBARRASSED

According to Pentagon sources, Mr. Rumsfeld was then embarrassed and annoyed by a subsequent article in The New York Times reporting that the Army was thwarting the move toward common components. According to these sources, Mr. Rumsfeld early this week directed the Army to seek new proposals from its contractors incorporating German-developed components in their tank designs.

At the same time he ordered Malcolm R. Currie, director of defense research and engineering, to go to Bonn to work out with Siegfried Mann, director of development in the West German Defense Ministry, a new memorandum of understanding calling for maximum possible standardization of the components.

[From the New York Times, July 14, 1976]

U.S. ARMY BLOCKS GERMAN TANK PROJECT

(By John W. Finney)

WASHINGTON, July 14.—The Army and its contractors succeeded earlier this month in blocking a plan, worked out between the Defense Department and the West German Defense Ministry, for the two nations to build common components for their new main battle tank, Pentagon sources said today.

The result has been new strains in the already complicated negotiations between the two major allies in the North Atlantic Treaty Organization over standardizing major weapons.

The issue may now be elevated to the highest level of the two governments when the West German Chancellor, Helmut Schmidt, arrives here tomorrow for meetings with President Ford. According to diplomatic sources, the tentative plan calls for Chancellor Schmidt to raise the tank issue with President Ford.

TWO TANKS IN COMPETITION

The new main battle tank has developed into a symbolic test of whether the two allies can standardize at least some of their weapons. At this point, each side is independently developing its own tank—in the United States the XM–1, which is being competitively developed by the General Motors Corporation and Chrysler Corporation, and the Leopard II being developed for the West German Army.

Under a 1973 agreement worked out by former Defense Secretary James R. Schlesinger, the Leopard II tank is to be tested by the United States Army this fall against the winner, to be chosen next week, of the competition between General Motors and Chrysler.

At the time the agreement was entered into, the understanding, at least in Mr. Schlesinger's mind, was that the winner of the competition between the American and German tanks would be selected as the common battle tank of the two countries.

Because of institutional pride and political pressures on both sides, it is now generally accepted by both German and American defense leaders that it is highly unlikely that the two nations can agree on a common tank. As a result, the discussions have shifted to the possibility of using common components of logistic importance on the battlefield such as the gun, engine and power train linking the engine to the tracks.

At a meeting in Brussels last month Defense Secretary Donald H. Rumsfeld and the West German Defense Minister Georg Leber, discussed the possibility of standardizing some components of their tanks. As a result of the discussions, Mr. Rumsfeld sent back a priority message to the Pentagon ordering the Army and the Defense Department Office of Research and Engineering to send experts to Bonn for further detailed discussions.

Norman R. Augustine, Under Secretary of the Army, and Robert N. Parker, Deputy Director of Defense Research and Engineering, met last month in Bonn with their West German counterparts.

In those discussions, according to Pentagon sources, the draft was agreed upon of a new memorandum of understanding calling for the two nations to use such common tank components as the gun, engine, and power train.

When Mr. Leber came to the Pentagon early this month for a meeting with Mr. Rumsfeld it was with some hope, according to West German sources, that the memorandum would be formally signed. Pentagon officials insisted, however, that there was no expectation on either side that the agreement would be approved so quickly.

At a meeting in the Pentagon July 2, Mr. Rumsfeld informed Mr. Leber, according to Defense sources, that the agreement could not be signed immediately because of legal and contractual complications. At that time, the Army had separate contracts running through Aug. 1 with General Motors, and Chrysler to develop competitive prototypes of a new main battle tank.

At an earlier meeting with Deputy Defense Secretary William P. Clements Jr., both General Motors and Chrysler representatives had reportedly protested any arrangement that would require German-developed components to be included in their tanks.

The profit in making tanks, industry sources noted, comes not from casting the steel that goes into the hull and turret but from the mechanical and electronic components for the tank.

In discussions within the Pentagon, Army officials also raised objections to any commitment to incorporate German-developed components in the new tank at the outset of its production.

U.S. ARMS SALES TO AFRICA: A DISTURBING TREND

Mr. PROXMIRE. Mr. President, with the current radical increase in U.S. arms sales, I believe we should take the time to analyze what effect these sales could have on recipient nations. An example of this growth can be seen in our sales to Ethiopia. In 1974 we sold $7.5 million in arms to Ethiopia. This jumped to $28 million in 1975 and $100 million in 1976. Parallels can be drawn from our sales to Ethiopia to other countries in Africa and the rest of the world.

In the past there has been little or no congressional oversight of arms sales. We now share the responsibility for arms races between underdeveloped nations that are in no position to allocate their present level of funding to defense without neglecting other social-economic duties.

Our responsibilities are both of a moral nature and a practical one. We must keep in mind the fact that we have no control over the arms after they are transferred. These arms could be used against neighboring governments, turned against a nation's own domestic population, transferred to nations or terrorist groups which oppose the United States, or used to stimulate local arms races. We must insure that these, and other considerations, are kept in mind before engaging in further sales.

Mr. President, I ask unanimous consent that two articles be printed in the RECORD. Both deal with African arms sales, one on a lighthearted note, the other, more sober.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times, July 8, 1976]

PENTAGON ARMS PITCH—SELL, SELL, SELL!

(By Art Buchwald)

WASHINGTON.—It was reported in the New York Times last week that the Pentagon has set as one of its highest priorities the sale of U.S. military equipment to foreign countries. Chief sales manager is Deputy Defense Sec. William P. Clements, and the Times reported he held a pep-talk breakfast meeting to tell his people the Pentagon sales program was one of the most important missions of the Defense Department.

I wasn't invited to the breakfast, but I like to think this is how it went:

"Gentlemen, we've moved $10 billion worth of arms this year, but I am disappointed in many of you. We were hoping to have a $12 billion year. Now, we're here to speak frankly. Why isn't the stuff moving?"

"I can only speak for Africa, sir, and my people have done a fine job there. We sold a squadron of F–5 fighters to Kenya, and tons of stuff to Zaire. Ethiopia is talking about buying a missile cruiser."

"What's holding up the sale?"

"Since she's landlocked, she doesn't know where to put it."

"I don't want excuses. I want sales. Your people should have figured out some way of persuading Ethiopia that it was essential for the Third World power to have a missile cruiser whether she was landlocked or not. They have lakes in Ethiopia, don't they?"

"Yes, sir."

"Then let them keep the cruiser in one of their lakes. All right now, what about the Seychelles Islands. Why haven't they bought anything from us?"

"They only got their independence last week. We're waiting for the prime minister to appoint a minister of defense."

"What are you pushing?"

"We thought we'd talk them into some aircraft carriers, submarine chasers and possibly antiaircraft guns."

"That's all? A country has just gained its independence, and all you're going to sell them is a couple of lousy carriers and a few sub chasers. What kind of a salesman are you?"

"Well, sir, it's a question of money. They want to put what little money they have into industry and agriculture.

"Your job is to persuade them that defense comes first. What good is it to have industry and agriculture if they can't protect themselves from an attack by Kenya."

"Kenya?"

"Listen, you tell them we just sold Kenya a squadron of F–5 fighters, and if the Seychelles don't buy a quadron of F–5 fighters, and if the Seychelles don't buy a squadron of our F–15s they'll never be able to repulse an attack."

"I got you."

"All right now, what about South America?"

"I left two samples of Trident missiles with Ecuador just to whet their appetites. I told them to try them, and if they didn't live up to their expectations, they wouldn't have to pay for them."

"What about Brazil?"

"We told Brazil that Ecuador is ordering the Trident missiles and advised them to order the anti-Trident missiles that could shoot them down.

"That's just a drop in the bucket. Why isn't Brazil ordering cruise missiles? I'll tell you why. Because you all think like Avon women. You make one sale and believe that's all you have to do. Well, let me tell you, gentlemen, the Pentagon is not going to stay in business unless we sell, sell, SELL! I want those warehouses emptied by Christmas, and if you people can't do it I'll find generals and colonels who can. All right now, take your order books and get out of here. The first man who sells a complete nuclear weapons system to a Third World power gets an all-expenses-paid trip to Bermuda."

"Woweeee!!"

[From the Chicago Sun-Times, July 12, 1976]

United States in Africa Arms Race to Counter Soviets

(By David B. Ottaway)

Addis Ababa.—The United States is jumping head-on into the arms race in black Africa with plans to provide more than $330 million worth of modern weaponry to three countries facing hostile Soviet-backed neighbors.

The announced purpose of this new African policy, based primarily on the sale of arms, is to bolster America's traditional allies and to counter the expanding influence of the Soviet Union throughout this continent in the wake of the Angolan civil war.

The Ford administration is working out arms deals with Ethiopia, Kenya and Zaire that together could amount to more than $325 million in the sale of aircraft, tanks and other primarily defensive military equipment.

Ethiopia is scheduled to obtain between $175 million and $200 million worth of arms by the end of fiscal 1977; Kenya has just contracted to buy 12 supersonic jet fighters in a $75-million deal, and Zaire is reported to be negotiating for the purchase of around $50 million worth of military equipment, primarily armored vehicles, more C–130 transports and antitank weapons.

American officials and diplomats here in Africa explain the new policy on the basis of the Soviet arms buildup in Somalia, Uganda and Angola. In each case of the American arms deals, they say, the United States is responding—belatedly—to a massive accumulation of weapons in one of these three Soviet-backed countries. In no case, they insist, is Washington initiating the arms race.

Somalia has the biggest tank corps of any black African country; Uganda has more tanks—and, until the Israeli commando raid, had more jet fighters—than Tanzania and Kenya combined; and Angola has just gotten somewhere between $200 million and $300 million in Soviet arms, the largest single buildup anywhere on the African continent this past year.

By comparison, the countries the United States is selling arms to—Ethiopia, Kenya and Zaire—all have armed forces far inferior to those of their rivals. Kenya has one of Africa's smallest armies and no supersonic aircraft; Ethiopia stands at a one-to-three disadvantage in tanks and one-to-six in armored personnel carriers to Somalia; and Zaire now has far fewer armored vehicles than Angola and no air defense.

The governments of Ethiopia, Kenya and Zaire are all convinced that they have now become extremely vulnerable to military attacks from their hostile neighbors and have initiated the arms search themselves.

On Thursday the armed forces of both Kenya and Uganda were reported on high alert and fears grew that Uganda might strike against Kenya in retaliation for its alleged involvement in the Israeli raid.

CAPTIVE NATIONS WEEK

Mr. HRUSKA. Mr President, this week of July 19–23 marks the 18th observance by the American people of Captive Nations Week. All across our land Americans are pausing in their daily routine in order to reflect and pay tribute to the brave people of Eastern Europe. In so doing, we once again renew our expression of concern for the plight of these countless millions who are forced to live under the harsh realities of Soviet domination.

It is especially fitting that we observe Captive Nations Week so soon after the July 4 celebration of America's own Bicentennial. Our own independence was obtained only after a long, arduous struggle in which such men of Eastern European backgrounds as Thaddeus Kosciusko, Casimir Pulaski, both from Poland, and Freidrich von Steuben of Prussia, to name but a few, made such great contributions in the cause of freedom.

As I observed the tremendous outpouring of love for our country and fellow man displayed by our citizens 2 weeks ago, I could not help but think that this was, perhaps, the greatest tribute that America could give the people of the captive nations. For them, their Soviet masters, and indeed the world, it was a dramatic demonstration that the American experiment, born 200 years ago, carefully nurtured and at times sorely tested, is alive and as vigorous as ever.

Mr. President, the torch held high by the Statue of Liberty, still glows, casting its beam of hope from the American shores, through the darkness of oppression, into the hearts of those who yearn to be free. So long as we observe the sacred compact between our Founding Fathers and the Almighty, America will remain strong and free. This is the great hope of humanity.

UNLIKELY ASSASSIN

Mr. ABOUREZK. Mr. President, various theories have been set forth concerning the assassination of President John F. Kennedy. Many individuals have hypothesized that the assassination did not happen as reported by the Warren Commission, the investigative body responsible for examining President Kennedy's murder.

One suggestion which has surfaced in recent times is that Fidel Castro might have had a hand in Kennedy's assassination. This is one of the theories which was released by the Senate Select Committee on Intelligence, the so-called Church committee.

In an article entitled "Unlikely Assassin" which appeared in the July 3 and 10, 1976, issue of the New Republic, freelance writer Kirby Jones examines the possibility of Castro's involvement in the Kennedy assassination. Jones raises many interesting questions concerning this hypothesis. Jones asks:

> Why would a small country like Cuba attempt the assassination of the President of the United States, when discovery and proof of that act would have meant certain and clear military action and probably destruction of Castro's Cuba.

Mr. President, I ask that the entire text of "Unlikely Assassin" be printed in the Record so that my colleagues might share in this most interesting article.

There being no objection, the article was ordered to be printed in the Record, as follows:

Unlikely Assassin

Once again the "Cuban Connection" has been raised to explain the assassination of President John Kennedy. But this time it carries the imprimatur of the United States Senate. Senator Richard Schweiker released last week the report of the CIA subcommittee that investigated the killing of President Kennedy. The report is 106 pages long and deals with many of the current theories held by assassination buffs. I cannot deal with all of these, but want to shed some light on one raised by Schweiker.

Although the report comes to no clear conclusion, it does cite testimony, memos and material that raise the possibility that Castro might have ordered Kennedy's death in retaliation for CIA attempts on his life.

I do not want to defend or criticize the Schweiker report nor the various theories. I do want to put forth what Fidel Castro said about these theories. To my knowledge, in the last two years Castro has spoken five times about the assassination of President Kennedy—in July and September 1974, again in May and August 1975, and recently in April of this year when he proclaimed in a public speech in Havana that he had nothing to do with the killing of President Kennedy.

But his personal and private conversations during the 1974 and 1975 meetings are far more interesting and comprehensive, and reveal in greater detail his own thoughts and feelings, not only in the words but in the style and mood of the conversations.

In July 1974 Frank Mankiewicz and I spent four days with Castro, including 13 hours of formal interviewing in Castro's office, making a television documentary for CBS. During this interview and in private conversations, we talked with Castro about Kennedy and the assassination. We asked Castro pointblank whether John Kennedy was killed in retaliation for an attempt on his own life. Castro paused, reflected, puffed on his cigar and gave a clear and detailed answer—in part as follows: "I have not read this in any serious American publication . . . there are so many imponderables behind President Kennedy's assassination that it would be a good thing if this were known someday. I have heard that there are certain documents that will not be published until after 100 years and I ask myself why. What secrets surround the Kennedy assassination that these papers cannot be published? . . . We have never believed in carrying out this type of activity of assassination of adversaries . . . and our own background proves it . . . we fought a war . . . we were not trying to kill Batista. It would have been easier to kill Batista than to have fought the Moncada. Why? Because we do not believe that the system is abolished by liquidating leaders, and it was the system that we opposed . . . it went against our political ideas to organize any type of personal attack against Kennedy . . . we understood what the implications were, and we were concerned about the possibility that an attempt would be made to blame Cuba for what had happen, but this was not what concerned us most. In reality, we were disgusted, because, although we were in conflict with Kennedy politically, we had nothing against him personally, and there was no reason to wish him personal harm."

In addition, Castro made another private point—one he repeated to Senator James been foolish to harm Kennedy," Castro said, "because Kennedy was thinking of changing his policy toward Cuba. Kennedy's negotiators were in Cuba at the time of the assassination."

Castro was referring to a November 1963 visit by French journalist Jean Daniel who, before he traveled to Cuba, was personally asked by President Kennedy to transmit messages to Castro. Castro described the meeting to me: "As I was listening to everything Daniel was telling me about his conversation with Kennedy, the news broke over the radio that an attempt had been carried out against Kennedy's life. In reality, I tell you personally, and I think I speak for all my fellow revolutionaries—we all felt a reaction of pain, of great displeasure . . . it was really such a shame, such a tragic ending to Kennedy's life."

As indicated in his discussions of July 1974, Castro has been sensitive to the fact that some people might want to make a connection between the Kennedy assassination and Cuba as a result of activity in the "Fair Play for Cuba Committee" and Oswald's application for a visa to Cuba. As Senator McGovern remembers the conversation, Castro "expressed dismay over a possible association and was frightened at the prospect of circumstantial evidence." In that conversation Castro said, "My God, if that [the visa application] had gone through, it would have looked terrible." In his conversation with me, Castro went into further detail: "It is very interesting that this man—Oswald—who was involved in the assassination, traveled to Mexico a few months prior to the assassination and applied for a permit at the Cuban Embassy to travel to Cuba, and he was not given the permit. We had no idea who he was. But I asked myself why would a man who committed such an act try to come here. Sometimes we ask ourselves if someone did not wish to involve Cuba in this, because I'm under the impression that Kennedy's assassination was organized by reactionaries in the United States, and that it was all a result of conspiracy.

"What I can say is that he asked permission to travel to Cuba. Now, imagine that by coincidence he had been granted this permit, that he had visited Cuba for a few days, then returned to the United States and killed Kennedy. That would have been material for provocation . . ." In a later conversation with Saul Landau, Castro added, "Luckily the bureaucratic process prevailed and our consular officer routinely denied Oswald's visa. We had never heard of him."

A look at the historical context seems to indicate that what Castro said has the ring of truth. Why would Castro kill Kennedy at the very moment that Kennedy had clearly indicated to personal messengers in Cuba on November 22 that the US wanted to start a new dialogue? At no time under Castro's rule has Cuba been accused of assassinating or plotting to assassinate its adversaries. During the fighting in the mountains there was never a reported Castro attempt on Batista's life. And lastly, why would a small country like Cuba attempt the assassination of the President of the United States, when discovery and proof of that act would have meant certain and clear military action and probably destruction of Castro's Cuba?

PALM OIL RESOLUTION

Mr. DOLE. Mr. President, the Senator from Kansas would like to express his support for Senate Resolution 487, as he did in the Senate Agriculture Committee. This resolution proposes actions to deal with rising palm oil imports.

This resolution is important to all sectors of U.S. agriculture.

Every segment of agriculture is deeply disturbed by the expanding but subsidized production of palm oil largely financed by international lending institutions such as the World Bank and the Asian Development Bank. This increasing production is being sold into the United States and other markets in severe competition with soybean, cottonseed, corn, and other oils to the detriment of the producers of those crops.

I would like to state several facts from Government statistics and reports that bear witness to the unhappy effects of these imports, and that led to this resolution.

UNRESTRICTED IMPORTS

First. During the period of October 1975 to April 1976, palm oil imports into the United States totaled 667 million pounds, almost twice the 350 million pounds imported in the same period a year earlier. While the USDA does not believe that this increased pace will continue, the import estimate for the 1975–76 marketing year is 975 million pounds compared with 757 million pounds in 1974–75 and 345 million pounds in 1973–74. So the 1975–76 imports, all duty free and unrestricted, will be almost three times the rate 2 years earlier.

Second. The USDA recently estimated that the carryover stocks on September 30, 1976, of soybean oil in the United States will be 1,355,000,000 pounds—more than double the 561,000,000 pounds on hand on September 30, 1975. The market displacement of soybean oil by palm oil imports is creating a tremendous strain on available storage facilities for soybean oil. The increase in carryover of soybean oil is about equal to the increase in palm oil imports in 1975–76 over the 1973–74 level.

Third. The indicated domestic utilization of palm oil will be about 900 million pounds and will exceed the domestic consumption of cottonseed oil by 425 million pounds for the first time in history.

Fourth. In May 1976, the economic research service of USDA published new data, showing estimates of production and exports of palm oil through 1980. I ask unanimous consent that the data from that report be printed in the RECORD at this point.

There being no objection, the data was ordered to be printed in the RECORD, as follows:

[In thousand metric tons]

Year	Production	Exports
1971	1907	967
1972	2143	1097
1973	2250	1218
1974	2610	1440
1975	2865	1735
1976	3175	2095
1977	3575	2425
1978	3945	2725
1979	4330	3100
1980	4700	3425

Mr. DOLE. Fifth. The downward pressure on world prices for all oils by these tremendous increases in palm oil exports will be very great and will adversely affect U.S. soybean producers and cottonseed producers. On March 18, 1976, Mr. John A. Bushnell, Deputy Assistant Secretary for Developing Nations of the U.S. Treasury, testified before the House Agriculture Committee as follows:

> Treasury's preliminary estimate is that imports of palm oil have contributed three to four cents of the twelve to fifteen cent drop in soybean oil prices from the 1974-75 level of about thirty-one cents per pound.

I estimate the loss to producers in prices received for the 1975 crops of soybeans and cotton seed is somewhere between $488 million and $650 million.

Sixth. There is also a very great matter of importance in this resolution from the standpoint of American consumers.

Let me quote from the economic research service of the USDA report of May, 1976:

> One inherent drawback of palm oil, even though it is a vegetable oil, is that it is a saturated oil. Consumer groups and health oriented groups are concerned about the possible increase in saturated fat intake raising the cholestorol level in the diet, and thereby endangering more people to heart attacks.

The expanded production and export of palm oil are the predictable results of substantial loans at low interest rates by the World Bank and similar international institutions.

INCREASED COSTS TO CONSUMER

By decreasing the amount that the soybean processor receives from the soybean oil fraction the price of soybean meal must be increased. This has already happened. Initially the costs will be borne by U.S. and foreign feeders of protein meals. Ultimately it must be reflected in the price of hogs, feed cattle, dairy products, poultry and eggs, to the detriment of our consumer food budget. In other words, U.S. taxpayers' money is being used to increase costs of production of basic foods.

I commend to the executive branch the three courses of action suggested in this resolution.

First. I urge that the United States eliminate its support for international financing arrangements that subsidize the production of palm oil.

Second. I urge that the United States negotiate a voluntary agreement with producing countries for a mandatory import quota. It would provide ample notice to producing countries that the United States will not indefinitely accept whatever quantities of palm oil others may choose to export to us free of duty.

Third. I recommend that the United States and multilateral developing agencies insure that the lending funds available for agricultural development in the developing nations of the world are directed primarily at the relief of hunger and malnutrition in those countries rather than the export of agricultural commodities in competition with American oilseed producers.

These actions should be taken because we have a public responsibility to fulfill. That is to assure that the ability of the oilseed industry to furnish needed protein for livestock feed is not weakened by trade in palm oil whose production we are indirectly subsidizing.

The recommendations in Senate Resolution 487 are realistic proposals. They can be implemented and they will have a positive effect. I urge that they be carried out.

The Senator from Kansas is aware that the resolution was adopted earlier this week. Regrettably, committee hearings on the very important tax reform bill prevented making these remarks at the time the resolution was considered. It is my feeling that these remarks may be helpful in making the record complete.

OTA FOOD INFORMATION SYSTEMS ASSESSMENT

Mr. HUMPHREY. Mr. President, today the congressional Office of Technology Assessment's report on food information systems was released. The report is in two volumes: "Food Information Systems, Hearings Before the Technology Assessment Board of the Office of Technology Assessment, Congress of the United States, Ninety-fourth Congress, First and Second Sessions," and "Summary and Analysis of Office of Technology Assessment Hearings on Food Information Systems."

As a member of the OTA Board and as the requester for the study, I have maintained a keen interest in the progress of the assessment. I am pleased to see that the findings and conclusions are geared to useful congressional action. Members of Congress no doubt recall the events of 1972 and 1973 that led to the apparent breakdown in the information systems which Congress has traditionally depended upon.

The information sources for food, agriculture, and nutrition information that Congress depends on are essentially noncongressional. Prior to 1972, we appeared to be well served by these sources. In mid-1972, however, the world food situation changed within a 2-month period as world food production declined for the first time in many years at a time of rapidly expanding demand. World food reserve stocks were reduced to a historically low level of less than a 30-day supply.

The events responsible for these cataclysmic changes have been well chronicled; they include:

Large purchases of wheat by the Union of Soviet Socialist Republics under conditions of semisecrecy.

Increased foreign demand for U.S. soybeans because of the failure of the Peruvian anchovy catch.

Increased U.S. food exports to all parts of the world, due in part to widespread inflation, U.S. dollar devaluation, and wide shifts in monetary exchange relationships.

The phenomenal increases in prices of grains and soybeans in the 1972–73 crop year were not predicted by analysts in the Department of Agriculture or land-grant universities. Members of Congress had no independent means for dealing with the food policy issues that arose at that time.

The events that led to sharp increases in the cost of food and farm inputs, resulted in shortages of such production supplies as fuel, protein meals, and fertilizers, raised questions that demanded answers. The most significant were:

Why had the U.S. food and agriculture information systems failed to give warning of the impending shortages?

Are existing food and agriculture information systems adequate? Do they meet today's needs,

Have appropriate steps been taken to correct the deficiencies that existed in 1972–73?

SCOPE

OTA identified, examined, and evaluated the key food information systems to determine:

First. The significant food information systems. This involved identifying key systems and determining how well they serve decisionmakers. These systems were probed in terms of the information they provided; for example, type and nature of the information, processes and procedures used to obtain information—including frequency, timeliness, quality, format, and availability—and use and dissemination practices.

Second. Deficiencies in existing information systems. This task focused on the gaps, deficiencies, redundancies, and bottlenecks that might impede decisionmaking. Identification of defects led to consideration of options for improvements.

Third. Options. This task identified and analyzed options that could improve existing information systems, taking into account the numerous recommendations made to OTA.

METHODOLOGY

The focal point of the study was the OTA Food Advisory Committee—FAC—chaired by Dr. Clifton R. Wharton, Jr., president of Michigan State University. The FAC and the OTA staff drew upon consultants and contractors to help prepare the preliminary definition of the study. The committee synthesized their findings and the information supplied by staff, consultants, and contractors to prepare a report entitled "Food, Agriculture, and Nutrition Information Systems: Assessment and Recommendations." The report was presented to the Technology Assessment Board and transmitted to me to chair 4 days of hearings. These hearings helped to answer many of the questions and issues that the FAC report raised.

OPTIONS

During the course of this study, a number of recommendations for correcting the deficiencies in the existing food information systems mere made to OTA. These recommendations helped to develop three options for congressional consideration:

First. Reliance on existing agencies to initiate improvements;

Second. Development of a single integrated world food information system; and

Third. Perfecting changes in existing systems.

Option No. 1: Reliance on existing agencies to initiate improvements.

This option would imply that the events that occurred in 1972–73 were unique and that countries and organizations were rapidly making the needed changes and adjustments. However, events exacerbating the world food situation have continued to occur. The margin of error in the world's food supply is now less than 5 percent, stocks have been reduced to less than a 30-day supply, and the number of most seriously affected countries has increased from 33 to 44. Likewise, although improvements are being made to the existing system, the OTA study participants felt that additional steps to correct deficiencies were needed.

Option No. 2; Development of a single integrated world food information system.

This option would require the development of a worldwide system within which a congressional unit, linked to a quasi-independent unit within USDA, would serve as the point of contact for the United States, with both linked to a world food information system.

The advantage of this approach is that "a system" would be idealized. However, this option has several disadvantages: the impracticality of its implementation in the near future; the political sensitivities to be encountered in getting such major participants as the Union of Soviet Socialist Republics and the People's Republic of China into the system; as well as the expected enormous cost of correcting existing deficiencies in order to make the system effective and efficient.

Option No. 3: Perfecting changes in existing systems.

Due to the fragmented nature of the system, it seems more practical to make perfecting changes in the key existing systems than to try to create a new system. Likewise, suggested improvements to subordinate systems will, in the long run, improve the world food information flow.

Synthesizing the principal findings, conclusions, and recommendations, OTA found that there were five major areas where specific opportunities for improvement might be considered. Within each of these, several specific opportunities exist for action. Some of these improvements require legislation, others do not. These five areas are:

First. Improving the accuracy and timeliness of U.S. food and agricultural information systems.

Second. Strengthening the U.S. role in a world food information system.

Third. Increasing congressional staff analytical capabilities.

Fourth. Increasing the integration of nutrition and the consumer.

Fifth. Accelerating the use of advanced technologies.

The impressive mix of individuals and groups—consumers, farm organizations, trade associations, food industry representatives, and executive branch personnal, both national and international—provided the opportunity to develop a well-balanced report, presenting a diversity of views and opinions on alternative approaches that might be taken to improve the food information systems.

The balance is seen from the fact that the report well notes the substantial progress that USDA and FAO have made to improve their information resources since the 1973 breakdown. Participants in the OTA study, while noting the improvements made, felt that additional perfecting changes could be made. These recommendations number 46 and formed the basis for emphasizing these 5 areas.

ASSESSMENT HIGHLIGHTS

The highlights of the study provide a quick glimpse of the principal findings.

The major food information systems are operated by the United States Department of Agriculture—USDA—and the Food and Agriculture Organization of the United Nations—FAO. The systems maintained by individual countries, international organizations, and the private sector either are limited to their specific needs or use USDA and/or FAO data as their benchmark.

The Foreign Agricultural Service—FAS—Economic Research Service—ERS—Statistical Reporting Service—SRS—are the key USDA units responsible for operating national and worldwide systems. This study examines the improvements made in these units since the apparent breakdown of information in 1972–73. Some of these improvements are: modifying the agricultural attaché system; improving staff analytical competence; upgrading publications and eliminating duplication; attempting to get better information on the Soviet food situation; releasing more timely crop forecasts; collecting data from new areas; and using modeling and remote sensing technologies.

Deficiencies that perist are grouped into four categories: poor national systems, upon which USDA must depend; collecting of inadequate and/or obsolete data; inadequate analysis, especially by the overseas network of agricultural attachés; and USDA's fragmented organizational structure which hinders effectiveness and promotes institutional conflicts of interest.

Congressional interest in this study is evident from the use Congress has already made of the preliminary assessment materials. Before I note these uses, I would like to compliment the assessment process, which provides the flexibility of bringing to the requesting committees and to Congress preliminary study results. Some of the specific uses of this assessment material have been:

First, the U.S. congressional delegation was provided a background paper on world food information systems for the 1974 World Food Conference. The delegates used this material to develop the U.S. position on Conference Resolution XVI, which established an "early warning and agriculture information system."

Second, four congressional hearings drew heavily upon preliminary material in planning the hearings and preparing their final reports:

Subcommittee on Foreign Agriculture Policy of the Senate Committee on Agriculture and Forestry on "Implementation of World Food Conference Resolutions."

Subcommittee on Foreign Agriculture Policy of the Senate Committee on Agriculture and Forestry on "Improving the Coordination of U.S. and Foreign Agricultural Policy."

Subcommittee on Census and Population of the House Committee on Post Office and Civil Service on "The Need for Improvement and Coordination in Federal Government Statistics."

Senate Select Committee on Nutrition and Human Needs for a staff report on "The United States, FAO, and World Food Politics, U.S. Relation with an International Food Organization."

Third, H.R. 12397, introduced by Congressman Neal Smith, and S. 3215, which I introduced "to relieve the Secretary of Commerce of the responsibility for taking censuses of agriculture every fifth year and require the Secretary of Agriculture to collect comparable information using sampling methods," was based upon material prepared for OTA's Board hearings.

Action will not stop here. In addition, the chairman of the Senate Committee on Agriculture and Forestry and I, as chairman of the Joint Economic Committee, have asked Secretary of Agriculture Earl Butz to respond to suggestions made by participants in the Technology Assessment Board hearings, encouraging USDA to make certain improvements.

Further, I plan to call these report results, along with the suggestions for action, to the attention of relevant committees of Congress, such as the Senate Committee on Aeronautical and Space Sciences, the Senate Committee on Foreign Relations, the House Committee on International Relations, the House Committee on Agriculture, and the Senate and House Appropriations Committees.

As I noted at the OTA hearings:

> Information is a precious commodity. To be useful, it must be objective, timely, and reliable. Such information will not automatically ensure better decisions, but it will expose those decision makers who fail to use these resources.

SALT LAKE JOURNALIST WINS HONORS

Mr. MOSS. Mr. President, I take great pleasure in bringing to the attention of the Senate a Salt Lake City journalist who recently received two honors for his outstanding reporting and political commentary.

Rod Decker is a columnist and editorial writer with the Deseret News, the evening daily newspaper in Salt Lake. He is one of only 13 American journalists awarded prestigious Nieman Fellowships to study at Harvard University during the coming academic year. A few days after this announcement, Mr. Decker was named first place winner in a regional writing competition sponsored by the Associated Press. He was chosen for a recent column entitled "Smart Drunks Beat Utah Law," which described problems in enforcing Utah's drunk driving statute.

This column is typical of Mr. Decker's work on the Deseret News. He has the instinct and skill to cut through the superfluous, the trivial, and the titillating to expose important issues for his readers. He not only sets a high standard of journalism in Utah but also contributes to enlightened political debate.

Mr. Decker is a graduate of the University of Utah and has done graduate work at the University of Chicago. He served as captain of intelligence in Vietnam from 1968 to 1970. He joined the Deseret News in 1972. At 35, he has an extremely promising career ahead of him. I hope that he will choose to spend a good portion of it in Utah.

My point in bringing his accomplishments to the attention of the Senate is not merely to pat a fellow Utahan on the back but also to point out that fine journalism is not an exclusive property of the major cities, newspapers, or networks. We have excellent reporters all over the country in communities large and small. Their service is vital to the well-being of our democracy.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record at this point the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

There being no objection, the notification was ordered to be printed in the Record, as follows:

Office of the Director Defense Security Assistance Agency and Deputy Assistant Secretary (Security Assistance),
OASD/ISA,
Washington, D.C., July 22, 1976.

In reply refer to: I–5247/76

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act we are forwarding, under separate cover, Transmittal No. 7T–1, concerning the Department of the Navy's proposed amendment which will add $276.2 million to an existing Letter of Offer to Saudi Arabia.

Sincerely,

T. M. Fish,
Director, Lieutenant General, USAF.

Transmittal No. 7T–1

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

a. Prospective Purchaser: Saudia Arabia.

b. Total Estimated Value: $276.2 million.

c. Description of Articles or Services Offered:

Amendment to provide additional funding for requirements identified during contract design for [DELETED] patrol gunboats.

d. Military Department: Navy.

e. Date Report Delivered to Congress: 22 July 1976.

PIONEER DAY

Mr. CHURCH. Mr. President, "they, the builders of the nation" certainly exemplified the pioneer spirit. On July 24, 1847, after 102 days on the trail, Brigham Young announced to his fellow Mormon pioneers, "It is enough. This is the place." The long search had ended and the Mormons settled in the valley of the Great Salt Lake.

The pioneers were not mountain men, experienced in the trials of the frontier. Instead, they were a conglomeration of farmers, storekeepers, artisans, and professional people. They had been driven from their homes in Missouri, New York, and Ohio and had set forth to establish themselves in the West where they sought freedom from persecution.

Their migration was particularly unique, as it encompassed the moving of whole families westward toward the frontier. Because the Mormons had received less than a fraction of the actual worth of their property, they had little money for their journey. Professional guides were thought a necessity, but the Mormons could not afford them. "There is no record of any other such large group of Western pioneers starting for the West, in which no one in the company had previously traversed the road." This statement alone instills a great respect for these courageous people—they had great faith in their leaders and themselves. They believed that God would see them safely through to the "Promised Land," and that they had no need to rely on others.

Vilate C. Raiele captured the character of these pioneers when he wrote:

> They cut desire into short lengths
> And fed it to the hungry fires of courage
> Long after, when the flames had died,
> Molten gold gleamed in the ashes.
> They gathered it into bruised palms
> And handed it to their children
> And their children's children forever.

When these courageous American settlers arrived in the Great Salt Lake Valley, they observed the great desert stretching out in all directions. Cultivation of that land had been thought impossible. Yet, these innovators initiated farming by irrigation. The Great Salt Lake Valley began to "blossom like a rose."

The Mormon pioneers did not all settle in Utah. In 1855, Fort Lemhi was founded in my home State of Idaho; 1860 witnessed the establishment of Franklin as the first permanent Mormon settlement in Idaho.

To fulfill Brigham Young's dream of a free and thriving community, education became one of the foremost objectives. Brigham Young expressed his keen interest in education when he said:

> Our education should be such as to improve our minds and fit us for increased usefulness; to make us of greater service to the human family.
>
> Learn to be good for something.
>
> Education is the power to think clearly, to act well in the world's work, and the power to appreciate life.

This precept has been devotedly reserved as Brigham Young University has evolved into the largest private institution in the country. Having just celebrated its centennial birthday, this year also marked the official dedication of the new J. Reuben Clark Law School.

The educational system of the L.D.S. Church in Idaho has steadily grown, since the first school was established in Franklin over 100 years ago. Ricks College in Rexburg Idaho, has expanded both structurally and academically and is now one of the finest junior colleges in the West.

Recently, Ricks College played a vital role in assisting the victims of the Teton Dam disaster. The college provided housing for the homeless, served over 30,000 meals daily, and assisted local towns in attending to the sick and the injured. Indeed, the whole LDS community pitched in to provide thousands of volunteers from elsewhere in Idaho, as well as from neighboring States, to assist in the disaster relief. Through an effective welfare and relief organization the church provided bedding, food, medicine, clothing and tools needed to care for the victims.

In addition to their educational and social activities, the LDS people have contributed significantly to the cultural life of the country. The Mormon Tabernacle Choir has long been acclaimed as one of the finest in the Nation. This world-famous choir sang at the inauguration of President Johnson in 1965 and, most recently, at the Bicentennial celebration in Washington.

The strict observance of a clean and moral life has won for the Mormon people the respect of the entire country. From the early days of persecution, the LDS people have worked their way up until they now hold key positions in all branches of government and indeed in all facets of our national life. Dedication to their religious convictions, faith and optimism combined with diligent work has produced their formula for success.

For these reasons, I recognize and pay tribute to these good and gallant people on their special day and thank them for their contribution to our great Nation. "Blessed Honored Pioneer," indeed.

THE GENOCIDE CONVENTION: TERMS

Mr. PROXMIRE. Mr. President, much has been said in reference to the Genocide Convention. I think it would be beneficial to briefly explore, point by point, the terms of the treaty.

The Convention contains 19 articles. Of these, the first nine are of a substantive character, the others being procedural in nature.

Article I asserts that genocide is a crime under international law. In this article, parties undertake to prevent and punish this crime.

Article II specifies that any of the following five acts, if accompanied by the intent to destroy, in whole or in part, a national, ethnic or religious group, constitutes the crime of genocide:

> (1) killing members of one of the above groups
>
> (2) causing serious bodily or mental harm to members of one of the above groups
>
> (3) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
>
> (4) imposing measures intended to prevent births within the group.
>
> (5) forcibly transferring children of the group to another.

This article, then, requires that there must be the specific intent to destroy one of the above mentioned groups, either in whole or in part.

Article III specifies that five acts involving genocide shall be punishable.

These five genocidal acts are: First, the crime of genocide itself; second, conspiracy to commit genocide; third, direct and public incitement to commit genocide; fourth, attempt to commit genocide; fifth, complicity in genocide. The parties agree in article IV to punish guilty persons, irrespective of their status.

In article V the parties undertake to enact, "in accordance with their respective constitutions," the legislation necessary to implement the provisions of the convention, the convention does not purport to require any party to enact such legislation not otherwise in accordance with the country's constitutional provisions.

Article VI makes it clear that any person charged with the commission of any of the five genocidal acts enumerated in in article III shall be tried by a court in the State in which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those States accepting such jurisdiction. Thus, genocidal acts committed in American territory would be tried in American courts. No international tribunal is authorized to try anyone for the crime of genocide.

By article VII the parties agree to extradite, in accordance with their laws and treaties, persons accused of committing genocidal acts.

Article VIII recognizes the right of any party to call upon the organs of the United Nations for such action as may be necessary and appropriate under the charter for the prevention and suppression of genocide acts.

Last, article IX provides that disputes between parties relating to the interpretation, application or fulfillment of the convention shall be submitted to the International Court of Justice, when any party to a dispute so requests. As was mentioned earlier, the remaining articles are proceedural in nature.

Mr. President, I point out the specific language of the articles to familiarize Senators with the provisions of this convention. It is my continuing hope that by clarifying the technicalities involved, everyone will better understand that this convention calls for nothing more than an international indictment against the practice of genocide. It defines the crime of genocide, and it obligates States to take measures to prevent and punish genocide within their respective territories.

With this better understanding, it is my sincere hope that the United States

Senate will ratify the Genocide Convention in the near future.

DELIVERING THE MAIL

Mr. ABOUREZK. Mr. President, when H.R. 8603, the Postal Reorganization Act Amendments, comes before the Senate, I will be joining with the Senator from South Carolina (Mr. HOLLINGS) to return responsibility for Postal finances to the Congress.

Postal independence has not produced more efficient management or better service. What we have seen from the independent Postal Service is examples of arrogance, foolishness and insensitivity which are the result of insulation from the public.

The average citizen cannot vote with his or her consumer dollars to buy services through a choice of stamp purchases. There is only one Postal Service, and for people outside major cities, there will always be only one, because it is not profitable to deliver mail.

For the last 5 years, the congressional oversight of the Postal Service has been feeble, because there is no institutional mechanism for effecting any changes we might think should be made. Congress can now be a rather noisy public lobby on Postal policy, but we are not very coordinated or effective, and the Postal Service has freely exercised its option to ignore us, and the people for whom we are speaking.

The Government best serves these people to whom it is politically accountable, and I believe the best way to improve the Postal Service is to make it politically accountable as well.

I reject completely the idea that postmasters should be appointed for political reasons, or that there should be any hint of patronage in the operation of the Postal Service. That is not politics; it is favoritism, and it is wrong. Let us hope the era of patronage in the Post Office is behind us for all time.

But with that reservation, I find the article by Paul Dickson in the recent issue of Washington Monthly enlightening and compelling. He maintains simply that the postal system used to work, and can work again. With that hope and promise, I ask unanimous consent that "Delivering the Mail: We Did It Once and We Can Do It Again" from the July–August issue of Washington Monthly be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DELIVERING THE MAIL: WE DID IT ONCE AND WE CAN DO IT AGAIN

(By Paul Dickson)

The major precedent for our sad and ever so unpopular Postal Service is one that dates back before 1776. At that time one of the complaints the colonists had against the King was a postal system that emphasized profits over service. Dissatisfaction with that business-like operation was, as many historians have stated, just the kind of thing that led to independence. "Instinctively, [the colonists] believed in postal service," one of these historians has remarked, "not postal profits."

This is not the beginning of a "Bicentennial Minute," but a recollection of the policy of a service-first post office which lasted five years short of a full 200. The policy ended in 1971 when a "business-like" postal corporation was created to make the system pay for itself.

At this moment, nostalgia for the old pre-1971 system is widespread; even the leaders of the tarnished Postal Service admit that things were better a generation ago. The nostalgia has many strains, ranging from those who fondly recall the single-digit first-class stamp, the less-than-a-nickel penny postcard, and the postmark that told you where your letter actually came from (not PA 217, which is postal newspeak for Upper Black Eddy, Pennsylvania) to the business patron who only has to think back a few months to the good old days before once-a-day delivery. But perhaps the most poignant bit of nostalgia is shared by liberals over 35 who recall cherished moments like this:

Conservative: How can you possibly call for the government to get involved in (*fill in the blank*)? You know what'll happen, don't you? They'll screw it up and the only people who'll be served by it are those who run it.

Liberal: But what about the . . .

Conservative: Besides they'll run out of things to do and start issuing oppressive guidelines and make our lives miserable.

Liberal: OK, but . . .

Conservative: I know. I know. You're going to tell me about the TVA.

Liberal: Actually all I wanted to do was to mention the Post Office.

Conservative: (Loud gulp.)

At this point our liberal went into a devastating disclosure about innovation (the first group to put the airplane to practical use, to string telegraph lines between cities, etc.), service, and the growth of commerce, culture, and education fostered by the beloved system which ties the nation together. Above all he praised the efficiency of the postal system as the ultimate proof that government could work.

As Wayne Fuller points out in his recent book, *The American Mail: Enlarger of the Common Life*. "Those who saw the abuses of unbridled capitalism . . . pointed with pride to the Post Office as an example of the benefits a government-owned business might bring to the people."

In 1976 both the Liberal and the Conservative huddle together in awe of a quasi-governmental disaster that disproves both the former's notion of effective goovernment ownership and the latter's urge toward business-like self-sufficiency. Both of them seem quite capable of telling and retelling horror stories to underscore how bad it is, but neither is certain about its meaning or solution.

There is more to their mutual unease than simply keeping the first-class letter rate below a quarter or testing different philosophies of government. Postal service is the one thing government provides that comes closest to being universally received and universally useful, the only outward and visible sign of the federal government that the average American comes in contact with every day. It is also one of the most easily comprehendible elements of government, in that it is all but impossible to gloss over or cover up deteriorating service.

For all these reasons, there is clearly more to the past triumphs and present failures of the U.S. Mail than the U.S. Mail. One needs no commission report or poll to conclude that most people's perception of the quality and efficiency of government is directly tied to postal services. This was cause for rejoicing in Washington not that many years ago. Typical were these lines from a 1931 book on postal policy by Rep. Clyde Kelly: "Those who see this institution as a great service enterprise may be sure that it has been one of the mightiest factors in American progress, paying dividends in enlightenment and mutual understanding beyond the power of money to express. It has been the nation's most profitable institution, inspiring fraternity of feeling and community of interest, and furnishing the surest guarantee of the stability and security of the Republic. . . ."

Despite factions in Congress which occasionally toyed with the notion of putting all or part of the system in private hands, the formula of "service first, worry about deficits later" was never significantly challenged, for the simple reason that it was working. By the 1920s there was ample evidence that the policy had worked to the extent that the nation was in proud possession of a system complete with all the postal services that a modern industrialized nation could ask for. Postage was cheap; rural free delivery was bringing service to every corner of the nation; and all the extras—postal savings, money order service, parcel post, airmail, special delivery, and more—were in place.

PATRONAGE AND POSTMASTERS

Here are some of the reasons why it worked: For one thing, the politics that were taken out of the Post Office in the name of reform in 1971 had their dark side, but they were also a major strength of the old system. For instance, even though local postmasters were assigned by political patronage, they were generally demanding, highly visible jobs which not only spotlighted the person in the job, but also the elected and party officials who got that person the job. Occasionally, the doltish brother-in-law of a congressman or party leader was given the local mail and postal service dukedom, but not often.

Another advantage of the political system was that it virtually guaranteed that management was local and therefore responsive to local needs and especially attuned to take pride in their work. As the old Post Office was being dismembered in favor of the new, old-timers fretted that reform would mean assigning big-city hot-shots to run things for a large rural county (or vice versa); these doubters were looked on as unprogressive types harboring outdated notions about "outside" managers.

Ironically, it was the politicians who turned against the political Post Office while others had a higher respect for it. In The American Mail, Wayne Fuller wrote, "Politics in the Post Office, like leaven, was the ferment that forced changes in the postal system, made the service responsive to the will of the people, and made the Post Office a mechanism for developing the nation's political system." (By the way, this is not nostalgia speaking. Professor Fuller wrote this in 1972, when hopes for the new corporation were still high.) One clue to why politicians were so willing to jettison politics in this realm may be in the way votes are obtained. Old-style postal patronage gathered few votes and a lot of complaints—compared to well-executed, 30-second spots. For the modern politician, the burden of responsibility for local appointments outweighed the potential benefit.

A more obvious ingredient in the successful recipe was the aforementioned policy of service first, accompanied by a wary eye, but not a phobia, for the postal deficit which has been with us for all but a few of the last 100 years. Save for the few who argued for breaking even, most modern legislators, Postmasters General, and Presidents were quite content with an agency of government which pleased the people and paid back the lion's share—85 per cent to 90 per cent—of its costs in revenues (this year under the new setup it will recover only 78 per cent). Think about that for a while. You as a taxpayer subsidized ten to fifteen per cent when it was a service. Now that it's supposed to be a profit-maker, you pay 22 per cent.

What a lesson for us! As we go forward to take on the task of bureaucratic reform—which is now inescapably necessary, not just for the Postal Service but for the government as a whole—here are the simple truths we must remember:

(1) Government should *serve* the people. This, not profit or anything else, is its primary purpose.

(2) That the government will serve the people well is best assured by making it *politically* accountable to the people.

The era of civil service has produced a bureaucracy that is practically immune to the concerns of the public. The postmaster in Cedar Rapids need not fear the wrath of the local citizens if he is a career civil servant. But a congressman who was responsible for the appointment of the inept Cedar Rapids postmaster could have lost the next election.

A RACE WITH CATASTROPHE

How did we become so confused that we forgot that what we wanted from the postal system was not profit but service? We wanted the mail delivered. What we're getting is reduced mail delivery, which is producing not profit but more deficit, because poorer service means lower volume.

This is not to say that putting politics and service back into the postal system will necessarily solve all its problems. Obviously the postal system was having difficulties before it became a corporation. But it is important to emphasize that many of those difficulties were unique to the period 1945-70. During those boom years the volume of mail leaped from 37,917,000 pieces to 84,881,000, while a major element of the postal system, the railway mail service, was collapsing along with its sister, passenger service.

By 1966, problems began surfacing. Reports were reaching Washington of snafus all along the line, the most dramatic of which took place in October, when the main post office in Chicago gagged on 10 million pieces of mail and stopped functioning for almost three weeks. Meanwhile, on the fiscal front this was the first year in which the postal deficit reached the billion-dollar mark. This took place during the watch of Lyndon Johnson's Postmaster General Lawrence O'Brien, who took a look at things, made his famous remark about the Post Office being in "a race with catastrophe," and told Johnson that a major reorganization was in order. Johnson, in turn, created the blue-ribbon Commission on Postal Organization under the direction of Frederick Kappel.

The Kappel report was delivered in June 1968 and was clearly negative. The American Post Office was mismanaged, too political, technologically backward, inefficient, and in dire need of new equipment, buildings, and ideas. The report also projected a postal deficit of $15 billion by 1978 unless something was done. Its prime remedial suggestion was that the Post Office was a business and as such should be reorganized as a government corporation which in time would have no deficit.

WINDOW DRESSING

The new corporation took flight on July 1, 1971 when the anachronistic Pony Express symbol gave way to the stylized eagle. For the first 18 months, there was great optimism about the new Postal Service, a mood abetted by the encouraging statistics and announcements of innovations coming from the office of Postmaster General and Board Chairman Winton M. Blount. The press, which had almost universally supported the idea of a new organization during the debate, was primed to listen uncritically at the litany of new departures was presented: a new, fast, and damage-free parcel post service would be in place by 1975 . . . routine 24-hour air mail service to Great Britain was just around the corner . . . an ombudsman was now in his office ready to accept and rectify patrons' complaints . . . top-flight Madison Avenue ad agencies were being signed up to promote the use of air mail and other special services . . . all sorts of snazzy consulting firms and think tanks were being brought aboard to help tackle the most vexing problems inherited from the old Post Office.

All this hoopla was followed by a broad series of rate increases, with more to come; and then there was the death of *Look* magazine replete with a post-mortem that in part blamed new rates for the demise. Rep. H. R. Gross and several allies uncovered some cases of flagrant overspending and waste.

The Christmas 1972 mailing was a disaster. Congressmen, who had relinquished most of their power over the Service, were stunned. About all the individual legislator could do was stuff the Congressional *Record* with horror stories. When, for instance, the eight train carloads of mail which contained an emergency mass appeal from CARE for the relief of victims of Nicaragua's Christmas earthquake were lost for nine days, CARE officials maintained that great damage had been done to their urgent campaign. Within a few months no less than a half-dozen separate bills were calling for the abolition of the new organization and a return to the old.

The horror stories have continued to pile up, and what was called the "postal mess" in the late 1960s is now the "postal nightmare" of the 1970s. The only vindicated factions are those who feared the loss of rural post offices and the few who were convinced that creating a break-even postal corporation did not add up to true reform.

The situation is now bleak: a steadily rising deficit, now about $3 billion, talk of bankrutpcy, almost certain cutback to five-days-a-week delivery, the prospect of a 17-cent first-class letter rate by year's end. If anything, most of the touted solutions of the early days of the postal corporation have added to the problem. A few examples tell the tale:

Early retirement schemes cut the payroll to some extent but also weeded out some of the system's best and most experienced hands when they were needed most.

Not long after launching a major ad campaign to sell domestic air mail service, the Service itself discovered that first class was just as quick.

An expensive electronic system designed to monitor the comings and goings of mail delivery trucks has replaced a simple, index-card system that worked.

Postal workers have reported that mail is allowed to stack up for as long as 24 hours in order to get "uniform flow" for new canceling machines.

A new generation of machines have learned to eat packages and letters.

As *The Washington Post's* Ronald Kessler concluded after a stinging series of reports on the excesses and failures of the new Service, ". . . postal management has shown remarkable consistency. When faced with major decisions, it invariably chooses the wrong course."

BACK TO POLITICS

The big question is where do we take it from here?

The beginnings of the answer are simple enough. Back to politics and service. Not to a system that is solely political. There should be a balance between the continuity of expertise provided by a tenured civil service and the accountability of the political appointee. But the balance has shifted way too far in favor of the former.

Recently the Washington Star uncovered evidence that employees at the Washington Bulk Mail Center in Largo, Maryland, had been throwing away sizable amounts of mail almost daily. This was a new high in the "screw-you-buddy-I've-got-my-tenure" movement, but nonetheless indicative of where things are going. Perhaps you read in this magazine's Tidbits and Outrages column last month about how the Postal Service was auctioning off the contents of the parcels that are mangled by its machines? Your lost merchandise could be bought by your competitor at a discount. Such things simply couldn't happen if the postal system was accountable to the public.

Even the resigning head of a postal employee's union, James Rademacher, admits, "The trouble with many members is that they do not understand the give and take of collective bargaining. They want to take, but they don't want to give."

It's no wonder that most of the postal union members think that way. Since 1970, they've "bargained" successfully for a 60 percent increase in wages.

Ronald Kessler, in his Washington Post series, pointed out a simple but dramatic saving the post office could make:

"Many of the Postal Service's problems would be solved if it offered standard-size envelopes with preprinted boxes where mail users would write zip codes, according to Dr. James C. Armstrong, a former postal official who left to become corporate planning manager of American Telephone and Telegraph Co. Armstrong said the Postal Service could encourage the public to use these envelopes by charging lower postage if they are used. The standard-size envelopes and uniform zip codes could easily be read by relatively inexpensive machines, Armstrong said.

There is no reason to believe the public would not accept the use of such envelopes, particularly as an alternative to further deterioration of postal service, as readily as it accepted direct long distance dialing using area codes.

So politics will help, standardization will help, but nothing will help more than a return to service as the primary aim of the post office. When government forgets that its object is to "deliver the mail"—whether it is in the form of an efficient military, an excellent national park system, or a letter on your desk the next day—it's time to remind our elected representatives that they at least are accountable.

REMARKS OF ELLIOTT M. ESTES

Mr. BURDICK. Mr. President, I am pleased to share with my colleagues the remarks given at the Future Farmers of America Congressional Breakfast here in the Nation's Capital by Mr. Elliott M. Estes, the distinguished President of the General Motors Corp. I particularly point out his thoughts on the importance of American agriculture as we enter our third century.

I ask unanimous consent that Mr. Estes' remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

REMARKS BY ELLIOTT M. ESTES

Thanks very much, Bobby, and good morning. It's good to see you all here. I'm especially pleased to see so many members of Congress. I know how busy you are, and I want to thank you for taking the time to join us this morning.

I'm also very pleased that my chance to come to Washington and talk to this important audience for the first time came when it did. Washington is always an exciting city, of course, and this breakfast has been an important annual event for GM for four years now. But it's especially exciting for me to be here with you in Washington in this Bicentennial year.

Because it is America's birthday, we—as a nation and as a people—are engaging in more retrospection than usual. That's not a particularly strong American characteristic most of the time. But right now, we're spending a lot of time looking back—seeing where we have been and how we arrived at where we are.

This is certainly an appropriate time to do that. But it is also fitting—and much more important, I think—that we take time in this historic year to look forward—to consider the future and decide what we want this country to do . . . to be . . . to stand for in our third century of existence.

President Woodrow Wilson put it about as well as anyone when he said in 1917 that America—the country and the flag which flies over it as a symbol of our national power and pride and purpose—"has no other character than what we give it from generation to generation. The choices are ours."

Yes—the choices are ours. And now . . . today—at the start of America's third 100 years—we find ourselves being asked to make a particularly crucial judgment. We are being asked to decide whether this country is going to remain committed to a goal of world leadership by making as much progress as we can.

Opponents of technology, their protests as loud and shrill as any time I can remember, are urging us to adopt a national policy of "zero technology." They want us to stop trying to push back the frontiers of science and technology as much and as rapidly as we can. The efforts by opponents of nuclear power to stop its continued development for peaceful use is a timely example of what I'm talking about.

Obviously, nuclear power is the extreme example of a new technology that must be used carefully and after reasonable safeguards have been taken. But nearly every technical or scientific development that mankind has adopted to make his life better down through history has carried risks as well as benefits. That's been true ever since the first cavemen found that fire was great for cooking his food, warming his hands and lighting his cave, but that it could also blister his backside if he wasn't careful.

The question is, do the benefits outweigh the risks—are the risks acceptable? And in the case of nuclear generating plants the answer to both questions is a resounding, yes.

Now, oppostion to the new, the different, the unknown—particularly new technology—is not just a recent phenomenon. Down through history, some people have always been suspicious of—and downright afraid of—technological advances, and they fought to keep them from being put to use.

In 1798, for instance, workmen in England smashed a water-powered sawmill introduced into their country from Holland because they feared it might put them out of work. In 1779, an American, Charles Newbold, invented the cast iron plow. But farmers of that esa wouldn't use it; they claimed it poisoned the ground. As recently as 1919, Missouri farmer Fred Hoenemann sought a court order to keep airplanes from flying over his cows. And here in Washington, electric lights were installed in the White House for the first time in 1891. But the Benjamin Harrisons, who were living at 1600 Pennsylvania Avenue at the time, were afraid of them. They were so afraid, they wouldn't even touch the switches, and as a result they spent many a night sleeping with their lights burning brightly.

Those reactions seem naive today—even humorous. I'm pretty sure that the opposition to technology that is so prevalent today will also probably seem naive with the hindsight of 50 or 100 years—assuming of course, that the opponents of technology are not successful in limiting what we do.

And it is very important that they do not succeed. Ask yourself, where would we be if those who opposed technology in the past had prevailed? Where would America be if we did not have modern, high-volume manufacturing? . . . if we didn't have effective, integrated transportations systems? . . . if we didn't have extensive energy delivery grids? . . . if we didn't have up-to-the-minute agriculture?—agriculture that has made this country the greatest food producing factory in history.

We simply cannot afford to set some kind of arbitrary limit on technology; not now, not ever—not if we want to continue to have the kinds of lives we enjoy and the better ones we want for our children and their children.

I'm sure you leaders in the Future Farmers understand this as well as anyone. You know that without modern machinery; hybrid seed; new fertilizers, pesticides and herbicides; modern management methods; computers; cost accounting; irrigation and all the rest—the typical American farmer couldn't even come close to feeding the 56 people that he does today—43 of his fellow Americans and 13 other people who live somewhere overseas. Without those things, the American farmer would have a hard time just feeding himself and his family. And as physicist Edward Teller recently said in urging America not to turn its back on technology, "no environmental problem is more important, or hard to relieve, than worldwide poverty."

(slight pause)

On November 18, 1963—just four days away from his rendezvous with an assassin's bullet—John F. Kennedy said in a speech in Florida—and these are his own words, now—"there can be no progress if people have no faith in tomorrow."

We do need to have faith in tomorrow. We need to be confident and diligent—both in developing technology to solve the problems we face and in managing that technology so that it does not become a problem itself.

As a people, we need to be more like the American farmer—a man who is positive, optimistic and confident about the future—a man who then works like the dickens to make his optimism come true.

We either go forward or we slip backward. We cannot stand still. The choices *are* ours—and because they are, I'm confident that America's third century will be its greatest century. It's all up to us.

NATIONAL COUNCIL ON AGING'S LEGISLATIVE AGENDA FOR THE 94TH CONGRESS

Mr. WILLIAMS. Mr. President, the administration has pursued policies of retrenchment and "standpatism" for the elderly during the 94th Congress.

On example is the ill-advised proposal to saddle aged and disabled medicare beneficiaries with onerous out-of-pocket payments by imposing new coinsurance charges and increasing deductible payments for medical and hospital care.

Fortunately, this measure has little likelihood for passage now because 47 Senators have joined Senator CHURCH and me in sponsoring legislation to oppose any cutbacks in medicare coverage for the elderly and disabled.

In addition, the 94th Congress has won a number of notable victories for the aged, including:

Enactment of the Older Americans Amendments of 1975 which make major improvements and innovations in the Older Americans Act, the Older American Community Service Employment Act, and other legislation affecting the elderly.

A $55.9 million funding level for the title IX senior community service employment program. This appropriation will enable 15,000 low-income persons 55 or older to participate in the program.

Funding for the first time of the multipurpose senior centers program under the Older Americans Act.

The sum of $750 million in new lending authority for fiscal year 1976 for the section 202 housing for the elderly program. This amount will finance the construction of nearly 30,000 units for older Americans.

In addition, both Houses of Congress recently approved the Housing Authorization Act of 1976, which included my proposals to reduce the interest rate for section 202 loans and to provide an additional $2.5 billion in lending authority under this program over a 3-year period beginning with fiscal year 1977. This legislation is now awaiting the President's signature, and I am urging his prompt and favorable action.

But much more remains to be done on several fronts.

The National Council on Aging's board of directors recently adopted a nine-point legislative agenda for the 94th Congress to complete before adjournment.

Several of these recommendations, I am pleased to say, are either identical or similar to proposals I am now advancing.

For example, I have sponsored the Full Benefits Pass-Along Act, S. 2031, to prevent social security increases from causing a loss or reduction in food stamp, medicaid, or other Federal benefits. Also, I joined Senators EAGLETON, BROOKE, and CHURCH in winning approval of a $20 million funding level in order to continue the multipurpose senior centers program as part of the fiscal year 1977 Labor-HEW Appropriations Act. I am hopeful that this measure can soon be enacted into law.

Mr. President, the NCOA "Legislative Agenda for the 94th Congress" should be of interest to all the Members of the Senate.

For this reason, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the agenda was ordered to be printed in the RECORD, as follows:

To: Members of the 94th Congress.

As the 94th Congress prepares to conclude its final session, the National Council on the Aging would like to call attention to several items of special significance to the aged which have, as yet, gone unresolved.

The National Council on the Aging is a private, nonprofit organization that has served for 26 years as a leader in the field of services to older people. Our members are individuals and organizations—both public and private at the national, state and local levels of government—who have devoted temselves to the goal of ensuring a decent and rewarding life for older citizens.

Because most of our members are in direct, day-to-day contact with the elderly, we are acutely aware of the critical problems they face. The attacher agenda addresses only a few of those problems, but legislation which could solve many of them is already before the Congress and requires immediate attention. We hope the Congress will recognize the need for action on these items and will respond appropriately to them.

LEGISLATIVE AGENDA FOR THE 94TH CONGRESS

The National Council on the Aging urges action on the following legislative priorities for older Americans which were adopted June 21 by the NCOA Board of Directors:

1. Adequate funding for all programs authorized under the Older Americans Act for fiscal 1977, including $20 million for Title V Multipurpose Senior Centers;

2. Rejection of proposals to increase the Social Security tax rate in favor of proposals that would increase the taxable wage base and that would introduce general tax revenues gradually into the system;

3. A Federal mandate to the States that cost-of-living increases in Supplemental Security Income benefits be passed on to program beneficiaries;

4. Rejection of cuts in the Medicare and Medicaid budgets, adoption of a plan for catastrophic coverage under Medicare which does not increase out-of-pocket expenses, and liberalization of Medicare benefits to encourage home and preventive care;

5. Approval of group eligibility for the provision of appropriate services to older people under Title XX of the Social Security Act and a cost-of-living increase in the Title XX ceiling;

6. A guarantee under the revenue sharing extension legislation that a fair share of funds will support programs benefiting elderly and poor people;

7. Prompt completion of authorizing legislation for the Section 202 Housing Program for the Elderly with adequate appropriations in fiscal year 1977;

8. A Food Stamp reform bill which does not adversely affect the aged poor through unreasonable eligibility standards, which sets a standard deduction of at least $125 for an older adult household and retains the current definition of elderly as 60 years and older, and which eliminates the purchase price requirement; and

9. Specific provisions in legislation reauthorizing the Law Enforcement Assistance Act aimed at reducing criminal victimization of older people.

SYLVIA PORTER ON THE SOCIAL SECURITY RETIREMENT TEST

Mr. CHURCH. Mr. President, the retirement test is one of the most complicated and misunderstood features of the social security program.

As things now stand, persons under age 72 have their benefits reduced by $1 for each $2 of annual earnings in excess of $2,760.

There is, however, an exception to this general rule. A beneficiary may receive benefits for any month in which his or her wages do not exceed $230, regardless of the amount of total annual earnings.

In addition, self-employed persons have a "substantial services" test applied to them. A beneficiary is generally considered to have performed substantial services by devoting more than 45 hours a month to a business. If an individual spends between 15 and 45 hours in connection with a business, this is ordinarily not considered to be substantial services unless the person is involved in a sizable business or highly skilled occupation. A beneficiary who devotes less than 15 hours a month in connection with self-employment is not considered to be engaged in substantial services.

The retirement test is different for people who work outside the United States. Any work in covered employment is considered under the regular test. But employment which is not covered by the Social Security Act is treated differently. In this case, a person under 72 will not be paid a benefit for any month in which he works during any part of 7 or more days.

Several arguments have been advanced for the inclusion of a retirement test in the social security program. Proponents point out that social security is a social insurance program to protect workers and their families from loss of earnings because of death, retirement, or disability. They argue that the basic principle of social security would be violated if an individual would be able to recieve full benefits upon reaching retirement age, although substantially employed. The purpose of the program, in their judgment, is to provide insurance against loss of earnings and not an annuity at a fixed age as in private insurance.

Advocates of an earnings limitation also emphasize that the vast majority of older beneficiaries would not be helped by elimination of the retirement test because:

They cannot work;

They earn less than $2,760; or

They are age 72 or older, and thus are exempt from the earnings limitation.

Proponents further stress that eliminating the retirement test would be costly and would primarily benefit upper income individuals who have never really retired. Only about one-tenth of all beneficiaries, they say, would be helped by the repeal of the earnings limitation. Moreover, they contend this would add to the short-term and long-range actuarial deficit of the social security program.

Opponents of the retirement test maintain that the earnings limitation causes a hardship for those who must work to supplement their benefits. This provision, they stress, imposes a major obstacle for older persons who want to continue to work or remain active. As a practical matter, the existing test is complicated and difficult for the ordinary person to understand.

Opponents also emphasize that the reasons leading to the adoption of the retirement test in the 1930's are not as valid in the 1970's. They argue that the policy of discouraging older persons from working past a designated retirement age originated during the depression when it was necessary to increase job opportunities for younger workers. Today, the retention of this test keeps many older persons from working, depriving our Nation of their skill, productivity, and experience.

Some persons also criticize the retirement test because it applies only to earned income and not other forms of income, such as interest, dividends, rents, pensions, or annuities. A Department of Health, Education, and Welfare report on the retirement test in 1969 gave this rationale for the application of the present test:

> To include nonwork income in the earnings counted for retirement test purposes would be contrary to the purpose of a social insurance system—to insure against loss of earnings from work. Income from nonwork sources generally continues after retirement as it did before; retirement cannot be determined by measuring the presence or absence of nonwork income. Moreover, disincentives for the creation of private pension plans and savings for retirement would result from inclusion of nonwork income under the retirement test. Furthermore, doing so would make the retirement test similar to the means test used to determine eligibility for payments under public assistance programs, and would thus tend to subject the social security program to the same sort of criticisms that have been leveled at the assistance programs.

Sylvia Porter has recently written a series of articles about the social security earnings limitation.

Her accounts provide further important information on this issue in a clear, and concise manner.

For these reasons, I ask unanimous consent that Sylvia Porter's articles on the retirement test be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Post, June 28, 1976]

THE RETIREMENT TEST?

(By Sylvia Porter)

Should there be any limit on how much you, an older person, can earn and still collect your Social Security benefits?

If so, how can a limit be set that will not penalize you if you work—and still be fair to other Social Security beneficiaries and to those of us who are working and paying Social Security taxes to finance the entire system?

These questions have been furiously debated since SS benefits first became payable 36 years ago. Back in 1940, under the so-called Retirement Test then in effect, an older person lost his entire SS benefit for any month in which his wages in work covered by SS amounted to one cent more than $14.99!

The law has been changed many times since, but the Retirement Test still remains—infuriating in its discriminations, inequities and inconsistencies, unduly complicated by past attempts to improve and liberalize its provisions.

Why is there a Retirement Test?

Because, its defendants claim, the basic purpose of SS retirement benefits is not to pay benefits because you reach a specified age, but rather to replace the earnings you lose when old age cuts off or drastically reduces your earning power. The test was devised to measure whether that loss of earnings has occurred.

(1) You do not have to stop work altogether to collect your benefits. If your earnings after you become eligible for benefits are $2,760 or less for the year, you get your full benefits for all 12 months. That $2,760 is called the "exempt amount" and it rises each year as average earnings levels under SS go up.

(2) Once you reach 72, you get all your benefits no matter how much you earn. Without this provision (added to the law in the 1950s), those who work for good pay well into their 70s might never receive any benefits despite years of SS tax contributions.

(3) If, as an SS beneficiary under age 72, you earn more than the exempt amount, you will lose $1 of benefits for every $2 by which your earnings for the year exceed $2,760. For instance, if you are getting the average single retired worker's benefit of around $200 a month, $2,400 for the year, and you take a year-round job for $5,000, you would give up $1,120 of your SS benefits for the year—

one-half the total by which $5,000 exceeds $2,760.

(4) Although the general rule is that you give up $1 of benefits for every $2 of earnings over and above the "exempt amount" of $2,760, there is an important exception. No matter how much you earn in a year, you will get your full benefit for any month in which your wages from employment are $230 or less (1/12th of the "exempt amount") and you do not perform substantial services in self-employment. Without this exemption, if you retired well into the year, after earning substantial amounts, you would not be able to collect any SS benefits until the beginning of the next year—even though you were completely retired during the year's final months.

(5) But this exception also works out to your advantage if you, an older person, want to take seasonal jobs for just a few months of each year. For instance, if you, a retired worker in the example above, do not work in all months of the year, or cut back on your work so that you earn $230 or less in some months, you would get your benefits for those months.

When I wrote about the Retirement Test last year, among the letters I received was from a reader who noted:

"You could be of tremendous help to the elderly who think that if they earn more than $2,520 (the exempt amount for 1975) they will lose their Social Security payments.

"Nothing could be further from the truth.

"I receive over $14,000 per year in salary, but do not work during the months of July and August and I collect full Social Security payments for those two months. Most elderly people don't know this is possible! Tell them."

I have told you.

[From the Washington Star, June 29, 1976]

SELF-EMPLOYED'S TEST FOR SOCIAL SECURITY

(By Sylvia Porter)

No other provision of the Social Security law is more infuriating or more loaded with inequities and inconsistencies than the so-called Retirement Test—that part of the law limiting how much you, a Social Security beneficiary, can earn and still collect some or all of your benefits.

If, as a Social Security beneficiary under 72, for instance, you earn over $2,760 for the year, you give up some or all of your benefits, depending on how much over $2,760 you earn.

But regardless of your total earnings for the year, it's possible for you to collect benefits for any months in which you earn $230 or less and do not perform substantial services in self-employment.

If you work as an employe, it doesn't matter when the wages actually were paid to you. The controlling factor is when you earned them—not the time when they were paid.

Similarly, if you are self-employed in a business of your own and will earn more than $2,760 this year, it is when you did the work that counts.

But unlike an employe who can tell how much he or she earns in each month, self-employed people often don't know until the end of the year whether they'll show a profit or loss. Too, the money may come in some time after the work has been done.

As a real estate broker, you may work every day throughout a month or several months. But you may receive the commission on a sale at a later time when you are inactive and, in fact, retired.

When you get the commission would not be a fair measure of whether or not you are retired.

Thus, under the Retirement Test, you, who are self-employed, get your Social Security benefits for any month in which you do not perform "substantial services," regardless of how much you earn for the year—and no matter when you actually get the money.

If your earnings are over $2,760 for this year, your excess earnings will serve to reduce your Social Security benefits for only those months in which you performed "substantial services"—and whether or not you had any profits at all in those months.

But how do you know whether you are performing "substantial services," if you are self-employed?

Generally, if you spend more than 45 hours a month working in your business, and that includes the time you spend on planning and managing as well as physical work and also time you spend away from your business related to business.

If you spend fewer than 15 hours a month on your business, your services are never considered to be "substantial services."

If you spend between 15 and 45 hours, your work usually is not considered to be "substantial services" unless you are involved in operating a sizable business or are in a highly skilled occupation (a physician, for instance). Where a decision based on time alone would be unreasonable, Social Security's representatives consider other factors.

If the work you are doing now is much less in amount and importance than you did before you "retired." that would be a sign that your services are not substantial.

You even may work more than 45 hours a month in self-employment and still be able to show that—considering what you did before retirement, the hours you put in and their importance to the business—the general rule should not apply to your services.

That would be a rare situation, though. The whole tale is so befuddled by undue complications that it's hard to decide whether the administration would determine your services are substantial, even though your work amounted to between 15 and 45 hours a month.

Questionable situations would be:

A moneylender who has $500,000 in outstanding loans and who makes the decisions on what loans are to be made;

A psychiatrist who devotes most of his time to consultations and charges $25 or more an hour;

A real estate salesperson who earns more than $1,000 a month, working 30 to 35 hours a month or less;

A farmer who grosses over $100,000 annually from a 2,000-acre farm; consulting regularly with his paid manager.

[From the New York Post, June 30, 1976]

THE RETIREMENT TEST: III

(By Sylvia Porter)

When you apply for your Social Security benefits, you will be asked three key questions: how much you have earned so far in the year; whether you plan to work in the remaining months: if so, how much you estimate you will earn.

Assuming you apply this year, the number of SS checks that will be paid to you for 1976 will rest on your answers. If you say that you expect to earn $2700 or less this year (or nothing at all) you will get all your monthly checks. If you say that your earnings will top $2760, some or all of your benefit checks will be withheld.

Under the general rule, you give up $1 of benefits for each $2 by which your earnings go over $2760. If, for instance, you already have earned $2000 and expect to earn another $2000, that will amount to $1240 more than $2760. One-half of $1240, or $620, will be withheld from your benefits.

Tip one: By Apr. 15, '77, if you earned more than $2760 in 1976, you must send in your annual report of earnings unless you were age 72 or older during this entire year or, if under age 72, had all your benefit checks withheld. That report is used to settle up accounts. If too much was withheld from your benefits, you will get the money back.

Tip Two: The Report of Annual Earnings is also the means of updating your estimate of what you expect to earn in the current year so that any benefits can be withheld while you are earning—far better than having to pay back amounts later on, when your earnings may have stopped. If, after you have given your estimate to the Social Security Administration, you find you earn more (or less) than you estimated, tell the agency so it can adjust your payments.

Tip Three: Here's one I haven't found in any of the Social Security booklets. Although beneficiaries who had all their benefit checks for the year withheld are not required to send in the Annual Report of Earnings, some of you should. You actually may have earned less during the year than the estimate of earnings that was the basis for withholding all your checks. Or there may have been months in which you did not work or earned less than $230 in wages.

Tip Four: In applying for benefits and in making your Annual Report of Earnings, indicate whether there will be any months in which you will not be working or, if working, will have wages of $230 or less. You are entitled to your full benefits for those months, no matter how much you earn for the year.

Tip Five: If you are self-employed in your own business, but will be working no more than 45 hours during any months, point out that fact when you give your earnings estimate. In general, you will get your check for any month in which you work no more than 45 hours.

Tip Six: If you are getting checks as a retired worker and your wife is also entitled to benefits based on your earnings under SS, her benefits—as well as yours—can be affected by your earnings. If your monthly benefit is $200, for instance, and your wife's is $100, and your earnings for the year are over $7560 (the point at which no benefits would be payable to you), deductions will be continued from your combined husband-wife benefits—at the rate of $1 of benefits for every $2 of earnings. With earnings of over $9960 for the year, none of your combined husband-wife benefits would be payable.

Tip Seven: If your wife goes to work, though, her earnings will result in deduction from only her own SS checks.

Tip Eight: Whether you are employed, self-employed, or both, certain types of income do not count because they are not earnings from work and will not reduce your SS checks. Among non-work income not affecting payment of your benefit checks:

Investment income in the form of dividends from stock, unless you are a dealer in securities; savings account interest; income from SS benefits, pensions, other retirement pay, VA benefits, annuities; gain (or loss) from sale of capital assets; gifts or inheritances; royalties received in or after the year you become 65 from patents or copyrights obtained before that year; with certain exceptions, rental income from real estate you own; and retirement payments to you if you are a retired partner.

[From the New York Post, July 1, 1976]

THE RETIREMENT TEST: IV

(By Sylvia Porter)

To me there is something almost obscenely unfair about a law that permits payment of full Social Security benefits to the wealthy resident of an apartment hotel, living on a generous corporation pension and income from stocks and bonds, while slashing or wiping out the benefits of the chambermaid.

And why? Because the chambermaid works but her employer "retired."

There is something terribly wrong, to my mind, about an argument that holds elimination of the Retirement Test would violate a basic principle of the law.

That "basic" principle was geared to the depression era of the 1930s, more than a full generation ago. Since that time, it has been compromised and recompromised. At age 72, you are entitled to full benefits, for instance, regardless of your earnings. And under age 72, you are not penalized for the first $2760 of earnings in a year.

I freely confess a long-time bias. I always have detested the whole concept of the Social Security Retirement Test; have written repeatedly that an SS beneficiary who has earned retirement benefits should be entitled to them, whether or not working and whether or not earning a specified level. I resent the discrimination inherent in benefits paid or withheld on the basis of the sources of your income or the level of that income.

But, retort the defenders of the test, SS benefits never were designed to be annuities, payable automatically just upon your attainment of a certain age. The benefits are intended to protect workers and their families against the loss of earnings which comes with the death, disability, or retirement of a working member of the family. It would violate a basic principle of the program if you could collect your full benefits on reaching retirement age without showing you had suffered a loss of earnings. Further, SS tax rates have been calculated to cover only the cost of replacing lost earnings. To pay benefits as an annuity at age 65 would hike tax rates.

Eliminating the Retirement Test would add an estimated $7 billion to the cost of the program in 1976, according to the just released 1976 trustees report, and much more in the years ahead. That's equivalent to an increase of more than ¼ of 1 per cent each in the rates now paid by employers and employes.

Worse, the entire $7 billion would go to only about 10 per cent of the elderly on the SS benefit rolls—those able to work. Not one cent would go to the nine out of 10 too old or too sick to work, or who can't find jobs.

That's one of the very few arguments that silences me at this moment, for if we are to contribute $7 billion more in SS taxes, other improvements would seem to me to have more priority.

Another point the test's defenders make is that if it considered income other than earnings from work, it would be an income test akin to the means test in welfare programs—and individual thrift would be discouraged. And still a third is that private pension plans would be undermined. For if those pension payments counted toward the Retirement Test and resulted in the reduction of SS benefits, employers would have little incentive to keep or improve pension plans.

But why not continue to exempt income from pension payments, while setting a limit on other types of non-work income?

To make the program less discriminatory, narrow the distinction between the affluent collecting full benefits and the poor forfeiting benefits because they work to pad their incomes.

If such non-work income as dividends, interest, income from private insurance, gain from the sale of capital assets, and rental income from real estate totaled, say, $20,000 a year, the excess would be counted toward reducing the amount of benefits that would be payable for the year. If you had $20,000 of income independent of SS and had a company pension as well, a cut or loss of your Social Security benefits for a particular year would not drastically alter your lifestyle.

I still favor elimination of the test, but against the background of today's SS financial problems, adding another $7 billion to costs would make no sense at all. The modest proposal in this column would at least make the test more rational.

HOW PREPOSTEROUS CAN IT GET?

Mr. PROXMIRE. Mr. President, Friday morning's Washington Post carries a news story that demonstrates how preposterous is the so-called fairness doctrine—the law of the land that gives a governmental agency the right to second-guess what kind of information citizens get by radio and television.

The story tells of the reluctance by officials of the three big networks to carry a new series of Advertising Council public service announcements.

Some say, according to the Post's story, that the announcements violate the fairness doctrine. A spokesman for the Ad Council says no, that the new campaign—which combines TV messages with booklets advertised in the messages—does not violate the fairness doctrine. He cites a legal opinion.

So here we have it, a preposterous situation. A situation contrary to commonsense.

A newspaper is carrying a news story concerning a dispute over whether television networks may carry public service announcements without having to consider governmental regulations.

The newspaper, which is protected by the first amendment to the Constitution, is discussing a controversy over whether the promos suggested for television are controversial issues of public importance. For if promos could not be deemed to be so—controversial and of public importance—by the Federal Communications Commission then there would be no question of whether the fairness doctrine came into play.

And yet, the fact that there is a news story in a newspaper must answer those questions of public importance and of controversy.

It is a sure bet—from past performance—that the television network news shows nor local television news shows will carry anything about the controversy over the Ad Council's messages.

The networks will not and the local stations will not because they are regulated by the Federal Government.

The only reason the controversy is a news story is because of the conflict over the interpretation of the governmental regulation of broadcasting content—the so-called fairness doctrine. The broadcasters don't dare cover that news story.

The purpose of the first amendment is to promote wide-open, robust debate of public issues by making sure that the Government cannot control what is said about the Government. In other words, the first amendment with its protections of fundamental rights—including those of a free press and of free speech—is meant to prevent exactly what is happening with the Ad Council's messages.

How can the public decide about the messages without seeing them. But how can they be seen if the networks fear the consequences of governmental action should they televise them?

How more completely contrary to commonsense can you get?

How preposterous?

Oh, yes. The subject of the Ad Council's messages—our country's economic system.

Mr. President, I ask unanimous consent that the Post story be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NETWORKS BALK AT AD CAMPAIGN

(By Jack Egan)

NEW YORK, July 22.—An Advertising Council public service campaign to educate Americans about this country's economic system has run into resistance at each of the three television networks because of concern at CBS, ABC and NBC that the campaign may be considered controversial and liable to provoke counter-commercials if aired.

In fact, the People's Bicentennial Commission—a polemical group that is paying less attention to the bicentennial these days and more to such issues as economic concentration and corporate misbehavior—already has served notice on the networks that it will demand equivalent rebuttal time for its more radical view of the U.S. economic system if the ad council commercials are put on.

CBS has asked the ad council to try to revise the commercials to make them more acceptable. ABC says it is reviewing the situation and NBC, which had intended to start running the public service spots this week, now says the question is "on hold" while it looks at "some new input" including the PBC request for counter-ad spots.

The controversy centers not so much on the commercials—which primarily involve the offer of a free 24-page educational booklet to viewers who send away ("Every American ought to know what this booklet says," states ad)—as on the booklet itself, a primer called "The American Economic System . . . And Your Part In It," which is illustrated by Charles Schulz, creator of the Peanuts comic strip.

"You can't separate the two," said Gene Mater, CBS vice president and assistant to the head of the broadcast group. "The booklet plus the spot and the way it's presented we look at as a discussion of one side of a controversial issue."

The ad council claims there is no advocacy involved in either the commercials or the booklet, but only an effort to provide more information to citizens who are basically ignorant about the economy so that they can better make up their own minds for themselves on economic issues. PBC director Jeremy Rifkin vehemently disagrees.

"It's absolutely an advocacy campaign, because they're explaining the capitalist economic system and how it functions in almost a chamber of commerce perspective," Rifkin said.

"Nowhere do they raise the issues of pollution or the flight of capital," he continued. "Nowhere do they discuss corporate policies that adversely affect the industrial health and safety of workers. Nowhere do they discuss the quality of products or services. Not only would we give a different description of this system, we do not believe that this is the only economic system that should be discussed," said Rifkin, whose group plans to soon change its name to the People's Business Commission.

"That's his opinion and I reject it utterly," responded ad council president Robert P. Keim. "We're not talking advocacy or Marxism versus capitalism in this campaign. The word 'capitalism' I don't think even appears in (the booklet) and we're not even calling it 'the free enterprise system.' "

Keim charged that the PBC was trying to "abridge our First Amendment right" of free speech by their request for a response. "Let them get space and time on the merit of their own claims rather than trying to deny us the time."

The ad council president said he was "confident we'll be able to resolve the question of the networks," and said his group was "working on some modifications of what we've shown" in order to gain acceptance.

Mater of CBS said that, "in his network's view, running the spots in their present form could violate not only the Federal Communications Commission "fairness doctrine" requiring television to air both sides of a controversy of importance, but also "our own policy neither to sell time or (sic) give time to controversial issues."

Similarly, ABC's director of broadcast standards, Richard P. Gitter, said his network was reviewing the ad council spots and the booklet and, "if indeed we decide it's controversial, it would violate an internal policy we have had which prohibits offering time in the form of public service announcements or commercials for the discussion of controversial issues of importance which we think are more appropriately discussed in news or public affairs programs."

"This is a tough one," said Herminio Traviesas, NBC's vice president for broadcast standards, who took a somewhat different tact. He said he found nothing controversial "in the message itself," and added that "I think the booklet, too, is a very fair job. In our judgment it doesn't take a position."

But Traviesas said he had to "look at all of the other things being done in this campaign" and "some new input has come in from two or three areas" in the last few days which caused his network to delay airing the commercials, but he wouldn't elaborate.

The ad council's Keim said his organization did not believe the commercials violated the FCC's "fairness doctrine," and cited a legal opinion from Hendrick and Lane, a Washington firm specializing in communications law.

The law firm said the series of announcements "does no more than encourage people to send for (and, of course, read) the booklet" and therefore does not involve the "meaningful" or substantive discussion that creates an obligation under the fairness doctrine as defined by the FCC.

The ad council campaign, developed by Compton Advertising, Inc., was announced in April and is scheduled to last between 3 and 5 years. It includes newspaper and magazine advertisements, billboard and bus displays, and commercials on local radio and television outlets, as well as the proposed network ads.

The ad council was formed by the advertising industry 34 years ago to coordinate production of public service ad campaigns and to get different media outlets to donate free space or time.

Among its better-known efforts are the Smokey Bear campaign against forest fires, advertising for U.S. Savings Bonds and the "help fight pollution" campaign which features the tearful American Indian.

CAPTIVE NATIONS WEEK

Mr. STEVENSON. Mr. President, this week is Captive Nations Week. It is a time to reflect on the dangers of Soviet imperialism and to salute the brave peoples of Lithuania, Estonia, and Latvia and other captive nations in Eastern Europe for their struggle against Soviet domination and their efforts in the face of overwhelming odds to maintain in their own homelands their rich cultural and historical heritage and traditions. It is also a time to salute those captive peoples who were forced to flee to this country and their descendants for the contributions they have made to the diversity and strength of the United States.

Captive Nations Week is a reminder of the need for constant vigilance in the defense of freedom. It is a reminder that détente is no substitute for the principles of human rights and self-determination. It is a time to salute the efforts of people everywhere to be free from foreign aggression. And it is time to reaffirm the support and dedication of the United States everywhere to those principles of independence and freedom which gave this country birth.

LABOR-MANAGEMENT COOPERATION

Mr. JAVITS. Mr. President, several weeks ago, during testimony before the Joint Economic Committee hearing on the economy's condition at midyear, Dr. Arthur Burns, Chairman of the Federal Reserve Board, stated his belief that labor-management job security and productivity committees could contribute to an improvement in the terms of the tradeoff between inflation and unemployment.

A few years ago, I was instrumental in the establishment in Jamestown, N.Y., of the Labor-Management Committee of Jamestown in association with Mayor, now U.S. Representative Lundine and others. I was convinced then that labor-management committees could be helpful in enlarging the community of mutual interests of management and labor and in achieving greater cooperation and peace. The experience at Jamestown and elsewhere since that time has served to confirm my conviction that such committees, established on a local and regional or industry basis throughout the Nation, can have significant positive effects.

A few months ago, the National Center for Productivity and Quality of Working Life, published an excellent report entitled, "Recent Initiatives in Labor-Management Cooperation." This report outlines clearly the great contribution that has been made by such committees in improving job security and productivity.

Labor-management cooperation in Jamestown, the report points out, has reversed a formerly insidious pattern of economic decline characterized by discordant labor relations. There was enmity and suspicion on both sides of the bargaining table until enlightened representatives of labor and management in Jamestown perceived that they actually had a commonality of interests; that job security, profits, higher wages, and productivity were all dimensions of the same objective: economic well-being. They realized, too, that recurring strikes, the out-migration of industry, persistent unemployment, and inadequate wages could be traced as an informant element to the same problem: a mutually destructive climate of hostility.

Establishment of the Jamestown Area Labor-Management Committee was intended to: First, improve labor relations; second, develop skilled manpower; third, assist industrial development programs; and fourth, achieve productivity gains in existing industries. Greater harmony, of course, was the natural byproduct of these objectives. That these objectives have been achieved is apparent from the fact that since the committee's inception, there has not been a single strike in the Jamestown manufacturing community.

The National Commission on Productivity and Work Quality sponsored a program which brought Dr. Eric Trist of the Wharton School and Dr. James McDonnell of Buffalo State University into the operations of the committee.

As a result of all these efforts the entire labor-management climate in the community improved, several plants were saved from liquidation, and, for the first time in 50 years, Jamestown attracted a major new company.

Labor-management committees have had success also on the industry level. In the steel industry, the joint Labor-Management Employment Security and Productivity Committee has made a significant contribution to the harmonization of labor relations.

My good friend I. W. Abel, Vice Chairman of the National Commission on Productivity and Work Quality and president of the United Steel Workers of America, is one of the truly enlightened statesmen of the American labor movement. He perceived that lagging productivity in the steel industry had placed American steel producers at a comparative disadvantage toward their foreign competitors and, therefore, that the jobs and incomes of many steelworkers were vulnerable. Abel was instrumental in the establishment of labor-management committees in the steel industry and in the commitment of the USW to the objective of job security through productivity improvement.

His able and forthright assistant, Mr. Bruce Thrasher, pointed out that:

> Where a mutual trust has developed, committees can go a long way toward solving such problems that face both parties in our country today. . . . We believe that joint committees on productivity can be a forum for improving productivity and the quality of work environment.

President Abel himself pointed out in his evaluation of the 1973 Experimental Negotiating Agreement and the Employment Security and Plant Productivity Committee, that—

> The parties have gradually established the maturity and respect for each other that justified this sort of advanced step in our collective bargaining relationship. I assure you that both parties are determined to make this a successful endeavor so that the people we represent can continue to enjoy substantial economic progress and the Nation can be assured of continued stability in this most essential industry.

The greatly improved economic situation in the U.S. steel industry that has developed since 1973 is, I believe, a direct result of these agreements. Productivity has improved, unit labor costs have stabilized, profits and the share of the domestic steel industry in the world market have increased, and job opportunities have been preserved. It is obvious from the experience of the steel industry that labor-management committees have helped to secure the jobs of workers and to improve productivity in the industry.

The American steel industry is a shining example of the positive connection that exists between job security and plant productivity.

The United Steelworkers have laid to rest the anachronistic notion that productivity improvement must always lead to redundant workers and greater profits for management. In a climate of harmony, productivity improvement insures economic well-being and saves jobs. Profits become the source of capital for investment in modern technology, which in turn enables domestic industries to remain competitive in world markets. This basically recreative role of profits if handled jointly by workers and investors is clearly perceived by labor leaders such as I. W. Abel, and the members of the USW are fortunate beneficiaries of such perspicacity.

There are, of course, other enlightened labor leaders who have been in the forefront of these developments. United Mine Workers President Arnold Miller is partly responsible for the success of the Rushton Coal Mine experiment in worker participation. The National Quality of Work Center provided the technical assistance for the Rushton experiment, which was designed to enable miners to arrange flexibly their own work procedures and to allocate functional responsibilities independently of management.

Management of the Rushton Mining Co. agreed to give up the right to direct the work force at the coal face and to pay the top rate to all members of the group.

The Rushton experiment in worker management through autonomous worker groups has had remarkable success. The National Commission's report states:

> The men felt themselves respected by management as never before; they no longer felt tired when they got home from work. There was no longer the same stress on the job.

The sentiment underlying all of these experiments—at Jamestown, in the steel industry, and in the Rushton Co.—is that the community of interests between labor and management can be enlarged in an atmosphere of mutual respect, trust, and harmony. Tension and animosity are definitely hostile elements in the collective bargaining process. Where labor-management committees are formed in a spirit of mutual trust and understanding to protect jobs and to improve productivity, workers and owners can share equally in the profits of that cooperation.

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from the excellent report of the National Center for Productivity and Quality of Working Life.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

RECENT INITIATIVES IN LABOR-MANAGEMENT COOPERATION

TODAY'S CHALLENGES

The essence of the challenge facing our working society, and therefore the whole Nation, is change—change that requires a new look at world trade, at our standard of living, at our productivity performance at the quality of working life and at our labor-management practices.

Leading representatives of industry, labor, and the universities voiced this theme over and over at all the Recent Initiatives Conferences they attended. Their prescription invariably is a greater degree of cooperation between labor and management.

President Ford, in a message to the conferences, keynoted the discussions with a description of today's challenges:

"Our Nation today faces problems that are unprecedented in this generation. We are being whipsawed by both inflation and recession and pressured by powerful foreign economic forces. In these troubled times, it is imperative that labor, management, and Government find ways of working together to bolster the strength of the American economy."

Donald C. Burnham, Vice Chairman of the National Commission on Productivity and Work Quality and a director-officer of the Westinghouse Electric Corporation, reinforced this theme, pointing out that "one of the keys to our past growth has been the persistent advance of productivity."

Productivity improvement means more jobs

"Gains in productivity are basic to the long-term future progress of our level of living," Burnham emphasized, in addressing the Washington Conference. Productivity improvement is "vital for meeting some of our most urgent short-term problems of providing more and better jobs and a less inflationary economy," he stated.

Mr. Burnham also reported that the Soviet Union is giving a high priority to productivity improvement. "They are moving away from the long-held concept that industrial expansion is the best way to improve productivity, and their 5-year plan leans toward greater efficiency."

Former Secretary of Commerce Frederick B. Dent, now the President's Special Representative for Trade Negotiations, in addressing the Decatur Conference, noted some "unprecedented economic challenges." The single most pervasive problem facing our economy today, Dent maintained, is the quadrupling of energy costs and the prospect for further increases.

As modernization of transportation has made the world smaller, national economies have become more interdependent. Since World War II, the industrial capacities of many nations have been fully rebuilt, and now are more modern and more efficient than ever before. Each of these nations, Dent noted, is determined to meet its own needs and aspirations through economic competition for world markets.

A further challenge as seen by Dent stems from the changing nature of work in our society. As greater mechanization is attained, as organizations grow larger, as computers become more and more pervasive in our everyday work lives, there has been a tendency, he said, to forget that the resourcefulness, skills, and spirit of people are still the keys to the success of any organization.

Bruce Thrasher, International Representative and Assistant to the President, United Steelworkers of America, expressed concern with lagging productivity in this country.

"I am sure you are aware that productivity in the country has not fared well in recent years. Output per man-hour experienced an unusually sharp drop beginning in 1973. And the rate of productivity growth during the post-World War II period as a whole has been showing signs of retardation."

Thrasher sees uncertainties ahead, particularly in view of the energy problems and the environmental considerations that impact on production. Slight retardation of productivity improvement can be serious in the long run, he said, as the effect accumulates from year to year, lowering the potential for improvement in the Nation's living standards.

Emphasizing that there is real urgency in the need for productivity improvement, Professor Martin Wagner of the Illinois Institute of Labor and Industrial Relations stated at the Danville Conference that while increase in productivity constitutes a worthwhile end in itself, the concern over quality of working life provides an opportunity for the men and women in the workplace to realize the potential of their education, of their interest, and of their enthusiasm "to make the workplace something other than simply a place to earn a living."

Professor Wagner added the plea: "If we are serious—and we really have no choice to be other than serious . . . we have some problems to attack, some issues to examine, and we need to experiment with them."

The challenge of achieving more labor-management cooperation in coping with mutual problems was stressed by I. W. Abel, Vice Chairman of the National Commission on Productivity and Work Quality and President of the United Stetelworkers of America.

In addressing the Washington Conference, Abel pointed up the vast changes that have taken place in the relationship between labor and management in the last four decades. In the great depression, when the President of the United States sought to bring steel management and labor together to agree on codes under the National Recovery Act, the steel management spokesman refused to sit in the same room with labor spokesmen, Abel recounted. He said:

"While the industry leaders believed then that they had all the answers and disregarded the workers other than to do manual labor, the leadership of the steel industry recognizes today that there is a contribution for labor to make. They understand that all the brains are not in the so-called white-collar areas: that the fellows on the floor can teach them a thing or two about operating the mills efficiently, increasing productivity, and increasing the profitability of the industry."

Mutual respect in the steel industry

Abel sees an open acceptance and a close working relationship by both management and labor as the significant key to labor-management relationships in the steel industry.

"We in the steel industry have come to know each other from across the table," Abel asserted. He pointed out that there is a recognition of the contribution of every labor-management committee in the industry, along with the development of a mutual respect for each other's integrity and interest "in this great endeavor."

Bruce Thrasher emphasized that such committees are not a substitute for nor an alternative to free collective bargaining. Successful committees, he pointed out, appear to require a mutuality of interest between labor and management and "serve to complement the collective bargaining process."

Thrasher described as appropriate for consideration by labor-management committees such areas as business conditions facing a firm, absenteeism, worker morale, safety and health, quality of work, equipment maintenance and downtime, saving of material and energy, reduction of rejects, waste, and scrap—"all of those things that go into making a contribution to the improvement of productivity." Thrasher said:

". . . We believe that where a mutual trust has developed committees can go a long way toward solving such problems that face both parties in our country today. . . . We believe that joint committees on productivity can be a forum for improving productivity and the quality of work environment."

W. J. Usery, Jr., Special Assistant to the President and Director of the Federal Mediation and Conciliation Service, reinforced this theme by saying:

"Only the people at the plant level can instill the spirit of improvement. Only the people at the plant level can develop the formula for improvement—and only the people at the plant level can make the changes necessary to create a more productive, a more rewarding workplace.

"All productivity plans, to succeed, must ride the same escalator—and that escalator must move from the floor up, as well as from the top down."

Former Secretary of Commerce Dent speculated that perhaps the best way to improve the quality of working life is to provide an effective and continuing means by which worker and management representatives can communicate their views in a nonadversary atmosphere. He suggested that joint labor-management committees provide the format for such a dialogue.

Formation of labor-management committees, he warned, should not be and cannot be mandated from Washington, but must involve "people who know and understand the real-world facts of life that exist in any particular company or organization."

Opportunities for progress exist

Secretary of Labor John T. Dunlop emphasized at the Washington Conference that while labor-management committees are not new, there is room for more national initiatives in encouraging their function.

Such initiatives, he suggested, could be taken at the firm or plant level, on an industry basis, on a collective bargaining basis.

"These initiatives, it is important to know, may be taken at any number of these levels," Dr. Dunlop stressed, indicating that some issues in labor-management relations lend themselves to solution at a paint or departmental level, while others can only be handled on a sector basis.

Dr. Dunlop feels labor-management relations and collective bargaining today are more mature than in earlier periods, but views current problems as more severe due to the high levels of unemployment and the intensity of international competition.

Methods that have proved useful in "pilot" arrangements established through joint labor-management committees should be extended to many more labor-management relationships, the Labor Secretary said.

"What is it about the leadership?" Dr. Dunlop asked. "What is it about the severity of the problem? What is there about the knowledge of technique? What is there about the relationship of the parties that their degree of maturity permits these kinds of relationships? I think times are so desperate that we ought to try to do the best job we can; better than we have ever done in the past to spread what we know to increasing numbers of relationships. And that, I think, is our real challenge today."

Jamestown—A Total Community Effort to Revive Industrial Activity Through Labor-Management Cooperation

Jamestown, New York, is an impressive example of how an industrial community reversed a trend toward industrial decadence and restored business and employment by establishing a greatly improved climate of labor-management relations.

As 1971 drew to a close Jamestown's industrial economy was in deep trouble. The absolute number of manufacturing jobs had steadily declined over an 18-year period; one of the largest manufacturers had recently closed due to insolvency, and its new million-square-foot manufacturing facility lay vacant; and efforts to attract new business were unsuccessful.

In the recent past there had been some long and sometimes bitter strikes, and the wood furniture industry, which had once been the bulwark of the manufacturing economy in Jamestown, was slowly moving to the South. The problem of company insolvency was spreading, and outside ownership of Jamestown industries led to decisions which had an adverse impact on the local economy.

The story of Jamestown's conversion from an industrially eroded area to a healthy, revived city was told by Mayor Stanley Lundine, the City's Ombudsman, Sam Nalbone, and union and employer representatives.

A STRIKE-HAPPY TOWN

Nalbone described the genesis in 1971 of the citywide plan: "We were considered a strike-happy town—a bad labor town. So the Mayor met with a labor leader and a representative of the manufacturers' association, and they decided to try to establish a labor-management committee by contacting top labor leaders and top manufacturers."

The Mayor met individually with representatives of organized labor—including the IBEW, Machinists, Steelworkers, Auto Workers, Ceramic Workers, Furniture Workers—and asked them if they would be willing to participate in a labor-management committee. He did the same in a separate meeting with the top executives of the manufacturing plants of the community. It was agreed that they would sit down together and listen to a presentation from a spokesman for the Federal Mediation and Conciliation Service.

The first joint meeting of the labor-management Committee of Jamestown—15 union officials and 15 company exceutives—was held in February 1972. In the beginning, sessions were marked with controversy and a degree of hostility. It was decided that an intensive effort would be made to determine the mutual interest of labor and management in order to unify the purpose of the two groups.

Four principal goals were established. The committee was to: (1) improve labor relations, (2) develop manpower, (3) assist industrial development programs, and (4) achieve productivity gains in existing industries.

PRODUCTIVITY MOST IMPORTANT

Productivity was singled out as the most important objective. The committee explained its viewpoint as follows:

"It was clearly stated that the productivity goal must be broadly defined and that there should be no job loss in any plant as a result of achieving productivity gains.

"The breadth of the definition was the only factor which allowed labor leaders to accept this primary objective. For example, reduction in absenteeism or the elimination of waste of materials during the manufacturing of products were primary productivity objectives. Unions had come to regard the word productivity as equated with 'speed-up' time-and-motion approaches which were so distasteful to their members.

"Upon analysis, the labor leaders came to a difficult conclusion that in the long-term, productivity must be a primary goal. The only way to improve the business conditions existing for companies was to make them more competitive. Continual complaints from manufacturers about high New York State taxes and other costs of doing business in this area had to be offset by higher levels of productivity. Furthermore, the best way to attract new industry and to deal with the new thrust of increasing foreign competition was to prove that Jamestown was a productive place in which to do business because of a good labor relations atmosphere."

Over the three-year period of the committee's life, the Jamestown Area Labor-Management Committee has at all times had a membership of about 36, representing all of the major companies in the area except the one large plant which has not been organized by any union. The balance between labor and management has been maintained, even though the membership on the committee has changed.

Companies represented on the committee range from large manufacturers, which are a part of international conglomerates, and large locally based companies, to very small but important local companies. They are largely engaged in four different types of manufacture—fabricated metal, engineering products, glass and ceramics, and wood furniture.

The actual business of the Jamestown Area Labor-Management Committee is conducted by a 10-member executive board, made up of four manufacturing executives, four labor leaders, the executive vice president of the Manufacturers' Association of the Jamestown area, and a representative of the AFL-CIO Central Labor Council. A labor representative and a business executive serve as cochairmen of the Board.

From time to time, a task force drawn from the membership of the committee has undertaken specific studies and action projects. The committee receives advice and guidance from the New York State School of Industrial and Labor Relations, the Labor Relations School at Cornell University, and the State University of New York at Buffalo.

DEFINITE PROGRESS REPORTED

At the end of the first year, the Jamestown Area Labor-Management Committee reported definite progress. There had not been a single strike in the manufacturing community, and one company had negotiated a new labor contract with wages tied directly to productivity increases.

In 1973 the effort gained considerable momentum. The Economic Development Administration allotted $22,500 to the committee program, which was matched by $7,500 in local funds for a demonstration labor-management committee project. The National Commission on Productivity and Work Quality agreed to fund this demonstration program. Labor-management committees were organized in individual plants.

Under a program sponsored by the National Commission on Productivity and Work Quality, Dr. Eric L. Trist of the Management and Behavioral Science Center of the Wharton School, University of Pennsylvania, was brought in to give the Jamestown program a broader operational concept. Dr. James McDonnell of Buffalo State University was recruited full time to implement the policies and programs of the labor-management committee.

During 1974, the committee increased its effort. For the first half of the year, Dr. McDonnell was its coordinator until July 1, when he returned to Buffalo State University; James Schmatz, a labor relations consultant from Buffalo, then became full-time coordinator.

"I operate as an ad hoc convener and resource person," Schmatz explained. "I get the in-plant committees started and I restart them when necessary. My 'quasi-mediation' role takes me to most of the in-plant committee meetings, where I help out in any way I can. When a plant group decides that training is necessary in a certain area, I locate someone to provide the training. Usually, they come from Cornell, although faculty from Jamestown Community College have been very helpful, too."

Partly through committee effort, and certainly as a reflection of the new labor-management climate in the community, several manufacturing plants were saved from intended liquidation; for the first time in 50 years, Jamestown attracted a major new company; and two companies announced major expansion programs. The 20-year slide in the number of jobs in industry had finally been reversed: the number of persons employed in manufacturing increased absolutely and the unemployment rate dropped dramatically.

The active labor-management committee program was one of the key elements in the selection of Jamestown as an All-America City in 1974.

QUALITY OF WORK

Some of Jamestown's new initiatives include an experiment in improving quality of work. This effort is designed to raise levels of productivity and at the same time increase the satisfaction of workers in their jobs, by redesigning the plant system as well as improving the communitywide regard for the quality of work.

Another area of effort is in developing skills necessary to the continuing well-being of the area's manufacturers. The skill development program involves in-plant labor-management committees, which identify present or future skill need and then design a training program to assist persons who might fulfill such requirements.

"An in-plant committee that works effectively to build a training program has a good chance of working to solve a contract issue," Schmatz said. "An in-plant committee with a record of success at both those levels can then address the whole issue of productivity and benefits which may accrue to the workers from increased productivity."

Labor's reaction to the training efforts was expressed by Joseph Wells, the area's business agent for the United Furniture Workers. Wells said, "A few years ago we were going to management and saying, 'You have to have a training program setup.' They were talking about taking it out of the negotiated wage increase, but now, through the Labor-Management Committee, the company was listening, and between our coordinator and the executives, we've done something about it, and believe me, I am very proud of it."

Supplementing the skill development effort, a formal leadership training program provides management courses for first-line supervision, communication courses for union stewards, and joint labor and management training in contract administration and grievance processing.

The Jamestown program also sponsors continuing series of dinner meetings attended by labor and management. The unions pay for their representatives to attend the dinners, with the locals deciding whom they want to attend. The unions name their people, and management names theirs. Speakers address the group on such subjects as safety and new developments in labor relations.

OPERATION OF IN-PLANT COMMITTEES

In response to questions about the in-plant committees, Schmatz, Jamestown Labor-Management Committee full-time coordinator, replied:

"The in-plant committees—the plant-level committees—I see as the nuts and bolts of our activities. An in-plant committee may go along and have a meeting every two or three weeks for a while, dealing with an issue or a problem. Then something may occur to get in the way of that in-plant committee. It may move in the background, or the priorities may change—negotiations, grievances, big layoffs, whatever. So things happen.

"I think of an active in-plant committee as meeting a minimum of once a month. I would consider anything less than that inactive. We probably have some 20 to 25 companies involved in active participation at any one time and probably have no more than 10 active in-plant committees going at any one time. I think that it is my responsibility to keep things going. Finding out what the problems are.

"As to how the committee members are appointed. The unions name whomever they want. Each union operates differently. In some of the unions the president and two or three members of the bargaining committee will come to the meeting. Sometimes they will bring in two or three shop stewards.

"On the management side of the committee, the same thing prevails. One of the top management people along with his industrial relations man, the personnel manager, or some of the shop foremen will attend meetings."

Describing how labor worked through the committee structure to solve problems, Wells (of the Furniture Workers) explained the complaint and problem-solving process. Wells said, "When we first started our in-plant committees, the biggest complaint from the workers was that the company did not have any back-up men on high-skilled woodworking machinery. Jim McDonnell (of Buffalo State University), who used to sit in on the in-plant committees when we first started, and I brought this complaint back to the manufacturers' association through our meetings. The association admitted that when things are going good, they don't bother training anybody for certain jobs. But then they got into a pinch. So we started a training program after working hours through our labor-management committee and the Government. The company would pay the trainee to learn the skilled jobs, and the Government would pay for the instruction."

In response to a question on "failures" in the program, the Jamestown team responded that none of the labor-management committees has collapsed, but there have been some setbacks. Several times, the break-up or elimination of a particular committee has been threatened by failure to communicate the real objective and the impact of the labor-management committee. The understanding of the rank and file as to the need for collaboration is the heart of the process. To the extent that any labor leader who is involved in such a committee has difficulty with rank and file resistance, the entire program is jeopardized.

As to how the Jamestown effort can be measured, Schmatz concluded:

"It is not a panacea, it hasn't solved all the problems of the world, nor of Jamestown; however, it is making some inroads in that direction and we do have a great deal of enthusiasm for it."

Steel Industry Forms Joint Labor-Management Committees To Increase Productivity

Because of the devastation throughout the world after World War II, the American steel industry was in a unique position. Able to sell all the steel it produced, it dominated the American market and, to a considerable degree, the world market.

Shortly after the onset of the 1960s, the situation changed. World steel capacity was rebuilt, expanded, modernized, and with foreign steel competitors able to replace American steel in foreign markets, our unique position in the world market was drastically reversed.

As the decade of the 1960s continued, the foreign steel producers were able to invade the American market and were able to outcompete producers in many product lines.

George Sirolli, International Representative, United Steelworkers of America, cited his own experience in the 1960s when he was representative of the Steelworkers for the Kaiser Steel Corporation and the surrounding plants on the West Coast:

"There is an iron ore mine in the California desert called Eagle Mountain Mine. Japan was buying millions of tons of iron ore, 150 miles out in the desert, shipping it to Los Angeles by train, putting it on ships and taking it to Japan, buying fuel also, and producing a finished product and delivering it to the United States cheaper than Kaiser Steel could produce that product. As an example, Japan was exporting three-quarter inch galvanized pipe and selling it from warehouses at 12 cents a foot. We had, at Kaiser Steel, a pipe mill. Kaiser Steel's product was selling at the warehouse for 15 cents a foot, and the quality was the same."

1971 CONTRACT

As a result of the troubles in the steel industry—for both management and labor—the basic steel corporations approached the United Steelworkers of America during the contract negotiations in 1971 with the problem of productivity.

Together they agreed that the poor competitive position of American steel within the steel industries of the world would have to be reversed, and that productivity in American steel would have to be greatly improved.

It was determined that productivity committees would be established throughout the 10 basic steel companies. These committees would address themselves to the general problems of productivity, encouragement of greater use of domestic steel, and other issues within the framework of the basic labor agreement. A clear understanding existed that the committees would not discuss issues which were in conflict with the collective bargaining agreement.

On the union side, the committees included the local union president, the chairman of the grievance committee, the secretary of the grievance committee, and the grievance committeeman who was most concerned with the particular problems to be taken up.

Objectives of the committee effort were to develop a more efficient use of time and facilities, reduce breakdowns and delays, improve quality of steel, eliminate waste of materials, supplies, and equipment, reduce excessive overtime, and improve safety.

Some 250 plant committees were established throughout the United States. Some of the committees have established subcommittees in the departments to take up specific problems right on the production floor.

Steelworker spokesmen believe that the closer the committees and discussions can be brought to the work force on the job, the more successful the cooperative effort will be.

Sirolli described how workers are being motivated through involvement in areas where labor-management committees are functioning effectively. He cited a case involving a customer who received a delivery of poor quality steel and who complained that the steel could not be used for fabrication. In the traditional course of action, someone from management would inspect the steel. With the cooperative effort in operation, management now invites a representative of the workers to inspect the steel, too.

Citing the value of such inspections, Sirolli explained:

"When that employee comes back and discusses the problem with the people he works with in the department, there is a greater possibility of acceptance than there is if someone in supervision would say to the employees, 'Well, we just had a complaint and we had to scrap X tons of steel and take it back and we lost a customer,' because the suspicion exists that maybe it did occur, and maybe it was production problems that the employees could not control and maybe it was not. Therefore the involvement of the worker in this situation has been very profitable in the area of educating the worker's attitude toward problems."

To reinforce such educational efforts, these seminars and conferences are used to convey the overriding message that in a competitive market, low productivity leads to fewer jobs.

PRODUCTIVITY AND JOB SECURITY

For this reason, the labor-management committees in steel have been named Employment Security and Productivity Committees to emphasize the message that increasing productivity does not mean increased profit with nothing in return for the workers.

A major factor in employee attitude, Sirolli pointed out, is job security. He expanded on this theme:

"Now, I can't emphasize too strongly that one of the goals is to establish secure employment, a greater opportunity for advancement for the employees within the industry. In addition, we all have a responsibility to create new jobs and more jobs for future workers who are constantly coming into the work force. And that is a very important point, because it is in the minds of many workers: 'Just what is there in it for me if I cooperate?'

"I explained to them that if we had a closed market and we had only one steel industry—the American steel industry—selling its product in that closed market with no competition, then I suppose the worker would have nothing at stake because whatever the needs were, that one employer—his employer—would sell the product. But since we have an open competitive market, if we cannot compete, that worker is laid off. That is what has occurred time and time again in the American steel industry and other industries.

"So we have a different situation from what we had immediately after World War II. It was really a closed market to a great extent and whatever capacity we had, we produced, we sold. But when you have an open market, a competitive market, a market where you are being undersold, you are faced with the possibility of layoff.

"You are on an escalator. The less competitive you are, the less jobs you have for the worker. And the less jobs you have, the more work is produced and the larger facilities are developed among our foreign competitors. This further increases their ability to undersell the American steel industry, and you continue down the escalator of lower employment in the American steel industry.

"So the philosophy we have today is that job security and productivity should be interrelated and should be expressed in the same breath when we are discussing it with our people, because you can't have one without the other."

COMMITTEE ACCOMPLISHMENTS

As to what labor-management committees in the steel industry have accomplished to improve productivity, Sirolli cited reports on day-to-day operations in the plants, showing: avoidance of quality defects, improved identification of warehoused steel, more efficient handling of scrap, energy conservation, more efficient phasing out of old equipment, and better care for new equipment.

In an assessment of the effectiveness of the Employment Security and Plant Productivity Committee operation in the steel industry, United Steelworkers President I. W. Abel credits the committees with establishing a foundation that enabled management and labor to enter into the historical Experimental Negotiating Agreement in 1973 which brought a stable peace to the steel industry.

In his evaluation, Abel pointed out:

"With 15 years of uninterrupted industrial peace in the steel industry, and with the work of the Employment Security and Plant Productivity Committees, the parties have gradually established the maturity and respect for each other that justified this sort of advanced step in our collective bargaining relationship. I assure you that both parties are determined to make this a successful endeavor so that the people we represent can continue to enjoy substantial economic progress and the Nation can be assured of continued stability in this most essential industry."

A COMPANY'S STORY

Reporting on one steel company's experience with labor-management committee operation from a management perspective, spokesman for the Alan Wood Steel Company, Conshohoeken, Pennsylvania, described some problems at the Washington Conference.

John J. Hannigan, Vice President for Operations, Alan Wood Steel Company, explained that his company was faced with the problem of improving productivity to offset an expected expenditure of from $13 to $15 million for pollution control equipment.

"It became obvious," Hannigan said, "that the survival of the company depended on improving productivity."

A Productivity Committee was formed in the Spring of 1972 after several meetings had been held between Hannigan and the local union president. During these meetings, according to Hannigan, it became obvious that the use of the word "productivity" in the committee's name was unacceptable to the union.

Hannigan explained:

"We found that one thing that seemed to be holding up the program was the worker's hostility to the word 'productivity.' To them it meant more work and less jobs. In other words, our major job was communications. We changed the committee name to 'Job Protection and Alan Wood Growth,' and gave some special training to supervisory union and company people."

STEERING COMMITTEE FORMED

With this initial stumbling block out of the way, Hannigan described the ensuing developments:

"A meeting was held between the local union and the company to form both a Steering Committee and a Working Committee. The Steering Committee was comprised of three management men and four union men, with the local union president and the Vice President of Operations as cochairmen. A working Committee was formed with seven individuals, four from the union and three from management, with a member of management and a member of the union serving as cochairmen.

"The Steering Committee was to meet at least every six weeks with the Working Committee and review their progress and problem areas, and give them direction on how to proceed. The problem areas were developed through a communication means we call Direct Line, in which hourly personnel, either signed or unsigned, presented what they thought were problem areas as far as efficient operation and general good workmanship were concerned. These areas were inspected by the Working Committee and a decision rendered as to what should be done.

"In order to bring members of both union and management together to set forth what the plan for this committee was, classroom attendance was required by first, the executive committee of the local union, and second, management personnel at the general manager level. It was pointed out what the principles of this committee were to be. It went a step lower by bringing foremen and shop stewards into separate classes for the same reason. After this indoctrination, local stewards and the superintendents attended classroom sessions together.

"From the classroom sessions it became evident that people wanted to participate with management in correcting problems they thought existed. This resulted in the development of what we call circle team efforts, made up of both supervisors and hourly personnel in specific areas. Teams attempted to work out bottlenecks they thought existed within a department. Some were very successful; others were not."

RUSHTON—AN EXPERIMENT WITH MINERS REGULATING THEIR OWN ACTIVITIES

Drawing on the experience in coal mines in the United Kingdom, where so-called autonomous groups have worked in coal face operations to improve productivity, an experiment has been under way at the Rushton Coal Mine, Philipsburg, Pennsylvania, to make professional miners competent in all the tasks in a mine section. The experiment was discussed by the president of the company and mine work force spokesmen at the Washington and Buffalo Conferences.

With shared competence, the miners could arrange their work flexibly and regulate their work in relation to each other. To make such an arrangement possible, the management gave up the right to direct the work force at the coal face and agreed to pay a common rate—the top rate—to all members of the group, since all would be taking equivalent responsibility and would be equally qualified to undertake all tasks involved in the mining operation.

The main thrust of the experiment was to achieve an improvement in work quality, with productivity gains reflected in such factors as lower costs, lower rates of absenteeism, and a lower accident rate. The experiment has been jointly sponsored by the Rushton Mine management and the United Mine Workers local, with technical assistance from the National Quality of Work Center. The National Commission on Productivity and Work Quality provided the initial grant for the exploratory phases of the experiment, while the Economic Development Administration of the Commerce Department has funded the continuing, operational aspects of the project.

Initially, a research team comprised of two faculty members of Pennsylvania State University and a faculty member of the University of Pennsylvania was formed to conduct action-oriented projects in work quality in the mining industry. Rushton Mining Company was chosen for the experiment.

COMMITTEE ORGANIZATION

Rushton Mine management agreed to the experiment. From the union side, Arnold Miller, president of United Mine Workers, also agreed, with the understanding that a local labor-management committee would approve everything that was done, and that any productivity gains should be shared in ways that would be jointly determined by management and labor. Approval and support for the project was obtained from the Federal and State agencies responsible for safety enforcement.

The next step at the Rushton Mine was to set up a local labor-management committee, known as the Steering Committee. This group first convened in August 1973. Membership included on the management side, the company president and other principal management executives, and on the union side, the officers as well as the members of the Mine and Safety Committees.

The Steering Committee and the research team met regularly every two weeks in day-long sessions which were held off the mine site. The goals, structure, and procedures of the project were shaped, with particular attention to ways in which the experiment could be reconciled with the union contract.

THE PLAN TAKES SHAPE

Details of the plan were eventually agreed upon, and the text of the agreement, known as the "document," was made available to everyone at the mine. Essentially, the document provided that:

1. An experimental section in the mine, to be comprised of 27 volunteers, 9 for each of three shifts, would be established:

2. Every man in the experimental section would be on top pay. (To some of the younger volunteer miners, this could mean an increase of up to five dollars a day; to others, it meant small or no increases.)

3. All members of each crew would be, or would be trained by the company to be capable of performing any job, from shuttle

car to machine operation—providing essentially full job-rotation capability. In addition, the entire crew would be given special training in State and Federal mine law to give all an understanding of what comprises a violation.

Each crew of the experimental section, therefore, would be an autonomous work team, with each man in the crew capable of performing any and all work functions involved in the underground production of coal. No craft or functional distinctions whatever, of either pay or job classification, would exist between crew members.

4. Each of the three crew foremen in the section would have responsibility solely for the safety of his crew and for planning. All former responsibility and authority for the production of coal was transferred from the foremen to the crew itself. The foremen's authority to give orders to the crew henceforth would be solely on safety-related matters. Grief by any member of each of the three crews would be dealt with by the crews themselves, without recourse either to foremen or the grievance committee for solution.

The union membership voted in favor of proceeding with the experiment at a meeting on October 7, 1973, with the understanding that either management or the union could withdraw at any time.

With the development of a work team whose members could perform all of the tasks required on a mine section, it was agreed that the foreman's responsibilities would shift from production to focus primarily on safety.

Improved safety was judged likely because a foreman responsible for both production and safety functioned in a dual role, while a foreman working with an autonomous group could devote most of his time and effort to safety. His additional responsibilities would cover on-the-job training and planning more effectively for supplies and maintenance.

COLLABORATION REPLACES COMPETITION

The operating plan was to have the autonomous group members work in an entire mine section in three shifts. A shift crew would consist of a miner-operator and a helper, 2 roof bolters, 2 shuttle-car men, a mechanic, and 2 support men, making a total crew of 9 and a total section group of 27. Members of each shift would become increasingly multiskilled with time, and would interchange their tasks more frequently. Production would be tallied on a 24-hour basis so that intershift competition could be replaced by intershift collaboration.

Volunteers were requested for each job billet, and the participants were selected from among them according to seniority. Their previous jobs were held open for 60 days so they could return to their original assignments if they did not like working autonomously.

After 60 days, they would have to join the general work force until an opening arose in their former classification. Only one man returned to his former work slot during the initial 60-day period, and none has since that time.

Following the organization phase of the experiment, the Steering Committee mapped a transitional phase of roughly three months before the designated mine section would be regarded as completely autonomous. During the first part of this period, the crews remained fully under foreman control while familiarizing themselves with the physical aspects of their tasks and the problems of working as a team. During the second half of this period, they remained partially under foreman control while continuing the familiarization process.

A six-session orientation period began in December 1973. The entire section of 27 men and 3 foremen met every Monday and Friday for all-day meetings over a period of three weeks in a classroom aboveground. Tuesdays, Wednesdays, and Thursdays were regular working days on the new section underground. During the orientation meetings, the text of the experiment agreement was reviewed, autonomous work group concepts were explained, and all job tasks reviewed. The men received a job safety analysis program, and the Federal and State safety laws were reviewed. There were exercises in group problem-solving as a part of the sessions.

There followed a period of several weeks during which the men worked at the jobs they originally opted for, but they were encouraged to begin learning the other jobs on the section. As the primary focus during this period was on learning, management agreed to a moratorium on pressure for production.

JOINT COMMITTEE IS FORMED

On February 26, 1974, the section elected one man from each crew to be a representative to what was called the Joint Committee. Two representatives from the local union leadership were also named to serve as the union representatives on the committee. Management appointed five members, and the Steering Committee then declared the section autonomous and withdrew from active involvement.

During the operational phase of the experiment, from March 1974 to March 1975, the autonomous effort continued, with the research team assisting with training and development and in resolving such conflicts as arose.

At approximately six-week intervals, the entire 27 members of the section and the foreman met in an aboveground classroom where operations over the previous six weeks were reviewed and the next six-week period planned. The men were paid their regular daily rate during these meetings, with the review and planning time considered as important as time on the job.

The Joint Committee met at irregular intervals through the spring and summer to settle disputes which arose in the autonomous section. The Joint Committee began to meet regularly in September to discuss sharing of gains. Issues that were raised included how gains were to be measured and how they were to be divided. The research team considered it important that these issues be explored before it was determined whether or not there were gains.

Twice each month, the three foremen, often with other members of management, met with the research team to discuss safety, training, labor-management relations, communications, and resolution of conflicts.

Higher-level management officials met irregularly at first to consider the progress of the experiment. Toward the end of the period, these meetings were held more regularly to discuss management's new philosophy in a relationship with autonomous working groups.

The research team was invited to attend all meetings in the union hall when the project was to be discussed.

PRELIMINARY RESULTS

There were fewer violations of the Federal Coal Mine Health and Safety Act in the mine section where the experiment was conducted than in the other two sections of the mine which continued to operate conventionally. The accident and absenteeism rates were less than in one other mine section and equal to that of the second conventionally operated section.

An evaluation team interviewed all the men working in the experimental section in December 1973, and again in June and October 1974, with preliminary data revealing that:

1. The men perceive themselves as making more decisions concerning how the work is divided, what they should do, and how to do it.

2. The men recognize their interdependence, and believe that their coworkers have many good ideas to contribute to improved performance.

3. They see their supervisors as making fewer decisions affecting how they should perform their work.

Warren H. Hinks, Jr., president of Rushton Mining, reported that the experimental process has increased workers satisfaction, lowered absenteeism and reduced accident rates. Hinks expressed his appraisal of the program:

"The average worker wants to make an intelligent and creative contribution. I know it may be difficult for some of you to believe, but miners like their work. They want to be involved in decisionmaking that affects them.

"In the new system, the men receive training which gives them the necessary information to make decisions. We believe that authority should go with this knowledge. Also autonomous work teams provide the worker with horizontal mobility—he can try a variety of assignments. Formerly, he had only vertical mobility—he had to wait for someone to resign or die before he could change jobs."

The report of the research team points out that members of the experimental section at the mine had a private meeting with officers of the international and district union to discuss their reactions to the project.

The men, it was reported, said they felt themselves respected by management as never before; they no longer felt tired when they got home from work. There was no longer the same stress on the job, and they did not quarrel as much or leave the workplace in a mess for the next shift.

Similar expressions of worker satisfaction were voiced by mine work force spokesmen at the Recent Initiatives Conferences.

One miner participant in the experiment, Mark Naylor, described his attitude by explaining that he had little interest in his work or the experiment, but volunteered to join the group because he was a shuttle car operator and might have taken years in the ordinary course of events for him to get top pay. Pay was his incentive in joining, plus an interest in being a machine operator, which his participation in the experiment permitted.

Naylor points out that he didn't give a "damn" about the company and that under the old system, when a machine broke down, a shuttle car broke, supplies were late, or the foreman wasn't present, the men would sit around and wait to be told what to do next.

Under the new working conditions, Naylor said, the crew felt that the machinery and the responsibility have somehow been transferred to their charge.

"Suddenly we felt we mattered to somebody. Somebody trusted us. And in a week or two we were busting our hump in a way I've never seen guys work underground before. When a machine busts down nowadays, most of the time we don't bother to call a maintenance man. We just fix it ourselves because, like I said, we feel it's as much ours as our own car at home."

SENATOR BUMPERS CHAIRS IMPORTANT HEARINGS ON ERDA'S PLAN FOR AMERICA'S ENERGY FUTURE

Mr. NELSON. Mr. President, the Energy Research and Development Administration—ERDA—was charged by Public Law 93-577 with the duty of preparing, by June 30, 1975, a "comprehensive plan for energy research, development, and demonstration." The same law—the Federal Nonnuclear Energy Research and Development Act of 1974—directs ERDA to update the plan annually.

ERDA's original plan was transmitted to the Congress on June 30, 1975, just 5 months after the agency was established. The first update was filed in April of this year. The subject is nothing less than this country's energy future, which, of course, affects the shape of its entire future.

Now the Senate Committee on Interior and Insular Affairs is engaged in oversight hearings, reviewing these critically important reports. The proposal for the hearings was made by the Senator from Arkansas (Mr. BUMPERS). As not infrequently happens in the Congress, when someone comes up with a good idea he is told that it can go forward if he will do the work himself. So Senator BUMPERS, by designation of Chairman JACKSON of the full committee and Chairman CHURCH of the Subcommittee on Energy Research and Water Resources, and with the exceptional leave of the Senate leadership for the committee to meet while the Senate is in session, is chairing those hearings, which began on July 22 and will continue on July 28 and 29 and resume after the August recess.

In his opening statement, Senator BUMPERS stated:

> I firmly believe that we cannot dally in the job of building a domestic energy infrastructure which can translate our famed American know-how and ingenuity into an effective program for producing energy alternatives.

He then expresses certain concerns about ERDA's national plan, among them the possibility that it may "rely on assumptions which bias the priorities of energy R. & D. toward high technology, capital-intensive supply alternatives."

That was of particular interest to me, in the light of similar concerns repeatedly expressed by witnesses before the Senate Small Business Committee's 1975 hearings on energy research and development and small business.

The Interior Committee's hearings are of vital importance and deserve to be followed closely by Congress, the press, and the public. All of our lives will be touched by the energy decisions which will be based, in part, on the planning done by ERDA.

Mr. President, I ask unanimous consent that the opening statement of Senator DALE BUMPERS of Arkansas, chairing hearings before the Senate Committee on Interior and Insular Affairs on July 22, 1976, on ERDA's planning function and reports, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION PLAN OF THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

(Statement by Senator DALE BUMPERS)

This morning the Subcommittee on Energy Research and Water Resources begins an in-depth examination of the energy research, development and demonstration plan prepared by ERDA and required by provisions of the Federal Non-nuclear Energy Research and Development Act. On July 28 and 29 this Subcommittee will reconvene for two additional days of hearings during which testimony will be received from experts who have examined the plan submitted by the Energy Research and Development Administration. After we have received testimony of our invited outside experts, then Dr. Seamans will be invited back a second time to discuss with us any findings we may have made about the plan.

If there are no objections I will submit for the hearing record the ERDA plan and the update to that plan.

Before we begin these hearings I think several facts should be highlighted to set the context within which this plan should be examined:

First: Foreign imports of crude oil are running at about 40 percent of our domestic needs. Prior to the 1973 embargo, 33 percent of our needs were supplied by foreign sources;

Second: In 1970 we paid about $3 billion for foreign oil; in 1975, after a 500 percent increase in the price of oil, the cost soared to $27 billion, and next year the cost may reach $35 billion;

Third: In spite of the critical shortages caused by the OPEC embargo, we are actually importing a greater percentage of our oil from these less-than-reliable sources than we did at the time of the embargo.

Summarized, our appetite for energy has not been diminished by either higher prices or greater dependence on foreign oil. The plain and simple truth of the matter is that too many in this country exhibit too little concern for the fact that energy has become our Achilles' heel.

I firmly believe that we cannot dally in the job of building a domestic energy infrastructure which can translate our famed American know-how and ingenuity into an effective program for producing energy alternatives.

ERDA was created as a positive reaction to the energy crisis; ERDA was commissioned to spearhead the development of alternative sources of energy, be they greater or alternative supplies or more efficient uses of the supplies we now have.

The national plan for energy research, development and demonstration is the blueprint for that action. ERDA's view for developing energy alternatives; the rate at which that development will take place; the emphasis to be placed on different approaches; the near-term versus far term impact of various energy options; all of these attitudes are embodied in this plan.

I am pleased to note that in drafting the second ERDA report on energy R&D the Agency has placed greater emphasis on the unique opportunities for energy conservation. It is my belief that energy conservation is absolutely central to an effective national energy efforts.

Everyone—even the Ford Administration—now agrees on this. To date, however, the full potential for saving energy, for using it more efficiently, remains substantially unfulfilled. And, to date, the national program to develop new conservation techniques has been pitifully weak in comparison to the lavish funding given exotic energy production technologies. Thus, while considering ERDA's budget request for fiscal year 1977, I am pleased to note that this Committee reflected this same concern by increasing ERDA's paltry energy conservation budget by more than any other ERDA program.

It is my hope that these hearings will permit this Subcommittee to examine other concerns which have been expressed about this energy plan. For example:

(1) The long-range plan is entitled "Creating Energy Choices for the Future", but for all the energy options under consideration, it appears to me that we are primarily examining different ways to create an all-electric society.

(2) Far too little emphasis, it would appear, has been placed upon an examination of energy systems versus particular energy technologies.

(3) This plan appears to rely on assumptions which bias the priorities of energy R&D toward high technology, capital-intensive supply alternatives.

(4) There is a gap between the priorities in this plan and the priorities exhibited in the annual ERDA budget. Examples are abundant: the plan states that enhanced oil and gas recovery will provide this nation with 10 years of time before a critical liquid fuel crunch is upon us, yet ERDA reduced their request for this program by $6 million below last year's budget; ERDA raised energy conservation to a top priority in its updated plan, yet the funding request for FY 1977 represented only a modest effort in this area.

If this plan is to be the pivotal point for this country's energy research, development and demonstration effort then the assumptions, priorities and goals expressed in the plan warrant scrupulous Congressional oversight.

We are here to examine ERDA's plan; to make this plan the Nation's energy R&D plan. Our witness is Dr. Robert Seamans, the Administrator of ERDA.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CRIME CONTROL ACT OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2212, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours to be equally divided and controlled by the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Nebraska (Mr. HRUSKA), with 30 minutes on any amendment, except an amendment to be offered by the Senator from Indiana (Mr. BAYH), on which there shall be 2 hours, and with 20 minutes on any debatable motion, appeal, or point of order.

Mr. MANSFIELD. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business is S. 2212, and the pending question is on the amendment of the Senator from Indiana (Mr. BAYH), numbered 2048, on which there shall be 2 hours debate.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with the time taken out of neither side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF S. 3219

Mr. MANSFIELD. Mr. President, in line with the promise made by the leadership to the Senate when it set aside the possible consideration of Calendar No. 685, S. 3219, a bill to amend the Clean Air Act, as amended, on yesterday, and to keep faith with the Senate, I ask unanimous consent that when the present business, the LEAA bill, is disposed of, the Senate then turn to the consideration of S. 3219, under the same provisions that it will be the first of a two-track legislative schedule with the tax bill coming up this afternoon, Monday afternoon, and enough afternoons as necessary to dispose of it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with no time to be taken out of either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON PUBLIC WORKS TO MEET DURING SENATE SESSION TODAY

Mr. MANSFIELD. Mr. President, because of out-of-town witnesses who came for this purpose especially, I ask unanimous consent that the Committee on Public Works be allowed to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CRIME CONTROL ACT OF 1976

The Senate continued with the consideration of the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BAYH. Mr. President, a parliamentary inquiry.

Will the Chair advise the Senate what the pending order of business is, please?

The ACTING PRESIDENT pro tempore. The pending order of business is the amendment by the Senator from Indiana that is the pending question, No. 2048. On this there are 2 hours of debate. The time is to be equally divided and controlled by the Senator from Arkansas (Mr. McCLELLAN) and the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, I ask unanimous consent that Howard Paster of my staff, and John Rector, Mary Jolly, and Kevin Faley of the staff of the Subcommittee To Investigate Juvenile Delinquency, be granted the privilege of the floor during debate and votes on S. 2212.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BAYH URGES SENATE TO MAINTAIN 19.15 PERCENT OF TOTAL CRIME CONTROL ACT FUNDS FOR JUVENILE CRIME PROGRAMS

Mr. BAYH. Mr. President, I have the good fortune of serving on the Judiciary Committee with the floor manager of S. 2212, the distinguished senior Senator from Arkansas (Mr. McCLELLAN). I know how hard he and other committee members, including Senators HRUSKA and KENNEDY, have labored to provide stronger and more effective crime control legislation.

The amendment I propose at this time is not designed to find fault with their efforts. Rather, it is designed to carry out my responsibility as chairman of the Judiciary Committee's Subcommittee to Investigate Juvenile Delinquency and as author of the 1974 Juvenile Justice and Delinquency Prevention Act (P.L. 93-415) which my colleagues in this body approved almost without objection in 1974 by a vote of 88 to 1. Today, I urge you to help assure that the long-ignored area of juvenile crime prevention remain the priority of the Federal anti-crime program.

The Juvenile Justice and Delinquency Prevention Act was the product of a bipartisan effort of groups of dedicated citizens and of strong bipartisan majorities in both the Senate and House—329 to 20—to specifically address this Nation's juvenile crime problem, which finds more than one-half of all serious crimes committed by young people who have the highest recidivism rate of any age group.

The most eloquent evidence of the scope of the problem is the fact that although youngsters from ages 10 to 17 account for only 16 percent of our population, they, likewise, account for fully 45 percent of all persons arrested for serious crimes. More than 60 percent of all criminal arrests are of people 22 years of age or younger.

This measure was designed specifically to prevent young people from entering our failing juvenile justice system and to assist communities in developing more sensible and economic approaches for youngsters already in the juvenile justice system. Its cornerstone is the acknowledgment of the vital role private nonprofit organizations must play in the fight against crime. Involvement of the millions of citizens represented by such groups, will help assure that we avoid the wasteful duplication inherent in past Federal crime policy. Under its provisions the Office of Juvenile Justice and Delinquency Prevention—LEAA—must assist those public and private agencies who use prevention methods in dealing with juvenile offenders to help assure that only those youth who should be are incarcerated and that the thousands of youth who have committed no criminal act—status offenders, such as runaway and truants—are never incarcerated, but dealt with in a healthy and more appropriate manner.

An essential aspect of the 1974 act is the "maintenance of effort" provision—section 261(b) and section 544. It requires LEAA to continue at least the fiscal year 1972 level—$112 million—of support for a wide range of juvenile programs. This provision assured that the 1974 act's primary aim, to focus the new office efforts on prevention, would not be the victim of a "shell game" whereby LEAA merely shifted traditional juvenile programs to the new office. Thus, it guaranteed that juvenile crime prevention was the priority.

Fiscal year 1972 was selected only because it was the most recent year for which current and reportedly accurate data were available. Witnesses from LEAA represented to the Subcommittee to Investigate Juvenile Delinquency in June 1973 that nearly $140 million had been awarded by the agency during that year ostensibly to programs for the improvement of the traditional juvenile justice system. It was this provision, when coupled with the new prevention thrust of the substantive program authorized by the 1974 act, which represented a commitment by the Congress to make the prevention of juvenile crime a national priority—not one of several competing programs administered by LEAA, but the national crime-fighting priority.

The subcommittee has worked for years to persuade LEAA to make an effort in the delinquency field commensurate with the fact that youths under the age of 20 are responsible for half the crime in this country. In fiscal year 1970, LEAA spent an unimpressive 12 percent; in fiscal year 1971, 14 percent; and in fiscal year 1972, 20 percent of its block funds in this vital area. In 1973 the Senate approved the Bayh-Cook amendment to the LEAA extension bill (H.R. 8152) which required LEAA to allocate 30 percent of its dollars to juvenile crime prevention.

Regrettably, some who had not objected to its Senate passage opposed it in the House-Senate conference where it was deleted.

Thus, the passage of the 1974 act, which was opposed by the Nixon administration—LEAA, HEW, and OMB—was truly a turning point in Federal crime prevention policy. It was unmistakably clear that we had finally responded to the reality that juveniles commit more than half the serious crime.

Unfortunately, in its zealousness to defeat both the 1973 Bayh-Cook-Mathias amendment for the improvement of the juvenile justice system and the bill which eventually became the 1974 act, the administration and its representatives grossly misrepresented their efforts in this area.

In hearings before my subcommittee last year, OMB Deputy Director Paul O'Neill, and other representatives of the administration finally admitted that the actual expenditure for fiscal year 1972 was $111,851,054 or $28 million less than we had contemplated would be required to be spent each year under the maintenance of effort provision of the 1974 act.

The legislative history of the Juvenile Justice Act is replete with reference to the significance of this provision. The Judiciary Committee report, the explanations of the bill, both when introduced and debated by myself and Senator HRUSKA, as well as our joint explanations to this body of the action taken by the Senate-House conference on the measure each cite the $140 million figure and stress the requirement of this expenditure as integral to the impact contemplated by Congress through the passage of the Juvenile Justice and Delinquency Prevention Act of 1974.

Once law, the Ford administration, as if on cue from its predecessor, steadfastly opposed appropriations for the act and hampered the implementation of its provisions. When the President signed the act he ironically cited the availability of the "$140 million" as the basis for not seeking appropriations for the new prevention program.

Despite continued stifled Ford administration opposition to this congressional crime prevention program, $25 million was obtained in the fiscal year 1975 supplemental. The act authorized $125 million for fiscal year 1976; the President requested zero funding; the Senate appropriated $75 million; and the Congress approved $40 million. In January, President Ford proposed to defer $15 million from fiscal year 1976 to fiscal year 1977 and requested a paltry $10 million of the $150 million authorized for fiscal year 1977, or a $30 million reduction from fiscal year 1976. On March 4, 1976, the House, on a voice vote, rejected the Ford deferral and recently the Congress provided $75 million for the new prevention program.

Mr. President, while we have obtained, over strong administration opposition, about 50 percent of the funding Congress authorized for the new prevention program under the 1974 act, the administration has renewed its efforts to prevent its full implementation. In fact, the Ford Crime Control Act of 1976, S. 2212, would repeal the maintenance of effort provision of the 1974 act.

It is interesting to note that the primary reason stated for the administration's opposition to funding of the 1974 act prevention program was the availability of the very "maintenance of effort" provision which the administration seeks to repeal in S. 2212.

Mr. President, the same forked-tongue approach was articulated by Deputy Attorney General Harold Tyler before the Senate Appropriations Subcommittee. He again cited the availability of the maintenance of effort requirement in urging the Appropriations Committee to reduce by 75 percent, to $10 million, current funding for the new prevention program or in other words, kill it.

The Ford administration was unable to persuade the Judiciary Committee to fully repeal this key section of the 1974 act, but they were able to persuade a close majority to accept a substitute percentage formula for the present law, the effect of which would substantially reduce the total Federal effort for juvenile crime prevention. But, what the President seeks, and what his supporters will diligently pursue, is the full emasculation of the program. This intent is clearly evidenced in the original version of S. 2212 and even more importantly in the President's proposal to extend the 1974 act, for 1 year, which was submitted to Congress on May 15, after the percentage formula version was reported from the Judiciary Committee. This new proposal again incorporates sections repealing the key maintenance of effort provision. My subcommittee heard testimony on this measure on May 20 and it was clear to me that rather than an extension bill, it is an extinction bill.

It is this type of double-talk for the better part of a decade which is in part responsible for the annual record-breaking double-digit escalation of serious crime in this country.

Mr. President, I am not able to support the reported version of President Ford's Crime Control Act of 1976, S. 2212, because it—sections 26(b) and 28—repeals a significant provision of the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415). The formula substituted for present law—by a vote of 7 to 5, voting "nay": Senators BAYH, HART, KENNEDY, ABOUREZK, and MATHIAS and voting "yea"; Senators MCCLELLAN, BURDICK, EASTLAND, HRUSKA, FONG, THURMOND, and SCOTT of Virginia—represents a clear erosion of a congressional priority for juvenile crime prevention and at best proposes that we trade current legal requirements that retain this priority for the prospect of perhaps comparable requirements.

Under the approach recommended by the committee, rather than the level mandated by the 1974 act; namely expenditures for the improvement of juvenile justice systems for fiscal year 1972 represented to be $140 million, but in fact, about $112 million, 19.15 percent of the total allocation of LEAA parts C and E funds would be maintained annually. This percentage represents the relationship of actual fiscal year 1972 expenditures for juvenile justice improvement—$112 million—to total C and E allocation of $584 million for that year. Its application in fiscal year 1977 would require that less than $82 million of Crime Control Act moneys be maintained for juvenile justice system improvement. Thus, $30 million less would be allocated than in fiscal year 1975 or 1976. It is likewise important to recall that because of the misrepresentation regarding actual expenditures in fiscal year 1972, $28 million less than Congress had intended was allocated to juvenile crime in fiscal years 1975 and 1976. The cumulative impact of the administration's sleight of hand regarding the $140 million figure and the application of the percentage formula solely to LEAA parts C and E would reduce the act's congressional commitment by $114 million: $28 million in fiscal year 1975, $28 million in fiscal year 1976, and $58 million in fiscal year 1977. This is totally unacceptable.

On May 28, 1976, I introduced amendment No. 1731, which would strike the provisions of S. 2212 which substitute the narrow percentage formula approach for the extremely significant maintenance of effort requirement. The approach of amendment No. 1731, which favors current statutory language is identical to that taken by Chairman RODINO's House Judiciary Committee in S. 2212's companion bill, H.R. 13636. In addition to the pure merit of supporting the status quo, which retains juvenile crime prevention as the LEAA priority, it was my view that those interested in fundamentally altering the provisions of the 1974 act, as the reported bill clearly intends, reserve their proposals until next spring and work with the subcommittee in drafting legislation to extend the 1974 act. Our hearings to accomplish this extension began May 20, 1976. It was with this perspective that I introduced amendment No. 1731 to excise these unpalatable sections.

Since that time I have reviewed this matter and concluded that the flexibility provided by the percentage formula approach may be more equitable in that the maintenance level would increase or decrease in proportion to the actual allocation of funds each fiscal year, but that the allocation for juvenile justice improvement should be a percentage of the total Crime Control Act appropriation, not solely of LEAA part C and E funds. The commitment to improving the juvenile justice system should be reflected in each category or area of LEAA activity: technical assistance-research, evaluation and technology transfer; educational assistance and special training; data systems and statistical assistance; management and operations; and planning as well as the matching and discretionary grants to improve and strengthen the criminal justice system.

Today, therefore, I ask my colleagues' support for my new amendment. The amendment does not authorize any additional appropriations; it simply helps insure, consistent with the policy thrust of the 1974 act, that LEAA will allocate crime control funds in proportion to the seriousness of the juvenile crime problem. The amendment will require that 19.15 percent of Crime Control Act funds, in deference to the level recommended in the committee report, be allocated for the improvement of the juvenile justice system.

It should be recalled that in 1973 this body supported, without objection, the Bayh-Cook amendment to the LEAA extension bill which would have required that 30 percent of LEAA part C and E funds be allocated for improvement of the juvenile justice system. My amendment, today, is clearly consistent with that effort. Had the 30-percent requirement become law it would have required that nearly $130 million of Crime Control Act part C and E dollars—$432,055,000—be maintained during fiscal year 1977.

Coincidentally, the application of the 19.15-percent formula to Crime Control Act moneys for fiscal year 1977—$678,000,000—would require that an almost identical amount, $129,837,000, be maintained for the improvement of the juvenile justice system.

If we are to tamper with the 1974 act in a manner that will have significant impact, let us be assured that we act consistent with our dedication to the conviction that juvenile crime prevention be the priority of the Federal crime program. The GAO has identified this as the most cost-effective crime prevention program we have; it is supported by a myriad of groups interested in the safety of our citizens and our youth who are our future; and I am proud to say that this bipartisan approach is strongly endorsed in my party's national platform. My amendment will guarantee a continuity of investment of Crime Control Act funds for the improvement of the juvenile justice system; and when coupled with the appropriations obtained for the new office—$75 million for fiscal year 1977—we can truly say that we have begun to address the cornerstone of crime in this country—juvenile delinquency.

More money alone, however, will not get the job done. There is no magic solution to the serious problems of crime and delinquency.

Yet, as we celebrate the 200th anniversary of the beginning of our struggle to establish a just and free society, we must recognize that whatever progress is to be made rests, in large part, on the willingness of our people to invest in the future of succeeding generations. I think we can do better for this young generation of American than setting them adrift in schools racked by violence, communities staggering under soaring crime rates, and a juvenile system that often lacks the most important ingredient—justice.

The young people of this country are our future. How we respond to children in trouble, whether we are vindictive or considerate, will not only measure the depth of our conscience, but will determine the type of society we convey to future generations. Erosion of the commitment to children in trouble, as contained in S. 2212, as reported, is clearly not compatible with these objectives.

I urge my colleagues to support my amendment and help retain juvenile crime prevention as the national anticrime program priority.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the LEAA appropriations history from 1969 to 1977.

There being no objection, the table was ordered to be printed in the RECORD,

LEAA APPROPRIATIONS HISTORY, FISCAL YEARS 1969-76

[In thousands of dollars]

	1969 actual	1970 actual	1971 actual	1972 actual	1973 actual	1974 actual	1975 actual	1976 actual	1977 actual
Pt. B—Planning grants	19,000	21,000	26,000	35,000	50,000	50,000	55,000	60,000	60,000
Pt. C—Block grants	24,650	182,750	340,000	413,695	480,250	480,250	480,000	405,412	306,039
Pt. C—Discretionary grants	4,350	32,000	70,000	73,005	88,750	88,750	84,000	71,544	54,007
Total, Pt. C	29,000	214,750	410,000	486,700	569,000	569,000	564,000	476,956	360,046
Pt. E—Block grants			25,000	48,750	56,500	56,500	56,500	47,739	36,005
Pt. E—Discretionary grants			22,500	48,750	56,500	56,500	56,500	47,739	36,004
Total, Pt. E			47,500	97,500	113,000	113,000	113,000	95,478	72,009
Technical assistance		1,200	4,000	6,000	10,000	12,000	14,000	13,000	13,000
Community anticrime									15,009
Research, evaluation, and technology transfer	3,000	7,500	7,500	21,000	31,598	40,098	42,500	32,423	[1] 40,000 27,020
LEEP	6,500	18,000	21,250	29,000	40,000	40,000	40,000	40,000	40,000
Educational development			250	1,000	2,000	2,000	1,500	500	500
Internships			500		500	500	500	250	300
Sec. 402 training			500	1,000	2,250	2,250	2,250	2,250	3,250
Sec. 407 training					250	250	250	250	250
Total education and training	6,500	18,000	22,500	31,000	45,000	45,000	44,500	43,250	44,300
Data systems and statistical assistance		1,000	4,000	9,700	21,200	24,000	26,000	25,971	21,152
Juvenile Justice and Delinquency Prevention Act (title II)							[2] 15,000	39,300	75,000
Management and operations	2,500	4,487	7,454	11,823	15,568	17,428	21,000	24,299	25,464
Departmental pay costs					14,200				
Total, obligational authority	60,000	267,937	528,954	698,723	841,723	870,526	[3] 895,000	810,677	753,000
Transferred to other agencies	3,000	182	46	196	14,431	149			
Total appropriated	63,000	268,119	529,000	698,919	855,597	870,675	895,000	810,677	753,000

[1] High crime area.

[2] An additional $10,000,000 previously appropriated for LEAA was reappropriated, to remain available until Dec. 31, 1975, to carry out title II of the Juvenile Justice and Delinquency Prevention Act.

[3] Does not reflect the $7,829,000,000 transferred to other Justice Department Agencies.

Mr. BAYH. Mr. President, the purpose of my imposing on the Senate at this rather early hour is directly related to efforts that the Senate Subcommittee on Juvenile Delinquency has been making over the last 6 years. As some of my colleagues will recall, in late 1970, when I had the good fortune of assuming that subcommittee chairmanship, we held extensive hearings and brought information to light which was informative and alarming. As one who had spent a good portion of his adult as well as young life involved in various kinds of youth activities, I thought I was relatively familiar with the situation. It was of grave concern to me to learn that, while most of our young people are those we associate with various youth groups and health activities—the kind that we now see swimming and running and performing miraculous feats as we watch the Olympics, unfortunately, there are a relatively small, although active, portion of our young people who truly threaten our welfare.

As we express our concern about the dramatic and continuing increase in the level of crime, we must be even more concerned about the findings of our subcommittee investigation: that of all the serious crimes, quarterly and annually reported by the FBI, more than 50 percent of all the serious crimes are committed by young people under the age of 20. When we envision criminal activity, many think of hardened adult criminals. The statistics show, however, that this is not the true stereotype. I am not talking about youngsters who take a car for a joyride or steal hubcaps, though I am not unconcerned about such acts; I am talking about the wide range of serious crimes, rapes, robberies, homocides, burglaries, half of which are committed by young people under the age of 20.

We undertook to develop a Federal response commensurate with these facts. The product of our labors was the Juvenile Justice Act, which was signed into law by President Ford on September 7, 1974. It was the product of reconciliation and compromise that is necessary to obtain passage of any significant piece of legislation. The distinguished Senator from Nebraska (Mr. HRUSKA), who is the ranking minority member of the Committee on the Judiciary, played an important role in reaching the compromise which is now law. The Senator from Nebraska and I did not agree on all the features of the bills that I had introduced (S. 3148 and S. 821), but I must say that I thought the way that he and I and our collective staffs worked together was as fine an example as I have seen of what can happen when men and women of good faith are determined to use the legislative processes to try to reconcile differences of opinion, and yet move toward making juvenile crime prevention a national priority of importance to all of our citizens.

The distinguished Senator from Arkansas, as the ranking member of the Committee on the Judiciary as well as chairman of the Criminal Laws and Procedure Subcommittee, also played an important role in this effort which resulted in the enactment of this landmark legislation.

What we are saying is that juvenile crime is a critical national problem. Everybody is against it, nobody is for it, but we have not been able effectively to bring adequate forces of Government and human concern to bear on this problem. Juvenile crime continues to escalate. No one has a magic formula for solving the problem of juvenile crime and delinquency. No one can pass a bill or make a speech and make crime disappear. But it was rather obvious that what we had been doing had failed and, hopefully, the new focus mandated in 1974 will be helpful in alleviating some of the problems. I think it is essential that we recognize past mistakes and avoid them.

One basic mistake in this area was the total lack of proper coordination and management. We found, rather surprisingly, that there were several dozen separate and independent Federal agencies and bureaus supposedly dealing with the problems of young people in trouble and juvenile crime. If a sheriff or chief of police or mayor or youth services director sought help from a Congressman's or Senator's office as to where they could go for assistance to fight juvenile crime in their communities, they needed a road map of the Washington bureaucracy.

One of the major steps we took in the Juvenile Justice Act was to establish one place in the Federal Government to meet these needs. We established a separate assistant administrator position in LEAA and, for the first time, placed authority in this one office for mobilizing the forces of Government to develop a new juvenile crime prevention program and to coordinate all other Federal juvenile crime efforts. That responsibility now rests in one clearly identified office, headed by a Presidential appointment, with advice and consent of this body.

In the management area, we made progress by eliminating wasteful duplication and directing that all resources be harnessed to deal more effectively with juvenile crime. We have provided that no Federal programs undermine or compete with the efforts of private agencies helping youths in trouble and their families.

We also required that private agencies including churches, YMCA, YWCA, and many others are involved in the program so that with their collective services and expertise they become an equal partner with government and family in the fight against juvenile crime.

Thus, for the first time this act made available Federal prevention funds to help private groups in local communities. To expand and assist if necessary but not to compete with community efforts.

Case in point: if the First Christian Church or the YWCA has established a runaway house it makes little sense for the Indianapolis city government or the State of Indiana or the Federal Government to establish a competing runaway service.

Now we are able to provide additional moneys to those private agencies so that they are able to provide several extra beds, or a new counselor, and continue with their work fashioned for that community, but which had been limited because of insufficient resources.

Another objective, which we have begun to accomplish, was reorder the LEAA spending priorities.

Many things have been said and written both by the investigative press and by some of our colleagues here on this floor relative to criticism directed at LEAA. I think some of that criticism is well founded and, perhaps, some of it is not. In the Judiciary Committee I found myself in rather a lonely position as the only member to vote against extending LEAA. I hope we can retain those reordered LEAA priorities here today so I can vote to extend LEAA. I think a number of those dollars have been well spent, and we have a lot of concerned, dedicated people out there—but, as I told my colleagues on the Judiciary Committee, more than $5 billion has been expended by LEAA.

During that period of time crime has gone up almost 50 percent. If we, as members of that committee, were on the board of directors of a corporation and spent $5 billion of the corporation's money, the stockholders would throw us out on our ears if we did not get better results.

That does not mean we are trying to be unreasonably stern with the people who are administering this money or certain people who are spending it, but I think they have been laboring under operational restraints that almost defy success. The biggest problem we have had is that we have not reordered our priorities so that we use this money to deal with the problems of young people before they become the problems of adults.

We take kids who run away or will not go to school, neither of which I am recommending for young people—but compared to robbing, murdering, and raping, and some of the things that go on in our streets I am sure we recognize that not going to school and running away is a relatively minor act—but we take kids involved in these kinds of activities and we put them in the county jail with adults who have performed every trick in the trade.

We take young first offenders and we incarcerate them with hardened criminals. I am not trying to apologize for young toughs, the fact of the matter is, I hate to say it, but it is true, that we have some young people as well as some adults whom we just have to get off the streets in order to protect society from them.

But it seems to me we need to be sophisticated enough to get those people who are preying on society off the streets, incarcerate them where they cannot do harm to themselves or to others, but not commingle them with young people whom we still have a chance to save. All too often however that is not how we operate our juvenile justice system. We put those first offenders in a prison environment with professionals, two- or three-time losers, and although we talk piously about rehabilitation and training, in most of our institutions today instead of being able to train young people for a wholesome, decent life, what we train them for is how to go out on the streets and prey on society.

Four out of five of those people that we put in a place to try to rehabilitate them are learning the kinds of things that guarantee they are going to be back in there again. In terms of our youth we have between a 75 and 85 percent recidivism rate, which means not that our police cannot catch them, not that our judges and our juries do not try to convict them, not that we do not have a place to put them, but that when we catch them, when we convict them, when we incarcerate them, we treat them in such a way that we guarantee they are going to be back in prison again.

Mr. President, one of the important provisions of the Juvenile Justice Act was to try to get more of our law enforcement resources into the system at a time and a manner so that we could actually keep young people from continuing to make the mistakes that escalate up the scale of seriousness and lead to a lifetime of lawlessness and all the problems that that means to them and to us generally.

If we are really going to do this job we have to insist that a larger share of law enforcement dollars go into the system at a time and in a manner that can actually do some good, do some preventing, and do some rehabilitating. That means we have to devote more money to improving our juvenile justice system.

I have great compassion for any human being who is incarcerated, whether that person has committed one, two, or three crimes. It is a tragedy. But we have to recognize society's right to be protected, and thus we have to keep these people in a place that makes society safe.

But I must say since we are operating in a world where we have only limited amounts of dollars which we have become increasingly aware of as we go through the new budget process—then, it seems to me, we have a responsibility to see that we spend those limited amounts of dollars in the areas where we get the greatest return on the investment not in just a traditional business sense but in terms of effectively dealing with human problems.

Mr. President, for someone who has been in a penal institution two or three times, the chances of rehabilitating that person are relatively remote, particularly compared to the chance of dealing with a child, preteens, or midteens or even a first offender teenager.

So, what we tried to do in the Juvenile Justice Act was to insist that we place more money, more resources, into the system to deal with the problems of young people. We asked the officials at LEAA and OMB how much they were spending on juvenile delinquency programs. Well, we were told various figures. When we finally nailed them down they said, "Senator BAYH, it is $140 million. One hundred and forty million dollars was the supposedly accurate figure which was the fiscal 1972 figure." That was the figure the administration told us was being spent in fiscal 1972 for juvenile delinquency programs. So in the Juvenile Justice Act we required LEAA to maintain at least that level of assistance. Although the Senate passed, let me say, a measure which would have insisted that we put the level at 30 percent of the budgetary figure as a floor for juvenile delinquency programs. That passed the Senate. We could not get the House to agree to it, but that was the figure, 30 percent, which would have meant more assistance than the figure we are talking about today in my amendment.

I want to put this on the scales with the earlier figures we spoke about so that we can compare here the 30 percent that we are talking about with the 50 percent of the serious crimes committed by young people. But after the Juvenile Justice Act had passed, LEAA changed the numbers. They said, "Really, we did not spend $140 million in 1972." My colleague from Nebraska believed LEAA's original figure. If we look at the record, he was using the figure of $140 million because that is what LEAA told us; that they, out of that LEAA pie, were sending $140 million back to local communities, to deal with problems of young people and juvenile crime.

But when we really got down to wearing the shoe, instead of the $140 million it was actually $112 million. Well, $112 million is still not an insignificant amount of money. But it was $28 million less than the Senate thought they voted for in 1974. The law requires that $112 million of Crime Control Act dollars be spent to fight juvenile crime.

Frankly, I do not think that is nearly enough. It was the best we could do under the circumstances in 1974, and it is better than we would have been able to do if we had not established that floor, but it was not nearly enough. At least 19.15 percent of the moneys should go to a problem that is responsible for half the Nation's crime.

Mr. President, we are talking about less than 20 percent of LEAA money earmarked to deal with the problem of young people who are committing 50 percent of the crimes. It is not enough.

But lo and behold, when the administration sends the LEAA extension bill here, instead of extending it they tried to gut the Juvenile Justice Act and, in essence, kill everything we had accomplished.

They are trying to repeal the maintenance of effort section so that there would be no specific amount spent to help fight juvenile crime.

Because of the conversation and concern of some of our colleagues on the Judiciary Committee, and at least partially because some knew others rejected this there was going to be a heck of an outrageous proposal, they did leave some limitations in the bill, but at much too low a level, in my judgment.

Instead of the specified dollar amount, which in current law is $112 million, they said, "Well, the LEAA budget is going down, so to be fair to everybody and not allegedly penalize some of the program areas, we are going to eliminate the 74 percentage and require only 19.15 percent of C and E or $82 million; $82 million instead of $112 million—a reduction of $30 million.

Mr. President, I do not want to penalize anybody. I think many of these programs have some beneficial effect. But we have to recognize two important things: One, in terms of crime, young people are the most critical problem and if we are concerned about the continuing escalation of crime we better start dealing the the problem at a time when we can rehabilitate them, and make them productive citizens of society rather than adult criminals.

Two, from the practical standpoint if we invest resources in this area, we are going to be able to have a higher degree of success.

My amendment simply recognizes where the problem is and where the chances of success lie.

This amendment does not scrap any programs. No. We are not going to be unreasonable in the amounts of money we dedicate to juvenile crime. But very simply—we are going to require in the future that 19.15—less than 20 percent of the LEAA budget is allocated to this priority.

It ought to be for more. We have improved the situation somewhat because of Milton Lugar's guidance of the Office of Juvenile Justice and Delinquency Prevention. He is a good man, the program is just getting started but it provides us with a good measure of long-ignored prevention.

This last fiscal year we had $40 million going into that program and because of the efforts of people like the distinguished Senator from Rhode Island (Mr. PASTORE), Senator MCCLELLAN, Senator HRUSKA, and some others on that Appropriations Committee who have fought diligently, we have been able to up that figure to $75 million in the area of prevention for fiscal 1977 or 50 percent of the authorized level.

What I am asking the Senate to recognize is that it is one thing to say we have $75 million in a prevention program. It is another to require that across the board we meet a certain standard as far as the investment of our LEAA moneys is concerned. This is what the 1974 act required, both thrusts.

I am not asking the Senate and the Congress of the United States to require that half of the money of LEAA be spent for young people, although they are committing half of the crimes. I suggest that we would require in this amendment that we at least have the 19.15 percentage of LEAA moneys spent across the board for juvenile crime and delinquency.

Mr. President, if I were not such a realist, I would be ashamed to ask for only 20 percent when we have 50 percent of the crimes committed by young people. Realistically, I think that is the best we can do. When we take that 19.15 percent and increase that by the $75 million that we are getting into the area of prevention, then I think we can be proud of what we are doing.

But to suggest we will extend LEAA and, at the same time, vitiate what in my judgment is the most important long-range program of law enforcement that has passed this Congress, is totally irresponsible in my judgment.

The PRESIDING OFFICER. Who yields time?

Mr. MCCLELLAN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. MCCLELLAN. Mr. President, at the outset I want to make it clear that this Senator in no way opposes juvenile delinquency programs or opposes appropriations therefor. Congress has singled out juvenile delinquency and passed the Juvenile Justice and Delinquency Prevention Act of 1974. That act is now law. We are appropriating money under that act—$75 million this year—for extraordinary attention and effort in the juvenile delinquency field.

Therefore, Mr. President, rather than do what the distinguished Senator is suggesting here—take more money from the overall criminal law enforcement program—a proper procedure and one that would not do damage to these other law enforcement programs would be to add it to the $75 million under that act. Increase the appropriations under that act, which is a special act, to deal with the extraordinary juvenile delinquency situation, instead of taking the money out of many other programs. If this amendment is adopted, Mr. President, other programs are going to suffer.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a memorandum explaining this amendment which I prepared this morning and which I hope to distribute to the Members of the Senate before they vote.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 23, 1976.

DEAR COLLEAGUE: Attached you will find a very brief summary of the provisions of S. 2212, as reported by the Judiciary Committee, dealing with the funding of juvenile delinquency programs under the Safe Streets Act and the effect that the amendments proposed by Senator Bayh would have on those provisions.

I hope that you will take the time to read this summary and, after doing so, will be able to support the Committee's action.

With kind regards, I am,

Sincerely,

JOHN L. MCCLELLAN.

JUVENILE DELINQUENCY PROVISIONS OF S. 2212

1. Under present law, which the Committee proposes to change, a minimum of $111,851,054 must be expended for juvenile delinquency programs each year. [This figure represents the amount that was expended for juvenile delinquency programs in Fiscal 1972 and amounts to 19.15% of the total allocation for Parts C and E of the LEAA Act ($584,200,000) in 1972.]

2. Under the Committee proposal, LEAA must expend a minimum of 19.15% of the total appropriation for Parts C and E of the LEAA Act for juvenile delinquency programs each year. Based upon the Fiscal 1977 appropriation for Parts C and E ($432,055,000—a decrease of $152,145,000 since 1972), this amounts to $82,738,533. However, there has also been appropriated under the Juvenile Justice and Delinquency Prevention Act $75,000,000 for juvenile delinquency programs (these funds are also administered by LEAA). Thus, the minimum expenditures for juvenile delinquency programs for Fiscal 1977 under the Committee version would be $157,738,000.

19.15% of Parts C and E of LEAA Act	$82,738,533
Juvenile Delinquency Act	+75,000,000
Total	157,738,533

3. Under Senator Bayh's Amendment No. 1731, present law would be retained. This would require that LEAA spend a minimum of $111,851,054 for juvenile delinquency in Fiscal 1977 out of a total appropriation of $678,000,000. However, on top of this would be added $75,000,000 appropriated for juvenile delinquency purposes under the Juvenile Justice and Delinquency Prevention Act. Thus, the minimum expenditure for juvenile delinquency under Senator Bayh's Amendment No. 1731 in Fiscal 1977 would amount to $186,851,054. This would be $29,000,000 over and above what the bill reported by the Committee now provides.

Under the LEAA Act	$111,851,054
Juvenile Delinquency Act	75,000,000
Total	186,851,054

4. Senator Bayh's latest amendment (No. 2048) would require that 19.15 percent of the total LEAA appropriation each year (including administrative costs) be expended for juvenile delinquency programs. Out of a total LEAA appropriation for Fiscal 1977 of $678,000,000, this amendment would require that LEAA spend at least $129,837,000 for juvenile delinquency purposes this next (FY 1977) year. On top of this is added $75,000,000 already appropriated for these purposes under the Juvenile Justice and Delinquency Prevention Act. Under this amendment, then, the total minimum expenditure for juvenile delinquency programs in Fiscal 1977 would amount to $204,837,000.

19.15 percent of total LEAA appropriations	$129,837,000
Juvenile Delinquency Act	75,000,000
Total	$204,837,000

* * * * *

The objection to both of Senator Bayh's amendments is fundamental. In the past two years, as a reflection of the country's economic situation, LEAA's appropriation has suffered major reductions—from $880,000,000 in Fiscal 1975 down to $678,000,000 in Fiscal 1977, a drop of $202,000,000. In the face of these reductions, cutbacks must be made in all the programs funded by LEAA.

Senator Bayh's amendments would simply prevent juvenile delinquency programs from bearing an appropriate share in these cutbacks and require instead that these cutbacks be borne by the other programs funded by LEAA. Many of these programs are extremely worthwhile and equally as valuable as many of the juvenile delinquency programs.

Examples of the types of LEAA programs that could suffer as a result of the Bayh Amendments are:

1. Programs for the prevention of crimes against the elderly.
2. Indian justice programs.
3. Programs to prevent drug and alcohol abuse.
4. Programs to increase minority representation in criminal justice programs (such as minority recruiting in police, court, and correctional agencies).
5. Programs to train and educate police officers.
6. The establishment of Community Anti-Crime programs.
7. Career Criminal Programs.
8. Programs to divert offenders from the criminal justice system.
9. Court planning programs.
10. Programs to reduce court backlog.
11. Adult Correction and Rehabilitation programs.
12. Work release programs.
13. Prison industries programs.
14. Community-based corrections programs.
15. Training of judges and court administrators.
16. Upgrading of probation and parole programs.
17. Research into the causes of crime.

No one denies that juvenile delinquency programs are appropriate for LEAA funding—and at a substantial level. Indeed, under the Committee amendment, a minimum of $157,738,533 would be spent for juvenile delinquency programs in Fiscal 1977 alone. The point recognized by the Committee, however, is that there are many other programs besides juvenile delinquency programs that are worthwhile and valuable, that are now being funded, and that should continue to be funded by LEAA. The Committee simply feels that these programs should not be discriminated against and that cutbacks in LEAA appropriations should be borne proportionately by all segments of the criminal justice system and not just some. This is certainly true with respect to juvenile delinquency, which is already favored with a large percentage of these funds, plus the special appropriation of $75,000,000 which has already been made.

Mr. McCLELLAN. It is unfortunate that we have to legislate and discuss important legislative issues in an empty Chamber.

I do not say that to criticize any Member of the Senate. I am often absent, too. Our workload is such that it is impossible for us to be in the Senate Chamber and listen to debate all the time. But, Mr. President, I am certain that if the Members of this Senate understood this amendment, if they knew the burden it would impose on other valid, needed, criminal law enforcement programs, the Senate would turn this amendment down.

The Senator's amendment, if agreed to, will provide, in addition to the $75 million we have already appropriated for juvenile delinquency under the Juvenile Delinquency Act, $129,837,000 more to come out of all of the LEAA programs. It earmarks that much out of the LEAA appropriation for juvenile delinquency programs. This constitutes 19.15 percent of the total LEAA appropriation, including the administrative cost of this program.

Mr. President, nobody is against this program. My distinguished friend from Indiana spoke a few minutes ago about the shortage of funds. There is a shortage of funds. Appropriations for the LEAA program have decreased. In September 1974, the Juvenile Justice Act was enacted and earmarked about $112 million for the maintenance of the LEAA juvenile program under the Crime Control Act. This fixed dollar figure amounted to 19.15 percent of the total funds appropriated in 1972 for grants under parts C and E of the Omnibus Crime Control and Safe Streets Act of 1968. That is where the 19.15 percent originates. At the time, the appropriation for LEAA criminal justice programs for fiscal year 1975 were $880 million.

Mr. President, S. 2212 as reported by the Judiciary Committee leaves the percentage the same—19.15 percent of the total appropriation for those two parts of the LEAA Act.

Mr. President, since fiscal year 1975 the appropriations for the law enforcement assistance program have decreased by some $202 million. Thus, for all of these LEAA programs we are getting about 22 percent less in criminal justice appropriations today than we had in fiscal year 1975. What we undertake to do in this bill, and which I believe to be fair and just, Mr. President, is to make the juvenile delinquency program maintenance of effort provisions 19.15 percent of whatever is appropriate for parts C and E of the LEAA Act. This is the same ratio expended in 1972 on juvenile programs. Since 1974 we have given juvenile delinquency special treatment by appropriating an additional $75 million a year for fiscal year 1977 under the Juvenile Justice Act.

There are some things that are just and equitable. I might single out one particular program or effort in law enforcement as the best program of all. Someone else might think another program is the best. I hasten to agree that juvenile delinquency is an important program. But, Mr. President, I do not think that we ought to make this appropriation in the amount required by the Senator's amendment at the expense of, for example, the prevention of crime against the elderly. That program would have to be decreased under this amendment.

The PRESIDING OFFICER (Mr. ALLEN). The time the Senator has allotted to himself has expired.

Mr. McCLELLAN. I yield myself an additional 5 minutes.

Mr. President, the program to prevent drug and alcohol abuse is in this appropriation. The program to increase minority representation in criminal justice programs, such as minority recruiting in police forces and correctional agencies, is involved and there will be some adverse impact on them. The law enforcement education program would be affected. I think these are some of the best programs, Mr. President, we have had in this field.

There are also community anticrime programs; career criminal programs; programs to divert offenders from the criminal justice system; court planning programs; programs to reduce court backlogs; adult corrections and rehabilitation programs; work release programs; prison industries program; community-based correction programs.

There are others, Mr. President. I could go on. All of these would be affected, or most of them, certainly, because the money would be diverted to juvenile delinquency programs.

Mr. President, I have one other thought. The bill which is before the Senate is as it was reported originally by the subcommittee. In the full committee, the distinguished Senator offered an amendment that would simply perpetuate the amount of dollars—$112 million each year out of these funds—irrespective of the amount appropriated. That was the minimum.

That amendment, Mr. President, was rejected, as I recall by a vote of 7 to 5, by the full committee. Now the distinguished Senator from Indiana wants to add on the floor an additional $17 million, over and above what the Committee on the Judiciary rejected. That, I believe, is the Senator's amendment.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. BAYH. The Senator is not suggesting the amendment I offer is not a proper amendment to offer at this time, is he?

Mr. McCLELLAN. I am not suggesting that. The Senator has a right to offer it for $100 million, if he sees fit.

Mr. BAYH. If the chairman will accept it, I am prepared to offer it for $100 million.

Mr. McCLELLAN. I think the Senator is already advised about my position.

Anyway, Mr. President, I point out that the full committee rejected the $111 million. Now the distinguished Senator wants $129 million.

Mr. President, if a case can be made for further expenditures for juvenile delinquency, let it be made under the special act to deal with juvenile delinquency. If Congress approves it then, it would not detract from and would not injure the other programs.

I am pursuaded, Mr. President, that if we keep cutting down on the moneys that go for the programs that I have enumerated and others, there will be a time, and it will come soon, when we might as well abandon the whole program. We have already had to reduce, but the distinguished Senator, notwithstanding $75 million extra on top under the Juvenile Justice Act, now wants to even take more under the Crime Control Act. $129 million.

Mr. President, I note that, besides the distinguished Senator from Indiana, the distinguished ranking minority member of the Judiciary Subcommittee, Mr. HRUSKA, and the occupant of the chair, there are no other Senators here to listen to this argument. Whether either the Senator from Indiana or I can convince these empty chairs that our position is right, I doubt. In any event, that is what we are confronted with. Because we have a Government today that is so big and so complicated, and democratic processes that take so much time, it is just a physical impossibility for Senators to be present where all of the action is all of the time. It is one of those things we have to deal with, Mr. President.

I submit for the RECORD that it will be a great injustice to other programs and to the LEAA as an agency, in my judgment, to go as far as the distinguished Senator from Indiana proposes that we go.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I yield the distinguished Senator from Nebraska 10 minutes.

Mr. HRUSKA. May I have 15 minutes?

Mr. McCLELLAN. Fifteen minutes.

Mr. HRUSKA. Mr. President, the pending amendment submitted by the Senator from Indiana has to do with provisions in section 261(a) and 261(b) of the law. The Senator from Indiana should be commended for his zeal and his intense and persistent interest in advancing the cause and the activity of dealing effectively with juvenile delinquency, its prevention, and its control. All of us are sympathetic with that goal.

But in order to put the matter in perspective, Mr. President, I call attention to these facts:

It should be borne in mind that the total of LEAA funding is less than 5 percent of the total expenditure for law enforcement by all of the 50 States and their many political subdivisions. At stake here, as required by the Bayh amendment, is the figure of $205 million for juvenile delinquency and juvenile criminal justice. That figure, Mr. President, is just about 2.5 percent of the total moneys, nearly $15 billion annually, spent by the States and their political subdivisions for all facets of law enforcement.

Finally, it remains for the States and their political subdivisions to furnish the bulk of funds for law enforcement. The LEAA was not created nor is it expected to fund in a substantial way the law enforcement efforts of the States and localities of this Nation. That was not its purpose.

Its purpose was to serve as a catalyst in distinctly unique and innovative ways to strengthen and to encourage improvement of law enforcement, but not to serve as a vehicle or even to any degree as a substantial vehicle for the funding of these vast efforts to enforce the law.

Mr. President, the bill as written and reported by the Judiciary Committee does not prevent any community or any State from increasing its efforts in juvenile criminal justice over and above what they receive from LEAA. On the contrary, it encourages them to do so. That 1.5 percent, which is the percentage of the Senator from Indiana in his amendment, even under his extravagant figure of $205 million, comes from Federal funds. This means that 98.5 percent has to come from the States and localities. That is inescapable.

The addition of $47 million by reason of the amendment by the Senator from Indiana is neither going to make nor break, Mr. President, the juvenile delinquency prevention and control efforts in this Nation. But I will tell you what it will do: The increase of that $47 million will erode temporarily, if not totally impair, the block grant concept upon which the LEAA is founded.

The requirement that an additional $47 million be spent by LEAA on juvenile delinquency out of total available funds means that the achievement of comprehensive, balanced State plans to deal with law enforcement in all of its aspects will be substantially prevented.

The LEAA recognized that law enforcement is the chief and principal concern of State and local governments, and accordingly, that it is for them to determine priorities for law enforcement and criminal justice spending not the Federal Government. In order to improve the enforcement of the law in those areas, the Federal law, LEAA, requires the formation by each State of a comprehensive balanced State plan to deal with that problem. The disproportionate amount which is requested under amendment No. 2048 will interfere with the achievement of that goal.

The $205 million which would be available if the spending amendment is adopted is 30-plus percent of the total fiscal year 1977 appropriation for LEAA. Mr. President, that amount of $678 million in the present appropriation law for this purpose is meant to cover the many programs to which the Senator from Arkansas referred, including the discretionary fund grants to the States and cities, the programs for prevention of crimes against the elderly, Indian justice programs, the training programs and educational programs for officers, the establishment of community and crime programs, and so on. But by adopting this amendment, 30 percent of that money will be devoted to only one aspect, important and vital as it is, of the total law enforcement picture. That is not within the spirit of the LEAA law. We must reconcile ourselves to this idea and the fact that whatever amount is granted in this bill is still a very insignificant proportion and percentage of the total amount that must be appropriated and expended by State and local authorities.

If juvenile delinquency is going to be preferred to the extent of 30 percent it means, for example, the moneys available to improve the court system will be reduced. It means that those funding activities in LEAA for special meetings and conferences and other efforts to improve prosecutorial procedures and prosecutorial expertise and methodology, will be by the boards. Without the development of a well-rounded, well-balanced program the LEAA concept will not be achieved and it will not serve the maximum use to which it can be placed.

It is for these reasons that we should retain the percentage that is set out in the committee-approved bill, $47 million less for juvenile delinquency to be sure, but, nevertheless, assuring to those activities an ample amount for the purpose of demonstrating and getting off the ground, for the purpose of training, encouraging, and developing new techniques, new methods, new approaches to that problem.

The distinguished Senator from Indiana (Mr. BAYH) did not support S. 2212 as reported by the Judiciary Committee because of the modification of the maintenance of effort provision. His amendment (No. 2048) would strike the committee's modification contained in section 261(b). The amendment, in effect, mixes apples and oranges. It apparently proposes to take the percentage of funds allocated for part C and part E grants in fiscal year 1972 that were devoted exclusively to juvenile delinquency programs—19.15 percent of the total—and apply it to the total Crime Control Act appropriation for each fiscal year beginning with 1977. Thus, the amendment is both factually inaccurate and contradictory in its terms.

It seems clear to this Senator that if

19.15 percent of the grant funds allocated under parts C and E of the Crime Control Act in fiscal year 1972 were expended for juvenile delinquency programs, then maintaining that level of effort should require that the percentage be applied to the same source of available funds.

The application of the 19.15-percent figure to the total Crime Control Act allocation severely distorts the purpose of the percentage maintenance of effort provision proposed in the Judiciary Committee bill. Instead of expending a minimum of $82,738,533 of the total parts C and E allocation of $432,055,000 for fiscal year 1977, LEAA would have to maintain a level of $129,837,000 of the total Crime Control Act appropriation of $678 million. This entire $129,837,000—an increase of $47 million—would come from the parts C and E allocation, an amount in excess of 30 percent of the available funds for juvenile delinquency programs under the Crime Control Act.

This would not only destroy the desired flexibility, it would destroy the State planning process and turn the Crime Control Act into a juvenile delinquency program. If this is desirable, why did we pass a Juvenile Justice Act and appropriate $75 million for it in fiscal year 1977?

I must point out that the Judiciary Committee bill does not "repeal" the maintenance of effort requirement as was originally proposed by the administration bill. The repeal proposal was premised on a desire to "decategorize" Crime Control Act funds and return the planning-and-priority-setting role to the States. In addition, the administration desired to achieve funding flexibility in a period of uncertain appropriation levels.

The Judiciary Committee desired to provide flexibility while at the same time assuring that the purpose of maintenance of effort—guaranteeing that funds appropriated for the Juvenile Justice and Delinquency Prevention Act were not utilized in lieu of Crime Control Act funds—was retained. The committee bill fully achieves this goal through its percentage maintenance of effort requirement. The committee vote in favor of revision represents a bipartisan committee effort to strike a balance between differing interests.

The administration has been forthright in its reluctance to provide high levels of funding for the Juvenile Justice and Delinquency Prevention Act. In a time of economic recovery difficult decisions have had to be made in order to hold down Federal spending. Funding for many new programs, such as the Juvenile Justice Act program, have had to be curtailed. However, the President did sign the Juvenile Justice Act into law in 1974. Hopefully, his commitment to the act will result in increased appropriation levels as our Nation's economic recovery continues. In the meantime, funding levels under the Crime Control Act have similarly had to be curtailed.

Decreased appropriation levels for the Crime Control Act have put a great deal of pressure on LEAA and the 55 State planning agencies in the determination of funding priorities. Existing programs have had to be cut back. New and innovative programs cannot be funded. To add to these difficulties by either retaining a flat maintenance of effort level or an inaccurately applied percentage level would simply compound the problem. We cannot view one program area, such as juvenile delinquency programing, as inherently more important that others. Police, courts, corrections, public education, training, citizens' initiatives, and other program areas are all vital to the total effort to improve the law enforcement and criminal justice system. We cannot shortchange all of these important program areas in order to further one component of the system.

In fiscal year 1972 LEAA funds totaling $111,851,054 were expended for juvenile delinquency programs. The 1972 level was used as a base because it was the latest year for which plan allocation levels were available at the time the Juvenile Justice Act was passed. Subsequently, and in conformity with the maintenance of effort requirement, a detailed analysis by LEAA established the actual expenditure level. This level, 19.15 percent of available Parts C and E funds, is a reasonable share for juvenile delinquency programs in view of the fact that it includes only clearly identifiable juvenile delinquency programs and projects. Many programs and projects with juvenile delinquency components, or which included juveniles in the service population, or which clearly had an impact on delinquency prevention—such as police programs—were not included. Therefore, I must conclude that the level of 19.15 percent of Part C and Part E allocations is an adequate minimum level. Nothing prevents LEAA and the States from spending more than the minimum level, and, indeed, I hope they do so. However, Congress should not be a party to imposing either a flat level of expenditure requirement or an inaccurate percentage requirement which could stifle the basic priority-setting role which Congress has rightfully given to the States and which has the potential to disrupt the State planning process.

I submit that the proper vehicle for Congress to establish an increased emphasis on juvenile delinquency programs is increased funding of the Juvenile Justice and Delinquency Prevention Act. Congress has done this by appropriating $75 million for the act in fiscal year 1977. That act, still in its infancy, offers a wide variety of methods and techniques to combat delinquency. It is innovative and progressive in scope. LEAA has laid the groundwork, through its implementation of the act, for the first truly coordinated, comprehensive approach to meeting the needs of the Nation's youth through Federal leadership and funding.

The administration bill to extend the Juvenile Justice Act was submitted May 15, 1976, the day after the Judiciary Committee voted to modify the maintenance of effort provision through the percentage mechanism. On May 20, 1976, LEAA Administrator Richard W. Velde testified before the Senate Subcommittee To Investigate Juvenile Delinquency. Mr. Velde testified that the administration would support the percentage maintenance of effort level as proposed by the Judiciary Committee.

I am committed to an effective Federal effort to deal with the problem of delinquency. I am not, however, willing to risk the emasculation of the Crime Control Act and the needs of the entire law enforcement and criminal justice system in the United States, in order to achieve that objective.

Mr. President, by way of summary, I would like to reiterate the major points against this amendment:

ARGUMENTS AGAINST BAYH AMENDMENT TO INCREASE JUVENILE JUSTICE PROGRAMS

	Millions
Total LEAA funds (FY 77 appropriation)	$753
Committee Bill Allowance for Juvenile Justice Program	158
Bayh Amendments for Juvenile Justice	205

The latter figure is 30 percent of the total LEAA appropriation and would be greatly disproportionate to the entire criminal justice picture.

The amendment impairs and nearly destroys the block grant concept upon which LEAA is based.

It greatly hampers or even prevents achievement of "comprehensive" and balanced state plans required by the law.

Would greatly deprive the states to plan and use funds tailored to the needs within their respective borders.

The $47 million increase in funds between the Bayh amendment and committee bill must result in cutting other existing LEAA programs, some of which are:

1. Discretionary fund grants to states, cities, etc.
2. Programs for the prevention of crimes against the elderly.
3. Indian justice programs.
4. Programs to prevent drug and alcohol abuse.
5. Programs to increase minority representation in criminal justice programs (such as minority recruiting in police, court, and correctional agencies.)
6. Programs to train and educate police officers.
7. The establishment of Community anti-crime programs.
8. Career criminal programs.
9. Programs to divert offenders from the criminal justice system.
10. Court planning programs.
11. Programs to reduce court backlog.
12. Adult correctional and rehabilitation programs.
13. Work release programs.
14. Prison industries programs.
15. Community based correction programs.
16. Training of judges and court administrators.
17. Upgrade probation and parole efforts.
18. Research into causes of crime.

Mr. President, by way of summary, let me say that the total appropriations for fiscal year 1977 is $753 million, the committee bill allowances for the juvenile justice program are $158 million, and the Bayh amendment for juvenile justice would increase that to $205 million, which is an increase of $47 million. That figure of $205 million is 30 percent of the total appropriation for all activities of LEAA.

The amendment impairs and nearly destroys the block grant concept upon which LEAA is based. It greatly hampers and very nearly prevents achievement of that comprehensive and balanced State plan which each State is required by law to prescribe and submit.

Mr. BAYH. Mr. President, if the Senator will yield a moment for a question, I do not wish to interrupt, but he said this will destroy the block grant concept. Unless I am wrong, we are talking about different things, because the bill now contains in it the same 19.15 percent mandatory level for juvenile programs as the Senator from Indiana suggested.

Mr. HRUSKA. The Senator from Indiana should remember that this involves a comprehensive plan, and the block grants, while they as such go unimpaired to the States, nevertheless, they would be reduced to the extent that they are part of the entire scheme. In my judgment, they are being reduced in their efficacy and in their applicability to such an extent that the most efficient use of the block grants will be greatly impaired. That is my contention.

Mr. BAYH. The Senator does agree that under the bill as recommended by himself and the Senator from Arkansas the same 19.15 percent level is required under block grants C and E to be devoted to juvenile delinquency as the Senator from Indiana is requiring. It is the same level of funding that will go to juvenile delinquency in block grants.

Mr. MATHIAS. Mr. President, while the Senator is pausing, will he yield for a unanimous-consent request?

Mr. HRUSKA. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Robert Kelley of my staff be granted the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. I thank the Senator.

Mr. HRUSKA. It is not quite true. I understand the Senator to say that the 19.15 percent is the same in the committee bill as it is in the Bayh amendment. Is that correct?

Mr. BAYH. As far as block grants?

Mr. HRUSKA. Yes.

Mr. BAYH. The Senator said this decimates block grants.

Mr. HRUSKA. There is no question about it.

Mr. BAYH. All right.

Mr. HRUSKA. I did not say in my statement that the block grants were reduced. I said in my statement that the amendment impairs and would nearly destroy the block grant concept upon which LEAA is based, and I believe that to be true.

Mr. BAYH. I hope the Senator will explain to the Senate how sending the same amount of money back under his proposal and my proposal will destroy block grants.

Mr. HRUSKA. The Senator perhaps is playing fast and loose with 19.15 percent, Mr. President, because while the committee amendment applies that percentage to the total appropriations for parts C and E, as I read the amendment of the Senator from Indiana, that percentage is not confined to those funds; it is applied to the entire gross appropriation for LEAA.

Mr. BAYH. The Senator from Nebraska is absolutely right. The Senator from Indiana has not played fast and loose with it. I specified from the beginning what we were trying to accomplish. I simply differ with the Senator from Nebraska as to how broad the 19.15 percent should be. I apologize for interrupting, but when he tells the Senate it is going to decimate and destroy the block-grant concept and yet the dollars going back under his concept and mine are identical, it is difficult for the Senator from Indiana to understand how much destruction is going to result then.

Mr. HRUSKA. Let me proceed further to say, Mr. President, that this amendment would greatly deprive the States of the ability to plan and use funds tailored to meet the needs that actually exist within their respective borders. Instead of being able to have that increase amount of $47 million available for allocation to all aspects of law enforcement, they will be required to surrender their option as to 30 percent of that for a single cause, important, of course; vital, of course, and one of the most worthy objectives of anyone who is an advocate and champion of effective law enforcement. But, nevertheless, it throws it off balance, and it is at the expense of reducing too drastically other aspects of law enforcement which must be taken into consideration.

Mr. President, it is my earnest hope that the Senate will see fit to reject this amendment. The committee considered well and deliberately all of these aspects and came out wtih the conclusion that is found in the pages of the bill as now written and particularly as written in section 261(b) of the Juvenile Justice and Delinquency Prevention Act. It is my hope that the amendment will be rejected.

I yield back the remainder of my time, if any remains. I yield the floor.

The PRESIDING OFFICER (Mr. Chiles). Who yields time?

Mr. BAYH. Mr. President, I yield 10 minutes to the Senator from Maryland, who has been one of the most ardent supporters and architects of this legislation.

Mr. McCLELLAN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MATHIAS. I yield.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Mr. Sam Simon, of the staff of Senator Durkin, be granted the privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I thank the Senator from Indiana for yielding me some time and for his generous remarks.

I reiterate my full support for the amendment which has been offered by the Senator from Indiana, of which I am a cosponsor, and I shall state the reasons why I feel compelled to support the amendment as strongly as I do.

This amendment requires that 19.15 percent of the total LEAA budget be spent to combat juvenile delinquency. It is vitally important that we maintain our efforts through the LEAA program to prevent juvenile crime and delinquency. The citizens of this country cannot help but be dismayed, discouraged, and upset by the astounding fact that, although youths from 10 to 17 years of age comprise only 16 percent of the national population, they account for more than 45 percent of all the people arrested for serious crime. Think about it: The criminal record of this group within our population is three times as great as its percentage of the population. They comprise 16 percent of the population, and they account for 45 percent of all people arrested for serious crimes.

I must report to the Senate that I am not speaking here just from the record. I am not just reporting from statistics, because, as a member of the subcommittee, I undertook some hearings on this subject.

I looked at the problems which have arisen as a result of inadequate resources for the juvenile justice system in my own State of Maryland. With the authority of the Juvenile Delinquency Subcommittee, I held hearings in Annapolis, Md., and in Baltimore, Md., because I wanted to find out just how effective the Juvenile Justice and Delinquency Prevention Act of 1974 has been, as it has been operating, and to see if more should be done than has been done.

During the course of these hearings, I found that, in spite of the 1974 act, Maryland's juvenile delinquency problem is very, very far from solved, and Maryland's problems are not unique. In fact, they are typical of the whole scene across the country.

In Anne Arundel County, one of our great, historic counties in Maryland, where Annapolis, our capital, is located, the number of juveniles arrested increased more than 100 percent in the last 4 years. That does not speak very well for the effectiveness of the programs that have been operated in the last 4 years. The number of juveniles arrested increased 100 percent.

Mr. Warren B. Duckett, Jr., who is the State's attorney for Anne Arundel County and is a distinguished Maryland lawyer, testified that we are "practically powerless to deal with most juvenile crime." He went on to specify that he was powerless because of "insufficient police, insufficient prosecutors, and insufficient staff in juvenile services."

As a result of these hearings, I can report that most of the juvenile crimes committed are thefts, burglaries, and acts of vandalism. But I also have to warn the Senate and warn the country that the number of violent crimes, crimes such as personal assaults, is on the increase among this group of young offenders.

Mr. Robert Hilson, the State director of the Youth Services Administration, testified before the subcommittee that the Juvenile Justice and Delinquency Prevention Act of 1974 has not helped Maryland's difficulties significantly "in part because of inadequate funding and in part because of all the procedures involved."

Mr. Richart Wertz, the executive director of the Maryland State LEAA, advised that if the spending limits authorized were actually appropriated for juvenile crime projects, we would still "not even begin to scratch the surface of the needs of the State." The funds that Maryland will receive for the next fiscal year, $510,000 will permit only a very severely limited set of programs, and I am sure that other States find themselves in comparable situations.

We had testimony before the subcommittee from an 18-year-old former delinquent from Prince Georges County, Mr. Steven Walker, and he spoke about the communication gap between troubled young people and our society. His comment was:

> They never even find out what teenagers think.

And that should be a warning. It should be a warning to all of us.

We must be particularly disturbed when a professor of law, an expert on juvenile crime, calls the juvenile justice system a "total absurdity" and a "big facade." That is exactly what Peter Smith of the University of Maryland Law School called it at the Annapolis hearings. As he testified, we must shift our emphasis from plea bargaining to rehabilitation programs, professional and peer counseling and, most important, prevention.

Ther are no simple solutions to these problems, and there is no single factor which can be held responsible for the dramatic increases in juvenile crime. I suppose that drug abuse; the breakdown of the home and the family; violence on television, as we have been told often by the distinguished Senator from Rhode Island (Mr. PASTORE); and the very high juvenile unemployment rate, especially unemployment among minority groups, are some of the factors contributing to the problem. However, the ineffectiveness of the courts exacerbates the situation; and all the problems—whatever they are, wherever they are—have to be dealt with if we are to combat the serious problem of juvenile crime.

Mr. President, I would not bring the problems of Maryland to the attention of the Senate if I did not know, as I said, that they are representative of the problems shared by every one of the other 49 States. The statistics may be a little different, they may vary slightly from State to State, but the problems are the same throughout the country.

I think it is clear that the Federal Government has to take a more active role in meeting the needs of troubled youth who, in the absence of effective help, are likely to become serious delinquents and, ultimately, accomplished criminals.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. MATHIAS. May I have 3 additional minutes?

Mr. BAYH. Yes, I yield.

Mr. MATHIAS. I am convinced, therefore, that the percentage proposed in this amendment—which is a reasonable one in relation to the size of the juvenile crime problem—deserves the support of the Senate. States have proved more than willing to initiate the programs offered under the Juvenile Justice and Delinquency Prevention Act of 1974, but they simply do not have the funds. A rejection of the amendment will in effect stagnate all efforts to deal with juvenile delinquency, which has now reached epidemic proportions.

A young man in a youth center in Arizona wrote a poem which ended with the following words:

My life was wasted the day I was born
My life, my heart, it was all torn.
Why did everything go wrong?

As a society, we must devote ourselves to ending this tragic waste of human lives and commit ourselves to restoring hope and purpose to the lives of young people in trouble. The amendment before us will move us toward this goal.

Mr. President, I ask unanimous consent that press reports of the recent hearings of the Juvenile Delinquency Subcommittee held in my State of Maryland be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Baltimore Evening Sun,
June 23, 1976]

SENATOR MATHIAS HEARS YOUTH CRIME WOES

(By Michael Wentzel)

ANNAPOLIS.—Senator Charles M. Mathias (R., Md.) heard nothing but bad news yesterday when he conducted a hearing here on the state of juvenile delinquency.

Witnesses told Senator Mathias of insufficient funding for programs and staffing, unequal justice for juveniles, and described a system that is virtually powerless in the face of increasing juvenile crime.

Senator Mathias, who conducted the hearing for the Senate Subcommittee on Juvenile Delinquency, said there was "an urgent need" to devote more money and more programs to juvenile justice problems.

He said that persons between the ages of 10 and 17 make up 16 per cent of the country's population but account for 45 per cent of the arrests in the country.

"Juvenile crime accounts for half of the country's crime problem," Senator Mathias said, "yet this is the area that is constantly shortchanged."

Warren B. Duckett, the Anne Arundel county state's attorney, gave the senator county statistics that showed that 2,646 juveniles were charged with crimes in 1971 while 5,384 were charged in 1975.

"We are practically powerless to deal with most juvenile crime," Mr. Duckett said. "We have inefficient police, insufficient prosecutors and insufficient staff in juvenile services."

Peter Smith, an attonrey and University of Maryland juvenile justice expert, told Senator Mathias, "The juvenile justice system is a failure, the battle for equal justice for juveniles is being lost and the battle for meaningful treatment for juveniles is being lost."

"We continue to fail to devote resources and talent to these problems, Mr. Smith said. We will spend much more on one B–1 bomber than on the state's entire budget for juveniles. This is absurd. Until we make a commitment to the meaningful things in life, we can go on having hearings like this that will be no good."

"In terms of national security, domestic tranquillity and the common defense," Senator Mathias said, "the question of what is being done for the young poeple is of a greater concern."

The senator said that he has found that those "who use the rhetoric of law and order" usually are the ones that vote against programs to attack juvenile delinquency.

Richard C. Wertz, executive director of the Maryland Governor's Commission on Law Enforcement and the Administration of Justice, complained about the low federal funding of the Juvenile Delinquency Act of 1974.

Maryland received a total of $510,000 for implementation of the broad act.

"This means that we could pay for no more than 51 beds in group homes throughout the whole state," Mr. Wertz said. "How does that begin to approach the problem?"

Senator Mathias will conduct another hearing on juvenile justice Thursday at 9 A.M. in the Fallon Federal Office Building in Baltimore.

[From the Baltimore News American,
June 23, 1976]

U.S. EFFORTS TO CURB JUVENILE CRIME CALLED FAILURE

(By Mark Bowden)

ANNAPOLIS.—A battery of state law enforcement and juvenile justice experts sharply criticized federal efforts to deal with increases in juvenile crime here Tuesday.

The experts testified to Sen. Charles McC. Mathias in the first of two hearings this week reviewing effects of the 1974 Juvenile Justice and Delinquency Prevention Act. They said more concern, efficiency and money would be needed to curb alarming increases in crimes committed by youths.

Anne Arundel County State's Atty. Warren B. Duckett, Jr. began the hearing with statistics reflecting growth of delinquency in that county. Arrest rates for youths had doubled in the last five years, Duckett said, jumping from 399 arrests in Annapolis alone during 1971 to more than 1,000 last year.

More than 200 of Arundel youths had criminal records totalling more than five arrests, Duckett said, and some youths have been arrested as many as 40 times.

Sen. Mathias quoted statistics showing youths between the ages of 10 and 17 account for only 15 per cent of the U.S. population, but commit 45 per cent of reported crimes. These indicators, along with tales of bureaucratic inefficiency, led Sen. Mathias to conclude that the federal effort had been a "spectacular failure."

Peter Smith, a law professor at the University of Md. Law School who specializes in juvenile justice, roundly criticized the growing bureaucracy of agencies and systems to handle problem youths. Smith said the system exists to serve itself, not the people who need it.

"A funding dilemma" accounted for the failure of federal efforts in this state, according to Richard C. Wertz, director of the Governor's Commission on Law Enforcement and the Administration of Justice. Appropriations did not match legislative commitments, Wertz said.

Maryland received only $510,000 last year from Congress to special programs for delinquent youths, which was enough, Wertz said, to house 51 boys in a group home for one year. He pointed out that his commission directed 25 per cent of its federal block grant funds to juvenile programs.

"Every program in Maryland that gives some kind of service to youth, from those associated with schools across the board, needs a thorough re-evaluation," said Robert C. Hilson, director of the State Dept. of Juvenile Services. "More money is not all that is needed. Given the same appropriation, a thorough reorganization would go a long way toward solving part of the problem.

"Right now we have ineffective programs that have become entrenched. It's just like with any other system, often programs outlive their usefulness and just soak up desperately funds. We have to be willing to establish new approaches when and wherever neccessary, and lop off the ones that no longer measure up."

Hilson said trends in juvenile crime showed a steady increase in suburban communities and a slight decrease in rates inside Baltimore. He attributed this shift to increasing suburban populations and ineffective local efforts to develop recreational programs for youths.

"The kids out there have nothing to do," Hilson said. "They start hanging out at the shopping center when there's a temptation to shoplift or get involved with drugs."

[From the Hagerstown (Md.) Morning Herald, June 23, 1976]

Mathias Blasts Crime Inaction

ANNAPOLIS.—Citing a rising rate of juvenile crime, Sen. Charles McC. Mathias said Tuesday that government at all levels has done a "lousy job" of preventing juvenile delinquency.

The assessment of government programs was made by the Maryland Republican following the first of two hearings this week in Maryland by the Senate Juvenile Delinquency Subcommittee, of which he is the ranking GOP member.

Mathias' opinion was not challenged by any of the eight witnesses ranging from a prosecutor to a former teenage criminal who appeared before the panel to urge greater government spending to combat the juvenile crime problem.

"It's shocking to find in Anne Arundel county alone juvenile crime is up 100 per cent in five years," said Mathias, whose subcommittee is reviewing the operation of the Federal Juvenile Justice and Delinquency Prevention Act of 1974.

"If government can't do better than this, it surely is just a matter of time before the governed withdraw their consent altogether," he said, adding that the rising juvenile crime rate indicates the 1974 law and its funding program have been a "spectacular failure."

"We've done a lousy job of prevention of juvenile crime in the last five years," the senator said, adding that the chief emphasis should be on identifying potential juvenile offenders before they become criminals.

Peter Smith, a University of Maryalnd law professor specializing in juvenile justice, said that the juvenile justice system is a "total absurdity" because it is poorly funded and is last in line for anticrime appropriations.

"It's all a big facade," he charged. "The system is designed to serve the system. The people in the system are serving the system. They are not serving the victims. They are not serving the defendant."

State's Atty. Warren Duckett of Anne Arundel county said the normal juvenile justice system is filled with inefficiency and places more importance on processing of individuals than improving them.

Duckett said he is pleased with the operation of a pilot program in the county under which juvenile offenders voluntarily go before an arbitrator in their community for hearings instead of the formal judicial system. The arbitrator can order offenders to work for county agencies as punishment.

Duckett said the program has had a lower repeat offender rate than the normal juvenile justice system and for the first time has involved the victim of a juvenile crime in the adjudication process.

Mr. MATHIAS. Mr. President, I reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Michael Klipper of the staff of the Subcommittee To Investigate Juvenile Delinquency have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Indiana. Although I understand his concern for juvenile justice programs, I am of the opinion that the percentage maintenance of effort requirement proposed by the Committee on the Judiciary more effectively carries out the original intent of the maintenance of effort requirement.

In 1974, Congress included a maintenance of effort provision as section 261 (b) of the Juvenile Justice and Delinquency Prevention Act. We also amended the Crime Control Act at that time to include a maintenance of effort provision in section 520(b). These provisions required that LEAA maintain at least the same level of parts C and E expenditures for juvenile delinquency programs as was expended in fiscal year 1972.

The purpose behind these amendments was not to give juvenile delinquency programs a larger slice of the Crime Control Act pie. Rather, our purpose was to insure that the funds made available under the Juvenile Justice and Delinquency Prevention Act were used to expand both the scope and overall amount of juvenile delinquency programing at the Federal and State level. Congress was guarding against the potential danger of a decreased emphasis on juvenile delinquency programs funded under the Crime Control Act and the transfer of program and project funding from the Crime Control Act to the Juvenile Justice Act.

In fiscal year 1975, the first year of funding under the Juvenile Justice and Delinquency Prevention Act, LEAA issued guidelines, binding upon the States, that insure the maintenance of the fiscal year 1972 level of effort. An extensive audit of fiscal year 1972 expenditures by each State—parts C and E block—and by LEAA—parts C and E discretionary—indicated that $111,851,054 of the total parts C and E fund allocation of $584,200,000 was expended for juvenile delinquency programs. This represents 19.15 percent of the available funds. Only those programs and projects which were clearly directed to juvenile delinquency were included in this total expenditure figure. I point this out because the 19.15 percent may be considered by some to be an inadequate overall juvenile delinquency grant program effort. To be accurate, however, one would have to consider the fact that many programs and projects indirectly impact the delinquency problem. For example, drug abuse projects, public education projects, citizens initiative projects, and many others significantly impact on delinquency. Yet these are not counted. General police funding is not counted in the total although 50 percent could be counted based on the proposition that juveniles account for 50 percent of all arrests for serious crime.

The Juvenile Justice and Delinquency Prevention Act was intended to be a supplement to the Crime Control Act effort. Congress did not intend to increase the relative proportion of Crime Control Act funds dedicated to juvenile programs. In view of the many aspects of law enforcement and criminal justice which compete for Crime Control Act funds I do not believe that the almost 20 percent of funds expended for clearly identifiable juvenile delinquency programs from parts C and E allocations can be considered inadequate.

For these reasons, maintenance of effort in the juvenile delinquency program area should be based on a proportional or percentage basis applied to the same sources of available funding for grant programs from which the 19.15-percent figure was derived. This will insure that Crime Control Act funds continue to be used to maintain the same relative emphasis on juvenile programing. That level may be greater or less than that current level of $111,851,054, depending on the future judgments Congress makes with regard to Crime Control Act appropriations.

If an increased emphasis on juvenile delinquency programing in future years is desired, that emphasis can be best accomplished through increased funding of the Juvenile Justice and Delinquency Prevention Act. Otherwise, we run the risk of building inflexibility into and unnecessarily categorizing the Crime Control Act program.

Mr. HRUSKA. Yesterday, an amendment was passed which required LEAA to establish an organizational group within LEAA to deal with a community anticrime program and to enable community and citizen groups to form volunteer anticrime units. I supported the amendment because I think community anticrime programs can be extremely effective in dealing with crime.

There is one point I would like to emphasize. When we are talking about community anticrime programs, we are talking about the full range of programs carried out by individual neighborhood and community groups, but also programs benefiting communities funded through national organizations such as the Junior League, the Urban Coalition, and the AFL–CIO. It encompasses all the types of programs currently funded by LEAA under its citizens' initiative efforts.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum, which should not be charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will someone yield me some time so I can ask some questions?

Mr. McCLELLAN. I yield 5 minutes to the Senator on the bill.

Mr. MANSFIELD. Mr. President, I would like to ask the distinguished Senator from Indiana, just what are the specific and basic purposes of the amendment which he has placed before the Senate?

Mr. BAYH. The basic purpose of this amendment is to continue the thrust we established in the 1974 act.

In listening to my two distinguished colleagues describe our 1974 commitment, it is totally inconsistent, not only with the memory of the Senator from Indiana, but with the RECORD.

During the 1974 debate, in which the Senator from Nebraska was involved, on July 25, 1974, the CONGRESSIONAL RECORD, at page 25161, the two objectives of the act were set out:

One, to guarantee a Crime Control Act maintenance funding level for juvenile crime programs. We were told by LEAA and OMB that it was $140 million. The true figure of $112 million was revealed after passage of the act in cross examination at committee hearings.

Second, to establish a separate and new effort in LEAA pulling 39 different agencies together, under the Juvenile Justice and Delinquency Prevention Office, that effort is now being funded at $75 million. LEAA, now must assist prevent efforts.

The first year's authorization was $75 million. This year's authorization is $150 million. We are only getting 50 cents on the dollar that we contemplated when the bill was passed.

Contrary to the assertions made, my amendment is not going to harm any other program in LEAA.

I do not know how extensive an answer the leader wants here, but what we are talking about is mandating that we have at least a 20 percent, or 19.15 percent, level for juvenile crime throughout LEAA programs.

Mr. MANSFIELD. If the Senator will yield to me, he has answered my point, I believe.

He is calling for an increase to take care of the juvenile delinquency and criminality which seems to be becoming more apparent percentagewise.

Mr. BAYH. Fifty percent, as I am sure the Senator knows, of all serious crimes committed in America are committed by young people under age 20. Fifty percent, and we are proposing across the board, with prosecutorial training, police officer training, juvenile institutions, et al., at least 19.15 percent within each category be directed to that age group that is causing 50 percent of the trouble.

Mr. MANSFIELD. Mr. President, I thank the Senator.

I would like to ask the chairman of the subcommittee, if this increase is granted, what would happen to the rest of the program as reported out of committee and now pending before the Senate?

Mr. McCLELLAN. This extra money has to come out of the other programs.

I might point out to the distinguished Senator what has happened. He speaks of $150 million being authorized in this special, extraordinary program for juvenile delinquency; $75 million has already been appropriated for that.

It does seem to me that if there is to be additional money for juvenile delinquency, the increase should be added to the special program for juvenile delinquency and not taken out of all these other law enforcement programs. That is what we are doing. The appropriations bill was for the $75 million. There was an authorization of $150 million.

No amendment was offered, I do not believe, by the Senator on that to increase it.

That was the place for it. But now the distinguished Senator wants to take it out of these other programs.

I point out to the Senator that in 1975, the total appropriation for LEAA under the Crime Control Act was $880 million. This year, only $678 million.

We have undertaken in the bill to keep the percentage of whatever is appropriated the same for juvenile delinquency programs, notwithstanding the extra appropriations that have been given juvenile delinquency under the Juvenile Justice Act.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLELLAN. We are keeping the same percentage in this bill as in 1972.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLELLAN. We are just trying to keep it equitable.

Mr. BAYH. May I yield myself a couple of minutes on the bill?

The PRESIDING OFFICER. The Senator has no time on the bill.

Mr. BAYH. On the amendment, then.

The PRESIDING OFFICER. The Senator has 21 minutes.

Mr. BAYH. Here we have, I believe, a legitimate difference of opinion. But the fact of the matter is that when we passed the 1974 act, everybody participating in the debate knew that we were establishing a new office of delinquency prevention as well as maintain the Crime Control Act level for juvenile crime. That is where the $75 million was authorized.

The reason the Senator from Indiana did not ask for more money when it was in the Senate was that all of us supported a $100 million level. The Senate figure for delinquency prevention was $25 million more than the compromise. The Senate figure was $60 million more than that from the House and $100 million more than the administration. The track record of the Senate on the funding for juvenile justice has been good, with the help of the Senator from Arkansas and the Senator from Rhode Island. But it makes little sense to provide a good start for the delinquency prevention office with one hand and then eliminate or significantly reduce the Crime Control Act maintenance level with the other. One hand not knowing what the other is doing or by design acting inconsistently has been the trademark of this administration on the issue of juvenile justice.

Mr. McCLELLAN. That is what the Senator is doing.

Mr. BAYH. No. That is what the Senator from Arkansas would have us do in the bill as it now stands.

Mr. McCLELLAN. Will the Senator yield for a moment? Where is this extra money coming from, except out of these other programs?

Mr. BAYH. The Senator is talking about apples and oranges.

Mr. McCLELLAN. It must come from regular funds.

Mr. BAYH. The Senator is talking about different things. That is part of our problem. The Senator says we ought to do all the juvenile crime fighting only in the special juvenile delinquency prevention office and that that is where I should be asking for additional resources. What good does it do for me to ask for the $75 million that we now have for the juvenile delinquency prevention office when, if we accept his proposal, we will have $30 million less next year than we are spending this year for local communities C and E programs?

Mr. McCLELLAN. Will the Senator yield?

Mr. BAYH. I will be glad to yield.

Mr. McCLELLAN. We have an appropriation for LEAA already passed of $200 million less than we had in 1975. The appropriations are going down for these programs. The special juvenile program, however, was enacted to undertake to meet that particular crisis. When we did not get all the money the Senator wanted in that program, the Senator comes and says we will take it out of all of these other LEAA programs. That is the effect of it. It cannot be anything else.

Mr. BAYH. The Senator from Indiana did not ask for more money. We received $100 million when the Senate passed the bill. At that time we were operating under the 1974 formula, which would have also had $112 million Crime Control Act moneys going back to the local communities. The Senator from Arkansas is asking for only $82 million to go back to local communities.

Mr. McCLELLAN. The Senator is getting the same percentage of the total appropriation under this bill that he received in 1972. The trouble is the appropriations have been reduced by $200 million. The Senator does not want the juvenile delinquency program to bear any part of that loss, notwithstanding the fact that we have passed a law and appropriated $75 million extra for that program, in addition to this. I do not think these other programs should be penalized.

Mr. BAYH. What decline? In 1972, LEAA expended $698,919,000. In fiscal 1977, we have provided $753 million for LEAA. So LEAA has a larger budget this fiscal year than in 1972 when LEAA reported that they spent $140 million Crime Control Act funds for juvenile crimes. As we later found out, however, they were not spending $140 million. When we got right down to looking at the fine print they were only spending $112 million.

If everybody likes what is happening out here on the streets, if everybody likes these glaring FBI report figures, then maybe we ought to support the status quo approach. Then we ought to be willing to accept the same percentage and let the emphasis on juvenile crime be reduced as far as total dollars are concerned.

But I do not like what is happening. And I reject this approach.

I would like to point out what we are talking about here. The stark figures that reveal the human misery that we speak about this morning.

Here is the 1974 FBI report: Robberies committed by persons under age 10, 571; aggravated assaults, under age 10, 814; ages 11 to 12, 2,000 robberies, 1,600 aggravated assaults; ages 13 to 14, 7,300 robberies, 5,400 aggravated assaults; age 15, 7,000 robberies, 4,700 aggravated assaults; age 16, 8,800 robberies; age 17, 9,400 robberies and 7,000 aggravated assaults. On and on and on. We must have a Federal effort commensurate with the nature and extent of juvenile crime in this country.

We are talking about kids preying on society. What I am suggesting is we ought to do something about it.

What I am saying is that there must be some give. The amendment offered by the Senator from Indiana would require $17 million more of Crime Control Act funds than would be available under the present maintenance level for juvenile crime. That $17 million will be spent within the categories of other programs. We are talking about a 2-percent increased emphasis on juvenile delinquency. We are talking about using $17 million more out of $753 million for juvenile crime throughout the range of LEAA programs. I think that is a very good investment. It should be more. The Senate figure of $100 million which we passed to deal with juvenile delinquency prevention was the Senate level. Unfortunately, we had to compromise and give up $25 million of that.

In 1973, we mandated a 30-percent level. This Senate passed a requirement that 30 percent of C. & E. grants be devoted to juvenile delinquency programs. Those moneys would go back to the local communities. We required that 30 percent be mandated for juvenile programs.

Now I am being criticized because I suggest the whole program ought to be less than 20 percent.

Let us not spoil the Senate's record. We have been far ahead of the White House in trying to provide some leadership for the country, in emphasizing the importance of juvenile delinquency programs, and I hope we will stay there.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

I have not criticized the Senator. By the same token, he is criticizing me for trying to protect all these other programs. I do not consider it criticism.

I believe we have a right to disagree without calling it criticism.

Mr. BAYH. Let me change the RECORD to say that the Senator from Arkansas and his friend from Indiana disagree. We are not criticizing one another.

Mr. McCLELLAN. Not criticizing. Very well.

Mr. BAYH. And we are smiling while we are disagreeing.

Mr. McCLELLAN. We are what?

Mr. BAYH. We are smiling while we are disagreeing.

Mr. McCLELLAN. If the RECORD can reflect that, I agree that it may so show.

Mr. President, I yield 5 minutes to the distinguished Senator from North Dakota.

Mr. BURDICK. Mr. President, I rise in opposition to the amendment submitted by the Senator from Indiana. It is with some reluctance that I do so because I recognize that the Senator from Indiana has worked hard to fashion programs designed to alleviate the juvenile delinquency problems in this country. In recognition of the Senator's great interest in juvenile matters, when S. 2212 was considered in the Judiciary Committee, the committee agreed to one of his amendments which would sustain the level of funding under parts C and E of the LEAA program. Thus the bill as reported by the committee would allocate 19.15 percent of parts C and E funds for juvenile programs. I do not believe that the Senate should go beyond the provisions of the bill and mandate that the same percentage be allocated to juvenile programs under all other parts of the act.

My reasons for reaching this conclusion are simply these:

During its consideration of this bill the committee had to deal with the request of State courts systems that a fixed percentage—20 percent—of block grant funds be earmarked for State courts. While there were strong arguments for such a percentage to be allocated for courts, ultimately it was concluded that if each segment of the criminal justice system was able to obtain a specific percentage of the funds that there would be little, if any, discretion left either to LEAA or to the State planning agencies. In lieu of a fixed percentage, the present bill contains language requiring LEAA to see that State courts get an adequate share of the available funds.

If we are to deny to State courts systems a specific earmarking of funds, I do not see how we can grant such a specific allocation to juvenile programs beyond that which the committee has already agreed to under parts C and E.

My second reason in concluding to oppose this amendment is the fact that the appropriation for LEAA has been reduced from approximately $1 billion to approximately $678 million. This will necessarily mean that the police, the courts, corrections and all other segments of the criminal justice system will receive less funds than in previous years.

I am particularly concerned with corrections, because I happen to be chairman of the Judiciary Subcommittee on Penetentiaries. This would mean a reduction in the following programs, among others: adult correctional and rehabilitation programs, work release programs, prison industries programs, and community based correction programs.

If we have one problem in this country, it is the question of recidivism; and I would not want to see any lowering of the program in that particular area.

If at the same time we are reducing the overall funding we were to write into the law a specific percentage allocation for juvenile programs, this would cause an even greater reduction in the amount of funds available to police, courts, corrections and other segments of the criminal justice system. It may be that in some States it is necessary for the State planning agency to spend more money on courts or on juvenile programs, but basically this is a decision that should be left primarily to State authorities acting through the State planning agency.

For these reasons Mr. President, I wish to oppose the amendment offered by the Senator from Indiana.

Mr. McCLELLAN. Mr. President, I now yield myself 3 minutes.

I think we should get this in proper perspective. The question before us is, are we going to increase to the extent of this amendment, up to $129 million, the appropriation that must be expended for juvenile delinquency programs under the Crime Control Act?

Mr. President, just as the distinguished Senator from North Dakota has pointed out, to the extent that we further increase the funds that must be spent on juvenile delinquency programs in the pending bill, every dollar of that has got to come out of funds for administration and these other law enforcement programs to which the distinguished Senator from North Dakota has referred and several others which I have already placed in the RECORD.

I do think, in all fairness to the whole criminal justice system, and to every condition that prevails today in crime, that each program under the Crime Control Act should bear its fair share of budget cuts, including juvenile delinquency. I do not believe simply because the Senate appropriations bill for $100 million for programs under the Juvenile Justice Act was not able to prevail in conference with the House of Representatives, and was reduced to $75 million, that we ought to come back here now and take it out of the hide of these other programs. They have some value, too.

Juvenile delinquency is not the only problem in this country today in the enforcement of the laws. If there is a locality or a State where there is special need for more money to deal with juvenile delinquency, there is no reason why they cannot get it under part C or part E. But to simply say that we are going to take 30 percent—it actually figures out, I believe, to 27 percent—of all of the money appropriated this year and require it to be spent for one single program, to the exclusion of the others, in my judgment is not equitable. It will not serve the best interests of law enforcement. When the cities, municipalities, and States seek money for other purposes, it will not be available, and those programs will not be approved because we will have taken a disproportionate share of the funds, singled them out, and put them in one single program.

This does not increase appropriations. It all comes out of the total; and when you take it out of the total, you take it away from the other existing programs and from the potential approval of new programs that may be submitted by your State and local planning agencies.

It is a matter that addresses itself to Congress, of course. But, Mr. President, I do not believe, if the membership of this body fully understood this issue, they could conscientiously vote to penalize, in effect, the other programs in order to benefit this one, which has already received extraordinary special treatment to the amount of an additional $75 million.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. BAYH. Before the Senator yields, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLELLAN. I yield to the Senator from Maryland—for a question, or does the Senator wish to make a speech?

Mr. MATHIAS. No, I just wish to raise a question with the Senator, because I am impressed and disturbed at what he says.

The facts of this situation are not doubted. Half of our crime in this country is being committed by juveniles. It is on the increase. As I said earlier, in parts of Maryland juvenile arrests are up 100 percent in the last 4 years. So whatever we are doing we are either not doing enough of, or not doing it right.

The Senator says, and I cannot contest what he says, that this amendment would starve other programs.

Maybe—and this is the question I have—maybe what we have to face very frankly is that we are not mounting a sufficiently strong and adequate war against crime in this country across the board. Maybe we are approaching it with inadequate resources, and that is the answer.

Mr. McCLELLAN. Would the Senator agree with me that here we have a multiplicity of programs that we are trying to protect and take care of under this bill?

Mr. MATHIAS. Surely I do.

Mr. McCLELLAN. And we have a special act and a special authorization of $150 million thereunder for the area in which the Senator is demonstrating his interest and which this particular amendment would undertake to serve.

It does seem to me, as a matter of practical justice, equality, and fairness to the other programs, since we have the means to provide more money for this purpose under the Juvenile Justice Act.

All you have to do is ask for more appropriations under that act. I might support them.

But I hate to take it away from other programs that I know are good, because they have already been reviewed.

It is no answer to say that juveniles commit over 50 percent of the crimes in this country. The courts process juveniles' cases; we are taking that away from them. Correction facilities are used for custody of juveniles; we are taking that from them. The police must solve these crimes and arrest those who commit them; we are taking money from all of that.

And above all, if this program is to do any good at all, in my judgment we have to listen to the local governments, the local entities, the municipalities, who know their problems best, and who submit a plan which, if approved, these funds undertake to accommodate, under the Juvenile Delinquency Act there is an authorization for $150 million and the Senator could offer an amendment on an appropriation bill for additional funds for it. That is the place to get the money rather than take it away from these other programs. Those Senators who favor this still have the opportunity to offer an amendment to an appropriation bill to increase those funds. But if we are really trying to get the money, let us get it out of additional appropriations and not from these other valued programs.

Mr. MATHIAS. If I could respond very briefly, I think the Senator is so right when he says we have to consider what the people on the front lines—the local people who deal with the problem—suggest. I can only reflect that I went to the local people. We took the subcommittee to Annapolis, Md., where this problem is a serious one, and they are desperate for help. As much as I would like to think that we could resolve this problem on an appropriations basis, and I think the Senator may be right that may be the ultimate solution to it——

Mr. McCLELLAN. That is right.

Mr. MATHIAS. But that is a speculative solution.

Mr. McCLELLAN. Will the Senator agree with me, it would be the right procedure rather than to deal unfairly with the other programs?

Mr. MATHIAS. I agree that perhaps what we are doing here is trying to fight a major war with inadequate troops, and we really perhaps have to as a nation, not simply as a couple of Senators in an empty Chamber this morning, but as a nation we may have to decide that we are going to have to commit more funds, more of our national wealth, to this problem if we are going to get it resolved.

Mr. McCLELLAN. The Senator understands my position. I am not taking issue with him with respect to that at all. It is a question of procedure here and what we are going to do with these other programs.

Mr. MATHIAS. Right.

Mr. McCLELLAN. Are we going to weaken them or not.

Mr. MATHIAS. I think the Senator and I stand on the same ground really.

Mr. McCLELLAN. All right.

I hope then that this effort to secure more money for the juvenile delinquency program will be made in the proper way under the Juvenile Justice Act and under the appropriation for that act and not do injury to the other legitimate law enforcement programs by taking money away from them.

Mr. BAYH. Mr. President, I wish to deal with both of these points.

The PRESIDING OFFICER. Is the Senator yielding time on the amendment?

Mr. BAYH. Yes, I yield myself time.

I have reviewed these facts and figures, and I do not in any way question the good faith of any of our colleagues who disagree. I simply look at these facts and figures and arrive at a much different conclusion. We are trying to encourage expanded community participation, not less. That is the heart of the 1974 act.

I ask unanimous consent to print in the Record a letter from the American Legion, a resolution from the National Council of Juvenile Court Judges, a telegram from the president of the National Council of Jewish Women supporting No. 2042, and a resolution of the National Association of School Security Directors, recommendation of the IWY Commission, and a list of those groups that have local private agency constituencies as the Boy Scouts and Girl Scouts, Campfire Girls, the YMCA, YWCA, and the Boys Club, endorsing the Juvenile Justice and Delinquency Prevention Act of 1974.

There being no objection, the material was ordered to be printed in the Record, as follows:

The American Legion,
Washington, D.C., July 21, 1976.

Dear Senator: The American Legion urges your support of Senator Bayh's amendment to S. 2212, The Crime Control Act of 1976, which is scheduled for floor action Friday, July 23.

The Bayh amendment would require that the Law Enforcement Assistance Administration each year shall maintain from appropriations a minimum level of financial assistance for juvenile delinquency programs that such bore to the total appropriation for the programs funding pursuant to part C and E of this title, or 19.15 percent of the total LEAA appropriation.

It is believed this formula approach affecting every area of LEAA activities provides a more equitable means of allocating crime control funds more nearly in proportion to the seriousness of the juvenile crime problem.

It is interesting to note that while youths within the age group 10–17 account for only 16 percent of our population they represent 45 percent of persons arrested for serious crime. More than 60 percent of those arrested for criminal activities are 22 years of age or younger.

The American Legion believes that the prevention of juvenile crime must clearly be established as a national priority, rather than one of several competing programs under LEAA jurisdiction. Your support of the Bayh amendment would help assure this.

Sincerely,

Mylio S. Kraja,
Director, National Legislative Commission.

Providence, R.I., *July 19, 1976.*

Senator Birch Bayh,
State Office Building,
Washington, D.C.

The National Council of Juvenile Court Judges at their annual convention in Providence Rhode Island on July 15, 1976 have instructed me to convey council's support to Senator Birch Bayh's amendment to S. 2212 which will require that 19 percent of the total LEAA appropriation be allocated for juvenile delinquency prevention and control program.

Hon. Walter G. Whitlatch,
President, National Council of
Juvenile Court Judges.

New York, N.Y., *July 22, 1976.*

Hon. James O. Eastland,
U.S. Senate,
Washington, D.C.

Urge you support Senator Bayh's amendment to Crime Control and Safe Streets Act of 1968. Juvenile crime prevention should be a priority of the Federal crime program and must have the necessary financial resources.

Esther R. Landa,
National President,
National Council of Jewish Women.

Resolution

In general assembly the National Association of School Security Directors on this 15th day of July 1976, does hereby resolve:

Whereas, juveniles account for the arrests involved in over half the serious crimes in the United States, and

Whereas, numerous schools in this country are suffering from serious and at times critical levels of violence and vandalism, and

Whereas, Congress has passed into law the Juvenile Justice and Delinquency Prevention Act which effectively addresses itself to these growing problems.

Resolved, therefore, that the National Association of School Security Directors supports the full implementation of the Juvenile Justice and Delinquency Prevention

Act and supports the retention of the maintenance of effort section of the Act.

INTERNATIONAL WOMEN'S YEAR

(48) Recommendation approved by Child Development Committee January 12, 1976; by IWY Commission February 27, 1976:

JUVENILE JUSTICE AND DELINQUENCY PREVENTION

The IWY Commission recommends that the Federal Government support full funding toward carrying out objectives of the Juvenile Justice and Delinquency Prevention Act of 1974.

Discussion

The Juvenile Justice and Delinquency Prevention Act (Public Law 93-415) was overwhelmingly passed by a vote of 88 to 1 in the Senate and 329 to 20 in the House of Representatives, then signed by President Ford in September 1974. This act was designed to assist communities in developing humane, sensible, and economic programs to help troubled youth and the estimated one million youngsters who run away each year. The majority of runaways are girls between the ages of 11 and 14.[1]

The act provides Federal assistance for local public and private groups to establish temporary shelter-care facilities and counseling services for young persons and their families. The act clearly has in mind—and this committee supports—facilities such as those recommended by the Juvenile Justice Standards Project, 1973-76,[2] which calls for

". . . voluntary community services, such as crisis intervention programs, mediation for parent-child disputes, and residences or 'crash pads' for runaways, as well as peer counseling, disciplinary proceedings or alternate programs for truants as responses to noncriminal misbehavior."

The Project Guidelines call for neglect or abuse petitions to be filed "where children are found living in conditions dangerous to their safety or welfare."

The Juvenile Justice and Delinquency Prevention Act of 1974 will enhance the visibility of the special problems of female offenders. Section 223(a)(15) requires that "States must provide assurance that assistance will be available on an equitable basis to deal with all disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded and emotionally or physically handicapped youth."

The act requires that States participating in funding must, within 2 years, place status offenders in shelter facilities, rather than in institutions, and must avoid confining juveniles with incarcerated adults. Status offenses, the subject of the committee's recommendation on status offenders (page 158) include conduct that would not be criminal if committed by an adult; typical status offenses include running away, truancy, incorrigibility, and promiscuity.

Despite strong congressional support for the Juvenile Justice and Delinquency Prevention Act, there has been a lack of executive policymaking support, most graphically illustrated by executive branch efforts to defer expenditure of moneys appropriated to implement the act.

The Child Development Committee supports funding the act at the $40 million level, which would still be less than one-third of the funding level anticipated in the original legislation. It believes substituting new approaches for old "crimefighting" programs in the juvenile field could produce:

More culturally relevant programs designed by and for minority youth;

Programs in which young women in institutions can explore career training that goes beyond such traditional roles and skills as food services or cosmetology;

Expanded programs of education about law, as well as legal services, both aimed at juveniles so that they will be able for the first time to explain legal terms like "assault" or "larceny" for themselves and their peers;

Increased training for staffs of community programs that deal with juveniles to provide useful administrative techniques as well as basic knowledge about the growth and development of young people who may be in trouble;

Creative probation projects that avoid traditional approaches in which probation officers offer this limited admonition: "listen to me and report to me," and are frequently unable to offer needed services or supportive supervision:

Alternatives to the usual detention home or training school for minors who, because of learning or behavioral problems, need special education or supervision.

The Child Development Committee particularly would like to see funding under the act used to develop computerization of available shelter-care services for juveniles. The need was emphasized by Milton Luger, assistant administrator of the Juvenile Justice Office of the Law Enforcement Assistance Administration (LEAA):

"Mechanically, it always impressed me that I can get an airlines seat location in two minutes, and it takes two months to find an empty bed for a kid."

Centralized referral should be available to but independent of the juvenile justice system.

The Child Development Committee encourages support for the Federal Coordinating Council of LEAA in its efforts to coordinate all Federal programs and funding for delinquency prevention, treatment, and control, as these factors enhance normal child development. The interrelationships between child abuse, learning disabilities, poverty, malnutrition, and delinquency must be fully understood in order to resolve the problems.

INTERNATIONAL WOMEN'S YEAR

Report: ". . . To Form a More Perfect Union. . . ." Part II: Today's Realities—Parents and Children: Enriching the Future p. 88-89.

The Commission endorses these parenthood programs in the school, hoping that education will help to break the chain of social problems that is linked to immature and uninformed parenting practices.

Senator Birch Bayh, a member of the Commission and sponsor of the Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93-415), has said:

"Clearly it is better economics to raise whole, functioning members of our society than it is to spend 35 times as much feeding the results of our neglect—crime and welfare—after the time for constructive action has passed."

ORGANIZATIONS ENDORSING THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 (PUBLIC LAW 93-415)

American Federation of State, County and Municipal Employees.

American Institute of Family Relations.

American Legion, National Executive Committee.

American Parents Committee.

American Psychological Association.

B'nai B'rith Women.

Children's Defense Fund.

Child Study Association of America.

Chinese Development Council.

Christian Prison Ministries.

Emergency Task Force on Juvenile Delinquency Prevention.

John Howard Association.

Juvenile Protective Association.

National Alliance on Shaping Safer Cities.

National Association of Counties.

National Association of Social Workers.

National Association of State Juvenile Delinquency Program Administrators.

National Collaboration for Youth: Boys' Clubs of America, Boy Scouts of America, Camp Fire Girls, Inc., Future Homemakers of America, Girls' Clubs, Girl Scouts of U.S.A., National Federation of Settlements and Neighborhood Centers, Red Cross Youth Service Programs, 4-H Clubs, Federal Executive Service, National Jewish Welfare Board, National Board of YWCAs, and National Council of YMCAs.

National Commission on the Observance of International Women's Year Committee on Child Development Audrey Rowe Colom, Chairperson Committee Jill Ruckelshaus, Presiding Officer of Commission.

National Conference of Criminal Justice Planning Administrators.

National Conference of State Legislatures.

National Council on Crime and Delinquency.

National Council of Jewish Women.

National Council of Juvenile Court Judges.

National Council of Organizations of Children and Youth.

National Council of Organizations of Children and Youth, Youth Development Cluster; members:

AFL-CIO, Department of Community Services.

AFL-CIO, Department of Social Security.

American Association of Psychiatric Services for Children.

American Association of University Women.

American Camping Association.

American Federation of State, County and Municipal Employees.

American Federation of Teachers.

American Occupational Therapy Association.

American Optometric Association.

American Parents Committee.

American Psychological Association.

American Public Welfare Association.

American School Counselor Association.

American Society for Adolescent Psychiatry.

Association for Childhood Education International.

Association of Junior Leagues.

Big Brothers of America.

Big Sisters International.

B'nai B'rith Women.

Boys' Clubs of America.

Boy Scouts of the USA.

National Council of Organization of Children and Youth, Development Cluster; members, continued:

Child Welfare League of America.

Family Impact Seminar.

Family Service Association of America.

Four-C of Bergen County.

Girls Clubs of America.

Home and School Institute.

Lutheran Council in the USA.

Maryland Committee for Day Care.

Massachusetts Committee for Children and Youth.

Mental Health Film Board.

National Alliance Concerned With School-Age Parents.

National Association of Social Workers.

National Child Day Care Association.

National Conference of Christians and Jews.

National Council for Black Child Development.

National Council of Churches.

National Council of Jewish Women.

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[1] Senator Birch Bayh, author of the act and Chair of the Subcommittee to Investigate Juvenile Delinquency for the U.S. Senate Judiciary Committee.

[2] Sponsored by the Institute of Judicial Administration and the American Bar Association and headed by Chief Judge Irving R. Kaufman of the U.S. Court of Appeals for the Second Circuit.

National Council of Juvenile Court Judges.
National Council of State Committee for Children and Youth.
National Jewish Welfare Board.
National Urban League.
National Youth Alternatives Project.
New York State Division for Youth.
Odyssey.
Palo Alto Community Child Care.
Philadelphia Community Coordinated Child Care Council.
The Salvation Army.
School Days, Inc.
Society of St. Vincent Paul.
United Auto Workers.
United Cerebral Palsy Association.
United Church of Christ—Board for Homeland Ministries, Division of Health and Welfare.
United Methodist Church—Board of Global Ministries.
United Neighborhood Houses of New York, Inc.
United Presbyterian Church, USA.
Van der Does, William.
Westchester Children's Association.
Wooden, Kenneth.
National Federation of State Youth Service Bureau Associations.
National Governors Conference.
National Information Center on Volunteers in Courts.
National League of Cities.
National Legal Aid and Defender Association.
National Network of Runaway and Youth Services.
National Urban Coalition.
National Youth Alternatives Project.
Public Affairs Committee, National Association for Mental Health, Inc.
Robert F. Kennedy Action Corps.
U.S. Conference of Mayors.

Mr. BAYH. If it had not been for broad based grassroot support we never would have been able to enact the Juvenile Justice Act. Those at home who have been receiving assistance under the 1974 maintenance provision are the ones who are going to suffer under the committee bill.

I think the question of where local communities are on this issue is rather evident. They want us to continue to increase the priority for juvenile crime programs. I think we better.

Mr. McCLELLAN. Mr. President, will the Senator yield at that point?

Mr. BAYH. I yield.

Mr. McCLELLAN. There is no prohibition in this bill for using any part of part C and E funds for juvenile delinquency programs, notwithstanding all the other money that is specially appropriated under the Juvenile Justice Act. The State and local governments can submit plans for spending more money on juvenile delinquency programs. The Senator's amendment increases the amount of money that must be spent on juvenile programs whether the States and localities deem it wise or not.

Mr. BAYH. That is right.

Yes, both the pending bill and my amendment requires 19.15 percent be spent of C and E on juvenile programs.

I am sure that the Senator from Arkansas is as concerned, if not more so, than the Senator from Indiana about youth crime and juvenile delinquency. There is no question about that. But the fact of the matter is that if the committee bill formula is accepted there is going to be $30 million less available at home for local communities, YMCA's, boys' clubs, and local programing under C and E programing than is now required under the formula that we established in the 1974 act, the committee provision is not adopted, $30 million more will go to local communities.

Mr. McCLELLAN. Will the Senator yield on my time?

Mr. BAYH. I am glad to yield on the Senator's or my time.

Mr. McCLELLAN. Notwithstanding, juvenile delinquency will have less money mandated. These $30 million, as he says, would be available to all the programs, including juvenile delinquency, according to the priorities established by State and local governments. We are simply trying to equalize this thing. Even then, we have already given special treatment of $75 million to LEAA for juvenile programs under the Juvenile Justice Act. Under the Crime Control Act we are trying to keep it equitable so that no program will get seriously hurt.

Mr. BAYH. Let me explore that because I do not wish to damage other programs or categories and my amendment does not, but the fact of the matter is that the only LEAA programs that have had the percentage limitation or the dollar figure limitation have been the grant programs going back to local communities. As to administrative costs, research, technical assistance, court programs, training and other components, there is no priority for juvenile crime. Only the 1972 figure of $112 million was limited for local juvenile crime programs. Other programs are not going to suffer if a minimum of each within its own area must go for juvenile crime efforts. The Senator from Indiana is saying that there ought to be a minimum requirement for all programs. I think it is important for us to take a good, hard look—a realistic look—at what happened yesterday. Forty-five Members of this body vote to decrease the tenure of this bill. Only three votes kept the length of this bill from being decreased from 5 to 3 years. We are having significant criticism directed at LEAA, and I think the reason we have had criticism directed at LEAA is it has not been doing the job, especially with regard to juvenile crime. Many good judges and law enforcement officials are not getting adequate support and resources to deal with juvenile crime or to focus early enough in the life span of a would-be criminal. Too often assistance has only been available when we deal with repeat offenders instead of when we have a chance for change. We must make LEAA more responsive to juvenile crime.

When we passed the 1974 act, the record will show that, Congress intended to provide special moneys for special emphasis for the juvenile delinquency prevention program and also to require that at least $112 million be spent from other LEAA funds to fight juvenile crime. This is not any new and novel approach that the Senator from Indiana has just now suggested. That is what we decided in 1974. The law required it in 1975. Here we are in 1976 with some trying to repeal the dual thrust of the act.

I want us to look at what this means in resources. Now LEAA must maintain grants of $112 million for local communities. If the committee amendment is approved and the Senator from Arkansas is successful the maintenance level will be decreased by $30 million, a 26-percent decrease in the amount of block grant moneys we will send back to local communities to fight juvenile crime. We can ignore that fact. The committee bill will decrease, not maintain the status quo, C and E funds in this area by $30 million.

I shall deal with what I think is a legitimate concern that has been raised by the Senator from Arkansas. What about the other programs? What the Senator from Indiana tried to do in committee, as he knows and the Senator from Nebraska knows, was to retain the maintenance of effort level. The 1974 law requires $112 million of block C and E grants for local juvenile crime programs. Despite the fact the youths commit 50 percent of the crimes, we are struggling to maintain the existing level and the administration was lobbying to repeal the program altogether. I was defeated and I thought that perhaps another approach would satisfy concerns of others and still retain the priority on juvenile crime.

So if Senators are concerned about the amount of money that is going back to local communities for juvenile delinquency under C and E grants, the Senator from Indiana's percentage approach is identical with the percentage approach of the Senator from Arkansas. Not one cent more will go back to local communities under C and E grants if my amendment is successful than would be the case under the present bill. Both figures would be $82 million.

What the Senator from Indiana is saying is this: Let us have the same test apply to the other programs and categories.

A so-called sheet was distributed late yesterday to the Members. I am sure all Senators have a copy of the other programs that are allegedly to be destroyed—or at least damaged a little—by the Senator from Indiana's amendment. I should like to go down this list, because I think we are all trying to accomplish the same purpose.

Supposedly, programs for prevention of crimes against the elderly are going to suffer. Who do we think is preying on our older citizens? Not a cadre of 56-year-old persons. Not seasoned, old-time safe crackers. Professional cons are not beating elderly persons and stealing social security money. It is likely 17-year-olds, who have not learned better, who do not have jobs, often under circumstances where the swimming pool is closed, the playground is not available, and family problems are predominate.

If we do not emphasize the source of the problems and the culprits, we never are going to curb those who mug and assault our older citizens.

My amendment allegedly will hurt Indian justice programs.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. McCLELLAN. If we are spending money to protect the elderly people, will not that money be spent to protect them from juvenile delinquents? If juveniles are committing 50 percent of the crimes, we are contributing to protecting them with respect to juvenile crime.

Mr. BAYH. I think that is what the Senator from Indiana just said. I have to say that I think my amendment will provide more protection for older people.

It is alleged that Indian programs will be hurt. My amendment recognizes that many native Americans in urban areas, on reservations alike are in desperate need of assistance of all varieties and would require of these Indian law enforcement programs funded by LEAA, that 19.15 percent should be directed for young Indians and those who will help assist Federal councils and others to prevent delinquency and fight juvenile crime. Surely because of past neglect the percentage to assist native Americans should if anything be higher.

It is claimed that drug and alcohol abuse programs will be hurt by my amendment. Whom are we kidding? Two-thirds of those with serious drug abuse problems are young people.

With respect to LEAA drug abuse programs, such as TASC, my amendment would require that 19.15 percent of the resources be focused on juvenile crime.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. McCLELLAN. Will the Senator agree, then, that the money being spent in that program applies to youth, to try to prevent them from committing crime? So we are spending it on juvenile delinquency, to the extent that they are committing crimes, if we are spending it in trying to prevent drug abuse.

Mr. BAYH. That is not changed by the amendment of the Senator from Indiana. My amendment rather than destroying the alcohol and drug programs, would require that at least 19.15 percent of the funds be allocated for drug dependent youths on the juvenile justice system.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. PASTORE. I am one who agrees with the Senator from Indiana. As a matter of fact, this has been an uphill struggle right along. The matter of juvenile delinquency and what part of the LEAA money goes to juvenile delinquency has been a struggle with which we have been grappling for some time.

The administration—it is beyond me to comprehend this—particularly the Justice Department, has been reluctant even to send up a budget estimate, and we have been prodding them time and time again to do so. Finally, the House, on its own initiative, suggested $40 million in the bill we have passed, and the President has signed it.

When the bill came before our committee, the subcommittee of which I am chairman—to the credit also of the Senator from Nebraska—we raised it to $100 million. We thought that the $40 million was only a token payment, because juvenile delinquency is rampant throughout the country.

Something should be done. As I have said before, an ounce of prevention is worth a pound of cure. So we raised it to $100 million. We went to conference, and there was a struggle there, also. Finally, we came out with $75 million.

It may well be that an argument can be made against the amendment of the Senator from Indiana inasmuch as he takes almost 20 percent of all the funds and puts them in one category. Perhaps the better way to have handled it would have been to have raised the authorization so that we would not take it from other areas.

Judges have been talking to us about more money. Police chiefs have been talking to us about more money. The various municipalities have been talking to us about more money. The fact remains that if we take a big chunk out in one direction and earmark it and dedicate it for that purpose, there is going to be a diminution of funds in other areas which are equally important, and I do not want to begin to put priorities here.

This struggle by the Senator from Indiana has been a perennial struggle. He has been trying time and time again, and I do not know how many letters I have received from him.

A short time ago, in my State, a conference of the juvenile justices from all over the country was held. Thirty-two States were represented. I was asked to keynote that particular convention, and I did. All I heard at that time from the judges was, "Please give us the facilities; give us the money to do something about it. We don't want to send these young offenders to jail. We don't want to put them in with hardened criminals. But you have to do something on a national level if you don't want to end up with a catastrophic situation."

I say to Senators that drug abuse has gone too far. How we ever are going to eradicate it, how we ever are going to prevent it, how we ever are going to educate our young people to do something about it is beyond me; but that is another problem.

This amendment may or may not be agreed to; but, so far as I am concerned, I do not think we are doing enough in the area of juvenile delinquency.

One of my responsibilities, as everyone in the Chamber knows, is as chairman of the Subcommittee on Communications. I have been trying to do something about violence on television.

In 1969, I wrote a letter to the Surgeon General, asking that he conduct a scientific study to establish whether or not there is a cause and effect as to the behavior of young children with relation to violence on television. We put up a million dollars. We had 23 independent studies made. By whom? By psychologists, anthropologists, psychiatrists, sociologists—the best minds in the country.

In 1972, the Surgeon General came before my committee and said that there is a causal relationship between violence on television and the behavior of young children.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

The Senator from Arkansas has 5 minutes remaining.

Mr. PASTORE. Mr. President, will the Senator yield me 2 minutes?

Mr. McCLELLAN. I yield the Senator 2 minutes on the bill.

Mr. PASTORE. It grieves me to disagree with the distinguished chairman of the full committee. I know he has a responsibility here and I am not saying that he is wrong in his contention. I am merely trying to impress upon him as well that juvenile delinquency has gone out of bounds. Snatching handbags from women as they are going to church. Only the other day, they tell me, unprovoked, they picked up two little kids in front of their home and they put them in an automobile and one of the fellows that picked them up began to hit them with a hammer. What are we coming to? Has the country gone mad? Are we going to do something about this or are we not going to do something about this? This is what this is all about.

I repeat, again: It is too bad we had to do it this way. I hope that if the Senator from Indiana accomplishes anything, he emphasizes the need to do more in this area. We have been trying to do all that we possibly can. The best that I could do was $75 million this year. The President has signed that bill. I hope it helps and I hope that, in the future, whether this amendment passes or is defeated, we become conscious of our responsibility, because I am telling you that the worst scourge that can affict our society is not to do something about juvenile delinquency and to help these boys grow up to become law-abiding citizens.

I thank the Senator.

Mr. McCLELLAN. Mr. President, I yield myself 3 minutes.

I agree with practically everything that the Senator from Rhode Island has said. The only issue here is that we say we are not getting enough; I am not contesting that. I have supported the juvenile delinquency program all the way through and I am not opposing it now. My suggestion is that the best procedure for the Senate to provide more money for juvenile delinquency is to put it on an appropriation bill under the authorization of the Juvenile Justice Act. Do not put it on this and take money away, as the distinguished Senator from Rhode Island agrees that it would, from other valid, good programs.

As to the illustration the distinguished Senator gave about the two youngsters being picked up, it seems to me that is not juvenile delinquency unless they were picked up by juveniles.

Mr. PASTORE. They were juveniles.

Mr. McCLELLAN. If they were juveniles committing a crime, that is one thing. But the important thing is that we have to enforce the law as well as to try to prevent crime. I believe that the right way to increase expenditures on juvenile prevention programs would be to add more money to an appropriation bill for that purpose—there are other appropriation bills coming up—rather than take it away from these other programs. In my judgment, that is a better way to do it. I am fighting for the other programs, as well as this one. I am not opposing this one. But I am urging this body not to do an injustice on the one hand in order to serve what they believe to be justice on the other.

Mr. PASTORE. Will the Senator yield?

Mr. McCLELLAN. Yes, I yield.

Mr. PASTORE. Another thing that has bothered me, we have already passed an appropriation bill of $75 million and it is subject to the authorization bill being passed. I discussed this matter with the Senator from Indiana only yesterday. I am wondering, if his amendment does pass, whether that does not vitiate the $75 million? That is a serious thing. Then how do we cure that? We have already put in $75 million. We have already gone to conference. The conference has approved the $75 million, the President has signed the bill, but the appropriation is subject to authorization. If we change this authorization in another direction, what happens to the $75 million? Will that give this hesitating administration a reason to hold up even the $75 million? It might. I do not know. I hope we cure that.

Mr. BAYH. Would the Senator from Arkansas permit me 3 minutes on the bill to answer that question?

Mr. McCLELLAN. Yes.

Mr. BAYH. First, the Senator from North Carolina had a unanimous-consent request.

Mr. MORGAN. Mr. President, I ask unanimous consent that Bernard Nash of the Committee on the Judiciary be given floor privileges during the debate and vote on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. There is not a person in this body who has labored more diligently and been more vigorous in the area of juvenile delinquency than the Senator from Rhode Island. The Senator from Rhode Island had to drag this administration, kicking and screaming, into spending that first dime. Similarly, as I mentioned earlier, the Senator from Nebraska was a fundamental ingredient, a prime mover, in getting this bill passed. Yet when the President signed it he cited the availability of the $140 million which was really $112 million, of which he now seeks repeal, as the basis for opposing funding of the new preventation office. The Senator from Rhode Island ultimately obtained a compromise $25 million. The next year, he obtained a compromise $40 million. This year we provided, in the Senate, $100 million, and had to compromise on $75 million. The administration, especially OMB, fought every dollar, every step, citing the availability of the $112 million in the LEAA program, which their bill, S. 2212, would repeal.

The Senator from Rhode Island is saying, increase the juvenile justice program, and we got some increases partly through the effort of the Senator from Rhode Island. But the administration's response all along has been, "Don't do that, you have the money in the Crime Control Act. I say we have to look at the whole picture. The size of the whole pie that goes back to local communities under the maintenance provision and the new prevention program headed by Milt Lugen.

Mr. PASTORE. Is this money outside the LEAA?

Mr. BAYH. No.

Mr. PASTORE. That is what is bothering me, that the juvenile delinquency money is in the LEAA.

Mr. BAYH. On the specific question raised by the Senator from Rhode Island, the $75 million is not jeopardized because that is authorized through the juvenile justice program which does not expire until next year.

Mr. PASTORE. No, the money we got in the 1977 budget is subject to this bill that has to be passed.

Mr. BAYH. That is not so, I say to my friend from Rhode Island.

Mr. PASTORE. In other words, we are under authorization on the $75 million?

Mr. BAYH. We have obtained half the funding. The 1974 act was authorized at $150 million for fiscal year 1977.

Mr. PASTORE. Under that situation, I shall support the Senator's amendment.

Mr. BAYH. I thank the Senator from Rhode Island.

Mr. HRUSKA. Mr. President, this will put into perspective the remarks I made earlier, which bear petition. In America, the States and local governments spend for total law enforcement purposes in the range of $15 billion. The appropriation for the LEAA program, including title I of LEAA and title II of the Juvenile Justice Act, is three-quarters of a billion dollars. Forty-seven million dollars is the increase that the Senator from Indiana wants for his juvenile justice program. Forty-seven million dollars, as against a base of $15 billion, is miniuscule, but $47 billion is not minuscule when it is cast against the moneys that are available from Federal sources.

The answer is this, Mr. President, and the Senator from Arkansas has repeated it many times on this floor today: In order to give that $47 million increase to juvenile justice, we have to take it from other programs. When we try to reduce the program for the LEEP, the educational program for police officers—you talk about mail. We had mail by the bushel. They wanted that program restored to its previous levels of funding.

When the committee considered the amendments to establish judicial planning committees in the States we were asked for 30 percent of the entire appropriation to go to the courts and their programs. We could not do it.

Mr. BAYH. Will the Senator yield?

Mr. HRUSKA. My time is limited, I am sorry.

There are programs for the prevention of crime against the elderly, Mr. President. There are the discretionary funds by way of grants to States and cities. There is the program to reduce the court backlog. Each time we get into the matter of reducing those——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HRUSKA. May I have 1 more minute?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. HRUSKA. May I have a minute on the bill?

Mr. McCLELLAN. Yes.

Mr. HRUSKA. Mr. President, it has been said that many witnesses appeared in favor of increasing the appropriation for juvenile justice. I wish it could be increased. I would vote for a larger appropriation for it, but not at the expense of reducing funds for other categories. Many of the witnesses who testified in favor of the juvenile justice program also testified in favor of some of these other programs. The question should have been put to each one of them: Now, then, if we have to cut $47 million, which of these other programs should we reduce, including the one that you are interested in?

I have an idea that the answer would be different. I have never see a dearth of witnesses in favor of an additional Federal grant of money. But when they are faced with the alternatives that Appropriations Committees are faced with, you have to choose by priority. It either goes one place or it is taken away from another place. We ought to let the appropriations remain at the $75 million level for juvenile justice under title II and the $83 million from title I of the Safe Streets Act, making a total of $158 million for this specific purpose, and allow the other programs to survive at their current levels.

Mr. HUMPHREY addressed the Chair.

The PRESIIDNG OFFICER. Who yields time?

Mr. HUMPHREY. I would like to ask a question, Mr. President, of the manager of the bill, if I might, just for purposes of information.

Mr. McCLELLAN. I yield myself a minute's time.

Mr. HUMPHREY. Might I ask the distinguished Senator from Arkansas is the authorization in this bill less or more than the budget request?

Mr. McCLELLAN. The authorization for the bill? The authorization is more.

Mr. HUMPHREY. Is more. How much more, may I ask the Senator?

Mr. McCLELLAN. The authorization is $1 billion, and the appropriation total $678 million.

Mr. HUMPHREY. I am talking about the administration's budget request, the administration's request.

Mr. McCLELLAN. For the whole bill is what I am talking about.

Mr. HUMPHREY. Yes, that is OK.

Mr. McCLELLAN. We have an authorization of $1 billion for fiscal year 1977.

Mr. HUMPHREY. In this bill?

Mr. McCLELLAN. Yes, for LEAA.

Mr. HUMPHREY. How does that compare with last year?

Mr. McCLELLAN. The authorization for last year was also $1 billion. The appropriations for fiscal year 1977 are about $100 million less than last year. That is our problem, may I say to the Senator. That is what is involved in here. The appropriations have gone down from $880 million in fiscal year 1975 to about $770 million in fiscal year 1976 to $678 million for fiscal year 1977. That represents a drop of almost 25 percent—$202 million.

Mr. PASTORE. Mr. President, will the Senator yield on that point? Last year we appropriated $809 million, including the Juvenile Justice Act program. The administration asked for $600 million for LEAA. We were ready to put in enough to go back to the amount that was appropriated in the previous year, the $809 million. In the meantime the House increased it by $140 million. When we went to conference we added another $15 million, so we are pretty close now to the efforts of Congress to the amount that was appropriated last year.

Mr. HUMPHREY. The point I make, and maybe the Senator can help me——

The PRESIDING OFFICER. The Senator's 1 minute has expired. Who yields time?

Mr. McCLELLAN. I yield 2 minutes on the bill.

Mr. HUMPHREY. If the amendment of the Senator from Indiana does what the distinguished Senator from Nebraska has said, in other words, takes $47 million from other programs—and I believe that is what the indication was—then the thing to do here, since we have got a problem of crime in this country that is second to none, and is a greater threat to our security than anything from external forces—the real problem that affects the people of this country today is the crime problem, and every citizen knows it—why do we not increase the authorization by $47 million. That is not going to bankrupt the budget.

We spend millions of dollars around here to protect us from the Russians. We have more problems with the people on the street than we do with the Russians.

Mr. HRUSKA. Mr. President, will the Senator yield? The appropriation bill for this item has been passed and enacted into law and, therefore, we have this ceiling and, hence, the necessity, if we increase one category we have to shift and reprogram the funds from many other programs to make up the increase in one category. That is our problem. If this were an appropriation bill the answer would be simple.

Mr. HUMPHREY. May I say to the Senator, we do have supplementals that come along, and the Senator and I have been here long enough so that we know the argument made here that the funds of the amendment of the Senator from Indiana will take money away from other essential programs——

Mr. McCLELLAN. That is right.

Mr. HUMPHREY. What the Senator is saying is that it would take money away because of the appropriation process. All I am saying here is to make it clear to the Appropriations Committee "if you increase the appropriations said amount when the supplemental comes up you can take care of it."

The PRESIDING OFFICER. (Mr. Hollings). The Senator's time has expired.

Mr. McCLELLAN. There is $1 billion authorized, but we have appropriated this year $753 million, which includes $75 million specifically under the Juvenile Delinquency Act, not included in the moneys that will be available for other purposes.

Now, the amendment would earmark $129 million for juvenile delinquency programs, to the exclusion of other programs, in addition to the $75 million under the Juvenile Justice Act; am I correct?

Mr. BAYH. No, with all respect, my friend is not correct, and if I could have just a minute——

Mr. McCLELLAN. What is the amount, what does the Senator's amendment take?

Mr. BAYH. The present law requires, the law passed in 1974, when the figure we were spending for LEAA was $698 million less than the $753 million we now are spending.

Mr. McCLELLAN. But we have had these increases.

Mr. BAYH. When we decided in 1974 to change things, to start to reorder our priorities to match our needs, we said we were going to spend $140 million Crime Control Act priorities on young people through juvenile crime and delinquency programs.

Mr. McCLELLAN. That is correct.

Mr. BAYH. We are spending more now on LEAA than then.

Mr. McCLELLAN. That came to 19.15 percent, did it not, of the total expenditure for parts C and E that year?

Mr. BAYH. That is accurate.

Mr. McCLELLAN. That is what we are trying to continue.

Mr. BAYH. That is accurate. But what has happened, because of the way the Senator from Arkansas is approaching this, instead of spending $112 million he would have us spend $82 million, and the Senator from Indiana urges that we take that 19.15 percent figure that we decided was the minimal amount we were going to spend back in 1972, and let us——

Mr. McCLELLAN. May I say to the Senator, to get the record straight, it was September 1974 when the Juvenile Justice Act was enacted when this figure was fixed at a minimum; not in 1972?

Mr. BAYH. The Senator is absolutely correct. As the author of the Juvenile Justice Act, I assure the Senator that it was passed in 1974. But the figure we decided on in 1974, when the bill was passed, was the latest figure we had from LEAA, which was the 1972 figure.

Mr. McCLELLAN. But in fiscal year 1975—the first time the $112 million came out of any money under the maintenance of effort provision—we had an appropriation of $880 million.

Mr. BAYH. Yes.

Mr. McCLELLAN. Now we are down to $753 million.

Mr. BAYH. Yes. But we were using the juvenile component of the 1972 figure.

Mr. McCLELLAN. All right. Now, in addition to that, since then the Juvenile Justice Act has been enacted, and appropriation made of $75 million for 1977 under that act over and above the $112 million.

Mr. BAYH. But, may I say to my colleague, that was part of the 1974 agreement.

Mr. McCLELLAN. It was not an agreement. We are talking about facts.

Mr. BAYH. Well, the agreement I just read in the Record shows that we said we were going to put that floor under juvenile delinquency programs at $140 million, and then, in addition to that enact and fund the prevention programs that the Senator from Rhode Island has strongly supported.

Mr. McCLELLAN. On the basis of the appropriation that we were spending then that was agreed to. The pending bill would continue the same percentage, but not the same dollar amount. This is only fair to the other programs as funds available drop.

Now, let me make this observation. The Senate can do what it wants to do. It is not my provision. It belongs to all of us, but I do not want to do an injustice to these other programs, in order to do more justice, if we want to call it that, to the juvenile delinquency program.

The Senators can correct this situation in the proper way with a supplemental appropriation bill when it comes along. Just increase the appropriation for the juvenile delinquency program. Then you do not do injury, you do not do injustice, to these other criminal justice programs.

Mr. PASTORE. If we do that will we be within the authorization?

Mr. McCLELLAN. Yes. We have $150 million as an authorization for juvenile delinquency.

Mr. PASTORE. In other words, this would be the responsibility of the Appropriations Committee?

Mr. McCLELLAN. Yes. You have $150 million authorized; you only have appropriated $75.

Mr. PASTORE. I will not be here after January, but if that supplemental comes up before January I will put it in.

Mr. BAYH. The Senator from Rhode Island can cite to us how his efforts on behalf of these programs have been fought every step of the way by those in this administration who say "We do not need any money in your prevention program, Senator Pastore, Senator Bayh, because we have it in the LEAA Crime Control Act program." In other words, it is now you see it and now you do not.

Mr. McCLELLAN. Mr. President, I am simply suggesting that we should not do an injustice to good programs here in order to do a little more for something else, when the opportunity to do more for the other is still available. We can use the appropriation process if we want to. I think that is the way to handle this. I have suggested it from the beginning of this discussion, and I still think that that is the way it should be handled.

Mr. BAYH. Mr. President, will the Senator permit me to deal with that particular point on the bill's time just briefly? Will the Senator permit me a couple or 3 minutes to deal with that?

Mr. McCLELLAN. I believe I have 10 minutes left on the bill. I have been yielding time on the bill.

Mr. BAYH. The Senator has been very kind.

The PRESIDING OFFICER. The Senator has exactly 10 minutes.

Mr. McCLELLAN. How much time?

The PRESIDING OFFICER. Ten minutes.

Mr. McCLELLAN. I yield 3 minutes.

Mr. BAYH. I think it is important—to emphasize that I do not want to penalize these other programs and my amendment will not penalize other programs, but it will require these existing programs to devote some of their efforts to juveniles.

The fact of the matter is the law now requires $140 million—in effect only $112 million—out of LEAA moneys plus $75 million out of the prevention program established by the Senator from Rhode Island and the Senator from Indiana. That is what the law is right now. Now we have to decide whether we are going to step back from the progress we made in 1974.

Mr. HUMPHREY. Mr. President, will the Senator yield at that point?

Mr. BAYH. It is important to point out that my amendment will not damage other programs, but merely require them to devote 19.15 percent of their efforts toward juvenile delinquency.

Mr. McCLELLAN. If the Senator wants to increase it $17 million over and above what the law is now——

Mr. BAYH. Just a minute. The money earmarked by my amendment is going to be attributable to these other programs that the Senator from Arkansas thinks are going to be injured. We are going to say to these other programs, when you are involved in the training of judges spend at least 19.15 percent to train juvenile judges; in training police officers spend at least 19 percent to train police officers to better handle juvenile crime; spend 19 percent of court reform funds on juvenile courts so that we do not have to have juveniles who have been arrested, for serious violent crimes on a regular basis out roaming the streets because of overcrowded courts, or judges faced with inadequate facilities in which to place juveniles.

I do not want to destroy these other categories.

Mr. HUMPHREY. Will the Senator yield?

Mr. BAYH. Yes.

I appreciate the Senator from Arkansas' patience.

Mr. HUMPHREY. This is a very difficult issue for us because there are arguments on both sides. As the Senator from Arkansas has pointed out, there is another solution.

The amendment of the Senator from Indiana, as I understand it, would amount to a sum total of $129 million.

Mr. BAYH. The money is already available, but it would mandate that amount for juvenile delinquency programs.

Mr. HUMPHREY. The bill, as reported by the Senator from Arkansas, provides $82 million.

Mr. BAYH. That is accurate.

Mr. HUMPHREY. The Senator has been getting $112 million.

Mr. BAYH. That is accurate. We thought the 1974 act provided $140 million.

Mr. HUMPHREY. Why not settle for $112 million for 1 year?

Mr. McCLELLAN. That does an injustice to these other programs.

Mr. HUMPHREY. It does less.

Mr. BAYH. I tried to get it adopted in the committee.

Mr. HUMPHREY. Why not try here? It permits, again, the process to work, which I think the Senator from Arkansas is correct on, the appropriations process.

Mr. PASTORE. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. PASTORE. If we follow the Senators' plan, do we take away anything from other categories?

Mr. HUMPHREY. Yes; some.

Mr. PASTORE. Why do we not add that to the authorization?

Mr. McCLELLAN. We already have the authorization.

Mr. HUMPHREY. I found out in my colloquy with the Senator from Arkansas, there is adequate authorization.

Mr. McCLELLAN. A billion dollar authorization for this program.

Mr. PASTORE. Is this an authorization bill we are talking about or is it an appropriation bill?

Mr. McCLELLAN. An authorization bill.

Mr. HUMPHREY. That is what I understood.

Mr. PASTORE. If the Senator's plan does not take away from anybody else——

The PRESIDING OFFICER. The 3 minutes have expired.

Does the Senator from Arkansas yield time?

Mr. HUMPHREY. There is time on the bill.

Mr. McCLELLAN. I have 8 minutes left on the bill.

The PRESIDING OFFICER. There are 7 minutes left.

Mr. McCLELLAN. Seven now, for all other amendments.

Mr. HUMPHREY. Well, 1 minute will take care of this.

Mr. McCLELLAN. Yes.

Mr. HUMPHREY. Is it not a fact that if we add $47 million to the authorization, using the line of argument of the Senator from Rhode Island, it takes care of all problems insofar as the authorization is concerned ?

Mr. McCLELLAN. We already have the authorization.

Mr. HUMPHREY. The Senator said we have a new authorization bill.

Mr. PASTORE. The Senator says the authorization would take it away from somebody else, so raise it so that it will not.

Mr. McCLELLAN. The appropriation takes it away, not the authorization. The appropriation has already been made.

The PRESIDING OFFICER. The 1 minute has expired.

Mr. PASTORE. May we have another minute?

Mr. HUMPHREY. I shall be offering an amendment to add $47 million to the total authorization.

Mr. PASTORE. So why do we not extend a bit of time here and do it in an easier way?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CANNON (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Indiana (Mr. Hartke). If he were present and voting, he would vote "yea." If I were at liberty to vote I would vote "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. Cranston), the Senator from Colorado (Mr. Gary Hart), the Senator from Indiana (Mr. Hartke), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pell), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley) and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. Hugh Scott) is absent on official business.

The result was announced—yeas 61, nays 27, as follows:

[Rollcall Vote No. 408 Leg.]

YEAS—61

Abourezk
Bayh
Beall
Bellmon
Biden
Brock
Brooke
Bumpers
Byrd, Robert C.
Case
Chiles
Church
Clark
Culver
Dole
Domenici
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Weicker
Williams

NAYS—27

Allen
Baker
Bartlett
Bentsen
Burdick
Byrd, Harry F., Jr.
Curtis
Eastland
Fannin
Garn
Griffin
Hansen
Helms
Hruska
Huddleston
Laxalt
Mansfield
McClellan
McClure
Nunn
Percy
Scott, William L.
Stennis
Talmadge
Thurmond
Tower
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cannon, against.

NOT VOTING—11

Buckley
Cranston
Goldwater
Hart, Gary
Hartke
Metcalf
Mondale
Montoya
Pell
Scott, Hugh
Tunney

So Mr. Bayh's amendment (No. 2048) was agreed to.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that my vote on the Bayh amendment No. 2048 may be changed from "nay" to "yea."

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote has been changed to reflect the above order.)

Mr. BAYH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. Ford). Who yields time?

Mr. McGOVERN. Mr. President, will the Senator from Arkansas yield me about 3 minutes?

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. Senators will please take their seats and take their conversations to the cloakroom.

The Senator from Arkansas.

Mr. McCLELLAN. Mr. President, on behalf of the Senator from California (Mr. Tunney), I ask unanimous consent that Mr. Benjamin Pollock be accorded the privilege of the floor for the purpose of monitoring this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, will the Senator now yield to me for a brief colloquy?

Mr. McCLELLAN. Mr. President, I ask unanimous consent that this colloquy be considered a discussion of an amendment. I have yielded so much time on the bill that I only have 6 or 7 minutes left. I ask unanimous consent that the colloquy be considered a discussion of an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, first of all, I commend the committee, and particularly the distinguished chairman, for having taken what I think is an important step toward recognizing that rising crime rates are not confined to our major cities alone, but that smaller towns and even rural areas have also experienced an alarming increase in crime in recent years. In many instances, local authorities do not have the resources to cope effectively with these new problems.

I am pleased to note that the language of section 408, the so-called high crime impact grant provisions, seems clearly intended to insure that smaller communities and predominantly rural jurisdictions which experience rising rates of crime shall also be eligible for assistance under this program.

If my interpretation of the committee's intent is correct, these smaller jurisdictions should be able to compete on an equal footing with the major cities for high impact assistance, and I think the same considerations ought to be made by LEAA administrators when they are promulgating the guidelines under which these grants are made.

If I am correct, LEAA administrators ought to be aware that there should be no discrimination against smaller communities in the procedures established to evaluate applications and award grants under the section.

I believe that it is most important to make this intent clear because I am aware that at least some proponents of this program wish to earmark the funds for the exclusive use of a few major cities. Earmarking of this kind would make over half the States and all of our nonurban communities ineligible for high crime impact assistance, regardless of what their circumstances might be.

I will say to the Senator from Arkansas that I do not deny that larger urban areas need assistance, and I am a strong supporter of programs to revive and strengthen the cities, but at the same time I could not support discrimination against the millions of Americans who reside in smaller cities, smaller towns, and rural areas, where crime is also a very serious problem.

So I would like to direct two questions to the Senator from Arkansas, to make sure I have not misunderstood the intent of the committee in framing the language of section 408.

First of all, I shall ask the chairman if, in his view, I am correct in assuming that eligibility under this section will be of a general nature, and there is no intent on the part of the committee to exclude jurisdictions from eligibility simply on grounds of population.

Mr. McCLELLAN. I say to the distinguished Senator so far as the committee is concerned, and so far as the language of the bill is concerned, his assumptions are correct. There is certainly no intent of which I know and I believe I can disclaim any intent on the part of any member of the committee to single out only the larger cities.

Is that what the Senator has in mind?

Mr. McGOVERN. Yes.

Mr. McCLELLAN. If that had been our intent, we would have so specified. We would have said "high crime areas in cities above certain population." As the provision is now, there is nothing to prevent the administrator from finding that a high crime situation exists in any county or city without regard to population or location.

I assume it would be so administered. However, I would assume that attention under this provision will generally be given to those larger cities where there is a high incidence of crime. But there is certainly nothing in the measure as written that would prevent the administrator from finding that there was a high incidence of crime in any locality or community, and approving a grant accordingly.

Mr. McGOVERN. Mr. President, I am glad to be reassured by the chairman that my interpretation of the provision was correct.

That being the case, does the chairman also concur in my view that the LEAA should be expected to take into account these broad considerations of eligibility when they are promulgating regulations, definitions, and guidelines and when it comes time to make the grants? Does the Senator see any reason why smaller communities that have a high crime problem should be excluded in the way the guidelines are drawn or in the way the grants are processed?

Mr. McCLELLAN. I think, to be practical, we know that there is a substantial incidence of crime almost everywhere throughout the country. What places the administrator will select for grants under this special provision, of course, I do not know. All I can do is assure the Senator there is nothing in this law, in my judgment, that prevents the administrator from approving an application or a grant in any community under this program where there is established to his satisfaction that there is a high incidence of crime. Any community where there is a high incidence of crime is eligible under this bill. That is all I can assure the Senator.

Mr. HUMPHREY. Mr. President, will the Senator from South Dakota yield?

Mr. McGOVERN. Yes, I yield to the Senator.

Mr. HUMPHREY. I appreciate very much the colloquy the Senator from South Dakota entered into with the distinguished Senator from Arkansas because it does help build legislative history. We always have attention given to the high rates of crime in the so-called metropolitan areas. One of the reasons for it is they have daily newspapers, investigative reporters, and they generally have more accurate statistical information in the metropolitan police departments. But more recent reports from the Federal Bureau of Investigation reveal that the rise in crime in America is in the smaller towns and the rural areas, that there has been an outflow, so to speak, of crime.

I simply wish to build this legislative record to this point, that there will be those of us here watching to see how this program is administered.

I live in a county that is 40 miles west of Minneapolis. The incidence of crime in that county has gone up considerably in the last 5 to 10 years and in part because of increased population pressure and changes in the type of economy, and I simply wish to be sure that the counties in my State, which are not all metropolitan—we only have three metropolitan areas, Duluth, Minneapolis, and St. Paul, the immediate region—the administrator of this program keeps in mind what the trend is in crime, and the trend in crime is that there is a more rapid growth rate in crime in the so-called smaller communities, in rural areas, than there is in the large urban areas.

I think that is what the Senator from South Dakota is getting at.

Mr. McGOVERN. That is precisely the assurance that I was trying to get and I think the Senator from Arkansas, the chairman of the committee, has made clear that there is no way under the terms of this legislation that the administrator of this program is being invited to exclude smaller communities.

When we talk about the high impact of crime we are not only talking about the cities. We are talking about every State in the Union. We are talking about the modest-sized communities, the small communities, and the rural areas. It is very important to make the legislative history very clear that those administrators of this program would be in clear violations, as I understand the committee's intent, if they were to establish some arbitrary population figure and say, "We are just going to help the 50 largest cities," or "We are just going to help the 25 largest cities." This is a national program to deal with the problem of crime in every State in the Union, and I am very grateful to have the assurances on this point.

Mr. DOLE. Mr. President, will the Senator from South Dakota yield?

Mr. McGOVERN. Yes; I yield to the Senator from Kansas.

Mr. DOLE. The Senators from South Dakota and Minnesota expressed concern to me because they are Senators representing small urban areas and rural areas. I have not taken time to read the same arguments made by the distinguished Senator from South Dakota. But based on the colloquy with the distinguished chairman, I am satisfied it cannot be interpreted that way. I am satisfied with the response of the distinguished Senator from Arkansas, and I appreciate the Senator from South Dakota raising the question.

Mr. President, the Senator from Kansas wishes to clarify a provision in S. 2212, the Crime Control Act of 1976. It is my understanding that the definition of the term "high crime areas" in section 408 is not necessarily restricted only to large metropolitan areas.

HIGH CRIME AREAS

It is my understanding that about $40 million is authorized for high crime impact grants during fiscal year 1977 under section 408, and that the guidelines for these grants are to be drawn up by LEAA—The Law Enforcement Assistance Administration.

Top-ranking law enforcement officials in Kansas are concerned that there is an assumption on the part of Federal officials that high crime areas are only in large metropolitan areas. They are concerned that in the guidelines drawn up by LEAA, predominantly rural areas which may have a high crime rate will be excluded.

LIMITED RESOURCES

Any assumption that only large metropolitan areas are high crime areas would certainly not be valid. For, as Kansas law enforcement officials have pointed out, crime rates are not necessarily related to total population.

In Kansas for example, we have 14 cities with a population of over 20,000 and one city with a population of over 200,000. Yet Kansas law enforcement officials indicate to me that the crime problem in many of our smaller urban areas is comparable to that in large metropolitan areas, except that smaller cities have fewer resources to deal with the problem.

In Lawrence, Kans., last year there was an increase in the crime rate of 23 percent over the previous year. The per capita crime rate in Junction City, Kans., was 105.1 per thousand in 1975 and it was 98.9 per thousand in Kansas City, Kans., in the same time period.

These per capita crime rates in Kansas compare to 73.7 per thousand in Chicago, Ill.; 93.1 per thousand in Atlanta, Ga.; and 99.1 per thousand in Dallas, Tex. These are three of the eight metropolitan areas which have previously received grants under the high crime impact section.

So clearly, based on these crime rates, it is possible for the smaller cities to have a larger crime problem than major urban areas. On the basis of these facts it seems self-evident to the Senator from Kansas that small cities and predominantly rural areas should not be excluded from high crime impact grants.

The high incidence of crime in less densely populated areas appears to be rising. On the average, smaller towns and rural areas in Kansas are experiencing more of an increase than the larger metropolitan areas.

One of the reasons why crime is moving out of the city and into the rural areas is apparently because more Federal funding goes to large cities for law enforcement. People who commit crimes tend to do so where they are less likely to get caught.

Until the small towns and rural areas are able to hire more law enforcement agents, crime will continue to gravitate to those less protected areas, and the crime rate in those areas will continue to rise. That is why the definition of "high crime areas" in section 408 should not be narrowly construed or limited to large cities only.

COURT CASELOAD

Small cities are also at a disadvantage in the matter of court congestion and backlog. Only in the large metropolitan areas are there more than one assistant county attorney to present cases to the court. This situation, combined with the high crime rates in some smaller cities, may contribute to a tremendous overload to both the court system and the law enforcement agency in a smaller urban area.

Section 408 specifies that high crime impact grants may be made to those areas where assistance is needed to help cope with heavy court loads. This is another reason why the inclusion of small cities in the definition of high crime areas is important.

Mr. President, again, it is my understanding that it is not the intent of section 408 to exclude small urban areas from the definition of "high crime areas." Perhaps the managers of the bill would like to comment on this.

Mr. McGOVERN. Mr. President, I thank the Senator from Arkansas and the distinguished chairman.

Mr. McCLELLAN. As I recall, we have $50 million authorized for this program, and there is $40 million in the appropriation bill that was passed this year. I do not know how far $40 million will go. But certainly there is enough from that $40 million for some smaller communities and rural cities, rather than in the metropolitan area, to have some participation in this program where there is high incidences of crime.

Mr. McGOVERN. I thank the Senator, and I appreciate the chairman's assurance.

The PRESIDING OFFICER. The bill is open for further amendment.

UP AMENDMENT NO. 237

Mr. STEVENS. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment No. 237.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, after section 28, add a new section as follows:

"Sec. 31. Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended as follows:

"(a) After section 225(c)(6) add a new paragraph:

"(7) The adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000, located within States which have no city with a population over 250,000."

"(b) Add a new subparagraph (d) as follows:

"(d) No city should be denied an application solely on the basis of its population."

Mr. STEVENS. Mr. President, at present the Juvenile Justice and Delinquency Prevention Act of 1974 regulations restrict cities with a population of under 250,000 from applying directly for certain special emphasis discretionary grants.

In Alaska the total population of the State is about 330,000 as of the 1970 census. About 180,000, or over one-third of the entire State population resides in Anchorage, the largest city in Alaska. While the population is comparatively small, the cities in Alaska are not exempted from juvenile delinquency problems. In the past 2 years, Alaska has experienced a major population growth directly related to the building of the trans-Alaska pipeline. A major impact of this population increase has been experienced in Alaskan cities where unemployment and high prices create a condition which fosters crime.

The applicant eligibility restriction is not unique to Alaska. There are 21 States in the Nation which have no city with a population over 250,000 as of the 1970 census. Therefore, all are restricted, as Alaskan cities, from applying directly for these LEAA grants.

Mr. President, I ask unanimous consent that a list of these 21 States, with the major city in each, be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Alaska—Anchorage	189,000
Arkansas—Little Rock	132,403
Connecticut—Hartford	158,017
Delaware—Wilmington	80,386
Idaho—Boise	74,990
Iowa—Des Moines	201,404
Maine—Portland	65,116
Mississippi—Jackson	153,960
Montana—Billings	61,581
Nevada—Las Vegas	125,787
New Hampshire—Manchester	87,754
New Mexico—Albuquerque	243,751
North Carolina—Charlotte	241,178
North Dakota—Fargo	53,365
Rhode Island—Providence	179,116
South Carolina—Columbia	113,542
South Dakota—Sioux Falls	72,488
Utah—Salt Lake City	175,885
Vermont—Burlington	38,633
West Virginia—Huntington	74,315
Wyoming—Cheyenne	40,914

Mr. STEVENS. Mr. President, I have been in contact with the Justice Department on this matter, but my appeals to have these regulations changed have been rejected. The Office of Juvenile Justice and Delinquency Prevention stated in a June 22, 1976 letter to me that their priorities have "developed out of pressing juvenile crime concern, such as youth gangs, which are particularly acute in large cities."

I am certainly aware of the gang problem that exists in the Nation's major metropolitan areas, however, our priorities must also take into account the juvenile crime that is most evident in the small cities of the Nation. Again, I maintain that a small population does not eliminate juvenile delinquency.

I am quite concerned at this time that this population requirement will continue to restrict many deserving cities in many States. I propose that this requirement may be waived in cities with a population of 40,000 or more in States which have no city over 250,000 in population. These cities should be allowed to apply directly to LEAA for juvenile delinquency special emphasis programs, authorized by the Juvenile Justice Delinquency Prevention Act of 1974.

Again, I emphasize that my amendment does not mandate that these people be given money. What it does is to eliminate the arbitrary restriction that currently prevents any city in 21 States from applying directly to LEAA. It would permit the city of Cheyenne, which has just over 40,000 population and is the largest city in the State of Wyoming, to make a direct application to LEAA.

There should be at least one city in each State that participates in this program. That is the intent of this amendment.

I have discussed the amendment with the managers of the bill and those involved. I hope the managers of the bill will see fit to accept the amendment.

Again I call the attention of the Senator from Arkansas to the fact that this amendment does not mandate any grants to these cities. It means that they can apply directly to LEAA—at least one city from each State can do so—for this type of assistance.

In my State, for example, with a large population center, they are required to apply through the State, under present regulations. As the State has to deal with all the cities, the possibility of one major area being able to get assistance is removed. I think Congress intended eligibility for the program in the larger metropolitan areas in each State, even though our large metropolitan areas in relation to cities such as New York, Chicago, and Los Angeles, are quite small.

I hope the managers of the bill will accept my amendment, which I think is reasonable in context.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I understand that the Senator has conferred with the Senator from Indiana with respect to this amendment. It does have some impact, I believe, on the Juvenile Justice Act of 1974 which was processed by the subcommittee chaired by the Senator from Indiana. Am I correct?

Mr. STEVENS. That is correct.

Mr. McCLELLAN. This applies to the Juvenile Delinquency Act alone.

Mr. STEVENS. Yes.

Mr. McCLELLAN. Those funds are administered by LEAA, so it does have an impact on this program.

Mr. STEVENS. Yes, it does.

Mr. McCLELLAN. I have no objection to the amendment, if it is simply a matter of trying to protect the Senator's State, to make certain that regulations do not regulate it out of the program. That is what I understand he is trying to do.

Mr. STEVENS. That is correct. I have discussed it with the Senator from Indiana and with the Senator from Nebraska and his staff. I hope the amendment will be accepted.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. Mr. President, the amendment and its rationale have been presented to this Senator and members of my staff. It is not a mandatory situation at all. It is a matter of adding a new element which can voluntarily be taken into consideration in the distribution of the special emphasis funds under the Juvenile Justice Act.

It meets a real problem in the 21 States that do have the limited population to which the Senator refers.

I have no objection; I think it would be well to adopt the amendment, and I shall vote for it.

Mr. McCLELLAN. Mr. President, unless there is some other discussion, I am perfectly willing to accept the amendment.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

UP AMENDMENT NO. 238

Mr. DURKIN. Mr. President, I ask unanimous consent that the three amendments I have at the desk be considered en bloc and that they be in order at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes unprinted amendments en bloc numbered 238.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 10, line 23, immediately after the word "State", strike the language inserted by unprinted amendment No. 228, and insert the following: "or a judicial agency authorized on the date of enactment of this Act by State law to perform such function, provided it has a statutory membership of at least 75% judges."

On page 11, line 2, immediately after the word "report", strike the language inserted by unprinted amendment No. 228, and insert the following: "or a judicial agency authorized on the date of enactment of this Act by State law to perform such function, provided it has a statutory membership of at least 75% judges."

On page 11, line 22, immediately after the word "resort", strike the language inserted by unprinted amendment No. 228, and insert the following: "or a judicial agency authorized on the date of enactment of this Act by State law to perform such funtion, provided it has a statutory membership of at least 75% judges."

Mr. DURKIN. Mr. President, yesterday, the Senator from Georgia (Mr. NUNN) offered three amendments en bloc. The three amendments that are now before the Senate make a technical change in those amendments. The amendments have been cleared with the Senator from Georgia. It is my understanding that they have been cleared with the staffs of the floor managers.

With respect to the State planning agency, the amendment of the Senator from Georgia provided that it could add the language which would allow it to be any judicial agency authorized by State law to perform the function as well as the chief justice, because in Georgia the State Judicial Council is the proper group.

My amendments would do two things. They woud provide that the judicial agency to perform the functions must have a statutory, specified membership of at least 75 percent court members and that they must be in existence and have that authority as of the date of the act. This is to insure that no new agency be created and that the judicial planning function remains with the judiciary.

(At this point, Mr. HASKELL assumed the Chair.)

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. DURKIN. I am happy to yield.

Mr. McCLELLAN. If I correctly understand, the three amendments are the same but they have to be placed in three different places in the bill. They simply would rewrite the amendments offered yesterday by the distinguished Senator from Georgia, which were accepted. Am I correct?

Mr. DURKIN. Yes.

Mr. McCLELLAN. Has the Senator from New Hampshire conferred with the Senator from Georgia about this?

Mr. DURKIN. Yes; my staff has conferred with his, I have talked with the Senator from Georgia, and he concurs in the language.

Mr. McCLELLAN. Mr. President, I accepted the amendment offered by the distinguished Senator from Georgia yesterday and this does not do any violence to that amendment. It broadens it, as I understand it. Is that correct?

Mr. DURKIN. Right. The effect is that the Judicial Planning Agency, if there is to be a judicial council, would have to be 75 percent judges in existence and have the statutory authority as of the effective date of the act.

Mr. McCLELLAN. I wanted to be sure that the Senator from Georgia has been consulted and has no objection to it.

Mr. DURKIN. He has no objection to it.

Mr. McCLELLAN. Mr. President, I say to the Senator from Nebraska that I am perfectly willing to accept the amendment if the Senator is. It is just a rewriting of the amendment accepted yesterday.

Mr. HRUSKA. Mr. President, I am willing to accept it.

Mr. McCLELLAN. Mr. President, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 239

Mr. BIDEN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BIDEN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, between lines 20 and 21, insert the following:

SEC. 18. (a) Section 453 of such Act is amended by—

(1) striking out "and" at the end of paragraph (11);

(2) striking out the period at the end of paragraph (12) and inserting "; and" in lieu thereof; and

(3) adding at the end thereof the following:

"(13) sets forth minimally acceptable physical and service standards to construct, improve or renovate State and local correctional institutions and facilities funded under this part."

(b) Section 454 of such Act is amended by adding at the end thereof the following: "The Administration shall, in consultation with the States, develop minimally acceptable physical and service standards for the construction, improvement and renovation of State and local correctional institutions and facilities funded under this part.".

On page 25, line 21, strike out "Sec. 18." and insert in lieu thereof "Sec. 19.", and redesignate the succeeding sections of the bill accordingly.

Mr. BIDEN. Mr. President, the present bill, S. 2212, to authorize the extension of the Law Enforcement Assistance Administration—LEAA—retains the section introduced in 1970 known as part E, which earmarks Federal funds for correctional institutions and facilities.

Under the amendment which I propose, State and local governments seeking funds under part E would have to incorporate, within their proposed State plan, minimum physical and service standards for their prisons.

In other words, these governments would have to tell the LEAA what kind of standards they were attempting to meet in seeking the funds.

Hopefully, the LEAA would be tough here and make sure that no plan was approved without standards which meet minimum concepts of human decency and justice.

All potential recipients of funds for the construction, improvement, and renovation of correctional facilities would incorporate minimal standards in their development plans for the approval by the administration or be ineligible for part E funding.

The House Judiciary Committee has included similar provisions in its version of the bill.

Mr. President, the need for this amendment has become abundantly clear when we recognize the central role our prisons play in our criminal justice system.

Recently, many of us have been talking about making our sentencing structure fairer. We have been talking about the need to restore the concept of accountability to those convicted of crime; about the idea of "just deserts" for criminal offenders.

We have been talking about identical sentences for identical crimes.

We have been talking about equal justice for all.

We have been talking about mandatory minimum sentences.

In short, we have been talking about the need to toughen our approach to the criminal justice system. Yet, all of us must remember that just talk does not do a whole lot. First, it seems to me, Mr. President, that we must talk about the conditions within prisons, whether they are humane and whether, if they are not humane, judges are going to refuse to sentence people to those prisons—not that they do not deserve to go to prison but because we have not set up the structure to incarcerate them if sent there.

Mr. President, all of this must remain just talk until we have decent, humane prisons in which to sentence people.

When I first looked at the bill before us today, S. 2212, I considered offering an amendment to provide a greater authorization for prison construction and prison renovation.

But, when I looked at what happened to the money we have already spent in this area, some $500 million over the last 5 years, it became clear to me that we could not simply throw more money at this problem, because so far, we are not getting our money's worth.

The General Accounting Office, in a report dated April 5, 1976, concluded that some jails, despite having received LEAA funds, were in such poor condition that they appeared similar to other jails which had been closed by courts because of their condition.

I am not talking about minor cosmetic defects or standards just short of unrealistic luxury.

The fact is that physical conditions in some jails which have benefited from LEAA funds border on the barbaric.

This GAO report calls for, and dramatizes the need for, minimum standards.

My amendment would assure that a sense of worth and human dignity is preserved in correctional institutions while at the same time we are deciding that we have to build more prisons and put more offenders, who should be accountable for their actions, in those prisons.

As countless studies have shown, nothing is so dangerous as the conditions which dehumanize the prisoner. Overcrowding, idleness, unsanitary living quarters, and eating facilities, inadequate diets, inadequate hygiene facilities and the like, breed hostility, contempt, and unrest, and can turn the detainee in a local jail, a possible first offender, into an embittered criminal of the most hardened nature.

We must work to correct this.

The means to such improvement are not contained in piecemeal projects which leave prisons in a substandard state, or in State-designed proposals for substandard prisons.

We cannot afford to continue funding projects which result in facilities which are still unacceptable. That is both inhuman and a serious waste of money.

We must insure that what work will be done will be substantial and will be significant enough to upgrade correctional facilities and institutions in accordance with minimally agreed standards.

This amendment will not detract from one of the advantages of LEAA—the flexibility it provides in coping with the myriad criminal justice problems which vary from State to State and from locality to locality.

It does not expropriate power away from the States.

It does not reorder State spending priorities.

It merely writes into law a provision which has been tacitly acknowledged if not actually implemented, a provision which is long overdue.

The feasibility of written standards has been endorsed by many correctional study groups: The National Clearinghouse for Criminal Justice Planning and Architecture; the National Sheriffs' Association; the National Advisory Commission on Criminal Justice Standards and Goals, by the American Correctional Association, and others.

The Congressional Select Committee on Crime, in its June 26, 1973, report "Reform of our Correctional Systems," applauded the National Advisory Commission findings and recommended the implementation of their findings.

Furthermore, LEAA itself has commented that in its judgment, the National Clearinghouse for Criminal Justice Planning and Architecture and the National Advisory Commission on Criminal Justice Standards and Goals have provided the cornerstone for the States to develop jail standards.

The groundwork for minimal standards has already been laid.

It only remains for the States, in consultation with the LEAA, to develop written standards which must be abided by if the States are to receive Federal moneys.

In the past, LEAA has provided guidelines for State plans in the areas of prison construction or improvement.

However, while reviewing State plans, LEAA has not forced them to meet minimum standards, nor kept close watch on how the funds have been spent.

Little effort, in my opinion, has been made to discern whether jail projects are going for minor, low-priority improvements, or for redressing depersonalizing conditions. This must be changed.

If States wish to address minor problems with their own funds, this, however regrettable in my opinion, is their prerogative.

But, as the GAO has pointed out, "the Federal Government has some obligation to bring about improvements when its funds are spent."

LEAA and the States should insure

that block grant funds are used to bring local jails up to certain minimum standards for physical conditions and programs to assist inmates.

LEAA cannot allow its funds to cover minor projects when improvements leave the facilities in a consistently substandard state.

Nor can LEAA provide stop-gap building funds if long-term problems such as structural collapse appear possible.

The specific standards need not be unreasonable.

And they will not be as the products of joint efforts on the part of the administration and the States.

Indications are that their aims will be successful.

It has been argued that some less progressive States, unwilling to raise the matching funds mandated by LEAA for specified prison improvements up to minimum standards, might choose to opt for no improvements at all.

While this is a possibility, I feel the chances of total inaction are slight.

Recent court rulings have shown that where the legislature fears to tread the judiciary does not.

U.S. District Court Judge Frank N. Johnson, in a ruling last January, ordered the State prison system of Alabama to meet specific minimum standards within 2 years or close.

His logic was simple: The severe overcrowding and unsanitary conditions in Alabama prisons was evidence of "cruel and unusual punishment" and consequently, unconstitutional.

In 1974, a New York magistrate, following similar reasoning, found the conditions at the Men's House of Detention in Manahattan to be so poor as to be unconstitutional.

As a result, this old structure, known widely as the Tombs, was closed.

Case law in other jurisdictions substantiates my belief that there is an increasing willingness on the part of the bench to insure that prison operations meet minimally humane requirements, and make sure that prisoners are deprived of only those rights expressly or by necessary implication, taken from them by law.

Very frankly, Mr. President, I do not know how anyone could argue against this amendment.

It will not merely assure that our prisons begin to meet standards of decency and justice, it will also assure that our LEAA funds are well spent.

It gives us the best of both worlds.

In conclusion, Mr. President, if we do not upgrade the prisons in the State and local jurisdictions, very shortly the judiciary will begin to follow the lead in Alabama and New York and begin to impose a prohibition on the use of the prisons.

In short, the desire of most of us is to insure that people, who, after having full advantage of all due process procedures and all the appeals, are convicted of committing serious crimes do, in fact, go to jail. In other words, we want to make sure they are meted out a punishment that has some concept of just deserts in it.

Implicitly, judges are saying, "We are not sending people to prison because of the conditions of those prisons," and they are putting them on probation. Explicitly, some courts are now saying, "We will not put people in jail and we are going to close them because you have not met minimal standards."

Finally, Mr. President, it is a waste of Federal money for us not to do something substantive about a problem that we all recognize exists.

I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, I have examined the amendment and I have no objection to it.

Mr. HRUSKA. Mr. President, if the Senator will yield me 3 minutes, I would like to make a comment or two about it.

Mr. McCLELLAN. I yield to the Senator from Nebraska.

Mr. HRUSKA. I have no objection to the amendment. In fact, I would like to commend the Senator from Delaware in his efforts with respect to part E of the LEAA bill. Part E was not a part of the basic statute until several years after the original version was adopted in 1968.

My understanding of the amendment is that there will be another element added to section 453, which will constitute another consideration for the administration to take into account in making a grant for the purpose of constructing, improving, or rehabilitaing correctional facilities nationwide.

It is not a requirement on the part E program, it is only one of the optional elements and, as modified by the Senator from Delaware, I see no objection to it, and I would be happy to vote in its favor.

Mr. BIDEN. I would like to thank the managers of the bill for accepting the amendment, and I yield back the remainder of my time.

Mr. McCLELLAN. I yield back my time.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

UP AMENDMENT NO. 240

Mr. PERCY. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes unprinted amendment No. 240.

Mr. PERCY. Mr. President. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, after section 28, add the following new section:

SEC. 29. Subsection (c) of section 5108 of title 5, United States Code, is amended by:

(a) repealing paragraph (8); and

(b) substituting in lieu thereof the following new paragraph:

"(8) the Attorney General, without regard to any other provision of this section, may place a total of 32 positions in GS-16, 17, and 18;"

SEC. 2. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(105) Commissioner of Immigration and Naturalization, Department of Justice.

"(106) United States attorney for the Northern District of Illinois.

"(107) United States attorney for the Central District of California."

"(108) Director, Bureau of Prisons, Department of Justice.

"(109) Deputy Administrator for Administration of the Law Enforcement Assistance Administration."

SEC. 3. Section 5316 of title 5, United States Code, is amended by:

(a) repealing paragraph (44);
(b) repealing paragraph (115);
(c) repealing paragraph (116);
(d) repealing paragraph (58); and
(e) repealing paragraph (134).

Mr. PERCY. This amendment would raise from Executive Level V to Executive Level IV certain high level Federal Government positions. These positions are Commissioner of Immigration and Naturalization, U.S. attorney for the Northern District of Illinois, U.S. attorney for the Central District of California, Director of the Bureau of Prisons, and Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

In addition this amendment would enable the Attorney General to place 32 positions in GS-16, GS-17, and GS-18 personnel slots. One of these positions would be in the Bureau of Prisons and the other 31 could be allocated by the Attorney General to meet critical needs throughout the Department of Justice.

Mr. President, I yield back my time unless it is necessary to have any time to respond to any comments made by the manager of the bill.

Mr. McCLELLAN. I yield myself 3 minutes. I had no advance knowledge of this proposed amendment.

Mr. PERCY. Mr. President, will the Senator use his microphone so the Senator from Illinois can hear him?

Mr. McCLELLAN. Mr. President, as I started to say, I had no advance knowledge of this amendment. In addition, this is an amendment that raises salaries. It would not even come under the jurisdiction of the subcommittee that processed this bill. The salaries that are involved, the positions that are involved, are something which possibly should have study by some other committee. My present view is that this should not be done on the floor of the Senate.

I am not at the moment raising an issue but I do not think it is germane. I am not sure the Senator should propose nongermane amendments to this bill, especially where this subcommittee had no jurisdiction of the subject matter.

Mr. PERCY. Mr. President, the distingished Senator said he had no advance knowledge. It is the understanding of the Senator from Illinois that the Senator's staff has discussed it with the staff of the distinguished Senator from Arkansas and that it was accepted and recognized as a highly desirable position taken by the Department of Justice, desired by the Attorney General, and that this would be an appropriate time to do it. I understood there would be no objection to it.

Mr. McCLELLAN. Well, I can tell the Senator that I never agreed to not interpose an objection to it. It may have been left with the staff here. Maybe they considered it nongermane and did not present it to me.

I would be glad to support it in a separate bill.

I say this in all candor and kindness,

once we start taking nongermane amendments to this bill—and I have tried to be most generous, Mr. President, in taking amendments that had any merit that were germane—we are inviting some amendments that would be very difficult and very distressing to try to deal with in the processing of this legislation.

I hope that my distinguished friend from Illinois will cooperate with us to that extent and not press for the enactment of a nongermane amendment.

I favor the substance of his amendment. I would strongly support it as a separate bill. As I said, if this were the only amendment that could come up that is nongermane, I would be tempted to accept it. But I am confronted with other possibilities and probabilities that are not pleasant to contemplate in terms of processing this legislation.

Mr. PERCY. If the Senator from Illinois modified the amendment to confine it to the 32 positions, GS–16, GS–17, and GS–18, which it is the understanding of the Senator from Illinois would be germane, if we so modified the amendment, would the Senator from Arkansas consider accepting it then?

Mr. McCLELLAN. I will ask the Parliamentarian.

I have no objection to taking any part that is germane.

If I understand the Senator, that would be subparagraphs (a), (b), and (8); in other words, section 1 of his amendment? I would like to ascertain if the first part of the amendment is germane.

The PRESIDING OFFICER (Mr. HASKELL). The title which the Senator seeks to amend is title V dealing with compensation of certain employees of the United States, and this is under the jurisdiction of another committee, the committee headed by Senator McGEE of Wyoming; and one of the tests of germaneness is whether or not the amendment, if introduced as a bill, would be referred to the committee that is now handling the bill before the Senate.

The amendment also introduces a subject not in the bill.

For these reasons, the Chair would rule the Senator from Illinois' amendment is not germane if a point of order is raised.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. McCLELLAN. I suggest the time not be taken out of either side.

The PRESIDING OFFICER. Without objection, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent to withdraw the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2060, AS MODIFIED

Mr. MORGAN. Mr. President, I send to the desk a modified version of amendment 2060, providing for grants through the Justice Department to States which need to establish or to improve their antitrust law enforcement capability. The modified amendment adds a new section to part C of the Crime Control Act of 1976 instead of part G.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes amendment numbered 2060, as modified.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 24, between lines 19 and 20, insert the following:

SEC. 16. Part C of title I of such Act is amended to include the following new section—

"SEC. 309. (a) The Attorney General is authorized to provide assistance and make grants to States which have State plans approved under subsection (c) of this section to improve the antitrust enforcement capability of such State.

"(b) The attorney general of any State desiring to receive assistance or a grant under this section shall submit a plan consistent with such basic criteria as the Attorney General may establish under subsection (d) of this section. Such plan shall—

(1) provide for the administration of such plan by the attorney general of such State;

(2) set forth a program for training State officers and employees to improve the antitrust enforcement capability of such State;

(3) establish such fiscal controls and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State including such funds paid by the State to any agency of such State under this section; and

(4) provide for making reasonable reports in such form and containing such information as the Attorney General may reasonably require to carry out his function under this section, and for keeping such records and affording such access thereto as the Attorney General may find necessary to assure the correctness and verification of such reports.

(c) The Attorney General shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section.

(d) As soon as practicable after the date of enactment of this section the Attorney General shall, by regulation, prescribe basic criteria for the purpose of establishing equitable distribution of funds received under this section among the States.

(e) Payments under this section shall be made from the allotment to any State which administers a plan approved under this section. Payments to a State under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

(f) The Comptroller General of the United States or any of his authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grantee under this section.

(g) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any State receiving a grant under this section, finds—

(1) that the program for which such grant was made has been so changed that it no longer complies with the provisions of this section; or

(2) that in the operation of the program there is failure to comply substantially with any such provision;

the Attorney General shall notify such State of his findings and no further payments may be made to such Sttae by the Attorney General until he is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Attorney General may authorize the continuance of payments with respect to any program pursuant to this part which is being carried out by such State and which is not involved in the noncompliance.

(h) As used in this section the term—

(1) "State" includes each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(2) "attorney general" means the principal law enforcement officer of a State, if that officer is not the attorney general of that State; and

(3) "State officers and employees" includes law or economics students or instructors engaged in a clinical program under the supervision of the attorney general of a State or the Assistant Attorney General in charge of the Antitrust Division.

(i) There are authorized to be appropriated to carry out the purposes of this section not to exceed $10,000,000 for the fiscal year ending September 30, 1977; not to exceed $10,000,000 for the fiscal year ending September 30, 1978; and not to exceed $10,000,000 for the fiscal year ending September 30, 1979.

Mr. MORGAN. Mr. President, the language in this amendment remains the same. What it would do is to add $10 million a year for 3 years to be used for seed money to help the various States create or build divisions of antitrust enforcement in the various offices of the State attorneys general.

I want to point out, Mr. President, that the amendment carries its own authorization and will take no funds from any LEAA program. We need not fear any difficulty with our budget resolution because this same measure, or substantially this same measure, has already been passed by the Senate as a part of S. 1136. The bill received very substantial support in the Senate, but the House Judiciary Committee has been rather slow to act. Therefore, I think it behooves us to repass this legislation.

The amendment is entirely appropriate to the Crime Control Act because it does attack crime—crime which robs the consumer, crime which robs the small businessman and taxpayer, as surely as a thug with a gun robs them. It encourages States, through their attorneys general, to make sure that the small businessman's livelihood, and the consumer's hard-earned money, are not taken from them by illegal acts. The antitrust laws were created to preserve the free enterprise system from those who would wreck it by naked restraint of trade. They were created to save the small businessman from the monopolist, and to keep alive the chance that any responsible person may enter the marketplace as his own boss.

Mr. President, in my opinion, as a former attorney general, this is one of the most important ways the Federal Government can be of assistance to State law enforcement efforts and thereby of assistance to consumers and small businessmen.

I am convinced that this is the area

in which antitrust law enforcement may be carried out by elected officials close to the people, without giving the appearance of a powerful Federal Government harassing business.

The cases of antitrust violations at the State levels are clear and can be grasped by the average person. He can see exactly how lawbreakers rob him in the marketplace and he needs someone to go to bat for him. Clearly, the Federal Government is too far removed to do this in most cases. It takes the Justice Department's manpower to go after the huge giants reaching for complete monopoly power.

It is going to take the State to stop the erosion of the free enterprise system when the erosion takes place on a smaller level.

Let me mention one example: A constituent of mine in North Carolina, a small businessman, contacted me recently. He was about to be run out of business in a general area of our State by a national company which had moved into the area with false, cutrate prices. What the national company was doing was charging far less for its services and goods than it charged in any of its territories anywhere else in the United States. Of course, we all know that once it could force the local operators out of business, it could charge what it wanted.

This kind of thing not only hurts consumers, leads directly to inflation, and defeats small business. But could the U.S. Justice Department, which would do well to hold its own against the giants, go to court to save this small business or the thousands across the country? Of course they could not. They simply do not have that kind of manpower.

In my particular case, I told the man to go to the North Carolina attorney general's office because when I was an attorney general I was able to get funds from the legislature to build antitrust enforcement capacity. It was obvious that there was a need for antitrust enforcement in North Carolina, and there is a need in every State of the Union. But it is very hard to get legislators to vote money to set up antitrust divisions. They are made weary by the propaganda machines of those who oppose law enforcement in the area of antitrust.

That propaganda tries to hang the label of "antibusiness" on those who favor enforcing the very laws made to protect free enterprise.

But those State legislators are going to see who is really against business when their attorney general sues to protect small, local businesses from the predatory and illegal attacks of out-of-State giants. And they will see where the public interest is really served, when the State no longer has to pay with the taxpayers' money for asphalt or concrete pipe on which the price has been fixed.

In North Carolina, we were able to attack price-fixing in contracts for milk sold to the schools, at a savings to every parent in the State who sends his children off to school with lunch money.

Mr. President, the effects of sound State-level antitrust enforcement are immediate. We need more of it.

I might add that we have recently passed a bill setting forth strict procedures by which the States may sue price-fixers for damages to consumers living within their jurisdictions. We have created a mechanism by which, for the first time, an elected official close to the local scene can prevent price-fixers from keeping the take from thousands of illegal overcharges involving small items.

Antitrust enforcement benefits the consumer, the small businessman, and any honest businessman. But to achieve that enforcement takes more than statutes. It takes staff. Almost all States have good antitrust laws. I am proud to say that North Carolina's antitrust law predates the Sherman Act, and it is model law.

But almost all States are lacking in trained staff to carry out the law. Let me refer to a 1974 study by the National Association of Attorneys General, State Antitrust Laws and their Enforcement.

> Legislation alone does not insure antitrust enforcement . . . Antitrust activity depends upon available staff, and staff depends upon available funds . . . . Data obtained by the Committee on the Office of Attorney General indicates that the amount of staff and the amount of funding for antitrust are severely restricted in most states.

The publication provides a chart of antitrust staffing and funding for each State, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

TABLE 3.—ATTORNEY GENERALS' ANTITRUST BUDGETS AND OTHER ANTITRUST FUNDS

	Current annual antitrust budget	Is there a revolving fund?
*Alabama	(No separate budget)	No.
*Alaska	do	No.
*Arizona	$112,759	Yes.
*Arkansas	(No separate budget)	No.
*California	$350,000	No.
*Colorado	$22,000 [1]	No.
**Connecticut	$52,041 (estimate)	No.
*Delaware	(No separate budget)	No.
*Florida	do	No.
*Georgia	do	No.
**Hawaii	do	No.
*Idaho	None	No.
**Illinois	$175,000 (estimate)	No.
**Indiana	(No separate budget)	No.
*Iowa	$125,000	No.
Kansas	(No information)	
*Kentucky	(No separate budget) [2]	No.
Louisiana	(No information)	
Maine	do	
*Maryland	$50,000	Yes.
Massachusetts	(No information)	
*Michigan	(No separate budget)	No.
*Minnesota	$190,000	No.
Mississippi	(No information)	
*Missouri	$40,000	Yes.
**Montana	$6,000 (estimate)	No.
*Nebraska	$100,000 (estimate)	No
*Nevada	(No separate budget)	No.
**New Hampshire	do	No.
*New Jersey	do	Yes
*New Mexico	do	No.
*New York	do	No.
*North Carolina	$125,000	No.
*North Dakota	(No separate budget)	No.
*Ohio	$300,000 (approximate)	Yes.
*Oklahoma	(No separate budget)	Yes.
*Oregon	$75,000	Yes.
*Pennsylvania	$75,000	No.
*Rhode Island	(No separate budget)	No.
*Samoa	do	No.
South Carolina	(No information)	
**South Dakota	$2,560	No.
*Tennessee	(No separate budget)	No.
*Texas	$50,000 (estimate)	No.
*Utah	(No separate budget)	No.
*Vermont	do	No.
*Virgin Islands	do	No.
*Virginia	$40,000 (estimate)	No.
*Washington	$171,030 (July 1, 1973–June 30, 1975).	No.
**West Virginia	$22,000 (estimate)	No.
*Wisconsin	$218,000	No.
*Wyoming	(No separate budget)	No.

[1] Colorado: Supplemental by $18,000 from Governor's fund.

[2] Kentucky: All antitrust litigation is on a contingent fee basis.

*1974.

**January 1973.

TABLE 4.—ATTORNEY GENERALS ANTITRUST STAFFS

	Attorneys	Secretary clerical	Law clerks	Other
Alabama	[2]1	0	0	0.
Alaska	0	0	0	0.
Arizona	[3]2	[2]2	0	2 part-time investigators.
Arkansas	0	0	0	0.
California	[3]8 [2]1	[3]5 [2]5	0	2 full-time paralegal (plus 1 part-time); 1 full-time economist, 1 full-time auditor.
Colorado [1]	[3]1 [2]1	[4]	0	5 (law students for research).
Connecticut [5]	[3]2	[2]1	0	0.
Delaware [1]	[2]1	[2]1	0	0.
Florida [1]	[2]3	[2]3	0	1 full-time administrative assistant.
Georgia [1]	[2]2	[2]2	0	0.
Hawaii [5]	0	0	0	0.
Idaho [1]	0	0	0	0.
Illinois [5]	[3]5	[3]3	0	1 full-time investigator.
Indiana [5]	0	[2]1/3	[2]1/3	0.
Iowa [1]	[3]4	[3]1 0	[2]1	3 full-time investigators.
Kansas	[3]2	0	0	0.
Kentucky [1]	[2]1	[2]1	0	0.
Louisiana [1]	[3]3	[3]2	0	0.
Maine (no information).				
Maryland [1]	[3]2	[3]1	[2]2	1 full-time investigator.
Massachusetts (no information).				
Michigan [1]	[3]1	[2]2	0	1 researcher.
Minnesota [1]	[3]1 [2]1	[2]1	[2]1	0.
Mississippi (no information).				
Missouri [1]	[3]2	[2]2	0	0.
Montana [5]	[2]1	[2]1	0	0.
Nebraska [1]	[3]1	[2]1	0	0.
Nevada [1]	[2]1	[2]1	0	0.
New Hampshire [5]	[2]1	[2]1	0	0.
New Jersey [1]	[3]10	[3]9	0	13 full-time investigators, data experts; accountants; microfilm operators, economists.
New Mexico [1]	0	0	0	0.
New York [1]	[3]9	[3]2	[3]2 [2]4	4 full-time investigators.
North Carolina [1]	[3]4	[3]3 [2]1	[2]2	2 full-time economists; 1 full-special agent (plus 3 part-time).
North Dakota [1]	[2]1	[2]1	0	0.
Ohio [1]	[3]10	[3]5	[3]3	1 full-time investigator; 1 full-time data analysist, 1 full-time administrative assistant.
Oklahoma [1]	[3]1	0	0	0.
Oregon [1]	[3]1	[3]1	[2]1	1 full-time executive assistant.
Pennsylvania [1]	[2]1	[2]2	0	2 part time investigators.

Footnotes at end of table.

TABLE 4.—ATTORNEY GENERALS ANTITRUST STAFFS—Continued

	Attorneys	Secretary clerical	Law clerks	Other
Puerto Rico[6]	[3]5	[3]7	0	3 full-time economists; 1 full-time accountant.
Rhode Island[1]	[2]1	[2]1	0	0.
Samoa[1]	0	0	0	0.
South Carolina (no information).				
South Dakota[1]	[2]2	0	0	0.
Tennessee[1]	[2]3	[2]3	0	0.
Texas[1]	[2]3	[2]1	[2]1	0.
Utah[1]	0	0	0	0.
Vermont[1]	0	0	0	0.
Virgin Islands[1]	[2]1	[2]1	0	0.
Virginia[1]	[3]1 [2]1	[3]1	[3]1	0.
Washington[1]	[3]1	[2]¼	0	0.
West Virginia[3]	[2]1	[2]1	0	0.
Wisconsin[1]	[3]6	[3]2 [2]1	[2]2	3 full-time investigators
Wyoming[1]	[3]1 [2]1	0	0	0.

[1] Data from 1974 COAG questionnaires.
[2] Part time.
[3] Full time.
[4] Use AG secretarial pool.
[5] Data from January 1, 1973 COAG memorandum.
[6] Data from 1971 COAG publication.

Mr. MORGAN. Mr. President, I believe these charts show very clearly what is needed. They show just how inadequate our enforcement effort is, contrary to the claims of those who want to depict small businessmen as reeling under the attack of a huge governmental antitrust machine.

This amendment will improve that situation, and it will do so in a manner agreeable to all those of us who believe strongly in the principles of States' rights. The States are ideally situated to protect the rights of the consumer, the small businessman, and the honest businesman of any size. By means of this amendment, we will give the States the funds to make a beginning.

I want to point out that the authority to make these grants is given the Attorney General, not only because that is the way the Senate passed S. 1136, but also because several States have tried to use LEAA funds and found it does not work. LEAA is not structured to fight white collar crime, and cannot render the assistance the States would need. The Justice Department has the expertise. Besides, in order to get Federal help for antitrust development, the States have had to get their grants under the organized crime division of LEAA. That is a subterfuge, and in one case it has resulted in a former narcotics specialist, on loan to LEAA, attempting to help a State antitrust department. The Justice Department is better equipped to handle this, unles we amend the LEAA act itself to provide for antitrust.

Mr. President, I yield back the remainder of my time.

Mr. HRUSKA. Will the Senator yield me 3 minutes on the amendment?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. Mr. President, I believe the Senator from North Carolina is to be complimented for his interest in antitrust enforcement. A good many of us know of the prominent place he occupied in the antitrust enforcement field when he was attorney general for his home State of North Carolina.

We are, however, Mr. President, functioning under a rule of germaneness. I have observed that both the contentions and the reasons given by the Senator for adopting this amendment are that it would not be effective to have it under the auspices of LEAA as a fund granting agency.

It would come directly under the Attorney General. I also observe that it would create a new activity in the LEAA under part G, as proposed, which embraces not only criminal activity, but civil enforcement as well.

I wonder if, under those circumstances, it would not be well to ascertain whether or not this amendment is germane in that situation, and perhaps for other reasons.

The PRESIDING OFFICER. Has the Senator made a point of order?

Mr. HRUSKA. No, I am asking the Parliamentarian whether—I do not know that I would be qualified to ask for a point of order at this time, since the time has not expired.

Mr. MORGAN. I agree.

The PRESIDING OFFICER. The Chair then assumes that the Senator is making a parliamentary inquiry as to the germaneness of this provision.

Mr. HRUSKA. I, therefore, make a parliamentary inquiry, Mr. President, as to whether or not the pending amendment is germane.

The PRESIDING OFFICER. The Chair observes that part C, appearing on page 15 of the bill, deals with grants for law enforcement. The amendment does the same thing, adding a new one, and for that reason the Chair thinks that the amendment is germane.

Mr. HRUSKA. Mr. President, I did not get the reference to the page. Page 16 of the bill?

The PRESIDING OFFICER. Page 15 of the bill, part C, the title of that part being "Grants For Law Enforcement Purposes."

Mr. HRUSKA. However, Mr. President, under the printed amendment, a new part is sought to be created, part G, and it embraces not only criminal law enforcement but civil law enforcement as well.

The PRESIDING OFFICER. The Chair would inform the Senator that the amendment has been modified to add the item as a subsection under part C.

Mr. HRUSKA. But, Mr. President, may I call the Chair's attention to the fact that the Law Enforcement Assistance Administration is not involved in the amendment? It speaks in terms of grants to be made by the Attorney General.

The PRESIDING OFFICER. The Chair is aware of that, but considers the amendment germane for the reasons previously stated.

Mr. HRUSKA. I temporarily yield the floor, Mr. President, so that I may consult further with my staff.

The PRESIDING OFFICER. Who yields time? The Senator from Arkansas has time remaining on the amendment; does the Senator yield time?

Mr. McCLELLAN. Mr. President, I can hardly reconcile the Chair's ruling with respect to the germaneness of this amendment. I think it is an erroneous judgment. I have no particular objection to the objective of the amendment. I have taken the position that I hoped to avoid any nongermane amendments to this bill.

The Chair may rule, of course, that it is germane. However, it deals with a different program outside LEAA to be administered by the Attorney General and even deals with civil matters, which are not covered by the bill; it is pretty hard for me to reconcile it as being germane.

I do not know whether a point of order will be made. I do not think a point of order is in order until all the time has been used up by the proponent of the amendment. So I will wait and see what develops.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. How has the Chair ruled, or has the Chair ruled?

The PRESIDING OFFICER. The Chair stated in response to a parliamentary inquiry that he thought it was germane.

Mr. McCLELLAN. The Chair, I believe, ruled that it was germane.

Mr. MANSFIELD. I see. Has the Chair ruled?

Mr. McCLELLAN. Well, he has indicated he would so rule.

Mr. MANSFIELD. It was a parliamentary inquiry?

Mr. McCLELLAN. Yes, but the ruling has not been——

Mr. MANSFIELD. Formalized?

Mr. McCLELLAN. Yes. I just do not want to get this bill opened up to nongermane amendments.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, if the Senator will yield me 1 minute, to fill the gap, I ask unanimous consent that the Senate go into executive session to consider the nominations of two judges on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JUDICIARY

The assistant legislative clerk proceeded to read the nominations of William A. Ingram, of California, and William W. Schwarzer, of California, to be U.S. District Judges for the northern district of California.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIME CONTROL ACT OF 1976

The Senate continued with the consideration of the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

Mr. BEALL. Mr. President, I rise in support of S. 2212 which would, if enacted, better enable the Law Enforcement Assistance Administration to provide continued and better assistance to every branch of State and local government in the organized war against crime in the United States.

In 1968 the Congress recognized the critical need for the Federal Government to take positive action to reduce crime in our Nation. As a result of that concern the LEAA was created by the Omnibus Crime Control and Safe Streets Act of 1968. Recognizing that law enforcement and crime prevention is best addressed at the State and local levels of government, Congress established a Federal administration whose primary responsibility was to funnel huge sums of money—over $4.1 million through July 1975—with only a minimum of control from Washington. Over the years LEAA has been successful in many respects; however, in other respects it has been noticeably deficient. The bottom line is that despite the untiring efforts of Federal, State, and local officials crime has not been reduced. Indeed, it has increased by epidemic proportions.

Some critics point to increased crime rates and suggest that the LEAA be abolished. Mr. President, I believe that to abandon the program would undoubtedly be a mistake; but, to simply reauthorize it without remedying its shortcomings would also be a mistake.

I am extremely pleased, therefore, that my colleagues have accepted my amendment to require each State planning agency to include in their annual comprehensive plans provisions for the development of programs and projects for the prevention of crimes against the elderly unless the SPA makes an affirmative finding that such a provision is unnecessary in that State. In addition, I believe it is important to note the incorporation in S. 2212 of major provisions from S. 3043, cosponsored by me earlier this session. Among those adopted are the following:

First, the bill would allow for the voluntary establishment of judicial planning committees—JPC's—to represent State judiciaries in the formulation of comprehensive State plans. Under this approach, the court of last resort of each State may create a JPC and be responsible for choosing its members.

By establishing judicial planning committees, the proposed bill would better enable local circuits and districts to participate in the planning process, thereby insuring that a more appropriate share of grant funds will be spent for the judiciary to alleviate the critically congested and backlogged caseloads confronting judges, court administrators, and prosecutors.

Although some progress is being made through implementation of the Speedy Trial Act, we must do more to insure that the court system is able to increase its capability to deal with the problem. I believe that the establishment and funding of judicial planning committees will be a great asset because it will allow courts to hire additional personnel and also provide the impetus for more efficient planning.

Second, under the provisions of the proposed bill, cities, urban counties or local government units would be authorized to submit comprehensive plans to State planning agencies—SPA's. Once approved by the SPA, a "mini block grant" would be awarded to the local agency without the need for further action on each individual project application. This important feature will do two things: First, it would provide local planning offices with adequate participation in the development of the comprehensive planning for a particular area. Through this process, local agencies can develop plans, set priorities, and evaluate programs which are tailor made to meet the needs of the particular community. At the same time the SPA's will retain the responsibility for insuring comprehensiveness from a regional and statewide standpoint; and second, as a practical matter this new system would eliminate an incredible amount of redtape.

No longer would it be necessary to file grant applications on a one-by-one basis for projects which have been previously approved by the SPA and the LEAA in the State's comprehensive plan. The existing system is extremely cumbersome, totally unnecessary and should be amended.

Third, provisions are made in the proposed bill for the continuation of LEAA funds previously directed to areas of the country suffering from particularly high crime rates. We have been advised by local criminal justice officials that although the LEAA's high impact anticrime program represented only a small percentage of impacted areas' crime budgets the benefits of the program have been highly significant. The major localities who have participated in the program, such as Baltimore, Md., have indicated that the funds have been successfully used in the fight against stranger-to-stranger crimes—homicides, rapes, robberies, and aggravated assaults—but are concerned that existing funding levels have expired. S. 3043 would insure the continuation of this successful LEAA program.

Fourth, the proposed amendments deal with the administrative deficiencies under the current law by requiring LEAA for the first time to establish followup procedures to monitor the effectiveness of the State programs. In essence the LEAA would be responsible for conducting both programmatic and fiscal audits of each plan to determine the impact and value of such programs in reducing and preventing crime.

The problem with the present setup is that the comprehensive plans, once approved by LEAA have become an end unto themselves without followup reviews to determine whether or not the plans were implemented as approved or if in fact the programs have had an impact on the crime rates.

If these changes are made you and I, as taxpayers, will get more for our money and the chances of reducing crime will be greatly enhanced.

Fifth, because of the continued risk of further problems with the overall program, I believe that the inclusion in the bill of extensive congressional oversight authority provisions is extremely important to monitor the progress of the program. The oversight authority would be accomplished by requiring LEAA to submit an annual report detailing its policies and priorities for reducing crime, its evaluation procedures, the number of State plans approved and disapproved, and other criteria which will clearly indicate the amount and quality of work by the administration.

Mr. President, while I recognize that enactment of this LEAA reauthorization bill cannot be expected to result in the complete subsidence of violence in our society, it does represent a significant step toward that goal. With the inclusion of those provisions which I have discussed, I believe we will be getting the most for our tax dollars while at the same time turning the tables on the criminal by returning credibility to the old adage that "crime does not pay."

Mr. NELSON. Mr. President, it is only with serious reservations that I will vote for S. 2212, extending the authorization of the Law Enforcement Assistance Administration (LEAA).

The reservations stem from the fact that LEAA's performance has been extremely disappointing since its creation and this legislation does not fully resolve some of the basic problems besetting the Agency. The decision to vote for the legislation reflects my belief that S. 2212 is a good faith response to some of the perceived problems and moves in the right direction, although in an ad hoc, incomplete fashion.

LEAA has been in existence since 1968. Obviously, an agency that has expended over $4 billion has some positive accomplishments to show for it. However, there is little doubt that LEAA has been an Agency with serious problems. In introducing legislation to reform LEAA, Senator KENNEDY called LEAA "one of the worst managed agencies in the U.S. Government." This description has been verified by the GAO and OMB which have frequently criticized those LEAA programs which have been studied. Two independent studies of LEAA have been conducted, both highly critical of the Agency. A study by the Twentieth Century Fund recommended wholesale changes in the program and a greatly reduced role for the Agency. A study by the Center for National Security Studies, which has not yet been released to the press, called for the program to be completely discontinued.

There is widespread agreement about

the reasons for LEAA's failings. At a time when crime as a political issue was most volatile, LEAA was presented, amidst great fanfare, as the Federal Government's war on crime. Through efforts like the high impact cities anticrime program, LEAA created unreasonable public expectations that crime could be reduced quickly, by massive expenditures in the law enforcement area. The overselling of LEAA focused public attention on crime statistics, glossed over the complexity of crime and the criminal justice system, and inevitably caused public disillusionment when swift improvements were not forthcoming.

LEAA has continued to suffer from the inability of Congress or the Agency itself to define its mandate: Is the Agency's principal goal to reduce crime or to upgrade the criminal justice system? Victor Navasky, an astute analyst of the law enforcement issues, addressed this problem in the background paper for the Twentieth Century Fund's report:

> The distinction between the goal of reducing crime and that of improving the criminal justice system may be a mere semantic quibble. But it also may reflect a profound difference in priorities and perspectives between the traditional, hardline, punitive law enforcement agenda and a more adventurous criminal justice strategy. The failure of both Congress and LEAA to resolve the question of mandate has resulted in confusion within and about the agency, in the formulation of conflicting criteria for resource allocation (hence, in a wasteful use of resources), and in abrupt policy shifts on the part of successive administrators.

The problem of the Agency's mandate relates closely to a second basic problem: establishing a relationship between the Federal and State governments. Because crime and law enforcement have traditionally been an area handled at the State and local level, Congress concluded that LEAA should distribute most of its funds in the form of block grants to permit States and localities to address their own problems in their own ways.

However, appealing the theory, in practice, Congress has not been willing to distribute billions of dollars in Federal funds without placing strings on the money. In 1971, seeing that the police had received 66 percent of the LEAA action money in its first years of operations while correctional institutions received only 10 percent. Congress passed legislation earmarking an amount equal to 20 percent of the LEAA action money to corrections. In 1974, troubled that the LEAA was slumping on the juvenile justice concerns, Congress passed the Juvenile Justice Act, establishing within LEAA an entire administrative structure to insure that juvenile issues received more attention and funding.

This year, the same pattern is being followed. The hearings clearly established, and the Twentieth Century Fund report agrees, that the courts have been badly shortchanged under LEAA. S. 2212 responds to these findings by insuring greater judicial participation in the State planning process and requiring LEAA to examine States' master plans to insure that they "provide an adequate share of funds for court programs"—section 303(d).

The passage of S. 2212 leaves these dilemmas partially unresolved. This bill does not clearly articulate the mandate of LEAA, nor is it a final determination of whether State or Federal priorities will ultimately govern LEAA. But the direction of S. 2212 is clear. By taking steps which will increase funding for the State courts, the Senate is again saying—as it did in the areas of juvenile justice and corrections—that the States have not allocated the funds in a way acceptable to Congress. S. 2212 represents another step moving LEAA away from its early overwhelming concern with funding law enforcement efforts—with its preoccupation with crime statistics and glamor police hardware—to an overall effort to upgrade the criminal justice system. This movement is encouraging and deserves support.

One other problem deserves mention. In the past 8 years, LEAA has funded literally thousands of programs. It is universally agreed that for the most part the Agency has no idea what has worked successfully and what has not. The Agency has not made a rigorous review of State proposals at the outset when they are submitted and has conducted no effective valuation of the programs as they progress.

Because there is no simple solution to the crime problem, the chief value of a program like LEAA is that it permits experimentation with a wide range of different approaches to the problem. This value is negated when no serious attempt is made to evaluate the programs and separate the wheat from the chaff. Fortunately, there is increasing recognition within Congress and LEAA of the importance of monitoring and evaluating the programs funded. According to the Judiciary Committee report on S. 2212, "pursuant to the provisions of the Crime Control Act of 1973, LEAA has undertaken a serious evaluation effort that is just now beginning to show its effect * * *."

As part of this effort, for example, in 1975, the LEAA prepared a compendium of selected criminal justice programs, describing more than 650 programs, summarizing their reported impact on crime or the criminal justice system and pinpointed one-third of those deemed especially innovative. S. 2212 further spells out the LEAA's obligations to evaluate and monitor approved programs. The bill provides that "prior to its approval of any State plan, the administration shall evaluate its likely effectiveness and impact"—section 303(b)—and requires LEAA to "establish such rules and regulations as are necessary to assure the proper auditing, monitoring, and evaluation by the administration of both the comprehensiveness and impact of programs * * *"—section 501.

I am hopeful that the changes required by S. 2212 will help LEAA correct past deficiencies. At present, the major flaws in the program have produced the worst of both worlds: an unwieldy Federal bureaucracy snarling the States in regulations and redtape without playing a meaningful oversight role. Yesterday, the Senate by a narrow vote rejected a Biden amendment to cut the reauthorization of the program from 5 years to 3. Three years would give LEAA and the States ample time to plan programs and show Congress whether the reforms of S. 2212 have taken hold, and it is my hope that the legislation as it emerges from conference will reauthorize the program for not more than 3 years.

Mr. MATHIAS. Mr. President, crime is one of many problems in metropolitan areas that shows no respect for jurisdictional lines. Criminals, as well as the social and economic problems that breed them, are not confined by city, county, or even State lines. In our major urban areas, crime is not simply a central city problem or a suburban problem; it is a metropolitan problem.

The Crime Control Act of 1976 would continue programs of financial assistance to State and local governments. While S. 2212 recognizes the States and general purpose local governments as the primary units for addressing the crime problem, funds can also be awarded to combinations of local governments. In this light, I hope that LEAA will continue to support cooperative efforts by the many jurisdictions in metropolitan areas to coordinate their criminal justice planning and implementation activities.

There are 38 metropolitan areas in the Nation which cross State boundaries. These 38 areas contain almost 55 million people and the ability of our Federal programs to operate effectively in interstate metropolitan areas has an impact on one quarter of the Nation's population. With this in mind, I hope that the programs we are considering today will be administered with special attention to the needs of interstate metropolitan areas. Specifically, by making grants available to regional councils of governments I believe that the LEAA program can help to address the metropolitan crime problem on a metropolitan basis.

STATEMENT ON MORGAN AMENDMENT NO. 2060 TO S. 2212

Mr. PHILIP A. HART. Mr. President, I support the amendment of the distinguished Senator from North Carolina (Mr. Morgan). With one exception, the amendment is identical to section 4 of S. 1136 which passed the Senate on December 12, 1975. The exception substitutes fiscal year 1979 for the year 1976 because that fiscal year is now over.

S. 1136 has widespread bipartisan support. It was introduced by Senator Hugh Scott and myself, and is cosponsored by Mr. Abourezk, Mr. Bayh, Mr. Biden, Mr. Brock, Mr. Brooke, Mr. Chiles, Mr. Church, Mr. Clark, Mr. Cranston, Mr. Dole, Mr. Domenici, Mr. Eagleton, Mr. Garn, Mr. Gravel, Mr. Gary W. Hart, Mr. Hartke, Mr. Haskell, Mr. Hathaway, Mr. Huddleston, Mr. Humphrey, Mr. Jackson, Mr. Javits, Mr. Johnston, Mr. Kennedy, Mr. Leahy, Mr. Mathias, Mr. McGee, Mr. McGovern, Mr. McIntyre, Mr. Magnuson, Mr. Mondale, Mr.

Morgan, Mr. Moss, Mr. Muskie, Mr. Nelson, Mr. Pastore, Mr. Percy, Mr. Proxmire, Mr. Ribicoff, Mr. Hugh Scott, Mr. Stevenson, Mr. Tunney, Mr. Weicker, and Mr. Williams.

The Judiciary Committee report on this provision stated:

> ### C. ASSISTANCE TO STATES
>
> To supplement the Federal antitrust enforcement effort, the bill authorizes a 3-year program of assistance and grants to States to improve their antitrust capabilities. S. 1136 would authorize to be appropriated not to exceed $10 million annually for fiscal years 1976, 1977, and 1978, and not to exceed $2.5 million for the transition period ending September 30, 1976. These funds are intended as seed money, and the program will terminate at the expiration of fiscal year 1978 (i.e., September 30, 1978).
>
> ### D. ASSISTANCE TO STATES
>
> S. 1136 establishes a program of assistance and grants to States to improve their antitrust enforcement capabilities. The States represent an untapped source of substantial potential in the antitrust area. State interest is high, and a number of States have formed special antitrust units. Others are utilizing existing State personnel. Presently, however, the overall number of personnel committed is inadequate due to budgetary constraints and lack of training, although most States desire to increase their antitrust efforts. Section 5 of S. 1136 would provide seed money and is designed to get State antitrust efforts off the ground. The funds could be used for training, for clinical programs in cooperation with law schools, for additional personnel, for cases, or for whatever approach a State wishes to take to enhance its antitrust capability provided it is in compliance with the section 5(b) plan and section 5(d) regulations. Its efforts could be carried out under Federal or State antitrust statutes, and could be criminal or civil in nature.
>
> After 3 years the seed money will cease. It is hoped that the States will then have a viable antitrust program to supplement the Federal effort. This can be especially useful to combat local price fixing, local customer or territory allocations, local boycotts, and other local anticompetitive conduct effectively beyond the reach of the Federal Government. It can also serve to supplement the Federal effort against nationwide conspiracies and monopolies.

Mr. President, at the annual meeting of the National Association of State Attorneys General, the following resolution was passed unanimously:

> ### Resolution XI. S. 1136
>
> Whereas, the National Association of Attorneys General recognizes the vital importance of vigorous enforcement of the antitrust laws to a freely competitive economy and the consumers' interests therein; and
>
> Whereas, this Association believes that enforcement of the antitrust laws on the state level is a significant and emerging force toward this end; and
>
> Whereas, this Association recognizes that antitrust enforcement requires substantial resources because of the highly technical nature thereof; and
>
> Whereas, this Association believes that Federal financial assistance to state enforcement is appropriate in light of the direct impact on the national economy of intensified enforcement; and
>
> Whereas, S. 1136, pending in the United States Senate, would authorize appropriation of $10,000,000 to state attorneys general offices for assistance in antitrust enforcement; Now therefore, be it
>
> *Resolved* That:
>
> 1. This Association strongly endorses passage of S. 1136, and
> 2. This Association urges the Congress to act promptly on this legislation; and
> 3. This Resolution be communicated to the appropriate committees and Members of Congress; and
> 4. The Association's Washington Counsel is authorized and directed to take all reasonable and appropriate steps to communicate this Association's strong support for passage of S. 1136 and to inform members of this Association of the progress and results thereof; and
> 5. The Special Subcommittee on Legislation of this Association's Antitrust Committee shall monitor and coordinate efforts of the Washington Counsel and members of the Association in regard to said legislation.

Mr. President, this amendment is necessary because S. 1136 is hopelessly bogged down in the House. In my judgment, the LEAA amendment route represents the only realistic possibility of securing the enactment of even part of S. 1136 this Congress. The amendment does not change the LEAA authorization contained in S. 2212; nor does it take funds from other LEAA programs. It does not violate the congressional budget resolution. It merely repasses part of a bill (S. 1136) already passed by the Senate. I hope my colleagues will support the amendment and I thank Senator Morgan for raising this issue.

Mr. President, I ask unanimous consent that I be added as a cosponsor to the amendment introduced by the distinguished Senator from North Carolina (Mr. Morgan).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER LAYING ASIDE FURTHER CONSIDERATION OF S. 2212 UNTIL MONDAY, JULY 26, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside until Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 10612, the Tax Reform Act of 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will now resume consideration of the unfinished business which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 10612) to reform the tax laws of the United States.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Is there an amendment pending?

The PRESIDING OFFICER. Committee amendment No. 18 is pending.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislatvie clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I was not in the Chamber at the time the Senate voted on titles V, VI, and VII. They were agreed to by voice vote.

Now, Mr. President, title V as well as title I involve very substantial changes in the tax laws for the better, in my judgment. They involved both simplification and a great deal of reform. I know I want to be recorded for those titles, and I think most Senators who participated in any respect whatever would like the privilege of being on record on that matter.

So I ask unanimous consent that we might reconsider title V and vote on it.

The PRESIDING OFFICER (Mr. Fannin). Is there objection?

Mr. HASKELL. Reserving the right to object——

Mr. LONG. That is, vote on it without amendment, just vote on the title.

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. Does that mean we are going to reopen title V?

Mr. LONG. No. I said without amendment. I am not planning to reopen it.

If any Senator wants to offer an amendment at some later date, it is perfectly all right with me to give him consent. That is not the problem.

I just want to vote for the tax simplification by rollcall, rather than voice vote.

Mr. HASKELL. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask for the yeas and nays on the title.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to committee amendment No. 15, title V. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. Cranston), the Senator from Colorado (Mr. Gary Hart), the Senator from Indiana (Mr. Hartke), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pell), the Senator from California (Mr. Tunney), the Senator from Arkansas (Mr. Bumpers), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 82, nays 0, as follows:

[Rollcall Vote No. 409 Leg.]

YEAS—82

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—18

Baker
Buckley
Bumpers
Cranston
Fong
Goldwater
Hart, Gary
Hartke
McClure
Metcalf
Mondale
Montoya
Pell
Percy
Scott, Hugh
Stennis
Taft
Tunney

So committee amendment No. 15 (title V) was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent, in order that we might have a rollcall vote on title VI, regarding business related individual income tax provisions, on which the Senate agreed by a voice vote, I ask unanimous consent to reconsider that vote, in order that I might ask for a rollcall.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask for the yeas and nays on title VI.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that a member of my staff, Susan Alvarado, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, may we have order? We would like to know what is going on.

The PRESIDING OFFICER. The Senator from Kentucky is correct. The Senate will be in order. Senators will please take their seats.

Mr. LONG. Mr. President, I ask unanimous consent that this vote be a 10-minute vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to title VI. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), and the Senator from Ohio (Mr. TAFT), are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 77, nays 1, as follows:

[Rollcall Vote No. 410 Leg.]

YEAS—77

Abourezk
Allen
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Hansen
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—1

Biden

NOT VOTING—22

Baker
Bayh
Buckley
Bumpers
Cranston
Curtis
Fong
Goldwater
Griffin
Hart, Gary
Hartke
McClure
McGee
Metcalf
Mondale
Montoya
Pell
Percy
Scott, Hugh
Stennis
Taft
Tunney

So committee amendment No. 16 (title VI) was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that there be a rollcall vote on title VII, Accumulation Trusts, which was agreed to previously by a voice vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I ask unanimous consent that a summary explaining title VII be printed in the RECORD. This is the title that simplifies and reforms the law with regard to accumulation trusts.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

TITLE VII—ACCUMULATION TRUSTS

Under present law, income of a trust that is currently distributed to its beneficiaries is taxed to the beneficiaries and not to the trust. However, the trust is taxed on income that is accumulated and not distributed currently. In order to prevent the use of a trust to avoid tax by using the trust's lower progressive rate structure, the Code presently contains a number of rules, known as the "accumulation distribution" or "throwback" rules, which taxes a beneficiary on distributions of income that originally was accumulated in a trust as if the income of the trust had been distributed when earned by the trust.

In the Tax Reform Act of 1969, these rules were substantially revised to provide an unlimited throwback with respect to all accumulation distributions. Under the Tax Reform Act, the tax to the beneficiary is computed under one of two different methods: the "exact method" under which the accumulated income is thrown back to the same years of the beneficiaries in which the income was earned or the "short-cut method" in which the tax is computed on an average basis. Under the Tax Reform Act, the throwback rules were applied to distributions of accumulated capital gains as well as distributions of accumulated ordinary income.

Because of a number of administrative problems with the rules provided by the Tax Reform Act of 1969, the House bill makes a number of amendments to the throwback rules. First, it deletes the exact method. Second, it modifies the short-cut method to make it more equitable and easier to administer. Third, it provides an exemption to the throwback rules for minors since it would be unlikely that there would be any tax abuse. Fourth, it provides a special rule to deal with multiple trusts. Fifth, it repeals the capital gains throwback rules. However, in order to prevent abuse through the transfer of appreciated assets to a trust to be immediately sold by the trust, the House bill contained a rule which treated any "built-in" gain arising from the sale of property as short-term capital gain if the sale occurred within two years of the transfer of the property to the trust.

The Finance Committee amendment adopts all of the amendments made by the House bill except one. Because the committee believes that the two-year holding period is arbitrary and would not provide the correct result, the committee has substituted, for that rule, a rule which taxes the "built-in" gain arising from the sale of assets occurring within two years of their transfer to the trust at the grantor's tax rate brackets. Thus, it is not possible under the committee amendment to avoid tax by simply transferring appreciated property to a trust for sale by the trust.

Mr. LONG. Mr. President, I ask unanimous consent that this be a 10-minute rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the title VII. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from California (Mr. Cranston), the Senator from Colorado (Mr. Gary Hart), the Senator from Indiana (Mr. Hartke), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pell), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present, and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. Hugh Scott), is absent on official business.

The result was announced—yeas 81, nays 0, as follows:

[Rollcall Vote No. 411 Leg.]

YEAS—81

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott,
  William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—19

Baker
Buckley
Bumpers
Cranston
Curtis
Goldwater
Griffin
Hart, Gary
Hartke
McClure
Metcalf
Mondale
Montoya
Pell
Percy
Scott, Hugh
Stennis
Taft
Tunney

So title VII was agreed to.

Mr. HANSEN. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. The motion to reconsider is not in order. The vote has been reconsidered.

AMENDMENT NO. 1873

Mr. HANSEN. Mr. President, I call up my amendment No. 1873 as modified and ask that it be stated.

The PRESIDING OFFICER. the amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 211, line 25, insert the words "and storage" after the word "moving".

On page 213, strike line 8 and insert therefor "apply to the moving and storage expenses which are furnished in kind incident to those orders".

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. HANSEN. Yes, indeed.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that this amendment be considered as part of title V.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HANSEN. What my amendment does is provide that when a permanent change of station has been ordered by the military, the military may be permitted to pay storage expenses for those goods and effects which would be required to be placed in storage by the affected personnel and members of their family. That is essentially what it does. I think that the manager of the bill is prepared to accept it.

Am I right about that?

Mr. HARRY F. BYRD, JR. Mr. President, may I say to the able Senator from Wyoming the committee had this under consideration and deferred action. Since the committee did not affirmatively act on the matter, I am not in a position to speak for the committee.

I have consulted with the chairman of the committee. He is prepared, and so is the acting chairman, to accept the amendment offered by the Senator from Wyoming and take it to conference.

The only thing it does is to include storage expenses as a part of the moving expenses for those on active duty in the military, acting under military orders. I personally see no objection to it, but I cannot speak for the committee as a whole.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. HANSEN. I thank my distinguished colleague.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Brock). Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the Senate now proceed to title IX, which would be out of order on the bill, but it could be under unanimous consent.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, title IX continues the small business tax reductions.

Prior to the 1975 Tax Reduction Act, corporate income was subject to a 22-percent normal tax and a 26-percent surtax—for a total tax rate of 48 percent. However, the first $25,000 of corporate income was exempt from the surtax and taxed at 22 percent.

In the Tax Reduction Act of 1975 the surtax exemption was increased to $50,000 and the normal tax was reduced to 20 percent on the initial $25,000 of taxable income. This results in a 20-percent tax rate on the first $25,000 of income, a 22-percent tax rate on the next $25,000, and a 48-percent rate on that part of income in excess of $50,000. These changes were extended through June 30, 1976, by the Revenue Adjustment Act of 1975.

The House bill extends these cuts through December 31, 1977.

The committee amendment makes permanent the increase in the surtax exemption and the reduction in the normal tax rate on the first $25,000 of corporate income to 20 percent. In addition, the bill makes these provisions applicable to mutual insurance companies in order to correct an oversight in the Tax Reduction Act of 1975.

The temporary changes in the corporate surtax exemption provided by the 1975 Tax Reform Act were initially adopted for two reasons: First, to grant tax relief to small businesses which are not likely to derive substantial benefits from the liberalizations in the investment tax credit because they are not capital intensive; and second, to provide temporary tax relief for small business as part of a program of tax reduction designed to help sustain the economy and promote economic recovery. In making these changes permanent, the committee assures that the improvement in equity for small businesses is permanent, and that the stimulus to the economy from small business will continue as well.

Mr. FANNIN. Mr. President, the distinguished Senator from Virginia is correct. That has our favorable support of his proposal.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Arizona.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to committee amendment No. 19. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Colorado (Mr. Gary Hart), the Senator from Indiana (Mr. Hartke), the Senator from Vermont (Mr. Leahy), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pell), the Senator from Mississippi (Mr. Stennis), the Senator from Illinois (Mr. Stevenson), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), the Senator from Ohio (Mr. Taft), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. Hugh Scott) is absent on official business.

I further announce that, if present and voting, the Senator from Ohio (Mr. Taft) would vote "yea."

The result was announced—yeas 76, nays 0, as follows:

[Rollcall Vote No. 412 Leg.]

YEAS—76

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stafford
Stevens
Stone
Symington
Talmadge
Thurmond
Tower
Williams
Young

NAYS—0

NOT VOTING—24

Baker
Buckley
Bumpers
Cranston
Curtis
Eastland
Goldwater
Griffin
Hart, Gary
Hartke
Laxalt
Leahy
McClure
Metcalf
Mondale
Montoya
Pell
Percy
Scott, Hugh
Stennis
Stevenson
Taft
Tunney
Weicker

So committee amendment 19 (title IX) was agreed to.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that Mr. Larry Gage, a member of the subcommittee staff, be accorded the privilege of the floor during the remainder of debate on this bill.

The PRESIDING OFFICER (Mr. Packwood). Without objection, it is so ordered.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. LONG. I hope that we might dispose of the real estate investment trust provisions before we vote on the matter that the Senator from Maine has in mind.

Mr. President, I have made an effort to see if we could dispose of the real estate investment trusts title today. I believe we can. If Senators wish to offer amendments involving real estate investment trusts, I am sure we could handle them this afternoon and, in addition to that, we could vote on this title, at least, from the indications I receive from sounding out Senators.

TITLE XVI—REAL ESTATE INVESTMENT TRUSTS—COMMITTEE AMENDMENT 26

So, I ask unanimous consent, Mr. President, that the Senate proceed to consider title XVI, the real estate investment trusts in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will proceed to consider title XVI, and committee amendment No. 26 will be stated.

The assistant legislative clerk read as follows:

On page 927, line 1, strike all through page 952, line 23, and insert in lieu thereof:

The amendment is as follows:

TITLE XVI—REAL ESTATE INVESTMENT TRUSTS

Sec. 1601. Deficiency Dividend Procedure.

(a) In General.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"Sec. 859. Deduction for Deficiency Dividends.

"(a) General Rule.—If a determination (as defined in subsection (c)) with respect to a real estate investment trust results in any adjustment (as defined in subsection (b)(1)) for any taxable year, a deduction shall be allowed such trust for the amount of deficiency dividends (as defined in subsection (d)) for purposes of determining the deduction for dividends paid (for purposes of sections 857(b)(2)(B) and 857(b)(3)) for such year.

"(b) Rules for Application of Section.—

"(1) Adjustment.—For purposes of this section, the term 'adjustment' means—

"(A) any increase in the sum of

"(i) the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding the excess, if any, of the net long-term capital gain over the net short-term capital loss), and

"(ii) the excess of the net income from foreclosure property (as defined in section 857(b)(4)(B)) over the tax on such income imposed by section 857(b)(4)(A),

"(B) any increase in the amount of the excess described in section 857(b)(3)(A)(ii) (relating to the excess of the net long-term capital gain over the sum of the net short-term capital loss and the deduction for capital gains dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

"(2) Interest and additions to tax determined with respect to the amount of deficiency dividend deduction allowed.—For purposes of determining interest, additions to tax, and additional amounts—

"(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the real estate investment trust for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year.

"(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(c)) for the taxable year with respect to which the determination is made, and

"(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

"(3) Credit or refund.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitation on the filing of claim for refund for the taxable year to which the overpayment relates.

"(c) Determination.—For purposes of this section, the term 'determination' means—

"(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

"(2) a closing agreement made under section 7121; or

"(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the real estate investment trust relating to the liability of such trust for tax.

"(d) Deficiency Dividends.—

"(1) Definition.—For purposes of this section, the term 'deficiency dividends' means a distribution of property made by the real estate investment trust on or after the date of the determination and before filing claim under subsection (e), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists, if distributed during such taxable year. No distribution of property shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination, and unless a claim for a deficiency dividend deduction with respect to such distribution is filed pursuant to subsection (e).

"(2) Limitations.—

"(A) Ordinary dividends.—The amount of deficiency dividends (other than deficiency dividends qualifying as capital gain dividends) paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the sum of—

"(i) the excess of the amount of increase referred to in subparagraph (A) of subsection (b)(1) over the amount of any increase in the deduction for dividends paid (computed without regard to capital gain dividends) for such taxable year which results from such determination, and

"(ii) the amount of decrease referred to in subparagraph (C) of subsection (b)(1).

"(B) Capital gain dividends.—The amount of deficiency dividends qualifying as capital gain dividends paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount by which (i) the increase referred to in subparagraph (B) of subsection (b)(1) exceeds (ii) the amount of any dividends paid during such taxable year which are designated as capital gain dividends after such determination.

"(3) Effect on dividends paid deduction.—

"(A) For taxable year in which paid.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

"(B) For prior taxable year.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

"(e) Claim Required.—No deficiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefor is filed within 120 days after the date of the determination.

"(f) Suspension of Statute of Limitations and Stay of Collection.—

"(1) Suspension of running of statute.—If the real estate investment trust files a claim as provided in subsection (e), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

"(2) Stay of collection.—In the case of any deficiency established by a determination under this section—

"(A) the collection of the deficiency, and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

"(B) if claim for a deficiency dividend deduction is filed under subsection (e), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

"(g) Deduction Denied in Case of Fraud.—No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

"(h) Penalty.—

"For assessable penalty with respect to liability for tax of real estate investment trust which is allowed a deduction under subsection (a), see section 6697."

(2) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 859. Deduction for deficiency dividends."

(b) Penalty.—

(1) Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"Sec. 6697. Assessable Penalties With Respect to Liability for Tax of Real Estate Investment Trusts.

"(a) Civil Penalty.—In addition to any other penalty provided by law, any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 859(b)(2)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest for which such trust is liable that is attributable solely to such increase.

"(b) 50-Percent Limitation.—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 859(a) for such taxable year.

"(c) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in fespect of the assessment or collection of any penalty imposed by subsection (a)."

(2) The table of sections of such subchapter B is amended by adding at the end thereof the following:

"Sec. 6697. Assessable penalties with respect to liability for tax of real estate investment trusts."

(c) Late Designation and Payment of Capital Gain Dividend.—The first sentence of subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: "; except that, if there is an increase in the excess described in subparagraph (A)(ii) of this paragraph for such year which results from a determination (as defined in section 859(c)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination".

(d) Definition of Dividend.—Subsection (b) of section 316 (relating to the definition of dividend) is amended by adding a new paragraph (3) at the end thereof, to read as follows:

"(3) Deficiency dividend distributions by a real estate investment trust.—The term 'dividend' also means any distribution of property (whether or not a dividend as defined in subsection (a)) which constitutes a 'deficiency dividend' as defined in section 859(d)."

(e) Carryover of Deficiency Dividend.—Section 381(c) (relating to carryovers in certain corporate acquisitions) is amended by adding a new paragraph (25) at the end thereof, to read as follows:

"(25) Deficiency dividend of real estate investment trust.—If the acquiring corporation pays a deficiency dividend (as defined in section 859(d)) with respect to the distributor or transferor corporation, such distributor or transferor corporation shall, with respect to such payments, be entitled to the deficiency dividend deduction povided in section 859."

(f) Technical Amendments.—

(1) Section 6422 (relating to certain cross references) is amended by adding a new paragraph (14) at the end thereof to read as follows:

"(14) For credit or refund in case of deficiency dividends paid by a real estate investment trust, see section 859."

(2) Section 6503(i) (relating to certain cross references) is amended by adding a new paragraph (4) at the end thereof, to read as follows:

"(4) Deficiency dividends of a real estate investment trust, see section 859(f)."

(3) Section 6515 (relating to certain cross references) is amended by adding a new paragraph (8) at the end thereof, to read as follows:

"(8) Deficiency dividends of a real estate investment trust, see section 859."

Sec. 1602. Trust Not Disqualified in Certain Cases Where Income Tests Were Not Met.

(a) Disqualification Not Applied.—Section 856(c) (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(7) A corporation, trust, or association which fails to meet the requirements of paragraph (2) or (3), or of both of such paragraphs, for any taxable year shall nevertheless be considered to have satisfied the requirements of such paragraphs for such taxable year if—

"(A) the nature and amount of each item of its gross income described in such paragraphs is set forth in a schedule attached to its income tax return for such taxable year;

"(B) the inclusion of any incorrect information in the schedule referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

"(C) the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, is due to reasonable cause and not due to willful neglect."

(b) Imposition of Special Taxes.—

(1) Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph:

"(5) Imposition of tax in case of failure to meet certain requirements.—If section 856(c)(7) applies to a real estate investment trust for any taxable year, there is hereby imposed on such trust a tax in an amount equal to the greater of—

"(A) the excess of—

"(i) 95 percent (90 percent in the case of taxable years beginning before January 1, 1980) of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

"(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(2); or

"(B) the excess of—

"(i) 75 percent of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

"(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(3),

multiplied by a fraction the numerator of which is the real estate investment trust taxable income for the taxable year (determined without regard to the deductions provided in paragraphs (2)(B) and (2)(E), without regard to any net operating loss deduction, and by excluding the excess, if any, of the net long-term capital gain over the net short-term capital loss) and the denominator of which is the gross income for the taxable year (excluding gross income from prohibited transactions; gross income and gain from foreclosure property (as defined in section 856(e), but only to the extent such gross income and gain is not described in subparagraph (A), (B), (C), (D), (E), or (G) of section 856(c)(3)); long-term capital gain; and short-term capital gain to the extent of any short-term capital loss)."

(2) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by inserting after subparagraph (D) (as redesignated by section 1606(a) of this Act) the following new subparagraph:

"(E) There shall be deducted an amount equal to the taxes imposed by paragraph (5) for the taxable year."

Sec. 1603. Treatment of Property Held for Sale to Customers.

(a) Elimination of Holding for Sale Rule as Qualification Requirement. — Section 856(a) (defining real estate investment trust) is amended by striking out paragraph (4).

(b) Tax on Income From Property Described in Section 1221(1) That Is Not Foreclosure Property.—Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by inserting after paragraph (5) (as added by section 1602(b)(1) of the Act) the following new paragraph:

"(6) Income from prohibited transactions.—

"(A) Imposition of tax.—There is hereby imposed for each taxable year of every real estate investment trust a tax equal to 100 percent of the net income derived from prohibited transactions.

"(B) Definitions.—For purposes of this part—

"(i) the term 'net income derived from prohibited transactions' means the excess of the gain from prohibited transactions over the deductions allowed by this chapter which are directly connected with prohibited transactions;

"(ii) the term 'net loss derived from prohibited transactions' means the excess of the deductions allowed by this chapter which are directly connected with prohibited transactions over the gain from prohibited transactions; and

"(iii) the term 'prohibited transaction' means a sale or other disposition of property described in section 1221(1) which is not foreclosure property."

(c) Technical Amendments.—

(1) So much of paragraph (3) of section 856(c) (relating to limitations) as precedes subparagraph (A) thereof is amended to read as follows:

"(3) at least 75 percent of its gross income (excluding gross income from prohibited transactions) is derived from—".

(2) Section 856(c)(2) (relating to limitations) is amended by inserting before the semicolon in subparagraph (D) thereof "which is not property described in section 1221(1)".

(3) Section 856(c)(3) (relating to limitations) is amended by inserting before the semicolon in subparagraph (C) thereof "which is not property described in section 1221(1)".

(4) Section 856(e)(1) (defining foreclosure property) is amended by adding at the end thereof the following sentence: "Such term does not include property acquired by the real estate investment trust as a result of indebtedness arising from the sale or other disposition of property of the trust described in section 1221(1) which was not originally acquired as foreclosure property."

(5) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by adding a new subparagraph (F) immediately after subparagraph (E) (as added by section 1602(b)(2) of this Act), to read as follows:

"(F) There shall be excluded an amount equal to any net income derived from prohibited transactions and there shall be included an amount equal to any net loss derived from prohibited transactions."

Sec. 1604. Other Changes in Limitations and Requirements

(a) Increase in 90-Percent Gross Income Requirement to 95 Percent.—Section 856(c)(2) (relating to limitations) is amended by striking out "90 percent of its gross income" and inserting in lieu thereof "95 percent (90 percent for taxable years beginning before January 1, 1980) of its gross income (excluding gross income from prohibited transactions)".

(b) Apportionment of Rental Income and Charges for Customary Services; Change in Definition of Independent Contractor.—Subsection (d) of section 856 (defining rents for real property) is amended to read as follows:

"(d) Rents From Real Property Defined.—

"(1) Amounts included.—For purposes of paragraph (2) and (3) of subsection (c), the term 'rents from real property' includes (subject to paragraph (2))—

"(A) rents from interests in real property,

"(B) charges for services customarily furnished or rendered in connection with the rental of real property, whether or not such charges are separately stated, and

"(C) rent attributable to personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

For purposes of subparagraph (C), with respect to each lease of real property, rent attributable to personal property for the taxable year is that amount which bears the same ratio to total rent for the taxable year as the average of the adjusted bases of the personal property at the beginning and at the end of the taxable year bears to the average of the aggregate adjusted bases of both the real property and the personal property at the beginning and at the end of such taxable year.

"(2) Amounts excluded.—For purposes of paragraphs (2) and (3) of subsection (c), the term 'rents from real property' does not include—

"(A) except as provided in paragraph (4), any amount received or accrued, directly or indirectly, with respect to any real or personal property, if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term 'rents from real property' solely by reason of being based on a fixed percentage or percentages of receipts or sales);

"(B) any amount received or accrued directly or indirectly from any person if the real estate investment trust owns, directly or indirectly—

"(i) in the case of any person which is a corporation, stock of such person possessing 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or 10 percent or more of the total number of shares of all classes of stock of such person; or

"(ii) in the case of any person which is not a corporation, an interest of 10 percent or more in the assets or net profits of such person; and

"(C) any amount received or accrued, directly or indirectly, with respect to any real or personal property if the real estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income.

"(3) Independent contractor defined.—For purposes of this subsection and subsection (e), the term 'independent contractor' means any person—

"(A) who does not own, directly or indirectly, more than 35 percent of the shares, or certificates of beneficial interest, in the real estate investment trust; and

"(B) if such person is a corporation, not more than 35 percent of the total combined voting power of whose stock (or 35 percent of the total shares of all classes of whose stock), or, if such person is not a corporation, not more than 35 percent of the interest in whose assets or net profits is owned, directly or indirectly, by one or more persons owning 35 percent or more of the shares or certificates of beneficial interest in the trust.

"(4) Special rule for certain contingent rents.—Where a real estate investment trust receives or accrues, with respect to real or personal property, any amount which would be excluded from the term 'rents from real property' solely because the tenant of the real estate investment trust receives or accrues, directly or indirectly, from subtenants any amount the determination of which depends in whole or in part on the income or profits derived by any person from such property, only a proportionate part (determined pursuant to regulations prescribed by the Secretary or his delegate) of the amount received or accrued by the real estate investment trust from that tenant will be excluded from the term 'rents from real property'.

"(5) Constructive ownership of stock.—For purposes of this subsection, the rules prescribed by section 318(a) for determining the ownership of stock shall apply in determining the ownership of stock, assets, or net profits of any person; except that '10 percent' shall be substituted for '50 percent' in subparagraph (C) of sections 318(a)(2) and 318(a)(3).".

(c) Commitment Fees.—

(1) In general.—Paragraphs (2) and (3) of section 856(c) (relating to limitations) are each amended by striking out "and" after the semicolon at the end of subparagraph (E), by inserting "and" after the semicolon at the end of subparagraph (F), and by adding at the end thereof the following new subparagraph:

"(G) amounts (other than amounts the determination of which depends in whole or in part on the income or profits of any person) received or accrued as consideration for entering into agreements (i) to make loans secured by mortgages on real property or on interests in real property or (ii) to purchase or lease real property (including interests in real property and interests in mortgages on real property);".

(2) Conforming amendment.—Section 857(b)(4)(B) (relating to net income from foreclosure property) is amended by striking out "(D), or (E)" in subdivision (i) and inserting in lieu thereof "(D), (E), or (G)".

(d) Income From Sale of Mortgages Held Less Than 4 Years.—Section 856(c)(4) (relating to limitations) is amended to read as follows:

"(4) less than 30 percent of its gross income is derived from the sale or other disposition of—

"(A) stock or securities held for less than 6 months;

"(B) section 1221(1) property (other than foreclosure property); and

"(C) real property (including interests in real property and interests in mortgages on real property) held for less than 4 years other than—

"(i) property compulsorily or involuntarily converted within the meaning of section 1033, and "(ii) property which is foreclosure property within the definition of section 856(e); and".

(e) Options To Purchase Real Property Treated as Interests in Real Property.—Section 856(c)(C) (relating to limitations) is amended to read as follows:

"(C) The term 'interests in real property' includes fee ownership and coownership of land or improvements therein, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon, but does not include mineral, oil, or gas royalty interests."

(f) Real Estate Investment Trusts May Be Incorporated.—

(1) In general.—So much of subsection (a) of section 856 (defining real estate investment trust) as precedes paragraph (3) thereof is amended to read as follows:

"(a) In General.—For purposes of this title, the term 'real estate investment trust' means a corporation, trust, or association—

"(1) which is managed by one or more trustees or directors;

"(2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;".

(2) Exception for financial institutions and insurance companies.—Section 856(a) (defining real estate investment trust) is amended by inserting after paragraph (3) the following new paragraph:

"(4) which is neither (A) a financial institution to which section 585, 586, or 593 applies, nor (B) an insurance company to which subchapter L applies;".

(3) Conforming amendments.—

(A) So much of section 856(c) (relating to limitations) as precedes paragraph (1) thereof is amended by striking out "A trust or association" and inserting in lieu thereof "A corporation, trust, or association".

(B) The second sentence of section 857(d) (defining rents from real property) is amended by striking out "a domestic unincorporated trust" and inserting in lieu thereof "a domestic corporation, trust,".

(g) Interest.—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (e) the following new subsection:

"(f) Interest.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that:

"(1) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(2) where a real estate investment trust receives or accrues any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from such debtor will be excluded from the term 'interest'.

The provisions of this subsection shall apply only with respect to amounts received or accrued pursuant to loans made after May 27, 1976. For purposes of the preceding sentence, a loan is considered to be made before May 28, 1976, if such loan is made pursuant to a binding commitment entered into before May 28, 1976."

(h) Certain Dividends.—The first sentence of section 858(a) (relating to dividends paid by real estate investment trust after close of taxable year) is amended—

(1) by inserting "(and specifies in dollar amounts)" after "to the extent the trust elects in such return", and

(2) by striking out "paid during such taxable year" and inserting in lieu thereof "paid only during such taxable year".

(i) Adoption of Annual Accounting Period.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"Sec. 860. Adoption of Annual Accounting Period.

"For purposes of this subtitle, a real estate investment trust shall not change to or adopt any annual accounting period other than the calendar year."

(2) The table of sections for such part II is amended by adding at the end thereof the following:

"Sec. 860. Adoption of annual accounting period."

(j) Change in Distribution Requirements.—Section 857(a)(1) (relating to requirements applicable to real estate investmen trusts) is amended to read as follows:

"(1) the deduction for dividends paid during the taxable year (as defined in section 561, but determined without regard to capital gains dividends) equals or exceeds—

"(A) the sum of—

"(i) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the real estate investment trust taxable income for the taxable year (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding the excess, if any, of the net long-term capital gain over the net short-term capital loss); and

"(ii) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the excess of the net income from foreclosure property over the tax imposed on such income by subsection (b)(4)(A); minus

"(B) the sum of—

"(i) the amount of any penalty imposed on the real estate investment trust by section 6697 which is paid by such trust during the taxable year; and

"(ii) the net loss derived from prohibited transactions, and".

(k) Manner and Effect of Termination or Revocation of Election.—

(1) In general.—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (f) (as added by section 1604(g) of the Act) the following new subsection:

"(g) Termination of Election.—

"(1) Failure to qualify.—An election under subsection (c)(1) made by a corporation, trust, or association shall terminate if the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply for the taxable year with respect to which the election is made, or for any succeeding taxable year. Such termination shall be effective for the taxable year for which the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply, and for all succeeding taxable years.

"(2) Revocation.—An election under subsection (c)(1) made by a corporation, trust, or association may be revoked by it for any taxable year after the first taxable year for which the election is effective. A revocation under this paragraph shall be effective for the taxable year in which made and for all succeeding taxable years. Such revocation must be made on or before the 90th day after the first day of the first taxable year for which the revocation is to be effective. Such revocation shall be made in such manner as the Secretary shall prescribe by regulations.

"(3) Election after termination or revocation.—Except as provided in paragraph (4), if a corporation, trust, or association has made an election under subsection (c)(1) and such election has been terminated or revoked under paragraph (1) or paragraph (2), such corporation, trust, or association (and any successor corporation, trust, or association) shall not be eligible to make an election under subsection (c)(1) for any taxable year prior to the fifth taxable year which begins after the first taxable year for which such termination or revocation is effective.

"(4) Exception.—If the election of a corporation, trust, or association has been terminated under paragraph (1), paragraph (3) shall not apply if—

(A) the corporation, trust, or association does not willfully fail to file within the time prescribed by law an income tax return for the taxable year with respect to which the termination of the election under subsection (c)(1) occurs;

(B) the inclusion of any incorrect information in the return referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

(C) the corporation, trust, or association establishes to the satisfaction of the Secretary that its failure to qualify as a real estate investment trust to which the provisions of this part apply is due to reasonable cause and not due to willful neglect."

(2) Conforming Amendments.—

(A) Section 856(c)(1) (relating to limitations) is amended by striking out the semicolon at the end and inserting in lieu thereof ", and such election has not been terminated or revoked under subsection (g);".

(B) Section 857(a) (relating to requirements applicable to real estate investment trusts) is amended by striking out "(other than subsection (d) of this section)" and inserting in lieu thereof "(other than subsection (d) of this section and subsection (g) of section 856)".

Sec. 1605. Excise Tax.

(a) Imposition of Tax.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 44—REAL ESTATE INVESTMENT TRUSTS

"Sec. 4981. Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year.

"Sec. 4981. Excise Tax Based on Certain Real Estate Investment Trust Taxable Income not Distributed During the Taxable Year.

"Effective with respect to taxable years beginning after December 31, 1979, there is hereby imposed on each real estate investment trust for the taxable year a tax equal to 3 percent of the amount (if any) by which 75 percent of the real estate investment trust taxable income (as defined in section 857(b)(2), but determined without regard to section 857(b)(2)(B), and by excluding the excess, if any, of the net long-term capital gain over the net short-term capital loss) for the taxable year exceeds the amount of the dividends paid deduction (as defined in section 561 but computed without regard to capital gains dividends as defined in section 857(b)(3)(C) and without regard to any dividend paid after the close of the taxable year) for the taxable year. For purposes of the preceding sentence, the determination of real estate investment trust taxable income shall be made by taking into account only the amount and character of the items of income and deduction as reported by such trust in its return for the taxable year."

(b) Technical Amendments.—

(1) Paragraph (6) of section 275(a) (relating to denial of deduction for certain taxes) is amended by striking out "and chapter 43."

and inserting in lieu thereof ", chapter 43, and chapter 44."

(2) Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For provisions relating to excise tax based on certain real estate investment trust taxable income not distributed during the taxable year, see section 4981."

(3) Section 6103 (relating to publicity of returns, etc.) is amended—

(A) by striking out "and chapter 41" in subsection (a) (2) and inserting in lieu thereof "chapter 41, and chapter 44", and

(B) by striking out "and 6" in subsection (b) (2) and inserting in lieu thereof "6, and 44".

(4) Section 6161(b) (1) (relating to extensions of time for payment of tax) is amended by striking out "42 or 43" and inserting in lieu thereof "42, 43, or 44". The second sentence of section 6161(b) is amended by striking out "or chapter 43" and inserting in lieu thereof "43, or chapter 44".

(5) Section 6201(d) (relating to deficiency proceedings) is amended by striking out "and chapter 43" and inserting in lieu thereof "chapter 43, and chapter 44".

(6) Section 6211 (defining deficiency) is amended—

(A) by striking out "42 and 43" in subsection (a) and inserting in lieu thereof "42, 43, and 44",

(B) by striking out "42 or 43" in subsection (a) and inserting in lieu thereof "42, 43, or 44", and

(C) by striking out "42 or 43" in subsection (b) (2) and inserting in lieu thereof "42, 43, or 44".

(7) Section 6212 (relating to notice of deficiency) is amended—

(A) by striking out "42 or 43" in subsection (a) and inserting in lieu thereof "42, 43, or 44",

(B) by striking out "or chapter 43" in subsection (b) (1) and inserting in lieu thereof "chapter 43, or chapter 44",

(C) by striking out "chapter 43, and this chapter" in subsection (b) (1) and inserting in lieu thereof "chapter 43, chapter 44, and this chapter", and

(D) by striking out "of chapter 43 tax for the same taxable years," in subsection (c) and inserting in lieu thereof "of chapter 43 tax for the same taxable years, of chapter 44 tax for the same taxable year,".

(8) Section 6213 (relating to restrictions applicable to deficiencies and petition to Tax Court) is amended by striking out "42 or 43" in subsection (a) and inserting in lieu thereof "42, 43, or 44".

(9) Section 6214 (relating to determinations by Tax Court) is amended—

(A) by striking out "42 or 43" in the heading of subsection (c) and inserting in lieu thereof "42, 43, or 44", and

(B) by striking out "42 or 43" each place it appears in subsection (c) and inserting in lieu thereof "42, 43, or 44", and

(C) by striking out "42 or 43" in subsection (d) and inserting in lieu thereof "42, 43, or 44".

(10) Section 6344(a) (1) (relating to cross references) is amended by striking out "42 or 43" and inserting in lieu thereof "42, 43, or 44".

(11) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out "42 or 43" each place it appears and inserting in lieu thereof "42, 43, or 44".

(12) Section 6601(c) (relating to suspension of interest in certain income, etc., tax cases) is amended by striking out in the heading thereof "42 or 43" and inserting in lieu thereof "42, 43, or 44".

(13) Section 7422 (relating to civil actions for refund) is amended by striking out "42 or 43" in subsection (e) and inserting in lieu thereof "42, 43, or 44".

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following:

"CHAPTER 44. Real estate investment trusts."

SEC. 1606. ALLOWANCE OF NET OPERATING LOSS CARRYOVER.

(a) ALLOWANCE OF DEDUCTION.—Section 857 (b) (2) (relating to real estate investment trust taxable income) is amended by striking out subparagraph (E) and by redesignating subparagraph (F) as subparagraph (D).

(b) YEARS TO WHICH LOSS MAY BE CARRIED.—Section 172(b) (1) (relating to years to which a net operating loss may be carried) is amended by adding a new subparagraph (H) at the end thereof, to read as follows:

"(H) In the case of a taxpayer which has a net operating loss for any taxable year for which the provisions of part II of subchapter M (relating to real estate investment trusts) apply to such taxpayer, such loss shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 8 taxable years following the taxable year of such loss, except, in the case of a net operating loss for a taxable year ending before January 1, 1976, such loss shall not be carried to the 6th, 7th, or 8th taxable year following the taxable year of such loss unless part II of subchapter M applied to the taxpayer for the taxable year to which the loss is carried and for all intervening taxable years following the year of loss. A net operating loss shall not be carried back to a taxable year for which part II of subchapter M applied to the taxpayer."

(c) DETERMINATION OF THE AMOUNT OF THE NET OPERATING LOSS AND THE CARRYOVER.—Section 172(d) (relating to modifications in computing net operating loss) is amended by adding a new paragraph (7) at the end thereof, to read as follows:

"(7) In the case of any taxable year for which part II of subchapter M (relating to real estate investment trusts) applies to the taxpayer—

"(A) the net operating loss for such taxable year shall be computed by taking into account the adjustment described in section 857(b) (2) (other than the deduction for dividends paid described in section 857(b) (2) (B)); and

"(B) where such taxable year is a 'prior taxable year' referred to in paragraph (2) of subsection (b), the term 'taxable income' in such paragraph shall mean 'real estate investment trust taxable income' (as defined in section 857(b) (2))."

(d) CONFORMING AMENDMENTS.—

(1) Section 172(b) (1) (relating to years to which a net operating loss may be carried carrybacks and carryovers) is amended by striking out "and (G)," in subparagraph (A) (i) and inserting in lieu thereof "(G), and (H)," and by striking out in subparagraph (E) "and (E)" and inserting in lieu thereof "(E), and (H),".

(2) Subparagraph (B) of section 857(b) (2) (relating to real estate investment trust taxable income), as redesignated by section 1607(b), is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (D)".

SEC. 1607. ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.

(a) ALTERNATIVE TAX.—Section 857(b) (3) (A) (relating to definition of capital gain divided) is amended to read as follows:

"(A) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year the net long-term capital gain of any real estate investment trust exceeds the net short-term capital loss, then, in lieu of the tax imposed by subsection (b) (1), there is hereby imposed a tax (if such tax is less than the tax imposed by such subsection) which shall consist of the sum of—

"(i) a tax, computed as provided in subsection (b) (1), on the real estate investment trust taxable income (determined by excluding such excess and by computing the deduction for dividends paid without regard to capital gains dividends), and

"(ii) a tax of 30 percent of the excess of the net long-term capital gain over the sum of the net short-term capital loss and the deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only."

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 857(b) (2) (relating to method of taxation of real estate investment trust taxable income) is amended by deleting subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraps (A), (B), and (C), respectively.

(B) Subsection (e) (2) of section 46 (relating to investment credit) is amended—

(i) by striking out "857(b) (2) (C)" in subparagraph (B) and inserting in lieu thereof "857(b) (2) (B)", and

(ii) by inserting "determined without regard to any deduction for capital gains dividends (as defined in section 857(b) (3) (C)) and by excluding the excess, if any, of the net long-term capital gain over the net short-term capital loss" immediately before the period at the end of the last sentence thereof.

(C) Section 443(e) (5) (relating to cross reference) is amended by striking out "857 (b) (2) (D)" and inserting in lieu thereof "857(b) (2) (C)".

(2) Subparagraph (B) of section 857(b) (2) (relating to real estate investment trust taxable income), as redesignated by paragraph (1) of this subsection, is amended by striking out "shall be computed without regard to capital gains dividends and".

(3) Section 857(a) (3) (C) (relating to definition of capital gain dividend) is amended by inserting after the second sentence thereof the following: "For purposes of this subparagraph, the excess of the net long-term capital gain over the net short-term capital loss shall be deemed not to exceed the real estate investment trust taxable income (determined without regard to the deduction for dividends paid (as defined in section 561)) for the taxable year."

SEC. 1608. EFFECTIVE DATE FOR TITLE.

(a) DEFICIENCY DIVIDEND PROCEDURES.—The amendments made by section 1601 shall apply with respect to determinations (as defined in section 859(c) of the Internal Revenue Code of 1954) occurring after the date of the enactment of this Act. If the amendments made by section 1601 apply to a taxable year ending on or before the date of enactment of this Act:

(1) the reference to section 857(b) (3) (A) (ii) in sections 857(b) (3) (C) and 859(b) (1) (B) of such Code, as amended, shall be considered to be a reference to section 857(b) (3) (A) of such Code, as in effect immediately before the enactment of this Act, and

(2) the reference to section 857(b) (2) (B) in section 859(a) of such Code, as amended, shall be considered to be a reference to section 857(b) (2) (C) of such Code, as in effect immediately before the enactment of this Act.

(b) TRUST NOT DISQUALIFIED IN CERTAIN CASES WHERE INCOME TESTS NOT MET.—The amendment made by section 1602 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act. In addition, the amendments made by section 1602 shall apply to a taxable year of a real estate investment trust beginning before the date of the enactment of this Act if, as the result of a determination (as defined in section 859 (c) of the Internal Revenue Code of 1954) with respect to such trust occurring after the date of the enactment of this Act, such trust does not meet the requirements of section 856(c)(2) or section 856(c)(3), or of both such sections, of such Code as in effect for such taxable year. In any case the amendment made by section 1602(a) requiring a schedule to be attached to the income tax return of certain real estate investment trusts shall apply only to taxable years of such trusts beginning after the date of the enactment of this Act. If the amendments made by section 1602 apply to a taxable year ending on or before the date of enactment of this Act, the reference to paragraph (2)(B) in section 857(b)(5) of such Code, as amended, shall be considered to be a reference to paragraph (2)(C) of section 857(b) of such Code, as in effect immediately before the enactment of this Act.

(c) Alternative Tax and Net Operating Loss.—The amendments made by sections 1606 and 1607 shall apply to taxable years ending after the date of the enactment of this Act, except that in the case of a taxpayer which has a net operating loss (as defined in section 172(c) of the Internal Revenue Code of 1954) for any taxable year ending after the date of enactment of this Act for which the provisions of part II of subchapter M of chapter I of subtitle A of such Code apply to such taxpayer, such loss shall not be a net operating loss carryback under section 172 of such Code to any taxable year ending on or before the date of enactment of this Act.

(d) Other Amendments.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by sections 1603, 1604, and 1605 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act.

(2) If, as a result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954), occurring after the date of enactment of this Act, with respect to the real estate investment trust, such trust does not meet the requirement of section 856(a)(4) of the Internal Revenue Code of 1954 (as in effect prior to the amendment of such section by this Act) for any taxable year beginning on or before the date of enactment of this Act, such trust may elect, within 60 days after such determination in the manner provided in regulations prescribed by the Secretary of the Treasury or his delegate, to have the provisions of section 1603 (other than paragraphs (1), (2), (3), and (4) of section 1603(c)) apply with respect to such taxable year. Where the provisions of section 1603 apply to a real estate investment trust with respect to any taxable year beginning on or before the date of enactment of this Act—

(A) credit or refund of any overpayment of tax which results from the application of section 1603 to such taxable year shall be made as if on the date of the determination (as defined in section 859(c) of the Internal Revenue Code of 1954) 2 years remained before the expiration of the period of limitation prescribed by section 6511 of such Code on the filing of claim for refund for the taxable year to which the overpayment relates,

(B) the running of the statute of limitations provided in section 6501 of such Code on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of any deficiency (as defined in section 6211 of such Code) established by such a determination, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of such determination, and

(C) the collection of any deficiency (as defined in section 6211 of such Code) established by such determination and all interest, additions to tax, additional amounts, and assessable penalties in response thereof shall, except in cases of jeopardy, be stayed until the expiration of 60 days after the date of such determination.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under paragraph (3) during the period for which the collection of such amount is stayed.

(3) Section 856(g)(3) of the Internal Revenue Code of 1954, as added by section 1604, shall not apply with respect to a termination of an election, filed by a taxpayer under section 856(c)(1) of such Code on or before the date of enactment of this Act, unless the provisions of part II of subchapter M of chapter I of subtitle A of such Code apply to such taxpayer for a taxable year ending after the date of enactment of this Act for which such election is in effect.

Mr. LONG. Mr. President, under present law, real estate investment trusts or REIT's, as they are called, are provided with the same general conduit treatment that is applied to mutual funds. Therefore, if a trust meets the qualifications for REIT status, the income of the REIT which is distributed to the investors each year generally is taxed to them without being subjected to a tax at the REIT level—the REIT being subject to tax only on the income which it retains and on certain income from property which qualifies as foreclosure property. Thus, the REIT serves as a means whereby numerous small investors can have a practical opportunity to invest in the real estate field. This allows these smaller investors to invest in real estate assets under professional management and allows them to spread the risk of loss by the greater diversification of investment which can be secured through the means of collectively financing projects.

Although the provisions have been amended from time to time, until 1974 the basic rules with respect to REIT's have remained the same since their enactment in 1960. Since 1960, the REIT industry has grown enormously in size and is responsible for a large portion of the investment in the real estate field in the United States today. There are, however, certain problems that have arisen with respect to the REIT provisions which could significantly affect the industry if these provisions are not modified.

In the 1974 law, Congress dealt with one of these problems, that is, the difficulty which a REIT may have in meeting the income and asset tests if it must foreclose on a mortgage that it owns or reacquire property which it owns and has leased. Under that act, in general, a REIT is not disqualified because of income it receives from foreclosure property, since acquisition of property on foreclosure generally is inadvertent on the part of the mortgagee. At the election of a REIT, a 2-year grace period—generally subject to two 1-year extensions—is allowed so that the REIT can liquidate the foreclosed property in an orderly manner or negotiate changes, for example, in leases on the property so that income from the property becomes qualified. However, during the grace period the REIT must pay the corporate tax on the otherwise nonqualified income received in the property acquired.

Certain other problems remain in this area, however. Basically, these problems relate to the fact that, under present law, if a REIT does not meet the various income, asset, and distribution tests, the REIT will be disqualified from using the special tax provisions even in cases where the failure to meet a test occurred after a good faith, reasonable effort on the part of the REIT to comply. Disqualification would have the effect of not only changing the tax status of the REIT itself, subjecting its income to tax at corporate rates, but also could adversely affect the interest of the public shareholders of the REIT. The committee believes that it is not appropriate to disqualify a REIT in such circumstances.

Mr. President, this measure both reforms the law with regard to REIT's and takes care of some unintended hardships, and I really know of no objection to the committee amendment.

I ask for the yeas and nays on the committee amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FANNIN. Mr. President, I wish to commend the distinguished Senator from Louisiana, the floor manager of the bill, and I concur with what he has said.

We have a great need to reform the tax law with respect to real estate investment trusts in order to correct the unintended hardships which the present law brings about.

This legislation that he has been covering is of great value in correcting those inequities and it should be supported.

Mr. LONG. I thank the distinguished Senator.

TIME LIMITATION ON ROLLCALL VOTE

Mr. President, I ask unanimous consent that this next rollcall vote be a 10-minute vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. Biden), the Senator from Arkansas (Mr. Bumpers), the Senator from California (Mr. Cranston), the Senator from New Hampshire (Mr. Durkin), the Senator from Mississippi (Mr. Eastland), the Senator from Colorado (Mr. Gary Hart), the Senator from Indiana (Mr. Hartke), the Senator from Vermont (Mr. Leahy), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pell), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from New York (Mr. Buck-

LEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Ohio (Mr. TAFT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 74, nays 0, as follows:

[Rollcall Vote No. 413 Leg.]

YEAS—74

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Williams

NAYS—0

NOT VOTING—26

Baker
Biden
Buckley
Bumpers
Cranston
Durkin
Eastland
Goldwater
Griffin
Hart, Gary
Hartke
Laxalt
Leahy
McClure
Metcalf
Mondale
Montoya
Pell
Percy
Schweiker
Scott, Hugh
Stennis
Taft
Tunney
Weicker
Young

So the committee amendment 26 (title 16) was agreed to.

AMENDMENT NO. 2002

Mr. HATHAWAY. Mr. President, I call up my printed amendment No. 2002.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an amendment.

At the end of title XIII add the following new section:

SEC. 1326. ALCOHOLISM TRUST FUND.

(a) Section 5001(a)(1) of the Internal Revenue Code is amended by inserting "(A)" after "(1)" and inserting at the end thereof the following:

"(B) There is hereby imposed a surtax of 2.5 percent on the tax imposed under subparagraph (A) for the purpose of carrying out section 5067 of this chapter."

(b) Section 5041(a) of the Internal Revenue Code is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following:

"(2) There is hereby imposed a surtax of 2.5 percent on the taxes imposed under paragraph (1), as determined at the rates shown in subsection (b), for the purpose of carrying out section 5067 of this chapter."

(c) Section 5051(a) of the Internal Revenue Code is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following:

"(2) There is hereby imposed a surtax of 2.5 percent on the tax imposed under paragraph (1), for the purpose of carrying out section 5067 of this chapter."

(d) The Internal Revenue Code is amended by redesignating section 5067 as section 5068 and by inserting the following new section:

"SEC. 5067. ALCOHOLISM TRUST FUND.

"(a) There is hereby established in the Treasury of the United States a trust fund to be known as the Alcoholism Trust Fund (hereinafter in this section referred to as the 'Trust Fund'), which shall consist of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

"(b) There is authorized to be appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the surtaxes collected pursuant to section 5001(a)(1)(B), section 5041(a)(2), and section 5051(a)(2) of this chapter.

"(c)(1) It shall be the duty of the Secretary of the Treasury to hold the Trust Fund and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceeding fiscal year and on its expected condition and operations during each fiscal year thereafter, and to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals, with the interest on such investments to be credited to the Trust Fund.

"(d)(1) Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for withdrawal by the Secretary of Health, Education, and Welfare (hereinafter referred to in this section as the Secretary), acting through the National Institute on Alcohol Abuse and Alcoholism (hereinafter referred to as the Institute), for the purpose of paying 50 percent of the cost of occupational alcoholism programs, pursuant to regulations which shall be prescribed by the Secretary.

"(2) For the purpose of this section, 'occupational alcoholism programs' shall be defined as programs operated primarily for the diagnosis or treatment, or both, of alcohol abuse and alcoholism in employed persons and their dependents. Such programs may include, but shall not be limited to, intervention, diagnosis, counseling, referral, treatment, and rehabilitation, and may be conducted by public or private employers, labor organizations, or consortiums of such employers or labor organizations or both, or by individuals or organizations under contract to any such entities.

"(3) Any public or private individual or organization which desires to receive funds pursuant to this section shall submit an annual application for such funds, which shall be approved by the Secretary, acting through the Institute and with the advice of a special labor-management program review committee. The annual application shall be approved if it contains a description of the program to be carried out, and contains assurances of—

"(A) the availability of funds, from sources other than the Trust Fund, to pay at least 50 percent of the cost of the program;

"(B) the professional capability to carry out the program described in the application;

"(C) the need for such a program, including the lack of adequate services currently available to the population intended to be served;

"(D) the use of such funds for the establishment of new programs, or to supplement, and not replace, funds already being expended by the applicant for programs described under this section;

and such additional assurances as the Secretary may reasonably require.

"(4) Once an initial application for funding has been approved by the Secretary, subsequent applications by the same individual or organization for the same or similar purpose shall not be disapproved by the Secretary except in cases where such individual or organization is determined not to have complied with assurances made in the application.

"(5)(A) Up to 10 percent of the amounts allocated to the Trust Fund in any fiscal year shall be available for administration of the Trust Fund, including the processing and consideration of applications for funding under paragraph (3); evaluation of, and research into, the effectiveness of occupational alcoholism programs; and the training of occupational alcoholism program personnel."

"(B) In any year in which funds withdrawn by the Secretary from the Trust Fund, pursuant to appropriation Acts, exceed the amount required to fund all approved applications for occupational alcoholism programs, the remainder of such funds may be expended by the Secretary, acting through the Institute, to provide treatment and prevention services to other currently underserved populations, such as racial and ethnic minorities, native Americans, youth, female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available."

(e) EFFECTIVE DATE.—The amendments made by this section shall be in effect on and after October 1, 1977.

Mr. LONG. I ask unanimous consent, Mr. President, that the amendment may be added at the end of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. What is the request, Mr. President?

Mr. LONG. I ask unanimous consent that the Hathaway amendment be added at the end of the bill with the miscellaneous sections.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The clerk will state the modification.

The legislative clerk proceeded to read the modification.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the modification be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of title XIII add the following new section:

SEC. 1326. ALCOHOLISM TRUST FUND.

The Internal Revenue Code is amended by redesignating section 5067 as section 5068 and by inserting the following new section:

"SEC. 5067. ALCOHOLISM TRUST FUND.

"(a) There is hereby established in the Treasury of the United States a trust fund to be known as the Alcoholism Trust Fund (hereinafter in this section referred to as the 'Trust Fund'), which shall consist of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

"(b)(1) It shall be the duty of the Secretary of the Treasury to hold the Trust Fund and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter, and to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals, with the interest on such investments to be credited to the Trust Fund.

"(c) (1) Amounts which may be credited to the Trust Fund shall be available, as provided by appropriation Acts, for withdrawal by the Secretary of Health, Education, and Welfare (hereinafter referred to in this section as the Secretary), acting through the National Institute on Alcohol Abuse and Alcoholism (hereinafter referred to as the Institute), for the purpose of paying 50 percent of the cost of occupational alcoholism programs, pursuant to regulations which shall be prescribed by the Secretary.

"(2) For the purpose of this section, 'occupational alcoholism programs' shall be defined as programs operated primarily for the diagnosis or treatment, or both, of alcohol abuse and alcoholism in employed persons and their dependents. Such programs may include, but shall not be limited to, intervention, diagnosis, counseling, referral, treatment, and rehabilitation, and may be conducted by public or private employers, labor organizations, or consortiums of such employers or labor organizations or both, or by individuals or organizations under contract to any such entities.

"(3) Any public or private individual or organization which desires to receive funds pursuant to this section shall submit an annual application for such funds, which shall be approved by the Secretary, acting through the Institute and with the advice of a special labor-management program review committee. The annual application shall be approved if it contains a description of the program to be carried out, and contains assurances of—

"(A) the availability of funds, from sources other than the Trust Fund, to pay at least 50 percent of the cost of the program;

"(B) the professional capability to carry out the program described in the application;

"(C) the need for such a program, including the lack of adequate services currently available to the population intended to be served;

"(D) the use of such funds for the establishment of new programs, or to supplement, and not replace, funds already being expended by the applicant for programs described under this section;

and such additional assurances as the Secretary may reasonably require.

"(4) Once an initial application for funding has been approved by the Secretary, subsequent applications by the same individual or organization for the same or similar purpose shall not be disapproved by the Secretary except in cases where such individual or organization is determined not to have complied with assurances made in the application.

"(5) (A) Up to 10 percent of the amounts allocated to the Trust Fund in any fiscal year shall be available for administration of the Trust Fund, including the processing and consideration of applications for funding under paragraph (3); evaluation of, and research into, the effectiveness of occupational alcoholism programs; and the training of occupational alcoholism program personnel."

"(B) In any year in which funds withdrawn by the Secretary from the Trust Fund, pursuant to appropriation Acts, exceed the amount required to fund all approved applications for occupational alcoholism programs, the remainder of such funds may be expended by the Secretary, acting through the Institute, to provide treatment and prevention services to other currently underserved populations, such as racial and ethnic minorities, native Americans, youth, female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available."

OCCUPATIONAL ALCOHOLISM TRUST FUND

Mr. HATHAWAY. Mr. President, the modified amendment I am offering at this time would permit the use of excise taxes on alcoholic beverages for the treatment of persons suffering from alcohol abuse and alcoholism. Specifically, the amendment would create a new Alcoholism Trust Fund, the proceeds of which would be available for the diagnosis, treatment, and rehabilitation of employed alcoholics, and their dependents, through programs operated by or through their employers, their unions, or both.

This amendment involves a modification of an earlier amendment I submitted, which would have required a 2.5-percent increase in the excise taxes on alcohol.

I originally offered it in the Finance Committee during the session in which we considered committee amendments. At that time, the tax increase proposed in my amendment was 5 percent. At the specific suggestion of the distinguished chairman of the committee, I agreed to modify the proposal by cutting it in half. After making that modification, I was extremely gratified that the committee voted unanimously to agree in principle with my proposal, and to support me when I offered the amendment on the floor.

I am also pleased to note the support of the distinguished chairman of the Committee on Labor and Public Welfare, Senator WILLIAMS, who has worked so long and hard for an increased Federal commitment in this area.

At this time, I have agreed to further modify my amendment by eliminating the tax increase feature altogether, pending hearings into the best method of financing the trust fund.

I am well aware that the concept of dedicated taxes and the creation of trust funds has always been a complicated one in the Congress. However, I am firmly convinced that such a concept is nowhere more appropriate than in the area of alcoholism and alcohol abuse.

Our Government and our society now sanction, even encourage, the legal sale of alcoholic beverages, and collects billions of dollars per year in tax revenues from them. Yet the consumption of alcohol directly results in one of our three largest health problems in America, along with heart disease and cancer. And indirectly, when you consider such factors as alcohol-related deaths in auto accidents, other kinds of accidents, and lost productivity to the American economy, alcohol may very well be the largest of those three.

Yet our Federal support for research, diagnosis, treatment, and rehabilitation for alcoholism lags painfully far behind those two major health areas, and many others as well.

During fiscal 1976, for example, the Federal Government spent $762,647,000 on cancer research alone, and $370,347,000 on heart and lung diseases. In contrast, alcoholism, with over 9 million victims, received a total of just $155,000,000 to cover research, treatment and rehabilitation, prevention, and several other functions.

Somehow, the societal stigma that has always attached to the disease of alcoholism continues to be attached to efforts to fund an adequate program to alleviate the problems it causes. In the year and a half since I assumed the chairmanship of the Senate Subcommittee on Alcoholism and Narcotics, I have become increasingly convinced that the only way we are ever going to make further progress toward solving these problems is through innovative methods like the one I am proposing today.

There is nothing particularly novel about the notion of earmarking a small portion of the tax on alcohol for treatment and rehabilitation programs. Many foreign countries have set up complete alcoholism research and care systems, using money collected from alcohol taxes. And nearly a third of our States allocate the proceeds of various specific alcohol taxes to treatment funding.

Included among those States are Alabama, Washington, D.C., Florida, Indiana, Kentucky, Michigan, North and South Carolina, Ohio, South Dakota, Utah, Vermont, Virginia, Washington State, West Virginia, and Wisconsin.

The amount of money required by my amendment is expected to be quite insignificant, in comparision with the total amounts collected from such taxes every year. In 1975, for example, the Federal Government alone raised nearly $6 billion from all its alcohol taxes—making alcohol revenues second only to the income tax in amounts raised in this country.

The amount would also be quite small in comparison to the overall price tag of a bottle of booze. If just 2½ percent of the tax is set aside, the portion per fifth of liquor will be just 5 cents. On a case of beer, only 1½ cents. And on a gallon of wine, less than a penny. That's hardly a sacrifice for drinking Americans, in comparison with the scope of the need for treatment—especially when you consider that some researchers have estimated that fully half of all the alcohol in this country is consumed by our 9 million active alcoholics.

Yet the money raised by such a small earmarking, if used effectively for diagnosing and treatment of present and future victims of alcohol abuse, can have a profound effect on this health problem and the human and economic destruction it leaves in its wake.

For while alcoholism is indeed a serious health problem, it is unique among such problems in that it is both preventable and treatable. And there is no better place to commence a major new effort to do both than in the occupational setting.

I have chosen occupational alcoholism diagnosis and treatment programs as the primary designated recipient of these funds, for the present. While such programs are currently underfunded and underutilized, they offer the strongest hope for identifying and treating the alcoholic while he or she is still capable of functioning in society.

We already spend a considerable sum of money to treat the alcoholic who has "hit bottom," who seeks treatment for his or her disease because there is nowhere else to go. Yet the so-called skid row types which most clearly represent this stage of the illness comprise only 3 to 5 percent of all active alcoholics.

On the other hand, over 90 percent of all male alcoholics are currently employed, and a high percentage of women as well. Taking the figures another way, the National Council on Alcoholism estimates that 5.3 percent of the work force, or over 5 million people, are currently alcoholics. Another 10 percent are estimated to have serious drinking problems.

This represents an almost incalculable cost to American industry—in absenteeism, accidents, reduced productivity, faulty decisions, and personnel turnover. Dollar estimates range from $15 to $25 billion, not including intangible loss in personal and company investment in training an employee. The NCA estimates the average annual per-employee cost at $3,000, and this seems to be a conservative estimate.

This profound effect is demonstrable, because numerous studies have now shown that the alcoholic, compared to other workers, has: 2.5 times as much absenteeism; 3.5 times the work absence due to off-the-job accidents; twice the incidence of respiratory and cardiovascular diseases; three times the incidence of digestive disorders.

Other studies have shown that 23 percent of alcoholics are disabled 15 days or more per year, as opposed to 10.3 percent of other employees; 12.8 percent for 30 days or more—compared to 6.5 percent—and 3.8 percent for 90 days or more—compared to 0.6 percent. Also, alcoholic employees have a death rate 3.22 times nonalcoholic employees. In this regard, researchers found that an alcoholism program would reduce insurance premiums by 1.7 percent and claims costs by 1.9 percent, not including workman's compensation savings, which leads us to the second major reason for emphasizing occupational programs.

OCCUPATIONAL ALCOHOLISM PROGRAMS WORK

Occupational alcoholism programs are generally recognized today as being among the most effective substance abuse treatment programs around. The National Council on Alcoholism reports an average recovery rate—abstinance for 1 year—of 75 percent in 16 labor-management programs, versus a 25 percent rate among unemployed alcoholics.

Many organizations with successful rehabilitation programs for problem drinking employees have documented substantial savings. The success rate for rehabilitation of problem drinking employees is very high. This indicates that the possibility of job loss is an incentive for employees to seek rehabilitation.

In addition, after problem drinkers are rehabilitated, there is a great reduction in their utilization of health and sickness benefits. Such reductions in utilization of health benefits due to rehabilitation of problem drinkers significantly contributes to decreasing the cost of group health insurance.

Because they are successful, employers making use of such programs often find they save far more in training costs for new employees than they spend on the programs. The annual cost of average industrial programs is actually quite low. A small study currently being conducted by the NIAAA shows the following average programs costs for different size companies:

Number of employees	*Average annual cost*
Less than 5000	$16,343
5,000–10,000	48,600
10,000–20,000	65,056
20,000–30,000	75,500
30,000 and over	62,384

Taken another way, the data shows an average cost for manufacturing companies of $36,294; for service companies of $40,252.

Many large companies have thus underwritten their own programs with little or no assistance from the Federal Government. Du Pont and Eastman Kodak were the first, in 1943 and 1944 respectively, and today 60 out of the 400 largest corporations in America have programs, including Bethlehem Steel, General Motors—with the UAW—Hughes Aircraft, Illinois Bell, Kemper Insurance, Kennecott Copper, and Scovill.

The success rate for rehabilitation and the reduction of health benefit utilization by problem drinking employees has been proven to be significant in those companies which have programs.

I would like to give some brief summaries of some of these companies and their findings:

General Motors—(Oldsmobile Division) a study of its "recovery and rehabilitation" program showed a 50 percent reduction in lost man hours; a 30 percnt reduction in sickness and accident benefits paid; a 56 percent drop in leaves of absence; a 78 percent reduction in grievances filed by the group; a 63 percent decrease in disciplinary problems; and an 82 percent drop in job-related accidents.

Scovill Manufacturing Company in Waterbury, Connecticut employs 6,500 employees.

The Scovill programs processed 180 employees over a three year period. They estimate their annual savings at $186,550. Importantly, 78 percent of those problem drinking employees referred for treatment were rehabilitated.

Economics Laboratory, Inc. of St. Paul, Minnesota has an employee population of 3,500 in the United States. They have a rehabilitation success rate of 80 percent for employees and 50 percent for dependents of the employees. In addition, the Company reduced treatment costs 60 percent to 65 percent by utilizing nonhospital facilities such as alcoholism treatment centers.

The De Paul Industrial Alcoholism Project of Milwaukee, Wisconsin receives referrals from twenty-three companies in the Milwaukee area. This population is composed primarily of blue-collar, skilled and unskilled factory workers. In conducting a nine month follow-up study of problem drinkers treated, 46 percent reported total abstinence and 25 percent essential abstinence, for a total of 71 percent significantly improved.

Illinois Bell Telephone Company studied 402 employees for five years prior to referral and for five years after. The job rehabilitation rate was 72 percent. In addition, these 402 employees had 602 cases of sickness disability before rehabilitation and 356 cases after rehabilitation. This is a reduction of 46 percent in sickness disability, indicating a tremendous decrease in utilization of insurance plans.

The Philadelphia Fire Department established a referral program for its 3,410 employees in 1972. For those problem drinkers referred to outpatient care, sick leave was reduced by 55 percent. Injuries were reduced by 67 percent; both of these factors indicating a significant decrease in health insurance utilization.

Kennecott Copper Company found sickness and accident costs for alcoholics compared with the average to be more than 5 to 1; hospital, medical and surgical costs were more than 3 to 1. Yet, after a 12½ month involvement in the program, hospital, medical and surgical costs decreased 55.35 percent.

Ontario Hydro—(Canadian utility) reports 60 to 70 percent success rate.

8 May Street Industrial Alcoholism Program in Toronto (a consortium) indicates an 81 percent success rate among blue collar and mid-management personnel referred from industry.

Given this record of glowing accomplishments, with the concomitant savings to employers utilizing such programs, it might well be asked why more companies do not set up programs themselves—that is, why is the Federal Government needed in this area at all?

There are several reasons for the Government's interest.

In the first place, I would emphasize again that many large companies are setting up such programs, including 60 of the largest 400 in the Nation.

But the problem is, only the larger companies really have the ready resources to start up such programs, and yet a large percentage of employees in the Nation are in companies with fewer than 500 employees; 97 percent of all companies in America are considered "small businesses" under the Small Business Act, accounting for 53 percent of all private sector employment.

Additional impetus is needed to involve those companies, because for most of them the only workable mode of treatment will be through consortiums, made up of a number of companies or labor unions or both.

It should be noted that the commitment of the private sector would still have to be a significant one, under the procedures set up by this amendment. In order to get maximum effect from the dollars raised by this new tax, at least 50 percent of the cost of programs funded will have to be paid from non-Federal sources, although those could include health insurance plans and other third-party payors.

In addition, this program will be available to governmental agencies as well as private employers, to enable them to establish or improve their alcoholism treatment programs. Current Federal law requires Federal agencies to provide alcoholism treatment programs for civilian employees. However, as recent hearings held by the House Committee on Government Operations demonstrated, few such programs have been set up, and fewer still have been as effective as many of the private sector programs. Government agencies—including State and local agencies—would also be required to meet the 50/50 matching requirement, but it is hoped that many more of them will be stimulated by this program to set up effective occupational programs.

I should also point out that there are other major Government interests at stake in this area, in addition to the potential savings to industry and the economy in lost productivity. Signs of alcoholism and other problems occur earlier in the workplace than they do elsewhere, enabling earlier intervention and treatment for the abuser. This will almost certainly result in savings to the Government in unemployment compensation costs, welfare payments, medicare and medicaid, food stamps, and all the other costs that are attendant upon a person dropping out of the labor force.

I think the need for more and better treatment of our Nation's alcoholics in general, and occupational programs in particular, was addressed quite eloquently in oversight hearings before my subcommittee by Adolph J. Sullivan, a top executive of Standard Oil of California.

Mr. Sullivan said:

> Industry is not interested in government dollars. But in this particular field of occupational alcoholism, we do need to buy time. . . .
>
> If you are talking about 9 million alcoholics, there are a lot of people to be helped and a lot of programs needed. I do not know the total number of U.S. corporations, but we only have about 200 viable corporate programs, so that the amount of work remaining to be done is a little scary.
>
> One other number that popped into my head as I was sitting in the back of the room this morning was with regard to how much money we should spend at the government level.
>
> After all, I am a conservative, and think about these things.
>
> I began to realize that there are 9 million alcoholics by anybody's standard, and even if we look at $100, that is $900 million.
>
> I do not think $100 per head is very much money to try to solve a fatal disease.
>
> Even if you went to $200, who is going to say? I do not think we are extremists . . .

Mr. President, I feel safe in saying that congressional adoption of this concept and this program would be a revolutionary breakthrough for alcoholism diagnosis, treatment, and rehabilitation in America. Since every indication is that we are sadly in need of such a breakthrough, I urge my colleagues to support me in the adoption of my amendment.

I ask unanimous consent to have printed in the RECORD at this point a brief section-by-section analysis of my amendment, along with a table showing the amount of money I estimate would be raised by the tax increase involved.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

PROVISIONS OF AMENDMENT

1. *Creation of trust fund*—The excise tax on alcohol or from some other source, will be specifically earmarked by the future acts of Congress for the creation of an Alcoholism Trust Fund. This would not be a "true" trust fund, like the Highway Trust, but rather would require an annual appropriation act to become and remain operative.

2. *Structure of trust fund.*—The Alcoholism Trust Fund would be administered by the Secretary of Health, Education, and Welfare, acting through the National Institute on Alcohol Abuse and Alcoholism, with the advice of a special labor-management review committee.

3. *Expenditure of funds.*—Money earmarked for the trust fund will be dispersed, on a 50/50 matching basis, commencing in the fiscal year 1978, for the purpose of creating and administering occupational alcoholism programs, pursuant to regulations promulgated by the Board. The programs so funded—

(A) Would have to be primarily for the benefit of employed individuals and their dependents;

(B) Could involve diagnosis, intervention, counseling and referral, or treatment and rehabilitation, or any combination of these and other services;

(C) Could be operated by or through public or private employers, labor organizations, consortia of employers or labor organizations or both, or private service providers under contract to such entities.

(D) Would have to be a new program, or supplementary to, and not a replacement of, funds already being spent by the applicant for such services.

4. *Administration and evaluation.*—Up to ten percent of the money earmarked by the ATF may be set aside for administration and evaluation, and to conduct a training program for occupational alcoholism program personnel.

However, it should be emphasized that is intended that the administration of this program be as streamlined and efficient as possible. No large bureaucracy is envisioned, and the use of existing governmental personnel and expertise is to be encouraged wherever possible. As large as proportion of the funds as possible should be channeled directly to the programs, with as few restrictions as possible, in order to encourage innovation.

5. *Additional use of funds.*—In addition to funding occupational programs, any money left over after funding all approved occupational programs may be spent by the Secretary for programs serving other currently under-served populations, such as racial or ethnic minorities, native Americans, youth, women, and persons in rural areas.

ALCOHOLISM TRUST FUND

[Approximate revenues from 2.5 percent earmark of current excise taxes under secs. 5001, 5041, and 5051 of the Internal Revenue Code, based on 1975 taxable gallonage]

	Current tax rate	1975 taxable quantity	Effect of 2.5 percent earmark [1]	Revenue yield
Distilled spirits	$10.50 per proof gallon	295,000,000 gal	26.25 cents per proof gallon	77, 500, 000
Beer	$9 per barrel (31 gal)	147,000,000 bbl	27.5 cents per barrel	33, 000, 000
Wine (Tax depends on alcohol content—2 largest given here).	(a) 17 cents per gallon	207,000,000 gal	0.425 cents per gallon	1, 000, 000
	(b) 67 cents per gallon	80,000,000 gal	1.675 cents per gallon	1, 500, 000

[1] These earmarks are of the equivalent of 5 cents per fifth of liquor, 1½ cents per case of beer and less than 1 cent per gallon of wine.

Note: Total yield for fund, $113,000,000.

Mr. HATHAWAY. Mr. President, my original amendment had a specific tax provision in it, as I mentioned before. After consultation with the chairman of the Labor and Public Welfare Committee and the chairman of the Committee on Finance, we decided that it would be better simply to establish the trust at this time, but not to earmark specific revenues for it. We would then hold hearings in both the Labor and Public Welfare Committee and the Finance Committee, so that the people in the alcoholic beverage industry, the Bureau of Alcohol, Tobacco and Firearms, the National Institute on Alcohol Abuse and Alcoholism, the Alcoholism Treatment Community, and employers and labor unions, would have an opportunity to testify and give their input with regard to this amendment. Thus, the amendment simply establishes a trust fund at this time, with no tax or earmark to put money into it. Hopefully, in the near future, we can hold hearings to determine just how much of a tax is required and how much of an appropriation would be necessary to carry out the purposes of the fund. I would hope the fund can become fully operational by October 1, 1977.

I am happy to yield to my friend from Louisiana.

Mr. LONG. Mr. President, it is my understanding that we in the committee discussing this matter had tentatively agreed to it and that the Senator was asked to draft his amendment in written form so we could see what it looked like, and that he had done that. As the Senator said, this merely establishes a fund. It does not provide revenue for it. With no revenue, obviously, no money can be spent from it. But we hope, next year, to either find a way to transfer some of the existing revenues over to the fund, or else we would undertake to provide a tax to put some revenues into the fund so that this very needed work of redeeming persons who have been victims of alcoholism can be advanced.

The Senator is to be applauded for his efforts in this regard. I want to assure him that he will have my cooperation and, I am sure, the cooperation of most of us here in his effort to curb alcoholism. I think it is a very worthy undertaking and, in due course, we shall try to find a way to provide the funds for it.

Mr. McCLELLAN. Will the Senator yield?

Mr. LONG. Yes.

Mr. McCLELLAN. As I understand it, we are only creating a fund in this amendment?

Mr. LONG. That is right.

Mr. McCLELLAN. There is no provision in this amendment that makes any disposition of that fund?

Mr. LONG. That is right.

Mr. McCLELLAN. The Senator pointed out that in the future, the Committee on Finance will consider disposition of the fund. I should like to ascertain whether it is the purpose now to bypass the Appropriations Committee and make this another fund over which Congress would have no further jurisdiction?

Mr. LONG. I shall have to direct that to the Senator from Maine.

Mr. HATHAWAY. I assure the Senator from Arkansas that it is not our purpose to bypass the Committee on Appropriations at all. With regard to the original amendment, which entailed a tax of 2.5 percent, we were mindful that even if it passed, we would still have to go to the Committee on Appropriations to get an appropriation of the money before it could be spent for the purposes set out.

Mr. McCLELLAN. It is not in the Senator's original amendment, because he appropriated the money equal to all of the tax raised in his amendment. That is what I am concerned about. That is no longer part of it, I understand.

I wanted to raise the question. I personally think it is a pretty bad policy to continue back-door spending. I think we ought to have the matters—I am not speaking for an indefinite period because I shall not be here in the Senate all the years in the future; that is certain. But as we deal with these problems, we should remember and take into account and consider whether we want to move toward establishing funds, tax funds, placing them in a trust fund and then having no further control over them. Congress, just by establishing the fund, then lets the fund and whoever administers it take all the money as it comes in and spend it whatever way he wants to. I am of the opinion—and I could be wrong, but I am thinking in terms of the best policy for Government; that is for Congress to keep funds under control for appropriation purposes. I even feel that way about revenue sharing. I was outvoted on that when the Senate did that. But when we come to periods of economic distress, where we undertake to cut expenditures—these moneys come in as taxes, either direct or indirect. They come from the people. When we come to the point where we may need to reduce, to retrench, they are beyond the control of the Congress. I am suggesting that Congress should keep control of public revenues and that they should be appropriated.

There can be exceptions and sometimes, an exception works all right. But if we start the practice, if we are not careful, we will fall into the practice where, every time we want to do something like this, we put it in a fund and take it out of control of Congress in the future.

I am not opposing this amendment. I just wanted to make this brief comment about it, because I would have been compelled to oppose the printed amendment in the form it was in. Since that has been changed, I shall not oppose it.

Mr. LONG. Mr. President, as long as the Senator from Arkansas, John McClellan, is the chairman of the Appropriations Committee, I shall be delighted for the Appropriations Committee to handle it. As long as his ranking member is chairman of that committee, if I should survive that long, I would be delighted for him to handle it or the next man in order on that committee, because all those men, great Senators that they are, realize the need to do something about the problem of alcoholism. About the only time that this Senator tends to want to bypass a committee is when the situation is such that he is afraid the chairman might not be sympathetic to the program. I know that the Senator is for anything that can be done to bring alcoholism under control.

Mr. JAVITS. Mr. President, I have some questions I would like to ask the Senator. I ask them very sympathetically because the Senator knows that, with Senator Moss of Utah, I was the author of the first alcoholism bill which became law here, and I would also like to say to Senator McClellan, when I was a member of the Judiciary Committee, very effective provisions were written into the law dealing with this question.

First, does the Senator in his amendment include research also or is this confined to the effort to abate the excess abuse of alcohol by the individual?

Mr. HATHAWAY. This is to abate the abuse of alcoholism and treat its victims. Proceeds of the trust fund are designed to be used primarily for industrial programs. We have found out statistically that industrial treatment programs, both in this country and Canada, and in other foreign countries, have worked out better than most other programs. Some of them have a success rate as high as 75 percent, as I noted in my earlier remarks.

It is my intention that the money allocated to the trust fund would be disbursed on a 50–50 matching basis, provided the employer or union, or both, conforms to certain basic standards set out in the amendment.

Mr. JAVITS. That is very important, the last. The Senator has said a 50–50 matching program. That is by the employers of labor in other businesses. The Senator is not talking about the alcohol industry; is that correct?

Mr. HATHAWAY. That is correct.

Mr. JAVITS. All right.

Now that brings me to this point: Has any effort been made to enlist the alcohol industry itself in this kind of a program by opening up in the fund the possibility of contributions by them?

I will tell Senators why I ask that question. This 2½-percent tax the Senator talks about, obviously not in the bill, but the bill contemplates a relationship between taxes and the fund. That comes right out of the consumer. The alcohol industry, which I happen to know a little about, has made a big point about devoting itslf to temperance, and some of the leading firms in the business have engaged in advertising campaigns respecting temperance.

I would hope, may I say to the Senator, and I think this is an excellent idea—and, mind you, I do not decry it in any way and I give the Senator credit for the initiative that he has taken—but I hope in the amendment the Senator would allow for the possibility of some agreement with the industry itself because that would be out of profits and it would not come, as the tax surely will, right out of the consumer, and I think the Senator ought to think about that in his own interest.

I mean in the structure of what the Senator is doing he ought to consider accommodating that possibility because they have made a big point of it that they are interested in temperance. They do not want to get themselves into a situation of where they are driven to the wall because their situation is even worse than it is, and you and I know how bad it is even now.

Mr. HATHAWAY. That is correct. I think the Senator's suggestion is an excellent one. We have not conferred with the alcohol industry as yet, but certainly they will be called in to testify, both before the Labor Committee and the Finance Committee, with regard to this matter. Your proposal should be made to them at that time for their response.

Mr. JAVITS. Does the amendment accommodate that possibility?

Mr. HATHAWAY. Yes, it does. We are not locked into any particular funding mechanism at this time.

Mr. JAVITS. In other words, it will be possible by agreement to get contributions into this fund?

Mr. HATHAWAY. The Senator is correct.

Mr. JAVITS. I thank my colleague very much.

Mr. WILLIAMS. Mr. Président, the amendment offered by the Senator from Maine (Mr. Hathaway) would establish an alcoholism trust fund. This fund would be used to provide 50 percent of the cost of occupational alcoholism programs operated primarily for the diagnosis or treatment of alcohol abuse and alcoholism in employed persons and their dependents.

While serious reservations exist about the entirety of this approach, I agree with the Senator from Maine that if an earmarked trust fund is ever justified, there is no area more worthy of such consideration.

Alcoholism is one of the most serious and the most tragically neglected health problems in this Nation. In 1969, recognizing the enormity of the problem, the Labor and Public Welfare Committee—which I now chair—created a new Subcommittee on Alcoholism and Narcotics to study alcoholism and other drug problems and to recommend legislation to help alleviate these problems. I have served on the subcommittee from its creation and joined with its first chairman, Senator Harold E. Hughes of Iowa, in authoring the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

The National Institute on Alcohol Abuse and Alcoholism, created by that act, has done a creditable job against difficult odds in responding to the mandate of that act.

Mr. President, it is known that less than 5 percent of the Nation's alcoholics are on skid row. The vast majority are either in the work force or are dependents of employed persons. More than 5 percent of the work force is alcoholic. Estimates of the cost to our economy range as high as $25 billion annually, with loss to business-industrial production at approximately $9.5 billion. It was therefore recognized that the effort called for by the Alcoholism Act to develop programs and services for employed alcoholics would be among the most important and effective of the institute's activities and would make good economic sense as well.

S. Pell and C. A. D'Alonzo reported in the Journal of Occupational Medicine in 1973 that "the cost of alcoholism to industry is made up of several components, including loss of efficiency, absenteeism, lost time on the job, faulty decisionmaking, accidents, impaired morale of coworkers, and the cost of rehabilitation programs. A large significant portion of the economic impact of alcoholism also includes premature disability and death, resulting in the loss of many employees in their prime who have skills that are difficult to replace."

The institute has given emphasis to the development of occupational programs. An Occupational Alcoholism Branch was created within the institute to encourage employers—both public and private—to develop programs to identify for treatment those employees whose job performance was impaired as a result of alcohol abuse. Grants have been made available to each State for two trained occupational consultants. Training has been provided for these consultants, and experts on the staff of the institute provide guidance and technical assistance.

Industrial alcoholism project grants have supported development of services in industry capable of reaching employed problem drinkers early in the course of their illness. Although this effort has been relatively inexpensive it has resulted in at least a tenfold increase in programs adopted by business to assist employees with alcohol-related problems. Recovery rates of over 80 percent are now being reported.

As in most other diseases, the chances of effectively treating alcoholics are considerably greater if the disease is diagnosed in its early stages. Occupational alcolholism programs have proved an effective means of identifying alcoholics at an early stage and encouraging them to accept treatment.

The fact that occupational alcoholism programs provide a humanistic approach to a disabling illness would seem obvious. The fact that occupational programs reap tangible benefits from management, community and Government perspectives is gaining widespread acceptance. In a recent statement at the National Alcoholism Forum of the National Council on Alcoholism, George F. Killeen, commissioner of Wayne, Mich., stated:

> The problem of alcoholism has grown beyond ten million victims and continues to grow and called for a "national emergency program" to combat what he called "an epidemic—a national public health emergency." Killeen further stated that "we are talking about something that makes sense to the taxpayer—namely, fiscal responsibility."

Mr. President, support for occupational alcoholism programs has come from both labor and management. A joint statement issued by James M. Roche, director and former board chairman of General Motors, and George Meany, AFL-CIO president, observed:

> Some of the most influential union and business leaders in the United States are joining forces through the labor-management committee of the National Council on Alcoholism to combat this disease.

Despite the apparent progress in this important area and the growing recognition of the soundness of the approach, much remains to be done. Ross A. Von Wiegand, director of Labor-Management Services for the National Council on Alcoholism and a pioneer in this field, cautioned recently:

> It must be noted that a recent survey indicated that only 700 of the approximately 1,500,000 companies in the United States have employee alcoholism programs. Of those 700 I have been able to identify no more than 25 to 50 which were anywhere near approaching their maximum potential.

Mr. Von Wiegand urged a much greater effort to reach employed alcoholics, especially those in companies or agencies considered too small to justify alcoholism programs.

Cooperative programs offer a means for small businesses or agencies to provide effective employee alcoholism programs. One such "consortium" in Greensboro, N.C., has identified and referred to treatment 702 alcoholic employees in the last 6 years. The General Accounting Office, in recent testimony before a House subcommittee, pointed to four possible advantages to such an aproach if implemented by Federal agencies:

Availability of trained personnel to handle cases and make referrals to community based treatment facilities.

Removal of the program from personnel offices sometimes held in suspicion by employees.

Less reluctance on the part of employees to contact someone outside their work group.

A focal point for training and educating supervisors and nonsupervisors.

Mr. President, the Senator from Maine and I are in clear agreement with respect to the need for and the effectiveness of employee alcoholism programs. Because we have been able to work together to make appropriate changes in the Senator's original proposal in order to alleviate some concerns which I had and concerns expressed to me by some representatives of the alcoholism constituency, I am happy to support this amendment.

The Senator has agreed to delay the effective date for all provisions of the amendment to October 1, 1977, to allow time for extensive hearings to obtain the views of labor, management, the alcoholism constituency, and others.

The original proposal would have established a board of trustees to approve expenditures from the trust fund, consisting of nine members appointed by the President, with the advice and consent of the Senate. The chairman of the board of trustees would have appointed a director and such additional staff as deemed necessary.

I was concerned that this would result in duplication of the Federal alcoholism effort now being conducted by the National Institute on Alcohol Abuse and Alcoholism and hamper efforts to obtain adequate appropriations for the many other programs authorized under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act. I was particularly concerned about the possible negative effect on underserved populations such as minority groups, native Americans, women, youth, and those living in rural areas.

The Senator from Maine has amended his proposal so that the funds would be administered by the Secretary of Health, Education, and Welfare, acting through the National Institute on Alcohol Abuse and Alcoholism, and to provide that any funds remaining in the trust fund at the end of any fiscal year, after all approved applications for occupational programs had been funded, would be used to serve these other populations.

Mr. President, in our effort to identify and help employed alcoholics, I considered it important to remember that the Federal Government is the Nation's largest employer. The Senator from Maine therefore agreed to include public as well as private employees in the programs authorized by this amendment.

Title II of the comprehensive alcoholism legislation of 1970 requires the Civil Service Commission to develop and maintain prevention, treatment and rehabilitation programs and services for Federal civilian employees—as well as requiring the Secretary of Health, Education, and Welfare, acting through the Institute, to foster similar programs and services in State and local governments. No special funds have been authorized for the Civil Service Commission to carry out its responsibilities under title II. Since funds and staff to operate these programs must come from existing agency moneys and manpower, resources devoted to them are unevenly distributed. Where there has been understanding and interest on the part of top agency management, adequate resources have been provided and good programs have resulted. Unfortunately, as has been indicated in recent studies by the General Accounting Office and by Dr. Harrison Trice, of Cornell University, in the majority of agencies such has not been the case.

On June 25, in a statement to the Subcommittee on Manpower and Housing of the House Committee on Government Operations, Gregory J. Ahart, Director of the Human Resources Division of GAO, said that 42 of 74 coordinators interviewed by his staff advised that they spent 5 percent or less of their time on alcoholism program activities. Only two coordinators spent 100 percent of their time on alcohol related matters, while seven others were full time administrators of "troubled employee" programs.

On the other hand, GAO cited two installations as examples of effective programs. One, a western Army installation with a workforce of 2,800 civilians had budgeted $43,200 for its program during fiscal year 1975 and utilized a full-time counselor, and a secretary and chaplain on a part-time basis. The other, the Government Printing Office in Washington—with 8,000 full-time and 600 part-time employees—has a full-time administrator with extensive prior experience in the alcoholism field with an annual budget of $36,000.

In both of these installations, resources were forthcoming because of top management support. Other sections of the GAO report indicate that in many other installations an extensive job of training and education is necessary before any similar degree of support will be evidenced.

Dr. Trice's testimony to the subcommittee on the same day, indicated similar problems of lack of resources and lack of top management support. According to Dr. Trice, "most of these coordinators operate with only the most meager resources, if any at all. Almost one-third as of mid-1974, had no official time allocation at all; the remainder averaged just under 4 hours per week that was formally allocated to the alcohol policy." Dr. Trice also found that the effectiveness of agency programs could be increased significantly with only minimal additions of staff help.

Even these minimal additions of resources, however, are unlikely to be forthcoming without a significant increase in the willingness of installation heads, managers and supervisors to utilize the CSC policy. Such willingness, according to Dr. Trice, is directly related to "familiarity" with the policy and what he terms "learning time." All of this can be affected by a training effort. None of it can be brought about by CSC direction, since the Commission lacks effective sanctions to implement the program and must rely instead upon "persuasion."

In view of the failure to properly implement title II due to lack of sufficient funds and the need to properly train installation heads, managers, and supervisors, a specific portion of the trust fund should be allocated for programs for Federal and other public employees. Such funds could be used for consultation and training and for support of local installation programs and for pilot consortia to serve small agencies.

I would also hope that some research could be conducted with these funds. I am concerned that there is virtually no research being conducted on alcoholism in women, yet it is becoming apparent that alcoholism in women is much higher than previously assumed. Edith S. Gomberg, Ph. D., University of Michigan, in a paper she delivered before the National Council on Alcoholism's Forum in Milwaukee last year, deplored the lack of research on the employed female alcoholic. She indicated that one survey of an occupational alcoholism program in an automobile industry indicates that women constitute both 8 percent of the work force and 8 percent of those referred the company programs for problem drinking—a one to one ratio. Dr. Gomberg said the same survey suggests that the problem could be even larger: "When a woman begins to progress into alcoholism she usually 'voluntarily retires' from the work force and goes home to become a 'better' wife and mother—she becomes the hidden drinker."

Mr. President, it is understood that all expenditures from this fund will be approved by the National Advisory Council on Alcohol Abuse and Alcoholism, with the advice of a special labor-management program review committee as provided in this amendment.

Mr. President, I commend the Senator from Maine for his fine work on behalf of our alcoholic citizens and for the innovative manner in which he has used his membership on the Finance Committee in this cause. I am happy to join him in urging approval of this amendment.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is the Senator requesting a 10-minute rollcall vote?

Mr. LONG. I ask unanimous consent that the vote be a 10-minute vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. It will be a 10-minute vote.

The question is on agreeing to the amendment (No. 2002), as modified, of the Senator from Maine.

The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PELL), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. (MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 69, nays 0, as follows:

[Rollcall Vote No. 414 Leg.]

YEAS—69

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Curtis
Dole
Domenici
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Morgan
Moss
Muskie
Nunn
Packwood
Pearson
Proxmire
Randolph
Ribicoff
Roth
Scott, William L.
Sparkman
Stafford
Stevens
Stone
Symington
Talmadge
Thurmond
Tower
Williams
Young

NAYS—0

NOT VOTING—31

Baker
Biden
Buckley
Bumpers
Cranston
Culver
Durkin
Eastland
Goldwater
Griffin
Hart, Gary
Hartke
Kennedy
Laxalt
Leahy
Magnuson
McClure
Metcalf
Mondale
Montoya
Nelson
Pastore
Pell
Percy
Schweiker
Scott, Hugh
Stennis
Stevenson
Taft
Tunney
Weicker

So Mr. HATHAWAY'S amendment, as modified, was agreed to.

Mr. LONG. Mr. President, for the information of Senators, I do not think there will be any more votes today. In fact, there will be no more rollcalls. If I have the power to assure it, there will not be any more votes.

I do want to talk about a number of matters, but anyone who has something else to do can read it later.

Mr. MANSFIELD. Will the Senator yield?

Mr. LONG. Yes.

(At this point the legislative program was stated. The program is printed later in today's RECORD prior to adjournment.)

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I am about to make a unanimous consent request, but before I do, I would like to inform the Senate that the standing committee chairmen met this afternoon in my office to discuss the question of committee meetings. On June 22, the Democratic Policy Committee voted unanimously to prohibit committee meetings except for nominations and "extraordinary" legislation. This action was concurred in by the minority leadership and has been in effect since that date.

Today, it was agreed that in addition to hearings on nominations, that oversight hearings will be permitted as this is a continuing function of the Senate, throughout the year. Hearings to be held to an absolute minimum are those dealing with reporting of new legislation to the Senate floor. Substantive legislation should have been completed prior to May 15 under the new budget procedures, and the period from now until the end of this Congress will be primarily devoted to appropriations bills, the tax bill, and those matters considered extraordinary.

During the chairmen's meeting, it was suggested that committees could meet beginning at 8 in the morning, after the Senate has adjourned for the day, and on weekends, if necessary.

The chairmen have unanimously agreed to review their requirements for meetings and hold them to an absolute minimum. This, of course, does not include the Finance Committee, the Appropriations Committee, or the Budget Committee. Requests to the leadership will come from the chairman of the full committee only rather than from subcommittee chairmen as has been the case in some instances.

UNANIMOUS-CONSENT AGREEMENT—COMMITTEE MEETINGS

Mr. MANSFIELD. Now, Mr. President, and this has been cleared on the other side, I ask unanimous consent that the Refugee Subcommittee of the Judiciary Committee be permitted to conduct an oversight hearing on Thursday, July 29; that the Committee on Interior and Insular Affairs be permitted to conduct oversight hearings on August 3 and 4 on the Alaska pipeline situation; that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be permitted to conduct an oversight hearing on Monday, July 26; that the Committee on the Judiciary be permitted to meet on July 28 to consider pending nominations, immigration matters, and a bill to amend the Federal Trade Commission Act; that the Committee on Commerce be permitted to meet on July 28 for the purpose of considering certain nominations; that the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary be permitted to meet on July 28 and August 5 to consider the Narcotics Sentencing and Seizure Act of 1976; that the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs be permitted to meet on July 26, 27, and August 2; that the Health Subcommittee of the Committee on Labor and Public Welfare be permitted to meet on July 28 to consider S. 2910; that the Committee on Foreign Relations be permitted to meet on July 27 to consider international commodity agreements, which has a time factor to contend with; and that the Committee on Public Works be permitted to meet on July 29 to markup the Water Pollution Act and on August 5 to consider the omnibus water resources bill.

The PRESIDING OFFICER (Mr. STONE). Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. I thank the Senator.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. LONG. While the majority leader is here, Mr. President, I would like to make a request of him that he try to schedule a single track on the tax bill after next week, assuming next week he has a double track schedule. If we continue the rate of progress we are making now we will still have a lot of work to do by the time of the Republican Convention because we have a lot of amendments on which to vote, both committee amendments and amendments to be offered from the floor by Senators. I hope he will try to put us on a single track. After next week I hope we can start getting unanimous consent to limit time to perhaps 1 hour apiece.

Mr. MANSFIELD. Absolutely. I look forward to such a procedure because I think that would be the best way to expedite and conclude consideration of the pending bill. I certainly would be most happy to do so.

Mr. LONG. I thank the distinguished Senator.

Mr. HANSEN. Will the Senator yield?

Mr. LONG. I yield.

Mr. HANSEN. I do not know what the distinguished chairman of the Finance Committee would have in mind, but I would ask, without his losing the right to the floor, if I might make a few observations?

Mr. LONG. Yes.

Mr. BARTLETT. Will the Senator yield for a unanimous-consent request?

Mr. LONG. I yield.

PRIVILEGE OF THE FLOOR—S. 2212 AND H.R. 10612

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ed King, of my staff, be granted the privilege of the floor during the consideration of both the LEAA bill and the tax reform legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF HENRY S. HIBBARD

Mr. HANSEN. Mr. President, in the Great Falls Tribune of July 15, 1976, is a news story relating to the tragic and untimely death of Henry S. Hibbard, former State legislator and owner-operator of one of Montana's best known ranches, the Sieben Livestock Co. Mr. Hibbard and a 17-year-old ranchhand from Great Falls were killed in the crash of a light plane.

Henry Hibbard was a third generation ranch operator, as I understand, of the Sieben Livestock Co., a family corporation founded in 1868. I am certain that is well known to many of our friends here in the Nation's Capital.

I share with his many friends the feeling of sadness in the loss of this distinguished legislator and livestock man. I ask unanimous consent that the article as it appeared in the Great Falls Tribune be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Great Falls (Mont.) Tribune, July 15, 1976]

EX-LEGISLATOR, HENRY HIBBARD, RANCHHAND DIE IN PLANE CRASH

Henry S. Hibbard, 56, former state legislator and owner-operator of one of Montana's best-known ranches, and a 17-year-old ranchhand from Great Falls were killed Tuesday in the crash of a light plane on the Sieben Ranch 30 miles south of Cascade.

The Great Falls victim was Wayne Pursley, son of Mr. and Mrs. Allan Pursley, Route 2 S. He had recently completed his junior year at C. M. Russell High School. (See story on page 10)

In another light plane crash, four persons died Wednesday near Kalispell. Story on page 8.

Hibbard and Pursley died when Hibbard's single-engine Piper Super Cub struck a thick guy wire supporting a Montana Power Co. transmission tower five miles from the main Sieben ranch place.

Authorities said the crash occurred at 8:26 p.m. while Hibbard and Pursley were searching for a lost bull along the middle fork of Hound Creek. The site of the crash was just north of the Middle Creek reservoir in Cascade County.

County authorities at the scene said they believe the aircraft was caught in a downdraft and Hibbard was unable to bring the plane out of a dive before it struck the guy wire beneath the power lines.

The plane struck the guy wire with its nose cone and plummeted straight down into the ground, according to officials. The guy wire was severed by the impact and apparently swung upwards and shorted out one of the power lines. The power line did not fall but electric power was knocked out over a wide area for several hours, they said.

Authorities said that when Hibbard and the youth failed to return at dark a ground search party was organized. Searchers found the wreckage early Wednesday morning, the bodies inside the plane. The sheriff's office here received the report of the missing plane at 11:37 p.m. from a Sieben Ranch employe.

A Mamlstrom AFB helicopter with Coroner Dr. C. E. Magner as a passenger went to the scene to bring out the bodies. The coroner said electric power went out in the ranch area at 8:26 p.m. and it is believed that is when the crash occurred.

Hibbard was president and principal owner of Sieben Livestock Co., a family corporation founded in 1868 and which has holdings both in Cascade and Lewis and Clark counties. He has operated the company since 1946.

Hibbard, who lived in Helena, was a Republican member of the Montana House of Representatives from 1961–65 and the Montana Senate from 1965–72. He lost a bid to unseat U.S. Sen. Lee Metcalf in 1972.

He was president of Montana Woolgrowers Association in 1962–63 and a past vice president of the National Woolgrowers Association. He had been chairman of the wool committee of the American Sheep Producers Council and headed that council from 1971–74. He had served on numerous state and national boards dealing with sheep and wool.

He was born in Helena, received his degree in agricultural economics from Montana State University and a master's degree in business administration from Harvard University. He and his wife, Jane, have three sons, Chase, of Berkeley, Calif., Scott and Whit, both of Missoula.

Hibbard's mother, Mrs. A. T. Hibbard, the former Margaret T. Sieben, lives in Helena. His father died in 1968.

Memorial services for Hibbard will be Friday at 2 p.m. in the Helena Episcopal Church.

Memorials to St. Peters Hospital are suggested. Arrangements are being handled by the Retz Funeral Home.

Mr. MANSFIELD. Mr. President, I wish to join the distinguished Senator from Wyoming in expressing my personal condolences on the passing of Henry Hibbard, and my sympathy and my family's sympathy goes to his family. He does come from an old Montana family. He did have one of the best ranches in the State, the Sieben ranch. He was interested in politics and he was a candidate against my colleague, Senator LEE METCALF in Lee's last senatorial campaign.

He was a man of good character; of rugged individuality. It was a clean campaign and both candidates did credit to Montana.

It was with a deep sense of sadness that I read in the Tribune and other Montana papers that one of our best known and most beloved citizens, Henry Hibbard, had died in a plane accident along with a 17-year-old boy from Great Falls, while he was undertaking an inspection tour of his ranch in the area between Wolf Creek and Great Falls.

I join the distinguished Senator and again I wish to express m y deepest sympathy and my family's sympathy to the family of Henry Hibbard.

Mr. HANSEN. I thank my distinguished chairman.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. LONG. Mr. President, I send to the desk amendments to be printed. I submit these amendments on behalf of the Senate Committee on Finance and ask that they be printed. I also send a report accompanying the amendments, explaining them. They will be available to all Senators on Monday.

Mr. President, I believe it well to explain what some people undoubtedly did not understand. I believe the RECORD should show this and Senators should know it, if they did not know it already.

We on the Finance Committee have the great fortune of having two good staffs work with us and advise us. We have the staff that has the greatest competence in tax measures, which is admired and respected by all, both in the legislative branch and in the press, for their competence and their expertise, the Joint Committee on Internal Revenue Taxation; and we have available to us also a staff which I have been working to build as a very able and fine group, our staff of the Senate Committee on Finance.

I believe it would be well for the record to show that, in putting together the Finance Committee staff and employing good lawyers there, I have instructed them that they are to second-guess Mr. Woodworth, the enormously competent chief of the Joint Committee staff. Any time he suggests something that they do not think it is right they are to tell either someone on the majority side or the minority side, depending upon which side they are most closely concerned with, that they do not necessarily think that is a good idea, that we ought to consider doing it a different way or maybe not do it at all.

So we have two good committee staffs, one checking on the other, on these tax measures.

When we moved rather expeditiously a few days ago in considering amendments, the press accounts did not reflect the fact that those amendments on which we were voting had been carefully considered by these two committee staffs, and the able men on those staffs felt that those amendments were meritorious and deserved to be considered by the Senate; and even though we moved rather expeditiously on the last day we were acting on the bill itself, and even though we moved with similar dispatch on the last day we were acting on amendments when we met in sessions thereafter, it should be known that those amendments had been carefully considered, that those on the two committee staffs felt that they followed all the requisites of accuracy, fairness, and justice in good tax legislation, and insofar as they had some doubts about an amendment, they undertook to let the members of the Senate Committee on Finance know that they were concerned about them, that the amendments might not be good if they in fact did vote to accept them.

That was not reflected in press stories, perhaps because some people simply did not know the traditions of the committee and the way our staffs have related one to the other and to the Senators themselves.

We have had some unfortunate publicity. I really believe that in the end, when things work for the best, we ought to look upon them as good fortune rather than bad fortune, because it will undoubtedly improve our committee procedures.

In the meetings that we held, both when we were adopting amendments to the bill that is on Senators' desks as well as the amendments which I have now sent to the desk, the Senator from Louisiana stated that if anyone in the press or anyone in the room who was connected with Mr. Ralph Nader's group or any of the other public interest groups knew or could find a reason why any of these amendments should not be agreed to, they should advise us of that, and that would be considered.

The Committee on Finance has used a procedure somewhat different from other committees. I am very proud of it myself, although some who at this moment do not understand it may not be.

We have, through the years, moved expeditiously to make decisions rather than defer them. Any time we could make a decision, we would say, "We will tentatively agree to this," and it was always understood that the sponsor of an amendment had no advantage whatsoever by that tentative decision because any time someone else wanted to move to reconsider, he could do so. If someone had a suggestion, we would tentatively agree to it to dispose of it for the moment, but it was always understood that any time any single Senator wanted to reconsider it, he did not have to have a majority vote of the committee or anything like that, all he had to do was say, "I want to reconsider it," and we would reconsider the vote, just as though we had never voted on it before.

If subsequently someone who had not been there, or who had changed his mind, wanted to reconsider the same thing again, we would cover the same ground again. We found that was a way to make progress, because Senators would feel free to vote on something if they could be sure in their own minds they were not locked in, if they felt that upon further reflection or further education they could vote on the matter again; there would be no pressure on them, and it was simply understood that if he had more time to consider the matter, had more information, and felt he was a wiser man than the first time, he could change his vote.

That procedure has made it possible for the Finance Committee to work far more rapidly than before. I recall the first time I used that procedure in the committee, President Johnson was complaining that no progress was being made on the bill; it was a very controversial bill, I believe a bill involving health. It was making very little headway; in fact we had about 400 amendments to consider, and were voting on about two amendments a day, and it would have taken 200 days to dispose of the measure at the rate we were going.

One morning when the chairman of the committee asked me to take charge, I used this type of procedure, and we managed to dispose of 50 or 60 items by unanimous consent, using the procedure I have been outlining. So we felt we could make good progress. It was unfortunate that at that point we did not have a reporter present keeping a record, because it would show the standards we applied; if anyone could show any good reason why the amendment should not be agreed to, we would reconsider it.

Incidentally, in this case the Senators who raised protests were not there to see what was going on, and were not familiar with our way of doing business. We had so much business to do that if we had taken the amount of time that committees usually take to hear witnesses, that could have delayed the consideration of this bill for 3 weeks. We limited each witness to 5 minutes, but let them submit as much information for the record as they cared to present; so we will have some rather voluminous hearings coming in that we managed to hold over a 3-day period.

Having done so, we discovered that the majority of the amendments were meritorious, that they should be agreed to, they should be accepted, and we will ask the Senate to agree to them. A great number of amendments had no objection presented at the hearings, the Treasury favored them, no objection was voiced by any public interest group, nor was any objection made by any Senator.

We thought more carefully about matters with regard to which there is a Treasury objection, and we felt that in cases where these were broader public issues that must be decided, they should be laid before the Senate and the Senate should decide them, controversial though they be. That would be amendments such as those that relate to the tax treatment of the entire railroad industry, one that relates to the tax treatment of the entire shipping industry, something which is of broad future consequence to people across the country. We felt such matters should be decided by the Senate one way or the other. That is what the Senate is here for, and it should not adjourn without deciding those things.

I do not think we will have much difficulty getting the Senate to vote on them one way or the other. One such is an amendment involving the tax treatment of tips for people who work in hotels, motels, and restaurants across this country; it involves 500,000 employees at a minimum, and involves the entire hotel, motel, and restaurant industry. We ought to vote on that issue.

Now, with regard to the more narrow type amendment, generally speaking, our decision was that if only one or a few taxpayers are the subject of what we believe to be an inequity or an injustice, if the Treasury objects, and if some public interest group indicated an objection at the hearings, we should, in most cases, defer that for the time being, though we would like to bring the provision to the Senate for consideration before this session is concluded on some other bill. We believe we could do that in connection with 20 other tax measures that will be sent to us if they are not already here from the House of Representatives. And there are a few fairly narrow amendments that we are satisfied that Senators would insist on offering as individual Senators on this floor, even if the committee tried to ask them not to offer them; and that being the case, we thought that out of respect to those Senators who would offer the amendments anyway, since they thought they were good amendments, we ought to place the support of the committee behind them, and we did.

But, generally speaking, with regard to our own amendments, those of them that members of the committee offered, we felt that if there was a Treasury objection and some other objection, generally speaking we would not insist on it, we would defer consideration until a later date.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. I yield to the distinguished Senator.

Mr. CURTIS. Mr. President, I commend the distinguished chairman of the Finance Committee for his statesmanlike manner in handling this entire bill. I commend him for his fairness not only to members of the Committee on Finance, but to all of the members.

Few people can realize the difficulty in writing a tax bill. Nobody likes a tax collector. When our Lord picked out one of them who happened to be a tax gatherer he was ridiculed for it, and all through history nobody likes a tax gatherer. It is not the easiest job at times. Many of us enjoy it and we are not complaining. We are not. We were not drafted to run for the Senate. I do not mean it that way. But the job is difficult. I happen to hold the view that if one taxpayer is suffering an injustice he is entitled to be heard; he is entitled to have his matter brought before the committee.

The object of all tax legislation is to do justice. Sometimes that is in favor of the Treasury; sometimes it has to be in favor of the taxpayer. But that is what we should do.

But it does invite oftentimes the unkind comment of perhaps well-meaning reporters who do not know anything about what they are talking about. There is also a temptation for some politicians to think here they can pound their chest and say, "I am pure, but here somebody did something for an individual taxpayer." Maybe that individual taxpayer was suffering an injustice and was entitled to something.

I commend the chairman for his procedure of letting members of the committee, and others, present matters that should be considered.

In this recent procedure, here is what it amounts to as I see it:

There are many tax problems. We have a lot of taxpayers. The amount of revenue involved is a great amount. And for the people involved all of these things are urgent. Our bill is quite voluminous.

We were faced with a question as to how many things can we carry along in one bill, do justice, and be able to have it manageable in the conference, and also can we move with sufficient dispatch so that the pending tax reductions can be met on schedule and the bill not include so many things that a statesmanlike job cannot be done. I remind Senators that the drafting of the language and the drafting of the report is a tremendous job on our staff, and there have been times that I have felt that we have actually been inhuman and cruel on the load we placed upon these fine individuals, who make up the staffs upon which we have called to do this work. Consequently, what has happened in this recent procedure is that certain things that have the approval of the committee and have the approval of practically everyone who has listened to the presentation, were deferred to be considered another time.

Throughout all of this, our distinguished chairman has been patient and fair. At times when false and unjust accusations were made about the committee and about the chairman, he has still gone on in a cheerful attitude and carried on the work of that committee. I commend him for it, and I hope that he will have the cooperation of every Member of the Senate in this difficult, highly technical, and complex task of writing the tax laws.

After all, Mr. President, our people have to live under these laws. They have to be interpreted. The Treasury Department and the Internal Revenue Service are entitled to a well-written law so that without difficult, ambiguity, and so on, it can be administered.

The burden for getting such a law falls upon the committees that handle it. Therefore, I hope that when today's RECORD is read by Members of the Senate they will join me in pledging their support and cooperation to our chairman, to the end that the best possible bill can be written. I commend the chairman and I thank him for his unfailing cooperation and kindness.

Mr. LONG. I thank the distinguished Senator from Nebraska.

Mr. President, I really feel that I am a very fortunate man in a great many ways. One of those ways is that it is my privilege to serve with the very able, competent, fair, and articulate Senator from Nebraska. The Senator is a perfect gentleman in every respect. He has been as helpful and as fair as anyone can be to others, even when he finds himself somewhat at odds with them in what their objective may be. He will go the extra mile to accommodate people when they have a problem.

I express my gratitude to all my colleagues who, during this period, have indicated that they have understood the problem that we had and that they wanted to help us do what is right which is, after all, what we all ought to be trying to do. None of these issues should be decided based on who is right. They ought to be decided based on what is right.

We will modify our procedure in the future to do what we are doing right now. We will have a reporter in the room at all times. It will help prove a point from time to time as to what someone did say or someone did not say, and it will help make more certain what the legislative history is.

It might upset some who do not understand that and perhaps find it odd that Senators might josh one another from time to time in their business as they work on these technical matters, but I honestly think that it would be dull to tears if in working on this tedious tax work we did not kid one another from time to time, and that might give some cause for concern that the tax bills are not properly being considered.

I simply do not know if I could stay at this job long if we did not josh each other a little bit from time to time as we go along through the tedium of this tax legislation.

I shall submit for the RECORD some statements, which I think I will read at least in part, which explain clearly what the people of this country perhaps do not understand as a result of the kind of news releases they may have been reading about the activity of our committee. One is led to believe that when we draw a narrowly drafted provision we are favoring some rich person at the expense of all the others. That simply does not happen to be true, Mr. President, and I shall read the testimony before our committee in this last session of two of the very ablest men who ever worked in the Treasury as to what the problem is with regard to narrowly drawn legislation on the tax issue.

I read from the testimony of Mr. Edwin S. Cohen, former Assistant Secretary for Tax Policy of the U.S. Department of the Treasury, appearing as a lawyer before our committee, representing a client:

> Chairman Long. Mr. Cohen, you have done more to advocate specific tax reforms than anybody else in this room. You were the Treasury expert who sat in the committee room day in and day out and also who participated in the conference and many times you stood up and spoke out vehemently against the suggestions that Senators made that might help some of their constituents where you thought that relief was not justified. Now you are testifying with regard to provisions that can be regarded as narrowly drafted amendments.

Incidentally, Mr. President, when I said he sat in the room and participated in a conference, I was referring to the sessions on the Tax Reform Act of 1969.

I continue to read:

> Would you explain, from a purely philosophical point of view—and I would like you to relate this to your experience in the Treasury—why, if at all, it is necessary to draft amendments limited to a single taxpayer or to a small number of taxpayers?
>
> Mr. Cohen. Well, there are various reasons, Mr. Chairman. As I think is obvious, the Internal Revenue Code itself is divided into various sections or parts that apply to specific industries, and that fact in itself causes need for amendments that affect particular industries.
>
> As an illustration, we have sections or parts of the code with series of provisions that apply to banks, to life insurance companies, to regulated investment companies, to real estate investment trusts, provisions relating to the extractive industries, provisions in this bill that apply to professional sports; so there is no way to avoid having many provisions apply to specific industries and that, of itself, results in application of provisions to a limited number of persons. The code is constructed that way because industries differ.
>
> Secondly, when you have provisions that deal with one specific set of facts that are not going to recur, I think the draftsmen, both in the Treasury and on your staff—not only the draftsmen but those who make the policy decisions—see the merits and the equity of the speed with which they have to act, whether the provision should be made broadly applicable without knowing all the facts that might exist nationwide, and time does not permit obtaining all of those facts.
>
> You cannot have a set of special hearings on each provision in a large bill, so I think the natural tendency of those who are convinced of the equity of a particular provision is to say: "Yes, that is all right, but let's limit it for the present purpose and then we will look at it later when someone else requests a change." I think that is the way it comes about.
>
> I might say that where there are specific statutory revisions in particular cases, the procedures the House has followed in the last year seems to have satisfied a lot of criticism; and, while I don't see the need for it to be done in both branches of the Congress on the same provision if there have not been objections on the House side, it is a model with which one can start.
>
> Chairman Long. In other words, when you were there in the Treasury someone could come up and show where he was being treated unfairly and it was a situation that deserved remedial legislation?
>
> Mr. Cohen. Yes.
>
> Chairman Long. Now sitting there as a representative of the Administration, you would, then, find yourself inclined to say: "Well, applied to this situation, I agree that that is not fair and that something should be done about it; but if we are too broad in what we do, we might find that we create a loophole for a lot of people that was never intended, and so we will draw this narrowly."
>
> Now, is it not also true that in some cases in seeking to close a tax loophole, you might have done something more than you intended, you might have clobbered somebody when you didn't intend to do so, and that would require legislation to reduce the burden that you might have placed on a person that went beyond what you had in mind?
>
> Mr. Cohen. This is frequently a problem. I think this is one of the reasons why, from the standpoint of drawing regulations under the Administrative Procedure Act, since 1946 we have had provisions for notice of proposed rulemaking so that people can come in and say, "Well, you have hit me unintentionally," and very often you acknowledge that you have done that and you make the correction.
>
> Even then, you have a problem that, in making the correction, the very act of making the correction may hit someone else who was not hit before; and so you never know whether you should have the regulation republished for further comment.
>
> There comes a time when you have to act, but you do find that in some cases in good faith you thought a generalized provision was warranted, without knowing of circumstances that are later called to your attention that merit a correction, and you then take action to correct it. I think that you do the best you can with the problem in good faith.
>
> Chairman Long. Now with regard to the theoretical problem, suppose you find that an injustice exists but it involves only a single taxpayer. Should the Congress or the Administration act to recommend something if it involves only a single taxpayer but it is a patent injustice?
>
> Mr. Cohen. I must say, Mr. Chairman, that injustices should be corrected and the mere fact that it involves a single taxpayer does not seem to me to be a bar to the correction of an injustice. If everybody is agreed that it is an injustice and people on both sides have an opportunity to be heard, I do not see why an injustice should not be corrected.
>
> Chairman Long. The courts would do it, wouldn't they? You have a right to go to court on behalf of a single client.
>
> Mr. Cohen. There are occasions, Mr. Chairman, in which the court gets the problem of whether the provision can possibly be construed in a way which would eliminate the injustice, or whether the language is so specific and so tight that the court feels powerless to do so; in that event, there is no place to go except to the Congress for the correction of the injustice.
>
> Chairman Long. Now I have one further point that I think you might want to comment on.
>
> Mr. Cohen. Yes, sir.
>
> Chariman Long. It was suggested on yesterday that taxpayers should exhaust all of their remedies before we consider providing relief in legislation. Now, here is a type of thing that I know has happened and the staff doing the technical work would be the first to agree that that is the case.
>
> In some cases, doing the best they can, they fail to draft the amendment so it does precisely what the committee has in mind. Then an aggrieved taxpayer goes to court seeking redress of his grievance and he finds that the unfortunate part about it is that the problem is with the language drafted in error by the committee staff or by a Senator, and the only way he is going to get that corrected is not to proceed further in the judicial area but to go back to Congress and ask them to change the provision to the way it should have been drafted to begin with. Are you familiar with that problem?
>
> Mr. Cohen. I am indeed, Mr. Chairman, because I have made those mistakes myself; I think we all do. With the speed at which one has to work in government, there is no way to avoid such a problem and, if you have made an error, it seems to me the proper thing to do is to acknowledge it and correct it.

Mr. President, we have the good fortune that one of our able writers for a nationwide publication can hear my response to a problem that seems to trouble him.

If a person has been done an injustice, it does not make any difference whether he has contributed to someone's campaign or has not contributed to someone's campaign. If it is a patent injustice on the face of it, it should be corrected, whether he supported a man for office or did not support a man for office.

One of the achievements of this Senator in which he took great pride was to help correct an unfortunate tax situation that existed with regard to a person who had been one of the leaders against this Senator's father and against this Senator himself, a man who was a pillar of the community, but who was desperately ill and could not deduct the enormous costs of the medical expenses that were wiping out his estate.

People should do what is right, whether the beneficiary is one who supported him or did not support him.

Mr. President, it was my good fortune on some occasions to carry parishes that my father never carried. I carried one of the largest parishes in my State by a 95-percent vote some years ago, a parish which my father never carried. I think one reason was that I had demonstrated that whether someone was for me or not for me, I was going to try to represent those citizens because I represent all of them, just as I feel that as a U.S. Senator, I have a duty toward all of the people of the United States.

Mr. President, we have a statement from Mr. John Nolan, on this same subject. I shall ask that it be printed in the Record, except for one point that I want to read here. It indicates the further problem of drafting the amendment narrowly. Sometimes, it is a mistake not to draft an amendment narrowly. Let me give an example. This is quoting from my own statement on that occasion.

> Let us talk about the problem you can have if you draft an amendment too broadly. I would like to refer you to a situation which you are familiar with where a lady in Philadelphia decided to join a religious order. She became a nun. She was an heir to a large amount of wealth. Someone on her behalf sought an amendment to the tax law to say that all this income which had been left to her could be given to charity, to her religion, and that she would not be taxed on it because she had renounced all worldly gains.
>
> Having drafted this amendment for the benefit of this lovely Philadelphia nun, we subsequently found that 23 percent of the people who are reporting gross adjusted income of $5 million are paying no Federal income tax, the great majority of them because they are taking advantage of the provision that was drafted for this lady who became a nun by renouncing all earthly wealth and taking a vow of poverty. That was the biggest loophole in the entire tax law, done originally for one single person who wanted to take a vow of poverty and devote her life to religion.
>
> That is what can happen by drafting a

provision too broadly. If that provision had been drafted narrowly, you would have saved what subsequently became the biggest subject of tax avoidance by millionaires in the entire tax code. Are you familiar with that?

Mr. Nolan. Yes, Mr. Chairman I certainly am. I completely agree with you that in the long run in these areas it is much preferable to draw these provisions as narrowly as possible to solve the problem that Congress has in mind and then if it turns out that there are inadvertent burdens or benefits created which come to light subsequently, to deal with those when they do come to light.

I ask unanimous consent that the statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF JOHN S. NOLAN

Chairman LONG. Mr. Nolan, I can recall the days when you were invited to be the only person who was not either a member of the committee or the staff to sit in that room while we would explain and discuss amendments to major tax measures. Many times I have invited you and others have asked you to explain the view of the U.S. Treasury on some legislative proposal. Many times you fought a lonely battle all by yourself to explain why something that a Senator thought should be done should not be done. I felt a great sympathy for you the many times you were trying to fight a battle against something that the Committee seemed to want to do when you didn't have a vote and didn't have the right even to speak unless invited to do so.

You certainly understand the procedure and what the proper way to go about amending the tax law would be. Would you mind explaining to us how you look at the same problem I asked Mr. Cohen about? You had a similar responsibility and did similar work for the President and the Treasury Department. How do these problems involving a single taxpayer or a single company or a few companies arise, and why is it necessary to draft a limited amendment, which we are now tagged with calling a special interest amendment, to meet a specific problem?

Mr. NOLAN. Mr. Chairman, we have a tremendously complex economy in this country. We have over a long course of years attempted to build an equitable tax system which takes into account all of those complexities. That in turn has led to a complex tax law, but it is complex because it is basically designed to be an equitable tax law and to take into account the special circumstances of each industry, each type of business, each particular taxpayer group.

Now when you build that kind of tax law you build an extremely complex and difficult set of provisions, and nobody can foresee all of the possible ramifications of a provision. Furthermore, the committee is and the Treasury Department are, in tax legislation, always working under the most extreme kind of deadlines so that the result, as Mr. Cohen said, has been that you try to draw the provisions in any particular area to solve only the particular problem but not any broader than is necessary—in other words, restrict their application as much as you can so as to solve the particular problem that Congress wants to deal with.

When you do that, not being clairvoyant on everything, you necessarily are going to inadvertently overlook some circumstances. There will be companies that are inadvertently benefitted and there will be companies that are inadvertently hurt by the provision.

Now those matters are brought to the attention of these committees, this committee and the Ways and Means Committee, and they are brought to the attention of the Treasury Department from time to time. It is the job of the Joint Committee staff and the staff of this committee, the staff of the Ways and Means Committee and the Treasury Department, to make decisions whether those are appropriate changes or not and report to this committee.

They do that, and they do it very well. These matters are very carefully considered by those staffs. It is absolutely inevitable that in these circumstances there will be cases that arise that are not properly dealt with by the legislation, where the Congressional intent is not carried out, where there are unintended benefits on the one hand or unintended burdens on the other hand. It is absolutely necessary in my judgment that the committee periodically hear from the taxpayers who are affected, deal with these problems, and solicit the views of the Treasury Department. The Committee has always taken into account the views of their own staff and acted to achieve the right result irrespective of how many taxpayers a particular provision applies to.

Chairman LONG. I am happy Senator Haskell is here. I would like him to hear what I have to say.

Let us talk about the problem you can have if you draft an amendment too broadly. I would like to refer you to a situation which you are familiar with where a lady in Philadelphia decided to join a religious order. She became a nun. She was an heir to a large amount of wealth. Someone on her behalf sought an amendment to the tax law to say that all this income which had been left to her could be given to charity, to her religion, and that she would not be taxed on it because she had renounced all wordly gains.

Having drafted this amendment for the benefit of this lovely Philadelphia nun, we subsequently found that 23 percent of the people who are reporting gross adjusted income of $5 million are paying no Federal income tax, the great majority of them because they are taking advantage of the provision that was drafted for this lady who became a nun by renouncing all earthly wealth and taking a vow of poverty. That was the biggest loophole in the entire tax law, done originally for one single person who wanted to take a vow of poverty and devote her life to religion.

That is what can happen by drafting a provision too broadly. If that provision had been drafted narrowly, you would have saved what subsequently became the biggest subject of tax avoidance by millionaires in the entire tax code. Are you familiar with that?

Mr. NOLAN. Yes, Mr. Chairman I certainly am. I completely agree with you that in the long run in these areas it is much preferable to draw these provisions as narrowly as possible to solve the problem that Congress has in mind and then if it turns out that there are inadvertent burdens or benefits created which come to light subsequently, to deal with those when they do come to light.

Chairman LONG. That was the number one loophole that I have seen while I have been a member of this committee, and that has been a long time—24 years—and we have attempted to close that loophole which arose when someone drafted too broadly a statute to try to look at the tax problem of a lady who had renounced all earthly gains and sought to donate all of her income to charity, specifically her religion.

Sometimes by not drafting a provision narrowly in seeking to do justice for someone, you could very well provide a very big tax loophole. You have had to study that problem, have you, with the Treasury?

Mr. NOLAN. Yes, Mr. Chairman, we have many times.

Mr. LONG. Mr. President, the point is that there are problems: Sometimes you should draft a provision broadly to affect a broad class of people. Sometimes, when you do it, you live to regret it. Sometimes you should draw it narrowly and when you do, many times you will have people come and say, "Well, now, I have been subjected to an inequity because you took care of that taxpayer, but you did not take care of me; you should generalize the relief." So we do.

We ought to keep in mind, Mr. President, that there is nothing static about this country. That is one reason it is great. This is a very complex economy. This tax law is drafted to fit that complex economy somewhat like you would try to fit a glove to one's hand. Because the economy changes, the law must change. So we can consider changing it, if we want to. Perhaps someday we might decide to tax on a gross receipts basis rather than on a net income basis. But so long as we tax on a net income basis, we are going to have a very complicated tax law, particularly if we do some things which I think are wise—such as provide an incentive for people to do good work, provide an incentive for someone to make a contribution to charity, provide an incentive for someone to start a new enterprise and hire people and create new employment and move his community ahead. When we create an incentive for people to better their communities by founding great universities, advancing the arts, and the many other things that people think worthy, that makes a rather complicated law. But I submit that, notwithstanding all that, it is a part, and a vital part, of America—which is the greatest country on the face of the Earth, and it has not kept us from being greater than all the others. I was talking to an Englishman a while back who said that the law in England is far more complicated than ours is here. I asked him why and he said because they have been at it longer than we have been at it.

So one will find when we solve some problems, we tend to create others. Perhaps next year, if President Ford retains control of the White House, Secretary Simon will send down a vast reform of the code to make it far simpler than it is now. If so, I wish him luck. I do not know whether I shall be for it or against it, but I have seen many reforms that left us worse off than we were before.

Mr. CURTIS. Will the Senator yield there?

Mr. LONG. I yield.

Mr. CURTIS. One of the problems with simplification is that it is so complicated.

Mr. LONG. Right. I am told that if Jimmy Carter becomes President, he is going to reform the tax code. I thought I heard him say on television that he was going to have the code reformed in a single year, "you can depend on it." I did not see him when he spoke to the 21 Club the other day, but the way I read it, and perhaps the reporter heard him wrong, it sounded like he said he is going to spend a year studying this thing.

Perhaps he will begin to become aware of what some of us here know already; that is, if we are to try to simplify all these problems and try to do better justice than we find we have at the moment, it is just not as easy when we become familiar with it as it is before we become familiar with it.

Mr. President, I believe that we should conclude further consideration of this tax bill at this time. In the event someone might want to make a further statement, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL SUPPORT FOR THE SCHOOL INTEGRATION INNOVATION ACT OF 1976

Mr. GLENN. Mr. President, on April 14, 1976, I introduced S. 3319 the School Integration Innovation Act of 1976. S. 3319 extends the Emergency School Aid Act through August 31, 1978, at an authorized funding level of $1 billion per year. The bill also amends the ESAA by clarifying and adding to the activities for which ESAA funds acn be used by communities implementing both court ordered and voluntary desegregation plans. These activities are:

First. The construction and/or operation of "magnet" schools.

Second. The pairing of schools and programs with specific colleges and universities and with leading businesses.

Third. The construction and development of educational parks and neutral site schools.

Fourth. Educational programs especially designed to improve the quality of education in inner city schools.

My bill provides that nothing in this act shall be construed in a manner that is inconsistent with the full enforcement of the 5th and 14th amendments of the Constitution and of title VI of the Civil Rights Act of 1964.

The text of S. 3319 has been introduced in the House of Representatives as H.R. 14700 by my colleagues from Ohio, Mr. Seiberling and Mr. Whalen. I am very pleased that congressional leaders from Ohio are taking the initiative in providing constructive approaches to the school desegregation problem. It is my hope that these measures will help our State and others avoid some of the recent turmoil experienced in desegregating communities.

I am also very pleased to note that in addition to the authors of H.R. 14700 there are already 16 cosponsors including the distinguished Congresswoman from California (Mrs. Yvonne Burke) chairperson of the Congressional Black Caucus. Here in the Senate, I am pleased to add the distinguished Senator from Colorado (Mr. Gary Hart), the distinguished Senator from Massachusetts (Mr. Kennedy), and the distinguished Senator from Minnesota (Mr. Humphrey) as cosponsors. I am hopeful that our efforts with S. 3319 and H.R. 14700 mark the beginning of a broad effort to bring an end to the divisive and dangerous rhetoric over busing.

I introduced S. 3319 because I wanted to provide a positive direction and some practical solutions in the overheated area of school desegregation. Public and national debate on this issue has too often deteriorated to irrationality and emotionalism when the discussion should be on how best to provide a good education for all students and at the same time desegregate our schools under the law.

S. 3319 makes no claim of "solving" the "busing problem." The purpose of the bill is to help provide for and encourage a range of desegregation remedies, suited to locales, that when properly implemented would improve schools in both black and white neighborhoods to the point that school integration would occur more naturally. We could have avoided much of the turmoil we have today if school authorities years ago had recognized that they had to desegregate under the law and determined creative ways of doing so—without waiting for courts to impose busing.

Increased use of the methods authorized in S. 3319 could significantly cut down our reliance on busing to achieve desegregation. I believe, and documentation mentioned in my April 14, 1976 statement indicates, that desegregation is possible with a minimum amount of busing. The thrust of S. 3319 is to provide communities with the specific tools and funding necessary to achieve this result.

S. 3319 is a direct and positive approach in an area that has often been muddled in this highly political year by misguided and unfortunate efforts to roll back the clock on civil rights protections, undermine constitutionally protected remedies and place restrictions on court jurisdiction.

Will the methods authorized in S. 3319 work? Are they educationally sound? My staff has assembled a selection of materials, particularly on "magnet schools." These materials represent a good cross-section of commentary on various cities' experiences and success with innovative methods of school integration. It should be stressed that only sound local community planning and administration can bring these methods to full fruition as successful educational programs that also help accomplish desegregation.

I ask unanimous consent that a series of articles and letters pertaining to the activities authorized in S. 3319 and H.R. 14700 be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Excerpts From Rep. Barbara Jordan's Introductory Remarks to the National Conference on Magnet Schools in Houston, Tex.

SIMPLE JUSTICE REQUIRES AN ALL OUT EFFORT TO FOSTER INTEGRATION AND QUALITY EDUCATION

As I was coming in from Washington, I began to read a book by the title, Simple Justice. It's a big book. The book is all about the decision of Brown versus the Board, what that decision means and how it was arrived at.

The cover of the book is very interesting. On it are two photographs. One of the Warren Court and one of Linda Brown, the plaintiff in the case. And as I began to reflect on that cover, I thought about what the photographers went through as they tried to capture that subject matter for the cover of the book. They probably had a sturdy tripod. They probably spent several minutes trying to decide which combination of speed and distance and aperture setting would be useful in bringing the subject matter into focus and providing the best photographs.

Well we, I think, are like those photographers in a way. We have a tripod—three legs. The first is the constitution. It is a constitution which requires each generation to struggle to preserve the American idea of equality. There is a second leg, the courts. The courts have acted as the conscious of the nation when people have been denied their legitimate rights. The third leg: the support integration receives from the people.

If you notice the latest polls in the west, and Texas is included, 64 percent of the people favor desegregation of our schools. And like those photographers, we must determine a way to approach the subject. Just as the different aspects of the camera have to be brought into focus—distance, speed, adjustment—setting, so we must adjust all integration tools to bring into focus the subject matter. Magnet schools, pairing, cluster, busing, others. Work with them. Bring them into focus. Try to get the proper arrangement so that somehow we can meet the requirements of each particular school district. Our dilemma is we don't know how to approach the subject. We don't know how to bring that subject into focus. How can we best adjust the tools which are available to us?

Well you are here in Houston to talk about the magnet school concept and how it can be made to work better. How you can work it in conjunction with other integration tools to bring into focus the subject matter which is quality education. It is an important task that brings all of you here. It is a task which forces us to focus on the most enduring problem of America—equality. There is no problem more enduring facing society than equality. It's a much used word in this year of celebration.

It is to some people just words on dried parchment in the national archives, that people can pass by and gawk at in the Declaration of Independence. It's familiar words, "We hold these truths to be self evident that all men are created equal." Equal. One sentence and that one sentence seems to capture the lifeblood and spirit of America.

Equality is an abstract term. It can only be given meaning through the efforts of each generation. For the first 97 years of this country, black people were treated with indifference. And then in the second 91 years, we have tried to reverse the trends set in 1896 in Plessy versus Fergurson and separate versus equal or separate but equal. Ninety one years of indifference highlighted by Plessy. And then in 1954, Brown versus the Board.

[Materials from National Conference on Magnet Schools in Houston, Tex.]

Excerpts From a Speech by Dr. Gordon Cawelti, Executive Director, Association for Supervision and Curriculum Development, Washington, D.C.

WE CAN MAKE EDUCATION MORE PALATABLE THAN IT NOW IS THROUGH ALTERNATIVES, RESPECT FOR OTHERS

Today's trend toward alternative and magnet schools and voluntary programs contrasts with the historic position of American education as it related to the melting pot theory. What a change from the traditional concept when we see the schools across the land offering such a wide range of choices which never existed before. What a contrast to James B. Conant's recommendations of the late fifties advocating the comprehensive high school—where the blue-collar kids went with management kids—to the present support for alternatives to the traditional.

Yes, we have moved from the melting pot concept, and it took some trauma in America to begin to realize the pluralistic idea; that we must indeed respect the many, many different persons that are Americans. I commend those who planned this conference and I hope that we are stimulated to redesign American education.

For the past few years I have watched as the scholars at Harvard and other places have sorted out data with which they almost have convinced Americans that schools don't make any difference. The so-called productivity studies seemed to indicate that it didn't make any difference whether faculty members had masters' degrees, a lot of instructional materials or good buildings. None of these factors accounted for more than a one or two percent differential in output. As you and I know, that is a vast oversimplification—and I hope you will speak out in defense from, if nothing else, your own experience on the efficacy of schooling. But I do think that the critics have many people—board members and the public—fully convinced. So, some are saying that we ought to abandon secondary education for a while, lower the compulsory school age to 14, shorten the school day to two or three hours. This reflects a lack of confidence.

An alternative, it seems very clear to me, is to dare to say that we can make instruction much more palatable than it now is. The programs shown at the conference demonstrate that when you create an environment in which there is a specialty, instead of transmitting the cultural heritage by programming the same thing for all youngsters, a more powerful program results.

I am more and more convinced that the media with such wonderful potential, the medium of television, has created a vast change in the minds of young people. The impact it has had on schooling is vastly underestimated. It has much to do with problems of reading. Kids just don't read very much any more in many homes. It has much to do with the decline in reading scores and with the ability to write. If children don't read, they don't write as much nor as well, and it certainly has had an impact on conversation. But TV has power in other ways, as when kids turn from a compelling television program to a bland lecture or hour-long drill in the classroom. Should we be surprised that they are not turned on by school?

That path, from Plessy to Brown, was piled high with difficulties and still is. The concept of equal education only gradually entered the consciousness of America. Very gradually. It was the results of courts, governors, legislative bodies, all of these entities, pushing into the consciousness of America the idea of equal educational opportunity. So. Almost 22 years from the day of Brown, and we meet, trying to fulfill that promise, that goal of equality. It's very perplexing. Our schools are supposed to be the entities which teach the goals of America and yet the schools have had more difficulty than any other institution it seems in coming to grips with the translation of equality from rhetoric to fact.

Like any complex problem of this magnitude, there are no easy answers. And if you look for them, you'll be disappointed. I like this magnet school concept because it satisfies two necessities. First, leadership and understanding second. People are required under the magnet school concept to understand each other: To understand the community in which it is located. It understands that black and white people remain suspicious of each other. That there are some blacks who still say that all of the problems of black America are occasioned by white racists and that there are some whites who say that all of the problems of white America are occasioned because all blacks are criminals. Understanding cuts through such generalizations. Leadership, local leadership, is available under this concept.

The community leaders must decide what mixture of the integration tools will best fit the needs of their community. In a city the size of Houston, this concept appears to be working very well. All of the other tools remain available. Tools of first resort and tools of last resort. But the leadership under this concept has to come from the local community. And leadership does not always need to come from Washington. Leadership does not always have to come from the courts of this land.

It is very fashionable to attack any attempt on the part of Washington to provide leadership. But that too it ducking and dodging the issue. It's too facil. Franklin Roosevelt once said, "Better the occassional force of a goverment that lives in a spirit of charity, love, understanding—than one consistently guilty of omissions because of its indifference."

Congress may be of some help. We try to be of help but we need positive signals. We need positive signals from the people in charge of running the programs so that we don't simply kneejerk on the issue of whether to cut off funds or not under HEW guidelines because one is or is not in violation of the law. This conference gives to the Congress a positive signal. Magnet schools: an integration tool. You can assist us. If you understand this tool, you can assist those of us in the Congress in the accomplishment of our task. There are bills pending in the House now which would bring some new approaches and new insights into how to bring about this intermixture of students.

We have a lot to learn in Congress and I assume you have a lot to learn about magnet schools. One thing we know is that the magnet school concept answers the charge that integration means a leveling down and not a leveling up. You show that integration is accomplished by a leveling up. And that's important.

The questions you will answer these next few days I hope will be these:

How can magnet schools best be used with other integration tools?

How can the concept be extended so that all students participate?

How should students and parents participate in the planning for these schools?

How much career counseling is necessary for the students and the parents?

In the end, it is simple justice which requires a concerted effort on the part of all of us to find a national answer to a big problem.

Don't forget what Justice Warren said in Brown. "To separate children from others of similar age because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone."

Here in Houston, our goal still remains equal educational opportunity of quality. You have the tripod. You have to determine the time, the distance, the speed, the lighting, the setting, the focus to bring it all into a reality-oriented subject matter.

I hope you are successful. I hope your camera adjustments are successful. Because each generation is required to interpret equality for succeeding generations. I want succeeding generations to say those people who took care of things in 1976 really knew what they were doing.

Representative Barbara Jordan set the stage in a superb way. In seeking quality and equality for everyone, perhaps the most difficult thing for most communities to realize is that we all have a responsibility to overcome or remediate the violation of the civil rights of one class of citizens. A lot of people will say yes, it's all right to have integration—but I don't want to pay the penalty now, today, because of some errors in my forefathers' day and the way they treated certain people then. Everyone has a responsibility to see that injustice is overcome, but most simply do not recognize this even though the courts are full of people whose rights have been violated on matters other than civil rights—on money matters and everything else.

Permit me to recall a bit from my own experience. I believe every community is quite unique in how it approaches the school integration matter. There have been a series of events in most communities, depending upon when they first begin to think about integrating, or the Justice Department first began to think about it for them, leading up to how it is handled. The earliest idea in my community seemed quick and slick: close a minority school. Then the minority leaders rose up to say we're not going to have one social injustice remedied by another one. Next we kind of turned to neighboring low-income groups paired with some low-income white communities nearby. It was logical—reduce the travel time.

Property values of low-income folk near minority neighborhoods suffered and people fled. That didn't work, and today where there is an ounce of leadership among minority persons in the community they don't stand for either one of these as the solution to school integration.

Thus it becomes more and more a matter of total community involvement and participation. Community attitudes vary greatly. My impression is that in almost every instance where a school board has fought to the dying gasp and played to the politicians, young people suffer, as opposed to the communities in which leadership moves to solve the difficult problems.

In the late sixties when the Justice Department filed suit on behalf of a class of citizens in Tulsa, a community of some 80,000, the superintendent and the board became the bad guys. You become too conservative for some and too liberal for others. The turning point in our community of 110 schools and 555 churches was when integration ceased to be the board's, superintendent of staff's plan and became the community's. It took a long time and a lot of shouting, screaming and misunderstanding. We made some mistakes, but we learned a lot.

The first idea, for example, was to set up a parkway, a school without walls, right alongside a black school. The parkway school had 75 blacks and 75 whites. It was an abject failure: You simply cannot mix a standard kind of school with its regimentations alongside one with unbridled freedom, if you will. That kind of integration did not work in Tulsa.

The thing that did work was very simple, very clean and very straightforward. It was a school with a super faculty which was put there voluntarily.

After wrestling with the problems of integration for many, many months, I conclude that if students will travel all the way across the country to get distinguished professors at an institution such as Texas Southern University, they certainly will ride several miles across town to reach a super teacher. And in Tulsa they surely did. That school today is half black and half white—and all of the students and faculty are there voluntarily, with a waiting list.

The idea was to recruit teachers from our own ranks and a few from the outside, beginning with the principal. In fact, the principals of the previously all-black high school and the most prestigious silk-stocking white high school changed places. That shook a few people up, I might say, but if you are going to eliminate racial identity, an awfully good place to start is with the leadership.

The most difficult job, the one in which you need to be the most patient and persistent, is in the initial recruiting. You can't sell a bar of soap without having a brand-name product for most people. If you have an institution with no reputation, it takes a lot of people spending hours and hours meeting with the community to win their support and understanding. I call it marketing the school, because that's exactly what it was.

But the payoff is in facing the court and asking, "Is this all right?" In this case the judge said, "That's fine, if it works." We were given the latitude to go ahead and try, and I think it surprised everybody. The voluntary program saved millions of dollars.

By contrast, the school that was closed brought community reaction to set up a freedom school until the school board relented. With the help of Model Cities funds and the board's commitment, a low-income, bad-conditioned junior high school was transformed into one of the most modern middle schools. It now has one principal in charge of instruction and another in charge of management. That's the way if you want to focus on instruction—give principals time to be in the classroom working with teachers who are committed.

Very often we get involved with severe time limitations in setting up new programs. Failure to consider some of the design aspects can be devastating. One of the fundamentals is grouping practices. If you set up a magnet school for integration purposes, and then end up with racially isolated classes within the school, you haven't served anybody very well. There is no easy answer except to say that there must be a good mix of students in classes and in their other school experiences. There may be some few classes that are exceptions, but the data shows that it is advantageous to have students mix.

We must spend more time and more money in staff development for those teachers who are left as well as those who move because they are regarded as superior teachers. The superior teacher is one who does two things well: interests kids in the subject matter and helps organize knowledge—by deciding what to teach. Teachers more and more need a great deal of help with these.

A Comprehensive Look at the Houston Plan

(By Kelly Frels, of the Law firm Bracewell & Patterson, Houston, Tex.)

The Magnet School Plan for the Houston Independent School District was adopted by United States District Judge James Noel after a public hearing on July 10–11, 1975. The Magnet School Plan was submitted by the Houston Independent School District as an alternative to the pairing of 22 elementary schools ordered paired by the Fifth Circuit Court of Appeals on August 25, 1970. Through the Magnet School plan, the district also seeks to supplement its total integration efforts.

The Magnet School Plan has as its objective the achievement of racial and ethnic integration by providing quality educational programs. Magnet schools are utilized as integration techniques in four respects. The first is to reduce the one raceness of a particular school by providing a special educational program which will attract students of the appropriate race in sufficient numbers to integrate the school. Secondly, a magnet school provides an opportunity for students from one race, or nonintegrated schools, to be brought together in an integrated environment at a school outside their attendance zones.

Thirdly, magnet schools provide an approach to locating new facilities in a one race area where additional capacity is required. A fourth reason for the magnet schools is to retard white flight by providing quality educational programs which could not be secured elsewhere. These programs also bring new families into the district. Magnet schools, therefore, can be used to reduce the number of one race schools and to increase the number and percentage of students attending integrated schools.

Other school districts throughout the United States have utilized the magnet schools as an educational tool for many years; however, it is only with the addition of certain constraints on enrollment by race and ethnic origin together with providing free transportation, extensive publicity and community contact and other safeguards that the magnet school becomes an approach to achieve integration. Without these constraints, safeguards, and additional educational components, the integration objective would be difficult, it not impossible, to achieve. Unless these constraints are included, magnet schools can become unintentionally segregated. Boston's college preparatory school was predominantly white, while the vocational school was predominanty black. Magnet schools do not offer the total answer to integration, but when used in conjunction with strict nondiscretionary zoning and other desegregation techniques, it will work in school districts of various sizes. A magnet school may also be helpful in building new facilities.

There are several important elements which contributed to the Magnet School Plan's acceptance by the court. Foremost among these was the involvement of all ethnic and racial elements within the school community. Inherent in this involvement was the opportunity for these racial and ethnic components to serve on the Community Task Force appointed on November 25, 1974, which recommended the magnet school concept and the tri-ethnic Administrative Task Team which developed the Magnet School Plan adopted by the court.

All communities of interest were granted access to numerous public forums where their opinions and feelings were expressed. Additionally, during the process of formulating this desegregation plan, all other parties to the existing suit were kept fully informed of the activities and were allowed to participate within the parameters of legal ethics. The court-appointed bi-racial committee, composed of five blacks and five whites and responsible to the court as a watchdog over the desegregation process, was consulted and its input was sought on all aspects of the plan and its development. All parties to the lawsuit were kept fully informed of the progress of the plan's development.

The Magnet School Plan's success is predicated upon providing a quality educational program which will attract students of all ethnic and racial backgrounds to attend a centrally located school. These schools can take three basic forms. The first is an unzoned campus which has no specific attendance zone but accepts students from all attendance zones within the district.

The second basic form of school is a zoned school which has an attendance zone from which the basic student body is drawn but has additional student positions available to attract students from all schools within the district. A third form is a cluster center which provides a part time program for students from selected schools throughout the district. The Magnet School Plan of Houston utilizes all three basic approaches with variations of each.

TOTAL SCHOOL—NO ATTENDANCE ZONE

These schools are established on new school campuses at schools which have been closed to regular school attendance. No students are specifically zoned to the school, and students are recruited on a districtwide basis. This magnet was first implemented in 1969 with the conversion of San Jacinto High School from a regular school to a vocational-technical high school, Houston Technical Institute. Other disrictwide total school magnets include the High School for the Performing and Visual Arts (1971) and the High School for the Health Professions (1973).

TOTAL SCHOOL—ATTENDANCE ZONE—ADD ON PROGRAMS AND SEPARATE AND UNIQUE SCHOOLS

These total school programs are achieved by making the entire school a magnet program by emphasizing a particular educational approach or by adding an educational emphasis to the school. The entire student body of the school is affected by the educational program, and its primary purpose is to attract a sufficient number of students of other racial and ethnic groups from other schools to integrate a one race school. Separate and Unique Schools and Add On Programs are also designed to stabilize the ethnic composition of an integrated school, encourage people to move into the school's attendance zone, and discourage flight from the attendance zone and the district. These programs also offer various options for students who have special abilities. An example of the Separate and Unique School is the fundamental school, and examples of the Add On Programs are the fine art and music academies.

SCHOOL WITHIN A SCHOOL

The Houston Plan also includes School Within a School magnets which are separate schools housed on an existing school campus. The School Within a School students are attracted districtwide and have a separate curriculum from that offered on the existing school campus whose students come from a particular attendance zone.

School Within a School students have the separate curriculum for approximately 60% of the day, but share approximately 40% of their academic time with the existing school students. One hundred percent of the School Within a School students' non-academic school time, e.g., recess, lunch and assembly programs, is shared with the existing school students. Students are recruited for the School Within a School's magnet and admission is predicated upon achievement of the racial composition of the students districtwide; therefore, the School Within a School students attend an integrated environment for the entire school day. Many School Within a School programs have been placed on school campuses which are of one race; therefore, whenever the School Within a School body is integrated with the existing student body for the shared time, the existing student body also becomes integrated. The results of such an arrangement are two-fold; School Within a School students attend an integrated school for the entire day, and when placed with the existing school students, the entire school becomes integrated on a part time basis.

CLUSTER CENTERS

The five Cluster Centers of the Houston Plan provide an integrated curriculum for students on a part time basis. Seven thousand elementary students will attend the Children's Literature Center for two-thirds of one school day per year. Five thousand five hundred different students will each attend two-thirds of four school days at Anson Jones (People Place), Port Houston (International Trade Center), and Sinclair (Career Orientation Center) for a total of two-thirds of twelve school days per student per year. Eight thousand different students will participate in a minimum four-day outdoor curriculum at the various locations of the Outdoor Education Learning Center. To insure that the integration objective is achieved, the students participating from these centers will be selected from schools 90% or greater white or black or brown combined and other schools which are predominantly of one ethnic or racial group. The students participating will be grouped in the programs at the centers so that each student will be integrated with those from other ethnic and racial groups.

The Magnet School Plan of Houston has safeguards and coercive regulations, guidelines and on-going evaluation requirements written into it which will contribute substantially to its probability of success.

The addition of these factors distinguishes the Houston Plan from other magnet school programs. It is only through the addition of these elements that assurances are given that the plan is designed to increase integration in the district in addition to serving an educational function. It is essential to the success of the plan as an integration technique and acceptance by the courts that these constraints and safeguards be included in any magnet school plan offered for the purpose of achieving integration.

LOWER PUPIL-TEACHER RATIO

A needs assessment survey conducted by the district in 1974 reflected a districtwide desire for a lower pupil-teacher ratio than currently exists in the district's schools. In response, the Magnet School Plan provides for a teacher-pupil ratio of 1-to-20-25 for the magnet schools and the schools in whose buildings a magnet School Within a School is located. It is anticipated that parents and students alike will seek this environment which will afford them a closer association with the teacher. Since many magnet Schools Within a School are located on one race school campuses, it was projected and anticipated that parents and students will utilize the district's tri-ethnic transfer policy to attend the regular school program which also has a reduced teacher-pupil ratio, thereby contributing to the integration efforts through the reduction of the number of students attending one race schools. This has happened. The tri-ethnic transfer policy is designed to prevent ethnic and racial isolation by allowing a student whose race at his or her zoned school is above the districtwide average to transfer to any other school where his or her race is below the districtwide average. If requested, the student is provided transportation at the district's expense.

Another reason for reducing the pupil-teacher ratio at the school where the School Within a School is housed is to provide all teachers in the building with similar pupil loads. With all teachers being treated similarly, a more pleasant administrative and professional climate should exist.

SELECTION OF SCHOOL SITES

The schools which were chosen to become magnet school sites were carefully chosen by the Administrative Task Team appointed by the Board of Education to develop the Magnet School Plan and prepare for its implementation. The selection of programs and locations was initiated by the six area superintendents through a survey of all principals in the district. A list of the programs suggested by the Community Task Force which recommended the development and implementation of the magnet school concept was given to each principal. The principals were encouraged to study the list, to discuss it with teachers, parent-teacher associations, parent advisory committees, and community leaders. The principals also reviewed the 1974 community needs assessment survey applicable to their schools. Requests for magnet school programs based on these data originated within each administrative area.

Final determination of the program sites was made by the Administrative Task Team, the area superintendents, and the general superintendent. These decisions were based on the following criteria: (1) requests from principals which had been approved by the area superintendents; (2) community projected program interests; (3) qualified staff already in the school; (4) locations easily accessible by freeways and main thoroughfares; (5) programs which were within the educational, integration, and location guidelines established by the Community Task Force; and (6) facts and inferences from the needs assessment survey. Some schools simply will not function as magnets—students will not be attracted, so do not choose them.

RESTRICTIVE STUDENT TRANSFER AND ATTENDANCE REGULATIONS

The most significant safeguard and coercive factor in the Magnet School Plan involves restrictions on student transfer and attendance. This is also the most unpopular aspect of the plan with the community because it does restrict some students from leaving their zoned school. The student transfer restrictions limit student transfers to a magnet school if the specific transfer will reduce the percentage of integration at the student's zone school below 10% black, brown, or white or combined black and brown. This restriction will prevent a school from becoming segregated because of transfers from the school to magnet schools; i.e., the restraint does not allow the magnet school to become a haven for those students whose race is in the minority at the school to which they are zoned. Where there are two districtwide magnet schools offering the same program for all students who attend the school, a student transfer will not be permitted when the student's ethnic percentage at the magnet school for which he or she seeks admission exceeds that student's ethnic percentage districtwide; i.e., the provisions of the district's tri-ethnic transfer policy will apply to the receiving magnet schools.

RECRUITMENT OF STUDENTS

Each magnet School Within a School has a predetermined number of students which the program can accommodate. Since the goal is to have the participants reflect the racial composition of the district by instructional level (elementary, junior high, and senior high), qualified students will be admitted to reflect the districtwide ethnic ratios of the particular instructional level. If the enrollment goal for each ethnic group is not met by the beginning of the second school semester, the positions may be filled by students from other ethnic groups, provided that 10% of the originally designated vacancies for each ethnic group will remain open for students of the particular ethnic group. The district will continue to recruit students from the appropriate ethnic groups to fill the designated vacancies. By waiting to fill vacancies until the beginning of the second semester, by holding a certain percentage of positions open, and by making an effort to recruit students to fill the vacancies, the Plan offers greater promise than the ethnic enrollment goals can be realized.

Students who meet the qualifications for admission to a particular program will be admitted on a "first come, first served" basis so long as the ethnic goals permit the transfer. When a student is ineligible for a particular program or school because the ethnic goals have been filled, the student and his or her parents will be advised of similar programs where the student's ethnic goals have not been fulfilled and the student is eligible for admission. The personnel of the district will give the student's parents the necessary assistance to aid in the enrollment of the student in the alternative program. Once a student has been admitted to the program, he or she is assured of continued attendance until the program has been completed.

FREE TRANSPORTATION

The Magnet School Plan provides that each student transferring to a magnet school in another attendance zone will be guaranteed free transportation by the district through the first semester of the 1975–76 school year. For the remainder of the year, new requests for free transportation for magnet school transferees will be granted when transportation is available on an established bus route. By providing free transportation, the major economic impediment to the student's transferring from his or her zone school is removed. This is a must.

STAFF SELECTION AND TRAINING

A crucial factor in the success of any school program is the ability of the professionals to work with the children and administer the program. That factor is particularly important in the magnet school. No school was chosen as a magnet school site without the concurrence of the principal and his or her area superintendent. The teachers who will be chosen to work with the boys and girls in the classroom in the magnet school program will be those with special competencies; however, teachers will be chosen in such a manner that no school will lose a large percentage of its most experienced or competent teachers. Teachers will be chosen through the application of a set of criteria based on interest, aptitude, personality, and "success" traits of those who have been innovative and effective. Teachers will be offered incentives to participate in the programs and they will be exposed to extensive staff development programs. The magnet schools will be staffed in such a manner that each teaching staff reflects the percentage of black, white, and brown teachers employed districtwide on each instructional level. The variances of 10%, above and below the actual percentage, at the elementary level and 15%, above and below the actual percentage, at the junior high and senior high school levels will be applied.

EVALUATION SYSTEM

Another important element is that the Magnet School Plan will be continually evaluated and monitored by the district to insure the program's successful operation as an educational concept and as an integration technique. Reports of this evaluation will be made to the United States District Court through the Bi-racial Committee in the district's bi-annual report.

[Material From National Conference on Magnet Schools, Houston, Tex.]

LOCAL INDUSTRY NEEDS MORE THAN A FEW GOOD MEN

Students attending Milby's Petrochemical Careers Institute will receive training for either entering college or begininng a career directly after high school.

The program is geared toward preparing students for careers in the petrochemical industry, answering a local need says Principal Claude H. Brinkley, Jr.

Brinkley said his school is an ideal site for this magnet because of its location at 1601 Broadway, just west of a massive industrial complex on the Houston Ship Channel.

And although these industries are not within the Houston Independent School District, they are easily accessible to Milby. This will be a clear advantage later when students in the Petrochemical Institute do on-the-job training as part of their course requirements. But on-the-job training does not come until the senior year.

The school, which had an opening enrollment of 35 sophomores and will add an additional 35 each year, will admit students with better than "C" averages who have a flair for science and math, the core of most petrochemical-related fields.

The science-laced curriculum includes toughies like biology, algebra, geometry, inorganic chemistry, drafting, physics, analytical geometry, trigonometry, economics, calculus and Fortran programming for computers. These are spread over three years and other required courses will be taken.

"Industry is telling us our students are not prepared to go into their fields. A student who can go through this and is interested can go right into the industry. What makes it so good is that he has a choice."

[Material from National Conference on Magnet Schools, Houston, Tex.]

CENTER FOCUSES ON WORLD TRADE, OTHER CULTURES

Port Houston Elementary is a choice example of using an environment to its best advantage. It is at the same time a magnet school for bilingual and multicultural education and a center for studying world trade.

The International Trade Center, says Port Houston Principal Emily Cole, "is designed to improve the student's awareness of the international environment. This is done by exposing students to international communications, imports, exports, geography and economics." And it is all done in miniature.

The ITC is equipped with four laboratories where students get a realistic glimpse of the world scene. Students spend several days at this cluster center meandering through the map skills and money exchange lab, products and transportation, communication and port and industry labs. They do fun things like plot time changes in different parts of the world or pick up a few words of another language in the language lab.

The ITC is replete with field trips and other outside-the-center wanderings. Because the schools namesake (the Port of Houston) is in easy access, there is always the possibility of a foreign ship being docked in the channel.

On the surface, suggests Cole, the ITC is an enlarged show-and-tell. But the subtle points it makes is that other cultures are important and the prospects for living and working among these are limitless.

[From the Dayton Daily News, May 2, 1976]

INTEGRATION PROPOSAL OFFERS ALTERNATIVES TO BUSING

The proposal probably doesn't stand a snowball's chance in the current congressional session, but for the record, Sen. John Glenn (D-Ohio) has made a potentially valuable contribution to the school desegregation muddle.

Indeed, as its opponents say, busing really isn't the best way to get school integration in many circumstances, though it is hardly the terror eager fright-mongers and closet racists like to make it out to be. But for both moral and practical reasons, the challenge of getting over the deep racial crack that divides Americans like an earthquake fault-line remains among the most urgent social necessities.

Sen. Glenn has offered a sensible middle course. It would not create total school integration, and it would be no redress at all for the outright Jim Crow segregation that busing was first designed to wipe out. But his approach could seed substantial school integration—enough to free many communities from the necessity of busing.

The senator has introduced legislation that would provide about $1 billion annually in federal aid for school districts undertaking projects that would result in significant voluntary integration.

The funds could be used to develop and build "magnet" schools that attract students from a broad base because of the schools' special educational offerings. It would aid vocational or college preparatory courses sponsored either by businesses or universities. It would help with the construction of new schools in racially mixed areas, and it would aid the construction of multi-school complexes called "educational parks."

All the approaches are, first, educationally sound and enriching, and where they have been well designed and conscientiously administered—as even in Dayton, to a limited degree—they have proved they can attract and hold stable, racially integrated enrollments. And, happily, they achieve integration without the kind of busing that has become the demagogues's best friend.

Alas, most senators and congressmen would rather harangue against busing than shell out hard money for alternatives that seek the same racial justice. Perhaps in time, Sen. Glenn's approach or some enlarged version of it will win the place in national policy that it deserves.

Certainly the persons who say they are against busing but favor school integration would be doing themselves and their nation a favor by rallying to this flag instead of seething in aimless frustration or taking out their emotions in pointless, often dangerous demonstrations.

[From Cleveland Plain Dealer, May 11, 1976]

BRIGGS OK'S GLENN INTEGRATION BILL

(By George P. Rasanen)

WASHINGTON.—Paul W. Briggs, superintendent of Cleveland schools, yesterday endorsed a $1 billion school integration bill proposed by Sen. John H. Glenn, D-O.

Briggs and Glenn discussed the bill for about an hour, especially provisions allowing federal aid to set up special schools, called magnet schools, because they would draw a mix of white and black pupils from the entire district.

Glenn's bill for the first time would provide federal aid to finance methods other than busing to integrate neighborhood schools.

Briggs promised to provide Glenn's aides with a detailed analysis of how the bill would work in Cleveland.

"It would work very well in Cleveland," Briggs said after meeting with Glenn. He envisions 30 to 40 different educational programs set up in magnet schools.

"The centers would be in neutral sites, probably in downtown Cleveland," Briggs said. "We'd bus from the East Side and West Side."

The discussions, however, appeared to be overly optimistic. It is unlikely that the Congress has enough time to pass Glenn's bill this session although aids insist there is a possibility.

Urban-Suburban Interdistrict
Transfer Project,
Rochester, N.Y., April 30, 1976.
Senator John H. Glenn, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Glenn: We are very encouraged by your introduction of "The School Innovation Act of 1976", S. 3319, which would amend section 707(a) of the Emergency School Aid Act to expand the list of eligible activities.

I am enclosing a copy of our proposal which is attempting to establish the kind of school you appear to have in mind. Actually we have established such a school, and we were quite successful in accomplishing the objectives you are seeking. (See attached articles.)

Despite our success, we have experienced considerable difficulty in obtaining ESAA grants for our innovative voluntary program. The ESAA guidelines make it very difficult for an interdistrict program like ours which represents a voluntary alternative to busing.

It is our hope that with legislation such as that you, Representative Richardson Preyer, and Representative Udall are proposing we shall find a positive way to deal with the sensitive problem of school integration. If I can help, please call (716) 544-8605.

Cordially,

Norman N. Gross, Ed., D.
Project Administrator.

Waukegan Public Schools,
Waukegan, Ill., June 8, 1976.

Dear ———: In our process of trying to integrate the Waukegan Public Schools it becomes a problem of money.

It would appear that a recent bill submitted by Senator Glenn from Ohio has much merit in the area of Desegregation. Senator Glenn's proposal in S. 3319 the School Integration Innovation Act of 1976 would make funds available for construction of building or upgrading sites for the purpose of aiding desegregation.

We feel strongly that S. 3319 needs your attention as a means of helping in desegregation of schools. We urge you to consider this bill closely. Should you need further information from us on how this bill might affect our district, please feel free to call or write.

We thank you for your consideration of our request.

Sincerely,

Harry S. Bowen.

Cincinnati Council of Parent-
Teacher Associations,
Cincinnati, Ohio, June 6, 1976.
Hon. John H. Glenn,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Glenn: The Cincinnati Council of PTA's recently voted unanimously to support S. 3319 which you introduced as the "School Integration Innovation Act of 1976".

As you are well aware, forced integration causes disruption, is expensive, and does nothing to insure quality education or encourage educational options which meet the varying needs of students.

In addition to a wide variety of vocational programs, many alternative programs have been started in the Cincinnati Public School system. They range from bilingual programs to a school for creative and performing arts. These programs not only provide a choice for those students who desire other than the traditional approach, but have voluntarily reduced racial isolation in the district since these programs must be racially balanced.

Many students, parents, and teachers in our district are excited about these innovative methods of reaching students. Many programs have waiting lists, but there is a limited amount of funds that can be used to expand present programs and add new ones. Staff and curriculum development and start-up costs the first year require more funds than regular programs. With school districts facing severe financial problems, funds from other sources are needed to develop programs which will integrate the schools and raise the achievement level of students.

We hope that your bill will pass quickly and are urging our members to write to Senator Taft to ask him to push the bill through the Education subcommittee.

We greatly appreciate your interest in the urban school districts and hope that other members of Congress can be persuaded to see the educational and integration benefits which can be provided by S. 3319.

Very truly yours,

Ann Patty,
Legislative Chairman.

OPENING THIS FALL IN HOUSTON, TEXAS

With the first year of HISD's comprehensive Magnet School program completed, the district's 34 programs will be increased to 49 this fall under Magnet Phase II.

Many of the 15 new programs are extensions of existing ones like the four additional Vanguards for academically able students. New Vanguards are scheduled for Windsor Village, Oak Forest, and Hayes Road (under construction) elementaries. A first this year will be a senior high school Vanguard at Jesse Jones.

Students attending Cornelius Elementary will be allowed entry into a concentrated program of math and science with a careers' component.

Creative arts will be the key to programs at Longfellow Elementary an Fleming Junior High. These will feature music, drama, speech, art, dance and gymnastics.

Crawford, J. Will Jones and Hayes Road elementaries will have extended day classes from 3–5:30 p.m. The schools will be set up to offer three 45-minute enrichment classes that range from speech, drama, art and physical education to regular academics. There are even activities, like storytelling, for students in primary grades.

Following the successful lead of Burrus Elementary, Roberts Elementary will become a Physical Development academy this fall providing experiences for students in health and physical education. Special emphasis will be placed on lifetime sports activities like dance and aquatics.

Another program which is an outgrowth of an existing one will be the Contemporary Learning Center for students in grades six through eight. The CLC has been an overwhelming success on the high school level.

HISD's new Montessori School, at Dodson Elementary, will accommodate 85 four to seven-year-olds in the first year. The Montessori curriculum aims to improve the natural development of these youngsters using learning habits which include independence, responsibility, coordination order and concentration.

M. C. Williams High School will open a new magnet school of communications. The curriculum, which will include radio and television communications and training in theater arts, will be wrapped around a strong speech education component. The speech department at Williams has consistently fared well in state University Interscholastic League competitions either winning or placing near the top in one-act play competition.

Finally, Lincoln Community High School will provide educational alternatives to students who find little motivation in regular high school programs. Students will be allowed to pursue programs of independent study in their areas of interest.

[Material from National Conference on Magnet Schools in Houston, Tex.]

DISNEY LAND A BIG ATTRACTION IN CHICAGO TOO

On the edge of Uptown, one of Chicago's bleakest neighborhoods, is one of Chicago's most exciting investments in the future—the Walt Disney Magnet School. A prepossessing glass structure along Marine Drive, with a magnificant view of the lakefront, it houses the inner-city's first major experiment in non-graded education, planned integration and magnet enrollment. All this at once, and on a large scale—1,800 children.

Such an ambitious project could not, and did not, spring forth fully grown. A 1967 report from the U.S. Office of Education detailing the implications of the Civil Rights Act led the Board of Education to hire Stanton Leggett's educational consultant firm. Two years and many meetings later, a 170-student experiment—the larval stage of Disney—was initiated. Under the direction of Dr. Lorraine La Vigne, now Disney's principal, it operated in an old U.S. Marine Hospital, converting wards into structional pods.

The experiment was a success and now Chicago has what is intended to be the first of seven magnet schools. The magnet concept means that children are drawn from all over a city area and then bused to and from. Disney is open to elementary age children from the northern third of Chicago. Interested parents apply to the school and the choice of who gets in is made by computer to reflect the racial/ethnic balance of the community.

The idea here, of course, is to avoid the hostility and fear bred by unstable neighborhoods, and the crux of the plan is that parents choose to send their children to an integrated school. Pouring into the education process are the efforts of consultants, teachers, Northwestern University's education school, the Parents Advisory Council, and the Community Education Council—representing community organizations. It is this active, pluralistic input that imbues the project with such hope.

The open-plan, non-graded approach to education allows each child to progress at his own rate and to pursue his own interests. Disney has incorporated all the usual—but not for inner-city Chicago—techniques of open planning: team-teaching, paraprofessional aides, flexible space and learning resource center.

The 245,000-sq.-ft., $10 million complex, designed by Perkins & Will, is set on 11 acres along the lakefront. Six acres are occupied by buildings—including the school, a communication center and an 80-car underground garage. The remaining five acres, still being developed, will be both playground area for the school and a public park for the community. In addition, the roofs of the garage and the arts center will be playground plazas.

The school building has three levels, each for a different age group. Each level contains three 8,000-sq.-ft. pods (a pod serves 200 children), administrative area, gymnasium, dining multi-use area and teacher training space arranged around the centrally located faculty planning room. Shared facilities include the multi-media library, art and music workshops, science and math labs and health service suites.

The plan—sort of a geometric figure eight—was dictated by the need to make the faculty planning area the hub of each level and the desire to give each pod a view of the lakefront. Corridors are kept to a minimum by having exits lead directly from the pods—with red-painted doors for easy identification.

Openness is paramount in this building. Classroom walls, of course, have been abandoned, but even administrative and conference rooms turn glass sides to the children in the pods. The two outside walls of each pod are floor-to-ceiling clear glass, creating a continuum from inside to outside—a physical corollary to the rich, unrestrictive environment provided by the educational approach. The danger of vandalism is bypassed by the use of unbreakable polycarbonite for exterior glazing.

On the facades, the poured-in-place concrete frame is extended beyond the window plane. This cagework has the practical advantages of screening the sun and simplifying window washing, although its rationale was primarily sculptural. The architects just did not want another box.

But perhaps the key to this school is its 600-person communication arts center. This "one acre under one roof" houses a theater-in-the-round and flexible space for every kind of art studio from music, dance and painting to weaving and photography. Besides providing open-ended possibilities for the school, it is intended for community groups, adult education and supplementary programs by other schools.

The program for the school was a joint effort of the Board of Education, the Public Building Commission and Perkins & Will.

VARIETY FLOURISHES UNDER DALLAS' SKYLINE

As the result of the cooperation of many elements of the Dallas community, Skyline Center is designed to change the scope of education in one of the largest metropolitan areas of the United States. It is a multi-purpose facility intended to provide maximum educational opportunity to the citizens of the Dallas Independent School District. Its educational components include the High School, Career Development Center, and the Center for Community Services. Skyline Career Development Center is organized into Career Clusters, Each Cluster encompasses several families of careers.

The student body of Skyline Center is composed of four types of students: (1) those who live within the Skyline High School attendance zones, (2) those who transfer to Skyline High School as full time students in order to take advantage of Career Development courses, (3) those who attend the Career Development Center on a part-time basis and remain enrolled at their local school, and (4) adults or other part-time students who enroll in the Community Service Program. In September of 1975, more than 4,200 students were enrolled in the day school. The Community Services offered programs for more than 3,000 students.

Skyline Center was financed by a local school bond and continues to be operated by local school district funds from the Dallas Independent School District.

The evaluation program is implemented through the District Research and Evaluation Department which is a component of the skyline Center program. All curriculum is wrtiten and implemented on a competency performance base. Each Career Cluster has a Community Advisory Committee for curriculum evaluation and involvement.

The Center's Career Development Cluster programs are intended to enable each student to maintain a balance of academic and career education. The curriculum is designed to provide each CDC student with (1) a high school diploma, (2) the preparation to enter college or technical school, (3) and career skills to be used for future employment or to put the student a step ahead in advanced education.

The Career Development Clusters are business and management technology, the study of man and his environment, computer technology, world languages, horticulture, higher sciences, higher mathematics, metal technology, world of construction, electronic sciences, climate control technology, advanced English, speech, and journalism, aeronautics, plastics technology, transportation services, aesthetics, dramatic arts, photographic arts, graphics technologies, advanced music, television arts, world of fashion, beauty culture, food management, child and youth related professions, health-medical and dental technologies.

The curriculum is under continuous revision and improvement. Teachers, curriculum writers, and research and evaluation teams work together to improve the instructional opportunities for all students involved. Several of the clusters in the Career Development Center are being implemented in other high school areas of the Dallas Independent School District. The in-service training and staff development programs continue to assist teachers and staff in developing not only curriculum materials, but offer opportunities for community involvement with Advisory Committees from industry.

To accomplish these goals, the staff of Skyline Center is pledged to foster an atmosphere conducive to creative growth and development of concepts, skills, and personal relationships.

[Material from National Conference on Magnet Schools in Houston, Tex.]

NORFOLK'S OLDEST HIGH SCHOOL: REJUVENATION PROJECT PROMPTS CHANGES BOTH INSIDE AND OUT

In the fall of 1971, staff members in Norfolk City's oldest high school, Mathew Fontaine

Maury, were busy designing a new project which would result in a completely reorganized curriculum. The new design would provide for the individual needs of the students that formed the diversified student body. The school, in its role of leadership in education and in the community, appropriately named the three-year project "Regeneration: Inner-City School Survival."

Today the program, originally financed by a grant from Title III of the Elementary and Secondary Education Act, is nationally recognized as a model for other high schools. Recognition as a national model was announced for 1975–76 following a third-year evaluation made in the spring of 1974 by representatives of the State Department of Education and the United States Office of Education.

The broad curriculum which includes every phase of high school education provides opportunities for students to pursue individualized programs. In addition to providing an academic program suitable to their present and future lives, the students are given instruction and opportunities to help them assume responsibility for their learning, and to develop behavioral patterns which do not disrupt the learning processes of other students. Assistance is given to students so that their levels of intellectual achievement will be raised and the vocational skills required for employment will be upgraded.

Students may select from more than 350 courses, of which approximately 200 are taught regularly during each of the nine-week periods into which instruction is divided. Six to eight subjects are taken by students during each nine weeks, more than are taken by students in traditional school programs. Each course developed by staff members meets specific performance objectives. A curriculum guide, containing full information about each course, is available to students for planning their educational programs.

All courses are phase-elective with no restrictive requirements for enrollment. However, a few of the courses by necessity have prerequisites, and for some other courses students are required to have a certain number of credits in order to be eligible for graduation according to state standards.

Classes at Maury High School do not carry grade level identifications in order to provide greater opportunities for students to take courses which meet their needs and their interests.

Operational funds have been provided by the Norfolk City School Board since July 1, 1974, and grants for 1974–75 and 1975–76 made by the Department facilitate the dissemination of information about the project throughout the country.

Change also has affected the area around the school. When the staff members decided that broad reorganization of the instructional program was needed, the community, formerly composed of churches, privately owned homes, small duplex apartment houses, and neighborhood businesses, had deteriorated. The buildings have been moved and the former 6-acre campus has been expanded to 26 acres and surrounded by park areas.

As soon as planning began, project staff members set about laying the foundation for community involvement and acceptance of the new program by establishing contacts with parents, students, and the community at large. Various forms of communication were used to inform the public about the project and to promote understanding about its potential for success.

Minor renovations made to the school building during 1971–72, the first project year, converted the available space to usable, more flexible units. Some of the larger rooms were divided and other areas were combined. In some instances, space arrangements were especially designed according to curriculum needs.

That first year also was spent by project leaders and staff members researching and writing an instructional program for Maury's students. Special methods and materials were developed to implement the program. In the fall of 1972 the new courses were introduced into Maury's classrooms where they now are the basic curriculum.

A staff of 118 persons—106 teachers and the remainder administrators and counselors—operates the program. Since students are given an opportunity to select courses on a nine-week basis, increased administrative effort is required. In addition, everyone on the staff works harder in this student-centered environment than in the traditional setting.

Another innovative idea used at Maury provides for the cafeteria to remain open throughout the school day to serve breakfast, lunch, and snacks. The cafeteria area is supervised and many students gather there when they do not have classes. They study or prepare class assignments and participate in informal discussions and group work, as well as snack. This part of the program continues under close evaluation. While many students seemingly do not use their unscheduled time wisely, it becomes questionable if assigning them to study rooms would help them.

Many challenges have arisen in the project; however, the degree of commitment to the program by Maury's staff members and administrators is credited with having contributed significantly to its success.

"Regeneration: Inner-City School Survival" has been accomplished at Maury—in the school and in the community. Maury's prestige as a leader has continued. In the field of education its influence is nationwide the second time around.

[Materials From National Conference on Magnet Schools in Houston, Tex.]

Cincinnati Schools Try to Blend the Best of Conservative, Liberal Points of Education

"What did you learn on the river today?" Aunt Polly might have asked this of Tom Sawyer and his friend, Huck Finn. In the last quarter of the twentieth century, Cincinnati parents will be repeating the question. A new program in Inland Waterways Occupations, complete with operating craft, is part of Cincinnati's expanding effort to provide educational options for elementary and secondary students.

More than 11,000 students in the Cincinnati Public Schools are enrolled in full-time, optional courses of study this year. These programs are available at no cost to all students in the school district. Even free transportation is provided. Estimates indicate that by 1980 alternative programs will include over 20,000 students, 40 percent of the projected enrollment of the school system.

Unlike life on the Mississippi, education in Ohio's riverfront city keeps its emphasis on academic learning. Basic skills are a consistent concern of every alternative program. Alternative schools combine the best of both conservative and liberal philosophies of education. They are conservative in that they conserve the best of traditional education: emphasis on basic skills and academic achievement. They are liberal in their assumption that parents and their children know best what their educational needs and interests are.

Secondary students may choose from a variety of full-time vocational offerings, like the watercraft operations program. Or many of the district's students choose to enroll at Walnut High School, the city's oldest alternative school. Several other options are available to junior and senior high school youth. At the elementary level the school system has nine distinct alternative programs, some of which are offered in several schools.

Alternatives to traditional public schools have always existed. These have ranged from religious schools and other private institutions to the extreme alternative of no school at all. The 1960's saw a proliferation of parent-controlled free schools. For some middle-class drop-outs, free schools provided a hopeful alternative. For other youth in the inner-city, storefront schools and street academies emerged—usually supported by businesses or philanthropic organizations.

For the most part, however, the alternative schools movement had low priority and limited growth until the present decade. In large urban school districts the movement has gained momentum, and the range of alternatives has widened.

Cincinnati has been among the leaders in this development. No other major city has moved so far to provide a wide range of options to all students.

One area of expansion is college preparatory programs. Walnut Hills, founded in 1918, is Cincinnati's six-year college preparatory school. A comparable program is now offered in the neighborhood high schools for qualified students who prefer to attend school nearer their homes. The junior high college preparatory program now provided a strong academic background for qualified students in grades seven, eight, and nine, as well as an alternative program to upgrade students in basic skills.

Vocational options have also expanded dramatically. The birthplace of cooperative education, Cincinnati has traditionally been looked to as a frontrunner in offering programs that stress career preparation. The recent addition of modern vocational wings to district high schools has increased the variety of programs and made them more available to students. Students may now study Horticulture, Communications Electronics, Medical Lab Assisting, Millwork and Cabinetry, and more. These are offered in addition to the Inland Waterways Program and a program at the Zoo which offers instruction in animal care and habitats.

Another secondary option is the City-Wide Learning Community. This program provides a community-resource curriculum that combines learning with practical urban life experiences. It uses the metropolitan area and its resources to help students immediately see practical applications of the subject matter they are learning. Students may work with businessmen, artists, farmers. They can learn to build sets at the Playhouse in the Park, help get a newspaper out, or work alongside a city councilman. One student even spent a year as "assistant" to the Superintendent of Schools.

The Cincinnati Academy of Mathematics and Science provides an opportunity for students to concentrate in science and math, with rich field experiences and in-depth laboratory study. Lectures and demonstrations permit the student to learn from scientists and mathematicians in the community.

The School for Creative and Performing Arts has gained national recognition in only three years. This program, which includes grades four to nine and will ultimately go to grade twelve, combines strong basic skills instruction, courses in humanities, sciences, foreign language, as well as studies in visual arts, instrumental and vocal music, dramatics, dance, and creative writing. It now has 556 students with 372 on the waiting list. Although it has existed in temporary locations for the past two years, the students look forward to going to school in the historic Union Terminal in 1977.

Elementary bilingual programs are available in French, German, and Spanish. Each of these alternatives is offered in two schools. Including only primary grades at present, the bilingual alternatives will add one grade each year. The programs seek to develop listening, speaking, reading, and writing skills in a second language; students will be speaking two languages fluently by grade six.

These schools will ultimately continue to grade 12.

Three schools—Burton, Covedale, and Roselawn—have elementary college preparatory programs. This option is for students who need the special challenge of accelerated and enriched curricula along with basic skills development. Offered to intermediate students, this program will help prepare students to progress into the secondary college preparatory program—perhaps Walnut Hills, perhaps another college prep alternative.

Children's House is Cincinnati's Montessori school. Children from five to eight years of age participate in an all-day program of classic Montessori instruction. A second Montessori school—Children's House West—will open in September, 1976. In three other schools, selected Montessori equipment is combined with other readiness materials and manipulative learning aids in an interracial primary program.

Millvale and Parham Schools have Reading Intervention Centers, to which students with reading difficulties may elect to go for special diagnosis and instruction. The staff at these centers seek to determine why children with normal intellectual ability do not read well. After diagnoses, the reading teachers prescribe specific instructional programs for each child.

Another kind of option is the fundamental school. Some parents and students prefer a highly traditional school, and some students learn more readily in a tightly controlled environment. The Fundamental Academy stresses reading, language, mathematics, and science, along with such traditional American values as patriotism, good manners, personal grooming, and proper behavior. The program emphasizes structure, organization, and discipline in learning and self-control.

Magnet Schools are neighborhood schools which are open to students outside the neighborhood.

Three magnet elementary schools—Eastwood, Kennedy, and North Avondale—offer the Individually Guided Education (IGE) program developed by the Wisconsin Research and Development Center for Cognitive Learning. Another magnet (Clifton) has a strong multi-age, nongraded program of team teaching and individualized instruction.

In Cincinnati and throughout the country, the touchstone of the alternative school plan is flexibility. Schools are adapting both to the diverse needs of students and to the ever-changing requirements of society. The approach differs from traditional concepts of education primarily in that the school system is seen as responsible for suiting the program to the student's needs, rather than forcing the student to change in order to fit into the program.

Basic to the success of alternatives is a more effective match between teaching and learning styles. Alternative schools generally attract teachers with similar instructional styles who work together to create a given kind of learning environment. Each student tends to choose the school whose environment most suits him or her.

Most educators believe that alternative schools offer a new hope that urban school systems can keep their promise of serving every student. No single curriculum can possibly capitalize on the talents and abilities and satisfy the needs of all students. Imposing a monolithic system of education on all students denies and stultifies individual and group differences, which are a crucial part of the nation's strength.

Respect for individual students and cultures is the core of the rationale for alternatives. These programs address diversity of learning styles, modes of living, cultural aspirations, value systems, and growth patterns.

Allowing students and parents to choose what best suits them from among the range of options is one of the primary reasons Cincinnati has adopted the alternative programs. The programs also improve racial balance, keep the present students, and attract new students to urban public schools.

Cincinnati school administrators are convinced that alternative schools offer a more publicly acceptable, more cost-effective means of improving racial balance in schools than any other approach. Strong alternatives attract students to integrated school settings; they draw suburban youngsters to urban public schools.

By contrast, in large cities mandatory desegregation plans usually promote segregation rather than integration. Families who resist integration flee to the suburbs.

How well are Cincinnati's alternatives accomplishing their purposes? So far, very well. Within one year 1,076 white students have returned to Cincinnati public schools from private and parochial schools. Coupled with the open enrollment policy, alternatives have done much to further integration in the schools. By definition, alternatives (other than vocational or magnet programs) are racially balanced. Open enrollment allows students to select any school in the district where their membership will improve racial balance.

The other purpose of alternatives is to make choices available to students and parents. Participation in Cincinnati's diversified options is high. This year about a thousand students applied for open enrollment. 1,500 for full-time vocational programs, 2,800 enrolled at Walnut Hills, 450 elected the special college preparatory program at neighborhood junior high schools, and 4,210 applied for other alternatives. Of those who enrolled in alternatives, ninety percent remained in their selected programs.

Another evidence of interest is student attendance. For the first quarter of the current year, attendance rates for alternative programs averaged ninety-five percent, compared to ninety-two percent for the school district as a whole.

There is another kind of achievement that alternatives are making possible for many students. This is the success that comes from attaining goals and gaining recognition in areas that correspond to one's strongest interests and talents. There is not systematic data on what such achievement does for self-imagine, but educators agree that it is beneficial.

In the Creative and Performing Arts school, for instance, students have had the opportunity to gain national recognition of their talents. They have appeared in national and local television productions, toured with drama companies, and participated in every facet of the arts.

With all this, are there no disadvantages to alternatives? As with all programs involving change, the alternative school plan presents some new problems and challenges. Declining enrollments, attributable to declining birth rates as well as to alternative school transfers, have made it difficult to maintain a full range of program offerings in several neighborhood schools. Often the soundest educational decision is to close the neighborhood buildings and absorb the students in surrounding schools, but this sometimes causes adjustment problems for the community.

Also, many of the district's most knowledgeable and strongly motivated parents are choosing to send their children to the alternative programs. Some families have as many as five children attending five different programs. Often the brightest and most talented students elect to leave their neighborhood schools.

This tends to remove school leaders from their former schools and disperse them throughout the district. There is, however, wholesome competition developing in neighborhood schools to improve their programs and to increase their appeal to students and parents.

Overall, the advantages of alternative learning opportunities far outweigh the disadvantages. Cincinnati school children have more educational options than any other students in the nation. Even Huck Finn might envy the student who climbed aboard a riverboat every morning for school—and learned water transportation, marine biology, and engine repair in the bargain.

WHAT PORTLAND DID TO CHANGE THE COMPLEXION OF A ONE-RACE SCHOOL

Martin Luther King School was built in 1927 to serve the needs of Kindergarten through eight grade students. After World War II King School's racial composition changed rapidly, reaching 97 percent minority in the year of 1970 and serving a student body of 1,100. Portland Public Schools recognized the racial isolation of this school and instituted a volunteer busing program, which allowed minority students open enrollment to any school in the district that was composed of a majority population. This reduced the population of King School from 1,100 to 550 students. Although the population was reduced, the racial composition remained 97 percent minority. While the program was successful in integrating 550 minority students into other schools, a solution was still needed to correct the racial isolation at King School.

Planning began in 1973 by staff and community to design a program that would attract majority students to King School. The result of this planning was the development of a magnet program called the "Martin Luther King, Jr. 4–11 Continuous Progress Program."

To insure a total learning environment, the King staff was organized into teaching teams supported by instructional specialists. The underlying philosophy in curriculum development was to help each child develop within himself the concept of becoming a positive learner and to emphasize that the reward is in what the child gains from experience itself. Basic skills are interwoven and reinforced throughout the curriculum. The educational needs are based on previous performance and successes through a continuous scope and sequence record-keeping system. Activities are geared to what the child is ready to learn rather than what he or she must learn. The 4–11 skill continuum is not only unique and innovative in developing positive learners, but is designed to bring children of different backgrounds into an educational setting to learn about other cultures.

In order for the program to be successful, staff applicants were carefully screened for qualities to meet these basic philosophies. The new program was initiated in the school year of 1975–76 with great success. The enrollment was open to majority students from the entire district. Quotas were rapidly filled and a waiting list was maintained. The racial composition changed from 97 percent to 72 percent.

Recognizing the desirability of a facility to meet these program needs, architectual services were contracted to plan with staff and community. The school year 1975–76 was spent in designing this remodeling facility. The architects met with individual teaching teams, staff members, parents and administration to design this facility to be compatible with the magnet programs, teaching styles and total school philosophy. Included in this design planning were educational specifications such as controlled open space, team teaching areas, utilization of wasted space, redesigned restroom facilities, motor perceptual skills areas, a mall for more efficient use of office space and a parent meeting room. Also, a central multimedia center incorporating the library, teacher resource center and the video studio, reading lab area, science and math areas, a conference room and new playground design.

Included in the changes was the updating of the physical plant.

The new facility will be ready the fall of 1976, with long waiting lists. Racial balance for 1976–77 school year is predicted to be 65 percent minority and 35 percent majority.

MAGNET SCHOOLS HERE STEP UP INTEGRATION

(By Elmer Bertelsen)

Seven months ago, with approval from a federal judge, the Houston public schools began an experiment calculated to improve education and increase integration: the magnet program.

The objective was to encourage integration on a voluntary basis by offering at certain schools special programs not available elsewhere in the district.

For instance, a student interested, and possibly talented in music could enroll in a special music program in a distant school and get free transportation there.

Magnet schools were available for those interested in such subjects as ecology, fine arts, creative writing, science and mathematics.

For students interested in special careers, there were magnet programs in engineering, petrochemistry or aerodynamics, to name a few.

Houston Supt. Billy Reagan said at the time that such programs might slow white flight to the suburbs while stabilizing racial balance in the district.

The program was controversial but the U.S. Department of Justice agreed that it could be tried as a substitute for an unsuccessful pairing program that had yielded little integration and much controversy from blacks and browns.

When it began, administrators predicted that 75,000 of the district's 211,000 children would participate.

So far, only 25,204 students are enrolled in 34 magnet programs at 28 schools.

But the program has stepped up integration.

Since September, 11 more schools in the district have qualified as legally integrated schools. A legally integrated school is one with a student body of less than 90 per cent of one race.

This is twice as many schools as the district was able to integrate in each of the previous five years.

Today, there are 181, an increase of 27 since 1970. The 11 that achieved integration this school year compared with 16 for the previous five years, an average of about three per year.

John Brandstetter, assistant superintendent for the magnet program, says that integration is not the sole objective of the magnet program.

Magnet programs are intended to improve the quality of education in the district.

Evaluation of academic progress of children in the programs hasn't been made yet, he said.

The magnet plan replaced the pairing of 22 schools ordered in 1970 by the U.S. Fifth Circuit Court of Appeals.

The pairing order sought to achieve a better racial balance by moving or "pairing" students from one school to the same class in another school.

At that time, browns were not considered to be a minority race in the eyes of the law.

In many cases in the court-ordered pairing, a predominantly black school was paired with a predominantly brown one.

Many of the few white families in the paired areas moved to other neighborhoods to avoid the program. So the student bodies of the paired schools included less than 3 per cent white students.

The minorities protested and the magnet plan was suggested as a substitute.

Houston schools still use another program to stimulate integration, the majority to minority transfer.

Under this plan, a student who is in a majority in his neighborhood school may transfer to another school in which he would be in the minority.

Like the magnet plan, it is voluntary and the student is furnished transportation. Brandstetter says it is working with about 3,000 students exercising this option.

A total of 3,267 children in magnet schools are bused to a school out of their neighborhood. That figure includes 1,398 blacks, 1,353 whites and 516 browns.

In addition to these children, many children attending their own neighborhood school choose to enroll in the magnet programs.

The racial makeup of the student body today is 78,412 or 37 per cent white, 90,034 or 42.6 per cent black and 42,962 or 20.3 per cent brown.

Total enrollment in the district, on the decline for a number of years, stabilized this year.

Brandstetter said he believes an improved school program and a tight economy may be factors in this stabilization.

An example:

Enrollment of white students at Poe Elementary, 5100 Hazard, jumped this year.

A check shows that a number of these pupils, new at Poe, were in private school last year. Brandstetter said he doesn't know whether conversion of Poe to a totally magnet school with fine arts emphasis prompted the increase of white students or whether it was the crunch of inflation that brought private school children to Poe. He said he did not have the specific number of the children now at Poe.

The number of whites at Poe, in a predominantly white southwest area, increased from 197 last year to 272 this year. The number of blacks is 208, one less than last year.

In most magnet schools, Brandstetter said attraction of white children to schools in predominantly black neighborhoods and blacks to schools in predominantly white neighborhoods, has been sufficient to bring significantly more integration than in the past.

He cited as examples schools in predominantly white areas with magnet programs: Bellaire High, Rice at Maple; Lanier Junior High, 2600 Woodhead, and River Oaks Elementary, 2800 Kirby.

Bellaire, with a foreign language academy, had an increase of blacks from 79 last year to 118 this year.

Lanier with a special program for bright children, called vanguard, had an increase of blacks from 457 last year to 489 this year.

River Oaks, also a vanguard school, increased its black enrollment from 123 last year to 173 this year. It now has 79 browns compared with 53 last year. Its majority race, the whites, dropped from 314 last year to 279 this year.

This same change has occurred in the predominantly white northwest area.

For instance, Wainwright Elementary, 5330 Milwee, which has a magnet program in science studies, increased its black enrollment from 31 last year to 72 this year and its brown enrollment rose from 65 last year to 70.

Changes also are occurring in predominantly black areas as more white children enroll in magnet programs there.

Roosevelt Elementary, 6700 Fulton, which has a vanguard program, experienced an increase in white pupils from 47 last year to 134 this year. Roosevelt is in a predominantly black-brown neighborhood.

MacGregor Elementary, 4800 LaBranch, increased its white enrollment from 6 last year to 88 this year. It has a magnet program in music.

"We believe this program is working for two reasons," Brandstetter said. "First, transfer to a magnet school is voluntary and second, we are providing a better opportunity for those who choose the programs by transferring.

"There will always be people who do not want to integrate and they are not forced to do so in the magnet programs. But as time passes, more and more people accept integration. Especially when they realize their children are learning more in magnet programs."

The magnet program is expensive. Generally the pupil-teacher ratio in magnet program schools is lower than in other schools. It is costing more than $1 million to bus children to the special programs.

To stimulate interest in magnet programs, the district furnishes transportaion Monday through Friday from the district's central offices, 3830 Richmond, to one or more magnet schools for any interested citizen. The buses leave at 9 a.m. and are back at the central offices by 1:30 p.m.

NATIONAL MODELS

Cincinnati Alternative Programs—Dr. Donald R. Waldrip, Consultant on Alternative Programs, Cincinnati Public Schools, 3986 Rose Hill Avenue, Cincinnati, Oh. 45229.

Minneapolis Central High School Magnet Program—Dr. Joyce T. Jackson, Principal, Central High School, 3416—4th Avenue South, Minneapolis, Mn. 55408.

Portland Martin Luther King, Jr., Early Childhood Center—LeRoy Moore, Principal, Martin Luther King, Jr., Early Childhood Center, 4906 Northeast 6th Avenue, Portland, Or. 97211.

Dayton Magnet Programs—William M. Scott, Executive Director, Secondary Education, Dayton Public Schools, 348 West First Street, Dayton, Oh. 45402.

Norfolk Maury High School—Harrison G. Dudley, Dissemination Project Director, Maury High School, 322 Shirley Avenue, Norfolk, Va. 23517.

Chicago Disney, Young and Jones Commercial Magnet Schools—C. William Brubaker, Senior Vice President, Perkins & Will, 309 W. Jackson, Chicago, Ill. 60606.

Dallas Skyline Career Center—Ralph Burke, Director of Instruction and Coordinator of Staff Development, Skyline Center, 7772 Forney, Dallas, Tx. 75227.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR CONSIDERATION OF S. 2212 THEREAFTER ON MONDAY, JULY 26, 1976

Mr. ROBERT C. BYRD. I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business of not to exceed 20 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate will resume consideration of the LEAA bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR ON MONDAY, JULY 26, 1976—S. 3219

Mr. ROBERT C. BYRD. Mr. President, on behalf of my distinguished colleague (Mr. RANDOLPH) I ask unanimous consent that during consideration of and voting on S. 3219, the Clean Air Amendments of 1976, the following staff members of the Committee on Public Works be granted the privilege of the floor: M. Barry Meyer, John W. Yago, Philip T. Cummings, Richard M. Harris, Leon Billings, Richard Grundy, Karl Braithwaite, Charlene Sturbitts, Haven Whiteside, Trenton Crow, Bailey Guard, Harold Braymen, Richard Herod, James Range, Mike Hathaway, and Lee Rawls.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the majority leader has already stated the program for Monday. I ask unanimous consent that that statement of the program appear at this point in the RECORD, just prior to the motion to adjourn.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The program, stated earlier, is as follows:)

PROGRAM

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, I would like to announce the legislative schedule for next week.

There will be no further votes today.

ORDER FOR VOTE ON PASSAGE OF S. 2212 ON MONDAY

On Monday, July 26, the Senate will convene at 10 a.m., continue with LEAA, and, if third reading is reached prior thereto, I ask unanimous consent that the vote on final passage—not on amendments thereto, but on final passage—occur at the hour of 1:45 p.m.

The PRESIDING OFFICER. Is there objection?

And with rule XII waived?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. It will be followed by Calendar No. 685, S. 3219, the Clean Air Act, and at 2 p.m., we will return to Calendar No. 891, H.R. 10612, the tax reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONVENING OF SENATE NEXT WEEK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Tuesday, Wednesday, Thursday, and Friday of next week, the Senate convene at 9 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. So, coming in at 9 o'clock on Tuesday, July 27, the Senate will continue with Calendar No. 685, S. 3219, the Clean Air Act, and 2 p.m. return to the tax reform bill.

On Wednesday, Thursday, and Friday, the Senate will convene at 9 a.m. and the following bills are scheduled, in the order listed, each to be debated in turn until completion: Calendar No. 685, S. 3219, the Clean Air Act; Calendar No. 915, H.R. 8603, Postal Service reform; Calendar No. 983, H.R. 14262, Defense appropriations; and possibly Calendar No. 839, H.R. 12987, Comprehensive Employment and Training Act.

At 2 p.m. on each of those days, the Senate will return to Calendar No. 891, H.R. 10612, the tax reform bill.

That is the schedule for next week.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. WILLIAM L. SCOTT. Do I understand correctly that except for the tax bill, after the completion of the LEAA we are going to stay on the clean air bill a part of every day until it is completed?

Mr. MANSFIELD. That will be done the first track every day.

Mr. WILLIAM L. SCOTT. I thank the Senator.

ADJOURNMENT UNTIL 10 A.M. MONDAY, JULY 26, 1976

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock on Monday morning.

The motion was agreed to; and at 5:50 p.m. the Senate adjourned until Monday, July 26, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 23, 1976:

IN THE ARMY

The following-named officers for appointments in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general

Brig. Gen. David E. Grange, Jr. [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Arthur J. Gregg [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. James L. Kelly [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Albert B. Crawford, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Thomas U. Greer, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Bennett L. Lewis, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Robert G. Gard, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Paul F. Gorman [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. John A. Wickham, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Wallace H. Nutting, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert J. Lunn, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. William W. Palmer, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Richard G. Trefry, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. James M. Lee, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Volney F. Warner, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles F. Means, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. John J. Koehler, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Eivind H. Johansen, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. William R. Todd, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Fred C. Sheffey, Jr., [redacted], Army of the United States (colonel, U.S. Army).

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Bruce A. Graham
Richard D. Hayes, III

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the U.S. Navy, subject to the qualifications therefor as provided by law:

Lcdr Paul R. Avery, USN (ret.)

The following-named (chief warrant officer (ret.)) to be reappointed from the temporary disability retired list as a permanent chief warrant officer, W–2, in the U.S. Navy, in the classification indicated, subject to the qualifications therefor as provided by law:

Sonar technician

CWO3 Donald E. Henrikson, USN (ret.)

The following-named enlisted candidates to be appointed temporary chief warrant officers, W–2, in the U.S. Navy, in the classification indicated, subject to the qualifications therefor as provided by law:

Operations technician (surface)

*Larry J. Guthrie.
*Raymond F. Karpinski.
Del R. Parker.
*Richard T. Worman.

Ordnance technician (surface)

*Robert J. Rustenbach.

Aviation maintenance technician

*Frederick E. Pasch.

Aviation electronics technician

*Larry E. Sharkey.

Aviation operations technician

*Beuford B. Wentworth.

The following-named enlisted candidates to be ensigns in the Medical Service Corps, in the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law:

HMC Fred R. White, USN.
HMC William B. Mackie, NSN.
HM1 Francis C. Brown, USN.
HMC Tyrone P. Cormier, USN.
HM1 Ronald J. Carroll, USN.
HMC David H. Hofflinger, USN.
HM1 Michael R. McKenna, USN.
HM1 Charls F. Megown, USN.
HMC William L. Mitchell, USN.
HM1 Tommy J. Little, USN.
HM1 John D. Marshall, USN.
DTGC Thomas L. Brown, USN.
HM1 Gary F. Hunnicutt, USN.
HMC James W. Libby, USN.
MH1 Edward E. Karelin, USN.
HM1 Kenneth L. Roeder, USN.
HMC Edmund A. Niec, USN.
HM1 Ronald L. Adams, USN.

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*Appointment sent out Ad Interim (During the recess of the Senate).

HM1 Kenneth L. Orloff, USN.
DTGC Hugh C. Sullivan, USN.
HMC Lawrence D. Byerly, USN.
HM1 Jesse D. Harrahill, USN.
MH1 Ronald J. Zuber, USN.
HM1 Jonathan S. Hudson, USN.
DTGC Ellis E. Hodges, USN.

The following-named (chief warrant officer (ret.)) to be reappointed from the temporary disability retired list as a temporary chief warrant officer, W-3, in the U.S. Navy, in the classification indicated, subject to the qualifications therefor as provided by law:

Sonar technician

CWO3 Donald E. Henrikson, USN (ret.).

The following-named (ex-U.S. Army officers) to be appointed permanent commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

David B. Kessler.
Suryanarayan M. Putcha.
Edgardo P. Villamater.

The following-named (ex-U.S. P.H.S. officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Merrill S. Chernov.

The following-named officers to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr. Clive R. Charles, MC, USN.
Cdr. William J. Gallagher, MC, USN.

The following-named officer to be appointed a temporary commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr. Jimmie L. Burk, Jr., DC, USN.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 23, 1976:

COMMUNITY SERVICES ADMINISTRATION

Robert C. Chase, of Virginia, to be Deputy Director of the Community Services Administration.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Cecil F. Poole, of California, to be U.S. district judge for the northern district of California.

William A. Ingram, of California, to be U.S. district judge for the northern district of California.

William W. Schwarzer, of California, to be U.S. district judge for the northern district of California.

EXTENSIONS OF REMARKS

NO ROSE BED

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. ARCHER. Mr. Speaker, one of my constituents recently brought to my attention the following column by a distinguished columnist with the Houston Post, Mr. Lynn Ashby, which I ask be reprinted here for the benefit of my colleagues in the House of Representatives:

[From the Houston Post. May 27, 1976]

NO ROSE BED

(By Lynn Ashby)

Being an abject coward, with absolutely no desire for or ability in the martial arts, I feel extremely well qualified to jump into the mounting discussion over Marine recruit training, brutality, drill instructors (DIs), pugil sticks and the future of it all. Indeed, I was somewhat of an expert at lying flat on my back and gazing glassy-eyed up at my bayonet instructor, who kept asking if I didn't want to defect.

The subject of brutality has come up over the death of a young Marine recruit Pvt. Lynn McClure of Lufkin, who died after—from all testimony—being senselessly beaten during a hand-to-hand combat drill. It has refocused attention in Congress on the way the U.S. Marine Corps trains its men, and whether such training has any place in a 20th century democracy.

First, speaking as a Marine Lance Corporal (ret.), I would like to note that the Marines screwed up again and again in this tragedy. There is no point in apologizing, or excusing, or defending what happened. I don't think anyone who really cares about the Marines could, for one moment, condone the death of a recruit.

There is no reason to go around saying, "These things happen," because these things are not *supposed* to happen. They are preventable. There are systems and people and equipment and time and money and effort used to keep them from happening. The Marines have screening processes which should have kept Lynn McClure out of the Corps. From all indications, he had the heart but not the mind or body to qualify for entrance. But the system broke down. McClure got in. And the whole thing reeks to high heavens. Some recruiter wasn't doing his job, and heads should roll.

But the Marines also screen their drill instructors. In the Corps, it is considered a good job, a challenging job, to be a DI. My own DIs were not what you'd call Rhodes Scholar material, but they were fair, and honest, and the hardest-working Marines I ever knew. They were tough, but not brutal. Angry, but not violent. Demanding, but not degrading. Daddy Webb, the leader of the lot, was a huge, foul-mouthed, stomping, cigar-chewing slave driver. All he demanded was excellence, and Platoon 351 let him down at every turn. These many years later it would be only right to say that, really, Daddy Webb was a loveable ol' Marine with a heart of gold beneath that crusty exterior. But that would be a lie. He was not loveable. He did not have a heart of gold, or of any other kind. I dislike him then and I dislike him today, which would probably make him relatively happy. He was, however, good at his job and if he had been in charge of Pvt. McClure's platoon, I wouldn't have to be writing about McClure today.

Now we come to the next step: The congressional investigation. OK, there's nothing wrong with that. There should be an investigation. The military needs to be reminded every now and again that civilians run this country, pay the freight, and send their young men and women off to fight the wars. In these hearings there are angry accusations that Marine training is inhuman, barbaric, outdated, undemocratic and terrible. And these accusations are absolutely correct.

But now we come to the sticky point because, you see, Marine training is supposed to be inhuman and barbaric. It is so by design. For 200 years the Marines have taken the Fonzies off the street corners and sent them ashore at Tripoli and Tarawa and Inchon, and a good many of them have come back. They have come back because they were challenged and shoved and flattened by the Daddy Webbs of the Corps. They have come back because, quite simply, they were trained to be meaner than the fellow they fought.

It is not pretty. It is not happy. It is not, in any stretch of the imagination, fun to get banged about by a pugil stick. I still have a scar on my right index finger where a pugil stick sliced me open. And I do not look at it with warm memories. But it teaches a lesson, and the lesson is less rigorous than the test. San Diego and Parris Island are not the playing fields of Eton. They are hot and humid sweat machines run by foul-mouthed, cigar-chewing Daddy Webbs whose job is not to kill Marines, but to save them.

It is a good system, crafted with psychology that would make the shrewdest shrink take notes in amazement. And over these 200 years, for most of the time, it is a system that works wonderfully well. To jettison it, or even to weaken it ever so little, is not doing anyone any favors. Far from it, this is a dangerous move, whose end result will be tallied up in body bags. The Marine Corps puts it all down in perfect no-nonsense prose in its recruiting posters: "We never promised you a rose garden." "No one likes to fight, but somebody has to know how."

A few sadists have sneaked into the system, and they should be dealt with posthaste, for they bring dishonor and shame to a few good men whose heavy-handed methods have saved countless lives. The Marine Corps has been dealt a setback never envisioned by the stoutest enemy, and—like a good trooper—the Corps should stand up and take its lumps. There is no getting around the fact that Lynn McClure should never have been allowed in the Marines, and his DIs should never have been allowed to be DIs. The system broke down. It will do no good to sound the bugles, wave the flags and send John Wayne running up the beach. But it will do even less good to allow breast-beating congressmen to garner headlines with can-you-top-this horror stories from Marine boot camps. Marine recruit training is, and should continue to be, as hard and tough and undemocratic as the Daddy Webbs of today can make it. And it should not be weakened, for there is no such thing as being just a little bit dead.

NEWSPAPER POLL ON NATIONAL LEADERSHIP

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. AMBRO. Mr. Speaker, I take a great deal of pride in pointing out to my colleagues the following newspaper poll which indicates the opinions on our national leadership that are held by Long Islanders.

Newsday, our highly respected Long Island daily newspaper, found that more than three-fourths of Long Islanders believe Congress reflects the views of the American people, while only 15 percent of our residents believe the President speaks for them.

Even more interesting is the finding

that only 24 percent of enrolled Republicans feel the President reflects public opinion better than Congress.

The people of Nassau and Suffolk Counties have rejected the rhetoric regularly emanating from the White House.

I believe the poll should be enlightening, and more than mildly encouraging for many of us who, at times, feel this institution responds too slowly to our national needs although clearly we may move too slowly in some areas.

I think findings such as these should cause the present administration to rethink its approach to national leadership:

WHO BEST REFLECTS AMERICANS' VIEWS, THE PRESIDENT OR CONGRESS

[In percent]

President	15
Congress	78
Undecided	7

Although the political spotlight has focused almost exclusively on the presidential election this year, Americans will also be choosing a new House of Representatives and many U.S. senators in November. Coverage of the White House and its occupant often obscures the activities of the legislative branch even during normal periods. But is the attention given the presidency in line with the public's view of that office? How does the presidency compare with Congress in the mind of the electorate?

To find out, the LI Poll asked a random and representative sample of 525 Nassau and Suffolk telephone subscribers, "Who do you think more adequately reflects the views of most Americans, the President or Congress?"

The surprising results were that only 15 per cent said the President, while full 78 per cent said Congress and seven per cent was undecided.

According to Prof. Stephen Cole, a sociologist from the State University at Stony Brook who analyzed the data,the only demographic, or background, characteristic that had any influence on opinions about this issue was political enrollment. As one might expect, given the makeup of the presidency and Congress, Republicans were more likely than Democrats or independents to say that the President best reflects the views of most Americans.

However, Cole reported, even among enrolled Republicans only 24 per cent said that the President more adequately reflected public opinion, while 71 per cent said that it was Congress and five per cent were undecided. Among enrolled Democrats, only nine per cent said that it was the President, while 85 per cent said that it was Congress and six per cent were undecided. Among independents, 10 per cent said the President, 79 per cent said Congress and 11 per cent were undecided.

To further explore the public's conception of the relationship between the governmental branches, the LI Poll asked respondents whether they thought the government works better when the President is from the same party that controls Congress. Fifty-six per cent said yes, 36 per cent said no and eight per cent were undecided. Surprisingly, Cole said, political enrollment had virtually no influence this time. Fifty-nine per cent of enrolled Republicans, 58 per cent of enrolled Democrats and 52 per cent of independents agreed that the government works better when only one party controls both the presidency and the Congress.

One question that has intrigued politicians, political scientists and political observers alike is whether the appropriate role of a congressman or senator is to reflect the views of his constituency or to exercise his own judgment; that is, was he elected to act as a conduit for those who put him into office, or because the voters had confidence in him to take the best positions.

Long Islanders were quite united on this issue. Seventy-nine per cent said that the most important function of a legislator was to reflect the views of those he represents. Only 19 per cent said his most important role was to express his own views, while two per cent was undecided. The only demographic that had any effect on this opinion was political orientation. It indicated that conservatives were slightly more likely than middle-of-the-roaders to feel that a legislator's principal function is to reflect his constituency's attitudes; at the same time, middle-of-the-roaders were slightly more likely to feel this way than were liberals.

Finally, the LI Poll asked those interviewed to evaluate the quality of congressional candidates in recent years. Thirty-four per cent said that they felt the quality of such candidates had declined, 48 per cent said that it was about the same, 15 percent said that it had improved and three per cent were undecided. Then these answers are compared with responses to a similar question asked about the quality of presidential candidates, it is clear that Long Islanders are more satisfied with their congressional candidates than their presidential candidates. On the presidential candidate question, 56 per cent said that the quality had fallen, 33 per cent said that it was the same, nine per cent said that it had improved and two per cent were undecided.

The sociologist said that residents who are more alienated from the political process, based on their responses to questions dealing with their view of their own impact on the system, were more likely than those who feel influential to downgrade recent congressional candidates. He said also that older people were more likely than younger people to have negative opinions of recent congressional candidates.

WHEN IN THE COURSE OF HUMAN EVENTS—

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. HARRINGTON. Mr. Speaker—

> I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times.—Thomas Jefferson.

Mr. Speaker, while the observance of our Nation's Bicentennial has been marked by celebrations, optimism, and high spirits, it has also been severely marred by critical distortions of this Nation's past, by empty echoes of future promise, and by the inculcation of a set of values and goals which are unrelated, if not contrary to the foundations upon which the republic was built. We deceive ourselves in celebrating our 200-birthday solely through self-adulation for the fruits of past labors. Our real concern and priority must be the rekindling of the spirit and the purpose belonging to the revolution. Ironically, we applaud the aftermath of that event while ignoring the thoughts, values and ideals underlying its causes. In the July 10 issue of Saturday Review, in an editorial entitled "Forgotten Revolution," Norman Cousins describes the American failure to confront the purpose behind the revolution in terms of the 20th century. Cousins offers his own thoughts as to what that purpose would be in the context of international relations.

On our Bicentennial we have practiced unconscionable avoidance of the most fundamental question—the impetus for revolutionary change. I commend Mr. Cousins' piece to my colleagues.

The text of the editorial follows:

FORGOTTEN REVOLUTION

It is doubtful whether any event in the nation's history has been heralded more resoundingly than the 200th birthday of the Declaration of Independence. For more than three years all sorts of official committees have staged ceremonials and special events. It is difficult to name a community that has not been immersed in Bicentennial activities. Numberless commercial products have attempted to ride into public favor on the momentum of the national observance.

Yet something is missing. The nation has celebrated everything except the Revolution itself. Our minds have been fixed on an auspicious outcome rather than on the reasons behind it. The result has obscured the cause. The vocabulary of rebellion has been curiously muted. It seems as though we are editing our memories, deleting those passages that no longer fit the temper or style of a nation separated from its revolutionary origins.

Has the passion for respectability overtaken the passion to right wrongs? The Founding Father, most of them, were not men of reticence and venerable gentility; they were young, full-blooded radicals who had a vision of a better world. They saw America as a good place in which to begin the fulfillment of that vision. We hear a great deal about Thomas Jefferson these days but are not reminded that he was fond of saying that "the tree of liberty must be refreshed from time to time with the blood of tyrants. It is its natural manure." We lavish all sorts of recogntion on the distinguished John Adams, but we give singularly little attention to the firebrand Sam Adams, an insurrectionist whom the English ministry called the "Machiavelli of Chaos" but whom Jefferson regarded as "truly the Man of the Revolution." As for the impassioned Tom Paine, judging by the infrequency with which his name is mentioned, it would seem he has become the forgotten man of the Bicentennial.

The American Revolution has ignited more political and philosophical change in the world than has any other doctrine or ideology, Marxism not excepted. Yet the irony today is that the quest of the Founding Fathers for a new society is perhaps better understood by other peoples than it is by Americans. When the newly independent nations of Asia and Africa came together in 1955 to observe their new station in history, the keynote speaker said he could find no more appriprate theme than "The Midnight Ride of Paul Revere." Yet the United States government shunned an invitation to send an observer, thinking the event too radical.

It is tragic—tragic for us—that we seem to find fulfillment of our national purpose in out-denouncing our detractors. We ought to be rallying people to a great design for managing our planet in the common interest. The proper place for America is at the head of the parade, beating out the rhythms of the future. Instead, we seem to be trailing history, doing the one thing the Founding Fathers were determined that America should never do—separate itself from the majority. The result is that the developing nations in the world today are inspired by our past but not by our present.

Nothing should be more natural today than for the United States to be the champion of the continuing struggle for freedom in the world. But we tend to define freedom not as Franklin defined it—that is, as a dynamic and ongoing obligation—but as a posture or stance. We become detached all too easily from the kinds of human issues that burned in the bellies of the early Americans. We seem to be more interested in maintaining a world balance of power than in creating an interdependent world order. The result is that we have allowed ourselves to become juxtaposed against revolutionary movements in the world. Are revolutions acceptable only when they are neatly tucked away in archieves? Do we owe nothing to a heritage? Has the world become so tranquil, so free of abuse, so congenial to life in human form, so shielded in its environment, so abundant in its seed and its fields, that no special tending is necessary?

Does anyone doubt that the American Founding Fathers would urge on the world today a companion doctrine to go along with the one now being celebrated—and that they would call it "A Declaration of Interdependence"? Is there any question that they would regard the anarchy among nations as the principal threat to human freedom? Is it not likely that they would attempt to persuade us that national independence in today's world is possible only in a condition of world interdependence? And that, even though interdependence may not be achievable in our time, the articulation of that goal is where true security begins?

That is why the finest and most significant single thing that has come out of three years of preparation for the Bicentennial is Henry Steele Commager's draft for "A Declaration of Interdependence," prepared under the auspices of the World Affairs Council of Philadelphia. He has transported the spirit of 1776 to 1976. All the beautiful sounds that same out of that Revolution and out of the Philadelphia Constitutional Convention have been adapted to our time in the Commager draft. There are also clear echoes of Lincoln and Wilson and F.D.R. The central thrust of the document is that the world today is in need of a great unifying idea at a time of clearly visible common dangers and common needs.

To read Commager's "Declaration of Interdependence" is to realize that the core of the problem today is that we tend to think of security in terms of the number of bombs at our disposal instead of the number of people who are willing to entrust us with their hopes. Do we need to be reminded that the phrase "a decent respect for the opinions of mankind" came with the birth of this nation?—N.C.

HOUSE OF REPRESENTATIVES—*Monday, July 26, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

I am the vine, ye are the branches; he that abideth in Me and I in him, the same bringeth forth much fruit.—John 15: 5.

Almighty God, in whom we live and move and have our being, in this quiet moment we pray that Thy spirit may come anew into our hearts that we may serve our Nation worthily and well this day. May moral virtues and spiritual values reign in our personal lives and rule our public labors that genuine patriotism and sound religion may come to new life in us.

Speak to us of courage, faith, and vision. Save us from littleness in a day which demands greatness, from low pettiness in a time which calls for high principles and from a narrow spirit in a period which cries out for wide concerns.

Bless our country with responsive leaders and responsible citizenship that we may be one people under Thee with liberty and justice for all. Through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2943. An act for the relief of the estate of James J. Caldwell.

The message also announced that the Senate having proceeded to reconsider the bill (H.R. 12384) entitled "An act to authorize certain construction at military installations and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8410) entitled "An act to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Talmadge, Mr. Huddleston, Mr. McGovern, Mr. Humphrey, Mr. Clark, Mr. Dole, Mr. Curtis, and Mr. Bellmon to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3052) entitled "An act to amend section 602 of the Agricultural Act of 1954," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Talmadge, Mr. Humphrey, Mr. McGovern, Mr. Dole, and Mr. Bellmon to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 495. An act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, and to implement certain reforms in the operation of the Federal Government recommended by the Senate Select Committee on Presidential Campaign Activities, and for other purposes; and

S. 3369. An act to amend the Small Business Act to increase the authorization for certain small business loan programs.

PERMISSION FOR SUBCOMMITTEE ON ENVIRONMENT AND THE ATMOSPHERE OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET DURING 5-MINUTE RULE ON THURSDAY, JULY 29, 1976

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology be permitted to meet on Thursday next, July 29, 1976, at 10 a.m. and 2 p.m., despite the fact that the House may be in session and proceeding under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary be permitted to sit this afternoon, notwithstanding the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

Mr. DANIELSON. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

RULEMAKING REVIEW

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEL CLAWSON. Mr. Speaker, the criticism of the wielding of rulemaking powers which came in an announcement this weekend by the Secretary of Health, Education, and Welfare provided a welcome reinforcement for the point that many of us in the Congress have attempted to make regarding the lack of public input into the decisions of the bureaucracy. We understand that the Secretary shared our concern, and while we do not have the details of his proposals, it appears that he is attempting to open departmental procedures and gain greater public acceptance for the rules and regulations which affect the lives of millions of Americans. These proposals will be reviewed in connection with legislation sponsored by a majority of the Members of this body. The legislation provides for congressional review and determination of the validity of the rules and regulations in terms of their legislative mandate. It also provides the people with appropriate opportunity to influence the major bureaucratic decisions through their elected representatives.

CALL OF THE HOUSE

Mr. HALEY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ROBERTS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 540]

Abzug
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Aspin
Badillo
Bell
Bevill
Boland
Brademas
Brooks
Burgener
Burke, Calif.
Byron
Chappell
Chisholm
Clancy
Clay
Cohen
Conyers
Cornell
Crane
de la Garza
Dellums
Dickinson
Dingell
Eckhardt
Edwards, Ala.
English
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fithian
Flowers
Ford, Mich.
Ford, Tenn.
Frey
Gonzalez
Green
Gude
Hansen
Harkin
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Heinz
Helstoski
Hinshaw
Holtzman
Howe
Hughes
Jarman
Jeffords
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Karth
Kemp
Landrum
Litton
Lott
McCormack
Mikva
Mills
Mineta
Moffett
Nowak
O'Hara
Patterson, Calif.
Pepper
Peyser
Pressler
Richmond
Riegle
Risenhoover
Rodino
Sarbanes
Scheuer
Schneebeli
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Symington
Teague
Thornton
Udall
Van Deerlin
Vander Jagt
Whitehurst
Wiggins
Wirth
Wydler
Yatron
Young, Ga.

The SPEAKER. On this rollcall 332 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

AMENDED PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION ACT OF 1972

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1341 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1341

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7743) to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider, in lieu of the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill, the amendment in the nature of a substitute recommended by that committee now printed in the supplemental report (H. Report 94-894, part 2) as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 7743, the Committee on Interior and Insular Affairs shall be discharged from the further consideration of the bill S. 1689, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 7743 as passed by the House.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, this is the rule providing for the consideration of the bill H.R. 7743, amending the Pennsylvania Avenue Development Corporation Act of 1972.

This bill was called up previously on a motion to suspend the rules and pass which was not agreed to.

Subsequently, the committee studied the bill further and proposed a new text which is similar to the original bill but deletes those provisions which would have increased the Corporation's borrowing power.

The bill has never been recommitted to committee and it was not, therefore, possible to amend the measure. But the committee placed the text of the substitute in a supplemental report (H. Rept. 894, part 2).

The rule would make the text in the report in order as an original bill for the purpose of amendment. If the rule is agreed to, it is that text and not the original bill nor committee substitute which is before the Committee of the Whole.

It is a little unusual but there is no controversy over this procedure and even the opponent of the bill who testified before our committee supported the rule.

Otherwise it is a normal 1-hour open rule and I urge its adoption so that the House may proceed to consider this measure.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the remarks just made by the gentleman from Massachusetts. I would point out that, after the original bill was defeated under suspension, the committee recommended a substitute which scaled down the original bill. The new substitute provides for a continued authorization for the operating and administrative expenses of the Corporation, authorizes the funds to commence the implementation and development plan, and directs that the historical site of the Willard Hotel be preserved and become a demonstration project as planned. The substitute authorized a total of $4,625,000 for the operation and administrative expenses for fiscal years 1976, 1977, and 1978, and $38.8 million to commence implementation of the plan, subject to the usual appropriations process. Unlike the earlier recommendation the new committee amendment does not include the provision increasing the borrowing authority of the Corporation to $200,000,000.

Mr. Speaker, I have no requests for time and reserve the remainder of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7743) to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7743, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from North Carolina (Mr. TAYLOR) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, at the outset let me make it clear that I come to the well of this House to ask the Members of this body to support the Committee on Interior and Insular Affairs and approve the committee amendment to H.R. 7743. This legislation amends the Pennsylvania Avenue Development Corporation Act of 1972.

This bill, as now recommended by the committee differs significantly from the measure presented to the House on March 15, 1976. Let me tell you some of the major differences:

First, the committee amendment eliminates the increase in the Corporation's borrowing authority from the present $50 million to $200 million. This seemed to be the most controversial element in the original recommendation;

Second, the committee amendment deletes the provision for a revolving fund originally contained in the proposed legislation;

Third, the committee amendment makes no provision for construction loans in relation to the borrowing authority; and

Fourth, all of the complicated technical changes originally included in the proposal have been eliminated from the bill in this revision now before the House.

In short, Mr. Chairman, this legislation is similar to the original proposal only insofar as it authorizes the funds which are required if the operation of the Corporation is to continue and the Pennsylvania Avenue plan is to be implemented.

In short, the bill now before us would do three things: Would authorize the appropriation of funds necessary for the continued operating and administrative expenses of the Pennsylvania Avenue Development Corporation created by Congress through September 30, 1978, the amount being $1½ million per year. Second, authorize the appropriation of $38,800,000 to commence the implementation of the development plan pursuant to the act; and third, direct that the historic facade of the Willard Hotel be preserved and that it become a demonstration area for the development plan.

BACKGROUND AND LEGISLATIVE HISTORY

Now, I want to respond to the suggestion that the Congress has not approved the concept of a combined Government-private enterprise effort to revitalize Pennsylvania Avenue.

During the administration of President John Kennedy, proposals were transmitted to the Congress to rehabilitate this historic American avenue. Since that time, the project has had the active support of every President—President Johnson, President Nixon, and now President Ford. It has never been a partisan issue; it has always been recognized that Pennsylvania Avenue—between the White House and the Capitol—is a special street. It is the Nation's "Main Street." It is the ceremonial center of the Nation's Capital City. Here, our Presidential inaugural parades take place and, here, our fallen leaders pass for the last time in full view of the entire world. Pennsylvania Avenue belongs to all the people as does the Washington Monument.

In spite of its acknowledged importance, this important area has been allowed to decline and deteriorate. It is not now—nor has it been for the past several years—a place that the American people can be proud of. For that reason, the Congress of the United States took steps to restore this area as a place of dignity. On October 27, 1972, we enacted Public Law 92–578. It created the Pennsylvania Avenue Development Corporation and charged it with the responsibility of developing a plan for revitalizing Pennsylvania Avenue. That plan was subject to an intensive review procedure by the District of Columbia, the National Capital Planning Commission, and the Congress. In accordance with the law, the plan was formulated and transmitted to the Congress on November 19, 1974. Since there was not sufficient time for its consideration during the 93d Congress, no hearings were held, but in this Congress public hearings were held on the plan and its implementation was deferred until the statutory 60 legislative days expired. At that time in accordance with the statute, the plan became effective. It is not correct to state that the hearings were too late for action. The fact is that no one—not one Member of the House or Senate—introduced a resolution to disapprove the plan at any time after it was transmitted to the Congress.

That gets us to the legislation that is now before us. On June 21, 1975, the Subcommittee on National Parks and Recreation held public hearings on H.R. 7743 and on the administration's recommendations with respect to it. The subcommittee approved the measure and reported it to the full Committee on Interior and Insular Affairs. At that time, additional recommendations were transmitted from the Administration and they were incorporated into the legislattion which was reported to the House on February 5, 1976.

That proposal was considered by the House under suspension of the rules. As a result of some misunderstandings, and because the bill could not be amended under that procedure, it was rejected. For that reason, the committee reviewed its recommendations and eliminated those provisions which it felt led to the House action. The only question presented in H.R. 7743 as now recommended is: Does the House intend to help revitalize Pennsylvania Avenue as the major ceremonial street of the Nation or does it plan to discard the years of effort and planning which have brought us to the point where some positive progress can be made? If you think it is time to act, and to act positively, then you should support the committee amendment.

PRIVATE ENTERPRISE AND PENNSYLVANIA AVENUE

We are probably going to hear that this is a job that private enterprise should do. I want to tell the Members of the House that that is the thrust of the act and of this bill, but private enterprise cannot do the job alone. Private enterprise should not be expected to bear the cost of improvements for the benefit of the public—for historic preservation, for open space, for avenue beautification and the like. Not only that, but private enterprise cannot do it as it should be done.

The only privately constructed building on Pennsylvania Avenue developed in accordance with the Pennsylvania Avenue plan is the Presidential Building. It met the setback requirements and conformed with other public needs. But the owner of that building—Jerry Wolman—went bankrupt. He defaulted on his mortgage and that building is now rented to the District of Columbia government for office space.

Now, I want every Member of this House to know that I will stand up for private enterprise as fast as anyone in this House. The bill is not antibusiness. There is not one major business on the avenue opposing the enactment of H.R. 7743—as far as I know. Most of them want the issue settled, but they have not indicated any opposition to this bill or to the plan for upgrading Pennsylvania Avenue.

Again, this is a combined, private enterprise, governmental effort. The plan contemplates that in the redevelopment process $3 of private enterprise money will be used for each dollar of appropriated funds. It is expected that the plan will generate some $400 million of private improvement and financing.

THE WILLARD HOTEL

Take the Willard Hotel, for example. The owners of that property want to sell it. They have wanted to sell it for a long time. Some offers have been made, from time to time, but for one reason or another they have never materialized. Part of the reason might be that the price is too high, or that the interior of the building has been completely stripped, or that the potential purchaser's offer cannot be backed up with adequate financing.

Under the legislation now before the House the exterior features of the Willard Hotel will be restored and preserved. It is a Washington landmark. The plan contemplates the remodeling of the interior of the building and the restoration of its use as a hotel or similar facility. This will revive the life of this historic structure and bring activity to this part of Pennsylvania Avenue again.

Without this legislation, the demise of the Willard is almost certain. No private investor will spend his dollars to assure the preservation of the exterior facade of this building, because the return on his investment could not justify it. The Government must bear this burden if the public interest in preserving this structure is to be assured.

Now anyone who says that private enterprise can do it alone just has not driven down Pennsylvania Avenue recently. Is there any evidence to suggest that this historic street is improving? On the conrtary, several businesses have closed their doors—Kann's, Lansburgh's, the Occidental Restaurant to cite a few. Many others have vacant upper floors or have been converted into business operations which are not becoming to the street which connects the Capitol with the White House.

THE PUBLIC INTEREST AND PENNSYLVANIA AVENUE

I believe that the Members of this House should have more than a passing interest in this legislation. It is true that it will cost some money—some taxpayers' money.

This bill calls for an investment in America for Americans. This is the one street in the Nation that attracts people from every State in the Union. People come to Washington to see their Government working. They go to the White House and they come to the Capitol. They should be proud of the area that connects the executive branch and the legislative and judicial branches of their Government, but instead they see a street of decay, decline and deterioration. It is discouraging indeed to look down this potentially beautiful, broad avenue for the first time and see what is happening to it.

It is within our power to do something

about it. We can make that start by enacting H.R. 7743 now before us. Two weeks ago we were back in our districts telling our constituents of our pride in our Nation and its people. Hopefully we can soon tell them that the House of Representatives has approved this effort to beautify the Nation's "Main Street." This is our chance to present to the American people a Bicentennial birthday present which will endure and which they can be proud of for generations yet to come.

Mr. Chairman, the time for action is now. I urge the adoption of the committee amendment to H.R. 7743 and the rejection of all other amendments.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself 3 additional minutes.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I will be glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, as I understand it, the amount of money authorized in this bill is for a 2-year period, at the end of which time the Congress could still decide whether to go ahead with the program or take some other course. Is that correct?

Mr. TAYLOR of North Carolina. The gentleman is correct. The administration recommended that the full amount of $130 million be authorized. This is the action the Pennsylvania Avenue Corporation recommended. It would be appropriated and spent, but the program is planned over a period of 15 years.

The committee felt that it would be better to authorize only enough to get started and have 2 year's operations, and then let it be brought back to Congress and let the Congress take another look at it and decide what further action should be taken.

Mr. SEIBERLING. Of course, the urban renewal program around the country has been superseded by the Community Development Act, but in my own community of Akron, Ohio, although a lot of Federal and local money was spent in urban renewal and a lot of the land that was cleared has not yet been built on—although it will eventually be built on—nevertheless the total tax value of the buildings that have already been placed on that land by private enterprise is already returning more to the city of Akron in local taxes, and, I am sure, to the Federal Government in terms of income tax revenues, than all the properties that were removed.

I understand that it is contemplated that when this Pennsylvania Avenue development plan is completed, that a similar situation will exist and the valuation of the buildings that are going to be placed there by private enterprise as a result of this development are expected to produce far more revenues than the cost to the Federal Government.

Mr. TAYLOR of North Carolina. The gentleman is correct. The public money will be used for streets, for sidewalks, for open spaces, and for historic protection and preservation, but the bulk of the money would be private money. Every effort would be used to acquire buildings, to acquire land, to lease it back or sell it to private enterprise to be developed according to the plan. The bulk of this property will go back on the tax rolls and be more valuable than it is today.

Mr. SEIBERLING. So that those who say that we do not need this program, that private enterprise could do the job, are in effect saying that private enterprise should take over what is now a government function, such as streets, sidewalks, open spaces and the clearance of land so that it can be ultimately developed. Is that not true?

Mr. TAYLOR of North Carolina. Yes, that is true. It has been obvious for two decades that this job needs to be done. Private enterprise has not done it. It has not made any progress at all in doing it. The trend is in the wrong direction—toward decline and deterioration. If the Government does not come in with a plan such as this, the situation there is going to deteriorate more and more.

Mr. SEIBERLING. Mr. Chairman, I strongly support this legislation and I commend the distinguished gentleman from North Carolina for his outstanding endeavors in behalf of this bill that is so important to our Nation's Capital.

Mr. SKUBITZ. Mr. Chairman, I yield myself 12 minutes.

Mr. Chairman, we Americans seem to be possessed with a desire to always be first in everything. I recall when the sputnik made "nutniks" out of us—we embarked on a space program which has really become a heyday for the scientists in this country.

A number of years ago some of our American dignitaries visited the Soviet Union. They saw the Red Square and as I recall out of that came the desire to create a national square in this country.

It seems to me now that we have used commonsense in the development of Pennsylvania Avenue, and I rise this morning in support of H.R. 7743.

The importance of this bill cannot be understated it will contribute much toward the repair, revitalization, and restoration of our Nation's most important thoroughfare.

Development of Pennsylvania Avenue will not only evidence the physical and symbolic link between the Congress and the Executive, it will add beauty and dignify a portion of our Capital City that is at present unpleasant and unsightly.

Pennsylvania Avenue is a historic avenue, but the buildings along the avenue are anything but historic or beautiful.

And it seems to me that the richest country in the world can at least develop one street in its Nation's Capital—its most historic street—not in an effort to compete with the Red Square or the Champs Elysee in Paris, but something truly American in scope.

There are those who say let the free enterprise do the job. I, too, would like to see the area developed by the free enterprise system.

But that I do not think is possible. Use as a shopping area, face it, the central cities have seen their day. The shoppers are not going downtown—and pay $2 to $3 to park when it is far more convenient to go to more up to date shopping buildings outside of town.

We have heard talk of more underground shopping. One need only visit the underground parking at the L'Enfant Plaza to find out why such parking is not desirable.

And even if we were to admit that private enterprise could, or more importantly, would revitalize the downtown section, the question arises whether the streets along historic Pennsylvania Avenue would incorporate the beauty, the stateliness, and the dignity that some have envisioned for this most important avenue.

And so, in order to do what should be done, it is necessary that the Federal Government assist in this project.

Earlier this year the House failed to approve, under the Suspension Calendar, amendments the Interior Committee and the administration had together recommended to the 1972 Pennsylvania Avenue Development Corporation Act.

In my judgment, based upon my study of the House debate, and visits with many of my colleagues who opposed the measure, I believe that many of my colleagues voted against the bill because of the sloppy manner and inefficiency that has been the hallmark of the District Government; because of the tremendous overruns in the construction of the subway; because they felt they had been misled with regard to the cost of the Visitors Center and the stadium; because they were fed up with the inefficient operation of the schools, where every Board member seems to want to be an administrator in his own right.

In short they were fed up with the District of Columbia.

I believe that the vote was an expression of the concerns of Members over particular aspects of the bill and not an expression of opposition to the intent of the legislation itself.

Thus, I believe that the revised version of H.R. 7743 containing the committee amendments approved by an overwhelming vote of 28 to 5 and supported by the administration will allow us to attain funding for the Corporation and the resulting improvement of Pennsylvania Avenue without enormous or unjustifiable commitments of Federal moneys.

There have been important changes made by the committee in H.R. 7743 which I would like to outline briefly:

No longer does the legislation authorize the Corporation to borrow up to $200 million. Instead, the present level of $50 million has been maintained, which should be enough for the Corporation to adequately carry out its development objectives consistent with its congressional mandate.

No longer does the legislation contain financial provisions which some Members objected to, specifically, the "authorization of construction loans" and the Corporation's proposed "revolving fund" have both been eliminated.

No longer does the legislation contain language which seeks to make numerous technical changes in the original act. What remains instead are amendments which provide the necessary funding to carry out the objectives approved by Congress 4 years ago.

This revised legislation—is strongly backed by the administration.

I quote from a May 28, 1976 letter from White House Counselor John Marsh which states, in part, that—

> The administration will urge House passage of a Pennsylvania Avenue Development Corporation authorization this session.

Mr. Chairman, I urge Members to support H.R. 7743. By doing so you will play an essential part in what, hopefully, will soon result in a restored and developed Pennsylvania Avenue in which all Americans can take pride.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DIGGS).

Mr. DIGGS. Mr. Chairman, I rise in support of H.R. 7743, legislation introduced by Mr. SKUBITZ to amend the Pennsylvania Avenue Development Corporation Act of 1972, as amended. This legislation has been carefully deliberated by my colleagues of the Committee on Interior and Insular Affairs, and, as a result, has undergone several revisions before our consideration, today.

As reported by the Interior Committee, H.R. 7743 as amended, authorizes a total of $4.625 million for all administrative and operating expenses of the Pennsylvania Avenue Development Corporation, through fiscal year 1978. The bill also authorizes $38.8 million for initial implementation of the Pennsylvania Avenue plan during fiscal years 1977 and 1978. Provisions have been included to insure preservation of the Willard Hotel.

I am familiar with the long history of development plans and proposals for Pennsylvania Avenue. I have met with the chairman of the Development Corporation's Board of Directors, and its staff, to obtain substantial and detailed information concerning their proposals for restoration of the avenue. As a member of the National Capital Planning Commission, I have reviewed both draft and final plans for redevelopment of the avenue, when submitted to the Commission.

It is my position that revitalization of the avenue will provide numerous tangible, and intangible benefits for the citizens of the United States and, as well, for the District of Columbia.

First, the plans now developed by the Pennsylvania Avenue Corporation can play a major part in increasing national awareness of, and interest in, the many events of major importance that have taken place along the historic avenue. The awareness of our citizens will continue during our Bicentennial celebration of 1976, and, in the years after the Bicentennial, when Development Corporation plans have been implemented.

Employment generated by the Pennsylvania Avenue plan's implementation is estimated to include approximately 10,000 man-years of construction work, as well as the numerous jobs and business opportunities that the project will provide, once it has begun full operation. Our experience with the many construction sites in the District, have shown that, whether they are for hotels, office buildings, or other purposes, employees at the site are not limited to Washington, D.C., but impact on the metropolitan area, as well.

Direct private investment in the project is estimated between $300 and $400 million alone. Moneys invested in this manner, again, are not limited to the District of Columbia. Benefits from such sizable investment could reach 5 to 10 times the funds invested, and will provide needed economic growth throughout the entire metropolitan area.

Successful completion of the Pennsylvania Avenue plan will provide several specific improvements within a comparatively small, but highly significant area of our National Capital. The plan will provide for more cohesive redistribution of land uses within the project area; more attractive pedestrian and vehicular traffic patterns; use of development controls as well as esthetic guidelines; provision of opportunity for commercial, residential, recreation, and cultural activities; and retention of such architecturally and historically significant buildings, including the Willard Hotel, the Evening Star Building, and Matthew Brady's Studio.

Provisions of funds to implement the plan for Pennsylvania Avenue will not only initiate restoration of an avenue vital to the history of our Nation, but the funds will also provide numerous benefits to the District of Columbia. Implementation of the plan will provide some 1,500 residential units, up to 4.2 million square feet of office space, several new major hotels to accommodate visitors to our National Capital, and as many as 16,000 new jobs. Local tax revenues directly attributable to the Pennsylvania Avenue project, alone, are estimated at more than $7 million each year.

Now, Mr. Chairman, let me deal with the major issues raised by the opposition.

Mr. Chairman, opponents contend that existing authorities, such as the National Capital Planning Commission, could oversee development; there is no need to spend money through another Federal agency.

The National Capital Planning Commission has only advisory and planning power, especially since the District Home Rule Act. It has no development capabilities or eminent domain authority. The Pennsylvania Avenue Development Corporation was established with powers selected to carry out a development program in partnership with private enterprise. The Government corporation mechanism was chosen by Congress in 1972 because an agency capable of businesslike transactions with the private sector was deemed to be necessary to carry out this job.

The contention that existing agencies could do the job misses the point. The question is whether Federal improvements and a comprehensive plan should be used to stimulate the development of Pennsylvania Avenue. If the answer is "yes," the agency to carry out the program should be the agency designed to do it in the first place. Neither NCPC, nor the National Park Service, nor the Commission of Fine Arts has the authority or capabilities to implement a renewal of the avenue. To change horses now would mean the rewriting of many laws, further delays, and claims in court against the United States.

Mr. Chairman, opponents contend that in view of the private sector's willingness to invest along the avenue, let free enterprise renovate the area, as an example of the working of the American system.

It is misleading to suggest that funding the avenue plan is choice of Federal intervention over private enterprise. The avenue plan is entirely predicated on a combination of Government initiative with private development. The 1972 act to create the Corporation was passed to "take maximum advantage of the private as well as public resources," section 2, Public Law 92-578. Implementation of the plan is to take place in conjunction with the investment of over $400 million in private capital.

The contention that the private sector has shown a willingness to develop the area unaided, is plainly wrong. Only two examples have been cited in support of this thesis—

The Presidential Building—at 12th and Pennsylvania—which was defaulted and had to be leased for District government office space; and

A tentative offer for private rehabilitation of the Willard, which turns out to have been made in 1968, when the building was still sound.

The sad truth is that the area has been shunned by developers for almost two decades. The avenue has not only failed to attract development, it has lost existing businesses, such as Lansburgh's and Kann's Department Store, which closed last summer. This deterioration cannot be attributed in whole to the effects of government planning. Other factors which blight other downtowns have been at work as well. Eliminating the avenue plan will not reverse existing conditions, regardless of their causes. Private capital and energy can be put to work along the Nation's Main Street, if the commitment of the Government to its renewal is clearly made.

Mr. Chairman, opponents contend that the Presidential Building, at 12th Street and Pennsylvania Avenue, built with private capital and in conformance with the earlier avenue plan, is a prime example of what private enterprise can do in this area unaided by Federal funds.

A close examination of the history of the Presidential Building leads to the exact opposite conclusion. The developer of the building, Jerry Wolman, defaulted on his mortgage because private tenants capable of paying good commercial rents were never attracted to the building. The mortgagee had to take over the Presidential Building, and lease it to the District government for office space at $4 per square foot. The Wolman organization subsequently went bankrupt from this and other failures.

The commercial failure of the Presidential Building demonstrates the need for Federal intervention along Pennsylvania Avenue to upgrade the area with public improvements necessary to attract private investment.

Mr. Chairman, opponents contend that subcommittee hearings disclosed the willingness of private business to develop the area; that Sky-Chef a subsidiary of

American Air Lines, attempted to lease and refurbish the Willard but the deal failed when the owners would not guarantee the property against condemnation.

The Sky-Chef offer was made in 1968 shortly after the Willard closed its doors, but when it was still in satisfactory operating condition. In 1969 the owners gutted the building of all usable or salable fixtures. The building has remained vacant and deteriorating ever since. The Pennsylvania Avenue Development Corporation never opposed a private sale or leasing plan; indeed, the avenue plan calls for the Willard's operation by private enterprise. However, it is recognized that a Federal subsidy for restoration costs is necessary before any private operator can take it over.

In the last few years several groups, including the National American Indian Council, approached the Willard's owners regarding a possible purchase. All of these groups which contacted the Pennsylvania Avenue Corporation received cooperation and encouragement. They were advised that Federal assistance would be applied if Congress funded the plan. No private transaction was consummated, however, either because the offers were unsatisfactory to the owners, or because the costs of renovation appeared excessive for a private group.

If the plan is not funded, private enterprise will clearly not restore the Willard. Private enterprise, unaided, would tear it down and build a speculative office building.

Mr. Chairman, opponents contend that the plan was approved without a real opportunity to reject it; that there was insufficient time to pass a resolution in opposition to the plan.

The Subcommittee on National Parks and Recreation held a public oversight hearing on the plan on March 21, 1975. The period for consideration of the plan did not expire until May 19, 1975—nearly 2 months after the hearing. The plan itself had been transmitted to Congress 6 months previously, on November 19, 1974, for a statutory review period of 60 legislative days. The Interior Committee decided that, to afford a full period of consideration to the new Congress, the days would be counted from the start of session in January, rather than from the date of the plan's transmittal.

The hearings were conducted to elicit a complete exposition of the plan and its projected costs. Public and agency witnesses were heard on the merits of the plan and on the advisability of proceeding with implementation. The committee also requested the General Accounting Office to conduct an informal examination of the plan's financing program, particularly with an eye to cost escalations. The GAO found the financing plan to be reasonable. Furthermore, the GAO indicated that possible increases in costs would probably be offset by increased revenues, because of the nature of the development, involving a turnover of building sites to private entrepreneurs.

Despite the length of the review process, no resolution against the plan was introduced. The plan stood approved on May 19, 1975.

I support favorable consideration of H.R. 7743 by the House of Representatives, today. Expedient action on this matter is particularly appropriate during our 1976 Bicentennial Year, and will provide viable activity along Pennsylvania Avenue long after our Bicentennial celebrations, and favorable action with respect to H.R. 7743 will enhance our Nation's Capital in both tangible and intangible ways.

Mr. SKUBITZ. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, everyone, I believe, wants a beautiful Pennsylvania Avenue.

My only question is whether that is a Federal responsibility or whether it ought to be done by the private enterprise system. After all, it was not even recognized by the Committee on the Budget that we should put these amounts of money in there.

The last time I saw this bill come before us, it was for $330 million, and today they tell us it is some $38.8 million. It started off as a Bicentennial project. The Bicentennial is almost over, and now we have gone into some other kind of program.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, the gentleman mentioned a figure of $330 million. He must be covering part of the private investment because the public investment figure never has been more than $130 million. The idea was to stimulate private investment to reach the other figure.

Mr. LUJAN. I understand that; that is correct. It was $130 million of public investment, and $200 million that was supposed to be available for loan activity.

This program calls for an extension of 2 years, and it is my feeling that once those 2 years are over, we will be back to the additional $200 million program.

As a matter of fact, it is quite interesting, Mr. Chairman, that in reading the report as it refers to the development of a demonstration plan with respect to the Willard Hotel, which is private property, I think somebody was perhaps inspired or actually knew that that would happen because it says, "provided that appropriations made under the authority of this program"—meaning the Willard Hotel—"shall include insufficient funds to assure the development of this property."

Mr. Chairman, it is rather strange that through an error in printing, what we all know to be a fact has come out. We all know that it is going to be insufficient and that the $38.8 million that we are talking about today is merely a very insignificant amount compared to what this project will end up costing.

Therefore, I am inclined, Mr. Chairman, at this point to either vote against the bill if it remains as it is; or if it is amended, to eventually help in the demise of the Pennsylvania Avenue Development Commission, and then I would support it.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I would be happy to yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, the gentleman from New Mexico is correct that the full public cost of the project is anticipated, according to the plan and the witnesses, to be $130 million which is to be appropriated over a period of 15 years.

The $38 million request now is sufficient to carry us on for 2 years to get this program going, to get the Willard Hotel preserved. Then we purposely want the matter to come back to the Congress so that it can take another look at it and see how well it is doing and what additional steps are necessary.

Mr. LUJAN. And perhaps ask for additional money at that point.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, first of all I would like to commend the chairman of the subcommittee, and the ranking member of the full committee, for the work they have done on this bill, which I heartily support.

I think it is fair to say, Mr. Chairman, that neither the gentleman from North Carolina (Mr. TAYLOR) nor the gentleman from Kansas (Mr. SKUBITZ) are known in the House as big spenders so when they come before the House with a bill that has really been reduced to the minimum, then I think we should take their views very, very seriously indeed.

The dissenting views to the original committee report are worth a brief comment. First of all, they say this is no time to begin another endless funding project.

Members of the committee, let me say that this is hardly a beginning. This Pennsylvania Avenue project dates back to the days of President Kennedy. As a matter of fact, President Kennedy was deeply and personally involved in trying to do something about the shambles that Pennsylvania Avenue had become at that time.

Then the dissenters say that we ought to leave this problem to private enterprise. I notice, by the way, that none of the dissenters has been in the Congress long enough to remember what Pennsylvania Avenue was like before this program was undertaken. I think if they had been, they would hardly argue that private enterprise can and would do the job. Because the fact of the matter is that in the early 1960's when private enterprise had had the responsibility for Pennsylvania Avenue for over 150 years, the avenue was a disgrace to the country. It was a shambles. Something had to be done.

I am sorry that we have had to abandon the more realistic program that was contained in the original bill but the preset bill before us is the absolute minimum if we are to carry forward this worthy enterprise for our Nation's most historic street.

Mr. SKUBITZ. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Chairman, I offer this amendment for four reasons.

In the first place, I think this is an expenditure of Federal money that is not needed. All of us, I am sure, wish that we were not running $70 billion in the red this year. I am sure we are all sorry that in the last year and a half we have had to raise the ceiling on the national debt six times. But we keep voting for these spending programs because we are afraid that if we do not, it will cause loss of jobs, or will hurt our senior citizens, our young people, or our veterans. However, here is a program that will not hurt anybody if we do stop it. It is something that we do not need to do with taxpayers' money. That is my first point.

My second point is that private enterprise ought to be rebuilding this area. During our hearings members of private enterprise businesses expressed an interest in building along that avenue, but, of course, they would not do it when the Federal Government had its finger on it. So what we need, and what my amendment will provide, is to terminate the plan as of the time that Congress acts—so that private enterprise can move in. Moreover, I submit that this is a beautiful country, and Pennsylvania Avenue is a great street, but the country has been made beautiful by private enterprise, and we ought not to have our No. 1 street a Federal Government project when the taxpayers are $700 billion in debt.

My third point is this: Regardless of how much we have reduced the cost appearance in this current bill, we know that the actual cost will not be 1 cent less, and that if we start down this road, we are going to have to appropriate again and again. We only need to look at the record to know it. Congress voted $46 million to build Kennedy Center. Now we have spent $73 million and the books are not closed yet. Congress appropriated $16 million for the Visitors Center. Now we have spent $46 million, and the plan had to be changed in order to live under that kind of a limitation. Two and one-half billion dollars was voted by the Congress for the Metro. We have spent $4½ billion, and we still do not have Metro. The same thing will happen if we start down this road.

My fourth point is this: The Congress has never really sat down and studied this proposal, and I hope we will do so this afternoon. The first real vote was taken this year when under suspension 201 Members voted "no" and only 149 Members voted "aye."

Back in 1972 when it was first approved, it was approved by a voice vote on a Saturday night session that ended at 12:22 o'clock on Sunday morning, and 26 bills were passed that evening, plus a lot of private bills. Even then there was objection to it. Then it came back in 1974 with the Pennsylvania Avenue plan partially completed. The rule was that if we did not reject it within 60 days, it would go in. Neither the Senate nor the House approved it. The Senate did not even have any hearings on it. The House had hearings on the last days, but no action was taken.

In conclusion, I think that the people of this country, as is shown by the letters and the polls all over America, would applaud any Member of Congress who has the courage to say "no." This is one thing we do not have to do to add on to our already gigantic debt which is costing our taxpayers $123 million a day in interest.

Mr. SKUBITZ. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, there is an old saying that "A rose is a rose is a rose," and I do not care how many times this bill comes up; it is the same old Trojan horse warmed over.

I would like to warn my colleagues—I think most of them know it down deep—that the estimated cost and the price tag is only the start. Washington's spending projects remind me of the old story of the tar baby. Once we get stuck in the tar, there is no way to get out, and we get in deeper and deeper. The deeper we get, the stucker we get. And we get deeper and stucker and deeper and stucker.

How may times do we have to get stuck before we realize what we are doing in Washington, D.C., to the American taxpayers? When the Federal Government gets involved in Washington project cost overruns seem to be the rule. I say they seem to be the rule and not the exception. We earlier voted this monstrosity down.

Today we have heard the speaker say: "Oh, we did not know what we were doing. We just rushed onto the floor and the legislation was not adequately debated and we have read in the paper that it was not properly prepared by the proponents of the program." Sheer baloney.

How about our being able to stand up for once and say: "We were right. We knew what we were doing. This is a spending project that cannot be justified." We can say right here that we are not going to get stuck again and get in deeper and deeper and deeper. If I am still here I will be reminding the Members, if this passes, that they should not have done this. If the project passes, make book on it, there is no doubt that the amount we are seeing today is only the start, and like the tar baby we will get deeper and deeper and we will get stucker and stucker and stucker and stucker.

Mr. Chairman, H.R. 7743 would authorize the appropriation of $38,800,000 to the Pennsylvania Avenue Development Corporation. This sum would be the initial installment of an estimated $130 million for Federal development of the Pennsylvania Avenue corridor.

When this piece of legislation first came before the House on March 15, I opposed it. As my colleagues will recall, I demanded a recorded vote on the bill and by a vote of 149 to 201 the House firmly rejected this case of wasteful spending. Now, after the passage of 4 months and adoption of a few cosmetic changes, H.R. 7743 is once again before us. This bill should be defeated again today.

I agree on the desirability of improving the appearance of the Pennsylvania Avenue corridor. It seems senseless, however, to pour millions of dollars of taxpayers money into this project if private enterprise is willing to do the same job with little or no Federal funds. Hearings have indicated the willingness of private businesses to develop the area. Nevertheless some Members seem to prefer intervention by the Federal Government rather than leaving the matter to the private sector.

This is hard to understand. After a budget deficit of more than $70 billion in fiscal year 1976 and an estimated deficit of $43 billion for fiscal year 1977, the House should be working on ways to reduce Federal spending. Now is not the time to begin another costly spending project, especially one that can be done by the private sector without taxpayer funds.

I also want to warn my colleagues that even the $130 million estimated price tag may well be too low. Washington spending projects have been tar baby projects. You get stuck and then you get stucker and stucker and stucker. When the Federal Government gets involved in projects such as this, cost overruns seem to be the rule rather than the exception. The cost of the National Visitors Center, for example, was originally estimated at $16 million. The current estimate is more than $48 million. The Metro transit system for Washington was first projected at $2.5 billion. By 1974 estimates had hit $4.5 billion and the end is not in sight. Then there is Kennedy Center and the Kennedy Stadium. Let us not get stuck in the tar today. Do not liberals ever learn?

Passage of H.R. 7743, Mr. Speaker, cannot be justified. I urge that we save the Nation's taxpayers millions of dollars by defeating this bill.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to my friend, the gentleman from Kansas.

Mr. SKUBITZ. May I say to my friend, the gentleman from Ohio, I know of the expenditures made on the stadium and the subway and some other, but I do not see the relevancy of those to this program where we are trying to make one street in the Nation's Capital and trying to make that one historic avenue one that all citizens can be proud of.

Mr. ASHBROOK. I am astounded that my friend, the gentleman from Kansas, and he is my good friend, does not see the relevancy. He is going down the primrose path. This is just a case of a different conductor on the same train. I remember when we were on that track before and we were told the same thing with respect to every project on many other occasions.

Mr. SKUBITZ. I had no intention to astound my colleague, only inform him. The only point I am trying to make is that as a matter of priority I would certainly place the restoration of Pennsylvania Avenue above the Union Station project or the subway or the others the gentleman mentioned.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. JOHNSON).

Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I would just like to say a word concerning the hearings that have been held on this legislation. Extensive hearings were held prior to the original Act of 1972. After the plan was approved by the Secretary of the Interior and the Mayor of Washington, D.C., it came to Congress on November 19, 1974. Hearings again were held by the National Park Subcommittee early in 1975. We tried to get all the facts and make them public. Not one member of the committee or Member of Congress introduced a resolution in disapproval of this plan.

Hearings were again held in June of 1975. Several days of the time of the subcommittee and of the full committee were used in considering this legislation in markup sessions.

So the matter has received the usual and appropriate attention of the committee and we have devoted as much time to it as was possible to give.

Mr. JOHNSON of California. Mr. Chairman, I am happy to have this opportunity to speak in behalf of the Pennsylvania Avenue legislation now before the House. This bill is the product of years of cooperative effort at all levels of government. It has the support of the present administration and the city of Washington. In addition, similar legislation has been approved by the Senate.

BACKGROUND OF THE PLAN

The proposals to revitalize Pennsylvania Avenue did not originate this year. They began with a vision of the late President John F. Kennedy who recognized the need to improve this important ceremonial street. Every President since that time has endorsed and recommended proposals to enhance the beauty of this link which connects the Capitol with the White House.

Because of the recognized national interest, the Congress created the Pennsylvania Avenue Development Corporation and directed it to develop a plan to assure the historical and ceremonial integrity of this national historic site. Under the act creating the Corporation, the plan was required to be reviewed and approved by the Secretary of the Interior and, after consulting with the National Capitol Planning Commission and conducting public hearings, by the Mayor of Washington. After that, the plan was to be transmitted to the Congress for final review. Under the law, unless either the House or Senate rejected the plan within 60 legislative days, the Corporation was authorized to implement it.

On November 19, 1974, the Corporation transmitted the approved plan to the Congress. It was not possible for the Subcommittee on National Parks and Recreation to conduct hearings on the proposal prior to the conclusion of the 93d Congress, but after the Congress reconvened public hearings were held on March 21, 1975. In light of the fact that this new Congress had not had an opportunity to review the plan, it was concluded that the 60 legislative days would begin to commence with the beginning of the 94th Congress.

Mr. Chairman, I recount the brief history of this proposal because I want the Members to understand that there has been an adequate opportunity for opponents of the plan to express their views. Notwithstanding this fact no Member of the House or Senate introduced a resolution of disapproval. In fact, in all of our deliberations, everyone seems to have agreed that Pennsylvania Avenue is a nationally significant area and that it merits special attention. To my knowledge no one has attacked the plan as being ill-conceived or undesirable. The only opposition that I am aware of reflects a general desire to economize.

NATIONAL SIGNIFICANCE

No one wants to waste Federal funds, Mr. Chairman, but I do not believe that this is a waste. Pennsylvania Avenue is the ceremonial street of the Nation. It is a place which is seen by everyone who watches the inaugural and other ceremonial parades in the Nation's Capital. Virtually every constituent of every Member of this House who visits Washington visits Pennsylvania Avenue en route to the Capitol, the White House, or some of the other governmental or historic places nearby. For that reason, I believe that this avenue takes on a special significance.

Notwithstanding its importance, we all know that the character of this important avenue is slipping. There are numerous vacant buildings and some of the historic structures along the way are threatened with destruction. Some people say "Let private enterprise do the job." I say "Private enterprise cannot do the job alone. If private enterprise could do the job there would have been no need for the plan or for this legislation."

We cannot expect private enterprise to underwrite the costs of public improvements. The Federal participation in this project will offset the costs for historic preservation of buildings like the Willard Hotel, for open areas and set back requirements, and for beautification of the avenue, in general, between the Capitol and the White House. Private enterprise will be an integral part in the redevelopment of the area, but it cannot do the job alone."

CONCLUSION

Mr. Chairman, Pennsylvania Avenue is not just an ordinary street. It has been called the Nation's Main Street. It should be a place in which the American people can take pride. The enactment of H.R. 7433 will make that possible. It will be the first step toward the implementation of the plan and a major step toward the fulfillment of the dream of our late President John F. Kennedy.

I urge my colleagues to support the committee amendment and to reject all other amendments to H.R. 7743.

Mr. SKUBITZ. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Kansas (Mr. SEBELIUS), chairman of the subcommittee, who is so conservative that at times the gentleman makes me look like a liberal.

Mr. SEBELIUS. Mr. Chairman, it is good to see some of the Members of our body here listening intently to a very vital and a very important subject, because today they are going to be casting a very important vote—a vote that will decide the fate of the future character and direction of the most ceremonial avenue of our Nation, Pennsylvania Avenue.

The issue is relatively clear and simple: Shall the Federal Government assist the revitalization of the horribly blighted segment of Pennsylvania Avenue between the White House and the Capitol, or shall it permanently discontinue its efforts already started, and let the future of this area face continued uncertainty and, most likely, continue onward in its blighted condition? That decision should be fairly clear-cut, as Members will be able to vote today clearly for or against the redevelopment effort.

Let me state that the Pennsylvania Avenue Development Plan is not a total Government effort. It is principally a private development effort, at a contemplated $400 million worth of private funds, with some supportive Federal funding assistance—all to be carried forth in conformance with a comprehensive development plan which already has the sanction of the Congress.

Mr. Chairman, some might ask, what are a couple of Kansas country boys doing here pleading for the continuation of the Pennsylvania Avenue Development Corporation in the revitalization of a part of our capital?

I do not think either one of us has ever voted for such a thing, but we say that it belongs to all those who live in this country. It belongs to those who are permanent residents here, and we want it to be enjoyed by the people who live here and by the rest of the Nation, because this is our Nation's Capital.

Many years ago, I came to town with a suitcase. I had a job as a skilled helper at the Bureau of Engraving and Printing. I lived here. I walked around here. I walked both ends of Pennsylvania Avenue. I have seen it deteriorate over the last 30 or 40 years. Now, I think it calls for a partnership between the Government and private enterprise to develop it, to come together. One cannot get to Ford's Theater without seeing rats running the street and other unattractive things that take place there. We need to provide a proper setting for the theater in which Abraham Lincoln was shot, and for the house across the street where he died. It is a sad thing to hang the opposition to this measure on trying to save some money. Yes, it is going to cost money. It is going to be a tar baby. Nobody will deny that it is going to cost more than what we have put in this bill, but we at least ought to get it started for 2 years and see what it does.

The administration supports this bill—so much so, that they advocate the authorization of the full cost of this project now, and that is over three times the amount of funding support that this Interior Committee bill requests. I want to point out that, in the face of general apprehension over the cost overruns of numerous other Government projects of similar type in recent years, the committee, I believe quite responsibly, sought to authorize only a token amount of funding—$38.8 million—to let the implementation of the plan get underway and demonstrate results. After 2 years of progress, if the Congress is impressed with the results, we can then proceed further. If not, we can end it all without having committed ourselves to the entire project.

This bill requires that a particular segment of the avenue be concentrated on, so that we can promptly gage the results. That specified segment includes the Willard Hotel area, and the historic Willard Hotel itself is specifically to be preserved.

My dear and sweet friend from Nebraska (Mrs. SMITH), with conviction and sincerity, said that she has four reasons for wanting to kill this proposal. The first one was that it was not needed. That was the premise that nobody can buy, and surely she does not either.

Second, private enterprise can do the job. Private enterprise can do many things and it will do a lot in this situation, but there has to be a working partnership between Government and private enterprise to get it off the ground—especially to provide for trees, flowers, benches, pathways, and building setbacks—for a 2-year period on this great avenue where we have seen our Presidents go down to the White House, where we have seen funeral processions of our dignitaries being moved along that avenue.

Third, it is going to cost more.

Look at the north side of the avenue and see what is there. It is going to cost more—I admit that. There is no question about that, with inflation as it is now and with neither party having been able to get a complete handle on it—it is going to cost more. But, let us admit that.

Fourth, we have not studied it. We have studied it and studied it and studied it. We know what it is. We want to make it a 2-year proposition to move forward. The plan has moved forward, and this bill comprises a culmination of planning of nearly everything we have worked on for a decade, starting with President Kennedy. The administration has asked for the authorization of three times as much money for implementation of this project as we have in this bill.

So, during this Bicentennial Year of our Nation, I cannot think of a more symbolic and appropriate step to take than for the House to vote to agree with the Senate and to get on with the resolution of this problem. Certainly, we can give it a 2-year trial, and on that basis we brought this bill to the House floor. I strongly recommend to my colleagues, as did the Committee on Interior and Insular Affairs, their full consideration and approval of this project here today so that we can get on with the job.

In closing, Mr. Chairman, I would like to commend the gentleman from North Carolina (Mr. TAYLOR), who has had great patience and understanding in this matter. It would not directly benefit North Carolina, and it is not going to be built in Kansas. It is something that belongs to all of the people of this Nation who want it to be preserved. I urge my colleagues to vote for this measure.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I stated that Pennsylvania Avenue is pretty far away from Kansas, and pretty far away from North Carolina, but we are still part of the Union. It belongs to people all over our Nation.

Mr. Chairman, I rise in the main to commend the ranking minority member of the committee, the gentleman from Kansas (Mr. SEBELIUS) on the fine cooperation he has provided our subcommittee during the years. No person could have been more cooperative or more constructive or more studious than he has been. It has been a pleasure working with him.

Mr. SEBELIUS. Mr. Chairman, I would like to say to the chairman that it has been a pleasure working with him. We are going to miss him next year at the conclusion of this Congress. I will probably say that a few more times this year, but we are going to miss his leadership. I think this would be a great monument and a fine commemoration of his subcommittee work if we get this project moving today.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I thank the gentleman for yielding.

May I say to my colleague that I came to Washington 36 years ago, and I remember it as a beautiful, charming city. I have seen it go down and down and down. I can remember that in those days if we saw a Kansas tag go down the street, we used to chase it down the street, no matter whether it came from one's county, just that it came from our State, because we wanted to meet somebody from back home. Today, Kansan after Kansan comes to Washington. Every Kansan hopes to visit this city, and I hope we can make it at least one of the best towns, one they can go home and be proud of.

The CHAIRMAN. The time of the gentleman from Kansas has again expired.

Mr. SKUBITZ. Mr. Chairman, I yield 1 additional minute to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. I thank the ranking minority member for yielding.

Mr. Chairman, I do not want to upstage the gentleman, but I came here 40 years ago, with a suitcase and the desire to work and go to law school. I thought a lot of Pennsylvania Avenue. In fact, I became determined that I was going to return here to Congress. As the gentleman knows, I did not win until the third time, but I did get back here.

Mr. SKUBITZ. Mr. Chairman, will my colleague yield?

Mr. SEBELIUS. I yield to the gentleman.

Mr. SKUBITZ. Mr. Chairman, we both came for the same purpose, to get a law degree and go back home. We have both remained here and have had our families here.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Chairman, there are few bills which will come before the House in this Congress that will have a more beneficial economic impact upon the District of Columbia than H.R. 7743, amendments to the Pennsylvania Avenue Development Corporation Act of 1972. During the 12-to-15-year period the plan is implemented, the project would generate at least 10,000 man-years of construction work; $450 million in private investment; a net increase of $10 million annually in tax revenues; a net increase of 16,000 jobs in the downtown section of the city; and 1,500 badly needed housing units.

In addition to providing substantial economic benefits to the District of Columbia, this bill will achieve an important national goal. Pennsylvania Avenue is a street that lives in the hearts of all Americans. It is the site of our inaugural parades and the link between the White House and the Capitol. The millions of Americans who come to Washington each year must certainly be disappointed when they see the Nation's main street. Pennsylvania Avenue, which should be a source of pride for all of us, is a national disgrace.

Failure to enact H.R. 7743 will result in a large number of costly damage suits against the United States. The owners of the Willard Hotel on Pennsylvania Avenue have, for example, already filed an $8 million damage claim against the Government. They contend that they are entitled to damages because of the economic losses suffered during the period of Federal planning for the avenue. Any additional delay of this project will probably result in larger justifiable claims.

As for the future, rising construction costs will make this project even more expensive and private developers even more hesitant to participate. Thus when all these economic factors are taken into account, it becomes clear that rejecting this bill would be a more costly venture for the Federal Government than if it were passed.

Private enterprise alone cannot achieve the goal of revitalizing Pennsylvania Avenue. Only one new office building has been constructed on the avenue despite more than a decade of Federal planning. This building was not an economic success and was leased to the Government. Many private developers have expressed interest in the area, but only if there is a firm Federal commitment to revitalization, which would be evidenced by funding for a plan like the one developed by the Corporation.

Practical economic sense dictates that private investors make the best economic use of land by building densely and compactly, since they want the most space for the cheapest price. Since the Pennsylvania Avenue plan is designed for spacious open areas and attractive buildings, rather than a congested line of skyscrapers, it should be understandable why private investors have shunned the avenue.

The Senate has already authorized funding for this project and the President has included an appropriation in his current budget request. The House of Representatives now has a very clear choice. We can turn our backs on the plan and lose a magnificent opportunity to reclaim Pennsylvania Avenue or we can fund the plan and give the Nation a Main Street of which it can be proud while providing the District of Columbia with a productive economic program.

The Washington Star newspaper on July 20, 1976, had an article on the fate of the Pennsylvania Avenue plan. I think it is instructive of issues which ought to be considered and I now insert it into the RECORD for Members to read.

The Washington Star article follows:

WHAT'S BECOME OF THE AVENUE PLAN?

(By Phillip M. Kadis)

It all began, the story goes, on that cold winter morn when Pat Moynihan and Arthur Goldberg shared a limousine in the John F. Kennedy inaugural parade from the Capitol to the White House.

Riding down the snow-covered triumphal route lined with cheerful spectators from all over the country, it suddenly struck them that the north side of Pennsylvania Avenue was a disgrace, rundown and shabby. Hardly what anyone had a right to expect for a great processional way of the world's oldest continuous democracy.

It was not a new thought. But it had occurred to the right people, according to the story, those who would have some influence in the new administration.

Whether true or apocryphal, the weight of the presidency was indeed thrown behind transformation of the capital's oldest avenue. For nearly a decade and a half since, platoons of planners, civic leaders, architects, merchants and politicians under stringent review have struggled to put together a plan that would meet the esthetic, economic, social and budget demands of all the parties involved.

Now, because of an ill-considered vote in Congress last March combined with new budget reform measures, the most comprehensive and detailed program for rejuvenating and beautifying Pennsylvania Avenue is on the brink of collapse just when it was about to leave the drawing board and realize a vision that had hovered over the thoroughfare ever since it was first laid out by Pierre L'Enfant at the birth of the city.

The planning initiative, begun under Kennedy and endorsed by every president since, gathered momentum as the Avenue itself deteriorated. What came out of the years of effort (after several major overhauls and the scaling down early grandiosity) was the Pennsylvania Avenue Development Corp. (PADC), which produced its revised plans for pooling public and private investment to give the "Avenue of Presidents" the dignity so many believe it deserves and make it at the same time lively, accessible and livable. A thoroughly American "Elysian Fields" that might bear comparison with the proud Parisian boulevard.

That plan won the endorsement of a host of community groups, planning agencies, merchant and business associations, professional groups and labor organizations.

Last year, Congress put its imprimatur on the The Pennsylvania Avenue Plan, and it became law.

All that remained was for Congress to provide some financial underpinnings in order to launch development along the avenue. Top priority was to be given to the handsome and historic Willard Hotel which has been moldering unoccupied since 1968, a prey to vandals and a lightning rod of litigation.

Enabling legislation was passed by the Senate and it remained for the House to act.

The House bill, approved by a wide margin in the Interior Committee, authorized $38.8 million as the first chunk of a projected federal outlay of $130 million over a 12 to 15-year period for public improvements along the avenue to spur private investment of $400 million. (The Senate approved bill authorized the full $130 million.)

It also extended the corporation's authority to borrow $50 million from the U.S. Treasury to acquire and develop sites to $200 million through 1990. There was also a provision for $1.5 million to pay the annual salaries and other administrative costs of the PADC, and two lengthy technical sections that would amend the act establishing the corporation to conform to legislation establishing home rule for the District.

The bill was presented on the floor on March 15 under a suspension of the rules procedure that required a two-thirds vote and permitted no amendments. With the backing of National Parks and Recreation subcommittee chairman Roy A. Taylor, D-N.C., passage was considered a foregone conclusion.

That, however, proved to be a tactical mistake. The bill failed to win consideration by a vote of 201–149.

Taylor, who is retiring this year, had a good track record on similar legislation in the past. But the House was filled with a lot of new members who were either unaware or unappreciative of the traditional authority wielded by the subcommittee chairman.

Few members were aware of the history of the PADC plan. Although it had the backing of the White House, little support had been forthcoming from the White House staff prior to the vote with the result that Republicans voted 91–25 against consideration. AFL–CIO backers neglected to push for it, confident it would pass under the consent calendar procedure.

Of the votes against it, 16 were switches after the initial tally was registered, and there was evidence that some held back on their initial vote until they saw which way the vote was going. When in doubt, there's safety in numbers.

Three speakers supported the measure, and none opposed it, making the outcome all the more remarkable. Some attributed the defeat to a "new wave of fiscal conservatism" in an election year, especially when the budget had little room for federal projects in the Congressmen's home districts. Rep. Walter Fauntroy's office was in favor of the bill, but he had no votes to trade off with his colleagues.

Other reasons were later advanced for voting against the bill.

Rep. Virginia Smith, R-Neb., inserted remarks in the Congressional Record in which she tied her opposition to the bill to skepticism that the $130 million price tag would stick. She also cited her firm belief, that private enterprise, "the system we trusted to build America in its first 200 years," could do the job without any government encouragement.

"This is the grandest street in America," she said. "What profitable business would not want to establish a base of operations along Pennsylvania Avenue?"

Whatever the reasons for the outcome of the vote, failure to take the measure up under suspension of the rules did not kill it.

The Interior Committee went back to work amending the bill for resubmission on the regular calendar, now expected to be this week.

But that was not the end of it.

While the committee was busy stripping off the intimidatingly long technical provisions (which will have to be attended to at some time in the future) and reducing the borrowing authority back to the original $50 million to dovetail with the two-year public improvement appropriation of $38.8 million, trouble was brewing on another burner.

The omnibus appropriations bill for fiscal '77 was grinding its way through the Congress. When conferees came to the budget requests for the PADC, they observed quite correctly that no funds had been authorized by the House. Since there could be no appropriation without an authorization, none was included in the final bill except for one small conditional provision.

If the House does ultimately pass H.R. 7743, $1 million of the requested $1.5 million would be available to pay PADC staff salaries.

The conditional appropriation is crucial to the survival of the PADC since its money would otherwise run out on Sept. 30, leading to the irretrievable dispersal of an expert and experienced staff.

Even if the House does vote the authorization, some way will have to be found (probably not until after the election) to appropriate enough money to at least save the Willard and begin rudimentary improvements—even if it is budgetarily untidy under the new reform procedures.

Failure to approve the authorization bill will effectively wipe out the PADC, created by Congress four years ago to do what Congress decided city agencies and private developers could or would not do if left to their own devices.

Even if the PADC were effectively killed by failing to fund the staff, the plan would still be law unless it were specifically repealed by Congress.

Attempts to develop the area in a manner inconsistent with the plan could be blocked in court, opening several legal cans of worms.

That's exactly the fix the Willard is now in.

Its owner—New York businessman Charles B, Bergenson—wants to gut the building and rip off its mansarded Beaux Arts facade (designed by Henry Janeway Hardenberg, architect of the Waldorf, the Astoria and the Plaza hotels in New York) and replace it with a modern office building.

But the plan requires preservation of the hotel, which often served as a residence for presidents, and the restoration of its public rooms on the first two floors. A demolition permit has been blocked by a federal court injunction.

To do him justice, Berenson is not opposed to preserving the Willard. It's just that it's not economically feasible for him to undertake the added financial burden of doing so himself.

Meanwhile, he has filed suits against the PADC and the District government claiming damages of $8 million and $1.5 million respectively for keeping him from developing his property while failing to buy him out, a complaint shared by other Pennsylvania Avenue property owners.

Berenson's attorneys claim he has been losing a whopping $1,400 a day in taxes and mortgage payments since the hotel closed in 1968.

PADC fears that similar lawsuits may sprout all along the avenue if funds to implement the plan are not appropriated.

The injunction that barred Berenson from tearing down the Willard because it was not consistent with the Congressionally-approved plan was precipitated not by the PADC but by a private civic organization called Don't Tear It Down, Inc.

Scrapping of the plan, many planners and business backers agree, would tend to retard the revitalization of downtown Washington.

"I don't think it's a linchpin," said Robert Gray, director of Downtown Progress. "But it certainly would not have a positive effect if it went down the tube. The Willard might not withstand another winter."

Gray said one of the most important aspects of the plan is the proposed establishment of a residential base downtown.

"It would bring life to the streets, more nearly achieve round-the-clock use of the area and modify the image of downtown after 5 p.m.," he said.

Rental and condominium units—a total of 1,500 are planned for the areas east and west of Seventh St. in the vicinity of the old Kann's and Lansburgh's department stores. They were deliberately added to avoid repeating the mistakes of L'Enfant Plaza, which takes on a cemetery cast after the office buildings are emptied.

Taking the first few lighting and landscaping steps, or reopening the Willard as a restored hotel, would be a psychological boost for downtown as well, according to John Fondersmith, chief of special projects for the District's Municipal Planning Office.

"'Pennsylvania Avenue is a kind of landmark not only for the city, but it's also a reflection on the national scene," he said. "It has a very symbolic role. Visitors go to the mall, and then they want to eat and stroll. But that's over in Georgetown or some other area of the city.

"The plan is designed so that Pennsylvania Avenue becomes a bridge between the monuments, Federal Triangle and the downtown core. In the future, visitors will know they're in the heart of the capital," he said.

Some of the ceremonializing and upgrading elements are already in place or about to be: the National Gallery of Art Annex, the new court building at Sixth St. and John Marshall Place NW; the cleaning and potential renovation of the old Post Office; the Streets for People project; the new Labor Department and even the FBI building, both of which bring increased employment to the downtown area.

What is needed, said Fondersmith, is something to tie them all together.

"It took something like 15 years, when Kennedy authorized the first master plan, to get to this point," said Maurice Payne, director of design programs for the American Institute of Architects.

"If this is turned down, I should expect it would take at least as long to crank it all up again . . . another four or five inaugural parades at least."

Supporters of the plan question whether private developers would be willing to invest in the avenue without federal participation. They cite the example of Jerry Wolman's Presidential Building, erected in 1968 at 12th St. Wolman was unable to woo private tenants for the office at rents sufficient to cover costs and yield a reasonable profit. He subsequently defaulted on his mortgage, a significant factor in the collapse of his financial empire.

The building was then rented to the government at rates substantially below the going private rates for comparable office space.

In addition, private developers—without the condemnation authority granted the PADC—would find it difficult to assemble parcels large enough to develop because of contested estates and fragmented ownership of property along the avenue.

PADC officials assert that their estimates about the cost of acquiring land for development were kept intentionally high and their projections of revenues to be earned from sale or lease of that land were made deliberately low to provide a margin of safety against inflation. The PADC financial plan was scrutinized by the General Accounting Office, and its assumptions were found to be reasonable.

All in all, the $130 million price tag is very little more than the cost of the FBI building alone ($129 million) or the Rayburn Building.

If the Pennsylvania Avenue Plan and its implemental arm, the PADC, did not already exist, sooner or later it would have to be invented.

Nearly all that is architecturally distinctive and so much of what is visually beautiful in Washington is the result of federal planning and financial assistance, however reluctant or delayed.

Without the strong hand of the government, as architect Payne put it, there would still be railroad tracks on the mall.

In the midst of the Civil War, President Lincoln insisted that construction of the Capitol continue as a demonstration of faith in the union and its future. (Not uncharacteristically, Congress first tried to skimp on construction costs for the Capitol and then found that the reconstruction costs because of poor materials and workmanship were greater than those first proposed by Benjamin Latrobe.)

During the depths of the Great Depression, the capital was ornamented with some of its finest edifices, including the National Gallery of Art and the Supreme Court. All of Federal Triangle became a reality during those years.

Is it possible that "America's Main Street" will be the victim of a receding recession?

The CHAIRMAN. The gentleman from Kansas (Mr. SKUBITZ) has approximately 3 minutes remaining, and the gentleman from North Carolina (Mr. TAYLOR) has approximately 3 minutes remaining.

Mr. SKUBITZ. Mr. Chairman, I have no further requests for time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield my remaining 3 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I just wish to call the attention of the Members to a few pertinent facts that we seem to be overlooking.

One is that this project will generate at least 10,000 man years of onsite construction work. We are talking about public works, and we are talking about man-made jobs, most of them in the field of services. These are construction jobs which demand at least five other employees to maintain the construction job that one individual has.

So by using these kinds of figures, we can take 5 times the 10,000 man-years, and we will get 50,000 man-years of direct, productive-type work, not service jobs given out by county commissioners and Governors that we are creating and which leave nothing behind them when we are through. In this case we will have something coming on in the future as a result of those jobs.

Mr. Chairman, I remember Pennsylvania Avenue 40 years ago when the first renovations were started. This was a cow-pasture town in my memory, and my memory is pretty clear. Yet in the minds of the hundreds of thousands of youngsters and their parents who come to this city every year, the one avenue they remember is this avenue that is in itself the capital of the United States of America—Pennsylvania Avenue.

We are not remembered for the little, everyday things that we do, things that pass on after the Sun goes down. We are remembered by those monuments that we leave behind, the monuments that became a part of our heritage and a part of what was done by those who went on before the oncoming generations. Those are the things that stand out, those are the things that remain as a picture in the minds of future generations.

Mr. Chairman, even to talk about defeating this bill is to me a sacrilege politically.

Let us go on further. Federal public works investments of $65 million and an additional private investment of $450 million will generate substantial new business opportunities, which are particularly important to minority groups in this city, Washington having such a great minority population.

Mr. Chairman, since my time is limited, I will not divert from the subject; I will give the bare facts. The project will produce $10 million annually and increase revenues for this city and this beleaguered, hard-pressed District of ours. The project will produce a net increase of 16,000 jobs in the District of Columbia. The project will produce 1,500 badly needed housing units in this District. Where, for that kind of money, can we get that as promptly as this in any other kind of work sponsored by the Government of the United States?

Mr. Chairman, if I have the time, I just want to add one thing. Some Members bring out the red herring of the national debt. That is unfair in this situation, because some day this Congress will realize that we have no national debt except in the context that we have to pay for it. Every nickel of the national debt—and I figured this out and have the absolute facts, and I can prove it to any Member of this Congress or to anybody else—every cent of the national debt was spent offshore from the United States on the interest on the money we borrowed.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in opposition to this bill. At the proper time I will offer an amendment in the form of a substitute.

Mr. Chairman, my amendment will repeal Public Law 92–578 which authorizes unnecessary Federal spending to renovate Pennsylvania Avenue. While I would like to see the blighted north side of this historic thoroughfare beautified, it is unjustifiable to expend Federal funds and perpetuate another Federal agency to accomplish that goal. The willingness of private businesses to invest in Pennsylvania Avenue makes Federal outlays illogical.

Since my amendment will repeal an earlier act of Congress, let me briefly review the unusual history of this entire plan. Serious Federal involvement along the northern half of the avenue began over 14 years ago with a recommendation from the Ad Hoc Committee on Federal Office Space. President Kennedy responded to that suggestion by appointing an Advisory Council on Pennsylvania Avenue. After a number of meetings, the Council decided to prepare a master plan for Federal development of the street.

This 1964 plan was very controversial. At that time, the Willard Hotel was considered very expendable. Although the first millions of today's bill are earmarked to preserve this historic structure, it was to be leveled to accommodate an open plaza competing with the Moscow "Red Square" concept.

In 1965, President Johnson replaced the Council with a Temporary Commission on Pennsylvania Avenue and the studies continued. President Nixon finally terminated the Commission in 1969 and shortly thereafter several bills were introduced proposing the creation of a Government corporation to again consider the avenue's condition.

After a few years of congressional unwillingness to review these bills, they finally reached the floor of the House in the waning hours of the 92d Congress. Portrayed as a harmless "Bicentennial" bill, in fact, it was called the "Pennsylvania Avenue Bicentennial Development

Corporation bill," it passed under suspension of the rules without a rollcall vote in either the House or the Senate. Since we are into the Bicentennial Year and the Corporation has done nothing to benefit the celebration, the "Bicentennial" label has been dropped. During that same rushed Saturday session of October 14, 1972, the House of Representatives disposed of 26 other bills, as well as numerous routine private bills, travel resolutions, and procedural votes before adjourning at 12:22 Sunday morning. Over 180 members failed to respond throughout the day's voting. I can easily understand why this apparently harmless Bicentennial study bill would slip by without even a rollcall vote when it appeared late in the evening on that long day.

Even under those unusual circumstances, there was a voice of opposition, Mr. Chairman. The gentleman from Ohio (Mr. VANIK) appropriately warned against hasty passage by saying:

> I oppose the passage of this legislation. It creates another bureaucracy, another Government corporation with borrowing authority. This bill would provide for the creation of a corporation with up to $50 million in borrowing authority—borrowing which will not be clearly reflected in the budget picture of the Federal Government—borrowing which will be relatively uncontrolled—borrowing which will place additional pressures on the money markets.
>
> This is another bill to provide special preferences to the Federal City. I recognize the importance of a beautiful National Capital. But we are building the Capital City out of the tax dollars of the hard-pressed cities of the rest of the nation. We are building a marble city here on the banks of the Potomac—a city which we can show off to the rest of the world—but in the meantime, the rest of our great cities seem to sink into deeper and deeper difficulties. I have no doubt, Mr. Speaker, that the redevelopment problems of my own city of Cleveland, Ohio, would be largely met and overcome if they could be provided with a Federal Government development corporation.
>
> While I agree with the objectives of this legislation, I do not believe that it should be accomplished through a costly multiplication of agencies. (CONGRESSIONAL RECORD, Page 36439 92d Congress, 2d Session)

Four years later, I echo that warning and reiterate that now is the time to stop this needless abuse of taxpayer dollars before construction begins.

The mechanism by which the final PAD plan became effective also casts an unfavorable light on this legislation. By the terms of Public Law 92–578, the plan was to be implemented unless rejected by either the House or Senate within 60 legislative days. Pursuant to this provision of the act, the Corporation submitted its plan to Congress on November 19, 1974. The Senate did not act thereafter, and the House National Parks Subcommittee held only token oversight hearings on March 21, 1975, in the twilight of the 60-day limit. By default, the Federal development plan went into effect.

The House of Representatives, however, clearly demonstrated its desire to eliminate costly Federal construction projects in Washington, D.C., by voting against passage, 149 yeas to 201 nays, when H.R. 7743 appeared under suspension of the rules on March 15, 1976. This was the first rollcall vote in Congress on this whole concept. Although the bill failed to even muster a majority, it was quietly recalled by the Interior Committee and its weaknesses cosmetically disguised. Merely reducing the borrowing authority, however, does not address the substantive issues which caused the bill's defeat. When H.R. 7743 appears on the floor this time it will still allow $4.625 million for administrative expenses of the Federal Corporation; it will still commit $38.8 million to begin the construction; and it will still allow $50 million of borrowing authority for this questionable project.

This history, dating from 1962, documents the cloud of Federal intervention which has stymied private development along the avenue for over 14 years. Unfortunately the Federal Government must admit that it has contributed to the very problem that it now wants to spend millions to remedy. My amendment would terminate the Federal Government's role and grant private investors their long-awaited freedom to renovate and beautify this grand avenue.

The Pennsylvania Avenue Development Corporation estimates that Federal development will require $130 million in direct appropriations, and another $200 million in borrowing authority. Lest we be tempted to consider this as "only a few million dollars," let me refresh our memory as to how fast these "few million" have multiplied over the past years to send this Nation's budget soaring. Not until 1962 did the Federal budget exceed $100 billion. By 1971 it has passed $200 billion, and by fiscal year 1975, $300 billion. And I do not have to tell you that a 1977 budget estimate of $395 billion is already dangerously close to exceeding $400 billion. Treasury Secretary William Simon linked these figures directly to our raging inflation by saying:

> Nobody likes inflation, but we love what causes it. We love the Government spending programs that lead to massive deficits and runaway inflation.

We must begin to exercise responsibility somewhere, and I see this as an effective place for two reasons: First, this program could be cut from the Federal pay-outs column without harming anyone. And second, the noble aim of this legislation can be reached simply and effectively by merely allowing private investors to take the initiative in this development.

Before I leave this point, I want to remind my colleagues of some of our past sad experiences with construction spending in the Nation's Capital. We need not look too far to see examples of budget-breaking construction overruns in our Capital. The Kennedy Center for the Performing Arts was estimated to cost $46 million before construction in 1964; today expenditures have already soared to $73 million—almost double the original amount and the books still are not closed. The National Visitors Center was originally estimated to cost only $16 million. The most recent figures reveal $48.3 million as the current estimate to complete the Center—nearly three times the initial sum and in this case there have been cutbacks in the original design. Washington's Metro transit system began with a $2.5 billion estimate in 1969. By 1974, this had risen to $4.5 billion, and that is nowhere near the ceiling today. This program would like to start with $130 million. Where will it end? The faintest whisper could cause another funding landslide.

As noted earlier, this is one spending program that can be cut without harming any special interest groups or jeopardizing any jobs or threatening our Nation's energy sources. In fact, the private sector would happily invest in this avenue and beautify it without Federal funds. This is the grandest street in America. What profitable business would not want to establish a base of operations along Pennsylvania Avenue? It is preposterous to think that only Federal money can clean up this area.

National Parks Subcommittee hearings highlighted the private sector's interest in the avenue. Those hearings mentioned several business attempts to lease or buy along the avenue. The Presidential Building, located at 12th and Pennsylvania, is further demonstrable proof of what private enterprise can do without Federal subsidies. This beautiful structure, erected in substantial compliance with the basic plan developed by the Pennsylvania Avenue Development Corporation, was built wholly with private funds. Federal money is simply not needed.

In conclusion, allow me to remind my fellow Members of our responsibility to set an example of sound fiscal management. That example would be most furthered by the adoption of my amendment to terminate a "popular" project, but one that would be best handled without expensive Government involvement.

Those who have spoken in support of this bill emphasize that this avenue should be a showcase of American success. I agree. Pennsylvania Avenue should become a showcase for American values; accordingly, renovation should take place under the American system of free enterprise which we have trusted to build America in its first 200 years. With this emphasis I urge passage of my amendment.

Mr. VANIK. Mr. Chairman, for the third time since its inception in 1972, I oppose further funding for the Pennsylvania Avenue Development Corporation. My reasons have remained unchanged.

Rhetoric about Pennsylvania Avenue has often clouded our view of the purpose of and the need for the Development Corporation. In this Bicentennial Year especially, we have heard a lot about the country's "Main Street." We have heard about the poor condition of most of the buildings that line the avenue. We all know that improvement and renovation are desperately needed.

The question is not whether or not Pennsylvania Avenue should be redeveloped. The question we must answer, instead, is whether or not it is the proper role of the Federal Government to redevelop the avenue. I believe it is not.

Pennsylvania Avenue is a choice real estate area in a city which is undergoing an architectural rennaissance. The new Hirshhorn Museum, the new Air and Space Museum, the new extension of the National Gallery, the renovation of Georgetown and Southwest Washington all have made the inner city of Washington a more desirable place to live. Combined with this revitalization of Washington's inner core is a growing disenchantment with the homogeneity of suburban sprawl. In short, economic conditions and personal preferences have changed radically since President Kennedy first proposed Federal involvement in the redevelopment of Pennsylvania Avenue over a decade ago. The redevelopment of our country's "Main Street" is properly the function of the private sector. In fact, it appears that the inefficiency and confusion of the Development Corporation has actually served as an obstacle to private development. No investor is going to be willing to invest his own capital in projects so fraught with government regulation and redtape.

Pennsylvania Avenue can be redeveloped by the private sector with due respect for the architectural integrity of such buildings as the Willard Hotel. Private developers have given us wonderful urban projects in such cities as Denver, Minneapolis, and San Francisco. The same can happen in Washington. But the Pennsylvania Avenue Development Corporation is not the way to accomplish this goal.

The CHAIRMAN. Does the gentleman from Kansas (Mr. SKUBITZ) yield back the balance of his time?

Mr. SKUBITZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the supplemental report (H. Rept. No. 94–894, pt 2) as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted that section 17 of the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266) as amended (40 U.S.C. 885), is further amended to read as follows:

"SEC. 17. (a) In addition to the sums heretofore appropriated, there are authorized to be appropriated for operating and administrative expenses of the Corporation sums not to exceed $1,300,000 for the fiscal year ending June 30, 1976; $325,000 for the period July 1 through September 30, 1976; and $1,500,000 each, for the fiscal years ending September 30, 1977, and September 30, 1978.

"(b) To commence implementation of the development plan authorized by section 5 of this Act, there are authorized to be appropriated to the Corporation through the fiscal years ending September 30, 1978, $38,800,000, to remain available without fiscal year limitation through September 30, 1990: *Provided*, That appropriations made under the authority of this paragraph shall include sufficient funds to assure the development of square 225 as a demonstration area for the development plan, and shall assure the preservation of the structure now located on square 225 known as the Willard Hotel and its historic facade. No appropriations shall be made from the Land and Water Conservation Fund established by the Act of September 30, 1964 (78 Stat. 897, as amended, 16 U.S.C. 4601), to effectuate to purposes of this Act."

Mr. TAYLOR of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Are there any amendments?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MRS. SMITH OF NEBRASKA

Mrs. SMITH of Nebraska. Mr. Chairman, I offered an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mrs. SMITH of Nebraska: Delete all after the enacting clause and insert in lieu thereof the following:

"That Public Law 92–578 (86 Stat. 1266, as amended, 40 U.S.C. 871) establishing the Pennsylvania Avenue Development Corporation, is hereby repealed effective one year from the date of enactment of this Act, and the "Pennsylvania Avenue Plan—1974" is hereby repealed on the date of enactment of this Act. For the purpose of terminating all business of the Corporation, there are authorized to be appropriated not to exceed $500,000."

Mr. LAGOMARSINO. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I would like to commend the gentlewoman from Nebraska (Mrs. SMITH) for her statement, and I rise in support of her amendment. I think the gentlewoman asked the right question: Should we continue down this road? This road that is going to result in huge Government spending and Federal interference.

Mr. Chairman, I think the answer should be to take action as was done on this measure several months ago on suspension: We should vote for the gentlewoman's amendment; and if that fails, we should vote against the bill.

Mr. Chairman, I think the people of this country are sick and tired of excessive, wasteful Government spending; and I am sure that that is how they are going to feel about this bill.

Again, Mr. Chairman, I commend the gentlewoman from Nebraska for her amendment and for her statement.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank my friend, the gentleman from California (Mr. LAGOMARSINO).

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute.

Mr. Chairman, this amendment is larger than the bill before us. It not only destroys the effect of the bill but it would kill outright the Pennsylvania Avenue development plan. Let me point out again that a great amount of study and work have gone into this project by many dedicated people. It has received strong backing. First by President Kennedy, then President Johnson, then President Nixon, and now President Ford. The 1977 cost is in the President's budget and is in the House budget.

Again Pennsylvania Avenue is the Main Street of America connecting the Capitol and the White House and it belongs not to the District but to the people of our Nation, just as does the Washington Monument and the Lincoln Memorial. Pennsylvania Avenue is an important part of our Nation's history. One side of Pennsylvania Avenue consists of Federal buildings and it is well preserved. The other side is deteriorating each day. An example of this deterioration is the Willard Hotel which has been vacated since 1968. Today it is stripped of all salable fixures.

The Willard has been called the Hotel of Presidents. The first Willard Hotel on this site was built in 1848, and it accommodated Presidents Taylor, Fillmore, Pierce, Buchanan, Lincoln, Grant, Harding, and Coolidge, to say nothing of Jenny Lind, Albert Einstein, Mark Twain, Carl Sandburg. At one time the Willard was the hub of Washington politics and Washington social life. The new Willard, which opened in 1901, is a landmark in Washington architecture and it is one of the buildings which we hope to preserve.

An editorial in the Washington Star of June 24, 1976, states,

> If Congress does not fund the Avenue Plan this year, the ballgame probably is over. Certainly the Willard Hotel will be an early casualty of a House defeat. The owner of the marvelous structure so far has been blocked in court from obtaining a demolition permit; however, if funding does not come shortly, the court will not indefinitely restrain an owner from doing as he will with private property. Razing the Willard Hotel would create an irreparable gap in the Avenue's history and future.
>
> The Federal commitment is vital to attract private investors, who will have a prime role in revitalizing Pennsylvania Avenue.

If this amendment is not defeated and this legislation is not approved so that the Pennsylvania Avenue plan can be funded for this year, private enterprise will clearly not restore the Willard. Private enterprise unaided would be forced to tear it down and build perhaps an office building.

Some Members have expressed opposition to the bill on the ground that private enterprise should do the job alone here. I can only reply that private enterprise could have come into this area years ago, but they did not. The need to find a positive plan to redevelop Pennsylvania Avenue was necessary because private enterprise alone had not accomplished the job and will not accomplish the job.

The Presidential Building at 12th and Pennsylvania Avenue is the one building that has been constructed by private enterprise in accordance with the Pennsylvania Avenue plan. Mrs. SMITH refers to this building as a prime example of what private enterprise can do in this area unaided by Federal funds. However, a close examination of the history of this building leads to the opposite conclusion. The developer of the building, Jerry Wolman, was unable to attract tenants who would pay the commercial rents needed and defaulted on mortgage payments. The mortgagee had to take over the building and it was leased to the District government.

The commercial failure of the Presidential Building demonstrates the need for Federal intervention along Pennsylvania Avenue to upgrade the area with public improvements necessary to attract private investment.

The sad truth is that the area has been shunned by developers for almost two decades. The avenue has not only failed to attract development it has lost existing businesses, such as Lansburgh's and Kann's department stores which closed last summer. This deterioration cannot be attributed entirely to the effects of government planning. Other factors which blight the hearts of American cities have been at work here. Eliminating the avenue plan will not reverse existing conditions or existing trends toward deterioration.

I believe we must confront this issue directly. If we determine it to be in the national interest to restore Pennsylvania Avenue, then H.R. 7743, represents a means to accomplish this goal. If it is not worth the costs then we should not approve the legislation. But we must realize that the job is simply not going to get done by leaving it for someone else.

Redeveloping Pennsylvania Avenue will cost some money but the objective is worthwhile. This is still the Nation's Capital and let us take pride in at least a portion of it. The amendment before us would be a step backward on historic preservation made during our Bicentennial. I hope that the amendment will be defeated.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. TAYLOR of North Carolina was allowed to proceed for 1 additional minute.)

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Is it not a fact that this same amendment that was proposed by the gentlewoman from Nebraska was rejected overwhelmingly by the Committee on Interior and Insular Affairs, both when the bill was originally considered and by a vote of 15 to 2 on consideration of the present bill?

Mr. TAYLOR of North Carolina. The gentleman is correct.

Mr. BINGHAM. I thank the gentleman.

Mr. SEBELIUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment proposed by my good friend, the gentlewoman from Nebraska. (Mrs. SMITH). I know that she really has her heart in her amendment, and it is a creditable approach for anyone inclined to bring this project to an abrupt and final end. I commend her for helping to simplify a final and positive decision by the House on this entire matter.

However, I do not believe there is a chance that we will see any rapid, coordinated and appealing development come along the still dilapidated north side of Pennsylvania Avenue if we kill the whole revitalization effort which has been started by the Congress itself several years ago—and perpetuated by the Congress up until now.

The Congress established a corporation and mandated it to develop a plan for the avenue and to carry it out. All of that has been done, and we are now at the point of authorizing some funding to permit that plan to begin implementation. The plan is a good one. The Interior Committee has scrutinized it and the Congress has approved it. The Senate has approved funding for the entire project, and the administration is supporting funding for the entire project.

This House bill authorizes funding for only part of the entire project, however, over a 2-year period, so that we can see how the project takes shape, and determine whether we feel further later funding to finish the project is warranted. We are thereby putting the project on trial. It must prove itself.

The committee obtained a GAO appraisal as to the credibility of the financial aspects of this plan. GAO found no flaws in its analysis. The plan provides a coordinated development concept scheme that plainly cannot and will not occur under uncoordinated, piecemeal, totally private development undertaken without some type of guidance and control as would be afforded by the Corporation. It was the Congress recognition of this situation and need that brought forth the legislation to establish the Corporation in the first place.

There are no existing governmental entities that now have the power, expertise and ability to do the job that the Corporation now has the power to do.

The north side of Pennsylvania Avenue has been in a deteriorated state for decades. The existing moratorium on construction in the area has not prevented private development from coming in, as long as that development would be compatible with the plan. But in the absence of the Federal Government's full commitment to implementing and funding the plan, private development has understandably been somewhat apprehensive to come in. If this bill passes the House today, I have no doubt but what that will all change, and we will see a vigorous progression of private development come to the avenue, in partnership with some of the public assistance brought by this bill.

This is the main street of the Nation—in the Capital of our country. I would hope that the House will see fit to support the revitalization of this potentially grand avenue, by rejecting the Smith amendment and by adopting the bill.

On the very year of our Nation's 200th birthday, I would certainly hope that my colleagues will recognize the symbolic and real importance of making the right decision.

Mr. SCHEUER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish to congratulate the chairman of the subcommittee and the membership of the entire committee for the fine job they have done and for the patience and stick-to-it-iveness they have shown over the years in pushing this splendid revitalization plan. I think enough has been said about the desirability of the plan and I hope it will receive bipartisan support.

This amendment was defeated overwhelmingly in the committee and in the subcommittee. The bill was reported out by a 21-to-5 vote in support of this legislation on a bipartisan basis.

I would take issue with the gentlewoman from Nebraska on several of her remarks. On March 15, she pointed out in her remarks in opposition to the Pennsylvania Avenue Development Act amendment that:

> [Lest we be tempted to consider this as "only a few million dollars," let me refresh our memory as to how fast these "few million" have multiplied over the past years to send this Nation's budget soaring. Not until 1962 did the Federal budget exceed $100 billion. By 1971 it had passed $200 billion, and by fiscal year 1975, $300 billion. And I do not have to tell you that a 1977 budget estimate of $395 billion is already dangerously close to exceeding $400 billion.]

I do not think we would want to criticize these inflationary increases because, regardless of the administration, these costs do have a way of going up.

The Kennedy Center was projected to cost $43 million and it came out to $73 or $74 million. But I believe it would be overwhelmingly affirmed by this House of Representatives today at the current cost. It is a wonderful and noble expression of something great in America: Our devotion to the performing arts.

The point has been made that this project should be carried out by private capital. Indeed, that is precisely the purpose of the legislation. Under this bill the great bulk of the investment and the risk taking, will be carried by the private sector. Over 80 percent of the dollars, work and risk will be carried by private capital, so that the Government investment is really seed money investment to energize the free enterprise sector. The multiplier is conservatively estimated at between 4 to 1 and 5 to 1.

This is nothing new in our national life. We have had urban renewal programs for a generation in this country. We have refurbished the downtown sectors of cities from Maine to California.

What is different about Washington? What makes our downtown slum on the north side of our greatest and most hallowed national avenue different from the slums everywhere else in the country, where we have spent billions upon billions upon billions of dollars?

We have exported something from New York to the north side of Pennsylvania Avenue which is not our most glamorous product: It is Times Squareism. I would hope we would have something better to give the country than the sleazy and squalid development we have seen in Times Square. I would hope on our most beautiful and hallowed and ceremonial avenue that the Congress of the United States would make a bipartisan decision to stamp out that squalor.

Why can we not have a great national showplace such as the Mall in London, such as the Champs Elysees in Paris, such as Red Square in Moscow, such as Unter den Linden in Berlin, and such as the Ring in Vienna. Why should we have a squalid place for our great national ceremonies?

If one thing came out of our Bicentennial celebrations, it is a new feeling on the part of the American public that our country is composed of something more than 50 States. It is a feeling on the part of our public that America as a whole that is greater than the sum of the parts, that we are more than Kansas, more than Nebraska, more than New York, and more than 50 States. It is a feeling that something great and wonderful composes America and that the time has passed for us to look with myopic and narrow vision at a particular city or a particular portion of our country and say: "That is not America."

If there is one place in America that belongs to all the people, it is this city; and if there is one place in this city that we should be proud of and where we should be delighted to welcome visitors from all over this Nation and, around the world, that can be viewed with a sense of nobility and pride it is this portion of Pennsylvania Avenue.

I urge my colleagues to vote overwhelmingly against this amendment and in support of the bill.

Mr. SKUBITZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment in the nature of a substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentlewoman from Nebraska (Mrs. SMITH).

The question was taken, and the Chairman being in doubt, the Committee divided, and there were—ayes 18, noes 38.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-five Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred and four Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 245, not voting 66, as follows:

[Roll No. 541]

AYES—121

Abdnor
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Blouin
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Clancy
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Coughlin
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Flowers
Flynt
Frenzel
Frey
Gaydos
Gilman
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hammerschmidt
Harsha
Hechler, W. Va.
Holland
Holt
Hutchinson
Hyde
Ichord
Jacobs
Jenrette
Johnson, Pa.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Keys
Kindness
Lagomarsino
Latta
Lent
Long, La.
Long, Md.
Lott
Lujan
McCloskey
McCollister
McDonald
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
O'Brien
Passman
Paul
Poage
Pressler
Quie
Quillen
Regula
Rhodes
Roberts
Robinson
Rousselot
Runnels
Russo
Satterfield
Schroeder
Schulze
Shuster
Smith, Nebr.
Snyder
Stark
Stuckey
Symms
Taylor, Mo.
Teague
Thone
Traxler
Treen
Vanik
Waggonner
Wampler
Whitten
Wilson, Bob
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—245

Adams
Addabbo
Allen
Ambro
Anderson, Ill.
Annunzio
Ashley
Aspin
Baldus
Baucus
Beard, R.I.
Bergland
Biaggi
Biester
Bingham
Blanchard
Boland
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Daniels, N.J.
Danielson
Delaney
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Fuqua
Giaimo
Gibbons
Ginn
Gonzalez
Gude
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Henderson
Hicks
Hightower
Hillis
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Johnson, Calif.
Jones, Ala.
Jordan
Kastenmeier
Kazen
Koch
Krebs
Krueger
LaFalce
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Lundine
McClory
McCormack
McEwen
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Milford
Miller, Calif.
Mills
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Railsback
Randall
Rangel
Rees
Reuss
Rinaldo
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Sebelius
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Talcott
Taylor, N.C.
Thompson
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Yates
Zablocki
Zeferetti

NOT VOTING—66

Abzug
Alexander
Anderson, Calif.
Andrews, N.C.
Badillo
Bell
Boggs
Bolling
Byron
Chappell
Clay
Conyers
Crane
D'Amours
de la Garza
Dellums
Dent
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Findley
Fithian
Green
Hansen
Harkin
Hébert
Hefner
Heinz
Helstoski
Hinshaw
Howe
Jarman
Jeffords
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Karth
Landrum
Leggett
Litton
McDade
McFall
Mikva
Mineta
Mitchell, N.Y.
Pepper
Peyser
Richmond
Riegle
Risenhoover
Rodino
Schneebeli
Sikes
Stanton, James V.
Steelman
Steiger, Ariz.
Symington
Thornton
Van Deerlin
Whitehurst
Wiggins
Wirth
Yatron
Young, Ga.
Young, Tex.

Mr. BURLESON of Texas changed his vote from "no" to "aye."

Mr. NOLAN and Mr. RINALDO changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. RONCALIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman and my colleagues, on the vote just competed 121 Members of the House voted in support of the proposal by the lovely gentlewoman from Nebraska (Mrs. SMITH) to end the Pennsylvania Avenue development program. There was almost one more. I labored long and with difficulty over that vote.

My difficulty is with something that could be called an "infuriating mindset." I find it interesting, and I am speaking now in the hope that the managing editors of the Washington Post and the Washington Star will pay heed to my remarks, I find it very interesting that when Federal Government money is required to assist in constructing buildings and for other projects in Washington, how ennobling are the editorials and how great are the appeals.

However, these same papers are not reluctant to ignore or even shoot down unfairly those proposals that would help and provide fair treatment for those of us in what they probably consider the boondocks; places like Wyoming and the other States in the West.

I shall ask the Speaker of the House for permission to insert with my remarks a column from the Denver Post of July 11, 1976, pointing this out in detail. The column is as follows:

POST ON THE POTOMAC—INFURIATING MIND-SET

(By Leonard Larsen)

[From the Denver Post, July 11]

WASHINGTON.—Barry Goldwater used to talk about it when he was running for president and his scorn was directed at the "Eastern liberal establishment" and he suggested once that maybe New York could be cut off and allowed to float out to sea.

George Wallace refined it, suggesting that the New York-Washington axis was an intellectual infection spread by "pointy-headed perfessers" who couldn't even park a bicycle straight.

What there actually is back here is a smug mind-set that has very little to do with intellectualism—or political popularity, for that matter—a media-reinforced viewpoint that whatever happens or concerns those who live west of the Potomac or the Hudson Rivers are matters quaint and provincial.

Most of the time it's only aggravating. Sometimes it's infuriating.

Like the front page report in the Washington Post July 2 that Sen. Clifford Hansen, R-Wyo., had met with President Ford and "promised" to deliver seven uncommitted Wyoming GOP national convention delegates in return for the President's signature on a bill containing amendments to the Mineral Leasing Act.

The piece, written by Bob Woodward and Carl Bernstein, the team that earned deserved honors and fame for their Watergate coverage, was one which illustrates the lack of concern—the ignorance—of what is going on out there in the rest of the country.

Never mind that the Woodward-Bernstein story never actually documented the "deal" offered by Hansen, aside from quoting anonymous "administration officials."

And never mind that the Washington Post—by giving prominent play to the Hansen "deal" story—played into the hands of coal operators and Ford himself, providing the President the opportunity to appear courageous in doing something he probably intended to do all along, vetoing the bill.

The Eastern-based mind-set, the infuriating mind-set, came when the Washington Post got around to explaining the bill.

There was no explanation.

Woodward and Bernstein said it was a "bonanza to Western states." They also said it was a "complicated measure," and the Washington Post in the following two days in stories by two different reporters stuck to that description—a "complicated measure."

What the bill would do—apparently not touched on by the "administration officials" friendly to the coal operators who talked with Woodward and Bernstein—is increase the royalty payments from federal coal leases that those coal operators must pay.

In addition, the bill would impose other leasing requirements and environmental restrictions on operators mining the federal lands, provisions also opposed by the coal companies.

The "bonanza to Western states"? That was a provision that states' shares of the mineral lease royalties on federal lands be increased from 37.5 per cent to 50 per cent with priority given to the communities threatened by population booms when the resource industries move in.

But the Washington Post and Woodward and Bernstein, presumably relying on a new generation of "Deepthroat" informants, had gone to the jugular with their "deal" report involving Hansen.

There was obviously no further concern with the bill and its impact on Western states. It was a "complicated measure."

Aside from the clear indications that the Washington Post, and other media which rushed to pick up their Hansen "deal" story and didn't bother to unravel the "complicated measure," have been played as patsies by their "administration sources," the episode re-illustrates the mind-set here.

An interesting footnote to the Western states' "bonanza" suggested in the Washington Post story is a revised estimate for the eventual cost—most of it in federal money—that will have to be paid for completion of the Washington Metro mass transit system.

While the "bonanza" might spill a few million to Western states to keep them able to care for new resource workers and their families, the nation's taxpayers—with the endorsement of the Washington Post—will invest more than $5 billion in the Washington area transit system.

During the 1 year I was chairman of the Public Building and Grounds Subcommittee, there were 17 separate appropriations for buildings, leases and other projects in the District of Columbia. They are probably all deserving. But, nevertheless, I find no similar treatment of the small States in the boondocks. All we ask is fair treatment in this regard. Mr. Chairman.

I hope that each of my colleagues might have some support to the purpose of these remarks, which is to override the veto of S. 391, the Federal Coal Leasing Amendments Act. This bill is major energy legislation. The veto of it was a slap in the face to the people of Wyoming, Montana, Idaho, and the other public lands States.

Neither Washington newspaper cared to either explain it or comment on it. But now we find both of them so urgently wanting millions of Federal dollars when the money is being spent on Pennsylvania Avenue.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question in on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 7743) to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended, pursuant to House Resolution 1341, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. SMITH OF NEBRASKA

Mrs. SMITH of Nebraska. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentlewoman opposed to the bill?

Mrs. SMITH of Nebraska. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mrs. SMITH of Nebraska moves to recommit the bill H.R. 7743 to the Committee on Interior and Insular Affairs.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mrs. SMITH of Nebraska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. SEBELIUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 225, nays 149, not voting 58, as follows:

[Roll No. 542]

YEAS—225

Adams
Addabbo
Allen
Ambro
Anderson, Ill.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bergland
Biaggi
Biester
Bingham
Blanchard
Boggs
Boland
Bonker
Brademas
Breckinridge
Broomfield
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Cohen
Collins, Ill.
Conable
Conte
Corman
Cotter
Daniels, N.J.
Danielson
Delaney
Derwinski
Diggs
Downey, N.Y.
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Giaimo
Gibbons
Gonzalez
Gradison
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Henderson
Hightower
Hillis
Holtzman
Horton
Howard
Hubbard
Hungate
Johnson, Calif.
Jones, Ala.
Jordan
Kastenmeier
Kazen
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lundine
McClory
McCormack
McDade
McEwen
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Miller, Calif.
Mills
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Rinaldo
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Sebelius
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Sullivan
Talcott
Taylor, N.C.
Thompson
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Vigorito
Waxman
Weaver
Whalen
White
Wilson, Bob
Wilson, Tex.
Wolff
Wright
Yates
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—149

Abdnor
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bedell
Bennett
Bevill
Blouin
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Carney
Clancy
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Devine
Dickinson
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
English
Florio
Flowers
Flynt
Fountain
Frenzel
Frey
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Grassley
Hagedorn
Hall, Tex.
Harsha
Hechler, W. Va.
Hicks
Holland
Holt
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jenrette
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Keys
Kindness
Lagomarsino
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McCloskey
McCollister
McDonald
McHugh
Mann
Martin
Michel
Milford
Miller, Ohio
Minish
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Nichols
O'Brien
Passman
Paul
Poage
Pressler
Quie
Quillen
Regula
Roberts
Robinson
Rousselot
Runnels
Russo
Satterfield
Schroeder
Schulze
Shriver
Shuster
Smith, Nebr.
Snyder
Spence
Stark
Steed
Studds
Symms
Taylor, Mo.
Teague
Thone
Traxler
Treen
Vanik
Waggonner
Walsh
Wampler
Whitten
Wilson, C. H.
Winn
Wydler
Wylie
Young, Fla.

NOT VOTING—58

Abzug
Alexander
Anderson, Calif.
Andrews, N.C.
Badillo
Bell
Bolling
Byron
Chappell
Clay
Conyers
de la Garza
Dellums
Dent
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fithian
Goodling
Green
Hansen
Harkin
Hébert
Hefner
Heinz
Helstoski
Hinshaw
Howe
Jarman
Jeffords
Johnson, Colo.
Jones, Tenn.
Karth
Landrum
Litton
McFall
Mikva
Mineta
Mitchell, N.Y.
O'Hara
Pepper
Peyser
Richmond
Riegle
Risenhoover
Rodino
Schneebeli
Stanton, James V.
Steelman
Steiger, Ariz.
Symington
Thornton
Van Deerlin
Whitehurst
Wiggins
Wirth
Yatron

The Clerk announced the following pairs:

Ms. Abzug with Mr. Bell.
Mr. Jones of Tennessee with Mr. Steelman.
Mr. Rodino with Mr. Alexander.
Mr. Dent with Mr. Peyser.
Mr. Evans of Indiana with Mr. Fithian.
Mr. Helstoski with Mr. Andrews of North Carolina.
Mr. Symington with Mr. Hébert.
Mr. Litton with Mr. Esch.
Mr. Byron with Mr. Schneebeli.
Mr. Chappell with Mr. Hefner.
Mr. McFall with Mr. Eshleman.
Mr. de la Garza with Mr. Goodling.
Mr. Richmond with Mr. Hansen.
Mr. Pepper with Mr. Steiger of Arizona.
Mr. Howe with Mr. Johnson of Colorado.
Mr. Dellums with Mr. Risenhoover.
Mr. Badillo with Mr. Landrum.
Mr. Riegle with Mr. O'Hara.
Mr. Clay with Mr. James V. Stanton.
Mr. Harkin with Mr. Van Deerlin.
Mr. Conyers with Mr. Karth.
Mr. Wirth with Mr. Whitehurst.
Mr. Anderson of California with Mr. Yatron.
Mr. Evans of Colorado with Mr. Wiggins.
Mr. Mineta with Mr. Mitchell of New York.
Mr. Mikva with Mr. Heinz.
Mr. Green with Mr. Jeffords.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1341, the Committee on Interior and Insular Affairs is discharged from the further consideration of the Senate bill (S. 1689) to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves to strike out all after the enacting clause of the Senate bill S. 1689 and to insert in lieu thereof the provisions of H.R. 7743, as passed, as follows:

That section 17 of the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266) as amended (40 U.S.C. 885), is further amended to read as follows:

"SEC. 17. (a) In addition to the sums heretofore appropriated, there are authorized to be appropriated for operating and administrative expenses of the Corporation sums not to exceed $1,300,000 for the fiscal year ending June 30, 1976; $325,000 for the period July 1 through September 30, 1976; and $1,500,000 each, for the fiscal years ending September 30, 1977, and September 30, 1978.

"(b) To commence implementation of the development plan authorized by section 5 of this Act, there are authorized to be appropriated to the Corporation through the fiscal years ending September 30, 1978, $38,800,000, to remain available without fiscal year limitation through September 30, 1990: *Provided*, That appropriations made under the authority of this paragraph shall include sufficient funds to assure the development of square 225 as a demonstration area for the development plan, and shall assure the preservation of the structure now located on square 225 known as the Willard Hotel and its historic facade. No appropriations shall be made from the Land and Water Conservation Fund established by the Act of September 30, 1964 (78 Stat. 897, as amended, 16 U.S.C. 4601), to effectuate the purposes of this Act."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7743) was laid on the table.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT TODAY AND THE BALANCE OF THE WEEK DURING 5-MINUTE RULE

Mr. FLYNT. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct be permitted to sit today and the balance of the week during proceedings under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Government Information and Individual Rights of the Committee on Government Operations be permitted to sit tomorrow while the House is reading for amendment under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL AGRICULTURAL RESEARCH POLICY ACT OF 1976

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11743) to establish a National Agricultural Research Policy Committee, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11743, with Mr. JACOBS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, June 11, 1976, the Clerk had read through line 12 on page 11.

Are there any amendments to section 1 of the bill?

Mr. FOLEY. Mr. Chairman, I ask unanimous consent that the Committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The remainder of the committee amendment in the nature of a substitute is as follows:

FINDINGS, DEFINITIONS, AND PURPOSES

Findings

SEC. 2. (a) The Congress finds that—

(1) agricultural research, which includes

research on food, nutrition, and fiber as well as timber growth and utilization and on other agricultural commodities, is vital to the Nation's well-being;

(2) the projected increase in the population of the United States, together with the worldwide population expansion, places increasing demands on agricultural production in the United States;

(3) agriculture and agricultural production are a national resource and should be supported by a strong system of agriculturally related research, resident instruction and extension;

(4) more intensive research and extension programs oriented to the specific, known needs of small-farm operators are essential to the preservation of the family farm system in this country;

(5) meeting the Nation's needs for wood products, consistent with the principles of multiple use and sustained yield, is in the national interest;

(6) the production of healthy animals and plants is essential to insure a safe food supply for the Nation;

(7) expanding exports of agricultural commodities is essential for maintaining a positive balance of payments in international trade;

(8) the public wants plentiful supplies of quality agricultural and forestry products at reasonable prices;

(9) agricultural research and extension costs have risen more rapidly than appropriations;

(10) various factors such as energy, the environment, and social, political, and economic considerations should be incorporated into planning for the agricultural sciences;

(11) the level of Federal support for the agricultural sciences, including research, conducted by the United States Department of Agriculture, and research and extension conducted by the land-grant colleges, State agricultural experiment stations, and other colleges and universities engaged in agricultural research and the training of agricultural research engineers and scientists, should be substantially increased;

(12) it is important to assure that the results of agricultural research be effectively communicated to farmers and all other users who can benefit therefrom; and

(13) this Nation has an opportunity and a responsibility to use its preeminence in the field of agricultural research to assist chronic food deficit developing countries to increase their own food production for domestic use.

Definitions

(b) For purposes of this Act:

(1) The term "agricultural research" shall include research into the laws and principles underlying the basic problems of agriculture in its broadest aspects. This term shall include, but not be limited to, those subject areas described or defined in section 1 of the Act of June 29, 1935, as amended (7 U.S.C. 427), section 7 of the Act of October 10, 1962 (16 U.S.C. 582a-6, commonly known as the McIntire-Stennis Act), section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622), the Act of May 22, 1928, as amended (16 U.S.C. 581 et seq.), and the Manual of Classification of Agricultural and Forestry Research prepared by the Research Classification Subcommittee of the Agricultural Research Policy Advisory Committee.

(2) The term "mission-oriented agricultural research" includes agriculturally related research on fundamental scientific problems with regard to which—

(A) there is a need already in existence for the new knowledge that would be generated by this research;

(B) the research has a strong potential to be of benefit to mankind; and

(C) the research deals with more than an unproven concept.

(3) The word "Board" means the National Agricultural Research Policy Advisory Board established pursuant to section 4 of this Act.

(4) The word "Secretary" means the Secretary of Agriculture.

Purposes

(c) The purposes of this Act are—

(1) to emphasize agricultural research and education as distinct missions of the United States Department of Agriculture;

(2) to encourage and facilitate the development and implementation of more efficient and environmentally sound methods of producing, processing, marketing, and utilizing food, fiber, and wood products;

(3) to provide for research on human nutrition in order to maximize the health and vitality of the people of the United States; and

(4) to provide a mechanism for indentifying the Nation's highest priorities for agricultural research, to assure that high priority research is effectively implemented, and to be certain that all research related to agriculture is effectively planned, coordinated, and evaluated.

COORDINATION OF AGRICULTURAL RESEARCH

SEC. 3. (a) The Secretary shall—

(1) coordinate and disseminate all agricultural research information, conducted or financed by or affiliated with the United States Department of Agriculture, and to the maximum extent practicable after consultation with other Federal departments and agencies coordinate all such research and the dissemination of information related thereto;

(2) keep abreast of developments in, and the Nation's needs for, agricultural research and education and represent the needs for such research and education in deliberations within the United States Department of Agriculture and the executive branch of the United States Government, and with the several States and their educational and research institutions, private educational institutions, agricultural and related industries, and other interested institutions and groups;

(3) designate an officer or employee of the United States Department of Agriculture as cochairman of the National Agricultural Research Policy Advisory Board established pursuant to section 4 of this Act;

(4) establish pursuant to the provisions of title 5, United States Code, governing appointments in the competitive service, an appropriate staff to assist him in carrying out the provisions of this Act and to provide such staff support for the Board as he deems necessary. The Secretary shall appoint from such staff one person to serve as the Executive Secretary of the Board; and

(5) provide liaison with other units within the executive branch which are involved in agricultural research activities in other countries.

(b) In addition to the Assistant Secretaries of Agriculture now provided for by law, there shall be one additional Assistant Secretary of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary may direct, including, but not limited to, such duties as are necessary to carry out the purposes of this Act, and he shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

(c) Paragraph (11) of section 5315 of title 5, United States Code, is amended by striking the number which appears in parentheses following the phrase "Assistant Secretaries of Agriculture" and inserting the next higher number.

ESTABLISHMENT OF NATIONAL AGRICULTURAL RESEARCH POLICY ADVISORY BOARD

SEC. 4. (a) There is established within the United States Department of Agriculture a permanent board to be known as the National Agricultural Research Policy Advisory Board.

(b) The Board shall consist of twenty-two members appointed by the Secretary as follows:

(1) two representatives from the United States Department of Agriculture, one from the Agricultural Research Service and one from the Cooperative State Research Service;

(2) five representatives from colleges and universities engaged in agricultural research;

(3) one representative from each of the following organizations upon the recommendation of the head of such organization:

(A) the National Academy of Sciences;

(B) the National Science Foundation;

(C) the Office of Technology Assessment of the Congress of the United States;

(D) the Environmental Protection Agency;

(E) the Food and Drug Administration, United States Department of Health, Education, and Welfare; and

(F) the Agency for International Development.

(4) nine representatives from the following types of organizations, as designated by the Secretary:

(A) two from national farm organizations;

(B) one from a national forestry organization;

(C) two from agricultural commodity associations;

(D) one from a national environmental organization;

(E) one from a national veterinary medical association;

(F) one from a national consumer organization; and

(G) one from a private sector organization involved in development programs and issues in developing countries.

(c) The Board shall be chaired jointly by the designee of the Secretary and a member of the Board elected by the Board.

(d) The Board's responsibilities shall include, but not be limited to—

(1) establishing appropriate means for evaluating the economic, environmental, and social impacts of research and extension programs related to the agricultural, food, and nutrition sciences;

(2) reviewing programs, policies, and goals of the agricultural research and extension agencies of the Department of Agriculture and the agricultural research and extension portions of programs in other agencies having primary missions outside of such Department, including colleges and universities;

(3) providing a forum for the exchange of information on plans and programs of other Federal agencies sponsoring or conducting research and education programs related to agriculture, food, and nutrition, including information to be provided through the Federal Council on Science and Technology;

(4) developing and recommending national policies, priorities, and strategies for agricultural research and education for both the short and the long term for consideration by the Department of Agriculture and other agencies and institutions conducting agricultural research; and

(5) reviewing and making recommendations to the Secretary with regard to the allocation of funds for all programs of research and extension carried out by the Department of Agriculture.

(e) In formulating its recommendations to the Secretary, the Board may obtain the assistance of United States Department of Agriculture employees, and to the maximum extent practicable and after appropriate consultations, obtain the assistance of employees of other Federal departments and agencies conducting related research, and of appropriate representatives of land-grant and other colleges and universities, State agricultural experiment stations, and other non-Federal organizations conducting significant programs in the agricultural sciences.

(f) While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with applicable laws.

(g) In the event a vacancy should occur on the Board it shall be filled in the same manner as provided in subsection (b) of this section.

(h) No later than January 31 of each year, the Board shall submit a report on its activities during the preceeding fiscal year to the President and the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture and Forestry, and the Senate Committee on Appropriations. The report may include the separate views of members of the Board. The first report shall be due following the first complete fiscal year after the enactment of this Act. The second annual report shall include a long-range plan for Agricultural Research and Extension, to be updated every five years.

COORDINATION OF HUMAN NUTRITION RESEARCH

SEC. 5. (a) To promote the coordination of human nutrition reserach and development, the Secretary shall, in cooperation with the heads of other Federal agencies, conduct a continuing inventory of ongoing human nutrition research projects and results. To the extent possible, this inventory shall make use of studies and other inventories being carried on by the Federal agencies, including information contained within the Department of Agriculture's Current Research Information System.

(b) Such inventory shall be conducted by a Clearinghouse for Federal Human Nutrition Research, to be established within the Department of Agriculture. The purpose of this office shall be to—

(1) collect on a continuing basis from each Federal agency information held by such agency which pertains to research which has been, is being, or will be conducted by or for such agency with regard to human nutrition. Such information shall include complete descriptions of the projects, and the final research results. Human nutrition research shall include studies on the nutritive value of foods, human nutrition requirements, the nutritional impact of Federal food programs, nutrient function and metabolism, malnutrition, food cost plans, nutrient analysis of foods, dietary or food consumption surveys, current dietary practices or habits, nutritional surveillance and status, nutritional education, clinical nutrition, dietary therapy, nutrition and its relationship to alcohol, environmental toxicants, cancer, and so forth, malabsorption syndromes, and familial or inherited errors in metabolism or nutritional defects;

(2) prepare a report containing a detailed summary of the information described in paragraph (1);

(3) submit such report, and each periodic revision thereof, to the Congress and each Federal agency from which the office collected information pursuant to paragraph (1);

(4) forward such report to the appropriate offices within the Department of Agriculture responsible for nutrition research activities; and

(5) make such report and collected information available to the public. The first such report shall be submitted and made available pursuant to paragraphs (3), (4), and (5) not later than one year after the date of enactment of this Act and shall be updated, resubmitted and made available in its updated form every year thereafter.

GRANTS FOR MISSION-ORIENTED RESEARCH

SEC. 6. (a) In addition to any other grants made under Federal law, the Secretary is authorized to make grants to land-grant colleges and universities eligible for assistance under the Acts of July 2, 1862 (commonly known as the First Morrill Act), end of August 30, 1890 (commonly known as the Second Morrill Act), the Tuskegee Institute, and to State agricultural experiment stations eligible for assistance under the Act of March 2, 1887 (commonly known as the Hatch Act), and to all colleges and universities having demonstrable capacity in agricultural research as determined by the Secretary, to carry out mission-oriented agricultural research. These grants shall be made without regard to matching funds being provided by the States in which the recipients are located. The Secretary shall limit allowable overhead costs to those necessary to carry out the purposes of a grant.

(b) Section 3(c)(4) of the Act of March 2, 1887, as amended (7 U.S.C. 361(c)(4)), is hereby repealed.

COMPETITIVE GRANT PROGRAM

SEC. 7. In addition to any other grants made under Federal law, the Secretary is further authorized to make grants, on a competitive basis, to Federal agencies, research institutions, organizations, and individuals for the purpose of carrying out agricultural research. These grants shall be made without regard to matching funds being provided by the States in which the recipients are located. The Secretary shall limit allowable overhead costs to those necessary to carry out the purposes of a grant.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. (a) Except as provided in subsection (b), there is authorized to be appropriated for the purposes of carrying out the provisions of section 7 of this Act $15,000,000 for the fiscal year ending September 30, 1977, and such sums as may be necessary for the two subsequent fiscal years ending September 30, 1978, and September 30, 1979, except that the total amount of such appropriations shall not exceed $150,000,000 during the three-year period beginning October 1, 1976, and ending September 30, 1979, and not in excess of such sums as may thereafter be authorized by law for any subsequent fiscal year.

(b) There is authorized to be appropriated for the purpose of conducting human nutrition research under this Act $5,000,000 for the fiscal year ending September 30, 1977, and such sums as may be necessary to carry out such research for each of the fiscal years ending September 30, 1978, and September 30, 1979, and not in excess of such sums as may thereafter be authorized by law for any subsequent fiscal year.

AUTHORIZATIONS FOR OTHER PROGRAMS

SEC. 9. Notwithstanding any authorization for appropriations for agricultural research in any Act existing prior to the date of enactment of this Act, there is authorized to be appropriated for the fiscal year ending September 30, 1977, a total of $600,000,000 for those agricultural research programs existing prior to the enactment of this Act and for sections 5 and 6 of this Act, and not in excess of such sums as may thereafter be authorized by law for any subsequent fiscal year.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have asked for this time to enter into a colloquy with the ranking minority member of the Committee on Agriculture, the gentleman from Virginia (Mr. WAMPLER), who is one of the authors of the bill. Will the gentleman answer a question for me?

Mr. WAMPLER. Mr. Chairman, if the gentleman will yield, I will be happy to answer.

Mr. MOORE. Mr. Chairman, I thank the gentleman.

Mr. Chairman, as a cosponsor of H.R. 11743, I support the findings of the Agriculture Committee, upon which I am privileged to serve, especially the importance of increasing Federal support for agricultural research and extension services conducted by land-grant colleges, other colleges and universities, and State agricultural experiment stations nationwide.

However, I understand there has been some concern expressed recently by segments of the agricultural research community that this bill may endanger existing agricultural research programs, some of which are funded with Hatch Act, McIntire-Stennis Act, and Morrill Act appropriations. I would like to ask my distinguished colleague if by requiring all existing agricultural research programs to be reauthorized subsequent to fiscal year 1977, as this bill does, will this action in any way reduce or place restrictions upon existing funds allocated to State agricultural experiment stations or other agricultural research facilities? In addition, I would also like to ask if this reauthorization process will become an annual authorization procedure after fiscal year 1977?

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I want to thank the gentleman from Louisiana for raising this point about the effect of this bill on the Hatch, McIntire-Stennis and the Morrill Acts.

It is my understanding that the basis for the gentleman's concern is that the Hatch Act has traditionally permitted the State experiment stations to initiate, plan, and conduct agricultural research in areas of need to individual States where assurances of long-term commitments of funds and manpower have been essential. I would agree that it would be totally wrong to discourage long-range planning of agricultural research in State experiment stations or the USDA research facilities by casting the whole agricultural research budget into a short-term grant framework. And I want to assure the gentleman from Louisiana that this is not the purpose of this bill. Moreover, I think it should be noted that the past and the current agricultural research programs, including Hatch Act and USDA in-house projects, are both long and short-range duration and are funded on an annual appropriations basis.

Furthermore, this legislation is not designed to authorize individual agricultural research projects, but rather to establish a management mechanism which would require the Department of Agriculture to establish broad national guidelines of research policy, coordination, a national research plan, containing priorities, goals and strategies, which coupled with expanded funding authority contained in the bill would enhance overall agricultural research to meet the requirements of our people for the future.

As the gentleman from Louisiana remembers from our hearings on this legislation, the funding of agricultural research at our State agriculture research stations and the colleges and universities with which they are directly affiliated has virtually stood still or declined during the last decade. Without exception, all of our witnesses—and they included representatives from the agricultural academic and scientific community, the Agriculture Department, the agricultural community in its broadest aspects, and the public—agreed that what was urgently needed was a substantial boost in agricultural research funding. This bill does just this.

One of the prime purposes of this legislation is to increase fundings of existing agricultural research programs under the Hatch Act, the McIntire-Stennis Act and the Morrill Act, as well as existing in-house agricultural research programs conducted by the Department of Agriculture at its facilities—such as Beltsville in nearby Maryland.

At my insistence, aided strongly by the support of our Chairman and our colleagues on the committee including Mr. THONE of Nebraska and yourself, for this legislation, we were able to convince the Department and the Office of Management and Budget to agree to support an increase this year in the President's budget request for these fine existing programs from $510 million to $600 million. In this regard, I think the people downtown were convinced of the validity of our suggested increase and became converted to the need for just such legislation.

Moreover, our committee has been able to increase these existing programs for fiscal year 77, and the mood in the committee is to increase them again next year and the year after that without disturbing the time-honored manner in which these funds are allocated to State agricultural research stations and State colleges and universities. I also call to your attention page 13 of House Report No. 94-1172, which accompanied this bill, which states:

> Finally, in considering the issue associated with managing science in U.S. Agriculture, there is a basic presumption by this Committee that any consideration for improvement must be based on the existing agricultural research system.

In my view the effect of the language in the bill which requires all existing agricultural research programs to be reauthorized subsequent to fiscal year 1977 is to review our progress to specifically determine if Congress is providing the support required for research to enable our agricultural producers to provide our people with the food, fiber and forestry products required.

I would also like to respond to my friend from Louisiana as to the second part of his question regarding the reauthorization process and whether it will become an annual authorization procedure after fiscal year 1977. Because of the schedule of the Agriculture Committee in the first session of the 95th Congress, I foresee a simple extension of this program for fiscal year 1978 with a substantial increase in authorization. By the time we get to the fiscal year 1979 authorizations, we will have the report of the board we have authorized in this bill—which will better apprise our committee and the Congress as to which is the best procedure since recommending research priorities and allocations is one of the functions assigned to that body. I personally would like to see either a 2- or 3-year authorization procedure. I understand there is support to move in this direction in the other body. I would also like to assure the gentleman from Louisiana, as long as both he and I are on the Agriculture Committee, we will see to it that the work of our fine agricultural research stations is not diminished.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. MOORE) has expired.

(On request of Mr. WAMPLER and by unanimous consent, Mr. MOORE was allowed to proceed for 3 additional minutes.)

Mr. MOORE. Then to summarize, Mr. Chairman, I would simply state, if I understand the gentleman's comments, that there is nothing in the legislative history of this particular bill that will call for annual authorizations beyond this one-time reconsideration for fiscal year 1977; is that right?

Mr. WAMPLER. In my opinion, that is a correct interpretation.

Mr. MOORE. And there is nothing inconsistent with the intention of this bill to continue the multiple-year authorizations in the future and that we are in fact in this bill expanding existing funding for existing research programs; is that correct?

Mr. WAMPLER. In my opinion, that is a correct interpretation.

Mr. Chairman, I might say to the gentleman from Louisiana (Mr. MOORE) that the gentleman from Virginia has had a number of his colleagues express this same concern.

I hope this will clarify what the intent of this legislation is.

Mr. MOORE. Mr. Chairman, I thank the gentleman from Virginia (Mr. WAMPLER).

Mr. SEBELIUS. Mr. Chairman, I want to take this opportunity to state my support of H.R. 11743, the Agriculture Research Policy Act of 1976.

Mr. Chairman, today we see many headlines and much publicity given to the very real problems of world malnutrition and hunger and the efforts behind the laudable Christian response as exemplified in the right to food resolution and the many programs sponsored by both Government and private groups.

Unfortunately, we do not hear much about agricultural research, the foundation from which efforts to feed a troubled and hungry world must be based. I believe this legislation can be instrumental in upgrading agriculture research from its neglected and all too often ignored position of recent years.

Let me stress that agriculture research is an essential prerequisite to providing a long-term dependable source of food products. The problems of food production and distribution will undoubtedly mount along with the booming world population and its corresponding appetite.

Today, the American farmer produces enough for himself and 56 other people. This achievement in terms of productivity is unmatched in our economy today and is currently more than adequate for our own consumption. But, in the next 25 years, the world population will expand by 2 to 3 billion people. We cannot afford the cost of not expanding our agricultural research.

In 1940, 40 percent of the Federal research and development funds went for agricultural research. In 1970, less than 2 percent went for this purpose. Unless we reverse this trend, we will simply not keep pace with future food demands.

Congress has allowed traditional agriculture programs such as research to become secondary to domestic food programs. These programs, particularly the food stamp program, accounted for $1 billion of the USDA budget in 1969 but jumped to $9 billion this year. Well over one-half of the total USDA budget is now earmarked for domestic food programs. I do not mean to imply that these programs are not worthy or needed. I am saying it is time for the Congress to address the problem of food and fiber production or none of these programs will have any relevance.

Simply put, agricultural research will result in increased production and that represents the best investment we can make in the fight against malnutrition, and hunger in our efforts to provide the quality food to the American consumer at a reasonable and fair price.

It is rather like a chain reaction, increased agriculture research results in increased production and reduced production costs, more income in the farmer's pocket and lower food costs to the consumer. The whole chain strengthens our domestic economy and improves our foreign balance of payments. Related benefits include more rural families staying on the farm, conservation of our natural resources, and the protection of our environment.

Specifically, this bill improves the current U.S. agricultural research program in two very important ways. First, it establishes a 22-member Agricultural Policy Advisory Board of agricultural experts from both the public and private sectors to coordinate our agriculture research efforts. Second, the bill authorizes increased funding and sets up a more efficient and cost-effective system for funding research grants. Mission-oriented grants would be available to both land grant and nonland grant colleges and universities which are either engaged in agriculture-related research or have agriculture curriculums. Other grants would be awarded on a competitive basis to various capable research organizations and individuals as well as schools.

There are many positive considerations for awarding mission-oriented grants to nonland grant schools. First, this would permit more agricultural research to be conducted by smaller universities especially in areas with regional problems of limited scope. Second, smaller universities often have lower overhead costs, reduced transportation costs, and proximity to the area of concern which aids in recognizing problems and communicating with producers. To put it simply, regional problems most often require commonsense regional solutions.

Finally, there is a greater ability to develop interdisciplinary research programs in those universities where the smaller size brings professionals from all agricultural disciplines into the problem-solving process. This accommodates a more efficient use of funds and maximizes input and concentration on a project.

In conclusion, I believe there is a real need for increased Federal funding of agricultural research on all levels. It is evident that research will be the key to our ability to expand future agricultural production to meet growing domestic and foreign demand.

The current research system is stretched beyond prudent limits by increasing complex demands placed on it. The current national support of agricultural research has been allowed to slip below the level of sufficiency.

For this reason I urge consideration and support for this bill by my colleagues.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, having worked on the committee for many years in this area, I would like to point out here that one of the major problems of our Subcommittee on Agriculture and Related Agencies, one of the main problems, that we have is that the present Department of Agriculture, which, several years ago, was given authority to reorganize, has diffused the research activities of the Department. No longer do we have a research section in the Department of Agriculture which reports directly to the Congress or to our subcommittee annually. They have regionalized it to the extent that each region in turn now has an area of its own.

So those in areas that have research problems frequently cannot even get through to the region. Once they get through to the region and the project is turned down there it does not come into the Department.

For the last 3 years, I believe that our committee has had hearings, we have had to almost summon from all over the United States those engaged in agricultural research.

In the first place let me say that there have been tremendous increases in the amount of money available. At one time we had, as the Members know, about a $12 million limit on the experimental stations, and so forth, and that ceiling has been removed and, as a result, we have trouble getting the results of the research. If anybody comes to the Department and wants anything, they say, "If you get us some more money we will gladly examine it." Our subcommittee has recommended, and the Congress has approved, without exception, $3 million, I believe it is now, so as to meet any problems we can foresee.

My question is: Is there any effort in this bill to coordinate research in the department so that it will report annually to the Congress, our committee or the gentleman's committee, or is it left as a regional type of setup, which keeps many of them in the situation where they do not get to Congress with their problems, or their results?

For instance, the gentleman who is in charge of the research activities of the department is very experienced in animal husbandry but can you imagine him reporting to us on the food production and of reducing the cost of production of food? In other words, we have a man who is clearly greatly experienced in one area but who is speaking for all the other areas. The same thing applies to the regional offices. We need to return to a channel through those qualified in the field.

That has been a major problem since the reorganization took place.

So, I just wondered, and I would like to know if the gentleman from Virginia has directed himself to that, or is there anything in this bill that would have them report back to the Congress so we can see what the results are?

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I thank the gentleman for yielding.

First of all, let me say, Mr. Chairman, that I know of no member of the Appropriations Committee who has worked any longer or harder or more effectively in the interest of basic agricultural research and development toward helping supply the food and fibers that the people of our country need and also for the less fortunate people of the world than the gentleman from Mississippi and I commend the gentleman for his efforts and contributions.

Mr. Chairman, there is established in this bill a National Agricultural Research Advisory Board consisting of 22 members that will advise the Secretary of Agriculture on both short-term and long-term priorities as they pertain to the basic agricultural research needs of this country.

The bill also provides that there will be an annual report to the President and to the House Committee on Agriculture, the Senate Committee on Agriculture and Forestry and the Committees on Appropriations of the House and Senate, to advise them of what they are doing. This bill also provides that members of the Advisory Board may file separate or minority views so that we can obtain proper information on what is going on. Hopefully this will provide for greater coordination on agricultural research both in the Department of Agriculture and other Federal agencies that are involved in agricultural research.

Mr. WHITTEN. Mr. Chairman, may I say to my colleague, the gentleman from Virginia (Mr. WAMPLER), that I appreciate his very kind remarks about my efforts here and the efforts of the subcommittee. I would point out to the gentleman that I know of his deep interest in this field and the hours of work that he has spent in dealing with that, as well as the members of the Committee on Agriculture.

For the record, I would express the hope at this point that the Commission would give attention to the organizational structure because it is highly important that whatever results they get that those results be reported annually to the Congress, not only to my committee, but to the gentleman's committee and others because, under the present setup, that is not done.

Mr. WAMPLER. Mr. Chairman, let me state to the gentleman from Mississippi that we have addressed ourselves to that problem in this legislation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this bill.

I would like to take this opportunity to state my support for H.R. 11743, the National Agricultural Research Policy Act of 1976. As an active supporter of research to advance the state of our agricultural technology, I believe this bill is a significant step in that advancement.

A number of recent global developments have diminished the ability of the world to feed itself. We may be approaching a point where our basic concepts of how to produce food will have to change, and we should therefore be looking into ways to encourage agricultural research.

The first and most obvious problem is that of population increase. By the year 2000 there will be a projected 7 billion mouths to feed—double the 1974 population.

A second problem has been the decreasing availability of fuel over the last several years. The energy crisis has restricted the supply of raw materials needed for the production of many fertilizers and has idled irrigation pumps in some of the countries with the greatest food problems. Lacking the vital ingredients for the production of many of the recently developed strains of crops, developing countries have found the gains of the "Green Revolution" partially offset by resource scarcity.

Finally, drought and other adverse climactic conditions have caused starvation in different areas of the world. Our most advanced food-producing technology is still vulnerable to disruption by natural forces. As a result of the above factors—overpopulation, fuel scarcity, and poor climactic conditions, the United Nations estimated that 20 million people starved to death in 1974, while U.N. statistics from 1970 showed hundreds of millions suffering from different forms of malnutrition. It is evident that our dependence on traditional agricultural technology condemns millions to malnutrition and starvation.

It is therefore crucial that we begin to encourage a coordinated research program to discover and utilize new agricultural technologies which will help guarantee an adequate supply of nutritional food for the world's people. There has already been significant progress. Just one example of such progress has been the discovery of high protein single cell micro-organisms and fungus which are not only excellent sources of nutrition, but also extremely efficient in their use of resources, since they can be grown on what we commonly consider to be wastes: Newspapers, animal manure, sewage, and carbon dioxide. Furthermore, such "crops" require minimal amounts of space and water, and are not dependent on weather conditions. Best of all, they produce large amounts of protein-rich food. Certain types can be harvested every 4 days. If utilized, these tiny plants could provide food directly to people in the most hard-pressed areas of the world, and in countries such as our own could go to feed livestock and therefore free large amounts of grain for human consumption.

We should be supporting such research at the Federal level. America's technological genius is well known; now it must be fully applied to solving mankind's most pressing problem, and that will take a reversal of spending priorities. Only $521 million has been authorized for agricultural research for fiscal 1977, while almost $10.5 billion has been authorized for military research. This is certainly one of the most startling examples of our misplaced national priorities.

The National Agricultural Research Policy Act of 1976 is an important step toward elevating agricultural research to the position of priority it should occupy. This bill would provide new authority to the Secretary of Agriculture to coordinate existing research activities and would establish a new National Agricultural Research Policy Advisory Board to assist the Secretary in developing agricultural research goals and determining how research moneys should be allocated. The bill also increases the amount of Federal funds available for grants to individuals and institutions working on agricultural research. By investing in research today, we may help save lives and improve the quality of life for millions in the future. I therefore urge my colleagues to support this legislation.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. FOLEY: On page 19, beginning at line 19, delete the phrase "Federal Council on Science and Technology" and insert in lieu thereof the phrase "Federal Coordinating Council for Science, Engineering, and Technology".

Mr. FOLEY. Mr. Chairman, this technical amendment is necessitated by enactment on May 11, 1976, of Public Law 94-282, the National Science and Technology Policy, Organization, and Priorities Act of 1976 which substituted the Federal Coordinating Council for Science, Engineering, and Technology for the former Federal Council on Science and Technology.

This amendment makes no change in the substance of the bill (H.R. 11743).

Mr. Chairman, I move the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. FOLEY).

The amendment was agreed to.

Mr. GOLDWATER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I, in addressing myself to this bill, have no basic problems with it an, in fact, would commend the chairman of the committee, the gentleman from Washington (Mr. FOLEY), and the members of the committee for recognizing the need for the proper coordination and cooperation in the area of agriculture research. Serving on the Committee on Science and Technology over the past several years, we have recognized that if we are to get the most from our invested dollars, certainly there should not be a coordination. Therefore, this particular piece of legislation recognizing such is a step in the right direction.

In looking over the legislation, I have a few questions that I would like the chairman and the ranking minority member to address themselves to. In the legislation there is created a board composed of, I think, 22 members. In addition to that, there is also created a clearing house for Federal human nutrition. This area of nutrition is very important, and it concerns me that there is no indication in the bill or the report that any of the members of this Board should possess nutritional qualifications and expertise. I can foresee this Board's becoming involved in such difficult questions as dietary supplements and fabricated foods. Should these or other similar issues arise, nutritional expertise would become an extremely important qualification. Therefore, I would like to ask my colleagues here who are responsible for this whether they agree that the Secretary of Agriculture in making appointments to the Board should pay careful attention to the desirability of having at least one of the members he appoints possess some expertise in nutrition?

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

I think that certainly should be something that the Secretary should keep in mind. Nothing in the legislation requires that he appoint someone to the Board with nutritional background and experience, but I personally feel—and I am sure my colleague from Virginia will concur in this because we have discussed this field—that it would be a most appropriate consideration for the Secretary to follow in his appointments to the Board.

Mr. GOLDWATER. I thank the gentleman.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank the gentleman for yielding.

I also thank the gentleman for raising this point. I certainly would concur in what the distinguished chairman of the House Committee on Agriculture has said. I think it would be extremely advantageous to have one of the Advisory Board's members with expertise in nutrition.

If the gentleman from California will note the bill provides for a 22-member Board. I would hope that the Secretary of Agriculture in determining the qualifications for appointees to that Board would give strong consideration to someone who has expertise in the nutritional field. It is quite possible there would be a Board member who would possess expertise in more than one field. I hope the legislative history is clear, as is the committee report, that the Secretary should take this into account.

Mr. GOLDWATER. I thank the gentleman for his expression of concern, because obviously millions of Americans in the United States are concerned about this nutritional problem.

Now that we are to have a clearinghouse and coordination of research in these areas if we are to have this Board, it seems to me we need some kind of expertise in this particular area.

In another concern I have with the annual authorizations and appropriations up to this point, there are moneys made available for research and development in various forms that the Department of Agriculture manages, and I am speaking specifically about the Forest Service, and I am sure there are other areas within the Department of Agriculture where there are already ongoing research projects and moneys already appropriated and authorized. I am wondering in this $600 million we will be authorizing in this bill whether that is in addition to those projects, or does this $600 million taken into account those programs which are in being and moneys which are authorized for the programs which are in existence?

The CHAIRMAN. The time of the gentleman from California (Mr. GOLDWATER) has expired.

Mr. GOLDWATER. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for an additional 5 minutes.

Mr. GRASSLEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GOLDWATER. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 2 additional minutes.

Mr. GRASSLEY. Mr. Chairman I object.

The CHAIRMAN. Objection is heard.

Mr. GRASSLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 11743, the National Agricultural Research Policy Act.

The great agricultural State of Iowa, which is certainly one of the great food production centers of the world, is proud of its contributions to the economy of our Nation and to the world's food supply. Our people have worked hard to increase the production of our farms and the distribution of these products of the markets of our country and the world. At the same time, we are proud that we have had the insight to increase the nutritive value of our farm products. For example, our farmers readily adopted hybrid corn to increase our corn production per acre. They have also grasped the increased nutritive value of high-lysine corns, which we believe may contribute importantly to meeting some of the protein deficiencies in the diets of people in our own country as well as in some of the developing countries. By the same token, our farmers have also adopted reduced or minimum tillage in producing many crops, not only to conserve energy, but to cut the cost of production to improve the farmer's economic position and simultaneously hold down food costs to consumers.

These practices were first identified by agricultural scientists at the Department of Agriculture, the State agricultural experiment stations, our State universities and in our private industry research sector. It should be noted that Iowa State University and its associated State agricultural experiment stations have been at the forefront in these scientific advances and food production achievements.

Our people in Iowa are concerned whether or not the Nation's agricultural research system can respond effectively to future United States and world food needs as it has in the past. They are also concerned as to the course of direction agricultural science and technology in the United States should take to maintain and improve productivity growth in agriculture to meet the predicted increased demands for food in the future, as well as to maintain the economic vitality of our people. This also prompts the question—what ways can our agricultural research system be improved?

It was to find answers to these questions that I was prompted to join as a cosponsor of this legislation.

Moreover, I also was prompted to join on this legislation after I discovered, contrary to the views held in my own State which is production and work-oriented rather than socially oriented, that the agricultural scientist was not held in high esteem here in Washington as he is in Iowa. I also was shocked to learn, as was pointed out earlier by the distinguished ranking minority member on our committee from Virginia, Mr. WAMPLER, that the emphasis on agricultural research and development, insofar as Federal funding is concerned, had nosedived from 39 percent in 1940 to slightly over 2 percent in 1976, in our total Federal research and development budget.

Additionally, I was also appalled by the fact that our Federal Government has allowed scientific research that pertains to agriculture to be dissipated willy-nilly throughout the Federal establishment without proper means to coordinate or disseminate this research.

To make matters worse, I have learned that agricultural scientists are few and far between in our Federal establishment in departments and agencies outside the Department of Agriculture, and that these departments and agencies also make national policy that vitally affects farmers and farm policy. Nor do these agencies find it at all necessary to coordinate with the Department of Agriculture when they conduct agriculturally related research or impose regulations vitally affecting farmers or farm policy.

This bill, I believe, gives the Department of Agriculture the tools: to enhance agriculture research by upgrading agriculture research, by upgrading research to the top level of the Agriculture Department; to provide the Secretary of Agriculture with a National Agricultural Research Policy Advisory Board made up of representatives from the Federal sector, the academic-scientific community, the agriculture community and the public sector to advise the Secretary on priorities, planning, goals, strategies, and funding allocations for agricultural research; to provide new research grant programs to broaden the base of agricultural research throughout our scientific community and allow us to take advantage in developing, research breakthroughs by better and faster utilization of our fine and well established mission-oriented research facilities at our State university and State agricultural research stations; and, finally, to attempt to stop the decline of funding of agricultural research in our country by authorizing increased expenditure of appropriations for existing programs, as well as these new grant programs.

Mr. Chairman, we must revise our Federal funding priorities and adopt these new management tools if we expect American agriculture to maintain, let alone increase, the production of food, fiber, and forest products for our people and an ever-increasing world population.

The farmers of America are willing to work and produce the food, fiber, and wood products required. However, more productive grains, plants, animals, fibers, and wood products to meet the requirements of the future can only be produced if they are first discovered and tested for use by research.

I urge my colleagues to support this legislation.

Mr. DODD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this legislation. I commend the committee, both the majority and minority members, for bringing this legislation forth.

Mr. Chairman, I would like to point out a major area of concern to me and one which I feel needs to be addressed and that is the plight of the family farmer. Throughout this Nation the number of small farms has dwindled considerably over the past two decades. In my own State of Connecticut the dairy farmers in 1963–64 numbered 3,000. Today there are 760 of them left. We are losing these farms in Connecticut at a rate of 100 a year.

I feel strongly we have got to do more to preserve the family farm in this country if we are to maintain a healthy and sound agricultural base in the years to come. I would like to address the distinguished gentleman from Virginia on the minority side regarding this issue of the family farm. I wonder if the gentleman might explain or tell me whether the role of the family farmer has been an essential factor in the development of an agricultural base in this country. How essential has the family farm been?

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank the gentleman for yielding.

Mr. Chairman, in response to the question raised by the gentleman from Connecticut, let me refer him to page 17 of the report accompanying the committee bill, in which it says on the subject of small farmers:

> The Committee adopted a clarification of language encouraging more intensive research and extension on small-farm operators and urges an expanded effort in this area.

The House Committee on Agriculture for many years has recognized the vital role that the family-sized or family-type farm has played in contributing to the whole of American agriculture. Unfortunately, because of a series of economic factors, far too many of our small family-type farms have gone out of production. It would be the hope of the gentleman from Virginia and I am sure every member of the House Committee on Agriculture that in the mechanism that is being established in this bill, as we set both long-term and short-term priorities for agricultural research, the peculiar problems faced by the family farmer will be addressed, and hopefully some better answers can be found to these perplexing problems and through intensive research and more importantly through extension that we do everything possible to preserve this vital segment of our farm economy.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of this legislation. As a cosponsor I am sure it will help our farmers. I sincerely hope it will pass by an overwhelming vote.

Mr. HAGEDORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak in favor of H.R. 11743, the National Agricultural Policy Act of 1976. Even more important than the funds for research which this program authorizes are its provisions calling for more effective coordination of existing research efforts. This is not an emergency bill; those institutions which have been and will remain responsible for conducting the great share of agricultural research in the United States have done an excellent job. This bill makes no fundamental changes in their responsibilities, it creates no new bureaucracies, institutes no coercive policies, and attempts to build upon the present framework, not work radical changes upon it.

Yet, increasingly in recent years, the Department of Agriculture has been given authority in nontraditional areas, most notably food stamps. I have testified before the Senate Agriculture Committee in behalf of transferring these "income security" functions to HEW where they properly belong, but, until that time, I believe that we must attempt to renew USDA efforts in its more traditional areas of responsibility. Since 1969, "income security" expenditures within USDA have soared from approximately 12 percent of its total budget to more than 60 percent. Traditional agriculture expenditures have declined from more than 62 percent of USDA's total budget to less than 25 percent—declining in absolute dollars from $4.5 billion to $1.8 billion. In terms of 1969 dollars, USDA is also spending substantially less for agricultural research.

H.R. 11743 would require USDA to refocus and clarify its own research efforts, as well as the assorted agriculture research efforts conducted by other Federal agencies. Currently, within USDA, the Forest Service, the Agricultural Research Service, the Cooperative State Research

Service, the Farmer Cooperative Service, the Economic Research Service, as well as other agencies all have significant research and development responsibilities.

Outside the USDA, the Department of Health, Education, and Welfare, the Department of the Interior, the Department of Commerce, the National Science Foundation, and numerous other departments and agencies all possess jurisdiction in the area of food research. Charged with responsibility for coordinating the efforts of these numerous agencies will be a new Assistant Secretary of Agriculture, who is also charged with disseminating the fruits of this research to those private institutions and individuals who can potentially benefit. A Research Advisory Board is also to be established within USDA, composed of representatives from both public and private groups, to review longer range research needs, as well as to analyze the longer range impact of ongoing research.

At a time when rates of increase in farm productivity are declining, a step-up in agricultural research efforts is extremely important to the strength of the United States. Such research can help us learn ways to control pests with maximum efficiency while doing the least damage to our environment, it can teach us how to use fertilizers to maximum benefit, how to fully utilize the energy of the Sun and the nourishing abilities of water and soil, and how better to produce disease resistant strains of plants and breeds of livestock. Provisions in H.R. 11743 that call upon the United States to share the yield of our research with the people of other nations insure that this bill is a foreign assistance bill of the very best kind.

I also endorse sections of this bill which encourage nutrition research, animal health research, and methods by which to insure that small farmers will be able to take full advantage of the knowledge gained through these and other research efforts. H.R. 11743 is certain to prove one of the best investments that this Congress will make in the future health of this country.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman from Illinois for his kindness.

I just want to continue on with the chairman or ranking minority Member on this question of research funds.

Are there funds in being today, is this added on top of the $600 million that is being authorized?

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, in responding to the query of the distinguished gentleman from California (Mr. GOLDWATER) I was replying that the authorization contained in the bill would include funding for forestry research; however, the thrust of the bill is to increase research funding or funding for all research, including forestry.

Mr. GOLDWATER. In other words, would this be on top of that which is now in existence?

Mr. WAMPLER. Let me respond in this manner. In the President's proposed budget for fiscal year 1977, there was an amount of $510 million for all agricultural research, including forestry research. The authorization level in the bill before us would increase that for fiscal year 1977 from the $510 million and it would be $600 million. So the answer is, yes, as explained.

Mr. GOLDWATER. Would that be $600 million total?

Mr. WAMPLER. $600 million total.

Mr. GOLDWATER. One last question that I would like to ask the gentleman. Section 4(f), which is found on page 20 of the bill, provides for reimbursement of members of the Board. It is my desire to be reassured by the committee that this language is standard language. My concern arises from the fact that this is a very large board which possesses an unlimited life and will involve individuals all over the country.

Am I correct that it is the intent of the committee that this section is intended to cover the legitimate expenses and that it is the intent of the committee that the taxpayer is getting the most effective expenditure of his tax dollars with respect to the expenses of the Board?

Mr. WAMPLER. If the gentleman will yield further, in responding to the distinguished gentleman from California, I would say that the answer is, and I wish to assure the gentleman, that the language in the bill is intended to be boilerplate language. There is provision for membership on the Board for both Government members, as well as the private sector members, as provided in the bill, and the language that the gentleman from California refers to is intended to provide that Board members be reimbursed for legitimate expenses only as provided for in existing law. No change in existing law is intended and none is provided, in my opinion.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I rise in support of this legislation. I think it is a good move. It is a step in the right direction and provides the proper kind of coordination between various research concerns. By doing this we can find the answers to many of the plaguing questions that we who are interested in agricultural research have for carrying on agriculture as it has been in many years. I commend the committee for bringing this bill to the floor.

Mr. FINDLEY. Mr. Chairman, I, too, rise in support of the bill.

Mr. McHUGH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a member of the Committee on Agriculture, I am very pleased that we have brought this bill before the House. I think it is a good bill and a reflection of the increasing concern we have regarding the importance of agricultural research.

I therefore want to commend the chairman and the ranking minority member, the gentleman from Virginia (Mr. WAMPLER), who is the sponsor of the legislation.

I am also pleased that we have included in the bill a modest specific authorization for human nutrition research. The authorization for fiscal year 1977 is $5 million, which is a modest figure relative to the need. We had testimony before the committee to indicate that given the gaps in our knowledge of human nutrition, a greater authorization is justified. However, the committee was reluctant to authorize more than $5 million, which, while still short of a total commitment to nutrition research, is, at least, a good beginning.

Mr. Chairman, I do have two concerns with this bill which I would like to mention briefly. The first relates to whether or not agricultural research programs now in existence have to be reauthorized every year. The ranking minority member, the gentleman from Virginia (Mr. WAMPLER) and the gentleman from Louisiana (Mr. MOORE) have addressed that rather specifically, and I thank them for it. I believe their discussion clarifies the situation, and while I would personally prefer that the existing programs not be subjected to an annual authorization, even temporarily, I am encouraged by the statements made on the record by the author of the bill, Mr. WAMPLER.

My second concern relates to section 4, which would create a National Agricultural Research Policy Advisory Board. Subsection (a)(2) would authorize the Secretary to appoint five representatives from colleges and universities engaged in agricultural research. If I may address my question on this to the gentleman from Virginia (Mr. WAMPLER), I would appreciate his attention.

Mr. WAMPLER, would it be possible under that subsection for the Secretary to appoint someone to the Advisory Board from an experiment station that is engaged in agricultural research?

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank the gentleman for yielding to me. In response to the question of the distinguished gentleman from New York, I would say that the answer is "Yes." There is nothing in the bill to prohibit or prevent it. It certainly would be the thought of the gentleman from Virginia that when the Secretary of Agriculture makes his selections to the policy board, that he would consult closely with the academic community in making these selections.

Moreover, as I stated earlier, it would be entirely possible, if we could find an individual who had expertise in more than just one field—and certainly nutrition, in my judgment, would be of the highest priority—I would hope that we would have at least one constituent member on the board who would have broad knowledge of the field of nutrition.

Mr. McHUGH. Is it the gentleman's hope and intention, as it is mine—and I ask this of the gentleman since he is the author of the bill—that the Secretary appoint a person from an experiment station to the board, given the great contribution that those experiment stations have made to agricultural research?

Mr. WAMPLER. Absolutely, it would be the hope of the gentleman from Virginia that this consideration would take place.

Also, Mr. Chairman, I think the record should note that there is a very important part of this bill, the so-called McHugh amendment, which was offered by the gentleman from New York during the markup session on this legislation, which does provide for a new and integrated thrust into the field of nutritional research. By some standards, $5 million is considered a modest sum, but it was the initiative of the gentleman from New York which produced that new initiative. He is to be commended for it. We have, in effect, an open-end authorization in this particular area for fiscal year 1978 and 1979.

It would be the hope of the gentleman from Virginia that as our budgetary situation improves—and hopefully, it will—that we can devote larger sums of money to this area because I can think of nothing that is more important than adequate programs into nutritional research. I commend the gentleman from New York for his contribution, because it has made this a better bill.

Mr. McHUGH. I thank the gentleman for his very thoughtful remarks.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask a question of the gentleman from Virginia (Mr. WAMPLER). What was the logic of putting nutritional research in Agriculture rather than Health? It would seem to me that the producers of food are not necessarily the group in government that would be as vitally concerned about nutrition and the health of the people as the division of Health in the Department of HEW. Nutrition research would seem a more likely responsibility of HEW.

What was the logic of putting this nutrition research organization, which I think is a very important function, in Agriculture, in the food production sector of our governmental bureaucracy, rather than in that which is concerned with health?

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank the gentleman for yielding to me.

May I say that approximately 60 percent of the total budget for the U.S. Department of Agriculture is allocated to functions which are classified as nutrition. As the gentleman from Ohio knows, the food stamp program is under the legislative jurisdiction of the Committee on Agriculture and, of course, is administered by the Department of Agriculture. Other worthwhile nutritional programs are likewise under the jurisdiction of the Department of Agriculture.

It was the feeling of our committee that the land grant colleges and universities, through their extension services, have contributed greatly to nutritional research on a one-on-one basis, helping low income, impoverished people to improve their diet through better nutritional education. This means of transmitting this vast reservoir of information and putting it in usuable form was one of the reasons we considered it. In certain unique areas, we consider the Department of Agriculture can well perform this, because I believe that in the Department of Agriculture, there is a large reservoir of expertise on nutrition. It was for those reasons as well as others that it was considered.

Mr. VANIK. In HEW is there a comparable nutrition research function?

Is there a nutrition research function that is presently carried on in the Department of Health?

Mr. WAMPLER. If the gentleman will yield, I believe in the Department of Health, Education, and Welfare most of the nutritional research pertains more to disease—how nutrition may improve health and prevent disease and malnutrition—rather than the nutritional value of food that is consumed on an ongoing basis.

That would be the opinion of this gentleman.

Mr. VANIK. Would there be any correlation between what we establish in this bill and the functions that are performed by HEW? Is that specified?

Mr. WAMPLER. In responding to the gentleman, yes, I would say the bill specifically provides for better coordination for the assimilation of research data. There is a substantial amount of basic research taking place other than in the Department of Agriculture that has a definite bearing on nutrition and other matters relating to agriculture. The bill provides for a better clearinghouse or assimilation point so that research information and data can be better used and disseminated.

Mr. VANIK. I thank the gentleman.

Mr. SMITH of Iowa. If the gentleman will yield, I sit on the Appropriations Subcommittee dealing with national health. We can give them hundreds and hundreds of millions of dollars and they will spend almost none on nutritional research. They are constantly looking for some magic drugs that will solve the problems, and they constantly refuse to consider the great importance of nutrition and the ability of the body itself to respond to its stresses and strains if they have proper nutrition.

Mr. VANIK. I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, the National Agricultural Research Policy Act of 1976, H.R. 11743, is a good piece of legislation which place a long-needed emphasis on planning and focusing our efforts in agricultural research so that present and evolving food problems, both domestic and international, will be addressed.

We have witnessed famines, energy shortages, droughts, disease, water, air and soil pollution, deforestation and overgrazing, and other grave problems that have had immediate impacts on our food production and distribution system. The subsequent depletion of our grain reserves in the early seventies triggered a full food production policy which called for the planting of all available acreage. Farmers eagerly responded, technology kept pace with larger, more energy-intensive machinery, and research produced new, chemical, farming aids, more high-yielding hybrid crops, and other supports for large farmers.

I am not disparaging the many achievements of our agricultural system, but I am concerned over certain factors resulting from this mechanized system of large-scale, monocultural farming. The constantly increasing international demand for food, and the abundance, until recently, of cheap energy has developed a built-in reliance on petrochemical sources of energy in our agricultural system. This heavy use of chemical fertilizers, pesticides and herbicides has begun to take its toll in many ways.

Fossil fuels have become expensive as their sources have diminished and the finiteness of the supply has been recognized. This has meant increased costs to our farmers and higher food prices to our consumers. Besides this serious factor, petrochemicals are polluting our streams and lakes, and possibly damaging the quality of our soil and food. This is definitely an area for research. We may need to move away from this heavy emphasis on energy-intensive chemical aids in the near future and should be prepared with good alternatives. The price of energy will continue to escalate and farmers will start to feel the crunch. Those who depend heavily on natural gas for the irrigation process, as many farmers in Texas do, are already cutting down their irrigated acreage due to costs.

Adequate preparation for such needs may involve the development of farming alternatives which include mixed-cropping, no-tillage, biological and integrated pest controls, a move toward smaller, organic farms which use appropriate technology that demands little fuel and maximizes efficiency. The studies, reports, and views on this issue by such organizations as the Center for the Biology of Natural Systems, the Agribusiness Accountability Project, and Friends Committee on National Legislation should be seriously considered.

The promotion of small farms, direct marketing from farmer to consumer, appropriate technology, and organic farming aids may become very necessary elements in our future agricultural system. I hope that the agricultural research which is stimulated by H.R. 11743 addresses these points.

Mr. BALDUS. Mr. Chairman, colleagues, I rise in support of the bill.

Agricultural research has in the past provided us with the means to maximize our agricultural production. In our recent history it has been our ability to increase our food yields on a per acre or per animal basis that has kept the United States in an enviable position in terms of the world production of food.

Nevertheless, present and future world food demands require continued comprehensive research into food production and marketing capabilities. The bill before us provides for a system of research which will be subject to input from a wide variety of interested parties. The bill is offered in the anticipation that its enactment will result in higher production for the farmers of America and the rest of the world and will make more food available for a starving world.

I would like to bring to the attention of my colleagues a significant and meritorious change which is made under this bill in terms of who may undertake research authorized under the act.

In the past, research grants have been

earmarked for land-grant colleges and universities. This policy has neglected the research capabilities of non-land-grant institutions. When hearings were held by the Agriculture Committee, Dr. James Dollohan of the University of Wisconsin at River Falls, a university which is very strong on agricultural studies, gave testimony supporting an extension of eligibility to non-land-grant institutions.

In response to this concern, this bill authorizes the Secretary to make grants to all colleges and universities having demonstrable capacity in agricultural research. Such institutions shall also, of course, be eligible to seek the special competitive grants contained in the bill. In this way, no institution which is capable of performing the research will be barred from doing so simply because of the nature of the institution.

I urge my colleagues to support passage of the National Agricultural Research Policy Act of 1976.

Mr. SYMINGTON. Mr. Chairman, I rise in support of H.R. 11743, the National Agricultural Research Policy Act of 1976.

There are many reasons for my strong support of this legislation. The food crisis of 1972, during which worldwide crop output dropped almost 2 percent after years of steady increases, magnified the Nation's concern for our precious agricultural system. Since that time the increasing demands in other countries for our food products, the simultaneous disappearance of our own food reserves, and the prevailing economic, political, and social trends, have combined with the usual vagaries of the weather to warrant continuing concern about food supplies and to make farming an increasingly risky business.

The American farmer has always been at center stage, but this has perhaps never been as apparent as it is now. His productivity and experience today and tomorrow may well provide the difference between a sane and rational world and one plunged into the abyss of famine, recrimination, and war. Many of the farmers' successes in achieving their production records of the past have been directly related to research investments in earlier years—and it is primarily for this reason that I urge my colleagues to support this bill.

Our ability to meet future United States and world food needs will continue to depend on major breakthroughs in agricultural science and technology, and this legislation will, to the greatest degree possible, provide a mechanism for identifying the Nation's highest priorities for agricultural research, assure that this high-priority research is effectively implemented, and insure that all research related to agriculture is effectively planned, coordinated, and evaluated.

From my perspective as a member of the Committee on Science and Technology, I would also like to mention that this bill complements well the provisions of the National Science and Technology Policy, Organization, and Priorities Act of 1976 which originated in our committee and which was signed into law by the President on May 11, 1976. One of the high-priority goals for science and technology emphasized in that act is assuring an adequate supply of food and materials for the Nation's needs. H.R. 11743 provides the specific policy needed by the agricultural research community to reach this goal.

At the beginning of this Congress, the Committee on Science and Technology was assigned a special oversight function over all areas of nonmilitary research and development. Because of its crucial importance to the Nation's welfare, agricultural research and development was the first area of special oversight chosen both by my Subcommittee on Science, Research, and Technology and by Chairman RAY THORNTON'S Subcommittee on Domestic and International Scientific Planning and Analysis. We began our joint effort early in 1975, and held 8 days of hearings on agricultural R. & D. in Washington plus field hearings in three centers of agricultural research in June, September, and October of 1975.

This joint venture turned out to be extremely worthwhile for the members of our subcommittees. Given the world food situation and the relationship of research to agricultural productivity as laid out in our hearings, it would seem imperative to devise an agricultural policy which will maximize the possibility of discovering unexploited opportunities for helping to solve world food problems through science and technology.

The report on these hearings will be printed within the next few weeks. We hope that it will be helpful to the House and the Senate committees with legislative jurisdiction over agriculture, both in the formulation of future legislative approaches and during the remaining action on this bill.

Numerous studies and reports have already appeared which strongly support the need for this legislation. Although each contributes something new and something important, the time to act is now. I urge my colleagues to give their support to this bill.

Mrs. HECKLER of Massachusetts. Mr. Chairman, the House has before it today legislation I have cosponsored which is urgently needed and foresighted. For too long criticism has been leveled at American agriculture for its slow reaction to changing climatic and environmental conditions, altered eating habits of Americans, and nutritional and agricultural needs of the world family of nations. Much of the blame for agriculture's less than deliberate outlook can be directly traced to the lack of coordinated, effective, and visionary agricultural research. This shortcoming hurts both immediately and in the long term. The legislation before us is a major step toward achieving a consolidated agricultural research program for it lays the groundwork to meet today's agricultural problems headlong. Our only obstacles will be and should be technological in nature and not the result of poor planning, lack of coordination, and insufficient funding.

The National Agricultural Research Act directs the Department of Agriculture to coordinate and disseminate information from federally affiliated agricultural research and to monitor and report to concerned institutions, agricultural research and education structures. A National Agricultural Research Policy Advisory Board is established with membership from the academic community, the agricultural community, and specified areas of the public interest.

The board will set the framework for exchange of information on Government and Government-sponsored agricultural research and education programs in addition to reviewing agricultural research policies and programs. The board will have the key responsibility of recommending long- and short-range priorities and plans for agricultural research and education and will make recommendations for allocation of USDA research funds. We in Congress will have the fruits of their labors in the form of an annual report on the state of agricultural research.

The past year and a half I have served on the Agricultural Committee have been both educational and enlightening in addition to providing more than a few surprises on our agricultural programs. I am amazed at the dearth of funding for human nutrition research when I consider the wide-ranging and complex USDA-administered food stamp program and its cost of approximately $5 billion. The enormity of these statistics and the various other federally funded nutrition-related programs make the shortage of funding for research in this area ever more puzzling and disturbing.

I am particularly pleased the bill authorizes $5 million for fiscal year 1977 and such sums as are necessary for fiscal year 1978 and 1979, though the total appropriation for the 3 years shall not exceed $150 million. This funding level compares quite favorably with the $11 million total fiscal year 1976 appropriation for nutrition research by the Agricultural Research Service, the USDA agency with major responsibility in this area. In addition, the legislation establishes a clearinghouse for Federal human nutrition research to consolidate information on nutrition research projects and results.

Finally, the bill addresses the timely and very real concern of the role of the United States in helping needy countries increase their food production. We have the necessary technology, skills, and manpower to help those less developed countries expand their agricultural horizons so that they can provide their own citizenry with basic foodstuffs. The mandate in this legislation is to assist needy countries to help themselves through our advanced resources and technical knowledge. This is a very real, tangible, and moral goal for the United States.

I commend this bill to my colleagues with my strong words of support. It seeks to answer both current agricultural research problems and anticipated hurdles in years ahead. The achievement of the purposes of this bill will more than outpace the funding requested therein.

Mr. TEAGUE. Mr. Chairman, I wish to commend my colleagues for having supported the bill (H.R. 11743), to establish a National Agricultural Research Policy Advisory Board.

This bill will enable Texas A. & M. University to expand its present research programs in agricultural research and will be of considerable help to an already extensive State Agriculture Research Service.

My congressional district has a tremendous interest in agricultural research and I am glad that the Congress has today provided the opportunity for greater focus on agricultural research.

The bill, of which I was a coauthor, has commanded nearly unanimous support from the many representatives of the agricultural, research, and academic communities throughout the country.

This measure should assure that this Nation will establish and meet adequate national goals in food, fiber, forestry product, and human nutrition research. It provides the Secretary of Agriculture with major management tools to better plan, carry out, coordinate, and evaluate the Federal role in agriculture research.

The bill provides an additional Assistant Secretary of Agriculture and a staff to assist the Secretary of Agriculture in carrying out both the new functions assigned in this bill and those agriculture research and education responsibilities already entrusted to the USDA.

The measure establishes a new permanent National Agricultural Research Policy Advisory Board, composed of 22 members drawn from concerned Federal departments and agencies, the academic community, the agricultural community, and the public, to advise and assist the Secretary of Agriculture in carrying out these functions.

The measure further authorizes additional funds for the USDA to expand agricultural research as follows:

First, $150 million would be authorized over the next 3 fiscal years for a new program of competitive grants for agricultural research, of which $15 million would be available for fiscal year 1977.

Second, an additional $5 million is authorized for competitive human nutrition research grants in fiscal year 1977 and such sums as may be necessary to carry out further human nutrition research in fiscal years 1978 and 1979.

Additionally, the bill provides an additional authorization of approximately $90 million to fund both a new mission-oriented research grant program established by the bill, and also to fund expansion of the USDA existing agricultural research programs. This is accomplished by providing an authorization of $600 million for agricultural research as compared with the President's budget request of $510 million. However, after fiscal year 1977, annual authorizations other than the new competitive research grant programs would be required.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. O'Neill) having assumed the chair, Mr. Jacobs, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11743) to establish a National Agricultural Research Policy Committee, and for other purposes, pursuant to House Resolution 1244, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 373, nays 7, not voting 52, as follows:

[Roll No. 543]

YEAS—373

Abdnor
Adams
Addabbo
Allen
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harrington
Harris
Harsha
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McHugh
McKay
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—7

Crane
McDonald
Mottl
Myers, Pa.
Paul
Stratton
Wydler

NOT VOTING—52

Abzug
Alexander
Anderson, Calif.
Andrews, N.C.
Badillo
Bolling
Byron
Chappell
Clay
Conyers
de la Garza
Dellums
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fithian
Green
Hansen
Harkin
Hawkins
Hébert
Hefner
Heinz
Helstoski
Hinshaw
Howe
Jarman
Jeffords
Jones, Tenn.
Karth
Landrum
Litton
McEwen
McKinney
Mineta
Pepper
Peyser
Richmond
Riegle
Risenhoover
Rodino
Schneebeli
Stanton, James V.
Steelman
Steiger, Ariz.
Symington
Thornton
Van Deerlin
Whitehurst
Wiggins
Yatron

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Andrews of North Carolina.

Ms. Abzug with Mr. Dellums.

Mr. Rodino with Mr. Evans of Colorado.

Mr. Badillo with Mr. Hefner.

Mr. Helstoski with Mr. Hébert.

Mr. Symington with Mr. Alexander.

Mr. Litton with Mr. Heinz.

Mr. Byron with Mr. Hansen.

Mr. Chappell with Mr. Esch.

Mr. Richmond with Mr. Eshleman.

Mr. Pepper with Mr. Jeffords.

Mr. Riegle with Mr. Karth.

Mr. Clay with Mr. Evans of Indiana.

Mr. Harkin with Mr. Peyser.

Mr. Conyers with Mr. Fithian.

Mr. de la Garza with Mr. Schneebeli.

Mr. Hawkins with Mr. Green.

Mr. Howe with Mr. Steelman.

Mr. Mineta with Mr. McEwen.

Mr. Risenhoover with Mr. Steiger of Arizona.

Mr. Thornton with Mr. McKinney.

Mr. Yatron with Mr. Whitehurst.

Mr. Van Deerlin with Mr. Landrum.

Mr. Anderson of California with Mr. James V. Stanton.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to establish a National Agricultural Research Policy Advisory Board, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

USDA EXECUTIVE ADJUSTMENTS

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10133) to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 101333, with Mr. JACOBS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. WAMPLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have the privilege to bring to the Committee today the bill (H.R. 10133) which I introduced at the request of the administration. This bill makes much-needed salary and other adjustments at the policymaking level at the Department of Agriculture. It is designed to accommodate the tremendous increase in the scope and complexity of the programs administered by the United States Department of Agriculture over the past quarter century by upgrading and augmenting the top-level policy staff of the Department.

Briefly, this legislation:

Upgrades the position of Under Secretary—executive level III; $42,000—to Deputy Secretary of Agriculture—executive level II; $44,600;

Establishes a new position of Assistant Secretary of Agriculture at executive level IV ($39,900);

Raises the positions of Administrator, Animal and Plant Health Inspection Service, and Administrator, Food and Nutrition Service, from GS-18—$37,800—to executive level V—$37,800;

Increases the membership of the board of the Commodity Credit Corporation from 6 to 7; and

Removes from executive level V the position of Director of Agricultural Economics—whose duties will be assumed by the New Assistant Secretary—and the position of Director of Science and Education, which has not been filled for several years.

This legislation will bring the USDA top-level staff structure more in line with that of other major executive departments. At present, the Secretary of Agriculture has available to assist him in managing and directing the complex and far-reaching programs of the Department of Agriculture a top echelon staff consisting of one Under Secretary, four program Assistant Secretaries—executive level IV—an Assistant Secretary for Administration—executive level V—and the Director of Agricultural Economics—also executive level V. This small group of top policy officials is responsible for developing the policies and directing and managing the operations of a Department that carries out its many complex programs at over 10,000 locations, in every one of the 50 States, in over 3,000 counties, and in many foreign countries. Many new programs have been enacted by the Congress since 1953. Net budgetary expenditures for all activities of the Department have increased from about $4.7 billion in 1953 to an estimate of about $10.7 billion in 1977; and during this same period, the average annual employment has increased from 62,479 to 105,752.

The need for adequate staffing of the several Departments at the Deputy Secretary and Assistant Secretary level has been recognized in most of the other Cabinet-level agencies of the Government. Four Departments of Government now have Deputy or Under Secretaries at the executive level II, including the Departments of State, Treasury, Transportation, and Defense—which has two Deputies. The committee believes that the Department of Agriculture, in terms of budget, numbers of employees, breadth of program, and general responsibility more than merits a Deputy Secretary at executive level II. In addition, changing the classification of this position from Under Secretary to Deputy Secretary will give the incumbent status commensurate with his responsibility as he deals with other nations, other Departments of Government, and agencies outside Government.

USDA, with but four Assistant Secretaries at executive level IV, ranks low among the Executive Departments. By comparison, the Defense Department and its service departments have a combined total of 22; the Department of Housing and Urban Development has 8; the Department of State has 12; the Department of Justice has 9; the Department of the Treasury has 5; the Department of the Interior has 6; and the Department of Labor has 6.

The position of Director of Agricultural Economics at executive level V—$37,800— was established in the Office of the Secretary of Agriculture on October 13, 1961. The incumbent in this position exercises the responsibility of an Assistant Secretary of Agriculture and should be accorded the same rank. This bill upgrades this position to that of an Assistant Secretary at executive level IV and abolishes the position of Director of Agricultural Economics.

The positions of Administrator, Animal and Plant Health Inspection Service—APHIS—and Administrator, Food and Nutrition Service—FNS—will be upgraded from GS-18 to executive level V.

APHIS is one of the largest and most complex agencies in the Department of Agriculture. It has overall responsibility for the meat and poultry inspection programs as well as the many programs in the areas of plant and animal disease and pest control. The agency employs over 15,000 people and administers a budget of over $400 million. A number of other smaller agencies have Level V administrators. For example, the Food and Drug Administration, which has responsibilities which are comparable in some respects to those of APHIS, has a Level V commissioner even though its employment—6,763—and budget—$252 million—are less than half of those of APHIS.

The growth in importance and in budgetary impact of the programs of FNS since it came into existence in 1969 probably has no peacetime parallel among Federal agencies. In fiscal year 1970, FNS had a staff of 1,747 to administer programs with outlays of approximately $1 billion. By fiscal year 1976, the FNS staff had grown to 2,534 and its budget, due in large measure to the tremendous expansion in the numbers of people served by the food stamp program, had jumped to $7.9 billion. The mission of this agency, to bring to millions of Americans a nutritious and adequate diet, demands that the prestige and compensation of its chief executive officer be such as to attract able men and women.

Finally, this bill will increase the membership of the Board of Directors of the Commodity Credit Corporation—CCC—from 6 to 7. Of recent years, greater attention has been focused on the stablization of the rural population and major emphasis has been placed upon programs which enhance rural development. The basic economic decisions of the CCC Board need to be correlated with the administration of Rural Development programs and the Committee believes that adding the Assistant Secretary of Agriculture for Rural Development to the CC Board of Directors will strengthen this relationship.

The Congressional Budget Office has estimated that, in view of the negligible increases in salary effected by this bill and in view of the fact that two executive level V positions would be eliminated, this bill will result, over a 5-year period, in a net annual savings of over $30,000. The Committee's estimate, which agrees almost exactly with that of USDA, is that this bill would cost about $5,000 per year. The principal reason for the difference is that the Committee and USDA have attributed no saving to elimination of the position of Director of Science and Education because the position is vacant.

Mr. Chairman, this bill was approved by the Subcommittee on Department Operations, Investigations and Oversight by a record vote of 6–1 and was ordered reported by voice vote by the full Committee on Agriculturee on May 11, 1976. The Committee on Agriculture believes that if the Secretary of Agriculture is to be held accountable, as he must be, for the effective administration of the numerous and complex programs of the Department of Agriculture, he must also be given the tools to do the job. We urge the Members to support prompt enactment of this bill in order that the Secretary may attract an adequate staff of qualified and competent administrators and organize them to do an effective job. Thank you.

Mr. WAMPLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 10133. This bill, which will elevate the Under Secretary of Agriculture, add an additional Assistant Secretary, and upgrade the status of the Administrators of Animal, Plant and Health Inspection Service and Food and Nutrition Service, was submitted and supported by the administration and is in my opinion justified.

While other agencies in Government have continually upgraded their top leadership positions, the Department of Agriculture has not kept pace. It is interesting to note that the USDA budget during the past 20 years has increased by 127 percent, while management upgrading has not begun to keep up with this increase. I believe strongly that the position upgrading which is contained in this bill will give the Department of Agriculture the additional influence it will need in the future to attract people to lead this Government agency, which is charged with keeping our agriculture sector healthy.

In addition, this legislation also deletes the positions of Director of Agricultural Economics, Director of Science and Education, and increases the number of members of the Board of Directors of the Commodity Credit Corporation from six to seven. The CCC reorganization is necessary to make a position on the board for the new Assistant Secretary being authorized in section 2 of this bill. The Director of Science and Education has been unfilled for years, and it is assumed that the Director of Agricultural Economics will become the new Assistant Secretary.

Mr. FOLEY. Mr. Chairman, I have no further requests for time.

Mr. WAMPLER. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, this is a noncontroversial bill. It is not one that causes a great deal of excitement. There is one provision in this bill, however, that does cause a great deal of controversy and causes me and a number of other members of the committee not to be able to support the bill so long as this amendment remains. I am talking about the seventh committee amendment which on page 3 of the bill inserts a new paragraph 64, seeking to raise the Administrator of the Food Nutrition Service from the present GS–18 level up to an executive level 5.

Mr. Chairman, we believe this is most unwise at the present time. This is the one provision in the bill that was not—I repeat, was not—requested by the USDA. This was the one provision in the bill inserted during markup of the bill in the subcommittee without any hearings, without any justification.

When we consider the evidence of the job that this particular division or part of the United States Department of Agriculture has been doing, I do not believe we can conclude that this particular head of this Department, the administrator of FNS, deserves a promotion. As a matter of fact, I believe it is really premature.

We should wait until, one, the House and Senate works their will on new food stamp legislation; two, we should definitely wait until we have further evidence that the General Accounting Office investigations of the program and its administration are completed; and third, we should wait until we see this Office doing a better job than it is doing now so that it merits or deserves a promotion, as none is deserved now.

Members of the committee, people in this country, in this particular year, it seems, are very skeptical about what has been going on in Washington. I find that they are very, very skeptical about the bureaucracy and the job it is doing. They believe it to be unresponsive, inefficient and often not doing what the people back home believe it should do. We have ample evidence in discussion and debate on this program before our committee. We have ample evidence that the FNS has not been administering the food stamp program as you and I and the people of this country would have it done. They have not done a good job; they do not deserve having a promotion within the department at this time. We would be flying in the face of the people of this country who expect people to be promoted only for having done a good job, not when the evidence clearly establishes that a good job has not been done.

I call this to the attention of the Members during general debate in order to urge them to give their attention when committee amendment No. 7 is brought up. We are going to call for a separate vote on this amendment, and I urge that the Members vote this amendment down. The bill then would clearly be deserving of passage and can be supported by everybody and will be noncontroversial.

As long as this amendment remains in the bill, I think it is an insult to all the administrators who have done a good job, and flies in the face of what we are talking about to the people back home when we say that we are trying to make the bureaucracy operate better. I urge defeat of this amendment.

Mr. FOLEY. Mr. Chairman, I have no further requests for time on this side.

Mr. WAMPLER. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5313 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(22) Deputy Secretary of Agriculture.".

(b) Section 5314 of such title 5 is amended by striking out paragraph (3).

(c) The Acts listed in paragraphs (1) and (2) of this subsection are amended by striking out the words "Under Secretary of Agriculture" wherever they appear and by inserting in lieu thereof the words "Deputy Secretary of Agriculture":

(1) The Act of March 26, 1934 (48 Stat. 467; 7 U.S.C. 2210).

(2) The Act of June 5, 1939 (53 Stat. 809; 7 U.S.C. 2211).

(d) The officer occupying the position of Under Secretary of Agriculture, on the date of enactment of this Act, may assume the duties of the Deputy Secretary of Agriculture. The individual assuming such duties shall not be required to be reappointed by reason of the enactment of this Act.

SEC. 2. There shall be hereafter in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, two additional Assistant Secretaries of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, shall be responsible for such duties as the Secretary of Agriculture shall prescribe, and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

SEC. 3. (a) Section 5315 of title 5 of the United States Code is amended by striking out "(4)" at the end of paragraph (11) and by inserting in lieu thereof "(6)".

(b) Section 5316 of such title 5 is amended as follows:

(1) By striking out paragraph (23).

(2) By striking out paragraph (55).

(3) by striking out paragraph (63) and inserting in lieu thereof:

"(63) Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.".

(c) Section 3 of Reorganization Plan Numbered 2 of 1953 (67 Stat. 633) is hereby repealed.

SEC. 4. Section 9(a) of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1072, as amended, 15 U.S.C. 714g (a)), is amended by striking out the third sentence and inserting in lieu thereof: "The Board shall consist of seven members (in addition to the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate.".

SEC. 5. (a) Except as otherwise provided in this section, this Act shall take effect on its date of enactment.

(b) Subsection (b)(1) and subsection (c) of section 3 of this Act shall take effect upon appointment of a Presidential appointee to fill the successor position created by section 2 of this Act.

(c) Subsection (b)(2) of section 3 of this Act shall take effect upon appointment of a Presidential appointee to fill the successor position created by section 2 of this Act.

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 6, strike "(22)" and insert "(23)".

The committee amendment was agreed to.

The CHAIRMAN. The clerk will report the next committee amendment.

Mr. FOLEY. Mr. Chairman, I ask unanimous consent that committee amendments 2 through 6 be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. MOORE. Mr. Chairman, reserving the right to object, I would like to ask the Chairman if the seventh committee amendment is the one I am concerned with.

Mr. FOLEY. The gentleman is correct. My unanimous-consent request does not go to that committee amendment, but to the committee amendments preceding that.

Mr. MOORE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The clerk will report the committee amendments 2 through 6.

The clerk read as follows:

Committee amendments: Page 2, line 19, strike the clause "two additional Assistant Secretaries" and insert in lieu thereof "one additional Assistant Secretary".

Page 3, lines 2 and 3, strike all of the sentence after the words "is amended" and insert in lieu thereof "by striking the number which appears in the parenthesis at the end of paragraph (11) and by inserting in lieu thereof the next higher number."

Page 3, strike lines 5, 11 and 12 inclusive.

Page 3, line 6, strike "(2)" and insert in lieu thereof "(1)".

Page 3, line 7, strike "(3)" and insert in lieu thereof "(2)".

The committee amendments were agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, immediately after line 10, insert the following:

"(3) By inserting a new paragraph (64) as follows: '(64) Administrator, Food and Nutrition service.' "

Mr. MOORE. Mr. Chairman, I rise in opposition to this committee amendment.

Mr. Chairman, this is the amendment to which I addressed my remarks during general debate. This promotion is not justified for several points, the first comes from the USDA Quality Control Report of February 1976, where they reported a 46.6-percent error rate in almost 37,000 food stamp cases reviewed for the time period of January through June 1975.

Second, the Assistant Secretary, Richard L. Feltner of USDA, who is in charge of the Food and Nutrition Service, has reported that from a review of the records from July 1, 1974, to September 1975, there were funds totaling some $17 million due USDA for food stamp purchases which were missing or could not be accounted for in satisfactory fashion.

Third, this same Assistant Secretary testified before the Committee on Agriculture on February 11, 1976, that FNS had no overall coordinated data collection system on illegal activities in the food stamp program. This is a program that will cost some $5.7 billion this year alone, 39 percent of USDA's budget, and we have no satisfactory program for collecting the data to tell us what is going wrong with it.

Fourth, the General Accounting Office has four separate investigations going on right now concerning the problems of the administration of this program by FNS.

Fifth, Mr. Gene Senat, of Louisiana, who was the manager for FNS in Louisiana, testified he believed that because of poor administration, the program lost $46 million in Louisiana alone, as backed up by a USDA audit dated June 25, 1975.

Sixth, 26 members of the Committee on Agriculture, well over a majority, signed a joint letter dated May 13, 1976, to GAO, stating that in view of evidence they had seen in the hearings on the food stamp program, the entire administration of the program by FNS should be reviewed by the General Accounting Office.

I met last Friday with representatives of the GAO concerning this joint letter, and there is indication that the current four investigations they now have under way may well be expanded to look into more of the operations of FNS.

Seventh, there were no hearings on this amendment. This simply came up in markup. There is no evidence to support it. Instead, USDA said they prefer this particular one to be put off. They see no need for doing it now.

Eighth, it seems to me to be premature and illogical to call for a promotion or upgrading, in view of all of the evidence we have against this office doing a good job. This seems to be a slap in the face to the public and administrators trying to do a good job to see a promotion take place in light of substantial evidence of poor administration of this program.

All of us who oppose this amendment are perfectly willing to see the FNS administrator promoted but only when this particular office makes significant improvement in the administration of the food stamp program. We have seen no evidence of this so far. This particular administrator has been on the job 6½ years. I am not criticizing one man. I am not trying to say that one man has not done a good job.

The point is that the office or organization of FNS within USDA has not functioned as we would have it function. The evidence is clear to that effect. Therefore, we should not promote the head of that office or organization. Whether he is personally at fault or not, he is the head of it. I think it is very clear that it would be most unwise at this time to promote him when in fact his office, his division, and the people under him have evidently not performed satisfactorily.

The people back home are not at all happy with the food stamp program. Major legislation is being considered by the House and the Senate in that area. This is not the time to promote the head of a program that is the subject of such justifiable criticism as that which has been leveled at the administrator of the program. Our evidence shows that most of the problems seem to be not with the legislation but with the failure to administer the program properly.

Therefore, Mr. Chairman, I urge the Members to vote down the committee amendment.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the last word.

(Mr. ROUSSELOT asked and was given permission to revise and extend his remarks.)

Mr. Chairman, I am sure that the gentleman from Louisiana (Mr. MOORE) recalls that when the appropriation bill was here from the Committee on Appropriations, they stated that they found substantial fraud and misuse in the food stamp program. When the Appropriations Committee went through much of the testimony relating to the funding of dollars for the food stamp program, that was one of the prime justifications for cutting the appropriation for the program.

The gentleman from Washington will also recall that I mentioned at the time the appropriation bill was debated before the House that there had been an extensive grand jury investigation of food stamps in Los Angeles County. Los Angeles County, which is the largest county dispensing food stamps in the State of California, found that there was substantial fraud and misuse of the program in that county.

So what the gentleman from Louisiana is trying to tell us is that the appropriate place to correct that administrative problem in the program is in this legislation. We should not in any way promote those who have been responsible for this major neglect in the program.

Mr. MOORE. Mr. Chairman, if the gentleman from California will yield, I agree completely with his comments.

If we go through this and approve this committee amendment today, what we are telling the people in this country is, notwithstanding the fact that the administration is poor, notwithstanding the fact a good job has not been done, and notwithstanding the fact the program is not functioning as we would have it function, we are still going to promote those who are in charge of it.

Mr. Chairman, that, it would seem to me, would be as illogical to the average citizen as it is to me.

Mr. ROUSSELOT. Mr. Chairman, I think the gentleman makes a valid point.

Mr. FOLEY. Mr. Chairman, I rise in support of the committee amendment.

I wish to point out 2 things, Mr. Chairman: First of all, during the consideration of this particular amendment in the committee, it was decided to place a different time on the effective date of this amendment than reflected by the other changes in the bill.

This amendment which upgrades the position of Administrator of the Food and Nutrition Service and the provision of the bill which upgrades the position of Administrator of the Animal and Plant Health Inspection Service would not take effect until January 21, 1977.

Now, as a matter of fact, the difference between grade level 18 of the General Schedule and executive level 5 is at the moment nil; there is no difference at all in the salary. So we have a prospective change in the grade level without any change in salary, and even the change in grade level is postponed until next year.

I know that the gentleman from Louisiana (Mr. MOORE) has very strong feelings about the administration of the food stamp program by the Food and Nutrition Service of the Department of Agriculture. But it does not seem to the Committee wise to downgrade a position that is responsible for the largest area of expenditure in the Department of Agriculture because of dissatisfaction with the performance of the present incumbent of that office. If we want to get better administration, then we ought to treat the position with the importance that its responsibilities demand. The question of who holds the position is an administratve judgment to be made by the executive branch. For Congress to reduce by legislation the relative importance of a position to a level totally incommensurate with its responsibilities and with its potential impact on the budget seems a most unwise action to take in terms of proper budgetary and fiscal responsibility. If anything, we should treat these positions that have responsibility for making expenditures of an extraordinary magnitude with some very careful concern.

There are now eight administrators of agencies in the Department of Agriculture who are at Executive Level V; and the Administrator of the Food and Nutrition Service immediately supervises programs that account for more than half of the total expenditures of the Department of Agriculture.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's yielding.

The gentleman has just indicated that the reason he favors the committee amendment is because if we do not approve it the people who are administering this portion of the program will be downgraded. He did not mean to say that. They will remain at their present level, grade 18; is that correct?

Mr. FOLEY. The gentleman is correct. They are at grade 18.

Mr. ROUSSELOT. The gentleman will also admit that promotion to Executive Level V does not really increase very substantially their salaries; is that correct?

Mr. FOLEY. It does not increase them at all because they are effectively the same.

Mr. ROUSSELOT. It is not really a matter of "money" being paid to these people.

The point the gentleman from Louisiana (Mr. MOORE) is making is, that it gives the appearance, slight though it may be, if we approve this committee amendment, that Congress approves of this mismanagement, of this fraud of which the Committee on Appropriations spoke, and that we should not apply these kinds of increases to that portion of the Agriculture Department that has done a bad job in administering this program.

Mr. FOLEY. No. What I am saying is that if the gentleman feels that the Department of Agriculture has done a bad job in administering this program, the remedy is to address the Department of Agriculture, with a recommendation that they do a better job.

Mr. ROUSSELOT. We have tried many times.

Mr. FOLEY. But that is the correct answer.

When I say "downgrade," I mean denying what would normally be an appropriate upgrading of the position to specifically exclude the position of Administrator of the Food and Nutrition Service from that upgrading amounts, in effect, to a kind of legislative bill of attainder against the individual who holds that position.

I recognize that it is not a bill of attainder, but in expressing one's judgment of the performance of the present incumbent by voting not to increase the status of the office; the effect is the same. I would emphasize that under the committee amendment the upgrading in the office does not take effect, the increase of the office's status—that is all it is, as the gentleman rightly says—does not take effect until January 21, 1977, so that whoever is President of the United States at that time or whoever is Secretary of Agriculture, has an opportunity either to confirm the present incumbent or to make a change.

Mr. Chairman, I think that is the way we ought to look at the proposed upgrading of this position, and not in terms of the qualifications of the present holder of the office, one way or the other.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. To continue, Mr. Chairman, this is exactly like being dissatisfied with the performance of some military officer or the head of some service. It is like deciding to take stars away from, let us say, the Commandant of the Marine Corps, because one does not like the performance of the present Commandant. I am not speaking about him personally, but as an example. Or, Mr. Chairman, let us take the Chief of Naval Operations. If one did not like his performance, there might be a decision to take away his stripes, simply because one does not like the performance of the incumbent Chief of Naval Operations.

Mr. Chairman, what we ought to focus on is whether the position, without regard to the performance of any individual, deserves this kind of grade level. If it does, we ought to establish it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, as the gentleman knows, in the case of the military, those improvements in status have to be approved by the U.S. Senate so that we do have an opportunity, at least one body of the Congress does, to approve or disapprove the increases based on the capability of the recipients as military officers.

I am sure the gentleman from Washington (Mr. FOLEY) did not mean to say that. However, Mr. Chairman, the point I was trying to make, at this particular juncture, in making legislative history, is that if we approve even this status or symbolism, as the gentleman said, of an increase in this particular position, I think we would be making a major mistake on the basis of the record of this Congress and the hearings before this Congress.

That is why, Mr. Chairman, I think the gentleman from Louisiana (Mr. MOORE) has made an excellent point.

Mr. FOLEY. Will the gentleman just let me say this: I want to go back to this example of the military because I think it is important.

True, he who is proposed, as an individual, to be Chief of Naval Operations is subject to confirmation by the Senate. However, the gentleman's argument only serves to underscore my point. The position of Chief of Naval Operations inevitably carries actually the rank of admiral, full admiral. The Congress, the Senate decides on the individual, that is on whether or not he should be confirmed in the position. But the Senate does not decide that, based upon the officer's past performance, he should take office as Chief of Naval Operations at the grade of vice admiral or rear admiral. The position of Chief of Naval Operations is that of a full admiral.

All I am saying is that that position deserves that status. If the Members are not satisfied with the discharge of the responsibilities of that position by the present incumbent then they have the remedy to change the incumbent. But this should not be done by downgrading the position.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. MOORE, and by unanimous consent, Mr. FOLEY was allowed to proceed for 3 additional minutes.)

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, I thank the gentleman from Washington for yielding to me.

I do not agree with remarks that have been made by the gentleman from Washington. I think that eventually this position might well deserve a rating of Executive Level 5; but I do not think it deserves it now because of the manner in which that job has been done. It may be true that people above the administrator of this program are not qualified to exercise that decision either, they do not have the authority to vote it. We have been asked by the Secretary and it must be necessary or we would not have this question here. We are asked to vote on the promotion of one that the undisputed evidence shows is not capable to hold this responsible position. Such a thing is not done, to be sure, in private industry, there they do not approve the advancement of a man in his section, or his group, or the staff if he is not functioning properly. That is where we are here, in a situation where they are not functioning properly and we want them to function properly. We want a clear demonstration that they are functioning properly and they do not deserve this when they are not functioning properly.

Mr. FOLEY. Let me say that I think we have a basic difference in philosophy here. And we might just as well get this very clear. I think that, just as in the case of the military services, grades should be established upon the basis of the importance of the position, and not upon the basis of the performance of particular incumbents. So when we begin to establish levels upon the basis of personalities I think that we establish a dangerous precedent. This could start a chain reaction that has nothing to do with how the Government ought to be organized; and has no legislative connection with legislative review of the performance of the incumbents in these offices.

I happen to think that the Department of Agriculture ought to have a Deputy Secretary. I also happen to think that a very talented and able man presently occupies the office of Under Secretary. But, spect for the person in that position today, I would, nevertheless, be in favor of upgrading the position of Under Secretary to Deputy Secretary, because this is, and has always been, the kind of office that ought to be upgraded to the responsible position of Deputy Secretary.

But, if we start deciding that we are going to review the performance of every particular person who holds an office, the level of which is proposed for change, then I think we will plunge ourselves into confusion. We will not be carrying out our proper responsibility of approving or disapproving the upgrading upon its merits as we should. Mr. Chairman, in my judgment we are not called upon here to approve or disapprove the manner in which the food stamp programs have been administered. I respect the very strong feelings of the gentleman from Louisiana about the failures of the Administration that he has talked about so eloquently. But that is not the issue here. The issue is, assuming that we have an able, competent, and devoted Administrator of the Food and Nutrition Service, should he be at grade 18 or Executive Level V? And the answer is that that position should be at Executive Level V. It is up to the Secretary in charge of the Department of Agriculture to make the decision as to whether or not the incumbent's performance is satisfactory. The issue here is the upgrading of that office; and I think the decision to upgrade is correct. This judgment is based on the importance of the office and implies no judgment one way or the other on the performance of the present incumbent.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The Chair will state that the gentleman from Louisiana has already been recognized previously.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would simply like to comment on the remarks of the distinguished chairman of the full committee, the gentleman from Washington (Mr. FOLEY), that if we were embarked on a review of all these levels and the men in them, I would agree with the gentleman, but we are not. We have been asked, not by the department and not by the Secretary, to raise this position. We have not held hearings on this. We really do not know whether this is justified or whether it is not justified. In view of the extensive hearings that we have had, we know that this office has not been functioning properly, and that is, I repeat, in view of undisputable evidence. Therefore, in this particular case I do not see how we can separate promotion from a bad job done. In the abstract I agree with him. I think he is wrong in this specific instance. We cannot escape the fact that we are promoting the office of an individual who has not done the job he should have.

I thank the gentleman.

The CHAIRMAN. The question is on the committee amendment.

The question was taken; and on a divition (demanded by Mr. FOLEY) there were—ayes 18, noes 18, and the Chairman voted "aye."

Mr. MOORE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to report their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 544]

Abzug
Adams
Addabbo
Alexander
Anderson,
 Calif.
Andrews, N.C.
Archer
Badillo
Bolling
Burke, Calif.
Burton, Phillip
Byron
Chappell
Clay
Conyers
Coughlin
D'Amours
de la Garza
Dellums
Derrick
Derwinski
Diggs
Drinan
du Pont
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fithian
Gibbons
Green
Hall, Ill.
Hansen
Harkin
Harsha
Hawkins
Hébert
Hefner
Heinz
Helstoski
Hillis
Hinshaw
Holland
Howe
Jarman
Johnson, Colo.
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Lehman
Litton
Madden
McDade
McFall
McKinney
Mineta
Moorhead, Pa.
Murphy, N.Y.
O'Hara
O'Neill
Pepper
Peyser
Pike
Rees
Richmond
Riegle
Risenhoover
Rodino
Roncalio
Ruppe
Santini
Scheuer
Schneebeli
Stanton,
 James V.
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Symington
Thornton
Udall
Ullman
Van Deerlin
Whitehurst
Wiggins
Wright

Accordingly the committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the Chair, Mr. JACOBS, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill H.R. 10133, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 343 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Louisiana (Mr. MOORE) for a recorded vote.

A recorded vote was ordered.

PARLIAMENTARY INQUIRY

Mr. FOLEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FOLEY. Mr. Chairman, my understanding is that the vote that will now occur by recorded vote will be on committee amendment No. 7, and an "aye" vote will support committee amendment No. 7 and a "no" vote will oppose it; is that correct?

The CHAIRMAN. The Chair will state that that is not a parliamentary inquiry.

The Chair will protect the rights of the Members.

A recorded vote has been ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 207, not voting 54, as follows:

[Roll No. 545]

AYES—171

Adams
Addabbo
Annunzio
Ashbrook
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brown, Calif.
Brown, Mich.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Chisholm
Conte
Corman
Cornell
Diggs
Dingell
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Fary
Fascell
Fenwick
Findley
Flood
Flowers
Foley
Ford, Mich.
Fraser
Fuqua
Giaimo
Gonzalez
Hall, Ill.
Hamilton
Hanley
Hannaford
Harrington
Hawkins
Hayes, Ind.
Heckler, Mass.
Hicks
Holtzman
Howard
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jordan
Kastenmeier
Keys
Koch
LaFalce
Leggett
Lehman
Long, Md.
Lundine
McCloskey
McCormack
McFall
McHugh
McKay
Madden
Maguire
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Miller, Calif.
Mills
Mink
Moakley
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Perkins
Pressler
Preyer
Price
Pritchard
Rangel
Rees
Reuss
Richmond
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Staggers
Stark
Stephens
Stokes
Studds
Sullivan
Teague
Thompson
Traxler
Tsongas
Udall
Vander Jagt
Vander Veen
Vanik
Vigorito
Wampler
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, Tex.
Wirth
Yates
Young, Ga.
Zablocki

NOES—207

Abdnor
Allen
Ambro
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carney
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dent
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Fish
Fisher
Florio
Flynt
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Harris
Harsha
Hays, Ohio
Hechler, W. Va.
Henderson
Hightower
Holt
Horton
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jenrette
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
Lagomarsino
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Mazzoli
Michel
Mikva
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moss
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
O'Brien
Passman
Patterson, Calif.
Pattison, N.Y.
Paul
Pettis
Pickle
Pike
Poage
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rousselot
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Schulze
Sebelius
Shipley
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Steed
Steiger, Wis.
Stratton
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Waggonner
Walsh
White
Whitten
Wilson, C. H.
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zeferetti

NOT VOTING—54

Abzug
Alexander
Anderson, Calif.
Andrews, N.C.
Badillo
Byron
Chappell
Clay
Conyers
de la Garza
Dellums
Derrick
du Pont
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fithian
Green
Gude
Hansen
Harkin
Hébert
Hefner
Heinz
Helstoski
Hillis
Hinshaw
Holland
Howe
Jarman
Jones, Tenn.
Karth
Landrum
Litton
Mineta
Mitchell, Md.
Pepper
Peyser
Riegle
Risenhoover
Rodino
Roncalio
Schneebeli
Stanton, James V.
Steelman
Steiger, Ariz.
Symington
Thornton
Ullman
Van Deerlin
Whitehurst
Wiggins

Mr. PASSMAN changed his vote from "aye" to "no."

So the committee amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, strike lines 22 through 25, and insert in lieu thereof: "(b) Subsections (b) (2) and (3) shall become effective January 21, 1977.".

AMENDMENT OFFERED BY MR. FOLEY TO THE COMMITTEE AMENDMENT

Mr. FOLEY. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. FOLEY to the committee amendment: Delete committee amendment No. 8 by deleting lines 9 and 10 on page 4; and on page 4, line 11, strike "(c)" and insert in lieu thereof "(b)".

Mr. FOLEY. Mr. Chairman, recognizing the will of the Committee of the Whole in supporting the position of those who wish to defeat committee amendment No. 7, the reason for offering this amendment to the committee amendment No. 8 is as follows: In the hope of removing some of the concern about raising the grade level of the Administrator of the Food and Nutrition Service, the committee adopted a committee amendment which delayed the change in grade level for the Administrator of Food and Nutrition Service and the Administrator of Animal and Plant Health Inspection Service until January 21, 1977.

As far as I know, Mr. Chairman, there is no objection to the immediate change in the classification of the Administrator of Animal and Plant Health Inspection Service. The effect of this amendment to the amendment is to allow that change to take effect immediately and not wait until January 1, 1977. All other changes take effect upon enactment. There seems to be no reason why the change in the position of Administrator of Animal and Plant Health Inspection Service should be delayed beyond enactment.

Mr. WAMPLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I concur with the remarks of the distinguished gentleman from Washington (Mr. FOLEY), because I believe that the Department would look with great favor on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. FOLEY) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will report the last committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, line 1, strike "(b)(2)" and insert in lieu thereof "(b)(1)".

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. JACOBS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 10133) to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes, pursuant to House Resolution 1243, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 356, nays 18, not voting 58, as follows:

[Roll No. 546]

YEAS—356

Abdnor
Adams
Addabbo
Allen
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks
Hightower
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—18

Archer
Collins, Tex.
Conlan
Conte
Crane
Grassley
Levitas
McDonald
Mottl
Paul
Rousselot
Snyder
Stratton
Symms
Wilson, C. H.
Wolff
Wydler
Yates

NOT VOTING—58

Abzug
Alexander
Anderson, Calif.
Andrews, N.C.
Badillo
Bauman
Byron
Chappell
Clay
Conyers
de la Garza
Dellums
Derrick
du Pont
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fithian
Green
Gude
Hansen
Harkin
Hébert
Hefner
Heinz
Helstoski
Hillis
Hinshaw
Holland
Holt
Howe
Jarman
Jones, Tenn.
Karth
Landrum
Litton
McHugh
McKay
Michel
Mineta
O'Hara
Pepper
Peyser
Riegle
Risenhoover
Roncalio
Schneebeli
Stanton, James V.
Steelman
Steiger, Ariz.
Symington
Thornton
Ullman
Van Deerlin
Whitehurst
Wiggins

The Clerk announced the following pairs:

Mr. Hébert with Mr. Evans of Indiana.

Mr. Jones of Tennessee with Mr. Andrews of North Carolina.

Ms. Abzug with Mr. Karth.

Mr. Badillo with Mr. Wiggins.

Mr. Helstoski with Mr. Heinz.

Mr. Litton with Mr. Peyser.

Mr. Byron with Mr. Schneebeli.

Mr. Chappell with Mr. Hansen.

Mr. Pepper with Mr. Fithian.

Mr. Riegle with Mr. Esch.

Mr. Clay with Mr. Steelman.

Mr. Harkin with Mr. Eshleman.

Mr. Conyers with Mr. Steiger of Arizona.

Mr. Howe with Mr. Whitehurst.

Mr. Mineta with Mr. Landrum.

Mr. Risenhoover with Mr. James V. Stanton.

Mr. Thornton with Mr. Alexander.

Mr. Van Deerlin with Mr. Michel.

Mr. Dellums with Mr. O'Hara.

Mr. Hefner with Mr. Gude.

Mr. de la Garza with Mr. Hillis.

Mr. Evans of Colorado with Mrs. Holt.

Mr. Anderson of California with Mr. Bauman.

Mr. Derrick with Mr. du Pont.

Mr. McHugh with Mr. Evins of Tennessee.

Mr. Green with Mr. Holland.

Mr. Symington with Mr. Ullman.

Mr. Roncalio with Mr. McKay.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for an additional Assistant Secretary of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 13955, PROVIDING FOR AMENDMENT OF THE BRETTON WOODS AGREEMENTS ACT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1394 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1394

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13955) to provide for amendment of the Bretton Woods Agreement Act, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Currency and Housing, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1394 provides for an open rule with 1 hour of debate on H.R. 13955, which authorizes the United States to accept a package of proposed amendments to the articles of agreement of the International Monetary Fund. The bill further authorizes the United States to consent to an increase in the quota that we pay to that fund.

These articles of agreement, which are commonly identified as the Bretton Woods Agreements, were adopted just after the end of World War II. These articles were based on a system of par exchange rates. However, since that time the practice has developed whereby a system of managed floating rates is used. These amendments will bring the charter of the International Monetary Fund into conformity with what has been and continues to be the existing practice.

This measure was first before the House on Monday, June 22, 1976, on the Suspension Calendar. By a very narrow vote, the bill failed to get the required two-thirds, 264 to 147. Unfortunately that vote has been widely misinterpreted in international monetary markets as an indication that the United States is not going to ratify these proposed amendments. The psychological impact of his misinterpretation could have far-reaching implications and adverse effects if we do not move quickly to adopt this bill and for that reason this Rules Committee granted this rule.

It is important that the United States maintain its leadership role in the IMF and that we act quickly and affirmatively so that other member nations can follow our lead toward the ratification of these important amendments.

Therefore, Mr. Speaker, I urge the adoption of House Resolution 1394 so that we can proceed to debate and vote on H.R. 13955.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my colleague, the gentleman from Louisiana, has conveyed the provisions of House Resolution 1394 to us already—an open rule permitting 1 hour of general debate for the consideration of H.R. 13955 which provides for amendment to the Bretton Woods Agreements Act.

H.R. 13955 authorizes the United States to accept a package of proposed amendments to the Articles of Agreement of the International Monetary Fund—IMF—and to consent to an increase in the quota of the United States in the IMF.

Under the existing IMF articles, members are required to establish a par value for their currencies in terms of gold and to maintain exchange rates for their currencies within a narrow margin around the parities defined by those par values.

The amendments provide wide latitude for member nations to adopt exchange arrangements of their choice. They will, upon approval, abolish the Fund's official price for gold, repeal the obligation of members to define a par value in terms of gold, and abolish the use of gold in other transactions between the Fund and member countries.

The Fund presently owns a large stock of gold. It has decided, under existing authority, to sell one-third of its gold stock over the next 4 years. Of this one-third, half is to be sold to Fund members at the official price of about $42 per ounce. The other half is being sold at public auctions for whatever price it will command, using the proceeds to establish a "special trust fund."

In addition, H.R. 13955 authorizes the United States to consent to an increase in its quota amounting to approximately $2 billion. Because other nations, oil producing ones in particular, are increasing their quotas the United States share of the total will actually be reduced from its present standing by 1.7 percent. This reduction will result in a decreased voting share for the United States—from 20.75 to 19.96 percent. U.S. veto power, however, will be preserved.

Representative Paul, in his dissenting views, advocates the reduction of Government intervention in free markets and cites the IMF as part of the problem, not part of the cure. According to Mr. Paul, the proposed revisions of the IMF charter will allow the agency to become just one more bureaucracy in the field of foreign aid. Rather than selling the gold and giving the profits to the "socialist bureaucrats in the third world," he favors legislation calling for the return of all gold held by the IMF to the contributing nations. He notes that we are being asked to ratify the floating exchange rate system which is, and has been, in direct violation of IMF rules. This fact lends credence to his assumption that the IMF does what it pleases, member nations do as they please, under the banner of "the rule of international law."

Finally, Mr. Speaker, this measure failed to receive the necessary two-thirds for passage under a suspension of the rules on June 22, 1976. In spite of the controversy surrounding the bill itself, I am aware of none relating to the rule.

Mr. Speaker, I do have requests for time, and I yield such time as he may consume to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, since this bill came before us on a suspension of the rules, there have been further developments that raise reservations that many of us have. I also believe that my colleague, the gentleman from Texas (Mr. Gonzalez), might have some amendments tomorrow which will be worthy of careful consideration by all Members. I am just sorry that we have not really had more time to understand this, as my colleague, the gentleman from Texas (Mr. Gonzalez) has said—and I am sure our reasons come from different directions. But this is really the first major changes in the law governing the international monetary system for some 30 years, and I am sorry that we have really not had more time to understand what the total impact of this legislation will be.

I believe most of us recognize that the International Monetary Fund has served an important purpose by providing short-term balance-of-payments assistance, but we should also be aware that many significant changes are proposed to be made to the international monetary system under this bill, and that as a House we have not had an adequate opportunity to understand fully what the impact of many of these changes will be.

I was impressed that my colleague, the gentleman from Illinois (Mr. Crane), introduced into the Record a rather substantial article from Barron's which raised a number of questions which we did not have a chance to really consider during the time we had debate on this bill in committee. I am somewhat concerned myself, as are some of my other colleagues, that we have not really given adequate consideration to all of the ramifications of this legislation, and I certainly hope that my colleagues will spend some time here tomorrow to help us ensure that thorough consideration is given to this bill and to all of the amendments which are offered.

My understanding is that we will probably rise at 6:30, and that we may not get to the amendments tonight. I hope that I can encourage my colleagues to be present tomorrow when the amendments to this bill are discussed to hear the rationale of my colleague, the gentleman from Texas (Mr. Gonzalez), and consider several important amendments to this bill.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate the gentleman for his statement. I agree that not enough consideration has been given to this particular piece of legislation.

Mr. Speaker, I join the gentleman in opposition to the bill now before us—legislation to implement agreements already made by the administration but without the consent of the Congress. The bill would retroactively approve those agreements.

Several things have to be said at the outset.

First, this a major piece of legislation. Its innocuous sounding title—Providing for amendment of the Bretton Woods Agreements Act—cannot mask over this reality.

Second, I cannot remember when a piece of legislation, as far reaching for this Nation's economic future as this one, came before the House with as little prior public debate about its probable consequences.

Third, and most important, I believe this legislation will work against retaining America's economic strength within the world community by setting into motion a combination of events which will further shift the resources which stand behind our currency—which buttress the value of our dollar—out of our country and into European central banks for the benefit of third world countries and who knows who else.

Let me be more specific.

The International Monetary Fund originally was established to administer a system of fixed exchange rates—a fixed, known standard of values between different nation's currencies. Under the present system of flexible exchange rates, this original purpose for the IMF has been made moot, irrelevant. In the absence of Congress passing the bill now before us, the IMF has no real purpose, and it would go out of business. Of course, experience shows us that very few agencies of government—an agency of the United States or a multinational agency of which the United States is the prime underwriter of expenses—ever go out of business. One of the purposes of the bill before us, therefore, is to create a new legal framework for the IMF, and that in turn will mean that its highly paid employees—who enjoy diplomatic immunity and tax-free incomes—will not be put out of work. It should be noted that a large number of employees of the agency make more than the salary of our Secretary of the Treasury.

The new function of the IMF will be to sell off its gold holdings—most of which came originally from the gold reserves of the United States—for the purpose of using the proceeds to make one-half of 1 percent loans to third world countries—lesser developed countries having an average per capita income of $350 or less.

Uganda would be eligible in that they fall into that definition and in that there is no treaty in place for invoking economic sanctions against it for having given sanctuary to Palestinian Liberation Organization terrorists after the recent skyjacking of an Air France airliner.

Hanoi would be eligible under this definition, and some have suggested that this may be the avenue through which the United States will, in effect, make reparation payments to that Communist government. It certainly would explain why the Vietnamese have quieted on that issue in recent months.

Cambodia would be eligible despite highly reliable reports that its new Communist government has already become one of the most tyrannical on the face of the Earth. Many other countries would be eligible also.

What this means is that the most mammoth redistribution of Western wealth in history is about to take place. Its magnitude transcends any of the foreign aid bills to have been considered by Congress, and it cannot be left unsaid that at a time when Congress has asserted itself forcefully in holding down the level of foreign aid—because we need the money just as much, if not more, here to help create jobs and get us fully out of the recession and because countries continue to be hostile to the United States even after we give them the foreign aid—that the administration has entered into a series of agreements which would accomplish the same thing. Now, after the fact, we are being asked to ratify those decisions. If we do, it sends a signal to this and to future administrations that they can do what they pretty well please.

How will these gold transfers work? The initial purchaser will be the Bank of International Settlements and any private parties which can get together the high minimum purchase figures. The European central banks are going to then buy the gold from the Bank. The IMF has already announced that it does not intend to trace the sales past the first transaction. The United States seeks to justify this transfer of gold from the IMF to European banks on the basis that since we have demonetized gold—it is no longer what stands behind U.S. currency—that it is no longer needed and ought to be sold like any other commodity. This bears some careful scrutiny.

The fact that the European central banks are the main gold purchasers shows one thing about all others—they do not have much faith in the new paper currency of the IMF—the special drawing rights—SDR's—and are counting on the monetizing of gold, rather than its elimination.

There was a time—not too long ago—when the United States had most of the gold. Our currency was strong; the value of the dollar was great. The U.S. dollar as the standard in the international financial community against which other dollars were measured in terms of value. Then, after the Second World War, we started massive aid programs to the rest of the world. The countries which received this aid had a claim on increasing proportions of our gold. The value of the dollar started to slip. The German deutsche mark started to become the standard against which other currencies were measured. After years of wrangling about what standard to use, a system of flexible rates was adopted.

Now, through the bill before us today, gold will be transferred to other countries, mostly the European central banks. What happens if there is a remonetization of gold—we return to some type of monetary standard based on the value of gold? It means that this time the European central banks—not the United States as in the last time—will have most of the gold, and ours will be the lesser valued currency in the international community. Thus, the bill before us would give Congress approval to agreements which would ratify once and for all the decline of the American dollar. This leads to an additional point.

Flexible exchange rates and SDR's—international paper money which unlike gold can be expanded endlessly—contribute to inflation. Flexible exchange rates remove discipline from the domestic monetary authorities and that in turn increases their tendency to inflate. Approving this bill runs a risk, therefore, of setting off a new round of international inflation.

Several other things must be said about this bill and put into a better perspective.

Even if one wants gold to become less important in relation to currencies, one should oppose this bill. By allowing these agreements to rest on transfers of gold, by allowing the central banks to acquire the gold, and by making loans to third world countries dependent upon the sale of the gold, we are making gold of more importance, not less importance. The gentleman from Texas (Mr. GONZALEZ) has articulated this point very well.

In that the IMF has promised it will not track the gold beyond the first level of transaction, we really do not know who will end up owning this gold.

Not one supporter of Israel in this House can adequately assure me that major shares of this gold will not end up in the hands of Arab countries. We all know of the cash liquidity of most of the Arab countries today. They simply have so much cash lying around that they do not even know what to do with all of it. Why not—from their perspective—use it to purchase gold from the European central banks? And those banks will sell the gold, if the price is right—one simply higher than the $42 per ounce at which much of the IMF gold will be sold or one higher than the $176-per-ounce market range of today. Can one imagine the impact of that cost of gold price rise after the price drops slightly initially upon the cost of anything having gold in it—from crucially important industrial items to luxury products?

Not one supporter of black governments in Africa can adequately assure me that South Africa—wealthy because of its own gold—would not buy heavily into these additional gold reserves, as they come onto the market through the European central banks, thus substantially enhancing their economic strength. And not one supporter of white governments in Africa can adequately assure me that oil-rich black governments—such as Nigeria—would not buy heavily into this gold, thus increasing their strength.

There are other examples too, but the point is the same. We simply do not know who or what will end up with this gold. Given the vast expansion of private wealth in recent years—from the older fortunes in America and Europe to the vast new fortunes in the oil countries—a great percentage of this gold could even end up in private hands.

I can sympathize with the sentiments of many that the living standard throughout the world should be increased. But our sense of international commitment ought not to lead this Congress into approving legislation which will accomplish worthwhile goals at the exepnse of our own country's economic stability. We ought to concentrate on increasing the total economic pie available to the world's people, not on dividing up a limited pie and giving America's share away to others.

An articulate presentation on this subject was made last month before the Subcommittee on International Trade, Investment and Monetary Policy of the House Committee on Banking, Currency and Housing. That testimony was offered by Arthur B. Laffer, the very respected and outstanding economist who has done extensive work in this subject area. In my opinion, it is the best presentation made before the subcommittee on why great caution should be exercised with respect to the agreements proposed through the legislation before us. I think it underscores my conclusion that this bill ought not to be passed.

The testimony follows:

Statement Perpared for the Subcommittee on International Trade, Investment and Monetary Policy of the House Committee on Banking, Currency and Housing on H.R. 13955, June 3, 1976, by Arthur B. Laffer

Mr. Chairman and Members of the Subcommittee:

The issues you face today represent a long series of issues pertaining to different features of the international monetary system. The novelty of the current hearings is the potential emergence of the International Monetary Fund as an explicit aid-granting institution. In addition to the new side of the issue, there is the older side as to the appropriate direction to take for evolution of the world monetary system. The proper role of gold is of obvious importance here.

I would first like to address my comments on the monetary system's progress and the direction I would like to see it go.

The decision to encourage increased intervention by Central Banks into foreign exchange markets reached at Rambouillet and Jamaica represents an important deviation from a policy objective of freely floating exchange rates. According to many people, the flexible exchange rate experiment has not lived up to expectations, and a growing nostalgia for international economic order is apparent. While the agreements of Rambouillet and Jamaica are only a small step, they are clearly in the direction of more intervention in foreign exchange markets. In the press as well as in official releases, the discussions appear to be focused more now on the issue of monetary discipline than they had been, say, four or five years ago.

It had become quite clear by 1970 that the international monetary system had deteriorated to a postwar low. Under the aegis of U.S. leadership, western treasury and central bank officials sought to rectify the deterioration by constructing an entirely new system. The date usually thought of as representing the beginning of this effort is August 15, 1971, the date of the beginning of the New Economic Policy. Modifications built on the legal and economic foundations of the existing system were rejected. The Bretton Woods system had been labeled a failure.

The quest for a new system settled on the theoretical underpinnings of floating exchange rates. By the end of 1971, the U.S. objective was to transform the international monetary system to as close a facsimile of purely floating rates as was bureaucratically possible. Judging by longer term movements and patterns, exchange rates appear to have become far more volatile. The costs of buying and selling foreign exchange have increased dramatically. Very recently some people have noted an unusual slowing in the growth of world trade and a resurgence of protectionist pressures. On these grounds, the current monetary system seems to be functioning more poorly than even the seeming low of 1970.

The point most frequently used to sell floating rates was the widely held belief that U.S. goods had become uncompetitive in world markets. The root cause of the uncompetitiveness was described as an overvalued dollar and low growth in productivity. The vanishing trade surplus was the proof. Floating rates were put forth as the answer. Having had little if any historical experience with either floating rates or frequent exchange rate changes, the post-1971 U.S. experience surprised and disappointed the administration and many others.

During the 1970s, inflation rose to a postwar high. While the issue of cause versus effect remains controversial, the inflation experienced corresponded remarkably closely to exchange depreciations. While hitherto little known in the United States, the association between exchange depreciation and relative inflation is one of the best documented phenomena in economics. The studies commencing with Wicksel on through Lee have documented that over reasonably long periods differential inflation rates correspond closely to exchange rate changes.

As vividly demonstrated by the recent voluntary quotas on specialty steels, competitive pressures have remained unabated in spite of the substantial depreciation of the dollar. The trade account, which was in surplus prior to the 1970 devaluation against the Canadian dollar, has dipped into a deficit position during the last few months. While the trade balance of any country oscillates over time, there is little evidence to suggest that trade balances improve following devaluation. This is especially true for the experience of the United States. In the U.S. episode the exchange rate does not appear to be a determining factor of the overall trade balance.

The important lesson to learn is simply that monetary variables do affect monetary phenomena, and do not in general affect real phenomena. For the case in point, exchange rate movements affect the difference between the devaluing country's inflation rate and that of the countries it devalued against, but do not affect the country's real competitive position vis-a-vis the other countries, nor its trade balance. In order to make U.S. industry more competitive, real variables have to be changed, such as a reduction of taxes on U.S. workers and factories.

The other point used to support the adoption of a system of floating rates was the belief that every government should control its own country's monetary policy. Floating rates, it was argued, would provide the needed monetary independence. By having monetary independence, each country would be able to follow the appropriate policies to prevent undue inflation and excessive unemployment. The implicit assumption underlying the analysis was that once a country's monetary authority garnered control over its domestically defined money supply, it would have control over monetary policy.

Control over monetary policy requires at last two questionable conditions. The first, which I will not discuss at any length here, is that the monetary authority knows the appropriate empirical counterpart of money to control. Even in a completely closed economy, it is by no stretch of the imagination obvious that empirical magnitude constitutes the relevant money figure. The issues raised by seasonal adjustment, time deposits, certificates of deposit, credit cards, and liquid assets make any control variable tenuous.

The second questionable condition relates to the elasticity of substitution of domestic for foreign monies in demand. When exchange rates are fixed by the monetary authorities, it is clear that foreign and domestic monies are perfect substitutes in supply. Once exchange rates are floating, analysts assume that monetary policies are thereby independent. This assumption directly implies complete non-substitutability of monies in demand across national boundaries.

The traditional implications for floating can be seen by describing the following situation. Imagine two equal-sized countries, say A and B, with floating exchange rates. A increases its money supply by ten percent and B decreases its money supply by ten percent. If monies are non-substitutes, then prices in A will rise by ten percent and prices in B will fall by ten percent. A's exchange rate with B will depreciate by twenty percent. Under these circumstances, A's monetary authority controls inflation in A and B's monetary authority inflation in B. The exchange rate merely acts to accommodate the discrepancies in each country's price levels. The exchange is simply an outcome of the independent policies in A and B.

If we take the same situation only where the monies of A and B are close substitutes on the margin, we get very different results. Let us imagine that transactors in A can use B's currency and transactors in B can use A's currency. Let us invoke the extreme assumption that transactors, wherever located, are indifferent as between the two currencies. In such a situation, an increase of money in A and a decrease of money in B will lead to pressures on transactors in B to reduce their money holdings below their desired level. It will also make money quite accessible in A.

One can easily imagine that ten percent of the holders of money in country B will switch their deposits to A. This leads to an increase in the demand for money in A by ten percent and a fall in the demand for money in B by ten percent. A rise in both the demand and the supply of money in A by ten percent results in unchanged prices. Likewise, the fall in both the demand for and the supply of money by ten percent in B leads to unchanged prices in B. As a direct result, even though free to move, the exchange rate will not move. The failure of the exchange rate to change because of the close substitutability of money negates the policy effects of the monetary authorities' control over the money supply. For all practical purposes, under this case, the existence of floating rates has not provided monetary independence at all. Under these circumstances, floating rates remove even the aggregate ability to control monetary policy.

While no one can say with any degree of certainty just what degree of demand substitutability is across currencies, it is by no means obviously zero. Only when monies are non-substitutes will floating rates yield independence of monetary policy. On an intuitive level, it is hard to see why international firms would not be willing to hold different combinations of currencies if their prices changed slightly. This is especially pertinent with regard to eurodollars. Here is a non-U.S. located dollar deposit. It seems implausible to assume that U.S. monetary policy could be independent of the existence and growth of eurodollars. In the final analysis, the issue of demand substitutability, and with it the capacity of monetary authorities to control monetary policy, is an empirical issue.

In spite of these rather questionable conditions required for floating rates to bring monetary independence, it was widely held that floating exchange rates would result in monetary independence. Each country, it was argued, would be able to better regulate the inflation rate it deemed appropriate, given its employment objectives.

In the post-1970 period, inflation rates in virtually every country increased. Even the best performances today rate poor by the same countries' standards of a decade earlier. Some countries, such as the U.K. and Italy, moved into inflation categories previously occupied by only a handful of South American countries.

The performances on unemployment and output growth have fared no better. Unemployment today, even though falling, is high by all standards save those of the great depression. The western world's real growth is equally unimpressive. High inflation as well as poor unemployment performances are ubiquitous.

While much is made of preventing imported inflation by having floating exchange rates, little is made of the disciplinary aspects of fixed exchange rates and limited international reserves. Under fixed exchange rates that are to be maintained, central banks have little leeway to run excessively expansive monetary policies. If a country's money supply growth excessively, it will lose reserves and threaten the maintenance of the fixed exchange rate. The threat of balance of payments deficits, reserve losses and, ultimately, devaluation of the currency is an important restraint on rapid money growth.

Under floating exchange rates, excessive monetary expansion entails no deficit, no reserve loss, and a tolerated, if not encouraged, depreciation of the currency. Under floating rates, there is less reason, or perhaps even excuse, for not restricting money growth. If for any reason, be it economic or political, the monetary authority feels it expedient to expand money growth, the excuse of maintaining the par value will not impede their actions. Over a long enough period of time in a number of countries, there should result a noticeable tendency for money growth rates to increase. Since much of the discipline has been removed, it does appear as though there has been an increase in inflation rates.

The lesson is that politically sensitive agencies may well act on short-term perceived expediency to the detriment of longer term stability, unless constrained by discipline. The case in point is characteristic. During a system of fixed exchange rates, monetary authorities kept money growth in line for fear of running out of foreign exchange and gold reserves. Once this fear was removed by the advent of more exchange rate flexibility, money growth increased. United States discipline was lost when we abandoned the gold value of the dollar in the free market.

The failure to control output and employment is another example of the confusion that exists between monetary variables and real phenomena. If any relationship does exist, it is the opposite of what is usually said. Higher money growth is associated with higher inflation. Higher inflation on the other hand, leads to increasing marginal tax brackets and work disincentives. These, in turn, result in lower economic growth. The view that somehow printing money creates jobs continues to persist in spite of the paucity of empirical support. Monetary policy should be geared to the provision of price stability. This is a task monetary policy has some chance of accomplishing.

At present, the serious problem facing monetary officials is that the foundations of the Bretton Woods system had been rendered inoperable. Codes of behavior, once violated, lose their *tour de force* when resurrected. No new set of rules has been used sufficiently to have any power of precedence. Hopefully, the lessons of the immediate past have had enough time to affect people's thinking and thereby wend their way into the international monetary process.

Learning from the past, a viable monetary system for the purpose of achieving either domestic or international objectives, has a better chance of succeeding if it is built on formal rules. Reliance on the goodwill of public officials often leads to a politicized process.

If the rightful concern of monetary policy is the maintenance of price stability, then the appropriate rule for monetary policy is a price rule. A pricer rule occurs when the government guarantees to maintain the purchasing power value of money. Historically, fixed money prices of gold and silver, etc., served as the rule of the monetary system. Two countries which maintained the gold value of their respective currencies had achieved, by the process of elimination, truly fixed exchange rates. Thus, good domestic monetary rules lead *pari passu* to fixed exchange rates. This route to fixed rates is the essence of what is currently referred to in international monetary circles as policy coordination and consultations.

Another form of rules occurs when countries fix their exchange rates to the currency of a country already on a price rule. This was, in fact, both the spirit and the essence of the Bretton Woods system up to March of 1968. At that time, the United States reneged on its commitment to maintain the gold value of the U.S. dollar in private markets.

However achieved, stable international monetary systems tend to require fixed exchange rates. In the cases of domestic price rules, fixity of exchange rates is a result of policy coordination. In other cases, fixed rates are the policy objective themselves. Whatever the origin, systems of fixed exchange rates have performed admirably in the past.

I am greatly encouraged by the concerted efforts of both U.S. and foreign monetary authorities to increase policy coordinations, foreign exchange support operations, and frequent consultations. The spirit of such moves is referred to as the "Spirit of Rambouillet," and has been carried forward into the English meeting of the Central Banking officials and the Jamaica Accord to the Treasury officials.

It would seem to me short-sighted at this juncture to attempt to transform the International Monetary Fund into an aid-granting institution. By selling gold and using the proceeds for development fund, the IMF will be confusing its functions. Such an act carried out by the IMF will detract from its other more appropriate roles. This is especially true with regard to the sale of gold. While serious debate is to be encouraged over the future roles of gold, SDR's, par values, tranche positions, and currency swaps, it is counter-productive to foreclose options at the present. This is more emphatically the case now that the deficiencies of our new system are so widely recognized.

In the event some new world monetary system does eventually emerge, institutions will be required. Perhaps these institutions will be housed under the auspices of the IMF. Whatever their specific form, these institutions will require vast infusions of capital in order to stabilize world money markets and instill confidence in the market participants. It seems to me to be exceptionally short-sighted at this time to dispose of some of the IMF net capital when, hopefully, we shall soon need large additional sums.

It also appears to me to be a poor choice to select the IMF as the conduit for world foreign aid. As a method of helping poor nations develop, this method is noted for its inefficiency. Far preferable schemes exist, some of which even benefit the U.S. directly. Examples of these include tariff cutting, reduction of quotas, and the removal of other artificial trade barriers. These measures provide direct incentives to development. By working harder and more efficiently, less-developed countries would be able to sell more goods to the developed nations.

Even if a transfer of aid must take place, specific U.S. agencies can do a far better job than can be expected of the IMF. On a world scale, the project appraoch of the World Bank is far more promising. Surely the already existing mechanisms can be expected to perform their outlined tasks better than the IMF administered fund will be able to do.

At a different level altogether, given the proliferation of the world foreign aid-granting institutions that have arisen during the postwar era, it is a wasteful duplication of function to authorize yet another.

Given the current mood of the Nation, it behooves Congress and the Administration to keep a close watch on how American-earned assets are disposed of. Several of the countries who would receive this foreign aid may well use it in ways that are detrimental to the ultimate donor—the American people. Far closer scrutiny must be made of the recipient nations than is possible under the guidance of the IMF to assure that the true donors are not duped into providing aid to their detractors.

Mr. DEL CLAWSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I would like to take a few moments to go on record as opposing this rule. I would like to mention one episode that occurred in the process of this legislation that did not follow the rules correctly. This bill was voted out of committee on a Thursday evening, and we had until Tuesday at noon to put in our dissenting views, but over the weekend the rules were changed. I was called at home by my staff and told that I had to have my views in by noontime Monday or they would not be printed. I believe that this was not a fair procedure. By Tuesday when the views should have been in, the bill was on the floor under suspension of the rules. I do not believe this bill should be run through the way it has been run through. This, to me, is one of the most important pieces of legislation on the floor since I have been here in Congress, and due consideration should be given.

It is my understanding that it will be another 18 months before all the nations ratify these amendments and these agreements, so there is no rush.

What they want is a rubberstamp to continue to run roughshod over the international monetary scheme. We have been living with floating rates for 5 years. The Bretton Woods Agreement has been dead for 5 years. There is no panic to do something. The responsibility is ours for setting up any foreign aid program, and it is our responsibility to understand and know what we are doing. There are $2 billion of the American taxpayers' money involved. To pass this legislation will also sanction international inflation.

We need to give this more consideration and reject the rule.

Mr. DEL CLAWSON. Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I wish to add my voice to that of the two gentlemen from the opposite side of the aisle who preceded me, the gentleman from California and the gentleman from Texas. Essentially they have stated exactly the very thing that has made me feel very keenly the mistaken notion that speed and haste is necessary in order to approve this legislation here and now.

The gentleman from Texas is absolutely correct. The rules were changed. The committee had agreed that each member would have until Tuesday to file supplemental, additional, or dissenting views. We prepared the same only to find that Monday instead of Tuesday had become the deadline. Why? What is the reason for this haste?

Second, the House sooner or later is going to have to correct some of its so-called reforms that have led I think to very hasty and undue consideration of very important legislation. During the time that we were trying to consider this bill in a hastily contrived meeting of the full committee, the House was also sitting in session. While some of us were trying to raise points in the committee we had to come to the floor and answer quorum calls, and some of us who had business with the legislation on the floor could not return to the committee to debate or to offer amendments or to raise questions.

Mr. Speaker, sooner or later this is going to end in an imperative need to change our rules again. One reform has bred a vice, the vice of undue and intemperate consideration of very important legislation. I think under the circumstances we are fortunate at least that we do not have this under a suspension of the rules. We at least have an open rule with 1 hour of debate and a chance to offer amendments. But I still must continue to protest the fact that the Congress has gotten into the habit of abdicating its responsibility, its contribution in the process of drafting this type of legislation. We have deferred to such bodies as the IMF.

Mr. LONG of Louisiana. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. REES).

Mr. REES. Mr. Speaker, I did not plan to rise during the debate on the rule. I am the chairman of the Subcommittee on International Trade, Investment, and Monetary Policy, and I am really unhappy when they accuse our committee of trying to rush something through without any hearing.

Mr. Speaker, let me read the chronology of the bill. In July 1975, my subcommittee, along with the Joint Economic Committee, had a meeting with Secretary Simon, and this was an open meeting with all the Members, to discuss the International Monetary Reform that was being contemplated by the International Monetary Fund, which was meeting in the beginning of September 1975. That was a year ago.

Now, a year ago we discussed the U.S. position as to floating rates and what changes we would be making in the system.

We then had a meeting of what is called the Interim Committee of the International Monetary Fund last January, 1976 in Jamaica. At that time all the countries, the 126 countries of the International Monetary Fund, agreed in principle to the changes that we are now discussing. A staff report was prepared and sent to all the members of the Committee on Banking and Currency in February of 1976.

We then had hearings, and Treasury Under Secretary Yeo who deals with this matter, was our major witness. The purpose of the hearings of the subcommittee was to have a briefing as to what the results of the Jamaica agreement were. This meeting was held on March 4, this year.

The final text of the agreements, and this is a very complicated text, was sent to the members of the Committee on Banking and Currency on April 9, 1976.

Hearings on the bill were held on June 1 and June 3 before the subcommittee.

The subcommittee had a markup on June 15. The committee markup was on June 17.

Mr. Speaker, I think this represents a great deal of work by my subcommittee on these various amendments to the Bretton Woods Act. I certainly do not think this constitutes rushing something through the House of Representatives.

Mr. J. WILLIAM STANTON. Mr. Speaker, will the gentleman yield?

Mr. REES. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Speaker, the gentleman in the well, I think, has clearly outlined the procedure that our subcommittee has followed in bringing this legislation to our attention here this afternoon.

In addition to what the gentleman has already stated, I would only add that I believe that the Department of Treasury, in this particular instance, has bent over backward to inform not only the gentleman in the well, but myself, of the interim steps that have been taken over the last 1-year period, as the gentleman has stated, to make us fully informed on the legislation before us.

Members of the subcommittee were clearly invited to go down to Jamaica at the time of this agreement in January to observe every step that was taken to keep us fully in compliance with the agreements made at that time and the agreements and ratification that we will be asked to vote upon probably tomorrow afternoon. We go on the emphasis of our own U.S. Treasury; so I appreciate the remarks of the gentleman in the well.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. REES. I yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I appreciate my friend, the gentleman from California, yielding.

The facts as the gentleman from California (Mr. Rees) has set them forth and the gentleman from Ohio are absolutely correct, as far as I know, because I have heard the same thing from the Secretary of the Treasury. Secretary Simon informed me this morning that in his opinion this was a most important piece of legislation affecting the Department of the Treasury and affecting the international monetary situation that we will have, not only this year, but in the foreseeable future. He feels that if the bill were not to become law, it would possibly have a catastrophic effect on the international monetary stability which we are all trying to seek.

Mr. REES. Mr. Speaker, I thank the distinguished minority leader.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. REES. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I am sure that the distinguished member of the committee and the very able chairman of the subcommittee will not dispute the facts.

The SPEAKER. The time of the gentleman from California (Mr. Rees) has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield 5 additional minutes to the gentleman from California (Mr. Rees).

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield further?

Mr. REES. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, the full committee met one morning on this bill. I am not talking about the subcommittee. After all, the subcommittee has, I would say, less than a dozen members or about a dozen members. We are talking about the full committee meeting of 43 members.

The gentleman surely will agree that we had 1 day's markup session in the morning, and that the bill was passed out by the time the noon bell rang. The gentleman certainly does not belie the fact that the committee agreed that morning that the Members would have until Tuesday to file additional and supplementary views or dissenting views, as the case might be; but somewhere, somehow, somebody made a ruling and contravened some of that. Surely, the gentleman does not wish to dispute that.

Mr. REES. No, I do not dispute it. Let me give the gentleman the parliamentary situation as it was that morning. This bill was brought up before the full Committee on Banking, Currency and Housing. There were several amendments offered by the gentleman from California (Mr. Rousselot); one of the amendments, I believe, was accepted. There were no other amendments.

What do we do when we have a bill before the full committee and there are no other amendments? We try to get the bill out of the committee. We do not leave it in there for a couple of months. So, we voted on the bill, and there was only one dissenting vote. The normal motion was made that the Members have 3 legislative days in which to come up with their remarks, and then a subsequent suggestion was made that the bill be put on suspension, because there was only one dissenting vote on the Committee on Banking, Currency and Housing. I think we have around 43 members.

Then, it was decided, with no dissent at all, that the bill would be on suspension. When a bill is on suspension, there is nothing in the rules which requires a written report on that bill. If we had been given until Tuesday, the report would have come out 1 day after the bill was to be taken up on suspension. This would not be fair to the Members at all, and certainly Dr. Paul's very excellent dissenting remarks were put in time; therefore, we do have dissenting remarks in the committee report. Copies are available on the floor. It has dissenting remarks by the distinguished gentleman from Texas (Mr. Paul).

So, that was the situation, as an accommodation to the Members. We said that even though this is on suspension, we are going to have a report. We did not even have to have a report. There was absolutely no reason for this Member to try to slam some bill across the floor of the House as important as this bill is. It should be debated, but it was felt that we should go on suspension because there was a time factor, and also there was no dissent at that time in the meeting.

Those are the facts as to what the parliamentary situation was on that morning when we had the hearing. I think this whole subject matter has been very thoroughly dealt with by the Committee on Banking, Currency and Housing.

Mr. DEL CLAWSON. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I want to clear up a point that I think my colleague from Texas addressed today, and one which I believe is well taken. We were really not presented in the Committee on Banking, Currency and Housing with a substantial number of changes that were requested by the Treasury Department until April 9, 1976. I have before me the communication from the Secretary of the Treasury. It is more than 100 pages long, by the way, and there are a substantially greater number of changes that were recommended in this communication than had been previously recommended.

When the Secretary of the Treasury submitted these amendments to Congress on April 9, 1976, the Secretary sent the following letter of transmittal:

THE SECRETARY OF THE TREASURY,
Washington, April 9, 1976.

Hon. CARL B. ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: As Chairman of the National Advisory Council on International Monetary and Financial Policies, I am pleased to transmit herewith the Council's special report on the proposed amendment of the Articles of Agreement of the International Monetary Fund and on the proposed increase in quotas in the International Monetary Fund.

The proposed changes in the Articles of Agreement represent the first general revision of international monetary arrangements since the Bretton Woods Conference in 1944. These changes are of major importance to the United States and fulfill policy objectives which the United States has pursued over several years of negotiations on international monetary reform. The proposed increase in quotas will enable the IMF to maintain its central role in the provisions of temporary balance of payments financing to members, thereby continuing its important contribution to international financial stability.

The Council recommends the prompt introduction and enactment of legislation authorizing U.S. acceptance of the proposed amendment and consent to the proposed increase in the United States quota.

Copies of the report are also being submitted to the President and to the President of the Senate.

Sincerely yours,

WILLIAM E. SIMON,
Chairman, National Advisory Council on International Monetary and Financial Policies.

In addition to the important changes which the Secretary mentions in his letter, there are numerous other important amendments, including the addition of a new section 12 of article V which sets forth procedures for the sale of IMF gold at the market price and for the establishment of a Special Disbursement Account through which proceeds of the gold sale may be used to provide concessional balance-of-payments assistance to lesser developed countries.

As a matter of fact these additional amendments were submitted after the hearings that the gentleman from California (Mr. REES) held last year concerning floating rates and the role of gold. These amendments represent the results of the so-called Ramboulliet Jamaica Conferences. Many members of the committee did not have the chance until perhaps 1 or 2 days before the markup hearings to really go through and find out what all these changes recommended by the Treasury Department really were. I do not disagree with my colleague from Arizona that the Secretary of the Treasury wants this legislation. He came over and held a special meeting with the members of the minority, so I am fully aware of that.

The argument that all of these changes in this legislation were well known a year ago just is not quite the case.

My colleague from Texas is right. This communication did not arrive before the full committee until April 9, of this year, and we were not even made aware of all of the ramifications of the exposure of the U.S. Treasury as a result of these changes until a month or 2 months later. That is the point my colleague from Texas is trying to make. I have joined him in that concern.

If it is a good idea today, it will be a good idea tomorrow.

Again, for these reasons, among others, I would like to encourage my colleagues to be here tomorrow for a full discussion of the amendments because that will give us an opportunity to discuss them even more thoroughly and carefully than we did in committee. I think that is important.

I am not suggesting by that that my colleague from California was in a substantial hurry on this bill, because I think he was also receiving a lot of encouragement from the Treasury Department to hurry this bill.

I would like to ask my colleague from California this question: The gentleman is not aware of any great crisis that we face if we do not pass this today, is he? Has the Senate had hearings on this?

Mr. REES. If the gentleman will yield, I believe the Senate has had hearings on this.

I am not trying to get rid of the bill. It is the only bill my subcommittee has. We want to fondle it. I am leaving here at the end of the year. I hate to lose a bill like this. I have been looking at it. It is in the committee. It is the only bill we have. I sort of feel like I am losing my only child, now that it has come to the floor.

I think it is important that the United States, as the richest country in the world, as the leader of the free world, as the country that has proposed these amendments, be one of the first countries to ratify them.

The major reason we must have these amendments now is that we have a floating currency. But there are no rules and regulations on the float. So it is possible for one country to practice beggar thy neighbor by placing an artificial price on their own currency, and this has already happened. So it is necessary that these be ratified as soon as possible so that we have some rules and regulations governing the practice of floating currency.

Mr. ROUSSELOT. But there is no crisis if we do not pass this tomorrow? I appreciate the gentleman's statement.

Mr. REES. Yes; there are several crises that I feel imminent.

Mr. PAUL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Texas.

Mr. PAUL. I thank the gentleman for yielding.

I would at this point like to point out that there have been some questions of legality.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 15, not voting 71, as follows:

[Roll No. 547]

YEAS—346

Abdnor
Adams
Addabbo
Allen
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
Delaney
Dent
Derwinski
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Gradison
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harrington
Harris
Hawkins
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks
Hightower
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—15

Clancy
Clawson, Del
Collins, Tex.
Conlan
Crane
Devine
Gonzalez
Grassley
Harsha
Kindness
McDonald
Paul
Snyder
Symms
Taylor, Mo.

NOT VOTING—71

Abzug
Alexander
Anderson, Calif.
Andrews, N.C.
Badillo
Bauman
Bonker
Brown, Calif.
Brown, Ohio
Byron
Chappell
Chisholm
Clay
Conyers
de la Garza
Dellums
Derrick
Diggs
du Pont
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Fithian
Green
Gude
Hansen
Harkin
Hayes, Ind.
Hays, Ohio
Hébert
Hefner
Heinz
Helstoski
Hillis
Hinshaw
Holland
Holt
Holtzman
Howe
Jarman
Jones, Ala.
Jones, Tenn.
Karth
LaFalce
Landrum
Litton
Lundine
Mineta
Neal
O'Hara
Pepper
Peyser
Riegle
Risenhoover
Roncalio
Rooney
Santini
Schneebeli
Spellman
Stanton, James V.
Steelman
Steiger, Ariz.
Sullivan
Symington
Thornton
Ullman
Van Deerlin
Waxman
Whitehurst
Wiggins

The Clerk announced the following pairs.

Ms. Abzug with Mr. Evans of Indiana.

Mr. Jones of Tennessee with Mr. Andrews of North Carolina.

Mr. Hébert with Mr. Wiggins.

Mr. Badillo with Mr. Heinz.

Mr. Helstoski with Mr. Peyser.

Mr. Byron with Mr. Hansen.

Mr. Chappell with Mr. Eshleman.

Mr. Pepper with Mr. Schneebeli.

Mr. Riegle with Mr. Esch.

Mr. Clay with Mr. Fithian.

Mr. Harkin with Mr. Steelman.

Mr. Conyers with Mr. Steiger of Arizona.

Mr. Howe with Mr. Whitehurst.

Mr. Mineta with Mr. James V. Stanton.

Mr. Risenhoover with Mr. Landrum.

Mr. Thornton with Mr. Alexander.

Mr. Van Deerlin with Mr. O'Hara.

Mr. Dellums with Mr. Karth.

Mr. Hefner with Mr. Evans of Tennessee.

Mr. de la Garza with Mr. Hayes of Indiana.

Mr. Evans of Colorado with Mr. Gude.

Mr. Anderson of California with Mr. Jarman.

Mr. Symington with Mr. du Pont.

Mr. Green with Mr. Hillis.

Mr. Bonker with Mr. Jones of Alabama.

Mr. Hays of Ohio with Mr. Neal.

Ms. Holtzman with Mr. Holland.

Mr. Diggs with Mr. Roncalio.

Mr. Derrick with Mrs. Holt.

Mr. LaFalcé with Mr. Santini.

Mr. Lundine with Mrs. Spellman.

Mr. Rooney with Mr. Ullman.

Mr. Waxman with Mrs. Sullivan.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT JULY 27, 1976, TO FILE CONFERENCE REPORT ON H.R. 12169

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tomorrow night, July 27, 1976, to file a conference report on the bill (H.R. 12169.)

To amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such act, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the Chairman of the Committee on Public Works and Transportation, which was read and, together with the accompanying papers, referred to the Committee on Appropriations:

WASHINGTON, D.C.,
July 21, 1976.

Hon. CARL ALBERT
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved on June 29, 1976, the following prospectuses:

NEW CONSTRUCTION

Border Station, Alaska Highway, Alaska
U.S. Tax Court, Washington, D.C.

REPAIR AND ALTERATION

Central Heating Plant, Washington, D.C.
West Heating Plant, Washington, D.C.
Customhouse, Chicago, Illinois
Federal Building, Dallas, Texas
Post Office and Courthouse, Boston, Massachusetts
U.S. Customhouse, New Orleans, Louisiana
GSA Supply Deport, Shelby, Ohio
Winder Building, Washington, D.C.

LEASES

Crystal Plaza No. 5, Arlington, Virginia
8060 13th Street, Silver Spring, Maryland
500 N. Capitol Street, Washington, D.C.
800 N. Quincy Street, Arlington, Virginia
201 E. 69th Street, New York, New York
96–05 Horace Harding, New York, New York
Federal Trade Commission, Washington, D.C.

11(b) RESOLUTIONS

Waynesboro, Georgia
Corpus Christi, Texas
Ashland, Kentucky
Chattanooga, Tennessee

The original and one copy of the authorizing resolution are enclosed.

Sincerely,

ROBERT F. JONES.

A LANDMARK VOTE DUE ON NUCLEAR FUEL ASSURANCE

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. RONCALIO. Mr. Speaker and my colleagues, this week the House will be considering the Nuclear Fuel Assurance Act, H.R. 8401, probably one of the most profoundly important pieces of legislation affecting the future of mankind which we have handled in the history of the House of Representatives, in my opinion.

I present a short item supporting each side.

Proponents will approve the following letter from the counsel for the Uranium Enrichment Associates, proponents of this legislation. Opponents will laud the editorial written by Tom Braden in the Washington Post of July 22, 1976, in support of the amendment to be offered by my colleague from New York (Mr. BINGHAM) to strike the first two sections of the act and permit a Government-owned add-on.

I believe none of is is as well informed as we should be on this legislation. I would prefer that it be remanded to the Joint Committee on Atomic Energy, so that we may engage in the deliberation this matter rightfully requires.

Mr. Speaker, the letter and the Washington Post column follow:

RAGAN & MASON,
Washington, D.C., July 21, 1976.

Hon. TENO RONCALIO,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN RONCALIO: As counsel for Uranium Enrichment Associates, one of the companies in support of H.R. 8401, the Nuclear Fuel Assurance Act, we are writing you in connection with that legislation. The bill will reach the floor shortly. Because some statements have been made in writing to various members, undoubtedly in good faith but nevertheless in error, we are taking the liberty of attempting to clarify some of the erroneous conclusions that have been heretofore circulated and rumored. Knowing the value of your time, our remarks are truncated, but we will be glad to elaborate further at any time at your convenience.

1. The proposed legislation does not authorize the private enrichment of uranium; it only authorizes any companies that may be interested to present to the Congress of the United States for its specific approval by a vote of the Congress a Cooperative Working Agreement with ERDA to commence such private enrichment. The bill does not create, we repeat, does not create, a contractual right.

2. While some of the material circulated in opposition makes almost hysterical comments, none of these matters indicates the fact that this legislation was reported by the Joint Atomic Energy Committee by a vote of 15–0, with all committee members from the House of Representatives voting in support of it. Only two Senators were absent, Senators Buckley and Case. Clearly the Joint Committee would not report a bill unanimously that offered dire consequences for the security of the United States.

3. There are no "massive guarantees or hidden costs" built into the bill. The bill does provide that the technology which now belongs solely to the United States, although it is in the hands of private contractors operating the three government-owned enrichment plants, will be guaranteed as to workability. This warranty, a warranty of fitness for purpose, will expire after one year of operation. It is anticipated that the contract will contain contractual obligations only that in the event the private contractor cannot finance or get the plant working the Government may take over and have the advantage of having a plant already substantially constructed.

4. In the case of Uranium Enrichment Associates, there is not a 60% foreign ownership, but there will be a 60% investment by foreigners in a company that is not permitted access to any of the secrets or confidential matters involving uranium enrichment technology This 60% investment attracts funds from abroad and is a "hell or high water" investment. Thus, if the Government takes over the plant it does so for 40% of the cost as distinguished from spending the full 100%. At this point it should be noted that ⅓ of the ERDA contracts are non-U.S. customers.

5. Obviously any arrangements of foreign investments are subject to all the security restrictions that the United States imposes and this was made very clear on page 8 of the Joint Committee Report, No. 94–897.

6. It is stated the Government will have to raise prices on enriched uranium causing higher electric prices everywhere. This is not so. The Government controls over the price of enriched uranium are set forth in the recent ERDA Authorization Act and are subject to the control of the Joint Committee on Atomic Energy.

7. It is said that the single add-on plant that Section 4 of the Act provides will be adequate for our future requirements. We again refer you to the aforementioned Committee Report of the bill at Page 5, which states "six to nine plants of the size compared to any three existing plants" will be required to meet domestic needs by the year 2000. The report continues that as we continue to dominate in the foreign market "nine to twelve similar size plants" will be needed. The report then notes this would add $42 billion to our existing taxpayers costs. The proposed route of privatization not only relieves that burden on the taxpayer, but results in hundreds of millions of dollars in taxes being paid to the Treasury by private sources.

8. It is stated the General Accounting Office has opposed the bill. This is not correct. The GAO opposed a preceding proposal, but has not seen the contracts nor have the contracts yet been presented. There is a misunderstanding of the basis of the GAO position.

9. There have been statements to the effect that the Government will be guaranteeing to UEA a 15% return on its investment. How such a statement can be made when the contracts are not finalized and in fact not yet even public information, is indeed strange. The fact of the matter is there has been no requirement for any such guarantee and the contract will contain no such guarantee.

10. The bill is merely offering an opportunity for private enterprise to demonstrate to the Congress and the Executive Branch whether it is or is not capable of relieving a taxpayer burden.

We sincerely believe failure to support the legislation will preclude yourself of an opportunity of evaluation of what is in the best interest of your taxpaying constituency.

Very truly yours,

WILLIAM F. RAGAN.

[From the Washington Post, July 22, 1976]

THE NUCLEAR EXPORT FIGHT

(By Tom Braden)

The beleaguered Ford administration has been straining hard to push through a bill that would turn the nuclear fuel business—"the biggest ball game in town," as Sen. Howard Baker of Tennessee calls it—over to private industry. A consortium of foreign investors headed up by the oft-investigated Bechtel Corp. is waiting in the wings to reap guaranteed profits from the privatization scheme should the administration's bill—entitled the Nuclear Fuel Assurance Act—pass.

The bill is ostensibly advanced in the interests of guaranteeing that the United States can retain its dominant role in fueling nuclear reactors throughout the world. But it is apparent that we have more than enough potential in our three government-operated uranium enrichment plants and enormous stockpiles to meet these needs, at least through 1985. So what is the bill really about?

The bill is to provide "sweeteners" for the big reactor salesmen's contracts. So now when Bechtel flies into South Africa or Brazil or South Korea to sell nuclear reactors, it can offer these nations, which are struggling to achieve weapons capability, not just the hardware, but also the batteries. The coming glut in enrichment capacity will make fission reactors look all the more attractive.

The administration says its bill promotes "free enterprise" by encouraging competition within private industry. But what with all the elaborate guarantees we'll be handing out to investors—guarantees of access to government stockpiles, guarantees of a market and, finally, guarantees that we'll buy out any failing private enrichment ventures up to the tune of $8 billion—it more resembles cradle-to-grave socialism than any free-enterprise scheme.

What the bill is all about, it would appear, is that Gerald Ford is trying hard to set up a select group of Nixon-Ford administration friends with a lucrative monopoly over the enrichment market while phasing out government participation in the enrichment business.

Mr. Ford claims it is not suitable for the government to be doing a job private industry can handle. So he's pulling out the big guns to shove his proposal through—even though a study by the Congressional Budget Office shows that, once you figure in all the hidden subsidies and out-front guarantees, it will be cheaper for the Feds to hold on to the enrichment market. Mr. Ford has already twisted arms on the less-than-enthusiastic Joint Committee on Atomic Energy (JCAE), threatening to withhold desperately needed government financing for research into his privatization scheme. Rep. John Moss (D-Calif.) is one who made little secret of his contempt for the strong-arm tactics; recently he quit the committee, disgusted.

Beyond the politics and twisted economics of the Ford bill, there are some very genuine proliferation concerns. With this bill, the administration is seeking to promote mass exports of enriched uranium and nuclear hardware by private industry. And can we leave it to multinational corporations like Bechtel to look after the U.S. national interests in this business? Let's look at the record.

It was Bechtel who entered into unauthorized negotiations with the Brazilians—negotiations that were aimed at giving that country "the whole gamut" of nuclear hardware—negotiations that completely undermined State Department efforts to keep the West Germans from selling Brazil the entire nuclear fuel cycle. Bechtel built the reactor that supplied the plutonium for India's atomic blast; Bechtel has also been charged by the Justice Department for cooperating with the Arab nations in their boycott against "Jewish-influenced" firms, and Bechtel is undergoing congressional investigation for alleged falsification of safety data on the Alaska pipeline. Are these the people we want directing our nuclear export program?

There is a strong move on Capitol Hill, led by Rep. Jonathan Bingham (D-N.Y.), to shoot down Mr. Ford's scheme for these reasons and more. The biggest challenge of the bill's opponents, oddly enough, is to show that their opposition grows not out of a Nader-like skepticism of nuclear power per se but rather out of well-founded concern that the Ford giveaway scheme is a nuclear boondoggle to end all nuclear boondoggles. The way the tide was running early this week, it looks as if the JCAE may be in for its first defeat in recent memory, which all leads one to wonder whether the committee might not be secretly pulling for Bingham's side.

LEGISLATION TO AMEND ALASKA NATIVE CLAIMS SETTLEMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, I am today introducing legislation to prevent a small Alaskan village from being deprived of its rightful entitlement to land under the Alaska Native Claims Settlement Act of 1971 as a result of a legislative oversight.

Last year, Congress passed an omnibus bill amending the Settlement Act to clarify troublesome ambiguities and to resolve certain problems unforeseen in 1971. One provision addressed a complicated problem involving the Native village of Klukwan in southeastern Alaska. Under the Settlement Act, the residents of Klukwan were required to elect either to participate in the act or to opt out and retain the surface and subsurface estate of their former reservation. The reserve's only asset of significant value is a mineral lease negotiated by Chilkat Indian Village, Inc.

Assuming that the interest in the lease would pass to all of them, the Natives of Klukwan voted to retain the reserve. This assumption later proved to be incorrect; the benefits from the lease will continue to accrue only to the members of Chilkat. Although Chilkat's members are shareholders in the village corporation for Klukwan, the reverse is not true. Consequently, 155 Natives of Klukwan faced the prospect of not being able to benefit from either the lease or the Settlement Act.

Congress sought to remedy this inequitable situation in the omnibus bill by reinstating Klukwan as a participant in the Claims Act and providing for Klukwan to select land from lands originally withdrawn for its selection.

Unfortunately, Congress did not realize that the lands in the withdrawal area are either unavailable for selection or totally unsuitable for any productive use. Most of the withdrawal area has been selected by the State of Alaska, and what remains is inaccessible, snow-covered mountains with an average elevation of 5,000 feet. The purpose of the bill I am introducing today is to correct the oversight and provide suitable lands for Klukwan to select.

Under this measure, the Secretary of the Interior would be authorized and directed to withdraw 70,000 acres of land in southeastern Alaska which are of like character and quality to the lands in the Chilkat River Valley, where Klukwan is located. None of the lands withdrawn shall have been selected by or subject to an outstanding nomination for selection by any other Native corporation or be located on Admiralty Island. The Secretary would have 6 months to make his withdrawals and the village corporation would have another year to select its 23,040-acre entitlement from that land.

Prompt congressional action on this legislation is essential because no viable alternatives are left to Klukwan and time is running out for their land selection. Neither the Bureau of Land Management nor the State of Alaska has been able to provide a solution. The Department of the Interior does not have authority under existing law to permit Klukwan to select lands elsewhere and a land swap with the State is unfeasible because of the totally useless land that Klukwan would have to bargain with. Moreover, time is a key factor because the amended act requires Klukwan to select its land by January 2, 1977.

Congress intended for all eligible Alaska Natives to share in the benefits of the land claims settlement. However, unless Congress acts on this legislation in the current session, the 253 Natives of Klukwan will be deprived of their right to select, use, and develop land which has some economic potential. This is a relatively minor matter with a simple solution, but it is of crucial importance to the people of Klukwan.

I hope the Congress and the executive branch will cooperate to expedite passage of this legislation and thereby insure that the Alaska Natives in Klukwan will receive the benefits to which they are entitled under the Settlement Act.

The bill follows:

H.R. 14850

A bill to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the Village of Kulkwan, Alaska

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 16(a) of the Alaska Native Claims Settlement Act, is amended by deleting "Klukwan, Southeast."

(b) Section 16(d) of such Act is amended to read as follows:

"(d) (1) Because Congress has determined that there are no lands of suitable character available for selection by the village of Klukwan in the township that enclosed Klukwan or in the townships contiguous to or cornering on such township, the Secretary is authorized and directed to withdraw 70,000 acres of public lands, as defined in section 3 of this Act, in order that the Village Corporation for the village of Klukwan may select 23,040 acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: *Provided,* That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 14(h) (8) of this Act: *Provided further,* That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further,* That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the preservation lands defined in and vested by the act of September 2, 1957 (71 Stat. 597), after the date of enactment of this Act and prior to the date of enactment of this subsection.

"(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the Southeastern Alaska region and shall be of similar character and comparable value to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of the date of enactment of this subsection and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, 23,040 acres. None of the lands withdrawn by the Secretary for selection by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for selection by, any other Native Corporation organized pursuant to this Act, or located on Admiralty Island."

UNITED STATES MUST LEAD FIGHT TO STOP INTERNATIONAL TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HEINZ) is recognized for 5 minutes.

Mr. HEINZ. Mr. Speaker, on July 4, while many Americans were celebrating the 200th birthday of our freedom, we learned of the successful rescue of the hostages at Entebbe Airport in Uganda.

Having resigned ourselves to the fact that Israel had no other choice but to give in to Arab terrorist demands, we listened to the details of the daring, brilliantly executed rescue of over 100 hostages by the special Israeli commando force.

As daring and successful as the Entebbe incident was, it pointed out to a rather depressing degree the apparent lack of international concern over the growing number of terrorist incidents that threaten the lives of innocent people in the name of politics.

This perverted view of the political process did not seem to greatly bother the Ugandans, who—hypocritically, it turns out—signed the Convention for the Suppression of the Unlawful Seizure of Aircraft sponsored by the United Nations in 1970.

Mr. Speaker, here in the United States we have acted in some measure against those who would condone this kind of terrorism. We have amended the Foreign Assistance Act of 1961 to cut off U.S. economic and military assistance to any country that aids or abets international terrorists.

Yet, this provision would have no affect on countries such as Uganda which receive no American assistance.

Clearly, then, something stronger is needed to make the U.S. position clear to those nations who sponsor international outlaws.

It is for this reason, that I will soon introduce a resolution urging the following: First, that section 602A of the Foreign Assistance Act dealing with prohibition of assistance to countries granting sanctuary to international terrorists be actively enforced; and second, that legislation be introduced invoking economic sanctions such as the elimination of general system of preferences and most-favored-nation status against nations aiding or abetting terrorists.

Only through strict sanctions such as these can we hope to stem the tide of those nations willingly assisting terrorists. Hopefully, other nations whose citizens are equally threatened by acts of international terrorism will take similar action.

At this time, I would also like to commend the following statement by the American Jewish Congress to my colleagues' attention. It advocates a similarly active role by our Government in dealing with air piracy complicity.

The statement follows:

WE CAN STOP AIR PIRACY—IF WE MEAN IT; A STATEMENT BY THE AMERICAN JEWISH CONGRESS

The world was uplifted by the heroic Israeli rescue mission in Uganda on the morning of July 4th. But the safety of international air passengers cannot depend on such extraordinary feats of daring. Once and for all air piracy must be stopped by international action.

It is clear that the United Nations cannot and will not act, dominated as it is by political blocs that include the prime perpetrators of terrorism. Nor can we wait for governments to produce still another meaningless international Convention. Every such treaty adopted thus far has deliberately failed to include any mandatory enforcement provisions.

AIRLINES AND AIR PILOTS CAN ACT

Foreign governments are plainly unwilling to risk political confrontation on the issue of air piracy. But airlines and airline pilots operate outside the constraints of formal diplomacy. Air France can do things that the government of France may not be able to do. Pilots and airlines can demand guarantees of air safety as they have done in the past, without being paralyzed in advance by politics. All that is needed is the will to do so.

There is one way to stop the growing threat to safety in the skies. The private civil aviation community must agree collectively to seal off from air traffic any country whose actions make it an accomplice in the crime of hijacking. The airlines must act together so that no one and no country may reap benefit from air piracy.

Until now the criminals guilty of air kidnapping and the governments that support them and provide them refuge have been allowed to go scot free. Uganda, guilty of complicity in the Air France hijacking, remains an accepted member of the world community, a voting member of the U.N. Not one step has been taken to penalize Uganda or the brutal despot who leads it.

HOW TO END HIJACKING NOW

We propose a course of action that will change this do-nothing policy, that will impose effective penalties—and that can be put into effect at once.

To stop air piracy, we call upon the International Air Transport Association and the International Federation of Airline Pilots Associations to make clear that they no longer will fly to any nation that:

(1) Refuses immediately to return a hijacked plane, its passengers or crew,

(2) Gives haven to those responsible for any hijacking, or

(3) Fails to prosecute or extradite hijack terrorists promptly.

The airlines of the world have repeatedly condemned hijacking. But nothing will happen until they act to put teeth into those declarations. They must act now.

WHAT WASHINGTON CAN DO NOW

Without waiting for the airlines and air pilots to act, our own government can move now to end violence in the air. Legislation is needed that will direct the President to suspend air service to:

(1) Any country used as a base of operations or training or as a sanctuary for terrorists,

(2) Any country that arms, aids or abets terrorist organizations, and

(3) Any country that continues to maintain air traffic with an offending state.

At the same time legislation is needed that will curtail all U.S. economic and military assistance to any nation that encourages, protects, supplies—or fails to take appropriate action against—organizations guilty of air terrorism.

SERVING NOTICE ON AIR TERRORISTS

Such a resolute and publicly announced program, combining action by the private international civil aviation community and by our own government, will not only deter the lawless acts of private persons. It will also serve notice that any country that encourages these acts by condoning them and by offering haven to the guilty will suffer serious penalty.

The brave Israelis who rescued the hostages at Entebbe gave heart to us all. Now we must devise ways to make sure that no one ever again need go to such lengths to protect the lives of innocent victims of air piracy. We must act in concert. And we must act now.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from Texas (Ms. JORDAN) is recognized for 5 minutes.

Ms. JORDAN. Mr. Speaker, on July 22, 1976, I was necessarily absent from the floor. Consequently I missed six recorded votes. Had I been present I would have voted as follows:

Roll No.	Issue	House Vote	Jordan Vote
534	Motion to override the President's veto of S. 3201, Public Works and Anti-recessionary Program.	310– 96	Yes
535	Motion to override the President's veto of H.R. 12384, Military Construction Authorization.	270–131	Yes
536	H. Res. 1284, the rule for H.R. 13777, Federal Land Policy and Management Act	393– 0	Yes
537	Amendment to H.R. 13777 seeking to give Congress review and possibly veto powers of only those land withdrawals exceeding 25,000 acres.	191–193	Yes
538	Motion to recommit H.R. 13777	128–198	No
539	Final passage of H.R. 13777	169–155	Yes

GILLIS LONG: NEEDED VOICE ON LATIN AMERICAN POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

Mr. REUSS. Mr. Speaker, as chairman of the Joint Economic Committee's Subcommittee on Economic Relations with Latin America, Representative GILLIS W. LONG is providing a fresh, new voice for commonsense in our economic relations with that continent. I would like to submit for the RECORD an article from the Kansas City Times of June 19, 1976, about Representative LONG and his efforts in this direction:

NEW LATIN VOICE IN THE HOUSE

(By Virginia Prewett)

Washington—While Secretary of State Kissinger was fence-mending on his just-completed Latin American tour, a new force on Capitol Hill spurred mobilization of the most searching inquiry into U.S.-Latin American relations in decades.

The scene will be the Congress's Joint Economic Committee's subcommittee on Economic Relations with Latin America. The activator is a new subcommittee chairman, Rep. Gillis W. Long, 53, of Louisiana.

Long, a moderate Democrat who works closely with the joint committee's new chairman, Sen. Hubert Humphrey, is a distant relation to the well-known Long political family but is not a part of their dynasty.

The Senate-House Joint Economic Committee is a recognized congressional think-tank and opinion leader.

Long says he means to reactivate the dormant subcommittee on Latin America in the interest of "a vast American farming and manufacturing heartland whose commerce flows into and down the Mississippi River. It starts actually in Western Pennsylvania and includes Michigan and many Midwestern and Southern states that touch the great artery and its tributaries. Even Oklahoma is now connected by a canal." Long's large 8th District in Louisiana sprawls across the Mississippi.

He sees a roller-coaster U.S. interest in Latin America as causing many difficulties.

"We want to try to take many inconsistencies out of our Latin American policies—and to clarify ground rules in hemisphere relations," he said.

Representative Long was very anxious to accompany Secretary Kissinger on his latest Latin American swing, which peaked when Kissinger met hemisphere foreign ministers at the O.A.S. Annual General Assembly in Chile in closed sessions.

But Long was unable to get on Kissinger's plane, which carried no representation from Congress. Named as a delegate observer by House Speaker Carl Albert, Long said he began trying late on June 3, with Kissinger set to leave June 6.

Still, he notes, "this has happened in the past and on many occasions room has been made for members of Congress."

Long says he is not angry or hurt about not being allowed to go, but just wants "to work with all concerned for the resolution of critical impending issues on the U.S.-Latin American agenda."

He added thoughtfully: "Apparently the secretary preferred to take another bureaucrat along rather than a member of Congress. Perhaps this is some indication of the secretary's willingness to co-operate with Congress in the conduct of foreign policy as the Constitution spells out—and perhaps the secretary was unwilling to have Congress watching over his shoulder in Santiago."

Though only a third-termer in Congress, Long is also on the powerful House Rules Committee, which determines the timing and fate of many bills. He often quietly casts a swing vote, breaking ties. Colleagues describe him as a "New Southerner" who adds to his concern for his home district a broad national interest.

In his first term Long served on the Interstate and Foreign Commerce Committee. Named acting chairman of the Joint Economic Committee subgroup last fall, he has familiarized himself with Latin American issues and studied how European nations deal with the Third World.

Long has set two early hearings, called "listening sessions." In Washington on June 28–29 his subcommittee will hear testimony from academic, business and labor leaders as well as diplomats. On July 7–8, at hearings in New Orleans, the self-designated "Gateway to Latin America," he will call businessmen, exporters, manufacturers and farm representatives. Both hearings will deal with the broad political context of present hemisphere relations.

Later the revitalized committee will take up all the heated issues: Trade, commodity prices, transnational corporations, investment policy, the transfer of technology.

Because of his seat on the Rules Committee and background as a lawyer interested in international business and finance, plus awareness of development techniques acquired during a short stint as assistant director of OEO, Long is often consulted on such things as foreign aid and commercial policy by members of the key international relations and banking committees. His new attack on hemisphere problems will redouble the scope of this consultative role.

ACTS ADOPTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA AND TRANSMITTED TO THE SPEAKER JUNE 22 TO JULY 22, 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, the Council of the District of Columbia has adopted a number of acts since last I reported to the House in the CONGRESSIONAL RECORD of June 21, 1976.

The House Committee on the District of Columbia has in its files Council committee reports and copies of acts, if Members desire further information.

The Council acts are listed below:

ACTS ADOPTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, AND WHERE NECESSARY TRANSMITTED TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES BETWEEN JUNE 22, 1976, AND JULY 22, 1976

Act 1–131. Election Act Amendments of 1976. Title I, amending the D.C. Election Act (D.C. Code, Title I, Sec. 1101 et seq.); Title II, Conflict of Interest and Disclosure (D.C. Code, Title I, Sec. 1181); Title III, Lobbying (D.C. Code, Title I, Sec. 1171); Title IV, Multilingual Election Materials; Title V, Presidential Preference Primary; Title VI, Enfranchisement of Ex-Felons; Title VII, Constituent Services and Expenditure Limitations; Title VIII, Miscellaneous Provisions (Income and Franchise Tax Act of 1947; D.C. Code, Title 47, Sec. 1567f(a) et al). Adopted by the Council on May 18, 1976. Signed by the Mayor on June 18, 1976. Transmitted to the Speaker on June 21, 1976.

Act 1–132. Aging Act Amendments. To amend the Commission on Aging Act (D.C. Law No. 1–24) regarding needs of the aged and reports and recommendations thereon and to vest appropriate authority in the Mayor and with the Office on Aging. Adopted by the Council on April 20, 1976. Signed by the Mayor on June 18, 1976. Transmitted to the Speaker on June 28, 1976.

Act 1–133. Historic Sites Subdivision

Amendment of 1976. To amend the May 16, 1967, Subdivision Regulations for the District of Columbia (Sec. 7 of Article II, Commissioner's Order No. 67–651a). Adopted by the Council on June 1, 1976. Signed by the Mayor on June 18, 1976. Transmitted to the Speaker on June 22, 1976.

Act 1–134. Prescription Drug Price Information. To permit advertising in each pharmacy of prescription drug prices for most commonly used drugs; prohibit restrictions in advertising of prices and other information; and regulate the substitution of generic equivalent drugs for brand name drugs. Adopted by the Council on May 18, 1976. Signed by the Mayor on June 16, 1976. Transmitted to the Speaker on June 23, 1976.

Act 1–135. License Fees and Charges. To provide additional revenue for the District of Columbia by increasing fees for miscellaneous business licenses; public hospital rates; fees for electrical equipment and services; occupational and professional licenses; public space permits; and corporation fees. Adopted by the Council on April 6, 1976. Signed by the Mayor on June 22, 1976. Transmitted to the Speaker on June 28, 1976.

Act 1–137. Motor Vehicle Inspections. To amend the Motor Vehicle Regulations for the District of Columbia by extending to 30 days the period in which to eliminate deficiencies in vehicles rejected at inspection. Adopted by the Council on June 15, 1976. Signed by the Mayor on July 2, 1976. Transmitted to the Speaker on July 9, 1976.

EMERGENCY AGRICULTURAL RELIEF ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Kastenmeier) is recognized for 10 minutes.

Mr. KASTENMEIER. Mr. Speaker, I am today introducing the Emergency Agricultural Relief Act of 1976 in response to the most severe drought in the upper Midwest since the 1930's. While I know that it is late in the session, I am hopeful that recognition of the devastating impact of drought conditions in Wisconsin, Minnesota, North Dakota, and South Dakota will encourage speedy action on this legislation.

A substantial number of Wisconsin counties have already been declared disaster areas and it is certain that more will follow. During the worst drought on record, the 1936 drought, Wisconsin received 7.2 inches of rain from April through July. This year, the State has received only 7.91 inches. Recent temperatures in excess of 100 degrees all but destroyed any remaining hope for the corn crop.

What is particularly unusual for Wisconsin is that the three traditional major crops; corn, oats, and hay; are suffering. Generally, if one crop fails or even two, there has been one crop that produced a normal harvest. When the corn crop has failed, farmers could usually count on oats or hay. This year, however, the oat crop will be low with the first hay crop down and for many farmers, no second crop. Corn could have partially salvaged this tragic situation by providing grain and forage that dairymen need. But it now appears that the corn crop too, will fail. Farmers are already slaughtering dairy cattle which could result in reduced milk supplies later in the year. The ripple effect of this may well cause consumers to face higher prices for dairy products in the supermarket.

Hearings held earlier this year by Senator McGovern highlighted present disaster programs as fragmented, uncoordinated and overlapping. Efforts will be made next year to develop permanent legislation to better deal with disasters and this bill is not designed to be permanent. It is designed to deal with the present drought situation by providing the financial assistance which is so urgently needed right now.

This bill contains three titles addressing three areas where Federal assistance is necessary.

The first title would help dairy and beef operators restore foundation livestock herds. It would provide an emergency 90 percent guaranteed loan to restore foundation herds at average 1974–75 levels of like quality and breed. Under its provisions, the Farmers Home Administration would be authorized to subsidize 50 percent of interest payments for the first 2 years with the loan term being 7 years. There is provision for an extension in cases of clear need.

Title II would aid farmers with proven grain losses. Eligibility would require a proven loss of at least one-third of normal crop return and would include all grains plus various crops of hay. These loans would be of the guarantee type as in title I but be limited to $60,000.

Title III would authorize emergency direct loans to farmers who may be forced to abandon farming unless immediate assistance is available. The maximum limit for these loans would be $30,000 and carry 1-percent interest payment over a 10-year term. The bill also provides for a $5,000 forgiveness limit should their areas receive drought designations in 2 of the next 5 years.

Mr. Speaker, I want to emphasize that this is an emergency bill with authority scheduled to expire next year. The bill is designed to address extreme financial hardship which has resulted from drought conditions. This bill will test the commitment of Congress to our farmers who are suffering now and to consumers who will suffer when the impact of reduced food supplies reaches the supermarket.

I include the text of the legislation I am introducing at this point:

H.R. 14854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Agricultural Relief Act of 1976".

TITLE I—LOAN GUARANTEES TO RESTOCK FOUNDATION HERDS

Sec. 101. (a) The Secretary of Agriculture is authorized and directed to provide financial assistance in restocking foundation livestock herds depleted as a result of natural disaster or emergency to bona fide farmers and ranchers (1) who are primarily and directly engaged in agricultural production, (2) who have substantial operations in breeding, raising, fattening, or marketing livestock (3) whose livestock operations are located in areas designated as major disaster or emergency by the President under sections 5121 to 5202 of Title 42, United States Code, or designated as an emergency by the Secretary under section 1961 of Title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended) during the calendar year 1976 and, (4) who have been forced to sell off livestock causing a reduction in normally-constituted foundation herds as a result of such major disaster or emergency conditions. In cases of corporations or partnerships, such financial assistance shall be extended only when a majority interest in such corporations or partnerships is held by stockholders or partners who themselves are primarily and directly engaged in such agricultural production. For the purposes of this Title, the term "livestock" shall mean beef cattle, dairy cattle, sheep, and coats and the off-spring, including dairy cattle raised and maintained for the primary purpose of marketing dairy products, and "normally-constituted foundation herd" shall mean the average number of livestocks in the farmer's foundation herd during the three years immediately proceeding calendar year 1976 or, if the farmer has had a livestock operation for less than those three years, during the years in which the farmer has had a livestock operation.

(b) Pursuant to this authorization and direction, the Secretary shall guarantee loans, including both principal and interest, made by any legally organized lending agency to the bona fide farmers and ranchers described in subsection (a) of this section for the purpose of financing the purchase of livestock for restoration of foundation livestock herds, which otherwise meet the purposes and conditions of this Title. As used in this Title, a guaranteed loan is one which is made, held, and serviced by a legally organized lending agency and which is guaranteed by the Secretary hereunder: *Provided,* That the term "legally organized lending agency" shall be deemed to include the Federal Financing Bank only to the extent that such Bank may hold the guaranteed portion of such loans.

(c) No contract guaranteeing any such loan shall require the Secretary to guarantee more than 90 per centum of the principal and interest on such loan.

(d) No fees or charges shall be assessed by the Secretary for any guarantee provided by him under this Title.

(e) Loans guaranteed under this Title shall bear interest at a rate to be agreed on by the lender and borrower.

(f) Loans guaranteed under this Title shall be for the period reasonably required by the needs of the borrower, taking into consideration the security the borrower has available, but not exceeding an original term of seven years. Loans may be renewed for not more than three additional years.

(g) As additional financial assistance, borrowers to whom loans are made that are guaranteed under this Title shall be reimbursed by the Secretary for one-half of the amount of payments made by the borrower during the first two years of the loan repayment period on interest accrued during such period, on submission to the Secretary of proof of such interest payments: *Provided,* That such reimbursements shall not exceed $5,000 for each guaranteed loan.

Sec. 102. As a condition to the Secretary of Agriculture contracting to guarantee a loan under this Title—

(a) The lender shall certify that—

(1) the lender is unwilling to provide credit to the loan applicant in the absence of a guarantee authorized by this Title;

(2) the loan applicant is directly and in good faith engaged in agricultural production, and has a substantial operation in breeding, raising, fattening, or marketing livestock; and

(3) the loan is for the purpose of financing the purchase of livestock, and the loan does not exceed the amount necessary to permit the restoration of the loan applicant's foundation herd to the level of his normally-constituted foundation herd.

(b) The loan applicant shall—

(1) submit data showing (i) that he sold

foundation herd livestock as a result of a major disaster or emergency occurring in 1976, (ii) that such sale reduced his foundation herd to a size smaller than his normally-constituted foundation herd, and (iii) the number of livestock by which the normally-constituted foundation herd was reduced;

(2) certify that he will be unable to obtain financing in the absence of the guarantee authorized by this Title; and

(3) certify that the loaned monies will be used to purchase only livestock of the same or comparable kind and breed that was lost from the normally-constituted foundation herd as a result of the major disaster or emergency.

(c) The Secretary shall make determinations that—

(1) the loan applicant conducted his livestock operation at the time of loss to his normally constituted foundation herd in an area that has been designated by the President under sections 5121 to 5202 of title 42, United States Code, as a major disaster or emergency or by the Secretary under section 1961 of title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended) as an emergency during calendar year 1976; and

(2) there is reasonable probability of accomplishing the objectives of this title and repayment of the loan.

SEC. 103. Loans guaranteed under this title shall be secured by collateral adequate to protect the Government's interest, as determined by the Secretary of Agriculture.

SEC. 104. Loans otherwise meeting the purposes and conditions of this title, that contain repayment arrangements by which the borrower is not required to begin repayment of principal until up to two years after the loan is made, shall be eligible for loan guarantees under this title.

SEC. 105. Loan guarantees outstanding under this Title shall not exceed $500,000,000 at any one time.

SEC. 106. (a) Subject to the provisions of section 101(c) of this title, the fund created in section 309 of the Consolidated Farm and Rural Development Act shall be used by the Secretary of Agriculture for the discharge of the obligations of the Secretary under contracts of guarantee made pursuant to this title. Such fund may also be utilized by the Secretary to pay administrative expenses of the Secretary necessary to carry out the provisions of this title.

(b) The Secretary is further authorized to utilize such fund to purchase, on such terms and conditions as he may deem appropriate, the guaranteed portion of any loan made pursuant to this title and to pay such expenses and fees incident to such purchases.

SEC. 107. Contracts of guarantee under this title shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

SEC. 108. Any contract of guarantee executed by the Secretary of Agriculture under this title shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

SEC. 109. The provisions of this title shall become effective on enactment of this Act and the authority to make new guarantees under this title shall terminate on June 30, 1977.

SEC. 110. (a) The provisions of section 310B(d)(6) of the Consolidated Farm and Rural Development Act shall apply to loans guaranteed under this title.

(b) Contracts of guarantee executed pursuant to the provisions of this title shall be fully assignable.

SEC. 111. The Secretary of Agriculture is authorized to issue such regulations as he determines necessary to carry out the provisions of this title. The proposed regulations shall be issued as soon as possible, but in no event later than thirty days from the date of enactment of this Act. Insofar as practicable, the Secretary shall complete action on each loan guarantee within thirty days after its receipt.

TITLE II—OPERATIONAL LOAN GUARANTEES AFTER DISASTER LOSS TO CROPS

SEC. 201. (a) The Secretary of Agriculture is authorized and directed to provide financial assistance for operational expenses in maintaining a farm, to bona fide farmers—

(1) who are primarily and directly engaged in agricultural production, (2) whose farm operations are located in areas designated as major disaster or emergency by the President under sections 5121 to 5202 of title 42, United States Code, or designated as an emergency by the Secretary under section 1961 of title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended) during calendar year 1976, and (3) who have suffered a proven loss in the production of grain and hay in 1976, amounting to at least one-third of the normal crop, as a result of such major disaster or emergency conditions. In cases of corporations or partnerships, such financial assistance shall be extended only when a majority interest in such corporations or partnerships is held by stockholders or partners who themselves are primarily and directly engaged in such agricultural production. For the purposes of this title, the term "grain" shall mean corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oil seeds, the term "hay" shall mean grasses or legumes, or a combination thereof, that are harvested by mowing and cured to be fed as a roughage to livestock, and the term "normal crop" shall mean the average yearly crop of grain and hay produced by the farmer during the five years immediately preceding 1976, but such average shall not include yearly crops produced in a year in which the crop was affected by a major disaster or emergency condition.

(b) Pursuant to this authorization and direction, the Secretary shall guarantee loans, including both principal and interest, made by any legally organized lending agency to the bona fide farmers described in subsection (a) of this section for the purpose of financing the continued operation of their farms, which otherwise meet the purposes and conditions of this title. As used in this title, a guaranteed loan is one which is made, held, and serviced by a legally organized lending agency and which is guaranteed by the Secretary hereunder: *Provided*, That the term "legally organized lending agency" shall be deemed to include the Federal Financing Bank only to the extent that such Bank may hold the guaranteed portion of such loans.

(c) No contract guaranteeing any such loan shall require the Secretary to guarantee more than 90 per centum of the principal and interest on such loans.

(d) No fees or charges shall be assessed by the Secretary for any guarantee provided by him under this title.

(e) Loans guaranteed under this title shall bear interest at a rate to be agreed on by the lender and borrower.

(f) Loans guaranteed under this title shall be for the period reasonably required by the needs of the borrower taking into consideration the securrity the borrower has available, but not exceeding an original term of seven years. Loans may be renewed for not more than three additional years.

(g) As additional financial assistance, borrowers to whom loans are made that are guaranteed under this title shall be reimbursed by the Secretary for one-half of the amounts of payments made by the borrower during the first two years of the loan repayment period on interest accrued during such period, on submission to the Secretary of proof of such interest payments: *Provided*, That such reimbursements shall not exceed $5,000 for each guaranteed loan.

SEC. 202. As a condition to the Secretary of Agriculture contracting to guarantee a loan under this title—

(a) The lender shall certify that—

(1) the lender is unwilling to provide credit to the loan applicant in the absence of a guarantee authorized by this title;

(2) the loan applicant is directly and in good faith engaged in agricultural production;

(3) the loan is for the purpose of financing the farm operation and the loan does not exceed the actual amount of proven loss to crops suffered by the loan applicant as a result of major disaster or emergency conditions occurring in 1976: *Provided*, That principal balance outstanding at any one time on loans guaranteed under this title for any borrower shall not exceed $60,000;

(4) in the case of any loan to refinance the farm operations of a loan applicant (i) the loan and refinancing are absolutely essential in order for the loan applicant to remain in business, (ii) the lending agency would not refinance such loan in the absence of a guarantee, and (iii) the lending agency is not currently refinancing similar loans to others without such guarantees.

(b) The loan applicant shall—

(1) submit data showing (i) the loss in production of grain and hay during 1976 incurred as a result of major disaster or emergency conditions occurring in 1976, and (ii) that as a result of the loss, the total crop of grain and hay that he produced in 1976 amounted to less than two-thirds of his normal crop; and

(2) certify that he will be unable to obtain financing in the absence of any guarantee authorized by this title.

(c) The Secretary shall make determinations that—

(1) the loan applicant conducted his farm operation at the time of the loss to his grain and hay crop in an area that has been designated by the President under sections 5121 to 5202 of Title 42, United States Code, as a major disaster or emergency or by the Secretary under section 1961 of Title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended) as an emergency during calendar year 1976; and

(2) there is reasonable probability of accomplishing the objective of this title and repayment of the loan.

SEC. 203. Loans guaranteed under this title shall be secured by collateral adequate to protect the Government's interest, as determined by the Secretary of Agriculture.

SEC. 204. Loan guarantees outstanding under this title shall not exceed $200,000,000 at any one time.

SEC. 205 (a) Subject to the provisions of section 201(c) of this title, the fund created in section 309 of the Consolidated Farm and Rural Development Act shall be used by the Secretary of Agriculture for the discharge of the obligations of the Secretary under contracts of guarantee made pursuant to this title. Such funds may be utilized by the Secretary to pay administrative expenses of the Secretary necessary to carry out the provisions of this title.

(b) The Secretary is further authorized to utilize such fund to purchase, on such terms and conditions as he may deem appropriate, the guaranteed portion of any loan made pursuant to this title and to pay such expenses and fees incident to such purchases.

SEC. 206. Contracts of guarantee under this title shall not be included in the total of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

Sec. 207. Any contract of guarantee executed by the Secretary of Agriculture under this title shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

Sec. 208. The provisions of this title shall become effective upon enactment of this Act and the authority to make new guarantees under this title shall terminate on June 30, 1977.

Sec. 209. (a) The provisions of section 310B (d)(6) of the Consolidated Farm and Rural Development Act shall apply to loans guaranteed under this title.

(b) Contracts of guarantee executed pursuant to the provisions of this title shall be fully assignable.

Sec. 210. The Secretary of Agriculture is authorized to issue such regulations as he determines necessary to carry out the provisions of this title. The proposed regulations shall be issued as soon as possible, but in no event later than thirty days from the date of enactment of this Act. Insofar as practicable the Secretary shall complete action on each loan guarantee application within thirty days after its receipt.

TITLE III—DIRECT LOANS TO FARMERS IN DISASTER AREAS

Sec. 310. (a) The Secretary of Agriculture shall make loans in any area which has been designated as a major disaster or emergency by the President under sections 5121 to 5202 of title 42, United States Code, or designated as an emergency by the Secretary under section 1961 of title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended) on two or more separate occasions since January 1, 1971, to bona fide farmers (1) who are primarily and directly engaged in agricultural production, (2) who at the time of application for a loan under this title hold equitable assets in farm real estate of less than $50,000 and other unencumbered non-real estate assets of less than $25,000, and (3) who can show to the satisfaction of the Secretary (i) that such loans are necessary to the continued existence of their agricultural units, (ii) that the borrowed funds will be fully utilized within one year after the date received, and (iii) that they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan.

(b) In cases of corporations or partnerships, loans shall be made under this title only when a majority interest in such corporations or partnerships is held by stockholders or partners who themselves are primarily and directly engaged in such agricultural production and the corporation or partnership meets the other criteria and conditions set out in subsection (a) of this section and this title.

Sec. 302. Loans may be made under this title for (1) paying costs incident to reorganizing the farming system for more profitable operation, (2) purchasing livestock, poultry, and farm equipment, (3) purchasing feed, seed, fertilizer, insecticides, and farm supplies and to meet other essential farm operating expenses, including cash rent, (4) financing land and water development, use, and conservation, (5) refinancing existing indebtedness, and (6) other farm and home needs including but not limited to family subsistence.

Sec. 303. (a) Loans made under this title shall not exceed $30,000 in amount.

(b) The Secretary of Agriculture shall make all loans under this title at a rate of interest of one per centum per annum.

(c) The period for repayment of loans under this title shall be for the time period reasonably required by the needs of the borrower, but for a period not exceeding ten years.

(d) Loans made under this title shall be made upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided*, That the security is adequate to assure repayment of the loan; except that if such security is not available because of the disaster, the Secretary shall accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the major disasters or emergencies and which in the opinion of the Secretary, together with his confidence in the repayment ability of the loan applicant, is adequate security for the loan.

(e) In the administration of the loan program under this title, in the case of occurrence of two or more separate major disasters or emergencies as designated by the President under sections 5121 to 5202 of Title 42, United States Code, or the Secretary under section 1961 of Title 7, United States Code, or the Act of September 21, 1959 (73 Stat. 574, as amended), that directly affect a borrower's farm operation within the first five years following the making of a loan, the Secretary may cancel the principal of a loan to such borrower except that the total amount so canceled shall not exceed $5,000.

Sec. 204. (a) The Secretary of Agriculture is authorized to utilize the fund created in section 309 of the Consolidated Farm and Rural Development Act for carrying out the purposes of this title.

(b) There are authorized to be appropriated to the fund created in section 309 of the Consolidated Farm and Rural Development Act such additional sums as the Congress shall from time to time determine to be necessary to carry out the purposes of this title.

Sec. 305. The provisions of this title shall become effective upon enactment of this Act and the authority to make new loans under this title shall *terminate* on December 31, 1977.

Sec. 306. The Secretary of Agriculture is authorized to issue such regulations as he determines necesary to carry out the provisions of this title. The proposed regulations shall be issued as soon as possible, but in no event later than thirty days from the date of enactment of this Act. Insofar as practicable, the Secretary shall complete action on each loan application within thirty days of its receipt.

TWO BLACK AFRICANS FACE UNJUST DEATH SENTENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Cotter) is recognized for 10 minutes.

Mr. COTTER. Mr. Speaker, unless world opinion can prevail upon the Government of South Africa, two young black Africans will be put to death in another tragic chapter of South Africa's repressive military occupation of Namibia.

In 1966, the United Nations withdrew South Africa's mandate over Namibia—Southwest Africa—but the white minority regime in Pretoria clung to their administration of the U.N. trust territory in defiance of the world's recognition that the people of Namibia should be granted independence.

The two condemned men, Aaron Mushimba, 29, and Hendrik Shikongo, 28, are members of SWAPO, the Southwest African People's Organization. SWAPO is recognized by the United Nations as the legitimate representative of the Namibian people.

In an obvious attempt to discredit SWAPO, the South African administration staged a political show trial earlier this year under the so-called "Terrorism Act," which the State Department has described as "repressive legislation." Even if the South African Government had the right to enforce any law in Namibia, this particular statute would be especially pernicious. It permits the indefinite detention of suspects without any specific charges brought against them and without the right to see counsel, family or clergy. If a suspect is subjected to a trial, the law presumes his guilt: the accused, not the state, has the burden of proof. Finally, the law prohibits any act that might "embarrass the administration of the affairs of the state." In other words, free speech is forbidden.

Mushimba and Shikongo were sentenced to death under this law. To say the least, the proceedings against them were irregular according to any civilized concept of law. The Government's evidence in many cases was circumstantial, vague and contradictory. Moreover, it was recently revealed that the prosecution violated the privileged relationship between the accused and their counsel. A partner of the law firm that defended Mushimba and Shikongo regularly leaked documents related to the case to the South African security police.

The state claimed that Mushimba gave a small sum of money, a radio and a vehicle to persons who allegedly advocated the overthrow of South Africa's illegal administration in Namibia. Shikongo allegedly provided transportation for three persons who were implicated in the assassination of a Namibian tribal leader. The assassins were never arrested and their guilt never proven, but in South Africa such details are unimportant.

Lutheran, Anglican, Roman Catholic, and Methodist Church leaders in Namibia have condemned the death sentences and predicted that, if carried out, the executions are "sure to cause new unrest and may lead to the spilling of blood as violence gives birth to violence." The churches have been vocal in their support for Namibian independence. The bishop of the Namibian diocese of Damaraland, the Rt. Rev. Colin Winter, was deported in 1972 because he dared to speak out against the South African Government. His assistant bishop was expelled from the country last year.

Mr. Speaker, I believe we have a responsibility to express our concern to the South African Government and to plead for a commutation of the sentences against Mushimba and Shikongo. I urge my colleagues to join me by cosigning the following letter to the South African State President, N. Diederichs.

I would like to express my thanks to two Lutheran pastors from my district, Burton Strand and David Rinas, who first brought this matter to my attention.

Hon. N. Diederichs,
Residence of the State President,
Pretoria, South Africa.

Dear Mr. President: We, the following members of the United States Congress, respectfully urge you to commute the death sentences against two citizens of Southwest Africa, Aaron Mushimba and Hendrik Shikongo.

Neither Mr. Mushimba nor Mr. Shikongo were accused of direct involvement in terrorist activity. If they are put to death, it will be difficult for world opinion to avoid the conclusion that the lives of these two men were sacrificed in an attempt to discredit the national aspirations of the people of Southwest Africa.

For the sake of humanity and justice, we ask you to investigate their case, now under appeal before the chief justice, and reduce their sentences to a lesser penalty.

Please be assured that we will continue to watch the fate of these men with great interest.

cc,: R. F. Botha, South African ambassador to the United States, B. J. Voerster, prime minister of South Africa, J. T. Kruger, South African minister of justice, Sean MacBride, U.N. Commissioner for Namibia.

I also would like to insert a statement released May 14 by Sean MacBride, the United Nations Commissioner for Namibia:

Statement by Sean MacBride

The occupation of Namibia by South Africa is illegal under international law. It follows that the purported trial and the sentences imposed by a South African court illegally sitting in Swakopmund in Namibia to try charges brought under the South African Terrorism Act against four Namibian citizens is null, void and illegal.

If the death sentences imposed on Mr. Aaron Mushimba and on Mr. Hendrik Shikonga are carried out, all those directly involved in the executions will be guilty of murder. Those indirectly involved will be guilty of conspiracy to murder. It is well that those involved should clearly understand that they are involved in a criminal enterprise.

The trial itself was staged as a political trial of SWAPO, which is recognized both by the Organization of African Unity and the United Nations as the representatives of the people of Namibia. The purpose of this illegal trial was to try to establish, by innuendoes and by association, that those accused had committed certain acts. The South African Terrorist Act itself is a clear violation of the principles of the Universal Declaration of Human Rights and of the United Nations Convention on Human Rights. This so-called law is truly an act intended to terrorize the people of Namibia and to deter them from asserting their just claim for the liberation of Namibia.

It is desirable that the international community should react firmly and urgently against this further act of aggression and provocation by South African authorities in Namibia. Last year, they were publicly flogging alleged SWAPO sympathizers, now they propose to execute them.

It is of some significance that, while the prime minister of South Africa says that he makes no claim to an inch of Namibian soil and that he is anxious to support a peaceful transfer of power to the people of Namibia, he orders political trials of Namibians by South African courts operating illegally in Namibia. His actions in these matters demonstate the extent of the terror strategems to which he is prepared to resort to defeat the decisions of the United Nations and of the world community.

LUIS MUNOZ MARIN AND GOV. HERNÁNDEZ-COLÓN SPEAK ON 24TH ANNIVERSARY OF COMMONWEALTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Puerto Rico (Mr. Benitez) is recognized for 15 minutes.

Mr. BENITEZ. Mr. Speaker, yesterday, July 25, was the 24th anniversary of the founding of Commonwealth status for Puerto Rico. It was and is to this day an imaginative and unfinished venture jointly undertaken by the people of Puerto Rico and the Congress of the United States. The occasion was celebrated in Puerto Rico, in the words of Gov. Hernández-Colón, "with the same enthusiasm and faith that 3 weeks ago we celebrated the 200th anniversary of the founding of the United States of America. For keeping in mind the difference in geographic scale, history and power, Commonwealth Day in Puerto Rico reflects likewise opening new vistas of freedom, self identity and interdependence."

It does so in a world desperately in need of new political structures, approaches and initiatives that may render possible the preservation of eternal values in the face of continuous change.

The present format of Commonwealth needs revision, reformulation and improvement. Ever since 1962 procedures and goals for such modifications have been outlined by Puerto Rican leadership. Such procedures and goals were further identified through congressional and legislative action in 1964 when a joint United States-Puerto Rico Status Commission was appointed. Two years later that Commission recommended a plebiscite on alternatives. In 1967 the people of Puerto Rico held the recommended plebiscite. The improvement of Commonwealth was freely and overwhelmingly endorsed by the electorate over the alternatives of statehood or independence. To this day the majority of Puerto Rico continues to support such improvements.,

In September of 1973 a joint commission of 14 members appointed by the President of the United States and the Governor of Puerto Rico was named and charged to formalize the plebiscite recommendations in a legislative proposal. After 2 years of studies, deliberations and hearings, on October 1975 the Joint Commission recommended to the President of the United States and to the Governor of Puerto Rico a proposed new compact of permanent union between Puerto Rico and the United States. That proposal is now before the Subcommittee on Interior and Insular Affairs. As yet there has not been any report from the White House.

The exceptional delay involved in this whole process has created understandable exasperation and bewilderment in Puerto Rico. It has prompted the minorities opposed to Commonwealth to intensify their minority claims. It has even led some advocates of Commonwealth improvements to deride the moroseness of the process and to blame Commonwealth status itself on that account.

This protracted retardation of readjustments and improvements is harmful to Puerto Rico and to the United States. These unfortunate realities give special importance and timeliness to the message on Commonwealth delivered yesterday by the greatest Puerto Rican political figure of this century, don Luis Muñoz Marín. Because of the confusion referred to above, our 78 year old retired, still convalescent leader and founder of Commonwealth, felt it necessary to break his prolonged silence to restate briefly the basic facts pertaining to Commonwealth. Muñoz Marín defended Commonwealth once again underscoring the difference between the reality of Commonwealth and the discontentment with the delays in the implementation of its improvements. I am honored to include in the Record the English officials translation of the Muñoz Marín Commonwealth message.

Luis Muñoz Marín's Message on the 24th Anniversary of the Commonwealth of Puerto Rico—July 25, 1976

The ultimate goal of Commonwealth status is the maximum autonomy which in time must be achieved by Puerto Rico in its permanent union with the United States.

The proposed new compact with its discussion in Congress are only part of our effort to that purpose, but Commonwealth even in its present form and as it has existed since 1952 is the only solution which allows for survival and for progress in social and economic justice and for the preservation of Puerto Rico's identity and culture.

Since its creation Commonwealth has been the means for great and unquestionable progress for Puerto Rico and for each and every Puerto Rican.

Both statehood and independence are honorable alternatives in theory nevertheless neither is applicable to the particular situation of Puerto Rico and of its people. Statehood among other reasons because it implies a denial of fiscal autonomy and independence among other reasons because it seriously curtails free trade with the United States.

Commonwealth is great in its reality of survival and of unquestionable economic advancement and as the homeland of all Puerto Ricans.

COST OF REGULATION

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the problems of overregulation by Government agencies are mounting year by year. Harassed businessmen and industrialists find regulation more and more difficult to cope with and to conform to. Members of Congress and the administration repeatedly refer to the problem. Beyond this, little, if anything, is done. The problem is one that will not go away. It will only worsen unless a determined effort is made at the levels where relief is possible.

Laws are enacted with express goals: to improve working conditions, to benefit railroads or railroad workers, to assist home buyers, or any one of hundreds of objectives. When a law goes into effect, it is accompanied by regulations on procedure. These are developed by the agency or department which has jurisdiction over the new law. This is not a one-time process. Government agencies have a way of constantly devising new and added regulations.

Frequently overregulation of business by Government inhibits the main objectives of a law from being reached, and is often counterproductive. The excess of regulations in OSHA is a prime example.

To meet this excess, 75,000 full-time regulators are employed at an annual cost to taxpayers of $3 billion, a cost increase over the past 2 years of 48 percent.

Agencies such as OSHA, ICC, and auto

safety also cost the consumer billions of dollars annually due to increased costs of production. These added costs often outweigh the benefits of regulation, as illustrated with the auto safety interlock systems that many consumers pay to have removed. The result can be multiple costs and no benefit.

Regulations can also reduce the flow of new and better products to the market. The abundance of unnecessary restrictions, paperwork, and detailed requirements force resources to be allocated away from more productive use, such as research on improvements and safety training.

Another danger is that regulations can serve as a barrier to the entry of new firms to a market, thus eliminating competition. Established businesses can be quite supportive of the agencies in this respect.

For other reasons, large corporations sometimes oppose deregulation. Regulatory agencies for specific industries such as the ICC, the FPC, et cetera, may become captives of the industry they are to regulate by appearing to protect the interests of the industry rather than the consumer.

On the other hand, regulatory agencies that cut across all businesses such as OSHA, EPA, CPSC, et cetera, have become captives of public interest groups. Though the value of such agencies may be recognized, they become counterproductive when they neglect the high costs and delays their regulations impose on the consumer.

Well-intentioned regulations often have other adverse effects on the consumer. The last minimum wage increase displaced 300,000 teenagers from the job market, and the Davis-Bacon Act obviously has increased the price of housing.

The limits of agency power can be used in questionable ways. Corporations have been known to pay protection money to avoid being regulated out of business by agencies. This type of activity needs to be investigated.

Congress should reform the regulatory system. Bills have already been proposed to review all regulatory agencies, and to require that benefits of regulations exceed their costs. The prospects for passage are not considered bright. This is unfortunate. The committees of Congress have a way of protecting the agencies they create.

It has been suggested that the OMB and the GAO set up guidelines for cost-benefit analysis. Budgets of agencies whose benefits exceed cost could properly be increased, and those agencies whose costs exceed benefits should be decreased.

To improve the effects of regulation, market incentives should be provided to assist compliance. In the area of pollution control, this could be in the form of discharge permits and effluent fees.

Overregulation is clearly detrimental. There is only limited hope for sensible deregulation. A balanced system of costs and benefits will be easier to obtain; but a sad fact remains. There is little effective work in progress, either in Congress or the administration, to eliminate overregulation.

A BILL TO CONVEY REAL PROPERTY FOR CEMETERY PURPOSES

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, on Monday, July 19, I introduced H.R. 14728 to direct the Secretary of the Interior to convey certain real property of the United States to the city of Niceville, Fla., for use as a cemetery. The property located at Eglin Air Force Base containing 48.59 acres, more or less, was originally a small portion of the Choctawhatchee National Forest. The property is no longer required for military purposes.

The city of Niceville, Fla., is largely surrounded by the Eglin Air Force Base Reservation. The city is in desperate need of land for a cemetery to be operated on a nonprofit basis. The land not in the reservation simply is not available. Every effort has been made to have minimal amounts of land deeded to the city of Niceville by the appropriate Government agency, but to date these efforts have not been successful. Therefore, it appears legislation is the only solution to this problem.

My bill provides for the Secretary of Interior to convey without consideration to the city of Niceville, Fla., the real property described for so long as such real property is used by the city as a cemetery on a nonprofit basis. If the real property conveyed is used other than as a cemetery on a nonprofit basis, title to such real property shall revert to the United States or be compensated for under rules normally accompanying the disposition of surplus Government property.

PROGRESS REPORT ON ANIMAL WELFARE LEGISLATION

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, I would like to take this opportunity to share with my colleagues two of my recent weekly radio broadcasts on the topic of animal welfare. The manner in which a country treats its animals is one test of a nation's character. I commend Congress for the legislation thus far enacted which would encourage more humane treatment of animals. The messages which I am now inserting in the Record outline the progress that we have made in animal welfare legislation and indicate those areas where yet more work must be done.

RADIO BROADCAST

(Week of July 19, 1976)

Hello again, this is Jim Hanley talking to you from our Nation's Capitol.

Over the past several months I have received large amounts of mail relating to the subject of animal welfare and the humane treatment of animals. That a country as civilized as ours has often allowed its animal population to be treated brutally should be considered a shame and scandal which requires immediate remedy. I thank you for the petitions and letters I have received relating to the use of animals in research, steel jaw traps, conditions in zoos, and transport of animals. It is reassuring to know that Central New Yorkers support reasonable measures for animal safety and welfare.

Both today and in my radio message next week I would like to speak about some of the legislation currently before Congress, and some recently enacted into law, which deal with the issue of animal welfare.

A bill similar to one which I cosponsored was recently signed into law by President Ford. Entitled the "Animal Welfare Act Amendments of 1976," the legislation increases the protection afforded animals in transit and also attempts to curb animal fights.

Specifically, the bill requires that presently exempt airlines and trucking companies, intermediate handlers, and certain additional dealers be included under regulations ensuring the humane treatment of animals shipped in interstate commerce. The bill also requires the Secretary of Agriculture to establish standards designed to protect all animals against disease, injury, and death while being transported. At present there are inadequate standards for such requirements as ventilation, temperature, food and water. In order to protect the health of both animals and humans, the new law requires that certain animals be examined by an accredited veterinarian to insure that they are free of infection, disease, or physical abnormalities. Finally, the bill makes it a crime to knowingly sponsor an animal fight in which animals are moved in interstate commerce or to use the mails to promote animal fighting ventures. While it is a matter for states and localities to decide on the legality of animal fights, I feel that the Federal Government should use the means at its disposal to discourage such fights.

The conditions found in some of our Nation's zoos are often appalling, yet many of you are fearful of expanding public support for such facilities, as this might turn zoos into research facilities, subjecting the animals to suffering in the name of scientific research. I have held conversations with the sponsors of legislation which would expand the public financing of zoos and aquariums. I have been assured that such fears are based on misinformation. None of the provisions of the proposed legislation would in any way change the purpose of zoos from that of a recreational and educational facility to that of a research laboratory. I strongly support legislation that would ensure that zoos maintain minimum standards for the care of animals and that would provide technical and financial assistance for that purpose.

The issues I have been speaking about today may seem trivial to some listeners.

I must differ, however, and reaffirm my commitment to act in promotion of the welfare of those that are not in a position to protect themselves. Our Nation's large animal population falls in this position of unavoidable helplessness and thereby deserves the attention of even the busiest of legislators. I hope and pray our society will never reach the point where we refuse to devote our time and resources to the protection of a great natural resource, our animal population.

Until next week at this time, this is Jim Hanley saying goodbye from Washington.

RADIO BROADCAST

(Week of July 26, 1976)

Hello once again. This is Jim Hanley speaking from our Nation's Capitol.

Last week at this time I spoke to you about some of the progress that has been made here in Congress towards improving the treatment afforded animals. I discussed improvement of conditions in zoos, better animal transportation, and the curtailment of animal fights. The issues I'd like to discuss this week are substantially more controversial thus your feedback would be most useful and appreciated.

Many who write me are outraged by the unnecessary suffering inflicted upon animals used in both civilian and military research. Scientists can and do use computer simulations and studies using tissue cultures. However, the role of animals in biomedical research cannot yet be completely eliminated. The general position of the research community and of regulatory agencies is that the alternative methods of research are not yet suitable for obtaining all necessary data. Therefore, sensible guidelines and controls are desperately needed. Often experiments are repeated unnecessarily or more animals than required for scientific objectivity are sometimes used. I am cosponsoring legislation which will establish an eleven-member commission to do research and to determine if animals are being subjected to inhumane treatment and pain in laboratories, as well as on farms, in zoos, or in other situations.

The Commission's findings would be reported to the President and to Congress. I feel that there are so many charges and countercharges concerning animal treatment in these various situations that an impartial study group should investigate.

A prime example of a subject the Commission should look into is the controversy surrounding steel jaw traps. I have received much mail from those of you who would like to see such traps outlawed because of the pain they cause trapped animals and because of the hazard they pose to ainmals for whom the traps were not intended. Other letters I receive point out that the steel jaw trap is inexpensive, efficient, reliable, and that its continued use is necessary for predator control, population control, and the livelihood of fur trappers. Hearings have been held on a number of bills relating to the prohibition of steel jaw traps, but no legislative action is expected soon. I personally would favor taking no action until an impartial investigation can be made by a commission such as the one that would be established under my proposal.

Recent estimates that as many as ten thousand dogs and cats are born every hour in the United States demonstrate that the pet population has reached epidemic proportions. The National League of Cities has called dog and cat over-population a threat to health as well as an assault on urban esthetics, a pollutant, and a safety hazard. The magnitude of the problems seems beyond easy remedy but one proposal calls for Federal Government loans for the establishment and construction of municipal low-cost, nonprofit clinics for the spaying and neutering of dogs and cats. My inclination would be to support such a program if it did not involve the creation of a new government boondoggle. However, I would appreciate hearing your viewpoints and am open to any suggestions as to how to deal with this problem.

I thank you for your attention these past two weeks while I discussed animal welfare. As a pet owner and a lover of nature, I find this an interesting aspect of my responsibilities in Congress. While perhaps the manner in which we treat our animals is not an overriding concern of every citizen, it is nevertheless an indication of our Nation's greatness that in urban Washington, D.C. there is time to ponder upon all of God's creatures.

Until this same time next week, this is Jim Hanley saying goodbye from Washington.

REFORM MEASURES URGED TO RESTORE LOW COST, EFFICIENT POSTAL SERVICE

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, I am extremely pleased that the House of Representatives recently adopted a resolution urging the U.S. Postal Service to effect a 1-year moratorium on any further service reductions, including the closing of small post offices and even more pleased that the Postal Service has now agreed to indefinitely postpone any further post office closings.

In a similar vein, the Missouri House of Representatives has passed House Resolution 112 which calls for the restoration of the Postal Service as a Government agency. The State representatives also urged Congress to prevent the Postal Service from closing small post offices. As my fellow colleagues know, the cutbacks in rural mail delivery have put undue hardships on those who now have to travel much further for postal services. I hope that Congress will follow the views expressed in Missouri House Resolution 112 and enact stronger reform measures that will restore postal service in this Nation to the low cost, efficient, and effective operation it once was.

The Missouri House resolution follows:

HOUSE RESOLUTION NO. 112

Whereas, the members of the Missouri House of Representatives have learned with great disfavor that the United States Postal Department has plans to close small post offices throughout Missouri and the nation; and

Whereas, it is essential and a constitutional duty that adequate postal service be provided to all citizens of this great nation; and

Whereas, the United States Postal Service plan to close small post offices across Missouri is unjustified and unfair discrimination to citizens who have chosen to live in rural areas of the state; and

Whereas, many senior citizens reside in these areas where the United States Postal Service has proposed post office closings, and it is proper and fitting that the members of the Missouri House of Representatives raise violent objection to this unfair and discriminatory practice that is being suggested to cover up the gross cost inefficiency that exists in the present system;

Now, therefore, be it resolved that the members of the Missouri House of Representatives, Seventhy-eighth General Assembly, Second Regular Session, respectfully request the members of the United States Congress to prevent the United States Postal System from closing post offices that are providing essential services to residents in small and rural communities in Missouri and throughout the nation, and respectfully request the Congress of the United States to consider putting the postal service back under direct congressional control; and

Be it further resolved that the Chief Clerk of the House of Representatives be instructed to send properly inscribed copies of this resolution to Missouri's Congresisonal delegation.

COKE OVEN SAFETY STANDARDS AND WAGE PROTECTION

(Mr. GAYDOS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GAYDOS. Mr. Speaker, presently OSHA is engaged in a very challenging task to promulgate an occupational health standard to protect steelworkers who work on coke ovens. According to Dr. William Lloyd's authoritative study entitled "Lung Cancer Mortality in Allegheny County Coke Plant Workers," employees who work in coke plants are twice as likely to die from lung cancer as employees who work in other areas of steel mills. Employees who work topside on the coke ovens have a sevenfold risk of dying from lung cancer as compared with persons working in other parts of the mill.

A key element of the contemplated standard relates to a medical surveillance program wherein overexposed workers will be removed from the injurious emissions. However, in order that such a medical examination program be effective, the workers must voluntarily agree to be examined. Because the examination could result in removal from the place of exposure and reassignment to another job with a lower pay rate, the need is clearly evident for including wage rate retention in the standard in order to make the examination provisions meaningful.

The steelworkers' presentation on this issue during the rulemaking procedure is, indeed, worthy of study by this body since it indicates another ramification of what is required in order to achieve a comprehensive system of workplace safeguards. The Congress has granted OSHA sufficient latitude to develop occupational health standards which include the right of wage rate retention—a right which is basic if the standard is to achieve its objective.

I insert herewith section VIII, "Removal From the Job Without Penalty," of the United Steelworkers of America's posthearing brief on standard for coke oven emissions.

POSTHEARING BRIEF OF UNITED STEELWORKERS OF AMERICA, AFL–CIO ON STANDARD FOR COKE OVEN EMISSIONS, JUNE 16, 1976

VIII. REMOVAL FROM THE JOB WITHOUT PENALTY

A. Introduction

A very important issue is going to be decided by the Federal Government in these hearings. The Secretary of Labor is going to determine whether or not the steel industry will be allowed—indeed, even required—to punish the disabled victims whom the Occupational Safty and Health Act was meant to protect for having the unmitigated gall to contract lung cancer or other disabling injuries.

OSHA may feel this is unduly strong language. But that is precisely the effect of the Proposed Standard. OSHA's proposal requires employers to remove from coke oven jobs those employees whose health is materially impaired, while OSHA closes its eyes to the devastating employment consequences to the workers so removed. This evasion of responsibility is based on the pronouncement that the impact of removal is a "labor relations" matter—as though removal from the job itself is not a labor relations matter.[107]

Joseph Odorcich put it quite well when he testified during the Inflationary Impact Hearings:

"But even if we assume that small producers will be at a competitive disadvantage, who is there to sympathize with the small children of coke oven workers whose fathers will soon come home telling them that they are being removed from their jobs because OSHA is mandating their removal.

"OSHA, you see, wants only healthy specimens to work on the ovens. Once those healthy specimens are infected, they too must be relegated to the industrial junk heap. When we raise the subject of rate retention, a matter which each of the impartial members of the Advisory Committee voted in

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favor of, OSHA personnel responded in a variety of ways.

"First, they tell us that rate retention is beyond OSHA's authority. Next, they concede that such a provision would be legal but protest about the practical difficulty of administering it.

"Lately, we get the impression that restrained amusement has taken over—amusement at the thought that we are still seriously urging this proposition. It galls us that the subject of inflationary impact could be given consideration in a hearing virtually set aside to that one subject, when rate retention which would help to encourage greater resort to medical examination is so lightly dismissed.

"OSHA must rid itself of the conservative thinking which leads to the kind of phoney excuses which we have been receiving on rate retention. If that kind of phoney conservative thinking had prevailed during the 1930's we would not have a National Labor Relations Act, or a Social Security Law" (Tr. 4240–4241).

We have been led to believe in the past that OSHA intended to give the matter of rate retention serious consideration in connection with the promulgation of a final coke oven regulation especially since it was anticipated that a more thorough record would be developed on this issue in the coke oven hearings than had been developed in previous hearings. That thorough record has now been developed as we will demonstrate below, and we would respectfully suggest that OSHA have the courage to face up to the issue in connection with this Standard or drop all pretense that removal without penalty is a possibility in some other standard.

We shall set forth below the legal justification for providing removal from the job without loss of earnings. We will then review briefly the fluffy company objections and discuss the Advisory Committee's proposal. Finally, we will suggest that the "can't do" experts have some very serious policy issues to face up to before they decide against removal without penalty.

B. Legal support for removal without penalty

There are a number of sound reasons which support the authority of the Secretary of Labor to insure that workers removed from jobs because of their health suffer no loss of earnings. The principal one which this Union has advanced most frequently is its relation to the medical surveillance program.[108]

Among the Secretary's powers are his authority "to prescribe the type and frequency of medical examinations and other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure" (Section 6(b)7). The need to include an effective medical surveillance program in health standards is self-evident. Industry is not legally obligated by the Occupational Safety and Health Act to pre-test chemicals before introducing them into the work place.[109] Thus, employees inevitably risk becoming the innocent victims of non-detection or belated detection of adverse health effects. The sooner that it can be definitely established that an employee's health is in jeopardy from over-exposure to a particular toxic substance, the sooner his employer and society can take meaningful action to arrest the health problem of the particular employee and apply that knowledge to others similarly situated.[110]

However, this important objective of using medical examinations for preventive purposes is frustrated if employees do not take the medical examinations which are offered. Section 6(b)7 of the Occupational Safety and Health Act allows the Secretary to "prescribe the type and frequency of medical examinations or other tests which shall be made available" to employees. It does not empower the Secretary to require employees to take the examinations. The Secretary's proposed regulation recognizes this for it uses the "make available" language.[111]

Thus, one of the objectives of the Act which the Secretary seeks to encourage is the taking of regular medical examinations because of the preventive value associated with such axioms. But the proposed standard will discourage rather than encourage the taking of medical examinations because workers will fear loss of job or earnings. This is not assertion or speculation. It is a fact and there is ample support for it in the record.

Al Lawson of Colorado Fuel & Iron, where medical examinations are voluntary and are not taken on company time, testified as follows:

"Mr. English. Are there any reasons other than the fact that it would be on their own time that they don't take those examinations?

"Mr. Lawson. Because they would be afraid of losing their job or a demotion and loss of earnings so they won't go down there.

"Mr. English. Are there, in fact, situations where people have been transferred to lower jobs and lost earnings as a result of conditions which are discovered?

"Mr. Lawson. Not too much through examination because you don't have that many taking the examinations but through other industrial injuries and illnesses that we do have. We do know for a fact that people won't because there were some individuals that were given examinations and paid for by the union.

"One of these individuals was not working on the battery, however, but in the coal handling, that the union was advised that he should consider employment somewhere else and because of the fact that he would have a loss in earnings and a demotion in seniority if he went somewhere else he is still working in the coal handling products right now." (Tr. 3380-3381).

Indeed, at the present time, there are employees on many of the coke oven batteries who know that they suffer from job related diseases, but will not seek help from company medical staff because they fear that they will lose their jobs or lose earnings. The following exchange with Warren McKenney, a grievance representative from Republic Steel's Warren plant, is illustrative:

"Mr. English. Warren, do you have examples at your plant of people whose health gets so bad that they come to you and say they would like to get off the battery, they would like to work someplace else?

Mr. McKenney. Yes, I have. Since I am the committeeman over there in the coke plant, I have known of occasions where men have come to me and have requested working on the battery was hazardous to their health. The only thing that I could possibly suggest to them is to get a slip from their doctor saying that they could no longer work in this type of area. A number of them did.

"Whenever this occurred, these men would report back to the General Foreman and he would in turn tell them, well, this is the only type of work we have for you and your best bet is to report to the Employment Office. In turn, the Employment Manager, especially now that working conditions are bad, economic conditions, he would tell them we have nothing else for you and would place them on layoff .

"Mr. English. Do employees simply not raise the issue because of that fact? Do they simply work on the battery even though their health is bad?

"Mr. McKenney. There is one thing about the younger people, they are a different type of animal than the average World War II vet. If he finds out something is going to be injurious to him, he will take his chances on leaving that area and trying to find other work, whether he has responsibilities or not, which may be a good idea.

"Mr. English. What about a man who does have a family?

"Mr. McKenney. That is another question. A man with a family in the age group of 35 or 40, he takes another outlook. He will not say well, if you cannot do anything for me, I will try to stick it out, he will say, if you cannot do anything for me, I will try to stick it out until I retire. This is his position, this is what he will try to do." (Tr. 3230–3231.)

Even at Inland Steel, where a system for placement of sick employees in other parts of the mill exists, many employees will simply not go to the medical clinic for examinations when they know there is something wrong with them because of the fear of loss of earnings.

"Mr. English. Bobby, do you have any situations where employees come to you and say, 'I am pretty sick. It is kind of hard to take it up here anymore. What is the possibility of my getting a job someplace else in the plant?'

"Mr. Tompkins. By me being a grievor to the coke plant, I run across quite a few of those kind of cases.

"Mr. English. What usually happens in those situations?

"Mr. Tompkins. Most of the time, I go and have a talk with the general foreman. I tell him this man's condition so he tells me the guy has to be cleared through the clinic.

"When I go back and tell the man he has to be cleared through the clinic, he just says forget it because he does not want to lose his job.

"Mr. English. What about situations where he does go to the clinic? Are there situations where you can get the fellow off the battery and into a job someplace else?

"Mr. Tompkins. We have a pretty good system at plant two coke plant. Most of the time if a guy cannot perform his duties on the oven the supervision finds a place for him around the washroom.

"Mr. English. What rate of pay would he be making around the washroom?

"Mr. Tompkins. That is a laborer job. That is class two.

"Mr. English. What are your job classes for larrycar, pusher, and that kind of job?

"Mr. Tompkins. If the guy comes off the larrycar, he is making class 11. If he goes back to labor gang in the washroom, that is class two. That is a nine class difference. If he is on the quencher car, he is class 12. If he goes back to the washroom, that is a ten class job difference.

"If he is on the pusher, it is class 13 and if he goes back to the washroom then he loses 11 classes plus his incentive." (Tr.3015–3017).

Finally, the industry's expert medical witness frankly agreed:

"Mr. English. You, of course, were a member of the advisory committee.

"Dr. Halen. Yes.

"Mr. English. On April 7, 1975 which I think was one of the last days that the advisory committee met, it took up the subject of rate retention and seniority protection and tied it into the medical examinations.

"You made this statement on April 7th. I would like to read it to you and ask you if it is still your opinion:

"'Dr. Bingham, in relation to what you said, I think we have to realize that employees will resist taking medical examinations unless there is some kind of provision for their job security.'

"Do you still hold to that view?

"Dr. Halen. Yes. There is a point before and after.

"Mr. English. There is an awful lot before and after.

"Dr. Halen. But I think it is very realistic. *If I were an employee, I would resist.* It is a selling job. You have to weigh one risk

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against the other." (Emphasis supplied) (Tr. 1850–1851).

Thus employees fear that if they voluntarily take medical examinations and something is found to be wrong with them, they may be forced off the battery and there may not be a position for them in the plant.[112] Even if they can find a job in the plant, it will be a lower paying job. Hence, the Secretary's proposal runs counter to the objective of the Act in that it would discourage employees from taking medical examinations. It would heighten their fears because it requires employers to remove disabled employees.[113] The only rational way of furthering the medical examination purpose of the Act is to promote nearly universal, voluntary submission to regular company-supplied examinations by making it clear to the employees covered by the Standard that they need not fear loss of a job or loss of earnings.[114]

C. Company objections

The companies, in their pre-hearing comments, have raised various objections which we shall deal with below.

1. Rate Retention Is a "Labor Relations" Matter

The so-called Minority Report states the objection this way:

"[W]e think the Committee's proposal unreasonably intrudes on labor-management relations. If employees are to be given the kind of seniority and compensation protection envisioned by this recommendation, it should come about through collective bargaining, not as part of an occupational health standard." (Ex. 4, p. 28).

This superficial statement carries no substantive punch in terms of legal rationale. Many agencies become involved in matters which are labor relations matters. For example, the various Civil Rights agencies become deeply embroiled in disputes which are labor relations disputes. The New Pension Reform Act deals in areas which are covered extensively by collective bargaining agreements. The Department of Labor itself administers the Veterans Preference Act and thereby becomes involved in seniority and pay disputes, not to mention the Department's activities in the Fair Labor Standards area.

More importantly, however, nearly every aspect of safety and health is, by virtue of the broad scope of collective bargaining, established by the National Labor Relations Act, a matter appropriate for labor relations. For example, the safety and health clause contained in the current agreement between U.S. Steel Corporation and the United Steelworkers of America covering production and maintenance employees in the Company's four steel divisions[115] contains numerous provisions from which it could be argued that the entire Occupational Safety and Health Act deals with labor relations matters.

Thus, paragraph 14.1 of the agreement provides in part that "[t]he Company shall make reasonable provisions for the safety and health of its employees at the plants during the hours of their employment. The Company, the Union and the employees recognize their obligations and/or rights under existing Federal and State laws with respect to safety and health matters."

Paragraph 14.3 provides in part that where the Company uses toxic materials "it shall inform the affected employees what hazards, if any, are involved and what precaution shall be taken to insure the safety and health of the employees."

Paragraph 14.4 grants the Union certain rights to request air sampling and noise testing.

Paragraph 14.5 of the safety and health clause deals with "protective devices, wearing apparel and equipment."

Paragraph 14.6 gives employees the right to refuse work under conditions which they believe are unsafe or unhealthy and provides for compensation if they are right.

The safety and health clause also establishes joint Safety and Health Committees with broad investigatory powers.

Paragraph 14.12.1 requires newly hired employees to be given safety training.

Paragraph 14.14 allows the International Union to conduct plant inspections under certain conditions.

These provisions obviously have counterparts in the Occupational Safety and Health Act and in regulations promulgated by the Secretary of Labor. In addition, the parties, in their last negotiations, entered into a Memorandum of Understanding on safety and health matters which provides for a Research Program to investigate in part the safety and health of coke oven workers. Epidemiological and other scientific studies can result from this memorandum. Under the Minority Report rationale, one would have to conclude that NIOSH may not operate at all since it, too, would be involved in "labor relations" matters.

The Clairton Agreement, which has been the subject of discussion in these proceedings, sets forth detailed provisions with respect to adequate staffing, engineering controls and work practices. It is a "labor relations" agreement. Yet, the companies would not dare argue that the Secretary is precluded from adopting a specification standard on this basis. Indeed, U.S. Steel supports a specification standard and the industry members of the Advisory Committee proposed one in their so-called Minority Report.

Finally, Republic Steel admitted during the hearings that matters such as adequate shower facilities and lunchrooms were local issues between the Union and the Company and were matters over which the Union could strike (Tr. 4867–8). OSHA will certainly not decline to regulate in this area on the basis that "labor relations" are involved.

Thus, the mere fact that rate retention is a subject of collective bargaining does not in any way detract from the concurrent authority of the Secretary in this area.

2. Coverage by various benefit provisions

A number of companies have indicated that the Secretary should not be too concerned about rate retention since various contractual protections exist for employees removed from the job. Listed as possibilities are pensions, workmen's compensation, supplemental unemployment benefits and an earnings protection program (AISI Pre-Hearing Brief, p. 32). The companies apparently concede that none of these provisions provides full protection. Indeed, in a sense, it is outrageous for AISI to make such an argument since a number of their member companies have invested so heavily in attorney's fees to fight workmen's compensation cases. If the AISI's statement is meant as a joint commitment on the part of the steel companies that the earnings protection program applies in these situations, it will certainly be news to the many coke oven workers who are, as the record indicates, now being paid at job class 2 and not at some percentage of a higher rate.

None of these programs, valuable as they are, detracts from the fact that removal from the job involves loss of earnings or loss of a job entirely and none of it detracts from the testimony of the Union witnesses quoted above to the effect that employees fear this loss and accordingly are reluctant to take medical examinations.

3. Disincentive To Remove Employees From the job

The "disincentive" argument is interesting. We recognize that employers would prefer not to remove employees from the workplace if it will cost them money.[116] On the other side of the ledger, we suspect that employers will try to remove employees they do not like if they feel they can get away with it by using the proposed mandatory removal section as a shield.

It is for these reasons that the Coke Oven Advisory Committee suggested that both the decision to remove an employee and the decision not to remove an employee be subject to review in certain limited situations. Essentially the method of review is through the selection of an independent physician by the company and employee physicians.

The peculiar circumstances of the steel industry bargaining relationship with the Steelworkers makes such an approach totally appropriate.

The Steel Companies and the Steelworkers have long had a practice of resolving various types of medical disputes through the intervention of a neutral physician.[117] The use of such neutral physicians cancels out any disincentive to remove the employee. If the Company fails to remove an employee who should be removed, the neutral physician will accomplish the removal.

D. Advisory Committee Recommendation

The Advisory Committee gave this matter very careful consideration and advanced a fairly sophisticated proposal which we will briefly describe. The provisions is entitled "Miscellaneous Provisions Dealing With Medical Surveillance" and it requires every employer to make a determination, on the basis of its physician's written opinion, whether the employee's health "or functional capacity would be materially impaired by continued exposure to coke oven emissions." Thus far, the proposal is essentially the same as the proposed Standard. At this point, however, the deviations begin.

Under the Advisory Committee's recommendation, in order to protect against arbitrary employer decisions on this subject, a written opinion from the physician is required which must include a summary of all relevant tests that were relied upon by the physician and specific reasons supporting the determination. The employee and the employee's physician is supplied with a copy. The employee may challenge the company's written opinion if his own physician disagrees and says so in writing. The employee needs the written opinion of a physician to effect a challenge. The challenge of the employee's physician may be to the finding of material impairment of health or to the finding of no material impairment of health. In either event, if disagreement between the two physicians persists, they shall jointly select a third neutral physician whose decision shall be binding on the company and the employee. In the event the result is removal of the employee from the job, provision is made that such removal shall not result in loss of earning or seniority status.

There are a number of advantages to this approach. First, it provides for dispute settlement through a mechanism familiar to the company and the union.[118] Second, it should eliminate most of the enforcement difficulties OSHA would otherwise be faced with without such a dispute settlement mechanism. Note, for example, that even under the proposed Standard, there would presumably be access to OSHA by employees who felt that they were arbitrarily removed from the job by virtue of the OSHA Regulation. Third, and most important, such a procedure would encourage full employee participation and cooperation in the medical examination program.[119]

Given these advantages and given the sophisticated nature of the relationship between the parties and the extensive record developed on the subject, it is difficult to understand why OSHA does not promulgate such a provision. If OSHA feels that such a provision is unlawful, it should say so clearly and unequivocally so that the matter may be tested in court. It should not rely upon hazy concepts of "discretion." The observations of Dr. Bingham during the Secretary's hearing are particularly apt:

"Mr. ENGLISH. Thank you, Dr. Bingham.

"Another proposal or recommendation of

Footnote at end of article.

the Advisory Committee dealt with the question of the treatment of employees who's health would be impaired by the continued working on the coke oven battery.

"The Advisory Committee made a recommendation that such individuals be removed with no loss of earnings or seniority.

"I wonder if you might indicate your present views on that subject. I believe you voted in favor of it.

"Dr. Bingham. I think this has really very large ramifications in terms of the whole Occupational Safety and Health Act.

"My own view is, and it is my own view, but I believe it was shared by many people on the Advisory Committee, the spirit of the Occupational Safety and Health Act is to truly protect the health of the worker.

"I have been indoctrinated with the point of view that it is impossible to have a comprehensive health program in an industry without providing for physical examinations and surveillance of the workers.

"If a worker is afraid to take a physical examination, if he is afraid to find out that something is wrong with him, then the purpose of the Act is negated.

"I have heard it said that there is a question about the legality of this. *If there is a legal question I think we should put something like this on the books and have it tested in court.* If we have to go back and make the Act specific, we should do so.

"It is to me an impossible situation for a worker to be afraid to take a physical examination because he is going to lose the job that he uses to feed his family. It is unbelievable." (Tr. 1092–3) (emphasis added).

E. Summary of part VIII

President Abel observed in his statement which was submitted on December 15, 1975:

"But even if we clean up coke ovens very quickly, we will still be left with living martyrs to the industrial process. Many of these martyrs are still working on coke oven batteries and should not be there. Their already impaired health is further injured every day they work in jobs which expose them to more coke oven emissions. OSHA should protect them by providing for their removal from the coke oven jobs with rate retention" (Tr. 2662–3).

OSHA is faced with a very important decision in this area. In effect, it must fish or cut bait—issue the type of Regulation proposed by the Advisory Committee or admit to itself and the labor management community which watches its actions that has no intention of ever acting on this area.

If it declines to follow the Advisory Committee approach, OSHA must realize that in so doing, it is writing off any chance for a meaningful medical surveillance program. In the Steel Industry, coke workers are sophisticated and they communicate well with each other. The word will spread quickly: "Don't take the OSHA medical exam. You may lose your job." Regardless of the "selling job" which is attempted (Tr. 1851), workers will know that the consequences of their taking the medical examination may be loss of their job or loss of earnings. Many of them, undoubtedly those who need the medical examination the most, will decide that it is more important to support their families than take care of their health.

Moreover, OSHA must recognize the full impact of such a proposal from a moral point of view. As Dr. Lloyd observed, "I am terribly concerned about this particular problem. I do not think we have gained for the workers if we go in and say, 'there is a cancer hazard here and we are going to protect you and put you out of work.' I do not think we have done anything for him."[120]

This Regulation is being written in the context of an election campaign. One of the themes of many of the candidates which has caught fire is a concern that the government in Washington has lost touch with the people and that government regulations are burdensome and counter-productive. "Middle America" is not concerned about alleged over-regulation of industry. Middle Americans are concerned that new regulations will affect their jobs. Regulations such as this one "protect the worker" by adversely affecting his paycheck.

Instead of punishing sick workers, OSHA should effectuate one of the purposes of the Act—encouraging medical exams—by insuring that workers will not be penalized for taking such exams.

FOOTNOTES

[107] Even the Council on Wage and Price Stability is not this callous. In answer to a question with respect to its suggestion that all employees be removed after five years, the Council indicated that it felt that rate retention or a buyout bonus of some kind would be needed (Tr. 4531).

[108] Indeed, the Advisory Committee's recommendation for rate retention was included in the Medical Surveillance portion of that Committee's recommendation.

[109] "It is estimated that every 20 minutes a new and potentially toxic chemical is introduced into industry. New processes and new sources of industry present occupational health problems of unprecedented complexity." (Senator Williams during November 16, 1970 debate on Occupational Safety & Health Act.) See also statement of Assistant Secretary of Labor, Corn, before the House Subcommittee on Government Operations on Toxic Substances, May 12, 1975.

[110] Indeed, as we discuss in Part IX below, the Secretary is urged to include sputum cytology and urinary cytology in the medical surveillance section because of the early detection advantages they afford in relation to more conventional but belated detection devices such as x-rays.

[111] Even if the Secretary had the power to mandate medical examinations, employees forced to take them against their will and fearful that their job status might be jeopardized are likely to be uncooperative in the examination process. This lack of cooperation could take various forms, including attempts to supply sputum and urine samples of other persons.

[112] It may be argued that the Secretary need not go to these lengths to encourage the taking of medical examinations because some companies "mandate" such examinations today. There are numerous responses to such a rationale. First, there is no evidence that all companies do. Indeed it is interesting that no company in its objections to removal without penalty has asserted that it has a legal right to require such periodic examinations. Further, to the extent that such a program is "mandatory," there is no indication that disciplinary action has ever occurred if an employee refused to take the exam. Rather, what exists is a feeling on the part of some workers that the exams must be taken. OSHA must recognize, however, that if it mandates removal from the job and does not protect against loss of earnings, this Union, at all levels, will do everything within its power to make sure that its members are advised of the potential consequences of taking such examination. While we believe strongly that employees should take medical examinations because of the early detection value they offer, we also believe we must insure that our members make such decisions on the basis of all of the facts.

[113] The fact that OSHA requires those employees who refuse to take the medical examination to sign a statement indicating that they have been informed of the purpose and scope of the medical examination will not encourage any further utilization of the medical examination program. Such statements will not have any effect in deflecting the intense kinds of fear described by the Union witnesses above. On the other hand, if the statement informs the employee that he will not lose earnings as a result of taking the exam, fewer workers will sign the refusal statement and more will take the exam.

[114] We shall pass over any detailed discussion of other legal bases for the Secretary's authority to establish removal without penalty. We will simply list a few of them.

First, if the Secretary has, as he asserts he has, the authority to mandate an employee's removal from a particular job, by parity of reasoning, he must have the authority to protect that employee from any adverse employment effects resulting from the removal he mandated.

Second, employees have the right, pursuant to Section 6(b)7 to take the medical examinations made available to them pursuant to the Secretary's exercise of his authority under that section. Any removal of an employee from a job because of his exercise of that right with a resultant loss of job or earnings is itself discrimination pursuant to Section 11(c)(1) of the Act.

[115] Ex. 61–A, Sec. 14. The language in the U.S. Steel Agreement is similar to the language contained in the other agreements with the other steel companies who are, of course, the other major coke producers.

[116] The "disincentive" argument is an implicit recognition that company physicians who are required to make the critical evaluations of every employee's health under the proposed Regulation will be susceptible to pressure from their employer. In light of this pressure, it seems difficult to justify granting company physicians broad discretion on what medical examinations should be utilized. (See discussion in Part IX below.)

[117] See, for example, Dr. Halen's comment in the Advisory Committee proceedings on May 21, 1975 that it exists in steel in the pension area, as well as discussion between Dr. Halen and Director Odorcich at the same session (Advisory Committee Transcript, May 21, 1975, p. 323–4). On a more general scale, every student of labor law knows that the importance of the arbitral process in labor relations was clearly established by the Supreme Court in a series of three cases called the "Steelworkers Trilogy." *Steeelworkers v. American Manufacturing Co.*, 363 U.S. 564 (1960); *Steelworkers v. Enterprise Wheel & Car*, 363 U.S. 593 (1960); *Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574 (1960).

[118] See footnote 117 above. The same dispute settlement would be available to an employee who is not represented by a union or who is represented by a union other than the Steelworkers. The other principal union representing coke oven employees, the Oil, Chemical and Atomic Workers, has already voiced its support for the Advisory Committee approach on this subject (Tr. 613–5).

[119] The Advisory Committee approach would not entail any significant cost to the companies. It is, of course, impossible to tell precisely how many coke oven employees would be immediately affected by it. Presumably, that number would be greater in the first few years and would lessen thereafter. As the companies have noted, there are benefit systems which exist and currently provide partial protection in this area. Indeed, one such program is contained in the Consent Decree entered into between federal civil rights agencies, the Union and the Steel Industry, *United States v. Allegheny-Ludlum Indus., Inc.*, 8 FEP Cases 198 (N.D. Ala., 1974). Under the Consent Decree, job opportunities have been broadened and all employees, black and white, male and female, enjoy some measure of rate retention upon transfer from one seniority unit to another. Finally, it should be noted that coke plants are normally associated with large steel mills and accordingly job openings should be more frequent than they might be in some plants covered by OSHA regulations.

[120] Proceedingof Advisory Committee, May 21, 1975, p. 328.

AUTO EMISSION TEST CORRECTED

(Mr. DINGELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DINGELL. Mr. Speaker, California Governor Brown has contacted Members of the House with a paper that is both misleading and erroneous regarding automobile emission tests recently conducted in his State on a prototype car.

At this point in the RECORD, I submit my response on the matter which I have shared with my colleagues. It is important the record on those emission tests be set straight prior to action on the pending Clean Air Act Amendments of 1976, H.R. 10498.

The Dingell response follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 23, 1976.

AUTO EMISSIONS

DEAR COLLEAGUE: I am sure that each of you has received a letter from Governor Jerry Brown of California touting the 1977 four-cylinder test Volvo which allegedly met Federal statutory standards with its three-way catalyst emission control system. Based on some very erroneous conclusions from one set of vehicle tests, Governor Brown would have us vote into law even more stringent standards than are currently in the House bill.

As you know, Representative Jim Broyhill and myself will be offering an amendment to the Clean Air Act Amendment, H.R. 10498, which balances the needs of fuel economy and cost to the consumer with the continued improvement in air quality resulting from replacement of older, dirtier cars. *There is nothing in the Volvo test development which compels any change in our Dingell-Broyhill (Train) auto emission control amendment.*

The arguments advanced by Governor Brown in his July 6th letter are contradicted by the data itself. For example:

1. *The four-cylinder Volvo could not have passed the EPA's Federal test reqiurements for the 1978 statutory standards.* The final numbers levels of NOx on the durability car, for instance, did not fall within the limits of 0.4 gpm, grams per mile). The car went 0.4 NOx gpm on five of the 5,000 mile tests required of a durability car. The NOx number reported in Governor Brown's letter is a calculation extrapolated from cars measured at only 4,000 miles. In addition, the durability car went above 3.4 gpm CO on the Federal statutory level on at least five occasions, according to Volvo test lab data.

2. *The fuel economy gain of 10 percent that the Governor claims was achieved by Volvo, is exaggerated in its inference.* Actually, such gain was in eomparison to a 1976 Volvo without a catalyst of any kind. The addition of an oxygen catalyst in 1975 and 1976 brought even more dramatic fuel economies to domestic cars. Volvo's 22 miles per gallon noted by the Governor (actually, according to the California Air Resources Board "fact sheet," only 21.6 mpg) in 1977 is exceeded by a number of comparable domestic 1976 automobiles. *Volvo's gain was simply a catchup to where they could have been a year earlier.*

3. The CARB conclusion that rhodium supplies are adequate is based on using catalyst compositions quite different from that in the Volvo catalyst. CARB is banking on meeting the durability requirements with much lighter loadings of rhodium. The basic fact in the case is that three-way catalyst durability at this time seems to be a function of the loading of rhodium, i.e., heavier loadings give adequate durability. Rhodium supplies are very limited. One of the two principal rhodium suppliers had told CARB that it would be capable of supplying rhodium for heavier loadings during the initial stages of its use, "but thereafter the ratio will have to revert to the mine ration." Mine ratio of rhodium to platinum is approximately 1 to 18; the Volvo catalyst loading is in the range of 1 to 5, or almost four times heavier.

4. While development work in the industry, both foreign and domestic, goes forward on carburetors, the test Volvo which meets the 1977 California standards uses fuel injection, an admitted expensive and highly sophisticated system. It is in fact a system that many automakers have not added to their engine fleets due to the extremely high cost which would have to be borne by the consumers. It also is a system upon which there has been only limited field testing and is not technically ready or practicable for mass production at this time. Also, contrary to the CARB "fact sheet," it *flies in the face of reason* to assume at this time that expensive hardware will not be required to make three-way catalyst systems work. The Volvo's base price alone is $6,500.

I am concerned at the misleading information contained in the CARB "fact sheet." The comparison of a four-cylinder Volvo with an "average" car in Governor Brown's CARB "fact sheet," is obviously intended only to be misleading. A comparison with four-cylinder cars would have shown how specious is the fuel economy comparison.

The "fact sheet" assumes a number of engineering developments which, while being actively pursued by both foreign and domestic manufacturers, have yet to be proven. Legislation based on engineering-by-hypothesis involves great risk of unemployment and economic dislocation whenever the hypothesis fails.

In sum, Governor Brown's arguments are not persuasive. I am attaching a July, 1976 article from *Ward's Auto World*, "Volvo California Coup Put Into Context" by Douglas Williams, which does much to illuminate the issue. I think you will find it interesting reading.

Once again, in closing, let me urge your support for the balanced environmental, energy conservation and consumer oriented Dingell-Broyhill (Train) amendment which will be offered on the House Floor probably within the next week or so.

Sincerely yours,

JOHN D. DINGELL,
Member of Congress.

Enclosures.

[From Ward's Auto World, July 1976]

VOLVO'S CALIFORNIA COUP PUT INTO CONTEXT

(Quinn wanted to use us as a political tool to pressure Congress on Federal standards.)

(By Douglas Williams)

For four days in June, the California Air Resources Board (CARB) grabbed the world's attention by announcing that a 1977 Volvo had come through California's rigid emission testing practically free of air pollution.

The thrust of the message, timed for delivery on the Saturday that began Memorial Day weekend and on the eve of new Congressional hearings in Washington covering the controversial 1978 federal emission standards, was this: A foreign automaker apparently had snatched the lead and accomplished what U.S. automakers had said was impossible.

The implication was that if Volvo, a strangely reluctant participant in the California affair, could do it, why not everyone else?

The official word, broadcast and published widely over the weekend, was that Volvo had made a "startling new breakthrough" in reducing emissions to meet California's 1977 standards. Simultaneously the Swedish automaker had cut emissions to below the '78 federal levels—those coming under full-dress review in Washington the following week—and for good measure the system raised fuel economy by 10%.

In a flaming blaze of rhetoric, CARB Chairman A. Thomas Quinn termed the Volvo advance "the most significant breakthrough ever achieved" in cleaning up automotive emissions.

Was his timing a bold attempt to influence Washington? Volvo thinks so. "Quinn wanted to use us as a political tool to pressure Congress from easing off on the federal standards," says a Volvo spokesman. "We don't align ourselves with Mr. Quinn at all." Indeed, Volvo continues to side with the rest of the industry in seeking less stringent 1978 federal standards "until adequate scientific data has been compiled."

That's because Volvo, while obviously delighted with its California gold-strike, fully knows that its accomplishment loses some of its luster when it's put into logical perspective—an exercise Mr. Quinn chose to ignore.

In a style reminiscent of Ralph Nader's, weekend broadsides of the late 1960s. Mr. Quinn nevertheless got his publicity mileage. By the following . . . a veteran backer of stringent emissions standards, was saying that "if Volvo can do it now (for California's 1977 standards), Detroit should be able to do it by then (1978 federal standards)."

When the dust settled later in the week, Volvo's breakthrough began to look less and less startling, and the implications of its technology less and less immediately meaningful to U.S. automakers. Here's why:

Only one engine—a 4-cylinder powerplant in the Volvo 240 series—met California's '77 standards. In contrast, "we have dozens of engine and transmission combinations to worry about," says Howard P. Freers, chief powertrain and chassis engineer at Ford Motor Co.

The Volvo engine that scored the breakthrough is equipped with "constant fuel injection," an expensive apparatus that can be blended into higher priced, low-income (10,000-a-year sales) cars such as the $6,300–$7,500 range of Volvo 240 cars in question, but would add dearly to, say, a $3,000 Ford Pinto—from $300 to $400.

Key to the Volvo system is a three-way catalytic converter designed by Engelhard Industries Inc. in which the platinum and paladium used to speed chemical change in carbon monoxide (CO) and hydrocarbons (HC) are supplemented with rhodium to do the same things for oxides of nitrogen (NOx). Combined with a "black box" and an oxygen sensor at the manifold to regulate the air/fuel mixture in the fuel injection system, the device in 50,000 miles of testing kept the 4-cylinder Volvo emissions down to .2 grams per mile (gpm) HC, 2.8 gpm CO and .17 gpm NOx—all well within the '77 California and '78 federal standards. But here's the catch: rhodium, a by-product of platinum, is rare. Ford's Mr. Freers estimates the platinum/rhodium ratio "in nature" is 19-to-1; in extracting rhodium for refining, that ratio drops to 3-to-1 or 5-to-1, he calculates. General Motors Corp. says there are not enough known rhodium reserves to produce one year's supply for GM cars if GM were to switch to rhodium catalysts. And another Detroit source emphasizes that even if all automakers adopted fuel injection systems, it would take several years to meet the demand.

The California 50,000-mile test uses average emissions over the full run. Thus, at times the engine can spew out pollutants above the average levels and that's exactly what happened in several instances during the California tests, Volvo confirms. Federal law doesn't permit averaging, allowable emissions aren't to exceed the standards at any time over 50,000 miles.

Finally, the Volvo system requires changing the oxygen sensor in the exhaust system every 15,000 miles at a cost approximating $20. Detroit's automakers are reluctant to put that burden on car owners, just as they've so cautiously—and rather responsibly—avoided asking for an owner maintenance change of the converter at 25,000 miles. The reasoning is that few motorists are likely to be happy about laying out dollars for maintenance that demonstrably does nothing to make the car run better.

Thus Volvo's achievement—and Detroit admits it is indeed significant—loses something when all of the qualifiers are put into context.

The three-way converters have been talked about in the auto industry for at least five years. Added to the low level of production Volvo is planning, the hardware—while producing admittedly striking emissions numbers—looks more like a logical next step than a "startling breakthrough."

The Quinn announcement even took the EPA by surprise, not the least of which was a statement by the Californian that the federal agency was suppressing its testing data.

Eric O. Stork, EPA deputy administrator and top auto regulator, says Mr. Quinn's charge that the EPA was holding back information about the Volvo engine is "unadulterated garbage . . . unadulterated hogwash.

"I respond with some degree of outrage. I never have and never will suppress data," he says.

"Prior to public announcement of (the new model) such information is a trade secret," Mr. Stork says. "We are not free to reveal Volvo's plans. In this case it was a pretty open secret," he adds.

Further, there are some questions about possible hydrogen cyanide emissions from the three-way catalyst. The EPA wanted to be sure there were not any health problems connected with such unregulated pollutants before accepting the engine.

Mr. Stork says EPA has "argued all along the (three-way catalytic) converter has significant potential. Volvo's achievement is not unexpected. We are delighted. Nevertheless, industry-wide adoption cannot be accomplished in the next couple of years."

Asked about the relationship between the EPA and CARB, Mr. Stork observes: "I think basically we have a good collegial relationship with the CARB insofar as technical matters go. But it's quite clear that the EPA operates in a different political and sociological atmosphere." CARB is "not constrained" by the federal administrative procedures act—a very formal and deliberate rule-making process, he says. While Mr. Stork is "not intimately familiar" with the laws concerning the CARB, it's clear the California agency has "far greater legal freedom than the EPA has."

As the facts behind the CARB pronouncement became increasingly visible, the original announcement looked substantially overblown indeed.

Perhaps the best way to consider the affair is this: a shining example of government/automotive/air pollution decision-making as drama.

Central actor in the play is Tom Quinn, the 32-year-old son of a former Los Angeles deputy mayor, one time news reporter, and campaign manager for Jerry Brown in his successful runs for secretary of the state and governor of California.

Named to head CARB in January 1975, Mr. Quinn is almost an exact opposite of the man he replaced: Dr. A. J. Haagen-Smit. While Mr. Quinn is abrasive, hard-charging and willing to bend facts for political hay—consider the case in point—Dr. Haagen-Smit, in his middle 70s, is witty, polite, and takes a self-effacing stance.

Dr. Haagen-Smit was, and remains, a technical expert—he was the man who first tagged the auto for its role in photochemical smog more than two decades back—while Mr. Quinn has a minimal technical background.

But in the words of one auto executive: "Our engineers don't try to kid him."

Apparently Mr. Quinn has no qualms about kidding the public, however.

[From the San Diego Union, May 9, 1976]

Car Dealers Hear Progress Report—California Winning Battle on Auto Smog, Official Says

(By Dick Applegate)

We are winning the battle against automotive-caused air pollution but the trend is not in the right direction with respect to stationary sources, according to Tom Quinn, California's Air Resources Board chairman.

Speaking to new car dealers at the recent spring business conference of the Motor Car Dealers Association of Southern California (MCDASC) in Palm Desert, Quinn called it an outrage that the Southern California Air Pollution Control District has failed to enforce certain air pollution regulations against oil companies, adding, "while San Diego enforces its air pollution laws, the air pollution control district in Los Angeles doesn't bother.

"The total pollution load in the Los Angeles Basin in 1980 will be close to what it is now," he said, "with cars contributing to about half. We expect that by 1985, autos will be about 30–40 per cent of the problem."

Cars now cause only 32 per cent of the smog in the San Diego area, according to a report from the San Diego Air Quality Planning Team.

Last year, Quinn was a great concern to car dealers who worried about how his decisions would affect car sales. This year, the MCDASC endorsed him. Their president, Theodore Robins, Jr., told his fellow dealers, "We are now able to take a more positive approach. We have a product that not only are we selling today, but in this coming year . . . a much better car in the area of fuel economy and a much cleaner car air-wise."

John Cooper, recent past president, said that the ARB did not back off its avowed intent to maintain higher standards than the rest of the country for 1977, but "what was achieved was a successful compromise by a change in testing procedures and by working harmoniously with the manufacturers to assist them in meeting the standards on an average car basis.

"It took a lot of know-how on Tom Quinn's—and the ARB staff's—part, to satisfy their own charter for clean air in California and at the same time, meet the economic realities as the situation dictated."

The United Auto Workers also endorsed Quinn. Virgil Collins, UAW representative for eight western states, said, "We'd like to state categorically that Mr. Quinn and the ARB have been able to arrive at a satisfactory solution that all of us can live with."

Quinn, soft-spoken and quick to smile, announced a goal that the state and its ARB share with the dealers, manufacturers, and United Auto Workers, "and that is to have more cars sold. There's no doubt that if people go out and buy new cars, we are going to go a long way towards cleaning up the air in California and get those old clunkers off the road. I think we have all learned that retrofitting programs are not effective."

He added that the 1977 cars will be substantially cleaner than the 1976 models, saying, "We're going to be achieving cleaner cars and they'll also be the best cars sold in California, with drivability and fuel economy. Fuel economy on a weight-to-weight basis, will be better than precontrolled cars, so it indicates the manufacturers are substantially improving their systems and are coming out with first-rate vehicles."

Quinn ackowledged that the cost of emission control equipment for the '77 California models will mean, for some auto manufacturers, price increases averaging around $50. However, General Motors says their cost will only increase approximately $5.

Regarding the fuel economy disparity between California cars and those in the other 49 states, Quinn admitted that there is close to a 10 per cent penalty in this state, but added that next year, that penalty will be less than half of what it is now.

"Our tests from all manufacturers indicate a fuel economy disparity of about 3 per cent (for 1977 cars) so the gap is narrowing," said Quinn. "The 1977 California cars will have fuel economy better than the 1976 federal cars despite substantially tougher standards in California."

General Motors has disputed that statement. Gary Dickinson, GM's assistant director of automotive emission control, told us that their '77 models will average a 12 per cent penalty in fuel economy over their 1977 cars sold in the other 49 states.

"We have achieved about a two to three miles per gallon gain in our '77 models because they are 'down-sized' cars," Dickinson said. "We would have had a 10 per cent gain, federally, in fuel economy due to weight reductions, but 5 per cent of that was lost due to tighter federal controls on oxides of nitrogen (NOX)."

Asked if it was in California car owners' best interest to go from a 94 to a 97 percent control of emissions, with the attendant increase in the use of fuel in this state compared to the 49 states, Quinn replied, "There is no single step you can pick in the air-pollution field that's going to clean up air pollution in the L.A. Basin and parts of the Bay area."

"If you want to get rid of smog, there are several things you have to do: (1) You have to take all cars off the road (2) Shut down all of your power generation, (3) Shut down all the oil refineries. But nobody in sound mind is going to advocate any of these steps. So what you're looking at is a lot of small individual steps and we have to compare one step against the other to decide which to take.

"We use the standard measure of cost effectiveness based on the cost-per-pound-control. We compare, for example, action we might take in regard to a stationary source and determine how much it will cost to control one pound of hydrocarbons, one pound of NOX, compared to vehicle strategy. On that basis, the 1977 standards will cost us between 70 to 77 cents-a-pound-control (hydrocarbons plus NOX)."

"Most of the other control strategies we've had in the past cost substantially more than that. 1974 standards cost well over $1.50 per-pound-control, and the '75 standards about $1.75 per-pound-control. 1977 standards are more cost effective than any we've had for a long time . . . more so than any major program we have left.

"The fact is, we're going to have half as many hydrocarbons from '77 cars as from '76 cars. That's certainly going to make a major difference in terms of L.A. smog.

COULD HAVE WAITED?

"Could we have waited to 1978? That's always a question of judgment. It was our judgment that technology was available to make the cars cleaner in 1977 at very minimal cost with a minor fuel penalty, if any, and with better drivability and fuel efficiency than 1976 cars. Test results now are showing that judgment to be correct."

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I was absent from the floor of the House for a short time on Thursday, July 22, 1976, while I was attending a meeting. As a result, I was not present for the vote on rollcall 536, the rule providing for consideration of H.R. 13777, the Federal Land Policy and Management Act of 1976. Had I been present, I would have voted "aye" on rollcall 536.

Due to a delay in my scheduled flight from Chicago this morning, I was not present for the vote on the Smith substitute to H.R. 7743, the Pennsylvania Avenue Development Act and the vote on final passage of the bill. Had I been present, I would have voted "nay" on the Smith substitute and "yea" on final passage.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Pepper (at the request of Mr. O'Neill), for today, on account of illness in the family.

Mr. Helstoski (at the request of Mr. O'Neill), for an indefinite period, on account of official business.

Mr. Jeffords (at the request of Mr. Rhodes), for today from 12 o'clock noon to 4 p.m., on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hyde), to revise and extend their remarks, and to include extraneous matter:)

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. Young of Alaska, for 5 minutes, today.

Mr. Heinz, for 5 minutes, today.

(The following Members (at the request of Mr. Simon) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Ms. Jordan, for 5 minutes, today.

Mr. Reuss, for 5 minutes, today.

Mr. Diggs, for 5 minutes, today.

Mr. Kastenmeier, for 10 minutes, today.

Mr. Cotter, for 10 minutes, today.

Mr. Vanik, for 10 minutes, today.

Mr. Benitez, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gaydos, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,001.

Mr. Dingell, to extend his remarks in the Record notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $644.

Mr. Roncalio, and to include extraneous matter, on H.R. 7743 in the Committee of the Whole today.

(The following Members (at the request of Mr. Hyde) and to include extraneous matter:)

Mr. McCloskey.

Mr. Sarasin.

Mr. Archer in two instances.

Mr. Findley in three instances.

Mr. du Pont.

Mr. Lagomarsino.

Mr. Young of Alaska.

Mr. Collins of Texas in two instances.

Mr. Talcott.

Mr. Derwinski in two instances.

Mr. Michel in four instances.

Mr. Bell.

(The following Members (at the request of Mr. Simon) and to include extraneous material:)

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Drinan in three instances.

Mr. Bowen.

Mr. Neal.

Mr. Gaydos.

Mr. Teague in two instances.

Mr. Diggs.

Mr. Symington.

Mr. Dingell in three instances.

Mr. Eilberg.

Mr. Bonker.

Mr. Maguire in two instances.

Mr. Evins of Tennessee in five instances.

Mr. Rogers in five instances.

Mr. Rangel.

Mr. McDonald in four instances.

Mr. Fithian.

Mr. Weaver.

Mr. Harris.

Mr. Simon.

Mr. Edgar.

Mr. Leggett in two instances.

Mr. Moakley.

Mr. Conyers.

Mr. Bingham in 10 instances.

Mr. Waxman.

Mr. Vanik.

Mr. Fauntroy in five instances.

Mr. Phillip Burton in five instances.

Mr. Nolan.

Mr. Lehman.

Mr. O'Neill in two instances.

Mr. Downey of New York.

Mr. Dodd.

Mr. Murphy of Illinois.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 495. An act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, and to implement certain reforms in the operation of the Federal Government recommended by the Senate Select Committee on Presidential Campaign Activities, and for other purposes, to the Committee on the Judiciary, Rules and Official Conduct.

S. 3369. An act to amend the Small Business Act to increase the authorization for certain small business loan programs; to the Committee on Small Business.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on July 22, 1976 present to the President, for his approval, bills of the House of the following title:

H.R. 11504. An act to amend section 502 of the Merchant Marine Act, 1936;

H.R. 13308. An act to amend the Federal Aviation Act of 1958 to extend the authority of the Secretary of Transportation with respect to war risk insurance; and

H.R. 14331. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

ADJOURNMENT

Mr. SIMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 27, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3684. A letter from the Assistant Secretary of the Interior, transmitting a report on the preliminary investigation of the causes and extent of damage to the foundations of historic structures at the San Juan National Historic Site, Puerto Rico, pursuant to section 403 of Public Law 93–477; to the Committee on Interior and Insular Affairs.

3685. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket Nos. 102 and 345, *Papago Tribe of Arizona, Plaintiff* v. *The United States of America, Defendant,* pursuant to section 21 of the Indian Claims Commission Act; to the Committee on Interior and Insular Affairs.

3686. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. TQ–1, finding that it is in the national interest of the United States to sell up to $5 million of agricultural commodities to Portugal under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, pursuant to section 103(d)(3) of the act; to the Committee on International Relations.

3687. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassadors-designate Stephen Low and Ignacio E. Lozano, Jr., and their families, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

3688. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112 (b) of Public Law 92–403; to the Committee on International Relations.

3689. A letter from the Chairman, Federal Power Commission, transmitting a copy of a map entitled "Major Extra High Voltage Transmission Lines, December 31, 1975"; to the Committee on Interstate and Foreign Commerce.

3690. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

3691. A letter from the Deputy Assistant Secretary of the Army (Civil Works), transmitting the annual report covering calendar year 1975 on the status of cooperation agreements for water resource projects, pursuant to section 221(e) of Public Law 91-611; to the Committee on Public Works and Transportation.

3692. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report on Department of Defense procurement from small and other business firms for July 1975 to April 1976, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

RECEIVED FROM THE COMPTROLLER GENERAL

3693. A letter from the Comptroller General of the United States, transmitting a report on the Department of Labor's preparation and approval of comprehensive manpower plans under title I of the Comprehensive Employment and Training Act of 1973; jointly, to the Committees on Government Operations, and Education and Labor.

3694. A letter from the Comptroller General of the United States, transmitting a report on improvements needed to insure that Consumer Product Safety Commission safety requirements are followed and enforced; jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on July 22, 1976 the following report was filed on July 23, 1976.*]

Mr. FLYNT: Committee on Standards of Official Conduct. House Resolution 1421. A resolution relative to the investigation of a complaint against Representative Robert L. F. Sikes (Rept. No. 94-1364). Referred to the House Calendar.

[*Pursuant to the order of the House on July 22, 1976, the following report was filed on July 23, 1976.*]

Mr. FOLEY: Committee on Agriculture. H.R. 14566. A bill to enable freestone peach growers to finance a nationally coordinated research and education program to improve their competitive position and expand their markets for peaches (Rept. No. 94-1365). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted July 26, 1976*]

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 14071. A bill to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes; with an amendment (Rept. No. 94-1366). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLOUIN (for himself, Mr. Bennett, Mr. Harris, Mr. Jenrette, Mr. Wirth, and Mr. Fithian):

H.R. 14842. A bill to provide for the regular review of certain Federal agencies and for the abolition of such agencies after such review unless Congress specifically provides for their continued existence; to the Committee on Government Operations.

By Mr. DON H. CLAUSEN:

H.R. 14843. A bill to authorize appropriations for purposes of making certain grants under the Indian Elementary and Secondary Assistance Act, the Elementary and Secondary Education Act of 1965 and the Adult Education Act; to the Committee on Education and Labor.

By Mr. ULLMAN:

H.R. 14844. A bill to revise the estate and gift tax laws of the United States; to the Committee on Ways and Means.

By Mr. EVINS of Tennessee (for himself, Mr. Conte, Mr. Bafalis, Mr. Bevill, Mr. Cederberg, Mr. Cochran, Mr. Collins of Texas, Mr. Conlan, Mr. Devine, Mr. Duncan of Tennessee, Mr. Guyer, Mr. Johnson of Pennsylvania, Mr. Johnson of Colorado, Mr. Kemp, Mr. Miller of Ohio, Mr. Mollohan, Mr. Montgomery, Mr. Mottl, Mr. Nolan, Mr. Seiberling, Mr. Stephens, Mr. Thone, Mr. Traxler, Mr. Walsh, and Mr. Charles Wilson of Texas) (by request):

H.R. 14845. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. ICHORD:

H.R. 14846. A bill to authorize certain construction at military installations and for other purposes; to the Committee on Armed Services.

By Mr. NIX (for himself and Mr. Coughlin):

H.R. 14847. A bill to provide for the issuance of a commemorative postage stamp in honor of Dr. Martin Luther King, Jr.; to the Committee on Post Office and Civil Service.

By Mr. REUSS:

H.R. 14848. A bill to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 5 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury; to the Committee on Banking, Currency and Housing.

By Mr. THOMPSON:

H.R. 14849. A bill to require an employer which assumes the ownership or operation of a business to honor the terms and conditions of a collective bargaining contract; to the Committee on Education and Labor.

By Mr. YOUNG of Alaska:

H.R. 14850. A bill to amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the Village of Klukwan, Alaska; to the Committee on Interior and Insular Affairs.

By Mr. BELL (for himself and Mr. Litton):

H.R. 14851. A bill to authorize the Secretary of the Treasury to reimburse State and local law enforcement agencies for assistance provided at the request of the U.S. Secret Service; to the Committee on the Judiciary.

By Mr. CARNEY:

H.R. 14852. A bill to amend title 5, United States Code, to provide that any Federal employee retiring with accrued sick leave shall be entitled to elect to receive payment for such leave (in lieu of having such leave used in determining his retirement annuity); to the Committee on Post Office and Civil Service.

By Mr. ECKHARDT:

H.R. 14853. A bill to study certain lands for suitability for preservation as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. KASTENMEIER (for himself and Mr. Obey):

H.R. 14854. A bill to provide emergency loans and loan guarantees to farmers adversely affected by major disaster or emergency conditions occuring in 1976, and for other purposes; to the Committee on Agriculture.

By Mr. KEMP:

H.R. 14855. A bill to amend the Internal Revenue Code of 1954 to require the Internal Revenue Service to audit all income tax returns made by Members of Congress; to the Committee on Ways and Means.

By Mr. KEMP (for himself and Mr. Hyde):

H.R. 14856. A bill to prescribe the conditions with respect to affirmative action programs required of Federal grantees and contractors in complying with nondiscrimination programs, to prescribe the necessary requirements for a finding of discrimination in certain actions brought on the basis of discrimination in employment and to prescribe reasonable limits on the collection of data relating to race, color, religion, sex, or national origin, and for other purposes; jointly to the Committees on the Judiciary, and Education and Labor.

By Ms. KEYS:

H.R. 14857. A bill to exempt from Federal income taxation certain nonprofit corporations all of whose members are tax-exempt credit unions; to the Committee on Ways and Means.

By Mr. LEHMAN:

H.R. 14858. A bill to provide grants for preschool educational programs for migratory children; to the Committee on Education and Labor.

By Mr. MOAKLEY (for himself and Mr. Litton):

H.R. 14859. A bill to establish within the Energy Research and Development Administration a program of Federal grants to assist States in carrying out solar energy community utility programs; to the Committee on Banking, Currency and Housing.

By Mr. MOLLOHAN (for himself, Mr. Hall of Illinois, and Mr. Patterson of California):

H.R. 14860. A bill to amend the Solid Waste Disposal Act to prohibit the promulgation of certain regulations respecting beverage containers sold, offered for sale, or distributed at Federal facilities; to the Committee on Interstate and Foreign Commerce.

By Mr. STEIGER of Wisconsin (for himself, and Mr. Ginn):

H.R. 14861. A bill to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of the locality; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mrs. SULLIVAN (for herself, Mr. Biaggi, Mr. du Pont, Mr. Downing of Virginia, Mr. Murphy of New York, Mr. Jones of North Carolina, Mr. Studds, Mr. de Lugo, Mr. Eilberg, Mr. AuCoin, Mr. Patterson of California, Mr. Oberstar, Mr. Young of Alaska, Mr. Bauman, Mr. Emery, and Mr. Ruppe):

H.R. 14862. A bill to provide a comprehensive system of liability and compensation for oil spill damage and removal costs, and for other purposes; jointly to the Committees on Merchant Marine and Fisheries, and Public Works and Transportation.

By Mr. ASPIN:

H.J. Res. 1032. A resolution to authorize and request the President to issue a proclamation designating the week of October 17, 1976, as "National Credit Union Week"; to the Committee on Post Office and Civil Service.

By Mr. NEDZI:

H. Con. Res. 688. A resolution authorizing printing of the folder "The United States Capitol" as a House Document; to the Committee on House Administration.

By Mr. KETCHUM (for himself, Mr. Archer, Mr. Bonker, Mr. Brown of California, Mr. Buchanan, Ms. Chisholm, Mr. Collins of Texas, Mr. Cotter, Mr. Emery, Mr. Fascell, Mr. Flowers, Mr. Frenzel, Mr. Frey, Mr.

Gude, Mr. Hagedorn, Mr. Helstoski, Mr. Hicks, Mr. Hyde, Mr. Johnson of California, Mr. Kasten, Mr. Kemp, Mr. Martin, Mr. McCloskey, Mr. McCollister, and Mr. McKinney):

H. Res. 1422. A resolution to amend rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

435. By the SPEAKER: A memorial of the Assembly of the State of New York, relative to Fort Wadsworth, Staten Island, N.Y.; to the Committee on Interior and Insular Affairs.

436. Also, a memorial of the Assembly of the State of New York, relative to water pollution along the shore of Long Island; to the Committee on Public Works and Transportation.

437. Also, a memorial of the Assembly of the State of New York, relative to imports of clothing items; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLOUIN:

H.R. 14863. A bill for the relief of Raymond W. Quillin; to the Committee on the Judiciary.

By Mr. BROOKS:

H.R. 14864. A bill to authorize Senior Master Sergeant James S. Augeri, U.S. Air Force, retired, to accept employment with the Government of Saudi Arabia; to the Committee on International Relations.

By Mr. SHRIVER:

H.R. 14865. A bill for the relief of Raymond C. Owens; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

525. By Mr. OTTINGER: Petition of members of the General Foods Employees Credit Union, White Plains, N.Y., relative to the Credit Union Financial Institutions Act Amendments of 1975; to the Committee on Banking, Currency and Housing.

526. By the SPEAKER: Petition of the Jamaican Overseas Council, Inc., Brooklyn, N.Y., relative to communism in Jamaica; to the Committee on International Relations.

527. Also, petition of Robert Y. Barnett, Joliet, Ill., relative to redress of grievances; to the Committee on the Judiciary.

528. Also, petition of Robert A. Clogher, Englewood, N.J., relative to commemorating the signing of the Declaration of Independence; to the Committee on Post Office and Civil Service.

529. Also, petition of Robert B. Watson, Ashland, Ky., relative to investigations of the assassinations of Dr. Martin Luther King, Jr., and President John F. Kennedy; to the Committee on Rules.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11656

By Mr. HORTON:

(Amendment to the Judiciary Committee amendment.)

Page 3, strike lines 3 through 9 and insert:

"(2) the term 'meeting' means a gathering to jointly conduct or dispose of agency business by two or more, but at least the number of individual agency members required to take action on behalf of the agency, but does not include gatherings required or permitted by subsection (d); and"

Page 3, line 17, strike the period and add: ", *Provided, however,* That this subsection shall not apply to any agency that is responsible for the formulation and implementation of national monetary policy or the regulation of financial institutions except to the extent that meetings of such agency result in the joint conduct or disposition of matters set forth in the following provisions of law: The Truth in Lending Act (82 Stat. 146, 15 U.S.C. 1601 et seq.), as amended; the Fair Credit Reporting Act (84 Stat. 1127, 15 U.S.C. 1681–1681t); the Fair Credit Billing Act (88 Stat. 1511, 15 U.S.C. 1666–1666j); the Equal Credit Opportunity Act (88 Stat. 1521, 15 U.S.C. 1691–1691e), as amended; the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (88 Stat. 2193, 15 U.S.C. 41 et seq.); the Home Mortgage Disclosure Act of 1975 (89 Stat. 1124, 12 U.S.C. 2801 et seq.); the Consumer Leasing Act of 1976 (90 Stat. 257, 15 U.S.C. 1667–1667e); the Fair Housing Act (82 Stat. 81, 42 U.S.C. 3601 et seq.)."

On page 9, line 23 through page 11, line 2, strike subsection (f)(1) and insert the following:

"(f)(1) For every meeting closed pursuant to paragraphs (1) through (10) of subsection (c), the General Counsel or chief legal officer of the agency shall publicly certify that, in his opinion, the meeting may be closed to the public and shall state the relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the date, time and place of the meeting, the persons present, the generic subject matter of the discussion at the meeting, and the actions taken, shall be incorporated into minutes retained by the agency."

On page 13, lines 2 and 3, strike "a transcript or electronic recording" and insert "the minutes".

On page 13, line 10, strike "transcript or electronic recording" and insert "minutes".

On page 15, lines 1 and 2, strike "transcripts or electronic recordings" and insert "minutes".

On page 15, lines 4 and 5, strike "transcripts and electronic recordings" and insert "minutes".

On page 15, line 13, strike "transcripts or electronic recordings" and insert 'minutes".

On page 10, line 3, strike "paragraph" and insert "paragraphs 9(A) or" preceding "(10)".

H.R. 13550

By Mr. LEVITAS:

Page 137, line 1, insert "(1)" immediately before "The", and insert immediately below line 6, the following:

"(2) Any rule or regulation prescribed under paragraph (1) may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Secretary adopting same. The Secretary adopting such rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

"(3) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of July 22, 1976, page 23551:

H.R. 14521. June 23, 1976. Judiciary. Amends the Speedy Trial Act of 1974 to exclude specified authorized periods of delay from computation of the time limits for commencement of criminal trials.

H.R. 14522. June 23, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

H.R. 14523. June 23, 1976. Education and Labor. Provides, under the Occupational Safety and Health Act of 1970, that whenever an employer's failure to comply with any provision of that Act or any State requirement relating to industrial safety causes or contributes to an accident resulting in bodily injury, no provision of any workers' compensation law or similar statute shall be construed to bar an action at law for contribution, indemnification, or other relief against the employer by a person alleged liable for such injury.

H.R. 14524. June 23, 1976. Interior and Insular Affairs. Designates specied lands in the following national forests as components of the National Wilderness Preservation System: (1) Umatilla National Forest, Washington and Oregon; (2) Inyo and Sequoia National Forests, California; (3) Coronado National Forest, Arizona; (4) Tongass National Forest, New Mexico; (5) Wasatch and Uinta National Forests, Utah; (6) Cibola National Forest, New Mexico; (7) Los Padres National Forest, California; (8) Mendocino National Forest, California; (9) Angeles and San Bernardino National Forests, California; (10) Willamette National Forest, Oregon.

Directs the Secretary of Agriculture to review the suitability of designating as wilderness other specified National Forest System lands.

H.R. 14525. June 23, 1976. Judiciary. Permits the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries conducted by a nonprofit organization and authorized by State law.

H.R. 14526. June 23, 1976. Judiciary. Repeals provisions of present law which allow a person to bring a suit in the name of the United States against a person who is liable to the United States for making false claims for payment against the United States.

H.R. 14527. June 23, 1976. Judiciary. Prohibits certain petroleum companies engaged in the production, transportation, refining, or marketing of petroleum assets from controlling any interest in another aspect of the petroleum industry. Directs the Federal Trade Commission to require divestment of ownership interests by affected companies.

Establishes a Temporary Petroleum Industry Divestiture Court to hear cases arising under this Act.

H.R. 14528. June 23, 1976. Ways and Means. Amends the Internal Revenue Code to allow a taxpayer to exclude from gross income any amounts paid by his employer to cover moving expenses which would ordinarily be deductible.

Stipulates that no deduction shall be allowed for any item related to moving expenses to the extent that the taxpayer receives reimbursement for such item from his employer and excludes such reimbursement from gross income.

Removes the dollar limitations on the moving expenses deduction.

H.R. 14529. June 23, 1976. Education and Labor. Authorizes appropriations to the Navajo Community College for construction costs and for operation and maintenance of the college.

H.R. 14530. June 23, 1976. Interior and Insular Affairs. Designates specified lands in the Mark Twain National Forest, Missouri, as a component of the National Wilderness Preservation System. Directs the Secretary of Agriculture to review the suitability of other specified lands in such national forest for preservation as wilderness.

H.R. 14531. June 23, 1976. Interstate and Foreeign Commerce. Repeals the regulation promulgated by the Federal Trade Commission which subjects purchasers of notes of consumers to defenses such consumers have against the seller of goods or services to whom such consumer issued such note, and prohibits holder in due course protection for such purchasers. Prohibits the Commission from repromulgating such a rule in the future.

H.R. 14532. June 23, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 14533. June 23, 1976. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14534. June 24, 1976. Banking, Currency and Housing. Amends the National Housing Act to authorize the Government National Mortgage Association to make monthly housing investment interest differential payments to lenders in order to stimulate housing purchases.

H.R. 14535. June 24, 1976. Judiciary. Sets immigration quotas for Eastern Hemisphere and Western Hemisphere countries. Sets quotas and priorities for aliens from foreign states and dependents areas. Permits aliens seeking jobs in the United States in the teaching profession, the sciences, or the arts to enter the United States if they are as qualified as Americans seeking such jobs or have exceptional ability in the sciences or the arts.

Exempts certain Cuban aliens presently residing in the United States from immigration quotas.

H.R. 14536. June 24, 1976. Currency and Housing. Amends the Housing Act of 1949 to provide that States, territories, and district and local political subdivisions may tax property subject to liens held by the Federal Government and specified property held by the Secretary of Agriculture pursuant to the farm housing program in the same manner and to the same extent that other property is taxed.

H.R. 14537. June 24, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunciations industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate the terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 14538. June 24, 1976. Ways and Means. Entitles women and children to have payment made for specified maternal and child health care services. Establishes within the Department of Health, Education, and Welfare a Maternal and Child Health Care Board. Establishes an Advisory National Maternal and Child Health Care Council.

Creates in the United States Treasury a Maternal and Child Health Care Trust Fund. Amends the Internal Revenue Code of 1954 to impose maternal and child health care taxes on employers, employees, and self-employed individuals. Appropriates the revenue from such taxes to such Fund.

H.R. 14539. June 24, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Commission on Digestive Diseases. Requires the Commission to develop a long-range plan for the use of national resources to deal with digestive diseases.

Directs the Secrearty to establish a Coordinating Committee for Digestive Diseases to improve coordination among Federal agencies in the research, training, control, and treatment of digestive diseases.

H.R. 14540. June 24, 1976. Ways and Means. Amends the Supplemental Security Income program of the Social Security Act to provide that cost-of-living increases in annuity, pension, retirement, disability, or other employment-related benefits being paid to an individual under a public program, occurring after such individual's initial entitlement to such benefits, shall not be included in such individual's income in determining his or her eligibility for supplemental security income benefits.

SENATE—*Monday, July 26, 1976*

The Senate meet at 10 a.m. and was called to order by Hon. JOHN GLENN, a Senator from the State of Ohio.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Shew me Thy ways, O Lord; teach me Thy paths.

Lead me in Thy truth and teach me: for Thou art the God of my salvation; on Thee do I wait all the day.—Psalms 25: 4, 5.

Eternal Father take this new week of endeavor into Thine own hands. Remove from us all that obstructs discerning and doing Thy will. Direct our energies. Instruct our minds. Clarify our thinking. Sustain our wills. Grant us grace to live and work as Jesus of Nazareth, "the-Man-for-others," who came not to be ministered unto but to minister and give His life for many.

We pray in His name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 26, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JOHN GLENN, a Senator from the State of Ohio, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. GLENN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, July 23, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar for unobjected-to measures be waived under rule VIII.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committees on Aeronautical and Space Sciences and Labor and Public Welfare be authorized to hold a joint hearing on a nomination today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. That the Subcommittee on Water Resources of the Committee on Public Works be permitted to meet today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. That the Subcommittee on Water Pollution of the Committee on Public Works be permitted to hold oversight hearings on July 27 and 28.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. That the Committee on Banking, Housing and Urban Affairs be authorized to meet on a nomination today and to hold oversight hearings on July 27, 28, 29, and 30.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. And that the Subcommittee on Labor of the Committee on Labor and Public Welfare be authorized to meet on July 27 and 28 to consider black lung legislation.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRIFFIN. Mr. President, at the request of another Senator I respectfully object.

The ACTING PRESIDENT pro tempore. Objection is heard.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 982, 986, and 964.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MILDRED N. CRUMLEY

The bill (H.R. 7685) for the relief of Mildred N. Crumley, was considered, ordered to a third reading, read the third time, and passed.

WAIVING SECTION OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF H.R. 13359

The resolution (S. Res. 488) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 13359, was considered and agreed to, as follows:

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 13359. Such waiver is necessary due to the present fiscal crisis in the Virgin Islands occasioned, in part, by the Tax Reduction Act of 1975 which not only reduced available revenues since the Federal income tax operates as a local territorial tax in the Virgin Islands, but also required the Virgin Islands to cover the rebate provisions of the Tax Reduction Act from its own treasury.

VIRGIN ISLANDS REVENUE BONDS

The Senate proceeded to consider the bill (H.R. 13359) to authorize loan funds for the Government of the Virgin Islands, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That (a) in addition to the authority conferred by section 8(b) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1574(b)), the legislature of the government of the Virgin Islands is authorized to cause to be issued bonds or other obligations of such government in anticipation of revenues to be received under section 28(b) of such Act (26 U.S.C. 7652). The proceeds of such bonds or other obligations may be used for any purpose authorized by an act of the legislature. The legislature of the government of the Virgin Islands may initiate, by majority vote of the members, a binding referendum vote to approve or disapprove the amount of any such bond or other obligation and/or any purpose for which such bond or other obligation is authorized.

(b) The legislature of the government of the Virgin Islands may provide, in connection with any issue of bonds or other obligations authorized to be issued under subsection (a) the proceeds of which are to be used for public works or other capital projects, that a guarantee of such bonds or obligations by the United States should be applied for under section 2 of this Act.

(c) Except to the extent inconsistent with the provisions of this Act, the provisions of section 8(b)(ii) of the Revised Organic Act of the Virgin Islands (other than the limitation contained in the proviso to the first sentence of subparagraph (A)) shall apply to bonds and other obligations authorized to be issued under subsection (a).

Sec. 2. (a) When authorized under subsection (b) of the first section of this Act, the government of the Virgin Islands may apply to the Secretary of the Interior (hereinafter referred to as the "Secretary") for a guarantee of any issue of bonds or other obligations authorized to be issued under subsection (a) of the first section of this Act. Any such application shall contain such information as the Secretary may prescribe.

(b) The Secretary is authorized, with the approval of the Secretary of the Treasury, to guarantee and to enter into commitments to guarantee, upon such terms and conditions as he may prescribe, payment of principal and interest on bonds and other obligations issued by the government of the Virgin Islands under subsection (a) of the first section of this Act. No guarantee or commitment to guarantee shall be made unless the Secretary determines—

(1) that the proceeds of such issue will be used only for public works or other capital projects;

(2) taking into account anticipated expenditures by the government of the Virgin Islands while the bonds or other obligations forming a part of such issue will be outstanding, all outstanding obligations of the government of the Virgin Islands which will mature while the bonds or other obligations forming a part of such issue will be outstanding. and such other factors as he deems pertinent, that the revenues expected to be received under section 28(b) of the Revised Organic Act of the Virgin Islands will be sufficient to pay the principal of, and interest on, the bonds or other obligations forming a part of such issue;

(3) that credit is not otherwise available on reasonable terms and conditions and that there is reasonable assurance of repayment, and

(4) that the maturity of any obligations to be guaranteed does not exceed thirty years or 90 per centum of the useful life of the physical assets to be financed by the obligation, whichever is less as determined by the Secretary.

(c) The Secretary shall charge and collect fees in amounts sufficient in his judgment to cover the costs of administering this section. Fees collected under this subsection shall be deposited in the revolving fund created under subsection (g).

(d) Any guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation for such guarantee, and the validity of any guarantee so made shall be incontestable, except for fraud or material misrepresentation, in the hands of the holder of the guaranteed obligation. Such guarantee shall constitute a pledge of the full faith and credit of the United States for such obligation.

(e) The interest on any obligation guaranteed under this section shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.

(f) The aggregate principal amount of obligations which may be guaranteed under this Act shall not exceed $61,000,000. No commitment to guarantee shall be entered into under this Act after October 1, 1979.

(g)(1) There is hereby created within the Treasury a separate fund (hereinafter referred to as "the fund") which shall be available to the Secretary without fiscal year limitation as revolving fund for the purpose of this Act. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849)) for wholly owned Government corporations.

(2) All expenses, including reimbursements to other government accounts, and payments pursuant to operations of the Secretary under this Act shall be paid from the fund. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(3) If at any time the moneys available in the fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees under this Act, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations which are hereby authorized for this purpose. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

Sec. 3. Each issue of bonds or other obligations issued under subsection (a) of the first section of this Act shall have priority for payment of principal and interest out of revenues received under section 28(b) of the Revised Organic Act of the Virgin Islands in the order of the date of issue, except that issues guaranteed under section 2 shall have priority, according to the date of issue, over issues not so guaranteed and the revenues received under section 28(b) of the Revised Organic Act of the Virgin Islands shall be pledged for the payment of such bonds or other obligations.

Sec. 4. The Secretary is authorized and directed to make grants to the government of the Virgin Islands for operation of such government in an amount not to exceed $8,500,000.

Sec. 5. Chapter 44, section 1, of the Act of July 12, 1921 (42 Stat. 123; 48 U.S.C. 1397), is hereby amended by striking the period at the end thereof and inserting in lieu thereof the following language: ": *Provided further,* That, notwithstanding any other provision of law, the Legislature of the Virgin Islands is authorized to levy a surtax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the government of the Virgin Islands.

Sec. 6. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An act to authorize the government of the Virgin Islands to issue bonds in anticipation of revenue receipts and to authorize the guarantee of such bonds by the United States under specified conditions, and for other purposes.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I do not seek recognition.

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. No, Mr. President. I yield back the time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 20 minutes with statements therein limited to 5 minutes.

MESSAGE FROM THE HOUSE

At 4:30 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes, with amendments in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. GLENN) laid before the Senate the following letters, which were referred as indicated:

PROPOSED AMENDMENT TO BUDGET REQUEST FOR THE LEGISLATIVE BRANCH—(S. DOC. NO. 94–239)

A letter from the President of the United States transmitting a proposed amendment to the request for appropriations for the fiscal year 1977 in the amount of $218,460 for the legislative branch (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

PROSPECTUS OF THE GENERAL SERVICES ADMINISTRATION

A letter from the Administrator of General Services transmitting, pursuant to law, a prospectus relating to an extension to the present lease for space at 2300 E. Devon Avenue, Des Plaines, Illinois (with accompanying papers); to the Committee on Public Works.

REPORT OF THE DEPARTMENT OF THE ARMY

A letter from the Deputy Assistant Secretary of the Army transmitting, pursuant to law, a report relating to contracts signed for certain water resource projects (with an accompanying report); to the Committee on Public Works.

SALE OF RICE TO PORTUGAL

A letter from the Assistant Secretary of State transmitting, pursuant to law, a Determination with Statement of Reasons permitting the sale to Portugal of an additional 20,000 metric tons of rice (with accompanying papers); to the Committee on Agriculture and Forestry.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, a report on the causes and extent of damage of the foundations of historic structures at the San Juan National Historic Site, Puerto Rico (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORTS OF THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of 523 reports concerning visa petitions approved by the Service (with accompanying reports); to the Committee on the Judiciary.

REPORT OF THE SECRETARY OF TRANSPORTATION

A letter from the Assistant Secretary of Transportation transmitting, pursuant to law, a report on two new systems of records (with accompanying reports); to the Committee on Government Operations.

REPORTS OF THE COMPTROLLER GENERAL

Two letters from the Comptroller General of the United States transmitting, pursuant to law, two reports entitled "Better Enforcement of Safety Requirements Needed by the Consumer Product Safety Commission" and "Formulating Plans for Comprehensive Employment Services—A Highly Involved Process" (with accompanying reports); to the Committee on Government Operations.

REPORT OF THE DEPUTY ATTORNEY GENERAL

A letter from the Deputy Attorney General and Chairman of the Equal Employment Coordinating Council representing the fifth annual report of the Council, pursuant to law (with accompanying papers); to the Committee on Labor and Public Welfare.

PETITIONS

The ACTING PRESIDENT pro tempore laid before the Senate the following petitions which were referred as indicated:

A resolution relating to the impact of income tax cuts adopted by the Council of the City of Newport, R.I.; to the Committee on Finance.

Resolution No. 198 adopted by the Assembly of the State of New York; to the Committee on Public Works:

"RESOLUTION NO. 198

"Assembly resolution of the State of New York memoralizing Congress to enact legislation to include raw sewage, wastes and sludge in the definition of "hazardous substances" in order to entitle New York State to appropriate assistance in cleaning up the beaches and waters along the shore of Long Island

"Whereas, Recent natural and man made phenomena involving the coincidental occurrence of winds, tides and rains which have resulted in an assault on the beaches of Long Island by outrageous amounts of raw sewage, plastic items, grease balls and other unidentified noxious materials; and

"Whereas, These materials have rendered many of these beaches unfit for human use at the beginning of the summer recreation season; and

"Whereas, Such conditions have necessitated the closing of these beaches, including Jones Beach, the largest, most popular beach in New York State; and have endangered public health and have caused extensive economic hardship; and

"Whereas, Federal programs including provisions of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92–500) have been enacted to provide for the removal of hazardous substances from our nation's waters in order to assure maintenance of water quality and protection of public health; and

"Whereas, Furtherance of the objectives of such Federal programs would require their application to such situations as occurred along the shores of Long Island; and

"Whereas, Appropriate amendments to Federal laws defining 'hazardous substances' to include raw sewage, wastes and sludge would entitle the state to assistance in removal of raw sewage, noxious wastes and sludge from the beaches and waters along the shore of Long Island; now, therefore, be it.

"Resolved, That the Congress of the United States be and hereby is respectfully memorialized to amend existing law defining 'hazardous substances' to include raw sewage, noxious wastes and sludge in order to assure assistance in cleaning the waters along the shore of Long Island; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the Senate of the United States, the Speaker of the House of Representatives, and to each member of Congress of the United States from the State of New York."

Resolution No. 199 adopted by the Assembly of the State of New York; to the Committee on Interior and Insular Affairs;

"RESOLUTION NO. 199

"Assembly resolution of the State of New York urging the President of the United States and Congress to enact legislation to establish Fort Wadsworth, Staten Island as a living national park memorial

"Whereas, Fort Wadsworth located in Staten Island, New York has been a continuously manned fort of the United States since 1663; and

"Whereas, Fort Wadsworth is the oldest continuously manned fort in the United States and on the North American continent; and

"Whereas, Fort Wadsworth is a landmark of military history of the United States and is worthy of preservation as such; and

"Whereas, Fort Wadsworth is currently staffed with a detachment from each of the five services under the auspices of the United States Army and should remain so; and

"Whereas, The Fort Wadsworth Committee for a "Living National Park Memorial" (1636 —) proposed legislation to the President and Congress of the United States to establish Fort Wadsworth as a monument to our Armed Forces in our Bicentennial year; now, therefore, be it

"Resolved, That the Assembly of the State of New York respectfully urges the President of the United States and Congress to enact legislation establishing Fort Wadsworth as a "Living National Park Memorial" (1636 —) memorializing all servicemen and servicewomen who have fought to create this one nation under God, who kept our nation free and who will safeguard its future; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the President of the United States, the President Pro Tem of the United State Senate, the Speaker of the House of Representatives, and to each member of Congress from the State of New York."

ORDER FOR STAR PRINT OF S. 3665

Mr. BEALL. Mr. President. I refer to my bill, S. 3665, the Welfare Reform and Tax Reduction Act of 1976.

Due to a clerical error, several paragraphs were omitted from the printing of the bill. I ask unanimous consent that a star print be authorized to show these changes.

The PRESIDING OFFICER (Mr. Bellmon). Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MOSS:

S. 3700. A bill to amend section 16 of the Solar Energy Research, Development, and Demonstration Act of 1974. Referred to the Committee on Aeronautical and Space Sciences.

ADDITIONAL COSPONSORS

S. 400

At the request of Mr. Kennedy, the Senator from Montana (Mr. Mansfield), the Senator from Ohio (Mr. Taft), the Senator from Michigan (Mr. Philip A. Hart), the Senator from South Carolina (Mr. Hollings), the Senator from Hawaii (Mr. Inouye), the Senator from Oregon (Mr. Hatfield), and the Senators from New Jersey (Mr. Williams and Mr. Case) were added as cosponsors of S. 400, to establish the Frederick Law Olmstead Home and Office in Brookline, Mass.

S. 1173

At the request of Mr. Curtis, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 1173, a bill to amend the Internal Revenue Code of 1954.

S. 3585

At the request of Mr. McGovern, the Senator from Nevada (Mr. Cannon), the Senator from Vermont (Mr. Leahy), the Senator from New Mexico (Mr. Domenici), and the Senator from Rhode Island (Mr. Pastore) were added as cosponsors of S. 3585, the National Meals-On-Wheels Act of 1976.

S. 3649

At his own request, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 3649, a bill to amend title XX of the Social Security Act.

S. 3663

At the request of Mr. Gary Hart, the Senator from Massachusetts (Mr. Brooke) was added as a cosponsor of S. 3663, to amend the Federal Water Pollution Control Act.

SENATE JOINT RESOLUTION 206

At the request of Mr. Stone, the Senator from Florida (Mr. Chiles) was added as a cosponsor of Senate Joint Resolution 206, proposing a National Leadership Conference on Energy Policy.

AMENDMENT NO. 1639

At the request of Mr. Ford, the Senator from Ohio (Mr. Taft) was added as a cosponsor of amendment No. 1639, intended to be proposed to H.R. 10612, the Tax Reform Act of 1976.

SENATE RESOLUTION 492 AND SENATE RESOLUTION 493—SUBMISSION OF RESOLUTIONS AUTHORIZING ADDITIONAL PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. RIBICOFF (for himself and Mr. Metcalf) submitted the following resolutions:

S. Res. 492

Resolved, That the committee print of the Committee on Government Operations entitled "Corporate Ownership and Control" be printed as a Senate document, and that there be printed nine hundred additional copies of such document for the use of that committee.

S. Res. 493

Resolved, That the committee print of the Committee on Government Operations entitled "Institutional Investors' Common Stock" be printed as a Senate document, and that there be printed nine hundred additional copies of such document for the use of that committee.

AMENDMENTS SUBMITTED FOR PRINTING

POSTAL REORGANIZATION ACT AMENDMENTS—H.R. 8603

AMENDMENT NO. 2083

(Ordered to be printed and to lie on the table.)

Mr. MOSS. Mr. President, in 1972, the Congress passed legislation (P.L. 92–469) which increased the weight and size limitations for parcel post packages eligible to be shipped by air on a space available basis (SAM) by U.S. servicemen and women from military installations abroad to the United States. The limits were increased from 15 pounds and 60 inches in girth to 70 pounds and 100 inches in girth. At that time the U.S. Postal Service felt that it could not accommodate similar service in both directions because of its limited airport facilities. Consequently, outbound parcels to our servicemen and women were limited to 15 pounds and 60 inches.

With the operation of the new bulk mail processing centers, the Postal Service has changed its position and now supports equalization of SAM parcel post weight and size standards. The amendment I submit for printing would have that and only that effect. It would raise the limits on outbound parcels to 70 pounds and 100 inches. This amendment would eliminate unnecessary confusion. It would provide military personnel a speedy and reliable method to ship larger packages at a substantial cost savings over regular air rates and at a considerable time savings over surface transportation. Most important, it would contribute to the morale of our forces abroad and their families here at home.

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 2084

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY. Mr. President, on behalf of Senator Mondale, I submit an amendment to S. 3219, the Clean Air Act amendments. I ask unanimous consent that a statement on this amendment by Senator Mondale be printed at this point in the Record, together with the text of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Mondale

The Metropolitan Council in Minnesota is a unique organization which has gained nationwide fame as an example of effective planning in a number of areas.

When the Metro Council was set-up in the 7-county area of the Twin Cities, the State legislature was concerned that such an organization not build parochial interests of local governments, but give a regional viewpoint in coordinating activities of the metropolitan area. Thus, the legislature decided that the members would be appointed by the Governor of the State, and approved by the Senate, rather than elected by local residents.

The Council's role as defined by State statute is to achieve orderly growth and development in the 7-county metropolitan area. The Council is responsible for coordinating all proposals, projects, expenditures, and plans that directly and substantially affect development in the Twin Cities area.

The Council is responsible for preparing policy plans for all levels of government for waste control, transportation, solid waste, airports, and parks and open space. These plans must be followed by local governmental units and other regional operating commissions.

Under this authority, the Council reviews the capital budgets and development programs of the other regional commissions in the areas of waste control, transportation, airports, and parks and open space. These programs must be in conformance with metropolitan systems statements prepared by the Metro Council for each local plan.

The major components in the Clean Air Act for implementation plans to improve ambient air quality and to regulate stationary sources of pollution are transportation planning and land use planning. The Metro Council has strong authority in both these areas. An important part of their transportation planning program is studying the relationship between transportation and air quality to ensure that regional transportation plans will meet federal standards.

In the past, the Metro Council has had to go to great lengths to obtain administrative authority under the Water Pollution Control Act. Locally elected officials from the major jurisdictions in the planning area had to provide formally adopted resolutions naming members of the Council from their jurisdiction as their designees, and the EPA had to approve this designation. This took a good deal of time and effort.

I urge that this same situation be avoided as we determine the provisions of the Clean Air Act. I would hope that states such as Minnesota which set up an effective planning organization will not be penalized by limiting the administrative authority to locally elected governing bodies.

I can understand the concern that those with the authority to administer these important programs be responsive to local citizens, and there is a good deal to be said for granting elected officials this responsibility. In fact, for the past few years, attempts have been made in the Minnesota State legislature to change the composition of the Metro Council to locally elected officials. However, these attempts so far have not been successful.

Given the proven effectiveness of the Metropolitan Council, I hope that the Senate will agree to grant them the authority to administer the provisions of the Clean Air Act.

AMENDMENT NO. 2084

On page 25, line 8, after the word "purpose" insert the following:

"Or by an area-wide agency designated under State law to perform comprehensive planning for the affected area".

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2085

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS. Mr. President, my amendment would delete section 806, thus preventing substantial tax windfalls for the shipping industry. Section 806 of the bill extends the investment tax credit to ships constructed with amounts withdrawn from capital construction funds established under the 1970 Merchant Marine Act. Deposits from shipping income into these accounts are deducted in calculating the taxable income of shipowners. Furthermore, withdrawals from the fund are not subject to tax if they are used for ship construction. Under present law, since the deposit has already been deducted from income, the portion of any vessel acquired with the deposit is regarded as having a zero basis for tax purposes. Accordingly, the taxpayer is not entitled to depreciation deductions or to an investment tax credit, since each of these provisions is predicated on the existence of a tax basis for the asset.

Section 806 benefits a single industry which already is the recipient of substantial tax incentives. Furthermore, the provision selectively overturns the fundamental concepts of "basis" and "depreciable property," which have served our tax system well over the years. My amendment would have the effect of preserving these concepts for all taxpayers.

As the Treasury has pointed out, even without the additional tax subsidy provided by this section, shipowners presently receive the equivalent of a 17 percent investment tax credit through the device of capital construction funds. This is already 7 percent higher than the tax credit available to qualified investment generally. At this time there is no clear and convincing evidence of a serious economic problem in the shipbuilding industry which might justify adding to the already abnormal tax subsidy. There continues to be a substantial backlog of commercial ship construction contracts with U.S. yards. The volume of projected construction of new ships under capital construction fund agreements had increased from about $3 billion at yearend fiscal year 1974 to $4.9 billion as of yearend 1975. Finally, private shipyard employment has increased every year from 1971 to the present.

Specialized tax incentives for particular industries increase investment in such industries at the expense of capital formation elsewhere in the economy. In view of this, careful evaluation is required to determine whether the market's allocation of capital should be supplanted by a special tax provision. In this case such a provision is clearly inappropriate.

Deletion of this provision will restore $20 million of tax revenues which would otherwise be lost in fiscal year 1977 and $45 million by fiscal year 1981. Even with the deletion, tax benefits provided under the Merchant Marine Act will rise to $190 million in the next few years.

AMENDMENT NO. 2086

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

SUPPORT FOR AMENDMENT NO. 2062

Mr. DOMENICI. Mr. President, last week, my distinguished senior colleague from New Mexico (Mr. MONTOYA) and I submitted amendment No. 2062 to H.R. 10612. My purpose today is to explain to the rest of our colleagues why we support amendment No. 2062 and to urge its adoption when called up later in the week.

Amendment No. 2062 is a simple and direct amendment. It would simply strike section 1323 from H.R. 10612 as reported to the Senate by the Finance Committee. Section 1323 is one of the numerous Finance Committee amendments added to the House bill by the Finance Committee. We who are the sponsors of amendment No. 2062 feel that section 1323 is, at worst, an unconstitutional restraint on legitimate State action, or, at best, an imprudent and improper exercise of the congressional power to regulate interstate commerce.

Section 1323 is rather vague, but it would seem to prohibit any State tax on the generation of electricity if consumers outside the State of generation paid a greater gross or net tax on the electricity than consumers inside the State of generation. Such State action, now valid under the Constitution and existing Federal law, would be outlawed because the Finance Committee feels it is "discriminatory State taxation which is properly within the ability of Congress to prohibit through its power to regulate interstate commerce"—page 437 of committee report. In addition, section 1323 would have a retroactive effective date of June 30, 1974.

It is not altogether clear from the report whether the committee intended this section to be a purely legal action to protect interstate commerce from unreasonable burdens imposed by States or whether it is intended to be an exercise under the power to regulate interstate commerce to achieve a desirable national policy.

By use of certain report language, the committee report seems to indicate that the kind of State taxes involved are "discriminatory" because they are an unreasonable burden on interstate commerce. On the other hand, the committee's definition of "discriminatory," for purposes of this section, appears to turn solely on the comparative effect of such State taxes on consumers of electricity in different States.

Regardless of whether the committee intended this section as a protection against an unconstitutional infringement of State action on interstate commerce or an exercise of Federal power in furtherance of a valid national policy, we feel it is most unwise.

If section 1323 is intended to be a legal remedy to protect interstate commerce from unreasonable burdens imposed by the States, it is contrary to established judicial precedent and it intrudes the Congress into an ongoing judicial proceeding on this very issue. In short, we feel it would be improper of the Congress to invalidate State tax laws on constitutional grounds, when the weight of judicial precedent runs the other way, and when litigation is well under way which will address all questions of constitutionality.

If this section is intended to be an exercise of the congressional authority to regulate interstate commerce as a means to promote a valid national policy, we feel it falls far short of either affirmatively stating the policy or providing a reasonable and effective means to achieve it. In addition, the lack of guidance and specificity related to this provision will cause it to be extremely difficult to comply with and will lead to confusion and disagreement among the States.

The objective of this provision is to set aside State tax arrangements which allow a credit of the electricity generation tax against sales taxes—gross receipts taxes—paid in the State of generation. It would, if interpreted and applied literally as written, apply only if either the gross tax or net tax paid on electricity outside the State of generation is higher than paid for that electricity inside the State of generation.

The obvious target of this section is a New Mexico tax structure which levies a uniform tax on the privilege of generating electricity in the State, but which also allows a credit for this generating tax against gross receipt taxes from the sale of electricity in the State of New Mexico.

Proponents of this section contend that this tax is discriminatory because entities outside New Mexico do not pay New Mexico gross receipts taxes and, therefore, cannot credit the generating tax against gross receipts taxes. This section would prohibit New Mexico's tax structure if either the gross or net tax paid on electricity outside the State is greater than the gross or net taxes paid on electricity in the State. In other words, every out-of-State transaction would have to be compared with in-state transactions and if either the out-of-State gross or net tax is greater than the in-State, the New Mexico tax would be invalidated.

What of local taxes? Are they to be included in this comparison? It is a valid question because there are local taxes on the sale of electricity in Arizona which makes the gross tax on electricity, just from sales taxes, greater than the gross receipts tax in New Mexico. This is only one of the problems that will be encountered by the States and the courts in trying to interpret and apply this provision. We owe our State, our courts and our citizens a better-reasoned and more extensive explanation of the objectives of this legislation and the means by which it is intended to operate.

Finally, Mr. President, we acknowledge that this is an area in need of congressional attention as reflected by pending bills in both Houses, for example, H.R. 9, the Interstate Taxation Act, and S. 2080, also entitled the Interstate Taxation Act. It seems far better to pursue the complex question of Interstate Taxation in separate legislation dealing specifically with that subject than to insert this provision in a legislative measure intended to deal with generations of Federal revenue.

For all these reasons, I hope my colleagues will consider our amendment favorably.

AMENDMENT NO. 2087

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself, Mr. Muskie, Mr. Goldwater, and Mr. Ribicoff) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10612), supra.

NOTICE OF HEARINGS

Mr. WILLIAMS. Mr. President, the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs will hold 3 days of hearings in connection with its study of the securities activities of commercial banks. The hearings will be held on August 4, 5, and 6, 1976, at 10 a.m. in room 5302, Dirksen Senate Office Building, and will focus on brokerage and brokerage-related services offered by commercial banks and registered broker-dealers.

NOTICE OF HEARING

Mr. MOSS. Mr. President, the Subcommittee on Census and Statistics of the Senate Committee on Post Office and Civil Service will hold a hearing on Monday, August 2, 1976, to consider legislation to provide for the transfer of population census records to the National Archives and to make such records available to persons conducting research for medical research, genealogical research, or other proper purposes. The specific legislative proposals to be considered are H.R. 10686 and S. 3279. The hearing will begin at 10 a.m. in room 6202 Dirksen Senate Office Building.

Any individual or organization wishing to testify or submit a written statement for the hearing record should, by no later than July 28, contact Mr. Arthur Eck, Senate Committee on Post Office and Civil Service, 6206 Dirksen Senate Office Building, Washington, D.C. 20510, 202-224-5451.

ADDITIONAL STATEMENTS

MRS. MAUDE B. BYRNES

Mr. HOLLINGS. Mr. President, it has often been said that bad news travels in pairs, and that has certainly been the case for my native State of South Carolina in the last several days.

It was only recently that I had the sad duty to inform the Senate of the passing of the wife of one of its former members, Mrs. Olin D. Johnston. Today, I find myself approaching this body again with the painful task of commending to its memory the spirit of another great South Carolinian, Mrs. Maude B. Byrnes, the wife of one of my State's and this Nation's greatest statesmen, the late James F. Byrnes.

If Jimmy Byrnes' life and career were remarkable in the eyes of the world, the life of Mrs. Byrnes was no less notable in the hearts and minds of the thousands of people she befriended and loved during her 93 years. I can think of no finer tribute to the concern and care she felt for her fellow human beings than that personified by the large contingent of Byrnes Scholars who attended her funeral Sunday in Columbia. Governor and Mrs. Byrnes founded the Byrnes Scholars programs many years ago to help orphans in their quest for higher education, and many of them were on hand to say a final "goodbye" and to serve as honorary pallbearers.

All of us who came in contact with this great, great human being were left forever with the realization that Maude Byrnes was a strength and a power in her own right and that she was the perfect companion for a man of Governor Byrnes' keen intelligence and driving quest for excellence in public service. As a young State legislator, I was a floor leader for Governor Byrnes in the South Carolina General Assembly and came to know them both in a personal way. Later, we were neighbors during several summers at the beach near Charleston, S.C. I shall never forget Mrs. Byrnes' wit, compassion, and solicitude and her deep insight into the problems of our State and our country.

Without question, her death marks the end of an era in my State, one marked by devotion to good government and human sacrifice in behalf of a better life for others. We are deeply saddened by her passing but renewed by the example she and her illustrious husband have set for succeeding generations.

At this time, I ask unanimous consent to have printed in the Record editorial comments on Mrs. Byrnes from the State newspaper in Columbia, S.C., and the Greenville News-Piedmont in Greenville, S.C. I think they admirably describe the depth of feeling all South Carolinians feel for this remarkable woman.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the State, July 25, 1976]

A Great Lady Departs

Custom dictates, at least in South Carolina, that once a person becomes governor he retains that title even after he departs the office. Not so with the wives of governors, who relinquish their "First Lady" designation once they have the Governor's mansion.

The exception to that rule was Mrs. James F. Byrnes, who remained South Carolina's "First Lady" from the time her husband was elected chief executive in 1950 until her death here in Columbia on Friday.

Seldom, if ever, has any lady left such a legacy of graciousness, or generosity, and of inspiration to youth than did Maude Busch Byrnes. And never has any lady, without children of her own, been "Mom" to so many South Carolinians. Less than a month ago, she was the honored and beloved guest at the annual meeting of James F. Byrnes Scholars, that "alumni" organization made up of those hundreds of men and women (some well into their own maturity now) who owe their college educations in whole or in part to the scholarship program initiated by the late Governor Byrnes and Mrs. Byrnes.

The scholars hold a double bond of affection for "Mom" and "Pop" Byrnes, stemming not only from their status as Byrnes Scholars but from realization that the scholarship program was tailored to assist young Carolinians who had lost one or both parents—as had Mr. Byrnes himself at an early age. (The late, great elder statesman was reared in Charleston by a working mother after the death of his father.)

But "Miss Maude" was a personage in her own right as well as the wife and later the widow of a famous American. Never projecting herself into the public or political limelight, she nevertheless was the constant companion and dependable support for "Jimmy" Byrnes as he moved influentially through administrative, judicial, and diplomatic assignments of major importance.

His death in 1972 at the age of 91 and now her death in 1976 at the age of 93 mark the final chapter of a joint career which combined service to humanity with a warm and loving marriage. In both respects, the lives Jim and Maude Byrnes have provided an inspiring example for South Carolinians of yesterday, today, and tomorrow.

[From the Greenville News-Piedmont, July 25, 1976]

Mrs. Maude B. Byrnes

Wordsworth must have known a woman like Mrs. Maude B. Byrnes when he penned these words in his poem, "She was a Phantom of Delight":

> The reason firm, the temperate will,
> Endurance, foresight, strength and skill;
> A perfect woman, nobly planned,
> To warn, to comfort and command.

"Miss Maude" Byrnes was unique. She did not live in the shadow of her great husband, Statesman James F. Byrnes. She was a partner in his every endeavor. Mr. Byrnes often said two women should receive credit for any success he achieved—his mother, and his beloved Maude.

Throughout their long life, especially during their political years, Mrs. Byrnes bestowed an aura of regal graciousness upon every gathering of friends, political associates and constituents. She made people feel at ease.

Her keen, alert mind, active until the end of her life, dismissed the term "generation gap" as nonsense. There were no gaps in her relationships with people of all ages. She could communicate with children and with young people as easily as with those of her own age bracket.

The Byrnes never had children of their own, but they endeared themselves readily to the young. On one occasion Mrs. Byrnes held a girl, age 8, on her lap, telling her a true story which fascinated the child. At the same time her husband, then the Governor of South Carolina, was telling the girl's older brother the fascinating tale of a vintage automobile in the garage at the Governor's House.

A few hours later they were entertaining the Byrnes scholars, the orphans who were recipients of college scholarships through their generosity, and who were dear to their hearts.

This is an example of the many acts of kindness and moments of wit and compassion recalled by Mrs. Byrnes' many friends, especially her "family" of Byrnes scholars, as she is laid to rest today following her death on Friday.

She knew the great and near-great during the many years when "Jim" Byrnes was at the center of national and world affairs as a leading senator, associate Supreme Court justice, assistant President, secretary of state, governor and United Nations delegate. She was her husband's refuge as well as his partner during those years; she was, as he said many times in public, his perpetual sweetheart.

It is remarkable that even in her nineties and after his death in 1972, this gallant, courageous lady spent most of her days conveying love and concern to others. The Byrnes scholars testify to that. And on the day of Richard Nixon's resignation, she wrote a note to Pat Nixon, with no political references, expressing concern for Mrs. Nixon and her family.

Except for a quirk of fate, Mrs. Byrnes would have been First Lady of the United States. She was a gracious First Lady of South Carolina and will forever be a First Lady in the hearts of those who came to know her.

THE FOUNDING FINAGLERS OR IT USED TO BE WORSE

Mr. PROXMIRE. Mr. President, much has been made in recent times concerning major and minor corruption in Washington. In the history of the country there has probably never been an incident in which the public trust was as tarnished as in the Watergate scandal.

But apart from Watergate, the peccadillo's of today do not rival the corruption of the past. Nathan Miller, who is on the staff of the Senate Appropriations Committee, has just published a book, "The Founding Finaglers," in which much of it is detailed.

The speculators made unconscionable profits from the Revolutionary War, Cornelius Vanderbilt built ships which sunk outright during the Civil War, and World War I was marred by aircraft scandals which cost the lives of many American pilots. Teapot Dome, railroad corruption, and the empire of Samuel Insul are too often forgotten when the personal faults of modern Congressmen are headlined and decried.

This book has the great merit of putting political corruption into perspective. We are not a more corrupt society. We are less corrupt. We are not deteriorating. We are improving. We need and have justification for confidence that we can continue to improve. Jethro Lieberman, who once served on my staff and is now the legal affairs editor of Business Week, has reviewed Nathan Miller's first-rate book.

I commend both the book and the review to the Senate and the public, and I ask unanimous consent that the review be printed in the Record.

There being no objection, the review was ordered to be printed in the Record, as follows:

The Land of the Fleeced, the Home of the Knave

Cynicism about our public figures has become the norm. Ever since Watergate, revelations of corruption and venality have assailed the citizenry, and a recent spate of unsavory news from Washington has provided sour background music for the bicentennial celebration of American independence. But the reader who supposed that our age was corrupt beyond comparison would reflect the ignorance that most of us, unfortunately, share about the American past. Happily, a one-volume remedy is now at hand in Nathan Miller's *The Founding Finaglers*, a breezy account of 300 years of corruption in America that shows our own public crooks to be unimaginative duffers when compared to many of their illustrious predecessors.

Like George Washington, for example, who was "destined not only to become our first in war and first in peace, but also first in land speculation." There is strong reason to believe that he improperly acquired "the cream of the country" when the Virginia countryside was being parceled out before the Revolution. But Washington, at least, may be thought to have paid his debt, sharing with his men the rigors of the early years of the Revolution, in contrast to the merchants who traded the lives of the soldiers for enormous fortunes. Speculators cornered the market in essential matériel—like shoes and blankets—and so desperate was the army that the Continental Congress was forced to accede to extortionate demands for markups ranging upwards of 2,000%.

Early in the Revolutionary War the foundations were laid (based, to be sure, on colonial customs) for the practice of reaping fortunes by failing to distinguish sharply between public and private business. The most successful practitioner of this art was the legendary financier Robert Morris. A member of Congress and partner in a Philadelphia brokerage and shipping house, Morris became the richest man in America through his adroit ability to profit without risk in fulfilling public contracts (though he ultimately died impoverished, victim of a huge land swindle). In 1775 he became a member of the committee that Congress established for the procurement of all military supplies. Operating in secret, Morris managed to pocket for his firm $483,000 of some $2 million the committee spent on military supplies during the next two years. This was in addition to the profit he made from the goods imported on his own account in government ships carrying public goods, for which he paid neither charter fees nor insurance.

Morris also profited along with several other already-rich merchants or otherwise wealthy families, in Alexander Hamilton's grand plan for honoring the national debt. This worthy and successful policy for the federal government's assumption of the debt was carried out at the expense of those who sold off at large discount the paper issued by Congress during the war. This paper seemed about to be repudiated. The poor farmers and veterans were not let in on Hamilton's plan, but most of the buyers were. Morris, by then a senator from Pennsylvania, was late in arriving at one session of Congress, having tarried in order to continue buying paper cheaply.

Although it is not clear that Hamilton himself engaged in this orgy of insider trading, it is clear that he got his plan through Congress only because that body had a gross conflict of interest. Of the 65 members of the House, 29 held government certificates that would yield them a profit if they voted, as they did, in favor of Hamilton's legislation.

From that time forward, until relatively recently, the history of our economic development has been accompanied by political and economic corruption, as Miller, a professional staff member of the Senate Appropriations Committee, amply documents. In the great Yazoo land scandal, the entire 1795 Georgia legislature (save only one member) was bribed to induce it to grant millions of acres to certain land speculators at a penny or two an acre. These companies then conveyed millions of acres of nonexistent land to unwary speculators whose greed overrode their common sense.

Throughout the 19th Century, the great fortunes owed little to the principles of laissez-faire economics and much to the knack of bribing and stealing. From John Jacob Astor's fur trading days to the building of railroads (whose land grants were said to be "the greatest legislative crime in history," and Miller details why), corruption was the essential rule.

Few were exempt. Joseph Smith, the Mormon founder, opened a bank to pay his debts; the reserves of the bank consisted of vaults with a thin layer of half-dollar pieces covering sand, lead, and old iron. Cornelius Vanderbilt made $9 million during the Civil War (increasing his net worth to the unheard-of sum of $20 million) by, among other things, building unseaworthy vessels that sank as soon as they were outfitted.

Miller takes the story through Teapot Dome. Along the way he shows that every modern trick of finagling money out of the public treasury was thought of long ago, as were the excuses and justifications. In 1889 the newly elected President Benjamin Harrison complained: "I could not name my own cabinet. [The party managers] had sold every place to pay the election expenses." And several years before, perennial candidate James Baline defended himself from charges of conflict of interest in connection with a railroad land grant when he was Speaker of the House by reading selected excerpts from a series of incriminating letters in a manner reminiscent of a modern American President and his tapes.

Crowded as the book is with details of mouth-watering malefactions, it is deficient in analysis. Why so much corruption? Is it part of the American character, or was corruption worse elsewhere? Was it caused by too much government or too few laws? And why does official corruption seem much less serious today?

Miller's failure to consider these questions is disappointing, but perhaps it is unfair to critize an author for omitting what he did not set out to do in the first place. That task he has accomplished admirably: In giving us the raw underside of our history, he gives us a perspective for coming to grips with the corruption that remains.

HUMAN RIGHTS

Mr. BUCKLEY. Mr. President, there are some individuals who have a talent for focusing on essentials. Such a man is Mr. Charles H. Silver of New York City, a man who has dedicated his very considerable talents to private charities in New York City.

Last May, as a former adviser to the U.S. Commission on Human Rights at the United Nations, he delivered remarks to the annual meeting of the United Nations Association meeting that I believe deserve a far wider currency. They are wise and humane, and plead for the essential human rights to which this country is dedicated.

I ask unanimous consent that his remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Address by Honorable Charles S. Silver

Distinguished Guests—and all of you who have come to support this convocation of the conscience of man.

The growing concern of all who deplore the continuing limitations placed on man's freedom continues to focus on the attitudes of religious, cultural and racial discrimination still practiced against various groups in a number of countries in the world today.

Although I address myself particularly to the position of the Jews, my remarks are equally pertinent to all minority and groups everywhere who may not be permitted to preserve their identity and to transmit their heritage. It is proper that the seriousness of this situation be noted by the United Nations Association and all international bodies interested in human rights.

In the world today, many racial strains and cultures are uniformly acknowledged and actively encouraged to develop their native language, art, and literature. Others, particularly the Jew, have been singled out to be confronted with prejudice and abuse.

Even in areas where they have been recognized officially as an ethnic group within the national structure, continuing obstacles and persecution have oppressed them.

There are restraints on religion in some parts of the world which have resulted in the closing of many historic houses of worship. There are lands which have banned the training of future religious leaders and teachers. The inevitable result is a spiritual and intellectual loss to future generations.

Wherever the freedom to worship, the publication of literature, the production of dramatic or musical performances, the teaching of history and religion to the young have been restricted, the result is a loss of vital ethnic resources—a rich cultural legacy is being stamped out.

Such special restrictions, applied against any minority, induce a subtle but eventual erosion which results in the calculated breakdown of basic rights.

In a number of cases, censorship imposed against the Jewish population has prevented sympathetic co-religionists in other nations from sending teachers and religious publications to their brethren.

While communities have been isolated from their kinsmen in other parts of the world. Their members have been prevented from rejoining their relatives in Israel and elsewhere.

Government action has prevented the renewal of bonds with the pitiful remnants which still remain of families that were torn apart by the tragic events of recent history.

We must appeal on just and humane grounds for the end of any policy of racial and religious suppression wherever it may be found. It contradicts the lofty, ethical and humane policies of true social justice which must be our dominant concern.

We plead for equality for all people everywhere.

We urge that Jewish citizens, wherever they may dwell, be permitted to enjoy the same privileges accorded to all others.

We urge the removal of restrictions that deny the right of any group to practice, enhance and perpetuate its religion or its culture.

We urge the restoration and maintenance of synagogues and churches, social and welfare institutions, libraries, schools, seminaries and centers of higher learning.

We urge the creation of a climate of freedom in all countries so that jews and other minorities and, indeed, all peoples, without distinction as to race or creed or color, be allowed freely to associate with related groups in any other land.

It is our sacred duty that anti-semitism and any other forms of discrimination be combatted whenever and wherever they manifest themselves.

And let us hope that permission will be granted to families of Jews and other minorities separated during the war to reunite with their loved ones without undue hindrance or distress.

Let us ask that the same measure of liberty—no more and no less—be granted to every human being, equally, in every civilized society. Yet, let us demand equality and freedom for all, in the firm and confident belief that it safeguards the dignity of man—that if any man is enslaved, no man is free—that if any are deprived, degraded, or condemned to second-class citizenship, then civilization itself is doomed.

We are living in an age of unlimited horizons.

We are lifting our sights to lofty levels of achievement in many intellectual and ethical dimensions.

Let our forces be marshalled to meet the growing problems in education, social equality and national security. Let us breach new frontiers and break down old fences in every direction. If walls of ignorance and fear remain they, too, must be finally reduced to dust.

We are feeling the tremors of a great tomorrow.

It will emerge and we will know its blessings.

But it will not come without effort-not without the birth pangs of a brave new world. There is much we will have to endure. There is more we will have to confront. There are many we will have to overcome.

We can begin by endorsing and enacting a bright example within our own borders of patience and wisdom, fortitude, charity and faith.

As we survey the moral and political character of the times, there is a great deal to disturb us. Even within the United Nations, itself, we have seen truth honor and righteous indignation literally overwhelmed by a relentless onslaught against tradition, justice and decency.

We need men and women of vision and judgement prepared to preserve the great traditions handed down by those who founded this impressive international forum for all the peoples of the earth.

Not enough of us seem to know or to care that we have reached a monentous hour in human destiny when the clock of history may be running out.

The United Nations was never more needed than now.

While our legislators and diplomats involve us in the mechanics of political relations, we seem to forget the vital importance of human relations. While we busy ourselves with the tools of progress and the weapons of destruction, we seem to forget the eternal moral and spiritual precepts, the greatest lessons of all, that may yet preserve a world on the brink of global war.

Sometimes it must seem as if the false symbols of a strange and raging insanity are rising to obscure our vision of the good, the right and the true.

We are faced with nightmares of confusion, deceit and jeopardy each time we open a newspaper or turn a dial.

What we need is a world of really United Nations, United for peace, progress and security with open communication and honest competition.

We need a new world—free of bribery and self-interest, concerned not only in producing better products, but in providing a better life. Let us learn from the defects of all our yesterdays and the disappointments of today. Let us build a brighter tomorrow—a richer, more glorious tomorrow—the beginning of a better world for all mankind.

CYPRUS: 1976

Mr. KENNEDY. Mr. President, 2 years ago this week—on July 20, 1974—heavily armed Turkish forces invaded the island of Cyprus.

Since then, the Cyprus problem has been pushed from the headlines by newer problems in other parts of the world. But we must not forget that the human and political tragedy of the Cypriot people continues.

Politically, the island remains divided. Its northern areas are still occupied by some 30,000 Turkish troops, and the persistent and ominous threat of a unilateral declaration of independence—UDI—by Cypriot Turkish authorities in the occupied areas hangs heavy over the island's future.

Economically, the island's flourishing economy remains shattered—although, thanks to the leadership and ingenuity of the Cyprus Government and Cypriot-Greeks, some important recovery is noted in the government-controlled areas of the island.

And most importantly, in human terms, the plight and fate of nearly 200,000 Cypriot-Greek refugees remains unresolved, and the condition of Cypriot-Greeks still living in the occupied areas continues to deteriorate.

In short, the shambles created by the Turkish invasion of Cyprus remain for all to see—and so does the pressing need for the withdrawal of Turkish troops from Cyprus and for new diplomatic initiatives to help bring about real progress toward an honorable and just resolution of the human and political tragedy of Cyprus.

Mr. President, since the earliest days of the troubles in Cyprus, the Subcommittee on Refugees, which I serve as chairman, has closely followed developments on the island and the many efforts to bring peace and relief to the Cypriot people. Hearings have been held and comprehensive reports of findings and recommendations have been issued, the latest of which was issued in January of this year. Members of the subcommittee have also sponsored or supported legislation to provide humanitarian assistance to the people of Cyprus, and have made other kinds of efforts to underscore that normalizing the lives of the Cypriot people and restoring the territorial integrity and full independence of Cyprus must be a matter of vital concern to the American people and their Government.

Developments relating to the Cyprus problem are pretty much a matter of record. But I would like to remind Senators that toward the end of last year, there was growing optimism in some quarters that some real progress could be made in the Cyprus problem. This optimism was not fully shared by all observers, including members of the Subcommittee on Refugees. But a number of developments did suggest some grounds for hope. The Refugee Subcommittee report in January of this year summarized the situation as follows:

> Although the basic contours of the Cyprus issue remain unchanged, time and a confluence of events seem to have brought the issue, and its central problem of refugees, into a new and delicate phase, which holds both seeds of hope and the potential for further disaster.

The "seeds of hope" were seen in a number of developments toward the end of 1975.

In August of last year, for example, very important intercommunal agreements were concluded in Vienna, under the auspices of U.N. Secretary General Kurt Waldheim, between the representatives of the Cyprus Government and those of the Cypriot-Turkish administration. Among other things, these arrangements provided for the free movement to the Turkish occupied areas of Cypriot-Turks residing in government controlled areas, and for the protection of and normalizing of life among the Cypriot-Greeks who chose to remain in the areas controlled by Turkish forces.

A short time later, in an address to the U.N. General Assembly on September 22, Secretary of State Kissinger spoke at length on the Cyprus problem and American policy. The Secretary's statement was generally well received. The tone and content of the statement was clearly a departure from that of earlier statements. And it not only confirmed a new priority that the administration was attaching to the Cyprus problem, but for many observers it also suggested a new determination by our Government to help bring real progress in resolving the many issues at stake.

Finally, in early October, Congress approved legislation for a partial lifting of the arms embargo on Turkey. There were, undoubtedly, many reasons for this action—including the administration's new focus on the Cyprus problem, and the constantly repeated arguments by administration spokesmen that new American initiatives on Cyprus and any flexibility in the Turkish position were absolutely dependent on congressional action to resume military assistance to Ankara. But, whatever the reasons, the action wiped the slate clean, and, on its own terms, the administration was given a free hand and a new opportunity to prove its good faith over Cyprus.

In signing the legislation, the President pledged "a major effort to encourage resumption of the Cyprus negotiations." And, as required by the legislation, he also pledged a report every 60 days "on progress made in reaching a solution to the Cyprus problem." The President's first report, on December 8, 1975, listed a number of initiatives undertaken by the administration. And it went on to note that these initiatives had "advanced prospects for a negotiated settlement." The tone of the President's report was generally optimistic and, at the least, hopeful—as were subsequent reports on February 5, April 9, and June 7, of this year.

But the "seeds of hope" so many observers were counting on toward the end of last year have all but withered away. And so today, as we face a new crisis in Cyprus and a potential for new disaster, the credibility of the administration is still at stake. And the prestige of our country is still on the line.

Mr. President, no party to the dispute on Cyprus has had a monopoly on good will and good faith. But the record of the past 2 years strongly suggests that the Government of Cyprus has displayed a great deal of flexibility over resolving the dispute, and, in the main, has scrupulously carried out its commitments and obligations resulting from intercommunal agreements and understandings.

The intransigence of Turkey and the Cypriot-Turkish administration, on the other hand, seems more entrenched today than ever before.

The entrenchment of the Turkish occupation on Cyprus continues, with little hope that things will soon change. And commitments and obligations assumed by the Cypriot-Turkish administration, as a result of intercommunal agreements or understandings, are broken at will.

Nothing illustrates this more perhaps than the flagrant and continuing violations by Turkish authorities of the intercommunal agreements concluded in Vienna last August. The agreements were in part a quid pro quo: the Cypriot-Turks living in Government controlled areas would be allowed to go to the occupied areas under U.N. auspices, if the Cypriot-Greeks in the occupied areas were protected and allowed to remain, living normal lives under U.N. auspices.

The Government of Cyprus expeditiously and humanely carried out its obligations under the agreements, and permitted the free departure to the north of all Cypriot-Turks living in the south. But Turkish authorities have been breaking every principle of human decency by harassing, mistreating and expelling Cypriot-Greeks in the north. And out of some 11,000 to 12,000 Cypriot-Greeks who were living in the north, little more than 5,000 still remain.

Such developments on Cyprus, and there are many, not only call into question the good faith of the Cypriot-Turkish leadership in negotiating agreements, but also raise troubling questions over Ankara's intent on Cyprus. The obstructionist attitudes and action displayed by Turkish authorities toward intercommunal agreements and understandings, and toward the resumption of meaningful intercommunal talks, only prolongs the Cyprus tragedy and further aggravates America's and other nations' interests and relations in the Eastern Mediterranean.

As for the American posture over Cyprus, 1976 is fast becoming another year of failure in our diplomacy. The do-nothing policy of the administration is only feeding Turkish intransigence. And the administration's hopeful rhetoric over the future of Cyprus is fast reaching the point of no return.

The time is long past due for the President and members of his administration to speak out on Cyprus, and to clarify once and for all our policy toward this tragically divided island and toward our related interests and relations in the Eastern Mediterranean.

And so, I ask today, what is the administration's policy toward Cyprus, as we move into the third year of Turkey's occupation of the island's northen areas?

What is the administration doing to move Turkey and the Cypriot-Turkish Administration, the stronger parties to the dispute, toward conciliation and settlement?

What is the administration doing to support the continuing and generous efforts of United Nations Secretary General Waldheim to bring about some real progress in resolving the territorial and constitutional problems of Cyprus, and the many humanitarian issues of immediate concern to the parties directly involved?

What is the administration doing to support the free movement of UNFICYP units in the occupied areas of northern Cyprus?

What is the administration doing about the flagrant violations of intercommunal agreements by the Turkish occupation authorities and the Cypriot-Turkish Administration?

What is the administration doing about the apparent "colonization" of occupied Cyprus by Turkish nationals?

What is the administration doing in support of congressional initiatives to continue meaningful U.S. humanitarian assistance for the refugees and other war victims on Cyprus?

What is the administration doing about the continued presence of some 30,000 Turkish troops on Cyprus, who are heavily armed with American supplied weapons?

And what is the administration doing about the apparent ceasefire violations of these Turkish troops on Cyprus?

Given the hardening impasse in resolving the Cyprus problem and the deteriorating situation on the island, these questions, and more, must be concretely answered by the administration before Congress and the American people will be convinced that our national leadership is doing everything it can for the people of Cyprus and the good future of their country, and for our national interests in the Eastern Mediterranean.

Ample opportunities exist for the administration to answer the troubling questions about Cyprus, and at least two opportunities are provided by law.

One is the requirement that every 60 days the President report to Congress on progress in Cyprus negotiations, which is contained in the legislation enacted last October to lift the arms embargo on Turkey. A fifth report to Congress is due in early August, and I am hopeful the President will use this opportunity to report candidly and openly on the status of Cyprus negotiations and all matters related to a just and honorable peace on the island.

A second opportunity required by law involves the conditions recently imposed by Congress for providing new military assistance to Turkey. As stated in the International Security Assistance and Arms Export Control Act of 1976, the President may provide such assistance "only so long as Turkey observes the cease-fire on Cyprus, does not increase its military forces or its civilian population on Cyprus, and does not transfer to Cyprus any United States supplied arms, ammunition, or implements of war."

Mr. President, information from the public record and official sources, including our own Government, strongly suggests that Turkey has been violating, and continues to violate, the spirit and the letter of at least two of these conditions governing renewed military assistance.

First of all, there is good reason to believe that Turkish forces are violating the ceasefire. A "no-man's land" of some 1 to 3 miles separates the lines of Turkish and Cypriot Government forces. But the movement forward into this "no-man's land" by Turkish troops and tanks, and their refusal to withdraw despite U.N. intervention, is apparently becoming a common occurrence. Earlier this month, for example, Turkish forces moved forward in the area of Avlona town in the Morphou sector of Cyprus. Besides occupying new territory, Turkish forces reportedly burned orchards, destroyed crops being farmed by Cypriot-Greek civilians, and turned back UNFICYP units which were assisting these people to pursue their normal civilian activities in the area. By all accounts, Turkey is not faithfully observing the ceasefire in Avlona. Similar kinds of incidents have been reported elsewhere along the ceasefire line, including a recent incident at Akhyritou town in the Famagusta sector.

Such reported salami tactics by Turkish forces in Cyprus cannot be ignored by our Government.

There is also good reason to believe that Turkey is continuing to increase its civilian population on Cyprus. The "colonization" policy of Ankara, which brings mainland Turkish nationals to Cyprus, has been an open secret for many months. And according to some reports more than 40,000 Turkish nationals have moved to Cyprus so far. Although the movement of large groups of Turkish civilians has apparently ended for now, by nearly all accounts the "colonization" policy nevertheless continues relentlessly—as does the expulsion of Cypriot-Greeks from their homes and lands in the occupied areas. A large group of Turkish civilians moving to Cyprus, or a daily handful, cannot be ignored by our Government.

Mr. President, the legislative conditions for new military assistance to Turkey are very clear. And given the serious doubts in the minds of many observers over Turkey's compliance with at least two of these conditions, I want to caution the administration in its apparent eagerness to resume a business-as-usual stance in providing military assistance to Ankara.

Officials in the Department of Defense have informed me that they are currently processing Turkey's requests for millions of dollars in new military assistance. I am also informed that final action on these requests will be taken in early August, subject to the Presidential determination required by law.

In light of the alarming reports concerning Turkish actions on Cyprus, I strongly urge the President to halt the processing of Ankara's requests for new military assistance, so that a very clear determination can be made that Turkey is in compliance with the spirit and letter of the legislation approved by Congress and signed by the President just a few weeks ago. And this compliance should not be determined on the basis of Turkey's action on any one day, or in any one week or month, but on the totality of Turkey's intentions and policy toward observing the ceasefire on Cyprus and toward the movement of Turkish civilians to the occupied areas of the island. And these specific items cannot really be isolated from Turkey's overall intentions and policy toward a just and honorable peace on Cyprus.

Mr. President, the imperatives for American diplomacy, the dictates of American law, and the hopes of Congress and the American people have rarely been more clear—and, if our Nation fails to act, so too are the dangers of new tragedies on Cyprus, new tensions in the Eastern Mediterranean and further erosions in our relations and interests in this area of the world.

In conclusion, Mr. President, I believe that the seven recommendations I offered for American policy toward the human and political tragedy of Cyprus, contained in the Subcommittee on Refugee's report issued in January, are more relevant and urgent today than ever before. I ask unanimous consent that these recommendations be printed in the RECORD.

There being no objection, the recommendations were ordered to be printed in the RECORD, as follows:

[From "Crisis on Cyprus, 1976: Crucial Year for Peace," A Staff Report prepared for the Subcommittee on Refugees, Jan. 19, 1976]

RECOMMENDATIONS

The Cyprus problem, and American policy toward this troubling issue, has reached a crucial phase. And for the purposes of this report, the Subcommittee Chairman makes the following recommendations relating to the human and political tragedy of Cyprus.

THE CYPRUS PRIORITY IN REPAIRING U.S. RELATIONS WITH GREECE AND TURKEY

Whether American diplomats like it or not, real progress toward an honorable and just resolution of the Cyprus problem is crucial in repairing our traditionally good relations with the people and governments of both Greece and Turkey, and in stabilizing our security interests in the Eastern Mediterranean. It is illusory to assume that these relations can be fully repaired and our interests fully stabilized without real progress on Cyprus.

Moreover, the routine promises of progress in the past have brought little comfort to the refugees and distressed people on Cyprus. Their plight remains unchanged.

1976 must finally bring a new priority to the Cyprus problem in American diplomacy and a new determination by our Government to facilitate real progress in normalizing the lives of the Cypriot people. As the President reported to Congress on December 8, 1974: any further delay "in resuming the inter-communal talks will harden attitudes and make future progress more difficult."

The imperative for American diplomacy has rarely been more clear, and if we fail to act, so too are the dangers of new conflict on Cyprus and the threat of further erosions in our relations and interests in the Eastern Mediterranean.

RESTORATION OF THE FULL INDEPENDENCE, SOVEREIGNTY AND TERRITORIAL INTEGRITY OF CYPRUS

Despite the stubborn occupation of Northern Cyprus by Turkish forces, the *de facto* partition of the island, and the pronounced drift toward the creation of a quasi-state in the occupied areas, the restoration of the full independence, sovereignty, and territorial integrity of Cyprus must be a fundamental objective of American policy and diplomacy.

No other goal better satisfies justice or the bringing of peace and relief to the unhappy people of Cyprus—both Cypriot-Greeks and Cypriot-Turks.

As noted in this report, there have been recent reaffirmations of this cardinal point by President Ford and Secretary of State Kissinger. This is an encouraging development, and fully reflects numerous United Nations resolutions since 1974, including the General Assembly resolution of November 20, 1975.

OPPOSITION TO A UNILATERAL DECLARATION OF INDEPENDENCE BY THE CYPRIOT-TURKISH ADMINISTRATION

The Cypriot-Turkish leadership threatens to declare the Turkish-occupied area of Cyprus as an independent, sovereign state.

Given its record of fulfilling other threats over the past eighteen months—including the creation of the Turkish Federated State of Cyprus in February 1975—the reckless threat of a Unilateral Declaration of Independence must be taken with some degrees of seriousness.

A Unilateral Declaration of Independence would clearly violate the publicly stated policy of Ankara and would not be in the best interests of the Cypriot people. It would also threaten needless violence and conflict, and would enormously complicate any subsequent efforts to reunify the island.

The United States should make clear, now, that it will not recognize a Unilateral Declaration of Independence by the Cypriot-Turkish leadership, and will actively oppose its recognition by other nations. Diplomatic efforts must be made to dissuade the Cypriot-Turkish leadership from pursuing such a policy and Ankara from encouraging or condoning it.

SUPPORT FOR IMPLEMENTING INTERCOMMUNAL AGREEMENTS AND THE RESUMPTION OF INTER-COMMUNAL TALKS

The United States, in concert with others, must use its influence and good offices with Turkey to persuade Ankara to give its full and active support to the implementing of inter-communal agreements and the resumption of inter-communal talks under U.N. auspices.

In good faith the Cypriot-Greek leadership, the Government of Cyprus, has negotiated with the Cypriot-Turkish leadership over the resolution of inter-communal problems and the future of Cyprus, and the Government of Cyprus is prepared for an early resumption of these negotiations under U.N. auspices.

The same cannot be said, however, for the Cypriot-Turkish leadership and the Government in Ankara. For one thing, the Cypriot-Turkish leadership has flagrantly violated last August's inter-communal agreement on the treatment, protection, movement and normalizing of life among both Cypriot-Greeks and Cypriot-Turks.

The agreement, concluded in Vienna under UN auspices, in part provided for the free movement to the occupied areas of Cypriot-Turks residing in Government controlled areas, and for the protecting and normalizing of life among Cyriot-Greeks remaining in the occupied areas.

The Government of Cyprus scrupulously carried out its part of the agreement, and today all but a handful of Cypriot-Turks now live in the occupied areas. But the condition of Cypriot-Greeks remaining in the occupied areas has steadily deteriorated, and the Cypriot-Turkish leadership has declared the agreement null and void.

The situation not only calls into question the good faith of the Cypriot-Turkish leadership in negotiating the agreement, but also raises troubling questions over Ankara's intent on Cyprus.

The obstructionist attitudes and actions displayed by the Cypriot-Turkish leadership toward the implementation of some past agreements and understandings with the Cyprus Government—and toward the early resumption of intercommunal talks—must not be permitted to prolong the Cyprus problem and further aggravate America's and other nations' interests and relations in the Eastern Mediterranean.

Turkey, as the occupying power in northern Cyprus, clearly has some influence over the attitudes and actions of the Cypriot-Turkish leadership. Ankara should move firmly and expeditiously to promote the Cypriot-Turkish leadership's implementation of solemn agreements with the Government of Cyprus concerning Cypriot-Greeks in the occupied areas, and to promote as well the very early resumption of the inter-communal talks under U.N. auspices and meaningful progress toward a just and honorable resolution of the Cyprus problem.

The United States Government will hopefully give some better evidence that it is seriously working to accomplish these ends.

IMMEDIATE WITHDRAWALS OF TURKISH FORCES

The heavy presence of Turkish forces on Cyprus, and other factors associated with Turkey's consolidation of its position in the occupied areas of the island, is impeding meaningful inter-communal negotiations and a resolution of the Cyprus problem.

In the spirit of the Geneva Declaration of July 30, 1974—agreed to by Greece and Turkey—and the numerous United Nations resolutions on Cyprus, Turkey should immediately begin the withdrawal of substantial numbers of its occupational forces on the island.

No viable solution to the Cyprus problem or lasting peace is possible without the timely and phased withdrawal of Turkish occupation forces and armaments. Especially now, at this crucial juncture of the Cyprus problem, Ankara should begin this withdrawal process—as a gesture of goodwill to the people of Cyprus and as a sign of good faith in meaningful progress at a new round of inter-communal talks under U.N. auspices.

A BASIC PRINCIPLE: THE RETURN OF REFUGEES TO THEIR HOMES

The plight and fate of the Cypriot-Greek refugees—who were driven from their homes and deprived of their livelihoods during the Turkish invasion of 1974—remains central to the resolution of the Cyprus issue. A viable and just solution to the Cyprus problem will not be found unless and until the basic principle of the right of refugees to return to their lands and homes, or to be fully compensated for their losses, is recognized by all parties concerned.

During the past year and a half, the issue of Cypriot-Greek refugees returning to their homes has been increasingly complicated by events on the island, such as the mass movement of virtually all Cypriot-Turks, who resided in Government-controlled territory, to the occupied areas in the northern part of the island. Most of these Cypriot-Turks have moved into houses belonging to Cypriot-Greek families who are now refugees in the south.

The return of refugees to their homes is further complicated by the "colonization" of the occupied areas by mainland Turks, transported from Turkey, or by third country nationals, such as Pakistani laborers. This continuing population movement from mainland Turkey threatens to alter dramatically the demographic patterns of Cyprus. Regrettably, the United States and others have been remiss in failing to speak out strongly against this apparent "colonization" policy of the Turkish Government in Ankara.

However, despite such developments, the principle of the right of the return of Cypriot-Greek refugees to their homes must be reaffirmed, as well as the corollary principle of full and generous compensation for those who do not return home. These principles are central to any meaningful negotiations of the Cyprus question, and the United States must give them full support.

RELIEF, REHABILITATION AND RECOVERY ASSISTANCE TO CYPRUS

The United States must generously support international efforts to help relief, rehabilitation, and recovery needs on Cyprus. . . .

With the passage of time, requests for humanitarian assistance by Cypriot authorities have increasingly shifted from the general relief to the rehabilitation and recovery areas. Special emphasis is being put on measures and proposals to assist displaced and needy persons in regaining a degree of economic self-sufficiency. The shattering effect the Turkish invasion and occupation have had on the economy of Cyprus is well documented, and so too are the rehabilitation and recovery needs of the people and Government of Cyprus.

U.S. funds allocated to Cyprus should be on a grant basis, preferably through international channels, and their use should be flexible and reflect the changing patterns of need on the island.

MATCHING FEDERAL DOLLARS FOR STATE'S SOCIAL SERVICES PROGRAM

Mr. DOMENICI. Mr. President, I am pleased to annouce my support for and cosponsorship of S. 3649 to allow the States to use "inkind" contributions as part of a State's share in matching Federal dollars for the State's social services program.

The bill was introduced by our distinguished colleague from Tennessee, Senator Brock. It would correct a major flaw in the operation of the social services program under title XX of the Social Security Act. Presently a number of States, New Mexico and Tennessee among them, are not able to receive their full share of the $2.5 billion allowed under this program because they are not able to raise their full share due to a narrow definition of what the States can use for purposes of matching. While States are able to make use of donated cash from voluntary organizations, they are not able to use inkind contributions from these same voluntary organizations for the purposes of matching their full share of Federal dollars. This is, in my opinion, an unfair disadvantage borne by those States which are not as "rich" as those States which are heavily industrialized and urbanized. Further, States like New Mexico and Tennessee have to rely upon all sorts of contributions from voluntary groups in order to run programs such as the social services program.

For example, in fiscal year 1976 New Mexico is allotted $13,250,000 for use under the title XX social services program. The State is able to use only $8,600,000 because it is unable to extend further State moneys. If inkind contributions are allowed to be considered, New Mexico would be eligible for the entire Federal allotment. I believe that this was surely the intent of Congress.

Mr. President, this body has been of the position that in-kind contributions should be allowed for purposes of State matching. In November 1973, the Senate overwhelmingly endorsed this concept when it passed the Social Security Amendments of 1973 (H.R. 3153). Section 135 of that act specifically would have provided that "donated private funds—including in-kind contributions, as defined in OMB circular A–102, as in effect on October 1, 1973—for services shall be considered as State funds in claiming Federal reimbursement where such funds are transferred to the State or local agency and under its administrative control and are donated on an unrestricted basis, except that funds donated to support a particular kind of activity in a named community shall be acceptable." This measure was passed by the Senate and House, but died in conference—and, I would like to add, over controversies unrelated to the in-kind contribution issue.

No Member can doubt the greatness of this country's voluntary organizations. Their importance in the history of this Nation cannot be underestimated. Until the Federal Government was willing to take part in assisting those who are unable to help themselves, it was the private voluntary organizations, the forerunners of the united ways of America, that cared for the aged, the handicapped, the poor. However, denying these groups the right to assist their States through in-kind contributions, gives the erroneous impression that they are not important. Needless to say, some private voluntary organizations are able to donate dollars to their respective States. However, in those small communities, many of which are rural, dollars are not the easiest thing to come by. Therefore, many of their programs rely upon in-kind contributions. A State which has a large rural population cannot hope to have a widespread social services program without some Federal help, and one of the best ways for it to get that help is by using in-kind contributions as State funds in claiming Federal reimbursement for their social services program.

Mr. President, with only 34 States estimated to be at, or very near their social services ceiling for fiscal year 1977, it is very clear that the changes in the law proposed by Senator Brock would be extremely beneficial to many States throughout this great land. Further, it is clear that Congress intended for the States to make use of all of their respective shares of the $2.5 billion. Since some States are unable to do so because of restrictive road blocks; that is, a prohibition on the use of in-kind contributions for purposes of matching, then it is up to Congress to pave the way for the States to use all of the funds available. I urge my colleagues to give their support to this bill.

REPORT PURSUANT TO SECTION 302(b) OF CONGRESSIONAL BUDGET ACT

Mr. RIBICOFF. Mr. President, pursuant to section 302(b) of the Congressional Budget Act, I herewith submit the report of the Committee on Government Operations concerning the budget authority allocated to it in the joint explanatory statement of managers accompanying the conference report on the first concurrent resolution on the budget.

I ask unanimous consent that the report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

COMMITTEE ON GOVERNMENT OPERATIONS REPORT TO THE SENATE PURSUANT TO SEC. 302(B) OF THE CONGRESSIONAL BUDGET ACT ($1 million)

Program—General government	Fiscal year 1977—Direct spending jursidiction	
	Budget authority	Outlays
General Serivces Administration:		
Real property activities—Expenses disposal of surplus Real and related personal property (special fund), Public property (special fund), Public Law 81–152, Federal Property and Administrative Services Act of 1949, code: 23–05–5254–0–2–804, controllable, budget authority (appropriation) (permanent, indefinite, special fund)	$1,000,000	$1,000,000
Records Activities—National Archives gift fund, Public Law 77–161 National Archives, Trust Fund Board Act, code: 23–20–8197–0–7–804, controllable, budget authority (appropriation) (permanent, indefinite)	[1]35,000	[1]41,000
Other independent agencies: Advisory Commission on Intergovernmental Relations—Contributions, Public Law 86–380, Advisory Commission on Intergovernmental Relations, code: 31–08–8155–0–7–806, controllable, budget authority (appropriations) (permanent, indefinite)	[1]10,000	[1]10,000

[1] Less than $1,000,000.

Note: There are no entitlement programs that require appropriation action.

DOMESTIC MONETARY POLICY

Mr. BUCKLEY. Mr. President, election years are bad years in which to expect good, meaningful, and honest discussion of the possible solutions to our economic problems. This situation is perhaps particularly important this year, as the problems of recession, unemployment, and inflation of recent history have been particularly acute. We see a perverse situation where the worse the economy performs, the more promises that are made by hopeful politicians. Unfortunately, most of the promises being made cannot be kept.

Last month I had occasion to testify before the House Subcommittee on Domestic Monetary Policy on the real potential for monetary policy's effectiveness in the economy. In that testimony, I noted the lackluster performance of various Keynesian prescriptions for economic recovery. Economic theory and economic analysis both indicate the ineffectiveness of approaching our macroeconomic problems with fiscal policy solutions. Budget deficits are not stimulative and, therefore, the usual prescriptions of tax cuts and increased Government expenditures have little effect in the long run.

Even the most touted approach of using monetary policy has limited benefit in the long run. We have just come through a period of several years in which the money supply was increased more rapidly than was productivity in order to achieve short run increases in domestic economic activity. This period also demonstrated the folly of this approach, as the large increases in the money supply in the end resulted in a high degree of inflation in the price level and a subsequent recession.

In my testimony before the House subcommittee, I recommended that the basic goal of monetary policy should be to provide a stabilized growth in the monetary aggregates which matches the longrun growth potential for the economy. In addition, I recommended that the level of Federal spending be reduced so that more spending power could be returned to the hands of the consumer.

Mr. President, I ask unanimous consent that the text of my testimony before the House Subcommittee on Domestic Monetary Policy be printed in the Record in the hope that it will help stimulate more debate on a subject that is vital to the improvement of the economic condition of the Nation.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony by Senator James L. Buckley

I would like to speak today on the subject of the role of the federal government in the country's economic system, on the capabilities we have to influence that system, and on the responsibilities that we must accept for our intervention in that system.

We can only hope to realistically assist in the stable growth of the macroeconomic system if we fully understand our capabilities, our limitations and our responsibilities, for we are dealing with a most delicate mechanism when we attempt to direct the course of the economic system. Therefore, it is essential that the actions we take are those which are realistically complimentary to the rest of the decisions made in the private and public sectors.

Perhaps it would be useful, before talking about what the relationship between the federal government and the economy should be, to note the present extent of our expenditures. In the last five years, for example, federal spending averaged twenty-one percent of our Gross National Product. It is quite clear that federal spending activity is already a heavy burden for the economy.

My comments today are directed in part to the question of whether the burden is necessary.

To its credit the Congress has established in the last two years a method for dealing with burgeoning expenditures. The new House and Senate Budget Committees have been assigned the responsibility of channeling federal spending so as to make it more responsive to the overall macroeconomic picture. I am proud to be serving as a Member of the Senate's Budget Committee and believe that there is great potential for this body to re-establish control over federal spending and bring it in line with our national priorities.

But this potential has not been fully demonstrated, as I believe that we can do more toward realistically assessing the value of certain costly programs and substituting for them policies which allow for a more efficient allocation of our finite national resources.

One area of concern which I have watched closely in recent months has been the development of the new Congressional Budget Office. As you know, this organization was created by the Budget Control Act of 1974. Its mission is to provide nonpartisan technical support for the new Budget Committees and to the Members of both Houses. However, the evidence available to date indicates a disturbing bias in this Office toward the type of economic policy which was first popularized forty years ago and which has since proven itself to be unrealistic and costly. It is unrealistic and costly because it advocates the removal of resources and initiative from the more productive private sector so that these same scarce resources can be placed under the control of a growing federal bureaucracy for the production of services which are far down on our nation's list of priorities.

In the long run, Keynesian prescriptions for recovery should be recognized as either inflationary, wasteful or unstimulative to the private sector. Econometric analysis has shown fiscal policy to be ineffective.

It should be quite clear at this point in our economic history that larger federal deficits will not be stimulative. Larger deficits require large borrowing from the nation's capital markets. This same capital could be better employed to produce real goods and services, instead of adding to the ranks of unproductive central planners and public service employees.

On additional problem with the approach used by CBO is that they assume that increases in government spending add immediately to our national product. Therefore, under these assumptions, solving the problem of unemployment merely requires the addition of more federal expenditures to national income. This approach totally ignores the fact that there are lags in the fiscal system.

Under the CBO model, there is little need to worry about inflation, the exact target for full employment levels, or the miscalculation of the timing of impact of these fiscal initiatives. Unfortunately, each of these issues provide, in the real world, the source of additional problems for the economy.

Because of this Keynesian bias, much of the analyses emanating from the Congressional Budget Office are shortsighted and often patently incorrect. CBO has advised us, for example, that present inflation rates are not affected by present policy changes. Therefore, CBO concludes, we need not fear increased spending, larger deficits, and a rapid increase in the money supply.

While CBO is correct that inflation rates are not changed this month by a liberal dose of spending and money creation, the inflation rates a year-and-a-half later are determined by such policies. A year-and-a-half later we would bear the burden of excessive growth in the money supply designed to help with a short-term problem in the present. The truth is that the impact of stimulative policies may arrive at a time when the economic expansion is already in full swing; that the stimulative policies that CBO indirectly recommends would generate unnecessary inflation and probably lead to another recession.

While the Congressional Budget Office was set up as a nonpartisan organization, the analyses which it provides reflect a total dedication to a Keynesian fiscal emphasis type of approach.

Perhaps it is this lack of analytical quality which forces the Budget Office into the series of erroneous predictions which we have recently observed. CBO predicted in 1975 that recovery in the automobile industry would not be sufficient to lead a strong recovery, and yet both a strong recovery and a rapid increase in automobile production are realities.

CBO advised against restrictive monetary policy because, according to that office, it would increase unemployment, and yet the unemployment rate is now falling, despite responsibly restrictive rates of growth in the money supply.

Perhaps the lackluster record of CBO in making these predictions reflects the lack of confidence in the private sector which underlies so many of the economic proposals in the Congress and which find support in the CBO projections.

This brings us to the question of who might take credit for the present economic expansion which is solid and expected to continue through 1977. I have watched with some amusement as some individuals on Capitol Hill take pains to ensure that the Congress, rather than the Administration, is credited with the recovery. At the same time, Administration spokesmen are claiming the credit for themselves. I am remined of the old description of monetary policy as being like a string—you can pull on it, but you can't push. Really, all government economic policy is like that string, and the best that we can do is fail to pull on it. I suggest then that we—along with the Federal Reserve Board—only take credit for failing to rein in economic growth and leave the real credit for economic expansion to the private sector where it belongs.

On the other hand, we in the Congress might best help out the recovery by eliminating the great many structural constraints which are now imposed on the private sector. These constraints function to reduce real gross national product and impose heavy, yet needless costs on businesses and consumers alike. Examples of these types of constraints include unnecessary regulation by the Interstate Commerce Commission over many forms of ground transportation, which distorts their efficiency and adds many billions annually to shipping costs; uncalled for regulation of airlines rates by the Civil Aeronautics Board; and there is also the unfortunate rigidity of the minimum wage laws which do not take into consideration the need to create differential minimums for teenagers who are less skilled and who do not have an opportunity to be hired at the present minimum wage rates; any employer who might find it attractive to hire these unemployed youths at a lower wage would be in violation of the law, thus many unemployed but ambitious teenagers are, in effect, outlawed from the labor market.

There are many more examples in this list of constraints, but my purpose here today is to emphasize the need for real gains in the economy. Real gains can be achieved through the elimination of real constraints on commerce. At least, in the long-run fiscal and monetary policy can only permit real growth in production and income to be achieved; it cannot induce such growth. It is the perception of this fact that has in part caused Dr. Burns and the Federal Reserve Board to restrain the growth in the money supply at a time when others have been calling for the immediate and rapid growth of the monetary aggregates to reduce interest rates in the short run.

There seems to be little appreciation in some sectors for the intimate relationship that exists between rapid increases in the money supply, high rates of inflation and high interest rates. And yet this is one of the best documented relationships in macroeconomic theory. The relationship between rising prices and high interest rates was noted at the turn of the century. The connection between the money supply and price levels has been more recent, but is no less valid.

Recent restraint by the Federal Reserve Board in the growth of the money supply has led to reduced inflation and lower short term interest rates. But there is still work to be done. Long term interest rates remain high, and they will be reduced only when investors have regained faith in our management of the money supply.

My emphahis on real growth for the economy brings me logically to discuss next the type of legislation that would be most helpful in our present economic situation. Again, I would like to emphasize the need for reducing the economic constraints which abound in our code of laws. But I fear that such attractively labelled but counter-productive legislation as S. 50, The Humphrey-Hawkins "Full Employment Bill," may prove far too tempting to the Congress. This bill is a blueprint for catastrophe. Let me review some of its more disturbing features. The bill would set about to achieve an unemployment rate for adults of 3 percent, regardless of the cost. It would do this, in part, by making the government the employer of last resort. Plans call for the creation of well-paying public service employment jobs to artificially reduce unemployment statistics. The bill, in effect, calls for a broad centralized planning response to solve the problems of youth unemployment, price level inflation, efficiency in the federal bureaucracy, and a reordering of our priorities in the fields of energy, transportation, health care, the environment and several other key areas of concern to all of us.

While these goals are certainly laudable by any standards, the most notable feature of the Humphrey-Hawkins proposal is that it provides us, with one exception, no indication of how these goals are to be achieved. Thus, we stand right where we are. The bill makes no progress in finding viable solutions to our national problems. The one prescription which is specified in the bill is the use of public service employment to ensure that the unemployment rate is reduced to three percent.

How realistic is a goal of three percent unemployment, and what will it cost? These are questions which must be addressed before a thorough understanding of the bill's destabilizing potential can be grasped. The last time that our economy saw unemployment rates anywhere close to three percent was during the height of the Vietnam War, but these same years also witnessed the beginning of the inflation which we are still fighting. Unfortunately, given the method of calculating the unemployment rate, a goal of three percent is unquestionably beyond reach, given any reasonable assumptions about the growth of the money supply and sympathy for long-range goals.

Should such a goal become law, inflation rates of fifteen percent and above could become a reality. The truth is that this legislation pays only lip-service to the goal of fighting inflation, since monetary policy under Humphrey-Hawkins would be used primarily to attempt to bring uuemployment down to a three percent level. Inflation would be induced by the need for large federal deficits to pay for the millions of public service employees required to meet the employment goals and the need to monetize these deficits in order to avoid any increase in taxes.

The public service employment, then, while providing jobs for only a few, would have the wages of the remaining population devalued by inflation. This would hit hardest those Americans living on fixed incomes and would generate pressure for yet another recession.

Another, and perhaps ironic, consequence of S. 50 is that it would most likely hurt those who the sponsors intend to help; the unemployed, unskilled labor. The jobs "created" by S. 50 will be filled with primarily unskilled persons who actually need jobs where training and advancement are possible. Humphrey-Hawkins consigns a large portion of the population, including a disproportionate number of minorities, to a lifetime of unskilled, unrewarding public employment. Government programs, such as Humphrey-Hawkins, would move these groups into a permanent second-best status and thus are cruel and socially destructive.

How does Humphrey-Hawkins plan to handle the problem of rising prices? By developing a policy for price and wage controls. Again a policy which has never been shown to be effective in the long run for controlling inflation!

Economists really see one limited role for price and wage controls, and this is as a method of demonstrating dedication to the control of runaway inflation. But this is a short-run use for these controls and is based on the logic that if people's expectations about the future course of prices can be altered at the same time that realistic control is established over the growth of the money supply, then the pressure for increases in interest rates and other prices can be eliminated. But we have long ago passed the point where anyone but the least sophisticated observer believes that price controls alone are effective in halting inflation.

Monetary policy is not capable of controlling the inflation rate under this legislation, inasmuch as it is being used to attempt to achieve an unemployment rate of three percent. It is quite clear that, under any set of assumptions, controlling inflation would not be a major feature of the Humphrey-Hawkins bill.

What, then, can be done to accommodate the real growth of the economy? I suggest that we address our attention to the achievement of longer-range goals, such as price level stabilization and a reduction in the present amplification of the business cycle.

These goals can be achieved by a reasonable control of monetary growth and an attempt to eliminate the large deficits presently incurred in the federal budget. Large deficits are undesirable because they either reduce the amount of capital available in the private sector, thereby restricting real growth, or they induce an increase in the money supply which will generate price level inflation.

Thus, fiscal policy by itself, in the form of deficit spending, has never been shown to produce a net gain in real income. At best a deficit might induce a temporary gain for a few months, but this gain is offset shortly by decreased private investment when the increased interest rates in capital markets reflect borrowing by the Treasury.

Alternatively, the use of monetary policy can have shortrun positive effects on the real income of the nation, but I must emphasize the short-run qualification in this statement. For, while the increase in the money supply can make additional capital available to a limited extent, the unpredictability of the results of such action can easily lead to an increase which is too rapid and inflation is the unfortunate result. We do not have sufficient knowledge to make predictions about the results of today's monetary policy on tomorrow's income and price levels to use it well.

Rather, I would like to see a commitment to a fiscal policy which eliminates deficit spending while capping the growth of government spending, and a monetary policy which limits growth in the money supply to a rate consistent with the long-term real growth potential of the economy and a legislative program which eliminates the constraints on commerce that I noted above.

In the early part of 1975, at the nadir of the downturn, I joined with Senator Proxmire in supporting a resolution which contained two very important points involving monetary policy. That resolution, which passed as House Concurrent Resolution 133, established the practice that the Chairman of the Federal Reserve Board announce quarterly the monetary growth targets for the Open Market Committee. But as important as this provision is, I am of the opinion that the adoption by the Congress of a new policy by which monetary growth is guided is more important. Under the resolution the Federal Reserve is directed to establish targets which are in line with the economy's long-term ability to grow. Our problem in the past is that the Federal Reserve's monetary policy has been constructed along lines which were only haphazardly related to this fundamentally important guideline. Monetary targeting which is set independently of the economy's growth potential produces the kind of erratic monetary growth policies which take us from inflationary rates to a constricting zero level, as was the case in the latter half of 1974. It is my view that the stability and duration of the recovery is intimately linked to keeping monetary targets within the ranges recently achieved, and not to the following of false guidelines, such as short-terms fluctuations in interest rates.

THE GENOCIDE CONVENTION: THE LEGACY OF LOCKE

Mr. PROXMIRE. Mr. President, in the days of America's struggle for independence, our Founding Fathers were confronted with a challenge as imposing as the battle itself—the formation of a new republic. Searching for the perfect form of government, these dedicated men were caught in the dilemma between the rights of individual freedom and the necessity of individual responsibility.

The American Revolution was fought to obtain the natral rights of life, liberty, and happiness. These were concepts kindled by the writings of John Locke and ignited by the British Commonwealth in the 1640's. But the goals was not so clear cut. For the American revolutionists were inescapably heirs of the Puritan tradition, the products of Winthrop and his pious brethren. The quest for freedom was tempered by this strict sense of temporal and spiritual duty. By the time the Constitution was penned, however, a unique republic had been constructed which resolved this tension through a revolutionary balance between individual freedom and responsibility.

But, of paramount concern is the fact that Washington, Franklin, Adams, and their compatriots welded together a union of 13 Colonies which ultimately served the World as a model upholding human rights and dignity. The very words of Locke, which European intellectuals had debated a generation earlier, became reality for the American people. Tyranny and injustice were left behind, and a democracy predicated on the rights of man was constituted by an independent republic.

The history of the American people has been one of diligent support for human dignity at home and abroad. Enriched by the legacy of Locke we have long been in the vanguard for liberty and justice. Today, however, we have arrived at the moment of indecision. For over two decades the nations of the World have supported the Genocide Convention while we remain idle. Tragically the United States refrains from restating its true commitment to human life, liberty, and happiness by not endorsing the articles of this humanitarian convention. Tragically the principles for which Americans have lived and died, throughout history, remain unclaimed by our Government.

The time to rewaken the principles of Locke is long overdue and, therefore, I strongly urge the Senate to ratify the Genocide Convention and recommit itself to the natural rights of all men.

CRITICAL ANALYSIS OF NUCLEAR REGULATORY COMMISSION'S REACTOR SAFETY STUDY

Mr. RIBICOFF. Mr. President, as the Nation seeks to meet our ever-increasing energy requirements and explores a variety of energy sources, considerable controversy has raged over the future of nuclear energy. The subject of nuclear power has increasingly become the focus of a wide-ranging national debate, involving issues of safety, economics and morality. Just last month, for example, the Connecticut Temporary Nuclear Power Evaluation Council held an in-depth hearing into the status of nuclear power in Connecticut and received testimoney from both proponents and opponents of nuclear energy. One of the key issues discussed by both sides was that of nuclear reactor safety.

Last October the Nuclear Regulatory Commission released the results of a 3-year investigation into the question of nuclear reactor safety. A considerable amount of public discussion has centered on the NRC's Reactor Safety Study—WASH–1400. Recently a critical analysis of this study was published by Professor Joel Yellin of MIT in the highly respected Bell Journal of Economics. Professor Yellin raises a number of pertinent questions regarding WASH–1400, such as an assessment of public risks from nuclear power production and accidental events which involve releases of radioactive materials during reactor operations. I believe these questions warrant careful review and I ask unanimous consent that Professor Yellin's article be printed in the RECORD in its entirety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NUCLEAR REGULATORY COMMISSION'S REACTOR SAFETY STUDY

(The Reactor Safety Study (WASH–1400), originally commissioned by the United States Atomic Energy Commission and published in final form under the auspices of the Nuclear Regulatory Commission, is reviewed below. In order to be useful for policy purposes, a study of the nuclear safety issues must necessarily deal with questions directly relevant to real choices between different energy technologies and between alternative power plant sites. It is pointed out here that while the Reactor Safety Study contains excellent summaries of background information for assessing nuclear risks, such policy relevant questions have not been properly addressed. Furthermore, certain large ambiguities in the estimation of nuclear accident probabilities and consequences have not been incorporated in the WASH–1400 calculations. To place these difficulties in context, the probabilities of several particularly important modes of reactor failure are discussed, and independent estimates of the consequences of a major accident at the Indian Point, Westchester County, New York site are presented.)

1. INTRODUCTION

In October of 1975, the United States Nuclear Regulatory Commission[1] released the final version of its three-year, $3 million *Reactor Safety Study* (WASH–1400).[2] Since the publication of the draft version in August 1974, the study has become a focus of intense debate in the mass media and in Congressional hearings (Committee on Interior and Insular Affairs, 1975). Furthermore, nuclear safety is now an issue in referendum campaigns, with consumer groups in Oregon, California, and a number of other states attempting to convince the public that a moratorium on nuclear power plant construction is warranted, pending assurances that reactor operation is "reasonably safe" (Proposed Addition to Government Code of the State of California, Title 7.8. 1974). Against that political background, and with federal energy policy based increasingly on the assumption that future growth in electrical generating capacity will be heavily dependent on the use of coal and uranium (ERDA, 1975), rather than oil and gas, the debate over nuclear safety is crucial.

The principal purpose of the *Reactor Safety Study* is " . . . to assess the risks to the public from potential accidents in nuclear power plants of the type being built in the United States today" (p. 1.)[3] To accomplish that purpose, the study group made an ambitious attempt to incorporate all relevant data on human reliability and on the reliability of nuclear plant components into a grand scheme for estimating the absolute probability of every reactor failure sequence which is an important potential contributor to serious nuclear accidents. This probabilistic model forms the core of WASH–1400. Following the usage in the nuclear safety literature, the basic model will be referred to here as the "fault-tree analysis."

Also included in the overall WASH–1400 risk evaluation are separate assessments of the radiobiological effects and property damage likely to result from accidental releases of radioactive materials. These consequence assessments were combined with the computed fault-free probabilities to yield estimates of the expected annual number of prompt and delayed (latent cancer) fatalities, and of the annual expected property damage, which would result from the operation of the 100 commercial, light-water reactors scheduled to be on line in 1981 (p. 131). As a final step, the overall results for prompt fatalities and property damage were compared with the corresponding historically observed effects of nonnuclear catastrophic industrial accidents and natural events, in order to reach a relative risk perspective.

The study consists of an executive summary, a main report, and eleven appendices, amounting to over 2,000 pages. The eleventh appendix contains the study groups' responses to independent comments on (Draft) WASH–1400 received by the NRC. This final appendix volume and the main report will be of most interest to the technically prepared, general reader who wishes to examine the study at first hand. At a more detailed level, Appendix VI of the study contains excellent summaries and bibliographies of the radiobiological background material used in the analysis of accident consequences, while Appendix III contains a compendium of data on the reliability of nuclear plant components, in nuclear and nonnuclear uses. Throughout the appendix volumes, there is exhaustive and very useful discussion of the operating details and design of light-water reactor systems.

TABLE 1.—PREDICTED AVERAGE AND PEAK CONSEQUENCES OF ACCIDENTS IN COMMERCIAL, LIGHT-WATER REACTORS

[Taken from WASH–1400 (1975), app. XI, table 4–1. Average consequences are to be multiplied by basic probability of 5×10^{-5} (Cf. p. 197) of fuel melt-down in a reactor core, and peak consequences by a probability of 10^{-9}. (Cf. pp. 231 ff.) Note the ratio of roughly 670 between the average expected values for latent for prompt fatalities. Uncertainty ranges for the average results are not given in WASH–1400]

	Average per reactor-year (× core-melt probability of 5×10^{-5})	Peak value per reactor-year (× probability of 10^{-9})	
		Point estimate	Range of uncertainty*
Prompt fatalities	0.6	3,300	830~13,000.
Early illness	40	45,000	11,000 ~180,000.
Thyroid nodules	1,000†	240,000†	80,000 ~720,000.
Latent cancer fatalities.	400†	45,000†	7,500 ~135,000.
Genetic effects	400‡	29,000‡	9,500 ~170,000.
Property damage	$400 million	$14 billion	$2.8 billion ~$28 billion.
Decontamination area.	600 mi^2	2,000 mi^2	Not given.

*Uncertainty ranges are taken directly from the captions on figures 5-3 through 5-8 of WASH–1400.

† Effects are assumed to extend uniformly over a 30-yr period following an accident. Cf. WASH–1400, p. 74.

‡ Effects are assumed to extend uniformly over a (5-generation) 150-yr period following an accident. Cf. WASH–1400, p. 75, sec. 5.54.3. Spontaneous abortions resulting from the irradiation of fathers are excluded from the WASH–1400 genetic effects estimates. Ibid., app. VI, p. 9-31. The number of such abortions would evidently be of the same order as the effects listed above. Ibid., tables 9–11 and 9–12.

To provide an initial framework for the discussion which follows, the overall results of the study are summarized in Table 1. Roughly speaking, in the WASH–1400 treatment the probability of a given reactor accident is obtained by multiplying independent probabilities for melt-down of the reactor core, release of radioactive materials occurrence of particular weather conditions, and radiation exposure of a given local population. For example, the peak consequences listed in Table 1 may be thought of as resulting from the worst case accident, under the most unfavorable weather conditions, leading to exposure of a densely populated metropolitan area. In the WASH–1400 analysis a first-order approximation for the probability of occurrence of this worst case accident is given by the product of probabilities

$$P_{\text{core-melt}}\times P_{\text{release}}\times P_{\text{weather}}\times P_{\text{population}}$$
$$\approx10^{-5}\times10^{-1}\times10^{-1}\times10^{-2}=10^{-9} \quad (1)$$

This overall result is indicated in Table 1.[4]

The critical questions at issue here are whether the WASH–1400 probability and consequence estimates given in Table 1 and equation (1) are based on appropriate procedures and, if so, whether the orders of magnitude of the numerical results are correct.

Despite the obvious care and effort which have gone into the work, the WASH–1400 study group's probability and consequence analyses have serious shortcomings. In particular, as will be discussed in Sections 2–5 below, the treatment of latent fatalities in the relative risk assessment is inadequate: the accident consequence assessment is based on a misleading averaging procedure over nuclear sites: and the computed point estimates and error bounds for the probabilities of several important reactor failure sequences are sensitively dependent on certain subsystem failure rates and error bounds which have been arbitrarily assigned. The existence of these difficulties (and of other more technical problems to be discussed below) suggests that there are uncertainties

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of several orders of magnitude in the WASH-1400 probability and consequence estimates. and that substantial revision will be necessary if the study is to be useful for policy purposes.[5]

The discussion in the main body of this review is divided into four sections, dealing with the WASH-1400 assessment of public risks from nuclear power production, relative to risks accompanying other technologies and natural processes, with analysis of the consequences of a set of *a priori* prescribed, accidental events involving releases of radioactive material in the course of reactor operation, and with estimates of the likelihood of such preassumed accidents, given present light-water reactor technology. The review concludes with a summary discussion.

2. RELATIVE SOCIAL RISKS AND NUCLEAR POWER PRODUCTION

Considerable space in WASH-1400 is devoted to comparisons of risks of fatalities resulting from nuclear accidents, with similar risks accompanying a variety of man-made and natural phenomena (Chapters 2 and 6). The study group's calculated nuclear-related fatality risks are 500 to 100,000 times smaller than the accident risks due to a number of man-made and natural processes, comparing events expected to cause roughly the same number of fatalities in each case.[6]

These comparisons led the study group to reach the following conclusion (p. 132):

"Reactor risks are predicted [in WASH-1400] to be smaller than many other man-made and natural risks to which we are exposed as a society and as individuals. These other risks include those due to fires, explosions, dam failures, air travel, toxic chemicals, tornadoes, hurricanes and earthquakes. [The WASH-1400 results] predict that the operation of 100 reactors will not contribute measurably to the overall risks due to acute fatalities and property damage from either man-made or natural causes."

This conclusion, and the comparative results quoted above, are based entirely on comparisons of nuclear risks of prompt fatalities with the risks of nonnuclear accidents causing prompt fatalities alone. However, using the average values given in Table 1, one observes that every prompt fatality predicted by WASH-1400 is expected to be accompanied by approximately 670 latent cancer fatalities, spread out over a period of 10 to 40 years following an accident (p. 74). Granting the necessity for analysis on a relative basis, the question arises as to the appropriateness of a procedure in which very minor prompt effects—on the order of a tenth of a percent of the total predicted nuclear-related fatalities—carry the main thrust of the risk comparison, and in which the numerous nonnuclear latent health risks with which society is deeply concerned are ignored.

In particular, the latent health risks from industrial substances and processes on which devolve the attentions of the EPA, the FDA, OSHA, CPSC, and the analogous agencies of the states are absent from the WASH-1400 relative risk analysis, except as they contribute to the general category of deaths from disease.

The WASH-1400 group was aware of these omissions and justified them as follows (pp. 132–133):

"[The WASH-1400 risk comparisons] do not show effects such as early illness, latent illness, genetic effect and latent cancer fatalities. Such effects have been calculated for reactors and are shown in [WASH-1400] Table 7-1. Since similar data are not available for the quantification of these types of risks from other man-made activities or natural causes, no comparisons can be made between nuclear and nonnuclear risks in these areas."

Considerable partial information is in fact available regarding industry-related latent health risks, in particular risks due to chemical carcinogens (Hoover and Fraumeni, 1975; EPA, 1974; Zavon *et al.*, 1973), and that information should have been used in the WASH-1400 risk comparisons. Environmental risk estimates of this kind are highly uncertain, often being based on minimal information regarding the size of the total population at risk, and on inaccurate observations of dose-response relationships. However, these estimates are generally no worse, considering the serious sources of uncertainty in the nuclear accident analysis, than the nuclear risk estimates presented in WASH-1400.

A limited sampling, by the present reviewer, of public health risks due to industrially produced substances suggests that they span a huge range of annual fatality rates, from roughly 10 per year in the case of vaginal cancer among daughters of women exposed to diethylstilbestrol (DES) in pregnancy,[7] to several hundred thousand "excess" deaths per year among cigarette smokers (HEW, 1964).

The WASH-1400 predicted average mortality rate due to nuclear accidents, including latent cancer fatalities, is two per year for 100 operating reactors.[8] This value falls at the extreme low end of the range of latent health risks given above. However, unlike the pure, prompt fatality comparison considered in WASH-1400, there is no evidence of a large gap between nuclear, and all other nonnuclear, latent health risks. Furthermore, as will be discussed in Sections 3, 4, and 5, there are serious unresolved questions regarding the Reactor Safety Study group's calculations, and extensive clarification and correction of their results will be necessary before definitive conclusions with respect to relative risks can be drawn.

Fatalities caused by air pollution due to the emissions of coal-fired power plants are particularly crucial for any relative risk assessment of nuclear power, since current U.S. energy policy emphasizes coal and nuclear energy production (ERDA, 1975). Air pollution due to the burning of coal is not considered in the WASH-1400 relative risk assessment. Again, however, partial information on the associated risks of excess mortality is available, and it will be instructive to briefly discuss the situation here.

Projections of coal-related excess mortality rates of 1980, when the 100 nuclear plants considered in WASH-1400 are scheduled to be on line or in the last stages of completion, are sensitively dependent on the effectiveness of the technology for limiting sulfur emissions, and on the mandated level of air quality standards for sulfur pollution. Assuming a range of up to 50 percent increases in sulfur emissions over 1970 values, such mortality rates could vary from being consistent with zero, up to several thousand per year, with an upper limit of tens of thousands of deaths per year if uncertainties underlying the estimation of the relevant dose-response relationship are taken into account.[9] This range may presumably be compared with the average annual rate of two fatalities per year given in WASH-1400, for 100 reactors operating in 1981. Again, definitive comparison of nuclear and coal-related mortality risks awaits extensive revision of the WASH-1400 calculations. However, given the huge uncertainties in coal related risks presented above, and the ambiguities in the nuclear risk estimates to be discussed in Section 5, it is doubtful that a clear distinction between the two sets of risks can be drawn on the basis of present knowledge.[10]

In summary, the WASH-1400 relative risk analysis neither properly incorporates the latent effects—radiation induced cancers and genetic disease—which the study group itself predicts will heavily dominate nuclear accident consequences; nor does it treat the numerous, nonnuclear latent health risks with which modern society is deeply concerned. In the absence of substantive consideration of latent health risks, the Reactor Safety Study provides minimal help for dealing with the fundamental issues underlying any meaningful risk comparison: the setting of nuclear risk standards, and the selection of the proper allocation of social resources among different risk categories.

3. ACCIDENT CONSEQUENCES

In this section, the study group's estimates of the probable consequences of accidental releases of radioactivity from commercial power reactors will be discussed. It will be assumed that a serious accident involving melt-down of a reactor core has occurred, and that the WASH-1400 calculations of the amounts of radioactive materials thereby released are correct. The discussion will focus on atmospheric transport of the released radioactive materials, and in particular on the resulting effects on lives and property.

A crucial issue on which the nuclear debate turns is whether, given the expected consequences of reactor accidents, present siting policies for nuclear power plants are appropriate. Regretfully, in its present form the WASH-1400 analysis cannot be used to address that issue. As will be made clear below, there are two important reasons for the inapplicability of the Reactor Stafety Study to the siting question:

"(1) The characteristics of existing and planned sites near large metropolitan areas have not been explicitly discussed in WASH-1400; instead, all 68 sites expected to be in use by 1981 have been incorporated into an overall consequence assessment based on a weighted averaging procedure.

"(2) A number of poorly understood contributory factors play important roles in the WASH-1400 consequence assessment. The cooperative effects of such factors on the uncertainties in the overall risk estimates have not been investigated. In particular, as indicated in **Table 1**, uncertainty ranges for the point estimates of the average expected consequences—which are the principal results of the Reactor Safety Study—have not been provided."

Given point estimates alone, definitive risk assessments, such as are involved in discussions of alternative siting policies (and also in the coal-nuclear comparison touched on in Section 2 above) cannot reliably be performed.[11]

In the discussion which follows, the essential features of the WASH-1400 consequence analysis will be outlined, major sources of uncertainty will be listed, and the results of an independent consequence calculation for the Indian Point site (near New York City) will be presented and compared with the overall results given in Table 1.

The study group's accident consequence calculations are based on a standard Gaussian plume model for atmospheric transport and diffusion of released radioactive materials, and on a separate semiempirical model for the biological effects of human exposure to nuclear radiation. Given an assumed release of radioactive material, these models lead to estimates of the radiation dose, $R(x,y)$, to an average person at the point (x,y).[12]

Given $R(x,y)$ and corresponding data for the density of population $p(x,y)$, the resultant radiation dose to the entire neighboring population can be computed by evaluating an expression of the form

$$D=\iint_A \rho(x,y)\,R(x,y)\,dx\,dy \tag{2}$$

where the double integral runs over the contaminated area A. In the conventional treatment of population exposure to radiation (National Academy of Sciences, 1972), it is assumed that the number of exposed individuals who suffer latent injuries will be proportional to the total population dose D.

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Making that assumption—and fixing the proportionality constants involved by using observed dose-incidence relationships at high doses and dose rates—allows one to deduce from (2) the expected numbers of delayed fatalities and genetic effects which would result from a nuclear accident at a particular site.[13]

Site-specific calculations were not performed in WASH–1400. Instead, expressions of the form (2) were averaged over the demographic and meteorological characteristics of all 68 sites considered, to yield the final delayed fatality and genetic effects estimates shown in Table 1. As is made clear in the Reactor Safety Study, these averaged results do not necessarily represent accurate estimates of risks at specific sites, because the site population distributions considered differ very widely (p. 72).

The inapplicability of the WASH–1400 results to specific sites is a major limitation of the study which should be corrected in future work. To give some sense of the risk variations which are involved, estimates of the expected numbers of prompt fatalities which would result from a very serious core-melt accident at 6 of the 68 sites considered in WASH–1400 are presented in Table 2. As indicated in Table 2, these estimates are based on radiation doses received under particular assumed accident conditions given in Appendix VI of WASH–1400, and on population distribution data from the 1970 U.S. Census of Population. The predicted number of fatalities varies over three orders of magnitude. This calculation suggests that the overall WASH–1400 results for prompt fatalities given in Table 1 are heavily dominated by contributions from high population sites. A more extensive tabulation of accident consequences by site is clearly in order.

Given the risk variations in Table 2 and the regional character of electric power service, presenting only site-averaged risk factors, as is done in WASH–1400, leaves energy policy makers with information which is ill-suited for their needs. For example, licensng hearings on the lightly populated Diablo Canyon, California, reactor site would have been unfairly biased toward a negative decision by site-averaged risk information including locations near Chicago. Philadelphia, Boston, and New York. Conversely, the risks to the general population due to a nuclear plant in the vicinity of a large, metropolitan area cannot properly be evaluated on the basis of risk factors averaged over lightly populated sites in the South and Southwest. Requirements for site-specific consequence analyses are already incorporated in federal nuclear licensing regulations.[14] and such information should be included in a general study of reactor safety, especially since a report such as WASH–1400 will presumably be the basis for future NRC regulations.

TABLE 2.—*Estimated numbers of prompt fatalities which would result from serious nuclear accidents at six of the 68 sites considered in Wash–1400, showing variation of risks between sites due to differences in population distribution. These figures are derived from spatial distributions of radiological dose to bone marrow presents in appendix VI, figures 13–6 and 13–7, considering 24-hour exposure to the emitted radioactive plume, and assuming particular weather conditions (pasquill stability class F). Estimates are based on 1970 census data for residential population distribution, and incorporate uniform averages over wind directions. For the most unfavorable wind direction, 5,800 prompt fatalities are predicted to result at the zion site, an estimate which compares well with the range of peak consequences given in table 1 above. Estimates have been rounded to avoid giving the impression of undue accuracy.*

Zion (Illinois)	1, 100
Browns Ferry (Alabama)	40
Maine Yankee (Maine)	1
Limerick (Pennsylvania)	1, 100
Pilgrim (Massachusetts)	220
Diablo Canyon (California)	10

In assessing the consequences of nuclear accidents, one must necessarily deal with many contributory, interrelated factors whose precise effects are highly uncertain. For example, the radiobiological aspects of the consequence analysis are strongly influenced by the poorly understood dependence of the incidence of cancer on exposure to small doses of radiation,[15] by the sensitivity to radiation of that part of the exposed population which is *in utero* or newborn, by the unknown degree to which multifactorial genetic defects are transmitted between generations,[16] by the assumed range of radiation doses causing lethal effects within weeks of exposure, and by uncertainties in the rate of thyroid uptake of radioiodines, especially in children. Meteorological factors which result in significant uncertainties include diurnal variations in weather conditions, the effect of precipitation on the distribution of emitted radioactive materials, possible correlations between wind directions and population distribution, and the rate at which radioactive particles fall out of the emitted plume and are deposited on the ground.

The effects of variations in many of these factors, taken singly, on the final consequence results are discussed in WASH–1400, but there is no systematic presentation of sensitivity calculations and important sensitivities have not been analyzed. Rough estimates of the effects of varying several factors simultaneously suggest there are uncertainty ranges of orders of magnitude in the overall nuclear risk estimates, and in the absence of thorough analyses of such effects no definitive interpretation of the WASH–1400 results appears possible.[17]

To put the remarks in this section in perspective, the results of a consequence calculation for a serious nuclear accident at the Indian Point, Westchester County, New York site are presented in Table 3.

TABLE 3†.—*Estimated consequences of serious reactor accident at Indian Point, New York site calculations are based on nocturnal, fall or summer stable weather conditions (Pasquill class E), with typical wind flow of 6 miles per hour down the Hudson River Valley toward the New York metropolitan area. Fatality estimates are based on dosimetric models given in Wash–1400, appendix VI, and on release category 2 for pressurized water reactors, as defined in Wash–1400, table 5–1. (See also table 4, below.) Note that the fatality and dollar damage estimates given here compare well with the correponding Wash–1400 peak consequence ranges given in table 1 above. Except for a rough calculation in the case of the area of contamination, uncertainty ranges for the estimates above have not been investigated. As stressed in the text, ranges are likely to be quite large. Estimates have been rounded to avoid giving the impression of undue accuracy.*

Latent cancer fatalities	25, 000
Prompt fatalities	4, 000
Total dollar damages (in billions)	$17
Individuals requiring urgent evacuation	780, 000
Individuals requiring 90-day relocation	1, 900, 000
Contaminated area (square miles)	1, 700–10, 000

†Further details regarding the calculations on which these estimates are based are available from the author on request. An independent evaluation of the dose—conversion factors and associated uncertainty ranges for selected radionuclides is in progress at this writing.

The Indian Point site has one of the least favorable nearby population distributions of the 68 sites considered in WASH–1400, and the results of this calculation should therefore be examined in the context of the peak consequence estimates presented in Table 1.

The calculated Indian Point consequences given in Table 3 compare well with the WASH–1400 ranges for peak consequences listed in Table 1. However, it would be misleading to characterize the post accident scenario on which Table 3 is based—in which the emitted radioactive plume moves over the metropolitan New York area—as a low probability even. In particular, the WASH–1400 probability factor of $10^{-1} \times 10^{-2} = 0.1$ percent, for unfavorable weather conditions combined with major population exposure to radiation,[18] does not appear to apply. As pointed out in the meteorological study accompanying the Indian Point licensing application (Consolidated Edison Company of New York, 1967, p. 4–9), the prevailing wind flow under stable weather conditions is from the north-northeast, down the Hudson River valley toward metropolitan New York, with high population concentrations beginning 25 to 30 miles downwind from the reactor site. Such correlations between meteorological conditions and population distribution were explicitly excluded from consideration in WASH–1400 by virtue of the particular site-averaging procedure chosen by the study group (App. VI, pp. 10–3 ff., 1st ed.).

A rough estimate suggests that the range of unfavorable weather conditions which would allow consequences similar to those listed in Table 3 have an order of 10 percent probability of occurrence, compared to the combined weather-population probability of 0.1 percent for peak consequence accidents given in WASH–1400. Other existing sites such as Zion, 30 miles north of metropolitan Chicago and 40 miles south of metropolitan Milwaukee, also appear to have combined weather-population probabilities significantly higher than the WASH–1400 figure of 0.1 percent. Such site-specific characteristics deserve further study, since it would appear from the discussion above that carefully drawn and detailed siting restrictions would reduce potential accident consequences very considerably.[19]

The discussion above underlines the need for detailed nuclear accident consequence analysis on a site-specific basis. Furthermore, the evident large potential accident consequences and the striking risk differences between existing sites suggest that remote nuclear siting policies merit further NRC consideration, and that serious study of the advantages and disadvantages of underground siting is warranted.

4. REACTOR FAILURE PROBABILITIES AND RELIABILITY DATA

The following two sections deal with the study group's probabilistic, "fault-tree analysis" of potential failures in the reactor system itself. That analysis is the central feature of WASH–1400. The fault-tree procedure used in WASH–1400 amounts to an ambitious attempt to construct a complete, stochastic model capable of predicting the absolute probabilities of occurrence of all human and component failure sequences which contribute significantly to potential reactor accidents. Given a sufficiently large sample of reactor operating histories, these probabilities would of course, be directly observable. Since such a sample is unavailable, the fault-tree model is constructed in an effort to calculate the failure probabilities approximately. The completeness of the model, and the accuracy to which

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the "true" failure probabilities can be approximated are crucial issues to be addressed below.

The WASH–1400 reactor failure rate computations are based on evaluations of the probability of occurrence of families of failure sequences preselected for their importance. Rasmussen (1975, p. 27) outlines the rationale behind the preselection process:

"Since there have been many observed failures in almost all types of components in these [reactor] systems, by definition the most likely failure modes have been observed. If the analyst has been careful to include all these failure modes in the analysis, then the dominant contributors to failure have been considered and only very unusual or rare types of failures have been omitted. But even if included, they would not change the overall system failure probability significantly."

The implications of this statement regarding the completeness of the set of failure sequences considered in WASH–1400 are incorrect. Though one must grant that the most likely individual component failure modes have, by definition, been observed, it does not follow—as the quotation implies—that the dominant contributions to system failure come from failure sequences which involve already observed component failures alone. As well be discussed below, the (per reactor-year) probabilities for the most serious core-melt accidents analyzed in WASH–1400 are estimated to be less than 10^{-5}. At that low level of probability many different, unusual, or unanticipated failure initiating events could make important contributions, without violation of the "actuarial" limits imposed by available data on reactor reliability during the approximately 200 light water reactor-years of operational experience through 1975 (Nuclear Engineering International, 1975). Furthermore, all existing power reactor designs and situations are not identical. Initiating events occurring as a result of individual peculiarities of a particular reactor or site would, by definition, not have been previously observed, and therefore, following the reasoning in the quotation above, would not necessarily have been included in the WASH–1400 data base.

Evidence that such concern is well founded follows from an examination of the NRC regulatory investigation report on a fire in the electrical cable spreading room of the Browns Ferry, Alabama, nuclear power plant, which took place on March 22, 1975.[20] The Browns Ferry plant is a three-unit site, and the fire occurred in the construction phase of unit 3, while units 1 and 2 were operating. Though there was no core-melt and no abnormal release of radioactivity, very serious reactor control problems developed during the fire. To make the essential point, it is enough to indicate that serious failure interactions between units 1 and 2 occurred, and that improper construction procedures in unit 3, and the inadequacy of fire control training had important effects on the course of events.

There are no references to construction procedures, or, most importantly, to interactions between nuclear units, in WASH–1400.[21] The study group did not consider the effects of multiunit siting on safety, though 29 of the 68 sites they dealt with are listed as incorporating more than one reactor (App. VI, Table 10–1). The WASH–1400 reactor failure probability analysis is in fact based on an examination of the operating characteristics of two power reactors, at the Surry, Virginia, and Peach Bottom, Pennsylvania, sites. The analyses of these two units were extrapolated to a 100-reactor U.S. nuclear power system, in order to reach the overall risk assessments presented in the study (p. 7).[22]

Of course, requiring the inclusion of site-specific situations would have made the prohabilistic analysis much more difficult and time consuming. Furthermore, since multiunit siting practices are presently in flux, such inclusions would have led to results of doubtful future validity. However, the lack of discussion of site-specific conditions must be recognized as a serious limitation on the applicability of the NRC study, and, as the Browns Ferry fire shows, that limitation is a practical matter of grave importance.[23]

Apart from questions relating to the completeness of the set of failure sequences, such as the interdependence and uniqueness of nuclear units, there are serious issues to be addressed with regard to the fault-tree analysis itself. Essentially, the study group's fault-tree analysis consists of the replacement of the true reactor system by a stochastic model composed of individual reactor components and human operators, each of which is assumed to "fail" at a constant rate deduced from nuclear and nonnuclear reliability experience. To reach a computed system failure rate, this reliability information must be supplemented by considering interdependence between individual components, and the nature of physical processes taking place during an accident, and by examining maintenance procedures, component aging effects and system design.

Many aspects of these data-related topics are adequately treated, at some length and in detail, in WASH–1400. However, there are several points that bear mention here.

(1) The reliability data for pumps, diesel generators, and pipes given in WASH–1400. Appendix III, do not match with the ranges and point estimates actually used as input in the fault-tree analysis.[24] The discrepancies in the point estimates range from a factor of 60 too low in the case of ruptures of pipes greater than three inches in diameter, to a factor of 10 too high in the case of failures of pumps to run on demand. There are similar mismatches between the empirical and assumed 90 percent confidence limits. The study group explained these discrepancies as follows (App. XI, p. 14–2)[25]:

". . . the ranges [i.e., 90 percent confidence limits] assigned to the data are not deterministic bounds and therefore do not necessarily include all the source data. Thus all source data need not fall within the assigned ranges . . . the ranges and distributions were not derived from simple empirical fits but involved some subjective judgments and decisions. Sensitivity studies were performed to investigate possible additional variations in the components mentioned, and few significant effects were obtained."

The subjective weighting referred to in this quotation is not given in WASH–1400. Since substantial factors are involved, and since several significant failure sequences have probabilities which appear sensitive to the input component failure rates,[26] clarification of the procedures used to derive input component failure rates for the fault-tree analysis is necessary. Notwithstanding these difficulties, it would be useful—as also stressed in WASH–1400 and the EPA's "Reactor Safety Study" (August 1975)—to establish a program to update and monitor component reliability data on a continuing, comprehensive basis, with the WASH–1400 data compendium as a useful, initial step.

(2) Component aging effects were not treated in WASH–1400. The study group justified that omission as follows (App. XI, p. 14–3):

". . . the study's calculations . . . apply to steady-state behavior and were not intended to include significant aging effects or life cycle trends. Aging is a separate question that perhaps could be analyzed when and if data are available, and, more importantly, if the need to do so clearly existed. The study has also stated that its results should not be extrapolated beyond the first 100 plants expected to be operating in the next 5 years and has suggested that a future study like WASH–1400 be repeated in about 5 years."

The problem of aging most severely affects those components of the primary core cooling system which are designed to serve without replacement through the 25- to 40-year life of the reactor pressure vessel. Evaluation of the probability of accidents in which there is a rupture of the primary cooling system or of the reactor vessel itself is a matter of great controversy.[27] The principal issue is whether manufacturing, fabrication, and in-service testing, as presently practiced, are adequate to insure pressure vessel reliability throughout design life. The WASH–1400 study group's position on component aging, quoted above, does not lend assurance on this score, since it explicitly excludes life-cycle considerations. Furthermore, there are very considerable quantitative differences between European estimates of the probability of pressure vessel rupture, and those used by the study group. In view of these differences, the question of the possible occurrence of reactor pressure vessel failures over the long term, as a consequence of failures in equipment now in place or to be put in operation during the stated 5-year period of applicability of WASH–1400, must be judged as open.[28]

(3) Effects due to the interdependence of components (referred to in the nuclear safety literature as the "common mode failure" problem) are central to the discussion of possible uncertainties in the numerical results of the fault-tree analysis. As will be seen below, the case that is made in WASH–1400 for the validity of the particular procedure used to set numerical values of common mode failure rates and uncertainties is extremely weak. Furthermore, several important failure sequences have probabilities and confidence limits which are sensitive to assumptions regarding common mode failures. A systematic analysis of the sensitivity of the overall fault-tree results to choices of common mode failure rates and uncertainties is presently lacking in the study, and the development of such an analysis should be a focus of future work.

5. FAULT-TREE PROCEDURE AND COMMON MODE FAILURES

The essential features of the fault-tree calculation may be summarized as follows.[29] Each reactor component is associated with a log-normally distributed random variable x representing the probability (per unit time) for component failure. These distributions are characterized by a median value μ and an uncertainty factor E, such that the associated 90 percent (i.e., 5 percent to 95 percent) confidence interval is $[\mu/E, E/\mu]$. Typical numerical values of E range from 3 to 30.

Normalizing to a standard unit time interval, and neglecting higher-order corrections, the probability of a failure sequence of components 1, 2, and 3 is represented by the product $x_1x_2x_3$, in which the failure probability of each component appears only once. In general, the probability of a reactor failure leading to a major release of radioactivity is represented by sums over the probabilities of a number of such failure sequences, e.g.,[30]

$$P = x_1x_2x_3 + x_1x_2 \ldots x_7 + x_2x_6 \ldots x_N + \ldots \text{etc.} \quad (3)$$

If one chooses, sums such as (3) can be represented diagrammatically by one or more two-dimensional probability "trees" resembling the graphs of decision theory.

By considering (3) as a function of random variables and inserting the known distributions of the x_i, one can straightforwardly compute the median and 90-percent confidence interval of P.[31]

The results of the WASH-1400 fault-tree analysis are summarized in Table 4. The study group arranged the various failure sequences into "release categories." A particular pattern of radioisotope releases from the reactor building characterizes each category; those release patterns are listed, in part, in Table 4. The release pattern characterizing each category is roughly common to all the failure sequences it contains.[32]

Footnotes at end of article.

TABLE 4.—PROBABILITIES OF CORE-MELT ACCIDENTS IN COMMERCIAL POWER REACTORS, BY CATEGORY OF RELEASE, AS GIVEN IN WASH-1400. CATEGORIES 1, 2, AND 3 RESULT IN THE LARGEST RELEASES OF RADIOACTIVITY AND ARE REFERRED TO IN THE TEXT AS DOMINANT. THE THYROID EFFECTS IN TABLE 1 ARE MAINLY DUE TO RELEASED RADIOIODINE. TELLURIUM IS AN IMPORTANT CONTRIBUTOR TO PROMPT FATALITIES AND CESIUM CONTRIBUTES HEAVILY TO LONG-TERM GROUND CONTAMINATION

Release category	Median probability per reactor—year [1]	90 percent confidence interval [1]	Fractions of core inventory released [2]			Cause of containment failure [3]
			Cesium	Iodine	Tellurium	
PWR 1	9×10^{-7}	9×10^{-8}, 8×10^{-6}	0.4	0.7	0.4	Steam explosion in reactor vessel.
PWR 2	8×10^{-6}	8×10^{-7}, 8×10^{-5}	.5	.7	.3	"Puff" release from containment; valve failure dominates.
PWR 3	4×10^{-6}	6×10^{-7}, 4×10^{-5}	.2	.2	.3	Failure of containment heat removal system leading to overpressure of containment.
PWR 4	5×10^{-7}	9×10^{-8}, 5×10^{-6}	.04	.09	.03	Containment improperly isolated.
PWR 5	7×10^{-7}	2×10^{-7}, 4×10^{-6}	.009	.03	.005	Same as above.
PWR 6	6×10^{-6}	2×10^{-6}, 2×10^{-5}	8×10^{-4}	8×10^{-4}	.001	Melt—Through of containment floor.
PWR 7	4×10^{-5}	1×10^{-5}, 2×10^{-4}	10^{-5}	2×10^{-5}	2×10^{-5}	Same as above.
BWR 1	1×10^{-6}	1×10^{-7}, 8×10^{-6}	.4	.4	.7	Steam explosion in reactor vessel.
BWR 2	6×10^{-6}	1×10^{-6}, 3×10^{-5}	.5	.9	.3	Overpressure of containment.
BWR 3	2×10^{-5}	5×10^{-6}, 8×10^{-5}	.10	.1	.3	Same, but indirect atmospheric release.
BWR 4	2×10^{-6}	5×10^{-7}, 1×10^{-5}	.05	8×10^{-4}	.004	Containment isolation failure.

[1] Cf. WASH-1400, tables 5-2 and 5-3.
[2] Cf. WASH-1400, table 5-1.
[3] Cf. WASH-1400, app. V, sec. 4.6.

The overall median failure probability and associated 90 percent confidence interval of a particular category were obtained by evaluating a sum over the appropriate expressions (3), for all failure sequences belonging to that category. As shown in Table 4, boiling water reactor (BWR) and pressurized water reactor (PWR) designs were treated separately, and the calculated median failure probabilities for the various release categories range from 9×10^{-7} per reactor-year, in the case of an accident involving a steam explosion in a *PWR* reactor vessel, to 4×10^{-5} per reactor-year for a PWR accident in which the molten core melts through the containment building floor.

The 90-percent confidence intervals for the median probabilities in Table 4 are characterized by uncertainty factors ranging from 3 to 10. Given the complexity of the system under study, the considerable uncertainties of the component reliability data, and the necessity for interposing subjective judgments at many points, the narrowness of the calculated uncertainty bands is encouraging. However, it will be shown below that the confidence intervals and point estimates in Table 4 do not properly reflect the uncertainties in the fault-tree calculations, particularly with respect to the treatment of common mode failures. To make the argument clear, it is useful to consider BWR failures alone.

The BWR fault-tree analysis is dominated by failure sequences initiated by (transient) temperature excursions caused by equipment malfunctions outside of the reactor coolant system, or in general by some time-dependent effect which necessitates shutting down the reactor. One of the largest contributors to such BWR transient accidents is a reactor shutdown sequence dominated by failure of the reactor control rod mechanisms to operate properly, and by an independent failure of the reactor operator to initiate operation of an auxiliary shutdown system which injects sodium pentaborate into the primary reactor coolant (WASH-1400, App. V, pp. 39–40).

The failure probability of the reactor protector system containing the control rod drives is given as 1.3×10^{-5} per demand, with an uncertainty factor of 3 (WASH-1400, App. V, p. 39). It will be argued below that this uncertainty factor assignment has been made on an essentially arbitrary basis, and does not reflect the evident uncertainties in the present understanding of the failure modes of the control rod system.

The principal contributions to failure of the reactor control rod system come from events in which three adjacent control rods fail to enter the reactor core. Single rod failures are given, from operating experience, a probability of 10^{-4} per demand, with an uncertainty factor of 3 (WASH–1400. App. III. Table 4–1). Armed with this knowledge, the study group computed the three-rod failure contribution to the overall failure rate of the reactor protection system, as follows (App. II, p. 362):

> The probability of any three rods failing to enter the core was assessed on the basis that complete independence is a nonconservative assumption, while tight coupling of these failures is probably overly conservative. Complete independence yields:
>
> $$(1\times10^{-4})(1\times10^{-4})\ (1\times10^{-4})=1\times10^{-12}$$
>
> A tight coupling assessment is based on observed common mode failures, which are approximately 10% of observed failures. However, the majority of these cause only degradation of the component approximately 10% result in failure. Thus, the assumption of tight coupling yields:
>
> $$(1\times10^{-4})(1\times10^{-2})=1\times10^{-6}$$
>
> The log-normal median between these values is:
>
> $$\sqrt{(1\times10^{-12})(1\times10^{-6})}=1\times10^{-9}$$
>
> Using this value [. . .] gives . . .

This failure rate of 10^{-9} is summed over the appropriate number of three-rod combinations in the reactor core to give a final contribution of 3×10^{-6}, roughly 25 percent of the overall reactor protection system failure probability of 1.3×10^{-5} quoted above (p. 362).[33]

The quotation above is illustrative of the general procedure used by the study group to evaluate "common mode" failures in which there is assumed interdependence of failure mechanisms. Point estimates of common mode failure probabilities are evaluated in WASH–1400 by taking the geometric mean between the extreme cases of "tight coupling" between failure modes and complete independence. Common mode uncertainty ranges are then set by interpreting the algebraic expression for the geometric mean as a function of random variables, and inserting the (observed) log-normal, component failure rate distributions. No clear justification for the use of that particular procedure is presented in WASH–1400. However, such justification is essential, since any choice of mathematical procedure for assessing common mode uncertainty ranges carries an implicit assertion as to the probable accuracy of the associated point estimate.

For example, following the logic of the quotation above, one could use the complete independence (10^{-12}) and tight coupling (10^{-6}) estimates as extreme values of the 90 percent likelihood range, for which the associated uncertainty factor would be 1000. Such a choice is tantamount to the assertion that common mode failures are poorly understood, and in particular that *the uncertainties in common mode failure rate estimates are independent of the (observed) statistical uncertainties in the associated component failure rates.* That assertion is uncontroverted by the evidence regarding common mode failures presented in WASH–1400 (see, in particular, App. III, Sec. 3.2 and App. IV), and in fact appears to be supported by the discussion in WASH–1400 of the BWR reactor protection system of interest here (App. XI, p. 5–3):

> "The study treated the 10^{-6} value [for "tight coupling"] as an upper bound for three or more rod failures and treated the independent probability of 10^{-12} as a lower bound. The 10^{-6} value was obtained from the analyses described in Appendix III in which approximately 10% of all failures could be considered as approximating common mode behavior. Since all types of components were considered in obtaining this 10% value and since many of the common modes did not cause failure but only minor degradations, this 10^{-6} value was treated as being very conservative and, hence, as being an upper bound."

In the actual case, the WASH–1400 uncertainty estimates for common mode failures directly employ the algebraic expression for the geometric mean used to compute the point estimates. As can be seen from the excerpts quoted above, in the triple rod failure case that expression is $P=\sqrt{X^4Y}$, where X is the single rod failure with median probability 10^{-4} and uncertainty factor 3, and Y is the percentage, given as 1 percent above, of control rod failures which involve common mode events. Assuming X and Y are independent and log-normally distributed, with uncertainty factors of 3, then leads to an uncertainty factor of 10 for P, substantially less than the uncertainty factor of 1000 which appears to be called for one the basis of the evidence at hand.

The occurrence of large common mode uncertainty factors would have very serious effects on the results of the fault-tree analysis, first of all, because common mode failures play important roles in several important failure sequences, and, secondly, because large uncertainty factors inherently imply substantial ambiguities in point estimates.

In particular, five failure sequences dominate the WASH–1400 fault-tree analysis (Tables 5–1 and 5–2).[34] One of these is the BWR reactor protection system failure already discussed above. The largest PWR contributor (with median probability 4×10^{-6} per reactor-year) is a check valve failure which appears to be idiosyncratic to only three existing reactors, two of which are identical units (at the Surry, Virginia, site) having the design used as the PWR model for WASH–1400. The check valve failure could therefore justifiably have been eliminated from the analysis.[35] Two of the three remain-

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ing dominant failure sequences, both occurring in PWRs, have large common mode contributions. One of these sequences involves human errors (App. II, Sect. 5.4.5.3),[36] and the other a combination of human errors and common mode failures of diesel motors (App. II, pp. 108–110). The information given in the study is insufficient to reliably estimate confidence intervals for these sequences, but there are indications that the uncertainty factors involved may be quite substantial.[37] Other failure sequences which are not of dominant importance also have common mode contributions with similar consequences.[38]

As pointed out above, the study group used log-normal variates as basic input distributions for component reliability data, and chose to express their final results for point estimates in terms of median probabilities, rather than using mean or maximum likelihood values.

Unless one is prepared to justify a particular weighting of accidents with more serious consequences with respect to those with less, there is no a priori reason for preferring any one of these choices for characterizing point estimates.[39] Furthermore, as pointed out by several reviewers of (Draft) WASH–1400, the use of log-normally distributed input data will tend to produce skewed fault-tree probability distributions with rather long right-hand tails. Under such circumstances it is natural to ask how different the final point estimates would be if they were expressed in terms of mean, rather than median values, since the mean values would be far more sensitive to the log-normal tails.

A rough evaluation suggests that with the relatively tight confidence intervals in Table 4, the final mean failure probabilities for the dominant categories 1, 2, and 3 are approximately twice the median values. Considering the other sources of substantial uncertainty in the fault-tree analysis, such differences are not a matter of major concern. However, the existence of large uncertainties in the component reliability data would change that picture drastically. In particular, an uncertainty factor of 1000 for the triple control rod failure considered above would lead to mean/median ratios of order 500 for BWR release categories 1 and 3 in Table 4.[40] These mean/median ratios are rough measures of the ambiguity in the failure rate point estimates implied by large common mode uncertainties.

To put the situation into perspective, it is instructive to attempt to extrapolate the WASH–1400 results into the future, taking account of the ambiguities discussed above, As can easily be deduced from Table 4, the median failure rate for the more serious nuclear accidents—leading to release categories 1, 2, and 3—is predicted by the WASH–1400 analysis to be roughly 10^{-5} per reactor-year. However, in view of the arguments above regarding common mode uncertainties, this point estimate could equally well be given as 5×10^{-3} per reactor-year.

One can combine this range of failure rate estimates with a projection of nuclear power growth to the end of the century. Assuming moderate growth in nuclear generating capacity, by the year 2000 one would expect a cumulative total of roughly 5000 reactor-years of operating history, in addition to the 200 reactor-years accumulated through the end of 1975.[41] If one multiples this expected number of reactor-years by the range of failure rates given above, these crude estimates result in a predicted range of 0.05 to 25 serious core-melt accidents by the year 2000. More careful estimates, taking into account the full catalog of sources of ambiguity and uncertainty, repairable and irreparable failures, site-specific conditions, projected improvements in safety systems,[42] etc., would broaden this range even further.

These evident ambiguities in the WASH–1400 point estimates of reactor failure probability essentially overlap the naive "actuarial" upper limit of $(200\ \text{reactor-years})^{-1} = 5 \times 10^{-3}$ per reactor-year for the probability of core-melt accidents. This suggests that the fault-tree predictions are sufficiently inaccurate that it may be profitable for the study group to reexamine the logical basis for their use of the fault-tree results as absolute estimates of failure probabilities, rather than as measures of the relative reliability of reactor components and subsystems. Future work may alter these ambiguities, but it is highly unlikely to reduce them to negligible levels. Effort directed toward improving the absolute probability analysis should, therefore, not be allowed to divert attention from implementation of the very tangible benefits in improved component reliability and reactor performance which should flow from the *Reactor Safety Study* group's exhaustive engineering analysis and data collection.[43]

6. CONCLUSION

The Nuclear Regulatory Commission's *Reactor Safety Study* is an ambitious attempt to deal with what is very possibly the most difficult set of interrelated engineering and scientific issues of our time. Considering the magnitude and complexity of the task, the WASH–1400 study group deserves great credit, in particular for their exhaustive analysis of reactor operating and design characteristics, their collection of component reliability data, and their excellent review and updating of the radiological background information. Nevertheless, as it now stands the study will be extremely difficult to use for policy purposes.

Real policy options involve choices between alternative energy producing technologies and between power plant sites in particular utility service areas. However, the WASH–1400 analysis of the relative risks of nuclear and nonnuclear technologies does not include a comparison of the major nuclear risks derived in the study—potential latent cancer fatalities and genetic damage—with similar long-term risks due to nonnuclear energy production activities. Furthermore, the WASH–1400 calculations involve the averaging of risks over 68 existing U.S. nuclear sites, where risks associated with particular sites evidently differ by factors of 1000 or more. These omissions of latent risk comparisons, and of site-specific accident consequence analyses, are indicative of the generally incomplete character of the *Reactor Safety Study* calculations, which presently do not provide decision makers or the public with information suitable for evaluating the probable social costs of nuclear power.

Finally, the WASH–1400 estimates of the probabilities and consequences of nuclear accidents incorporate very large data-related ambiguities and uncertainties. Considering interdependent, "common mode" failures alone, point estimates for failure probabilities of serious accidents appear to range from the order of one per thousand plant-years to the order of one per million plant-years, depending on whether average, median, or maximum likelihood values are quoted. The occurence of such large ambiguities implies that common mode failures pose fundamental obstacles for computational schemes—such as the fault-tree approach used in WASH–1400—which purport to reach reliable estimates of the absolute probabilities of all important reactor failure sequences.

The existence of these difficulties strongly suggests that substantial further revision will be necessary if WASH–1400 is to be directly relevant to the crucial energy production choices society now faces.

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FOOTNOTES

[1] In 1975, as a result of the Energy Reorganization Act of 1974, the Atomic Energy Commission was split into two parts: the Nuclear Regulatory Commission (NRC) and the atomic energy division of the Energy Research and Development Administration (ERDA). The NRC assumed the AEC's regulatory functions, and ERDA took responsibility for its research and development activities.

[2] In preparing this review, I have had the benefit of related discussion in an American Physical Society study group report on light-water reactor safety (Lewis *et al.*, 1975), of reviews of (Draft) WASH-1400 by consultants of the Environmental Protection Agency (1975), and by a joint committee of the Sierra Club and the Union of Concerned Scientists (Kendall *et al.*, 1974) and also of a study, supported by the Swedish Ministry of Public Works, of urban siting of nuclear power plants (Hakansson *et al.*, 1975). Two editions of WASH-1400 have been issued; unless otherwise noted, page references in this review are to the second edition.

[3] The discussion in WASH-1400 is therefore limited to social risks arising in direct connection with power reactor operation. Risks due to ancillary activities such as mining, transportation, fuel fabrication and waste disposal were not evaluated by the *Reactor Safety Study* group, and will not be considered in this review.

[4] See also WASH-1400, pp. 166 ff., and Sec. 5.5.1. The core-melt and release probabilities in (1) are themselves median values of probability distributions derived from the fault-free model, while the weather and population probabilities are semiempirical best estimates.

[5] I have discussed the criticisms in this review with members of the NRC Staff, and am informed that many of the subjects of concern are under study and will be addressed in future NRC publications. Clarification and elaboration of the consequence assessment with respect to prompt fatalities is currently underway at M.I.T. I thank Mr. M. Maekawa of the M.I.T. Nuclear Engineering Department for several helpful discussions of his work in that respect.

[6] See WASH-1400. Figures 6-1 and 6-2. It should be noted, however, that the non-nuclear consequence data have been extrapolated to unobserved, large consequence regions in order to provide comparability with the largest nuclear accidents. For the extrapolation procedure, see Sec. 6.4.

[7] Heinonen (1973). Based on a 50 percent survival ratio after 10 years, excess risk of 0.2 percent, and most likely estimate from market survey (Heinonen, 1973) of between 10,000 and 16,000 liveborn female offspring exposed *in utero* to DES, annually during 1960 to 1970. These estimates are also uncertain. The risk factor may be as small as 10^{-4}, and the total population at risk may be as large as several million. I am grateful to Dr. A. L. Herbst of the Massachusetts General Hospital for a very helpful discussion of DES exposure.

[8] Table 5-6. The estimate of two fatalities per year can be derived from the average number of latent fatalities listed in Table 1: 400 (fatalities) × 5 × 10^{-5} (probability per reactor-year) × 100 (operating reactors) = 2. As stressed in Section 3 below, an uncertainty range for this estimate is not available.

[9] The dose-response curve in question relates excess mortality to atmospheric concentrations of suspended sulfates, and is given in a recent report on fossil fuel emissions (Commission on Natural Resources, 1975. Table 13-12), which utilizes a 1974 EPA data survey.

The data from which this Commission's dose-response curve is derived are reviewed in the Report of the Massachusetts Commission on Nuclear Safety (1975, pp. 83-84).

[10] The remarks above are limited to environmental effects of the operation of power plants, and do not apply to other elements of the fuel cycle such as mining, fuel processing, transport and waste disposal. On mortality rates due to such ancillary activities in the nuclear case, see the Report of the Massachusetts Commission on Nuclear Safety (1975, Table I). The analogous coal-related risks are discussed by Wilson (1974) and by Hamilton and Morris (1974).

[11] I am informed by the NRC Staff in a private communication, December 10, 1975, that adequate information on which to base such uncertainty estimates does not now exist, but that work to develop such information is underway.

A brief summary of the WASH-1400 uncertainty analysis as it now stands is given in its Appendix VI, pp. 13-49, 50. The discussion there appears to imply that the effect of uncertainties in rerelease fractions, reactor failure probabilities, and the results of the dosimetric model on the number of predicted latent cancer fatalities has not yet been taken into account.

[12] Following convention, x is the distance directly downwind from the reactor site and y is the distance in the crosswind direction. A standard reference for such transport calculations is Slade (1968). The details of the radiation dose and atmospheric dispersion calculations are discussed in WASH-1400, App. VI.

[13] This estimation procedure is obviously very crude and manifests our present ignorance of the etiology of cancer, and of genetic disease. An attempt is made in WASH-1400 to introduce greater realism by basing the latent cancer consequence estimates on a nonlinear dose-incidence relationship at low doses and dose rates, and on an organ by organ summation of radiation dose. (*Ibid.*, App. G to App. VI.) As a way of reaching a point estimate, this procedure is unobjectionable, since it gives results which appear to fall well within the generally accepted range of uncertainty for such calculations. The WASH-1400 nonlinear treatment is roughly equivalent to an assumed incidence rate of 100 cancer cases per million individuals per rem of population exposure. For the sake of comparability, that figure has been used in the calculations presented below.

[14] See Code of Federal Regulations: Title 10—Energy, § 100.11(a) (1975) and U.S. Nuclear Regulatory Commission proposed revision of 10 C.F.R. 100 (1975).

[15] A detailed review of present knowledge regarding long-term cancer induction due to radiation exposure is given in WASH-1400, Appendix G to Appendix VI, and independently in a recent National Academy of Sciences report on long-term effects of multiple nuclear weapons explosions (1975, pp. 165 ff.). Upper and lower bounds and central estimates for cancer dose-incidence relationships due to β and γ radiation are given in WASH-1400, but the full range of uncertainty is not reflected in the average WASH-1400 results given in Table 1 above, since only the central estimates have been relied upon.

[16] See WASH-1400, Appendix I to Appendix VI and National Academy of Sciences (1975, Chapter 6). (The authorship of these discussions overlaps.) The large uncertainty as to the intergenerational transmission of multifactorial defects is evidently not reflected in the overall WASH-1400 results for genetic effects given in Table 1. See WASH-1400, App. VI, Sects. 16.3 and 16.5, where the heritability estimates of the National Academy of Sciences (1972) are relied upon. As discussed in NAS (1972) and more recently by Feldman and Lewontin (1975, pp. 1164-1165), quantitative estimates of the heritability of multifactorial diseases must presently be made on an essentially arbitrary basis.

[17] Further work along these lines is called for in WASH-1400, App. VI, p. 1-3.

[18] See equation (1) above.

[19] I am informed by the NRC Regulatory Staff that present siting policy discourages licensing applications involving average radial population densities exceeding 400 people per square mile, within 30 miles of the proposed plant location. Since emitted plumes are likely to be highly directional, such a restriction is not reflective of meteorological reality, though it evidently would exclude several existing sites. A more realistic form of restriction would discourage nuclear siting within a set distance of an existing population center of given size. The precise nature of such restrictions would depend on detailed site-specific consequence analysis, on possible improved containment designs, and on the results of feasibility studies of underground siting. A very recent study, sponsored by the Swedish utility industry, on underground siting of nuclear power plants (Centrala Driftledningen, 1975) concludes that under core-melt conditions "[a] total reduction of the potential doses in the surroundings by a factor of 10 seems realistic" (*ibid.*, p. 26). The report further estimates the incremental capital costs for underground siting of a 1000 MWe facility as 20 ± 3 percent (p. 28).

[20] Nuclear Regulatory Commission Browns Ferry investigation report (1975), see especially page 4, item 3. See also Joint Committee on Atomic Energy (July 25, 1975).

[21] The NRC study group performed a *post hoc* fault-tree analysis of the Browns Ferry fire. The numerical results of that analysis are sensitively dependent on the use of observed repair times and human action and are therefore not of interest here. See WASH-1400, App. XI, Sect. 3.2.1., Attachment 1, and the qualifying statements, *ibid.*, App. XI, p. 3-51.

[22] The units chosen were Surry unit 1, a 788 MWe, pressurized water reactor (PWR), which began operation in 1972, and Peach Bottom unit 2, a 1065 MWe, boiling water reactor (BWR), which began operation in 1973. The AEC Regulatory Staff underlined possible atypical features of these units in its comments on (Draft) WASH-1400 (November 1974, p. 12).

[23] It should be pointed out that there is evidence that the (former) AEC Regulatory Staff was aware of the potential dangers of interacting reactor system failures prior to the Browns Ferry fire, and in fact called the attention of the WASH-1400 study group to the need for considering the possibility of occurrence of electrical fires and their associated consequences. See U.S. AEC Regulatory Staff (November 1974, p. 28).

[24] Plots of these data versus the assumed input ranges are given in the EPA review (August 1975, pp. 86–98).

[25] The data referred to are presented in App III, Table 2–1, and the assumed inputs to the model are listed in Tables 1–4 and 4–2.

[26] E.g., break of a small pipe (<3" in diameter) in the primary cooling system of a PWR may lead to a serious loss of coolant accident. Such accidents play an important role in the fault-tree calculation. See WASH-1400. App. V, p. 38.

[27] See, for example, Kendall *et al.* (1974, Sect. 6). As pointed out in WASH-1400, "potentially large ruptures in the vessel, a subgroup of all possible vessel ruptures, could prevent effective cooling of the core by the emergency core cooling systems" (App. XI, pp. 8–1 ff.).

[28] Background for the vessel rupture is reviewed by Lewis *et al.* (1975, pp. S25–S26). Concerns in the United Kingdom technical community regarding pressure vessel rupture are noted in WASH-1400, App. XI, p. 8–1. A very informative comparison of WASH-1400 and the Hakansson *et al.* Swedish urban siting study (1974) is given in Bento *et al.* (1975). Vessel rupture is also discussed there (Sect. 3.2.1), where it is pointed out that the Swedish study group assigned a probability of 10^{-5} to 10^{-6} per reactor-year for an accident involving pressure vessel rupture followed by a steam explosion, in contrast to the estimate of 10^{-9} given in WASH-1400.

[29] The discussion in the text, because of limitations of space does not deal with the details of the logical structure of the fault-tree procedure. As presented in WASH-1400, the probabilistic model begins from "event trees" in which successes and failures of whole subsystems are arranged in logical sequences. To compute failure probabilities, each failed subsystem in an event tree is modeled by a "fault-tree" composed of failure sequences of individual components. In the discussion of the text above, the entire logical structure is referred to as the "fault-tree" analysis. Event tree construction is described in WASH-1400 (App. I, Sect. 2), and the use of fault-trees is discussed in App. II, Sect. 3.

[30] Because not every failure sequence is logically possible, all permutations and combinations of the x_i will not appear in fault-tree expressions such as (3).

[31] In the actual case, these calculations were performed by using Monte Carlo methods. See WASH-1400, App. II, Sect. 3.6.

[32] The categorization procedure is discussed in WASH-1400 (App. V, Sect. 3) and the full release patterns are listed in Table 5–1.

[33] However, the final result of 1.3×10^{-5} is apparently inconsistent with the individual system contributions listed on p. 358, and also given in the summary in Fig. 6–17. I have assumed in the text that these inconsistencies, which amount at most to factors of 2, are due to misprints, and have taken 1.3×10^{-5} as the correct reactor protection system failure rate.

[34] There are three PWR dominant sequences: a transient accident involving loss of electric power, a loss of coolant accident caused by a pipe break, and the check valve failure discussed in the text below. The remaining two BWR sequences are the reactor pressure protection system failure discussed above, and a transient accident in which the reactor heat removal system fails.

[35] The Yankee Rowe plant in Massachusetts is the only site other than Surry definitely having the particular (untestable) design feature in question, with three other reactors having possibly similar features. See E. G. Case, letter to D. D. Comey, December 12, 1974, text and enclosure 1. Case points out that the NRC Regulatory Staff has now required design provisions which should mitigate potential check valve problems. It is suggested in WASH-1400 that the inclusion of such idiosyncratic design features in the fault-tree analysis is a conservative procedure (App. XI, pp. 5–6). However, while inclusion of possible check valve failures increases the median estimates of failure probabilities, there is a compensating decrease in the associated uncertainty ranges, due in part to the use of a "probability smoothing" procedure (App. V. pp. 33–34). The interplay between point estimates and uncertainty ranges, which is a general feature of the WASH-1400 fault-tree analysis, is not discussed in the study.

[36] Two separate human errors are involved, one in which certain sensors are miscalibrated, and the other in which a pair of recirculation valves are not properly closed.

[37] Compare the discussion of the BWR reactor protection system in the text above with WASH-1400 (App. 11, Sect. 5.4.5.3. and pp. 108–110), in particular the treatment of pump discharge valves on p. 108.

[38] The underlying point is that the various failure sequences involve different combinations of the same set of reactor subsystem failures. As shown in WASH-1400. App. II, Tables 1–2 and 1–3, many subsystem failure rates are strongly affected by human errors and common mode failures.

[39] It is suggested in WASH-1400 that use of the median value is preferable, since it falls between the mean and maximum likelihood values. That argument, however, is not compelling since it begs the fundamental question of how to treat the skewed shape of the probability distribution (App. II, pp. 42–43).

[40] The particular failure sequence involved, referred to as "TC" in WASH-1400, affects only those release categories (Table 5–3).

[41] The figure of 5000 reactor-years is derived from a February, 1975, nuclear power projection by the ERDA Office of Planning and Analysis. To the end of 1975. U.S. commercial light-water power reactors, of capacity greater than 100 MWe, will have experienced 198 reactor-years of operation. See e.g., Nuclear Engineering International (April 1975).

[42] It is argued in WASH-1400 that extrapolations of the type performed here are inappropriate, since they do not account for ". . . the ability to take advantage of increased knowledge in order to improve safety" (pp. 13–14). The safety record of the commercial aircraft industry is cited as a case in point. A particularly relevant index in the present context is the number of fatal air crashes per departure. National Transportation Safety Board data for all scheduled service, during 1954–1974, on U.S. certificated route air carriers suggest there has indeed been some improvement (NTSB, 1974; CAB, 1966). However, this improvement at best amounts to a factor of 3 over the 21-year period considered, and does not appear significant in the light of other uncertainties discussed in the text. Similar FAA data for all scheduled and unscheduled U.S. air service during 1962–1973 are presented in WASH-1400 (App. XI, Fig. 19–1).

[43] The potential value of the use of fault-tree analysis in a relative, rather than absolute, context has also been stressed in several reviews of (Draft) WASH-1400. In particular, see Lewis *et al.* (1975, p. 55) and Kendall *et al.* (1974, pp. 20–21).

PUERTO RICO CELEBRATES CONSTITUTION DAY

Mr. KENNEDY. Mr. President, last Sunday, nearly 3 million Americans who live in the Commonwealth of Puerto Rico, and over 2 million Americans of Puerto Rican heritage who live in the United States, celebrated Puerto Rican Constitution Day.

Twenty-four years ago, the Island of Puerto Rico attained Commonwealth status within the United States. Since 1952 the island and its population have demonstrated to the world the progress and growing prosperity Puerto Rico has made since becoming a "workshop for democracy" in Latin America.

In my home State of Massachusetts, and across the Nation, Puerto Rican-Americans have sponsored a variety of activities to celebrate this important occasion. The Constitution Day ceremonies which have been held recall not only the birth of the Puerto Rican commonwealth, but also the leaders who formulated this unique relationship between the United States and the island.

This unprecedented Commonwealth arrangement—from which has come significant economic and social benefits to both the United States and Puerto Rico—was the handiwork of Luis Munoz Marin, a gifted statesman and writer, a man who served as Governor of the island until 1964, and a man who eloquently and imaginatively represented the best interests of his people.

Puerto Rico is indeed fortunate that this same dynamic representation is continuing under the able leadership of Gov. Rafael Hernandez Colon. Governor Colon's sensitive and resourceful administration has greatly improved the economy of the island. But just as we in the United States have been saddled with an unacceptably high level of unemployment and runaway inflation—so has Puerto Rico not been immune from this administration's economic policies.

Mr. President, on Puerto Rico's Constitution Day we not only honor our citizens who live in Puerto Rico, but also those who now live in the United States. As a Nation of immigrants—the United States takes great pride in its commitment to uphold the rights of all peoples who aspire to freedom and greater opportunity. And in this Bicentennial Year, it is important that we pay tribute to the Puerto Rican communities in Massachusetts and elsewhere which are helping fulfill our Nation's aspirations.

Hundreds of thousands of Puerto Ricans have arrived in the United States since the end of the Second World War in search of greater opportunity. But just as the many millions of immigrants who came before them, our Nation's Puerto Rican residents experienced hardship and adversity as they attempted to make their mark in every facet of the American way of life.

In the face of social injustice and economic difficulty, many Puerto Ricans have been determined to overcome these problems. Now, more than ever before, Puerto Ricans can be found in every walk of American life. In business and education, in science and in commerce, at every level of our Government we find Puerto Rican leaders. I am confident that the Puerto Rican community with greater understanding and commitment on the part of all Americans—will continue to prosper.

I am also confident that the Commonwealth's relationship can be expanded to meet our mutual desire, permitting greater autonomy to the Commonwealth in many areas while retaining essential links with the United States. Puerto Rico already is expanding its ties with its Caribbean neighbors and with other nations of the hemisphere.

And so long as we in the United States remain sensitive to the true aspirations of the island's people, the bonds of friendship between us will endure.

In this Bicentennial Year, as we celebrate our Nation's independence, we honor the Puerto Rican people on Constitution Day and pledge continued close and friendly ties as we pursue together the promise of the American dream.

ST. LOUIS DOMINATES SUN BELT

Mr. SYMINGTON. Mr. President, St. Louis has been dubbed the capital of the Sun Belt, that Southern and Southwestern tier of States which continues to attract the lion's share of investment on the part of both industry and Government.

A recent article in the Washington Post describes the renewed vitality of this city, the largest in our State of Missouri. It points out the many advantages of St. Louis as a center for commerce and transportation.

As the writer proclaims:

> While other great urban centers will be a part of this Third Century expansion . . . none is situated so well to serve the entire Sun Belt as this booming city under the Jefferson National Expansion Gateway Arch.

St. Louisans are justifiably proud of their successful redevelopment projects and are committed to continuing efforts to restore economic vigor and growth.

The Washington Post article captures this new spirit of St. Louis. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ST. LOUIS DOMINATES SUN BELT: BUSINESS EXPENDS TIME, MONEY TO MAKE IT WORK

(By William H. Jones)

ST. LOUIS.—In the informal and unofficial race to become the business and financial capital of America's Sun Belt—a vast region stretching across the Southeast, Middle South and Southwest—this historic city of culture, commerce and transportation appears destined to come out in first place.

The Sun Belt as a region is a recent phenomenon pinpointed by population and economic experts as the principal location of this country's growth for the balance of the 1970s.

While other great urban centers will be a part of this Third Century expansion—Phoenix, Dallas and Houston to the Southwest; New Orleans at the far reaches of the Mississippi; and Atlanta in the Southeast—none is situated so well to serve the entire Sun Belt as this booming city under the Jefferson National Expansion Gateway Arch.

Such a role for St. Louis may not be readily perceived by outsiders because this city is basically conservative and not nearly so aggressive in promoting itself as Kansas City, its urban rival across the State of Missouri, which attracted this year's Republican National Convention.

Despite this reserve—and partly because of it—economic developments in the past two decades point to a growing role in national business for St. Louisans.

With decisions being made to locate more industrial plants in the Sun Belt than in any other region, companies will find St. Louis closer to Alabama, Arkansas, Tennessee and Texas than Los Angeles, Chicago or New York. For the country as a whole, St. Louis finds itself virtually at the center, providing managements with the quickest possible access to all business centers.

With a metropolitan area population of about 2.5 million, St. Louis is an important market by itself. But another 2.4 million live just outside the urban center in Missouri and Southern Illinois, and 35 per cent of the entire national population (some 80 million persons) lives within 500 miles of downtown.

To Mayor John H. Poelker, the only conclusion to be reached from such figures is simple: "St. Louis is entering an exciting period of its long and rich history."

Many large American businesses have had their headquarters here for decades, eight of them with sales topping $1 billion a year. Among the well-known St. Louis companies are Anheuser-Busch, largest brewer in the world; May Department Stores, second largest U.S. department store firm; McDonnell Douglas, an aerospace giant; Ralston Purina, largest producer of animal feeds and pet foods in the world, Emerson Electric Co., one of the largest producers of electrical-electronic systems; Monsanto, a large chemicals-based firm; Pet, Inc., a food company; Edision Bros. Stores, Inc., largest U.S. retailer of women's shoes; and the Missouri Pacific Railway, which is talking merger with Washington-based Southern Railroad.

More indicative of the growing importance of St. Louis is the influx of new companies. Firms that have moved their corporate headquarters here include General Dynamics, Chromalloy American and Kellwood Co., an apparel manufacturer not widely known because most of its output goes to Sears, Roebuck & Co., for which Kellwood is the largest producer of soft goods.

Many other companies have key production plants or offices in St. Louis. Chrysler Corp., for example, last month announced a $20 million conversion and expansion for an auto production facility that will add 1,000 new jobs, to meet expected demand for 1977 Plymouth Volare and Dodge Aspen compacts.

The expansion by Chrysler provides emphasis for another factor in St. Louis growth besides strategic location: It has one of the most stable labor markets in the country.

According to research manager Stephen Taylor at the Regional Commerce & Growth Association and Charles A. James of St. Louis University's business school faculty, area employment jumped 2.4 per cent in March over the same period last year, and joblessness is down to about 7 per cent.

Reflecting general economic recovery in the nation and business health here, retail sales in the months of November through February exceeded previous-year volume by 10 per cent or more.

The metropolitan area civilian work force totals slightly more than 1 million, and total employment exceeds 930,000. Manufacturing is the leading jobs sector, providing work for 246,800 persons, 54,400 of them in production of autos, trucks and other transport equipment.

Transportation has been a key factor in the St. Louis success story, ever since French traders started a community near the confluence of the Mississippi, Missouri and Illinois rivers in the 1760s. Later, St. Louis was a starting point for expansion to the West.

Today, St. Louis is the largest inland port city, acting as hub for a 7,000-mile inland waterway system and providing water access to 20 states and the Gulf of Mexico. The city is the nation's second largest rail hub, served by 16 intercity lines, and is a major trucking center served by three interstate highways.

Not that the area is without its problems. East St. Louis, Ill., across the Mississippi, ranks among the country's biggest urban problem centers.

A huge public housing project in St. Louis, Pruitt-Igoe, was a complete disaster and had to be closed. It has been variously described as "the vertical slum" and the "worst public housing project in the nation."

St. Louis has no rapid mass transportation, and most people rely on their cars to get to work, spread out over a large enough area to avoid the massive rush-hour traffic jams of other cities.

Downtown St. Louis itself might be facing the grim decay that has attacked other cities had it not been for a decision by key business leaders to redevelop rundown riverfront properties about 15 years ago. What has sprung up is a growing complex of office, hotel, entertainment and retail buildings.

Busch Stadium, with a plaza and monument to Stan Musial, was located in the heart of downtown, surrounded by parking facilities and successful commercial projects. It forces sports enthusiasts from all over the area to head for the city's center.

Now, business interests here have joined to add another downtown magnet financed entirely in the private sector— Convention Plaza Mall, a $16 million enclosed downtown shopping center with 81 new stores and 235,000 square feet of retail space.

The mall, to include a branch of one major department store, the leading St. Louis firm of Stix, Baer & Fuller, will be located adjacent to a new hotel, a 1,500-car garage and a new convention center. The overall project will cost more than $70 million, and is well under construction.

Eight large St. Louis companies set up Convention Plaza Redevelopment Corp. in 1969 to build the center, which will have a capacity to handle the world's largest conventions. Sheraton is building the 620-room hotel, and retailers hope their mall will be open by Christmas 1978.

The eight big firms which purchased stock in the redevelopment and made it possible are Busch, Stix, Baer, Southwestern Bell Telephone, Bank of St. Louis, First National Bank, Mercantile Trust Co., Sverdrup & Parcel & Associates and Union Electric Co.

Stix, Baer Chairman J. A. Baer II says the new complex should provide a northern anchor for downtown as Busch Stadium provided a southern anchor. He believes the whole country will be watching the project.

Can a major city rebuild its downtown and attract business back from the suburbs? "I think it is possible, but it is going to require a lifetime of work," he said recently. "This is not a project that will be completed in 5 or 10 years; it will take decades."

While other cities watch, however, St. Louis is building. The same business community came up with money in the past school year to keep athletic programs alive in the financially pressed St. Louis public schools.

"There's a Puritan work ethic here," said one St. Louisan, describing the typical business work day of 8 a.m. to 6:30 p.m., encompassing business hours on both the East and West coasts, which shut down their switchboards and go home generally at an earlier hour in their own time zones.

The message to America from St. Louis according to many of its business community leaders, is that cities can be made to work as a complex human organization, so long as business people in particular are willing to try—and to spend time and money as evidence of their conviction instead of relying on government for both ideas and financing.

THE IMPORTANCE OF TEACHING VALUES

Mr. HUMPHREY. Mr. President, every day our Nation's children and youth meet life situations which call for thought, opinionmaking, decisionmaking, and action. Some of their experiences are familiar, some novel; some are casual, some of extreme importance. Everything they do, every decision they make and course of action they take, is based on their consciously or unconsciously held beliefs, attitudes, and values.

Students, no less than adults, face problems and decisions every day of their lives. Students, too, ponder over what and how to think, believe, behave. So often what goes on in the classroom is irrelevant and remote from the real things that are going on in students' lives—their daily encounters with friends, with strangers, with peers, with authority figures; the social and academic tasks that assault or assuage their egos.

All of us, young or old, often become confused about our values. But for young people especially, the value conflicts are more acute.

The children and youth of today are confronted by many more choices than in previous generations. They are surrounded by a bewildering array of alternatives. Modern society has made them less provincial and more sophisticated, but the complexity of these times has made the act of choosing infinitely more difficult. How then, does a young person learn how to direct his life through a world full of confusion and conflict?

Dr. Daniel B. Davis addresses these issues in his national award winning article in the Phi Delta Kappa U.S. Bicentennial essay contest.

Dr. Davis generates three educational objectives to aid students in their struggles with contemporary problems. A return to the teaching of value throughout the schooling process as well as in the home is needed. The school not only provides a microcosm of man's dilemmas throughout history but also serves as a social setting for viewing current value conflicts. Thus, in the school the child can draw from the past as well as the present in learning to make intelligent decisions based on his own personal value system.

Another objective Dr. Davis emphasizes is that of thinking in terms of a global perspective. Modern communications and transportation have brought nearly every part fo the world to the attention of each individual. Education must therefore make the pupil aware of the need for cooperation between nations if answers to such problems as population growth and energy crises are to be found. The interdependence of nations can be taught to even the youngest pupils through the social sciences.

Dr. Davis also points that that a third concern—career awareness—must be dealt with by the schools. The practice of providing only older students with vocational information has proven insufficient preparation for decisions concerning further education and job selection. Dr. Davis concludes that not only the myriad of occupations available, but also the dignity of work should be stressed at even the very lowest educational levels.

I believe that Dr. Davis' article is very helpful in determining the courses of action to be taken in teaching the clarification of values to our Nation's students. Mr. President, I ask unanimous consent that Dr. Davis' article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BICENTENNIAL ASSESSMENT CURRICULUM AT THE CROSSROADS

(By Dr. Daniel B. Davis)

As Americans approach their national birthday, they are aware of, and sensitive to, the problems which confront society. A retrospective glance into the annals of history makes one realize that America is a young Nation, lacking the national identity and historical memory of the ancestry of which the cultural mosaic of its people is composed. There was no deeply-rooted established church to fashion the ideals of the young in a respect for its traditions nor a well-developed educational system to train the youth of the Nation for effective citizenship. However, on the plus side, there was a new land rich in resources and the promise of a new life limited only by the imagination of its people.

The young Nation survived early in its history and within two centuries weathered the bloodshed of two world wars and the tension of a cold war. Life was by no means static under these circumstances. There was a demographic shift from an agrarian to an urban economy, a series of economic peaks and depressions, accompanied by great technological advances, and a gradual weakening of moral and spiritual forces which motivate human behavior. All of these events, interwoven with the polyphonic thread of a counterpoint of differing cultures and sectional interests, had as their theme a better life for Americans. The test of the endurance of this Nation will be whether it can provide this better life.

It is obvious that education has played an important role in the developing story of America, but it must play an even more significant one if the Nation is to maintain the high standards set by the Founding Fathers in the Declaration of Independence.

In order to achieve this better life, one must realize that sharing the spotlight with academia must be three other facets with educational implications born of the contemporary scene. One is a reawakening of the teaching of values. Secondly, the perspective of thinking in terms of the global orientation must be emphasized. Thirdly, the concept of career awareness must be brought to the conscious level of the pupil as early as the elementary school to avoid the situation in which college sophomores flounder as they seek to "find themselves." These three goals may be woven into the warp and woof of the fabric of the curriculum or, if necessary, be explored as separate entities, perhaps in a different setting.

The first concern to be considered is the need for a reawakening of the teaching of values. In these days of diminishing budgets for schools, it is imperative that a set of priorities be established in order to maximize the return on the educational dollar. When a significant portion of this budget is spent on maintaining security on campus, it becomes vital to reevaluate the goals and curriculum of the schools. How can this negative result of vandalism, presence of guns, and violence on school campuses even at the junior high and sometimes elementary school levels be translated into a positive approach directed toward its extinction?

With social mores crumbling around us, and the family as a unit of society rapidly disintegrating, it seems not only appropriate but imperative that we revitalize the teaching of values and have this facet of teaching as integral a part of the curriculum as the proverbial "three R's." What can we do, valuewise, to build upon the ideals and sacrifices of our Founding Fathers?

The title of Bel Kaufman's classic, "Up the Down Staircase," can be borrowed to present a graphic representation of how educators must feel in their attempt to teach the meaning of values in the contemporary scene. How does one teach the significance of honesty when the world blatantly ignores the existence of this value? How does one explain a Watergate? Once again, one must refer to the importance and connotation of ideals; for all people—in this cultural mosaic that is America—have expressed the ideals of their legacies throughout the ages. History records man's search for a set of values that would guide and direct the activities of his life. In this struggle to find a yardstick of moral and spiritual values by which he could assess the ethics of his activities, he studied the evolution of a compendium of rules that ranged from the Ten Commandments to the Code of Hammurabi. Moreover, throughout past history, values have endured, influenced by the precepts of religion and moral law and the high ideals upon which the Founding Fathers established this Nation.

The field of education has alway concerned itself with the teaching of values, but with varying intensities. Obviously, values cannot be taught per se, but must be actively explored or evolved. At the elementary school level, a teacher sitting in a Glasser circle with his pupils, is a member of a discussion group which is evaluating a particular playground situation, the common denominator of which is a specific value or a combination of values. As for the individual pupil, he is constantly confronted by conflicts during the school day (as well as out of school) and is forced to make decisions, based on the framework of the value system that he has evolved with the guidance of his teacher who has provided classroom experiences in the analysis of these conflict situations with regard to consequences, other possible solutions, and an increase in understanding of values and attitudes.

In suggesting methodology for effective teaching of values, several educators have set up a values clarification approach, in which certain criteria must be met before the term "value" can be applied to the idea, or before any idea reaches the value stage. Through an array of multiple strategies, the pupil is encouraged to build his own value system developed from an awareness of his own indicators—his attitudes, feelings, and beliefs. This plan brings choices to a conscious level in the process of decisionmaking on the part of the pupil. This premise of values being considered personal and relative has been loudly refuted by critics of the values clarification approach. Proponents of objective morality strongly dispute this use of relativism by the individual as a framework for defining and refining values.

While there are many differing points of view with regard to methodology in moral education, as expressed by those in favor of the cognitive approach, the affective approach, and others, there is a common bond of agreement that the teaching of values holds a number one priority in the curriculum of today. Undoubtedly activated by Watergate, public indignation has now spearheaded a demand for moral education, and much of the professional literature is now reflecting this awakened interest. Implementation and resulting methodology will be the subject of much experimentation in this area in the educational framework. Obviously, the teaching of values must begin at an early educational level (definitely in the home) and continue throughout the school years. Unfortunately, it may take a generation to assess the effectiveness of the teaching of the new moral awakening in education. The proportionate amount of time devoted to moral education in the curriculum has been predicted to be as high as 30%, if the "better world" of the Founding Fathers is to materialize.

Of special significance in the teaching of values is the area of social studies. In this academic area, pupils can perceive history's record of man and his relationships with his fellow-man. They can experience vicariously the conflicts which confront him. They can analyze man's successes and failures (for our history has had its share of traitors as well as heroes), and his exemplification of fear and bravery and evolve a set of guidelines which constitutes the premise of effective living.

This is one illustration of how the teaching of values may be integrated into the social sciences. The topic of the discovery of America, for example, may be treated educationally on three different strata:

(1) From the perspective of fact, as citing the date on when this discovery took place;

(2) From the perspective of concept, as discussing the benefits resulting from this discovery or its impact on world history;

(3) From the perspective of values, as considering the choices or alternatives prompted by the question, "If you were a sailor in the crew on that voyage of discovery and were allowed to take only one small piece of luggage, what belongings would you have chosen to take with you?" This involves decision-making with alternatives brought to a conscious level.

The development of moral values must be part of the educational framework at both the elementary and secondary levels. Of course, at the secondary level, where peer pressure looms larger in importance, it becomes increasingly more difficult for the individual to adhere to his sense of values in competition with the deterrent forces that allure students outside of the classroom. However, in this case, the pupil must be guided to realize the importance of, and have respect for, the values which have been significant as exemplified by the ethics of the majority of people throughout the history of society.

A final consideration of values focuses on the materialistic standards by which contemporary man's success is measured. It is important that pupils develop a revised set of attitudes and appreciations that does not have materialism as its common denominator. In other words, society—starting with the elementary school child—must begin to envision a world in which man is not created in the likeliness of a TV commercial!

As a second concern, the global perspective must be the framework within which the material of the social sciences is to be considered. The elementary-age child is not too young to explore this point of view. Recently, he waited in line at the corner gas station in his parents' car. He noted that fewer lights illuminated his home and classroom. He undoubtedly wondered about the cause of this change in the pattern of American living.

This can be the beginning of an insight into the interdependence of the nations of the world. The curtailment of speed on the beltways and expressways of our Nation's Capital and the lower temperatures in homes and apartment houses in Minneapolis reflect the struggles—politically and economically in Cairo and Teheran. Furthermore, in the department stores, the prevalence of apparel with the label, "Made in Hong Kong", indicates that many workers in the textile mills of New England are unemployed as a result. Even the parts of a Mattel toy or a sewing machine or television set are made in various countries throughout the world and assembled in America. To translate this global perspective into the experience of an elementary school pupil, the educator might serve him an "international banana split" and have him trace the sources of the ingredients, ranging from the cacao bean in South America to the Maraschino cherry from Europe, the nuts imported from Brazil, and the bananas from Central America.

These illustrations reflect the concept that socially, politically, and economically, the the world is interdependent. On the contemporary scene, no country is an island, just as the modern home is no longer the independent economic unit of the pioneer era.

A second consideration relative to this global perspective is the realization of the concept that the globe is really quite small. The pictures of the earth taken on the recent moon expedition dramatized the tiny size of our planet as compared with the vast abyss of space.

Concomitantly, as the spaceships have conquered, so has technology conquered distance. Modern man can travel around the globe in less time than half the time it might have taken one of the Founding Fathers to ride from Boston to Philadelphia. A pupil should think about the implications of this phenomenon in relation to the global perspective.

However, in the classrooms of as increasing number of schools, pupils are brought face to face with a negative ramification of this technological progress in its impact on education. The worldwide air and noise pollution of our environment has had deleterious effects on the instruction of children in schools located near airports, railroads, expressways, and myriad other deterrants to to the learning process. For example, because of jet noise near Chicago's O'Hare International Airport, teachers in some 217 schools have to cope with "jet pause" teaching. Because of this noise emission factor, teachers and pupils suffer a loss of as much as 20% of their instructional day, as well as a destruction of the spontaneity in the teaching-learning process.

A final consideration in this global concept is the finite quality of our world. Only recently has it been brought to the forefront of consciousness that resources in America are not limitless. The vital significance of ecology has made people suddenly realize that each individual must actively participate in this program of conservation. This, in turn, must be translated into specific behavioral goals as a result of exploring the curriculum at the elementary school level. The world's population explosion is in inverse ratio to the dwindling supply of its food, fuels, and minerals. The energy crisis, more than any other single factor, has been successful in a dramatic awakening of America to its dependence upon other nations. America needs to import oil for industrial survival and to find foreign markets in which to sell the products of its farms and factories. These are but a few illustrations which reflect the interdependence of the nation and the world.

Education must awaken in the pupil an awareness of this sense of global perspective and the need for global cooperation if nations are to solve their problems satisfactorily and endure.

Another facet of these priorities that must be woven into the fabric of the curriculum is the third concern—career awareness. This need was brought to my attention by the comments of concerned parents who lament the fact that "My son, at age twenty-eight, has not found himself!" Some of the offspring have been high school dropouts; others, at the junior year of college, still flounder in a maze of aimless academia.

It is obvious that career awareness cannot start too early. Work is an integral part of one's life, and more than ever, the aspect of the dignity of work must be stressed. Some pupils are apprehensive of the transition from school to work and should be made aware of the many ways of making a living and the interrelationships that exist among the many occupations and professions. Educational priorities must include a way to facilitate this transition.

The goal of career awareness—when translated into educational activities—can be implemented on a simple scale by the visit of a fireman or a postman to the kindergarten class. At the upper elementary level, pupils may combine classroom instruction and "career days" with field trips where they see jobs performed in the real world. An early program of career consciousness may well pay dividends in the form of deeper insight into career orientation at the young adult level. This is not to imply that vocational priorities should supersede the academic, but a career awareness should be created in the pupil at an early educational level.

In this bicentennial year, American educators can truly state that never have the goals of their field and the responsibilities of their profession been more significant, more comprehensive, and more far-reaching. An examination of a flow chart of the information and understandings to be learned by the student in this post-Sputnik period makes one realize that the curriculum must include not only the academic aspects of the knowledge explosion but also incorporate the three focal points emphasized in this paper—specifically, the reawakening of values with the accent on moral education, the development of a global perspective, and a heightening of career awareness. Only if these goals materialize can educators and the educational process make a significant impact upon the students of the nation in order to insure progress toward the realization of the dream of a "better life" that was idealized by our Founding Fathers two hundred years ago.

COMMENTS ON INFLATIONARY IMPACT OF FULL EMPLOYMENT ECONOMY

Mr. RIBICOFF. Mr. President, for far too many years this Nation has been ravaged by a seemingly endless unemployment crisis. It has been estimated that the high unemployment which has existed during much of the Nixon-Ford era has resulted in a cumulative unemployment deficit of $245 billion. Further, had the Nation's economy been operating at a full employment level over the past 8 years, we could have accumulated a full employment surplus of $10 billion. However, economic policies which have continued to accept high levels of joblessness have produced an 8-year deficit of $235 billion and more than 7 million American citizens remain out of work.

This persistent problem of unemployment has generated considerable controversy over steps which should be taken to halt the rate of those without jobs and initiate action to put Americans back to work. For well over a year much attention has focused on the legislation authored by our colleague from Minnesota, Senator Humphrey—S. 50, the Full Employment and Balanced Growth Act of 1976. Some—such as Charles L. Schultze of the Brookings Institution—claim that the chief obstacle to overcoming the problem of high and persistent unemployment is inflation. Mr. Schultze has testified that S. 50 "does not sufficiently recognize that fact." Others contend, however, that full employment can be achieved without an inflationary impact.

Earlier this month John H. G. Pierson, of Greenwich, Conn., shared with me his observations on the possible inflationary ramifications of S. 50 and full employment. The author of "Essays on Full Employment, 1942–1972, Insuring Full Employment" and other articles on the subject, Mr. Pierson originally prepared his letter to me as a newspaper article. I believe our colleagues will find Mr. Pierson's comments to be of interest and I ask unanimous consent that his letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Greenwich, Conn.,
July 9, 1976.

Hon. Abraham Ribicoff,
U.S. Senate, Washington, D.C.

Dear Senator Ribicoff: We are continually reminded these days of our historic American dedication to life, liberty, and the pursuit of happiness. Well, you can't pursue happiness very far if you need a job—for the money or the independence of it—and there's no job to be had.

This letter, however, is more specifically in response to your recent communication in which you emphasize that the steps we take to cope effectively with the unemployment crisis must not be allowed to become a factor for more inflation.

I am quite sure that what you say expresses the sentiment of many millions of Americans. Fears obviously persist that adopting a full-employment law would cause—or increase—inflation. Many persons argue, for example, thinking of the Humphrey-Hawkins bill, that making the Federal Government the employer of last resort would have an inflationary impact.

That all depends, however, on the approach taken. Full employment is possible without inflation. A program of *guaranteed* full employment based on an "economic performance insurance" approach, as recommended by this writer, would not only *not cause* inflation but actually be the best *cure* for inflation.

Any full-employment program worth considering can be expected to contain certain built-in elements of defense against inflation risk. First of all, a rising level of economic activity will in itself spread the overhead costs of production and so reduce unit costs and let prices be held down. Then, to make sure that they *will* be, the full-employment legislation will and must have associated with it a tough policy towards powerful economic organizations that are in a position to administer their prices. An active antitrust administration is needed, and an incomes policy too, with stand-by authority to impose mandatory price-wage controls.

This counter-argument seems valid but, not surprisingly, it runs up against widespread reluctance to lean as heavily and as permanently on direct controls as the prescription may appear to require. Hence there is occasion to see how the prospects could be improved by introducing "economic performance insurance."

In briefest summary, under that approach the Federal Government would state in advance each year (a) the minimum and maximum levels of employment, and (b)—so as to assure private business of a continuously adequate total market—the minimum and maximum levels of private consumer spending, that would without fail be maintained. The government would then use accelerations and decelerations of public services and works as necessary for honoring its commitment under (a), and changes in consumer taxes and/or transfer payments on some predetermined basis as necessary for honoring its commitment under (b).

(The level—or, more precisely, the range between limits—of employment called for would reflect a policy decision on what would constitute full employment in a practical working sense, with enough but not too much allowance for frictional unemployment. The level or range of consumer spending called for would derive from a technical calculation as follows: dollar vaue of an adequate total market for the nation's output—full-employment GNP—at expected price levels, minus best-guess amounts for private domestic investment, government purchases—reflecting the prevailing current view as to the proper size of the public sector—and net exports.)

The first thing that this mechanism would do (if embodied in the Humphrey-Hawkins bill, for instance) would be to give our economy two good brakes against "demand pull" inflation. As just noted, neither employment nor consumer spending would be allowed to rise above its ceiling. Thus, making the government the employer of last resort—which is certainly essential—would *not* unleash the widely dreaded inflationary flood of spending in private markets. For if those last-resort government payrolls threatened to raise total disposal personal income too high, a stand-by tax of a predetermined kind would by advance authorization be activated to hold total consumer spending down.

In addition to these brakes on the demand, there would also be new deterrents to "cost push" inflation, on the side of supply. To begin with, since the new basic law would provide for annually setting satisfactory floors under employment and consumer spending, certain kinds of expense now caused by the anticipation of future recessions would be eliminated. Today, big business and big labor will often make their sales prices and their work contracts provide financial cushions to help tide over bad times to come. That would no longer be necessary; the XYZ Corporation, for example, could set higher break-even points than it can afford to at present. Costs of production would thus be lowered not only by the *currently* high operating rate, as seen above, but also by the disappearance of the business cycle.

The most important change on the supply side, however, would be the moral or psychological effect of the adoption of a policy that really assured continuous prosperity and full employment. As things stand now, there is a general shirking of social responsibility. Government fails to take genuinely significant responsibility in regard to the economy (full employment is called a goal, of course, but is still not a promise) and so business and labor on their part are understandably reluctant to assume much responsibility for acting with moderation in regard to prices and wages. Nor, in the present state of affairs, is the public inclined to blame them very greatly for their attitude.

But the adoption of a decisive full-employment law could be expected to change all that. Why should not business and labor also, then, assume *their* appropriate responsibility? Why would it not be possible to get agreement on suitable wage-price guidelines—more particularly as labor's cost of living would be held down by the ceiling on consumer spending? Here would be a situation made for voluntary cooperation. The stand-by controls already cited should no doubt be kept available but, given the improved general outlook under "economic performance insurance," it seems probable to this writer that they would seldom have to be invoked.

Sincerely yours,

John H. G. Pierson.

STATE POWER AND STATE RESPONSIBILITY

Mr. MOSS. Mr. President, I would like to comment briefly this morning on the decision the Supreme Court recently handed down in the case of National League of Cities against Usery. Reversing an earlier opinion, the Court struck down the Federal minimum wage and hours law in its application to State and local governments. This result is a victory for State sovereignty, and I am proud that the Governor of Utah was instrumental in bringing it about.

In his capacity as chairman of the National Governors' Conference, Gov. Calvin L. Rampton skillfully argued the case before the High Court. In his brief he pointed out that each State must have the ability to respond to its own problems with appropriate solutions. Conditions in Utah differ greatly from those in New York or Los Angeles. Furthermore, the strength of our Federal system lies in the partnership of the national Government and the sovereign States. If that partnership is to remain strong, the Federal Government must not preempt the authority of the States to legislate with respect to State, county, and municipal employment.

Governor Rampton also argued, however, that the power to control employment standards carries a responsibility to do so wisely and fairly. No one should interpret the Court's decision as a license to exploit or underpay State and local public employees. To remove any possibility of misunderstanding on this point, Governor Rampton recently wrote to his colleague, Gov. Robert D. Ray, present chairman of the Governors' Conference. In his letter, the Governor not only endorses the principles of fair treatment of Government workers but also proposes several standards to which State and local governments should adhere. Most importantly, he states that—

> In no case should state and local government wage rates be established at a level lower than the minimum wage as established by Congress for private industry.

I commend Governor Rampton's stand to the Senate and ask unanimous consent that his letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

July 2, 1976.

Governor Robert D. Ray,
Chairman, National Governors' Conference,
Washington, D.C.

Dear Bob: The Supreme Court of the United States in the case of *National League of Cities* v. *Usery* issued an opinion, dated June 24, 1976, invalidating the attempt of

Congress to extend the provisions of the Fair Labor Standards Act to units of state and local government. The decision not only rejected the 1974 amendments which would have extended the provisions of the federal act to substantially all state and local employees, but also reversed the 1968 case of *Maryland* v. *Wirtz*, which has upheld the 1966 amendments extending the provisions of the act to educational and institutional units of state and local government.

This decision is a significant victory for state and local governments in their effort to resist federal government control of state and local governmental functions. It could, however, prove to be an empty victory if the states, cities and counties attempt to use this decision as an excuse for failing to provide satisfactory compensation and working conditions for their employees.

I have a particular interest in this case in that I personally joined Mr. Charles Rhyne, counsel for the National League of Cities, in arguing the case before the Supreme Court of the United States. During the argument, I assured the court that Governors, State Legislators, County Commissioners, and City Mayors and Councilmen were just as concerned about the welfare of state and local government employees as are members of the United States Congress. I hope that subsequent events will not prove me wrong.

While the decision does uphold a significant point in regard to state and local governmental powers, and will give state and local government greater and necessary flexibility in addressing the matter of state and local government salary ranges, daily and weekly hour restrictions, and either compensation or compensatory time off for overtime, it does not give us a license to be less than fair with our employees. I would urge the National Governors' Conference, to circularize their constituent members, urging:

1. That in no case should state and local government wage rates be established at a level lower than the minimum wage as established by Congress for private industry.

2. That wherever possible, adequate overtime compensation be established for employment beyond eight hours per day or forty hours per week.

3. That where compensatory time off for public safety or emergency employment is provided in lieu of overtime, that such compensatory time off be reasonable and consistent with the demands of the particular employment.

While the decision of the United States Supreme Court reinforces the powers of state and local government, it should not be used as an excuse or a justification for the exploitation of our employees.

I would appreciate it if you would include the substance of this letter in a bulletin to the members of your organization.

Sincerely,

CALVIN L. RAMPTON,
Governor.

AN INVALUABLE PUBLICATION: SOURCE BOOK—DRUGS, ALCOHOL, AND WOMEN

Mr. BAYH. Mr. President, over the past 6 years as chairman of the Subcommittee To Investigate Juvenile Delinquency, Committee on the Judiciary, whose jurisdiction includes the production and distribution of controlled drugs, I have spent as much time on efforts to deal more effectively with substance abuse as I have on any other single issue.

During the course of subcommittee hearings I have become increasingly concerned with the demonstrated overprescription of drugs—particularly for women; the less-than-balanced emphasis on women in drug advertisements; and the gross discrimination against women substance abusers—be they in prevention or rehabilitation programs, involved in the criminal or juvenile justice systems—whether in the capacity of administrator, employee, or abuser.

Last October, I had the opportunity to address various policymakers, health providers, civic leaders, medical and legal personnel, family therapists, educators, and other concerned citizens regarding the efforts needed to help guarantee continued impetus for adequate programs for prevention of substance abuse by women.

This significant event was the National Forum on Drugs, Alcohol, and Women, the first federally sponsored National Institute on Drug Abuse Conference held October 24–26, 1975, in Miami, Fla. The conference was held in cooperation with metropolitan Dade County and the University of Miami. I wish to commend Muriel Nellis, president of the National Research and Communications Associates, Inc., whose dedication, dynamic industry, and able leadership were combined in primarily designing and managing this successful event.

Among the experts who were called upon to contribute their knowledge and skills to the conferees were: Dr. Robert L. Dupont, director of the National Institute on Drug Abuse; Chairman PETER W. RODINO, JR., House of Representatives Judiciary Committee; Dr. Judianne Densen-Gerber, director of the Odyssey Foundation; Dr. June Jackson Christmas, commissioner, Department of Mental Health and Retardation of New York City; Dr. Lilian St. Clair Blackford, acclaimed researcher and statistician; Dr. Helne H. Nowlis, noted educator and drug abuse specialist; Dr. Joan Curlee-Salisbury, first American woman to have received the prestigious Jellinek Award for her studies on alcoholism; Hon. Margaret Jordan, district attorney, Kansas, and many others.

An edited version of the proceedings is now available: "Source Book: Drugs, Alcohol and Women." The 288-page publication features presentations and recommendations made by the more than 80 distinguished and informed persons in the increasingly troublesome area of female substance abuse.

This volume is an invaluable source of medical, legal, sociological, and economic information, as well as an update of recent legislative action relevant to the millions of women in the United States in trouble with drug and alcohol abuse. I highly recommend "Drugs, Alcohol, and Women" to my colleagues and all citizens concerned with attaining more humane treatment for women substance abusers.

Copies are available from NRCA, Inc., Suite 640, 1819 H Street, NW., Washington, D.C. 20006. For further information call Ms. Nellis at (202) 223–6331.

Mr. President, the objectives of the National Forum on Drugs, Alcohol, and Women were to formulate community, regional, and national priorities concerning women substance abuse planning and the establishment of coalitions and communications networks to enhance these efforts. I am pleased to relate that these initiatives have taken hold and that this "Source Book" is an initially important guide to the solution of the unique problems in education, prevention, intervention, treatment, and rehabilitation of women substance abusers. Further the community and statewide coalitions sparked by this conference have remained actively involved in strategies to cope with every aspect of the women's experience with substances of abuse.

Mr. President, I am certain that the participation by all in this conference resulted in action directed at dealing more effectively and more humanely with women as substance abusers. And as the subcommittee pursues its work, I hope that we can help make these initial objectives a reality.

AMERICA THE ARSENAL

Mr. GARY HART. Mr. President, I wish to commend to the attention of my colleagues a discerning article on conventional arms transfers by Dr. Ann Cahn, a fellow at Harvard's program for science and international arms transfers.

As a specialist in international arms transfers, Dr. Cahn provides a perceptive analysis of our present arms sales policy.

In adopting the conference report on the International Security Assistance And Arms Export Control Act of 1976, Congress took an important step in forming a sensible approach to foreign military sales and assistance. According to Dr. Cahn's analysis, however, much remains to be done.

In the past 5 years, our military sales have increased by 1,000 percent, totaling more than $10 billion in 1975. Although we are now exporting highly sophisticated military technology to countries on six continents, we lack a rational policy framework to govern these transactions.

The executive branch has not adequately considered the military, technological, political, strategic, and arms-proliferation implications of our weapons exports. Instead, it appears our military sales have often exacerbated international instability and fueled regional arms races.

In passing Senator NELSON's amendment to the Foreign Military Sales Act, Congress first recognized the importance of congressional oversight of foreign military sales. The International Security Assistance Act broadened congressional authority to permit review of all proposed military sales over $25 million in value.

Following receipt of a letter of offer, Congress has 20 days to force a reconsideration or withdrawal of the sale by concurrent resolution. As there will be several such proposed sales in the next few months—including large offers of sophisticated weaponry to African countries—it is important that we carefully review the multi-faceted effects of these transfers.

Mr. President, I ask unanimous consent that Dr. Cahn's article, "America the Arsenal," which appeared in the June 1976 issue of Harvard magazine, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA THE ARSENAL

(By Anne Hessing Cahn)

Why should we concern ourselves with America's arms-trade policy? After all, there is nothing new about arms trading.

Throughout history, few nations or groups of people have perceived themselves as self-sufficient in producing the weapons they felt necessary to pursue their interests; an arms trade between neighbors, tribes, clans, or nations is as old as warfare itself. In the Bible, we find not only arms transfers, but all the ancillary aspects of trade restrictions, competition, and maintenance of equipment. The First Book of Samuel, in chapter 13 (19–22), relates:

"Now there was no smith found throughout all the land of Israel: for the Philistines said, Lest the Hebrews make *them* swords or spears:

"But all the Israelites went down to the Philistines, to sharpen every man his share, and his coulter, and his tax, and his mattock.

"Yet they had a file for the mattocks, and for the coulters, and for the forks, and for the axes, and to sharpen the goads.

"So it came to pass in the day of battle, that there was neither sword nor spear found in the hand of any of the people that *were* with Saul and Jonathan; but with Saul and with Jonathan his son was there found."

The United States has been sending military advisers abroad for over a hundred years. In 1869, American military advisers were in Egypt, and in 1885 military officers were sent to Korea. What is new, and what makes the subject worthy of our attention, is the extraordinary rate of growth in arms trade. In 1961, worldwide trade in arms involved $2.4 billion; last year, total orders exceeded $20-billions' worth, nearly a tenfold increase in fourteen years.

The United States has aptly been called the General Motors of this industry, with weapons transactions yielding well over $10 billion for each of the last two years. The Soviet Union lags far behind, with sales of about $5 billion, followed by France with $4 billion and Great Britain selling about $1.5 billions' worth. These four nations are responsible for nearly 90 percent of the world's total arms sales. But a study conducted by the Arms Control and Disarmament Agency found that between 1961 and 1971, 57 nations each exported at least half a million dollars' worth of weapons, and 113 countries imported arms valued at a similar amount. So it is a multiplayer game we are trying to understand.

The increase in arms sales has been very rapid. In 1970, the United States sold approximately $1 billions' worth of weapons. By fiscal 1973, this had tripled to $3.8 billion, and the following year it tripled once more to over $10 billion. Any instrument of United States policy that grows so dramatically over such a short period of time should be of concern to the citizenry. Most of us would assume that such a shift—which, as Thomas Hughes of the Carnegie Endowment for International Peace recently wrote, has turned America from the arsenal of democracy into just the arsenal—would be the result of rational governmental decision-making. One would think that the policy would be carefully scrutinized by all the executive agencies involved (in this case, the State Department, the Department of Defense, the Treasury, and the Commerce and the Arms Control and Disarmament Agencies) prior to making commitments to foreign governments. Further, one might expect that the military, technical, political, strategic, and arms-control implications of major transactions would be thoroughly communicated both to Congress and to the American people. In fact, none of these conditions has been met. Despite a tenfold dollar increase in four years, no governmentwide policy study has been issued; no "white paper" on arms sales has been made public. The famous National Security Study Memorandum was not even initiated until May 1975, which was after the United States had signed orders to sell over $25 billions' worth of weapons within a four-year time span. As an indication of the lack of urgency with which the subject of arms trade is considered by this Administration, that study is still continuing, a year later.

Thus, another reason for concern about America's arms-trading policies is that the policy-making machinery within the executive branch has collapsed. Sales decisions are devoid of serious assessments of the risks, benefits, or long-range implications of arms races. We are witnessing ad hoc decision-making with elements of a "satchel" philosphy, by which visiting heads of state are not allowed to return home empty-handed, but are sold or given a helicopter or a few missiles as "goodwill" gestures. Contemporary decisions seem also to be heavily based on the competition principle—if we do not sell the planes, tanks, or widgets, the British, French, or Russians will. And there are balance-of-payments considerations, too. But adding up these disparate elements leaves us far short of a well-articulated policy publicly debated and widely discussed.

Yet another reason for concern is the sophistication of the weapons being traded today. In the past, we, and other supplier nations, used to sell or give away our second-hand, obsolete weapons (last year's models, as it were), as part of a program to update and modernize the inventories of our own forces. Now we are selling front-line technology hot off the drawing boards. For example, the Bell gunship helicopter ordered by Iran, which can fire cannon, rockets, and antitank missiles, is more advanced than any helicopter now in the United States forces; these helicopters will be delivered to Iran at the same time they are introduced into our own armed forces. The Tow antitank missile, which was made available to Israel in just the last two days of the Yom Kippur War, is now being exported to twenty countries. The Russians have supplied and trained Arab countries with similar types of weapons.

Our own military is beginning to question the wisdom of this headlong rush to sell our latest weaponry abroad. Defense Department officials now worry about the combat readiness of our own forces because of our extensive sales from existing inventories.

Training foreign armed forces to use, maintain, and repair the huge quantity of planes, ships, tanks, and missiles that are beginning to flow across the seas will require a large commitment of United States military and civilian personnel abroad. Our own all-volunteer armed forces are finding that they will have to compete with foreign governments for these highly trained personnel.

The manner in which the subject of United States advisers overseas was communicated to Congress and to the public illustrates the need for concern. The initial public announcement in February 1975 of the $77-million contract awarded to the Vinnell Corporation to train the Saudi Arabian national guard did not identify the country in which the Americans would be working nor the nature of their jobs. When the information was given to Congress, it was on a classified basis.

Similarly, the agreement between Iran and Rockwell International in February-March of 1975 to establish a communications-intelligence facility—capable of intercepting civilian and military communications in the Persian Gulf—was not made public until June. This was despite the fact that the agreement called for recruitment of past and present staff of the United States National Security Agency and the Air Force Security Service, many of whom have, or have had, access to this country's most closely guarded intelligence techniques.

One defense analyst recently estimated that by 1980 there may be well over 150,000 Americans in Iran alone associated in some way with servicing Iranian military forces. We should know by now that arms supplies and military advisers abroad can be the first step down a perilous slope. If this will be one of the eventual side effects of today's arms-sales policies, the American people ought at least to be informed about it.

Just as the quality and quantity of our arms shipments have changed, so too have the recipients of our largess. In the immediate post-World War II period, the main receivers were our European allies and the "forward-defense countries," those on the perimeter of the Soviet Union and China. The rationales were phrased in the terminology of the Cold War: to contain monolithic Communism, to bolster our allies to withstand the onslaught of Red armies marching across Europe, and to secure base and landing rights for our own forces. Today, more than 80 percent of our arms sales are to the Persian Gulf and the Middle East. In 1974, Iran signed orders to buy more American military equipment than the rest of the world combined had ordered from any country in any previous year. Yet the same rationales of twenty years ago are being used to justify today's sales to these countries.

One important by-product of these prodigious arms sales to the Persian Gulf countries is the spillover effect on the volatile Middle East. The arms we are now furnishing to Jordan, Saudi Arabia, Kuwait, and Lebanon, by heightening Israel's sense of insecurity, are fueling the very arms race in the Middle East we say we are committed to avoiding. Our massive infusion of highly sophisticated weaponry into the region can hardly be seen as conducive to stability.

Lastly, we should consider the lack of public and Congressional control in the formulation of arms-trade policies. Just as the quantity and quality and the recipients of arms have changed, so too has the method of payment, and with it Congress's participation in the transactions. When weapons were furnished to our allies after the Second World War, they were donated as military aid and Congress had to authorize and appropriate the necessary funds. As the European allies recovered and our foreign-policy horizons began to broaden, credit was then extended to loan nations money to buy American weapons. Again, Congress had to authorize and appropriate the money. In both cases—the extension of aid and of credit—mechanisms existed for the participation (albeit often perfunctory) of Congress.

The transition from aid and credit to cash transactions occurred simultaneously with the rapid rise in United States arms sales. Until 1974, Congress effectively had no voice in cash arms transactions. It seemed to many that there was an inverse relationship between the importance of arms transactions as implements of United States foreign policy and the amount of Congressional involvement.

By 1974 three factors coalesced presaging change:

Congress began to reassert its prerogative in the formulation of foreign policy in general, and in the area of arms sales in particular.

Congress reacted sharply to the disclosure in the news media of some large arms deals.

Congress responded to public concern about the growing volume of arms traffic. Harris polls a year ago showed that, by an overwhelming 65-to-22-percent majority, Americans opposed United States military aid to foreign countries. A 53-to-35-percent majority opposed military sales (as contrasted with military aid).

The Nelson Amendment to the Foreign Military Sales Act, passed in 1974, provided for a Congressional veto of any weapon sale valued at $25 million or more (by a concurrent resolution of both Houses passed within twenty calendar days of notification of the impending sale by the executive branch).

Since the amendment became effective, 45 notifications of pending sales have appeared in the Congressional Record. Examining these reports, one finds that 22, or just under half, are in part classified or leave some of the required information unspecified. One such notification, reported on March 3, 1975, transmitted no information whatsoever, since the name of the recipient country, the equipment sold, the quantity, and the cost were all classified.

This year, both Houses of Congress realized that the Nelson Amendment involves Congress too late in the process. Too many bureaucratic and diplomatic wheels have been set in motion by the time Congress is notified of the pending sale. What Congress needs, as Carl Marcy, former chief of staff of the Senate Foreign Relations Committee, recently wrote, is "to be in on the takeoffs as well as the crash landings."

In early April, the International Security Assistance and Arms Export Control Act of 1975 was referred back to the House and Senate by a joint House-Senate Conference for final approval. The bill:

Unifies the procedures of arms sales by commercial and government-to-government channels,

Establishes an over-all annual ceiling for all military sales of 9 billion constant 1975 dollars, subject to a case-by-case Presidential waiver,

Phases out all military-assistance programs and military-assistance advisory groups by September 30, 1977,

Requires all military sales of $25 million or more and all sales of "major defense equipment" to be handled on a government-to-government rather than commercial basis,

Requires the President to submit an annual country-by-country justification of the government-to-government sales program to Congress.

Requires the President to conduct a comprehensive study of the arms-sales policies and practices of the United States government, and to report the findings to Congress,

Expands the reporting procedures on military exports, including agents' fees and political contributions.

Limits the President's authority to draw on Department of Defense stocks for military-assistance programs unless he certifies that such a transfer is vital to United States security, and

Increases the time available for Congressional consideration to thirty calendar days.

With this capsulation of how arms-trade policy is formed in the executive and legislative branches, we can now address the question of what should America's trade policies be?

First, and foremost, America's basic policy should be not to sell weapons as a matter of policy at all. Only in certain cases, when there exists a broad, well-defined consensus or when there is a longstanding United States commitment or a special and well-understood close relationship, should our general policy be one of arms sales. Areas that fall into this category are our NATO allies, Israel, Japan, and possibly Korea. For all other countries, the burden of proof should be on those who want to make the sale. How would the sale benefit long-term United States objectives? What alternative options exist for meeting those objectives, other than the sale of arms? What are the arms-control and arms-race implications of the proposed transfer? What alternative sources of supply are available? How would United States national interests be affected if another nation supplied the weapon?

Second, international affairs is not, as some would have us believe, the exclusive domain of the executive branch. The Constitution divides between the two branches of government the power to determine the nation's foreign policies and to shape their content. American arms-sales policies must be fashioned in a cooperative spirit between them.

Third, we must stop abusing the national-security classification system as we have been doing by withholding information about arms sales from the American people. It is difficult to see how disclosure of American arms sales or training can be construed as injurious to the security interests of the United States, and that is the only legal basis for such a classification. It is the recipient countries that do not want their neighbors, rivals, or potential adversaries to know how many of what kind of weapons they are acquiring from whom. But for the United States government to acquiesce in this practice is a warped use of the nation's security classification program and should be immediately disavowed, along with all other forms of clandestine dealings.

Lastly, the American public ought to be more actively involved in the determination and formulation of our arms-trade policies. There are no absolute experts in determining the national interest and there is nothing in the realm of basic foreign policy—or any other policy—that cannot be understood by most Americans.

The executive branch, which will always strive to present current policies in their most favorable light, also has an obligation to furnish materials that would facilitate the expression of alternative views. Newsletters, digests, public debates, increased availability of documents—all of these can help to increase the public's awareness of and interest in foreign policy and arms-trade issues.

On the legislative side, I would advocate more Congressional foreign-policy debates, with opposing witnesses cross-questioning each other; opening more Congressional debates to television; and using Congressional newsletters as a means to educate constituents on questions such as pending arms sales.

Can this be done? In the words of Albert Schweitzer, "As to the question of whether I am a pessimist or an optimist, I answer that my knowledge is pessimistic but my willing and hoping are optimistic."

JEC HOLDS MIDYEAR HEARING ON THE STATE OF THE ECONOMY

Mr. HUMPHREY. Mr. President, the Joint Economic Committee held the second in its series of midyear hearings on June 17, 1976, on the state of the economy. Testifying before the committee were James O'Leary, vice chairman of the U.S. Trust Co. of New York, Arthur Okun, senior fellow at the Brookings Institution, and Thomas Dernberg, professor of economics at American University who discussed the economic outlook and fiscal policy needs.

According to James O'Leary, the recovery "has been vigorous and broad-based." The basic force behind the surge has been the rise of consumer and business confidence. For the most part, O'Leary added, the private sector of the economy worked to strengthen business activity. Another substantial boost to the recovery was the reliquidation of the economy, which in turn, encouraged capital spending and increased demand. He noted:

> The authorities have struck a good balance between encouraging a strong but sustainable rate of economic expansion and at the same time contributing to a significant improvement in the inflation picture.

Yet now, he cautions, the authorities must continue to guard against too rapid an expansion of money or the result will be another round of double digit inflation. He believes that chronic unemployment is one of our most serious problems, and therefore advocates selective unemployment policies such as public service jobs, manpower training, and other such measures.

Arthur Okun also expressed a similar view, stating that:

> The economy is improving but we have a long, long way to go to regain prosperity.

He expects the growth rate to slow down next year. Yet he believes that a maintenance of this year's pace would be desirable for next year. However it would necessitate an additional stimulative fiscal and monetary program and for that reason he does not recommend taking such an initiative. He therefore bases policy planning on an "optimistic assessment of the forthcoming vigor of private demand." Mr. Okun believes that the first concurrent resolution is a major improvement over the administration's budget proposal which was too restrictive. Overall, he urges a "steady-as-you-go" approach which he believes is a safer and wiser course to follow.

Thomas Dernberg expressed less satisfaction with what he terms the "fiscal conservatism that seems to have invaded the Hill." He believes that this conservative trend is unfortunate, and he advocates fiscal stimulus now rather than later when the economy begins to falter. He believes that it will be more difficult to introduce new expenditure programs in the future. Now the economy is well below its potential, he states, and additional stimulus would be least likely to renew inflation. He believes the risk of inflation would be minimal and further might produce a rise in the growth rate and also might lower the deficits of the future. He concludes by urging Congress to reduce personal income taxes and adds that it should be done as soon as possible.

As I have previously stated, I believe that the economic recovery the past year has been gratifying. At our annual hearings in January, I was more optimistic about the recovery than either the administration or even the economists who testified before our committee were at that time. I am pleased to see that my expectations have come to pass. I credit congressional initiatives for being partly responsible for the turnaround. Sharply reduced economic growth in the second quarter reminds us, however, that it is still premature for self-congratulations, and Congress must continue its vigilance to see that the recovery remains on track.

WHO NEEDS THE B–1?

Mr. CULVER. Mr. President, Sunday's New York Times magazine contained an excellent article by John Finney entitled, "Who needs the B–1?"

The article traces the history of the B–1 and its rationale. Mr. Finney writes:

> The justifications advanced by the Ford Administration spring more from flag-waving tradition than from logic.

A more rational debate, Mr. Finney suggests, would focus on such questions as:

> Why, when the United States has enough land-based missiles and missile-firing submarines to destroy the Soviet Union several times over, does it need a large fleet of bombers also capable of devastating the Soviet Union? Would the Soviet Union be deterred from attacking by the knowledge that, in addition to the missiles, the United States has 244 strategic bombers? Or, if deterrence failed, what difference would it make if the bombers were able to bombard their targets 6 to 8 hours after each side had laid waste to the other with several exchanges of missile salvos?

Mr. President, in order that all Members may have an opportunity to read this timely article, I ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, the B–1 bomber, the largest and most significant single item in this year's defense budget, promises to be a subject of controversy for months, if not years, to come. The decisions which the Congress and the next administration make regarding it will determine how we set our national priorities for decades and will, for good or bad, affect the lives of every American for the remaining years of this century and far into the next.

Whether we eventually actually proceed to construction of the B–1 and appropriate the necessary billions of dollars for that purpose will perhaps constitute the most momentous decision made by this and the succeeding Congress. Therefore, it behooves each of us and all Americans to know as much as possible about this fantastically expensive weapon. Words that would fill volumes have already been spoken and written on the subject, but there is still room for more knowledge and more insight on it.

In the New York Times Magazine of July 25, 1976, John W. Finney, a member of the New York Times Washington bureau and an outstanding observer of military affairs, wrote a most concise and cogent article entitled "Who needs the B–1?" His article should be read by anyone concerned with this subject, or, indeed, concerned with the future of our Nation.

Therefore, Mr. President, I ask unanimous consent that Mr. Finney's article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENSON. Mr. President, I am happy to see that the Senate Appropriations Committee, although by only a slender margin, has voted to withhold funds for the production of the B–1 bomber until after the inauguration of the next administration. This would give the new administration the opportunity to review the justification of the most expensive weapons system which the American people have ever been asked to pay for. I, for one, remain unconvinced that the strategic mission to be assigned the B–1 cannot be adequately undertaken by existing aircraft, suitably modified. The Pentagon correspondent of the New York Times, John W. Finney, shares my skepticism. He has concluded that "no other piece of military pork was ever so expensive or so unsalted with rational justification."

Mr. President, I ask unanimous consent that his article in Sunday's New York Times Magazine be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

EXHIBIT 1

WHO NEEDS THE B–1?

(By John W. Finney)

WASHINGTON.—Like a jet transport accelerating down the runway, a new strategic bomber is about to take off on potentially the most expensive weapons program ever undertaken by the Defense Department. The bomber is the B–1, the Air Force's supersonic successor to the B–52, which for 20 years has been the airborne symbol of America's nuclear might. With a needlelike nose and bulbously streamlined body that give it the look of a wasp coming in for the attack, the B–1 is a remarkable airplane, a tribute to the technological prowess of the United States. The only thing is, the executive branch and Congress are backing the multibillion-dollar investment without a clear, logical examination of whether a sophisticated new strategic bomber is needed—whether the plane is off on a Strangelovian flight of Air Force pride and fancy or on a mission essential to the nation's security.

The B–1, in fact, presents an example of how a weapons program starts off as an exploratory concept and then acquires a seemingly irreversible momentum powered by the parochial interests of a military service, industrial and labor-union pressures, chauvinistic slogans and public fascination with new technology.

The current estimate—and costs seem to keep rising as takeoff approaches—is that it would take $21.4 billion to develop and build a fleet of 244 B–1 bombers by 1985. That means $87.8 million apiece—provided the Air Force carried out its stated goal of building a fleet of 244 planes. There is reason to believe, however, that this figure was arrived at not on the basis of any clearly defined military requirement but in order to keep the unit cost of the bomber from zooming further up. If the Air Force builds fewer than 244—as some four-star generals privately acknowledge is probable—the unit cost will go even higher. Furthermore, the $21.4 billion estimate does not include the costs of weapons, or of a new fleet of tanker planes that eventually may be needed to refuel the B–1 in flight, or the expense of operating the bomber fleet. The $21.4 billion, therefore, is but the down payment on an investment that eventually may total anywhere from $50 billion to $100 billion. More than $2.4 billion has already been invested. Three test models of the B–1 are now flying. While a decision on whether to put the bomber into production is supposed to be made in late November on the basis of test results, the Ford Administration has already made a backhanded commitment to production by including $1 billion in the defense budget for procuring the first three operational models.

Yet the program may now have run into election-year politics. Jimmy Carter, after some equivocation, has come out against the B–1. In a statement to the Democratic Party platform committee, Carter described the B–1 as "an example of a proposed system which should not be funded and would be wasteful of taxpayers' dollars." His position was incorporated in the party platform, which calls for the production decision to be postponed until a new Administration takes office—as a band of Democratic liberals in Congress had been urging all along, against the prevailing sentiment in both houses. The B–1 may well become an issue in the Presidential campaign.

If it does, a rational debate would revolve around such questions as: Why, when the United States has enough land-based missiles and missile-firing submarines to destroy the Soviet Union several times over, does it need a large fleet of bombers also capable of devastating the Soviet Union? Would the Soviet Union be deterred from attacking by the knowledge that, in addition to the missiles, the United States has 244 strategic bombers? Or, if deterrence failed, what difference would it make if the bombers were able to bombard their targets six to eight hours after each side and laid waste to the other with several exchanges of missile salvos?

The B–1 has its origins in those glamorous days of World War II when the Air Force was first flying off into the wild blue yonder, bombarding Germany with B–17's and B–24's and Japan with B–29's. Whether this won the war, as air-power enthusiasts came to believe, is debateable, but it did implant the bomber as the centerpiece of the Air Force. It also spawned succeeding generations of bomber pilots—men with a "20-mission crush" to their hats and a machismo so well personified by Gen. Curtis LeMay sitting at the controls with a cigar plugged in his mouth. These men came to dominate Air Force thinking and command.

After World War II, the bomber became the designated weapon for delivering the atomic bomb against the Soviet Union. It thus became synonymous with deterrence, a concept that still prevails in the White House, the Congress and the Pentagon. The Air Force has built a series of strategic bombers—the lumbering B–36 and the sleek B–47, both long since consigned to the graveyard; the B–58, the Air Force's first abortive attempt to develop a supersonic bomber; the FB–111, which became known as "McNamara's folly" and was stopped by Congress after only 75 aircraft were produced. The backbone of the strategic-bomber force came to be supplied by the B–52, probably the Air Force's greatest aeronautical achievement. Even today, 24 years after its first flight, the B–52 is an important part of the strategic deterrent, carrying about 25 percent of the weapons in the nuclear arsenal and about 50 percent of the megatonnage.

Despite the advent of intercontinental ballistic missiles two decades ago, the Air Force continued to emphasize the role of the bomber. (The Soviet Union, by contrast, turned to missiles.) Although the land-based Minuteman and submarine-launched Polaris and Poseidon missiles began to displace the bomber by the early 60's as the primary delivery system of the strategic forces, the "bomber generals" were not about to abandon a weapon that, if nothing else, still provided the warrior with a place in the cockpit. Even before production of the B–52 was discontinued in 1962, the generals were looking ahead to a new bomber—which, of course, had to be supersonic, if only because the rival fighter pilots had long since broken through the sonic barrier. What ensued was one of the biggest weapons fiascoes of the postwar period—the B-70 Valkyrie bomber.

The B-70 was designed to dash in at high altitudes over the Soviet Union—so high and so fast that no Soviet fighter could ever catch it. The whole concept was exploded in 1960 when Gary Powers and his U-2 spy plane were shot down over Soviet territory by a ground-to-air missile. This proved that no bomber, whatever its speed and altitude, could outrun a missile. It took several years for the Air Force and its Congressional allies to accept that lesson, however, and for years the Congressional armed-services committees sought to keep the B-70 program alive, while the Kennedy Administration sought to kill it. The program was finally scrapped in 1966, after two flying prototypes had been built and $1.48 billion had been spent. One of the B-70's crashed, and the other Valkyrie was flown to its Valhalla in an Air Force museum in Ohio, where it rests as one of the most expensive museum pieces in history.

Out of the ashes of the B-70 program rose the B-1. Since flying fast and high would no longer do, the new bomber would fly fast and low—so low that it could not be detected by radar in time for the enemy to fire his ground-to-air missiles. The concept was studied for several years under a program known as AMSA, an acronym for Advanced Manned Strategic Aircraft that an impatient Air Force sometimes suggested really stood for "America's Most Studied Aircraft." In June 1970, North American Rockwell was awarded a $1.4-billion contract to build three flying prototypes of the B-1. (This firm, incidentally, had by then absorbed the company—North American Aviation—that had developed the B-70; it has since become Rockwell International.)

The new plane that came off the drawing boards is two-thirds the size of the B-52 but superior to it in many ways. With its four engines, each with a thrust of 30,000 pounds, it can fly at supersonic speeds at high altitudes and at near sonic speeds at tree-top levels. Its wings can sweep forward for a quick takeoff and back for high speed, and give the plane a maneuverability that is a delight to bomber pilots long envious of the fighter pilots' aerial acrobatics. The plane has a four-man crew. Two of them pilot the plane. The other two operate the "black boxes" that send out electronic signals to counteract the enemy's warning system and that control release of the missiles. These are 24 SRAM's—the Short-Range Attack Missile that has a range of about 100 miles and is designed to overwhelm the heavy final defenses by delivering its thermonuclear warheads on the target at supersonic speeds.

The bomber has a maximum range of about 6,000 miles—not enough for a round-trip mission against the Soviet Union. The typical mission, therefore, would call for the B-1 to be refueled by an aerial tanker on the way there. Then it would dip down to a few hundred feet, hedge-hopping along at speeds of about 600 miles per hour as its terrain-tracking radar system automatically took it up over hills and down into valleys to avoid radar detection. Then, about 100 miles from the target, it would fire its SRAM missiles and take a low-level escape route out of the Soviet Union.

The main objection raised by the bomber's critics has been its price tag. In 1970, the Air Force estimated it could develop and build its 244-plane fleet for $9.9 billion, or about $40 million per plane. Today, as has been noted, the estimate is $21.4 billion, or $87.8 million per plane, and some Air Force officials concede that the cost per plane could reach $100 million.

However, the cost increase is somewhat misleading. According to Air Force calculations, only 12 percent of the increase is the result of cost growth in the program, the rest is attributable to inflation. Measured in 1970 dollars, the Air Force figures the program will cost $10.9 billion, or $45.1 per plane—not all that far from the original calculations. And anyhow, most people would agree that the cost should not be the determining factor. It may be a Pentagon bromide but it's still true that the United States can afford to spend whatever is necessary to provide for its security. The key question is not whether the B-1 is too expensive, but whether it is necessary.

The justifications advanced by the Ford Administration spring more from flag-waving tradition than from logic. They go as follows: The United States has already had a bomber; the B-52 is getting old; hence, the nation needs the B-1. Throw in the argument that "we need the B-1 to stay ahead of the Russians" and the logic becomes well-nigh irrefutable as far as the Defense Department and Congress are concerned. The clincher is that production of the B-1 would create tens of thousands of jobs across the nation—a point being quietly pressed by the corporate-union lobby that has emerged in support of the program. Nothing so bestirs a Congressman to vote aye as the prospect of creating jobs in his home district that in turn will contribute to his re-election. Indeed, the B-1 eventually may be bought by Congress not so much as a military necessity but as a job-creating bonanza—or, as some would say, boondoggle.

In strategic terms, however, the case for the B-1 rests on the premise that has determined this country's determined posture for some 15 years. The premise is that the United States requires a triad of strategic forces—the land-based intercontinental missiles, the submarine-launched missiles, and the bombers—and that each leg of the triad should be able to sustain a Soviet attack and retain the capacity to retaliate in sufficient force to inflict "unacceptable damage" on the Soviet Union. From this it follows that the Air Force needs a bomber capable of attacking all targets in the Soviet Union, including such hardened targets as missile silos or command centers that normally would be assigned to land-based ballistic missiles. That means it needs a bomber capable of penetrating Soviet air defenses and taking out the heavily defended, hardened targets with SRAM missiles—and of doing this independently, without any assistance from the land-based or submarine-based missiles. That means the country needs the B-1.

For there is not much question that a high percentage of B-1 bombers would be able to get close enough to their targets to score hits with their 100-mile-range SRAM's. Some day, of course, the Soviet Union is going to develop defensive aircraft with "lookdown" radar that can spot low-flying airplanes, as the United States already has done with AWACS radar command plane, and at that point the B-1 is going to need a capacity to shoot its way to the target by knocking down the intervening radar and fighter planes. As might be expected, the Air Force already is preparing for that contingency by developing an Advanced Strategic Air-launched Missile (which will add further to the B-1 program's cost).

But what if the basic premise of the triad is no longer valid? What if there is no longer a need for three independent legs?

Given the vested interests and traditions that have grown up around the current doctrine, phasing out the bombers, as advocated by some academic authorities, is undoubtedly too radical an approach even to be considered, at least for now. But the triad premise can be challenged in a different manner—and it has been, and by none other than James R. Schlesinger, the former Secretary of Defense. Schlesinger, who is undoubtedly the best strategic thinker ever to occupy that post, and whose credentials as a conservative on military matters are impeccable, made this significant if little-noted observation in his "defense-posture statement" to Congress in 1975: "Each leg of the triad is not required to retain independently a capacity to inflict in a second [i.e., retaliatory] strike unacceptable damage upon an attacker. Instead, the three legs of the triad are designed to be mutually supporting. . . . Missiles, for example, could help clear the way for bomber penetration, and bombers, in turn, could help to fill the gap of those important targets missed by missiles."

With that policy statement, Schlesinger was trying to promote a reassessment of the structure of the strategic forces, including a reexamination of the presumed need for the B-1 bombers. Privately, Schlesinger was no great enthusiast of the B-1; to Representative Les Aspin he once confided that it was one of "the Cadillacs I inherited." Had he questioned the need for the B-1 publicly, however, it would have meant a bruising debate with the Air Force and its Congressional supporters. He chose to keep silent for the sake of maintaining harmony within the Pentagon and selling an expanding defense budget to Congress. There were also the arguments that a go-ahead on the B-1 would convey a message of American determination in the face of the Soviet strategic buildup, and would improve chances of reaching a strategic arms-limitation agreement with Moscow—rationalizations that have been used to justify billions of dollars' worth of weapon programs in recent years.

But if, as Schlesinger suggested, the United States does not need three independent strategic forces—if each leg of the triad should instead be mutually supporting—what role remains for the bomber? A considerable one.

So long as the United States has bombers, the Soviet Union confronts a virtually insuperable timing problem in planning an attack on American land-based strategic forces. The reason is the difference in flight times between an intercontinental ballistic missile (ICBM) and a submarine-launched ballistic missile (SLBM). In a surprise attack, the Soviet Union would need to use its ICBM's, with their high degree of accuracy, to destroy the American missiles in their hardened underground silos, while the SLBM's, which are less accurate, would be used to destroy the more exposed and vulnerable bomber bases. However, it would take a Soviet ICBM about 30 minutes to reach the United States, whereas the shorter-range SLBM would take only 7 to 15 minutes. Thus, it would be impossible for the Soviet Union to conduct a simultaneous attack against the American land-based missiles with its ICBM's and against the bomber bases with its SLBM's. If it launches its ICBM's first, the American bombers will have sufficient warning to get airborne and attack their targets in the Soviet Union. In the more likely event the Russians launch their SLBM's first, there will be sufficient time to launch the American land-based missiles before the Soviet ICBM's arrive.

Then there is another consideration. The nation's fixed, land-based missiles are becoming potentially vulnerable to Soviet attack. But if the three legs of the triad are made mutually supporting, it is no longer necessary to maintain a force of 1,000 Minuteman ICBM's, a number dictated by the requirement that the intercontinental missiles be able, on their own, to take out every target in the Soviet Union. Instead of being an independent retaliatory force, the Minutemen would become the "war-fighting force," built around a smaller number of highly accurate missiles. This would fit into another of Schlesinger's doctrinal innovations—that short of all-out retaliation, the United States should have the ability to conduct selective, surgical strikes against Soviet military installations. It may seem far-fetched to presume that the United States and the Soviet Union would exchange a few nuclear salvos just to test each other's resolve, but that concept has crept into the prevailing strategic doctrine, and so long as the Defense Department insists on some "nuclear war-fighting capability," it will need some land-based missiles because of their precision and capacity for quick reaction. It will thus continue to need bombers to make it more difficult for the Soviet Union to launch a surprise preemptive attack on the missiles.

For all-out retaliation, the nation would depend upon its Poseidon (and, now, Trident) submarines, which are invulnerable for the foreseeable future. That, however, would provide another reason for bombers—as a force capable of retaliating against the Soviet Union in case of failure on the part of the submarine missile force.

But if the bomber's role becomes complementary rather than independent—to shield the land-based missiles and to provide a retaliatory hedge— then the United States does not need a bomber as expensive and sophisticated as the B–1.

For retaliation, it could turn to a less sophisticated bomber, one that might not be able to attack as many targets as the B–1 but would still be able to destroy enough of the Soviet population and industrial centers to deter any Soviet attack. The alternative to the B–1 is a "stand-off bomber." Stopping short of the Soviet border, the bomber would fire salvos of cruise missiles—basically, jet-powered drones—against Soviet urban and industral centers. Low-flying and numerous, the missiles would confound the Soviet defenses. With their computerized guidance systems—capable, for example, of hugging the terrain by following a terrain profile placed in the computer—they could achieve extremely high accuracies with enough warheads to devastate the Soviet society.

To achieve this technology would not require development of a new plane. It would be possible to modify one of the existing wide-bodied jet transports, such as the Boeing–747 or the McDonnell-Douglas DC–10, into a stand-off bomber, and at less cost than the B–1 program, Richard N. Garwin, a Pentagon adviser and the leading advocate of the stand-off bomber, estimates that a force of 200 wide-bodied transports carrying 10,000 cruise missiles could be purchased for $17 billion. Apart from the savings on the initial invetment, the stand-off bomber fleet could be operated and maintained at far less cost than a B–1 force.

There is thus a good case to be made for a continuing role for a manned bomber—but not the B–1.

Militarily, there is no pressing need for rushing into production of the B–1. For one thing, there is still the B–52. Down the years, as it pressed for a new bomber, the Air Force gave the impression that the B–52 was about to collapse from fatigue. But now, with the B–1 within its grasp, the Air Force acknowledges that some 250 of the later models of the B–52 will be usable well into the 1990's. The B–52 may not be all that the Air Force thinks it needs in the way of a bomber, but at least its new lease on life provides time to study alternatives to the B–1.

The Air Force used to boast that its B–52 bombers could drop a bomb in a pickle barrel. Now it can be fairly said that the Air Force and its contractors are trying to fly a bomber out of a pork barrel. It is a revealing illustration of how the military-industrial-Congressional complex goes about selling a major weapons program—this time with White House support. President Ford chooses to announce in Cincinnati, in the midst of the primary campaign, that the B–1 will be produced. No matter that the President is undercutting the Pentagon procurement doctrine that weapons should be fully tested before a commitment to production is made. More important is the political consideration that the engines for the bomber are to be made by General Electric in a plant near Cincinnati. Rockwell International wages a well-orchestrated campaign to explain to members of Congress what jobs will be created in their home districts if the program is approved. By Rockwell estimates, production of the B–1 will involve 500 subcontractors and suppliers in 48 states and create 70,000 jobs—and, indirectly, 120,000 more. When a challenge to the B–1 is raised on the House floor, there is a representative of the United Auto Workers in the lobby urging Congressmen to vote for production. Meanwhile, over at the Pentagon, the key figure in determining whether the B–1 is ready for production is Dr. Malcom R. Currie, Director of Defense Research and Engineering, who was recently reprimanded for going to a Rockwell fishing lodge in the Bahamas in violation of Defense Department standards of conduct.

The B–1 is not the first weapons program to be caught up in pork-barrel politics. The difference is that no other piece of military pork was ever so expensive or so unsalted with rational justification.

PRESIDENTIAL PRIMARY REFORM

Mr. McCLURE. Mr. President, the expensive patchwork method by which Presidential primaries are held is almost certain to be the subject of many reform proposals in the coming months.

In this connection, the 33d Gem Boys State Legislature, sponsored annually by the Idaho American Legion, has adopted a memorial urging Congress to devise a system whereby primaries would be grouped together by geographical area. The resolution is the work of Lee Parisot, a senior at Coeur D'Alene High School. He is to be congratulated for his interest in this important matter. Because it deals with an issue in Congress we must contend with, I ask unanimous consent that the memorial be printed in the Record.

There being no objection, the memorial was ordered to be printed in the Record, as follows:

Joint Memorial No. 113

A joint memorial to the honorable American Legion Boys Nation and Girls Nation Senate and House of Representatives of the United States in Congress assembled, and the honorable congressional delegation representing the State of Idaho in the Congress of the United States

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Thirty-third Idaho Gem Boys State Legislature, do hereby respectfully represent that:

Whereas: the existing thirty (30) presidential primaries held across the United States present several state primaries being held in different geographical areas in the country on the same date; and

Whereas: the present system yields an expensive and uncoordinated campaign for the presidential contenders; and

Whereas: the present thirty (30) presidential primaries yields an unduly long campaign period; and

Whereas: regional primaries, grouping contiguous states in geographical contained areas, would give new candidates and issues an opportunity for national exposure on several successive dates, and

Whereas: fewer presidential primaries would develop issues and still give sufficient candidate exposure; and

Whereas: those states which choose to have primaries that are in a common geographical area would see more efficient use of candidates' time and money by holding their primaries on a common date; and

Whereas, Idaho, Nevada, and Oregon may have successfully pointed the way with similar laws, similar candidate lists, and a common date.

Now, therefore, be it resolved by the 1976 Thirty-Third Gem Boys State Legislature, now in session, the Senate and the House of Representatives concurring, that the Congress of the United States, the American Legion Boys Nation and Girls Nation, Assembled, set up a system whereby those states choosing to have primaries are grouped into geographically contained areas with common primary dates to each geographical region.

Be it further resolved that the Chief Clerk of the House of Representatives be, and is hereby authorized and directed to forward copies of this Memorial to the President of Boys Nation and the President of Girls Nation, to the President of the Senate and Speaker of the House of Representatives of the Congress, and to the Speaker and Representatives of the State of Idaho in the Congress of the United States of America.

DR. ROBERT R. MARTIN

Mr. HUDDLESTON. Mr. President, on Tuesday evening the Eastern Kentucky Alumni of Washington are honoring Dr. Robert R. Martin, who is completing a 16-year term as president of the university in September.

Few educators in Kentucky's history have made such a great contribution to our State and I ask unanimous consent that his biography be printed in the Record.

There being no objection, the biography was ordered to be printed in the Record, as follows:

Robert R. Martin, Sixth President, Eastern Kentucky University

Dr. Robert R. Martin, sixth president of Eastern Kentucky University, is serving the sixteenth year of his tenure as chief executive of his alma mater, and has announced his retirement effective September 30, 1976.

A native of Lincoln County, Kentucky, he has led the administration of Eastern since 1960, when he became EKU's sixth president.

The University, during this period, has increased its enrollment five-fold, and has added some $117 million in buildings and other facilities. But, more significant has been the proliferation of major fields of study at the undergraduate and graduate levels where program majors have been increased nearly ten-fold from the 26 available in 1959.

Dr. Martin was installed as the president of the 300-plus member American Association of State Colleges and Universities in 1971 and has also served the AASCU as chairman of the committee on federal programs and as a member of its board of directors. He is a member of the U.S. Department of Health, Education and Welfare's Advisory Council on Developing Institutions.

For the American Association of Colleges for Teacher Education, Dr. Martin toured Yugoslavia in March and April, 1967. And, in 1975, he was part of an AASCU delegation touring Red China. Recipient of a Danforth Foundation, Grant, he spent 13 weeks of 1971 touring England and Europe studying public institutions of higher education there.

He served on the executive committee of the Southern Regional Education Board for 1968, and on that Board's advisory council on instructional television. Dr. Martin has also served on the Kentucky Authority for Educational Television. (Eastern's was Kentucky's first ETV station to begin operation.)

A history and geography major as an undergraduate, Dr. Martin has maintained a lifelong interest in both. A member of the Filson Club and a director of the Civil War Roundtable at Lexington, he is president of the Kentucky Historical Society. As president of the Fort Boonesborough State Park Association, he led that organization in its promotion of the recently restored fort at Fort Boonesborough State Park.

In 1964, he received the Kentucky Press Association's "Kentuckian of the Year Award." Two years later Governor Edward T. Breathitt presented Dr. Martin the governor's Distinguished Service Award for his "contribution to higher education."

The Joint Alumni Council of Kentucky awarded Dr. Martin its first Service Award for contributions to higher education. Dr. Martin has also received the Department of the Army's Outstanding Civilian Service Award for his support of the Reserve Officers Training Corps program.

Following his graduation from Eastern in 1934, Dr. Martin taught history at Sardis High School in Mason County, and served the next three years as principal of three other schools in Mason County. Four years of summer sessions earned him the MA from the University of Kentucky, just at the beginning of World War II.

For 41 months he served as a weather observer-forecaster in the U.S. Army.

Soon after his discharge, he was hired as an auditor of the State Department of Education, serving in that capacity until 1948 when he was appointed head of the Bureau of Administration and Finance in that department. He took a year's leave to earn a doctorate in education at Teachers College, Columbia University. While there he was research assistance to Dr. Paul R. Mort, noted as an authority on public school finance and the adaptability of school systems.

Returning to Kentucky, Martin worked actively with the committee that drafted the Foundation Program for Education law and worked for its enactment at the 1954 General Assembly. He won election as State Superintendent of Public Instruction in 1955 and was appointed Commissioner of Finance in December, 1959, by Governor Bert T. Combs, a position he held through June 30, 1960.

Dr. Martin succeeded Dr. W. F. O'Donnell, who reached the mandatory retirement age of 70, on July 1, 1960, as the sixth chief administrator of Eastern.

Recipient of the first "Outstanding Alumnus Award" at Eastern in 1956, Dr. Martin is active in a member of civic organizations including Masons, Shriners and Rotary Club. A Phi Delta Kappa, he has served as a member of the Southern Regional Education Board since 1956.

Dr. Martin belongs to the National Education Association, the Kentucky Education Association, the American Association of School Administrators, Kappa Alpha Pi, and Phi Delta Kappa.

He chaired the United Cerebral Palsy fund campaign for the state of Kentucky in 1964. He is the author of a number of articles on school administration.

Dr. Martin is married to the former Anne Hoge, Frankfort. They are members of the First Presbyterian Church in Richmond.

COURAGEOUS ACTION OF A BOY SCOUT

Mr. TALMADGE. Mr. President, I would like to bring to the attention of my colleagues the courageous action of a young Georgian.

Last Thursday, with the boldness and presence of mind well beyond his 12 years, Joseph Ebberwein, Jr., pulled two drowning children, ages 3 and 2½, from the sea at Savannah Beach. With the knowledge he had gained from the Boy Scouts, of which he is a member, he then administered mouth-to-mouth resuscitation which immediately revived one of the children. Joe then dashed for emergency assistance which resulted in saving the other child.

Joe's bravery is a credit to his family, his community, and the Boy Scouts. The training he received from this outstanding organization is dramatic proof of the valuable guidance it can provide young men.

I congratulate Joe for his courage and quick action, and ask that the following article from the Savannah Morning News be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

YOUNGSTERS RESCUED AT SAVANNAH BEACH

(By Don Snelling)

They were both bobbing in the water at Savannah Beach when Joe spotted them Thursday.

"They" were 3-year-old Tonia Morris of 11 L'Arbre Road, and Melodie Buchans, who is 2½ and lives at 306 L'Arbre Road.

Neither of them could swim.

Joseph Ebberwein Jr., 12-year-old son of Mr. and Mrs. Joseph K. Ebberwein of 628 Washington Ave., acted quickly.

He rushed into the water and put one child under each of his arms and carried them to the beach and placed them on their backs.

Joe, a Boy Scout with the rank of Tenderfoot, less than a month ago completed a four-week basic water safety course at the Savannah Golf Club.

"I placed them both on their backs and I tilted Melodie's head backwards and her head sideways," he said. "I cleared her throat with my finger and I started breathing in her nose.

"I saw her chest rise and she started crying," Joe said. "I talked to her and tried to calm her down and then I started working on Tonia."

The boy said Tonia did not respond to mouth-to-mouth resuscitation. He gave her a sharp slap in the middle of the back. Still there was no response.

"I saw a couple lying on the beach about a hundred yards away," he said. "I started yelling 'help' and I kept on screaming and hollering at the couple telling them I had two little girls down here."

He said the couple ran down to where he was and took over for him.

He rushed back to his uncle's house, located near the lighthouse at Fort Screven, and told him to call an ambulance.

Both of the girls were rushed to Memorial Medical Center and were listed in fair condition Thursday night.

Joe stayed at his uncle's house because "I was a little nervous."

The infants apparently had wandered away from their parents and walked into the water until they lost their footing and got in over their heads.

SENATOR McINTYRE COMMISSIONS U.S.S. "KINKAID"

Mr. DURKIN. Mr. President, on the 10th of July my friend and distinguished colleague, Senator TOM MCINTYRE, commissioned the U.S.S. *Kinkaid* at Pascagoula, Miss.

The *Kinkaid* is the third *Spruance*-class destroyer in a projected fleet of 30, the second to join the Pacific fleet and to my knowledge the first major American fighting ship to be named after a New Hampshire man.

The late Adm. Thomas C. Kinkaid was born in Hanover, N.H., on April 3, 1888. From midshipman school to his retirement in 1950, he served the Navy and his country for 46 years, and did so with devotion, dedication, and superlative competence.

An authentic naval hero, Admiral Kinkaid proved his valor in the World War II battles of the Coral Sea, Midway, the Solomons, and Leyte Gulf. As commander of the Seventh Fleet and of all allied forces operating in the Southwest Pacific theater, Admiral Kinkaid was known as "The Commander of MacArthur's Navy," for the Seventh Fleet supported MacArthur's operations in Hollandia, the Philippines, the Admiralties, and Borneo.

The official motto of the ship that now bears his name is "Steadfast and True," words drawn from two letters from and about Admiral Kinkaid. "Steadfast" was the word Fleet Adm. Ernest King used to describe Admiral Kinkaid when he wrote a letter to Mrs. Kinkaid in 1942. And "True" is from a letter Admiral Kinkaid wrote to his wife in 1945, when he said that above all else he wanted to be remembered for having been true to his mission.

Admiral Kinkaid passed away on November 17, 1972, but his widow lives here in Washington and was the sponsor of the fighting ship that now carries her husband's illustrious and inspiring name.

Her message to the Kinkaid's commanding officer, Comdr. Howard J. Kerr, upon the ship's commissioning read:

> Congratulations and best wishes on the occasion of the commissioning of the Kinkaid. My thoughts and prayers are with you. May your efforts and those of the officers and men of the Kinkaid be crowned with every success.

Mr. President, the event at Pascagoula July 10 was noteworthy in more than one respect, for in his commissioning address Senator MCINTYRE described the kind of Navy he believes we must develop to help insure our security and encourage peace.

He said:

> Today's challenge is to build and maintain a truly balanced Navy that does not squander hard-won tax dollars on meaningless races to achieve a numerical, or a size, or a status superiority in vessels we do not need, but expends them wisely in those specific areas where there is a demonstrable need to meet a demonstrable threat.

Though Senator MCINTYRE affirmed his confidence in overall U.S. superiority in seapower, he said there was a "demonstrable need to respond to the demonstrable threat of the Soviet advantage in attack submarines."

He asked:

> Now how do we meet that need? By building a small number of extremely expensive, nuclear-propelled, multi-missioned strike cruisers with less than proven anti-submarine warfare capabilities? Or by building a large number of less-expensive, conventionally-powered ships specifically designed for anti-submarine warfare? I opt for the latter. Along with what I believe is a strong major-

ity of authorities, I want a balanced fleet of ships tailored to task, ships that carry out their missions with maximum efficiency and cost-effectiveness.

He said:

I want the kind of Navy symbolized by the very ship we are commissioning here today—the USS Kinkaid, third in a fleet of Spruance Class destroyers that will serve our interests—and the cause of peace—now and well into the next century.

Senator McIntyre noted that while the *Kinkaid* was almost twice as large as the last generation of destroyers, it can operate with greater versatility and speed than any other warships. The *Spruance*-class destroyers are the first U.S. fighting ships powered with gas turbines, are among the quietest of ships, and are equipped to undertake, alone or in task force, a wide range of missions.

Mr. President, because New Hampshire is honored to have such a magnificent ship named after a native son, and because of the importance of Senator McIntyre's message in his commissioning speech, I ask unanimous consent to have the biography of the late Admiral Kinkaid and the text of Senator McIntyre's remarks be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Adm. Thomas C. Kinkaid

Thomas Cassin Kinkaid was born in Hanover, New Hampshire on April 3, 1888. He attended the U.S. Naval Academy graduating with the class of 1908.

After graduation from the Naval Academy he served in the battleships *Nebraska* and *Minnesota* until September 1913, when he reported to the Postgraduate School, Annapolis, for instruction in Ordnance Engineering. From 1916 to 1918 he served aboard the USS *Pennsylvania* with service at the end of that tour with the British Admiralty.

He was Gunnery Officer aboard USS *Arizona* 1918–1919 when she was an escort ship for President Woodrow Wilson, then enroute to the Peace Conference at Versailles. Following a cruise to Asia Minor he was ordered to Washington, D.C. for duties with the Bureau of Ordnance, Navy Department, where he remained until July 1922.

From 1922 to 1930, Admiral Kinkaid served successively as Assistant Chief of Staff to the Commander, U.S. Naval Detachment in Turkish Waters; as Commanding Officer of USS *Isherwood*; at the Navy Yard, Naval Gun Factory, Washington, D.C. and as Fleet Gunnery Officer and Aide on the Staff of Commander-in-Chief, U.S. Fleet.

In 1930 he returned to Washington for duties in connection with the Treaty for the Limitation of Armaments, and in 1931 reported to the Secretary of State, then in Geneva, where he served as Technical Advisor in connection with studies relating to the Treaty.

From 1933 to 1938, Admiral Kinkaid served as Executive Officer of USS *Colorado*, with the Navy Department as Officer-in-Charge of the Officer's Detail Section as as Commanding Officer of the USS *Indianapolis*.

In November of 1938 he was designated Naval Attache and U.S. Naval Attache for Air at the American Embassy, Rome, with additional duty from March 1939 to March 1941 as Naval Attache to the Embassy in Belgrade, Yugoslavia.

He commanded Destroyer Squadron Eight from June 1941 until his promotion to Rear Admiral in November. This assignment was followed with command successively of Cruiser Division Six, Pacific Fleet, and a Task Force which engaged in the Battle of the Solomon Islands and the Santa Cruz Islands. In the Battle of Guadalcanal, November 12–15, 1942, he commanded a Task Force built around the USS *Enterprise* Air Support Group and Battleships, the first surface officer ever to command a Carrier Task Force.

In January of 1943 he assumed command of the North Pacific Fleet and was responsible for ending the Japanese occupation of the Aleutians. From November 1943 to 1945, then Vice Admiral Kinkaid served as Commander, Allied Naval Forces, Southwest Pacific Area. In this capacity he supported General MacArthur's landings in this area and engineered the defeat of the Japanese Fleet at the Battle of Leyte Gulf. Promoted to full Admiral in April 1945 he continued to serve as Commander, seventh Fleet until the war's end. After the war he returned to the United States and served as Commander, Sixteenth Fleet until his retirment in May 1950.

Admiral Kinkaid was the holder of four Distinguished Service Medals and numerous Campaign and Service Medals. In addition, he was an Honorary Companion of the Order of the Bath, awarded by King George VI of Great Britain; Grand Officer, Order of the Orange Nassau with Swords, bestowed by Queen Wilhelmina of the Netherlands and other decorations from Chile, Belgium and China.

Address by U.S. Senator Thomas J. McIntyre at the Commissioning of the Destroyer, U.S.S. "Kinkaid"

There are some rather special reasons why I'm as pleased as I am proud to take part in this commissioning of the USS *Kinkaid*.

The first speaks for itself.

The man for whom this magnificent fighting ship is named was not only an authentic hero with a long and truly distinguished record of service to his country, he was born in my home state of New Hampshire in the town of my alma mater, Dartmouth College.

And inasmuch as few politicians are averse to basking in even reflected glory, I leaped at the invitation to give the commissioning address.

(Pause)

Let me tell you a little about the man for whom this ship is named.

Himself the son of an admiral, Thomas Kinkaid was born in Hanover, New Hampshire on April 3, 1888.

He died on November 17, 1972, after a Navy career that spanned nearly half a century. In that time he held countless posts of demanding responsibility, climaxing with a succession of critical assignments in the Pacific in World War II.

From Task Group Commander . . . to Commander of a force built around the carrier Enterprise . . . to Commander, North Pacific . . . to Commander of the Seventh Fleet and of all Allied forces operating in the Southeast Pacific Theatre, Admiral Kinkaid wrote an indelible record of solid competence and valor.

Traditionally, we name our destroyers for Naval heroes. And Thomas Kinkaid—as an authentic hero—is most deserving of the honor.

But so, too, my friends, is this ship honored. For what could be more fitting—and inspiring—than to name a fighting ship after a man who fought so valiantly for his country at the Battle of the Coral Sea . . . the Battle of Midway . . . in the Solomons Campaign . . . and at the historic Battle of Leyte Gulf?

The man and the ship do honor to each other.

He was a great man, Admiral Kinkaid. A great officer and a great American. An American who would have been deeply satisfied to see a ship named after a Yankee commissioned in Mississippi, because this ceremony symbolizes the bridging of regions and the underlying unity of this great nation.

Last week we celebrated our 200th birthday as a nation throughout the nation.

And we celebrated it in an atmosphere singularly absent of violence and rancor and rich in good will.

For one glorious day, at least, we were one people again. Not a people separated by regional antagonisms, by race, by creed, by politics or culture, but a people joined in the pride of our heritage and united in resolve to correct the mistakes of the past and continue the pursuit of the American Dream.

In my judgment, we have no more urgent priority than to build upon that splended moment of unity and good will we experienced last Sunday . . . to bend every effort to break down whatever barriers remain between groups of Americans and parts of the country.

It will not be easy. No goal worth pursuing ever comes easily.

But we are riding a tide of history and circumstance that clearly dictates that now is the time to redouble our efforts because now that goal is within reach.

We are beginning—at long last—to understand each other, to shrug off old prejudices and turn the hard light of reason on ancient myths and stereotypes.

In the process, the North and the South are learning a new appreciation of one another, and to me this bodies well for the cause of national unity.

This same lesson in gaining understanding by dispensing with myths and prejudices and stereotyped thinking applies as well to the subject at hand—the building of ships for the United States fleet.

We have problems building this fleet. Major problems.

And the biggest problem is this: We have no clearly defined goal.

Last year the Senate Armed Services Committee asked the Department of Defense to present firm ship programs and approved force levels when it submitted its Fiscal 1977 request for funds.

Unfortunately, the Defense Department and the Navy failed to do so, reporting instead, that the National Security Council is doing a study on the subject which will not be finished until this October.

I hope this study will give us what we want, because we urgently need Navy ship programs keyed to meet specific needs now and well into the future.

We have no such firm plans, no over-all conceptual framework for the building of such a fleet. We proceed haphazardly, distracted all the while by debates over which nation is the greater seapower—the United States or Russia—and arguments over whether it is better to put our fleet money into fewer, bigger, nuclear powered vessels or into more, smaller, faster, more versatile conventionally-fueled ships.

This is not the occasion to engage in either debate, but this occasion *does* underscore a particular point that is pertinent to both issues.

After thirteen and one-half years on the Armed Services Committee, the past seven and one-half as Chairman of the Subcommittee on Research and Development, I like to think I've learned something about assessing military capabilities and making comparative analyses.

I think I've learned the folly of trying to compare apples and oranges, or using yardsticks that measure quantity but not quality, or exaggerating the importance of sheer numbers while ignoring how well—or how poorly—a particular unit of weaponry is tailored to its mission.

From this vantage, then, I found no reason to disagree with Defense Secretary Rumsfeld when he said, earlier this year, and I quote: "Soviet naval peacetime presence increased sharply in the late 1960's but now appears to have stabilized at a level below that of the overall U.S. presence." —end of quote.

When I take into account the superior quality of most of our fleet, how well the units are tailored to their specific missions, the superiority of the navies of our allies over those of the Warsaw Pact nations, I can only conclude that we still hold seapower edge over the Soviets.

Bear in mind, always, that when we compare major surface combatants we should be talking about *big* ships, ships that have an open-ocean offensive capability. Our Nimitz-class aircraft carriers displace 90,000 tons, our cruisers 11,000 tons, and our destroyers 7,600 tons. But almost half of the Soviet vessels that some call major surface combatants are small escorts that displace only 1,200 tons. Not only must such small vessels seek shelter in heavy seas, thus separating them from the larger ships they are escorting in blue water, but they must be refueled and resupplied more frequently, thus limiting their range of operations.

In contrast to this reassuring appraisal, however, is the alarming expansion of the Soviets' attack submarine capability in recent years.

By 1975 the Soviets had 75 nuclear powered attack submarines to our 62, and 178 diesel-powered subs to our 11.

Now what does all this mean to me, as one member of the Senate Armed Services Committee?

To me it means that the challenge before us is to build and maintain a Navy designed to meet *real*—not mythical—needs. A truly balanced Navy that does not squander hard-won tax dollars on meaningless races to achieve a *numerical* . . . or a *size* . . . or a *status* superiority in vessels we do *not* need, but expends them wisely in those specific areas where there is a *demonstrable* need to meet a *demonstrable* threat.

In this case the demonstrable need is to respond to the demonstrable threat of the Soviet advantage in attack submarines.

Now how do we meet that need? By building a small number of extremely-expensive, nuclear-propelled, multi-missioned strike cruisers with less than proven anti-submarine warfare capabilities? Or by building a larger number of less-expensive conventionally-powered ships specifically designed for anti-submarine warfare?

I opt for the latter. Along with what I believe is a strong majority of authorities, I want a balanced fleet of ships tailored to task, ships that carry out their missions with maximum efficiency and cost-effectiveness.

In contrast is the kind of Navy sought by certain dogmatists who in the past served their country nobly and well, but whose mindset has become so rigid that continuing to heed their counsel would be costly, counterproductive and even dangerous.

I don't want their kind of Navy.

I want the kind of Navy symbolized by the very ship we are commissioning here today—the USS Kinkaid, third in a fleet of thirty Spruance Class destroyers that will serve our interests—and the cause of peace—now and well into the next century.

For this ship was designed to meet a demonstrable need, and to meet it with maximum effectiveness. And this, my friends, is the second reason I'm so pleased to take part in her commissioning.

The Kinkaid was designed for submarine tracking and anti-submarine warfare, and it will be able to cope with future as well as present threats from nuclear attack and missile-launching subs because it was built with adequate reserves for future modernization.

It is almost twice as large as destroyers built between 1955 and 1959, yet it can operate with greater versatility and speed than any other warships.

It is equipped with the most advanced sonar operational today, is one of the quietest surface ships in the fleet, is armed with a variety of guns, missiles and torpedoes, is equipped to carry two to three torpedo carrying helicopters, and is able to operate alone or in large carrier task forces.

It can establish blockades, undertake search and rescue operations, trail hostile surface ships as well as subs, escort military and merchant ship convoys, support amphibious assaults and bombard enemy shore positions.

It is labor saving, requiring less than eighty percent of the crew required for ships of similar size and lesser capability, and specially equipped to produce both air and water pollution.

The Spruance-Class destroyers are the first U.S. warships to use gas turbines for main propulsion and for electric generators, the first with all digital fire control, the first of its type with an automated engineering plant, and the first vessel with a warranty-guarantee clause covering proof of design performance.

In sum, this is, indeed, a magnificent fighting ship, a ship that in my judgment represents the best of today's and tomorrow's Navy.

And this brings me to a final point, a point made wisely and well just a week or so ago by the able Senator from Mississippi, the Honorable John Stennis—Chairman of the Senate Armed Services Committee.

Under his able leadership, a House-Senate Conference on Fiscal Year 1977 Defense Authorization request has reported out a bill recommending nearly $6.7 billion for the Navy shipbuilding account—the largest sum earmarked for shipbuilding in Chairman Stennis's memory.

But Senator Stennis noted that while this bill should provide all the money the Navy can handle in the way of shipbuilding next year he had doubts as to whether the challenge of any expanded shipbuilding program can be met unless the Navy and the Department of Defense are able to overcome current shipbuilding difficulties.

There's nothing secret about those difficulties. They are real. And they are critical.

As Senator Stennis points out, these difficulties have resulted in a large amount of contract claims against the Navy, ill will, and a reduction in competition for contracts.

The Chairman refused to point the finger of blame or assess the validity of the contract claims, but said the issue must be settled and settled soon or the Navy shipbuilding program would remain in jeopardy.

To help resolve the issue, the House and Senate Conferees included in the Defense Authorization bill $1.6 billion, the full amount requested to pay the debts on ships contracted for some years ago and to settle shipbuilding claims.

Along with Chairman Stennis, I, too, believe this issue must be resolved, for our national security demands that we get on with building the ships we need, to build them with efficiency and economy, and to build them within the framework of a firm objective and an over-all concept of how best to meet the real challenges.

As Senator Stennis says, and I quote: "There is too much money and military strength involved to take a haphazard approach. We cannot afford to waste money . . . neither can we afford to build the wrong types of ships."—End of quote.

Ladies and gentlemen, this ship—the USS *Kinkaid*—is the right kind of ship.

And now, in closing, I congratulate the Navy and Ingalls Shipbuilding on a job well done, and I ask the audience to joint me in wishing the USS *Kinkaid*, Commander Kerr, his officers and men, fair winds, a following sea, and the lasting inspiration of the heroic man for whom their ship is named.

May God bless this ship and all who sail on her.

PERMANENT ESOPs INCENTIVES NOT WISE AT THIS TIME

Mr. HUMPHREY. Mr. President, the Senate will soon be considering section 804 of the Tax Reform Act which deals with employee stock ownership plans—ESOPs. Although I completely support the goal of broadening stock ownership in this country, I do feel that it would be imprudent at this time to adopt the provisions of section 804 which would provide a permanent 2-percent credit for this one particular method of broadening stock ownership. I am, therefore, cosponsoring, with four other members of the Joint Economic Committee and Senator MUSKIE, an amendment to extend the present 1-percent tax credit an additional year.

My principal point, which is a simple yet fundamental one, is that the Congress should undertake a much more thorough analysis of the many means available to fulfill the goal of broader ownership of capital. I feel that the JEC has provided the Congress with a significant initial input into this debate through its hearings and the staff study entitled "Broadening the Ownership of New Capital: ESOPs and Other Alternatives." It is now time for both Houses, through their appropriate committees, to examine the various alternatives more thoroughly. I would propose that a Joint Task Force on Broadened Ownership of Capital be established which would make a recommendation to Congress on the most effective and equitable means for giving each American the opportunity to own a portion of the productive capital that generates this Nation's wealth.

That there is a need for further debate was a point stressed by Hobart Rowen in his excellent column on July 4, 1976, entitled "Debate Still Needed on Employee Stock Ownership Plans." My only reservation with it was that Mr. Rowen only brought up ESOPs, failing to mention the other types of plans that could fulfill the same type of goal. I expressed this opinion in a letter to the editor which appeared in the Washington Post on July 20, 1976. In this letter, I outlined some dimensions of the debate left out of the Rowen column, such as the JEC efforts already undertaken and the comprehensive types of plans which should be subject to debate in the future.

In light of the upcoming debate on section 804, I would also like to highlight a paper included in a compendium of papers on tax reform which Joseph Pechman and Stanley Surrey drew up as editors at the request of 11 Senators. Though I see more value to ESOPs than the paper suggests, I think it is an informative piece in that it delineates the problems with ESOPs and concludes with a statement that I do concur with, namely:

> The Federal Government should not provide artificial inducements to a particular type of employee investment.

Mr. President, I ask unanimous consent that the two articles from the Washington Post and this paper be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEBATE STILL NEEDED ON EMPLOYEE STOCK OWNERSHIP PLANS

(By Hobart Rowen)

How about all these plans for employee stock ownership designed to give workers a piece of the action?

About 10 years ago, Louis Kelso first put forward the idea that workers needed a "second income," through stock ownership plans, to make "People's Capitalism" a reality.

Kelso was hooted down by conventional economists, who assailed his book, Two-Factor Theory: The Economics of Reality, as a something-for-nothing nostrum that could only be highly inflationary.

For his part, Kelso argued that apologists for the Establishment wanted to create merely the illusion—rather than the reality—of wide-spread affluence. He pointed out that little of so-called consumer wealth (homes, cars, savings bonds) is made up of productive capital. He assailed, as well, the typical stock exchange propaganda about "owning a share of America," because less than 1 per cent of households receive as much as half of the income they spend on consumption from earnings on investments.

Kelso is still controversial, but his theory has received increasingly wide attention, and spawned many variations and limitations. Largely due to the friendly intervention of the powerful chairman of the Senate Finance Committee, Russell Long (D-La.), last year's tax bill gave companies an extra 2 per cent investment tax credit, if half of the value of that extra amount were distributed in stock through an Employees Stock Ownership Program (ESOP).

In effect, the rest of us taxpayers are subsidizing the gift of stock by a participating company to its employees. And efforts will be made soon to extend that 2 per cent tax credit for ESOPs on a permanent basis.

A much different form of ESOP has been proposed by Sens. Jacob Javits (R-N.Y.) and Hubert Humphrey (D-Minn.), which would amend the National Labor Relations Act to allow unions to negotiate for ESOPs through the normal collective bargaining process.

According to the senators, not only would this give labor a "piece of the action" (stock trusts would be jointly managed), but it would provide a major and necessary, source of additional capital for corporations.

In a speech to the National Economics Club the other day, Federal Reserve Board member Henry C. Wallich discussed the pros and cons of such proposals, pointing out that, if labor provides a new source of capital out of its income, labor will benefit in the end by receiving a return on the added investment.

But would a union bargaining under the Humphrey-Javits bill actually take part of its pay increase in the form of stock? Or would the tendency be for stock to become one more fringe benefit negotiated on top of money wages?

Wallich agreed that, for the "investment wage" idea he was putting forward (roughly the same as the Humphrey-Javits ESOP), to make economic sense, any boost in cash wages would have to be reduced by the value of the stock.

Wallich conceded many drawbacks to the idea. As enforced savings, money tucked away in the stock might reduce aggregate demand, and thus be a drag on the economy. Unions fear that widespread stock ownership would divide their members' loyalty.

Another problem is that stocks go down as well as up, which points to the need for diversification. (The Humphrey-Javits bill sets a maximum of 30 per cent that an ESOP trust could invest in the "home" company.)

The Treasury, of course, stands to lose revenue, because part of the incentive for workers to take a share of their pay in stock would be a tax postponement.

Prospects for the Humphrey-Javits bill—like many other of their innovative legislative proposals—are not very bright. On the other hand, no one would have guessed a couple of years ago that the Kelso plan could sneak in the back door—at least partially—via the investment credit.

If the U.S. economy needs more capital to provide jobs—as many economists, including Wallich, believe—the investment of a portion of wages in company stock is one way to get it. Whether it is a sound procedure needs to be debated further.

But it should be made clear to those attracted by the idea of getting "a piece of the action" that it doesn't come free. The price is a reduction in the immediate purchasing power of those who take the stock.

Broadened Capital Ownership

In his column on July 4, Hobart Rowen maintained that "Debate Still Needed on Employee Stock Ownership Plans." I agree wholeheartedly with this. However, I wish to point out that the debate should not be limited to ESOPs alone, for there are many alternative methods for achieving the ultimate goal, which is to broaden the ownership of capital.

I view this as such an important goal that in addition to introducing with Senator Javits the Employee Stock Ownership Fund Act of 1976, which was discussed in Mr. Rowen's column, I directed the Joint Economic Committee to seriously examine this goal and the best means to achieve it. The committee began its investigation by holding two very informative days of hearings on ESOPs last December at which Kelso and other ESOPs experts testified. I am pleased to say that the committee fully endorsed this goal by making it a recommendation in its 1976 Annual Report: "to provide a realistic opportunity for more U.S. citizens to become owners of capital, and to provide an expanded source of equity financing for corporations, it should be made national policy to pursue the goal of broadened capital ownership."

The most recent contribution by the committee to the debate on whether such a goal is needed and is justified and, if so, how it should be met, was a staff study released last month entitled "Broadening the Ownership of New Capital: ESOPs and Other Alternatives." This study is a valuable input into the debate Mr. Rowen says is needed as it presents the overall context for the debate and analyzes many methods other than ESOPs that would broaden capital ownership in the U.S. The latter point is a critical one, for I feel that the more comprehensive types of plans should be subjected to debate, which they haven't been up to this point, by Congress and the appropriate Executive Departments.

The main advantages of such plans according to the study were: (1) they stimulated both the issuance of a stock and its distribution to new stockholders and (2) the new stockholder would, if so desired, consist entirely of lower and middle income Americans who currently own a very small share of this country's outstanding stock. It is my intention that the Joint Economic Committee continue its efforts in this area by examining these types of plans over the next year.

The broad framework for my thoughts in this area may be stated quite briefly. Throughout my career as a public servant, I have viewed full employment as a top priority goal for this country. And I continue to do so. But I also recognize that capital, and the question of who owns it and therefore reaps the benefits of its productiveness, is an extremely important issue that is complementary to the issue of full employment. I see these as twin pillars of our economy. Full employment of our labor resources and widespread ownership of our capital resources. Such twin pillars would go a long way in providing a firm underlying support for future economic growth that would be equitably shared.

Hubert H. Humphrey,
U.S. Senator.

Washington.

Tax Incentives for Employee Stock Ownership Plans—ESCOP's

PROBLEM IN GENERAL

The Tax Reduction Act of 1975 granted an extra 1% investment credit if the employer contributes such extra mount to a trust for the benefit of employees and the trust is invested in voting common stock of the employer. In effect, the federal government purchases stock of the employer and makes a gift of it to the participating employees.

Employer stock is also a permissible investment for so-called "qualified" pension and profit sharing plans which receive favorable tax treatment under section 401 of the Internal Revenue Code. While ownership of employer stock by retirement trusts was restricted to some extent by the Employee Retirement Income Security Act of 1974 (ERISA), Congress made an effort in that Act to encourage the formation of ESOP's by exempting such arrangements from the limits on ownership of employer stock.

The 1% investment credit provision may well provide a source of capital for private investment but so may any other tax reduction. Obviously, in evaluating this program, one must consider alternative federal expenditures, or if expenditures are not decreased, the effect of the increased deficit or the effect of the extra tax burden imposed on others to finance this expenditure.

The more important question is, can ESOP's aside from the allocation of government funds, provide a source of new capital and an incentive to greater productivity through encouraging employee ownership of business? There seems to be a substantial doubt whether ESOP's can significantly further these worthwhile goals (See e.g., Statements of Neil A. Wassner, Partner, Main Lafrentz & Co., and Robert N. Flint, Vice President & Comptroller AT&T, presented to Joint Economic Committee, December 11 and 12, 1975).

On the other hand, an ESOP is clearly inconsistent with the aims expressed through Federal regulation of private retirement programs. This risk to an employee's future security if his retirement fund is invested entirely in his employer is unacceptable. Financial failure of the employer becomes a double-edged sword—the job and retirement income are lost in one swoop.

Further, if an ESOP is utilized to redeem stock from the principal shareholder of the employer corporation and the transaction is treated as a sale taxable at capital gain rates, there is a blatant avoidance of the policy that cash withdrawals from a corporation which do not affect an individual's ownership or control should be taxed as a dividend.

LACK OF PERMANENCY OF EMPLOYEE OWNERSHIP

It is not clear whether the economic benefit claimed to result from establishment of ESOP's depends to any extent upon the permanency of the ownership interest acquired by employees and their descendants. If it does, it is well to point out that the employee's interest in the business is almost certain to terminate upon retirement or other separation from service. In some cases, the employee will never obtain ownership of employer stock, but rather will receive a cash distribution based upon the value of the stock at the time of his retirement.

In other situations where the tax law requires a distribution in stock, the employer will go as far as permitted to make certain that the stock will be redeemed as soon as possible. Thus, the employee will be given the right to sell the stock to the employer or the ESOP. While it may not be possible to force the employee to exercise this right, circumstances may make it the only viable choice.

As a result in many circumstances, the ESOP will not enable the employer to permanently conserve cash by paying compensation in stock. The stock distribution will be only temporary, to be replaced upon retirement with cash of equivalent value.

NATURE OF EMPLOYEES' INTEREST

The provisions of the Tax Reduction Act of 1975, which grant an extra 1% investment credit, specifically require investment in common stock which the employee will have an opportunity to vote. If ownership of an interest which is extremely sensitive to changes in the value of the business and some say in the overall direction of that business is important to the aims of an ESOP, it should be noted that the tax benefits of a qualified plan may well be available even for an investment in non-voting preferred stock, and there is certainly no requirement that the vote, if it exists, be passed through to the beneficiaries of the trust.

ESOP CONFLICTS WITH THE POLICY UNDERLYING ERISA AND QUALIFIED PLANS

The tax benefits of qualified retirement plans are available only if the employer currently contributes to the plan. ERISA significantly strengthened this funding requirement and extended it to some non-qualified plans. Further, ERISA, is replete with provisions designed to insure that the assets of the plan will not be dissipated. The reason is to protect the employee against the risk of financial failure of the employer which exists under an unfunded arrangement.

It is clear that "employer" stock ownership by "qualified" retirement plans is inconsistent with Congressional insistence that such plans be funded and prudently invested. Stock ownership in the employer is even less protection to the employee than the creditor status of an unfunded plan because the employee as stockholder is subordinated to creditors. If the company fails, the employee not only loses his job, but also his nest egg for retirement. Moreover, as noted above, if the employer remains in business, the expectation will be that the employer will redeem the employee's stock at the time of retirement. However, since the employer gets a tax deduction at the time of the contribution and not when the stock is redeemed, redemption of stock, distributed by a qualified plan, requires greater earnings during the employee's retirement years than an equal deductible deferred compensation payment. If "retirement security" requires funding, surely that funding should not be in the stock of the employer.

USE OF AN ESOP BY THE PRINCIPAL SHAREHOLDER TO SAVE TAX

It has been suggested that ESOP's can be used as a vehicle to redeem a portion of the stock of the principal shareholder. Since as described above, the employee ownership is generally transitory, the shareholder is not really selling to the employees. Rather, the ultimate result is a sale by the shareholder to the employer corporation with the ESOP acting as a conduit. If such a sale were made directly to the corporation, the tax impact would often be ordinary income for the full amount of the corporate distribution. It is hoped by tax planners, however, that the sale to the ESOP will limit taxable income to the appreciation of the redeemed shares, which income should be taxed at the reduced rates applicable to capital gains. If this maneuver succeeds, it could result in a considerable loss of tax revenue. This subsidy to major shareholders of closely held corporations should be weighed against the supposed economic benefit of the ESOP.

CONCLUSION

ESOPs represent an ineffective and inequitable method of encouraging employee stock ownership. The Federal Government should not provide artificial inducements to a particular type of employee investment. The question of whether it is desirable for employees to own stock in their own employer can and should be left to collective bargaining.

NAT GOLDFINGER: HE LOOKED UP TO THE AMERICAN WORKER

Mr. WILLIAMS. Mr. President, we mark with profound sadness the passing of Nat Goldfinger, a man who devoted his intellectual gifts and personal warmth to demonstrating the worth and upholding the dignity of the American worker.

As director of research at the AFL–CIO for the past 13 years, Mr. Goldfinger developed labor's position on economic issues with a steadfastness reflecting the widest grasp of economic issues. As an economist, he took the longer view demanded by the developing scope of his science and craft, and as a representative of organized working men and women, he did battle in the political arena in a manner that earned him the respect and admiration of his intellectual adversaries.

Mr. Goldfinger deplored the treatment of the American worker in the media in recent years and stood up to reaffirm a simple truth—that people able to perform skilled manual work were as socially important as mathematicians, scientists, and engineers.

Mr. Goldfinger's views and professional advice were widely sought outside of the AFL–CIO, not simply as "Labor's view," but as the invaluable contribution of the view of the working man's economist. From 1964 to 1969, Mr. Goldfinger contributed that view as a member of the Advisory Committee of the Export-Import Bank. And in 1965, President Johnson appointed him to the special committee on East-West Trade.

Tributes from economists of every persuasion on the news of Mr. Goldfinger's passing evince the pervasiveness of his influence. Burton Malkiel, a member of the Council of Economic Advisers, had been working with Mr. Goldfinger on upgrading employment statistics. He said of Mr. Goldfinger:

> He was a highly competent man who was helpful to me by giving me the labor view of unemployment.

Mr. President, Nat Goldfinger's ability to bridge political differences and his unerring counsel will be sorely missed. I join the many friends of Nat Goldfinger in acknowledging that his advice, counsel and valued friendship have left an indelible mark on our view of the Nation's economy and labor's role and stake in it.

Mr. President, I ask unanimous consent to have printed in the RECORD the report in the Washington Post last Saturday of Nat Goldfinger's death and of the many tributes voiced in his memory.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATHANIEL GOLDFINGER DIES, TOP ECONOMIST IN LABOR AREA

(By Vernon C. Thompson)

Nathaniel Goldfinger, organized labor's top economist and director of research for the AFL–CIO, died here Thursday of cancer. Mr. Goldfinger, 59, has been ill for several months.

He was a familiar figure on Capitol Hill, representing the AFL–CIO in testimony before congressional committees. He had been director of the AFL–CIO's department of research since January 1, 1963.

In a joint statement, AFL–CIO President George Meany and Secretary-Treasurer Lane Kirkland said: "Nat was more than an outstanding, loyal, hardworking staff member of the AFL–CIO. He was one of the most decent, warm human beings we ever knew.

"Nat was respected within and without the labor movement as a top-notch economist. We relied on his advice and counsel, valued his friendship and shall miss him very, very much."

According to Arthur Okun, former chairman of the Council of Economic Advisers and now a senior fellow at Brookings Institution: "I think Nat had a very important influence on the intellectual labor union picture. He had a sense of the problems of the nation and was an important advocate of unions."

Okun said United States policymakers benefited from Mr. Goldfinger's views on full employment and the 1964 tax cut.

"I always admired him, he had integrity in maintaining his position and arguing his case. He did not compromise in the good sense or the bad sense of the word," Okun said.

Burton Malkiel, currently a member of the President's Council of Economic Advisers said: "We shared an interest in improving the unemployment statistics for the nation. He was a highly competent man who was helpful to me by giving me the labor view of unemployment."

A native of the Bronx, he was a resident of Silver Spring. He served as president of the Industrial Relations Research Association in 1974 and was a member of the American Economic Association, the executive committee of the Joint Council on Economics Education and the board of the National Bureau of Economic Research, Inc.

Mr. Goldfinger was a member of the advisory committee of the Export-Import Bank from 1964–69 and was a member of President Johnson's special committee on East-West trade in 1965.

Before the merger of the AFL and CIO in 1955, Mr. Goldfinger served as associate director of research of the National CIO, secretary of the CIO committee on economic policy and director of research and education of the United Paperworkers of America.

He became assistant director of research for the AFL-CIO in 1958.

Mr. Goldfinger received a bachelor's degree from City College of New York in 1938. He took graduate courses at CCNY, New York University, The New School for Social Research and American University.

His support for labor illustrated in the book, "The Unions," published in 1972 by The Washington Post.

In the book, he was quoted as saying: "I think the public attitude toward the worker has declined substantially, and the American worker is now looked down upon the radio and television and news media generally. You make fun of the plumber and the carpenter and the working man. Well, why the hell should he put out?

"Who in American society in the past 15 or 20 years pays any attention to the importance of skilled manual work? The emphasis in society has been on the Ph.D. degree, upon the mathematician, the scientist, the engineer and so forth."

Former Secretary of Labor, John T. Dunlop said: "I think over time he (Mr. Goldfinger) came to be a highly regarded and respected as a person of ability in labor and in the larger economic fraternity."

According to Lloyd Ulman, a member of the Council of Economic Advisers during the Kennedy administration, said Mr. Goldfinger was highly respected during that period as a topnotch economist interested in the broad range of economics rather than a narrow segment.

He is survived by his wife, Betty, of the home at 306 Hamilton Ave., Silver Spring; two daughters, Judith and Ruth, both of the home; his mother, Lena Goldfinger and a sister, Anne Rosenberg, both of Los Angeles.

SUSPICIOUS ISSUES: THE NEED FOR IMPROVED DISCLOSURE IN THE MUNICIPAL SECURITIES MARKET

Mr. WILLIAMS. Mr. President, more attention has been devoted to the tax-exempt municipal bond markets during the 94th Congress than at any time since the early 1930's. Already this session, studies have been conducted, hearings have been held, and legislation has been considered, and in some instances, passed, dealing with an array of problems facing State and local government finance. The purpose of these efforts, of course, is to assure the availability of adequate capital on terms our hard-pressed, inflation-impacted States and cities can afford.

Mr. President, if this ultimate objective is to be accomplished, certainly the municipal securities markets—the primary and secondary market for the purchase and sale of municipal bonds—will have to operate with maximum efficiency Turbulence and confusion in these markets, fueled by New York City's well-publicized problems, has raised more than a reasonable conclusion, shared by individual and institutional municipal bond investors, bank and nonbank underwriters, and Government finance officers, that some fine tuning adjustments are necessary to promote investor confidence in, and stimulate demand for, municipal securities in order to raise capital to meet governmental financial needs.

Mr. President, it is clear from events in the municipal securities market over the past year that inadequate financial reporting and disclosure practices of State and local governments may be the single most important barrier to restoring investor confidence in the integrity of the markets and the fiscal stability and management of issuing governments units. Individual and institutional investors, Federal and State regulatory agencies, issuer officials and lawyers, accountants, and others all recognize the grave consequences for our cities and States unless remedial action is taken to upgrade both the level and uniformity of financial information.

Accordingly, in February of this year, I introduced S. 2969, the Municipal Securities Full Disclosure Act of 1976. Essentially, by subjecting State and local issuers to limited SEC jurisdiction, the bill provides for the preparation of annual reports, including audited financial statements, by issuers of municipal securities with more than $50 million outstanding and for distribution statements prior to the public offer or sale of $5 million or more of securities. Under the bill, such reports and statements would be reliable and comparable, as well as readily available to underwriters, dealers, and investors. Finally, it would encourage State oversight by providing for exemptions from the distribution statement requirement where a State authority has approved the offer or sale of the issue.

Several months have passed since I introduced the bill. The near bankruptcy of New York City is behind us. The pall it cast over the bond markets has been dissipated. To some, the problems would appear to be behind us, giving less urgency to the need for improvements and fine tuning in the municipal markets.

But a recent article in the Wall Street Journal demonstrates the continued and unabating importance of assuring the availability of timely and accurate information about Government issuers in connection with the offering of municipal securities.

This article, entitled "Rising Bond Failures Are Being Investigated for Possible Swindles," records numerous instances, involving industrial development revenue bonds, in which investors were defrauded or deceived into purchasing municipal securities.

In one case, for example, a Catholic priest in South Carolina purchased municipal bonds to supplement his social security income, acting in the belief that the high yielding, tax-exempt municipal bonds were general obligation bonds. This type of bond is backed by the full faith and credit, as well as the taxing power, of the issuing Government unit. Only later, after losing more than $8,000 of the nearly $12,000 in life savings he invested, did he realize that he had purchased industrial development revenue bonds, a category of lower quality, higher risk bonds which carry no State guarantee.

One State securities regulator from Oklahoma, quoted in the article, refers to financings involving this type of bond as "nothing but ripoffs." This is understandable in light of the fact that in Oklahoma alone, 21 such issues have gone into default in the past 2 years and this, he says, is only the "tip of the iceberg." And it may well be since South Carolina, Alabama, and Kansas report similar experiences.

The consequences of these fraudulent offerings are predictable. According to the article the "defaults have been enough to taint the entire IDR bond business." They are "causing such a ground swell of angry investors that it's getting hard to market the legitimate deals."

Equally as predictable is the solution:

> The fact that smaller IDR bond issues aren't subject to securities laws, means that in some cases official documents tell less than the whole truth.

Mr. President, full and fair disclosure has been a fundamental precept of investor protection since the 1930's. Full disclosure of all information material to an investment decision is the bedrock of investor confidence. Without it our markets cannot operate efficiently and our cities and States cannot raise enough capital to finance essential Government services.

This article underscores the urgent need for remedial action to assure that the whole truth is told in connection with the offering of municipal securities. The benefits of this will be manifold: Informed investment decisions will be facilitated; responsible municipal fiscal practices and financial reporting systems will be promoted; and, above all, investor confidence in the efficiency, and integrity of the whole process of municipal finance will be maintained and enhanced.

Mr. President, this article illustrates a recurring problem and underscores the need for prompt enactment of the Municipal Securities Full Disclosure Act. I request unanimous consent that it be printed in the RECORD for the information of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUSPICIOUS ISSUES: RISING BOND FAILURES ARE BEING INVESTIGATED FOR POSSIBLE SWINDLES

(By Richard A. Shaffer)

Msgr. George Smith, a Catholic priest in Aiken, S.C., wanted a "small, steady income" to supplement his Social Security check when he retired. So when a salesman recommended municipal bonds paying 9% in tax-free interest, it looked like the perfect place to put $11,750 of his savings. "I didn't see how I could lose," he says.

But he lost $8,280 in his investment. For what he believed were general obligation bonds guaranteed by the state, were actually industrial development revenue bonds that weren't guaranteed by any government body.

The bonds had been issued for a fledging plastic pipe company, Western States Plastics Inc., of Burns Flat, Okla. (population, 950). But the company quickly folded, defaulting on its bonds, and Msgr. Smith collected only one interest coupon and received a small share of the company's assets (both the Oklahoma Securities Commission and the federal Securities & Exchange Commission are known to be studying the case for possible fraud).

Now Msgr. Smith feels gloomy about his retirement. His bitterness is widely shared by other small investors because of the number of defaults of a suspicious nature as more and more companies turn to these industrial development revenue bonds (or IDRs) to raise capital. Annual IDR bond sales have soared in just five years to $517.8 million from $47.6 million.

"THE TIP OF THE ICEBERG"

"Too many of these deals are nothing but rip-offs," says Bruce Day, director of the Oklahoma commission (21 IDR bond issues in Oklahoma have defaulted under suspicious circumstances in the past two years). One government investigator estimates that investors are losing more than $30 million annually. "The numbers may be even larger. So far we've seen the tip of the iceberg," he says.

In many cases, government investigators' preliminary findings on suspected fradulent issues seem to implicate not only the recipients of the bond money but also the sponsors who helped bring the issues to the public. For example, the SEC is understood to be considering naming the city of Haysville, Kans., as a defendant in a securites fraud suit. It would be the first time the agency has attempted such a case.

Most of the municipalities involved in IDR bond issues, like Haysville, are small towns. Any community trying to lure new industry can form a development authority to issue tax-exempt municipal bonds. Proceeds are used to build or equip a plant for the new business, which then pays off the bonds from its profits. But unlike general obligation and municipal revenue bonds, IDRs are rarely guaranteed by any governmental agency, a fact that often is stated only in fine print.

In most cases, all goes well, and investors are rewarded with a healthy, tax-free interest, which can be as high as 9%. Financing by IDR bonds is permitted in 42 states and is used by some of the nation's largest and most prosperous companies. But about 50 IDR issues, most of which have defaulted, are being investigated for possible fraud.

AN ANGRY "GROUND SWELL"

These defaults have been enough to taint the entire IDR bond business. They are "causing such a ground swell of angry investors that it's getting hard to market the legitimate deals," says Thomas L. Krebs, Alabama's securities commissioner.

In a handful of cases, investors, banks and other institutional investors are suing the defaulters (most cases are still in their initial stages). Although government agencies have been slow in bringing charges, the SEC is expected to file several fraud complaints in coming months. Only in Alabama have state officials taken legal action: The state attorney general's office succeeded in getting two men convicted and sentenced to prison for siphoning off nearly $1 million from an IDR bond issue (both are appealing their conviction).

Some IDR bond issues would seem to be doomed from the start because only a fraction of the bond-buyer's dollar actually goes into a business. Some underwriters take as much as a 20% to 30% sales commission off the top of an issue (a normal underwriting fee is in the range of 2% to 4%); another 15% to 20% is typically set aside to make interest payments for the first year or two.

Last year, Congress attempted to bring controls to the industry with the Securities Reform Act. But government investigators say this only attacks part of the problem because it regulates brokers and dealers but not the issues or the issuers. Securities investigators also are unhappy with the fact that under 1970 laws all IDR issues below $5 million are tax-exempt and thus, like all tax-exempt bonds issued by local governments, free from the normal registration and reporting requirements of federal securities laws. Several bills have been introduced in Congress to raise the exemption to $10 million, although none is likely to be acted on.

OVERLOOKING PROBLEMS

This lack of regulation is illustrated by the case of Haysville, a town of about 9,000 just south of Wichita. In 1973 the city sponsored a $2.2 million issue to equip a plant for a company called Astro Products of Kansas Inc., which had been set up by a Californian named James J. Russ to make sporty chrome wheels for cars.

But in their apparent eagerness for new industry, the city officials somehow overlooked a number of signs that something was seriously wrong. For 2½ months, while the bonds were being issued, Astro was locked out of its plant by the local sheriff for failing to pay its rent. Then, two Astro executives quit, claiming they were owed seven months' back pay (later, they successfully sued Astro for $31,706).

Then there was the offering prospectus, which described Mr. Russ as a metallurgist with degrees, including a Ph.D., from several universities. Yet these universities say they have no records of Mr. Russ, and the firm where he supposedly worked as a metallurgist says he was only a laboratory assistant.

Mr. Russ agrees that he doesn't have a college degree, but he insists that the prospectus accurately described his job history.

The Haysville officials also overlooked the fact that one of the bond issue's underwriters was Stephen A. Lancaster, who had been a defendant in a securities fraud case brought by the SEC in federal court in Memphis against a bond sales firm and its salesmen. All of the defendants were enjoined from violating federal securities laws in a case involving pressuring customers of the firm into buying municipal issues. Mr. Lancaster also was president of Western States Plastics, the company that had defaulted on the IDR bonds bought by Msgr. Smith, the Catholic priest.

Astro defaulted on the bonds a year after they were issued, and investors lost an estimated $2.1 million. (One of these investors, County Federal Savings & Loan Association of Rockville Centre, N.Y., which had bought $1.5 million of the bonds, filed a class-action suit against Astro in federal court in Wichita. The court ordered Astro's assets sold, and the resulting $93,000 was distributed among the investors.)

But Paul Evans, the former mayor of Haysville, insists that city officials weren't to blame. "I don't feel that we were really negligent," he says. "I feel we went as thoroughly into it as most cities would."

Ironically, the very same IDR issues that bring heavy losses to investors, can bring apparent benefits to their promoters. There is the case of a group called Buffalo Valley Gas Authority, which was set up to develop a natural gas utility for the city of Clayton, Okla. In November 1973, the authority used $400,000 from a $770,000 IDR bond issue to buy a natural gas well from Wyoming Oil & Gas Co. of Oklahoma City.

It so happened that Wyoming Oil & Gas had bought the well 14 months earlier from Atlantic Richfield Co., which says the sale price was just $5,000. It also happened that one of the promoters of the bond issue was Jack Woosley, the president of Wyoming Oil & Gas.

Mr. Woosley won't discuss details of the transaction, but he says, "I don't see a thing wrong with it if they (Wyoming Oil & Gas) made a million dollars profit if the well is worth it. Profit is what business is all about."

The investors in the bonds apparently don't feel that way because the issue has defaulted. Two investors have filed a securities fraud suit in federal court in New York against Wyoming Oil & Gas and the Buffalo Valley Gas Authority and others.

IDR bonds are mostly used to provide a company with a plant and equipment. But occasionally they are used as a source of operating capital (for such things as salaries), although it's known that SEC lawyers feel this is of questionable legality. Take the case of Harold Pehr of Overland Park, Kans., the inventor of a plastic salt and pepper shaker.

In 1972 he formed a company called Harper Industries Inc. and persuaded an industrial development group near Clinton, Okla., to sponsor two IDR bond issues for $1.3 million to help him make his invention. But Harper was almost totally without working capital, so Pehr sold his patent to Midstates Tool & Mold Co., a plastics company in Independence, Mo., for a $250,720 note.

PROFITABLE PAPER-SWAPPING

In order for the company to make good on the note, Harper used funds from the bond issues to buy Midstates for $301,000, exactly $250,720 more than its appraised value. This enabled Midstates to pay off its $250,720 note to Mr. Pehr. When the paper-swapping was over, Mr. Pehr had a 90% interest in his patent, plus over a quarter-of-a million dollars in cash.

Mr. Pehr's lawyers, who confirm the details of the transactions, say he used the money as working capital for Harper. However, in a securities fraud class-action suit filed in Oklahoma City federal court, a California bond buyer alleges that the $250,720 was diverted for the benefit of Mr. Pehr and his associates at Harper. Whatever the case, the firm folded in about a year, and when the final tally is made, investors in 22 states are expected to have lost $1.2 million.

The fact that smaller IDR bond issues aren't subject to securities laws, means that in some cases official documents tell less than the whole truth.

For example, in 1973 the Osage (Oklahoma) Industrial Development Authority issued $3 million in bonds for a plant in which Multi-Products Inc. would make a fancy shower attachment. The official statement painted a rosy picture of the company's future, predicting annual sales of $3.3 million at the end of three years.

NO MENTION OF COMPLAINT

What the statement didn't say was that Donald F. Roberts, then vice president of Multi-Products and later its president, two years earlier had been fined $1,500 after pleading guilty in federal court in Phoenix to defrauding a Minnesota insurance firm of $750,000. Also omitted was the fact that the SEC had filed a securities fraud complaint against Mr. Roberts in federal court in Houston in connection with his alleged use of another Oklahoma bond issue to buy a Texas insurance company with its own assets (he has since consented to a permanent injunction against future securities law violations, without admitting or deny wrongdoing).

Reached for comment, Mr. Roberts said he felt "very comfortable with the total information statement." Multi-Products, he said, wasn't legally required to mention his fine or SEC troubles and "went to great lengths" to make full disclosure. Also, he said, Multi-Products now is operating and hasn't missed any payments on the bonds.

But according to a lawsuit filed in federal court in Tulsa, the company never went into production, and the bonds are worthless. The case, a securities fraud action, was filed against Mr. Roberts, Multi-Products and others by Bradford Securities Processing Services, which said it got stuck with $2.1 million of Osage bonds.

It isn't only small investors who are being hurt by defaulting IDR bond issues. Institutions also can become entangled.

In one case, according to the Federal Home Loan Bank Board, which regulates savings associations, First Federal Savings & Loan Association of Utica, N.Y., lost so heavily on IDR bonds that it was forced to merge with County Federal Savings and Loan of Rockville Centre, N.Y.

The full story of what happened to First Federal isn't yet known, although it is expected to emerge in a tangle of complex court cases that are still in their early stages. But it appears that the bank was used to finance questionable bond issues.

A key figure in the case is Bruce C. Bressman, a former Los Angeles bond salesman. Mr. Bressman, who says he has made a sworn statement to the SEC, said in an interview that in late 1973 he and Hugh J. Bell, a bond dealer in St. Petersburg, Fla., devised a plan to do some profitable trading in IDR bonds. (Mr. Bell has since been indicted for fraud in connection with an Alabama IDR issue and has pleaded innocent in an Alabama state court.)

According to Mr. Bressman, the plan was for Mr. Bell to underwrite an IDR issue, buying the bonds directly from the issuer and selling them to Mr. Bressman at a profit. Mr. Bressman would then sell them to the bank, also at a profit. The bank would then make a profit when Mr. Bell repurchased them for eventual sale to the public through retail brokers.

But when the Home Loan Bank Board began investigating (federal regulations prohibit savings associations from investing in unrated, long-term municipal revenue bonds), First Federal was left with a large inventory of bonds, many of which now are believed to be worthless. Mr. Bell's lawyer denies his client was a "conscious conspirator." If anything, he says, "he was a victim."

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there morning business? If not, if no one seeks recognition, morning business is closed.

CRIME CONTROL ACT OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2212, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours to be equally divided and controlled by the Senator from Arkansas (Mr. McCLELLAN) and the Senator from Nebraska (Mr. HRUSKA), with 30 minutes on any amendment, and 20 minutes on any debatable motion, appeal or point of order.

AMENDMENT NO. 2060, AS MODIFIED

Mr. MANSFIELD. Mr. President, what is the pending question?

The ACTING PRESIDENT pro tempore. The pending question is the amendment of the Senator from North Carolina, No. 2060, as modified.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time taken out of neither side.

The ACTING PRESIDENT pro tempore. Without objection, time will be taken from neither side, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PACKERS AND STOCKYARDS ACT AMENDMENTS OF 1976

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8410.

The ACTING PRESIDENT pro tempore (Mr. GLENN) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. TALMADGE. I move that the Senate insist upon its amendments and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. TALMADGE, Mr. HUDDLESTON, Mr. McGOVERN, Mr. HUMPHREY, Mr. CLARK, Mr. DOLE, Mr. CURTIS, and Mr. BELLMON conferees on the part of the Senate.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CRIME CONTROL ACT OF 1976

The Senate continued with the consideration of the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

Mr. MORGAN. Mr. President, I ask unanimous consent that Mr. Charles Kern of the staff of the Committee on the Judiciary be accorded the privilege of the floor during consideration of this bill and all votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I strongly suport the amendment of the Senator from North Carolina. This amendment would give LEAA the authority to make grants to State attorneys general for the purpose of bolstering enforcement of antitrust laws at the State level.

This provision is not new to the Senate. We gave it overwhelming approval when it came to the floor last year as part of S. 1136, reported favorably from the Senate Judiciary Committee. It is consistent with the President's emphasis on antitrust enforcement as the best regulator in the Nation's marketplace, and it is consistent as well with encouraging States to become the first line of enforcement of laws benefiting their residents.

Mr. President, Massachusetts has been at the forefront of the States in enactment of consumer protection legislation, including truth-in-lending laws, no-fault insurance, and others. But Massachusetts does not have its own State antitrust laws—at least not yet. Legislation is presently pending which would establish a set of laws paralleling the Sherman and Clayton Acts, providing for criminal and civil remedies against their violation.

But this new proposal will be but an empty promise if there are not adequate funds to support its enforcement. Senator MORGAN's amendment would make the funds available to the State for fulfillment of that promise.

As of now, Attorney General Bellotti is pursuing the rights and welfare of the people of Massachusetts with all the authority and resources available to his office. For example, there are currently cases or investigations involving drug price fixing, automobile fleet discount price fixing, monopolization by milk cooperatives, automobile repair price fixing, and more. Other inquiries are on the drawing board. But there is only one single antitrust attorney on the attorney general's staff. Clearly the people of my State are getting the most for their money from the efforts of the present attorney general, and they would receive even fuller protection against antitrust violators if the attorney general's resources were increased.

The Senate has shown its dedication to competition in our economy, and the Senate Judiciary Committee has been at its most productive level with regard to antitrust legislation in recent decades. The committee has approved legislation to require divestiture of the major oil companies and to inject under a uniform Federal standard more competition into regulatory decisionmaking. Legislation repealing protection for State fair trade laws has already been signed into law. And the Senate has passed comprehensive antitrust enforcement legislation earlier this spring in H.R. 8532, containing an important parens patriae title. Finally, of course, we have passed S. 1136, providing additional funds to Justice and the FTC for antitrust enforcement activities, and funding for State antitrust enforcement. We now have a chance to make this last measure law, and with it also to give meaning to the prospective parens patriae authority which both the House and Senate has approved.

The States need the funds that this amendment would provide, and this is an appropriate bill for the amendment.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I believe that the pending business is the amendment of the distinguished Senator from North Carolina (Mr. MORGAN).

The ACTING PRESIDENT pro tempore. That is correct.

Mr. McCLELLAN. Do I have 4 minutes remaining?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. McCLELLAN. I yield 2 minutes to the distinguished Senator from North Carolina.

Mr. MORGAN. Mr. President, since our discussion on the floor of the Senate last week, I have had occasion to discuss the amendment with the distinguished Senator from Arkansas and the distinguished Senator from Nebraska. I believe we have reached an acord that they would accept the amendment, with the idea that in conference they will be able to work out any difficulties they may have with it.

Mr. McCLELLAN. Mr. President, I am prepared to accept the amendment, with the understanding, as indicated by the distinguished Senator from North Caroline, that we may have some problems with it in conference. I have not talked to Senator HRUSKA about it, but I believe the Senator from North Carolina has.

Mr. MORGAN. Yes.

Mr. McCLELLAN. The Senator from North Carolina assures me that the Senator from Nebraska is agreeable to it. I am willing to accept the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment, No. 2060, as modified, was agreed to.

AMENDMENT NO. 2054

Mr. MORGAN. Mr. President, I call up amendment No. 2054, which has been offered by Senator BENTSEN.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN), on behalf of the Senator from Texas (Mr. BENTSEN), proposes amendment numbered 2054.

Mr. MORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 22, strike out "; and" and after line 22 insert the following:

"(13) The establishment of early case assessment panels for any unit of local government within the State having a population of two hundred and fifty thousand or more to screen and analyze cases as early as possible from the time of the bringing of charges, to determine the feasibility of successful prosecution, to expedite the prosecution of cases involving repeat offenders and perpetrators of violent crimes, and to concentrate prosecution efforts on cases with a high probability of successful prosecution."; and

Mr. MORGAN. Mr. President, this amendment was offered and proposed by Senator BENTSEN.

Senator BENTSEN is out of town this morning. I have read and studied the amendment, and I concur with it. I shall read for the record the statement that Senator BENTSEN would have made had he been present this morning:

I support Amendment #2054, to amend S. 2212, the Crime Control Act of 1976. This Act, which we will be discussing today, is an important step forward in the federal effort to combat rising crime. We are all indebted to the distinguished Senator from Arkansas, who has labored long and hard and wisely to produce this bill that I am proud to support.

My amendment would add paragraph 13 to Section 301(a) and would serve to highlight and encourage the use of federal funding for a program that has proven an invaluable aid to State and local law enforcement.

I speak of early case assessment, a program in which Federal funds finance efforts at the local level to employ experienced prosecutors to analyze criminal cases immediately upon their entry in to the criminal justice system. These prosecutors target and expedite cases involving violent crimes. They immediately interview witnesses, who might otherwise disappear, a situation that severely hampers prosecution efforts. They eliminate cases that should never be brought to trial due to weak or non-existent evidence or for any other reason.

Mr. President, this program allows the prosecution, which is burdened with a heavy caseload in spite of limited resources, to concentrate on those cases that would most wisely be prosecuted, either due to the violence of the crime or the winnability of the case. This program encourages a fair and efficient setting of priorities, and in the process it makes law enforcement efforts more effective and therefore, more successful in those cases that are most crucial, especially those that involve violence against our fellow citizens.

Mr. President, competent case screening has been done in a few cities, like New York, St. Louis, and Houston. In my home state, a number of municipalities have experimented with this approach, and all of the prosecutors involved support this effort, encourage it, and stand behind this amendment, which would encourage its use. They know it as an invaluable managerial technique that has saved the prosecution valuable resources, the courts valuable time, and the public a considerable amount of money. This program has reduced the caseload, sometimes by as much as 20%—and most of the cases that were eliminated would not have been won, and would therefore have led to a waste of money and resources. Case assessment allowed the money to be better spent on other cases.

Mr. President, early case assessment, by reducing the caseload and setting orderly priorities, has helped court efficiency. This has provided for speedier justice and more fairness. It has saved money. For example, it has been estimated that 80% of police overtime is the result of court delays, and case assessment can reduce this waste.

It has protected the rights of defendants who would have been acquitted only after a lengthy, expensive, and unnecessary ordeal. Case assessment screens out many of these cases. This is a program that protects the innocent, and facilitates the prosecution of the truly dangerous.

Furthermore, it has reduced the abuse of plea-bargaining that has allowed so many dangerous offenders to escape punishment, especially in high crime areas.

Mr. President, my amendment is very simple. It adds a paragraph describing briefly this highly successful program, and highlights the fact that federal funding may be used for it. It brings this effort to the forefront. It will *not mandate* case assessment. It *will encourage* its use.

This is a program that has worked wherever tried, and has proven a blue-ribbon investment of the federal dollar. It has probably saved far more than its cost. It has led to greater fairness and efficiency. It has made justice more just—law enforcement more effective—Federal spending more wise—and our streets a little more safe.

It is an approach worth encouraging, and a proven procedure that others would hopefully recognize and utilize. This is the purpose of my amendment. I urge adoption of this amendment as one step in the right direction to help curb the violence that plagues so many of our streets and communities.

Mr. President, on my own, I wish to point out that this is a clear indication to me of the value of the LEAA program through the years. I had a great deal of experience with this program for 6 years as attorney general in my State and I would be the first to admit that there has been a tremendous amount of wasted money in the program; but, as I have said time and time again, any time that we are involved in a crash program to solve a difficult problem, we are going to have wasted money. By delegating to States and the local authorities the authority to innovate and to come up with new ideas, we have developed successful techniques such as the one that has been described by Senator BENTSEN in his statement this morning, which I think has been helpful to the criminal justice system. This is one of those programs that I have learned about that I hope I can carry back to my State in North Carolina.

Mr. President, there has been an awful lot of debate around the Nation in recent months and years about the death penalty. I have never been particularly concerned so much about the severity of punishment. As one who has spent 25 years of his life in the law, I am not convinced that severity of punishment is as important as a deterrent to crime as is swift and sure justice. I think this program that Senator BENTSEN has described, which was, apparently, an innovation of the bar in the State of Texas, is one program that might very well be used by other States such as my own to expedite the administration of justice and to bring these cases to trial. So, while I am presenting this amendment this morning for the distinguished Senator from Texas in his absence, I want to concur wholeheartedly with it and urge its evaluation and consideration by other States.

I thank the Chair.

The PRESIDING OFFICER (Mr. HUDDLESTON). The question is on agreeing to the amendment.

Mr. McCLELLAN. Mr. President, Senator BENTSEN discussed this amendment with me some two or three times during the floor consideration of this bill. I advised the Senator that I believe the LEAA, under existing law, has the authority to finance an advisory panel of the kind that this amendment would provide for. I do not think there is any doubt about that. Senator BENTSEN feels that if this provision is added to the law, it would place special emphasis on this problem and probably encourage the States and the Administrator of the LEAA to give special consideration to projects of this nature. It is related, Mr. President, to a very serious situation; that is, the lack of early identification of repeat offenders and perpetrators of violent crimes for expeditious trial and swift punishment. If it gives any promise of expediting the disposition of those cases and moving toward swifter justice, then I think we should support it. I do not know how much effect it will have, but I can find no objection to the amendment. Therefore, I am willing to accept it. I believe that Senator HRUSKA is agreeable to accepting it.

Mr. President, I am ready for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 2058

Mr. ROTH. Mr. President, I call up my amendment 2058.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, after line 22, insert the following:

"(13) the development and operation of crime prevention programs in which members of the community participate, including but not limited to 'block watch' and similar programs;".

Mr. ROTH. Mr. President, I shall be very brief. My amendment helps implement the Javits-Roth amendment that was accepted a few days ago. At that time, there was extensive discussion as to the merits of community action in the fight against crime. The Javits-Roth amendment provided for the establishment of a unit to conduct or encourage such community programs. My amendment adds a paragraph 13 to section 301(b), which is the section that authorizes grants for the purposes set out in the following paragraphs. My paragraph spells out with particularity that one of the purposes of this legislation is to encourage the development and operation of crime prevention programs in communities or neighborhoods. During the discussion of the Javits-Roth amendment, I discussed at considerable length the success of a Delaware suburban community, Jefferson Farm, in developing such a program that has been very visible and very successful in decreasing crime in that community.

The intention or the initiative on the part of the local citizens in developing such a program was the very type of innovative program that those of us who helped author the bill in 1967 had in mind.

As a member of the House Judiciary Committee at that time it was my intent to create a vehicle that would help citizens help themselves at the local level in their fight against crime, and I believe that, in extending this legislation for 5 years, we should make it abundantly clear we want the funds to flow into such community efforts.

Mr. President, that is the purpose of my amendment, to make it clear that this is the congressional intent, and I hope the managers of the bill will accept this amendment.

Mr. McCLELLAN. Mr. President, the distinguished Senator from Delaware has made a very fair and succinct explanation of what the amendment would do. I see no objection to it.

I think the Senator cleared it, did he not, with the distinguished Senator from Nebraska (Mr. HRUSKA)?

Mr. ROTH. Yes, that is correct. I have discussed it with the Senator from Nebraska. He said it was acceptable to him.

Mr. McCLELLAN. I did not think he had any objection to it.

Mr. ROTH. I thank the manager.

Mr. McCLELLAN. I do not think there is any objection to the amendment. Therefore, I am willing to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICE. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 241

Mr. PERCY. Mr. President, I send to the desk an unprinted amendment to S. 2212.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) for himself, Mr. RIBICOFF, and Mr. NUNN, proposes an unprinted amendment No. 241.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, immediately after line 23, add the following:

SEC. 29. (a) One year after the date of enactment of this Act, all positions in the Drug Enforcement Administration, which was established under section 4 of the Reorganization Plan Numbered 2 of 1973, as amended, to which grades GS–15 or above of the General Schedule under section 5332(a) of title 5, United States Code, apply are excepted from the competitive service.

(b) The incumbents of such positions occupy positions in the excepted service and the provisions of section 7501 and 7512 of title 5, United States Code, shall not apply to such incumbents.

(c) Under regulations prescribed by the Civil Service Commission, any incumbent of such position may—

(1) transfer to a similar position in the competitive service in another agency if such incumbent is qualified for such position, or

(2) within one year of the date of enactment of this Act transfer to another position in the Drug Enforcement Administration to which grade GS–14 of the General Schedule under section 5332(a) of title 5, United States Code, applies.

Any individual who transfers to another position in the Drug enforcement Administration shall be entitled to have his initial rate of pay for such position set at a step of grade GS–14 which is nearest to but not less than the rate of pay which such individual received at the time of such transfer. If the rate of pay of such individual at the time of such transfer is greater than the rate of pay for step 10 of grade GS–14, such individual shall be entitled to have his initial rate of pay for such position set at step 10 but such individual shall be entitled to receive the rate of pay he received at the time of such transfer until the rate of pay for step 10 is equal to or greater than such rate of pay.

Subsection (c) of section 5108 of title 5, United States Code, is amended by:

(1) repealing paragraph (8); and

(2) substituting in lieu thereof the following new paragraph:

"(8) the Attorney General, without regard to any other provision of this section, may place a total of 32 positions in GS 16, 17, and 18";

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(105) Commissioner of Immigration and Naturalization, Department of Justice.

"(106) United States attorney for the Northern District of Illinois.

"(107) United States attorney for the Central District of California."

"(108) Director, Bureau of Prisons, Department of Justice.

"(109) Deputy Administrator for Administration of the Law Enforcement Assistance Administration."

Section (f). Section 5316 of title 5, United States Code, is amended by:

(1) repealing paragraph (44);

(2) repealing paragraph (115);

(3) repealing paragraph (116);

(4) repealing paragraph (58); and

(5) repealing paragraph (134).

Mr. PERCY. Mr. President, the first part of this amendment, which relates directly to LEAA funding, is identical to S. 3657, the Drug Enforcement Administration Improvement Act of 1976, which I introduced along with Senators NUNN and RIBICOFF on July 2, 1976. It provides for the removal of all upper-level supervisory personnel in the Drug Enforcement Administration—DEA—from the civil service system. This involves those positions of grade GS–15 and above—some 162 people in this 4,200 person agency.

The individuals in such positions who do not elect to remain in their positions in the excepted service would have a 1-year grace period during which they could either:

Transfer to a similar position for which they are qualified in another agency which is protected by the civil service; or

Transfer to a grade GS–14 position in DEA with no loss in salary or pension rights.

Mr. President, this portion of the amendment is supported by the Justice Department, the Attorney General and the Deputy Attorney General. I have discussed the amendment with them, and also the Director of the DEA. It would place these DEA supervisory positions on a basis comparable to those at the FBI. Certainly there is a need for greater managerial flexibility and for the ability to move people about at one policy-making level in a law enforcement agency of this kind. I firmly support this amendment, and offer it on behalf of Senators RIBICOFF, NUNN, and myself.

The second part of this amendment would raise from executive level V to executive level IV certain high level Federal Government positions, including Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

In addition this amendment would enable the Attorney General to place 32 positions in GS–16, GS–17, and GS–18 personnel slots. One of these positions would be in the Bureau of Prisons and the other 31 could be allocated by the Attorney General to meet critical needs throughout the Department of Justice.

Again, Mr. President, this is fully supported by the Attorney General and the Deputy Attorney General. I have discussed it with them, and they are very anxious to have this provision adopted.

I ask unanimous consent to have printed in the RECORD at this point material in further clarification of the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUSTIFICATION FOR DRUG ENFORCEMENT ADMINISTRATION PERSONNEL CHANGES

The first part of this amendment is identical to S. 3657, the Drug Enforcement Administration Improvement Act of 1976, which I introduced along with Senators Nunn and Ribicoff on July 2, 1976. It provides for the removal of all upper-level supervisory personnel in the Drug Enforcement Administration (DEA) from the civil service system. This involves those positions of grade GS–15 and above—some 162 people in this 4,200 person agency.

The individuals in such positions who do not elect to remain in their positions in the expected service would have a one year grace period during which they could either:

Transfer to a similar position for which they are qualified in another agency which is protected by the civil service; or

Transfer to a grade GS–14 position in DEA with no loss in salary or pension rights.

I would like to first discuss some of the reasons why this amendment is germane to S. 2212:

DEA and LEAA have closely related responsibilities in the area of drug law enforcement. Quoting directly from LEAA's Sixth Annual Report:

"LEAA's grant programs for drug abuse control emphasize enforcement. Because DEA has related responsibilities, the two Agencies frequently work together to coordinate programs and policies. LEAA also supports several DEA programs with grant funds."

DEA supplies an agent to all but one of the LEAA regional offices. This agent, on DEA's payroll, serves full-time as the drug enforcement expert for the LEAA regional office, and receives administrative support from that office.

LEAA and DEA have established a Joint Planning and Policy Review Group to develop a "comprehensive strategy for their joint efforts in drug control." This Joint Planning and Policy Review Group, formed by a memorandum of agreement signed by the Administrators of DEA and LEAA, is composed of three members from each agency, and meets at the call of either DEA or LEAA. approximately $17 million *excluding* its funding for the DEA Task Force program over the last three fiscal years.

LEAA has provided $7.15 million in funding for the DEA Diversion Investigation Unit program over the last three fiscal years.

In addition to this substantial direct funding of DEA programs, LEAA spends a considerable amount of money on other law enforcement activities aimed at the control of drug abuse. For example, such drug abuse related expenditures by LEAA amounted to approximately $17 million *excluding* its funding of DEA programs for fiscal 1975 alone.

And, perhaps most importantly, S. 2212 is the *Crime Control* Act of 1976, and there is a direct causal link between drug abuse and crime. In his April 27, 1976 message to Congress on drug abuse, President Ford states that law enforcement officials estimate that *as much as one-half of all street crime* is committed by drug addicts to support their habits. That is, one-half of all robberies, one-half of all muggings, one-half of all burglaries, are caused by drug abuse.

So the real question before the Senate is not whether an amendment designed to improve the Drug Enforcement Administration is germane to S. 2212. *Clearly it is.* Rather, the question is whether this proposal to remove the top supervisory positions in DEA from the civil service system would improve the agency. And, I think the record is equally clear on this point—it would.

S. 3657, the Drug Enforcement Administration Improvement Act of 1976, which forms the body of this amendment, grew out of the investigation by the Permanent Subcommittee on Investigations into the Federal drug law enforcement effort.

The Investigations Subcommittee's June–July, 1975 hearings showed that during DEA's first two years, a period in which heroin addiction was growing to epidemic proportions, the agency was beset by mismanagement, internal strife, and some serious integrity problems.

A major obstacle to the successful resolution of these problems has been the restrictions imposed upon the Administrator of DEA by the civil service personnel policies under which the Agency operates.

Because of rigid civil service rules and regulations, an Administrator interested in upgrading the quality of DEA personnel and the effectiveness of agency programs, does not have the administrative flexibility needed to make those major personnel changes he deems necessary. Furthermore, when the Administrator seeks to fill key supervisory positions from within the Agency, his choice is severely limited by civil service rules which ordinarily prohibit an employee from advancing more than one full grade per year. This problem is especially acute at the crucial top levels of the Agency, where the Administrator's choice may be limited to as few as two or three potential appointees.

This amendment is an attempt to solve this problem by giving the Administrator of DEA the greater managerial flexibility he so desperately needs to better run the agency.

The record of the hearings held by the Senate Permanent Subcommittee on Investigations strongly supports this proposal. After an extensive review of internal difficulties at DEA and its predecessor agencies, the Subcommittee has concluded that this reform is essential to the effective management of the agency. As the Subcommittee report, which was released last Sunday, concludes:

"It is the finding of the Subcommittee that DEA personnel should not be covered by civil service rules and regulations. The Subcommittee believes a fair method of disengaging DEA or any successor organization from civil service would be to give personnel a 1-year grace period during which they could seek other Federal employment covered by civil service with their rights intact. In turn, should prsonnel choose to remain in place, they would, after the 1-year period, lose all rights and protections previously provided them under civil service."

In addition, I have been in contact with various individuals who have had experience, either working in, or dealing with DEA. Former Deputy Attorney General Laurence Silberman, former Acting DEA Administrator of DEA Andrew C. Tartaglino, Watergate Special Prosecutor and former Acting DEA Chief Inspector Charles Ruff, and other senior officials both in and out of the Department of Justice have all expressed strong support for this legislation. Perhaps Mr. Silberman, who as Deputy Attorney General was the official primarily responsible for oversight of DEA, most cogently summed up the need for this legislation in his testimony before the Subcommittee on Investigations:

"I think this committe . . . could do something that would be of enormous help for DEA and for the Justice Department, and that is to pass legislation to take civil service away from DEA and give them the same personnel status as the FBI.

"If you do that, you will end up with a much better DEA, which will be less susceptible to corruption.

"As you dug into this investigation, I think this committee has become aware that the protections which civil service gives employees, while very valuable, are probably inappropriate in an organization engaged in direct law enforcement. You have a higher degree of discipline and you need a higher degree of flexibility of management."

As the ranking minority member of the Permanent Subcommittee on Investigations, I am firmly convinced of the need for this measure. And I am very pleased to have been joined in introducing S. 3657 by Senator Nunn, Acting Chairman of the Subcommittee, and Senator Ribicoff, a member of the Subcommittee and Chairman of the full Government Operations Committee. Both were active participants in the Subcommittee's inquiry into the Federal drug law enforcement efforts, and both have indicated an acute understanding of the enormous need for greater managerial flexibility at the highest levels of DEA.

Before I conclude, I would like to emphasize one point in particular. This amendment is not intended as a means of capriciously punishing those individuals now in supervisory positions in DEA. Indeed, many of these individuals are men of the highest integrity, and are very dedicated and competent law enforcement officials.

Nor is this amendment intended to serve as a precedent for the wholesale removal of Government agencies from the civil service system. Rather, it is a recognition of the fact that Federal law enforcement agencies constitute a special case. In these agencies, the opportunities for "corner-cutting" and outright corruption are so great that a more flexible personnel system is needed to ensure the integrity and effectiveness of agency personnel.

Mr. President, this amendment is absolutely essential to the most effective operation of the Drug Enforcement Administration. In view of the close connections between DEA and LEAA, the tremendous importance of DEA's role in the fight against drug abuse, and the enormous impact which its efforts have on crime, especially in our cities, I think that this is an especially appropriate and important amendment to be offering to S. 2212, the Crime Control Act of 1976.

JUSTIFICATION FOR DEPARTMENT OF JUSTICE PERSONNEL CHANGES

SECTION 1

Section 5108 of title 5 of the United States Code authorizes specific officers of the Department of Justice to place positions in grades GS–16, GS–17 and GS–18 in addition to positions that may be placed in those grades by th U.S. Civil Service Commission from the quota of 2,754 positions authorized by section 5108(a). Subsection (c)(2) permits the Director of the Federal Bureau of Investigation to place 140 positions in GS–16, GS–17 and GS–18; subsection (c)(4) authorizes the Commissioner of Immigration and Naturalization to place 11 positions in GS–17; and subsection (c)(11) authorizes the Law Enforcement Assistance Administration to place 25 positions in GS–16, GS–17 and GS–18.

The Attorney General, by virtue of subsection (c)(7), may place 10 positions of Warden in the Bureau of Prisons in GS–16. Under subsection (c)(8), he may place one position in GS–16. Additional GS–16, GS–17 and GS–18 classifications needed for positions in the Department must be obtained from the Governmentwide quota administered by the Civil Service Commission pursuant to section 5108(a).

Clearly, certain subordinate officers enjoy more generous allocations of these special supergrade authorizations than the Attorney General. It is equally clear that the subordinate officers are permitted greater discretion in the use of the authorizations, i.e., their authorizations are not restricted to designated positions or to single, specific grades as are the Attorney General's authorizations. Of greater importance, however, is the fact that the number of GS–16, GS–17 and GS–18 positions available to the Department as a whole is insufficient to meet the actual needs of the Department. The critical need for a small number of GS–16 authorizations which might be assigned to positions of outstanding trial attorneys who represent the United States in some of the most important litigation before the bar today is but one example.

The proposed legislation would enable the Attorney General to place 32 positions in GS–16, GS–17 and GS–18. This would include the one position (continuously allocated to the Bureau of Prisons since its authorization) provided by the existing subsection (c)(8). Therefore, it would make available to the Attorney General 31 additional positions to be allocated to meet critical needs throughout the Department.

SECTION 2 AND SECTION 3

Commissioner of Immigration and Naturalization

The Commissioner of Immigration and Naturalization is charged by the Congress and by the Attorney General with responsibility to administer and enforce the Immigration and Nationality Act and all other laws relating to immigration, including, but not limited to, admission, exclusion, deportation, naturalization and citizenship. This includes investigating alleged or known violations of the immigration and nationality laws, patrolling the borders of the United States, registering and fingerprinting aliens in the United States, preparing reports on private bills pertaining to immigration matters and recommending prosecution in Federal courts when deemed advisable. The Immigration and naturalization Service, which he heads, is comprised of more than 9,000 employees in over 300 locations within the 50 States.

Unlike level V bureau directors in some

of the other cabinet-level departments, the Commissioner of Immigration and Naturalization reports directly to the head of the Department, rather than to an assistant secretary or an assistant attorney general. He is responsible for the management of a self-sufficient organization which receives only very general policy direction from the Department of Justice headquarters. He has a high level of responsibility for presenting and defending his program to the Congress and the general public. Placing this position in executive level IV would result in better alignment of the position with positions of assistant attorney general and Director, Community Relations Service, all of which are in executive level IV, and with positions of Administrator, Drug Enforcement Administration, and Administrator of Law Enforcement Assistance, both of which are in executive level III. United States Attorneys for the Central District of California and the Northern District of Illinois.

Each United States attorney is responsible, within his district, for prosecuting all offenses against the United States; prosecuting or defending, for the Government, all civil actions, suits, or proceedings in which the United States is concerned; appearing in behalf of the defendants in all civil actions or proceedings pending in his district against any collectors or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to those officers, and by them paid into the Treasury; and instituting and prosecuting proceedings for the collection of fines, penalties and forfeitures incurred for violation of any revenue law, unless satisfied on investigation that justice does not require the proceedings.

The Central District of California, headquartered in Los Angeles, and the Northern District of Illinois, headquartered in Chicago, have grown substantially in size of staff and volume of work since the positions of the respective United States attorneys for each were placed in executive level V in 1965. Placing the positions in executive level IV would bring them into better alignment with the positions of United States attorney for the District of Columbia and the Southern District of New York respectively, both of which are in level IV. The table which follows compares the workloads of the Central District of California and the Northern District of Illinois with that of the Southern District of New York.

WORKLOADS OF SELECTED U.S. ATTORNEY'S OFFICES, FISCAL YEAR 1975

	California Central	Illinois Northern	New York Southern
Cases filed	1, 614	2, 210	2, 483
Cases terminated	3, 018	1, 957	1, 954
Cases pending	2, 157	2, 507	4, 406
Grand jury proceedings	1, 361	547	790
Matters received	8, 503	6, 296	4, 139
Size of workforce	187	148	229
Man-hours in court	22, 291	15, 212	24, 718

Mr. PERCY. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, I have conferred with the distinguished Senator from Nebraska regarding this amendment. We have consented to accept this amendment with the understanding that the distinguished Senator will not press for his amendment with respect to firearms and explosives. It is a good amendment from its merits. I have no objection to it. With the understanding that we have worked out, I am willing to take the amendment if the distinguished Senator from Nebraska will agree.

Mr. HRUSKA. Mr. President, the Record should show that the chairman of the subcommittee and I have discussed this amendment, and I concur in the statement which he has just made.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. PERCY. Mr. President, at this moment I would simply like to seek the advice and counsel of my distinguished colleagues. I have no further amendments to offer.

On July 20 Senator Long and I submitted amendment No. 2042, which would correct a deficiency in existing law to make it absolutely clear that convicted felons, drug addicts, mental incompetents, and certain other dangerous individuals would be prohibited from possessing and dealing in firearms, ammunition, and explosive materials under any circumstances—whether or not a specific link with interstate commerce could be found in each and every instance. This amendment is necessary to clarify congressional intent regarding similar provisions in existing law which the Supreme Court found to be ambiguous.

Because there is serious doubt about the germaneness of this amendment to S. 2212, I shall not offer the amendment today. However, I will introduce it as a bill this afternoon, and I hope that the distinguished managers of S. 2212—the senior Senators from Arkansas and Nebraska—will agree to insure prompt consideration of this amendment in the Judiciary Committee. Because this is only one small aspect of the highly sensitive gun control issue on which virtually all of my colleagues can agree, I hope that the committee will act swiftly to report those provisions in a form which will receive prompt consideration on the Senate floor.

The reason that the Senator from Illinois asks for prompt consideration of this matter by the Judiciary Committee is that it would simply clarify congressional intent concerning existing law. Indeed, hearings have been held on this question in both the Senate and the House Judiciary Committees during the consideration of broader gun controls bills, where strongly favorable testimony was given.

It is the earnest hope of Senator Long and myself—and particularly Senator Long as it was his amendment that was adopted in 1968—that the Judiciary Committee give early consideration at a committee meeting in the near future to the bill which we will introduce jointly this afternoon.

I ask if my distinguished colleague would be prepared at this time to respond and give the Senator from Illinois guidance on this matter.

Mr. McCLELLAN. Mr. President, if it is introduced as a bill I have no objection to it, at least I have no objection to undertaking to expedite its processing.

There is this contingency, as the distinguished Senator from Illinois recognizes: Once you take up a gun control bill, almost any amendment containing a gun control issue would probably be germane. We do have that problem. I do not know that this matter would be referred to the Subcommittee on Criminal Laws and Procedures. My recollection is that the Subcommittee on Juvenile Delinquency as well may have an interest in it. But there would be no disposition on my part, I can assure the Senator, to delay prompt consideration of this measure on its merits. I might have objection to some amendments that could be offered to it.

I want the distinguished Senator to know that I do appreciate his cooperation in trying to help move the pending bill to a conclusion here today. I wish to express my personal thanks to him for his cooperation in that respect.

I yield to the distinguished Senator from Nebraska.

Mr. HRUSKA. I thank the Senator.

Mr. President, the substance and the content of the proposed amendment to which reference was made by the Senator from Illinois is meritorious and very much needed, in my judgment.

The amendment referred to by the Senator from Illinois would seek to cure an unduly restrictive interpretation by the Supreme Court in the Bass case of a provision in the Omnibus Crime Control and Safe Streets Act of 1968. It ought to be corrected, and I hope in due time, by the procedure indicated, that it will be.

There are other considerations, of course, to which the Senator from Arkansas has referred, when it comes to the matter of processing, reporting, and considering a general gun control bill; but we will have to meet those as they appear.

Mr. McCLELLAN. Mr. President, I say to the Senator I think this bill has merit and should pass without unnecessary delay. I want to cooperate in that respect.

Mr. PERCY. Mr. President, I wish to express my appreciation to my colleagues. This proposal should not be encumbered by anyone who would attempt to use it as a vehicle for something that would be delayed in the Senate.

The NRA has taken the very clear position that we ought to keep guns away from criminals and felons, which is exactly what this amendment would do. I hope we can confine it to that narrow issue, and have this Congress act in the few weeks which remain in this session. Certainly it takes time to process these matters, but if we can keep it clean, addressing only this point, then this Congress could do something that would help take crime off the streets and keep guns away from felons and others who certainly should be prohibited by Federal law from having them.

I thank our distinguished colleagues and I assure the Senator that Senator Long and I will work closely with him in expediting this matter to whatever extent we can.

I appreciate very much the consideration on the previous amendment.

Mr. McCLELLAN. Mr. President, I appreciate the amendment made by the distinguished Senator from Illinois. I shall work with him to the end that hopefully we can pass this bill as a clean bill.

Time is yielded back on the amendment.

UP AMENDMENT NO. 242

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes unprinted amendment No. 242.

At the end of the bill, add the following new section:

SEC. 29. Section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after June 1, 1973, the term of service of the Director of the Federal Bureau of Investigation shall be ten years. A Director may not serve more than one ten-year term. The provisions of subsections (a) through (c) of section 8335 of title 5, United States Code, shall apply to any individual appointed under this section.".

Mr. ROBERT C. BYRD. Mr. President, the Senate has twice by rollcall vote unanimously passed legislation that I have offered amending title VI, section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968, limiting the term of office of the Director of the Federal Bureau of Investigation to a single 10-year term.

On October 7, 1974, the Senate passed S. 2106 by a vote of 70 to 0. During this Congress, the Senate passed S. 1172 by a vote of 85 to 0 on March 17, 1975. To date there has been no action on this legislation by the other body—none.

However, I offer the language of S. 1172 as an amendment to S. 2212 because I believe this is important legislation which the other body should act upon before the close of the 94th Congress, and it is apparent that S. 1172 will not be out of committee on the House side in time for floor action this year.

This amendment would aid in insulating the FBI Director against politically motivated manipulation from the executive branch by giving the office a tenure of 10 years; and, at the same time, it would minimize the dangers of autocratic control of the Bureau by a Director, who might build up a concentration of power over a long period of time, by placing a limitation on the amount of years that one man may serve as Director of the FBI.

Until 1968, the Director of the Federal Bureau of Investigation was an appointee of the Attorney General. In 1968, Congress passed Public Law 90-351, title VI, section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968, which amended title 28, United States Code, section 532, making the Director of the Federal Bureau of Investigation a Presidential appointment subject to the advice and consent of the Senate.

There was no provision in the 1968 statute as to the duration of the appointment of the FBI Director. It became apparent during the confirmation hearings on L. Patrick Gray to be FBI Director that if high executive branch officials could attempt to misuse the FBI by means of unjustified requests to an Acting Director who wished to be nominated as permanent Director, then the same tactics could be applied to an incumbent FBI Director who had no protection of a fixed term for his position.

Under the provisions of my amendment, there is no limitation on the constitutional power of the President to remove the FBI Director from office within the 10-year term. The Director would be subject to dismissal by the President, as are all purely executive officers.

However, the setting of a 10-year term of office by Congress would, as a practical matter, preclude—or at least, inhibit—a President from arbitrarily dismissing an FBI Director for political reasons, since a successor would have to be confirmed by the Senate.

Mr. President, the merits of this amendment are, I believe, obvious as are the reasons for presenting it to the other body as a part of S. 2212.

I discussed the amendment with the managers of the bill, and I trust that the Senate will again adopt this legislation.

Mr. McCLELLAN. Mr. President, as just stated by the distinguished Senator from West Virginia, this legislation has unanimously passed the Senate on two occasions. Apparently the Senate is very strong for it.

If we accept this amendment, which I propose to do, this will give the House of Representatives an opportunity to take action. If they prefer to move on the bill already pending in the House of Representatives they can do so; if not, we discuss it and have an opportunity to vote for or against it on this bill.

I conferred with the distinguished Senator from Nebraska. I do not believe he has any objection to it. It is the desire of the Senate that this provision of law be enacted. I am willing to take the amendment if it as agreeable with the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, the Senate has acted favorably on the measure during a previous session of the Congress. If the inclusion as an amendment to this measure will assist in getting it consideration by the other body, I think it would be a good thing. I concur with the chairman of the subcommittee that it would be well to accept the pending amendment.

Mr. ROBERT C. BYRD. Mr. President, before the vote, I ask unanimous consent that hearings that were conducted on this bill—and I believe we had 1 day of hearings on the bill and they are not very lengthy—at least be excerpted in their more important parts and be printed in the RECORD before the vote.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Excerpts from the hearings before the Subcommittee on FBI Oversight of the Committee on the Judiciary, United States Senate on S. 2106, March 18, 1974]

TEN-YEAR TERM FOR FBI DIRECTOR

(Monday, March 18, 1974)

U.S. SENATE, SUBCOMMITTEE ON
F.B.I. OVERSIGHT, COMMITTEE ON
THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:40 a.m., in room 2228, Dirksen Senate Office Building, Senator Robert C. Byrd (chairman), presiding.

Also present: Thomas D. Hart, committee counsel to the subcommittee and Louise Garland, subcommittee researcher.

Senator BYRD. The subcommittee will come to order.

Today, this subcommittee begins hearings on a bill, S. 2106, which will do much to restore the faith of the American people in an institution whose respected reputation has been one of the many victims of the sorry events popularly termed "The Watergate Affair."

The Federal Bureau of Investigation has had an illustrious history as the Nation's chief law enforcement agency, but in recent years the need for more control over the vast bureaucracy which is the Bureau, has become evident.

The politicization of the Bureau, while always a potential threat in the past, became a reality as the Bureau and its Acting Chief became, in effect, an arm of the administration in its campaign for reelection, and subsequent efforts to suppress the truth behind the sordid background of that campaign.

The legislation proposed in S. 2106 is an effort not only to remove the taint of political manipulation which enshrouded the Federal Bureau of Investigation, but also to prevent future administrations of either party from employing the vast powers of the Nation's foremost law enforcement agency for political needs and/or ideological proclivities.

S. 2106 will amend the Safe Streets and Omnibus Crime Control Act of 1968 to provide that the term of the Director of the Federal Bureau of Investigation will be 10 years and that he will be eligible to be reappointed for one additional term of 10 years.

A 10-year term is desirable because it would generally overlap the tenure of a two-term President and would eliminate many of the pressures that could be brought to bear on the Director if he were to be reappointed every 4 years. A 10-year term is also preferable to a term of, for instance, 7 years, inasmuch as the latter could fall within the Presidency of the man who originally appointed the Director.

In this way, the Director can be more effectively insulated from political pressures liable to be placed on him by a President, and he will not be considered a politically oriented member of the President's "team."

The Bureau, both in fact and in popular perception, would then be restored to the independent and professionalized crime fighting status which was its original purpose and which is its purpose today.

The passing of Mr. J. Edgar Hoover, with resultant disarray in the ranks of the Bureau, pointed up the need and provided the opportunity for the Congress to assert its role in overseeing the operations of the FBI and insuring that the agency is divorced from political influence.

Even before the death of Mr. Hoover efforts were begun to restore congressional control and establish congressional input in the naming of the Director and the operations of the agency.

In 1968, legislation was enacted to provide for the appointment of the FBI Director by the President with the advice and consent of the Senate. At the time of that enactment, the words of the columnist Joseph Kraft were recalled in debate on the floor of the Senate. His description of the level of disrepute to which the old Bureau of Investigation had fallen at the time J. Edgar Hoover was appointed Director in 1924, while exaggerated in its present-day applicability, should be heeded in light of the disclosures regarding the FBI during the term it was headed by a temporary Director.

Mr. Kraft described the condition of the Bureau of Investigation in 1924 as follows:

"A private hole-in-the-corner goon squad for the Attorney General. Its arts were the arts of snooping, bribery, and blackmail. It acted independently of the rest of the Government and without reference to other law enforcement agencies. Its agencies were political hacks and con men."

The quotation will be found on page 13181 of the Congressional Record, Volume 114, May 14, 1968. There is no need now to recount the familiar litany of abuses that surfaced during the confirmation hearings of Acting Director L. Patrick Gray, last summer. But the activities of Mr. Gray—his political speechmaking in strategic States for the President, his use of the Bureau and its agents for the collection of data to be used for political campaign purposes, and his destruction of politically damaging documents at the suggestion, apparently of administration assistants, demonstrated an obsequious loyalty to the administration which could, had it gone unchecked, have gone far in turning the Bureau into a political action agency for the President.

The Bureau must be restored to its former respected and influential status and steps must be taken by the Congress to help to insure that political manipulation of the agency is no longer possible.

The proposed legislation to be considered will go a long way toward achieving that purpose. By providing for a fixed term for the Director, this bill will prevent the formation of a fiefdom, lorded over by an autocratic director. It will also accomplish the purpose of insulating the Director from the political pressures that are present when appointment and reappointment depend on the pleasures of a particular President.

The bill is, therefore, a dual preventative of abuses that have crept into the operation of the Federal Bureau of Investigation in recent years.

While a strong Director with years of experience and tenure which extends over the terms of many Presidents may result in an independent agency free from the political ambitions of anyone in the administration, the tendency toward autocratic rule, ideological rigidity, and reluctance to innovate is present.

A fixed term, and a term that does not coincide with the choosing of a President and the change of his administration, will serve to prevent both the accretion of power in the hands of one man and the political manipulation that can result from a short-term Director, subject to the whim of a President to whom he owes his appointment.

The vast resources of the Federal Bureau of Investigation and the power and influence that these resources imply, demand that the agency be accountable for its actions and free from the political ambitions of a particular administration.

"The FBI is not just another division of the Justice Department, whose directors can be picked out of a list of loyal political servitors." Pincus, "The Nation," November 1972.

To place the exceptional resources of the FBI in the hands of a potential empire builder, or a politically oriented servant of the President, would be disastrous for both the Bureau and the country. The Congress must prevent this from happening by exercising its oversight functions and by enacting legislation such as the bill to be considered here today, which will aid in restoring the FBI to its proper role in the American Government, and help to prevent the reoccurrence of the tragic erosion of public confidence in the FBI that befell it last year.

Mr. Kelley, are you familiar with the bill, S. 2106?

Mr. KELLEY. Yes, sir.

Senator BYRD. I wish to thank you for appearing before the subcommittee today. Do you have a prepared statement with reference to S. 2106 that would reflect your opinions toward that legislation?

Mr. KELLEY. Yes, sir.

Senator BYRD. Would you proceed with that statement, please? You may read it in its entirety. You may highlight it. In any event, it will be placed in the record as it is written.

I would hope that you would read it in its entirety.

Mr. KELLEY. I will, sir.

Senator BYRD. Thank you very much. It is very brief.

STATEMENT OF HON. CLARENCE M. KELLEY, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Mr. KELLEY. My statements today with regard to the legislation under consideration constitute my personal views as Director of the FBI.

In my statement before the Committee on the Judiciary in June, 1973, I indicated that 9 years would be a proper term for the Director of the FBI.

From a personal standpoint, I am perfectly satisfied with the current status. I am confident that during my time in this position, there will be no successful pressure exerted on me to use the FBI for partisan political purposes.

Since the FBI is, and I feel should remain, part of the Department of Justice, the Director should be answerable to and take direction from the Attorney General of the United States.

It would be improper for the Director to disregard the responsibilities imposed upon the FBI by law or to disobey legitimate guidance and lawful orders of the Attorney General.

I do not anticipate that I will receive orders which are unethical or political in nature, but I feel it is incumbent upon the Director to refuse any effort to use the FBI for purposes other than its lawful responsibilities.

I would not object to legislation setting a definite term since it might contribute toward countering the impression that an appointment of any Director was for political purposes. I also feel that the position of Director should not necessarily change hands with each administration which will give the incumbent a greater sense of independence.

I originally mentioned a term 9 years, since I believed that period would minimize occasions when the appointments would coincide with a change in administrations. Whether the term is for 9 years, or 10 years, makes little difference to me as long as this consideration is taken into account. Either period would provide the incumbent a sufficient feeling of independence.

Senator BYRD. Does that complete your statement, Mr. Kelley?

Mr. KELLEY. Yes, sir.

Senator BYRD. The Justice Department has advised the subcommittee that they are sending only one witness, Mr. Kelley, on the bill and that his testimony reflects the view of the Department.

Now, Mr. Kelley, you have now been the Director of the FBI for almost 9 months. During that time, have you formed an opinion as to what the role of the FBI should be in today's society?

Mr. KELLEY. Yes, sir, I have.

Senator BYRD. Would you state it?

Mr. KELLEY. I feel, Senator, that the FBI certainly should perform its duties as an investigative agency as well as possible, and that it should at all times make itself responsive to the needs of the citizens to the fullest extent provided by law.

I feel it is most important that we not become isolated; that we not become provincial; that we consider all possibilities and from them choose the best course of action.

For these reasons, I have looked forward to discussions with this Oversight Committee. I do not feel we should ever sequester ourselves so that we have only the view of the law enforcement officer, but that we should have the general view which will help us to perform in the best interest of the Nation.

In consideration of this particular bill, I had this philosophy very strongly in mind. It is possible, with a lengthy term of office, without constraints, to become somewhat isolated and somewhat opinionated, and to foresake the idea that you must remain alert to changing conditions.

In other words, I feel that law enforcement in this era needs to recognize the changes and the complexities of society and we need the assistance of knowledgeable people. This, in essence, is a generalization that we are to be responsible to the law and to the people.

Senator BYRD. Do you think that the Bureau's proper place in our framework of Government is that of being a part of the executive branch? A part of the Department of Justice within the executive branch?

Mr. KELLEY. I do, sir.

Senator BYRD. What are the advantages and what are the disadvantages of such a structure in which the FBI is a part of the Department of Justice within' the executive branch?

Mr. KELLEY. First, I should say I came from local law enforcement where prosecution and enforcement are separate. I do not feel, however, this is necessarily the proper role in Federal law enforcement.

In local law enforcement, much of the work is preventative or by virtue of having come onto a violation in the course of work.

In Federal law enforcement, it is more of an activity after the fact. In other words, the crime is committed and then the investigation starts. I think, in this latter role, it is well to be in close communication with the prosecutive efforts. And, I feel, having worked the major portion of my life in this atmosphere, that this is a most satisfactory situation.

I might state, parenthetically I have felt no restraints in this position. I feel the Department of Justice has placed no barriers to the proper enforcement of the law.

Perhaps that is a fortuitous circumstance, but I do not think it is. I think this is a natural consequence of an organization whose units work well together.

One of the statements I made during my confirmation hearings was that there certainly should be a very close check on the Office of Director, and that there should be great care taken in choosing the Director.

The choice, insofar as nomination, is that of the Executive. The confirmation' rests in the Senate, however. It is most essential to choose one who can work within the established framework, one who will not try to create an empire within his own organization.

I have had a very happy relationship as a member of an FBI which is part of the Department of Justice. My personal principles will forbid this type of relationship from becoming distorted and perhaps oppressive. I do support strongly the present structure of having the FBI as a part of the Justice Department within the executive branch.

Senator BYRD. You do not see any disadvantage to the present structure wherein the Federal Bureau of Investigation is within the Department of Justice? This structure makes the Director of the FBI responsible to the Attorney General. This could result in a situation where the director would be responsible to an Attorney General who wore two hats—one as the chief legal officer of the Nation and two as the top political advisor to the President.

You do not see any conflicts or any disadvantages to this situation?

Mr. KELLEY. Not really, Senator. I suppose that under practically any system, were you to speculate about what might happen under certain conditions, you could raise some critical issues.

I think, however, that having chosen a person with the determination to resist any pressure to give way to political influences, the problems which could arise are minimal. I am confident that when the Senate confirms an FBI Director, its Members will have done their work well. I believe the dedication within the FBI, the fine work that is done by its members, and their complete subjugation to duty, will seize a Director and he will be motivated in a like manner.

I know problems can arise, but I do not visualize any grave ones within this situation. The careful selection of personnel, always a hallmark within the FBI, is the best assurance I know of in this regard.

Senator Byrd. Now, Mr. Kelley, if the FBI were removed, by statute, from the Department of Justice and established as an independent agency, would this have any advantages for the FBI, either actual or as perceived by the public, in your opinion?

Mr. Kelley. This would be similar to the situation applicable to local law enforcement. It works there; I presume it could work in this situation. But I would prefer to work under circumstances as they now exist.

Senator Byrd. You would prefer to operate under the present structural setup?

Mr. Kelley. I would, sir.

Senator Byrd. What would be the disadvantages of such a separate organizational arrangement?

Mr. Kelley. I think great rapport is created when you become a part of a whole. This is what exists among the various bureaus which comprise the Department of Justice.

We meet to consider common problems. There is a joining of our efforts toward solutions. And, generally, a position of unity rather than division results.

I have found that under the divided system which exists at the local level that sometimes the needs of the law enforcement unit, are not recognized quite as readily or reacted to as quickly as they should be.

The Attorney General, in the Department of Justice, represents both the prosecutive and the enforcement groups, and I feel, at least in my experience, he has given ample consideration to each. Were the two functions not coordinated by a single head, one or both, might become oppressive.

Through this unification, the prosecutive portion is supportive of law enforcement. Within the Department a constant effort is made to keep it supportive. At the same time, this places us, the people in law enforcement, in an atmosphere conducive to our working within legal restraints and responsive to the legal interpretation and the full recognition of the restraints of a particular law.

I suppose it makes us a team rather than two teams.

Senator Byrd. It is still your feeling, therefore, as you stated during your confirmation hearings before the Judiciary Committee on June 20, 1973, with respect to your appointment, that a Director of the FBI would feel greater independence from political pressures from within the executive branch if he were assured of a definite tenure of office?

Mr. Kelley. Yes, sir, and I spoke of "a" Director. Insofar as I am concerned personally, I have always worked without any tenure, and I have felt throughout those 34 years, perfectly comfortable without it.

I still feel comfortable without it, but I think there would be some who would, perhaps, feel more comfortable with the term established.

I have a strong feeling that I should be responsive to needs. And if I should cease to satisfy those needs, something should be done about me. So far as I am concerned personally, I am satisfied with a day-by-day situation.

Senator Byrd. In your time as Director of the FBI, have you felt that pressure of any type has attempted to be exerted upon you by the President?

Mr. Kelley. Senator Byrd, not once.

Senator Byrd. Any of his aides?

Mr. Kelley. Not once.

Senator Byrd. By your superiors in the Justice Department?

Mr. Kelley. Within the Department of Justice, it has been completely without any improper influence. It has been, as a matter of fact, a very satisfactory, happy relationship.

Senator Byrd. The bill that is being considered today, S. 2106, would apply to you. Do you have any personal feeling about that, one way or another?

Mr. Kelley. No, sir, I have no personal feeling. And, as I said in the confirmation proceedings, if it were to exclude me, I would not object at all. But if it is, in the wisdom of Congress, decided to make this applicable to me, I will work under it.

Senator Byrd. If this bill is enacted, your term would not expire until mid-1983—2 years past the time when you would have reached the mandatory Federal retirement age of 70.

Do you think the retirement age should be waived by Executive order in such a case so that a Director of the FBI, in this case yourself, could finish the entire 10-year term?

Mr. Kelley. I think that at 70 years of age retirement should be mandatory, and my term should not be extended an additional 2 years.

Senator Byrd. How do you personally feel about the mandatory retirement age for positions such as the Office of Director of the FBI?

Mr. Kelley. I would recommend that retirement be mandatory at 70 years of age, no matter what the health or capability of the Director might be.

Senator Byrd. You do not feel that in the event you remain in good health, that you should be allowed to serve out your 10-year term, even though, at the expiration of that term, you would be 72 years of age?

Mr. Kelley. No. I feel retirement should be mandatory at 70.

Senator Byrd. This bill's primary goal is not to guarantee a 10-year job for the Director of the FBI. The FBI Director is a highly placed figure in the executive branch and he can be removed by the President at any time, and for any reason that the President sees fit.

This bill does not change that. But it does make it clear that the Congress does not want any President to use the seat of the FBI Director as he may those of his Cabinet officers, in playing games of musical chairs.

The 10-year term carried in this bill is intended to stabilize the Office of FBI Director from political pique and from political influence, but it cannot, and does not intend to encase the occupant of that position in a fallout shelter from the standpoint of appointment and reappointment. At the same time that this legislation intends to give some security to the tenure of the FBI Director, there remains the necessity for on-going congressional oversight of the Bureau.

It seems to me that the FBI must be responsive to checks and balances and if we feel it is necessary to insulate the FBI in one respect, I think it is important that there should be an avenue for discussion, from time to time, of operating procedures and other matters, in forums such as this, with the Director of the FBI.

One of the practical problems involved here, of course, is that you are a very busy man and so are the members of this subcommittee. I wonder if the best course may not be for you to designate members of your staff to be responsive to members of the subcommittee staff, and in the areas where it would be felt necessary, hearings could be scheduled to air them and to solicit public reaction to the alternatives.

Would this manner of procedure be acceptable to the Bureau?

Mr. Kelley. This is to be a meeting between the members of the committee staff and the staff of the FBI to discuss publicly the problems within?

Senator Byrd. No, no, I am asking whether or not it would be well for you to designate certain members of your staff who would respond to requests for information by the subcommittee staff. The FBI staff designated by you would maintain contacts with the staff of the Judiciary Committee, especially this subcommittee that has jurisdiction over the FBI. In areas where the staffs felt it necessary, hearings could be scheduled, periodically, to air these areas by the subcommittee.

What I am asking you is, should there not be a close working relationship between the staff—the people on this subcommittee—and some certain designated staff people in your organization?

Mr. Kelley. Senator, I not only think there should be, but I look forward to that relationship. I think that we should be in an oversight-type of procedure and work well together. We will cooperate completely.

Senator Byrd. Will you inform the committee, then, of what steps you take in this regard?

Mr. Kelley. We have contacted Senator Eastland, and he has appointed an Oversight Committee, and we have, since then, described publicly some of the matters which we hope we can do in pursuance of this. We are ready, anytime the committee desires, to meet to go over the problems that we have to discuss those problems which the Oversight Committee feels we have.

We are ready and we will meet just as soon as the committee indicates it wants to meet.

Senator Byrd. Will you designate, then, such person or persons on your staff and inform the chairman of the Oversight Committee as to the identity of those parties?

Mr. Kelley. I will, sir.

Senator Byrd. One of the basic questions that needs to be fully explored is the derivation of the FBI's authority for its various functions. Some of this authority is by explicit statute, while in other areas, implied Presidential powers are relied upon.

Would you supply to this subcommittee a digest of the statutes and the Executive orders relied upon by the FBI for its authority in its various functions.

Mr. Kelley. Yes, sir, we will supply that.

[The information referred to follows:]

FBI JURISDICTION

The basic authority for investigative activities of the FBI is derived from Title 28 USC § 533 which authorizes the Attorney General to appoint officials to (1) Detect and prosecute crimes against the United States; (2) Assist in the protection of the person of the President; and (3) Conduct other such investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General.

Title 28, Code of Federal Regulations, Section 0.85, sets forth the general functions of the FBI as defined by the Attorney General. Included is the delegation of responsibilities to the FBI to:

1. Investigate violations of the laws of the United States and collect evidence in cases in which the United States is or may be a party in interest, except in cases in which such responsibility is by statute or otherwise specifically assigned to another investigative agency.

2. Carry out the Presidential directive of September 6, 1939, as reaffirmed by Presidential directives of January 8, 1943, July 24, 1950, and December 15, 1953, designating the FBI to take charge of investigative work and matters relating to espionage, sabotage, subversive activities, and related matters.

Additionally, Title 18 USC § 3052 confers upon investigative personnel of the FBI the power to carry firearms, serve warrants and subpoenas, and make arrests without warrants under certain circumstances.

Accordingly, there is no question as to the FBI's jurisdiction and authority to investigate violations of Federal statutes which impose criminal sanctions. The FBI obviously is charged with the responsibility to investigate violations of Federal laws such as those involving kidnapping and bank robbery, as well as those relating to espionage, sabotage, and sedition.

The question is not really whether the FBI has the authority to investigate crimes against the United States but whether its authority is limited to investigating crimes after they have occurred with no authority to perform a preventive law enforcement function.

The record is clear that historically law enforcement agencies have performed the dual function of investigation of crime and crime prevention. It would be difficult to believe that the FBI would be forced to take no action until after the commission of a crime when its capabilities would permit it to develop prior information regarding a kidnaping or a bank robbery and thus be in a position to thwart the criminal act. Likewise, there have been no serious claims made that the FBI should refrain from extensive counterespionage activities designed to identify foreign agents and prevent the theft of vital and extremely sensitive national secrets affecting the security of our country.

It would seem to follow that the FBI also has the authority and the responsibility to identify and follow the activities of individuals and groups who secretly or publicly advocate or engage in activities which are in violation of the laws of the United States designed to preserve the security of this country and its citizens.

A recent decision in the Second Circuit of the United States Court of Appeals appears to be in point. In this case the Director of the FBI and others were sued in a civil action by The Fifth Avenue Peace Parade Committee and other plaintiffs for alleged invasion of constitutional rights and invasion of privacy. The plaintiffs complained that an FBI investigation conducted immediately prior to the November 14–16, 1969, Moratorium Demonstration in Washington, D.C., had a chilling effect upon the exercise of the plaintiffs' constitutionally protected activity. The purpose of the FBI's investigation in this case was to determine the number of individuals who would be coming to Washington, their mode of transportation, time of arrival, and to detect individuals who had a potential record of violence.

With regard to the FBI's authority to conduct the investigation, the court said, "Beyond any reasonable doubt the Federal Bureau of Investigation had a legitimate interest in and responsibility for the maintenance of public safety and order during the large demonstration planned for Washington, D.C. In fact, had it been ignored the agency would be properly chargeable with neglect of duty." The court went on to say no matter how peaceful the intention of the organizers the assemblage of the vast throng planning to protest the Viet Nam action and to express their sincere and conscientious outrage, presented an obvious potential for violence and the reaction of the Government was entirely justifiable. The court said, "That reaction was not to deter, not to crush constitutional liberties but to assure and to facilitate that expression and to minimize controversy which in the end would harm the cause of the plaintiffs more than the disruption or violence would injure the Nation." (480 F2d 326 (1972)) The court not only condoned the FBI's prior investigation of a constitutionally protected activity, it went further by stating that the FBI had a duty.

There follows a listing of those Federal statutes and Executive Orders considered most pertinent to the FBI's responsibilities in protecting the Nation's internal security. Basic criminal statutes are omitted although some of the individuals the FBI has investigated for intelligence purposes have been involved in ordinary criminal activity.

In conclusion, the FBI is a lawfully created agency which has been given jurisdiction and authority to investigate crimes against the United States. It has the authority to take preventive action in connection with its responsibilities and indeed even the duty to take such action. Nevertheless, the FBI is cooperating with the Department of Justice to more clearly define the scope of the FBI's authority in the intelligence gathering field with the view that ultimately recommendations may be made to the Congress for legislation spelling out specifically the FBI's responsibility in this field.

STATUTORY JURISDICTION OF THE FBI IN FOREIGN COUNTERINTELLIGENCE AND DOMESTIC SUBVERSIVE INVESTIGATIONS

Activities against foreign governments

Title 18 U.S.C. Section 956—Conspiracy to injure property of foreign government.

Title 18 U.S.C. Section 958—Commission to serve against a friendly nation.

Title 18 U.S.C. Section 959—Enlistment in foreign service.

Title 18 U.S.C. Section 960—Expedition against friendly nation.

Title 18 U.S.C. Section 961—Strengthening armed vessel of foreign nation.

Title 18 U.S.C. Section 962—Arming vessel against friendly nation.

Advocating the overthrow of the governments

Title 18 U.S.C. Section 2381—Treason.

Title 18 U.S.C. 2382—Misprison of treason.

Title 18 U.S.C. Section 2383—Rebellion or insurrection.

Title 18 U.S.C. Section 2384—Seditious conspiracy.

Title 18 U.S.C. Section 2385—Advocating overthrow of government.

Antitrust laws

Title 18 U.S.C. Section 2101, 2102—Riots.

Title 18 U.S.C. Section 231, 233—Civil Disorders.

Atomic Energy Act of 1954

Title 42 U.S.C. Section 2077—Unauthorized Dealings in special nuclear materials—Handling by persons.

Title 42 U.S.C. Section 2122—Prohibitions governing atomic weapons.

Title 42 U.S.C. Section 2131—License required.

Title 42 U.S.C. Section 2138—Suspension of licenses during war or national emergency.

Title 42 U.S.C. Section 2165—Security restrictions—On contractors and licenses.

Title 42 U.S.C. Sections 2274–2277—Restricted data.

Title 42 U.S.C. Section 2278a–2278b—Trespass upon commission installations and photographing.

Bombings

Title 18 U.S.C. Section 841–844—Importation, manufacture, distribution and storage of explosive materials.

Civil rights

Title 18 U.S.C. Section 245—Federally protected activities.

Crimes on Government reservations

Title 18 U.S.C. Section 13—Laws of states adopted for areas within Federal jurisdiction.

Title 18 U.S.C. Sections 81, 113, 1111, 1112, 1113, 1363, 2111—Arson, assault, manslaughter, murder, robbery and burglary, destruction of buildings.

Destruction of Government property

Title 18 U.S.C. Section 1361—Government property or contracts.

Espionage

Title 18 U.S.C. Section 792–799—Harboring, gathering, transmitting, photographing, sale, disclosure of defense information.

Title 50 U.S.C. Section 783—Attempt to establish totalitarian dictatorship.

Firearms acts

Title 26 U.S.C. Section 5812—Transfers.

Title 26 U.S.C. Section—5822—Making Firearms.

Title 26 U.S.C. Section 5842—Identification of Firearms.

Title 26 U.S.C. Section 5861—Prohibited Acts.

Title 18 U.S.C. Sections 921–922—Unlawful Acts.

Title 18 U.S.C. Appendix Section 1202—Receipt, possession, transportation of firearms.

Fraud against the Government

Title 18 U.S.C. Section 1001—Statements.

Interstate travel in aid of racketeering

Title 18 U.S.C. Sections 1951–1952—Racketeering enterprises.

Loss of United States nationality

Title 8 U.S.C. Sections 1481–1483—Loss of nationality, dual nationals, restrictions on expatriation.

Title 18 U.S.C. Sections 911, 1015—False claim of citizenship.

Neutrality matters

Title 22 U.S.C. Section 1934—Munitions Control.

Title 22 U.S.C. Section 401—Illegal exportation of war materials.

Private correspondence with foreign governments

Title 18 U.S.C. Section 953—Private correspondence with foreign governments.

Protection of foreign officials and official guests of the United States

Title 18 U.S.C. Section 1116—Murder.

Title 18 U.S.C. Section 1201—Kidnaping.

Title 18 U.S.C. Section 112—Protection of officials and guests.

Title 18 U.S.C. Section 970—Protection of property.

Protection of U.S. officials and employees

Title 18 U.S.C. Section 111—Assaulting, resisting, impeding.

Title 18 U.S.C. 1114—Protection.

Title 18 U.S.C. 2231—Assault or resistance.

Title 18 U.S.C. Section 351—Congressional assassination, kidnaping, assault.

Title 18 U.S.C. Section 1715—Presidential assassination, kidnaping, assault.

Registration acts

Title 18 U.S.C. Section 951—Agents of foreign governments.

Title 22 U.S.C. Sections 611–621—Foreign agents registration Act.

Title 50 U.S.C. Sections 851–858—Individuals with knowledge of espionage or sabotage.

Title 18 U.S.C. Section 2386—Registration of certain organizations.

Sabotage

Title 18 U.S.C. Sections 2152–2154—Fortifications, destruction of war material, production of defective war material.

Strategic facilities

Title 18 U.S.C. Sections 2155–2156—Destruction of national defense materials, production of defective national defense material.

Title 50 U.S.C. Section 797—Security regulations.

Sedition

Title 18 U.S.C. Sections 2387–2390—Activities affecting armed forces, during war, recruiting for service against the United States, enlistment to serve against the United States.

Executive orders

Executive Order 10450—Security requirement for government employment.

Senator BYRD. You may recall when you testified here during your confirmation hearings, you and I discussed the legal foundations for domestic intelligence gathering activities by the FBI?

Mr. KELLEY. Yes, sir.

Senator BYRD. I indicated at that time, and I reiterate now, my uneasiness with the vagueness of the implied Presidential power which is construed as authority for the FBI in its domestic intelligence gathering work. Have you had an opportunity to study this area in any greater detail since those hearings?

Mr. KELLEY. I have reviewed it, but certainly, not, as completely as has the group which has been appointed by me in our Bureau to make this study.

I would say that we look forward to discussing this with the Oversight Committee for any recommendations and to give committee members the opportunity of exploring some of the areas where we find problems.

We will work together, Senator.

Senator BYRD. Very well.

Also, during those confirmation hearings, I believe we concluded that in areas such as domestic intelligence gathering, we would feel more secure in the future knowing that there were statutory guidelines for such procedures, rather than vague, implied powers.

Have you requested your staff, in light of those hearings—or will you request your staff, if you have not already done so—to begin to devise appropriate language so that this subcommittee might study the area and provide adequate statutory authority in areas in which it is now lacking?

Mr. KELLEY. Yes, sir.

Senator BYRD. Now when you respond in the affirmative, as you have, does this mean you have already requested that this be gotten underway? Or that you will request such?

Mr. KELLEY. We already have set this research in motion.

As a matter of fact, Senator, this has been under study by the Intelligence Division of the Bureau since October 1971, and substantial redirection has been accomplished since then. Results of this study were furnished the Office of Legal Counsel of the Department of Justice as one of my first official acts after becoming Director, and the study is continuing.

Mr. John Elliff, assistant professor, Department of Politics, Brandeis University, Waltham, Mass., has been requested to make comments on our study and he has. I have talked with Mr. Elliff and I think there is a meeting of minds as to this very proposition. He and officials of our Intelligence Division have met for 1 whole day to discuss domestic intelligence gathering, and additional meetings are anticipated.

We will make a presentation as to his findings also. Mr. Elliff's credentials are very impressive, and my contacts with him indicate he has great capability. We certainly appreciate his interest in this matter.

His father was in the Department of Justice. He is a scholar and wants to do what is appropriate for both the Department of Justice and the FBI.

Senator BYRD. Then, are you stating to the subcommittee today, that this effort is already underway to devise appropriate language which would provide adequate and clear statutory authority in the areas where it is now lacking?

Mr. KELLEY. I say that we have started this study—I think it will be very difficult to legislate a completely viable set of guidelines. It is going to be something that will take a great deal of study, but we have embarked upon it and hopefully we will be able to bring up something that will be workable.

Senator BYRD. During your confirmation hearings, you were somewhat uncertain in your response when I asked what controls existed within the FBI to limit surveillance of groups and individuals—who, in fact, made the operative decision to infiltrate an organization, and whether or not there were controls on such practices, and if there were controls, what they were.

Now have you proceeded to explore this area, with the idea in mind of developing controls and standards and guidelines, when you are dealing with the civil liberties of large numbers of our citizens?

Mr. KELLEY. Yes, sir; I have, Senator. And I am satisfied, in my own judgment, there are very adequate controls.

I must recognize that mine is a rather "police" or "law enforcement" view, and this must be tempered with the considerations of others who can, perhaps, look at it from a different viewpoint.

But insofar as my personal feelings, I am satisfied that right now we are recognizing, to the fullest, the rights of individuals and are not engaged in capricious, careless, or illegal investigatory activities.

Senator BYRD. Mr. Kelley, do you see any disadvantages to a 10-year term, with the possibility of reappointment to a second 10-year term for the Director?

Mr. KELLEY. I would say to keep in mind that I recommended the 70-year mandatory retirement. I have no objection to a continuation of a term of office so long as it does not go beyond age 70.

In other words, were he to start at 50, and to be up for reappointment at 60, I would have no objection to another 10-year term. If he were starting at 55, and at 65 go for reappointment—I would say, restrict it to 5 years. But I have no objection if the age 70 limitation is not voided.

Senator BYRD. I take it that you do see advantages in this approach over what would be the situation in the event a Director were to be appointed only for 4 years with the possibility of a 4-year reappointment? Or, a 7-year appointment with the possibility of reappointment for 7 years, and so on?

If you do see advantages in the 10-year maximum, 2-term approach, what are those advantages over the 4-year term, or over the 7-year term?

Mr. KELLEY. I think that the 10-year term gives you the condition where it will go beyond the political administration periods. This gives the opportunity to continue with what has been, hopefully, a good direction of the FBI which will not be changed just because of the change in administration.

Within this framework, you will have some freedom from political pressures which conceivably could be exerted.

Senator BYRD. Do you feel that the two 10-year terms, inasmuch as they provide assurance of civil service retirement, would be helpful in the securing of able men to serve as Directors of the agency? Whereas, with a short term of say 4 years, the possibility of reappointment to a second term, or to a third, or a fourth term, that there is not that guarantee of tenure of office that is necessary in the recruitment of the kind of talent needed?

Mr. KELLEY. I agree to this. And, I think with the Senators confirming a man they think is capable and dedicated to the proper method of procedures, this will be achieved.

There will be independence and there will be a choice in recruitment of a person who can properly fill this position.

Senator BYRD. Is the work of the Director so unique and the responsibilities such, of the office, and the work of the FBI itself so peculiar, as to require more than 4 years for the Director, as his initial term?

Does he need longer than this to become acclimated to the agency, and to begin to leave his imprimateur on its organizational structure, et cetera?

Is there a disadvantage in a short term that you could talk to the committee about?

Mr. KELLEY. I think, to a considerable extent, this depends on the man. A man coming from within the FBI, already is well acquainted with the procedures and policies, and his orientation into the position of Director would be much shorter.

But whether he be from within or without the Bureau, for him to do a good job, there is a certain amount of orientation he must go through. I think a man from within the FBI could well do this within 4 years, perhaps even a shorter period of time, but he still needs and deserves more than 5 years to establish and achieve his goals.

I therefore subscribe to the 10-year period as necessary to build and to perpetuate a fine organization.

This is, as a matter of fact, a splendid organization, Senator. And I find that one of the main capabilities which a Director must have is balance. He must recognize he is in a position of great authority, and handle this authority in a very sensitive manner to achieve proper balance. Certainly he must not give way to any personal desires.

It is natural for a man to try to build somewhat of a wall around himself, for protection, I suppose. But, if he has 10 years, he can devote himself to the job at hand, rather than to trying to protect himself.

Senator BYRD. I take it, then, that it would be conducive to the better morale and the better discipline and the efficiency of the Agency, if the people within the Agency saw a longer tenure of office with respect to the Director than that of, say, a 4-year term, or even a 7-year?

Mr. KELLEY. I am confident that is true.

Senator BYRD. All right, thank you very much, Mr. Kelley.

Mr. KELLEY. Thank you, Senator.

Senator BYRD. We appreciate your appearance and your contribution to the testimony, with respect to the bill.

Our next witness is Prof. John Elliff of the Department of Politics at Brandeis University, Waltham, Mass.

Professor Elliff has testified before the Judiciary Committee on FBI matters in the past, and since 1966, has conducted research on the various aspects of the Justice Department and the FBI.

He was a research fellow at Brookings Institute and has written many papers published on the FBI.

Professor Elliff, we welcome you back to the Judiciary Committee's Subcommittee on FBI Oversight.

Mr. ELLIFF. Thank you very much.

Senator BYRD. You have a prepared statement, I believe?

It is not one that would be cited for its brevity, but nevertheless, I am sure, as to its contents, it would be worthwhile, I think, for you to read it in its entirety.

You are the second, and last, witness I believe, so the subcommittee has ample time, unless you would prefer to hit the highlights of the statement? I thank you should be the judge as to how you should proceed.

In any event, it will be included in the record in its entirety.

Mr. ELLIFF. I may skip over a few portions that may be repetitive, although I tried to do it as tightly as I could.

Senator BYRD. Very well.

STATEMENT OF JOHN T. ELLIFF, ASSISTANT PROFESSOR, DEPARTMENT OF POLITICS, BRANDEIS UNIVERSITY, WALTHAM, MASS.

Mr. ELLIFF. Mr. Chairman, I wish to thank you for this opportunity to present a statement of my views in support of legislation providing for a 10-year term for the appointment of the Director of the Federal Bureau of Investigation.

Prior to 1968, the FBI Director was simply a bureau chief in the Justice Department who was appointed and could be removed at any time by the Attorney General.

Congress, in 1968, made the office subject to Presidential nomination and Senate confirmation, as are other subcabinet appointees and agency heads. However, the 1968 measure established no firm expectation as to what should constitute the normal duration of the FBI Director's appointment; his retention or dismissal was left up to the complete discretion of the President.

During the past year, a series of disclosures—many related directly or indirectly to the Watergate affair—have underscored the need to establish a greater degree of independence for the FBI Director from unlimited Presidential control.

Hence, the proposal for a fixed term of office for the FBI Director is one step toward insuring that this most sensitive Agency of Government is kept free from partisan political influence.

* * * * *

Senator Byrd. Thank you, Professor Elliff, for a very interesting, informative, and thoughtful statement.

You have indicated that you might prefer a single 10-year term, rather than a provision that is contained in this bill for reappointment to a second 10-year term.

Would you like to elaborate further in this regard? I would be very interested in your going to greater length into this question in indicating why you think a single 10-year term would be better, and then weigh that against the two-term provision in this bill and see if you at the end come out with the single term being preferable in your opinion.

Mr. Elliff. Well, the disadvantage, it seems to me, of the reappointment for a second term is that toward the end of that first term, or perhaps in the latter half of that first term, a younger Director—again, we are speculating about 15, 20 years from now—might feel that in order to assure his reappointment, he would have to cultivate the kind of relationships to the White House, the kinds of relationships to Members of Congress, that would be politicizing in terms of the Bureau's operations. He might seek to serve that second President, whose decision it would be for his reappointment, given the fact that he had been appointed by a previous President, and that with the passing of the 10 years some of the abuses that have existed in the past with respect to services done for Presidents, and with respect to the responsiveness to Presidential demands as opposed to policies developed by the Justice Department might start coming back into the Department.

I do not think this would happen under Mr. Kelley, for one reason because of the mandatory retirement age. But with a younger Director, it might happen.

Now, on the other hand, some of the people whom I have talked to like this bill very much because it is a flexible bill. On the one hand, it does still allow the President to remove the Director short of the 10–year period, although he would have a heavy burden in explaining such a removal; and it also allows the flexibility for the Director to continue on. And I think that is the greatest advantage of it, that it does allow sufficient flexibility to be built in.

Now, in weighing those two, I think the question is: Does an FBI Director need more than 10 years to do the job? I would think not. I would think that within 10 years the Director could come in, reevaluate those Bureau policies that he chose to reevaluate, establish those policies for the future, and implement them, and then at the end of 10 years be satisfied in having done his job for 10 years.

The Comptroller General is 15 years. I do not think he is eligible for reappointment. It seems as if a long period like this would be sufficient for a Director to have the impact; that it would be sufficient for the morale of the organization.

On the other hand, there is the problem of who is going to take his place. Does he become, so to speak, a lame duck Director, with the possibility that subordinates would start jockeying, toward the end of that 10 year term, as Mr. Sullivan did seeing that Mr. Hoover was getting older and would not last forever.

It is hard to come down one way or the other. There are competing advantages and disadvantages on both sides. I had thought initially that the reappointment was all right, but as I sat through the hearing this morning, I thought, Mr. Kelley is going to have 10 years or 8 years, and that is probably going to be plenty. Ten years would probably be plenty; and that one might like to be able to give to the President and the Congress a clear opportunity every 10 years to be able to select a new man.

And so I am not willing to push so hard as to say it ought to be changed, but I think there ought to be some thought about it. And that really was not explored earlier. It was one question that I was hoping you would ask to Mr. Kelley. It had come to me while I was sitting in the audience.

Senator Byrd. Do you, as a general rule, look with favor upon the appointment of a Director from within the FBI, or would you think that it is preferable to go outside the FBI and select a Director?

Mr. Elliff. I think it is preferable to go outside.

Senator Byrd. All other things being equal, if such a hypothetical could be advanced.

Mr. Elliff. I think it is very preferable to go outside the FBI. In fact, that might take care of one of these problems. Mr. Kelley had been in the FBI, but he was outside when he was appointed. It seems to me that a Director coming in from outside can have fresh perspective; yet he also has his highest aides as the career men. I would be very much inclined to have it established as a practice that the Director come from outside the Bureau. I think it gives that kind of opportunity to look at the policies from a different perspective and give them a degree of oversight.

Senator Byrd. Do you not think this would have a damaging effect on the morale of the people within the FBI who feel that there is no incentive for them, knowing that they could never advance to the office of Director?

Mr. Elliff. That would be a clear disadvantage of it; and yet, one feels that if people start jockeying for positions toward the end of a term of a Director, if he has a term, then that might be unhealthy.

I would not write it into the statute, but I would say whenever it comes up there should be great weight given to the need for an outsider's perspective. The career man can aspire to being Associate Director, and Associate Director, really the operating head of the Bureau, seems to me to be a position of great prestige within the Bureau and great importance in the structure of Federal justice. So that I would think aspiring to be Associate Director would be sufficient to maintain the morale.

Senator Byrd. One of the factors in support of the proposed second 10-year term is that of guaranteeing civil service tenure to a person who might be selected from outside Government service. To offer him the possibility of 20 years of service might enhance the selection of capable individuals.

Do you think that is really worth the weight?

Mr. Elliff. I do not think so. I think the opportunity to be Director of the Federal Bureau of Investigation is going to be a very—that these ancillary benefits would not, I think, be of great weight over and above the opportunity to exercise the influence on policy and on the direction of a great agency for that length of time. I think those are the rewards that people who would aspire to that position would want to have as the rewards and the additional rewards that pertain to civil service status would not seem to me to be nearly of as great a weight in an individual's decision in this.

Senator Byrd. If the term of a Director were limited to one 10-year period, would there not be the possibility of a Director becoming politically oriented toward the end of his term in the hope that he would be appointed by the next administration to another high Government position; whereas if he knew that he could serve as Director of the FBI for a second term, I suppose there would be that same incentive there perhaps to politically orient himself with the upcoming administration in order to get himself reappointed.

I suppose there is really no way to completely remove the possibility of one's attempting to endear himself to an incoming administration in order to become reappointed or to be appointed to some other high position.

Mr. Elliff. I think what needs to be stressed is that—and this is the Senate's role—that the decision to reappoint if that continues in the bill, the decision to reappoint be made on grounds of professional competence; and that in its confirmation role the Senate require that kind of criteria to be adopted by the President and use that kind of test when examining a Director for reconfirmation.

In a sense I had felt that perhaps this bill is little more really than the effect of a joint resolution of Congress saying do not change the FBI Director automatically when a new President comes in. That is really what we are concerned about. We are concerned about those election years. We are concerned about those transition periods. And this bill goes one step farther than that. But I think if it is passed there should be the clearest intent of the legislative history of the bill in a report that the committee might prepare to indicate that the purpose is that this not be a job that changes hands when a new President comes in and changes all of the jobs.

Senator Byrd. Well, the reconfirmation by the Senate is the one greatest guarantee against the politicization of the Bureau by Directors, is it not?

Mr. Elliff. Yes, I think so. Well, I think it is the tension between executive and legislative; and I also do not really believe it is a sufficient safeguard. I think there are other safeguards that need to be built into more continuing institutional and legal provisions governing the Bureau, especially in the intelligence area, in order to safeguard against either ideological proclivities or partisan political influence.

Senator Byrd. Yes.

Suppose you would indicate by extention of your answer what some of the other steps are that you think ought to be taken to protect the Director, to insulate him against the political pressures from the administration, from the Attorney General; at the same time protect the Congress and the people against his becoming too independent.

Mr. Elliff. As Mr. Kelley related to you, I am engaged now in research on this question; and I have not yet formulated all of the answers by any means. I hope to work on it for perhaps the next year or so before I am ready really to say what I think all down the line.

But one of the things that I have been thinking about, for example, is the area you explored with Mr. Kelley this morning about the legal foundation for intelligence powers. I think you should know that there seems to be somewhat of a conflict in the present position of the Bureau and the position of the Department on this.

In its latest annual report, in discussing internal security and its internal security responsibilities, the Bureau omits any reference to Executive orders. But last month Deputy Assistant Attorney General Kevin Maroney testified before the House Internal Securtiy Committee on the question of FBI authority in this area; and he cited a number of Executive orders, both numbered Executive orders and informal, less formal directives.

So that this is an area of some confusion, I think, at present within the Department and the Bureau. It is an area that I think needs to be clarified very greatly so that some kind of statutory framework could be laid out which links the authority of the Bureau not to vague Presidential powers, but to an expression of purpose from the Congress.

Another step that I have been thinking about is the establishment of some form of Security Intelligence Review Board. It would have an independent status. There are a number of things that the Bureau does that civil libertarians have argued should be subject to court order. You ought to get a court warrant for every national security wiretap, for example, or that we ought to have court warrants for certain kinds of infiltration.

And my reading, at least of the Supreme Court's decisions and the attitude of the Justices is that they are very reluctant to take on the responsibility of having to decide what they believe are often questions that are hard to categorize within constitutional boundaries.

That is one of the reasons why I am interested in the idea of a review board that would undertake a more continuing supervisory role vis-a-vis the Bureau of Intelligence Operations, more perhaps than an oversight committee of Congress which can engage in after the fact review, but, because of the demands placed on the Congress by so many responsibilities, would make it very difficult for it to consider a particular kind of decision that had to be reached before action could be taken.

If Congress and the Attorney General could jointly appoint such a Security Intelligence Review Board that would advise the Attorney General or perhaps, indeed, have statutory functions with respect to approving certain surveillance measures—that then would provide that the Attorney General would not be the only check.

Now, I suggest on the record of the past, sometimes perhaps even the Attorney General has been bypassed in these unilateral relationships between the White House and the Bureau. But in any event, the Attorney General and the appropriate Assistant Attorney General or the Deputy Attorney General, given the subject matter, and in the security intelligence area a review board might be one way of establishing a continuing oversight so that there would be a greater amount of assurance of the legitimacy of every request, and you would not have the power of national security, wiretapping for example, abused as it apparently was by the White House in the wiretapping of people for whom there is the flimsiest of justification—at least according to the Foreign Relations Committee examinations of those records.

So those two elements, at the very least, seem to me to be important in the area I am interested in, the security intelligence area.

A third area has to do with the investigation of particular criminal offenses outside of intelligence, and that would deal with the Watergate investigation itself, and the possibility that an Attorney General or a President might be the subjects of or have deep personal involvement in the subject matter of an FBI investigation.

And there, I think that the—whether as a permanent feature of the Department of Justice, or as an option that ought to be considered from time to time—the creation of a Special Prosecutor's Office with the authority to direct the Bureau's investigation with respect to certain special investigations, ought to be kept as another alternative dealing with a different kind of problem than the intelligence problem.

So those are some of the options, it seems to me, that are available.

Senator BYRD. You have said that you see no particular advantage to the 20-year tenure, which at least might appeal to a person who is being considered for appointment to the Directorship. Certainly it might, in the minds of some people, affect his decision as to whether or not to accept the original appointment.

Would you suggest that a second term be limited to less than 10 years, say 5 years, so that we would not be raising the prospect of 20 years, a tenure of 20 years, for any person?

In other words, he would be appointed to a term of 10 years with the possibility of reappoinment and confirmation by the Senate to a term of, say, 5 years just to limit the two terms then to 15 years.

Mr. ELLIFF. I like the 15-year figure mainly because it is the term that the Comptroller General has, and it is the figure that has, it seems to me, some precedent; although I am not sure whether there are other positions that do. And the 20-year figure does seem to be longer than necessary for a man to be able to do the job. And there might be time for fresh perspectives to be brought in, in less than 20 years.

So that the 5-year provision might deal with that problem somewhat better. Also, reappointment for 5 years as opposed to 10 might be less of an inducement to politicking for that reappointment. It would give him a chance to complete the job that he had been doing, if there are things really left to be done toward the end of that 10 years that he has set in motion and would like to complete. Fifteen years seems to be plenty of time.

Senator BYRD. Would you then, if you had your choice, support a 15-year overall tenure—10 years the first term, 5 years the second?

Would you prefer that approach over the two 10-year terms as provided in this bill?

Mr. ELLIFF. It sounds like a reasonable adjustment—I hate to say compromise—but it sounds like a reasonable adjustment that recognizes and that expresses perhaps the concern of the Congress about some of these considerations, and yet still preserves the flexibility which is, I think, the great advantage of the two terms. It does give a degree of flexibility that just a rigid 10 years does not allow.

Senator BYRD. You apparently—and I am asking—it will be repetitious here—you apparently give little weight to the argument that deals with civil service tenure.

Mr. ELLIFF. I feel that the cost to the President in removing a Director midterm, in less than 10 years or less than 15 years, ought to be essentially the costs that are involved in defying the clear intent of the Congress; that they would be essentially political costs. And that there not be any—that his position be subject to Presidential removal without having to go through civil service procedures.

Now, I may be unfamiliar with what civil service procedures are.

Senator BYRD. No. I do not think I made my question clear. You apparently do not give great weight to the idea that a person ought to at least have the prospect of serving for 20 years in a position covered by civil service so as to qualify for retirement at the end of that 20 years, at the end of the second term.

You do not give too much weight to that aspect of this bill?

Mr. ELLIFF. I guess I am not familiar with the civil service laws well enough.

Senator BYRD. I have introduced three bills. One provided for a 4-year term, one provided for a 7-year term, and S. 2106 provides for a 10-year term. On the Judiciary Committee there is a great deal of support for limiting the term of the FBI Director. And I think I sensed a consensus among members in support of two 10-year terms, the argument being that this would at least offer to the prospective appointee a sufficient amount of service to qualify him for retirement at the end of his second term. Apparently you do not give too much weight to that argument; that does not appeal to you, that aspect of it? I gather you would prefer the 10-year appointment with the possibility of a 5-year reappointment for various reasons which you have very eloquently and articulately outlined.

And you would prefer such an approach over the two 10-year terms, because you feel that that really is getting to be quite a lengthy period of service for any Director of the FBI. In other words, that is almost half as long as J. Edgar Hoover's tenure.

Mr. ELLIFF. I assume that what you are saying is that at the end of 15 years the Director who retired at that point and had no other prior Government service would get no retirement benefits at all?

Senator BYRD. Unless he might continue in service in some other position for an additional 5 years, so that he could fill out his 20 years.

Mr. ELLIFF. Well, other—I mean, an Assistant Attorney General may or may not have satisfied this; and I am sure Henry Petersen will, but the other Assistant Attorneys General who would come in for shorter periods of time, they would look forward to the prospect of going back to their law practice.

Now, I would assume that an FBI Director would look forward to the prospect of moving on to some other position in the field of law enforcement; that certainly, given the degree of law enforcement research and consulting activities that are under way by private firms and so on, that he would have employment offers of great prestige. And I cannot imagine that an FBI Director unless he was fired with disgrace, would have any trouble being able to find the wherewithal after he left office.

Senator BYRD. What you are saying then, if I understand you, is that the honor, the prestige, the challenge, and the importance of this position are such that the mere fact that there is not a prospect for serving 20 years and thus meeting the requirements for retirement from Civil Service, should not discourage the selection of the best talent for the position.

Mr. ELLIFF. That is what I am saying, although with the caveat that perhaps—you know, I am a younger person, and retirement does not loom large in the future. And perhaps I do not fully understand the concerns that might be present in the mind of someone who is 55 years old or 50 years old who is considering this kind of a job.

Senator BYRD. Senator Hart asked that the record show that he was necessarily absent due to the death of a member of his staff.

May I say also that the record will be left open for 5 days for the insertion of statements on behalf of Senators who were unable to attend the hearing today.

I wish at this point in the record to insert excerpts from the hearings before the Committee on the Judiciary of the U.S. Senate, 93rd Congress, the first session, on the nomination of Clarence M. Kelley of Missouri to be Director of the Federal Bureau of Investigation—those excerpts which bear upon the subject matter of this bill, to wit, the appointment of the Director of the FBI, the tenure of office, and so forth.

I ask the staff to excerpt such pertinent statements from those hearings as would be applicable to the record here.

I also ask the staff to excerpt from the hearings before the Committee on the Judiciary of the U.S. Senate on the nomination of William D. Ruckelshaus of Indiana to be Deputy Attorney General.

I went at some length into this subject matter dealing with the tenure of the Director of the FBI; and I elicited from Mr. Ruckelshaus during those confirmation hearings his opinions with regard to the necessity for such legislation. And in view of the fact that he had served as Acting Director for some period of time, I felt that his opinion could be very valuable in this regard.

I therefore ask that the appropriate extract from those hearings be inserted in the record on the hearings on this bill; and I would like for them to be inserted, not in the small type, but that they should appear as they appear in the confirmation hearings.

[The excerpts referred to appear in the appendix.]

Senator BYRD. Now, I would include in this part of the record the bill S. 2106, a bill to amend title VI of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for a 10-year term for the appointment of the Director of the Federal Bureau of Investigation.

[The bill, S. 2106, follows:]

"[S. 2106, 93d Cong., 1st sess.]

"A bill to amend title VI of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for a ten-year term for the appointment of the Director of the Federal Bureau of Investigation

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new section:

" '(b) Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after June 1, 1973, the term of service of the Director of the Federal Bureau of Investigation shall be ten,years. A Director may be reappointed in accordance with subsection (a) of this section for only one additional term.'."

Senator Byrd. Professor Elliff, I certainly want to express appreciation on behalf of the subcommittee for the effort that you have made in appearing before the subcommittee today and for your very, very fine and comprehensive statement. I found it to be extremely interesting, and I know it will be extremely helpful to the subcommittee in its further consideration of this bill and to the full committee.

I appreciate so much your continued cooperation with the Committee. You have contributed services to the committee heretofore, and you are doing so again today. And we hope we will be able to call on you again in the future.

Mr. Elliff. Thank you very much.

Senator Byrr. The subcommittee stands adjourned. The hearings are closed.

[Whereupon, the hearing in the above-entitled matter was adjourned, subject to the call of the Chair, at 12:45 p.m.]

APPENDIX

Excerpts from nomination hearings of Clarence M. Kelley to be Director of the FBI before the Senate Judiciary Committee, June 19–25, 1973, pages 102–105.

Senator Byrd. That is what I am seeking here, that degree of independence which would assure that the FBI, under the wrong Director, under the wrong Attorney General, under the wrong President, will not be used as a private police force or White House secret-police force, a political instrument of the party in power at a given time.

What is your judgment as to the tenure of office—the Director and the Deputy Director should have? Do you believe there ought to be a set tenure, a 4-year term, 7-year term, a 15-year term, a term without possibility of reappointment, a shorter term with the possibility of reappointment, or a situation in which there would be one appointment but which required reconfirmation at some point? What would be your views on it?

Mr. Kelley. I first, in consideration of this possibility, thought that 9 years would be the proper term. I do feel that there is a greater independence achieved through tenure. I do feel that in my own case, where I have for the past 33 years had only a day-to-day type of tenure has in turn been very comfortable for me. I feel that if you err, you are going to be caught up and it is much easier for the administration to get rid of a person who does so. In balancing them, however, I feel that there should be tenure, I have not settled in my own mind about the number of years.

Senator Byrd. Do you feel that a greater degree of independence on the part of the Director would be assured and that less likelihood of an attempt to endear oneself politically to an administration or to a Presidential candidate, would be best assured if a Director could not be reappointed? Would the good that would result from this outweigh the possible harm that might result if a Director in such a position would become authoritarian or feel that he could become a law unto himself?

Mr. Kelley. Again. I think a great deal should be said for the fact that this man should be chosen very carefully and that this committee has a tremendous duty to choose carefully before confirming. I don't understand the need for saying that after the term he cannot be reconfirmed and continued. I do feel that it does give him a measure of independence were he so inclined to not succumb to political pressure. However, I suppose I assume too much in saying that through a selection process, you should be able to get the right man. You feel that possibly isn't the answer. I frankly think it is. I would not feel uncomfortable to continue myself on a day-by-day basis. I feel that is a responsibility that as a public official, I must have, that if I do wrong, I get out and you can certainly accept that as my principle. But if some feel more comfortable and more independent and free from the taint of political pressure under tenure, all right; that is the cushion that they should have.

Senator Byrd. I don't think that gets to the basic need here, Mr. Kelley. What would you think of having a 15-year term, let's say, with reconfirmation necessary midway in the term, reconfirmation by the Senate? Not reappointment, but reconfirmation.

Mr. Kelley. I would see—I can't think of anything particularly wrong with that. That is quite a length of time. But on the other hand, it is an accumulation of experience in the meantime which would be helpful.

I am in my 12th year being police chief. I can't say that I feel that is too long. Mr. Hoover was for many more years than that and he remained just as steady and steadfast throughout the entire period.

I don't think, in other words, it is the term, necessarily, but if that be a comfort to some, all right.

Senator Byrd. Would you think that 7 years would be too short a term?

Mr. Kelley. I am inclined toward 9.

Senator Byrd. Why 9 in preference to 7? Why not 11?

Mr. Kelley. I don't—I can't tell you. I really don't know.

Senator Byrd. Do you feel, Mr. Kelley, that a 7-year term would not provide the incentive——

Mr. Kelley. Would not what?

Senator Byrd. Would not provide the desirable incentive to a Director and would not give him enough time to get into the job and to get his feet into the ground, so to speak? Is this why you think that 7 years would be too short and you have opted for 9?

Mr. Kelley. I would recommend that if any candidate for this post ever told you it took him 7 years to get going, you had better look for a new one.

Senator Byrd. Well, let me respond to that. You show me the Senator who, in his first 6 years, really got going. Not many of them. It takes a while. I should think. It might not take you that long, because you have already had 21 years of experience in the Bureau. But be that as it may, you feel that 7 years is too short?

Mr. Kelley. Yes, sir.

Senator Byrd. I would like to—can you once more address yourself to the question as to whether or not a Director should be eligible for reappointment? Let's say with a 9-year term?

Mr. Kelley. With a 9-year term?

Senator Byrd. Yes.

Mr. Kelley. And this would mean that he would, after the 9, be eligible another 9?

Senator Byrd. Yes, he would be eligible for——

Mr. Kelley. I would say that were I to continue with this, I would say that this could be, after the 9 years, be shortened, because you can have in such an event someone who could well go into an age at which time he would be unable to do the job, possibly, as he should. And it could well be a health matter. So I would have to say that this should be reduced. How much, I don't know. But I think after that, it could well be that it could be reduced considerably.

Senator Byrd. And you are saying that a prospective Director could serve a 9-year term and then be eligible for reappointment to a lesser term, say 5 years or 7 or 3 years?

Mr. Kellzy. Yes, sir.

Senator Byrd. Would you suggest that he also be eligible for a third term?

Mr. Kelley. I can't give you any real clear answer to that. It could well be that you could have a man at 40, which would mean that he could continue for as much as 20 years. And, I could well imagine that such a person could contribute considerably. There is a general feeling in police circles that you can be chief of police too long and you need some new blood so that there can be innovative ideas and readjustments and the avoidance of some of the things that stereotypes the organization, I would want to be very careful before I would say go to any period such as over 20 years.

In the FBI, you could serve and be eligible for retirement after 50. One of the greater comforts for the agents is the fact that they are entitled after 20 years of service to retire at 50, and I think that right within that itself is a degree of independence. But when you go well beyond the 50, I think you are possibly going to run into problems whether you would authorize a man to go 20 years or more.

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Excerpts from nomination hearings of William D. Ruckelshaus to Deputy Attorney General before the Senate Judiciary Committee, August 2, September 12 and 13, 1973, pages 100–104.

Senator Byrd. In your opinion, Mr. Ruckelshaus, has the FBI Director, who is by statute responsible to the Attorney General, insulated enough from the executive branch to be able to conduct an arm's-length investigation of possible criminal violations within the executive branch?

Mr. Ruckelshaus. I think he is, and I do not think it is possible, I would say before making that categorical statement, I do not think it is possible ever completely to isolate or insulate the Director of a law enforcement agency which is part of the administrative branch apart from the integrity and capacity of the individual Director himself. Ultimately that responsibility and power has to be located somewhere and you cannot ever rule out human nature as one of the ingredients in the leadership of any agency such as the FBI.

But I do think there needs to be a balance struck between the Director of the FBI being responsive to the executive branch and his being independent from any unreasonable or unjustifiable requests made of him by the President or anybody in the executive branch, and part of the problem is, I think, addressed in some of the bills that you have offered that are presently pending in Congress, that involve mechanisms for attempting to strike this balance between independence and responsiveness.

Senator Byrd. What recommendations, if any, would you have which could assist in insulating the Director from the executive branch more so then he is at the present time and at the same time leaving him appropriately responsive to the executive branch?

Mr. Ruckelshaus. I think one of the bills you have introduced would serve that purpose. If the President were to appoint the Director of the FBI for a period of years, one of your bills says 10 years, even though the President maintained the authority which I think under the Constitution he probably has to remove him, the fact that he was appointed for a period of years would force the President to have to have a very good cause in order to remove him, and he would have to make a public statement about what the cause was. That decision would again be reviewable by the Congress in either the FBI Oversight Subcommittee or the Judiciary Committee of which it would be a branch.

So that this would give the Director, unlike the usual Presidential appointee who serves not for a period of years but completely at the whim of the President, a good deal of insulation from a political removal and if that period of years were unconnected to the usual Presidential cycle, then there would be a clear expression on the part of Congress that just because a new President came in or a new party, this would not necessarily mean he should automatically remove the Director of the FBI as he would other cabinet and subcabinet officers.

Senator Byrd. I have introduced, I believe, three bills, one which would provide for a 4-year term, one which would provide for a 7-year term, and one which would provide for a 10-year term, with the possibility of reappointment and reconfirmation. Which of these three bills do you feel would be most advisable, most practicable, and most likely to help insulate the Director of the Bureau from pressure from any administration under either political party?

Mr. Ruckelshaus. Well, I personally would favor the 10-year bill, with a one chance for reconfirmation for an additional 10 years, for a variety of reasons.

I think, in the first place, there needs to be some significant period of time in which a Director is assured, as long as he serves with good purposes, is assured as being in charge of the FBI because the policies that he wants to implement for that law enforcement agency need some time to take hold. The people, the agents in the Bureau itself need to have some continuity in the directions they are receiving from the top. So that I think a more extended period of time than is usual in the executive branch in the FBI would be beneficial.

I also think that if you have a 4-year term, it is likely to fall in the Presidential cycle or even if you take it out of that cycle, the temptation to remove the Director every 4 years would be pretty great and it would make it more difficult to insulate it from the political wind of change in the country.

I think it is probably advisable to suggest by statute that after a period of 10 years the FBI Director, if he is going to be reappointed by a President, should come up to the Congress for an exhaustive and general review of his service as the Director of the FBI so that, unlike the Oversight Subcommittee where you would have a continuing review and oversight of what the FBI is doing, in this instance you would have a more general chance to review his tenure, to review what he had done, to get a chance to discuss with him the philosophy of how he was running the FBI and whether this philosophy was in keeping with what the Congress felt it should be, and the President, to direct the FBI for the next decade.

I think this would be beneficial. I think that the fact that the Director of the FBI knew at some time he was going to have to come back up to Congress for reconfirmation would be an inhibiting force on his acting in an irresponsible or too independent manner.

Senator Byrd. I subscribe to that.

I also subscribe to the idea, which I have put into the form of legislation, of the need for reapportionment and reconfirmation of Cabinet officers, and I think it might have somewhat the same effect on them.

Can you think of other steps which could be taken to avoid even the appearance of the FBI Director being subject to political pressure from the White House?

Mr. Ruckelshaus. Well, I think it is difficult to say that there can be any mechanistic steps taken that could accomplish that, but I do think the Director himself, by the public posture he takes, can reinforce or reassure people in the country that he is acting independently of any unjustifiable pressure from the White House or from any place else in the executive branch, or in the society for that matter.

Senator Byrd. Could I interrupt you at that point?

Would legislation providing for a 10-year term strengthen his independence in this particular area?

Mr. Ruckelshaus. Yes, I think it would.

Senator Byrd. It would enable him to take a stronger posture of independence before the people?

Mr. Ruckelshaus. Yes, I think it clearly would, and I think that, given the circumstances that have occurred in the last 12 to 14 to 16 months, where we have seen a shift in public opinion from some complaining that the Director was too independent to suddenly complaining that he is too responsive, while it shows the difficulty any Director is going to have in striking this balance, it points out to Mr. Kelley in graphic fashion that a balance has to be struck, and that he cannot just totally ignore what the public is saying are important areas for him to get into, such as organized crime or civil rights or whatever the issue might be.

On the other hand, he has to be willing at all times to say, if he is asked to do something unjustifiable or illegitimate, "I am simply not going to do that and if I am pressed to do that I will have to resign." And if he is willing to do that, this in itself is sufficient insulation from illegitimate requests being made. I think that that distinction has been drawn very sharply over the last several months, and it is bound to have been a very impressive attitude.

Senator Byrd. When you were Acting Director of the FBI, to whom were you responsible primarily, to the Attorney General?

Mr. Ruckelshaus. To the Attorney General.

Senator Byrd. Did you also consider yourself responsible to the President?

Mr. Ruckelshaus. Yes, I did; but my channel of reporting to the President was through the Attorney General and not through any White House aides themselves. However, I think if the President had requested that he would like to talk to me personally about any matter involving the FBI that I ought to be responsive to that request. It could be because of the peculiar position of the Director of the FBI as the chief investigative officer of the country that from time to time the President would like to discuss with him matters involving the Justice Department, that he might have knowledge of, that he would not want to discuss directly with the Attorney General. But as a rule, and I would say it would only be a significant exception to that rule, the lines of reporting of the Director should be to the Attorney General.

Senator Byrd. Did you consider yourself responsible to any of the President's assistants?

Mr. Ruckelshaus. No, I did not.

As a matter of fact, when I discussed with the President my serving as Director of the FBI, I specifically asked him that question. I said, "Supposing I am asked by a staff member of the White House to do something in your name, my present feeling is that I should refuse to do so unless I get that direction specifically from you," and he said he agreed that I should answer to him as far as any direction from the White House was concerned.

Senator Byrd. Did you consider yourself responsible to the Congress?

Mr. Ruckelshaus. Yes, and, in fact, while I was in the FBI, having just come from an agency which every time we did anything we were hauled up for a hearing, in the Environmental Protection Agency, usually before three or four committees, I was somewhat surprised that, given the controversy that surrounded the FBI, I was not dragged up for a hearing before some committee in the Congress to respond to these charges. That is what gave rise to my conviction that an FBI Oversight Subcommittee or an Oversight Committee that had that responsibility, maybe in this and some others, would be a good thing.

Senator Byrd. Would you have felt easier looking to the possibility that you might eventually become Director of the FBI, although you expressed disclaimers to that effect, if at that time there had been a congressional Oversight Committee and if there had been an established tenure of office for the Director of the FBI?

Mr. Ruckelshaus. I do not know that my mind would have changed about my desire to be the Director or not to be the Director. It was based on a lot of considerations that did not have much to do with that, but I do think anybody coming into the FBI, while an Oversight Subcommittee might seem to a career agent or somebody who has been in the FBI most of their lives, as an unnecessary irritant to what they were trying to do, that as a citizen of this country I think effective congressional oversight is absolutely essential of the number one law enforcement agency in the country. I believe that any director with significant scope should feel the same way, that this provides him with insulation against unjustifiable pressure within the executive branch, it provides him with an ear to the people of the country because the members of any oversight subcommittee in the Congress have been elected by the people, and they are able to translate to him the feelings that people have about what he is doing that he has no other way of getting. So I think that that, plus the tenure, should be welcomed by any Director of the FBI.

Senator Byrd. Mr. Ruckelshaus, would you recommend, or would you feel favorably disposed toward the establishing of an FBI Oversight Subcommittee in the Appropriations Committee?

At the present time, as you know, there is an Oversight Subcommittee which has responsibility with regard to the CIA in the Appropriations Committee. It is the Intelligence Operations Subcommittee, and it is composed of the ranking members of the Defense Subcommittee of the Appropriations Committee.

Do you feel that a similar subcommittee to provide oversight in connection with the FBI should be established in the Appropriations Committee?

Mr. Ruckelshaus. Well, Senator, I really have not thought that through. I do think that the only hesistancy I would have about endorsing it is that it does seem to me that there is a need somewhere in Congress to focus this oversight responsibility over an agency like the FBI, because what the oversight committee would have to do is to develop procedures so that the Congress could be exposed to the sensitive material that the FBI deals with so that they can have a better idea of precisely the problems they face, and if you have a proliferation of these kinds of committees, the chances of that procedure really working effectively, I think, are somewhat diminished.

I do think there is, again, on the other hand, an obvious interest on the part of the Appropriations Committee as to how moneys are spent by the FBI and how they allocate the resources that they have.

So I really would have to give that some thought in order to answer you better.

Senator Byrd. Mr. Ruckelshaus, you have expressed your support for the bill providing for a 10-year term and which can be followed by a possible reappointment for 10 years for the Director. Do you feel that this bill, if passed, would have any deleterious effects, or do you see any reason why it should not be passed now and thus be effective with respect to Mr. Kelley's tenure of office?

Mr. RUCKELSHAUS. There are constitutional problems, as I understand them, as far as that goes, concerning the present Director. It is the same question that the Congress has had before it in the past involving the retroactivity of congressional confirmation of, or reconfirmation in this case, of somebody who has already been appointed. So that it may be that the language of the bill itself, in order to be sure of standing constitutional muster, would have to be written in such a way that it was applicable to Mr. Kelley's successor.

But again, I think that is something that Congress and the Justice Department, the administrative branch, ought to study very carefully and work out.

Senator BYRD. Do you not think it would be desirable for it to apply to the present Director?

I think both of us feel that he is going to be an excellent Director, and certainly there is no reflection upon him in my saying this; but I think the recent experience with the directorship necessitates an immediate establishment of a tenure of office in order to insulate the Director from pressures, and in order to give him the added independence that he needs from those pressures.

Mr. RUCKELSHAUS. I certainly feel that the logic in favor of having the 10-year tenure for the Director applies to the present Director just as it would to any of his successors.

The PRESIDING OFFICER (Mr. MORGAN). The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The bill is open to further amendment.

Mr. MANSFIELD and Mr. McCLELLAN addressed the Chair.

Mr. McCLELLAN. Mr. President, are there any more amendments?

The PRESIDING OFFICER. If there are no further amendments——

ORDER FOR VOTE TO OCCUR AT 1:30 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 1:30 p.m. today a rollcall vote occur on my amendment and that rule XII be waived, that immediately thereafter, without any intervening motion, debate, amendment, or point of order, the bill, S. 2212, proceed to third reading, and that a vote then occur on the bill on final passage.

Mr. HRUSKA. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Chair inquiries of the Senator from West Virginia if he desires to vitiate the vote by which his amendment was just agreed to.

Mr. ROBERT C. BYRD. Yes; I ask unanimous consent that that vote be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD, Mr. MANSFIELD, and Mr. McCLELLAN addressed the Chair.

Mr. McCLELLAN. Mr. President, has action been taken on the unanimous-consent request of the distinguished Senator from West Virginia?

Mr. MANSFIELD. No.

Mr. McCLELLAN. I did not think it had.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. There is no objection. I just wondered if an order had been made as requested by the distinguished Senator from West Virginia.

Mr. MANSFIELD. Has that unanimous-consent request been granted, Mr. President?

The PRESIDING OFFICER. Yes, it has.

Will the Senator add to the request a vote on the committee amendment, as amended, before third reading?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays on UP amendment 242.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to request the yeas and nays on passage of the LEAA bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, today we are considering a bill which would extend for 5 years the authorization for the Law Enforcement Assistance Administration, LEAA, at an average level of over $1 billion per year, and would also provide for certain changes in the operation of that agency.

First, I would like to commend the members of the Judiciary Committee for the outstanding work they have done in the preparation of this legislation. Senators JOHN MCCLELLAN and ROMAN HRUSKA, who were pioneers in the area of Federal law enforcement assistance, have been instrumental in the development of the bill we now have before us. Senator KENNEDY has also added significantly to S. 2212 through several excellent amendments which he offered and which were accepted by the committee. Together, they have produced a bill which in general is worthy of our support.

However, there is one provision of S. 2212 about which I have serious reservations. Because there is a substantial body of evidence suggesting that LEAA may be beset by certain major problems, I would have preferred a bill which provided for only a 2- or 3-year reauthorization.

Over the next 18 months, the Government Operations Committee will be undertaking a major investigation into LEAA's goals, performance, and effectiveness. I feel strongly that the Congress would have been well advised to await the outcome of this comprehensive investigation before extending the authorization of LEAA for a more prolonged period of time. In recognition of the difficulties which have troubled this agency, the House passed a bill, H.R. 13636, which provides for only a 1-year reauthorization of LEAA. It seems likely that the conferees on these bills will agree to a 2- or 3-year reauthorization. I would personally prefer that. If it were not for the likelihood that such a compromise will be reached, I would be offering an amendment to S. 2212 to provide for only a shorter reauthorization for this agency.

LEAA represents the major Federal effort to provide financial and technical assistance to State and local law enforcement and criminal justice agencies. It was created in 1968, largely in response to the rapidly rising crime rates, by title I of the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90–351; 82 Stat. 197; 42 U.S.C. 3701 et seq.). It was reauthorized in 1970 and 1973.

In its 8 years of existence, LEAA has spent $4.99 billion, largely in the form of block grants to the States. Its authorizations increased from $100 million in 1969 to $1 billion for 1975, and its appropriations from $63 million in 1969 to $895 million in 1975. For the current fiscal year, LEAA is authorized at $1.25 billion, and has been granted appropriations of $809.6 million.

Yet in spite of this outlay of nearly $5 billion, LEAA has not demonstrated that it has had any significant impact on the crime rate or on the criminal justice system. Indeed, except for an unexplained decline in 1969, crime has continued to increase at an alarming rate—up 18 percent in 1974, and 11 percent in the first 9 months of 1975 according to FBI statistics.

Over the past few years, several reports have been released which have been, in varying degrees, critical of LEAA's performance.

An OMB report in 1974, while giving LEAA credit for establishing State criminal planning agencies, concluded that "it is impossible to determine, however, if this has resulted in a lower crime rate than would otherwise have occurred." OMB further reported that—

> LEAA funds have been used for projects which have little or no relationship to improving criminal justice programming, funds are so widely dispersed that their potential impact is reduced, the absence of program evaluation severely limits the agency's ability to identify useful projects and provide for their transfer, and too frequently LEAA funds have been used to subsidize the procurement of interesting but unnecessary equipment.

Over the past 2 years, GAO has issued a series of critical reports on various LEAA projects. That agency has criticized LEAA for generally failing to develop a national anticrime strategy. GAO cited inadequate guidance and management, inadequate definition of program objectives, inadequate evaluation of program results, and various other deficiencies in LEAA's operations and allocation of funds.

In 1972, following hearings held the previous year, the Subcommittee on Legal and Monetary Affairs of the House Committee on Government Operations issued a stinging indictment of LEAA. The subcommittee reported that LEAA funds had been diverted for political purposes, wasted on high consultants' fees, and spent excessively on limited-use equipment. It concluded that LEAA's block grant program had "had no visible impact on the incidence of crime in the United States."

Independent research organizations have also released reports critical of LEAA. A Twentieth Century Fund special task force concluded recently that "LEAA's performance has left much to be desired," and a draft report prepared by the Center for National Security Studies urged that LEAA be dismantled, since it "is unclear as to its mission, and what it has attempted it has done poorly."

Taken together, these reports suggest that the nearly $5 billion which LEAA has spent to date had not been an effective allocation of the taxpayers' moneys. These critics have charged that this agency has, from the beginning, been plagued by some very serious difficulties. More specifically, summarizing from the above reports and other studies, those problems cited most often include charges that:

> There has been substantial ambiguity surrounding the agency's mandate which has seriously hampered LEAA's performance. Successive Administrators have described LEAA's principal purpose alternately as (i) reducing crime, or (ii) improving the criminal justice system.
>
> The rapid succession of top management both within LEAA and the Department of Justice has caused confusion, instability, lack of continuity, and waste. Since the agency was created eight years ago there have been 7 Attorneys General, and 4 Administrators of LEAA.
>
> The agency's use of block grants as the system by which it distributes some 85 percent of its funds has serious flaws. The system as administered by LEAA lacks both the flexibility of general revenue sharing, and the federal policy leadership provided by categorical grants-in-aid.
>
> The agency has made poor use of the 15 percent of its funds which it distributes through discretionary grants. Too much of this money has gone to unimaginative block grant type programs.
>
> There has been inadequate evaluation by LEAA of those programs for which it has provided funding. As a result of these sloppy or non-existent evaluation techniques, there has been no real effort to identify and expand those programs which might be successful, or to terminate those which are failures.
>
> Political factors have played too large a role in LEAA decision-making, especially in the choice of "target cities" for federally funded special projects.
>
> LEAA has spent too much money capriciously, and therefore placed too great an emphasis on gadgetry and sophisticated hardware. It has not paid sufficient attention to trying to deal with the underlying causes of crime.
>
> LEAA has allocated too great a share of its resources to police, to the exclusion of the other two components of the criminal justice system—correctional institutions, and, to an even greater degree, the courts.
>
> The National Institute of Law Enforcement and Criminal Justice, LEAA's research arm, has lacked direction and failed to establish any coherent agenda or priorities for law enforcement research. As a result, we are no closer to understanding the answers to basic questions about the causes of crime now than we were when LEAA was formed eight years ago.
>
> LEAA's Law Enforcement Education Program (LEEP), which spends over $40 million yearly for the education of approximately 100,000 individuals employed or preparing for employment in criminal justice agencies, has been considered by some as an expensive boondoggle. Not enough attention has been given either to the quality of the curriculum of participating institutions, or to determining how best to attain the goals of the program.

In sum, critics charge that LEAA has failed to reduce crime or to improve the criminal justice system, and it has failed to play a leadership role in the struggle against rapidly rising crime rates. They charge that it has not been an effective means for allocating massive public funds, and seriously challenge the utility of the Federal Government's current role in this area.

Without wishing to prejudge the validity of any of these charges, it seems clear that they go so much to the core of Federal involvement as to warrant a full investigation into the performance of this controversial agency.

The Government Operations Committee is now planning to undertake such a comprehensive inquiry to be chaired by our distinguished colleague, Senator METCALF. I shall serve as ranking minority member. We anticipate that our investigation will take some 18 months, including numerous sets of oversight hearings, and intensive staff inquiries. We will be looking into the full range of LEAA's activities. Our goal is to address the fundamental questions of LEAA's purpose and effectiveness, with a view toward determining what changes, if any, should be made in the agency's underlying mandate in order to improve its performance, as well as to assess the appropriate role for the Federal Government in dealing with crime.

Because of the importance of not suddenly cutting off Federal aid to State and local governments in their fight against crime, LEAA should be continued on an interim basis. However, in view of the planned investigation by the Government Operations Committee, and the serious questions which have been raised concerning this agency, I feel that it would be premature and unwise to reauthorize LEAA for a prolonged period at this time.

For this reason, I strongly urge that, in conference, a 2-year reauthorization of LEAA to September 30, 1978, at a level of $1 billion per year be agreed to. Such a compromise would allow the continued existence of LEAA, and would also require it to come up for reauthorization shortly after the conclusion of the Government Operations Committee's investigation. This would be ideal timing for considering the findings and recommendations of that inquiry.

The Twentieth Century Fund's special task force recognized the wisdom of acting in this manner. As their report concludes:

> This Task Force urges only a one or two-year reauthorization, a cutback in proposed level of authorization, (which was 1.3 billion per year), and a thorough Congressional investigation of LEAA.

And, in recent editorials, both the New York Times and the Chicago Tribune called for a thorough congressional investigation to precede any extended reauthorization of LEAA:

From the May 14, 1976, New York Times:

> Before Congress approves the Ford Administration's bill to invest $6.8 billion over the next five years in the Law Enforcement Assistance Administration, it had better take a very hard look at how this agency has used the first $4.5 billion since it was created with great hopes and hullabaloo seven years ago.

From the May 12, 1976, Chicago Tribune:

> Before its lease on the federal treasury is renewed, LEAA should receive rigorous evaluation. It has not been an unequivocal success."

I ask unanimous consent that these editorials be included in the RECORD at the conclusion of my remarks.

I would again like to commend Senators MCCLELLAN and HRUSKA for their continuing interest and vigilance in the area of Federal law enforcement assistance. And they have both also done an admirable job of floor managing this important piece of legislation.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, May 12, 1976]

CAN FEDERAL MONEY FIGHT CRIME?

This is the year of decision for the Law Enforcement Assistance Administration [LEAA]. Its life was extended for three years in 1973, by a voice vote in Congress, with authorization to spend a billion or more dollars a year. The Ford administration recommends a fresh five-year authorization, and funding at $1.3 billion a year. But before its lease on the federal treasury is renewed, LEAA should receive rigorous evaluation. It has not been an unequivocal success.

An independent study, reported by the Associated Press, has concluded that the federal government's crime-fighting efforts have had little effect and that LEAA "should be abolished." The report says, "The nation is in no better position today than it was when the Omnibus Crime Control and Safe Streets Act of 1968 was enacted. Crime has increased and no solutions to the crime problem are on the horizon."

A task force of the Twentieth Century Fund has published a report on LEAA with a somewhat less severe conclusion. But it says, "LEAA, as currently structured and administered, has generally failed to carry out the mission Congress gave it." This report calls for a drastic restructuring of LEAA and "more vigorous" congressional oversight. Failing that, this task force urges "only a one- or two-year authorization, a cutback in the proposed level of authorization, and a thorough congressional investigation."

Not all the blame for the futility of federal crime-fighting should be put on LEAA, which in addition to its own direct spending has transferred vast sums to state agencies. At state and city levels, as well as federal, many decisions have been made which have benefited the people who got the money rather than potential victims of prevented crimes. As the Twentieth Century Fund task force said, unless "the states and localities have the will to use funds and intellectual leadership effectively, even the most interventionist federal program cannot succeed."

Donald Santarelli, near the end of his tenure as head of LEAA, made an informed and devastating comment on his experiences in government. In an interview that got far more publicity than he intended. Mr. Santarelli reportedly said, "I've just seen too many deals. People really don't care about the quality of the performance and the quality of the service you deliver. Extraneous considerations, the liaisons, relationships, political alliances" are what matter. As if to illustrate his point, the latest report on LEAA characterized one of its programs as "an irresponsible, ill conceived, and politically motivated effort."

Can turning over hundreds of millions of federal dollars to federal, state, and municipal public officials to "fight crime" accomplish much? The guide lines are necessarily vague. But there are many definite opportunities to blow money on political friends, futile reports and studies, expensive but nearly useless gadgetry, and unproductive overhead.

If the federal authorities do not look, the ultimate spenders of the money will find innumerable ingenious ways to divert public funds into undeserving private pockets. If they do look, or are compelled by litigation to look, controversies such as Chicago's about race discrimination in the Police Department occur. The distance is great and the number of selfish outstretched hands is large between Washington and the streets, stores, and homes that are the scenes of crimes.

As LEAA itself once said, in a criticism of a plan for the FBI to computerize crime records, under our system of government responsibility for law enforcement is primarily vested in state and local authorities. There may be no practical way for the federal government to fight crime by appropriating billions explicitly for that purpose. At least, there is reason to doubt that LEAA has found a way, or ever will. Its good works [such as studies of victimization rates and of the treatment of court witnesses] have so far been too small to return for the billions appropriated to it.

[From the New York Times, May 14, 1976]

RESTRUCTURING LEAA

Before Congress approves the Ford Administration's bill to invest $6.8 billion over the next five years in the Law Enforcement Assistance Administration, it had better take a very hard look at how this agency has used the first $4.5 billion since it was created with great hopes and hullabaloo seven years ago. The avowed purpose of its enabling legislation—the Omnibus Crime and Safe Streets Act—was to help the states and cities reduce crime. On that broad test alone, something is amiss; last year there was an 18 percent increase in reported crimes.

L.E.A.A. is not just another experimental agency but one of the growing bureaucracies in the Federal Government. It receives half of the Justice Department's budget; its proposed funding of over $1 billion a year is more than twice the budget for the Federal Bureau of Investigation. The F.B.I., with all its shortcomings and abuses, at least has a clear mandate; L.E.A.A. is an agency that is overestimated and undersupervised.

Although L.E.A.A. has provided grants for a number of useful projects, there has developed an undue emphasis on police hardware and insufficient funds for courts and corrections. In the first years of the agency, between 60 and 80 percent of its resources went to police. The Federal Office of Management and Budget recently found that L.E.A.A. funds have been used for projects that have little relationship to improving criminal justice.

A new report by an independent Twentieth Century Fund task force on the workings of the L.E.A.A. provides the background for an inquiry by Congress. It recommends a basic clarification of the agency's legislative mandate, dismantling of regional bureaucracies, and other reforms.

In the process of restructuring L.E.A.A., the task force proposes that the agency function as a research institute to originate and evaluate programs in law enforcement and criminal justice. High priority would be given to improving methods of analyzing criminal statistics. In the past, doubts have arisen about the accuracy of the F.B.I.'s annual crime figures.

Another independent research group, the Center for National Security Studies in Washington, maintains that L.E.A.A. has failed to reduce street crimes and burglaries and the agency should be abolished altogether. This is too drastic a step in light of the continued need for Federal funding in law enforcement. We believe a more rational approach exists in the Twentieth Century Fund's task force conclusion that calls for restructuring of the agency and a thorough Congressional investigation of its functioning.

Mr. THURMOND. Mr. President, I rise in support of current legislation to continue the Law Enforcement Assistance Administration.

LEAA's operation at the State and local level in South Carolina has been of vital importance.

The Agency's approach is the essence of what all Americans support—decision-making at the State and local levels where the basic responsibility for programs lie.

Under LEAA funding, initial studies of South Carolina revealed overlapping jurisdictions, manpower duplication, deficient training, hiring standard variances, research inadequacies, inadequate data collection, insufficient recordkeeping, and many other problems. Court dockets were overcrowded, and sentencing procedures varied. Police and sheriffs' departments had insufficient or outmoded equipment, and the State corrections officers lacked adequate training.

Mr. President, since 1968 LEAA has awarded South Carolina approximately $54 million to improve and update its criminal justice capabilities, and this money has been well spent.

A study of South Carolina crime analysis results revealed that the primary impediment to further development was a lack of data. Now a criminal justice information system is being implemented. Through this information system, the State has established a computerized communications and information storage and retrieval capacity which serves the State and local law enforcement agencies. It has developed a model law enforcement recordskeeping system to collect uniform crime report data. Additionally, the State has established interagency coordination to exchange information.

LEAA moneys have laid the groundwork for a system of coordinated law enforcement communications through a statewide radio communications plan that permits point-to-point communications between State and local law enforcement agencies.

Court case backlogs are on the decrease through the reassignment of some judges and the addition of others as the result of an LEAA subgrant which pinpointed excessive case buildups.

Mr. President, the judiciary received early benefits from LEAA funding through a statewide study of the courts system and that system has continued to improve. One of the current significant block grant efforts for the judiciary includes a $100,000 award through the court administrator's office to a legislative study committee. The committee will analyze case flow management and study the implementation of a new and unified system. Additionally, a recent block grant award of $60,000 to the supreme court addresses the problem of increasing caseloads in the appellate and trial courts.

The most pressing problem facing South Carolina is found within the State's correctional system. Existing facilities are extremely overcrowded. Decreases in State and local resources are making the situation more difficult, and this is one reason why LEAA's work is so important.

An extensive study of the State's corrections system was prepared by the South Carolina Office of Criminal Justice Programs and resulted in a proposed model system for detention and rehabilitation in the State.

The addition of basic equipment to State and local corrections agencies as well as the renovation of existing facilities and construction of new ones has been the basic thrust of the corrections effort in South Carolina.

LEAA has supported several programs to assist offenders in obtaining the education and vocational training that will enhance their opportunities to secure jobs upon release and, hopefully, keep them from returning to prison. One project placed more than 1,000 inmates in jobs. Other noninstitutional programs have provided diversion, treatment, and community supervision. Diversion treatment for alcohol and drug-related offenders from the county criminal courts provided services to 1,243 clients and 418 job placements in fiscal year 1974. Costs of incarceration for these individuals, estimated at $213,350, were eliminated and resulted in considerable savings to the taxpayer. Just as important is the fact that the individuals become economically self-sufficient and further reduced the drain on tax dollars. Followup studies indicate a recidivism rate of 36 percent while the rate for similar individuals averages 50 to 77 percent.

These are the kinds of programs, Mr. President, that people often neglect to mention when discussing LEAA.. They are humanistic, person-to-person programs that make up a high proportion of the Agency's activities. They are cost effective but have an even larger benefit to society in helping restore whole lives.

Juvenile justice is another area in which LEAA is working hard to salvage lives. Since the Office of Juvenile Justice began operations last June, South Carolina has received one grant of $200,000 for juvenile justice programs and is earmarked to receive $283,000 under the current budget.

In addition, the State Department of Youth Services was selected for a $15 million grant under LEAA's deinstitutionalization of status offenders program that will provide alternatives to incarceration for juveniles charged with offenses such as running away and truancy.

Mr. President, these are some of the reasons why I feel so strongly about the need for quick action on reauthorization of LEAA. The Agency has been responsible for many excellent programs in South Carolina and a cutback in funds could seriously hamper these developments and perhaps cause tremendous backsliding in the work that has already been done—work with great merit that is just now gaining impetus.

For these reasons, I urge that the Senate reauthorize LEAA for 5 years and continue the vital crime control assistance it provides.

Mr. BIDEN. Mr. President, throughout the debate on the extension of LEAA, I think I have made my position quite clear. The agency is just not doing the job we want it to do. And we are fooling the American people in saying that we are using LEAA to fight crime.

I continue to believe that we must do a major restructuring of the Agency. Many of LEAA's problems are pointed out in a recent article in the Wall Street Journal. The article states:

> So far, the Law Enforcement Assistance Administration's biggest accomplishment seems to have been to prove that Washington can't do much about street crime across the nation.

Mr. President, I wholeheartedly agree. But, just because LEAA has failed does not mean we have to stop trying. We have got to find a new approach. This bill does not represent that approach and consequently, I will vote against it.

I ask unanimous consent that the Wall Street Journal article be inserted at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL LAW ENFORCEMENT AID

(By Mitchell C. Lynch)

WASHINGTON.—Back in 1972, amid lots of law-and-order hoopla, the Nixon administration embarked on a $160 million "high impact" project to cut down the crimes people fear most—murder, robbery, mugging, rape and burglary.

To show that the administration meant business, the White House produced Vice President Spiro Agnew and Attorney General John Mitchell to announce the program. One of the goals, they said, was to reduce those crimes in eight cities by 20% in five years. "High Impact" was to serve as a hallmark, a testament to the principle that with federal money and knowledge cities and towns could once and for all make their streets safe.

"High Impact" has turned out to be a dud.

Violent crime in those eight cities has "worsened overall," says a federally financed study of the project. The whole thing was "an irresponsible, ill-conceived and politically motivated effort to throw money at a social program," says the Center for National Security Studies, a private research organization. What's more, the center says, the federal agency running that program should be abolished.

That agency is the Law Enforcement Assistance Administration (LEAA) and officials over there are getting used to that sort of criticism; many people think the agency is a dud. It was formed in 1968 to come up with innovative ideas to help states and municipalities fight crime. Since then—eight years and $4 billion later—the violent crime rate across the country has risen 60%.

So far, the agency's biggest accomplishment seems to have been to prove that Washington can't do much about street crime across the nation. Indeed, the LEAA experience has led many crime experts to conclude that there isn't any obvious solution to the nation's crime problem.

"I once was optimistic," says Henry S. Ruth, who headed a special commission that led to LEAA's establishment. But now, after examining the problem from every angle, Mr. Ruth says, "I'm not."

LEAA'S LONGEVITY

LEAA's term expires at the end of October, and in view of all the criticism it might seem likely that Congress would refuse to extend the agency's life. But interviews on Capitol Hill suggest that legislation to continue LEAA's operations will pass routinely.

The main reason is that, despite controversies about its work, the agency has a lot of political backing. LEAA channels federal funds to states and municipalities, and it's a rare politician who will vote against the idea of sending crime-fighting money to the law enforcers back home.

And then there's the "do-something" factor. As a Senate staff man puts it, "because more and more people are worried about crime, there's a tremendous amount of pressure for the government to 'do something.' The problem is that nobody knows just what the hell to do. Everybody knows what we can't do, and that is to pull out altogether."

It's becoming commonplace for lawmakers to publicly criticize LEAA and then either sponsor or support legislation to keep the agency in existence.

A good example is Sen. Edward Kennedy. "The American people simply aren't getting a fair return on the $4 billion tax bill," the Massachusetts Democrat said recently. His staff has compiled lots of evidence that could be used by Senators and Congressmen to rationalize killing LEAA. But Sen. Kennedy, who is chairman of a judiciary subcommittee that has held hearings on LEAA, favors legislation to extend the agency's life. "You can't just throw out something like that," Mr. Kennedy says. "I mean, you have to make sure it gets a fair test."

The Ford administration has asked Congress to renew the agency for five years and give it an annual budget of $1.2 billion, up from the current level of about $800 million. The Senate is expected to vote next month on legislation that is generally in line with the administration's proposal. Pending in the House, meanwhile, is a bill that would extend the agency's life for one year with a budget of more than $800 million.

Thus, LEAA probably will continue lurching along trying—among other things—to figure out what causes crime in the first place. That's a tough job. "Sociologists will tell you that neighborhood environment is a cause," says an LEAA official. "But then how come one neighborhood has a high crime rate and an identical one in another city has a lower one?"

"Logic," says a federal law-enforcement expert, "doesn't always prevail." For instance, LEAA once figured that one way to catch more robbers was to cut down on the so-called "response time," the period between when a robbery victim calls the police and when the police actually arrive on the scene.

But while spending millions of dollars to supply local police with computers and fancy communications gear. LEAA officials came across a curious bit of information in interviewing crime victims: the median time between when a person is robbed and when he calls the police is 45 minutes, long enough for a robber to stroll across town and stick up somebody else.

"We've even run across cases where grocery store owners wait on the rest of their customers before they pick up the phone and call the police," an LEAA worker says.

(LEAA isn't the only organization that has made wrong assumptions about law and order. The International Association of Chiefs of Police persuaded some South American governments a few years ago that the best way police could disperse mobs was to blast the rioters with water. After all, IACP said, those "water tanks" worked wonders in Northern Europe. What was overlooked, though, was the Northern-clime people get cold and uncomfortable when drenched on a chilly day. Hot-weather people get refreshed. "It was like opening a fire hydrant in Harlem," and LEAA staffer says, "The rioters actually got invigorated.")

One of LEAA's problems, according to some experts, is its federal-state formula. Under it, states receive 85% of LEAA's money in block grants for projects they devise themselves. The remaining 15% goes to projects devised in Washington. To some people, this means LEAA merely subsidizes state or municipal programs rather than overseeing the development of experimental projects—which, if successful, could be used in other states and municipalities.

For example, LEAA is financing more than 100 studies on how to improve the way crime victims and witnesses are treated by the courts. But some authorities argue that the agency should finance, say three studies—one in a big-city court, another in a medium-sized city and the third in a small town. From the lessons learned, LEAA then would pass on recommendations to all courts.

"We aren't in the subsidy business," says Richard Velde, head of LEAA. Mr. Velde says Washington should only show the way, letting states and municipalities pick up—and pay for—programs or ideas they find appealing.

Another criticism of the agency is that police departments get a disproportionately large share of LEAA's money, at the expense of the other two branches of law enforcement—the courts and the corrections systems. Indeed, nearly 50% of the money the agency has spent so far has gone to the police, less than 15% to courts and less than 40% to correction facilities and programs.

This imbalance could tend to further distort the law enforcement system. Suppose the police become more proficient and make more arrests. The workload of the ill-prepared courts increases. If the corrections system is inadequate, prisons become overcrowded. Judges become reluctant to send criminals to overcrowded prisons. Police become less willing to make arrests.

Something akin to this is happening in Washington, D.C. Some judges here are threatening to commute the terms of prisoners because corrections facilities are so overcrowded.

From all this emerges the question: is LEAA good for anything?

Certainly, says law enforcement authority Henry Ruth, once the critics and politicians lower their expectations. "LEAA isn't going to do much about the crime rate for a long time to come," Mr. Ruth says. To him and some other experts, the agency deserves credit for having developed some worthwhile ideas and for disproving the validity of some law-enforcement theories.

THE FAMILY CRISIS UNIT

One highly regarded LEAA idea is the family crisis unit being adopted by police departments. Under it, police are trained to settle potentially fatal family disputes by trying to calm down the adversaries. "This sounds simple—so simple that many people think it's elementary," an LEAA researcher says. "But we're dealing with persuading police *not* to make arrests, to calm an explosive situation and leave without bringing anybody with them."

One of the myths LEAA recently exploded was the long-held value of detectives in solving crimes. An agency study showed that, except in homicide cases, detectives have a poor record. The benefits of the study: cities could save themselves money by cutting back their detective forces and leaving more of the investigations to patrolmen.

The importance of LEAA, says Deputy Attorney General Harold Tyler, is that it can try experiments that may turn out to be flops. This is something states and cities can't afford to do, he says.

All this comes under what LEAA terms "improving the criminal justice system," a rubric that isn't solely related to cutting down the crime rate. Experts say this is useful because police still operate much as they did a century ago, most courts are places of despair where criminals and victims are treated with equal scorn, and most prisons are little more than warehouses packed with criminals serving their time. "These are the areas we need to work on," says Gerald Caplan, director of LEAA's research branch.

As noble as it sounds, that kind of talk doesn't please some people. They see it as a means for LEAA to shirk its original purpose, reducing crime. "Congress didn't call it [the law establishing LEAA] the Criminal Justice Improvement Act," says Douglas Cunningham, who heads California's system of channeling LEAA funds to counties and municipalities in that state. "Congress called it the Safe Streets Act, and as far as I'm concerned our job is to concentrate on fighting crime.

"If we can't do that," he adds, "then this country is in trouble."

Mr. DOMENICI. Mr. President, I have been fortunate in having had an unusually good opportunity for getting to know the Law Enforcement Assistance Administration. As a former member of the New Mexico Governor's Council on Criminal Justice Planning, I saw LEAA at work on a day-to-day basis. I was impressed with what I observed. The improvement throughout the State's criminal justice system that I witnessed just would not have been possible without the technical assistance and State leadership that the LEAA legislation has made possible. Let me give you a few brief examples.

For the past 3 years New Mexico has had an action program to provide annual funding through grants to the State supreme court and the New Mexico Judicial Council to develop new or improved legislation and regulations and court procedures. These grants have resulted in the development of uniform jury instructions for felony cases, rules and procedures for youth court, criminal procedure rules for magistrate courts and district courts as well as State rules of evidence.

Mr. President, I am convinced to a moral certainty that needed as they were, these reforms would not have been accomplished by today were it not for the impetus that the LEAA program has produced in New Mexico.

Not quite a year ago the State created a three-member parole board, which was given $112,500 in LEAA funds and directed to promulgate parole standards. This has enabled New Mexico to establish procedures for interviewing parole candidates and investigating their backgrounds. And although many people had for a long time felt that the State parole program needed these improvements, nothing had been done about it until LEAA was able to give us the wherewithal to get things moving.

Mr. President, I would also like to mention in passing the State's first offender program, which is a statewide initiative to demonstrate and evaluate the effectiveness of systematic youth court diversion services. More than 20 communities are currently involved. The juvenile offenders are being given family-centered counseling to reduce conflicts and improve communications. Reduced recidivism rates have resulted.

Mr. President, I would like to note the fact that LEAA is more than just a Federal agency that hands out funds for interesting State ideas. Had the Congress not acted in 1968, there simply would be no statewide planning in New Mexico through which State and local officials and other experts reviewed New Mexico's total needs every year and created better ways of meeting those needs.

Moreover, LEAA provides technical help when States need sophisticated resources that are in limited supply. This includes such matters as prison architecture, automated data systems, innovative new communications programs, and civil rights compliance aid that is quite impossible for a thinly populated State as is New Mexico to provide by itself. In other words, in the years since LEAA was created, it has become a clearinghouse on information and resources and special skills that each one of the 55 States and territories once had to obtain themselves. I believe this basic change is frequently overlooked during partisan debates over whether or not State and local law enforcement and criminal justice officials have done as much as they can to reduce crime. It is clear to all of us that each individual in the criminal justice community—legislators, police officials, judges, corrections authorities, and all the others—can personally do more to make his or her work effective. However, the essential question in the discussion of LEAA is whether or not it has helped these individuals to do a better job? I believe the answer must be affirmative.

Before there was an LEAA there was no mechanism for getting everyone to cooperate in making New Mexico's criminal justice system operate more rationally. I believe that LEAA must be allowed to continue so that the forward momentum we have built up during the last 7 years can go forward. We must make sure that our promising new beginnings are allowed to develop better programs for future generations as they have for us.

Another reason I support this legislation is because the attorney general of the State of New Mexico, Toney Anaya, has written me indicating his approval of it and urging me to vote in the affirmative. Some of the reasons for Attorney General Anaya's position are stated in his letter to me dated July 16, 1976. I request unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. DOMENICI. Mr. President, although I support this bill and will vote for its passage, I am somewhat concerned with the availability of law enforcement funds and other assistance to smaller communities. New Mexico boasts some 41 communities under the population figures of 1,000 which by the way, some States probably consider with envy since small communities usually mean smaller problems. Mr. President, these small communities often cannot acquire very basic needs for law enforcement because the carefully planned paperwork required by rules and regulations is simply too great a burden. Moreover, these communities usually do not have funds needed to match or supplement a Federal grant for the specific uses of technical assistance or equipment purchases.

Whether the need is merely a police squad car or as simple as a two-way radio, such a request should not be lost in the shuffle of ever-changing regulations or lack of required matching funds simply because the small communities in the country are unable to so provide matching funds or deal with the complicated paperwork required.

I plan to involve myself in looking for solutions to these problems so that such communities plagued with an increased crime rate, typical these days to almost every community, urban or rural, will have greater flexibility in addressing unique local situations.

EXHIBIT 1

STATE OF NEW MEXICO,
DEPARTMENT OF JUSTICE,
Santa Fe, N. Mex., July 16, 1976.

Senator PETE DOMENICI,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: Congress is presently considering legislation that would reauthorize the Law Enforcement Assistance Administration (LEAA) and would appropriate funds for its continued operation. I am writing to encourage your support of this legislation and its funding because of its impact upon law enforcement and criminal justice agencies in New Mexico at all levels.

The problems to be solved in our criminal justice system in New Mexico are so numerous and staggering as to be mind-boggling. With each passing day in office as Attorney General of the State, I am becoming increasingly aware of the magnitude of this problem.

A recent survey done by the staff of the New Mexico Governor's Council on Criminal Justice Planning (GCCJP) has produced some very shocking statistics. Some of the information produced by the study revealed the following bleak picture for New Mexico. First of all, we know that not every crime that is committed is reported to a law enforcement agency. Of those that are reported, only 25%, or one out of every four, ever result in an arrest. That is also true nationally. Thus, just bearing those two factors in mind, one can readily see that only a small percentage of crimes committed ever result in any kind of action being taken by the criminal justice system against the alleged criminal.

It was even more alarming, however, to learn that of the few individuals responsible for crime that are ever arrested, the probability of them ever being successfully prosecuted for their alleged crimes is very minute. The GCCJP study found that of the Part 1 crimes (murder, rape, robbery, assault, burglary, larceny, and motor vehicle theft) committed in this state, few individuals are ever successfully prosecuted for them. For example, the study showed that only 37% of those arrested for murder are successfully prosecuted, 8% of those arrested for rape are successfully prosecuted, 35% of those arrested for robbery are successfully prosecuted, 17% of those arrested for assault are successfully prosecuted, 37% of those arrested for burglary are successfully prosecuted, 45% of those arrested for larceny are successfully prosecuted, and only 19% of those arrested for motor vehicle theft are ever successfully prosecuted.

Many explanations can be given for some of the above statistics which would temper their impact; however, the fact still remains that not all crimes are reported, that only 25% of those that are reported result in arrest, and that few of those that are arrested are ever successfully prosecuted. The problem becomes even more grave and the picture even more dismal when one considers the fact that the above statistics basically do not address themselves to problems of white collar crime and organized crime in New Mexico.

I believe these statistics indicate to us that we need to improve all segments of the criminal justice system in this State. This would include improving our investigative resources (such as local police departments, county sheriffs, and the New Mexico State Police), our prosecuting capabilities, our judicial system, and addressing the problem of educating the public to insure public support for law enforcement. There is no way that sufficient progress can be made against crime in New Mexico without additional resources and a streamlining of existing capabilities. Only by additional assistance such as can be provided by LEAA, can we hope to make any headway in our fight against crime in New Mexico.

I would encourage you to not only support reauthorization of LEAA for at least five years to insure a longer range attack on the crime problem but to increase LEAA's funding beyond its current budget to insure that additional resources are made available to New Mexico.

I recognize that some law enforcement agencies and legislators in New Mexico have expressed dissatisfaction with the requirements that are placed upon them and upon the State as conditions in order to receive LEAA money. Nevertheless, I believe that difficulties with LEAA can be resolved through the Governor's Council on Criminal Justice Planning and that LEAA will understand some of our problems and adjust the requirements to deal with them. Of course, if Congress legislatively places too many restrictions upon the states, there would be little that LEAA could do administratively to assist. The interest of New Mexico can best be served by continuing LEAA. My staff and that of the New Mexico Council on Criminal Justice Planning are available to meet with you at any time to provide details on how substantial and detrimental the loss of LEAA funds would be throughout New Mexico.

Again, I greatly encourage your support of LEAA. If you have any questions on this matter, please feel free to contact me.

Sincerely yours,

TONEY ANAYA,
Attorney General.

Mr. WILLIAMS. Mr. President, I support the provision in the Crime Control Act, authorizing the Law Enforcement Assistance Administration to fund programs to reduce and prevent crimes against elderly persons.

As chairman of the Senate Committee on Aging's Subcommittee on Housing for the Elderly, I have been deeply concerned about crime against persons living in federally assisted housing.

We have been told time and time again—and with heartrending documentation—that older Americans are the most vulnerable victims of theft, burglary, terrorism, and other forms of violence.

Dr. Robert Butler—now the Director of the National Institute on Aging and a Pulitzer Prize-winning author—says "old people are victims of violent crime more than any other age group."

Statistics released by LEAA in May show that this trend is accelerating in most crime categories. Crimes of violence, rape, robbery, assault, and larceny—all these forms of victimization—exhibited higher proportionate increases for those over 65 than for the population as a whole.

The reasons for this alarming trend are many. Older persons are less able physically to detect, avoid, and resist crime. Their meager incomes force them to remain in the decaying portions of our cities where the crime rate is highest. All too often, our federally funded public housing is the scene of crime because of lax security, poor building design, and other reasons.

The effect on the old is devastating. Many of the Nation's elderly are virtually prisoners in their own homes—day and night—because of the fear of crime. When an older person becomes the target of a criminal attack, the psychological result is often severely damaging and irreversible. And physical injuries from which a younger person might quickly recover can be crippling or fatal.

Hopefully, LEAA funds will be used for increased building security, escort services, improved lighting, and new strategies aimed at turning the tide of personal assaults. Education can be a useful weapon too in alerting the elderly to the traps laid by con men and the purveyors of various frauds.

This is important because the elderly are often easy prey for these less violent crimes. Loneliness, anxiety about declining health, a shrinking bank account, impaired powers of judgment, and ignorance of many common rip-off schemes are but a few of the reasons that older persons fall victim to con artists. A comprehensive education program could prevent much of this type of victimization.

The need for new and comprehensive strategies to protect older Americans from crime has never been clearer. The new LEAA authorization clause, along with the recently signed Statement of Understanding between LEAA and the Administration on Aging, are two positive steps.

Freedom from fear is a high priority for all Americans, and especially older Americans. Passage of S. 2212 would represent positive action in implementing this goal.

RESEARCH ON THE NATURE AND EXTENT OF CRIME AND DELINQUENCY ATTRIBUTABLE TO WOMEN

Mr. BAYH. Mr. President, through conversations with those at LEAA conversant with the Attorney General's authority under part D training, education, research, demonstration, and special grants, including Administrator Velde, I have been assured that the National Institute of Law Enforcement and Criminal Justice is authorized to conduct research regarding the actual nature and extent of crime and delinquency attributable to women. In view of the clear and unmistakable authority of LEAA to conduct these vitally necessary assessments, I have decided to withhold my relevant amendment, to S. 2212, the Crime Control Act of 1976.

My amendment would authorize the LEAA National Institute of Law Enforcement and Criminal Justice to carry out research to assess the actual nature and extent of crime and delinquency attributable to women. Further, it would authorize the Institute to undertake a comprehensive evaluation of progress made to date by correctional programs and the criminal and juvenile justice systems to eliminate discrimination on the basis of sex within these systems.

In fact, an LEAA task force on women concerning juvenile justice and delinquency has made recommendations to the Attorney General that support the thrust of my amendment. I ask unanimous consent that the recommendations regarding the Law Enforcement Assistance Administration task force study and other relevant excerpts from the report of the National Commission on the Observance of International Women's Year—pages 157–160 and pages 292–296—"To Form a More Perfect Union" be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM "TO FORM A MORE PERFECT UNION" JUSTICE FOR AMERICAN WOMEN

(A report of the National Commission on the Observance of International Women's Year)

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION TASK FORCE STUDY [51]

The IWY Commission recommends elimination of discrimination based on sex within all levels of the juvenile justice system. To reach that goal, the Commission urges that the Law Enforcement Assistance Administration (LEAA):

Act on the recommendations of the LEAA Task Force on Women concerning the Office of Juvenile Justice and Delinquency Prevention; and

Upgrade the status of women within that agency.

Discussion

As the LEAA Task Force report documents, discrimination against women and girls in the criminal justice system appears to be a serious, pervasive problem in statutes, courts, and correctional agencies. The situation is particularly critical because the usual statistic collection fails to disclose disparities in treatment.

The Child Development Committee specifically urges Federal action on four recommendations of the LEAA Task Force on Women concerning juvenile justice and delinquency prevention:

1. Develop strategies to increase State support for female juvenile offender programs.
2. Assure that State juvenile delinquency plans analyze the needs of disadvantaged youth and that program statistics include sex and minority classifications.
3. Fund research that analyzes treatment of female juveniles by the courts, referral agencies, and the community, with special emphasis on status offenders.
4. Fund programs that specifically focus on the needs of the female juvenile at all stages of the juvenile justice system, from referral to postadjudication.

The Child Development Committee proposes that, as a means to review progress in correcting inequities in the entire juvenile justice system, the Civil Service Commission be directed to conduct hearings that examine discriminatory policies and practices outlined

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Footnotes at end of article

in the report of the LEAA Task Force on Women.

A Grants Management Information System printout on grants made by the LEAA from 1969 to 1975 confirms a lack of attention to the needs of the female juvenile offender. Only about 5 percent of all "juvenile delinquency discretionary projects" and only 6 percent of the "block juvenile grants" were for specifically female-related programs. None of the grants included a research effort on special characteristics of, or different treatment of, female juvenile offenders.

There is also evidence of sex discrimination in staffing within the juvenile justice system, particularly where males dominate in critical decisionmaking posts. A current 5-year study by the National Assessment of Juvenile Corrections has found that of 49 executives in juvenile justice agencies only 10 were female.

One of the ways in which girl offenders are discriminated against is through court-ordered physical examinations, specifically gynecological examinations. During the years 1929–1955, about 70 to 80 percent of the adolescents referred to the Honolulu Juvenile Court were examined, compared to 12 to 18 percent of the male population. "Notations such as 'hymen ruptured,' 'hymen torn—admits intercourse,' and 'hymen intact' were routine, despite the fact that the condition of the hymen is usually irrelevant to health or illness. Further, gynecological examinations were administered even when the female was referred for offenses which did not involve sexuality such as larceny or burglary." [52]

STATUS OFFENDERS [53]

The IWY Commission recommends that State legislatures undertake as a high priority the establishment of more youth bureaus, crisis centers, and diversion agencies to receive female juveniles with family and school problems, misdemeanants, and, when appropriate, first felony offenders, with the ultimate goal of eliminating as many status offenders as possible from juridiction of the juvenile courts.

The Commission further urges that the juvenile justice system eliminate disparities in the treatment of girls by courts and correctional agencies.

Discussion

Clearly, young girls suffer most from court procedures dealing with the status offenses, i.e., conduct that would not be criminal if committed by adults. Truancy, incorrigibility, and sexual delinquency are the three primary status offenses with which girls are charged. Young females are not only more likely to be referred to courts and detained for status offenses, but they are also held longer than boys referred for such conduct.

One midwestern study of more than 800 juvenile court referrals found these typical proportions: 28 percent of the boys had been brought to court for "unruly offenses," compared with 52 percent of the girls.[54] At the juvenile detention home, a coeducational youth facility, running away and sex offenses accounted for 60.7 percent of all the female delinquent referrals; moreover, girls on the average stayed there three times as long as boys.[55]

Such discrimination based on the sex of status offenders traditionally has been upheld on grounds of "reasonableness." Only since 1970 have some State laws permitting longer sentences for females than males been found in contravention of the 14th amendment and a violation of the Equal Protection Clause of the U.S. Constitution.[56]

The courts' traditional attitude reflects society's sexual double standard, which has demanded that the traditional American family exert greater control over a daughter's behavior in order to protect virginity (or virginal reputation). The "good" adolescent female is never sexual, although she must be sexually appealing. Compared to the teenage male, she has a much narrower range of acceptable sexual behavior. As a result, even minor deviance may be seen as a substantial challenge to society and to the present system of sexual inequality.[57] Promiscuous young women are found to be unpalatable. "The young man gets a wink and a look in the opposite direction." [58]

As a result, female juveniles are more likely to be incarcerated than are adult women. "Adult women get a better shake when it comes to crimes than do juvenile girls. There is a reluctance to jail women, but not juveniles," [59] the Child Development Committee was told.

All too frequently, detention and police personnel suggest that it is necessary to lock up girls "for their own safety and well-being." [60]

The wording of status offense codes is so vague as to allow this kind of discretionary action against girls thought to be "in moral danger." Until 1972, a Connecticut law made it a crime for "an unmarried girl to be in manifest danger of falling into habits of vice." [61]

Ironically, the "status offense" category works in favor of some classes and against others. Of the status offenders in the District of Columbia courts, 80 percent are from white suburban areas; the urban, minority youth is more likely to be classified under the more serious category of delinquent.[62]

Female status offenders when they are institutionalized enjoy less recreation than boys and have poorer quality counseling and vocational training. And many existing programs continue to exploit girls in traditional sex roles; the emphasis may be on training to become cosmetologists or domestic workers.

Adolescent status offenders may be channeled into more serious charges: a 13-year-old girl who violates a court order against truancy, for example, may be reclassified into the more serious category of "delinquent" for the same behavior. Repeat runaways may face the same harsh treatment if their States have not chosen to adopt provisions of the Runaway Youth Act, which is Title III of the Juvenile Justice and Delinquency Prevention Act of 1974.

Title III specifically found that "the problem of locating, detaining, and returning runaway children should *not* be the responsibility of already overburdened police departments and juvenile justice authorities", and declared, "It is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure." However, only States that apply for funding under the act must demonstrate that they adhere to these requirements.

While recommending that, when possible, all so-called status offenses be removed from juvenile court jurisdiction, the Child Development Committee cautions against any tendency to charge these minors with more serious offenses such as delinquency.

In testimony to the Child Development Committee, the Honorable Eugene Arthur Moore, Probate Juvenile Court Judge, Oakland County, Michigan, Secretary of the National Council of Juvenile Court Judges; President of the Children's Charter, Inc.; said he felt that status offenders should be allowed in the juvenile court only after there has been positive judicial finding that no other community resource can meet their needs.

Judge Moore urged, as does this committee, that every juvenile court judge should be an advocate within his community to lead that community toward developing the necessary resources both within and without the juvenile court. "The judge must be a catalyst and motivation in the community towards the development of preventive and rehabilitative programs."

A special program of the Office of Juvenile Justice and Delinquency Prevention has already awarded $11 million in grants to various government and nonprofit agencies to facilitate deinstitutionalization of status offenders.[63]

In Oakland County, Michigan, is found a model example of joint community effort by citizens, government, and juvenile court officials to provide coordinated youth assistance, delinquency prevention programs, and a rehabilitative camp for young people. The committee commends this county's programs to the attention of action-oriented youth-serving groups in other communities.

ORIGINAL VERSION

The Child Development Committee recommends that State legislatures eliminate status offenses, used to discriminate against young women, from the jurisdiction of juvenile courts, and that States establish more youth bureaus, crisis centers, and diversion agencies to receive female juveniles with family and school problems, misdemeanants, and when appropriate, first felony offenders.

FOOTNOTES

[51] Recommendation approved by Child Development Committee Jan. 13, 1976; by IWY Commission Jan. 16, 1976.

[52] Meda Chesney-Lind, "Judicial Enforcement of the Female Sex Role: The Family Court and the Female Delinquent," *Issues in Criminology*, vol. 8, no. 2 (Fall 1973).

[53] Recommendations approved by IWY Commission February 26–27, 1976. The recommendation approved by the Child Development Committee Jan. 10, 1976, but revised by the Commission, is reprinted on p. 160 under the heading "Original Version."

[54] Peter C. Kratcoski, "Differential Treatment of Delinquent Boys and Girls in Juvenile Court," *Child Welfare*, Jan. 1974, vol. LIII, no. 1, p. 17.

[55] Meda Chesney-Lind, "Judicial Enforcement on the Female Sex Role: The Family Court and the Female Delinquent," *Issues in Criminology*, vol. 8, no. 2, Fall 1973.

[56] Rosemary Sarri, "Sexism in the Administration of Juvenile Justice," paper presented to National Institute on Crime and Delinquency, Minneapolis, June 16, 1975.

[57] Chesney-Lind, *op. cit.*

[58] Testimony of John Rector, Staff Director and Chief Counsel, U.S. Senate Juvenile Delinquency Subcommittee to Child Development Committee, Jan. 9, 1976.

[59] Testimony of Wallace Mlyneic, Codirector, Georgetown Juvenile Justice Clinic, Wash., D.C., Jan. 9, 1976.

[60] "Children in Custody: Advance Report on the Juvenile Detention and Correctional Facility Census of 1972–73," Law Enforcement Assistance Administration, 1975.

[61] Sarri, *op. cit.*

[62] From testimony of Joan A. Burt, Wash., D.C., Parole Board, to Child Development Committee hearing Jan. 9, 1976.

[63] Department of Justice, Nov. 1976 evaluation report on the impact of programs on women for IWY Commission on Program Impact, the IWY Interdepartmental Task Force.

WOMEN OFFENDERS*

The IWY Commission recommends that each State Bar Association review State laws relating to sentencing, and their application, to determine if these practices discriminate against women, and that each State review and, where needed, reform its practices relating to women in jails, prisons, and in community rehabilitation programs, with a special emphasis on:

Improved educational and vocational training opportunities in a nonstereotyped range of skills that pay enough to support a family;

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*Recommendations approved by Special Problems of Women Committee Feb. 18, 1976; by IWY Commission Feb. 27, 1976.

Making available legal counsel and referral services;

Increased diversion of women offenders, both before and after sentencing, to community-based residential and nonresidential programs such as halfway houses, work release, training release, and education release; attention to the needs of children with mothers in prison;

Improved health services emphasizing dignity in treatment for women in institutions;

Protection of women prisoners from sexual abuse by both male and female inmates and by correctional officers;

Utilization of State funds to recruit better qualified corrections personnel with the parallel goal of increasing the number of women at all staff levels in correctional institutions.

The IWY Commission further recommends that State Commissions on the Status of Women be supported by State governments in establishing task forces to focus on the needs of women offenders.** These task forces should make regular inspections of all women's detention facilities. Members should include lawyers and judges. Furthermore, the task forces should provide legal counseling and referral services. The press, and public should be kept informed of task force observations.

Has there been an increase in violent female crime?

Recent sensational articles on the rapid rise in the female arrest rate present an incomplete portrait of the women offenders especially since the bulk of the female crime increase is in economically motivated "property" offenses such as larceny, forgery, fraud, and embezzlement and is often related to drug addiction and abuse. The greatest increase has been for larceny.

Claims are being made that women are becoming more dangerous or that there is an invidious connection with the growth of the women's rights movement.

The statistics behind these pronouncements are found in the FBI's Uniform Crime Reports for 1972, based on 2,430 law enforcement agency records. They show that in 1972, crimes and arrests among women escalated at a rate of 277.9 percent of the 1960 female arrest rate. The increase for male crime between 1960 and 1972 was 87.9 percent.[1] The FBI shows that women offenders now account for 10 percent of violent crime, but in fact this proportion has remained constant over the last 20 years.[2]

The high point in female violence appears to have occurred in the mid-fifties when females accounted for more than 13 percent of all violent crime. Today's figure is one-third lower.[3]

In the past 12 years, as crime detection rates have improved, so have the female arrest rates for certain types of nonviolent crimes increased: embezzlement is up 280 percent for women, 50 percent for men; larceny up 303 percent for women, 82 percent for men; burglary up 168 percent for women, 63 percent for men. "The typical female offender has not committed murder or robbery . . . she is a small scale petty thief often motivated by a poor self-image and the desire for immediate economic gain."[4]

A potent pressure operating here could be the decline of real income for women from 60 percent of a man's earning in 1969 to 57.9 percent in 1972. In addition, women are facing certain unemployment; they are often the last hired at "equal opportunity" workplaces and the first fired under conventional seniority systems. The 1972 FBI arrest figures, cited above, do not reflect population increases, the absence of males during the Viet-Nam occupation, or the effect of inflation which has pushed up the cost of many stolen articles into the felony range.

Another overlooked factor: statistics from the 1960's often did not separate arrests of males and females. In those days, statistics on women frequently were lumped with those on men or ignored.[5]

Tom Joyce, an ex officio member of the National Resource Center on Women Offenders, has predicted:

"If the distorted image of an increasingly violent and dangerous female offender takes hold and affects planning policies, such as the building of new female prisons (rather than improving alternative programs), that will cause more harm than good, both for the typical offender and for society in general."

Educational training

On a national basis, women in prison receive little or no vocational training or job placement assistance which would enable them to support themselves and their children upon release. Education and work release programs for women offenders are substantially fewer than those for male offenders. A 1973 *Yale Law Journal* survey,[6] showed that vocational programs offered to women offenders range from one program to a high of six. The average in female institutions surveyed was 2.7 programs, compared to 10 programs on the average for male institutions. One institution offered 39 vocational programs for its male residents.

Where job training is available in women's facilities, it still tends to reinforce stereotypes of acceptable roles.[7] Charm courses are not uncommon: Four were funded by LEAA grants between 1969–75. Allowable work for women in prison is frequently sewings, laundering, or cooking; women offenders in Georgia have provided maid services to the residents of that State's central mental hospital.

At least 15 percent of the current female population in prisons is "functionally illiterate"[8] (reading below sixth-grade level). Catherine Pierce, Assistant Director of the National Resource Center on Women Offenders, suggests that this situation has broad implications for the use and understanding of employment notices, job applications, food stamp applications, and rental and housing contracts by women who are ex-offenders.

Apparently no statistics are being compiled or recorded on recidivism rates and level of literacy. Reading problems can only complicate reentry into society from an institution. How far can the illiterate, ill-trained woman get on one bus ticket and a few dollars? More than half the States gave departing offenders less than $48 each in 1974; two States provided no money.[9]

The Special Problems of Women Committee urges corrections training systems to follow the excellent example set by Washington Opportunities for Women (WOW), which seeks to place female probationers in apprenticeship openings in nontraditional well-paying occupations such as construction, meatcutting, and Xerox repair.

In Houston, One America, Inc. tests and counsels female probationers and parolees for placement in programs to train electricians and plumbers.

The Maryland Corrections Institution for Women in Jessup, Maryland trains women as welders and carpenters. Of 59 women graduating in June 1975 and trained in welding 41 were placed on jobs. The National Resource Center on Women Offenders,[10] founded by the American Bar Association in June 1975 to gather and disseminate information on female offenders, is a valuable clearinghouse on rehabilitation projects and developments in women's corrections.

Children of offenders

Unlike their male counterparts, 70 to 80 percent of women in penal institutions are responsible for children. And upon release, these women must often resume sole support of their children. Without sound vocational training, the returning mother struggles hard to provide, and a simple theft begins to look easy.

Once a mother is incarcerated, the children she leaves at home must be placed with relatives or institutionalized. (There is much evidence to indicate that children of offenders often become the next generation's offenders.) Most female prisons are located in rural isolated areas making visits between mother and child extremely difficult.[11] Because seven States have no institutions for women, female offenders are boarded in nearby States. In these cases, contacts with family and children are often broken.

The committee endorses the concept of community-based residential and nonresidential programs such as halfway houses, work release, training release, and education release—as a way to combine practical education experiences, rehabilitation, and family contact.

The Women's Prison Association[12] counted five States, in a 1972 sample of 24, which contracted with nearby States for imprisonment of female offenders. The Association asked,

"Why can't these States sponsor a small facility which would house women near their families and lend itself to improved programs for job training, individual counseling, and schooling?"

Establishing facilities becomes most likely when citizen groups press for action. The committee urges local and area Commissions on the Status of Women to act as catalysts for change.

Health services

The corrections administrators of women's institutions are responsible for appropriate health services. The Special Problems of Women Committee endorses as a guide for those administrators and for Commission on the Status of Women task force inspection teams the standards listed by Mary E. King and Judy Lipshutz in vol. 1, no. 3, *The Woman Offender Report*. They include:

Physical exams given with maximum concern for the woman's dignity;

Prompt and regular treatment for all illnesses while incarcerated;

Twenty-four-hour emergency treatment available in State institutions and local jails;

Insured humanitarian detoxification;

Proper and confidential medical records on each prisoner;

Family planning services, including access to contraceptives and family planning education;

Health education classes for inmates;

Regular exercise;

Attention to menstrual and gynecological problems; and

Female medical personnel included on health staff.

In addition, the committee is concerned that physical exams be administered only by licensed physicians or nurse practitioners, and that treatment for illnesses be both prompt and appropriate.

Staff

Only 12 percent of the correctional work force in the United States are women, and few of those women are in top- and middle-management positions. In 1973, the National Advisory Commission on Criminal Justice Standards and Goals issued a 600-page report listing 130 suggested standards for correction agencies. Section 14.3 called for correctional agencies to recruit and hire women for all varieties of work.

In August 1975, the American Bar Association's policymaking House of Delegates urged corrections systems to increase the number of women and minority group employees at all staff levels. This body asked for special staff attention to the essential job of attract-

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**An excellent model for such an effort is run by the Pennsylvania Commission on the Status of Women.

Footnotes at end of article.

ing women, urging special recruitment and training machinery and programs to attain that objective. The committee endorses those policies.

Most jails are not built, programmed, or staffed to look after females. Separation of men and women is difficult, and there are no matrons in some facilities.

Patsy Simms, a freelance writer who has interviewed more than 50 women serving time in southern jails or in work-release programs, has submitted to the Special Problems of Women Committee a report on the absence of matrons where females are behind bars. In many cases she found no matrons at all, or at best "paper matrons"—female radio dispatchers or the wives of jailers and sheriffs. Ms. Simms reminded the committee that a "paper matron" was on duty "two halls and 65 feet away" the night Clarence Alligood died in JoAnn Little's cell.

According to a *Raleigh News and Observer* survey of 47 county jails in the eastern part of North Carolina, only 19 of the counties have 24-hour matron service and adequate separation of men and women. Under these conditions, prevention of sexual abuse is not probable.

Further inequities in the justice system

Statutes in several States call for longer sentencing for female offenders than for males for the same offense.[13] Cases upholding disparate legislative sentencing schemes based on sex have reasoned that, compared with male criminals, females are more amendable and responsive to rehabilitation and reform—which might, however, require a longer period of confinement.

Some courts are taking positive action against inequities in the jail system. In *Barefield* v. *Leach*[14] a Federal court in New Mexico held that female inmates and male prisoners are entitled to equal treatment; and the fact that the number of women offenders is small is no excuse for unequal vocational training, unequal access to legal materials, unequal recreational facilities, or unequal opportunities to earn time off for good behavior.

> "At the time when some professionals in corrections are proclaiming that rehabilitation does not work, we are finding that for most female offenders, rehabilitation has not be tried,"

reports Ruth R. Glick, Director of the National Study of Women's Corrections Programs.[15] In general, no clearly defined philosophy of corrections has been tested and applied to women's correctional programs. Consequently, the large number of institutions and community-based programs seem to lack internal consistency, i.e., "the need to control runs counter to expressed desire to teach women to assume responsibility for their own behavior."

YOUNG ADULT CONSERVATION CORPS[16]

The IWY Commission recommends that special attention be given to attracting and recruiting young minority women, especially blacks, Hispanics, Asian-Americans, and Native Americans, into the Youth Conservation Corps to a year-round program for young persons up to age 24, and that the President support legislation extending the Corps.

Background

Of the more than three million young persons under age 24 presently unemployed in this country, the group most disadvantaged is the nonwhite minority female youth, ages 16–19. (The committee has had to assume that these figures reflect most racial or ethnic minorities, since further data breakdowns have not been available.)

Compared to a national average of 8.3 percent, the young minority women's unemployment rates in December, 1975, were 37.9 percent for ages 16–19, and 19.6 percent for ages 20–24. Other unemployment percentages for December 1975, for comparison, are:

Nonwhite young men: 31.2 percent for ages 16–19, 20 percent for ages 20–24;

White young men: 18.6 percent for ages 16–19, 11.6 percent for ages 20–24; and

White young women: 16.0 percent for ages 16–19, 9.6 percent for ages 20–24.

Department of Labor statistics for December showed 1,600,000 young people under 19 were unemployed; 1,576,000 ages 20–24. Parts of this large, restless, and unproductive reserve of young people are in danger of becoming a burden to society; on any given day, there are close to 8,000 juveniles held in jails in the United States. The average daily population in juvenile detention facilities (with girls held longer and for less serious crimes than boys) is over 1,200 with close to 500,000 held annually in such facilities.[17]

Starting in the summer of 1971, one experimental approach began to provide learning experiences and employment to jobless youths aged 15–18. Sixty-thousand youths were enrolled in the pilot version of Youth Conservation Corps (YCC), a Federal training-work program in conservation and the environment.

YCC enrollment figures have shown increasing female participation, from 41.3 percent in 1972 up to 49.2 percent in 1975. The percentage of female participation is now almost identical to the national distribution for 15–19 year olds.

Female teenagers have expressed the most satisfaction with the YCC program: 68 percent said they "really liked it" in a 1972 multiple-choice questionnaire, compared to 57 percent of the boys. YCC activities have reached far beyond the usual low-paying or dead end options for minority female youth: both sexes have learned to perform jobs related to reforestation; trail and campground improvement; forest fire fighting; and insect, flood, and disease control on public lands, among others.

There are some initial, and still unresolved, problems with both underrepresentation and dissatisfaction of minorities in the program, however. The underrepresentation resulted from policy and budget restraints limiting recruitment to areas near the YCC camps (away from urban areas), so that most of the campers have been from small towns or rural areas. In 1972, 82 percent of the participants were white; only 7 percent were black; 6 percent American Indian; 3 percent Spanish speaking.

As might be expected, evaluations of the YCC's summer camps have indicated the need to adapt the program to better serve minority groups.[18] The committee urges continued study and effort toward this goal with increasing attention to recruiting a more representative proportion from unemployed young minority women and to providing services to meet the needs of women with limited English-speaking ability.

A bill to amend the Youth Conservation Corps Act of 1970 (S. 2630), introduced on November 6, 1975, seeks to extend the pilot summer format of the conservation training program to a year-round operation for young adults up to age 24. The ultimate employment level could reach more than one million young persons annually with participants seeding grasses to control and prevent erosion, operating tree nurseries and planting seeds or tree cuttings, channeling streams, stabilizing banks, building small dams, fighting grass fires, and building new roads and park areas, among other activities.

Because the Special Problems of Women Committee sees this valuable program as an investment in preserving both natural and human resources and as an excellent training opportunity for young *minority women*, particularly those from the urban setting, the committee urges continued expansion and improvement of Conservation Corps activities.

FOOTNOTES

[1] In actual numbers, of course, female crime remains a small fraction of male crime; in 1971, approximately 18 of every 100 persons arrested for a serious crime were women, and of those convicted, nine of 100 were women, and only three of every 100 persons sentenced to a State or Federal prison were women. (Impact Statement to IWY Interdepartmental Task Force, Law Enforcement Assistance Association (LEAA), Nov. 24, 1975.)

[2] Laura Crites, Director; Catherine Pierce, Asst. Director, National Resource Center on Women Offenders.

[3] Tom Joyce, "A Review: Sisters in Crime," p. 6. *The Woman Offender Report,* vol. I, no. 2, May/June 1975.

[4] *Ibid.*

[5] Laurel L. Rans, Women's Arrest Statistics, *The Woman Offender Report,* vol. 1, no. 1, Mar./Apr. 1975.

[6] Vol. 82.

[7] LEAA Impact Statement prepared for IWY Interdepartmental Task Force.

[8] Sept. 1975 survey by American Bar Association. Commission on Correctional Facilities and Services Clearinghouse for Offender Literacy.

[9] Kenneth J. Lenihan, "The Financial Resources of Released Prisoners," Bureau of Social Science Research Inc., Wash., D.C., Mar. 1974 draft, p. 9.

[10] 1800 M St., NW., Wash., D.C. 20036.

[11] Mary E. King, "Working Paper on the Female Offender and Employment," Oct. 31, 1976.

[12] Founded in 1845, 110 2d Ave., New York, N.Y., 10003.

[13] Mary E. King, "Working Paper on the Female Offender and Employment," Oct. 13, 1975.

[14] Civ. no. 102–82, Dec. 18, 1974.

[15] An LEAA-funded program, 2054 University Ave., Room 301, Berkeley, Calif. 97404. Quoted in *The Woman Offender Report,* vol. 1, no. 3, July/Aug. 1975.

[16] Recommendation approved by Special Problems of Women Committee Feb. 6, 1976; by IWY Commission Feb. 27, 1976.

[17] "Female Delinquency: A Federal Perspective," statement of Mary Kaaren Jolly, Editorial Director and Chief Clerk, U.S. Senate Subcommittee to Investigate Juvenile Delinquency, before the National Congress for New Directions in Female Correctional Programming, June 30, 1975, Chicago, Ill.

[18] Among the reports: John C. Scott, B. L. Driver, Robert W. Marans, "Toward Environmental Understanding, and Evaluation of the 1972 Youth Conservation Corps," Survey Research Center, Institute for Social Research, the University of Michigan, Ann Arbor, Mich., 1973.

Mr. BAYH. Mr. President, the Nation's effort to deal with the problem of children in trouble has been an abject failure. As chairman of the Subcommittee to Investigate Juvenile Delinquency of the U.S. Senate Judiciary Committee, I am acutely aware of the flagrant maltreatment of youthful offenders, of the brutal incarceration of noncriminal runaway children with hardened criminals, and of bureaucratic ineffectiveness which has marked the grossly inadequate Federal approach to the prevention of delinquency and rehabilitation of delinquents.

I am reminded of testimony about the "El Paso Nine" before my subcommittee at one of our initital hearings assessing the juvenile justice system. They were not mad bombers, vicious criminals, or political radicals, but youngsters with troubles. Five were young women, the oldest was 17. Each one had been committed to a State institution without legal representation or benefit of a judicial hearing. Of the five, most had been committed for having run away only once. Beverly J., for example, was sent to the Gainsville State School for Girls because she stayed out until 4 a.m. one night. Alicia M. was sent to the same school when she was 17 because she refused to work.

This tragic story is repeated over and over again around the country. Children are in trouble. We neglect or mistreat our children, and then when they react in socially unacceptable ways—not usually crimes—we often incarcerate them. We call them neglected or dependent or, even more euphemistically, persons in need of supervision, but whatever the label, these youngsters often end up in common jails. Fully 50 percent of all children in juvenile institutions around the country could not have been incarcerated for the same conduct had they not been minors. Children are continually incarcerated for running away from home, being truant from school, being incorrigible, or being promiscuous.

It is not surprising that many of the prejudices our society has against females are reflected in the juvenile justice system, but the ramifications of such discrimination and bias are shocking. Girls are arrested more often than boys for status offenses—running away, truancy, and the MINS, PINS, and CINS violations—minors, persons, and children in need of supervision. And girls are jailed for status offenses longer than boys.

Between 70 and 85 percent of adjudicated young females in detention are there for status violations compared with less than 25 percent of the boys. Thus, there are three to four times more young women than young men in detention for noncriminal acts.

Additionally, the available research and evidence adduced by my subcommittee shows that a female is likely to be given a longer term of confinement than a male and that her parole will be revoked for violations less serious than for male revocation. In responding to these facts which affirm gross discrimination, the director of a State institution for young women explained:

> Girls, unlike boys, offend more against themselves than against other persons or property.

What she really meant was that often girls—not boys—are locked up for engaging in disapproved sexual conduct at an early age; that our society applies the term "promiscuous" to girls but not to boys.

Such arbitrariness and unequal treatment, at a minimum, produces more criminals. It is well documented that the earlier a child comes into the juvenile system, the greater the likelihood that the child will develop and continue a delinquent and criminal career. Another disturbing reality is that juvenile records normally go with children if arrested as an adult. What this means is that young women incarcerated for running away from home or arguing with their parents—incorrigibility—will have a criminal record for life and if arrested as an adult will more likely be incarcerated.

The basic problem is that we have not been willing to spend either the time or the money necessary to deal with the diverse set of problems children in trouble present to us. We must not continue to ignore today's young delinquent for all too often he or she is tomorrow's adult criminal. Our young people are entitled to fair and humane treatment and our communities are entitled to be free of persons who threaten public safety. My approach has been to apply the commonsense adage that an ounce of prevention is worth a pound of cure.

We need to develop different ways of treating children in trouble. We need to establish group foster homes for the neglected; halfway houses for runaways, and community-based programs for the serious juvenile delinquents. We need 24-hour crisis centers and youth service bureaus to help young people find the services which they need. And we need a greatly expanded parole and probation system to provide supervision and counseling for the large majority of children who never should face institutionalization.

In 1974 Congress overwhelmingly passed by a vote of 88 to 1 in the Senate and 329 to 20 in the House of Representatives, the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415 (S. 821). This measure, the product of a 3-year bipartisan effort which I was privileged to lead, provides for a constructive and workable approach in a joint Federal, State, and local effort to control and reverse the alarming rise in juvenile crime. The act is designed specifically to prevent young people from entering our failing juvenile justice system, and to assist communities in developing humane, sensible, and economic programs for youngsters already in the system to help the estimated one million youngsters, the majority of whom are young women between the ages of 11 and 14, who run away each year. It provides Federal assistance for local public and private groups to establish temporary shelter-care facilities and counseling services for youths and their families outside the law enforcement structure.

In addition to what we have accomplished to date, we need to focus more specifically on the manner in which and the frequency with which females are entering the juvenile justice system. We must assure equal treatment for these young women and see to it that assistance is available to them on an equal basis.

We must see to it that the preponderance of delinquency research and study is no longer exclusively male in its orientation, for it is essential that we know more about what can be done to prevent the personal tragedies involved in the ever increasing contribution females are making to the escalating levels of delinquency and serious crime. Some assert that the proliferation of dangerous drugs and their epidemic level of abuse are responsible, others cite society's gradual adoption of egalitarian attitudes devoid of sexism as the explanation; and, several argue that modern, more efficient methods of collecting and keeping female crime statistics are the answer. Perhaps, all of these are contributing factors, but it is certain that we know far too little.

It is often said, with much validity, that the young people of this country are our future. How we respond to children in trouble will determine the individual futures of many of our citizens. We must make a national commitment that is commensurate with the importance of these concerns. The young people, women and men as well as the rest of us, deserve no less.

CLEAN AIR AMENDMENTS OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 685, S. 3219, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (S. 3219) to amend the Clean Air Act, as amended.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, it has been more than 10 years since passage by Congress of the first major National Air Pollution Control Act. During that period, substantial progress has been made in reducing the emissions from our highly industrialized and growing society that were threatening the general health and welfare of the American people.

Improving the natural environment has been difficult because of our long history of paying little attention to the undesirable consequences of expansion. We were, in effect, starting from a very low base.

Since we were entering a virtually new field, environmental protection has required a substantial rethinking of attitudes and approaches on the part of many Americans.

I have often thought of comments made by President Abraham Lincoln. He said a long time ago, when there was a crisis in this country, that the dogmas of the quiet past are inadequate to the stormy present. We must, he continued, think anew and act anew and disenthrall ourselves.

He was indicating that there are problems which we must attempt to solve, and that we do not always have the knowledge to solve them except by new thinking and new acting.

We were also in an era in which new technologies needed to be developed and applied if we were to achieve the goals of environmental protection.

I think that largely the benefits have been on the positive side. I believe that Members of Congress and the people generally throughout the Nation think we have done well. Mistakes, of course, are being committed, and errors of judgment are a part of the process. But I feel that the people generally think that we must provide a type of environment in which America can continue as a nation to thrive and to prosper. I believe in a prosperous America; but we also have the problems which sometimes must be considered and should be considered. Is the thriving and the prospering carried out without detriment to the well-being of the citizens of our country? Is there a health hazard? Is there a safety hazard? Are there hazards of other types?

I have been particularly gratified to read in the recent report of the Council on Environmental Quality that the reduction of air pollution was the environmental area in which the most substantial progress was made during 1975.

We bring to the Senate today proposed legislation, the Clean Air Amendments of 1976 (S. 3219), which we feel are appropriate and timely.

As our able majority leader has indicated, that is the measure that is now before the Senate. This is, in effect, the third generation action in this field. It follows on the 1967 and the 1970 acts, and I think that it is correct to say that this bill reflects the coming of age of the air pollution program.

We have now had several years of experience with existing law and, as with any Government program, there is a need to periodically review and refine the requirements of law. Conditions change and so we must modify programs accordingly. So that is what has been taking place in the subcommittee, chaired by the able Senator who is particularly expert in this field, the gentleman from Maine (Mr. MUSKIE) and all of us who share the joint and mutual responsibility as members of the parent committee.

We have a comprehensive measure before us. It attempts to cope with all aspects of air pollution control and it does address itself to the changes that have been taking place in technology. We also are giving attention, as we should give attention, to the economic situation in the United States of America at the present time. Also, we must look very carefully into the energy requirements of our society, not only now but which it may have in the years ahead.

What we have done, I believe, Mr. President, is have this bill drafted and brought to the Senate Chamber on the basis of realism. That does not mean that all of the members of the committee have like views. It requires a substantial effort in our country to further reduce pollution, but it does not make demands that are beyond the capacity of our scientific capability or of our industry in general. I might modify my thinking if a certain amendment were offered on a part of this bill, but that generally is my thinking.

We have had, Mr. President, more than a year in the actual preparation of the measure before us. In the spring of 1975, the Subcommittee on Environmental Pollution, under the leadership of the able Senator from Maine (Mr. MUSKIE), had extensive hearings. We attempted to find what were the achievements since the legislation became lax. The Members of that subcommittee examined the structure and the requirements of the existing law and they called upon witnesses who had expertise and knowledge to think in terms of what we should do in the years ahead. The subcommittee members were not hurried in the consideration of this measure and they advanced it slowly but surely through the hearing process and the markup process, and they brought it to the parent, the Committee on Public Works.

Did we take a cursory look at it? No, we did not. We had many, many markup sessions. As my colleague from Vermont (Mr. STAFFORD), who is in the Chamber today, well knows, the Members were diligent in their attendance at these meetings. We wanted an involvement in the legislative process that could only come through the work of the members of the committee.

I also think now of a new member of our committee, the gentleman from Colorado (Mr. GARY HART), who addresses himself as did others, to going back over the years to see what we had done, to study the goals that we had set, and to work in the development of this legislation. The Presiding Officer of the Senate at this time the gentleman from North Carolina (Mr. MORGAN) one of the Members more lately coming into our committee membership, gave considerable study to this bill.

I believe that it is very important for the Senate to know that the members of the committee and of the subcommittee have given detailed study to this subject matter. Many valuable contributions were made to our understanding of the problems and to the solutions we reached by in addition to those I have mentioned, Senators BAKER, BUCKLEY, MONTOYA, GRAVEL, BENTSEN, BURDICK, CULVER, MCCLURE, and DOMENICI.

The purposes of this bill are easy to define. It has as its basic goal nothing more complicated than the continuation of progress in eliminating the causes of air pollution with its substantial social and economic costs. Our country has made a conscious and permanent commitment to environmental quality. We must, therefore, periodically reassess our progress and take the next step toward achievement of our goal. The Clean Air Amendments of 1976 is such a step.

So 1976 brings us to Clean Air Act amendments.

There are 23 printed amendments that have been introduced to the measure as it comes from the committee. Even within the committee, I have made it a policy always, Mr. President, of when we vote in the committee to advance the bill to the Senate itself, we do it with the understanding that the members individually reserve the right to offer amendments.

Pollution is not a static problem. Pollution is not something that attaches itself to one portion of the body politic or to one segment of the industrial or economic or social life within our country.

This, I think, is a national problem, but it does not mean that the problem is the same in all parts of our country and that the solutions therefor must necessarily be the same if the problems are to be solved.

I hope we shall always in this country realize the importance of the individual. We had those persons who were drafting our Declaration of Independence, the Articles of Confederation, and the Constitution itself. They were individuals of diverse views, and they expressed them.

Within this body ofttimes there is a point on which we can agree, and out of the welter of discussion and differences we can realize that sometimes we have been creating strengths because viewpoints have been expressed and then we can make the decisions.

I think we must work our way, and that is what we have to do especially when we are moving into new fields caused by the concentration of populations and by the industrial growth which have taken place in our country.

The bill reflects the strongly held belief that air pollution control problems are and should be, insofar as possible, the responsibilities of the States. Coming to this session today I was talking with the Presiding Officer, the Senator from North Carolina (Mr. MORGAN), about the 50 States and how it is increasingly difficult for Members of the Senate and the Congress generally to really give the time under the type of scheduling we now have. It would seem to me, and I believe that it is appealing to others, that there be, insofar as possible, the responsibility within the States to cope with many of these problems. We have given to the States a very secondary position, and that should not be in connection with this type of legislation or other bills that deal with pollution control.

I think the States are best suited generally, the people within those States, to assess the local needs and conditions and to more effectively enforce the controls necessary.

This bill then, Mr. President, provides increased authority to the States to develop the implementation plans and to carry out these plans.

I do stress that there is a substantial flexibility, and the States are given latitude in devising their own approaches to air pollution control within the framework of broad goals.

I do not hesitate to say to the majority leader and to others that at the present time we are faced with a very considerable problem in the central part of West Virginia. The State of West Virginia has established more stringent requirements than those which, through the Environmental Protection Agency, are considered as adequate and will permit the consumption of certain types of West Virginia coal in one of our electric generating plants.

Here are jobs involved that will be lost if the State regulations continue to be tighter than the Federal regulations. But no matter what the situation is in one area or one State, I go back to the feeling that we must, as a Federal Government, give the responsibility where possible to the States in connection with the framework of the broad and national goals which have been set for us.

The committee members, I believe, think the most effective air pollution control programs we have are actually the State's responsibility. Now this is not to say, and I say it with vigor, that there is no Federal role in this activity, but the Federal involvement must be supportive rather than separate, should be supportive, with the authority to help States resolve their problems and mediate their disputes.

Mr. WILLIAM L. SCOTT. Mr. President, I wonder if the distinguished Senator is at a point where he could yield briefly?

Mr. RANDOLPH. Yes, I would be delighted to yield to my friend from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I have looked at page 3 of the report of the committee and, reading toward the bottom portion of the page, it indicates:

> The Administrator's role is one of monitoring State actions. States have authority to issue construction permits to new major emitting facilities in clean air areas.

This is exactly what the distinguished chairman of the committee has been saying. But if you read further it says:

> The Administrator thus could go to court to stop a permit for activities which would exceed the increments of pollution or which otherwise did not comply with the requirements of this section, including of best available control technology. But the Administrator could not and should not attempt to burden this section with unnecessary regulations and guidelines.

The phrase come to mind, a velvet glove and an iron fist.

That still will have the Environmental Protection Agency compelling the States to do what the Administrator of the Environmental Protection Agency wants them to do.

If we skip a paragraph and read down, it says:

> The Committee has also asserted a Federal interest in protecting air quality over certain areas of Federal ownership, by a separate test. The potential activity outside those Federal lands—such as national parks and wilderness areas and international parks—could be prohibited if it would impair the air quality values associated with those Federal lands.

I believe in my own State and the distinguished Senator is very familiar with it; the valley of Virginia is adjacent to parkland, the Shenandoah Park, and the forest lands in the hills. Under the bill, as reported, the air in the Shenandoah National Park must be kept as pure as nature made it, the bill uses the phrase, pristine air quality.

But are we going to be able to build any factories there in the valley of Virginia because smoke or other pollution might pass over the parkland or other pollution might come over there, to interfere with this pristine air condition?

That would mean no growth in the valley of Virginia. I do not believe the distinguished Senator, the chairman of the committee, would want that to happen. Yet I am afraid under this bill that this is exactly what would happen.

Frankly, when we talk about wilderness areas or national parks, this is something we all enjoy visiting, but we cannot even visit them unless we get in our automobile to go to visit them.

I have an amendment to offer at the proper time, but it does not appear that today is the time.

I just cannot see that the impact of this bill is turning decisions over to the States.

I realize the distinguished chairman of the full committee is, at least in part, dependent on the chairman of the subcommittee for carrying the burden of this bill. I understand the Senator from Maine will be here later. Perhaps I should reserve my question.

But when the Senator was talking about the States taking this action, I thought I should raise this.

If we cannot use the land in the valley of Virginia for industrial purposes, is that a taking for which compensation must be paid under the Constitution?

Shakespeare said, you take my property when you take my right to use it. I wonder if it is a taking of property when we limit the right to use and say that we cannot build in the valley of Virginia.

I urge that each Senator look at his own State and see if it is no growth.

I have an editorial from the Richmond Times Dispatch that says, "Man shall not live by clean air alone."

He needs bread. He needs clothing. We need a healthy economy. I wonder if this is not going to severely damage our economy.

Mr. RANDOLPH. Mr. President, I understand the concern of my colleague. He has expressed this to me personally on many occasions.

I, of course, am understanding of his directing his questions to Senator MUSKIE, the chairman of our subcommittee. I would not take away from Senator MUSKIE in any degree the leadership and the knowledge he has in this field.

But I will say that the Senator from West Virginia now speaking understands this subject matter.

Mr. WILLIAM L. SCOTT. I did not mean to impute anything differently.

Mr. RANDOLPH. The Senator from West Virginia is here saying what he believes. The Senator from West Virginia must reinforce what he said earlier today—and I am not sure if the Senator was in the Chamber at the time—that this is a bill brought to the Senate by the action of the committee. I look upon each and every member of that committee as well able to do exactly what he wants to do in reference to this legislation.

I did indicate that there had been exhaustive hearings. We worked for more than a year on this bill. The markups within the subcommittee and the continuing markups within the full committee were not routine. There was a very spirited discussion of the point that the Senator brings to our attention.

We do not say they cannot build something on a plot of ground.

I do not find in any part of this bill, I say to the Senator, where that was implied, or we felt it was implied. It is not here. I am certain that it is not.

Mr. WILLIAM L. SCOTT. There is an editorial in today's Wall Street Journal that is pretty much parallel to the thinking I have just expressed.

Mr. RANDOLPH. I think that editorial could well go into the RECORD at this point, if the Senator desires to have it.

Mr. WILLAM L. SCOTT. I would like to do it at a later time.

Mr. RANDOLPH. As the Senator indicated with certain quotations on page 3 of the report, these are matters on which there are different interpretations.

But I say, basically, that what we are doing is to give to the States their responsibilities in a greater degree than they have had them in the past.

I am not sure that the Senator was in the Chamber when I was calling to our attention a specific problem in the State of West Virginia. Was the Senator here?

Mr. WILLIAM L. SCOTT. I was here for about 5 minutes before I spoke and interrupted the chairman.

Mr. RANDOLPH. Yes. Then the Senator did not have the opportunity of hearing me say that in West Virginia now we have stricter air pollution control than at the Federal level. I use the word "apparently." It is going to mean the loss of employment for certain numbers of coal miners.

It apparently is going to call for certain types of coal——

Mr. WILLIAM L. SCOTT. Is that a statewide law?

Mr. RANDOLPH. It is State. Our air pollution control board has put in stricter regulations as to the use of certain types of coal to be burned in electric generating plants in the State of West Virginia.

At the present time, there is no difficulty with the Federal law in reference to this matter. The coal was being burned. But under the State program now, the coal, as of a certain date, will not be able to be burned.

So we must always realize, as I am sure the Senator realizes, that what may be a weakening of a Federal law in some State, may call for a strengthening, or a stronger law in another State.

So we have always got that give and take which I think we have to consider.

Mr. WILLIAM L. SCOTT. I would be in agreement with the Senator, even though I have a nondegradation proposal to offer, and it would preserve the right of the State to a higher air quality standard.

The Senator mentioned the give and take in the committee. I was privileged to serve under the distinguished chairman and I know this has been the practice in the Public Works Committee. Certainly it was when I was with him as a member of the committee.

If I interrupted the distinguished Senator's train of thought here, perhaps it was untimely, but I do have a very keen interest. I think this is an extremely important matter because we are deciding about matters that may transcend clean air.

Mr. RANDOLPH. That is right.

Mr. WILLIAM L. SCOTT. We are talking about the economy and a number of other matters, I am sure the Senator would agree.

Mr. RANDOLPH. And so I said in my statement today, there were problems that had arisen. Frankly, an energy problem that was not apparent at an earlier period in connection with the development of the controls. Certainly, the economic problems.

We have a problem in transportation that we never had before in the volume of the transportation that moves over our highways and the type of vehicles that may be moving those products from farm and factory to the ultimate consumer. There are many facets, as the Senator properly has indicated, to this matter. The interruption was entirely timely and proper in asking these questions and making the comment.

Mr. WILLIAM L. SCOTT. Let me pose one other question, a question of procedure. If it is contemplated that we will only be on this matter now for the next hour and a half or so, and we will just have statements rather than amendments, can our amendments perhaps be reserved until tomorrow or for Wednesday?

Mr. RANDOLPH. The chairman, although he can discuss that situation, would rather have an announcement from the Chair as to the exact posture in which the Senate now finds itself.

The PRESIDING OFFICER. The Chair would advise that at 1:30 we vote on the Byrd amendment to the LEAA bill, which is a rollcall vote. We then vote on the LEAA bill itself which is a rollcall vote. We will then return to this bill until 2 p.m., at which time we will return to the tax reform bill.

Mr. WILLIAM L. SCOTT. I appreciate the responses of the distinguished chairman and the clarification by the Chair.

Mr. RANDOLPH. That would seem to indicate that this measure is going to consume several days.

Mr. WILLIAM L. SCOTT. Mr. President, I will reserve my statement until tomorrow and then offer my amendments tomorrow or the next day.

Mr. RANDOLPH. That will certainly be appropriate.

Mr. McCLURE. Will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. McCLURE. I think there is one thing that might be added to put into context the colloquy which has just taken place between the distinguished Senator from West Virginia and the distinguished Senator from Virginia. That is with regard to what has become comparative standards, what has become more strict than something else, or less so.

I think we have a tendency to look at State standards or these proposed amendments in the context of somebody's understanding of the original legislation, rather than the understanding of the legislation as interpreted by the court decision on the nondegradation decision. Once we set the court decision and the EPA regulation pursuant to the nondegradation decision alongside this bill, or some varying State standard, we get quite a different comparison.

The able Senator from West Virginia (Mr. RANDOLPH) referred to the action taken by his State in setting standards more strict than the Federal law. I suspect they are not more strict than the nondegradation standard as interpreted by the court. That is one of the reasons we are here with this legislation, to further define what the Congress thinks the law should be rather than leaving it to the Federal court and the regulatory agencies to determine what that strictness shall be.

I think both the Senator from Virginia and the Senator from West Virginia would agree with me that that is the comparison that ought to be made rather than against the original legislation and what may have been the intention of Congress, or at least in the minds of some in Congress, at the time the original bill was passed.

Mr. WILLIAM L. SCOTT. If the Senator will yield, I do not believe there is anything in the 1970 act that refers to nondegradation. It is the decisions of the Sierra Club against Ruckelshaus that concerns us.

Mr. McCLURE. The legislation referred to the original finding that it was our intention to protect. The court in construing that language came up with the interpretation of that language to mean nondegradation. It is against that standard by which we must now judge our act.

Mr. WILLIAM L. SCOTT. The amendment I propose to offer recites the very phrase that the distinguished Senator has just mentioned, but then adds, but in no case shall the Federal Government require it be higher than the primary and secondary standards established by the Administrator of the Environmental Protection Agency. The States have the right, however, to require higher standards, and they should have under the police powers.

Mr. McCLURE. When the Senator is referring to the Federal standards, he is referring not to what is being established pursuant to the court decisions but the primary and secondary decisions established in the legislation passed by Congress.

Mr. WILLIAM L. SCOTT. The Senator is correct.

Mr. McCLURE. I think that is important. I think there is a great deal of confusion abroad in the land about just what does this legislation that we are considering do, and how it compares to the alternative of doing nothing. That is one of the criticisms I have to the amendment to be offered by the Senator from Utah, which will strike the language that we have in this bill and which would leave us under existing law as interpreted by the court and as applied by the EPA under that court decision.

Mr. WILLIAM L. SCOTT. If the Senator will yield briefly, if and when the distinguished Senator from Utah offers his amendment, I have an amendment to that amendment which, in effect, says during the period of existence of the commission, we shall not have this nondegradation provision as established by the courts during that period of time. I think it is worthy of consideration by the Senate.

Mr. McCLURE. I understand the Senator has that amendment as well as the other one which he has been discussing. It is a matter we have discussed intermittently over the last several weeks.

I thank the Senator from West Virginia for yielding.

Mr. RANDOLPH. I appreciate very much the opportunities for Members other than myself, committee members and Members of the Senate, to discuss these matters. We must be very careful within the Senate not to in anywise attempt to move this bill beyond the opportunity for Members to check it out very carefully, to offer amendments, and participate in the debate when they desire.

I have said before, and I repeat, that pollution control is extremely complex. The implications of the program are such that I say to the Senator from Virginia (Mr. WILLIAM L. SCOTT) and all in the Chamber that we must carefully examine each step that we take so far as possible. We want to be certain that we are moving in a purposeful direction, I will call it the right direction, not only to achieve clean air, but to do it in a manner that does not disrupt the many, many necessary aspects of our personal national life.

The bill also recognizes the responsibility of local governments for many of the programs with direct impact on improving air quality. In particular, transportation systems are a concern of local governments, and the bill provides that transportation control plans will be prepared by organizations of local elected officials, and the provisions of such plans must be implemented by local governments.

This bill will redress a major flaw in the way transportation controls were developed under the 1970 act. Local governments were not accorded their proper role in that process, and the plans developed often were unrealistic, and suffered from a lack of local support. The amendments require that plans be developed in the first instance by local officials.

Mr. President, for many years I have been concerned with the long-range energy needs of our country and how they might be met. The energy crisis that erupted in the winter of 1973–74 was one manifestation of the problems we must resolve. It was a painful reminder that we need to be making more progress toward determining how our energy will be supplied in the future without disrupting the economy.

As a Senator representing one of our country's largest coal-producing States, I also am aware that coal must play an increasingly central role in providing energy to run our country, particularly in the years immediately ahead. The exotic potential sources of energy are by general agreement many years from widespread application. We know that we should not depend on foreign sources of fuels, particularly petroleum, but we have made little headway in reducing that reliance. At the present time, the United States imports more than 7 million barrels of oil from other countries every day. In some weeks imports are one-half our national supply and it results in the outflow of billions of dollars to other countries.

Our country has vast reserves of coal and we have the technology and the ability to produce this coal and move it to markets. We also know how to use it in environmentally safe ways. Two years ago the Energy Supply and Environmental Coordination Act was passed with provisions for electric utilities and other industrial facilities to switch to coal from oil and natural gas. The Clean Air Amendments of 1976 also address this subject and adjusts the program to facilitate the conversion to coal.

There are two basic coal conversion issues dealt with in this legislation. The first extends the date for sources which convert to coal to comply with pollution abatement requirements. The second transfers to the States some of the responsibilities in this area presently held by the Administrator of the Environmental Protection Agency. While I believe strongly that coal is essential to meeting our country's energy needs, it must be utilized in environmentally sound ways. We can do this through the provisions of the bill which will enable industrial sources, particularly electric utilities, to continue converting their boilers to coal.

Mr. President, there was perhaps no more difficult issue for the committee members to resolve than how to implement the policy for protecting existing clean areas from contamination by air pollution. Throughout this country there are large areas that have clean air. We know how difficult it can be to remove pollution from dirty areas, so it is essential that we do not permit deterioration of air quality in those areas which are relatively pollution free. Any costs that might be associated with such an effort should be more than offset by avoiding costly corrections in the future.

Prior to the past year, the question of exactly what constitutes significant deterioration had not been directly addressed by the Congress. This issue arose because of judicial interpretations and administrative actions based on earlier legislation. The committee felt, however, that once the questions had been raised they should be answered by the Congress. We were, in fact, urged by many industry representatives to act in this area.

The members of the committee deliberated for many weeks on this issue. Input was received from many outside sources, including governmental, industry, and organizations. We considered a number of approaches to the problem and I believe that our final decision is one that is both balanced and effective. Section 6 of the clean air amendments establishes procedures under which no significant deterioration of air quality will be permitted in areas which are clean at the present time.

Once again, the States are asked to assume substantial responsibility for the implementation of this section. The provisions of section 6 are basically simple: the development of pollution sources will be carefully controlled or in or near areas that are adjudged to be clean. The same controls will apply to certain federally owned lands where there is a special need for clean air.

Thre is considerable misunderstanding about the provisions relating to nondeterioration and about their potential impact on industrial and commercial activities in our country. This situation is apparent in the mail received by the committee and I believe that we should take time to separate some of the facts from the fiction.

First, this is not a Federal land use measure in disguise. Obviously, if pollution sources are to be restricted, there are some land use implications of section 6, but they are not objectives of the legislation. Since the States have the basic responsibility for developing and implementing nondeterioration plans, there is little Federal involvement.

Another complaint is that nondeterioration provisions would virtually halt industrial development in this country. Any rational examination of the bill shows that this is clearly not the case. The members of the committee, in fact, were careful to include in this section a mechanism for permitting industrial development in clean air areas. Such development cannot take place without stringent controls if the integrity of the air quality is to be maintained, but the bill does establish guides under which there can be industrial and commercial activity. As a practical matter, there is really no limit on what can be done in class II areas under the bill. A given facility may have to install better controls, or be resited, but it almost certainly can be built in compliance with the increments. The use of the best available control technology is required so that emissions are kept to an absolute minimum thus providing more capacity for industrial activity. Furthermore, the nondeterioration provisions of the bill require that consideration be given to the energy, environmental, and economic consequences of any proposed level of control and technology requirements.

Finally, the nondeterioration section of this bill applies only to new major sources of emissions. It does not relate to sources already in existence. They are covered by other sections of the act.

Mr. President, this area was not an easy one to resolve. The time and concern devoted to it by the members indicates how seriously they viewed this matter. The nondeterioration section has benefited from such intensity of examination. Its requirements are not excessive nor are they overly restrictive. They will be extremely helpful, if not essential, in achieving the goals of clean air that we have established for our country.

Another difficult issue in this bill, Mr. President, is that relating to emissions standards for automobiles. Under the provisions of the Clean Air Amendments of 1970, the 1975 model year was set as the deadline for making cars that were essentially free of pollution. The Congress and the Environmental Protection Agency subsequently extended the deadlines. This bill further modifies the schedule for achieving the ultimate statutory emissions standards. It also revises one of those standards. On the basis of new scientific information, the committee recommends that the final standard for oxides of nitrogen be placed at 1 gram per mile rather than four-tenths of a gram per mile as in existing law.

The control of pollutants from automobile exhausts is central to the general reduction of air pollution. Motor vehicles produce a significant portion of the total emissions in the air and particularly in urban areas. In some cities, such as Washington, D.C., automobiles are the largest source of pollution.

This is one area in which a national view has been taken. Automobiles are manufactured and sold on a national basis and they move readily from point to point within the country. It would therefore be difficult, if not impossible, to adopt a State-by-State approach to control automobile emissions. In developing this section of the Clean Air Amendments of 1976, the committee was cognizant of the level of technology development both with respect to emission control and to engine efficiency. The extension of compliance deadlines in the bill will provide opportunities for the industry to make further progress developing technologies that will both enhance fuel efficiency and further reduce emissions. The members continue to believe, however, that strict timetables and adherence to them will be a stimulus to industry to further its efforts in both of these fields.

The emission control systems presently used on cars will not be effective for a long period of time unless maintained properly. Just as engines will not run without periodic attention, neither will these pollution control systems last forever without care.

The law requires that warranties for emission control systems be provided by manufacturers be valid for 5 years or 50,000 miles, whichever occurs first. Considerable concern has been raised that such a lengthy warranty period for performance would have severe economic consequences on the independent parts and service industries. It is believed that the long-term warranty may limit service and parts to those provided by manufacturers of automobiles.

The committee was sensitive to this problem and, as a result, included several provisions in this bill intended to protect the economic integrity of these independent businesses. Under this bill, automobile manufacturers, for instance, cannot require the use of their own parts or service provided by their agents as a condition of maintaining the warranty in force. Further, independently manufactured parts can be certified as usable without affecting the validity of the warranty. Finally, and as further protection and guidance for future action, the Federal Trade Commission is directed to conduct a study of any anticompetitive effects that may still exist with respect to warranty requirements for emission control systems.

There are many thousands of independent businesses throughout our country that depend on servicing of automobiles. It is apparent that they would be endangered by any requirement of Federal law which limited their ability to perform regular maintenance work on automobiles. The committee has properly addressed this subject and I believe that the result will be protective of independent industry while maintaining the integrity of the pollution control program.

When the committee was debating this subject, I supported a proposal to reduce the warranty period to 18 months or 18,000 miles. That amendment was not adopted and the provisions that I have just discussed were subsequently included in the bill. This modification, together with the amendment being proposed by Senators Baker, Buckley, and Stafford, will be sufficient to avoid discrimination against the after-market industry.

Closely related to the reduction of emissions from automobiles are transportation control plans as a technique for reducing pollutants in communities. Existing law requires the use of transportation control plans as part of an overall strategy in urban areas. This bill modifies the transportation control plan requirements somewhat by authorizing an extension of time for their implementation.

States may apply for and receive an extension for up to 5 years for the attainment of primary ambient air quality standards in areas requiring transportation controls. These States must show that the earlier imposition of such controls would have serious adverse social and economic effects. The Environmental Protection Agency can grant the extensions if the State shows that it is working toward the attainment of primary air quality standards. The bill also provides for a second extension up to May 31, 1987, if primary standards are incapable of attainment through the use of all reasonable and available control measures. This extension would be limited to a few of the very worst pollution-affected metropolitan areas.

Mr. President, I must observe at this point that the basic objective of the act is to be attained by reaching specified air quality standards in designated control regions. The use of transportation control plans and automobile emission standards are among the various techniques for the attainment of overall air quality standards. I can understand many communities feel that transportation control plans are unnecessarily severe and would impose severe hardships on normal life. We must remember, however, that lengthy delays in meeting automobile emissions standards increases the possibility that transportation controls will have to be imposed if air quality standards are to be met.

Stringent transportation controls, therefore, can perhaps best be avoided by concentrating on the technologies for reducing the pollutants from the automobiles themselves.

The committee also gave careful consideration to the problems of industrial development in urban areas where air quality standards have not been reached and are not likely to be attained for some time. These are often the areas where industrial expansion is likely to take place and under existing law it is severely restricted and sometimes impossible.

To cope with this situation and thus avoid imposing a strain on our economic system, the bill contains provisions allowing under certain conditions expansion and modification of facilities in substandard air quality areas. We were careful, however, to avoid permitting indefinite failure to meet air quality standards. It is for this reason that expansion will be permitted only under very carefully drawn conditions which assure first, that air quality will not further deteriorate and, second, that continued progress will be made toward removing pollutants from the air. The bill recognizes that concentrated urban areas are the most likely candidates for industrial growth and also that some heavy industries simply are not suited to operation in rural or lightly populated areas.

The committee also recognized the particular problems of the smelting industry in complying with pollution reduction requirements. The basic approach of the air pollution control program has been that continuous controls were the most effective technique. It appears, however, that in the smelting industry there are instances when supplemental controls are acceptable or a temporary solution to avoid massive expenditures in an industry having difficulty competing with foreign suppliers. The bill provides, therefore, that enforceable supplemental controls can be included in an implementation plan for existing nonferrous smelters for such metals as copper, zinc, gold, silver, and lead.

Mr. President, there is no question that air pollution control is an extremely complex undertaking. It is also a new venture in this country on the scale on which we have embarked in the past decade. The implications of such a program are such that we should carefully examine each step that we take and be sure that we are moving in the right direction, not only to achieve clean air but to do so in a manner that does not disrupt other aspects of our national life.

The Federal Water Pollution Control Act of 1972 authorized the establishment of a Commission to review that program and to suggest future courses of action.

Now, we take the same approach, and I will say to the Senator from Tennessee (Mr. Baker) that what we did in connection with the National Commission on Water Quality we are now doing in this bill, under his direct sponsorship of an amendment in the full committee calling for a National Commission on Air Quality. It is necessary to have this continuing study, this careful review and assessment of all of the problems, not only of pollution control but of the social and economic considerations or aspects which are involved.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. BAKER. I am grateful that our distinguished chairman has referred to that provision of the bill covering the National Commission on Air Quality. I am hopeful that it will add an element of strength in a difficult and uncertain field.

He and I were both privileged to serve on the National Water Quality Commission. By the way, it was not an easy task, to serve as a legislator and at the same time to serve as a commissioner on this body whose task it was to review the water legislation. The commissioners, however, completed this difficult task under the able leadership of the Vice President of the United States who was on the Commission before he became Vice President and stayed on as its Chairman at the urging of the Senator from West Virginia and myself. The legislative commission is a good approach to congressional oversight and I hope our colleagues in the future will think of it as a technique which does what we have not always done readily; that is, admit that we do not have final definitive answers to every problem, but also as a technique for giving a freshness of viewpoint for legislation from outside the executive and legislative branches.

So I am glad that the Senator from West Virginia has identified that portion of the bill which was accepted on my motion by the committee, and which I feel may be a form of legislative action which will be useful in the future.

Mr. RANDOLPH. I thank the Senator from Tennessee.

The Board would be composed of 15 members, public and congressional, and that body would be charged, as we were in the study under the National Commission on Water Quality, with reviewing the adequacy, the fairness, and the effectiveness of the clean air program, to protect the public health and welfare, and, of course, the implications of the program.

A report would be required to come to Congress within 3 years. It is likely that we will be called on to address the clean air program in that period, and the detailed examinations of the Commission, as has been indicated by the Senator from Tennessee, would be a valuable guide in charting the future course of the program.

Mr. BUCKLEY. Mr. President, the chairman of the Public Works Committee, the Senator from West Virginia (Mr. Randolph), has, I believe, given us an excellent survey of the problems that have been confronted by the committee and the objectives that it has sought to achieve during the tremendously long process of examining various proposals and specific amendments that have been offered to bring the legislation, first enacted in 1970 up to date. We have met problems that could not have been anticipated at that time. This bill adjusts the timetables. And the bill does many other things that are necessary to update such fundamental legislation.

I am in full support of S. 3219, the Clean Air Act Amendments of 1976.

Our committee has spent many long hours—hours that stretched into months—in the development of this bill. I am convinced that it is sound legislation. I am convinced that it is necessary legislation. And I am convinced that it is legislation that is both fair and equitable.

I shall not seek at this moment to duplicate in detail the excellent statement made by the chairman of the full committee (Mr. Randolph) and a statement that will be made later today by the distinguished chairman of the Environmental Pollution Subcommittee (Mr. MUSKIE). Nor shall I attempt to conduct a tour of the committee report, on which the members spent many hours of work, and which Senators have had available to them for several months.

I might state that the Senator from Idaho (Mr. MCCLURE) made an extraordinary contribution to the quality of that report by insisting that the members consider it sentence by sentence, to make sure that its language fully reflected the committee's intention as to the effects of the various provisions. I believe this report is particularly authoritative insofar as it reflects the thinking of the committee.

Rather than go into great detail, I would like rather at this time to offer some thoughts and observations on the philosophy of this legislation, noting some particular points that may be of interest to our colleagues.

Many persons have argued that we need no bill at all, except for one that extends the deadline for attainment of the auto emission standards. But the committee chose, wisely, I believe, when it decided to resolve such thorny issues as that of significant deterioration in clean air areas.

Despite its length and scope, the 1970 clean air amendments failed to delineate many aspects of a national clean-air strategy. The law failed to detail such directives as the requirements carried over from the 1967 act to "protect and enhance" the Nation's air quality. The courts have been called on to interpret this directive, as well as the one for "transportation controls," which, while upholding the thrust in the 1970 act, nevertheless did so in a manner that has allowed less latitude for judgments in individual cases than the Congress may have intended. The environmental Protection Agency has followed these decisions with administrative rules that have implemented the courts' decisions. Failure to adopt language in this bill involving significant deterioration will leave those regulations in place for the foreseeable future, substituting the substantive judgments of the courts and EPA for explicit directions from the Congress.

The Constitution vests the Congress with the responsibility to define national policy. It would be an act of irresponsibility for the Congress now to leave the resolution of these issues to the agencies and the courts. And it would be an act of folly, for it would assure that corporate decisions on growth would remain tied to litigation for months and years to come.

In the committee's language defining "significant deterioration," we have established a flexible and reasonable standard against which to measure the deterioration of air quality in clean air areas. Significant deterioration is defined in terms of concentrations of additional ambient pollution. It is not a new approach or a new philosophy. This bill achieves this goal by relying on the judgment of the States, and not the Federal bureaucrats, as it now the case. This is a wise and practical change.

"No significant deterioration" is a policy that has no effect on existing sources, unless a source undertakes a major expansion program. It requires the States to study the impact on air quality resulting from the siting of new major sources of pollution, and it creates a mechanism allowing a State to decide if it wants the next major source to consume all the clean air resources of an area, or whether that clean-air resource should be shared among various new plants. It lessens the danger that an upwind State will impose its pollution on a neighbor.

Fundamental to this approach is the requirement for the use of "best available technology," to be determined by each State on a case-by-case basis. What would be the effect of requiring less than best-available technology? The main danger would be that the initial applicant in the clean-air area would use up the entire allowable increment of pollution, whether that increment is the one specified in the bill or is the difference between the present level of air quality and the secondary standards. The more lax the initial emission standard, the more likely it is that the plant will some day be forced into costly retrofitting in order to shoehorn new facilities into the area. With a requirement for best available control technology, there is less need to worry about modeling errors. And there is less likelihood that development plans will be tied up in court over questions of whose modeling is right.

Inherent in the word available is a judgment on the costs and the energy use, plus other implications of that technology. Specifically, the Senate bill requires that "energy, environmental, and economic impacts and other costs" be taken into account by each State in this test. This is a decision that should and will be made by the local officials, the people best able to make that balancing judgment.

This bill does not impose land-use designations or giant clean-air buffer zones, as present EPA regulations do. When Congress in the 1960's established ambient air quality standards as the criteria for measuring air pollution, Congress required then that States and the Federal Government work together to analyze the impact of a new plant on the air quality in the area of the plant. Section 6 of this bill defines that directive with greater precision.

Another issue that carries vast significance relates to the automobile standards. Public interest centers on this provision as much as any other in the bill. We have reached a decision that I consider to be fair. It is one that will impose no undue costs—in terms of dollars or fuel economy—on the motoring public. The standards in the bill are reasonable and offer the industry the time it needs to meet the statutory standards.

Not only does this bill establish a staged approach toward more stringent standards, but it also sets the nitrogen oxide standard at a more realistic, permanent level: a level of control that will assure essentially healthy air when matched by controls of similar stringency on stationary sources. Probably most important of all, the bill creates a mechanism that allows the industry to phase-in its cleaner cars, without pushing the industry into full compliance in the leap of a single model year.

The date for full compliance in this act—1980—repesents a 5-year moratorium from the initial compliance date on hydrocarbons and carbon monoxide set in the 1970 act. EPA has determined that those statutory numbers could have been met in the 1976 model year. The hydrocarbon number will be met this fall in the cars that are sold in California.

I must note that some cars in 1976 were certified at levels that matched or came close to the numbers for 1980 in this bill. The 1977 Volvo line easily met the statutory standards with innovative catalyst technology. This does not mean that everyone can do it with ease, but I do believe that it indicates that the new standards established in this bill are not unreasonable.

The date on nitrogen oxides represents a 4-year extension from the 1970 act, as well as a relaxation allowing pollution at 2½ times the level set in 1970. This standard was selected in part because of the need to assure the broadest possible options in the industry, including use of diesels, stratified charge engines, and the so-called lean-burn system.

One of the more difficult problems was developing a rational step toward ultimate automotive controls. The industry told us that it has historically developed on a pattern that involved the gradual phasing in of new technologies from automatic transmissions to radio aerials embedded in the windshields. They were available initially on a few models, then expanding to the full line.

Such a phase-in approach was the basis for the original Muskie-Buckley proposal of more than 1 year ago that sought to relate the phase-in to auto mileage. When the industry attacked that proposal, the committee evaluated a variety of alternatives: a phase-in based on weight, one based on styling changes, one based on an emissions change. All had drawbacks of one kind or another. The committee then reached its present proposal, tied to a relatively small percentage that can be achieved in the insulated California market or based on one or two models. With the exception of the smallest companies, the manufacturers are required to sell 10 percent of their 1979 cars at the 1980 numbers. This can be done in any way the company chooses.

This phase-in scheme is designed to encourage innovation. I am convinced that the industry is capable of achieving the standards in this bill, in the time allotted. The time is not just in the future. The industry has known since 1970 what was ultimately required. It has known since last fall what numbers would be contained in this bill. I would anticipate that the industry has been—or at least should have been—working toward the achievement of these goals. The numbers in the bill are reasonable ones. Frank Zarb, Administrator of the

Federal Energy Administration, wrote to the subcommittee a year ago as follows:

> Theoretically it is possible to meet the lower standards of .41 HC/3.4 CO 1.0 NO_x without fuel economy loss using three-ways catalysts or advanced oxidation catalyst systems with cold-start HC storage or with start catalysts. In practical terms, however, relatively few cars could be equipped with such advanced systems by the 1978 model year, and thus there would be fuel economy losses that will vary directly with vehicle weight.

This bill meets that criticism. It does not bring in the lower standard until 1979, and provides until 1980 for full compliance. Mr. Zarb also said:

> The 1.0 NO_x standard would be achievable with lean burn and with stratified charge engines without fuel economy loss in the lighter vehicles, but would entail fuel economy loss in larger automobiles. None of these alternate engines, however, could reasonably be developed for production by the industry unless the industry had assurance that the ultimate emissions standards would not be lower than 1.0 NO_x; at lower NO_x levels a reduction catalyst or three-way catalyst would be needed, and such catalysts cannot be used with lean burn or stratified charge engines.

Mr. President, a number of other provisions have been included in the bill as a result of amendment that I offered in committee. I would like to discuss several of these at this time.

Much of the impetus for this bill involves a recognition that control technology needs to be improved. This fact is noted in the general statement of the report, which demonstrates the importance our committee places on improvement of technology for pollution control, encouraging better, cheaper controls now and lessening the need for retrofitting in the future.

Most significant, at least initially, is the provision involving the technology waiver. This language appears in the section that extends compliance deadlines for stationary sources. My provision would allow 2 additional years for compliance by any company that can demonstrate that it plans to use that time to develop and install a new and innovative technology that would either sharply reduce costs or provide greater pollution control, and offer techniques that could be adopted widely.

In acting upon a request for additional time under this innovative technology provision, the State authority may grant an extension under either the provision requiring a bond or the one involving a delayed compliance penalty. A bond would be required for a source intending to replace its entire production process and which could not comply by gradually phasing in on a timetable for compliance. The delayed compliance penalty mechanism would be applicable when the source would meet the emission limitation by modifying or replacing pollution abatement equipment or which could meet the phase-in requirements on a schedule for compliance.

Another provision designed to stimulate technology is section 40, which requires that the Administrator of EPA study ways an emissions tax could encourage the control of emissions of oxides of nitrogen from stationary sources. One of the difficulties of current law is the lack of incentive to new technology. An emissions tax, if implemented fairly, would create a marketplace incentive toward improved emissions controls. If successful, it could also suggest a new approach to the control of pollution that could prove more effective and efficient than what we have thus far adopted.

Earlier in my statement, I discussed the need to prevent the significant deterioration of air quality in clean air areas. This requirement, too, should serve to stimulate technology over the longer run. Inherent in any such control program, pegged to ambient pollutant levels, is the realization that there is a maximum level of pollution that can be emitted in any one site. Since there is a natural trend toward economies of scale, such an incremental lid will lead to the need for increased percentages of control as the potential sources of pollution grow larger. The development of such technologies should lead to the use of less costly and more effective controls on existing plants in our cities.

This same philosophy of growth under an umbrella applies to that section of the bill that allows expansion of plants in areas where standards are presently being violated. By granting greater flexibility to local authorities—allowing expansion of a steel mill or a chemical plant or petroleum refinery—the bill will encourage industry to develop new approaches and improved technologies.

In considering technology, the State must consider economic and other social factors. But the weight given to those economic factors by any State is wholly discretionary with that State, as is the issuance of any permit under this act. The word "may" is implicit throughout this bill when it details procedures of how the State evaluates best available control technology and the impacts affecting that technology. Each State, of course, retains full flexibility to set as restrictive a standard as it may wish in the interest of preserving air quality and/or encouraging as much industrial expansion as would be practicable within the limitations set by the allowable increments of specified pollutants. This language is not intended to encourage a least common denominator approach. It should, over the longer run, encourage technological flexibility and improvements in technology that are effective from an environmental and economic viewpoint.

There are a number of other provisions that I believe are sound and merit the support of my colleagues. The provisions allowing for reasonable extensions in the deadlines for full implementation of transportation controls is one such example. While it is recognized that some areas may need years and years to reach the ambient standard, our bill requires that a community impose reasonable controls as quickly as practicable, making staged improvements toward the ambient standards. Several points need to be made relating to transportation controls. The bill contains a list of a number of strategies that are to be studied. It is my expectation that those strategies will be considered reasonable in nearly every case. As part of that strategy, a community must institute the various reasonable transportation controls when they become available. It is unacceptable for a community to wait until the end of the extension period to throw on all of the reasonable strategies at one time. Good sense and the intent of this bill calls for implementing each reasonable control as soon as it is practicable to do so. This is particularly important in those areas that may require a second extension. Before the extension is granted, the community must show that it is doing all that is reasonable up to that point. And then the extension may be granted only on implementing one or a few strategies, with all others requiring during the initial extension.

The bill also provides funds for community planning for transportation controls. These funds are available for public education in transportation controls, as well as for the actual planning itself.

Another provision of interest in section 35. This section is intended to lessen the danger that a private party may be harassed by Federal litigators. This provision will assure that any party in a suit with the United States under this act will receive reimbursement of all costs of litigation should that party prevail. While such a provision cannot prevent harassment, it will certainly encourage private parties and municipalities to push for their full rights, as they have very right to do.

Mr. President, I have sought to touch a few of the highlights of this important legislation in these opening remarks. I urge that the Senate support this legislation. I believe it serves as a balanced and reasonable basis for continuing progress toward clean air.

In closing, I would like to express a particular word of appreciation to my colleagues on the Committee on Public Works. Our former ranking minority member, Mr. BAKER, now the ranking member on the Subcommittee on Environmental Pollution, served as a strong and effective leader in the development of the bill. That is a role he assumes in each of the difficult challenges we confront in committee. His guidance was most helpful in assuring that this was a reasonable bill. The chairman, Mr. RANDOLPH, during the long development of this bill, demonstrated his unfailing courtesy and fairness. In many ways, this bill reflects both his many innovative ideas and his strong belief in a balanced approach toward environmental protection. And the chairman of the Subcommittee on Environmental Pollution, Mr. MUSKIE, deserves our great thanks for his strong leadership and attention to this bill.

I would also want to say a note about my three other Republican colleagues on the committee, each of whom devoted long hours and great thought to this bill. The Senator from Vermont (Mr. STAFFORD) consistently backed effective environmental controls. His contribution will be long remembered by those of us who support an effective pollution control effort. The Senators from Idaho and New Mexico (Messrs. MCCLURE and

DOMENICI) each contributed a positive and effective thrust to this bill, as they do to any legislation in which they become involved. The fact that Senators of their caliber and dedication fully endorse this legislation ought, in itself, to commend the support of Members of the minority in this body.

Mr. STAFFORD. Mr. President, I would like to add my support for passage of S. 3219, the Clean Air Amendments of 1976.

The Subcommittee on Environmental Pollution and the full Committee on Public Works produced this legislation after lengthy sessions that covered many months. The participation of members of the subcommittee and of the full committee was gratifying in terms of both the time spent and the quality of the deliberations. This legislation is worthy of the support of the full Senate. It is good legislation and it is necessary legislation. The proposals that will soon be debated on this floor are reasonable ones.

My senior committee colleagues from both sides of the aisle have already presented excellent and comprehensive statements and analyses of the bill, and I shall make no effort here to duplicate those statements.

This legislation was produced under the legitimate pressure of conflicting tides. There were some who argued that no bill was needed, except for a simple extension of the deadlines regarding auto emission standards. Others argued that our committee should produce legislation that would let down the safeguards protecting our environment, because of the economic difficulties facing our Nation.

The committee decided wisely to reject those suggestions.

The committee has produced a bill that continues our effort to preserve and to enhance the quality of our Nation's air and, in so doing, to preserve and enhance the quality of our national life.

It is a bill that reflects the least possible changes required to improve certain features of the Clean Air Act in response to changing national conditions.

One of the major achievements of this bill, if not the major achievement, is the establishment of a flexible and reasonable standard against which to measure significant deterioration of our air.

The standard does not involve land-use designations or massive clean air buffer zones, as many have claimed. The argument that this legislation imposes a new philosophy of Federal land use planning is an inaccurate reading of both this bill and of existing law.

The achievement of this difficult standard is in the highest tradition of this body. Under the Constitution, the Congress has the responsibility to define national policy. We meet that responsibility in this legislation. For the Congress to duck that responsibility and to leave that issue to the courts and to Federal agencies would be an abdication of our constitutional duty.

It would also be unwise for the Congress to fail to define this national policy, for it would surely guarantee that corporate growth decisions would be snarled in litigation for years to come.

In addition to dealing with the issue of significant deterioration, this bill addresses three other basic aspects of our national effort to keep our air clean: reasonable modifications of auto emission standards; a plan for coordinating stationary source compliance schedules, and a system to move more effectively into transportation control plans in major cities.

Members of the committee are all well aware of the competing interests that will be affected by this legislation.

The committee reached the conclusion that it would be dangerous to encourage an economic growth policy that abandons environmental safeguards. Our Nation must continue to grow without destroying the very environment that sustains our lives.

This legislation provides for clean growth in the United States. It is a sound bill, and I commend it to all of my colleagues.

I also wish to express my appreciation of and admiration for the efforts of my colleagues on the Public Works Committee.

Our new ranking minority member, the Senator from New York (Mr. BUCKLEY), who has spoken just ahead of me, who had been the ranking member of the Subcommittee on Environmental Pollution, was a powerful leader in the development of this bill, and in defense of the environmental quality of our Nation. The Senator from Tennessee (Mr. BAKER), who has switched places with the Senator from New York (Mr. BUCKLEY) because of a new committee leadership responsibility, provided, as always, erudite guidance in our effort to assure that this would be a reasonable bill. The chairman of the full committee, the Senator from West Virginia (Mr. RANDOLPH), once again demonstrated his patience, courtesy, and fairness as we worked our way through this difficult assignment. And, of course, the chairman of the Subcommittee on Environmental Pollution, the Senator from Maine (Mr. MUSKIE), deserves major thanks for his leadership and determination over a long and difficult period of time. He is a true champion of environmental quality.

My other Republican colleagues, the Senator from New Mexico (Mr. DOMENICI) and the Senator from Idaho (Mr. MCCLURE), each contributed significantly to this legislation. Their contributions were necessary ingredients in the achievement of the balance that is reflected in the final product.

The fact that this legislation has the full endorsement of such a politically and philosophically diverse team of Senators as those represented on the Public Works Committee argues well for support of this bill by all Members of the Senate.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I rise in support of the present committee amendments found in S. 3219. The year of sustained effort by the Senate Public Works Committee has produced a bill which I believe properly balances, the Nation's environmental and economic needs. I feel this bill represents a tribute to the committee process. As one who attended virtually every hearing and every markup, I believe the bill bears witness to the value of rational dialog. I believe the 45 markups on the bill have produced a set of amendments that will keep the principal goals and purposes of the law intact while accommodating the requirements of a complex national economy.

At this point, I feel no compulsion to launch into an exhaustive restatement of the provisions of the committee bill. My distinguished colleague from Maine (Mr. MUSKIE) will make an extensive submittal and statement on this matter. Here, this morning, the distinguished chairman, the ranking member, and other members have done likewise. I have also made my views on the present amendments known at some length in a law review article reprinted in the CONGRESSIONAL RECORD, March 22, 1976.

Rather than dwell on the well-trod ground of what is contained in the present amendments, and detail for my colleagues my contributions to the bill, I would like instead to offer some prospective comments on several challenges the committee bill faces on the floor of the Senate. The most prominent of these challenges centers on the bill's nondegradation provisions. Enactment of these provisions is essential to both the long-range environmental integrity and economy the State of New Mexico.

Let me elaborate on the apparent paradox contained in this statement. New Mexico has long prided itself on the splendor of its natural setting. Maintaining such splendor remains a high priority for all New Mexicans. Counterbalanced against this desire for preserving environmental quality is the desire of New Mexicans for economic growth. New Mexico ranks 48th in per capita income. Improving the economic well-being of our citizens also ranks as a high priority.

The committee's nondegradation amendment offers a mechanism for reconciling these apparently conflicting priorities. Without a nondegradation policy, New Mexico would be forced to sacrifice its environmental quality when competing with neighboring States for new industry. Alternatively, a decision not to allow environmental quality to be a bargaining chip in its siting negotiations with new industry could come at the expense of an improved standard of living for those mired in poverty, or those lower on the economic scale.

Enactment of the committee's nondegradation policy would eliminate States desiring both growth and environmental quality from having to make such a stark choice. A Federal nondegradation policy puts all States on equal footing in competing for new industry. States are not forced to sacrifice environmental quality for economic growth, but rather can require that new industries employ best available control technologies without fear that a sister State will undercut them by sacrificing environmental restraints.

Nevertheless, despite the importance of nondegradation for States such as New Mexico, several lines of attack have surfaced against the committee provisions that deserve comment.

(1) MORE STUDY IS NEEDED BEFORE ENACTING A NONDEGRADATION PROVISION

This is an alluring proposition. It is difficult to be against additional studies. There comes a time, however, when the Nation has a right to expect congressional action. The argument for more study ignores the fact that the Environmental Protection Agency already has regulations on this issue in effect that are the subject of continued litigation and confusion and that industry, environmentalists, and the executive branch have made repeated entreaties for Congress to resolve this issue. The call for more study is little more than a call for continued chaos.

The argument for additional study also deserves several technical comments. First, I remain skeptical that an effort of the magnitude contemplated by the study proponents could be completed in a year. The analogous National Commission on Water Quality took 3 years to complete its work, and was 6 months late in making its final report. Second, study proponents point to difficulties in the art of air quality diffusion modeling as an argument for the study. I view the matter differently. One of the weaknesses of many of the present studies on the nondegradation issue is that they are based on hypotheticals that employ a wide variety of air quality diffusions modeling assumptions. The chance for both sides to embed hidden biases beneath mounds of data has led me to the conclusion that we have reached the point of diminishing returns with respect to the probative value of additional studies based on hypotheticals. What we need is real world experience that can serve as feedback for future amendments. The committee amendments provide for a National Air Quality Commission to provide such feedback. Diverting the commission from its job of providing the Congress with hard data on the real world consequences of nondegradation for a 1-year study based on fictional hypotheticals appears to me to be ill-advised.

(2) NONDEGRADATION WILL PROHIBIT FUTURE GROWTH

This argument has been repeatedly demolished. Senator MUSKIE's submittal in the April 29, 1976, RECORD starting at page 11761, contains an insert of a recent EPA study that goes into great detail on the issue of the size of new industrial facilities allowed under the committee's nondegradation provisions. The study's principal conclusion is that—

> The Senate significant deterioration proposal will not prevent the construction of major, economically sized industrial facilities (April 29, 1976 Cong. Rec., p. 11763).

There is, however, one point made in the EPA study concerning future constraints on growth that merits additional discussion. EPA cites the possible need for a class III in the post-1980 period to allow industrial concentrations in urban areas. This is precisely the type of issue the National Air Quality Commission should be focusing its attention on after we get some experience with the committee's nondegration amendments. One personal observation on the class III issue is that principal methodological technique of doomsayers on both sides is to keep our technological capabilities constant while charting increases in other variables such as energy, population, or pollution. Obviously, keeping technology constant while allowing growth in other variables can always allow one to forecast disaster. Certainly one of the hopes of those of us who support nondegradation is that it will serve to force technology so that the Nation will not have to resort to options such as class III. Nevertheless, one cannot afford to be such a technological optimist as to ignore reality. If the National Air Quality Commission should recommend an option similar to a class III, I, for one, would seriously consider it.

(3) NONDEGRADATION WILL COST TOO MUCH

Informed opponents of nondegradation, recognizing that well-controlled major facilities will not be precluded, have argued that the policy will cost too much. Again, I believe the EPA data found in the April 29, CONGRESSIONAL RECORD refutes this contention. In fact, EPA's general conclusions receive support from a recent study commissioned by the utility industry. Generally, both efforts find that the individual consumer's electrical bill will not be increased through 1990 by more than 2 percent by the Senate's nondegradation amendments. Moreover, capital costs to the industry are in the 3-percent range. Personally, I believe these investments well spent.

For those of us from the West, this issue of costs has an extra dimension. Much of the existing and proposed construction of fossil-fueled electrical energy-producing facilities in the West is for export to California, which has no coal-fired plants of its own. Accordingly, California consumers will be reaping the benefits in terms of electrical energy, while residents of New Mexico and other energy supplier States will be left with the costs imposed by environmental degradation. In light of this discrepancy between those reaping the benefits and those bearing the costs, it appears to me entirely proper that California consumers pay a premium for their electrical energy to protect the environment of New Mexico.

For all the above reasons, I hope that my colleagues will see fit to support the committee's nondegradation proposal.

The second challenge to the bill concerns section 16 of the Public Works Committee bill that deals with "Ozone Protection." An amendment (No. 1577) proposed by the Senator from Oregon would have us implement at this time an outright ban on aerosol products to take effect January 1, 1978. Such a position defies the overwhelming weight of testimony and opinion that there is time to gain answers to the complex scientific questions which are bound up in this matter.

The committee bill is a serious attempt responsibly to grapple with the issue of whether fluorocarbon compounds released from aerosol containers—and from refrigeration and air conditioning systems as well—are depleting the ozone layer above the Earth's surface. The committte's bill views the matter as one of grave concern. It gives the Environmental Protection Agency power to take whatever action is needed, when it is needed, if the growing body of scientific knowledge shows that there is a risk to man or the environment.

The approach submitted to us by the distinguished Senator from Oregon is, I respectfully submit, unrealistic, unnecessary, and impractical. It is a poor precedent in environmental regulation and I urge its rejection. It is unrealistic, because it assumes we have answers to questions which we do not have. It is unnecessary, because responsible opinion acknowledges that there is time to obtain the needed answers. And it is impractical if viewed as anything other than an outright ban of aerosols, because it imposes an impossible burden on industry.

My colleague from Oregon has purported to offer a bill which would not be an outright ban on aerosols using fluorocarbons. His remarks of April 7, 1976, however, reflect his recognition of the fact that his bill would be just that. He has spoken of giving industry a period of time to develop alternatives to use of halocarbons in aerosol spray products and of other matters, all pointing to the intent of banning halocarbons from use in aerosols.

The reason the Senator's bill leads to this result is that the ban would take effect unless EPA found that "no significant risk" to the public health was present. Yet, as a basic scientific matter, it is extremenly difficult, if not impossible, to prove the negative of the unproven hypothesis that fluorocarbons may rise through the atmosphere, react with the ozone layer, and diminish it, thus increasing the amount of ultraviolet radiation at the Earth's surface.

The approach of requiring that the scientific hypothesis be proved incorrect would constitute a basic deviation from the established mode upon which regulations have traditionally been made in this country and the way in which our system of jurisprudence operates. It should be emphasized that this matter is completely distinguishable from other contexts in which legislation has required an industry to establish that its products are safe or not harmful, such as pesticides and food or color additives. In these other contexts, there are established testing procedures by which an appropriate judgment can be made regarding the safety of the products. These include tests on animals, such as long-term feeding tests with rats and mice, and rabbit skin tests. In contrast here, because the ozone depletion controversy involves a hypothesis based on computer modeling and a variety of untested scientific assumptions, there are no known acceptable techniques or protocols which would permit industry members affirmatively to establish that their products do do not deplete ozone within the time frame contemplated by Senator PACKWOOD's proposal. In the final analysis, this is just another way of noting the difficulty, if not the impossibility, of proving the negative of unproven hypothesis.

Given the state of scientific knowledge

of the matter, the committee's approach, as now set forth in section 16, is particularly appropriate. It protects the public interest and meets accepted standards of administrative due process. Section 16 now provides that, if research undertaken under the bill shows that the continued use of fluorocarbons "may reasonably be anticipated" to contribute the public health risks, EPA has full authority to take action to eliminate such risks. Another provision of the section permits EPA to act even prior to the completion of the research, if developments warrant such action.

For these reasons, I urge defeat of the amendment offered by my colleague from Oregon. His approach is one which has already been rejected as inappropriate by the full committee and one which should likewise be rejected by us here.

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. Jeff Grodner of my staff be granted the privilege of the floor during the debate and votes on the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BAKER. Mr. President, the amendments to the Clean Air Act reported from the Senate Public Works Committee cover many important aspects of our air pollution control effort. I will address a few of these briefly.

But, first, let me say that I feel the Senate Public Works Committee in its work on this legislation has abided by its tradition of thorough and incisive debate. The vote to report this bill was 13 to 1. It is difficult to assess the significance of the near unanimity with which the committee acted without understanding the complexity of the issues dealt with and the concern of each committee member for the broad impacts of this legislation.

Mr. President, some of the provisions of the bill before us have come under intense criticism which has often unfairly characterized the committee's work. I think that it is a tribute to the committee's careful effort that committee support for the bill has not waivered. I hope that my colleagues in the Senate will take note of this and carefully consider the views of the committee members, who represent a wide spectrum of political thought, in assessing the merits of this bill and the criticism directed at some of its provisions.

MOBILE SOURCES

It has been the main tenor of these amendments to adjust the goals set by the 1970 act to reflect economic and technology limitations. In the extension and modification of mobile source emission standards, the committee has accomplished its purpose in three ways: First, by changing the statutory standard for oxides of nitrogen to 1.0 gram per mile, the committee has broadened the range of potential technologies which will respond to the requirements of the statutory standards; second, the committee has granted the industry another year to meet statutory standards for HC and CO. This brings to 4 years the total extensions granted industry and reflects the willingness of the committee to track technological progress in the implementation of its goals; and third, the modified statutory standards incorporated in the bill provide a clear goal to industry assuring the orderliness and certainty necessary to an effective technological research effort.

We have made great strides toward reducing the pollution burdens in our cities under the 1975 act. While the committee's action will delay further progress slightly the bill contains provisions to insure that these standards are effectively enforced and that ultimate emission standards are consistent with technological progress to date.

NO SIGNIFICANT DETERIORATION

One of the most important issues addressed by the committee in these amendments to the Clean Air Act if the "no significant deterioration." Simply stated the question addressed in those provisions of S. 3219 is the protection of the clean air resources of the Nation.

Most of the Nation enjoys air quality better than the threshold levels identified in the primary and secondary standards of the Clean Air Act. Without protection industrial development would push many of these areas toward the thresholds for dangerous air.

It clearly was not the intention of the drafters of the Clean Air Act in identifying levels of pollution harmful to man and his environment to make those levels the target or goal for clean air areas of the Nation. While adequate provision for protection of clean air areas was not drafted into the Clean Air Act, the concept has derived from the statement of purposes contained in that act. Section 6 of S. 3219 contains our attempt to provide a precise legislative framework for this fundamental concept.

HISTORY

The concept of no significant deterioration as a part of clean air strategy derives from the case of *Sierra Club* v. *Ruckleshaus*, 344 F. Supp. 253 (D.D.C. 1972) on May 30, 1972. The district court in this case declared that the phrase "protect and enhance the quality of the Nation's air resources" contained in section 101(b) of the Clear Air Act intended that all States must include as part of their State implementation plans provisions to prevent degradation of air quality in areas where the air was cleaner than the national primary and secondary standards. This district court decision was affirmed per curium by the Court of Appeals for the District of Columbia and was subsequently upheld by the Supreme Court.

While the courts mandated incorporation of this concept into the clean air programs of the States, the decisions did not define significant deterioration or otherwise specify an implementation strategy for dealing with the concept.

This task fell to the Environmental Protection Agency. After a series of hearings and the publication of proposed regulations, final regulations were published on December 5, 1974 (39 F.R. 42510).

COMPARISON OF NO SIGNIFICANT DETERIORATION EPA REGULATIONS AGAINST S. 3219

The no significant deterioration provisions of EPA's regulations and the provisions of S. 3219 differ significantly. Both proposals apply only to a limited population of emitters. Under EPA's regulations all facilities in 17 designated categories of heavy emitters would be subject to control. Under S. 3219 there are 28 categories controlled, but only those facilities within these categories which emit 100 tens per year of pollutants would be controlled. Only major emitters would be subject to both the technology and incremental pollution requiremenst of the no significant deterioration provisions of S. 3219.

While both proposals are implemented through permit programs to give builders certainty regarding the specific application of the program to a proposed plant in time to plan construction commitments, EPA's program is based upon Federal permits. S. 3219 delegates this important permit program to State control in order to enhance responsiveness and flexibility.

Under EPA's program the Nation's clean air areas are divided into three classes. Class II, which includes all areas until redesignated, is essentially the same as class II under S. 3219. In these class II areas an additional burden of pollution is permitted as specified by a list of increments for sulfur dioxide and particulate matter. These increments are identical in both programs and are consistent with environmentally controlled industrial growth.

Both EPA's program and S. 3219 provide for class I areas where maximum protection of clean air resources is required. Under EPA's program class I areas would be created through a redesignation process upon application of the State or a Federal land manager. Once an area is designated under EPA's program a set of increments substantially restricting pollution goes into effect. There is no flexibility.

Under S. 3219 class I areas include national parks, international parks, national memorial parks, and wilderness areas over 5,000 acres in size. The States may in their discretion add areas to the class I category, requiring only one concurrence of the Federal land manager in the case of Federal lands. The mandatory class I areas provided for in S. 3219 comprise slightly more than 1 percent of the land area of the United States.

There is a substantial difference in the impact of class I increments under S. 3219. The ultimate test applicable under S. 3219 is whether a proposed facility will have an adverse impact upon the air quality related values for which the class I area was created. The increments are employed as prima facie evidence of harm shifting the burden of proof in a determination of impact to the State or land manager where increments are met and leaving the developer an opportunity to establish the safety of a facility even though the increments are exceeded.

This flexibility not only recognizes that the ultimate purpose of class I designation is to protect critical land resources, but provides a mechanism which will be invaluable in reevaluation of proper levels of control for environmentally sensitive areas in the future.

Class III areas may be established under EPA's no significant deterioration program. In these areas pollution would be permitted to increase up to secondary standards.

The committee rejected this concept.

The ambient standards of the Clean Air Act were intended to identify threshold levels of pollution above which pollution endangers public welfare and safety. To permit the deterioration of a clean air area up to these thresholds intentionally flirts with the dangers identified by the standards.

These standards were not intended as targets in clean air areas but rather as goals where the air is already dangerous to public health and welfare.

Both EPA's regulations and S. 3219 undertake to maximize the utility of clean air resources by requiring new facilities to install technology to conserve these resources.

Under the EPA program the technology standard is the same as new source performance standards established pursuant to section 111 of the Clean Air Act.

Under S. 3219 the States are given control of this technology standard and may devise specific requirements in response to clean air needs taking into consideration also the economic and energy implications of their requirements. EPA's new source performance and hazardous emission standards are imposed as a floor for State best available control technology standards, but the State retains flexibility to require technologies even more stringent than these EPA standards.

Such a flexible approach will spur technological innovation on a much broader basis than uniform national standards, which have tended to restrict the scope of technological experimentation.

The EPA no significant deterioration regulations have come under considerable criticism from industry and environmentalists. Several industrial organizations joined in a judicial challenge to the regulations—American Petroleum Institute, et al. against EPA—alleging that EPA has exceeded its authority under the Clean Air Act in the promulgation of its program. The case is presently pending in the Supreme Court.

The Senate Public Works Committee received requests both from industries and public agencies to examine the EPA program and to develop a clear legislative policy on the issue. This we have done in section 6 to S. 3219.

I believe that the committee's provision provides for a program wih considerable flexibility. And the committee has provided the mechanism for further study of the concept of no significant deterioration in the National Air Quality Commission. The Commission's investigative review will furnish a basis for fine tuning the increments and standards of our program.

Arguments against no-significant deterioration have stated that primary and secondary standards are sufficient protection for the Nation's air. But these arguments misconstrue these standards. It was not the intent of the drafters of the Clean Air Act in specifying standards for identifying dangerous air quality conditions to make those levels the targets or goals for the Nation's clean air areas.

To follow the course of using existing ambient standards as no significant deterioration standards would invite pollution up to a level that endangers the safety and welfare that these standards are intended to protect.

And to abolish the concept of no significant deterioration would leave EPA with no enforcement mechanism to protect against pollution in clean air areas.

There can and should be continuing debate over the definition of safe incremental levels of pollution and how those levels are applied against or derived from existing background air quality conditions. The increments in S. 3219, although a reasonable first-cut, are not carved in stone. The work of the National Air Quality Commission should provide valuable assistance for fine tuning these numbers.

AUTO EMISSION STANDARDS

The committee, after a tremendous effort to assess the implications of this legislation on the automobile, has arrived at what I feel is a well-conceived strategy to make this last step toward achieving the cleanest vehicles possible. This decision required a balancing judgment which assessed the technologies available for emission control, the different types of costs of each technology, and the benefits to be derived from clean air when certain levels of emission are reached.

Industry has responded to the congressional mandate of the 1970 Clean Air Act in an inventive fashion by progressively cleaning up the automobile. There have been differences of opinion along the way but this is only to be expected when the work required was at the brink of our technological knowledge and expertise. Working together, we have reduced pollution from the automobile an average of 85 percent for some pollutants. This is indeed a great stride. But we now know that in most of our metropolitan areas, pollutants from vehicles still pose a major health problem. Pollutants must be further controlled to eliminate these problems and to protect the health and welfare of the American people.

In many of the markup sessions, and in private meetings with auto manufacturers, I have heard four general criticisms about the emission standards contained in the Clean Air Act. The first of these was that the technology did not exist for this type of control and would not exist in the time frames allowed by the act. However, the committee has found that the technology needed to meet the proposed standards will be available in the allowed time period. The Administrator of EPA has even indicated that these levels could have been met on 1976–77 models for the pollutants HC and CO.

The specific technology is described in the joint EPA and FEA analyses on the impact of alternative vehicle emission standards. Control would include start catalysts or cannister storage of cold start HC, improve chokes, fully proportional EGR, electronic spark control, and possibly, catalytic control of NO_x.

Some 1976 certification vehicles calibrated for .9/9/2 were able to come within 20 percent of meeting the 1980 California standards of .4/3.4/1.0 with deterioration accounted for. These vehicles are meeting standards with existing technology. Although some vehicles meet the standards in certification tests, only one car, Volvo, meets the standards on the road. This does not imply that full production could meet these standards with existing technology. It does, however, mean that certain models could be produced and that the technology is within the range of availability.

The second common criticism was that present and near future technologies for auto emission control would result in significant fuel economy penalties. This problem may in fact exist in the first few years. However, as optimal technology is developed and adopted, this side effect can be eliminated. Further fuel economy benefits can be obtained by incorporating nonengine changes such as weight and power reductions.

These types of benefits are discussed thoroughly in technical papers prepared by people in the automotive field and in the EPA/FEA summary report.

Another complaint frequently heard from manufacturers was that standards for mobile source emissions are not equal to the standards for other types of emissions, especially stationary sources. This is a good idea philosophically but it may not be possible. The types of technologies available for different types of sources differ in their capabilities to meet the standards. The Clean Air Act should be interpreted to mean that each particular group should move forward as quickly as possible toward the ultimate goal of clean air. The standard on all sources should be geared to achieve this forward progression. This, in effect, is the equity allowed for in the Clean Air Act. Some previous analyses, especially for the pollutant NO_x, concluded that since considerable progress has been made in controlling autos there is more benefit to be gained by placing additional controls on stationary sources. Stationary sources, however, cannot be grouped together any more than can all mobile sources. The costs and technology available to reduce auto emissions by a certain percentage differ significantly from the costs and technology available to control powerplants. One important consideration is that mobile source control is cost-effective. Once the technology is developed, vehicles can be adapted as they roll down the assembly line. Equipment can be centralized. With stationary sources, improvements must be made, of necessity, on a plant by plant basis.

A final argument is that the costs of achieving these final reductions in mobile source emissions far outweighs any health and welfare benefits. I have already discussed the fuel economy problems above so I will not dwell on that here. I would, however, like to focus our attention on the benefits to be derived from these controls in major metropolitan areas. We know now that the ambient air quality standards for oxidents, CO and NO_x are being exceeded in many of these metropolitan areas. The levels of these three pollutants are severely influenced by the automobile. In some cases as high as 75 percent of these pollutants are vehicle related. In fact, mobile sources can often be responsible for 90 percent of CO, depending on the region. It would therefore seem logical that the changes in vehicle standards in the proposed Senate amendments could be expected to result in significant ambient air quality improvements. The National Academy of Engineers, in their September 1974 report to the Senate Committee on Public Works, "Air Quality and Automobile Emission Control"—volume 4, page 12—states:

> If major reductions in automotive emission rates can be achieved they should make a major contribution to urban air quality. Indeed this conclusion follows almost tautologically since automobiles account for very significant percentages of the NO_x, HC, and CO emissions in urban areas.

NEED FOR EFFECTIVE POLLUTION CONTROL WARRANTIES

Mr. BUCKLEY. One of the issues that will be discussed at some length during the debate on this bill involves the emission control warranty that is now required on new cars for 5 years or 50,000 miles. I recently wrote to EPA Administrator Train to ask for his evaluation of the effects of proposals to shorten the warranty. I believe his answer will be very helpful to the Senate in understanding of ill effects of shortening the term of the performance warranty. I ask unanimous consent that Mr. Train's letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., July 20, 1976.

Hon. JAMES A. BUCKLEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BUCKLEY: Thank you for your June 21, 1976, letter concerning the section 207(b) performance warranty provision of the Clean Air Act Amendments. Before addressing the questions posed in your letter, I would like to present a brief summary of our present position regarding the existing § 207(b) performance warranty. As you know § 202(a) of the Clean Air Act requires manufacturers to build vehicles which will meet applicable emission standards for five years or 50,000 miles whichever occurs first. One means of ensuring the achievement of this obligation is the § 207(b) warranty. Under the terms of such warranty, a manufacturer will be required to bear the cost of repairing any vehicle if it: (1) has failed a § 207(b) short test, (2) has had proper maintenance and use by the owner, and (3) has subjected the owner to a fine or other penalty due to its nonconformity. The term of the present § 207(b) warranty is statutorily set for five years or 50,000 miles.

The proper maintenance condition of the warranty has given rise to a perception by aftermarket part manufacturers that vehicle owners will avoid the use of aftermarket service and parts once the warranty is implemented in order to protect the warranty coverage. EPA has cooperated with the aftermarket parts manufacturers in the development of a voluntary self-certification program for certain automotive aftermarket parts. This program is designed to substantially reduce any anticompetitive effect of the warranty. It is, of course, speculation as to whether the warranty would produce an anticompetitive effect since it is not now implemented and will not be for at least several months.

With this discussion in mind, I will address each of your questions separately.

(1) Does present law, together with the amendments now included in S. 3219, pose any anticompetitive danger to the independent aftermarket companies?

In order to answer this question it is important to understand the arguments which have been made with regard to the anticompetitive potential of the § 207(b) warranty. Aftermarket interests have stated that their primary market is for vehicles at least two years old. Their concern is that in order to maintain § 207(b) coverage, owners will return exclusively to dealers for maintenance during the later years of the vehicle's life.

There are two approaches to reduce this potential anticompetitiveness of § 207(b). The term of the warranty could be reduced or assurances could be provided that the use of aftermarket service and parts will not, in and of itself, void the § 207(b) warranty.

It is my opinion that the present five year/50,000 warranty, together with implementation of the aftermarket program presently being developed, is not necessarily anticompetitive and should not be dismissed without trial. With regard to S. 3219, it is clear that the amendment to reduce the § 207(b) warranty term to 18 months or 18,000 miles, whichever comes first, would alone obviate the anticompetitive potential of § 207(b). But in so doing, it would eliminate what could be a substantial aid to the achievement of the emission standards by in-use vehicles. The aftermarket provision of the bill, requiring that a part certification program be implemented in conjunction with the 18 months/18,000 miles warranty, is of little benefit and, as a mandatory program, would result in the misallocation of resources.

(2) Does the § 207(b) warranty restrict the ability of the car owner to obtain normal service and maintenance wherever he chooses, without infringing the warranty?

The question raises the issue of the effect of the use of aftermarket service on the coverage of the § 207(b) warranty. Section 102(c) of the Magnuson-Moss Act provides that:

"No warrantor of a consumer product may condition his written or implied warranty of such product on the consumer's using, in connection with such product, any article or service (other than article or service provided without charge under the terms of the warranty) which is identified by brand trade or corporate name. . . ."

It is my view that even without an express prohibition in the Clean Air Act regarding discrimination against use of aftermarket service by vehicle owners, the Magnuson-Moss Act would make such actions by manufacturers or their dealers unlawful. Thus, the § 207(b) warranty, when read in conjunction with § 102(c) of the Magnuson-Moss Act, does not restrict the ability of the consumer to obtain maintenance services where he chooses.

Under S. 3219, vehicle manufacturers are prohibited from "distinguishing between service performed by franchised dealers of such manufacturer . . . and service performed by independent automotive repair facilities. . . . (S. 3219, § 207(c)(3)). Of course, to the extent that S. 3219 would provide the Agency with jurisdiction to enforce the prohibition against non-dealer service (the Magnuson-Moss Act is administered by the Federal Trade Commission), the prohibition—and the consumer's position—would be strengthened.

(3) Would a reduction in the warranty, transferring responsibility to the consumer from the manufacturer, tend to discourage development of effective inspection and maintenance programs at the local level.

Data collected in 1972 identified 29 areas which would require significant reductions of carbon monoxide and photochemical oxidants in order to meet air quality standards. Control of mobile sources is one of the primary mechanisms by which the air quality standards will ultimately be met in these areas. Inspection and maintenance programs are an extremely important means of achieving mobile source emission reductions.

Reduction in the term of the § 207(b) warranty to 18 months or 18,000 miles may reduce the desirability of an inspection and maintenance program because the warranty will, in all likelihood, be in effect for only one annual inspection. When consumers return for later inspections, the costs of any mandated repairs will be paid by them despite their having properly maintained and used their vehicles. It is clear that in the later years of the useful life of a vehicle the performance warranty is most needed because it is at this time that the durability of the vehicle is actually tested. The application of the warranty coverage to vehicles approaching 50,000 miles is expected to increase public support and thereby provide States and localities with an incentive to implement an inspection and maintenance program. In addition, vehicle owners will be motivated to properly maintain their vehicles.

These potential adverse effects of shortened warranty coverage on the inspection and maintenance program are anticipated by EPA but are not based on any formal survey of localities which may need inspection and maintenance. However, a number of jurisdictions considering mandatory inspection and maintenance—most notably, the City of Chicago—have indicated that implementation of such programs would be substantially enhanced by the implementation of the § 207(b) warranty. It is my belief that a reduction in the term of the § 207(b) warranty will deter initiation of inspection and maintenance programs of many areas. Should reduction in the term of the present five years/50,000 miles warranty be inevitable, some mechanism to encourage implementation of inspection and maintenance programs should be substituted.

(4) Would a reduction in the term of the § 207(b) warranty be likely to lead to a lowering of quality control by the automakers?

The enforcement provisions of § 207 (as well as the assembly line testing authority of § 206) were intended to ensure that production vehicles would conform to applicable emission standards both when new and also at the end of their useful life. The § 207(b) warranty provision was viewed by the Senate as one means of assuring that "margins of safety will be built into each vehicle to insure better than required performance [and] systems will be designed to minimize deterioration. . . ." (A Legislative History of the Clean Air Act Amendments, Ser. No. 93–18, 93rd Cong., 2d Sess. 135 (1974).) Consequently, the § 207(b) performance warranty is uniquely structured to promote better production practices and improved designs by manufacturers. However, a limitation on the term of the warranty could inhibit this beneficial effect.

In a situation where a § 207(b) claim will arise, the duty to repair the properly maintained and used vehicle which has failed to meet emission standards falls upon the owner. This is mandated by the existing Clean Air Act. When a vehicle fails an inspection and maintenance (§ 207(b)) test, its owner must obtain repair or cease driving his vehicle. Thus, in contrast to recall provision of the Act which creates a voluntary responsibility upon the owner, an inspection and maintenance triggered duty of repair is mandatory. We believe that virtually all vehicle owners will return to their dealers for § 207(b) warranty repairs required by the State inspection. As a result, the reduction of the term of the § 207(b) warranty could serve to minimize the manufacturer's risk of having to remedy improper design of emission control elements and also decrease the incentive for improving the quality control of emission components. The function of ensuring that durability is incorporated into vehicle design and production would then be shifted to the § 207(c) recall provision and the § 207(a) production warranty. The § 207(a) warranty applies only to defects in material and workmanship and not to the deterioration of a component or system which occurs due to the use of the vehicle. Recall, on the other hand, does have significant potential to affect durability. However, a recall investigation is a protracted and resource-intensive process. The nature of this process will inherently limit the number of recalls that will actually be achieved. It is also worth noting that one source of automobile emission data needed for recall is the inspection and maintenance program which, as suggested above, might be curtailed as a result of the shortened warranty proposed by the Senate Committee. Further, the owner response rate to recall notices declines with the age of the vehicles so that there is some question as to the effectiveness of recall as a deterrent in the waning years of a vehicle's useful life.

On this basis, I must conclude that our ability to elicit the much-needed improvement in durability of emission controls will be impaired if the term of the warranty is reduced.

(5) Would reduction in the warranty term be likely to result in the production of cars that emit more pollution over their actual life?

The question is clearly related to question four discussed above. To the extent that the deterrent effect of the enforcement provisions of the Act is diminished by a reduction in the term of performance warranty, it is unlikely that vehicles will be designed and manufactured so as to continue to perform within applicable emission standards for their "actual" life.

(6) What is the cost to the consumer of the section 207(b) performance warranty?

At our current stage of development of the § 207(b) warranty program we cannot quantify its probable cost to the consumer.

It is our intent to acquire from vehicle manufacturers economic data bearing on this question through publication in the *Federal Register* of notices regarding the § 207(b) warranty. Such data will be obtained and an economic analysis performed before regulations implementing § 207(b) are finally promulgated.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely yours,

Russell E. Train,
Administrator.

Mr. TOWER. Mr. President, the proponents of land use control in this body have today returned to the floor with an attempt to obtain through the back door what they could not obtain through the front in the past.

There is no question in my mind that the no-significant deterioration provisions of the "Clean Air Act Amendments", S. 3219, are in fact a structure through which the Federal Government will in the future dictate the use of land for a single-purpose—maintenance of standards above those necessary to protect the health and welfare of the American people.

Proponents of nondegradation have attempted to calculate the sentiments of the American people, and to appeal to those millions of Americans who are rightfully concerned about our environment. Their arguments flow smoothly with reassurances that with these amendments, all will be well in this land of ours; that mankind will truly be protected from himself.

This is all very touching, Mr. President, and those of my colleagues who propose the imposition of land-use controls through the no-significant deterioration sections of S. 3219 no doubt are very concerned with the health and welfare of all Americans.

However, I do resent the implications in such arguments that those of us who oppose plunging this country into a deeper morass of Federal regulation are not equally concerned.

On June 4, 1976, the Congressional Record carried a speech entitled "President Ford Chooses Dirty Air," referring to the President's position that Congress ought to refrain from enacting a statutory policy on no-significant deterioration.

In that statement on June 4, the comment was made that—

> The President would prefer uniformly dirty air across the country rather than the protection of public health and protection of the other values of our finite air resource.

Now, one would think, from reading that statement, that the President, and those of us who agree with the President, are ready to abandon our commitment to high standards of public health; that insinuation is clearly made.

What was not stated is that laws protecting public health from the dangers of air pollution are already on the books, and I might add that they are being vigorously enforced by the Environmental Protection Agency.

What was not stated in this June 4 speech is that the primary and secondary ambient air standards are already in place, and are judged to be fully sufficient to insure that Americans' health and welfare are protected.

Mr. President, such are the tactics of those who would infringe upon the individual's right to property through the imposition of Federal land use controls.

There is, however, a second part of the statement I referred to and that is the protection of the other values of our finite air resource.

What exactly is meant by that? Does it mean that the air should be free of particulate matter which may cause a haze, such as that which occurs in our major agricultural areas during plowing?

If that is the case, Mr. President, I think we would be wise to consider that value alongside another value—like food production, or farm jobs.

Mr. President, we all are aware that almost any activity that man undertakes disturbs the condition of the air around us. This Congress has established standards of safety through which a great number of emissions have been and will be controlled in order to reduce this disturbance below the levels required for health and welfare.

But it is quite another thing to speak of the other values of our finite air resource.

Because if we are talking about esthetic qualities instead of health qualities, we intrude on a realm which is clearly, it seems to me, beyond the responsibility and authority of the Federal Government.

I do not believe this body should impose esthetic standards, and certainly not those which are gained at the expense of maintaining economic growth, energy development, and food production.

I enjoy clean, clear air just as much as everyone else, and I enjoy it quite often when I am in Texas, because we have quite a lot of clean air.

We also have a healthy State economy, and a lot of jobs, and we have them because Texans have made responsible tradeoffs between esthetic and industrial needs. As a matter of fact, a lot of us believe that the future growth and prosperity represented in the construction of new refinery facilities, bank buildings, and manufacturing plants is a most beautiful sight to behold.

A lot of us, Mr. President, do not believe that beauty is limited to a forest, lake, or prairie. Many of us throughout this country, for instance, regard our first home as a beautiful sight, no matter how humble or proud that dwelling may in fact be.

I do not consider a hospital that daily saves lives as a scar upon the landscape, nor do I feel that a factory which produces the arms that keep this country safe from foreign aggression is a blot on our environmental record.

Mr. President, the point I want to make here is that while some of my colleagues certainly may have their own ideas about esthetics, and about which cultural values should be predominant, they do not have the right to impose those on me, through the Federal Government.

If a local community decides to exclude major manufacturing facilities from its jurisdiction because of a felt need for preserving a particular landscape or horizon, fine. The citizens who have direct input into the decisionmaking process of that community can make that choice.

But let us not get carried away with these no-significant deterioration provisions to the extent that Washington begins making those choices for the people in that community.

This Congress has done enough to protect the health and welfare of the American people. Why cannot we be satisfied with thus being the servant of the people, instead of attempting to be their master through the arbitrary imposition of these requirements?

There has been, as I pointed out, an attempt to play on the concern of all Americans for a safe environment. But safety and health, Mr. President, are not issues here.

What I would hope, is that the American people can be left to decide for themselves the issue which is truly at the heart of these nondegradation provisions, and that is the issue of whether esthetic or economic concerns are more compelling, given the individual circumstances of a State, county, or city.

I do not believe the American people are incapable of making those decisions for themselves, through their local and State governments.

I would urge my colleagues to consider what the American people truly want, and that is to be let alone by the Federal Government. They are fed up, Mr. President. They are sick and tired of being dictated to by Washington.

These nondegradation provisions, intended to preserve some esthetic standard, are just one more attempt to ram Government down the throats of the people in the United States, and I know, for my State at least, that the people do not want them.

Mr. GRAVEL. Mr. President, clean air is a valuable resource which we must strive to protect. The Committee on Public Works spent many hours considering proposed amendments to the Clean Air Act and has recommended amendments which represent constructive changes in our air pollution program. The amendments, I believe, will continue our efforts to provide a clean air environment for all of our citizens.

The committee held many days of hearings during 1973, 1974, and 1975 to review the implementation of the Clean Air Act. Testimony was received which presented many diverse views on the successes and failures of the program over the 5 years of its implementation. Some of the major problems raised included auto pollution deadlines, stationary source compliances and extensions, transportation control planning and nondegradation. The committee labored for 9 months attempting to provide meaningful solutions to these problems.

The bill which is before the Senate addresses all of these problems and has attempted to provide workable solutions. The bill provides new deadlines for achievement of auto pollution standards, a stationary source compliance date extension procedure, a provision allowing expansion of facilities in air quality management regions, procedure for delay in achieving primary ambient air standards including necessary transportation control, and a provision which implements a nondegradation policy.

The nondegradation amendment is perhaps the most controversial provision in the bill and has become the subject of increasing congressional concern. This aspect of the bill also gives me some difficulty. The nondegradation provision injects a completely new scheme in our regulation of air quality by providing that levels of two pollutants, sulfur dioxide and particulate matter, must be strictly controlled in so-called clean air areas. The amendments provide that the State implementation plan shall be the mechanism for implementation of the nondegradation policy.

While I support the need for a nondegradation provision to protect air which is currently better than secondary standards, the method used to protect air quality disturbs me. The increment for sulfur dioxide and particulate matter established in the amendments for determining air quality impact provide the basis for determining whether a major emitting facility can be established in an area designated as class I or class II under the State plan. These increments are those which were provided in the Environment Protection Agency regulations on nondegradation issued in December of 1974. I am not convinced that these increments bear any relationship to the maintenance of clean air and were not adequately studied as they affect all regions of the country.

Natural conditions in some areas could mean that little, if any, development could be undertaken even though the values that nondegradation are designed to protect would not be affected. Particulate matter is troublesome because of high background levels from natural sources such as river beds, agricultural lands, and glacial areas of Alaska during some portion of the year. The 24-hour standard for particulate matter could thus be violated and no development would be permissible. Further, particulate matter is an imprecise term and thus could present problems greater than those which we are attempting to prevent. Areas subject to temperature inversions could also have difficulty meeting the 24-hour and annual increments established for sulfur dioxide and particulate matter.

I voted in the Public Works Committee for the inclusion of the nondegradation amendment and will continue to support it as part of the bill. This is an important provision if we are to obtain the ultimate goal of a clean and healthy environment for all of our citizens. Even though this is an important provision, I feel that a careful study of the effect of the increments is necessary. We must have information which demonstrates the rationality of the increments to the desired result—protection of clean air.

The committee worked long and diligently to produce this important legislation. The leadership of our chairman (Senator RANDOLPH) and the ranking minority member (Senator BAKER) was invaluable. Senator MUSKIE and Senator BUCKLEY worked hard in the Environmental Pollution Subcommittee and in full committee to produce a bill which could be supported by a majority of the committee members. Without this able leadership, this important legislation could not have been brought to the Senate.

Clean air is a beneficial resource and its protection is of national importance. I have supported legislation to protect and enhance the environment in which we live while a Member of the Senate and I will continue to do so. The amendments to the Clean Air Act reported by the Public Works Committee represented constructive changes to the program resulting from a careful review of the 5 years of implementation of the act. I urge my colleagues to support this important legislation.

Mr. GARY HART. Mr. President, in my home State of Colorado, there is substantial support for maintaining a strong Clean Air Act.

The following letter from Colorado's Governor Lamm succinctly expresses the rational for a strong nondegredation provision as well as for maintaining tight auto emission regulations.

I recommend my colleagues read this letter before deciding how they will vote on amendments to S. 3219.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF COLORADO,
EXECUTIVE CHAMBERS,
Denver, Colo., April 30, 1976.

Hon. GARY HART,
U.S. Senate,
Washington, D.C.

DEAR GARY: I am writing to reiterate my support for maintaining a strong Clean Air Act.

When the House and Senate amendments to the Clean Air Act are considered on the floor, there may be attempts to weaken the Committee's bills. I strongly feel that any effort to further weaken the Clean Air Act should be resisted. The bills which are coming to the floor represent very weak proposals. I encourage Congress to strengthen the prevention of significant deterioration and automobile emission provisions.

PREVENTION OF SIGNIFICANT DETERIORATION

The National Governors' Conference has adopted the position that the issue of significant deterioration should be resolved by Congress. For six years, the issue has been studied, litigated and debated. Now is the time for Congress to act.

The prevention of significant deterioration (PSD) of air quality in Colorado is of extreme importance to the quality of life enjoyed by its citizens and to the economic well being of tourism, the State's second largest industry. The development of energy resources in the midst of an internationally recognized recreation area presents critical conflicts between competitive resource uses. I am confident that Colorado will be able to address this dilemma while maintaining the quality of an important scenic and recreational area. Many areas of Colorado desperately need economic development, but in the process of development, we must not destroy the natural beauty that the ciitzens of Colorado so cherish.

I concur with many of Senator Gary Hart's concerns with the PSD provisions. The Senate bill should be amended to provide that Federal Lands set aside to preserve their natural state (national monuments, national recreation areas, wild and scenic rivers and national wildlife refuges) will be initially designated Class I. It would be wholly inconsistent to preserve the natural condition of these areas, while allowing the air over them to be degraded to the levels of polluted metropolitan areas. The Congress has the solemn responsibility to maintain the pristine quality of the air over these lands.

In the spirit of Section 116 of the Clean Air Act, states should be permitted to enact more stringent PSD standards. The Senate bill should be amended to permit states to REDESIGNATE any Class II land within their boundaries as Class I.

The definition of the Best Available Control Technology needs to be strengthened to minimize emissions from each source, thus permitting more sources to fit within the allowable increments.

A date not later than July 1, 1976 should be specified as the BASELINE AIR QUALITY. If such a date is not specified, areas with clean air now could be degraded more rapidly. Further, new sources which commence construction between 1972 and 1976 should be subject to the Best Available Control Technology. These sources have been on notice since 1972 that the Clean Air Act of 1970 required the prevention of significant deterioration.

I am also concerned that allowable INCREMENTS may be used up by a number of small sources. Congress needs to establish a review program to prevent small sources and ancillary development from expending the PSD increments.

It should be noted that a recent survey (by the Opinion Research Corporation of Princeton, N.J.) reported in the *National Journal* (11–22–75, p. 1590) found that ". . . 94 percent of those polled said air that currently is clean should not be allowed to get dirtier."

I would like to stress that, contrary to a number of reports, the PSD provisions will not impose a "no growth" policy on Colorado or prevent the rational development of our State's resources.

Congress has failed to provide the states with the financial resources necessary to implement a PSD program. The Committee's provisions will require a capital expenditure of $1.2 million and an annual recurring cost of $500,000 from Colorado. Without federal assistance, it will be very difficult for Colorado to implement this important program.

AUTOMOBILE EMISSION STANDARDS

Congress should hold the line on automobile emission standards. I question whether a further relaxation of the Committee's standards can be justified by technological or economic unfeasibility. Colorado is presently modifying its transportation control plan in order to provide realistic and implementable clean air strategies. Such a complex effort becomes nearly ineffective if we cannot rely upon the expeditious attainment of the new car standards. Such standards must be achieved at Denver's ALTITUDE AND MAINTAINED throughout the useful life of vehicles.

In closing, I urge you to resist any weakening amendments to the Committee's bill. Thank you for the opportunity to comment on this important matter.

Sincerely,

RICHARD D. LAMM,
Governor.

Mr. GARY HART. Mr. President, the Congress first explicitly recognized the need to "protect and enhance the quality of the Nation's air resources" in the 1967 Air Quality Act. This helped lay the groundwork originally for the Clean Air Act of 1970, and now for the no-significant deterioration provision of S. 3219, the Clean Air Amendments of 1976.

The reasons for preventing significant deterioration of air quality are most compelling. Without a sound policy for maintaining clean air in pristine areas, air quality in cherished places like the Grand Canyon, the Rockies, the Smokies, and the Everglades could eventually deteriorate to the levels which are today found in downtown Boston, Akron, Detroit, and Pittsburgh. Visibility would be reduced from 80 to 100 miles down to 12 miles or less.

Mr. President, at first this might appear to be a superficial argument, but the concern about visibility is not isolated from other issues. For example, the same pollutants that reduce visibility can have a significant impact on crop production. The Administrator of the Agricultural Research Service has testified repeatedly that present levels of air pollution are responsible for significant reductions in both the quality and yield of numerous crops, with yield reductions in some locations ranging as high as 75 percent. In addition, a study by the National Academy of Sciences suggests that a doubling of pollution levels on the east coast could, under otherwise favorable conditions, produce a 25 to 100 percent loss of many crops and also cause severe injury to many natural species. These are risks that, as a society, we cannot afford to take.

Mr. President, the majority of the land mass of the United States today still has air quality which is better than the national ambient standards. The no-significant deterioration section of S. 3219 will protect these areas and hence the public health and welfare while permitting the kind of economic development necessary to improve our standard of living.

More specifically, the no-significant deterioration section of the committee bill:

Assures prudent consideration of any major emitting facility that may threaten air quality where the air is cleaner than the present national standards;

Applies only to new major emitting facilities, not affecting existing facilities;

Requires that large new sources use the best available technology to minimize emissions, determined by each State on a case-by-case basis;

Places primary responsibilities and authority with the States, backed by the Federal Government;

Requires the Federal Government, as a property owner, to protect the values related to air quality on certain Federal lands under the stewardship of various Federal agencies; and,

Eliminates the so-called "buffer zones" that were hypothesized around various land classifications.

To define what significant deterioration is, with respect to specific pollutants, the Committee has incorporated in the bill a set of numbers—the so-called "increments"—that specify the allowable change in ambient air quality. These "increments" are technical measures of the amount of total additional pollution that may be added to the ambient air by a single new major facility or series of facilities. These increments are the same for all nondeterioration areas, thus providing equity for all areas. The increment, of course, is measured from the baseline ambient air quality. The increment would thus be in addition to whatever levels of pollution exist from present sources. The only exception occurs when pollution up to the increment would produce ambient air exceeding any primary or secondary standard. If that occurs, the full increment normally may not be used, and the national ambient standards set the ceiling for additional ambient pollution.

The chief tool to be used in implementing the no significant deterioration requirements is the permit that must be issued by the State for any major emitting facility to be located in any clean-air area. The bill defines major emitting facility for this purpose as any source that falls into one of 28 industrial categories listed in the bill, if the source would also have the potential to emit more than 100 tons of any pollutant per year. If a source falls in a category listed but would be smaller than the 100 tons per year figure, it is not subject to the procedures in this act.

As I understand it, the intent of the committee in exempting nonmajor sources from the act was to simplify implementation by limiting regulation to the largest potential polluters. Superficially, at least, this appears to make good sense. Regulations and permits which would cover all emission sources would pose an intolerable regulatory burden, undoubtedly causing more problems than they would solve.

However, the carte blanche exemption of nonmajor sources provided in the committee bill similarly would create a bureaucratic nightmare, for this exemption dictates that the growth "increments" would apply only to new major sources. Pollutants contributed by new nonmajor sources would not be included. This means that permit applications for all but the first new major facility in any area would have to include technologically complex "pollutant origin assessments" in order to determine how much of each pollutant growth increment remained available for use.

Mr. President, in addition to the totally unnecessary administrative burden added by this procedure, eliminating consideration of pollutants contributed by nonmajor facilities constructed after enactment is entirely contrary to the intent and purpose of the Clean Air Act itself. Sulfur dioxide is sulfur dioxide—and it doesn't matter whether it comes from 1 large major source or from 1,000 small nonmajor sources. The effects are still the same.

For these reasons, I have introduced an amendment (No. 1610) which provides that pollutants from non-major as well as major sources be considered in determining the amount of an "increment" which remains available for use. For the benefit of my colleagues, I ask unanimous consent that the text of this amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD as follows:

On page 79, line 6, after the phrase "major emitting facility" insert "or other source".

Mr. GARY HART. Mr. President, I would first like to emphasize that this amendment will not extend the permit application procedure, the best available technology requirement, or any other regulations to nonmajor facilities. It simply streamlines what would otherwise be a cumbersome evaluation procedure to assess the remaining pollutant "increment" balance.

Perhaps an example would best illustrate both the problem associated with the proposed evaluation procedure as well as the solution afforded by this amendment. Let us assume that, after enactment, a new primary lead smelter is constructed by the Rolling Stone Manufacturing Corp. near the Mossy National Park, a class I increment area. In addition, let us assume that numerous other small industrial facilities subsequently are attracted to this same area as well as the normal complement of support services including both commercial and residential development.

According to the committee bill, only the large smelter would have been subject to the best available technology and emissions permit requirements. The smaller industrial, commercial, and residential facilities which were subsequently added and which individually would emit less than 100 tons of sulfur dioxide per year, would have been exempt from the permit-granting procedure. My amendment would not affect this in any way.

Now let us assume that 10 years later, Rolling Stone Manufacturing decides to construct a large sulfuric acid plant, and considers among other locations, a second site near Mossy National Park. According to the committee bill, evaluation of the sulfuric acid plant's emissions permit application would require not only measurement of the sulfur dioxide concentration in Mossy National Park, but furthermore, determination of how much of this sulfur dioxide is contributed by the smelter versus new ancillary development and "old" (previously existing) facilities. This complicated pollution origin analysis would be required because the committee bill provides that the growth "increments" apply only to pollutants from new major sources.

Aside from the technological difficulties inherent in pollution origin assessment, it is irrelevant whether the sulfur dioxide in Mossy National Park comes from the Rolling Stone smelter or from other sources. All the sulfur dioxide in the Park's air should be taken into account in determining if the proposed sulfuric acid plant should be located in the same area. My amendment would require that pollutants, regardless of source, be considered under these circumstances.

Mr. President, this amendment will simplify implementation of the no-significant deterioration provision of S. 3219. As I have explained, it will facilitate the permit-granting procedure and help alleviate the committee's concern that this process might possibly become a vehicle for inaction and delay. It will also reinforce the committee's concern regarding ancillary development as summarized on page 23 of the majority report:

> In studying the permit application, the State must examine the growth associated with any proposed facility in terms of other industries that might be attracted to the area and associated with the facility, and its effect on support services, and the residential, commercial, and transportation needs accompanying the facility.

Mr. President, this is not a question that should be left solely to one sentence of legislative intent in a committee report. This is a crucial issue which should be addressed in the language of the bill itself.

It is not enough to say that States must examine the potential effects of future nonmajor growth during review of an application to allow further major growth. The review process must also include a continuing mandate to consider actual levels of existing pollutants—regardless of their original sources.

Mr. President, this is not a theoretical problem of little significance. A report recently prepared for me by the Office of Transportation and Land Use Policy of the Environmental Protection Agency, begins with the following statement:

> Residential, commercial and institutional facilities resulting from general area-wide growth play a significant role in determining overall air quality. Their accompanying fuel needs for space heating and solid waste disposal facilities represent substantial contributions to an area's air pollution.

The report goes on to document this statement. It cites, for example, a location in Ocean County, N.J., where in 1972, ancillary areawide growth already accounted for 45 percent of the total air pollution—particulate matter. According to the report, it is estimated that by 1990, areawide growth in this region will account for 72 percent of the particulate air pollution. In addition, the report indicates that areawide sources now contribute over 69 percent of the particulate air pollution in Denver, Colo. The Environmental Protection Agency concludes that—

> Area wide growth accounts for a substantial percentage of total emissions. Projected increases or decreases, of course, depend to a large extent on the air quality maintenance program within a specific region. It is important to realize, however, that facilities resulting from general area wide growth play a major role in determining overall air quality.

Mr. President, it is obvious from these figures that nonmajor sources make a substantial contribution to air pollution in many areas. I acknowledge that it would be next to impossible to extend rigid emission control measures to all sources. We must focus our attention on the biggest problems first—and with respect to emission limitations, that means concentrating on major sources.

However, in conjunction with this, we must acknowledge the potential for substantial emissions from new nonmajor sources. This can be done simply and effectively by requiring that the increments apply to pollutants regardless of source, as provided by amendment No. 1610.

For these reasons, I urge my colleagues to give this amendment their most careful consideration and support.

Mr. LONG. Mr. President, on behalf of the Senator from Utah (Mr. Moss) I ask unanimous consent that Mary Jane Due of his staff, and Joe Platt of the Committee on Aeronautical and Space Sciences have the privilege of the floor during the Senate's consideration of the Clean Air Act Amendments, S. 3219.

Mr. GOLDWATER. Mr. President, the Clean Air Act of 1970 is complex and demanding enough to keep lawyers, engineers, and environmentalists busy for all of their life times. It seems to me that we have created a maze into which only the foolhardy attempt to enter and from which only the exhausted, depleted, and defeated emerge.

Let us look at this issue in a sensible, practical way, which means that Congress should stop making political hay out of the whole clean air business. What impact will these well intended and sweeping regulations have on our citizens, the economy, and our Nation's progress? Do they not contribute to the already escalating bureaucracy and the overwhelming entry of the Federal Government into the business of States, private companies, and the lives of the people?

No one wants pollution or the destruction of the beauty of our land—that is not the issue at hand. What we must do is protect the public health and welfare and set standards that will be fair to all segments of our population and not just benefit a few special interest groups.

The opposition to the Clean Air Act amendments has increased steadily throughout the country. For example, in my own State of Arizona groups which cut across all levels are demanding that the Federal Government stop adding more and more controls, expenses, and intrusions into their lives. One area that my constituents keep coming back to, is the no-significant deterioration provision. To put it simply, they are worried about the effect this proposal will have on them and their communities, and rightly so.

Until we are completely sure of the implications of this section, it might be prudent to have a thorough study of the nondeterioration policy, to decide if it should be implemented. Such a study is called for in Senator Moss' amendments to the Clean Air Act of 1970 and it is legislation that we should support.

Although the many bureaus and agencies might consider themselves acting in the public interest, the people of my own State feel they are capable of acting in their own behalf, probably better than any bureaucrat. These regulations and agencies tend to create more problems than they solve. Citizens recognize that they must bear the economic and social costs of these actions and consequently, want workable, reasonable standards they can live with.

It is beyond me that some individual sitting behind a desk in Washington, D.C., can dictate what often seems to be self-made and self-serving standards to a State they have never set foot in, yet this happens quite frequently. It is high time that we, the Congress fulfill our responsibility to provide for a fair interaction on environmental matters between the State and the Federal Government. In this way only, will we achieve the goal of a clean and safe environment. We must resist the rush to legislative and then administrative fiasco.

CRIME CONTROL ACT OF 1976

The PRESIDING OFFICER. The hour of 1:30 having arrived, under the previous order, the Senate will now take up the consideration of S. 2212, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

Mr. MANSFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from West Virginia (Mr. ROBERT C. BYRD) on which the yeas and nays have been ordered.

Mr. MANSFIELD. And that calls for an FBI director with a limit of 10 years?

The PRESIDING OFFICER. The Senator is correct, 10 years.

The question is on agreeing to the amendment of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 81, nays 4, as follows:

[Rollcall Vote 415 Leg.]

YEAS—81

Abourezk
Allen
Baker
Bayh
Beall
Bellmon
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Hollings
Hruska
Huddleston
Humphrey
Jackson
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
McIntyre
Morgan
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—4

Bartlett
Helms
Javits
Mathias

NOT VOTING—15

Bentsen
Chiles
Cranston
Eastland
Hartke
Haskell
Hathaway
Inouye
Metcalf
Mondale
Montoya
Muskie
Scott, Hugh
Stevenson
Tunney

So the amendment of Mr. ROBERT C. BYRD was agreed to.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The pending business is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Illinois (Mr. STEVENSON) and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE) and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 87, nays 2, as follows:

[Rollcall Vote No. 416 Leg.]

YEAS—87

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—2

Biden
Proxmire

NOT VOTING—11

Bentsen
Cranston
Eastland
Hartke
Inouye
Metcalf
Mondale
Montoya
Scott, Hugh
Stevenson
Tunney

So the bill (S. 2212), as amended, was passed, as follows:

S. 2212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Crime Control Act of 1976".

SEC. 2. The "Declaration and Purpose" of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended as follows:

(a) by inserting between the second and third paragraphs the following additional paragraph:

"Congress finds further that the financial and technical resources of the Federal Government should be used to provide constructive aid and assistance to State and local governments in combating the serious problem of crime and that the Federal Government should assist State and local governments in evaluating the impact and value of programs developed and adopted pursuant to this title."; and

(b) by deleting the fourth paragraph and substituting in lieu thereof the following new paragraph:

"It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by Federal assistance. It is the purpose of this title to (1) encourage, through the provision of Federal technical and financial aid and assistance, States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of and designed to deal with their particular problems of law enforcement and criminal justice; (2) authorize, following evaluation and approval of comprehensive plans, grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage, through the provision of Federal technical and financial aid and assistance, research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals.".

SEC. 3. Section 101(a) of title I of such Act is amended by inserting a comma after the word "authority" and adding "policy direction, and control." and by adding the following: "There shall be established in the Administration an appropriate organizational unit for the coordination and management of community anticrime programs. Such unit shall be under the direction of the Deputy Administrator for Policy Development. Such unit shall—

"(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime prevention and other law enforcement and criminal justice activities;

"(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Division of the Department of Justice) designed to encourage and assist citizens participation in law enforcement and criminal justice activities; and

"(3) provide information on successful programs of citizen and community participation to citizen and community groups.".

PART B—PLANNING GRANTS

SEC. 4. Section 201 of title I of such Act is amended by adding after the word "part" the words "to provide financial and technical aid and assistance".

SEC. 5. Section 203 of title I of such Act is amended to read as follows:

"Sec. 203. (a) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State or by State law and shall be subject to the jurisdiction of the chief executive. Where such agency is not created or designated by State law, it shall be so created or designated by no later than December 31, 1979. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations, including organizations directly related to delinquency prevention.

"The State planning agency shall include as judicial members, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer. The local trial court judicial officer and, if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership. Additional judicial members of the State planning agency as may be required by the Administration pursuant to section 515(a) of this title shall be appointed by the chief executive of the State from the membership of the judicial planning committee. Any executive committee of a State planning agency shall include in its membership the same proportion of judicial members as the total number of such members bears to the total membership of the State planning agency. The regional planning units within the State shall be comprised of a majority of local elected officials.

"(b) The State planning agency shall—

"(1) develop, in accordance with part C, a comprehensive statewide plan and necessary revisions thereof for the improvement of law enforcement and criminal justice throughout the State;

"(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice; and

"(3) establish priorities for the improvement in law enforcement and criminal justice throughout the States; and

"(4) assure the participation of citizens and community organizations at all levels of the planning process.

"(c) The court of last resort of each State or a judiciary agency authorized on the date of enactment of this Act by State law to perform such function, provided it has a statutory membership of at least 75 judges, may establish or designate a judicial planning committee for the preparation, development, and revision of an annual State judicial plan. The members of the judicial planning committee shall be appointed by the court of last resort or a judicial agency authorized on the date of enactment of this Act by State law to perform such function, provided it has a statutory membership of at least 75 percent judges and serve at its pleasure. The committee shall be reasonably representative of the various local and State courts of the State, including appellate courts.

"(d) The judicial planning committee shall—

"(1) establish priorities for the improvement of the courts of the State;

"(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State; and

"(3) develop, in accordance with part C, an annual State judicial plan for the improvement of the courts of the State to be included in the State comprehensive plan. The judicial planning committee shall submit to the State planning agency its annual State judicial plan for the improvement of the courts of the State. Except to the extent disapproved by the State planning agency for the reasons stated in section 304(b), the annual State judicial plan shall be incorporated into the comprehensive statewide plan.

"(e) If a State court of last resort, does not create or designate a judicial planning committee, or if such committee fails to submit an annual State judicial plan in accordance with this section, the responsibility for preparing and developing such plan shall rest with the State planning agency. The State planning agency shall consult with the judicial planning committee in carrying out functions set forth in this section as they concern the activities of courts and the impact of the activities of courts on related agencies (including prosecutorial and defender services). All requests from the courts of the State for financial assistance shall be received and evaluated by the judicial planning committee for appropriateness and conformity with the purposes of this title.

"(f) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least $50,000 of the Federal funds granted to such agency under this part for any fiscal year will be available to the judicial planning committee and at least 40 per centum of the remainder of all Federal funds granted to the State planning agency under this part for any fiscal year will be available to units of general local government or combinations of such units to participate in the formulation of the comprehensive State plan required under this part. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such funds made available to the judicial planning committee and such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

"(g) The State planning agency and any other planning organization for the purposes of this title shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is to be taken at that meeting on (A) the State plan, or (B) any application for funds under this title. The State planning agency and any other planning organization for the purposes of this title shall provide for public access to all records relating to its functions under this Act, except such records as are required to be kept confidential by any other provision of local, State, or Federal law."

Sec. 6. Section 204 of title I of such Act is amended by inserting "the judicial planning committee and" between the words "by" and "regional" in the first sentence; and by striking the words "expenses, shall" and inserting in lieu thereof "expenses shall".

Sec. 7. Section 205 of title I of such Act is amended by—

(a) inserting ", the judicial planning committee," after the word "agency" in the first sentence;

(b) deleting "$200,000" from the second sentence and inserting in lieu thereof "$250,000"; and

(c) inserting the following sentence at the end thereof: "Any unused funds reverting to the Administration shall be available for reallocation among the States as determined by the Administration.".

Sec. 8. Part B is amended by inserting at the end thereof the following new section:

"Sec. 206. At the request of the State legislature (or a legislative body designated by it), the comprehensive statewide plan or revision thereof shall be submitted to the legislature for its review, comment, or suggested amendment of the general goals, priorities, and policies that comprise the basis of that plan or revision prior to its submission to the Administration by the chief executive of the State. The State legislature shall also be notified of substantial modifications of such general goals, priorities, and policies, and, at the request of the legislature, these modifications shall be submitted for review, comment, or suggested amendment. If the legislature (while in session) or an interim legislative body designated by the legislature (while not in session) has not reviewed, commented on, or suggested amendments to the general goals, priorities, and policies of the plan or revision within forty-five days after receipt of such plan or revision, or within thirty days after receipt of substantial modifications, such plan or revision or modifications thereof shall then be deemed approved.".

PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES

Sec. 9. Section 301 of title I of such Act is amended by—

(a) inserting after the word "part" in subsection (a) the following: ", through the prevision of Federal technical and financial aid and assistance,";

(b) deleting the words "Public education relating to crime prevention" from paragraph (3) of subsection (b) and inserting in lieu thereof "Public education programs concerned with the administration of justice";

(c) deleting the words "the approval of" from paragraph (7) of subsection (b) and inserting in lieu thereof "notification to";

(d) deleting the words "and coordination" from paragraph (8) of subsection (b) and inserting in lieu thereof ", coordination, monitoring, and evaluation";

(e) inserting after paragraph (10) of subsection (b) the following new paragraphs:

"(11) The development, demonstration, evaluation, implementation, and purchase of methods, devices, personnel, facilities, equipment, and supplies designed to strengthen courts and to improve the availability and quality of justice; the collection and compilation of judicial data and other information on the work of the courts and other agencies that relate to and affect the work of the courts; programs and projects for expediting criminal prosecution and reducing court congestion; revision of court criminal rules and procedural codes within the rulemaking authority of courts or other judicial entities having criminal jurisdiction within the State; training of judges, court administrators, and support personnel of courts; support of court technical assistance and support organizations; support of public education programs concerning the administration of criminal justice; equipping of court facilities; and multiyear systemwide planning for all court expenditures made at all levels within the State.

"(12) The development and operation of programs designed to reduce and prevent crime against elderly persons.

"(13) the development of programs to identify the special needs of drug-dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers) and the establishment of procedures for effective coordination between State planning agencies and single State agencies designated under section 409(e)(1) of the Drug Abuse Office and Treatment Act of 1972 and section 303 (a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970.

"(14) The establishment of early case assessment panels for any unit of local government within the State having a population of two hundred and fifty thousand or more to screen and analyze cases as early as possible from the time of the bringing of charges, to determine the feasibility of successful prosecution, to expedite the prosecution of cases involving repeat offenders and perpetrators of violent crimes, and to concentrate prosecution efforts on cases with a high probability of successful prosecution."; and

"(15) The development and operation of crime prevention programs in which members of the community participate, including but not limited to 'block watch' and similar programs."; and

(f) inserting the following sentence after the second sentence of subsection (d): "The limitations contained in this subsection may be waived when the Administration finds that such waiver is necessary to encourage and promote innovative programs designed to improve and strengthen law enforcement and criminal justice.".

SEC. 10. Section 302 of title I of such Act is amended by redesignating the present language as subsection (a) and adding the following new subsections:

"(b) Any judicial planning committee established pursuant to this title may file at the end of each fiscal year with the State planning agency, for information purposes only, a multiyear comprehensive plan for the improvement of the State court system. Such multiyear comprehensive plan shall be based on the needs of all the courts in the State and on an estimate of funds available to the courts from all Federal, State, and local sources and shall, where appropriate—

"(1) provide for the administration of programs and projects contained in the plan;

"(2) adequately take into account the needs and problems of all courts in the State and encourage initiatives by the appellate and trial courts in the development of programs and projects for law reform, improvement in the administration of courts and activities within the responsibility of the courts, including but not limited to bail and pretrial release services, and provide for an appropriately balanced allocation of funds between the statewide judicial system and other appellate and trial courts;

"(3) provide for procedures under which plans and requests for financial assistance from all courts in the State may be submitted annually to the judicial planning committee for evaluation;

"(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of courts and court programs, including descriptions of (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the maximum extent practicable, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

"(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment provided for courts and related purposes;

"(6) provide for research, development, and evaluation;

"(7) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would, in the absence of such Federal funds, be made available for the courts; and

"(8) provide for such fund accounting, auditing, monitoring, and program evaluation procedures as may be necessary to assure sound fiscal control, effective management, and efficient use of funds received under this title.

"(c) Each year, the judicial planning committee shall submit an annual State judicial plan for the funding of programs and projects recommended by such committee to the State planning agency for approval and incorporation, in whole or in part, in accordance with the provisions of section 304(b), into the comprehensive State plan which is submitted to the Administration pursuant to part B of this title. Such annual State judicial plan shall conform to the purposes of this part.".

SEC. 11. Section 303 of title I of such Act is amended by—

(a) striking out subsection (a) up to the sentence beginning "Each such plan" and inserting in lieu thereof the following:

"(a) The Administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan or an approved revision thereof (not more than one year in age) which conforms with the purposes and requirements of this title. In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974 a State shall submit a plan for carrying out the purposes of that Act in accordance with this section and section 223 of that Act. No State plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity. No State plan shall be approved as comprehensive unless it includes a comprehensive program, whether or not funded under this title, for the improvement of juvenile justice.";

(b) deleting paragraph (4) of subsection (a) and substituting in lieu thereof the following:

"(4) specify procedures under which local multi-year and annual comprehensive plans and revisions thereof may be submitted to the State planning agency from units of general local government or combinations thereof to use funds received under this part to carry out such plans for the improvement of law enforcement and criminal justice in the jurisdictions covered by the plans. The State planning agency may approve or disapprove a local comprehensive plan or revision thereof in whole or in part based upon its compatibility with the State comprehensive plan and subsequent annual revisions and modifications. Approval of such local comprehensive plan or parts thereof shall result in the award of funds to the units of general local government or combinations thereof to implement the approved parts of their plans;";

(c) inserting after the word "necessary" in paragraph (12) of subsection (a) the following language: "to keep such records as the Administration shall prescribe";

(d) deleting "and" after paragraph 14 of subsection (a), deleting the period at the end of paragraph 15 and inserting in lieu thereof ": and", and adding the following new paragraph after paragraph 15:

"(16) Provide for the development of programs and projects for the prevention of crimes against the elderly, unless the State Planning Agency makes an affirmative finding in such plan that such a requirement is inappropriate for the State.";

(e) deleting subsection (b) and substituting in lieu thereof the following:

"(b) Prior to its approval of any State plan, the Administration shall evaluate its likely effectiveness and impact. No approval shall be given to any State plan unless and until the Administration makes an affirmative finding in writing that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State and that, on the basis of the evaluation made by the Administration, such plan is likely to contribute effectively to an improvement of law enforcement and criminal justice in the State and make a significant and effective contribution to the State's efforts to deal with crime. No award of funds that are allocated to the States under this part on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.";

(f) inserting in subsection (c) after the word "unless" the words "the Administration finds that"; and

(g) inserting after subsection (c) the following new subsection:

"(d) In making grants under this part, the Administration and each State planning agency, as the case may be, shall provide an adequate share of funds for the support of improved court programs and projects. No approval shall be given to any State plan unless and until the Administration finds that such plan provides an adequate share of funds for court programs. In determining adequate funding, consideration shall be given to (1) the need of the courts to reduce court congestion and backlog; (2) the need to improve the fairness and efficiency of the judicial system; (3) the amount of State and local resources committed to courts; (4) the amount of funds available under this part; (5) the needs of all law enforcement and criminal justice agencies in the State; (6) the goals and priorities of the comprehensive plan; (7) written recommendations made by the judicial planning committee to the Administration; and (8) such other standards as the Administration may deem consistent with this title.".

SEC. 12. Section 304 of title I of such Act is amended to read as follows:

"SEC. 304. (a) State planning agencies shall receive plans or applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such a plan or application is in accordance with the purposes stated in section 301 and in conformance with an existing statewide comprehensive law enforcement plan or revision thereof, the State planning agency is authorized to disburse funds to implement the plan or application.

"(b) After consultation with the State planning agency pursuant to subsection (e) of section 203, the judicial planning committee shall transmit the annual State judicial plan approved by it to the State planning agency. Except to the extent that the State planning agency thereafter determines that such plan or part thereof is not in accordance with this title, is not in conformance with, or consistent with, the statewide comprehensive law enforcement and criminal justice plan, or does not conform with the fiscal accountability standards of the State planning agency, the State planning agency shall incorporate such plan in the State comprehensive plan to be submitted to the Administration.".

SEC. 13. Section 306 of title I of such Act is amended by—

(a) inserting the following between the third and fourth sentences of the unnumbered paragraph in subsection (a): "Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such illegal remedies as are necessary."; and

(b) amending subsection (b) by striking "(1)" and inserting in lieu thereof "(2)".

SEC. 14. Section 307 of title I of such Act is amended by deleting the words "and of riots and other violent civil disorders" and substituting in lieu thereof the words "and programs and projects designed to reduce court congestion and backlog and to improve the fairness and efficiency of the judicial system".

SEC. 15. Section 308 of title I of such Act is amended by deleting "302(b)" and inserting in lieu thereof "303".

SEC. 16. Part C of title I of such Act is amended to include the following new section—

"SEC. 309. (a) The Attorney General is authorized to provide assistance and make grants to States which have State plans approved under subsection (c) of this section to improve the antitrust enforcement capability of such State.

"(b) The attorney general of any State desiring to receive assistance or a grant under this section shall submit a plan consistent with such basic criteria as the Attorney General may establish under subsection (d) of this section. Such plan shall—

"(1) provide for the administration of such plan by the attorney general of such State;

"(2) set forth a program for training State officers and employees to improve the antitrust enforcement capability of such State;

"(3) establish such fiscal controls and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State including such funds paid by the State to any agency of such State under this section; and

"(4) provide for making reasonable reports in such form and containing such information as the Attorney General may reasonably require to carry out his functions under this section, and for keeping such records and affording such access thereto as the Attorney General may find necessary to assure the correctness and verification of such reports.

"(c) The Attorney General shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section.

"(d) As soon as practicable after the date of enactment of this section the Attorney General shall, by regulation, prescribe basic criteria for the purpose of establishing equitable distribution of funds received under this section among the States.

"(e) Payments under this section shall be made from the allotment to any State which administers a plan approved under this section. Payments to a State under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

"(f) The Comptroller General of the United States or any of his authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grantee under this section.

"(g) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any State receiving a grant under this section, finds—

"(1) that the program for which such grant was made has been so changed that it no longer complies with the provisions of this section: or

"(2) that in the operation of the program there is failure to comply substantially with any such provision;

the Attorney General shall notify such State of his findings and no further payments may be made to such State by the Attorney General until he is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Attorney General may authorize the continuance of payments with respect to any program pursuant to this part which is being carried out by such State and which is not involved in the noncompliance.

"(h) As used in this section the term—

"(1) 'State' includes each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

"(2) 'attorney general' means the principal law enforcement officer of a State, if that officer is not the attorney general of that State; and

"(3) 'State officers and employees' includes law or economics students or instructors engaged in a clinical program under the supervision of the attorney general of a State or the Assistant Attorney General in charge of the Antitrust Division.

"(i) There are authorized to be appropriated to carry out the purposes of this section not to exceed $10,000,000 for the fiscal year ending September 30, 1977; not to exceed $10,000,000 for the fiscal year ending September 30, 1978; and not to exceed $10,000,000 for the fiscal year ending September 30, 1979.".

PART D—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

SEC. 17. Section 402 of title I of such Act is amended by—

(a) deleting "Administrator" in the third sentence of subsection (a) and inserting in lieu thereof "Attorney General";

(b) deleting "and" at the end of paragraph (7) of subsection (b); changing the period to a semicolon at the end of paragraph (8) of subsection (b) and inserting "and" thereafter; and adding the following new paragraph to that subsection:

"(9) to conduct studies and undertake programs of research, in consultation with the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, to determine the relationship between drug abuse and crime, and between alcohol abuse and crime; to evaluate the success of the various types of treatment programs in reducing crime; and to report its findings to the President, the Congress, the State planning agencies, and units of general local government."; and

(c) adding the following sentence at the end of the second paragraph of subsection (c): "The Institute shall also assist the Administrator in the performance of those duties mentioned in section 515(a) of this title."; and

(d) adding at the end of such section the following new paragraph: "The Institute shall, before September 30, 1977, survey existing and future needs in correctional facilities in the Nation and the adequacy of Federal, State and local programs to meet such needs. Such survey shall specifically determine the effect of anticipated sentencing reforms such as mandatory minimum sentences on such needs. In carrying out the provisions of this section, the Director of the Institute shall make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education and Welfare, the General Accounting Office, Federal, State and local criminal justice agencies and other appropriate public and private agencies.".

SEC. 18. Part D is amended by adding the following new section:

PART E—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

SEC. 19. (a) Section 453 of such Act is amended by—

(1) striking out "and" at the end of paragraph (11);

(2) striking out the period at the end of pargaraph (12) and inserting "; and" in lieu thereof; and

(3) adding at the end thereof the following:

"(13) sets forth minimally acceptable physical and service standards to construct, improve or renovate State and local correctional institutions and facilities funded under this part.".

(b) Section 454 of such Act is amended by adding at the end thereof the following: "The Administration shall, in consultation with the States, develop minimally acceptable physical and service standards for the construction, improvement and renovation of State and local correctional institutions and facilities funded under this part.".

SEC. 20. Section 455 of title I of such Act is amended by—

(a) deleting the word "or" in paragraph (a)(2) and inserting "or nonprofit organizations," after the second occurrence of the word "units," in that paragraph; and

"SEC. 408. (a) The Administration is authorized to make high crime impact and serious court congestion grants to State planning agencies, units of general local government, or combinations of such units. Such grants are to be used to provide impact funding to areas which are identified by the Administration as high crime or serious court congestion areas having a special and urgent need for Federal financial assistance. Such grants are to be used to support programs and projects which will improve the law enforcement and criminal justice system or the capability of the courts to eliminate congestion and backlog of criminal matters.

"(b) Any application for a grant under this section shall be consistent with the approved comprehensive State plan or an approved revision thereof."

(b) inserting the following at the end of subsection (a): "In the case of a grant to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to tbe funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.".

PART F—ADMINISTRATIVE PROVISIONS

SEC. 21. Section 501 of title I of such Act is amended by inserting the following sentence at the end thereof: "The Administration? shall establish such rules and regulations as are necessary to assure the proper auditing, monitoring, and evaluation by the Administration of both the comprehensiveness and impact of programs funded under this title in order to determine whether such programs submitted for funding are likely to contribute to the improvement of law enforcement and criminal justice and the reduction and prevention of crime and juvenile delinquency and whether such programs once implemented have achieved the goals stated in the original plan and application.".

Sec. 22. Section 507 of title I of such Act is amended to read as follows:

"Sec. 507. Subject to the Civil Service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out its powers and duties under this title and is authorized to select, appoint, employ, and fix compensation of such hearing examiners or to request the use of such hearing examiners selected by the Civil Service Commission pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out its powers and duties under this title.".

Sec. 23. Section 509 of title I of such Act is amended by deleting the language "reasonable notice and opportunity for hearing" and substituting in lieu thereof the following: "notice and opoprtunity for a hearing on the record in accordance with section 554 of title 5, United States Code,".

Sec. 24. Section 512 of title I of such Act is amended by striking the words "June 30, 1974, and the two succeeding fiscal years" and inserting in lieu thereof "June 30, 1976, through fiscal year 1981".

Sec. 25. Section 515 of title I of such Act is amended to read as follows:

"Sec. 515. (a) Subject to the general authority of the Attorney General, and under the direction of the Administrator, the Administration shall—

"(1) review, analyze, and evaluate the comprehensive State plan submitted by the State planning agency in order to determine whether the use of financial resources and estimates of future requirements as requested in the plan are consistent with the purposes of this title to improve and strengthen law enforcement and criminal justice and to reduce and prevent crime; if warranted, the Administration shall thereafter make recommendations to the State planning agency concerning improvements to be made in said comprehensive plan;

"(2) assure that the membership of the State planning agency is fairly representative of all components of the criminal justice system and review, prior to approval, the preparation, justification, and execution of the comprehensive plan to determine whether the State planning agency is coordinating and controlling the disbusement of the Federal funds provided under this title in a fair and proper manner to all components of the State and local criminal justice system; to assure such fair and proper disbursement, the State planning agency shall submit to the Administration, together with its comprehensive plan, a financial analysis indicating the percentage of Federal funds to be allocated under the plan to each component of the State and local criminal justice system;

"(3) develop appropriate procedures for determining the impact and value of programs funded pursuant to this title and whether such funds should continue to be allocated for such programs; and

"(4) assure that the programs, functions, and management of the State planning agency are being carried out efficiently and economically.

"(b) The Administration is also authorized—

"(1) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

"(2) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

"(c) Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate.".

Sec. 26. Section 517 of title I of such Act is amended by adding the following new subsection:

"(c) The Attorney General is authorized to establish an Advisory Board to the Administration to review programs for grants under sections 306(a)(2), 402(b), and 455(a)(2). Members of the Advisory Board shall be chosen from among persons who, by reason of their knowledge and expertise in the areas of law enforcement and criminal justice and related fields, are well qualified to serve on the Advisory Board.".

Sec. 27. Section 519 of title I of such Act is amended to read as follows:

"Sec. 519. On or before December 31 of each year, the Administration shall submit a comprehensive report to the President and the Congress on activities pursuant to the provisions of this title during the preceding fiscal year. The report shall include—

"(a) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this title;

"(b) an explanation of the procedures followed by the Administration in reviewing, evaluating, and processing the comprehensive State plans submitted by the State planning agencies;

"(c) the number of comprehensive State plans approved by the Administration without substantial changes being recommended;

"(d) the number of comprehensive State plans approved or disapproved by the Administration after substantial changes were recommended;

"(e) the number of State comprehensive plans funded under this title during the preceding three fiscal years in which the funds allocated have not been expended in their entirety;

"(f) the number of programs funded under this title discontinued by the Administration following a finding that the program had no appreciable impact in reducing and preventing crime or improving and strengthening law enforcement and criminal justice;

"(g) the number of programs funded under this title discontinued by the State following the termination of funding under this title;

"(h) a financial analysis indicating the percentage of Federal funds to be allocated under each State plan to the various components of the criminal justice system;

"(i) a summary of the measures taken by the Administration to monitor criminal justice programs funded under this title in order to determine the impact and value of such programs;

"(j) an analysis of the manner in which funds made available under section 306(a)(2) of this title were expended; and

"(k) a description of the Administration's compliance with the requirements of section 454 of this title.".

Sec. 28. Section 520 of title I of such Act is amended by—

(a) striking subsection (a) and inserting in lieu thereof the following:

"(a) There are authorized to be appropriated such sums as are necessary for the purposes of each part of this title, but such sums in the aggregate shall not exceed $250,000,000 for the period July 1, 1976, through September 30, 1976, $1,000,000,000 for the fiscal year ending September 30, 1977, $1,100,000,000 for the fiscal year ending September 30, 1978, $1,100,000,000 for the fiscal year ending September 30, 1979, $1,100,000,000 for the fiscal year ending September 30, 1980, and $1,100,000,000 for the fiscal year ending September 30, 1981. From the amount appropriated in the aggregate for the purposes of this title, such sums shall be allocated as are necessary for the purposes of providing funding to areas characterized by both high crime incidence and high law enforcement and criminal justice activities or serious court congestion and backlog, but such sums shall not exceed $12,500,000 for the period July 1, 1976, through September 30, 1976, and $50,000,000 for each of the fiscal years enumerated above and shall be in addition to funds made available for these purposes from the other provisions of this title as well as from other sources. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter, there shall be allocated for the purpose of part E an amount equal to not less than 20 per centum of the amount allocated for the purpose of part C.";

(b) striking subsection (b) and inserting in lieu thereof the following:

"(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least the same level of financial assistance for juvenile delinquency programs that such assistance bore to the total appropriation for the programs funded pursuant to part C and part E of this title during fiscal year 1972; namely, 19.15 per centum of the total appropriation for the Administration.".

Sec. 29. Section 601 of title I of such Act is amended by—

(a) inserting after "Puerto Rico," in subsection (c) the words "the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands,"; and

(b) inserting at the end of the section the following new subsections:

"(p) The term 'court of last resort' shall mean that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two or more courts with highest and final appellate authority, court of last resort shall mean that highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch.

"(q) The term 'court' or 'courts' shall mean a tribunal or tribunals having criminal jurisdiction recognized as a part of the judicial branch of a State or of its local government units.

"(r) The term 'evaluation' means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this title.".

Sec. 30. Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (88 Stat. 1129) is amended by striking subsection (b) and inserting in lieu thereof the following:

"(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least the same level of financial assistance for juvenile delinquency programs that such assistance bore to the total appropriation for the programs funded pursuant to part C and part E of this title during fiscal year 1972; namely, 19.15 per centum of the total appropriation for the Administration.".

Sec. 31. Section 521 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting at the end of the section the following new subsection:

"(e) There is hereby established a revolving fund for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt illicit commerce in such goods and property. Notwithstanding any other provisions of law, any income or royalties generated from such projects together with income generated from any sale or use of such goods or property, where such goods or property are not claimed by their lawful owner, shall be paid into the revolving fund. Where a party establishes a legal right to such goods or property, the Administrator of the fund may in his discretion assert a claim against the property or goods in the amount of Federal funds used to purchase such goods or property. Proceeds from such claims shall be paid into the revolving fund. The Administrator is authorized to make disbursements by appropriate means, including grants, from the fund for the purpose of this section."

Sec. 32. Section 301(c) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting at the end of the section the following: "In the case of a grant for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt commerce in such property, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary."

Sec. 33. Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended as follows:

(a) After section 225(c)(6) add a new paragraph as follows:

"(7) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than forty thousand, located within States which have no city with a population over two hundred fifty thousand.".

(b) Add a new subsection (d) as follows:

"(d) No city should be denied an application solely on the basis of its population.".

Sec. 34. (a) One year after the date of enactment of this Act, all positions in the Drug Enforcement Administration, which was established under section 4 of the Reorganization Plan Numbered 2 of 1973, as amended, to which grades GS–15 or above of the General Schedule under section 5332(a) of title 5, United States Code, apply are excepted from the competitive service.

(b) The incumbents of such positions occupy positions in the excepted service and the provisions of sections 7501 and 7512 of title 5, United States Code, shall not apply to such incumbents.

(c) Under regulations prescribed by the Civil Service Commission, any incumbent of such position may—

(1) transfer to a similar position in the competitive service in another agency if such incumbent is qualified for such position, or

(2) within one year of the date of enactment of this Act transfer to another position in the Drug Enforcement Administration to which grade GS–14 of the General Schedule under section 5332(a) of title 5, United States Code, applies.

Any individual who transfers to another position in the Drug Enforcement Administration shall be entitled to have his initial rate of pay for such position set at a step of grade GS–14 which is nearest to but not less than the rate of pay which such individual received at the time of such transfer. If the rate of pay of such individual at the time of such transfer is greater than the rate of pay for step 10 of grade GS–14, such individual shall be entitled to have his initial rate of pay for such position set at step 10 but such individual shall be entitled to receive the rate of pay he received at the time of such transfer until the rate of pay for step 10 is equal to or greater than such rate of pay.

(d) Subsection (c) of section 5108 of title 5, United States Code, is amended by:

(1) repealing paragraph (8); and

(2) substituting in lieu thereof the following new paragraph:

"(8) the Attorney General, without regard to any other provision of this section, may place a total of 32 positions in GS–16, 17, and 18;".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(105) Commissioner of Immigration and Naturalization, Department of Justice.

"(106) United States attorney for the Northern District of Illinois.

"(107) United States attorney for the Central District of California.

"(108) Director, Bureau of Prisons, Department of Justice.

"(109) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.".

(f) Section 5316 of title 5, United States Code, is amended by:

(1) repealing paragraph (44);

(2) repealing paragraph (115);

(3) repealing paragraph (116);

(4) repealing paragraph (58); and

(5) repealing paragraph (134).

Sec. 35. Section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after June 1, 1973, the term of service of the Director of the Federal Bureau of Investigation shall be ten years. A Director may not serve more than one ten-year term. The provisions of subsections (a) through (c) of section 8335 of title 5, United States Code, shall apply to any individual appointed under this section.".

(During the course of the preceding vote, Mr. Domenici and Mr. Baker, consecutively, assumed the chair as Presiding Officer.)

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2212.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I wish to express my thanks to colleagues, particularly those on the subcommittee and on the Committee on the Judiciary for their cooperation and assistance in moving this bill to final enactment in the Senate.

I wish also to express my appreciation to members of the staff of the Subcommittee on Criminal Laws and Procedures, the professional staff members particularly—Paul Summitt and Mr. Dennis Thelen for their special work in the processing of this bill.

TAX REFORM ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

The Senate resumed the consideration of the bill.

ORDER OF BUSINESS TOMORROW

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Is it a statement of fact that tomorrow after the joint leaders are recognized and the morning business completed the Senate will then proceed to the consideration of Calendar No. 685, S. 3219?

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR PERIOD TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the two leaders are recognized tomorrow morning, there be a period of not to exceed 20 minutes for the transaction of routine morning business with a time limitation of 3 minutes attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MUSKIE TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar No. 685, S. 3219, which will be the pending business at that time, is laid before the Senate, that the distinguished Senator from Maine (Mr. Muskie) be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN AIR AMENDMENTS OF 1976

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. MUSKIE. Mr. President, I think that out of convenience to the Members, I will put my full statement in the Record today so that Members may have the opportunity to read it, if they plow through it, and then in the morning in response to the distinguished Senator's request, I would only offer a brief summary so we can get to the amendments rather quickly. I hope Senators with amendments will bring them up and put them before the Senate as early as possible tomorrow.

Mr. MANSFIELD. Mr. President, that will be most appropriate, and it is very considerate, and I ask unanimous consent that the distinguished Senator from

Maine be allowed to do as he suggested as if read on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. And he can be recognized at the conclusion of morning business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair inquires of the distinguished majority leader if the request that the Senator from Maine be recognized after the bill is laid down?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, during the 13 years that I have been chairman of the Senate Pollution Subcommittee, I have watched the evolution of environmental laws.

We began simply. We authorized the development of the Federal expertise necessary to understand the scope of environmental problems. We established programs to assess the development of State and local regulatory programs. We established a rudimentary Federal enforcement capability to deal with those environmental problems which did not respect jurisdictional boundaries. And, we began the process of regulating auto emissions—a task which required a Federal presence.

Our knowledge expanded. The public became more aware of environmental problems. The Congress attempted to respond to the public demand for a significantly greater level of performance in the pollution control effort.

In 1970 we enacted the landmark clean air amendments, which had three basic objectives: first, to achieve air quality which would protect public health; second, to establish specific regulatory requirements and precise timetables for achievement of those requirements; and third, to establish long-term public policy goals for air quality programs.

The Clean Air Act was the result of our belief that public confidence had to be restored in both the progress and the results of these programs. For too long, promises had been made and results had not been delivered. Autos which purportedly met stiff standards on the production line failed to comply after minimum mileage. Enforcement actions were tedious—the results ranged from limited to nonexistent. Examples of failure are too numerous to mention.

We had a choice: We could continue and try to improve past initiatives or we could change course and experiment with innovative methods which might achieve results at a more rapid pace.

The Clean Air Act of 1970 was a new departure.

We knew our goals. They had been established in 1967 when Congress asserted a national interest in achieving health-related air quality standards in our Nation's urban-industrial areas and in maintaining clean air in regions in which air was still pristine.

The question we addressed in 1970 was how to achieve these goals—how to move from rhetoric to regulation—how to maintain public confidence.

We proposed and saw enacted two basic tools—controls on emissions and establishment of deadlines. Emission controls replaced air quality standards as the enforcement mechanism; and deadlines provided the public with a basis against which to judge progress. For autos, this translated into statutory emission standards and fixed deadlines.

The 1970 amendments have brought considerable progress in controlling air pollution. Of the Nation's 20,000 largest stationary sources accounting for 85 percent of all stationary source pollution, 15,600 were in compliance with emission regulations or were meeting compliance schedules by mid-1975.

Between 1940 and 1970, controllable particulate emissions increased 15 percent, sulfur dioxide increased 50 percent, carbon monoxide and hydrocarbons emissions more than doubled, and nitrogen oxide emissions quadrupled.

Since 1970, these increases have been curtailed. Total emissions of some pollutants have been reduced. We should take pride in these accomplishments. But in most cases, these improvements will be temporary.

By mid-1975, the national ambient air quality standards for all pollutants have been fully achieved in only 91 of the Nation's 247 air quality control regions. Emissions from new growth will reverse this progress unless further efforts are made to control pollution.

The real test of pollution control comes now—years later. Whether or not the legitimate gains made can be held is uncertain. Those victories and those precedents are now under attack.

Many believe that the Clean Air Act is basically a sound law. Its premises—the protection of public health and welfare from the adverse effects of dirty air and the maintenance of clean air in areas where air quality has not been degraded—have been broadly accepted.

In order to assure Congress that the requirements of the 1970 act were justified, the Senate Public Works Committee contracted with the National Academy of Sciences for a $500,000 study of air quality standards. That study was presented September 1, 1974. Its analysis remains valid.

The Academy reached these conclusions:

First, evidence accumulated since the enactment of the 1970 amendments supports the ambient air quality standards which were promulgated as a result of that act;

Second, safety margins associated with those standards are only marginally adequate;

Third, susceptible groups in the population which may be adversely affected by unhealthy air constitute about 40 million people;

Fourth, best estimates indicate that air pollution causes 15,000 excess deaths per year, 15 million days of restricted activity per year, and 7 million days spent in bed; and

Fifth, health effects of automobile pollution alone cause 4,000 deaths per year and 4 million illness restricted days per year.

The Nation still experiences the problems which led Congress to adopt the firm approach of the 1970 amendments:

In the summer of 1975, the State of Iowa experienced its first air pollution alert.

In the summer of 1975, the Washington, D.C., area suffered its highest recorded single-day level of photochemical smog in history. The 8-day alert was the area's second longest ever.

A study released in August of 1975 by the Environmental Protection Agency reported that in small towns in Maryland, Ohio, and Pennsylvania, air quality standards are exceeded about 50 percent of the time. On the basis of these studies, the Administrator of the Environmental Protection Agency concluded that—

> It may be necessary to expand to an area-wide (multi-State) basis some of the pollution control measures now in effect only in urban areas.

The New York Times reported on November 20, 1975, that as many as 30 industrial plants in the Pittsburgh area cut back operations to alleviate emergency levels of air pollution which were the highest concentrations ever recorded in Allegheny County since the establishment of its monitoring system in 1971. An alert is called when the air quality index reaches 100; the readings from November 17 through 20 reached 249.

The Environmental Protection Agency has determined that at least 14 excess deaths occurred during the 4-day episode, as a result of the emergency particulate levels. In addition, hospitals received increased complaints of headaches, choking, and stinging eyes. Those with respiratory ailments, pregnant women, and infants were warned to stay indoors.

This situation closely parallels the 1948 Donora, Pa., episode during which 20 persons died and nearly half of the area's 13,839 residents became ill. Both incidents provide a striking example of the continuing problems that remain in achieving healthful air in this country.

The continuing smog in the Los Angeles, Calif., basin provides evidence that once air pollution levels are allowed to rise, extreme efforts are required to reverse such conditions.

At the same time, the pollution control requirements required by the Clean Air Act and other environmental statutes provide new jobs. At a time when the economy has 7.5 percent of the work force unemployed, additional expenditures required by Federal regulations create jobs. The effect will be to hire workers who would otherwise remain on unemployment compensation.

Statistics of the employment produced by pollution control programs have been collected by the Council on Environmental Quality. CEQ concluded from these studies that "over 1 million jobs were associated with air and water pollution programs last year." This analysis indicates that $1 billion generates 70,000 jobs directly and indirectly. Some estimates place the employment impact as high as 82,000 jobs per $1 billion.

Other studies estimating the overall

impact of air and water pollution control requirements have indicated that impact on inflation will be minimal, and the impact on economic growth and unemployment will be positive. A study done by Chase Econometric Associates in January 1975 indicates that when averaged over the decade ending in 1982, the Consumer Price Index will have risen only two-tenths of 1 percent because of pollution control expenditures.

The gross national product was 1.6 percent higher in 1975 due to pollution control expenditures. The effect is projected to diminish by 1982, when the gross national product will be virtually unaffected. The net effect of pollution control expenditures is characterized in the Chase econometric report as being "rather modest." While some specific companies and facilities may have substantial costs, it is useful to place such individual costs against the more comprehensive background supplied by the Chase econometric study. As further background on the employment aspects of these expenditures, the appendixes contain a February 1976 report entitled "Pollution Control and Employment" prepared by the Council on Environmental Quality.

The basis of the Clean Air Act remains valid. Poor air quality still affects the health of millions of Americans. Cleanup efforts are reversing these conditions, the air quality goals have been reconfirmed by panels of experts, and the positive economic impact has been demonstrated.

The challenges to the premises of the act have been limited, but there has been a campaign to eliminate the regulatory and enforcement tools necessary to achieve those public policy objectives.

The bill before the Senate reflects these conflicting pressures. For example, we voted to give cities more time—more time to utilize new transportation modes—to improve existing public transit systems—to provide transportation alternatives. We had to do this because the problem of auto pollutants is far worse than we envisaged in 1970 and control is elusive.

At the same time, we voted to give the auto industry 2 more years to achieve statutory standards—2 years to overcome technical problems—to begin to deal with the fuel economy problem—and to recover from the economic troubles of 1974–75.

I had hoped that we would not have to give the auto industry that much time—that they could have produced some clean cars in 1978—that we would have had an opportunity to test out new technology for a couple of years before it was required across the board. But that approach did not prevail.

We also revised the enforcement sections of the act—revisions which are encouraging. We voted to provide more time for stationary sources to achieve applicable emission limits. But, in return for a new outside deadline of January 1, 1979, which for some polluters is only an 18-month extension, we have proposed two new penalty features.

The most difficult issue which the committee was asked to resolve was the question of nondegradation. As I have indicated, this controversy involves the extent to which national policy requires protection of air quality in clean air areas. This policy was an essential element of the Air Quality Act of 1967.

This year the committee voted to make specific the requirement that clear air areas be protected. We determined that each new major plant should be required to use the best pollution control technology available and that the impact of each new plant's emissions should be evaluated against a national nondegradation standard.

The committee confirmed that new air pollution sources have a special responsibility to preserve air quality values, both to avoid a repetition of the past air pollution mistakes that now plague our urban areas and protect the capacity of our clean air resource to provide margins for future growth.

This decision was a victory for environmental quality. It comes at a time when Congress is being asked to sacrifice environmental initiative for economic recovery even though there is little demonstrable relationship between the two.

The members of the committee heard allegations that the Clean Air Act and other environmental legislation pose unacceptable limits on this country's capacity to grow. The committee examined these allegations and found them false.

Mr. President, I would like the record to show that an economic growth policy which abandons environmental objectives would be a foolish course. The Nation must have clean growth. The studies conducted by the Environmental Protection Agency indicate that adequately controlled facilities of all industrial categories can meet the nondegradation requirements in these amendments.

If the price of clean growth, however, is to restrain the size of particular activities pending the development of new pollution control technologies or new production procedures, then new technologies and processes can and will be developed in order to take advantage of the economies of scale. A great nation's growth cannot be measured only in terms of new production capacity; it will ultimately be measured by how well growth preserves the quality of areas people cherish.

Conversely, if environmental objectives are abandoned simply to accommodate the economies of scale, new pollution control technologies will not be developed, and the result will be environmental chaos. The effect of failure to take account of the environmental implications of future growth is well demonstrated in the table entitled "Added Emissions Over 1975."

I ask unanimous consent to have this table printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. This table shows that, if electric generating capacity increases at a rate of 6 percent per annum and new fossil fuel-fired power plants only meet EPA's new source emission performance standards, there will be an additional 7 million tons of sulfur oxides actually discharged to the atmosphere each year.

Even with a more moderate growth rate of 4.8 percent per annum, there will be an increase in emissions of 5 million tons of sulfur oxides per year between now and 1990, again assuming that only new source performance standards are required. If the States act aggressively to require more strict control, then added emissions of sulfur oxides can be less than 3 million tons per year.

I underscore this point. Even if the most moderate growth rate is projected and even if the States are most aggressive in the application of technological requirements as allowed by the committee bill, there will still be an increase of 2.8 million tons per year of sulfur oxides to the atmosphere nationally.

The second part of this table which relates to nitrogen oxides indicates similar trends, though in that table we have had to factor in the implications of various auto emission control strategies.

I only note that there is but a small increase in the emissions of NO_x when new statutory NO_x standards for automobiles in this bill are compared with the old standards. But, if the President's proposed freeze at 1976 NO_x standards was adopted, there would be 23 million additional tons per year.

However, a combination of 1 gram per mile auto NO_x standard proposed in this bill and an effective stationary source control program would limit the addition of oxides of nitrogen emissions to 9 million tons per year by 1990. Without controls required by this bill and if the administration's 5-year moratorium had been followed, the gross increase would have exceeded 25 million tons per year. Emissions in 1990 would be more than double their present level.

These projections show that, under almost any level of expected growth, the Nation will face increasing emissions of sulfur oxides, nitrogen oxides, and other pollutants. Thus, it is essential to select a strategy that reduces the increase as much as possible. If we have learned anything from our environmental effort to date, I would hope at least that we have learned that we have to achieve a net reduction in gross national emissions to the atmosphere as soon as possible.

Application of the best available control technology is a strategy that can do this. As incorporated in this bill, prevention of significant deterioration and application of best available control technology combine to provide a strategy which will leave room for future growth and thus to facilitate growth, not a strategy to limit growth.

The environmental effects of air pollution will be discussed in more detail later; however, the facts on the record clearly suggest that subtle and irrevocable changes are being made in man's basic life support system as the result of uncontrolled dispersion of pollutants into the environment. Almost without exception, research into the effects of dispersal of these pollutants has given us more, rather than less, evidence of adverse effects. To ignore these problems because they are not fully understood is to court catastrophe.

The National Academy of Sciences report of March 1975 concluded that controls to avoid such broad adverse effects are justified. It only takes one disaster of the scope of the current "Kepone" crisis to demonstrate that environmental damage once done may be irreversible.

Clearly, the burden of environmental protection should rest with those who use environmental resources. The cost of control ought to be borne by those who produce the problem. The polluter should bear the responsibility to show that use of the environment for dispersal of wastes is free from risk.

The structure of these amendments supports these objectives. Let me discuss some specific issues regarding the committee bill.

II. NONDEGRADATION

A nondegradation policy was articulated first in Federal water pollution law. That was in 1965. The concept was incorporated in the 1967 Air Quality Act, which stated that a basic purpose of the act was to "protect and enhance the quality of the Nation's air resources." Guidelines to prevent degradation of clean air were issued in 1969. The statutory basis for those guidelines was not altered by the 1970 Clean Air Amendments.

In 1971, EPA proposed new guidelines to prevent significant deterioration for air quality implementation plans, but this requirement was deleted before final guidelines were promulgated. A court challenge followed.

On June 2, 1972, the U.S. District Court for the District of Columbia upheld the interpretation given by the 1969 guidelines that the Clean Air Act required protection of clean air in addition to enhancement of air quality in dirty air regions. That action was upheld by the circuit court of appeals and affirmed by the Supreme Court on June 11, 1973.

EPA promulgated regulations to prevent significant deterioration in December 1974. These were promptly challenged in court by industry and environmental groups.

During hearings in 1973, 1974, and 1975, the committee was urged to clarify and resolve this issue through legislation rather than leaving the matter to the courts.

In July 1973, National Coal Association President Carl Bagge testified:

> This is far too significant an issue to be determined, as it has been thus far, on narrow legal grounds by the judiciary. Its economic and social implications are so broad that it cannot and should not be determined by an independent regulatory agency in a rulemaking proceeding as has been proposed. This is an issue which can only be resolved if we seek to achieve a common commitment which is responsive to our national goals, by the Congress of the United States. For this is truly a political issue of such importance that it must be resolved in the political crucible. Only then can it be examined and deliberated on by the entire range of national interests as represented in our legislative process. The fundamental issues raised by today's inquiry demand no less.

On behalf of the American Petroleum Institute, Howard Hardesty testified:

> It is the Institute's conviction that unless this issue is quickly and intelligently resolved, efforts to strengthen our economy and develop a stronger domestic energy base will be stymied.

This bill attempts to respond to the appeals of these and other witnesses. The committee unanimously agreed as to the importance of preventing significant deterioration of air quality in clean air areas. The committee also unanimously agreed that the prevention of deterioration of clean air areas should be resolved by the Congress and not by the courts. Having reached these conclusions, the committee worked for many months to develop a consensus regarding the most useful method for prevention of deterioration.

The provisions in the bill:

First, place primary responsibility and authority with the States, backed by the Federal Government;

Second, apply only to new major emitting facilities, not affecting existing facilities;

Third, require that large new sources use the best available technology to minimize emissions, determined by each State on a case-by-case basis;

Fourth, provide a margin of safety to protect national ambient air quality standards, assuring prudent consideration of any major emitting facility that may threaten that air quality;

Fifth, require the Federal Government, as a property owner, to protect the values related to air quality on certain Federal lands under the stewardship of various Federal agencies;

Sixth, eliminate the so-called buffer zones that were hypothesized around various land classifications;

Seventh, affect only those areas where air quality is cleaner than the present primary or secondary standards;

Eighth, establish a permit process, managed by the State, which is included in an analysis of the air quality impact of new major emitting facilities;

Ninth, require that the permit application should include data on background air quality and potential associated growth in order to better understand the overall air quailty implications of the new facility; and

Tenth, establish that there should be a nationally applicable maximum level of change in the air quality of clean air regions—the so-called class II increments—which would be a measure in the change in air quality permitted in any given area as a result of the operation of one or more new major emitting facilities.

The committee bill requires each State to identify the air quality of existing air quality control regions or portions thereof for each pollutant. The States must submit this information to the Administrator within 4 months.

The regional designation of ambient levels of each regulated pollutant is preliminary to all State regulatory programs. It is therefore essential that the identification process proceed in the timely fashion required by the Senate bill.

If the air quality levels of a region or portion of it exceed the primary standard for a mobile source related pollutant, that is, carbon monoxide, nitrogen dioxide or photochemical oxidant, it is subject to the requirements for nonattainment areas, which may include transportation control planning under existing section 110, as amended by section 5 of the committee bill.

Similarly, a State in which a region or portion of it has attained the primary or secondary standard for either sulfur oxides or particulates will be subject to applicable nonattainment strategies.

An area in which air quality levels for sulfur oxides or particulates are better than the ambient standards would be subject to the nondegradation process of the bill—section 6. The State would be required to adopt and enforce as part of its implementation plan provisions to prevent significant deterioration of air quality.

For the most part, there is sufficient information available to determine which air quality control requirements apply to which portions of each State. In the absence of information to the contrary, a region would be assumed clean and thus subject to the significant deterioration provisions.

The bill's procedures to prevent significant deterioration apply only to new major emitting facilities and do not affect existing facilities or new facilities which are not specified as major by this bill or subsequent EPA regulations.

Major emitting facilities are only those 29 industrial sources identified by category in the statute—or later identified by EPA—and which have the potential to emit more than 100 tons of a pollutant per year. These do not include houses, dairies, farms, highways, hospitals, schools, grocery stores, and other such sources.

Just as sources in class II areas must be reviewed to assure that emissions do not cause or contribute to significant deterioration in class I areas, sources in other areas must be reviewed to assure that they do not cause or contribute to significant deterioration in nondegradation areas.

The Federal role is sharply restricted in implementing this policy. The Environmental Protection Agency has responsibility to: First, approve the new source review process established by the State; second, seek injunctive relief or other judicial relief as necessary to prevent the issuance of a permit for a new source if it does not comply with the specific statutory requirements related to significant deterioration; third, resolve interstate disputes; and fourth, notify appropriate Federal land managers when an adverse impact may occur in a class I area. Once the State adopts a permit process in compliance with this provision, the Environmental Protection Agency role is to seek injunctive or other judicial relief to assure compliance with the law.

Much confusion has been generated about so-called "buffer zones" that encircle class I regions. This bill eliminates the inflexibility of current EPA regulations by establishing the class I increments solely as a means of determining where the burden of proof should lie as to adverse impact on air quality values. Like the class II numbers, the class I increments are an index of the change in air quality. They do not, in any way, establish a final basis for approval or disapproval of a permit application. Thus, any maps which describe buffer zones as a result of the Senate bill distort the impact of these amendments.

Decisions regarding each new facility will be made by a State depending on the information presented in each permit application. Whether or not there is a Federal interest related to class I areas will be established on a case-by-case basis. The decisions which the Federal land manager and the States make as a result of the analysis of impact on class I areas and the extent to which any parties appeal the results of the class I increment test and the decisions reached during such an appeal are flexible. I repeat: There are no arbitrary buffer zones.

If the Federal land manager certifies that the air quality values of the class I areas in question will not be adversely affected by sulfur dioxide or particulate emissions from a new major emitting facility, the source can be given approval to build even if the Class I increments would be exceeded. Conversely, if the Federal land manager convinces the State that the air quality-related values would be adversely affected, the States must deny approval even if the class I increments would not be exceeded.

This approach is flexible. It provides a basis for determining the air quality values of Federal lands which are to be protected. And it requires a balancing judgment to be made on a case-by-case basis.

The committee did not extend the use of nondegradation increments to pollutants other than sulfur oxides or particulates. The lack of adequate information on the implications of covering other criteria pollutants precluded such a requirement. The committee did, however, agree that the best available control technology requirements should be applicable to all pollutants emitted from any new major emitting facility so that the maximum degree of emission reduction would be achieved in order to minimize potential deterioration. And the committee did authorize a study by EPA of increments applicable to other pollutants in order to establish a basis for future congressional action.

Again, I refer my colleagues to the tables, with particular reference to the table entitled "Added Emissions Over 1975." These statistics show various air pollution trends under differing growth and control technology assumptions. (See exhibit 1.)

One purpose of the committee provision to prevent significant deterioration is to try to reverse the current trend in air pollution. The lower segment of this chart which shows oxides of nitrogen trends is particularly interesting.

Under the nondegradation provision, each new facility in a nondegradation area is required to comply with the best available control technology for all pollutants emitted. This is critical if the growth trend for oxides of nitrogen is to be slowed. Current new source performance standards for power plant NO_x emissions are inadequate. For many other industries, standards do not even exist. As the chart shows, virtually any set of assumptions which relies on current new source standards for NO_x results in a significant increase in total national emissions.

Conversely, in combination with aggressive auto controls, the application of best available control technology for oxides of nitrogens can begin to restrain the upward trend in emissions.

These charts indicate the importance of an effective nondegradation provision. Although total emissions of sulfur oxides have declined about 15 percent between 1970 and 1974 as reported by the Council on Environmental Quality, analysis of future trends shows that this decline will soon be reversed.

This chart shows that emissions will climb again as the number of new stationary sources grows. Although it will be difficult to make progress, we can and must at least minimize the increase. If the States insist on the best available control technology instead of being satisfied with the inadequate new source performance standards for sulfur oxides, there can be 3.2 million fewer tons of sulfur oxides in 1990, even in the high growth scenario.

There were numerous other issues associated with nondegradation which are important to an understanding of this legislation.

ENVIRONMENTAL IMPLICATIONS

The nondegradation provision provides needed environmental protection which the existing ambient air quality standards do not provide. If the national secondary ambient air quality standards were revised to protect against these damages, achievement of the secondary standards in dirty air areas would be extremely difficult.

Secondary standards were envisioned as a goal for clean-up of dirty air areas. They were intended to identify the degree to which pollution needed to be reduced to stop damage to crops, household plants, buildings, and general esthetic deterioration.

Secondary standards as promulgated did not address ecological and esthetic values. EPA apparently assumed that if secondary standards had been established to protect these values, their achievement in dirty air areas would have been virtually impossible in any reasonable time frame.

The nondegradation provision is intended to provide protection against harmful environmenal effects not anticipated by secondary standards and to assure that a single, new major emitting facility will not consume the entire regional air resource thus barring any future growth.

For example, if the secondary standards were the only restraint on new sources in clean air regions, visibility which is now 100 miles or more in some areas could deteriorate to 12 miles. If humidity is high, visibility would be reduced even further. While visibility may not be important in dirty air areas, it has high public value in many clean air regions and should have been protected by secondary standards.

Another example of the inadequacy of secondary standards is the increasing number of studies indicating that pollutants are transported for much greater distances than previously thought. This means that emissions from sources in rural areas contribute to urban pollution problems and vice versa. In its report to the Senate Public Works Committee of March 1975, the National Academy of Sciences expressed concern that emissions as far away as 300 miles could contribute to unhealthy air in major cities.

Sulfur oxides and nitrogen oxides increasingly are returning to the ground in the form of acid rain which damages valuable water and soil resources. A conference was held in the summer of 1975 in Columbus, Ohio, where many scientists expressed concern over this impact. Norway has experienced a substantial decline in its fishery resources which has been attributed to acid rain. A 20-year study in Scandinavia indicates that acid rain has killed fish and caused an ecological change. Forest growth and yield have declined. Fish populations have been adversely affected by acid rain in 75 percent of the high elevation lakes of the Adirondack Mountains.

Pollution at less than the concentrations accepted by the national secondary standards has been proved to damage vegetation. Acute injury to spruce trees has been reported when average concentrations of sulfur dioxide were only two-thirds the level allowed by the ambient secondary standards. Studies indicate that other crops are also damaged at concentrations less than the secondary standards, including wheat, potatoes, spinach, apples, and white pine.

Exposure to low-level concentrations of pollutants has health effects. Studies done in Japan since the establishment of the primary standards in the United States indicate that air pollution concentrations lower than the national standards cause increases in reported illnesses. The National Cancer Institute estimates that 60 to 90 percent of cancer is environmentally caused. The ambient standards as presently established do not include consideration of these facts.

The nondegradation amendment is intended to help reduce overall emissions and thus provide protection against these kinds of adverse impacts.

TECHNOLOGICAL IMPLICATIONS

One of the cornerstones of a policy to keep clean air areas clean is to require that new sources use the best technology available to clean up pollution. It is important to assure that new, improved technology is applied as it is developed. And it is important to provide incentives to improve pollution control systems.

To encourage this result, the bill requires the use of pollution control systems which achieve the maximum degree of continuous emission reduction, determined by the States on a case-by-case basis. The States are authorized to take into account energy, environmental, and economic impacts and other costs in reaching their determination. Such an approach should provide greater emission reductions and allow more rapid application of improved technology than would otherwise occur through uniform application of the new source performance standards periodically promulgated—and seldom changed—by the Environmental Protection Agency.

The record to date under the new source performance standards approach has been disappointing. The most glaring example occurs in the control of coal-fired powerplants—the largest and fastest growing stationary source of sulfur oxides and particulates. The inadequacy of these standards is exemplified by the fact that pollution control for particulates achieved at the Four Corners powerplant in New Mexico is already 14 times cleaner than required by the new source performance standards promulgated by EPA. In addition, the new San Juan plant in New Mexico, scheduled to begin operation in 1977, is expected to achieve cleanup of particulates which is 30 times better than required under EPA's new source performance standards. These facts were presented in our hearings last April. For sulfur oxides, the San Juan plant is expected to be almost 10 times cleaner than required by EPA's new source performance standards.

Because of the gap that exists between actual "best available technology" and what has been required under new source performance standards, individual States have established emission limits which exceed the new source performance standards of sulfur dioxide which are more restrictive by an order of magnitude.

At present there are only 18 source categories for which new source performance standards have been promulgated—less than half of the biggest sources that should be covered. Though some of these were promulgated as long ago as 1971, none have been revised to take into account improved technology which has been developed, and only one is under active consideration for such a revision.

Much of the advancement of pollution control technology has occurred at new plants located in clean air regions. This has been due to the efforts of States interested in preserving clean air. The Federal standards, on the other hand, were based upon burning poor quality coal with stack gas cleaning. While this may be necessary in areas where dirty coal will be used, it is certainly not an adequate basis for national policy. In addition, although cleaner coal is burned in many areas, the impacts of resulting emissions are still substantial.

A typical new 1,000 megawatt coal-fired powerplant using clean coal and no control technology for sulfur oxides emits 144 tons per day when operating at full load. When controlled with technology currently being used today, these emissions can be reduced to 14 tons per day.

In some cases the new source standards mean that requiring the "best technology" will result in no improvement in emission control at all—a disappointing result from a requiremeent which was designed to maximize the protection of air resources and minimize the need to retrofit facilities in the future.

One objection which has been raised to requiring the use of the best available pollution control technology is that a technology demonstrated to be applicable in one area of the country is not applicable at a new facility in another area because of differences in feedstock material, plant configuration, or other reasons. For this and other reasons, the committee voted to permit emission limits based on best available technology on a case-by-case judgment at the State level. This flexibility should allow such differences to be accommodated and still maximize the use of improved technology.

Reliability of new pollution control technologies has also been challenged, particularly against sulfur oxides emission control systems.

At an EPA symposium on scrubber development in March of 1976, it was reported that 109 flue-gas desulfurization systems with a rating of 42,000 megawatts are either operational, under construction, or planned in the United States. The efficiency of these systems in removing sulfur dioxide was reportedly to be in the range of 80 to 90 percent. Although the older systems did have problems, developments have reached the stage where these systems are clearly a viable means of pollution control. And evidence available to the Environmental Protection Agency and the committee indicates that sulfur oxide control systems are, in fact, more reliable than electric generating equipment.

ECONOMIC IMPLICATIONS

The economic objections raised against the nondegradation provisions are not new. They are restatements of old arguments used by industry against other attempts to improve the lives of Americans.

When we fought for improved wages for workers, industry said that they could not afford it.

Now when we are fighting for an improved environment, industry says that it cannot afford it.

The table on projected capital investment for selected major industries through 1985 shows that the added capital investment required for pollution control is modest.

Mr. President, I ask unanimous consent to have that table printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MUSKIE. And if expenditure of an additional 2.3 to 2.6 percent—the maximum estimated by an FEA-EPA study of the various significant deterioration policies being considered by the Congress—is required, it is not an unreasonable price to assure that air quality in clean air areas remains clean. Not only would such an investment protect the public against the long-term ecological impacts of increasing levels of overall pollution, but also such a policy would reduce public exposure to low levels of pollutants which may lead to chronic health effects.

The FEA study found that total operating costs for powerplants, including air pollution controls through 1990, would be $1.335 trillion. The Senate nondegradation provision could add a maximum $16.5 billion or 1.1 percent to operating costs if the States insisted on the use of the best and most expensive pollution control systems. The minimum increase would be zero, using new source performance standards, if States could justify such modest efforts. The actual cost would obviously be somewhere in between.

The impact on the consumer, in both directs costs and indirect costs attributable to the increased prices of goods manufactured through the use of electricity, would be modest. Again, if the States require the most stringent levels of control and expensive techniques, the maximum consumer cost would be $2.33 or 2.3 percent additional costs per month during the year showing the greatest cost.

The direct impact on consumers in electric bills would, under the most rigorous scenario, be $1.17 per month additional cost in the year 1990. This is approximately a 1.1-percent increase.

Some opposition to meeting stringent environmental goals is based on a desire to balance these goals against the cost of installing pollution control equipment. This is a distorted view of economics. It places the cost of pollution on those who receive the damage: the asthmatic who has more attacks, the child who has bronchitis or a more serious respiratory disease, and the farmer whose crops yield less. These people are now bearing the costs of air pollution.

According to the National Academy of Sciences, a single large source such as a powerplant may cause $20 million to $50 million in pollution-related costs per year.

Another important economic question relating to nondegradation policy is the impact on national coal development—and the goal of energy independence.

There is a great deal of justifiable concern about potential decline in the use of eastern and midwestern high sulfur coal. The EPA/FEA analysis indicates that the nondegradation requirements would have a beneficial effect for the marketing of eastern and midwestern coal.

The report concludes that many plants, especially those in the Midwest which formerly were planning to import oil or rely on western low sulfur coal in order to meet the requirements of the Clean Air Act, will find it more economical to blend local medium sulfur coal with high sulfur coal and install a scrubber. As a result of the Senate control technology requirements, the demand for western coal—or Mideast oil—would be reduced by 35 million tons or by 5 percent—a demand which would be filled by eastern high sulfur coal and stack gas cleaning equipment or new clean fuels techniques.

Some additional costs may result from the disposal of captured pollutants. These captured byproducts—sludge—which would otherwise be dispersed in the air, can be treated to reduce volume substantially. And there are regenerable sulfur oxide control processes which yield no sludge, other than would normally result from reduced dispersal of pollutants to the atmosphere. In any case, the amoust of sludge—captured pollutants—need be little more than the amount of ash which has been disposed of by powerplants for many years.

Some low-sulfur coals presently being burned actually result in three times the amount of ash produced compared to eastern high sulfur-high Btu coal. Treated sludge, on the other hand, can reduce the volume of ash and sludge combined by approximately 50 percent and can be used as landfill and building materials.

ENERGY IMPLICATIONS

In many cases, the use of the best available new processes will yield significant pollution reduction and also conserve energy. The adoption of hydrometalurgical processes to replace smelting techniques in the copper industry is yielding pollution reduction approaching 100 percent. New papermill processes for burning pulping liquors will provide half the steam to run the mill. A new paper mill evaporator recently developed eliminates odors and saves 200,000 barrels of oil per year.

Coating processes using volatile solvents that contribute to smog are being replaced by water-based, ultraviolet, or dry processes which are solvent-free.

The use of best available control technology as add-on devices may increase energy consumption. But these increases are expected to be modest. Flue gas desulfurization systems for powerplants use approximately 3 percent of the capacity of the plant. For example, according to available data, the energy demand of a scrubber system for an 800-megawatt powerplant is roughly equivalent to the energy demand to mine the coal for that plant. And the energy used is not foreign energy—it is domestic coal.

An EPA study of costs of nondegradation policies indicates that the maximum energy penalty associated with the operation of pollution control equipment at new powerplants would be modest: only 0.8 percent in 1990.

If all new powerplants between now and 1990 were equipped with stack gas cleaning devices, the energy needed to operate these cleaning devices could be generated without the addition of any new capacity if existing plants were to increase their actual generation by 1 percent capacity over their present performance.

The present performance of coal-fired powerplants is approximately 65 percent of capacity; for nuclear plants the performance is 59 percent capacity. Clearly, priority should be given to increasing the reliability of existing powerplants so that energy is available for public consumption and for the operation of pollution control equipment.

FEDERAL-STATE RELATIONSHIP

The States are assigned the lead role in implementing nondegradation policy. As I pointed out earlier, EPA is given a carefully defined role.

As important to the national controversy on significant deterioration is the role of the Federal Land Manager. These Federal officials are given a positive responsibility to assure protection of air quality values associated with the national parks and wildernesses and other Federal lands which may become designated as class I areas. The Federal Land Manager will play an important role relative to emissions which have potential impact on these valuable areas.

Many national parks and wilderness areas have been set aside because of their extensive vistas, expansive scenic views, unique natural formations or primitive value. If pollution would impair such values, or if the existence of the plume or the discoloration which would be caused by a major emitting facility would detract from the values of a park or wilderness area, then the Federal Land Manager must act to try to prevent this damage.

The Federal Land Manager has a mandate to protect the air quality values of these areas. This bill requires the Federal Land Manager to be diligent in carrying out this new responsibility.

In most cases, the added pollution allowed by this act will still leave a cushion in clean air areas before the national health and welfare standards are exceeded. The States are expected to avoid using up this safety margin with pollution from nonmajor emitters.

This is an important admonition. If efforts are not made to control these sources before they begin to threaten health and welfare standards, there is great likelihood that those standards will, in fact, be exceeded. The patterns that create such pollution—such as sprawl requiring excessive transportation—will already be established. Reversal will be difficult if not impossible. Even if reversal is possible, unnecessary and undesirable deterioration of air quality would have occurred.

It would be of little value to have carefully reserved the option of States to make balancing judgments in relation to the degree of emission reduction beyond that required by the increments if, in the absence of careful consideration of nonmajor emitters, the growth capacity were frittered away.

III.—ENFORCEMENT AND PENALTIES

ENFORCEMENT

The 1970 Clean Air Act established a deadline for achieving public health-related air quality standards. States were authorized to establish a "reasonable time" for achievement of secondary standards. The statutory deadline for primary standards was mid-1975 with 2 additional years available in areas with particularly difficult air pollution control problems. As the committee considered the current legislation, it became evident that for a variety of reasons, some sources would not meet the compliance schedules established pursuant to that act.

A substantial number of major emitting facilities remain out of compliance with emission limitations. Some States have not even adopted full State implementation plans. While substantial progress has been made in bringing many sources into final compliance, an improved mechanism must be established to handle sources presently not in compliance.

The committee recognizes that some of the facilities are in compliance and that other facilities are on compliance schedules. These sources deserve praise. They have made or committed investments. They have cleaned up their emissions or are in the process of cleaning up their emissions.

Such sources are faced with a competitive disadvantage associated with increased costs for pollution controls—costs not incurred by sources either not on a schedule or not in compliance with a schedule. Those sources which have chosen to delay, avoid or litigate have, in fact, achieved economic advantage. Thus, the competitive health, as well as the public health, has been placed in danger. The committee bill attempts to correct this imbalance.

The nature of the problem is underscored by a review of the status of compliance with eight major categories of stationary sources. As the table entitled "Stationary Source Compliance," indicates, between one-third and two-thirds of stationary sources are in compliance or on compliance schedules and meeting those schedules.

Mr. President, I ask unanimous consent to have that table printed in the RECORD.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 3.)

Mr. **MUSKIE.** However, this table shows that a large fraction of power plants and industrial boilers—approximately 40 percent—are either not on schedule or not in compliance with the applicable schedule. Only 41 percent of Federal facilities are in compliance or are on schedule. Only 32 percent of the smelters and 35 percent of the steel mills are in compliance. These sources not in compliance in many cases represent the largest industries and the largest emitters within those industries.

DELAYED COMPLIANCE PENALTIES

The committee bill provides for delayed compliance orders and delayed compliance penalties as a new strategy to enforce applicable emission limitations and to address the problem of those existing sources which are out of compliance. This provision allows a State or EPA to issue enforcement orders to sources not in compliance with applicable emission limitations. Such orders will require compliance as expeditiously as practicable but in no event later than January 1, 1979.

Sources which are presently on schedules extending beyond that date are operating under unauthorized extensions and are to have their schedules revised to meet that date. In order to enforce this provision, an automatic delayed compliance penalty is provided for sources which are not in compliance by January 1, 1979. The level of this penalty is intended to assure that no economic benefit will accrue to a facility that does not comply.

The penalty will require monthly payments equal to the cost of compliance computed over a 10-year amortization period.

On the chart there is a category described as unknown. Included in this unknown category are plants where the emission standards are in litigation or where the compliance status otherwise cannot be precisely determined. It can be assumed in general that most of the plants in the unknown category require controls in order to meet the requirements of the Clean Air Act.

CIVIL PENALTIES

The committee bill also authorizes the Administrator to seek civil penalties for violation of emisson limitations or schedules and timetables of compliance. This authority is independent of the deadline extension and the delayed compliance penalty. If a State has not issued a delayed compliance order with a new time schedule, the Administrator is required to seek an injunction against the noncomplying source and is authorized to seek civil penalties for noncompliance. In addition, the Administrator is authorized to seek additional penalties against sources which are subject to the delayed compliance penalty.

The principal purpose of the Clean Air Act is to protect the public health. The mere payment of an economic penalty required by the delayed compliance penalty provision should not be insulation against achieving requirements related to protection of public health. The purpose of the delayed compliance penalty is to create an adequate economic disincentive to achieve compliance at the earliest possible date. It is not intended to provide an opportunity for continued noncompliance. As an enforcement mechanism, the delayed compliance penalty should remove some of the burden on the Administrator to commit enforcement resources; but it should not reduce the responsibility for the Administrator to seek injunctive relief and penalties against noncomplying sources.

Finally, the delayed compliance penalty will give the courts an option which has not heretofore been available. When the courts determine the public health and welfare costs of plant closure are greater than the public health benefits to be achieved from strict adherence to compliance with emission limitations by the deadlines in the statute, the court may rely on a combination of delayed compliance penalty and civil penalties to equalize economic differences while maintaining momentum for compliance with the law.

IV. EXPANSION IN NATIONAL AMBIENT AIR QUALITY STANDARD AREAS

Under present law, facilities that want to expand at their present location face a very stringent review test if they are located in areas where ambient standards are presently exceeded. In many cases, this means that under the law, expansion at that site is precluded until the ambient standard is attained.

The reported bill provides some new flexibility in this area, but it is carefully contained and strictly limited. The new amendment would allow expansion at an existing site if a new facility uses the best available control technology, if existing sources meet all applicable emission limitations, and if total cumulative emissions will be sufficiently less to represent reasonable progress toward attainment of the standards. Sources resisting compliance will now have an incentive to end that resistance, since the desire to expand at existing facilities is based upon the economics of industrial expansion.

It is, therefore, important to assure that all applicable emission limitations are met. The statutory language is quite clear. The amendment requires that all of the State requirements be met. These include limitations on visible emissions and opacity levels as well as all other types of emission limitations contained in the State requirements.

The bill language makes no distinction between emission limitations which relate to the primary standard and other emission limitations. Such a distinction is not authorized.

State implementation plans usually contain a unified set of requirements and frequently do not make distinctions between the controls needed to achieve one kind of ambient standard or another. To try to separate such emission limitations and make judgments as to which are necessary to achieving national ambient air quality standards assumes a greater technical capability in relating emissions to ambient air quality than actually exists.

A Federal effort to inject a judgment of this kind would be an unreasonable intrusion into protected State authority. EPA's role is to determine whether or not a State's limitations are adequate and that State implementation plans are consistent with the statute. Even if a State adopts limits which may be stricter than EPA would require, EPA cannot second guess the State judgment and must enforce the approved State emission limit.

In fact, in many areas where this provision will be used, such as steel facilities, it is highly possible that even when all applicable emission limitations contained in the State implementation plan have been met, the ambient standard may still be exceeded. This is particularly true where both opacity limitations and limitations on visible emissions are used as a means of enforcing emissions reductions to attain ambient standards. Any attempt to make a distinction between emission limitations on this basis would, in all likelihood, have the effect of undermining pollution control efforts at such facilities. That is one reason the statutory language makes no such distinction.

A key aspect of the amendment allowing such expansion is the requirement that reasonable further progress toward attainment of the standard must result from the new scheme. The committee report says that:

> Where . . . there is nothing further which can be done to move toward the ambient air quality standards, the State may take into account progress already made in determining reasonable further progress.

The test of "nothing further" is to be interpreted strictly. This means that further control of existing facilities, development of further production process controls, and new innovative control techniques must be applied on all sources, including all "fugitive" emissions, before the condition of "nothing further" is met. It is also the intent that "reasonable further progress" means pollution control will reduce emissions at a rate that will lead to attainment of the ambient standards in the near future.

V.—TRANSPORTATION AND LAND USE CONTROLS

Transportation and land use controls were authorized as air pollution control mechanisms by the 1970 act. The Congress recognized that air pollution problems of many urban centers were the cumulative result of development patterns encouraged and sustained by the private use of automobiles.

We knew in 1970 that air pollution problems were extensive in many areas and would require the use of these controls in ways that could require substantial changes. The Senate report in 1970 said this:

> Land use policies must be developed to prevent location of facilities which are not compatible with implementation of national standards.
>
> Transportation policies must be developed or improved to assure that the impact of pollution from existing moving sources is reduced to the minimum compatible with the needs of each region. Construction of urban highways and freeways may be required to take second place to rapid and mass transit and other public transportation systems. Central city use of motor vehicles may have to be restricted.

When carried out properly, such controls are a positive tool. The requirements of the 1970 act could have been the stimulus for beneficial uses of land and transportation in environmentally compatible ways.

This opportunity was not seized. The Administrator initially allowed States to put aside development of transportation control plans. That action was overruled by the U.S. Court of Appeals for the District of Columbia on January 31, 1973. States adversely affected by mobile source-related pollutants were required to develop and submit transportation control plans which provided for the achievement of primary ambient air quality standards no later than 1977, the final date in the statute. This belated effort to require transportation controls and land use regulations to prevent further deterioration in air quality resulted in many EPA promulgations in the absence of adequate State action. This caused a furor.

In addition, the limited time available for submission of plans, the controversial nature of many of the measures contained in the plans, and the magnitude of the pollution problem in many metropolitan areas made this task extremely difficult.

In order to adjust the transportation control requirements to the difficulties of implementing such policies, the committee has adopted an amendment which provides more flexibility, more local involvement, more time, and more State discretion in fashioning these strategies. The bill requires the adoption as rapidly as practicable of all reasonable transportation control measures in areas where such measures are necessary.

Under the 1976 amendments, the States will establish and the Administrator will approve designation of areas which fall under four different classifications. The first classification will be areas where transportation control plans will be required. The second and third categories are covered by section 110(e) of existing law and the last category will be nondegradation areas.

If an area is implementing transportation control measures and all requirements for stationary sources that emit mobile source-related pollutants, but still cannot meet the deadline, it may receive a 5-year extension to achieve primary standards for the applicable mobile source-related pollutant. A second 5-year extension is available for the few most difficult problem areas. This means that deadlines could extend to May 31, 1987.

States are required to involve local communities in the selection of strategies contained in transportation control plans.

The key tests are that all reasonable requirements are contained in the plan and are implemented as expeditiously as practicable. If the State plan does not meet these tests, the Administrator shall promulgate an implementation plan for the area after consultation with State and local elected officials.

A new provision would allow the States to apply to the courts for a stay of any provision of such an EPA promulgated plan, pending review of that plan in the courts. Grants of 100-percent funding are available to local planning organization to help implement this provision.

In order to assure that this new flexibility and additional time are used effectively, the Administrator of EPA is required to withhold EPA funds for projects after June 1, 1977, in States where an extension of the transportation control plan is required but has not been requested.

In the event that a State, or region, does not implement the requirements of an approved plan, the Administrator is required to decrease by 15 percent annually the EPA funds for any project in the region in question. Other Federal agencies must assure that the funds provided for federally approved projects are expended so as to conform with approved transportation control plan requirements.

Adjusting the Clean Air Act to provide a more acceptable plan of implementing transportation controls was frustrating. The committee recognized that relaxation of deadlines would cause millions of people to be exposed to unhealthy levels of air pollution. Yet, to continue with the present deadlines could create equally unacceptable adverse public health and welfare implications.

The committee action is a compromise assuring that reasonableness will guide transportation control strategies. Further relaxation would not provide adequate public health protection at any early enough date. Any further compromise of transportation control requirements would allow unhealthy levels of pollution in cities for far too long.

The selection of measures to be used is to be made initially by State and local governments. The bill does not specify the "reasonable measures" to be adopted. However, the Administrator cannot reject any measure selected at the State or local level because he considers it to be unreasonable. If it is adopted by the State or regional agency, then it is reasonable.

Conversely, the Administrator may determine that all reasonable measures have not been adopted. In this case the Administrator is required to promulgate additional reasonable measures. The court will ultimately rule on any disagreement between the affected State or local agency and the Administrator as to the reasonableness of an EPA proposal.

The definition of what is a reasonable measure will relate to the adverse social and economic impact that would occur through its use.

While it is not possible to completely define this concept, it is possible to provide some boundaries. The adverse impact must be widespread and general. It must also be of sufficient duration to cause substantial difficulties. Some dislocation and disruption frequently occurs during the beginning stages of any control program or any change in transportation patterns. This interim impact is not justification for ruling that a measure is unreasonable. The adverse impact must be of a continuing nature. The difficulties that initially occur during the transition period during implementation of strategies are not sufficient to meet this test.

The committee bill injects additional flexibility into the initial planning process by requiring local involvement in the development of transportation control plans at the outset, with a more limited EPA role throughout. We have shifted much of the burden to the States and localities in an effort to overcome past failures.

Many of the transportation control plans now in existence for communities have been tested in the courts. It is not the intent of these new amendments to interfere with or void any requirements which have been upheld by the courts.

The Administrator will be receiving applications for extensions which will call for his action prior to the publication of the information documents required by these new amendments. In such cases, the Administrator is not required to wait for the publication of the information documents. Information has been gathered over the last 4 years on transportation control measures. That information will serve as the basis for the Administrator's decision until it is replaced by the new information documents.

The plans submitted by States must be reviewed by the Administrator under section 110(a) of existing law. This means that the Administrator must review and approve or disapprove transportation control plans within 4 months after submittal. In addition, the June 1978 date for submission of new plans is an outside date. The Administrator may seek earlier submission where it is appropriate. This authority is to be exercised only where processes are already underway which would make an earlier submission more appropriate.

For example, the January 1976, letter received by the committee from the Environmental Protection Agency during consideration of these admendments indicated that transportation control plans were under development in nine cities where such plans were not previously required. All of these cities received notice of the need for action in 1973. The data which has been developed to justify the provisions contained in such plans would be obsolete and would have to be gathered again if submission of control plans is not required prior to 1978.

LAND USE

The reported bill revises the basis on which land use controls are to be used to assure that land use decisions be made at the local level. The 1976 amendments place EPA's authority to promulgate land use regulations in a new perspective. Land use questions are to be resolved at the State and local level. Federal action is to occur only when the State fails to act or there is a demonstrated inadequacy in the State program to achieve or maintain a health-related level of clean air.

Even this restricted authority does not extend to land use planning in any conventional sense. While EPA may require land use controls for maintenance of primary air quality standards or for prevention of further deterioration from such standards, this authority only applies in the absence of appropriate State action. It does not require Federal planning. At most, the Federal role will be limited to an examination of the air quality impact of a particular site location decision.

The Administrator is required to consider the potential energy, environmental, and economic impact of such controls prior to their imposition. This is new guidance provided in the 1976 amendments. It does not affect the review of new stationary sources under the existing requirements of Section 110 of the present law.

These amendments provide the assurance that improper land use controls will not be authorized under the Clean Air Act. It also assures that proper land use controls can and must be used where necessary to protect public health. Specific decisions regarding construction of a facility must be reviewed to examine the associated effects of that facility. This is not a requirement for land use planning, but a requirement for examining the air quality impact of land use decisions. That is an important distinction.

LONG-RUN BENEFITS

The proper design of communities and transportation systems can yield numerous benefits. In addition to significant air quality improvements, it can mean less money spent traveling because destination points are less scattered and more accessible. It can mean less commuting from home to office and thus less consumption of scarce energy. It can mean increased freedom for residents who have access to adequate public transportation. It can mean reduced costs for supplying sewer connections and other basic services.

A study conducted of the Washington, D.C., metropolitan area stresses that if new growth is directed to the areas where the new mass transit system is being constructed, the air pollution impact of new growth could be drastically reduced. Such action could yield a 50-percent reduction in the increased vehicle miles traveled projected for the Washington, D.C., area. The sober side of that calculation is that, unless such policies are encouraged, pollution in the area will be much worse than at present even with clean cars.

VI. OTHER ISSUES

EMISSION LIMITATIONS

The 1970 clean air amendments included a requirement that State implementation plans impose "emission limitations." This term has been the subject of controversy, litigation, and dispute. These 1976 amendments provide a statutory definition of the phrase "emission limitation" to make clear the intent of the 1970 law—as upheld in numerous judicial decisions—that the basic strategy for implementation of air quality programs must be premised on continuous emissions control. Intermittent controls or dispersion techniques are unacceptable as a substitute for continuous control of pollutants under this act.

This clarification of existing law is grounded on these factors: First, intermittent control strategies are, as a practical matter, unenforceable by air pollution control agencies. Such strategies require elaborate monitoring and forecasting capability. Implementation relies on the polluter's ability to predict weather conditions and willingness to curtail production in response to those predictions. At the same time, few air pollution control agencies have the resources to police these strategies to assure that a polluter does in fact, curtail production on a timely basis. In addition, they can cause unacceptable disruptions in production and employment.

Russell Train recently summarized his Agency's position in this way:

> In the area of ICS, we have determined that such methods are inherently unreliable and difficult to enforce. EPA's view has been supported by the Department of Commerce Technical Advisory Board which has found in its 1975 Report on Sulfur Oxide Control Technology that intermittent control systems create administrative and financial difficulties which could prevent effective enforcement. The report also states that under certain circumstances the costs of such a system would approach that of continuous emission control measures. The National Academy of Sciences has also supported the EPA position.

Without emission limitations there would be no fixed end point when compliance would be achieved. And, even if air quality standards were enforceable, it would have to be on a constant, continuous day-to-day basis. There would be no basis for judging the performance of one source against another in regard to air quality effect in a multisource area because each source would have no specific, legally enforceable requirement to meet.

There would be no credible measure of air pollution control against which the public would judge the performance of the polluter. And, most important, there would be no legal basis against which to take an action if the polluter failed to perform. This is particularly true for citizen enforcement.

Mr. Benjamin Wake, administrator of the Division of Environmental Sciences of the Montana Department of Health and Environmental Sciences, stated to the Subcommittee on Environmental Pollution in April of 1975:

> If it was the intent of the Congress, and I do not believe it was, to make the country uniformly dirty then the attaining of the national ambient air quality standards by use of the intermittent control system will achieve those ends in short order.

Second. Continuous emission reduction measures are available, they are reliable, and they are economically justified. Available measures for continuous emission reduction include use of fuels which are low in sulfur or ash, and techniques such as desulfurization of fuels, coal cleaning and washing, flue-gas cleaning, and more effective combustion engineering.

The choices among such measures or the combination of measures to achieve the level of emission control set by the air pollution control agency rests with the owner of the source. The use of intermittent controls is appropriately reserved for air pollution emergencies.

Third. There is increasing evidence of the long range transport of pollutants that become sulfates, acid rain, and other phenomenon affecting human health, vegetation and soils, but leaving no definable plume that is traceable back to the source.

In a report for the committee, the National Academies of Science and Engineering found that dispersion measures may exacerbate the formation in the atmosphere of acid sulfates and nitrates from the sulfur and nitrogen oxides emitted from fuel-burning sources. These derivative pollutants are thought to be more toxic forms than the oxides of sulfur and nitrogen that are actually emitted at the smokestack and are measured in the vicinity of the source.

It is recognized that the source controls may not be available to achieve the full reduction required of a particular source under particular circumstances. In such cases, supplementary programs can and should be used on a temporary basis until continuous controls are developed. But this flexibility occurs only after imposition of the continuous emission limitation.

EPA will be expected to review existing State implementation plans and require revision in any that depend upon dispersion techniques rather than continuous controls. Where necessary, State implementation plans will have to be modified. This injunction also affects the provisions of State plans which permit tall stacks.

Administrator Train stated on April 9, 1976:

> . . . EPA's position on tall stacks and ICS are founded upon a pre-existing and longstanding opposition to an increase of the total atmospheric burden of sulfur oxides. Prior to EPA's creation, the Federal officials had argued that dispersion methods of air pollution control would not guarantee that air quality goals would be met at the ground level. The former National Air Pollution Control Administration (NAPCA) consistently opposed the use of tall stacks as the primary means of sulfur dioxide control because of their effects on the formation and dispersion of fine particulate acid sulfates, visibility conditions, the health of exposed populations, and the acidity of rainfall. Information collected since 1970 has reaffirmed these NAPCA assessments. Thus, . . . ample evidence exists to support concerns over total atmospheric sulfur loading and the use of tall stacks.

The recently promulgated guidelines setting forth the Agencys' tall stacks policy, however, does not fulfill this policy pledge.

On February 18, 1976, the Assistant Administrator for the Air Pollution Programs published guidelines of the Environmental Protection Agency's position on the use of "tall stacks" and "supplementary control strategies" as control strategies under the Clean Air Act. The guideline was obstensibly published as a response to three U.S. Circuit Court of Appeals opinions. The courts have permitted "tall stacks" and "supplementary control strategies" only on an interim basis and only after the maximum imposition of constant emission reduction measures.

The guidelines are considerably less protective of the environment than the courts' decisions require.

Far from prohibiting the construction of tall stacks or the use of intermittent controls, the guidelines provide that once minimal emission control requirements are met, polluters are encouraged to substitute unlimited stack height for any further control of emissions.

As the courts have held, the act prescribes how air quality standards must be met—neither EPA nor the States may permit a proposed plan to meet the requirements by using tall stacks or other dispersion devices or systems.

A policy of encouraging "tall stacks" will increase the burden of pollution. Long-range transport of pollutants will be exacerbated. There is no support in the Clean Air Act for such a policy. Certainly such a policy would be wholly inconsistent with the policy to prevent significant deterioration.

OZONE

The committee bill contains a new provision to protect stratospheric ozone. This amendment requires further studies by a number of agencies to provide for a better understanding of the effects of human activities, especially those resulting from halocarbon emissions, on the ozone layer and the effect of that layer on human health and welfare. There are also provisions for restriction or prohibition of activities which cause halocarbon emissions if EPA finds that they may be reasonably anticipated to cause or contribute to the endangerment of public health or welfare.

This provision was based upon a draft

bill provided to the Committee on Public Works by Senator DOMENICI. That bill, with the exception of the question of burden of proof, represented a consensus among a number of Members interested in the ozone problem. At the time the committee considered this provision there were many proposals the effect of which would have required an immediate ban on fluorocarbons. The committee determined that the issue should be studied first. Now, on the basis of a little new scientific information, it has been suggested that we need not be concerned with fluorocarbons at all. This course is as unacceptable as a ban without a study. We need to establish the regulatory mechanisms to be available in case the studies confirm our fears. The potential consequences of depletion of the ozone layer are too serious to ignore without providing a framework for action when adequate scientific information is expected to be available. The committee bill does this. As the sponsor of the version that prevailed, Senator DOMENICI will explain its provisions in more detail in his floor statement.

VII: AUTO EMISSIONS

In 1970, the Clean Air Act established statutory standards for automobiles because it was recognized that the automobile presented the single most difficult national pollution problem. Auto emissions continue to be a threat to public health.

Congress recognized in 1965 that, as a national industry, automobiles required national emission regulation. Except for California, which is unique both from a product distribution and an air pollution point of view, the argument in 1967 for preemptive national standards was defensible.

The underlying principle of national emission standards was, and should continue to be, that those national standards would be adequate to achieve health-related air quality standards in the areas with the most difficult problems. Statutory standards established in 1970 reflected that policy. This legislation continues that policy.

STANDARDS IN THE COMMITTEE BILL

The committee has made two modifications of the statutory standards adopted in 1970. First, a new standard for oxides of nitrogen emissions is proposed which increases by 2½ times the level of emissions of that pollutant which will be permitted. Second, except for a minimum number of vehicles, the achievement of that new statutory standard for oxides of nitrogen has been delayed until 1980.

In other respects, this bill represents a modest extension of time for the auto industry to bring emission control technology into conformity with fuel economy and other objectives. The bill continues the basic purpose that health-related air quality standards associated with auto emissions should be achieved uniformly throughout the country.

The committee bill requires compliance with the statutory standards of .41 HC, 3.4 CO, 1.0 NO_x in 1980.

Also, the committee bill requires manufacturers to produce 10 percent of their 1979 fleet at the statutory levels required for all cars in 1980. This phasein is intended to provide a period during which new emission control systems meeting the statutory requirements can be introduced and modified if necessary before 1980. However, the remaining 90 percent of production would continue to meet the 1977 requirements. This will enable manufacturers to maximize their efforts on the statutory standards, and to minimize disruption which would occur were another incremental jump mandated as in the Administrator's proposal.

Equally important, the 10 percent phase-in can be used to evaluate the implications of the technology which, in all probability, will be used in 1980.

The requests for a 5-year freeze in auto emission standards were rejected by the committee after careful analysis.

Such a delay would merely give the automobile industry further time to continue to lobby Congress for further extensions.

Such a delay would remove the kind of pressure that has been absolutely essential in forcing the adoption of improved auto emission pollution control technology.

Such a delay would demoralize many local communities which have made efforts to develop control strategies to reduce auto emission pollution in their area.

Such a delay is not needed for energy or economic reasons.

The committee also rejected the recommendation of EPA Administrator Train in two respects. First, the Administrator proposed an additional incremental step at the current California standards of .9 HC, 9.0 CO, and 2.0 NO_x for model years 1980 and 1981, before reaching the statutory requirements in 1982.

Mr. Train's proposal was predicated on the potential health hazard of sulfate emissions from catalyst-equipped cars. The cornerstone of his proposal was the promulgation of a sulfate emission standard, effective in model year 1979. The ensuing 2 years were to provide time for the perfection of emission control systems to achieve the statutory standards in conjunction with the new sulfate standard.

We are now told that EPA will not promulgate such a sulfate standard for model year 1979. Thus, the rationale for the Administrator's recommendation disappears. Without a limitation on sulfate emissions, there is a strong likelihood that manufacturers would meet the 1980–81 Train numbers of .9, 9, 2.0 as they have in the past—with a catalyst and an air pump. By the Agency's own best estimates, such vehicles emit approximately 4 to 30 times more sulfate than the more advanced catalyst technology—improved oxidation or three-way—which would be under consideration at the more stringent levels of control. According to an EPA chart entitled "Sulfate Emissions From Autos," the following information has been developed:

Technology:	*Approximate emission rate*
Catalyst vehicles with air injection	30 mg/mi
Catalyst vehicles without air injection	8 mg/mi
Three-Way catalyst vehicles	1 mg/mi
Non-catalyst vehicles	1 mg/mi

The Congress expects the Administrator to incorporate a sulfate test procedure into the certification process as soon as possible and to require a report on sulfate emissions by the manufacturers. The Administrator clearly has such general authority under section 301, as well as specific authority under section 202 to protect public health and welfare, under section 208 to require the submission of manufacturers' records and reports, and under section 211 to require testing for sulfate emissions.

TECHNICAL FEASIBILITY

There is no question that the industry has the technological capacity to meet the standards included in the committee bill in the time required.

Russell Train testified during the suspension hearings held over a year ago that "we found that oxidation catalyst technology to meet the hydrocarbon and carbon monoxide statutory standards—in 1977—was available."

The National Academy of Sciences in their June 1975 report stated that—

> Attaining these levels—.41 grams per mile HC and 3.4 grams per mile CO—by 1978 is both feasible and worthwhile.

and

> With respect to nitrogen oxide emission control: It is probably feasible with catalyst technology to achieve the statutory emission standard for NO_x (0.4 grams per mile) in 1978.

Evidence presented over 1 year ago from the National Academy of Sciences and the Environmental Protection Agency indicated that automobiles could meet final emission standards by 1978 on many cars, and on all cars by 1979. If we had required that some 1978 cars meet final standards, we would have assured that the industry would direct their efforts to meeting those standards. The manufacturers and the Congress both know this would have made appeals for delay lack credibility.

In order to be able to have independent information available to Congress which did not rely exclusively on the automobile industry judgment, the 1970 act created a technical capability in the Environmental Protection Agency to give judgments about auto emission standards. The 1970 act also created a National Academy of Sciences Committee on Motor Vehicle Emissions to issue reports on auto standards. Both of these bodies reached judgments in 1974 and 1975 which indicated that the final statutory standards could be achieved in 1978.

More than 15 months have passed since the NAS and EPA reports were issued. A new report, issued April 1976, by the Environmental Protection Agency indicates that due to the lapse of time since the earlier report and because the automobile industry has not exerted a substantial effort in the past year, it will not be possible to meet the final standards established in these 1976 amendments by model year 1978 on all cars. The new report does indicate, however, that the final standards for hydrocarbons and carbon monoxide could be met on cars in model year 1978, a year earlier than would be required by the committee bill.

EPA's certification data for 1976 cars in California shows that the industry already comes very close to meeting the proposed 1980 standards even though they are targeted on the less stringent standard of .9 HC, 9 CO, and 2.0 NO_x required in that State. These include an AMC Gremlin, a Dodge Charger, a Ford Ranchero, and a General Motors Chevette. All of these cars achieved hydrocarbon levels of 0.4 grams per mile or less. Carbon monoxide levels ranged from 3.6 to 4.3 grams per mile and nitrogen oxide levels from 0.8 to 0.1 grams per mile.

It is notable that this list includes vehicles in a wide variety of sizes, manufacturers and engines. Additional cars that already come close to meeting the statutory standards in this bill are listed in the report on page 129.

The argument is made by the industry that these represent only a few cars, which is quite different from meeting standards across a wide range of model lines. However, to show how close their entire production has come without even trying, it can be noted that the median emissions for each manufacturer range from .4 to .6 grams per mile of hydrocarbons, 4.7 to 6.2 grams per mile for carbon monoxide, and 1.2 to 1.7 grams per mile of NO_x. There is little doubt that between now and 1979–80, these figures can be improved the rest of the way. The industry can do it. The only question is will they be required to?

I would remind my colleagues of the risk of any further delay. When too much time is granted the auto industry, they use that time to petition for further delays and weakening of standards. We must avoid this in the future.

It is useful to remember that, with the exception of NO_x, present cars being produced meet standards no better than the industry volunteered to achieve at White House meetings 1 year prior to the enactment of the 1970 Clean Air Act. Other than reducing NO_x and lead emissions, the act has primarily served to hold the industry to its self-defined goals. This was no easy accomplishment, but beyond that, the basic objectives imposed by Congress in 1970 have been delayed subsequently by the Administrator or by Congress.

The committee's decision to provide the industry with more time did not rest principally on technical feasibility, but rather on the question of economic recovery, fuel economy and sulfates.

ECONOMIC CONDITION OF THE AUTOMOBILE INDUSTRY

On this first point, it is fair to say that the auto industry is well on the road to recovery. Dark projections of permanent industry depression were vastly overstated. Suggestions that the domestic auto industry would suffer permanent retrenchment have been replaced by new statistics indicating that an upturn has occurred. These suggest that the industry will once again have a good sales year this year—better than 10 million car sales—and that new sales records will be set by 1980. The upward trend is evident already.

Industry sales as of December 1975 were up 30 percent over those of a year earlier. According to the Journal of Commerce, retail sales are expected to exceed the 1973 record of over 11 million units by 1977 or 1978, and should rise to over 13 million units before the end of this decade. In fact, Elliott M. Estes, president of General Motors, predicts that in 1980, "the auto industry can reasonably look forward to the sale of 16 million new cars and trucks."

The dire statistics presented by industry spokesmen as a basis for relaxing emission requirements have also undergone a metamorphosis. Long-term layoffs of auto workers were down to about 65,000 industrywide in January 1976, compared to 275,000 in February 1975, as reported in the January 26 New York Times. According to the April 19 edition of the New York Times, "industry analysts believe that—barring a strike by the United Automobile Workers next fall—1976 will surely become the third biggest sales year in automobile history." That same story went on to quote GM's chief economist as stating "We could even begin to approach the second best year."

I submit that these facts and projections are evidence that the cleanup of dirty cars to protect our citizens' health need not be foregone in the interest of jobs and the economy.

FUEL ECONOMY

Since the energy crisis there has been a great deal of discussion of the need for fuel economy in automobiles and the relation between fuel economy and emission standards. Last year, the Congress passed a bill mandating a 43-percent improvement in fuel economy by 1980, with further gains to be achieved thereafter. Meanwhile, in response to the call from President Ford for a 40-percent improvement in fuel economy, the automobile manufacturers have called for a 5-year freeze of 1975 emission standards, in order to make it easier to reach the fuel economy goal.

The automobile manufacturers have projected figures for various emission requirements which suggest a loss of fuel economy of 15 percent or more if they must meet the 1980 standards adopted by the committee.

However, EPA has stated on several occasions that "there is no inherent relationship between exhaust emission standards and fuel economy." In numerous markup sessions dating from nearly a year ago, the Subcommittee on Environmental Pollution and the Committee on Public Works have attempted to resolve these conflicting views.

The Senate Commerce Committee, in preparing the fuel economy bill last year, also was concerned whether their new fuel economy standards would take away the possibility of meeting emission standards. Although the Commerce Committee included a provision in the bill for fuel economy standards to be relaxed if necessary in order to maintain the momentum toward clean air, their basic assessment was that both goals can be reached, as stated in their report:

> The essential point is, given an adequate commitment on the part of the automobile industry, the 21 mile per gallon industrywide average set as a goal for model year 1980 (50 percent improvement over 1974) can be achieved with any of the hydrocarbon and carbon monoxide emission standards currently under discussion, and at most, with only slight relaxation of the statutory (0.4 g/mi) nitrogen oxide standards.

The Commerce Committee went on to comment that it was far from clear whether any relaxation is necessary, and cited a study prepared by the Federal Energy Administration which showed that, even with the present sales mix of vehicle size, up to 21 miles per gallon could be achieved as a new car fuel economy average in 1980 under the assumption that full statutory standards would be implemented in 1978, including the 0.4 gram nitrogen oxide standard—which this bill proposed to relax to 1.0 grams per mile.

The fact is that the actual fuel economy depends on the choice of technology. It is hard to say this any better than EPA did in their 1975 technology report:

> With a fixed emission control system fuel economy is a function of the degree of emission control required. . . . With a fixed level of fuel economy, the degree of emission control achievable depends on the type of control technology used.

We have recently had an example of this. The tightening of the emission standards in 1975 had a favorable impact on fuel economy, which improved 14 percent over 1974. Now the 1976 model cars obtain 26 percent better gas mileage than the 1974 models, while continuing to meet more stringent emission standards.

In assessing claims and counterclaims about fuel economy, the committee felt the need for information from an objective source outside the automobile industry. The National Academy of Sciences Committee on Motor Vehicles Emissions is such a source, and has studied this issue carefully. The Academy has estimated that present statutory standards, even including the 0.4 grams per mile nitrogen oxide standard—which has been made a reseach objective by this bill—could be met with catalyst technology with a fuel penalty of 2 percent or less. Even that small penalty would be lessened with the relaxed 1.0 gram NO_x standards in this bill.

The Academy reaffirmed this assessment in their June 5, 1975 report, which stated that—

> Emission standards for HC and CO (.41 and 3.4 grams per mile) for the 1978 and subsequent year light duty vehicles should be maintained at the current statutory levels. Attaining these levels by 1978 is both feasible and worthwhile. These levels can be achieved while steps are taken to insure against excessive emissions of sulfuric acid and acid sulfates.

The Academy said that—

> These goals could, and should, be achieved while improving fuel economy.

The Academy participants in the June 1975 report were not of one mind as to whether the marginal benefits of achieving the statutory emission standard of

0.4 NO$_x$ in 1978 exceeds the marginal cost. They did, however, state that—

> It is probably feasible with catalyst technology to achieve . . . 0.4 grams per mile NO$_x$ in 1978.

That same report comments that as the technology is developed further, the use of exhaust gas recirculation may not be required and even the estimated 2 percent loss in fuel economy could probably be removed.

A study performed by the Jet Propulson Laboratory at California Institute of Technology for the Ford Motor Co. and released last August concluded that goals for emission reduction and energy conservation for the automobile over the next 5 to 10 years could be met with improvement in the conventional engine and to the vehicle.

Thus, the committee was left with the task of devising a set of standards that would meet the clean air goals and that would result in forcing, insofar as possible, the industry to adopt fuel-efficient technology.

The committee discussed establishing a 1.5 NO$_x$ standard as the statutory standard. This was rejected as not adequate to protect public health and not likely to lead to the introduction of new, improved technology. The report discusses the basis for this decision on page 60. The new 1 gram per mile NO$_x$ standard is expected to require an improved level of technological development with fuel economy benefits.

To a certain extent, fuel economy is red herring in this debate. One cannot help but wonder what excuse the industry would have used in order to request further delays if it had not been provided with a conveniently available energy crisis.

It is quite clear that vehicle weight and engine displacement, not emission standards, are the most important factors in determining fuel economy. Well over half the gasoline used by automobiles is used by large and specialty cars, cars which almost always have more weight than is necessary to carry out their task. The report by the Department of Transportation and the Environmental Protection Agency entitled "Potential for Motor Vehicle Fuel Economy Improvement—Report to Congress" and dated October 24, 1974, identified methods for improving fuel economy by over 40 percent with no change in engine design concepts or emission controls whatsoever.

Another opportunity for fuel economy improvement that is often discussed is the diesel engine. The 1 gram NO$_x$ standard proposed in this bill can be met by the diesel if the industry wishes to do so. A Peugot diesel has already achieved an average of 1.07 grams per mile of nitrogen oxide in five tests with 25 miles per gallon. The National Academy's June 1975 report concluded that the diesel is one example of an engine that offers substantial fuel economy benefits at standards down to 1 gram per mile. An EPA study of the diesel as a light duty powerplant concluded that the diesel could meet a 1 gram per mile standard for nitrogen oxides.

The most recent automobile emission control status report released by EPA in April, 1976, confirms the committee's judgment that statutory emission standards can be met with good fuel economy. According to this report, the single most important problem in meeting low emissions with good fuel economy is hydrocarbon emissions—not NO$_x$ as has been alleged by the industry for 5 years. The report specifically identified two of the many systems using combinations of available technology such as improved catalyst, start catalyst, port liners, and sonic exhaust gas recirculation which "could be considered to make the good fuel economy engine calibrations achieve hydrocarbon levels low enough to have a high confidence of certifying at a 0.41 hydrocarbon standard."

In considering the two goals of fuel economy and improved air quality, we must remember that fuel economy is salable. The individual customer will demand it, and the industry will deliver it, especially since passage of the fuel economy bill last year. Emission control, which has a significant value to the general public, has less value to the individual user. It is not a sales item which the customer will demand, so public policy must require it or it will not be provided. The evidence the committee has gathered indicates that it needs to be done, that it can be done, and that it can be done without sacrificing fuel economy goals. The bill as reported is designed to do just that.

AUTOMOTIVE SULFATES

As I said earlier, the committee considered and rejected, as a basis for a moratorium on auto emission standards, the potential harm of sulfate emissions from catalyst-equipped automobiles. After 3 years of concentrated study of various aspects of the issue by the Government, industrial, and academic communities, there remains a great deal of uncertainty and disagreement as to the potential scope of the automotive sulfate problem.

Concerned by the possibility that excess oxygen from air pumps increases the conversion of fuel sulfur into sulfate within the oxidation catalyst system, the committee extended the 1977 interim standards of 1.5 HC, 15 CO, and 2.0 NO$_x$ through 1978, rather than mandating the current (1975–76) California standards of 0.9 HC, 9.0 CO, 2.0 NO$_x$ which are currently being met with wide use of air pumps and oxidation catalysts. The likelihood that no new technology would be employed at those levels nationally was one reason for going directly to the 0.41 HC, 3.4 CO standards in 1979 to encourage the use of technology which would not exacerbate the sulfate problem.

The bill also authorizes a 1-year study on the measurement of sulfur emissions from mobile sources, the health impacts of such emissions, and the control options available. It is important to note that under section 211 of existing law, the Administrator can require the desulfurization of fuel should data on these unknowns indicate an immediate need for control of sulfate emissions prior to the implementation of a sulfate emission standard. This was precisely the strategy proposed by Administrator Train in November, 1973, when he determined that the sulfate controversy did not warrant deferral of the auto cleanup schedule or prohibition of the use of catalyst.

Also, it is important to note that the Administrator has determined tentatively that the sulfate emissions from noncatalyst cars and nonair pump catalyst cars are similarly low. This modifies his March 1975 position that even without an air pump, catalyst cars appeared to emit substantially more sulfate than noncatalyst cars. The high estimates of sulfate emissions from air pump catalyst cars remained unchanged.

In fact, according to the most recent data from EPA, noncatalyst vehicles, catalyst vehicles without air pumps, and three-way catalyst equipped vehicles have similar sulfate emissions.

This information referenced previously in the chart on sulfate emissions, was only received on March 10, 1976. It confirms the committee's decision to go directly to statutory standards to avoid prolonged interim standards which would rely on modification of current technologies and thus potentially exacerbate the sulfate problem.

TOTAL ANNUAL AUTO EMISSIONS

The need to meet tight standards is emphasized by the table which shows total annual auto emissions 1970–1985.

Mr. President, I ask unanimous consent that this table be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. MUSKIE. The table shows that if a freeze is adopted at the present CO level of 15 grams per mile, the result will be emissions of 17 million tons of carbon monoxide in 1985, as contrasted with only 4½ million tons if the 3.4 gram public health-based standard is implemented. Thus, for the sake of a freeze, we would be accepting four times as much emissions of this lethal pollutant. Emissions of smog-producing hydrocarbons would follow the same pattern.

As for nitrogen oxides, the table shows that emissions rose after 1970, and have just dropped back to the 1970 level. If we were to freeze the NO$_x$ standard at the present level of 3.1 grams per mile as the administration and the auto manufacturers have suggested, by 1985 we still would be just about where we were in 1970 before NO$_x$ was controlled at all. This bill sets a standard which will allow a little more NO$_x$—one-half million tons—than the present statutory standard. But it will reduce emissions by 2.2 million tons compared to the freeze. This is a significant 63 percent reduction from present emission levels.

The table on in-use auto emissions versus standards shows the standards which have been implemented and proposed to meet air quality needs.

Mr. President, I ask unanimous consent that this table be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 5.)

Mr. MUSKIE. Compared to precontrolled cars, the 1976 standards represent a reduction of 83 percent hydrocarbon, 83 percent carbon monoxide, and

11 percent nitrogen oxide. Compared to 1970 models as a base, the progress is 63 percent in hydrocarbon and 56 percent in carbon monoxide, while the standard set by Congress is a 90-percent reduction. We have made some progress, but more is clearly needed. We still must reduce hydrocarbon and carbon monoxide to about one-fourth and nitrogen oxide to about one-third of their currently allowed levels to meet our clean air goals.

COMPLIANCE TESTING

Because of the pressure of time and the controversy associated with major provisions of this bill, the committee did not try, in these amendments, to reemphasize existing authority in certain areas where the Administrator has failed to implement the intent of Congress. One such area relates to the extent to which cars which were certified to meet standards continue to meet these standards in use for the required 5 years or 50,000 miles.

IN-USE AUTO EMISSIONS

The committee has substantial data indicating that the emission performance of cars in use, with few exceptions, is considerably poorer than the requirement of the law. The table on in-use auto emissions versus standards shows that not since 1969 has the average car met the hydrocarbon standards in use, and never has it met the carbon monoxide standards. In fact, even with our newest cars, the hydrocarbon and carbon monoxide coming from cars on the road is approximately double that allowed by the standards, while NO_x emissions just barely meet the weak emission standards presently required.

The table also shows the importance of getting the industry to use new technology by careful choice of standards. In 1968 when emission standards were first introduced, there was no NO_x standard. The manufacturers took advantage of that loophole and chose a technology that caused NO_x emissions to increase by over 40 percent.

Also, actual emissions of hydrocarbon and carbon monoxide changed very little indeed in the 6 years from 1969 through 1974 despite the fact that the standards were tightened twice and required about a 50-percent reduction in emission levels. Then, in 1975, there was a significant decrease in these emissions, although not as great a decrease as required. Why?

The answer is that it was not until 1975 that a new level of technology was introduced. Only recently, when nitrogen oxide control has been required, have these emissions dropped even as low as their pre-1969 levels.

The committee believes that this bill sets standards that will require a new level of technology. Hopefully, this will result in a significant reduction in emissions from cars on the road—not just in certification.

The latest evidence has heightened awareness of these problems. New evidence has been received since the committee concluded its deliberations regarding the automobile provisions. In a memorandum dated February 25, 1976, the Environmental Protection Agency reported on recent tests conducted in two cities in which "about half of the 1975 model year cars are significantly exceeding CO standards." The memorandum goes on to state that a major reason for this failure may be changes made in idle mixture after the car has been purchased in order to overcome customer complaints about driveability.

According to EPA, this problem results because new cars have been built with a lean fuel mixture in order to receive high fuel economy ratings and low emissions and without regard to driveability. This is apparently satisfactory for preproduction prototypes which are hand built and only operated in certification tests by professional drivers. And the industry knows that if the consumer develops problems starting a car in cold weather, the carburetor can be adjusted with no responsibility accruing to the manufacturer even though both fuel economy and emission reduction benefits are compromised.

The conclusion from this evidence is that the industry had managed to make a car that performs well at the temperature used for the emissions testing procedures—roughly 72 degrees—but also has produced a car which the consumer can be expected to alter.

It is evident that EPA must modify preproduction certification requirements to require prototype testing for driveability and to change procedures to require a broader range of tests including conditions which are found in the real world. At a minimum, driveability tests should be conducted under a wide range of temperature conditions.

EPA also has the opportunity in its certification and its maintenance instruction review programs to take two steps which will help solve the in-use emission problem. The first is to minimize, to the extent feasible, the need for periodic maintenance of cars. The second is to minimize opportunities for malmaintenance by eliminating adjustments that are commonly set improperly by mechanics and that significantly affect emissions. It is very important that EPA exercise its authority to stimulate these steps by the industry.

We must close the gap between demonstration vehicles and the actual cars on the road. We need an in-use test. We need to cause the manufacturer to be responsible, financially, for that vehicle which is in the hands of the consumer.

The 1970 act required a production line test and an in-use test. These tests are essential if consumers are to get that for which they pay. The law requires every vehicle produced to meet the standards set forth in the law or regulation for 5 years and 50,000 miles.

So long as the operator performs appropriately required maintenance, the manufacturer is legally responsible to pay for any costs associated with failure of that car to meet the standards.

PRODUCTION LINE TEST

Without a production line test, we will never know if cars actually meet the standards in the first instance—which they must, since without an in-use test, there will be no capability to monitor performance of vehicles on the road. And it is the combination of these tests which will create the necessary financial incentive for the manufacturer to begin to produce a clean car which can be expected to stay clean for its useful life.

The committee bill amends section 206 to require that a production line test be implemented, within 6 months of enactment. Such a test is intended to provide assurance that all cars actually meet the emission standards when they are produced. This is not to be confused with the currently proposed production line test which uses statistical sampling techniques which will not assure that all cars meet the standards, even when new. The Administrator is expected to expand this audit procedure with an actual per vehicle test by the 1979 model year at the latest.

The existence of a per vehicle production line test will not guarantee that each new car will continue to meet standards for the required useful life of 50,000 miles. Present law provides a defects warranty and performance for that purpose. The manufacturer warrants that each new vehicle will meet the emission standard for its useful life of 5 years or 50,000 miles.

The committee had considerable discussion of the automobile emission warranty provisions of the Clean Air Act. The committee report contains an extensive discussion of this issue. One of the purposes of the warranty is to assure that manufacturers make cars that control emissions when actually in the hands of consumers.

PERFORMANCE WARRANTY

The performance warranty provides the ultimate test of whether the manufacturer is carrying out its responsibility to build cars that will meet the emission standards for their useful life. The manufacturer is exposed to financial responsibility if a vehicle fails to do so. Without a performance warranty, the natural tendency will be to cut corners.

Some say that the useful life under the performance warranty could be reduced to 18 months or 18,000 miles. This ignores the fact that emission control systems deteriorate in use. Choice of a useful life shorter than 50,000 miles would be inconsistent with meeting air quality goals.

DEFECTS WARRANTY

The difference between a defects warranty and a performance warranty is important. The former requires that each element of the vehicle which relates to emissions be designed, built, and equipped so as to conform at the time of sales with applicable standards and free from defects in materials and workmanship which cause such vehicle or engine to fail to conform with applicable standards for the useful life of the vehicle. But this only protects the consumer if a specific part fails and it is shown to be defective. And, in the absence of an assembly line test, there is little possibility of catching these defects at a point where the manufacturer's responsibility can be established.

PERFORMANCE WARRANTY

The performance warranty is intended to assure that a vehicle will continue to actually meet standards in the hands of the consumer. It is reasonable to assume that all parts of a vehicle could meet the specifications to which they were designed without the vehicle itself meeting the standards. In this instance, a consumer, exposed to an inspection requirement, could suffer a penalty for noncompliance when the issue was the combination of performance of the system as a whole, with no particular part of that system defective.

The manufacturers have claimed that 400 parts are covered by this provision, but most of these parts are totally unrelated to emission performance. Some of those parts must be replaced at regular intervals. Some of those parts are designed to last the entire life of the vehicle. Congress need not be concerned with either of these conditions. The question is whether or not the car which the consumer purchases meets the standards before it is purchased—at the end of the production line—and whether or not the car will continue to meet the standards under conditions of proper maintenance.

Having established through a proper production line test that each and every car made meets the standards—with appropriate deterioration factors—when it leaves the assembly line, as the current Clean Air Act requires, then the companies have an obligation to build a car which, when properly maintained, will continue to meet those standards in the hands of the consumer. Except in those instances where the manufacturer is able to demonstrate that the proper maintenance was not followed, the manufacturer must be financially responsible to bring the vehicle into compliance.

I want to underscore this point. The performance warranty is triggered by the existence of an inuse test combined with the existence of an inspection program and a penalty for failure to pass inspection. Although this provision of existing law has not yet been triggered, the bill requires establishment of the test procedure. It is then anticipated that over the next few years a number of localities will implement inuse testing programs.

Even though the manufacturer is required to produce each car so that it will meet the standards for 5 years and 50,000 miles, he is only liable for the repair costs when an inuse test exists and the vehicle fails to pass inspection and the owner is subject to a penalty.

CONSUMER IMPACT

As for the impact of the performance warranty on the consumer, the Automotive Service Industry Association has claimed:

> Automotive industry officials estimate that the new monopoly will cost consumers billions of dollars a year in the maintenance of their cars and trucks by 1980.

In the first place, the Federal Trade Commission study called for in this bill would certainly identify such an effect if there really was one in time for corrective action if needed.

In the second place, I would rather let the consumers speak for themselves rather than letting the industry do so. The Consumers Federation of America is "strenuously opposed to this anticonsumer amendment"—reduction of the performance warranty to 18 months/18,000 miles. They also point out that consumers whose cars fail the emission test beyond 18,000 miles will have to pay to have their cars remedied even when the cars were properly maintained.

Consumer's Union, publisher of Consumer's Reports states:

> In response to the five-year warranty requirement promulgated by EPA, auto manufacturers have designed the control devices, and the various parts related to the performance of these devices, for substantially longer endurance than would be the case under a one year warrenty.
>
> . . . a reduction in designed durability would mean an increased incidence of repair for such devices and parts. This would add substantially to the consumer's cost of maintaining emission control devices to EPA performance standards.

Evidently, consumers prefer the 50,000 mile performance warranty on emissions systems. They do not buy the auto industry claim that it will cost the consumer huge sums of money. Neither should the Congress. In fact, the reverse is true: the performance warranty saves the consumer money.

Reducing the duration of the performance warranty as proposed will only reduce the incentive for the manufacturer to produce clean cars that will stay clean. It will not protect the consumer. It will not protect the aftermarket industry. It will protect the auto industry. It is an auto industry proposal and it should be so branded.

If Congress wants to protect the auto manufacturer from the responsibility to produce a clean car that will remain clean, then I suggest that we consider elimination of the Federal emission standards altogether. We are perpetrating a hoax on the American people if we tell them to invest $100 or $200 to equip vehicles with emission controls and then tell them that the auto industry has no financial responsibility to insure that those vehicles will meet the standards after they are in the hands of the consumer. I will not be a party to that hoax.

If there is an anticompetitive aspect associated with this requirement in present law, then the committee amendments should be more than adequate to correct it. The manual for each vehicle must describe the elements for proper maintenance. Independent service operators can perform that proper maintenance and record performance of that maintenance in the owner's manual. On its face, that record would provide a rebuttable presumption which the manufacturer would have to overcome to avoid the burden of any costs resulting from the failure of a vehicle to pass inspection.

THE COMMITTEE BILL

The committee clearly wanted to take every reasonable step to protect the aftermarket industry and the consumer against monopolistic practices by the automobile manufacturers. As a result, this bill includes three new provisions to enhance competition in aftermarket parts and services. These actions include:

First, requiring all owners' manuals to contain instructions that maintenance does not have to be performed by the dealer or with the manufacturer's own parts;

Second, making illegal any warranty provision that attempts to tie coverage to the use of the dealer's service and parts;

Third, establishment of a program which will enable aftermarket parts manufacturers to certify that their parts perform as well as the auto manufacturer's—the auto manufacturers have no role in approving such certification;

Fourth, a Federal Trade Commission study of any possible anticompetitive effect.

The only other proposed change in the warranty provision was the reduction in useful life to 18 months/18,000 miles. As noted above, this would be inconsistent with clean air goals and consumer protection. The Consumer Federation of America and Consumer's Union oppose such a change in the law. The Federal Trade Commission examined this question about 1 year ago and recommended the steps the committee has taken in order to avoid any anticompetitive effect of this warranty. They did not recommend any change in the 5-year/50,000-mile provision.

The performance warranty is one of the most important tools for achieving air quality goals for automobiles. Any attempt to reduce its coverage must be rejected.

OTHER MOTOR VEHICLES

Control of mobile sources other than automobiles has lagged despite the fact that they can be regulated under the general provisions of the present Clean Air Act.

It is inequitable for automobiles alone to bear the burden of pollution control, when they only contribute, for example, 50 percent of the hydrocarbon pollution from mobile sources.

The committee intends that this situation be corrected and that all other classes of motor vehicles be required to achieve by 1980 a reduction of emission equivalent to that required for automobiles. Nonavailability of technology would be the only reason for any delay.

To achieve this, this bill makes more specific EPA's authority to regulate heavy-duty vehicles and motorcycles. It is expected that EPA will use existing authority to regulate light-duty trucks and other nonautomobile categories of motor vehicles to meet this requirement.

VIII. CONCLUSION

Congress asserted in 1967 a Federal interest in protecting the public's health from the adverse impact of air pollution and a national policy to protect air quality in clean air areas. Congress recognized that a national regulatory framework with basic minimum standards and an aggressive Federal agency would be necessary.

We must not disband that effort.

I support much of this bill. There are improvements. There are causes of concern. There are provisions which, if enlarged in later actions, will lead to delay, reductions of efforts, and the inevitable conclusion that environmental goals and public health protection will not be accomplished. That possibility we must not forget.

Mr. President, I ask unanimous consent that a study entitled "Pollution Control and Employment" prepared by the Executive Office of the President, the

Council on Environmental Quality, be printed in the RECORD as exhibit 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 6.)

EXHIBIT 1

TABLE A1.—ADDED EMISSIONS OVER 1975 (SO_x)—SULFUR OXIDES

[Millions of tons per year added emissions over 1975 (1975 national emissions 34,300,000 tons)]

Scenario	1980	1985	1990
No. 1 (base)	2.6	4.7	7.0
No. 2	2.0	3.4	5.0
No. 3	2.2	3.0	3.8
No. 4	1.7	2.2	2.8

Assumptions (SO_x)

Scenario	Electrical growth, percent per annum	Pollution control
No. 1	High (6.1%)	NSPS and SIP.
No. 2	Moderate (4.8%)	NSPS and SIP.
No. 3	High (6.1%)	BACT.
No. 4*	Moderate (4.8%)	BACT.

*Most like Senate bill and present FPC growth projections.

Key: NSPS=New source performance standards; SIP=State implementation plan; BACT=Best available control technology (scrubbers with 90 percent efficiency plus available local fuel).

Reference: EPA Office of Air Quality Planning and Standards, March 1976.

TABLE A2.—ADDED EMISSIONS OVER 1975 (NO_x)—NITROGEN OXIDES

[Millions of tons per year added emissions (1975 national emissions 24,000,000 tons)]

Scenario	1980	1985	1990
Base	7	18	25
No. 1	7	15	22
No. 2	7	12	18
No. 3	7	11	16
No. 4*	5	7	9
No. 5	4	6	7

Assumptions (NO_x)

Scenario	Light-duty vehicles (grams per mile)	Heavy-duty vehicles percent emission reduction)	Stationary sources
Base	3.1	Present standards.	Existing NSPS and SIP.
No. 1	2.0	EPA 1978 plans	Do.
No. 2	1.0	75 percent	Do.
No. 3	.4	90 percent	Do.
No. 4*	1.0	75 percent	Accelerated NSPS.
No. 5	.4	90 percent	Do.

*Most like Senate bill.

Note: Growth assumed at 3 percent p.a. for mobile and 3 to 6 percent p.a. for stationary sources.

Key: NSPS=New source performance standards; SIP=State implementation plan.

EXHIBIT 2

TABLE B.—PROJECTED CAPITAL INVESTMENT FOR SELECTED MAJOR INDUSTRIES, 1975–83

[Billions of 1975 dollars]

	Total [1]	Air pollution control	
		Current	Maximum BACT [5]
1. Electric utility industry [2]	212.5	17.8	4.8
2. Steel mills	27.5	3.3	[6] NA
3. Petroleum refineries (figures for industry as a whole)	[4] 90	[3] 5.1	[6] NA
4. Pulp mills	21.5	2.0	[6] NA

[1] Excludes the investment in pollution control equipment shown.

[2] Period covered is 1975–85. The effect of the nondegradation amendments are the only ones indicated in the BACT column.

[3] In addition to regulations for airborne emissions, includes effect of unleaded gasoline/lead phase-down regulations and costs for residual fuel oil desulfurization.

[4] Industry as a whole, of which the refining segment is a part, invests at rate of about $10 billion/year; 9-yr industry total is about $90 billion.

[5] Assumes emission limitations equivalent to low sulfur coal plus a scrubber in the west and washed high-sulfur coal or medium-sulfur coal plus a scrubber elsewhere. Assumes States will choose to apply such a standard on all new major emitting facilities. (Ref: EPA Feb. 5, 1976.)

[6] BACT is expected to have a minor impact. Elimination of class III will have a potentially significant impact in locations that are hilly or that are projected to have large concentrations of industrial facilities.

Reference: EPA Office of Planning and Evaluation, March 1976

EXHIBIT 3

TABLE C.—STATIONARY SOURCE COMPLIANCE

	Total plants	In compliance with SIP (1) (A)	On schedule (B)	No schedule or not meeting schedule (C)	Unknown compliance with SIP or on schedule, unknown status or SIP being finalized [2]
1. Coal-fired power plant	394	164	56	171	3
2. Iron and steel mills and coke plants	250	87	48	86	29
3. Nonferrous smelters	25	8	3	2	[3] 12
4. Petroleum refineries	295	184	22	26	63
5. Pump and paper mills (Kraft and sulfite)	232	125	45	46	16
6. Municipal incinerators	165	32	25	57	51
7. Major coal-fired industrial boilers	[4] 3,500	1,475	210	1,325	490
8. Federal facilities	456	161	27	96	172

[1] In compliance with SIP means that the entire facility is in compliance.

[2] Unknown compliance with SIP means that 1 or more emission points at a facility has not been investigated by the appropriate State or EPA within the past year.

[3] These smelters listed as not on a schedule do not yet have an established SIP requirement. Such requirements have been proposed and are in the process of being finalized.

[4] The number of coal-fired boilers is approximate since not all of these have been located and their compliance status determined. Boilers are not an independent industrial category as are the other sources listed in this table, but rather are located at facilities in a number of industrial categories. The compliance numbers in the table are based on the relative proportion of compliance and noncompliance of those boilers that have been identified.

Source: EPA Office of Enforcement, compliance data system, January 1976.

EXHIBIT 4

TABLE D1.—TOTAL ANNUAL AUTO EMISSIONS (CO) CARBON MONOXIDE

[In million metric tons per year]

Scenario	1970	1972	1975	1980	1985
Freeze at present standard (15 g/mi)	55	46	32	20	17
Public health based standard in 1977 (3.4 g/mi)	55	46	32	13	4.5

TABLE D2.—TOTAL ANNUAL AUTO EMISSIONS (NO_x) NITROGEN OXIDES

[In million metric tons per year]

Scenario	1970	1972	1975	1980	1985
Freeze at present standard (3.1 g/mi)	3.8	4.2	3.8	3.5	3.6
Freeze at 1977 Interim Standard (2.01 g/mi)	3.8	4.2	3.8	2.8	2.4
Similar to Senate bill (1 g/mi)	3.8	4.2	3.8	2.3	1.4
Implement present Clean Air Act (0.4 g/mi)	3.8	4.2	3.8	2.1	0.9

Source: Adapted from "Air Quality and Automobile Emission Control", Vol. 4 The Costs and Benefits of Automobile Emission Control, pp. 82–83. A report by the National Academy of Sciences for the Senate Public Works Committee. Committee print, 1974.

EXHIBIT 5

TABLE E.—AUTOMOBILE EMISSIONS—IN-USE AND STANDARDS

[Grams per mile corrected to 50,000 miles deterioration]

Model year	HC		CO		NO_x	
	Standard [1]	Actual in-use [2]	Standard [1]	Actual in-use [2]	Standard [1]	Actual in-use [2]
Precontrol		8.7		87		3.5
1968	5.9	5.7	50.8	67		4.3
1969	5.9	4.8	50.8	62		5.1
1970	3.9	5.1	33.3	64		4.9
1971	3.9	4.6	33.3	57		5.2
1972	3.0	5.0	28.0	65		5.2
1973	3.0	4.6	28.0	60	[3] 3.1	3.9
1974	3.0	4.5	28.0	54	3.1	3.3
1975	1.5	3.0	15.0	35	3.1	2.8
1976	1.5		15.0		3.1	
1977	1.5		15.0		2.0	
1978	1.5		15.0		2.0	
1979	.4		3.4		[4] 2/1.0	
1980	.4		3.4		1.0	

[1] Actual standards are shown for 1968–77. Standards proposed in committee bill are shown for 1978–80.

[2] In-use data from EPA surveillance program, fiscal years 1971, 1972, 1973, 1974. Average values cited. Range of values (95 percent confidence interval) is roughly plus or minus 0.7] HC; plus or minus 8 CO; plus or minus 0.4 NO_x, although it varies from year to year.

[3] NO_x was not controlled until model year 1973.

[4] 2 g per mile for 90 percent of production; 1 g per mile for 10 percent.

EXHIBIT 6

POLLUTION CONTROL AND EMPLOYMENT

COUNCIL ON ENVIRONMENTAL QUALITY

Pollution control and employment; an assessment of relevant research

Introduction

The possible impact of pollution control programs on employment has been an issue of particular concern during the past year as the country suffered from high unemployment rates. It is alleged that pollution control programs have added to this problem. Such programs can affect employment, both in a positive and a negative fashion. Possible negative effects can occur for several different reasons. Pollution control regulations can force plants to close down. They can interfere with the normal expansion of production capacity (directly by inhibiting new construction, or indirectly by diverting capital way from capacity expansion or generally interfering with smooth economic growth). And they might stimulate firms to shift new production capacity out of the United States to countries which have less stringent pollution control regulations.

On the other hand, cleaning up the environment also creates jobs. People are employed constructing pollution abatement systems, manufacturing the equipment used in these systems, and operating and maintaining the systems after they are built. The following paper summarizes the available information on both the job losses and the job gains that can be attributed to pollution control programs.

Job Losses

EPA maintains an "early warning system" which collects information on threatened and actual plant closings which, it is alleged, are caused in part by pollution control requirements. This system has found evidence of 75 such closings affecting 15,700 employees.[1] The Bureau of Economic Analysis has also attempted to obtain information on closings. Their 1975 survey found that one-half percent of the firms surveyed reported closing a process or plant in 1975 at least, in part, because of environmental regulations.[2] This was a sample survey, and there is no indication how many closures there were in firms that were not surveyed. However, the BEA results suggest that the problem may be more serious than EPA's information would indicate, because a comparison between the two lists of closures showed little apparent correspondence between the firms included in the BEA sample, and the plants identified by EPA.[3] The Oil, Chemical, and Atomic Workers International Union (OCAW) also analyzed plant closures which affected its workers.[4] They, and subsequently EPA, found little evidence that environmental regulations have been a significant factor in these closings.[5]

It is not clear what these plant closings mean, either in terms of economic impact or in terms of lost jobs. Many of the closures take place in older facilities which economic considerations would have probably forced to close anyway, particularly during a severe recession such as the country has experienced. Nor is it true that the number of employees affected is an indication of the number of jobs lost. Even in the affected plant the number of lost jobs may well be less than the number of employees affected. U.S. Steel's closures of its Gary, Indiana, open-hearth furnaces affected at least 2,500 workers, but only 250 to 500 employees actually lost their jobs. In addition, the production lost from closing one facility is likely to be made up by increasing production—and therefore employment—at another facility.[6] These factors make it particularly difficult to assess the impact of closings on employment, although they can clearly create serious local problems, particularly when they occur in areas already suffering high unemployment rates.

In terms of plants shifting abroad, almost all the analyses done on this issue indicate that it is a relatively minor problem with little employment impact.[7]

Employment Gains

But environmental programs have also created employment. There is a rapidly expanding industry manufacturing pollution control equipment. And hundreds of thousands of jobs are involved in constructing municipal sewage treatment systems and industrial pollution control systems, and in operating these systems once they are built.

One of the earliest studies of the employment generated by environmental programs was the work carried out by Bruce M. Hannon and Roger H. Bezdek at the University of Illinois.[8] Their work, using an input-output model, focused on Federal programs, and analyzed the employment (and energy) impacts of constructing waste-water treatment facilities compared to possible alternative expenditures. Their analyses showed that one billion (1975) dollars allocated to such construction would employ a total of 82,000 people.[9] This is more employment than would result from the same amount of money being spent on highway construction or water resource projects, but less than would result from several other programs. Expenditures on construction programs in general stimulate less employment than equivalent expenditures in areas such as health or law enforcement.

One important point about the Hannon and Bezdek estimates is that they include both direct and indirect employment. They include not only the direct employment at the construction site and in making the equipment, but also such indirect employment as that involved in providing goods and services for the personal consumption of the people who are employed directly. Most of the 82,000 people would never associate their employment with the construction of wastewater treatment systems. For instance, EPA estimates that a $1 billion expenditure creates 20,000 jobs at the construction site; this is only one-fourth the total number of jobs that Hannon and Bezdek estimate are generated by this expenditure.

The Bureau of Labor Statistics undertook a similar employment study, which concentrated on different aspects of Federal environmental expenditures.[10] They estimated that only 53,600 jobs were generated by each billion dollars spent on the construction of wastewater treatment systems, but 76,000 to over 78,000 jobs resulted from a billion dollars spent on research and on administering the pollution control programs. These estimates were apparently based on 1972 dollars, and therefore would have to be adjusted downward to take account of the inflation that has occurred since then.

All these estimates have been given on the basis of jobs per billion dollars expended. Converting these into total job estimates at current rates of expenditure indicates that 200,000 to 300,000 jobs are related to the municipal grants program (including the state and local share), and about 125,000 jobs are related to other Federal pollution abatement expenditures.

There are fewer studies available on the impact of private pollution abatement expenditures on employment. EPA has sponsored studies of manpower requirement to build and operate pollution control devices. The most recent study to be completed on this subject concluded that there are 3.76 million employees involved in operating industrial water pollution control equipment with an equivalent full-time employment of 575,000 man years.[11] Although the study was carefully done and was based on sample surveys, these estimates seem very high. It does not seem reasonable that one-half percent of our labor force is involved only in operating industrial pollution control equipment.

One employment estimate that has received a substantial amount of publicity recently is that made by Kenneth Leung and Jeffrey Klein in a report on the environmental equipment industry prepared for the Council on Environmental Quality.[12] Based on an estimate that a total of $15.7 billion was being spent for pollution abatement in 1975, and assuming that, on the average, a billion dollars generates 70,000 jobs (directly and indirectly), they estimated that over one million jobs were associated with air and water pollution control programs last year. This is a very crude estimate, but can be supported by comparing pollution control expenditures as a percent of the total labor force. The Nation is spending somewhat more than 1 percent of its GNP on abating air and water pollution, and as a result would expect these expenditures to employ about 1 percent of the labor force. This amounts to about 1 million people.

These are not all new jobs, nor are they all attributable to Federal environmental legislation. And finally, many of these one million people would most likely have been employed somehow even in the absence of this legislation. To analyze the net increase in jobs resulting from environmental expenditures, one has to look not at the types of studies listed here, but at macro-economic studies such as those sponsored by CEQ and EPA.[13] These studies indicate that during a period such as the present when environmental programs are forcing increased expenditures while the economy is suffering unemployment, these programs have a net beneficial impact on employment. The most recent analysis estimates that the unemployment rate has been 0.3 to 0.4 percent lower with environmental programs than it would have been without them.[14] This means that approximately 300,000 people are now employed who would otherwise not be. This positive employment effect can, of course, only occur during periods when the country would otherwise be experiencing unemployment. It is expected to disappear as the economy recovers from the recession and as the price increases associated with environmental expenditures begin to have a slight dampening effect on GNP growth. In the long run, however, no significant net impact on unemployment is projected to result from the programs.

In brief, then, pollution control expenditures are seen as having a net positive impact on employment at the present time. And a new industry has been established which has been a source of growing employment during the past few years. This industry has the opportunity and challenge to devise innovative abatement systems which will conserve natural resources, save energy, and reduce costs. If it is successful in meeting this challenge, this industry will not only provide a source of continuing employment itself, but will help contribute to the continued viability and stability of our whole economy.

FOOTNOTES

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[1] Environmental Protection Agency, "1975 Third Quarter Report of the Economic Dislocation Early Warning System," Dec. 31, 1975.

[2] Bureau of Economic Analysis, "Capital Expenditures By Business for Air, Water, and Solid Waste Pollution Abatement, 1974 and Planned 1975." Survey of Current Business, Vol. 55, n. 7, July, 1975, pp. 15–19.

[3] Personal communication from Roy Gamse, Director of the Office of Economic Analysis, Environmental Protection Agency, February, 1976. Because the BEA surveyed firms and the EPA lists individual plants, it is impossible to determine how many of the plants on the EPA list are actually included in the BEA sample without a further survey of the BEA reported closings.

[4] "Health, Safety and Environmental Con-

siderations as Factors in OCAW Plant Closings, 1970–1975." Prepared by the Research Department of the Oil, Chemical, and Atomic Workers International Union, January, 1976.

[5] See OCAW report, statement by Tony Mazzochi, Legislative Director of OCAW before the Environmental Study Conference (2456 Rayburn House Office Building, Washintgon, D.C.) on February 23, 1976; and memorandum from Chris Moore to Roy N. Gamse, "Plant Closings—Oil, Chemical and Atomic Workers International Union (OCAW)," updated (prepared February, 1976).

[6] It is unlikely that the employment effects will balance. The plants that go out of business are relatively inefficient, and therefore are likely to employ more workers for a given output than the average firm in the industry.

[7] See CEQ's Sixth Annual Report, pp. 542–543, for the brief summary of these studies.

[8] Bruce M. Hannon and Roger H. Bezdek, "Job Impact of Alternatives to Corps of Engineers Projects," *Engineering Issues—Journal of Professional Activities,* American Society of Civil Engineers, Vol. 99, n.PP4, Oct. 1973, pp. 521–531; and "Energy, Manpower, and the Highway Trust Fund," *Science,* Vol. 185, 23 August, 1974, pp. 669–675. Also Bezdek, Roger A. "Toward Manpower and Energy Dimensions for the Federal Budget." *Journal-Environmental Systems,* Vol. 5(1), 1975.

[9] Bezdek and Hannon, *Ibid.*

[10] U.S. Department of Labor, Bureau of Labor Statistics, "Impact of Federal Pollution Control and Abatement Expenditures on Manpower Requirements," Bulletin 1836, 1975.

[11] E. Joe Middlebrooks, "Manpower Needs of Manufacturing Industries," *Journal of the Water Pollution Control Federation,* Vol. 47, n 12, Dec. 1975, pp. 2850–2862.

[12] Kenneth Ch'uan'K'ai Leung and Jeffrey A. Klein, "The Environmental Control Industry," a report submitted to the Council on Environmental Quality, December, 1975.

[13] Chase Econometrics, Inc. "Macro-economic Impacts of Federal Pollution Control Programs," a study prepared for the Council on Environmental Quality and the Environmental Protection Agency, 1975.

[14] The results of an updated analysis are expected in April, 1976.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Where are we now on the tax bill? What is the pending item on the tax bill?

The PRESIDING OFFICER. The pending question before the Senate is committee amendment No. 18.

Mr. BUMPERS. Is committee amendment 18 also title VIII of the bill?

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR THE SENATE TO PROCEED TO THE CONSIDERATION OF TITLE X OF H.R. 10612, COMMITTEE AMENDMENT NO. 20

Mr. LONG. Mr. President, I ask unanimous consent that the Senate proceed to consider title X of the bill, which is amendment No. 20, that is the amendment that deals with taxation of foreign income, and I have some committee modifications that I am going to suggest with regard to that.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

Mr. LONG. Mr. President, the modifications in the amendment——

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. KENNEDY. I know the Senator from Wisconsin is interested in this title, from my own conversation.

Will the Senator object to a short quorum call being ordered so that the Senator from Wisconsin may be so notified?

Mr. LONG. I do not object for that purpose.

Mr. President, I send to the desk a modification of the committee amendment, which was agreed to by the committee at its last meeting.

The PRESIDING OFFICER. Is the Senator acting on behalf of the committee in modifying the amendment?

Mr. LONG. Yes, I am acting on behalf of the committee.

The PRESIDING OFFICER. The amendment will be so modified.

The modified amendment is as follows:

On page 443, lines 21 and 22, strike out "(f) and by adding a new subsection (d) to read as follows:" and insert in lieu thereof the following: "(g) and by inserting after subsection (c) the following:".

On page 444, line 24, strike the closing quotation marks.

On page 444, after line 24, insert the following:

"(e) EXCLUSION FOR CERTAIN HOUSING ALLOWANCES.—

"(1) GENERAL RULE.—In the case of an individual who is allowed, under subsection (a), to exclude items from gross income, gross income does not include the value of lodging furnished by the employer or amounts for lodging which are reimbursed by the employer.

"(2) LIMITATIONS ON AMOUNT OF EXCLUSION.—The amount excluded from the gross income of an individual under paragraph (1) for any taxable year shall not exceed—

"(A) the lower of (i) the amount described in paragraph (1) or (ii) the allowance which would be provided in the case of civilian officers and employees of the Government of the United States under title IX of the Foreign Service Act of 1946, as amended (22 U.S.C. 1131 and following) as a housing allowance, reduced by

"(B) the amount which is determined by the Secretary to be the cost of comparable housing in the Washington, District of Columbia standard metropolitan statistical area.

"(3) SPECIAL RULES.—Any amount which is excluded from gross income under paragraph (1) shall reduce the limitations provided in subsection (c) on the amount excludable under subsection (a).

"(f) SECTION NOT TO APPLY.—

"(1) IN GENERAL.—An individual entitled to benefits of this section for a taxable year may elect, in such manner and time as prescribed by the Secretary, not to have the provisions of this section apply.

"(2) EFFECT OF ELECTION.—An election under paragraph (1) shall apply to the taxable year for which made and to all subsequent taxable years. Such election may not be revoked except with the consent of the Secretary.".

On page 465, strike out lines 11 and 12, and insert in lieu thereof the following:

(d)' EFFECTIVE DATE.—The amendments made by this section shall

* * * * *

On page 466, beginning with line 1, strike out all through page 467, line 10.

On page 470, line 1, insert immediately after the semicolon the word "or".

On page 470, line 6, strike out the semicolon and the word "or" and insert in lieu thereof the following: "but only if such corporation is incorporated in such foreign country and only if the vessel in which such men and supplies are transported is registered in such foreign country.".

On page 470, strike out lines 7 through 21.

On page 470, line 22, strike out "(c)" and insert in lieu thereof "(b)".

On page 471, strike out lines 3 through 19.

On page 478, beginning with line 1, strike out all through page 480, line 4, and insert in lieu thereof the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

On page 486, between lines 6 and 7, insert the following:

(4) LIMITATION BASED ON DEFICIT IN EARNINGS AND PROFITS.—If paragraph (3) would apply to a taxpayer but for the fact that the loss is sustained after December 31, 1976, and if the loss is sustained in a taxable year beginning before January 1, 1979, the amendments made by subsection (a) shall not apply to such loss to the extent that there was on December 31, 1975, a deficit in earnings and profits in the corporation from which the loss arose.

On page 496, beginning with line 4, strike out all through page 499, line 7.

On page 499, line 8, strike out "(c)" and insert in lieu thereof "(a)".

On page 499, line 16, insert the word "and" after the semicolon.

On page 499, beginning with line 17, strike out all through page 500, line 18, and insert in lieu thereof the following:

(2) by striking out "dividends described in subparagraph (B)" in paragraph (3) thereof and inserting in lieu thereof the following: "dividends and interest described in subparagraph (B)".

On page 500, line 19, strike out "(d)" and insert in lieu thereof "(b)".

On page 501, beginning with line 19, strike out all through page 502, line 6.

On page 502, line 7, strike out "(f)" and insert in lieu thereof "(c)".

On page 503, lines 20 and 21, strike out "beginning after December 31, 1981," and insert in lieu thereof the following: "ending after December 31, 1977,".

On page 503, beginning with line 22, strike out all through page 504, line 6, and insert in lieu thereof the following:

(g) EFFECTIVE DATES.—

(1) Subsection (b) shall apply to taxable years ending after December 31, 1974.

(2) Subsection (a) shall apply to taxable years beginning after December 31, 1976.

(3) Subsection (c) shall apply to taxable years beginning after June 29, 1976.

On page 530, beginning with line 23, strike out all through page 532, line 12.

On page 552, strike out lines 7 through 9, and insert in lieu thereof the following:

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975, except that 'qualified possession source investment income' as defined in section 936 (d)(2) of the Internal Revenue Code of 1954 shall include income from any source outside the United States if the taxpayer proves to the satisfaction of the Secretary of the Treasury or his delegate that the income from such sources was derived before October 1, 1976.

On page 553, beginning with line 1, strike out all through page 554, line 4.

On page 554, line 5, strike out "(C)" and insert in lieu thereof "(b)".

On page 554, line 10, strike out "(d)" and insert in lieu thereof "(c)".

On page 555, line 16, strike out "(e)" and insert in lieu thereof "(d)".

On page 555, line 17, strike out "subsections (a) and (b)" and insert in lieu thereof "subsection (a)".

On page 555, line 17, strike out "(d)" and insert in lieu thereof "(c)".

On page 555, line 19, strike out "(c)" and insert in lieu thereof "(b)".

On page 555, line 20, strike out "(d)" and insert in lieu thereof "(c)".

Mr. LONG. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I would like to explain the modification of the provision dealing with taxation of foreign source income. Most of this information is in the supplemental document that is beneath the desks of Senators.

The modifications in the amendment which I am offering at this time delete or modify the 20 provisions as agreed to by the Finance Committee this last Friday insofar as they relate to title X, the foreign tax provisions. In deleting these provisions I should make it clear that the committee does not intend any negative inference with respect to these provisions. We will consider them further and, to the extent it seems desirable, we may subsequently offer amendments on other bills dealing with these topics.

The modifications also take into account an amendment which the committee previously agreed to which was inadvertently omitted and three provisions agreed to in the supplemental amendment.

The amendment adds, on page 444, after line 24, the committee amendment providing for a housing exclusion for individuals working overseas. This provision was agreed to by the committee but was inadvertently omitted from the committee amendment, as earlier reported. The committee amendment provides that housing which is furnished or reimbursed by the employer is entitled to an exclusion to the extent that the housing cost in the geographical locale where the individual works exceeds the cost of comparable housing in Washington, D.C.

At the end of the housing allowance amendment, there is added an amendment which provides that an individual may elect not to have the earned income exclusion apply. While this election will only be needed in a few cases, the provision has general applicability as to taxpayers eligible to make the election. This is a supplemental provision agreed to by the committee and is described in the supplemental report on page 63.

The deletions on pages 466 and 467 reflect the committee's decision to defer action on the definition of U.S. property as it relates to investments on the U.S. Continental Shelf or with respect to investments made prior to 1976. Generally, the committee amendment narrows the definition of investments made by foreign subsidiaries in the United States which are treated as dividends to the parent company. The two items deleted would have been of benefit to the Superior Oil Co. and Pyramid Ventures, Inc. They are described beginning on page 7, item no. 6, of the document available on your desks.

The changes on page 470 of the committee amendment delete the provision providing for an exception from the foreign tax haven rules for shipping income from the short-term charter of vessels. In addition, the exception to the foreign tax haven income rules for continental shelf supply companies is modified so it applies only if the ship is registered in the foreign country where operated and the corporation operating the ship is incorporated there. The first item was intended to benefit Southern Scrap Materials but did not. The second would have benefited the Jackson Maritime Co. and Tidewater Marine Service, Inc. They are explained on page 10, item no. 8, in the document.

The deletion on page 471 of the committee amendment is with respect to the special rule for foreign grown agricultural products. The provision would have provided for an exception to the foreign tax haven rules for foreign grown products sold overseas. This provision would have benefited the Cargill Corp. and others and is explained beginning on page 11, item no. 9.

The deletions on pages 478 through the top of page 480 of the committee amendment are with respect to transition rules dealing with the repeal of the per country limitation method of computing the foreign tax credit. The deleted provisions would have provided a special transition rule for certain mining companies and companies operating in the possessions. The Freeport Minerals Co. and PPG Industries would have benefited. The explanation begins on page 12, item no. 10.

A third exception to the loss recapture provisions is added on page 486 in the case of deficit earnings and profits of foreign corporations. This amendment gives to foreign subsidiaries the same advantage which a foreign branch would have by providing that a deficit in earnings and profits as of December 31, 1975, is not to be subject to loss recapture. This is a supplemental provision agreed to by the committee and is described in the supplemental report on page 63.

The modification deletes a number of items dealing with foreign oil and gas extraction income from the committee amendment. First, the language on pages 496 and 497 which is deleted would have provided a special transitional rule for the carryback of foreign taxes which are from the extraction of foreign oil or gas. This provision was contained in the House bill and would have benefitted Natomas. The explanation begins on page 15, item No. 12.

Second, the deletion beginning on page 498 through the top of page 499 eliminates the transition rule in the committee amendment which dealt with the recapture of foreign oil-related losses and would have provided a limited binding contract phase-in to those rules. This would have benefitted the Sun Oil Co., and is explained on page 16, item No. 13.

The deletion beginning on the bottom of page 499 to the bottom of page 500 deals with the definition of foreign oil-related income. The committee amendment would have provided that the gain from the sales of certain stock would have been foreign oil-related income and that certain public utility transmission income would have been excluded from the definition of foreign oil-related income. These changes would have benefited Tenneco, Inc., and I.U. International, and are explained beginning on page 16, items Nos. 14b. and 14c.

The deletion on the bottom of page 501 through the top of page 502 strikes from the committee amendment the provision providing a special 10-year rule in the case of an economic interest in foreign oil or gas field. This provision could have benefited those companies operating in Iran and other oil producing countries. It is explained on page 19, item no. 16.

Finally, the date change on page 503 of the committee amendment modifies the provision dealing with production sharing contracts in Indonesia by limiting the provisions so that basically it only applies for 1 year rather than 5 years. As modified, the provision will not apply to a production sharing contract for any taxable year beginning after January 1, 1977. This provision affects Huffington Oil, Natomas and others. It is described on page 20, item no. 17.

The deletion on page 530 through the top of 532 of the committee amendment strikes the provision which would have given retroactive relief to taxpayers who had liquidated a foreign subsidiary after receiving distributions of stock from that subsidiary. The rule which is being deleted was designed to prevent double taxation of earnings and profits of the liquidated subsidiary. This would have benefited the H. H. Robertson Co. and is described on page 23, item no. 21.

On page 552, the effective date of the possessions corporation provisions is basically changed to October 1, 1976. This change is made since, until enacted, it is unfair to require companies to anticipate that the law will be changed. This amendment continues to exempt earnings derived before the date of enactment. This is a supplemental amendment and is described in the supplemental report on page 64.

The deletion to the committee amendment on page 553 through the top of page 554 strikes the special transition rule provided in connection with the repeal of the WHTC provisions. The deleted provision would have granted a special transition rule to those companies which file consolidated returns with a company organized in a contiguous country. This provision would have benefited the Hanna Mining Co. It is described on page 28, item No. 24.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I rise for the purpose of making some inquiries of the distinguished chairman of the Committee on Finance.

Mr. President, I would like to engage our distinguished chairman in a brief colloquy to clarify that portion of the committee's report dealing with Federal employment taxes. Specifically, I refer to page 604 of the report where the following statement appears:

> The Committee has directed the staff to study problems regarding the definition of "independent contractors" as contrasted to "employees". The Committee strongly urges the Internal Revenue Service not to issue retroactive Revenue Rulings in this area until after completion of the staff sudy.

As our chairman is aware, this committee report language is an outgrowth of an increasingly important tax administration problem which the senior Senator from Georgia (Mr. TALMADGE) and I brought to the attention of the committee.

The status of a particular individual as an "independent contractor" or "employee" is important under the Federal unemplyoment tax and social security tax systems. Also, withholding of Federal income taxes is required for wages paid to employees, but is not required for compensation paid to independent contractors.

In recent years, the IRS has greatly increased its compliance activities in this important area of tax administration. Given the increasingly significant role of employment and social security taxes in our Federal revenue system, I believe that the IRS has acted properly in expanding its audit program.

The Finance Committee was concerned both about how the terms "independent contractor" and "employee" should be defined and about the extent to which a changed or newly stated IRS position should be applied to past, as opposed to future, taxable years. The committee report language which I have quoted represents the best response that the committee could fashion to these problems in the context of this particular legislation.

Some concern has been expressed, however, that the committee report's reference to "retroactive revenue rulings" may not fully reflect the committee's intent. As our chairman is aware, the conclusion of law reached by the IRS in a current employment tax examination may differ from the positions taken by the IRS—in formal revenue rulings or otherwise—in past years. In some instances, the IRS may revoke a prior revenue ruling and issue a new one. In other cases, the current IRS position may be inconsistent with previously issued letter rulings or technical advice memoranda. In still other instances, the IRS may take a position contrary to its previous general acceptance of returns as filed.

So that the Finance Committee's intent will be more fully reflected in the legislative history of this bill, I would like to ask our chairman this question: Did the committee intend to strongly urge the IRS not to apply any changed or newly stated position—including one which is inconsistent with a prior general audit position—in this subject area to past, as opposed to future, taxable years until the staff study has been completed?

Mr. LONG. Mr. President, the Senator's interpretation of the committee's intent is correct. The committee did not intend to limit itself to retroactive revenue rulings but intended to include positions taken in good faith by taxpayers, which, under general administrative practice, the Service has allowed to stand. The committee intended to urge that any changed position be applied on a prospective basis, at least for the time being. This would be true if the new position is reflected in a published revenue ruling, a private ruling, or a change in what had been, for a long while, the accepted, audited practice in an industry.

Most of our income taxes, almost all of our social security taxes, and all of our unemployment taxes come in through the payroll tax system. We cannot afford to have this system disrupted. The IRS creates havoc when it comes in for all past years if it changes its formal position as to typical contractual arrangements in an industry, or if the IRS suddenly begins to treat as an employment relationship the sort of situation which for a long time it had accepted on an industry-wide basis as an independent contractor arrangement. At least until the study is completed, the IRS should not make such retroactive changes.

Of course, to the extent the IRS applied a changed or newly stated position to future taxable years, this would be entirely consistent with the committee's intent.

Mr. CURTIS. I thank my distinguished chairman. I believe the position arrived at by the committee is right and fair. The burden upon our taxpayers is great. We should always seek to minimize the uncertainty in our tax system. Our taxpayers are entitled, before transactions are entered into and arrangements made or actions taken of any kind, to know what the tax consequences will be. We should always do our utmost to have such a condition prevail so that every taxpayer with reasonable diligence would try to find out the consequences.

To impose upon any taxpayer a burden retroactively that he in good faith did not know existed is something that we should do our very best to avoid.

I thank the distinguished chairman for placing those comments in the committee report and this amplification of their intent.

Mr. LONG. I thank the Senator.

Mr. President, I would hope that those who would want to offer amendments to title X would come to the Chamber and offer their amendments. The Senator from Oregon (Mr. PACKWOOD) has indicated to me he had a significant amendment he wanted to offer on this title. If other Senators do not care to offer their amendments at this time I would like to ask that the Senate be notified.

Are Senators present aware of Senators who are on their way to offer amendments now?

Mr. KENNEDY. I believe the Senator from Oregon (Mr. PACKWOOD) is going to come to the Chamber shortly. In the meantime I might offer an amendment, if that is agreeable.

UP AMENDMENT NO. 243

Mr. KENNEDY. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment No. 243.
>
> On page 459, lines 3 and 6:
>
> Change May 29, 1974 to May 21, 1974.

Mr. KENNEDY. Mr. President, this amendment is directed toward the part of section 1013 which deals with the effective date provision on foreign trusts. At the present time, though we have debated very extensively in other areas about what is a loophole and what is not, I do not think there can be much difference of opinion over the fact that the provisions in the Internal Revenue Code, which permit U.S. citizens to avoid U.S. tax by setting up a foreign trust is a major loophole.

This particular loophole is being utilized by a small group of very wealthy individuals who put their assets in foreign trusts to get the tax benefits from those particular trusts that are available under the present tax law.

There is very little difference between the House and Senate provisions closing this particular loophole. The House closed the loophole and provided an effective date of May 21, 1974, the date the House Ways and Means Committee made the decision to close the loophole. Later, the Senate Finance Committee also considered this provision. Instead of retaining the effective date of May 21, 1974, the committee established the later effective date of May 29, 1974, which is an 8-day delay. That 8-day delay is for the benefit of four trusts which were established in the 8-day period to take advantage of this loophole. For these trusts the charge will mean very significant benefits flowing back to their beneficiaries under this loophole.

Mr. President, when a decision is made to close a particular tax loophole, the general rule is that the effective date is set as the day that the committee decision is made. Sometimes the date is set even earlier on the day the proposal to close the loophole is first made.

The reason that Congress adopts such early effective dates is to avoid a rush by taxpayers to squeeze through the loophole before it is closed.

The amendment I offer restores the House effective date, and conforms the procedures which have universally been in effect for both the Senate and the House with regard to effective dates of tax reforms.

As I understand it, in the reconsideration of the various special provisions this was one of the items which was studied. The Treasury opposed the effective date charge. Some of the public interest groups did not list this particular provision on their laundry list of objectionable provisions. I daresay the primary reason was that there were so many other provisions which far exceeded this in terms of importance and revenue loss.

It seems to me it is a small but nonetheless an important item. The principle which is involved is important. When a decision regarding an effective date of a tax reform is made by either the Finance Committee or the Ways and Means Committee, the date is usually set no later than the date the decision to close the loophole is made.

I know an argument will be made that, "Well, these matters are not legislated into law. There are always problems in terms of notice or notification."

It is my understanding that the May 21 meeting of the Ways and Means Committee was an open session. I suppose the case might be made that, "Well, it might have been open, but certain people did not know about it. They were relying upon that loophole in establishing their trusts, and they did so innocently."

But the fact of the matter remains that, perhaps unlike other provisions of the Internal Revenue Code that may have been included in the Code for some justifiable or worthwhile public policy, there really is no justification, no value, no worth whatsoever for this particular loophole, other than for permitting those few extremely wealthy individuals who are able to afford attorneys and establish this complex foreign trust mechanism to be able to avoid the payment of taxes here in the United States.

The need for reform in this area has been appreciated by the Senate Finance Committee. I want to applaud their efforts and the efforts of the Ways and Means Committee in securing the closing of that particular loophole. In terms of good procedure and fairness the amendment which I have offered should be accepted.

Mr. **LONG**. Mr. President, sometimes I suppose the Senator from Louisiana made a mistake in not responding to a number of speeches my friend from Massachusetts made on the subject of tax reform long before the Finance Committee acted on its bill.

One reason why I did not do that is simply because, as a committee chairman, it is my view that one could not know what the committee bill would be until after the committee had reported it.

I, for one, did not want to make the mistake of taking a position for or against a lot of the Senators' recommendations until the committee had taken its position, because to do so would tend to lock one into a position either for or against something that had not been adequately considered.

I assume some of our dear friends in the press would assume that was the word of gospel, that it had to be that way. Thereafter, pride in what one says or the conclusions one reaches might keep some of our well-regarded press people from changing their minds when they know more, even though some of us in the Senate pride ourselves on the fact that if we are in error, we would be happy to change our position.

Let us talk about this loophole. This has been published widely across the Nation as a loophole. Some of the members of the press wrote stories designating this as a loophole.

Mr. President, this was a situation, a matter in law not known by most Senators. I was not familiar with it, I know, for one, and I was chairman of the committee. But this is something that could be regarded as a loophole, and something that should be changed.

Now, when it comes to the attention of Congress, we will change it. But this deals with trusts, and those trusts, when set up, which are irrevocable. A person makes a transfer to a trust, and he cannot take it back.

If we are going to change the law with regard to an irrevocable trust, we ought to let the person who is setting up the trust, be it for the benefit of his child or whomever, know that there is to be a change of the law, so that he can guide himself by that; and it would be the height of injustice to act on a provision where a person had no way to know that Congress was getting ready to act in a way so as to adversely affect him prior to the time he makes an irrevocable gift.

The Ways and Means Committee in the previous Congress—in the previous Congress, mind you, Mr. President—back in May 1974, decided that this was an area where reform would be justified, and that committee voted to do something about it.

We do not quarrel with, in fact we support, the fact that we should act in this area. But also, Mr. President, it is the greatest type of injustice to legislate against a taxpayer without that person having any opportunity to guide himself in the light of what Congress is doing.

In other words, retroactive taxation on an irrevocable trust after it has been set up is subject to the most serious kind of criticism as being contrary to every principle of taxation: To go back and tax someone after he has done an act in good faith which is completely according to the law, as though he were a criminal or something of that sort.

The House committee met in the previous Congress. They decided something should be done about this matter, which is basically about what we have in the bill.

As the Senator has stated, that was done in an open meeting. But the press did not note it. They did not print it. They did not circulate it. They did not publish it around this country and around the world. So, unless someone were present in the committee room and heard what was said in the committee room, he had no way of knowing that the House Ways and Means Committee was planning to do something about this matter. And during the days that followed, during the next few days, a citizen would have had no knowledge whatever, there is no question about it, no way of knowing. Suppose that citizen, without any knowledge of these facts, had executed an irrevocable trust prepared for him by his lawyer.

As I say, that was back in May 1974. Now it has been argued before our committee that it is patently unconstitutional to tax a taxpayer retroactively in this fashion. I do not know whether the constitutional argument is true or not, but I know it is patently unfair to let someone do something and then, without letting him know anything about it, agree to go back and tax him on something that he did not know was going to be made by legislation contrary to public policy at the time he did it. That is the way it works out.

The point was made in the Finance Committee that there is no way a taxpayer not having knowledge of this, it not being published in the press, carried on the wire services, or discussed in financial circles, could protect himself against this type of situation when he made an irrevocable gift. That being the case, if that taxpayer is subjected to a tax on that irrevocable gift, it is completely contrary to conscience.

The Treasury does not like any date changes, and while they did not favor this amendment, their opposition was mild. I noticed that the Nader group came before us, and they had no objection to this. To them, it was completely consistent with what they believed to be proper tax policy that a taxpayer should be privileged to know what the law is when he acts.

The committee considered and reconsidered it, and from our point of view, it just makes sense that when someone wants to act—and we are talking about action in a previous Congress—the public ought to be privileged to know what the action is, so that they can at least act in the light of that.

Mr. **CURTIS** and Mr. **KENNEDY** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Massachusetts.

Mr. **KENNEDY**. Mr. President, I have listened with some interest to my colleague, the Senator from Louisiana, talk about fairness and equity in terms of notice, when either the Ways and Means Committee or the Finance Committee acts to close various loopholes.

I do not think there really is much of a question that this is a significant loophole that ought to be closed.

If we were to follow the argument of the Senator from Louisiana to its logical conclusion, we would have in the Ways and Means Committee and the Finance Committee a procedure that says, "We have our eye on one of those loopholes, but we are going to wait 3 weeks, 1 month, or 6 months for everyone to take advantage of it before we close it, and permit everyone to come in."

The Senator talks about fairness and equity. What about those lawyers who were on top of the issue, who were in the Ways and Means Committee and heard the decision being made at that meeting of the Ways and Means Committee? We are not talking about a closed session over there; we are talking about an open session. Those lawyers got up early and came down to that Ways and Means Committee meeting. They listened to the debate in that session, they heard it voted by the Ways and Means Committee, and they understood that when the Ways and Means Committee decided on an effective date, that is it.

So they get hold of their clients and say, "No way; we cannot create another foreign trust, because we know what the Ways and Means Committee has done. When they make a decision on an effective date, they hold to it. Therefore, Mr. Client, there is no way we can go out and create that foreign trust to benefit your particular beneficiary."

That is fair and equitable? But the Senate Finance Committee says, "Well, there were a few attorneys who were asleep at the switch, and they had some wealthy clients out on the west coast who wanted to be able to take advantage of this provision. They say the news travels slowly. So we are going to hold the loophole open for another 8 days, so they can use it."

In talking about fairness and equity, the reason that the Ways and Means Committee made that decision, when these matters were raised and voted on, and set the effective date, is the very reason why it is justified in this particular case.

When they are closing a loophole and making their judgment, it ought to be on the day that the decision is made. Then everyone, whether he is in the room or not in the room, whether he is getting various bulletins or publications or not getting them, is treated fairly and equitably. But the people who are not going to be treated fairly and equitably are the people who did have attorneys or did have an understanding as to what was actually agreed on by the Ways and Means Committee.

Finally, Mr. President, I do not think it is fair to suggest that, because the public interest groups did not draw attention to this particular amendment, any conclusions are warranted as to whether they feel that it was fair or justified.

Let us take the administration position. Let me read from the administration's statement:

> The administration strongly supports the changes in taxation of grantors of foreign trusts.

That is the provision we are talking about:

> As to the effective date, the administration sees no reason for deviation from the long-standing practice of Congress which has made loophole-closing provisions effective from the date of announcement in order to prevent taxpayers from planning to avoid them. The administration, therefore, opposes the later effective date.

The administration, in effect, supports the amendment of the Senator from Massachusetts.

Mr. CURTIS. Mr. President, the issue here is a difference of 7 or 8 days.

Mr. LONG. Mr. President, will the Senator yield to me?

Mr. CURTIS. I yield.

Mr. LONG. Before the Senator from Massachusetts might step out of the Chamber, I want him to hear this.

Mr. CURTIS. Certainly.

Mr. LONG. Mr. Goldstein appeared before our committee. He said he strongly supports this provision with regard to trusts. He said he does not have a strong position on this amendment as far as he is concerned. That is the amendment where, although the administration does not support it, they do not oppose it strongly from his point of view.

Mr. CURTIS. I thank my distinguished chairman.

As a matter of fact, a careful reading of the Treasury's statement will find it is not in conflict with this amendment. They say a loophole-closing provision should be effective when it is announced.

That is the issue here.

If the provision of the House of Representatives prevails, it will become effective on May 21. If the provision of the Committee on Finance prevails, it will be May 29.

Mr. President, in either event it will be more than 2 years retroactive. This is not carving out special privilege for anyone. The issue is shall it be May 21 or May 29? Here is what happened.

The Ways and Means Committee made a great many decisions. They took this matter up and decided what they were going to do on May 21.

They never made an announcement of it until May 29. The proponents of the pending amendment cannot find a single press release, announcement, staff statement, newspaper article, or anything else, that shows that anyone was informed on May 21 about this action.

The usual practice—and I have served on both committees—when they make a decision as that is to make it effective when it is announced. That is right.

Then it does not affect anything the people did not know about before that. It puts on notice all those who might want to get in between that time and the time the law becomes effective. So it is a common practice to make the effective date at the time the first committee that acts on it announces it.

The current practice in our committee is this: After we make some decisions a press release is gotten out, not a politicians press release, but a factual press release worked out by professionals on the staff, that accurately informs the public what we have done. A similar practice is followed by the Ways and Means Committee.

On May 29, they told the world what they had done. They did not tell anyone before that date.

This case has been somewhat of a celebrated case.

Mr. PASTORE. Mr. President, will the Senator yield to me for a question?

Mr. CURTIS. I am happy to yield to our distinguished colleague.

Mr. PASTORE. This is a very technical point. But the thing that disturbs me, having listened to the Senator from Massachusetts and now the explanation from my dear friend from Nebraska, and my question is this: While it may be so that no formal public announcement was made until May 29, the fact still remains was the situation such that someone could have found out on May 21 exactly what was going to be announced on May 29 and, therefore, have made provisions that would give him an advantage? Is that not the question here? Did we use these two dates in such a way that someone who might have found out either through a leak or being in a public hearing on May 21 knew what the Ways and Means Committee was going to do? That is the question.

Mr. CURTIS. He might have conceivably heard and if this were the case, if I had facts submitted to me or anything that pointed in that direction, with a fair amount of evidence, that someone in that committee room went out and telephoned someone and said, "You better hurry up on something because the committee has done thus and so," I think this has to be judged in the purview of the volume of the work to be done. Here is a tremendous bill. The staff announces these things just as fast as they can. It is also the practice of important and dependable tax services to let people know what action the Ways and Means Committee or the committee on finance takes.

None of that was put into motion until May 29. In any event, we are not engaging in something here that notice is given and then we adjust that date because someone took some quick action.

We are passing on this policy question. Suppose it is a tax change that affects anyone within the sound of my voice. Should it be made retroactive before the committee officially announced it and put it in their press releases and official announcements? I think that we should judge this not on the basis of how many cases there are. I do not buy the notion of taxpayers have a grievance, that it should be dismissed. I do not think a grievance should be dismissed for a taxpayer because of the size of his income. We have to follow a consistent dependable rule.

This case was written up in some rather important newspapers over the country. And while some of the facts recited therein are without question accurate, it gave the impression that the Committee on Finance did not act in good faith.

The Committee on Finance followed a long-established rule that we believe is fair: No sooner should something become retroactive than individuals should have notice. The Treasury's own statement says that they believe that measures of this kind should become effective as soon as announced. The first announcement was on May 29.

I have no interest in this matter. I never heard of the people involved. They do not live in my State. I did feel that it was of sufficient importance that it should be called up and considered in the committee. I think it is all right that it be considered here.

I believe that the other activities taking place on Capitol Hill are such that, if a committee wants to take retroactive action, the correct date is when they, officially and clearly, without question, tell the world what they have done.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CURTIS. I am happy to yield.

Mr. LONG. Mr. President, I regret that not more Senators are present in the Chamber to hear this.

> The effective date of this Section, as reported by the House Ways and Means Committee, was retroactive to May 21, 1974. This was the date on which the Ways and Means Committee announced its tentative decision on the subject. To our knowledge there was no generally published announcement indicating that the Ways and Means Committee proposed to change the taxation of foreign trusts in this manner until May 29, 1974

> when the Committee's tentative decision was disclosed in a BNA Daily Tax Report.

It is well represented at this moment, and it stays on top of these things.

> Prior press coverage of the May 21 Ways and Means Committee action did not refer to the taxation of U.S. grantors of foreign trusts, nor was this proposed change referred to in the Ways and Means Committee's tax reform agenda for 1974, as reported in the BNA Daily Tax Report. The Daily Tax Report, generally the most current publication for tax practitioners, carried the story on May 29, 1974.

According to the argument made by the Senator from Massachusetts, a person must have his lawyer in the room, to hear what goes on in the room, even though there is no prior notice of the fact that this type of matter would be discussed at all.

So a practitioner keeping up with the daily reports of the most up-to-date publications that can be found was in no position to protect his client from a provision that had been agreed to and about which there had been no publication and no circulation as to the decision that had been made. So in this case there was no way that a lawyer, except one right here in Washington, sitting in the committee room, could have done justice to his client or protected his client's interests.

Mr. CURTIS. Is it not true that every day we are in session, there is a big lineup of lawyers standing in the corridor who cannot even get into the committee room?

Mr. LONG. Yes. I will try to do what I can about it. Goodness knows, I have enough to contend with. But some reporters who are trying to find fault with me complain that they cannot hear what is going on.

If there is no news service circulation, no one knows about it. It is something that was agreed to in open session, but there has been no publication and no circulation of it. If no publication in the country carries it, how can any reputable lawyer on God's green earth, except someone sitting in the committee room that day, know what to advise his client?

Mr. CURTIS. This is correct.

This is something else that must be kept in mind: The conversation in the committee room can be accurate; it can be technically accurate; but in order to interpret a motion made and carried and what its effect will be, an individual may have to have before him the code, the proposal, and then judge it. In other words, the committee may not have been negligent at all. It may have been clear there but still not clear to the public.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. CURTIS. I should like to read something first.

This booklet was prepared by the staff of the Joint Committee. They do a very good job of calling these items to our attention. The first two paragraphs are labeled "Present Law" and "Committee Amendment." Then it says "The Issue":

> The House provision applied to transfers of property to foreign trusts after May 21, 1974, the date of the original Ways and Means Committee decision. However, no news report of the committee's decision was made until May 29, 1974. Thus, taxpayers who did not have access to individuals physically present at the Ways and Means Committee markup could not know the committee's decision.

That is the issue.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. PASTORE. If what the Senator from Nebraska said is true and if what the Senator from Louisiana said is true, that no one possibly could have known between the 21st and the 29th what the committee was going to do, what is the harm in taking the May 21 date? What is there to lose?

Mr. CURTIS. Because individuals, when they make transactions, enter into arrangements and contracts, should know not only what the law is but also what steps an official body has taken to change them.

Mr. PASTORE. That is not the point here. The point here is that I suppose there is a feeling—and I think it can be substantiated by the Senator from Massachusetts—that apparently somebody took advantage of this span of 8 days.

Mr. CURTIS. No. What they did——

Mr. PASTORE. That because of the difference between the announcement and the tentative decision, they took advantage of something that somebody else might have been ignorant about and could not take advantage of.

Mr. LONG. It is exactly the opposite.

Mr. CURTIS. That is not the situation.

Mr. LONG. What happened was that these lawyers were in the process of preparing an irrovocable trust for their client. There was no notice anywhere, even in the latest publications, to the contrary. The trust was executed on May 28, and May 29 was the first time anybody knew about it. They had had their client sign an irrevocable trust which no lawyer on earth would have had his client sign had he known of the committee action, which was not known until May 29.

Mr. CURTIS. Here is a further answer to the distinguished Senator from Rhode Island. If someone is going to enter into a contract for transaction or an arrangement of any kind, he is charged with finding out what the law is now. But we go even further than that. They say that even if a committee has announced that they are going to take action, you are charged with that information even though you did not see it. But in this case, there is no question that the Ways and Means Committee made no announcement or no press release or no staff memoranda that what took place was issued before the 29th.

I again say what is done in this instant case, so far as I know, does not affect anybody that I have ever heard of. It is entirely a question of what is a fair procedure. In addition, I also remind the Senate that there is not anybody who knows whom this might affect that we have not heard of.

Do we want our constituents to be subject to a rule that they are charged with knowledge of a change of law even before a committee announces their intention to do it? You see, in any event, we are making this proposal more than 2 years retroactive. Shall we make it retroactive this period plus 8 days, during the 8 days that the Ways and Means Committee did not tell anybody that they had made such a decision? I believe that the Committee on Finance has acted in the only fair and just manner that they could in the premises, and I hope that the Senate will sustain what they have done.

Mr. KENNEDY. Mr. President, I should like to have the attention of the Senator from Rhode Island, because his comments and points, I think, are really at the heart of the whole issue in question, which is raised by this amendment.

The fact of the matter is that it has been generally understood that this is a major tax loophole. It was clearly going to be one of the areas to be considered by the House Committee on Ways and Means and by the Senate Committee on Finance.

The major tax lawyers in Washington, D.C., and around the country, who have been following the Committee on Ways and Means, as well as the Committee on Finance, understood that this particular measure was going to be taken up. What happened is that those who took it up on the west coast were just a little late in doing it. But it is not just some matter that is being sprung on tax lawyers all over this country. They understood it. It was one of the matters that was published for consideration. It is not a new item. It is well understood in the parlance of those who are dealing in establishing foreign trusts and in estate planning. They understand this. It is well understood.

Now, there were many, many tax lawyers at the meeting of the House Committee on Ways and Means, as there were many members of the press, also. As the Senator from Rhode Island knows and the other members of the committee know, when either the Committee on Finance or the Committee on Ways and Means goes into a markup, the room is full, not only of press but attorneys. They knew the matter was going to be discussed and a tentative agreement was made by the Ways and Means Committee. A tentative agreement should not mislead the Senator from Rhode Island off, because that is the general procedure that is followed. Tentative agreements are made subject to later reconsideration.

But when tentative agreements are made and there is no substantial later modification of the provision the effective date of the provision is the date of the original decision. Otherwise, all sorts of abuses are possible.

When they talk about equity and fairness for tax lawyers out on the west coast because they have not heard the news, what about fairness to attorneys who were diligent enough to go to the Ways and Means Committee and sit in there, to know that an agreement was made, and therefore be able to go back and tell their clients: "No way; they closed that loophole this morning. They didn't say we are going to close it down in 1, 2, or 3 weeks, so we can go ahead and create your trust; they closed it this morning."

The Senator talks about being fair and equitable to those people who did not have notifications. How about fairness and equity to the lawyers who went to that meeting, who know what the House Ways and Means Committee procedure has been for the last 25 years, that when they make an agreement they hold to it? He tells his client, "We just can't do anything for you."

Mr. PASTORE. Will the Senator yield for a question?

Mr. KENNEDY. I yield for a question.

Mr. PASTORE. Would he explain to me what difference it would make if an irrevocable trust were set up on May 28 as against May 30?

Mr. KENNEDY. The simple answer is that there were some individuals who set up the foreign trust during that period of time.

Mr. PASTORE. Between the 21st and the 29th?

Mr. KENNEDY. In that period of time and, as a result of that, their beneficaries are not going to be paying any taxes.

I want to make one final point to the Senator from Rhode Island. If we are really interested in the question of equity and fairness and justice, there may be instances in a situation like that when the purposes of a particular provision have sufficient public policy implications and value and benefit that it would be justified to give any possible question on the effective date the benefit of the doubt. But as to this provision on foreign trusts, I say to the Senator, its only purpose is to avoid U.S. taxes. I fail to see, in this particular circumstance, where there is so little value and benefit in terms of public interest and sound policy, that we ought to come down on the side of the trust, when many other conscientious tax experts left the committee hearing, went back to their clients and said, "This loophole is closed."

If we do not accept this amendment, what we are effectively saying is that the experts of the west coast have a grace period to hear about the committee's action, even though the loophole on the east coast is closed.

Mr. PASTORE. What does the Senator's amendment do?

Mr. KENNEDY. All we do is restore the House language and reaffirm the procedure which has been the procedure of the House of Representatives and the Committee on Ways and Means and the Senate Committee on Finance for many years. That is all that this amendment does.

Mr. PASTORE. I realize that, but the effect in money—what is it?

Mr. KENNEDY. The reverse effect is negligible. The issue is the principle. What will happen is that those who were able to take advantage of the provision before the effective date will benefit and those who take advantage afterward will not be able to. That is the only purpose. The committee wants to hold the loophole open for four trusts to use.

Mr. PASTORE. In other words, the Senator's amendment will help those people who had no way of knowing what the committee was deciding?

Mr. KENNEDY. They had a way of knowing. The committee's action was public. The Senator's amendment will reestablish the House Ways and Means Committee's effective date, which was voted tentatively, but still voted, by the House Ways and Means Committee. That is the date that I think ought to be reconfirmed. The Committee on Finance has taken a date 8 days later. The amendment of the Senator from Massachusetts reaffirms the House Ways and Means Committee date, when they made their decision, according to the procedures that have been followed by the Ways and Means Committee for years; that is the effective date of the particular provision, and it is set that way for very, very good reasons.

Mr. PASTORE. I know. I realize that; but for purposes of the record, for those of us who are not on the Committee on Finance, is the Senator actually saying that if an irrevocable trust were drawn up before May 29, there is an advantage or there is not an advantage?

Mr. KENNEDY. Under the Finance Committee bill, there would be a special advantage for four trusts set up during that 8-day period.

Mr. PASTORE. Is the Senator saying that there are many lawyers who had no way of knowing what the tentative agreement was and, for that reason, what is their predicament under the Senator's amendment?

Mr. KENNEDY. Under my amendment, I say that the attorneys who were worth their salt were over in the Committee on Ways and Means and they had full notification. They were there. Therefore, what the committee is doing, under the present Committee on Finance amendment, is giving a grace period for 8 days. It is bending the rules to accommodate four taxpayers who were rushing to get their trusts established and failed to beat the deadline. But everybody else has to live with the deadline. The committee is saying, "We voted this reform, but we are going to wait 8 more days for it to be effective, so four more tax avoiding foreign trusts can be set up. That is what the Senate Finance Committee has done.

Mr. PASTORE. Are we trying to help the lawyers here or are we trying to help taxpayers?

Mr. KENNEDY. We are trying to be fair to all taxpayers.

Mr. PASTORE. The Senator keeps saying we are going back to the date of the Ways and Means Committee; we seem to be saying that. That does not mean anything to me. What I want to know is what is the advantage to the U.S. Treasury in either taking the May 21 date or the May 29 date, what is the advantage to the Treasury?

Mr. KENNEDY. The advantage is going to be small. Four trusts set up during the 8-day period will not have a tax loophole after all. But what we are reconfirming with this particular amendment is that when a decision is made by the House Ways and Means Committee or by the Senate Finance Committee, the effective date of the reform is the date when the decision is made. That is all this amendment does.

Mr. PASTORE. In other words, it is a matter of principle more than anything else.

Mr. KENNEDY. Absolutely.

Mr. PASTORE. It is not a matter of dollars.

Mr. KENNEDY. I do not know who the four beneficiaries are. What I am concerned about is that when we close a loophole, we are going to play by the same rules that the Ways and Means Committee and the Finance Committee have been playing by.

Mr. PASTORE. But when the Senator from Rhode Island came out on the floor he thought we were talking about millions or billions of dollars.

Mr. KENNEDY. No.

Mr. PASTORE. We are not talking about a lot of money. All we are talking about are the lawyers who did and the lawyers who did not know.

Mr. KENNEDY. We are talking about something important, and that is the fair application of changes in the tax laws. That is really what is at issue here.

Mr. LONG. Mr. President, one or two statements by the Senator ought to be corrected. In the first place, so far as we can determine—first, let me correct the Senator's statement. He said there are no taxes to be paid. A tax of about the same amount will be paid in either event. In one case you tax the income of the grantor, and in the other case you tax the income of the beneficiary, but if you tax the income of the beneficiary he owes you interest back to the time that the grantor would have paid tax if the grantor had been the one taxed. So it is really very nearly, very strictly, just a matter of principle.

When we change the law, and we do not intend those laws to have a retroactive effect, and people are doing business just like these people were doing business, and they are relying upon the law as they know it, and a committee announces a tentative decision, and no press source picks it up, it is nowhere to be known except that one would, as the Senator suggests, need a lawyer who has himself a Washington representative sitting inside that room, so in case the BNA news source does not pick it up, Prentice Hall service does not pick it up, no one picks it up, no financial organization picks it up, he is protected unless he has got his lawyer sitting there right in that room to hear everything that is said, even though the press does not hear it and thereby protect his clients on that basis.

Now, the Senator says any lawyer worth his salt would be in that committee room, if I understood it correctly, and the RECORD will show precisely what he did say. Any lawyer worth his salt would be out looking for some business rather than sitting in the committee room. He would be out pleading a law case. He would not be sitting in the committee room monitoring that hearing.

Mr. PASTORE. Mr. President, will the Senator yield on that point? If he had a client, he would be there. He is not just there for the time of day. All those lawyers who show up there have an ax to grind, let us not kid ourselves.

Mr. LONG. No, assuming that to be the case.

Mr. PASTORE. Unless they are in retirement and they have got no place to go to keep warm.

Mr. LONG. Now, may I say to the Senator, assuming that to be the case, the lawyer does have a client, there is no notice that the Ways and Means Committee is going to discuss this legislation. There is no notice they are going to act in this area at all. Unless that lawyer has got an enormous amount of tax business to handle he cannot afford to have somebody sitting in that Ways and Means Committee room every day to tell him what the press does not report.

I admit if you are a professional lobbyist and a big one, representing a lot of big interests, you would have somebody sitting in there. But it is hard for me to understand a good, everyday lawyer—and I means a good one, the ones practicing in the State capital at Baton Rouge or anyone, with the exception of one or two of, perhaps, the largest that I know of in my State, no one could hope to have someone in the room to tell him what the most current services available to businessman, lawyers, accountants, and everyone failed to print or make available to him or make him familiar with what is going on.

Mr. KENNEDY. Mr. President, if you go, as the Senator from Louisiana, I am sure, has, into any committee room in the Senate, you see a fairly representative crowd, a cross section of the Nation. You see young students, you see parents coming in with children, you see older people who might have a few hours to spend who come by the hearing room in the Health Subcommittee or the Judiciary Committee. But you go to the Finance Committee, and whom do you see? You see the top lawyers from Washington, D.C., the top tax lawyers, and there is not a Member of this body who does not understand it. That is where they are, and that is understandable because the Finance Committee and the Ways and Means Committee are making decisions in these areas that are going to have implications of hundreds of millions of dollars.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. KENNEDY. I yield.

Mr. LONG. Well, with all fairness to everyone here, may I say to the Senator, I think the Senator should keep in mind the difference between the kind of crowd that is available when the Senator comes over to make one of his appearances and the kind of crowd that is just there in an ordinary working day situation.

Many times, even acting on this bill, we will be acting with only one little lady sitting at the press table and no more than a dozen people sitting in there, holding those very seats, who could be representing somebody in a Senator's office or just anybody who wants to drift in or even Mr. Nader's group. They try to keep somebody there all the time.

But sometimes we look around and say, I find myself saying, "You mean this is supposed to be a public session? Well, where is the public?" There is one person sitting over there at the press table and maybe a dozen people or five, sometimes, inside the room, not knowing whom they represent.

Mr. KENNEDY. Well, the Senator does not do real justice to his important markups, because they have been playing to standing room only.

Mr. LONG. The Senator played to the TV cameras, and he played to standing room only. I regret to say that we had a lot of poor souls appear there who just did not attract a crowd at all.

Mr. KENNEDY. What is that wonderful line of the Senator's, "I see that light on the distant shore." The Senator from Louisiana is going to get me all welled up. [Laughter.]

Mr. LONG. The Senator does not do himself credit. He came before the committee, he brought the TV cameras with him and a large host of reporters and people, and he was playing to standing room only. But, surely, the Senator knows everybody does not enjoy that much attention.

[Laughter.]

Mr. KENNEDY. Mr. President, the point I would finally make is that this is the kind of a provision, I think, that has brought much concern to the ordinary taxpayer about this legislaiton.

I would hope, Mr. President, that the Senator from Louisiana, who established a rule in the consideration of some 70 special interest provisions that were raised by the Senator from Wisconsin and myself and others, would apply that general rule to this particular provision.

He had indicated that when there were provisions that benefitted only a very small group, and where a controversy was raised, the committee would defer the provision. I hope this one could be deferred on the same basis, rather than going to a rollcall vote on it. I think that would be the best way of treating it.

I do want to just underline the administration position, since there are more Members here. The Treasury position is as follows:

> The administration strongly supports the changes in the taxation of grantors of foreign trusts. As to the particular date, the administration sees no reason for deviation from the long-standing practice of Congress which has made loophole closing provisions effective from the date of announcement in order to prevent the taxpayers from planning to avoid them, and the administration, therefore, opposes the later effective date.

I hope it would be deferred and, if not, I am prepared to vote.

Mr. LONG. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. LONG. Let me say the rule here which I suggested and the committee agreed with, to which the Senator made reference, which is if the Treasury might be opposed to something, and there was no other group opposed, and here we had no opposition expressed from any other group, that if only the Treasury were opposed to it, if the committee thought it was a good amendment, and the Treasury alone differed with us, at least no other group objected to it, we would recommend that the Senate vote on it, and that is what we did do. Even the Treasury man said he had no strong objection to it. They said they saw no reason—we have explained the reason why we think the way we do, and they have no strong objection to it themselves.

Mr. Nader's people, what did they say about it?

Mr. KENNEDY. They left it open.

Mr. LONG. They specifically said they had no objection to it.

Mr. KENNEDY. I do not think that is—I will read the quotation.

Mr. LONG. There is an outfit that dedicated themselves to looking at it from a public interest point of view, and they said they had no objection to it.

Mr. KENNEDY. In the Nader statement, referring to this, it says it is not clear who was trying to beat the effective date of this amendment, but apparently it was a client of a California tax attorney.

They talk about it under provision—which they say "might be unobjectionable."

Mr. LONG. I was told the possible beneficiaries are individuals named Walker, Timmins, Rapien, and Kendall, all executed trusts on the same day.

I have no idea who those people were, but I think the principle is entirely correct.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. STEVENS). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 45, nays 42, as follows:

[Rollcall Vote No. 417 Leg.]

YEAS—45

Abourezk
Bayh
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Culver
Durkin
Eagleton
Ford
Glenn
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Hollings
Humphrey
Jackson
Javits
Kennedy
Leahy
Mansfield
McClellan
McGee
McGovern
McIntyre
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Roth
Schweiker
Stafford
Stevenson
Stone
Taft
Weicker
Williams

NAYS—42

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Buckley
Byrd,
Harry F., Jr.

Church
Curtis
Dole
Domenici
Fannin
Fong
Garn
Goldwater
Gravel
Griffin
Hansen
Haskell
Helms
Hruska
Huddleston
Inouye
Johnston
Laxalt
Long
Magnuson
McClure
Montoya
Nunn
Packwood
Pearson
Percy
Randolph
Ribicoff
Sparkman
Stevens
Talmadge
Thurmond
Tower
Young

NOT VOTING—13

Bentsen
Cranston
Eastland
Hartke
Mathias
Metcalf
Mondale
Morgan
Scott, Hugh
Scott,
  William L.
Stennis
Symington
Tunney

So Mr. KENNEDY's amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 244

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask its immediate consideration.

The PRESIDING OFFICER (Mr. BELLMON). The amendment will be stated.

The second assisant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 244.

Mr. PACKWOOD's amendment is as follows:

On page 507, beginning with line 6, strike out all through page 513, line 18.

On page 513, beginning with line 22, strike out all through page 516, line 5.

On page 513, lines 20 and 21, strike out "is hereby repealed." and insert in lieu thereof the following: "is amended by changing '1976' to '1979'."

Mr. PACKWOOD. Mr. President, I submit this amendment for the Senator from Massachusetts (Mr. KENNEDY) the Senator from Maine (Mr. HATHAWAY), and myself to change an action that the Finance Committee took on what is called withholding taxes on investments made by foreigners in this country.

The "withholding tax" is a misnomer. It has no relationship to what we consider withholding taxes, which are subtracted monthly from one's salary, which more or less eases the tax bill at the end of the year, because the money has already been paid.

This so-called foreign withholding tax, if the action of the Finance Committee is sustained, will forgive totally the tax foreigners must pay on income from certain investments in this country. At the moment, and I think wrongly, but at the moment foreigners pay only a 30-percent tax on any dividends they receive in this country from stock, and a 30-percent tax on any interest they receive on something like corporate bonds, and they pay no tax at all on interest from banks.

I ask unanimous consent that Dave Spencer of my staff be accorded the privilege of the floor during the consideration of the pending bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Let me go over the terms again as to what the present law is, what the House of Representatives did, what the Finance Committee did, and what Senator KENNEDY and I propose to try to do by way of remedy.

The present law is that any foreigner who puts his money in a bank in the United States, and the bank pays interest, pays no tax at all, period, nothing.

If the foreigner puts his money in stock and receives dividends, or on any interest a foreigner receives on a corporate bond, he pays only a 30-percent tax, as opposed to a much higher maximum tax a U.S. citizen would pay.

In the House Ways and Means Committee itself, the committee voted to eliminate the 30-percent tax on all foreign investments in this country, be they dividends or interest, and to make that exception permanent. On the floor of the House of Representatives, however, on a motion offered by Representative FISHER, of Virginia, the bulk of the damage done by the House committee was changed, and the only changing the House did that was different from the present law was to extend the tax-free bank interest provision in perpetuity.

Up until this time, it had existed by a series of extensions of normally a 3- to 4-year period.

The Senate Finance Committee changed even what the House did, in a way slightly different than the Ways and Means Committee. The Finance Committee said that on all dividends, the 30-percent interest rate will continue, but that on all interest, be it bank interest or interest on a General Motors bond or a General Electric bond, there will be no tax so long as the investment is made by a foreigner, and the Finance Committee made that exception permanent.

I have two quarrels with what the Finance Committee has done. First, at the very time when we are accused of having these loopholes written into the law and making it difficult to change them once we write them in, I think it is very unwise to make any exception like this permanent. At the moment, it expires at the end of this year. The amendment which the Senator from Massachusetts (Mr. KENNEDY) and I offer would keep that special exception for bank interest—although I am first to say I do not like it I will live with it—but we extend it for only 3 years, until December 31, 1979, so that we will be forced to review this subject again. I think that is the way we should look at all these special exceptions in the law. They ought to expire automatically, in order that we will be forced to renew them, examine them and then extend them, vote for them again if we think they have merit.

The big difference substantively, however, that Senator KENNEDY and I make from the Finance Committee position is that we eliminate the tax-free ride they would give foreigners on corporate bonds in this country.

I ask this body, in equity, why should we give away—and that is what we are doing—to foreigners an exception we would not give to citizens of this country? I know the argument that is made by the Treasury Department. The Treasury Department is looking for money of any kind, any place, any investment they can get in this country from any place, and if that be from a rich Arab sheik or from a rich Brazilian businessman, bring it into this country.

The other side of that coin, of course, is that once the investment is made in this country, and the interest goes out year after year until it finally ends up putting a negative drain on our balance of payments, we never collect any tax on it.

If we are going to give away to foreigners some kind of privilege like that, then at a minimum I would like to have us at least negotiate at the diplomatic table some exchange preference. Why simply give it away in a piece of legislation, solely in the hope of attracting money to this country that would not otherwise be invested here?

As a matter of fact, it is being invested here. Our tax policies are not a deterrent to foreign investment in this country. It is increasing twofold over, year after year, because foreigners in unstable countries and stable countries are looking for a safe place to put their money, and the United States is a safe place.

For example, let us say a foreigner invests $1 million in this country in General Motors bonds, and let us say the bonds pay 6 percent. They would pay higher than that, but let us take 6 percent for example. So he would receive $60,000 a year in interest, upon which, under the present provision in the Finance Committee bill, that foreigner would pay no tax, but could take it out of the country and dispose of it as he wants.

Under the present law, the law Senator KENNEDY and I want to delete that, and require that the foreigner would have to pay a minimum tax of $18,000 on his $60,000 of interest.

What has he obtained for his $18,000? He gets to keep the other $32,000 or $42,000 in interest, and he has a safe haven for his $1 million investment that is not going to be expropriated or taken away. That is why people are willing to put money in this country from overseas. It is a safe and stable place to invest.

Why then give to a foreigner a privilege for a tax-free investment we would not give to a citizen of this country?

As I say, at a minimum if we are going to give it away, let us bargain it diplomatically away in exchange for doing something that we receive for the citizens of this country.

Second, let us look at the kind of money that comes into this country, what do we gain or what does a foreigner gain.

We have basically two kinds of countries overseas in terms of taxation. First, the so-called industrial countries, basically, Western Europe, Japan, and a few others, that have tax rates as high as we do, and they allow a tax credit, as we do, for taxes paid in a foreign country.

So if a German businessman invests money in this country and he pays a tax on it in this country before he takes the money home, as he should, he gets a credit against his German taxes, but if instead we let this German businessman invest in this country and he pays no tax on his investment in this country, and he takes it home, then the German Government taxes that income.

What happens?

Under the present law if that German businessman invests in this country and pays a tax to this country, we collect some money for our Treasury and it is deducted from the money that would otherwise go into the German treasury; the German businessman comes out the same whether we tax it or whether we do not. It is simply, as far as he is concerned, a question of is Germany going to tax it or are we going to tax it. His net result is the same.

If we refrain from taxing it and Germany does tax it, money goes in the German treasury that otherwise would go into our Treasury. The man doing the investing is no further ahead than he is, and we have lost the revenue.

I say to Senators that I am a supporter of revenue sharing, but I am not a supporter of international revenue sharing where we are taking money out of this Treasury that we otherwise would have, are entitled to, and giving it to a foreign treasury.

That is what happens when the investors come from one of the normal Western industrialized high tax countries.

What happens if the person happens to be a wealthy person from a very low tax country? These are normally the less developed or very underdeveloped countries. Someone may be of a rich family in that country who frankly has misgivings about the stability of his or her country and stability of his or her investments in that country. That person puts money in this country because again it is a safe place to invest, and that person is willing to pay for those investments and willing to pay taxes on those investments in this country for the privilege of the security that this country gives.

Now, we wipe off the taxes on that person in this country and let him take his money home tax free. He lives in a less-developed country. He puts his money in this country rather than his own less-developed country. He chooses not to help it. He brings his money home and is not taxed there either and has an unjustified windfall that we would not give, do not give, and should not give to any American citizen, but that we are willing to give it away to a foreigner.

To come back again, what is the justification? First, what is the alleged reason that many people want to not only let all bank interest and all bond interest be tax free but all interest, be it on stock, bonds, or anything else, tax free? It is in the hopes that foreigners will put money into this country when they otherwise would not put it in, and they are putting it in despite the taxes because they want to be here.

Second, if we want to encourage capital formation in this country, then why not give that kind of incentive to the American wage earner, to the American investor? Maybe that investor, instead of spending his money on consumer items, if he had this kind of a tax benefit, tax-free investment in General Motors bonds, tax-free interest in banks, would be willing to put his money into that kind of capital formation.

But we say no, we are not going to give that advantage to an American, but only to foreigners.

What is going to be the final upshot is the same thing is going to happen to us in terms of the reverse balance of payments, in terms of money going overseas, that we have been able so far to our benefit to obtain when we invest overseas.

Every year in this country we receive more money back, cash money into this country from investments we have made overseas in past years than we invest each year overseas. Every year it is a positive balance for us. In fact, it is the only thing in the past 5 years that has kept our balance of payments positive or at least reduced the deficit. It has been this return on investment overseas.

For the benefit of a short-term infusion of capital, which we hope to get and which I am not convinced we are going to get any more than if we did not change the law, but in exchange for the hope that we get more capital infusion, we are going to see money dribble out of this country year after year in ever-increasing amounts untaxed if we make this change in the law.

I do not think it makes good economic sense for this country. I do not think it makes equitable sense for the citizens of this country who are not given the same privilege. And at a very minimum, if we are going to give away the tax revenues of this country in that fashion to foreigners, all I would ask is that we negotiate something in exchange before we pass this law so that Americans investing overseas could have equal privileges.

I relinquish the floor.

Mr. BROCK. Mr. President, I consider the Senator from Oregon a dear and beloved friend, one of the most able Members of this body and a person whose judgment I greatly respect, but he is so completely wrong on this issue that I do not know where to begin.

If we really want to just look at what we are talking about, we are talking about an income item of maybe $15 million to the U.S. Treasury. But let me tell Senators what we are really talking about. We are really talking about the possibility of a couple of billion dollars' worth of deposits or purchases of long-term debentures in this country per year. That is in terms of jobs, 100,000 jobs created per year. That is $120 million in net new income in the United States. That is $140 million in tax revenues as a result of the taxes paid by those individuals who get those jobs. We are going to give up $260 million worth of annual income. We are going to give up $2 billion worth of net investment in order to increase Federal Treasury revenues by $15 million.

That is not possible. We cannot do that. No one would suggest that, and I know the Senator does not really believe that his amendment would have that effect, but let us look at the record.

The exemption for bank deposit interest has been in the law for 50 years in this country. Why? Because we have an agreement with allies all around the world. There is no withholding tax on interest on foreign bank deposits for the U.S. depositors in England, Germany, the Netherlands, Luxembourg, all of Scandinavia, Belgium, Singapore, Panama, the Bahamas, the Cayman Islands, the Netherland Antilles, Japan, and Canada. Why? Because we both understand it just makes good sense to attract capital so that we can create jobs.

That is what it really comes down to. We have $18 billion right now in foreign bank deposits in the United States providing capital for this economy of ours which has been in trouble. Do Senators know what would happen to our interest rates if we pull that $18 billion out and shortfall our capital by $18 billion?

Our interest rates are going to go through the roof. Whom does that hurt? Not the guy overseas who is getting a tax credit, but the wife who wants to buy a refrigerator and the husband who wants to buy a home.

Mr. STONE. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. STONE. Is the Senator aware that there are a number of banks in gateway cities like the city of Miami where deposits from Latin American depositors amount to not 10 percent or 20 percent of the depository, but as much as one-third, and that if those deposits were taxed not on earnings earned in this country but simply on money that was deposited there without any earning impact, they would go? If those deposits went, does the Senator have any idea what would happen to a banking institution that lost one-third of its deposits? The Senator is referring to large banks, not just the neighborhood banks, but really large banks.

Mr. BROCK. There is not a financial institution in the United States that could survive the loss of one-third of its total deposit structure in a short period of months.

Mr. PACKWOOD. Will the Senator yield?

Mr. BROCK. I yield.

Mr. PACKWOOD. The Senator from Florida realizes that the amendment Senator KENNEDY and I propose does not touch bank interests. There is no change from the present law. So we are not going to see this money fly out of the banks, unless it is going to fly out under the present law.

Mr. STONE. What does it tax?

Mr. PACKWOOD. This bill, basically, tries to keep the present law. What the Finance Committee did was to extend this tax-free status to interest from any source, including bonds—General Motors bonds, General Electric bonds.

We are simply going back to the present law and saying we will keep the exception for bank interests; and instead of extending it permanently, because I think it is unwise, we will extend it as we have periodically in the past. We will extend it for another 3 years. We will review it in another 3 years.

Mr. BROCK. Does the Senator understand what he is telling someone? "I am going to kick the one who buys the bond now, but I am not going to kick you now."

The Senator makes it so uncertain, that the person will go where he is sure.

Mr. PACKWOOD. We have been extending this law year after year for 2 or 3 years, and they have been coming into the country with this assumption.

Mr. BROCK. And all of a sudden we say, after the lull we have had for 50 years, "We are not sure of it any more. We may not go beyond the next 3 years. So you had better start looking for another haven."

Mr. PACKWOOD. The presumption of the Senator from Tennessee is that an investor in a high-tax country who is going to have to pay a tax on this either here or overseas——

Mr. BROCK. No. The Senator knows what a Eurodollar market is. That market is entirely tax free. That is where the person is going to put his money.

Mr. PACKWOOD. Not on the interest he takes out of the Miami bank and brings home into France or Italy.

Mr. BROCK. No. He will put it into the Eurodollar market, where he gets his interest tax free.

Mr. PACKWOOD. Then he is not going to get it home at all.

Mr. BROCK. He does not need it. He is making money all this time. The Senator from Oregon is saying to him, "We do not need your money in the United States."

Mr. PACKWOOD. Unless the present law says, "We do not need your money," because we are not changing the present law.

Mr. BROCK. What we are trying to do is change the present law so that we can draw in this capital and create jobs.

Mr. PACKWOOD. And have the continual interest payments going out of this country year after year, in ever-increasing amounts.

Mr. BROCK. That is a most incredible statement for a free enterpriser. Has the Senator ever heard of someone wanting to start a business without borrowing money? The Senator from Oregon is saying, "You should not borrow money, because you are going to have to pay interest."

Mr. PACKWOOD. I am happy to have them borrow money. I just want them to pay the same tax an American citizen would have to pay under the same circumstances.

Mr. BROCK. That is not the point.

Mr. KENNEDY. Mr. President, does the Senator from Oregon have the floor?

Mr. BROCK. I have the floor.

What the Senator's proposal would do would be to force the withdrawal of these investors from the United States, where their money is residing now and where it is creating jobs. The Senator is saying we do not need the jobs, we do not need the profits, we do not need the industry, we do not need the production. We are going to try to get $15 million in additional revenue, and this is the price we are going to pay. We are going to throw $18 billion out the window.

Mr. PACKWOOD. Why has this money come here in the past, if they face the onerous taxation of this country?

Mr. BROCK. They have not had the alternatives until the last few years. Now they do. What the Senator is saying is that we are going to eliminate this and tell them where to put their money.

How much money does the Senator want to raise? It is $15 million. Is that right?

Mr. PACKWOOD. It is $25 million, according to the figures I have.

Mr. BROCK. All right, $25 million. To do what; $25 million would not run our Government for 20 minutes.

Mr. PACKWOOD. $25 million will be raised now if only the provision the Finance Committee has offered to put in—tax-free interest on corporate bonds.

Mr. BROCK. How much money will that make for us as a people, as a society, as a government, and as U.S. citizens, instead of the Government getting its grubby hand in the kitty for this $25 million, and attracting more money?

Mr. PACKWOOD. The assumption is that it would not be attracted and that it would not be attracted if they had to pay the same tax they have not had to pay all of these years.

Mr. BROCK. I am saying that we could get that much more.

Mr. PACKWOOD. We have no evidence to prove that as yet.

Mr. BROCK. I do.

Mr. PACKWOOD. The reason why, basically, the money comes in to invest in this country is not that this a low-tax country. It comes in because it is a stable country. The money is not going to be expropriated. The money is safe.

Mr. BROCK. Sweden is stable. Switzerland is stable. Germany is stable. The Eurodollar is stable. Why can they not put their money there?

The Senator from Oregon says he does not have any evidence. I will give him some.

When we got into our balance-of-payments problem in the 1960's, we allowed corporations to issue withholding tax bonds to foreigners. It went through 1973. In 1965, we picked up $191 million; in 1966, $594 million; in 1967, $440 million; in 1968, $2.144 billion; in 1969, $1.30 billion; in 1970, $822 million; in 1971, $1.181 billion; in 1972, $2 billion; in 1973, $1.2 billion.

The Senator from Oregon is talking about almost $10 billion. How many people are working in this country because we received $10 billion in new investment? That is what we are really talking about.

I respect the Senator's position. I understand the position. He wants our people to be on the same basis as everybody else. I am not arguing with that at all. I am just saying that the $25 million we would receive in revenue is not worth a hill of beans. It does not mean anything to the Treasury. It does not mean anything to the taxpayers. But 100,000 jobs a year mean a lot to people who are not working now. That is what the Senator is after, and I do not think it will work. I think it will do great violence to this country if we say that we are going to go after the $25 million.

The Senator from Florida is correct. I think the Senator from Oregon makes it almost impossible for people to have any surety of treatment in this society. I believe it will pull the money out of the Florida, New York, and Tennessee banks. I believe that a disaster will come on if we start playing games with this.

We should let them know that we need their capital. We have all kinds of studies showing that this country has to create a trillion and a half new dollars—not a billion and a half—a trillion and a half dollars in new capital. We are going to be that shy at our present capital levels, to create the capital to have every American working in the next 5 years.

I do not care who invests in this country. I like to see their money coming in, and I like to see Americans working. We have given them an incentive to do what we want them to do. We give our own people incentives to invest. We give them tax credits and all kinds of things. Why should we not give the others incentives to do the same thing?

One last point: This is a safe country in which to invest. It is the best in the world. It is the safest in the world. It is the surest in the world. But I am a little troubled by the implication of the Senator's amendment, because what he is saying is, "We do not mind you investing in stocks. That is all right. We do not want you investing in bonds."

I think that would trouble me. I would rather have them investing in bonds. I would rather not have them invest in an equity position. I would rather have them invest in a long-term debt, where they would be frozen in with their investment. I believe that the amendment the Senator offers, particularly with relation to tax on portfolio interest, would have a counterproductive effect.

Mr. PACKWOOD. In the Finance Committee bill, we have been changing the law on stocks. They are still going to pay their 30-percent rate.

Mr. BROCK. I understand, but the committee did change the law and did provide an inducement for portfolio interest.

Mr. PACKWOOD. Bonds, but not on stocks.

Mr. BROCK. That is correct. I think that would make sense. I would rather have them buying bonds and equities; because I think we are going to get into a situation in the Senate in which some of our colleagues are going to say, "We do not want people from Arab countries or the Middle East or some other part of the world owning a dominant share in American industry." I sort of agree with that, frankly. I would rather have them buy bonds, because we would have no management rights the other way.

Mr. PACKWOOD. If we were to make a choice between the two, if it were either/or, I would agree with the Senator's latter statement. At least bonds will not have been totally sold and all the money taken out. There is a statement of payments and they cannot take the money out all at once. But it does not have to be an either/or situation. I see nothing wrong with asking a foreigner who is exercising the privilege, and it is a privilege, of investing in this country to pay a slight tax, and it is a slight tax. It is a lesser tax, if this amendment passes, than an American citizen has to pay under the same circumstances. That is not asking too much in exchange for the benefits of their being able to invest their money and do business in this country.

Mr. BROCK. The Senator is acting as if we were doing them a favor instead of the other way around. We need their capital. We need the production facilities in order for people to be gainfully employed.

Mr. PACKWOOD. The benefit will come from their investments; it has come in the past and will in the future.

Mr. BROCK. First of all, it will not come, if there is a benefit. If there are other tax havens they can go to, that is where they will go, particularly with bank deposits. More importantly, I think what we have done with the Finance Committee bill is motivate a greater capital flow into this country. I think we can demonstrate by the record that when we afford this protection for them, the money will come. If it comes, we cannot possibly lose in that process. We are not losing anything, because if we do not get the money, we do not pay any taxes. If we do get the money, we do not pay any taxes. There is no change there. But Americans are working and they are paying taxes and we have a society that is moving again. That is the difference. I think that is a heck of a lot of difference. I think it is an important one.

Mr. KENNEDY. Mr. President, there are just a final few comments that I would like to make, because I think my colleague, the Senator from Oregon, has stated the situation very fairly and very eloquently.

During the course of the debate on tax reform a few days ago, we discussed the amendment of the Senator from Wisconsin on DISC. Opponents of the reform argued that DISC was a bargaining chip in relations with other countries, and that we should not give it away for nothing. The argument was made, and I think very persuasively to some of our colleagues, that we had a substantial advantage and that if we are to give that advantage away, it ought to be as a result of negotiation, it ought to be used as a bargaining chip, we ought to get something in return.

I think that there were Members of the Senate who were persuaded by that argument. Here, without the Packwood amendment, in effect, we are giving away a matter which would be of very considerable interest to investors in many countries around the world. If it is justifiable, if it is warranted, I do believe that it ought to be worked out through negotiation, so that the American taxpayer receives some advantage, rather than being given away as a result of Senate Finance Committee action.

Second, Mr. President, I think that there are some very profound and significant long-range implications which were touched upon in the exchange between the Senator from Tennessee and the Senator from Oregon about the investment of foreign capital in the United States. This was a matter which was of primary importance in the late part of 1974 and the early part of 1975, when the stock market was at rock bottom. At that time, article after article was written in the financial press about the potential dangers of overseas investment into the United States. The Finance Committee bill will encourage foreign investors to invest in corporate bonds. The implications that has in terms of the American free enterprise system are something which I do not think ought to be discounted lightly. I am sure it is not by those who are opposing this particular amendment. The amendment would preserve the status quo. But the implications are a point which ought to be given weighty evaluation and consideration.

Beyond this, Mr. President, there are some additional implications which concern me very deeply. The argument is made by the Senator from Tennessee that this investment that is going into the United States is going into the safest, most secure investment possibilities of any country in the world. That is true. But, quite frankly, I think that our foreign friends and allies ought to be willing to pay the same tax for that safe and secure investment that every American citizen has to pay. We know the economic problems and difficulties that many of our allies and friends are having in the world. We understand it by the dramatic fiscal action that has been taken by Great Britain in the past few days. It appears that now, with the extraordinary drought that has taken place in France, their losses are in the billions and they are facing serious financial difficulties. The problems that Italy is facing are well known, as are the economic difficulties of Portugal, a brave and gallant nation which has averted, because of the resourcefulness of its people, a Communist takeover. So the United States is a relatively safe haven for foreign investment. I do not see why we have to provide additional tax breaks for such investment.

The committee amendment will also encourage the flight of capital from many less-developed countries. At the same time, we are investing, in terms of economic aid and assistance, in those nations, while capital flies from those nations into corporate investment into the United States.

A final point is the basic and fundamental issue of tax equity in terms of the American taxpayer.

Unless the amendment is adopted, we will be giving preferential treatment to those outside the United States who will be investing and taking advantage of this particular provision, over the American taxpayer.

It seems to me that the issue of tax equity, fairness and justice to the American taxpayer is underscored in this particular amendment introduced by the Senator from Oregon and myself, and justifies its enactment.

Mr. BROCK. Mr. President, just briefly I would like to rebut a couple of points.

The Senator from Massachusetts says these foreign nationals should be willing to pay us for the privilege of lending us money. I wish my banker would adopt that philosophy that he would like to pay me for the privilege of lending me money every time I want to borrow it. That is a new concept of free enterprise. I think it might work if we could find a few more friendly bankers around the world than we have right now, but it does not work that way.

My brother works in a small, little 200-person candy plant in Chattanooga. He came up with the best idea he ever saw. He was so excited, he said, "I have a new way to sell candy. I am going to put out a product of chocolate-covered cheese," and I will admit it did not sound exactly too appealing to me, but he said that was so good the people were going to pay him for the privilege of his letting them eat it.

A funny thing happened though, they did not. They did not pay him a dime. It did not sell. Nobody wanted it. They did not like the taste particularly, I guess, and they sure did not like the price, and all of a sudden he found out that maybe he had better go back to making chocolate-covered cherries or jelly-beans. But he did not sell any chocolate-covered cheese because people were not willing to pay him for that particular product.

Now, the Senators from New York, Massachusetts, and Oregon say all these good people around the world should pay us for the privilege of lending us money. That is a marvelous concept, but it does not work that way. We are the ones who need the money. We need the capital. We need the jobs. We need the employment. We need the profits. We need the production. We need the goods and services that come out of these investments and, doggone it, we ought to go out there and work to get it if we are going to compete in this world.

There are too many people in this country who are not working today, and I do not care whether you pass some lousy bill like Humphrey-Hawkins or whatever, we have not got enough money in the whole world to put everybody in this country to work unless most of the American people are working in the free enterprise system and paying taxes so we can afford to help those who cannot help themselves.

If we are going to do that we have got to attract capital into this country. We have got to draw on the resources of the capital marketplace to create more jobs and more production, and that is all the Finance Committee is trying to do with its amendment.

It loses $25 million. Is that not a fantastic amount of money for the Treasury to lose, $25 million, in exchange for which we might be able to pull $1 billion or $2 billion or $3 billion worth of new investment into this country every single year? That is the kind of return on investment the Senator from Tennessee would like to make. If we can get by with losing $25 million in revenue, and in exchange create 100,000 jobs a year, a $1 billion or $2 billion worth of net personal income in this country every year increase, $140 million in new taxes every year, $120 in additional profits in this country every year, is that not what this country ought to be trying to do? Is that not why the Packwood-Kennedy amendment is economically illogical? It will not work. It will do violence to our opportunity to create the growth and the progress in this country that Americans want, deserve, and must have if we are going to compete in this world of ours.

I hope the amendment is defeated.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. Leahy). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, I will conclude very briefly.

We are not suggesting that these foreign investors pay us for lending us money. What we are saying is they should pay some slight tax on the profits they make in this country, not even as much as any of us will have to pay if we make profits; just a little, slight tax on the profits.

If all of the theory of my good friend from Tennessee, and the way he words it reminds me of the appellate court judges talking about the trial court just before they slice him in half, if the theory he propounds, a theory which says we should not tax because more will come to this country, why, think what it would do if we paid them a 5 percent premium to put money, billions more, into this country? There is no end to that salt box at the bottom of the ocean. We would corner all the money in the world if we paid them enough to put it in here.

I think all we are saying here is that for the privilege of being able to invest in this country, and it is a privilege, on the profits that you make should you have to pay a tax substantially less than any American would have to pay on the same profits from the same investment, and I think you should.

I yield the floor.

Mr. KENNEDY. Mr. President, finally, I wish to place in the Record some articles which substantiate the arguments of the Senator from Oregon. Here is the Chicago Tribune which says, "Foreigners find United States Fine for Investing." The Wall Street Journal says "Treasury Finds Foreign Holdings in 1975 of U.S. Stocks and Bonds Increased 28 percent." The New York Times says "U.S. Stock Abroad Totals $37.2 Billion."

The Journal of Commerce says "Overseas Investment in United States Rises. Foreign Portfolio Holdings Soar in 1975 to over $100 billion."

That is already taking place now, without the Finance Committee amendment. We do not need this new incentive. I think the arguments that were made by the Senator from Oregon are sound. Let us treat foreign investors just the way we treat our fellow American taxpayers.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Chicago Tribune]

FOREIGNERS FIND UNITED STATES FINE FOR INVESTING

(By Bill Neikirk)

Washington.—Foreign investors, fearing political instability and economic crisis in their own countries, are turning to the United States in droves for a place to stash their money.

The U.S. stock market is the prime beneficiary of this rapidly growing shift of foreign capital, for it is increasingly being regarded worldwide as a safe place to invest, the Treasury Department said Monday.

The growth figures for foreign portfolio investments in the last year surprised even the Treasury experts.

The department said foreign investment in the U.S. at the end of 1975 totaled $86 billion, with $37 billion of this invested in the stock market. The 1974 total was $67 billion. Most of the growth took place in foreign stock ownership.

Treasury officials gave a variety of reasons for the increase but ranked political troubles in many European countries as a major impetus.

Increased Communist influence in some European countries, mainly Italy, is a factor in the trend, they said.

Many European investors see the United States as offering more profit potential and less risk of nationalization than other major countries. Gerald R. Parsky, Treasury assistant secretary for trade affairs. said,

Parsky said foreign holdings in U.S. stocks in 1975 were heavily concentrated in a few countries—with Switzerland, the United Kingdom, and Canada accounting for nearly 60 per cent of the total. These three countries plus the Netherlands and France represented about 75 per cent.

But these figures are misleading. More than half of the holdings were in the names of intermediaries—brokers, banks, and individuals—holding them for someone else.

For example, nearly 90 per cent of the U.S. holdings in Switzerland, famed for its secret bank accounts, were on behalf of owners in other countries. Thus, it is impossible to get a true picture of country-by-country ownership.

The figures showed that all the oil-producing nations, after having kept most of their newly-won riches in bank accounts in 1974 put large amounts into the stock market and other investments in 1975.

Parsky said the oil-producing countries made $57 billion in 1975 investments, then purchased $1 billion in portfolio investments in January and February of this year.

"We believe that the oil-producing countries will place an increasing proportion of their investments in longer-term debt and equity instruments," he said.

Parsky said the trend is nothing for Americans to worry about, for U.S. corporations need money to expand, and foreign investors represent a legitimate source.

"As long as our national security is protected, and as long as the company is willing to abide by our laws and compete in our marketplace, we should not object as to whether its owner is from the United States or France or Abu Dhabi," he said.

The value of foreign-held investment is equal to about 5 per cent of the value of all publicly-traded securities in the U.S., the Treasury said.

Other reasons foreign investors gave for putting their money in the U.S. were expectations of long-term capital gains; the large cash-flush money markets; close regulation and organization of U.S. stock markets; greater range of investment choices; sale-hustling by U.S. stock dealers; and greater efficiency of American markets.

[From the Wall Street Journal]

TREASURY FINDS FOREIGN HOLDINGS IN 1975 OF U.S. STOCKS AND BONDS INCREASED 28 PERCENT

Washington.—Foreign portfolio holdings of U.S. stocks and bonds totaled $86 billion at the end of last year, 28% higher than a year earlier, a Treasury study said.

The rising stock market's inflating effect on the value of foreign holdings caused a big part of the increases, but foreigners also had net purchases of U.S. stocks amounting to $4.4 billion in 1975, the study concludes.

Gerald L. Parsky, assistant treasury secretary for international affairs, disclosed the new data in testimony before a Senate Commerce subcommittee. Mr. Parsky reiterated the Treasury's stance that the U.S. has little to fear and indeed much to gain from increased foreign portfolio investment here.

Portfolio investment includes holdings of stocks, corporate bonds, Treasury bonds and notes and certain other debt securities; it excludes such short-term investments as those in Treasury bills. However, purchases of stocks by one who owns more than 10% of a company are considered "direct" rather than "portfolio" investments.

METHODS OF COMPUTATION

Congress ordered the Treasury's report in 1974. Although reports on foreign investment flows had been compiled regularly prior to then, there hadn't been a count of overall investment holdings since 1941. Estimates of holdings in the interim were computed using the data on investment flows and the 1941 figures on holdings.

The new study, Mr. Parsky disclosed yesterday, is based on questionnaires returned by 10,000 U.S. companies and gives holdings as of Dec. 31, 1974. The 1975 figure is computed from the 1974 data on holdings and the estimated 1975 investment flows.

According to the study, foreign portfolio holdings at the end of 1974 totaled $67.1 billion. The estimate from the 1941 data had put them at $56.6 billion. The $67.1 billion, however, was well below the $80 billion to $85 billion the Treasury estimated last October in a report to Congress based on a preliminary reading of the fresh numbers. At a news conference after his appearance before the committee. Mr. Parsky avoided explaining the discrepancy, but a Treasury official said later that "computer programing problems" were responsible.

Of the $67.1 billion, $24.7 billion was in stocks, Mr. Parsky said. A year later, foreigners held $37.2 billion of stocks in U.S. companies, with the increase reflecting $4.4 billion in net new purchases and an $8.1 billion jump in market value.

FIVE COUNTRIES DOMINATE

About 75% of the 1974 total of $24.7 billion was held in five countries—Switzerland, Great Britain, Canada, the Netherlands and France. Some of the Swiss holdings, however, probably were in bank accounts for residents of other nations, the Treasury said. There were just 328 U.S. companies in which combined foreign holdings totaled more than 10% of the outstanding stock.

The Commerce Department, which was charged by Congress with conducting a companion study of foreign direct investment in the U.S., said its final report will be ready "in a few days." It will come in two volumes with seven volumes of appendices—2,500 pages in all, the department said.

Two Commerce Department officials appeared before the subcommittee to share a few tidibts from the report. They said that at the end of 1974 foreign direct investment here totaled $26.5 billion, and they estimated that by the end of 1975 the figure was $5.1 billion higher.

"Nearly 80% of the total investment position—$21 billion—consisted of foreign equity investment in incorporated U.S. affiliates," testified Milton Berger and George R. Kruer, the Commerce Department official "Outstanding net loans to incorporated affiliates were $4.4 billion. The remaining $1.1 billion was investment in unincorporated affiliates."

[From the Journal of Commerce]

OVERSEAS INVESTMENT IN UNITED STATES RISES: FOREIGN PORTFOLIO HOLDINGS SOAR IN 1975 TO OVER $100 BILLION

Washington.—Foreign investment in the United States last year topped $100 billion for the first time, reports by the Treasury and Commerce Departments indicated Monday.

The two agencies told Congress that they favor changes in the law—particularly the removal of withholding taxes on dividend and interest payments to foreigners—that would further encourage foreign investors.

Testifying before a Senate commerce subcommittee, the two departments revealed that at the end of 1974 foreign portfolio investments in the U.S.—mainly securities holdings—totaled $67 billion, and foreign "direct" investment was $26.5 billion.

"Direct" investment refers to the ownership, indirect or direct, of 10 per cent or more of the voting securities of a corporation or an equivalent interest in an unincorporated business.

Treasury further disclosed that by the end of last year foreign portfolio holdings had soared to $86 billion, largely because of record foreign purchases of U.S. stocks and a sharp increase in stock values.

The Commerce Department did not provide a similar 1975 estimate for direct investment, but it was thought to be at least somewhat higher than the $26.5 billion of a year earlier.

Both the Commerce and Treasury investment reports followed comprehensive "benchmark" surveys of foreign investment in this country—the first since the 1940s. The new surveys were ordered by Congress in 1974, reflecting fears that foreigners "buy up" U.S. industry and real estate.

The two agencies, however, found that foreign investment is "beneficial" to the U.S. and that there is no reason for concern over Arab "takeovers" although, Treasury said, oil nation purchases of U.S. stocks rose markedly last year, to $1.5 billion.

Altogether, Treasury reported members of the Organization of Petroleum Exporting Countries (OPEC) made $5.7 billion in U.S. portfolio investments last year, spread among government bonds and notes, corporate bonds and long-term certificates of deposits, besides stocks.

By the end of 1975, OPEC's portfolio of U.S. stocks and corporate bonds totaled $4.3 billion, against all such holdings by foreigners of $48.3 billion. West European nations still accounted for the great bulk of the foreign portfolio investment in U.S. companies—$33 billion, according to the Treasury.

OPEC INVESTMENTS

"Direct" U.S. investments by OPEC nations, said the Commerce Department, totaled $1.8 billion at the end of 1974. The oil nations, particularly Venezuela, Iran, Kuwait and Saudi Arabia, are directly invested in 83 U.S. affiliates, but the only large holding is by Saudi Arabia in the Arabian-American Oil Co. (Aramco), a Commerce official said.

Nearly two-thirds of all foreign direct investment apparently is in West European hands—particularly Britain, Netherlands, Switzerland and Germany—while Canada has 20 per cent, Commerce disclosed. The $26.5 billion, it said, was distributed chiefly among manufacturing (31 per cent), oil (24 per cent), and finance, insurance and real estate (23 per cent).

Foreign firms, Commerce said, own about 13 per cent of total U.S. oil refinery capacity, but no more than 6 per cent of the output of any broadly defined U.S. manufacturing industry. Foreign banks own about 7 per cent of total U.S. commercial bank assets, while foreign-controlled insurance firms take in 5 percent of the premium income of all insurance companies in the U.S.

The Commerce Department indicated, however, that it was unable to get as clear a picture of foreign investment in U.S. farmland and other real estate. While it found that "for the nation as a whole" there is no "strong factual basis for concern," it urged that foreign real estate investments be probed further.

Foreign companies, through U.S. affiliates, employ over one million persons in this country and account for over one-fourth of U.S. foreign trade, Commerce revealed. Assets of the affiliates totaled $174 billion at year-end 1974.

The $26.5 billion in foreign investment Commerce reported was higher than what would have been expected from past reports. That was partly due to Commerce for the first time including foreign ownership of less than 25 per cent of a U.S. company as "direct" investment and a closer look at foreign subsidiary firms in the U.S.

Treasury's $67 billion portfolio investment total was about $12 billion lower than the estimate announced last October for year-end 1974, but still up sharply from figures of earlier years. The $67 billion included $25 billion in stocks, $16 billion in corporate bonds and other private debt and nearly $26 billion in U.S. Government bonds and notes.

By the end of 1975, the portfolio mix comprised $37 billion in stocks, $29 billion in treasury bonds and notes, $11 billion in corporate bonds, and $8.3 billion in other debt instruments, Treasury said.

About three-fourths of the stock holdings involved five countries—Switzerland, Britain, Canada, the Netherlands and France. But, Treasury noted, more than half of the actual holders could not be identified, since the stocks were in the names of foreign banks, brokers and nominees.

Still, said Treasury Assistant Secretary Gerald Parsky, as long as U.S. security is protected and investors abide by U.S. laws, "we should not object to whether (the owner) is from the U.S., France or Abu Dhabi."

[From the New York Times]

U.S. Stock Abroad Totals $37.2 Billion

(By Edwin L. Dale, Jr.)

WASHINGTON, May 3.—Foreign holdings of United States stocks amounted to $37.2 billion at the end of last year, roughly 5 percent of the value of publicly traded stocks, a major new Treasury study disclosed today.

Of the total, $2.17 billion was owned by residents or governments of the Middle East oil exporting countries, held in diversified portfolios. New stock purchases in the United States by these countries amounted to $1.44 billion last year, a big jump from the year before but only a small part of their total "investable surplus" from oil earnings of an estimated $42 billion in 1975.

The new survey of foreign stock ownership was the first since 1941. Based on some 10,000 reporting forms sent to United States corporations, brokerage firms, banks and others, it actually covered the year 1974, with the figures from 1975 estimated on the basis of regular reports on stock transactions and the rise in stock market prices.

The new survey put foreign stock ownership at the end of 1974 at $24.7 billion, well above the $18 billion figure estimated earlier. The increase to $37.2 billion at the end of 1975 reflected one-third new foreign stock purchases and two-thirds the rise in stock prices.

In addition to stocks, foreigners held Treasury securities, corporate bonds and other long-term private debt in their portfolios amounting to $48.8 billion at the end of last year. But the great bulk of this was in two categories—investment of monetary reserves held in dollars by foreign central banks, and foreign holdings of "Eurobonds" issued by United States corporations under the now-defunct Government balance-of-payments program of the 1960's and early 1970's.

The report says that apart from these categories, "foreign interest in the United States corporate bonds has never been significant," though the Middle Eastern countries purchased about $1.4 billion of bonds last year in an effort to lengthen the maturity of their holdings.

INVESTMENT WELCOME

In presenting the results of the new survey to a Senate Commerce subcommittee, Gerald L. Parsky, Assistant Secretary of the Treasury, said "The study has reinforced our view that foreign investment is beneficial to our economy and that we should continue to welcome it."

He added: "The more particpation we have in our capital market, the more efficient it is in serving the needs of our economy for investment capital. The participation of foreign investors serves this purpose, just as that of American investors does, and distinctions made on the basis of the nationality of investors have no economic rationale."

As for the members of the Organization of Petroleum Exporting Countries, Mr. Parsky said that "they are cautious and conservative investors" and "they all are following diversified investment objectives similar to any institutional investors."

"They are almost entirely portfolio investors and none of them have a desire to acquire or control a major United States company," he said.

Mr. LONG. Mr. President, as I understand it, first let me say the Treasury is strongly opposed to this amendment. They very strongly favored the committee action, and urged this on us because the Treasury strongly feels that where foreign money is to be invested from friendly nations, particularly the less developed nations, if they are going to invest it in a developed country, they would like to have it invested here. Of course, there are billions of dollars invested here, and the Treasury hopes it will stay here.

As I understand it, when persons in Germany, The Netherlands, Norway, the United Kingdom or Australia invest money here we do not tax it under a tax treaty because we assume they will tax it there, and I am sure they do just like we, tax the money that our people invest in those countries when it earns money, whether it is in the bank or whether it is a corporate bond, because that is income to our citizens, and we collect an income tax on it.

We tax it when our people earn it over there, and the other countries under the treaties tax it when their people put their money here, but we do not tax the money that those people from foreign countries under these treaties, put here.

Now, the argument becomes important not where people have high taxes on it because in that case there would be little advantage to invest money here because they would all be taxed in any event. But in many less-developed countries people do have low tax rates and in some cases they might not have income taxes, and in situations of that sort they do invest large amounts of money here in this country, and it is felt that it is better to have that money invested here than to have it invested in Switzerland or some of the other logical places of various other places that it would go to and not be invested here. The money, of course, is reinvested and put to use in development of this country.

So, Mr. President, I support the Treasury position and hope that the amendment will not be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon and the Senator from Massachusetts to the committee amendment.

Mr. ROBERT C. BYRD. I announce

that the Senator from Texas (Mr. Bentsen), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Indiana (Mr. Hartke), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from Mississippi (Mr. Stennis), the Senator from California (Mr. Tunney), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Maryland (Mr. Mathias), are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. Scott), is absent on official business.

The result was announced—yeas 54, nays 34, as follows:

[Rollcall Vote No. 418 Leg.]

YEAS—54

Abourezk
Bayh
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Dole
Domenici
Durkin
Eagleton
Ford
Glenn
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
McClure
McGovern
McIntyre
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Percy
Proxmire
Ribicoff
Roth
Schweiker
Stafford
Stevenson
Stone
Symington
Weicker
Williams

NAYS—34

Allen
Baker
Bartlett
Bellmon
Brock
Byrd, Harry F., Jr.
Curtis
Fannin
Fong
Garn
Goldwater
Gravel
Griffin
Hansen
Helms
Hruska
Inouye
Johnston
Laxalt
Long
McClellan
McGee
Morgan
Pearson
Pell
Randolph
Scott, William L.
Sparkman
Stevens
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—12

Beall
Bentsen
Buckley
Cranston
Eastland
Hartke
Mathias
Metcalf
Mondale
Scott, Hugh
Stennis
Tunney

So Mr. Packwood's amendment was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, may I ask the distinguished manager of the bill, the Senator from Louisiana, to yield for a clarification?

Mr. LONG. I yield.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats, or withdraw to the cloakrooms.

The Senator from Wisconsin may proceed.

Mr. PROXMIRE. Mr. President, there is a provision in the bill, section 1035(c) relating to the expansion of the definition of oil related income. As it came from the Finance Committee this provision was estimated to cost about $90 million a year after the first year and to benefit most of the major oil companies who operate abroad.

Section 1035(c) provided that interest received from a domestic corporation which earned less than 20 percent of its income in the United States would qualify as "oil related income." In effect it meant that interest in excess of the 48 percent which could otherwise be deducted would count as oil related income and deducted.

However, with the Hartke amendment in the Senate bill, there is now a 48 percent limit, period.

Nonetheless the provision retains the definition—which is nullified by the Hartke amendment. What this seems to mean is that if the Hartke amendment is thrown out in conference, then the major oil companies will still get a bonanza if this provision is not stricken.

My question is this: Would the Senator from Louisiana comment on that, and would he be willing, since that appears to be his intent, to assure the Senate that if the Hartke amendment is knocked out in conference, he would be willing to do his best to knock out interest from the definition, so that there will be no possible danger that the conference report will contain the original provision?

Mr. LONG. It seems to me that—first, let me review the wording with the Senator.

The provision to which the Senator is referring was designed to correct a drafting error which was made at the time of the conference on the 1975 tax reduction act. The statement of the managers of both Houses indicates a desire to include interest income as oil-related income.

The interest income from domestic corporations is the only category of interest or dividends from domestic or foreign corporations which is excluded from even being oil-related income. There should be no difference whether what we define as oil-related income is income from debt or equity investments.

I voted for the Hartke amendment, and I intend to insist on it in conference, and I do not think we are going to have to yield on that. But if the bill goes to conference in this fashion, and if the Senate language is that we will treat this income the same whether it is from debt financing or equity financing, I know of no reason why it should not be that way.

I do not think it is going to make any difference, and it would make no difference whatever, of course, unless we dropped the Hartke amendment, and I do not expect to drop that.

Mr. PROXMIRE. My problem is, as I understand it, the way the Ways and Means Committee bill came over from the House of Representatives, it made no change in this respect from present law.

Since the Finance Committee bill, with the addition of the Hartke amendment, would make no change as far as revenue is concerned, if it should go to conference and knock out the Hartke amendment, then, without changing the definition, there will be a $90 million loss in revenue to the Treasury. That is what I am concerned about.

Mr. LONG. If the Hartke amendment is not knocked out, it seems to me it would make no difference.

Mr. PROXMIRE. That is correct.

Mr. LONG. It would treat them the same way; it would not make any difference one way or the other.

The principle is that interest and dividends are both income and are both oil-related income if they are paid by an oil company, and ought to be treated the same, because that is what it is.

If the Hartke amendment is kept in the bill, it will make no difference at all anyway.

Mr. PROXMIRE. That is right. What concerns me is if the Senate has to yield on the Hartke amendment, or the Senate conferees decide to knock out the Hartke amendment, then I wanted to be sure that the definition of interest is also deleted and it is no longer tax sheltered; otherwise there is a loss to the Treasury.

Mr. LONG. I think that interest and dividends should be treated the same. If they are paid by an oil company, it is still oil-related income; does not the Senator agree to that?

Mr. PROXMIRE. I agree to that.

Mr. LONG. That is the way I want to have it, whether the Hartke amendment is in or out. That is how it ought to be.

Mr. PROXMIRE. Then the answer is yes.

Mr. LONG. I would try to treat them the same.

Mr. PROXMIRE. Again, I just want to be sure I understand this. I want to be sure that if the Hartke amendment is knocked out in conference, you will also agree to knock out interest from the definition, so there will be no possible danger that the conference bill will contain the original provision. What I am concerned about is losing that $90 million in revenue. If the Senator can assure me he will do his best to prevent that, that is all I want. Otherwise we could have a situation where the Revenue effect is now the same in the House and Senate bill, but if the Hartke amendment is dropped the taxpayers would lose $90 million.

Mr. LONG. I will do my best to get the Hartke amendment agreed to. What more can the Senator care about? I think I asked for a rollcall on that vote.

I would suggest—on checking, apparently that was a voice vote, and nobody voted "nay." That is the impression I have now. But I would be happy to have a rollcall vote on that between now and the time we vote on passage.

Mr. PROXMIRE. With that assurance of the chairman, that is satisfactory.

Mr. LONG. Mr. President, I ask for the yeas and nays on this title.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Indiana (Mr. Hartke), the Senator from

Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL); the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Maryland (Mr. MATHIAS), are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT), is absent on official business.

The result was announced—yeas 86, nays 1, as follows:

[Rollcall Vote No. 419 Leg.]

YEAS—86

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Biden
Brock
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
McIntyre
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott,
  William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—1

Haskell

NOT VOTING—13

Beall
Bentsen
Buckley
Cranston
Eastland
Goldwater
Hartke
Mathias
Metcalf
Mondale
Scott, Hugh
Stennis
Tunney

So committee amendment No. 20, as amended, and modified, was agreed to.

Mr. LONG. Mr. President, by my count, the Senate voted to close 17 loopholes in the present law, in title X. I think Senators will be pleased to know that when they cast a vote for that title, they are voting to close what we regard as 17 loopholes in present law. For the most part, the House also considers these to have been loopholes in law.

Mr. President, if we have any luck at all, we might be able to dispose of title XII tonight, and I ask unanimous consent that we now proceed to the consideration of title XII of the bill. Title XII is a provision dealing with the administrative provisions, and it is amendment No. 22 of the bill.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, Jr.). Without objection, it is so ordered.

UP AMENDMENT NO. 245

Mr. RIBICOFF. Mr. President, I have an amendment to title XII which I send to the desk.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. PASTORE. Could we not have a unanimous-consent agreement on limitation of debate with respect to this amendment?

Mr. RIBICOFF. I think this amendment will be accepted. It should not take more than 2 or 3 minutes.

Mr. PASTORE. That is wonderful.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) On page 704, strike out lines 3 through 7 and insert the following:

"'(6) Comptroller General.—

"'(A) Returns available for inspection.—Unless the Joint Committee on Taxation disapproves an audit as provided by subparagraph (B) upon request of the Comptroller General of the United States, returns and return information shall be open to".

(b) On page 705, after line 2, insert the following:

"'(B) Disapproval by Joint Committee on Taxation.—Subparagraph (A) shall not apply with respect to an audit—

"'(i) unless the Comptroller General of the United States notifies the Joint Committee on Taxation of such audit, or

"'(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice."

Mr. RIBICOFF. Mr. President, the committee bill requires GAO to seek prior approval from the Committee on Finance, the Ways and Means Committee, or the joint committee before it can initiate an audit involving tax returns. It also requires that the audit be "supervised" by one of these committees.

The Committee on Government Operations has reported important legislation this year clarifying the General Accounting Office's ability to conduct audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury. This legislation, H.R. 8948, had previously been passed by the House of Representatives last fall.

Because a GAO audit of these agencies necessarily involves the examination of tax returns, the issue of GAO's ability to conduct audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms is affected by the "tax privacy" provisions of the Tax Reform Act of 1976.

When the Government Operations Committee completed work on H.R. 8948, which amends the Accounting and Auditing Act of 1950 (31 U.S.C. 67) to permit GAO to have access to tax returns to conduct audits of these agencies, the bill was referred to the Finance Committee for consideration by that committee. The Finance Committee favorably reported H.R. 8948 but proposed that the bill be amended to permit GAO to have access to tax returns to audit the Internal Revence Service or the Bureau of Alcohol, Tobacco, and Firearms only after receiving the written permission of the Senate Finance Committee, the House Ways and Means Committee, or the Joint Committee on Internal Revenue Taxation. The Finance Committee version of H.R. 8948 also required the actual GAO audit to be done under the supervision of these committees.

Under present law, GAO can have access to tax returns as the agent of the Joint Committee on Internal Revenue Taxation, and the taxwriting committees in the House and the Senate.

This arrangement does not permit GAO to independently initiate audits requiring access to tax returns in the same way GAO can conduct independent audits of almost every other executive branch agency—including highly classified military and intelligence operations. It is essential that GAO be able to serve this independent watchdog function with respect to the Internal Revenue Service which has the awesome responsibility of collecting billions of dollars in taxes from American citizens. Recent history has shown that the Internal Revenue Service has been guilty of serious abuses of taxpayer privacy, of fair auditing practices and of other basic tax collection practices. In addition, there is a serious need to be ever vigilant as to the effectiveness and efficiency of the operations of the Internal Revenue Service.

Mr. President, as chairman of the Government Operations Committee which played a key role in enacting the Privacy Act of 1974, I am very sensitive to the need for the privacy of Federal tax returns. I am also very concerned about preserving the independence of the General Accounting Office. GAO has provided invaluable service to the Congress and the country. The reasons for GAO's success are its competence and its independence which together result in the ultimate findings and recommendations of GAO having unquestioned credibility.

In the finest tradition of legislative compromise, a proposal has been arrived at which is acceptable to both Senator PERCY and myself of the Government Operations Committee and to Senator LONG and Senator CURTIS of the Finance Committee. I believe this proposal is consistent with the goals of H.R. 8948 in preserving GAO independence and permitting independent audits of the Internal Revenue Service and the Bureau of Alcohol Tobacco and Firearms while at the same time providing safeguards to preserve taxpayer privacy.

Under the amendment I have offered, GAO could initiate audits on its own or at the request of individual Members or committees other than the tax writing committees. GAO would notify the Joint Committee on Internal Revenue Taxation of the subject matter of the planned audit and the plans for inspection of income tax returns. GAO could independently proceed with its planned audit unless the Joint Committee, by a two-thirds vote of its members, vetoes the GAO audit plan within 30 days of first receiving notice of the proposed audit from GAO.

It is my understanding that the Joint Committee's veto authority over GAO audit plans requiring access to tax returns is for the sole purpose of protecting the privacy of income tax returns and information derived from those returns. The Joint Committee will not be reviewing the priorities of GAO or the need for this particular audit. Rather, the Joint Committee will be reviewing GAO's audit plan to determine if it involves an unjustifiable invasion of taxpayer privacy.

Mr. President, I believe it is important to make it very clear that this legislation is not a precedent for permitting congressional committees to have veto power over proposed GAO audits. The independence and credibility of GAO is essential to Congress effectively doing its job. The Government Operations Committee will continue to strongly defend and protect the independence of GAO.

However, access to individually identifiable tax returns presents a unique situation. History has shown us that adequate precautions have not been taken to protect the privacy of tax returns. The Finance Committee has seriously studied this problem and recommended legislation to provide checks on access to tax returns in order to better protect the privacy of the individuals who file those returns. It is therefore reasonable that there also be a check, for the sole purpose of protecting taxpayer privacy, on GAO access to tax returns. I believe the compromise amendment I have offered balances these competing interests while now permitting GAO to independently initiate audits of the Internal Revenue Service and the Bureau of Alcohol Tobacco and Firearms.

If this compromise amendment is adopted, I will support a similar amendment to H.R. 8948, which amends the Accounting and Auditing Act of 1950, when that bill is considered by the Senate. While the Tax Reform Act of 1976 will contain provisions respecting GAO access to tax returns, H.R. 8948 contains important amendments to GAO's legislative authority to require reporting of GAO activities in this area to the relevant committees and to provide other precautions against unnecessary dissemination of tax returns and tax return information.

Mr. President, I urge the Senate to adopt this amendment to section 6103(i) (6) on pages 704 and 705 of H.R. 10612 as reported by the Committee on Finance.

Mr. LONG. The Senator knows that we have struggled with this for some time and that it is a very troublesome area. I think the Senator's suggestion is as good as any. I shall be pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1886, AS MODIFIED

Mr. STONE. Mr. President, I call up Amendment No. 1886 and added modification. The modification also has been sent to the desk.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk proceeded to read the amendment as modified.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment, as modified, be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 790, after line 9, insert the following:

SEC. 1212. DEFERRAL OF INTEREST ON ERRORS WHEN RETURN IS PREPARED FOR TAXPAYER BY THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 6601(a) (relating to suspension of interest in certain income, estate, gift, and chapter 42 or 43 tax cases) is amended by adding at the end thereof the following new sentence: "In the case of an income tax deficiency attributable to a mathematical error (within the meaning of section 6213(b)(1)), if the return was prepared by a taxpayer service representative of the Internal Revenue Service acting under the program established by the Secretary or his delegate to provide assistance to taxpayers in the preparation of income tax returns, and if the deficiency did not result from a failure by the taxpayer to provide information to the taxpayer service representative who prepared his return, or from a willful misrepresentation of information by the taxpayer, interest shall not be imposed on such deficiency for any period beginning before the 30th day after the date of notice and demand by the Secretary or his delegate for payment of the deficiency.".

(b) EFFECTIVE DATE.—The amendment made by this section applies to returns filed for taxable years beginning after the date of enactment of this Act.

Mr. PASTORE. Will the Senator yield for a question?

Mr. STONE. This is the same situation as the last amendment.

Mr. PASTORE. I hope so.

Mr. STONE. Mr. President, this amendment is cosponsored by Senators BEALL, BROCK, BUMPERS, THURMOND, DOLE, GARN, TUNNEY, PERCY, and HUMPHREY.

On May 6, 1975, I introduced S. 1652, a bill which would protect taxpayers from interest penalties on income tax deficiencies when the taxpayer's income tax return was prepared by the Internal Revenue Service. This legislation would prevent taxpayers from being held responsible for mathematical and clerical mistakes made by taxpayer service representatives of the Internal Revenue Service in preparing taxpayer returns.

Fourteen Senators joined as cosponsors of S. 1652, which I offered in the form of amendment No. 1886 to H.R. 10612 on June 17, 1976. In response to concerns expressed by Internal Revenue Service Commissioner Alexander, I am today offering a perfecting amendment to limit the deferral of interest to cases in which mistakes are due to mathematical errors by the IRS preparers. Copies of the perfected amendment have been distributed to the Senators. The need for this amendment is illustrated by a survey made by the House Ways and Means Subcommittee indicating that mistakes are made by Internal Revenue Service agents at least 25 percent of the time.

This amendment would have only a slight impact on Government revenues. However, the amount of interest charged is significant to the individual taxpayer who relies on the service preparer. People who use the service to prepare their returns are usually unable to file them for themselves. These are the people least able to afford inequitable interest assessments.

Mr. President, I offer this amendment not to discourage the Internal Revenue Service from continuing to provide the excellent and most helpful assistance it has been providing to millions of taxpayers every year. Rather, I submit it to make certain that mistakes made by employees of the Government do not have the effect of penalizing taxpayers who take advantage of the taxpayer assistance program of Internal Revenue Service.

I believe the adoption of this amendment will result in greater accuracy on the part of the preparers of the Internal Revenue Service's taxpayer assistance program. No taxpayer should suffer from good-faith reliance on Internal Revenue Service advice.

It is important to understand that this amendment would not relieve the taxpayer of his obligation to pay any additional taxes he might owe to the Federal Government. It relieves the taxpayer of interest liability for unpaid taxes only to the extent that the taxpayer's return is actually prepared by an Internal Revenue Service representative and the taxpayer does not fail to provide information concerning his tax situation to Internal Revenue employees in the preparation of the tax return.

Mr. BEALL. Mr. President, as cosponsor of this amendment to the Tax Reform Act of 1976, I wish to make a brief statement in its behalf and to urge the support of my colleagues in the Senate. It is the intention of this amendment to prevent the unwarranted penalization of taxpayers who have used the taxpayer assistance program of the Internal Revenue Service.

Acceptance of this amendment would simply mean that if, in assisting a taxpayer, the IRS—through no fault of the taxpayer—makes a mistake resulting in a deficient tax payment, then interest shall not be imposed on such deficiency for any period beginning before the 30th day after the date of notice and demand by the Secretary or his delegate for payment of the deficiency.

Mr. President, recent studies indicating a relatively high frequency of inaccurate IRS taxpayer advice suggest the need for such a provision. The amendment would place the burden of responsibility on the IRS and provide at least some incentive to reduce the number of such errors. In addition, such a provision, by strengthening confidence, should encourage the use of these services by the taxpayer. Finally, Mr. President, passage of this amendment will serve as a signal to the Nation's taxpayers that the members of the Senate are intent on improving the fairness and efficiency of our system of tax collection by prohibiting what is clearly an existing injustice.

Mr. STONE. Mr. President, I think that this amendment has been modified to overcome the major objection of the Internal Revenue Service, which was that they felt that it ought to be restricted to mathematical and computation errors.

Mr. LONG. Mr. President, I believe the Senator has sent the amendment to the desk. I believe he should make that letter a part of the RECORD.

I am not aware of any serious problem this amendment presents. It may be that when we go to conference, we will hear from the Internal Revenue Service and others who will express concern all over again. Not knowing why this amendment might not work very well, I really could not suggest to the Senator that anyone can vote against it. So with the understanding that we will, of course, hear from the Internal Revenue Service by the time we have that conference and that we will consider their views when we consider the amendment, I shall accept the amendment.

Mr. STONE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 246

Mr. HASKELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. PASTORE. Reserving the right to object, will the Senator advise us how long this might take?

Mr. HASKELL. It will depend on the opposition. I can explain the amendment in 10 minutes, but I would not want to be engaged in a time agreement until I hear from the opposition, because I might want to rebut that.

Mr. PASTORE. The reason I asked the Senator the question is that we have more Senators on the floor at this hour than usual and we are all listening. Whatever the Senator has to say we shall pay attention to, and I hope that we can expedite this within a half hour.

Mr. HASKELL. I hope so.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HASKELL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 661, line 4, after the word "letter" add the following: "requested prior to November 1, 1975"

On page 663, after line 6, strike all through to page 664, to the end of line 5.

Mr. HASKELL. Mr. President, this amends section 1201 of the committee amendments. It deals with private rulings. Private rulings are those in which a taxpayer voluntarily comes forward and asks the Internal Revenue Service for a determination as to the tax treatment of a prospective transaction. Under present law, under the Freedom of Information Act, it is possible for interested citizens to get the name of the taxpayer making the request.

There are two areas that I think we should be concerned with. One, private rulings are, of course, a body of law because it represents a series of positions taken by the Internal Revenue Service. This amendment would change the committee amendment, which says you do not have to publish the taxpayer's name. This amendment would perpetuate what is present law and make the taxpayers' names public.

I call the Senate's attention to the fact that private rulings in the past have been abused by the bringing of undue influence; I think possibly the most notorious example is the one involving ITT. I think, Mr. President, that this is eminently fair. You don't have to get a private ruling. It is not as if it were the way you have to file a return. You choose to get one. For that reason, subject, of course, to the safeguards of the Freedom of Information Act, the private ruling should be public. The safeguards there are that confidential information can be excised and must be excised; also, if there is any invasion of privacy, that must be eliminated.

That, Mr. President, is my presentation of this amendment. I hope that the distinguished manager of the bill will accept it.

Mr. LONG. Mr. President, it is my understanding that the tax bar or the tax lawyers—I would like the Senator from Nebraska to hear this—will object to what the Senator is proposing. In other words, we agree in the bill that all tax rulings will be published, so there is no problem about the public knowing about the ruling. The question involves the right of privacy of a citizen. What we are talking about here is, I understand, when a citizen asks the Treasury what his rights are. He wants to engage in a business undertaking or he wants to do something, and before he does it, he wants to ask the Treasury, as I understand it, where he stands. If the Treasury cannot tell him that the tax consequences are what he hopes they would be, then he would not want to go into the transaction or the venture. So we have a situation where we have the public right to know on the one hand and the right of privacy of the taxpayer on the other. Do we want to require that wherever there is a letter ruling by the Treasury, in addition to publishing what the ruling is, they have to publish who was the person who requested the ruling?

As I say, the tax lawyers are very much opposed to it. They think it violates the right of their clients, that they should have the right of knowing the consequences of what they are doing, the activities that they are planning to go into. They strongly object to this.

The committee's view, when considering it, was that any taxpayer ought to be able to decide what he thinks he ought to do. He should not have to alert his competitor as to what he is planning to do and to make them publish his name, and to say what he is involved in could do that.

Mr. HASKELL. Will the Senator yield on that?

Mr. LONG. Yes.

Mr. HASKELL. The ruling would not be published until after the proposed transaction was consummated, so we are not giving anybody any advance notice.

Mr. LONG. I think it still can disclose prospective transactions which might not actually occur, so it still does disclose what a person is thinking about doing, what he would like to have done. It still does present the problem of denying a taxpayer the confidentiality that we try to protect with regard to tax return.

As I say, Mr. President, the Treasury objects to it. The tax lawyers object to it. It is objected to on the basis that a man has a right to ask his government whether, if he engages in a certain course of conduct, he is going to owe more or less taxes and what the approximate liability would be. He is entitled to ask the Government for guidance as to what the Government thinks the law is and he should not be required to make his business the public's business in order to inquire what his rights are.

Of course, every citizen has the same information available to him. We all agree that the letter rulings ought to be made available. We are not arguing about that. We are talking about whether a taxpayer, merely by inquiring what is the law if he does thus and so, what would the tax consequences of that be, the question is, is he entitled to have his anonymity protected when he inquires of his Government what his rights are. The Treasury thinks he is entitled to have that protection of confidentiality, at least of anonymity. That is what the tax lawyers think about it, and that is what the committee thinks the best answer to this problem would be.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. CURTIS. Is it not true that the tax bar, Internal Revenue Service, the Treasury are opposed to the pending amendment?

Mr. LONG. Yes, that is correct.

Mr. CURTIS. Is it not true that at the present time there is what can be described by some as a body of secret law because rulings are made and not published; is that correct?

Mr. LONG. That is right.

Mr. CURTIS. The committee has moved to meet that and all rulings will be published; is that correct?

Mr. LONG. That is right, and we think that is a reform.

Mr. CURTIS. Is it not also true if a third party, an influential politician or somebody else, writes and tries to influence a ruling that that would be disclosed?

Mr. LONG. Yes, that is right, that would be disclosed.

Mr. CURTIS. Does it not seem that that is an adequate safeguard that there will no longer be a secret body of law, that all the rulings will be disclosed, and if there has been any pressure, political or otherwise, by anybody contacting the service to influence a ruling, that that will be disclosed?

Mr. LONG. That is right.

Mr. CURTIS. Does not the requirement that anyone trying to influence the decision must be disclosed include the administration?

Mr. LONG. That is right.

Mr. CURTIS. It seems to me that that fully answers the question.

I believe that what the committee has

done here is sound, fair, and in the interests of better tax administration.

I believe the pending amendment goes too far. It serves no purpose. I think we are going to come to a time here when we are going to have to have a civil rights law for taxpayers. If we are going to discriminate and we are going to ask the question who is involved, it is a dangerous ground. We should ask what is the principle. Is it good law? Is it fair? Is it aboveboard? Is there a full disclosure? And we should not ask who asked the question.

I commend the distinguished chairman for the reform he has undertaken on this bill, and I do not think we should jeopardize it by going further.

I thank the Senator.

Mr. HASKELL addressed the Chair.

Mr. KENNEDY. Mr. President, will the Senator yield for a brief question?

Mr. HASKELL. Yes.

Mr. KENNEDY. A little over a year and a half ago the Internal Revenue Service appeared before my Subcommittee on Administrative Practice and Procedure. At that particular meeting I asked them specifically whether they had any objection to making these rules and regulations public. At that time they said they did not.

I also asked them whether they had any objection to listing the beneficiaries at that time, and they also said they had no objection.

I understand the position of the Internal Revenue Service has changed in recent months. But at least during that exchange, they had no objection.

Let me ask the Senator from Colorado some other questions: In our review of other governmental agencies, such as the Federal Trade Commission, the SEC and the Antitrust Division, they give advisory rulings in areas of jurisdiction over which they have responsibility if they are requested to do so. And when they do, I understand they actually indicate who the beneficiaries are and who will reap the advantage from such rules.

As I understand it, the Senator is extending that concept, which is working now at least in three of the agencies, antitrust, the FTC and the SEC. They are doing what the Senator from Colorado is advocating now.

Mr. HASKELL. That is my understanding, Senator. And, of course, all I am asking for—and those agencies are required to give the information under the Freedom of Information Act—the committee bill would cut back on the section of the Freedom of Information Act, and I am merely hoping to hold the line on this act and to conform, as the Senator says, to the practice of the Justice Department, the FTC, and the SEC.

Mr. KENNEDY. I appreciate the response. The Freedom of Information Act did come out of our subcommittee and the Judiciary Committee, so we were involved in this issue with the various governmental agencies, as stated by the Senator from Colorado. I am hopeful that his position will prevail.

Mr. HASKELL. Mr. President, I would like to add that people who request these rulings are the people who have the wherewithal to hire the tax bar, as the Senator from Louisiana has indicated.

Quite clearly the tax bar is probably against it—in fact I know they are against it. They came in and talked to me about it. But it seems highly illogical for something you go in and ask for, a special ruling, which is kind of a favor, it is kind of like going to court and asking a decision, but asking that your name be deleted from the litigation, and this is not a privacy matter, this is not something you are compelled to do. This is something you do if you want to do it, and if you have the money to hire a lawyer to have it done. Under those circumstances it seems to me we should uphold and not cut back on the Freedom of Information Act.

Now, I would have nothing further to say. I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, the Senator suggests it is a favor for a taxpayer to have the privilege to know from the tax collector what the tax collector thinks the law to be. I do not regard it in that fashion. I have never asked for a ruling in my life, but I have heard other citizens and even other Senators who, in preparing their own tax returns, would write a whole number of requests for the IRS and ask for a ruling on this point, that point, and some other points because they wanted to try to fill out their tax returns and do it exactly according to the law and according to the way the Internal Revenue Service thought it ought to be done.

To me it is clear why the tax lawyers are opposed to this amendment. They think that in this area every citizen should be treated the same. They think in this area, where the tax collector is just telling them what the law is, they are entitled to the same type of consideration that is exemplified on that Supreme Court building, where a lady stands there blindfolded, holding a scale in her hand not knowing whose weight is on the right side and whose is on the left side. They are fearful their clients will be denied consideration based on what they are rather than the issue of what the tax ruling is.

That being the case, they are fearful that where an anonymous person might receive justice or an unknown person could receive justice, that a well-known taxpayer could not, and they are seeking to have justice administered to them just like everybody else, just like that blindfolded lady standing and holding that scale, and they would like for the ruling to be just in that fashion, not based on who the taxpayer is, but based on what the facts of the case are, and that is why, in order to get a ruling that is completely neutral they would like to have the privilege of having the ruling published, fine, no objection to that, but they would like to have it made where one does not disclose who the person is who asked for it.

I suspect if that is how it is going to have to be from time to time when they have a well-known client, they are going to have to try to find somebody else to raise the issue with, hoping they will not be prejudiced by who it might be who asked for the ruling.

I have had tax lawyers ask me with regard to cases that were undoubtedly going to be of public interest, and they knew they were right, but that the Treasury people just did not have the courage to give them justice because this would clearly be a case that would attract some attention in the press and, therefore, they did not have the opportunity to pursue their rights.

That type of thing happens, Mr. President. It is all right with me.

I can recall some time ago when I had a tax problem and there was not any doubt about it. My lawyer, and everybody else who was a specialist in that matter, was satisfied we were right.

But does a Senator want to go to court with the Government about an argument over a point of law like that? The attitude is, "No, just go ahead and pay it. Do not argue about it. You are in public life."

The same thing, I suppose, with a lot of other well-known people. Rather than ask for it, they take their chances. That is why the bar association would not want it that way.

Mr. CURTIS. Will the Senator yield for a question?

Mr. HASKELL. Yes.

Mr. CURTIS. Does the Senator's amendment apply to individuals?

Mr. HASKELL. Will the Senator repeat that?

Mr. CURTIS. Does the Senator's amendment apply to taxpayers who are individuals?

Mr. HASKELL. Certainly.

Mr. CURTIS. Then, would it apply in such cases as a taxpayer asking for a ruling as to what was the law in reference to transactions in such matters as a divorce settlement, or a trust or a bequest, a trust for the benefit of certain children of his and not others, would the names have to be disclosed under those conditions?

Mr. HASKELL. Under this amendment, the taxpayer would have all the rights that a taxpayer has under the Freedom of Information Act which, as the Senator from Nebraska, I am sure, is aware, includes the deletion of matters that affect personal privacy.

Mr. CURTIS. What would be the advantage of the Senator's proposal if the ruling has to be made public, and thus put an end to what has been described as a secret body of law, and it has to be published, and that if any outside influence, even from administrative sources, intervene or try to influence the ruling, that has to be disclosed. What else does the Senator want?

Mr. HASKELL. I think possibly I might explain a little bit.

In the first place, if any influential politician, as somebody said, attempts to influence a ruling, that fact has to be flagged, that is John Doe, because they use a John Doe, got a ruling and the Secretary of something wrote in and asked for it. That would have to be flagged. But to find out who John Doe was, under the committee's bill, the person who wanted to find out would presumably be some public interest taxpaying group, would have to go into the tax court and the matter then would be heard.

First, it would be heard in camera, and there would have to be all sorts of discovery proceedings. Then, finally, if it was determined that the Secretary of blank, whatever it was, had, in fact, exerted influence, the judge would then issue an opinion and probably require the publication of the individual's name.

This takes a great deal of money. So that is one thing.

I find this so-called flagging provision of no substance whatsoever.

Let me back up a bit. The Senator from Lousiana says:

> Well, you ought to be able to ask the Internal Revenue Service what the law is.

I agree. But there is a great deal of difference in ruling and anyone on the phone asking the Internal Revenue Service. They are not bound except by the ruling process. So this is——

Mr. CURTIS. Well, Mr. President——

Mr. HASKELL. If the Senator will withhold a minute.

This ruling, as a practical matter, binds the Internal Revenue Service, and that is a very special privilege that only people with money can afford to get.

Now, why put the name public?

I think it is very important to have the name public because maybe a certain individual or a certain company is getting a series of very favorable rulings. We ought to be able to see what the names are of the people getting the favorable rulings. Let us then draw a conclusion, are they getting special treatment?

That is what I consider the benefit of this.

Mr. CURTIS. Does the Senator not agree that the ruling should stand or fall on the basis of its content, what it does, is it special privilege, is it just, is it fair, is it good law?

Are those not the marks of whether a ruling should stand or fall, or not, and who was it given to?

Mr. HASKELL. In the best of all possible worlds, that is probably true. But this is not the best of all possible worlds.

Mr. CURTIS. That is why I do not want to make it worse.

Mr. HASKELL. If I may continue, I think if a very favorable ruling came out and made everybody's eyebrows raise and the recipient of the ruling happened to be the brother-in-law of the Secretary of the Treasury, somebody might want to pursue the situation. Really, this is one of the reasons for putting the names out. If somebody is getting constantly favorable rulings, something is probably wrong.

Let me stress this, if somebody goes to court to get a determination and the name is public, this is going and getting an additional determination by the Internal Revenue Service, binding on the Internal Revenue Service. I see no reason it should be any different than going to court.

Mr. CURTIS. It certainly will not add to the revenue of the country. It certainly will not carry out the American ideal of equality before the law.

We have language in here to provide for the full disclosure of the ruling and the Senator says that procedure in reference to outside influence is cumbersome.

I am not too sure about that, but the point is, the fact that is in the law will be a deterrent to outside interference.

Furthermore, I do not believe that our taxing authorities are in the business of being eager beavers to intentionally grant special favors to any taxpayer—any taxpayer.

Mr. HASKELL. The Senator will recall the famous ITT ruling.

Mr. CURTIS. Yes, I do, and I still say that I do not believe our taxing authorities are filled with people who are eager beavers who intentionally want to grant favors to influential taxpayers.

Mr. HASKELL. I would agree that they are not.

On the other hand, they are human and it occasionally does happen.

Mr. President, I have said everything I had on behalf of this amendment and I am perfectly willing to vote, unless there is something else.

Mr. LONG. Mr. President, I would like to say a word or two about this matter. The Senator brings up this matter involving the ITT ruling.

Those of us on the Joint Committee and those on the Finance Committee, the Ways and Means Committee, any congressional committee, anybody in the GAO, I take it, would be able to get this information as to who was involved in this ruling.

The Senator mentions the ITT ruling. That is a good case in point. The International Telephone and Telegraph Corp., ITT, would, as a practical matter, be confronted with the fact that anybody, any time they asked for a ruling, big companies like this would have to do this from time to time, would be almost compelled to lean over backwards against that company because of the very publicity that the Senator mentioned with regard to a tax ruling that occurred some years ago.

The Senator suggested, if a brother-in-law of the Secretary of the Treasury applied for a ruling from the Treasury that the public ought to know about that.

That is just the point. As a practical matter, what that means——

Mr. HASKELL. The Senator has not quoted me quite accurately.

Mr. LONG. Did the Senator say brother, or brother-in-law?

Mr. HASKELL. I said brother-in-law, but I said if there was a particularly favorable ruling and it went to the brother-in-law.

Mr. LONG. But those of us in Congress have the opportunity to get that information. All the congressional committees can get that. The General Accounting Office can get that information. So if there is some particular ruling in favor of a brother-in-law, we all have the opportunity to get that information.

But that is just the problem. Here is a man, let us say a very successful businessman, who is a brother-in-law of the Secretary of the Treasury. He has a tax problem. The fact of the matter is he cannot have a ruling. If he applies for a ruling and the ruling is other than against him, the presumption is because he is a brother-in-law, just as the statement suggested, that this undoubtedly means favoritism has been used in his behalf. The practical matter is that the Secretary of the Treasury, being the kind of men we have in that office, would lean over backwards to see to it that no ruling was given to his own brother-in-law that would be a particularly favorable ruling.

Mr. HASKELL. Of course, I said a favorable ruling. This whole example obviously depends on his relationship with his brother-in-law. If his relationship with the brother-in-law was not very good, he might receive a very unfavorable ruling. I am assuming he had a favorable ruling.

I believe this type of thing should be out in the open, whether it is a company, a relative, or whatever it is. It is like going into court. I am sure the Senator would not want to go into the Tax Court and have the names of the people who go into Tax Court kept confidential. That is all we are asking for, the same treatment.

Mr. LONG. If a citizen has to go to court, that is one matter. But here all he is seeking to do is to inquire from the Internal Revenue Service, "What is the law in this regard if I do the following things? What will the tax consequences be?" The question is, should he be required to release his anonymity, and I do not think so.

The next thing would be to have an amendment saying that any time the Internal Revenue Service audits the return of a taxpayer or a corporation the auditor has to make decisions which amount to rulings, and when he does that, of course, that will all be made public, too. So when they audit somebody's tax return and the auditor makes a decision for or against the taxpayer, the same logic would suggest that that should be public. I do not think so.

Mr. HASKELL. I would agree with the Senator that the same logic does not apply, because when one files their tax return they are doing it under compulsion and there is a real privacy. If the Internal Revenue Service audits a taxpayer, they are auditing private information. But in a ruling one voluntarily steps forward asking for a special determination. This is where I think this is very essential.

Mr. LONG. I am advised technically there may be a difference, but as a practical matter there is not if a person wants to undertake to find out what the the tax situation would be if he makes a certain business decision and pursues a certain course of action, that, as a practical matter, he will not be able to do if the ruling is contrary to what he would assume the law to be. While technically there is a difference, as a practical matter many times there is not.

Mr. HASKELL. I think, Mr. President, at least this Senator has said everything he wants to. If that is the case of the manager of the bill, I would hope we can vote.

The PRESIDING OFFICER (Mr.

Muskie). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from California (Mr. Cranston), the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from Hawaii (Mr. Inouye), the Senator from California (Mr. Tunney), the Senator from Delaware (Mr. Biden), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Morgan), the Senator from Mississippi (Mr. Stennis), and the Senator from Missouri (Mr. Symington), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from New Mexico (Mr. Domenici), and the Senator from North Dakota (Mr. Young), are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. Hugh Scott) is absent on official business.

The result was announced—yeas 32, nays 50, as follows:

[Rollcall Vote No. 420 Leg.]

YEAS—32

Abourezk
Chiles
Church
Clark
Culver
Durkin
Eagleton
Ford
Glenn
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Kennedy
Leahy
Mansfield
McIntyre
Moss
Muskie
Nelson
Pell
Proxmire
Stafford
Stone
Taft
Weicker
Williams

NAYS—50

Allen
Baker
Bartlett
Bayh
Bellmon
Brock
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Curtis
Dole
Fannin
Fong
Garn
Goldwater
Gravel
Griffin
Hansen
Helms
Hruska
Javits
Johnston
Laxalt
Long
Magnuson
Mathias
McClellan
McClure
McGee
Montoya
Nunn
Packwood
Pastore
Pearson
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott,
  William L.
Sparkman
Stevens
Stevenson
Talmadge
Thurmond
Tower

NOT VOTING—18

Beall
Bentsen
Biden
Buckley
Cranston
Domenici
Eastland
Hartke
Inouye
McGovern
Metcalf
Mondale
Morgan
Scott, Hugh
Stennis
Symington
Tunney
Young

So Mr. Haskell's amendment was rejected.

AMENDMENT NO. 1966, AS MODIFIED

Mr. KENNEDY. Mr. President, I call up my amendment No. 1966, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 790, insert after line 9, the following new section:

Sec. 1212. Judicial Review of Legality of Internal Revenue Service Determinations and Regulations.

(a) Judicial Review.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7430 as 7431 and by inserting after section 7429 the following new section:

"Sec. 7430. Judicial Review of Internal Revenue Service Determinations and Regulations.

"(a) Judicial Review.—Any person may obtain judicial review under this section of—

"(1) the legality of any regulation prescribed by the Secretary under authority of this title and written determinations (as defined in section 6110) issued by the Secretary, or any part thereof but only if the determination or regulation or part thereof results in decreasing the liabilities of any other persons by an aggregate amount equal to or greater than $1,000,000 for any taxable year; or

"(2) the constitutionality of any regulation prescribed by the Secretary under authority of this title and written determinations (as defined in section 6110) issued by the Secretary, but only if a substantial question is raised whether the determination or regulation infringes rights guaranteed by the Constitution of the United States.

"(b) Jurisdiction.—The United States district court for the District of Columbia or for the district within which a person resides or has his principal place of business shall have jurisdiction to grant declaratory and injunctive relief in cases brought pursuant to subsection (a). Any such relief shall be prospective in effect, unless the interests of justice otherwise require. Nothing in this section shall be construed to authorize an award of money damages.

"(c) Intervention.—Any person who has an interest in the determination or regulation which is the subject of any proceeding brought pursuant to subsection (a) may be allowed to intervene in such proceeding to present arguments with respect to the validity of such determination or regulation.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of enactment of this Act.

Mr. KENNEDY. I indicated that I would lay before the Senate this amendment and make explanatory comment for the Record for the benefit of the Members and then look forward to the discussion of it with the manager of the bill.

The purpose of new section 7430 is to insure that all illegal Internal Revenue Service regulations and written determinations are subject to judicial review, not just those that raise revenue through increased taxes. At present, revenue raising IRS determinations and regulations are subject to review by the courts. But it is equally important to insure that revenue losing IRS regulations and written determinations are subject to judicial review, as well as those which, although not resulting in monetary loss, nevertheless infringe rights guaranteed by the Constitution.

Taxpayers already have a right to obtain judicial review of IRS determinations and regulations if the result of those administrative actions is to increase their tax liability. But the right of other potential plaintiffs to judicial review of IRS action is less clear. Section 7430 is designed to clarify the right to obtain judicial review of the legality of IRS regulations and written determinations in those cases in which Federal revenue is being lost or individual rights are being infringed. Nothing contained in section 7430 is intended to diminish in any way the rights granted to persons under other provisions of law. Thus, for example, a taxpayer may still challenge in the courts any IRS regulation or written determination which has the effect of increasing his tax liability. This right of action is granted by statutes such as 26 U.S.C. section 7422 and 28 U.S.C. 1346(a)(1), which relate to refund suits.

The amendment applies to both Internal Revenue Service written determinations and IRS regulations. The term "written determination" is defined in section 6110 of the Internal Revenue Code—which is to be added to the Code by H.R. 10612. It refers to Internal Revenue Service rulings, technical advice memorandums, and determination letters. Internal Revenue Service "regulations" is defined to mean all regulations promulgated by the Secretary of the Treasury or his delegate pursuant to section 7805 of the Internal Revenue Code.

The amendment does not expand or affect the jurisdiction of the courts created by article III of the Constitution. Instead, it creates a right of action which might not exist in the absence of congressional action. *Trafficate* v. *Metropolitan Life Insurance Co.*, 409 U.S. 205, 212 (1972) (White, J. concurring). With enactment of this legislation, all persons satisfying one or both of the two requirements set forth in subsection (a) of section 7430 will have standing to seek judicial review of IRS regulations and written determinations, and will have met the requirements for Federal jurisdiction. Satisfaction of the requirements described in one or both of the section 7430(a) categories means that the complaining party has sustained injury which is more than the "identifiable trifle" required for judicial standing. *United States* v. *SCRAP*, 412 U.S. 669, at 689, n. 14.

Furthermore, illegal IRS regulations and written determinations can injure persons in many other ways, including the following:

First, by lessening the tax burdens of others, thereby increasing their tax liabilities indirectly, through an improper shifting of the overall tax burden, and

Second, by jeopardizing rights guaranteed by the Constitution—such as the right to a free press.

All persons have a right to be free from the effects of illegal Government actions, such as those just described, even though the illegal action and the resulting injury results from exercise of the taxing power. *Speiser* v. *Randall*, 357 U.S. 513, 518 (1958). The purpose of section 7430 is to insure that the right to be free from injuries caused by illegal IRS administrative action is effectively protected by the courts, and that procedural barriers do not render those rights meaningless.

Subsection (a)(1) establishes the right of persons to challenge so-called IRS "giveaway rulings", but only if the amount of Federal tax revenue lost, or likely to be lost, during a reasonable period of time, such as 10 years, beginning on the date of issuance of the regulation or determination is in excess of $1 million. As here used, the term "giveaway ruling" refers to any IRS regulation, ruling, technical advice memorandum, or determination letter which has the effect of illegally decreasing the revenues of the United States. In such cases, one of the injuries that is obviously suffered is the increased tax burden that is shifted to others as a result of the issuance of a regulation or written determination that illegally forgives taxes owed by those who benefit from the illegal administrative action.

Higher taxes are therefore imposed to make up the revenue which has been illegally foregone. In addition, taxpayers and nontaxpayers alike sustain injuries when the Internal Revenue Service issues illegal "giveaway rulings." The right to be free from the effects of unlawful Internal Revenue Service actions is inherent in the nature of our society. This right to lawful government would be undermined without the coincident right to seek a determination of the legality of Internal Revenue Service regulations and written determinations. Consequently, all persons have the right to invoke the jurisdiction of the Federal courts to protect their fundamental right to lawful Internal Revenue Service actions.

Some examples of "giveaway rulings" issued by the Internal Revenue Service are:

First. The IRS ruling, revised ruling 64–224, 1964—2 C.B. 52, modified by revised ruling 66–330, 1966—2 C.B. 44, that convicted antitrust violators could deduct their treble damage payments. Congress corrected this determination in 1969 when it added section 162(g) to the Internal Revenue Code. This section provides that two-thirds of the amount paid to satisfy the judgment or in settlement of the suit brought under section 4 of the Clayton Act is nondeductible. Before Congress enacted this legislation, tax revenues in excess of $400 million had been lost.

Second. The private IRS rulings that oil, gas, and mineral producers could minimize their taxpayments through "production payment" transactions. These rulings permitted mineral producers to acquire other mineral producers with dollars never subject to Federal income taxes. Not only were revenue laws avoided but the policy behind the antitrust laws was also subverted. Congress corrected this determination, also in 1969, when it added section 636 to the Internal Revenue Code. Before Congress enacted this legislation, tax revenues in excess of $500 million had been lost.

Third. The IRS ruling, revised rule 72–1, 1972–1 C.B. 52, that losses suffered as a result of the expropriation of petroleum and mineral properties by Latin American governments are to be treated as ordinary losses. This preferred tax treatment of losses is questionable and tax revenues in excess of $175 million have been lost.

Fourth. The IRS rulings, revised rule 55 296, 1955–1 C.B. 386 and 68–552, 1968–2 C.B. 306 that purported "income taxes paid to Saudi Arabia and Libya, respectively, on oil production income are creditable against U.S. income taxes under section 901(b) of the Internal Revenue Code. These rulings have not been modified although the "income taxes" paid to OPEC—Organization of Petroleum Exporting Countries—countries are now in substance either royalties or excise taxes and should be deductible, rather than creditable against U.S. tax. Tax revenues in excess of $1 billion annually have been lost as a result of these rulings.

This list of examples could be considerably extended. Indeed, a substantial part of the tax legislative burden of Congress is a result of the constant need to correct illegal and erroneous IRS regulations and written determinations, in those cases in which the effect of those administrative actions is to lose Federal revenue.

It is expected that plaintiffs acting under section 7430 will relieve Congress of at least a portion of this existing burden by seeking and obtaining judicial review of illegal IRS actions that result in losses of revenue.

Subsection (a) (2) reflects and confirms the rights of plaintiffs, such as the black plaintiffs in *Green* v. *Connally*, 330 F. Supp. 1150 (D.D.C.), aff'd *sub. nom. Coit* v. *Green*, 404 U.S. 997 (1971) whose constitutional or civil rights are infringed by IRS administrative action.

In Green, the Supreme Court recognized the right of black parents to challenge IRS written determinations granting "charitable" status to segregated private academies. The amendment confirms and guarantees those rights. Under subsection (a) (2), the existence of a substantial constitutional question must appear from the face of the pleadings in order to invoke Federal jurisdiction. This standard is similar to that used as a prerequisite for convening a three judge district court under 28 U.S.C. 2281.

Subsection (b) grants jurisdiction to the district courts to hear the suits authorized by subsection (a). The subsection also makes it clear that such suits may not be used as a means of recovering money damages from those benefiting from illegal IRS determinations. Rather, the only remedy authorized is declaratory and injunctive relief. To prevent administrative difficulties, such relief should be prospective from the date on which a court publishes its decision, except in those rate instances in which the interests of justice would not be served by prospective relief—such as instances in which the requested declaratory relief relates to a ruling that has been revoked by the IRS prior to the issuance of the Court's decision.

Nothing in subsection (b) is intended to diminish in any way the rights granted to persons under other provisions of law. Thus, for example, taxpayers may continue to recover money damages in refund suits brought under existing section 7422 of the Internal Revenue Code.

Subsection (c) permits intervention by interested third parties in suits brought pursuant to subsection (a). The purpose is to protect the rights of those who have benefited from an allegedly illegal IRS regulation or written determination. Under this provision, they will have ample opportunity to present their own arguments, if they feel that the Internal Revenue Service is not adequately defending an action. However, they will not be obliged to intervene in a case if they decide that the Government is adequately defending their interests.

New section 7430 shall take effect on the date of enactment of the Tax Reform Act of 1976 (H.R. 10612). All Internal Revenue Service regulations and written determinations issued prior and subsequent to the effective date of the amendment are subject to judicial review in accordance with the provisions of section 7430.

Mr. MANSFIELD. Mr. President, first there will be no further votes this evening.

Second, it is the intention of all concerned to stay with title XII and title XII only until it is finished.

Furthermore, it is anticipated that there is a good likelihood that we may be able to arrive at a time limitation on amendments as they are offered singly.

I ask the distinguished chairman of the committee if that is not a good possibility?

Mr. LONG. Yes, that is right.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, just to make certain, when the Senate comes in tomorrow, after the leaders are recognized and morning business having been concluded, we will then turn to the Clean Air Act at which time the distinguished Senator from Maine (Mr. MUSKIE), the present Presiding Officer, will be recognized. At 2 p.m., approximately, the Senate will lay that bill aside and proceed to the consideration of the pending business, the tax reform bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders or their designees have been recognized, under the standing order, Mr. JAVITS be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has an order been entered for adjournment today?

The PRESIDING OFFICER. There has been no order entered.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR ADJOURMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, is is so ordered.

STATUS OF THE BALTIC NATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 961, Senate Resolution 319.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 319) expressing the sense of the Senate that the signing in Helsinki of the final act of the Conference on Security and Cooperation in Europe did not change in any way the longstanding policy of the United States on non-recognition of the Soviet Union, illegal seizure and annexation of the three Baltic nations of Estonia, Latvia, and Lithuania.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 319) was unanimously agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

> Whereas the three Baltic nations of Estonia, Latvia, and Lithuania have been illegally occupied by the Soviet Union since World War II; and
>
> Whereas the Soviet Union appears to interpret the Final Act of the Conference on Security and Cooperation in Europe, signed at Helsinki, as giving permanent status to the Soviet Union's illegal annexation of Estonia, Latvia, and Lithuania, and
>
> Whereas, although neither the President nor the Department of State issued a specific disclaimer in conjunction with the signing of the Final Act at Helsinki to make clear that the United States still does not recognize the forcible conquest of those nations by the Soviet Union, both the President in his public statement of July 25, 1975, and the Assistant Secretary of State for European Affairs in his testimony before the Subcommittee on International Political and Military Affairs of the House Committee on International Relations stated quite explicitly that the longstanding official policy of the United States on nonrecognition of the Soviet Union's forcible incorporation and annexation of the Baltic nations is not affected by the results of the European Security Conference: Now, therefore, be it
>
> *Resolved,* That, notwithstanding any interpretation which the Soviet Union or any other country may attempt to give to the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki, it is the sense of the Senate (1) that there has been no change in the longstanding policy of the United States on nonrecognition of the illegal seizure and annexation by the Soviet Union of the three Baltic nations of Estonia, Latvia, and Lithuania, and (2) that it will continue to be the policy of the United States not to recognize in any way the annexation of the Baltic nations by the Soviet Union.

TIME-LIMITATION AGREEMENT—S. RES. 463

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar No. 980 is called up and made the pending business before the Senate, there be a time limitation thereon of 30 minutes, to be equally divided between the majority and minority leaders or their designees; that there be a time limitation on an amendment by Mr. Buckley of 30 minutes, to be equally divided, in accordance with the usual form; that there be a time limitation on any other amendment, debatable motion, appeal, or point of order, if such be submitted to the Senate, of 10 minutes; and that the agreement be in the usual form, with the exception of the amendment by Mr. BUCKLEY, for which provisions already have been entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning.

After the two leaders or their designees have been recognized under the standing order, Mr. JAVITS will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 20 minutes, with statements therein limited to 3 minutes each, at the conclusion of which the Senate will resume consideration of the Clean Air Act. Rollcall votes will occur on amendments and motions in relation to that act.

No later than 2 p.m. tomorrow, the Senate will resume consideration of the tax reform bill, with amendments in order and votes occurring on amendments and motions in relation thereto.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and at 7:01 p.m. the Senate adjourned until tomorrow, Tuesday, July 27, 1976, at 9 a.m.

EXTENSIONS OF REMARKS

MR. DESCHLER: KEEPER OF THE RULES

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 19, 1976

Mr. SISK. Mr. Speaker, when I came to the House 22 years ago, Lew Deschler was already something of a legend, having served as Parliamentarian for 26 years.

As a newly elected freshman, I doubt that I accorded the Parliamentarian any significant place in the scheme of things. I was disabused of that notion in rather short order. It was not simply that Lew Deschler knew the rule book. He was the keeper of the rules of the House of Representatives and the interpreter of its precedents.

And to Lew Deschler, the rules and the precedents which amplified them were not simply a set of regulations. They were the embodiment of the institution—past and present—and supplying a foundation for all future actions. The rules were the framework in which the legislative business of the Nation was conducted.

The importance he attached to the rules is, perhaps, best expressed in his own words from Deschler's Procedure:

> On the theory that a government of laws is preferable to a government of men, the House has repeatedly recognized the importance of following its precedents. . . . If the will of the majority is to be determined in an orderly and democratic way, questions must be resolved by established procedures, with all Members knowing what to expect in that regard.

Not only did Lew Deschler believe in established and orderly procedure, he staunchly adhered to a policy of fair and impartial interpretation of that procedure. He was accessible to all who asked his advice, working equally hard for Democrats and Republicans alike.

Regardless of whether his advice agreed with a Member's individual objectives, he was a man you always respected. He had a terrific mind and was aptly referred to by Speaker Sam Rayburn as "the big brain man." He had a complete and total command of the precedents and the rules of procedures and he used that knowledge judiciously. A lesser man, perhaps, would have been tempted to abuse the power inherent in that knowledge but Lew Deschler was a man whose character equaled his own great size.

Lew Deschler has been called the House's greatest Parliamentarian. That is a rather lofty accolade but one which was well earned, for Lew Deschler was not simply a masterful technician. He was the keeper of the rules of the House of Representatives, and as such he applied every ounce of his energy to protecting an institutional framework wherein democratic principles could survive and flourish. For 46 years, he labored in a very special vineyard and met with ample success. His life was an example by which we all could profit.

Those of us who had the privilege of knowing Lew Deschler will miss him. My wife Reta and I extend our deepest sympathy and regard to Mrs. Deschler and her family. I know that as time goes on they will be comforted by the memory of this very respected and beloved man.

H. R. GROSS BIRTHDAY PARTY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. MICHEL. Mr. Speaker, our great friend and former colleague H. R. Gross celebrated his 77th birthday on June 30, and I have recently become aware of a gala birthday party which was held in his honor.

Now I use the word "gala" with some reservations, because the party was in fact, and in the great Gross tradition, put on with an eye toward frugality.

A delightful account of the party was written by Dix Hollobaugh for the Des Moines Sunday Register, and knowing how fondly H. R. is remembered here in this Chamber, I wanted to bring it to the attention of my colleagues by having it printed here in th RECORD.

THRIFTY PARTY FOR FRUGAL H. R. GROSS

(By Dix Hollobaugh)

ARISPE, Ia.—Iowa's favorite tightwad, H. R. Gross, came home to celebrate his 77 years, and it was a lovely day for a birthday party.

Gross was born here on June 30, 1899. To celebrate the occasion and as part of the Arispe-Sand Creek Township Bicentennial, the birthday tribute was in keeping with the former Congressman's reputation for thrift.

The fireworks were canceled because the insurance coverage would have cost more than the display. (Sixty-nine dollars for fireworks, said Keith Nichols, 19, chairman of the Arispe Bicentennial Committee, and $75 for the insurance).

Also in keeping with H. R.'s wishes (nobody calls him Harold Royce) the speeches were short so there would be more time for visiting.

In all other respects Arispe (Pop. 98) did what it pleased. And did it well. There was an abundance of good food and good cheer—the verbal kind because this is a Methodist community.

The ladies outdid themselves in the kitchens. There were kettles of chicken and noodles, platters of meat balls, fried chicken, stuffed peppers, ham, chow mein, goulash, macaroni and cheese, relish trays, scalloped potatoes, potato salad and at least 10 other kinds. Where else would you find a crock of sauerkraut and a bowl of creamed beets and, hand picked that day, black raspberry pie? There were 16 desserts.

All that food waited on tables under the shelter house while Merle Wilson spoke.

"We've been real proud that H. R. came from this community," he said. Then he instructed the 250 guests to "start at the north end with your plates and work toward the coffee pots." H. R. and Hazel led the line.

The paper napkins were compliments of the Tingley State Savings Bank and the paper coffee cups were from the Iowa State Savings Bank at Creston.

The shelter house was decorated with a red banner. "Happy Birthday, H. R. Gross." The trash cans were painted red, white and blue. The privy had a fresh coat of green paint.

Keith Nichols took the microphone on the flat bed trailer in the middle of the park and announced that H. R.'s birthday presents hadn't arrived; a Union County official Bicentennial plate was on the way from Ohio and a History of Sand Creek Township would be delivered as soon as it arrived from the printers. It was, in fact, not at the printers. It was still being compiled.

But there was a white carnation for H. R. and yellow carnations for Hazel and a guest book signed by everyone who came to the party.

Kyle Jones, a friend from Grinnell, told the gathering that his wife had spent a night in H. R.'s pajamas. "Actually," he said, "Hazel and R. H. took us in during a terrible snowstorm. We didn't even have toothbrushes with us on that trip and Hazel was kind enough to make us comfortable."

Then H. R.'s brother, Lester, stole the show with some sibling anecdotes. "H. R. was 18 months older than me and was the self-appointed leader and promoter. When we rode the horse, he got the saddle and I rode behind.

"One day, we were riding by a place with two windmills, one near the road and another down in a gulley. I asked him, 'How come, H. R., there's only one windmill working?"

"'Dummy,' he told me. 'Don't you know there's only enough wind to run one windmill at a time?'"

Lester also remembered when Arispe had five passenger and mail trains each day. When it had two grocery stores, two barber shops, a meat market, a cafe, hotel, blacksmith shop, weekly newspaper, lumberyard, creamery watch repair and jeweler, and a bootlegger.

Fred Fisher, who attended with his wife Vera, said he came from Decatur City where they had three bootleggers. "We had a family named Graves. There were the Coffins. and Kings and Lords, and Browns, Blacks, Blues, Greens and Whites."

Grace Linthicum of Des Moines told Fisher that she went to school with Chickens and Parrots.

All the names tumbled out during the visiting. Names of schoolmates who were too poorly to attend. Those who had broken a hip or moved away or passed on.

H. R. left Arispe in 1916, Lester said, to serve in the Mexican Border War. Then H.R. went overseas to serve in World War I.

Many who walked up to greet him were closing a gap of 60 years. Some said, "Which one is H.R.?" One patted H.R.'s belt buckle and said, "You're heavier than your pictures show. You've put on some weight since you left Congress."

And so it went. Memories of overturned outhouses on Halloween, long gone schoolmasters, cornhusking by hand, and a city slicker who came to town and almost got his foot shot off in the hotel lobby.

H. R. said, "We haven't decided where to move, my Hazel and I. She's endured me for 47 years and that says something." Their 47th wedding anniversary was the day before.

He said he wasn't going to talk politics. "But I would remind you," heard the well-fed pot-luckers settled in their aluminum folding chairs, "that this country is in bad economic and financial shape.

"Who here believe we'll be able to pay this debt we've pulled on the backs of the taxpayers of this country unless the juggernaut of inflation is stopped?

"There will come a day of repudiation one way or another. And now we've just embarked on a bail-out of Great Britain. Gone to rescue the pound sterling with borrowed money."

Enough, he decided. "I'm grateful beyond any expression, beyond words at your kindness to us today," he said.

If Arispe wants to have another event when the gifts arrive, H. R. and Hazel will be there again. "Maybe with meetings like this I'll run for Congress from the Fifth District."

And the guests laughed and applauded and wished he would and knew he wouldn't.

The East Union High School Band played and the girls from the 4-H Club brought more cake and homemade ice cream for the social. Everyone lined up again.

They sang Happy Birthday under the trees planted yeares before by H. R.'s mother in the little park in Arispe.

EDUCATIONAL BENEFITS FOR VETERANS

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. MAGUIRE. Mr. Speaker, I wish to urge prompt consideration of H.R. 14143, a bill to extend the delimiting date for veterans who wish to pursue their education.

This bill asks for no great allocation of money—only the chance for a man with a family or a disability that prevents him from attending school full time to finish what he has already started.

By previous legislation, a veteran with a discharge rating of other than dishonorable is eligible for educational assistance for up to 1½ times the number of months served in active duty. If a man served 18 months or more, he is eligible for a full 36-month benefit.

This period of eligibility, however, may not exceed a length of 10 years from the last date of final connection with the Armed Forces. At such time all benefits cease, even where an educational program has been initiated by a veteran and some of his benefits remaining unused.

What this bill asks for is the amending of this provision to enable veterans to finish their education by extending the period during which they can use the benefits for which they are still eligible.

We propose to extend the delimiting date 1 year for those veterans who show serious commitment to furthering their education by having attended school within their 10th year of eligibility.

In no case, however, shall a veteran receive more than 9 months of educational assistance during this extended delimitation period.

This is an issue of vital importance upon which the well-being of those who served our country with honor and dignity depend. The man who has committed himself to furthering his education should not be denied the opportunity simply because time has run out. When a man has put his life on the line for our needs, can we be blind to his needs?

What we are asking for is not major legislation—merely a small extension of legislation that already exists. The money is in the budget and the need is real. But time is running out.

H.R. 14143 is presently floundering in committee with no indication that a markup is in sight. I am entering a plea at this time that this bill be acted upon in the expeditious manner which it merits.

A CANADIAN'S VIEW OF THE U.S. ENERGY CRISIS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. ARCHER. Mr. Speaker, Richard Anderson, associate director of the internationally recognized Battelle Memorial Institute, recently made a hard hitting review of our country's energy situation. His remarks are well worth reading by my colleagues in Congress:

The Lemming Syndrome

The attitude of the people of the United States in relation to energy supplies is comparable to the mass migration of lemmings at peaks of population growth when they end up falling off the cliffs into the ocean in a blind follow my leader march.

A pessimistic, hard hitting review of the energy situation south of the border was presented in a lively and humorous speech to the annual meeting of the Canadian Petroleum Association last week by Richard J. Anderson, associate director of the internationally recognized Battelle Memorial Institute of Columbus, Ohio.

And while he confined his remarks to the United States scene, the import of his message very clearly sank home with his Canadian audience.

The USA energy situation could only be described as miserable and on a collision course to catastrophe. The seriousness of declining domestic energy sources is not appreciated by 99 per cent of the population, Anderson contended, whose attitude of complacency has become embedded during the past 200 years since the Pilgrim Fathers landed and saw the great forests of the northeastern United States.

In those days wood was the dominant fuel, with charcoal used to melt iron and the great forests created the impression there was enough wood to last for ever. As settlement moved westward the enormous coal reserves in Virginia were found, reinforcing the belief of unending energy resources. And before the first 100 years of the new nation had passed, oil was discovered in Pennsylvania. The growth of oil and gas is well known, and Anderson pointed out that for the next 125 years the United States was the world's biggest oil producer until it was overtaken by the Soviet Union.

But the situation has changed, although the fact is not recognized by the population at large who are lulled into complacency by the promise of new energy sources which Anderson warned just would not be available in sufficient quantities in time to prevent a catastrophe.

In the black month of March this year, for the first time in its history, the United States imported more oil than it produced, the ratio was 51 per cent to 49 per cent and though the balance has now improved to about 45 per cent imported, Anderson said the bill was $4 million per hour, 24 hours a day, seven days a week. The USA no longer has control over price, quality or quantity of its oil imports and warned that even a tiny aberration in international affairs could have drastic results.

The true reason for the present dire situation was not excessive government controls. I disagree! Not a lack of interest and activity by the petroleum industry, the bitter pill "is that we are running out—the end is in sight."

Anderson was sceptical that any alternate energy source would have a major impact on supply before the end of the century. He quoted the facetious remark of an official of the Interior Department who, referring to the environmental barriers to the use of coal said, 'we can't mine it and we can't burn it.'

He was sceptical about the viability of shale oil—"the brown mineral isn't oil and the rock isn't shale, otherwise the description is correct"—geothermal energy would never supply more than 1 per cent of USA energy demand, the sun will be a source by the year 2000, but "we still have to learn how to collect, store and transport solar energy and atomic energy will not be the ultimate saviour—56 reactors in the USA currently supply only 1.8 per cent of total demand.

Noting that $30 to $40 billion was spent on the space program, Anderson said the energy task facing the USA is 10 times as large but some way must be found to exist as a nation until a new major energy source is found. Conservation is one answer because the USA wastes between one half and two thirds of all the energy it consumes and the lemming mentality must be changed.

While the situation in Canada may not exactly parallel that of the USA, there was much food for thought in Anderson's remarks.

INCENTIVE THE KEY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. FINDLEY. Mr. Speaker, America has the prospect of reaping some of the largest crops in its history. Weather is one factor. But just as important is profit incentive. Price incentive and the American system of enterprise are two vital factors. Freedom for the farmer to respond, unrestricted by governmental intervention, is a key to our agricultural production in this country.

The following editorial from the New York Times recognizes the strength of the American system of incentives for agriculture. It was published on July 19, 1976.

Agricultural Abundance

The largest corn crop and the second largest wheat crop in history are the 1976 harvest prospects seen by the Department of Agriculture as of July 1. A statistical projection is hardly the same as the crop safe in the bin, and bad weather this summer could well make the final 1976 reckoning far less cheerful. Nevertheless, for the moment there is certainly reason for optimism since the forecast implies that the United States this year will gather huge crops sufficient not only to meet all domestic needs, but also to contribute substantially to foreign requirements.

Those requirements for American grain over the next twelve months are likely to be substantial. Western Europe has been plagued by record or near-record drought and heat for many weeks now so that the outlook for that area's grain production is anything but cheering. Australia, normally a large producer of surplus grain for export, is also suffering from serious drought so that expectations regarding its wheat production are being scaled down. Earlier this year weather reports from the Soviet Union seemed to suggest another unsatisfactory crop there, too, but more recent data suggest some limited improvement.

The United States' role in recent years as a major barrier preventing world hunger of catastrophic proportions is partly the result of this nation's fertile soil and favorable weather conditions. In the Soviet Union, the areas with the best soil tend to have frequent droughts while the regions with adequate rainfall tend to have poor quality soil.

But weather alone is far from the whole story about the frequency of food difficulties in the U.S.S.R. and the general history of abundance of food here. The fact must be recognized that the American farmer has strong incentives for high production, and the freedom to respond to those incentives with adequate technology and capital. The Soviet farmer, still chained in the collective farms, has little incentive and even less freedom to organize for maximum output.

The real surprise is not that the Soviet Union has to import massive amounts of food so often, but that Soviet agriculture produces as much as it does despite the great natural and man-made obstacles it faces.

PROFIT KEY TO FOOD SUPPLIES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. FINDLEY. Mr. Speaker, a recent editorial in the Livestock Market Digest, July 5, 1976, outlines the importance of the profit motive as the key to world food supplies. The market system and incentive are essential to assure adequate food production both at home and abroad.

As the editorial suggests, if we are earnestly searching for a successful world food policy, we could do far worse than "suggest that a basic understanding of the profit motive and private ownership is the key to whether any system to meet human needs will be used to its full potential."

The editorial follows:

Profit Motive Key to World Supplies

The world food conference held last week in Ames, Iowa, was to have been much different than the forum from which so much propaganda was spread two years ago. The session in Rome at that time set a political tone, with the U.S. and the relatively few other well-off, highly productive nations with excesses of food critized for not giving away more.

This year's meeting was different, for there were no political figures present. They had been disinvited.

This time there was more objectivity about what could be done, or what needs doing. But some arguments had a familiar and discouraging theme. The market system, upon which the best fed nation in the world, the U.S., relies, won't resolve world food problems, conferees were told by an expert invited to the conference.

No matter that the market system has produced at a more efficient rate than the alternate, which is to produce according to a bureaucratic plan, whether at home or in international trade. Yet it is no accident that individuals working for their own gain have produced an abundance for themselves and yet been able to ship huge quantities of foodstuffs abroad, sometimes for free and more recently for competitive prices.

If that is the wrong system, then someone is using the wrong measurement.

There was also a little of that talk about how much the world's starving people could be aided were a small percentage of the grains which are fed to American livestock channeled instead to the needy. That contention is not often debated as it should be, with emphasis on the fact that livestock also convert large quantities of otherwise unusable forage to edible meat. Nor are people reminded that to alter this nation's agricultural production balance could result in more needy both at home and abroad. Further, that the starving millions abroad must, above all, find the incentive and the means—with U.S. help insofar as possible—to produce food. They must also find the means not to produce so many extra mouths to feed.

Those earnestly in search of a "world food policy" could do far worse than suggest that a basic understanding of the profit motive and private ownership is the key to whether any system to meet human needs will be used to its full potential.

WESTERN NOVELS—SOVIET STYLE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. McDONALD. Mr. Speaker, young Soviet students are always treated to a very strained version of American literature, but the Soviets like to brag about their favorite American authors, such as Hemingway and Jack London. But even then, their students are subjected to a very screened version of these authors. With Jack London, for instance, his works reprinted in the U.S.S.R. are featured only for the period when he was enamored with socialism, but none of his later material that is anti-Socialist is ever printed for Soviet students to read. And, as Columnist George F. Will, recently emphasized even the very novels of Hemingway are precensored for Soviet publication. As Mr. Will pointed out, we cannot expect much from the so-called Helsinki Agreement and détente as long as such things continue. The column follows:

WESTERN NOVELS, SOVIET-STYLE

(By George F. Will)

You are, no doubt, preparing to bake a cake and light a candle to celebrate the first bithday of the Helsinki Agreement, by which we ratified Soviet hegemony in Eastern Europe and the Soviet Union committed itself to the freer movement of people and ideas. But first consider the burdensome life of the Soviet censors.

Deep in the labyrinthian innards of the Soviet bureaucracy lurk censors whose service to socialism consists of sanitizing Western novels. The study by Westerners of the patterns of censorship is jocularly referred to as "snipology." Now an Israeli snipologist, writing in the British journal Encounter, has compiled a list of 17 "improvements" that Soviet censors have administered to Ernest Hemingway's "For Whom the Bell Tolls."

A few examples will suffice to show the level at which the Soviet government's mind operates. In the Hemingway paragraphs given here, the portions censored in the Soviet Union are italicized.

"They were Communists and they were disciplinarians. The discipline that they would enforce would make good troops. Lister was murderous in discipline. *He was a true fanatic and had the complete Spanish lack of respect for life. In few armies since the Tartar's first invasion of the West were men executed summarily for as little reason as they were under his command.* But he knew how to forge a division into a fighting unit."

The censor's reasoning is obvious: Communist ideology produces perfect justice; so the Communist, Lister, could not be unjust; so Hemingway's misdescription adds nothing to the novel and should be expunged, as a service to art.

Consider the cosmetic censorship applied to Hemingway's character, Karkov, a Communist leader in the Spanish Civil War. The censor excised a substantial chunk mentioning Karkov's mistress and several wives. Obviously Hemingway erred: No servant of the masses has an inclination for sin, or energy to spare for sin on that scale.

But having made that decision, the censor had to be bright-eyed for passages like this:

"When he came into the room, Karkov went at once to the woman in the uniform and bowed to her and shook hands. She was his wife and he said something to her in Russian that no one could hear and for a moment the insolence that had been in his eyes as he entered the room was gone. Then it lighted again as he saw the mahogany-colored head and the lovelazy face of the well-constructed girl *who was his mistress* and he strode with short, precise steps over to her and bowed *and shook her hand in such a way that no one could tell it was not a mimicry of his greeting to his wife.* His wife had not looked after him as he walked across the room. She was standing with a tall, good-looking Spanish officer and they were talking Russian now.

"'Your great love is getting a little fat,' Karkov was saying to the girl. 'All of our heroes are fattening now as we approach the second year.' He did not look at the man he was speaking of.

"'*You are so ugly you would be jealous of a toad,' the girl told him cheerfully.* She spoke in German. 'Can I go with thee to the offensive tomorrow?'"

So goes the censorship. As George Orwell said of similar behavior, "It is stupid to get angry, but there is a stupid malignity in these things which does try one's patience."

These acts of Soviet small-mindedness are important, not because they concern weighty matters, but because they do not. Any despotism with ample animal spirits can abuse people on a grand scale, with broad strokes. But the modern refinement of tyranny is attention to minutiae.

These little details of Soviet censorship should be small bits of useful sand, grains of reality that get in the gears of fashionable fantasy about the capacity of the Soviet regime for behaving in a civilized way. That regime, now as always, is desperately timid. The world is endlessly threatening to it.

Founded on the doctrine of the historical inevitability of communism, the Soviet state evidently believes that minutiae like Hemingway's offending passages can derail the dialectic of history.

A regime that is frightened by uncensored Hemingway is not a regime that can contemplate compliance with the liberalization provisions of the Helsinki Agreement. That agreement, stillborn just a year ago, is another dead letter of détent diplomacy, for which the bell tolls.

PRODUCERISM

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. COLLINS of Texas. Mr. Speaker, America needs producerism today to provide the leadership for a greater Tricentennial. Let us look forward to our next 100 years. The exciting word today is consumerism. But as Congress drinks in the melodious words of consumerism, America starts to slide downhill.

I know and you know that the average American has good commonsense. But the laws we write for consumerism are from the believers who are determined to spoon feed every housewife in America. Costs go up and up as Congress specifies more rules and regulations to protect the poor little old ladies.

I want to remind you that these poor old ladies have more brains than the bureaucrats. Automobiles are higher priced. Groceries cost more. Furniture is up. And they know it is consumerism causing cost increases.

I talked to a manager last week whose plant this year was putting all their capital machinery money into new environmental machines. Foreign competitors put their money into new quality machines. The American plant will have a higher cost product, and the little old lady will buy from the foreign firm.

Let us start talking producerism. Let us ask American plants how we can help them produce more at a lower price. Let us ask industry how we can help create more real jobs.

Producerism is from pro. Pro is in production, profit, and progress. Consumerism is from con. Con always reminds me of someone against the issue. You hear of a con artist.

Today when we discuss the pros and cons let us talk more about producerism. I am proud to be counted with the pros.

THE AMERICAN FROM ANOTHER VIEWPOINT

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. TALCOTT. Mr. Speaker, persons from all walks of life and backgrounds have expressed their feelings about America during our Bicentennial.

Too often we only hear from poet laureates, the articulate columnist, or the published author.

A friend of mine, Lucille Carl Vezzolo, of Salinas, Calif., has written to tell me of her feelings about the American of today. I was impressed by the beauty and pride of her expression especially because she had no formal education, grew up during the depression in a large migrant farm family which followed the crops from Oklahoma to California and attended 36 different high schools before dropping out.

America has freedom and opportunity for everyone. Mrs. Vezzolo verifies this with her sincere soliloquy.

I include her brief statement in full:

THE AMERICAN

Our people have traveled from the four corners of the Earth, to plant their feet upon this land. In our bodies flow the blood of all nations, a combination salad. Each nation tossing into the bowl part of themselves and their many talents. We're kinship to the world, with different races, religions and philosophies joined together as one body.

200 years ago small colonies of immigrants

united together to form a government based upon equality of men and their freedoms. From a wilderness they carved a nation: with more freedom, wealth, and power than any nation in the history of the world.

We have come far; we have a long way to go.

We're a hard working, generous people; yet we know we are not always right. Our purpose is to search for truth, right our wrongs, and learn to live in harmony.

This is the hope and dream of the American.

ON THE RETIREMENT OF CROCKER SNOW

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. MOAKLEY. Mr. Speaker, after 50 years of innovative and brilliant service in aviation, Massachusetts' Director of Aviation, Crocker Snow, has announced his retirement. I feel that this is an excellent and appropriate opportunity to express my deep respect for this man of many talents.

Born in Boston, Snow first began flying while attending Harvard University. Already exhibiting his talents and enthusiasm for organization and flying, he helped revive the Harvard Flying Club.

After graduation, Snow did not desert his passion for aviation, but pursued it by becoming president of Skyways, Inc., one of the first and largest fixed base operations in New England. When the company sold their assets in the late 1930's, Snow went on to write Massachusetts' first comprehensive aeronautical law. Consequently, when the Massachusetts Aeronautics Commission was formed, its extremely qualified director was Crocker Snow. In addition, he became a member of Governor Saltonstall's 3-person war-inspired industrial preparedness committee in 1940. But his commitment did not end there. As one of the most talented and experienced army aviation officers, Snow found himself overseeing important airport construction in Presque Isle, Maine, Goose Bay, Labrador, and Bluie West One, Greenland. He later proposed and tested the unescorted delivery of fighter aircrafts across the ocean as well as trained and commanded not only a B–17 bombardment group, but a B–29 group as well. By the end of the war, Snow had been an Assistant Chief of Staff to Gen. Rosie O'Donnell and a top-notch pilot.

But peace could not quell Snow's adventurous spirit. He went on to become president of the National Association of State Aviation Officials, chairperson of the Conference of National Aviation Organizations, consultant to the Airways Modernization Board, and the Federal Aviation Administration, a member of the Harvard College Visiting Committee for the Department of Military, Naval, and Air Sciences, U.S. delegate to the International Bureau for General Aviation of the Federation Aeronautique Internationale, a director of the National Aeronautic Association, president of the Harvard Aviation Foundation, chairperson of the New England Council Air Transportation Committee, a consultant to Transportation Secretary Volpe, and chairperson of the President's Aviation Advisory Commission. Presently, Snow is chairperson of the New England Conference of State Aviation Officials and a director of the National Pilots Association.

Crocker Snow is a hero in a sense that has become rare. Working his way up in a new and open industry, he did not shirk his responsibilities to the State or the public. His contributions in the form of advice, legislation, reports, testimony and as a role model shall not be diminished over time. This man, a truly fine and upstanding human being, deserves the honor and recognition we give him today.

ADMINISTRATION PUSHES $8 BILLION NUCLEAR ENRICHMENT "BOONDOGGLE" FOR BIG BUSINESS FRIENDS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. EVINS of Tennessee. Mr. Speaker, "A nuclear boondoggle to end all nuclear boondoggles" is the description offered by columnist Tom Braden of the administration's proposal to move big business into the field of nuclear enrichment—with the aid of grants, loans, guarantees, and other forms of Federal assistance.

The purpose of this bill, Braden writes:

> Is to set up a select group of Nixon-Ford administration friends with a lucrative monopoly over the enrichment market while phasing out government participation in the enrichment business.

Over the years Congress has fought and resisted efforts to give away this Nation's nuclear knowledge and technology. We have spent billions of dollars in research and the development of nuclear power.

And yet, the Ford-Kissinger administration wants to give away this knowhow in the specialized field of nuclear enrichment, although the Government efficiently and successfully is operating three uranium enrichment plants—at Oak Ridge, Tenn., Portsmouth, Ohio, and Paducah, Ky. Uranium enrichment plants process mined uranium for use in nuclear powerplants.

This "deal"—if endorsed by the Congress—will open the door to the massive sale of nuclear technology abroad.

Columnist Braden writes:

> With this bill, the Administration is seeking to promote mass exports of enriched uranium and nuclear hardware by private industry.

Because of the interest of my colleagues and the American people in this most important matter, I place the column by Mr. Braden from the Washington Post in the RECORD herewith:

THE NUCLEAR EXPORT FIGHT

(By Tom Braden)

The beleaguered Ford administration has been straining hard to push through a bill that would turn the nuclear fuel business—"the biggest ball game in town," as Sen. Howard Baker of Tennessee calls it—over to private industry. A consortium of foreign investors headed up by the oft-investigated Bechtel Corp. is waiting in the wings to reap guaranteed profits from the privatization scheme should the administration's bill—entitled the Nuclear Fuel Assurance Act—pass.

The bill is ostensibly advanced in the interests of guaranteeing that the United States can retain its dominant role in fueling nuclear reactors throughout the world. But it is apparent that we have more than enough potential in our three government-operated uranium enrichment plants and enormous stockpiles to meet these needs, at least through 1985. So what is the bill really about?

The bill is to provide "sweeteners" for the big reactor salesmen's contracts. So now when Bechtel flies into South Africa or Brazil or South Korea to sell nuclear reactors, it can offer these nations, which are struggling to achieve weapons capability, not just the hardware, but also the batteries. The coming glut in enrichment capacity will make fission reactors look all the more attractive.

The administration says its bill promotes "free enterprise" by encouraging competition within private industry. But what with all the elaborate guarantees we'll be handing out to investors—guarantees of access to government stockpiles, guarantees of a market and, finally, guarantees that we'll buy out any failing private enrichment ventures up to the tune of $8 billion—it more resembles cradle-to-grave socialism than any free-enterprise scheme.

What the bill is all about, it would appear, is that Gerald Ford is trying hard to set up a select group of Nixon-Ford administration friends with a lucrative monopoly over the enrichment market while phasing out government participation in the enrichment business.

Mr. Ford claims it is not suitable for the government to be doing a job private industry can handle. So he's pulling out the big guns to shove his proposal through—even though a study by the Congressional Budget Office shows that, once you figure in all the hidden subsidies and out-front guarantees, it will be cheaper for the Feds to hold on to the enrichment market. Mr. Ford has already twisted arms on the less-than-enthusiastic Joint Committee on Atomic Energy (JCAE), threatening to withhold desperately needed government financing for research into his privatization scheme. Rep. John Moss (D-Calif.) is one who made little secret of his contempt for the strong-arm tactics; recently he quit the committee, disgusted.

Beyond the politics and twisted economics of the Ford bill, there are some very genuine proliferation concerns. With this bill, the administration is seeking to promote mass exports of enriched uranium and nuclear hardware by private industry. And can we leave it to multinational corporations like Bechtel to look after the U.S. national interests in this business? Let's look at the record.

It was Bechtel who entered into unauthorized negotiations with the Brazilians—negotiations that were aimed at giving that country "the whole gamut" of nuclear hardware—negotiations that completely undermined State Department efforts to keep the West Germans from selling Brazil the entire nuclear fuel cycle. Bechtel built the reactor that supplied the plutonium for India's atomic blast; Bechtel has also been charged by the Justice Department for cooperating with the Arab nations in their boycott against "Jewish-influenced" firms, and Bechtel is undergoing congressional investigation for alleged falsification of safety data on the Alaska pipeline. Are these the people we want directing our nuclear export program?

There is a strong move on Capitol Hill, led by Rep. Jonathan Bingham (D-N.Y.), to shoot down Mr. Ford's scheme for these reasons and more. The biggest challenge of the bill's opponents, oddly enough, is to show that their opposition grows not out of a Nader-like skepticism of nuclear power per se but rather out of well-founded concern that the Ford giveaway scheme is a nuclear boondoggle to end all nuclear boondoggles. The way the tide was running early this week, it looks as if the JCAE may be in for its first defeat in recent memory, which all leads one to wonder whether the committee might not be secretly pulling for Bingham's side.

CARTER AND THE CONGRESS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. MICHEL. Mr. Speaker, some of us on the minority side have been interested to note that a number of the criticisms Jimmy Carter has leveled against the Government may be traced directly to the actions of the Congress, controlled lo these many years by Carter's own Democratic Party.

We were therefore interested to read in a recent column by Patrick Buchanan, a concise statement of one of the most glaring examples of this rather remarkable situation. Buchanan demonstrates clearly that the people Carter ought to be trying to turn out of office, if he really believes that the American tax system is "a disgrace to the human race," are the Democrats in Congress who voted it into law, starting with the chairmen of the Senate Finance and House Ways and Means Committees.

To the best of my knowledge however, Mr. Carter has not come out against the reelection of any of those gentlemen, nor any other congressional Democrat. I regard this as just one more example of his lack of sincerity.

So that my colleagues might see the light in this regard, I insert Mr. Buchanan's column, which I have taken from the July 22 issue of the Chicago Tribune, printed here in the Record:

Tax "Reform" Simple, Jimmy

(By Patrick Buchanan)

Washington.—Wednesday last, as Smilin' Jimmy Carter was rattling off his market-tested cheer lines at Madison Square Garden, one in particular captured my fancy. It had to do with the United States tax code.

Said Carter "It is time for a complete overhaul of our income tax system. I still tell you it is a disgrace to the human race."

Even allowing for rhetorical excess, this is fairly heavy stuff, especially when you consider that every exemption, deduction, allowance, and credit in that tax system was inserted or approved by a Congress that has been overwhelmingly Democratic since Carter gave up submarines for peanut farming.

If our tax system demeans and disgraces us before mankind, as Carter suggests, how should we deal with the three Democratic politicians most responsible: Ways and Means Chairmen Wilbur Mills [who has stepped down from the post] and Al Ullman, and Senate Appropriations Chairman Russell Long?

Every "tax reform" of the last decade was drafted in their committees, approved in conference by Democratic majorities, voted upon by a Democratic House and Senate. If the result of these efforts is a tax system so discriminatory and rotten as to hold America up to the ridicule and contempt of mankind, why, then, let us draw up articles of impeachment against the architects.

Indeed, one wonders how the son of Huey Long, sipping bourbon before the television tube, reacted on hearing his party's nominee telling a cheering convention hall that the Louisiana senator's life work was "a disgrace to the human race."

Which raises the question: Is Carter's hyperbole to be taken literally, or even seriously? I think not.

For if Carter believed his rhetoric about what a wretched income tax system we have, all we need do to effect change is publicly to suggest reforms to the Democratic Senate, currently rewriting the code. Surely, in deference to the request of its new leader, Senate Democrats would write these changes into law.

Does Carter feel that the corporate tax should be raised from 48 per cent to, say, 60 per cent? Does he want capital gains taxed as regular income? Does he want the minimum tax hiked? Does he wish the 50 per cent maximum tax on salaries raised? What deductions [i.e., "loopholes"] would he like to see eliminated? Precisely how does his party plan to extract another $5 billion from the producing sector of this society—as it promises in the platform?

On all these matters, Carter remains mute—with good reason. He wishes to have the liberal Democrats and press applaud him as a fighting "tax reformer," without alerting the victims who are going to have to pay higher taxes for his campaign publicity.

As for Carter's outrage over the existing tax system, it has about it a feigned and synthetic quality—manufactured and uttered because that is what pollster Pat Caddell told him would turn on the affluent elite at Madison Square Garden, which likes to think of itself as the populist leadership of the party of the people.

PAYMENTS IN LIEU OF TAXES
H.R. 9719

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. WEAVER. Mr. Speaker, H.R. 9719, a bill to provide certain payments to local governments in order to partially compensate them for the tax immunity of Federal lands, has been scheduled to come before the House Thursday, July 29.

I would like to advise the Members of the House, that, because of errors made by the Department of Interior in figuring the payments to counties, there have been a few changes in the estimated payments to a few of the States originally listed in the Committee Report No. 94-1106.

Those States with revised figures will receive a total annual payment in compensation for tax immune Federal lands as follows:

State	New estimate
Alaska	$3, 966, 017
Arizona	8, 495, 546
Arkansas	949, 284
California	10, 179, 525
Colorado	7, 975, 238
Idaho	7, 952, 090
Kansas	113, 738
Michigan	1, 887, 344
Minnesota	1, 547, 006
Montana	9, 321, 800
Nebraska	240, 984
Nevada	5, 228, 311
New Mexico	9, 969, 898
North Dakota	476, 113
Oklahoma	151, 034
Oregon	4, 009, 258
South Dakota	1, 583, 798
Utah	7, 352, 937
Washington	2, 720, 541
Wyoming	6, 139, 194

Should Members have questions about the figures for specific counties they may contact Bill Birdsall of the subcommittee staff at 5-8331.

MORE ON THE SOVIET DESTROYER MUTINY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. McDONALD. Mr. Speaker, on June 9, 1976, on page E3192, I placed in the Extension of Remarks an item from the London Daily Telegraph relative to the mutiny that occurred on the Soviet Baltic Fleet destroyer *Storozehvoy* last November. Following the insertion of this item, I received a letter from the Swedish Ambassador which follows:

Royal Swedish Embassy,
June 21, 1976.

Hon. Larry McDonald,
U.S. House of Representatives,
Washington, D.C.

My Dear Mr. McDonald: My attention has been drawn to a statement of yours in the Congressional Record of June 9th (page 17286, in which you refer to an article in the Daily Telegraph, according to which Sweden allegedly denied asylum to Russian mutineers.

I would like to inform you that the Soviet destroyer in question was never close to the Swedish coast line off the island of Gotland or any other place near Sweden. The information in the Daily Telegraph of June 5 that the destroyer had entered Swedish territorial waters or a port on the island of Gotland, is therefore completely unfounded. The information that the Swedish Defense Department was in contact with the destroyer through patrol boats is also entirely, false, as is the allegation that Swedish authorities received a request for asylum from the crew on board the destroyer, and that this request was rejected. Swedish authorities, thus, were in no way involved in this incident, which took place far away from Swedish waters. The information in the Daily Telegraph has already been denied by the Swedish Ministry for Foreign Affairs, as a reply to questions after the article appeared.

As your remarks in the Congressional Records have caused an understandable concern among many people, I would appreciate it very much if you would have a similar reference to this correction inserted in the Congressional Record.

Sincerely,

W. Wachtmeister,
Ambassador.

Upon receiving the letter, I did some further checking with the London Daily Telegraph, which indeed did publish an item concerning the Swedish denial on June 7, 1976, which is also inserted at this point:

SWEDEN DENIES REFUSING HELP TO MUTINEERS

The Swedish Defence Minister, Mr. Holmqvist, denied in Stockholm at the weekend reports that Sweden had refused to grant asylum to Russian naval mutineers last November. He said: "This is completely wrong. The story is pure fabrication.

"There were no contacts between Swedish authorities or armed forces and the Russian vessel. The Defence staff have given a complete report on the incident.

"What happened happened outside Sweden and the only thing observed was a vessel approaching Sweden, but we took no steps, no extra alert, nothing."

Based upon the above items, and conversations with various authorities, it is now certain that the Soviet ship did not put into harbor at Gotland Island. Based upon what Soviet sailors were saying about the incident, it is not clear whether or not the ship ever did actually ask for asylum with the Swedish authorities or not, or whether it technically ever entered Swedish waters or not. To the best of my knowledge Sweden has never published the report of her intelligence authorities and probably never will. What is important to note, however, is the fact the Western or free World press gave this matter so little attention. If this had been an American ship, the world would have carried headlines. One needs only recall the acts of disobedience that occurred on some American ships that received extensive publicity.

WHY A VICE PRESIDENT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. DRINAN. Mr. Speaker, everyone in America has recently been troubled once again with respect to the way in which the two major political parties select their Vice Presidents.

In view of the fact that almost every third Vice President in American history has succeeded to the Presidency because of the death of the President, it is imperative that the Congress and the country develop a way by which the people of America could participate in the selection of every person who might ultimately become their President.

Mr. Jerome Grossman, a distinguished political analyst and activist, published an insightful article on this subject in the July 20, 1976, issue of the Boston Globe. Mr. Grossman recommends that the office of the Vice Presidency be abolished and that in the event of the death or disability of the President a general election be held within 30 days. The candidates in that election would be persons nominated by the Democratic and Republic National Committees—or by some other appropriate means. Provision would of course be made for other parties. During the 30 days when the Presidency is vacant, the Speaker of the House or another person designated by the Constitution would be the Acting President.

I attach herewith the challenging article of Mr. Grossman:

WHY A VICE PRESIDENT?

(By Jerome Grossman)

Why do we need a Vice President, anyway? At the founding Constitutional Convention, many had grave reservations about establishing the office. Alexander Hamilton reflected the controversy in the Federalist Papers Number 69 where he wrote, "The appointment of an extraordinary person, as Vice President, has been objected to as superfluous, if not mischievous." Superfluous in that there is no significant function; mischievous in that it might create a competing power center.

Spiro Agnew is not the most dangerous model for a Vice President. Reflect upon Aaron Burr, the adventurer.

When the Constitution was adopted in 1783, news of the death of a President took weeks, organizing special elections required many months.

Today, with our sophisticated electronic and print media techniques, a special election for the Presidency could be held easily within 30 days after the death in office of the President. The newspapers and television would make the candidates household words within two weeks. The parties could nominate their candidates by special conventions of the national committtees within two weeks after the death of the incumbent. While political considerations would hardly be absent, the focus would clearly be upon the executive and personal qualities of the candidates.

Instead of one man, the presidential nominee, making the decision, the selection process would be broadened to include hundreds in the nominating process, millions in the election. This process should result in a more qualified person, not one selected because he could carry two or three states for the presidential nominee.

In the 30 day period between the death of the President and the election of his successor, the Speaker of the House of Representatives could serve as Acting President. Perhaps he could be forbidden to run for President in the special election. In any case, the Speaker has a broader popular mandate for temporary executive office than a Vice President selected by one man.

The US Constitution was designed for amendment. Only decadent societies cling desperately to methods which practice has proved to be faulty and which defy common sense. Eliminate the Vice Presidency. End the selection of the next President by one man. Modernize the political process.

ISSUE OF CONSERVATION OF OUR FUR RESOURCES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. YOUNG of Alaska. Mr. Speaker, on June 22, I participated in the U.S. Fur Industry panel before the Republican Platform Committee at the Statler Hilton Hotel, on the issue of conservation of our fur resources. I entered the statements of the participants in the RECORD, however, the remarks of one panelist was not printed.

I insert for the RECORD the statement of Gary Kugler, executive vice president of Associated Fur Manufacturers, Inc., New York City, N.Y.:

REMARKS OF GARY KUGLER

My name is Gary Kugler. I am executive vice president of the Associated Fur Manufacturers, Inc.

I address you today for this Association which represents over 300 member firms who directly employ between 3,000 and 4,000 people. In addition, I am confident that I properly reflect the views of the total fur industry.

Most of the fur manufacturers in the United States are located in New York City. It can, I believe, be called the hub of this industry, although there are manufacturers in other cities throughout the country.

We manufacture garments from both wild and ranch raised species. We do not use the furs of any endangered species. I should like to stress that the fur industry is greatly concerned with total conservation and the health of all of our natural resources.

We deal with a renewable resource—the wildlife of this country—and the world, for that matter.

If the wildlife of this country is destroyed, we would not have products with which to continue our industry. So, quite candidly, it is in our own self-interest to be concerned with the animals which make up our basic materials; and which contribute in a positive way to the economy of this nation.

For a number of years, our industry has been under attack by admittedly well-meaning but, unfortunately, only partially-informed people, concerned with the killing of wild animals. They would stop the killing of all animals. Scientists tell us that unless the wild animal crop is rationally harvested, the animals would become subject to disease through over-population and the encroachment of man on the animals' habitats.

This is precisely what we do not wish to happen. We believe in scientific management of wildlife, and protection of those species which are endangered.

We realize, of course, that this Committee is concerned with the total aspects of conservation, and not just the problems of our industry.

Nevertheless, our industry does contribute to the health of our economy and provides employment for over 200,000 people, directly and indirectly. It is currently one of the few industries in New York which not only has full employment, but which has recently put into effect an apprenticeship program that will provide training and work opportunities for many who are presently unemployed.

Economically, our industry is healthy and viable.

For example, since 1972 this industry has increased in sales from approximately $250 million annually to over $650 million in 1975. (This includes both retail sales and sales of furs abroad.)

We urge this Committee to consider the beneficial effects of this industry on both the wildlife of our country and its economy and employment opportunities.

It is our belief that the Republican Platform for this year should contain a plank that supports our industry and its position, and thus maintain the health and productivity of wildlife through scientific harvesting of one of America's few renewable resources. Thank you very much!

TORBERT H. MACDONALD

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. TEAGUE. Mr. Speaker, a short while ago, this body lost one of the most able Members of Congress, the Honorable Torbert H. Macdonald. He was my friend, and we shared many laughs and sorrows together. I was privileged to be a member of the group representing the

Congress paying tribute to Torby, and I think that one of the finest eulogies ever spoken which paid tribute to a man was that which was delivered by Senator TED KENNEDY. I am including the Senator's remarks in this statement.

REMARKS OF SENATOR EDWARD M. KENNEDY

It is not an easy thing to say goodby to a great and decent human being like Torbert Macdonald. When a light like that goes out, a star disappears from the sky. The nights are a little darker for so many of us who were guided by his light and warmed by his friendship.

Remembering Torby, I think of both the public and the private man. I think of his three great public qualities of honesty, integrity and service. And I think of his equally great private qualities of friendship, humor and unselfishness.

To thousands in Malden and many other towns and cities he served in this district, Torby was an outstanding congressman for our commonwealth, one of the best New England ever had, as well as any I have known. He performed the two essential roles of a Member of the Congress—service to his district and leadership for the nation.

He leaves enduring monuments in the Seventh District. They are written clearly in the tangible things he accomplished for so many people during his 22 years of service here. But even more important, he lives on in the hearts and gratitude of those for whom he did so much.

He also blazed a brilliant trail in the statute books of the United States. The major laws he fashioned are well known for both their wisdom and their craftsmanship.

The history of these recent years in Congress will record Torby's skillful leadership in critical areas like energy, transportation, election reform, and national communications policy, especially public broadcasting and the role of the media in our free society.

His untimely death is a tragedy for us who knew him well. But it is also a tragedy for the country. He still had so many things to do, so many plans to carry out, so many goals that only he could reach. His skills were a fine blend of leadership, intelligence, and hard work. Above all, his skills reflected the priceless qualities of courage and judgment that guided all his actions. The silver star he earned for bravery in battle in World War II was won many times again in the battles he so often fought in public life for what was right.

But for all of us here this morning, it is the private man and friend whose loss we feel the most. There is a special tragedy in the passing of one for whom laughter was second nature, who could so quickly draw a smile from others, whose friendly and welcome sense of humor was always at the surface.

My own recollections of Torby go back over thirty-five years, to those weekends at our Cape Cod home when my father was Ambassador to England. Growing up as the youngest in our family, I have many vivid memories of those years. Cabinet officers would come and go, and many other distinguished visitors would call. But for a seven year old, few visits could match the times that my brother brought his roommate, who was Harvard's football captain and baseball star, home to spend the night.

In a sense, Torby became a member of our family. His college friendship with Jack grew even closer over the years. Torby was there in Jack's first race for Congress in 1946. In each following campaign, throughout the Senate and the White House years, he was always there—laughing, advising, working, helping in so many ways. And he shared our grief thirteen years ago, as we share his family's grief today.

As college roommates, he and Jack were inseparable. They shared everything. The good times were easy, but they also took their lumps together when things didn't work out as well.

When the dean of students caught Jack red-handed in the midst of mischief, he didn't know that Torby was around the corner out of sight, directing the operation. But when Jack was called on the carpet the next day in the dean's office, Torby was standing there beside him. Standing together, they thought, no one could pull the carpet out from under them. They were right, and they stood that way for over 25 years.

No person's work is ever finished. But the tragedy of Torby's death is compounded by our knowledge that his life was cut short at its prime. We who live shall carry on his work. We shall rededicate ourselves to his ideals, and to the ideals of the other fine friends and leaders we have lost. We shall make his commitment our commitment, his work our work, his dream our dream.

Near the end of pilgrim's progress, there is a passage that tells of the death of valiant:

"Then, he said, I am going to my father's; and though with great difficulty I am got hither, yet now I do not regret me of all the trouble I have been at to arrive where I am. My sword I give to him that shall succeed me in my pilgrimage, and my courage and skill to him that can get it. My marks and scars I carry with me, to be a witness for me, that I have fought his battle who now will be my rewarder.

"When the day that he must go hence was come, many accompanied him to the river side, into which as he went he said, "Death, where is thy string?' And as he went down deeper, he said, 'grave, where is thy victory?' So he passed over, and all the trumpets sounded for him on the other side."

PETROLEUM EXPLORATION CONTINUES DECLINE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. ARCHER. Mr. Speaker, just as Nero supposedly fiddled while Rome burned, the majority in this Congress continues to fiddle around and ignore the fact that this Nation is burning up more fuel than can be replaced through present exploration levels—largely because of regulatory restraints which this Congress has the power to remove.

Seismic exploration is generally regarded as being the leading indicator of all petroleum exploration activity—and despite a seasonal upturn during the past 2 months—indications are that overall petroleum exploration continues to decline at a time when it must continually expand in order to meet present and future demands.

The following passage from a report sent to me by the International Association of Geophysical Contractors tells the story:

Even with the increases of the past 2 months, marine seismic activity in June—29 vessels operating—is down 25 percent from the total in both June 1975 and June 1974.

Further, this month's crew total of 258 is 11 percent lower than the figure reported for the same month 1 year ago—289—down 19 percent from June 1974—317—and down 23 percent from 334 crews active in July 1974—the recent high point in U.S. seismic activity.

VICTIM RIGHTS WEEK

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. EILBERG. Mr. Speaker, during the week of October 4, the Philadelphia District Attorney's Office will sponsor Victims Rights Week.

A schedule of events has been planned to highlight the importance that victims and witnesses play within the criminal justice system and the frustrations, problems, et cetera, that these people face.

Among the other activities that will take place are:

First. Present prizes to the winners of an essay and poster contest which will be held within the Philadelphia high schools and elementary schools respectively.

Second. Disseminate information about victims and witnesses.

Third. Display posters and an exposé on victims and witnesses in the lobby of the Municipal Services Building during the week.

Fourth. Hold a press conference in the new Reception Center for victims and witnesses located in room 578 City Hall.

Fifth. Send various speakers to high schools where proper topics will be explored with the student bodies.

This will be Philadelphia's second Victims Rights Week.

Last year many business and community leaders came forward and evidenced an interest in sensitizing the community to the plight of victims and witnesses.

Several local department stores volunteered to donate furniture to the, then, planned Reception Center in City Hall.

The Victim Witness Unit was able to contact 1,430,000 people within the community, 378 letters were sent to various organizations, there were 5 TV shows and 5 radio shows regarding the week. In addition, several news articles on subjects related to victims and witnesses appeared in the Philadelphia Inquirer, Evening Bulletin, and Daily News.

The Philadelphia Victim Witness Unit is a special project of the National District Attorney's Association which is funded by the Law Enforcement Assistant Administration. The unit was formed under the auspices of Philadelphia District Attorney, F. Emmett Fitzpatrick.

Mr. Fitzpatrick was very aware of the lack of interest and, oftentimes, mishandling of victims and witnesses inherent within the criminal justice system. As a result of his extensive support for and to the Victim Witness Unit, Philadelphia received funds through the National District Attorney's Association to create the unit in October of 1974. By December, a staff was hired and the program began.

The goal of the Philadelphia Unit was to conduct research to define the problems of victims and witnesses. However, at Mr. Fitzpatrick's urging and with the assistance of two detectives assigned to the unit, both research and service were provided to the community almost from the beginning.

A survey was made of more than 800 victims and witnesses and emphasis was placed on those areas where the witness came into contact with the criminal justice system.

Philadelphia Assistant District Attorneys were surveyed. To this data was added perceptions of the West Chester Pennsylvania Assistant District Attorneys. This data was used to evaluate the witness questionnaire and all subsequent projects.

A questionnaire was administered to police officers in three police districts. This surveyed the perceptions of police officers with regard to victims and witnesses.

A survey of the most uncooperative of all witnesses—those who fail to apppear was conducted.

People who entered the criminal justice system via a private criminal complaint were surveyed.

There was also a survey of the judiciary regarding the problems of victims and witnesses.

In addtiion, there is an ongoing project designed to secure the assistance of the media to disseminate information about this office. Furthermore, attempts are being made to reach the public directly through speaking engagements with various citizen groups.

Almost all of the services provided by the unit are in direct response to findings of the various surveys:

First. Transportation: Transportation of elderly and infirmed is provided.

Second. Referral system: A social service referral system has been set up.

Third. Employer intervention: A number of people complain of losing pay from work and several have lost their jobs. This office has interceded for these people and a program to encourage employers to permit their employees to appear in court with no loss of pay has been started.

Fourth. Witness fee problems: This office helps individuals receive witness fees, is working to streamline the payment process, and has lobbied to exempt witnesses from paying wage taxes on their fees.

Fifth. Property return: Complaints from several interviews with witnesses caused the unit to investigate the system for returning property to witnesses. A thorough analysis of the situation is planned for this second year of the unit.

Sixth. Day care facilities: Several interviewees indicated that they required a babysitter to come to court. As a result, plans are being made to incorporate a children's play area in the planned reception center.

Seventh. Publication of informative pamphlets for victims and witnesses: To date, the following pamphlets have been published:

"25 Suggestions to a Witness";

"You Are Going To Be a Witness"—there is a Spanish pamphlet also;

"You Can Be a Crime Fighter';

"Miranda Cards"; and

"Rape"—pamphlet that aids victims of rape.

Eighth. Counseling for rape victims: The victim witness unit calls every rape victim and sends each victim a letter explaining the court system, telephone alert, and any questions which may arise.

Ninth. Telephone alert system: The purpose of this system is to decrease the number of unproductive court appearances caused by the prosecution witnesses' failure to appear in court. This goal is presently being achieved by placing as many Commonwealth witnesses as possible on 1-hour telephone standby. The telephone alert system is a product of a Federal grant from the LEAA through the court exemplary program.

Tenth. Informing families of homicide victims: Families of homicide victims are each sent a letter explaining the fact that they can call a certain number within our office to obtain information about their court case. They are also informed that they may call the same number for any other questions they may have pertaining to the same.

Eleventh. Counseling for nervous witnesses and victims: This unit calls nervous witnesses and victims and explains the court process to them on an ad hoc basis.

Twelfth. Miscellaneous legal information: Victims and witnesses who call our unit with legal problems and/or questions, are assisted by this unit. If the questions cannot be answered by the paralegals within the unit, the question is referred to other places, whenever possible.

Thirteenth. Police training: Negotiations have begun to improve the District Attorney's input into the training of police.

Fourteenth. Disposition letters: Letters are sent to each witness in each case explaining the final outcome of their case.

Fifteenth. Reception center: According to present estimates, the Victim Witness Reception Center located in room 578 City Hall will be opened in September 1976. There will be a day care facility within the center. A detective and paralegal will always be present. Victims and witnesses will be able to wait in comfort—TV and coffee—while awaiting their case.

Sixteenth. Free parking for witnesses: Attempts are being made to secure free parking near City Hall for victims and witnesses.

The addresses of the 15 Victim Witness Units located throughout the country are:

Honorable F. Emmett Fitzpatrick, District Attorney, Philadelphia County, Unit Chief, John Patrick Devlin, 2400 Centre Square West, Philadelphia, Pa.

Mr. Robert McKenna, Executive Director, National District Attorney's Association, Commission on Victim Witness Assistance, 1900 L Street, N.W., Suite 607, Washington, D.C. 20036.

Honorable Bernard Carey, State's Attorney, Chicago, Unit Chief, Patrick Delfino, 500 Chicago Civic Center, Chicago, Ill.

Honorable Carl A. Vergari, District Attorney, Westchester County, Unit Chief, Michael Edelman, 111 Grove Street, Westchester County Courthouse, White Plains, N.Y.

Honorable Bennett P. Peterson, County Attorney, Davis County, Unit Chief, Larry Landward, Davis County Courthouse, Farmington, Utah.

Honorable Dale Tooley, District Attorney, Denver, Unit Chief, Norman Early, Second Judicial District, West Side Court Building, Denver, Colo.

Honorable Harry Connick, District Attorney, New Orleans, Unit Chief, Herbert Jones, 2700 Tulane Avenue, New Orleans, La.

Honorable D. Lowell Jensen, District Attorney, Alameda County, Unit Chief, Howard Janssen, Alameda County Courthouse, Oakland, Calif.

Honorable John J. O'Hara, Commonwealth's Attorney, Covington, Unit Chief, Robert Thomas Core, 404 City-County Building, Covington, Ky.

Honorable Eugene Gold, District Attorney, Kings County, Unit Chief, Michael Belson, Kings County, Municipal Building, Brooklyn, N.Y.

Honorable David H. Bludworth, State Attorney, West Palm Beach, Unit Chief, Ronald Siani, Office of the State Attorney, Palm Beach County Courthouse, West Palm Beach, Fla.

Honorable Philip S. Shailer, State Attorney, Fort Lauderdale, Unit Chief, Kathryn Griffin, Broward County Courthouse, 201 Southeast Sixth Street, Suite 427, Fort Lauderdale, Fla.

Honorable Harl Haas, District Attorney, Portland, Unit Chief, James M. Gleason, Multnomah County Courthouse, 1021 Southwest 4th, Portland, Oreg.

Honorable Lee Falke, Prosecuting Attorney, Montgomery County, Unit Chief, Patricia Hussey, Montgomery County Prosecutor's Office, 41 North Perry Street, Room 315, Dayton, Ohio.

Honorable Jon K. Holcombe, District Attorney, Onondaga County, Unit Chief, Kathryn Keeler, Onondaga County Civic Center, Syracuse, N.Y.

EMPLOYMENT, WAGES, AND INFLATION: THE SIGNIFICANCE OF THE HAWKINS-HUMPHREY FULL EMPLOYMENT BILL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. CONYERS. Mr. Speaker, the distinguished labor economist, Prof. Ray Marshall of the University of Texas, recently wrote a very incisive analysis of the Humphrey-Hawkins Full Employment Act. Based on long years of study of structural unemployment, Dr. Marshall considers H.R. 50 the most effective mechanism available to achieve full employment without sacrificing price stability. I commend this analysis to the attention of my colleagues:

EMPLOYMENT, WAGES, AND INFLATION

(By Ray Marshall)

Because of the importance of the Humphrey-Hawkins Full Employment and Balanced Growth Bill, Charles Schultze's views (Washington Post, June 7, 1976) should be carefully considered and widely debated. Mr. Schultze is a very thoughtful and competent economist who has made important contributions to national economic policy. However, his views and various media interpretations of them lead to some misinterpretations of the intent and probable impact of this legislation.

My main objection to much of the criticism of Humphrey-Hawkins are that many critics: (1) select certain presumed features of the bill and attack "straw men" based on those features; (2) give too much weight to general programs to pump up the entire economy as a way to address specific localized problems; (3) underestimate the importance of selective programs in solving those specific problems; (4) give lip service to the problem of unemployment, but minimize its importance because of an exaggeration of the causal connections between unemployment and inflation; (5) fail to consider the inflationary consequences of unemployment itself; and, most important, fail to present any effective alternatives to the programs and objectives outlined in Humphrey-Hawkins other than an implicit acceptance of high levels of unemployment.

Critics seem to assume that the Humphrey-Hawkins Bill contains a specific program for achieving full employment. As I understand their purpose, however, the sponsors of Humphrey-Hawkins do not assume that this Bill alone will achieve full employment; it provides a process for determining a number of possible program mixes to achieve that objective.

Supporters of the Humphrey-Hawkins Bill emphasize the need to stimulate the private sector wherever it is responsive (through monetary fiscal policies) but would supplement these efforts with selective programs to combat inflation and unemployment by making the system more efficient and would put a premium on programs to provide productive jobs for those who can or should work. Traditional monetary-fiscal policies are important but they alone clearly will not produce full employment without intolerable levels of inflation because labor market segmentation is such that some markets will be very tight while there is substantial unemployment in others. For example, increasing the money supply in order to reduce unemployment might generate inflation in tight medical or professional labor markets while having very little effect on unemployment in rural areas and central cities or among teenagers. Such problem areas require concentrated selective efforts to combat unemployment directly.

Many people seem to assume that selective labor market policies are limited to public service employment, job counseling, training and placement. Actually, a wide array of selective policies to improve the operation of labor markets has been used in the United States and other countries.

These include:

(1) Labor market information systems to better inform workers about jobs and employers about workers.

(2) Pre-employment outreach programs to recruit, tutor, provide supportive services, and place workers in training and employment programs.

(3) Measures to combat discrimination against minorities, women, the aged, or others for reasons unrelated to productivity.

(4) Training, both on-the-job and institutional (classroom).

(5) Public employment-including (a) public service employment, where workers are placed on government payrolls; (b) public works, where public funds are used by private employers to build needed public works; and (c) supported work, which provides employment, work experience and training to groups who are not competitive in regular private or public labor markets.

(6) Measures to rationalize labor markets through such efforts as relocation projects to move workers from labor surplus to labor shortage areas, to regularize seasonal or casual employment, and programs to restructure jobs to make them more efficient.

(7) Measures to promote the development of rural areas and central cities left out of general economic progress.

Selective programs must complement general economic policies in order to achieve reasonable price stability and full employment. Critics recognize the importance of these selective policies, but tend to minimize their importance for two reasons: (1) They think tight labor markets alone will dissolve most structural problems and, (2) The manpower or specific labor market programs of the 1960s are presumed to have been ineffective.

Although it is fashionable to criticize the manpower programs of the 1960s, the overwhelming weight of evidence supports the conclusion that these programs made significant improvements in labor markets and were, on balance, cost effective for the government and the participants. Tight labor markets during World War II and in the South during the 1950s did not by themselves erode discrimination against women and minorities—selective programs, including antidiscrimination laws also were required. Similarly, public employment is the cheapest (and therefore the least inflationary way to reduce unemployment). For example, the Congressional Budget Office estimates the annual net cost of creating a job through a public employment to be much less than the cost per job of a tax cut. The CBO concludes:

". . . a 3 percent adult unemployment target does not seem unrealistic if employment target does not seem unrealistic if employment programs are effective in dealing with the special factors contributing to high employment for certain groups and are not limited to across-the-board measures or programs that simply create jobs without increasing employment stability or job attachment."

The manpower programs of the 1960s were not as effective as they might have been because they were experimental, many of them were really income maintenance programs, and the budgetary support for these programs was small relative to the need and relative to the size of monetary- fiscal policies.

The experience of the 1960s, while generally favorable, therefore provide little guidance to what could happen if an effective array of selective public and private programs could be developed. Clearly, however, these specific policies, including public employment, must be a necessary part of any program to achieve full employment with tolerable levels of inflation.

While much is made of the possible inflationary impact of public employment, there can be little question that achieving full employment through pumping up the entire economy would be much more inflationary.

Examples showing an inverse relationship between unemployment and inflation are misleading because of the implicit assumption that inflation has its origin in the operation of labor markets. Clearly, however, other factors—such as rising energy prices, rapid increases in the money supply, and shortages of capital or goods and services—have been important causes of inflation in recent years. At the present, little inflationary pressure probably arises from the low-wage labor markets Schultze objects to improving.

Critics assume that public employment and other selective labor market programs necessarily cause inflation, but this is an oversimplification. These programs would produce two tendencies simultaneously: (a) spending money could tend to be inflationary depending, of course, on where the money comes from, but (b) improving the operation of markets and increasing the output of goods and services would be deflationary. Every effort should therefore be made to create efficient programs which minimize the inflationary impact. It is misleading to emphasize only one of these effects.

Surprisingly, the most damaging case against the Humphrey-Hawkins Bill apparently has been the argument that the payment of prevailing wages on public employment programs would be inflationary because public programs would bid unskilled and semi-skilled workers away from private employers, causing the wages of the latter to be raised to the level of the former. This outcome is neither predetermined nor very likely for the following reasons:

(1) Raising the wages of marginal workers is not a necessary outcome of the Humphrey-Hawkins Bill, but even if it were, there is no assurance that the results would be either undesirable or inflationary. Profit-maximizing employers have little incentive to improve the quality of jobs so long as there is a surplus of labor forced to work for low wages. The costs of these inefficient systems are shifted to workers in the form of unemployment, underemployment and low wages. Measures to reduce some of these labor surpluses can cause employers to do more to rationalize secondary labor markets, improve jobs, increase efficiency, and generate productivity gains without increasing labor costs. The Humphrey-Hawkins Bill could provide the stimulus to create better as well as more jobs. There can be no more effective way of overcoming some of the nation's most important social and economic problems than improving the quality and quantity of jobs available to the poor and near poor.

(2) The assumption that low income workers would necessarily be paid more than they were "worth" if they worked on public jobs is invalid.

Actually, Humphrey-Hawkins provides adequate guidelines for matching workers and jobs. The Bill does not promise jobs to workers who are not qualified for those jobs, nor does it promise a government job to all who want them wherever they might want them. Wage comparisons between public and private jobs are hazardous because job content is not likely to be the same, but there is no evidence, beyond a few selected examples, that public jobs pay more than comparable private jobs in the same labor market or that "prevailing" wage rates are either too high or important causes of inflation.

There also is an implicit assumption in Schultze's analysis that public employment is synonymous with government employment. The Humphrey-Hawkins Bill allows for a wide array of selective measures, including public works by private contractors as well as public service employment by governments. The impact on labor markets and price levels of public works is quite different from that of a public service employment program. Heavy emphasis on public works could minimize the problems involved in government payrolls. Public works programs also could be more effective than public service employment in placing specific target groups of unemployed workers into productive employment.

A major problem with the critics of the Humphrey-Hawkins Bill is their failure to spell out alternatives other than an implicit acceptance of high levels of unemployment or other approaches which are more inflationary than public employment. They would give priority to measures to stimulate private employment. I agree with this option, but there is little evidence that such an approach can either succeed or be less inflationary than public employment. If private employers will absorb most of the job deficit, they should be encouraged to do so. If they will not, other measures should be taken. Such a strategy is perfectly compatible with Humphrey-Hawkins.

A full employment policy could actually moderate wage demands in the construction industry and other casual industries where high unemployment causes wage rates to be higher than they need to be if annual incomes were increased through greater regularity of employment. Unions probably would be willing to moderate wage demands in exchange for guaranteed jobs.

Raising the incomes of the working poor and the unemployed would reduce the costs of welfare programs—which are inflationary because people are paid for no corresponding increase in goods and services. Curiously, the people who favor very inflationary income maintenance programs resist less inflationary public employment programs. It would be much better to pay people who are able to work for working.

The Humphrey-Hawkins Bill does not completely delineate a program to achieve full employment and has many minor defects which undoubtedly will be corrected before it becomes law. Terms should be defined more precisely, greater attention should be given to more precise quantification of labor market conditions, the relationship between efficient labor market systems and price stability need more emphasis, and the planning mechanism for achieving a balanced full employment program should be streamlined. The Bill by itself will not be sufficient to achieve full employment. Even with proper enabling legislation, the achievement of full employment will be very difficult, but the attainment of this objective would have a profound impact on the social and economic welfare of low income workers and on the economic health of the nation.

The main thrust of the Humphrey-Hawkins Bill is sound. The fundamental defects Schultze and other critics believe they have found are illusions. They assume the main obstacle to full employment to be inflation. In reality, the fear of inflation is a more important obstacle and that fear is stimulated by simplistic, general analyses of the operation of the U.S. economic system. Other obstacles to achieving full employment are the belief that unemployment is no longer a serious national problem and the absence of a concerted, national commitment to that objective.

SAVE THE NEW RIVER

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. NEAL. Mr. Speaker, I recently read a beautiful article on the New River written by Dr. Claude Frazier of Asheville, N.C. In view of the recent controversy and our struggle to obtain a rule for H.R. 13372, I feel that testimony from one of the people who would have his home destroyed by the dam and the flooding, is well worth sharing with my colleagues. The article follows:

THAT NEW RIVER TRAIN IS GONNA TAKE ME HOME AGAIN * * *

"U.S. Rep. Roy A. Taylor, chairman of the House subcommittee on national parks and recreation, and Rep. Stephen L. Neal of Winston-Salem met Friday with Interior Secretary Thomas S. Kleppe in a continuing effort to save the New River, which remains imperiled by a proposed Appalachian Power Company hydroelectric project.

"The New River, second oldest river in the world, flows north through North Carolina . . ."

It also flows through West Virginia, which is where I first developed my pleasant memories of this very old New River. The above news item in a recent newspaper probably attracted little attention, but it stirred me deeply. I have my own, very personal reasons for hoping the New River will never be drowned by so gigantic a project.

My father practiced medicine in several West Virginia coal mining camps, which meant that I grew up cheek and jowl to the New River and its hauntingly beautiful course through the mountains, the C & O tracks running along its banks. The river and those tracks run like a bright thread through my boyhood and young manhood. I used to lie awake at night waiting for the locomotive whistle as the train labored up the incline and when I went off to medical school, I rode the C & O. In fact, horribly homesick in my freshman year, I used to sit awhile on the steps next to the medical library and look down the steep slope to the C & O station that connected me back through the mountains to home. The George Washington, C & O's regular train, would pull out in the late afternoon heading back to West Virginia, the New River gorge, and my own small town.

Medical school, at least then, didn't grant students much in the way of vacations, but those we had always began for me with a trip on the George Washington. I rode coach, vowing that someday I'd be able to afford a Pullman and sleep like Chessie, the C & O comfortable cat. Actually, I doubt in my excitement I'd ever have slept, first class comfort or no.

"That New River train is gonna take me home again!"

I knew that old song by heart!

Near one of the mining camps where my father practiced was a huge rock that jutted out over the New River valley. Called Hawk's Nest, it presented a grand challenge for a growing boy. In those days no guard rail protected the edge of the cliff. I can remember vividly one winter afternoon when I made it to the Hawk's Nest and stood on the edge. It was late and turning colder by the minute, but I couldn't leave. I stared straight down into the void where far below the New River churned through the rapids. Darkness began to settle in the valley below and crept up the slopes towards me. A few snowflakes began to fall. Then I heard the mournful, eerie moan in the distance and knew why I was lingering. The white beam of the George Washington cut through the valley's shadow. I could even see the lighted coach windows as the train came around the bend. I watched through a veil of snowflakes, now coming down faster and faster, as the train made its serpentine climb along the rapids. Gradually the whistle faded, the lights vanished and I was left with the night and snow and cold. I'm not sure the cold alone accounted for my shivering as I reluctantly turned back from my perch high on Hawk's Nest.

The New River was a part of my growing up. The thought of it dammed, its lovely course swallowed by a lake, the mountain coves and valleys drowned forever, cuts like a knife. As a people we too often destroy our ties to the land and our past, too often erase the grandeur and beauty of our part of the world. When God gave us dominion over the earth, He did not mean that we should destroy; yet, we consider it progress to tame, harness, alter our rivers and streams, never allow our forests to reach their might, blast whole mountains from our maps. It is my belief that we tempt fate with our ceaseless activity that will not allow rest, peace, nature's own course. It is also my belief that we wall ourselves away from one of life's greatest pleasures—sentiment. There is no place for it, I know, in our technological society, but unfortunately it appears to be buried deep in the human heart. When we deny it, we deny a great good part of ourselves, and perhaps this is why we seem to be doing ourselves and each other increasing harm. If and when the New River vanishes, a part of my life will go with it. It will hurt. It will hurt me and perhaps tens of thousands of others who know the river and remain as sentimental as I. But what disturbs even more is that this drama of alter and destroy is repeated over and over across our land at an ever acceleration rate. It may soon be that no one will want to go home on the New River train simply because there's no home to go back to.

THE FUTURE OF VIRGINIA

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. HARRIS. Mr. Speaker, I would like to share with my colleagues an article from the July issue of Commonwealth magazine, published by the Virginia State Chamber of Commerce. This article graphically illustrates citizen reaction to a questionnaire published in the June issue of Commonwealth regarding the future of Virginia in the next 100 years.

I would like to thank the Virginia State Chamber of Commerce for its obvious concern about the continued ecological well-being of Virginia and its residents.

The article follows:

VIRGINIA IN 2076

(By Anne M. Cooper)

Hang on, Virginia. Here comes the Tricentennial.

"Mass transit will replace automobiles. Video phones will replace telephones. Banking will be done by machines. Clothes will be simpler and more practical. Foods will be largely concentrates."

That's one Virginia banker's view of the Old Dominion in 2076. He's William R. Craig, one of the respondents to a questionnaire published in last month's Commonwealth which brought a wealth of serious, whimsical and often precisely opposite ideas about the kind of Virginia our great-great-great grandchildren will inherit.

The dominant note sounded about the future was anticipated urbanization and industrialization—"the population explosion along I-95" as one respondent put it, or "urbanization of the DC to Norfolk crescent" in the words of another. Yet one's view of the future may simply be a matter of how fast one thinks things are going to happen. Urbanization may have gone so far in, say, 75 years that a Roanoke resident feels that by 2076 "Virginia may even revert back to a rural economy as people become more disenchanted with urban pressures."

No one mentioned urbanization and industrialization as one of the hopeful signs that might point the way to a good Tricentennial. But many, by contrast, saw it as an unfavorable trend. In fact, ecological problems were the single biggest warning sign which can be noticed today, felt the Virginians in our sample.

Expressions of ecological concern ranged from a 26-year-old plant supervisor who cited "pollution in our environment, for example kepone," to "visual trashing of the environment [signs, buildings, road 'improvement']" as one educator from Ashland put it.

"Having a third child should be a felony," stated a Richmond consultant. "Energy prices should be allowed to float . . . inefficient energy users should be (forced) out of this market. 'Energy stamps' should be issued to subsidize heat for families below the poverty level."

"We should take stronger steps to control building and commercialization," believes banker Craig. "We need to protect our parks, rivers, mountains, natural beauty." And Richmond architect Robert Winthrop fears that in 2076 "Virginia will look more like the suburbs of Los Angeles than the Old Dominion."

Social problems and the complex of complaints generally known as Big Government also concern many Virginians. "Loss of respect for rights of others, a move toward becoming a society on the take" bothered a 35-year-old Richmonder. A college professor named "possible growth of mistrust among and between all segments of society," while a Richmond secretary cited "crime and drugs" as signs of danger.

One woman's dissatisfaction with government lay in "the trend toward regressive actions" in social legislation, but most respondents felt that the problem was simply a matter of too much. Dissatisfaction ranged from "invasion of privacy" and "wastefulness" to 'continued government control of the economy" to unchecked spending, which should "be brought under control . . . before the whole thing goes bust."

One respondent explained that he was bothered by "the attitude among the leadership that laws must be passed to protect the minority (primarily business) from the majority (the consumer)."

Roanoke resident J. Emmett Blackwell cited his view of unfavorable trends this way: "The welfare system should be replaced by a work ethnic. Non-contributors to society should be taught to be useful. Perhaps there should be a graduated distribution of money." He adds that "a return to basic principles and the lessening of pressure" would help reverse some of the commonwealth's unfavorable tendencies.

The number of people who simply answered "no" or its equivalent to our question, Are there hopeful signs today? was surprising. Only one person stated, "I'm optimistic." Others saw specific small rays of hope: the fact that "people are turning to family-centered recreation," "an increasing concern for quality education, the emphasis on personal responsibility at an early age, a lessening preoccupation with material objects and a greater interest in ideas *per se*," and "some limited concern with evaluating and preservating elements of value—buildings, neighborhoods, etc."

Two persons mentioned that an ability to deal with change might just pull us through. "The Tricentennial might be a real celebration of a country that can cope with change . . . with a return to the concepts that hard work and moral values render meaning to life," noted a Roanoke man, while a Richmond secretary ctied "some awareness that *all change* is not necessarily good, but that changes are essential necessities to meet problems of population, housing, the environment, etc."

One young man saw in a recent problem, the kepone matter, a hopeful sign for the future: "We can enforce and maintain a clean environment. The handling of the kepone incident has shown that we are concerned and want a clean Virginia to live in."

Taking a longer view, a Richmond woman felt hopeful because the state "seems finally to have pulled out of its post-Civil War slump." Another explained: "So much has happened in my 50-odd years that's good. The world is much better than the one I was born into."

Some respondents could not now discern any hopeful signs as such, merely hopeful signs of hopeful signs. "I think this question may be answered positively in the next several decades. People have deeded away their destiny in this country, and will, I believe, take more of an interest in the management of their country only after their own interests have been abused further," noted one. Another reserved judgment until "after the November 1976 presidential and congressional elections." A third felt that at some point "progressive pockets of enlightened attitudes will eventually seep down" to Virginia.

With a sort of backhanded optimism, one *Commonwealth* reader took heart that in 2076 a certain TV weathercaster "won't be around" any more.

One of the most thoughtful respondents was a 72-year-old retired banker from Loudoun County. "If the present trend continues," he said "Virginia will lose all its traditions and be completely engulfed by industry, pollution, highways, and blight. The kepone disaster should be a warning to shift gears and restore the principles of Jefferson: based on man close to the land."

But he sees "the small farmer as an endangered species. We are now plowing up fertile agricultural lands that Virginians and the nation will need desperately in the future and replacing them with highways, subdivisions, and shopping centers. Growth for its own sake, or for profit's sake, is a perilous course."

As for political institutions, the elderly executive said they are "frightfully ineffective today and there is too much of them. As Aldous Huxley wrote, 'The rulers of tomorrow's over-populated and over-organized world will try to impose social and cultural uniformity upon adults and their children.' We need the simple society Jefferson proposed."

He sees a plenitude of unfavorable trends: "technological overkill, poisoning air, water, food supplies, depleting resources and God's own scenery (such as strip mining); too many people; we are leaving a crowded, unhappy world to the future." And, he continues, the human species is "losing independence of judgment under the pressure of institutions, including government, television, the mass media, and a kept system of education. Under current circumstances and conditions, it is impossible to foresee another Jefferson in America."

As to hope for the future, he finds it difficult to identify but present. People do care about Virginia's, and America's, beauty and bounty. We need to reorder priorities. Let's don't have the biggest military budget in the world, or the biggest spy system, both of which will only destroy this nation in the end. We can do much here in Virginia. Governor Tom McCall set Oregon on a positive course. Let us follow and study that model."

A Chesterfield County educator predicted that Virginia's racial integration would at last be complete by 2076, and said there would be fewer private schools. Garbage disposal as we know it will be obsolete in an age of total recycling. As a teacher, she decided that one of today's most disturbing trends was the loss of close family relationships, with too many latch-key children" in schools. She visualized an antidote: a system of husbands and wives sharing jobs in cases where young children were involved.

Who comprised this flock of people with these differing views—and differing moods when the questionnaire was before them? Ranging in age from 17 to 78, they were concentrated in the Piedmont area. Males outnumbered females. Occupations ranged from librarian to banker, teacher to student. There were secretaries, businessmen, association executives, professors.

Of the group, just three felt a woman or black would not become a governor of Virginia sometime in the next 100 years. Surprisingly, many volunteered when they thought the election would occur; one even went out on a limb with the exact year: 2015. Other predictions ranged from "in ten years" to "within 25 years" to "late in this century." One person put the two hypothetical questions together and posited that Virginia would have a black woman governor.

We should always ask not whether the candidate is a woman, black, Protestant, Catholic or Jew, but whether the candidate is qualified," said the Loudoun banker. "Once prejudice of all kind is set aside, we may be able to focus on developing human-serving institutions."

The vast majority felt that our political institutions would indeed be different in 2076. Some felt this change would show itself as socialism or communism, while others felt the system would be more democratic and represent a larger cross section of Virginians. Similarly, one person foresaw "more centralized" government, while another stated: "I predict we will become so provoked by current big government we will return to a pure democracy."

Architect Bob Winthrop looks for "vastly increased governmental control of raw materials and physical planning. Regardless of the political system, Virginia will be a planned society."

Teacher Juanita B. White feels "women can make the difference" in reforming Virginia's political institutions, as they have "not played the "you scratch my back, I'll scratch yours' game . . . Politics can become a whole new ball game!"

The majority of respondents did not feel that cash would be obsolete, and they had some interesting thoughts about the more varied forms our medium of exchange would take. One predicted that "only 25 percent of transactions would involve cash," while another saw "electronic transfer of funds between regions." Another pointed out that there are exceptions to any generalization: "there will still be poor persons with no credit," even in 2076. And a banker, certainly no stranger to fiscal affairs, said he doubted very much if cash would be obsolete. Rather wistfully, he concluded, "the barter system wasn't bad, however." A teacher agreed that cash would still be around, "but in larger denominations."

Solar energy edged out nuclear as the predicted fuel of the future. And quite a number hoped for a partial return to muscle power. Wrote H. Michael Mears of Richmond: "Hopefully the fossil fuel crisis will have ended 40 years before (in 2036). Breeder reactors will be in existence but still have disposal problems. Manpower will be important again. Also solar and instant fossil fuels of rapid-growth plants (for example, Water Hyacinths)." Another respondent said we need a crash course in conserving all resources, energy above all.

The fuel matter relates closely to respondents' ideas on businesses which will no longer exist in 2076. Many felt that auto-related companies—dealerships, repair shops, gas stations—will have largely disappeared. And conversely, many felt mass transit would be the accepted mode of travel and a growth industry.

Others noted that tobacco may be on its way out and farming in general declining. However, one reader felt that "most of us view farmers with some disdain, but in 2076 they will hold the highest esteem of our society." Leasing, investment banking, stock brokerage, personal services, private schools, beef cattle raising: all destined to be unknown to our great-great-great-grandchildren, predicted some crystal ball gazers.

On the other hand, services for the aged, rail service, public restaurants, push-button machines, data and communications hardware, and any industries having to do with the sea and its resources were perceived as growth industries. Ticker tape watchers, take note.

But don't quote us. As one reader commented about future businesses, "wish I knew (which types of businesses will emerge), because I would be going into one." Perhaps it's a comment on the future, and predictions of it, in general.

SECOND DISTRICT NURSES SPEAK OUT

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. FITHIAN. Mr. Speaker, recently, I mailed a questionnaire to nurses in my district to see how they feel about several pieces of nursing legislation pending in Congress and about their role in medical care.

The views of this important sector of the health care professions should be carefully considered in any approach we take to the health care problem.

GENERAL SURVEY CONCLUSIONS

The results of our survey show that Indiana nurses strongly believe medical care could be improved if they had more responsibilities. Accordingly, they believe medicare and medicaid should help pay for services provided by nurses, and they feel they should have more say in establishing medical standards through Professional Standards of Review Organizations.

Indiana nurses have very mixed reactions to the idea of withholding Federal medical funds from clinics which do not meet Federal standards. Some feel it is the only way to insure responsible spending, while others feel it is a grand way to uselessly expand the bureaucracy. Others feel withholding funds from substandard clinics would merely worsen conditions for already poorly served patients. Nurses also express mixed feelings about requiring psychiatric nurses on a consultation and on-call basis at federally funded clinics, as proposed in S. 2886. Some feel that psychiatric personnel are unnecessary, while others feel psychiatric personnel would be a great help.

SURVEY RESULTS—EXPANDED ROLE

On the question of how to improve health care, about 45 percent said we should expand the nurses role in primary patient care, not quite 10 percent said we should train more doctors, as a solution to the health care problem. Over 40 percent said we should do both.

One nurse, Marian Hyvonen of Valparaiso, Ind., wrote that expanding the nurses role would improve medical services "only if nurses are given the recognition and autonomy to perform within their new responsibilities." Julia Covely of Lafayette said with greater nurse responsibility "nursing schools should include a 3-year program. Most of the 2-year programs do not include enough clinical experience." Over 80 percent of the nurses supported House bill H.R. 1943, which would free medicare and medicaid money to pay for medical services provided by nurses.

STRONGER VOICE

On the question of whether nurses should have a greater role in establishing medical standards, 9 out of 10 of the responses were positive. Mrs. Judith Proteau of Porter, Ind., wrote: "Nurses have a more intimate knowledge of patient needs than doctors do, and certainly could complement medical standards review organizations." About 90 percent of the nurses supported house bill H.R. 14173 which would require at least two registered nurses to sit on each statewide medical Professional Standards of Review Council, and require at least three to sit on the national council.

WITHHOLDING FUNDS

About 30 percent of the respondents supported withholding funds from clinics which do not meet Federal standards, while 32 percent opposed such withholding. Significantly, one-third of the nurses could not decide either way. Mrs. Ruth Marks wrote: "I feel that every health facility needs guidelines, but much time and professional care is jeopardized by Federal regulations and too much paperwork."

PSYCHIATRIC CARE

While a slim majority of nurses said they support the idea of requiring psychiatric nurses at nursing facilities, less than 45 percent supported Senate H.R. 2886 which requires a psychiatric consultant at all facilities receiving medicare funds.

Several nurses commented that requiring psychiatric nurses might be impossible due to a lack of such trained personnel. Vera Henderson of Valparaiso wrote that all registered nurses are required to have psychiatric training and can handle the job. Miss Anne Prucha of North Judson, Ind., however, said that staff psychiatrists could help patients' families "better accept the condition that has developed, and help them be more tolerant."

CLOSING REMARKS

Response to this survey makes it clear that nurses feel they are qualified to provide the expanded health service that is so urgently needed in so many areas of this country. Time and time again they commented that much valuable medical training is going unutilized because of their highly restricted role. Sylvia Graham of Valparaiso wrote: "Registered nurses are required to complete a vigorous program of education and to pass a State boards exam—but the utilization of their education and talents at this time are barely tapped." In short, nurses feel expansion of their responsibilities will result in much fuller use of the country's medical resources. The heavy response to this questionnaire shows no one is more committed to good patient care than nurses. Let us not ignore the views of health care practitioners themselves when we consider health legislation in this chamber.

TOCKS ISLAND DAM—TESTIMONY BY HON. HELEN MEYNER

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. EDGAR. Mr. Speaker, I would once again like to direct the attention of my colleagues to the issue of the Tocks Island Dam. The Senate Subcommittee on Water Resources has begun hearings on the issue of deauthorization of the dam, and I wish to commend the subcommittee chairman, Senator GRAVEL, for his initiative in scheduling hearings on this important subject.

The Tocks Island Dam, if built, would have far-reaching ramifications for the four-State area of New York, New Jersey, Pennsylvania, and Delaware. Those of you who have been following the long history of the dam are aware, I am sure, of the mountains of print discussing the pros and cons of the project.

One of our colleagues, the distinguished gentlewoman from New Jersey, HELEN MEYNER, has done an admirable job in reviewing this material and presenting it in a clear and concise manner. She joined me Friday in testifying before the subcommittee in support of deauthorizing this massive Corps of Engineers undertaking. Her statement is worthy of review by those persons seeking a credible discussion of the issue. I hope that Mrs. MEYNER's testimony will be of interest to my colleagues:

TESTIMONY OF HONORABLE HELEN MEYNER TO THE SUBCOMMITTEE ON WATER RESOURCES, COMMITTEE ON PUBLIC WORKS

Mr. Chairman, members of the Subcommittee: I appreciate your affording me the opportunity to testify today on S. 3106, a bill to deauthorize the Tocks Island Lake project. As you know, I am a cosponsor of the similar House of Representatives bill, H.R. 12462, and believe strongly that both Houses of Congress should act promptly.

Authorized by Section 203 of the Flood Control Act of 1962 (P.L. 87–874), the Tocks Island project has been the object of 14 years of extensive debate centering on environmental concerns. The legislation provided $90 million for a multipurpose dam across the Delaware River seven miles northeast of Stroudsburg, Pennsylvania, and five miles upstream from the Delaware Water Gap. The dam was to have been 160 feet high, 3,000 feet wide, and would have created a 12,000 acre reservoir extending 37 miles upstream.

This ambitious plan—the eighth largest of any of the Army Corps of Engineers' massive understankings—met with almost immediate opposition. As the cost estimate spiralled well beyond the $400 million mark, so did public criticism spiral. Opponents of the dam challenged its feasibility and questioned whether its purposes, flood control, hydro-electric power, recreation, and increased water supply, could be served better by alternative means. Permit me to outline some of the reasons against construction of the dam.

Much of the controversy centers on environmental concerns. Construction of the dam would necessitate inundation of 12,000 acres of valley rich in wildlife and little explored archaeological and historical sites. Approximately 40 miles of the Delaware River and 16 miles of its tributaries would be flooded, thus changing the entire ecological balance of the river from a free flowing habitat to an impounded lake capable of supporting only several different species of fish. One fishing area that would be lost is the Flatbrook—one of the best trout fishing streams in New Jersey.

In addition to the valley, 20,000 acres of forests and farmland would be inundated leaving a great number of white-tailed deer homeless.

Other environmental questions include salinity, eutrophication, and salmonella poisoning.

In the study of the project authorized by Congress in 1974, and prepared by Madigan-

Praeger, Inc., an independent consulting firm, little mention is made of the fact that saline intrusion from the ocean could damage the reservoir. However, the 1975 Annual Report of the Delaware River Basin Commission, a compact established in 1961 to monitor all activities in the Delaware River Valley, concludes that ". . . the Tocks Study (done by Madigan-Praeger) did not adequately assess the salinity threat."

Another danger of impoundment of large quantities of water is that of entrophication. This state of nutrient over-enrichment creates a high-standing mass of algae resulting in soupy green water that is virtually unusable for recreational and drinking purposes. The Madigan-Praeger study states that the dam would be eutrophic but that natural processes and treatment facilities could serve to remove much of the algae for municipal use downstream. However, eutrophication certainly would shorten the life span of the vegetation and would render unuseful the recreation aspect of the project.

Finally, runoff from northern New Jersey poultry farms and some 5,000,000 chickens could introduce a sizeable population of salmonella organisms, a proven health hazard and dangerous contaminant.

A resolution adopted by the American Board of Psychiatry and Neurology in July, 1975, opposed the Tocks Island Dam. It said in part:

". . . excess eutrophication will result in widespread algal blooms and scum known to be the cause of death in mammals and fish and severe gastrointestinal distress in humans; and

". . . the upstream runoff of chicken effluent may also lead to contamination with salmonella baccilli and result in the spread of communicable disease; and

". . . downstream water quality may also be adversely affected."

The proposed dam would have obliterated a section of New Jersey rich in archaeological and historic sites, some dating back to 8000 B.C. The Old Mine Road, a 100-mile roadway built in the 17th century, is one of the longest colonial highways that was used by the Dutch in the copper industry. The Madigan-Praeger study says that earth moving equipment would displace soil to a depth of six feet throughout the dam area which would effectively displace and destroy valuable artifacts and historical items.

The original purpose of the Tocks Island Lake Project (TILP) was to provide flood control. Supporters sought to avert a recurrence of the damage done by the 1955 New Jersey flood which followed two hurricanes in three days.

The Madigan-Praeger study points out that the TILP would not provide adequate protection against floods like the 1955 disaster. All 99 deaths in the 1955 flood occurred on the tributaries of the Delaware River, not the river itself. The dam would have protected neither the tributaries nor the reaches south of the proposed dam site. Since 1955, 19 different flood control structures have been built on the tributaries and large dams in general are believed to be ineffective. In 1966, the Task Force on Federal Flood Control Policy challenged the concept of large dams and recommended instead more effective flood plain regulations.

Perhaps the most appealing aspect of the TILP was its promise of increased water supply. None can deny that such needs exist in New Jersey and, Mr. Chairman, let me state that I am fully aware of and sensitive to the arguments put forth by my friend and distinguished colleague, Honorable Frank Thompson, Jr., and others who favor the TILP for its water supply benefits. Estimates of public water supply needs in northern New Jersey by the year 2025 range from 282 million gallons per day to 810 million. Currently, the state of New Jersey consumes about 300 million gallons per day.

Water needs are real and the TILP dam eventually could generate the 300 M.G.D. at a reasonable cost. Let me point out, however, that there are what the Madigan-Praeger study calls "viable alternatives." The dozen or so suggestions include:

High flow skimming of the Delaware River into the Delaware River Basin and Round Valley Reservoirs;

Full utilization of the Round River Valley Reservoir; and,

Ground water development in the Raritan and Passaic River Basins and the South Jersey Coastal Plain.

These alternatives could generate more than 700 M.G.D., ample water for now and the foreseeable future.

In a letter to Pennsylvania Governor Milton Shapp, a member of the Delaware River Basin Commission, in July of 1975, U.S. Environmental Protection Agency Director Russell Train wrote:

". . . the environmental problems . . . support a decision to deauthorize the Tocks Island Lake Project and to develop alternative programs to meet the needs of the residents of the Delaware River Basin and surrounding areas . . .

The flood control benefits are overstated since another flood of the magnitude of the 1955 flood would cause significantly less damage because of improvements already made.

The recreation benefits are overstated because they fail to reflect reservoir drawdown and the projected eutrophication of the impoundment.

The water supply benefits, while real, can be satisfied by a number of alternatives with less severe impacts than the Tocks Island Project;

The electric power function can be replaced by 1300 MW of combined cycle capacity . . ."

These and many other reasons have cast serious doubt on the necessity of constructing the Tocks Island dam. Last year, the Delaware River Basin Commission, comprised of the governors of New Jersey, New York Pennsylvania, and Delaware, and the U.S. Secretary of the Interior, voted not to construct the dam. The Army Corps of Engineers decided subsequently to withdraw its support for the project and called for deauthorization.

The question remains, Mr. Chairman, should the project be deauthorized? Many have suggested that the authorization remain in order to avoid the legislative nightmare of reauthorization "should the dam become necessary." This approach of keeping all options open does not deliver the final blow to the project that its opponents desire. But beyond that, the main reason that this approach is inadequate—and the main reason I am testifying today—is that it overlooks the many residents of the 13th Congressional District of New Jersey who are personally affected by the indecision over Tocks Island and who will continue to suffer until deauthorization is finalized.

In a letter I received this week from the Army Corps of Engineers, Colonel Harry V. Dutchyshyn, Chief Engineer for the Philadelphia district, notes that 71 percent of the land for the Tocks Island Lake Project has already been acquired by the Corps, leaving 19,700 acres of property in a state of limbo. Many of the property owners are in dire need of immediate relief. Some have formally requested hardship-related early acquisition settlements from the Army Corps of Engineers.

By the Corps' own figures, 38 "immediate attention" cases are pending affecting 830 acres and requiring a settlement allocation of $2.9 million. This amount breaks down to:

Estimated appraised value______	$2, 581, 000
Relocation benefits______________	191, 000
Real estate administrative costs_	209, 000

Mr. Chairman, I request permission to insert into the official record at this point Colonel Dutchyshyn's letter outlining the situation of each of these cases.

It is very important to note that the Army Corps of Engineers' figures are based solely on information documented in their files. Realizing that other property owners in similar situations simply may not have contacted the Corps and, that in addition to hardship cases, some 19,000 additional acres of land have yet to be acquired from their private owners, the figures represent only a fraction of the actual problem caused by the stalled acquisition process.

Fiscal impact in the area is further exacerbated by the loss of tax ratables.

The once private land acquired by the federal government will return taxes to the affected municipalities again if effective payment-in-lieu-of-taxes legislation passes this Congress. There have never been any doubts that these privately owned lands would be acquired eventually, but the lack of adequate appropriation for such acquisitions merely adds to the confusion, frustration, and exasperation that the residents have experienced for far too long.

Money for the private owners awaiting settlement and for municipalities will become available only when this on-again, off-again authorization is resolved and clear federal jurisdiction of the acquired lands is established. The Madigan-Praeger study points out that if Congress should decide to deauthorize the Tocks Island Lake Project, it should also (1) reestablish the authorization for the recreation area, and (2) make provision for the completion of the land acquisition process.

S. 3106 does both those things. In addition to deauthorizing the TILP, S. 3106 provides that all real property acquired to date by the Army Corps of Engineers be transferred to the aegis of the Department of the Interior for use as a national park. Also, it mandates continuing acquisition to relieve the strain on property owners. After 14 years of uncertainty and confusion regarding the status of their property, the residents of the area deserve at least the long overdue justice of settlement. Before this can occur, the TILP must be deauthorized.

I strongly urge your prompt attention to and affirmative decision on this legislation for deauthorization of the Tocks Island Lake Project.

Department of the Army,
Philadelphia, Pa., July 19, 1976.

Hon. Helen Meyner,
House of Representatives, Washington, D.C.

Dear Mrs. Meyner: This is in response to your 21 June 1976 letter to the Office of the Chief of Engineers which was forwarded to me for reply. Your letter requested the following information:

a. Written estimates of the total value of those lands remaining to be purchased in order to complete the acquisition of all lands originally intended for inclusion in the Tocks Island Lake Project and/or Delaware Water Gap National Recreation Area.

b. A list of parcels which would be categorized as "early acquisition hardship cases", including the criteria applied to determine which lands meet this classification.

We have acquired 71% of the land at a cost of 103 million dollars. The total estimated cost of lands remaining to be acquired includes lands and relocation payments, court awards and settlements, and administrative costs. The estimate include a 25% escalation factor based upon the assumption that the tracts will be acquired over the next two or three years.

	Acres	*Estimated Cost*
Tocks Island Lake_____	7, 200	$41, 000, 000
Delaware Water Gap National Recreation Area _______________	12, 500	24, 800, 000
Total __________	19, 700	65, 800, 000

The Corps has no official criteria for determining whether or not a request for acquisition should be classified as "hardship". In 1969, the term "early acquisition/hardship" was used when funds were made available with the proviso that they be used for the purpose of acquiring "hardship" cases. At that time, a landowner was listed in the "early acquisition/hardship" category because he expressed a desire to be considered as such. We do not investigate the personal affairs of each landowner to independently establish that a financial hardship exists based upon specific criteria.

Enclosed listings of "early acquisition/hardship" cases have been prepared from information documented in our files. The bases for such information are requests from landowners for early acquisition made by mail (including Congressional inquiries), telephone, and personal visits to the office. In many of these cases, the District initiated negotiations to purchase the property based on the request of the owner. However, negotiations were halted when acquisition funds were curtailed by Congress. The listings are not intended to represent the results of a survey of all landowners in the area and do not necessarily reflect the current desires since the personal circumstances of the landowners may change. Also, there may be many who could claim financial hardship but who have not contacted the Corps. Others may be awaiting the decision regarding project deauthorization and the attendant land acquisition policy.

Enclosure 1 is a listing of "hardship" cases on residential dwelling tracts involving landowners with whom the Corps made contact for the purpose of acquiring their property. Negotiations for the purchase of the property were suspended when federal funds were not made available. In anticipation of completion of the acquisition of their properties, the landowners purchased replacement housing and are now paying mortgages and taxes on two properties.

Enclosures 2, 3, and 4 are listings of tracts involving other residential dwellings, commercial properties, seasonal properties, and unimproved land. The landowners requested early acquisition due to alleged financial hardship. Other information concerning reasons for their requests are noted on the enclosures.

Each listing includes the estimated land and relocation costs, which are summarized as follows:

Estimated Appraised Value (Including Contingency Factor)	$2,581,000
Relocation Benefits Under Public Law 91-646	191,000
Real Estate Administrative Costs	209,000
Total	2,981,000

I trust this information will be satisfactory for your purposes.

Sincerely yours,

HARRY V. DUTCHYSHYN,
Colonel, Corps of Engineers District Engineer.

Tocks Island Lake Project, Early Acquisition Requests; Residential Dwelling, Purchased Replacement Housing—Financial Hardship

Tract number, Name, Acres, and Comments

7600, A. Fish, 14.46: Elderly widow; ltr 2/19/73 requested action; contacted Congresswoman Meyner.

7604–1, 2, Waldman, 1.30: Elderly; ltrs dtd 11/6/73 & 2/4/76 requested action.

7609–1, 2, Drelich, 44.91: Elderly; made numerous personal calls, visited PDO 1/16/76; negotiated agreement—no funds.

8856, Welsh, 1.21: Last ltr dtd 4/15/75 quested action, elderly; latest congressional 2/21/75.

10542, Eschner, 14.20: Elderly; congressional inquiries 11/10/75 & 1/6/76.

11300, Hyatt, 2.17: Congressional inquiries dtd 8/22/75 & 7/22/75; elderly.

11900, Pitman, 70.21: Farm; condemnation recommended—no funds; last telecon contact dtd 11/4/75 requested action.

Total estimated appraised value, $430,500.

Total estimated benefits under Public Law 91–646, $54,700.

Contingency, $64,700.

Total $549,900.

Total acreage—148.46.

Tocks Island Lake Project, Early Acquisition Requests: Residential Dwellings

Tract number, Name; Acres, and Comments

7502, G. B. Thomas, 1.25: Elderly widow; telecon 1/6/76 and ltr 1/9/76 requested action; purchased replacement; fears vandalism; Congressional 5/10/76.

7625, Mildred Peters, Trustee, 135.86: Property in trust for present owner/occupants; mutually agreed to condemnation; not filed due to lack of funds; last ltr dtd 7/3/74 requested action.

8012, Walpack Inn/Heigis, 36.14: Last contact by telephone dtd 1/7/76; wants to buy business in new location but cannot; owner lives on tract.

8804, Mark Auto/Richard G. Huber, 4.67: Last congressional 6/17/75; auto parts by mail order; surrounded by Fed. land; owner resides on tract; also owns Tract No. 8805.

10426–3, Janus, 26.78: Elderly widow, alone; ltr dtd 9/9/75 requested action; negotiated agreement—no funds.

11155, Goldhardt, 4.55: Ltr dtd 5/5/75 requested action; vandalism in area.

12129, Nucci, 0.86: Ltr dtd 10/5/74 requested action.

12144, Snowden, 7.62: Residential commercial; telecon 2/5/73 & ltr 6/30/72 requested action; owner in poor health.

12151, Snowden, 16.95: Residential commercial; telecon 2/5/73 & ltr 6/30/72 requested action; owner in poor health.

12175, Steflick, 0.90: Taxes too high; neighbors all purchased by Gov't; surrounded by Fed. land; last ltr 9/10/73 requested action; fearful because of vandalism.

Total estimated appraised value, $790,800.

Total estimated benefits under Public Law 91–646; $70,300.

Contingency, $118,800.

Total, $979,900.

Total acreage—235.58.

Tocks Island Lake Project, Early Acquisition Requests: Commercial Properties

TRACT NUMBER, NAME, ACRES, AND COMMENTS

7801–1, 2, 3, Bunnell, 206.67: Ltr dtd 12/16/74 requested action; fears vandalism.

11905, Hampton Co. (Raymondskill Falls), 32.67: Ltr dtd 9/23/75 requested action; owners in poor health and elderly; made personal visit.

Total Estimated Appraised Value, $353,750.

Total Estimated Benefits Under Public Law 91–646, $12,000.

Contingency, $53,000.

Total, $418,750.

Total Acreage—239.34.

Tocks Island Lake Project, Early Acquisition Requests: Seasonal Properties and Unimproved Land

TRACT NUMBER, NAME, ACRES, AND COMMENTS

6529–1, 2, Congregation Brith Sholom, 16.07: Congressional inquiry 1/6/76; seasonal; negotiated agreement—no funds.

7647, Peter, Darrell, 8.62: Ltr dtd 6/23/73 requested action; divorce proceedings initiated; needs money for replacement, seasonal.

8805, Richard G. Huber, 3.32: Also owns adjacent Tract 8804 on residential list; unimproved land.

9003, Rodda, Truxon C., 0.25: Elderly; no details given; Ltr 7/14/72 requested action; seasonal.

9014, Cirello, 0.34: Telecon 1/28/74 requested action; needs money; medical student; seasonal resident.

9033–1, 2, W. C. Rodda, 1.45: Ltr 5/7/72 requested action; seasonal residence; related to owners of Tr. 9008.

9055, H. Derringer, 0.85: Ltr 4/24/75 requested action; seasonal resident; negotiation 6/73; fears vandalism.

9056, W. Derringer, 1.42: Elderly widow; Ltr 4/24/75 requested action; seasonal resident; was permanent resident until husband died 3/74; owner ill health; parent of H. Derringer, above, Tract 9055.

10210–1, Dan Mar Co., 47.32: No details; Land with cabins owned by lessees: telecon 5/1/73 requested action; seasonal residence.

10220–2, Hull, 21.68: Age 88; Ltr dtd 7/30/74 requested action; residence destroyed by fire 6/19/74; appraised 5/22/74.

10326, Riemenschneider, 0.99: Vacant land; Ltrs 8/12/72 & 12/5/72 requested action; negotiated agreement resulted—no funds.

11000–1, Montague Dev Corp, 80.49: Unimproved development; owner elderly; taxes too high; congressional 12/9/71.

Seasonal Properties and Unimproved Land

TRACT NUMBER, NAME AND ACRES COMMENTS

11064, 11065, Henry, 2.22, 3.11: Seasonal residence; mailgram 8/2/74 requested action.

11474, Mills, 2.48: Initial: request 4/23/74. Congressional 10/3/75; was tenant occupied; claimed lost tenants because of pending acquisition.

12110, Poltl, 12.99: Seasonal residence; negotiated agreement no funds; moving from area per telephone contact 10/75.

12173, Sparacio, 0.41: Elderly; needs money for retirement; request 7/19/74; seasonal; last ltr 10/7/74 requested action; taxes too high.

12526, Walton, 0.17: Unimproved; wants to dispose of it; ltr 12/2/74 requested action.

12870, Babcock, 1.72: Seasonal cabin; Congressional 7/31/75; isolated; fears vandalism.

Total Estimated Appraised Value, $668,950.

Total Estimated Benefits Under Public Law 91–646, $54,000.

Contingency, $100,500.

Total, $823,450.

Total Acreage—205.90.

REGULATORY REFORM

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. MAGUIRE. Mr. Speaker, the Congress is finally waking up to what the public has been telling us for years, namely that we have let our oversight responsibilities over the Federal regulators languish, and that regulation, as a consequence, is often not as responsive to public needs as it should be.

Over the past 6 months, the Oversight and Investigations Subcommittee of the House Committee on Interstate and Foreign Commerce has conducted a series of hearings investigating the policies of nine independent regulatory agencies. These hearings have been extremely enlightening, and the subcommittee report will undoubtedly prove a boon to intelligent congressional efforts at regulatory reform. The problem is complex and multi-faceted, for each agency is a world unto itself, and no two are alike. Nevertheless, some directions for reform are evident.

As a result of the hearings, my views on the subject have crystallized considerably. I would like to share these views with my colleagues by contributing the following article, which was published in the Bergen County, N.J., Record:

THE SEARCH FOR REGULATORY REFORM

(By ANDREW MAGUIRE)

Regulatory reform, for better or worse, is the fashion of the day, bandied about by politicians and candidates of both parties. Riding a wave of often quite justified popular indignation over big government and wasteful spending, many—including President Ford—are equating regulatory reform with wholesale deregulation.

They say regulation is always costly and inefficient. They say we should abandon all government regulation of industry and return to a legendary realm of pure free enterprise.

In part, these critics are right. But before we scrap the regulatory mechanism altogether, let's look at what it does. One type of federal regulation protects the environment, public health, and safety. Another type, so-called economic regulation, is designed to eliminate conditions that result either in monopoly or in destructive competition and market instability.

It is clear that much economic regulation today does not protect the public, as was its original intent. Indeed, our system of economic regulation too often provides government sanction for an equivalent of industry price fixing and unjustifiable price increases for consumers.

In the airline industry, for example, by using an industry-controlled, government-established rate and fare structure, the Civil Aeronautics Board forbids competitive pricing. Instead of genuine competition that would lead to lower fares, we get pseudo-competition based on such trivialities as "seat wars," in which airlines try to steal business from each other according to the arrangement of their seats, the uniforms of their stewardesses, the color of their planes—all with fancy advertising campaigns which are costly and lead to ever higher fares.

Even worse is competition based on frequency of service. One airline offers six flights a day between two cities. The competitor must also offer six flights to stay even, eight to get ahead. As a result, airlines offer more flights than the traffic merits. Flights run a half or a third full, resulting in higher person costs and lower profits. Then the CAB predictably approves a new round of higher prices for air travelers.

The Interstate Commerce Commission provides additional examples of regulatory control prompting higher, not lower, costs. When the ICC was created a century ago, it had a justification—preventing railroads from gouging farmers when they shipped their crops to market. But those days are long gone and the ICC has found a new role.

Now it promotes collusion. For example, the ICC will not grant a carrier new operating authority unless he can show that the existing service along a given route is inadequate. It doesn't matter if the applicant can provide the service for half the cost. The ICC will protect established carriers from such "disruptive" competition, and the consumer pays the difference.

Take another ICC jurisdiction—setting freight rates for trucks. Trade associations called rate bureaus—exempt from anti-trust statutes—play a key role. Although carriers can file their own rates, when a carrier does offer lower cost service, competing carriers may protest to the ICC, and the protests are often upheld.

This type of regulation protects stability within the trucking industry while eliminating innovation that could lead to lower shipping costs and lower product prices. These objections are not new. President Eisenhower first expressed the argument for transportation deregulation. After 20 years, what has been done?

In January, Congress took a first step toward deregulation in the economic area. It passed the Rail Revitalization and Regulatory Reform Act, which allows moderate flexibility in setting rates without railroads' having to secure ICC approval.

And the Department of Transportation has prepared motor carrier reform legislation, sponsored by my colleague, Rep. Millicent Fenwick, which would relax restrictions on competition and phase out the anti-competitive rate bureaus. This kind of deregulation should continue as part of an effort to give consumers a real choice in the marketplace.

But economic deregulation should not mean abandoning the government's commitment to protect public health and safety. To call for deregulation of airline fares under the jurisdiction of the CAB should not mean ending the authority of the Federal Aviation Administration to maintain safety standards. Nor should it be implied that because we want the trucking industry to be allowed to compete economically, we want the ICC and the Department of Transportation to eliminate safety and insurance standards.

In fact, the power and resolve of the regulatory agencies in the area of health and safety need strengthening. At present these agencies are as ineffective in protecting the public as they are strong in protecting the industries they are supposed to regulate.

In the area of health and safety, the regulatory process is characterized by delay at every turn. After five years of industry opposition, the National Highway Traffic and Safety Administration last year finally issued effective brake standards for large trucks.

After six years the Federal Trade Commission is still investigating allegations that the American Gas Association violated anti-trust laws in falsely reporting natural gas reserves to get the Federal Power Commission to grant higher gas prices. (All attempts to subpoena relevant information have been stymied.)

The Federal Trade Commission's Consumer Protection Bureau has been working on a detergent-labeling standard since 1971 and on pesticide regulations since 1968. It took the Food and Drug Administration 16 years and 14 "provisional" extensions before it acted to remove Red Dye No. 2, a suspected cancer-causing food coloring from the market.

These are just a few examples of the kinds of dilatory agency performances which are all too typical where regulation counts most in terms of people's lives and health.

No one is denying the right of businesses to present their viewpoints on matters affecting their products and their profits, but it simply should not take four, five, six, or 16 years to resolve issues like these—not when thousands of employees, including lawyers and specialists, and million-dollar budgets are there to do the job. And not when these delays often result in needless loss of life.

Let's look at one more case. The National Highway Traffic and Safety Administration (NHTSA) has had an airbag standard for automobiles in the works for seven years. Airbags, which pop out on impact, are designed to replace annoying seat belts, and they are far safer than seat belts.

If the airbags had been installed in 1972, when the standard was first supposed to go into effect, 50,000 more people would be alive today—a number equal to the American death toll in the Vietnam war. While the Vietnam war is finally over, our highway slaughter continues. To this day, NHTSA still has not issued airbag standards to protect passengers from injuries and death.

We need economic deregulation to lower prices. We need strengthened regulatory commitment to improve public health and safety. We also need to reshape the regulatory structure itself to increase public participation.

Right now, several regulatory agencies are almost alumni clubs for industry executives. A recent congressional study, focusing on nine agencies, found only a few commissioners, administrators, and top staffers with consumer-oriented credentials. The largest number were industry alumni.

For example, 36 percent of higher echelon staffers at the Securities and Exchange Commission had worked previously on the industry side of the table, as have a majority of the 19 commissioners appointed since 1960. At the Federal Communications Commission, half of the 24 commissioners during the period were former industry executives. As a result, decisions tend to be biased toward those being regulated rather than toward the public which is supposed to be served.

We ought to look seriously at the suggestion of some public interest groups that the federal government should restrict the number of former industry employees who can work in top posts in regulatory agencies. And we ought to be looking for ways to increase public representation in the regulatory process.

In response to the growing consumer movement, many agencies have opened consumer offices. But for the most part these have been merely cosmetic, creating the illusion, rather than the reality, of public participation. It is simply not enough to create a department to answer queries from the occasional interested citizen who already knows where to call within Washington's bureaucratic maze.

The essence of regulation—the rule-making procedure—is complex, expensive, and time-consuming. It requires expertise in technical matters, economic issues, and administrative law—information which is easily available to industry but currently beyond the resources of advocates of the public interest.

Of course, agencies that regulate an industry should give that industry a chance to make its strongest case when significant issues affecting its economic well-being are made. Under the current structure of most agencies, however, the public interest is badly neglected. Consumers cannot afford to hire the lawyers and experts needed to represent them adequately, nor do they have the time and money needed for them to be present in Washington, where these decisions are made.

Some progressive steps have been taken. The Consumer Product Safety Commission (CPSC), which sets standards for potentially dangerous products, was established in 1973. Its method of operation is innovative. After deciding that a safety standard is needed for a product such as power lawn mowers, for example, the CPSC accepts bids from both consumer and industry groups to draw up a draft standard. The successful bidder sets up a committee, composed of both consumer and industry representatives, which then drafts the standards for commission approval.

On paper, it sounds like a responsible way to regulate, one which offsets the industry bias of most regulatory proceedings. However, those consumer groups who have participated in the past say they will never do so again. They discovered that the costs are too great—beyond the means of the fledgling consumer movement.

Therefore, the commission should help fund the expenses of legitimate consumer representatives, the same way that the state provides a defense for indigent defendants in criminal proceedings. Certainly society has as great a stake in such broad health and safety issues as it does in maintaining a just system of criminal law.

In most agencies, sad to say, not only is there no financial assistance given to assure public participation, but also the CPSC's paper mechanism itself is lacking. Consumer and public interest groups are not invited to be involved in significant rulemakings. Unless they read the Federal Register—which lists all coming agency proposals—they are in the dark.

If they are to get involved and have an

impact, it will cost thousands of dollars in fees for lawyers, experts, and travel to Washington. And, if they should lose on an issue of importance, they will find the doors of the courthouse barred to them. Under current law, they are usually deemed to lack standing to file class-action suits.

After many years of neglect, Congress is at last waking up to the idea of comprehensive regulatory reform. It is not an issue which will die after the election; the task to be faced is much too big to be completed in a single year. Deregulation where government intervention has proved counterproductive is a high priority, as is the pervading problem of regulatory delay.

But the fundamental reform must be increased commitment to serve the public interest and to provide for public participation in the process, in fact as well as on paper. In the inadequacy of such participation can be found the roots of all the more specific problems.

MOZAMBIQUE'S MARXISM HAS ALLOWANCES FOR CAPITALISM

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. BONKER. Mr. Speaker, one of the elements of Secretary Kissinger's new approach to pressuring for black majority rule in Rhodesia is to help sustain Mozambique in the closing of its border. How effective our $10 or $12 million would be is unclear, but undoubtedly it has great importance in symbolic terms. For those of us who have argued for a more positive and forceful policy toward African problems, this is welcome symbolism.

Nevertheless, it would be negligent to ignore other, less pleasant, implications. Sometime back, for example, the Washington Post called attention to the fact that, like it or not, this strategy directly promotes confrontation and possibly violence, although in the long run arguably less than there might otherwise be if the inevitable collapse of the Smith government is not expedited. Still another unsettling aspect of our policy toward Mozambique is the public underwriting of a reportedly brutal and increasingly unpopular Samora Machel. It would be hypocritical for us at once to flail against Chile, Korea, and other rightwing regimes, on the enunciated principle that they are grossly denying human rights, and yet avert our eyes to the transgressions of left-wing regimes.

In this vein, Mr. Speaker, I commend to my colleagues a balanced New York Times analysis of the political situation in Mozambique which will be useful as we continue to confront the simmering Rhodesian issue:

MOZAMBIQUE'S MARXISM HAS ALLOWANCES FOR CAPITALISM

(By John F. Burns)

JOHANNESBURG.—A group of 40 South African businessmen recently flew from Johannesburg to Maputo, capital of Mozambique, to discuss ways of improving the efficiency of freight handling in the port of Maputo. The businessmen, as quoted in a Johannesburg newspaper, returned full of praise for the cooperative approach of the Mozambican authorities, who were reported to have agreed to steps that will ease the port and rail congestion that has been bottling up nearly a quarter of South Africa's exports.

In an age when the United States sells jet aircraft to Communist China and the Soviet Union buys computers from the capitalist West, the triumph of economics over ideology is commonplace. Yet there is something particularly striking about the pragmatic relationship that has developed between South Africa and Mozambique. South Africa is the last great fortress of white rule on the continent; it considers itself the main bulwark in Southern Africa against Communism, Mozambique is a black-ruled state that has embarked on a classical Marxist revolution; it has become the training ground for about 6,000 black Rhodesian soldiers preparing for guerrilla war against white-ruled Rhodesia. Mozambique has allowed its ports to be used by Russian ships to deliver armaments to those guerrillas.

For Samora Moises Machel, the President of the People's Republic of Mozambique, the South African connection has been a bitter pill. But the foreign exchange that his Government earns from lending its principal harbor to South African exports and its labor to South African mines has proven indispensable to an economy that has all but collapsed since the heady celebrations on June 25, 1975, that ended centuries of Portuguese colonial rule.

Unlike the British, who bequeathed a basic economic infrastructure to many of their African colonies, the Portuguese did little to develop Mozambique.

With the country all but sealed off to Western journalists in recent months, a comprehensive picture of the situation is difficult to compose. However, the testimony of departing Portuguese settlers, visiting businessmen and defectors from the ruling Frelimo movement suggests that conditions in the country and with it the popularity of the Government, have deteriorated sharply under the impact of the "dynamic socialism" that Mr. Machel espouses. The most favorable construction of the facts that have filtered out indicates that the Government is facing, at once, many of the worst problems that have bedevilled postcolonial Africa, including tribal disputes, factionalism within the Government, and unrest in the ranks of the military and the police.

Many of the troubles and the economic deterioration that underlies and compounds them, can be traced to the doctrinaire policies that Mr. Machel introduced shortly after taking office. Land was nationalized, and unwilling peasants were coerced into collective farming. The state took over key industries and utilities, without the compensation promised to Portuguese owners. A system of revolutionary justice was initiated, complete with a secret police known by its sinister acronym, SNASP. Religion was all but proscribed, with laws that made it an offense to proselytize anybody under the age of 18.

The results could hardly have been more severe. Agricultural production has plummeted by up to 75 percent in some areas, and sugar, once a profitable export, is now scarce. Of the 30,000 Portuguese settlers who stayed on after independence, less than 2,000 remain: the exodus has decimated the ranks of experts that the economy needed. Prisons are overflowing with an estimated 40,000 detainees, most of them black, more than in the most repressive period under the Portuguese.

In some cities lineups have formed for staples such as bread and potatoes. In the north Makonde tribesmen, strong backers of Frelimo during the fight for independence, have clashed several times with Frelimo troops. At least two mutinies have broken out in army ranks.

In March, after eight months' hesitation, Mr. Machel closed Mozambique's border with Rhodesia. The decision cost his treasury at least $50 million in annual trade and transportation revenues. At the same time, under pressure from a radical faction within the Frelimo leadership, he cut back on the contract labor that Mozambique supplies to South Africa's mines—more than 100,000 men last year. That act halved the huge but undisclosed sum—between $100 million and $200 million—that Mozambique earned in 1975 from payments for the labor.

While declaiming the need for self-reliance, Mr. Machel has appealed with some success for international aid. A senior United Nations official who visited the country after the border closure estimated that it would need at least $200 million this year to keep essential industries and services going. Several Commonwealth countries, including Canada and Australia, have contributed large sums, and the United States will probably contribute about $10 million to $12 million this year. But the strongest backing has come from the Soviet Union, to which Mr. Machel made a much-ballyhooed visit some weeks ago.

The Russian alignment may have played a part in straining relations between Mr. Machel and the radical wing of Frelimo, already disaffected by the continuing links with South Africa. Rumors of an impending coup, current for months, died down after reports that Armando Guebuza, the Interior Minister and acknowledged leader of the radical faction, had been stabbed by Mr. Machel's bodyguards after a disagreement in the presidential palace in May.

The stabbing incident suggested one side of the enigmatic picture that emerges of Mr. Machel. On another occasion, the President's bodyguards were reported to have severely beaten a pilot whose aircraft moved into the path of Mr. Machel's executive jet on a taxiway at Maputo Airport. The hapless man was accused of attempting to kill the President. Similar stories abound, especially among Portuguese emigrants arriving in South Africa, who have every reason to want to discredit the regime. Against them must be set the remarkable candor and compassion that Mr. Machel has occasionally displayed.

The bearded President, who worked as a medical assistant before leaving Mozambique for guerrilla training in Algeria in 1963, has made it a habit to turn up unannounced at factories, hospitals and prisons, listening to grievances and instructing his secretary, taking notes at his elbow, to correct them. The visits have given him a strong sense of the country's problems. The question seems to be: Can he solve them?

BICENTENNIAL PERSONALITIES: JUDGE R. W. SMARTT, A GREAT JUDGE, WARM HUMAN BEING, AND ESTEEMED CHRISTIAN GENTLEMAN

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. EVINS of Tennessee. The Southern Standard of McMinnville, Tenn., in its Bicentennial Personalities series recently published an article concerning the Honorable Robert White Smartt, for 32 years Judge of the Seventh Judicial Circuit of Tennessee.

Judge Smartt had a warm, witty, and engaging personality and maintained his sense of humor and enjoyment of life until his passing at the age of 95. He was born on July 4, 1873, and died on Thanksgiving Day, November 28, 1968.

Judge Smartt was known for his innate fairness in court and for his concern with the people who appeared before him—the defendants charged with crime. On one occasion, the article by Miss Sue D. Smartt, a niece, recites, Judge Smartt was trying a case and a young attorney cited a certain section of the Tennessee code.

The judge said:

> Young man, I'm quite aware of the code and section you have cited, but let's be fair about this.

Fairness and justice above all—that was the philosophy of Judge Smartt and he was admired and respected throughout Tennessee for his impartiality and his ability.

Judge Smartt was a great family man—he had seven children by two wives, Mrs. Anne Francher Smartt and Mrs. Alma Roggli Smartt—and he took great pride in his family.

I am pleased and delighted to be a part of his family. Judge Smartt was my esteemed father-in-law and we shared a great compatibility.

The Judge called together members of the Smartt clan for an annual family reunion from throughout the country to convene at the Smartt home in Smartt Station, Tenn. He even traveled to other cities to visit relatives and encourage their attendance at the reunion for warm fellowship, fried chicken, country ham, and the latest anecdotes by Judge Smartt.

He took great pride in his ancestry, strong men and women of pioneer stock, and he believed in and lived his Christianity. He was a religious man, an elder in the Smartt Memorial Presbyterian Church for 55 years. He had an unflinching attitude toward right and wrong and yet he had an understanding and merciful attitude toward those who did wrong. He understood people and he understood human nature.

Another facet of Judget Smartt's life was his love of sports. He sometimes visited Washington and would always try to see a ball game. He was a great football fan of the University of Tennessee Volunteers and liked nothing better than to bundle up in warm clothes and attend a game to cheer on the Vols.

He was also a great believer in walking—and perhaps this exercise which he began in childhood partially explained his longevity. He walked miles, and thought nothing of it. On occasion, he walked from his home in Smartt Station to Cumberland College in Lebanon, a distance of perhaps 30 miles.

Judge Smartt was a great Tennessean, an outstanding American. He embodied those qualities of greatness that are the best qualities of our Nation. He was religious but not puritanical—fair but not harsh—understanding but not permissive—and he loved his God, his family and his country.

He was indeed a truly great Bicentennial personality.

Because of the interest of my colleagues and the American people in outstanding people of America, I place in the RECORD herewith the article concerning Judge Smartt from the McMinnville Southern Standard.

The article follows:

BICENTENNIAL PERSONALITIES—ROBERT W. SMARTT, CIRCUIT JUDGE

(By Sue D. Smartt)

He's a Yankee Doodlee Dandy
Yankee Doodle, do or die,
A real live nephew of his Uncle
Sam's
Born on the fourth of July.

Born on the fourth of July, 1873—died on Thanksgiving Day, November 28, 1968—a true patriot for almost a century—a fitting description of Judge Robert White Smartt, for 32 years judge of the Seventh Judicial Circuit.

Judge Smartt, known throughout his circuit as "the good Judge," was a man of dry wit and humorous truisms. His apt descriptions and his sometimes alarming frankness would have won many enemies for most men, but "the Judge" had a way about him that made men accept his judgments with good humor, even with respect. It was said that Judge Smartt never sentenced a man in anger and often appeared to genuinely desire to render a decision that would favor both sides. Many of those he sentenced not only "went straight," but became his friends. He was known to have appeared as a character witness for a man he had earlier sentenced. His years of experience on the bench gave him an uncanny insight into human nature. He professed to be able to tell when a man was telling the truth. "If a man is not telling the truth, the mark of Cain comes across his face," the Judge told McAllen Foutch when Foutch was just beginning his law practice.

Judge Robert W. Smartt's life touched perhaps the lives of more Warren Countians than any other individual in the first half of this century as he meted out justice to bootleggers, murderers, thieves, and crapshooters alike for 32 years. Known to be a great one for compromise, he made every effort to give a man another chance, particularly a first offender. A young lawyer representing the plaintiff and trying his first case recounted his despair when he realized that Judge Smartt seemed little impressed by the mounting evidence against the defendant. Hoping to impress him, the young lawyer called the Judge's attention to a certain code and section of the law relevant to the case. The Judge replied, "Young man, I'm quite aware of the code and section you have cited, but let's be fair about this," and he ruled in favor of the defendant. Among the lawyers who tried cases in his court, it was said that Judge Smartt never let the law get in the way of his common sense, although few of his legal decisions were reversed in a higher court.

An indomitable optimist, Judge Smartt could always see something good in every man—if not in the man, he could find something good in his "mammy" or his "pappy." He made a practice of sending prisoners convicted in his court, unescorted to the state prison, sometimes allowing them to get in a crop before going. He said that none ever betrayed his confidence. In fact, one prisoner arrived without his papers, which he had lost on the way. Unable to gain admittance, the man called Judge Smartt who spoke to the authorities so the man could be admitted.

In 1902, when according to the Southern Standard McMinnville was "a thriving town of 2000, with a suburban population of perhaps a thousand more," Robert White Smartt's law career was a little more than two years old. Associated with A. R. Hammer, the firm was said to be "steadily coming to the front both in practice and popularity." In the same edition, Smartt was described as "a profound thinker and a fluent, eloquent speaker. He combines the energies and activities of youth with the steadiness and conservatism of a patriarch." At 85 he was described as "the cherished patriarch of the community" who "has an outlook on life that would do credit to a man of 20." Such was the personality of the Judge. He had a sort of timeliness about him which made him just the right age for whatever group he was with, either young or old.

The Southern Standard article went on to predict his future. "A young man of sterling integrity, rare ability and industrious application, with high and noble purposes in life, and a moral character above reproach, he is bound to rise to the top in his profession." And to the top he did rise. On many occasions he was honored by the members of the bar, as well as by the public. On "Judge Robert W. Smartt Day," December 29, 1965, U.S. District Judge Frank Wilson called him "Tennessee's best known and best loved judge."

Judge Smartt presided over court in DeKalb, Van Buren, Warren, Coffee, Moore, and Lincoln counties from 1918 until he retired in 1950. For the next 12 years he traded his six counties for the state, as he assisted judges who might be sick or vacationing. The Judge made many new friends as he held court throughout the state. He was most impressed by the young lawyers, who he said were better prepared and tried their cases better than the older lawyers. "I can say this because no man has greater respect for the old lawyers than I do," he said. "Our system is not perfect and try as we do, injustice is sometimes done and the right not always reached, but that is not the intention of the judges and lawyers. It was said years ago and is still true that the administration of the law is not an exact science." He went on to say, "I am proud of the men who make up the bar of Tennessee. It is a joy to be with them and to work with them," and they loved him as evidenced by their many tributes. He only missed two conventions of the State Bar Association from 1899 until 1960.

For Bob Smartt, his abiding passion for the law began early in his life. On the days that he visited McMinnville with his father, young Bob could be found on lawyer's row or in the courthouse when it was time to return home But the road to his legal career was not an easy one. Born to George Madison and Cornelia Adelaid Smartt, Robert White Smartt was the tenth child in a family of twelve children. "Ours was an old fashioned family of work, work, and more work. We were born in the country and there was always the very odor of the farm about us. We learned early to get up at 4 o'clock to milk cows," he once said.

Bob attended the county school in the Smartt community where he was born, until he entered the McMinnville City School, from which he graduated in 1892. For a period of six years he alternated between teaching school at Smartt and Vervilla in the fall months. He received both his literary degree in 1897, and his law degree in 1899, from Cumberland.

A great walker, even in his later years, young Smartt often walked from Cumberland in Lebanon to his farm home near Smartt, saving $1.50 train fare. On one occasion he walked the last miles from Murfreesboro to home in the snow. In the spring he sometimes stopped and visited along the way, helping with hay hauling if he was needed, before continuing his journey home. He continued this habit of walking and later became a veteran hitchhiker. During gas rationing of World War II, the Judge often hitchhiked to the county where he was currently holding court.

In October, 1905, Bob Smartt married Miss Anne Fancher of Sparta. To this union three daughters were born, Cornelia (Mrs.

John Hodges) of Knoxville, Anne (Mrs. Joe L. Evins) of Smithville, and Fancher (Mrs. Frank Galbraith, deceased). Miss Anne died in 1909, and on September 3, 1913, he married Alma Roggli of Decherd. A daughter and three sons were born to them: Jessie Louise (Mrs. R. C. Emmons) of South Bend, Indiana, John Matt Smartt of Knoxville, Robert W. Smartt, Jr. of Murfreesboro, and Diemer L. Smartt of Smartt.

A great family man, Judge Smartt spent many hours in preparation for the annual Smartt family reunion, held each year on the fourth Sunday in July. Letters went out to all corners of the nation inviting distant cousins to come and commune with the Smartt clan on this festive occasion. Each year a new group of cousins could not resist the Judge's persuasive invitation, traveling thousands of miles to sample the fried chicken, country ham, and warm fellowship of little known relatives. A visit to Chattanooga, Nashville, and other surrounding towns was a tradition for the Judge to insure good attendance at the reunion. No good Smartt could turn down the Judge's personal invitation. He just wouldn't have understood.

Judge Smartt took great pride in his ancestry, always delighting in the retelling of the story of his grandfather General William Cheek Smartt, how he came to Warren County in 1804, and how he dropped to his knees to pray a prayer of thanks when he, his wife and baby returned in 1805 to his homesite. Another favorite story was the way his grandfather ended his distillery business. The General made both whiskey and brandy and had a large orchard which provided ingredients for his products. Attending a temperance meeting, he became convinced it was wrong. He went home, closed the distillery, gave the keys to his wife, and never entered it again. To the Judge, these stories provided examples of devotion to God and strength of character, a heritage of which he was proud. He made sure that his 22 grandchildren were just as familiar with their heritage as he was, as well as the many cousins who visited him.

The Judge was a religious man serving as elder of the Smartt Memorial Presbyterian Church for 55 years. Sunday morning found him regularly singing in the choir, making up for what he lacked in harmony with his great fervor. He taught a Sunday School class during all those years, interspersing the lesson with examples gleaned from his courtroom experiences. His wise counsel guided many along the pathway of life.

An early sports enthusiast, Bob Smartt excelled not only in oratory at Cumberland College, but in baseball and track as well. His enthusiasm for sports continued throughout his life. He was the most avid football fan the University of Tennessee Volunteers had. The elements did not deter him—he might be wearing a shirt, sweater, jacket, overcoat, and two pairs of pants, but you could count on his attending every home game and many away from Knoxville. On Monday morning a letter would be in his mailbox addressed to General Bob Neyland or later to Honorable Doug Dickey. Along with his words of praise for the teams' Saturday performance, he would send his observations and a few words of advice.

Giving unsolicited advice once put him in a touchy situation when his son-in-law, Congressman Joe L. Evins, arranged for Judge Smartt to meet President Harry Truman. Undaunted by presidents, having seen or met every president since Grover Cleveland, Judge Smartt and President Truman conversed about various issues of the day. Things went well until the Judge told the President he realized many people gave him advice on how to run the country, and he certainly would not presume to do that. Of President John F. Kennedy, the Judge wrote, "The thing that makes us all love him is that he looks like our boys at home—he needs a haircut." Judge Smartt's ability to look at the great and see the commonplace made him comfortable wherever or with whomever he was.

A strong supporter of good government on the local, state, and national level, Judge Smartt was a Democrat, and like most Democrats he felt better about government when the Democrats were in office. He wrote a friend at Christmas, 1960, "I want to be a little happier by going to the Inauguration and seeing the turning out of these doggone Republicans and the incoming of real Democrats." He was made happier for he saw John F. Kennedy inaugurated in January, 1961.

A spring located on his farm, said to have been carved out by an old Indian named Tom, was the source to which Judge Smartt attributed his very life and his longevity. He often chuckled as he recalled how his sister had written: "Poor brother, he is too young to die." In later years he wrote, "I am so doggoned old. I am the last leaf on the tree." To all who knew him, he was not old: he was 95 years young when he died.

One of Warren County's most colorful citizens, Judge Smartt left his mark on the hearts of the people in whom he saw only the best and ignored the worst. His prayer, "God, help me to live as long as I am alive," was indeed answered, for he lived an active life to the very last, seeming always to see the world through a pair of rose-colored glasses.

CAPTIVE NATIONS WEEK

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. DODD. Mr. Speaker, I would like to take this time to acknowledge the observance of Captive Nations Week, proclaimed by the President for the week of July 18. This very special week dates back to July 17, 1959, when the 86th Congress first inaugurated a Captive Nations Week, and it has now become an annual commemoration.

This year it takes on added significance as we ourselves celebrate the 200th anniversary of our freedom and independence. We must not forget the fate of those who do not enjoy the rights and privileges that we have been blessed with for so many years, and who are still fighting for their liberty. We must not forget to register our protest against the denial of national sovereignty which continues to plague Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Romania.

The acts of aggression that the Soviet Union has been routinely perpetrating against these nations for decades have not gone unnoticed. The Soviet Union has forced the deportation of thousands of Estonians, Lithuanians, and Latvians to Siberia. It has brutally invaded Hungary and Czechoslovakia, and installed permanent military watchdogs in their societies. It has constantly denied the basic rights of free speech, assembly, religion, and travel not only to its own citizens, but to those of Eastern Europe. Most recently, it has failed to grant to these nations the fundamental provisions of the Helsinki agreement.

The brave peoples of these nations, despite the numbing yoke of totalitarianism, have not lost faith in the eventual restoration of their basic liberties. It is incumbent upon us, the world's leading democracy, to encourage and support their long-lived aspirations.

The easing of restrictions agreed to in Helsinki constitutes the greatest ray of hope for these captive nations. It is our responsibility—as well as the Soviet Union's—to see to it that these provisions are complied with in accordance with this major international agreement.

The U.S. Congress, unhappy with the immediate results, has recently voted to establish a commission designed to oversee the implementation of our mutual pledges. The urgent task faced by this newly appointed commission is to scrutinize the state of human rights in Easttern Europe, and to focus the attention of the International Community on all violations that do take place.

It is my fervent hope that as a result of this positive development, we will soon be able to report that the Soviet Union is making substantive efforts to correct its more repressive practices.

In a spirit of optimism, let us reaffirm through the observance of Captive Nations Week our determination to see that the captive nations regain their inalienable rights to self-determination and national sovereignty. Their struggle must not end until they achieve what is their due, and our support must not cease until such a day has come.

ASSEMBLY OF THE STATE OF NEW YORK RESOLUTION NO. 198

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. DOWNEY of New York. Mr. Speaker, I would like to bring to the attention of my colleagues the following resolution passed today by the New York State Assembly. In full support of my recent stand on the same question this assembly resolution of the State of New York memorializes Congress to enact legislation to include raw sewage, wastes, and sludge in the definition of "hazardous substances" in order to entitle New York State to appropriate assistance in cleaning up the beaches and waters along the shore of Long Island. Resolution No. 198 of the Assembly of the State of New York states the following:

Whereas, Recent natural and man made phenomena involving the coincidental occurrence of winds, tides and rains which have resulted in an assault on the beaches of Long Island by outrageous amounts of raw sewage, plastic items, grease balls and other unidentified noxious materials; and

Whereas, These materials have rendered many of these beaches unfit for human use at the beginning of the summer recreation season; and

Whereas, Such conditions have necessitated the closing of these beaches, including Jones Beach, the largest, most popular beach in New York State; and have endangered public health and have caused extensive economic hardship; and

Whereas, Federal programs including provisions of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) have been enacted to provide for the removal of hazardous substances from our nation's waters in order to assure maintenance of water quality and protection of public health; and

Whereas, Furtherance of the objectives of such Federal programs would require their application to such situations as occurred along the shores of Long Island; and

Whereas, Appropriate amendments to Federal laws defining "hazardous substances" to include raw sewage, noxious wastes and sludge from the beaches and waters along the shore of Long Island; now, therefore, be it

Resolved, That the Congress of the United States be and hereby is respectfully memorialized to amend existing law defining "hazardous substances" to include raw sewage, noxious wastes and sludge in order to assure assistance in cleaning the waters along the shore of Long Island; and be it further

Resolved, That copies of this resolution be transmitted to the President of the Senate of the United States, the Speaker of the House of Representatives, and to each member of Congress of the United States from the State of New York.

THE ELIMINATION OF WILDLIFE HABITATS

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. NOLAN. Mr. Speaker, the senseless, and oftentimes naive, destruction of nature's wildlife habitats have created a crisis with inevitable consequences. Before the numbers of our very limited and precious wildlife are reduced to extinction, we must utilize all our resources to preserve these natural environments to insure the generations of tomorrow the enjoyments of wilderness and wildlife that we have known.

The elimination of the fencerow is a case in point. This sad but very well done article, written by Mr. Bill Stokes, first appeared in the Wildlife Newsletter, published by the South Dakota Department of Game, Fish, and Parks and was later reprinted in an article in Minnesota Out of Doors, a publication of the Minnesota Conservation Federation:

A FENCEROW DIES

(By Bill Stokes)

A fencerow died last week on a farm.

A farmer and his helper were slashing it to death with axes when I drove by . . .

The farmer's dog romped nearby as the wood chips flew and brush fell. The dog was a black labrador, a hunting dog if there ever was one and the inconsistency of the scene was almost brutal.

. . . The fencerow died, and it took with it into oblivion a chunk of nature's irreplaceable hide.

It took the home of the lark and the pheasant and the countless smaller birds . . .

It took the grasses and twigs that shelter the rabbit clutches and it took a highway of wild travel from the fox and the skunk and all of the other creatures.

There will be few interesting scents for the black lab to explore during the year as it romps beside the roaring farm machines.

The farmer, of course, will not miss the scents, but maybe he will miss the sights and the sounds. Certainly a man with a hunting dog must derive pleasure from the sight of a pheasant rattling out of the fencerow when the tractor comes too close. Certainly he must hesitate a minute when the early morning call of the quail floats to him.

Oh, of course he can go to the public hunting areas for his neighboring with nature.

He can take the black lab and rub elbows with the rest of us.

Chances are, he won't like it though. He'll curse the crowds and competition, and it probably will not occur to him that he chopped up his own solution to the problem when he killed the fencerow.

Or maybe he'll hunt on his own farm and blame the game and fish department or the fox for the lack of game.

The fencerow died and, though all of us may mourn it, the tragedy was greatest for the farmer.

D.C.'S WESTERN HIGH SCHOOL COMMENDED

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. FAUNTROY. Mr. Speaker, it is with a great deal of pride that I congratulate those people who were instrumental in helping the magazine Cityscape win an award for outstanding coverage of the disadvantaged in this year's national Robert Kennedy Journalism Awards contest. This magazine, which was coordinated by Mart Malakoff, a constituent of mine, is a product of the dedicated efforts of students from photojournalism classes at Western High School in Washington, D.C. The magazine was one of only 12 winners out of 500 entries in the contest. It is a particularly impressive achievement when one considers the other winners in the contest were from national television networks or major metropolitan newspapers. It is a testimonial to the students and teachers of Western High School that they are able to produce such an outstanding publication.

The section of the magazine which was singled out for the award, deals with the Adams-Morgan community of Washington. The section traced the social, cultural, and ethnic evolution of this innercity community. The interest and sensitivity to social issues which these students demonstrated, is exemplified in the introduction to this section of the magazine, which I am inserting:

INTRODUCTION

Adams-Morgan has been described to us as a "little United Nations." This term is apt, for not only is there the ethnic and cultural diversity present in the real UN, there is also the differences of opinion and factionalization that exist in that meeting place of the world's communities. However, as is true in the larger world, it is this diversity and divergence that make it the interesting place that it is. And it was this aspect which inspired us to make Adams-Morgan the subject of an article.

We started with an idea of a survey of this neighborhood—we already knew from our own experiences that it was rich in culture, in community involvement, in local projects, and . . . in media coverage.

This was a problem, it seemed like it had all been done before—the community was under constant scrutiny by the local media (thus the title of this section). But had it really been covered? We decided to find out.

Thus, "Adams-Morgan . . . the Millionth Go-Round," was begun.

JOE McCAFFREY HONORED

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. MICHEL. Mr. Speaker, while we were in recess earlier this month, our good friend, Joe McCaffrey, who has covered the affairs of this Congress for so many years, was inducted into the Sigma Delta Chi Hall of Fame.

I do not know of any reporter more respected by the Members, and I think it would certainly be remiss of us not to make note of his having received this high honor from the professional journalism fraternity.

Therefore, I would like to have an article from the July 6 Washington Star, which tells of the award and gives many interesting details of Joe's career, printed here in the RECORD:

RADIO'S "HOME" TO JOE McCAFFREY

(By Dennis John Lewis)

"I've been crazy about politics since the eighth grade," confessed WMAL–AM Radio's Joseph McCaffrey. "My father was interested in politics and politicians and I liked history." the Capitol Hill reporter continued, explaining his passion for the national political scene.

Last month McCaffrey was inducted into Sigma Delta Chi's Washington Hall of Fame of the Society of Professional Journalists, a select group of under 40 reporters who have spent over 25 years covering a Washington beat. It's been a long road for the high school student from Dutchess County, N.Y., who shook Franklin D. Roosevelt's hand the night before the 1932 presidential election.

The veteran reporter, who celebrated his 32nd anniversary on the Washington scene June 6, recalled the day his career began in 1944. A press aide at Eisenhower headquarters, he had been hospitalized with a neck injury sustained in a plane crash.

"I got out of Walter Reed Hospital, walked downtown and got a job as correspondent with CBS News," he remembered. "That could happen then."

McCaffrey, 58, could easily pass for a solon himself. Daily he makes his way through the Capitol's subterranean labyrinth of hallways and offices, stopping to chat with aging congressmen, first-termers, staff assistants, police, elevator operators and secretaries.

The McCaffrey manner—sometimes referred to as "old school"—is gentlemanly, a low-key charm seasoned with dashes of humor and a perceptiveness praised by his peers. Each day, the commentator routinely checks out committee reports, rumored amendments that could provoke floor flights and the quiet and not-so-quiet clash of personalities that determine the future of legislation. His findings are aired at 6:50 each week-night in his "Today in Congress," the only radio program featuring exclusive coverage of House and Senate floor and committee proceedings.

Relaxing in his out-of-the-way Capitol cubby-hole office, McCaffrey said recently the new sex scandals appear much more serious for Congress than the Wilbur Mills episode.

"It's a shame that so many fine, hardworking congressmen have been hit by the charges of the scandals," he said. "It reflects on them because it confirms peoples' fears about Congress. These people have the same frailties as ordinary people and the temptations are greater.

"As one observer said, people forget there were 12 apostles and one of them went bad. So what if we apply the same ratio to the 535 members of Congress?"

Indeed, not all congressmen are the gregarious backslappers their stereotype implies. Many, McCaffrey judged, are "painfully shy, not what they seem, almost going into politics as if it were a challenge to be mastered."

As for ex-congressmen, McCaffrey mused: "A lot of them stay here because this is it. They don't play golf or other sports. They just wander around aimlessly, their lives wrapped up in having worked here."

According to McCaffrey, the answer to congressional stagnation may be a limit on tenure, "After 12 years they (congressmen) get pretty much in a rut, concentrating on just a few things," he noted. "From then on, you get cynicism, which is the greatest downfall for politicians . . . or reporters for that matter."

Despite four local Emmies and the respected Ted Yates Award for his work on television, radio is home for Joe McCaffrey. Several years ago he lost his television anchorman slot to the "team" concept and, more recently, he lost the televised half of his interview show. But McCaffrey's mellow voice and knowledgeable delivery keep his weeknight reports and Monday night congressional interviews: "McCaffrey's Washington" at 7:05, a radio staple.

There was a time five years ago when McCaffrey voiced frustration with his demanding job. But he's cured himself of that: "I've lowered my expectation level and heightened my patience." Instead of staying on the job until midnight, he now heads for his McLean home around 7 nightly.

PETER VRDOLYAK

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. MURPHY of Illinois. Mr. Speaker, a resident of my congressional district, Peter Vrdolyak, Sr., died at the age of 84 this past weekend after a long illness. Peter Vrdolyak was not a man widely known beyond his neighborhood, his family, and his friends. He did not have a lot of time to devote to becoming a prominent citizen. He had his hands full making a respectable living for his family and providing for their future.

Peter Vrdolyak, Sr. operated the South Chicago Beer Gardens at 3108 East 92d Street in Chicago for more than 50 years. He was a member of the 10th Ward Regular Democratic Organization, the St. Joseph Lodge No. 39 Croatian Fraternal Union, and the Catholic Order of Foresters Lodge No. 25. He is survived by his wife, Matilda, and five sons: Peter, Joseph, John, Victor, and Edward. Ed Vrdolyak is the 10th ward's Alderman. He is also survived by a daughter, Genevieve Simmons, and 15 grandchildren of whom he was most proud.

Peter Vrdolyak, Sr. was born in Yugoslavia and came to the United States in 1913. He never ran from hard work in his life. He was respected in his community as a man who said what he thought and stood by what he said. He believed in the American system of government. He was a patriot in the best sense of the word.

He was a scrupulously honest, sensitive, and generous individual. He will be mourned by his neighborhood, his family and his friends. The city of Chicago has lost a fine man. Peter Vrdolyak, Sr. represented the best of a generation that we will not see again.

ELK HILLS FIELD PROVEN INCAPABLE OF EMERGENCY PRODUCTION

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. BELL. Mr. Speaker, some of my friends in the House remember when I began warning them about 3 years ago that our naval petroleum reserves were in a sorry state of readiness and incapable of significant production of oil and gas in the event of a national emergency.

One of my primary contentions back in those days in the wake of the Arab oil embargo of the winter of 1973–74 was that the field, and particularly the gas plant, at Elk Hills were in a state of total disrepair and would take months, or years, to bring up to a workable state.

At the risk of being accused of the "I-told-you-so" syndrome, I would like to point out to my colleagues that, since the enactment of H.R. 49, the Naval Petroleum Reserves Production Act of 1976—Public Law 94–258—in April, this has certainly been proven to be the case.

Some of the companies awarded contracts in May for production to begin in July have recently been informed that they will receive no oil until October. The reason is that the natural gasoline absorption plant, which has been in mothballs for 25 years, has proven to be completely inoperative and in need of extensive repairs and modernization.

In other words, if we had had a national emergency requiring immediate production of our oil and gas reserves, the Navy would not have been able to produce the Stevens zone at Elk Hills without serious delays.

I refer my colleagues to an article which appears in the current issue of the Oil & Gas Journal, the text of which follows:

NAVY MISSES PRODUCTION TARGET FOR ELK HILLS

A delay in demothballing a field gas plant at the Elk Hills field has prevented the U.S. Navy from meeting its production goal this summer.

The Navy said production, which began July 3, now has reached about 34,500 b/d, well below the recent sales contracts of 89,820 b/d (OGJ, June 7, p. 56).

By early September, the Navy said, production should reach about 108,000 b/d. This will include the portion owned by Standard Oil Co. of California.

The 35R gas plant, which has a processing capacity of 94 MMcfd, is undergoing renovation. A Navy spokesman said more repair work than anticipated must be done—particularly to the electrical system and the cooling tower. The plant has not been used for 25 years.

As a result, most of the initial production has been low-gravity Shallow Zone oil, which yields little associated gas. Current Shallow Zone production is 24,000 b/d—the amount sold to oil companies May 26–27.

Production from the higher-gravity Stevens Zone amounts to about 7,500 b/d, part of which is Socal's. The Navy sold 65,820 b/d from the zone. Current production is processed through a nearby Atlantic Richfield gas plant, which has a capacity of 8 MMcfd.

The Navy said it will sell at auction additional Elk Hills production of about 20,000 b/d this fall, possibly in October.

This will be the limit of sales until additional pipeline capacity becomes available to the field, which is capable of producing 400,000 b/d.

To bring the field to its current 34,500 b/d level, the Navy has activated about 150 wells which tap the Shallow Zone and from 8–10 wells which tap the Stevens.

INTERNATIONAL TERRORISM

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. SARASIN. Mr. Speaker, I would like to address my remarks to the problem of international terrorism. As you know, the incidence of international terrorism has become more frequent over the past 5 years than ever before. Moreover, not only are more terrorist attacks occurring, but these acts of violence have taken on new and fanatical proportions. While terrorism formerly abided by certain unwritten rules, today's terrorist activities have grown in severity beyond our most pessimistic fears, with the exception, so far, of nuclear blackmail.

These events have taken on many forms in recent years. We have witnessed airplane hijackings, bombings, kidnapings, and assassinations. Fortunately, due to the decrease in the number of countries willing to grant sanctuary to hijackers, and due to the strengthening of security measures and safeguards at airports and on airplanes, the incidence of aircraft hijacking has been on the decline. However, the recent events at Entebbe Airport in Uganda make clear to all of us that aircraft hijacking has by no means been eliminated.

Concerning this particular terrorist action, on the very day of our Bicentennial July 4 celebration, an Israeli commando unit heroically rescued the remaining 103 hostages on board the Air France jetliner which had been hijacked by six armed pro-Palestinian terrorists. I think I am expressing the sentiment of the majority of the Members of Congress by congratulating the Israelis and commending them for their brave and surgically executed mission. Accordingly, I urge the Members of the House to rapidly adopt House Resolution 1407, which I cosponsored, which commends Israel for its rescue mission, and expresses the sense of the House that the President should reevaluate current policies and programs in order to strengthen our stand against international terrorists and countries affording aid and support to terrorist groups.

Hijacking, however, is only one type of terrorist action. We must also address our efforts toward the reduction, if not elimination, of bombings, kidnapings, and assassinations. In this regard, I would like to mention two items of particular interest. First, Congress has taken it upon itself to do something about terrorism. This year, Congress included in the International Security Assistance and Arms Export Control Act of 1976 provisions regarding international terrorism. Specifically, the President is directed to prohibit foreign assistance to any country which by its actions directly or indirectly harbors or fosters the actions of international terrorists. This is a significant step in the right direction, and I applaud the Members of Congress for their concern and action in this matter.

The second item regards a new invention, publicized in the Washington Post this past weekend. This invention, "the Sniff" machine, developed by Dr. Russell Dietz of the Brookhaven National Laboratory, can detect one part of vapor from explosives in 1 billion parts of air, and newer production models will detect a few parts in 10 trillion parts of air. This invention, and its companion, "the tag," which leads investigators swiftly to the source of the explosive if a bomb does go off, would react to a new ingredient—which would be required in the production of dynamite, and which gives off a vapor—in much the same way as a Geiger counter reacts to radiation. I congratulate Dr. Dietz for his inventions and am confident that this will significantly assist law enforcement officials throughout the world in their constant battle against terrorists.

I am encouraged by these new developments in our fight against international terrorism. I am hopeful, too, that these developments will help reduce the number of incidents of kidnapings, bombings, and assassinations. The tragic events of the last 7 years—two Turkish ambassadors killed within 3 days, three U.S. ambassadors killed since 1969, dozens of U.S. envoys, consuls, and attachés murdered during that time, Olympic athletes helplessly massacred, children exterminated during terrorist raids, a premier of Spain tragically assassinated, and hundreds more killed by bombs at LaGuardia Airport, in Northern Ireland and Great Britain, on a train in Italy, on a flight from Tel Aviv, and elsewhere.

Mr. Speaker, I hope to bring to light the spiraling rise in international terrorism itself. Hundreds of persons have been senselessly murdered, hundreds more injured, and still thousands more have suffered while they have been forced to idly sit by and watch their relatives being killed. The deplorable bombings beneath the limousine of the British Ambassador to Ireland, Mr. Christopher Ewart-Biggs, is only the most recent incident of a long list of tragic events. They all should be condemned, and we should conscientiously direct our efforts toward the elimination of these brutal attacks of international terrorism.

Finally, I would like to extend my personal sympathies and regrets to the family of Mr. Ewart-Biggs, and to all those who have suffered the injustices of international terrorism.

PRESIDENT OF VENEZUELA OFFERS UNITED STATES ADVICE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. SIMON. Mr. Speaker, one of the strong friends of the United States has been the Republic of Venezuela. Recently, the Washington Post and the New York Times published a full page ad of a speech which the President of the Republic of Venezuela, Carlos Andres Perez, made at the National Patheon in Caracas, Venezuela, on June 22, 1976.

It is the advice of one friend to another and it is advice we would do well to heed.

I am attaching a portion of his speech. I hope some of my colleagues will read it with care:

PRESIDENT OF VENEZUELA OFFERS UNITED STATES ADVICE

Today Latin America commemorates the 150th anniversary of the Amphictyonic Congress of Panama. To celebrate the occasion we are gathered here today before the National Pantheon where the ashes of Simón Bolivar rest.

In this square before the Pantheon, Venezuela stands before Latin America with fraternal words to emphasize its aims of Latin American brotherhood, on this date, one of the most significant in our continental history. We want to reaffirm the unquestionable identification of the people who constitute the Latin American community.

In this square before the National Pantheon, we come to reiterate our irrevocable will to achieve integration and to express our faith in the ideals that inspired the calling of the Congress which met in Panama on a day like today, June 22, 1826, 150 years ago.

From the heart of Venezuela to the heart of the Latin American people goes a message of solidarity on this great day for the continent. We call upon the memory of our Liberating Forefathers, who achieved the unity of our peoples, to make possible the feats of independence and liberty, joining as brothers, to hand down to us the unfulfilled historic mandate of Latin American unity.

Bolivar and all of our Liberators, from Mexico to Argentina, envisioned union for peace. For them peace was not merely the absence of war. Peace meant creative activity, the possibility to achieve through human effort the happiness of mankind, the coexistence of the peoples of the world on the bases of international justice, equality and mutual respect.

International justice is one of the names for peace. It implies the just balance of distribution of present riches and productive potential of future riches; but it also implies the struggle against the last vestiges of colonialism which are still, in Latin America, motives of anguish and shame.

This peace which we proclaim rejects all types of subservience, be it the maintenance of alien lands in Latin America, Asiatic or African nations, the intellectual who prevents the free circulation of technology the tariff that denies just treatment of prices of raw materials of our countries, or the financier who manipulates the monetary resources of the world, credit or aid, or subject them to vetoes. This peace that we call for today, 150 years after the Amphictyonic Congress of Panama, is peace for work, with no artificial or unjust divisions in relationships, based on a new international economic order.

REMOVED SOVEREIGNTY

I want to take advantage of this occasion and this movement to recall that within a scant 12 days an event of exceptional importance for the Hemisphere will take place, the Bicentennial of the Independence of the United States of America. That great country was the first to free itself of the yoke of colonialism and to build a powerful, sovereign state. To its people and its Government we send our words of solidarity. July 4 will be a day of jubilation for all Venezuelans who will share their joy with the Americans who live among us, in our own land.

To be coherent and faithful to the frankness with which we speak to our own people and the world, we must say here that the great day of Independence for the 200 year old America will only be marred by a fact which is dissonant with the best tradition of the United States. I am referring to the colonial enclave of the Panama Canal Zone.

Panama, the Panama of the Amphictyonic Congress, 150 years after that glorious date, is divided, its sovereignty is removed. And it is in a cordial spirit that we raise our voice in the name of Venezuela and are sure that it is the voice of all the peoples of Latin America, to say to the Great Nation of the North that the best homage to Washington and to the thousands of anonymous heroes of the U.S. Independence, would be to proclaim to an admiring world, that the United States is restoring to Latin America, that they are returning to their legitimate owners, that portion of Panamanian territory.

Several conferences and assemblies of Hemisphere countries have proclaimed that the question of the Panama Canal is of common interest for America. So said our Foreign Ministers in Bogotá, Tlatelolco and Washington; so it was reiterated in March, 1975, by Presidents and Heads of State of all the Latin American nations, in response to the initiative we took, the Head of the Government of Panama and the Presidents of Colombia, Cost Rica and Venezuela at the Meeting of Panama on March 24, 1975.

A DECISION WHICH WILL HONOR THE UNITED STATES

There can be no excuse for any further delay in adopting this decision, which will honor the United States and contribute, on the occasion of its Bicentennial, to the opening of new perspectives for understanding among our countries. This would constitute a majestic reencounter of the historic figures who founded the American Union and those who breathed life into the Republics of Latin America, inspired as they were by the same thought, open struggle against colonialism. We hope that this will be a prompt achievement, which will contribute to strengthen relations threatened by confrontations which we the Latin American peoples in no way desire or propitiate; on the contrary, we desire an image of the United States, fortified in Latin America by a gesture that will reaffirm the authentic truth of its democracy and its ethical position in the world. We made this position known to President Ford in a confidential letter dated in Panama on that same day, March 24, 1975.

A SPEECH FOR THE PUBLIC RECORD

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. RANGEL. Mr. Speaker, I would like to submit for public record, the keynote address of our colleague, the Honorable BARBARA JORDAN, which was so warmly received at the Democratic National Convention last Monday in Madison Square Garden.

Congresswoman JORDAN is to be commended for the sweeping message which she so eloquently imparted to those of us gathered in Madison Square Garden to unify our party and select our next Democratic Presidential nominee, the Honorable Jimmy Carter. Her speech was most appropriate for the event as it addressed not only those concerns which we as members of the Democratic Party share, but the concerns that most Americans have addressed themselves as a necessary result of the alienation, economic distress, and divisiveness which this country has suffered over the last decade. Congresswoman JORDAN's admirable oratorical style combined with her unique ability to capture her audience with words which truly have substantive meaning complement her genius as an excellent lawyer and politician. She has certainly contributed to the unity that we all enjoyed last week.

Mr. Speaker, we are truly indebted to her as a spokesperson for our party for she succeeds in communicating to so many across a broad spectrum the principles in which we all believe. Herewith, I submit the text of Congresswoman JORDAN's speech:

TEXT OF BARBARA JORDAN'S KEYNOTE SPEECH

(The following is the text of Representative Barbara Jordan's stirring keynote address, delivered at the Democratic National Convention in Madison Square Garden Monday night:)

One hundred and forty-four years ago, members of the Democratic Party met for the first time in convention to select their Presidential candidate. Since that time, Democrats have continued to convene once every four years to draft a party platform and nominate a presidential candidate. Our meeting this week continues that tradition.

There is something different and special about this opening night. I am a keynote speaker.

In the intervening years since 1832, it would have been most unusual for any national policy party, to have asked a Barbara Jordan to make a keynote address . . . most unusual.

The past, notwithstanding, a Barbara Jordan, is before you tonight. This is one additional bit of evidence that the American Dream need not forever be deferred.

Now that I have this distinction, what should I say?

I could easily spend this time praising the accomplishments of this party and attacking the record of the Republicans.

I do not choose to do that.

I could list the many problems which cause people to feel cynical, frustrated, and angry: problems which include the lack of integrity in government; the feeling that the individual no longer counts; the realities of material and spiritual poverty; the feeling that the grand American experiment is failing . . . or has failed. Having described these and other problems, I could sit down without offering any solutions.

I do not choose to do that either.

The citizens of America expect more. They deserve and want more than a recital of problems.

We are a people in a quandary about the present and in search of our future.

We are a people in search of a national community.

It is a search that is unending for we are not only trying to solve the problems of the moment—inflation, unemployment—but on a larger scale, we are attempting to fulfill the promise of America. We are attempting to fulfill our national purpose; to create and sustain a society in which all of us are equal.

Throughout our history, when the people have looked for new ways to uphold the principles upon which this nation rests, they have turned to the political parties. Often they have turned to the Democratic Party.

What is it about the Democratic Party that has made it the instrument through which the people have acted to shape their future?

THE ANSWER

The answer is our concept of governing which is derived from our view of people. It is a concept rooted in a set of beliefs that are firmly etched in our national consciousness.

What are these beliefs?

First, we believe in, equality for all (and) privileges for none. It is a belief that each American, regardless of background, has equal standing in the public forum. Because we believe in his idea, we are an inclusive rather than an exclusive party.

I think it no accident that most of those emigrating to America during the 19th century identified with the Democratic Party. We are a heterogeneous party, made up of Americans with diverse backgrounds.

We believe that the people are the source of governmental power; that the authority of the people is to be extended rather than restricted. This can be accomplished only by providing each citizen with every opportunity to participate in the management of the government.

We believe that the government which represents the authority of all the people, not just one interest group, but all the people, has an obligation to actively seek to remove those obstacles that block individual achievement . . . obstacles emanating from race, sex, and economic condition.

We are the party of innovation. We do not reject our traditions, but are willing to adapt to changing circumstances. We are willing to suffer the discomfort of change in order to achieve a better future.

We have a positive vision of the future founded on our belief that the gap between the reality and the promise of America can be closed.

This is the bedrock of our concept of governing—the reasons why Americans have turned to the Democratic Party. These are the foundations upon which a national community can be built.

Let all understand that these guiding principles cannot be discharged for short term political gain for they are indigenous to the American idea. They represent what this country is all about. They are not negotiable.

In other times, this exposition of our beliefs would have been sufficient reason for the majority to vote for the nominees of the Democratic Party. Such is not the case today. We have made mistakes. We admit them. In our haste to do all things for all people, we did not forsee the full consequences of our actions. And when the people raised their voices in protest, we did not listen. Our deafness was only a temporary condition and not an irreversible one.

Yet, even as I admit that we have made mistakes, I still believe that as the American people sit in judgment on each party, they will realize that ours were mistakes of the heart.

THE FUTURE

Now, we must look to the future. Let us heed the voice of the people and recognize their common sense. If we do not, we not only blaspheme our political heritage, we also ignore the common ties that bind Americans.

Many fear the future's uncertainty, are distrustful of their leaders, and believe that their voices are not heard. Many seek only to satisfy their private dreams. They ignore the common interest—the common good.

This is the great danger that America faces, that we will cease to be one nation and become instead a collection of interest groups, each seeking to fulfill private dreams. Each seeking to satisfy private wants.

If this occurs, who then will speak for America?

Who will speak for the common good?

This is the question to be answered in 1976.

Are we to be one people bound together by a common spirit, sharing in a common endeavor or will we become a divided nation: region vs. region; city vs. suburb; interest group against interest group and neighbor against neighbor?

For all of its uncertainty, we cannot flee from the future. We cannot become the new puritans and reject our society. We must address and master the future together.

It can be done if we restore the belief that we share a common national endeavor, if we restore our sense of national community.

No Executive Order can require us to form this national community. No federal law can require us to uphold the common good. This we must do as individuals. It will thus be veto-proof.

As a first step, we must restore our belief in ourselves. We are a generous people. Let us be generous with each other and take to heart the words spoken by Thomas Jefferson: "Let us restore to social intercourse that harmony and affection without which liberty and even life are but dreary things."

A nation is formed by the willingness of each of us to share in the responsibility for upholding the common good.

A government is invigorated when each of us is willing to participate in the shaping of its future.

In this election year when we must define the common good and begin again to shape our common future, let each person do his or her part. If one citizen is unwilling to participate, we all suffer. For the American idea, though shared by all, is realized in each one of us.

MUST SET EXAMPLE

Those of us who are public servants must set the example. It is hypocritical for us to exhort the people to fulfill their duty to the Republic, if we are derelict in ours. More is required of us than slogans, handshakes, and press releases. We must hold ourselves strictly accountable.

If we promise, we must deliver. If we propose, we must produce. If we ask for sacrifice, we must be the first to give. If we make mistakes, we must be willing to admit them.

We must provide the people with a vision of the future that is attainable. We must strike a balance between the idea that the government can do everything and the belief that the government should do nothing.

Let there be no illusions about the difficulty of forming this national community. A spirit of harmony can only survive if each of us remembers when bitterness and self-interest seem to prevail, that we share a common destiny.

I have confidence that we can form a national community.

I have confidence that the Democratic Party can lead the way. We cannot improve on the system of government handed down to us by the founders of the Republic, but we can find new ways to implement that system and to realize our destiny.

At the beginning of my remarks, I commented about the uniqueness of a Barbara Jordan speaking to you on this night. I shall conclude by quoting a Republican President and asking you to relate the words of Abraham Lincoln to the concept of a national community in which every last one of us participates: "As I would not be a slave, so I would not be a master. This expresses my idea of Democracy. Whatever differs from this, to the extent of the difference is no Democracy."

RETIREMENT OF HON. CARL ALBERT, SPEAKER OF THE HOUSE OF REPRESENTATIVES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. BIAGGI. Mr. Speaker, I rise to pay tribute to our most distinguished Speaker, the Honorable CARL ALBERT, whose announced retirement is viewed with great sadness by all the Members of the House. His retirement marks the end of one of the most outstanding careers in service to the American people.

CARL BERT ALBERT was elected to Congress in 1947 from the third district in Oklahoma. Almost two-thirds of his entire House tenure has been spent in leadership positions. A short 9 years after he was first elected, he was selected to be the majority whip. He served in that capacity for 6 years until he became the majority leader in 1962. CARL ALBERT reached the pinnacle of his political career in 1971 when he was named Speaker of the House. Despite his lofty achievements, the Congressman from Oklahoma never neglected his constituents, who received outstanding service from their elected representative.

Little did the Speaker realize that he would be serving the House during one of the most tumultuous periods in our Nations' history. During this period we saw both a President and a Vice President fall from power in disgrace. At the same time we found this Nation plunged into one of the gravest constitutional crises it every faced. The pressures put on Speaker ALBERT were tremendous. As Speaker he made certain that the House of Representatives fulfilled their constitutional duty of impeachment with fairness but thoroughness. The constitutional machinery was found to work smoothly due largely to the leadership of the Speaker. On two separate occasions he was placed in the position of being first in the line of succession to the Presidency. Despite much personal and political pressure, Speaker CARL ALBERT emerged as an evenhanded leader of high integrity.

Certainly, in this Nation's dark impeachment hours, Speaker CARL ALBERT's expert and impartial leadership shown clear. He worked very closely with the House Judiciary Committee to insure the hearings were being conducted fairly and thoroughly. He had the full House of Representatives prepared for an impeachment vote, if it was proven necessary.

Most importantly, CARL ALBERT as a leader in Washington was not tainted by Watergate. While shadows of doubt were cast on many high officials, the Speaker's honor was free and clear. Confidence in the entire Congress, the people's branch, was restored through his personal character and leadership during that difficult period.

CARL ALBERT, as a legislative leader can look back with great pride at his record as Speaker. He aided in the development and the successful execution of major programs initiated by the Democrats to aid in economic recovery. He lent his leadership and support to many outstanding laws which emerged from Congress in the 1970's. The legislation that passed through Congress during his tenure is a credit to both the man and the office he holds.

A man of humble origins, he has received honors and degrees from colleges, States, and nations. But the honor and distinction that is most lasting is the affection and respect that is felt in the hearts and minds of all his colleagues in Congress as well as the American people as a whole.

It has been my personal pleasure and high honor to serve in Congress during Mr. ALBERT's speakership. I have valued both his friendship and his sage advice. He will be remembered by all of the Members of the House as a dear friend, a great man, and a true statesman.

I regret Speaker ALBERT's decision to retire. He will be a hard man to replace; his standards were high and his dedication to Congress and the Nation were unquestioned. I extend to him my warmest and best regards and wish him a happy and healthy retirement. He will assuredly be missed.

STATEMENT OF NAPRE TO REPUBLICAN NATIONAL PLATFORM COMMITTEE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. DERWINSKI. Mr. Speaker, Dr. Francis J. Brown, a long-time personal friend and distinguished professor of economics at DePaul University, is chairman of the National Association for Personal Rights in Education. I insert in the RECORD the statement which he made on behalf of the NAPRE before the Republican National Platform Committee.

The points are directed at certain Supreme Court decisions and the judicial philosophy of some of the Justices. I recognize that there are many problems which we face in the legislative branch that are the direct result of Supreme Court decisions that are distinctly contrary to grassroots public opinion.

NAPRE TO THE REPUBLICAN NATIONAL PLATFORM COMMITTEE, JUNE 22, 1976

(Statement of Dr. Francis J. (Frank) Brown, professor of economics, DePaul University, and Chairman, National Association for Personal Rights in Education (NAPRE) on behalf of NAPRE to the Republican Temporary Committee on Resolutions (Platform Committee) at the Statler-Hilton Hotel, Washington, D.C., June 22, 1976. Immediate release.).

As an organization dedicated to the education rights of parents and students, the National Association for Personal Rights in Education (NAPRE) respectfully asks the Republican Temporary Committee on Resolutions (Platform) to call for the creation of a high-level committee to reexamine the current judicial doctrine that now denies a share of the education tax dollar to those individuals who through mind and conscience prefer church-related elementary and secondary schools. We hold that this doctrine is doing grave damage to the personal constitutional and civil rights to academic freedom and religious liberty in education of millions of taxpaying parents and students.

The primary architects of this doctrine were Justices Black and Rutledge, but they had many helpers, including Justices Douglas, Jackson, Frankfurter and those current justices whose decision in Meek v. Pittenger (1975) were rebuked for its intolerance by Chief Justice Burger in his dissent. Black's first move was his attempt in the Everson case (1947) to give a definitive interpretation of the Establishment Clause of the First Amendment; Rutledge's was his dissent in the same case in which he argued against a New Jersey transportation reimbursement program for children in Catholic schools. Their main tool was their misapplication to the state system of public education of Thomas Jefferson's Bill for Establishing Religious Freedom and James Madison's Memorial and Remonstrance.

Jefferson wrote his Bill, which was introduced into the Virginia General Assembly in 1779 and enacted with some amendment in 1786, to outlaw monopolistic tax support for any one church or any one religion. Madison wrote his Memorial in 1785 as part of a successful struggle to defeat in that year the efforts of the Episcopalian church to regain tax support for its ministers and churches. Not having sufficient political power to restore the tax monopoly which it had enjoyed in the pre-Revolutionary War period, the Episcopalian church had organized a coalition of Christian sects behind an Assessment Bill (1784) whose prime purpose was exclusive tax support for Christianity, with taxpayers being given the option of assigning their assessments to the religious society of their choice and with each such society, with two exceptions, authorized to make "a provision for a Minister or Teacher of the Gospel of their denomination, or the providing places of divine worship, and to none other use whatsoever." This bill would have given the Quakers and Mennonites the right to dispose of their allotments "in a manner which they shall think best calculated to promote their particular mode of worship." It also contained an escape clause appropriating for the "encouragement of seminaries of learning" the money not assigned by taxpayers.

Jefferson's Bill and Madison's Memorial were classic attacks on monopolistic tax support or establishment of one church or one religion and were in no way written in reference to public education. But yet Black, Rutledge and others not only applied them to schooling but also interpreted them to justify the denial of a share of the education tax dollar to those parents and students who choose church-related schooling. By extending these distortions into the First Amendment, these judges twisted this noble charter into an instrument to suppress religious freedom in education.

This Black-Rutledge doctrine was expanded by wrenching meanings out of context. Thus, while Jefferson used the expression—"That to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical"—to protect dissenters from taxation for the support of a state church, Black abused this expression to refuse to dissenters to the state school a share of even their own taxation for schooling in accord with their conscience.

Rutledge asserted that the Assessment Bill was "nothing more or less than a taxing measure for the support of religion. . . ." and thus provided himself with ammunition to assail tax aid for transportation of children in Catholic schools; but the Assessment Bill was actually a taxing measure for the exclusive support of Christianity and Madison's attack on it does not justify using religion as a touchstone to decide which child should and which child should not receive tax aid for transportation or for education benefits in general. In our opinion never was a more rigid and erroneous doctrine developed on such outrageous mishandling of documents.

We contend that the Black-Rutledge doctrine is rooted not in the views of Jefferson, Madison, and the Constitution, but rather in the arguments advanced by the dominant sects of the mid-19th century in establishing a state public school system, a move influenced by many factors not the least of which, as demonstrated by Professor Jorgenson of the U. of Missouri and others, was Know-Nothingism, an intolerant Nativitist movement that imposed on the American people a novel religious educational test whereby only those who would assent to the presumably nonsectarian arrangement within the new state school would receive the benefits of the education tax, even their own. Unfortunately many justices have brought to the court an unquestioning acceptance of the unwarranted claims of the public school. They accept this school as genuinely public, but, since all schooling is public in teaching academic subjects and private in imparting educational philosophies, there can no more be one public school than one public church. They accept this school as a secular institution, but there is no schooling that is not entangled pro or con with the ultimate commitments or religions of taxpayers. They accept this school as neutral and nonideological, but there is no neutral and nonideological schooling, a fact well-known to those who understand the schooling process. They accept the school as nonsectarian, but, in the division of a common tax, nonsectarianism has no more claim on the tax dollar than competing values.

In recent years numerous executive and legislative branches have commenced programs to rectify the now over-a-century-old injustices in this matter through extending tax aid sometimes to church-related schools, sometimes to parents and students. But, even though the court has allowed such benefits as bus rides and textbooks, the public school justices have been knocking down other legislative efforts one by one and with a severity of judgment that Chief Justice Burger condemned as crabbed in the Meek v. Pittenger (1975) case. These justices write solemnly as though upholding some presumably cherished traditions of the Founding Fathers, but they have not only built their doctrine on distortions of documents of these fathers but have also invented such a unique casuistry around such neutralizing catchwords as "secular legislative purpose," "primary effect that neither enhances nor inhibits religion," and "excessive government entanglement with religion" that governors and lawmakers are at a loss as to how at long last extend educational opportunity to all children with due respect for conscience. Indeed the Supreme Court is not only out of step with the valid legislative wishes of the people but has also become a last haven for Know-Nothingism.

Apparently upset at this activity, the justices have now developed the incredible theory that, since this new type of legislation can lead to political fragmentation and division along religious lines, it comes under the ban of the Establishment Clause. What a mockery of the First Amendment thus to further twist it to block dissenters from seeking legislative redress for long-endured grievances. But here again the judges misinterpret, for the religious controversies of the past were most intense mainly when one or other group attempted to obtain or retain a tax monopoly or establishment. Actually, in the democracies of the West, with France a recent example as shown by Professor Robert Healey in his book The French Achievement (1974), controversies over the education question have receded as tax aid has been extended to all taxpaying parents and students with respect for academic freedom and religious conviction.

Fortunately not all the justices have assented to the heavy-handed Black-Rutledge doctrine, with, for example, three members of the current court, Chief Justice Burger and Justices White and Rehnquist strongly dissenting in recent cases. Thus Burger said in his dissent in Meek v. Pittenger (1975) "To hold, as the Court now does, that the Constitution permits the States to give special assistance to some of its children whose handicaps prevent their deriving the benefit normally anticipated from the education required to become a productive member of society and, at the same time, to deny these benefits to other children only because they attend a Lutheran, Catholic or other church-sponsored school does not simply tilt the Constitution against religion; it literally turns the Religion Clause on its head."

As advocates of parental and students grants and vouchers, we agree with Justice Burger that aid to religious institutions generally stands on a different footing from government aid to individuals. Thus we were not distressed with Lemon v. Kurtzman (1971), which rejected a Pennsylvania law authorizing the state to contract with church schools for the purchase of secular educational services on behalf of their students and thus by-passing parents, but we were grievously saddened by Nyquist (1973) and Sloan v. Lemon (1973), which struck down New York and Pennsylvania laws for reimbursing parents for tuition paid to church-related and other schools. In our opinion Nyquist and Sloan v. Lemon should no more be "firmly emplanted" (to use a phrase of Justice Powell) in the area of education than were the Dred Scott and Plessy v. Ferguson (separate-but-equal) decisions in the field of race relations.

Our opening request was that the Republican Party would recommend a high-level committee to reexamine the Black-Rutledge doctrine, which is perhaps the main obstacle to aid for children in nonpublic education, but our interests extend much more broadly in the matter of educational freedom for taxpaying parents and students.

We therefore respectfully ask that the Republican Party include in its 1976 Platform the following planks.

1. The primary right of education belongs not to the state or to the federal government but to parents.

2. The personal constitutional and civil rights to academic freedom and religious liberty in education of taxpaying parents and students should not be diminished or destroyed by reason of the standing in the courts of any church or religion or school.

3. Those taxpaying parents and citizens who dissent from state schooling should receive an equitable share of the education tax dollar in the form of personal grants or vouchers to assist them to select schools of their choice.

4. A high-level commission should be set up to review the uses to which some justices on the U.S. Supreme Court have put the documents of Thomas Jefferson and James Madison in developing the Black-Rutledge doctrine, which has been so detrimental to the personal constitutional and civil rights of parents and children in education.

BEST WISHES, CROCKER SNOW

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. O'NEILL. Mr. Speaker, few men have contributed more to the development of civil and military aviation in this country than has Crocker Snow, director of aeronautics for the Commonwealth of Massachusetts.

Mr. Snow is retiring this year after a distinguished half century of achievement and dedicated service to the State of Massachusetts and to the Nation at large.

Boston, and indeed the entire Commonwealth, is very proud of its native son, Crocker Snow, and I want to especially thank him for the high marks of excellence in which he performed his duties and for the superior personal qualities of integrity, diligence, and resourcefulness that he brought to the position of leadership in the civil and military aviation of this country.

I wish him well in his retirement and would like to share with my colleagues a brief record of his service as follows:

CROCKER SNOW

Crocker Snow, Director of Aeronautics for the Commonwealth of Massachusetts, has been actively engaged in civil and military flying since he graduated from Harvard in 1926. Born in Boston, he helped to re-create the Harvard Flying Club, first established in 1910, and gained his first flying experience with the Club, with his older brother, who had flown with the Royal Flying Corps in the first war, and with the Massachusetts Air National Guard.

After college, he became president of Skyways, Inc., one of New England's first and largest fixed base operations, with headquarters at the Boston Airport, and airports of its own from Cape Code to Portland, Maine. The company sold its assets, in the late 30s, to E. W. Wiggins Airways, Inc.

In 1939, after writing the first comprehensive aeronautical law for Massachusetts, he became Director of the newly created Massachusetts Aeronautics Commission, and in 1940 a member of Governor Saltonstall's three man war-inspired industrial preparedness committee.

In 1941, he was called to active duty at the request of General Bob Olds who had been given the task of getting lend-lease airplanes to England. His first job, as commanding officer of the North Atlantic Sector of Olds' Air Corps Ferrying Command, was to represent the United States Army Air Force in construction of airports at Presque Isle, Maine, Goose Bay, Labrador, and Bluie West One Greenland. During this tour of duty, he proposed and tested the unescorted delivery of fighter aircraft across the Atlantic.

Subsequently, he represented what had become the Air Transport Command in a tactical and logistical survey of a possible air operation against Japan via the Vladivostok Peninsula.

After leaving the Air Transport Command, he was placed in command of a B-17 bombardment group which he trained and delivered to the United Kingdom in the summer of 1943. On his return he was assigned to B-29s and given the 498th Bombardment Group to organize. He flew the second B-29 to land in the Mariannas and in November of 1944 led the 498th in the first B-29 raid against Tokyo. When the war ended, he was a command pilot, assistant chief of staff A-2 to General Rosie O'Donnell, whose 73rd Bomb Wing, the first B-29 unit in the Pacific, had continued to operate against the Japanese Empire from Isely Field, Saipan. In this last position he had the job of letting the Japanese people know, by leaflets dropped from the air, the story of Hiroshima and what was yet to come.

Returning to his previous job after the war, he became from time to time president of the National Association of State Aviation Officials, chairman of the Conference of National Aviation Organizations, consultant to the Airways Modernization Board and the Federal Aviation Administration, a member of the Harvard College Visiting Committee for the Department of Military, Naval, and Air Sciences, U.S. delegate to the International Bureau for General Aviation of the Federation Aeronautique Internationale, a director of the National Aeronautic Association, president of the Harvard Aviation Foundation, chairman of the New England Council Air Transportation Committee, a consultant to Transportation Secretary Volpe, and chairman of the President's Aviation Advisory Commission, which was created by the Airport and Airway Development Act of 1970. He presently is chairman of the New England Conference of State Aviation Officials and a director of the National Pilots Association.

He is married to the former Janice Vaughan, has 3 children, several grandchildren, and numerous quadrupeds, lives in Ipswich, and commutes to work in his eighth successive personal airplane—a Navion. His current pastimes are experimental category II landings, polo and skiing.

FOREIGN AID

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. McCLOSKEY. Mr. Speaker, each year we authorize funds under the amended Foreign Assistance Act, and each year we appropriate funds for the Agency for International Development to carry out the purposes of this act. Some of this money is well spent; some may have been spent foolishly. Our best means of appraising AID's work is perhaps on specific case studies, one of which recently came to my attention when a constituent, Larry Collins of Los Altos, Calif., stopped by my office to report on his work in Thailand under the auspices of an AID-financed organization, Volunteer Development Corps. His report interested me, and I think it worthy of our attention.

The following facts seem somewhat remarkable.

First, a private organization in Thailand asked a private U.S. organization, Volunteer Development Corps, for help.

Second, a private citizen volunteered the help.

Third, the requested aid will contribute to the economic development of the private sector in Thailand.

Fourth, through AID, this Government provided some of the funds necessary—altogether about $9,000—to get Mr. Collins to and from Bangkok and keep him there 131 days.

The Cooperative League of Thailand is a national federation of all types of cooperatives in that country. Essentially it includes the 620 agricultural credit cooperatives with 332,000 members and $23.7 million in working capital, 142 thrift and credit cooperatives with 267,000 members and $46 million in working capital, and the 99 consumer cooperatives with 132,000 members and $33.3 million in working capital. It also includes a few fishermen's cooperatives, a few farmers' marketing cooperatives, and a few credit unions.

Last October the Cooperative League of Thailand asked VDC for help in establishing an insurance co-op. VDC is a private, nonprofit organization that U.S. cooperatives chartered in 1970. U.S. co-ops provide its basic financing, and AID provides most of its funds under a grant agreement. VDC's purpose is to transfer the 150 years' experience of U.S. cooperatives overseas, to have this experience on tap. Everyone who understands the success of U.S. credit unions, U.S. rural electric cooperatives, or U.S. farmers' marketing and purchasing co-ops knows their experience can contribute mightily to overseas development.

As the House will recall, section III of Public Law 93-189, the 1973 amendments to the Foreign Assistance Act, provides that:

> In order to strengthen the participation of urban and rural poor in their country's development, not less than $20 million of the funds made available for the purposes of this chapter shall be available during the fiscal years 1974 and 1975 only for assistance in the development of cooperatives in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life.

Volunteer Development Corps asked Mr. Collins to volunteer his services to help the Cooperative League of Thailand establish this insurance co-op. He was an ideal choice. Before he retired 2 years ago, Mr. Collins served as west coast manager of the largest insurance co-op in the United States, Mutual Service Insurance Co.'s of St. Paul, Minn. He served 16 years in this capacity, 1958-74, and for 9 years, 1949-58, as manager of Co-op Insurance Services of Berkeley, Berkeley, Calif. Since his graduation from the University of California in 1937—except for 3 years as Red Cross field officer with the 442d Regimental Combat Team in Italy—he has involved himself in cooperative development here in the United States. VDC felt he was especially qualified to handle this request for technical help.

After arriving in Thailand, Mr. Collins analyzed the situation and recommended that the Cooperative League of Thailand organize an insurance cooperative and that Thai cooperatives own it, control it, and provide its basic equity financing. Further, he recommended the insurance co-op first offer group plan repayment insurance and group life savings insurance—the kind of insurance that U.S. credit unions provide their members. The idea that "the debt dies with the debtor" is as valid and as necessary in Thailand as in the United States, Mr. Collins felt, and he suggested the new insurance co-op offer this type of insurance first. No other firm in Thailand is doing so today. As Mr. Collins points out in his 48-page report to the Cooperative League of Thailand, such insurance will make it easier for farmers to borrow, expand agricultural credit and thus agricultural production, stimulate savings, improve family money management, and create a pool of much needed capital for efficient distribution of farm inputs and marketing farm products.

Mr. Collins met with co-op leaders and government officials throughout Thailand, and he feels they will carry his proposal into action. One reason he is confident, he says, is that the Cooperative League of Thailand asked U.S. cooperatives for this help and committed some of its own resources. It provided Mr. Collins an interpreter, all in-country travel necessary to his work, a place to work, and secretarial help. It also granted VDC $500 so this unique U.S. organization can handle more such requests for U.S. cooperatives' help.

It seems to me, Mr. Speaker, this is the kind of foreign assistance the Congress should emphasize in its annual authorization and appropriation process. Down through history the Congress has responded generously to victims of disaster. Yet we embarked only in 1949 on overseas development assistance. Then President Truman, in point IV of his inaugural address, offered to share American technical know-how with the rest of the world, and the Congress responded. Such technical assistance probably still should be the focus of U.S. foreign aid.

FATHER THEODORE HESBURGH RECEIVES DISTINGUISHED SERVICE AWARD OF THE COUNCIL FOR THE ADVANCEMENT AND SUPPORT OF EDUCATION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. BRADEMAS. Mr. Speaker, one of America's outstanding leaders is the Rev. Theodore M. Hesburgh, C.S.C., president of the University of Notre Dame, in the congressional district I have the honor to represent.

On July 15, 1976, Father Hesburgh was honored by the Council for the Advancement and Support of Education at its annual assembly with the presentation, by Alice Beeman, president of CASE, to Father Hesburgh of the CASE 1976 Distinguished Service Award.

Mr. Speaker, I ask unanimous consent to insert, at this point in the RECORD, the text of the citation that accompanied this award to Father Hesburgh:

DISTINGUISHED SERVICE AWARD

It is the rare public figure whose reputation grows in stature after 25 years of unremitting exposure. And it is the exceptional university president who can manage the affairs of an institution in a steady march toward excellence during a quarter century of monumental change and upheaval. When both of those achievements belong at once to the same man, it is a cause for human celebration.

Father Theodore M. Hesburgh is in his 25th year as president of the University of Notre Dame. In that time, the University has become widely recognized as a place where, according to its president's own prescription, "all the great questions are asked, where an exciting conversation is continually in progress, where the mind constantly grows as the values and powers of intelligence and wisdom are cherished and exercised in full freedom." To witness a day in the life of Father Hesburgh—a day that lasts far into the night and that is given as readily to a student's concerns as it is to creative administrative decisions—is to take a quick course in management. It is, moreover, a glimpse of human greatness reflected in openness, civility, integrity, and caring.

All of these attributes have been brought to bear on national and world problems as Father Hesburgh has exercised leadership in the International Federation of Catholic Universities, the Institute of International Education, the International Atomic Energy Agency, the UN General Assembly, the U.S. Commission on Civil Rights, the Overseas Development Council, the Carnegie Foundation for the Advancement of Teaching, the Freedom Foundation, The Rockefeller Foundation, and the Chase Manhattan Bank. When our nation's presidents come up with tough assignments—as with civil rights, amnesty for draft dodgers, peaceful uses of atomic energy—Father Hesburgh is always high on their list for his penetrating mind, his sense of commitment and unquestioned humaneness.

Transcending all of these concerns, however, as Father Hesbrugh's love and practice of the priesthood. Social-political activist, yes. Staunch defender of academic freedom, certainly. But above all, a priest of the Holy Cross intent on his ministry and offering Mass every day, whether in a European cathedral, the Wisconsin woods, a hotel room, or an antarctic shelter.

The Council for Advancement and Support of Education is honored and pleased to present to Father Theodore Hesburgh its highest tribute, the Distinguished Service Award of 1976.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. LEHMAN. Mr. Speaker, due to unavoidable commitments in my district, I was forced to leave Washington before the House had completed its business for July 22. Had I been present, I would have recorded the following votes:

On roll No. 538, the motion to recommit H.R. 13777, the "Federal Land Policy and Management Act of 1976," I would have voted "nay."

On roll No. 539, final passage of H.R. 13777, I would have voted "nay."

TENSION OF AUTOMATIC INTERNAL REVENUE SERVICE AUDIT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. KEMP. Mr. Speaker, today I am introducing legislation which would require an automatic Internal Revenue Service audit of the tax returns of every Member of Congress, every year.

In my judgment, this simple requirement would be a very significant step in helping allay the public mistrust and cynicism which has been increasingly focused upon Members of Congress.

My legislation would not violate privacy by requiring public disclosure of any Member's tax return. It would, however, require that the Internal Revenue Service review the tax return under its standard audit procedure, and if the IRS review uncovered discrepancies, the Member of Congress would be required—like any other taxpayer—to make the appropriate adjustments.

It is well known that no more than 9 percent of the American people have "a great deal of confidence" in the Congress. The percentages have not always been this way—and the percentages do not have to remain this way.

There are currently pending before this Congress many proposals which would increase the accountability of the individual and collective Members of Congress for the use of funds necessary for carrying out congressional responsibilities—funds for office expenses, travel expenses, and the like. I am a sponsor or cosponsor of many of these proposals, and I believe, if enacted, these proposals will help to raise public confidence in the way Congress keeps house.

I strongly believe, however, that it is important to go beyond congressional in-house reform to improve congressional accountability to the American people. By anybody's index of integrity and justice, an outside agency is a more reliable enforcer of good conduct than any in-house committee or task force. I do not doubt the integrity or purpose of the House Committee on Official Standards. Nor do I question the good intentions of the new task force established by the recently passed House resolution. But the point remains that committees and task forces composed of Members of Congress are not, by their very nature, capable of resolving the deep-seated distrust that has surrounded the personal activities of some Members, and, by association, the entire legislative branch of government.

My bill to require an automatic IRS audit of Member's tax returns calls upon the independent assessment—beyond the reach of Congress—of an agency not associated with the legislative branch. I believe that most Americans would be reassured to know that the tax returns of their elected representatives in the Congress are subject to yearly review.

In the same vein of helping to improve congressional accountability by taking advantage of the services of an outside agency, I am pleased to join with my colleague BILL ARMSTRONG in recommending that the General Accounting Office—a nonpartisan, professional organization—review procedures of the House of Representatives related to funding for such purposes as Members' staff allowances, travel, and the various operating allowances of House committees. I will join Mr. ARMSTRONG in offering an amendment to the legislative branch appropriation bill for fiscal year 1977 to provide for this GAO review, and for recommendations from the Comptroller General to improve congressional accountability for these funds. This amendment merits the support of every Member of the House, and it is my hope that this will be the case.

MEALS ON WHEELS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. MILLER of California. Mr. Speaker, nearly 50 of our colleagues have cosponsored my bill to create a national meals-on-wheels program under the auspices of title VII of the Older Americans Act. This legislation, which would vastly expand the program which delivers nutritious meals to the homebound elderly, would help to decrease the unnecessary institutionalization of our senior citizens, reduce wasteful expenditures, and permit seniors to remain in their homes, close to their friends and families.

Many communities have been supporting local meals-on-wheels programs for some time, generally with highly successful results. My bill, by directing funds toward programs which are already in place, will rescue many good programs which, without Federal support, are in danger of expiring. It will also greatly expand the numbers of people who will receive these meals which cost only 10 percent of the price were the meal served in an institution or hospital.

I know many of my colleagues have such programs in their districts. For those who do not, I would like to share a letter I received from a constituent of mine which shows the tremendous effect such a program can have on the life of a senior citizen, and his or her entire family.

The letter follows:

JULY 12, 1976.

Hon. GEORGE MILLER,
House of Representatives Office Building,
Washington, D.C.

DEAR GEORGE: I am writing to assure you of my support, and that of many of our friends, for your proposed legislation to establish a federal "Meals on Wheels" program. Copies of this letter will be sent to the cosponsors in the House, as well as to Senator McGovern, Kennedy, and Percy in support of the Senate bill to initiate this program.

I feel very strongly about this matter! In principle, my concern for the elderly who are home-bound and without adequate assistance and/or means to insure a nutritionally balanced diet would be ample motivation for me to write you. A much more personal reason, however, makes this a matter of some urgency to me: several years ago, it was necessary to bring my elderly Mother here to Point Richmond as she could not receive adequate medical care in the small town in Nevada where she had lived. Being employed full time at Contra Costa College, it was impossible for me to manage a hot meal for her at lunch time. Many of our good friends and neighbors were willing to help out, but that still did not solve the problem. The local "Meals on Wheels" program came to our assistance—and I will be forever grateful! Not only did this mean that Mother's noontime meal was taken care of, but also, that someone was coming regularly by the house and could "check" to be sure that she was alright. (I think this is an extremely important aspect of the program; other senior citizens may not have immediate family or good friend/neighbors who can check on a regular, daily basis.)

The local "M. on W." program has had a bitter struggle to maintain itself, thanks to the devotion of the volunteers and a few generous citizens, it has managed to survive on a modest scale. This situation is probably common to many communities across the country.

Many thanks to you for carrying this legislation forward. Best personal regards to you.

Sincerely,

BARBARA A. OLESEN.

NATIONAL SEA GRANT PROGRAM

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. BOWEN. Mr. Speaker, shortly before the Fourth of July recess, I had the privilege of serving as acting chairman of the House Oceanography Subcommittee during the hearings conducted on the National Sea Grant program. Mr. Jay Thomas, who is director of the Mississippi Marine Resources Council, presented a thorough and comprehensive statement pertaining to this program.

Mr. Thomas has distinguished himself in many areas. Since 1974, he has served as executive director of the Mississippi Marine Resources Council—the agency responsible for developing the coastal zone management program and oceanography plan for the State of Mississippi.

He is a member of the advisory board of managers of the Mississippi Sea Grant Consortium, which is the management group for the sea grant program in the States of Mississippi and Alabama. In addition, he works closely with the five universities and various laboratories that carry out the Mississippi Sea Grant Program.

An interesting parallel was drawn during Mr. Thomas' testimony which I think is important to note here. When the sea grant program was set up in 1966, it was modeled after the land grant program created under the Morrill Act. The land grant program has been highly successful in our predominantly agricultural southern region in the areas of training young people for future careers, promoting the research and development needed to provide the agricultural technology for the future and providing the creative ideas necessary to meet our world food needs.

Our national sea grant program, although in its formative stages, can provide the same valuable technology and skills as our present land grant program. In a world of high food demand and escalating prices, energy crises, and tremendous population increases, we can readily see the limitless resources that food from the sea can provide. But first we must set up and fund training centers and programs to meet this tremendous challenge.

In Mississippi we are fortunate to have the Navy Oceanographic Laboratory in Bay St. Louis, which, along with our present and future Mississippi Sea Grant programs, will help provide the structure and groundwork needed to begin planning for the future. In order to supplement this structure we must have continued funding of national sea grant programs.

It is a pleasure for me to commend to the attention of my colleagues some excerpts from Mr. Thomas' testimony which I believe points up the need for continued long-range planning and financial support of our national sea grant programs.

TESTIMONY BEFORE THE OCEANOGRAPHY SUBCOMMITTEE OF THE HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE BY MR. JAY THOMAS

The "Great Expectations" for the Sea Grant Program are found in the very language of Public Law 89-688. The opening section, "The Declaration of Policy," calls for the development of marine resources in the national interest and compares the importance of aquaculture with agriculture. These statements made for heady reading to the academic community, coming as they did at a time when there was a growing awareness of the importance of the oceans to the nation. Reading on, the Law mandated "the development of Sea Grant colleges for education." The Law also mandated the development of research programs to support the development of marine resources. The Law further mandated the institution of an advisory services program to carry the results of research to the marine user group. Very importantly the Law held out the prospect of steadily increasing levels of funding to make it possible for the mandates to be implemented.

The Sea Grant Law was passed 106 years after the passage of the Morrill Act which created the land grant system. The land grant universities were in full flower and the productivity of American agriculture was respected worldwide. Now it was envisioned that we would have a wet land grant system and farm the oceans. It is no wonder that the academic community was excited and challenged by the prospects of participating in the implementation of the mandates in the Sea Grant Law.

Unfortunately there was no way in which these "Great Expectations" could be realized completely in the eight years that Sea Grant has been in being.

Before moving to "Views of Great Expectations," we should recognize two developments that have taken place since the implementation of the Sea Grant Program which have had an influence on the voices which are being heard at this time of review.

One of these developments was the passage of the Coastal Zone Management Act in 1972 with funding beginning in 1974. This unique piece of legislation charged the states with developing programs for assuring realistic development and adequate preservation of the state's marine resources. Most of the states are now about to begin the final year of their three year planning effort and are looking ahead to the implementation of the administration of the management program. This planning effort has demanded staff people with marine backgrounds, but more importantly it has identified a sparsely filled cupboard of decision making information that could be used when the state had to begin implementing its management program. The recognition of the need for this information is highlighted in the provision in the CZM amendments bill which is presently in the Congress (S.B. 586/H.R. 3981) which makes provision for ten million dollars per year to be divided equally between the national agency and the CZM states for research.

A less well appreciated development is the demand that the recently signed 200 mile fishing bill will place upon marine education and marine research resources. This bill requires the development of a management program for fisheries that is of monumental proportions. It is generally admitted that much of the data for the design of this program is not presently available. Thus a new research effort must be mounted and focused on obtaining the data for the fisheries management program. This data acquisition effort will have to be met by the various states through their facilities and laboratories and through the Federal laboratories. The program will also require more marine oriented people.

Let me now address the section of this presentation which I have entitled "Prospects for Greater Expectations." There are at least three of these "Prospects for Greater Expectation" for the Sea Grant Program in the future that lies immediately ahead.

The first is the need of the Coastal Zone Management Program for marine manpower and marine research.

The second prospect is the requirement imposed by the 200 mile fishing bill for the development of a management program which will require marine manpower and marine research.

The third prospect is just as certain, but is less well defined at this point. This is the requirement for marine manpower and marine research which will be associated with the development of the Outer Continental Shelf oil resources and determining their impacts and interfaces with Coastal Zone Management.

Today we have the option of viewing these prospects as insurmountable problem areas or as opportunities that must be met and taken advantage of.

I am sure that given the present circumstances, if the Sea Grant Program did not exist, it would have to be created. Fortunately, a substantial Sea Grant structure is in place.

The issue that is before the Congress today is how the Sea Grant arms of education, research and advisory services are to be strengthened and used to meet the opportunities that lie ahead.

Now just a few thoughts in conclusion.

If there is any validity in the "Prospects for Greater Expectations," then I suggest that there must be policy changes, modification of mandates, increased funding, and assured flexibility for program development.

Some ideas for consideration are:

1. Is Congress willing to take the position that the Sea Grant system should be strengthened so that it can produce the manpower, and support the research that will be required by the CZM decision makers, furnish the research information needed to support the 200 mile fisheries law and the manpower for future OCA development? Such a commitment will require increased funding.

2. If Congress does opt to support the Sea Grant concept as the primary source of marine manpower and marine research within the academic system, then I suggest that consideration be given to providing sufficient funds for each coastal and Great Lakes state

to raise their marine programs to Sea Grant college status.

3. If Congress believes that the states can meet the national need in the Coastal Zone Management Program, as they have done in our agricultural program, then why can't Congress decide that the states can, with programs of their own design, meet the nation's needs in the development of marine resources?

4. If the challenges to the Sea Grant Program are substantial then it may be that the Congress faces a greater challenge, since Sea Grant is only one part of the nation's marine activities with which the Congress must deal.

It would be ideal if Congress could look at the Sea Grant Program against a blue-green backdrop that extends from the near-shore waters through the marshes, and the coastal waters to the edge of the Continental Shelf and out into the deepest of the deeps. Then the Congress could look at the other Federal agencies that operate against this same backdrop and determine how they are going to be permitted to perform and the dimensions of their responsibilities.

I thank you for the opportunity of sharing these views with you.

BOSTON COLLEGE COMMENCEMENT

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. O'NEILL. Mr. Speaker, I would like to share with my colleagues the commencement address delivered at my alma mater, Boston College, by the none other than "Mr. Erudite," Daniel Patrick Moynihan.

I encourage all my colleagues to read this very learned and provocative speech:

COMMENCEMENT ADDRESS BY DANIEL P. MOYNIHAN

As it is likely soon to be the custom for commencement speakers at ecclesiastical institutions to be wary of excessive deference to authority, there would seem to be a certain Hegelian neatness for the practice to begin at Boston College. And as I shall hope to treat with something of a pastoral theme, allow me to set for my text a tale of singular secular profanity.

It was the year 1500. *Annus mirabilis,* or something such, as proclaimed at Rome. Cesare Borgia, at the head of the Papal forces, was setting out on yet another expedition to reduce some recalcitrant municipality on the fringe of His Holiness' preserves. In mid passage Borgia was seized by an inspired thought. The finest artillery in Italy at that time was the possession of the Duke of Urbino, whose hilltop fastness was not far off the proposed line of march. In the name of devotion to principles, Borgia persuaded the trusting and well meaning Duke to lend his artillery, the better to carry out the higher purpose of reducing the distant bastion of intransigent resistance to appointed authority. The Duke agreed. Whereupon Borgia turned from his nominal quest, and besieged Urbino instead. With the finest artillery in Italy, he naturally enough succeeded.

I will contend that the private institutions of modern secular culture, and in particular the religious institutions, the institutions that is which profess to provide moral instruction and guidance, even—alarming term!—moral command have quite uncritically lent their armament to the state in order that the state might carry out assorted right-minded campaigns in the name of nominally righteous causes, with the result that these institutions are effectively disarmed and increasingly powerless in precisely those areas of private and public life which have traditionally been their concern.

I refer in particular to the subject of the well being of families. There is not, there could not be, a more basic area of social concern, of social policy.

The family, whether well functioning or not, is the basic unit of society. This is not so because it has been so decreed, it is so because it *is* so. The first law of anthropology is that cultures normally breed true. Polynesians grow up to be Polynesians. Mexicans to be Mexicans. Boston Catholics, well, to be Bostonians. This is not a biological phenomenon, but a cultural one. Polynesians *learn* to to be Polynesians, and far the greater share of this learning takes place in the family, where, as it were Polynesian is taught. Demographers use the image of society constantly invaded by barbarians these being the cohorts of unformed children who must be taught the ways of the culture into which they are born. Barbarians, when there were such, had to teach their children to *be* barbarians. When this teaching is done well, the culture flourishes. When it is done badly, it falters.

It can be done badly for any number of reasons. In the 1960's, for example, the size of the invading cohort was incomparably greater than it ever was at any time before in our history; incomparably greater than it is likely ever to be again in our life times. The sheer numbers were overpowering, and the teaching failed as never before. The failures were everywhere to be encountered in the Haight Ashburys the Harvard Square and the reformatories of the nation.

With the 1970's the size of the invading cohort got back to normal, and the problems of sheer mass receeded, indeed more or less, disappeared. Much as, if I may say, some of forecast they would do at a time when others were predicting permanent apocalypse.

Normalcy has in that sense returned, but we face now the question of whether the normal institutions of learning and teaching are functioning normally. Which is to say whether the family is functioning normally. This is not clear to me. The statistics, surely, argue otherwise: so much that something like a social convention has arisen to suppress or at least to ignore them, when not in fact denying them.

Family policy, as an area of social policy, scarcely exists. More importantly, the idea that there should be such an area of social policy is more or less actively resisted.

I am on the drafting committee for the platform of one of the national parties. I have been reading the considerable testimony we have so far received. I can report that the idea of Policy is sweeping the interest groups. We are abjured to establish posthaste a national food and fiber policy, a national land use policy, a regional development policy, an urban policy, a policy for higher education, an energy policy, a wildlife policy. Some have even proposed that we have a foreign policy. But the idea of a family policy seems destined to be stillborn. I persuaded a President to propose one in a commencement address eleven years ago, and later wrote an article in America spelling out the proposal. But nothing came of it. Sargent Shriver was talking in somewhat similar terms in the early presidential primaries this year, but nothing has come of that either.

There is a history to this sort of thing. Getting on to four decades ago now, the Carnegie Corporation brought not one but two Myrdals to the United States to undertake inquiries into two areas of social policy which were rightly seen as of the first importance. The Myrdal best known was, of course, Gunnar, who in 1944 produced his classic study of race in America, entitled An American Dilemma. But there was another Myrdal, some might judge a more industrious one, for Alva Myrdal's study Nation and Family was published on schedule in 1941. Given the world situation at the time, the book went almost unnoticed. (Although, deservedly Mrs. Myrdal went on to a distinguished diplomatic career.) But one wonders if her book would have succeeded in any circumstance.

Nation and Family was reprinted by the M.I.T. Press in 1968. In an introduction I put the matter in terms that would seem still to be valid:

"An American Dilemma was addressed to a problem that any moderately informed citizen knew was there, even if he had no notion as to how it might be solved, or indeed had no desire that it should be solved. Nation and Family, by contrast, sought to elucidate problems concerning government family programs, an area of social policy few persons deemed even to exist."

The theme of Nation and Family was that in the nature of modern industrial society no government can avoid having policies which profoundly influence family relations. This is not to be avoided. The welfare policy of the Federal government—the Aid to Families of Dependent Children program—is an eminent example. The only choice is whether these will be purposeful, intended policies, or whether, as in the case of AFDC, they will be residual, derivative, in a sense concealed ones. I wrote then, and ask your forbearance to repeat now:

"A nation without a conscious family policy leaves to chance and mischance an area of social reality of the utmost importance, which in consequence will be exposed to the untrammeled and frequently thoroughly undesirable impact of policies arising in other areas."

Myrdal had argued that in modern political discourse the state and the individual were always the two poles of interest. That there might be still another competing center of attention—the family—was mostly lost sight of. Profamilial attitudes came to be identified with political conservationism—in part because that was rather the case in 19th Century European politics, but mostly—*mostly*—because the modern state in its inexorable drive to power has successfully made the claim that only those policies which increase the power of the state may be judged to be truly modern.

Two American scholars, Nathan E. Cohen and Maurice F. Connery, have in fact identified precisely those most American ideals—democracy, individualism, and humanitarianism—which most interfere with the development of a formal family policy in the nation.

The failures which follow from this blind spot in American social policy were perhaps minimal when, as it were, there *wasn't* much social policy. It is only with the coming of the great—and still valid—social initiatives of the 1960's that we begin to see the cost of ignoring what is fundamental.

Thus in 1964 the nation solemnly undertook to abolish poverty. But almost simultaneously resolved, in the negative way of these things, to pay no heed to family issues where poverty is concerned. The result, a dozen years later, is that poverty in America unmistakably a social condition associated with family structure. The majority of the poor live in one parent families. One third of poor white families and two thirds of poor families of black and other races in 1974 were headed by women. Within both groups this proportion has doubled since 1959.

We will never get rid of poverty in America—poverty defined as dependency on the part of persons other than the aged—until we succeed in reversing this trend in family structure. Yet in all the talk of poverty, how much heed is allowed this fundamental issue? We have a problem of bigotry and violence in America—in Boston. We will never get rid of them until we have successfully learned families where children learn love and peacefulness.

Perhaps even more importantly, in the course of the past several decades, the nation has undertaken a very considerable range of legitimately ambitious policies designed to better our society by raising our levels of competence as individuals, and improving the quality of our concern for other individuals. It is the fact, however, that the adoption of these policies literally coincided with a sequence of discoveries—they deserve that term—in the social sciences which quite literally established that government—that public institutions—simply did not have the power to bring about the changes that were desired. Lest this seems to give over much comfort to the anti-Washington sentiment that we hear much about just at this moment, it would be well to remark that the first of these studies, and the one which set the pattern for most that followed, was that of Father Andrew Greeley and Peter Rossi who established that contrary to the devout wishes of six generations of American bishops, Catholic schools had only the slightest impact on the subsequent religious practices of students who attended them. The formative influence was where the Catholic Church, of all institutions, should have looked for it in the first place, which is to say in the family.

This research was rejected at first—libelled and slandered would be more accurate terms—and then when it became clear it could not be disproven, was generally speaking ignored. I would not think it too much exaggerated to state that there is no significant area of social policy save that of criminal justice where government has deigned to acknowledge what we have learned of late about the limits of government.

For obvious reasons.

And what is striking is that those institutions in our society other than government which might be expected to make this case have not done so. Most mysteriously to me, the Catholic Church, after generations of talking of little else where social policy was concerned has fallen silent just now when its voice might be heard with the grudging respect that is sometimes accorded to those who have been right in the fact of prolonged assertion that they were wrong.

There is a reason for this. The church and institutions like it—I almost inclined to include our private universities among them—have lent their artillery to the State, the better to win its war on poverty or whatever—and find themselves in consequence at the mercy of the State which will not hear, which is to say will neither acknowledge nor honor arguments which assert that it is not within the capacity of the State to bring about the social changes which the State has proposed. Those who say this, of course, are accused of not wishing to achieve those changes. This is the most perfidious of false witness, but also the most pervasive.

I don't know what we will do about all this. Not very much I expect. But it is not, I dare to believe, impossible to expect that somewhere, sometime, some use will be found for the wisdom which the Roman Catholic Church—in the company of other churches—long espoused in the fact of hostility from the secular powers of the State, and only abandoned with the onset of a suspect and forboding call to common cause.

RAMIFICATIONS OF ISRAEL'S UGANDA RAID

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. LAGOMARSINO. Mr. Speaker, international terrorism is something which is of great concern to all citizens of the United States. The United States has been, thankfully, relatively untouched by terrorist airline hijacking since the institution of tough security in U.S. airports. But not all nations are as careful as the United States, and the use of airline passengers as hostages still continues. The most recent example is the hijacking of an Air France plane over Greece, which culminated with the now famous Israeli commando raid at Uganda's Entebbe Airport. I was personally very pleased with the outcome of the operation, and would like to bring the attention of my colleagues the following column written by one of my constituents, Gen. Henry Huglin, retired, dealing with the events and the implications of the Israeli raid.

The article follows:

RAMIFICATIONS OF ISRAEL'S UGANDA RAID

(By Henry Huglin)

Israel's well planned and carried out commando raid into Uganda electrified the world and created a big, useful ruckus over the struggle against terrorism.

It has many ramifications for future airplane hijackings and governments' use of force, as well as imprisonment, to deter and deal with terrorists.

The drama that led to the daring Israeli raid started over Greece on June 27th with a hijacking, by two Germans and two Palestinians, of an Air France plane with more than 250 people aboard. The pilot was forced to fly to Uganda in mid-Africa.

At Entebbe airport the hijackers freed 148 of the passengers, but kept as hostages the plane crew of 12 and 93 Jewish passengers, most of whom were Israelis.

The terrorists announced that they would kill the hostages unless 53 terrorists—claimed to be imprisoned in Israel, France, Germany, Switzerland, and Kenya—were delivered to them in Uganda by the afternoon of July 4th.

On July 1st Israel agreed to negotiate with the hijackers.

Meanwhile, it had been learned that Uganda's dictator, Idi Amin, helped the hijackers. He reportedly embraced the leader, allowed three other Palestinian terrorists to join the four hijackers, provided them with more arms, and had his soldiers help guard the hostages.

(Uganda had accepted Israeli military and economic aid for some years. But Amin broke relations with Israel in 1972, turned to the Soviets for armaments and to the radical Arab nations for economic aid, acquired Palestinian personal guards, and became one of Israel's most vociferous critics.)

On July 2nd Israel became convinced that agreement to release the imprisoned terrorists would not lead to assurance that the hostages would actually be freed.

Hence, the already-planned rescue mission was decided upon.

Just after midnight on July 4th, three Israeli transport planes swooped into Entebbe airport. Israeli commandos swarmed out, killed the seven terrorists and 20 Uganda military guards, destroyed 11 Soviet-made fighter planes, loaded the freed hostages aboard their aircraft and, within the span of an hour, took off for a refueling and wound-treating stop in nearby Nairobi, Kenya. (The operation also cost the lives of three hostages and the commando commander.)

Among the ramifications of this unprecedented affair will be these:

Terrorists' moves to blackmail Israel have been made much more risky.

Regimes, such as Uganda's, should be much less ready to connive with or tolerate such terrorism, or to provide sanctuaries, because of the possible consequences.

The hijackers' blackmail demand for release of the imprisoned terrorists in five countries should lead to at least some reinstatement of the death penalty. The abolition or suspension of the death penalty in many countries, even for the most heinous crimes, into which terrorism surely fits, eliminated the deterrent value of executions. It has also resulted now in the release of imprisoned terrorists becoming a major objective of further terrorism, jeopardizing many innocent hostages' lives, as in this affair.

The debate in the United Nations—which has done nothing to set up an effective system to curb terrorism—has helped expose the hypocrisy over terrorism of those protesting a "violation of Uganda's sovereignty" and labeling Israel's action "aggression," especially the Arab and black African nations.

This successful operation will not end the grim struggle between terrorists and government authorities; but it should help make it more even.

Modern technology and warped sympathy and tolerance for terrorists and their causes have over-balanced the scales in favor of diabolical, ruthless fanaticism. More realism, toughness, and counter-use of technology—and, when necessary, use of force as in the Israeli rescue raid—are needed to swing the balance to the rights and defense of society and of terrorists' victims.

Yet, until all the nations collaborate on effective action against terrorism, the world is bound to see additional hijackings and more tragedy or rescue actions.

So, this incident ought to spur our government and others in pressing on with our proposals for international collaboration to control terrorism—including eliminating sanctuaries, which have so greatly helped airplane hijackers.

Also, our government ought to increase further the security measures at our airports and elsewhere, to devote more effort to the study of terrorists' tactics and their possible acts against our people and interests, and to step up the contingency planning to thwart or effectively react to such acts.

Mankind has a long, hard road to travel before terrorism is brought under adequate control. Israel's Uganda raid can be a major step. Certainly this operation, as Israel's Prime Minister Rabin has said, "will become a legend."

PERSONAL EXPLANATION ON MISSED VOTE

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. DU PONT. Mr. Speaker, Thursday evening I went to Delaware on business and missed two recorded votes in the House. Had I been present, I would have voted in the following manner:

Rollcall No. 538, "no."

Rollcall No. 539, "aye."

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. DERWINSKI. Mr. Speaker, Captive Nations Week was a great success around the country. I insert in the RECORD at this point the resolution adopted by the Chicago Captive Nations Week Committee:

[Captive Nations Friends Committee]

RESOLUTIONS

Whereas, the Senate and the House of Representatives have authorized the President of the United States of America to proclaim the third week of July as Captive Nations Week, and

Whereas, communist imperialism has already enslaved one third of mankind and is making further inroads in Asia, Southern Europe, Africa and Latin America, and

Whereas, the military strength of the Western Powers is declining relative to the strength of the Soviet Union, making it harder to deal from a position of strength, and

Whereas, Western political and Business leaders, through their Policy of detente, are making further concessions to the Soviets, concessions which only strengthen the power that oppresses tens of millions of Eastern European people, and which threatens all free countries, and

Whereas, the Soviet Union has failed to live up to the Provisions of the Helsinki Conference concerning individual and religious freedom and freedom of movement.

Now, therefore, be it resolved, by the Chicago Captive Nations Week Committee, to urge the United States to assume real and moral leadership in dealing with these problems. We urge the United States to consider beforehand, the effect any of its agreements and policies with the Soviet Union may have on the oppressed people of Eastern Europe, Asia and Cuba. We remind the United States and the Western countries that, agreeing to the Soviet Unions illegal annexations and occupations would set a precedent for accepting international lawlessness.

Be it further resolved, that the restoration of the sacred rights of all nations based on principles of democracy, self-determination, and sovereignty within their respective boundaries, must become the goal of Western and Soviet Policy. Only then will the world have a chance for a just and lasting peace. The United States is deceiving itself if it thinks it can bring peace to Europe as a partner of the Soviet Union while ignoring the wishes of the captive people of Europe.

Be it further resolved, that the United States stop selling equipment and techniques to the Soviet Union, which would enhance the ability of an oppressive Soviet Government to stay in power.

Be it further resolved, that the United States, build up its military defensive and offensive power, relative to the Soviet Union. The present decline in United States power, if it continues, it could prove fatal to the United States itself.

Be it further resolved, that the United States bring pressure on the Soviet Union to live up to the provisions of the Helsinki Agreement, or in case of Soviet failure to do so, renounce the agreement.

Be it further resolved, that this committee, once again urge the establishment of the permanent Captive Nations Committee (House Resolution 211) and Freedom Academy, which, is long overdue.

Christine Austin, Lithuanian American Counsul.

Nick Zyznieuski, Bielarusian Representative.

Ulana Celevych, Ukrainian C. N. Committee Representative.

Alex Kaepp, United Estonian Organization in Illinois.

Vlado Glavas, President United Croatian Front.

Laszlo Mogorossy, President Hungarian Freedom Fighters Federation.

Wilfried Kermbach, Friends of Germany.

Dr. Mikulas Ferjencik, President Czechoslovak National Council of America.

Julian Witkowski, Polish American Congress Representative.

Dr. George M. Radojevich, Serbian National Committee.

Dr. Juan Paneque, Federation of Organizations of Cubans in Illinois.

Ilmars Bergmanis, Chairman, United Latvian Associations of Chicago.

Quinn S. Fung, President of the Chinese Community Center.

VIKTORS VIKSNINS,
Chairman, Captive Nations Committee.

THE EMERGENCY AGRICULTURAL RELIEF ACT OF 1976

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. KASTENMEIER. Mr. Speaker, I am today introducing the Emergency Agricultural Relief Act of 1976 in response to the most severe drought in the Upper Midwest since the 1930's. While I know that it is late in the session, I am hopeful that recognition of the devastating impact of drought conditions in Wisconsin, Minnesota, North Dakota, and South Dakota will encourage speedy action on this legislation.

I include an article by Bob Bjorklund in the July 18, 1976, Wisconsin State Journal entitled "Dollars Dry Up With the Weather," as well as an article by Steve Hannah in the Milwaukee Journal of July 18, 1976 entitled "Drought Withers Wisconsin's Farms":

[From the Wisconsin State Journal, July 18, 1976]

DOLLARS DRY UP WITH THE WEATHER

(By Robert C. Bjorklund)

The sting of the drought in the Dane County area and surrounding portions of southern Wisconsin has moved from the farm to the city.

State trade inspectors who make regular calls on business establishments said last week that business operators reported they could feel the dropoff in farm trade as farmers tightened up spending to meet the drought emergency.

And lending agencies that were gearing up for extensive grain storage facilities in Dane County to provide space on farms for a record corn crop started backing off because suddenly no one knew what kind of a crop there would be from wind and heat battered cornfields, many of which haven't had a significant rain since mid-May.

Jerome Nonn, Rt. 1, Cross Plains, pondered a question on what his outlook was and after a moment said what many Dane County farmers are saying:

"I don't know about the corn crop this year. I think it is all done. I've never seen it this dry."

Marvin Heiser, state crop reporter, put together the weather and rainfall statistics from 1891 to 1976 to cover the April through July period and found that in those four months, the drought year of 1936 was the driest.

He put all rainfall figures together for a state average and found that the 1936 total (April through July)—the growing period—was 7.2 inches.

"This year, to date, we've got 7.91 inches for the state as a whole," Heiser said.

Unless there are sudden, substantial rains this will be one of the five driest years on record, which include 1891, 1910, 1936, and 1966.

"It would have been drier this year except that during April Wisconsin received a fourth more rain than normal," Heiser said.

The state as a whole, except possibly for the southeast corner, moved into an officially declared drought situation as the extended period of dryness continued through most areas.

"This would be classified as a drought because the dryness has continued over a period of weeks. It started in the northwest counties at the end of April, but now is statewide," Heiser said.

Madison, for instance, has had only a trace of rain since July 1.

What makes this so unusual for Wisconsin is that all of the state's Big Three crops—corn, oats, and hay—are suffering.

The state has had a tradition of crop experience that allowed it to have one or two good crops of the big three even if another failed. Thus farmers usually could bank on oats or hay if there was corn crop reduction, or, if the hay and oats were short, there would be corn to make up for grain and forage.

"So it is unusual that this year all three major crops will be below normal," Heiser said.

The oat yield will be low and a scant bushel weight; the first crop of hay was down and many farmers got no second crop and either used the short growth for green feeding (bring the chopped grass to the cows) or pastured it; and the corn is suffering.

"Corn is the one thing that could have been our salvation this year because it could have provided the grain and forage needed by dairymen," Heiser said.

Many farmers agreed with Fred Mayr, Rt. 1, DeForest, who said that the corn was struggling and perhaps even holding its own until a week ago when temperatures went above 100 and then the corn was blasted with the strong, hot wind.

"It really hurt the corn. Otherwise I thought we could even go longer without rain, but with the wind, the corn has about had it. I don't think there will be even half a crop," Mayr said.

Everyone depended on the rains or showers that were always in the forecast, but never materialized. Showers that came for some farmers were insufficient or left most areas without any appreciable rainfall.

When this happened farmers simply gave up and many contacted the Dane County Agricultural Stabilization and Conservation Service (ASCS) office for information on what disaster programs were available.

Without a federal or presidential declaration of an emergency or disaster, the one ASCS program applicable is the feed grain disaster program.

Under this program, farms with a corn allotment are eligible if total corn production is half or less than the farm's production figures at the allotted acres multiplied by the officials farm yield held by ASCS.

Roger D. Johnson, Dane County ASCS executive director, said that if farm appraisals show that a farm is eligible, the operator may receive payments at the rate of 52 cents a bushel on the difference between the actual production and the allotted yield.

This is a limited program, but Johnson and other ASCS officials advised farmers not to destroy evidence of crop damage.

Those farmers who believe they may be eligible and want to destroy the crop to replant an emergency crop should contact the county ASCS office before the crop is destroyed.

ASCS committeemen must visit the farm for a crop appraisal before the crop is used or destroyed.

[From the Milwaukee Journal, July 18, 1976]

DROUGHT WITHERS WISCONSIN'S FARMS

(By Steve Hannah)

BARNEVELD, WIS.—Drought is an indiscriminate villian, pardoning no man or beast caught in its dry, deadly path.

Curt DeSmet stood atop a parched plot of farmland last week and surveyed acre upon acre of burned out cornfields. Most of the thin stalks struggling in the heat of the noonday sun were layered with drooping, wilted leaves that looked like the tongues of men dying of thrist.

The corn was barely two feet tall. On July 4th of last year, DeSmet recalled, the top of his six foot two inch frame was barely visible as he stood among the stalks.

$125 AN ACRE

"Believe it or not, you're looking at an investment of about $125 an acre in seed, fuel and chemicals alone," remarked DeSmet, 21, a dairy farmer with 100 cows counting on being fattened by this season's harvest. "You can multiply by 270 acres and you'll just begin to assess my losses.

"Chances are, I'm not going to harvest anything out of this 50 acres," he said, waving his hand across the bone-dry expanse of rolling Iowa County land. "Last year it was good for better than 100 bushels an acre."

DeSmet, who is in his second season of full time farming and has a $40,000 loan staring him in the face, is not alone in misery. The general lack of rainfall across Wisconsin this year—accounting for the driest growing season in 40 years—has driven thousands of farmers to the brink of financial disaster.

NO MOISTURE IN LEAVES

DeSmet, who said he had a month's supply of feed on hand and had already depleted much of his winter reserves, ripped a wilted leaf off a dwarfed stalk and twisted it in his hands.

"Almost any other year you'd do this," he said turning the bleached leaf in knots, "You'd see water come oozing out. There's no moisture in these leaves because there's no moisture in the soil for the roots to absorb. We haven't had any rain here since the first of June."

The corn catastrophe besetting farmers in almost every Wisconsin county is the third, and perhaps the ugliest chapter in this year's drought drama.

The hay harvested in Wisconsin so far this season, another vital ingredient in livestock feed, has been disastrous. Officials at the State Agriculture Department say the hay tonnage, which was valued at $509 million in 1975, was well below normal after the first cutting.

The second crop of hay, covering approximately four million acres of Wisconsin farmland, is likely to be either poor or nonexistent because of the drought. That shortage of hay in the state, particularly in the parched 18 northwestern counties, has driven the price of a ton of hay from $35 to nearly $80.

DeSmet has also suffered from a poor first crop hay harvest. He said he had cut 3,000 bales of hay off 250 acres this year where he had gathered 9,000 bales in 1975.

Most farmers are scrounging for livestock feed today. The acres of rolling pasture land which so often served as a supplemental source of food for their animals is, in most cases, burned out.

One afternoon last week, DeSmet spent several hours cutting and baling a field of bleached grassland in front of his father's neighboring farm. He said he was desperate for feed, and although the withered strands of grass would put no fat in his calves, they might be enough to keep them breathing.

WORST SINCE 1934

"Baling grass is unheard of," he said. "I've never done it before, and I've never seen it done before, but you saw me doing it today. As feed, it's just one step above snowballs."

The state agricultural statisticians said last week that a survey of pasture conditions July 1 indicated that grassland in Wisconsin is in its worst shape since 1934.

In normal years when rainfall is adequate, you can drive through the country and see acres of six foot corn interspersed with waving fields of golden oats. Today those oats, a major portion of the farmer's grain ration, have taken on a bleached beige color.

The 1.5 million acres planted in oats, according to the State Agriculture Department, are beginning to be harvested now in the southern half of the state. The early harvest—normally oats aren't chopped until the end of July—has been prompted by dry conditions that caused the oats to "head out," or blossom, prematurely. The yields are expected to be poor.

NEARLY AS BAD AS 1936

The driest year in recent Wisconsin history was 1936 when it was even drier than 1934. Between April and Mid-July, 1936, a statewide average of 7¼ inches of rain was recorded. The rainfall in that same period this year stands just below 8 inches.

Corn grown in Wisconsin in 1975—that is, sweet corn that eventually found its way to the consumer and field corn that kept fattening livestock—was valued at $723 million.

This year according to the latest state reports, Wisconsin planted a record 3,6 million acres of corn. Today that crops stands a full six inches below last year's stalks, and by all accounts, it has reached the stage where rainfall is absolutely critical.

Like so many other farmers, the drought here has struck a crippling blow to young DeSmet's plans. Without rain there is no feed, and without feed, the farmer is faced with a couple of sorry options: pay the high price demanded when feed is scarce, if you can come up with the cash, or slaughter the livestock you cannot afford to feed.

In some drought stricken regions of Wisconsin, farmers still entertain hopes that the deluge will come and save their crops. Curt DeSmet said much of his 270 acres corn crop was beyond salvation.

Next week he will take 20 milk cows to be slaughtered—"All good milk producers for me last year," he said—because he cannot afford the feed to sustain them.

For DeSmet, who said just getting the $40,000 government loan to get underway was "the toughest thing I ever fought for," the drought may well spell the end of his brief career on the farm.

"I hate to say it," he said, turning a pale curled corn leaf over and over in his hands. "I hate to talk like this . . . but I'm beginning to think I have to get out.

"But even if I go to the city and find a job somewhere," he added, "I'm still facing the world at 21 with a $40,000 debt hanging over my head."

Like a man tantalizing a chained dog with a bone, the skies around Barneveld had turned overcast last Thursday, but not a drop fell on the crops. Several surrounding counties received an inch or two of rainfall that same day

"You know, some of the old timers are spending a lot of time these days talking about how it was back in '36," he said. "They say things got so bad that they chopped down trees and let their livestock chew on the leaves and bark.

"As far as I'm concerned, we're pretty near that point today."

ACTION TAKEN TO INSURE PROPER CONTROLS ON HOUSE PAYROLLS AND EXPENSE ACCOUNTS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. GAYDOS. Mr. Speaker, having just spent 2 weeks in our home districts during the recent recess, I am sure we all return to our duties here in Washington renewed and rededicated by that close contact with our constituents. I am especially pleased by the positive reaction of the people in the Mon-Yough Valley to the recent steps we took to insure proper controls over House payroll and expense accounts and minimize chances that recent scandals and abuses will recur.

When the first story broke in the press, I shared in the shock and indignation of my colleagues. And I must confess to some irritation over the more lurid accounts which left the erroneous impression that all or most Members of Congress were guilty of the illegalities and indiscretions charged against a few.

Those of us in the House were subjected to a particularly close scrutiny by the press—and properly so. It is the function of a free press in a free society to serve as the people's watchdog and we all know of the many instances in which wrongdoing has been exposed and needed reforms enacted because of the vigilance and dedication of the news media. If, as was the case in the search for information about the propriety of some Members' conduct, other Members were judged unfairly, it is a relatively small price to pay for the long-range good which comes from free and open discussion of the conduct of public officials.

I have learned over the years, through the weekly public workshops we conduct in the 20th Congressional District and through the telephone polls we take to determine our people's feelings about important legislation, that free and open discussion of our conduct of the issues with which we deal makes for an electorate which is better informed and a Congressman who is in close tune with his constituency.

It was through those workshops in recent weeks that we were able to express our indignation at the conduct of those few Members and employees whose actions have brought criticism upon the House and to explain the reforms we undertook to see that those things will not happen again. We also were able to make clear to our constituents that assignment to House committees is made by the majority party caucus and that a subcommittee chairmanship is awarded by the vote of the full committee on the basis of ability and service and not at the whim of the committee chairman.

Those whose conduct has been questioned must answer to their colleagues and constituents for their behavior. I am content to be judged on my record of performance over the years and on the basis of the many reforms and improvements we in the House have made in our ongoing attempt to refine and perfect the legislative process.

The reform measure we approved only a few weeks ago, for example, requires stricter accounting procedures, mandates documented, signed and certified vouchers for disbursements from our accounts, requires all of us to provide monthly certification of the salaries and duties of our employees and creates a bipartisan commission of House Members and public members to conduct a thorough study of administration services.

Other reforms approved in recent years made committee chairmen subject to election by the full majority caucus, opened meetings of committees, subcommittees, and conference committees to the public and increased the use of recorded votes to put Members on record as to their positions on amendments proposed to bills.

I supported these measures in the firm conviction that they are essential if we are to reach our goal of a more open and accessible Congress where our constituents can easily learn what kind of job we are doing and how their money is being spent to pay for that job.

I continue to be a proud Member of the greatest legislative body in the world. I congratulate my colleagues in the 94th Congress in a continuing effort to improve both the capabilities and performance of an institution whose closeness to the people makes it the country's best hope for the preservation of our freedoms.

NUCLEAR FUEL ASSURANCE ACT

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. PHILLIP BURTON. Mr. Speaker, later this week the House is scheduled to act on H.R. 8401, Nuclear Fuel Assurance Act. At that time an amendment will be proposed by the gentleman from New York (Mr. BINGHAM) to strike sections 2 and 3—those provisions which facilitate privatization of our vital uranium enrichment industry.

There are many reasons to oppose this most unwise proposal; I believe several of the most cogent arguments are outlined in the following article by syndicated columnist Tom Braden and in a letter sent to Members of Congress by United Mine Workers president, Arnold Miller. I commend these to my colleagues attention:

[From the Washington Post, July 24, 1976]

THE NUCLEAR EXPORT FIGHT

(By Tom Braden)

The beleaguered Ford administration has been straining hard to push through a bill that would turn the nuclear fuel business—"the biggest ball game in town," as Sen. Howard Baker of Tennessee calls it—over to private industry. A consortium of foreign investors headed up by the oft-investigated Bechtel Corp. is waiting in the wings to reap guaranteed profits from the privatization scheme should the administration's bill—entitled the Nuclear Fuel Assurance Act—pass.

The bill is ostensibly advanced in the interests of guaranteeing that the United States can retain its dominant role in fueling nuclear reactors throughout the world. But it is apparent that we have more than enough potential in our three government-operated uranium enrichment plants and enormous stockpiles to meet these needs, at least through 1985. So what is the bill really about?

The bill is to provide "sweeteners" for the big reactor salesmen's contracts. So now when Bechtel flies into South Africa or Brazil or South Korea to sell nuclear reactors, it can offer these nations, which are struggling to achieve weapons capability, not just the hardware, but also the batteries. The coming glut in enrichment capacity will make fission reactors look all the more attractive.

The administration says its bill promotes "free enterprise" by encouraging competition within private industry. But what with all the elaborate guarantees we'll be handing out to investors—guarantees of access to government stockpiles, guarantees of a market and, finally, guarantees that we'll buy out any failing private enrichment ventures up to the tune of $8 billion—it more resembles cradle-to-grave socialism than any free-enterprise scheme.

What the bill is all about, it would appear, is that Gerald Ford is trying hard to set up a select group of Nixon-Ford administration friends with a lucrative monopoly over the enrichment market while phasing out government participation in the enrichment business.

Mr. Ford claims it is not suitable for the government to be doing a job private industry can handle. So he's pulling out the big guns to shove his proposal through—even though a study by the Congressional Budget Office shows that, once you figure in all the hidden subsidies and out-front guarantees, it will be cheaper for the Feds to hold on to the enrichment market. Mr. Ford has already twisted arms on the less-than-enthusiastic Joint Committee on Atomic Energy (JCAE), threatening to withhold desperately needed government financing for research into his privatization scheme. Rep. John Moss (D-Calif.) is one who made little secret of his contempt for the strong-arm tactics; recently he quit the committee, disgusted.

Beyond the politics and twisted economics of the Ford bill, there are some very genuine proliferation concerns. With this bill, the administration is seeking to promote mass exports of enriched uranium and nuclear hardware by private industry. And can we leave it to multinational corporations like Bechtel to look after the U.S. national interests in this business? Let's look at the record.

It was Bechtel who entered into unauthorized negotiations with the Brazilians—negotiations that were aimed at giving that country "the whole gamut" of nuclear hardware—negotiations that completely undermined State Department efforts to keep the West Germans from selling Brazil the entire nuclear fuel cycle. Bechtel built the reactor that supplied the plutonium for India's atomic blast; Bechtel has also been charged by the Justice Department for cooperating with the Arab nations in their boycott against "Jewish-influenced"; firms, and Bechtel is undergoing congressional investigation for alleged falsification of safety data on the Alaska pipeline. Are these the people we want directing our nuclear export program?

There is a strong move on Capitol Hill, led by Rep. Jonathan Bingham (D-N.Y.), to shoot down Mr. Ford's scheme for these reasons and more. The biggest challenge of the bill's opponents, oddly enough, is to show that their opposition grows not out of a Nader-like skepticism of nuclear power per se but rather out of well-founded concern that the Ford giveaway scheme is a nuclear boondoggle to end all nuclear boondoggles. The way the tide was running early this week, it looks as if the JCAE may be in for its first defeat in recent memory, which all leads one to wonder whether the committee might not be secretly pulling for Bingham's side.

UNITED MINE WORKERS OF AMERICA,
Washington, D.C., July 20, 1976.

DEAR REPRESENTATIVE: During the 94th Congress the U.M.W.A. has found it necessary to send over a dozen letters to the Members of the House of Representatives and the Senate to express our opposition to the outright bias toward nuclear energy which is inherent in all phases and aspects of our national energy policies and programs. From the beginning, the nuclear industry has received numerous implicit and explicit subsidies from the federal government, all at the taxpayers expense. At first it was excused as aid to an infant industry, but now it is blatantly a matter of support for an inefficient industry in order for it to remain competitive. As the U.M.W.A. has stated in the past, this continued government fostering of the nuclear industry has worked to the detriment and disadvantage of all other energy industries and created a condition where perhaps the least promising of our future energy options will, by virtue of this lopsided support, eliminate other more promising alternatives. We deplore this situation.

This Thursday the most horrendous chapter yet may be added to the book of United States energy mismanagement. H.R. 8401 goes well beyond any previous legislation in assuring the private nuclear industry of a profit at little or no risk. Sections 2 and 3 of H.R. 8401 instruct ERDA to enter into agreements with private industry, to the extent it finds necessary, to develop a private enrichment industry.

ERDA will provide technology and technical assistance, equipment and materials at cost. They will also guarantee the private firm a market by buying any surplus enriched uranium the firm is unable to sell. ERDA will also guarantee supply by allowing the private firm to use the ERDA stockpile of enriched uranium to fulfill contractual obligations that the firm is unable to meet. Finally, ERDA guarantees the firms' investment for one year by acquiring the assets and liabilities of any plant which fails. In essence, ERDA guarantees these firms a profitable success, and if that is not the case, ERDA will inherit the failure and its debts.

The large conglomerates which will be receiving this aid will risk nothing, instead the American taxpayer will assume all of the risks and much of the cost. It is not surprising that one of the applicants, the Bechtel Company, originally suggested this program, which the Administration translated into legislation a month later.

Bechtel has profited greatly over the last few years from government projects and contracts. Bechtel has extremely potent government connections which have secured the company many lucrative contracts, including the management of the Alaska pipeline construction which has been plagued with tremendous cost overruns. Recently, it has come to light that Bechtel falsified inspection records of the pipeline in violation of state and federal environmental and safety standards. Reinspection could delay completion of the pipeline for at least seven months.

Bechtel has also been guilty of conflict-of-interest in the area of coal slurry. Bechtel suggested to ERDA and FEA that they be allowed to do a feasibility study of coal slurry pipelines. After the unsolicited study was completed it was discovered that Bechtel was the major holder of stock in a slurry pipeline company.

H.R. 8401 has many weaknesses. It is loosely written, leaving too much interpretation and discretion to ERDA. It does not adequately protect our nuclear technology. Sixty percent of the proposed Bechtel venture is foreign owned. This bill could turn into a nightmare, as the U.S. government loses control over the process which is capable of producing weapon-grade uranium. However, the worst aspect of the bill is that it is unneeded.

Presently, ERDA is compiling a large stockpile of enriched uranium. Many of the orders for enriched uranium placed with ERDA have been delayed and some have been cancelled. Every year projected need figures for enriched uranium are reduced as the construction of nuclear generating plants are postponed or cancelled. There seems to be more than enough publicly owned capacity to handle our needs well into the 1980's or beyond. The expanded facility at Portsmouth, Ohio, provided for in section 4 of this bill should easily fulfill any increased need in the next two decades. Any additional enrichment capacity would be excessive.

In addition, this type of technology, gaseous diffusion plants, may soon be replaced with a more economical technology known as the gas centrifuge method. It could make the Bechtel plant obsolete before it is on line.

The U.M.W.A. is appalled that the Congress of the United States would consider such an obvious give away to big business. To create a contrived enriched uranium shortage by building up large stockpiles is also unconscionable. Those who are hurt most are the taxpayers, who pick up the tab on this $8 billion giveaway, and the consumer who pays high electric bills because of this inefficient production of power.

The U.M.W.A. urges you to support the Bingham amendment which will strike sections 2 and 3 of H.R. 8401. We hope you will support this amendment and that you will oppose the bill. The U.M.W.A. has learned to live unhappily with the favored status of the nuclear industry, but this latest development is ludicrous. H.R. 8401 must be defeated, either through amendment or outright. Support Congressman Bingham in his attempt to prevent government guaranteed profits for these domestic and foreign energy conglomerates.

Sincerely,

ARNOLD MILLER.

HOW HARVARD FOUGHT THE WAR IT LAUNCHED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. McDONALD. Mr. Speaker, we are still paying for our abandonment of Southeast Asia and Vietnam. Our foreign policy remains that of a confused and indecisive nation. Our credibility as a nation and a world leader is low. In this connection, it is interesting to recall that our so-called best people from the Ivy League schools launched our war efforts in Southeast Asia, devised a strategy that was sure to lose, and the Ivy League schools became the leaders in the antiwar movement. Patrick J. Buchanan poignantly recalls this situation for us, which should be a lesson for us to look with skepticism on elitists. Mr. Buchanan's column as it appeared in the Richmond Times-Dispatch of June 30, 1976, follows:

HOW HARVARD FOUGHT THE WAR IT LAUNCHED

(By Patrick J. Buchanan)

WASHINGTON.—While the Democratic party fashions its platform, promising "pardon" to the draft dodgers who ran away to Canada and Sweden, it is worth recalling who bore the burden of battle in Asia.

One place to begin is with the candid and abbreviated memoir of James Fallows, Harvard College, class of 1970. Writing in the October 1975 edition of The Washington Monthly, Fallows—antiwar then and now—recalls in loving detail how he and his classmates managed to evade military service.

His article is worth quoting. Among those given a low draft lottery number. Fallows remembers, "I was almost desperately afraid of being killed. . . . What I wanted was to go to graduate school, to get married and to enjoy those bright prospects I had been taught that life owed me."

Immediately upon hearing the hard news, Fallows took to attending antiwar rallies and "poring over the Army's code of physical qualifications.

"During the winter and early spring, seminars were held in the [Harvard] common rooms. There, sympathetic medical students helped us search for disqualifying conditions that we, in our many years of good health, might have overlooked. Although, on the doctors' advice, I made a half-hearted try at fainting spells, my only real possibility was beating the height and weight regulations."

Came then the fateful day Fallows and Friends from Harvard-MIT were driven from Cambridge City Hall by bus to the Boston Navy Yard for examination prior to induction.

As alert and aware members of the finest young generation we have ever produced—as the politicians described them—Fallows & Co. knew that "disruptive behavior . . . might impress the examiners with our undesirable character traits."

As the buses rolled toward the Navy Yard, he picks up the narrative: ". . . about half the young men brought the chants ['Ho, Ho, Ho Chi Minh; the NLF is going to win'] to a crescendo. The rest of us sat rigid and silent clutching at X-rays and letters from our doctors at home."

On arrival, the college seniors hooted down the enlisted men giving instructions for the intelligence tests; they deliberately flunked their color blindness tests; they pitched urine samples into the face of the military orderlies. Fallows, who narrowly passed the regulations, eagerly confessed to his interviewing doctor he had contemplated suicide, thereby receiving the treasured "unqualified."

As the bus rolled away from the Navy Yard carrying the Harvard men to safety, another bus rolled up, carrying younger working class boys from Chelsea, almost all of whom would be inducted, some of whom would die in Vietnam.

"We returned to Cambridge," writes Fallows, "not in government buses but as free individuals, liberated and victorious. The talk was high-spirited, but there was something close to the surface that none of us wanted to mention. We knew who was going to be killed."

He was right. Tucked into his article is this useful statistic: "Unlike my college class, which lost not a single member in Vietnam, 35 men from the Harvard class of 1941 died by the time the war was over, and hundreds more had fought."

There was the difference. Vietnam was the great adventure of the Liberal Establishment. It was a war launched by the Ivy League—Bundy, McNamara, Schlesinger, and the Kennedys—and fought by the sons of the middle class.

The boys from Chelsea are lying forgotten in their graves. Jimmy Carter, certain nominee of the party that led us into Vietnam, has branded their cause a "racist" war. That will help him in the Ivy League. And the best and the brightest who rode happily home to Harvard are rising to niches of prominence, prestige and wealth.

So life goes in the Great Democracy.

RICHARD M. SCHULTZ, AN UNSUNG HERO

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. FINDLEY. Mr. Speaker, Richard Malcom Schultz is one of the unsung heroes in American life. He will never be on the cover of Time or Newsweek probably, yet to thousands of people in Pawnee and Sangamon Counties, Ill., he is far more important than the men and women who vie for headlines. Richard Schultz is the public safety communications coordinator of Pawnee. He works almost around the clock to protect the lives and property of the people there, and to provide reassurance to the distressed.

For anyone, these would be outstanding achievements. For Richard Schultz, they are almost unbelieveable. This is because for almost 30 years, Richard—"the dispatcher"—has been bedridden and almost completely paralyzed by a crippling disease.

Richard Malcolm Schultz is a rare individual; one who embodies all the best qualities of the American spirit and character. I recommend him to my colleagues and the citizens of the United States for much deserved recognition, and include here the text of a story about him which appeared recently in the Springfield, Ill., State Journal-Register.

"THE DISPATCHER" FILLS BIG JOB IN A SMALL COMMUNITY

(By Fran Bernard)

He lies there completely surrounded by an incredible mish-mash of wires and cords and mirrors and books and blinking lights and flashing scanners, calmly pushing buttons and answering calls, relaying requests and reporting emergencies to the Pawnee police, fire and ambulance departments.

Richard M. Schultz, Pawnee police dispatcher.

"The Dispatcher," in CB jargon.

Probably half the people he talks to over the wires don't know he's paralyzed.

"Technically, I'm not a paraplegic," he says. "I just don't have the use of my legs and spine, and I can't turn my head."

His spine is calcified—completely rigid.

Rheumatoid arthritis struck him down when he was a boy of 15, starting in the hips and knees, the weight bearing joints.

This was in the 1940s, before medical science discovered the best treatment for inflamed joints was activity and before cortisone was available to relieve the pain.

He went from crutches to a wheel-chair to a hospital bed in the orthopedic ward at St. Francis Hospital in Peoria, all in the space of three years.

He'll be 48 in August.

He's been bedfast for 30 years.

"I have the use of my arms, though," he points out, "and I'm reasonably healthy. I only have about one cold a year."

He looks strong.

He does chin-ups once a day on the bar suspended over his bed.

"I want to be sure to keep up my strength," he says. "I always take time to do my exercises."

Actually, he doesn't have all that much time.

He's on the job 24 hours a day, coordinating the police, fire and ambulance calls that come in day and night to the small Sangamon County village of 2500 or so residents of Pawnee

He's busy.

He started out answering telephone calls for a funeral home in Pawnee about 10 years ago. Before long, the volunteer fire department asked him to take them on.

A year and a half ago, he became the police dispatcher. Two months ago—the ambulance dispatcher.

He's made himself downright indispensable.

"I tell the people in Pawnee that I stay up all night watching over their lives, their property, and even their money," he says, only half joking.

That's the truth.

He has the bank alarm connected to his bedside.

Not long ago, a bank official accidentally tripped the alarm and before he could catch his breath, a policeman came running in the bank waving a shotgun.

"I'm in instant communication with the police," Schultz mentions.

Police calls involve far more than burglars. "Only about one-third of the police calls are actually police business," he says. Many times the calls are from people merely wanting information or assistance.

But he says Pawnee has its share of accidents and incidents such as drug overdose. "It's much like Springfield, just on a smaller scale. I suspect it will continue to grow as the community grows."

He was up all night with calls when a tornado touched down at Pawnee the Saturday after Thanksgiving last year. His Citizen's Band radio was the only means of outside communication he had that night.

The CB radio is just one of many pieces of sophisticated equipment that lines his bed.

He has a Hi-Band transmitter for dispatching calls, and an Encoder to trigger the pagers that ambulance attendants carry.

His 16-channel scanner lights up continuously, and his conference telephone sets off 15 other telephones in Pawnee simultaneously when he touches the fire alarm button.

The telephone console above his bed has 10 lines available, though he uses just six at the present.

There are 24 lines feeding into the little house where he lives with his mother and niece.

His mother takes good care of him, but he manages pretty well by himself for the most part. An ingenious system for coping has evolved through the 30 years he has been laid up.

"If I push the telephone console out of the way, all I have to do to get it back is take my trusty string and give it a pull," he smiles.

"And if I want to change the channel on the television, I have my own special fifty cent remote control," he adds, pointing out a long wooden pole with a hook on the end.

"I don't need much.

"The only care I need is food and a bed pan and a bath."

He can turn himself over, but he stays on his back in the daytime and first one side and then the other at night.

His mirror is all-important.

His third eye, he calls it.

He tilts it one way to look out the window behind his bed. And he tilts it another way to greet his visitors, who hardly know which way to look as they approach the bewildering array of man and mechanization that meets their eye as they enter the tiny room.

"If you get any closer, introduce yourself," a sign over the bed says.

So the visitor looks down and sees a friendly face with a cheerful grin reflected in the mirror aimed his way.

And he introduces himself.

Richard Schultz is an educated man.

He only had two years of high school in Carlinville, the town where he was born, but he had two years of tutoring in the hospital in Peoria and received his diploma from Peoria Central High School.

That was only the beginning.

He has read extensively through the years and now is into philosophy, using cassettes offered for the blind and the physically handicapped to "read" his favorites.

Last week it was Santayana.

He has written some, also, selling a dozen or so pieces of light fiction to "Confession" magazines in years past. "But the market for fiction is gone now," he says.

He can typewrite flat on his back.

"No problem at all," he says.

He props the typewriter on sort of a slant board on his chest and uses a clipboard to hold the copy.

For about 15 years, he did typing for customers all over the country that he lined up by advertising in Writer's Digest. But he has given that up.

"I don't know if my hands got affected somewhat or not," he says, "but I noticed I was slowing down, so I quit doing that work."

Apparently he hasn't altogether quit writing.

A recent edition of the Writer's Market was among the books on his bedside table.

Last month the village of Pawnee paid tribute to the man who has been an inspiration to all who have come in contact with him.

Richard Schultz was presented the First Citizen award at the annual Homecoming.

He didn't know he was getting it.

Mayor Arlo Dickey and Manager Roger Alexander and Police Chief Wayne Fritz told him he had to attend the ceremony as a good citizen, so he got strapped onto a stretcher and carried over to the big affair.

And he listened as the speaker said "the award is to acknowledge and acclaim an individual whose first concern and interest has not been himself but his neighbors, a person who has given of himself freely whenever asked.

"The voice is much more known than the face.

"His is the voice you hear whenever you call the police department, the fire department, or the Pawnee ambulance unit.

"It is the voice you hear on the answering service for many of our local businessmen.

"He is the constant companion to anyone who ever flipped his CB radio to channel 8 and called for the 'Dispatcher.'

". . . a fine example of what discipline and desire can accomplish against the greatest of odds.

"Richard Malcolm Schultz."

THE PRESIDENTIAL CAMPAIGN MATCHING FUNDS A FRAUD

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1976

Mr. MICHEL. Mr. Speaker, a perceptive editorial in the July 21 edition of the Peoria Journal-Star called attention to the shameful way we have squandered the taxpayers' funds on Presidential primary campaigns.

Noting that candidates who had no realistic chance of winning nonetheless were able to collect large sums of public money just by filing the proper forms, the editorial calls for major changes in the law.

In opposing passage of the public financing bill in the first place, I said that the chance to get their hands into the public till legally would be too much to resist for a great many politicians, and so it was.

The editorial in my hometown newspaper makes the point with great cogency, and deserves the careful attention of my colleagues.

A NEW KIND OF FRAUD

(By C. L. Dancey)

You know in this age of technicalities, it is possible to break the law and not be guilty of any actual wrong-doing. Likewise, it is possible to keep the letter of the law and be guilty of a "legalized" fraud.

Among all the uncertainties of the present political situation, one clear thing seems to emerge from the primary process. It is full of loopholes that have invited what amounts to "legalized" fraud.

A number of prominent politicians have actually milked the public treasury, ostensibly to run for President, when that exercise was itself something of a fraud.

Jerry Brown, for example, admits that he was not a serious candidate for President. Frank Church was obviously never a serious candidate for President. A host of early signers-on were just testing the water and quickly dropped out. Ellen McCormick freely admitted that she was never *really* a candidate for president with any remote expectation of winning.

They played out a game of "running for President" and they all got money from the Treasury of the United States to run a publicity campaign for themselves or their cause in fact while "the presidency" was merely a device.

They obtained money under false pretenses, and it matters not how far they "conformed" to legalize that action.

Clearly, the election law "reform" has turned out as badly as we feared—perhaps worse in some ways.

In the first place it gave "matching funds" to the rich in large amounts and to the non-rich in very modest amounts, compounding that inequity rather than balancing it out.

But in the second place, it enabled Frank Church and Jerry Brown and others to become token candidates, very late in the game, after by-passing most of the primaries.

At that point of entry, it is obvious that they have evaded the bulk of the contest, come in at the last minute, and had only two possible intentions: (1) to fractionate the delegates, (2) to gain personal publicity and national attention at public expense.

Should the public finance campaigns that do not, in fact, seek the presidency?

Can several "candidates" gang up to split up the vote, knowing none of them can win, but just to kep votes away from one of the bona fide candidates?

It's a legitimate political ploy—but *at public expense?* predicated on the premise that each of them is a real candidate for actual nomination?

How many of these people would have run without the public moneys?

We do not know, but that would be the real test of sincerity. It is all too obvious that the beckoning "free ride" brings out all kinds of critters early, late, and hopeless—just to get whatever advantage can be gained.

The public taxes ought not be used for such games.

We were "shaken down."

That law has got to be changed.

We cannot permit the levels of exploitation that will come next time now that Mrs. McCormick and the last minute candidates have shown everybody else the way to tap it.

Mrs. McCormick was the most transparent, of course. She made sure she "fulfilled all the rules," but she obviously was using public matching funds to stage a nation-wide TV campaign against abortion—not a campaign seriously intended for the presidency, in fact.

She had no expectations whatever—so she did not run to become president. She ran to "call attention" to a cause.

Fine and dandy, but we ought not be spending tax funds to provide the advertising back-up for every "cause" that wants to be heard, under the cloak of a "presidential campaign."

The same thing happened in another way in the Democratic convention when a series of "vice presidential" candidates got prime time on the podium even though they admitted they weren't really vice presidential candidates—and one wasn't even legally qualified.

That is a form of fraud. The fact that the parties involved all agreed to the maneuver only makes it a kind of collusive manipulation . . . and how far can you really trust people who think this is just a "smart" maneuver?

What other smart maneuvers may they think of to their own advantage—and at whose expense?

The election law has to be changed again to make funds available, if at all, only from candidates who "qualify" by something more than a piece of paper.

For my part, I think a candidate who bypasses all the primaries but that in his own state and two or three other hand-picked states ought not be entitled to federal funds.

He ought either go across the board or he ought to go on his own, and he ought also get a reasonable percentage of the vote somewhere or be ineligible for federal funds.

Let the candidate take a risk and if they only get 2 per cent of the vote—pay their own way!

A person will have to, at least, honestly think he's a real candidate before he grabs for the ring, then.

As it now stands, it doesn't matter if nobody votes for him—the matching funds are still guaranteed.

In short the law should be written so that only a real candidate gets matching funds, and performance at the polls would be one way to reveal whether he or she was a real candidate.

Let them earn the matching funds by performance not by technicalities—or do without.

SENATE—*Tuesday, July 27, 1976*

The Senate met at 9 a.m. and was called to order by Hon. Quentin N. Burdick, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we thank Thee that Thou art not far off, nearer than breathing, ready to enter our fleeting lives. We fling wide the door of our hearts and bid Thee to enter in all Thy renewing strength. Be to us this day our sustenance, our light, our guide. In these confused days, when men are groping for new standards and for fresh beginnings, amid many contending claims, and the sound of many voices, help us to distinguish what is wise from what is clever, what is sincere from what is cunning. In the discharge of their public trust dispose the Members of this body to be calm and confident, wise and just, possessed by an abiding faith in Thee and the working of Thy providence in the affairs of the Nation.

We ask it in the name that is above every name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., July 27, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Quentin N. Burdick, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. BURDICK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, July 26, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION ON JULY 28 AND JULY 30

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committees on Aeronautical and Space Sciences and Labor and Public Welfare be permitted to meet on July 28, to consider a nomination; and that the Committee on Interior and Insular Affairs be authorized to meet on July 30 to consider wilderness legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SCHEDULE

Mr. MANSFIELD. Mr. President, for the information of the Senate, the legislative schedule up to and including August 11, when the Senate will go out for the purpose of allowing attendance at the Republican Convention in Kansas City and selection of its nominees for the Presidency and Vice Presidency, is as follows:

The pending business on the first track will be the Clean Air Act, S. 3219, today, tomorrow, and most likely Thursday. On those days, we shall turn to the tax reform bill, H.R. 10612, at 2 o'clock. Upon the completion of the Clean Air Act, the Senate will then turn to the consideration of H.R. 8603, the Postal Service reform bill. That will go from 9 a.m. until 2 p.m. the day it is taken up, the first full day, and the tax reform bill will continue at 2 o'clock, unless there are changes in the meantime I would not, at this time, rule out the possibility of a Saturday session.

It is hoped that early next week, the Senate will be able to turn to the consideration of H.R. 14262, the defense appropriations bill, and, hopefully, if that is concluded in time, H.R. 12987, the Comprehensive Employment and Training Act. Whether or not the tax reform bill will be taken up on Monday afternoon will be determined on circumstances at that time, and after consultation with the distinguished chairman of the Committee on Finance, the Senator from Louisiana (Mr. Long).

Following those two bills, we shall take up the water pollution control bill. Tax reform will be on the second track. It is possible that an agreement might be reached to consider tax reform only on a one-track basis. The leadership will endeavor however to bring up the Export Administration Act, S. 3084, the extension of higher education, S. 2657, before the recess for the Republican Convention and hopefully, to lay down on Wednesday, August 11, S. 3422, the Natural Gas Act.

To recapitulate and simplify, the schedule between now and up to and including August 11, is as follows:

S. 3219, Clean Air Act, until completed and to be followed by H.R. 8603, postal reform, until completed and to be followed by H.R. 14262, defense appropriations, until completed and to be followed by H.R. 12987, comprehensive employment, until completed and to be followed by S. 3084, export extension, until completed and to be followed by S. 2657, higher education, until completed and to be followed by S. 3422, Natural Gas Act.

The tax reform bill (H.R. 10612) will be on the second track every day unless, at the request of Senator Long, it is made the pending business on a daily, one-track basis.

The Senate is aware of the fact that this is only a tentative list of proposals, but it is the best which the leadership can do at this time.

May I say also, for the information of the Senate, that it is still the leadership's objective to adjourn sine die on October 2.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

PRIVILEGE OF THE FLOOR

Mr. McCLURE. Mr. President, I ask unanimous consent that Jim Hill of Senator GRIFFIN's staff and Amy O'Connor of my staff may have the privilege of the floor during debate and any votes on S. 3219, the Clean Air Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. I ask unanimous consent that the Senate turn to consideration of Calendar Nos. 985 and 987.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MRS. LESSIE EDWARDS

The bill (H.R. 1762) for the relief of Mrs. Lessie Edwards, was considered, ordered to a third reading, read the third time, and passed.

DR. GERNOT M. R. WINKLER

The bill (H.R. 1558) for the relief of Dr. Gernot M. R. Winkler, was considered, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the Senator from New York is recognized for not to exceed 15 minutes.

NEW YORK CITY REPORT

Mr. JAVITS. Mr. President, I had in mind to report to the Senate today respecting the condition of New York City. I refer my colleagues to a colloquy which I had with Senator ALLEN of Alabama at the conclusion of the debate on the New York City bill, which was offering Federal loans to New York City and which I stated that I would consider it my duty and responsibility, from time to time, to report to the Senate on what was going on in New York as I saw it, as I had tried so very hard, and with reasonable success, to bring about a recognition by the United States of these problems as a national problem and not only a problem for the City of New York.

On July 1, 1976, New York City entered the second fiscal year of its tough 3-year austerity program. By the end of the 3-year program, June 30, 1978, the city is supposed to have balanced its expense budget, eliminated its $1 billion plus deficit, reformed its fiscal accounting procedures and instituted sound managerial practices. These obligations were the basis for the signing by President Ford of the New York City Seasonal Financing Act of 1975 on December 9, 1975; their implementation is being officially monitored by the U.S. Treasury Department, the Senate Banking, Housing and Urban Affairs Committee, the New York State Emergency Financial Control Board—EFCB—and the New York City Administration.

The purpose of this report is to document for my colleagues the steps which New York City has taken to date, and to describe the hardships being forced upon a city of almost 8 million persons through the 3-year emergency financial plan. It is made pursuant to my colloquy with Senator ALLEN upon the conclusion of the Senate debate on the New York City Financing Act referred to above.

Mr. President, I ask unanimous consent that this colloquy be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. While to many here in Washington, New York City's problem is a matter of facts and figures, to millions in the city itself, it is a matter of sudden and drastic cuts in the delivery of essential services. Although I believe that the city can live up to the financial plan, I am not as confident that it can do so without severely impairing further and perhaps divisively, its economic and social fabric as the Nation's—and indeed, the world's—principal city. Therefore, at the end of my report I raise what I believe to be the tough questions of national policy which we must answer in order to keep this problem from becoming a monument to our neglect of, and indifference to, what is a critical national phenomenon.

It is a national phenomenon which is shared by the country's older cities of the North and the Northeast.

To date, the city's austerity program has been both painful and controversial. During fiscal year 1975–76, approximately 40,000 city employees were laid off, and city services—libraries, day care centers, hospitals, adult education—were cut to the tune of more than $200 million. More layoffs and even greater cuts are in the offing for the now current fiscal year.

On May 24, 1976, the Mayor's $12.5 billion expense budget for fiscal year 1977, and a spartan $1.5 billion capital budget, were approved by the Board of Estimate. Already the effects of the spending cuts implicit in that budget are being felt as follows:

Further reductions in the police budget will be added to staffing cuts of 13.7 percent which have already taken place.

With regard to fire protection, one marine fire company and several part-time squad companies will be eliminated, adding to the 16 firefighting companies and the 13.7 percent of total staff which have already been cut in the 1976 budget.

Additional cuts in the sanitation budget mean that collection trucks, mechanical sweepers, and manpower in the Sanitation Department will be cut back still further from present levels. Since January 1975, Sanitation Department cuts have totaled 18 percent of its work force.

With regard to social services, 28 day care centers have already been closed in New York City, and savings in welfare costs are expected to total $30 million by June 1977.

Forty percent of playgrounds in the city are understaffed, and the condition of municipal parks and playgrounds—which has always been a problem—is deteriorating still further as grass cutting and reseeding have been substantially reduced.

Recreation programs for senior citizens have been cut back, as have preschool centers and other recreation department activities.

In education, security guards have been dismissed; 10 percent of the school secretaries have been dropped, as have 25 percent of the social service workers, 14 percent of the guidance counselors, and 10 percent of the teaching staff.

With regard to higher education, the problems are only just beginning. We have the unprecedented case of a major university actually closing down temporarily for sheer lack of funds to stay open. The City University of New York has educated generations of immigrant and other low-income New Yorkers. For millions of such students, the City University was their only ticket into the middle class. Dr. Jonas Salk, Ralph Bunche, and many others are among those who could not have afforded to pay for a college education, but who have contributed vitally to the country as a result of this unique city institution.

Hospital facilities have been cut, and several city hospitals have been closed completely. Admissions have been closed to the nursing schools which are operated by the Health and Hospitals Corporation of the City of New York.

An impressive document put out by the city lists 185 general areas which are being closely monitored by the city in its cost reduction program. Recently the major city employee unions excepted in principle a $24 million cut in their total wage and fringe benefit package.

While I welcome this news, I am concerned that the budget cuts which the city must endure in its 3-year financial plan may prove to be too much for its social and economic order to carry. As can be seen, the budget cuts go to the heart of everything that a city government stands for: health services, welfare, day care, city parks, recreation and taxation and the ability to do business.

HOW NEW YORKERS ARE AFFECTED

I have kept a file of newspaper articles detailing some of the individual stories of how these budget cuts have affected average New Yorkers, for, at the level of the individual, the budget cuts spell a million-times-told tale of physical hardships, shattered dreams, and a tarnished quality of life.

The closing of a center for the elderly is merely a statistic in the city budget, but the faces of those old people who have contributed to society during their working lives and now deserve a peaceful life, reflect the budget cuts' devastating impact.

The closing of day care centers is another statistic; but in this case it means that thousands of New Yorkers may have to quit their jobs and suffer the indignity of collecting unemployment or welfare as they stay home to take care of their children.

Cutbacks in hospital services are necessary to keep within the financial plan, but it also means that many requiring emergency medical treatment must now drive, take the subway or bus—if they can—many miles through crowded city streets to the nearest emergency room or outpatient clinic, and wait there for longer hours.

To document these cases of human grief and hardship would take volumes, but the facts are all there.

To my colleagues I say, as you visit New York—and you do—take a little time to see for yourselves and ask anyone you meet. You will find that few, if any, are untouched by the city's financial crisis. If you need any help to make your inquiries, ask me.

Fortunately there are some bright spots in the picture—all may be summarized as a genuine willingness on the part of New York City citizens to pitch in and help their city through these trying times. The remarkable cooperative effort of New York City's municipal unions and municipal employees has had a dramatic impact on the ability of the city to cope with the financial crisis. New York's unions have suffered a barrage of criticism for fighting for the interests of their constituencies but, in the crunch, the unions have been the central factor in the city's ability to tap the financial resources needed to survive. Not only have the unions faced up to reality in their negotiations with city management, and accepted wage and salary freezes, they have also put their own financial resources on the line for the city. It has been union pension funds that have provided much of the wherewithal necessary for the city to qualify for the Federal loans and to meet its obligations.

All New Yorkers have been remarkably patient through this period of retrenchment. They have put off cashing city bonds and notes. They have seen taxes and subway fares rise and have accepted with understanding the cutbacks in virtually all city services.

There has also been an enormous surge of constructive criticism from every sort of "watch-dog" group, including the Association for a Better New York, Regional Plan Association, Fund for the City of New York, Citizens Budget Commission, Citizens Union, Community Council of Greater New York, Economic Development Council of New York City, and the Community Service Society of New York. In addition, the city has witnessed the emergence of new groups and organizations willing to help.

The Citizens Committee for New York City, Inc., is one of these. Founded in the fall of 1975, before the New York City Financing Act was even passed, the Citizens Committee has compiled a highly creditable record in mobilizing and channeling the enormous energies and talents of New Yorkers into constructive programs of assistance to the city. The Citizens Committee is supported by grants from foundations and other private sources, including corporate contributions. It has enlisted more than 8,000 volunteers, and placed more than 2,000 of these in city departments where programs have been severely hampered because of necessary budget cuts. It has distributed promotional material, handed out 2,500 street brooms to neighborhood groups which are used actively to aid the sanitation department, worked to allow corporate executives to obtain release time so that they can donate their services to the city, and sponsored conferences in local self-help.

On May 15, 1976, for example, a citywide conference on block associations was held by the committee, and representatives from over 1,000 block groups attended.

The New York Daily News characterized the Citizens Committee effort as the "biggest, boldest, most imaginative volunteer attack in American history."

In the whole scheme of things, the Citizens Committee may be considered, perhaps, a modest effort. But in fact, it is probably the largest volunteer effort in American history short of actual war time, and it has the potential—if recruitment continues at the present rate—of compensating substantially the necessary cutbacks in the city services which have taken place.

FEDERAL INTEREST

The final part of my report deals with what I call the Federal interest at stake in the New York City problem. It is not just that New York City employs 10 percent of all those working in finance and insurance, or that the 12 largest commercial banks in the country have their headquarters in New York City. It is not just that 90 percent of all stock trading in stock exchanges is done in New York City, or that New York City firms hold approximately 25 percent of all the assets of the country's 50 largest life insurance companies.

The truth is also that New York, both city and State, provides a substantial share of the Nation's wealth and the Nation's managers and leaders, a fact which affects everyone in this country. New Yorkers are the most heavily taxed people in this country, on both the Federal and local levels. New York money is invested in virtually every State of the Union.

The local tax burden is particularly disturbing since it is caused, in part, by the rapid and very substantial population shift which has occurred in the United States in recent years. In fact, in the last 5 years New York State has actually lost population and has seen total employment drop by 1.8 percent, and the recovery is about one-half the average U.S. recovery. What we have then, is the makings of a self-defeating spiral: As the population and the number of jobs decline, taxes go up, and the process is reinforced.

Add to that the developments in communications and computerized financial transactions which have taken place recently, and one can see that even the mainstay of the New York City economy—its financial sector—is threatened. For example, within the past year, approximately one dozen brokerage houses have moved a part or all of their operations from New York City to New Jersey.

These phenomena have not been without their direct costs to New York City. They show up in the fact that city revenues decline or stagnate as the tax base deteriorates, and do not recover substantially when the Nation itself is in the process of an economic recovery. The costs associated with economic stagnation, such as unemployment compensation and welfare, remain high; and the fixed costs of the city take no account of the ups and downs of the business cycle. Recently, for example, the mayor's office had to adjust its fiscal year 1977 budget by a total of $212 million, solely because of the fact that it was scaling down its forecasts on how much New York would benefit from the national economic recovery.

This private sector aspect of New York City's financial crisis is perhaps the most important aspect in the long run. For without a viable future as a leading business center, New York cannot hope to pull out of its present crisis which is nominally one of government finances.

This spring a unique group of business and labor leaders was formed in New York City to take a close and far-reaching look into this very problem: the condition of New York's private sector. Realizing that the health of the city's own finances depended in large part upon the health of the private sector, and realizing also that social and economic trends pose substantial threats to the viability of some industries in New York, the Business-Labor Working Group has embarked on an ambitious plan to analyze and recommend action in 13 major areas. Chaired by the chairman of the Chase Manhattan Bank, David Rockefeller, and with its vice chairman, the AFL-CIO Central Labor Council Chairman, Harry VanArsdale, the Working Group has attracted 25 of the top business and labor leaders in the city, who have in turn enlisted the active participation of approximately 100 others to work in its subgroups. By looking at specific economic sectors, and by engaging both business and labor leaders in this effort, the recommendations of the Working Group could become a major blueprint for economic recovery to take hold in the New York City area. In effect, what New York has achieved on a totally volunteer basis is the equivalent of a high-priced consulting firm to design an economic development plan for a metropolis of almost 8 million Americans.

As this report was being drafted, sensitive negotiations between the city's major employee unions and City Hall itself were being resolved. In an agreement remarkable for its restraint, the unions endorsed a memorandum of interim understanding, pledging themselves to accept $24 million in overall reduction in labor costs for the city during the present new fiscal year. This action removed the last remaining roadblock for approval of the Federal loan which the city needed on July 2, 1976. But it also demonstrated that New Yorkers are still willing to assume considerable individual burdens in their effort to bring the city back to a sound financial footing, for the employees who accepted these labor cost reductions are the same ones whose taxes have been increased and whose duties have been increased as city services have been cut substantially.

Much remains to be done. It is clear, for example, that notwithstanding the spirit of the sacrifice on the part of many New Yorkers, the city alone cannot assume all the cuts which are or may be required over the next 2 years to enable the city to enter the financial markets at the end of that time. At the State level, work needs to be done on resolving the question of State support of the courts and corrections system. I believe that this and similar problems can be worked out during the next session of the New York State Legislature.

At the Federal level, there is also much to be done. Federal purchases of Mitchell-Lama mortgages are authorized by law, but have been held up through what the city claims to be a technical interpretation of that law.

A federalization of welfare is long overdue, as the Congress well knows from its own debates on the welfare issue and the deep concern of Members from large cities and States.

It is clear to me a new initiative is needed at the Federal level to get at the underlying problems which affect New York City and other similar cities in our older northern and northeastern areas. For our country lacks an urban policy and lacks even the governmental organization to press for an urban policy. The congressional statement of policy in the authorizing legislation for the Department of Housing and Urban Development makes little distinction between the smallest communities and the largest cities, notwithstanding the very obvious difference in the problems affecting these different kinds of communities.

I have every hope that in future reports on the problems of New York City, I shall be able to report on progress at the Federal level in fashioning a viable policy and viable programs to deal with this very serious far-reaching economic phenomenon affecting our country.

For, the answer lies in our own hands right here in the Congress. We can, by grasping the nettle, bring back our older cities and make them viable. They, in turn, can produce billions in new wealth and fabulous advances in culture, and can enhance the quality of life for the great majority of Americans—over 70 percent—who now live in these very same cities. Ours is an urban society, but this fact has yet to be really recognized in the Congress.

EXHIBIT 1

[From the Congressional Record, Dec. 15, 1975]

Mr. JAVITS. Mr. President, I shall not detain the Senate, but Senator ALLEN and I had a very interesting colloquy at the termination of the previous phase of this New York legislation in which I made certain statements to the Senate respecting my own activities in the future to make good what the Senate has done and, finally, is consummating in this bill.

I ask unanimous consent, because I think it is so pertinent to the final stage of this legislation, that my colloquy with Senator ALLEN may be printed in the RECRD.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

"Mr. JAVITS. Mr. President, I simply wish to express my appreciation for the statesmanship which has just been shown by the very doughty opponents of the New York bill and by the extraordinary effort of the leadership on the Democratic side, aided by that on our side, especially by Senators TOWER and BROOKE, to bring this matter to a head before it would be too late to do anybody any good, no matter what the Senate decided.

"I am very grateful for this, and it is only in that spirit that I speak. I have made many representations to the Senate on this subject, obviously a subject in which I am very well grounded, not only from study but also from life. I have lived in this city all my life, except for the war years, and I understand its troubles, and nobody knows its derelictions better than I. So I speak with a certain—I cannot say objectivity, but certainly with knowledge, from which objectivity comes.

"First, we always must bear in mind that it is not only those bankers—and they serve a critical purpose in our country, as we all know—but also 160,000 individual holders, to who Senator ALLEN quite properly called attention.

"It is a fact that New York City's securities have been considered tops; and even when the city and the State began to go wrong in terms of using the tax anticipation notes, because of the great reputation of New York City and New York State, people continued to buy them. I am very well aware of that and consider it an important element of conscience on the part of the people of the State and the city and on my part to see that those holders ultimately suffer no damage.

"Second, the conditions of the loans, believe me, are truly tight. It will be a matter of conscience to me to do my utmost to see that they are dealt with honestly. I emphasize the word "honestly" because of the financial gimmickry for which New York City has been guilty and was kind of allowed to do it, to give it the kindest word, by the State.

"Third, we have an enormous tax-paying ability, which is of real aid to the Federal Government. Roughly, in round figures, an estimated $25 billion to $30 billion comes out of our State every year. The New York business community can make the difference in whether or not that continues to be, in New York, the great source of revenue for all the things the rest of the country does. It may be remembered by some of my colleagues who have been here some time that even so beloved and close a friend and colleague of mine as Kenneth Keating and I differed very materially on education aid, for which New York was paying four to five times what it received. This did not throw me, but it did throw him, and I can understand why. But I stuck to my guns, and I always will, realizing that it is part of our duty. While we must get a better break in many of these formulae, and I have always fought for that, the fact is that we are destined to pay a considerable amount more than we have received and it simply cannot be simplistically run the other way. If you want to be the outlet and the intake for the United States, you have to pay for the franchise—that is what it really comes to.

"So, I pledge to the Senate my utmost effort to marshal the enormous New York business community in the effort to make up for our problems in what looks like a very serious downhill slide for New York in terms of what it can generate in revenue in order to maintain it for the next quarter of a century as that kind of revenue source for the Federal Government.

"Next, the State itself has financial problems and we are in grave danger of losing great business elements in our State, because it will just be too expensive and too difficult to do business there. Nobody is tied down; they can go elsewhere. It may be trouble and it may cost money, but ultimately they can do it. So I shall make it my business, to the maximum extent possible, to cooperate with the Governor of the State, who has done a wonderful job in respect of this particular problem and crisis, in order to make it possible for New York to be New York, notwithstanding the terrible drain which this is going to be for the next 3 to 5 years.

"Finally, on the bailout issue, without arguing the use of the term—and I understand why it is used by Senator ALLEN and other opponents. I am too much of a trial lawyer myself to say, 'Do not do it.' But I should rather address myself to the merits there. This will take, in addition to the business community, a highly disciplined New York City, by 8 million people, who will have learned from this terrible experience what it means to run a tighter ship. That goes not only for taxes and financing, but it also goes for crime and drug addiction and the many other things which have dragged our city down and have been responsible for many of the adverse developments with respect to it. There, too, I have been responsible, with the alliance of Senator BUCKLEY, in organizing an outstanding citizens committee, chaired by Osborn Elliott, who is the editor-in-chief of Newsweek, secretaried by a man who used to be my New York assistant and is now the secretary of this citizens committee, named Dennis Allee, who has a fine record, and joined in by some of the leading citizens of our city of all kinds, from the financial and artistic side to the highest business levels, with the honorary chairmanship of the leading political people—myself, Senator BUCKLEY, Congressman DELANEY, the head of the New York delegation, the Governor and the mayor and the comptroller of the State of New York. We shall do a job there, with the citizens, in terms of self-help and the discipline which is going to be required of the people of New York.

"Mr. President, I believe that that is a proper accounting by me to the Senate of what I hope to do for what I consider to be a certain faith placed in my good faith and intentions by the Senate in voting this New York bill, which was no pleasure to any Members of the Senate, including myself.

"Mr. ALLEN. Will the Senator yield?

"Mr. MANSFIELD. Mr. President, if the Senator will allow me, I want to say that I took note of the criticism of the leadership by the distinguished Senator from Alabama. I must admit, in all candor, that there was merit to what he had to say, and I wish to take this opportunity to thank him for the temperateness of the criticism which he directed at the leadership.

"Mr. ALLEN. Will the Senator from New York yield?

"Mr. JAVITS. I yield to the Senator.

"Mr. ALLEN. I commend the Senator from New York for his statement. I certainly admire the fight he has put up here in the Senate and elsewhere in behalf of his city and State. He certainly started out with an underdog position, but, through circumstances that developed, he was able to win his case here in the Senate. Now that the issue has been decided, certainly, I shall express my best and kindest wishes for New York and its people, which has never been other than my attitude. I have felt, all along, that in taking the position that I have against this, shall I say, assistance rather than bailout—this assistance to New York City—I was standing for the people of New York.

"I felt that the assistance at the Federal level would serve to freeze in this wasteful level of public expenditures in New York City, but that by solving the matter themselves, or taking the protection of the bankruptcy statutes, New York would emerge with a level of expenditures that the taxpayers could better support. I am hopeful that this $2.3 billion will be sufficient to tide New

York over until it can put its affairs in better shape.

"The distinguished Senator has my very best wishes for the success of this program and for better days, economically, for New York. Certainly, I appreciate the pledges the distinguished Senator has made to use his best efforts and his good offices in seeing that the agreements and stipulations that New York is entering into are carried out in order that this will be a program that is beneficial to all.

"Again, I want to commend the distinguished Senator from New York for the role that he has played. It is a role that I have opposed, but still, I have admired him for his tenacity, and for the evenness of his disposition through the trying hours this matter has been under consideration. I applaud him for the success of this measure on the Senate floor.

Mr. JAVITS. I am very grateful to my colleague. He is very generous. I have never had the least doubt of the sincerity of my colleagues, and I have always believed that liberals and conservatives, be we what we may it is our amalgam that makes our country what it is. I thoroughly believe in it, just as the Senator does, and I welcome and applaud his efforts in what he felt, in deep conscience, he should do.

"May I say, finally, that if the Lord will give me years, I shall do my utmost to see that the investment made by our country is the right one and that is is a success.

"Mr. ALLEN. Mr. President, I thank the Senator.

"Seeking recognition in my own right, I am delighted that the distinguished majority leader commented so generously on the remarks the Senator from Alabama made with regard to the piloting of these two bills, the rail transportation bill and the New York assistance measure—I say out of deference to the distinguished Senator from New York (Mr. JAVITS)—through the Senate. He was kind enough to say there is some merit in the criticism—and I guess it was criticism—offered by the Senator from Alabama. I think it might be noted that he made no pledge to mend his ways in the conduct of Senate business here, so I shall have to say that, as long as that is the attitude of the leadership, we are going to have to look for more extended discussions on subjects here in the Senate."

Mr. JAVITS. Mr. President, I would like to extend my thanks on behalf of the people of the city of New York to Senator PROXMIRE and to Senator BROOKE, who were so gifted, and to Senator STEVENSON and other Senators who participated in the same way.

Mr. JAVITS. I believe, Mr. President, that New York City will live up to its 3-year emergency financial plan and, as it has already shown, will repay the loans which are made or guaranteed by the Federal Government. I believe that this is not going to be done without severely impairing further, and perhaps decisively, its economic and social fabric as the Nation's principal city. The reduction in services during the 3-year emergency period, as I have seen its progress, Mr. President, may prove already to be too much for the social and economic order of New York City to carry. It will pay, but the question is what will result in this, the principal city of the United States, which is so much in the minds of our own people and the world, one of our prime national assets, responsibilities and features.

I have noted with the deepest concern the very, very deep cutbacks in respect of police and fire protection, health care, emergency medical services, education, housing, welfare, day care—where every slot means a mother freed to work or not to work—recreation, and other very sharp cuts which have resulted in physical hardships, shattered dreams, and a tarnished quality of life.

By calling my colleagues' attention to this. I simply seek to give us very adequate notice because New York City is only symptomatic of our Nation. It is very clear now that other cities are exactly on the same track except New York, naturally being so prominent, so big, so traditional, calls the greatest amount of attention to itself. But the oldest cities of the Nation, Mr. President, especially in the Northeast, are experiencing similar problems, and there is a very grave threat of a breakdown in the whole urban civilization of the United States.

What I believe, Mr. President, we learned from all of that is the urgent need for a national urban policy. There is not even a single governmental organization, Mr. President, to deal with the problems of the cities as cities or to press in any way for an urban policy.

For example, the federalization of welfare is long, long overdue. This is a demographic problem which is shown by the near bankruptcy of New York City from which it was saved by the Federal Government and, indeed, Mr. President, one of our leading organizations, I believe it is the CED, just the other day called attention to the fact that it was infinitely more important for the cities to have a federalization of welfare than it was to have revenue sharing; that it would do them more good and do the country more good.

I ask unanimous consent that this news clip be made part of my remarks, and printed in the RECORD.

There being no objection, the news clip was ordered to be printed in the RECORD, as follows:

BUSINESS GROUP ASKS FEDERAL SYSTEM OF WELFARE INSTEAD OF FUND SHARING

(By Ernest Holsendolph)

WASHINGTON, July 5.—The Committee for Economic Development, an organization of business leaders who study and issue reports on national problems, recommends that general revenue sharing funds be cut off and that the money be used to pay the full cost of welfare programs.

In a report released here today, the committee says that the federalization of welfare programs, including public assistance for the poor, aged, dependent children and others, would serve to equalize benefits around the nation.

Five years ago, the committee voiced approval of the idea of the Federal assumption of all welfare costs, but today was the first it had endorsed the use of revenue sharing funds to accomplish that.

The report says that the annual cost of federalizing welfare would be about $9 billion, including $7.5 billion in payments by states and localities that the Federal Government would assume, and $1.5 billion for bringing lagging communities up to national benefit standards.

LITTLE IN COMMON

Noting that all welfare programs are directed and administered by the state and local governments, the committee said that the similarity between the programs ended there. Only 38 state governments, for example, bear the entire Federal share, and 12—including New York State—require their local governments to pay up to half of the state share.

And last September the benefit levels in the program of aid to families with dependent children varied widely. The payments ranged from a low of $14.40 for each recipient in Mississippi to $120.49 in Massachusetts. New York paid $104.80.

The committee also noted, critically, that the most generous the Federal Government paid a smaller share of the benefits.

At present, general revenue sharing provides about $6.5 billion annually to the states and localities, but the report said that the gap between that sum and the projected $9 billion cost of federalization might be reduced by better management and other benefits that would flow from federalization.

The House has approved a plan to extend revenue sharing before it expires Dec. 31, but the Senate is not expected to act until later this summer—possibly before the end of July.

Among the members of the group that approved the report of the Committee for Economic Development were William H. Franklin, the retired chairman of Caterpillar Tractor Company; Franklin A. Lindsay, chairman of Itek Corporation; and Howard C. Peterson, chairman of the Fidelity Bank. Philadelphia.

GOVERNORS' PANEL ASKS U.S. REFORMERS IN WELFARE RULES

(By Seth S. King)

HERSHEY, PA., July 5.—The nation's governors were told today that state and local governments could be spared millions of dollars in welfare costs if the Federal Government would consolidate its public assistance programs, establish a national minimum welfare payment and require most welfare recipients to register for work.

These recommendations were included in the report of a special welfare reform study group that was presented here to the 68th National Governors Conference.

The report urged the governors to join the associations of city and county governments in demanding that the Ford Administration and Congress make sweeping reforms in welfare programs by 1977.

In Washington a committee of business leaders recommended that general revenue sharing funds be cut off and that the money be used to pay for all welfare programs. [Page 15.]

UNIFORMITY ADVOCATED

Based on its two-year study of welfare systems, the governors' study group urged the conference to demand a system of uniform Federal standards, applicable in all states, to determine who was eligible for public assistance.

It also recommended that each state be required to offer minimum welfare payments based on a Congressionally established national poverty level, with regional variations tied to the cost of living.

These standards should be coupled with a Federal requirement that all able-bodied welfare recipients between the ages of 17 and 60, except those wih small children or older dependents, register for work and accept jobs offered them at Federal minimal wage standards, the study groups said.

On the crucial question of who should pay for all this, the report urged the governors to demand that the Federal Government pay all federally-mandated minimum welfare benefits in all states. It also asked that the Federal Government pay 75 percent of a state's welfare administration costs and pay 75 percent of supplemental benefits above the Federal minimum.

Welfare reform was the pervading issue before the governors, gathered at the Hershey Convention Center in the rolling hills of central Pennsylvania for their annual summer conference. Most of today's plenary session was devoted to it. The recommendations in the report will be voted on tomorrow.

In urging the governors to join in a concerted demand for welfare reform, Governor Carey of New York said that his state could save $1 billion annually if Congress and the Administration adopted the study group's suggestions.

CAREY BACKS CONSOLIDATION

He said that if the Federal Government would consolidate and simplify the mass of regulations entangling its mandated programs, which would enable welfare lists to be computerized, the state could save at least $500 million in administrative costs over three years.

"Welfare today is a broken-down, $19 billion system that is filled with opportunities for ripoffs," he told the conference. "We have never jointed before to reform it, and it is time now for the country's governors, who have the responsibility for administering so much of what the Federal Government mandates, to be heeded."

Discussing the report, several governors wondered if the study group was not asking the states to abandon all their domination of state functions.

But they agreed that Federal welfare regulations had become so complicated that they were self-defeating.

"The Federal publications on individual welfare eligibility alone are a yard high and impossible to follow," said Gov. Daniel J. Evans of Washington, vice chairman of the conference's Committee on Human Relations, which directed the study of welfare.

"We don't have a genuine national welfare program," he said. "As a consequence, many of the nation's poor who need help don't get it, and many who do get it don't really need it."

The establishment of a national welfare payment rate, standard for all states, was widely endorsed by the governors.

WIDE VARIATIONS OPPOSED

Gov. Arch A. Moore Jr. of West Virginia, who questioned turning over all welfare administration to the Federal Government, agreed that welfare payments varied too much from state to state, tempting many poor people to migrate to higher-paying areas.

"If you achieve quality in welfare payments, it would release some pressures from states like New York, Pennsylvania and Massachusetts," he said. "The welfare grass looks a lot greener in New York than it does in Mississippi."

"Ideally," the study group said, "Federal benefits should be available to all unemployable persons solely on the basis of financial need rather than arbitrary categories. An effective work requirement, fairly enforced, should serve to assure that only those actually unable to support themselves are covered."

The report also said that "contrary to popular rhetoric," welfare costs were not bankrupting the nation. But they are creating inequitable pressures on many states and cities and are soaring to a level of 13 percent of all public expenditures, the report said.

The attitude of many governors present today was tartly stated by Gov. J. J. Exon of Nebraska, who told the conference, "These recommendations may not be perfect, but I support them. Anything is better than what we have now."

Mr. JAVITS. It is very interesting to me that in the congressional statement of policy respecting the Department of Housing and Urban Development little distinction is made between the smallest communities and the largest cities, notwithstanding the obvious differences of the problems which are at stake.

I ask unanimous consent that that may be made part of my remarks and printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

CONGRESSIONAL DECLARATION OF PURPOSE

The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of our people require, as a matter of national purpose, sound development of the Nation's communities and metropolitan areas in which the vast majority of its people live and work.

To carry out such purpose, and in recognition of the increasing importance of housing and urban development in our national life, the Congress finds that establishment of an executive department is desirable to achieve the best administration of the principal programs of the Federal Government which provide assistance for housing and for the development of the Nation's communities; to assist the President in achieving maximum coordination of the various Federal activities which have a major effect upon urban community, suburban, or metropolitan development; to encourage the solution of problems of housing, urban development, and mass transportation through State, county, town, village, or other local and private action, including promotion of interstate, regional, and metropolitan cooperation; to encourage the maximum contributions that may be made by vigorous private homebuilding and mortgage lending industries to housing, urban development, and the national economy; and to provide for full and appropriate considerations, at the national level, of the needs and interests of the Nation's communities and of the people who live and work in them. Pub. L. 89–174, § 2, Sept. 9, 1965, 79 Stat. 667. (42 U.S.C. 3531)

Mr. JAVITS. Now, in my judgment, the answer to the problems to the cities lies right here in Congress. The House of Representatives is a body which is determined by population. Hence, in view of the fact that well over 70 percent of our citizens live in urban surroundings, that body ought to be very conscious of the problems of the great American cities.

Although the Senate is represented by States, with States with very small populations having an equal representation to huge States like California and New York, it is nonetheless a fact that now practically every Senator has within his State a city situation. It may not be a city nearly the size of New York, Philadelphia, Boston, Chicago, or Los Angeles, but he has a city situation and, hence, a very, very real interest in how we work out these problems.

I would not wish to make this report this morning without disclosing and joining with my colleagues in the appreciation of some very interesting things which we learned in New York and which may be of use to others. For one, I do not think there is a real appreciation of the steepness of the cuts. We have in New York laid off 40,000 city employees, and that has taken a tremendous toll, not out of luxuries or what makes people call New York the "Big Apple" but out of libraries, day care centers, hospitals, and adult education. This is where the cuts, Mr. President, have hurt very, very, very badly.

We have also taken over a 13-percent cut in staffing of the police department; we have taken about a 13-percent cut, a little over that, in fire protection. We have taken a very material cut in the sanitation department which means—and that work force has been cut about 18 percent, which means—that garbage is longer on the streets and the city is in a less sanitary condition in a very material sense.

We have taken cuts in recreation programs for senior citizens, especially hard on the elderly. Everybody knows what has happened to higher education in the city of New York, with the city university actually closed down, a university serving a quarter of a million students, because it could not pay its salaries, and only rescued by herculean effort by the State of New York which itself is in very serious difficulty.

Hospital facilities have been very materially cut, and a number of city hospitals have been closed.

Mr. President, I have a file, which any Senator is welcome to see, of newspaper articles detailing the individual tragic stories of New Yorkers who have been materially hurt by these retrenchments. The closing of a center for the elderly, Mr. President, may be merely a statistic in the city budget, but the faces of those old people who have contributed so much to society during their working lives and now deserve a peaceful life in their old age, the tragedy in those faces when their center is closed reflect the budget cut better than any statistic, with a very, very devastating impact; and that individual who has to shop for miles through the city streets to find an emergency room in a hospital or an outpatient clinic and wait there for double the number of hours they had to wait, that represents, Mr. President, a New York statistic.

On the brighter side, Mr. President, we have seen an extraordinarily cooperative effort by New York City's municipal unions which have turned to in an extraordinary way and accepted wage and salary freezes and standstills and other retrenchments in order to help save the city.

I am myself deeply gratified to have stimulated the establishment of a citizens committee for New York City founded in 1975, now run by Osborn Elliott, the editor-in-chief of Newsweek, who is its chairman, and Dennis Allee, who used to run my New York office, and who is a very gifted official in terms of municipal events.

This committee, Mr. President, supplies the volunteers to try to fill in and make up a good deal of the slack which has resulted in city services by the retrenchments which I have described.

The citizens committee has already enlisted 8,000 volunteers, Mr. President, and is growing stronger every day.

Mr. President, in a citywide conference of associations organized on each city block, representatives from over 1,000 block groups attended.

Mr. President, may I know how much additional time I have?

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes.

Mr. JAVITS. I thank my colleague very much.

Now, Mr. President, what is the Federal interest in New York City? As a U.S. Senator, I am as hardheaded as anybody about where the Federal Government fits. Well, Mr. President, the Federal interest in New York City is absolutely enormous. New York City employs 10 percent of all those in the country working in finance and insurance. It has the 12 largest commercial banks in the country. Ninety percent of all stock trading on stock exchanges is done in New York City, and the New York City firms hold approximately 25 percent of all the assets of the country's 50 life insurance companies.

The truth is that even to this day New York supplies an enormous Federal revenue, estimated in the area of about $20 billion a year. New York supplies a substantial share of the Nation's wealth, the Nation's managers and leaders, and heavily, as important, in setting the Nation's taste, the Nation's style, and the way in which Americans communicate with each other, and the general ideas which they entertain.

We are today, Mr. President, the most heavily taxed people in this country on both Federal and local levels, and yet money from New York is invested in virtually every State of the Union.

I said before, Mr. President, that we have this very grave difficulty that we are in very largely because of the demographic situation in the country which, when the civil rights movement gained a tremendous head of steam, caused vast numbers of people to come from other areas into New York, untrained in the ways and skills required in cities and going immediately—and the Supreme Court has mandated that—to the welfare rolls.

Comparably, dread poverty and huge unemployment in Puerto Rico drove hundreds of thousands of fine people who are and will be fine taxpaying citizens to New York, again swelling welfare rolls beyond belief and causing an enormous problem which is a national and not a local problem.

Mr. President, finally, I would like to make clear something about New York's future.

New York is going to live or die. Mr. President, great cities have died before and we cannot be less than adult in looking at New York's very serious situation, and at their ability to renew themselves and to accept economic roles which are more conforming with the times than those they may have espoused in a long history. New York once used to be a big manufacturing city, Mr. President. It is not and cannot be that any more; witness the garment trades where literally hundreds of thousands of people have moved out of New York.

I had the honor to inspire a committee in New York called the Business-Labor Working Group chaired by the chairman of the Chase Manhattan Bank, David Rockefeller, and with its vice chairman, the AFL–CIO Central Labor Council Chairman Harry VanArsdale, they have attracted to themselves 25 of the truly top business and labor leaders in the city, who have in turn enlisted the active participation of approximately one hundred others to work in its subgroups in order to, first, hang on to the business we have in New York; and second, to see the direction in which New York must go.

I have frequently said that New York must turn more and more in the direction of a service city. A center, for example, of health and medicine with unparalleled standing in the world, a center of communications, a center of education, of ideals and of culture.

But, Mr. President, we will be unable to press on with these policies in this change which can reflect such enormous credit upon all our country and its ability to cope with massive problems, like the problem of New York City, unless we get the help of the Federal Government, not just in the transitory loan posture for which we are very grateful and which, indeed, saved the city—I do not wish in any way to denigrate that fine act of the Congress and of the President—but, Mr. President, we need this in some kind of settled and stable way which will give us a chance for the future.

In my judgment, the single most critical item which can be done in the Federal Government is to establish some central authority which will deal with the problems of the cities in an overall way; and, second, to federalize welfare, Mr. President, before other cities are brought to their knees, just like New York has been brought to its knees, by national problems for which we have no form of organization in this country.

I would say, as a first priority, a central Federal agency to deal with the problems of the cities in which well over 70 percent of Americans now live; and second the federalization of what should be federalized because it relates to the demographic movement of people in our country, who should be free to move without penalty wherever they wish, and that would be the federalization of welfare.

Mr. President, we can make it. But what has happened has torn very seriously at the social and economic fabric of our city.

We could go down, too. We could go either way. Which way we go, Mr. President, is going to depend very heavily, in my judgment decisively, upon what is done right here in Washington.

I hope very much that we will not have wasted the lesson of 8 million New Yorkers who have seen so much of their dreams go up in smoke. But we will learn from them.

I thank the Chair.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 20 minutes with statements therein limited to 3 minutes.

MESSAGES FROM THE HOUSE

At 12:35 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (S. 1689) to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578), as amended, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 10133. An act to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for an additional Assistant Secretary of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes; and

H.R. 11743. An act to establish a National Agricultural Research Policy Advisory Board, and for other purposes.

ENROLLED BILLS SIGNED

At 3:08 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2943. An act for the relief of the estate of James J. Caldwell.

H.R. 7685. An act for the relief of Mildred N. Crumley.

The enrolled bills were subsequently signed by the President pro tempore.

At 4:18 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House insists upon its amendments to the bill (S. 3052) to amend section 602 of the Agricultural Act of 1954, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. de la Garza, Mr. Brown of California, Mr. Richmond, Mr. Harkin, Mr. McHugh, Mr. Thone, and Mr. Grassley were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14233) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offces for the fiscal year ending September 30, 1977, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 7, 28, 29, 31, and 32 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 1, 2, 35, and 37 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Burdick) laid before the Senate the following letters, which were referred as indicated:

Major Extra High Voltage Transmission Lines

A letter from the Chairman of the Federal Power Commission transmitting a copy of a map entitled "Major Extra High Voltage Transmission Lines, December 31, 1975"; to the Committee on Commerce.

REPORT OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a report of Department of Defense procurement from small and other business firms for July 1975—April 1976 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

MAJOR NATURAL GAS PIPELINES

A letter from the Chairman of the Federal Power Commission transmitting a copy of the publication "Major Natural Gas Pipelines, December 31, 1975"; to the Committee on Commerce.

PROPOSED ACT ADOPTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA

A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council (with accompanying papers); to the Committee on the District of Columbia.

PROPOSED LEGISLATION BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Under Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to reduce the amount of funds required to be reserved for particular projects under the Special Projects Act, and for other purposes (with accompanying papers); to the Committee on Labor and Public Welfare.

FINAL DETERMINATION BY THE INDIAN CLAIMS COMMISSION

A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, a report on the final determination by the Commission in the case of Papago Tribe of Ariozna 1. U.S., Docket Nos. 102 and 345 (with accompanying papers); to the Committee on Appropriations.

PETITIONS

The ACTING PRESIDENT pro tempore laid before the Senate the following petitions which were referred as indicated:

Assembly Resolution No. 199 adopted by the Assembly of the State of New York; to the Committee on Interior and Insular Affairs:

"RESOLUTION No. 199

"Assembly resolution of the State of New York urging the President of the United States and Congress to enact legislation to establish Fort Wadsworth, Staten Island as a living national park memorial

"Whereas, Fort Wadsworth located in Staten Island, New York has been a continuously manned fort of the United States since 1663; and

"Whereas, Fort Wadsworth is the oldest continuously manned fort in the United States and on the North American continent; and

"Whereas, Fort Wadsworth is a landmark of military history of the United States and is worthy of preservation as such; and

"Whereas, Fort Wadsworth is currently staffed with a detachment from each of the five services under the auspices of the United States Army and should remain so; and

"Whereas, The Fort Wadsworth Committee for a 'Living National Park Memorial' (1636—proposed legislation to the President and Congress of the United States to establish Fort Wadsworth as a monument to our Armed Forces in our Bicentennial year; now, therefore, be it

"Resolved, That the Assembly of the State of New York respectfully urges the President of the United States and Congress to enact legislation establishing Fort Wadsworth as a 'Living National Park Memorial' (1636—) memorializing all servicemen and servicewomen who have fought to create this one nation under God, who kept our nation free and who will safeguard its future; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the President of the United States, the President Pro Tem of the United States Senate, the Speaker of the House of Representatives, and to each member of Congress from the State of New York."

Assembly Resolution No. 200 adopted by the Assembly of the State of New York; to the Committee on Finance:

"RESOLUTION No. 200

"Assembly resolution of the State of New York memorializing Congress to repeal Item 807, Schedule 8, Part I, subpart B of the U.S. Tariff Schedule

"Whereas, Item 807, Schedule 8, Part I, Subpart B of the U.S. Tariff Schedule gives special preferential treatment to imported clothing items that are first styled and cut in the United States and then assembled outside our country in low-wage nations; and

"Whereas, These finished articles are then imported into our country with only a fractional duty paid representing the value added; and

"Whereas, These clothing items, in most cases, sell at the same price as their American made counterparts, even though they are produced at extremely lower costs; and

"Whereas, The unfair competitive aspects of Item 807 have caused and are causing the loss of tens of thousands of garment worker jobs in New York city and New York state which have been the traditional entry level of employment for people coming to our urban centers from rural areas with limited skills and education; and

"Whereas, This existing section of the Tariff Law has not only caused widespread unemployment but also has created a serious condition of underemployment in the garment industry and because of limited work has led to the loss of such important workers' benefits such as vesting rights, holiday and vacation pay; and

"Whereas, The current basic and critical need of the economy of New York state and New York city is to preserve and expand employment in the garment industry; now, therefore, be it

"Resolved, That the Assembly of the state of New York hereby memorialize the Congress of the United States to adopt appropriate legislation to repeal Item 807, Schedule 8, Part I, subpart B of the U.S. Tariff Schedule; and be it further

"Resolved, That suitably engrossed copies of this resolution be transmitted to the President of the United States, the Speaker of the House of Representatives, the President of the Senate Pro Tempore of the United States, and each member of Congress from the state of New York."

House Joint Resolutions Nos. 52 and 45 adopted by the Legislature of the State of Alaska; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION No. 52

"Be it resolved by the Legislature of the State of Alaska:

"Whereas 8 U.S.C. sec. 1151(a) and (b) provides that children of an American citizen are not subject to numerical limitations for visa applications; and

Whereas 8 U.S.C. 1101(b)(1)(E) defines children, for the purposes of sec. 1151, to include adopted alien children only if the child has been in the custody of, and resided with, the parents for at least two years; and

"Whereas these requirements make it necessary for American citizens to live abroad with adopted alien children for two years before the alien child can be admitted to the United States; and

"Whereas Americans wishing to adopt alien children must therefore undertake costly and time-consuming obligations before they can bring adopted children back to the United States; and

"Whereas adoption of alien children by American citizens is a loving and humane gesture which epitomizes the ideal of America as a land where the oppressed and impoverished people of the world may find succor, opportunity and fulfillment; and

"Whereas Congressional policy with respect to immigration visas for adopted alien children contradicts this basic ideal by frustrating the attempts of American citizens to adopt alien children;

"*Be it resolved* by the Alaska State Legislature that the United States Congress is respectfully requested to amend 8 U.S.C. sec. 1101(b)(1)(E) to eliminate the two-year custody and residency requirements applicable to immigration visas for alien children adopted by American citizens who are relatives of the alien children and, thereby, permit those adopted alien children to be admitted to the United States immediately upon transfer of custody to the adopting parents.

"Copies of this resolution shall be sent to the Honorable Gerald R. Ford, President of the United States; the Honorable James O. Eastland, President Pro Tempore of the United States Senate; the Honorable Carl Albert, Speaker of the United States House of Representatives; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

"HOUSE JOINT RESOLUTION No. 45

"Be it resolved by the Legislature of the State of Alaska:

"Whereas other states do not share the unique problems of Alaska relating to the possession of firearms; and

"Whereas the possession and responsible use of firearms in Alaska has long been established; and

"Whereas for many persons in Alaska the utilization of firearms is a necessity in their day-to-day living to provide for a subsistence way of life; and

"Whereas many persons in the state engaged in outdoor recreational activity must carry firearms for their own protection; and

"Whereas these circumstances are not shared by other states for which strict gun control and registration may be very appropriate; and

"Whereas adequate penalties for the commission of crimes with a dangerous weapon already exist in our state law;

"Be it resolved that the Alaska State Legislature, recognizing the subsistence needs of its citizens and in furtherance of its regulatory scheme, respectfully requests that Alaska and other states with comprehensive laws and regulations regarding the use of firearms be excluded from federal legislation which would prohibit or limit the use of firearms.

"Copies of this resolution shall be sent to the Honorable Gerald R. Ford, President of the United States; the Honorable Carl Albert, Speaker of the House of Representatives; the Honorable James O. Eastland, President Pro Tempore of the Senate; the Honorable Edward Levi, Attorney General of the United States; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. TALMADGE, from the Commitee on Agriculture and Forestry:

S. Res. 494. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 10339, an act to encourage the direct marketing of agricultural commodities from farmers to consumers. Referred to the Committee on the Budget.

CHASSAHOWITZKA NATIONAL WILDLIFE REFUGE, CITRUS COUNTY, FLA.—REPT. NO. 94–1032, PART 2

Mr. HASKELL, from the Committee on Interior and Insular Affairs, submitted Part 2 of Report No. 94–1032 on S. 1026, to designate certain lands in the Chassahowitzka National Wildlife Refuge, Citrus County, Fla., as wilderness, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

Delio E. Gianturco, of Virginia, to be First Vice President of the Export-Import Bank of the United States.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 10133. An act to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for an additional Assistant Secretary of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes; to the Committee on Agriculture and Forestry.

H.R. 11743. An act to establish a National Agricultural Research Policy Advisory Board, and for other purposes; to the Committee on Agriculture and Forestry.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. STEVENSON:

S. 3701. A bill to extend the State Taxation of Depositories Act. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. EASTLAND:

S. 3702. A bill for the relief of Vojislav S. Bozic, Constantin A. Krylov, Abdurachman G. Kunta, Fatima S. Kunta, Nikolai I. Ozolins, Eugen E. Posdeef, and Tatiana M. Wassiliew. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (for Mr. MONDALE):

S. 3703. A bill for the relief of Dae Sung Ra. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENSON:

S. 3701. A bill to extend the State Taxation of Depositories Act. Referred to the Committee on Banking, Housing and Urban Affairs.

INTERSTATE BANK TAXATION

Mr. STEVENSON. Mr. President, present law imposes a moratorium on the power of States to impose "doing business" taxes on out-of-State banks and other depositories. The moratorium was enacted in 1973 in recognition of the potential for confusing, inconsistent, overlapping, and burdensome State taxes on interstate banking activities.

In enacting the moratorium the Congress expressly found that—

> The national goals of fostering an efficient banking system and the free flow of commerce among the states will be furthered by clarifying the principles governing state taxation of interstate transactions of banks and other depositories and that such taxation should be deferred until such time as uniform and equitable methods are developed for determining jurisdiction to tax and for dividing the tax base among States.

In order to aid the establishment of uniform and equitable taxing methods, Congress directed the Advisory Commission on Intergovernmental Relations to make a study of the subject and to recommend legislation.

Pursuant to that mandate, the Advisory Commission has completed its work. Its legislative recommendations are now pending before the Banking Committee. Other proposals are also pending. But it is clear that Congress will not be able to enact legislation dealing with this important and complex subject before the expiration of the moratorium on September 12. It is, therefore, essential that the moratorium be extended for a short additional period in order to give the Congress an opportunity to consider and act on the legislation which has been proposed. Otherwise, the work of the Advisory Commission and others which have studied the subject will be for naught as State and local governments, without benefit of uniform and equitable guidelines, compete with each other to tax the activities of out-of-State banks and other depositories. The result will be the very chaos and interference with commerce which the Congress sought to prevent when it first enacted the moratorium in 1973.

Mr. President, I believe that this issue should be resolved swiftly. The States should not be denied indefinitely the right to tax the activities of out-of-State financial institutions. On the other hand, they should not be permitted to impose taxation in an uncoordinated and unfair fashion. The measure I am introducing today would extend the present moratorium for a little less than 9 months—to June 30, 1977. The 9 months is short enough to insure that there is no delay in resolving this important subject but long enough to provide ample time for the Congress to consider the issue fully.

ADDITIONAL COSPONSORS

S. 2910

At the request of Mr. SCHWEIKER, the Senator from South Dakota (Mr. MCGOVERN) and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 2910, to establish the National Diabetes Advisory Board.

S. 3649

At the request of Mr. BROCK, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 3649, to amend title XX of the Social Security Act.

AMENDMENT NO. 1639

At the request of Mr. FORD, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of amendment No. 1639, intended to be proposed to H.R. 10612, the Tax Reform Act of 1976.

SENATE RESOLUTION 494—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF H.R. 10339

(Referred to the Committee on the Budget.)

Mr. TALMADGE, from the Committee on Agriculture and Forestry, reported the following resolution:

S. RES. 494

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 10339, An act to encourage the direct marketing of agricultural commodities from farmers to consumers. Such waiver is necessary to permit consideration of explicit statutory authority to foster farmer-to-consumer food marketing in time for enactment for fiscal year 1977.

AMENDMENTS SUBMITTED FOR PRINTING

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 2088

(Ordered to be printed and to lie on the table.)

Mr. INOUYE (for himself and Mr. FONG) submitted an amendment intended to be proposed by them jointly to the bill (S. 3219) to amend the Clean Air Act, as amended.

AMENDMENTS NOS. 2091, 2092, 2100, AND 2101

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted four amendments intended to be proposed by him to amendment No. 1798 to the bill (S. 3219), supra.

AMENDMENT NO. 2089

(Ordered to be printed and to lie on table.)

Mr. BUMPERS. Mr. President, I submit an amendment to section 6 of this act. This section defines class I areas by adding a new subsection to section 110 of the Clean Air Act. Part (g) (1) (A) (i) states that areas to be designated class I shall include all international parks, and all national and national memorial parks, and wilderness areas larger than 5,000 acres. I strongly support this provision, and feel that maintaining the pristine air quality of these areas should have the highest priority. My amendment would make only one minor change affecting a single national park.

Hot Springs National Park in Arkansas was established as its name implies, to protect the warm water springs of that area. The original area covered only a little over a thousand acres. To protect the water recharge area of the springs, additional land has been purchased bringing the park up to around 4,500 acres at the present time. Additional purchases are authorized up to a total of approximately 5,800 acres. The problem that arises is that some 1,500 acres of the park are actually within the city limits of Hot Springs, Ark., and the rest is either immediately adjacent to or surrounded by the city. This is clearly not the type of national park which the drafters of this legislation intended to protect as a class I area. In fact, Hot Springs is the only national park having this particular situation. Technically, however, the Hot Springs area which has a population of approximately 40,000 would be restricted to the same small increments in sulfur oxides and particulates as our most remote national parks.

The people of Hot Springs want clean air and will continue to have it as a city in a class II region. As a class II region they would also have the option of becoming a class I region if they so choose.

My amendment would raise the acreage limitation for Class I designation from 5,000 to 6,000 acres for national parks only. It would not affect any other national park than Hot Springs, nor any other type of area including the two fine wilderness areas of which we are so proud in Arkansas.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2089

Delete lines 18, 19, and 20 on page 11 and insert the following: "all international parks, and each national wilderness area, and national memorial park which exceeds five thousand acres in size, and each national park which exceeds six thousand acres in size".

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2090

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY. Mr. President, I send to the desk an amendment that will create a more equitable balance among various modes of transportation.

This amendment will impose a 4-cent-per-gallon tax on fuel used in the hauling of cargo on our national system of inland waterways. Adoption of this amendment would offset—at least partially and for the first time—the hundreds of millions of dollars that are spent each year by the American taxpayers on construction of new navigation projects and maintenance and operation of the existing 25,000-mile system.

Advocacy of such a use tax for the inland waterway system is not a new concept. President Ford's budget for 1977 includes recommendation for such a tax. Every President since Franklin Roosevelt has advocated such a tax.

I believe that equity among transportation modes mandates such a tax. Energy conservation mandates such a tax. And, in the long run, the viability of a continued program of necessary improvements to the waterway system mandates such a tax.

The Committee on Public Works is currently being called on to authorize some $400,000,000 to replace Locks and Dam 26 on the Mississippi River at Alton, Ill. Can we in fairness to the general taxpayer, continue to dedicate our taxes to mammoth projects of this nature without charging the users a dime?

Existing Federal policy calls for identifiable commercial beneficiaries of Federal water resources projects to share in the cost of providing those benefits. Users of hydroelectric power or municipal, industrial, or irrigation water provided by Federal projects must pay a fair price for these benefits. Such a policy is also valid and reasonable for commercial waterway users. The airlines industry pays a variety of fees and excise taxes for the use of Federally maintained and operated airports and airways. The trucking industry pays approximately $3 billion a year into the highway trust fund, plus additional billions to State and local governments in use taxes. The railroad industry for years paid the full capital and maintenance costs of its system without Federal subsidy, plus local taxes on that property.

It is sometimes argued that "free" use of the waterways is an inherent right. If "free" means "open" to all domestic users, then, of course, the waterways must remain "forever free." But if "free" means a perpetual and complete taxpayer subsidy to the exclusive benefit of one type of transportation, then I must dissent. In the past, a legitimate national interest existed for subsidized inland navigation. It was necessary to open the frontier. It was necessary to assure competition with the railroad monopolies.

But times have changed. The frontier has been opened.

But such a policy no longer stands in the Federal interest. I do not believe that it is in the interest of the American taxpayer that hundreds of millions of tax dollars are poured annually into improved inland waterways, with no cost sharing whatsoever by the direct beneficiaries of that system. The President's 1977 budget included $411,967,000 for expenditure by the Corps of Engineers or inland waterway that have a depth of 12 feet or less. Construction spending totals $229,579,000 with operations and maintenance spending at $182,388,000. Those figures were increased substantially by the Congress in the recent public works appropriations bill.

The absence of a sharing in the support for waterways distorts our national transportation system and our allocation of resources. Underpricing one form of transportation leads inevitably to inefficiencies and distortions. It will be argued that a waterway user charge will result in higher consumer prices. To a degree, that is correct. But a waterways users tax will also lessen the general tax burden on the public.

Those who oppose a waterways tax should, for consistence, argue that the Federal taxpayer should pay all the cost of our highway system, instead of taxing the truckers and owners of passenger cars. They should argue that taxpayers should pay all the cost of building and maintaining railroad rights-of-way. Both actions would lower transportation costs, and thus "prices." But we also know that such subsidies lead inevitably to sharply higher general taxes.

There are various ways to recover some of these costs from waterway users: lockage fees, tonnage charges on various river segments, licensing fees, congestion tolls, and so on. I believe that a fuel tax is the fairest and most equitable approach. It would impose no regional disadvantages. And it will have the associated advantage of encouraging fuel conservation.

And a simple, 4-cent-a-gallon tax on any fuel used "by commercial vessels on the inland waterways" would place the charge at the same level paid by a competing mode of transportation such as the trucking industry.

What will my amendment raise in revenue? I cannot provide the Senate with an exact figure because of the nature of the inland waterway industry, which is largely exempt from regulation. No Federal agency, therefore, has detailed figures upon which to compute income. But it is generally estimated that the annual consumption of fuel by the waterways users is about 1 billion gallons. On this basis, my amendment would raise in the order of $40 million a year. If so, that means the inland waterway users would be contributing less than 10 percent of the annual Federal subsidy paid by all taxpayers to construct and maintain the inland waterway system. I do not believe that to be a burdensome share of these costs, when compared with the third to a half of the cost of Federal roadbuilding contributed by the trucking industry. This would add only modestly to the operating expenses of the inland waterway industry, which has revenues estimated by the Department of Transportation as approaching $1 billion each year.

Examine the problem from another perspective. The average revenues received by barge companies on the Mississippi River approximate three-tenths of 1 cent per ton-mile of traffic. That is about one-fourth of the average rail revenue per ton-mile or one-half the lowest unit-train price.

A tax about twice the size of the tax envisioned by this amendment would increase Mississippi River cargo rates to an estimated 0.35 cents per ton-mile. Even at that rate, water carriers would retain a distinct cost advantage.

It may be argued—falsely—that my proposal seeks to retard the development of the waterways industry. As the figures indicate, it is hardly likely that a fuel tax will have any impact on rates on water commerce. The imposition of a use tax will, on the other hand, work to the long-run benefit of the waterways industry. Enactment of this legislation will demonstrate, for the first time, that waterways users are not just along for a free ride. Those users are willing to shoulder a portion of the costs that the industry imposes on the general taxpayer.

The Members of this body are well aware of the continual pleas that come from the waterways industry, arguing for major increases in Federal expenditures for dredging, lock and dam construction, and inland port development. A use tax will strengthen the rationale for the construction and maintenance of waterway improvements.

AMENDMENT NO. 2097

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2098

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself and Mr. BEALL) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10612), supra.

AMENDMENT NO. 2099

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. BUMPERS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10612), supra.

PUBLIC PARTICIPATION IN FEDERAL PROCEEDINGS—S. 2715

AMENDMENT NO. 2093

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to the bill (S. 2715) to amend the Administrative Procedure Act to permit awards of reasonable attorney fees and other expenses for participation in proceedings before Federal regulatory agencies, and for other purposes.

HIGHER EDUCATION ACT AMENDMENTS OF 1976—S. 2657

AMENDMENT NO. 2094

(Ordered to be printed and to lie on the table.)

Mr. BEALL (for himself, Mr. HATFIELD and Mr. LAXALT) submitted an amendment intended to be proposed by them jointly to the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977—H.R. 14262

AMENDMENT NO. 2095

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE (for himself, Mr. GOLDWATER, Mr. ALLEN, and Mr. SPARKMAN) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

HELICOPTER CONSOLIDATION AMENDMENT

Mr. PROXMIRE. Mr. President, on behalf of the Senator from Arizona (Mr. GOLDWATER) and the Senators from Alabama (Messrs. ALLEN and SPARKMAN) I submit an amendment to the fiscal year 1977 defense appropriations bill (H.R. 14262).

This amendment is designed to carry out the consolidation plan proposed by the President and the Secretary of Defense in the fiscal year 1977 defense budget request.

That proposal has been accepted by the House of Representatives by a vote of 288 to 110. Nonetheless the consolidation has not been incorporated into the Senate bill.

The President and Secretary of Defense argue that a consolidation will save the taxpayers $30 million in this fiscal year and $200 million by 1982. It will result in a more efficient training program by reducing manpower requirements while improving the quality of training.

This proposal has been studied extensively by the Comptroller General and has his stamp of approval. It is supported by the Air Force, Navy, and Army.

Mr. President I ask unanimous consent that this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2095

On page 2, line 10, strike out "$8,603,161,000' and insert in lieu thereof "$8,604,061,000".

On page 2, line 19, strike out "$5,999,453,000" and insert in lieu thereof "$5,995,453,000".

On page 6, lines 1 and 2, strike out "$7,829,035,000" and insert in lieu thereof "$7,838,335,000".

On page 6, line 12, strike out "$9,605,364,000" and insert in lieu thereof "$9,594,864,000".

On page 18, lines 8 and 9, strike out "$2,957,800" and insert in lieu thereof "2,954,800".

EXPENSES INCURRED BY SENATOR IN CIVIL SUIT—SENATE RESOLUTION 463

AMENDMENT NO. 2096

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to the resolution (S. Res. 463) authorizing the payment out of the contingent fund of the Senate of the expenses incurred by Senator PROXMIRE in defending a civil action brought against him.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Tuesday, August 3, 1976, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Marion J. Callister, of Idaho, to be U.S. district judge for the district of Idaho, vice J. Blaine Anderson.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN) the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

ADDITIONAL STATEMENTS

AMERICAN—OUR HERITAGE: ONE LANGUAGE-ONE NATION

Mr. WILLIAM L. SCOTT. Mr. President, the Scottish Rite of Freemasonry publishes a monthly booklet and this month's issue contains a statement from the executive head of the organization, Henry C. Clausen, Sovereign Grand Commander, entitled "American—Our Heritage: One-Language-One Nation." He stresses the desirability of national unity and feels that the greatest common denominator is the teaching of a common language to those entering the country from diverse national backgrounds.

Sometime ago when we passed a Voting Rights Act, a provision was included to provide that ballots should be printed in the Chicakohominay Indian language as well as in English in Charles City County, Va., where there are a number of Chickahominay Indians even though their language has been extinct for several generations and not one member of the tribe has any knowledge of it. In direct contraast to having a different language for every cultural group, Dr. Clausen refers to the unity acquired by all citizens of our country learning and being able to communicate with one another in a common language.

I ask unanimous consent that the message of the Grand Commander of Scottish Rite Masons be printed in the RECORD for the information of my colleagues.

There being no objection, the message was ordered to be printed in the Record, as follows:

AMERICAN—"OUR HERITAGE: ONE LANGUAGE-ONE NATION"

(By Dr. Henry C. Clausen)

In Freemasonry we often speak of our "American heritage." We eloquently recall our Declaration of Independence, our struggle for freedom, and our eventual expansion to the greatest nation in the world. We stress our ideals of liberty, equity, justice and patriotism. We speak of great Americans and their heroic deeds. We note how Freemasonry and Freemasons have played vital roles both ideologically and practically in this epic development. We often forget, however, the most fundamental element of our American heritage, a factor without which it would be impossible to recall, record, or recount our shared history. This most basic and fundamental heritage is our shared language, our mother tongue.

American speech, that rich and vital development of British English, is the means by which we communicate our American past, share our present, and plan our future. A language in common is the fundamental cornerstone of a common culture. Without it there is no cohesion, no unity. Cultural fragmentation results. To sustain America, we must sustain our spoken heritage. If we do not, America might well become a modern

Babel, a country divided by jangling tongues and discordant dialects.

We must put first things first, and a shared language must come before any secondary skill in a foreign language. The place to begin is in the grammar grades, preferably in the public school system. Here American culture is being created and students are formed into good citizens. English must remain the compulsory language of instruction at all levels of our public schools, but especially in the grammar schools. Note the usual designation of *grammar* school. Quite pointedly, the term itself indicates that teaching language—a common, national speech—is a primary function of the grammar school.

We need to acquire a common ability to communicate in a common tongue. This would help unify our Nation. It would cure divisiveness.

Mastery of the American language should appeal to a foreigner, new to our shores, as a prideful and historic part of symbolically shaking off the Old-World ways, especially its despotism and tyranny. It proves, moreover, a sincere acceptance of the American way.

That is not to say that facility in foreign tongues should be spurned. Indeed, erudition in languages other than our own is a desirable acquisition—French, or German, or Italian, or Spanish, or whatever else. But this should be the lesser, not the greater—the later, not the first.

Our own Brother Mason, Theodore Roosevelt, said it eloquently and with typical red, white and blue fireside patriotism:

"Every immigrant who comes here should be required within five years to learn English or leave the country."

And again:

"The one absolutely certain way of bringing this nation to ruin, or preventing all possibility of its continuing to be a nation at all, would be to permit it to become a tangle of squabbling nationalities."

And in a speech:

"We have room for but one language here, and that is the English language, for we intend to see that the crucible turns our people out as Americans, and not as dwellers in a polyglot borderinghouse."

Let's take the Biblical lesson of Babel literally and seriously.

JEC HOLDS MIDYEAR HEARING TO REVIEW MONETARY POLICY

Mr. HUMPHREY. Mr. President, as part of the Joint Economic Committee's mid-year review of the economic situation and outlook the committee, on June 23, held a hearing to review monetary policy.

The committee heard testimony from three distinguished economists, Sherman Maisel, a former member of the Federal Reserve System's Board of Governors and now a professor at the University of California at Berkeley; James Tobin, professor of economics at Yale University and a former member of the Council of Economic Advisers; and Charls Walker president of Charls Walker Associates and a former Under Secretary of the Treasury.

Mr. Maisel urged that—

> Policies this coming year should seek a growth in output as large or larger than in this past year. Real growth of 7 to 8 percent will have an anti-inflationary influence while increasing jobs and general prosperity and decreasing the Federal deficit.

He criticized the Fed for placing—

> far too great a concentration on changes in money with too little attention paid to interest rates.

He stressed that policymakers should pay equal attention to desired changes in monetary aggregates and interest rates, both of which are needed to meet national goals. He stated that—

> Initially the money targets should be followed. However, if relationships between money, interest rates, and output seem to be developing in an unexpected manner, the target should shift to interest rates.

Similarly, Mr. Tobin emphasized the importance of a monetary policy geared to a sustained and strong recovery rather than to particular numerical targets of monetary growth. He correctly stated that—

> The central concern of the Federal Reserve, as of the Congress, the Executive, and the public, is what happens to the economy, not what happens to M_1 or M_2 or any other M.

He reminded the committee that continuation of the economic recovery into and through 1977 depends "on substantial revival of private residential and business investment." As a result, he stressed that it is vitally important to foster a financial environment favorable to investment this year and next year. Although he thinks that Congress is doing its part by maintaining fiscal responsibility in Government spending, he called on the Fed to do its part by viewing the growth in monetary aggregates in relation to the demand for money, interest rates and events in the economy at large rather than sticking to a predefined target range for monetary growth.

Mr. Walker presented the thesis that if the Fed were to try to lower interest rates by increasing the rate of growth in monetary aggregates, inflation would result. Hence he argued that the Fed should continue to concentrate on maintaining "a stable and reasonable rate of monetary growth of about 5 percent in M_1."

Although we are all concerned about the continuing threat of inflation, I do not think a somewhat faster rate of growth in monetary aggregates in the shortrun necessarily creates more inflation. Our most recent experience has shown that sticking firmly to specific monetary growth targets, given the present volatility in the use of cash balances and the velocity of money, could have catastrophic effects on the economy. The basic purpose of these targets is to force Congress and the Fed to think about the relationship between the rate of growth in the money supply and rate of growth in real GNP. They are not sacred. These targets should be viewed as a tool, a means of analysis in our attempt to reach our economic objectives of full employment, full production, and increased purchasing power.

THE POSTAL RATE COMMISSION IS PRAISED FOR SPEEDY DECISION

Mr. FONG. Mr. President, on June 30, the Postal Rate Commission announced its recommended decision in the third postal rate case.

The Commission, established under the Postal Reorganization Act of 1970 to undertake the ratemaking and mail classification functions formerly performed by Congress, completed its difficult and complex task in the latest rate case with commendable speed.

The Postal Service filed its third rate increase request with the Postal Rate Commission on September 18, 1975. The Commission, under its new Chairman, Clyde S. DuPont, decided to hear the case en banc with the Chairman presiding rather than an administrative law judge as had been done in the previous two cases.

At the outset after the filing, the Commission adopted a tentative schedule for the case calling for its issuing its decision by June 30, 1976—less than 10 months after the Postal Service's filing. The previous two cases had taken 17 and 23 months, respectively, to complete.

Actually, the Commission completed the case in 9½ months. By any standard applicable to regulatory agency proceedings, the Postal Rate Commission's performance in this last case was outstanding. The rate request of the Postal Service was an additional $2 billion in postal rate revenues.

Seventy-one parties entered the case and presented 53 witnesses. The Commission held 49 days of hearings. The record numbered approximately 10,000 pages. The Commission's decision numbered approximately 700 pages, including supporting appendixes.

I believe the Commission in this case has complied with the directives the Congress gave to it in 1970 to handle its cases expeditiously with due process afforded all parties.

Chairman DuPont, Commissioners Carlos C. Villarreal, Frank P. Saponaro, Kieran O'Doherty, and Paul A. Miltich certainly deserve high praise for their excellent work over the past 10 months. Likewise, the Commission's able staff, Postal Service counsel and witnesses, and all other participants in the case are to be highly commended for their efforts to establish as complete a record as was possible in this case.

COAL LEASING VETO MUST BE OVERRIDDEN

Mr. JACKSON. Mr. President, on July 3, President Ford gave in to pressure from the energy industry and vetoed the Federal Coal Leasing Amendments Act (S. 391), which had been overwhelmingly approved by both Houses of Congress. This veto demonstrates the wisdom of the recently adopted Democratic platform on natural resources which states:

> The huge reserves of oil, gas and coal on federal territory, including the outer continental shelf, belong to all the people. The Republicans have pursued leasing policies which give the public treasury the least benefit and the energy industry the most benefit from these public resources. Consistent with environmentally sound practices, new leasing procedures must be adopted to correct these policies, as well as insure the timely development of existing leases.

S. 391 provides a fair coal leasing policy. It has strong bipartisan support. It is also endorsed by many groups including the American Public Power Association and the National Rural Electric Cooperative Association. I ask unanimous consent that their letters, which express strong support for the override, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, D.C., July 26, 1976.
Hon. LEE METCALF,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR METCALF: The American Public Power Association, the national organization representing more than 1,400 local publicly-owned electric systems in 48 States, the Virgin Islands, Guam, Puerto Rico, and American Samoa, supports the override of the President's veto of S. 391, the Federal Coal Leasing Amendments Act of 1976.

Two considerations make immediate enactment of S. 391 essential. They are, first, the urgency of stimulating coal development from existing coal leases; and second, the necessity to stem the formation of a fuel monopoly. The absence of production from the vast majority of Federal lease lands despite the requirement of "diligent development", and the serious concentration of coal ownership in a small number of companies, should not be tolerated in a time of energy shortage which threatens this nation's economic stability.

S. 391 would address these issues in sensible and effective ways. It would require coal production by federal lessees "in commercial quantities" within ten years. Notification would be given to the Attorney General prior to lease issuance, permitting antitrust review when appropriate. The bill also provides for competitive bidding on all leases, and requires deferred bonus bidding on a portion of the leased acreage. These requirements eliminate the need for large amounts of front-end capital, facilitating the participation of small organizations. Although some have considered the royalty high in certain instances, the Secretary of the Interior has discretion to lower it if necessary to encourage greater coal production. And last, S. 391 would limit the acreage any single leaseholder could hold.

We hope you will strongly support this legislation when the Senate votes on overriding the President's veto.

Sincerely,

ALEX RADIN.

NRECA,
Washington, D.C., July 22, 1976.
Hon. LEE METCALF,
Dirksen Senate Building,
Washington, D.C.

DEAR SENATOR METCALF: Thank you so very much for your efforts to secure the President's signature on S. 391, the Federal Coal Leasing Amendments Act. I want you to know that we are as distressed as you that he chose to veto the legislation. Please be assured that NRECA will do all that it can to work for an override of this veto.

NRECA has long supported legislation which would like S. 391 change the ownership patterns of Federal coal resources. There are, of course, many features of S. 391 designed to do just that. Among them are: 1) the provision for a pre-leasing antitrust review, 2) a requirement for competitive bidding, some of which must be on a deferred bonus basis, 3) a limit on the number of acres any entity can lease, and 4) the preference clause for leasing to consumer owned utilities for their own power supply needs. This latter provision is most important because it gives rural electric cooperatives and municipally owned electric utilities an opportunity to develop resources independent of the large energy companies which have held them captive for so long.

There are other features of the bill, however, which NRECA believes are just as important. The Federal coal exploration program will provide the people with information about the resources they own. The minimum statutory royalty rate, which we believe may be too high initially, can, we understand, be adjusted downward in order to encourage coal production.

In fact, we believe that this bill will encourage production in other ways by requiring those who have for many years now been holding leases for speculative purposes to develop those leases within a 10-year period. As for leases granted under the proposed law, the production requirements contained in S. 391 are no more stringent than those contained in the current Department of Interior regulations. NRECA has long supported the principle of diligent development.

In conclusion, NRECA believes that the time has come to end the debate on coal leasing and undertake a leasing and mining program which will be in the best interest of getting this nation on the road to energy independence. We encourage you and your colleagues to vote to override the President's veto of S. 391, the Federal Coal Leasing Amendments Act.

Sincerely,

ROBERT D. PARTRIDGE,
Executive Vice President
and General Manager.

THE TAIWAN PROBLEM

Mr. GOLDWATER. Mr. President, the surest way for the United States to undermine its moral credibility and political effectiveness in Asia would be to sacrifice Taiwan in a quest for closer ties with Communist China. Sometimes I think our State Department people are not aware of how closely South Korea, Japan, and other Asiatic nations are watching our actions in this area. They are wondering whether the United States would actually sell out the Republic of China merely because it is small. They are wondering whether support and friendship count for anything in diplomatic relations involving the big powers.

This question of how far we will go in acceding to Red China's demands for sacrificing Taiwan is much more than just a Chinese question. It involves our relations with a large and increasingly important section of the globe. Mr. President, much has been written on this question. But I believe one of the best articles is one by Dr. Frank N. Trager, professor of international relations at New York University, in the July 23 issue of the Wall Street Journal. Because of its extreme importance, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE TAIWAN PROBLEM

(By Frank N. Trager)

Once again the issue of relations between the United States and the People's Republic of China has mounted the foreign policy stage, front and center. This time the context includes the passing of Chou En-lai, the serious debilitation of Chairman Mao, political struggle within the PRC and renewed speculation in the U.S. about full diplomatic recognition of the PRC and derecognition of the Republic of China on Taiwan.

The text for such speculation is the Shanghai Joint Communique of Feb. 27, 1972, which provided above all else for "progress toward the normalization of relations" between the U.S. and the People's Republic. It also asserted Peking's and Washington's mutual desire to reduce the danger of international military conflict and prevent any one country (read, the U.S.S.R.) from establishing hegemony in the Asia-Pacific region.

On the question of Taiwan the communique was ambiguous. In its part of the communique the PRC asserted that Taiwan was "the crucial question obstructing the normalization of relations" and that its "liberation" was an "internal affair." The U.S. section made no refernce to its Mutual Security Treaty with the Republic of China. It did affirm the view (to which both Mao and Chiang Kai-shek had repeatedly subscribed) that "there is but one China and that Taiwan is part of China." The U.S. should be decided by the Chinese themselves," and that the "ultimate objective" was to withdraw all U.S. military from the island.

There is no doubt that for Peking "normalization" means full diplomatic recognition by the U.S., derecognition of the ROC, abrogation of the defense treaty, withdrawal of U.S. forces from Taiwan, which sooner or later, becomes again a province of China. While Chou En-lai was alive we were informed that Peking would be "patient" in awaiting U.S. action on normalization. More recently Communist Chinese sources in the U.S. have told American contacts that, while they continue to regard the U.S.S.R. as the main enemy and would welcome a U.S. role in Asia, the original agreement was that "normalization" was to have been completed before the end of President Nixon's second term, i.e., January 1977.

A RENEWAL OF ACTIVITY

In the past few months there has been renewed activity among Americans who advocate implementing the Chinese interpretation of the Shanghai communique. Professor Allen S. Whiting, described as "consultant on China affairs to Secretary of State Henry A. Kissinger between 1969 and 1973," recently wrote in The New York Times to advocate "normalizing relations with China" before Mao's death, asserting that continued recognition of the Republic of China and the defense treaty are "incompatible with the understanding reached in the 1972 Shanghai communique."

Similarly, Roger Glenn Brown, a CIA analyst presenting his own views in the summer issue of "Foreign Policy," argues that Washington should recognize Peking now in order to mitigate the post-Mao succession struggle. And Joseph Lelyveld of the Times says unnamed "American officials clearly understood" that at some point in Nixon's second term the U.S. would follow the Chinese interpretation of the communique, including "abrogation of a mutual security treaty with Taiwan."

At a House Subcommittee on International Relations, Ray S. Cline, a former deputy director of the CIA, testified that "the Kissinger State Department" strongly pressed President Ford to grant full diplomatic recognition to Peking during his 1975 trip there. Mr. Lelyveld's account says that the Ford-Kissinger regime attempted to fulfill "normalization" in 1974–'75, but that President Ford decided to postpone the event because of defeat in Indochina and the challenge from Ronald Reagan for the presidential nomination.

Democratic presidential nominee Jimmy Carter, meanwhile, has expressed support for "the Japanese formula" with regard to Taiwan. This means the end of formal diplomatic relations but a continuation of trade relations. Japan, however, had no defense treaty with the ROC.

Unlike many private proponents of Peking recognition, including those cited above, the American government has seemingly insisted on getting from the People's Republic one thing the latter does not want to give. Namely, an *open* commitment not to use force in regaining its "lost" province of some 16 million, well-developing Chinese Taiwanese "provincials." But even in this solution the benefits are not reciprocal, but vastly one-sided in favor of the PRC.

In particular, our Asian-Pacific allies have not yet recovered from the decline and fall of the Nixon-Kissinger Guam Doctrine, the "shocks" of 1971–72, the inherent weakness of the Paris 1973 Vietnam "peace agreements" and the political-military defeat in Indochina. U.S. credibility, its will and capacity in Asian affairs, reached a new low in 1975. To sacrifice the Republic of China, a loyal and rather capable ally, would hardly add politically and morally to our credibility and effectiveness in Asia.

In any event, a mere glance around the present world or a brief look at history reveals to any objective observer that though the Chinese want or prefer their own interpretations, there is no necessary reason for the U.S. to accept them. For there is another legitimate meaning of "normalization" that does not violate our treaty commitments but does meet at least some of the tests of the confused, ambiguous Shanghai Communique.

This is what I refer to as the "Willy Brandt" solution. Former West German Chancellor Brandt solved for our time the dangerously divisive post-war German issue by proposing a policy acceptable to the Soviet Union and to its East German client. It consisted of three parts: (1) A philosophical-historical affirmation that there is but one German nation. (2) This entity was presently divided into two separate geographical sovereign policies, each having the power to rule over its occupied territory. (3) It was hoped that time and circumstance could heal the breach, bringing about a reunited German state by peaceful means.

A variation of this Brandt policy is equally applicable to China, despite Peking's formal objections. After all, as Peking and Taipei agree, there is only one Chinese nation. It in fact occupies two geographically separate, sovereign polities which might peacefully, in time and through circumstance, again become one state under one Chinese rule.

Other possibilities for the Brandt-like solution come to mind, among them Korea. The value of this policy is that it provides for reciprocity in fulfilling both our mutual interests and our treaty commitments. And Peking might even find it to its advantage while it wrestles with its Soviet problem and seeks to expand trade with the U.S.

For our part, such a policy could forestall a deeply divisive foreign policy debate over our China policy, while demonstrating that we will not cynically desert allies and break our commitments.

PROFESSOR BOWIE'S VIEW

Professor Robert R. Bowie wrote last month in The Christian Science Monitor that Messrs. Nixon and Kissinger "explicitly denied making any secret agreements affecting Taiwan," and therefore "the U.S. is free to decide the issue on its merits." I share completely his view that paying the People's Republic of China's price would be contrary to America's real interest. Professor Bowie and such other knowledgeable scholars as Robert Scalapino agree that Peking chose to reopen relations with the U.S. mainly because of fear of the Soviet Union and a desire to repair some of the international damages resulting from its "cultural revolution" from 1965–69.

It would be foolish to believe that U.S. policy toward Taiwan will determine Mao's successors or their policies. At best there can be mutual accommodation to mutually shared interests. Our interest in the Republic of China, to which we are bound by treaty and longstanding ties of friendship, is of great political, economic and strategic importance. It is the vital, reliable southern anchor—South Korea is the northern anchor—of our mutual security treaty with Japan. To surrender at this uncertain time so valuable a partner, in order to acquire an unknown political asset, is foolhardy. Especially so when there is a reasonable solution to the problem of normalization.

There should be no urgency about normalizing relations with Peking. During the election campaign the Secretary of State can no longer even hear arguments contrary to his views. Messrs. Ford and Reagan are preoccupied with other matters. And Mr. Carter has not had time even to listen to arguments about such esoteric matters as the 1972 Shanghai Communique, a document of no official standing and not binding on him or any other presidential successor of Mr. Nixon.

In the interim it surely is the better part of wisdom to pause, to avoid being pressured into hasty decisions because that is what the "other fellow" seemingly wants. Next winter we can renew our investigations and debates on the China issue. It has been with us a long, long time, at least since the turn of the century when we first declared our interest in preserving the independence and sovereignty of China. We can be sure that the "China question" will survive until next year; we can then proceed with deliberate speed. There will be successors to Chou En-lai and Mao Tse-tung as there have been successors to Lenin and Stalin; and to American Presidents and Secretaries of State. Nothing is more certain than that.

WORLD HUNGER

Mr. McGEE. Mr. President, those of us concerned with the issue of proliferating world hunger have been following closely recent discussions in the international community aimed at finding means to deal more effectively with the needs of the world's chronically hungry half billion people. Since hunger is a problem which respects no geographical boundaries, it is appropriate that it be the subject of international discussion and action.

Two international meetings were held last month addressed to the world hunger issue. The first was convened to speed the launching of a new International Fund for Agricultural Development. The Fund is seeking to mobilize $1 billion, above and beyond current expenditures for investment in food production in developing countries. The United States has already appropriated $200 million as its share. It is hoped the OPEC countries will increase their initial pledge of $400 million so there will be rough equity in the Fund between the developed nations and OPEC. IFAD represents a very important development in attempts to come to grips with the world food problem. It is the first successful attempt in attracting significant resources from the OPEC countries for a multilateral development effort.

The second meeting of the United Nations World Food Council was also held last month. The Council, like the Fund, had its beginnings in the World Food Conference of 1974 which was held in Rome. With the United States and 35 other member nations, and a small professional staff, the Council keeps an eye on the world food scene and makes recommendations as to how governments may devise and implement more effective policies and programs in meeting the food needs of their people.

In last month's meeting the Council reminded the international community the world food crisis still stalks many of the world's people despite a year of better harvests in some areas. Among the recommendations of the Council were included the following: a revision of internal policies by developing countries to meet their food production needs; increased external assistance by the wealthier nations; more rapid progress toward the establishment and stocking of an international network of national food reserves; and stepped up food aid to the most seriously affected countries.

Mr. President, neither the World Food Council meeting nor the session to establish the International Fund for Agricultural Development were without their problems. But what institution, international or national, is functioning smoothly these days without a certain amount of creaking and groaning? Continued and accelerated progress on the world hunger issue, as on other global concerns such as the environment, nuclear proliferation, the seas, human settlements, unemployment, and population, depends on continued support by the United States and other nations of the international organizations which are seeking to improve the quality and security of life for all the world's people.

That was the purpose of a letter which a bipartisan, bicameral group of Members of Congress wrote to President Ford prior to the two meetings I have just described. Some 60 of us asked the President to assure that the U.S. delegations to each session demonstrate leadership and responsiveness on the matters under discussion. We pledged ourselves to work with the President in taking appropriate followup steps arising out of these meetings.

In addition, I call the attention of my colleagues to excerpts from the remarks of U.N. Secretary General Kurt Waldheim to the meeting on the International Fund for Agricultural Development, and excerpts from the report of the World Food Council meeting.

I ask unanimous consent that all three items be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., June 8, 1976.

Hon. GALE W. MCGEE,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge receipt of the May 27 letter to the President, in which you joined with a number of your colleagues in the Senate and the House to present your views with respect to the June 10 meeting to finalize the Articles of Agreement of the International Fund for Agricultural Development, and the June 14 meeting of the World Food Council.

I know the President will be most appreciative of your suggestions regarding these two important meetings, and I wish to assure you your letter will be called promptly to his attention. It will also be shared with the Presidential advisers working in these areas.

With kind regards,

Sincerely,

WILLIAM T. KENDALL,
Deputy Assistant to the President.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., May 27, 1976.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are a bipartisan, bicameral group of members of Congress who wash to express our views about two upcoming international meetings in the near future of great importance for the world's one-half billion hungry people.

The purpose of our letter is to enlist your assistance in fashioning meaningful positions for the United States delegation which would be in keeping with traditional American leadership and with the concern of the American people for those who suffer from hunger and malnutrition.

On June 10, a meeting will be convened in Rome to finalize the Articles of Agreement of the International Fund for Agricultural Development and to launch this new venture. We have welcomed your initiative in working with the Congress to assure the recent appropriation of $200 million as the initial U.S. contribution to the Fund. We ask that you instruct the U.S. delegation to the upcoming meeting to exhibit a spirit of urgency so that the remaining difficulties may be resolved and $1 billion in assistance for agricultural development will begin to flow to chronic food-deficit developing countries at the earliest possible moment. We reiterate the intention of the Congress, expressed in the legislation authorizing the U.S. contribution to this Fund, that other nations meet the full share of their commitments and urge that all appropriate channels of diplomacy be utilized toward that end.

Beginning on June 14, the second meeting of the World Food Council will be held, also in Rome. Established after the World Food Conference to monitor the changing world food situation and actions by governments and international bodies to cope with this serious problem, the Council has produced preparatory materials, already reviewed by participating governments, which confirm a diminution of international political will to deal with the ongoing world food crisis. Thus, this council meeting becomes crucial to the energizing of the international community toward the goal adopted by the Conference that by 1985 no child anywhere in the world will go to bed hungry, no family will fear for its next day's bread.

The U.S. delegation to the World Food Council meeting can play a decisive role by approaching the discussions with sensitivity and flexibility and by being prepared to respond in concrete ways to the various proposals for action. While the U.S. has offered its own grain reserve proposal in other forum, the U.S. could help restart movement on the all-important but stalled issue of world food security by committing itself to fresh and serious study of the other food reserve proposals which have been put forward in various international meetings. The U.S. could lend its support to efforts which would target external aid more sharply on those nations most in need and making the most strenuous efforts to increase their own food production. The U.S. could use its influence to broaden the number of nations providing food aid in cash or kind so that the international target of ten million tons is met for this and next year.

The urgency of world food and agricultural development problems was well recognized by the World Food Conference. But the success of the resolutions passed and the new institutions created depends on a political will on the part of all nations. The time is crucial for the United States to take active diplomatic steps in conveying to other nations the seriousness with which we take our commitment to the institutions we helped create. If the United States cannot demonstrate such serious leadership, we can expect little from other nations in assuming this role. We believe the Congress is willing to make such a commitment, but we feel it is now up to the Executive to bring this commitment to fruition through leadership and diplomacy.

While acknowledging the attention of all of us within the Executive and Legislative branches alike has shifted during the past year from the continuing crisis of hunger to other preoccupations, we pledge you our support in taking the appropriate follow-up steps to what will hopefully be successful outcomes of these two important international meetings.

Thank you for your consideration of our views on these matters.

Sincerely,

Hubert H. Humphrey, Gale McGee, Robert T. Stafford, Edward M. Kennedy, Charles H. Percy, Jacob K. Javits, George McGovern, Alan Cranston, *U.S. Senators.*

Charles B. Rangel, Robert F. Drinan, Joe Moakley, Silvio O. Conte, Helen S. Meyner, Michael Harrington, Donald W. Riegle, Jr., Parren J. Mitchell, Shirley Chisholm, John J. LaFalce, Richard L. Ottinger, Andrew Young, Richardson Preyer, Yvonne Brathwaite Burke, Cardiss Collins, Gilbert Gude, William R. Cotter, Robert Duncan.

Frederick W. Richmond, Peter A. Peyser, Henry J. Nowak, Philip H. Hayes, Philip R. Sharp, Robert A. Roe, Thomas J. Downey, Ronald V. Dellums, Bella S. Abzug, Don Bonker, Paul Simon, Gladys Noon Spellman, Matthew F. McHugh, Robert J. Cornell, Bob Carr, Stephen J. Solarz, Richard F. Vander Veen, Donald M. Fraser.

Charles C. Diggs, Jr., Benjamin S. Rosenthal, John M. Murphy, Edward P. Boland, Robert W. Kastenmeier, Claude Pepper, Joseph P. Addabbo, Peter W. Rodino, Jr., Henry Helstoski, Jonathan B. Bingham, Edward G. Biester, Jr., Lee H. Hamilton, Edward R. Roybal, and Fortney H. (Pete) Stark, Members of Congress.

EXCERPT FROM SPEECH BY SECRETARY-GENERAL KURT WALDHEIM AT CONFERENCE ON ESTABLISHMENT OF INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

ROME, *June 10, 1976.*

One of the most important perceptions to emerge from the World Food Conference was that no lasting solution can be found to the many economic problems facing the world unless there is a significant long-term increase in agricultural production, with special emphasis on the attainment of a higher rate of food production in the developing countries. . . .

Admittedly, it is incumbent first upon nations themselves to strengthen their agricultural economies and, indeed, the governments of the developing countries are responding to this challenge. And yet, however, great may be the efforts of these countries within their own resources, they are sometimes in danger of not succeeding without additional assistance and support. The achievement of a substantial increase in food production to keep step with the mounting increase in the population of our planet is imperative, and, to that end, a dramatic increase in external capital assistance on concessional terms is a vital necessity.

The establishment of the International Fund for Agricultural Development constitutes a highly significant step in the direction of achieving this goal. It must be seen as an integral part of the efforts of the world community to build a new international economic order oriented towards a common global concern for economic and social justice. The formulation of the basic principles of that new order has involved a sustained process of negotiations with a view to a forceful re-articulation of the aims and purposes for which the United Nations was founded just over thirty years ago.

When problems respect no frontiers, answers can only be found through joint efforts. This Fund is a constructive, and in many ways an innovative, response to a global problem through international co-operation. The fact that the necessary pledges have been made in a relatively short span of time reflects great sensitivity to the needs and aspirations of the developing world. It is particularly gratifying that an important new group of donors, namely the Organization of Petroleum Exporting Countries (OPEC), has joined with the OECD countries in providing the necessary resources to bring this Fund into operation. I would like to take this opportunity to express my thanks to all these countries for their generosity and their sense of commitment to this multilateral endeavour. . . .

Distinguished delegates, the United Nations institution which will emerge from this Plenipotentiary Conference in the next two days will have a major part in meeting this challenge. It will join with relevant United Nations organizations to complement our global approach to the world's problems. In particular, through co-ordination and co-operation with the World Food Council, UNDP, FAO, WFP, as well as with the World Bank, the activities of the Fund can be a source of strength to the entire United Nations development system.

EXCERPT FROM THE REPORT OF THE UNITED NATIONS WORLD FOOD COUNCIL, 2ND SESSION, JUNE 16, 1976

REVIEW OF THE WORLD FOOD SITUATION AND OUTLOOK

The Preparatory Meeting considered this item on the basis of a report prepared by the FAO[1] giving an assessment of the world food situation and outlook (WFC/17). It noted that there had been a distinct improvement in the immediate food situation of many developing countries except some in Africa following bumper cereal crops in 1975, particularly rice in Asia. This was offset by poor crops in Europe including the Soviet Union and at the world level there was only a small rise in production in 1975. While pesticide supplies to the developing countries remained tight, fertilizer supplies on the world market were adequate and prices lower in 1975 than in the two previous years. Import demand was, however, dampened by the existence of large stocks acquired by many countries at high prices in 1974. Many countries had been unable so far to pass on price reductions to farmers to any extent. The basic world food situation remained insecure. Long run food production trends in the developing countries were still inadequate to meet their rising needs. In 1975 per caput production in the developing market economy countries rose by 3 percent over the previous year to regain the 1971 level, which was only slightly below the peak reached in 1970 and there remained a large number of people suffering malnutrition in those countries. High import demand in 1975 had postponed significant replenishment of wheat and coarse grain stocks by yet another year. The outcome of the current harvest was crucial. Until stocks are rebuilt to safer levels the world food situation would remain precarious.

The Preparatory Meeting broadly accepted this assessment. It noted, however that tentative prospects point to an increase in world carry-over grain stocks of as much as 40 million tons by the end of 1976/77. The Meeting expressed concern at the situation of the MSA[2] countries and newly independent countries which, with a deteriorating balance of payments situation, had difficulties in safeguarding their food supplies and production inputs. The food import requirements of the MSA countries are estimated to be about the same in 1975/76 as the previous year. Total fertilizer assistance to these countries amounted to only half of the United Nations estimated aid requirement of 1 million nutrient tons for 1975/76. The Meeting recognized that many countries—developing, developed market economy and centrally planned—were giving greater priority to food production and it welcomed the increase in external assistance to agriculture in the developing countries although regretting that inflation had eroded much of the increase.

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[1] U.N. Food and Agriculture Organization.

The Meeting made an overall assessment of the developments that have taken place since the World Food Conference. There have been several positive developments such as the imminent establishment of the International Fund for Agricultural Development; multilateral and bilateral institutions have significantly increased their external assistance to agriculture; food aid has increased to over 9 million tons in 1975/76 but has not reached the target of 10 million tons per annum; and developed and developing countries have increased grain production.

The Meeting also noted lack of progress in several areas: while study of the many technical problems has been advanced in the various fora, there has been little material progress in the evolution of a dependable system of food security and food reserves; only a few governments have so far accepted the concept of forward planning of food aid; only half of the estimated requirement of one million nutrient tons of fertilizer aid for MSA countries has been met in 1975/76; an effective programme to reduce malnutrition in the world, through improved distribution and nutrition policies recommended by the World Food Conference, is yet to be undertaken; increased food production in the developing countries, which is the first priority in solving the food problem, is still below the average production trends of the preceding decade; international trade in food has been more a matter of discussions than any real progress towards trade liberalization; the implementation of those aspects of World Food Conference resolution I "Objectives and strategies of food production" and II "Priorities for agricultural and rural development" which concern socio-economic change and agrarian reforms, is only in early stages of discussion; and no progress has been made on the implementation of World Food Conference resolution XIV on reducing military expenditures.

JOBS AT DECENT WAGES: THE PROMISE OF THE FULL EMPLOYMENT ACT

Mr. HUMPHREY. Mr. President, the debate over S. 50 and H.R. 50, the Full Employment and Balanced Growth Act of 1976, largely turns on the question of whether or not Federal, State, and local governments should be temporary employers of last resort paying decent wages for those able and willing workers who have been denied job opportunities in the private sector.

Critics of the bill contend that in order to avoid dangerous inflationary pressures, government cannot be an employer of last resort, or if it is, it must not pay prevailing wages for comparable work in the private sector. They assert that private sector workers paid less than prevailing wages would be motivated to seek public service employment, thus putting government in competition with the private sector and causing an increase in private sector wage levels. The best of their alternatives would hold public service employment wages to poverty or near poverty levels.

But, as Andrew Levison points out in a July 22 article in the New York Times, the course prescribed by these critics of the bill would turn the legislation into an exercise in irony by increasing poverty while increasing employment.

Mr. President, there is no convincing evidence that a significant segment of our working population is paid less than the prevailing wage for comparable work. On the face of it such an assertion is a contradiction in terms.

But even assuming their argument has some basis in fact, why should a private sector worker sacrifice permanent job security, opportunity for advancement and the prospect of benefiting from a retirement program, for the sake of taking a temporary public service employment job even if it did pay slightly more?

In considering this argument, it should be borne in mind that the Full Employment and Balanced Growth Act is primarily designed to benefit the private sector of the economy. The major thrust of the legislation requires the administration and Congress, as a first and ongoing priority, to develop and implement fiscal and monetary policies and programs which will create and sustain an economic climate providing incentive for commerce and industry to utilize their full potential to produce goods and services at their highest levels of efficiency. In this way, inflation will be held in check and maximum job opportunities will be provided in the private sector.

Federally funded programs to encourage economic development in the private sector and public works and facilities projects which are called for on a standby basis in the bill would, by their very nature, increase private sector employment because private companies would be called on to perform these tasks.

Against this prospective, federally funded public service employment programs aimed at answering the most important social priority needs of State and local governments would come into play only when needed to provide the final element required to realize the bill's stated policy that "Congress declares and establishes the right of all adult Americans, able, willing, and seeking work to opportunities for useful paid employment at fair rates of compensation."

In this context fair rates of compensation mean decent wages.

Mr. President, Mr. Levison, a research associate at the Martin Luther King, Jr. Center, has crystalized the debate on this point in his article in the Times. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Jobs at Decent Wages

(By Andrew Levison)

Atlanta.—The most notable feature of Congressional debate over the Humphrey-Hawkins Full Employment and Balanced Growth Act has been the lukewarm response of liberal economists. Although the bill's goal—reducing adult unemployment to 3 per cent by 1980—makes it the first major employment legislation since the mid-1960's, it has not gained the political or intellectual support that the goal of overcoming poverty and achieving social justice did ten years ago.

The stumbling block remains inflation. To many, the bill, sponsored by Senator Hubert H. Humphrey, Democrat of Minnesota, and Representative Augustus F. Hawkins, Democrat of California, simply amounts to an aggressive choice of the inflationary facet of the trade-off dilemma between unemployment and inflation, and not a solution to the problem of stable full employment. But the presence of a serious legislative proposal has focused the debate on the central practical issue: wages and full employment.

Charles L. Schultze, of the Brookings Institution in Washington, for example, cited as the bill's inflationary Achilles' heel the provision that the pay for any specially created government jobs be at prevailing wages. "The 'dilemma,'" said Mr. Schultze, "is that if you pay low enough wages so as not to attract many people from their existing jobs, you have a very unattractive program . . . If you set the wage somewhat higher . . . it will still exceed the wages of many people in private industry. If so, it will begin to cause an exodus from private industry and drive up wages and prices."

But what this indicates in fact is that full employment involves a profound social choice. The issue of wages divides two profoundly different conceptions of full employment and what kind of society would result from it.

The first, which might be called "laissez-faire full employment," is subscribed to by the economic advisors to the Ford Administration, the major business organizations, and defended in The Wall Street Journal. Its central notion is that full employment ought to be achieved by workers accepting whatever work is available, at whatever wages and conditions that are offered. Viewing the unregulated operation of the free market as in some sense "right," this approach carried to its logical conclusion aims at essentially forcing the unemployed to accept jobs at whatever wages will induce business to hire them.

Lowering or eliminating unemployment compensation and removing the minimum wage for teen-agers and other such measures are standard elements of these full employment proposals. The proposal of the Federal Reserve chairman, Arthur F. Burns, to employ the jobless "at a rate of pay somewhat below the minimum wage" and fund the program by reductions in unemployment compensation and other social programs is illustrative.

This "full employment" program would have the paradoxical consequence of increasing poverty even as it increased employment. The comparisons critics have made to the medieval workhouse are not unfair.

The other concept of full employment is recognizable as a genuine liberal reform. For the labor movement and church and social-action groups supporting the Humphrey-Hawkins bill, full employment means jobs at decent wages. Rather than accepting the currently available jobs and the resulting distribution of income as inevitable, the progressive vision of full employment insists that it is the proper function of government to modify the free market if that is necessary to provide a minimum level of decency for every American.

While this strategy does require a more

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[2] Most Seriously Affected.

equitable distribution of income, it need not entail inflation. At the simplest level, funding the entire program by a progressive tax increase would avoid any general inflationary consequences.

The Humphrey-Hawkins bill is undergoing revision, probably to include additional anti-inflation measures and a modification of the prevailing wages section. But whatever form the final version takes, the debate reveals that employment without inflation can be achieved. The issue is whether it should be done by forcing the unemployed to take low-wage jobs, using the whip of accepting reduced unemployment compensation, or by recognizing that a fairer distribution of income must be part of the overall adjustments needed to provide a job at a decent wage for all Americans.

If a dilemma is a choice between two equally distasteful alternatives, then for the millions of Americans who have not given up the hope for a just society there is no dilemma. If full employment is to be a social advance, rather than a retrogression, it must mean jobs at decent wages for the millions seeking work.

NOMINATION OF RONALD S. BERMAN

Mr. WILLIAMS. Mr. President, the current law establishing the National Endowment for the Humanities expires on September 30, 1976. All of us in the Senate know full well the importance of the humanities program to preserving and continuing our Nation's great cultural heritage. And all of us know how important it is to maintain the support of the Federal Government for this program.

In February of this year the President nominated Dr. Ronald S. Berman to serve a second 4-year term as Chairman of the Endowment for the Humanities. The transmittal of this nomination occurred at the same time the Committee on Labor and Public Welfare was beginning its consideration of the bill to extend the life of both the Humanities and the Arts Endowments. And, as many of my colleagues are aware, Dr. Berman had by that time expressed some strongly held views with respect to proposed changes in the structure of the Endowment. As chairman of the Committee on Labor and Public Welfare I was faced with a difficult problem since I did not in any way wish to confuse the question of Dr. Berman's nomination with appropriate and timely consideration of the pending Arts and Humanities bill. Thus, I decided that it should be the committee's first priority to complete congressional action on the extension legislation and thereafter take up the matter of Dr. Berman's nomination. I viewed this timetable to be in the best interest of the program itself and in the best interest of fair treatment of Dr. Berman.

After extensive consultation with members of the committee who share my ardent support for the Humanities Endowment and its continued vitality, it was agreed to follow my proposed timetable. A hearing on Dr. Berman's nomination would be postponed until a final decision had been reached by the House and Senate conferees on the bill to extend the legislative authority for the program. I communicated this decision to Dr. Berman and his staff on several occasions and he had had my personal assurances that he will receive a fair hearing by the committee.

Mr. President, the conference committee will begin meeting to resolve the differences between the House and Senate versions of the Arts and Humanities legislation on Thursday, July 29. I expect that a conference report will be agreed to in the very near future, and it is my intention shortly thereafter to schedule a full committee hearing on Dr. Berman's nomination.

Mr. President, I have today written to Dr. Berman to once again advise him of the committee's plans for consideration of his nomination and I ask unanimous consent that a copy of my letter to him be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, DC., July 27, 1976.

Dr. RONALD S. BERMAN,
Chairman, National Endowment for the Humanities, Washington, D.C.

DEAR DR. BERMAN: I want to take this opportunity to reaffirm my personal pledge to you that I plan to schedule a Labor and Public Welfare Committee hearing on your nomination as soon as possible after agreement is reached by the conferees on the Arts and Humanities legislation.

As we have discussed on several occasions, I believe it is best that the question of your nomination not be confused with the various issues involved in the authorizing legislation and the timetable which has been established will insure that each of these matters be considered on their own merits.

You have my continued assurance that your nomination will receive the fair consideration which it deserves.

With best wishes,
Sincerely,
HARRISON A. WILLIAMS, Jr.,
Chairman.

GUN CONTROL

Mr. PHILIP A. HART. Mr. President, most of you know of my long interest in gun control. It pleases me to report that no longer are those of us who favor a ban on the possession of handguns lone voices crying in the wilderness.

Last week's New Yorker featured a splendid article by Richard Harris on the National Council to Control Handguns, one of a number of groups which we hope will convince the Congress of the necessity for effective handgun control.

If my colleagues could take a few moments to read this account of the NCCH, its background, problems, and goals, perhaps they will see that the public once again is far ahead of the Congress on a subject of extreme national concern and importance.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Yorker Magazine, July 26, 1976]

A REPORTER AT LARGE—HANDGUNS

At a little before nine o'clock on the evening of April 16, 1974, a station wagon pulled up in front of a small apartment house on a quiet residential street in San Francisco. The occupants of the station wagon were two white men in their early twenties. One was Nelson T. Shields IV, a native of Delaware, who was in the area to spend a few days visiting friends before going back East to reenter college after having dropped out a year before. The other man was Jonathan May, whom Shields had met a couple of days earlier through the friends he was visiting and had also become friendly with—chiefly because he and May were both avid and expert lacrosse players. The two men had just finished coaching a group of boys in the game and had been heading for May's apartment when he remembered that he had promised to stop off to pick up a rug he had bought from an acquaintance. May, who was driving, parked and went into the building to get the rug, and Shields walked around to the back of the station wagon, opened the rear door, and began rearranging the litter of lacrosse equipment there to make room for the rug. Suddenly three shots were fired at close range into Shield's back, and he collapsed on the street. May heard the shots and hurried out of the building to see what had happened. Shields was dead. There were no witnesses to the crime, but police ballistics division reported that the bullets that killed Shields had been fired from a .32-calibre pistol that had been used in several other apparently random murders and attempted murders of white people by a small group of black men—known by the police code name Zebra—who had been carrying on a campaign of racial terrorism in San Francisco for five months. Shields' death brought the toll attributed to the Zebra gang to seven people wounded and fourteen killed. As it turned out, Shields was the last Zebra victim.

Shields' father, Nelson T. Shields III, who was a marketing manager in the consumer-products division at E. I. du Pont de Nemours and Company, in Wilmington, Delaware, flew out the next day to pick up his son's body. "Somehow the press got the idea that I was a vice-president of du Pont, and gave me a big play," he said recently. "I agreed to speak at a press conference, and the reporters there all seemed surprised that I was the only relative of a Zebra victim who didn't want vengeance, who didn't say, 'I'm going to get a gun and go find and kill the men who murdered my loved one.' I didn't feel that way at all. I was just full of sorrow and full of wonderment over how such a thing could have happened. When I got back to Wilmington, I had to face what I was going to do—go back to work and go to the same old cocktail parties and try to forget? But my boy's death made me wonder if I could do something to stop this from happening to somebody else's kid. 'Could I do something to help my society be better?' I asked myself. I'd never even thought of such a thing before. My friends felt that I was acting too emotionally, even though understandably, and they kept telling me to cool it. So I went back to work, but I spent all my spare time for a year reading up on guns and gun laws and gun-control proposals of all kinds. I kept asking myself during that year, 'What can be done? What can *I* do?' Much later on, I heard about a young man who had lived in Chicago and had been held up there one night in 1973 by a man with a gun.

Well, *this* victim wasn't going to take it. Soon afterward, he moved to Washington, D.C., and one of the first things he did was try to join a national handgun-control organization. To his amazement, he found that despite all the havoc and grief created by handguns in this country, there wasn't a single national handgun-control lobby trying to do anything about it. Anyway, he and a few friends organized and incorporated the National Council to Control Handguns, in January, 1974. They spent months after that knocking on doors, trying to get operating funds and members to support a national gun-control lobby. By November, they had drummed up enough support and collected enough money to open a small office in Washington.

Late that year, I heard about N.C.C.H. and went down to Washington to look into it. I discovered that the director was an old friend of mine—Edward Welles, a retired C.I.A. official, who was doing the job for nothing. He and one low-paid secretary were running the whole operation. I talked to them, and then I took a temporary leave of absence from my job so that I could attend a series of gun-control hearings held by Congressman John Conyers during February, March, and April of 1975. Early in May, I asked du Pont for an indefinite leave, and it became effective early in July. I went to work for N.C.C.H. full time then, and when Welles retired last September, I took over as director. My job is voluntary. I don't get paid by either du Pont or N.C.C.H. I figured that after working hard for twenty-six years and saving carefully, if I couldn't take at least a year off to do this for my son, for myself, for my country, I wasn't much of a man."

Not long ago, I went down to Washington to talk with Shields about the operation of the National Council to Control Handguns. The outfit's office turned out to be a small, modestly furnished suite of rooms, and Shields turned out to be a gray-haired man of medium height in his early fifties who was wearing horn-rimmed glasses. He greeted me affably, and waved me to a chair in his office while he went off to get us some coffee. A poster on the wall near my chair had a black background and the white outline of an hourglass, in which various kinds of revolvers and automatics were flowing down from a half-filled top into a half-filled bottom. Beside the hourglass were the words "In the eight seconds it takes to read this sentence, another handgun will have been produced in the United States. By the time you finish reading this poster, it will have been sold. Aren't things moving a little too fast?"

When Shields returned with the coffee and sat down behind his desk, I asked him why his organization was concentrating solely on handgun control, rather than on control of all kinds of firearms.

"There are forty to fifty million privately owned handguns in our country today, and of the million violent crimes committed here every year an estimated three hundred thousand are committed with handguns," he answered without hesitation. "The latest figures, for 1974, show that handguns were used in about a hundred thousand aggravated assaults, a hundred and forty-five thousand robberies, a couple of thousand accidental deaths, ten thousand suicides, and eleven thousand murders.

To give you a better idea of what the murder figures alone mean, between 1966 and 1972, the peak years of the war in Vietnam, forty-four thousand Americans were killed in battle there. During the same period, fifty-two thousand people were murdered with handguns here at home. Or take the statistics on murders in this country by type of weapon. Five per cent of them were committed with rifles, nine per cent with shotguns, eighteen per cent with knives, seven per cent with things like clubs or pokers or poison, eight per cent with hands or feet, and fifty-four per cent with handguns. Are we going to wait until there are eighty million or a hundred million handguns in the United States and a million handgun crimes a year before we do something? We've got to start—now!"

Shields' telephone rang, and after a brief conversation he turned back to me and said, "The total number of deaths by gunfire in this country is greater each year than it is in all the other free nations of the world combined. That's because they control guns—above all, handguns—and we don't. For instance, Japan prohibits the private ownership of handguns entirely. In 1971, when the crime rate here was far lower than it is today, there were one hundred and ninety-one times as many gun murders in the United States as there were in Japan." Breaking off while he searched through a stack of papers on his desk, he finally pulled out a sheaf of them and waved it at me. "This is a statement made by Louis Harris, the pollster, in testimony before the Senate Committee on Government Operations last fall," Shields said. "Harris had a poll conducted on guns at his firm's own expense, as a public service, and was testifying about the results. He found that by a majority of seventy-seven per cent to nineteen per cent the American people favor mandatory federal registration of all handguns. What's more"—here Shields paused and raised a forefinger for attention—"gun owners themselves favor mandatory registration of handguns by a margin of sixty-nine per cent to twenty-seven per cent. And even handgun owners, when considered separately, favor such controls by a margin of sixty-one to thirty-three per cent. Now, here's Harris's own conclusion based on his poll: 'These results are decisive and beyond any question of whether the American people favor gun control.' And he goes on to say that the American people 'view gun-control legislation as a necessary, critical, and primary first step.' Well, we at N.C.C.H. entirely agree with that conclusion. We don't believe that even the most stringent handgun controls will end violent crime. The causes of crime in this country are too deeply rooted in such complicated problems as our criminal-justice and penal systems, juvenile delinquency, the lack of jobs, and all the social and economic inequities that our society hasn't been able to adjust fairly. But we strongly believe that America simply cannot wait for broad social progress to reduce crime. Action—direct action—has to be taken now. And it's possible now. Once we sharply reduce the private possession of handguns, violent crimes in this country will start to be cut down dramatically."

Shields expended a long, breathy sigh as if in relief, leaned back in his chair with his hands cupped behind his head, and smiled broadly. "So much for the statistics," he said. "Now for the political realities." I had been about to bring up that subject, because the absence of any meaningful gun laws in this country—despite a dozen years of assassinations and attempted assassinations, riots, and the rapid rise in the nation's crime rate—had led me to wonder if we could ever have effective controls over firearms. The Washington-based National Rifle Association, I knew, was regarded in the capital as having the most powerful lobby in town. Members of Congress, it has often been said, tremble before the N.R.A.'s wrath whenever even the most modest gun-control measure is proposed in either house. I mentioned these factors, and Shields nodded. "We don't have any effective gun laws because of politics, and the only way we can get such laws is through politics," he said. "Since this country's staggering rate of violent crime deeply concerns the public, and since the handgun contributes a very large share to that crime rate, handgun control is a practical, realistic political issue.

For instance, Louis Harris has also indicated that any candidate for public office who makes tough gun controls a major campaign issue will win. We believe he's right. So our primary task is to convince lawmakers that they stand to lose more votes by being for guns than they do by being against guns. In order to accomplish that, we have to create a coalition out of the great mass of the American people who are for strict gun controls—again, remember, that means between seventy and eighty per cent of all adults in this country—and get them to act, to speak out, to write and wire and phone their members of Congress and demand handgun controls. That's the only way we can persuade politicians to supoprt gun controls."

Leaning forward, Shields went on, "Our movement has to be basic. It has to come from the grass roots of America. Part of our strategy is to serve as an umbrella organization for the dozen or so handgun lobby groups already in existence around the country. In June, there was a meeting of all state and local handgun-control lobbies, and they voted to set up a national coalition with N.C.C.H. as leader of the movement. We will give them advice and information, and urge their members, in turn, to support us so that we can organize more such groups elsewhere and really get this movement moving. There are also purely educational outfits, not lobbies, that inform the public about the dangers of guns and what can be done about them. We use some of their information, and they are in the process of setting up their own umbrella organization."

Not long before, I had read in the *Times* that the N.R.A. has over a million members and an annual budget of thirteen million dollars, nearly half of which was said to be spent on direct and indirect lobbying against gun controls throughout the United States. When I asked Shields about N.C.C.H.s membership and budget, he smiled, leaned back in his chair again, and answered, "Of course, we've hardly begun. Since I took over last September, we've raised around forty thousand dollars—the first third of it from my friends." The total raised so far, he continued, had paid for office rent and salaries for an assistant director, a secretary, and a part-time bookkeeper. There were also an unpaid part-time specialist in membership enrollment, together with a fairly large number of other volunteers, including a couple of advertising and public-relations men and fifteen lawyers from various law firms in Washington, who draft gun-control legislative proposals and advise N.C.C.H. on the legislation that is constantly being proposed, opposed, and revised on Capitol Hill.

Whatever money is left over after basic expenses, Shields explained, is spent on direct-mail solicitation for support of the organization's goals and for donations to help it achieve them. "So far this year, we have sent out more than a hundred thousand pieces of mail—mainly soliciting new members," he said. "Next year, we hope to send out a million pieces of mail, and to continue on that basis, or better, annually. But we have to organize on a professional rather than a purely volunteer foundation if we're going to be really effective. And we can't do that—in fact, we can't do much of anything—without having money up front. That's what we need—money, money, money." As for N.C.C.H.'s membership, he told me, there were only four thousand members, while various state gun-control groups had perhaps fifteen thousand members altogether. "But I believe that if we get enough money to put out enough direct mailings, by the end of 1977 we'll have three hundred thousand to four hundred thousand members," he added. "Then we can really go to work. We plan to organize these members selectively, with emphasis on the congressional districts that are pivotal in House votes on the gun issue.

Our goal is to enroll at least two hundred active workers in each pivotal district, in order to create the nucleus of a campaign organization when it comes time to act directly. At the appropriate time, we'll select from four to six congressional elections where we can get candidates to commit themselves to vote for handgun-control laws, and then we can measure the depth of voter feeling on the issue. Essentially, it's the same technique used by the Dirty Dozen Campaign Committee. In the past three congressional elections, the committee has gone directly into the election districts of the twelve incumbents it chooses each year on the basis of their poor voting records on environmental issues. Nineteen of the committee's thirty-one targets have been defeated. We plan not only to duplicate this effort but to work with that committee and other public-interest committees, which are being set up more and more by groups of citizens across the country. By these means, we believe that we can prove to politicians that handgun control is crucial to any candidate's election or reelection."

A tall, black-haired man in his mid-twenties came into the office, excused himself for interrupting us, and asked if he could show Shields something in the outer office. Shields introduced him to me as Charles Orasin, assistant director of N.C.C.H., told me that he'd be back in a few minutes, and the two men started out of the room. Then Shields stopped, went back to his desk, and handed me a stack of papers to look through while he was away. Among the papers was a leaflet put out by the Crime and Justice Foundation concerning a drive to put a referendum banning private ownership of handguns on the ballot in Massachusetts for this year's election. The leaflet mentioned a state pro-gun faction called the Gun Owners Action League, or GOAL, and reported that GOAL had recently called for a boycott of all products made by the Gillette Corporation, because Gillette happened to be one of several corporations that had donated funds to the foundation. The leaflet also included a reprint of an editorial from the *Berkshire Eagle* for March 19, 1976, which stated, in part:

"After the Boston-based company drew the wrath of the state's Gun Owners Action League for contributing to a research foundation that supports gun controls, a Gillette spokesman stated flatly that the bully-boy tactics of the gun organization would not cause the firm to waiver one iota in its support of the Crime and Justice Foundation. . . . Too often, the targets of the gun lobby have simply knuckled under. Last fall CBS presented a documentary on hunting from which all but one of the expected sponsors were scared off by a threatened boycott of their products. At just about the same time, GOAL decided to try a squeeze play of its own and instructed its members to withhold contributions from Berkshire County churches that endorsed the initiative petition for a statewide ban on handguns. Fortunately, both CBS and the area church council refused to cave in under the pressure."

The material Shields had given me also included a sample map that N.C.C.H. sends out to its members in each state—in this case, a map of New York State, which was broken down into its thirty-nine congressional districts; below the map were lists of the state's thirty-nine representatives in the House, showing what district they were from and whether they were "for," " leaning for," "against," or had taken "no position" on the latest gun-control bill being considered in the House. The material also contained several anti-handgun appeals put out by another Washington outfit, called the National Coalition to Ban Handguns—one of the educational groups.

And finally, I came upon some lists of the various committees being set up by N.C.C.H., among them a Business for Handgun Control Committee (headed by A. R. Marusi, chairman of the Borden company), a Congressional Advisory Committee (headed by Representative Abner Mikva, Democrat of Illinois), a Law Enforcement Advisory Committee (whose members include Robert di-Grazia, Police Commissioner of Boston, and Patrick V. Murphy, former Police Commissioner of New York), and an Entertainers-Sportsmen for Handgun Control Committee (with such members as Ellen Burstyn, James Whitmore, Arthur Ashe, and Dave Garroway).

Among N.C.C.H.'s numerous sponsors, consultants, and directors I found the anthropologist Margaret Mead, William D. Ruckelshaus (the former Deputy Attorney General who resigned during the Saturday Night Massacre), Cyrus Vance (the former president of the New York City Bar Association and a high official in the Kennedy and Johnson Administrations), Edmund G. Brown, Sr. (former governor of California and chairman of the National Commission on the Reform of Federal Criminal Laws), Dr. Russell Peterson (chairman of the National Advisory Commission on Criminal Justice Standards and Goals), and Dr. Milton Eisenhower (chairman of the National Commission on the Causes and Prevention of Violence).

I also found, to my surprise, that N.C.C.H. strongly supported the gun-control bill then being considered in the House—an exceedingly ineffectual measure by any standard and one that seemed certain to be rendered even more ineffectual once the N.R.A. went to work on it. When Shields returned to his office, I brought this up, and he conceded that the present bill was far from what he wanted to see enacted. Even so, he added, N.C.C.H. backed it all the way. "For the first time since 1968—when an even worse gun-control law was passed following the assassinations of Dr. King and Robert Kennedy—there is now a chance for *some* kind of a handgun-control law in this Congress," he explained. "I'm convinced that we have to have federal legislation to build on. We're going to have to take one step at a time, and the first step is necessarily—given the political realities—going to be very modest. Of course, it's true that politicians will then go home and say, 'This is a great law. The problem is solved.' And it's also true that such statements will tend to defuse the gun-control issue for a time. So then we'll have to start working again to strengthen that law, and then again to strengthen the next law, and maybe again and again. Right now, though, we'd be satisfied not with half a loaf but with a slice. Our ultimate goal—total control of handguns in the United States—is going to take time. My estimate is from seven to ten years. The first problem is to slow down the increasing number of handguns being produced and sold in this country. The second problem is to get handguns registered. And the final problem is to make the possession of *all* handguns and *all* handgun ammunition—except for the military, policemen, licensed security guards, licensed sporting clubs, and licensed gun collectors—totally illegal."

Like just about every other person in the country who can read, I said, I was aware of the N.R.A.'s ominous and incessant warnings about how the ultimate aim of gun-control advocates was to disarm the citizenry and thereby leave law-abiding citizens prey to armed marauders, including a Communist army attempting to invade our shores—all in violation of the Second Amendment's guarantee of the "right of the people to keep and bear Arms." Shields laughed, and took up the last point first. "At various times in the past century, federal courts, including the Supreme Court, have said that the Second Amendment was designed to guarantee the states the right to mantain militias, and that any state or the federal government can restrict or prohibit the private ownership of guns.

As for our defending ourselves against the Red hordes with pistols, that's just plain silly. Defense is up to the Army, the Navy, and the Air Force—not to ordinary citizens armed with handguns they aren't trained to use and which aren't much good anyhow against targets more than fifty feet away, least of all targets like trained soldiers armed with rifles and machine guns. The pro-gun crowd keeps arguing that people like me want to take all guns away from Americans. That's just not true. Sporting rifles and shotguns have their place. But the handgun has no purpose except to kill somebody. While it's true that criminals would still manage to get hold of handguns even if there were strict laws against their possession, the gradual reduction of handguns in general would make it much harder for them to get hold of guns. One of the greatest myths propagated by the N.R.A. is that armed homeowners often scare off or kill intruders, so many people go out and buy handguns to protect themselves. But the element of surprise in most criminal acts makes the victim's gun of little use, and more often than not it is a greater threat to its owner than no weapon at all would be. In a house where there is a gun, residents are four times more likely to be killed by that gun in an accident than by an armed burglar. Another danger is that a large proportion of guns in criminals' hands have come from burglaries of the homes of people who were away at the time, so these guns end up being used in other crimes. What's more, the N.R.A.'s constant talk about 'law-abiding citizens' ignores one overwhelming fact: nearly three-fourths of all murders are committed by people who know their victims, who are relatives or friends or acquaintances. These gun owners were law-abiding until they used their guns, mainly handguns. So if handguns were outlawed, gun accidents along with murders committed in a moment of passion—many of which wouldn't be committed if there weren't a gun handy and the passion had time to subside—would decrease sharply. And once handguns are outlawed, any criminal carrying one could be arrested and imprisoned simply for possession, before he got a chance to use it."

A little later, as I got up to go, I asked Shields if the murderer of his son had ever been found. "Four members of the Zebra gang were arrested, tried, convicted of murder, and sentenced to life in prison," he said. "None of them were charged with my boy's murder, because there hadn't been any witnesses to it, unlike the murders they were convicted for. The police found the gun that killed him—a Beretta automatic that had been used in all the Zebra attacks from January, 1974, on. It was traced back to a kid who had bought it as a lark in 1968. The gun had changed hands several times. It was lost in a poker game, it was sold for some heroin, and, finally, a burglar stole it and sold it to a man in a black self-help center in San Francisco where the four men convicted of the Zebra killings worked. The police tell me they're sure that one of those four killed my son."

Shields accompanied me to the door, and as we shook hands he said, "You know, the N.R.A. has announced that it's going to move its headquarters here out to Colorado. It seems there's too much crime in Washington."

WE MUST FOCUS ON SERIOUS PROBLEMS OF UNEMPLOYED YOUNG BLACKS

Mr. HUMPHREY. Mr. President, unemployment among young black Americans has become one of our Nation's most serious economic problems. The extent of this problem is well illustrated by Charlayne Hunter in an article which appeared in a recent issue of the Minneapolis Tribune, entitled "Unemployed Young Blacks Growing Problem in Nation."

As Ms. Hunter points out, joblessness among black teenagers has risen much faster than unemployment among any other group of workers, and now stands at more than 40 percent. There are millions of black youths who are faced with the human disaster of reaching adulthood with no hope of ever finding a job with a decent future.

Ms. Hunter discusses some potential solutions to this problem. I recommend this article to all of my colleagues and ask that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Unemployed Young Blacks Growing Problem in Nation

(By Charlayne Hunter)

New York, N.Y.—Despite chronic unemployment among young blacks that now officially exceeds 40 percent—some estimates range upward of 70 percent—there has been no agreement among experts about how to avert what could become a human disaster in which millions of blacks become adults with no hope of ever finding jobs with a future.

Some experts have urged mandatory vocational programs for all high school students. Others have seen hope in programs modeled on the Civilian Conservation Corps of the Depression, in which the unemployed worked on programs such as reforestation.

Still other experts have contended that blacks, because they are largely from urban areas, must find employment there, rather than in rural areas.

Then there are those who have insisted that until blacks go to the polls in much larger numbers they can expect very little improvement in their economic condition.

Summing up the approaches to ending unemployment among young blacks, Bernard E. Anderson, of the University of Pennsylvania's Wharton School of Economics, who has done considerable work in the field, said:

"Nothing at the moment promises to reverse the 'permanence' of black youth joblessness."

In 1955, the jobless rate for black teenagers was 15.8 percent, compared with 10.3 for whites of the same age, in 1965, it was 26.2 percent, compared with 13.4 for whites and in 1973 it was 30.2 percent for blacks, compared with 12.6 for white youths.

The most recent statistics are equally dismal. As of June 1976, that rate, according to the Bureau of Labor Statistics, was 40.3 percent for blacks, compared with 16.1 percent for whites of the same age.

For blacks that rate has increased since last month, when the rate was 33.5 percent. For whites, it has decreased from last month, when it was 16.3.

Furthermore, the rate of joblessness among white teen-agers, though still high and posing many of the same problems, is expected to decline as a result of a declining birth rate of whites.

The black birth rate, however, is three times that of whites and increasing.

Indicative of the split on possible solutions to the problem has been the argument about the Manpower Programs of the 1960s, on which the Johnson administration spent billions of dollars.

Some experts have said that much of that money, particularly that which had been designated for the so-called Summer Youth Programs, had been a form of "riot insurance," a way of getting potentially volatile youngsters off the streets. The basic thrust, critics of this program have argued, was to contain rather than to train. These jobs did not lead to a lasting occupation, the critics said.

However, Sar Levitan, director of the George Washington University Center for Special Policy Studies, contended that the approach had been a good one.

Levitan said he believed in creation of public jobs and the expansion of stipends for institutional and apprenticeship training and expansion of the Jobs Corps. With sufficient funds and a sustained program, this would bring about absorption of the bulk of longterm unemployed teen-agers, he said.

The Job Corps, which began 11 years ago with 128 centers, now has only 60 centers, according to John Stetson, the director of the corps.

"The Job Corps," said Levitan, "started at $30 million, and Congress has never had the guts to raise it."

W. Willard Wirtz, secretary of labor in the Johnson Cabinet and now head of the National Manpower Institute, has called the present situation "intolerable" and has said all teen-agers—girls, as well as boys—should get at least 500 hours of firsthand work experience as part of their high school education.

The institute has proposed establishing work education councils to operate in several cities. The councils would be made up of local school officials, employers, union representatives and others in a position to train young men and women for jobs.

The short-term goal of these councils, according to Paul Barton, a staff member of the institute, would be the discussion of the problem. The long-term purpose would be the creation of a plan that would bring about effective transition from school to job.

In Congress, attention has been focused on two bills—a year round Young Adult Conservation Corps and the Hawkins-Humphrey Full Employment and Balanced Growth Bill.

The first bill, modeled on the Civilian Convation Corps, would provide jobs in insect control, reforestation, campground improvement and similar work. This bill is geared specifically to the economically disadvantaged.

THE NEW JERSEY AGRICULTURAL EXPERIMENT STATION

Mr. WILLIAMS. Mr. President, I was recently the proud recipient of some delicious "finished miracles" of agricultural research which were produced by the New Jersey Agricultural Experiment Station at Rutgers University.

These products were presented to me by Dr. Grant F. Walton, the newly appointed dean of Cook College, the agriculture school at Rutgers. He is also the experiment station's director. Included in this unique sample were vine-ripened Jersey greenhouse tomatoes, luscious Jersey-fresh strawberries, and a new item, the European-type cucumber, which I am told is of the increasingly popular "burpless" variety, though I was equally impressed with its superior flavor.

This scientifically produced sample of America's bounty, grown in one of the most highly developed, urbanized States in our Nation today, illustrates the vital role that agricultural research stations can perform in meeting the ever-increasing demand for more food and fiber. In our case, the Rutgers Agricultural Station has been a key instrument in maintaining New Jersey as the "Garden State."

The New Jersey Agricultural Experiment Station is now approaching its 100th anniversary and it would be well to review some of its outstanding contributions in agricultural and environmental research.

New Jersey's station first began to pioneer in agricultural education as a result of the forethought and efforts of Dr. George H. Cook, a State geologist and a Rutgers professor, who became the station's first director in 1880. Dr. Cook then pioneered in the offering of the State's first extension courses. Today, the agriculture college at Rutgers bears his name.

Perhaps the most significant contribution to have emerged from New Jersey's experiment station was the isolation in 1944 of streptomycin, the antibiotic, by the late Dr. Selman A. Waksman, who won the Nobel Prize for his efforts. Streptomycin, along with its close relative, neomycin, are both derived from the soil, and each has helped to save millions of lives from the ravages of some of the world's most devasting diseases.

Farmers, however, have generally been the immediate beneficiaries from most of the research conducted at the station. In 1880, the station established service to analyze and test fertilizers, cattle food, seeds, soils, water, milk, and other agricultural materials and products. They subsequently developed control methods for numerous insects affecting the State's fruit and vegetable industries. Scientists also found control methods for such plant diseases as clubroot of cabbage, anthracnose of melons, beans, and other truck crops, apple rot, potato, and tomato blight, and soil rot of sweet potatoes. In addition, researchers have conducted extensive potato investigations resulting in the use of improved varieties and in effective methods of insect and disease control by New Jersey potato growers.

And, of course, New Jersey's agricultural research team has pioneered in the development of "finished miracles" which offer a variety of substantial improvements over conventionally grown crops. Scientists have developed new varieties of peaches, for example, such as Golden Jubilee, Sunhigh, Triogem, Jerseyland, and Blake. They have also developed new varieties of tomatoes, notably, the Rutgers Ramapo tomato and produced new strains of field corn, soybeans, alfalfa, barley, and oats.

But this is just an abbreviated list of the many achievements that have been credited to New Jersey's agricultural experiment station during its nearly 100 years of operation. Many other States have used New Jersey's station as a model for their own station. Its steady flow of agriculture-related advances, have had international effects, while continuing to insure that New Jersey reigns as the Nation's "Garden State."

CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Mr. PHILIP A. HART. Mr. President, I ask unanimous consent that a statement and report by Senator Eastland be printed in the Record.

There being no objection, the statement and report were ordered to be printed in the RECORD, as follows:

Pursuant to Section 302(b) of the Congressional Budget and Impoundment Control Act of 1974 the Committee on the Judiciary files the attached report.

COMMITTEE ON THE JUDICIARY REPORT PURSUANT TO 302(b) OF THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

	Direct spending		Entitlements	
	Budget authority	Outlays	Budget authority	Outlays
Controllable amounts:				
Federal Prison Industries Fund (11-20-4500-0-4-753)		7		
American Revolution Bicentennial Administration (31-03-5072-0-2-806)	3	4		
Bureau of Government Financial Operations (15-10-9999-0-7-806)				
All other amounts:				
Judicial survivors annuities (02-35-8110-0-7-602):				
Existing laws	3	2		
New legislation (S. 12)	15			
Claims, judgments and relief acts (15-10-1895-0-1-806)	23	23	226	226
Salaries of judges (02-25-0200-0-1-752)			30	30
Fees of jurors (02-25-0925-0-1-752)			19	19
Fees and expenses of witnesses (11-05-0311-0-1-751)			19	19
Committee total	44	22	294	294

THANKS TO NEW YORK CITY FOR A GREAT DEMOCRATIC CONVENTION

Mr. HUMPHREY. Mr. President, I rise today to express my appreciation to the leaders and citizens of New York City for the uniquely successful Democratic Convention that they hosted earlier this month. Governor Carey of the great State of New York, Mayor Beame, the borough presidents, the other city officials, the hundreds of civic leaders, the thousands of public employees, and other citizens showed the delegates and the American people the true meaning of the word, "hospitality."

They hosted a convention that will always be remembered as a great success. The leadership of the city was responsive to every major and minor need of the delegates, the public services were a model of efficiency and the citizens created a spirit of hospitality that few cities could duplicate. It was a fine demonstration to the American people that New York City is still the vital center of commerce, industry, and culture that it always has been.

Last year, when New York City was selected as the site of the Democratic Convention, there were murmurs that the financial crisis might prevent New York from being an ideal host. The leaders and citizens of New York proved that these skeptics were wrong. They proved that New York was well along the path to recovery.

It was particularly heartening for me and the other delegates to witness the spirit and enthusiasm exhibited by the leadership and the citizens of this great urban center. A sense of optimism and goodwill prevailed—a feeling that the worst problems were behind them and that the future would hold many successes. It was a great example to the delegates and the American people that the people of a city can pull together, even during times of crisis, and make the city a pleasant place to live.

The officials and citizens of New York were not running from their problems with the intention of dumping them in the lap of the Federal Government—they were facing issues head-on and finding the solutions.

The volunteer groups that were formed during the city's financial crisis are but one example of the fine spirit that prevails in the city. Businessmen, labor leaders, political figures, public employee groups, and other citizens have all contributed their time and energy to the success of the city. Many of these groups made a major contribution to the success of the Democratic Convention and I am sure that their efforts will assist the city in its valiant and determined effort to get the city back on its feet.

Once again, let me salute the Governor, the mayor, the borough presidents, the other city officials, the civic leaders, the police and firemen, the sanitation and health personnel, and other citizens for helping to make the 1976 Democratic Convention one of the most successful conventions ever experienced by the Democratic Party. New York City gained the respect and thanks of the thousands of delegates and observers.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, our Nation was conceived 200 years ago in the spirit of human liberty. In the words of the Declaration of Independence:

> We hold these truths of be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

This most basic tenet of American thought has led the United States to assume a leadership position during the formation of international agreements dedicated the protection of these rights.

One such document, the Genocide Convention, puts the lofty principles embodied in the Declaration of Independence into the framework of international law.

What does this treaty seek to do? Its purpose is clear and simple. It would outlaw actions that result in the systematic elimination of members of racial, ethnic, national, or religious groups. It seeks to prevent mass annihilation such as the killings of Armenians by the Turks in World War I, of the Jewish people by the Nazis in World War II.

Mr. President, the Bicentennial is a most appropriate time for the Senate to ratify the Genocide Convention. As we celebrate 200 years of American freedom, let us extend moral leadership to this international effort to safeguard human rights. I urge my colleagues to act swiftly and approve the Genocide Convention without delay.

THE IMF AND GOLD

Mr. HELMS. Mr. President, the Senate Foreign Relations Committee is expected soon to report out amendments to the Bretton Woods Agreement which provide for a number of changes in the International Monetary Fund. I have been following this bill closely and I believe it is a proposal that merits the close scrutiny of every Member of the Senate.

I plan later to discuss the bill at greater length, but I have noted an interesting statement printed in the July 9 Wall Street Journal. It was contained in an advertisement sponsored by the Chamber of Mines of South Africa.

This organization is, of course, greatly concerned about gold and the price of gold. Because the largest single use of gold in the world has always been—and remains—its use as monetary reserves, the Chamber of Mines is interested in gold reserves.

According to the Treasury Department, which serves as the U.S. link of the IMF, the IMF agreement will help take gold out of international monetary system by eliminating the official price and any requirement that nations settle their international accounts with gold.

However, according to Mr. R. S. Lawrence, president of the Chamber of Mines, the effect has been to increase, and not to decrease, the importance of gold in the international arena. In a telling paragraph, Mr. Lawrence states that the recent IMF gold sales and the purchase of gold for central banks of many important nations "indicates that these nations consider gold an essential reserve asset and a tacit rejection of the demonetization philosophy propagated by the United States. This view is substantiated by the free use now being made of gold at market-related prices as collateral for international loans."

I believe that in a system of floating exchange rates, when no currency is stabilized, we have a system without stability. If we have revised our international system so that there is no order in it, people will seek order outside the system. In this case, gold represents that order.

Mr. President, Mr. Lawrence outlines

some facts about the mining operations in South Africa which are of great interest not only to those concerned with international monetary issues. Mr. Lawrence speaks of business practices concerning black employees and he speaks of the international situation in that part of the world.

Mr. President, I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

MINING HAS PERFORMED WELL IN FACE OF CRITICAL PROBLEMS

In the mining industry the critical problems during the year have been those of falling prices, especially of gold, platinum and copper, of exceptionally high rates of increase in working costs and of a shortfall of Black labour. In facing these very considerable difficulties the mining industry has performed well and, without minimizing the political problems of Southern Africa, there are grounds for optimism.

MINERAL PRODUCTION AND SALE

The total value of South Africa's mineral sales, including gold, in 1975 exceeded R4 000 million for the first time, an increase of 5.2 per cent compared with the previous year. The value of exports of asbestos, chrome, coal, fluorspar, manganese, nickel and vanadium all increased substantially. Demand for mineral products is already showing signs of expansion with the rise in industrial production levels that is under way world-wide and this should have a favourable effect on prices.

URANIUM

The relatively low output by Chamber members in 1975 of 2 809 metric tons of U308 should not be taken to imply that the industry is not adapting itself to take advantage of the opportunities which the expected growth in the world's uranium requirements are likely to offer. In the years immediately ahead, a steady increase in uranium output can be expected to a level at least the same as that which was attained in the peak production years of the late 1950s, that is approximately 6 000 metric tons per annum. Under favourable conditions this figure could be exceeded.

GOLD

Working revenue boosted by devaluation, showed a slight increase rising from R2 558 million in 1974 to R2 564 million in 1975. However, working costs rose by 27 per cent Gold mines spent R778 million on stores and materials produced mainly in South Africa. Some 370 000 employees received R611 million in salaries and wages which were substantially increased during the year, bringing direct and indirect benefits to many people in Southern Africa.

Working profit (before tax) declined by 16 per cent as a consequence of the increase in working costs. Estimated tax and State's share of profits declined from R813 million in 1974 to R629 million in 1975. Dividends paid to the large number of investors in South Africa and abroad fell from R565 million in 1974 to R520 million in 1975.

Assistance received by gold mines, members of the Chamber, in terms of the State Assistance scheme amounted to R17.8 million in 1975 compared with R1 million in 1974. The mines receiving this assistance produced 59,406 kilograms of gold worth about R213 million.

PRICE OF GOLD

Estimates of purchases of gold by investors, both in bullion and coin form, on world markets fell to 403 metric tons in 1975 compared with 800 tons in 1974. However, demand for gold for jewelry and other industrial uses increased markedly from 454 tons to 721 tons. Figures for the first quarter of this year suggest that this trend is gathering momentum. Moreover steady demand from investors and hoarders in the Far East has begun again and there are signs of increasing sales in the Middle East and the United States.

This increased spread of demand has given a basic strength to the market so that it should respond favourably to the revival of investor interest which may well result from recent monetary events.

The price obtained at the first gold auction of the I.M.F. and the extent of the over subscription for the available gold are a positive indication both of a strong demand for gold and of support by certain central banks for the gold sale thereby establishing a monetary demand for gold. The demand potential revealed should largely dispel the uncertainty amongst investors which has beset the gold market since the initial announcement of the auction last August.

Indirect purchases by central banks indicate that they consider gold an essential reserve asset and imply a tacit rejection of the demonetization philosophy propagated by the United States. This view is substantiated by the free use now being made of gold at market related prices as collateral for international loans.

LABOR

A major feature of the past year has been the extent to which South African Blacks have come to work in the mining industry. At the end of 1974, 25 per cent of our Black labour force came from South Africa and this proportion has now increased to 43 per cent. The Mine Labour Organisations have undertaken an intensive recruiting and publicity campaign in all South African areas and this activity continues with the objective of ensuring that at least 50 per cent of our labour comes from South Africa.

Increased wages for its Black employees have made the industry more competitive in the local labour market, and we hope that recently introduced incentives will enable us to ensure greater stability within the migratory pattern. This pattern of employment has been with us for many years and while a number of mines that are able to do so are increasing the proportion of South African workers housed on mine property, the nature of the industry is such that we will inevitably have to work within the migratory system for many years to come.

The propensity to move from less developed to more developed areas within the same country or across national borders is an inevitable phase of economic development and occurs world-wide. It is the continuing aim of the mining industry to provide through the Mine Labour Organisations every aid to men who wish to enter mine employment, whether from South Africa or from other countries whose nationals have traditionally entered mine employment.

The Mine Labour Organisations will continue to act as employment agencies and to pay deferred pay and remittances to individual mine employees and their families in home territories. These payments last year totaled R97 million.

SAFETY

Mines that are members of the Chamber spend on the average more than R60 million a year in the promotion of safety. Most of the money is spent on first aid and safety training, safety education and information, protective clothing and safety devices and equipment, and contributions towards research into safety in mines. As a result, the accident rate on mines in South Africa compares favourably with mines elsewhere in the world.

OUTLOOK

The year was overshadowed by the Angolan War which increased tensions in Southern Africa. However, there are signs that international reassessment of the situation has led to an increased awareness of South Africa's inherent strength and stability. Russia's intervention revealed her appreciation of the strategic importance of the subcontinent in the world power struggle and served to focus attention anew on the significance of South Africa's mineral wealth and on her geographical position across the East-West seaways. It is to be hoped that this will result in reappraisal in the West and a stiffening in resistance to Russian intervention in Africa's affairs. Recent unrest among South African Blacks has underlined the gravity of the problems that confront the statesmen of Southern Africa and will surely emphasize to all concerned the vital importance of peaceful solutions.

On the eastern and north-eastern borders of South Africa, Mozambique in its first year of independence has proceeded with the establishment of a wholly Marxist administration. Mozambique nationals continue to seek employment in South Africa's mining industry, despite some administrative holdups, and constitute a large part of the mine labour force. The big increase in the flow of labour from the South African homelands is correcting the former undue dependence on foreign sources but the industry will continue to offer employment to foreign nationals on a substantial scale.

Availability of manpower will remain a critical area for Southern Africa for many years to come. All races should increasingly share in the rewards and opportunities that economic growth of the region will bring, and the highest priority must be accorded to ensuring that the flow of qualified men and women from high schools matches the opportunities that will be opened to them. Thus, the key to the future is an imaginative programme of education and training for the peoples of Southern Africa. Even in South Africa there is no prospect at all of the White group on its own continuing to meet the country's entire needs of skilled and professional labour.

Today the mining industry's faith in its future is underlined by the huge sums that are being invested in new mining enterprise. At existing gold mines very large capital sums already spent on expansion should result in a substantial increase in mill throughput and reverse the declining level in gold production experienced in recent years. Gold mining apart, the extensive mining development on hand will mean further stimulus of local industry and increase in foreign exchange earnings. When the present period of consolidation has passed, I expect mining to be once again the leader in the revival of our economy.

(The full text of this address may be obtained from the General Manager, Chamber of Mines of South Africa, 5, Holland Street, Johannesburg, 2001.)

THE CONGRESS AND FOREIGN POLICY

Mr. HUMPHREY. Mr. President, last week I had the opportunity to appear before the Subcommittee on Investigations of the House International Relations Committee, chaired by my distinguished friend from Indiana, Mr. HAMILTON. The subject of the hearing was "Congress and Foreign Policy," and I was asked to present my views on this important topic.

My testimony dealt with the two basic elements of this issue: the machinery the Congress has established for handling foreign policy issues, and the relationship between the legislative and executive branches. In the first area, I believe that it is imperative that the Congress examine closely its committee jurisdictions in an attempt to eliminate overlapping and fragmented handling of critical policy issues. It is clear to me that, with our expanding role in the foreign policy field, we must adapt our institutions so that we can systematically and responsibly deal with difficult international questions which often have a direct bearing on domestic policy. Unless we take the initiative, we will continue the ad hoc and often haphazard treatment of foreign policy issues within the congressional context.

One of the most important devices which I believe could institutionalize a better organized foreign policy process in the Congress would be a Joint Committee on National Security. I discuss this approach at some length in my testimony and attempt to foresee possible issues with which the joint committee could deal.

In the area of legislative-executive relations, I am very critical of a consultation process which is used to inform the Congress of decisions already made—as is presently the case—rather than as a device to solicit views and exchange ideas. I point out that a genuine consultation process can be of considerable assistance to a President in the execution of American diplomacy.

At the conclusion of my testimony, I try to look into the future and discuss the future relationship between a Democratic President and a Democratic Congress in the foreign policy area. I do not believe that with the possible advent of a Democratic Chief Executive the Congress should abandon its efforts to provide itself with decisionmaking institutions which give it a more independent voice in the formulation of foreign policy.

Mr. President, I ask unanimous consent that the full text of my testimony before the Hamilton subcommittee be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR HUBERT H. HUMPHREY

Mr. Chairman, I am honored to appear before your distinguished subcommittee.

I want to commend you on your efforts to solicit the views of a diverse group of citizens on the role of Congress in the formulation of foreign policy.

It is imperative that this issue be discussed and debated because it directly relates to the Nation's security as well as to our ability to achieve a constructive role for America in an interdependent world.

My vantage point on this issue is from the Congress and specifically as a member of the Senate Committee on Foreign Relations. But I have also had the privilege of serving as Vice President, sitting on the National Security Council and participating in Executive branch decision-making. Thus, my Congressional perspective has been influenced profoundly by my experience as Vice President.

Let me begin my testimony with a statement which we all know to be true. The role of the Congress in the formulation of policies and goals relating to the conduct of American foreign policy is changing and will continue to change. And I believe this change has in large measure been a positive one. Despite the comments of Congressional critics, we have not curbed the Constitutional authority of the President to carry out his legitimate functions of policy initiator and Commander-in-Chief. But I refer to change because it is the basic common denominator from which we must begin the discussion.

The foreign policy role of Congress has not remained static because the political, economic and social systems of our world have been significantly altered in the past 10 to 15 years.

A bipolar world has evolved into a multipolar world with the rise of new economic powers and the possibility that nuclear weapons will be available to a growing number of regional powers.

Despite the eend of 19th century colonialism and the persistent presence of nationalism as a significant political force, world interdependence is a recognized part of the modern world.

Economic considerations have on many occasions replaced more traditional military and security oriented concerns as the major preoccupation of nations and their foreign policies.

For the first time in the world's history, the presence of vast and rapidly growing numbers of poor is generally seen by more affluent nations as both a moral dilemma and a real threat to greater global prosperity and security.

The number of nations which have even rudimentary democratic governments has dwindled to an alarming few.

To this list of international change with far reaching domestic implications must be added the trauma of Watergate and the after-shocks of the tragedy in Vietnam.

The Congress as well as the Executive branch has reacted to these and other major changes in keeping with its basic institutional structure.

But the dominant theme in a changing Congressional foreign policy role has been one of generally expanding its power, its prerogatives and its involvement in reaction to a changed international and domestic environment.

We have not always acted consistently or wisely. But in a changing world, an expanded Congressional role has often come about as the result of three special circumstances: What the Congress perceives as Executive neglect of a key issue such as nuclear proliferation; mishandling of a major policy issue such as Angola or Cyprus; or as a reaction to a direct usurpation of legislative power by a Chief Executive such as the entire area of war-making authority and commitments abroad.

My job today is not to analyze the past events which have served as catalysts for expanded Congressional involvement in foreign policy-making. Rather, I want to discuss the future. And I want to share with you some of my thoughts on how to improve the role of the Congress within the limits of its Constitutional responsibilities.

I use the word "improve" because an expanded Congressional role in foreign policy must now move from the *ad hoc* and haphazard arrangements to a more systematic and institutional involvement.

There are two major aspects to the creation of a more rational and regular system. One has to do with the way the Congress organizes itself for participation in the foreign policy process. The other is the way the Executive branch—the nation's diplomatic agent and the branch of government conducting the nation's foreign policy business on a day-to-day basis—relates to the Congress.

Despite its involvement in the foreign policy process, the Congress still lacks the machinery to deal coherently and systematically with the diverse and complex range of international issues which are necessarily on its agenda.

The Committee structure needs to be examined and reorganized as it relates to foreign policy. It is fragmented and overlapping. Matters dealing with such interrelated items as international trade, nuclear proliferation, arms sales and subsidized investment are handled by different committees. And this is the case in many other critical policy areas. But the problems with overlapping and fragmented jurisdiction, as well as outmoded organization within committees, relate more to substance than procedure. We have a committee system designed to handle twentieth-century problems with nineteenth-century institutions. This means that issues are not often addressed or their full implications not adequately considered. With procedures which are so haphazard and ineffective, the risk of serious policy blunders is great. This is especially the case in the area of international economic policy and, more specifically, with trade issues. The Finance Committee, the Foreign Relations Committee, the Banking and Currency Committee and the Commerce Committee all demand a piece of the action on international trade matters. A similar list of multi-committee jurisdiction could be drawn up in the energy field. I read recently that six committees of the Senate—Foreign Relations, Armed Services, Appropriations, Finance, Banking and Currency and the Joint Committee on Atomic Energy—have a direct interest in the MBFR negotiations now going on in Europe.

Because of the growing interrelationship between foreign policy issues and domestic policy, failure to modernize our committee structure could have a serious and adverse impact on domestic goals and policies. Foreign policy issues very often go to the heart of key domestic issues—for example, in international agricultural policy—and the Congress must have the means to assess and analyze its options.

Not only must we reexamine the committee structure, but we must also expand and professionalize committee staffs in the fields of foreign policy and national security.

Our oversight responsibility—which is the key Congressional duty—cannot be carried out effectively without sufficient numbers of well trained and qualified staff members. As you go down the list of committees with foreign policy interests, you notice that nearly all of them are understaffed and some have staff members who lack sufficient background and training in specific policy areas. Our oversight function will remain impaired unless these staffing problems are resolved.

All of us know that the American people are demanding greater acountability from government in key domestic programs.

There is no reason why the same effort to improve standards of accountability through better oversight should not be applied to foreign assistance and other international programs. In this respect, the authorizing committees must do a better job of oversight. There is absolutely no reason why the Appropriations Committees should be the only watchdogs of foreign policy matters.

Beyond the present problem with committee jurisdictions in the foreign policy field is the lack of any central foreign policy coordinating mechanism in the Congressional system. My answer to this need is a Joint Committee on National Security.

My experience as Chairman of the Joint Economic Committee has convinced me that the Congress needs a well-staffed joint committee to handle the non-legislative aspects of important national security policies. Such a Committee would be a natural focal point for drawing together the policy elements which a Committee system—no matter how well organized—tends to separate. Its membership would be drawn principally from the more senior members of the foreign policy and intelligence committees of the Congress, including the Speaker and the leadership of both parties of the Congress. But it could certainly have members from other committees and could be designed to allow a certain degree of flexible membership or participation depending upon the issue it was considering.

Much like the JEC, The Joint Committee on National Security would be the place where Executive branch witnesses would come to discuss and propose a particular administration's foreign policy programs. And such a Joint Committee would also be the place where Executive branch proposals would be analyzed and critiqued. Just as the JEC offers serious alternatives to an Administration's economic policies, a Joint Committee on National Security could play a similar constructive role.

The joint committee I am proposing would not be a mini-National Security Council. But it would be a place where foreign policy options could be explored and prepared and then referred to the appropriate committees.

I can think of three areas where such a committee could make a major policy impact:

The relationship between foreign policy and military force planning;

The relationship between domestic food production, foreign policy and world food needs; and

An exploration of the impact of domestic economic decisions on foreign policy.

There are, of course, many other areas where the joint committee could play an important new role.

One additional possibility would be for the Joint Committee and its staff to serve as a crisis management team for the Congress. There has been a great deal of discussion about the need for a group of members and staff to serve as an official liaison between the Executive branch and the Congress at times of international crisis. The Joint Committee could serve this function.

I do not see the joint committee as a means of usurping the jurisdiction of the major foreign policy committees. It would, instead, be a new, non-legislative instrumentality designed for coordination, analysis and specialized oversight. And it would, of course, eliminate the situation where Executive branch witnesses go from one Committee to another in an exhaustive and sometimes wasteful whirlwind with the same message and sometimes playing one Committee off against another.

A Joint Committee on National Security would simply add greater rationality and efficiency to Congressional involvement in the foreign policy process. It would bring greater numbers of members into contact with foreign policy issues. Let me add at this point that it is imperative that more members of Congress become interested in and informed about foreign policy issues. The non-legislative nature of many of these issues prevents some members from playing a more active and informed role. Hopefully, the joint committee approach could begin to remedy this situation. And it would begin to institutionalize more fully the Congressional foreign policy role, providing a focal point for public and Executive branch attention.

I hope that members of this Subcommittee discuss the Joint Committee concept with members of the full International Relations Committee. I can assure you that many members of the Senate would gladly accept an overture from the House so that we could proceed to work together to form a Joint Committee on National Security early in the next Congress.

I now wish to discuss the other aspect of Congress' role in foreign policy—the relationship between the two branches of government.

I believe that a more effective sharing of important responsibilities in the foreign policy field between the Executive and Legislative branches cannot take place without shared information and greater consultation. Our Constitutional system of government mandates such a process.

I see four important benefits from the consultation process:

It can give significant diplomatic advantages to a Chief Executive.

It can provide an index of public reaction and a signal of public skepticism.

It can subject a policy proposal to the critical scrutiny of those outside of government circles.

It can provide a sounding board for proposals, which is the starting point of building a national political consensus.

Unfortunately, one of the major problems in recent years has been the unwillingness of both Democratic and Republican administrations to cooperate with the Congress in providing it with the information it needs to make informed decisions and to solicit Congressional views through a valid consultation process.

Too often information has been withheld or has not been fully provided. For example, very rarely does Congress have access to the product of our intelligence agencies when it desperately needs this information to make informed decisions.

But, more frequently, consultation turns out to be merely the process of informing the Congress of a decision which has already been made. In fact, the consultation process has been so abused that it is almost entirely discredited. We know that "to be consulted" often means to be told instead of being asked.

The sorry state of the consultation process works to the very real detriment of American diplomacy. In denying Congress the chance to voice its views and participate in the decision-making process before a final decision is made on a critical policy issue, the Executive branch courts diplomatic disaster and international embarrassment.

In fact, a faulty consultation process can have an adverse impact on the conduct of American policy. Let me explain how this can occur.

It is well known that this Administration has used extensively what may be called "resource diplomacy." This is a process by which large amounts of bilateral foreign aid, military credit sales, Export-Import Bank loans and other financial benefits are provided to foreign nations which cooperate with the United States in major negotiations or which are perceived to help us politically. This type of diplomacy is largely dependent on the appropriation of funds by the Congress.

A consultation process which informs the Congress of major foreign financial commitments made in the name of the United States by the Executive branch but without the prior approval of the Congress raises the serious possibility that these commitments will not be honored. I am not endorsing resource diplomacy as the only way to conduct foreign policy. But it certainly cannot be carried on in the absence of a valid consultation process.

A good example of the conduct of resource diplomacy in the absence of consultation occurred recently. The Secretary of State went to Africa and made several worthy policy pronouncements without discussing them with the Congress in advance of his departure. It had been difficult and, in some cases, impossible for the Congress to support the Secretary on several of his aid commitments to African nations. If he had taken the time to discuss these matters with us before his departure, such difficulties might have been avoided.

On the other hand, when the Administration made a significant proposal to the Seventh Special Session of the United Nations last September it received strong Congressional support because it was done after a lengthy period of discussion with the Congress. I might add that the Congress initiated these consultations with the Secretary.

A shoddy consultation process can surely undermine the goal of developing a national political consensus on critical foreign policy issues. Failure to consult is an invitation to divisiveness.

It is a fact demonstrated by national polling data that the American people support the idea of greater public *and* Congressional participation in making foreign policy. And the members of this Subcommittee are well aware of the need for a more open foreign policy more responsive to the opinions and needs of the American people. The public has a right to be heard. It is they who lose their sons in war, pay taxes and face high commodity prices. Excluding the Congress through a consultation process which denies us the opportunity for our voices to be heard effectively eliminates the public from this process.

There is no way a foreign policy can be pursued without the support of the people. Bypassing Congress means that the people are cut out. I admit that we are sometimes behind the views of the people. But our system of representative government provides one of the few ways ordinary people can make their views known to national decision-makers.

The true test of any Administration's willingness to share in the responsibility of making major foreign policy decisions is the degree to which it initiates an honest system of broad-based consultation with the Congress. The risks of allowing the Congress to have a say are far outweighed by the political and diplomatic benefits flowing from such a practice. Lest I be misunderstood, I am a strong believer in the separation of powers between our branches of government. The Congress cannot and should not run foreign policy. But Congressional participation in certain types of major Executive decisions does no harm to the Constitution. It only strengthens our democracy and the support the people give their government.

But let me add that consultation is a two-way street. Those consulted must share in the responsibility for the advice which they provide.

I want to touch on one additional issue which could be of growing importance in the coming months.

I believe that if a Democrat is elected in November the progress made towards the development of an independent congressional decision-making process in the foreign policy field must not be curtailed. Collaboration between a Democratic President and a Democratic Congress is important and badly needed. But collaboration does not mean that the Congress must acquiesce in every Presidential decision without first giving it careful analysis and consideration.

A Democratic Congress must not abandon its own self-consciousness with the advent of a Democratic Chief Executive. In fact, a Democratic President should welcome a more independent foreign policy view from the Congress. It gives him more diplomatic latitude when there is fundamental agreement. And when there is not a concurrence of views, it serves as a warning to him to proceed with caution and perhaps modify his program.

Let me conclude my testimony by emphasizing that I do not believe that the Congress should ever deprive the Executive branch of its role as Chief initiator, negotiator and day-to-day custodian of the nation's foreign policy interests. These duties are the basic ingredients of Presidential leadership. But it will no longer suffice for Executive branch officials to dismiss the Congress as hopelessly divided and self-serving in its private assessment of our motives and behavior. There are serious deficiencies in both branches of government which must be solved in at atmosphere of common trust and understanding. If we are to maintain our leadership role in the world our foreign policy decision-making processes must be improved. A runaway Executive and an obstructionist Congress are both bad for national security.

Our goal must be to fashion a system of shared power and shared responsibility. Such a system must respect Constitutional guidelines. And it must minimize conflict while allowing for full and frank discussion of important issues. I recognize the difficulty of achieving this goal. But a great democracy is capable of such a task.

FEDERAL FINANCIAL INCENTIVES FOR ENERGY DEVELOPMENT

Mr. MOSS. Mr. President, yesterday the Energy Task Force of the Senate Budget Committee began 2 days of hearings on Federal financial incentives for energy development. The hearings will give particular reference to the significant energy proposals now before Congress. Although the President's energy proposals do not appear to involve a significant increase in expenditures initially, they may require considerable future investment of the public's money and they deserve careful consideration by Congress.

The task force hearings will consider two broad questions: First, the use of Federal financial incentives for energy development and what are their economic and fiscal impacts; and second, how should the contingent liabilities which they pose to the Government be treated in the Federal budget. The initial day's hearings yesterday concentrated on the first broad question and we had a distinguished group of witnesses to assist us in our consideration as follows: Mr. Barry Bosworth, senior fellow, Brookings Institution, Washington, D.C.; Mr. Stanley J. Lewand, vice president of Chase Manhattan Bank, New York, N.Y.; Mr. J. Frank Cannon, director of sales, marketing and coal gasification, Koppers Co., Pittsburgh, Pa.; and Mr. Charles S. Arledge, president of Garrett Nuclear Corp., Torrance, Calif.

In light of the importance of energy and the keen interest shown by Members of the Senate on this matter I ask unanimous consent to have printed in the Record highlights from yesterday's hearing. Copies of the complete statements are available from the Director of Publications, Senate Budget Committee. It is anticipated that the hearing record will be published later as a committee print.

There being no objection, the highlights were ordered to be printed in the Record, as follows:

HIGHLIGHTS OF OPENING STATEMENT OF SENATOR FRANK E. MOSS

This is the first of two hearings on the use of Federal financial incentives for energy development. Our primary objective is to develop a better understanding of the use and the economic and budgetary implications of various Federal financing options related to the Administration's FY 1977 energy proposals which are before Congress.

Energy is the lifeblood of our economy. And the future of this nation is largely dependent upon the policies Congress adopts regarding energy. To reach our national energy goals it is clear that the U.S. must act to increase its domestic energy supplies and to reduce its vulnerability to embargo.

Last summer the Energy Task Force made recommendations on oil and gas pricing that helped lead to the compromise energy legislation enacted last December and to the pending natural gas bill. The Task Force Report rejected instant decontrol and recommended measures which would provide an adjustment period during which the price of oil and natural gas in the U.S. could make a gradual, orderly transition. Enactment of the Energy Policy and Conservation Act last December was an important step toward our energy goals but others are required.

This summer Congress is considering a different kind of energy legislation—bills designed to assist in financing energy production and developing new energy technologies. Two major energy policy questions facing the Congress are: (1) the extent to which such new energy technologies and new uses of fossil fuels should be developed, and (2) how these high risk and capital intensive programs should be financed.

The First Concurrent Budget Resolution approved by Congress in April accorded a high priority to the on-budget energy proposals. However, the President's request for off-budget funding far exceeded his on-budget proposals.

The Budget Committee did not have adequate information on the proper mix of new technologies or the level of funding needed for such a mix at the time of the April budget resolution. Thus, the resolution provided funds for on-budget activities with the understanding that off-budget issues and specific program proposals would be reviewed in light of the budget resolution and later information. That time has now arrived.

Today's hearing will focus on two main areas: (1) the appropriateness of using various Federal financial incentives (e.g., loan or price guarantees, cooperative agreements) to achieve energy development goals, and (2) what are the economic and fiscal implications of these various forms of risk sharing.

Also of concern to the Task Force are: What are the relative advantages of the various financing options? Which ones provide the most beneficial energy response? What types of contingent liabilities best encourage the flow of private capital into private energy development ventures. How much will they add to the pool of available energy funds and what is their affect on capital markets?

In my own state of Utah all of these questions are presently being debated. Utah has enormous reserves of oil shale, tar sands, uranium, geothermal steam and coal which is suitable for liquefaction or gasification. However, development of the new technologies required to utilize these resources can't be handled completely by private capital markets. Such development will depend on some form of Federal incentive. Other states have had similar experiences.

Historically, the Federal role in energy has been to support basic non-nuclear research and technology. In the nuclear area the government's role has been much more extensive and included production of nuclear technology and material.

In view of the growing U.S. reliance on foreign energy supplies, a decision must be made soon concerning the Federal role and the size of the effort to develop new technologies and whether to support them as nuclear power has been supported.

HIGHLIGHTS OF TESTIMONY OF MR. BOSWORTH

Mr. Bosworth's testimony concentrated on loan guarantees versus other incentive programs. He made four main points concerning loan guarantees.

1. "First, the decision to provide special incentives in the energy area 'reflects' a tradeoff with other claims on the nation's resources. If more resources are moved into the energy area less will be available in other areas of private investment, consumption, and government expenditures."

2. "Second, the simple existence of a loan guarantee program does not necessarily increase the total amount of investment in the subsized area."

3. "A loan guarantee encourages termination of a project at an earlier date than without a guarantee."

4. "In combination with current tax laws a loan guarantee program can seriously distort incentives."

Additionally, he opined that price guarantees, seem to be the most direct response to the issue of future price uncertainty."

In summary, the witness indicated concern "that loan guarantees will significantly reduce incentives to develop viable production processes because of premature decisions to quite, limited owner equity and their potential use as tax havens" and that he believed it "undesirable to place further burdens upon the capital markets as a means of directing resources to the energy field."

HIGHLIGHTS OF TESTIMONY OF MR. LEWAND

Mr. Lewand stated "there should be a strong presumption against government support of private ventures" because taxpayers assume "the business risk in lieu of the ventures' beneficiaries." However, he sees government support of nuclear enrichment and synthetic fuels in "a somewhat different category." In nuclear enrichment, support is appropriate because the industry is owned, controlled, and commercially operated by the government. In any project, there is a role for government support when "a significant degree of the project risk has been introduced by the actual or potential action or inaction of the government itself." Other important considerations are national security, energy independence, and foreign policy.

Mr. Lewand continued, "Our national theory teaches that sufficient equity funds will be forthcoming for a project if the investors are confident they will be allowed to earn a reward commensurate with the risk should the project succeed." Since the huge amount of equity investments required for synthetic fuels has not been forthcoming "one must conclude that the risk-reward equation does not equate."

HIGHLIGHTS OF TESTIMONY OF MR. CANNON

Mr. Cannon indicated concern over the U.S. "reliance on the whim of foreign political interests" in light of our heavy dependence on oil imports. He noted that the U.S. spent $3.7 billion for foreign oil in 1971, that the figure is expected to reach $35 billion this year and $45 billion by 1980. While acknowledging that energy conservation can help, fuel is needed. He recommended that the use of "presently available technology" to produce a gas from coal which we "have in abundance." He believes private industry cannot "cope" with risks arising from "political variables"—re: OPEC price drops or supply cutbacks.

Thus the Federal government must provide "incentives and assurances" to motivate American corporations to risk the very considerable capital investment required for a synthetic fuels industry. Risks were described as both "economic and political" in nature.

He spoke in support of "loan and price guarantees" as "important and necessary aids" to investment in synthetic fuels facilities and also suggested the need for "other" aids such as low interest loans, tax incentives like investment credits and accelerated plant write offs, or industrial development funds.

HIGHLIGHTS OF TESTIMONY OF MR. ARLEDGE

Mr. Arledge spoke in support of the Nuclear Fuel Assurance Act of 1976, providing government support for the uranium enrichment industry in the form of technology guarantees, product backstops, and debt assurance. He believes the assurances contained in this act are necessary because of certain unusual business risks and other factors . . . unique to this new industry's basically as follows:

1. The gas centrifuge process is unproven commercially.
2. The process has been developed by the government under a veil of secrecy.
3. An enrichment plant is highly capital-intensive.
4. The amount of capital required for a project of economic size is about $1 billion.
5. No historical financial data exists.
6. Plant licensing criteria are undefined/untested.
7. Various governmental policies could harm the economic viability of the project: For example
   - a) A nuclear moratorium
   - b) A new, low cost enrichment process
   - c) Changes in ERDA policies for sale of enrichment services.
8. No alternative uses for the plant exist.

Mr. Arledge stressed "the necessity" of passing the Act as soon as possible.

GREATER RESEARCH NEEDED ON HYDROGEN AS ENERGY SOURCE

Mr. HUMPHREY. Mr. President, there are many critical aspects to our energy program, not the least of which is the estimated $35 billion this country will pay to oil exporters this year, up $32 billion from 1970. Unless new sources of energy are found, these costs will grow, with inflationary consequences we must avoid if at all possible. Aggressive research and development can bring us out of this crisis and the Energy Research and Development Administration must get on with that job.

Over the last several years, the administration has talked about energy independence, but little has been done to achieve this goal. The fundamental weakness of the administration's approach has been a misguided effort to increase supply through price incentives rather than push energy conservation to trim energy demand. New approaches are needed, something the administration is now slowly being forced to realize.

My activities in the Joint Economic Committee have given me the opportunity to put into perspective various energy sources and the role they play now and must play in the future.

As my colleagues well know, I have pushed solar energy development. It will have an important role in our future. Last year the Sun radiated on the United States more than 75 times as much energy as the Nation consumed. Solar energy is plentiful, environmentally safe, and will eventually supply a good portion of our energy needs. Nuclear fusion, too, can be a safe, abundant energy source which we may rely on in the future.

I have now begun also to look closely at the promise and prospect of hydrogen. The possibilities of a hydrogen-based economy are real and potentially attractive as another longer term answer to energy independence. Hydrogen is common to all synthetic fuels and is the key element, should we seek to build a synthetic fuels industry. A plentiful supply of low-cost hydrogen would permit far more efficient use of coal in gasification and liquefaction processes. It could also play an important role in the extraction of oil and gas from our vast shale deposits. In both of these cases hydrogen can work to extend the life of depletable natural resources.

Its uses are not limited to an energy substitute. For example, hydrogen is a necessary ingredient in the hydrocarbon processing industry which includes pharmaceuticals, plastics, lubricants, detergents, and many other manmade products which are a part of any highly developed society. Another important use of hydrogen is in the production of fertilizer for our farms.

A number of private firms are seeking to realize the promise held out by low-cost hydrogen. One program, in particular, in private industry holds great promise for low-cost production of hydrogen. That program utilizes the power of the laser to stimulate the fusion process of the Sun. The energy output of laser-induced fusion is used to split the molecules of water into hydrogen and oxygen. This process would assure us of a virtually unlimited source of hydrogen from our most abundant natural resource—the water of the sea.

The program is being conducted by a small research company, KMS Fusion, Inc., of Ann Arbor, Mich. This company has pioneered in laser-fusion technology, investing $25 million of its own funds in the effort.

Last year Congress heard the hydrogen story for the first time and was impressed enough to provide the first Government funds for continuation of the KMS fusion work. I had hoped that ERDA this year would follow up this industry effort, and plan a program to push it along to a point where a decision could be made to invest more heavily or cut it off. Unfortunately, this year's ERDA budget proposal recommended a major reduction for the KMS program at the expense of a sharp rise in funds for the Government's inhouse military-oriented laser-fusion work.

Whatever the cause of ERDA's failure to push private sector hydrogen research, the whole program seems to be characterized by timidity. There is an apparent desire, too, to place military applications of laser fusion ahead of peaceful applications. I want to see an ERDA plan on the prospects and potential of generating low-priced hydrogen through laser fusion. What are the obstacles? What should we be doing that we are not doing? How long will it take to find out whether the goal is technologically attainable? How much will it cost? What could the proponents of this concept do to speed the effort if aggressive funding were substituted for minimal funding? Who should be running the program?

We have the capability, Mr. President, the intellectual and material resources, to bring this country out of the energy morass. But, we cannot do it without dynamic governmental leadership. I do not see this kind of leadership coming from the present administration.

This year, ERDA appears to be responding to congressional advice to emphasize conservation. Next year, I hope the agency will act boldly on the advice we are giving it now on hydrogen. As most of my colleagues in the Senate know, I am an optimist, and I look forward next year to new leadership to inspire dynamic solutions of vexing problems.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CLEAN AIR AMENDMENTS OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 3219, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (S. 3219) to amend the Clean Air Act, as amended.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, yesterday I had printed in the Record my full opening statement which would have consumed the rest of this morning if I were to read it. I hope Members find it useful. In any case, I thought I would begin today's debate with a brief summary of that statement.

Mr. President, in 1970 we enacted the landmark clean air amendments, which had three basic objectives: first, to achieve air quality which would protect public health; second, to establish specific regulatory requirements and precise timetables for achievement of those long-term public policy goals for air quality programs.

The Clean Air Act of 1970 was a new departure.

We knew our goals. They had been established in 1967 when Congress asserted a national interest in achieving health-related air quality standards in our Nation's urban-industrial areas and in maintaining clean air in regions in which air was still pristine.

We proposed and saw enacted two basic tools—controls on emissions and establishment of deadlines. Emission controls replaced air quality standards as the enforcement mechanism; and deadlines provided the public with a basis against which to judge progress. For autos, this translated into statutory emission standards and fixed deadlines.

The 1970 amendments have brought

considerable progress in controlling air pollution. Total emissions of some pollutants have been reduced. We should take pride in these accomplishments. But in most cases, these improvements will be temporary. By mid-1975, the national ambient air quality standards for all pollutants have been fully achieved in only 91 of the Nation's 247 air quality control regions. Emissions from new growth will reverse this progress unless further efforts are made to control pollution.

The real test of pollution control comes now—years later. Whether or not the legitimate gains made can be held is uncertain. Those victories and those precedents are now under attack.

In order to assure the Congress that the requirements of the 1970 act were justified, the Senate Public Works Committee contracted with the National Academy of Sciences for a $500,000 study of air quality standards.

The Academy reached these conclusions:

First. Evidence accumulated since the enactment of the 1970 amendments supports the ambient air quality standards which were promulgated as a result of that act;

Second. Safety margins associated with those standards are only marginally adequate;

Third. Susceptible groups in the population which may be adversely affected by unhealthy air constitute about 40 million people;

Fourth. Best estimates indicate that air pollution causes 15,000 excess deaths per year, 15 million days of restricted activity per year, and 7 million days spent in bed; and

Fifth. Health effects of automobile pollution alone cause 4,000 deaths per year and 4 million illness restricted days per year.

The Nation still experiences the problems which led Congress to adopt the firm approach of the 1970 amendments:

In the summer of 1975, the State of Iowa experienced its first air pollution alert.

In the summer of 1975, the Washington, D.C., area suffered its highest recorded single-day level of photochemical smog in history. The 8-day alert was the area's second longest ever.

The New York Times reported on November 20, 1975, that as many as 30 industrial plants in the Pittsburgh area cut back operations to alleviate emergency levels of air pollution which were the highest concentrations ever recorded in Allegheny County since the establishment of its monitoring system in 1971. An alert is called when the air quality index reaches 100; the readings from November 17 through 20 reached 249.

The challenges to the premises of the act have been limited, but there has been a campaign to eliminate the regulatory and enforcement tools necessary to achieve those public policy objectives.

The bill before the Senate reflects these conflicting pressures. We voted to give cities more time to utilize new transportation modes—and to provide transportation alternatives.

We voted to give the auto industry 2 more years to achieve statutory standards.

We revised the enforcement sections of the act—revisions which are encouraging.

This year the committee voted to make specific the requirement that clean air areas be protected. We determined that each new major plant should be required to use the best pollution control technology available and that the impact of each new plant's emissions should be evaluated against a national nondegradation standard.

This decision was a victory for environmental quality. It comes at a time when Congress is being asked to sacrifice environmental initiative for economic recovery even though there is little demonstrable relationship between the two.

I would like to turn, if I may, to the subject of nondegradation which appears to be the most controversial aspect of these amendments.

The committee unanimously agreed that the prevention of deterioration of clean air areas should be resolved by the Congress and not by the courts. Having reached these conclusions, the committee worked for many months to develop a consensus regarding the most useful method for prevention of deterioration.

Let me emphasize again the twin objectives of the Clean Air Act from the first one, which was written in 1963 but specifically from the 1967 amendments. The twin objectives were these: To clean up the areas which were already dirty and thus hazardous to the public health and public welfare of the Nation.

The second was to protect those areas of the Nation in which the air was still relatively clean so that it would not deteriorate to the condition of the dirty air areas of the country. It is that latter objective which is the subject of controversy in the nondegradation issue.

The nondegradation provisions in the bill do these things:

First. Place primary responsibility and authority with the States, backed by the Federal Government;

Second. Apply only to new major emitting facilities, not affecting existing facilities;

Third. Require that large, new sources use the best available technology to minimize emissions, determined by each State on a case-by-case basis;

Fourth. Provide a margin of safety to protect national ambient air quality standards, assuring prudent consideration of any major emitting facility that may threaten that air quality;

Fifth. Require the Federal Government, as a property owner, to protect the values related to air quality on certain Federal lands under the stewardship of various Federal agencies;

Sixth. Eliminate the so-called buffer zones that were hypothesized around various land classifications;

Seventh. Affect only those areas where air quality is cleaner than the present primary or secondary standards;

Eighth. Establish a permit process, managed by the State, which is included in an analysis of the air quality impact of new, major emitting facilities;

Ninth. Require that the permit application should include data on background air quality and potential associated growth in order to better understand the overall air quality implications of the new facility; and

Tenth. Establish that there should be a nationally applicable maximum level of change in the air quality of clean air regions—the so-called class II increments—which would be a measure in the change in air quality permitted in any given area as a result of the operation of one or more new, major emitting facilities.

The bill's procedures to prevent significant deterioration apply only to new, major emitting facilities and do not affect existing facilities or new facilities which are not specified as major by this bill or by subsequent EPA regulations.

Major emitting facilities are only those 28 industrial sources identified by category in the statute—or later identified by EPA—and which have the potential to emit more than 100 tons of a pollutant per year. These do not include houses, dairies, farms, highways, hospitals, schools, grocery stores, and other such sources.

Once the State adopts a permit process in compliance with this provision, the Environmental Protection Agency role is to seek injunctive or other judicial relief to assure compliance with the law.

III. ENFORCEMENT AND PENALTIES

The 1970 Clean Air Act established a deadline for achieving public health-related air quality standards. While substantial progress has been made in bringing many sources into final compliance, an improved mechanism must be established to handle sources presently not in compliance.

The committee recognizes that some of the facilities are in compliance and that other facilities are on compliance schedules. These sources deserve praise. They have made or committed investments. They have cleaned up their emissions or are in the process of cleaning up their emissions.

The committee bill provides for delayed compliance orders and delayed compliance penalties as a new strategy to enforce applicable emission limitations and to address the problem of those existing sources which are out of compliance. This provision allows a State or EPA to issue enforcement orders to sources not in compliance with applicable emission limitations. Such orders will require compliance as expeditiously as practicable but in no event later than January 1, 1979.

The committee bill also authorizes the Administrator to seek civil penalties for violation of emission limitations or schedules and timetables of compliance. This authority is independent of the deadline extension and the delayed compliance penalty. If a State has not issued a delayed compliance order with a new time schedule, the Administrator is required to seek an injunction against the noncomplying source and is authorized to seek civil penalties for noncompliance. In addition, the Administrator is authorized to seek additional penalties against sources which are subject to the delayed compliance penalty.

IV. EXPANSION IN NATIONAL AMBIENT AIR QUALITY STANDARD AREAS

Under present law, facilities that want to expand at their present locations face a very stringent review test if they are located in areas where ambient standards are presently exceeded. In many cases, this means that under the law, expansion at that site is precluded until the ambient standard is attained.

The reported bill provides some new flexibility in this area, but it is carefully contained and strictly limited. The new amendment would allow expansion at an existing site if a new facility uses the best available control technology, if existing sources meet all applicable emission limitations, and if total cumulative emissions will be sufficiently less to represent reasonable progress toward attainment of the standards.

V. TRANSPORTATION AND LAND USE CONTROLS

Transportation and land use controls were authorized as air pollution control mechanisms by the 1970 act. When carried out properly, such controls are a positive tool. The requirements of the 1970 act could have been the stimulus for beneficial uses of land and transportation in environmentally compatible ways. This opportunity was not seized. In order to adjust the transportation control requirements to the difficulties of implementing such policies, the committee has adopted an amendment which provides more flexibility, more local involvement, more time, and more State discretion in fashioning these strategies. The bill requires the adoption as rapidly as practicable of all reasonable transportation control measures in areas where such measures are necessary.

If an area is implementing transportation control measures and all requirements for stationary sources that emit mobile source-related pollutants, but still cannot meet the deadline, it may receive a 5-year extension to achieve primary standards for the applicable mobile source-related pollutant. A second 5-year extension is available for the few most difficult problem areas. This means that deadlines for those areas could extend to May 31, 1987.

The key tests are that all reasonable requirements are contained in the plan and are implemented as expeditiously as practicable.

The reported bill revises the basis on which land use controls are to be used to assure that land use decisions be made at the local level. The 1976 amendments place EPA's authority to promulgate land use regulations in a new perspective. Land use questions are to be resolved at the State and local level. Federal action is to occur only when the State fails to act or there is a demonstrated inadequacy in the State program to achieve or maintain a health-related level of clean air.

VI. OTHER ISSUES

The 1970 clean air amendments included a requirement that State implementation plans impose "emission limitations." This term has been the subject of controversy, litigation, and dispute. These 1976 amendments provide a statutory definition of the phrase "emission limitation." Intermittent controls or dispersion techniques are unacceptable as a substitute for continuous control of pollutants under this act.

As the courts have held, the act prescribes how air quality standards must be met—neither EPA nor the States may permit a proposed plan to meet the requirements by using tall stacks or other dispersion devices or systems. A policy of encouraging "tall stacks" will increase the burden of pollution. Long-range transport of pollutants will be exacerbated. There is no support in the Clean Air Act for such a policy. Certainly such a policy would be wholly inconsistent with the policy to prevent significant deterioration.

VII. AUTO EMISSIONS

In 1970, the Clean Air Act established statutory standards for automobiles because it was recognized that the automobile presented the single most difficult national pollution problem. This legislation continues that policy.

The committee has made two modifications of the statutory standards adopted in 1970. First, a new standard for oxides of nitrogen emissions is proposed which increased by 2½ times the level of emissions of that pollutant which will be permitted. Second, except for a minimum number of vehicles, the achievement of that new statutory standard for oxides of nitrogen has been delayed until 1980.

The committee bill requires compliance with the statutory standards of .41 HC, 3.4 CO, 1.0 NO_x in 1980.

Also, the committee bill requires manufacturers to produce 10 percent of their 1979 fleet at the statutory levels required for all cars in 1980. This phasein is intended to provide a period during which new emission control systems meeting the statutory requirements can be introduced and modified if necessary before 1980.

The requests for a 5-year freeze in auto emission standards were rejected by the committee after careful analysis.

Such a delay would merely give the automobile industry further time to continue to lobby Congress for further extensions.

Such a delay would remove the kind of pressure that has been absolutely essential in forcing the adoption of improved auto emission pollution control technology.

Such a delay would demoralize many local communities which have made efforts to develop control strategies to reduce auto emission pollution in their area.

Such a delay is not needed for energy or economic reasons.

The auto industry is well on the road to recovery. Industry sales as of December 1975 were up 30 percent over those of a year earlier. According to the Journal of Commerce, retail sales are expected to exceed the 1973 record of over 11 million units by 1977 or 1978, and should rise to over 13 million units before the end of this decade.

Since the energy crisis, there has been a great deal of discussion of the need for fuel economy in automobiles.

The fact is that the actual fuel economy depends on the choice of technology. The tightening of the emission standards in 1975 had a favorable impact on fuel economy, which improved 14 percent over 1974. Now the 1976 model cars obtain 26 percent better gas mileage than the 1974 models, while continuing to meet more stringent emission standards.

The committee believes that this bill sets standards that will require a new level of technology. Hopefully, this will result in a significant reduction in emissions from cars on the road—not just in the certification stage.

The performance warranty provides the ultimate test of whether the manufacturer is carrying out its responsibility to build cars that will meet the emission standards for their useful life. The manufacturer under this bill is exposed to financial responsibility if a vehicle fails to do so. Without a performance warranty, the natural tendency will be to cut corners.

If there is an anticompetitive aspect associated with this requirement in present law, then the committee amendments should be more than adequate to correct it.

The committee clearly wanted to take every reasonable step to protect the aftermarket industry and the consumer against monopolistic practices by the automobile manufacturers. As a result, this bill includes three new provisions to enhance competition in aftermarket parts and services. These actions include:

First, requiring all owners' manuals to contain instructions that maintenance does not have to be performed by the dealer or with the manufacturer's own parts;

Second, making illegal any warranty provision that attempts to tie coverage to the use of the dealer's service and parts;

Third, establishment of a program which will enable aftermarket parts manufacturers to certify that their parts perform as well as the auto manufacturer's—the auto manufacturers have no role in approving such certification; and

Fourth, a Federal Trade Commission study of any possible anticompetitive effect.

VIII. CONCLUSION

Congress asserted in 1967 a Federal interest in protecting the public's health from the adverse impact of air pollution and a national policy to protect air quality in clean air areas. Congress recognized that a national regulatory framework with basic minimum standards and an aggressive Federal agency would be necessary.

We must not disband that effort.

I support much of this bill. There are improvements. There are causes of concern. There are provisions which, if enlarged in later actions, will lead to delay, reductions of efforts, and the inevitable conclusion that environmental goals and public health protection will not be accomplished. That possibility we must not forget.

It is in that spirit, Mr. President, that the committee virtually unanimously reported out and supported this bill, the details of which, I must say, were subject to much controversy among committee members until we were finally able to resolve our differences and present a package to the Senate which we thought made sense and which was viable.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to my good friend from New York.

Mr. BUCKLEY. I wish simply to echo the sentiments expressed here this morning by the chairman of the subcommittee.

I spoke at much greater length on yesterday, than I intend to do this morning, detailing the philosophy behind this bill I do reemphasize, as has the Senator from Maine, that this is the product of a tremendous amount of work over a period of many months, that there are features in it that are compromises, frankly compromises with which people may not be entirely happy, but I believe we have achieved a fair compromise. I believe it is workable. I believe, whereas it may put back certain specific goals, it will not really slow the momentum to achieve the goals of clean air throughout this country.

I believe, too, that although there is the possibility the Senator speaks of—that people might say, "Aha! They pushed back certain guidelines; let's try to mobilize pressure for more"—it is quite clear that the deadlines that we are establishing in this bill are reasonable and attainable. There should be no excuse for anyone to start dragging their heels in anticipation of further delays. I will work with the Senator to see that there are no further delays.

Mr. MUSKIE. I thank the Senator from New York, who has been a strong supporter of the objectives of the Clean Air Act since he has been a member of the committee and the ranking member of the Subcommittee on Environmental Pollution. We appear to take the same point of view this morning which I think we have taken throughout the consideration of this bill.

Mr. President, there are approximately 24 amendments at the desk, and I hope they will be offered by the sponsors as rapidly as possible. I know that the leadership would like to proceed with this measure as rapidly as possible.

In that connection, I am happy at this point to yield the floor, so that the Senator from New Mexico may bring up the first of his amendments.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I yield.

Mr. LEAHY. Mr. President, I ask unanimous consent that during the consideration of and votes on the present matter, the Clean Air Act, Mrs. Judy Hefner, of my staff, have the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Lee Rawls and Janice Cohen, of my staff, have the privilege of the floor during the entire deliberation of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Charles Gentry, of my staff, have the privilege of the floor for that portion of the debate that concerns the ozone depletion and the regulations under that section.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1623

Mr. DOMENICI. Mr. President, I call up my printed amendment No. 1623.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 22, insert "(a)" after "SEC. 7.".

On page 28, after line 7, insert the following:

"(b) Section 110 of the Clean Air Act is amended by adding a new subsection as follows:

"'(i) In carrying out the requirements of subsections (a)(2)(B) (i) and (ii), (g), and (h) of this section and subsections (d) and (g) of section 113, the State shall provide a satisfactory process of consultation with general purpose local governments and designated organizations of elected officials of local governments, in accordance with regulations promulgated by the Administrator to assure adequate consultation. Such regulations shall be promulgated after notice and opportunity for public hearing and not later than four months after the date of enactment of the Clean Air Amendments of 1976. The Administrator may disapprove any portion of a plan relating to any measure described in the first sentence of this subsection or to the consultation process required under this subsection if he determines that such plan does not meet the requirements of this subsection. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection may petition for review of such action on the basis of a violation of the requirements of this subsection.'".

Mr. DOMENICI. Mr. President, I believe that the distinguished floor managers—for both the majority and the minority—are aware of this amendment.

It is my honest belief that the subcommittee and the committee touched on the purposes and intent and requirements of this amendment at various times in the many months of deliberation. I believe that when we have a chance to discuss it, they will agree with me that it is consistent with the theory and intentions of this bill; that perhaps it was an oversight or perhaps in the business of so many issues, we thought we had covered this matter either with report language or with the substantive amendments that are before us.

Basically, amendment 1623 establishes a consultive framework between State and local government for other portions of the law, including nondegradation and stationary sources, as with transportation control plans. I see such local involvement as an absolute prerequisite to establishing the kind of grassroots support that will insure the success of the Clean Air Act. Without local support, I feel that we may be conducting a noble but futile effort, and I urge that the amendment be adopted.

Basically, Mr. President, I am saying here that, along with the other requirements in this bill, the States shall provide a satisfactory process of consultation with general purpose local government and designated organizations of elected officials of local government in accordance with regulations promulgated by the administrator to assure adequate consultation.

Mr. President, as this committee proceeded through deliberations in connection with the Clean Air Act Amendments for this year, it was obvious that in many areas local government is expected to lead the way; local government is expected to be up front in terms of leading their populace in the very difficult and sometimes almost impossible implementation of the Clean Air Act.

What I have done here, on behalf of the mayors of our country, on behalf of the Association of County Officials, is merely to build into the process of evaluation the process of contact with local government, the processes whereby the Governor and the State do certain things with reference to SIPS, with reference to nondegradation, with reference to planning or control under that section for transportation control planning—that we require that the process has an acceptable consultive process for local government.

This amendment, I say to the distinguished Senator from Maine, is not the one that sets up the mechanism to do the planning, but merely requires that a consultation mechanism with general purpose local government be established. The floor managers of the bill, both for the majority side and the minority side, have heard of the need for this, and I hope they will support it. It is my effort to put into language what we, as a committee, really believe should be part of the process.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. DOMENICI. I am delighted to yield.

Mr. MUSKIE. As I read the amendment, its purpose is to insure that States provide for satisfactory consultation with local governments in carrying out land use, transportation controls, nondegradation, in issuing delayed compliance orders, and in implementing the steel amendment. That is to be done, I gather, under regulations to be published by EPA to insure adequate consultation.

I understand, also, that the amendment provides that the Administrator may disapprove plans that have not complied with regulations; finally, that such disapproval can be petitioned only by local government.

It is a very carefully worded amendment. I believe it is consistent with the philosophy of the bill. It is the kind of consultation which is consistent with the intent of the transportation control and land use provisions of the bill. Further, I think it is a useful expansion of that approach to apply it to delayed compliance orders and the amendment.

Finally, I gather that the amendment is supported by the National Association of Counties, the League of Cities, and the U.S. Conference of Mayors, without whose support the objectives of the Clean Air Act could not be advanced effectively.

I do not know whether the Senator from New York has any questions about the amendment. However, on all those counts I think it is a consistent amendment, and I am prepared to accept it.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. DOMENICI. I am delighted to yield.

Mr. BUCKLEY. Mr. President, I shall not oppose this amendment, but I do want to express perhaps a reaction.

I believe that the Senator from New Mexico is totally correct when he states that transportation plans, for example, simply will not work without public support and that public support is best elicited by having locally elected officials totally involved from the beginning to the end. However, I have seen many examples of where we create unnecessary problems when the Federal Government dictates to a State that it will work with its local officials. I prefer that we leave it entirely to the States to work things out with their local officials, in accordance with their own constitutional systems. I hate to see us expanding the areas in which we have dictation from Washington to a State, even though I totally agree with the objective of the specific amendment as a practical matter.

Mr. DOMENICI. Did the Senator indicate that he would oppose the amendment?

Mr. BUCKLEY. I will not oppose it.

Mr. DOMENICI. I think the Senator's question and concern are very relevant.

In this amendment, I do not intend to give the Administrator of EPA any more authority with reference to what goes into the plan or plans or process. I envision that EPA merely would have a kind of checklist and say, "Is there a consultive process?" I know of no other way, having heard the testimony that not only is the Federal Government the usurper of local involvement but the States are as well, in many instances. They have a State umbrella, and they come down all of a sudden and tell the city, "This is your plan. This is what you are going to do."

I am trying here to say that everyone knows that without local consultation, local knowledge on the part of elected, local, general-purpose government leaders, these kinds of impositions, these kinds of changes in the way we are going to do business, our constituents or our institutions will not work. I do not envision a mammoth, detailed involvement by the national Government, but, rather, that they will be sure there is a consultation process with local government.

I thank the Senator for raising the issue.

Mr. BUCKLEY. Mr. President, I understand the point that is being raised by the Senator from New Mexico, but this amendment would, nevertheless, dictate to the State that it must consult.

Mr. DOMENICI. That is true.

Mr. BUCKLEY. This, to my mind, is an infringement on what ought to be within the independence and sovereignty of the State, the right to make mistakes.

But I am not going to press this point, and I offer no objection to the amendment.

Mr. DOMENICI. I thank the Senator from New York.

Mr. McCLURE. Will the Senator from New Mexico yield?

Mr. DOMENICI. I am pleased to yield.

Mr. McCLURE. I think it is possible that some future administrator of EPA might decide he does not like what is in the State plan or some plan for a locality and use the authority that is required under this proposed amendment to say, "Unless you change some details of the plan, I shall certify that there has not been sufficient compliance with this consultative procedure." Certainly it is not the intention of the Senator from New Mexico that the authority of the administrator under this amendment to require consultation could be used in that manner.

Mr. DOMENICI. I concur wholeheartedly with that interpretation and unequivocally indicate that it is not the intention of this amendment to expand upon the authority of the Administrator of EPA with reference to what is or is not in a plan or process or approach other than to find that there is a consulting mechanism.

Mr. McCLURE. If, indeed, an administrator at some time in the future should attempt to use the authority granted under this provision in order to force a change in the detailed plan, that would be a clear abuse of the authority of that office under the conditions of this amendment?

Mr. DOMENICI. Absolutely.

Mr. McCLURE. I thank the Senator for that clarification.

Mr. DOMENICI. I repeat, I thank the Senator from New York and the Senator from Idaho for raising these issues. If there is anything that we found in the days of hearings with reference to the various changes that have to occur at the local level in order to get our ambient air ultimately to the state that we want it, aside from cleaning up the cars and aside from cleaning up stationary sources, and the other things that are going to have to occur, it is obvious that they are not going to occur by any kind of mandate from an Administrator of EPA on high.

He has tried that. His activities in transportation planning, control planning, have been described as draconian. He has been described in Los Angeles as being some kind of dictator on high, saying we are going to have to take our cars off the street, ration gasoline, retrofit our cars. What we are talking about here is if you want anything to work, including the SIP's as they develop them, be they amendments or the ongoing process of developing SIP's, you just have to consult with the mayors, councilmen, or county commissioners. That is all I intend here, that we have a process whereby they will obtain knowledge because they have been consulted with. They do not even have any authority under this amendment, but they must be consulted with as this law is implemented.

Mr. McCLURE. I thank the Senator for that explanation. I share some of the philosophical concern that the Senator from New York, very justifiably and understandably, raised.

I share with the Senator from New Mexico the feeling that any of these plans, to be successful, must have local acceptance and local support. It is far too easy for local officials to condemn a plan as being foisted off on them by some national administration if they have not been involved, and it is much more likely to succeed if, as a matter of fact, they are involved in its development and will be involved in its implementation. Then they are a part of it, they are partly responsible for it, they have helped to shape it, they have a stake in seeing that it works. They will attempt to make it work instead of trying to subvert it.

I think the consultative process is a very valuable and very necessary one. I shall support the amendment, but I do have the recognition that an administrator who would desire to use this authority in some other way might attempt to do so. That is the reason that I asked the question: To make it very, very clear that an administrator who tried to dictate content in the plan by withholding the certification that consultation had taken place would be very clearly abusing the authority granted to him under this amendment.

I think the amendment is a good amendment and I support it.

Mr. MUSKIE. Mr. President, I think the amendment has been thoroughly discussed. I am prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MUSKIE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1624

Mr. DOMENICI. I call up my printed amendment No. 1624 and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMENICI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, strike lines 3 through 7 and through "purpose." on line 8, and insert in lieu thereof the following:

"(7) (A) The implementation plan required by paragraph (3) of this subsection shall be prepared by an organization of elected officials of local governments designated by agreement of the local governments in an affected area, and recognized by the State for this purpose. Where such an organization has not been designated by agreement within nine months after the enactment of the Clean Air Amendments of 1976, the Governor (or, in the case of an interstate area, Governors), after consultation with elected officials of local governments, shall designate an organization of elected officials of local governments in the affected area to prepare such plan.".

Mr. DOMENICI. Mr. President, before I discuss this amendment, I wonder if I may have the attention of the floor manager of the bill for just a moment.

I say to the distinguished chairman of the committee, I believe that Senators HUMPHREY and MONDALE have an amendment that specifically relates to this amendment No. 1624. I believe that I can accommodate their amendment by inserting a phrase in mine. I wonder if the manager of the bill has any indication from Senator HUMPHREY or Senator MONDALE as to their desire with reference to their amendment?

Mr. MUSKIE. I do not.

Mr. DOMENICI. It is amendment No. 2084.

Mr. MUSKIE. I agree with the Senator from New Mexico that it would clearly fit in with his amendment and we could dispose of both at once. Perhaps we had better consult with them first.

Mr. DOMENICI. I think what I shall do, Mr. President, is send a modification of my amendment to the desk. We shall discuss it. I assume that the discussion will satisfy the distinguished Senators HUMPHREY and MONDALE. If it does not, they can discuss it with us.

Mr. MUSKIE. May I say to the distinguished Senator, I have to leave the floor briefly. I should like to leave one suggestion: that is that the time frame in this amendment was changed from 9 to 6 months. On page 21 of the bill, on line 9, there is a deadline of June 1, 1978, for the completion of a detailed planning study that evidences public and local governmental involvement. That deadline will be a little tight, I think, with the 9 months of the Senator's amendment. He might consider, while he is discussing it in my absence, changing the 9 to 6 months.

Mr. DOMENICI. I say to our distinguished chairman that I have no objection to 6 months. I offer this thought: Many of the dates and months in this bill are out of focus now that we consider the time frame when we originally contemplated it versus when it will finally become law. I assume some of these will be adjusted in conference, in any event, so they will become more realistic.

Mr. President, I shall include in the modification that I have at the desk changing the 9 months to 6. That has been done on the modification. As I understand it, I have the right to modify it without unanimous consent.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. For those who do not have the modification, it is as follows: Change the "nine" on line 9 to "six" and add some language to change the Humphrey-Mondale amendment.

In the fifth line of my amendment, after the word "governments," I would insert: "or by an area-wide agency designated under State law to perform comprehensive planning for the affected area."

The amendment, as modified, is as follows:

On page 25, strike lines 3 through 7 and through "purpose." on line 8, and insert in lieu thereof the following:

"(7) (A) The implementation plan required by paragraph (3) of this subsection shall be prepared by an organization of elected officials of local governments or by an area-wide agency designated under State law to perform comprehensive planning for the affected area designated by agreement of the local governments in an affected area, and recognized by the State for this purpose. Where such an organization has not been designated by agreement within six months after the enactment of the Clean Air Amendments of 1976, the Governor (or, in the case of an interstate area, Governors), after consultation with elected officials of local governments, shall designate an organization of elected officials of local governments in the affected area to prepare such plan.".

Mr. STAFFORD. Will the Senator yield?

Mr. DOMENICI. Mr. President, I am delighted to yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I thank the Senator for yielding to me.

I ask unanimous consent that Victor Maerki, of my staff, may have the privileges of the floor during the consideration and votes on the pending business before the Senate.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the Senate has just adopted my amendment 1623 and, when coupled with amendment No. 1624, these amendments are more or less a single legislative package designed to give local government a voice in the implementation of the Clean Air Act.

The absence of a statutory rôle for local governments in the present Clean Air Act came in for heavy criticism during the committee's 1975 legislative hearings. One local official referred to the intergovernmental provisions of the laws as a "nightmare." Others detailed a growing grassroots rebellion against the act traceable to the lack of local involvement.

During its deliberations on the present amendments, the committee was well aware of the need for upgrading the role of local governments. The committee report explicitly addresses this issue on page 29, where it states:

> To date, a major problem has been a deficiency in local involvement in transportation control planning. To correct this, the bill requires that locally elected officials participate in the development of transportation control plans to obtain the post-1977 extension. This recognizes that transportation control planning is a local political process affecting the daily lives and transportation patterns of local voters.

I would like to stress that involving locals in transportation control planning and other aspects of the bill is not simply a matter of intergovernmental comity. It is essential for the protection of the health of the American people. Statutorily, transportation control plans represent the last line of defense in achieving the health goals of the act. They are used when all else has failed. As the report notes, 31 metropolitan areas have already been identified by the Environmental Protection Agency as in need of transportation control plans. EPA projects that 63 will need them to meet the national standards by 1985.

Several additional points are in order to highlight the gravity of the situation. A large portion of the debate on the automobile standards has highlighted the improvement being made in the emissions of new cars. Counterbalancing these gains, however, is the continued growth in the automobile population and the poor emission performance of in-use automobiles. The Nation is faced with the prospect that after 1985, the gains made by statutory controls on new cars will be overwhelmed by growth in automobile usage and poor in-use performance. In short, we have less than a decade to amend our errant ways or face the prospect that the present struggle over automobile emissions will have been for naught.

It is because I consider it so critical to engage local government in both the transportation control process and the overall implementation of the act that I offered the two amendments, one of which has been accepted.

The amendments themselves I consider to be of a technical nature, however. As the committee report indicates, we clearly recognized the importance of local participation in the transportation control process. The language of the bill, drawn in large part from an administration proposal, does not fully implement the intent expressed by the report. My amendments remedy the situation in two respects. First, amendment 1624 would clear up the ambiguous designation section of the transportation control section by making it explicit that local elected officials have the first option on doing the planning. The present amendments provide a procedural no-man's land that exhort locals to do the planning but leave all authority with the States.

Mr. RANDOLPH. Mr. President, will my able colleague from New Mexico yield?

Mr. DOMENICI. I would be delighted to yield to the chairman of the committee, Mr. RANDOLPH.

Mr. RANDOLPH. I believe it is important that the Senator, in discussing his amendment and the possibility of incorporating it in the so-called Humphrey-Mondale amendment, give emphasis to the agency being composed of local officials.

I am not sure whether the Senator is saying local officials, if possible. It certainly will be possible to have those local officials, and I caught there a degree in which the Senator felt local officials should serve; am I correct in that?

Mr. DOMENICI. Let me say to my good friend from West Virginia my amendment, without the addition of the Humphrey-Mondale amendment, clearly would have required that elected officials of local governments designated by agreement of local governments in an affected area are the ones to be recognized.

I have tried to accommodate what I understand to be a very specific problem in their State. They have a council of governments-type institution in their twin cities which is not operated by elected officials but which has the full blessings of local officials and is recognized by their State.

So I have said it will be, as I just stated to my good friend from West Virginia, "or by an areawide agency designated under State law to perform comprehensive planning for the affected area."

Mr. President, so far as I am concerned, I have done that because I believe they have a very specific problem. I want to accommodate them.

On the other hand, if the managers of the bill on the floor would accept mine without that amendment, I will delete it and they, of course, can speak for themselves.

I personally do not see a big problem with it because obviously that local planning group has to be acceptable to the local elected officials from the designated area.

Mr. RANDOLPH. Mr. President, will my able colleague yield again?

Mr. DOMENICI. I will be delighted to yield.

Mr. RANDOLPH. Ordinarily I would want, consistent with the purpose of the bill, to accommodate a Senator who has a certain problem he is attempting to meet.

I suggest, however, in this instance that the Senator from New Mexico not incorporate the language of the Humphrey-Mondale amendment. I will tell the Senate why.

I see here an element of the decision-making process by those of the bureaucracy. I want the determination to be by those who are elected officials, elected by the people of the area or the city. Those who are involved have a responsibility, having been elected, which I do not believe is shared by those who would be appointive officials in a determination of this problem.

I can well understand, and my colleague perhaps does not feel this is a matter that is too important in the presentation of his amendment. But I would ask that he not incorporate the amendment by the Senators from Minnesota because I believe that is a different situation and I would oppose the language of the amendment to which I have made reference.

Mr. DOMENICI. Might I ask the minority floor manager, Mr. President, for his feelings with reference to the discussion we are having at this time.

Mr. BUCKLEY. I share the sentiments expressed by the chairman. I believe that, in effect, the adoption of the Humphrey-Mondale language would make an exception, in the case of two important cities, in the principle of local determination that it is the purpose of the Senator from New Mexico to achieve. I think we are better off without it.

Mr. DOMENICI. I thank the Senator from New York.

Mr. McCLURE. Mr. President, will the Senator from New Mexico yield?

Mr. DOMENICI. Yes.

Mr. McCLURE. Mr. President, I understand the concerns expressed by both the Senator from West Virginia and the Senator from New York, and I would certainly have no objection if the Senator from New Mexico wishes to delete the Humphrey-Mondale amendment from his amendment, which he can do simply as a matter of right, by simply requesting the Chair that that be done.

I would point out, however, the Humphrey-Mondale amendment simply says "a unit of government approved by State law," and I cannot help but note at this time that all of these units of government——

Mr. BUCKLEY. Will the Senator yield?

Mr. McCLURE. Yes.

Mr. BUCKLEY. I believe the language is areawide agency. We are speaking, I take it, of tailoring this to an existing structure.

Mr. McCLURE. That is correct.

If we want to say an agency designated by a State government is not a unit of government designated by State law, I will accept that as correct.

The point I was seeking to make is simply this: whether it is an agency or an administrative unit of the government, they are both creatures of State law.

I think we sometimes forget that what we are dealing with here are the State agencies, whether they be an agency or a unit of the local government, both of which can be created or abolished or modified or changed or combined by State law.

I think we sometimes make the error of trying to go beyond the right of the State to designate its own administrative hierarchy in trying to designate to the States what that hierarchy should be.

But I am concerned with the Mondale-Humphrey amendment in one other slight detail. That is, it refuses the language, comprehensive planning.

I think that gets us beyond the issue to which the Senator from New Mexico has directed himself and into another area that might lead to some trouble with the administration of this particular provision of the bill.

So I would support the Senator from New Mexico in deleting that, if that is his desire.

Mr. DOMENICI. Mr. President, I modify my amendment so as to delete the inserted language following the word "governments" on line 5, and I send the modified amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 25, strike lines 3 through 7 and through "purpose." on line 8, and insert in lieu thereof the following:

"(7)(A) The implementation plan required by paragraph (3) of this subsection shall be prepared by an organization of elected officials of local governments designated by agreement of the local governments in an affected area, and recognized by the State for this purpose. Where such an organization has not been designated by agreement within six months after the enactment of the Clean Air Amendments of 1976, the Governor (or, in the case of an interstate area, Governors), after consultation with elected officials of local governments, shall designate an organization of elected officials of local governments in the affected area to prepare such plan.".

Mr. BUCKLEY. Will the Senator yield?

Mr. DOMENICI. I am delighted to yield.

Mr. BUCKLEY. First of all, I commend the Senator for offering this amendment. I believe it fills a gap that was overlooked by the committee.

I think that it will focus the direct responsibility of the State where it should be, and give local officials the time they need.

I view this, really, in the nature of a technical amendment, one that is necessary. I emphasize that because I propose during the course of this debate to oppose all nontechnical amendments that were not discussed in committee and that had not, in effect, been reserved by the committee for later action.

I shall make that opposition because we have spent so much time reaching difficult compromises that I fear for the consequences if we open this package up for tinkering at this stage.

But again, I gladly support the amendment offered by the Senator from New Mexico, No. 1624. As I understand it, the chairman does.

Mr. RANDOLPH. Yes. I appreciate the opportunity to join in the colloquy for this reason. In our solid waste legislation, the amendment now being offered was contained in that measure. Am I correct? I ask the Senator from New Mexico.

Mr. DOMENICI. That is correct. We put that in that bill, also.

Mr. RANDOLPH. That is right, and it is very important it be done here.

I join in the commendation of the Senator offering the amendment. It is very clarifying because that was the intention in the committee and in the subcommittee.

I do not want to belabor the point of the 9 months or the 6 months, but I was absent from the Chamber at the time the Senator from Maine, the chairman of our subcommittee (Mr. MUSKIE) was discussing the change from the 9 months to the 6-month period.

I had hoped it could be 6 months. Would the Senator comment further?

Mr. DOMENICI. In the modification, it is 6 months.

Mr. RANDOLPH. I thank the Senator.

Mr. DOMENICI. Mr. President, in conclusion, I thank my colleagues for their willingess to support this amendment.

Let me say that I tend to agree with the Senator from New York when we consider the amendments and the report language that this is in the nature of a technical amendment. But I hope we all understand that the committee and certainly the Senate by accepting this amendment is saying that in the area of transportation control planning, without the wholehearted support of local government, that is, general purpose local government, and their elected leaders, that which is required to accomplish transportation control planning will fail.

It is for that reason I support the position of the Conference of Mayors, the National Municipal League, the National Association of County Officials, who are in support of my technical amendment. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from New Mexico.

The amendment, as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUCKLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 247

Mr. BENTSEN. Mr. President, I have an unprinted amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 247.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 42. The Clean Air Act is amended by inserting a new Section 319 as follows:

"SEC. 319(a). There is established a joint Federal-State Committee on Photochemical Oxidants which shall be composed of the Chairman of the Council on Environmental Quality, who shall be the chairman of the Committee; the Administrator of the National Oceanic and Atmospheric Administration; the Administrator of the Enironmental Protection Agency; and any Governors of those States having air quality control regions in which primary ambient air quality standards for photochemical oxidents are exceeded at the time of enactment or are projected to be exceeded within the period of the study, or their representatives.

"(b) Within two years after the date of enactment of the Clean Air Act Amendments of 1976, the Committee shall report to the Congress, the States, and the Administrator of the Environmental Protection Agency on the extent to which the reduction of hydrocarbon emissions is an adequate or appropriate method to achieve primary standards for photochemical oxidants. Such study shall include, but not be limited to:

"(1) a description and analysis of the various pollutants which are commonly referred to as 'photochemical oxidants', or chemical precursors to photochemical oxidants;

"(2) an analysis of any pollutants or combination of pollutants which need to be reduced to achieve any photochemical oxidant standard, and the amount of such reduction;

"(3) the relationship between the reductions of hydrocarbons, oxides of nitrogen, and any other pollutants and the achievement of applicable standards for photochemical oxidants;

"(4) the degree to which background or natural sources and long-range transportation of pollutants contribute to measured ambient levels of photochemical oxidants;

"(5) any other oxidant-related issues which the Committee determines to be appropriate.

"(c) The Committee shall undertake to contract with the National Academy of Sciences and such other non-profit technical and scientific organizations for the purpose of developing necessary technical information.

"(d) The heads of the departments, agencies, and instrumentalities of the Executive Branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section, and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

"(e) The Administrator of the Environmental Protection Agency shall make available to the Committee to carry out this section not to exceed $1,000,000 of the sums appropriated to the Agency for fiscal year 1977."

Mr. BENTSEN. Mr. President, the amendment I propose is to establish a State and National committee, a coordinated committee, to try to study the effect of photochemical oxidants and the procedures that are being used.

I believe this study will be a valuable addition to the act.

As a result of the strategies now being enforced, requirements are being made that are going to affect millions of lives across ths Nation. Tens of millions of dollars are going to be spent for pollution control equipment the possibility of stringent transportation controls, and severe limitations on new plant expansion or construction may well be required to meet the requirements of the plans proposed for the achievement of the current photochemical oxidant standard.

I am confident that the American people will make those sacrifices if their need can be demonstrated. Right now, however, there is serious reason to believe that such need cannot be demonstrated.

To resolve those doubts, to clarify the problem and the possible means for its solution, and to give credence to whatever effort may be required, I am proposing a special committee which shall be charged with the sole responsibility of examining the photochemical oxidant problem. I am asking that it——

Analyze and describe the various pollutants commonly referred to as "photochemical oxidants"; enumerate those which should be regulated and from which the American people should be protected; recommend strategies for their attainment; determine what effect the control of hydrocarbons will have on oxidant formation and concentrations; and clarify the degree to which background levels of oxidants contribute to those concentrations.

Mr. President, I represent a couple of cities that will have some very serious problems on the control of photochemical oxidants and we are willing to pay the price that has to be paid to have the clean air that we want for this country of ours.

What we want to be sure of, as we do it, is that the strategies that we are employing are really accomplishing that objective, that that is done.

We are not sure of that at the present time. The committee could, of course, examine any other oxidant-related issue it determined needed addressing. I would hope it would do so. My intent in proposing this study is to acquire at least a clear understanding of what needs to be done in controlling photochemical oxidants, why, and with what hopes of success. I believe its findings and recommendations are of critical importance to every large metropolitan city in America, and the millions of people who choose to live in them.

Sometimes people look at Texas and think it is a State of cows and cowboys. But it is more than that. I represent 3 of the 10 largest cities in the United States. These problems we are talking about of photochemical oxidants are serious ones for us. We are willing to make the commitment, but we want to be sure of our ground as we do it.

Mr. President, I know this bill as reported by the Public Works Committee includes special authority for a new national Commission on Air Quality. I am for that. It is given a variety of important tasks, and I believe the Congress would benefit from its findings. I have not, however, decided to give it responsibility for the oxidant control study, primarily because I believe it is a highly technical undertaking. My hope is that it will utilize those members of the scientific community who are already examining this important issue.

I might emphasize, too, that the States, through their Governors and their State air control administrators, are to play a major role in this undertaking. Under the act, State governments are given primary responsibility for having their air control regions attain the national standards. As a result of their efforts during the past 5 years, many State authorities have been among the first to express doubts about the attainability of the current oxidant standard and the suitability and effectiveness of the control strategies proposed to achieve it. In some instances, as in my home State of Texas, they have already initiated major research efforts to examine this problem.

I believe on the basis of their experience and ongoing work, the States can contribute greatly to this effort and I would therefore expect them to play an important part in this study.

I believe the distinguished chairman of the committee has seen copies of this amendment, and I would hope that the committee and the Senate would choose to adopt it.

I believe this study will be a valuable addition to the act. In 1971, national primary and secondary standards were set for oxidants, as for the other five pollutants which are currently regulated. Since then, the appropriateness of those oxidant standards has been the subject of an on-going debate. The Environmental Protection Agency already has authority to reevaluate and, if needed, to revise those or any other national standard, and I would strongly urge that it be responsive to data which might establish a solid basis for altering them.

Great controversy has, however, also been aroused by the strategies proposed for the attainment of the current oxidant standards. An essential element of all proposed oxidant control plans has been the reduction of hydrocarbon emissions, with the extent and degree of control directly related to the frequency with which the oxidant standards are violated. The underlying premise of these control strategies is that a reduction of manmade hydrocarbon emissions will result in a reduction of photochemical oxidant formation and concentrations. That was the belief when control strategies were first proposed in early 1971, and that apparently remains the Agency's official position today.

Many persons intimately involved in what is admittedly a highly technical subject charge that far too little is known about the precise relationship between hydrocarbons and oxidants. They ask whether a major reduction of hydrocarbons actually will result in a significant, or even appreciable, decrease in photochemical oxidant readings. I am not convinced that we now have a truly accurate answer to that question.

And yet, that answer vitally affects what will happen in much of urban America. Extremely stringent transportation controls have already been proposed to reduce hydrocarbon emissions in a number of our largest cities. For instance, in 1973, EPA proposed sweeping plans for a number of Texas cities, including requirements that vehicle miles traveled in Houston be reduced by 75 percent; and in Dallas, by 66 percent.

Such reductions were to be accomplished by a number of means, one of which was the rationing of gasoline. The impact of such controls and the reaction of the people to them can easily be imagined.

Through section 7 of this bill, we have extended the time frame during which the need for transportation control may be considered and their actual use be initiated. The major reason for their adoption, however, would be as an additional means for controlling hydrocarbon emissions, again premised on the assumption that the control of HC will result in the attainment of the oxidant standards. Before these controls are required, I do not think unreasonable the need to prove that they will achieve the desired results.

Major enforcement efforts to control hydrocarbon emissions from stationary sources are already underway. The State of Texas has perhaps one of the most stringent control programs in the Nation. During the past 3 years, for instance, it has reduced hydrocarbon emissions from stationary sources—refineries, petrochemical plants, and the like—in Houston by no less than 85 percent. The Air Control Board states that those stationary sources are responsible for 75 percent of all of the HC emissions in Houston, but in the words of Mr. Charles Barden, the Board's most capable Administrator:

> We have seen no effect whatsoever of oxidant reductions and we have seen very little effect on reducing visibility problems . . .

In fact, oxidant readings have actually risen.

In noting that, I am not suggesting that no benefit has been derived from the hydrocarbon reductions achieved thus far. But the real motivation for further reductions is EPA's insistence that they are needed for Houston to attain the current national oxidant standards.

I cannot overemphasize the concern of Mr. Barden and his staff that further HC reductions may well not result in reductions of the recorded oxidant concentrations, or reductions commensurate with the cost of the controls. In testifying before the Senate Environmental Pollution Subcommittee last year, Mr. Barden stressed repeatedly that, in his words:

> It is not now possible scientifically to determine the degree of control needed to attain the photochemical oxidant standard or even to state with certainty that the standard is attainable.

The real crunch for the Air Control Board and the State is yet to be felt, however. Because Houston exceeds the current primary oxidant standard of 0.08 part per million for more frequently than once a year, it is classified as a nonattainment area for photochemical oxidants. Under the plans required by section 110 of the 1970 act, no new major hydrocarbon emitting sources which would prevent the attainment or maintenance of that standard should be permitted to build, and EPA has indicated that it intends to have that provision enforced. Again, its reasoning apparently is that new HC emitting facilities would only delay eventual attainment of the oxidant standards.

The practical consequences, of course, will be that no refinery, no petrochemical complex, no on-shore or off-shore petroleum transfer point, or any other major hydrocarbon-emitting facility could be constructed. Continued economic growth in Houston would thus be all but precluded.

Again, the people of Houston and our other metropolitan areas might well forego that development if they thought such limitations were required to achieve a standard which is proven to be needed to protect their health, but the most knowledegable officials in the State—and because of their ceaseless efforts to understand oxidant formation and control, I regard them as among the most knowledgeable officials in the Nation—cannot assure them that the limitation of plant sitings will have any effect whatsoever.

I believe that requiring State authorities to enforce regulations in which they have no confidence—not because they simply do not like them, but because they find no scientific justification for them—is simply unacceptable. We have a responsibility to clear the air, so to speak, on this controversy before we impose requirements which the Agency cannot now demonstrate will actually help to clean it.

I have to this point directed my remarks almost exclusively to the experience of my home State. Texas, indeed, has perhaps had the most experience with this problem, and both public and private groups there are now striving to expand our understanding of it.

But the problem is by no means confined to Texas. As of late 1973, 162 of the Nation's 247 air quality control regions were in violation of the oxidant standard, and that number actually represented 87 percent of all regions performing oxone monitoring. Of this group, 54 percent more than doubled the standard. Because of the remarkable growth which Houston and the Texas gulf coast are experiencing, complying with the requirements of current control strategies may cause the most immediate problems there, but they do portend what air control authorities elsewhere will experience in dealing with future development in the many other regions which violate the oxidant standard.

One of the major problems with trying to attain that standard appears to be the relatively high levels of oxidant which are generated not by man but from natural sources. These background levels are generated by a variety of foliage and cause the current standards to be violated in areas far removed from our urban centers.

For example, Drs. Peter Coffey and William Stasiuk of the New York State Department of Environmental Conservation reported after conducting a year-long monitoring study, that oxidant readings on Whiteface Mountain—a 4,900-foot peak in the Adirondacks near the Canadian border—frequently were above the national standard. In fact, the annual average reading there in a recent year was 0.04 part per million, far higher than in our cities and twice the 0.02 part per million which is Houston's annual average. I might note here, too, that Texas exceeds the oxidant standard about 2 percent of each year. Houston exceeds it about 3 percent of the time.

We may still not know what accounts for these high rural readings and what part urban, or manmade, emissions contribute to them, but I believe that the extent of background or naturally generated hydrocarbons and oxidants must be more thoroughly understood before we can expect any proposed controls to have an appreciable impact on the problem. Before we ask State authorities to enforce a standard and the strategies allegedly needed to achieve it, we must know if that standard is attainable, if it is needed, and whether the control of manmade hydrocarbons will actually result in any oxidant reduction. Again, I am not satisfied that we know the answers to those three questions.

This discussion may appear to be somewhat ironic. In section 16 of this bill, we express concern over the possible depletion of ozone in the stratosphere—and quite rightly so. At the same time, the air control problems of so many of our cities and rural areas are related to what is regarded as far too much of the same chemical substance—ozone.

Recent scientific work seems to suggest that a connection between ozone readings in the upper atmosphere and on the surface might, indeed, exist. In what are called tropopause gaps, stratospheric ozone is injected into the troposphere in a rather nonuniform manner. As weather fronts move across the map, the roll of the jet stream apparently results in the descent of air from the stratosphere downward into the air masses beneath. These gaps often have dimensions measured in the hundreds of miles. Concentrations as high as 1 part per million have been recorded, with readings of 0.5 part per million often observed. Air masses can thus come charged with ozone, a phenomenon over which man, to the best of my knowledge, has no control.

Two other points should be made. The current oxidant standard and control strategies are based on data collected solely in Los Angeles. We have no assurance that oxidants are formed in the same way in different air control regions of this Nation. For instance, we do know that the hydrocarbons emitted in Los Angeles tend to differ from those which predominate in Houston. The petroleum and chemical feedstocks, for instance, tend to be quite different; therefore, the types of hydrocarbons emitted would also vary significantly. We may well have different chemical reactions occurring in the air above different cities, yet we have only one control strategy which is to be applied in every case. We must ask if that single control strategy will work in every instance.

In addition and perhaps to stress the obvious, oxidants are not emitted by themselves. They are formed in the atmosphere by the interaction of hydrocarbons and oxides of nitrogen in the presence of sunlight.

Currently, however, our oxidant control strategy concentrates exclusively on the reduction of hydrocarbons. Nothing is being done to limit nitrogen oxide emissions from stationary sources, and yet that NO_x control might well be a key to oxidant reduction. I must ask what the reason is for overlooking this major constituent agent and for the seemingly blind rush to reduce only hydrocarbon emissions.

In noting these recent findings, I am not suggesting that man stand idlely by and do nothing. I am only suggesting that man-made hydrocarbon emissions may contribute far less to oxidant formation and the high oxidant readings than was originally thought. Before we proceed to implement control strategies which will alter the growth patterns of this Nation, I believe we must have assurance that they will achieve the desired result.

I am informed that officials of the Environmental Protection Agency have on more than one occasion acknowledged the imprecision of our knowledge. I am told that on January 21 and 22 of this year in St. Louis, Agency personnel conceded that: the ozone standard is unattainable; high ozone episodes exist which may not be related to air stagnation; and we do not know, at this time, how to deal with high levels of oxidants in rural areas.

Most importantly, those officials were not able to claim that the Agency had the ability to predict what changes in ozone readings might be expected from a known tonnage of hydrocarbon abatement.

I must simply ask what then is the basis for denying permission to construct new hydrocarbon emitting plants, even when those plants will utilize technology which will abate the emissions to the greatest degree now possible.

The time has come, I believe, to get to the heart of this controversy. Let us marshal our scientific resources to improve our understanding of this problem, to decide what needs to be done in dealing with photochemical oxidants, and to determine how we might accomplish it.

I believe the study proposed by my amendment will help to provide some of the answers, and I urge its adoption.

Mr. RANDOLPH. Mr. President, I am sure that the able Senator from New York (Mr. BUCKLEY), managing the measure for the minority, would be in agreement with what I shall now say.

During the consideration of this legislation for more than a year we were determined, insofar as possible, to have local units of government, the people living close to the development of these problems, understand exactly what we are doing.

I think the Federal-State study is a proper balance. I refer to my opening statement of yesterday when I indicated that it is the desire in this bill to have the States participate as fully as possible, certainly more fully than in the past, in the determination of the answers to many of the problems which are local in nature.

Here we would have the expertise coming from the knowledge of local conditions that could come to bear in the determinations of what this joint study responsibility would bring forth.

I accept the amendment and I do it feeling it is a refining, a further declaration, of what the committee itself, under the leadership of the Senator from Texas (Mr. BENTSEN) has sought in the past and is now reducing to the amendment the Senator from Texas has just offered.

Mr. BENTSEN. I thank the committee chairman and committee manager of the bill.

Mr. BUCKLEY. First of all, before commenting on the Senator's amendment, I would like to ask whether there is implicit in such a study the suggestion that further controls on hydrocarbon and oxides of nitrogen emissions be suspended during the period. Is it the intention of this amendment or would it have the effect of causing a delay in the schedule for tightening the emissions?

Mr. BENTSEN. It does not call for a delay; it calls for a study to determine whether the mechanics we are proceeding under are correct or not. It is hoped that during the time this study is taking place they will come up with some new evidence that will be better in accomplishing the objectives.

Mr. BUCKLEY. In the meantime would we proceed with the statutory schedules as contemplated?

Mr. BENTSEN. That is correct.

Mr. BUCKLEY. I totally agree as to the need for getting on top of all of this. It is very important that we know what we are doing, know what the cost will be to achieve our objectives, and know whether we are, in fact, achieving those objectives. I think, too, that the kind of study of which the Senator speaks is important in the achievement of the support of the American public for all of these measures. The only question I would raise is whether or not the study that is contemplated should be a part of the study to be conducted by the Air Quality Commission that is established by this bill.

Mr. BENTSEN. I did give consideration to that and that was a question to be resolved. It is just that with the technicalities of this particular problem, in talking about reducing vehicle miles traveled by 75 percent and given 10 years to accomplish that, that is a dramatic and very massive impact on the economics of that area.

I really want to highlight and high profile this kind of a study. I want to see the cooperative efforts with the State. We see our State board with a substantial degree of competence and a great concern in trying to zero in on this subject and work with the National Government on it.

Mr. BAKER. Will the Senator yield?

Mr. BENTSEN. I yield.

Mr. BAKER. I do not wish to diminish the importance of this issue to the Senator's home State. I understand his problem and I am sympathetic to it. I wonder, however, if the same thing might be accomplished without creating this agency if, in fact, the jurisdiction of the proposed Air Quality Commission were amended in order to make this one of the stated statutory obligations of the Commission and to provide for a procedure including, even, the attempt to contract with the National Academy of Science.

I must say to the Senator that while I am sympathetic to his objective, I hate to see a proliferation of studies on this same issue. I am entirely willing to see that the essence of this proposal is mandated to the proposed air quality commission. I wonder if we could work out something along that line.

Mr. BENTSEN. I certainly do not want to see a proliferation of agencies either, I will say to the Senator. I very much want the input, the strong input, and the high role of the State agencies in Government. The chairman of the council and the Governors of those States would be involved here, with the administrator of the Environmental Protection Agency. I really wanted to emphasize the role of the States in this and the higher profile by them. We have a lot locked into the States, and I want to be sure that we give them a full opportunity. That is the reason I stated it this way.

Mr. BAKER. If the Senator will yield again, Mr. President, I would hope that we could reach some sort of an accord on this point because I do want to see the air quality commission which I proposed in the committee be the prime forum for the effort to hear and understand these problems.

I, of course, do not know who the members of the Air Quality Commission would be, but I would be hopeful that the appointive authorities would take account of the State interests and possibly appoint State officials for that purpose. I certainly cannot assure the Senator in that respect, but I would hope that would happen.

There are public members provided for and there are nonpublic members provided for, and there is a sufficient range of flexibility required under the proposal to put Governors or other State representatives on there.

There is one difference that I note. The Air Quality Commission is supposed to report, I believe, in 3 years. The Senator's proposal is for 2 years.

Mr. BENTSEN. Yes.

Mr. BAKER. I would be perfectly willing to require an interim report on this subject by the Air Quality Commission in 2 years' time. We already have an interim report for 1977, for instance, on the oxides of nitrogen, which also are photochemical oxidants. So we could combine that requirement with the Senator's requirement for a 2-year report.

I would strongly urge the Senator from Texas to see if we could find a way to combine our objectives, because I think they are the same, and there is enough flexibility in both so that we could make them identical and not divide our effort.

Mr. BENTSEN. I would be willing to seek such a compromise, I will state to the Senator from Tennessee, if I can be assured that I have the really strong input of the State agency in this matter, where they are participating in a major way. I just want to be certain of that.

Mr. BAKER. I am more than willing to assure the Senator in that regard.

Mr. BENTSEN. Otherwise, with the filling in they get on the problem up here, their solution sometimes gets a little fuzzy.

Mr. BAKER. I entirely agree. I would be more than happy to ask our respective staffs to try to work up language that would be mutually satisfactory in that respect, if we could lay this proposal aside for a few minutes.

Mr. BUCKLEY. Mr. President, I would agree. I think it would be worthwhile if we could modify the amendment to meet the objectives the Senator from Texas seeks, avoiding considerable cost and time.

Mr. BENTSEN. I agree. I just want to be certain we have a high profile effort on the part of the State agencies involved in this situation, and not have them sloughed off by the national agencies.

Mr. RANDOLPH. Mr. President, regarding the request of the Senator from New York (Mr. BUCKLEY) in respect to the Senator's amendment, I would be agreeable to the study. I feel that it moves at a specific problem, as the Senator has set forth. Does the Senator from Texas feel that by stepping aside from the amendment for the time being, there could be discussions which would be fruitful with the Senator from New York (Mr. BUCKLEY) and the Senator from Tennessee (Mr. BAKER) in which perhaps I would participate? Would that be in accord with his understanding?

Mr. BENTSEN. Mr. President, I would be happy to set aside temporarily the amendment, with the consent of the Senate, and see if we could work out an area of compromise to accomplish the dual objectives of the Senators on the minority side and the Senator from Texas.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I yield to the Senator from New Mexico.

AMENDMENT NO. 1629

Mr. DOMENICI. Mr. President, I call up my amendment No. 1629, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New Mexico (Mr. DOMENICI) proposes an amendment numbered 1629.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI's amendment (No. 1629) is as follows:

> On page 28, after line 17, insert:
>
> (i) (1) The Administrator, within ninety days after the date of enactment of the Clean Air Act Amendments of 1976 and from time to time thereafter as may be appropriate, shall publish proposed regulations for use by the Environmental Protection Agency and State and local agencies, in (A) determining the portion of ambient concentrations of particulate matter attributable to natural causes; and (B) discounting such particulate matter, when deemed appropriate, in administering sections 107(d), 110, and 113(g); and after a reasonable time for interested persons to submit written comments thereon (but no later than ninety days after the initial publication of the proposed regulations) shall promulgate such proposed regulations.
>
> (2) For the purposes of this section "natural causes" shall include wind erosion of natural soils from farms, cleared land, and unpaved roads; dust storms; forest fires; sea salt and such other causes as may be specified by the Administrator.
>
> Section 307(b) (1) of the Clean Air Act, as amended in 1970, is further amended to add the phrase "any regulations under section 110(i)," after the phrase "A petition for review of action of the Administrator in promulgating any national primary or secondary ambient air quality standard".

Mr. DOMENICI. Mr. President, I believe that after the distinguished chairman of the full committee and I finish discussing the problem that this amendment attempts to raise, I will withdraw it. but I do think it raises a rather significant area. It is rather new.

The amendment addresses what I believe to be one of the most troubling conceptual problems embedded within the Clean Air Act—the issue of background particulates.

Basically, the issue is what happens when natural causes such as windblown dust, particularly in the arid west, cause violations of the national ambient standards for particulates. The answer is unclear. Under both the present Clean Air Act, and the committee's amendments, all future sources of particulate in areas which have not achieved the ambient standards for particulate could be prohibited. For rural, lightly populated regions of the Nation, such a result could prove unacceptable.

The difficulties of implementing existing law were outlined by the Environmental Protection Agency during litigation over the West Virginia State implementation plan. One of the issues was whether high background levels of particulates had caused overly stringent emission limitations on stationary sources. EPA rejected the argument that background particulates could be discounted the same as pollution in a facility's intake water is discounted under the water act.

EPA stated in the March 4, 1976, Federal Register:

> Thus, while the argument can be made that technology-based water requirements should be structured so that no one source is penalized because of naturally-occurring pollutants in its intake water, the same argument cannot be made where the target in question (i.e. an ambient air quality standard) will, by its very nature, impose obligations that will vary in relation to the pollutant content of the air. That such target may be influenced by background concentrations and may thereby require substantial and perhaps burdensome, point source controls is admittedly one of the more onerous aspects of the national ambient air quality standard approach. Nevertheless, when health and welfare is at stake and air quality must be improved to a given level, there logically is no choice but to impose pollution limits on controllable man-made sources rather than attempt to limit naturally occurring (and, usually, uncontrollable) background sources.

I have quoted at some length to stress that this is a conceptual problem with the act. The law and the amendments provide no relief in the case where nature, rather than man, violates the particulate standard.

The origins of this problem lie in the assumption that man is the principal polluter. The 1970 act was based on the reasonable premise that air pollution was the result of the careless practices of an industrialized society. As Senator MUSKIE noted during the September 21, 1970 floor debate, the 1970 act was:

> A moment of truth: a time to decide whether or not we are willing to take the difficult but necessary steps to breathe new life into our fight for a better quality of life. This legislation will be a test of our commitment and a test of our faith.

In short, the 1970 act saw air pollution as a manmade phenomena subject to human solutions. Nature was the victim, not a transgressor.

During the committee's 1975 legislative hearings on the present amendments, the committee received little edification on the issue. Although the scientific basis of the particulate standard was challenged, there was virtually no discussion on the legal and economic implications of natural violations of the national standards. In fact, the only mention I was able to discover was on Dr. John Finklea's statement that background levels of photochemical oxidants come close to the standard in several regions of the country; although scientists believe that since much of this is due to the long distance transport of manmade pollutants from urban areas, these background levels may not be caused by nature at all.

I believe the distinguished Senator from Maine had a question at this point, which I am delighted to try to answer.

Mr. MUSKIE. Since neither the 1970 act, nor our recent hearings surfaced this issue, I ask the Senator what is the basis for his concern now?

Mr. DOMENICI. I might say to the distinguished Senator that obviously that particular question is well taken, and I have indicated that recent hearings have not surfaced the issue but the data base is very slight.

However, it is not totally lacking, and what I have seen greatly disturbs me. First, EPA has released some sketchy monitoring data which shows major portions of the country west of the Mississippi as exceeding the particulate standards. Second, EPA did a study in 1974 entitled "Investigation of Fugitive Dust" which studies the causes of particulate levels above the national standards in New Mexico, Nevada, Arizona, and California. Third, recent oil industry data from undeveloped Federal leases shows levels of particulates, hydrocarbon, and oxidant above the ambient standards. Fugitive particulate emissions from natural sources do appear to contribute to these high levels of particulate; but the extent of the contribution is unknown.

I certainly think that in light of our particular interest and our mutual interest that this is a matter that should be discussed. We are not going to resolve it here today, but it should be of grave concern.

Mr. MUSKIE. May I say to the Senator that the committee addressed this problem on page 81 of the committee report, which notes that:

> The States and EPA have recognized this problem of rural background particulates and discounted its effects where it is due to transitory, natural causes such as wind, and involves particulates generally of the substances and respirable sizes thought to affect public health.

The committee report goes on to note that we expect this policy of "administrative good sense" to continue. The limited extent of our knowledge did not permit us to address the problem in any other way.

Mr. DOMENICI. Mr. President, I say I am aware of that language, and he has exactly pinpointed the purpose for my amendment, that it was to legalize what I felt was in fact sound; perhaps I could call it, ad hoc administrative practice.

Mr. MUSKIE. I think it would be premature in light of the record to address this issue statutorily. At this time, preliminary EPA data from the Phoenix area indicates that fully two-thirds of the total 1975 particulate emissions were generated from fugitive emissions from motor vehicles on unpaved roads. Yet under the Senator's amendment, this source would be classified as a natural source, even though such emissions are man made. In fact, EPA's ongoing review of the ambient particulate standards includes an effort to distinguish the relative toxicity of various sizes of particles. If particles in the size range of such manmade fugitive emissions are harmful to health, their control should not be foreclosed, as I think the Senator will agree. The same may be true in agricultural areas.

My second concern is that the practical effect of his amendment could be to open up all of the State implementation plans to litigation. Any amendment involving background level of particulates would have this result.

My feeling is that we should allow the ongoing EPA investigations of this issue to continue, and that we should monitor their progress. As more emissions data and health effects knowledge becomes available, we will be in a better position to assess the magnitude of the contribution of truly natural emissions to the background particulate problem.

Mr. DOMENICI. I say to our good chairman that I agree with much of what he said. I still offer several comments, however. First, his critique of my amendment's definition of "natural causes" is well taken. EPA in their 1974 report distinguished between "natural" background from windblown dust and "fugitive" emissions from unpaved roads and agriculture; manmade emissions were the overwhelming contributor.

In addition to the considerable amount of work which remains to segregate these two categories of fugitive emissions in specific regions through what certainly will be more refined techniques, the ambient particulate standard should also be refined. EPA is currently assessing various strategies to supplement the existing standard.

Second, I believe our chairman's concern about opening up existing State implementation plans is well founded. Such an action on this particular count would be unjustified until we had reliable information upon which to act.

Mr. MUSKIE. I say to the Senator that I share his concern. I do feel uneasy about taking such a major step with such little data.

It strikes me that the charge of the National Commission under section 315 (a)(1) clearly encompasses the subject. I believe that the combination of the discretion authorized under the present report language and the charge of the Commission offers us a better alternative than enacting this amendment into law.

Mr. DOMENICI. I thank the distinguished chairman for the thoughtful dialog he has engaged in with me.

Mr. President, I withdraw my amendment. I do believe that the arguments with reference to continuing it here today and voting on it are on the side of withdrawal. I believe we have made some legislative history here.

Mr. President, I ask unanimous consent to have printed in the RECORD a Federal Register notice dealing with New Mexico, which demonstrates clearly that background particulates represent a serious potential problem for my State. I believe I have mentioned the others—I do not have the registry as to them—but it is a series of States with a similar problem.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[FRL 584-5]

NEW MEXICO

Required Revision to Implementation Plan for the Pecos-Permian Basin Air Quality Control Region.

In this notice, the EPA Regional Administrator for Region VI finds that the implementation plan for the State of New Mexico is inadequate in its consideration of the air quality impact of particulate matter emissions from existing and projected potash plants in the Pecos-Permian Basin Air Quality Control Region (AQCR 155) for the attainment and maintenance of the primary national ambient air quality standards. He is, therefore, requesting that the State submit a revision to the plan to correct those deficiencies. The Regional Administrator has formally notified the Governor of this matter in a letter dated July 1, 1976.

DETAILED DISCUSSION OF ACTION

On May 31, 1972 (37 FR 10842), under section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the control strategy for the attainment and maintenance of the national primary and secondary standards for total suspended particulate in the Pecos-Permian Basin Region. The implementation plan was originally designed to attain these national standards by July 1, 1975. Furthermore, on March 8, 1973 (38 FR 6279), EPA disapproved all implementation plans with respect to maintenance of the national standards.

The Regional Administrator of the EPA, Region VI finds that the presently approved control strategy portion of the implementation plan for particulate matter does not include control of potash plans for the Pecos-Permian Basin Region. As a result, it has been determined that the implementation plan is inadequate to attain and maintain the national primary ambient air quality standards for total suspended particulate from potash plants.

This finding is based on the October 1975 preliminary regional environmental analysis record on "Potash Leasing in Southeastern New Mexico" which indicated that the primary national ambient air quality standard for total suspended particulate are currently being exceeded. The analysis was done by the Bureau of Land Management, and involved the estimation of annual concentrations from existing potash plants. The State of New Mexico has also completed a preliminary analysis which involved the estimation of short-term particulate matter concentrations by applying the emission rates reported by the Bureau of Land Management. This analysis suggested that a majority of the existing potash plants are capable of exceeding the primary 24-hour maximum national standard for total suspended particulate. Furthermore, it is anticipated that this problem will be compounded by fugitive dust emissions and by the expected growth of the potash industry in this region, which will lead to increased emissions and increased particulate matter concentrations. The combination of these factors indicates that the plan is inadequate to attain and maintain the national ambient air quality standards for total suspended particulate.

The State of New Mexico is presently conducting a more detailed analysis which will consider point source particulate matter emissions from existing potash plants and projected emissions from proposed new leases. The purpose of this analysis is to define control requirements. It is scheduled for completion by June 30, 1967, and will be made publicly available. Rather than wait for the completion of the analysis however, the Regional Administrator is calling for a plan revision now so that the appropriate agencies in the State may begin at once the process of developing their plan revision.

The Regional Administrator finds that a revision to parts of the control strategy for particulate matter in the applicable plan is needed and thereby requests the State to submit a revision.

Because the extent and nature of the attainment problem due to particulate matter emissions from potash plants will not be fully known until completion of the analysis, the Regional Administrator does not intend at this time to establish either a date for submission of a control strategy that will provide for the attainment and maintenance of that standard or the period over which the plan would have to ensure maintenance.

The Regional Administrator will reevaluate the matter and subsequently decide what the submission dates shall be.

The Governor shall submit, within 60 days of this notice, a letter of intent to the Regional Administrator, EPA, Region VI, which identifies the various action steps, along with target dates for completion, which the State will take to develop the plan revision in accordance with the requirements set forth in this notice. The State must also identify in the letter the agencies that have been given responsibility to prepare the plan revision.

All the applicable plan remains in effect until the plan revision is submitted by the State to EPA and is approved by EPA or until EPA promulgates substitute regulations.

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding of the Regional Administrator which shows that the control strategy for particulate matter in the Pecos-Permian Basin Region is inadequate and needs to be revised. Authority for such action is provided in sections 110(a) (2) (H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no hearing on the revisions, will provide opportunity for a public hearing.

(Sec. 110(a)(2)(H), Clean Air Act, as amended, (42 U.S.C. 1857c–5(a)(2)(H)); sec. 110(c), Clean Air Act, as amended, (42 U.S.C. 1875c–5(c))

Dated: July 1, 1976.

John C. White,
Regional Administrator,
Environmental Protection Agency.

[FR Doc. 76-20587 Filed 7-15-76; 8:45 am]

Mr. GRAVEL. Mr. President, I share the concerns expressed by the distinguished Senator from New Mexico (Mr. Domenici). The standards established in the committee's bill for particulate matter leave many questions unanswered. Many regions of the country face high concentrations of natural particulate matter which would be included in background levels for this pollutant in both the ambient level and the significant deterioration increment.

The inclusion of natural particulate in such background levels raises potential problems with respect to development in impacted regions. Many areas of Alaska have riverbeds and glacier areas which during certain times of the year produce high levels of dust. During this period the 24-hour standard for particulate matter will be violated, I am told by my State air quality people. This makes for a potential for limitations on development.

Mr. President, we have no conclusive evidence that natural particulate presents any serious adverse health effects. I believe that it is essential that the issue of background level of natural particulates be resolved. I, therefore, support the efforts of Senator Domenici to provide the Environmental Protection Agency with some guidance on this important question.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. BUCKLEY. Mr. President, I want to echo the sentiments of the chairman of the subcommittee.

I believe that the Senator from New Mexico has performed a great service in highlighting this very important problem that has to be faced. But it has to be faced, in my judgment, when we have more precise knowledge on which to act. The assembling of that kind of information, of course, is the reason this air quality commission will be put into effect.

I believe that the modus vivendi that has been in existence, in taking advantage of the flexibility in administration on the part of EPA, really assures us of some commonsense approaches, pending a more definitive attack on that problem.

Mr. DOMENICI. I thank the Senator.

I think that what they are now doing, as I indicated, is almost an ad hoc legalization of the concept we are discussing here; and I hope they will continue it while we gather information in the manner that the Senator has described.

I thank the Senator for his comments.

Mr. WILLIAM L. SCOTT obtained the floor.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I yield.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

I wish to make some remarks with regard to the subject matter that has been discussed.

I am a little sorry that the Senator from New Mexico withdrew the amendment, because I think the amendment could operate which was perhaps better than the existing statute.

I recognize the factors which led him to withdraw the amendment, but I also recognize the very great need for the statutory enactment which he sought to make which would better define what the committee was seeking to do in the first place.

I am sure the Senator from New Mexico remembers the long discussions we had in several committee sessions, both in the subcommittee and in the full committee, dealing with the question of background levels of pollutants, particularly those of particulates. The only conclusion we could come up with, as I recall, was that we do not know enough about it to say anything about it, so we will require each applicant to establish the baseline data himself, because no one else has any. So we transferred the burden for an unknown from a statute to the EPA and to the applicant, who must establish baseline data.

It seems to me that at the same time we are doing that, we will leave involved a very serious question regarding the background pollutants that the Senator identified in his amendment and such background pollutants in particulates such as the pollens, which sometimes are a very heavy burden in background particulates.

In his State and in mine—in any of the Western States that have large evergreen forests—the pollen that comes from those forests will be the particulates that during some portion of the year are the dominant factor in background levels of pollution.

The question that seems to me to be left by the language in the bill and the approach we have taken is this: "How does an applicant measure the background level of pollutants?" I pose this question because it says that it is up to the applicant to determine the level at the time of the application.

Mr. DOMENICI. The Senator is speaking now of the nondegradation system?

Mr. McCLURE. That is correct.

At what point in the calendar year is he going to file his application to determine the level of background pollutants at that time? That is what the statute says. I assume that he will measure background levels over a period of time, but will it be an average day and will it be the amount of the background level at the time the applicant files his application, or will it be the average of the 3-month period preceding? Will it be the highest level at any particular time?

That is the kind of question the committee was unable to resolve, and it seemed to me that the amendment by the Senator from New Mexico would have solved that by saying that you exclude those natural pollutants, you exclude those that are there always, so that you do not penalize anyone for the fluctuations in natural particulates and impose a burden upon industry to try to clean up something that naturally occurs, that is not theirs. At the same time, I recognize that that uncertainty may best yield itself to the flexibility of a regulatory system rather than a statutory approach.

So while I do think that the Senator from New Mexico has made a significant contribution by the colloquy and by highlighting the question, I believe his amendment would have aided us in the applications which certainly will be troublesome.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. McCLURE. The Senator from Virginia has the floor.

Mr. DOMENICI. Mr. President, will the Senator yield me 1 minute?

Mr. WILLIAM L. SCOTT. I will be glad to yield.

Mr. President, before yielding, I ask unanimous consent that Jim Roberts, of my staff, have the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, the distinguished chairman of the full committee has an amendment he proposes to offer. After that, I would like to be recognized to discuss this bill and particularly an amendment that I propose to offer tomorrow or as soon as I can get the floor. So I will not attempt to continue recognition until after the Senator from West Virginia has offered his amendment.

I am glad to yield the floor at this time.

Mr. DOMENICI. Mr. President, will the Senator yield for 1 moment, so that I may comment on what the Senator from Idaho has said?

Mr. RANDOLPH. I am happy to yield.

Mr. DOMENICI. I thank the Senator from Idaho for raising the issue. I wish to make two comments.

On a regionalized basis, the EPA is doing what my amendment would have made the national law. I trust that they will be prudent with the regions—that is, to go to the regions where the problems are obvious. I have described some of them, and the Senator is aware of them. There is a lack of knowledge on our part as to what all this means, and there is a vacuum in terms of particulate mobility, which is not just natural but the manmade mobility which is now under some very excellent scrutiny and study. Perhaps the Senator is aware that there is a tremendous cooperative program in which manned balloons are being used. They are floating around in the particulate areas and are making measurements. That is a superb program, and it will give us information.

As to the question of baseline data, the Senator raised a good issue. He referred to applicants under the nondegradation permit system. The bill as drawn is going to be difficult, but it does require that there be some annualized evaluation, so that you would not pick the best or the worst of the 12-month year when you develop your baseline data, but, rather, some average based upon the best information that we can gather for a 12-month cycle.

Mr. McCLURE. I say to the Senator that certainly, I recognize that there is no way of pinning down something as difficult to pin down as the ambient air itself. But even an annualized basis does not answer all the questions, because the emissions vary from year to year, as any hay fever sufferer can tell you. It is not just from season to season, it may be from year to year. That is just one of the particulates. Perhaps you can say we will not have hay fever any more, we will have pollutant fever. But that is the kind of problem we are dealing with.

Mr. DOMENICI. I thank the distinguished Senator from West Virginia for yielding.

The PRESIDING OFFICER. Does the Senator from New Mexico withdraw his amendment?

Mr. DOMENICI. I did withdraw it.

The PRESIDING OFFICER. The amendment has been withdrawn.

AMENDMENT NO. 1798

Mr. RANDOLPH. Mr. President, I appreciate the courtesy of my colleague from Virginia (Mr. WILLIAM L. SCOTT). Since he is going to lay the premise in remarks for later amendments to be offered, which will certainly receive careful attention, we will, recalling our colloquy of yesterday, be conscious of his continuing interest in what we do here.

I think earlier today, we had a discussion by Senator BUCKLEY which pointed up the necessity for this to be, in a sense, the people's bill, for the people to understand the bill, the people to know the responsibilities they share with a bureaucracy in carrying forth the provisions of this bill.

Mr. President, with that in mind, I call up amendment 1798.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 85, line 13, insert the following: between the words "and" and "prevention" the words "in accordance with subsection (i) of this section the".

On page 86, line 8, insert between the words "Commission" and "shall" the words "shall be appointed within sixty days after enactment of this section and".

On page 87, line 4, insert after the word "(e)" the following phrase: "(1) Except as provided in paragraph (2) of this subsection,".

On page 87, between lines 7 and 8, insert the following new paragraph:

"(2) A report on the results of the study and investigation of the Commission authorized under subsection (i) of this section, together with any appropriate recommendations, shall be submitted not later than two years after the date of enactment of this section.".

On page 88, between lines 2 and 3, insert the following new subsection:

"(i) (1) The Commission shall, in carrying out the study authorized under this section, give priority to a study of the implementation of the provisions of subsection (g) of section 110 of this Act.

"(2) In carrying out the authority of this subsection the Commission shall study, among others, the following:

"(A) whether the provisions relating to the designation of, and protection of air quality in class I regions under this Act are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to (i) add to or delete lands from such designation, and (ii) provide appropriate protection of the air quality over such lands;

"(B) whether the provisions of subsection (g) of section 110 of this Act, including the three-hour and twenty-four-hour increments, (i) affect the location and size of major emitting facilities, and (ii) whether such effects are in conflict or consonance with our national policies regarding the development of such facilities;

"(C) whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act, including an analysis of the costs associated with that technology;

"(D) whether the exclusion of nonmajor emitting sources from the regulatory framework under this Act will affect the protection of air quality in class I and class II regions designated under this Act;

"(E) whether the increments of change of air quality under this Act are appropriate to prevent significant deterioration of air quality in class I and class II regions designated under this Act; and

"(F) whether the choice of predictive air quality models and the assumptions of those models are appropriate to protect air quality in the class I and class II regions designated under this Act for the pollutants subject to regulation under subsection (g) of section 110 of this Act.

"(3) For the study authorized under this subsection there shall be made available by contract to the Commission from the appropriation to the Environmental Protection Agency for fiscal year 1977 the sum of $1,000,000.".

Mr. RANDOLPH. Mr. President, the issue of significant deterioration in the quality of air has drawn more public attention than any other one feature of the Clean Air Amendments of 1976. The concern that has been expressed is an understandable concern. Certainly, the procedures established in this area by the bill are intended to implement the policy which states, very clearly, that clean air areas should be protected.

It should be obvious to all Members of the Senate that the implications of such a policy, as it is carried forward, will be substantial. There are, however, some legitimate questions about the long-term impact of a nondeterioration policy. So, in developing this legislation, the members of the committee gave much time to this problem, I think perhaps more time than to any other portion of the bill. I believe that the approach adopted and reflected in Senate 3219 is a correct and a well-reasoned approach.

Mr. President, the nondeterioration provisions of the bill were agreed to after the most careful consideration. We received all available information and consulted with many, many individuals and many, many organizations. These individuals and organizations represented a diversity of viewpoints. The provisions in the bill represent, I think, a positive improvement over the current Environmental Protection Agency regulations on the prevention of significant deterioration.

The members of our committee believe we know what will take place if this legislation is implemented. We are convinced that it would be unwise to delay the establishment of a procedure to prevent the deterioration of air quality in areas that are relatively free of pollutants or to leave the flawed Environmental Protection Agency approach in place. I do not believe that we should postpone action, because it is important to protect these areas. The pressures of our growing—we hope it is a growth society of which we are a part—and highly industrialized society threaten those areas which, so far, have been only slightly affected by pollution.

Our experience has indicated how difficult, expensive, and time consuming it is to correct the environmental abuses that have taken place in past years. It is far more prudent to avoid severe pollution conditions than it is to permit their development and then to attempt to correct them. This is not a criticism; it is an observation that, too often in our country, we act after the fact, not before the fact. We need, whenever possible, to have people understand what the problems are that can develop so that they, in the process of consideration and action, can be a party to whatever is done.

Mr. President, the comprehensive nature of the nondeterioration policy requires that it be carefully monitored, especially as to its long-term effects. I have introduced, accordingly, an amendment requiring that our Commission on Air Quality—which is to be a part of this bill, through the leadership, in substantial degree, of the Senator from Tennessee (Mr. BAKER)—give priority to a study of the implementation of the nondeteriorating provisions.

The Commission, which is established by this bill, was chosen in this instance to avoid the creation of another body or the placing of responsibility for studying air pollution matters and thus the impact of the nondeterioration program is well within its mandate.

I think it was proper that the amendment offered by Senator BENTSEN earlier today, for the study of a particular problem that he has in Texas and perhaps in other areas, might be incorporated in the work of the Commission, keeping in mind the 3-year limitation on the Commission report. There is concern, Mr. President, that the value of such a study would be diluted if a long period of time were required for the Commission to be organized and then to get down to work. For that reason, the amendment that I offer provides that the members of the Commission shall be appointed within 60 days of the enactment of this legislation. A report on nondeterioration would be submitted to Congress within a period of 2 years. This would provide a sufficient time for the nondeterioration section to be implemented and for the various components of the problem to be properly assessed. The amendment calls particular attention to several features which, I think, we must give attention to during the study.

These include the adequacy of the provisions for the designation of class 1 regions and protection of air quality in those regions.

The 3-hour and 24-hour increments allowed under the nondeterioration provisions are certainly critical to the control of emissions in the affected areas.

Mr. President, these limitations on additions to existing emission levels will certainly influence the extent to which development can take place in the protected areas.

The study must include the impact of statutory increments and their effect on the location and size of major emitting facilities, whether these effects are consistent with other national policy regarding the development of these facilities.

Mr. President, the study will examine what technology is available to properly control emissions subject to regulation under the program.

Only major emission sources are covered by the legislation, so the study that is proposed would bring an examination of the effect to nonmajor sources on air quality.

The purpose of the program of nondeterioration is to protect air quality, let me repeat, to protect air quality. The Members of this Congress and the American people mean to do that, keeping in mind, of course, the energy problems, the economic problems, the social problems, all the problems that are inherent in the complex problem in the overall that we are considering. But we do believe the people of the United States are committed to a high quality of air, commensurate with the other matters I have discussed.

So, Mr. President, this is a program in which we want to achieve certain goals, but whatever these achievements may be they will not be complete without our realizing that air quality for the American people is a matter of priority.

Mr. President, I suggest this is not the last time Congress will be called on to legislate in air pollution control matters. We have addressed this subject before, and I am sure we will do it again as we make progress under the programs and as conditions change. Sometimes, perhaps, it is even necessary to have a pause, and I have used that word because I want as one member, not just as the chairman of the committee, to try to be very reasoned about my position in these matters.

The National Commission on Water Quality was established as a part of a major revision of our Federal Water Pollution Control Act which became law in 1972. That commission was charged specifically with providing information to assist Congress in determining the future program.

The National Commission on Air Quality as it is envisaged in this bill would be authorized to carry out the same functions, as I have earlier said, with respect to the air pollution program.

So the study I have in this amendment is consistent with philosophy underlying the establishment of both the prior Water Commission and now, the Air Commission.

The prevention of any significant deterioration of air quality is highly desirable and is an essential part of our total pollution effort.

It is equally important that we closely watch the results of our efforts. We must not forget to do this. We must monitor the program. We must have the oversight hearings. We must be very careful to see that the intent of Congress is carried out, as well as the actual language of the law.

As we move forward during this debate I hope we will have an understanding by the Members of Congress, regardless of where they stand exactly on this or that provision, that we do want us to watch very carefully the results of our efforts.

So I trust the managers of the measure will believe that it is a wholesome amendment I have offered.

Mr. MOSS. Mr. President, will the Senator yield for a question?

Mr. RANDOLPH. Yes, I yield.

Mr. MOSS. Do I understand the Senator's amendment to be that this study would be conducted after enactment of this bill and within the time limits the Senator was talking about?

Mr. RANDOLPH. That is correct.

Mr. MOSS. It would, therefore, presuppose the passage of all the terms of the bill, which would make it different from the one I proposed where section 6 would not go into effect until after the study was completed; is that the difference?

Mr. RANDOLPH. That is correct. As the Senator has indicated, it applies to the bill as brought from the committee.

Mr. MOSS. Yes.

Mr. RANDOLPH. I am offering the amendment to that measure.

Mr. MOSS. I see.

Mr. RANDOLPH. As we listen to the presentation of the able Senator from Utah (Mr. MOSS) I will, of course, be very interested, intensely interested, in what he is going to say. At the moment it is not necessary for me to say I will or will not support his amendment.

Mr. MOSS. I understand.

Mr. RANDOLPH. But I have, perhaps, given as much attention to the amendment and the implications of the amendment, the challenges of the amendment, as any member of our committee. But I believe what we are doing here is apart, it is set in a different frame, from what the Senator refers to in his own amendment.

Mr. MOSS. I thank the Senator. I was just trying to clarify that point, and I think I understand it fully. I support the study I did.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. RANDOLPH. Yes.

Mr. BUCKLEY. If I may pursue the point raised by the Senator from Utah, the Senator's record is totally clear, but am I correct in my understanding that the proposed study would in no way delay the implementation of the statutory program contemplated in this bill dealing with the problem of nondeterioration?

Mr. RANDOLPH. It would not delay it.

Mr. BUCKLEY. Section (C) on page 3, the section dealing with the examination of technology, would not in any way interfere or delay the action by the States and determining the best available technology?

Mr. RANDOLPH. The Senator is correct.

I appreciate both questions.

Mr. BUCKLEY. I thank the Senator.

Mr. GARY HART. Mr. President, will the Senator from Maine yield for a unanimous-consent request?

Mr. MUSKIE. I do not have the floor.

Mr. RANDOLPH. I yield.

Mr. GARY HART. I thank the Senator.

Mr. President, I ask unanimous consent that Mr. Peter Gold and Mr. Kevin Cornell of my staff have the privilege of the floor during the debate on this pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARY HART. I thank the Senator.

Mr. RANDOLPH. I am not certain, Mr. President, that this is an amendment on which the Senator from Maine (Mr. MUSKIE) or the Senator from New York (Mr. BUCKLEY) might wish a rollcall. I think it is highly important, but I would rest the matter with the judgment of the Senator from Maine.

Mr. MUSKIE. I think it might be useful to respond for this reason: I have read in the public press and elsewhere more misinformation and more distortion of what the committee bill does on the question of nondegradation than on almost any other legislative issue I have ever been exposed to. It might be a useful way to begin to focus the attention of the Senate on the fact that we are about to begin debate on that issue, hopefully to clarify the issue, hopefully to lay a basis of understanding upon which the Senate can act.

May I say at this point, if the Senator will permit me——

Mr. RANDOLPH. Yes.

Mr. MUSKIE. In the first place, after glancing over an editorial in today's Wall Street Journal, I am just amazed that that presumably enlightened publication would express such an unenlightened view as to how we arrived at the conclusions that resulted in the committee bill.

I ask unanimous consent, Mr. President, that there be printed in the RECORD a memorandum dated June 26, 1975, prepared by the subcommittee staff for the members of the Environmental Pollution Subcommittee, which undertakes to analyze the question of how much growth is allowed by the Environmental Protection Agency's nondegradation scheme. The Wall Street Journal entitles this article "Senator Muskie's No-Growth Bill."

I invite those who wrote that editorial to read this memorandum, and for their convenience, if no one else's, I ask unanimous consent that this memorandum be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

To Members of the Environment Pollution Subcommittee.

From Subcommittee Staff.

Subject Growth Allowed Within EPA's Nondegradation Scheme.

1. THE CONCEPT OF CLASS II

EPA defined the Class II area specifically to allow development of "average sized" facilities within the Class II region. Class II was not developed by relating it to any specific ambient air quality, such as visibility. Class II does not establish a new kind of national ambient air quality standard, but instead states how much *additional* pollution could be added to any area which presently has air cleaner than national ambient air quality standards. Areas designated as Class II, whether moderately clean or extremely clean, would be allowed to add the exact same increment of pollution to whatever existing background levels are present.

EPA examined the average plant being constructed in the industrial categories most likely to have pollution problems and then projected the probable air quality impact of construction of such sources using the best available control technology. The Agency concluded that ". . . typical coal gasification plants, oil shale processing facilities, and petroleum refineries would not be expected individually to exceed the Class II increments in most areas. However, the Class II increments would prevent the aggregation of such sources within close proximity of each other." (Technical Support Document—EPA Regulations for Preventing Significant Deterioration of Air Quality, EPA, January 1975, p. 20)

The same statement holds true for the average sized plants in the following categories: fossil fuel fired steam electric power units, municipal incinerators, kraft pulp mills, iron and steel mills, coal cleaning plants, sulfur recovery plants, lime plants, Portland Cement plants, phosphate rock processing plants, petroleum refineries, by product coke oven batteries, sulfuric acid plants, carbon black plants, primary aluminum plants, primary zinc smelters, primary copper smelters, fuel conversion plants and primary lead smelters. For many of these sources, the average sized plant would be substantially lower than the increment allowed.

2. STIMULUS FOR TECHNOLOGICAL INNOVATION

The size of the facility or the number of identical facilities located within a Class II area is limited only by the existing technology for controlling emissions. As that technology increases in sophistication, larger facilities and facilities spaced in closer proximity would be allowed within the Class II increment.

3. POWER PLANTS

Much of the discussion has revolved around plants, since the size of the average new power plant has grown much more than other sources and presents the greatest difficulty in fitting within a Class II area. EPA concluded that a 1000 megawatt power plant could fit within a Class II area, and "assuming that such a source used up 90 percent of the allowable increment in a Class II area, a similar source could not be located within 25 miles of the first plant." (Technical Support Document, p. 20)

The location chosen for a site within the Class II area is of critical concern. When EPA examined existing coal burning power plants and projected the impact of such plants in a Class II area, they discovered one 1300 megawatt power plant which used only half of the increment allowed under the Class II designation; this occurred principally because of the design of the power plant and surrounding terrain and meteorological conditions.

4. OIL SHALE

Industries interersted in establishing oil shale facilities in western States have raised objections to the entire EPA nondegradation scheme. One of the objections raised was that such controls would not allow 8 to 10 oil shale plants to be located in close proximity to each other. If the industry assumptions of the technology to be used are correct, this may be true, but these points should be considered:

(1) The industry has not established the technology which would be used to process oil shale and has not done modelling as to the probable air quality impact of such technology; such modelling would be difficult since the choice of technology has not been made.

(2) Even if the projected "guess" of the Federal Energy Administration regarding the most probable "typical" oil shale facility is used, approximately two such facilities could be located at the same site in a Class II area, with similar clusters located 20 to 30 miles apart. (Task Force Report—Oil Shale, Project Independence, FEA, November 1974, p. 446)

(3) Air quality considerations seem to be less important in constraining oil shale development than factors such as uncertainty regarding technology, costs of processing, availability of water for processing, and the international price of oil and related fuels.

5. STEEL MILLS

Administrator Train, in a letter to Senator Muskie dated June 5, 1975, indicated that the Agency's projections of the air quality impact of an integrated steel mill presently being planned for Northern Indiana with a capacity of 2.3 million tons per year would increase the 24-hour particulate matter concentration by about 2 micrograms per cubic meter (under conditions which would result in the *highest* concentration for that plant).

Since the Class II increment allows 30 micrograms per cubic meter of particulate matter over a 24-hour period, this would allow considerable room for further development within the Class II increment if such a facility were built.

6. PETROLEUM REFINERIES

The Class II increment was designed to allow a petroleum refinery with the capacity of 150,000 barrels per day to be constructed without consuming the entire air pollution increment available. Industry data indicates that the average refinery is 100,000 barrels per day with the largest planned facility being 200,000 barrels per day.

7. THE QUESTION OF SIZE

The Class II increment raises considerable difficulty for the planned development of extremely large power plants (3000 megawatts and more in some cases) clustered closely around the energy resource to be used (principally mine-mouth power plants). The Class II area would not prohibit such plants completely, but would require either (1) a scale-down in the size of plants planned, (2) a reduction in the total number of such plants, (3) the development of substantial improvements in pollution control technology, (4) cleaning and preparation of the fuel or improved combustion, or (5) a combination of all of these.

Such limitations would restrict some growth. They could also lead to smaller plants. This would mean less of a "boom and bust" cycle for the region since the resource would be used at a slower rate and would sustain the production activity for a longer period of time. If pollution control technology were advanced as a result of the restrictions, then the total emissions from the facility over its lifetime could be substantially reduced in total. And recreation resources close to such facilities would remain viable tourist attractions.

8. INCREMENTS FOR CLASS I AND CLASS II

For reference, the increments allowed under the EPA regulations are included below. The second Table includes increments which would be suggested for other regulated pollutants should the Members decide to cover all regulated pollutants in such a classification scheme.

TABLE I.—EPA REGULATIONS

Pollitant	Class I (micrograms per cubic meter)	Class II (micrograms per cubic meter)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

TABLE II.—INCREMENTS FOR OTHER REGULATED POLLUTANTS

Pollutant	Class I	Class II
Nitrogen dioxide (ug/m^3):		
Annual geometric mean	1	9
24-hr maximum	3	60
3-hr maximum	15	400
Carbon monoxide (p.p.m.):		
8-hr maximum	0.2	2.5
1-hr maximum	1.0	19.0
Hydrocarbons: 3-hr maximum (ug/m^3)	16	50

Mr. MUSKIE. Second, the question that arises is whether or not the public interest requires something by way of protection beyond the primary and secondary standards.

The primary and secondary standards were devised as a way of cleaning up dirty air areas. They are minimal standards which recognize the practical limitations of restoring to their pristine condition the areas in which the health and public welfare requirements of the American people are not being met.

There is the attempt being made to use those standards which were designed as minimal standards for the dirty air areas of the country as adequate standards for the clean air areas of the country.

I can understand that that kind of rationalization could take place among people who do not understand the difference between the national primary and secondary standards and for those required in the national interest in the many clean areas of the country.

But, for those puzzled about that question, I ask unanimous consent that there be printed in the Record a letter dated October 10, 1975, from Russell Train, the Administrator of the EPA, in which he undertakes to outline the inadequacies of the national primary and secondary standards in terms of public interest.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Environmental
Protection Agency,
Washington, D.C., October 10, 1975.

Hon. Edmund S. Muskie,
Chairman, Subcommittee on Environmental Pollution, Committee on Public Works, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Your letter of June 6, 1975, requested comments on the adequacy of the Federal secondary ambient air quality standards. As you know, secondary standards have been set for carbon monoxide, hydrocarbons, photochemical oxidants, nitrogen dioxide, sulfur dioxide, and suspended particulate matter. The numeric values of these standards are summarized in the enclosed table.

For particulate matter, an annual mean concentration of 60 ug/m^3 and a mean 24 hour concentration of 150 ug/m^3 have been set as the secondary standard. Suspended particulates are known to have effects on vegetation, visibility, and manmade materials. At concentrations of 150 ug/m^3, visibility may be reduced to as low as five miles. The 24 hour standard was designed to prevent such deterioration. When annual concentrations exceed 60 ug/m^3, accelerated rates of corrosion of steel and zinc panels have been noted. The annual standard was set to avoid this type of damage.

There has been no new evidence to indicate that total suspended particulates, as a conglomerate, have any pronounced effect on public welfare below the levels of the existing secondary standards. However, recent advances in instrumentation and monitoring methodology permit more definitive effects investigations of fine particulates, trace elements, and heavy metal components of the total suspended particulate mix in the atmosphere. For example, specific work is in progress on the fate and effects of cadmium and lead on plant and soil systems. When evidence on components of total suspended particulate matter indicates the need for control action, appropriate controls will be instituted for specific substances.

The primary and secondary carbon monoxide standards are identical, based on health effects. This standard is designed to limit the level of carboxyhemoglobin in the blood of non-smokers to 1.5%. Increased cardiovascular difficulties among individuals suffering from atherosclerotic heart disease have been identified in relation to these levels of COHb. Plants are relatively insensitive to CO at the lower levels that have been found to be toxic to animals. Concentrations above 115 mg/m^3 are required to produce detrimental effects on certain higher plants. Evidence does not demonstrate an association between existing ambient levels of CO and adverse effects on other aspects of human welfare. It is therefore felt that this secondary standard is well established as protective of welfare and will not foreseeably need revision.

The standard for hydrocarbons was established for use as a guide in devising implementation plans to achieve oxidant standards. At the time the standards were set there was no known direct adverse effect on human health and only minor probability for plant damage to sensitive plants at the ambient levels. The standard was set as a guide for controlling photochemical oxidants, which do have an effect on health and welfare.

The primary and secondary standards for photochemical oxidants are also identical. Damage by the principal photochemical oxidant, ozone, has been noted on vegetation and manmade materials. Plant species vary in their sensitivity to ozone and other oxidants. Toxicity also varies with the composition of the oxidants. Injury has occurred experimentally in the most sensitive species after exposure to 60 ug/m^3 of ozone for 8 hours. Crop losses could occur as the result of planting genetically uniform, susceptible varieties. Therefore, the current standard, 160 ug/m^3 for one hour, may not protect all vegetation. Little is known regarding the tolerance of plants under field conditions. The presence of other pollutants and changes in environmental conditions may affect the tolerance of plants for photochemical oxidants.

Photochemical oxidants' effects on manmade materials center on the effects of ozone on elastomers and textile dyes. Many elastomers, including natural rubber, are chemically prone to oxidation and therefore, to ozone attack. Cracking of rubber has been noted at 40 ug/m^3. Background levels of naturally occurring ozone range up to 100 ug/m^3. Industry has developed antiozonant additives to protect rubber products against damage. Some important textile dyes, particularly certain blue dyes, used on acetate and polyester/cotton fabrics, and nylon carpets, are susceptible to fading during exposure to ozone. This effect may also occur at background level exposure. To prevent or mitigate fading by ozone, the textile industry must use more resistant dyes and/or inhibitors; these increase the cost of the item. The current secondary standard for photochemical oxidants appears to represent a level sufficient to prevent significant deleterious effects on welfare resulting from anthropogenic sources.

The primary and secondary standards for nitrogen dioxide are identical, being an annual concentration not exceeding 100 ug/m^3. NO$_2$ has been shown capable of producing acute damage to plants; however, the levels required are substantially above that of the standard. For example, reduced yields of navel oranges were encountered when exposed 470 ug/m^3 for eight months. The current standard appears protective of welfare against damage from direct exposure to atmospheric NO$_2$. NO$_2$ may also cause indirect damage to the extent that it contributes to the formation of the nitric acid in acid precipiation. Nitric acid constituted 24% of the acid in precipitation during 1972–1973 in the Eastern U.S.

The secondary standard for sulfur dioxide is set at 1300 ug/m^3, maximum three hour concentration, not to be exceeded more than once a year. This standard was set at the level necessary to protect sensitive species of plants such as maple trees, spinach, and sweet potatoes. Damage to those species has been noted at concentration levels of 2620 to 10,480 ug/m^3 over periods of ½ hour. No other welfare effects have been noted at concentrations lower than those causing damage to sensitive plants. Conclusive data are lacking on synergistic effects of sulfur oxides and other pollutants, but preliminary results of work being conducted at EPA's Corvallis Environmental Research Laboratory indicate that a sound basis for standards based on long term growth and processes effects caused by low concentration of sulfur oxides and ozone may be developed in the future.

The phenomenon of acid rainfall is of concern to this agency. A growing body of evidence suggests that acid rain may be responsible for substantial adverse effects on the public welfare. Such effects may include acidification of lakes, rivers, and groundwaters, with resultant damage to fish and other components of aquatic ecosystems, acidification and demineralization of soils, reduction of forest productivity, and damage to crops. These effects may be subject to cumulative build-up as a result of years of exposure to acidic precipitation, but some may also result from "peak" acidity episodes.

Unfortunately research into the acid rainfall problem is in its infancy. A brief evaluation of the research presented at the First International Symposium on Acid Precipitation is attached. The mechanism by which air pollution contributes to acid precipitation is poorly understood. At this time, we are unable to definitively link emissions in one area with more acidic precipitation in another. Further research is necessary to determine what pollutants and levels of those pollutants significantly contribute to acid rainfall, and to draw pollution emission relationships to environmental damage.

Considerable work, with good progress, has been underway for the past several years to establish a more meaningful basis for setting a comprehensive sulfur oxide, sulfate, and acid rain complex of standards which addresses the total problem of sulfur mass balance. It is anticipated that plant growth data closely approximating the effect of exposure to ambient levels will result from research efforts which apply probability models based on existing air quality data and which simulate the effects of acid precipitation on the soil and growth processes. These data will provide a sound basis for meaningful economic trade-off analyses.

It has been noted that a 24 state area of the Northeast (which has been identified as having suspended sulfate levels significantly higher than the rest of the nation) is almost identical with the area impacted by precipitation of pH 5 or less, i.e., precipitation which is highly acidic. Assuming that SO$_2$ is one of the more important agents in forming the regional acid precipitation, a dramatic increase in sulfuric acid-related precipitation over the next few years is not expected as trends in acid sulfate aerosol levels in this area are not expected to increase substantially.

In summary, as more data concerning long term accumulations becomes available, the secondary standards may need to be reevaluated to determine that they truly are protective of the public welfare. Future regulatory strategies will need to consider the synergistic effect of pollutant mixes, long term low level exposures, and the acid precipitation problem. Prior to modification of the current standards, a sound technical understanding is necessary of processes by which specific pollutants emitted are transported, converted in the atmosphere, interact with other pollutant, and inflict damage to welfare.

Sincerely yours,
Russell E. Train,
Administrator.

NATIONAL AMBIENT AIR QUALITY STANDARDS[a]

Pollutant	Averaging time	Primary standards[b]	Secondary standards[c]
Particulate matter[d].	Annual (geometric mean).	75 ug/m^3	60 ug/m^3.
	24-hr	260 ug/m^3	150 ug/m^3.
Sulfur dioxide	Annual (arithmetic mean).	80 ug/m^3 (0.03 p.p.m.)	
	24-hr	365 ug/m^3 (0.14 p.p.m.)	
	3-hr		1,300 ug/m^3. (0.5 p.p.m.)
Carbon monoxide.	8-hr	10 mg/m^3 (9 p.p.m.)	Same as primary.
	1-hr	40 mg/m^3 (35 p.p.m.)	
Photochemical oxidants[e].	1-hr	160 ug/m^3 (0.08 p.p.m.).	Do.
Hydrocarbons (non-methane)[f].	3-hr (6 to 9 a.m.)	160 ug/m^3 (0.24 p.p.m.).	Do.
Nitrogen dioxide[g]	Annual (arithmetic mean).	100 ug/m^3 (0.05 p.p.m.).	Do.

[a] All standards are specified as not to be exceeded more than once per year. The measurement methods are also specified as Federal reference methods. The air quality standards and a description of the reference methods were published on Apr. 30, 1971 in 42 CFR 410, recodified to 40 CFR 50 on Nov. 25, 1972.

[b] Set for protection of health.

[c] Set for the protection of welfare, which, in the words of the act "include but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visability, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well being. (sec. 302 (b)).

[d] The secondary annual standard (60 ug/m^3) is a guide to be used in assessing implementation plans to achieve the 24-hr secondary standard.

[e] Expressed as ozone by the Federal reference method.

[f] This NAAQS is for use as a guide in devising implementation plans to achieve oxidant standards.

[g] No Federal reference method currently in effect.

* * *

SUMMARY OF THE FIRST INTERNATIONAL SYMPOSIUM ON ACID PRECIPITATION AND THE FOREST ECOSYSTEM, OHIO STATE UNIVERSITY, MAY 12–15, 1975

1. The phenomenon of acid precipitation was well documented. The large majority of participants agreed that increases in sulfuric and nitric acid stemming from anthropogenic sources, are generally rseponsible for lowering the pH of rainwater, although other substances may also contribute.

2. Acidic precipitation is a pervasive local, regional and international problem. In this country, the entire northeastern quarter is affected including seemingly remote areas such as Hubbard Brook, New Hampshire. In addition, sub-regional areas throughout the United States are affected by local sources. The extent of the areas impacted by acidic precipitation is increasing.

3. The mechanisms by which sulfur is oxidized to sulfate are not well understood, and there are many competing theories. It is thus impossible, given the present state of the art, to relate emissions from one area to lower rainwater pH in another.

4. Ecological effects are very poorly understood. Many papers were speculating and and most experiments, either used unrealistic application of acid rain, or lacked adequate controls. It is thus currently impossible to evaluate the impact of acid precipitation on forests in any defensibe manner.

5. Increased soil acidity resulting from continual exposures to acid rainfall could have serious consequences in terms of increased leaching of plants nutrients and changes in the basic chemical properties of the soil systems. Concisely, many soil systems have tremendous differing capabilities. A good deal is known concerning the basic chemistry of these systems, but it appears that the potential application of available knowledge and expertise for predicting the magnitude of these effects has not been adequately utilized.

Mr. MUSKIE. It is on the basis of those kinds of analyses that the Committee arrived at the conclusions which are reflected in the Committee bill, and I have included them in the RECORD so Members can read them and understand, at the very least, that the Committee did not casually and arbitrarily pick some numbers out of the air to impose on the country.

Third, as I understand the amendment of the distinguished chairman of the Public Works Committee, what he undertakes to make clear is what I think the committee intended, that is, that the Commission established by the committee bill include in its studies the questions raised in connection with this nondegradation issue.

I think it is an appropriate clarification; it is an appropriate study. I think for the purpose of focusing the Senate's attention on the fact that the discussion of that very controversial issue has begun and that we are putting these matters in the RECORD for their information, that a rollcall vote at this point might be in order.

Mr. RANDOLPH. I want to have Senator Buckley, if I might, because I want to have it completely in accord, if possible. I am rather impressed, perhaps, that a rollcall would be in order.

Mr. BUCKLEY. Mr. President, I think it would very definitely be in order, in fact, a signal that we are coming into the area that has stirred up the greatest amount of controversy.

I believe the study recommended by the Senator from West Virginia (Mr. RANDOLPH) is one that has to be made, and it is, I think, entirely appropriate it be highlighted in the legislation authorizing the establishment of the commission.

So I would certainly join in asking for the yeas and nays.

Mr. RANDOLPH. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. MCINTYRE). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MOSS. Mr. President, is debate still in order on this amendment?

Mr. MUSKIE. Of course.

The PRESIDING OFFICER. Do some Senators seek recognition before we proceed to vote?

Mr. MOSS. Yes, I do.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. MOSS. Mr. President, a few minutes ago I engaged the Senator from West Virginia in colloquy about his amendment, at which time he was talking about it being an amendment to make a study of the effects of nondegradation or nondeterioration. The reason I engaged him in colloquy was to determine whether or not this study would go into effect after the bill became law and based on the terms of the bill.

He confirmed the fact that it would and that this would include, of course, section 6 which deals with this problem.

The thing that I want to bring to the attention of the Senate and the thing that we need to be concerned with is that if this amendment of the Senator is adopted and the Members of the Senate then say, "Well, we voted for a study," we have still not accomplished what we needed to do. That is, have the study before we had the nondegradation section in place.

I think the Senator from West Virginia himself discussed the fact that he recognized the futility of studying after the fact and then trying to undo something, as against withholding action until the study is completed and then taking the positive action to put in place whatever the study would indicate is acceptable.

Mr. President, the most controversial issue, as the Senator from Maine indicated, in this year's Clear Air Act amendments is the policy of nondeterioration proposed by section 6. If successfully enacted, this section would establish Federal law preventing the deterioration of air quality in those areas of the country with air quality better than that required under the National Ambient Air Quality Standards—NAAQS. I have introduced amendments which would delete section 6 from the bill and which would require a comprehensive study to be made over a period of 1 year. This study is for the purpose of thoroughly evaluating the economic impacts of the proposed nondeterioration policy. In order that my amendments might be seen in their true perspective, I wish to make several important points relative to their thrust and impact.

THE NONDETERIORATION ISSUE IS MORE ECONOMIC THAN ENVIRONMENTAL

I again state that the nondeterioration issue only involves areas of the Nation which have air quality better than that required by the national ambient primary standards—set to protect human health with an adequate margin of safety—and national ambient secondary standards—set to protect welfare, including damage to crops, and so forth.

Proponents of the nondeterioration provision of the bill claim that the ambient standards are not adequate to protect human health and welfare. If this is true, let them come forward with facts. If there are known risks we are needlessly taking, EPA is required under section 109 of the existing Clean Air Act to take steps to tighten these ambient standards. EPA has not taken such steps.

The health issue must therefore be viewed as relatively unimportant to those responsible for enforcing these standards. Why should additional standards be enacted if those already in effect are not being enforced? Proper administrative procedure surely requires that existing law be enforced before new law on the same subject increases the burden of enforcement.

The questionability of the health issue suggests that the overriding economic issue deserves greater attention than the environmental one. What will be the increased cost for utilities and goods and services? What will be the effect on the employment situation? What domestic natural resources will go undeveloped? What effect on social mobility? What effect on the relationship between Federal and State governments? What total price are we willing to pay for that last increment of clean air? I have no doubt that as our technology develops over the next several years, it will be possible to have pristine air without severe economic and social dislocations. This will come about with development of cleaner sources of energy. However, legislating "nondeterioration," now under the scheme provided in section 6 of this bill, is likely to cause much more severe damage to the total quality of life of our citizens, than any shortrun incremental air quality benefits it may provide.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. MOSS. I am happy to yield to the Senator from Virginia for a question.

Mr. WILLIAM L. SCOTT. I spoke briefly with the author of the amendment now before us. From my own analysis I take it that the amendment he has offered would not later preclude an amendment that I have, amendment 1617, which would strike the entire portion of the bill that deals with nondegradation.

Also, I have a separate amendment that is not printed which would provide that during the period of a study, whether it is the period provided in the original bill, the period provided by the distinguished Senator from West Virginia, or the period that is to be proposed by the distinguished Senator from Utah, the Sierra Club against Ruckelshaus holding would not be in effect; that we would not have the nondegradation policy during that period of time.

With that understanding I have no objection to the amendment of the distinguished Senator from West Virginia. Studying the matter, gathering more knowledge, is a good thing, but it is like referring something to a committee. I do not think we ought to be killing the amendment that I am going to propose and that the distinguished Senator from Utah is going to propose. I do not believe that is the intention of the distinguished Senator from West Virginia in making this proposal.

I intend to vote for the amendment of the distinguished Senator.

Mr. MOSS. I am happy to respond to the question of the Senator from Virginia as to why I feel this matter must be put in perspective now.

When my amendment was offered and circulated and began to get some attention, immediately thereafter the amendment of the Senator from West Virginia appeared. It took up the study part but did not suspend section 6. Immediately, I began to detect some feeling among Senators who said, "Well there is an easy way out, then. We just vote for the study part and we can say we voted to make the study, but section 6 would go into place." That is what I am concerned about.

Mr. WILLIAM L. SCOTT. Let me ask the distinguished Senator, is it his intention, or the intention of his amendment, to eliminate section 6? I have not read his amendment that way. Is it during the period of the study section 6 would be suspended?

Mr. MOSS. That is correct. Section 6 would not go into effect until after the study was completed. A decision is then made on what the effect of section 6 would be.

Mr. RANDOLPH. I am sorry, I do not believe the Senator from Utah means to say that.

Mr. MOSS. I am talking about my amendment.

Mr. RANDOLPH. I doubt he is really explaining exactly what his amendment does in that regard. I want to be very careful. I am not critical.

Mr. WILLIAM L. SCOTT. Mr. President, if the Senator will yield further, while his amendment would suspend section 6, it would not do anything to change the decision of the courts in Sierra Club against Ruckelshaus under which the EPA is making regulations. My amendment to the amendment that the distinguished Senator intends to offer would also hold that decision in abeyance during the time the study is under way.

Mr. MOSS. The amendment of the Senator goes a step beyond mine. My amendment does not have anything to do with the current law as it exists and and as it has been interpreted by the court. So Sierra Club against Ruckelshaus is still the law. My amendment simply says that section 6 of the bill which is before us will not be enacted and that there will be a study made of the nondeterioration issue. At that time we can then address that particular point.

The Senator would go even further than that, as I understand it, and say even the Ruckelshaus case is suspended, or the application of it.

Mr. WILLIAM L. SCOTT. I believe we are in agreement on this. Perhaps our discussion might well be postponed, or further discussion, until the distinguished Senator offers his amendment and I offer my substitute. Then I know we will want to go into depth on the matter.

Mr. RANDOLPH. Will the Senator yield.

Mr. MOSS. I am happy to yield to the Senator from West Virginia.

Mr. RANDOLPH. Briefly, I think the reason for the offering of my amendment was not that I was trying to have a catch-up amendment in any sense. I believe that the proposal I presented is the best way to make the study. Others may feel that the Senator from Utah (Mr. MOSS) or the Senator from Virginia (Mr. WILLIAM L. SCOTT) has a better methodology to do this.

I believe the amendment which is proposed by the Senator from Utah certainly does not affect the regulations that have been set forth by the Environmental Protection Agency on nondeterioration. I believe we have to think of the effect without a congressional statement of policy. That is what I am attempting to do here.

Mr. MUSKIE. Will the Senator yield on that point?

Mr. MOSS. I am happy to yield to the Senator from Maine.

Mr. MUSKIE. The easiest course for the committee to follow would have been to let the matter proceed through the courts; to let each of these cases be dealt with individually by the courts, and let case history build up the public policy.

We were pressured by industrial sources and by environmental groups to do something about setting a policy for clean air areas that would balance the requirements for economic growth against the need for environmental protection.

We did not greedily assume the authority to write new law. It was a 9-month process of balancing out these conflicting interests and trying to arrive at a balance. Now it is said that we have reached too far, that we have demanded too much, that we were unreasonable, and that a separate policy from that of national primary and secondary standards is not needed. Well, we spent 9 months of study on it and arrived at our conclusions, which the Senate will judge in due course.

What the Senator from West Virginia is advocating is to make clear what I think was clear anyway, that the learning process should be an ongoing one, and that it should be done through the structure of the commission which Senator RANDOLPH and Senator BAKER together proposed before the committee, and which we adopted.

Obviously its effect is not to bypass the Moss amendment.

Mr. RANDOLPH. That is right.

Mr. MUSKIE. We have agreed we would try to get to the Moss amendment tomorrow morning at 9 o'clock. This is not an attempt to bypass it or diminish the distinguished Senator's parliamentary prerogatives in that respect whatsoever.

I want to emphasize that it was simply for the purpose of rounding out what the committee had already done within the confines of the bill. I just want to make that clear. It is not a sneak attack.

Mr. MOSS. As I have indicated before, I certainly agree with the study feature. In fact, that is a part of my amendment, to mandate that the study go forward and give us the data.

As I listened to the Senator from West Virginia, that was the reason why I questioned him on the floor. I asked, "Do we suspend the new law in section 6 while the study goes forward?"

Of course, he answered no, that it made no change in that.

That is the thrust of my amendment, that if we do not study it first, we get locked into the statute, and it may be extremely difficult to change or get out of the statute if the study shows some contrary or unacceptable results that would come from that policy of nondeterioration.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MOSS. I agree with the Senator that the courts want Congress to speak, and if we say, "Yes, we are going to have this study and then we are going to speak," I think we have taken the initiative.

I would also like to say to the Senator and the chairman of the committee and all those who have worked on it that

I think most of that bill is excellent, and I think it is needed. I am not going to vote against the bill in toto. What I am concerned about is section 6, and that is what I want to zero in on, and see if I cannot persuade my colleagues that that should not be enacted until the study is made.

The reason why I feel I have to speak at this time on the Randolph amendment is that this sort of offers an out for some who would want to say, "Well, surely, I was for the study, I was for studying it," without realizing they have not done the other thing which is to suspend the section until the study is completed.

Mr. MUSKIE. I am sure the Senator will make clear that they have not done that.

Mr. MOSS. Well, if they were all here I would be happy to let it go at that.

Mr. MUSKIE. But with respect to the philosophical question the Senator has posed on nondegradation, if we had waited to write a regulation until all the uncertainties involved in this field of nondegradation were settled, we would not have written the 1967 law, and we would not have written the 1970 law. For example, when we wrote the automobile emission provisions of the 1970 act, it was said by the distinguished minority whip, the Senator from Michigan (Mr. GRIFFIN) that we were asking the automobile industry to do something that we conceded they did not know how to do at that point. That was the absolute truth. At that point they did not know how to do what we were requiring them to do in the 1970 law.

But let me ask the Members of the Senate two questions. If we had not imposed that requirement, would the automobile industry have done as much as it has done? And if it had not, then what condition would we face with respect to cleaning up auto emissions and auto pollutants? We would face an automobile population which has grown, an automobile population which would have contributed even more pollution to the environment.

But we reached the conclusion that the only way we would resolve the uncertainty with respect to public health was, in 1970, to ask the automobile industry to do something that at that point they did not know how to do.

They did not do all we asked them to do in 1970, so we have given them some delays, and this bill gives them some more delays. But whatever we have achieved, we have achieved because we have insisted upon a public standard that would move them in the right direction.

With respect to nondegradation, if there is anyone in this body who believes that national primary and secondary standards were ever advanced as a complete protection for the public health, let him stand up and say so. They were never advocated as the complete definition of what the public health required.

If there is anyone in this body who believes that the national primary and secondary standards are a complete definition of what the public interest requires, given all the uncertainties that have been stated over and over again in testimony before the committee, and about which EPA has warned us, let him stand up and say so, and document it.

No such case can be made, that the national primary and secondary standards are a complete, final, and ultimate definition of what the protection of the public health and welfare requires. If there is anyone who can prove otherwise then it is his duty and responsibility to say so and to document it and prove it on the Senate floor.

The committee has not taken either position and the two documents I put in the RECORD this morning, I think, are good explanations of the basis upon which the committee acted. We believe that the public interest requires some protection in addition to primary and secondary standards. We believe there is good reason for that conclusion, and we believe there is good documentation in the testimony before our committee to support that conclusion.

If you believe otherwise, if you are ready to discard all of the experts who point to the uncertainties and the need for further protection, particularly in clean air areas, then stand up and say so now.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. MUSKIE. If I may finish this thought.

The Senator from Utah says that if we put this policy in place and the studies indicate that the policy goes too far, that we cannot recoup the ground that we have lost—presumably ground that we have lost in terms of unrestrained economic growth.

Does anyone really believe that? Let me put it the other way: If we do not do something like this to protect cleaner air, and we put in place economic growth that runs counter to the public interest requirements of the country, then that cleanup becomes enormously expensive.

The Senators from Nevada are advocating an amendment to grandfather in one smelting plant. Why is that smelting plant a problem? Because it is in there, with jobs, hardware—a plant representing an enormous investment, that cannot be retrofitted with pollution control equipment from any economic standpoint.

So now the advocates, or those who want to wait, are saying, "Let us not worry about what it costs to retrofit whatever we put in place, but we will all replenish our equipment between now and sometime in the future. Let us go ahead, and not worry about that."

All of our problems in the dirty air area of this country stem from the fact that we have not given a damn as we went along. We have put these facilities, communities, plants, and transportation modes into place without ever considering what they were doing to the air blankets that surround this globe. Now we are finding it almost a Herculean task to clean them up.

Those who oppose the nondegradation provisions of this bill are saying:

> Let's do it the same way in the clean air areas of the country. Let's build new Augean stables in the clean air areas of the country and worry about cleaning them up only if some more studies tell us that in some way we did not mean what we did not intend. You know, we violated the public interest that we were not able to perceive in the midsummer of 1976.

Now those are the choices. I mean, obviously a policy we make is going to be in place until we change it. But which course creates the greatest potential for irrevocability? One choice imposes a very mild kind of restraint, as we will document when we get in full discussion of the nondegradation issue, a very mild kind of restraint on economic growth in clean air areas. Or we can choose a policy which says:

> Go into these areas, wherever you want to, build plants, invest hundreds of millions or even billions of dollars, and we will worry about whether or not you are defiling the atmosphere in unacceptable ways after we have studied it some more.

Those are the two choices.

The committee has made its choice. We have taken counts. It is a close issue in this Senate. In a time of recession and economic adversity all you have to do is put the label of jobs or energy on an environmental policy, and the votes flock to your banner.

But I am telling Senators that the committee was as concerned with the economic arguments that are being raised, the uncertainties of the future, and the difficulty of fashioning a policy that works without stepping on anyone's toes, as any Member of the Senate.

I think the product that was finally produced, even though I did not approve every block that was put in it—I mean I did not vote for everything that went into this nondegradation policy—was the product of discussion and deliberation by nearly a unanimous attendance of committee members over a 9-month period. I felt it was about as representative a view of what the Senate, as a whole, would do if it were exposed to the same facts, arguments, and analyses, that could be devised.

And it was for that reason, and that reason only, that I agreed to floor manage this bill. There has not been an environmental bill out of the Committee on Public Works in 13 years that I came as close to opposing as this one. But I agreed to floor manage it because I had confidence in the good sense, intentions, motivations, and the capacity to make judgments of my colleagues on the committee. This is, after all, a representative body, and I do not know of any issue in all the years that I have worked on committees in the Senate which has been given more intelligent, comprehensive, and time-consuming attention by the members of a committee as this nondegradation policy.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. MUSKIE. I did not intend to say that at this time, and I shall be happy to engage in full debate on nondegradation at this time, but because of some of the points that the Senator from Utah made, it seemed to me important to make some kind of response.

Mr. MOSS. I appreciate the response of the Senator from Maine, and I may say he has brought to the Chamber his full talents in managing this bill which he said he came very close to not supporting. I do not know. If he threw his heart into one he really believed in, I think he could sweep the floor entirely and not lose a vote.

Mr. MUSKIE. I do not know. I have been losing recently on the floor.

Mr. MOSS. But as the Senator pointed out himself, the law is now in place anyway, and Sierra Club against Ruckelshaus is the law of the land now on degradation and much is in place. I believe the Senator knows we have to move ahead, but I am not one that likes to run and jump over the cliff and then look back up and say:

> I really should not have jumped over that; I should have looked down first to see where those rocks were.

That is what I am trying to get through here.

I do not deny that the subcommittee held hearings on the Clean Air Act. But the official four-volume record of the subcommittee hearings does not support the allegation that the nondeterioration policy was aired fully during these hearings. Those witnesses who did address the issue of nondeterioration did so only in the broadest philosophical terms and in complete ignorance of the specific proposal for amending that policy.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. MUSKIE. If the Senator will look at the transcript of the committee markups, I think he will find a much more extensive discussion of nondegradation supplementing that in the form of hearings.

Mr. MOSS. I agree.

Mr. MUSKIE. All of the markups were held in open session. We had 48 of them. All of those who are interested in the act, the environmentalists, the industrial groups, the Chamber of Commerce, were well represented, I assure the Senator. I cannot remember one of those sessions that was not fully represented in attendance. We discussed these issues openly. We sought additional information from EPA and, when we received it, we disclosed it in open session. So the learning process both for the committee and for those affected by the committee's conclusions, went on beyond the formal hearings. The transcript is there. I assure the Senator that there is a considerable amount of information. May I say this, second, that we produced several committee prints.

Mr. RANDOLPH. And widely distributed them.

Mr. MUSKIE. They were widely distributed.

Before we recessed in August last year we deliberately approved a committee print on nondegradation which we ourselves had not yet finally digested so that it might be distributed broadly around the country for the purpose of indicating to interested groups the directions we were exploring for decisionmaking.

I must say that I have misgivings about doing that sort of thing again because industrial groups all over this country distorted what we had done, advertised the committee print as the final product of committee deliberation, distorted its implications and in every way possible built the propaganda barrage that has never ceased since, to try to undermine the committee work. As a matter of fact, analyses that I read today of what is in this bill for nondegradation are addressed to that committee print of last July which the committee itself rejected months ago. So I am not sure that kind of information and educational process necessarily serves the interest of those who become subsequent critics.

Mr. MOSS. Is it not a fact that several members of the subcommittee expressed serious reservations about the wisdom of adopting sweeping nondeterioration legislation without the benefits of hearings on its specific provisions in the markup sessions? The Senator held I know months of them.

Mr. MUSKIE. There were so many disagreements voiced on various aspects of the bill during the 48 markup sessions over 9 months that I do not know that I can characterize any one of them in those terms. I disagreed with some propositions here. But we have to write a bill, and now we are being told by the administration that we ought to ditch all of the bill except that part of it dealing with auto emissions because of the time involved. So we have certainly used the time. I think we have used it in a way that has been informational and educational. We had a virtually unanimous vote from the committee to report this bill, but I am not sure about Senator HART. Senator HART dissented. Senator HART was the only one to dissent. But the remainder of the committee voted unanimously to report the bill in the form which is before the Senate.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. BUCKLEY. I point out that what we have agreed upon represents, in substance, a codification of the regulations now in place.

Yes, there were questions about the effect of doing this. But we felt that we would be far better off, that the environment was better off, that business was better off, by stabilizing the ground rules, rather than relying on court decisions, with the delays that result from litigation, and on regulations, in the absence of specific congressional direction. The results of this Air Quality Commission study we have mandated will examine the kind of issues that are raised by the Senator from Utah, but they will not be solved or resolved by his amendment.

Mr. MUSKIE. I say, in all fairness to Senator HART, who wanted me to do so, that he did not vote against the bill because it was too tough. He voted against it because it was too lenient, in his view, in some respects.

Second, his objections were not raised to this particular issue but another one. I just want the record to reflect accurately his position.

Mr. STONE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOSS. I yield.

Mr. STONE. Mr. President, I ask unanimous consent that Bruce Rowan, of my staff, have the privilege of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. RANDOLPH. Mr. President, I think this has been clarifying and helpful.

I do not anticipate that I will have the agreement of the Senator from Utah, but there is nothing in this amendment that does violence to the approach that he will take. He will bring up his amendment, and it will be discussed further. Members will make that decision. The same will be addressed by the Senator from Virginia (Mr. WILLIAM L. SCOTT) in a different way.

Let us have those matters stand by themselves, because what we are doing here, I feel, is proper. If the Senator cannot support the amendment, I will understand. We have asked for the yeas and nays, and I hope we can have a vote on the amendment as I have presented it. I trust that we will be given an opportunity then to work the will of the Senate on matters that are brought to our attention.

Mr. WILLIAM L. SCOTT. Mr. President, I agree completely with what the distinguished Senator has said. I have the foundation for my amendment, which I have been trying to offer for some time. I believe the time for discussion of a number of these amendments is at a later date, when we can formulate them.

Mr. BUCKLEY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOSS. I yield.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that Miss Jacqueline Schaeffer, of the staff of the Committee on Public Works, be granted the privilege of the floor during the discussion of this bill and during votes on any amendments offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOSS. I yield.

Mr. McCLURE. Mr. President, I ask unanimous consent that Bob Sindt, of Senator HRUSKA's staff, have the privilege of the floor during the discussion of this bill and during votes on any amendments offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I appreciate the contribution of my colleagues and especially the discussion of the chairman of the subcommittee.

My position is that I think we are proceeding in the wrong sequence on the amendments we are talking about. The amendment of the Senator from Virginia is perhaps the most extreme, to use a designation; next, perhaps, is mine; and finally comes the amendment of the Senator from West Virginia.

The normal way to proceed is to decide whether we want to go the whole way and even suspend the Ruckelshaus law, or whether we want to go halfway and just take out section 6 until this study is made, or whether to leave section 6 in and go with the Senator from West Virginia and simply put the bill in place and then do the study.

What I am concerned about is that we are in the reverse order. Everybody probably should vote for the study. Hardly anybody could object to a study, if it is done with alacrity and efficiency. But, having done that, they are less likely to consider suspending application of part of the bill until the study is over, and even less likely to suspend the law of Sierra Club against Ruckelshaus.

If I could get that worked out so that our voting could come in that kind of sequence, I would be perfectly happy to do it. If we could agree to have this presented and have the voting in that sequence, it would suit me.

Mr. RANDOLPH. Mr. President, I will insist on having the yeas and nays on the amendment I have offered.

The PRESIDING OFFICER. The yeas and nays have been ordered.

AMENDMENT NO. 1599

Mr. MOSS. Mr. President, I therefore offer my amendment as a substitute for the Randolph amendment, amendment No. 1599.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. Moss) proposes an amendment numbered 1599.

The amendment is as follows:

Section 37 is amended as follows:

"SEC. 37. Section 315(d) (redesignated as 315(f) by the foregoing amendment) is further amended by changing the reference to 'section (a)(3)' to 'section (a)(4)', by striking everything after 'March 1, 1977,' and by inserting in lieu thereof 'and the results of the investigation and study concerning section (a)(1) of this section no later than one year after the date of enactment of the Clean Air Act Amendments of 1976'.".

As amended section 315(f) would provide as follows:

"(f) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning section (a)(4) of this section no later than March 1, 1977, and the results of the investigation and study concerning section (a)(1) of this section no later than one year after the date of enactment of the Clean Air Act Amendments of 1976.".

The PRESIDING OFFICER. The amendment is not drafted as a substitute and therefore is not in order.

Mr. MOSS. Therefore, I will discuss the Randolph amendment for the next couple of hours.

Mr. President, I am at a loss to explain why some of my colleagues find my amendments to be so controversial. What do the amendments entail that is so hard to accept? Their basic thrust is very simple. They provide an opportunity to examine comprehensively and objectively, before we act, a major Federal policy which may or may not be necessary or desirable. Closing our eyes to the lack of hard information will not make the controversy go away. Enacting a rather arbitrary set of air quality standards for each section of the country without demonstrated health and welfare benefits, does not relieve us of our obligation to represent the total welfare of our cities and our economy. We cannot pursue a policy just because it is touted as an important environmental issue. More is required.

Proponents of the nondeterioration policy argue that the time for study is over and that the time for implementation has arrived. This argument might have merit if it were not for the fact that the results of studies thus far completed vary so significantly in their prescriptions for future action. Undoubtedly, this variance results from the piecemeal approach which has hallmarked past efforts. Not a single study completed to date has taken into account all the relevant factors—economic, social, environmental—that will provide the necessary information for a final decision on this important subject. Every Federal agency I have contacted, with the exception of EPA, has replied that more information must be made available before any meaningful decision can be made. The President has also expressed grave concern about the negative economic effects which the policy of nondeterioration could have. Even EPA has inadvertently supported my position by their recent suggestion that perhaps a class III with guaranteed potential for industrial expansion is necessary after all.

EXISTING UNKNOWNS OF THE NONDETERIORATION POLICY

Even my opponents will admit that some issues relative to nondeterioration have received insufficient attention. My concern is that the list of these issues is so very long. The list of unknowns includes at least the following:

First. Where are the "clear air areas?"

Second. What are the "baseline" concentrations of pollutants in such areas?

Third. How many facilities can be sited in a particular given area taking into account other sources not requiring permits which will be attracted by the major industrial emitting facilities?

Fourth. What are the "air quality related values" mentioned in section 6 which the Federal land manager has an "affirmative responsibility to protect?"

Fifth. Where are the areas most likely to be designated as national parks and national wilderness areas in the future?

Sixth. What natural resources are located in areas which would be severely restricted from development because of their locations in, or proximity to, Class I areas?

Seventh. What will be the cost in terms of lost tax revenues, payroll, and jobs as a result of implementation of this policy for each State?

Eighth. If development under this policy is virtually unlimited, as EPA suggests, why do we need to implement it at all?

Ninth. What are the current population trends in the country; are more people moving toward the areas which would be most severely impacted?

Tenth. If we are protecting more than esthetic values by implementation of this policy, and in fact, we are protecting health and welfare, why have not the national ambient air standards been adjusted?

Eleventh. If nondeterioration cannot be related to the protection of health and welfare, does Congress have jurisdiction to implement this policy at all?

THE STATE/FEDERAL PROBLEM REGARDING CLEAN AIR LEGISLATION

The supporters of nondeterioration give as one of the primary reasons for their support the provision in S. 3219 for a greater degree of discretionary decisionmaking by the States. They argue that the bill's rendering of the State's administrative role is more flexible than current EPA regulations, which incidentally would remain in effect if my amendments are adopted. I believe that these current regulations, imperfect though they may be, do provide for significantly greater industrial growth than the new provisions called for by S. 3219.

Comparing administrative regulations with specific statutes is like comparing apples to oranges. Administrative rules are always more flexible than statutes because of the comparative ease with which they can be changed. EPA regulations can be promulgated, modified or revoked without congressional action, assuming, of course, that they comport with legislative intent. However, once Congress has enacted the specifics of a nondeterioration policy, neither a State nor EPA has the authority to modify such specifics—for example, mandatory area classifications and incremental ceilings on pollutants. It can only be done by another act of Congress.

Much has been said about the authority of the Federal Government under the EPA regulations to classify virtually any lands as class I. However, only the State can initiate procedures to reclassify non-Federal lands as class I—or class III—and then only after a hearing procedure which takes into account, first, growth anticipated in the area; second, the social, environmental, and economic effects of redesignation; and, third, any impacts of redesignation upon regional or national interests. If a Federal land manager proposes to reclassify Federal lands to a more restrictive classification, he must follow the same procedure.

Under the bill, States may reclassify lands as class I without following any specified procedures. This certainly gives the States flexibility, but only to implement a restrictive Federal policy without procedural protections for those adversely affected.

The ultimate flexibility under the EPA regulations is that they permit classification of areas as class III which would allow industrial development up to the national ambient standards. The bill only allows class I and class II designations, both of which permit much less development.

Under existing EPA regulations, the States may assume all of the responsibility for determining where a proposed facility may be sited; that is, placed. Hence, the Federal Government need not become involved except where the State proposes to reclassify an area. Under the bill, the Federal land manager has an "affirmative responsibility" to protect "the air quality related values"—whatever they are—of class I areas, and can, in effect, veto the granting of a permit for a facility which may be miles from a class I area, until the operator proves that there will be no adverse impact on these undefined values.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield some time to me, with the understanding that there will be no interruption in his remarks, so that I might make a statement with regard to nondegradation?

Mr. MOSS. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator from Utah's yielding. I regret that I need to make my statement while an amendment by the distinguished Senator from West Virginia is pending, but it is my understanding that we only have until 2 o'clock on the Clean Air Act and then we go back to other legislation. I did want to lay the foundation for an amendment that I shall offer tomorrow or the next day, amendment No. 1617.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of this amendment: Mr. Curtis, Mr. Fannin, Mr. Eastland, Mr. Helms, Mr. Thurmond, Mr. Goldwater, and Mr. Garn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, the Clean Air Act amendments that are now before us are a very comprehensive measure. The bill itself contains 91 pages. The Senate committee report contains 231 pages, and the subject matter is very complex, representing not only an extension of the 1970 act, but a number of revisions and extensions, expansions of Federal control over transportation, auto emission standards, and air quality generally.

I was privileged at one time to serve on the Committee on Public Works, but this is no longer true. I do not intend to discuss the bill generally, but to limit my remarks primarily to the nondegradation portion that is, for the most part, on pages 11 through 20 of the committee bill.

As Senators in the Nation's highest legislative or policymaking body, we should not take a myopic or tunnel vision of legislative proposals. In my opinion we have an obligation to consider the overall welfare of the country and its citizens. Will this bill add inflationary pressures to our economy? Will it require additional paperwork for both the Government and the businessman? Will it delay or prevent the construction of new plants, new industries, new jobs? Will it magnify our energy shortages or further restrict the use of coal, our most abundant fossil fuel? Will it handicap the Nation in expanding the economy and result in no growth or stagnation in many parts of the country? I know that the Senate Public Works Committee has worked long and hard to report out a bill and that the House Interstate and Foreign Commerce Committee spent a year considering a similar measure. But we should still consider whether passage of this bill in its present form is in the national interest.

The phrase "clean air" has a good ring to it. Everyone wants a clean and wholesome environment. Polluted air can have a detrimental effect upon our health and welfare. My concern is that we be reasonable in our approach to the problem.

I would like to share an editorial from the Richmond Times-Dispatch which was written several months ago when this bill was originally reported from the committee. I ask unanimous consent, Mr. President, that it be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Clean Air Bill

Seemingly acting on the assumption that man can live by clean air alone, the Senate Public Works Committee has reported a package of environmental proposals that could result in the economic paralysis of vast areas of this nation. These measures could impede economic development almost everywhere and halt industrial growth altogether in some sections, inevitably increasing unemployment and eroding the standard of living of countless Americans. Moreover, the proposals would thrust the power and authority of the federal government into some areas of concern that historically have been the provinces of state and local governments—and should remain so.

Called the "Clean Air Amendments of 1976," the committee's recommendations constitute a frightening monument to the destructive capabilities of unbridled zealotry. The objective—to protect the public from polluted air—is noble but the suggested means of attaining it are fanatically extreme and dangerous. Consider these prominent features:

(1) There could be in the future "no significant deterioration" in the quality of the air of any region whose air is now *better* than the national standards maintained by the federal Environmental Protection Agency. Such clean air areas would be officially identified, and the federal government could restrict—or *prevent*—economic or industrial growth within them, no matter how essential growth might be to the area's economic health. Obviously this would constitute a usurpation of the land use control powers traditionally exercised by state and local governments.

(2) Since shopping centers, apartment buildings and office complexes tend to generate automobile traffic, which is a source of pollution, the federal government apparently could control the location and construction of such facilities. More federal land use regulation.

(3) National parks and wilderness areas would be protected from air pollution not only from sources within their boundaries but also from outside sources close enough to affect their air. This would permit the federal government to designate buffer zones in which economic and industrial development could be restricted or prohibited. Still *more* federal land use control.

(4) Localities would be required to develop transportation plans designed to curtail the use of the automobile. Communities that failed to develop plans satisfactory to the EPA might lose all federal aid funds for their pollution control programs, including that money used for the construction of sewage treatment plants.

There is more to the committee's horrendous clean air plan, but these illustrations will suffice to show how irrational and dangerous it is. Clean air is desirable, of course, but man does *not* live by clean air alone. He needs bread, shelter and transportation, which means there will be a continuing need for new industries, new power plants, new apartment buildings, new shopping and office complexes and automobiles. To make the development and regulation of such facilities contingent upon a central federal bureaucracy's concept of what constitutes acceptable air quality, regardless of peculiar local needs and desires, would be incredibly impractical as well as philosophically repugnant.

Virginia Sen. William L. Scott has vowed to take a "leading role" in fighting the amendments. Gov. Mills E. Godwin Jr. opposes them and says that Virginia may challenge their constitutionality if they become law. Other governors reportedly are also unhappy. The Senate, we hope, will heed these objections and reject the commitee's proposals.

Mr. WILLIAM L. SCOTT. You will note, Mr. President, the editorial begins by indicating the committee apparently assumes that man can live by clean air alone but this proposal will paralyze vast areas of the Nation, that it could impede economic development almost everywhere and halt economic growth altogether in some sections, inevitably increasing unemployment and eroding our standard of living. Moreover, the editorial continues, the bill would thrust the power and authority of the Federal Government into areas that have been historically the province of State and local governments and should remain so.

The editorial suggests that the bill constitutes a frightening monument to the destructive capabilities of unbridled zealotry and that in its efforts to protect the public, the committee bill is fanatically extreme and dangerous. As examples it cites the "no significant deterioration" portion for which I have an amendment to propose. It also refers to the Federal Government controlling the location and construction of shopping centers, apartment buildings, and office complexes by its right to control automobile traffic; its right to control buffer zones near national parks and wilderness areas, and to require localities to develop transportation plans designed to curtail the use of automobiles.

The editor states that in addition to clean air man needs bread, shelter, and transportation—that there will be a continuing need for new industry, new powerplants, office complexes, shopping centers, apartment buildings, and automobiles.

Mr. President, I am sure everyone in this Chamber is proud of our country and deeply appreciative of God's grace in permitting us to be born in a land with such abundant resources providing the high standard of living we all enjoy. Businessmen, however, in recent years have been complaining, as has the general public, of Government excesses, too much paperwork, OSHA regulations.

Somewhere we have to stop this concept of Government regulations which could lead to the destruction of the American free enterprise system as we have known it over the years. One of our great chief justices once referred to the taxing power by saying the power to tax is the power to destroy and I believe this could very well be paraphrased to indicate the power to regulate is the power to destroy. Many of these proposals that come before us are well intentioned. Who could be against clean air? That is what we breathe but we also wear clothes which have to be manufactured. We eat food that has to be grown and processed. We live in houses that must be constructed out of material manfactured by commercial enterprise and, yes, we drive automobiles that enable us to get to our place of employment, as well as to take us on vacations and to help us enjoy our leisure time.

Yesterday the Wall Street Journal had an interesting editorial entitled, "Senator Muskie's No-Growth Bill," in which it reviewed a number of provisions of the measure before us and made this statement:

> What Congress should really do, though, is simply accept the amendment of Sen. William Scott of Virginia, who would strike the "no significant deterioration" approach and return to the actual intent of the 1970 act, which was to set national air quality standards that apply uniformly. President Ford more or less has endorsed the Scott amendment "in view of the potentially disastrous effects on unemployment and on energy development . . . until sufficient information concerning final impact can be gathered."

I ask unanimous consent, Mr. President, that this editorial be printed in its entirety at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, July 26, 1976]

Senator Muskie's No-Growth Bill

Imagine that Congress passes a law, and an appropriate agency issues a regulation, that prohibits adult male Americans from weighing more than 200 lbs., on the grounds that excessive weight is both unhealthy and unattractive.

Then imagine the little people's lobby wins a federal court ruling that even skinny teenagers weighing 120 lbs. aren't allowed to add any significant weight, on the grounds that this is what Congress seemed to have intended when it passed the law.

Imagine further the outrage of those who think the court ruling to be nonsense—because it bears no relation to either health or attractiveness, and in error—because Congress didn't intend to starve skinny teenagers when it passed the legislation.

The original author of the legislation then steps forward and says "Yes, indeed, I did have in the back of my mind freezing all Americans at their present weight, except for a pound or two for special cases that will be considered by federal bureaucrats. And to clear up any doubt, we're going to write the federal court ruling into the law."

All of the above is a rough approximation of what has happened since the Clean Air Act was passed in 1970. The legislation established national air quality standards, formulated by the Environmental Protection Agency based on health and ambient findings. The federal courts ruled that "no significant deterioration" of air quality could be permitted, even in those areas well within the standards. And now Senator Muskie, author of the 1970 Act, spurred by the no-growth lobby, wants to write into the law what the federal courts have already said is in the law.

The Senate is scheduled to debate the issue this week, and if common sense is to prevail, the very least it will do is accept the approach of Sen. Frank Moss of Utah, who wants to postpone for a year the engraving into stone of Mr. Muskie's "no significant deterioration" provision. Mr. Moss, whose state is the economic equivalent of our skinny teenager, proposes that a special commission evaluate the economic impact of the Muskie approach during this waiting period.

What Congress should really do, though, is simply accept the amendment of Sen. William Scott of Virginia, who would strike the "no significant deterioration" approach and return to the actual intent of the 1970 Act, which was to set national air quality standards that apply uniformly. President Ford more or less has endorsed the Scott amendment "in view of the potentially disastrous effects on unemployment and on energy development . . . until sufficient information concerning final impact can be gathered."

There is no national air quality standard, after all, when Congress gives the EPA bureaucrats the power to decide what the standard should be in northeastern Utah and what it should be in southwestern Tennessee. There would be varying classes of land, a "pristine" class where no deterioration would be permitted and others where some incremental deterioration would be allowed to accommodate economic expansion. There also will be gray areas, the buffer zones around the pristine areas, the sizes of which haven't been determined. If the buffer strips turn out to be 50 or 100 miles wide, there would be only nooks and crannies left in the country for major economic expansion.

To the browbeaten American businessman and industrialist, criticized for not creating jobs fast enough because they're too much concerned with profit, Senator Muskie's bill is an unnecessary nontariff barrier to trade. It legislates confusion as the chief means of cleaning up the air.

Whatever happened to the original idea, setting a tough federal standard that would provide for the nation's health to a reasonable degree, leaving to the states the option of enacting tighter standards if their citizens so desire? No doubt it was too simple and straightforward an approach for Washington to adhere to. Not enough red tape. Not enough confusion. Not enough bureaucracy.

The way things are going on the Clean Air Act there will be plenty of all those things. And whatever happens to the air, the Muskie proposal can certainly bring about "a significant deterioration" in local economies. That too, over time, can bring about a situation that is "unhealthy and unattractive."

Mr. WILLIAM L. SCOTT. I believe the parenthetical question raised toward the end of the editorial is worthy of note. It asks:

> Whatever happened to the original idea, setting a tough federal standard that would provide, for the nation's health to a reasonable degree, leaving to the states the option of enacting tighter standards if their citizens so desire? No doubt it was too simple and straightforward an approach for Washington to adhere to. Not enough red tape. Not enough confusion. Not enough bureaucracy.

A few minutes ago, Mr. President, the distinguished Senator from Maine inserted in the Record some correspondence from Russell Train, the Administrator of the Environmental Protection Agency, and he indicated that this said the primary and secondary standards were not enough. Well, Mr. Train or the Environmental Protection Agency are the ones who set the standards under the broad guidelines that were set up by Congress, and Mr. Train can change them if he does not think they are strong enough.

Mr. President, I have before me an editorial of today's date in the Lynchburg, Va., The News, and it refers to this measure as being "a clear disaster." I ask unanimous consent that this editorial be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

A Clear Disaster

The U.S. Senate is about ready to vote on several amendments to the Clean Air Act of 1970 which will give the Environmental Protection Agency the ultimate authority to determine whether Lynchburg—or any other locality in the country—can build any more shopping centers or industries. The amendments constitute a "no-growth" policy in that they will prohibit construction of any project which threatens to increase air pollution, period.

Senator William L. Scott of Virginia has taken a leading role in opposing the economically destructive consequences of the amendments by striking from them the requirements that "no significant deterioration" of air standards can be permitted. If this requirement stands, it is difficult to see how Lynchburg would be permitted to authorize any new industries, or businesses, or even expand significantly any existing ones. This is because, aside from whatever pollution the EPA considered the new projects to produce, they also attract large numbers of workers who use automobiles to travel to and from work—and automobiles are a leading cause of air pollution.

The 1970 Clean Air Act prohibited the construction of major industrial sources that might significantly pollute the air in so-called "nonattainment" areas—areas where the standards are already being violated. This includes most industralized regions in the country. The amendments now before the Senate go further: they provide that there shall be "no significant deterioration" in the quality of air of any region whose air is better than the national standards set by the EPA. These clean air areas will be officially identified and the Federal Government given the authority to restrict economic or industrial growth within them.

The Hampton Roads Energy Company has been trying for two years now to construct a $350 million oil refinery and marine terminal in Portsmouth. The EPA has declared the refinery environmentally unacceptable because the photochemical oxidant (ozone) standards in Virginia are in violation of the national standards established by the 1970 Act. The EPA decision, in effect, constitutes a no-growth policy on the entire East coast because the coast constantly registers ozone concentrations higher than the national standard.

The Hampton Roads company has spent two years and over $6 million on the refinery plans. The EPA decision imperils 3,000 construction jobs, 500 permanent employees and 2,500 related jobs, not to mention the tax benefits to state and local governments. The decision also blocks the nation's attempts to provide more energy at a time when it is increasingly dependent upon foreign sources.

A no-growth policy is nonsense on its face because the population of the country continues to expand at an alarming rate. More people require more jobs, more housing, more of the necessities and luxuries of life. All of these require construction, manufacturing, transporting, retailing. We must improve the quality of the air we breathe, and we can while accommodating the millions of new Americans being added to the nation each year. We cannot accommodate them, however, by restricting industrial, manufacturing, and energy growth which their increasing numbers demand.

Senator Scott's attempt to delete the "no significant deterioration" provision has been endorsed by President Ford who has urged the Senate to "preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered." Lined up against them, in support of the no-growth policy at a time when the nation is beginning to recover from the recession brought about by inflation caused by government spending and the Vietnam war, are the liberal Democrats who control the Senate. The odds are against the Senator and the President, but they haven't backed off, and Scott intends to press the issue to a vote—which would put the liberals on record in favor of no-growth if they prevail.

While the economic consequences would be disastrous, the political damage would be even more so. This is because the amendments will give the Federal Government ultimate control over all major construction in the country. Nothing could be built without Federal approval anywhere, any time, and the Feds would also be given final approval power over how anything could be built if it involves large numbers of people using automobiles. Moreover, localities will be required to develop transportation plans designed to curtail use of automobiles. If they fail to come up with plans satisfactory to the EPA, they may lose all Federal aid for their pollution control programs, including the construction of sewage treatment plants.

These "amendments" in effect constitute a Federal land use control act and control over the economic and industrial development of the nation. The "no significant deterioration" amendment may improve the quality of the air we breathe, but it surely will limit the amount of food we eat, the number of jobs available, the amount of housing that can be built. It will, by deciding what can be built and where, determine where we work and live, and how we travel. As such, it is one of the most destructive bills ever to come before the Congress—and the liberals think it is just great.

(At this point, Mr. BUMPERS assumed the chair.)

Mr. WILLIAM L. SCOTT. The closing paragraph of the editorial states:

> These "amendments" in effect constitute a Federal land use control act and control over the economic and industrial development of the nation. The "no significant deterioration" amendment *may* improve the quality of the air we breathe, but it surely will limit the amount of food we eat, the number of jobs available, the amount of housing that can be built. It will, by deciding what can be built and where, determine where we work and live, and how we travel. As such, it is one of the most destructive bills ever to come before the Congress—and the liberals think it is just great.

The way things are going on the Clean Air Act there will be plenty of all of these things, and whatever happens to the air, the Muskie proposal can certainly bring about a significant deterioration in local economies.

That too, over time, can bring about a situation that is "unhealthy and unattractive."

I hope each of us will think carefully about the desirability of maintaining the health of our economy that must continue to grow and develop to remain prosperous, of an economy created by the intiative of free Americans attempting to provide for themselves and their families through their own efforts. I know that some may say that I am overly concerned about the nondegradation provision of this bill but, Mr. President, we have a valley in Virginia paralleling the Skyline Drive and the Blue Ridge Parkway adjacent to the Shenandoah National Park, George Washington National Forest, Jefferson National Forest, and smaller parks and forest land areas. These parkways, parks, and forests add materially to the enjoyment of life of not only Virginians but people from numerous parts of the country. I have enjoyed the opportunity offered to relax in these areas, as many of us have at one time or another, but we have gotten there in our automobiles and we have been able to afford to drive there because of business and industry. We want the parks and forests but we also want to retain a healthy economy and a high standard of living that will permit us to enjoy our leisure hours in facilities such as these.

The concern of the people in the valley is illustrated by an editorial in the July 20 edition of the Staunton Leader. I ask unanimous consent, Mr. President, that this editorial entitled "Restricts Land Use," be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

RESTRICTS LAND USE

Large areas in the Shenandoah Valley are embraced in the National Parks and National Forests, as much as 32 per cent of the area of Augusta County. These federal lands are not taxable by the state or localities.

Should the Environmental Protection Agency have the power to control land use in areas adjacent to these federal lands? Use would be controlled to protect the "clean air area" from nonsignificant deterioration which might result from location of a plant or other emission facility in the vicinity.

This does not involve more serious air pollution, which might affect health. Nor does it involve welfare, rather loosely defined by the courts to include (but not limited to) effects on soil, water, crops, vegetation, wildlife, climate, economic values, and personal comfort and well-being.

These already are protected by primary and secondary standards of the Clean Air Act of 1970.

Under new proposals, land use around the forest and parks would be controlled to maintain them above the standards required to protect health and welfare in other parts of the state.

No one wants to be against clean air, but this is a federal intrusion into land use, formerly the province of the states. It is an unnecessary enlargement of federal power.

Restriction of land use near the "clean air areas" will impede economic development of whole areas of our state and nation. Surrounding these federal lands with buffer areas of low-tax land, restricted as to industrial development, will have an effect on the standard of living, and on the tax rates for remaining property.

Both houses of the Congress have reported amendments to the Clean Air Act of 1970. Action on the Senate version is expected by the end of July.

Virginia Senator William L. Scott has announced that he plans to offer an amendment to the Senate version during floor debate. His amendment would eliminate the "non-significant deterioration" policy just discussed unless there is compelling evidence that a stricter policy in certain areas would be in the national interest.

Gov. Mills E. Godwin Jr. also opposes an extension of federal controls in this area, and Virginia may challenge their constitutionality if they are enacted. He, and other governors, feel that they are an intrusion on powers reserved to the states under the Tenth Amendment.

The federal government already exerts control over our schools, businesses (particularly through OSHA and EEOC) and elections. Should states be required to give up control of land use also?

We hope that reason will prevail. The "non-significant deterioration" policy is not needed to protect health or welfare. It should be rejected.

Mr. WILLIAM L. SCOTT. We will note the concern of the editor because large areas of the Shenandoah Valley are embraced within national parks and national forests with as much as 32 percent of the area of Augusta County which surrounds the independent city of Staunton being in Federal ownership and not taxable by States or localities. He is concerned because land use around the Federal land would be controlled to maintain the pristine character of the land within the parks and forests and might have the effect of preventing new industry on privately held land adjacent to the Federal land. We will note the concluding paragraph, and I quote:

> We hope that reason will prevail. The "non-significant deterioration" policy is not needed to protect health or welfare. It should be rejected.

Mr. President, on page 3 of the committee report it appears that the function of the EPA is being downgraded, that enforcement is to be left to the States. Yet, as we read further, this is merely a velvet glove and iron fist approach, because on the same page it states:

> The Administrator thus could go to court to stop a permit for activities which would exceed the increments of pollution or which otherwise did not comply with the requirements of this section, including use of best available control technology.

Further down on the same page it states:

> The committee has also asserted a Federal interest in protecting air quality over certain areas of Federal ownership, by a separate test. The potential activity outside those Federal lands—such as national parks and wilderness areas and international parks—could be prohibited if it would impair the air quality values associated with those Federal lands.

I have some reservations about the validity of laws of this nature. It may well be there is a taking for which just compensation must be paid under the fifth amendment to the Constitution because it does seem to me we take a man's property when we can take away his right to use it.

Mr. President, the provisions of this bill could mean "no growth" in the valley of Virginia paralleling Federal property for several hundred miles. I suggest that each Senator check the possible adverse effect within his own State, as well as that on the Nation as a whole, with the knowledge that under the bill as reported, new industry cannot damage the pristine quality of the air of Federal parks and various other types of Federal property. A little research regarding Federal property in one's own State will indicate why a large number of the State Governors are concerned about this legislation. I ask unanimous consent, Mr. President, to have printed in the Record at this point copies of an assortment of letters from Governors expressing their concern to various Members of Congress and business organizations.

There being no objection, the material was ordered to be printed in the Record, as follows:

State of Florida,
February 11, 1976.

Hon. Jennings Randolph,
Chairman, Committee on Public Works, Washington, D.C.

Dear Senator Randolph: The Senate and the House will consider legislation to change certain provisions of the federal Clean Air Act dealing with transportation controls and nondeterioration of air quality. I strongly urge you to carefully consider the consequences of adopting these provisions and empowering the federal Environmental Protection Agency (EPA) to preempt the states' prerogatives in these areas. It is our position that the states are more capable of evaluating—the economic and social implications of desired air quality within their boundaries than EPA.

EPA most certainly has the expertise to carry out these activities but my concern is that it will promulgate guidelines and regulations based on the average national air quality rather than standards for areas with relatively clean air.

One resource which is vital to Florida is the quality of air and the tourism which depends on it. Florida's air quality is for the most part better than secondary air quality standards. For this reason, our State should retain as much flexibility as possible in the regulation of air quality within its confines.

Florida has enacted a rule to prevent significant deterioration and the Florida Environmental Regulation Commission has resolved to continue the protection of areas with air quality better than the primary and secondary standards.

Florida also believes that transportation control plans, if necessary, must be developed and administered at the local level in order to be effective. State and county governments should determine the necessity of a transportation control plan and the alternatives available to correct problem areas. These local governments are more capable of assessing their problems and devising solutions which would be more appropriate than federally dictated programs.

The proposed amendments, if enacted, would place too much land use planning authority under the administration of EPA. Although it is necessary for EPA to establish minimum reqiurements, basic controls for more stringent standards should be left with the states.

With kind regards,
Sincerely,

Reubin O'D. Askew,
Governor.

State of South Carolina,
March 19, 1976.

Mr. Richard L. Lesher,
President, Chamber of Commerce of the United States of America, Washington, D.C.

Dear Mr. Lesher: Thank you for your letter of March 10, 1976, and your comments concerning the proposed amendments to the Clean Air Act.

We are asking the members of the South Carolina delegation in Washington to oppose the proposed amendments to the Clean Air Act of 1970.

With kind regards,

James B. Edwards.

State of North Carolina,
March 31, 1976.

Mr. Richard L. Lesher,
President, Chamber of Commerce of the United States of America, Washington, D.C.

Dear Mr. Lesher: This letter will acknowledge and thank you for your letter of March 10 in which you expressed the concerns of the Chamber of Commerce on the impact of amendments to the Clean Air Act currently being considered in the Congress.

North Carolina is well aware of the provisions of both the House and Senate versions of amendments, and we have actively opposed and intend to continue to oppose the enactment of either of these amendments in the Law.

Your interest and concern in this matter is appreciated.

Sincerely,

James E. Holshouser, Jr.

State of Alabama,
February 12, 1976.

Hon. W. Jack Edwards,
2439 Rayburn House Office Building, Washington, D.C.

Dear Congressman Edwards: Congress is currently considering amendments to the Clean Air Act and there is one segment of this legislation that gives us particular concern—the definition of "non-degradation." We need your help in this matter because the way non-degradation is defined can have a significant effect on growth plans and employment in our State.

Alabama Air Pollution Control Commission established air pollution control regulations committing the State of Alabama to attaining USEPA secondary air quality standards by May 31, 1975. Alabama has met this commitment. Some individual emission sources have been necessarily delayed in meeting requirements because of availability of technology and/or equipment. These individual sources have not delayed attaining the secondary air quality standards.

USEPA has proposed three classes of air quality control regions as follows:

1. No deterioration from current air quality;
2. Expansion of industry until the air quality reaches the secondary standards;
3. Expansion of industry with air quality loss than the secondary standards but above the primary standards.

Alabama is preparing regulations consistent with the USEPA proposal and will hold public hearings this spring.

Designation of air quality control regions is in the province of the several states. The Congress should allow the several states to develop air quality control regions compatible with growth plans of each state and based on the opinions of the citizens of the state. I urge you to oppose any specific definition of non-degradation. Some of the proposals contained in Staff draft will concentrate development more heavily in already impacted areas and completely shut off further development in the relatively underdeveloped areas. The several states are in a better position than Congress to define areas needing specific controls.

Sincerely yours,

George C. Wallace,
Governor.

Office of the Governor,
Phoenix, Ariz., February 19, 1976.

Hon. Paul Fannin,
1313 Senate Office Building, Washington, D.C.

Dear Senator Fannin: I wish to call your attention to the impact which the proposed Clean Air Act Amendments of 1975 have upon the State of Arizona. Of major concern is the fact that adequate consideration has not been given to the effects of land ownership patterns and the potential diversities in land management philosophies in the implementation of the amendments. Federally controlled lands in Arizona account for 43.52 percent of the land area; and Indian reservations account for 26.73 percent. The distribution of these lands are such that only a small portion, if any of the nonfederal, non-Indian lands of the state would not be influenced by decisions made by Federal Land Managers. Consequently, the economic development of this state could be unduly determined at the Federal level.

It is essential that State rights are preserved and that opportunities to participate in the decision making process are provided to local governments particularly when standards to protect human health and welfare are not exceeded.

I urge Congress to establish a study commission to investigate and analyze the implications and consequences of the nondeterioration provisions as promulgated and proposed and to consider the alternative approach outlined by my staff in the enclosed report.

Please feel free to contact me to discuss this matter of extreme concern to the State.

Sincerely,

Raul H. Castro.

State of Maine,
February 25, 1976.

J. Neal Miller, Jr.,
Director, Gulf Oil Corp., Houston, Tex.

Dear Mr. Miller: Thank you for your recent correspondence. I appreciate your bringing to our attention amendments to the Clean Air Act presently pending before Congress.

Please know, I share your concern over the possibility of further encroachment by the Federal Government on the rights and destinies of Maine citizens and I concur with you that decisions affecting the local communities of Maine and other states should, whenever possible, be made at the local level.

The State of Maine through our State Legislature and our Department of Environmental Protection has enacted some of the most sound and comprehensive environmental laws and regulations to be found anywhere in the entire Nation. However, these laws and regulations are not so stringent as to preclude economic development.

The people of Maine are justifiably proud of their State and its environment, but they are also very concerned about the present economic picture in which there are not enough jobs for the people who want to work.

Economic growth should be orderly and with proper environmental impact assessment, but most certainly not zero-growth oriented.

Thank you for alerting us to this situation.

Very truly yours,

James B. Longley,
Governor.

The Capitol,
Jackson, Miss., March 17, 1976.

Representative Thad Cochran,
Cannon House Office Building, Washington, D.C.

Dear Thad: On behalf of the people of Mississippi, I am quite concerned over the implication of pending amendments to the Clean Air Act both in the Senate and the House.

As I understand the situation, the proponents of both the Senate and House versions of pending amendments are seeking to write into law the provisions of a highly controversial Court decision several years ago (Sierra Club vs. Ruckelshaus) which the Supreme Court, as it was constituted at that time, affirmed by a 4–4 split decision.

The proponents seem to be anxious to get these provisions set in concrete in the law before the present court rules on this matter again.

I am sure you are aware that the small but highly vocal group of people pushing this concept will denounce any attempt to breathe reality into the Clean Air Act.

However, the best information available to me indicates that the Congress needs to reverse rather than to confirm many of the unreasonable interpretations that have been placed by the courts on the Clean Air Act, particularly Sierra Club vs. Ruckelshaus.

I am a firm advocate of the stated objectives of the Clean Air Act; that is, that the State takes action to protect the health and welfare of its citizens through the adoption and enforcement of the National Ambient Primary and Secondory Standards as determined by the Administration.

Court rulings and EPA regulations that go beyond the attainment of National Ambient Primary and Secondary Standards should be overturned.

If pending amendments to the Clean Air Act are passed, it will virtually halt economic development in our state.

I need not remind you that the Natchez Trace Parkway and other national monuments in Mississippi would require, under the pending amendments, the zoning of most of mid-Mississippi in "Class I", in which virtually no residential, commercial or industrial development could take place and where no new highways or other public works or recreational areas could be built.

The limitations that would be imposed by the pending amendments in the remaining area of Mississippi are so stringent that development would be severely impacted.

I urge you to help protect the well-being of Mississippians by opposing the adoption of these pending amendments.

Sincerely,

CLIFF FINCH,
Governor.

FEBRUARY 18, 1976.

HARLEY STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, House of Representatives Washington, D.C.

I strongly urge that your committee defeat the Rogers Anti-Degradation amendment.

Resulting zero growth and adoption of a National Land Use law by this indirection would ruin the economy of small states such as New Hampshire as well as create an economic vacuum in enormous areas of the larger states.

The punitive results of this amendment will fall upon our most needy citizens first and most heavily.

Is there no end to these attempts by the Congress to hoist this country on its own petard?

MELDRIM THOMSON,
Governor, State of New Hampshire.

STATE OF OKLAHOMA,
March 19, 1976.

MR. RICHARD LESHER,
President, U.S. Chamber of Commerce,
Washington, D.C.

DEAR MR. LESHER: Thank you for your letter concerning the Clean Air Act. I have already expressed my opposition to various Congressmen. I feel that environmental protection should be left at the state level, and I will continue to oppose federal regulation in this area.

Thank you again for your letter.

Sincerely yours,

DAVID L. BOREN.

OFFICE OF THE GOVERNOR,
Austin, Tex.

Hon. BOB ECKHARDT,
U.S. House of Representatives,
Washington, D.C.

DEAR BOB: The amendments to the Federal Clean Air Act under consideration by the House Committee on Interstate and Foreign Commerce are of primary importance to Texas.

The State of Texas, of course, recognizes the need to protect the health and welfare of its citizens from the occurrence of known and anticipated effects of manmade air pollution and feels that aggressive efforts should be continued to achieve that goal. At the same time, we also recognize the need to achieve a full economic recovery and increased employment. We do not believe that the actions required to meet these needs are incompatible one with another.

Any proposed provision that would prohibit the construction of any major new facility in areas of the State which have not yet attained the national standards would not be in the best interest of Texas or the nation. Such a provision would severely disrupt the economic well-being of those areas and would impede our efforts to improve economic conditions. In addition, as we seek to protect and improve air quality, the State and its local governments should be provided adequate authority and flexibility to develop effective and workable air quality strategies designed specifically for Texas.

Proposals to prevent the deterioration of air quality in areas cleaner than the national standards should be founded on a requirement of best available control technology for any new source. Since 1971, the Texas Air Control Board has been implementing such an approach with impressive results by employing a stringent preconstruction review procedure. The requirement of best available control technology should, we believe, be included in any new legislation adopted by Congress.

Any proposals using increments and ceilings on pollution concentrations as part of a classification system should include adequate authority for the State to develop an implementation plan that will not unnecessarily constrain growth in cleaner areas.

Enclosed is a resolution adopted January 23, 1976, by the Interagency Council on Natural Resources and the Environment, and a position brief which provides supporting details. I urge your support for any provisions offered that will accomplish the principles stated in the resolution or those articulated above.

Sincerely,

DOLPH BRISCOE,
Governor of Texas.

OFFICE OF THE GOVERNOR,
Salt Lake City, Utah, March 11, 1976.

Hon. ALLAN T. HOWE,
U.S. Congressman,
Washington, D.C.

DEAR ALLAN: Last fall I expressed my concern to you over certain sections of the Clean Air Act Amendments of 1975 relating to the prevention of significant deterioration. The bill as it was then being marked up in the House Subcommittee on Health and the Environment was totally unacceptable insofar as Utah's interests were concerned. However, I was encouraged, as I know you were, when I was informed that the full House Interstate and Foreign Commerce Committee planned modifications that would make the bill more acceptable to the states that wanted a balanced growth policy. I have just finished my review of the full committee version and my concerns have not lessened. I want you to be aware of my specific objections to the bill in its present form in the hope that they may become the basis of floor amendments that will be offered when the bill is reported out in two weeks.

Subsection (6) requires that each state establish within one year of the enactment of the Clean Air Act Amendments an implementation plan to classify areas where the national primary and secondary ambient air quality standards are not being exceeded. The state plan must be approved by the Administrator of the Environmental Protection Agency before the states can issue permits to any major stationary source which is defined in the bill as being "any stationary sources of air pollutants which directly emits, or has the design capacity to emit, one hundred tons a year or more of any air pollutant for which a national ambient air quality standard is promulgated under this Act." All of the coal-fired electrical generators now proposed for development in Utah emit more than one hundred tons a year of sulphur dioxide and particulate matter which are the only two pollutants controlled by national ambient air quality standards.

Although the House bill contains three classes for sulphur dioxide and particulate matter as compared with the two classes that are provided in the Senate bill, the House bill includes far more land in the more restrictive classes than the Senate bill. All national parks over 25,000 acres are included in the mandatory Class I areas as well as any unit of the national wilderness preservation system. We have no designated wilderness areas at the present time, but all of our national parks are in excess of 25,000 acres and therefore under Class I standards. In addition, the House version provides that any national monument, national primitive area, or national recreation area over 10,000 acres shall be initially designated Class I which may be later redesignated Class II if certain conditions are met. While this exempts all of our national monuments, the 1,061,738 acres in the Glen Canyon National Recreation Area, the BLM primitive areas in Grand Gulch and Dark Canyon and approximately 250,000 acres of foreign service primitive area in the high Uintahs are included in an original Class I designation. Furthermore, all national forest and wildlife refuges in the state are restricted to no less than a Class I or Class II designation. Because the classification of the land limits the use of the land, the significant deterioration section of the Clean Air Act Amendments has the same effect as a federal zoning law.

The close proximity of our energy resource lands to the national parks makes it almost certain that Class I air quality standards will be exceeded over some parks. The bill specifies that the Administrator of the Environmental Protection Agency shall not require any automatic or uniform buffer zones around Class I areas, but the Administrator is also empowered under the law to promulgate regulations establishing buffer zones that take into consideration terrain, meteorological conditions and the size of the emitting facility. Based upon diffusion formulas that have been run by the Utah Bureau of Environmental Health, the Kaiparowits power plant exceeds the Class I standards for sulphur dioxide at Bryce Canyon even assuming 90 percent sulphur removal at the proposed plant site using the best available control technology. Even with the best available control technology, I am informed that we fail Class II and Class III standards for sulphur dioxide with the Kaiparowits plant because of the requirement in the bill that it not exceed 25 percent or 50 percent, respectively, of the national ambient air standards.

While there is much to be regretted in the bill from a technical and practical standpoint, I find that the legislation is even more offensive administratively. The state is the ostensible administrator of the program, but in reality the states' role is purely ministerial. The air quality standards to be enforced are federally imposed, the land area to be included in each class are specified, and the limited discretion left to the state to redesignate can only occur after certain conditions are met. The EPA Administrator under paragraph (D) of Subsection (3) can disapprove any designation or redesignation when he finds that they do not meet the federal standards. The Administrator also promulgates the regulations by which the state reviews the application of an emitting facility for a permit, establishes the perimeter of the buffer zones around Class I areas, decides which air quality model will be used in order to determine if a state is in compliance, and in the absence of a state implementation plan, or in the face of one that does not meet the federal standards, is ordered to promulgate a plan that does meet the requirements of the act.

This bill is an example of good intentions run riot and what results from the lack of a coherent national energy policy. In the interest of environmental protection it imposes a no-growth policy on Utah without any regard for the long-term national interest. At approximately the time this bill is being debated on the House floor, Secretary of the Interior Kleppe will announce his decision on the Kaiparowits Environmental Impact Statement. On June 8th, California will vote on Proposition 15 which proposes to prohibit the construction and operation of nuclear power plants in that state. If that proposition passes, as it likely will, and if Secretary Kleppe fails to approve the Kaiparowits project, or if this bill is adopted in its present form, how will the electrical power be generated to meet the needs of the American West?

I appreciate the support you have shown in the past on this overriding issue and hope that we can prevail with your colleagues in the House of Representatives.

Sincerely,

CALVIN L. RAMPTON,
Governor.

OFFICE OF THE GOVERNOR,
Lansing, Mich., April 29, 1976.

Mr. J. NEAL MILLER, Jr.
Director, Gulf Oil Corp., Houston, Tex.

DEAR MR. MILLER: In view of your recent letter to me regarding proposed Clean Air Act amendments now being considered by the Congress, I though you might be interested in the enclosed statement which I recently made.

Thank you for bringing this matter to my attention.

Kind personal regards.

Sincerely,

WILLIAM G. MILLIKEN,
Governor.

STATEMENT BY GOV. WILLIAM G. MILLIKEN

Gov. William G. Milliken urged Congress Friday to provide greater flexibility in air pollution control requirements for stationary sources under amendments now being proposed for the federal Clean Air Act.

Milliken said in letters to members of the Michigan Congressional delegation that:

"Of special concern to me is the fact that the current Clean Air Act has little flexibility for providing necessary time to control emissions from certain stationary services. Relief in this area is absolutely essential so that necessary abatement programs can be developed and carried out.

"Also of concern is the fact that the current Clean Air Act prohibits growth in areas where difficulty is being encountered achieving the federally mandated air quality standards. It would appear essential that some system be worked out whereby reasonable economic growth s not denied in an area that is making reasonable economic progress toward achievement of the standards."

Milliken said he was concerned that the amendments pending in Congress "could lead to federally mandated land-use programs based on air quality.

"I have consistently maintained that land-use planning should be performed at the local level, and the legislation I have supported in Lansing (HB 4234) requires that planning be done at the local level."

Milliken added that he believes "that it is inappropriate to base a land-use program on air quality. The quality of the earth—not the quality of the air—is the only appropriate and sound basis for land use decisions."

EXECUTIVE DEPARTMENT,
Baton Rouge, La., April 20, 1976.

Hon. J. BENNETT JOHNSTON,
245 Senate Office Building,
Washington, D.C.

DEAR SENATOR JOHNSTON: Members of the Louisiana Air Control Commission have expressed their concern that proposed amendments to the Clean Air Act in regard to "Significant Deterioration" fail to protect the prerogatives of each state to allow community growth and industrial expansion where desired for the economic and social welfare of the populace, and the Federal Ambient Air Standards are not exceeded. Language in either the Senate or House versions of the proposed bill is objectionable to the Commission because:

1. The EPA Administrator would obtain approval authority over a mandatory "Significant Deterioration" amendment of each State's Implementation Plan, and the Administrator may impose his own amendment in the absence of a submittal meeting his wishes.

2. The EPA Administrator would have the authority to require that each State's Implementation Plan include land use controls.

3. It establishes such small increments of growth allowable in relatively unpolluted areas so as to stifle further economic development and would preclude effective response to fuel conversions mandated by curtailed natural gas supplies, possibly leading to wholesale power failures in Louisiana.

4. It gives "Federal Land Managers" veto power over state permit procedures with no means for prompt relief from a Land Manager's arbitrary rulings included in the proposed amendments.

The Air Control Commission has requested that every effort be made to remove the offensive "Significant Deterioration" provisions from the bill since each state already has the right to choose small increments of deterioration in favor of economic and social gain for its populace and the proposed law effectively curtails that prerogative. New source performance standards require that each new emission source have effective emission control facilities and the Federal Ambient Air Standards limit the total extent of deterioration in every state; therefore, no such amendments are necessary.

I am very much concerned about the issues raised by the Commission and therefore urge your consideration of measures to remove the objectionable features from the proposed Clean Air Act amendments. Defeat of the entire bill may be in the best interest of the state if the offensive "Significant Deterioration" provisions cannot be satisfactorily resolved.

Your consideration of this request is very much appreciated.

Kindest regards and best wishes.

Cordially,

EDWIN EDWARDS.

OFFICE OF THE GOVERNOR,
Columbus, Ohio, March 12, 1976.

Mr. J. NEAL MILLER, Jr.,
Director, Gulf Oil Corp., Governmental Relations Department, Houston, Tex.

DEAR MR. MILLER: Governor Rhodes received your letter requesting his assistance in opposing a nondegradation amendment to House Bill 10498.

The Governor has asked me to inform you that Mr. Ned Williams, Director of the Ohio Environmental Protection Agency, has strongly opposed the nondegradation aspects of the U.S. Environmental Protection program.

It is our opinion that such standards as are proposed by the subject amendment represent overreaching by EPA and would have a serious effect upon land use in our State.

The Governor appreciates receiving your comments regarding this very important matter.

Sincerely,

THOMAS J. MOYER,
Executive Assistant to the Governor.

OFFICE OF THE GOVERNOR,
Richmond, Va., January 15, 1976.

Hon. EDMUND S. MUSKIE,
Committee on Public Works, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR MUSKIE: I am enclosing a staff report which outlines my reasons for opposing certain provisions of the Clean Air Act.

If this legislation is enacted in its present form, Virginia would feel impelled to ask the courts to set it aside as unconstitutional. Once the full impact for disruption of orderly comprehensive land use planning of these sweeping proposals is comprehended by other States, I believe a substantial number of them would join in that effort. The National Governors' Conference adopted a resolution in September, 1975, which recommended that each State retain the flexibility to determine for itself what is "significant deterioration" consistent with local values. The Southern Governor's Conference also in September, 1975, expressed serious concern that "significant deterioration" provisions might arbitrarily prohibit economic development of many areas, even though the air quality would be much better than the level required for good health. This Conference resolved that the States should be allowed to administer their air quality programs in whatever manner they choose to meet the national standards. The organization of State and Territorial Air Pollution Program Administrators also recommended, through a resolution, that the Clean Air Act be amended to expressly provide that there shall be no requirement to establish air quality standards more stringent than the primary and secondary standards.

I urge the members of the Senate Public Works Committee not to adopt the presently proposed nondeterioration provisions, but instead to support language which would affirm the right of the States to choose for themselves whether to adopt emission limitations which are more stringent than those necessary for the protection of ambient air quality standards. At the very least, the Committee should refer the nondeterioration provisions to a study commission for a thorough analysis of their implications, to be followed by public hearings where the full impact of any resulting recommendations may be focused on by State and local government representatives and concerned citizens.

Sincerely,

MILLS E. GODWIN, Jr.

STATEMENT BY GOV. MILLS E. GOODWIN, JR.—CLEAN AIR ACT AMENDMENTS

Among the proposed amendments to the Clean Air Act, which are now being considered by the Senate Public Works Committee, are provisions which would require "nondeterioration plans" in all of the States. These plans would apply in all regions of a State which have air quality better than that reflected by the secondary ambient air quality standards for sulfur dioxide and particulate matter. Under the proposed, these regions would be classified as either "Class I" or "Class II" regions. No new major stationary source could be built in either of these regions unless the owner could prove in advance that he would *not* cause ambient concentrations for either sulfur dioxide or particulates to exceed the statutory increments. It is unclear whether these statutory requirements would limit or prevent construction of a new major stationary source outside a Class I or II region if it could cause these stationary increments to be exceeded in an adjoining Class I or II region. In addition, the State plan would also require all new major stationary sources in the nondeterioration regions, to utilize so-called Best Available Control Technology, which is to be determined on a case-by-case basis, without consideration of economic costs and social and environmental implications. Thus, this Best Available Control Technology would effectively replace the presently promulgated New Source Performance Standards (which take costs into accounts), and would also, in essence, establish, through a somewhat indefinite process, national emissions limitations for all major stationary sources located in the designated regions.

Under the present Clean Air Act, the States may choose to adopt emission limitations which are more stringent than the New Source Performance Standards, and may also adopt emission limitations applicable to new sources not covered by the NSPS, on any basis, as long as the primary and secondary standards, which protect the public health and welfare, are attained and maintained. In setting these emission limitations States may consider the implications which such limitations have for the environmental, economic, tax, and land use policies of State and local governments. The proposed amendment to the Act would preempt the States from making these considerations, and instead would impose nebulous federally mandated emission limitations in all nondeterioration regions. It may be difficult to assess, with existing evidence, what the full social costs will be as a result of these more stringent limitations. It is clear, however, that the economic costs will be relatively higher than they are now and thus will influence decisions for the siting of new facilities, both within and outside of the nondeterioration regions. This, in turn, will seriously impact state and local land use planning.

It is important that State and local governments retain their current freedom to make land use and facility siting decisions on the broad basis of all considerations involved—not only clean air, but also clean water, historic and open space conservation, contiguous land uses, mineral utilization, employment, housing, etc. As long as ambient air quality standards are being maintained, any decision to impose emission limitations which are more stringent than those necessary for the protection of the public health and welfare should remain with the State and local governments. Any statutory requirement beyond the primary and secondary standards would be purely and simply land use legislation.

If there is to be federal preemption of current state authority in the use of our land beyond the requirements to maintain primary and secondary air quality standards, then that would involve matters clearly beyond the scope of regulation of air emissions as such—the important but limited purpose of the Clean Air Act. These are areas more appropriately within the scope of other committees of the Congress, committees which already have comprehensive land planning legislation pending before them. But those committees to date have hesitated to recommend that Congress impose federal preemption on so vast and complex a subject, which is much more appropriately regulated by State, regional or local authorities. It is true that any restriction on proposed activities involves an incidental limitation on land use, but the vital distinction is the degree of the impingement. Here the proposed restriction is more than incidental, it becomes virtually determinative of whether or not a plant may be built in a region, and if so, its size, its technology and its cost. These factors are at the heart rather than the periphery of land use planning decisions.

Finally, even if the Congress should be held to have constitutional power to push federal preemption beyond the barrier of the secondary standards in the Clean Air Act, the way in which the present proposals would do that is unconstitutional under the Tenth Amendment. Recent court decisions make it clear that when the Federal Government preempts, it cannot force the states to administer the federally dictated program. Accordingly, if Congress in fact intends to have the EPA Administrator take over land use planning throughout the United States, it must provide that he do so directly and not impose the administrative burden of carrying out his orders on state government.

Mr. WILLIAM L. SCOTT. Mr. President, among the letters is one from the Governor of the State of Florida. He concludes his two-page letter by saying:

> The proposed amendments, if enacted, would place too much land-use planning authority under the administration of EPA. Although it is necessary for EPA to establish minimum requirements, basic controls for more stringent standards should be left with the States.

Then the Governor of the State of South Carolina, among other things says:

> We are asking the members of the South Carolina delegation in Washington to oppose the proposed amendments to the Clean Air Act of 1970.

The Governor of North Carolina states:

> North Carolina is well aware of the provisions of both the House and Senate versions of amendments, and we have actively opposed and intend to continue to oppose the enactment of either of these amendments in the law.

A similar letter from the Governor of the State of Alabama.

A letter from the Governor of the State of Arizona, also urging defeat of this bill as it was reported by the committee.

And, yes, a letter from the Governor from the State of Maine. Let me read a portion of that:

> The State of Maine through our State Legislature and our Department of Environmental Protection has enacted some of the most sound and comprehensive environmental laws and regulations to be found anywhere in the entire Nation. However, these laws and regulations are not so stringent as to preclude economic development.
>
> The people of Maine are justifiably proud of their State and its environment, but they are also very concerned about the present economic picture in which there are not enough jobs for the people who want to work.
>
> Economic growth should be orderly and with proper environmental impact assessment, but most certainly not zero-growth oriented.

A similar letter from the Governor of the State of Mississippi.

A letter from the Governor of the State of New Hampshire.

A letter from the Governor of the State of Oklahoma, and he says:

> I will continue to oppose Federal regulation in this area.

A letter from the Governor of the State of Texas in opposition.

One from the Governor of the State of Utah in opposition to the amendment.

One from the Governor of the State of Michigan.

One from the Governor of the State of Louisiana.

One from the Governor of the State of Ohio, and he says:

> It is our opinion that such standards as are proposed by the subject amendment represent overreaching by EPA and would have a serious effect upon land use in our State.

Then, a letter from the Governor of Virginia, and among other things, he says:

> If this legislation is enacted in its present form, Virginia would feel impelled to ask the courts to set it aside as unconstitutional.

Mr. President, I have read portions and have had printed in the RECORD those various letters to indicate there is wide opposition from people throughout the country to this measure.

Perhaps we should review the background of nondegradation. It is my understanding that the Administrator of the Environmental Protection Agency was of the opinion that he had no authority under the Clean Air Act of 1970 to promulgate any regulations requiring State implementing plans to provide against significant deterioration of existing clear air areas; that is, areas where the level of pollution was lower than the national standards established for health and welfare.

His refusal led to an action in the U.S. District Court for the District of Columbia against then Administrator Ruckelshaus by the Sierra Club to enjoin him from approving plans to allow clean air areas to be degraded so long as the plans were adequate to prevent ambient pollution levels from exceeding national standards. The court took the view that the language of the Clean Air Act included a congressional intent to prevent deterioration of air quality no matter how pure that quality might be in a given section of the country. The trial court's decision was approved by the circuit court without a written opinion and permitted to stand by a 4-to-4 decision of the Supreme Court in *Sierra Club* v. *Ruckelshaus*, 412 U.S. 541 (1973). The Court's decision is supported by the statement of purpose of the act which, among other things, indicates that it is "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population."

However, the court did not define the phrase "significant deterioration" and the business community is concerned that a factory cannot be built in an area where there is no manmade pollution of any kind if the construction and operation of the plant would result in pollution at any level, even though the air quality of the area would still be considerably above the national ambient air standards. I cannot believe Congress intended a "no growth" policy, or do I believe laws should be made by courts or bureaucrats, nor is it commonsense to give legislative sanction to a no growth policy. My amendment would clarify present law. It would prevent the Federal Government from requiring air quality standards in any State or locality to be higher than the national standards for the protection of the health and welfare of citizens, while at the same time permitting States and localities to require a higher standard, if they considered it desirable, to meet a local situation. In other words, new businesses and industries could be permitted in localities with no major pollution problems provided the air quality remained above the national standards.

While we want to maintain air quality at levels better than necessary to protect human health and welfare, it would not generally appear desirable to go beyond that goal at the expense of jobs, development or dependence on other nations for basic materials. States and localities can develop their own land use programs. Under our system of dual sovereignty. States and localities are charged with the responsibility of planning and zoning. They should retain the right and responsibility to determine whether a given facility is a community asset and should be permitted to determine whether they desire air quality to be higher than that established at the national level. As our Nation continues to grow, we will need additional facilities to provide jobs and other basic necessities for an expanding population, and it seems unnecessary to have the development of a local area subject to the will of the Federal Government so long as air pollution is below the national standards.

A new plant in a given community may mean jobs and economic progress in lieu of economic stagnation. I mentioned a few minutes ago that man does not live by clean air alone. He needs bread, shelter and transportation. There is a continuing need for new industry, new powerplants, new apartment houses, and new shopping and office complexes.

On page 493 of the House report on this bill, a study by the Environmental Protection Agency, dated February 5, 1976, is cited, which concludes that a nondegradation policy together with new source standards of performance requirements would result in approximately $28 billion in additional costs to the electric utility industry alone between now and 1990. This is the lowest estimate. According to the report, if a high growth rate during that period is assumed, the cost might well exceed $50 billion. This is for electric power alone.

Mr. President, a healthy economy is an expanding economy. The explosion in material output around the turn of the century has led to the high standard of living we enjoy today and I believe the continued success of our free enterprise system is inconsistent with additional Government regulations. Is it not reasonable to believe that the quality of air high enough to protect the health and welfare of the citizens of one area is high enough to protect the health and welfare of the citizens of another area unless there is contrary evidence in a specific situation in a given locality? This can best be determined by the people who live in that locality rather than additional Federal requirements.

In a letter dated May 28 to the chairman of the full Senate Committee on Public Works (Mr. RANDOLPH) the President indicated his concern about the significant deterioration problem. He states that the adoption of the committee bill in this regard would result in greater economic uncertainties concerning job creation and capital formation, that the impact on future energy resource development might well be negative and that the uncertainties of the suggested legislation was disturbing. Let me review for you one paragraph of this letter.

> In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate committees. Accordingly, I believe the most appropriate course of action would be to amend the act to preclude application of all significant deterioration provisions until sufficient information concerning fianl impact can be gathered.

(Mr. STEVENSON assumed the Chair at this point.)

Mr. WILLIAM L. SCOTT. Mr. President, this is exactly what my amendment is intended to do. But let me reiterate that in the event the amendment is adopted, it would not in any way restrict the Environmental Protection Agency in maintaining both primary and secondary national air quality standards, the standards necessary to protect the public health and welfare.

I might say, Mr. President, that the head of the Environmental Protection Agency can change and upgrade these requirements under present law. He is authorized to do that.

My amendment would permit the States and localities to adopt more stringent requirements as they can do under the present law. I believe it would help combine a wholesome and healthy environment with opportunity for the economy of our communities and our Nation to grow and prosper.

Mr. President, I appreciate the courtesy of the distinguished Senator from Utah in permitting me to make my statement at this time, and I am sorry if I imposed unduly upon his time.

Mr. MOSS. Mr. President, the Senator has not imposed at all. I commend him for his excellent presentation.

I listened with considerable care to what the Senator had to say, and I find I am in agreement with the position as he presented it.

I especially liked the quotation the Senator used, that "Man does not live by clean air alone."

Mr. WILLIAM L. SCOTT. Let me say I stole that from the editorial in the Richmond Times-Dispatch. But it appealed to me, too, and I appreciate the Senator's kindness.

Mr. MOSS. The Senator was the author here on the floor. I think that by taking a familiar old saying like that, one can sum up quite a bit of what we are trying to achieve here.

We want to show what can happen to our other means of livelihood by following a philosophical concept of pristine air. I have always felt that I could be classified with the environmental protection groups. My State has vast scenic beauty, and I have had the opportunity to help get in place three national parks there, which are superb and vast recreation areas, comparable to the areas the Senator from Virginia pointed out with reference to the great national park out here in the Blue Ridge Mountains above the Valley of Virginia. We have vast areas like that, and I would not degrade them for anything. As a matter of fact, they are economic assets, too, because many tourists come to see them.

But there are many other things you have to have in order to live, and just keeping all industry and growth out causes us to have our young people move away and our small towns stagnate, and ultimately we just come to a halt, unless we have some kind of opportunity to grow—for balanced growth, admittedly—keeping the air clean, keeping the water clean, and doing all we can in that way, but not just closing it down.

Mr. WILLIAM L. SCOTT. Would not the Senator agree that where there is private land adjacent to the public land, if a standard for lands nationally, which would include all of the land surrounding the federally held land, if the air quality standards as established nationally are high enough to protect the health and welfare of the citizens, then the air coming from that private land going onto the public land, that generally has not installation of any kind on it, could not pollute unduly the public land? Would the Senator care to comment on that?

Mr. MOSS. Yes, I would like to comment on that. I agree with the Senator. As I have pointed out, under the EPA regulations now we have standards to protect the health and welfare of our people. If we are going beyond health and welfare, we are getting into an area of considerable question anyway as to what powers the Federal Government has; and certainly if the standards are being observed on the private lands, as the Senator points out, that same air, crossing over onto public lands, should not be offensive; and yet it might be if we have a nondegradation standard which says you cannot change the quality of that air at all from what existed before.

So I agree with the Senator. I think that section 6 should be deleted until the study has been completed.

Section 6 provides for the mandatory classification of class I areas—national parks, wilderness areas, and so forth—whereas, EPA regulations initially classify all areas as class II, and permit reclassification of class I, but each reclassification would be considered on a case-by-case basis.

Mr. FANNIN. Mr. President, I am a cosponsor and supporter of the Moss amendments to require a comprehensive study of the "significant deterioration" issue, before implementation of section 6.

The statement I will submit on that issue explains my reasons for that position and indicates the strong concern in my State of Arizona about cementing this concept into law.

At this time I would like to indicate my additional support for the approach of my distinguished friend from Virginia—that being to leave this decision on significant deterioration—or "nondegradation"—to the individual States. With the tremendous difference in the populations, industry and geographies of our 50 States, it would be most desirable to have each State make its own determination about maintaining air quality at higher than the primary and secondary standards.

It is certainly desirable in certain instances to maintain a very pure atmosphere—in the Grand Canyon National Park for instance—but I think the very stringent and intricate language of the committee bill would lead to very undesirable consequences.

Pollution from far distant forest fires and unpaved roads could easily be credited to industry which has already expended millions in emission control, thus precluding further development of rural areas which may be greatly in need of jobs through industrial growth.

In conclusion, Mr. President, I feel this is not the time to impatiently enact further Federal regulatory programs. The States have made great strides in achieving clean air goals and will continue to do so, unless a ground swell of local opposition to unreasonable Washington dictates prevents further progress. The Scott amendment would eliminate the Washington puppet approach and allow States to tailor their programs to meet their specific needs.

Mr. FANNIN. Mr. President, the Senate is considering amendments to the Clean Air Act, S. 3219. Included therein is a Federal zoning scheme for regions of the country where the air quality is presently cleaner than that required by national ambient standards. This scheme, contained in the section 6 significant deterioration requirements, designates certain Federal and surrounding areas into two categories:

Class I areas, where virtually all development would be prohibited through the enforcement of extremely low increments for particulate and sulfur oxide concentrations—which defy accurate measurement; and, class II areas, where only limited development could occur under increments prescribed in this legislation.

The nondeterioration requirements represent an effort to wring the last drop of reason out of some very twisted logic.

While poor air quality is by no means restricted to any special region of the country, national ambient standards are being exceeded in a great many of the Nation's 247 air quality control regions. Specifically, the highest levels of particulates and sulfur oxides occur in the Northeastern and North Central States. Yet, section 6 would establish new or tertiary air quality standards for Western States, while others would be exempt, including those where national ambient standards are being exceeded.

THE CLEAN AIR ACT OF 1970

My colleagues will recall that the Clean Air Act of 1970 which became Public Law 91-604 December 31, 1970, required the Environmental Protection Agency to develop and adopt national primary ambient air quality standards to protect the public health with an adequate margin of safety. The act further required the development and adoption of national secondary ambient standards to protect the public welfare from any known or anticipated adverse effects. Such standards were proposed 27 days after the date of enactment, and promulgated in April of 1971.

The act also required the establishment of Federal emission limitations, that is, that amount or levels of control determined by the EPA to be necessary to meet the national ambient standards. In December of 1971, the EPA established the following emission limitations for particulate and sulfur dioxide concentrations:

Particulates	Existing sources (ambient)	New sources (emissions)
Annual	60 ug/m^3 [a]	0.1 lb/M^2 Btu.[b]
24-hr maximum	150 ug/m^3	20 percent opacity.[c]
Sulfur dioxide:		
Annual	80 ug/m^3	0.8 lb/M^2 Btu (oil).
24-hr maximum	365 ug/m^3	1.2 lb/M^2 Btu (coal).
3-hr maximum	1,300 ug/m^3	

[a] Micrograms per cubic meter.
[b] Pounds per million British thermal units.
[c] Visibility measurement.

In addition, the act required EPA to issue regulations by which States were to develop procedures to implement, maintain, and enforce the national standards. Collectively, these procedures are known as State implementation plans—SIP's. These plans, subject to EPA approval, prescribe timetables for meeting the national standards and Federal emission limitations. The SIP's further require compliance with Federal monitoring and reporting procedures. Such regulations were published in August of 1971, and States had had until January of 1972 to adopt and submit SIP's to EPA. Thus the EPA was empowered to control emissions from existing and new sources through the approval of SIP's.

THE GENESIS OF NONDETERIORATION

On May 24, 1972, 6 days before EPA had to approve or disapprove the SIP's, the Sierra Club petitioned the District Court for the District of Columbia for a temporary restraining order and preliminary injunction. The Sierra Club alleged that the action EPA was about to take would be illegal; that is, EPA approval of SIP's would not prevent significant deterioration of air quality better than national standards.

On June 2, 1972, the district court issued the injunction, concluding in a brief written opinion, "the Clean Air Act of 1970 is based in important part on a policy of nondegradation of existing clean air." EPA was then required to disapprove those SIP's that did not prevent significant deterioration of air quality and to establish procedures to do so.

In November of 1972, the U.S. Court of Appeals affirmed the lower court ruling without written opinion, and EPA disapproved the SIP's insofar as they failed to prevent significant deterioration.

On June 11, 1973, the U.S. Supreme Court permitted the appellate court decision to stand by a vote of 4 to 4, again without written opinion.

EPA'S NONDEGRADATION REGULATIONS

In July of 1973, EPA proposed four alternative plans for preventing significant deterioration. Public hearings were subsequently held in Washington, D.C., Atlanta, Dallas, Denver, and San Francisco.

On August 27, 1974, EPA reproposed regulations for preventing significant deterioration which:

A. Created three classifications based on incremental increases for particulates and sulfur dioxide concentrations:

Class I—Areas where practically any air quality deterioration would be considered significant.

Class II—Areas where deterioration that would normally accompany moderate growth would be considered significant.

Class III—Areas where deterioration would be permitted up to ambient secondary standards.

Under the EPA regulations all areas were initially designated class II. Redesignation could be proposed subject to public hearings and EPA approval by States, Federal land managers, or tribal governing bodies.

B. Established a preconstruction review process to insure compliance with the allowable incrementation increases;

C. Required the use of best available control technology; and

D. Provided procedures for public comment on each application to construct a new source and on delegating preconstruction—new source—review procedures to States and/or local governments.

On December 5, 1974, the EPA promulgated the regulations proposed on August 27, 1974. These regulations became effective January 6, 1975, and apply to sources commencing construction after June 1, 1975.

The regulations established the following numerical levels—in micrograms per cubic meter:

	Class I	Class II	Class III [1]
Particulates:			
Annual	5	10	60
24-hr maximum	10	30	150
Sulfur dioxide:			
Annual	2	15	80
24-hr maximum	5	100	365
3-hr maximum	25	700	1, 300

[1] These values are the national ambient standards and, except for the annual standard, may not be exceeded more than once per year.

EPA REGULATIONS CHALLENGED

Mr. President, these regulations are being challenged in the courts and in professional circles for being arbitrary and without foundation. Numerous petitions for review are pending before the U.S. Court of Appeals for the District of Columbia, which ask if EPA does in fact have the authority under the Clean Air Act to promulgate regulations for preventing significant deterioration of air already cleaner than the national primary and secondary ambient air quality standards?

Others charge that the EPA regulations are arbitrary and the increments are more stringent than necessary to protect the public health and welfare. And, that the concept of precise national increments prohibits States from determining their own regulations based on local needs and conditions.

Meanwhile, the Los Angeles Times reported on February 29, 1976, in an article entitled "EPA Study—The Finding Got Distorted," that an EPA scientist arbitrarily changed recommendations submitted by CHESS—Community Health and Environmental Surveillance System—following an expensive—EPA does nothing cheap—and comprehensive study.

Distortion of the CHESS recommendations ignited a mounting controversy over the need to spend billions in controlling sulfur pollution and more significantly, raised questions about the credibility of EPA research.

Scientists generally agree that sulfur pollution at higher levels is a health hazard, but severe criticism of the distorted EPA research has resulted in serious questions over just how low the harmful levels really are. EPA's CHESS reports were published in 1974. Surprisingly, more than a year has passed before the data distortions came to light.

The questionable scientist rewrote the work of CHESS scientists, often deleting important qualifiers on results involving sulfur-bearing fuels; deleted material that did not show a connection between sulfur pollution and adverse health effects; screened statistical analysis to down-play evidence that weakened the case against sulfur pollution; and overrode agency scientists' objections to publishing estimates of the health impact of pollution that were either dubious or unsupportable.

In keeping with our reasons to suspect EPA's seemingly arbitrary rules and regulations, the Clean Air Act currently before the Senate goes far beyond the existing significance deterioration regulations of the agency, and even further beyond the Federal Energy Administration position of eliminating significant deterioration as a regulatory strategy altogether.

CLEAN AIR AMENDMENTS OF 1976

Now the Senate is about to codify into law, this dubious bill of goods known as the significant deterioration requirements. Beneath the fanfare and flimflam about protecting air quality in the west reside a number of critical issues.

Section 6(g)(1)(A) requires each State to adopt and enforce as part of its SIP, a land use planning program by which certain Federal and adjacent lands are to be designated into two categories:

Class I, to include all international parks, and each national park, national wilderness area and national memorial in excess of 5,000 acres, and such other areas as the State, adjacent States, or Federal Land Manager may designate.

In these class I areas no new major facility may be constructed or operated that emits particulate or sulfur dioxide concentrations in excess of certain numerical increments.

This provision presents at least five problems which escape reason or solution.

First, the class I designation impacts most in those Western States with a high percentage of public lands—States which incidentally already enjoy air quality better than that prescribed by the national primary and secondary air ambient standards established under the Clean Air Act. In Arizona, for example, some 44 percent of the State is federally controlled and could very well be designated class I. Indian lands account for 27 percent of the State and could also be declared class I areas.

Second, to insure that the proposed increments are not violated by the plume drift from a facility located beyond the boundaries of a class I area, any new major facility constructed or operated in adjacent areas of up to 100 miles distant may be precluded. Because of the checkerboard pattern of landownership in Arizona, future economic development would be precluded in all but three small areas of the State—areas which, because of topographical, geological, and other physical conditions, are not conducive to development.

Third, the nondeterioration requirements single out but two potential pollutants—particulates and sulfur oxides. Though EPA is required to eventually recommend increments for hydrocarbons, and nitrous oxides, this bill fails to take into account the adverse effects, if any, of such other elements as carbon dioxide and photochemical oxidants, any of which separately or collectively, may very well eventually be found to be primary pollutants in need of control.

Fourth, the projected increments upon which the Class I designation is constructed are at levels well below those that can be measured, even using EPA's measurement methods.

Because particulates are measured with a "high volume sampler" which, like a vacuum cleaner, draws air through a filter or collector, their accuracy may be off by as much as 50 percent under some conditions. And, since particles are generally of surface material blown into the air by the wind, two-thirds of the particles in Arizona are from natural sources such as dirt, forest fires, and pollen. Moreover, seasonal variations in particulate concentrations from natural causes will exceed the increments allowed.

The lower limit for detecting sulfur oxides, using the EPA method, is 25 micrograms per cubic meter. Yet, the annual mean proposed in section 21 for delineating a class I area is 15. Why the burning of sulfur in material used to fuel a barbeque or fireplace could easily exceed this increment.

Finally, what is the basis in law or in fact for establishing new and arbitrary numerical increments, particularly when EPA has stated publicly that "there are no quantitative data to support the choice of any specific increment below the national standards?" The significance of this question is demonstrated by the fact that the national standards are, in micrograms per cubic meter:

Pollutant	National standards	Proposed class I	Proposed class II
Particulates:			
Annual	60	5	10
24-hr maximum	150	10	30
Sulfur dioxide:			
Annual	80	2	15
24-hr maximum	365	5	100
3-hr maximum	1,300	25	700

Section 6(g)(1)(B) provides that all remaining areas not designated class I, shall be designated class II areas.

Here again, the excessive demands made upon Western States amount to Federal management of State, local, and private property. For example, this provision could affect virtually every manufacturing plant, or chemical processing or mining facility, every conventional generating station and anything else the EPA Administrator "determines to be significant potential sources of air pollutants."

This requirement gives the EPA power over virtually every new major construction activity. But there is no provision, for any facility that is not stationary. So cars, trucks, buses, and trains would all be exempt. And yet, responsible testing results show that the internal combustion engine is the leading source of air pollutants in the United States, particularly in areas where the air is the cleanest. This single, major source of air pollution is completely ignored in every aspect of the nondegradation requirements.

Section 6(g)(2) compounds the land use issue even more. It requires, prior to the construction of any facility in class II areas, the "analysis of the ambient air quality, climate and meteorology, soils and vegetation and visibility" both at the site of the proposed facility and in the area "potentially affected by the emissions from the proposed facility for each pollutant which will be emitted." This applies to both construction and operation of the facility. And, this exhaustive data must be included in every permit application.

But is there a real need to analyze soil, vegetation and visibility as long as they represent no known adverse effects on health or any known or anticipated negative effects on welfare?

In the desert Southwest, an analysis of visibility can tell you when the wind is blowing hard enough to kick up the dust. That alone can easily exceed the proposed increments for particulate matter. Under section 6, controlling the dust could be demanded.

Why was this provision proposed? As noted previously, the prescribed increments cannot be measured, even by EPA reference methods. Anyone familiar with the Southwest will agree that the variations in climate, topography, and vegetation will be so great that corresponding changes in air quality simply cannot be correlated.

BEST AVAILABLE CONTROL TECHNOLOGY

Section (g)(4)(B) requires, among other things, that no major emitting facility may be constructed unless subject to best available control technology—BACT.

Heretofore BACT has been applied as a standard for technological equipment and not as a constraint on the sulfur content of fuel used to produce electricity. Now, as proposed in section 6(g) BACT would mean "an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation—which the permitting authority, on a case-by-case base, taking into account energy, environmental, and economic impacts and other costs, determines is achievable.

This test for BACT is not a requirement for a true cost-benefit evaluation. Absent such a test, what assurance is there that these factors will be given meaningful, or for that matter any review?

Finally, while some state-of-the-art equipment is available, requiring its use on new facilities could make the facilities so expensive that they would not be built, even if the prescribed increments could be measured and met, and the new layers of government review and procedures could be penetrated. Combining these demands for exotic equipment with the intensive capital requirements of electric power companies, could easily mean the end of almost every planned conventional power generating station.

LOW SULFUR COAL

Since passage of the Clean Air Act, much has been learned about the sulfur found in coal that was not clear in 1970. This new understanding of the facts must be considered.

Specifically, in 1970 many references were made to "low-sulfur coal" or "high sulfur coal." At that time, a coal source was identified by the average sulfur found after sampling an entire field. If the average value was below about 1 percent, it was called "low-sulfur."

Calculations using this average value indicated that many such low-sulfur coal fields existed, especially in the Western United States, use of this coal would allow the new source performance standards—NSPS—to be met without additional desulfurizing requirements. And, it was deduced that a large amount of naturally acceptable coal was available to meet the NSPS.

But as these fuels have been evaluated for use in new generating stations, the natural variations in sulfur throughout a field makes it difficult, if not impossible for the operator to guarantee NSPA requirements will be met all the time, even when they can guarantee to meet those requirements on the average, and indeed, for every large fractions of the lifetime of the plant.

Those responsible for interpreting the law as written are forced to conclude that if, using the natural coal, NSPA requirements may be violated over some period of time no matter how small, flue-gas scrubbing devices are required. In point, is the fact that studies reviewed and accepted by the EPA on an operating plant have shown that infrequent exceedance of certain emission limitation values produce no threat to the ambient air quality standards. Furthermore, the situation results in requirements for heavy capital expenditures for cases that were not anticipated in 1970, and which are not necessary to meet ambient standards for clean air.

Accordingly, a definition of low-sulfur coal should be developed to permit deviations from the average, and to incorporate a procedure for defining and identifying "low-sulfur coal sources." Techniques exist for doing this in a manner in keeping with all of the aims and goals of the act. Subsequent to identification, the use of such sources would qualify an operator as meeting any "low-sulfur coal provisions" of NSPS requirements.

CONCLUSION

The Clean Air Act of 1970 is complex and demanding enough. But when the usurpation of State prerogatives is endorsed by the courts, and then amendments requiring nonexistent technologies and endless proceedings are added, a maze is created into which only the foolhardy attempt to enter and from which only the exhausted, depleted, and defeated emerge. The way out of this maze is to scrap section 6 in its entirety.

Support for this recommendation increases steadily. The Governor of Arizona, the Honorable Raul H. Castro, joins other State and Federal officials in requesting that a study Commission be established to investigate and analyze the far-reaching consequences and the dangerous implications of the proposed nondeterioration requirements.

This Commission could be similar to the one established by section 315 of the Federal Water Pollution Control Act. It was directed to make a full and complete investigation and study of the economic, environmental, social, and technological aspects of specific legislative intent.

The Central Arizona Labor Council, an affiliate of the AFL–CIO, has informed me that at a time when unemployment in the building and construction trades is approaching 30 percent in Arizona, that the proposed nondeterioration requirements make about as much sense as filling a fire extinguisher with gasoline.

The council notes that if the nondeterioration requirements become law, some of the four coal-fired electrical generating stations planned in Arizona could not be built. And, those plants that survive the extensive Federal and federally mandated State approval processes, will be required to meet emission limitations far more stringent than the new source performance standards established under the Clean Air Act in its present form.

More important however, is the fact that if the proposed nondeterioration requirements become law, Arizona's utilities will either have to build smaller powerplants creating fewer jobs and forfeiting known economies of scale, or relocate to sites out of State.

In addition, groups that cut across all levels of Arizona—newspapers, concerned citizens, and business associations are demanding the Federal Government stop adding more and more controls, expenses, and intrusions into their lives.

Yet the demand for new air quality controls is by a few vocal litigants. No substantive need for this concept has ever been established.

The nondegradation requirements are a farce.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MOSS. I am glad to yield for a question.

Mr. MUSKIE. I know the Senator has indicated a desire to continue the discussion until the Senate turns to another subject. If it would be helpful to the Senator, it would be helpful to me if I could have some of the remaining time before 2 o'clock to touch upon some of the issues which the Senator has raised; but if the Senator would prefer to use the time himself, I would certainly understand.

Mr. MOSS. I would like to complete some material I have here, but I would be glad to yield time to the Senator from Maine so that he could make such statements as he wished to make prior to the hour of 2 o'clock. I would like, of course, to reserve the floor so I could be assured we would not be pressed to a vote before that time.

Mr. MUSKIE. All right. Then will the Senator yield me 10 minutes?

Mr. MOSS. I am glad to yield 15 minutes, if the Senator would like it, and I am glad to yield at this time, asking unanimous consent that I may reserve my right to the floor, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, my intervention at this point is triggered by two observations which the distinguished Senator from Utah and the distinguished Senator from Virginia appear to share: One is that this bill with respect to nondegradation is related to someone's philosophical notion of what pristine air ought to be.

I have already put in the RECORD a memorandum from the subcommittee staff to the members of the Environmental Pollution Subcommittee dated June 26, 1975, which suggests that our approach is almost the direct opposite of that. For example, under the subject of the concept of class II, let me read the following:

> EPA defined the Class II area specifically to allow development of "average sized" facilities within the Class II region. Class II was not developed by relating it to any specific ambient air quality, such as visibility. Class II does not establish a new kind of national ambient air quality standard, but instead states how much additional pollution could be added to any area which presently has air cleaner than national ambient air qaulity standards. Areas designated as Class II, whether moderately clean or extremely clean, would be allowed to add the exact same increment of pollution to whatever existing background levels are present.

Departing from the memorandum, I would like to emphasize that surely that is no definition of someone's philosophical view of what the pristine quality of the air ought to be in the clean air areas of the country.

Continuing the quotation from the memorandum:

> EPA examined the average plant being constructed in the industrial categories most likely to have pollution problems and then projected the probable air quality impact of construction of such sources using the best available control technology. The Agency concluded that ". . . typical coal gasification plants, oil shale processing facilities, and petroleum refineries would not be expected individually to exceed the Class II increments in most areas. However, the Class II increments would prevent the aggregation of such sources within close proximity of each other."

Well, surely, Mr. President, again departing from the memorandum, a policy which permits the construction of coal gasification plants, oil shale processing facilities, and petroleum refineries can hardly be defined as a policy insisting upon pristine air purity.

Returning to the memorandum:

> The same statement holds true for the average sized plants in the following categories: fossil fuel fired steam electric power units, municipal incinerators, kraft pulp mills, iron and steel mills, coal cleaning plants, sulfur recovery plants, lime plants, Portland Cement plants, phosphate rock processing plants, petroleum refineries, by product coke oven batteries, sulfuric acid plants, carbon black plants, primary aluminum plants, primary zinc smelters, primary copper smelters, fuel conversion plants and primary lead smelters. For many of these sources, the average sized plant would be *substantially* lower than the increment allowed.

Again departing from the memorandum, Mr. President, that is hardly a definition of a policy that insists upon pristine air purity.

Returning to the memorandum:

> The size of the facility or the number of identical facilities located within a Class II area is limited only by the existing technology for controlling emissions.

That pinpoints a requirement of the committee bill that new plants shall be required to use the best available technology that is available to them for the purpose of controlling their emissions. The Moss amendment would eliminate that requirement, at the same time that he urges that we buy some time with his amendment for the purpose of developing technology. If we are not prepared to use the technology that is now available, what assurance can we have that any new technology will be developed let alone that it will be used, or that public policy then can be converted to mandate its use when the Moss study is completed?

Returning to the memorandum:

> As that technology increases in sophistication, larger facilities and facilities spaced in closer proximity would be allowed within the Class II increment.

Mr. President, I put the rest of that memorandum in the RECORD this morning. I emphasize the first page in order to respond to the impression that is being left in the debate this morning that the nondegradation provisions of the bill are designed to prevent economic growth. From that portion of the memorandum, which is the philosophical base of the committee bill, it is clear that that description is a distortion.

The second point that is being raised is that there are no values beyond primary and secondary standards that it is in the public interest to protect.

Let us look at the question of visibility. I know there is a tendency in some portions of the East where visibility has long since disappeared as an esthetic value of any consequence to sneer at visibility as a public interest value that ought to be protected. But I should think that, if I were a Senator from a State like Utah, New Mexico, or some other States out there where visibility not only is an esthetic value, but is an economic value when it is translated to the numbers of people who move to that area or travel through that area for the purpose of enjoying its beauty, I would wish to protect that visibility.

Let us look at visibility.

If the existing particulate background is 10 micrograms per cubic meter, the existing visibility is 120 kilometers, call it 120 miles. We can enjoy that kind of visibility in most parts of New Mexico. Having the Senator from New Mexico on the committee we focused on that. But with respect to class I, under the Senate bill, the national parks, like the Glacier National Park out in the Senator's area and some others, that 120-mile visibility would be reduced to 80 miles.

With respect to class II areas, the increments which the Senator's amendment is directed against, visibility would be reduced to 60 miles, and with respect to the House bill, which some people hold up as the standard, it would be reduced to 25 miles.

I have traveled through some of those great natural parks out there and, as I recall them, protecting their scenic values, protecting visibility, is critical to the protection of the area. I mean, if we want to eliminate natural parks, fine. But if we are going to permit their air quality to deteriorate to the standard advocated by the Senator from Utah, a standard which is the minimum value to which we seek to raise New York City and Los Angeles and Boston, then we are talking about visibility of 12 miles. I tell Senators I would not visit Glacier Park and spend a half day there if the visibility in that park were permitted to be reduced to 12 miles. So there are values.

There is the question of acid rain. Acid rain is one of the great looming pollution problems of this country, and we have nothing in public policy at this point to protect us against acid rain. There is nothing in primary or secondary standards to protect us against acid rain. And it is clear that some of the devices and some of the technology that is being advocated by critics of this bill to lower the economic costs of dealing with pollution would exacerbate acid rain levels, and what acid rain does to the clean air areas of this country. Acid rain is transported from public utility crowded cities, and industry crowded cities—the areas that are dirty—to the areas that are clean. There is nothing in this bill that protects against that unless it is the margin of safety built into the class II increment. If we were to substitute for the class II increment the national primary and secondary standard there would be nothing in this bill to protect against the risk of acid rain and what it would do to the rural areas of the country, including my own State of Maine, and I assume some of the sparsely settled areas of the West.

Mr. President, if I may, at this point, I shall put to the Senate some questions that I would hope every Senator would consider as he considers the issue raised by this nondegradation issue.

One, should Congress address the issue of protection of air quality in clean air areas—is that any of our business—either by voiding EPA's regulations, substituting congressional policy for protection for clean air areas, or striking the Clean Air Act requirement that air quality be protected and enhanced?

If we really want to buy time, if we really are uncertain about whether or not we need to protect clean air areas beyond the primary and secondary standards, why do we not simply amend the Clean Air Act, by striking out all provisions for protecting the clean air areas of the country? That is the first question.

Mr. McCLURE. The Scott amendment does that.

Mr. MUSKIE. And I gather, if I understand correctly, the Scott amendment would do that. Why not just strike it out? Let us wait until the clean air areas are filthy, let us wait until they need the application of national primary and secondary standards before we worry about them. Why should we worry about them in advance? Let us strike all provisions and make the Clean Air Act really comfortable and just deal with the dirty air areas of the country.

Second, if the decision is that we should write congressional policy, what should be the basis for that policy? The same policy as for dirty air areas, that is, allow pollution up to secondary standards, or an added level of air quality protection designed to maximize options in clean air areas and to protect values that are not protected by primary and secondary standards.

Third, if we are to have a congressionally set policy—should an individual facility, should one facility, be permitted to use all the available capacity between background air quality and secondary standards, or should that capacity be divided among polluters? Should the maintenance of the secondary standard be an enforceable requirement? Should this require retrofit of new facilities prior to continuous operation if the plant causes or contributes to secondary standards being exceeded? What level of control should a new facility be required to achieve, or are we going to allow new facilities to proliferate without limit, without regulation, without standard, until the study is completed and Congress is able to develop a new policy based upon this study?

Four, if one facility, as is the case in many parts of the country, can utilize the entire remaining air resource, should the statute include a prohibition on any further development which might add to existing particulate and sulfur dioxide levels? If the committee decides that growth and air quality require protection beyond the level provided by secondary standards, what should be required?

Should there be a margin of safety between background air quality and secondary standards to: First, permit reasonable growth of satellite development associated with large industrial facilities; and, second, future demands for new and expanded plant capacity?

Mr. President, those two areas, it seems to me, are emerging from this debate, the question of: First, whether or not the committee bill does indeed require the maintenance of pristine air quality in the clean air areas of the country; and second, whether or not the public interest requires protection of clean air beyond national primary and secondary standards. Those are two legitimate issues, and I hope the Senate will focus on them as the debate progresses.

I thank the Senator from Utah for yielding.

Mr. MOSS. Mr. President, I am happy to have the Senator from Maine express his view on the bill that is before us, and I find that I agree very much with what he has to say.

I certainly do not want to be one who advocates dirty air or who is opposed to making all progress possible as rapidly as possible for improvement in cleaning the air.

I am sure that with the impetus there has been behind the Clean Air Act and its enforcement, the air quality in this country has improved immensely in the last 4 to 5 years, and I hope it will continue to do so.

However, my concern is with forcing a situation that goes too rapidly and where we do not have in hand all the facts. I am convinced, as I am sure every person in this body must be, that if you put into statutory language and make it law that certain things must be done and then find out that the standards have gone too far or they did not take into account certain conditions, then you have a very difficult situation with respect to changing it and getting out of there.

Mr. MUSKIE. Mr. President, will the Senator yield for a moment?

Mr. MOSS. I yield.

I have seen that chart, and I was in effect referring to that.

Mr. MUSKIE. Let me explain what it is.

This chart is written on a 1975 base that tells us where we are. It deals with two pollutants, one of which is sulfur oxide, which is one of the two pollutants covered by the nondegradation provisions. There are sulfur oxides and particulates.

At the present time, we are emitting 34.3 million tons of sulfur oxide into the air of this country. If we were to project high growth at 6.1 percent and apply nothing more than the inadequate new source performance standards to new plants and equipment, which are below the requirements of nondegradation, by 1990 we would add 7 million tons of sulfur oxides per year to the atmosphere, on top of the 34.3 million emitted in 1975.

If we were to project moderate 4.8 percent annual growth, we would add 5 million tons more of sulfur oxides by 1990 than we do now, using new source performance standards.

If we are to use best available control technology, as the committee nondegradation provisions require, and project the same high 6.1 percent annual growth, by 1990 we would add 3.8 million tons per year of sulfur oxides to the atmosphere. We would add that much, using stringent enforcement of what the Senate bill requires. In other words, this is not rolling back pollution. This is rolling back the increase in pollution.

If we were to project moderate 4.8 percent annual growth—and we would hope to do better if we are dealing with the requirements of this country, and rigidly enforce the provisions of the committee's bill—we would still add, by 1990, 2.8 million tons of sulfur oxides per year.

With respect to nitrogen oxides, which is not related to nondegradation—but inasmuch as I have the chart out, I might as well complete the description of it—this also is a 1975 base. At the present time, we are emitting 24 million tons of nitrogen oxides into the atmosphere.

If we were to require the 2 grams per mile NO_x standard of the auto industry as proposed by the administration, by 1990 we would add 22 million tons of nitrogen oxide per year. The base is 24 million tons, as the Senator can see.

If we were to use the accelerated new source performance standards, for industrial facilities, and the committee's 1 gram per mile NO_x standard, that would still add about 9 million tons of nitrogen oxides per year by 1990.

What we are saying with both charts is that this committee bill does not roll back pollution with respect to either of these, which are two of the serious pollutants. All it does is slow down the increase in our discharge of these pollutants into the atmosphere, and the Senate should understand that. We are not talking about rolling it back.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. McCLURE. I want to add to what the Senator from Maine is saying. With respect to nitrogen oxides, that is a combination on the chart, a combination of stationary sources and autos.

Mr. MUSKIE. Exactly.

Mr. McCLURE. There are varying strategies on both.

Mr. MUSKIE. But the sulfur oxide is the most important.

I will get to the other chart, because I think the Senator from Utah would like to see it.

There has been a lot of talk about the cost of dealing with air pollution. Here is the projected cost for electric utilities. All of us have seen the television advertisements, we have heard the radio advertisements and seen the newspaper advertisements of the electric utilities and their complaint about the cost. This is the projected cost, $4.8 million over the next 10 years for utilities. That is the additional cost to capital investment that they are already planning. This is the capital planning they are already planning, which is about $180 million. This takes them up to $212 million, which is about 4.8 percent. They say that is too much.

The steel mills are a little higher. They have a more complicated problem. This is their projected capital investment; pollution requirements would add 12.5 percent; with respect to petroleum refineries, an additional 5.7 percent; with respect to pulp mills, 9.3 percent.

There are some who say that even 5.7 percent is too much. They will have to make their own case, but this put the additional cost in perspective. The source of these figures is EPA's Office of Planning and Evaluation.

There are some other charts we shall put up here tomorrow that will, we hope, put this all in perspective. I thought these might help.

Mr. MOSS. I thank the Senator from Maine. The last chart that we looked at does have some of the features that we shall want to get from the study; that is, how much more is it going to cost to meet certain standards and will that make certain industries unavailable to certain areas? We want to know what the health factor will be, whether that amount of pollution will have any impact on the health and welfare of people. We even want to know visibility, which the Senator was talking about earlier.

I also observe that the first chart that was up there indicates to me one of the fallacies of the provisions of the bill. It tells us that we are getting 34 million tons in the air now and that might go up by 8 or 7 or some other number of tons. That sounds awfully bad just to talk about it in the abstract. We think about, my goodness, 34 million tons over this country. We are talking about SO_2. Well, we have to pin it down into what that does and where it is concentrated.

Mr. MUSKIE. I say to the Senator, if this does not do anything, let us repeal the Clean Air Act. It is this kind of thing that we have been writing environmental legislation for: because people have been dying; because buildings have been damaged; because plant life has been destroyed; because agricultural crops are being destroyed. That is what it is doing. This represents a growth in that damage.

Mr. MOSS. That is exactly what we want to know. We want it down to specifics so we can look at it and say, this is going to be the effect. When we know that, then we can make a decision as to whether or not we want to legislate in that particular area.

I point out that, under the bill, EPA is also authorized to intervene in State decisions regarding permit issuance. Although the States are to determine what constitutes "best available control technology" on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, the Administrator can contest such State determination in court. Every State action on area classifications and permits would be part of the State implementation plan and subject to EPA review and approval. I fail to see how the committee bill is less restrictive of State prerogatives than existing EPA regulations!

Mr. STONE. Will the Senator yield?

Mr. MOSS. I am happy to yield to the Senator from Florida.

Mr. STONE. Will the Senator from Utah say whether the section 6 implementation has been reduced to map form? In other words, is there a map which would show the specific air shed areas to which the nondeterioration would apply and to what extent?

Mr. MOSS. Yes, there has been a map with overlays pointing out the various impacted areas. I intend to use that when my amendment comes up tomorrow. It is rather unexpected that we are here now, so I have not reached that. I do hope that we will have a good attendance in the Senate, because I think it will be very shocking to the Senators to see what is left in white after we take out the areas which, by EPA standards, existing standards and those that will be provided in section 6, will, for one reason or another, not be available for any additional nondeterioration.

Mr. MUSKIE. Will the Senator yield?

Mr. MOSS. Yes.

Mr. MUSKIE. Is that the so-called buffer zone map?

Mr. MOSS. No, it is not the buffer zone map. Buffer zones are on one of the overlays.

Mr. MUSKIE. Anything that presumes to portray this bill as a buffer zone bill is a complete distortion.

Mr. MOSS. I shall deal with that.

Mr. MUSKIE. I say that in advance, because I have looked at those buffer zone maps since last July. They are complete distortions. They can only be described as a lie as applied to this bill. If that is the display that is to be prepared tomorrow, we are indeed going to have an interesting debate.

Mr. MOSS. Well, the Senator will see and he will like it.

Mr. STONE. Will the Senator from Utah allow the Senator from Florida to inquire briefly, along the same line, of the Senator from Maine without losing his right to the floor?

Mr. MOSS. Surely; I yield for that purpose.

Mr. STONE. Is there a map that the committee or its staff certifies as being accurate or correct which does show the breakdown of the airshed implementation of section 6?

Mr. MUSKIE. There is no way of writing such a map for a very simple reason, I say to the Senator. I am glad to have the opportunity to give the answer.

First, only mandatory class I areas can be mapped. They are less than 1 percent of the land area of this country.

With respect to the intrusion problem, which has only to do with the extent to which industrial or other similar facilities outside the class I areas may intrude upon the clean air values of class I areas—which are national parks and wilderness areas—the extent to which that intrusion will be permitted or monitored is done on an ad hoc case-by-case basis by the States, with the States having the veto power.

In other words, the Federal land manager has the responsibility to protect his area's clean air values. If he feels that requires that he intervene in a this stage. State decision or State proceeding to set air pollution standards for adjoining land over which the State has jurisdiction, then he has the obligation under the bill to intervene and to make the case that his area's clean air values are in jeopardy if the pollutant permitted by the State decision goes forward. But the State makes the decision as to whether or not he is right. The State has the option under this bill to decide that he is wrong and to proceed with its decision. There is no way of anticipating, by any kind of map, what kinds of pollution issues will be raised around these Federal areas or what decision States will make with respect to them. So there is absolutely no way of mapping, any more than it is possible to map the Supreme Court's decisions for the next year.

Mr. STONE. Will the Senator from Maine further yield?

Mr. MUSKIE. Of course.

Mr. McCLURE. Will the Senator yield so I may add one thing to the statement the Senator has made?

Mr. STONE. With the same agreement with the Senator from Utah, yes.

Mr. MOSS. I yield.

Mr. McCLURE. I want to mention one additional element: When the Federal land manager makes the decision to intervene in the State decisionmaking process, it is with regard to only one thing; that is the air quality-related values for which the class I area was created as a Federal area.

Mr. MUSKIE. Exactly.

Mr. MOSS. That is without further definition than just those words, "air quality-related values."

Mr. STONE. The Senator from Florida is a little troubled by the lack of predictability of mapping, as it were, of the airshed areas to be affected by section 6 nondeterioration restrictions.

The Senator from Florida wants some additional protection over and above what the current statutes provide. He wants, in the words of the Senator from Maine, further protection.

Mr. MUSKIE. This bill provides less protection than current law. This bill provides less protection, let me repeat, than current law.

Mr. STONE. Then the Senator from Florida is reinforced in his cosponsorship of the Moss amendment.

Mr. MUSKIE. Which provides even less protection.

Mr. STONE. Which would require a study for a year to find out what is the appropriate further protection to additionally protect the airshed areas impacting on these class I areas. But the Senator from Maine says at this stage of the proceeding there are no maps that could be advanced as the impact maps, as it were; is that not correct?

Mr. MUSKIE. May I say to the Senator, we have tried, and I am sure the Senator will try before his terms in the Senate have expired, to find a way to apply national solutions across the vast diverse regions of this country so that they impact exactly equally upon conditions that are exactly the same. I mean, we have tried it.

Mr. STONE. That is our goal, is it not?

Mr. MUSKIE. We tried it with transportation goals in the 1970 law, and we had a virtual revolution across this country from those areas which were asked to do more than they felt they reasonably could as a result of the application of national standards.

The same thing is true in a lesser degree with respect to automobile standards.

Now you have more and more States coming in and saying, "Well, we need a special law." So all of the pressure is the reverse of what the Senator is talking about. They want to fractionalize and fragment this business. The Senator from Virginia wants each State to set its own standards. Well, why did we get into national standards in the first place? Because of competitive disadvantage.

Mr. STONE. If the Senator will yield, Mr. President——

Mr. MUSKIE. So there is no way, may I say to the Senator, and I say it with all sense of realism, there is no sense of writing a map of the kind of things the Senator is talking about. Does the Senator think he is going to get a map out of the Moss study? The only kind of map you can conceivably get out of that is a map that imposes no air quality standards upon clean air. If you want something that adjusts to the requirements of individual areas this committee bill does because it gives you an increment that adds to whatever the air quality presently is in an area.

It does not impose a uniform ceiling at all. That is what you want. I can hear myself listening to the Senator from Florida in a year or two saying, "Senator, don't you know better than to tie that kind of a handcuff on every area of the country, whatever its differing circumstances?"

I mean, you have to choose a course somewhere in between.

Mr. STONE. The Senator is quite correct, and that is why the Senator from Florida does not intend to support the amendment of the Senator from Virginia (Mr. WILLIAM L. SCOTT). But the Senator from Florida would like to have some kind of a forecast of the impact, and the Senator from Florida did not ask for an absolutely equal impact all across the board, all across the country, as the Senator from Maine was talking about in his transportation studies and other studies.

Mr. McCLURE. Mr. President, will the Senator yield, because I think he addressed himself to the very crux of the argument on the Moss amendment.

If the Senator from Florida believes we are going to get more predictability under the Moss amendment than under the committe bill, I think he is sadly mistaken. If the Senator thinks he is more apt to get a map under the EPA regulations than under the committee amendment, I think the Senator is sadly mistaken. The uncertainty of the incremental additions and the uncertainty of the kind of map the Senator is talking about is at least as great and, in my judgment, greater under existing law and existing regulations than it is under the committee measure.

If you adopt the Moss amendment you are back to the existing law and existing regulations which will impose a greater uncertainty than the committee measure with which we are dealing, and you would have gone in exactly the opposite direction that you say you wish to progress.

Mr. STONE. The Senator from Florida fails to accept and understand that you will get less certainty and less knowledge out of a study than without a study.

Mr. McCLURE. That is not the question. The question is do you progress under the existing law and the EPA regulations that are implementing that law, with all of those uncertainties, which I agree are great, or do you progress under the uncertainties of the committee bill which, I believe, are less onerous than those of the existing law.

The study only kind of tries to set after a year's time how bad is the situation under the existing law. The amendment of the Senator from Utah only gives us that information after the fact, tells us how bad it has been for the year which we have been studying and living under the current uncertainty.

Mr. MOSS. I think quite to the contrary. What the Senator from Utah's amendment attempts to do is to say, "Hold where we are now on air standards, study it for a year, come back with all the data we need to tell us what it is going to be and then decide whether we want to take on this second uncertainty," which the Senator from Idaho referred to.

Mr. President, I only have a very few moments.

Mr. MUSKIE. Mr. President, will the Senator yield 30 seconds?

Mr. MOSS. Yes.

Mr. MUSKIE. May I say to the Senator from Florida I have found around here that when we are dealing with formulas of distribution to several States you had better have a formula which benefits the majority of the States or you are not going to get a favorable vote. I can see the map that the Senator from Florida envisages, and I can see a map that imposes more stringent requirements on a majority of the States than the law in force, whatever it is, and I can see the Senate amending the map to insure that a majority of the areas represented by the Members of this body have lesser and not tougher requirements to meet.

Mr. STONE. The Senator from Florida would not be voting for less, he would be voting for more.

Mr. MUSKIE. But a majority of your colleagues would not.

Mr. STONE. That may be, but the Senator from Florida can only cast his own vote. The Senator from Florida is seeking the kind of knowledge of impact on the environment that will allow a wise move, something that will balance the loss of production, the loss of investment, the loss of jobs, with an enhancement of the air quality on an acceptable balanced basis, and the amendment of the Senator from Utah requires just such a study that will allow an intelligent vote 1 year hence rather than an assuming vote at this stage.

Mr. MUSKIE. May I say to the Senator I have been reading this material, studying it——

Mr. MOSS. I have now yielded about 30 minutes.

Mr. MUSKIE. For 13 years.

I would say to the Senator from Florida I doubt that he will have the kind of certainty at the end of 1 year that he is asking for.

Mr. MOSS. Mr. President, do I have the floor? I would like to claim the floor. I have been cut off for about 30 minutes. I was just trying to wind up my statement.

I appreciate the help of the Senator from Florida and the Senator from Maine.

Proponents of nondeterioration cite studies showing that growth would not be impeded under a policy of nondeterioration. They say that by applying modern pollution technology, virtually every size and type of industrial source may be constructed, under the provisions of S. 3219. I disagree. First of all, there are at least as many studies concluding that growth would be restricted. It should be obvious to those of us familiar with the clean air issue, that growth will be limited even if the policy of nondeterioration were not enacted or implemented. In many areas of the United States—in fact, in areas where most of our industry is located and where most of our citizens live—the ambient primary and secondary standards have already been exceeded. The pollution levels set by these standards are the absolute limit in areas with superior air quality, and are the defined goals in areas where pollution exceeds the standards. If ambient standards are already exceeded in many areas, a strict tightening of these standards in clean air areas can only further impede the construction of new facilities.

COMPETING NATIONAL GOALS

It is time we stopped trying to fool each other about issues involving the catch words "clean" and "environment." I am not prepared to tell you that the existing national ambient standards are adequate to protect every living person or thing in the United States. It is obvious that breathing anything short of air "pure as the driven snow" will not, under normal circumstances, enhance human health. We all recognize that any air pollutants could have adverse health effects over some period of time, on some individuals. This is no startling revelation.

Having recognized this fact, our job in setting national policy is to determine at what level, under existing technology and economic circumstances, we will accept less than pure air in order to balance this important objective against the equally important objectives of fostering a healthy economy, a healthy domestic energy industry, and a healthy job market.

Air, after all, is a natural resource and must be conserved as such. On the other hand, it must also be utilized for man's ultimate benefit. This includes the use of air to produce energy necessary for our domestic well-being.

Now, I am not philosophically opposed to the idea of nondeterioration. Neither am I prepared to say that what is good for industry is good for America. However, anti-industry measures are not necessarily pro-environment either. Until we know the facts, precipitous action is foolish and unwarranted.

Let us insure that in our enthusiasm to make our environment as acceptable as possible that we do not start a chain reaction of two steps forward for air, and three steps backward for our total environment. We must remember that it has been man's ability to alter this environment through industrial development that enables this planet to support upwards of 4 billion people. For too many of these people, change in the environment which expedites the exploitation of Earth's resources, including air, could not come soon enough. I think we have learned the hard lessons of the past that we cannot act irresponsibly in using our environment. But we cannot stop using our environment, either.

MAKING POLICY FOR 1976 AND THE FUTURE

Proponents of nondeterioration continually cite language contained in previous enactments of the Congress as the original basis for the concept of nondeterioration. Even if we accept this history as accurate, let us not forget that our responsibility is to examine, define, and where appropriate, enact public policy for the benefit of our citizens in 1976 and hereafter; not to let ancient history, whether legislative or otherwise, dictate our course. I doubt that there is a Member of this body in office in 1970, who realized that the policy of nondeterioration was embodied in the Clean Air Act that we then voted on.

We must recognize that air is a renewable resource. It does cleanse itself when pollution levels decrease. Pollution levels have been decreasing in many areas in recent years largely because of the existing act. Contrary to the impression advanced by proponents of nondeterioration, the skies over the national parks and wilderness areas are not going to turn black, with helpless animals choking from pollution, if we implement a comprehensive and necessary 1-year study by deleting nondeterioration from this bill. We should consider it again with facts in hand.

ADDITIONAL STATEMENTS SUBMITTED

Mr. MUSKIE. Mr. President, at this point in the debate I want to comment briefly on the budgetary impact of S. 3219, the clean air amendments.

The bill is an authorization bill and, as such, does not provide budget authority. Actual funding is done through the appropriations process. In the past the Committee on Appropriations has not provided funds for the clean air program at the levels authorized by the bills we have enacted over the past few years. While I understand the need for restraint exercised by the Appropriations Committee, I believe that as a nation we cannot afford to underfund our environmental programs. Clean air, clean water and a healthy environment in general cannot be achieved without committing an adequate level of funds.

The clean air amendments, as reported by the Committee on Public Works authorizes $867 million for clean air programs over a period of 3 fiscal years plus the transition quarter. For fiscal 1977 the bill authorizes $292 million. Were the bill to be fully funded, outlays in fiscal year 1977 are estimated by the Congressional Budget Office to be $256 million.

Actual budget authority and outlays in 1977 for clean air are likely to be considerably less than this amount as the Senate has already acted upon the HUD-independent agencies appropriation bill that funds the clean air program. This bill provided $147 million in budget authority for the program, about one-half of the amount authorized in S. 3219 for clean air in fiscal 1977. At this level, outlays would be approximately $156 million.

How that funding for the clean air programs measures up to the budget resolution can best be determined by looking at the Appropriations Committee's allocation to the HUD-Independent Agencies Subcommittee. The subcommittee's allocation, when adjusted for the subcommittee's action on the FHA fund, is $52.8 billion on budget authority and $36.8 billion in outlays. The HUD-independent agencies appropriation bill, as passed by the Senate, provided $43.3 billion in budget authority with resulting outlays estimated to be $34.6 billion thus there is $9.5 billion in budget authority and $2.2 billion in outlays remaining for possible supplementals. These amounts would be available—if Congress saw fit—for additional expenditures in veterans' benefits, housing programs, science and space programs, and environmental programs such as clean air, which are under the jurisdiction of the HUD-Independent Agencies Subcommittee.

Given the amount of these remaining funds, it is fair to conclude that S. 3219, as it is being funded in the regular appropriation bill and even if it were fully funded, would be consistent with the budget resolution.

Lest anyone think, however, that this remaining $9.5 billion in budget authority and $2.2 billion in outlays constitutes an open fund from which many new expensive projects can be paid for, let me point out to the Members—as I did when the Senate passed the HUD appropriations bill—that several possible supplementals may use up much of the remaining funds.

Our latest calculations indicate that several supplementals for veterans programs plus funds for EPA construction grants may use up $6.9 billion in budget authority and $1.9 billion in outlays of these remaining funds. I would also point out that we are not yet even into fiscal year 1977 and further unexpected demands could easily arise so by no means do we have a windfall.

In the coming months ahead we must be sure to watch closely how any remaining funds are utilized. In cooperation with the Committee on Appropriations, the Budget Committee intends to review carefully the many supplemental requests for appropriations to make sure that the Senate's spending decisions are consistent with the budget resolution.

Mr. McCLURE. Mr. President, the definition of a major emitter is an important aspect of the no significant deterioration policy contained in the bill before us. The bill language states that the source must meet two criteria; the source must be among the 28 identified categories of facilities, and must also have the potential to emit over 100 tons per year. The bill language also gives the Administrator of EPA the authority to add categories to the 28 listed. It is important that we establish guidance for the use of this authority.

It is my understanding that this authority should be used cautiously and only after careful analysis indicates that a category of sources clearly presents a significant problem requiring the application of the requirements and procedures that are a part of the conditions major emitters must meet prior to approval for construction of the source. Is that the same understanding reached by the floor manager of the bill?

Mr. MUSKIE. Yes. This authority is neither a permissive license to add extensively to the committee's list nor an ironclad definition of sources forever frozen in print. The committee selected 28 categories from a list of 190 compiled by the stationary source program within the Environmental Protection Agency. The fact that the committee selected less than one-sixth of the sources on that list indicates that the committee was selective about the types of facilities that it feels are necessary to be reviewed in order to prevent the significant deterioration of air quality in clean air areas. The 28 categories also indicates that the committee felt that some categories should be added to the rather narrow list which EPA presently uses under its present nondegradation regulations.

EPA's present regulations require review of only 19 categories of major emitters. The Committe made substantial additions to this list, feeling that many sources had been ignored by EPA which had the potential of having significant impact on air quality.

The EPA will need to chart a middle course in this area. Any additions to the list of 28 must be based on careful analysis. Yet the agency has a direct responsibility to protect air quality in clean air areas, and can only fulfill that responsibility if sources that create pollution problems are adequately reviewed and controlled prior to their construction.

Mr. McCLURE. I have some concern that EPA might not exercise adequate restraint in selecting new categories to be added to this list of 28.

Mr. MUSKIE. That is a legitimate concern, and one that I believe has received instruction in the committe report but could benefit from further guidance at this time. The EPA has obviously shown restraint in this area already—in fact more restraint than the committee felt was proper to protect air quality in clean air areas. The Agency made its own review and determination when it published its regulations December 5, 1974, and in those regulations only covered 19 sources. That was clearly an act of restraint rather than an act of aggressive over-control. We would expect and instruct the Agency to continue to exercise care in any additions made to this list.

To be more specific, the Agency should apply this authority to two particular cases: First. In the first case, new processes may be developed which are unknown to us at this date but which will create new activities that bring potential for significant adverse effect on air quality. We can only assume the development of such technologies or such activities, and it is essential that the Agency have the authority to place such activities on the list as they are developed and as control is justified; Second. In the second case, there may be existing processes or activities that are found, through subsequent analysis or through existing information that was not known to the committee at the time of its decision, that do in fact create significant problems for the prevention of significant deterioration. It may be that such sources are existing processes that for some reason have an accelerating rate of growth that is more substantial than other kinds of sources. Or it may be that their emissions are more troublesome than early analyses had indicated.

In any event, we would expect the Environmental Protection Agency to examine all of these factors carefully, prior to any additions to the list.

Mr. McCLURE. It is certainly not my intent to indicate that sources that clearly need to be added to the list be somehow kept from that list. But I did feel it was necessary to also insure that the discretionary authority provided to EPA in this language is used carefully and selectively by the Agency.

Mr. MUSKIE. I appreciate the Senator's intentions and I believe his discussion here has helped to provide a useful guideline for the Agency in implementing this authority. I thank the Senator from Idaho for raising this issue.

THE NEED FOR CLEAN AIR

Mr. CULVER. Mr. President, this week the Senate begins its consideration of S. 3219, a bill to amend the Clean Air Act of 1970. The amendments by the Senate Public Works Committee are the product of very extensive and serious analysis of our Nation's efforts to enhance and maintain air quality. We have learned much during the last 6 years about the need for clean air and what must be done to achieve that objective, and that experience has demonstrated that certain mid-course corrections are in order. Though there are sections of the present bill which I opposed in the committee, I believe we have developed, under the leadership of the chairman of the full Public Works Committee and the chairman of the Environmental Pollution Subcommittee, an extension of the Clean Air Act which makes the program more flexible as well as more responsive to both long-term environmental and economic considerations.

These changes to the 1970 Clean Air Act must not be misread as a relaxation of our commitment to improving air quality. Although the committee recognized the need to balance our environmental goals with the requirements of orderly social and economic growth, it has not altered its conviction that the basic assumptions of the Clean Air Act—the protection of public health and welfare from adverse effects of dirty air—are as worthwhile and important today as they were when we first embarked on an effective program to reduce air pollution. From an examination of the progress and problems of the last six years, it is apparent that dirty air remains a major problem.

One of the noteworthy developments over the last few years is a greater understanding of the economic impact of our environmental controls. Contrary to the early claims that clean air and clean water legislation would force rampant plant closings and unemployment, the Council on Environmental Quality—CEQ—recently indicated that plant closings and job losses resulting from environmental laws have not been significant. As a matter of fact, these laws have generated economic activity and employment. Earlier this year CEQ released a report stating that 1975 expenditures by both the public and private sectors for pollution control would amount to $15.7 billion, and that each billion dollars would generate 66,900 jobs. Since 1971, there have been only 75 plant closings partly attributable to environmental regulations, resulting in a loss of only 15,700 jobs; and many of these plants were being phased out anyway. The Iowa Department of Environmental Quality has estimated that 30,000 jobs have been generated in Iowa alone by our environmental standards. These figures show that we do not necessarily have to sacrifice decent environmental protection at the expense of economic well-being.

Last fall Russell Train, Administrator of the Environmental Protection Agency—EPA—reported that smog from our Nation's downtowns and urban areas is sweeping into rural areas many miles away; and the National Academy of Sciences—NAS—has reported to the committee that emissions are being transported 300 miles downwind. I believe events in Iowa last summer clearly demonstrate the widespread problem of air pollution and substantiate that air pollution is no longer a uniquely urban affliction. During the months of July and August, the Iowa Department of Environmental Quality issued Iowa's first statewide pollution alert. As a result of the high pollution levels last summer, people with heart conditions and respiratory problems were encouraged to stay indoors; and many people in Iowa experienced coughing and eye irritations. Consequently, several manufacturing plants reduced emissions, and utilities began cutting back on the use of pollution-producing fuels.

Testimony before the Environmental Pollution Subcommittee last year repeatedly suggested that the effect of air pollution on public health is very dangerous, and that there is no scientific basis to justify the relaxation of the present national standards. Most recently, the National Cancer Institute has estimated that 60 to 90 percent of all human cancers in this country are caused by environmental impurities.

Several studies have reported that the margins of safety for the standards are quite modest; and, as a matter of fact, the National Academy of Sciences has recommended the adoption of a short-term standard for nitrogen dioxide to supplement the present standard during peak periods. There is growing evidence that low-level concentrations—those below the national secondary and primary standards—have serious adverse health and welfare effects.

Of particular interest to many individuals is the nondegradation provision which protects air cleaner than the national standards. In addition to the adverse health and welfare effects of low-level concentrations of emissions, which I have briefly mentioned, there are several other important reasons for supporting a sound policy of nondegradation. There is a need for the Federal Government to protect the pristine air quality in such areas of national environmental importance as national parks and wilderness areas; and, moreover, since the present regulations were formulated by EPA as a result of judicial interpretation, it is essential for Congress to determine a flexible and reasonable plan for preventing significant deterioration. These factors have been clarified in a recent telegram from Governor Robert D. Ray of Iowa, acting as Chairman of the National Governors' Conference, to the Chairman of the Public Works Committee, and in a recent editorial from the Des Moines Register. I believe this material is worthwhile, and I ask unanimous consent to include it in the Record.

Mr. President, considerable thought and analysis have been devoted by the members of the Public Works Committee to achieving an effective extension of the Clean Air Act of 1970. The bill before us today enhances in many instances our efforts to improve air quality, and I believe it deserves our full support.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Des Moines Register, Feb. 10, 1976]

Keeping Air Clean

Should clean air be allowed to deteriorate, or should it be preserved?

The Environmental Protection Agency (EPA) wants to insure that regions with unpolluted air stay that way by making utilities in such areas use the most advanced pollution control technology. However, the Senate Public Works Committee has voted to require the EPA to consider the economic impact of anti-pollution controls in deciding whether a new power plant must install equipment to clean up the smoke from its stacks. Under the proposal, if stack scrubbers prove too expensive, they would not be required.

Environmentalists fear the amendment may ease the way for construction of the giant Kaiparowits powerplant in scenic southern Utah. The site is fewer than 100 miles from some of America's most beautiful natural areas, including the Grand Canyon. Plans are afoot to build six more coal-powered generating plants in the same region if Kaiparowits is approved.

The Senate committee's vote is symptomatic of an inclination to weaken the Clean Air Act. A House committee also is considering changes in the act. "Clean air had sounded like a great idea [in 1970]," wrote Karen Elliott House in a recent Wall Street Journal, "but the inconveniences required to achieve it sounded horrible."

More horrible is the prospect of huge power plants pouring dirty smoke into one of the most nearly pristine regions of the country.

It makes sense to insist on stringent standards in clean-air areas to maintain purity instead of having to restore air quality later. The Environmental Protection (not Correction) Agency should not be hamstrung in keeping air-quality levels high.

Telegram From Governor Robert D. Ray, Chairman of the National Governors' Conference to the Honorable Jennings Randolph, Chairman, Senate Public Works Committee

With regard to the non-significant deterioration of air quality as related to the Clean Air Act amendments, I would like to advise that the policy of the National Governors' Conference (NGC) calls for a decision by Congress to allow each state maximum flexibility to incorporate local values in its decision making. An amendment to be offered by Senator Moss to S. 3219 would put off Congressional action on this issue. Many states are concerned that the passage of such an amendment would result in continuing litigation over present court-ordered federal regulations and bring about uncertainties among the states and other interested parties in planning for orderly development in clean air areas. Therefore, I urge you and your colleagues to insure that the vital issue of prevention of significant deterioration is settled now by Congress. No action by the Senate should allow the state decision making authority to be abrogated. Such action would represent a severe setback to our efforts to formulate a reasonable national policy on prevention of significant deterioration of air quality. We are concerned that the Moss Amendment will provide an obstacle to this goal.

Mr. BUCKLEY. Some of the comments this afternoon have indicated that the committee's version of the provision to prevent significant protection would regulate cars or the construction of homes or agricultural production. This, I fear, is based on some of the misstatements that have been made about the committee bill. Earlier this year I made a brief analysis of some of the statements and misstatements on significant deterioration.

I ask unanimous consent that the analysis be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Myths of Significant Deterioration

The Senate will soon consider S. 3219, the Clean Air Amendments of 1976. During that debate, the major issue will probably involve the provisions of Section 6, the language that defines the existing requirement that clean-air areas be protected against deterioration.

In preparation for that debate, I have read some of the analyses of the bill that have been sent to the Congress. If one is to rely on these assessments, our bill sounds exceedingly ominous: a source of economic stagnation and paralysis to growth. Such an assessment is wrong. It is wrong because the analyses of our bill are based on misconceptions and misstatements.

There is value in examining some of these statements, to compare them with the realities of S. 3219. One of the most startling publications is a broadsheet that carries no identification, but which has been circulated by the U.S. Chamber of Commerce. This statement appears among its specific declarations:

"Consulting geologists at Kent State University studied the impact of significant deterioration regulations on the 11 States where major portions of the nation's coal, oil shale and uranium are found.

"They concluded that:

"(1) New processing of approximately 90 percent of Kentucky's coal reserves could be prohibited;

"(2) West Virginia could suffer inhibitions affecting more than 86 percent of its coal areas. . . ."

This is a startling assertion, one deserving careful attention. Such attention shows that assertion bears no relation to the requirements of S. 3219.

This quoted statement is based on a study by Dr. John Anderson, made under contract for the American Petroleum Institute. Dr. Anderson, a geologist who holds the title of full professor at Kent State University, conducted his study based on 1974 regulations issued by the EPA. It was not based on the bill as reported by the Committee on Public Works. Its asumptions vary sharply from the requirements that are contained in S. 3219.

The Anderson approach was clear cut: it drew arbitrary, 50-mile buffer zones around nearly all Federal property: national parks, national monuments, national forests, and so on. It concluded that no energy development could take place inside any such zone. Because Kentucky and West Virginia and adjoining states contain extensive national forest areas, the Chamber's document concludes that these coal reserves are untouchable.

But as I indicated, this conclusion bears no relationship whatsoever to the provisions of the bill that is before the Senate. Mining is not even one of the specific industrial categories listed in the bill for coverage by state significant deterioration permit review.

In addition, only national parks and national wilderness areas are included in the Senate bill in the category relating to the Anderson study. Third, the Senate bill establishes no arbitrary buffer zones, but creates a mechanism for case-by-case review by the State of a proposed source's effect on the air quality values of the national park or the national wilderness areas.

Thus, S. 3219 will have no adverse impact on coal extraction in West Virginia, Kentucky, or elsewhere.

Mr. President, the critics of this bill have taken research that may—I repeat, may—be valid in interpreting present EPA regulations, and used it for a specious attack on the Senate bill. That is wrong, and I believe it should be so recognized.

In a quick check, I have found numerous statements and erroneous assertions that are being circulated by industry in an effort to undermine the Committee's bill. I have put together a number of these points that I hope will help to clarify this issue for my colleague.

Assertion: The Committee's bill goes considerably beyond existing law.

Fact: The requirement to "protect" existing levels of clean air has been law since 1967. This bill refines that requirement more precisely, replacing existing EPA regulations with a defined Congressional policy.

Assertion: Class I areas will be off-limits to construction of major, new polluting sources.

Fact: That is correct. But since Class I areas are national park and national wilderness areas, logic and existing national park and wilderness legislation preclude development inside those areas of steel mills or refineries, the types of industry covered by the significant deterioration provision.

Assertion: The significant deterioration provision will have a more severe impact on some States than on others.

Fact: Just the opposite is true. By setting a single standard for determining significant deterioration, the bill equalizes the impacts as much as possible. Certainly this is true in comparison to the more rigid, three-tiered scheme in the EPA regulations, which industry now appears to favor.

Assertion: "The mandatory establishment of Class I zones will drastically limit, if not prohibit, the siting of large fossil-fuel electrical generating facilities in California." (Pacific Gas and Electric Co.). That company has circulated maps showing "how little of the State (of California) remains for development," based on 50-mile buffer zones around "California's national forests and national monuments." "These buffer zones, within which major sources will also be prohibited, can extend 150 miles." (Pacific Gas and Electric).

Fact: National forests and monuments do not receive Class I review unless the State and the Federal Land Manager agree to provide Class I designation for specified areas. Each plant-location decision will be made under the Senate bill after a case-by-case analysis on the air quality values for which a particular national park or wilderness is operated.

Assertion: Assateague Island National Seashore would be established as a Class I area and there would be a 55-mile buffer zone around the seashore "within which any industrial, commercial or residential development would be strictly limited." (Delmarva Power).

Fact: Any designation of a national seashore as a Class I area would be made jointly by the State and the Federal Land Manager; it is not mandated by the Senate bill. Each major facility proposal would be reviewed separately on the basis of air quality values; there would be no reference to a buffer zone. The provisions for analyzing significant deterioration involve only specified types of major new industrial sources; they have no impact whatsoever on commercial or residential development.

Assertion: "No new construction of a major facility may be begun in an area with air better than the Federal Standards without an EPA permit." (Deere and Company). The provisions on significant deterioration give "a single appointed official in Washington, D.C., the final say-so on how states and their citizens can use public and private lands." (Chamber of Commerce)

Fact: The Senate bill augments reliance on state authority. The bill requires a state permit, not an EPA permit. It is the present EPA regulations that could be construed as increasing reliance in Washington.

Assertion: In discussion expansion, a hypothetic plant might take up "65 percent of the allowable pollutant increment established by the Senate bill. But if, several years after our construction program is underway, significant construction is begun by several other employers or by a muncipality in the same or nearby cities which uses up the remainder of our allowable increment (and this appears quite likely), we would simply have to stop building." (Deere and Company)

Fact: This is false. The Senate bill creates a pre-construction review process. Once the state agrees to permit construction of a facility, this legislation imposes no restrictions that could halt construction, unless the source violates the terms of the permit itself.

Assertion: "The technology necessary to determine with reasonable precision whether the proposed allowable non-deterioration increments are met is not presently available." (Deere and Company)

Fact: Prevention of significant deterioration involves a permit-review process, based upon fully available measurement and modeling techniques to determine the dispersion of anticipated levels of pollutants.

Assertion: This bill requires industry to study the air-pollution effects of a proposed plant.

Fact: That is correct. Existing law requires such examination in relation to the EPA regulations and through State implementation plans relating to ambient standards. It is prudent policy that the owner of any proposed major new industrial source—a steel plant or a power plant or a chemical complex—be required to tell the State what impact can be expected from that proposed facility so that State can judge whether it will adversely effect the State.

Assertion: Even in Class II areas, "smaller facilities with package boilers, such as small industrial, commercial, and public buildings, and large apartment houses, would also be restricted." (Chamber of Commerce).

Fact: This bill establishes a single national norm, allowing extensive growth up to that norm. According to Delmarva Power, "A plant as large as 2,000 megawatts could be built without violating the Class II increments for SO_2 or total suspended particulates (TSP) proposed by the Senate."

Assertion: "Any new or modified plant would have to use the best and most expensive air pollution control equipment, plus use the lowest sulfur coal." (Chamber of Commerce).

Fact: The significant deterioration analysis affect only a few, specified industries, not "any new or modified plant." Thus, it will not affect the vast majority of construction. The Senate bill does not require use of the "best and most expensive" pollution control equipment; it requires use of the "best available control technology," which is defined in the bill as a level to be determined on a "case-by-case" basis by each State, "taking into account energy, environmental, and economic impacts and other costs." Rather than forcing the use of "the lowest sulfur coal, the Senate bill seeks to promote the usc of reasonable technology, thus encouraging industry to abandon its present posture favoring the burning low-sulfur coal in preference to the installation of control devices.

Conclusion: This analysis is not meant to encompass every statement and misstatement concerning the Senate bill. Rather, I am offering it in a brief attempt to encourage the Senate and the public to study the Senate provision in greater detail. I believe the Committee bill represents a reasonable guideline, one that will provide both for environmental protection and industrial growth. The Senate bill, ironically, is responsive to the requests of industry clarification of the significant deterioration language. Now the object seems to be to sweep our efforts under the rug in hopes the whole thing goes away.

SUPPORT FOR PUBLIC WORKS VERSION OF THE OZONE PROTECTION PROVISIONS CONTAINED IN S. 3219

Mr. DOMENICI. Mr. President, the Senate will shortly consider section 16 of the Clean Air Act Amendments which deals with the current controversy relating to ozone and halocarbons. I would like today to speak particularly to the wisdom of the timetable which is embodied in section 16 as adopted by the Public Works Committee.

After considering the testimony of distinguished scientists in hearings before the subcommittees of the House and Senate, as well as the opinions of disinterested governmental agencies, the committee adopted a responsible timetable for dealing with the halocarbon-ozone depletion controversy. Under this timetable, the National Aeronautics and Space Administration and other Government agencies will continue and intensify their research efforts to obtain more data on the ozone layer and the effects thereon, if any, of halocarbons. These agencies are obligated to make a preliminary report of their findings on October 1, 1976, and a further report on October 1, 1977. If the data obtained from this research justifies regulatory action, section 16 provides that the Environmental Protection Agency must propose regulations controlling the use of halocarbons in aerosol containers by January 1, 1978, with final action not later than April 1, 1978. Also, if necessary, regulations governing other uses of halocarbons, such as in refrigeration and air conditioning, are to be proposed not later than April 1, 1978. Finally, as an important safeguard to insure the protection of the public, section 16 gives the Environmental Protection Agency authority to promulgate regulations to control aerosols at any time prior to these dates—whenever the scientific data warrants such action. In short, section 16 establishes a timely research program as well as comprehensive yet flexible regulatory authority to deal fully with this controversy.

In recent remarks to this body, the acceptability of this time frame was challenged by our distinguished colleague from New Hampshire, Mr. McIntyre, urging the adoption of the amendment to be proposed by Senator Packwood. This amendment, for all practical purposes, would impose a negative burden up-front ban on the use of halocarbons in aerosol containers after January 1, 1978. In support of this amendment, Senator McIntyre suggests that today's fluorocarbon emissions will subsequently cause a substantial destruction of the ozone layer, resulting in serious harm to the public. However, this alleged destruction is based on a hypothesis whose validity has not been established. It is precisely for this reason that section 16 provides for extensive technical research to resolve the matter.

Moreover, contrary to Senator McIntyre's position, there is no reliable basis for assuming that any significant reduction would occur over the 3 months between the January 1, 1978, date called for by the Packwood amendment and the April 1, 1978, date for regulation, if any, issued under the Public Works Committee's version of section 16 to control halocarbon-containing aerosols. My distinguished colleague asserts that there is a "1-percent average depletion of ozone" without indicating the time period of this alleged depletion. Senator McIntyre's calculation, moreover, apparently covers the release of fluorocarbons throughout the World from all sources, including aerosol containers, refrigeration and air conditioning. The amount of fluorocarbons emitted by aerosol containers in the United States represents one-fourth of the total worldwide fluorocarbon emission. Hence, at the outset, his figure must be substantially reduced.

In any event, as calculated by Dr. Paul J. Crutzen of the National Center for Atmospheric Research, the amount of ozone depletion which could occur—even if we assume that the unproven hypothesis of halocarbon-ozone depletion is correct—is about 0.5 percent over a 3-year period. This figure is regarded as a reasonable calculation by other scientists. To provide a perspective on what this figure means, I would note that the change of 1 percent in the ozone layer over a given geographical location is equivalent to moving 70 miles to the south, inasmuch as ozone levels decrease as one moves toward the Equator.

Thus, the ozone depletion which allegedly can occur from the continued production of fluorocarbons pending the research provided by section 16 is comparatively insignificant. This is true even if we assume that Senator McIntyre is anticipating a 1 percent per annum reduction from the fluorocarbons emitted from aerosols marketed in the United States alone. As I have noted, there is only a 3-month difference in time between the effective date for regulation embraced by the Packwood amendment and that contained in the Public Works Committee's version of section 16. That means that at worst, the additional ozone depletion theoretically possible from the additional halocarbon-aerosol production would be less than three-tenths percent. Under Dr. Crutzen's calculations this would amount to four-hundredths percent.

Senator McIntyre also relies on the unproven theory of ozone destruction to defend the imposition of a negative burden of proof in the Packwood amendment under which industry must disprove the validity of the theory. I believe that this procedural provision has no place in legislation designed to deal with a scientific controversy, particularly when the worst case assumptions indicate an inconsequential effect in the interim period.

As a basic scientific matter, it is an extremely difficult, if not impossible, task to disprove an unproved hypothesis. I wish to remind my colleagues that this hypothesis is based on computer modeling and certain scientific assumptions. There are no known acceptable techniques, as there are in other areas, for example, drug testing, which would permit affirmative establishment of the safety of halocarbons. Senator Packwood's amendment provide insufficient time in which such procedures to establish conclusively the safety of halocarbons might be developed. There is no justification for adoption of the approach contemplated in the Packwood amendment. The Public Works Committee's version of section 16 gives the Environmental Protection Agency fair and reasonable authority to move swiftly and directly to deal with halocarbons, if the facts warrant such action.

I submit that section 16 of the Clean Air Act Amendments represents a responsible and orderly approach to effective resolution of this controversy. This approach, moreover, avoids the grave and unnecessary economic repercussions which might very well occur under the proposed Packwood amendment. Contrary to the suggestion of my distinguished colleague from New Hampshire, Mr. McIntyre, one cannot view the impact of the amendment as limited to the manufacture of the chemical propellant alone. This is only a small segment of an industry which has developed from the use of this ingredient, and includes the manufacture, filling, and packaging of containers and the distribution of halocarbon-containing products. There is no question that the fluorocarbon industry contributes thousands of jobs and millions of dollars to the national economy. As I have previously noted, major industries cannot be stopped and started at the whim of Federal legislation. Section 16, as adopted by the Public Works Committee, I submit, is clearly a preferable way to deal with this matter and I urge the Senate to adopt it without amendment.

OPPOSITION TO NELSON AMENDMENT TO OZONE PROTECTION PROVISIONS OF S. 3219

Mr. President, I urge the defeat of the amendment to section 16 of the Clean Air Act Amendments which may be proposed by the distinguished Senator from Wisconsin, Mr. Nelson. Mr. Nelson's amendment is similar to the amendment offered by the esteemed Senator from Oregon, Mr. Packwood. I have repeatedly expressed my strong opposition to the Packwood amendment. In essence, Senator Nelson's amendment differs only in that it would lead to a ban on aerosols containing halocarbons as of January 1, 1977—less than 6 months from today.

As the testimony before the subcommittees of the Senate and House and the weight of expert opinion indicates, there is insufficient evidence to justify a ban of halocarbon-containing aerosols at this time. This conclusion is further supported by various disinterested Government agencies, and, I might add, has also been adopted in the United Kingdom by the chief environmental agency of Great Britain, as I have also stated before the Senate.

There is little risk and much to be gained by accepting the time frames established by the Public Works Committee in section 16. The section continues and intensifies the research effort to obtain data on the stratospheric phenomena involved. It also provides that the Environmental Protection Agency shall issue final regulations controling halocarbon-containing aerosols by April 1, 1978, if the evidence warrants such action.

It is clear that the additional production of halocarbons during this 15-month interval beyond the January 1, 1977 date provided in Senator Nelson's amendment will not have a significant impact on the ozone layer even if the halocarbon-ozone depletion hypothesis is proven correct. As I have previous explained to this body, there is responsible scientific opinion that the amount of ozone depletion reasonably possible under the halocarbon-ozone depletion hypothesis is at most 0.5 percent over a 3-year period. To put the matter in perspective, a reduction of 1 percent in ozone is the same as moving 70 miles to the south because the amount of ozone in the atmosphere decreases as one approaches the Equator. In any event, section 16 appropriately permits the Environmental Protection Agency to take action against the halocarbon-containing aerosols, at any time the facts warrant such action. Thus, the public is safeguarded at all times.

In this context, the amendment proposed by Senator NELSON contradicts the fundamental purpose of section 16. As noted, by virtue of its negative burden approach, the amendment would ban aerosol containers by January 1, 1977, before the intensive research program provided by section 16 is likely to produce data required to either prove or disaprove the ozone-depletion theory. The amendment therefore undercuts the basic objectives of section 16, which are first, to provide an intensive research program by NASA and other specialized Government agencies; and second, at the same time put in place a broad and comprehensive authority to deal in an orderly fashion with any facts developed in this research, without economic dislocations and loss of jobs.

As I have stated, I believe that the Public Works Committee approach under section 16, is clearly the most appropriate means of dealing with this issue. I urge, therefore, the defeat of the amendment offered by the Senator from Wisconsin if the matter comes before the Senate for vote.

TAX REFORM ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will now resume consideration of H.R. 10612, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 1966, AS MODIFIED

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Massachusetts (Mr. KENNEDY), 1966, as modified.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. TAFT). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask that during the consideration of title XXII Mr. Susman be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. What is the pending business?

The PRESIDING OFFICER. The pending question is amendment No. 1966, as modified.

Mr. KENNEDY. Mr. President, at this time I would like to give a rather brief explanation of this amendment. Last evening, in making it the pending business, I provided a rather detailed explanation in justification for the amendment. I will review in outline form what the amendment does, and then to try to anticipate some of the questions which might be raised, indicating my position on those particular issues.

Mr. President, this amendment allows taxpayers access to the Federal court system to challenge the legality or constitutionality of regulations and rulings of the Internal Revenue Service. They could go to the Federal court for declaratory or injunctive relief in two circumstances specified in the amendment: first of all to challenge the legality or validity of the ruling or regulation if that ruling or regulation results in decreasing the liability of another taxpayer, thus decreasing the taxes flowing into the U.S. Treasury, by $1 million or more. That is the first basic triggering device. At least $1 million must be in issue.

Second, any person may go to court to challenge the constitutionality of any regulation or ruling if a substantial question is raised whether the ruling or regulation infringes rights guaranteed by the Constitution of the United States.

It seems to me, Mr. President, that persons already have that second right established by court-made law even prior to this amendment. This amendment would be establishing that right as a matter of statutory right. The courts have indicated that the question of tax exempt status of segregated schools, could be raised by individual taxpayers, who have standing in the courts to sue the Government. What we are attempting to do is codify those particular court rulings.

My amendment places the jurisdiction in the U.S. district courts and provides that the court can grant injunctive or declaratory relief which will ordinarily be prospective in nature only.

That point is important, Mr. President, because I know some Members have indicated they might have reservations about this proposal in delaying the receipt of benefits from IRS rulings. It is not our intention to delay the effect of rulings. We are looking only for prospective collection of revenues. If this were enacted into law and put into effect and suits were brought under this amendment, and later if the IRS ruling has been declared to be invalid, the beneficiary of that ruling would not be required to return the tax benefits they actually gained in the past from that ruling.

The purpose of the amendment is the following, Mr. President: the actions of every other agency of the Federal Government are subject to judicial review by specific statute or by the Administrative Procedure Act on complaint of any aggrieved party. This is not so with the IRS. Even so, this amendment would not open the door to all judicial review of IRS actions, but only where rulings or regulations are involved which violate a statute or infringe constitutional rights, as I have explained earlier.

Most Americans are concerned that our Government in Washington is unresponsive and unaccountable. In the tax area there are voiced frequent complaints of special treatment for special interests. I do not think this is generally the case, but we should not insulate the IRS from any accountability whatsoever by the courts.

Congress imposes an inadequate check on the illegality of IRS rulings and regulations. In any event there is a long time lag before Congress can reverse as invalid an IRS determination. This amendment would add the courts to the check-and-balance process of tax rulings and regulations, as they are in every other field of government administration.

All we have to do is look at the various other regulatory agencies. The Administrative Procedure Act applies. There is the general availability of judicial review to protect an aggrieved party or an interested party. But the IRS has been excluded from the impact of that particular act.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Will Senators please take their seats?

The Senator may proceed.

Mr. KENNEDY. Illegal IRS regulations and ruling can insure and adversely affect persons in many ways.

First of all, it lessens the tax burdens of others, thereby increasing directly or indirectly their own tax burdens because the result is a shifting of the overall tax burden necessitated because the Government must have revenues to keep going.

Second, it jeopardizes the rights guaranteed by the Constitution, the right to free press, free association, freedom against discrimination, and so on.

Further, all persons have a right to be free from the effects of illegal Government actions, including those resulting from the exercise of the taxing power.

Finally, the integrity of the tax administration, and our entire system of voluntary compliance, is impinged by perceived but unredressed official illegal actions.

This amendment constitutes a congressional recognition of the injury borne by one taxpayer when another escapes liability through an unlawful ruling or regulation. The rights established by it would be fully constitutional.

Flast v. *Cohen* (392 U.S. 83 (1968)) held that taxpayers had standing to challenge unconstitutionality of exercises of congressional power under the taxing and spending clause of article I, section 8 of the Constitution. This amendment involves challenges to administrative actions which arise under statutes based on the taxing clause, or which are alleged to contravene the Constitution, and thus it falls under a logical extension of Flast.

U.S. against SCRAP, decided by the Supreme Court in 1973, makes clear that, and I quote excerpts from the Court:

"The fact that many persons shared the same injury" is not "sufficient reason to disqualify from seeking review of an agency's action any person who had in fact suffered injury."

The Court has "allowed important interests to be vindicated by plaintiffs with no more at stake in the outcome of an action than a fraction of a vote . . . a five-dollar fine and costs . . . , and a $1.50 poll tax. . . ."

Finally, the Court says:

> An identifiable trifle is enough for standing to fight out a question of principle; the trifle is the basis for standing and the principle supplies the motivation.

The amendment also codifies the result of the case of Green against Connally, affirmed by the Supreme Court, which allowed an injunction against granting favorable tax exempt status under the Internal Revenue Code to private segregated schools. There a constitutional right was being asserted.

The examples of various rulings that have been made by IRS in the past were raised briefly during the consideration of the Haskell amendment, but I might just mention very briefly some of the ones which are the most notorious.

In 1964, an IRS ruling allowed convicted antitrust violators to deduct treble damage payments. This was corrected by statute in 1969, but not until $400 million of tax revenues were lost to the Federal Government.

Private IRS rulings provided that oil, gas, and mineral producers could minimize their tax payments through production payment transactions. Congress corrected these erroneous rulings of 1969, but only after $500 million of tax revenues had been lost as well.

Then there were IRS rulings allowing payments to Arab countries on oil production to be credited against U.S. income taxes. Tax revenues in excess of $1 billion annually are lost because of these rulings. It is clear that the Church Committee on Multinational Corporations has determined that these are really royalties or excess taxes that should be deductible and not creditable against U.S, taxes.

A question was raised as to what this might mean in terms of a flood of litigation resulting from the amendment. I believe that the IRS is basically tough, honest, and accurate in its rulings and regulations. I do not suggest that there are thousands, or even hundreds, of these illegal rulings; probably not even tens in any given year.

When they occur, however, they involve millions or billions of dollars. In some cases, as the one involving the ITT-Hartford merger ruling, the IRS has even later admitted that the ruling was invalid, though it took tremendous public attention and pressure to bring about this revocation. In short, there will not be that many cases under this amendment.

The question can be raised, does this not open up in fact the possibility of frivolous suits? The fact of the matter is that all that is necessary for a taxpayer to file a frivolous suit is a typewriter and a piece of paper, and they can file any frivolous suits they want to right now, and they will be dismissed as frivolous.

The courts will throw them out as quickly with my amendment in effect. This amendment will not encourage any new frivolous suits, which judges can identify when they see them and even charge costs and fees against the plaintiff under equitable rules. So if there are suits that are deemed frivolous in terms of harassment, the law of equity applies, and the courts can charge the costs against the plaintiff, as they should, if there are any frivolous suits raised under this amendment.

But in those few instances where constitutional rights are involved, or where over a million tax dollars are lost to the United States, and where this results from an illegal ruling or regulation, there should be some judicial remedy. This is provided by the amendment.

Mr. President, let me raise some of the additional questions that have been talked about with respect to this amendment.

First, does this amendment involve a new or untested procedure? The answer is, No, it does not. The courts already review IRS administrative actions that raise revenue from individuals. If the IRS goes back to an individual and demands additional payments, that individual can have those particular questions ruled on in a court of law. So the courts themselves have been dealing with these issues and have built a body of law in terms of the types of issues that would be raised in this particular amendment.

Amendment No. 1966 would empower them to do the same thing with respect to rulings that lose revenue. No new procedures are involved.

Then the question is raised, Is this amendment really needed? I think very definitely. I have given examples of the kinds of rulings which have been issued over past years which have meant the loss of hundreds of millions of dollars to the Treasury. And as all of us know, when there are moneys lost to the Treasury, someone else has to make those up, and it is basically, again, the middle-income people who are required to make them up, who do not have the benefit of special rulings.

A question is raised about privacy issues. Privacy issues were involved in the amendment we voted on last evening, but they are not involved in amendment No. 1966.

Why not provide Tax Court review of erroneous and illegal rulings? The proposed amendment provides declaratory and injunctive relief, not money damages. U.S. district courts are experienced in the administration of equitable remedies such as these, but the Tax Court is not.

Will the amendment affect anyone's past tax liabilities? No. The amendment does not provide for recovery of money damages, and it specifically states that relief from erroneous and illegal rulings should be prospective in effect, not retroactive. I believe that to be an important point.

Finally, the question is raised about whether there will be a flood of suits as a result of the amendment. I think that point has been rebutted, too, and answered.

So, Mr. President, I would hope that this amendment could be accepted. I have indicated that other agencies of the Government are governed by the administrative procedures law, section 706, which does provide for a judicial review when decision made by administrative agencies are contrary to law.

It does seem to me that in the narrow area which this amendment reaches, this could be an extremely useful, valuable, and worthwhile device to assure that rules and regulations that have been made and which do meet this particular criterion, included in the legislation, are remedied without the need for consideration of new legislation, which we have seen over the period of recent times may or may not take place every 5 or 7 or 9 years. In the meanwhile, hundreds of millions of dollars and even billions of dollars would be lost from the Federal Treasury.

So, Mr. President, I hope this amendment will be adopted.

Mr. HASKELL. Mr. President, will the Senator yield at that point for a question?

Mr. KENNEDY. I yield.

Mr. HASKELL. Mr. President, I would like to address this question to the Senator from Massachusetts: The Senator has said, and I think rightly so, that the Internal Revenue Service's authority to give rulings to a private taxpayer can often involve very substantial sums of money, certainly in the millions and possibly in the billions.

The Senator has also pointed out that the Service is a very dedicated organization, and that probably the erroneous rulings are rare—there may not even be 10 of them in a given period of years.

But, given the tremendous authority of the Service, I believe that what the Senator is trying to do is reassure the broad spectrum of taxpayers that that authority will not be misused. The very fact that a ruling could be challenged—and only one involving over a million dollars—would have a salutary effect in assuring taxpayers generally that a very wealthy company or individual is not going to get unusual and special treatment secretly. I wonder if that is not one of the purposes of the Senator in putting in this amendment.

Mr. KENNEDY. The Senator has stated, I think, very succinctly the central theme and purpose of this amendment.

Each of us is mindful that there are many rules and regulations issued by all of the various governmental agencies, which are designed to implement legislation that we have passed. I can think of examples of legislation I have introduced, which I floor managed, which I chaired in conference, which were signed into law, and then I read regulations which were completely contrary to the intention and purpose and even the specific language of the legislation. In circumstances like that, there is an Administrative Procedure Act and other laws allowing judicial review of the agency action in order to remedy the situation. But, as the Senator from Colorado has pointed out, when there are these few circumstances—take the example of well-intentioned and honest IRS officials who make a ruling which may be illegal, or violates the statute—there should be some access to the courts.

Mr. BENTSEN. Mr. President, will the Senator yield merely for me to state the time agreement of the proponent of the amendment and the floor manager?

TIME-LIMITATION AGREEMENT

Mr. President, I ask unanimous consent, as agreed upon by the proponents of the amendment and the floor manager of the bill, that we have an hour's limitation on this amendment, 30 minutes to be divided to each side.

Mr. HASKELL. Mr. President, reserving the right to object, and I do not think I shall. But does the Senator mind propounding that request again? I was unable to hear what he said.

Mr. BENTSEN. The proponent of the amendment and the manager of the bill have agreed, subject to consent of the Senate, to an hour's limitation on this amendment, 30 minutes divided to each side.

Mr. HASKELL. I have no objection.

Mr. KENNEDY. Is the time to start running now?

Mr. BENTSEN. No; the time starts running when the Senator completes his, I hope.

Mr. KENNEDY. How much time have we used? I do not know whether the Parliamentarian was watching the clock when I started to speak. I wish to find out.

The PRESIDING OFFICER. The debate on the amendment commenced at 2:12 this afternoon.

Mr. KENNEDY. So we had 18 minutes of discussion already.

The PRESIDING OFFICER. The Senator is correct.

Mr. HASKELL. I ask unanimous consent that the agreement start as of 2:30 p.m.

Mr. BENTSEN. In all fairness, let us agree to add 18 minutes to our side. We have been subjected to the eloquence and articulation of these two distinguished Senators, and it would be a very difficult thing to try to match that.

Mr. HASKELL. We would be delighted to have the manager of the bill yield another 18 minutes.

Mr. KENNEDY. I do not believe we will use that.

Mr. BENTSEN. I do not, either, frankly.

The PRESIDING OFFICER. Is there objection? Eighteen minutes to the opponents; 30 minutes to the proponents?

Mr. BENTSEN. No. That would be 48 minutes to each side on that basis.

The PRESIDING OFFICER. Forty-eight minutes to each side and the time to commence at 2:12 p.m.

Mr. BENTSEN. Frankly I do not think we will use it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. So the Senator is quite correct in his analysis of the amendment. It will provide a degree of awareness by taxpayers that there will be a remedy when there are situations where there are honest and legitimate but mistaken rulings by the IRS.

It is inconceivable to think that even with a group of men and women, who are highly dedicated, honest, and hardworking, who are issuing ruling after ruling all year long that there are not going to be some which are mistaken and which affect and impact in a significant way the amount of resources that are available.

The ability does not exist now where those can be challenged, and the purpose of this amendment is to provide that added degree of accountability. What we are really talking about is accountability of the IRS.

Mr. HASKELL. I thank the Senator very much indeed, compliment him on this proposed amendment, and merely observe that a ruling is a privilege, not a right, and that this is extremely reasonable protection both for the public and for the Internal Revenue Service.

Mr. KENNEDY. I withhold the remainder of my time.

UNANIMOUS-CONSENT REQUEST

Mr. BENTSEN. Mr. President, I ask unanimous consent that section 12 be left open for amendment. There are a number of Senators who are in the process of preparing amendments they wish to present.

The PRESIDING OFFICER. Is the Senator referring to title XII or committee amendment 12?

Mr. BENTSEN. Title XII.

The PRESIDING OFFICER. Title XII of the bill.

Mr. HASKELL. Mr. President, reserving the right to object, as I understand it, title XII is open so there is no need for any unanimous-consent request.

Mr. BENTSEN. That is quite true. I wanted it to remain open after we voted on title XII because a number of Senators have approached the manager of the bill to advise him that they have amendments that are in the process of being prepared. I am trying to accommodate those Senators. I am asking unanimous consent.

Mr. KENNEDY. I have no objection, but I really think we ought to handle this title as the others. I must say the chairman and floor manager have been extremely accommodating to other Members in allowing them to offer amendments on titles that have been previously considered. But I hope we follow all the way through the same procedure which we have been following. That would be only on this title. I think it is probably the least controversial title. So I do not say that with any other motive than simply a desire that we follow the same kinds of procedures.

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Mr. President, I believe yes.

Mr. BENTSEN. Is the Senator objecting?

The PRESIDING OFFICER. Objection is heard.

Mr. HASKELL. I object, Mr. President, and merely state that I wish to talk privately, perhaps at some convenient time, to the floor manager of the bill to see how many amendments there are because I agree with the Senator from Massachusetts. We ought to follow a uniform and orderly procedure here. If there is some special reason, I might not object if the request were made again. But I do not wish to deprive myself of that opportunity now.

Mr. BENTSEN. Objection has been made, is that correct?

The PRESIDING OFFICER. Objection has been heard.

Who yields time?

Mr. BENTSEN. Mr. President, it is my opinion that this amendment would result in a very substantial increase in litigation, that we would have a great many cases filed, and that is certainly the opinion of the IRS and the Treasury, which vigorously and strongly oppose this amendment.

I can understand the concern of the Senator from Massachusetts in trying to defend his position by saying he does not think that this would add to frivolous cases, but I think we would find that the amendment would add very substantially to frivolous cases because one would not have to have a direct case in conflict in this kind of a situation.

The point has been made about wanting to publicize the revenue rulings. We have provided for that in this tax bill to see that the public is informed.

The amendment adds a new concept to the law. The statement was made that it did not, but it truly does, because one does not have to have a case in conflict under this amendment to have standing in court.

The amendment provides that the legality of any tax regulation or ruling can be challenged in court by anyone if the amount involved with respect to the tax liability in question amounts to a million dollars a year or more. How is one going to determine whether it amounts to a million dollars a year or more? That is going to be one of the difficult problems that we fill find in trying to implement this kind of legislation.

In addition, under this proposal anyone can take to court the constitutionality of any regulation or ruling even though amounts involved do not represent a million dollars if a "substantial constitutional question" is raised. That certainly opens the door to frivolous suits being filed, trying to determine whether or not a "substantial constitutional question" is being raised.

This provision, if enacted, would represent a major and sweeping change in the way tax cases or even other cases are handled under present court procedure. In addition, it would insert into tax administration a major destabilizing effect.

Under present law, to take a case to court generally, the one involved must himself have a tax determination which is specifically at issue. That is how he gets it to court. In addition, he must disagree with the position taken in his case by the IRS. In other words, it must involve a case or controversy for him to have standing in court. This bill represents a major departure from this in that anyone could challenge regulations or rulings whether or not they were directly affected.

Under this amendment, individuals do not have to be directly affected to bring a challenge, and one can imagine the substantial increase in cases that would result.

This could well represent a doubling or tripling or perhaps an even bigger increase in the number of cases which are taken to court. Many of these would probably be frivolous. In addition, the courts would be asked to pass on issues without application to specific cases.

That would mean, in fact, what we were saying a moment ago, that individuals would be asking the courts to write the regulations for the IRS without any concrete knowledge as to their application in specific situations.

That could result in a lot of unfortunate situations. Cases could be brought, for example, purely for political reasons. We could have a case of one businessman bringing a case because he thought the ruling might have been favorable to another businessman.

We have seen taxpayers in the past who have refused to pay their taxes. They could now challenge the court in virtually every tax regulation or ruling. That could well lead to an enormous increase in litigating expenses for the IRS.

Also, enactment of this amendment would be extremely unsettling for taxpayers generally. Taxpayers would not know the status of the law when the IRS had given a favorable ruling or regulation, since any interpretation given by the IRS would be open to challenge by anyone who cared to question it, not just someone who had a case or controversy and where he was on the opposite side and the ruling had been against him.

This also, in effect, would be bypassing the Tax Court, where a body of tax expertise has been developed.

I find it difficult to think of a way which would be more unsettling to the administration of the tax laws than the adoption of this provision.

In effect, what is being done is to turn the interpretation of the tax laws over, taking it from the IRS to the District Courts, depending upon the whim of those who choose to take cases to court. With a provision of this type, the collection of taxes in a vast number of cases could well be delayed for many years.

In terms of tax collections, while it is impossible to figure out any specific revenue impact, it seems clear that the adoption of a provision of this type could leave billions of dollars of tax collections stalled, tied up in court action for many years. I can hardly think of a more unsettling provision to the administration of the tax laws of this country than to encourage a vast increase in lawsuits by people who do not have a contested issue and are not dealing with a specific case involved.

Mr. President, I reserve the remainder of my time.

Mr. **FANNIN**. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. **BENTSEN**. I yield.

Mr. **FANNIN**. Mr. President, I ask unanimous consent that Eric Hoffman, a member of the staff of the Committee on the Judiciary, have the privilege of the floor during the consideration of H.R. 10612.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Who yields time?

Mr. **KENNEDY**. I yield myself such time as I may require.

Mr. President, we are talking about individuals who are going to raise these issues and who have to meet the million dollar jurisdictional requirement.

To meet that requirement, a plaintiff will have to hire either an economist or a tax attorney and go to some not inconsiderable initial expense of their own to begin the process of bringing these matters before a court.

I cannot see how the argument of the Senator from Texas really holds in those circumstances. I simply cannot agree that there is going to be any proliferation of frivolous suits.

Second, Mr. President, the Senator from Texas questions whether we really want to open up matters in the district court where there are substantial questions of constitutionality. In matters in which a district court feels that there are substantial constitutional questions to be resolved, we should not say that we are not going to permit those matters from being resolved in the Federal courts. If we are going to have questions raised of infringement on the constitutional rights of individuals, it seems to me that we should have those matters open to adjudication. Any time there are substantial questions on violating the constitutional rights of Americans, it seems to me to warrant those issues being resolved in the Federal courts, as we have provided.

I conclude by saying that the opportunity for raising frivolous suits already exists at the present time. It exists today. They are handled and dismissed by courts, as they should be. The remedies exist in the courts of equity for the court, if it finds that these kinds of cases are for the purpose of harassment, to penalize a plaintiff whose purpose is to be frivolous. Those remedies still will be maintained.

We are not talking about frivolous cases. We are not talking about de minimus cases. We are talking about substantial cases involving substantial amounts of money which, if not collected, will mean that millions of American taxpayers will be making up the difference.

This proposal seems to me to be justified in these particular instances.

The **PRESIDING OFFICER**. Who yields time?

Mr. **BENTSEN**. Mr. President, I yield myself such time as I may require.

When we are talking about a substantial issue involving a constitutional question, we are really talking about the gut feeling of the judge who has given it consideration. We also get to the question of trying to decide whether or not there are a million dollars a year involved in the issue. I wonder whose judgment is going to be used to try to determine that.

We look at a situation of a competitor in a business. They decide that they want to file a suit contesting a ruling because they want to tie up their competitor. The individual does not have to have a direct interest involved under this amendment.

We look at a political situation, where they decide that they want to litigate for political purposes. Again, they do not have to have a direct interest involved, but they can file that kind of suit under this amendment.

I can understand very well why Treasury so strongly opposes an amendment such as this, which could lead to a substantial increase in the amount of cases that are filed and would violate the organized procedures that have been used for years in trying to make determinations as to whether or not rulings are just and proper and in trying to determine whether justice has been done or not done to the taxpayers of this country.

It is a tested and tried system on which a great body of law and procedure has been built up, and one that we should continue to follow. To do otherwise and to see us tie up the tax collections of this country by this type of proliferation of suits could cause possibly billions of dollars of delayed tax collections.

I hope very much that the amendment will be defeated by the Senate.

Mr. **KENNEDY**. Mr. President, I yield myself such time as I may use.

Two arguments have been made by the Senator from Texas, one about being able to determine the revenues that would be lost by various rulings or regulations. I expect that the kinds of procedures which are followed at the present time by the Department of the Treasury, by the IRS, or by the Joint Committee on Taxation, procedures that were followed in the consideration of the Senate Committee on Finance on those 73 special provisions—where we were able to find out with a good degree of certainty what was going to be raised, what was going to be lost—are the same kinds of procedures that would be followed in these same circumstances. They are basically boilerplate procedures, which are accepted and standard right now. Those procedures would be followed in this circumstance.

Second, we are following a very clear precedent in terms of determining the dollar figure. We know that in getting to the Federal courts on matters involving diversity, we have a $10,000 amount in controversy that must be met in all the Federal courts. We have the situation today where an individual can raise matters in the Federal district court and allege that $10,000 was the actual damage, and the courts make a determination that the jurisdictional requirement was met or was not met. So we are following that same concept in reaching the $1 million figure here.

Mr. HASKELL. Will the Senator yield me a couple of minutes?

Mr. CURTIS. Will the Senator yield to me?

Mr. BENTSEN. I yield 2 minutes to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I rise to say that the minority supports the committee in opposition to this, and I wish to associate myself with what the distinguished Senator from Texas has said.

It seems to me that, in addition to all the other reasons that this should be defeated, it will prolong the time of uncertainty for taxpayers' knowing what the ultimate answer is. We have that in some other phases of government. Outside people can come in and take appeals and do other things, and these final decisions drag on and on for months, much to the loss of everybody. I hope the amendment will be defeated.

Also, there is, in connection with promulgating regulations, a period and an opportunity and place for public comment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield what time the Senator from Colorado needs.

Mr. HASKELL. I thank the Senator from Massachusetts.

Mr. President, basically, as I view it, the argument against this amendment is very, very simple. People who oppose this amendment feel that it is unwise to permit any citizen check on the power of the Internal Revenue Service to issue a ruling granting a specific taxpayer more than $1 million of relief. If the Senate believes that there should be no citizen check on this privilege, then the Senate should vote down the amendment of the Senator from Massachusetts. Otherwise, I hope that the Senate will approve it.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, one of the basic problems that we see in the particular amendment, or in the practicalities of its being utilized, is that we are dealing in the abstract. We are talking about going to district judges, who are generally not experienced in the tax law. We are bypassing the tax courts. Those are cases where we really need some real adversaries, people who have a conflicting interest, where the evidence will be truly developed on the information.

On the idea of using a $1 million-a-year figure—the distinguished Senator says he is sure that estimates can be made and means of accomplishing those estimates. I am sure that is right. We had witnesses testifying before the Committee on Finance who presented revenue estimates. I can think of one economist in particular. I think he can build a $1 million estimate out of just about every tax issue. That is part of the problem that we run into. With the very substantial increase in cases that we would see in this kind of situation and with the frivolous cases that I think would be filed, I think we could well entitle this the lawyers relief amendment of 1976. I believe it would be strongly supported by some lawyers who do not have enough practice at the present time.

Frankly, I think this amendment does little to help our tax system. I think it unsettles the tax law, makes it extremely more difficult to administer the tax law, denies some of the certainties that we normally find in rulings and regulations, and would substantially delay collection of taxes by the Treasury. I hope that the Senate will choose to defeat this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I am prepared to yield back the remainder of my time.

Mr. BENTSEN. I am prepared to yield back.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), and the Senator from California (Mr. Tunney) are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Michigan (Mr. Griffin) and the Senator from Texas (Mr. Tower) are necessarily absent.

The result was announced—yeas 39, nays 56, as follows:

[Rollcall Vote No. 421 Leg.]

YEAS—39

Abourezk
Bayh
Biden
Brooke
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Jackson
Kennedy
Leahy
Mansfield
Mathias
McGovern
McIntyre
Moss
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Roth
Stafford
Stone
Symington
Williams

NAYS—56

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Eastland
Fannin
Fong
Garn
Glenn
Goldwater
Hansen
Helms
Hollings
Hruska
Humphrey
Inouye
Javits
Johnston
Brock
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Laxalt
Long
Magnuson
McClellan
McClure
McGee
Montoya
Morgan
Nunn
Pastore
Pearson
Randolph
Ribicoff
Schweiker
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Weicker
Young

NOT VOTING—5

Griffin
Metcalf
Mondale
Tower
Tunney

So Mr. Kennedy's amendment (No. 1966, as modified) was rejected.

UP AMENDMENT NO. 248

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. Fannin). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes unprinted amendment 248:

On page 777, line 11, insert immediately after "boat's" the following: "(or the boats' in the case of a fishing operation involving more than one boat)".

On page 777, line 14, insert immediately after "boat's" the following: "(or the boats' in the case of a fishing operation involving more than one boat)".

On page 777, line 17, strike out "six" and insert in lieu thereof "ten".

On page 779, line 2, insert immediately after "boat's" the following: "(or the boats' in the case of a fishing operation involving more than one boat)".

On page 779, line 5, insert immediately after "boat's" the following: "(or the boats' in the case of a fishing operation involving more than one boat)".

On page 779, line 6, strike out "other forms of the boat's catch of fish or".

On page 779, line 9, strike out "six" and insert in lieu thereof "ten".

On page 781, strike lines 14 through 23 and insert in lieu thereof the following:

"(4) Subsection (f).—The amendments made by paragraphs (1)(A) and (2)(A) of subsection (f) shall be effective with respect to services performed after December 31, 1971, in taxable years ending after such date. The amendments made by paragraph (3) of such subsection shall be effective for calendar years beginning after December 31, 1971. The amendments made by paragraphs (1)(B), (1)(C), and (2)(B) of such subsection shall be in effect for all taxable years beginning after December 31, 1971.

Mr. LONG. Mr. President, this provision modifies section 1207(f) of the bill as reported by the Finance Committee. The bill permits certain boat crewmen to be treated as self-employed individuals for purposes of income tax withholding, self-employment taxes, and other purposes, when they are engaged in fishing or other operations in which aquatic animal life, such as shrimp or lobster, are taken. Under the bill, boat crewmen are classified as self-employed if they are paid entirely through receiving a share of the catch and if their duties are performed on a boat with an operating crew of less than six individuals.

This amendment modifies the committee bill by allowing crewmen to be treated as self employed if the operating crew of the boat on which they serve normally consists of fewer than 10 individuals—rather than 6. The amendment also states that in the case of an operation involving more than one boat, an individual can receive remuneration from the catch of the entire group of boats—rather than from any specific boat.

For example, Mr. President, the situation we have in the Gulf of Mexico is that some fishermen will work together to go out and catch shrimp. They might have three boats and they share the catch, so that if one boat has good fortune and catches quite a few shrimp and the other has misfortune and does not catch any, or very few, they share it among the crew members they have.

The problem that arises from that is like maritime share-cropping, one might say.

But the problem involved here is that often none of these people are well educated. The problem is that trying to keep the books for all of them can be overwhelming.

I know in Louisiana we have a lot of good shrimp fishermen who speak English very poorly, with very little formal education. They are great fishermen, but really not good bookkeepers. So that to impose on any one of them the burden of keeping books for social security and withholding of taxes is a very heavy burden.

We have a similar amendment in the bill that has to do with fishing boats which was offered by the Senator from Maine involving the same problem, and the answer was the same.

We need this modification so those shrimp boats can have the same consideration with regard to their bookkeeping problems as those who fish from the fishing boats one hears of in romance and adventure stories from New England and elsewhere.

This simply makes it possible for those engaged in shrimp, and certain other areas, to have the same benefit as those who operate fishing boats generally.

This amendment was voted by the committee and included in the bill (sec. 2504) as part of its supplemental report.

So far as I know, having considered the matter and having further hearings, we know of no substantial opposition to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 249

Mr. HASKELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. HASKELL) for himself and Mr. WEICKER, proposes unprinted amendment No. 249:

Mr. HASKELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 699, line 11, strike the words "ex parte".
>
> On page 700, line 11, strike the word "resonable" and insert in lieu thereof "probable".
>
> On page 700, line 15, strike the words "or may be" and insert in lieu thereof "directly".
>
> On page 700, lines 20 through 25, strike the text beginning with ", unless" through "act.", and insert "." in lieu thereof.
>
> On page 701, insert between lines 5 and 6 the following subsection:
>
> "(C) Notice to the Taxpayer.—Such agency or any officer or employee of such agency shall serve the taxpayer to whom the requested information pertains with notice of its intent to seek a court order 20 days preceding any proceeding in any court with respect to disclosures under this section of the taxpayer's tax return or return information. Such notice shall be sufficient if it is served in a manner provided in section 7603 (relating to the service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person. The taxpayer shall have full rights to intervene and participate in the court proceeding provided in this section.".

Mr. HASKELL. Mr. President, this amendment is sent to the desk on behalf of myself and the distinguished Senator from Connecticut (Mr. WEICKER).

Mr. President, what this does is seek to amend section 1202 of the committee amendment concerning the confidentiality and disclosure of return information. The amendment embodies the recommendation of the Privacy Commission which was established under the Privacy Act of 1974, and basically grants to a taxpayer the same kind of procedural safeguards in regard to the return which he has filed with the Internal Revenue Service that the taxpayer has as to his own retained copy of the return. Of course, I should say, because if I do not somebody else will, that the Justice Department will oppose this amendment. The Justice Department opposes the amendment because it would like access to all the data collected by the Internal Revenue Service.

Mr. President, I wonder if we may have order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. HASKELL. So this desire on behalf of the Justice Department is understandable from their viewpoint, but the Privacy Commission takes the contrary position that Internal Revenue Service data are gathered to help administer the tax laws and should not be considered "a general Government asset."

The Commission says as follows:

> The fact that other agencies with important responsibility want to use such information is wholly understandable, but they, however, have not been vested with the Service's (the Internal Revenue Service's) extraordinary powers to compel production of the quantities of information the IRS maintains.

So other agencies in the Federal Government, such as the FAA or the FTC, would like to have access to the returns and return information filed by all of us as private citizens, as we are required to do under law. But the Privacy Commission, with which I agree wholeheartedly, says the extraordinary authority granted the Internal Revenue Service is to enforce the tax laws, and, therefore, this information should be primarily used to enforce those laws.

If an agency exercising its powers can force me to give up my copy by showing probable cause then they should be able to get it from the Internal Revenue Service by the same test. But the Internal Revenue Service should not have a looser standard than would be applicable if the Justice Department came after my return when it is in my possession.

I am delighted to have as a cosponsor of this amendment the distinguished Senator from Connecticut (Mr. WEICKER) who, I believe, firsthand has seen some of the problems which result from a loosening of the rules. I yield to the Senator from Connecticut.

Mr. WEICKER. I thank my colleague.

Mr. President, I am pleased to be a cosponsor of this amendment, as indeed I will later speak on the whole section dealing with taxpayer privacy. As my distinguished colleague from Colorado (Mr. HASKELL) stated, this proposal would carry forward the Privacy Commission recommendation concerning the Justice Department's access to tax information in nontax criminal cases.

The Internal Revenue Service is a gold mine of confidential financial data on individuals and corporations. As a matter of public policy, I do not believe we should allow the Justice Department to have any easier access to this information about an individual than if the Agency sought such data from the taxpayer himself. That is the basic principle that is being established by the amendment offered by Senator HASKELL and myself.

The amendment would tighten the criteria of the court test established in the committee bill in three specific ways:

First, the Federal law enforcement agency must convince the court that there is "probable cause" not "reasonable belief" that a crime has occurred.

Second, the information requested must be directly probative of the suspected crime. The committee bill contained vague language, which gave the Justice Department the opportunity to engage in fishing expeditions.

Third, the amendment would strengthen the no-alternative source test of the committee bill. The committee bill states that the Justice Department can only receive tax information, if such information cannot be obtained from another source, unless the return information is the best and most probative evidence of the commission of a criminal act. Our proposal would strike that last proviso. Clearly, tax returns would often be the best possible evidence.

Finally, the amendment requires that the taxpayer be given notice that information about him is being sought, thus giving him full rights of intervention. As the Privacy Commission notes, without this notice requirement—

> There would be no guarantee that the taxpayers' interests will be adequately represented. The Internal Revenue Service should not be expected to serve as the taxpayers' surrogate when it is the entity that may be ordered to produce the tax information by the court, and when to represent the taxpayers' interest it may have to oppose the forcefully articulated arguments of another Federal agency.

Mr. President, there is no doubt that the adoption of this amendment will make it more difficult for the Justice Department to gain access to tax information. However, I remind my colleagues that our constitutional system has placed a greater importance on individual liberties over governmental efficiency. The fourth and fifth amendments protect individuals from unlawful search and self-incrimination. These protections should be maintained with respect to tax information.

I want to point out the fact that each one of us, in a way, waives his fifth amendment rights when he files his tax return—that is, the right against self-incrimination—but we do so, I believe, in a very limited sense: specifically for the purpose of collecting taxes.

We had testimony from five commissioners of Internal Revenue. Here is the policy decision that I think all of us have to make in this Chamber: Each one of them testified before the Finance Committee that the amount of collections by the U.S. Government would be in direct proportion to the confidentiality, the privacy of the return. Every little erosion, every little nibble, not only might create a constitutional problem, but creates a practical problem as well: they are going to collect less money.

I remember during the Watergate matter talking with former Internal Revenue Commissioner Caplin. He cited an experience which he had had, which I again gather is similar to that of every other Internal Revenue commissioner, where they had hundreds of people coming to the United States to examine our system of taxation and our collection system.

They arrive here expecting to find that the reason why we do so well is that we have better computers or better trained personnel.

But every one of them leaves recognizing the fact that it is not better computers or skilled personnel, but that every American takes upon himself the job of tax reporting and enforcing the law, and 99 percent of them do a fantastic job.

But the minute we tell that individual, understand this, you are not only reporting for the purpose of collecting taxes, but for any other reason, believe me, the system will start to break down.

It is not that the Justice Department does not have at its beck and call other systems of obtaining evidence, because they do. But the Justice Department will tell you, after all the arguments on it here, that it is far quicker to go to the individual tax return. That is what it boils down to.

I say to my colleagues, "If you want a quicker and more efficient system, then throw the whole Constitution out, because, believe me, it is neither quick nor efficient. It is great, but it is not efficient and it is not quick."

That is the argument that will probably take place here today. But I suggest that the passage of this amendment is going to accomplish two things: not just adherence to constitutional standards; that is enough to inspire me, but if it is revenue you are concerned about, believe me, the greater that confidentiality, the greater the amount of revenue you will collect.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. PASTORE. Has not the facility to obtain the records of Internal Revenue actually helped the Department of Justice in the war against crime?

Mr. WEICKER. There is no question about that.

Mr. PASTORE. Are you going to obviate that?

Mr. WEICKER. I am not going to obviate that. Justice Department will continue to have access to tax information to insure the effective administration of the tax laws. With respect to nontax criminal cases, Justice Department will be required to go through a court procedure to obtain such confidential tax data.

Remember each of us has a right, under the Constitution, against self-incrimination. We have and can demand that right in court ourselves. I submit that when each of us fills out his tax return, we are, in essence, waiving, for a limited purpose, that constitutional right.

If we extend this to the Justice Department, why should it not be available to the Agriculture Department? And it was, as was reported by Representative LITTON in his investigations.

Why should it not be made available to the White House for any other purpose?

Mr. HASKELL and Mr. PASTORE addressed the Chair.

Mr. WEICKER. I yield first to the Senator from Rhode Island, to complete the colloquy.

Mr. PASTORE. Is it not a fact that most of those engaging in organized crime who have gone to jail have gone to jail as tax evaders?

Mr. WEICKER. Many have.

Mr. PASTORE. Most of them have.

Mr. WEICKER. Many have.

Mr. PASTORE. What is this amendment going to do to that?

Mr. WEICKER. Nothing except insist that the Justice Department use our legal processes to do their work. John, for gosh sakes, they can go out there and avoid those legal processes and get convictions just like that.

I remember the famous argument heard before Justice Black, in the Supreme Court decision which made it more difficult to close the doors, if you will, on a criminal.

There is no question about the fact that the provisions of the Constitution make it more difficult to close the door on a criminal.

Mr. PASTORE. I know all about the fifth amendment, but the question I am asking is, will this amendment in any way prevent the Justice Department from going to the IRS in the case of investigating organized crime?

Mr. WEICKER. No. What it will make the Justice Department do—and the Senator from Colorado can correct me if I am wrong—the Justice Department can still utilize the IRS, but they have to go through the court system, and not just walk across the street.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. HASKELL. If I might, Mr. President, respond to the question of the Senator from Rhode Island, the committee amendment requires the Justice Department go to court to get a return. The amendment to the committee amendment provides for two things: Notice to anyone of us as taxpayers, so that we can go to court and protest, and the amendment does another thing: It says that the standard to obtain that return will be probable cause, which is the standard of the fourth amendment of the Constitution.

So the committee amendment says you go to court, but it does not say anything about notifying the taxpayer. Under the committee amendment, when you go to court, you have a lesser standard of proof than under the fourth amendment. What my amendment adds is a requirement that each taxpayer is to be notified, so that he can protest on his own behalf in court, and it also establishes probable cause as the test for releasing the tax return.

Mr. LONG. Mr. President, here is an amendment that really should have been the subject of a hearing. I would welcome a hearing on this amendment at any time. If I had known it would be offered, I would have suggested that we have the Justice Department testify in public.

Mr. President, the second section of this amendment would be of great benefit to organized crime. The committee bill is drafted to protect the rights of citizens. When the Justice Department wants to see what the Internal Revenue Service has in its tax files on a citizen whom the Justice Department believes to be violating the law, for the purposes of doing its duty under the law, the law provides they have to follow a procedure parallel to what you do when you are seeking a search warrant. You have to go and apply to a judge, and explain to the judge why you think this information should be obtained.

The language of the law indicates that they have to have probable and reasonable cause in order to get this information, and if so, as is the case with a search warrant, a judge then gives them the authority to go seek the information that they want.

If we are going to do what the Senator wants, that is, to give the man who might be a member of organized crime for all we know, notice, to give him the right to come in and quarrel about the matter in court and contest the right of the Justice Department to find out what that tax record will show, then, Mr. President, that tips him off and tips off everyone who may be acting in concert with him that they are being investigated, and it gives them a chance to start covering their tracks. It gives them a right that no other criminal has, and that is the right to contest, the right to find out that a search warrant is being sought with respect to them. That is completely contrary to all of our procedures for seeking to discover when and where a criminal is engaged in violating the law or has violated the law.

The Justice Department strongly opposes this for good reason. They say this would very seriously impede their effort to fight white collar crime, organized crime, and other violations of the law.

Mr. President, we initially went along with the Senator from Colorado further than information we subsequently received would justify, so much so that the Justice Department came in complaining about the matter. We had a meeting in the room that the Appropriations Committee uses sometimes for their hearings in the Capitol Building, and the Justice Department made a strong presentation. So the committee then modified its decision to accommodate the views of the Justice Department, and to aid them in fighting organized crime, white collar crime, and other criminal activities, and in trying to uphold the laws of this country.

Honestly, Mr. President, we on the committee believe we have gone along as far as prudence, justice, and proper respect for the law would justify. In my judgment, it would be a very bad mistake to give to one who may have violated the law greater protection from the Justice Department of information that is in Internal Revenue files than one would have where a search warrant is sought to try to find out whether he has violated the law. After all, the Justice Department is a part of this Federal Government. It is all one Government. The Justice Department is one part of it. They are charged with the duty of trying to make people obey the law, trying to enforce the law, and trying to see that the law is uniformly enforced with regard to all citizens and all taxpayers; and then the Internal Revenue Service has their duty to try to collect the money.

Where the right hand knows the man who has committed a crime and the left hand has the information, and they go to a judge, who is a part of the judiciary—the other branch of the Government—and obtain from him what amounts to a search warrant to go find out what the other branch needs, is that not enough protection for the taxpayer? Why must we put all these people on notice and give them a right to contest in court whether they are going to be able to prevent the disclosure of certain information held by the Government that would indicate whether or not they have committed a crime or violated the law? It simply does not make sense.

Mr. President, I applaud the Senator for his great interest in desiring to protect the rights of the individual, but sometimes that can simply go too far. He does not wish to enthrone organized crime in this country, I hardly think. But that is the kind of result we are asking for when we vote for this amendment.

I hope, Mr. President, that the amendment will be defeated. I say that as one who went further in this area with the Senator than good judgment would now dictate. After hearing from the Justice Department on this issue, I was thoroughly persuaded that the Justice Department would be presented a very serious problem in trying to enforce the law in this Nation, and I do not think we want that to result. We wish to see that the law is upheld.

So I hope that either the Senator would withdraw his amendment or else that the amendment would be voted down.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HRUSKA. I wish to discuss this a little bit.

Mr. LONG. Yes.

Mr. HRUSKA. Mr. President, I find myself agreeing fully with the arguments just presented by the chairman of the Committee on Finance. This is a very serious point, and it is a far-reaching one.

The amendment would provide that in the investigatory stages of any activity by the Justice Department or the Internal Revenue Service, following notice to a taxpayer and before the full facts are disclosed, that a taxpayer could go into court and challenge the right on such an agency to seek tax return information.

That is the wrong place and the wrong time to assert the right to go to court because it will stultify any investigation of a situation where the information should be furnished by the taxpayer.

Mr. President, let us put this in perspective. We have about 100 million taxpayers. This entire tax system is based upon a revolutionary disclosure by taxpayers of their earnings, expenses, deductions, and so on. Yet we are told by Treasury officials and by the Department of Justice that, out of that 100 million tax returns, there are approximately 8,000 returns a year in which an investigation in depth and in connection with law enforcement intelligence activities where it is necessary to go beyond the ordinary request of the taxpayer for information which will constitute a more complete justification of the validity of his tax return.

On whose behalf is this amendment going to be made? Will it be made against the 99,992,000 taxpayers who voluntarily come in and make their returns and upon request, furnish that information? They feel that is the fair thing to do.

Those who do fall into that class of 8,000 people, under this amendment, will be able to stultify the efforts of the law enforcement authorities to enforce the law by creating a contested situation at the investigatory stages, and that would be all wrong.

When we say "stultify," Mr. President, it means to impair, invalidate or to reduce to futility, because each time a notice would be sent out, it could be tried in court, and then it could be appealed from the district court to the circuit court, and so on.

Let me give an example in another field that we will come to a little bit later in section 1205. There was a summons enforcement proceeding and the Supreme Court held in the Donaldson case as well as in the Reisman against Chaplin case decided some 10 years ago, that in a summons enforcement proceeding the taxpayer cannot intervene or avail himself of court procedures unless he has a legally protectable interest.

There is not any proprietary interest, the court said, in the ordinary request for information, and it cannot be litigated at that point. The court held against the taxpayer in that case because he had no proprietary interest in the records and information sought, and they were not protected by attorney-client or other legally recognized privileges.

So if we want to cause stultification and furnish the 8,000 hard core potential tax evaders with tools, obstructions, hindrances, and delays, so they will be able to postpone for years the process of trying to determine whether or not they can justify their income tax returns, we are on the wrong side of the fence. The remainder of the 100 million taxpayers in this country who proceed in good faith, comply with this system, and try to preserve this system in good faith on the basis of the voluntary return, will be the ones who will be unjustly treated. There will come a time when even those 8,000, who would seek to take advantage of an amendment of this kind, will have a chance in court in due time because there is always the opportunity to raise in open court a motion to suppress evidence that was either wrongfully obtained or that is not in the realm of proper law enforcement procedure.

So this is a prelude, Mr. President, to some of the arguments that are going to be heard on section 1205. That is where we are going to get into it with a vengeance, and that is where we will really see the mischief an amendment of this kind will create.

One of the purported compromise measures divides the type of information that is sought by the Government into six classes. The taxpayer there, as each one of the classes is gone into, can assert his objections to the summons in district court, appeal to the circuit court; and if he loses there, there will be another notice in another class, and he will go through the same procedure. It takes a minimum of a year and a half to get that cycle completed, and that means 9 years.

It means a complete stultification of the process, and this is just a prelude to the situation we will be faced with when we deal with section 1205.

I urge that the amendment be defeated.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. LONG. The Senator referred to 8,000 cases, 8,000 people. Would he mind repeating what 8,000 people those are? Is he referring to 8,000 individuals whose tax returns are asked to be seen by the Department of Justice in a year?

Mr. HRUSKA. No. Those are the cases that are investigated by the Internal Revenue Service in depth because the return on its face or otherwise has a badge that indicates that there is a reason to suspect it is illegal, it is incomplete, and it was not filed in good faith. It is that bunch of 8,000 that the Tax Division of the Department of Justice gets into each year, we are told. It runs in the range of 8,000 out of 100 million tax returns.

It is those 8,000 people who will draw great comfort from a procedure that would be installed by this amendment. I know that there is sincerity in offering the amendment with respect to the business of trying to keep the oppressive hand of Government off a private citizen's business. But, Mr. President, unless we do that, there will be such an encroachment upon the ability of the Government to enforce the criminal tax laws and collect the taxes where they are being illegally withheld, that the whole system will collapse.

Mr. HASKELL. Mr. President, I should like to make a couple of observations, if I may.

In the first place, we are not talking about tax cases, either civil or criminal. We are talking about the use of an individual's return in criminal cases that are not tax cases. That is No. 1.

No. 2, this area was the subject of some hearings, as I recall, in the Subcommittee on IRS Administration.

No. 3, the Privacy Commission which was set up under an act adopted by Congress in 1974 has had an entire year to study this problem, and they have concluded that when an agency wants to use a person's tax return in a criminal case other than a tax case, they should afford that person the same constitutional protections that that person would have if they were going after his own personal copy of the tax return.

No. 4, every time we come to a problem such as this on the floor of the Senate, somebody brings up Al Capone.

[Laughter.]

My suggestion is that these safeguards that we want to put in will apply to mothers with equal force as to Al Capone. In other words we are looking at how we should treat our citizenry at large, not just criminals.

Mr. President, a parliamentary inquiry: Is this amendment divisible, so that we could have a separate vote on the probable cause aspect and a separate vote on the notification to the taxpayer aspect?

The PRESIDING OFFICER. The Chair advises the Senator from Colorado that it is divisible into five parts.

Mr. HASKELL. How many parts?

The PRESIDING OFFICER. Five.

Mr. HASKELL. Mr. President, I am going to ask for a division, but first I have a parliamentary inquiry.

If the Chair will look at the amendment, I should like to find out if we could separate, as subjects for separate votes, the material that starts with "On page 699" and then vote on the material that begins, "On page 701 insert." Can those be voted on separately?

The PRESIDING OFFICER. It could be divided into two parts, into those two parts.

Mr. HASKELL. Mr. President, I ask that the amendment be so divided, and I ask for the yeas and nays on each of those divisions.

The PRESIDING OFFICER. Does the Senator desire the yeas and nays on both parts? He should so ask, before he asks for the division.

Mr. LONG. Mr. President, I ask the Senator to withhold that for a moment.

After all, the Senator is offering the amendment, and I hope he will take the time simply to draft two amendments, so that we can look at them and can understand what we are discussing with respect to each one. For the benefit of clarity, I think it would be much better if we could look at the two amendments, rather than looking at one. Usually, the people on the other side want to ask for a division.

If the Senator has two amendments in mind, I think it would be best for the Senator to offer two. It would take a few minutes to prepare them. I suggest that he offer two amendments rather than seeking to divide his amendment.

Mr. HASKELL. Mr. President, with the acquiescence of my cosponsor, the Senator from Connecticut, I would do that, while others are speaking. I could prepare two amendments which we could offer as substitutes. I have no objection to that procedure, unless the Senator from Connecticut does.

Mr. WEICKER. Mr. President, will the Senator yield to the Senator from Connecticut? I have several comments to make with respect to the discussions of the Senator from Louisiana and the Senator from Nebraska, while our staffs get together on this point. I do not know how to respond to the Senator from Colorado.

Mr. HASKELL. That is satisfactory to me.

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. HASKELL. I yield.

Mr. HATHAWAY. I understand that the division is being made to divide the amendment so that there will be notice to the taxpayer as one part of the amendment, and the changes in the standard—namely, from reasonable to probable cause—to be the other part of the amendment.

Mr. HASKELL. The Senator is correct.

Mr. President, I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I should like to address several comments to the remarks made by the distinguished Senator from Nebraska and the distinguished Senator from Louisiana.

First, I reemphasize what the Senator from Nebraska mentioned about these 8,000 cases. The Justice Department has no restrictions at all when it comes to tax evasion. It has nothing to do with this amendment. This amendment strictly deals with nontax cases. So let us not confuse the issue. If indeed these 8,000 cases are tax evaders, there are no restrictions applied by this amendment at all.

No. 2, organized crime. It is great to toss buzz words out here to make it seem that Senator Haskell and I are for organized crime if we go ahead and push for this amendment.

I suggest that the reason we are here today with this legislation has very little to do with organized crime and has a great deal to do with crime in Government. Why have we picked this year, in other words, to bring forth tax privacy legislation? Why is this legislation before us now? Does it have anything to do with organized crime? Does it have anything to do with white collar crime? It certainly does not. The reason we have it before us, the reason it is in this bill, is that one of the main crimes to come out of Watergate was the use of tax returns for political purposes. What we are trying to do is address that crime which occurred within our segment of national life: specifically, Government.

I am all for chasing organized crime and any other crime you want to mention, but it is time we cleaned up our own house. That is the reason I want to emphasize tax privacy, and I believe the Senator from Colorado feels the same way.

On tax returns, when I make out my tax return, I want to repeat, I am making out my tax return for nobody else but the Internal Revenue Service. I am not making it out for the Justice Department, except as they would pursue a tax evasion case. Fair enough. But I am not giving it to them for any other purpose.

I am not making out my return for the Census Bureau. Granted, it is cheaper, since we do not have to set up a whole other system for counting noses. But that is not what I am making it out for.

I am not making it out for the Department of Agriculture to use the tax return to ascertain certain facts about the farmers of this country. I am not making it out for the White House. I am not making it out for anybody. I am making it out in order to satisfy the requirements of law in the collection of taxes; in order to be a good citizen in the sense of complying with the rules and regulations of the Internal Revenue Service; and for absolutely nothing else, gentlemen.

Now, maybe the Senator would like to send out another form to every American and say, "Please indicate on here certain facts and data, et cetera, which will enable us to prosecute you for a variety of crimes." Then go ahead and say so. I tell the Senators what I shall do; would either of the gentlemen who have spoken against this amendment be willing to have printed on every tax return in bold print, "This return may be used for any purpose whatsoever by your Government?"

No, I do not think so. I think it is very clear that what we are asking people to do we are then taking and using for whatever purposes we desire.

Mr. LONG. Will the Senator yield at that point?

Mr. WEICKER. I shall be glad to yield for a question.

Mr. LONG. Does the Senator not know that if the Department of Justice wants to see that return, it has to go to court and get a judge to sign an order, which would be similar to a search warrant, to authorize the Department of Justice to see the information that is in that tax return? Does the Senator know that that is how the bill stands?

Mr. WEICKER. I completely understand it. But I want the highest standard applied. I do not want them on some fishing expedition. I want them to be very precise in the reason they present to the court.

Mr. LONG. Does the Senator also know that with what we have in the bill, if someone in the White House or, for that matter, even the Department of Justice, wants to know about what is in someone's tax return, they have to inform the Joint Committee on Internal Revenue Taxation, both the majority side and the minority side, that they have received someone's tax return? I believe the only exception is if it is a return of a Government employee and they want to know about their own employee.

Mr. WEICKER. I am very well aware of that, for the simple reason that I had that in the bill I drafted, and the Senator put it in the committee bill.

Mr. LONG. We took a lot from the Senator's bill. That is one reason I am dismayed that he is not happy with the committee's bill. A lot of that came from his bill.

Mr. WEICKER. While we are on that, along with the knocks there ought to be praise, also, and let it be stated that what the committee has done here on the Senate side is, No. 1, unique and important legislation in this area. I do not think there are any provisions, as a matter of fact, in the House bill at all. So my hat is off to the committee.

All I am saying is that I know that the Justice Department is unhappy with the whole section. They would like to go back to the good old days and there would be no provisions in here at all. That is the reason I have to stand up and speak for these provisions, in order that we achieve meaningful tax privacy.

I say to the Senator that what we have done here is a great improvement on the present law, which is nothing at all. The difficulty is that, as the Senator knows, whatever procedures were in place, let us say, during the last several years were totally ineffective. I refer back to my actual testimony before Senator Ervin's Committee on Constitutional Rights. During those proceedings, I brought to light that there were at least 10,000 to 20,000 tax returns floating around in the various departments of Government that had not been obtained by court order, that had not gone through any sort of process in obtaining them. Yet they were there. This is what we are trying to shore up at this stage of the game.

Granted, it is cheaper and easier for Justice to go directly to the IRS. What I am saying is that if the Justice Department is deficient in its battle against organized crime, pay the money, get the attorneys, set up the apparatus so that we do the job constitutionally. But by gosh, I am not willing to go ahead and let a little bit of the Constitution go because that is cheap, there is no cost to it, there is nothing to come out of your pocket, we do not have to ask the taxpayers for anything for that. But oh, my Lord, what a sacrifice and what a terrible payment as far as the future is concerned.

I understand why Justice wants this. It is strictly for matters of expense and expediency. That is something I am not willing to give away as far as the Constitution goes.

I think, basically, I hit the points I wanted to make, and I wanted to reiterate the point that that amendment in nowise can apply to the tax evader. The Department of Justice can do its job 100 percent with respect to the tax evader. It is nontax purposes that we are talking about.

Mr. LONG. Mr. President, the Senator spoke of these 10,000 tax returns floating around, having been requested by the Department of Justice or some other agency of the Government.

Mr. WEICKER. Not all by the Department of Justice. I did not say that.

Mr. LONG. Well, 7,000 or 8,000 of them by the Department of Justice, and he has a good point. I want to point out, Mr. President, that in this bill, we are going to reduce drastically the number of those tax returns that will be floating around, because this bill that we have here, the bill the Senator is seeking to amend, will drastically cut the number of tax returns that are going to be requested out of IRS by the Justice Department and other departments of the Government, because we have carefully considered the suggestions made by the Senator from Connecticut himself, and he has made a lot of good suggestions in this area. We have carefully considered those and where we can agree with them, we have accepted those and they are in this bill. In other words, there is a lot of input by the Senator from Connecticut (Mr. WEICKER) in the bill the way it is now. Also, there is a lot of input by the Senator from Colorado (Mr. HASKELL) in this same area. So, to the extent that we can agree with them, we do go along with them.

What we are concerned about is where we feel that they are going too far in denying the Government what it needs for its honest, legitimate purposes of trying to enforce and uphold the law and protect the rights of all citizens of this country. That is the area where, unfortunately, Mr. President, we feel that this would go too far.

We believe that we are taking care of all the abuse cases. I point out that these returns can still be seen by certain other people where they have a legitimate right to know; for example, for purposes of State tax administration, to collect taxes owed to the State governments under their income tax laws. They are still going to be able to see what these returns show. We have carefully drawn provisions to keep the State taxing authorities from divulging the information. But while the confidentiality is protected, there are others who will be able to see these returns because they have a proper right to know. They will be able to see it.

But we do think, Mr. President, in all honesty, that what the Senators are seeking to do here goes too far. While we want to go with them to the extent that we believe them right—and to a large extent, we have agreed with them—we do not think we ought to go beyond that point to impede the proper enforcement of the law.

Mr. HASKELL. Mr. President, I am going to suggest the absence of a quorum while we work out the devision of the vote on this particular amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 250

Mr. HASKELL. Mr. President, I withdraw the pending amendment and send to the desk a substitute.

The PRESIDING OFFICER. The amendment is withdrawn. The substitute will be reported by the clark.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL), for himself and Mr. WEICKER, proposes unprinted amendment No. 250.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 700, line 11 strike the word "reasonable" and insert in lieu thereof "probable".

On page 700, line 15, strike the words "or may be" and insert in lieu thereof "directly".

On page 700, lines 20 through 25, strike the text beginning with ", unless" through "act." and insert "." in lieu thereof.

Mr. HASKELL. Mr. President, this is really a part of the amendment previously discussed. This, in effect, says that in a nontax case probable cause, as opposed to the other "reasonable" standard in the committee bill, be the standard that the court use for the disclosure of a tax return in nontax cases. I am going to ask for the yeas and nays on this amendment, and after that I will send to the desk an amendment dealing with notice to the taxpayer.

I would, therefore, now ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HASKELL. I have nothing further to say on this, so I would be perfectly willing to go to a vote.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. HASKELL. Yes.

Mr. HRUSKA. What is the substance of the amendment?

Mr. HASKELL. The previous amendment had two substantive parts. No. 1 provided for a notice to the taxpayer in the event the Justice Department wanted to get his return from the IRS. No. 2, it set up a standard of probable cause for the release of the return. This amendment deals only with the probable cause aspect, may I say to the Senator. After the vote on this I will send the other amendment to the desk.

Mr. HRUSKA. I would like to speak on this briefly.

This ground, Mr. President, has been plowed once before in committee.

The original committee proposal would have required a Federal prosecutor seeking a tax return to obtain an order from a U.S. district court which would only be issued upon a showing of probable cause to believe that a specific criminal act has been committed and that there is reasonable belief that the tax return information is probative of the commission of the crime.

The committee has agreed to amend the original proposal to require the prosecutor to make a showing to the U.S. district court that he has reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed.

Now, the committee's reason for making this change is simple. The "probable cause" standard contained in the original committee bill is the highest showing the Government is required to make to intrude upon the protected privacy of an individual. If the Government had the probable cause required by the original bill, it would not need a court order to obtain tax return information from a sister agency of the Government; it would need only to make its probable cause showing to a U.S. magistrate, and under rule 41 of the Federal Rules of Criminal Procedure it could obtain a search warrant authorizing it to enter the home of the taxpayer and seize as evidence the file copy of his tax return as well as any other personal records and accounts relating to the investigation. Certainly something less than probable cause should be required for the attorney for the United States to have access to a tax return in the custody of a fellow Government agency for an important law enforcement purpose.

Indeed, when compared with the rule 41 search warrant, the committee's bill still contains an additional hurdle which the prosecutor must clear. The original bill would have required the prosecutor to show that he could not obtain the tax return information from an alternative source. This has been modified to require that the information sought cannot reasonably be obtained from any other source unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the best and most probative evidence of the matter in issue.

Again, the reason for the committee's change is clear. The best evidence should not be kept from an investigator or prosecutor, simply because other evidence of the matter to be proved exists. Likewise, evidence should not be denied the court or the jury when it is probative of a matter in issue before them. The committee's redraft, I think, is more reasonable in that it would authorize the use of return information in an investigation, if, after all the other showings are made, it is the best and most probative evidence of a matter in issue, even if an alternative, but less probative, source for the evidence is available. Likewise, it would permit the use of such information in evidence at trial where it was probative of a matter in issue.

The committee's procedure for making tax return information availabe to the attorney for the United States retains a restriction, which, I am told, is somewhat unprecedented. The original proposal would have provided that once the Federal prosecutor has made all of his showings to the court, once he has obtained his court order from a U.S. district court, the evidence is still inadmissible at trial unless the trial court finds that the return information is probative of the guilt of a party.

The committee quite properly recognized that this was an unrealistic standard, and that it would probably prevent cross-examination even of the defendant, and so we have slighty altered the requirement to allow the admission of the evidence if it is probative of a matter in issue in the proceeding.

I believe that we have a bill here that contains all of the restrictions on the Government's use of tax return information in the prosecution of crime that the committee intended, most notably the interposition of the court as a check in the process of acquisition and use of such information. The alterations that I have just described will make the bill more readily intelligible to the courts which will have to interpret it.

I would hope, while the chairman indicates he is willing to accept the amendment and go on to other things, that the chairman would still give consideration to the reasons I have advanced in opposition to this amendment.

Mr. LONG. Mr. President, I appreciate the merits of both sides. I personally would be happy to take the matter to conference and let the Justice Department come before the conference and tell its side of the argument, and the Senator can tell his side of the argument in the conference between the two houses and when we have both sides before us the conference can then decide.

As a practical matter, we cannot agree to it. This is not in the House bill, and we cannot agree to it unless the House takes it anyway, and if that is acceptable to the Senator I suggest we do that.

Mr. HASKELL. That would be satisfactory to the Senator from Colorado. The distinguished manager of the bill is indicating an acceptance of the amendment at this time?

Mr. LONG. Yes; I would be willing to accept this one. The other one, may I say to the Senator, I cannot accept.

Mr. HASKELL. The other one we will talk about later.

The PRESIDING OFFICER (Mr. Curtis). The yeas and nays have been ordered, and it will require unanimous consent to vitiate the order.

Mr. LONG. Mr. President, I ask unanimous consent to do that.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

UP AMENDMENT NO. 251

Mr. HASKELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado (Mr. Haskell), for himself and Mr. Weicker, proposes an unprinted amendment No. 251.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 699, line 11 strike the words "ex parte".

On page 701, insert at line 6 the following subsection:

"(C) Notice to the Taxpayer.—Such Agency or any officer or employee of such agency shall serve the taxpayer to whom the requested information pertains with notice of its intent to seek a court order 20 days preceding any proceeding in any court with respect to disclosures under this section of the taxpayer's tax return or return information. Such notice shall be sufficient if it is served in a manner provided in section 7603 (relating to the service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person. The taxpayer shall have full rights to intervene and participate in the court proceeding provided in this section.".

Mr. HASKELL. Mr. President, this is the second part of the amendment originally discussed. It provides for a notification to the taxpayer when his return is sought.

Mr. President, I would like to read from a recommendation from the Privacy Commission which Congress set up under the Privacy Act of 1974. Specifically the Commission said:

> The taxpayer shall be permitted to participate fully in all proceedings pursuant to the application to the court.

Now, Mr. President, this Commission studied this entire matter for a year and came to this conclusion that this was a necessary protection for the taxpayers of this country. It is for this reason, Mr. President, that I hope the Senate will adopt this amendment.

Mr. LONG. Mr. President, I think we have debated this matter adequately. It just seems to me that in trying to fight against crime the Government needs this information. We provided that they had to get an order from the court, which they did not have to have before, similar to a search warrant.

The Senator would place impediments in the way of one agency of the Government, the Justice Department, obtaining from another agency of the Government, the Internal Revenue Service, information that belongs to the Government. At that point it is the Government's information. It is a tax return of a taxpayer which tends to show that the taxpayer might be involved in the commission of a crime or, for that matter, he might even be engaged on the part of organized crime.

So this would then place a much greater burden than for obtaining a search warrant. Assuming he was a part of a criminal conspiracy, he would be in a position to contest this in the court. If the court decided against him, he could appeal it. The matter could go on for years, trying to obtain simple information which one arm of the Government knowns should be available to another arm of the Government to help fight crime.

This just goes much too far in protecting the right of privacy by making it very difficult for the Government to conduct its fight against organized crime and against criminals of a white collar nature, in general. It would provide a big impediment to the Government, to the law enforcement officers doing their duty.

We have enough difficulty and enough expansion of crime the way it is now without creating more impediments, without further handcuffing the police and the law enforcement officials rather than putting the handcuffs on the criminal.

So while I am sure the Senator's intentions are good in this matter, this would be a dreadful mistake, and the Senate should not make it.

The committee advised against it.

I hope, Mr. President, that the amendment will not be agreed to. I believe there will be a vote on it.

Mr. HASKELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HASKELL. Mr. President, briefly, we are merely trying to give an individual—and we are not prejudging that it is a criminal—we are giving an individual taxpayer the same protection against disclosing his tax return if it happens to be a copy filed with the IRS that he would have if it is in his personal file.

We are not giving him more, we are not giving him less.

Therefore, I hope that the Senate will adopt this amendment.

The PRESIDING OFFICER. The question is on agreeing to the Haskell-Weicker amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will be in order. Will Senators please take their seats?

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The clerk will suspend. The well will be cleared. Senators are asked to take their seats. The clerk will suspend until the Senate is in order. Will Senators please be seated?

The clerk may resume.

The legislative clerk resumed the call of the roll.

Mr. WEICKER. Regular order, Mr. President.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

The result was announced—yeas 46, nays 50, as follows:

[Rollcall Vote No. 422 Leg.]

YEAS—46

Abourezk
Baker
Bayh
Biden
Brooke
Bumpers
Byrd, Robert C.
Case
Church
Clark
Cranston
Culver
Durkin
Fong
Ford
Glenn
Goldwater
Griffin
Hart, Gary
Haskell
Hatfield
Hollings
Huddleston
Inouye
Javits
Leahy
Magnuson
Mansfield
McGovern
McIntyre
Montoya
Morgan
Moss
Nelson
Packwood
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stone
Weicker
Williams

NAYS—50

Allen
Bartlett
Beall
Bellmon
Bentsen
Brock
Burdick
Byrd,
Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Garn
Gravel
Hansen
Hart, Philip A.
Hartke
Hathaway
Helms
Hruska
Humphrey
Jackson
Johnston
Kennedy
Laxalt
Long
Mathias
McClellan
McClure
McGee
Muskie
Nunn
Pastore
Pearson
Pell
Randolph
Scott,
William L.
Sparkman
Stennis
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—4

Buckley
Metcalf
Mondale
Tunney

So the Haskell-Weicker amendment was rejected.

AMENDMENT NO. 2087

Mr. PERCY. Mr. President, I call up my amendment No. 2087.

The PRESIDING OFFICER (Mr. HANSEN). The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Illinois (Mr. PERCY), for himself and others, proposes an amendment numbered 2087.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY's amendment (No. 2087) is as follows:

> In page 789, line 7, strike out "law or program" and insert in lieu thereof "tax law".
>
> On page 789, line 10, strike out "or program".
>
> On page 789, line 14, strike out "or program".
>
> On page 790, line 9, after "individual" insert "for purposes of this title".

Mr. PERCY. Mr. President, this amendment involves a few word changes on pages 789 and 790 of the tax bill before us. I offer the amendment on behalf of myself and Senators GOLDWATER, MUSKIE, and RIBICOFF. It amends section 1211 of the bill to correct what I believe was an inadvertent repeal of all of section 7(a) of Public Law 93–579, the Privacy Act. Nearly 2 years ago the Congress took an historical step toward the protection of the right of privacy of American citizens when it adopted the Privacy Act of 1974.

Mr. President, I might say that this is one of the last great acts of Senator Sam Ervin. It epitomized everything that he believed in with respect to the right of privacy. He did not want to see us become a society that was militarized and regimented to the point where we invade the privacy of individuals, and he strongly supported the particular provision we might now inadvertently be invading.

One of the more important amendments to the Privacy Act, adopted by both the House and Senate, was a limitation on the future right of local, State, and Federal Government agencies to compel disclosure of the social security number unless specifically provided for by law.

That amendment was offered in the Senate by the distinguished Senator from Arizona, Senator GOLDWATER, and myself, and was cosponsored by Senators RIBICOFF and MAGNUSON.

The amendment was a direct response to the widespread expansion of the use of the social security number as a universal identifier by Government agencies at all levels. The Senate Government Operations Committee in its report on the privacy legislation states:

> If the SSN is to be stopped from becoming a defacto standard universal identifier, the individual must have the option not to disclose his number unless required to do so by the Federal Government for legitimate Federal program purposes, and there must be legal authority for his refusal.

Since adoption of this amendment, officials from several State tax agencies have expressed concern about the limitation the Privacy Act placed on the need for enforcement of State tax laws and to correlate State tax forms with Federal tax returns.

Accordingly, the Privacy Protection Study Commission, created by the Privacy Act to study critical questions of individual privacy, recommended that Congress provide by statute that a State taxing authority may require a State taxpayer to disclose his SSN to that authority, provided, however, that the statute prohibits the use of disclosure of that SSN for purposes other than State tax administration.

Section 1211 of H.R. 10612 represents an effort to respond to the need of the tax administrators, but I believe it goes too far when it would repeal all of the protections against widespread use of the social security number which was the focus of section 7(a) of the Privacy Act.

Our amendment follows the recommendations of the State tax officials who came to the Government Operations Committee and the suggestions of the Privacy Protection Study Commission.

Subject to other provisions of existing law, it is the intention of this amendment to limit the right to compel the disclosure of the social security number to Federal, State, and local government agencies responsible for tax administration or enforcement for the sole purpose of determining, validating or enforcing a taxpayer's liability under a general revenue law of their respective jurisdictions. The provisions of existing law that this amendment is subject to are those provided under the Privacy Act, which allows social security numbers to be used if they were being used pursuant to law or regulation adopted prior to January 1, 1975, plus the specific exceptions provided for certain federally administered programs.

Mr. President, the Committee on Government Operations and the Committee on the Judiciary labored for several years to produce the Privacy Act of 1974. The sections dealing with limitations on expanded use of the social security number were the object of considerable study by those committees and the Department of Health, Education, and Welfare.

I believe the amendment I offer today with Senators GOLDWATER, MUSKIE, and RIBICOFF will restore the protection and sense of confidentiality to the use of this number which is the key to so many sensitive records about each one of us.

Certainly, Mr. President, we hear concerns about anti-Washington sentiment and about big brother.

Let us alleviate those concerns by not having people feel that in a great big government and great big country like this, all they are is a number, identifiable and accessible every which way.

Mr. RIBICOFF. Mr. President, I am pleased to support the amendment to section 1211 of the Tax Reform Act introduced by Senator PERCY.

In passing the Privacy Act of 1974, the Congress enacted a limitation on new uses of the social security number as an identification device. Section 7 of the act states that it is unlawful for a Federal, State or local governmental unit to deny any right, benefit or privilege provided by law to an individual because of an individual's refusal to disclose his social security number. It does not apply to those uses of the social security number which were in existence by statute or regulation before January 1, 1975, or to disclosures required by Federal law.

This limitation in the Privacy Act, on the use of the social security number arose from a concern that American citizens were losing their personal identities and were being reduced to a mere number in some bureaucratic file. Through extensive use of the social security number it was feared that an individual could be easily "tracked" through his various contacts with the Federal Government. The consolidation of information about individuals has long been feared by those who cherish our democratic principles of government. The Privacy Act's limitation on the further uses of the social security number as a standard universal identifier was a step in the direction of preserving the privacy of individuals in a complex and technological society.

Section 1211 as now written would modify the Privacy Act by allowing the social security number to be used in the administration of any State or local law or program. I believe that a general authorization for the States and localities to use the social security number will bring about the possibility of combining a variety of information about an individual citizen at the State and local level that was feared when we passed the Privacy Act. Senator PERCY's amendment narrows the scope of section 1211 by allowing States—or political subdivisions thereof—to use the social security number for the purposes of tax administration only. And I strongly support the amendment.

It is evident that State governments need access to the social security number for tax administration. State tax administration depends upon coordination between the States and the Internal Revenue Service to assure that information in Federal returns filed by individuals conforms with information filed in State returns. In addition, there is need to cross-check between Federal and State returns to assure that individuals file with both jurisdictions. If political subdivisions of the State utilize the number for tax administration, the amendment allows them to do so. However, the intent of the amendment is not to encourage this practice, but to permit those certain localities with special circumstances to continue such use.

The adoption of this amendment to section 1211 will provide such taxing authorities the proper authority to use the social security number. Access for purposes of tax administration was of major concern to the members of the Finance Committee in our consideration of section 1211 of H.R. 10612.

The Privacy Protection Study Commission has referred to this problem of the widespread use of the social security number in its recently issued report entitled, "Federal Tax Return Confidentiality." In that report the Commission concludes that the use of the social security number to facilitate the matching of Federal tax records with State tax records should be permissible, provided that the purpose is for determining, validating, or enforcing a taxpayer's liability under a general revenue law of the State. The Commission emphasized, however, that any authorization for the use of the social security number, "should be permitted only when the merits of the information exchange which the social security number is used to facilitate have been carefully examined."

A further concern of the Finance Committee in consideration of section 1211 of H.R. 10612 was to assure that the Parent Locator Service would have authority to compel the disclosure of social security numbers in its effort to locate and enforce child support responsibilities upon absent parents. To provide for maximum efficiency of this program, the Finance Committee proposed that a broad authority be given to all State administrative agencies to use the social security number for identification purposes.

The legislation creating the Parent Locator Service, part of Public Law 93–647, provides express authorization for this Service to utilize and demand disclosure of social security numbers. Section 402 of that legislation (42 U.S.C. 602) provides as one of the conditions of receiving assistance under the program of aid to families for dependent children that each applicant or recipient must furnish to the agency his or her social security number.

Further, in section 453 (42 U.S.C. 653), the Parent Locator Service is given access to all information regarding an absent parent which is in the files of any department, agency, or instrumentality of the United States. This section provides for the disclosure of information for these purposes "notwithstanding any other provision of law." The Privacy Act of 1974, therefore, does not stand in the way of the Parent Locator Service, and there is no need for section 1211 of H.R. 10612 to provide additional authorization to that Service.

Senator PERCY's amendment to section 1211 of H.R. 10612 satisfies the concerns of the Finance Committee. It preserves the principles of the Privacy Act of 1974, which respect to the expansion of the social security number. I wish to lend my support to this amendment.

Mr. LONG. Mr. President, will the Senator from Illinois yield?

Mr. PERCY. I would like to yield first, if the manager of the bill will concur, to my distinguished colleague, the Senator from Arizona (Mr. GOLDWATER), who has really been the spirit behind this whole effort.

Mr. GOLDWATER. I thank my friend from Illinois.

Mr. President, once again I join with the senior Senator from Illinois, Mr. PERCY, and others, in proposing an amendment to halt the spread of the social security number as a universal population identifier.

Mr. President, I am shocked that there is a provision in the pending tax reform bill to repeal much of the Percy-Goldwater law which now puts a halt to new uses of the social security number. That law was enacted as a part of the Privacy Statute of 1974. The same law establishes a Privacy Commission which is currently studying the need for controlling the use of social security numbers by private business—as well as by public institutions.

It is amazing to me, that at the same time we have asked the Privacy Protection Commission to examine whether further curbs should be put on the number, a committee of Congress is proposing that we undo the restrictions we have just imposed.

Mr. President, I do not see any reason for reversing our earlier decision. In 1974, we put a halt to Federal, State, or local governments forcing anyone to disclose his social security number for any reason that was not already a part of State or Federal law. Now, the Finance Committee wants to change this. It would allow State and local governments to use the number for almost any reason under the Sun.

Mr. President, this is wrong.

There is too much government already.

There is too much probing and too much pestering by government.

State and local governments are not anymore immune from the disease of bureaucratic arrogance than the Federal Government is. While I would far rather see greater power put in the hands of local authorities, instead of having those same decisions being made by the central

Government, I believe individuals have to be protected against invasion of their privacy by government at every level.

Mr. President, all persons that I have talked to about this subject resent being required to reveal their social security number. They do not want to be reduced to a number. They want to remain special human beings.

The do not want to be marked by a digit locked away in some bureaucratic file where everything about their lives and habits can be collected.

Mr. President, once we allow government to identify citizens by the same numbers for all purposes, we are giving government power to collect a file about everything persons do. Their travels, their magazine subscriptions, their health history, their bank transactions, the kinds of jobs they have held—everything can be assembled in one place.

This makes it easier for government to manipulate people. To condition people. And potentially to coerce people.

Mr. President, I urge that we halt the spread of the social security number. I urge that we put the privacy of individual citizens above the mere administrative convenience of government.

I thank my friend from Illinois.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield to my distinguished colleague from Maine, the cosponsor of the amendment.

Mr. MUSKIE. Mr. President, I support the amendment offered today by the distinguished senior Senator from Illinois (Mr. PERCY).

It was my privilege to be associated with the Senator from Illinois as one of the original cosponsors of the Privacy Act of 1974, along with the distinguished chairman of the Government Operations Committee, Senator RIBICOFF, and his predecessor, Sam Ervin, whose dedication to the cause of individual liberties provided the essential impetus for adoption of that important legislation.

I supported the amendment by the Senator from Arizona (Mr. GOLDWATER) to limit the right of the Federal, State, or local governments to compel disclosure of the social security number when the Privacy Act was before the Senate in 1974, and I again join in this effort to help assure that this important identification will be used in a manner consistent with specific congressional policy. It does this by authorizing a limited expansion of its use by those States which did not have laws providing for its use in State tax administration prior to adoption of the Privacy Act.

It was the policy of that act that the social security number should not become a universal identifier. Rather if a future need was demonstrated for expanding the authority to use it—such as for the administration of State tax laws—Congress should take specific action to address that need.

Congress should not go on record to authorize the widespread, indiscriminate use of this important number by a blanket repeal of the protections contained in the Privacy Act.

Prior to adoption of the Privacy Act, Americans witnessed a steady acceleration in the number of ways the social security number was being used by all levels of government and the private sector. The ability of one business or agency to obtain information about a citizen is multiplied manifold by the unfettered expansion of the number's use.

Mr. President, one of the factors which contributes to the public wariness of government is the repeated intrusions which are made into the lives of our citizens. Americans recognize that a certain amount of recordkeeping is essential to recording the services of government, but we must be vigilant in our efforts to keep this to a minimum. The continued expansion of the use of the social security number at all levels of government tends to erode a sense of well-being which government should reinforce.

That is why Congress acted to limit governmental use of the number, and why I strongly support this amendment to uphold that congressional policy unless the Congress is presented with substantial evidence to merit an exception.

In summary, I simply emphasize, briefly, my complete support for the amendment which has been offered by the Senator from Illinois and which has been so eloquently supported by the Senator from Arizona. The reasons that I would state have already been adequately stated by them.

This was a key feature of the Privacy Act. It came under the leadership of Senator Sam Ervin and with regard to this important feature by the committee as well as by the Senate that the social security number not be established as a uniform identifier for all citizens for the reasons that so used it could become an instrument for the intrusion upon the privacy of every American citizen.

I think that, if the social security number is to be used, it be for specific purposes, and those specific purposes are to be stated by Congress. That, as I understand it, is the amendment of the Senator from Illinois, and I support it wholeheartedly with his objective.

Mr. PERCY. I thank my distinguished colleague.

Mr. LONG. Mr. President, I have neither seen this amendment nor had a chance to discuss this matter with the cosponsor of this amendment. I regret that we have not had a chance to hold a hearing on this.

We did discuss the matter in the committee in open session, but we have not had an opportunity to discuss this matter with the Senator, and I hope that the sponsors of this amendment would not try to impede our efforts to do certain things that we are satisfied we have a duty to do under law.

Let me give some examples.

We try to find a father who is able to contribute to the support of his children but prefers not to do so. Sometimes he may be making $20,000 a year.

When that man departs from the jurisdiction where he is and we try to locate him to make him contribute something to the support of his children, is the Federal Government to be denied information to find that out?

Or where we have a situation where a person is drawing unemployment benefits while he has a good job and is not entitled to draw unemployment benefits, are we to be denied the information that we would have to know that that man is cheating because we are denied the right to know what his social security number is?

We had a situation in the State of Louisiana some time back that other States might know something about. It even happened that at Miami, one of the Louisiana delegates to the 1972 Democratic National Convention was on the welfare roles under more names than one. And we had a situation that was brought out at that time that one person was on the welfare roles under 18 different names.

I have heard people say that they did not think a mother would have a child for the purpose of getting herself on welfare. But if she could get on the welfare rolls under 18 different names, she might be tempted to consider that.

Mr. STONE. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator.

Mr. STONE. Is there not also the case where one welfare agency needs to check with another welfare agency in order to be able to qualify people on their rolls? I know in the State of Florida some of the medicaid people have been after my office on a casework basis to be able to check out through social security so they can qualify some of the people on their rolls. It is not a question only of double-dipping or cheating, but it is also a question of being able to qualify people.

Mr. LONG. Yes, oftentimes that is the case.

I am curious to know how the sponsors of this amendment would handle that problem.

If there is a person on the welfare rolls under 18 different names. Is the State agency to be denied the right to know the name of that person? Or here is a father making $25,000 a year, leaving the taxpayers stuck with the duty of supporting, let us say, three little children, with the mother pleading for help and support for that family after they have been abandoned. Are we to be denied to know that man's social security number so that we can find that man somewhere, wherever he may be, and seek to require that that man do his duty under law?

I think that would not be the intention of the sponsors of the amendment. Do they really have that type of thing in mind?

Mr. PERCY. Mr. President, I am very happy to respond to the distinguished Senator. I, and I believe Senator GOLDWATER, Senator MUSKIE, Senator RIBICOFF, and other sponsors of the amendment, and certainly Senator WEICKER, who strongly supports it, have heard such arguments. We are not at all unsympathetic with, say, the parent-locator program. That is a Federal program. There is nothing at all that prevents them from going out in that program and in those States that have such laws getting that information.

The Senator said that he did not have a chance to study the amendment, as if it is a new idea.

I shall put it just the other way around.

What this particular provision on page 789 of the tax law does is amend existing law. The existing law was put in after a full set of hearings in the Committee on Government Operations. Senator Sam Ervin had spent years of his life carefully looking into this matter. At that particular time we took this position, and it is now law.

There were, of course, those who said we should make an absolute prohibition, and at the time we decided, no, we would grandfather in, so there would be no extra expense in changing record systems. We did not do away with the use of the social security system number in all of those States, then used it.

What we did do is say we do not want this to proliferate. As we become a computerized society, we do not want to have access to this number available for anything, everything, and every program that anyone in any State might wish to design. But we certainly are not interfering or in any way hindering the objective and the purpose of the parent-locator program.

At no time has HEW or anyone else come to us with the kind of problems that the Senator from Louisiana is now presenting.

Yet I think we could also say this very clearly: The social security number is not an infallible identifier any more than a passport is. We saw on "60 Minutes" a few weeks ago how easy it is to get all kinds of identification and get it in triplicate and quadruplicate copies whenever one wants to do so.

A person who is willing to apply for benefits to which he or she is not entitled would probably not be reluctant at all to obtain a multiple social security number to avoid detection.

This is a Federal misdemeanor, but wrongful receipt of benefits is also a crime. So it is not an infallible system. Once again, I say, it is the Committee on Finance that is changing the existing law. With the exception for the administration of the tax laws, we are trying to preserve existing law. The amendment was presented last night and discussed with the distinguished Senator's staff, so it is not a new idea at all.

The House of Representatives and the Senate overwhelmingly adopted the Privacy Act. I simply do not see, without any further testimony, that the system is not now working or that what we have done to protect the privacy of the individuals is somehow impeding law enforcement or the enforcement of the parent-locator program with which it certainly does not interfere.

The Senator from Illinois has been very concerned about the same objective and purpose, but is also concerned about private rights.

I am very happy to yield to my colleague, the Senator from Maine.

Mr. LONG. Mr. President, if the Senator will permit me, I discussed this matter with Senator Sam Ervin while he was here and while we were trying to wrestle with the problem that confronts us. I read a newspaper editorial indicating that Senator Sam Ervin would undoubtedly oppose what we were trying to do in the Committee on Finance at that time, to try to identify fathers who escape their duty to help support their children.

I discussed the matter with Senator Ervin. Even though some had predicted that he would oppose it, he told me that he understood what our problem was, that he understood that we have to find a way to locate those fathers, and we would not have any opposition from him if that was what we were trying to do.

I hope the Senator will be willing to withhold this amendment for a day, long enough for us to at least discuss this matter and see what we think we have to have as a minimum in order to do our duty under law—that is, to keep the people from stealing a billion dollars or more from this Government, to help mothers to obtain support for their little children, and to keep people from violating the laws by wrongful use of somebody else's social security number, just to mention some of the problems about which I do not think we should be differing. After we talk it over, perhaps we can get together so that both sides can agree on what meets our minimal needs.

From our point of view, with these welfare and unemployment fraud cases and these runaway father cases, we have a great need to identify people. When people seek benefits from Government, we need to identify them. When a man is escaping his duty and is putting a great burden on Government, when he does not support his children, we need to identify him. When people seek benefits from Government, they should be willing to answer the question, "Who are you?"

John Smith is a very common name. I thought the name of Russell Long was not a usual name. When I was in the Navy, I found that there were about six other Russell B. Longs who were naval officers.

When people seek a benefit from the Government, or when a State has the same problem, we should know who they are.

Mr. MUSKIE. I am glad there are not six other Members of the Senate with that name. One is enough. [Laughter.]

I wish to make this point about the provision of the Privacy Act in which I was involved. In the first place, the prohibitions of section 7(a) of the Privacy Act as we approved it in 1974 do not apply to those uses of the social security number which were in existence either by statute or regulation before January 1, 1975. So that to the extent that its use was valuable to the Government for the purposes that the Senator has described, the 1974 act did not touch it.

Second, the 1974 act enacted a limitation on new uses—those that had not been in effect prior to 1975—the idea being that if a new use were to be proposed, it must be justified on its merits. There is no objection to that. I believe it is a very reasonable and flexible approach to the problem.

As I understand the Percy amendment, all it does is to permit State and local authorities to use the social security number for tax administration purposes only. In other words, it would broaden the uses to which State and local authorities could put the social security number. The Percy amendment, instead of giving State and local authorities discretion to use it, would limit their discretion to tax administration only. It seems to me that that is a reasonable approach.

If there are some new uses that are needed in connection with the problems the Senator from Louisiana has mentioned, I am sure all of us would want to look at those problems on their merits; but I suspect that those uses probably were in effect prior to January 1, 1975, and if they were, they are not touched by the Percy amendment this afternoon.

Mr. LONG. I say to the Senator that there is one committee which I am sure in complete good faith sponsored this privacy law. I know how busy Senators are. Those of us on another committee are not looking at that law, and the law goes into effect.

At another time, the Senator from Louisiana is pressing to try to make these fathers do their duty toward their children. We find that there is a State government trying to do exactly what we had in mind under law, and the Secretary of Health, Education, and Welfare is requested to provide the social security number of this person so that they can know where the person is.

We finally made the Internal Revenue Service, under law, tell where the man is.

But let us say that the name is not the most strange name on Earth. There are a lot of people by that name in this country of some 215 million people. We have put in the law what the Internal Revenue Service must tell as to where a person is, if we know and we think they know. But in order to find that out, we need to find out what the social security number is. So that request has been made of the Social Security Administration.

We got into a dispute with the Secretary of HEW, he did not think they can provide that number. There are people in their department who contended that, although it does not violate the letter of the privacy law, it violates the spirit of it, so they could not give the State the social security number.

We quarreled back and forth about the matter and finally got to the point that I took the attitude that we were not going to confirm the nomination of anybody for a positon in that department until we got this matter to a conclusion one way or the other. Eventually, we received an answer. They cleared it through the White House and other places, and they said that they were finally convinced that they could provide States with the number for that purpose. The States can at least find that out, which would make it possible to find out the whereabouts of a person.

What we should do before we go further with this amendment is to check and look at it from the point of view of what the various problems are, to see to what extent we can agree and to what extent we cannot agree. I hope we can agree on this. I do not think the Senator wants to impede the Government from its duty and helping citizens and protecting the Government against law violators.

We do not seek needlessly to invade someone's privacy, but I am sure the Senator realizes that the problem is not simply one of protecting the right of privacy. It is also a matter of needing to know who somebody is; and if we have the information, where he is.

I suggest to the Senator that he withhold the amendment for the time being, let us talk about it overnight, and see if we can come to terms on this matter.

Mr. PERCY. The Senator from Illinois certainly wishes to cooperate with the floor manager of the bill in every way he can, but the problem we face is that we are on this section. The staff of the Senator from Illinois has been talking to the staff of the floor manager of the bill. We just seem basically to disagree.

The interpretation of the Senator from Illinois is that the parent locator program would not be disturbed at all. It is a Federal program, and there would not be any disturbance in it.

As the distinguished Senator from Maine indicated, there was a cutoff date. We grandfathered in all programs with respect to the usage of the social security number. What we are simply concerned with is a proliferation with respect to new programs. We do not want this to continue to mushroom, expand, and grow.

The Senator from Louisiana has been talking about tax laws and the enforcement of tax laws. The amendment specifically provides a substitution of the words "tax law" for "law or program." It is just all these other programs that any State can design or devise, where they simply want to hang on and tap onto the use of the social security number that our amendment goes to. I do not see that any of the arguments raised by the Senator from Louisiana are not fully answered or that the programs, which the Senator from Illinois concurs with, would be invalidated.

Mr. LONG. The Senator made the statement, and I am sure it must be correct, that the staff members have discussed it. It seems to me we would be well advised for the Senators to discuss this amendment before it is voted on. I do not think the best place to discuss it is out here on the floor. I think the best place to discuss it is in a meeting with other Senators interested in the matter, when we can sit down together, go over this, raise and discuss the individual questions. I hope the Senator will agree to hold it over until tomorrow, to give us a chance to discuss it, to see to what extent we agree and to what extent we disagree.

Mr. MUSKIE. Will the Senator yield?

Mr. PERCY. I should appreciate a comment from my distinguished colleague from Maine.

Mr. MUSKIE. As I understand it, the legislation dealing with the parent locator system was enacted by the Senate 2 days after the enactment of the Privacy Act of 1974 and specific provision was made at that time to amend the Privacy Act of 1974. If Secretary Mathews is having difficulty with those limitations, then, for heaven's sake, why does he not say so? Why does he not present the problem to us?

The question the Senator has raised was specifically considered within a time frame of 2 days of the two bills that were considered and enacted by the Senate in 1974. Now, without the benefit of any hearings or testimony, to lay out a problem that was not adequately provided for in those two pieces of legislation comes as something of a new development to this Senator. If there is a problem, I think it was implicit in the Privacy Act of 1974 that we consider it specifically and if we need to amend the Privacy Act to take care of the legitimate need of the Government for information, surely, Congress can do that.

The amendment in the committee bill just opens it up beyond the specific purpose that the Senator from Louisiana has been discussing this afternoon.

Mr. LONG. I say to the Senator, as he so well stated, here were two bills that were passed at about the same time. They were passed within a week of one another. The point is that they were not passed with reference to one another.

Mr. MUSKIE. But they were, that is my point. As I understand it, the parent locator legislation specifically amended the Privacy Act.

Mr. LONG. All I am saying is that the Committee on Finance sponsored and enacted the parent locator service. It was the Committee on Government Operations that handled the Privacy Act, which the Senator from Maine says was specifically amended.

It is about time that the Senators serving on the two committees should sit together and discuss the matter enough that they can see, really, to what extent they really disagree and to what extent one can accommodate the other. We ought to do it, I say to the Senator from Maine, privately, rather than out here on the floor, so we can see the extent to which we agree and the extent to which we disagree. For all I know, we might be able to agree, but I should like to have a chance to discuss it.

Mr. MUSKIE. I have no objection to that, I say to the Senator, but as long as the issue has been raised, it seems to me that the record should be as complete as possible. On that point, it is maybe a strange coincidence that the two pieces of legislation were related to each other at that time. It may be that the needs of the parent locator program are broader than whatever the Senate thought they were at that time. If they are, I think it is a reasonable request that we look at it to try to amend the policy to provide for it. I have no objection to that, none at all.

Mr. LONG. I should appreciate it. I think, if we can talk it over some time tomorrow morning and analyze what the problem of both is and take it piece by piece and see what the relative needs of the two sides are, perhaps we can agree. I hope we can.

Mr. MUSKIE. I have no objection to that at all. I do not know about my good friend from Illinois.

Mr. PERCY. I have subsequently talked to our distinguished colleague from Arizona (Mr. GOLDWATER). Certainly, in the interest of exchanging views directly, I should be happy to defer it so we can talk about it. I would like to say that the Senator from Illinois has, on many occasions, spoken with the Secretary of HEW, this morning for several hours with the Assistant Secretary for Health of HEW, certainly with the Secretary himself, Social Security Administrator and I feel that, if they had any problem with the Privacy Act, they would have mentioned it. The Senator from Illinois is certainly in favor of the objective of the parent locator program, but he simply does not interpret this as in any way interfering with that.

I shall certainly be willing to discuss it and withdraw the amendment now, with the understanding that I may call it up again later.

Mr. LONG. I would appreciate that and certainly I shall protect the Senator's rights.

Mr. PERCY. That is with the understanding that we can bring it up tomorrow again.

Would the Senator be willing to set a time that will be convenient for his schedule, inasmuch as we are all on the floor right now?

Mr. LONG. As far as I am concerned, we can meet at 8 o'clock, 9 o'clock, 10 o'clock, or 11 o'clock.

Mr. PERCY. Nine o'clock would be all right with me.

Mr. MUSKIE. May I say to the Senators, I shall be floor manager on the clean air bill, but I think the Senator from Illinois and the Senator from Arizona are fully capable of handling the issue under discussion. I shall be happy to go along with whatever they find reasonable.

Mr. LONG. That will be fine.

The PRESIDING OFFICER. Does the Senator withdraw his amendment?

Mr. PERCY. The Senator from Illinois, then, with the understanding that we shall meet at about 9 o'clock tomorrow, in the Capitol in Senator LONG's office, asks unanimous consent to withdraw the amendment at this time.

The PRESIDING OFFICER. The Senator has the right. The amendment is withdrawn.

UP AMENDMENT NO. 252

Mr. CANNON. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The Senator from Nevada (Mr. CANNON), for himself and Mr. Laxalt, proposes an amendment.

On page 776, between lines 5 and 6, insert the following:

"(4) Exemption for bingo, keno, and slot machines. The tax imposed under paragraph (1) shall not apply to winnings from a slot machine, keno, and bingo."

On page 776, line 6, strike out "(4)" and insert in lieu thereof "(5)".

On page 776, line 14, strike out "(5)" and insert in lieu thereof "(6)".

Mr. CANNON. Mr. President, I shall explain the amendment.

In paragraph 1, on page 774, the requirement for withholding is extended so that every person making any payment of winnings which are subject to withholding shall deduct and withhold from such payment a tax in an amount equal to 20 percent of such payment.

What we do in this amendment is say that the tax imposed under paragraph 1 shall not apply to winnings from a slot machine, keno, or bingo.

The Cannon/Laxalt amendment provides that the winning proceeds from keno, slots, and bingo shall not be subject to the section providing for withholding tax on certain gambling winnings.

I have discussed the matter at great length with Chairman LONG, as well as most members of the committee, and I am pleased that the committee has indicated it will accept the amendment. Senator LAXALT has also discussed the amendment with Members on his side of the aisle. This amendment is also acceptable to the IRS. The Service agrees that these games should not be covered by this section. I will outline for Members of the Senate the reasons for this exclusion.

The section providing for withholding tax on certain gambling winnings was added to insure better compliance with taxation on winnings from lotteries, race tracks, and casinos. The committee and the Service felt an effective way to achieve this would be to require on-the-spot withholding of 20 percent of the winning when the amount was in excess of $1,000 and the odds were 300 to 1 or more. Commissioner Alexander and his staff estimated that this new requirement would generate an additional $110 million in revenue each year.

The Service has since indicated to me and the Finance Committee that any additional revenue from keno, bingo, and slots would indeed be a very small part of the $110 million estimate. Actually, the Service does not know what percentage keno, bingo, and slots represent. The IRS did indicate it will come up with the figures and report back to the Congress within 2 years. Language to this effect would be included in the conference report.

I might point out, Mr. President, this does not affect the tax liability one iota. The requirement for filing form 1099 still exists in Nevada, according to testimony before the National Commission on Policy on Gaming. This indicates we have the testimony to the effect that 85 percent compliance is had on the IRS forms in the State of Nevada.

Since the IRS acknowledges that the effect of these games is indeed minimal in terms of additional revenue, I think it would be unfair to impose this additional administrative burden upon those who are already making a good faith effort at full compliance.

We have 85 percent compliance on the IRS forms in my State, so we should examine just where the 15 percent would be coming from and what it represents. For tax year 1975 the total payout breakdown for winnings under the bill's formula—exceeding 300-to-1 odds, $1,000—was $15 million which translates into a $3 million withholding under the 20-percent withholding provision in the tax bill. This means we are talking about roughly $450,000 which is 15 percent of $3 million. That is without taking into consideration that a person may apply the losses up to the extent of the winnings that a taxpayer may have, so we are really talking on the order of a figure of somewhere between $250,000 and $400,000. And when you take into account the losses of the taxpayer which he can offset against his winnings, the figure drops even lower.

Mr. President, when you weigh the bookkeeping/administrative burden against a possible pickup of less than $450,000 in revenue, I do not think it can be justified. It is not sound or practical; it merely adds another administrative headache for those who are already bogged down in paperwork imposed by the Federal Government.

I may say on the slots, on these high payout slots, the machines themselves actually make a payout, and this withholding would require the operator to go in and collect from each particular winner when that particular amount of the payout was made.

I might also add that the Chairman of the Commission on the Review of the National Policy Toward Gambling appeared before the Finance Committee on this section and urged that the committee defer action until the findings and recommendations of the Commission were submitted. Those findings will be made available to the Congress within a few months.

I may say that the preliminary report now has already been published. We will have a report filed with Congress by October. This is a Commission on which the distinguished Senator from Arkansas serves with myself and a number of other people, and the Commission has been studying this entire problem for a period of 2 years.

Since we have agreement between the Finance Committee and the Internal Revenue Service, I would hope that the Senate would accept this amendment. Without the amendment, you are imposing a tremendous administrative burden on an entire industry that simply cannot be justified. I would point out again that should the Service change its position, there is agreement that language will be added in the conference report for the IRS to develop a more accurate estimate and to make specific recommendations within 2 years.

Mr. President, I have a letter here from Commissioner Alexander supporting this exclusion, and I ask unanimous consent that this letter be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., June 17, 1976.

Hon. HOWARD W. CANNON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CANNON: I am writing to you in regard to section 1207(a) of H.R. 10612, relating to withholding tax on certain gambling winnings.

After further analysis of this provision, the Internal Revenue Service would have no objection to an amendment to this legislation which would exempt winnings from keno, bingo, and slot machines from the withholding requirement.

Because there is no precise data concerning the level of compliance with respect to winnings from these sources, the Internal Revenue Service would like to have a period of time in which to more accurately determine the extent to which taxpayers report their winnings from these sources. It is my understanding, therefore, that the Conference report would require that the Internal Revenue Service make an analysis of the level of compliance in this area and report to the Congress within two years with a recommendation as to whether winnings from keno, bingo, and slot machines should be subject to withholding.

It is my further understanding that the Conference report would also urge that the Internal Revenue Service modify the reporting requirements (on Forms 1099) with respect to winnings from these sources. This modification would include a lower threshold, for example, $1,000, for the requirement that the payor report the payment to the Internal Revenue Service.

With kind regards,
Sincerely,
DONALD C. ALEXANDER.

Mr. CANNON. Mr. President, I yield to the Senator from Nevada (Mr. LAXALT).

Mr. LAXALT. Mr. President, needless to say, I am in strong support of the pending amendment. Not only am I cosponsoring but I was actively involved in attempting to obtain Finance Committee support for a similar amendment.

Although my senior colleague and I were unable to secure committee support for a complete deletion of section 1207, after considerable discussion of the Nevada situation, Commissioner Alexander of the Internal Revenue Service has stated in a recent letter that he would have no objection to amending section 1207 in such a way as to exempt keno, bingo, and slot machines from the withholding requirement. This, of course, is precisely what the pending amendment will accomplish.

As it stands, section 1207 imposes excessively burdensome administrative requirements. As Chairman Charles Morin of the Commission on the Review of National Policy Towards Gambling noted in his statement before the Finance Committee, the administrative burden inherent in section 1207 is counterproductive in that it reduces the returns which States now secure from gambling, with the result that either the ability of the States to control gambling operations or the utility of those operations as a general revenue source will be reduced.

A second problem with section 1207 as reported is that it makes no provision for the deduction of losses. It is probably true that such provisions would be absolutely impossible to administer. But, this is no argument for unfairly penalizing apparent winnings which may in fact be only partial compensation for much larger amounts wagered and lost.

A final problem with section 1207 as reported is that it is not at all clear that there will be any significant revenue gains. Revenue estimates initially presented before the Finance Committee were made with methodology which was at best questionable. Current estimates of approximately $100 million for the section in its entirety are also debatable. And, the amount attributable to Nevada gaming, given the substantial current compliance with the 1099 reporting forms, is miniscule.

Mr. President, as you know, section 1207 provides for a 20-percent withholding on all gaming winnings of more than $1,000 when the odds exceed 300 to 1. This includes not only Nevada gaming but also parimutuel wagering and State lotteries. I have supported attempts to delete section 1207 completely. But, it seems to me that questions of administrative burden, inequity, and insignificant revenue gains are most applicable when applied to the Nevada situation. Commissioner Alexander of the IRS in agreeing not to oppose our amendment apparently agrees. Accordingly, I urge my colleagues to support the amendment.

Mr. CANNON. Mr. President, I yield to the chairman of the committee.

Mr. LONG. Mr. President, I will ask the Senator, has he placed in the RECORD the letter from the Internal Revenue Commissioner?

Mr. CANNON. Yes, I sent a letter from the Commissioner, Mr. Alexander, to the desk and asked unanimous consent that it be printed in the RECORD.

Mr. LONG. Mr. President, when this matter was first considered, the information available to the committee was very inadequate and the estimate of what the impact on the Treasury would be was horribly out of line.

The amendment, as I understand it, has a relatively minor impact with regard to Treasury revenue. Furthermore, as I understand it, with regard to the administration problem, in the State of Nevada where gambling activities and slot machines are completely legal, the administrative problem, I believe, would be very difficult. When a person puts a dollar in a slot machine and has the good fortune of hitting the jackpot, how would one know how much money the person put in the slot machine prior to hitting the jackpot. By rights, he is entitled to deduct his gambling losses against his gambling winnings. I would ask the question, how many citizens, when they go out to play those games or find themselves out there and enjoying playing the games and either have the good fortune or bad, how many people keep a record of how many silver dollars they put into a slot machine or how many quarters or how many nickels they put into a slot machine. So the recordkeeping problem is very troublesome. The lack of reasonable recordkeeping of his losses would not permit him to deduct his losses at the same time we are taxing him on the winnings in those unusual cases where he walks away from these machines with more than he came with.

So the Senator has a meritorious argument, particularly as it applies to the State of Nevada, and I see no reason why we should not agree to that amendment.

As I say, the Commissioner of Internal Revenue has studied it and, as I understand it, he does approve of the amendment, and I believe it would improve tax administration and help to meet a problem.

Mr. CANNON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McINTYRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1935

Mr. McINTYRE. Mr. President, I have an amendment at the desk, amendment No. 1935, and I ask that the clerk read the amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. MCINTYRE) for himself and others proposes amendment No. 1935.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 775, line 24, strike out "whether or not" and insert in lieu thereof "unless it is".

Mr. McINTYRE. Mr. President, I would like to announce that Senator CASE of New Jersey, Senator RIBICOFF of Connecticut, and Senator DURKIN of New Hampshire are cosponsors of this amendment.

Mr. President, my chief concern today is for the 13 States in this country which have adopted lotteries. These are revenue raising operations which have broad support from their people, and are vital sources of revenue for worthy projects. The utility and popularity of such operations have been shown by the growing numbers of States which have instituted State lotteries in recent years. In 1963, New Hampshire was the first. By 1972 there were three States with lotteries. But in the last 4 years the numbers have more than quadrupled: These States are Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island. Moreover, there are several additional States where adoption of a lottery is being seriously considered.

In 1976, it is estimated that State lotteries will gross approximately $2 billion, and net $800 million for such purposes as education, medical care, and senior citizens. In my State, the lottery grossed $13.6 million in 1975, which meant approximately $23 per school child. New Hampshire is a small State, Mr. President, and it is not a rich State. Any proposal which would adversely affect our State revenues is very serious indeed, and I would submit that the same applies to virtually every State government. Lotteries contribute substantially to revenues in other States—1975 figures—in Maryland, $42 million, with a net of $18 million. Michigan grossed $162.6 million, and netted $71.5 million. Illinois grossed $198 million, netting $89 million, and Massachusetts grossed $94.7 million, netting $38.8 million.

The committee proposal provides that any winnings from State lotteries that exceed $1,000 will be subject to withholding tax in the amount of 20 percent.

Mr. President, New Hampshire and the other lottery States have several objections to this.

First. It is unnecessary, will yield relatively little revenue, and will impose a substantial administrative burden on the States. The Secretary of the Treasury has indicated that 85 percent of lottery winners comply with the law and pay their taxes in a timely fashion.

At this point, Mr. President, to buttress this, I ask unanimous consent that two letters be printed in the RECORD, one letter from the Secretary of the Treasury, William E. Simon, to the President, and one letter from Mr. Frederic W. Hickman, assistant Secretary of the Treasury, to then Chairman Mills of the Ways and Means Committee of the House, in which these letters report that it is estimated that 85 percent compliance is found in payment of taxes on lottery winning.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., April 29, 1974.

Hon. WILBUR D. MILLS,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Treasury Department on H.R. 11294, "A BILL To exempt State lotteries from certain Federal prohibitions and for other purposes."

Section 4401 of the Internal Revenue Code of 1954 imposes a 10 percent tax on the amount of wagers made, to be paid by anyone engaged in the business of accepting wagers, including any person conducting a lottery. A related occupational tax of $50 per year is imposed by section 4411 on each person who is liable for tax under section 4401 or who is engaged in receiving wagers for or on behalf of any person so liable.

In 1963, New Hampshire became the first State in recent history to establish a State lottery. The lottery was similar in operation to the Irish Sweepstakes. That is, the lottery's ultimate winners were determined by the results of a designated horse race actually run following a preliminary selection of the prospective winners by lot. The lottery, when established, was subject to the Federal taxes on wagering.

In order to exempt New Hampshire's lottery from these taxes, Congress, in 1965, added as section 4402(3) of the Code an exemption for State-conducted sweepstakes, wagering pool or lotteries. The exemption was drafted narrowly to encompass the New Hampshire-type of lottery. It contains two basic requirements: (1) the sweepstakes, wagering pool or lottery must be conducted by an agency of a State acting under authority of State law; and (2) the ultimate winners must be determined by the results of a horse race.

Since the appearance of the New Hampshire lottery seven other States have established and are operating lotteries. Several more States have either authorized, or are investigating the feasibility of lottery operations. However, the lotteries which have been established since 1965, including a revised version of the New Hampshire lottery, differ substantially in the manner in which they operate from the form of lottery which was made exempt by Congress in 1965. Although most States use a format which gives the appearance that the ultimate winners are determined on the basis of a horse race, in point of fact in every case, ultimate winners are determined by lot. Consequently, the lotteries, as conducted, do not satisfy the second prerequisite for exemption under section 4402(3).

In order to exclude all State lottery operations from wagering taxes, H.R. 11294 would amend section 4402(3) to remove the requirement that ultimate winners of State lotteries must be determined on the basis of the results of a horse race. It also would amend section 4462(b) of the Code to exclude from the definition of coin-operated gaming devices (and thus from tax imposed by section 4461 on coin-operated gaming devices) a vending machine which dispenses tickets on a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law.

The amendment to section 4402(3) is to apply with respect to wagers placed after March 10, 1964, and the amendment to section 4462(b) is to apply with respect to periods presumably ending after such date. March 10, 1964, is the date on which the 1965 amendment to section 4402 became effective.

The Treasury Department favors the exemption of State lotteries from the imposition of wagering taxes. Such an exemption is consistent with the Administration's program of revenue sharing which is intended to provide the States with greater revenues. However, we also are concerned that in view of the popularity of this form of gambling many individuals who are winners of lotteries are not reporting their winnings. Consequently, we believe it would be appropriate and desirable in conjunction with enactment of H.R. 11294, to enact legislation which would facilitate the collection of taxes from the rapidly growing number of winners.

Section 6041 of the Internal Revenue Code requires information reporting on lottery winnings of $600 or more. Although an Internal Revenue Service study based upon a sampling of these information documents has indicated a relatively high rate of compliance in the reporting of lottery winnings (85 percent of the winners reported their gains on timely-filed income tax returns), the residual noncompliance is sufficient to warrant concern. Moreover, we have reason to believe that compliance is much lower for winners of less than $600 with respect to whom information returns are not required under present law.

Apart from the compliance problem, there is the payment problem that arises because many winners are unsophisticated in tax matters and thus fail to provide for timely payment of Federal income tax on their winnings. In many cases winners spend their lottery proceeds before the tax return filing date and consequently find that they are unable to pay the tax on their winnings when their taxes are due. The Service reports that withholding at the source would alleviate payment problems for such taxpayers and would also reduce the incidence of delinquent account activity in its Collection Division.

We have prepared a draft amendment to section 3402 of the Code which would require States conducting lotteries to withhold tax from amounts paid to individuals as prizes in connection with such lotteries. A copy of the draft is attached for your committee's consideration.

For purposes of withholding and related administrative provisions, the proposal treats payments of State lottery winnings as if they were payments of wages by an employer to an employee. However, withholding is applied at a flat rate of 20 percent on gross payments and is subject to a *de minimis* floor of $100. The normal withholding exemptions are inapplicable to withholding under the proposal. In lieu of a Form W-4 a winner is required to furnish to the payer a statement showing the name, address, and taxpayer identification number of each person entitled to share in the payment. The proposal applies to payments made after December 31, 1974. However, that date can be changed to some period following the date of enactment.

Compliance with these provisions will depend in large measure upon the cooperation of the States rather than upon sanctions for failure to comply. The States will have to file Forms W-2 with respect to payments and amounts withheld. However, the States are presently providing the Service with information returns, and we do not believe that this additional requirement will place an undue burden upon their lottery operations.

H.R. 11294 applies retroactively to March 10, 1964. As a general rule the Treasury Department opposes the granting of retroactive relief since it normally results in equitable application of the tax laws among taxpayers who are similarly situated. However, in the instant case, there is no taxpayer who will be disadvantaged by this change. Furthermore, Congress in 1965 retroactively provided relief to New Hampshire from wagering taxes. The relief granted to all States by H.R. 11204 is retroactive to that date.

The Office of Management and Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

FREDERIC W. HICKMAN,
Assistant Secretary.

Enclosure.

THE SECRETARY OF THE TREASURY,
Washington, D.C., May 29, 1974.

Hon. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft bill "To amend the Internal Revenue Code of 1954 with respect to the collection of income tax at source on amounts awarded in State-conducted lotteries." It would be appreciated if you would lay the proposed legislation before the Senate. This proposal is a part of the Treasury Department's legislative program for the 93rd Congress, and the Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. This proposal is also being sent to the Speaker of the House of Representatives.

Presently, the States of Connecticut, Massachusetts, Maryland, Michigan, Pennsylvania, New Hampshire, New Jersey and New York are operating state-wide lotteries. Several other States are considering enactment of legislation authorizing lottery operations. In view of the popularity of this form of gambling, we believe that steps ought to be taken to facilitate the collection of taxes from the rapidly growing number of winners.

Section 6041 of the Internal Revenue Code requires information reporting on lottery winnings of $600 or more. Although an Internal Revenue Service study based upon a sampling of these information documents has indicated a relatively high rate of compliance in the reporting of lottery winnings (85 percent of the winners reported their gains on timely filed income tax returns), the residual noncompliance is sufficient to warrant concern. Moreover, we have reason to believe the compliance is much lower for winners of less than $600 with respect to whom information returns are not required under present law.

Apart from the compliance problem there is the payment problem that arises because many winners are unsophisticated in tax matters and thus fail to provide for timely payment of Federal income tax on their winnings. In many cases winners spend their lottery proceeds before the tax return filing date and consequently find that they are unable to pay the tax on their winnings when their taxes are due. Withholding at the source would alleviate payment problems for such taxpayers and would also reduce the incidence of delinquent account activity in the Service's Collection Division.

Accordingly, we have prepared a bill amending section 3402 of the Code which would require States conducting lotteries to withhold tax from amounts paid to individuals as prizes in connection with such lotteries.

For purposes of withholding and related administrative provisions, the bill treats payments of State lottery winnings as if they were payments of wages by an employe to an employee. However, withholding is applied at a flat rate of 20 percent on gross payments and is subject to a de minimis floor of $100. Under the bill the normal withholding exemptions are inapplicable to withholding. In lieu of a Form W-4 a winner is required to furnish to the payer a statement showing the name, address, and taxpayer identification number of each person entitled to share in the payment. The bill applies to payments made after December 31, 1974.

Compliance with these provisions will depend in large measure upon the cooperation of the States rather than upon sanctions for failure to comply. The States will have to file Forms W-2 with respect to payments and amounts withheld. However, the Senates are presently providing the Service with information returns, and we do not believe that this additional requirement will place an undue burden upon their lottery operations.

Sincerely yours,

WILLIAM E. SIMON,
Secretary of Treasury.

Mr. McINTYRE. Moreover, the States are already required to file 1099 forms on winners of $600 or more, and in any case they have complete lists of all prize winners.

If the IRS is excited or unduly alarmed because of cheating going on, they can go into the State of New Hampshire, they can send in someone, and he can find out. The information necessary to check on compliance and to catch the alleged cheaters is already on hand and readily accessible.

And this system imposes an additional burden of processing on the States. Ironically, although the justification for this section is that the system of 1099 reporting does not work, that reporting system remains in place, with the withholding system imposed on top of it. Apparently two clumsy and overlapping systems are more desirable than one.

In addition, the committee proposal limits the flexibility of the lotteries to determine what shall be offered as prizes. In New Hampshire, for example, the State has offered as prizes such things as automobiles and trips to Europe and Honolulu. How will these winners be affected? Will they have to make a large payment to the State before they even receive their prize? I am sure such a requirement would discourage offering such prizes because of the resentment and hardship this would cause. And on this question of revenue, I am sure my colleagues remember that this body has already rejected a withholding measure that would have raised over $1 billion—withholding on interest and dividends which I happened to support. And that provision would not have interfered with State government nor caused the confusion that this proposal, to withhold on winnings on State lotteries over $1,000 will cause.

Second. Related to this is a real concern that withholding will detract from the appeal of the State lotteries. The New Hampshire State Lottery Director, Mr. Powers, who probably has more experience with the administration of a lottery than anyone else in the country, is convinced that this is the case.

I receive similar assurances from other lottery States. People enjoy participating in lotteries because of the excitement, the fun of it, and withholding detracts from that. Moreover, to impose withholding taxes on legal gambling will only serve to make illegal gambling more attractive. Many State lotteries are in direct competition with illicit gambling operations—this is reality and we ought to deal with it. If you make legal wagering less attractive, people will go back to illegal gambling. I do not think this is a sensible direction for us to take, without some very serious evaluation of the real impact of what we are doing.

Third. I do not think this section is consistent with other congressional actions on State lotteries. When I came to this body, and the New Hampshire lottery was just getting started, they were being subjected to a 2-percent Federal excise tax on wagering. In 1964, they had to pay over half a million dollars in excise taxes to the Federal Government. I did not feel this was fair treatment for a revenue raising program, and in 1965 an exemption was adopted for State lotteries.

The distinguished Senator from Louisiana was very helpful in my securing this, along with the chairman of the Ways and Means Committee, Wilbur Mills.

That exemption was adopted for State lotteries. And in this very bill, that exemption is continued and updated.

Therefore, I think we can say that this body recognized before that certain Federal policies have intruded too far and unfairly into legitimate State activities. I would hope my colleagues would consider this aspect now.

Fourth. Three years ago, Congress created the Federal Commission on the Review of National Policy Toward Gambling. Its membership included four members of this body, Senators CANNON, MCCLELLAN, SCOTT of Pennsylvania, and TAFT. The Commission offered testimony to the Finance Committee, urging it to defer action on this matter until they had issued their report and recommendations as to what the Federal policies, including tax policy, should be on gambling. That final report is due early this fall.

On Wednesday, the Commission issued its second interim report, and that report recommends first that States should have primary responsibility for determining what forms of gambling may legally take place within their borders, and second, that Congress should take great care in the exercise of its taxing powers so as not arbitrarily to discourage State policies. They suggest that Federal taxes on State gambling operations may render States incapable of competing with those illegal games that they are seeking to eliminate.

Mr. President, I think the work of this congressionally established Commission deserves at least a fair evaluation before we press ahead on this issue.

Mr. President, I am happy to yield to my distinguished colleague from New Hampshire.

Mr. DURKIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I rise to add my support to the remarks of my senior colleague and underscore the concern we have especially in New Hampshire where the New Hampshire lottery, the New Hampshire sweepstakes, has had an extremely fine record and has provided millions of dollars for education in the State of New Hampshire.

It has helped support many school districts across the State. It has been well run by the board. The executive director is a former FBI man. The sweepstakes commission has made sure there has not been even a suspicion.

I am concerned that the withholding would not accomplish the stated purpose.

Compliance is now such that most all winners paid the tax.

But what it would do is act as a disincentive and would not raise any additional money. It would hurt the school children and the school districts across the State of New Hampshire.

I do not think the Finance Committee would intend that. I am sure this body does not intend to have that result.

The hour is late. I know my senior colleague has been working very diligently on this.

Mr. LONG. Mr. President, will the Senator yield?

Mr. McINTYRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McINTYRE. Mr. President, I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I personally have no strong objection to the amendment.

I have heard the Senator in years gone by express the problem with regard to the lottery in his State. It makes a good argument. Frankly, many times I have found myself constrained to think that if people are going to gamble anyway, it would be best that it be collected by the State and used for a good purpose rather than by some illegal operation and used in some manner that tended to subvert and undermine law enforcement.

So I find a lot of sympathy for the argument the Senators have made. The committee, however, did not agree with the amendment.

The Commissioner of Internal Revenue sent us a letter opposing it and he spoke out in opposition to it when we discussed this matter.

Let me read from the letter. He is referring to the fact that he supported the Cannon amendment regarding casino winnings:

> The Service would, however, be firmly opposed to extending any such exception to state lottery winnings. The thirteen states which have lotteries would not encounter any of the administrative problems which the casino industry maintains it would have under such a provision. The records maintained by lotteries, and required by the states, are sufficiently sophisticated so that withholding would not be an additional burden.
>
> The amount of state lottery winnings in this country is considerable and tax administration would be significantly improved by subjecting these winnings, along with other gambling winnings, to a withholding requirement. I am enclosing a fact sheet regarding the number and frequency of state-conducted lotteries for your information.

Mr. President, I ask unanimous consent that the entire letter by the Commissioner of Internal Revenue as well as the data regarding State lotteries appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., July 27, 1976.

HON. RUSSELL B. LONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LONG: As you know section 1207 of H.R. 10612 provides for a withholding tax on certain gambling winnings. During the Finance Committee's markup of this bill I indicated, in the strongest possible terms, my support for this provision. Providing for withholding in this area, in which there is considerable noncompliance, would considerably improve the level of voluntary compliance.

Because of the concerns raised by Senator Cannon with respect to the administrative burdens involved in imposing withholding on certain casino winnings (i.e., keno, bingo, and slot machines), I indicated to Senator Cannon, in my letter to him of June 17 (copy enclosed) that the Service would have no objection to excluding such winnings from the withholding requirement. As part of this understanding it was agreed that the Form 1099 reporting requirements be substantially lowered as respects casino winnings and that the IRS would report to Congress within two years with a recommendation as to whether these winnings should be subject to withholding.

The Service would, however, be firmly opposed to extending any such exception to state lottery winnings. The thirteen states which have lotteries would not encounter any of the administrative problems which the casino industry maintains it would have under such a provision. The records maintained by lotteries, and required by the states, are sufficiently sophisticated so that withholding would not be an additional burden.

The amount of state lottery winnings in this country is considerable and tax administration would be significantly improved by subjecting these winnings, along with other gambling winnings, to a withholding requirement. I am enclosing a fact sheet regarding the number and frequency of state-conducted lotteries for your information.

With kind regards,

Sincerely,

DONALD C. ALEXANDER.

Enclosures.

DATA REGARDING STATE LOTTERIES

I. States having lotteries (13)—

Conn., Del., Ill., Me., Md., Mich., N.H., N.Y. (presently not operating), Ohio, Penn, Mass., R.I., N.J.

II. Frequency of Lottery Events—

A. Three states have daily lotteries (daily numbers)—Mass., R.I., N.J.

B. The remaining ten states have weekly lotteries.

C. In addition, all of the 13 states have instant games which are going on constantly and in which there are winners every day.

III. Amount Wagered and Awarded—

A. During 1975, $992 million was wagered.

B. Each state allocates approximately 45% to prizes, resulting in about $430 million in winnings during 1975.

Mr. LONG. Let me say to the Senator, as far as this Senator is concerned, I really have no strong feeling about the matter.

I feel I will vote against it because the committee did. But if it be the will of the Senate that this amendment be added to the bill, I will be happy to look into it in conference.

I think it is wise in suggesting the yeas and nays because if it is to be agreed to and the matter went to conference, with the opposition one can expect from the IRS, there would be very little chance of having it agreed to if he did not have a yea and nay vote on the record to show the Senate stood up and was willing to be counted on his side on this vote.

If the Senate is willing to vote for it, I will do the best I can to make it clear to the conference.

Mr. McINTYRE. I appreciate the remarks of the Senator from Louisiana. I am aware of the position of the Internal Revenue Commissioner on this amendment. I am also aware of his position on the amendment just adopted from the distinguished Senator from Nevada.

Mr. President, I say to my colleagues, all that New Hampshire is looking for is fair treatment. Only yesterday I heard the distinguished floor manager say we have to treat everyone the same. I agree with that.

So with all due deference to his assurances that he will do his best to keep this amendment in conference, I feel sufficient strength on this amendment to ask for the yeas and nays, and I do that.

Mr. LONG. Please understand, I think the Senator should ask for the yeas and nays. I suggest the Senator ask for the yeas and nays. I regret I cannot vote for the amendment. As far as I am concerned, if the Senator's amendment prevails, I will clearly accept the verdict of the Senate and I will do the best I can to persuade the House to agree to it.

Mr. McINTYRE. I agree. This Senator feels if I could carry the vote in the Senate my position for this amendment will be a little bit stronger in conference. Being a veteran of conferences I know the difficulties which exist. For that reason, I do ask for the yeas and nays.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PASTORE. Will the Senator yield?

Mr. McINTYRE. I yield.

Mr. PASTORE. This has to do with the State lotteries?

Mr. McINTYRE. Yes.

Mr. PASTORE. I am very much in support of the Senator's amendment. I wonder, when we consider an item like this, what we should do about the gambling in Nevada, what we should do about anything at all. I think it would be an interference with State's rights.

Mr. McINTYRE. In conclusion, Mr. President, I think we have to simply consider what we really are doing here. We are not talking about whether we are for gambling or against gambling. We are talking about raising revenue.

If you want to discourage people from gambling, you will not do it this way. They will take their business elsewhere. If you want to outlaw gambling, you cannot do it through the tax laws. But what you will be doing is interfering with a State's prerogative to lawfully raise revenue as it sees fit.

This withholding provision will cost the States money in participation and clerical costs. It will interfere with legal, popularly adopted and supported revenue-raising measures undertaken by various States. And it will raise a minimal amount of revenue for the Federal Government, if any.

I hope the Senate will adopt my amendment and strike this section from the bill.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from California (Mr. TUNNEY), the Senator from Indiana (Mr. BAYH), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 52, nays 40, as follows:

[Rollcall Vote No. 423 Leg.]

YEAS—52

Abourezk
Baker
Biden
Brooke
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Durkin
Eastland
Fannin
Fong
Ford
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Helms
Huddleston
Inouye
Jackson
Javits
Johnston
Laxalt
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Montoya
Morgan
Muskie
Packwood
Pastore
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Williams
Young

NAYS—40

Allen
Bartlett
Bellmon
Bentsen
Brock
Bumpers
Burdick
Byrd, Harry F., Jr.
Chiles
Church
Culver
Curtis
Dole
Domenici
Eagleton
Garn
Haskell
Hatfield
Hathaway
Hollings
Hruska
Humphrey
Kennedy
Leahy
Long
McClellan
McClure
Moss
Nelson
Nunn
Pearson
Proxmire
Scott, William L.
Sparkman
Stennis
Stone
Talmadge
Thurmond
Tower
Weicker

NOT VOTING—8

Bayh
Beall
Buckley
Goldwater
Metcalf
Mondale
Symington
Tunney

So Mr. McINTYRE's amendment (No. 1935) was agreed to.

Mr. McINTYRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

AMENDMENT NO. 1999, AS MODIFIED

Mr. BELLMON, Mr. President, I call up amendment No. 1999, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON), for himself, Mr. McCLURE, and Mr. DOMENICI, proposes amendment numbered 1999, as modified.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 790, insert after line 9, the following new section:

SEC. 1212. AWARD OF COSTS TO PREVAILING TAXPAYER.

(a) RECOVERY OF COSTS.—Part II of subchapter C of chapter 76 (relating to Tax Court procedure) is amended by adding at the end thereof the following new section:

"SEC. 7465. RECOVERY OF COSTS.

"(a) IN GENERAL.—In any proceeding before the Tax Court for the redetermination of a deficiency, the prevailing party, unless the prevailing party is the United States, may be awarded a judgment of costs to the same extent as is provided in section 2412 of title 28, United States Code, for civil actions brought against the United States.

"(b) JUDGMENT.—A judgment of costs entered by the Tax Court under subsection (a) in favor of the prevailing party shall be treated, for purposes of this subtitle, in the same manner as an overpayment of tax. No interest or penalty shall be allowed or assessed with respect to any judgment of costs."

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7465. Recovery of costs.".

(2) Section 2412 of title 28, United States Code, is amended—

(A) by inserting "(a)" before "Except", and

(B) by adding at the end thereof the following new subsection:

"(b) In any civil action which is brought by or against the United States for the collection or recovery of any internal revenue tax, or of any penalty or other sum under the internal revenue laws, and in which the United States is not the prevailing party, a judgment for costs may include reasonable attorney's fees, except that the amount of such fees included with respect to any civil action shall not exceed $10,000, and in any event such Judgment of Cost and attorney fees shall not be made unless it is determined in such action that it was unreasonable on the part of the party that does not prevail to bring such action."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to civil actions and proceedings for the redetermination of deficiencies commenced after the date of the enactment of this Act.

Mr. FORD. Mr. President, will the Senator from Oklahoma yield for a unanimous-consent request?

Mr. BELLMON. I yield.

ORDER PERMITTING AMENDMENT 1936 TO BE CALLED UP AMONG THE MISCELLANEOUS AMENDMENTS

Mr. FORD. Mr. President, I ask unanimous consent that amendment 1936 be allowed to be brought up during the miscellaneous amendments at the end of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BELLMON. I yield to the distinguished assistant majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

ORDER FOR ADJOURNMENT UNTIL 8 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 8 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

ORDER LIMITING REMAINING ROLLCALL VOTES TODAY TO 10 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on any further rollcall votes today be limited to 10 minutes on each rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, will the Senator from Oklahoma yield to me for a question?

Mr. BELLMON. I yield to the Senator from Rhode Island for a question.

Mr. PASTORE. Is it pertinent for me to ask how long his amendment might take?

Mr. BELLMON. My hope is this will take less than 5 minutes, and I do not think there will be a record rollcall vote on the amendment.

Mr. President, for some time now we have discussed and debated tax legislation which is most voluminous and complex. It is because of this volume and complexity that I am offering an amendment which would permit a taxpayer to recover reasonable court cost and professional fees when he successfully challenges an adverse Internal Revenue Service ruling in court.

There is little question that the Internal Revenue Code is rarely understood by the average citizen and as a result, taxpayers are compelled to obtain legal and accounting services when differences with the Internal Revenue Service arise.

These differences manifest themselves when the IRS advises the taxpayer that he has improperly prepared his tax return and that he owes the Government of the United States a certain sum of money. Upon receipt of this communication, the taxpayer has two basic alternatives. One, he can pay the tax which the agency claims is due or, two, he can begin the long arduous and expensive struggle to attempt to prove that the tax is not due. With the burden of proof remaining with the taxpayer, he may ultimately become involved in extensive and expensive litigation which would require the services of attorneys and accountants. Neither alternative is fair to the taxpayer in that it places him in the position of making a monetary sacrifice on the altar of truth, for example, in order to prove he is right he must pay the price of litigation.

Mr. President, on five occasions in the past, I have submitted legislation or amendments to legislation which would accomplish this basic fairness for our American taxpayer. On the fifth submittal, it passed the Senate but it appears it has not been written into the law. On this occasion, as well as those in the past, I wish to stress the fairness doctrine which I believe is embodied in this amendment. While we know that there can be no continuing operation of this Government without the income tax, we also know that there can be no continuing operation of our income tax law without such law being fair and equitable to those who must bear the burden. When and if the American taxpayer begins to revolt against the internal revenue system, the income tax is dead, and if the income tax goes, the work of this Government will simply be impossible to accomplish.

Therefore, any action which the Congress can take to convince citizens of this country that they are getting a fair shake in their dealings with the IRS is greatly in the national interest. This amendment, when passed, will correct one of the main complaints taxpayers have against the present administration of the income tax; namely, that the IRS can at its discretion use the power of the Internal Revenue Service to oppress and harass taxpayers and that the taxpayer is helpless to defend himself against such a procedure without financial sacrifice.

Fortunately, the IRS puts forth great effort to achieve and maintain a high degree of professionalism among its agents. However, in spite of its best efforts there are and always will be a segment, even though small, of individuals who abuse the powers of their position in order to take personal revenge against taxpayers they dislike. This amendment will give the IRS a means of identifying and hopefully eliminating these oppressive individuals.

The way the amendment would work is simple. If a taxpayer feels that an IRS ruling is unfair, the citizen may challenge the IRS in court with the full knowledge that if he prevails he may recover the costs of the litigation from the Government. This procedure will do two things:

First, it will strengthen the backbone of an innocent taxpayer and reassure him that he can defend his position without being penalized through the costs of this defense.

Second, it will discipline the IRS agents against issuing punitive rulings for personal reasons.

Mr. President, there can be no greater equity for the American taxpayer that we can do than to adopt this amendment and in this our Bicentennial Year to declare through this amendment a new freedom for the American taxpayer that is the freedom to fight without fear of financial loss.

Mr. President, to take only a moment to explain the amendment, at the present time if a taxpayer is charged by the IRS with an irregularity and receives an assessment from the IRS, the taxpayer has an impossible decision to make. If he goes to court and defends himself, his court costs, attorneys fees, and accountant fees are likely to amount to more than the amount of the assessment. So in many cases taxpayers simply pay the IRS whatever assessments are made rather than fight back, even though they may feel they have a good case.

The purpose of this amendment is to make it possible for taxpayers who do resist IRS findings and go to court to recover their court costs provided they prevail.

The amendment that has been printed, and it is on the desk of each Member, has been modified with this language:

> . . . except that the amount of such fees included with respect to any civil action shall not exceed $10,000 . . .

That means that the maximum amount that could be recovered would be $10,000.

> . . . And in any event such judgment of cost and attorney fees shall not be made unless it is determined in such action that it was unreasonable on the part of the party that does not prevail to bring such action.

In other words, the court would have to determine that the IRS was unreasonable in bringing the action in the first place.

This is simply an effort to give taxpayers equity in the courts in their efforts to protect their rights against unreasonable demands by the IRS.

Mr. President, the amendment has been discussed with both the sponsor of the bill and the minority Member, and I believe they are willing to accept the amendment as modified.

Mr. LONG. Mr. President, under the amendment as modified, there would not be many cases in which the taxpayer would recover attorney's fees. But I believe that where the court might find that the Internal Revenue Service was unreasonable in bringing litigation, the possibility of such a finding would have a restraining influence on the IRS in bringing cases where the merits appear very strong on the side of the taxpayer. I think that might be a very salutary idea, that if the Internal Revenue Service proceeds against someone in a case which is so palpably weak that when the judge hears it there is simply no merit in the IRS position, then the judge would have the right to rule that the defendant should be awarded reasonable attorney's fees, not to exceed $10,000 to pay for his costs of defending himself against a lawsuit that never should have been brought.

We have something like that in the Louisiana law. We have what is known as a penalty for frivolous litigation. If one files a lawsuit and there is practically no merit to it, a court can award the defendant 10 percent of the amount for which he was sued on the basis that the litigation was frivolous and should never have been brought in the first instance.

This tends to retard nuisance lawsuits being filed. Even though it is only about once in 10,000 cases that a judge ever awards a defendant an amount because of the frivolous litigation penalty, it does have an effect on lawyers who have a way of filing a great deal of frivolous litigation. It tends to make them be somewhat more careful.

I think the amendment might serve a very good purpose.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CURTIS. I concur with the position of the chairman of the committee, and I think it is a good amendment.

Mr. McCLURE. Mr. President, will the Senator from Oklahoma yield?

Mr. BELLMON. I am glad to yield to a cosponsor of the amendment.

Mr. McCLURE. I thank the Senator for yielding.

I say to the Members of the Senate that every one of us has a list of horrible examples of excesses by the IRS in oppressive action against individual taxpayers. Senators' files bulge with them, and mine do too.

I am not going to take a lot of time to recite some of those instances which a great many Members could recite as well as I, but I think this amendment goes at least a short direction in rectifying the situation which can be oppressive.

I wish we could get something that goes a little further, but as the Senator from Oklahoma points out this passed the Senate in this form four or five times before, and it has always been knocked out in conference. I hope that this rather modest step in the direction of justice for our taxpayers against the oppressive weight of the bureaucracy will be held in conference this time if adopted by the Senate, because it is a very modest step in what I think is appropriate justice to our taxpayers.

Mr. BELLMON. I thank the Senator from Idaho.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ABOUREZK). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. Mr. President, other Senators wish to offer amendments. The Senator from Massachusetts (Mr. KENNEDY) wishes to offer a couple of amendments to this title which are relatively minor. I do not see him in the Chamber, but I would be happy to agree to them. I would be glad to offer them on his behalf if the Senator is not here.

I ask those who work for the majority side to alert Senator HASKELL of Colorado.

UP AMENDMENT NO. 253

Mr. KENNEDY. Mr. President, I have three amendments which I ask unanimous consent to submit en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Masachusetts for himself and Mr. HATHAWAY, (Mr. KENNEDY), proposes three amendments en bloc numbered 253.

The amendments are as follows:

On page 663, lines 16 and 17, strike out "and that such disclosure is in the public interest", and insert in lieu thereof the following: "by on behalf of such person".

On page 668, beginning with line 22, strike out through line 4 on page 669.

On page 677, line 22, delete the period and add the following: "and related background file documents.".

Mr. KENNEDY. Mr. President, I will explain the amendments very briefly.

I have had an opportunity to talk to the manager of the bill and the staff about the amendments. They are primarily technical in nature, although they do reach some minor substantive issues.

The bill presently allows courts to order disclosure of the identities of persons to whom a written determination pertains "if there is evidence in the record from which one could reasonably conclude that an impropriety occurred or undue influence was exercised and that such disclosure is in the public interest." The first amendment would delete the phrase "and that such disclosure is in the public interest."

This is a simple amendment based on the assumption that where a court finds adequate evidence for concluding that an impropriety occurred, or undue influence was exercised in the issuance of a tax ruling, the recipient of the ruling should be identified without the further need of a finding of what is required by the public interest.

In short, I am proposing a per se rule for disclosure of the identity of recipients of improper or influenced rulings.

The addition of the phrase I am striking was not requested by the IRS—it was, in fact, agreed by the Service that this would not be an added requirement in the bill, but was placed in nonetheless by the committee.

No civil or criminal sanction attaches to the release of the recipient's identity; all this would do is allow Congress or the public or press the ability to look further into the facts and circumstances surrounding the ruling.

The section of the bill which is struck by the second amendment would establish a 3-year statute of limitations for bringing suit to require disclosure of additional information contained in written determinations and background file documents.

No justification has been advanced as to why there should be an artificial 3-year limitation on the bringing of suits to require release of material which the IRS did not disclose the first time around. It may well be that no question arises regarding the background of the ruling for a number of years following release of the ruling initially.

The Service will undoubtedly retain these documents long after the 3-year period; for example, the statute of limitations on IRS actions to collect back taxes where there is an underreporting of 25 percent or more is 5 years. It is unlikely that the Service will destroy any records before that period; or even long after 5 years.

This amendment would affect in no way the records retention policies or laws presently governing maintenance or destruction of Government records. If they can legally be destroyed in less than 3 years—which I do not believe they can—my amendment would not affect that, nor would the clause in the present bill.

In short, there is no reason that the files and determinations should be available to the Service but not subject to further disclosure opportunities for the public after 3 years.

Third, the bill presently provides that—

"The Secretary shall not dispose of any reference written determinations." These are the most important rulings which are used for reference purposes by the IRS. The amendment would also add that the Secretary may not additionally dispose of "related background file documents."

The background file documents are pertinent to any inquiry into the basis for and meaning of a ruling. The committee has apparently determined that the reference rulings are themselves of such importance and significance that the Service should not destroy them in accordance with other possibly applicable laws. Because the background file documents may be necessary to give meaning and perspective to be determination itself, it does not make sense to require the IRS to retain the determinations but at the same time to shred the background files.

This amendment would merely put the reference determinations and the underlying relevant background file documents on the same footing for records disposal or retention purposes.

I have had an opportunity to review the amendments with the manager of the bill, and I am ready to vote on these proposals.

Mr. LONG. Mr. President, I have no objection to the amendments.

The PRESIDING OFFICER. The

question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. LONG. Mr. President, I was under the impression that the Senator from Colorado (Mr. HASKELL) was going to offer another amendment.

Mr. MANSFIELD. That is correct. He will be here.

Mr. LONG. Mr. President, there is an amendment regarding administrative summonses to be offered by the Senator from Nebraska (Mr. HRUSKA), and I believe that amendment is still in preparation. So I ask unanimous consent that section 1205, dealing with administrative summons, be regarded as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object——

Mr. LONG. The purpose of this is to enable us to go ahead and complete action on title XXII in other respects and vote on the Hruska amendment, with regard to administrative summons, some time tomorrow or the next day.

Mr. CURTIS. Mr. President, reserving the right to object—and I shall not object—the intention is that, notwithstanding that we vote on title XII, it will be in order for the Senator to amend section 1205?

Mr. LONG. That is correct.

Mr. KENNEDY. I ask this of the Senator as a point of information: I understand that after we finish these other amendments, we will go to title XIII. Is that the Senator's intention?

Mr. LONG. That is my plan.

Mr. KENNEDY. Then we will complete title XIII and come back to title VIII. Is that the intention? I ask this so that we can prepare the amendments.

Mr. LONG. At the moment, I will ask that we consider title XIV next. I want to have a conference with some Senators on title VIII tomorrow. We will let the Senator know.

Mr. KENNEDY. We will start off with title XIII and will leave it open after that?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BUMPERS. Mr. President, I wish to address an inquiry to the floor manager, to make sure that we all understand this.

I understood the Senator from Massachusetts to say that we would hang loose after title XIII, and I think the floor manager intended to go to title XIV after title XIII. Is that correct?

Mr. LONG. That is my intention.

We have been moving along step by step, by unanimous consent. The reason I have for doing this is that some of these amendments will require a great deal more debate than others. So far, we have been able to accommodate ourselves in the order in which we have considered amendments, and I hope we will continue to do so.

Mr. BUMPERS. Can the Senator give us any idea as to how many amendments, if he knows, are pending on title XIII?

Mr. KENNEDY. I know of two on title XIII.

Mr. LONG. The committee has a modification on title XIII also.

Mr. PASTORE. Why do we not finish title XII?

Mr. KENNEDY. I should like to find out when we will begin on title VIII. As the Senator pointed out, title VIII has been a title of considerable controversy, but we have gone by that in the order for some time.

Mr. LONG. I have a gentleman's agreement with certain Senators that we are not going to consider title VIII on Friday, Saturday, or Monday. However, we are going to hold a conference tomorrow and talk about an amendment that we are going to debate regarding employee stock ownership, which is to be offered. I am very interested in that amendment, as the Senator well knows. I wish to discuss that tomorrow with Senators interested in that matter.

At the moment, I cannot tell the Senator when I am going to suggest that we discuss it, but I think perhaps I can tell him better tomorrow, after we have a conference.

What I am trying to do is to keep moving on these amendments that can be disposed of in perhaps an hour of debate. So far, we have been able to do that, and I hope we can continue to do so. We have a lot of decisions to make as yet, but we are making them.

UP AMENDMENT NO. 254

Mr. HASKELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes an unprinted amendment numbered 254.

Mr. HASKELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 681, strike out lines 16 through 20, and insert in lieu thereof the following:

"(B) any part of any written determination or any document in any background file relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110, but such term does not include data in a form which cannot be associated, with or otherwise identify, directly or indirectly, a particular taxpayer."

Mr. HASKELL. Mr. President, the purpose of this amendment is to insure that statistical studies and other compilations of data now prepared by the Internal Revenue Service and disclosed by it to outside parties will continue to be subject to disclosure to the extent allowed under present law. Thus the Internal Revenue Service can continue to release for research purposes statistical studies and compilations of data, such as the tax model, which do not identify individual taxpayers.

The definition of "return information" was intended to neither enhance nor diminish access now obtainable under the Freedom of Information Act to statistical studies and compilations of data by the Internal Revenue Service. Thus, the addition by the Internal Revenue Service of easily deletable identifying information to the type of statistical study or compilation of data which, under its current practice, has been subject to disclosure, will not prevent disclosure of such study or compilation under the newly amended section 6103. In such an instance, the identifying information would be deleted and disclosure of the statistical study or compilation of data be made.

Mr. President, it is my understanding that the committee staff has discussed this amendment with the Senator from Louisiana and that it is acceptable.

Mr. LONG. Mr. President, I will be happy to take this amendment to conference. It might not be entirely necessary, but it might serve a good purpose. I will be happy to take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

COMMITTEE AMENDMENT NO. 22 (TITLE XII)

The PRESIDING OFFICER. The question now on committee amendment No. 22.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been asked for. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GLENN. Will the Senator yield for a unanimous consent request?

Mr. LONG. I yield.

Mr. GLENN. Mr. President, I ask unanimous consent that Richard Ross and Jim Grogan be granted the privilege of the floor during discussion and debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS SUBMITTED

ADMINISTRATIVE REFORM OF INTERNAL REVENUE CODE

Mr. DOLE. Mr. President, as ranking minority member of the Subcommittee on Administration of the Internal Revenue Code, I strongly support the much needed administrative reforms in title XII of the Finance Committee bill. I am particularly pleased that the Finance Committee has adopted stringent tax return privacy provisions, patterned after S. 2324, the tax return Confidentiality Act of 1975, which I introduced last year.

I cannot stress enough the importance of preserving the confidentiality of individual tax returns. These reforms respond in part to the challenge we face as public officials—the restoration of public trust in Government and Government officials. Past abuses and lax administration demonstrate the need for reform of the Nation's income tax system so that doubts in the public mind about the integrity of the Internal Revenue Service can be dispelled.

I am speaking not of perceived inequities in the tax code for which the remedy is "tax reform." Such inequities involve only so many dollars and cents, and we have made substantial progress in improving the substance of the Internal

Revenue Code in H.R. 10612 and previous tax revision bills. Rather, I speak of a more basic, procedural unfairness in the tax laws which presently permits supposedly confidential individual income tax returns to come into the hands of literally thousands of bureaucrats outside the Internal Revenue Service, and which leaves open the possibility that mischievous political operatives will again attempt to gain access to such returns for partisan political purposes.

The tax privacy sections of H.R. 10612 will assure every American that his or her tax return will remain confidential and immune from political misuse.

This legislation has been developed as a result of hearings held earlier this Congress by the Subcommittee on Administration of the Internal Revenue Code, chaired by the Senator from Colorado. In addition to adopting several provisions of my tax return privacy legislation, we received valuable testimony from the Senator from Connecticut (Mr. Weicker), the Senator from Texas (Mr. Bentsen), and the Senator from New Mexico (Mr. Montoya), each of whom has introduced strong tax privacy legislation.

Adoption of the reforms contained in title XII will insure that there will be no repetition of the highly publicized attempts to use the Internal Revenue Service for political purposes. President Ford, through issuance of Executive Order 11805 on September 20, 1974, has already established strict procedures by which White House personnel may inspect tax returns. And I again commend the President for this action. By this bill, we go even further to assure that future administrations will not be tempted to use an individual's income tax returns for partisan political advantage.

The tax return privacy provisions of this bill balance Government's need for tax return information with the citizens' right of privacy and the related impact of disclosures upon continued compliance with our country's successful voluntary assessment system. I urge the Senate to support the committee amendments.

Mr. WEICKER. Mr. President, 3 years ago, this Senator determined that until three vital measures had been passed by the Senate, Watergate, for him, was not over. Today, the third of those measures is before us. Thanks to the efforts of the Finance Committee, and its distinguished members, Senators Haskell and Dole, tax privacy legislation soon will join its siblings—the intelligence oversight and Watergate reform bills. It is the third and final legislative remedy to the flaws of Government exposed by the chain of abuses we call Watergate.

On May 4, the Senate adopted a resolution expressing its desire to reach a final passage vote on these reform bills in this Congress. I would like to express my deep appreciation to the distinguished majority leader (Mr. Mansfield) for his persistent efforts to meet this timetable. He has been a steadfast ally in the fight for these reforms, and a courageous defender of the rights and ideals of his colleagues on both sides of the aisle.

Mr. President, nearly 2 years ago, along with Congressman Jerry Litton, I introduced legislation to plug loopholes that currently make it possible for White House or various Federal agencies to gain access to tax information.

Under present law, tax returns are considered to be "public records" and "shall be open for inspection only upon Executive order of the President and under rules and regulations prescribed by the Secretary."

Through this provision, the Congress granted to the executive branch broad discretion regarding the extent and circumstances under which tax return information could be disclosed to other Government agencies. Over the years, a myriad of Government agencies have gained access to tax information of the IRS. Defacto, IRS became a lending library of confidential tax information. As the Privacy Commission noted, information the IRS maintained was treated as a "generalized governmental asset."

I am pleased that the Finance Committee has, for the first time in 40 years, taken a comprehensive review of this outdated statute. Extensive hearings have been held by the Senate Finance Committee, Ways and Means Committee and the Privacy Commission. Under the committee proposal, return information will be treated as confidential and not subject to any disclosure except as provided for by law.

The bill sets forth restrictive disclosure rules, under which certain agencies and the President can obtain tax information. Importantly, all such requests must be made in writing. Furthermore, all requesting parties must file an annual report with the Joint Committee on Internal Revenue Taxation. This report is to set forth taxpayers' returns involved, and the reasons for requesting those returns. If the joint committee determines that this information was used for improper political purposes, it can make this fact known to the Congress and the public.

In two important ways, the committee bill would tighten the rules under which State governments receive tax data. First, tax information will be provided only to the principal tax official of the State. Thus, the Governor would be unable to obtain confidential financial records of individual citizens. Second, no tax information could be furnished to the State unless the State government establishes procedures for safeguarding the tax information it receives. Should State officials improperly disclose tax information, the flow of all tax data from the IRS to the State would be stopped, until adequate protective measures had been taken to prevent a repetition of an unauthorized disclosure.

In my research in the tax privacy area, I was deeply concerned over the lack of appropriate safeguards at the State and local levels. I believe these provisions will ensure that tax information will not be used for unwarranted purposes.

Finally, the bill increases the criminal penalties for improper use or disclosure of tax returns to a felony rather than a misdemeanor. Specifically, a violation of this statute would mean up to $5,000 fine—instead of $1,000—and up to 5 years imprisonment—instead of 1 year—or both. With this change, Government officials seeking to pry open confidential tax files for political or personal purposes would at least face stiff criminal penalties.

Mr. President, the American system of Internal Revenue is uniquely successful; its success flies in the face of the experience of most nations in the world, and throughout the history of the world. We do not need rampaging tax collectors, we have cooperative citizens. Virtually no one finds the obligation of paying taxes pleasant. Yet although April 15 is generally regarded as a national day of reckoning, private income taxes are collected with relative ease.

I attribute this to one central fact: trust. Taxpayers disclose their private financial circumstances, things that they would not mention to inlaws or friends, to their Government because they understand the need for taxes, and trust their Government to keep their private lives private.

Each taxpayer should be confident that the filing of his or her tax returns in no way compromises the right of privacy. With the adoption of these provisions, we will be able to give the American people that assurance.

The tax privacy provisions will guarantee to Americans by law the privacy that should never have been eroded by practice. The rights of individuals to be free from political manipulation by tax blackmail soon will be law. Future henchmen of corruption will lose one more weapon. All of us gain one more shield.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment No. 22. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. Metcalf), the Senator from Hawaii (Mr. Inouye), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 424 Leg.]

YEAS—90

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen

Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClure
McGee
McIntyre
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—10

Beall
Buckley
Goldwater
Inouye
McClellan
McGovern
Metcalf
Mondale
Symington
Tunney

So the committee amendment No. 22 (title XII) was agreed to.

Mr. LONG. Mr. President, it was a complete oversight on my part, and I apologize to Senators, that in urging the Senator from Illinois (Mr. PERCY) and his cosponsors to withhold their amendment until we could hold a conference and discuss it tomorrow morning, I failed to ask unanimous consent that section 1211 dealing with social security account numbers should be regarded as original text so that the amendment could be offered tomorrow.

So I ask unanimous consent that section 1211 relative to social security account numbers be regarded as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

COMMITTEE AMENDMENT NO. 23

Mr. LONG. Mr. President, I ask unanimous consent that we now proceed to consider title XIII, the miscellaneous provisions.

The PRESIDING OFFICER. Is there objection, The Chair hears none, and it is so ordered. The clerk will report the committee amendment.

The second assistant legislative clerk read as follows:

On page 791, line 1, strike all through page 803, line 17, and insert in lieu thereof:

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 1301. TAX TREATMENT OF CERTAIN HOUSING ASSOCIATSONS.

(a) GENERAL RULE.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new part:

"PART VII—CERTAIN HOUSING ASSOCIATIONS

"Sec. 528. Certain housing associations.

"SEC. 528. CERTAIN HOUSING ASSOCIATIONS.

"(a) GENERAL RULE.—A housing association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A housing association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

"(b) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the housing association taxable income of every housing association. Such tax shall consist of a normal tax and surtax computed as provided in section 11 as though the housing association were a corporation and as though the housing association taxable income were the taxable income referred to in section 11. For purposes of this subsection, the surtax exemption provided by section 11(d) shall not be allowed.

"(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year any housing association has a net capital gain, then, in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

"(A) a partial tax, computed as provided by paragraph (1), on the housing association taxable income determined by reducing such income by the amount of such gain, and

"(B) a tax of 30 percent of such gain.

"(c) HOUSING ASSOCIATION DEFINED.—For purposes of this section—

"(1) HOUSING ASSOCIATION.—The term 'housing association' means an organization which is a condominium management association or a residential real estate management association if—

"(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property.

"(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from—

"(i) owners of residential units in the case of a condominium management association, or

"(ii) owners of residences or residential lots in the case of a residential real estate management association,

"(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for providing acquisition, construction, management, maintenance, and care of association property,

"(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership, dues, fees, or assessments) to the benefit of any private shareholder or individual, and

"(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

"(2) CONDOMINIUM MANAGEMENT ASSOCIATION.—The term 'condominum management association' means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to a condominium project substantially all of the units of which are used as residences.

"(3) RESIDENTIAL REAL ESTATE MANAGEMENT ASSOCIATION.—The term 'residential real estate management association' means any organization meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

"(4) ASSOCIATION PROPERTY.—The term 'association property' means—

"(A) property held by the organization,

"(B) property commonly held by the members of the organization.

"(C) property within the organization privately held by the members of the organization, and

"(D) property owned by a governmental unit and used for the benefit of residents of such unit.

"(d) HOUSING ASSOCIATION TAXABLE INCOME DEFINED.—

"(1) TAXABLE INCOME DEFINED.—For purposes of this section, the housing association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

"(A) the gross income for the taxable year (excluding any exempt function income), over

"(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

"(2) MODIFCATIONS.—For purposes of this subsection—

"(A) there shall be allowed a specific deduction of $100,

"(B) no net operating loss deduction shall be allowed under section 172, and

"(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

"(3) EXEMPT FUNCTION INCOME.—For purposes of this subsection, the term 'exempt function income' means any amount received as membership dues, fees, or assessments from—

"(A) owners of condominium housing units in the case of a condominium management association, or

"(B) owners of real property in the case of a residential real estate management association."

(b) Section 216(c) (relating to treatment of property subject to depreciation) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not be construed to limit or deny a deduction for depreciation under 167 (a) by a cooperative housing corporation with respect to property owned by such a corporation and leased to tenant-stockholders."

(c) REQUIREMENT OF RETURN.—Section 6012 (a) (relating to persons required to make returns of income) is amended by striking out "and" at the end of paragraph (5), by inserting "and" at the end of paragraph (6), and by inserting after paragraph (6) the following new paragraph:

"(7) Every housing association (within the meaning of section 528(c)(1)) which has housing association taxable income (within the meaning of section 528(d)) for the taxable year."

(d) CLERICAL AMENDMENT.—The table of parts for subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Part VII. Certain housing associations."

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to taxable years beginning after December 31, 1973.

SEC. 1302. TREATMENT OF CERTAIN DISASTER PAYMENTS.

(a) GENERAL RULE.—Subsection (d) of section 451 (relating to special rule for crop insurance proceeds) is amended by inserting after the first sentence the following new sentence: "For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, as a result of (1) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (2) the inability to plant crops because of such a natural disaster shall be treated as insurance proceeds received as a result of destruction or damage to crops."

(b) TECHNICAL AMENDMENT.—The subsection heading for such subsection (d) is amended by striking out "Proceeds" and inserting in lieu thereof "Proceeds or Disaster Payments".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after December 31, 1973, in taxable years ending after such date.

Sec. 1303. Tax Treatment of Certain 1972 Disaster Losses.

(a) Application of Section.—This section shall apply to any individual—

(1) who was allowed a deduction under section 165 of the Internal Revenue Code of 1954 (relating to losses) for a loss attributable to a disaster occurring during calendar year 1972 which was determined by the President, under section 102 of the Disaster Relief Act of 1970, to warrant disaster assistance by the Federal Government,

(2) who in connection with such disaster—

(A) received income in the form of cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act, or

(B) received income in the form of compensation (not taken into account in computing the amount of the deduction) for such loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster, and

(3) who elects (at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to take the benefits of this section.

(b) Effect of Election.—In the case of any individual to whom this section applies—

(1) the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for the taxable year in which the income taken into account is received or accrued which is attributable to such income shall not exceed the additional tax under such chapter which would have been payable for the year in which the deduction for the loss was taken if such deduction had not been taken for such year,

(2) any amount of tax imposed by chapter 1 attributable to the income taken into account which, on October 1, 1975, was unpaid may be paid in 3 equal annual installments (with the first such installment due and payable on April 15, 1977), and

(3) no interest on any deficiency shall be payable for any period before April 16, 1977, to the extent such deficiency is attributable to the receipt of such compensation, and no interest on any installment referred to in paragraph (2) shall be payable for any period before the due date of such installment.

(c) Income Taken Into Account.—For purposes of this section, the income taken into account is—

(1) in the case of an individual described in subsection (a) (2) (A), the amount of income (not in excess of $5,000) attributable to the cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act received by reason of the disaster described in subsection (a) (1), or

(2) in the case of an individual described in subsection (a) (2) (B), the amount of compensation (not in excess of $5,000) for the loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster described in subsection (a) (1).

(d) Phaseout Where Adjusted Gross Income Exceeds $15,000.—If for the taxable year for which the deduction for the loss was taken the individual's adjusted gross income exceeded $15,000, the $5,000 limit set forth in paragraph (1) or (2) of subsection (c) (whichever applies) shall be reduced by one dollar for each full dollar that such adjusted gross income exceeds $15,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting "$7,500" for "$15,000".

Sec. 1304. Tax Treatment of Certain Debts Owed by Political Parties, Etc., to Accrual Bass Taxpayers.

(a) General Rule.—Section 271 (relating to debts owed by political parties, etc.) is amended by adding at the end thereof the following new subsection:

"(c) Exception.—In the case of a taxpayer who uses an accrual method of accounting, subsection (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of a taxpayer's trade or business if—

"(1) for the taxable year in which such receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades and businesses of the taxpayer were due from political parties, and

"(2) the taxpayer made substantial continuing efforts to collect on the debt."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years after December 31, 1975.

Sec. 1305. Regulations Relating to Tax Treatment of Certain Prepublication Expenditures of Authors and Publishers.

(a) General Rule.—With respect to taxable years beginning on or before the date on which regulations dealing with prepublication expenditures are issued after the date of the enactment of this Act, the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1954 to any prepublication expenditure shall be administered—

(1) without regard to Revenue Ruling 73-395, and

(2) in the manner in which such sections were applied consistently by the taxpayer to such expenditure before the date of the issuance of such revenue ruling.

(b) Regulations To Be Prospective Only.—Any regulations issued after the date of the enactment of this Act which deal with the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1954 to prepublication expenditures shall apply only with respect to taxable years beginning after the date on which such regulations are issued.

(c) Prepublication Expenditures Defined.—For purposes of this section, the term "prepublication expenditures" means expenditures paid or incurred by the taxpayer (in connection with his trade or business of writing or publishing) for the writing, editing, compiling, illustrating, designing, or other development or improvement of a book, teaching aid, or similar product.

Sec. 1306. Tax-Exempt Bonds for Student Loans.

(a) In General.—Section 103(a) (relating to interest on certain governmental obligations) is amended by striking out "or" at the end of paragraph (2), striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and by adding at the end thereof the following:

"(4) qualified scholarship funding bonds."

(b) Definition of Qualified Scholarship Funding Bonds.—Section 103 is amended by redesignating subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) Qualified Scholarship Funding Bonds.—For purposes of subsection (a), the term 'qualified scholarship funding bonds' means obligations issued by a corporation which—

"(1) is a corporation not for profit established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, and

"(2) is organized at the request of the State or one or more political subdivisions or is requested to exercise such power by one or more political subdivisions and required by its corporate charter and bylaws, or required by State law, to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the State or a political subdivision thereof".

(c) Conforming Amendments.—

(1) Section 103(d) (relating to arbitrage bonds) is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) Student loan incentive payments.—Payments made by the Commissioner of Education pursuant to section 2 of the Emergency Insured Student Loan Act of 1969 are not to be taken into account, for purposes of subsection (d) (2) (A), in determining yields on student loan notes."

(2) Section 103(d) (relating to arbitrage bonds) is amended by striking out "(a) (1)" each place it appears in paragraph (1) (including the caption) and paragraph (2) and inserting in lieu thereof "(a) (1) or (4)".

(d) Effective Date.—The amendments made by this section apply to obligations issued on or after the date of enactment of this Act.

Sec. 1307. Interest of Original Issue Discount on Certain Obligations.

(a) General Rule.—Section 1232(d) (relating to treatment of face-amount certificates) is amended to read as follows:

"(d) Face-Amount Certificates.—Subsection (a) (3) shall not apply to face-amount certificates described in section 72(1).

"For treatment of face-amount certificates, see section 72."

(b) Effective Date.—The amendment made by subsection (a) of this Act shall apply to taxable years beginning after December 31, 1975, with respect to face-amount certificates, as defined in section 2(a) (15) of the Investment Company Act of 1940 (15 U.S.C. 80a-2), issued after December 31, 1954.

Sec. 1308. Personal Holding Company Income Amendments.

(a) In General.—Section 543(a) (relating to definition of personal holding company income) is amended—

(1) by striking out "and" at the end of paragraph (1) (B), by striking out the period at the end of paragraph (1) (C) and inserting in lieu thereof ", and", and by inserting after paragraph (1) (C) the following new subparagraph:

"(D) amounts described in paragraph (6).";

(2) by adding at the end of paragraph (2) the following new sentence: "For purposes of this paragraph, the term 'rent' does not include amounts described in paragraph (6).";

(3) by inserting "or a trust" after "individual" in paragraph (6); and

(4) by adding at the end of paragraph (6) the following new sentence: "For purposes of this paragraph, the term 'property' includes intangible property, if such intangible property and tangible property owned by the corporation are used by a person in the active conduct of a trade or business."

(b) The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1964.

Sec. 1309. Work Incentive Program Expenses.

(a) Increase in Limitation Based on Amount of Tax.—

(1) Paragraph (2) of section 50A(a) (relating to limitation based on amount of tax) is amended by striking out "$25,000" each place it appears and inserting in lieu thereof "$50,000".

(2) Paragraph (4) of section 50A(a) (relating to married individuals) is amended—

(A) by striking out "$12,500" and inserting in lieu thereof "$25,000", and

(B) by striking out "$25,000" and inserting in lieu thereof "$50,000".

(3) Paragraph (5) of section 50A(a) (relating to controlled groups) is amended by striking out "$25,000" each place it appears therein and inserting in lieu thereof "$50,000".

(4) Paragraph (3) of section 50B(e) is amended by striking out "$25,000" each place it appears therein and inserting in lieu thereof "$50,000".

(b) Reduction of Period During Which Discharge of Employee Causes Recapture.—Subparagraph (A) of section 50A(c)(1) (relating to work incentive program expenses) is amended—

(1) by striking out "12 months" each place it appears and inserting in lieu thereof "90 days",

(2) by striking out "12th calendar month" and inserting in lieu thereof "90th calendar day", and

(3) by striking out "the calendar month" and inserting in lieu thereof "the day".

(c) Recapture Not to Apply Where Termination is Result of Declining Business.—Subparagraph (A) of section 50A(c)(2) (relating to certain terminations of employment) is amended—

(1) by striking out "or" at the end of clause (iii),

(2) by striking out the period at the end of clause (iv) and inserting in lieu thereof a comma and "or", and

(3) by adding at the end thereof the following:

"(v) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer."

(d) Permanent Extension of Welfare Employee Incentives.—Paragraph (2) of section 50B(a) (relating to definition of federal welfare recipient employment incentive expenses) is amended by striking out "before July 1, 1976," and inserting in lieu thereof "January 1, 1981,".

(e) Limitation of Federal Welfare Recipient Employment Incentive Expenses to First 12 Months of Employment.—Subparagraph (B) of section 50B(a)(1) is amended to read as follows:

"(B) the amount of federal welfare recipient employment incentive expenses paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive)."

(f) Certification of Welfare Recipient Employees by Secretary of Labor. Subparagraph (A) of section 50B(g)(1) (relating to eligible employees) is amended by inserting "the Secretary of Labor or by" after "certified by".

Sec. 1310. Repeal of Excise Tax on Light-Duty Truck Parts.

(a) In General.—Section 6416(b)(2) (relating to special cases in which tax payments are considered overpayments) is amended—

(1) by striking "or" at the end of subparagraph (R);

(2) by striking the period at the end of subparagraph (S) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(T) in the case of any article taxable under section 4061(b), sold on or in connection with the first retail sale of a light-duty truck, as described in section 4061(a)(2), if credit or refund of such tax is not available under any other provision of law."

(b) Effective Date.—The amendments made by this section apply to parts and accessories sold after the date of enactment of this Act.

Sec. 1311. Franchise Transfers.

(a) Application of Franchise Rules to Partnerships.—Section 751(c) (relating to unrealized receivables of a partnership) is amended—

(1) by striking "and farm land (as defined in section 1252(a))," and substituting "farmland (as defined in section 1252(a)), and franchises, trademarks or trade names (referred to in section 1253(a))," and

(2) by striking "or 1252(a)" and substituting therefor "1252(a), or 1253(a)".

(b) Transition Rules Under Section 1253.—Section 1253 shall not apply to a transfer of a franchise, trademark or trade name if—

(1) the contract to transfer was in existence prior to January 1, 1970;

(2) the contract relates to a trade or business in which a professional practice is involved; and

(3) the transfer is made to a person who, immediately before the transfer, is an employee or partner of the transferor.

(c) Effective Dates.—

(1) Subsection (a) shall apply to transactions described in section 731, 736, 741, or 751 which occur after December 31, 1976 in taxable years ending after that date.

(2) Subsection (b) shall apply to transfers made after December 31, 1969.

Sec. 1312. Employer's Duties in Connection With the Recording and Reporting of Tips

(a) Recordkeeping and Returns.—Section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by adding at the end thereof the following: "The only records which an employer shall be required to keep in connection with charged tips shall be charge receipts and copies of statements furnished by employees under section 6053(a)."

(b) Employer's Duty To Report Tips.—Section 6051(d) (relating to statements to constitute information returns) is amended by adding at the end thereof the following: "Any statement filed with the Secretary pursuant to this section shall constitute, and shall be in lieu of, the information return required to be made under section 6041. The only tips which an employer shall be required on any such statement shall be tips which are reflected on statements furnished by employees under section 6053(a)."

(c) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1975.

Sec. 1313. Treatment of Certain Pollution Control Facilities

(a) Availability of Investment Credit for Rapidly Amortized Property.—Paragraph (8) of section 48(a) (relating to amortized property) is amended to read as follows:

"(8) Amortized property.—

"(A) In general.—Any property with respect to which an election under section 167(k), 184, 187, or 188 applies shall not be treated as section 38 property.

"(B) Pollution control facilities.—

"(i) Except in the case of a new identifiable treatment facility (as defined in section 169(d)(4)) installed in or on, or in connection with, a facility in existence on December 31, 1975, any property (other than that specified in clause (ii)) with respect to which an election under section 169 applies shall not be treated as section 38 property.

"(ii) Clause (i) does not apply to the extent that the adjusted basis of the property (after the application of subsection (f) of section 169) exceeds the amortizable basis for purposes of section 169."

(b) Extension of Rapid Amortization Facilities.—Paragraph (1) of section 169(d) (relating to certified pollution control facilities) is amended by striking out the words "or storing" and inserting in lieu thereof "storing, or preventing the creation or emission of".

(c) Extension of Rapid Amortization Provisions.—Paragraph (4) of section 169(d) (relating to new identifiable treatment facility) is amended to read as follows:

"(4) New identifiable treatment facility.—For purposes of paragraph (1), the term 'new identifiable treatment facility includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which is property—

"(A) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968, or

"(B) acquired after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date."

(d) Effective Dates.—The amendment made by subsection (a) applies to taxable years beginning after December 31, 1976. The amendment made by subsection (b) applies to taxable years beginning after December 31, 1975.

Sec. 1314. Clarification of Status of Certain Fishmen's Organizations.

(a) In General.—Section 501 (relating to exemption from tax on corporations, etc.) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection:

"(g) Definition of Agricultural.—For purposes of subsection (c)(5), the term 'agricultural' includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock."

(b) Effective Date.—The amendment made by this section applies to taxable years ending after December 31, 1972.

Sec. 1315. Changes to Subchapter S Shareholder Rules.

(a) In General.—Subsection (a)(1) of section 1371 (relating to the definition of small business corporation) is amended to read as follows:

"(1) have (except as provided in subsection (e)) more than 10 shareholders;".

(b) Special Shareholder Rules.—Section 1371 is amended by adding at the end thereof the following new subsection:

"(e) Special Shareholder Rules.—

"(1) A small business corporation which has been an electing small business corporation for a period of five consecutive taxable years shall be allowed to have not more than 15 shareholders.

"(2) If, during the 5-year period set forth in paragraph (1), the number of shareholders of an electing small business corporation would increase to an amount in excess of 10 (but not more than 15) solely by reason of additional shareholders who acquired their stock through inheritance, the corporation shall be allowed to have a number of additional shareholders equal to the number by which the inheriting shareholders cause the total number of shareholders of such corporation to exceed ten."

(c) Estate and Surviving Spouse Treated as One Shareholder in Certain Circumstances.—Subsection (c) of section 1371 is amended by adding at the end thereof the following: "Where husband and wife were, on the date of death of either, treated as one shareholder under this subsection, the surviving spouse and the estate of the deceased spouse shall also be treated as one shareholder."

(d) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1976.

Sec. 1316. Application of Section 6013(e) of the Internal Revenue Code of 1954.

(a) In General.—Section 3 of the Act of January 12, 1971, Public Law 91–679 (84 Stat. 2064), is amended by adding at the end thereof the following new sentences: "Upon application by a taxpayer, the Secretary of the Treasury shall redetermine the liability for tax (including interest, penalties, and other amounts) of such taxpayer for taxable years beginning in 1962 and ending before January 13, 1971. The preceding sentence shall apply solely to a taxpayer to whom the application of the provisions of section 6013 (e) of the Internal Revenue Code of 1954, as added by this Act, for such taxable years is prevented by the operation of res judicata, and such redetermination shall be made without regard to such law or rule of law. Any overpayment of tax by such taxpayer for such taxable years resulting from the redetermination made under this Act shall be refunded to such taxpayer."

(b) Effective Date.—The application permitted under the amendment made by subsection (a) of this section must be filed with the Secretary of the Treasury during the first calendar year beginning on the date of enactment of this Act.

Sec. 1317. Amendments to Rules Relating to Limitation on Percentage Depletion in Case of Oil and Gas Wells.

(a) Retailer Exclusion.—Paragraph (2) of section 613A(d) (relating to the retailer exclusion) is amended by inserting "(excluding bulk sales of such items to commercial or industrial users)" after "natural gas" where it first appears, and by adding at the end thereof the following: "Notwithstanding the preceding sentence, this paragraph shall not apply in any case where the combined gross receipts for the taxable year of all retail outlets taken into account for purposes of this paragraph do not exceed $5,000,000. For purposes of this paragraph, sales of oil, natural gas, or any product derived from oil or natural gas shall not include sales made of such items outside the United States, if no domestic production of the taxpayer or a related person is exported during the taxable year or the immediately preceding taxable year."

(b) Transfer Rule.—

(1) In general.—Subparagraph (B) of section 613A(c)(9) (relating to exceptions to the transfer rule) is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) in the case of a change of beneficiaries of a trust by reason of the death, birth, or adoption of any beneficiary if the transferee was a beneficiary or is a lineal descent of the grantor or any other beneficiary."

(2) Conforming amendments.—Paragraph (1) of section 613A(d) (relating to the limitation on percentage depletion based upon taxable income) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) any depletion on production from an oil or gas property which is subject to the provisions of subsection (c),".

(B) by striking out "and" at the end of the subparagraph (B),

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(D) by adding at the end thereof the following new subparagraph:

"(D) in the case of a trust, any distributions to its beneficiaries."

(c) Partnership Rules.—

(1) Subparagraph (D) of section 613A(c) (7) (relating to the computation of depletion in the case of partnerships) is amended to read as follows:

"(D) Partnerships.—In the case of a partnership, the depletion allowance shall be computed separately by the partners and not by the partnership. The partnership shall allocate to each partner his proportionate share of the adjusted basis of each partnership oil or gas property. The allocation is to be made as of the later of the date of acquisition of the oil or gas property by the partnership, or January 1, 1975. A partners' proportionate share of the adjusted basis of partnership property shall be determined in accordance with his interest in partnership capital and, in the case of an agreement described in section 704(c)(2) (relating to effect of a partnership agreement on contributed property), such share shall be determined by taking such agreement into account. Each partner shall separately keep records of his share of the adjusted basis in each oil and gas property of the partnership, adjust such share of the adjusted basis for any depletion taken on such property, and use such adjusted basis each year in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the partnership. For purposes of section 732 (relating to basis of distributed property other than money), the partnership's adjusted basis in mineral property shall be an amount equal to the sum of the partners' adjusted bases in such property as determined under this paragraph."

(2) Subparagraph (G) of section 703(a)(2) (relating to deductions not allowed to a partnership) is amended by striking out "production subject to the provisions of section 613A(c)" and inserting in lieu thereof "wells".

(3) Subsection (a) of section 705 (relating to the determinations of basis of a partner's interest in a partnership) is amended—

(A) by striking out "and" in paragraph (1)(C),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following:

"(3) decreased (but not below zero), by the amount of the partner's deduction for depletion under section 611 with respect to oil and gas wells."

(d) Geothermal Wells.—Paragraph (1) of section 613A(b) (relating to the exemption from the limitation on depletion for certain domestic gas wells) is amended—

(1) by inserting "and" at the end of subparagraph (A),

(2) by striking out "and" at the end of subparagraph (B), and

(3) by striking out subparagraph (C).

(e) Related Person.—Paragraph (3) of section 613A(d) (relating to the definition of related person) is amended by adding at the end thereof the following: "For purposes of determining significant ownership interest, an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly both by itself and proportionately by its shareholders, partners, or beneficiaries, as the case may be."

(f) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1974.

Sec. 1318. Implementation of Federal-State Tax Collection Act of 1972.

(a) Election by States to Participate.—Section 204(b)(2) of the Federal-State Tax Collection Act of 1972 is amended to read as follows:

"(2) The first January 1 which is more than one year after the first date on which at least one State has notified the Secretary of the Treasury or his delegate of an election to enter into an agreement under section 6363 of such Code."

(b) Permitted Adjustments to Qualified Resident Taxes for Purposes of Federal Collection of State Individual Income Taxes.—

(1) Tax based on taxable income.—Section 6362(b)(2) of the Internal Revenue Code of 1954 (relating to permitted adjustments) is amended by adding at the end thereof the following new subparagraph:

"(C) A credit is allowed against such tax for all or a portion of any State or local sales tax imposed by the State or a political subdivision thereof on the taxpayer and his dependents."

(2) Qualified residence tax which is a percentage of the federal tax.—Section 6362(c)(4) of such Code (relating to further permitted adjustments) is amended to read as follows:

"(4) Further permitted adjustments.—A tax which otherwise meets the requirements of paragraphs (1) and (2) shall not be deemed to fail to meet such requirements solely because it provides for one or both of the following adjustments:

"(A) A credit determined under rules prescribed by the Secretary or his delegate is allowed against such tax for income tax paid to another State or a political subdivision thereof.

"(B) A credit is allowed against such tax for all or a portion of any State or local sales tax imposed by the State or a political subdivision thereof on the taxpayer and his dependents."

(c) Prohibition on Charges for Federal Collection of State Income Taxes.—Section 6361(a) (relating to general rules for Federal collection and administration of State individual income taxes) is amended by inserting, after the first sentence thereof, the following: "No fee or other charge shall be imposed upon any State for the collection or administration of the qualified State individual income taxes of such State or any other State."

(d) Effective Date.—The amendments made by this section shall take effect on the first January 1 following the date of enactment of this Act.

Sec. 1319. Cancellation of Certain Student Loans.

(a) In General.—In the case of an individual, no amount shall be included in gross income for purposes of section 61 of the Internal Revenue Code of 1954, by reason of the discharge of all or part of the indebtedness of the individual under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain geographical areas or for certain classes of employers.

(b) Student Loan.—For purposes of this section the term "student loan" means any loan to an individual to assist the individual in attending an educational institution (as defined in section 151(e)(4) of such Code)—

(1) by the United States, or an instrumentality or agency thereof, or a State, a territory, or a possession of the United States, or any political subdivision thereof, or the District of Columbia, or

(2) by any eductaional institution (as defined in section 151(e)(4) of such Code) pursuant to an agreement with the United States, or an instrumentality or agency thereof, or a State, territory, or a possession of the United States, or any political subdivision thereof, or the District of Columbia

under which the funds from which the loan was made were provided to such educational institution.

(b) Effective Date.—The provisions of this section apply to discharges of indebtedness made before January 1, 1979.

Sec. 1320. Treatment of Gain or Loss on Sales or Exchanges in Connection With Simultaneous Liquidation of a Parent and Subsidiary Corporation.

(a) In General.—Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding the following sentence at the end of subsection (c)(2) thereof: "This paragraph shall not apply to a sale or exchange by a member of an affiliated group of corporations, as defined in section 1504(a) (but without regard to the exceptions contained in section 1504(b)), if each member of such group (including the common parent corporation) which receives, within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the corporation which made the sale or exchange, a distribution in complete liquidation from any other member of such group is itself completely liquidated within such 12-month period."

(b) Effective Date.—The amendment made by subsection (a) applies to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

Sec. 1321. Taxation of Certain Barges Prohibited.

(a) General Rule.—No State, or political subdivision thereof, shall have power to impose, for any taxable year ending after June 30, 1976, an ad valorem or other tax on any vessel, barge, or craft engaged in the interstate transportation of commerce on the navigable waters of the United States.

(b) Exceptions.—The provisions of subsection (a) of this section shall not apply to the imposition of ad valorem or other taxes by any State or political subdivision thereof, with respect to—

(1) any vessel, barge, or craft which is incorporated under the laws of such State; or

(2) any vessel, barge, or craft which is owned by any individual, partnership, or corporation, which, under the laws of such State, is domiciled in, or is a resident of, such State; or

(3) any vessel, barge, or craft which is home ported in such State.

Sec. 1322. Contributions in Aid of Construction for Certain Utilities.

(a) In General.—Section 118 (relating to contributions to the capital of a corporation) is amended by redesignating subsection (b) as subsection (c) and inserting immediately after subsection (a) the following new subsection:

"(b) Contributions in Aid of Construction.—

"(1) General rule.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal service if—

"(A) such amount is a contribution in aid of construction,

"(B) where the contribution is in property which is other than water or sewerage disposal facilities, such amount meets requirements of the expenditure rule of paragraph (2), and

"(C) such amounts are not included in the rate base for rate-making purposes.

"(2) Expenditure rule.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amounts are expended for the acquisition or construction of tangible capital assets—

"(i) which was the purpose motivating the contribution, and

"(ii) which are used predominately in the trade or business of furnishing of water and sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

"(3) Definitions.—For purposes of this section—

"(A) Contributions in aid of construction.—The term 'contributions in aid of construction' shall be defined by regulations prescribed by the Secretary.

"(B) Predominately.—The term 'predominately' means 80 percent or more.

"(4) Disallowance of deductions and investment credit; adjusted basis.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, the expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of the assets acquired with contributions in aid of construction to which this subsection applies shall be zero."

(b) Conforming Amendment.—Section 362(c) (relating to special rule for contributions to capital) is amended by adding the following new paragraph immediately after paragraph (2):

"(3) Exception for contributions in aid of construction.—The provisions of this paragraph shall not apply to contributions in aid of construction to which section 118(b) applies."

(c) Effective Date.—The amendments made by this section apply to contributions made after January 31, 1976.

Sec. 1323. Prohibition of Discriminatory State Taxes on Production and Consumption of Electricity.

(a) In General.—The Act entitled "An Act relating to the power of the States to impose net income taxes on income derived from interstate commerce, and authorizing studies by congressional committees of matters pertaining thereto", approved September 14, 1959 (73 Stat. 555; 15 U.S.C. 381 et seq.) is amended by striking out title II (relating to studies) and inserting in lieu thereof the following:

"TITLE II—DISCRIMINATORY TAXES

"Sec. 201. (a) No State, or political subdivision thereof, may impose or assess a tax on or with respect to the generation of electricity for transmission in interstate commerce which is discriminatory against out of State manufacurers, producers, wholesalers, retailers or consumers of that electricity. For purposes of this section a tax is discriminatory that either directly or indirectly results in the payment of a higher gross or net tax on electricity which is generated and transmitted in interstate commerce than on electricity which is generated and transmitted in intrastate commerce.

"(b) Effective Date.—The amendment made by subsection (a) applies with respect to taxable years beginning after June 30, 1974."

Sec. 1324. Allowance of Deduction for Eliminating Architectural Barriers for the Handicapped.

(a) In General.—Part VI of subchapter B (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"Sec. 190. Expenditures To Remove Architectural and Transportation Barriers to the Handicapped and Elderly.

"(a) Treatment Expense.—

"(1) In general.—A taxpayer may elect to treat qualified architectural and transportational barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(2) Election.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

"(b) Limitation.—The amount of the deduction allowed by subsection (a) may not exceed $25,000 for the taxable year.

"(c) Definitions.—For purposes of this section—

"(1) Architectural and transportational barrier removal expense.—The term 'architectural and transportational barrier removal expense' means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

"(2) Qualified architectural and transportational barrier removal expense.—

"(A) The term 'qualified architectural and transportational barrier removal expense' with respect to any such facility means an architectural or transportational barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards set forth by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development under the Act entitled 'An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (82 Stat. 718; 42 U.S.C. 4151).

"(B) The term 'qualified architectural or transportational barrier removal expense' with respect to any such public transportation vehicle means a transportation barrier removal expense with respect to which the taxpayer establishes to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards set forth in regulations prescribed by the Secretary after consultation with the Architectural and Transportation Barriers Compliance Board.

"(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) Technical and Conforming Amendments.—

(1) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 190. Expenditures to remove architectural and transportation barriers to the handicapped and elderly."

(2) Section 263(a)(1) of such Code (relating to capital expenditures) is amended—

(A) by striking out "or" at the end of subparagraph (D) thereof,

(B) by striking out the period at the end of subsection (E) thereof and inserting in lieu thereof a comma and the word "or", and

(C) by adding at the end thereof the following new subparagraph:

"(F) expenditures for removal of architectural and transportational barriers to the handicapped and elderly which the taxpayer elects to deduct under section 190."

(3) Section 1245 (relating to gain from dispositions of certain depreciable property) is amended by striking out "or 189" each place it appears in such section and inserting in lieu thereof "189, or 190".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976, and before January 1, 1980.

Sec. 1325. Reports.

(a) Economic Report of the President.—The President shall include in his annual economic report to the Congress an estimate of the effect of inflation on the tax structure and its effect in increasing the budget receipts of the Federal Government, relative to the general price level.

(b) HIGH INCOME TAXPAYER REPORT.—The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income and by subtracting only investment expenses incurred in the production of such income to the extent of the investment income. In any event these data are to include the number of such individuals with total income over $200,000 who owe no Federal income tax (after credits) and the deductions, exclusions or credits used by them to avoid tax.

Mr. LONG. Mr. President, I send to the desk a modification of committee amendment 23, as a spokesman for the committee, and with the approval of the committee, to make certain technical changes, and also certain amendments agreed to by the committee.

The PRESIDING OFFICER. The clerk will report the modification.

The second assistant legislative clerk proceeded to read the modification.

Mr. LONG. Mr. President, I ask unanimous consent to dispense with further reading of the modification. We will not vote on title XIII as modified this evening. We will vote on it tomorrow. What I sent to the desk is a modification of the committee amendment and there will be no vote on the modification as such.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modifications are as follows:

MODIFICATION OF COMMITTEE AMENDMENT
No. 23

On page 814, beginning with line 18, strike out all through page 815, line 21.

On page 816, line 1, strike out "1306" and insert in lieu thereof "1305".

On page 817, beginning with line 23, strike out all through page 818, line 11.

On page 818, line 12, strike out "1308" and insert in lieu thereof "1306".

On page 818, line 19, insert a colon after "following".

On page 818, beginning with line 20, strike out all through page 819, line 10, and insert in lieu thereof the following:

"(D) amounts received as compensation for the use of, or right to use, intangible property if a substantial part of the tangible property used in connection with such intangible property is owned by the corporation and all such tangible and intangible property is used in the active conduct of a trade or business by the person from whom compensation is received by the corporation.

Any amount which is excluded from personal holding company income solely by reason of subparagraph (D) of this paragraph shall, for purposes of section 543(a) (6) and section 543(b) (3), be treated as compensation for the use of, or right to use, property.".

On page 819, line 13, strike out "1309" and insert in lieu thereof "1307".

On page 822, line 1, strike out "1310" and insert in lieu thereof "1308".

On page 822, line 20, strike out "1311" and insert in lieu thereof "1309".

On page 823, strike out lines 4 through 20, and insert in lieu thereof the following:

(b) Effective Date.—Subsection (a) shall apply to transactions described in section 731, 736, 741, or 751 which occur after December 31, 1976, in taxable years ending after that date.

On page 823, line 21, strike out "1312" and insert in lieu thereof "1310".

On page 824, line 16, strike out "1313" and insert in lieu thereof "1311".

On page 826, line 17, strike out "1314" and insert in lieu thereof "1312".

On page 827, line 4, strike out "1315" and insert in lieu thereof "1313".

On page 828, line 14, strike out "1316" and insert in lieu thereof "1314".

On page 829, line 11, strike out "1317" and insert in lieu thereof "1315".

On page 834, line 4, strike out "1318" and insert in lieu thereof "1316".

On page 836, line 4, strike out "1319" and insert in lieu thereof "1317".

On page 837, line 8, strike out "1320" and insert in lieu thereof "1318".

On page 838, line 5, strike out "1321" and insert in lieu thereof "1319".

On page 839, line 1, strike out "1322" and insert in lieu thereof "1320".

On page 841, line 15, strike out "1323" and insert in lieu thereof "1321".

On page 842, line 15, strike out "1324" and insert in lieu thereof "1322".

On page 846, line 4, strike out "1325" and insert in lieu thereof "1323".

Mr. LONG. Mr. President, the modifications in the committee amendment which I am offering delete three provisions from title XIII and modify one other. In making these changes I want to make it clear that the committee does not intend any negative inference with respect to these provisions. We will consider them further at a later date and may subsequently offer any of them as amendments to other bills.

The first modification deletes section 1305 of the bill—beginning on page 814—relating to the tax treatment of certain prepublication expenditures of authors and publishers. The deleted provision would have established that IRS regulations relating to the deductibility of prepublication expenses of authors and publishers are to apply only to future years.

The second provision which is being deleted is section 1307—beginning on page 817—dealing with the treatment of interest on original issue discounts of face amount certificates. This provision would have permitted holders of face amount certificates to include in gross income the amount of interest received through an original issue discount at the time the amount is paid to them rather than ratably over the term of the certificate.

The modifications also include the deletion of section 1311(b)—beginning on page 823—relating to certain franchise transfers. This subsection established a transitional rule to a provision enacted as part of the 1969 Tax Reform Act. Under the transitional rule certain transfers of franchises made after 1969 pursuant to contracts in existence before that time would have been exempted from the provision of that act which treated gain from such transfers as ordinary income rather than capital gain.

Finally, section 1308 of the bill—on page 818—which amends the personal holding company income provisions, is modified. The modification allows income from the leasing of intangible property to be treated as rental income only in cases where the intangible property is leased in conjunction with the rental of a substantial part of the tangible property and which both the intangible and tangible property are used in connection with the active conduct of a trade or business. In addition, the provision is modified to apply whether or not the person using the intangible property is a shareholder of the corporation receiving rental payments from the leasing of such property.

ADDITIONAL STATEMENT SUBMITTED ON INDEXING THE INCOME TAX

Mr. TAFT. Mr. President, I would like to call attention to an article which appeared in the National Observer on July 25. It describes the effect of inflation on the workings of the current tax code, and reviews Senate Budget Committee projections of the rate at which the current tax cut is being eliminated by inflation.

The article goes on to review my amendment, No. 1902, to the tax reform bill. It points out that, unless an indexing procedure is adopted, we shall be facing a series of unlegislated, undebated real tax increases in each of the next several years, on old income, even before allowing for economic growth. This cannot fail to weaken the economic recovery and jeopardize the fight against unemployment.

The impact of inflation on a typical worker's tax return over the last 3 years has forced the average steelworker to pay, at a higher tax rate, an additional $433 in real taxes. The typical construction worker paid an extra $408 in real taxes because of inflation. Some of these tax increases have come in recessions, at a time of falling real income for these groups. This cannot be allowed to continue.

I urge my colleagues to review this article, and my amendment.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A CURE FOR 'TAXFLATION'?

(By Mark R. Arnold)

The Nation's graduated income-tax system is blind to inflation. As income rises, the percentage of taxed income rises too. That's what makes the system progressive—and why it's of increasing concern to inflation fighters.

Last week the Senate voted to extend until the end of 1977 the $35-a-person tax credit enacted to fight last year's recession. Even so, says Senate Budget Committee Chairman Edmund Muskie of Maine, most Americans will pay as large a share of their income in taxes next year as they did before the 1975 tax cut.

The reason: Inflation pushes taxpayers into higher tax brackets, imposing a hidden tax on them. When this happens, Congress begins to think about cutting taxes. It has, in fact, cut taxes five times in the past 15 years.

Ohio Republican Robert Taft, Jr., wants to go further. He wants to make the personal income tax inflation-proof by providing for annual tax-rate adjustments to offset cost-of-living increases as measured by the Government's Consumer Price Index. This week Taft plans to offer an amendment to the Tax Reform Bill now pending in the Senate. His proposal would alter the personal exemption, standard deduction, and the tax brackets themselves to compensate for inflation each year.

"At current rates of inflation," says Taft, "taxpayers are forced to pay an extra $5 billion per year in taxes, even with no increase in their real incomes. That shouldn't happen. It's taxation without legislation."

Under Taft's proposal and the Fair Income Tax Act, a similar measure drafted by New York Sen. James Buckley, individual tax bills would increase only as real income increased; increases attributable to inflation wouldn't be taxed. The Federal Government would no longer reap "windfall profits" from inflation-swollen revenues. If Congress wanted more revenues, it would have to raise taxes.

"The idea is simple and it's logical," says Taft.

It is also extremely unpopular in Congress. Taft recently circulated a "Dear Colleague" letter soliciting support for his amendment. He picked up only three commitments of support: from Buckley and two moderate Republicans, Kansas' Robert Dole and Oklahoma's Dewey Bartlett.

Other lawmakers ignored the proposal. "A lot of people told us they'd misplaced it, or they didn't remember receiving it," says a Taft assistant. "Not many have really focused on it." A spokesman for the Senate Finance Committee, which briefly considered making the tax system inflation-proof and then marked it down for further study, says, "Congress is looking for ways to raise revenue, not lose it."

But the real reasons for the indifference lie deeper. Indexing the tax system—tying tax liabilities to the cost of living—frightens liberals and conservatives alike. Says one congressional tax expert: "Liberals fear they won't have the money to finance the program they favor. Conservatives fear the liberals will continue the programs without the money, by accepting a larger Federal deficit."

FORD: NO ENTHUSIASM

The Ford Administration has been deaf to tax indexing too. While the Treasury Department has taken no position on the proposal, a tax analyst points out that President Ford's last budget projected a balanced budget by 1979. "He couldn't get anywhere near that goal without" the inflation tax, he says.

If the cure for tax inflation is in dispute, the inflation's existence isn't. A new study by the Senate Budget Committee outlines the general picture. Before last year's tax cut, says the study, a family of four with $12,000 annual income and taking the standard tax deduction paid a tax of $1,228, or 10.2 per cent of its income. The 1975 tax reduction lowered its tax to $1,085, or 9 per cent of its income.

If the family experienced the average rate of income growth projected for 1977, its income would rise to $14,748. With full extension of the 1975 cuts, its tax liability would be $1,505—again 10.2 per cent of its income. If the tax reductions aren't extended—the House has yet to act on them—its tax burden would grow to 11.6 per cent, the study says.

(By comparison, under an inflation-proof system, this family's 1977 tax bill would be $1,440, or 9.7 per cent of its income, according to Taft aides.)

THE TAX-CREDIT PICTURE

Citing these figures last week, Muskie told his colleagues that the nation couldn't afford not to continue the tax credit, worth $180 to a family with $9,000 in taxable income. "Our progressive income-tax system will effectively eliminate the 1975 tax reduction by 1977," he observed. Other lawmakers say the figures are a strong argument for a further tax reduction.

Taft says the figures buttress his argument for making permanent rather than *ad hoc* changes in the tax system. "We're continually improvising our tax policy after the fact," he says. "If tax inflation is bad, let's do away with it." Taft adds that indexing the system would "eliminate the economic drag the system produced during the last two recessions," when the mechanics of enacting them delayed the cuts' impact until "a few months before the end of the recession."

Figures cited by Taft's staff indicate that if an inflation-proof tax system had been adopted in 1973, the average construction worker would have saved $408 in taxes by 1975. Buckley proposes extending inflation indexing to cover corporate tax rates, depreciation, and capital gains in addition to personal income taxes.

Criticism of proposals to insulate the income tax against inflation runs along several lines. A congressional tax expert who calls himself a "pragmatic liberal" points out that the costs of government rise with the costs of everything else. If government revenues don't rise accordingly, "you end up with bureaucratic paralysis," he says. "If you keep the Government on short rations, you don't get good programs."

Inflation's revenue windfall gives Congress more flexibility in setting economic policy than it would have if revenues were shrunken, adds a Senate budget specialist. "It's much more practical to have the revenue and decide whether or not to spend it than to have to mount a battle to raise taxes," he observes. The specialist notes that raising taxes is seldom a popular exercise. Only once in the past decade has Congress done so—in 1968, when it adopted a temporary 10 per cent surcharge to help finance the Vietnam War.

A RECENT CONTROVERSY

Finally, talk about inflation-proofing the system raises a recent controversy about the wisdom of indexing the economy generally. Says a Treasury Department expert: "Indexing any single part of the economy is inherently unfair to those parts not indexed. A change in the tax brackets would help the middle class but not the poor, who don't pay taxes, or the rich, who shelter their income. And if you index everybody, then who's going to give a damn about fighting inflation?"

Defenders of tax indexing, on the other hand, note that cost-of-living adjustments are built into Social Security benefits, Federal pay and retirement schedules, and labor-union contracts covering millions of workers. They also point out that under the present tax code, tax revenues go up by 1½ per cent for every 1 per cent increase in the cost of living. The result: The more inflation produced, the more revenues are generated.

"With an inflation-neutral tax structure," says Taft "Congress would have to legislate tax increases deliberately, openly, in full view of the public." He adds: "If programs aren't worth raising taxes for openly, maybe they're not worth having."

Mr. BUCKLEY. Mr. President, earlier this month, I submitted amendment No. 2047 to the pending tax reform bill. That amendment would extend to tenants the property tax deduction which is currently granted to homeowners. Since a portion of the tenant's rent represents nothing more than the indirect payment of the property tax imposed upon his building, it is only reasonable that he receive a deduction for those State and local taxes which he in fact bears.

The proponents of amendment No. 2047 and its predecessor bill (S. 3307) have consistently argued that the present double standard is both unfair and regressive. It is unfair because it provides that some taxpayers are double taxed on money which has already been used to pay taxes, while others are not. It is regressive because those who are doubly taxed tend to be poorer than those who are not. It is instructive that, although over half of the taxpayers earning less than $5,000 rent their dwellings. only 13 percent of those earning over $25,000 do so.

It is therefore my hope and expectation that those who have argued for tax equity for the lower and middle class taxpayer throughout the tax reform debate will support this amendment.

Mr. President, the Harvard Law Review, in its January 1976 edition, published a comment by Messrs. James Kee and Terrence Moan concerning equalization of tax treatment of landlords and tenants. I ask unanimous consent that their article be printed in the Congressional Record.

Mr. President, much attention has been given to the potential revenue loss which would be incurred as the result of my amendment. I think the Harvard Law Review article makes clear that the States will not long stand still to see their tenants discriminated against. Either we will take the initiative to equalize the impact of the Federal Internal Revenue Code, or we will have such an equalization forced upon us by State legislatures which shift taxes to tenants. In either case, the revenue loss will be the same.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE PROPERTY TAX AND TENANT EQUALITY

(By James Edwin Kee * and Terrence A. Moan**)

(The recent rapid rise in real property tax rates has led to a variety of proposals for property tax relief. Most of these proposals, however, have ignored the plight of the tenant, who indirectly pays his landlord's property tax. In this Comment, Messrs. Kee and Moan propose a restructuring of state property tax laws in order to make income tax deductions for property tax payments available to those who rent their homes. Focusing on the problems of New York City, the authors propose the enactment of a leasehold tax, which would be imposed directly on the tenant, and, as a tax on an interest in real property, would be deductible under existing federal, state, and local income tax codes.)

Taxes on real property are a vital source of revenue for municipal and state governments.[1] Despite the availability of alternative revenue sources, real estate taxes have been rising in many areas of the country. In New York City, for example, the rate of taxation has risen from 5.519 percent of assessed valuation in 1969–70 to 8.187 percent in 1975–76, an increase of 48 percent in six years.[2] The states, apparently concerned that rising real estate taxes do not fall on those best able to pay them, have enacted relief measures easing the tax burden on various groups such as homeowners, the poor, and the elderly.[3] Conspicuously absent from those receiving tax relief, however, is one group that indirectly pays a disproportionate amount of real property taxes—tenants. This Comment will discuss a proposed "Tenant Equality Act"—already introduced in the New York State Legislature (and set out in full in the Appendix)[4]—that promises to restore some measure of aggregate vertical and horizontal tax equity between tenants and homeowners.

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I. THE SOURCES OF INEQUITY

The horizontal inequity in the real property tax can be traced directly to the structure and administration of state tax laws under which tenants, who pay much of the real estate tax in the form of higher rents,[5] are taxed at a higher effective rate than homeowners. The vertical inequity arises indirectly from the concentration of tenants among low income groups.[6] As a result, tax law revisions that tend to restore horizontal equity, such as that proposed in this Comment, will alleviate vertical inequities as well.[7] There are three primary sources of horizontal inequity between tenants and homeowners under current real estate and income tax laws: discriminatory property tax relief legislation; a lack of evenhandedness in assessment practices; and more favorable treatment of homeowners under federal, state, and local income tax laws.

All fifty states have enacted some form of property tax relief legislation.[8] Most states rely on one of two methods to relieve the burdens of property taxation: (1) the homestead exemption, that removes a portion of the property's market value from valuation; [9] or (2) the "circuit breaker" scheme that provides tax cuts or refunds to homeowners whose property tax liability exceeds a specified percentage of their total gross income.[10] The benefits of such relief schemes are, however, extended to tenants in only six states.[11] Thus, in the vast majority of states, legislation designed to relieve some of the burden of property taxes has conferred benefits on only a portion of people who pay such taxes, and has increased the disparity between the tax burden on the tenant and the burden on the homeowner.

A second source of favoritism for homeowners may be systematic undervaluation of single-family residential property. Although most property tax statutes require that property be assessed at full market value,[12] assessment is an essentially subjective process that provides opportunities for systematic discriminatory practices.

A recent study of assessment practices in New York City [13] suggests such a systematic bias. The results of the study, based on a sample of 8,444 of the 810,000 parcels of taxable real estate in the City, indicate that land is generally assessed at a lower percentage of full market value than improvements, and that low density property (including vacant land) has the lowest ratio of assessed value to full value of any class of property in the City.[14] As compared to the tenant, the homeowner lives in a low density, land-intensive dwelling unit, and may therefore find his property assessed at a lower percentage of market value than rental property.[15] The study supports such a conclusion by its findings that one and two family homes, occupied principally by their owners, are assessed at rates under 50 percent of full market value, while rental apartment structures are assessed at 70 to 80 percent of full value.[16] Since it is likely that property taxes on rental property are passed on to the tenants,[17] these unequal assessment practices will mean higher tax burdens for renters as a class.[18]

Perhaps the most dramatic example of the unequal treatment accorded tenants as a result of current property tax laws grows out of federal, state, and local income tax codes, rather than property tax statutes themselves. Homeowners are granted two specific income tax advantages that are unavailable to tenants. First, the homeowner need not include in his gross income the value of housing services he receives from his home.[19] Second, the homeowner is allowed to deduct from his gross income interest paid on his mortgage,[20] and property taxes paid on his home.[21] The benefit of these tax advantages can be very substantial.[22] Similar inequalities arise under state and local income tax laws, which are frequently based on the federal code.[23]

II. THE PROPOSED TENANT EQUALITY ACT

The Tenant Equality Act proposed in this Comment seeks to remove one of the major sources of discrimination against tenants, the inability of tenants to deduct property taxes they pay from federal, state, and local income taxes. The most obvious way to provide tenant relief is simply to allow tenants to deduct a fraction of the rent they pay from their gross income for purposes of calculating income taxes.[24] But, for this method to be effective, legislation would have to be enacted at all three levels of government, and this seems unlikely given the present strong congressional policy in favor of home ownership,[25] and the expense to the federal treasury (an estimated one billion dollars).[26]

Real estate tax relief through income tax deductions at the federal, state, and local level can, however, be achieved by the circuitous route of placing the legal incidence of the real estate tax where its actual burden already lies: on the tenant. Once this is done, provisions in the federal tax code [27] (and many state codes as well),[28] allowing deductions from gross income for all general purpose taxes paid by the taxpayer, should encompass real estate taxes paid by the tenant. This is the theory underlying the "Tenant Equality Act," developed by the New York Temporary State Commission on Living Costs and the Economy,[29] and currently before the New York State Legislature.

The central element in the proposed Act is a "leasehold tax" that would exist side by side with current property tax laws. The leasehold tax would be charged against all residential leaseholds in an amount equal to the real property taxes presently charged to the owner of the fee interest. Individual tenant liability would depend on the proportion of the net usable space of the apartment building his leasehold represents. The landlord would collect the leasehold tax as the agent of the local taxing authority and would be granted a credit against his property tax liability upon payment to that authority of taxes collected.

Although the tenant becomes legally obligated to pay the leasehold tax, he is nonetheless better off. The proposed Act assumes that the tenant is already paying the property tax in his rent and the Act's effect, therefore, is merely to apportion rent currently paid into "true rent" and taxes.[30] Because the tenant is, under the proposed Act, legally obligated to pay the taxes, he may deduct them from his gross income for federal income tax purposes. Because the landlord would be a mere trustee for collection of the leasehold taxes, the landlord's gross taxable income would be computed by deducting an amount equal to collected leasehold taxes from the landlord's money income.[31] The landlord is therefore left in exactly the same position as under the former real estate tax law because, although he has lost deductions in the amount of the leasehold tax collected, his gross income has been reduced by that amount.[32]

A numerical example may help to illustrate the operation of this proposed leasehold tax. Assume that a landlord owns a mixed commercial-residential structure divided into 25 apartments of equal size and one commercial unit with a total rent roll of $100,000 ($90,000 residential; $10,000 commercial) and a total property tax liability of $25,000 per year. Under current law, the landlord would pay the property tax liability out of the $100,000 rent, and his taxable income would be reduced to $75,000 because of the property tax deduction.

Under the proposed law, the landlord would first separate his property tax liability into residential and commercial liability based on the rent roll. Thus the tax attributable to residential uses of the property would be nine-tenths of $25,000, or $22,500; the tax attributable to commercial use of the structure would be the remainder, $2,500. Next, the $22,500 residential liability would be apportioned by apartment area. In our hypothetical dwelling with 25 apartments of equal area, each tenant would be responsible for 1/25 of the total residential tax, or $900 per year ($75 per month). Assuming that the total residential rent roll was also equally divided among the apartments, each tenant would pay $300 per month apportioned under the proposed Act into $225 true rent and $75 leasehold tax.

Under the proposed Act, the leasehold tax paid by the tenant would be held by the landlord for periodic payment to the taxing authority. Any amounts collected would be credited against the landlord's property tax liability upon payment to the taxing body. Thus, if the landlord has collected $20,000 in leasehold taxes (and is unable to collect the other $2,500 because of vacancies or tenant delinquency) he would be allowed a $20,000 credit on his $25,000 property tax obligation.

As promised, the landlord is no worse off under the proposed Act than under current law. Under the Act, his gross income in $80,000 and he has a residual property tax liability of $5,000, leaving a taxable income of $75,000. The tenant is also, as expected, better off. His total outlay for housing services remains $300 per month, but he now has a federal (and, where appropriate, state and local) income tax deduction of $900 per year.

III. FEDERAL TAX CONSIDERATIONS

The great appeal of the leasehold tax provision of the proposed Tenant Equality Act is that it creates a federal income tax deduction without requiring a modification of federal law.[33] Section 164 of the Internal Revenue Code of 1954, which allows a deduction for state and local real property taxes, has been construed by the Internal Revenue Service and the courts to allow a deduction under the following conditions;

First, the tax must be a real property tax within the meaning of section 164 and related regulations;[34]

Second, the tax must be assessed for the general welfare,[35]

Third, the tax must be imposed by law on the taxpayer claiming the deduction.[36]

The first two conditions are easily met by the proposed leasehold tax. A leasehold is clearly an interest in real property, and the Act specifically defines the tenant as an owner of such a property interest.[37] Since leasehold tax revenues would be collected in lieu of present property taxes, the funds would presumably be used for the same general purposes as current revenue. Any disqualification of the leasehold tax on the ground that it is not used for general welfare purposes, therefore, would be a local question to be determined in light of special circumstances. Thus, the availability of a deduction depends on whether the leasehold tax is imposed by law on the tenant.

Under the current construction of section 164, a tax is "imposed by law" upon the persons against whom it may be assessed. Since present state property tax laws assess the tax against the landlord,[38] tenants do not qualify for property tax deductions even where the incidence of the property tax falls by contract on the tenant.[39] This does not mean, however, that the "imposed on" requirement of section 164 limits the property tax deduction to record owners of the fee simple. For example, in *Lena L. Steinert* [40] the Tax Court held that a taxpayer who was a life tenant, and whose beneficial interest could be foreclosed by the nonpayment of property taxes, could deduct taxes actually paid even though the taxpayer was neither the record nor actual owner of the fee simple.[41]

Footnotes at end of article.

Developments since the *Steinert* case indicate that leaseholders may also deduct real estate taxes so long as they bear the legal obligation to pay such taxes. For example, Hawaii has amended its property tax law to impose real estate taxes on lessees whose lease term runs for fifteen years or more.[42] In 1964, the IRS ruled that under section 164 (a) the lessee could deduct property taxes paid under the Hawaii statute since the law imposed the tax on the lessee.[43]

In a 1968 Revenue ruling,[44] the IRS apparently confirmed the principle that the state law determining who may be assessed for a tax also determines the class of taxpayers who may claim a deduction under section 164.[45] The issue presented to the IRS was whether a taxpayer who owns a residence on leased land may deduct real estate taxes paid under the terms of a 75-year lease that obligated the lessee to pay all taxes levied upon the leased land and improvements and to hold the lessor harmless. In ruling that the taxpayer would be allowed to deduct the real estate taxes assessed against the property, the IRS noted that: [46]

"As a result of having his name inserted with that of the assessee pursuant to section 610 of the Revenue and Taxation Code of California, . . . *the lessee is not paying the real estate taxes for or on behalf of the lessor since the state is now assessing him directly;* nor is he assuming liability for taxes which had been assessed or accrued against the land prior to the commencement of the lease. Any private arrangement between the lessee and the lessor for the payment of the real estate taxes is not relevant except as it affords the lessee a reason to request that his name be placed on the assessment roll . . . . *The significant feature in the instant case is the presence of section 610 of the Revenue and Taxation Code of California which permits the incidence of the tax to rest upon any person claiming and desiring to be assessed for it.*"

In an analogous situation, the IRS [47] and the Tax Court [48] have recently ruled that an English "rates" tax, imposed indirectly on the occupant of lands (whether or not the owner of the fee simple),[49] could have been claimed as a deduction by a lessee against whom the rates had been assessed if it were a real property tax under section 164. Both the IRS and the court went on to disallow any deduction on the ground that the "rates" were imposed on the use of the land and not the land itself, thus falling outside the definition of a real property tax.[50] Since the assessee of the "rates" could not have been removed from the land for nonpayment,[51] the IRS and the Tax Court may even have relaxed one of the apparent requirements of the *Steinert* case—that nonpayment of the tax result in forfeiture of the taxpayer's beneficial interest in the land.[52]

The foregoing precedents indicated that a state or local statute can, by expanding the class of those legally obligated to pay a real estate tax, effectively dictate who may deduct such taxes under section 164. The question remains, however, whether the proposed statute would achieve results similar to those obtained in Hawaii and California.

The proposed Act creates two separate assessments, one against the owner and another against the tenant.[53] This joint and several liability does not appear to create an impediment to tenant deduction of any leasehold taxes actually paid since joint liability was present in the *Steinert* case and under section 610 of the California Revenue and Taxation Code.[54] Furthermore, the tenant's obligation to pay taxes is absolute, existing even when the duty to pay rent has lapsed so long as the tenant remains in possession of the leasehold. This situation might arise, for example, under statutes like that of New York [55] giving tenants the right to withhold rent when building code violations exist. Under the proposed Act, the tenant could still withhold the "true rent" portion of his monthly payment, but could not withhold the leasehold tax, and could be evicted for failure to pay the tax.[56] Thus, as in the *Steinert* case,[57] the tenant-taxpayer must pay his tax in order to maintain his beneficial interest in the property.

The fact that the landlord would collect the leasehold tax from the tenant is also no obstacle to the creation of a tax deduction for the tenant. The owner is acting as an agent of the state and has no discretion concerning the amount of taxes each tenant will pay.[58] Moreover, the tenant will bear the burden of any increase in taxes assessed against the real property even though the tenant may have a lease for a fixed monthly rental.

As a result, the relationship between the landlord and tenant is less a matter of private arrangement than that approved by the IRS in its 1968 ruling on the California statute, under which the obligation of the tenant was not initially imposed by law but was voluntarily assumed as part of a contractual arrangement between landlord and tenant.[59]

The proposed leasehold tax appears to satisfy all of the requirements for a section 164 deductible tax. It is a tax on an interest in real property; it is levied for general welfare purposes; and it is imposed by state law on the tenant-taxpayer, who must pay it to maintain his interest in the property. The evidence appears overwhelming, therefore, that a state could confer substantial income tax benefits on its tenant-taxpayers simply by adopting the leasehold tax scheme.[60]

IV. ECONOMIC EFFECTS

A. Tenants

The central benefits of the leasehold tax are federal, state, and local income tax savings for those who rent. The extent of tax savings will, of course, depend on the individual taxpayer's leasehold tax and marginal income tax rate. Furthermore, to take advantage of a section 164 deduction, the tenant-taxpayer will have to itemize his deductions rather than claim the standard deduction [61] on his return. Since the standard deduction for federal tax purposes is 16 percent of gross income [62] with a minimum of $1,900,[63] tenants with gross annual incomes under $4,000 are not likely to itemize.[64] Adoption of the leasehold tax, therefore, would leave the economic status of these low income taxpayers unchanged.[65]

The benefits of the proposed scheme for tenants who itemize deductions should, however, be substantial.[66] The New York Temporary State Commission on Living Costs and the Economy has estimated the federal, state, and local income tax savings accruing to New York City tenants under the leasehold tax scheme on the assumption that leasehold taxes would equal approximately 25 percent of present rents. Results of this estimate (based on the previous standard deduction of 15 percent and low income allowance of $1,300) [67] are shown in Table I. Although these figures are accurate on the average,[68] they may hide substantial variation between or within income classes.

TABLE I.—*Estimated yearly rent, property tax, and tax savings under proposed leasehold tax, by income*

Gross income	4,500.00	8,500.00	12,500.00	20,000.00	30,000.00
Estimated yearly rent [69]	1,260.00	1,530.00	2,000.00	3,400.00	4,200.00
Estimated property tax [70]	315.00	382.50	500.00	850.00	1,050.00
Federal tax savings [71]	53.55	72.68	110.00	221.00	378.00
State tax savings	12.60	22.95	35.00	93.50	157.50
NYC tax savings	4.41	6.89	10.50	21.25	33.60
Total tax savings	70.56	102.52	155.50	296.75	569.10
Savings as percent of income	1.57	1.21	1.24	1.65	1.90

A negative effect of the leasehold tax is that tenants would be liable for any increase in property taxes. Under current leases, the total rent charge is often fixed and tenants are thereby insulated from property tax increases during the lease term.[72] Under the proposed leasehold tax, however, the tenant would be primarily liable for the tax and for any increases in it. Nonetheless, the income tax advantages of the leasehold tax should more than offset the risk of exposure to increased property taxation. Furthermore, the leasehold tax scheme would make property taxation more visible to tenants, thereby stimulating tenant political action for containing tax rates and eliminating discriminatory assessment practices.[73]

B. Landlords

The shift in primary tax liability from the landlord to the tenant should have no adverse effect on the landlord's economic position. While it is true that the landlord would lose all or most of his property tax deduction under section 164, this deduction is really of no value to him. Unlike the depreciation deduction,[74] which does not reflect dollars expended, the property tax deduction equals the landlord's actual dollar outlay. Under the leasehold tax scheme, both the landlord's property tax outlay and his property tax deduction would be reduced equally; the effect is therefore a "wash" to the landlord.[75] Indeed, landlords who own rent-controlled buildings would be made significantly better off by the shift in primary liability to the tenant, since under current rent control regulations, landlords are not permitted to pass property tax increases on to their tenants during the term of the tenancy.[76]

The proposed Act also eliminates disincentives to improvement of residential rental property inherent in current real property taxes. Expenditures for improvements are not given favorable treatment under the federal income tax laws.[77]

But such expenditures do increase the value of the landlord's property, possibly subjecting the landlord to increased assessments and higher taxes. Since the primary burden of increased property taxation would be on the tenant under the leasehold tax program, landlords might be more likely to upgrade the quality of their buildings. Upgrading rental property would also increase its attractiveness to potential renters and might, therefore, permit landlords to charge higher rents. Of course, higher rents coupled with exposure to leasehold taxes might suppress tenant demand for high quality housing, but it is likely that income tax deductions would offset any disincentive to rental housing consumption at least for buildings occupied by persons with sufficient income to itemize deductions.[78]

C. Federal, State, and Local Revenue

By making the property tax deduction available to tenants, the leasehold tax scheme would deprive federal, state, and local treasuries of substantial tax revenues. The revenue loss from New York City tenants alone would

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Footnotes at end of article.

exceed $200 million at the federal level,[79] $60–$75 million at the state level,[80] and about $15 million at the local level.[81] The effect of this revenue loss must, however, be set off against the general economic benefits that would flow from the tenant equality program. The effect of such deductions would be to increase the disposable incomes of New York City tenants by almost $300 million. Much of this tax windfall would be consumed, and this increased consumption would undoubtedly stimulate the City's economy, leading to higher income tax collections from City residents.

While tax revenues growing out of heightened economic activity will not offset the $300 million revenue loss produced by the tenant equality program, they will reduce net revenue losses to some extent. Since most of the tax rebate will be spent on personal consumption, state and local taxing authorities can expect to recoup some of their income tax losses through increased sales tax revenues. If two-thirds of the tax rebate ($200 million) is spent on taxable items, New York State's four percent sales tax will produce $8 million in additional tax revenues.

The municipal income tax loss might also be mitigated by enforcing tough sanctions against landlords who fail to collect and pay over leasehold taxes. At present, landlords who intend to abandon their properties frequently ignore property tax obligations for a number of years.[82] Although the leasehold tax program would probably not affect the the decision to abandon, it would force the landlord to pay leasehold taxes collected from his tenants to the municipality. Failure to do so would be embezzlement of municipal funds, and would expose the landlord to severe criminal and civil penalties.[83]

D. Regressivity of the property tax

As a general rule property taxes take a larger proportion of the incomes of low and moderate income families than of upper-middle and high income families.[84] By definition, therefore, the property tax is a regressive tax.[85] As Table I demonstrates, the benefits of the proposed leasehold tax will be greatest for tenant in high income brackets. This raises the question: Will the proposed leasehold tax make real property taxation even more regressive? Table I shows that estimated tax benefits as a percentage of gross income for low income tenant (1.57 percent) would be slightly higher than similar benefits for middle income tenants (1.21 to 1.24 percent), although they would be slightly lower than tax benefits at the highest levels (1.65 to 1.90 percent).[86]

Overall, therefore, the leasehold tax scheme would make the property tax slightly less regressive at low and middle income levels and slightly more regressive at incomes over $30,000. The shifts are slight, however, and could well be offset by the increase in overall federal, state, and local tax progressivity that would arise from a reduction in tax discrimination between homeowners, a high income group, and tenants, a low income group.[87] Thus shifts in the overall incidence of taxes are probably not a major factor in assessing the leasehold tax program.

V. CONCLUSION

The Tenant Equality Act is designed to remedy only one of the many inequities that exist, both within and without the income tax laws, in the treatment of those who rent and those who own their residences. Renting is becoming an increasingly popular life style in our society. Government, on a national as well as a state and local level, must take this new preference into consideration in the drafting of future legislation affecting housing. It can only be hoped that, in the future, circuitous measures such as the Tenant Ann. § 84.36.381 (Supp. 1974); W. Va. Const. art. 10, § 1b; Wis. Stat. Ann. § 71.09(7) (Supp. Equality Act will not be necessary to secure for tenants the same rights and privileges that homeowners presently enjoy.

FOOTNOTES

[1] In 1971, for example, municipal property taxes yielded about $38 billion or about 60% of all current municipal revenues. *See* [1973] United States Bureau of the Census, Statistical Abstract 419. Property tax revenues accounted for about 45% of combined state and local tax revenues in 1963. *See* D. Netzer, Economics of the Property Tax 4 (1966) (figure I).

[2] Data supplied by City of New York Finance Administration, Department of Research, November, 1975.

[3] *See* statutes cited at note 8 *infra*.

[4] *See* pp. 548–51 *infra*.

[5] There is some dispute over who bears the incidence of the property tax when it is levied on land, buildings, and fixtures. *See* D. Netzer, *supra* note I, at 36–37. It is not necessary for the purposes of this Comment that the whole tax be shifted onto the tenant; but it will be assumed that the tenant does bear much of the tax. *See id.* at 45.

[6] Low income families are far more likely to live in rental housing than are middle and upper income families. For example, in New York City, of 1,455,330 families with annual incomes below $7,000, only 282,345 own a home and 1,172,985 rent. At incomes between $7,000 and $15,000, however, 854,508 own their own homes and 651,019 rent. *See* [1970] United States Bureau of the Census, Census of Population and Housing *passim*.

[7] The proposed Act will not, however, correct for any regressivity that inheres in the real property tax because it is an ad valorem tax. *See generaly* D. Netzer, *supra* note I, at 46–47.

[8] *See* Ala. Code tit. 51, §§ 15–15(ra) (Cum. Supp. 1973); Alaska Stat. § 29.53.000(e) (Supp. 1974); Ariz. Rev. Stat. Ann. § 42–271 (Supp. 1975); Ark. Stat. Ann. § 84–209 (1960); Cal. Rev. & Tax. Code § 218 (West Supp. 1975); Colo. Rev. Stat. Ann. § 39–22–120 (1973); Conn. Gen Stat. Ann. § 12–81 (19) (1972); Del. Code Ann. tit. 9, § 8132 (1974); (1972); Hawaii Rev. Stat. § 246–26 (Supp. 1975); Ga. Const. § 2–5404; Ga. Code § 92–219 (1972); Hawaii R ev. Stat. § 246–26 (Supp. 1974); Act of March 31, 1975, ch. 255, §§ 63–117, 63–120, [1975] Idaho Sessions Laws 697–699; Ill. Rev. Stat. ch. 120, § 500.23–1 (1973); Act of March 18, 1975, Pub. Law No. 47, § 1, [1975] Ind. Acts 307–23; Iowa Code Ann. § 425.1 (1971); *id.* (Supp. 1975); Kan. Stat. Ann. §§ 79–4501, –4502, –4508 (Supp. 1974); Ky. Const. § 170; § 1; La. Const. art. 10, § 4; Me. Rev. Stat. Ann. tit. 36, § 653 (Supp. 1973); Md. Ann. Code art. 81, § 12F–1 (Supp. 1975); Mass. Gen. Laws Ann. ch. 59, § 5, ¶ 17th (1973); Mich. Const. art. 10, § 3; Minn. Stat. § 273.13(7) (1974); Miss. Code Ann. § 27–33–3 (Supp. 1975); Mo. Const. art. 10, § 6(a); Mont. Rev. Codes Ann. §§ 84–301, –302 (Supp. 1974); Neb. Rev. Stat. § 77–202.13 (Cum. Supp. 1974); Nev. Rev. Stat. §§ 361.080, 085, .090 (1973); N.H. Rev. Stat. Ann. §§ 72:44, :45 (Supp. 1973); N.J. Rev. Stat. § 54:4–8.41 (Supp. 1975); N.M. Stat. Ann. § 72–1–4 (Supp. 1973); N.Y. Real Property Tax Law § 467 (McKinney 1972); *id.* (McKiney Supp. 1974); N.C. Gen. Stat. § 105–277.1 (Supp. 1974); N.D. Cent. Code § 57–02–08.1 (Supp. 1975); Ohio Const. art. XII, § 2; Okla. Stat. Ann. tit. 68, § 5003 (Cum. Supp. 1974); Ore. Rev. Stat. §§ 310.630, .640 (1973); Pa. Stat. Ann. tit. 72, § 4751–1 (Supp. 1975); R.I. Gen. Laws Ann. §§ 44–3–4, –12, –15, –16 (Supp. 1974); S.C. Code. Ann. § 65–1522.10 (Supp. 1974); S.D. Compiled Laws Ann. 10–4–24 (Supp. 1975); Tenn. Code Ann. §§ 67–645, –646, –647 (Supp. 1974); Tex. Const. art. 8, § 1–b; Utah Code Ann. §§ 59–7–2, 59–7–2.5 (Supp. 1973); Vt. Stat. Ann. tit. 32, § 3836 (1970) (authorizing municipalities to extend homestead exemptions to municipal taxpayers); Va. Code Ann. § 58–760.1 (Supp. 1975); Wash. Rev. Code 1975); Wyo. Stat. Ann. § 39–7 (5th) (6th) (Supp. 1973).

[9] *See, e.g.,* Minn. Stat. § 273.13 subd. 7 (1974); S.D. Comp. Laws § 10–4–24 (Supp. 1975).

[10] *See, e.g.,* Ore. Rev. Stat. § 310.640 (1973); Md. Ann. Code art. 81, § 12F–1(c) (Supp. 1975).

[11] *See* Ariz. Rev. Stat. Ann. § 43–128.02 (Supp. 1975); Cal. Rev. & Tax. Code § 17053.5 (West Supp. 1975); Act of June 6, 1975, ch. 437, §§ 290A.03(11)(12), 290A.04(1)(2), [1975] Minn. Sess. Laws 1282–85; Act of Mar. 23, 1973, ch. 17, § 49, [1973] Ore. Laws 41; Wis. Stat. Ann. § 71.09(7) (Supp. 1975). *See also* Md. Ann. Code art. 81, § 12F–2 (1975), *repealed,* ch. 1, § 12F–2, [1975] Acts of Md. Under such schemes, a statutorily defined percentage of rent is treated as a contribution to the landlord's property tax payment. If this amount exceeds the percentage of the tenant's gross income established by the circuit breaker legislation, he is entitled to circuit breaker relief.

Ten states provide some relief for elderly tenants. *See* Ariz. Rev. Stat. Ann. § 43–128.01 (Supp. 1975); Colo. Rev. Stat. Ann. § 39–22–120(4) (1973); Conn. Gen. Stat. Ann. §§ 12–170(d)–(h) (Supp. 1975); Ill. Rev. Stat. ch. 67½, § 404 (1973); Iowa Code Ann. §§ 425.16–.19 (Supp. 1975); Act of Apr. 21, 1975, ch. 506, §§ 2, 3, [1975] Kansas Laws 1650–54; Act of June 17, 1975, Act No. 12, [1975] Mo. Laws 256–57; Nev. Rev. Stat. §§ 361.827—361.835 (1973); Act of Aug. 1, 1975, ch. 598, §§ 1–2, [1975] Laws of N.Y. 876; N.D. Cent. Code § 57–02–08.1(2) (Supp. 1975); ch. 672 [1975] Ore. Laws.

[12] *See, e.g.,* Ill. Rev. Stat. ch. 120, § 501 (1973); Mont. Rev. Codes Ann. § 84–401 (Cum. Supp. 1974).

[13] P. Finkelstein, Real Property Taxation, Alternative Approaches: New York City (1973).

[14] *Id.* at 3–4.

[15] The under-assessment of homeowner properties in the outer boroughs of New York City may reflect a conscious effort to maintain single family housing in Queens, Brooklyn, and the Bronx in a competitive position with similar properties in suburban communities.

[16] *See* New York Temporary State Commission on Living Costs and the Economy, Supplement to Housing and Rent Study 16 (1974).

[17] *See* D. Netzer, *supra* note 1, at 36.

[18] These differences in the assessed-value/market-value ratios for rental and homeowner properties may reinforce the regressive nature of real property taxation. *See* D. Netzer, *supra* note 1, at 46–49 & table 3–6.

[19] *See* Helvering v. Independent Life Ins. Co., 292 U.S. 371, 379 (1934) (rental value of building used by owner does not constitute income for purposes of federal income taxation).

[20] Int. Rev. Code of 1954, § 163(a) (1970); *e.g.,* N.Y. Tax Law § 615 (McKinney 1975).

[21] Int. Rev. Code of 1954, § 164(a) (1970); *e.g.,* N.Y. Tax Law § 615 (McKinney 1975).

[22] The following table compares two taxpayers with assets of $25,000 and yearly earnings of $10,000; however, one owns his home, having an equity of $10,000; the other rents. The residual income for each taxpayer, after expenditures for housing and rent, are equal. The Federal income tax liability, however, is not equal, strongly favoring the homeowner.

	Homeowner	Renter
Earnings	$10,000	$10,000
Income from assets (6% return)		
Assets of $25,000		1,500
Assets of $15,000	900	
Imputed income on equity on house ($10,000)	[a] 600	
Total money income	10,900	11,500
Rental payments		(2,100)
Housing expenditures	(1,500)	
Residual money income	(9,400)	(9,400)
Taxable income	8,600	9,775
Federal income tax liability	[b] 1,512	[b] 1,770.50

NOTES

[a] The $600 in imputed income is the estimated income over expenses that the homeowner could have received if he had rented his home. The amount is not money income and is not added to earnings for tax purposes.

[b] Federal taxable income is based on a money income of $10,000 of the homeowner, less deductions of $650 for mortgage interest, $450 for property taxes, and $1,200 for deductions. Average deductions are taken from Commerce Clearing House, U.S. Master Tax Guide (1973). The renter is assumed to take the standard deduction of 15% of Adjusted Gross Income ($11,500) Exemptions are not considered in this analysis.

[23] *See, e.g.*, N.Y. Tax Laws § 612 (McKinney 1975).

[24] *See, e.g.*, No. A270, 196th N.Y. State Assembly (1973).

[25] *See* New York Temporary State Commission on Living Costs and the Economy, Report on Housing and Rents, Report III 2 (1974). *See generally*, S. Surrey, Pathways to Tax Reform: The Concept of Tax Expenditures 233 (1973).

[26] *See* New York Temporary State Comm'n on Living Costs and the Economy, *supra* note 25, at 20 (1974).

[27] *See* Int. Rev. Code of 1954, § 164(a) (I).

[28] *See, e.g.*, N.Y. Tax Law § 615 (McKinney 1975).

[29] *See* New York Temporary State Comm'n on Living Costs and the Economy, *supra* note 25.

[30] Thus a tenant who now pays $200 per month, of which $50 constitutes a contribution to his landlord's property tax payment, would under the proposed act receive his monthly bill broken down into a tax component ($50) and a "true" rent component ($150).

[31] *See* Gilmore v. United States, 290 F.2d 942 (Ct. Cl. 1961), *rev'd on other grounds*, 372 U.S. 39 (1963).

[32] Even if the landlord has not in fact been able to shift all his real estate tax to his tenants in the form of increased rent, the landlord is made no worse off by the proposed apportionment since his total money income and real estate tax liability are reduced equally.

[33] Since state and local tax codes are usually modeled on the federal internal revenue code, *see, e.g.*, N.Y. Tax Law §§ 350–385 (McKinney 1975), there would presumably be no need to modify these codes to make the property tax deduction available to tenants under the leasehold tax scheme.

[34] *See* Treas. Reg. § 1.164–3(b) (1964).

[35] *See id.*

[36] *See id.* § 1.164–1(a).

[37] *See* Proposed New York State Tenant Equality Act § 305(4), Appendix pp. 548–51 *infra*.

[38] *See, e.g.*, N.Y. Real Property Tax Law § 926 (McKinney 1972).

[39] *See, e.g.*, Caroline T. Kissel, 15 B.T.A. 1270, 1273–74 (1929).

[40] 33 T.C. 447 (1959).

[41] *Id.* at 450. In *Steinert* the taxpayer, a widow, had waived her dower and homestead rights in her late husband's real estate, and had, instead, taken a life estate in that property. In her agreement with the First National Bank of Boston (which held legal title to the property under a testamentary trust) the taxpayer agreed to pay all property taxes, and in return, was permitted to use the property rent free. The taxes were, however, assessed against the Bank, and as a result, the Commissioner argued that the taxpayer should not be entitled to the deduction since the property taxes were not imposed on her. The Tax Court, however, held that the "imposed on" requirement of section 164 was satisfied because the taxpayer had a duty to pay the property tax. That duty was not only an incident of the taxpayer's life estate in the property, but also a legal requirement if she was to preserve her beneficial interest in the estate. *See also* Estate of Mary Rumsey Movius, 22 T.C. 391, 394 (1954); Cornelia C.F. Horsford, 2 T.C. 826, 827 (1943).

[42] Hawaii Rev. Stat. § 246–4 (Supp. 1974). The preamble to the statutory amendment indicates that the specific legislative purpose in amending the statute was to make the section 164 property tax deduction available to long term lessees. *See* Act of Apr. 21, 1964, ch. 21, § 1, [1964] Sess. Laws of Hawaii 19–20.

[43] *See* Rev. Rul. 64–327, 1964–2 Cum. Bull. 56–57.

[44] *See* Rev. Rul. 68–84, 1968–1, Cum. Bull. 71–73.

[45] *See* Magruder v. Supplee, 316 U.S. 394 (1942); Poe v. Seaborn, 282 U.S. 101 (1930); Continental Ins. Co. v. United States, 474 F.2d 661 (Ct. Cl. 1973); 5 Mertens, Law of Federal Income Taxation ¶ 27.02 (1974).

[46] Rev. Rul. 68–84, 1968–1 Cum. Bull. 71, 72 (emphasis added) *See* Cal. Rev. & Tax Code § 610 (West 1970) (permitting any person desiring to be assessed for a particular piece of property to be entered on the tax rolls as a coassessee along with the record owner).

[47] *See* Rev. Rul. 73–600, 1973–2 Cum. Bull. 47.

[48] *See* Maynard Waxenberg, 62 T.C. 594 (1974).

[49] *See id.* at 603–04.

[50] *See id.* at 605; Rev. Rul. 73–600, 1973–2 Cum. Bull. 47, 49. *See also* Treas. Reg. § 1.164–1(a) (1964).

[51] *See* Rev. Rul. 73–600, 1973–2 Cum. Bull. 47, 48.

[52] *See* note 41 *supra*.

In an analogous situation the IRS ruled that the purchaser of real estate could, under section 164, deduct the payment of the Pennsylvania Realty Transfer Tax, Pa. Stat. Ann. tit. 72, §§ 3283–92 (1964); *id.* (Supp. 1975), where relevant regulations made the purchaser and seller jointly and severally liable for the tax. The IRS concluded that the tax was deductible since under Pennsylvania law the tax was the legal responsibility of either party to the transaction. *See* Rev. Rul. 71–590, 1971–2 Cum Bull. 124.

[53] *See* Proposed New York State Tenant Equality Act, Appendix pp. 548–51 *infra*.

[54] *See* Rev. Rul. 71–590, 1971–2 CUM. BULL. 124, *discussed at* note 52 *supra*.

[55] N.Y. Multiple Dwelling Law § 302–a (McKinney 1974); *see* Mass. GEN. LAWS ANN. ch. 239, § 8A (Supp. 1975). *See also* Javins v. First National Realty Corp., 428 F.2d 1071 (D.C. Cir. 1970), *cert. denied*, 400 U.S. 925 (1971).

[56] *See* Proposed New York State Tenant Equality Act, Appendix pp. 548–51 *infra*.

[57] 33 T.C. 447 (1959).

[58] Under the proposed leasehold tax scheme the tax would be an obligation imposed by state law on the tenant and not a contractual arrangement between the parties to the lease. The landlord's role in collecting the tax as the state's agent is merely a matter of administrative convenience. The legislature retains sole responsibility for defining the parameters within which the tax would be assessed.

[59] *See* Rev. Rul. 68–84, 1968–1 Cum. Bull. 71, *quoted at* p. 540 *supra*.

[60] Since state and local tax codes are modeled on the federal income tax statute, *see* note 33 *supra*, it appears that the benefits accruing to tenants from the adoption of the leasehold tax program would include not only federal but also state and local income tax relief.

[61] Int. Rev. Code of 1954, § 141.

[62] *See id.* § 141(b).

[63] *See id.* § 141(c).

[64] As of 1970 in the New York metropolitan area approximately 700,000 tenant-taxpayers had gross incomes of less than $4000, *see* [1970] U.S. Bureau of the Census, Census of Population and Housing, and therefore, generally did not itemize their deductions. On the national level, it was estimated that 62% of all taxpayers would claim the standard deduction on their 1973 federal income tax returns. *See* House Ways and Means Comm., Report of the Revenue Act of 1971, H.R. Rep. No. 533, 92d Cong., 1st Sess. 16 (1971).

[65] A central problem with the use of tax expenditures, such as the property tax deduction, to provide general economic relief is that the tax advantage will be of no benefit to people in the lowest income brackets who are too poor to pay income tax. *See* S. Surrey, *supra* note 25, at 59–89. The leasehold tax is, therefore, not designed to provide financial assistance to the poor, but is rather an attempt to promote tax equality between homeowners as a class and tenants as a class.

[66] It appears that large numbers of taxpayers in the $4000–$6000 income bracket will not itemize despite the fact that it may be in their economic interest to do so. *See* McKinsey & Co., Inc., A Renter's Revenue Sharing Program 9–10 (1971); Letter from Mr. Michael Bird, Joint Congressional Committee on Internal Revenue, to the *Harvard Law Review*, Dec. 1, 1975.

[67] Act of Dec. 10, 1971, Pub. L. No. 92–178, §§ 202, 203(b), 85 Stat. 511.

[68] *See* [1974] U.S. Dep't of Labor, Bureau of Labor Statistics, 1974 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City 20.

[69] Estimated yearly rent derived from distributions of rent as a percentage of income by income class. *See* [1970] State of New York, New York, New York Standard Metropolitan Statistical Area, Census of Population and Housing.

[70] Estimated property tax per renter derived by multiplying estimated yearly rent by .25, the estimate of the ratio of property tax to rent.

[71] Tax saving estimates derived by multiplying estimated property tax per renter by the marginal rate of taxation, the tax imposed on the last taxable dollar after allowable deductions. Average deductions by income class were derived from Commerce Clearing House, U.S. Master Tax Guide (1973). State tax savings estimates were calculated by multiplying the federal savings estimates by the ratio of the state tax rates to the federal tax rates at each category of income. Local savings were calculated in a similar manner.

[72] An exception to this generalization are leases that contain pass-through provisions. Under such arrangements property tax increases are passed on to tenants in the form of automatic rent hikes.

[73] *See* pp. 532–35 *supra*.

[74] Int. Rev. Code of 1954, § 167(a).

[75] *See* p. 537 *supra*.

[76] *See, e.g.*, New York Temporary State Housing Comm'n, Rent and Eviction Regulations: Part II: Maximum Rents (1974).

[77] Capital expenditures may not be deducted as business expenses under Int. Rev. Code of 1954, § 162(a). *See* Treas. Reg. § 1.162–4 (1958). Instead they must be depreciated over their useful lives under the provisions of Int. Rev. Code of 1954, § 167(a).

[78] Low income tenants who are not on welfare may be unable to pay increased property taxes if the rent component of their monthly bill remains unchanged. If property taxes are rising, landlords may be forced to reduce the rent component of their monthly charges in order to keep low income tenants in residence. Obviously at some point it is no longer economically worthwhile for

the landlord to stay in the rental housing business, and at that point he may elect to abandon the building. Adoption of the leasehold tax would not solve this problem. Instead tax relief must come from a freeze on property or leasehold taxation of low income housing, or an extension of circuit breaker programs to low income tenants.

[79] *See* New York Temporary State Commission on Living Costs and the Economy, Report on Housing and Rents, Report Number III 20 (1974).

[80] *Id.*

[81] *Id.*

[82] *See* G. Sternlieb & R. Burchall, Residential Abandonment, The Tenement Landlord Revisited (1973).

[83] *See* Proposed New York State Tenant Equality Act § 927 (6) (designating the landlord an agent of the municipality for purposes of leasehold tax collection), Appendix pp. 548–51 *infra;* N.Y. Penal Law § 155.05(2) (a) (McKinney 1975) (defining embezzlement as a type of larceny); *id.* § 155.30 (larceny of more than $250 defined as a Class E felony) ; *id.* § 70.00 (fixing 4 year maximum penalty for Class E felony).

[84] *See* Table I, p. 543 *supra.*

[85] *See* D. Netzer, *supra* note I, at 49.

[86] *See id.*

[87] For example, the median income of New York City's 2.5 million renters is $7,300 while the median income of the City's 1.5 million homeowners is $13,000. *See* [1970] U.S. Bureau of the Census, Census of Housing.

APPENDIX

Proposed Tenant Equality Act: An Amendment to the New York Real Property Tax Law

Section I. Section three hundred four of the real property tax law is hereby amended to read as follows:

§ 304. Subject to assessment. All assessments shall be against the real property itself [which], except when the real property is used for residential purposes as defined in section three hundred five of this chapter, in which event there shall be an assessment against the owner of the real property and an assessment against each tenant thereof as set forth in said section three hundred five. The property itself shall be liable to sale pursuant to law for any unpaid taxes or special ad valorem levies subject, however, to the remedies provided in section nine hundred twenty-seven of this chapter.

Section 2. Such law is hereby amended by adding thereto a new section, to be section three hundred five, to read as follows:

§ 305. Residential real property subject of assessment. 1. This section shall apply to all real property, any part of which is leased for residential purposes to one or more tenants. As used in this section, "tenant" shall mean a person who legally occupies the real property, or any part thereof, of the owner and pays any consideration for such occupancy; provided, however, such residential tenancy is not transient.

2. There shall be an assessment against the tenant in an amount such that the ratio of the square footage of the tenant's leasehold to the total net usable square footage of the real property containing such leasehold equals the ratio of the tenant's assessment to the total assessment of the real property including the land appurtenant thereto; provided that any land which is appurtenant thereto shall be land which is usable by the tenant at no fee. This assessment shall be known as the "tenant's leasehold assessment" and a tax based on said assessment shall be known as the "tenant's leasehold tax."

3. Where the real property has been leased to the tenant under the provisions of any federal, state or local law which provides for a total or partial abatement of the tax assessed to the real property, the provisions of such tax abatement law shall control in determining the amount of taxes due, provided, however, that if said tax abatement law permits the owner to increase rent by only a fraction of the total assessed taxes upon the expiration of the tax abatement, the assessment attributable to a leasehold shall be determined as provided in subdivision two hereof and the rent shall be reduced in accordance with the provisions of such tax abatement law.

4. A tenant, as herein defined, shall be deemed to be the owner of an interest in real property within the meaning of the real property tax law.

5. A class action under section one thousand five of the civil practice law and rules may be maintained by one or more tenants to review the assessment of the real property under article seven of the real property tax law where any portion of the tenant leasehold assessments is based on land appurtenant to the tenants' leaseholds and such land is usable by all the members of the class at no fee.

6. A class action under section one thousand five of the civil practice law and rules may be maintained by one or more tenants as described in subdivision five hereof and the owner of the real property to review the assessment of the real property under article seven of the real property tax law.

7. In the event a class action is brought by one or more tenants, or by one or more tenants and the owner to review the assessment of the real property under article seven of the real property tax law, the tenant or owner bringing the action shall give notice of such action to the other tenants and the owner of the real property.

Section 3. Subdivision one of section nine hundred twenty-six of such law is hereby amended to read as follows:

1. The owner of real property, or of an interest therein, if a resident of the city or town in which such property or interest therein is assessed and if his name is correctly entered on the roll, shall be personally liable for the taxes levied thereon. Taxes on real property imposed on a tenant pursuant to an assessment under section three hundred five of this chapter, shall be collected in no other manner than as prescribed in section nine hundred twenty-seven of this chapter. The term "resident" shall include a corporation having within such city or town a place for the regular transaction of business or in actual possession of real property therein.

Section 4. Such law is hereby amended by adding thereto a new section, to be section nine hundred twenty-seven, to read as follows:

§ 927. Residential tenant leasehold tax.

1. The tenant shall pay to the landlord one-twelfth of the tenant leasehold tax, as apportioned to him pursuant to the provisions of section three hundred five of this chapter, each month he is in possession of the leasehold. The owner of real property defined in said section three hundred five, or his designated agent as herein provided, as trustee, shall collect all taxes levied against the tenant pursuant to said section three hundred five; and he shall be personally liable for the payment of such collected tenant leasehold taxes to the taxing body.

2. The owner shall receive a credit against the taxes assessed against the real property in an amount equal to the tenant leasehold taxes collected by him or his designated agent and paid to the taxing body. The credit shall accrue upon payment by the owner to the local taxing body.

3. The owner must designate in writing a noncorporate agent who shall act as trustee for the collection of tenant leasehold taxes. The agent so designated shall be personally liable for the fulfillment of all the duties and obligations of the owner required pursuant to this section and by law. A copy of such designation shall be filed with the county clerk in the county where the real property is located and a notice of such designation shall be sent to each tenant.

4. The owner or his designated agent shall notify the tenant in writing between the first day and the thirty-first day of January in each year of the amount of taxes paid by the tenant in the preceding calendar year.

5. The owner shall be liable to the tenant for any miscalculation of the tax assessed to the tenant and a civil penalty of treble damages shall be imposed against the owner for any intentional miscalculation. The owner shall also be liable to the tenant in an amount equal to the taxes attributable to the leasehold if the owner fails to separately charge the tenant for the tenant leasehold tax. The tenant shall be liable for the taxes attributable to his leasehold regardless of any building department violations which may exist on the real property.

6. The owner and his designated agent shall be deemed to be agents of the municipal corporation or political subdivision levying and collecting a real property tax in the collection of the tenant leasehold tax. Payment by the tenant to the owner, his agent or directly to the governmental unit levying and collecting such real property tax, in the event a notice of intent to abandon is accepted by such governmental unit pursuant to the provisions of subdivision nine hereof, shall discharge the tenant's obligation to pay the tenant leasehold tax regardless of any subsequent disposition of the taxes.

7. In the event the tenant tenders a partial or late payment of rent plus tenant leasehold taxes, no rent shall be collected by the owner until the tenant leasehold tax is discharged.

8. Every person required to collect the tenant leasehold tax shall have the same right in respect to collecting the tax from the tenant or in respect to nonpayment of the tax by the tenant as if the tax were a part of rent and were payable at the same time.

9. The owner may be relieved of his obligations to collect the taxes assessed to a tenant by filing a notice of intent to abandon the real property with the governing body of the governmental unit in which the real property is located. Such notice shall constitute an offer of a contract between the governmental unit and the owner providing for the transfer of the real property to the governmental unit at no consideration upon such terms and conditions as may be agreed upon by the governmental unit and the owner. The governmental unit may accept or reject or otherwise modify the notice, at the option of its governing body. The notice shall be effective upon acceptance by the governing body and the owner shall be relieved from the collection of all future tenant leasehold taxes. This paragraph shall not be construed as relieving the owner of the obligation to pay real property taxes.

10. Notwithstanding the provisions of any state or local law, rule or regulation to the contrary, "rent," when such term is applied to a residential leasehold, shall mean the consideration paid to the owner or his designee for the right to occupy the residential leasehold but shall not include any payment of the tenant leasehold tax.

11. The owner, if subject to any federal, state or local law or regulation limiting the amount of rent which may be charged to a tenant, shall reduce the annual rent chargeable to such tenant by an amount equal to the taxes attributable to the leasehold and he shall collect the taxes attributable to the leasehold as provided in this section and the remainder of the allowable amount so charged as rent.

12. The owner, if not subject to any federal, state or local law or regulation limiting the amount of rent he may charge a tenant, and if the tenancy is created by a lease, shall

collect the amount due as stated in the lease; however, the amount of tenant leasehold tax shall be collected by the owner as trustee in the manner prescribed by this section, and the remainder of the amount so collected as rent.

13. The owner, if the tenancy is on a month to month basis, shall, the first month after the effective date of this act, collect the same total amount collected as in the preceding month, but shall collect the tenant leasehold tax as trustee in the manner prescribed by this section, and the remainder of the amount so collected as rent.

14. The owner, in the creation of any residential tenancy, by lease or otherwise, after the effective date of this act, shall separately charge rent and tenant leasehold tax and such total amount collected shall not exceed the maximum amount permitted by any federal, state or local law or regulation.

Section 5. This act shall take effect on the ninetieth day after it shall have become a law.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND OTHER INDEPENDENT AGENCIES APPROPRIATIONS, 1977—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 14233 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14233) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of July 22, 1976, beginning at p. 23537.)

Mr. PROXMIRE. Mr. President, this is the conference report on HUD and independent agencies, including the space agency, the Veterans' Administration, the National Science Foundation, various consumer agencies, the environmental agencies, and others.

Mr. President, the pending conference report recommends that the Congress provide $43,284,615,000 in new budget authority for the Department of Housing and Urban Development and various independent agencies in fiscal 1977. The recommended appropriation is $9,920,525,000 less than the Congress provided last year—primarily because last year we provided $2,300,000,000 for the New York City Seasonal Financing Fund and $5,000,000,000 for the mortgage purchase assistance program, whereas these items were not considered in acting upon this budget. In addition, we have provided $2,129,600,000 less in fiscal 1977 than we did last year for annual contributions for assisted housing, including the section 8 program, with a recognition that supplementary funding may well be necessary.

I am happy to be able to report to my colleagues that this year's recommendation is $2,021,583,000 less than the amount requested in the President's budget. It is also $301,885,000 above the House-passed figure and $51,585,000 below the amount approved by the Senate.

Now to the specifics. First, let us look at appropriations for the Department of Housing and Urban Development. This year, as last, the most complicated provision in the bill has to do with contributions for assisted housing. The committee of conference has provided $675,000,000 for annual contributions contracts for assisted housing with a runout cost over periods of up to 40 years of $14,870,400,000.

It is recognized that this amount is insufficient to meet our national housing goals. It was set in anticipation of a substantial carry-over of contract authority because of lags in getting section 8 new construction and rehabilitation projects under contract this year. I reiterate the language of the Senate report on H.R. 14233:

> If the carry-over estimate proves unduly high and if the Section 8 new construction program meets with dramatic success in the months ahead the Committee is prepared to favorably consider a supplemental request for additional new construction under Section 8.

In view of the legislative history of both this bill and S. 3295, the housing authorization bill, I hope that we would favorably consider any supplemental request for funds needed to support additional new construction, whether for section 8 or traditional public housing.

Under assisted housing we have set a limit of $120,000,000 for public housing development or acquisition, of which $85,000,000 is designated for new or substantially rehabilitated public housing. This $85,000,000 includes $17,000,000 for Indian public housing, $18,000,000 for public housing in nonmetropolitan areas, and $8,000,000 for amendments to existing contracts. The remaining $42,000,000 will be available for new public housing in metropolitan areas. As the conference report states, we expect these amounts to be used by HUD. As with the overall authorization, if the amounts designated for public housing prove inadequate, I shall press for prompt action on a supplemental budget request.

Because the authorization act requires HUD to follow the provisions of local housing assistance plans, insofar as practicable, the conferees dropped the specific section 8 limits contained in H.R. 14233. Here again, implementation in good faith of the intent of Congress may result in a need for additional budget authority beyond that provided in the pending bill. This is because the run-out costs of new construction or substantial rehabilitation are greater than for existing section 8—and are twice as great for publicly sponsored or financed section 8 as for private section 8. The formulae for calculating run-out costs, on which budget authority is based, are both arbitrary and unrealistic. Nevertheless, an agreement was reached last year, after arduous negotiations, to calculate budget authortiy by assuming a 15-year run-out cost for existing section 8, a 20-year run-out cost for privately sponsored new section 8, and a 40-year run-out cost for public housing and for publicly sponsored section 8. This agreement is still in effect.

It would be a perversion of congressional intent if, because of budget authority limitations, HUD were unable to approve applications for new section 8 units for which contract authority is available and which are included in local housing assistance plans. Therefore, if housing assistance plans call for substantial amounts of new section 8 construction, particularly with public sponsorship, I would urge congressional approval of the necessary additional budget authority.

The basic point in all of this is that, while the pending appropriations bill falls short of the authorizations approved by the Congress and the amounts required to achieve the level of housing production called for to meet our national housing goals, it does represent the amounts which we believe that HUD can reasonably be expected to use. If HUD's actions exceed our expectations, the door is open for consideration of requests for supplemental appropriations as needed to come closer to the goal of 600,000 units annually of new or rehabilitated subsidized housing.

Finally the committee of conference has provided $35,000,000 under the assisted housing account for the modernization of existing public housing units. This represents a fair compromise between the $45,000,000 contained in the Senate bill and the $25,000,000 in the House bill. It is a 75-percent increase above the funding provided for this program in fiscal 1976. However, the amount appropriated falls well below the $60,000,000 authorized by the Congress.

The committee of conference has recommended the appropriation of $3,000,000 to initiate a housing counseling program within the Department of Housing and Urban Development. The Senate did not include any funds in H.R. 14233 for such a program while the House version of the bill included $5,000,000 for counseling. This modest amount should allow HUD to initiate enough of a program to allow the Congress to assess the wisdom of continuing with such an approach in fiscal 1978.

The conferees recommend that $62,500,000 be provided for comprehensive planning grants—the so-called section 701 program. This figure represents an exact split between the House-approved amount of $50,000,000 and the Senate appropriation of $75,000,000. In addition, language has been added to the explanatory statement of the conferees directing HUD to make community development block grant funds available for comprehensive planning. This should help larger cities receiving block grant funds to carry out their planning efforts despite a decrease in funding for the section 701 program below last year's $75,000,000.

The conferees also recommended a split

in the rehabilitation loan program. I believe that it is fair to say that there was very strong support for the program within the conference committee. Consequently we ended up with $50,000,000 as compared with $75,000,000 in the Senate bill and $25,000,000 in the House bill. Even this reduced figure was the subject of some concern on the part of conferees who felt it might lead to a rescission, as a similar appropriation did last year.

The committee of conference settled on $55,000,000 for HUD's research and technology program—$5,000,000 below the Senate and $2,000,000 above the House. The entire $2,000,000 add-on was earmarked for the highly successful Urban Reinvestment Task Force making a total of at least $4,500,000 available for task force activities in fiscal 1977.

The conferees deleted $4,300,000 added to the bill on the floor of the Senate for the special needs of the new community of Gananda, N.Y., upon being notified of a General Accounting Office decision stating that funds from the revolving fund established by the Urban Growth and New Community Development Act of 1970 could be used for this purpose.

The committee of conference split the difference between the $421,000,000 included in the Senate bill for HUD's salaries and expenses and the $417,000,000 approved by the House for the same purpose. The final total was $419,000,000.

Mr. President, I would like to discuss at this point the amounts provided by the conferees for the various and sundry independent agencies under the jurisdiction of this legislation.

The conferees provided $39,000,000 for the Consumer Product Safety Commission—$2,000,000 more than the Senate and $2,100,000 less than the House. I think it is fair to say that concern was expressed regarding the agency's poor performance over the past 12 months.

A number of items were in dispute involving the programs of the Environmental Protection Agency. The committee of conference accepted the Senate figure of $259,900,000 for EPA's research and development budget, a reduction of $5,100,000 below the amount approved by the House. The conferees intend that $2,900,000 of this amount should be used for a Chesapeake Bay study. This amount combined with $2,100,000 approved for the same purpose under the abatement and control account will allow EPA to spend $5,000,000 for such a study in fiscal 1977. The additional positions needed will have to be released by the Office of Management and Budget.

The conferees added $5,000,000 to the Senate figure of $371,844,000 for EPA's abatement and control programs. This was earmarked in the explanatory statement of the conference committee for the clean lakes program, making a total of $15,000,000 available for the program in fiscal 1977. The conferees also approved the following Senate reduction and additions: A cutback of $35,000,000 for the section 208 areawide waste treatment planning grant program; an add-on of $11,300,000, requested in a budget amendment, for the regulation of toxic pollution; an add-on of $400,000 for an environmental impact study of a power project affecting Montana; and a reprograming of $1,000,000 for State associations of rural water districts to assist rural areas in complying with the provisions of the Safe Drinking Water Act.

The committee of conference spent a substantial amount of time working on the programs of the National Aeronautics and Space Administration and came up with a total of $3,692,515,000, a cut of $2,665,000 below the Senate version of the bill. Although the conferees instructed NASA to find the $2,200,000 necessary for construction of a lunar curatorial facility within amounts available for other construction of facility projects, the conferees agreed to restore $4,000,000 of the $4,455,000 cut by the House from research and program management, making a total of $813,000,000 available for salaries and expenses in fiscal 1977. In addition, the conferees provided $2,500,000 for solar satellite power system work, to be supplemented with a transfer of $2,500,000 from the Energy Research and Development Administration; $7,855,000 for modifications of a second shuttle mobile launcher; and $6,000,000 for initial modification of a 40- by 80-foot wind tunnel at the Ames Research Center.

The conferees also agreed to let NASA solicit bids on the space telescope if and when the administration includes funds for the development of a telescope in its fiscal 1978 budget submission. However, no contract may be signed and this decision does not bind the Congress in any way to fund the development of the telescope.

The Senate conferees felt very strongly that the National Science Foundation should be permitted the full 19.5-percent increase in basic science requested by the administration. The House felt equally strongly that only a 6-percent increase should be allowed. I think that both Houses demonstrated the spirit of accommodation that prevailed in the conference by virtually splitting the difference between the House and Senate figures, leaving $582,600,000 for basic research and $773,600,000 for NSF activities overall. The committee of conference accepted a Senate cut of $5,000,000 in the NSF budget for education as approved by the House, leaving a total of $59,000,000, or $4,000,000 more than the budgeted amount. The add-on will be used to fund a new program of teacher training workshops and seminars.

Overall funding for the Veterans' Administration, as approved by the conferees, was $17,934,000 above the Senate-approved amount, totalling $18,386,171,000. The primary reason for the increase was a decision to accept all projects added by both the House and Senate to the major hospital construction account. Thus, the committee of conference has recommended funding for an Oklahoma City addition and renovation project, a columbarium/mausoleum in Hawaii, a new building at the Mountain Home, Tennessee, VA hospital, a research and education facility at Dallas, a data processing center, a nursing home in Wilkes-Barre, and a rehabilitation center and clinic at Birmingham. The conferees also restored $1,500,000 cut by the Senate from the program of medical care grants to the Republic of the Philippines. Finally, the committee of conference approved the Senate's decision to shift $4,200,000 from the $4.2 billion medical care account to the $100,000,000 medical and prosthetic research program, where the funds are badly needed.

Mr. President, there were a number of changes in the general provisions as enacted by the Senate but none were unexpected. I am sorry to say that once again this year the Senate conferees were unsuccessful in holding language prohibiting the use of limousines to drive agency personnel to and from work. This is something I will continue to press, and I am convinced that some day we will win.

Mr. President, I had one of the rare experiences I have had since I have handled conference reports. This one was unanimously signed by all Members, House and Senate. It is not controversial and, of course, it is an essential appropriation that goes a long way toward meeting our housing problems, our veterans' problems, our space problems, and so forth.

In any event, this conference report represents a fair accommodation of the conflicting interests of the two Houses. Before we move to the question of its adoption I ask unanimous consent that a tabulation of the results of this conference as included in the Record by the chairman of the House conferees in presenting this conference report to the House be incorporated in the Record by reference.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

The additional amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), entered into after September 30, 1976, shall not exceed $675,000,000 including not more than $35,000,000 for the modernization of existing low-income housing projects, which amounts shall be in addition to balances of authorization heretofore made available for such contracts: *Provided,* That the total new budget authority obligated under such contracts entered into after September 30, 1976, shall not exceed $14,870,400,000, which amount shall not include budget authority obligated under balances of authorization heretofore made available: *Provided further,* That of the total herein provided, excluding funds for modernization, not more than $120,000,000 shall be used only for contracts for annual contributions to assist in financing the development or acquisition of low-income housing projects to be owned by public housing agencies other than under section 8 of the above Act: *Provided further,* That of the amount set forth in the second proviso, not more than $85,000,000 shall be used only for projects on which construction or substantial rehabilitation is commenced after the effective date of this Act except in the case of amendments to existing contracts: *Provided further,* That of the amount set forth in the second proviso, not less than 15 per centum shall be used only with respect to new construction in non-metropolitan areas.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Provided further, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $405,681,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $92,001,000

Mr. PROXMIRE. I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 1, 2, 35, and 37.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I would like to clarify an issue with the distinguished Senator from Wisconsin (Mr. PROXMIRE), with respect to the use of funds appropriated for purposes of chapter 82 of title 38, as added by Public Law 92–541, the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972.

Mr. President, frequently a small amount of the money appropriated and obligated for a particular grant cannot be used by the grantee for one reason or another, and thus would eventually revert to the Treasury.

Under subchapter II of chapter 82, medical schools affiliated with VA hospitals are eligible to receive grants to support substantial expansion of their academic programs. The grants principally support salary costs for new faculty and staff, particularly when new clinical campuses are being established. Since recruiting ordinarily cannot begin until a grant is approved and funded, there is often an unexpended balance of salary funds remaining at the end of the first grant year, and in some cases at the end of the second year. I think this potential accumulation of unused funds is particularly unfortunate in view of the serious backlog of approved but unfunded grants under this program. Approval by the Veterans' Administration of the use of these funds in subsequent years of the grant programs for the salaries of new faculty personnel beyond those contemplated in the original grant, would generate the need for an increased commitment for succeeding years to meet the costs of the resulting larger staff size.

It is my understanding that these unexpended balances, plus other smaller ones resulting from a variety of unforeseen minor program changes, will result in an accumulated unexpended balance in the appropriation of as much as $1.0 to $1.5 million during fiscal year 1977.

I would like to ask the Senator if he would agree that such obligated unexpended balances, resulting from the inability of a current grantee to utilize grant funds within the approved program period, could appropriately be used by the VA in any one of a number of ways—for supplementation of existing grants for expanded activities, for increases in the direct costs of existing program operations, or for a new grant where—and only where—such supplementation or new grant would not create the need for future appropriations but would be covered entirely with the reprogramed funds?

Mr. PROXMIRE. Yes, I would agree that such limited use of unexpended grant funds would be permitted and appropriate. Of course, applicable reprograming procedures deriving from the appropriations process would have to be followed. I want to stress also that I am not in favor, by this procedure, of creating a demand for increased future-year funding, and I understand we are in agreement on this.

Mr. CRANSTON. Yes, we are. Also, of course any new grant would be made on the basis of priorities already established in the course of the grant review process.

Mr. PROXMIRE. Yes, that would certainly be understood.

Mr. CRANSTON. I thank the distinguished floor manager very much for his cooperation on this matter as well as for his successful efforts to sustain the Senate position on the medical research appropriation in the conference. We are all greatly indebted to him for his leadership.

I also want to express my personal appreciation for the excellent cooperation which has prevailed between the authorizing Subcommittee on Health and Hospitals, which I chair, and the Appropriations Subcommittee which is so ably chaired by the Senator from Wisconsin, and between our staffs.We have developed an effective, ongoing close working relationship in our various oversight and legislative activities which I believe is mutually beneficial in terms of our respective responsibilities and, most significantly, I believe, has served the best interests of providing for an effective VA hosptial and medical program to care for the Nation's disabled veterans.

Mr. GRIFFIN. Mr. President, will the Senator yield to me briefly?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. The Senator from Maryland (Mr. MATHIAS), who is the ranking Republican on the committee of conference, could not be here but asked me to say for him that he supports the adoption of the conference report and the motions made by the Senator from Wisconsin with respect to this legislation.

ORDER FOR THE RECOGNITION OF SENATOR HARRY F. BYRD, JR., FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS, CONSIDERATION OF S. 3219 AND H.R. 10612 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, Mr. HARRY F. BYRD, JR., be recognized for not to exceed 15 minutes; and that there then be a period for the transaction of routine morning business of not to exceed 10 minutes with statements limited therein to 5 minutes each; and that at the conclusion of routine morning business, the Senate resume consideration of the Clean Air Act, and at no later than 2 p.m. tomorrow the Senate resume consideration of the tax reform bill, the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Foreign Relations Committee be permitted to meet on July 28, concerning the foreign policy authority of the Senate with particular reference to treaty powers.

I wish to emphasize that this hearing is purely oversight in nature and will not result in the reporting of new legislation to the Senate this year.

Furthermore, I ask unanimous consent that the Subcommittee on General Legislation of the Committee on Armed Services be permitted to meet until no later than 9 a.m. on the subject of ship loans.

This request is being made inasmuch as witnesses were scheduled for 8 a.m. in the belief that the Senate would not be in session.

In view of these extenuating circumstances, permission is requested for this subcommittee to meet.

The PRESIDING OFFICER (Mr. STONE). Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, could I inquire of the distinguished majority whip, the request with respect to the Foreign Relations Committee, was that for purposes of a hearing only or was it for legislative purposes?

Mr. ROBERT C. BYRD. It is my understanding that the hearing is purely oversight in nature and will not result in the reporting of new legislation to the Senate this year.

Mr. GRIFFIN. With that further understanding, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 8 o'clock tomorrow morning.

After the two leaders or their designees have been recognized under the standing order, Mr. HARRY F. BYRD, JR., will be recognized for not to exceed 15 minutes. There will then be a period for the transaction of routine morning business of not to exceed 10 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the Senate will proceed to the consideration of the Clean Air Act. The pending question at that time will be on the adoption of the amendment by Senator RANDOLPH, No. 1798.

Rollcall votes will occur on amendments to the Clean Air Act tomorrow, and on motions in relation to the same, perhaps, and at no later than 2 p.m. the Senate will resume consideration of the unfinished business, the tax reform bill, with votes on amendments thereto occurring throughout the afternoon and into the evening.

ADJOURNMENT UNTIL 8 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 8 a.m. tomorrow.

The motion was agreed to; and at 6:44 p.m., the Senate adjourned until tomorrow, Wednesday, July 28, 1976, at 8 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, July 27, 1976*

The House met at 12 o'clock noon.

Father Roman E. Mishey, Holy Trinity Polish National Catholic Church, Cleveland, Ohio, offered the following prayer:

During the Bicentennial Year, we ask Thee, Almighty God, to stimulate a greater appreciation for the heritage of our country and to uplift our confidence in the future of America.

Although future is given by Thee, its shape depends on our creativity and responsibility. Help us to overcome our shortcomings and assist us in carrying on the ideals of the Founding Fathers.

May Thy servants, Members of this body, do what is right in their good conscience, and may America gain from their labors. Open their hearts for better understanding the needs of our Nation and its future generations. May we see that our future and the future of our children is not that which pleases us, but that which we know is right.

Good Lord, bless each Member of the House, their families, people whom they represent, and God, above all, in the beginning of the third century, bless America. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 7685. An act for the relief of Mildred N. Crumley.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13359. An act to authorize loan funds for the government of the Virgin Islands, and for other purposes.

FATHER ROMAN E. MISHEY

(Mr. JAMES V. STANTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES V. STANTON. Mr. Speaker, it is fitting in this our Bicentennial Year that Father Roman E. Mishey, who is the pastor of the Holy Trinity Polish National Catholic Church in Cleveland, Ohio, to offer a prayer for this country, because Father Mishey this year became a citizen of the United States, having been in the United States for the last 6 years. I think he represents more than anything else the spirit of the third century, that spirit that our forefathers forged and developed to create this great Nation.

I think Father Mishey hopes and aspires for this Nation to develop the potential that it has achieved in the last two centuries.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE A REPORT ON H.R. 14846, MILITARY CONSTRUCTION BILL, 1977

Mr. ICHORD. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tonight to file a report on H.R. 14846, the new military construction bill for 1977, just reported out of the Committee on Armed Services.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

"ORPHANS OF THE EXODUS"

(Mr. REES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. REES. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Andreyeva family.

The Jews of Lithuania have had more than their share of suffering in the 20th century. During the Nazi occupation, 1941–44, in the Second World War, the considerable Jewish population was largely exterminated. Of those that remain, there are many now determined to seek their freedom and security in Israel, the only country they hold to be their true homeland.

One such couple living in Vilnius, the capital of the Lithuanian Republic, is Liuba Andreyeva and her husband Aleksandr. They have repeatedly applied for exit visas and have repeatedly been refused. They long for the day when they will be reunited with their family in Israel.

In a letter from Israel, Liuba's mother wrote:

> HONORED FRIENDS: Accept much thanks and devotion for your great efforts to help unite children who are separated from their families.
>
> I hope that my mother's heart will be rejoiced with that feeling. My daughter, son-in-law and child are in Vilnius, Lithuania. For three and a half years they have requested permission to come to us. They received nine refusals. We also applied to the Minister of the Interior of Vilna. But all is without results. It is almost unreal to express our disappointment.
>
> We want to hope that thanks to your great efforts we will be able to rejoice with our children.
>
> With great appreciation.

THE REPUBLICAN VICE-PRESIDENTIAL NOMINEE

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. JOHN L. BURTON. Mr. Speaker, I am a little bit disappointed with the former great and glorious Governor of the State of California, when he sought a Vice-Presidential nominee, that he did not decide to pick myself, although I am not as liberal as his running mate.

I know the Governor. I know that he is a man of his word. I know his strong feelings against abortion, notwithstanding the fact that he signed the most liberal abortion bill in the country. I know he raised the sales taxes of the people of San Francisco from 4 cents to 6.5 cents. I know he raised the taxes of the people of California in amounts of $2 billion to $3 billion, including a sales tax on popcorn in movie theaters.

Notwithstanding that, I feel that he is really the Manchurian candidate. I feel that if he sought a balanced ticket, he could have chosen someone from our side of the aisle—although not as liberal—as his running mate, which would help achieve a balanced ticket and carry the South.

PERSONAL EXPLANATION

Mr. BAUMAN. Mr. Speaker, on yesterday I was absent during rollcalls Nos. 546 and 547 because of an appointment with the President of the United States at the White House.

Had I been present, I would have voted "yea" on rollcall No. 546, on H.R. 10133, final passage of the bill upgrading the position of Under Secretary of Agriculture, and "yea" on rollcall No. 547, the rule permitting debate on H.R. 13955, amending the Bretton Woods Agreement Act.

PROVIDING FOR AMENDMENT OF THE BRETTON WOODS AGREEMENTS ACT

Mr. REES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13955) to provide for amendment of the Bretton Woods Agreements Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. REES).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SEBELIUS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 396, nays 0, not voting 36, as follows:

[Roll No. 548]

YEAS—396

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—36

Ambro
Badillo
Beard, R.I.
Chisholm
Clay
Cochran
Dellums
Eckhardt
Esch
Evins, Tenn.
Fountain
Fraser
Green
Hébert
Helstoski
Henderson
Hinshaw
Howard
Howe
Jones, Tenn.
Landrum
Litton
O'Hara
Riegle
Hansen
Risenhoover
Staggers
Steelman
Steiger, Ariz.
Stratton
Stuckey
Symington
Thornton
Udall
Wiggins
Young, Alaska

Mr. CORMAN changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13955, with Mr. CHARLES H. WILSON of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. REES) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. J. WILLIAM STANTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. REES).

Mr. REES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at this time I would like to yield such time as he may consume to the very distinguished chairman of the Committee on Banking, Currency and Housing, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, today we consider H.R. 13955, to amend the Articles of Agreement of the International Monetary Fund—IMF. Representative REES, chairman of the Subcommittee on International Trade, Investment, and Monetary Policy of the House Committee on Banking, Currency and Housing, who has done such an informed and painstaking job, will explain the details of the legislation under consideration. I emphasize a few of its most salient aspects.

The amended IMF articles will permit member countries to choose individually whatever type of exchange rate regime they each prefer to adopt. If a particular member wants to state a par value in terms of SDR's, that is permissible. If a country wants to stabilize the external value of its currency with respect to another currency, or with respect to a group of currencies, that also is possible.

The United States has chosen neither of these options. Instead, this Government has decided to let the external value of the dollar be determined primarily by the interaction of private supply and demand in exchange markets. Official intervention in exchange markets by U.S. monetary authorities is to be confined to combating evident disorder in these markets.

The legislation before us provides that if the United States is to adopt a par value for the dollar, the Executive must first come to the Congress for authorization of such a step. I support the exchange rate arrangements specified in the proposed amendments to the IMF articles.

In addition to adopting a laissez-faire attitude toward the exchange rate preferences of member countries, the proposed amendments to the Fund articles include a step toward phasing out gold as a reserve asset held by the International Monetary Fund. The only amendment to the articles required to initiate this process is abolition of the offical price of gold. But in addition, the Fund has resolved to liquidate one-third of its gold holdings over the next 4 years. A consequence of phasing out gold as a reserve asset, it is hoped, will be to increase use by monetary authorities of special drawing rights, or "paper gold," created by the IMF.

Under the amended articles, the International Monetary Fund will assume expanded responsibilities for surveillance of the exchange rate policies and practices of member countries. Among the Fund's responsibilities will be to insure that member states do not manipulate their exchange rates to prevent balance-of-payments adjustment or to gain an unfair competitive advantage. One of the problems with the old system was that other countries tended to undervalue their currencies with respect to the dollar, and thus to promote their own exports and domestic employment to the disadvantage of the United States. If the IMF effectively discharges its responsibilities in the future, a repetition of this problem should not occur.

The Committee on Banking, Currency and Housing added two amendments to the legislation submitted to us by the Treasury. Both of these amendments I support as strengthening the proposed changes in the IMF articles.

One amendment eliminated from the Gold Reserve Act of 1934 the obsolete policy directive that the Secretary of the Treasury shall use the Exchange Stabilization Fund "for the purpose of stabilizing the exchange value of the dollar." Today the United States has no particular exchange rate target for the dollar, and no specific balance-of-payments objective. The language in the statute is a vestige of Bretton Woods fixed-rate ideology, and should be eliminated. No new policy goal is specified in the committee's amendment; instead, the Secretary of the Treasury is authorized to use the Exchange Stabilization Fund in a fashion "consistent with the U.S. obligations in the International Monetary Fund." This amendment has the support of the Treasury.

The second amendment relates to the role of Congress.

The profits from part of the gold sales that have been initiated by the IMF are being placed in a special trust to be used for the benefit of developing country members. Arrangements for the establishment of this trust fund, and the liquidation of one-third of Fund gold stocks, were concluded without adequate consultation with the Congress. Consequently, the second amendment requires the approval of the Congress for the establishment of any new or additional trust fund for the benefit of a segment of the Fund's membership. This amendment is intended to help insure that the Congress is fully consulted about any plans to liquidate the remainder of Fund gold, whatever the method of disposition, and particularly that we have an opportunity to express ourselves on the establishment of any facility benefiting particular members.

I have questioned the Treasury about its intentions regarding consultation with the Congress on any plans to dispose of the remaining 100 million ounces of Fund gold. Secretary Simon's initial response has been published in the record of the hearings of the Subcommittee on International Trade, Investment and Monetary Policy on H.R. 13955. I submit subsequent exchange between myself and the Secretary of the Treasury:

JUNE 11, 1976.

Hon. WILLIAM E. SIMON,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: Since some of the written questions submitted at the close of your testimony on June 2 before the Subcommittee on International Trade, Investment and Monetary Policy of the House Committee on Banking, Currency and Housing were raised on my behalf, let me thank you for thoughtful and responsive answers. The concerns underlying the third question relating to consultations with the Congress on disposition of the remaining 100 million ounces of gold that will be retained by the International Monetary Fund following current distributions were not explicitly detailed. Therefore, while your response is entirely satisfactory as far as it goes, I am still uncertain about your position regarding some of the implicit concerns that prompted me to raise the question initially. I hope that I shall not try your patience if I pursue the issue a bit further and request additional clarification.

Your answer concludes with the following commitment:

"We would, of course, keep the Congress fully informed of all sales of IMF gold whether 'extraordinary and special' or 'ordinary and general.'"

The distinction you draw in your response between "extraordinary and special", on the one hand, and "ordinary and general", on the other hand, uses of Fund gold is helpful. However, it does not quite get to the root of the equity issues that prompted my inquiry. The distribution of benefits among IMF members would differ markedly whether the remaining 100 million ounces of gold is sold in the market and the entire proceeds placed in the general accounts of the IMF, whether the full amount is "restituted" among the Fund membership in proportion to their quotas, or whether the 100 million ounces is sold in the market and a portion of the proceeds are placed in the Trust Fund or distributed among developing country members.

If sales for the general accounts or if restitution were under consideration and the Congress were not consulted about these "ordinary and general" uses of Fund gold, then I and my colleagues would not have an opportunity to register our opinions regarding the equity implications of such a decision to distribute remaining Fund gold stocks.

As you may recall, I have in previous correspondence expressed strong reservations about the equity impact of "restitution". In addition, in your November 1, 1975 letter to me you said, "The United States could certainly have accepted—indeed, would have preferred—a solution which did not call for a distribution of one-sixth of IMF gold to members in proportion of quotas, but this was not a practical approach." Can you reaffirm this predisposition of the Treasury against restitution?

Furthermore, can you assure me that once disbursement of the remaining 100 million ounces of IMF gold becomes a subject of active consideration, the Congress will have ample opportunity to consult with the Treasury and that I and my colleagues will be able to register our opinions regarding both the equity and other relevant implications of any contemplated IMF gold liquidation?

Sincerely,

HENRY S. REUSS.

THE SECRETARY OF THE TREASURY,
Washington, June 17, 1976.

Hon. HENRY S. REUSS,
Chairman, Committee on Banking, Currency and Housing, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of June 11, requesting further clarification of my views on questions relating to the disposition of IMF gold.

As I indicated in my letter of November 1, while the U.S. accepted restitution as part of a negotiated settlement, we did not propose restitution and would have preferred that it not be included in the agreement. Our views on restitution have not changed.

I understand your concerns about possible future restitution and your desire that there be an opportunity for members of Congress to register their views prior to decisions to restitute any part of the IMF's gold beyond that already agreed. Accordingly, I want to assure you that, in the event the U.S. were to consider agreeing to further restitution, you and your colleagues would be given ample opportunity to consult with the Treasury and register your views on the proposal.

Sincerely yours,

WILLIAM E. SIMON.

The amendments to the IMF articles of agreement that this legislation endorses are essential to modernize the International Monetary Fund. The rules of that institution must be brought into conformity with existing realities. Passing the legislation before us will help protect the external financial interests of the United States. It deserves the endorsement of every Member of the House.

Mr. REES. Mr. Chairman, H.R. 13955 is to amend the Bretton Woods Agreements Act. The Bretton Woods Agreements Act created the International Monetary Fund. This is a rather complex area because it is a very complex world. It might be best if I give the Members some background as to what the history is of the IMF.

In 1944 it was decided by the countries that were bringing World War II to an end that, in order to avoid the complete chaos in the international monetary system that existed before World War II, it would be necessary to set up an international monetary fund which would be an international agency. The duty of that international agency would be to try to bring order to the international monetary system. This was terribly important because if a country wished to foul up the international economic system unilaterally, it is not very hard to do. They can do this by manipulating their own currency or the currency of another country.

The Bretton Woods Act and the International Monetary Fund were tied up to with fixed currency system so at all times we would know exactly what the value of a currency was, and if a country got into very serious trouble, they could borrow from the International Monetary Fund. But in that case the International Monetary Fund would set down conditions as to what that country would have to do domestically in order to clean up their economic house. This worked very well. We had a fixed parity. The dollar was fixed to the price of gold. The price of gold was $35 an ounce; later it went to $41 an ounce; and the reserves in the International Monetary Fund were in gold, dollars, and pounds sterling.

But what happened was that as the

world economy started to recover, as we went into a very dynamic period of international expansion, we found that the International Monetary Fund could not keep up with us. Ten years ago at the World Bank-IMF meeting we created another reserve called "special drawing rights" that could have some relationship to the need for international liquidity for trade purposes. So here was another reserve asset. But still this did not work out for the United States because the U.S. dollar had no flexibility. The U.S. dollar was tied to the price of gold, and the U.S. dollar was also the major currency. So we had two pressures on the dollar. First, we had the pressure of the dollar in dealing with our domestic economy and, second, we had the pressure on the dollar caused by its role as the major international currency.

This got worse and worse. We had the Smithsonian Agreements to try to deal with this in 1971. Finally in 1973 the whole system of fixed rates blew up.

Let me tell the Members what the pressure was on the dollar. The dollar was an overpriced currency because it was tied into gold at $35 an ounce, and it was overvalued, which meant that our exports were very expensive and foreign imports were very inexpensive. As a result, our balance of payments started disintegrating, and we started moving into a recessionary period because the imports were coming in and not enough exports were going out.

It was estimated by the Brookings Institution that this probably cost the United States from 500,000 to 750,000 jobs because industries were closing down since they could not compete on the international market, and imports were hurting the domestic market.

In 1973 we floated the dollar, and immediately the price of the dollar went down. People were upset; they said that it was terrible that the price of the dollar was going down. But it is the best thing that ever happened to the dollar because our exports became cheaper and our imports became more expensive, and we now have a very strong, positive balance of payments in the United States, and I think our economy right now is very sound, especially in the international arena.

But the problem is that under the original IMF agreement, floating was not allowed. We could not float our currency. So since 1973 we have been acting in contravention of the rules and regulations of the International Monetary Fund. Our policy—and this has been the policy of the Committee on Banking, Currency and Housing, of both the majority and the minority—has been for floating rates. Floating rates, we feel, reflect a realistic market.

So we started having hearings last year. We worked very closely with Secretary Simon over at Treasury, and we backed up Secretary Simon and the administration for the agreements that we now have in this act. What we do is to legalize floating rates, and we have to do this at this time because we have a float now that is not regulated by the International Monetary Fund. When we have a situation where the float is not regulated, it means that a country can artificially keep the price of its currency down so that their exports are cheaper in order to compete unfairly against the exports of a country which is not manipulating its currency.

This is why we have to have this amending legislation and this is why we have to have this legislation now. The amendments to the IMF do quite a few things. We legalize the float and give the IMF the power to set criteria for the float. Gold no longer has an official standing in the IMF. We also in this act abolish the official price of gold and the tie-in of the dollar to gold. We increase the quotas of the members of the IMF by 30 percent. We have to expand these quotas because international trade has expanded and we continually have to expand quotas in the IMF to deal with increased volume in international trade.

The United States' voting share has dropped from 20.75 to 19.96 percent but we also changed the voting procedure in the IMF so that any major change in the Fund rules have to be voted on by at least 85 percent of the votes. This means that at all times the United States has a veto power. So we are safe. We have a veto power over all the major amendments to the IMF articles.

We also authorize the establishment of a Council that acts more or less as a board of directors. We have the same thing now which is called an interim committee, but it has not been structured within the IMF. What this bill does is to allow for the establishment of a Council if there is an 85-percent vote of the members.

What this bill does is desperately needed at the present time. Most of this bill reflects the policy of the U.S. Government. Our policy was accepted by the rest of the world in the Jamaica interim agreements in January of this year. We are the leaders and we are the richest country. We are the country that has taken the responsibility to develop the float. We must have this legislation so we have a controlled float and so that we have some order in international markets. It is absolutely necessary.

These are the most important amendments to the articles of the agreements since the original Bretton Woods agreements in 1944.

This legislation was passed by only one dissenting vote in the Banking, Currency and Housing Committee. We have worked on this bill in a bipartisan manner. I think those of us on this subcommittee and the full committee recognize how important this legislation is and we would urge an "aye" vote.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, I commend the gentleman on a very succinct statement on a very complex issue. I only wish more people were here to listen to those remarks.

Second, I associate myself with the remarks of the gentleman and also with the remarks the gentleman from Ohio (Mr. J. WILLIAM STANTON) has made.

Mr. REES. I thank the gentleman.

Mr. J. WILLIAM STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Chairman, I am sure it is fully acknowledged by all that we are back here today because the legislation we refer to as the Bretton Woods Agreements came up under a suspension of the rules and failed by a handful of votes of getting the two-thirds majority. I believe many of the Members to whom I have spoken have expressed the fact that they voted "no" at that time basically out of a lack of knowledge and I think basically I would share the blame with those who questioned whether it was the type of legislation that should have been brought up under a suspension of the rules. But I would say in fairness to the leadership on both sides of the aisle, who concurred in this opinion, that as the gentleman from California has so well put it, during the debate on this legislation it passed our committee by a 24 or 25 to 1 vote. Amendments were offered and an amendment was accepted. There were no more amendments pending. The bill was voted out. It passed out of our subcommittee unanimously.

On the other hand, it probably should not have been brought up under suspension, for the simple reason that it is very important legislation. These are the first major legislative changes to the International Monetary Fund Agreements, since the gentleman from California (Mr. REES) pointed out that Bretton Woods was first assembled in 1944. Over the course of the last few months, specifically, and over the course of the years since 1972, an attempt has been made to solve the problem of the floating exchange rates. What we do today, number one, basically and fundamentally, is to ratify the basic agreements that the countries have had throughout the world since the collapse of the fixed exchange rate in 1971.

Second, what we do and this, I think, is of interest, because there will be an amendment in this regard, there is an increase in the amount of assets in the International Monetary Fund from the amount of $29 billion to $39 billion in special drawing rights. This has occurred due to the normal process of a review by the IMF every 5 years of their assets. This is the sixth review.

It was decided at this time, due to the increase in the capitalization, specifically of the oil-rich countries, that an increase was warranted and they decided on a 33-percent increase to the funds, the majority of which funds will come, of course, from these oil-rich countries.

Mr. Chairman, that is basically the extent of it. The majority of the bill, as we all recognize, will be the subject matter of the amendment process, with emphasis on the formation of a council that the gentleman from California (Mr. REES) has referred to, which we will be glad to face up to at that time.

Once again, the other amendments, to my knowledge, are two-fold, either to the extent once again of the involvement of the gold question before us, and second, an attempt to politicize the fund by setting certain restrictions.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, can the gentleman give us some indication, if this was not successful in the legislative process, that the Congress rejected the IMF proposals, and as the gentleman knows the repercussions and in the application of the difference between a suspension and the normal process; if the Congress were unable to pass this agreement, what ramifications would the gentleman anticipate in the international money markets?

Mr. J. WILLIAM STANTON. First, let me say, the reaction I received by personal telephone was that it was misinterpreted. Word went out that Congress had turned down this legislation, where in reality we lost a two-thirds vote by a handful.

I hate to think of the consequences. First of all, the emphasis on the International Monetary Fund has come from the Treasury of the United States. We stand as the one country of the world that has veto power.

This is a package of amendments that were put together with great thought and great detail and gained the unanimous support of the other countries of the world. We were in the leadership and now for Congress to turn this down, I would hate to think of the economic chaos involved.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield further?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, will the gentleman anticipate the reaction of other countries in terms of their will to ratify the agreement if the United States rejects it?

Mr. J. WILLIAM STANTON. There is no question if the United States turns it down, the other countries will have no reason to accept the agreement. I do not anticipate that.

Mr. STEPHENS. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Georgia.

Mr. STEPHENS. Mr. Chairman, I agree with the need for us to ratify with this opportunity we have now.

Mr. Chairman, I would like to ask this question of the gentleman from Ohio (Mr. J. William Stanton). Along the line in the debate yesterday someone said, "Why is there any hurry about this?"

Well, there is not any real precipitous hurry about it, but is it not true that the International Monetary Fund had a record of leading the world; would it not be important to make some decision in that month before they convene?

Mr. J. WILLIAM STANTON. The gentleman is absolutely correct. It would be my anticipation that it will pass this House today. Certainly, it will pass the Senate, I would presume definitely before the recess, no later than the latter part of August and we will have accomplished our mission and the majority of the countries will soon follow suit.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield further?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, I think it would be important to place in the Record the discussion with Dr. Burns this morning in terms of his views of the report.

Mr. J. WILLIAM STANTON. If the gentleman refers to the appearance of Dr. Burns before our committee, House Concurrent Resolution 133, in which he emphasized that it is a question of the need, while we were then at that time concentrating on domestic monetary policy, the need for international monetary policy and cooperation is specific, and of course this purpose is absolutely important.

Mr. TSONGAS. I believe his exact language was that it was a good bill and should be passed.

Mr. J. WILLIAM STANTON. That is right.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I think the gentleman made a very significant statement which, perhaps, deserves some emphasis. That was, that this bill embodies international agreements which were arrived at because of American leadership in the field. What we are doing now is putting in legislative form the results of our leadership in Rome, at the Smithsonian Conference, in Rambouillet and in Jamaica, in which agreement to the United States position in almost every case prevailed pretty well. The rest of the world was willing to follow our leadership. We have led the way, and now this bill before us simply reaffirms those agreements. Is that the case?

Mr. J. WILLIAM STANTON. The gentleman is absolutely correct. I appreciate his pointing out the necessity for this cooperation, and further pointing out that it does not come easy. There are some countries in this world which had a definite viewpoint which was contrary to what the Department of the Treasury and our Members think was in the best interests of the United States.

It took months and months of travel. I personally know, and it was reported to me, that an assistant secretary of the Treasury made 18 round trips across the pond in order to hammer out an agreement protecting the interests of the United States, and at the same time further the interests of the international monetary system.

Mr. FRENZEL. My understanding is exactly the same as the gentleman. The one country which has the most to gain from all of these agreements since the new economic policy of 1972, when we discovered our enormous imbalances of trade were growing, is the United States, and all of the consultations that have followed have resulted in agreements that have been favorable to us. As a result of these agreements, our balance of payments have turned around, until we got into oil difficulties, and have been quite favorable.

As a matter of fact, going into a flexible monetary situation internationally has been most responsible for our ability to trade in a balanced fashion with our trading partners. To turn down this particular bill would simply be to put us back into a situation where we can no longer compete well in international trade.

I thank the gentleman for his statement and for the generous use of his time.

Mr. J. WILLIAM STANTON. I appreciate the gentleman's contribution.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like to associate myself with the remarks of the gentleman, and also to compliment him on his statement.

Mr. J. WILLIAM STANTON. Mr. Chairman, I yield 7 minutes to the gentleman from Texas (Mr. Paul).

Mr. PAUL. Mr. Chairman, I feel that I am taking a lonely position here today. I was that lonely voice on the Committee on Banking, Currency and Housing which voted against this bill. I did not do this carelessly. I did this with deep thought, long hours of study, and with deep conviction. Even though I feel lonely here, I am also content to be here because I have a conviction and total belief that economic truth is on my side and not with the trend of the times with which we are living today.

This bill symbolizes and legitimatizes inflation; inflation not only on a national level, but at an international level. This is the reason I oppose this bill and will not be a part of it. I think this is a solemn occasion—for we are here today to bury the Bretton Woods agreement, the great Bretton Woods agreement that came about in 1944.

The whole reason why the Bretton Woods agreement lasted so long is the fact that it was based on the American dollar, backed up with $27 billion in gold. The Bretton Woods agreement rolled over and died the day we closed the gold window in 1971, when our gold reserves dropped down to $10 billion. This point should not be ignored. Possibly we should take a moment of silence for those two individuals who concocted this Bretton Woods agreement, John Maynard Keynes and Harry Dexter White. Some would say they would be disappointed to see the disintegration of this agreement. However, there are others who have proposed some of the ulterior motives might have been such that they would not have been disappointed. I think it is important that we bury the Bretton Woods agreement, however. There were many who, back at that time in 1944, said that it would not work, could not work, and that it was expediency that prompted its creation. I think anything that has been dead for 5 years should be buried. Unfortunately, it is the Congress that is asked to drive the last nail into the coffin and bury this agreement.

However, I feel certain that the bill will pass and that there will be no strong objection to it. But I do think the administration, in the policies that brought this about, should be responsible for it and that we as the Congress should not be the ones who have sealed the tomb of the Bretton Woods agreement.

We have been living with an international monetary system for the past 5 years that can be described only by the word "chaotic." Our policies have been those of expediency only. In 1944, I would say it was expediency that brought us that agreement. Certainly in 1971, when the Smithsonian agreement was brought up, it was nothing more than expediency. Our administration and President said at that time that "this is the greatest monetary agreement in the history of the world." It lasted a little over 12 months. In 1973, we went into a period of floating rates. During this time that we were supposed to have improvement on stability, we had such fluctuations that our currency sometimes fluctuated over 20 percent of its value.

Those who claim that the Bretton Woods agreement was a successful policy during its lifetime, have other factors to consider. During this time there were over 500 devaluations in 100 different countries, demonstrating the fact that this was not a truly effective international monetary policy.

I think, at the same time, we ought to bury the International Monetary Fund, as well. This is a step that I am quite aware that the economic mood of the country is not ready for, but the truth is that the International Monetary Fund as a monetary functioning agency does not exist. We are seeing a transformation, we are creating something new and different. It is not an agency that will function as a part of our monetary policy.

I think this bill is very important. I want to point out though, that it is very weak. I do not think it will be a monument to our chairman of the subcommittee in his retirement. I think in 2 or 3 years he will realize all of these agreements will not be functioning in the true sense of the word.

Along with the International Monetary Fund, I would like to see us throw in the SDR, bury the SDR, put it in its coffin and get rid of it. The SDR is nothing more than a joke. Some in Congress do not even know what it is. I think many do not know what the SDR is, nor do they know how it is supposed to serve as the monetary reserve for an international currency. It never has functioned as a reserve currency. I do not believe it ever will. I think it only takes a child to know the difference between a gold coin and a piece of worthless paper. I believe that this idea of the SDR, when they call it paper gold and expect it to function as reserve currency, is a joke. It is going to function as a reserve currency when our wives permit us to make earrings out of this paper.

I think you are trying to defy 5,000 years of recorded history. Fiat money does not work. Sound money, honest currency, commodity money, is the only money that ever worked in history. We should realize this and not try to kid ourselves and cover up for inflation.

We now have a situation where we have international inflation at a dangerously high level. I think that floating is just a coverup for the right and the privilege of the politicians to spend and inflate in their respective countries and destroy the money, and along with that we are destroying the middle class of this society and we are destroying the poor people. Until we understand what inflation is and do something about it, all of this type of legislation will do not one bit of good. I urge the defeat of this bill.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, comparing fixed exchange rates with floating exchange rates, in which of the two systems would the gentleman say the free market forces have the most relevancy?

Mr. PAUL. Under the present circumstances where there is no honest money, the only way for money to function is in the system where rates are floating back and forth. But this is like throwing out the yardstick. With sound money, we would have a yardstick, but there is no yardstick now.

Nobody who is used to floating rates will argue in favor of 50 different currencies in this country floating against one another. Can you imagine the economic calamity that would occur under those circumstances? Nobody argues for that. And to argue for floating exchange rates is to argue against economic facts. We cannot have 50 different currencies in this country, and that is the same way it is in an economically close-knit world.

Mr. REES. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, the Bretton Woods agreement is dead, and these proposed amendments are only a belated funeral ceremony. In point of fact, international monetary operations have taken place on an informal, extralegal basis for nearly 5 years. The amendments to the agreement that are contemplated by this bill by and large merely ratify and give a legal basis to monetary operations as they have developed since the final collapse of the Bretton Woods monetary system back in 1971.

But our responsibility is not merely to ratify reality; our responsibility is to determine whether that reality best fits our national interests and needs. I do not believe that the monetary agreement negotiated at Jamaica, and which would be ratified by this bill, is either so urgent that we need approve it today, nor so good that its defeat would cause world upheaval. We can wait to act; we can exercise our clear responsibility to provide some leadership; and we can decide for ourselves what is best for this country.

I intend to offer a couple of amendments to this bill, and will do so at the proper time. I rise now to discuss the bill as a whole, and to offer some observations about its concepts.

Those of us who have an appreciation of history, and I hope that this includes all of us, know that one of the most perplexing and persistent of all political issues is the question of money. What is money? Through all our history, Congress has answered the question in different ways. We have had paper issues, we have had private banknotes, we have had specie, and we have had vast, emotional debates on whether or not silver should be freely coined. We have had greenbacks and gold eagles; and always the issue has been: What makes money worth anything?

Some say that money must have an intrinsic value—must be issued only if it is completely supported by something presumably solid, like gold or silver. Some say that money reflects only the national wealth, and needs no backing other than the people's faith, provided that it is issued in a prudent manner. But the Constitution says, and I say, that Congress has the responsibility to establish our national currency and set the value of it. And that is what this bill is really all about.

We can talk in arid terms about technical agreements, and we can offer one monetary theory or another. But in the end, this bill really addresses the fundamental question of what is money, and how its value should be determined. We would do well to ask ourselves that fundamental question, and not lose sight of it in the midst of all the technical discussion that we will be hearing.

The Bretton Woods system depended on the U.S. dollar, which was in 1944 the only currency in the world with fundamental strength. That strength was insured by our guarantee to settle dollar debts in dollars or gold. In other words, the dollar was said to be as good as gold, even though the popular conception of a gold-backed currency was less than real. Our domestic dollar could be issued freely, regardless of the gold stock; but even so, foreign claims on the dollar could be settled in gold, which acted as a kind of surety against its value; the value of gold remained unchanged, and the value of the dollar remained unchanged. All other currencies were set and maintained at specific values to the dollar.

But this situation was good only as long as the United States remained the world's only great economic power. The dollar was money, not only here at home, but worldwide as well. It was the only universally accepted money. But conditions changed; other countries grew stronger, financed by our contributions and by the liberal trade policies set after World War II. Eventually, the world had more dollars than it wanted. That is what caused the breakup of the Bretton Woods system.

The dollar is still money, but no one can claim debts in the form of gold. In other words, the final guarantee of monetary values set up at Bretton Woods, namely gold, no longer is part of the system. The dollar is still money, but it has no fixed value in terms of gold, and no other currency has a fixed value in dollars. Currencies today are much like any other commodity; their value depends on what faith traders have in the economies that they reflect. The dollar, as it happens, is having a fine year, and its value is high. The French franc and the British pound and the Italian lira are all having a horrible year, a reflection of the general weakness of those nations' economies.

All of this is very well and good. Our dollar is not tied to the anachronism of gold, and in that respect is now as free as every other currency in the world. We need not set and maintain the price of gold; we need not maintain the dollar at a special value to the pound, the franc or anything else. Our trade need not get out of kilter because of currency misalinement, as it did in 1969 and later years.

And yet we still have not satisfactorily answered the fundamental question of what money really is. We think we know, but there are a great many who have doubts, a great many who press the case for restoring gold to its throne. Are we somehow playing into their hands?

Even though it is banished from the throne, gold is still very much present in government vaults; the United States owns a great deal of it, France wants to acquire more of it—and indeed buys whenever it can, even to the extent of snatching a ton or so a few weeks back—and the Swiss absolutely believe in it. The fact is that the IMF and every other monetary authority of any significance owns a pile of gold. This gold is not money and not part of the monetary system, but there it sits, and no one knows quite what to do with it.

The bill that we are voting on today proposes to get rid of a pile of IMF gold, and use the proceeds to benefit poor countries, who need all the help they can get. The IMF has already had two sales of gold, without benefit of any formal amendment to its charter, so in that respect it seems that their program will go forward whether or not it is ratified by this bill and the agreement it represents. But aside from that point, aside from the fact that the IMF is proceeding without much regard to its charter or our law, the curious thing is that this gold disposal operation is not only difficult, but working at crosspurposes.

Those who know anything about the gold market understand that it is a very thin market; small quantities of sales can have a tremendous effect on the price. The first IMF sale of gold—there are to be 16 of them—had little effect on gold prices. The second sale, however, sent the market into a panic, and drove gold to a 3-year low, a price far below what had bedazzled the eyes of gold bugs 2 years ago.

Now if the IMF is going to raise a lot of money for poor countries, it has to realize a good price for its gold. But if the market is thin and can be broken only after two sales, the poor countries are going to get less than they bargained for. In other words, if the IMF is going to smash the gold bugs once and for all, its best interest lies in letting the market follow its course—down, down, and further down, with each succeeding sale. And even after all that is done, the IMF would still have two-thirds of its gold chips in hand, ready to sell. It ought to be enough to convince any gold bug that times are not very promising.

But if the IMF is going to do its poor clients any good, it has got to get a good price for all that gold. Their interests lie in keeping the price up, not breaking it. And besides that, the IMF must be a little bemused that the French franc keeps falling along with gold, which might explain why that country—aside from its attachment to gold—bought so much of it, and why the IMF chose to wink at that, even though governments are not supposed to be buying the stuff.

In short, and in summary, the IMF is trying to serve two diametrically opposed interests in its gold policy—its own desire to eliminate gold as a reserve asset, which means selling it off and probably causing its price to tumble—and its other interest to get some ready cash for poor countries, which requires keeping the price high. If it keeps the price high, the IMF keeps gold in the system; if not, it alienates Third World countries.

In other words, the fundamental question about gold remains unresolved—it is neither part of the monetary system nor is it banished. This agreement we are being called upon to ratify simply continues this unhappy and unsettled state of affairs; it endorses an operation that is working at crosspurposes.

I have for years believed that the United States should exercise the strongest possible leadership toward fundamental reform of the international monetary system. This has unfortunately not happened, and the agreement we are asked to approve in this bill is a reflection of that weak and inadequate leadership. At a time when we have been in sore need of clear and determined leadership from our Government, we have had a Secretary of Treasury who has been more concerned with scooping the Secretary of State than with the complex and unglamorous work of negotiating monetary reform. At a higher level, the administration of our Government has been set adrift by the criminal default of Richard Nixon and the political weakness of his successor, who seems hardly able to command even the loyalty of his own party, let alone gain the confidence of the Nation, or control over his departmental appointees.

This bill does not represent a good agreement. It does not reflect any fundamental change, any true reformation, of the international monetary system—and yet that is precisely what is needed. The fundamental issues have yet to be addressed or resolved. There is no way to avoid this, sooner or later. We would speed the process by rejecting this agreement and insisting upon one that does address the basic issues, one that does resolve the problems, one that does make sense and is not working against itself. I recommend that we vote no, and insist that the United States seek a real agreement on monetary reform, not merely a ratification of extralegal practices.

Mr. REES. Mr. Chairman, I have no further requests for time.

If the minority has no further requests for time, I would like to request that the Clerk commence the reading of the bill.

Mr. J. WILLIAM STANTON. Mr. Chairman, I have no further requests for time.

Mr. FRENZEL. Mr. Chairman, I rise in support of H.R. 13955, the amendment of the Bretton Woods agreement. This bill authorizes U.S. acceptance of certain amendments to the Articles of Agreement of the International Monetary Fund—IMF—and of an increase in the U.S. quota in the Fund.

As the world economy continues to change and present new challenges to all nations, international structures and policies become outdated and must be revised. In the area of international monetary affairs, the IMF Board of Governors and the member countries initiated negotiations in 1972 and finally, in January of this year, approved several amendments to the IMF's policies on exchange rates, special drawing rights—SDR—and the role of gold in the international money market. Many of these proposed changes in the IMF's structure and operating procedures, which are before us today in H.R. 13955, are already essentially in effect, and only require formal U.S. approval to become codified.

One of the essential amendments to the IMF Articles of Agreement is a new article 4. Under existing article 4, each currency is given a "par value" in terms of gold, upon which a basically fixed exchange rate is established. However, since 1973, in response to changes in the international economic situation, these exchange rates have been allowed to float. The recent switch from fixed to floating exchange rates has been not only sensible, but essential in order to maintain stability in the international monetary market and to avoid the possibility of undesirable restrictions on trade.

The proposed change in article 4 merely legitimizes the current use of floating exchange rates within the IMF. At the same time, each member retains the right to adopt an exchange rate policy of its choice, so long as the country meets a general commitment to promote economic and price stability and to avoid the manipulation of exchange rates for competitive advantage. In other words, the new article 4 revises the basic framework for calculating exchange rates by legitimizing floating exchange rates and allowing for flexibility in making future changes in the exchange rate system.

Perhaps the most important change contained in H.R. 13955 is the abolition of the IMF's official price of gold and the termination of the requirement that part of each member's quota in the Fund be paid in gold.

Given the present international monetary system, the use of gold as the major reserve component and the standard of convertibility is no longer viable. Special drawing rights—STR—have been accepted as the most reasonable reserve asset to replace gold. Apart from the present amendments which we are considering, the IMF has decided to reduce its gold reserves by selling one-sixth of them to IMF members at the current price of 35 SDR per ounce—about $42—and another one-sixth at public auctions. A special trust fund, which will be used to make loans to lesser developed nations with balance-of-payments problems, will be set up from the profits of these public auctions.

The amendments we are now considering in H.R. 13955 will allow the IMF to determine how to dispose of the remaining gold reserves. All such decisions will be subject to a U.S. veto, if necessary, since an 85-percent majority vote will be required before any decision is adopted.

The final major change contained in H.R. 13955 is an increase in the U.S. quota in the IMF of 1.705 billion SDR, or about $2 billion. Since the U.S. Treasury funds which are deposited in the IMF are always subject to withdrawal under IMF rules, the proposed increase in the U.S. quota does not represent a budgetary outlay which requires an additional appropriation, but rather merely an exchange of assets. Furthermore, although the U.S. share of the voting power in the IMF will simultaneously decrease from 20.75 to 19.96 percent, the United States will maintain its effective veto power because the vote required for passage of all basic decisions will be increased from 80 to 85 percent.

The proposed changes in the international monetary system are consistent with the U.S. goals of promoting a healthy world economy and preventing any unnecessary restrictions to trade. I strongly encourage my colleagues to vote to approve these amendments to the IMF's Articles of Agreement by voting in favor of H.R. 13955.

Mr. HANNAFORD. Mr. Chairman, when the International Monetary Fund was established in 1944, its structure was created to cope with a world not only of different nations but of different problems. This structure has proved inadequate to deal with the stresses and strains of the monetary fluctuations and international payments imbalances of the 1960's and 1970's.

The bill we are considering today is the result of recommended changes to the Bretton Woods agreements proposed by the Board of Governors of the International Monetary Fund. Since the Bretton Woods agreement was signed in 1944, the flow of international trade has increased more than 1,000 percent. The same institutions cannot continue to serve the world of 1976 as served in 1944 in the face of this torrent of change. Fixed rates of exchange are simply no longer practical in today's world, and the American businessman is suffering because it puts him at a competitive disadvantage with exporters from other countries. The bill also protects U.S. interests in voting strength, since major decisions such as the disposition of the IMF gold holdings require an 85-percent majority vote and the United States casts 20 percent of the vote.

The IMF has proved to be an instrument for achieving world monetary stability. I urge my colleagues to support this bill to permit the IMF to make these necessary operational changes.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286–286k–2) is amended by adding at the end thereof the following new sections:

"SEC. 24. The United States Governor of the Fund is authorized to accept the amendments to the Articles of Agreement of the Fund approved in resolution numbered 31–4 of the Board of Governors of the Fund.

"SEC. 25. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 1,705 million Special Drawing Rights.".

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: On page 2, line 4, strike out the closing quotation marks and the period that follows them.

On page 2 insert immediately after line 4 the following:

"SEC. 26. The President shall instruct the United States Executive Director of the International Monetary Fund to vote against any loan or other utilization of the funds of the International Monetary Fund for the benefit of Laos, Cambodia, or Vietnam, unless these countries are providing the United States with a full accounting for American personnel, both military and civilian, who remain unaccounted for in such countries.".

PARLIAMENTARY INQUIRY

Mr. GONZALEZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GONZALEZ. Mr. Chairman, I have two amendments to this particular section. I would like to know whether a motion asking unanimous consent in order that my amendments be presented seriatim in one-two order is proper.

The CHAIRMAN. The gentleman from Texas (Mr. GONZALEZ) has already offered the first amendment, and that is pending. The gentleman can then offer his second amendment at such time as the committee disposes, one way or the other, of the first amendment.

Mr. GONZALEZ. Mr. Chairman, it has been over 3 years since the Paris Peace Agreement was signed by the United States and there was great rejoicing across the land. A very unpopular war had come to an end, and our prisoners of war were released to a homecoming unprecedented in our Nation's history. But after the excitement had died down we found we could not close our books on our actions in Southeast Asia. There were still many men unaccounted for and many wives, children, and parents were left without any further knowledge of their loved ones.

Today we are still trying to obtain an accounting of these men, and through the efforts of the Select Committee for Missing in Action in Southeast Asia, which was set up by Congress and of which I am a member, we have made some progress; but the road has been difficult.

Since the committee's inception 8 months ago we have held numerous sessions and talked with over 30 witnesses. We have met with President Ford, Secretary Kissinger, and with top-level Indochinese officials in Paris, Hanoi, and Vientiane. We have worked with the National League of Families and the Voices in Vital America, VIVA, as well as with family members and other interest groups. And the staff has done a herculean job of trying to obtain as much information as possible to help the committee with its work.

In March of this year we were finally successful in getting the administration to move through the Department of State to start talks with the North Vientnamese in Paris in order to obtain the accountings we are seeking. At this point there have been several communications but they have not led to any face to face meetings as yet.

I believe that our Nation must use every vehicle available to obtain an accounting of our men and today I am proposing an amendment to the bill which provides for amendments to the Bretton Woods Agreements Act. Under my amendment the Executive Director of the International Monetary Fund would have to vote against any loan or other utilization of the funds of the IMF for the benefit of Laos, Cambodia or Vietnam until they are providing us with an accounting of our missing men, both military or civilian. I realize that this vote alone might not prevent these countries from participating in the fund, but it is a means for the United States to protest the inhumane position being taken by these countries by not providing the United States with the information that we know exists on our missing men.

Our Government has an obligation to those families to get an accounting and we should be willing to use every reasonable means possible to live up to this obligation. Our Nation asked these men to go to war for a cause which our Government believed in and provided money for, and Congress should be willing to do what we can to get the information we know is available on our missing men.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield for a question at this point?

Mr. GONZALEZ. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. The intent of the gentleman's amendment is certainly laudatory but I have some concern as to whether or not this amendment might indeed slow down the work being done by the select committee. By the gentleman's own admission, the committee's work has been frustrating and that it is a slow process. Is it possible that the gentleman's amendment might psychologically have the impact of engendering greater resistance on the part of those whose cooperation we are seeking, and therefore, slow down the process and deny us information that all of us want?

Mr. GONZALEZ. On the contrary, no.

The CHAIRMAN. The time of the gentleman has expired.

(On the request of Mr. MITCHELL of Maryland, and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, in reply to the inquiry of the gentleman from Maryland, let me say that the answer is no, quite to the contrary. They have negotiated only when they have had something they want handled for it. There is no question but that these countries are trying to get into the IMF now. That is, the old regimes—South Vietnam, the old Cambodian regime, and Laos—did belong.

The question is shall we sit idly by as a nation while a very elemental fact of social intercourse among civilized nations is overlooked as a matter of honor on the only basis that we can request. This is a leverage point that we can exercise and continue to exercise. We have done it in other similar appropriation bills for some of the international banking institutions. I see no reason why we should not do it in this particular case where we can use one of the few levers yet left for the United States to resort to.

Mr. MITCHELL of Maryland. I thank the gentleman for his impassioned reply. I am not at all sure that I am in solid agreement with him on this matter.

Mr. GONZALEZ. I think if the gentleman would recognize that this is born and bred of the experience in the ad hoc committee or the Select Committee on the Missing in Action, and has the approval of all of the organizations that have been involved in this effort that I know of, he might feel differently.

By resolution just last week the national organization adopted a resolution seconding this amendment to this particular measure at this time. If we do not as a nation use our might and our main in defense of our honor, we cannot be respected.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. TSONGAS, and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. I thank the gentleman for yielding.

Will the gentleman comment on this: If, for example, the Arab States look at this as a precedent and say that their contributions to the IMF would be conditional upon the following, that any country which recognized Israel or had any dealings with Israel would not be eligible for funding, would the gentleman support that kind of action?

Mr. GONZALEZ. Apparently the gentleman has failed to study the wording of my amendment. My amendment would in no way condition; it would be merely a unilateral instruction to our representative, our Governor in the Fund, as to where to withhold and where to grant his vote. I see nothing to compare this to an attempt on the part of the Arab nations to restrict the activity of the Fund itself.

Mr. TSONGAS. If the gentleman would yield further, we do have a veto power.

Mr. GONZALEZ. No, we do not. I do not agree with the gentleman in that respect. The gentleman, I think, is fundamentally in error there. We do not quite have a veto power.

All we can do, and properly within the agreement in this concert of nations to join this Fund, is to instruct our representative on that Fund. Otherwise there is no point in having a representative. We are not going beyond that. We are not saying we are not going as a matter of law to join the agreement unless something happens. We are saying that in the event that the agreements are provided and accepted as written, we will ask our representative to withhold as long as there is this continual denial. We are not shutting the door. The wording here is "are providing." We are not saying, "have provided."

The CHAIRMAN. The time of the gentleman has expired.

Mr. REES. Mr. Chairman, I rise in opposition to this amendment not because I am unsympathetic to those families who have loved ones that have not been accounted for since the very tragic Vietnam war. But I would not like to amend the IMF with political amendments. The International Monetary Fund since 1954 has been an international economic agency with only economic responsibilities.

Under the articles of the Fund—article 5, section 3—the only criteria the Fund can use in determining whether a member may draw from the IMF are the economic eligibility criteria. Once Congress makes the vote of the United States contingent on political preconditions—and remember the vote of the United States can kill major IMF change because we do have that veto power—then we are changing the whole nature of the International Monetary Fund and we threaten the ability of the Fund to deal with the economic problems of all of the countries that are members of the Fund.

I do not think that the new governments of Laos, Cambodia, and Vietnam even know what the International Monetary Fund is. Basically the Communist economies are not members of the International Fund because the value they attach to their currency is totally arbitrary. The ruble has a pegged price that has no real relationship to the value of the hard western currencies such as the dollar or the mark. The only Communist country which I can think of that is a member is Yugoslavia, and they have a somewhat mixed economy. The Communist economies do not want to be members of the Fund because they would have to open their books to the IMF and fix a realistic value to their currency.

The IMF is an agency that looks at the economics of the country. Let us say a country has economic difficulties and they want to draw on the Fund. When they get into the second tranche the Fund says: "Look, you have to cut down on your domestic expenditures and stop importing so much." This is what the Fund does, and it is on these conditions the loan is made. It is to provide that discipline to those economies and give those economies the requirement to stabilize their economic situation that is the sole purpose of the Fund. This is the purpose of the IMF and I think it has done an excellent job.

But once we try to politicize it and say we have to deal first with the situation of the prisoners in Southeast Asia or other difficult political issues before they get the loan, then we will be voting in contravention of the articles of the IMF. This is solely an economic institution. We have already done a great deal on this floor to address the problems of our missing service people in Vietnam. We have amended the foreign aid bill and have said no foreign aid is to go to Laos or Cambodia or Vietnam until there is some accountability. We have amended the appropriation bill for the Asian Development Bank so that there will be no loans to these countries until there is this accountability.

But please, if we want to protect the sanctity of the IMF, then the rules of the Fund as it now exists must be recognized and we must keep it purely as an economic agency dealing with the state of the world's economies, so please do not accept this amendment.

Mr. J. WILLIAM STANTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, a close reading of the amendment would indicate one additional point besides what the chairman has made. First of all, this amendment would politicize the IMF. This amendment which would deny aid to Cambodia and Vietnam and Laos which I have voted for continually within the appropriation processes of our own Congress. But when we read this amendment, we must keep in mind there are 128 countries involved in the IMF who have contributed their funds to the IMF. When we consider that the amendment says we shall instruct the American director to vote against any utilization of the funds of the IMF for the benefit of Laos or Cambodia or Vietnam, I say to the author of the amendment, that he is denying to those countries the use of the money that they have contributed to this Fund. We must remember we are dealing with 128 countries and we are asking our representative to vote against the use of the funds those countries have contributed. These are funds the countries have already contributed, and the gentleman's amendment is telling this Congress we should ask the international body, despite the fact that those countries have put up some of their own money, to vote against the utilization of those funds.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, the gentleman who preceded the gentleman from Ohio, the chairman of the subcommittee, the gentleman from California (Mr. REES), has stated that the Communists are not interested in this arrangement.

The gentleman from Ohio is saying quite the contrary. The gentleman from

Ohio is saying that we are denying these countries what is rightfully theirs. That is not at all a germane question. That is not what we are doing at all. There is nothing political about the amendment. It was the questions that were raised as a result of the approval of these amendments. We are going to have to add close to $2 billion of our credit to the fund. Is their anything political about that?

Mr. J. WILLIAM STANTON. Mr. Chairman, let me say to the gentleman from Texas, the gentleman misunderstood the question. What the gentleman is doing, and the point I am making is that the 128 countries who are members of the IMF, these countries, Communist or non-Communist, whatever they are, have contributed.

Mr. GONZALEZ. That is right.

Mr. J. WILLIAM STANTON. And for the United States to say they cannot utilize these funds just absolutely does not make sense.

Mr. GONZALEZ. This amendment is an amendment to our representative. We are instructing our representative.

Mr. J. WILLIAM STANTON. What is wrong with that is we are doing it to the State Department in the utilization of our funds to that particular country. It is a difference of absolutely night and day, besides the fact they have contributed to those funds.

Mr. Chairman, I just cannot see the point. I honor the heart of the gentleman from Texas. Certainly we all want accountability for prisoners of war. The gentleman cannot tell me that the gentleman wants them any more than I do, for sure; but I cannot see the particular point where it is going to help out in one particular case.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield further?

Mr. J. WILLIAM STANTON. I am happy to yield.

Mr. GONZALEZ. The gentleman refers to a reading of this amendment. I cannot help but think that any normal interpretation of the phrase and the phraseology of this amendment would lead to any conclusion other than that we in the Congress are saying to our representatives, our representative, the American Governor in the Fund, under what conditions this will be with respect to three nations, Cambodia, Vietnam, and Laos, that is all.

Mr. J. WILLIAM STANTON. We are saying in their internal policies they cannot delve into their own particular funds that they have contributed. I think that is totally unfair. It is not the sense of fairness that the gentleman from Texas is so famous for.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a substitute amendment and I wanted to strike the first four sentences.

The CHAIRMAN. The Chair will say to the gentleman from Texas (Mr. PAUL) that his amendment is a separate proposition. The gentleman will still have an opportunity to offer his amendment when the Committee disposes of this matter. The Committee is still considering section 1 and until that section is passed, the gentleman will be protected.

The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GONZALEZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: On page 2, line 4, strike out the closing quotation marks and the period that follows them.

On page 2 insert immediately after line 4 the following:

"SEC. 26. The United States Governor of the Fund is directed to vote against the establishment of a Council authorized under Article XII, Section 1 of the Fund Articles of Agreement as amended, if under any circumstances the United States' vote in the Council would be less than its weighted vote in the Fund.".

Mr. GONZALEZ. Mr. Chairman, I would like to point out to the Members of the Committee that on the very first page of the bill they are going to vote for section 24, which says:

> The United States Governor of the Fund is authorized to accept the amendments to the Articles of Agreement of the Fund approved in resolution numbered 31-4 of the Board of Governors of the Fund.

I want to ask each and every Member present, how many have seen those articles of amendment? Now, the bill under consideration provides that the IMF charter is to be amended so that a new committee can be established in the IMF to be known as "the Council." The distinguished chairman of the subcommittee, in referring to that in the general debate, said that it was just pretty much the same thing as they have now in the so-called Committee of Twenty and Committee of Ten.

This is not true. This is very inaccurate. It is not exact. This new Council would have power. It would have power of establishing policy. What policy? The value of our currency. The Committee of Thirty, the Committee of Twenty, and the Committee of Ten today do not have that power. They are merely advisory, but this new Council will have the power to determine policy.

What is going to be the American participation in this Council of Thirty? The articles of amendment do not tell us. My amendment says that in case the U.S. voting weight is reduced as compared to its weight in the IMF in this new council, then our Governor shall vote against this amendment. What is wrong with that? I fail to see any solid reason why we would not act in our capacity as Members of the legislative body who are being asked to approve, to give our imprimatur of approval, to these amendments.

Are we then going to merely rubberstamp this, or are we going to perform a function? To hear the way some of the Members talk, one would think that the world would come to pieces if anybody in the Congress offered an amendment. Then, what is the bill doing here? Why should it have our approval? If we then admit that we do not know the exact content of the amendments we are ratifying, then are we not confessing to rather shoddy legislating?

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. J. WILLIAM STANTON. Mr. Chairman, the gentleman in the well has referred to the formation of a council.

Mr. GONZALEZ. That is right.

Mr. J. WILLIAM STANTON. This Council would replace what is in existence now as an advisory body, the Interim Committee of Twenty.

Mr. GONZALEZ. On the contrary, it would not be an advisory body.

Mr. J. WILLIAM STANTON. I am trying to accept the gentleman's amendment.

Mr. GONZALEZ. I am ready.

Mr. J. WILLIAM STANTON. I just want to explain to the Members of the Committee that the Council the gentleman refers to will maybe—this is only maybe—replace this advisory committee which has been designed with the purposes of coming up with these particular agreements. Now, the United States, it is true, does have veto power over the funds because the Council to be formed will not be any less in weighted votes in the fund than the governor of the IMF or our contribution.

I am saying to the gentleman that in order to form this Council and any duties it would be given, the final authority still would rest with our Governor and Board of Governors. Therefore, I can see no sense in it, but it certainly does no harm. We would be glad to accept it on this side of the aisle.

Mr. GONZALEZ. I thank the gentleman.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from California.

Mr. REES. In reading the amendment, I agree with my friend from Ohio (Mr. J. WILLIAM STANTON) that the United States now, with its weighted vote of 19.97, could, if it wished to, veto any proposal to create a Council. So, the United States has to approve a Council. The Council is only what the IMF decides it will be.

Mr. GONZALEZ. Which we do not know.

Mr. REES. And any rights, duties, and subject of the Council would be those things that the IMF decided that it will do. The reason, the rationale, behind the use of a Council is that the IMF has 128 members, and it is very difficult at times to deal with complicated proposals.

The Council really is the reaffirmation of the Interim Committee which has been in business for about 4 or 5 years.

It is my impression in discussing this with Treasury that the United States would have exactly the same weighted vote in the Council as the United States does have in the International Monetary Fund.

The majority will accept the amendment.

Mr. GONZALEZ. I thank the gentleman. All is well that ends well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PAUL: On page 2, strike lines 1 through 4.

Mr. PAUL. Mr. Chairman, section 25 of H.R. 13955, on page 2, lines 1 through 4, reads as follows:

> The United States Governor of the Fund is authorized to consent to an increase in quota of the United States in the Fund equivalent to 1,705 million Special Drawing Rights.

The SDR has a relative value, depending upon many currencies, so it is impossible to calculate the exact dollars that the Government will be obligated to finance.

This will result in an expenditure by the United States of $2 billion to the International Monetary Fund. This is the result of the IMF's call for an increase in overall quotas by nations in the IMF by 33.6 percent.

Prior to 1968, such payments to the IMF were treated as regular appropriations. Since then, however, they have not been. This is because it was decided that what was really involved was merely an exchange of assets: dollars for SDR's. This makes such outlays more in the nature of deposits in a bank and therefore not subject to the regular appropriations process.

Such reasoning is clearly fallacious. This money leaves the U.S. Treasury just as surely as if it were spent on any kind of goods or service the Government buys. It is not like a deposit in a bank, because the IMF's assets are not subject to withdrawal by the member nations. In other words, if the United States simply wanted to get its $2 billion back, it could not do so, short of disolving the IMF itself. This money remains in the IMF for use in bolstering the value of the dollar, should the need arise, and only in this sense is actually available for use by the United States.

Consequently, it is fiction to maintain that this increase in quotas is anything less than a normal budget outlay and ought to be treated in the same manner. For this reason, I recommend the deletion of this section of the bill under consideration. If an increase in quotas is necessary, it ought to be reintroduced as a separate measure and referred to the Committee on Appropriations.

Another point I would like to make is that the economists, especially the monetarists in Chicago and elsewhere, have always argued that floating takes care of the problem of this tremendous imbalance of payments. I think it is inconsistent when we legislate and legitimatize floating currencies, assuming that we will have much less need to solve balance-of-payments problem, and yet you come along and say, "We have to increase these reserves by 33 percent." I think this is quite inconsistent.

Mr. REES. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and members of the committee, the section that would be stricken from the bill is on page 2. This is the section where the U.S. quota is increased by 1,705,000,000 special drawing rights, which is, in dollars, about $2 billion. This bill represents a 33.6 percent increase in the IMF assets or the amount of funds that might be drawn by other countries.

The reason this increase in IMF assets is absolutely necessary is, of course, that our world economic problems have become greater. We have had problems in our economy because of the 400-percent increase in the cost of petroleum and the recent recession; therefore, it is necessary that we increase the quotas of the IMF across the board.

The U.S. percentage actually goes down because much of the new increase in the IMF assets comes from the oil exporting countries. So the current U.S. quota in the IMF, while higher in absolute terms, is a smaller percentage of the whole than existed before.

This is not a budget expenditure. Sometimes I wish everyone would take accounting I and find out that accounts receivable is different from an expenditure. What we do is to make available approximately $2 billion to the International Monetary Fund. We do this by giving the IMF a letter of credit for the value of the quota. If the IMF then draws on that letter of credit, and draws dollars, what the U.S. receives is an automatic draw on any hard currency that we might choose.

Mr. Chairman, let me give an example. Let us say the IMF draws down $200 million. We then have an automatic draw with the International Monetary Fund of $200 million in hard currency. Let us say that during a certain quarter we find that we have a negative value of payments with Germany; then we could go to the Fund and, for balance-of-payment purposes, draw down $200 million in deutsche marks in order to balance our account.

So we can see that this is not an expenditure. There is no reason for it to go in the budget, because it is not an expenditure; it is an asset. It is an asset that is called an account receivable. That is exactly what it is. There is no loss to the Government, nor to the Federal Treasury.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's yielding.

Does the gentleman recall a time when we have ever recalled those assets?

Mr. REES. Mr. Chairman, would the gentleman repeat his question, please?

Mr. ROUSSELOT. Does the gentleman remember any time when we have ever recalled—and let me put this in quotes—"those assets" from the International Monetary Fund?

Mr. REES. No, because we did not have a need to call back assets from the International Monetary Fund.

Mr. ROUSSELOT. The point is that we do not intend to call these assets back. To try to say this is just an exchange of assets is, I think, misleading. We certainly do not have a hold on them for the future.

We would not be able to recall any of our gold assets that we contributed to the Fund. So I think it is misleading to say that it is just an exchange of assets.

Mr. REES. Mr. Chairman, if the gentleman will give some of my time back to me, let me say that this is an exchange of assets. One could say that we might never call the assets back, but I think any Secretary of the Treasury—who felt we had to call back hard currency to take care of a balance-of-payments deficit—would call back hard currency to make up a balance-of-payments deficit. This is the purpose of the International Monetary Fund: To seek to balance out the irregularities in the system.

Mr. Chairman, I think it would be an absolute disaster if this amendment were agreed to. There would be absolutely no increase in the fund, and I think that would be terribly, terribly bad for the position of the United States.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the distinguished chairman of the committee.

Mr. REUSS. Mr. Chairman, I agree thoroughly with the gentleman's position. This amendment should be voted down.

I wish to stress the fact that the leading element in our modest recovery economically in this country during the last few months has been our rather fine export performance. I can think of no quicker way to ruin our exports and plunge this country into a depression than to torpedo the IMF, as this amendment seeks to do.

The fiscal accounting and budgeting question is before our excellent Committee on the Budget. In due time that committee is going to come up with some recommendations across the board. To knock on the head the IMF this afternoon seems to me the best way to throw our economy into a turmoil.

Mr. Chairman, I thoroughly agree with the position of the gentleman from California (Mr. REES).

Mr. REES. Mr. Chairman, I thank the gentleman.

It was decided specifically in 1968 that this definitely was not a budget expenditure, and it was not put in the budget because it was not an expenditure; it was an exchange of assets.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, the gentleman from California (Mr. REES) has just made a significant statement. In 1968 the President's Commission on Budget Concepts met on this very subject, and, after thorough discussion, it was reported—and this has been concurred in at the present time by our own budgetary people in Congress—that the IMF is a depository in which Treasury funds are kept, subject to the terms of the IMF articles of agreement, and this, therefore, is a payment into the IMF.

So the proposed increase in the quota is not an outlay but an exchange of monetary assets. It is considered under the budget concept as an investment outlay, just as deposits in the bank are so considered.

Mr. J. WILLIAM STANTON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, this increase that we are asked to give to the IMF on behalf of the United States has come about basically for historical reasons.

Every 6 years in the last 30, under the law, the IMF Board of Governors review their assets. In reality, they come up at this time to a 33-plus percentage increase.

Mr. Chairman, when we consider the fact twofold, No. 1, that the total trade around the world has tripled since 1970, when we consider that the oil companies at the present time—and by the way, their quotas are going to be double—contributed very little during that time, when we consider the important fact that judgments were made that despite the small decreases we will have in the total amount of assets within the fund that were protected, once again, by this 85 percent necessary to fund all important ventures, and that our position with respect to veto has been protected, Mr. Chairman, I think it is certainly in the best interest of the United States to accept the agreements as they were worked out.

Therefore, Mr. Chairman, I rise in strong opposition to the impending amendment.

The CHAIRMAN pro tempore (Mr. Danielson). The question is on the amendment offered by the gentleman from Texas (Mr. Paul).

The amendment was rejected.

COMMITTEE AMENDMENT

The CHAIRMAN pro tempore. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, after line 4, insert the following: Sec. 2. Section 3 of the Bretton Woods Agreement Act (22 U.S.C. 286a) shall be amended as follows:

(1) section 3(c) shall be amended to read as follows:

"(c) Should the provisions of Schedule D of the Articles of Agreement of the Fund apply, the Governor of the Fund shall also serve as councillor, shall designate an alternate for the councillor, and may designate associates.";

(2) a new section 3(d) shall be added to read as follows:

"(d) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor, executive director, councillor, alternate, or associate.".

The committee amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

Sec. 2. The first sentence of section 5 of the Bretton Woods Agreements Act (22 U.S.C. 286c) is amended to read as follows: "Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States (a) request or consent to any change in the quota of the United States under article III, section 2(a), of the Articles of Agreement of the Fund; (b) propose a par value for the United States dollar under paragraph 2 or paragraph 10 of schedule C of the Articles of Agreement of the Fund; (c) propose any change in the par value of the United States dollar under paragraph 6 of schedule C of the Articles of Agreement of the Fund, or approve any general change in par values under paragraph 11 of schedule C; (d) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Bank; (e) accept any amendment under article XXVIII of the Articles of Agreement of the Fund or article VIII of the Articles of Agreement of the Bank; (f) make any loan to the Fund or the Bank.".

Sec. 3. The Special Drawing Rights Act (22 U.S.C. 286n–r) is amended by:

(1) deleting "article XXIV" in section 3(a) and inserting in lieu thereof "article XVIII";

(2) deleting "article XXVI, article XXX, and article XXXI" in section 3(b), wherever it appears, and inserting in lieu thereof "article XX, article XXIV, and article XXV";

(3) deleting "article XXIV" in section 6 and inserting in lieu thereof "article XVIII";

(4) deleting "article XXVII(b)" in section 7 and inserting in lieu thereof "article XXI (b)".

Sec. 4. Section 2 of the Par Value Modification Act (31 U.S.C. 449) is hereby repealed.

Sec. 5. Section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b) is amended to read as follows: "The Secretary of the Treasury is authorized to issue gold certificates in such form and in such denominations as he may determine, against any gold held by the United States Treasury. The amount of gold certificates issued and outstanding shall at no time exceed the value, at the legal standard provided in section 2 of the Par Value Modification Act (31 U.S.C. 449) on the date of enactment of this amendment, of the gold so held against gold certificates.".

Sec. 6. The amendments made by sections 2, 3, and 4, of this Act shall become effective upon entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in Resolution Numbered 31–4 of the Board of Governors of the Fund.

Mr. J. WILLIAM STANTON (during the reading). Mr. Chairman, by agreement with the gentleman from California (Mr. Rees), I ask unanimous consent that the remainder of the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 4, strike out "Sec. 2" and insert "Sec. 3".

The committee amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, beginning in line 11, strike out "paragraph 2" and insert "paragraph 2, paragraph 4,".

The committee amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 22, strike out "Bank.'." and insert in lieu thereof the following: Bank; (g) approve the establishment of any additional trust fund, for the special benefit of a single member, or of a particular segment of the membership, of the Fund."

The committee amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 17, insert:

Sec. 4. The first sentence of section 17 (a) of the Bretton Woods Agreements Act (22 U.S.C. 286e–2(a)) is amended to read as follows: "In order to carry out the purposes of the decision of January 5, 1962, of the Executive Directors of the International Monetary Fund, the Secretary of the Treasury is authorized to make loans, not to exceed $2,000,000,000 outstanding at any one time, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund.".

The committee amendment was agreed to.

The CHAIRMAN pro tempore (Mr. Danielson). The Clerk will report the remaining committee amendments.

The Clerk read as follows:

Committee amendments: page 2, line 23, strike out "Sec. 3" and insert "Sec. 5".

Page 3, line 11, strike out "Sec. 4" and insert "Sec. 6".

Page 3, after line 12, insert the following:

Sec. 7. Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended to read as follows:

"Sec. 10. (a) The Secretary of the Treasury, with the approval of the President, directly or through such agencies as he may designate, is authorized, for the account of the fund established in this section, to deal in gold and foreign exchange and such other instruments of credit and securities as he may deem necessary to and consistent with the United States obligations in the International Monetary Fund. The Secretary of the Treasury shall annually make a report on the operations of the fund to the President and to the Congress.".

Page 3, line 13, strike out "Sec. 5" and insert "Sec. 8".

Page 3, line 23, strike out "Sec. 6" and insert "Sec. 9".

Page 3, line 23, strike out "and 4," and insert "4, 5, 6, and 7".

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. Paul: On page 5, add the following new section:

"Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States alienate any gold to any trust fund established by the Board of Governors of the International Monetary Fund, or to any other international organization or its agents, or to any person or organization acting as a purchaser on behalf of any central bank or governmental institution."

Mr. REES. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN pro tempore. The gentleman from California (Mr. Rees) reserves a point of order on the amendment.

The Chair recognizes the gentleman from Texas (Mr. Paul).

Mr. PAUL. Mr. Chairman, the International Monetary Fund is at a major turning point. It is being transformed into a new foreign aid agency which will be run by the same highly paid bureaucrats who failed to establish international currency stability. The asset to be used in this multi-billion dollar giveaway is the IMF's stock of gold. This gold is quietly being repatriated to each nation's treasury, including our own, at the ridiculous, though official, price of $42.22 per ounce. On the same day that each nation buys back the gold it first contributed to the IMF, each treasury then sells the gold to the IMF's trust fund at the official price. This secret transaction is not recorded publicly, and practically nobody realizes how it works. The IMF cannot legally sell its gold for any price other than $42.22 per ounce, so it has enlisted the cooperation of Secretary Simon and other Western treasury officials to get the IMF's gold into the accounts of the IMF trust fund, an agency which would not otherwise be entitled to gain access to IMF gold.

Why should the U.S. Treasury cooperate in this secret operation? Why should not the Treasury get the benefits of selling the gold at a profit on the free market? Given the size of the budget deficit, the Treasury can use all the profits it can get. Why is Secretary Simon pulling an end-run around Congress, trying to help the IMF sell off its gold prior to the ratification of the amendments to the IMF Articles of Agreement? This collusion between the various treasuries and the IMF appears to be nothing more than an easy way to escape detection by voters and legislators of the major Western powers.

This sale of gold is illegal by IMF rules. Only by sneaking around its own rules and gaining the secret cooperation of the various treasury officials could the IMF have pulled off the transfer of its gold from the scarce currency replenishment fund into the foreign aid trust fund. Why should the treasuries cooperate by providing the new trust fund with millions of dollars to be used to loan Uganda money at one-half of 1 percent per annum? And how will defaulting nations be compelled to repay? After all, as Secretary Simon's letter of July 20 to me indicates, the IMF's Executive Board is well aware that France has bought a ton of gold from the Bank for International Settlements at the free market price, an action strictly prohibited, Mr. Simon tells us, by the rules of the IMF. Yet the Executive Board and the membership have "not felt it appropriate" to apply sanctions against France's actions. How can anyone take seriously the promised sanctions to be imposed on those nations that refuse to pay the trust fund loans?

Congress should not condone this IMF trickery by passing this bill. If Mr. Simon wants to sell our gold, let him get top dollar. Let us not buy gold from the IMF at $42 and just turn around the same day to sell it to the IMF's trust fund at $42. Let Mr. Simon buy back the gold at $42 and add it to this Nation's stock of gold. This international monetary chicanery ought to be called to a halt by Congress. And the best way to do that is to add the language prohibiting the sale of gold by an agent of the United States to any international organization or governmental institution without prior congressional approval.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California desire to be heard on his point of order?

Mr. REES. Yes, Mr. Chairman, I would like to be heard on my point of order.

The legislation before us is to provide for amendment of the Bretton Woods Agreements Act and only the Bretton Woods Agreements Act, and only those things in the U.S. statute that are directly thereto attached to the purpose of the Bretton Woods Agreements Act. This amendment is not limited to the International Monetary Fund because there is the language at about page 5 of the amendment, "or to any other international organization or its agents, or to any person or organization acting as a purchaser on behalf of any central bank or governmental institution."

It goes about 5 miles beyond the Bretton Woods Agreements Act. Mr. Chairman, I submit that the amendment is not germane.

The CHAIRMAN. Does the gentleman from Texas wish to be heard in response to the point of order?

Mr. ROUSSELOT. Mr. Chairman, I would like to be heard.

Mr. Chairman, on page 18, Article 5, Section 12, of the Jamaican Agreements, which is something which we are partially ratifying with this legislation, it does refer to this special trust fund.

On page 18 of the communication sent to us from the Secretary of State it refers to this special trust fund and the conditions under which our governor and others will be expected to abide, and it is very much a part of what we are ratifying.

So I believe that it can be shown, because we are ratifying the Jamaica Agreements with this legislation, that in fact we are speaking and the gentleman from Texas is speaking to this issue and he wishes to put conditions on our Governor in this International Monetary Fund.

The CHAIRMAN. Does the gentleman from California wish to be heard further on the point of order?

Mr. REES. Only to this extent, that I reiterate what I said before, that the amendment goes beyond the Bretton Woods Agreements Act and is therefore nongermane.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from California makes the point of order that the amendment offered by the gentleman from Texas (Mr. Paul) is not germane to the bill H.R. 13955.

The bill has as its major purpose the ratification of proposed amendments to the International Monetary Fund Articles of Agreement, and to consent to an increase in the quota of the United States in the International Monetary Fund.

The amendment would prohibit the President or the Secretary of the Treasury from alienating or selling any gold to any trust fund established by the IMF or to any other international organization or its agents, or to any person or organization acting as a purchaser on behalf of any central bank or governmental institution, unless Congress authorizes such action by law.

While the Chair is not completely aware of the impact which the gentleman's amendment would have on international organizations other than the International Monetary Fund, it is apparent from the text of the amendment that it is far more comprehensive in scope than the bill to which offered. Since the amendment is not limited by its terms as a restriction upon U.S. authority to alienate gold to the IMF, the Chair holds that the amendment is not germane to H.R. 13955 and sustains the point of order.

Are there further amendments?

AMENDMENT OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Paul: On page 5, add the following new section:

"Notwithstanding any other provision of law, the Secretary of the Treasury, in his capacity as a Governor of the International Monetary Fund, shall report the names and addresses of the purchasers of gold sold or otherwise alienated by the International Monetary Fund or any Trust Fund established by the International Monetary Fund, together with the amounts purchased and prices paid by each purchaser, to the Congress within five (5) days of such sale."

Mr. PAUL. Mr. Chairman, on July 12, I sent a letter to Secretary William Simon, informing him that reports of illegal gold purchases from the IMF Trust Fund reached my office, and requesting him, in the interest of replacing rumor with truth, to release the names of the purchasers in the IMF gold auctions.

On July 23, I received a reply from Secretary Simon. Under unanimous consent which I shall ask in the House, I include here the texts of my letter and his reply:

House of Representatives,
Washington, D.C., July 12, 1976.

Secretary William E. Simon,
Department of the Treasury,
Washington, D.C.

Dear Mr. Secretary: When the International Monetary Fund Trust Fund offered 780,000 ounces of gold for sale on June 2, it was decided that the identity of the purchasers of the gold would be kept secret.

Recently, however, disturbing news reports have reached my office that certain central banks—which are legally barred from purchasing the I.M.F. gold—did actually purchase some gold in the June 2 auction. In most cases, the purchases were laundered, according to the information I have received, but the transactions could still be traced.

Before I make my list public I would like you to clarify this matter. I would appreciate it very much if you, as a Governor of the International Monetary Fund, could send me a complete list of the gold purchasers as soon as possible. The possibility that there was some illegal trading done cannot be investigated unless the names of the purchasers are made public. When transactions of this magnitude occur involving public funds, it is essential that the public be aware of the identity of the parties to the transactions.

Sincerely,

RON PAUL,
Member of Congress.

SECRETARY OF THE TREASURY,
Washington, D.C., July 20, 1976.

Hon. RON PAUL,
House of Representatives.
Washington, D.C.

DEAR CONGRESSMAN PAUL: Your letter of July 12 raised the question whether central banks of IMF members bid in the June 2 auction of IMF gold.

One of the express terms and conditions of that auction was that no bids would be submitted by IMF members or their agents. Following the auction, we received assurances from the Managing Director of the IMF that, to the best of the IMF's knowledge, all terms and conditions had been fully met by all successful bidders—that is, that there had been no sales by the Fund to IMF members or their agents. All bidders attested to the fact that they were bidding in accordance with the terms and conditions of the auction. U.S. representatives in the IMF have examined the list of bidders and no IMF member government is included.

One IMF member—France—announced on June 8, 1976, the purchase of one ton of gold "through the intermediary of the Bank for International Settlements". That statement should not be taken to mean that the BIS had bid for gold in the auction otherwise than as principal. There is, of course, nothing to prevent a legitimate purchaser of IMF gold or any other gold from reselling to others gold which it owns and to which it has full legal title. Thus, a resale of gold bought by the BIS in the IMF auction as principal would not violate the rules governing the IMF gold auction.

It would in our view contravene the present IMF articles—Article IV, Section 2—for an IMF member to buy gold from *any* source at above the official price of SDR 35 an ounce (approximately $42) plus a small margin. That, in our opinion, is the legal position whether such gold were bought in the market or in some other way.

It should be noted, however, that some IMF members take a different view of the current legal effectiveness of Article IV, Section 2. Since other critical provisions of Article IV are no longer operable—most importantly, the par value provisions of the Article—some take the view that the inoperability also covers the prohibition against official gold purchases at prices above the official price. The purchase of gold by France has been drawn to the attention of the IMF Executive Board. The IMF membership, in the circumstances, has not felt it appropriate that a member which had bought gold at above the official price should have applied to it the sanctions available to the Fund—denial of access to IMF resources or compulsory withdrawal from the Fund.

The IMF has not released the names of bidders in the gold auction. This decision was taken by the IMF Executive Board, which represents the full IMF membership. The reason for the decision was that private dealers in the gold market contended that release of the names of individual bidders could substantially discourage private bidders and thus yield a smaller return for the IMF gold sold. It was also pointed out that in auctions, for example, of Treasury bills in many countries (including the U.S.) names of bidders typically are not released.

With best regards,

Sincerely yours,

WILLIAM E. SIMON.

Mr. Chairman, there are several things about the Secretary's letter that I would like to call to the attention of my colleagues. First, although my letter to him explicitly requested the names of the gold purchasers and did not mention the names of the bidders, Secretary Simon understood my letter to have "raised the question whether central banks of IMF members bid in the June 2 auction of IMF gold." How Secretary Simon confused bidders with purchasers is not apparent to me, but it is very convenient for him, since it enables him to compare the IMF's policy of secrecy to that of the U.S. Treasury. The two are not comparable, however. For example, there are thousands of purchasers of Treasury bills, but according to the Treasury's own reports, there were only 20 purchasers at the June 2 gold auction, and 17 at the July 14 auction. At both the auctions 780,000 ounces were sold at prices averaging about $125 the ounce. That comes out to $195 million put up by 37 purchasers—an average of $5.3 million per purchase. Certainly, there could be no practical problem in reporting so few transactions of such magnitude.

The second thing that needs to be emphasized is that despite the fact that, as Secretary Simon says, the IMF believed that all purchasers were proper and legal, France, using the Bank of International Settlements as an intermediary, bought one ton of gold. Secretary Simon says that such an action would "contravene the present IMF articles—article IV, section 2." Yet, such a violation of the IMF rules, according to Secretary Simon, does not warrant imposition of any sanctions against the French Government. This illustrates a point I had made earlier: the lawlessness of the IMF. The Library of Congress has concluded that the gold sales are probably illegal; Secretary Simon had admitted that in at least one instance the gold was illegally purchased, and yet we are told that the IMF is a trustworthy organization deserving of our continued and increased support.

The only way in which the very serious doubts about the integrity of the IMF can be removed—apart from a complete U.S. withdrawal from the IMF—is to require the U.S. representatives to the IMF to report to the Congress the names, addresses, amount of gold purchased, and price paid, of all the purchasers of gold sold by the IMF or any of its trust funds or subsidiary organizations. Secretary Simon's letter alone is sufficient reason to require this reporting procedure, for it indicates that taking the word of the IMF that there is no illegality involved is not quite good enough.

Mr. Chairman, I believe in this age when the legislative bodies and the elected officials in this Congress cannot be taken seriously, and there is such a loss of public confidence, I cannot see why this simple little request to just open up the books and letting us know if the international banks are buying the gold or whether or not certain banks in this country are buying it. It seems to me that little bit of information cannot hurt anybody. I do not know why anybody would go to the trouble of insisting that this remain completely secret.

Mr. REUSS. Mr. Chairman, I shall be very brief. I oppose the amendment.

Mr. Chairman, if this Congress has done one useful thing, and I think it has done many, it has been in the effort here to cut down on unnecessary paperwork. Here we have a most unfortunate amendment and no constructive purpose for it that I can see. This would impose on the Secretary of the Treasury the burden of compiling the names and addresses of every one of the heaven-knows-how-many purchasers of gold from the IMF and sending them within 5 days of such sales to the Congress. They would arrive at the Speaker's desk. I can imagine what the Speaker would do. He would send them to the long-suffering House Committee on Banking and Currency.

I can assure the Members that we have enough inundation of paperwork as it is, so the tendency ought to be to get away from bureaucratic redtape, to get away from proliferating paperwork, instead of adding more on; so I hope the amendment, which serves no useful purpose, will be voted down.

If people want to buy the gold of the IMF, so much the better. That is great. Why subject them to harassment by requiring that the Secretary of the Treasury report on them within 5 days in writing to the Congress.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I just want to quickly add that this subject came up this morning in the full Committee on Banking and Currency. The chairman of the Federal Reserve Board, Arthur Burns, at that time suggested to one of our colleagues on the other side, the gentleman from Texas (Mr. GONZALEZ), that the Board will really watch this closely, that once a month they are in Switzerland reviewing who is buying and that Governor Wallich of the Federal Reserve Board is watching this closely.

I would suggest to the gentleman from Texas (Mr. GONZALEZ) and to the gentleman from Texas (Mr. PAUL), considering who they are and where this is going with the chairman, to take up on his suggestion, have these meetings and sit down with Mr. Wallich.

Second, there has been nothing kept secret. We have organizations in our own country that deal with these things.

Mr. REUSS. Mr. Chairman, I thank the gentleman from Ohio for his statement. The gentleman has hit the nail on the head. I think we can have absolute confidence that the Federal Reserve Board will do a competent job and not inundate us in the process.

Mr. PAUL. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Texas.

Mr. PAUL. Mr. Chairman, I would like to make the point that when we were talking to Dr. Burns this morning, he was totally unaware of the ton of gold France picked up after the sale.

Mr. REUSS. That is why he suggested that his international money man, Governor Wallich, was the man to see. I would be the first to say that Chairman Burns has to spread himself over the entire field of Federal Reserve duties at home and abroad, but anytime the gentleman has a specific question, I know that Gov. Henry Wallich will be delighted to answer him. I merely hope that the gentleman will not press his amendment.

Mr. PAUL. But the point is that they are doing this and not following the rules.

Mr. REES. Mr. Chairman, I move to strike the requisite number of words. I would like to speak in opposition to the amendment.

One of the problems we have is that since we now have floating rates—and floating rates are a contradiction to the articles of IMF—some members of the Fund claim that they do not have to follow any article of the IMF agreement if every nation violates the article establishing fixed rates. So, unless we get this bill through and unless these articles are reaffirmed, it means that we have very little discipline over what might be done at a gold sale or at any other transaction of the IMF.

A sale of gold to a central bank which is a member of the IMF is illegal under article IV, section 2 of the IMF agreement; but this is in a gray area because we do not have this legislation. This is why we have to have it. There is a reason that sales of Treasury notes, for example, by the Fed on the open market, and also IMF sales of gold, are not made public. This could deter bidders from going into the market. It could cause some speculation. This is the same problem we have with regard to the market for gold. This is the reason the names of those who purchase the gold have not been made public.

The IMF is very aware of any purchases of gold by a central bank. There is still somewhat of an unresolved question as to whether the French did buy. I do not believe they did buy. The French bought from a bank in Basel, Switzerland. The bank for international settlements had previously purchased some gold, and they have gold on their own account. They then sold this gold, which was perfectly legal, to the French. I believe it was something like 1 ton of gold. However, I think it imperative to say that we must have this legislation so that certain rules in the application of international monetary policy may once again exist.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Idaho.

Mr. SYMMS. Is that not just exactly the reason that the amendment is needed, so that we would know whether the French bought the gold or not?

Mr. REES. No, we know if the French bought gold or not. The French did not buy gold at any of the two IMF auctions that have gone on. We know that. Secretary Simon knows that.

Mr. SIMON. Is this gold just going in the hands of the central banks in Europe, and in a year or two, after they have control, we will hear the gold psychology in reverse?

Mr. REES. Any central bank can do anything it wants. If it wants to trade in tinned sardines, it can trade in tinned sardines. The articles say that the banks cannot purchase gold from IMF, but in South Africa, for instance, they can buy anywhere, and there are a number of banks which so purchase.

Mr. SYMMS. Would it not be nice if the American taxpayer realizes where this gold is going so that at some time in the future he will know that he has been had?

Mr. REES. The taxpayers know an important thing: that they are getting top dollar for the gold. If we had fewer bidders, I suspect we would not be getting top dollar.

Mr. PAUL. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Texas.

Mr. PAUL. I think the gentleman is incorrect in saying that the central banks can do anything they want with gold. In the letter from Mr. Simon, he states:

> It would in our view contravene the present IMF articles—Article IV, Section 2—for an IMF member to buy gold from any source at above the official price of SDR 35 an ounce (approximately $42) plus a small margin. That, in our opinion, is the legal position whether such gold were bought in the market or in some other way.

That is illegal. He quotes it in his letter. This is sort of ironic, the fact that gold is going back to the central banks. Here we are contributing to it. It should be the people who want to demonetize gold who should be up here arguing this.

Mr. REES. The gentleman is on my time. The French franc is at about the lowest place it has been for years.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to read for my colleagues this simple amendment. It reads as follows:

> Notwithstanding any other provision of law, the Secretary of the Treasury, in his capacity as a Governor of the International Monetary Fund, shall report the names and addresses of the purchasers of gold sold or otherwise alienated by the International Monetary Fund or any Trust Fund established by the International Monetary Fund, together with the amounts purchased and prices paid by each purchaser, to the Congress within five (5) days of such sale.

There has been a tremendous amount of discussion in this Congress about Government in the sunshine. This amendment merely calls for the normal reporting procedure to the Congress of the United States.

Congress has allowed this fund to control and to dispose of substantial amounts of our gold.

My colleague says it is merely an exchange of assets from our Treasury to this fund.

What is wrong with reporting the parties to whom those sales are made? Why is there such great harm in the Congress knowing where these sales are made? Why are we afraid to know?

This is a simple amendment of accountability. I find it almost unbelievable for my colleague from California who is a substantial advocate of Government in the sunshine, to resist an amendment that reports back to the Congress where those sales are being made.

Why is it so damaging for this Congress, for the Banking Committees of both of our bodies, to know where sales are made? What is so harmful about that? We are contributing to the IMF. We are being asked to expose our Treasury to the extent of almost $2 billion under this bill. Why are we so afraid to know where the gold sales of this international organization to which we contribute are going to be made?

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will now be delighted to yield to my colleague from California (Mr. REES), who I know is a great advocate of Government in the sunshine.

Mr. REES. Mr. Chairman, I appreciate that. I understand the Government in the sunshine bill is coming up next week. How does the gentleman plan to vote for it?

Mr. ROUSSELOT. I probably will vote for it.

Mr. REES. The gentleman thinks he will?

Mr. ROUSSELOT. I appreciate the gentleman's bringing that up. And I now assume that my colleague will support this amendment. Is the gentleman going to support that sunshine bill?

Mr. REES. I am not sure. I am not quite sure. I might support an amendment to the bill which will restrict it somewhat, in terms of confidential information, because I think some information should not be made public when it will disrupt.

Mr. ROUSSELOT. Information should not be made public?

Mr. REES. Yes. Would the gentleman like Treasury bills, and all of these, that disrupt?

Mr. ROUSSELOT. Is my colleague for Government in the sunshine or against it?

Mr. REES. I think there are a lot of grays, and I think some people here do not think in grays.

Mr. ROUSSELOT. I do not believe that this amendment does harm to the International Monetary Fund. It is merely an attempt on our part to ask for accountability. I think it is a worthwhile amendment. I believe my colleague, who sits on the Banking, Currency, and Housing Committee, the gentleman from Texas (Mr. Paul), is making a worthy contribution by giving us an opportunity to vote for this Government in the sunshine amendment.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Wisconsin (Mr. Reuss).

Mr. REUSS. Mr. Chairman, I am unequivocally for Government in the sunshine. This amendment has nothing to do with Government in the sunshine. The Congress can get the information it wants and the public can get the information it wants. They do not require that the Secretary of the Treasury engage in a lot of busy work and make reports every 5 days on who has been buying this gold.

So I hope the amendment will be voted down.

Mr. ROUSSELOT. Mr. Chairman, if I may get back some of my time, let me say briefly that I do not think this is a frivolous activity when we are under this bill authorizing a potential exposure of $2 billion from our Treasury. I urge my colleagues to support the amendment.

The CHAIRMAN pro tempore (Mr. Danielson). The question is on the amendment offered by the gentleman from Texas (Mr. Paul).

The question was taken; and on a division (demanded by Mr. Paul) there were—ayes 11, noes 35.

Mr. PAUL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count. Eighty-nine Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Texas (Mr. Paul) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with considerable concern that I rise to discuss H.R. 13955, the Bretton Woods Agreements Act Amendments. The major provisions of this bill ratify actions which have already been taken by the International Monetary Fund to phase gold out of the international monetary system and to establish a new "reserve asset" called the "Special Drawing Right,"—SDR, also known as "paper gold," based on a basket of currencies of major trading nations.

The crucial concern with any international monetary system, in my judgment, must be that the system, whether it is based upon gold or SDR's, not become an engine of inflation. The prevention of widespread international inflation requires sustained discipline on the part of central banks and treasuries. Although inflation can be avoided despite the absence of gold as an anchor for the system, if there is the will to do so, other aspects of the recent operations of the IMF give rise to serious doubts that the international monetary authorities will effectively resist the demands to inflate coming primarily from the so-called "lesser developed countries"—LDC's.

As a major product of the agreement reached at the Jamaica and Ramboulliet meetings, the leading industrial countries agreed to the establishment of a trust fund with the profits from the sale of one sixth of the IMF's gold at market prices. The major portion of these profits will be available for the provision of special balance of payments assistance to the poorest of the lesser developed countries.

The remainder will be distributed among the LDC's in proportion to their IMF quotas, which will mean that these intermediate LDC's, many of which have substantial natural resources, will not be contributing to the trust fund. An additional one-sixth of the IMF's gold will be restituted to all member nations of the IMF in accordance with their quotas, an action which this Member believes should have been taken with respect to the entire 50 million ounces of gold which the IMF had decided to sell.

There are three major reasons for my objection to the establishment of the trust fund:

First. Concessional Loans. The terms of the loans to be made from the trust fund will be extremely "soft"—a 5-year grace period followed by repayment in 10 semiannual installations, with interest at one-half percent. Thus, the conditions applied to the loans are the same as those applied to the first credit tranche of the IMF, but the interest will be much less than the 4 to 6 percent which the IMF charges in its normal operations. The result will be that LDC's will have less incentive than previously to manage their balance of payments in such a manner as to avoid having to borrow from the fund and that the degree of discipline in the international monetary system will be correspondingly reduced.

Second. Violation of Principle of Uniformity. The establishment of the trust fund for the LDC's violates a fundamental principle of traditional IMF operations, that all nations are to be treated uniformly in their dealings with the IMF. This principle was violated in advance of ratification of amendments to the articles of agreement. The IMF also evaded the charter prohibition against selling gold at other than the official price by creating the trust fund as a conduit for the market sale and as a depository for the proceeds. The willingness of the IMF to flagrantly violate its own charter, most dramatically illustrated in the agreement to float prior to the present charter amendments does not auger well for the maintenance of international monetary discipline.

Third. Lack of Congressional Authorization. The provision of balance of payments assistance to the LDC's on concessional terms, in violation of the principle of uniformity of treatment, constitutes an evasion of the congressional appropriations process. The IMF has contended that since it has title to the gold, it may dispose of it and apply the proceeds to the benefit of a particular group of nations in violation of the uniformity principle established in its charter. It is my contention, however, that if the IMF had determined not to use the gold which we had contributed to provide balance of payment assistance in accordance with its traditional purposes and methods of operation, it should have restituted all of the gold in question so that Congress could determine whether it should be used to provide a form of foreign aid to the lesser developed countries, a determination which would be most unlikely in the present climate and in view of the vast sums that Congress has already committed for foreign aid.

This problem was stated most effectively in testimony by Mr. Fraza B. Wilde, chairman emeritus of Connecticut General Life Insurance Co., when he testified before the Joint Economic Committee:

> Frustration among developing countries over their unstable commodity earnings and over the reluctance of developed countries to appropriate what are believed to be adequate development funds, has caused the developing countries to seek alternatives for bypassing this Congress and other legislative bodies. We deposited a portion of our national savings in the IMF in the form of gold and currencies to contribute to a world transaction and exchange system. The World Bank and the IDA rather than the IMF, were established as development agencies. To transfer and convert the increase in value of assets, which we contributed, from a transaction and exchange system to a foreign aid program by executive agreement seems to bypass the constitutional prerogatives of this Congress to control our domestic monetary system and to appropriate and authorize the spending of our national resources. Our share in that distribution to developing countries would be approximately $500 million, a larger sum than many of the disputed sums before the new Budget Committee. The final determination and appropriation in the case of AID programs should come from Congress. The present project would appear to be a simplified version of finding some money you didn't know you had and giving it to the first charity that seems worthy to you. Foreign aid to me is too big a subject and too important to be treated in any way except by the full legislative process and by careful, very thorough consideration.

It is to prevent this form of "back door" foreign aid from taking place in the future that I offered an amendment, which the committee adopted, which requires that the establishment of any additional trust funds "for the special benefit of a single member, or of a particular segment of the membership, of the fund" would require congressional authorization. With respect to further disposition of IMF gold, I have sponsored House Joint Resolution 793, which calls upon the Secretary of the Treasury, as U.S. Governor of the IMF, to insist that proceeds of such sale be applied in accordance with the traditional balance-of-payments adjustment purposes of the IMF. The committee report of this bill also contains language calling for congressional consultations concerning further disposition of the remaining 100 million ounces of IMF gold.

In addition to the objections to the trust fund which are discussed above, every Member can find additional objections in the list of 61 countries eligible for trust fund assistance, which includes the notorious General Amin's Uganda; the Communist governments of Laos, Cambodia, and South Vietnam; and a number of other unworthy recipients. The complete list of eligible countries is attached following the conclusion of these remarks.

To summarize, it is my strong belief that a stable international monetary system requires the exercise of a tremendous amount of discipline and probity on the part of the international monetary authorities. Effective participation and oversight by the Congress and by the Secretary of the Treasury, as U.S. Governor of the Fund, will be essential to responsible management of the new system which is ratified by the passage of this legislation.

The list of eligible countries follows:

LIST OF MEMBERS ELIGIBLE FOR TRUST ASSISTANCE

Countries	IMF quota	
	In millions of SDR's	As percent of total of quotas of eligible members
1. Afghanistan	37	0.984
2. Bangladesh	125	3.325
3. Benin, People's Republic of	13	.346
4. Bolivia	37	.984
5. Botswana	5	.133
6. Burma	60	1.596
7. Burundi	19	.505
8. Cambodia	25	.665
9. Cameroon	35	.931
10. Central African Republic	13	.346
11. Chad	13	.346
12. Congo, People's Republic of	13	.346
13. Egypt	188	5.000
14. El Salvador	35	.931
15. Equatorial Guinea	8	.213
16. Ethiopia	27	.718
17. Gambia	7	.186
18. Ghana	87	2.314
19. Grenada	2	.053
20. Guatemala	36	.957
21. Guinea	24	.638
22. Haiti	19	.505
23. Honduras	25	.665
24. India	940	25.000
25. Indonesia	260	6.915
26. Ivory Coast	52	1.383
27. Jordan	23	.612
28. Kenya	48	1.277
29. Laos	13	.346
30. Lesotho	5	.133
31. Liberia	29	.771
32. Madagascar, Democratic Republic of	26	.692
33. Malawi	15	.399
34. Mali	22	.585
35. Mauritania	13	.346
36. Mauritius	22	.585
37. Morocco	113	3.005
38. Nepal	14	.372
39. Niger	13	.346
40. Nigeria	135	3.590
41. Pakistan	235	6.250
42. Papua New Guinea	20	.532
43. Paraguay	19	.505
44. Philippines	155	4.122
45. Rwanda	19	.505
46. Senegal	34	.904
47. Sierra Leone	25	.665
48. Somalia	19	.505
49. South Vietnam	62	1.649
50. Sri Lanka	98	2.606
51. Sudan	72	1.915
52. Swaziland	8	.213
53. Tanzania	42	1.117
54. Thailand	134	3.564
55. Togo	15	.399
56. Uganda	40	1.064
57. Upper Volta	13	.346
58. Western Samoa	2	.053
59. Yemen Arab Republic	10	.266
60. Yemen, P.D.R.	29	.771
61. Zaire	113	3.005
Total	3,760	100.000

Source: International Monetary Fund.

The CHAIRMAN pro tempore. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DANIELSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13955) to provide for amendment of the Bretton Woods Agreement Act, and for other purposes, pursuant to House Resolution 1394, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 289, nays 121, not voting 22, as follows:

[Roll No. 549]

YEAS—289

Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Carney
Carr
Carter
Cederberg
Chisholm
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Eshleman
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Fuqua
Giaimo
Gibbons
Ginn
Gradison
Green
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Heinz
Henderson
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hughes
Hutchinson
Hyde
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jordan
Kastenmeier
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Sebelius
Seiberling
Sharp
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Studds
Talcott
Taylor, N.C.
Thompson
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—121

Abdnor
Ambro
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Bowen
Brinkley
Broomfield
Broyhill
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conlan
Conyers
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Dent
Devine
Dickinson
English
Evans, Ind.
Evins, Tenn.
Flowers
Flynt
Frey
Gaydos
Gilman
Goldwater
Gonzalez
Goodling
Grassley
Guyer
Hagedorn

Haley
Hall, Tex.
Hammer-schmidt
Harsha
Hechler, W. Va.
Hefner
Hicks
Holt
Hubbard
Hungate
Ichord
Jenrette
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Long, Md.
Lott
Lujan
McCollister
McDonald
Mahon
Mann
Martin
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Nichols
Passman
Paul
Poage
Randall
Roberts
Robinson
Roush
Rousselot
Runnels
Santini
Satterfield
Schulze
Shipley
Sikes
Smith, Nebr.
Snyder
Spence
Sullivan
Symms
Taylor, Mo.
Teague
Thone
Thornton
Traxler
Treen
Waggonner
White
Whitehurst
Whitten
Winn
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—22

Clay
Esch
Fountain
Hansen
Hébert
Helstoski
Hinshaw
Jacobs
Jones, Tenn.
Karth
Landrum
Litton
Madigan
O'Hara
Riegle
Stanton, James V.
Steelman
Steiger, Ariz.
Stratton
Stuckey
Symington
Wiggins

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. Hébert against.

Mr. Clay for, with Mr. Landrum against.

Mr. Madigan for, with Mr. Hansen against.

Until further notice:

Mr. Fountain with Mr. Esch.

Mr. O'Hara with Mr. Jacobs.

Mr. Riegle with Mr. Karth.

Mr. Stratton with Mr. James V. Stanton.

Mr. Stuckey with Mr. Steiger of Arizona.

Mr. Wiggins with Mr. Symington.

Mr. Helstoski with Mr. Steelman.

Mr. SKUBITZ changed his vote from "nay" to "yea."

Mr. BEVILL changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. REES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill (H.R. 13955) just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, AUGUST 2, 1976, TO FILE A REPORT, ALONG WITH ADDITIONAL OR MINORITY VIEWS, ON H.R. 14844

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Monday, August 2, 1976, to file a report, along with any additional or minority views, on the bill—H.R. 14844—to revise the estate and gift tax laws of the United States.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERMISSION FOR COMMITTEE ON JUDICIARY TO FILE REPORT ON H.R. 6684

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight tonight, July 27, 1976, to file a report on H.R. 6684 to amend the Federal Trade Commission Act to provide that exclusive territorial arrangements used in the distribution or sale of a trademarked soft drink product or a trademarked private label food product shall not be deemed unlawful per se.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION (FOSSIL FUELS) OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET DURING 5-MINUTE RULE ON TOMORROW MORNING

Mr. HECHLER of West Virginia. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy Research, Development, and Demonstration (Fossil Fuels) of the Committee on Science and Technology be permitted to meet during the 5-minute rule tomorrow morning, Wednesday, July 28, 1976.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will there be no markup?

Mr. HECHLER of West Virginia. This is merely to receive testimony. There will be no markup during this session.

Mr. ROUSSELOT. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON H.R. 14233, HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATION BILL, FISCAL YEAR 1977

Mr. BOLAND. Mr. Speaker, I call up the conference report on the bill (H.R. 14233) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 22, 1976.)

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The gentleman from Massachusetts (Mr. BOLAND) is recognized for 30 minutes.

Mr. BOLAND. Mr. Speaker, we bring back to the House today the conference report on the HUD-independent agencies appropriation bill for 1977. The conferees on this bill were faced with some very tough issues—but I am pleased to report that we have resolved all the differences.

Of course, we did not prevail on every point. The essence of a conference meeting is compromise. The conference report is no exception to that fact of life. We reached a reasonable accommodation with the Senate on a number of issues. There was give and take—on both sides—but I believe we have brought back a good bill.

The total amount of this conference report is $43,284,615,000.

The House passed this bill on June 22 with a total of $42,982,730,000.

The Senate passed the bill on June 26 and approved a total of $43,336,200,000.

The conferees have brought back a report that is $2,021,583,000 under the budget request. The total budget requests for the bill amounted to $45,306,198,000.

The conference total is also $9,920,525,000 below the comparable amount of new obligational authority provided for the agencies and departments in the 1976 bill.

Turning to specifics, the conference agreement has approved $19,292,135,000 for the Department of Housing and Urban Development. We are recommending that $675 million of new annual contract authority and $14,800,000,000 of new budget authority be made available for HUD's subsidized housing programs. We have earmarked $120,000,000 of the contract authority for the low-income public housing program—including $85,000,000 for new public housing construction. The remaining contract authority will provide continued support for the new section 8 subsidized housing concept.

In two other major program areas, the conferees agreed on $62,500,000 for the section 701 comprehensive planning program and $50,000,000 for the popular section 312 rehabilitation loan program.

Mr. Speaker, one of the toughest issues faced by the conferees was what level of funding should be provided for the National Science Foundation. The House approved $750,000,000 for this Agency in 1977—a reduction of $52,000,000 below the budget. The Senate restored the Foundation to the full budget request of $802,000,000. The conferees have settled on a total of $773,600,000 for support of the National Science Foundation in 1977.

While this amount obviously represents a compromise, I want to stress that a careful examination of the facts firmly supports the committee's position reducing basic research by $56,000,000 below the budget request. We know the Foundation has been experiencing management problems. Indications are that these shortcomings have not been fully cleared up, but it is seeking to do so. Although this conference agreement provides a substantial increase of $58,350,000 above the level made available in 1976, I want the House to know that the subcommittee I chair will continue to look long and carefully at how the funds are used.

The bill also includes $973,405,000 for the Environmental Protection Agency—which is $243,913,000 above the budget request; $39,000,000 for the Consumer Product Safety Commission; and $18,386,171,000 for the Veterans' Administration.

Finally, the conference agreement includes $3,692,515,000 for the various programs of the National Aeronautics and Space Administration. While we can and should continue to be critical of how NASA spends a very substantial amount of money, I believe that few government programs have been as successfully implemented as the space program. Last week we had another illustration of that fact when the Viking mission successfully landed on the planet Mars.

Think of it. Viking was launched last August 20 from Cape Kennedy, and 11 months later and 213,000,000 miles away from Earth it landed flawlessly less than a few miles from the spot ultimately chosen by NASA controllers.

The quality of the pictures sent back is literally unbelievable. If you have not seen them yet, you should make it a point to take a look at them. I can assure you that you will not see any trees or bushes—but that does not make the photographs any less remarkable. Whether we find life on Mars or not, Viking is the latest of a long line of NASA successes that are an invaluable asset to this country. Why? Because Viking lets the world know that this Nation, operating in an open society, can still put it all together, and come up with technological miracles of which we can be justifiably proud.

I offer my congratulations and heartfelt thanks to all the people at NASA and throughout the country in the private and public sector that made this possible.

Mr. Speaker, and I will include in my remarks a table showing the action taken on each item, the comparison with 1976, and the actions of both House and Senate:

COMPARATIVE STATEMENT OF THE NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1977 (H.R. 14233)

[Note.—All amounts are in the form of appropriations unless otherwise indicated]

						Conference action compared with—			
Agency and item	New budget (obligational) authority, fiscal year 1976	Budget estimates of new budget (obligational) authority, fiscal year 1977	New budget (obligational) authority recommended in House bill	New budget (obligational) recommended in Senate bill	Conference action	New budget (obligational) authority, fiscal year 1976	Budget estimates of new budget (obligational) authority, fiscal year 1977	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE I									
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
HOUSING PROGRAMS									
Annual contributions for assisted housing (contract authority)	$17,000,000,000	$16,572,900,000	$14,608,390,000	$14,870,400,000	$14,870,400,000	−$2,129,600,000	−$1,702,500,000	+$262,010,000	
Increased limitation for annual contract authority	(662,300,000)	(850,000,000)	(675,000,000	(615,400,000)	(675,000,000)	(+12,700,000)	(−175,000,000)		(+$59,600,000)
Housing for the elderly or handicapped (limitation on loans)	(750,000,000)	(375,000,000)	(750,000,000)	(750,000,000)	(750,000,000)		(+375,000,000)		
Housing payments (appropriation to liquidate contract authority)	(2,245,000,000)	(3,070,000,000)	(2,975,000,000)	(2,975,000,000)	(2,975,000,000)	(+730,000,000)	(−95,000,000)		
Payments for operation of low-income housing projects (contract authority)	535,000,000	463,600,000	575,600,000	575,600,000	575,600,000	+40,600,000	+112,000,000		
Appropriation to liquidate contract authority	(535,000,000)	(463,600,000)	(575,600,000)	(575,600,000)	(575,600,000)	(+40,600,000)	(+112,000,000)		
Mobile home standards program	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000				
Federal Housing Administration Fund	147,500,000	825,698,000	135,000,000	135,000,000	135,000,000	−12,500,000	−690,698,000		
Housing counseling assistance			5,000,000		3,000,000	+3,000,000	+3,000,000	−2,000,000	+3,000,000
Salaries and expenses, housing programs	41,316,000					−41,316,000			
By transfer, FHA funds	(163,503,000)					(−163,503,000)			
Emergency homeowners relief fund	35,000,000					−35,000,000			
State housing finance and development agencies (contract authority)	600,000,000					−600,000,000			
Limitation for annual contract authority	(15,000,000)					(−15,000,000)			
Appropriation to liquidate contract authority	(15,000,000)					(−15,000,000)			
Rent supplement program (contract authority)	800,000,000					−800,000,000			
Increased limitation for annual contract authority	(20,000,000)					(−20,000,000)			
GOVERNMENT NATIONAL MORTGAGE ASSOCIATION									
Payment of participation sales insufficiencies	20,935,000	21,265,000	21,265,000	21,265,000	21,265,000	+330,000			
Emergency mortgage purchase assistance (borrowing authority)	5,000,000,000					−5,000,000,000			
Total, Housing Programs	24,180,751,000	17,884,463,000	15,346,255,000	15,603,265,000	15,606,265,000	−8,574,486,000	−2,278,198,000	+260,010,000	+3,000,000
COMMUNITY PLANNING AND DEVELOPMENT									
Community development grants	102,000,000	100,000,000	200,000,000	100,000,000	100,000,000	−2,000,000		−100,000,000	
Contract authority	1,736,000,000	3,148,000,000	3,048,000,000	3,148,000,000	3,148,000,000	+1,412,000,000		+100,000,000	
By transfer from the college housing loan fund (borrowing authority)	(964,000,000)					(−964,000,000)			
Appropriation to liquidate contract authority	(2,700,000,000)	(3,148,000,000)	(3,048,000,000)	(3,148,000,000)	(3,148,000,000)	(+448,000,000)		(+100,000,000)	
Comprehensive planning grants	75,000,000	25,000,000	50,000,000	75,000,000	62,500,000	−12,500,000	+37,500,000	+12,500,000	−12,500,000
Rehabilitation loan fund	50,000,000		25,000,000	75,000,000	50,000,000		+50,000,000	+25,000,000	−25,000,000
Salaries and expenses, community planning and development programs	43,020,000					−43,020,000			
Total, Community Planning and Development	2,006,020,000	3,273,000,000	3,323,000,000	3,398,000,000	3,360,500,000	+1,354,480,000	+87,500,000	+37,500,000	−37,500,000
FEDERAL INSURANCE ADMINISTRATION									
Flood insurance	75,000,000	100,000,000	75,000,000	75,000,000	75,000,000		−25,000,000		

COMPARATIVE STATEMENT OF THE NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1977 (H.R. 14233)—Continued

[Note.—All amounts are in the form of appropriations unless otherwise indicated]

Agency and item (1)	New budget (obligational) authority, fiscal year 1976 (2)	Budget estimates of new budget (obligational) authority, fiscal year 1977 (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended in Senate bill (5)	Conference action (6)	Conference action compared with— New budget (obligational) authority, fiscal year 1976 (7)	Budget estimates of new budget (obligational) authority, fiscal year 1977 (8)	House bill (9)	Senate bill (10)
TITLE I—Continued									
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—Continued									
OFFICE OF INTERSTATE LAND SALES REGISTRATION									
Interstate land sales	$2,797,000					−$2,797,000			
POLICY DEVELOPMENT AND RESEARCH									
Research and technology	53,000,000	$71,000,000	$53,000,000	$60,000,000	$55,000,000	+2,000,000	−$16,000,000	+$2,000,000	−$5,000,000
Salaries and expenses, policy development and research	6,955,000					−6,955,000			
Total, Policy Development and Research	59,955,000	71,000,000	53,000,000	60,000,000	55,000,000	−4,955,000	−16,000,000	+2,000,000	−5,000,000
FAIR HOUSING AND EQUAL OPPORTUNITY									
Fair housing and equal opportunity	13,107,000					−13,107,000			
MANAGEMENT AND ADMINISTRATION									
Salaries and expenses, Department of Housing and Urban Development		201,442,000	193,370,000	201,670,000	195,370,000	+195,370,000	−6,072,000	+2,000,000	−6,300,000
By transfer, FHA funds		(223,630,000)	(223,630,000)	(223,630,000)	(223,630,000)	(+223,630,000)			
General departmental management	6,038,000					−6,038,000			
Salaries and expenses, Office of general counsel	3,441,000					−3,441,000			
By transfer, FHA funds	(1,800,000)					(−1,800,000)			
Salaries and expenses, Office of inspector general	7,462,000					−7,462,000			
By transfer, FHA funds	(3,132,000)					(−3,132,000)			
Administration and staff services	22,344,000					−22,344,000			
By transfer, FHA funds	(31,725,000)					(−31,725,000)			
Regional management and services	25,452,000					−25,452,000			
By transfer, FHA funds	(15,642,000)					(−15,642,000)			
Total, Management and Administration	64,737,000	201,442,000	193,370,000	201,670,000	195,370,000	+130,633,000	−6,072,000	+2,000,000	−6,300,000
Total, Department of Housing and Urban Development	26,402,367,000	21,529,905,000	18,990,625,000	19,337,935,000	19,292,135,000	−7,110,232,000	−2,237,770,000	+301,510,000	−45,800,000
FUNDS APPROPRIATED TO THE PRESIDENT									
FEDERAL DISASTER ASSISTANCE ADMINISTRATION									
Disaster relief	150,000,000	100,000,000	100,000,000	100,000,000	100,000,000	−50,000,000			
Total, Title I:									
New budget (obligational) authority	26,552,367,000	21,629,905,000	19,090,625,000	19,437,935,000	19,392,135,000	−7,160,232,000	−2,237,770,000	+301,510,000	−45,800,000
Appropriations	(881,367,000)	(1,445,405,000)	(858,635,000)	(843,935,000)	(798,135,000)	(−83,232,000)	(−647,270,000)	(−60,500,000)	(−45,800,000)
Contract authority	(20,671,000,000)	(20,184,500,000)	(18,231,990,000)	(18,594,000,000)	(18,594,000,000)	(−2,077,000,000)	(−1,590,500,000)	(+362,010,000)	
Borrowing authority	(5,000,000,000)					(−5,000,000,000)			
By transfer	(964,000,000)					(−964,000,000)			
Appropriations to liquidate contract authority	(5,495,000,000)	(6,681,600,000)	(6,598,600,000)	(6,698,600,000)	(6,698,600,000)	(+1,203,600,000)	(+17,000,000)	(+100,000,000)	
Increased limitation for annual contract authority	(697,300,000)	(850,000,000)	(675,000,000)	(615,400,000)	(675,000,000)	(−22,300,000)	(−175,000,000)		(+59,600,000)
Limitation on corporate funds to be expended	(215,802,000)	(223,630,000)	(223,630,000)	(223,630,000)	(223,630,000)	(+7,828,000)			
TITLE II									
INDEPENDENT AGENCIES									
AMERICAN BATTLE MONUMENTS COMMISSION									
Salaries and expenses	5,374,000	5,824,000	5,824,000	5,824,000	5,824,000	+450,000			
CONSUMER PRODUCT SAFETY COMMISSION									
Salaries and expenses	[1] 39,564,000	37,000,000	41,100,000	37,000,000	39,000,000	−564,000	+2,000,000	−2,100,000	+2,000,000
DEPARTMENT OF DEFENSE—CIVIL CEMETERIAL EXPENSES, ARMY									
Salaries and expenses	5,785,000	6,161,000	6,161,000	6,161,000	6,161,000	+376,000			
ENVIRONMENTAL PROTECTION AGENCY									
Agency and regional management	65,374,000	67,538,000	73,000,000	73,000,000	73,000,000	+7,626,000	+5,462,000		
Energy research and development	100,000,000	96,973,000				−100,000,000	−96,973,000		
Research and development	170,674,000	159,476,000	265,900,000	259,900,000	259,900,000	+89,226,000	+100,424,000	−5, 100,000	
Abatement and control	375,766,000	[2] 340,844,000	398,044,000	371,844,000	376,844,000	+1,078,000	+36,000,000	−21,200,000	+5,000,000
Appropriation to liquidate contract authority	(65,000,000)	(49,181,431)	(49,182,000)	(49,182,000)	(49,182,000)	(−15,818,000)	(+569)		
Enforcement	53,606,000	56,561,000	56,561,000	56,561,000	56,561,000	+2,955,000			
Buildings and facilities	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000				
Construction grants			200,000,000	200,000,000	200,000,000	+200,000,000	+200,000,000		
Appropriation to liquidate contract authority	(800,000,000	(3,800,000,000)	(3,800,000,000)	(3,800,000,000)	(3,800,000,000)	(+3,000,000,000)			
Transition period		(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(+200,000,000)			

See footnotes at end of table.

						Conference action compared with—			
Agency and item (1)	New budget (obligational) authority, fiscal year 1976 (2)	Budget estimates of new budget (obligational) authority, fiscal year 1977 (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended in Senate bill (5)	Conference action (6)	New budget (obligational) authority, fiscal year 1976 (7)	Budget estimates of new budget (obligational) authority, fiscal year 1977 (8)	House bill (9)	Senate bill (10)
Scientific activities overseas (special foreign currency program)	$4,000,000	$6,000,000	$6,000,000	$5,000,000	$5,000,000	+$1,000,000	−$1,000,000	−$1,000,000	
Total, Environmental Protection Agency	771,520,000	729,492,000	1,000,705,000	968,405,000	973,405,000	+201,835,000	+243,913,000	−27,300,000	+$5,000,000
EXECUTIVE OFFICE OF THE PRESIDENT									
Council on Environmental Quality and Office of Environmental Quality	2,736,000	2,915,000	2,915,000	2,800,000	2,800,000	+64,000	−115,000	−115,000	
Office of Science and Technology Policy	500,000	[3] 3,300,000		2,300,000	2,300,000	+1,800,000	−1,000,000	+2,300,000	
Total, Executive Office of the President	3,236,000	6,215,000	2,915,000	5,100,000	5,100,000	+1,864,000	−1,115,000	+2,185,000	
GENERAL SERVICES ADMINISTRATION									
Consumer Information Center	1,054,000	1,073,000	1,073,000	1,073,000	1,073,000	+19,000			
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Office of Consumer Affairs	1,534,000	1,581,000	1,581,000	1,645,000	1,581,000	+47,000			−64,000
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION									
Research and development	2,677,380,000	2,758,925,000	2,767,425,000	2,761,425,000	2,761,425,000	+ 84,045,000	+2,500,000	−6,000,000	
Construction of facilities	82,130,000	124,020,000	118,090,000	120,290,000	118,090,000	+35,960,000	−5,930,000		−2,200,000
Research and program management	792,312,000	814,055,000	809,000,000	813,455,000	813,000,000	+20,688,000	−1,055,000	+4,000,000	−$455,000
Total, National Aeronautics and Space Administration	3,551,822,000	3,697,000,000	3,694,515,000	3,695,170,000	3,692,515,000	+140,693,000	−4,485,000	−2,000,000	−2,655,000
NATIONAL COMMISSION ON WATER QUALITY									
Salaries and expenses	175,000					−175,000			
NATIONAL SCIENCE FOUNDATION									
Salaries and expenses	711, 250, 000	796,000,000				−711, 250,000	−796,000,000		
Research and related activities			681,400,000	738,000,000	710,000,000	+710,000,000	+710,000,000	+28,600,000	−28,000,000
Science education activities			64,000,000	59,000,000	59,000,000	+59,000,000	+59,000,000	−5,000,000	
Scientific activities (special foreign currency program)	4,000,000	6,000,000	4,600,000	4,600,000	4,600,000	+600,000	−1,400,000		
Total, National Science Foundation	715,250,000	802,000,000	750,000,000	801,600,000	773,600,000	+58,350,000	−28,400,000	+23,600,000	− 28,000,000
SELECTIVE SERVICE SYSTEM									
Salaries and expenses	37,500,000	6,800,000	6,800,000	6,800,000	6,800,000	−30,700,000			
DEPARTMENT OF THE TREASURY									
New York City Seasonal Financing Fund	2,300,000,000					−2,300,000,000			
New York City Seasonal Financing Fund, administrative expenses	1,000,000	1,250,000	1,250,000	1,250,000	1,250,000	+250,000			
Total, Department of the Treasury	2,301,000,000	1,250,000	1,250,000	1,250,000	1,250,000	−2,299,750,000			
VETERANS' ADMINISTRATION									
Compensation and pensions	8,249,200,000	8,153,400,000	8,153,400,000	8,153,400,000	8,153,400,000	−95,800,000			
Readjustment benefits	6,014,475,000	4,873,000,000	4,813,000,000	4,813,000,000	4,813,000,000	−1,201,475,000	−60,000,000		
Veterans insurance and indemnities	6,600,000	7,000,009	7,000,000	7,000,000	7,000,000	+400,000			
Medical care	3,854,456,000	4,172,232,000	4,222,232,000	4,218,032,000	4,218,032,000	+363,576,000	+45,800,000	−4,200,000	
Medical and prosthetic research	97,309,000	97,433,000	97,433,000	101,633,000	101,633,000	+4,324,000	+4,200,000	+4,200,000	
Medical administration and miscellaneous operating expenses	38,528,000	39,941,000	39,941,000	39,941,000	39,941,000	+1,413,000			
General operating expenses	483,300,000	512,883,000	508,383,000	508,383,000	508,383,000	+25,083,000	−4,500,000		
Construction, major projects	297,464,000	[4] 385,847,000	399,131,000	388,847,000	405,681,000	+108,217,000	+19,834,000	+6,550,000	+16,834,000
Construction, minor projects	106,426,000	93,061,000	92,561,000	92,501,000	92,001,000	−14,425,000	−1,060,000	−560,000	−500,000
Grants for construction of State extended care facilities	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Assistance for health manpower training institutions	30,000,000	35,000,000	35,000,000	35,000,000	35,000,000	+5,000,000			
Grants to the Republic of the Philippines	2,100,000	2,100,000	2,100,000	500,000	2,100,000				+1,600,000
Loan guaranty revolving fund (limitation on obligations)	(550,000,000)	(550,000,000)	(550,000,000)	(550,000,000)	(550,000,000)				
Vocational rehabilitation revolving fund	100,000					−100,000			
Supply fund	29,001,000					−29,001,000			
Appropriation to liquidate contract authority	(80,999,000)					(−80,999,000)			
Total, Veterans' Administration	19,218,959,000	18,381,897,000	18,380,181,000	18,368,237,000	18,386,171,000	−832,788,000	+4,274,000	+5,990,000	+17,934,000
Total, Title II:									
New budget (obligational) authority	26,652,773,000	23,676,293,000	23,892,105,000	23,898,265,000	23,892,480,000	−2,760,293,000	+216,187,000	+375,000	−5,785,000
Appropriations to liquidate contract authority	945,999,000	3,849,181,431	3,849,182,000	3,849,182,000	3,849,182,000	+2,903,183,000	+569		
Transition period		200,000,000	200,000,000	200,000,000	200,000,000	+200,000,000			

See footnotes at end of table.

COMPARATIVE STATEMENT OF THE NEW BUDGET (OBLIGATIONAL) AUTHORITY, HUD—INDEPENDENT AGENCIES APPROPRIATION BILL, 1977 (H.R. 14233)—Continued

[Note.—All amounts are in the form of appropriations unless otherwise indicated

Agency and item	New budget (obligational) authority, fiscal year 1976	Budget estimates of new budget (obligational) authority, fiscal year 1977	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action	Conference action compared with— New budget (obligational) authority, fiscal year 1976	Conference action compared with— Budget estimates of new budget (obligational) authority, fiscal year 1977	Conference action compared with— House bill	Conference action compared with— Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE III									
CORPORATIONS									
Federal Home Loan Bank Board:									
Limitation on administrative expenses	($14,665,000)	($17,100,000)	($17,100,000)	($17,100,000)	($17,100,000)	(+$2,435,000)			
Limitation on nonadministrative expenses	(20,860,000)	(23,620,000)	(23,620,000)	(23,620,000)	(23,620,000)	(+2,760,000)			
Federal Savings and Loan Insurance Corporation:									
Limitation on administrative expenses	(826,000)	(875,000)	(875,000)	(875,000)	(875,000)	(+49,000)			
Department of Housing and Urban Development:									
Government National Mortgage Association:									
Limitation on administrative expenses	(1,273,000)					(−1,273,000)			
Total, Title III, Corporations (administrative and nonadministrative expenses)	(37,624,000)	(41,595,000)	(41,595,000)	(41,595,000)	(41,595,000)	(+3,971,000)			
RECAPITULATION									
Grand total, Titles I, II, and III:									
New budget (obligational) authority	53,205,140,000	45,306,198,000	42,982,730,000	43,336,200,000	43,284,615,000	−9,920,525,000	−$2,021,583,000	+$301,885,000	−$51,585,000
Appropriations	(27,534,140,000)	(25,121,698,000)	(24,750,740,000)	(24,742,200,000)	(24,690,615,000)	(−2,843,525,000)	(−431,083,000)	(−60,125,000)	(−51,585,000)
Contract authority	(20,671,000,000)	(20,184,500,000)	(18,231,990,000)	(18,594,000,000)	(18,594,000,000)	(−2,077,000,000)	(−1,590,500,000)	(+362,010,000)	
Borrowing authority	(5,000,000,000)					(−5,000,000,000)			
By transfer	(964,000,000)					(−964,000,000)			
Appropriations to liquidate contract authority	(6,440,999,000)	(10,530,781,431)	(10,447,782,000)	(10,547,782,000)	(10,547,782,000)	(4,106,783,000)	(+17,000,569)	(+100,000,000)	
Transition period		(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(+200,000,000)			
Increased limitation for annual contract authority	(697,300,000)	(850,000,000)	(675,000,000)	(615,400,000)	(675,000,000)	(−22,300,000)	(−175,000,000)		(+59,600,000)
Limitation on corporate funds to be expended	(253,426,000)	(265,225,000)	(265,225,000)	(265,225,000)	(265,225,000)	(+11,799,000)			

[1] Reflects rescission of $2,256,000 included in Public Law 94-249.

[2] Includes $11,300,000 requested in S. Doc. 94-197.

[3] Includes $3,300,000 requested in S. Doc. 94-210.

[4] Includes $268,316,000 requested in S. Doc. 94-199.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the gentleman for yielding.

I would very much like to see the pictures taken on Mars by Viking. Can the gentleman tell me whether or not we will have that opportunity?

Mr. BOLAND. We have some pictures in our subcommittee, in room 143 of the Capitol. There are only a few now, but within the next few days we will have better color photographs, and we will be glad to have the House look at them.

Mr. SEIBERLING. I agree that it is a remarkable achievement and that the scientific value of Viking will be incalculable in years to come.

Mr. BOLAND. It is unfortunate that the Olympic games have taken some of the exposure away from Viking at the present time.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I thank the gentleman for yielding.

I would like to address a question to the distinguished gentleman about the provisions of the Environmental Protection Agency section of the conference report, which provides funding for the Chesapeake Bay study.

Will the gentleman elaborate on that?

Mr. BOLAND. It does indeed. In this bill we provide $5 million for the Chesapeake Bay study which, in the judgment of the committee, is perhaps one of the most important bay studies that the Government is undertaking. Out of this study will come information that can be used for other bays in the United States.

The gentleman knows better than I that Chesapeake Bay is one of the finest bays in this country.

We provide in this bill $2.9 million for research and development and $2.1 million for the study of abatement and control for the Chesapeake Bay. I might also inform the gentleman that we have instructed that instead of the 10 personnel now engaged in the study, that that personnel be increased to 50 or 40 additional personnel for the Chesapeake Bay study. We have asked the Office of Management and Budget to release those additional personnel to the Agency so that the studies can go ahead, so that it can be completed within the 5-year period at a cost of around $5 million a year.

Mr. BAUMAN. I thank the gentleman for his information, and I applaud the committee's action. Saving the Chesapeake Bay is certainly one of the more worthwhile endeavors of EPA and I hope it is successful.

Mr. BOLAND. I appreciate the gentleman's remarks.

Mrs. BURKE of California. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the gentlewoman from California, a very valuable member of our subcommittee.

Mrs. BURKE of California. I thank the gentleman for yielding.

I would like to ask a question of the chairman on the conference committee report.

There is added to the 701 comprehensive planning grant the sum of approximately $12.5 million. There is no designation as to the category that the additional amount should be utilized for. I would like to know, in view of the fact that the Senate in their version provided $10 million for large cities and the House version had no allowance for large cities, whether or not it is anticipated that part of this $12 million should go to large cities under the 701 programs?

Mr. BOLAND. That would be my understanding of the action of the conferees. In the conference itself there was an indication and an expectation that part of the additional amount would be for large cities. The addition to the House amount in conference, as the gentlewoman says, is $12.5 million. It is expected that an equitable amount of that addition be used for large cities.

Mrs. BURKE of California. I thank the gentleman from Massachusetts.

Mr. TALCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the gentleman from Massachusetts (Mr. BOLAND), the chairman of the committee. We had a good conference. All of the conferees signed and were in unanimous agreement that the conference report should be accepted. It is a good bill. It is $2 billion below the budget. The impact of this bill, however, will be felt for 40 years in the future. So I think it is important that we all pay close attention to the dollar amounts involved.

In housing, we have provided a fair test, I believe, for section 8, but we have some doubts about the success of the program. So we have also provided some $120 million for public housing, $85 million minimum for new construction.

We have provided $750 million in

new loans for housing for the elderly and handicapped. This is one of the most successful housing programs, and it is one of the most appreciated.

We provided $3 million for housing counseling in collaboration with the National Federation of Housing Counselors, and for the community development block program we provided the full budget request of approximately $3 billion, but we have set aside $100 million for the smaller communities within the SMSA areas. These funds replace seven former categorical grant programs.

Mr. Speaker, we have taken a very close look at the Environmental Protection Agency's activities for this year. I hope we will take an even closer look next year.

For the Office of Science and Technology Policy, there is a new office, and Dr. Stever has just been appointed as the Science Adviser to the President.

We think the $2,300,000 which we have included should be sufficient to start up the program.

We have continued the Nation's commitment to our veterans, which is one of the most generous of any nation in the history of the world. We have provided $4.2 billion for medical care and $101 million for medical and prosthetic research; $13 billion is included for compensation, pensions, and readjustment benefits.

Out of the 13 annual appropriation measures, this bill is the furthest below the budget. It is $2 billion below the budget request for this year and almost $10 billion below last year's bill.

Mr. Speaker, this is a good bill. It is based on the most important and urgent priorities that should be funded first.

Mr. Speaker, I urge the adoption of the conference report.

Mr. TRAXLER. Mr. Speaker, as a member of the Subcommittee on HUD and Independent Agencies of the House Appropriations Committee, I am privileged to review the programs of the Veterans' Administration which are of great interest to every American who has served in our Armed Forces. Veterans groups within the State of Michigan have brought to my attention important information regarding the quality of medical services at the VA hospital in Allen Park, Mich., near Detroit.

This facility is quite old, and simply not modern enough to provide the care needed by the number of veterans within the Detroit area. The VA has in recent years proposed a rehabilitation of the hospital to improve its condition, but for an equal amount of time, the veterans groups in Michigan have worked to demonstrate that a new facility is needed.

This information first came to me in early 1975, and I questioned Mr. Richard L. Roudebush, Administrator of the Veterans' Administration, both during hearings on the fiscal 1976 budget, and again in March of this year, about the condition of Allen Park and that plans that the VA had for this facility. Mr. Roudebush was most understanding of the problems at Allen Park, but responded last year and again this year by saying that there are "no definitive plans for an Allen Park replacement hospital." Veterans groups within Michigan have concluded that even if Allen Park were modernized, it would be unable to provide sufficient levels of care to the veterans who need it. All of this information appears in the record of these hearings on pages 71 through 81 of part 3 of the fiscal 1976 HUD-independent agencies appropriations hearings, and on pages 18 through 22 of the fiscal 1977 hearings.

We have become increasingly concerned with the efficient use of appropriated funds in recent years, and in some instances we have recognized the need to cut back on some programs and to slow the growth of other programs which are important for our continued progress and needs. But in no instance in American history have we ever denied programs to those servicemen who have sacrificed prime years of their lives, and sometimes their future vitality, to the United States.

Our veterans programs recognize the contribution made by these men, and attempts in a very modest way to thank them for their dedication. We have always prided ourselves on the health care that we have provided to these brave men and women who have worked to preserve our Nation's freedom. These benefits provide health services for our servicemen who have been wounded in battle, injured in the line of duty, or are unable to adequately provide for the expenses incurred by a nonservice connected disability. These men and women have given their all to the United States, and it is only fitting that we begin to repay our debt to them by providing the health care they so urgently need.

I recognize the constraints that the VA faces in the development of its budget. Over the last 2 years when questioned about the Allen Park hospital, the VA has responded by saying that they cannot undertake any new, major construction programs. But considering the fact that any rehabilitation of Allen Park would be very expensive and would still not provide us with an adequate facility. I have been somewhat puzzled by the cost problem expressed by the VA, especially when we are concerned about the efficient expenditure of taxpayers' dollars. I am sure that Mr. Roudebush and his assistants make these recommendations in good faith, but as a member of the HUD-Independent Agencies Subcommittee, I find myself in disagreement with the spending priorities established by the VA, and as an American I find myself extremely sympathetic to the needs of the veterans who need a better hospital.

It is for this reason that I was particularly pleased to see that the Senate within their report on the HUD-independent agencies appropriations bill had, on page 72, directed the Veterans Administration to use $100,000 of the funds provided under "Construction, Minor Projects," for a preliminary plan for the construction of a new VA hospital in Detroit. The Senate report noted that a plan prepared by the VA with respect to district 14, including Detroit, had recommended a replacement for Allen Park. This is the first step in the construction of a new hospital, and within a few years we may be able to vote on the appropriations for the actual construction of a new facility.

I am certain that the VA will heed the words of the Senate report. We in the conference had absolutely no disagreement with this language, and we are pleased to provide the veterans in the Michigan area with the chance for the new hospital they truly need.

I am also hopeful that the VA will give particular attention to the recommendations of the veterans group in Michigan, and construct the new hospital adjacent to the medical school complex at Wayne State University in Detroit. This location would be extremely accessible for veterans in need of the facility, and would also provide complete medical assistance and analytical labs in conjunction with the Wayne State Medical School.

Mr. Speaker, the entire bill provides us with a wise spending program. It provides funding for programs of importance to all Americans, and I urge my colleagues to resoundingly approve the conference report on H.R. 14233, Department of Housing and Urban Development-independent agencies appropriations bill for fiscal 1977.

Mr. ROUSH. Mr. Speaker, I rise in support of the work the HUD and Independent Agencies Subcommittee on Appropriations has done in reporting a bill that is not only less than the budget estimates but less than the 1976 appropriations. As a member of this subcommittee, I assisted in reporting out the bill which was $2,308,868,000 below the President's budget. Mr. BOLAND, the chairman, and his staff should be commended.

Some of the many agencies testifying before our subcommittee included: Department of Housing and Urban Development, Consumer Product Safety Commission, Council on Environmental Quality, Environmental Protection Agency, National Aeronautics and Space Administration, National Science Foundation, Office of Consumer Affairs, Selective Service System, and Veterans' Administration. The Senate version was a larger bill than what the House passed. The conference committee, upon which I served, worked out a compromise between the two different versions. The legislation that was sent to the President was $301,885,000 more than the House total and $51,585,000 less than the Senate total. I would have preferred the House figure, but the compromise was better in my mind than accepting the much higher Senate version.

I find the work on this subcommittee to be one of my most challenging. It is with great difficulty that the decisions to appropriate money to these various agencies are made. To make cuts in their budget estimates meant cutting back on many needed programs, yet we must remain within our spending limits as set by the Budget Committee. If we are to control Federal spending, sacrifices must be made and priorities must be set.

Mr. BOLAND. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. TALCOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 390, nays 15, not voting 27, as follows:

[Roll No. 550]

YEAS—390

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stokes
Studds
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—15

Archer
Armstrong
Ashbrook
Collins, Tex.
Crane
Evans, Ind.
Kindness
Latta
McDonald
Miller, Ohio
Mottl
Paul
Russo
Schneebeli
Symms

NOT VOTING—27

Breckinridge
Brooks
Clay
Diggs
Esch
Fountain
Hansen
Hébert
Helstoski
Hinshaw
Jones, Tenn.
Karth
Landrum
Litton
Madigan
O'Hara
Rees
Riegle
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Wiggins

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Esch.
Mr. Brooks with Mr. Karth.
Mr. Fountain with Mr. Steiger of Arizona.
Mr. Hébert with Mr. Hansen.
Mr. Helstoski with Mr. James V. Stanton.
Mr. Symington with Mr. Madigan.
Mr. Stratton with Mr. Steelman.
Mr. Landrum with Mr. Rees.
Mrs. Sullivan with Mr. Stephens.
Mr. Riegle with Mr. Clay.
Mr. Diggs with Mr. Stuckey.
Mr. Breckinridge with Mr. O'Hara.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 1: Page 2, strike out lines 6 down through and including line 6 on page 3.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following:

"The additional amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), entered into after September 30, 1976, shall not exceed $675,000,000 including not more than $35,000,000 for the modernization of existing low-income housing projects, which amounts shall be in addition to balances of authorization heretofore made available for such contracts: *Provided*, That the total new budget authority obligated under such contracts entered into after September 30, 1976, shall not exceed $14,870,400,000, which amount shall not include budget authority obligated under balances of authorization heretofore made available: *Provided further*, That of the total herein provided, excluding funds for modernization, not more than $120,000,000 shall be used only for contracts for annual contributions to assist in financing the development or acquisition of low-income housing projects to be owned by public housing agencies other than under section 8 of the above Act: *Provided further*, That of the amount set forth in the second proviso, not more than $85,000,000 shall be used only for projects on which construction or substantial rehabilitation is commenced after the effective date of this Act except in the case of amendments to existing contracts: *Provided further*, That of the amount set forth in the second proviso, not less than 15 per centum shall be used only with respect to new construction in nonmetropolitan areas."

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion be dispensed with. It is printed in the conference report on page 4, and it is explicable there.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. BOLAND).

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: Page 5, line 2, insert: "*Provided further*, That the Secretary may borrow from the Secretary of the Treasury in accordance with and up to the amounts authorized by said section, in such amounts as are necessary to provide the loans authorized herein."

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert: ": *Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 8, line 11, insert: "of which $200,000,000 shall be used for the purposes stated in section 103(a)(2) of said Act except that not more than $100,000,000 of the amount so provided may be used for the purposes of section 106(d)(1),".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Boland moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 28: Page 21, line 20 insert: "*Provided further*, That of the foregoing amounts funds available to meet minima authorized by any other Act shall be available only to the extent such funds are not in excess of amounts provided herein".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Boland moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 29: Page 21, line 24 insert: *Provided further*, That unless otherwise specified by this appropriation, the ratio of amounts made available under this Act for a program or minima to the amounts specified for a program or minima in any other Act, for the activity for which the limitation applies, shall not exceed the ratio that the total funds appropriated in this Act bear to the total funds authorized in such Act, for the activity for which the limitation applies."

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Boland moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 31: Page 22, line 16, insert: "*Provided further*, That of the foregoing amounts, funds available to meet minima authorized by any other Act shall be available only to the extent such funds are not in excess of amounts provided herein."

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Boland moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 32: Page 22, line 20, insert: "*Provided further*, That unless otherwise specified by this appropriation, the ratio of amounts made available under this Act for a program or minima to the amounts specified for a program or minima in any other Act, for the activity for which the limitation applies, shall not exceed the ratio that the total funds appropriated in this Act bear to the total funds authorized in such Act, for the activity for which the limitation applies."

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Boland moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Senate amendment No. 35: Page 28, line 2, strike out: "$399,131,000" and insert: "$388,847,000,".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Boland moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert: "$405,681,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 37: Page 29, line 4, strike out: "$92,561,000" and insert "$92,501,000,".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Boland moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "92,001,000".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include tables, charts, and other extraneous material, on the conference report on the bill (H.R. 14233) just agreed to.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 13720, DEBT COLLECTION PRACTICES ACT

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1278 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13720) to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Currency and Housing, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. McFall). The gentleman from Illinois (Mr. Murphy) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, the Debt Collection Practices Act was considered by the House on July 19 under suspension of the rules, but failed to receive the necessary two-thirds required for passage. House Resolution 1278 provides for an open rule providing 1 hour of general debate on H.R. 13720.

This bill amends the Consumer Protection Act to prohibit abusive practices by debt collectors and to regulate their activities. H.R. 13720 places restrictions on the time and manner of communications by a debt collector with the consumer, his or her spouse, or third parties. This legislation prohibits the debt collector from making any false or misleading representation as well as forbids the use of abusive language and threats.

After initial communication from the debt collector, this bill requires that the consumer be notified in writing regarding the amount of the debt and the name and address of the creditor. This information must be accompanied by a statement that the consumer must dispute the validity of the debt within 30 days, or the debt will be assumed valid. Where the debt is disputed, collection procedures must stop until a certificate stating the validity of the debt is obtained.

The Federal Trade Commission will be responsible for the enforcement of this legislation. Civil and criminal penalties in this bill are consistent with those already in the Consumer Credit Protection Act. A debt collector who fails to comply with the provisions of this bill is liable to the affected individual for an amount not less than $100 and not more than $1,000. In a class action suit, violators would be liable for no more than $500,000 or 1 percent of their net worth, whichever was less. The criminal liability consists of a fine of up to $5,000 or imprisonment up to 1 year, or both, for violation of the bill's provisions.

These safeguards are necessary for the protection of consumers to limit the abusive practices of unethical debt collectors. At present there is no Federal statute to regulate interstate debt collection practices, where most abuses occur. Legislation needs to be enacted. I urge the adoption of House Resolution 1278 that we may discuss and debate H.R. 13720.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Illinois has explained that House Resolution 1278 is a simple 1-hour open rule making in order the consideration of H.R. 13720, the Debt Collection Practices Act, which failed of passage under suspension of the rules on July 19, 1976.

This legislation is designed to protect consumers from unethical tactics of debt collectors. In doing so the bill sets forth the conditions under which a debt collector must operate in seeking information about a debtor and in communicating with him in connection with the collection of any debt. Enforcement authority is given to the Federal Trade Commission through civil and criminal liability provisions consistent with those presently in the Consumer Protection Act. Additionally, provision is made for class action suits against debt collectors by aggrieved persons.

There is no question but what many debt collection agencies existing today have harassed, intimidated, and deceived numerous persons in their efforts to recover debts owed their clients. No legitimate businessman would argue for the continuation of such practices, but I believe it is important in attempting to prevent such occurrences not to tip the balance on the side of the debtor who may be deliberately avoiding the payment of an honest debt.

When H.R. 13720 was before the Rules Committee, several concerns were expressed regarding the FTC's view of this legislation, the civil liability section allowing class action suits, and the particular types of collection agencies to be affected. I hope that during the debate on this bill these questions will be discussed and further clarified.

Mr. Speaker, I know of no opposition to the rule, and I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 2, not voting 39, as follows:

[Roll No. 551]

YEAS—391

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stark
Steed
Steiger, Wis.
Stokes
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

Lujan
Quillen

NOT VOTING—39

Abdnor
Carney
Clay
Diggs
Duncan, Oreg.
Esch
Eshleman
Evins, Tenn.
Fountain
Hansen
Hébert
Helstoski
Hinshaw
Howe
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Litton
McEwen
Madigan
Meeds
Mosher
O'Hara
Peyser
Pressler
Rees
Riegle
Stanton, J. William
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Wiggins
Wydler

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Esch.
Mr. Hébert with Mr. Karth.
Mr. Fountain with Mr. Hansen.
Mr. Helstoski with Mr. O'Hara.
Mr. Symington with Mr. Steiger of Arizona.
Mr. Stratton with Mr. Stephens.
Mr. Landrum with Mr. Eshelman.
Mr. Riegle with Mr. Stuckey.
Mr. Diggs with Mr. Steelman.
Mr. Carney with Mr. Evins of Tennessee.
Mr. Clay with Mr. Abdnor.
Mr. Duncan of Oregon with Mr. Jones of Alabama.
Mr. Howe with Mr. Madigan.
Mr. Meeds with Mr. Mosher.
Mr. McEwen with Mr. Peyser.
Mr. Pressler with Mr. Rees.
Mrs. Sullivan with Mr. William J. Stanton.
Mr. James V. Stanton with Mr. Wydler.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 3052, AMENDING SECTION 602 OF AGRICULTURAL ACT OF 1954

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3052) to amend section 602 of the Agricultural Act of 1954, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Washington? The Chair hears none, and appoints the following conferees: Messrs. de la Garza, Brown of California, Richmond, Harkin, McHugh, Thone, and Grassley.

DEBT COLLECTION PRACTICES ACT

Mr. ANNUNZIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13720) to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. Annunzio).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13720, with Mr. Young of Georgia in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. Annunzio) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Wylie) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Annunzio).

Mr. ANNUNZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before we reach a vote on H.R. 13720, the Debt Collection Practices Act, there will be a great deal of rhetoric in this body about the legislation. There may well be conflicting points of view expressed about certain provisions of the legislation. And there may be a number of amendments offered. But what I am asking Members to realize is that the issue before us today is a very basic and simple one: Namely, should debt collectors be allowed to use any tactics at all including threats of violence, impersonation of law enforcement officials and midnight telephone calls in order to collect debts even if the debts involved are not just?

That is the only question that is to be decided here today. There can be great philosophical questions about the constitutionality of the legislation and there can be great discussions about States' rights, but when all of those discussions are over, Members of this body are going to have to make a choice. They can vote for the legislation and tell the American people that the Congress of the United States is in favor of human decency, or Members can vote against the legislation and let the American people know that this body gives its stamp of approval to the shoddy business practices of the Nation's debt collectors.

There is no middle ground in this legislation. I want the Members to be made aware of that before they cast their votes.

When the legislation was before this body under the suspension calendar last week, some Members were concerned that the legislation preempted the rights of the various States to enact their own laws. Unfortunately, there are some 13 States that do not have debt collection laws and of the remaining States that do have laws most of them are not ever worth the paper upon which they are printed. However, because debt collection abuses are so horrendous and the problem is so great, I am willing to leave the regulation of debt collectors operating solely within the boundaries of a single State up to the legislative bodies of those States.

Mr. Chairman, I realize that in recent weeks and particularly during the last few days, Members of this body have been contacted by debt collectors urging the defeat of this legislation or suggesting crippling amendments. I would point out to those Members that the two largest trade associations of debt collectors have supported the bill and one of the trade associations, the American Collectors Association, the largest group, has even publicly stated that it disavows the attempts of any collector to amend or defeat the legislation. I can only suggest, therefore, that if the reputable debt collectors are supporting the bill and are not endorsing amendments, that the debt collectors who are pressuring Members represent the unethical collectors or those who believe in violence or other similar scare tactics. Hopefully the Members of this body will stand up to those merchants of misery who believe that the end justifies the means in trying to collect a debt, even if the person they are after does not owe the debt.

I am certain that during the debate today someone will raise the argument that this legislation is designed to help those who do not want to pay their debts, or as the debt collectors call them, "deadbeats." Of course, this legislation has no such objective and anyone who has read the hearings or read the report or read any of the statements surrounding the hearings would realize that the bill does not protect deadbeats. The primary objective of this legislation is to make certain that debt collectors operate as law-abiding citizens, not as criminals or hoodlums.

Mr. Chairman, it would amaze the people of this body the numbers of consumers who are wrongly pursued by debt collectors. People with common last names are prime targets of these vultures. Since most debt collectors work on a commission basis, their only thought is to collect enough money so that they can get paid.

As an example of how uninterested debt collectors are in the correctness of the debt, I would point to a provision of the legislation that requires a debt collector to give the consumer the name and address of the business that sent the debt to the collector. You would think it would be a very simple task for a debt collector to inform the consumer that the debt in question is owed to the ABC Business which is located at such and such an address. The debt collectors, however, fought that provision with all of their weapons. They were even so bold as to admit that in many cases they do not know the address of the person that sent them the debt to be collected. And with the advent of computers the situation is even worse. One company's computer merely spits out a list of overdue accounts, and forwards them directly to the computer of the debt collector. That debt collector has no way of knowing whether or not this is a bona fide debt nor does the debt collector care. To a debt collector the only debt that is not bona fide is one on which he cannot collect money.

A further example of how slippery some debt collectors can be occurred during one of the markup sessions on the legislation when a provision was placed in the bill that came directly from the code of ethics of one of the debt collectors' trade association. The debt collectors objected to the provision, and when it was pointed out to them that it came directly from their code of ethics, they in fact disavowed their own code of ethics.

If this body fails to pass the Debt Collection Practices Act, I want Members to know some of the types of practices that they will be approving. A "no" vote will be a stamp of approval for the debt collector who stole the crutches of a paraplegic widow and refused to return the crutches until the disputed bill was paid.

A "no" vote will be a stamp of approval for the debt collector who notified a woman that her young child had been seriously injured and was being treated in the emergency room of the local hospital. When the woman arrived at the hospital she was confronted by a debt collector who informed her that there had been no accident and he wanted to talk to the woman about a debt.

A "no" vote will indicate approval for the debt collection practice known as "beating." This is the practice of calling a consumer every 5 minutes either at home or at his place of work in hopes of harassing the consumer into paying the debt.

A "no" vote will mean a stamp of approval for the debt collection practices of disguising collection agents as policemen, as sheriffs, and as FBI agents and telling the consumers they will be thrown into jail unless a debt is paid.

A "no" vote will indicate approval for the debt collection practices of calling a mother and telling her that unless she pays her bill the local government will take her children from her and place them in a foster home, she is a deadbeat and therefore an unfit mother.

Mr. Chairman, I could spend all of my time describing many of the techniques that appear in the hearings and the records of the hearings of this subcommittee, tactics which are used by debt collectors, but I think the question is very clear to all of us mature Members of this body who are politically oriented and know what is going on in our own districts and in our own neighborhoods and in our own States.

In closing let me point out that recent public opinion polls have shown Congress to be held in low ratings in the eyes of the American people and many Members will remember the frustrations of the public during the energy crisis which resulted in bumper stickers which read:

> Please let me have just enough gas to get to the polls on election day.

From the letters I have received from consumers and the support that this bill has received from the Consumers Federation and organized labor and many interested citizen groups throughout America, it is quite clear that the public wants something done about the debt collecting. Today we have an opportunity to do something. We have an opportunity to restore some of this prestige in the eyes of the American people. We cannot restore this by a vote to approve the criminal actions of a debt collector. We can restore public confidence by letting everyone know that this body is still the House of the people and that we support human dignity and human decency. We can show our support of these principles of human dignity and human decency by voting for a bill that is truly a people's bill.

In my own State of Illinois the people of Illinois waited 11 years for a bill to be put on the statute books of that State. But we American people have been waiting for the Congress to take action, that day has come, and this is our opportunty to take that action by voting "yes" on this legislation.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding.

I commend the gentleman from Illinois, the author of the bill, for his leadership in his fight for this bill, legislation that deals with the abuses of debt collectors.

I would suggest that every Member of this House look at the chart in the well and look at the literature and the types of abusive practices committed by our debt collectors. For those uninitiated and uninformed, I would point out the receipt of that type of letter or document is a frightening and coercive experience as well as cruel to the recipients.

I would suggest the most damaging testimony against the abuses is contained in that display the gentleman has made available. I congratulate the gentleman for his imagination in presenting this and making the information available to the Members of the House.

Mr. ANNUNZIO. I thank the gentleman from New York for his very constructive remarks and the contribution that he has made here today is one I know is based on his vast experience as one of the most highly decorated police officers in the State of New York. I know that he truly understands and has come into contact with the people who have suffered the punishment of these bounty hunters.

Mr. WYLIE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, as I mentioned last Monday when this bill was on the floor on the Suspension Calendar, I believed this to be a good bill which establishes reasonable standards of conduct for the debt collection industry. I believed this to be a good bill last Monday and I thought everyone would be for it. That did not prove to be the case for one reason or another. I thought it behooved me to analyze in retrospect why the bill was not passed unanimously since I felt it to be a good bill which addresses a real problem.

Mr. Chairman, I think the reason that the bill did not pass on the Suspension Calendar, or the primary reason, at least, was the argument that we should be against Government intervention, or the feeling of our friends that the Government should not pass a law which would harass the small businessman or small firm in the debt collection business. I understand this, because I have been making speeches just like that myself. I believe sincerely that there is too much governmental redtape and too much governmental regulation.

There is a precedent which would be set by this bill, which I recommend for other bills and that is that the Federal Trade Commission, which would have enforcement authority, would not be given rulemaking power, so that it could not go beyond the pages of this bill and project itself into the lives of small businessmen beyond what this Congress says it should.

Now, I might add that when the original bill was introduced, I was skeptical of a law to regulate the practice of debt collection. My experiences with debt collectors and the debt collection industry have been most favorable. As a practicing lawyer for a rather large law firm in Columbus, we had clients who came to us and asked us to collect debts from their customers. We frequently used the services of the Columbus Credit Bureau, which was just down the hall from us, which is a private debt collection firm. They did a really fine job. The agency was knowledgeable. It was ethical. It was competent and it performed a real service for the community at considerably less cost then we could ever collect the debt.

Now, we do not want to pass a bill which would impair the ability of the honorable, honest and ethical debt collector from performing a valuable service to his community. The people who are involved on the collectee end of debt collection are always people who have not paid their bills, or at least so I thought at first; but I found out that in some cases the same debt collectors were harassing people in error and that there were cases of mistaken identity and that there have been abusive practices which ought to be corrected.

I also found out as a result of testimony which was taken before our committee that in many instances the debt collector in dealing with deadbeats and so he is not expected to get very good results by using the Marquis of Queensbury rules in all cases. As I mentioned earlier, I did not sponsor the original debt collection bill for these reasons and also because of the heavy recordkeeping requirement which was in the original bill and the possible increase in the cost of doing business. If there is anything that small business does not need, I repeat, it is more paper work. Small business could be choked to death with Government redtape; but after a series of hearings, I became convinced that there are unscrupulous people in the debt collection business in some cases disguising themselves as attorneys or accountants, using deceptive practices, such as wearing policemen's uniforms or using phony legal papers or harassing tactics of the day and night. A telephone call at 3 or 4 o'clock in the morning on successive nights will get attention real quick. We found that this had been done in some cases.

In other cases, practices were used which destroyed the credit reputation of consumers who disputed the debt and claimed they never incurred the debt in the first instance.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. WYLIE. Mr. Chairman, I yield myself 5 additional minutes.

Mr. Chairman, we do not want to throw out the baby with the bath water; but I think there is a legitimate concern about certain debt collection practices which ought to be prohibited. After having listened to witnesses on both sides of this bill and in an attempt to write a reasonable law which would not be unnecessarily restrictive and might even help the ethical debt collector, I found that most debt collectors, after talking to them, do not live in a dream world.

They are much too close to economic reality to be philosophers. They have heard many alibis and suffered through many a trail of broken promises. The professional debt collector is a person who knows instinctively that you do not get something for nothing. I understand all that.

I also listened to the witness who got religion and testified that he had attempted to collect a debt by calling from a hospital emergency room to a young woman and telling her that her small child was in the emergency room in critical condition, after identifying himself as one of the staff. When she rushed into the hospital, he grabbed her and told her that her son was not in an accident. He told her that he had not been able to get in touch with her and that this was the only way he could get in touch with her. So, she gave him a check to get rid of him. I will not go into complete details, but there were several reasons such as sickness in the family, as to why she had not been able to pay the bill. I know that no ethical debt collector would do that, but this is one of the many resourceful methods which were used by persons who are unethical and in the debt collection's business.

So, a bill which would prohibit practiies like that, I think all the Members will agree, would be a good bill. I think at the same time, it would help—as I said before—the ethical debt collector, and that is the general tenor of this bill which is before us today. I will put in the RECORD at this point a summary of the provisions of H.R. 13720 and what it does:

> Sec. 802 provides for the definition of certain terms used in the bill. Among the more

important terms is the definition of "debt collectors" and the definition of the term "communication."

This bill applies exclusively to independent debt collectors, in other words, those who collect on behalf of others. It does not apply to in-house collection agencies. And it does not apply to the business debt—only individual debts.

The term "communication" is defined as an actual contact by the debt collector of the consumer and must include a statement by the consumer of his present intentions with respect to the repayment of the debt.

Sec. 803 is entitled "Acquisition of Location Information." In the jargon of debt collectors, it is known as "skip tracing." It describes the investigative work that debt collectors do to find the whereabouts of a consumer who has left town without giving a forwarding address.

In following up leads to locate a consumer, the collector is not permitted to disclose the purpose of his inquiry. Furthermore, the collector may only use the telephone, mail, or telegram to acquire location information. Personally, I think a debt collector ought to be able to go to the door of consumers if he does not have a phone—Tracking down—might meet his aged mother at door or manager of rooming house.

Sec. 804 is the very heart of the debt collection bill; it defines the times, the places, and third parties debt collectors can contact in attempting to collect a just debt. Collection attempts must be made during the hours of 8 a.m. and 9 p.m. Efforts to collect are to be directed at the consumer or his spouse; third party contact is prohibited. Ordinarily the consumer is contacted at his home.

However, if the debt is at least 60 days overdue and $100 or more, then the collector can contact the consumer at his place of employment twice a month. This section also provides that a collector must cease his efforts when a consumer absolutely refuses to pay. Then he returns to creditor as an uncollectible debt. American Collectors Assoc. has this in Code of Ethics. Finally, when a consumer sues a collector, the consumer must at least make a prima facie case.

Sec. 805, "Harassment or Intimidation," forbids the use of threats, violence, profane language, or any criminal means to harm the reputation, the person, or property of any consumer.

Sec. 806 prohibits the use of false or misleading representations in attempting to collect debts. There are sixteen listed prohibitions. For example, the false representation that the collector is acting on behalf of the United States or any state is expressly prohibited. In a general way, this section prohibits the use of trickery when engaged in debt collection.

Unfair practices are strictly prohibited by the provisions in Sec. 807. It makes the solicitation of post-dated checks permissible. However, the collector must notify the consumer three days before deposit. This section also forbids the imposition of any hidden charges or fees.

Sec. 808 entitled the "Validation of Debts" outlines what debt collectors must do to insure against mistaken identity or attempting to collect at the wrong address. This section is patterned after a section of the Fair Credit Billing Act which seems to be working well.

Sec. 809 provides that if any consumer is indebted to more than one creditor and the consumer makes a payment to the collector, then the collector must distribute the payment among the creditors in accordance with the consumer's preferences.

Sec. 810 requires that debt collectors may not bring legal actions against consumers at inconvenient forums. This is designed to prevent court actions hundreds of miles away from the home of the consumer or where the contract was made.

Sec. 811 dealing with civil liability states the penalties for violation of this act. A civil liability section similar to this one is standard for all titles of the Consumer Credit Protection Act.

Sec. 812 is the criminal liability section which makes it a misdemeanor to willfully and knowingly violate this title.

Sec. 813 is unique in the sense that while the Federal Trade Commission is given enforcement authority under this act, they have "not" been given rule writing authority under this act. Therefore, the act stands to fall on its face.

Sec. 814 mandates yearly reports to Congress on the enforcement of this act by the FTC and the Department of Justice.

Sec. 815 and Sec. 816 refer to state laws where they are inconsistent with this act.

Sec. 817 makes the effective date of this title six months after enactment.

There is one amendment which I mentioned in passing a little while ago which I recommend to the Members, which I think ought to be followed in other bills. This would give the Federal Trade Commission the responsibility of supervisory control and enforcement assistance, but at the same time we specifically say that the role of the Federal Trade Commission does not include regulation or rulemaking power. If there is some doubt in the mind of someone at the Federal Trade Commission as to what authority he has, he must come back to Congress for instructions.

I would not support any legislation which would force creditors to skip the collection process altogether and either write off a bad debt or go to court. Our courts are all too clogged with cases as it is. And if the debt collection business is wiped out some retailer may turn to dealing on a cash-and-carry basis, thereby denying credit to those who really need it the most. I do not want to encourage the attitude that you can get something for nothing, especially in economically depressed times when persons who are honest might be tempted to evade just debts, and in the long run a rising level of debt writeoffs will add to the cost of doing business.

So, what we need to do, as I said at the outset, is write a reasonable bill which would not encourage the deadbeat, and will also protect the honest debt collectors. I think we have come up with a bill such as that.

In that spirit, I would compliment the chairman of the subcommittee, the gentleman from Illinois (Mr. ANNUNZIO) for agreeing to several revisions of his original position. As a matter of fact, the bill has been rewritten three times. We thought it satisfied everybody until it came to the floor last Monday. We thought it satisfied the trade associations who represent the debt collectors, and we also drafted the bill to satisfy the concerns of some that we are overregulating and that Government should not intervene any more than necessary in the regulation of small business or any business enterprise.

The bill does not go far enough for some of the consumer protection agencies. We are told that it goes too far as far as independent debt collectors are concerned. So I think it is fair to say that the bill goes just about far enough. As legislation, I think it strikes a happy medium and in my judgment is just about right. I would suggest sincerely that it is a good bill for the Members of this body to vote for today, and I commend it to you for passage.

Mr. ANNUNZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BROOKS) to speak out of order.

(By unanimous consent, Mr. BROOKS was allowed to speak out of order.)

LEGISLATION INTRODUCED TO AMEND THE PRESIDENTIAL TRANSITION ACT OF 1963 TO INCREASE THE FUNDING AUTHORIZATION IN THAT ACT

Mr. BROOKS. Mr. Chairman, I have today introduced legislation which will amend the Presidential Transition Act of 1963 (3 U.S.C. 102 note) to increase the funding authorization in that act. The 1963 law authorized an expenditure of up to $900,000 to cover expenses of the President-elect, the Vice President-elect, the former President and former Vice President. The funds to the President-elect are to be used to help defray the expenses incurred in setting up his administration from the day after the election until his inauguration. The funds available to the former President are to be used within the first 6 months after he leaves office.

My legislation provides for an authorization of $3,000,000 for the purposes enumerated in the act. In the 13 years since this bill was enacted, the cost of goods and services has risen so sharply that this increase is necessary in order to provide adequate funding for these important purposes. Even in 1963 when the existing amount was set at $900,000 the GAO testified that a Presidential transition would realistically run $1.225 million. In 1968 the President-elect alone reported spending $1.5 million in connection with taking office.

In addition, Mr. Chairman, my legislation would divide the money so that $2 million would be allotted for the benefit of the President-elect and $1 million for the benefit of the former President. The present law is silent on how the money is to be divided. There is no question that a Presidential transition is costly for both the incoming and outgoing administrations. However, the evidence indicates that the expenses incurred in setting up a new administration with the necessary talent searches for competent personnel are considerably greater than the cost of winding down an outgoing administration.

Of course there may not be a change in administrations next year but if there should be, we should act now to make sufficient funds available to make the transition orderly and productive.

The bill is as follows:

H.R. 14887

A bill to revise appropriation authorization for the Presidential Transition Act of 1963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended to read as follows:

"SEC. 5. There are hereby authorized to be appropriated to the Administrator such funds as may be necessary for carrying out the purposes of this Act, except that with respect to any one Presidential transition—

"(1) not more than $2,000,000 may be appropriated for the purposes of providing services and facilities to the President-elect and Vice President-elect under section 3, and

"(2) not more than $1,000,000 may be appropriated for the purposes of providing services and facilities to the former President and former Vice President under section 4.

The President shall include in the budget transmitted to Congress, for each fiscal year in which his regular term of office will expire a proposed appropriation for carrying out the purposes of this Act."

SEC. 2. The amendment made by the first section of this Act shall take effect on—

(1) the date of enactment of that Act, or

(2) October 1, 1976, whichever is later.

Mr. ANNUNZIO. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. I thank the gentlewoman for yielding.

Mr. Chairman, I want to compliment the gentlewoman in the well for her hard work on this legislation. It was through her efforts and her long experience in the State of Maryland, along with the efforts of the gentlewoman from New Jersey (Mrs. FENWICK), who, when they were first elected to the Congress and assigned to my subcommittee met with me, and urged me to investigate the debt collecting industry. So I want to commend the gentlewoman from Maryland (Mrs. SPELLMAN) and the gentlewoman from New Jersey (Mrs. FENWICK) for their hard work on the subcommittee.

Mrs. SPELLMAN. I thank the chairman for his remarks. It has been indeed a real pleasure and an invaluable experience to work on the gentleman's committee and under his guidance and under his leadership. It is we who have been privileged, and we thank the gentleman for that opportunity.

Mr. Chairman, I would like to address myself to the real need for this legislation. Let me first make it clear that I resent deadbeats. I resent people who buy more than they can pay for, because all of the rest of us are penalized. We pay higher prices to cover the losses that they create, and I, therefore, have no problem with the practice of debt collection. I want like everything to zero in on deadbeats. But explore with me for the moment the motivation of a debt collector who gets paid only if he collects. Some agencies use this method of payment as an incentive to their collectors.

As we found out in our hearings, this "Pay up or else" method works, but often at the expense of the civil liberties of the consumers involved. A collector who knows that he is not going to be paid if he does not collect is not going to waste his time trying to collect from a deadbeat. Deadbeats simply are not worth the chase; they know the game all too well. So they are allowed to have a free ride. The investigation by the Subcommittee on Consumer Affairs into the debt collection industry has found that this is true.

Those collectors who receive a percentage of the amount that they retrieve work primarily on nondeadbeats, on those people who, through some unfortunate chain of circumstances, find themselves in a position where they are unable to pay for debts which they incurred in good faith. Unfortunately, often great personal abuse is inflicted on these people, and as a result there has been created a need for the protection which this bill proposes.

The testimony at the hearings brought out the fact that without the force of Federal law the collector often will go after the consumer whom he will most likely be able to coerce into payment. This is usually the first-time-in-default type of debtor. There is no doubt in my mind now that these coercion attempts often do get out of hand.

I would remind the Members that I am not criticizing all collection agencies. There are many who conduct their businesses in an atmosphere of professionalism which requires that employees adhere to certain standards. I have seen agencies which self-discipline those who do not, and I have no quarrel with those collectors. It is my feeling they will go on doing business as usual under this bill.

But it is the collector who knows that his quarry—and I use that word advisedly—has gotten in over his or her head because of an unexpected reduction in pay or because perhaps he or she simply does not have the money to pay that we are concerned with. It is then that the repeated calls, abusive name-calling, slandering of reputation, and calling the consumer's place of work repeatedly, come into play. It is those practices that are most likely to step over all accepted lines of decency.

We heard testimony in committee of some really dastardly practices, and today we heard the testimony of a woman who was called and told she should go to the hospital because her child had been seriously injured when, indeed he had not been. It was a cruel hoax. It is those kinds of practices that we must put an end to.

Let us not ignore the fact that individuals who owe money do have rights. This is the first piece of legislation to come out of Congress which seeks to guarantee that certain protective criteria are met when one individual or business attempts to collect moneys from another.

I do not think it is too much to ask that Federal guidelines be set which outline accepted practices, because we have found it is just too easy in the heat of an attempt to collect to put a little too much pressure on. Now, with the guidelines set down very clearly in this bill, each collector can claim no excuse for stepping over the lines of decency into the abusive or harassing category.

Let me say again that the bill is designed to eliminate those abuses which we found most flagrant. I am not claiming that the majority of attempts to collect fall into this category, because most of them do not. I state only that they are common and that there is a documented need for some protection to guard against the abuses. There is irony in the fact that it is the person who desires most to pay his debts who is the easiest target for unscrupulous collectors, and is therefore subject to the worst abuses.

The CHAIRMAN. The time of the gentlewoman from Maryland (Mrs. SPELLMAN) has expired.

Mr. ANNUNZIO. Mr. Chairman, I yield 2 additional minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mr. LONG of Maryland. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I congratulate the gentlewoman on her excellent statement.

There is one aspect of this that bothers me, and that is the fact that many of these things that are outlawed under this legislation would, it seems to me, have to be illegal in any case. It is also my understanding that there are State laws against many of these practices, but we have a problem of enforcement. A good many States just do not enforce the law.

I am just wondering whether we ought to be having the Federal Government used in a sense as a dumping ground for law enforcement in a lot of cases in which local law enforcement just is not adequate.

Mrs. SPELLMAN. I want to say to my colleague, the gentleman from Maryland (Mr. LONG), that right here in the Metropolitan Washington area we have a perfect example of how State laws will not serve to cut back on these kinds of abuses.

Maryland may have one law, Virginia another, the District of Columbia still another; and we reside in these various jurisdictions and are served by firms in the various jurisdictions.

Therefore, in the metropolitan areas, of all places, these kinds of laws or these kinds of regulations really have to be of national scope. That is one of the reasons we need this law.

We have learned that in the State of Maryland there were considerable abuses. I was surprised to learn that in our own State these kinds of things were occurring. It became clear that this legislation is absolutely necessary.

Mr. LONG of Maryland. Could the gentlewoman give us some idea of the size of the machine needed here and how big a bureaucracy is going to be required?

Mrs. SPELLMAN. There really should not be any, but I note that the chairman would like to address that question.

The CHAIRMAN. The time of the gentlewoman from Maryland (Mrs. SPELLMAN) has expired.

Mr. ANNUNZIO. Mr. Chairman, I yield 1 additional minute to the gentlewoman from Maryland.

Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I would like to say to the gentleman from Maryland (Mr. LONG) that the enforcement of the regulations is under the Federal Trade Commission. There will be no need for additional machinery.

Mr. LONG of Maryland. If the gentlewoman will yield further, I am not quite sure I follow just how we can enforce something like this without considerable machinery.

Mr. ANNUNZIO. The Federal Trade Commission is already doing it.

Mr. LONG of Maryland. Will they not

need additional staff and bureaucracy in order to deal with it?

Mr. WYLIE. Mr. Chairman, if the gentlewoman will yield, I do not think any additional personnel will be needed to enforce this bill. As I understand it, the bill will provide an opportunity for the consumer to bring the action under the bill himself. That is the whole purpose of the bill.

The CHAIRMAN. The time of the gentlewoman from Maryland (Mrs. SPELLMAN) has again expired.

Mr. ANNUNZIO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to say to the gentleman from Maryland (Mr. LONG) again that the enforcement comes under the Federal Trade Commission. Consequently, there will be no need for additional manpower since that Agency already has the staff.

In other words, the Federal Trade Commission is not drawing up rules and criteria, it is merely getting new powers. The bill will have them. These are the regulations to be enforced by the Federal Trade Commission.

Mr. ICHORD. Mr. Chairman, will the gentleman yield to me for an answer to the question presented by the gentleman from Maryland (Mr. LONG).

Mr. ANNUNZIO. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I observe in section 805 of the bill that one of the acts prohibited on the part of any debt collector is the use of abusive or profane language.

Then in section 812 it says that whoever willfully fails to comply with any provision of this title "shall be fined not more than $5,000 or imprisoned not more than 1 year, or both."

Who is going to be making the arrests for the use of this profane and abusive language? Are we going to set up a national police force?

Mr. ANNUNZIO. Mr. Chairman, to answer the gentleman, under the bill consumers can sue, and the individual must be found guilty. In other words, the enforcement of this bill is already provided in the Consumer Credit Protection Act.

Mr. ICHORD. If the gentleman will yield, the consumer does not sue in a criminal action.

In this bill, section 805 states that it shall be a crime to use abusive or profane language, a Federal crime, and then says that the person or firm shall be subject to a $5,000 fine.

Mr. ANNUNZIO. In a criminal action the Attorney General will sue.

Mr. ICHORD. Who is going to make the arrest, though? Are we going to turn the FBI into a national police force or what?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ANNUNZIO) has expired.

Mr. WYLIE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, as I see it, the procedure followed would be like it is with respect to any other criminal law. The bill provides that acts are misdemeanors.

Mr. ICHORD. If the gentleman will yield, it provides a penalty of 1 year in jail if one uses abusive or profane language.

Mr. WYLIE. The person aggrieved would go to the prosecuting attorney and say, "This has happened and I would like to file an affadavit against a debt collector for acts prohibited by law."

I do not think that there would be any widespread dragnet operation undertaken by police departments or anything like that.

Under any present criminal law, if a person is aggrieved, he can go down and file his own affadavit to that effect, and that initiates criminal prosecution.

At that time then the prosecuting attorney prosecutes the case on behalf of the aggrieved party. That is the usual procedure in criminal cases. That was the procedure when I was a prosecuting attorney.

Mr. ICHORD. The gentleman does not anticipate giving the FBI jurisdiction in this bill?

Mr. WYLIE. There is no FBI jurisdiction in this bill.

The CHAIRMAN. The time of the gentleman has expired.

The Chair will state that the gentleman from Ohio (Mr. WYLIE) has 10 minutes remaining and the gentleman from Illinois (Mr. ANNUNZIO) has 5 minutes remaining.

Mr. ANNUNZIO. Mr. Chairman, I reserve the balance of the time. I have no further requests for time.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I rise in earnest support of this legislation. I know the bill has been questioned as to whether it is necessary but I think the gentlewoman from Maryland (Mrs. SPELLMAN) has covered that point.

Certainly as the consumer director in New Jersey, I became aware of this as a serious consumer problem, not because many people in New Jersey failed to pay their debts nor because New Jersey has an unusually vigorous debt collection association, quite to the contrary, but because there are always in every profession and in every occupation a few who do not and will not adopt the most ethical and honorable practices.

When I became aware of this through complaints of consumers, I got in touch with the head of the organization of the Association of Debt Collectors, and he was made aware, which he had not been, being one of the honorable ones, of the harsh demands and cruel and brutal methods that were being used.

Some people really do not believe this. And it is hard to believe until a person tells you of the conversations they have been subjected to and until you see the kind of letters they have received—false and misleading letters—suggesting that they are somehow connected with the judiciary, that they are somehow connected with the courts and that they somehow have official sanction. This is not only true within the State but from out of the State, not only from our neighboring States, but from States much further away.

I really believe that this is a very valuable piece of consumer legislation. It is prudent. It does not go as far as many people would like it to go, but it does set some limitations on the extraordinary lengths to which, I regret to say, a few in this profession will allow themselves to go.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, in one of the last decade's better known musicals, "My Fair Lady," there is a touching scene about poor Eliza Doolittle who left Prof. Henry Higgins and was about to marry Freddie Eynesford-Hill. Professor Higgins predicts the great plight in which she will find herself and the bloom in her cheeks will soon, he says, turn to chalk. Not only that, but there will be debt collectors beating at her door.

In both song and in fact over the years we have been cautioned on the importance of the payment of one's debts, and instructed about the obloquy and public scorn that faces the deadbeat.

I saw recently on television that one of the major Presidential candidates in the Democratic Party had his American Express card revoked because he had run up a bill of $123,000 in campaign debts and had not paid for several months. I am sure that was embarrassing to him. It can happen to anyone.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I would state to the gentleman from Maryland that what he is referring to was a business expense and is not covered by the bill.

Mr. BAUMAN. I would agree it is a business expense, in some instances. But in the case of this candidate, knowing his activities in politics I do not think it is a business but a profession with him. Nevertheless, all three national networks exposed him for not paying his account.

I bring this up because I think the gentleman from Illinois, who has done a commendable job in advancing his views on this bill, and who made a very impassioned speech—has really ignored the central thrust of what the bill attempts to do. But I should not suppose it is too unusual for a Congress which will not pay the national debt to be concerned about others paying $3 billion annually in private debts. That really is quite consistent with congressional economic policies generally.

The truth of the matter is that most of the offenses that this bill outlaws on the part of debt collectors, as I read them, are in most States either already common law or statutory crimes, or civil torts, or, in fact, could be the subject of complaints at various consumer protection agencies, which many cities and States now have.

Just look at the list of acts this bill makes into Federal crimes; abusive language; threats of physical violence; use of misleading documents; impersonation of police, and court officials.

The gentleman from Missouri (Mr. ICHORD) has put his finger on it. A whole new Federal attorney and court system will be required for the enforcement of this, even though Federal officials are already burdened with narcotics, interstate crime, the Mafia, and everything else. Now they will be asked to go out and find out whether Joe Doakes of the Doakes Collection Agency has used abusive language over the telephone at 2 o'clock in the morning to collect a debt.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

Supposing the gentleman from Ohio (Mr. WYLIE) one of the authors of this bill, has a debtor owing him a debt which he will not pay—and the gentleman from Ohio I know does not use this type of language—and it is a crime to use abusive and profane language. It is a very vague, ambiguous term, to say the least. But supposing he says, "Why in the hell don't you pay your debts?"

Would that be a crime?

Mr. BAUMAN. The gentleman from Missouri may have just violated the House rules, for all I know.

Mr. ICHORD. If the gentleman will yield further, I have heard this language used on the floor of the House.

Mr. BAUMAN. But also it would be a Federal crime, if he is a debt collector, if this bill becomes law.

I think the gentleman has put his finger on an important aspect of this bill. It creates an extensive new area of Federal crimes that must be enforced by the Federal judiciary and the U.S. Attorney's Office.

May I suggest one thing. I believe imprisonment for a debt is constitutionally impossible; in most States it is a statutory impossibility. We fought a revolution about imprisonment for debts, but yet we are here making it a crime to try to collect a debt.

Mr. ICHORD. If the gentleman will yield further, I agree with the gentleman. But of more concern, I am afraid we are going to bog down the Federal court system.

Mr. BAUMAN. I agree with the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WYLIE. Mr. Chairman, I yield 2 additional minutes to the gentleman.

Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

If the abuses the gentleman speaks about are so widespread, that is an argument in favor of the bill. We ought to have it. We have talked about threats and harassment in the bill. They are not necessarily words of vagueness. All we have to do is go to the dictionary to find out that "harass" means to worry and impede by repeated raids; exhaust, fatigue; to annoy continually.

Harass is to harass in a manner to injure, grieve, or afflict; to cause to suffer because of belief; to annoy with persistent or urgent approaches: to pester. That is all I am talking about.

Mr. BAUMAN. I thank the gentleman for his definitive statement on harassment. Referring more specifically to some of the provisions of the bill so the Members know what they are voting on, it does not take away crutches from injured people but, for instance, it makes it a crime to call debtors before 8 a.m. and after 9 p.m.

The gentleman from Maryland rarely is at home after 8 a.m.; he never gets home before 9 p.m., and he assumes that he now is immune from debt collection. If one were to look at my financial statement, this might be of some concern to some of my creditors.

The bill says if a consumer refuses to pay or even discuss an account with a debt collector, the collector has to go to court.

In most cases of small debts one would not bother going to court because the contingent fee of the lawyer would be so great it would not be worthwhile.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

I know the gentleman well enough that he would give a debt collector permission to call him at other times, which is provided for in the bill. I daresay he would be home at 8 o'clock in the morning for breakfast.

Mr. BAUMAN. I am rarely home at 8 o'clock in the morning, but my breakfast habits are neither here nor there.

We are intruding the Federal Government into another area for which most States have already adequately provided. The States do have remedies. The Federal Government should not, in my opinion, be extended into this debt collection area. Enough is enough.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. WYLIE. One of the reasons we are here today, Mr. Chairman, is because the enforcement authorities in many of the States where there are laws similar to this proposed one which is before us today—and there are 38 States which have such laws—said it did not apply in interstate commerce and did not apply across State lines, and they suggested we pass a law which would permit them in some cases to pursue a person who violated their State laws or a law similar to their State laws across the line.

A little later on I will have an amendment to offer which will say this bill will apply only to interstate commerce and it will allow State officials to enforce the State law if there is a violation of State law and not a violation of Federal law. But we were asked by the people who have the jobs of enforcing the State laws to enact some Federal law which would permit them to go across the State line in California or some other States which have the laws—and in Ohio we do not have such a law.

Mr. BAUMAN. The gentleman's amendment is a small ornament on an otherwise barren tree.

Mr. FAUNTROY. Mr. Chairman, I am extremely pleased to have this opportunity to join with my distinguished colleague from Illinois in supporting legislation that would prohibit the harassment and intimidation being suffered by consumers through unethical debt collectors.

While the services that many collection agencies perform is of value to the economy as a whole, some of them have engaged in practices that must be terminated at once. While these abuses are carried on by only a few, their actions have created havoc with thousands of lives. I, along with members of the House Consumer Affairs Subcommittee, have received dozens of letters from consumers which exemplify the myriad abuses which some collection agencies can and have perpetrated under present law. Some of the more prominent forms of abuse by collection agencies in dealing with consumers who owe a debt, include the use of obscene language, the making of harassing or threatening phone calls, the obtaining of personal information by false pretenses, the threat of imprisonment, the threat of injury, and the use of false identification as an agent or officer of the Government.

I certainly have no intention of encouraging debt delinquencies. I firmly believe that everyone who owes a debt should make an effort to pay it. However, one who owes a debt should not have to incur the types of abuses which I just outlined. Since the intent of this bill is merely to establish consistent parameters in which a collector can act, the ethical collection agencies will have no problem with this legislation. As a matter of fact, most collection agencies should be helped by this bill which tries to end the abuses that have brought shame and disgrace to everyone who has engaged in what is basically a very legitimate enterprise.

Some critics of this bill have claimed that it allows the Federal Government to intrude into yet another area of private activity. The fact remains, however, that State law is not an adequate refuge behind which we can hide. Thirteen States do not even have debt collection regulations and among those States that do have laws pertaining to this matter, many are weak and unenforceable. Furthermore, the most flagrant abuses by collection agencies have involved interstate cases. Only a single standard for the regulation of debt collection practices can eliminate these abuses.

Before I relinquish my time, I want to commend Chairman ANNUNZIO of our Consumer Affairs Subcommittee, for the efforts he has undertaken in making this bill an extremely effective piece of consumer legislation. This bill will clearly benefit millions of consumers, particularly those who are so often forgotten—namely, the poor and downtrodden, who because of their limited resources, are the most abused by the collection practices.

I yield back the balance of my time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the

Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VIII—DEBT COLLECTION PRACTICES

"Sec.
"801. Short title.
"802. Definitions.
"803. Acquisition of location information.
"804. Communication in connection with debt collection.
"805. Harassment or intimidation.
"806. False or misleading representation.
"807. Unfair practices.
"808. Validation of debts.
"809. Multiple creditors.
"810. Legal actions by debt collectors.
"811. Civil liability.
"812. Criminal liability.
"813. Administrative enforcement.
"814. Reports to Congress by the Commission and Attorney General.
"815. Relation to State laws.
"816. Exemption for State regulation.
"817. Effective date.

"§ 801. Short title

"This title may be cited as the 'Debt Collection Practices Act'.

"§ 802. Definitions

"(a) The definitions set forth in this section are applicable for purposes of this title.

"(b) The term 'Commission' means the Federal Trade Commission.

"(c) The term 'consumer' means any individual obligated or allegedly obligated to repay any debt.

"(d) The term 'creditor' means any person who offers or extends credit creating a debt or to whom a debt is owed.

"(e) The term 'debt' means any obligation arising out of a transaction in which credit is offered or extended to an individual, and the money, property, or services which are the subject of the transaction are primarily for personal, family, or household purposes.

"(f) The term 'debt collector' means any person who engages in any business the principal purpose of which is the collection of any debt, or any person who directly or indirectly collects or attempts to collect a debt owed or due or asserted to be owed or due another. The term includes a person who furnishes or attempts to furnish forms or a written demand service represented to be a collection technique, device, or systems to be used to collect debts, if the form contains the name of a person other than the creditor in a manner indicating that a request or demand for payment is being made by a person other than the creditor even though the form directs the consumer to make payments directly to the creditor rather than to the other person whose name appears on the form. The term does not include any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties.

"(g) The term 'location information' means, with respect to any individual, his place or abode, his telephone number at such place, and his place of employment.

"(h) The term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

"(i) The term 'communication' means conveying information directly or indirectly to any person through any medium, except that with respect to section 804(a)(3), the term 'communication' means actual contact with the consumer which includes a brief statement in any manner of the present intentions of the consumer with respect to the repayment of the debt.

"§ 803. Acquisition of location information

"(a) No debt collector may, in connection with the collection of any debt, communicate other than by telephone, mail, or telegram with any person for purposes of acquiring location information about any consumer.

"(b) Any debt collector communicating with any person for the purpose of acquiring location information about any consumer shall—

"(1) identify himself and, if expressly requested, his employer;

"(2) not state that such consumer owes any debt;

"(3) not communicate with such person more than once unless expressly requested to do so by such person, except for one additional communication to reconfirm location information;

"(4) not communicate by post card or similar device;

"(5) not use any language or symbol, other than the debt collector's address, on any envelope when using the mail or telegrams, except a debt collector may use his company name provided that such name does not indicate that the company is in the debt collection business;

"(6) not use any language or symbol in the contents of mail or telegrams that indicates that the communication relates to the collection of a debt, other than the identification of the person as a debt collector; and

"(7) not communicate with any person pursuant to this section, once the debt collector knows the consumer is represented by an attorney.

"§ 804. Communication in connection with debt collection

"(a) Communication With the Consumer or His Spouse Generally.—No debt collector may initiate communications with a consumer or his spouse in connection with the collection of any debt without the prior consent of the consumer or the express permission of a court of competent jurisdiction—

"(1) before 8 antemeridan or after 10 postmeridian or at any unusual time or time known to be inconvenient to the consumer or his spouse;

"(2) after the initial communication, if the debt collector knows the consumer is represented by an attorney, unless such attorney is unjustifiably nonresponsive to communication from such debt collector; or

"(3) after the initial communication, more than two times during any seven-calendar-day period.

"(b) Communication With the Consumer or His Spouse at the Place of Employment.—Without the prior consent of the consumer or the express permission of a court of competent jurisdiction—

"(1) no debt collector may communicate with a consumer or his spouse in connection with the collection of any debt at the place of employment of the consumer or his spouse more than one time; or

"(2) if the debt of a consumer is in the amount of $100 or more, and such debt is at least sixty days overdue, no debt collector may communicate with a consumer or his spouse in connection with the collection of any debt more than once in every thirty-day period at the place of employment of the consumer or his spouse.

"(c) Communication With Third Parties.—Except as provided by section 803, no debt collector may communicate with any person other than the consumer or his spouse, parent (if the consumer is a minor), guardian, executor, administrator or attorney in connection with the collection of any debt without the prior consent of the consumer or the express permission of a court of competent jurisdiction, except—

"(1) any employer of the consumer after a court of competent jurisdiction enters a final judgment establishing the consumer's obligation to repay all or any portion of the debt; or

"(2) any consumer reporting agency, as permitted under the Fair Credit Reporting Act.

"(d) Ceasing Communication.—When a consumer absolutely refuses to pay or even discuss an account a debt collector shall cease further direct collection efforts with the exception of advising the consumer that the collector's further efforts are being terminated and that there is a possibility of an attorney invoking the creditor's remedies locally available.

"(e) Burden of Proof.—The burden of proof that a consumer has given prior consent to communication from a debt collector under this section shall rest with the debt collector.

"§ 805. Harassment of intimidation

"No debt collector may harass or intimidate or threaten or attempt to harass or intimidate any person in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) The use of violence or other criminal means to harm the physical person, reputation, or property of any person.

"(2) The use of abusive or profane language.

"(3) The publication of a list of consumers who allegedly refuse to pay debts.

"(4) The advertisement for sale of any debt to co-allegedly refuse to pay debts.

"(5) Any communication to acquire location information about a consumer if the debt collector has such information or does not reasonably believe that such person has access to such information.

"(6) The making of harassing or threatening phone calls or visits to the home or place of employment of a consumer or his spouse or calling any person repeatedly or constantly.

"§ 806. False or misleading representation

"No debt collector may make or threaten or attempt to make any false or misleading representation to any person in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) Any false representation indicating that the debt collector is acting for or on behalf of the United States or any State, including the use of any badge, uniform, or any facsimile thereof of any law enforcement agency.

(2) The false representation of—

"(A) the character, amount, or legal status of any debt; or

"(B) any services rendered or compensation which may be received by any debt collector for the collection of a debt.

"(3) The false representation that any individual is an attorney.

"(4) The false representation that nonpayment of any debt will result in the arrest or imprisonment of any consumer or the seizure, garnishment, attachment, or sale of any property or wages of any person.

"(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

"(6) The false representation that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to—

"(A) lose any defense to payment of the debt; or

"(B) become subject to any pratice prohibited by this title.

"(7) The false representation that the consumer committed any crime or other conduct in order to disgrace the consumer.

"(8) The false statement to any person (including any consumer reporting agency) that a consumer is willfully refusing to pay a debt.

"(9) The false representation that any writing (including any seal, insignia, or envelope) is authorized, issued, or approved by any court or agency of the United States or any State.

"(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

"(11) The false representation that any person is seeking information in connection with a survey.

"(12) The false representation that any person has a prepaid package for the consumer.

"(13) The false representation that a sum of money or valuable gift will be sent to the addressee if the requested information is presented.

"(14) The false representation that accounts have been turned over to innocent purchasers for value.

"(15) The false representation that any debt has been turned over to an attorney.

"(16) The false representation that documents are legal process forms.

"§ 807. Unfair practices

"No debt collector may engage in the following practices with respect to any person in connection with the collection of any debt:

"(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) by such debt collector unless such amount is expressly authorized by the agreement creating the debt and is legally chargeable to the consumer, or unless such amount is expressly authorized by a court of competent jurisdiction.

"(2) The acceptance by a debt collector from a consumer of any check or any other negotiable instrument that is postdated, unless such consumer is notified in writing of the debt collector's intent to deposit such check or such instrument at least three business days in advance of the deposit of such check or such instrument.

"(3) The solicitation by a debt collector for the purpose of threatening criminal action of any check or any other negotiable instrument that is postdated.

"(4) The deposit by a debt collector of any postdated check or other postdated negotiable instrument prior to the date on such check or such instrument.

"(5) The use or causing to be used in a debt collector's behalf in connection with the collection of any debt, of any forms, letters, questionnaires, other printed or written material, or other forms of communication which do not clearly and conspicuously disclose that such are used for the purpose of collecting or attempting to collect a debt or to obtain or attempt to obtain information concerning a consumer.

"(6) The placement in the hands of others for use in connection with the collection of any debt, of any forms, letters, or questionnaires or other printed or written material which do not clearly and conspicuously reveal thereon that such are used for the purpose of collecting or attempting to collect a debt or to obtain information concerning a consumer.

"(7) The selling of any debt collection related form to any person who is not defined as a debt collector under section 802 of this title.

"§ 808. Validation of debts

"Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall send the consumer a written notice containing the following information:

"(1) The amount of the debt.

"(2) The name and address of the creditor to whom the debt was originally owed and to whom the debt is currently owed.

"(3) A statement that unless the consumer, within thirty days, disputes the validity of the debt, the debt will be assumed as valid by the debt collector.

"(4) If the consumer notifies the debt collector in writing within the thirty-day period that the debt is disputed, the debt collector shall cease collection of the debt until such debt collector obtains certification of the validity of the debt from the creditor and a copy of such certification is mailed to the consumer by the debt collector.

"§ 809. Multiple creditors.

"If any consumer owes debts to more than one creditor and makes any single payment to any debt collector which respect to such debts, such debt collector shall not apply such payment to any debt disputed by such consumer.

"§ 810. Legal actions by debt collectors

"(a) A debt collector shall not bring any action on a debt against any consumer—

"(1) in the case of any action to enforce an interest in real property securing the consumer's obligation, in a court that does not have jurisdiction in the judicial district or similar appropriate legal entity in which such real property is located; or

"(2) in the case of any action not described in paragraph (1), in a court that does not have jurisdiction in the judicial district or similar appropriate entity—

"(A) in which such consumer signed the the contract sued upon; or

"(B) in which the consumer resides at the the commencement of the action.

"(b) A debt collector shall not cause process in any action on a debt to be served on a consumer unless such process is served by an officer or employee of the United States or any State in the course of the official duties of such officer or employee, or by an individual appointed or approved by the appropriate court for that purpose.

"(c) A debt collector shall not utilize, in connection with the collection of any debt, any officer or employee of the United States or any State whose duties include the service of legal papers, except in the course of such duties.

"§ 811. Civil liability

"(a) Except as otherwise provided by this section, any debt collector which fails to comply with any provision of this title with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damage sustained by such person as a result of such failure;

"(2)(A) in the case of any action by any individual, an amount not less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that (i) as to each member of the class no minimum recovery shall be applicable, and (ii) the total recovery in such action shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the debt collector; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

"(b) In determining the amount of award in any class action under subsection (a)(2)(B), the court shall consider, among other relevant factors, the frequency and persistence of failures of compliance by the debt collector, the resources of the debt collector, the number of persons adversely affected, and the extent to which the debt collector's failure of compliance was intentional.

"(c) A debt collector may not be held liable in any action brought under this title if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

"(d) An action to enforce any liability created by this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the liability arises.

"(e) No provision of this section or section 812 imposing any liability shall apply to any act done or omitted in good faith in conformity with any interpretation thereof by the Commission, notwithstanding that after such act or omission has occurred, such interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(f) A consumer may not take any action to offset any amount for which a debt collector is potentially liable to such consumer under subsection (a)(2) against any amount allegedly owing to such debt collector by such consumer, unless the amount of the debt collector's liability to such consumer has been determined by judgment of a court of competent jurisdiction in an action to which such consumer was a party.

"§ 812. Criminal liability

"Whoever willfully and knowingly—

"(1) gives false or inaccurate information or fails to provide information which he is required to disclose by this title; or

"(2) otherwise fails to comply with any provision of this title;

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"§ 813. Administrative enforcement

"Compliance with this title shall be enforced by the Commission. For the purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of this title shall be deemed a violation of that Act. All of the functions and powers of the Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"§ 814. Report to Congress by the Commission and Attorney General

"Not later than twelve calendar months after the effective date of this title and at one year intervals thereafter, the Commission and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Commission and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Commission shall include its assessment of the extent to which compliance with this title is being achieved, and a summary of the enforcement actions taken by the Commission under section 813 of this title.

"§ 815. Relation to State laws

"This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to debt collecting practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection provided by this title.

"§ 816. Exemption for State regulation

"The Commission shall by regulation exempt from the requirements of this title any class of debt collection practices within any State if the Commission determines that under the law of that State that class of debt collection practices is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

"§ 817. Effective date

"This title takes effect upon the expiration of six months after the date of its enactment, and section 808 shall apply only with respect to debts for which the initial attempt to collect occurs after such effective date.".

Mr. ANNUNZIO (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. ANNUNZIO. Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and be considered en bloc. They are only technical or language changes and none change the substance of the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The committee amendments are as follows:

Committee amendments: Page 3, line 21, strike out "or" and insert "of".

Page 5, line 23, strike out "10" and insert "9".

Page 6, line 18, strike out "and".

Page 6, line 19, immediately after "overdue," insert the following: "and if the consumer has not furnished the creditor or the debt collector with a telephone number where the consumer can be reached during the consumer's non-working hours, after 8 antimeridian and before 9 postmeridian,".

Page 6, line 21, strike out "once" and insert "twice".

Page 7, strike out lines 21 through 24, and insert the following:

"(e) Pleadings and Proof.—In any action brought by a consumer against a debt collector under this section, it shall be the duty of the consumer to plead both the existence of a communication from the debt collector and the lack of consent of the consumer thereto, and to make a prima facie showing that the communication took place and that there was no such consent. A prima facie showing that consent was not obtained may consist of testimony by the consumer. Upon such a prima facie showing, the burden of going forward shall be with the debt collector:

Page 8, beginning in line 13, strike out "co-allegedly refuse to pay debts" and insert "coerce payment of the debt".

Page 11, line 11, strike out "amount" and insert "amount".

Page 11, line 13, strike out "such" and insert "a".

Page 13, strike out lines 7 through 9, and insert the following:

"(2) the name and address of the creditor to whom the debt was originally owed as it appeared in the original sales contract or bill of sale and the name of the creditor to whom the debt is currently owed.

Page 13, line 22, strike out "which" and insert "with".

Page 14, strike out lines 20 through 23, and insert the following: process is served—

"(1) by an officer or employee of the United States or any State in the course of the official duties of such officer or employee;

"(2) by an individual appointed or approved by the appropriate court for that purpose; or

"(3) by an individual authorized to serve process under the State law in which process is to be served.

Page 15, line 5, strike out "which" and insert "who".

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wylie: Page 3, line 8, strike out the period and insert in lieu thereof the following: ", unless, on or after the effective date of this title, substantially all of the activities in the course of such business or in such collection of debts occur within one State."

Mr. WYLIE. Mr. Chairman, the other day when this bill was being considered on the Suspensions Calendar, the gentleman from Texas (Mr. White)—and I notice he is on the floor, so I would ask his attention—questioned the advisability of passing a law which would apply in effect to intrastate commerce.

I might add that during the deliberations on this bill and while the bill was before the subcommittee I had made somewhat the same observation and had indeed drafted an amendment which I thought would take care of that problem, and which exempted the debt collector who did not cross State lines in the course of his debt collection activities.

I found it was difficult to draw up such an amendment which specifically referred to intrastate commerce because almost any commerce is interstate commerce. As a matter of fact, the gentleman from Illinois (Mr. Annunzio) has sent around a letter which indicates he might have an amendment of this kind. We have talked this over at considerable length and I think we have come up with language which will statisfy the gentleman from Texas (Mr. White).

The specific purpose of this amendment is to exempt debt collection agencies which collect for the mom and pop operation, for instance, from the coverage of this bill. It would exempt the debt collector who is contacted by his neighbor and he says: "Joe Doakes owes me a bill. Will you see what you can do to collect it for me on a percentage basis." And Joe Doakes is a neighbor.

This gives that local debt collector the opportunity to go see the man in the community, talk to him about his bill and attempt to make a collection of the bill, without concern about the other restrictions in the bill, on the theory that people at the local level can police themselves in local affairs. Also, if there is a State law on the subject, the State law ought to prevail in which case we do not need a Federal law to enforce debt collection efforts which do not in any way cross State lines.

I think this is what the gentleman from Texas intended. It is what I intended when I drafted the amendment originally and I hope it will be accepted

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I have examined the amendment that the gentleman from Ohio has offered. I am satisfied that it will confine this bill to interstate matters and will not interfere with intrastate matters.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of the amendment and I commend the gentleman from Ohio for offering the amendment. As the gentleman from Ohio stated previously, I was prepared to introduce an amendment to cover the States rights issue. I felt that the amendment of the gentleman from Ohio would probably satisfy those people in the House.

Mr. Chairman, I have one question. I would like to ask the gentleman to clarify a point. Is it true that the purpose of this amendment is to allow a debt collector a little latitude in collecting debts in the area of debt collection known as skip tracing? It would allow a debt collector to call across State lines on occasion, but it would not allow a debt collector to solicit business across State lines, even on a rate request.

Mr. WYLIE. That is right; that is the specific purpose of the amendment.

Mr. ANNUNZIO. Mr. Chairman, I thank the gentleman from Ohio. I want to again reiterate to the gentleman my deep appreciation for his support and to commend the gentleman from Ohio for the amendment.

Mr. WYLIE. I thank the gentleman from Illinois.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague, the gentleman from Ohio, yielding.

I assume that this amendment is the result of the discussion we had in the full committee and that it is an attempt to correct an obvious defect that appeared during that discussion.

Mr. WYLIE. Well, I thought at the outset that at best the bill should not cover purely intrastate operations in those States which had decided to pass their own State laws.

Now, in Ohio we do not have a State law, but if the State legislature decides to pass a State law to cover debt collection practices, then I think the State law should be enforced and Federal law applied, or a law like this should be applied only where there is an interstate operation concerned.

Now, I would say to the gentleman that I think that we have the authority to regulate such intrastate activity under the commerce clause.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. Rousselot, and by unanimous consent, Mr. Wylie was allowed to proceed for 1 additional minute.)

Mr. WYLIE. Mr. Chairman, the difficulty in drawing the amendment is this. If anyone picks up the telephone to make a telephone call, he is in interstate commerce immediately; so when we try to make a distinction between what is interstate and what is intrastate commerce, we have some difficulty; so I drafted this amendment here which says where substantially all the activities in the course of such business occur within one State, then that is exempt from the provisions of this bill.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the amendment of the gentleman from Ohio. I think it definitely is a step in the right direction.

Mr. Chairman, I also compliment the gentleman from Illinois, the author of the basic legislation, for accepting this amendment.

Mr. WYLIE. Mr. Chairman, I thank the gentleman from California for his support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. WYLIE: Page 3, strike out lines 21 through 23 and insert in lieu thereof the following:

"(g) The term 'location information' means a consumer's place of residence, telephone number at such place, and place of employment."

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I have had an opportunity to examine the amendment offered by the gentleman from Ohio and I have no objection to it.

Mr. WYLIE. Mr. Chairman, I thank the gentleman.

I might just explain very quickly what it does. It eliminates the redundancy on page 3, line 21.

We have the word "his" occurring three times. We do not need the word "his," although it has a generic meaning within the law and refers to a person. However, my amendment will eliminate some words and will say the same thing in fewer words and in more succinct language.

I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE).

The amendment was agreed to.

Mr. ICHORD. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, as I look over this legislation and read the provisions of sections 805 and 809, stating that we are hereby going to make it a Federal crime to use abusive or profane language in the collection of a debt, I feel, Mr. Chairman, instead of addressing the Chair as "Mr. Chairman," that I should be saying Mr. Mayor or Mr. President, Members of the Board of Aldermen or, at most, Mr. Speaker and Members of the General Assembly.

I do not number among my acquaintances any debt collectors that I recall, and as far as I know, the gentleman from Illinois is correct in stating that most of the reputable debt collectors are supporting this legislation. I am very reluctant, I would say to my distinguished friend, the gentleman from Illinois, to rise in opposition to this bill, one, because I am sure that he is seeking to solve a problem which does exist in many jurisdictions throughout our great Nation; and second, the principal author of this bill is one of the most congenial, one of the most lovable Members of this body.

But, I cannot stand by and remain silent when I feel that we are now considering a bill that typifies a great part of what is wrong with this body and what is wrong with the entire Congress and what is wrong with the Federal Government. Members of the committee, when I first came here 16 years ago, I had no difficulty finding the time to study and understanding the provisions of each piece of legislation, and having a good working knowledge of the legislation. Today, 16 years later, that is absolutely impossible. I defy any member of this committee to stand up and say that whenever he votes on all legislation now coming before this House, that he has a good working knowledge of it. If he does—I speak quite frankly—he is not telling the truth.

The legislation is coming so fast and furious that we are legislating on everything from the defense of the country to rodent extermination. Now, we are going to regulate debt collection. Before long, I am sure that we will be legislating or attempting to legislate the size of peanuts, or regulating the showing of old movies, perhaps. There is no end to it.

Our problem is that the Federal Government is addressing many, many problems, but it is solving very, very few. We are not going to solve any problems by this legislation. The gentleman from Ohio offered, and we adopted, a very commendable amendment to keep us from being burdened with additional rules and regulations of the bureaucracy, but he does not have any teeth in the legislation. It is another problem we will address but most certainly not solve.

Who is going to determine when debt collectors have committed a Federal crime? Are we going to use the district attorneys throughout the United States to hale debt collectors into the Federal courts for using abusive and profane language? How is this bill actually going to be enforced? We are just going to address another problem, but we are not going to solve the same.

Here is the problem: The big things that are truly the responsibility of the Federal Government are going wanting for attention by the Members of this body. We are now legislating or attempting to legislate on all problems of mankind that we just do not have time to properly consider those problems that are truly a matter of Federal responsibility.

And I look at the gentleman from California (Mr. JOHN L. BURTON). We cannot even move the mails as fast as the pony express used to move them. That is truly a responsibility of the Federal Government.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 3 additional minutes.)

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

Mr. Chairman, I was paying rapt attention to the gentleman. As I said earlier today, if Governor Reagan had chosen me instead of the distinguished Member of the other body, we might have gone back to the pony express.

Mr. ICHORD. We do not have time to consider the needs that are truly the responsibility of the Federal Government. We spend just a few minutes on bills calling for the expenditure of billions of dollars to provide for the national defense, which is truly a Federal responsibility. We do not have time to consider the many difficult problems in foreign affairs, the regulation of interstate and foreign commerce, our monetary system, the fiscal policy of the Federal Government, and here we are being asked to go into the business of regulating debt collectors.

I will say to the Members that if we continue to pass bills such as this, we deserve to have no higher standing than a city councilman or a State assemblyman.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

Mr. Chairman, I do notice that collections can be made or may well be made by officers or employees of the United States or any State. It does put Federal officials in the position of debt collectors, and I really do not think we should go that far. I think that is going much too far.

Mr. ICHORD. We do not have time to do that. We have big problems, the problems that are truly the responsibility of the Federal Government, without getting into the field of regulating debt collectors.

I agree with the gentleman. There is a problem that needs to be solved here. But do we not have State legislatures? Do we not still have city councils? Are we to just give up altogether? Do we no longer believe in the federal system?

Mr. WYLIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I understand that this bill does not have the magnitude of the debate on the B-1 bomber, and may I suggest to the gentleman that he let his conscience be his guide. It it does not pass, I am not going to jump out the window or anything like that, but I do suggest that there is a legitimate area here within the concern of this Congress. It is not right to ridicule, by saying, when you talk about enforcement, "Will we have all of the law enforcement agencies all over the United States going out with a dragnet to drag in debt collectors?" As I suggested a little earlier, the word "harass" is a perfectly valid and legitimate word. You can find it in the dictionary. I just think that the practices which are prohibited in this bill should be prohibited. I do not think the gentleman from Missouri is suggesting that we should allow abusive practices to continue by doing nothing. I do not think just because you are opposed to enacting more legislation and more laws that that is good enough reason for not acting in an area where we find that there have been abuses and allow the perpetrators of horrow stories to go on about their business.

Mr. Chairman, I do not think that Congress should merely close its doors to those people who have come to us for help and say that we have too many laws on the books and we are not going to act.

Mr. ICHORD. Mr. Chairman, if the gentleman will yield, I said much more than having too many laws on the books; I said that we are assuming so much jurisdiction that we are not having time to take care of the problems that are truly a Federal responsibility.

I agree with the gentleman from Ohio (Mr. WYLIE) on these provisions. I agree with the provisions of this bill. If I were on a city council, I would be speaking for it, or even if I were in the State legislature again, in which I served for 8 years, in my home State of Missouri, I would gladly champion the bill. But this has no business being on the floor of this House.

Mr. WYLIE. Mr. Chairman, what the gentleman is saying is that if it is bad for the local community, he would support the bill as a member of a city council, but if it is a matter of interstate concern and is also bad from the Federal Government standpoint, he would not support it.

Mr. ICHORD. I am not a member of a city council today; I am a Member of the House of Representatives of the U.S. Congress.

Mr. WYLIE. But if these practices would be bad in intrastate or local commerce and are prohibited under State law, then they are also bad for interstate commerce and should be prohibited by Federal law.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the bill.

Mr. Chairman, H.R. 13720 represents a conscientious effort on the part of the distinguished chairman of the Subcommittee on Consumer Affairs (Mr. ANNUNZIO) and the distinguished ranking minority member (Mr. WYLIE) to develop a bill that would deal fairly with abuses in the debt collection industry. Nevertheless, and despite my particular concern with abuses by debt collectors who use the telephone or the mails to operate beyond the reach of the laws of the States of target debtors, it is necessary for me to oppose this legislation, for the following three reasons:

First. Thirty-eight States already have legislation to deal with the abuses covered in this bill. There is no justification, in my judgment, for the application of this legislation to primarily intrastate debt collection activities. Concerning regulation of interstate debt collection practices, it is essential that the statute be very carefully drawn, so as not to infringe upon first amendment rights. This is a very difficult task and one which may not have been accomplished, despite the most dilligent efforts of my distinguished colleagues from Illinois and Ohio.

Second. H.R. 13720 is very narrow in its scope—it does not apply to businesses which collect their own debts, which account for about 99 percent of debt collection activity. This means that those businesses which conduct their debt collection "in-house," or which choose to establish such operations, can engage in all of the prohibited abuses with impunity, at least as far as this Federal legislation is concerned.

Third. There is reason to believe that the effect of this bill may be to increase the incentive for those who habitually abuse credit to resort to frivolous suits for "false or misleading representations" as a means to avoid paying their debts. These actions increase the cost of doing business and, in turn, result in increased costs to those consumers who pay their bills on time. Another unfortunate but probably inevitable result is tightened screening, so that those poor people who need credit most will find it more difficult to obtain it.

It may surprise my colleagues to learn that there are available on the market manuals which instruct debtors on how to use techniques which can only be characterized as abusive to avoid paying their debts. In addition to instructions on how to "fold, spindle, and mutilate" punched cards, and on how to use the mails to delay, such books instruct their readers that by using the procedures provided under the Fair Credit Billing Act, it is possible to tie the creditor up for as long as 90 days and to impose substantial additional costs on him. These costs, of course, are ultimately borne by those consumers who pay on time.

To give the authors of debt avoidance manuals their due, however, it should be observed that the Federal Government itself has contributed significantly to the decline of the "pay as you go" ethic. One of the manuals contains the following quote, which should give us all pause:

> Slow payment . . . is neither immoral nor illegal. You can be sued for it, but you can't be put in jail. It has the seal of approval of American commerce (in practice, if not in pronouncement) and of the United States government itself, which, since 1933, has been spending money it didn't have and calling the technique deficit spending. (Money paid out for social security in the 1930's, for example, came from money that the Social Security Administration didn't expect to receive until the 1950's.)
>
> Of course, since people can't get away with as much as governments can, you may fear that you won't be able to get away with deficit spending for as long as the government has. You may fear that long-term deficit spending will catch up with you in the long run, just as it's now starting to catch up with the government. But one or two years of stalling is hardly the long run. Besides, as John Maynard Keynes, the father of deficit spending, wrote: "In the long run, we shall be dead."—"Your Check Is in the Mail" Goldman, Franklin, and Pepper, p. 11.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PRICE) having assumed the chair, Mr. YOUNG of Georgia, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13720) to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors, pursuant to House Resolution 1278, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 162, not voting 31, as follows:

[Roll No. 552]

YEAS—239

Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Aspin
Badillo
Baldus
Beard, R.I.
Bergland
Biaggi
Biester
Bingham
Blanchard
Boland
Bolling
Brademas
Brodhead
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Cederberg
Chisholm
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Coughlin
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dingell
Dodd
Downey, N.Y.
Drinan
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Fuqua
Gaydos
Gilman
Gonzalez
Goodling
Gradison
Green
Gude
Guyer
Hall, Ill.
Hanley
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Hyde
Jacobs
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Krebs
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Lehman
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Lloyd, Calif.
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McCormack
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McEwen
McFall
McHugh
McKinney
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Mathis
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Metcalfe
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Mikva
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
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Ottinger
Patten, N.J.
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Preyer
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Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
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Santini
Sarasin
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Scheuer
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Sisk
Solarz
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Stark
Steiger, Wis.
Stephens
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Tsongas
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Walsh
Waxman
Wilson, C. H.
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Wolff
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Young, Tex.
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Archer
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Ashley
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Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Blouin
Boggs
Bonker
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
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Clancy
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Daniel, Dan
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Devine
Dickinson
Downing, Va.
Duncan, Oreg.
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English
Eshleman
Evans, Colo.
Evans, Ind.
Flowers
Flynt
Frey
Giaimo
Gibbons
Ginn
Goldwater
Grassley
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hannaford
Hefner
Henderson
Hightower
Holt
Hubbard
Hutchinson
Ichord
Jarman
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Lagomarsino
Lent
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Martin
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Mollohan
Montgomery
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Moorhead, Calif.
Myers, Ind.
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Passman
Patterson, Calif.
Pattison, N.Y.
Paul
Pickle
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Pressler
Pritchard
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Schneebeli
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Shuster
Sikes
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Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Steed
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Ullman
Van Deerlin
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Wampler
Weaver
Whalen
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Whitehurst
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Brooks
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Haley
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Hébert
Helstoski
Hinshaw
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Litton
Madigan
Meeds
O'Hara
Riegle
Seiberling
Stanton, James V.
Steelman
Steiger, Ariz.
Stratton
Stuckey
Sullivan
Symington
Wiggins

The Clerk announced the following pairs:

On this vote:

Ms. Abzug for, with Mr. Breckinridge against.

Mr. Brooks for, with Mr. Jones of Tennessee against.

Mr. Madigan for, with Mr. Wiggins against.

Mr. Helstoski for, with Mr. Stuckey against.

Mr. Diggs for, with Mr. Steiger of Arizona against.

Mr. Meeds for, with Mr. Jones of Alabama against.

Mr. O'Hara for, with Mr. Hansen against.

Mr. Riegle for, with Mr. Hébert against.

Mr. Clay for, with Mr. Landrum against.

Mr. Symington for, with Mr. Fountain against.

Mrs. Sullivan for, with Mr. Haley against.

Mr. Stratton for, with Mr. Abdnor against.

Until further notice:

Mr. Seiberling with Mr. Karth.

Mr. James V. Stanton with Mr. Steelman.

Mr. PERKINS and Mr. CORNELL changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 13720) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON CONSERVATION, ENERGY, AND NATURAL RESOURCES OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE TOMORROW

Mr. RYAN. Mr. Speaker, in view of the fact that we are going to begin our session at 10 o'clock tomorrow morning I ask unanimous consent that the Subcommittee on Conservation, Energy, and Natural Resources of the Committee on Government Operations be permitted to sit tomorrow to hold a hearing for investigative purposes while the Committee of the Whole is sitting during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I ask the gentleman from California: Will there be no markup of legislation?

Mr. RYAN. No; Mr. Speaker, if the gentleman will yield, there will be no legislation marked up. It is entirely investigative and background.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON SPACE SCIENCE AND APPLICATIONS OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT TOMORROW BETWEEN 10 A.M. AND 12 NOON

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Subcommittee on Space Science and Applications of the Committee on Science and Technology be permitted to sit tomorrow morning between 10 a.m. and 12 noon to take testimony.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, there is no markup planned at this session?

Mr. FUQUA. Mr. Speaker, if the gentleman will yield, as I said, it is only to take testimony.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Maryland is not aware of any permission to meet at 10 a.m. tomorrow. Is there such a plan for tomorrow?

The SPEAKER. The Chair will say this is anticipatory.

Is there any objection to the request of the gentleman from Florida?

There was no objection.

LEGISLATIVE PROGRAM FOR THE REMAINDER OF THE WEEK

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I take this time in order to announce the plans for the remainder of the week. As Members will note from the schedule, we are running about 1 day behind, not having accomplished as much yesterday as we had anticipated doing. As of this minute we will be starting on the mine safety and health rule resolution, which would have been the first piece of legislation for today if we had been on schedule. We would like to complete the work for the week and by agreement with the other side I had intended at the close of the day to ask unanimous consent that when we adjourn today we adjourn to meet at 10 o'clock tomorrow morning and at 10 o'clock on Thursday morning and at 10 o'clock on Friday morning for the purpose of concluding the legislative program.

If by chance we will have finished the legislation on Thursday evening, we will have concluded our work for the week, but it does not appear from the program that will be possible, and we would like to complete the program as the notification was given for the week.

HOUR OF MEETING ON TOMORROW, WEDNESDAY, JULY 28, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, did the gentleman say we would not meet on Friday if we complete the work by Thursday evening?

Mr. O'NEILL. There would be no sense in meeting on Friday if we have completed our program on Thursday, but knowing the fact that the government in sunshine bill is controversial, and the nuclear fuel assurance is a controversial piece of legislation, and H.R. 12944, the Federal Insecticide, Fungicide and Rodenticide Act is controversial, I would have to say we will meet Friday—but not if we complete the work.

Mr. Speaker, in order to complete the work, we are asking unanimous consent that when we adjourn today, we adjourn to meet tomorrow at 10 o'clock a.m.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, does the gentleman have any idea as to the time we might be ending our business each day?

Mr. O'NEILL. Yes; it had been intended, Mr. Speaker, to adjourn this evening between the hour of 6 and 6:30.

I would say the same for tomorrow night and hope for an early adjournment by, say, 4:30 on Friday.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Massachusetts for his elaboration.

Mr. Speaker, I just wanted at this point to ask the gentleman from Massachusetts one further question. I understand from the wire services that it was reported that the would-be President of the United States, Mr. Carter, has ordered the Congress to pass the post card registration bill this week and that the Committee on Rules is going to meet on Thursday. Could the gentleman give us any idea on that?

Mr. O'NEILL. With respect to the post card registration bill, the legislation is currently before the Committee on Rules. There would be some difficulty in reporting it without some kind of special rule from the Committee on Rules. It is not anticipated that it would be on the floor this week, in any event.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I yield to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Speaker, for the purpose of inquiry, the Subcommittee on Criminal Justice of the Committee on the Judiciary is scheduled for tomorrow at 10 o'clock and the next day at 10 o'clock. Is it possible to get permission that they might sit from 10 o'clock until noon?

Mr. O'NEILL. The gentleman would have to wait for that until I get unanimous consent that when the House adjourns today that it meet at 10 o'clock on tomorrow.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HOUR OF MEETING ON THURSDAY, JULY 29, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow, Wednesday, July 28, 1976, it adjourn to meet at 10 a.m. on Thursday, July 29, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HOUR OF MEETING ON FRIDAY, JULY 30, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns Thursday, July 29, 1976, it adjourn to meet at 10 o'clock a.m. on Friday, July 30, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection?

REQUEST FOR COMMITTEE ON HOUSE ADMINISTRATION TO MEET ON THURSDAY, JULY 29, 1976, DURING 5-MINUTE RULE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may meet on Thursday, July 29, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HYDE. Mr. Speaker, reserving the right to object, has that been cleared with the minority?

Mr. THOMPSON. Mr. Speaker, the answer is that the committee met this morning and went over a number of routine items.

Mr. Speaker, if the gentleman will yield further, the committee disposed of a number of routine items. There remains one controversial item relating to a resolution offered by the gentleman from California (Mr. Moss).

The answer to the gentlemans question is, "Yes."

Mr. ROUSSELOT. Mr. Speaker, I object.

Mr. THOMPSON. Mr. Speaker, would the gentleman from California yield before the gentleman objects?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I yield to my colleague, the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman.

I might point out that our colleague, the gentleman from California (Mr. WIGGINS) has asked for consideration of the disposition of a number of legal fees arising out of contested elections, but which have been, in a sense, in limbo for at least a year.

I would like to assure the gentleman from California (Mr. ROUSSELOT) that only such routine matters which are of consequence to all of us will be considered on Thursday in the Committee on House Administration.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman assure us that only those two items will be considered?

Mr. THOMPSON. Mr. Speaker, will the gentleman from California yield further?

Mr. ROUSSELOT. I am glad to yield to the gentleman from New Jersey.

Mr. THOMPSON. There are something like 18 committee agenda items relating to Members on both sides of the aisle making routine requests for changes of equipment in their offices, obsolete equipment, and so forth. The other matters relate to printing and to routine affairs. The gentleman from New Jersey would assure his colleague from California that the controversial item, as may be identified by the gentleman from Alabama (Mr. DICKINSON), the ranking minority Member, will not be considered on Thursday. There are only routine matters.

Mr. ROUSSELOT. Further reserving the right to object, I think the main concern is that the majority leader has stated very pointedly that the legislative calendar is full for those days, and many times it is difficult for Members to shuffle back and forth to the floor from committees. If the gentleman can assure us that the minority Member, the gentleman from Alabama (Mr. DICKINSON) has agreed to the bills which are scheduled—does the gentleman want to give us the numbers of the bills so that we know what they are?

Mr. THOMPSON. If the gentleman will yield further——

Mr. ROUSSELOT. I am delighted to yield.

Mr. THOMPSON. I do not have in my possession the agenda, except that I can state without equivocation and give the gentleman assurance that these are matters such as the printing of calendars, the printing of the magazine entitled "The Capitol," and routine mechanical items.

Mr. ROUSSELOT. On the basis of what the gentleman described, that sounds very harmless.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, as I understand the gentleman's request, it was for Thursday. This is Tuesday, and in view of the confusion, it would seem to me that the gentleman could renew that request tomorrow in plenty of time to meet on Thursday.

Mr. THOMPSON. If the gentleman would yield further, I will say that I cannot think of more assurances than I can give right now. I cannot give any more tomorrow. I do not understand why there would be objection to this request today, except to inconvenience me.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I now yield to my distinguished colleague from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, I was just hastily summoned and heard that this had to do with the Committee on House Administration.

Mr. ROUSSELOT. Mr. Speaker, I now yield to my colleague from New Jersey to bring my colleague from Alabama "up to speed."

Mr. THOMPSON. I am in some doubt as to my ability to do that and, therefore, withdraw my request.

PERMISSION FOR SUBCOMMITTEE ON CRIMINAL JUSTICE OF COMMITTEE ON THE JUDICIARY TO MEET THURSDAY, JULY 29, 1976, DURING 5-MINUTE RULE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the Subcommittee on Criminal Justice of the Committee on the Judiciary may meet on this Thursday during the 5-minute rule. We already have had hearings scheduled for some time for five witnesses from some distance on proposed changes in rules of evidence and prosecutions.

The distinguished gentleman from Illinois (Mr. HYDE) is on this subcommittee.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will these be hearings only?

Mr. HUNGATE. Mr. Speaker, if the gentleman will yield, these will be hearings only.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ACTIVITIES OF REGULATORY AGENCIES TO MEET AT 10 A.M. ON TOMORROW DURING HOUSE SESSION

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the Subcommittee on Activities of Regulatory Agencies of the Committee on Small Business, which will be holding hearings to hear the Federal Aviation Administration respond to complaints we have had from different people around the country, be permitted to meet tomorrow, Wednesday, July 28, 1976, at 10 a.m. while the House is in session.

The ranking minority member, the gentlewoman from New Jersey (Mrs. Fenwick) is present.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, there will be no markup?

Mr. HUNGATE. Mr. Speaker, if the gentleman will yield, it will be strictly hearings.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MINE SAFETY AND HEALTH ACT OF 1976

Mr. DOMINICK V. DANIELS. Mr Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13555) to amend the Federal Metal and Nonmetallic Mine Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. Dominick V. Daniels).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13555, with Mr. Giaimo in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, June 29, 1976, the Clerk had read through line 17 on page 76.

Are there any amendments to section 1?

Mr. DOMINICK V. DANIELS. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The remainder of the committee amendment in the nature of a substitute is as follows:

Sec. 2. The Federal Metal and Nonmetallic Mine Safety Act is amended to read as follows:

"SHORT TITLE

"Section 1. This Act may be cited as the 'Federal Metal and Nonmetallic Mine Safety and Health Act.

"CONGRESSIONAL FINDINGS AND PURPOSES

"Sec. 2. (a) Congress finds and declares that—

"(1) the first priority and concern of all in the metal and nonmetallic mining industry must be the health and safety of its most precious resource—the miner;

"(2) deaths and serious injuries from unsafe and unhealthful conditions and practices in metal and nonmetallic mines cause grief and suffering to the miners and to their families;

"(3) there is an urgent need to provide more effective means and measures for improving the working conditions and practices in the Nation's metal and nonmetallic mines in order to prevent death and serious physical harm, and in order to prevent occupational diseases originating in such mines;

"(4) the existence of unsafe and unhealthful conditions and practices in the Nation's metal and nonmetallic mines is a serious impediment to the future growth of the mining industry and cannot be tolerated;

"(5) the operators of such mines, with the assistance of the miners, have the primary responsibility to prevent the existence of such conditions and practices in such mines; and

"(6) the disruption of production and the loss of income to operators and miners as a result of metal and nonmetallic mine accidents or occupationally caused disease unduly impedes and burdens commerce.

"(b) The Congress therefore declares it to be its purpose and policy—

"(1) to encourage employers and employees in their efforts to reduce the number of occupational safety and health hazards in metal and nonmetallic mines and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;

"(2) to provide that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions;

"(3) to authorize the Secretary of Labor to set mandatory safety and health standards applicable to metal and nonmetallic mines affecting interstate commerce;

"(4) to authorize the Secretary of Health, Education, and Welfare and the Secretary of the Interior to conduct research in the field of metal and nonmetallic mine safety and health, and to develop innovative methods, techniques, and approaches for dealing with metal and nonmetallic mine safety and health problems;

"(5) to explore ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that mine health standards present problems often different from those involved in mine safety;

"(6) to provide medical criteria which will assure insofar as practicable that no metal or nonmetallic mine employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience;

"(7) to provide an effective enforcement program which shall include a prohibition against giving advance notice of any inspection and protection from discrimination against any miner instituting or testifying in any proceeding involving an alleged violation of this Act; and

"(8) by providing for appropriate reporting procedures with respect to metal and nonmetallic mine safety and health, which procedures will help achieve the objectives of this Act and accurately describe the nature of the metal and nonmetallic mine safety and health problem.

"DEFINITIONS AND COVERAGE

"Sec. 3. (a) For the purposes of this Act:

"(1) The term 'commerce' means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States (other than the Trust Territory of the Pacific Islands), or between points in the same State but through a point outside thereof.

"(2) The term 'mine' means (1) an area of land from which minerals (other than coal or lignite) are extracted in nonliquid form or, if in liquid form, are extracted with workers underground, (2) private ways and roads appurtenant to such area, and (3) land, excavations, underground passageways, and workings, structures, facilities, equipment, machines, tools, or other property, on the surface or underground, used in the work of extracting such minerals (other than coal or lignite) from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in the milling of such minerals, except that with respect to protection against radiation hazards such term shall not include property used in the milling of source material as defined in the Atomic Energy Act of 1954, as amended.

"(3) The term 'operator' means any person, partnership, association, or corporation, or subsidiary of a corporation operating a mine, and owning the right to do so, and includes any agent thereof charged with responsibility for the operation of such mine.

"(4) The term 'Secretary' means the Secretary of Labor.

"(5) The term 'Commission' means the Federal Metal and Nonmetallic Mine Safety and Health Commission established under section 18.

"(6) The term 'State' includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

"(7) The term 'miner' means any individual working in a mine.

"(8) The term 'injury' means (A) any harmful change in the human organism which can be determined to be work-related, whether or not the result of an accident, and includes any occupational disease, and (B) any damage to or loss of prosthetic and orthotic devices.

"(9) The term 'imminent danger' means danger which could reasonably be expected to cause death or serious injury immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act, and includes such danger resulting from exposure of miners to toxic materials or harmful physical agents.

"(b) Each mine the products of which regularly enter commerce, or the operations of which affect commerce, shall be subject to this Act.

"(c) Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of operators and miners under any law with respect to injuries, diseases, or death of miners arising out of, or in the course of, employment.

"DUTIES

SEC. 4. (a) Each operator of a mine—

"(1) shall furnish to each of his miners employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious injury to his miners;

"(2) shall comply with health and safety standards promulgated under this Act.

"(b) Each miner shall comply with health and safety standards promulgated under this Act and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

"HEALTH AND SAFETY STANDARDS

"SEC. 5. (a)(1) The health and safety standards promulgated and designated as mandatory by the Secretary of the Interior under section 6 (as such section existed immediately prior to the effective date of section 2 of the Mine Safety and Health Act of 1976) shall be deemed, as of the effective date of section 2 of the Mine Safety and Health Act of 1976, to be health and safety standards promulgated under this section.

"(2) The Secretary shall establish an advisory committee under subsection (d) which shall within six months after the date of the establishment of such advisory committee, review the health and safety standards promulgated by the Secretary of the Interior (but not designated as mandatory) under section 6 (as such section existed immediately prior to the effective date of section 2 of the Mine Safety and Health Act of 1976) of this Act, and recommend to the Secretary which of those standards (or any modification of such standards which does not substantially diminish the health and safety of miners) should be promulgated as health and safety standards under this section. The Secretary shall promulgate, within ninety days after any recommendations of the advisory committee under this paragraph, each of the standards so recommended for adoption without modification as a health and safety standard under this section by publication of such standard in the Federal Register, unless the Secretary determines that any standard will not promote the health and safety of miners and publishes an explanation of that determination in the Federal Register, and each such standard shall be deemed to be a health and safety standard in effect under this section. The Secretary shall publish each of the standards recommended for adoption with modification by that advisory committee as a health and safety standard under this section in the Federal Register and afford interested persons a period of forty-five days after publication to submit written data or comments. Within thirty days after the close of the comment period specified in the preceding sentence, the Secretary shall promulgate by publication in the Federal Register a standard based upon the standard recommended with modification by the advisory committee and the data and comments received thereon, unless the Secretary detremines that such a standard will not promote the health and safety of miners and publishes an explanation of that determination in the Federal Register.

"(3) Within six months after the effective date of section 2 of the Mine Safety and Health Act of 1976, the Secretary shall determine which of the occupational safety and health standards promulgated under section 6 of the Occupational Safety and Health Act of 1970 pertain to miners employed in the milling of minerals in mines subject to this Act, and each such standard so determined shall be promulgated, within six months after the effective date of section 2 of the Mine Safety and Health Act of 1976, as a health and safety standard promulgated under this section by publication in the Federal Register, together with an explanation of the reasons such standard is pertinent to such miners, unless the Secretary determines that such standard does not promote the health and safety of miners employed in the milling of minerals in mines subject to this Act. Any health and safety standard deemed under the preceding sentence to be a health and safety standard promulgated under this section shall supersede any corresponding standard in effect under paragraph (1) or (2) of this subsection with respect to miners employed in the milling of minerals in mines subject to this Act, if such standard under the preceding sentence provides substantially as effective protection to miners as the standard it would supersede.

"(4) Within one year after the effective date of section 2 of the Mine Safety and Health Act of 1976, the Secretary shall review all occupational safety and health standards promulgated under section 6 of the Occupational Safety and Health Act of 1970 and shall commence proceedings for promulgation of those standards which are appropriate for miners in accordance with subsection (b).

"(b) The Secretary shall by rule promulgate any health or safety standard under this section, and modify, or revoke any health and safety standard promulgated under this section, in the following manner, but any such modification or revocation of any such health and safety standard shall be accompanied by an explanation, to be published in the Federal Register, of how that modification or revocation provides substantially as effective protection to the health or safety of miners:

"(1) Whenever, the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of operators or miners, a nationally recognized standards-producing organization, the Secretary of Health, Education, and Welfare, the National Institute for Occupational Safety and Health, the Director of the Bureau of Mines, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendations of an advisory committee appointed under subsection (d). Whenever the Secretary receives in writing from any person a proposal for the promulgation, modification, or revocation of any health and safety standard under this section, the Secretary shall review such proposal, and respond, within sixty days after receipt of such proposal, as to whether or not proceedings with respect to such proposal will be initiated under this subsection. The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health, Education, and Welfare, together with all pertinent factual information developed by the Secretary or the Secretary of Health, Education, and Welfare, or otherwise available, including the results of research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within ninety days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than two hundred and seventy days.

"(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking health and safety standards in the Federal Register and shall afford interested persons a period of sixty days after publication to submit written data or comments. Where an advisory committee is appointed and the Secretary determines that a rule should be issued, he shall publish the proposed rule within sixty days after the submission of the advisory committee's recommendations or the expiration of the period prescribed by the Secretary for such submission.

"(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed rule, stating the grounds therefore and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the health and safety standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

"(4) Within sixty days after the expiration of the period provided for the submission of written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary shall issue a rule promulgating, modifying, or revoking a health and safety standard or make a determination that a rule should not be issued which shall be published in the Federal Register, together with an explanation of the reasons for such determination. Such a rule may contain a provision delaying its effective date for such period (not in excess of ninety days) as the Secretary determines may be necessary to insure that affected operators and miners will be informed of the existence of the standard and of its terms and that operators affected are given an opportunity to familarize themselves and their miners with the existence of the requirements of the standard.

"(5)(A) The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no miner will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the miner, other considerations shall be the number of miners exposed to the hazard, the latest available scientific data in the field, the feasibility of the standard, experience gained under this Act, the Occupational Safety and Health Act of 1970, the Federal Coal Mine Health and Safety Act of 1969, and the Atomic Energy Act of 1954, and experience gained by appropriate Federal agencies with expertise relating to conditions and practices in mines subject to this Act. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

"(B) Any standard dealing with toxic materials or harmful physical agents promulgated under this section shall provide for miners or their representatives the opportunity to observe monitoring and measuring of miner exposures to toxic materials or harmful physical agents required to be monitored or measured under such standard and the opportunity for access to the records thereof required to be maintained under section 8(b)(3). Such standard shall provide that each miner or former miner shall have access to such records of medical examinations and other tests as will indicate his own exposure to such toxic materials or harmful physical agents, and each operator shall promptly notify any miner who has been or is being exposed to such toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by the standard, and shall inform any miner who is thus being exposed of the corrective action being taken. Where appropriate, the standard shall provide that where a determination is made that a miner may suffer a material impairment of health or functional caapcity by reason of exposure to the hazard covered by the standard, that miner shall be removed from such exposure and reassigned. In such event, the standard shall also provide that there shall be no loss of earnings, seniority, or status to the miner as a result of such removal and reassignment.

"(6) Any standard promulgated under this section shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that miners are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Such standard shall also prescribe suitable protective equipment and control and technological procedures to be used in connection with such hazards and shall provide for monitoring and measuring miner exposure at such locations and intervals, in such manner as may be necessary for the protection of miners. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations and other tests which shall be made available by the operator or at his cost, to miners exposed to such hazards in order to most effectively determine whether the health of such miners is adversely affected by such exposure. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examinations may be furnished at the expense of the Secreary of Health, Education, and Welfare. The results of such examinations and tests shall be furnished only to the Secretary, the Secretary of Health, Education, and Welfare, the operator or his authorized agent (except in the case of examinations furnished by the Secretary of Health, Education, and Welfare), and, at the request of the miner, to himself, his authorized representative, or his physician. The Secretary, in consultation with the Secretary of Health, Education, and Welfare, may by rule promulgated pursuant to section 553 of title 5, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning, monitoring or measuring, and medical examinations, as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.

"(7) As soon as possible after the date of enactment of the Mine Safety and Health Act of 1976, but in no event later than three years after such date, the Secretary of Health, Education, and Welfare shall, for each toxic material or harmful physical agent which is on the list required under section 23(h) and which is not covered by a health and safety standard promulgated under this section, determine under such section 23(h) whether such material or agent is potentially toxic at the concentrations in which it is used or found in a mine, and shall immediately submit such determination of the Secretary, totgether with all pertinent criteria. Within ninety days after receiving any determination together with criteria in accordance with the preceding sentence, the Secretary shall either appoint an advisory committee to make recommendations with respect to a health and safety standard covering such material or agent in accordance with paragraph (1) or publish a proposed rule promulgating such a health and safety standard in accordance with paragraph (2).

"(8) In determining the priority for establishing standards under this section, the Secretary shall give due regard to the urgency of the need for mandatory health and safety standards, including the recommendations of the Secretary of Health, Education, and Welfare regarding such need.

"(c)(1) The Secretary shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard to take immediate effect upon publication in the Federal Register if he determines (A) that miners are exposed to grave danger from exposure to substances or agents determined to be toxic or to cause injury or from other hazards, and (B) that such emergency standard is necessary to protect miners from such hazard.

"(2) Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (3).

"(3) Upon publication of such standard in the Federal Register the Secretary shall commence a proceeding in accordance with subsection (b) of this Act, and the standard as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a standard under this paragraph no later than nine months after publication of the emergency standard as provided in paragraph (2).

"(d) The Secretary may establish an advisory committee to assist him in his standard-setting functions under this section. Each such committee shall consist of not more than fifteen members, including as members designees of the Secretary of Health, Education, and Welfare and of the Secretary of the Interior, and including among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of the employers involved, and of persons similarly qualified to present the viewpoint of the workers involved, as well as one or more representatives of mine health and safety agencies of the States. Any such advisory committee may also include such other persons as the Secretary may appoint who are qualified by knowledge and experience to make a useful contribution to the work of such committee, including one or more representatives of professional organizations of technicians or professionals specializing in mine safety or health, and one or more representatives of nationally recognized standards-producing organizations, but the number of persons so appointed to any such advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies. Persons appointed to advisory committees from private life shall be compensated in the same manner as consultants or experts under section 3109 of title 5, United States Code. The Secretary shall pay to any State which is the employer of a member of such a committee who is a representative of the mine health or safety agency of that State, reimbursement sufficient to cover the actual cost of the State resulting from such representative's membership on such committee. Any meeting of such committee shall be open to the public and an accurate record shall be kept and made available to the public. No member of such committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule.

"(e) Any person who may be adversely affected by a standard issued under this section may at any time prior to the sixtieth day after such standard is promulgated file a petition challenging the validity of such standard with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard. The determinations of the Secretary shall be conclusive if supported by substantial evidence in the record considered as a whole.

"VARIANCES

"SEC. 6. (a) Any affected operator may apply to the Secretary for a rule or order for a variance from a standard promulgated under section 5. Affected miners shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an operator will provide employment and places of employment to his miners which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the operator must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an affected operator or miner, or by the Secretary on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

"(b) The Secretary may grant a variance from any standard or portion thereof whenever he determines, or the Secretary of Health, Education, and Welfare or the Secretary of the Interior certifies, that such variance is necessary to permit an operator to participate in an experiment approved by him or by the Secretary of Health, Education, and Welfare or the Secretary of the Interior designed to demonstrate or validate new and improved techniques to safeguard the health or safety of miners, if the Secretary determines that adequate protection is afforded to the health and safety of miners.

"(c)(1) Any operator may apply to the Secretary for a temporary order granting a variance from a standard or any provision thereof promulgated under section 5. Such temporary order shall be granted only if the operator files an application which meets the requirements of paragraph (2) and establishes that (A) he is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date, (B) he is taking all available steps to safeguard his miners against the hazards covered by the standard, and (C) he has an effective program for coming into compliance with the standard as quickly as practicable. Any temporary order issued under this subsection shall prescribe the practices, means, methods, operations and processes which the operator must adopt and use while the order is in effect and state in detail his program for coming into compliance with the standard. Such a temporary order may be granted only after notice to miners and an opportunity for a hearing: *Provided*, That the Secretary may issue one interim order to be effective until a decision is made on the basis of the hearing. No temporary order may be in effect for longer than the period needed by the operator to achieve compliance with the standard or one year, whichever is shorter, except that such an order may be renewed not more than twice so long as the requirements of this subsection are met and if an application for renewal is filed at least ninety days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than one hundred and eighty days.

"(2) An application for a temporary order under this subsection shall contain—

"(A) a specification of the standard or portion thereof from which the operator seeks a variance;

"(B) a representation by the operator, supported by representations from qualified persons having first-hand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor;

"(C) a statement of the steps he has taken and will take (with specific dates) to protect miners against the hazard covered by the standard;

"(D) a statement of when he expects to be able to comply with the standard and what steps he has taken and what steps he will take (with dates specified) to come into compliance with the standard; and

"(E) a certification that he has informed his miners of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to miners are normally posted, and by other appropriate means.

A description of how miners have been informed shall be contained in the certification. The information to employees shall also inform them of their right to petition the Secretary for a hearing.

"(d) The Secretary, on the record, after notice and opportunity for a hearing may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as he may find necessary and proper to avoid serious impairment of the national defense. Such action shall not be in effect for more than six months without notification to affected miners and an opportunity being afforded for a hearing.

"(e) Whenever the Secretary grants any variance, variation, tolerance, or exception under this section, he shall include a statement of the reasons for such action, which shall be published in the Federal Register.

"INSPECTIONS

"SEC. 7. (a) In order to carry out the purposes of this Act, the Secretary, or the Secretary of Health, Education, and Welfare, or an authorized representative of either, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

"(1) to enter without delay, and at reasonable times, any mine subject to this Act, and

"(2) to inspect and investigate, during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to consult privately with any such employer, owner, operator, agent, or miner. In carrying out the requirements of this section in each mine, the Secretary shall make inspections of each entire underground mine at least four times a year and inspections of each entire surface mine and each milling operation of a mine at least two times a year. No advance notice shall be given for any inspection or investigation under this section except upon the authorization of the Secretary.

"(b) In making his inspections and investigations under this Act the Secretary may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of a contumacy, failure, or refusal of any person to obey such an order, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides or transacts business, upon the application by the Secretary, shall have jurisdiction to issue to such person an order requiring such person to appear to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

"(c) Subject to regulations issued by the Secretary, a representative of the operator and a representative authorized by his miners shall be given an opportunity to accompany the Secretary or his authorized representative during the inspection of any mine under subsection (a). Where there is no authorized miner representative, the Secretary or his authorized representatives shall consult with a reasonable number of miners concerning matters of health and safety in the mine. To the extent that the inspector determines that more than one representative from each party would further aid the inspection, he can permit each party to have an equal number of such additional representatives. Any representative of miners who is also an employee of the operator shall suffer no loss of pay as a result of his participation in the inspection made under this subsection.

"(d)(1) Any miner or representative of miners who believes that a violation of section 4(a) exists which may cause injury, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any miner or representative of miners who requests such an inspection on the grounds that an imminent danger exists shall notify the operator of such request, but compliance by such miner or representative with the requirement of this sentence shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act. Upon such notification the Secretary shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violation or danger exists, unless the Secretary determines there are no reasonable grounds to believe that a violation or danger exists, in which case he shall notify the miners or representative of the miners in writing of such determination. The Secretary shall make an inspection or give notification under the preceding sentence within thirty days after receipt by the Secretary of a notification of violation or imminent danger under the first sentence of this paragraph.

"(2) Prior to or during any inspection of a mine, any miners or representatives of miners employed in such mine may notify the Secretary or any representative of the Secretary responsible for conducting the inspection of any violation of this Act which they have reason to believe exists in such mine. The Secretary shall inspect such violation as soon as practicable after, but in no event later than ten days after, receipt of such notification, except as provided under the following sentence. The Secretary shall, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to conduct an inspection or issue a citation with respect to any such alleged violation and shall furnish the miners or representatives of miners requesting such review a written statement of the reasons for the Secretary's final disposition of the case within thirty days after the request for informal review.

"(3) Upon the request of any individual giving notice under this subsection, his name and the names of individual miners referred to in such notice shall not appear on any record published, released, or made available under this Act. A copy (subject to the requirement of the preceding sentence) of any notice given under this subsection shall be given, at the time of the inspection, to the operator.

"REQUIREMENTS IN CASES OF ACCIDENTS; RECORDS AND REPORTS

"SEC. 8. (a)(1) For purposes of this section, the term "accident" includes any mine explosion, ignition, fire, unintentional roof fall, or inundation, whether or not resulting in the death or injury of any miner and includes any other accident which results in the death or injury (other than a minor injury requiring only first aid treatment and which does not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job) of any miner.

"(2) Each accident in a mine shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such accidents and investigations, together with a description of any conditions similar to those which caused the accident which exist in other areas of the mine, and a description of the actions taken by the operator to prevent a similar accident in the same or another area of the mine, shall be kept by the operator and made available to the Secretary or his authorized representative. Such records shall be open for inspection by miners or representatives of miners who are accompanying the Secretary or his authorized representative pursuant to section 7(c).

"(3) In the event of any accident occurring in a mine, the operator shall promptly notify the Secretary thereof and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any accident occurring in a mine where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, supervise and direct the rescue and recovery activity in such mine.

"(4) During any inspection in accordance with section 7, the Secretary or his authorized representative shall investigate all conditions relating to accidents which have occurred in such mine, shall review records pertaining to accidents required to be maintained under this section, and shall determine whether actions have been taken by the operator to prevent accidents similar to any such accidents so recorded, and whether any failure to take preventive action violates any health and safety standard promulgated under section 5.

"(b)(1) Each operator shall keep and make available to the Secretary or the Secretary of Health, Education, and Welfare, or the Secretary of the Interior, such records regarding his activities relating to this Act as the Secretary, after consultation with the Secretary of Health, Education, and Welfare and the Secretary of the Interior, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of accidents and illnesses in the mines subject to this Act. In order to carry out the provisions of this subsection such regulations may include provisions requiring operators to conduct periodic inspections.

"(2) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare and the Secretary of the Interior, shall prescribe regulations requiring operators to maintain accurate records of, and to make prompt reports on, work-related deaths and injuries (other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job). The Secretary shall forward to the Secretary of Health, Education, and Welfare records of such deaths and injuries which are caused by disease.

"(3) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall issue regulations requiring operators to maintain for an appropriate length of time accurate records of miner exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under section 5, and shall develop and maintain an effective program of collection, compilation, and analysis of statistics relating to health and safety in mines subject to this Act, including accurate statistics on all disabling, serious, or significant work injuries, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

"MINIMUM BURDEN ON SMALL BUSINESS

"SEC. 9. (a) Any information obtained by the Secretary, the Secretary of Health, Education, and Welfare, or a State agency under this Act shall be obtained with a minimum burden upon operators of small mines subject to this Act. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

"(b) The Secretary shall provide to each operator of a mine subject to this Act an accurate and complete copy of the health and safety standards promulgated under section 5 including any emergency temporary standard under subsection (d) of such section, together with any regulations under this Act which affect such operator, at the first inspection in accordance with section 7 which occurs after (1) the commencement of operations in such mine or (2) the effective date of section 2 of the Mine Safety and Health Act of 1976, whichever is later, and at least once each year after that inspection. In addition, at each inspection of a mine in accordance with section 7, the Secretary shall furnish the operator with current copies of any such standards and regulations which have been changed since the previous inspection of such mine. Compliance with this subsection shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act.

"MINER EDUCATION AND ACCESS TO INFORMATION

"SEC. 10. (a) Copies of records of miner exposures to toxic materials or harmful physical agents required to be maintained under section 8(b)(3) shall be furnished to the Director of the National Institute for Occupational Safety and Health established under section 22 of the Occupational Safety and Health Act of 1970 upon request. The Director of the National Institute for Occupational Health and Safety shall advise miners (or their authorized representatives) and the operator (or his agent) on any injury or risk of injury indicated by such records, as he deems appropriate.

"(b)(1) The Secretary, in cooperation with the Director of the National Institute for Occupational Safety and Health, and in cooperation with any State program of education and training in the field of mine safety and health, shall carry out a program of education and training for miners employed in mines subject to this Act. Such program shall include publications to be made available to such miners and regular visits by health experts to such mines, for the purpose of improving the health and safety of such mines, and assistance to miners (or their authorized representatives) in evaluating their exposures to toxic materials or harmful physical agents.

"(2) As part of the program of education and training for miners under this subsection, the Secretary shall develop, publish, and disseminate to miners manuals, and annual supplements to or revisions of such manuals, which contain an explanation of all health and safety standards promulgated under section 5 and all regulations under this Act which affect the health and safety of miners, and an explanation of personal protective equipment and the use of such equipment. Such manuals shall be designed so as to assist miners to become more knowledgeable with respect to health and safety in mines.

"(c) The Secretary shall issue regulations requiring that operators, through posting of notices or other appropriate means, keep their miners informed of their protections and obligations under this Act, including the provisions of applicable standards. Such regulations shall provide for the posting, at conspicuous locations, of notices (to be provided to operators by the Secretary) which shall advise miners of such protections and obligations together with the address and telephone number of the nearest regional office of the Department of Labor. Copies of the health and safety standards promulgated under section 5 and regulations under this Act which affect such operators which are furnished to such operators under section 10 (b) shall be available in a location in or about each mine subject to this Act which is easily accessible by miners and at which miners check in and out on a daily basis.

"CITATIONS

"SEC. 11. (a) If, upon inspection or investigation, the Secretary or his authorized representative believes that an operator of a mine subject to this Act has violated a requirement of section 4 of this Act, of any standard, rule, or order promulgated pursuant to section 5 of this Act, or of any regulations prescribed pursuant to this Act, he shall with reasonable promptness issue a citation to the operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citations shall fix a reasonable time for the abatement of the violation. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no substantial direct or immediate relationship to safety or health.

"(b) Each citation issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the Secretary, at or near each place a violation referred to in the citation occurred, and at a location in or about the mine in which the violation occurred at which miners check in and out on a daily basis.

"(c) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

"CLOSURE PROCEDURES

"SEC. 12. (a)(1) If, upon any inspection or investigation of a mine which is subject to this Act, an authorized representative of the Secretary finds that conditions or practices in such mine are such that an imminent danger exists, such representative shall determine the extent of the area of such mine throughout which the danger exists, and issue an order requiring the operator of such mine to cause all persons, except those referred to in subsection (a)(2), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger no longer exists. The issuance of an order under this subsection shall not preclude the issuance of a citation under section 11 or the proposing of a penalty under section 16.

"(2) Persons who shall not be prohibited from entering an area of a mine under an order issued under paragraph (1) are:

"(A) any person whose presence in such area is necessary, as determined jointly by the operator of the mine and an authorized representative of the Secretary, or as determined by an authorized representative of the Secretary, to eliminate the danger described in the order;

"(B) any public official whose official duties required him to enter such area; or

"(C) any legal or technical consultant, or any representative of the employees of the mine, who is a certified person qualified to make mine examinations, or is accompanied by such a person, and whose presence in such area is necessary, as determined jointly by the operator of the mine and an authorized representative of the Secretary, or as determined by an authorized representative of the Secretary, for the proper investigation of the conditions described in the order.

"(3) Whenever and as soon as an inspector concludes that conditions or practices described in paragraph (1) exist in any mine, he shall inform the affected miners and operators of the danger and that he is issuing an order under this subsection.

"(b) If the Secretary arbitrarily or capriciously fails to take appropriate action under subsection (a), any miner who may be injured by reason of such failure, or the representative of such miners, may bring an action against the Secretary in the United States district court for the district in which the imminent danger is alleged to exist or the operator has its principal office, or for the District of Columbia, for an order to compel the Secretary to issue such an order and for such further relief, as may be appropriate.

"(c) If, upon any inspection or investigation of a mine which is subject to this Act, an authorized representative of the Secretary finds that there has been a failure to correct a violation for which a final order is in effect under section 13, within the time period specified pursuant to a citation under section 11(a), and he shall also find the extent of the area which is affected by such violation. Thereupon, he may promptly make an order requiring the operator of such mine to cause all persons in such area, except those referred to in subsection (a)(2), to be withdrawn from, and to be prohibited from entering such area until an authorized representative of the Secretary determines that such violation has been corrected. The issuance of an order under this subsection shall not preclude the issuance of a citation under section 11 or the proposing of a penalty under section 16.

"(d) Orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger or a violation of any health or safety standard promulgated under section 5 or a violation of section 4, as the case may be, and, where appropriate, a description of the area of the mine from which persons must be withdrawn and prohibited from entering.

"(e) Each order issued under this section shall be given promptly to the operator or his agent by an authorized representative of the Secretary issuing such order, and all such orders shall be in writing and shall be signed by such representative.

"(f) The Secretary shall by regulation establish a procedure for informal review of any closure order issued under this subsection (c), and the Secretary may, in modifying or setting aside such order, order that the operator shall not be obligated for part of, or all of, the compensation to which miners are entitled under section 24, and shall furnish any operator requesting such review a written statement of the reasons for the Secretary's final disposition of the matter within three days after the request for informal review.

"(g) Any person adversely affected or aggrieved by an order issued under this section may obtain a review of such order in the United States district court for the district in which the danger or violation is alleged to exist or in which the operator has its principal office by filing in such court within sixty days following the issuance of such order a written petition praying that the order be modified or set aside, and the court may, in modifying or setting aside such order, order that the operator shall not be obligated for part of, or all of, the compensation to which miners are entitled under section 24. The modification or setting aside of such an order by any court shall not preclude the issuance of a citation under section 11 or the proposing of a penalty under section 16.

"PROCEDURE FOR ENFORCEMENT

"SEC. 13. (a) If, after an inspection or investigation, the Secretary issues a citation under section 11(a), he shall, within a reasonable time after the termination of such inspection or investigation, notify the operator by certified mail of the penalty, if any, proposed to be assessed under section 16 and that the operator has fifteen working days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. If, within fifteen working days after the receipt of the notice issued by the Secretary the operator fails to notify the Secretary that he intends to contest the citation or proposed assessment of penalty, and no notice is filed by any miner or representative of miners under subsection (c) within fifteen working days after the citation is posted under section 11(b), the citation and the assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

"(b) If the Secretary has reason to believe that an operator has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not end until the entry of a final order by the Commission, in the case of any review proceedings under this section initiated by the operator wherein the Commission orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements), the Secretary shall notify the operator by certified mail of such failure and of the penalty proposed to be assessed under section 16 by reason of such failure, and that the operator has fifteen working days within which to notify the Secretary that he wishes to contest the Secretary's notification or the proposed assessment of penalty. If, within fifteen working days after the receipt of notification issued by the Secretary, the operator fails to notify the Secretary that he intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed a final order and not subject to review by any court or agency.

"(c) If an operator notifies the Secretary that he intends to contest a citation issued under section 11(a) or notification issued under subsection (a) or (b) of this section, or if, within fifteen working days after a citation is posted under section 11(b), any miner or representative of miners files a notice with the Secretary alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section). The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty or directing other appropriate relief, and such order shall become final thirty days after its issuance. Upon a showing by an operator of a good faith effort to comply with the abatement requirements of a citation, and that abatement has not been completed because of factors beyond his reasonable control, the Secretary, after an opportunity for a hearing as provided in this subsection, shall issue an order affirming or modifying the abatement requirements in such citation. The rules of procedure prescribed by the Commission shall provide affected miners or representatives of affected miners an opportunity to participate as parties to hearings under this subsection. Commencement of proceedings under this subsection shall not operate as a stay of the abatement requirements of any citation issued under section 11 (a) unless the Commission, after determining that the operator will suffer irreparable loss or damage from the application of those requirements, so orders, after an expedited hearing.

"(d)(1) No person shall discharge or in any manner discriminate against or interfere with the exercise of the statutory rights of any miner because such miner has filed or made a complaint under or related to this Act, including a complaint notifying his labor or safety representative of an alleged danger or safety or health violation in the mine, or because such miner has instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding, or because of the exercise by such miner on behalf of himself or others of any statutory right afforded by this Act, or because the miner has refused to work in any area of a mine from which persons must be withdrawn and prohibited from entering pursuant to an order under section 12.

"(2) Any miner who believes that he has been discharged, interfered with, or otherwise discriminated against by any person in violation of paragraph (1) of this subsection, or any miner who has not received compensation due under section 24 or who has been deprived of any right created by or under sections 5(b)(5)(B), 5(b)(6), and 7(c) may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination or deprivation. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as the Secretary deems appropriate. If, upon such investigation, the Secretary determines that there is probable cause to believe that the provisions of paragraph (1) of this subsection have been violated, or that a miner has not received compensation due under section 24 or has been deprived of a right created by or under sections 5(b)(5)(B), 5(b)(6), and 7(c), as the case may be, the Secretary shall file a complaint with the Commission within ninety days after such determination of probable cause, and the Commission shall immediately serve upon the alleged violator and the miner notice of the allegation of such discrimination or deprivation and a proposed order granting appropriate relief. The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, affirming, modifying, or vacating the proposed order, or directing other appropriate relief; and such order shall become final thirty days after its issuance. The Commission shall have authority in such proceedings to require a person committing a violation of this subsection to take such affirmative action to abate the violation as the Commission deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay and interest.

"(3) Within ninety days of the receipt of a complaint filed under paragraph (2) of this subsection, the Secretary shall notify the miner in writing, of the Secretary's determination as to whether a violation has occurred. If the Secretary, upon investigation, determines that the provisions of paragraph (1) of this subsection have not been violated, or that there has been no failure to provide compensation due under section 24, or that there has been no deprivation of a right created by or under sections 5(b)(5)(B), 5(b)(6), and 7(c), as the case may be, the complainant shall have the right, within thirty days of notice of the Secretary's determination, to request a hearing before the Commission, and the Commission shall conduct a hearing, in accordance with the provisions of paragraph (2) pertaining to the conduct of a hearing, on such complainant's charges. Whenever an order is issued sustaining the miner's charges under this paragraph, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) as determined by the Commission to have been reasonably incurred by the miner for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation. Proceedings under this section shall be expedited by the Commission. Any order issued by the Commission under this paragraph shall be subject to judicial review in accordance with section 14. Violations by an operator of paragraph (1) of this subsection or deprivation by an operator of any right of any miner created by or under section 5(b)(5)(B), 5(b)(6), 7(c), or 24 shall be a violation for which a penalty may be assessed under section 16(a).

"JUDICIAL REVIEW

"SEC. 14. (a)(1) Any person adversely affected or aggrieved by an order of the Commission issued under subsection (c) or (d) of section 13 may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the operator has its principal office, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission or to the Secretary, whichever is appropriate, and to the other parties, and thereupon the Commission or the Secretary, whichever is appropriate, shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission or the Secretary, as the case may be, and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission or the Secretary, as the case may be.

"(2) In the case of an order of the Commission, no objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order.

"(3) Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(b) The Secretary may also obtain review of any final order of the Commission by filing a petition for such relief in the United States court of appeals for the circuit in which the alleged violation occurred or in which the operator has its principal office, and the provisions of subsection (a) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (a), is filed within sixty days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Secretary after the expiration of such sixty-day period. In any such case, as well as in the case of a noncontested citation or notification by the Secretary which has become a final order of the Commission under subsection (a) or (b) of section 13, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the operator named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (a), the court of appeals may assess the penalties provided in section 16, in addition to invoking any other available remedies.

"(c) The Secretary may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which a mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent (1) violates or fails or refuses to comply with any order issued under section 12, or (2) interferes with, hinders, or delays the Secretary or his authorized representative, or the Secretary of Health, Education, and Welfare or his authorized representative, in carrying out the provisions of the Act, or (3) refuses to admit such representatives to the mine, or (4) refuses to permit the inspection of the mine, or the investigation of an accident or occupational disease occurring in, or connected with, such mine, or (5) refuses to furnish any information or report requested by the Secretary or the Secretary of Health, Education, and Welfare in furtherance of the provisions of this Act, or (6) refuses to permit access to, and copying of, such records as the Secretary or the Secretary of Health, Education, and Welfare determines necessary in carrying out the provisions of this Act. The court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure except that the time limit in such orders, when issued without notice, shall be seven days from the date of entry. Except as otherwise provided herein, any relief granted by the court to enforce an order under clause (1) of this subsection shall continue in effect until the completion or final termination of all proceedings for review of such order under this Act, unless, prior thereto, the district court granting such relief sets it aside or modifies it. In any action instituted under this subsection to enforce an order issued by the Secretary after a public hearing in accordance with section 554 of title 5 of the United States Code, the findings of the Commission or the Secretary, as the case may be, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"REPRESENTATION IN CIVIL LITIGATION

"SEC. 15. Except as provided in section 518 (a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

"PENALTIES

"SEC. 16. (a) Any operator who violates a safety or health standard prescribed by or under this Act, or any of the requirements of section 8, or any rule, order, or regulation promulgated pursuant to this Act, may be assessed a civil penalty of not more than $1,000 for each such violation.

"(b) Any operator who fails to correct a violation for which a citation has been issued under section 11(a) within the period permitted for its correction (which period shall not end until the entry of a final order by the Commission, in the case of any review proceedings under section 13 initiated by the operator wherein the Commission orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements, or until the entry of an order of the court, in the case of any review proceedings under section 14 initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation) shall be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

"(c) Whenever a corporate operator violates a safety or health standard prescribed by or under this Act, or any rule, order, or regulation promulgated pursuant to this Act, any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violation shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsection (a), (b), (d), (e), (f), or (g) of this section.

"(d) Any operator who willfully or repeatedly violates a safety or health standard prescribed by or under this Act, or any rule, order, or regulation promulgated pursuant to this Act, shall be assessed a civil penalty of not more than $10,000;

"(e) Any operator who willfully or repeatedly violates a safety or health standard prescribed by or under this Act, or any rule, order, or regulation promulgated pursuant to this Act, and that violation causes death to any individual, shall upon conviction, be punished by a fine of not more than $25,000 or imprisonment for not more than one year, or both.

"(f) Any person who gives unauthorized advance notice of any inspection to be conducted under this Act shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or by both.

"(g) Whoever knowingly makes any false statement, representation, or certification in any publication, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $1,000, or by imprisonment for not more than six months, or by both.

"(h) Any operator who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed a civil penalty of up to $500 for each violation.

"(i) Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty assessed by the Commission of not more than $250 for each occurrence of such violation.

"(j) The Commission shall have authority to assess all civil penalties provided in this Act. In assessing civil monetary penalties, the Commission shall give due consideration to the gravity of the violation, the good faith of the person charged, the history of previous violations, and the appropriateness of the penalty with respect to the size of the business of any mine operator being charged: *Provided,* That, in proposing civil penalties under this Act, the Secretary may rely upon a summary review of the information available to him and shall not be required to make findings of fact concerning the above factors.

"(k) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer resides or maintains a place of business.

"EFFECT ON STATE LAWS

"SEC. 17. (a) Nothing in this Act shall prevent any State agency or court from exercising enforcement or other authority under the State law to protect the public health and welfare.

"(b) Nothing in this Act shall prevent any State from carrying out a program (independent of or in conjunction with the program developed under section 10(b)) of education and training in the field of safety and health in mines subject to this Act, or any program of consultation, gathering and compilation of statistics, or research and development of technology in such field.

"THE FEDERAL METAL AND NONMETALLIC MINE SAFETY AND HEALTH COMMISSION

"SEC. 18. (a) The Federal Metal and Nonmetallic Mine Safety and Health Commission is hereby established. The Commission shall consist of three members, appointed by the President by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. The President shall designate one of the members of the Commission to serve as Chairman.

"(b) The terms of the members of the Commission shall be six years, except that—

"(1) members of the Commission first taking office after the date of enactment of the Mine Safety and Health Act of 1976, shall serve, as designated by the President at the time of appointment, one for a term of two years, one for a term of four years, and one for a term of six years; and

"(2) a vacancy caused by the death, resignation, or removal of any member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term.

Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(3) The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission. The Commission shall appoint such employees as it deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and general pay rates. The Commission shall appoint such hearing examiners as it deems necessary to carry out the functions of the Commission. Assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code.

"(c) Two members of the Commission shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

"(d) A hearing examiner appointed by the Commission to hear matters under this Act shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such hearing examiner by the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceedings. The report of the hearing examiner shall become the final order of the Commission within thirty days after its issuance, unless within such period any member of the Commission has directed that such report shall be reviewed by the Commission.

"(e)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(64) Chairman, Federal Metal and Nonmetallic Mine Safety and Health Commission'.

"(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(108) Members, Federal Metal and Nonmetallic Mine Safety and Health Commission'.

"(3) The principal office of the Commission shall be in the District of Columbia. Whenever the Commission deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place.

"(4) Every official act of the Commission shall be entered of record, and its hearings and records shall be open to the public. The Commission is authorized to make such rules as are necessary for the orderly transaction of its proceedings. Unless the Commission has adopted a different rule, its proceeding shall be in accordance with the Federal Rules of Civil Procedure.

"(5) The Commission may order testimony to be taken by deposition in any proceeding pending before it at any stage of such proceeding. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission. Witnesses whose depositions are taken under this paragraph, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

"(6) For the purpose of any proceeding before the Commission, the provisions of section 11 of the National Labor Relations Act (29 U.S.C. 161) are hereby made applicable to the jurisdiction and powers of the Commission.

"ASSISTANT SECRETARY FOR MINE SAFETY AND HEALTH

"SEC. 19. (a) There is established in the Department of Labor an office of the Assistant Secretary for Mine Safety and Health, which shall be filled by appointment by the President, by and with the advice and consent of the Senate. The Secretary shall carry out his functions under this Act (except section 5(a)(3) and section 22(c)) through the Assistant Secretary for Mine Safety and Health.

"(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(109) Assistant Secretary for Mine Safety and Health.'

"ADVISORY COMMITTEE

"SEC. 20. (a)(1) There is hereby established a National Advisory Committee on Metal and Nonmetallic Mine Safety and Health consisting of twelve members appointed by the Secretary, four of whom are to be designated by the Secretary of Health, Education, and Welfare and the Secretary of the Interior, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and composed of representatives of management, labor, metal and nonmetallic mine health and safety professions and of the public. The Secretary shall designate one of the public members as Chairman. The members shall be selected upon the basis of their experience and competence in the field of metal and nonmetallic mine health and safety.

"(2) The Committee shall advise, consult with, and make recommendations to the Secretary, the Secretary of Health, Education, and Welfare, and the Secretary of the Interior on matters relating to the administration of this Act. The Committee shall hold no fewer than two meetings during each calendar year. All meetings of the Committee shall be open to the public and a transcript shall be kept and made available for public inspection.

"(3) The members of the Committee shall be compensated in accordance wiht the provisions of section 3109 of title 5, United States Code.

"(4) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

"PUBLICATION, ANNUAL REPORT, AND REGULATIONS

"SEC. 21. (a) The Secretary, the Secretary of Health, Education, and Welfare, and the Secretary of the Interior are authorized to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this Act.

"(b) The Secretary shall transmit to the Congress no later than February 1 of each year a report on the administration of this Act, including the progress toward achieving the purposes of this Act, the needs and requirements in the field of metal and nonmetallic mine safety, and other relevant information (including information regarding health and safety standards established under section 5, and a summary of inspection and enforcement activity undertaken, and analysis and evaluation of research activities), and recommendations for additional legislation.

"(c) The Secretary, the Secretary of Health, Education, and Welfare, and the Secretary of the Interior shall each prescribe such rules and regulations as he may deem necessary to carry out his responsibilities under this Act, including rules and regulations dealing with the inspection of a mine subject to this Act.

"TRANSFER MATTERS

"SEC. 22. (a) The functions of the Secretary of the Interior under this Act (as this Act was in effect immediately prior to the effective date of section 2 of the Mine Safety and Health Act of 1976) are transferred to the Secretary, except those which are transferred to the Commission or to the Secretary of Health, Education, and Welfare or which remain as functions of the Secretary of the Interior under this Act (as in effect on the effective date of section 2 of the Mine Safety and Health Act of 1976).

"(b)(1) All unexpended balances of appropriations, personnel, property, records, obligations, and commitments which are used primarily with respect to any function transferred under the provisions of subsection (a) of this section to the Secretary shall be transferred to the Department of Labor. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Secretary shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to him under this section.

"(2) All orders, decisions, determinations, rules, regulations, permits, contracts, certificates, license, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are trasferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, the Commission, the Secretary of Health, Education, and Welfare, by any court of competent jurisdiction, or by operation of law.

"(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transferred by this section; except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Secretary or the Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, the Commission, by court of competent jurisdiction, or by operation of law.

"(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Secretary, then such suit shall be continued by the Secretary. No cause of action, and no suit, action, or other proceeding by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Secretary as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

"(c) In making a determination under section 5(a)(3) of this Act of which of the occupational health and safety standards promulgated under section 6 of the Occupational Safety and Health Act of 1970 pertain to the milling of minerals in mines subject to this Act, including a determination of what constitutes mineral milling for purposes of section 3(a)(2), the Secretary shall give due consideration to the convenience of administration resulting from the delegation to one Assistant Secretary of all authority with respect to the health and safety of miners employed at one physical establishment.

"(d) For purposes of this section, (1) the term 'function' includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any officer or officer of such agency or department.

"RESEARCH AND RELATED ACTIVITIES

"SEC. 23. (a)(1) The Secretary of Health, Education, and Welfare and the Secretary of the Interior, as appropriate, after consultation with the Secretary and with other appropriate Federal departments or agencies, shall conduct (directly or by grants or contracts) research, experiments, and demonstrations relating to safety and health in mines subject to this Act including studies of lung and respiratory diseases and carcinogenic substances, and studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with safety and health problems associated with mines subject to this Act.

"(2) Before conducting any research, experiments, or demonstrations under this Act, the Secretary of Health, Education, and Welfare and the Secretary of the Interior, as appropriate, shall, after receiving from the Secretary a description of the research needs under this Act, submit to the Secretary a list of proposed projects. No research, experiment, or demonstration project may be conducted under this section unless approved by the Secretary.

"(b) Activities under subsection (a) in the field of mine health, including research related to the development of personal protective equipment, shall be carried out by the Secretary of Health, Education, and Welfare, and activities under subsection (a) in the field of mine safety shall be carried out by the Secretary of the Interior.

"(c) Within two years after the date of enactment of the Mine Safety and Health Act of 1976, and annually thereafter, the Secretary of Health, Education, and Welfare shall conduct and publish industrywide studies of the effect of chronic or low-level exposure to mine materials, processes, and stresses on the potential for illness, disease, or loss of functional capacity in aging adults.

"(d) The Secretary of Health, Education, and Welfare shall from time to time consult with the Secretary in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce criteria, including criteria identifying toxic substances, enabling the Secretary to meet his responsibility for the formulation of safety and health standards under this Act; and the Secretary of Health, Education, and Welfare, on the basis of such research, demonstrations, and experiments and any other information available to him, shall develop and publish at least annually such criteria as will effectuate the purposes of this Act.

"(e) The Secretary of Health, Education, and Welfare, on the basis of research, demonstrations, and experiments, and any other information available to him, shall develop criteria dealing with toxic materials and harmful physical agents and substances which will describe exposure levels that are safe for various periods of employment in mines subject to this Act, including but not limited to the exposure levels at which no miner will suffer impaired health or functional capacities or diminished life expectancy as a result of his work experience.

"(f) The Secretary of Health, Education, and Welfare shall also conduct special research, experiments, and demonstrations relating to safety and health in mines subject to this Act as are necessary to explore new problems, including those created by new technology in mine safety and health, which may require ameliorative action beyond that which is otherwise provided for in the operating provisions of this Act. The Secretary of Health, Education, and Welfare shall also conduct research into the motivational and behavioral factors relating to the field of mine safety and health.

"(g) The Secretary of Health, Education, and Welfare, in order to comply with his responsibilities under subsection (d), and in order to develop needed information regarding potentially toxic substances or harmful physical agents, may prescribe regulations requiring employers to measure, record, and make reports on the exposure of miners to substances or physical agents which the Secretary of Health, Education, and Welfare reasonably believes may endanger the health or safety of miners. The Secretary of Health, Education, and Welfare also is authorized to establish such programs of medical examinations and tests as may be necessary for determining the incidence of occupational illnesses and the susceptibility of miners to such illnesses. Nothing in this or any other provision of this Act shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others. Upon the request of any operator who is required to measure and record exposure of miners to substances or physical agents as provided under this Act, the Secretary of Health, Education, and Welfare shall furnish full financial or other assistance to such employer for the purpose of defraying any additional expense incurred by him in carrying out the measuring and recording as provided in this subsection.

"(h) The Secretary of Health, Education, and Welfare shall publish within six months after the enactment of the Mine Safety and Health Act of 1976 and thereafter as needed but at least annually a list of all known toxic substances occurring or found in mines subject to this Act by generic family or other useful grouping, and the concentrations at which such toxicity is known to occur. He shall determine following a written request by any operator or authorized representative of miners, specifying with reasonable particularity the grounds on which the request is made, whether any substance normally found in the mine has potentially toxic effects in such concentrations as used or found; and shall submit such determination both to operators and affected miners as soon as possible. If the Secretary of Health, Education, and Welfare determines that any substance is potentially toxic at the concentrations in wihch it is used or found in a mine, and such substance is not covered by a safety or health standard promulgated under section 5, the Secretary of Health, Education, and Welfare shall immediately submit such determination to the Secretary, together with all pertinent criteria.

"(i) The Secretary of Health, Education, and Welfare is authorized to make inspections and question operators and miners as provided in section 7 of this Act, and to make medical examinations available to miners exposed to health and safety hazards in mines subject to this Act, in order to carry out his functions and responsibilities under this section. The results of such medical examinations shall be made available to the miner and his authorized representative.

"(j) The Secretary is authorized to enter into contracts, agreements, or other arrangements with appropriate public agencies or private organizations for the purpose of conducting studies relating to his responsibilities under this Act. In carrying out his repsponsibilities under this subsection the Secretary shall cooperate wtih the Secretary of Health, Education, and Welfare, the Secretary of the Interior, and any other appropriate administrative head of any agency of the United States, in order to avoid any duplication of efforts under this section.

"(k) In carrying out his responsibilities under this Act, the Secretary is authorized to—

"(1) use, with the consent of any Federal agency, the services, facilities, and personnel of such agency, with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement; and

"(2) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually; compensate individuals so employed at rates not in excess of the rate specified at the time of service for grade GS-18 under section 5332 of title 5, United States Code, including traveltime, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

"(l) Information obtained by the Secretary, the Secretary of Health, Education, and Welfare, and the Secretary of the Interior under this section shall be disseminated by the Secretary to operators of mines subject to this Act and miners and organizations thereof.

"(m) The functions of the Secretary of Health, Education, and Welfare under this Act, shall, to the extent feasible, be delegated to the Director of the National Institute for Occupational Safety and Health established by section 22 of the Occupational Safety and Health Act of 1970.

"ENLISTMENT OF MINERS

"SEC. 24. If a mine or area of a mine is closed by an order issued under section 12, all miners who are idled as a result of such order including any miner who refuses to work in any area of a mine from which persons must be withdrawn and prohibited from entering pursuant to such an order, in cases where the operator fails or refuses to comply with such order, shall be entitled (except as provided in section 12(f) and section 12(g)) to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than one week.

"CONFIDENTIALITY OF TRADE SECRETS

"SEC. 25. All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. In any such proceeding the Secretary, the Commission, or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

"REPORT OF COMMENCEMENT OF OPERATION OF A MINE

"SEC. 26. Each operator of a mine subject to this Act who employs three or more miners shall report any commencement, after the effective date of section 2 of the Mine Safety and Health Act of 1976, of operations in such mine to the Secretary.

"ECONOMIC ASSISTANCE TO SMALL MINE OPERATORS

"SEC. 27. (a) Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—

"(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof '; and'; and

"(2) by adding after paragraph (8) a new paragraph as follows:

"'(9) to make such loans (either directly or in coperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern, which is an operator of a mine as defined in the Federal Metal and Nonmetallic Mine Safety Act and which is subject to that Act; in effecting additions to or alterations in the equipment, facilities, or methods of operation of such business in order to comply with the applicable standards promulgated pursuant to section 5 of the Federal Metal and Nonmetallic Mine Safety Act, if the Administration determines

that such concern is likely to suffer substantial economic injury without assistance under this paragraph.'

"(b) The third sentence of section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by striking out 'or (8)' and inserting in lieu thereo '(8), or (9)'.

"(c) Section 4(c)(1) of the Small Business Act (15 U.S.C. 633(c)(1)) is amended by inserting '7(b)(9),' after '7(b)(8),'.

"(d) Loans may also be made or guaranteed for the purposes set forth in section 7(b)(9) of the Small Business Act (as added by the admendments made by subsection (a)) pursuant to the provisions of section 202 of the Public Works and Economic Development Act of 1965.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 28. (a) There are hereby authorized to be appropriated to the Secretary and the Commission for any fiscal year such sums as may be necessary to carry out the provisions of this Act.

"(b) There are hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare and to the Secretary of the Interior for any fiscal year such sums as may be necessary to carry out functions under this Act.".

Sec. 3. (a) There are hereby transferred to and vested in the Secretary of Labor all functions of the Secretary of the Interior and of other offices and officers of the Department of the Interior under title I, title II, title III, and so much of title V as pertains to the field of coal mine health and safety (except for research with respect thereto), of the Federal Coal Mine Health and Safety Act of 1969 (as such Act was in effect immediately before the effective date of this section), except that all such functions of authorized representatives of the Secretary of the Interior are hereby transferred to and vested in authorized representatives of the Secretary of Labor.

(b)(1) All unexpended balances of appropriations, personnel, property, records, obligations, and commitments which are used primarily with respect to any function transferred under the provisions of subsection (a) of this section to the Secretary of Labor shall be transferred to the Department of Labor. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Secretary of Labor shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to him under this section.

(2) All orders, decisions, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of Labor, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transferred by this section; except that such proceedings to the extent that they relate to functions so transferred, shall be continued before the Secretary of Labor. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary of Labor, by a court of competent jurisdiction, or by operation of law.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Secretary of Labor, then such suit shall be continued by the Secretary of Labor. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactement of this section. Causes of actions, suits actions, or other proceedings may be asserted by or against the United States or the Secretary of Labor as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(c) For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any officer or officer of such agency or department.

(d) Section 3(a) of the Federal Coal Mine Health and Safety Act of 1969 is amended by inserting immediately before the semicolon: ", except where the functions, powers, and duties vested in the Secretary of the Interior under this Act are transferred to and vested in the Secretary of Labor under section 3 of the Mine Safety and Health Act of 1976".

Sec. 4. Sections 2 and 3 of this Act shall take effect July 1, 1977, and all transfers of functions under the amendment made by section 2 and under section 3 shall be completed not later than September 30, 1977.

Sec. 5. Nothing contained in this Act or any amendment made by this Act shall be construed to reduce the number of inspectors engaged in enforcing the provisions of the Federal Coal Mine Health and Safety Act of 1969 (as such Act was in effect immediately before the effective date of section 3 of this Act), and the Federal Metal and Nonmetallic Mine Safety Act (as such Act was in effect immediately before the effective date of section 2 of this Act), or to reduce the number of inspectors engaged in the enforcement of the Occupational Safety and Health Act of 1970.

AMENDMENTS OFFERED BY MR. DOMINICK V. DANIELS

Mr. DOMINICK V. DANIELS. Mr. Chairman, I offer a number of technical amendments, which were printed in the Record, and I ask unanimous consent that these technical amendments be considered en bloc.

I have discussed this with the minority, and I understand that these amendments, which are purely technical in form, are satisfactory to the other side.

The Clerk read as follows:

Amendments offered by Mr. Dominick V. Daniels: Page 76, line 22, insert a single quotation mark immediately before the period.

Page 93, line 1, strike out "of" and insert in lieu thereof "to".

Page 94, line 6, strike out "Act" and insert in lieu thereof "section".

Page 103, line 22, insert "alleged" immediately before "violation".

Page 111, line 17, strike out "citattion" and insert in lieu thereof "citation".

Page 114, line 10, strike out "and".

Page 114, line 15, strike out the comma which appears immediately after "from" and insert a comma immediately after "entering".

Page 117, line 8, strike out "domage" and insert in lieu thereof "damage".

Page 121, line 3, strike out the comma.

Page 124, line 12, strike out the second period.

Page 145, line 4, strike "inspections" and insert in lieu thereof "investigations".

Page 147, line 3, strike out "Enlistment" and insert in lieu thereof "Entitlement".

Page 149, line 14, strike out "admendments" and insert in lieu thereof "amendments".

Page 153, line 9, strike out "numher" and insert in lieu thereof "number".

Mr. DOMINICK V. DANIELS (during the reading). Mr. Chairman, I ask unanimous consent that these amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey (Mr. Dominick V. Daniels) that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. Dominick V. Daniels).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer amendments which go to more than one section, and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. Quie: Page 78, line 13, strike out "Labor" and insert in lieu thereof "the Interior".

Page 81, line 4, strike out "Labor" and insert in lieu thereof "the Interior".

Page 83, line 3, strike out "of".

Page 83, line 4, strike out "the Interior".

Page 83, line 14, strike out "of the Interior".

Page 94, line 16, strike out "of the Interior".

Page 106, line 12, strike out "and the Secretary of the Interior".

Page 108, line 15, strike out "and the Secretary of the Interior".

Page 106, line 24, strike out "and the Secretary".

Page 107, line 1, strike out "of the Interior".

Page 110, line 20, strike out "Labor" and insert in lieu thereof "the Interior".

Page 127, line 4, strike out "Labor" and insert in lieu thereof "the Interior".

Page 134, line 19, strike out "Labor" and insert in lieu thereof "the Interior".

Page 315, line 10, strike out everything after "Welfare".

Page 135, line 11, strike out everything before the comma.

Page 135, line 21, strike out the comma and insert in lieu thereof "and".

Page 135, line 22, strike out everything after "Welfare".

Page 135, line 23, strike out "Interior".

Page 136, line 11, strike out the first comma and insert in lieu thereof "and".

Page 136, line 12, strike out everything after "Welfare".

Page 137, line 1, strike out the first comma and insert in lieu thereof "and".

Page 137, line 2, strike out ", and the Secretary of the Interior".

Page 137, beginning with line 8, strike out everything after the second period down through "(c)" in line 22 on page 139.

Page 140, beginning with line 9, strike out everything down through line 14.

Page 140, line 17, strike out "of the Interior".

Page 140, line 18, strike out "with the Secretary and".

Page 141, line 5, strike out everything after "Welfare".

Page 141, line 6, strike out "appropriate.".

Page 141, line 16, strike out "of the Interior".

Page 145, line 17, strike out "the Secretary of the Interior,".

Page 146, line 17, strike out the comma and insert in lieu thereof "and".

Page 146, line 18, strike out everything after "Welfare".

Page 146, line 19, strike out "of the Interior".

Page 149, line 24, strike out "of the Interior".

Page 150, beginning with line 1, strike out everything down through line 7 on page 153, and insert in lieu thereof the following:

"Sec. 3. Section 2 of this Act shall take effect on July 1, 1977."

Page 153, line 8, strike out "5" and insert in lieu thereof "4".

Page 153, beginning with line 11, strike out everything after "1969" down through the comma in line 13.

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota (Mr. QUIE) that the amendments be considered en bloc?

There was no objection.

Mr. QUIE. Mr. Chairman, my amendments, by the way, were printed in the CONGRESSIONAL RECORD on June 18, 1976, a full 10 days before the House considered H.R. 13555. What this amendment does, as I explained there, is to put MESA, the enforcement agency for both the Coal Mine Safety Act and the Metal and Non-Metallic Mine Safety Act back in the Department of the Interior where it is presently, rather than transfer it over to the Department of Labor, as this bill provides.

As I had indicated before in general debate, this bill does strengthen the enforcement of the Metal and Non-Metallic Mine Safety Act and also makes the transfers.

Mr. Chairman, I have no objection to the strengthening. In fact, I like to see the program be as strong as possible. But I do not think that the kind of improved enforcement that some proponents anticipate is going to occur. In fact, I think it will not be enforced as well if it is transferred.

The amendment, while it makes a number of technical changes in the bill, does not change that one provision which upgrades the Director of MESA to an Assistant Secretary.

If my amendments are adopted, he would be an Assistant Secretary of the Interior rather than an Assistant Secretary of Labor.

Mr. Chairman, on June 28, the gentleman from New Jersey addressed the House defending H.R. 13555. He asserted that it was false to state that the transfer provisions would be transferring MESA to OSHA in the Department of Labor. He is right, but only barely. MESA, under this bill, will not go to OSHA, but it will go to the same Department that has administered OSHA. OSHA, which has been the subject of much criticism in both the House and other body, becomes a precedent for administration of the new metal and nonmetallic act. That is made clear in the committee report. Recently because of the criticism leveled at OSHA, much of which has been deserved criticism, OSHA has been limited under the appropriations process. Suppose DOL were to administer the Coal and Metal and Nonmetallic Acts in the same manner that it has administered OSHA? Such an administration that causes its jurisdiction to be severely limited would not benefit any miners. If the administration of OSHA is any indication of how the Department of Labor will administer our mine safety laws, everyone should oppose the proposed transfer.

The Education and Labor Committee heard pleas from some people in organized labor to transfer MESA from Interior to Labor, but ignored the administration's position, and most employer groups to retain MESA in Interior. Those employers who did favor transfer were obviously under the impression that transfer would be to OSHA. Why, then, would they got favor transfer—especially if thoey felt they would get inspected only once every 60 or 100 years?

However, the point is that although we heard from organized labor, the administration and employer groups, our committee did not and has not heard from the Government Operations Committee. Government Operations has jurisdiction pursuant to rule X(h)(3) to "reorganization in the executive branch of the Government." I sincerely feel the House should comply with its rules and not act percipitiously in mandating a reorganization without the advice of the Government Operations Committee.

The most important reason I seek to retain MESA in Interior can be stated simply and succinctly: A transfer of MESA from Interior to Labor does nothing to assist the cause of safety and health of miners.

A transfer does not assure more effective enforcement. A transfer does not assure the saving of a life or the avoidance of an injury. The transfer, as proposed, does not even change the personnel who administer enforcement—the same personnel of whom organized labor is critical. Finally, the transfer, as proposed, does not even assure, except for a 1-year period, that resources for mine safety and health will not be diluted through administration action into general industry safety and health. Unless some positive position, some positive good, some positive assurances can be stated for transfer, then the transfer should not be endorsed.

The most interesting aspect of the debate involving transfer involves figures from the National Safety Council. Those figures show that mining and quarrying has improved from four times to almost two times more than any other principal industry group the fatality rate per 100,000 workers. Although mining continues to be, and will continue to be, a hazardous occupation, its safety factor is improving at considerably greater speed than any other industry. Furthermore, since the creation of MESA in 1973, an increase in safety in mining is readily apparent. That could not have happened if the Department of Interior was not doing its job.

The Department of Interior is obviously doing its job, and doing its job in a conscientious manner. I urge your support for any amendment to retain MESA in Interior.

Mr. Chairman, I also want to point out that based on the Department of Interior's experience with mine safety and mine safety research since 1910, it would be extremely harmful to separate the interdependence of safety and health research from safety enforcement and from research dealing with production. Even this committee in its report recognized "a link between research on extractive technology and research on safety or control technology."

It seems to me that the one Department which has historically dealt with research regarding safety, research regarding production, and has handled safety enforcement would be more plausible than to have safety enforcement in one Department, Labor; production and safety research in another Department, Interior; and health research in even another Department, HEW. The fragmentation created by this bill will hinder the ability by the executive branch to effectively administer our Nation's energy and resource program. The fragmentation will impede the well-developed coordination between the Bureau of Mines and MESA. The fragmentation will interfere with the miners' reliance on one Department with expertise for health and safety education and leave the public without an agency with special expertise on the unique aspects of, and hazards associated with, mining.

As Secretary Kleppe told us:

> Sound management of natural resource development requires a coordinated, systematic approach.

The phases of mining, exploration, extraction, processing, and reclamation have interrelated aspects, and are labor intensive. With MESA remaining in Interior, MESA can have the access to specialists in those areas, including those in geology, hydrology, dam construction, metallurgy, rock mechanics, explosives, and chemistry. At the same time, MESA can contribute to promoting safety in other Interior activities, so that safety and health considerations are incorporated in mining research activities. Engineering support functions are needed and available in Interior in regard to ground control, ventilation, fire prevention and control, explosive storage and handling, hoisting and transportation, shaft sinking, electrical equipment, dust and noise control and mine waste embankments technology. As Secretary Kleppe said:

> Close coordination between these support activities and research, development, and testing is essential, as many hazards can actually be "engineered out" of equipment and machinery, and mining systems can be modified to reduce hazards.

The expertise rests in the Department of Interior. Due to Interior's continuing research function dealing with extraction and production, that expertise must remain there and much of that expertise may have to be duplicated if safety and health enforcement is transferred to Labor.

Separation of components of research is inefficient, devisive, and costly, resulting in fragmentation or duplication of efforts. Such a result should be opposed for the benefit of our Nation's miners. With DOL's view that there is an imbalance in the distribution of resources for workers' safety and health as between MESA and DOL, I am fearful that MESA's programs, and proper research dealing with mining hazards will be diluted and dispersed. That possibility should not be allowed to become a reality. The coordination within Interior should be allowed to continue and develop. Accordingly, I urge my colleagues to support my amendment retaining MESA in Interior, where there is no possibility of a funds reallocation, where safety research and production research have achieved a cooperative effort, and where expertise is generously shared to achieve wise and economic use of our Nation's resources in extractive technology with a major emphasis on the health and safety of mineworkers.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. BELL. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Minnesota (Mr. QUIE) and to commend him for his amendment.

Mr. QUIE. Mr. Chairman, I thank the gentleman from California (Mr. BELL).

Again, Mr. Chairman, I urge my colleagues to look at this carefully and not just be moved by the feeling of some people who would like to have all of the legislation or laws on safety put into one Department, the Department of Labor, to which the people in organized labor feel a closer affinity, but, rather, the Department that can do it most effectively. I believe that is the Department of the Interior in this instance. Otherwise all of the dramatic improvements in safety would not have occurred in these recent years.

Mr. GAYDOS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 5 minutes.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 3 additional minutes.)

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GAYDOS) is recognized for a total of 8 minutes.

Mr. GAYDOS. Mr. Chairman, I rise in opposition to this amendment.

Perhaps the best evidence why this amendment should be defeated was offered by my good friend and colleague, the gentleman from Minnesota (Mr. QUIE) in his remarks during general debate on June 29, 1976.

In arguing for the retention of MESA in the Department of Interior, the gentleman from Minnesota quite properly pointed out that the Bureau of Mines has had experience in mine safety since 1910.

But 66 years later, what has been the result of all this experience? I submit we have merely witnessed a bureaucratic treadmill in action all these years. The abysmal safety record in the mining industry today clearly shows the failure of the Bureau of Mines to provide for the protection of our Nation's miners.

Even with the creation of MESA in 1973 as a separate enforcement entity apart from the Bureau of Mines, the problem continues, as evidenced by the Scotia mine disaster in March of this year.

The reason for this state of arrested development in providing protection for the miner is indeed very simple. The Federal agency which possesses such extensive expertise about mine health and safety has, as its overriding mandate, not the health and safety of the miner, but rather the increased production of the basic raw materials needed by the economy.

Accordingly, the safety and health of the miner always has been an afterthought.

Apparently with minor exceptions, industry supports retention of MESA in the Department of the Interior. Why?

Many of the industry witnesses who testified before the Subcommittee on Manpower, Compensation and Health and Safety were quick to point with pride toward their industry-organized safety programs.

If these programs were so good why do we still have such grim statistics on the injuries and death in these industries?

The answer is simple. All other things being equal, undoubtedly these industries are concerned with protecting the health and safety of workers. But when a decision must be made between increased production or worker safety, the choice, unfortunately, is too often more production with a concommitant reduction in concern for the health and safety of the worker.

Now, obviously, these companies prefer to continue their relationship with an agency of like mind, where the emphasis is on greater production of raw materials, with the health and safety of the miners being a distant, second consideration.

I was indeed quite intrigued that some industry witnesses, who contended that their own safety programs are superior to Federal programs, should oppose the transfer of MESA from the Department of the Interior. If their programs are in fact superior to those of MESA, what have they to worry about if MESA is transferred to the Labor Department?

I submit that on paper they may have such superior programs. But the real question is what motivation is there for industry to implement them?

The answer is clearly none.

In my opinion, industry's resistance to the transfer of MESA to the Labor Department clearly translates itself into a fear that the program under the jurisdiction of the Department of Labor will be more effectively implemented with a greater emphasis on the health and safety of miners.

Another argument used by those who oppose the transfer of MESA to the Labor Department concerns the possible dilution of mine safety and health programs, or the possible absorption of MESA employees by OSHA.

If we were considering the opposite proposal, namely a transfer of MESA from the Labor Department to the Department of Interior, I would agree that a dilution in safety and health programs would be quite possible, since the program would be removed from an agency where the sole concern is the welfare of workers to one where this concern was secondary. But the bill before us proposes just the opposite.

Furthermore, the main reason for MESA's impotence is not because of a tight-fisted Congress refusing adequate funds, but instead, a lack of motivation on behalf of MESA's current administration which is a captive of an agency with a different mandate, namely, the production of natural resources and not the preservation of human resources.

Finally, the concern that MESA employees who possess the unique expertise on mine and safety will be absorbed by OSHA, just has no basis. The fact that MESA will be under the jurisdiction of a new Assistant Secretary of Labor for Mine Safety and Health clearly indicates the congressional intent that such expertise be used in its proper field, and not transferred to OSHA. In this manner, all Federal safety and health programs on coal and noncoal, as well as OSHA, will be in one department, with their separate administrative heads reporting to one Cabinet secretary.

Consolidating all Federal safety and health programs in the Labor Department will remove the confusion which arises where both MESA and OSHA have jurisdiction over the same physical plant.

Currently, such overlapping jurisdiction is subject to negotiations between the Secretaries of Labor and Interior. The results, specifically where milling operations are involved, to date have not been satisfactory.

Witnesses for the industry who testified before the subcommittee pointed out the current confusion and duplication of effort where OSHA and MESA overlap.

One witness graphically demonstrated this problem by exhibiting to the subcommittee members a photograph of a cement plant, indicating the various locations where MESA and OSHA had separate jurisdictions and the area where there was concurrent jurisdiction. The witness stated that in this specific area the mill could be grinding raw mix, which operations were subject to MESA jurisdiction, whereas on the next day, or even that afternoon, the mill would be grinding cement which would put it in OSHA's jurisdiction. He stated that he had no problem with either MESA or OSHA standards, but with the fact there was divided jurisdiction.

It should be obvious—as long as OSHA and MESA continue to exist in separate agencies this problem will continue.

But if MESA is transferred to the Department of Labor, the Secretary of Labor will be required, in the interpretation of milling, to "give due consideration to the conveniences of administration resulting from the delegation of one Assistant Secretary of all authority with respect to health and safety of miners employed at one physical establishment." Additionally, the bill would require the Secretary of Labor to promulgate the necessary standards to assure that all miners employed in milling operations whether covered by MESA or OSHA have equivalent protection.

Only when enforcement of MESA and OSHA are placed in the jurisdiction of the Labor Department will this and many other questions of overlapping jurisdiction be properly resolved.

Mr. Chairman, the arguments in support of this amendment are indeed specious. I urge my colleagues to reject them and soundly defeat this amendment.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I agree with the statements that have been made by the gentleman from Pennsylvania (Mr. GAYDOS), and I would like to join with the gentleman in his remarks and to commend the gentleman for them.

Mr. Chairman, in addition to the truth of what the gentleman from Pennsylvania has been saying, when one turns to the miners and looks at this from their standpoint, it seems to me that the remarks the gentleman from Pennsylvania has been making, make it abundantly clear that the persons who are subject to injury are going to have a great deal more confidence if this responsibility for safety is in the Department of Labor than if it is retained in the Department of the Interior where it has been, as was pointed out, for the past 60 years with a record that is not too good.

So I agree with the gentleman from Pennsylvania and commend him again on the observations he has made.

Mr. GAYDOS. I thank the gentleman from Colorado for the position he has taken and for his contribution.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding to me and I rise in opposition to this amendment.

My initial reaction was to vote for this amendment.

But I have about 10,000 active miners in the 12th District of Pennsylvania and in talking to these miners they insist that this move of MESA would make them feel more secure and would reduce accidents—I agree and now strongly oppose this amendment.

The Mine Safety and Health Act of 1976 affects more than 400,000 workers in coal, metal and nonmetallic mines and in milling operations.

The crucial feature in this bill is the provision to transfer enforcement of safety and health programs for coal and noncoal miners from the Department of the Interior to the Department of Labor.

Those who oppose the transfer rest their case primarily on the fact that mine enforcement has been lodged within the Interior Department for many years. I, for one, fail to see that this argument carries any weight other than for some bureaucrats in the Interior Department who may not wish to move their offices.

My concern is the American miner. That should be the overriding concern of those of us in the House today.

The Department of Labor has as its single responsibility the protection of the American worker. It is logical that the protection of the miner also belongs in the Labor Department.

There has been no disagreement with the provision of H.R. 13555 that elevates enforcement of mine safety and health laws to the level of an Assistant Secretary. However, simply elevating safety and health enforcement within Interior is no answer to increasing the protections for miners.

The conflict between Interior's primary concern with maximizing production of our energy resources and attempting to also carry out a safety and health program for the miner is direct and overwhelming.

I therefore urge my colleagues to resolve this conflict by transferring enforcement of mine safety and health laws from the Department of the Interior to the Department of Labor.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, I move to strike the last word, and I rise in opposition to the Quie amendments.

Mr. Chairman, on March 9 and again on March 11 of this year, the Scotia Mine at Oven Fork, Ky., exploded and took the lives of 26 men. These tragedies are now being investigated by the House Education and Labor Committee and copies of the preliminary draft results of this investigation are available in the House today.

These disasters were not due to any inadequacy in the 1969 Act. They were the fault of a lack of law enforcement on the part of MESA. The Scotia coal mine simply was allowed to run in violation of the law. These are a few examples:

First. The safety director for all three of Scotia's mines stated that he knew of no safety drills in the 3½ years he had been at the mines. Evidence shows that MESA officials were aware of this, even though regulations require safety drills every 3 months.

Second. Scotia personnel started mining an entirely different area, and thus changed the mine ventilation, but, in violations of regulations 75.300 putting into effect 30 United States Code 863 (a) and (b), they never told MESA officials. When MESA officials learned of this change and the subsequent poor ventilation at least 1 week before the explosion, nothing was done. This was the section where the explosions occurred.

Third. Scotia miners never received training on their air breathers or escape-ways, and MESA knew or should have known about this, since it is covered in 30 United States Code 877(n) and in MESA's own regulations 75.1101 and 75.1700. At least six of the victims could have walked out if they had received better training.

Fourth. Scotia personnel were continually late in submitting reports required by the law, but nothing was done by MESA.

Fifth. During inspections, Scotia personnel deliberately deceived MESA inspectors by changing ventilation so that inspectors would find safe air when they tested. MESA personnel stated they suspected this, but took no action. Also, there is evidence that MESA officials made no investigation of record books, although they contained obvious discrepancies.

The list of areas in which Scotia violated the law goes on, but MESA did not act to stop this activity.

First. MESA did not even attempt to act to use its authority under the present law to close this mine down as an imminent danger, as provided in section 104 (a). Yet, since 1970, MESA has cited this mine for 855 violations of the law and closed it 110 times for imminent dangers. MESA officials testified that this was the most dangerous and gassy mine in the district.

They testified it required special attention and more inspections than any other mine in the district. It is inconceivable that a truly concerned MESA administration would not have at least tried to close this mine for being, as a whole, an imminent danger.

Second. MESA did not adequately use its authority under the provisions in section 104(c) citing owner indifference as cause to close down the Scotia mine. Yet the Scotia history shows that management had a safety be damned attitude. If this section had been enforced, the area of the mine which exploded would probably have been shut down at the time of the disaster.

Third. MESA has never assessed a criminal fine against Scotia under section 109, in spite of the fact that local personnel have recommended this action for wanton neglect on Scotia's part.

Fourth. MESA's inspections were directed toward getting numbers down on paper, and were wholly inadequate. The inspection of the area that blew up, conducted less than 24 hours before the explosion, failed to determine the conditions which led to the disaster, though they had been present for 6 weeks, according to the testimony and evidence.

As was stated several times at the hearings, no new law is needed. What is needed is enforcement of the present law, and enforcement that is directed toward the safety of the men in the mines, and not toward production.

The bill that is before the House today we feel will improve the type of enforcement which the Coal Mine Health and Safety Act of 1969 was designed to give.

Mr. ERLENBORN. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, I rise in support of the Quie amendment. I thought when I listened to the debate while the gentleman from Pennsylvania was talking about overlapping jurisdiction, conflict, and so forth, that it was rather humorous for a member of the Education and Labor Committee and particularly a member of the Labor Standards Subcommittee to talk about overlapping, confusion, and jurisdiction, when just a few years ago our subcommittee, then known as the General Labor Subcommittee, reported the bill which is commonly known as ERISA—Employment Retirement Income Security Act—and I supported that act, but on the floor I offered an amendment to eliminate dual jurisdiction.

This is not just a matter of two different laws being enforced by different agencies where they may get into the same plant, but our committee reported a bill which is now a law on the books, which gave two different agencies jurisdiction over the same law, so that when someone wants an exemption from the prohibited transaction provision he must go to the Internal Revenue Service and to the Department of Labor and petition both of them and get a waiver or an exemption from both agencies.

Nothing like that exists under the Metallic and Nonmetallic Safety Act and the Coal Mine Safety Act and OSHA. These are separate laws enforced by separate agencies.

The gentleman from Minnesota has offered an amendment to maintain the jurisdiction of the Metallic and Nonmetallic Safety Act and the Coal Mine Health and Safety Act in the Department of the Interior rather than to transfer it to the Department of Labor, as the bill under consideration would do.

Now of course we know that historically organized labor looks to the Department of Labor as their captive portion of Government and of course they would feel more comfortable if they could have everything having to do with labor in the Department of Labor because they would feel that they would have special consideration.

Mr. Chairman, that is not the way to consider laws, to look for special consideration or to look for control of a particular agency or department of Government.

What would happen if we put metallic and nonmetallic into the Department of Labor, the same department that has the Occupational Safety and Health Act?

I suppose then that department, which just recently told the farmers that manure is slippery and, therefore, they ought not to step on it, would come out with some sort of regulation under the Coal Mine Health and Safety Act saying that methane gas is explosive and we would all learn a great deal. It would probably cost thousands of dollars to develop a regulation to tell the coal miner that he ought not to take cigarettes, cigars or matches, down in a methane-loaded coal mine.

The gentleman from Pennsylvania has his theory as to what is wrong with enforcement and why we are not getting safety. I have my own theory.

Mr. Chairman, I served on this committee and have been in debate on the floor and in the conference committee when we developed the Coal Mine Health and Safety Act. In my opinion the reason we do not have a good record of safety are the demands of organized labor that these acts be developed in a way that is punitive against the owners of the businesses. In the Coal Mine Health and Safety Act, I remember arguing in conference that we ought to put some penalty on the coal miner who takes matches down into a coal mine. He is jeopardizing not only his own life, but the lives of his fellow workers.

The argument was made, "Oh, no, you can't do that. Penalize the owner, not the coal mine employe."

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, this was a nonunion mine where there is no penalty of any kind for the treatment of a person who carries matches into the mine; but in the United Mine Workers from time immemorial anybody caught with matches, cigarettes or cigars or tobacco of any kind, outside of chewing tobacco, is immediately dismissed and loses his job and is not permitted back into the mines forever.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman from Pennsylvania for reenforcing my argument that the philosophy was, "You don't put anything in that act that might impinge on the coal miner and employee, but make the act punitive."

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. GAYDOS, and by unanimous consent, Mr. ERLENBORN was allowed to proceed for an additional 2 minutes.)

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. Yes, I will yield.

Mr. GAYDOS. Mr. Chairman, I do want to make a very sincere observation. The gentleman in the well mentioned that there was some incongruity between the position I had taken involving this conflicting overlapping jurisdiction and what the committee had handled involving this recently; but I want to point out that if the gentleman gives due consideration, the gentleman would agree with me that we are dealing with lives here. This other legislation deals with pensions.

I do not like overlapping jurisdictions. I wish we had it in one agency; but remember, we are dealing with lives. That is why the overlapping jurisdiction is so critical.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his contribution. I know the gentleman is going to join with me and the chairman, the gentleman from Pennsylvania (Mr. DENT) in solving the dual jurisdiction problem that has arisen.

The point I am trying to make, not only in the Coal Mine Health and Safety Act, but in OSHA, the same philosophy prevails. If the owner gives the employee a hard hat or shoes with hard toes and tells him to wear them and then the employee does not wear that hat or takes those shoes off or takes the hat off, it is not the employee who suffers any penalty. It is the employer, even though he has gone to every extent possible to furnish the safety equipment and to order his employee to wear it.

Again, under OSHA we see organized labor testing to see whether the act is being enforced or not, saying, "How many fines have they imposed? How large were they, how many dollars have we gotten?"

Voluntary compliance should be the goal of these safety acts. Through voluntary compliance, we can save lives, but this punitive attitude of organized labor does not help at all. I hope the amendment will be adopted and that we can keep jurisdiction of the coal mine health and safety and nonmetallic safety in the Department of the Interior.

Mr. DENT. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, time will not allow too many of the full details of what I would like to talk about today, but perhaps Members will be able to read the RECORD. I have asked permission to revise and extend my remarks in a more detailed report, and will give the real logic and reasoning for this shift. I do not mind telling the Members that it is a shift in my own thinking also, because when we passed the Coal Mine Safety Act I was convinced at that time that the proper jurisdiction for it was in the Department of the Interior, from past history.

However, in the 6 years since the passage of that act, with five major coal mine disasters resulting in a thousand deaths, the Interior Department has demonstrated that it is the wrong agency for the enforcement of this act and for the administration of it. There is a very simple reason for that. First of all, it has a division within itself. It is divided between enforcing the safety rules and the other major jurisdiction it has, which is the production of coal. Ofttimes, one takes precedence over the other, and in this case, which we ought to be talking about, the Scotia Mine disaster, is definitely took preferences over the safety of the miners.

How many Members would believe that this particular mine had no fire drills, had no rescue teams and had never had, in the memory of most of the miners, any evacuation drills? When that mine blew up on the 9th day of March, there were 11 men in that mine who died. Within 24 hours, they sent 16 more men into that mine.

There was no heavy equipment and there was not the necessary knowledge of disasters for evacuation or fire drills or any of the necessary training. When the rescue squads came there from other mines—and one came from my district in Pennsylvania—the others loaned by the major companies around there and the best safety teams and rescue teams in the United States converged on that mine, since the second batch of deaths occurred they sealed it up.

The question has always bothered me—even at night, once in a while, with no answer—why was that mine sealed immediately after the second 16 deaths? Very simple. They died, in my opinion from asphyxiation, because all the tests had proven that there was not sufficient fresh air in that mine. They have not removed the bodies yet or taken them out, and over that lapse of time the tissues will dissolve and disappear and there will be no proof of the cause of death.

Because, there was no explosion. They went into that mine without preparation. They were only carrying a 1-hour air mask and equipment. It took them that long, almost, to get back to the place where they were going, without any reserve to come back. One man was saved. Why? Because he started back, in my opinion—and it is only a guess, but it is an educated guess—he started back to complain that there was not sufficient air for those rescuers going in, the second team.

The preshift mine examination, which is demanded by the safety clause of the Coal Mine Safety Act especially for having good ventilation, was not regularly conducted. The preshift inspection demanded by the law was not taken before that shift went in to work. In the testimony before our committee, no one yet has been able, in all the questioning, to explain why the battery-operated generator had the leads blown off the fuel tanks.

No one has ever been able to explain why there were two miners within hand distance of this piece of equipment and why that piece of equipment was still in the mine when the 16 men went into the mine.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(On the request of Mr. Dominick V. Daniels, and by unanimous consent, Mr. Dent was allowed to proceed for 3 additional minutes.)

Mr. GAYDOS. Mr. Chairman, will the gentleman yield for a quick observation?

Mr. DENT. I yield to the gentleman from Pennsylvania (Mr. Gaydos).

Mr. GAYDOS. I thank the gentleman for yielding.

Mr. Chairman, I wish to commend and compliment the gentleman in the well for making the telling argument which I inadequately tried to make, and that is the distinction in this legislation from the legislation of the committee is that we are again dealing with lives and we are not dealing with matters such as the paperwork and things like that.

Mr. DENT. Mr. Chairman, I will give these figures. The Scotia Mine was considered one of the 100 most dangerous mines in the United States and was the gassiest mine in all of Kentucky. From 1970 to 1975, the Scotia Mine had been ordered closed 110 separate times, 39 times for imminent dangerous conditions. During the same period, some 855 notices of health and safety violations had been issued against the company. In the same period, January 1974 to February 1976, the mine had been cited for 63 separate violations of Federal ventilation and methane standards. The mine's ventilation system was regularly violated, and at the time of the first explosion Scotia was in violation of its approved ventilation plan. In fact, they could not work all of the working places without moving air curtains and brattices from one section to another. When the inspectors were known to be coming—and it was always known before they got there—they would move the curtains and brattices so that there would be insufficient evidence to meet the violations of law in the area they were inspecting.

If ever there was a point where one could place a finger on the fault without any fear of contradiction it is on the operators of those mines. They are now seeking to reopen. I hope our subcommittee will be able to go down there with the gentleman from Kentucky (Mr. Perkins) before that mine is opened and have a real inspection made as to whether or not they have met the conditions of increased air circulation in that mine.

For instance, the day the mine exploded, they had 9 percent gas in that mine, and they had the limited feeders for methane gas measurements, and they had them so they would not go over 5. Why? Because under good mining law, when they hit 3, they start to look around to see what is wrong. When they hit 4, they head for the outs and get the heck out of that mine. When it hits the count of 5, one better be on the surface outside. But it hit 9 before the men went into the mine.

Mr. Chairman, by the end of our business here today, this House will have made a decision which literally affects the lives of some 449,000 American miners; 187,080 coal miners, and 262,000 "hard rock" miners. The two questions we have to decide are:

First. Whether we are going to provide our metal and nonmetallic miners with a full measure of safety and health protection; and

Second. Whether we are to learn from experience and transfer all mine safety and health enforcement responsibility out of the Interior Department and place it in the Department of Labor where it rightfully belongs.

As to the first question, even many of my good friends on the other side of the aisle agree that the present Metal and Nonmetallic Mine Safety Act is totally inadequate and must be strengthened. However, some in this Chamber, unfortunately, disagree as to the transfer provisions of H.R. 13555.

In 1969, those of us who had a hand in writing the Coal Mine Health and Safety Act placed its enforcement and administration in the Interior Department because, frankly, that is where we thought it belonged. After some 6 years of congressional oversight, after at least five major coal mine disasters, and after more than 1,000 coal mine deaths, I, for one, have changed my mind. The Interior Department has demonstrated that it is the wrong agency for enforcing our mine safety and health laws.

Recent proof of what I say can be summed up one tragic word—"Scotia." On March 9 and March 11, 1976, the Scotia coal mine near Oven Fork, Ky., exploded killing 26, fine young coal miners. In both explosions, dangerous concentrations of methane gas accumulated in a poorly ventilated area of the mine and was ignited by an unknown source. The mine was turned into a violent and grisly graveyard which to this very day entombs the remains of 11 men.

25 PERCENT MORE UNION WAGE THAT IS WHY

Why did Scotia happen? Since the tragedy, Chairman Perkins, Senator Williams, and I have been searching for some answers. We have held public hearings both in Washington and Kentucky. We have heard from the widows, miners, company officials, outside professionals, and Government people. We and our staffs have reviewed thousands of papers of testimony, conducted individual interviews, and analyzed MESA inspection reports and other documents. Here before me are copies of a staff research paper prepared by our staff on the safety history of the Scotia Mine and MESA's enforcement efforts at that mine.

Answers on Scotia? Yes, we have some answers to why the 26 men died, and those answers are critical to the business before us today.

In the first place we have documented and incontrovertible evidence which shows that the Scotia Coal Co., in effect, ignored the Coal Mine Health and Safety Act, its standards and administrative regulations. Second, our research indicates that the Mining Enforcement and Safety Administration—MESA—failed to adequately and effectively exercise its enforcement authority with respect to the Scotia mine.

Thus, we have concluded that due to MESA's ineffective enforcement efforts, the Scotia Co. was permitted to operate a dangerous mine which ultimately killed 26 men.

The Scotia mine prior to the disaster, had a long and chronic history of health and safety violations that were never permanently corrected. Allow me to give you some facts:

The Scotia mine was considered among the 100 most dangerous mines in the United States and was the gassiest mine in eastern Kentucky;

From 1970 to 1976 the Scotia mine had been ordered closed 110 separate times—39 times for imminent danger conditions:

During this same period, some 855 notices of health and safety violations had been issued against the company;

In the period January 1974 to February 1976 the mine had been cited for 63 separate violations of Federal ventilation and methane standards;

The mine's ventilation system was regularly violated and at the time of the first explosion, Scotia was in violation of its approved ventilation plan;

At various times methane readings taken by company officials registered as high as 9 percent;

The required 20-minute methane monitoring rule was repeatedly violated and seldomly adhered to at the Scotia mine;

Required preshift mine examinations for hazardous ventilation and methane conditions were not regularly conducted; preshift inspection reports were routinely falsified; and that section of the mine which exploded had not been inspected prior to the explosion;

A methane gas feeder which measured at least 5 percent was known to be liberating methane gas from the floor of that section of the mine which exploded; and

The company's safety education and training program was a sham. No one, including the company's only safety inspector, could remember ever conducting a fire or evacuation drill. Six of the 15 miners killed in the first explosion suffocated to death because they did not know enough to get out of the mine following the initial explosition.

What all this adds up to is that the Scotia mine was a bad mine; a dangerous mine, a mine with a long and chronic history of health and safety violations. It was a mine which clearly placed production and profit before the safety, health and lives of its miners. It was a mine which ignored the law.

Why was such a mine permitted to operate in disregard of the law? The answer, I believe, is that MESA failed, miserably, to adequately and effectively enforce the Coal Mine Health and Safety Act in such a manner so as to effectuate lasting and permanent compliance.

Let me give you some facts:

MESA failed to ever test its imminent danger authority to determine whether—based upon a mine's prior history of violations—the operation of a mine like Scotia, in-and-of-itself, could be considered as imminently dangerous and therefore should have been ordered closed until chronic safety and health problems were permanently abated;

Aside from failing to test its imminent danger authority, MESA also failed to effectively use its mine closure authority to impress upon Scotia the severity of its safety and health problems. Although prior to the explosion MESA had ordered the mine closed 110 times, the record indicates that the overwhelming majority of these closure orders were lifted the same day they were issued, thus having a minimal effect on production;

While MESA has the authority to repeatedly close a mine like Scotia for unwarrantable failure to comply with health and safety standards, the record shows that MESA used this authority sparingly. In the 15-month period prior to the explosion, Scotia violated the Federal ventilation standards 33 times, but MESA only issued 4 unwarrantable failure to comply closure orders, all of which were lifted the same day they were issued;

Even though Scotia's safety record indicates willful and knowing violations, MESA never once brought criminal charges against the company;

In terms of the assessment and collection of monetary fines, MESA's record at Scotia was abominable. The record indicates that monetary penalty assessments were low to begin with, and the amounts actually collected from Scotia were even lower; as much as 50 percent lower;

On only three occasions did MESA ever assess the maximum civil penalty of $10,000; 2 of these cases involved deaths and the other involved serious physical injuries. Only one of these cases has been concluded, involving a death, and MESA settled out of court for $5,500; a reduction of 45 percent;

The highest penalty ever assessed against Scotia for a ventilation violation was $582 of which MESA only collected $291; a reduction of 50 percent;

MESA's monetary penalty record at the Scotia mine indicates that both assessments and collections were neither cumulative nor progress. As a matter of fact, the record shows that as Scotia continued to violate the law, both assessed and collected amounts remained the same or, in some cases, were lower than previous amounts for similar violations;

The monetary penalty record for Scotia indicates an apparent collection reduction pattern of approximately 50 percent from the amount initially assessed;

The history of MESA inspection efforts at the Scotia mine demonstrates serious shortcomings including an overreliance on one-man, spot inspections; poor procedures for reviewing and evaluating ventilation plans, and an inadequate information system;

Since 1970 MESA has conducted some 225 one-man, spot inspections of the Scotia mine compared to only 23 "regular" inspections of the entire mine. Spot inspections only check for very limited conditions in a short period of time;

On March 8, the day before the explosion, MESA conducted a limited inspection of the mine which failed to include that section of the mine which exploded;

At the time of the explosion, Scotia had been in violation of its ventilation plan for more than a month, yet MESA was unaware of the violation until a week before the explosion and, even then, failed to take any action; and

MESA's information system was such that local MESA officials failed to adequately use the information they had on the history of violations at the Scotia mine, and the flow of this information never reached top MESA officials.

What these facts tell me, and what they should say to this House, is that at the very best, MESA's enforcement efforts at the Scotia mine were ineffective. Nothing more clearly demonstrates this ineffectiveness than the fact that after some 1,000 man-days of inspection and enforcement activity, the Scotia mine continued to be operated as a dangerous mine. Nothing more tragically demonstrates MESA's ineffectiveness than the fact that on March 9 and March 11, 1976 the Scotia mine blew up and killed 26 good men.

After some 5½ years as the chairman of the House subcommittee with oversight responsibilities for coal mine health and safety, I believe the time has come when we must recognize the inherent conflict in the Interior Department's missions. On the one hand the agency seeks to stimulate production, and on the other it attempts to enforce mine health and safety. I believe that the Scotia experience is tragic proof that these two missions are incompatible. Scotia placed production before lives, and the record indicates that MESA, by not adequately and effectively enforcing the law, permitted such a policy.

How many other Scotias are there waiting to blow up? MESA officials have candidly told us that there are many. They have repeatedly stated that the Scotia mine is not the worst of the lot; that there are other, more dangerous mines, with safety and health histories as bad as Scotia's. If that is true, then we must act now to better enforce the law by placing the responsibility in the Labor Department.

No committee of Congress has the resources to monitor each of the many dangerous mines in this country. What is needed is an agency devoted exclusively to mine safety and health. What is needed is an agency whose exclusive concern is that of workers and miners. Such an agency, under a new Assistant Secretary of Labor for Mine Health and Safety, is created by this bill which I urge you to adopt.

Mr. Chairman, following months of investigation, committee hearings, and statistical research, H.R. 13555 today comes before the House as the Mine Safety and Health Act of 1976. This single piece of legislation will do as much to ensure a safe and healthy work environment for the American miner as did the promise of the landmark Federal Coal Mine Health and Safety Act of 1969.

By issuing new directives to MESA, H.R. 13555 will strengthen and revise the enforcement of the 1969 act. By transferring the enforcement responsibility for mine safety inspection to the Department of Labor, H.R. 13555 will better provide that it is economically unfeasible to continue to operate unsafe mines.

There are those who oppose the transfer provisions of this bill. They assert in their opposition that MESA, as a branch of the Department of the Interior, has assiduously enforced mine safety regulations and has been successful at reducing deaths and serious injuries. They contend further that the transfer of MESA to the Department of Labor would only serve to dilute and weaken the administration of mine safety enforcement. Neither of these contentions is true.

MESA, under the administration of the Interior Department, has served a dual and contradictory role. Safety and production too often run contrary to one another, and when safety inevitably takes a second place, MESA is failing at its responsibility to safeguard miners' lives.

The claim has been made that MESA's safety record indicates a substantial reduction in fatalities and serious injuries in metal and nonmetallic mining operations. I would like to address that claim by objectively scrutinizing the method by which MESA has compiled this statistical record of success.

The number of occupational injuries is recorded in direct ratio to the total number of man-hours reported annually. Operators report these figures voluntarily, and, as often as not, the statistics are not reported by the operators at all. MESA exerts no control over the frequency or consistency of injuries or man-hours reported.

MESA has verified the serious deficiency inherent in this system, indicating that on a regular basis only 60 to 80 percent of all mines actually report. The system is faulty and open to distorted interpretation, yet, it is on this very system, recognized by MESA as undependable, that the opponents to H.R. 13555 base their assertions of MESA's current safety record.

MESA officials proudly point to a demonstrated record of performance in the area of closure orders. In this critical area of safety enforcement, MESA has utilized statistics to its best advantage which only belie the truth.

Under the existing act, the penalty authority governing closure orders covers a wide range of violations including faulty machinery, malfunctioning safety equipment, and disrepaired track and cable lines. The term "closure order" is a misnomer when it does not pertain to the closing of all activities in a hazardous mine.

The facts which underlie MESA's statistics indicate a serious deficiency in mine closure procedures. In calendar year 1974, only 5 percent of all "closure orders" resulted in the closing of an entire mine. Thirty-nine percent involved closing a section of a mine; 43 percent merely withdrew unsafe equipment from operation; and 11 percent pertained solely to the repair of safety protection equipment.

Mr. Chairman, statistics prepared by the GAO indicate that a full 54 percent of all "closure orders" were not really closure orders at all, but merely affected the removal of unsafe equipment from the mines. As of September 1, 1975, 47 percent of all "closure orders" issued by MESA since its inception were abated while the MESA inspector was still on the premises. All of this activity is not as stringent as it appears to be. Once again, the insufficiency of mine-safety enforcement has been hidden beneath the defective record compiled by MESA.

MESA has orchestrated these statistics to reflect a record that is undeserved. This ruse cannot hide the dissatisfaction of miners with the hazards of their daily work environment, nor can it hide the bitterness felt by the families of hundreds of deceased miners who have died in the mines during MESA's courtship with Interior. The time for change is now, and the change must be complete.

A second contention raised in opposition to the transfer, widely circulated throughout this Chamber, is that MESA's merger with Labor will result in a dissolution of MESA's power by the dominance of OSHA.

Any comparison between MESA and OSHA distorts the purpose of the transfer provision. Allegations concerning a merger of MESA with OSHA are groundless, and serve only to confuse the transfer issue. MESA as a part of the Department of Labor will have a separate and distinct existence, independent in its function and purpose, and independently directed by an Assistant Secretary for Mine Safety and Health.

Comparisons of OSHA's administration to MESA's are a phony attempt to defeat the transfer. OSHA's jurisdiction encompasses a wide diversity of labor activities involving thousands of different industries and millions of workers in substantially diversified occupations. MESA specializes in a limited occupational area with a near-constant work force. MESA's ability to control and enforce occupational health and safety within its defined area of responsibility should conceivably be more successful than OSHA's, but in many areas, in the forefront of that responsibility, such as coal mine health and safety, occupational disease prevention, and health and safety training, it is not.

MESA's record under the jurisdiction of the Interior Department speaks for itself. It is not a good record. It is a product of contrary goals and a clear lack of direction.

To give consideration to revising the laws governing mine safety, while retaining the control for enforcing those laws in a Department that has consistently failed at their enforcement, defeats the purpose of this bill, and undermines the intent of Congress to assure the best quality of protection and care for the American worker.

Mr. Chairman, out of respect for the value of human life, I move that bill H.R. 13555 be enacted today, by this body, in its entirety.

Mr. SARASIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by my distinguished colleague on the Committee on Education and Labor, the gentleman from Minnesota (Mr. QUIE).

Mr. Chairman, I must respectfully disagree with the view that the laws governing the health and safety of mines should remain in the Department of the Interior simply because such mine safety laws have historically resided there.

On the face of it, such an argument may appear to have some merit, but on a close examination the weight of the evidence supports the transfer of the Department of Labor.

I participated in 8 days of hearings before the subcommittee. I carefully reviewed the record of the hearings. It is my considered judgment that the weight of the testimony clearly supports the transfer provisions of H.R. 13555.

It is both logical and realistic to centralize all worker safety programs in the executive department that has as its sole mandate the protection of the American worker.

Some of my colleagues oppose the transfer simply because the Department of Labor has jurisdiction over the Occupational Safety and Health Act in fear that MESA would be absorbed into OSHA and mine safety programs would be lost in general industry safety enforcement.

There is no way one can read H.R. 13555 and come to that conclusion. That is not and will not be the case. The new Assistant Secretary for Mine Safety and Health within the Department of Labor will have his or her own personnel; they will have their own budget and their own responsibility. The staff of the Mine Safety Administration has its own personnel under the design of the bill, and the staff will not be siphoned off to carry out OSHA responsibilities.

The concerns that many of my colleagues have expressed with OSHA have no relevance to our consideration of the mine safety bill.

We have heard a little of the criticism of OSHA. We are not talking about creating a new safety law and going out into the industrial world and trying to adopt every consensus standard that might exist; taking the electrical code, the plumbing code, and the building codes and everything else, as was done under OSHA. This is a completely different arrangement, whereby the entire body of law and all the precedents that are involved will be transferred along with that department, and MESA and its law would go into the Department of Labor.

These laws were not developed as a result of the consensus standard, but they were developed as the result of a long series of enactments in creation of legislation and regulations which go back over 60 years.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I thank my colleague for yielding.

I do wish to make this one point. I most decidedly respect the gentleman in the well. I have served with him on the committee. He has attended every hearing and every field hearing. When the gentleman takes this position in opposition to his own party and to a Member he respects, after all the hearings he has attended, I think it gives great credence to the argument and great weight to the argument that his amendment should be defeated.

Mr. SARASIN. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I would like to make a further observation. The gentleman from Illinois (Mr. ERLENBORN) has brought to the attention of the Members on the floor the fact that under OSHA penalties are not applied to the individual workers; the penalties are, of course, applied to the employer. However, in this bill, the Metal and Non-Metallic Mine Safety Act, and in the Coal Mine Act, penalties are applied to the miner who goes below with smoking materials, cigarettes, matches, or lighters. There is a plenty in both of those acts; in section 16(i) of the Metal and Non-Metallic Mine Safety Act and in section 109(a)(2) of the Coal Mine Act, which clearly does place a burden on the employee who violates what should be a reasonable safety standard.

In our oversight hearings on OSHA, which is also within the jurisdiction of this committee, I have asked employers who have been before us whether they would want OSHA to cite employees, the answers in most cases have been, "No." The managers and employers say, "That is our function. It is a prerogative of management." They say, "It is up to us to enforce the work rules."

Mr. Chairman, I would not be averse to saying that in some situations OSHA should also cite employees. However, the issue here is transfer, and it is transfer of the mine enforcement safety administration from one department—and they have done a good job—to another department which will do a better job.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, I hesitate to speak at 6:20 at night, but I do so because this is extremely important. It involves the lives of a great many people in my district.

If I were to get up and offer an amendment saying that OSHA should be transferred to the Department of Commerce, the Members would think that inappropriate, and properly so, because the Department of Commerce is management oriented and production oriented, not safety oriented.

That is precisely what is at stake here.

The Department of the Interior is production oriented and management oriented, and properly so; but it is not, the record is clear, safety oriented.

Mr. Chairman, there is a good illustration of that. My distinguished colleague, the gentleman from Pennsylvania (Mr. Dent), has sent a report to the staff of the subcommittee and to members of the committee. In that staff report they draw two conclusions, and let me read the second:

> MESA failed to adequately and effectively exercise its enforcement authority so as to effectuate Scotia's compliance with the Coal Mine Health and Safety Act of 1969.

Mr. Chairman, my colleague, the chairman of our committee (Mr. Perkins), will recall our hearings in Whitesburg. I asked the gentleman in charge in that county for MESA what happens to his reports when he forwards them on to people above him, and his response was—and I will never forget these words—"I couldn't care less."

Mr. Chairman, that is what we are talking about. We are not talking about technical competence. We are talking about will. What this agency, MESA, needs is will. It needs backbone to enforce the safety laws.

Mr. Chairman, if I may again refer to the report that the gentleman from Pennsylvania (Mr. Dent) put out, it says this in the body of that report:

> . . . if the local MESA officials were completely aware of Scotia's entire safety history, there is very little evidence to suggest that this knowledge affected MESA's enforcement efforts at the mine.

Mr. Chairman, my distinguished colleague, the gentleman from Minnesota (Mr. Quie), for whom I have great respect, said that the safety record is improving, and he lauded the safety record of the mines.

The fact is that the safety record in coal mines is 3 times as bad, in the coal mining industry, as in any other major industry in the Nation. The fact is that in 1975 there were more deaths and more injuries than in 1974; and these are facts, I think, that we have to keep in mind.

Mr. Chairman, I would like, in conclusion, to join in commending our colleague, the gentleman from Connecticut (Mr. Sarasin) for his remarks. I think he is absolutely right, and he hit the nail right on the head. I think we have to put MESA in a department that is interested in enforcing the law, not interested in production and management, but in the safety of the men who work there.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, with reference to the statement of the gentleman from Illinois (Mr. Simon), I ask him how he can laud the transfer to the Department of Labor when it is the construction industry which has the greatest injury and fatality rate among those that are administered or safety controlled by OSHA.

About the same number per 100,000 employees are killed in construction as in mining, but the actual number in a year is about five times as many individuals killed in construction and about five times as many individuals injured in construction, and that industry is being administered by the Department of Labor through OSHA.

If they have that kind of bad record, how are we going to improve safety in the mines by transferring the jurisdiction?

Mr. SIMON. I frankly am not that familiar with the record in the construction field. I am familiar with MESA and with their failure to enforce the laws that exist and the regulations that exist.

That record is very clear, and I think what is needed is not technical competence in department personnel, but a will to do something.

Mr. Chairman, I think the proposed transfer will provide that.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I thank the gentleman for yielding.

I would like to make the observation very pointedly to the point raised by my colleague, the gentleman from Minnesota (Mr. Quie). Sixty-six years is the history of MESA, and 1971 is when we passed the OSHA Act.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, I know a little something about mining because I grew up with it. My father, Louis Oberstar, was an underground iron ore miner for 26 years and was chairman of the Godfrey underground iron ore miners' safety committee for a good part of those 26 years and retired after 40 years of iron ore mining in Minnesota, from which we shipped over 2 billion tons of iron ore to the steel mills of this country.

The allegation was made in the course of general debate a few days ago that this is a bill for the union leadership. I would like to correct the record. I wrote to 28 Steelworkers local unions in my district and asked them to take up this bill at regularly constituted union meetings and report back. They all reported back, representing membership from over 9,000 dues-paying individuals, in unanimous support for this legislation, and it was on the basis that it was good for the people from northeastern Minnesota whose lives and livelihood depend on safety in the mines. Typical is the response I received from Joe Smilanich, president of Local 4108 which states in part:

> Steelworkers Local 4108, numbering 2300 members strongly endorses and supports your action in seeking passage of H.R. 13555.
>
> Our concern in modifications or alterations to present controls over mine safety is of the utmost importance.

Also a reply I received from Steelworkers Local 2660, from Larry Koenig, the recording secretary:

> Your bill H.R. 13555 concerning Mesa being put under the jurisdiction of the Department of Labor, has been discussed at our last three regular meetings and it has the full support of our local membership. We have approximately 1000 members.

And on and on—28 locals in all.

This legislation is vital if we are going to protect the lives and provide safety for the men working in the open pit mines.

I will never forget the time my father came home white as a sheet from the afternoon shift where his drift had caved in on him and covered him right up to his shoulders because the timbers had not been inspected and because safety had not been attended to. There were many other safety violations over the years—shafts were not properly ventilated, the cages or elevators, were not properly maintained, causing a number of disasters to occur at that time and many lives were lost and many more could have been lost. My father's life was spared, fortunately.

Mr. Chairman, I am here to say to the Members that this is the kind of legislation we need.

As for the complaints that this is not the right committee to make the transfer out of one department and into another, and that it ought to be handled by the Committee on Government Operations, I say that is a lot of nonsense. In the years beginning in 1969, when the Nixon administration took office, eight reorganization plans have been proposed and acted upon by the Congress, eight of them. Several of those plans involve the transfer from the Department of the Interior to independent agencies, or to other departments, or to new departments created by those reorganization plans. The lesson seems to be that if the Republican administration wants to reorganize the Government it is fine, but if the Democratic Congress wants to reorganize the Government that is no good.

I say that it is good and that it is in the interest of the working people. Let us defeat this amendment.

Mr. SKUBITZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. SYMMS. Mr. Chairman, will the gentleman from Kansas yield?

Mr. SKUBITZ. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I rise in opposition to H.R. 13555, the Mine Health and Safety Act of 1976. We have been given the impression here today that all mine workers are strongly in favor of this bill. I represent a mining district in northern Idaho and I have had many, many mine workers tell me that they are opposed to this legislation.

Mr. John Lomas, a safety engineer at one of the mines in Wallace, Idaho, wrote to me a couple of months ago concerning this bill. His letter is as follows:

> Wallace, Idaho,
> *May 28, 1976.*
>
> Congressman Steve Symms,
> *Longworth House Office Building,*
> *Washington, D.C.*
>
> Dear Congressman Symms: H.R. 13555 "The Mine Safety and Health Act of 1976" is now out of committee and will soon come up for floor consideration in the House of Representatives.
>
> Before making comments on this act, I will brief you on my background in the min-

ing industry. I have 34 years of experience in the mining field, starting as an apprentice or "mucker" and working through all phases of mining, timbering, shaft sinking, contract mining, shift supervisor, shaft foreman, assistant mine foreman, mine foreman, and am presently safety engineer for one of the larger mining companies in this area. Also, during the phases of actual mining, I belonged to the union for several years. Therefore, I feel somewhat qualified in making an appraisal of the proposed legislation.

Last September I wrote your office urging opposition to this piece of legislation on the grounds that the Federal Metal and Nonmetal Mine Safety Act provides all of the federal authority and enforcement power necessary to improve health and safety in the nation's metal and nonmetal mines.

Although H.R. 13555 has been amended somewhat during committee markup, it is still an unnecessary piece of legislation that will not further the health and safety of our nation's miners any more than the present act, but it will be extremely costly to the taxpayer and industry alike. Since I am a taxpayer also, I am quite concerned about the costs of government.

The major objections to H.R. 13555 are:

1. The transfer of jurisdiction for metal and nonmetal health and safety from the Department of the Interior to the Department of Labor. The need for this transfer has not been adequately demonstrated and would do immeasurable harm to the ongoing mine safety programs in the Department of the Interior and MESA. In fact, the transfer of jurisdiction could not be implemented to the extent that it would not seriously downgrade the existing program during the transition period and for a time thereafter.

2. The health and safety standard-setting procedures should require a formal rulemaking procedure with mandatory consultation with an advisory committee. The existing act *requires* this procedure, but H.R. 13555 only provides for *informal* procedures with *optional* consultation with an advisory committee. Thus, the rule-making provisions of the existing act are far superior and should be retained.

3. Section 8(a)(3) gives the secretary authority to "take whatever action he deems appropriate to protect the life of any person; and he may, if he deems it appropriate, supervise and direct the rescue activity in such a mine." This authority is both unnecessary and unwise. Federal inspectors on the scene should be consulted and should work with and advise the operator in rescue and recovery operations. However, only those intimately familiar with the mine, its systems, and its conditions should have ultimate responsibility for directing rescue and recovery operations. The most recent Scotia Coal Mine disaster points this out.

4. Miners' entitlements—matters regarding pay, seniority and status, walk around privileges—should be settled through collective bargaining, since they have no direct bearing on safety and health. Section 8(c)(3) of OSHA recognizes this in a corresponding provision. Section 23(n) provides that miners idled as a result of withdrawal orders must be paid for the period they are idled, but no more than one week. This is an unnecessarily punitive provision and should be deleted—pay for period that miners are idled by withdrawal orders should be limited to the balance of the shift.

5. Penalties, Section 16, provides for mandatory penalties for virtually all violations. This effectively eliminates any flexibility or discretion on the part of the secretary in utilizing penalties. Section 16(d) states "*shall be assessed* a civil penalty of not more than $10,000" where OSHA, Section 17(a), provides "*may be assessed* a civil penalty of not more than $10,000." This, in effect, virtually eliminates the discretionary powers of the secretary. Also, mandatory penalties under Section 109 of the Federal Coal Mine Health and Safety Act have generated an enormous volume of both administrative and judicial litigation, further burdening the taxpayer and industry of untold millions of dollars and have most probably detracted from the effectiveness of the act by tying up large numbers of inspectors in legal proceedings.

Section 16(e) provides for a $25,000 fine or imprisonment for one year or both for willful or repeated violations that cause death to any individual. OSHA Section 17(e) provides a maximum of $10,000 fine or imprisonment of not more than six months. There is no justifiable reason why the penalties under the two agencies should be so grossly out of line for the same offenses.

6. Citations, Section 11(b), requires that each citation or copy shall be prominently posted at or near each place of violation. In underground mines, conditions make it virtually impossible to post citations at or near the place of violation (humidity, solid rock, water, etc.) Section 11(a) provided that a citation may be issued if an inspector "believes" that a violation has occurred. Inspectors should be required to make a finding that a violation has occurred and not be permitted to proceed on the basis of a mere belief.

7. Section 7(d) provides that where a miner requests an inspection on the grounds that imminent danger exists, he shall first notify the operator of such request. However, this provision states that such notification is not a jurisdictional prerequisite to enforcement of any provision of the act, effectively negating the necessity of notifying the operator. Furthermore, such notification need not be in writing. All requests for inspections by miners or their representatives should be in writing and should first require notification of the operator. This section could open the door for harassment from some miners or their representatives.

It is my considered judgment that the existing Federal Metal and Nonmetal Mine Safety Act provides more effective means and measures for improving the working conditions and practices in the nation's metal and nonmetal mines than H.R. 13555 would provide.

I earnestly solicit your support to oppose this needless legislation when it is placed before the House of Representatives for floor consideration. If it cannot be defeated, I seriously urge a strong amendatory effort to make this act a workable piece of sensible legislation.

Sincerely,

JOHN W. LOMAS,
Safety Engineer.

Again, Mr. Chairman, I urge my colleagues to support the Quie amendment. I do not believe it to be in the best interest of mine safety, to make this transfer to the Department of Labor.

Mr. SKUBITZ. Mr. Chairman, I rise in support of the Quie amendment.

There is not a single person on this floor who has a greater interest in mine safety than the Member from Kansas.

Heretofore, I have always supported mine safety legislation—because I know something about mining—and I shall continue to support mine safety legislation—because mining is dangerous—under the safest conditions.

The gentleman from Kentucky has called attention to the tragedy in the Scotia mine—which blew up on March 9 and 11—and in which 26 people died. I call attention to the fact that three of the men who died were MESA inspectors doing their job.

A tragic event? Of course it was—but was MESA responsible? The answer is no. MESA did exactly what MESA was supposed to do under the Coal Mine Health and Safety Act of 1969.

I am told the record shows that MESA has closed various sections—or the entire mine—109 times since MESA's origin in 1970. Twenty-one times it closed the entire mine because of imminent danger. MESA cited this mine 859 times for various violations.

But face the facts—this is all MESA could do under the law. Now—if you want mine safety to give MESA some more power to act—that is the job of this Congress.

What this bill does is transfer MESA authority over to the Department of Labor.

If you want to talk about improving safety, then let us amend the Coal Mine Health and Safety Act of 1969. Amend the act so that when mines are dangerous MESA can close them down permanently.

But do not use the Scotia mine as a means of destroying MESA and putting OSHA in charge.

This is not really a mine safety bill. This is the beginning of a power play to place control of all mine practices in the hands of OSHA:

Not only legitimate health and safety matters—but matters that are purely within the realm of collective bargaining.

This is an effort to strip the Interior Committee of the authority it has had over mining since 1910, and place it in the hands of the Labor Department.

Now that sounds logical, does it not? Except when one removes the top layer and finds out what is really involved.

This is purely an end-around play where the quarterback—the Secretary of Labor—grabs the ball, hands it to the newly created Assistant Secretary of Mining, who in turn hands the ball to OSHA.

This bill calls for the transfer of 3,000 employees from the Interior Department over to the Labor Department under the domination eventually of OSHA.

Make no mistake about it, the signs are as clear as the nose on your face. The trend today is to take all control from every department which has any degree of supervision over the health and safety of Labor and place it in the Department of Labor under the domination of OSHA.

I urge the adoption of the Quie amendment.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Pennsylvania.

Mr. DENT. I thank the gentleman for yielding.

I know the Member is very sincere, and I am very proud of the work he has done in this area. He has helped me immensely over the years in coal mine safety.

Mr. SKUBITZ. I would do it again if this were a mine safety bill, but it is not that; it is a power play simply to try to take one agency and transfer it over to the Department of Labor.

Mr. DENT. If the gentleman will yield further, I just want to say that I do not want him to leave a misrepresentation on the record. He said that MESA has the full authority to close the mines. They do have.

Mr. SKUBITZ. I did not say that.

Mr. DENT. And every closure they ordered at Scotia Mine was lifted.

Mr. SKUBITZ. I did not say that. I said MESA could issue a citation and stop them but the minute that citation was met and the improvement was made, there was not anything else MESA could do.

Mr. DENT. I want the gentleman to know for the record every time they ordered a closure the same day they lifted the closure before anything was done on the citation.

Mr. HECHLER of West Virginia. Mr. Chairman, I rise in opposition to the amendment and I move to strike the requisite number of words.

Mr. Chairman, throughout the coal fields the coal miners will applaud this legislation if it can effectively transfer MESA to the Labor Department. Throughout the metal and nonmetallic mining industry those who work in that industry will applaud this legislation if we could preserve this legislation as it came to the floor rather than preventing the transfer.

For 7½ years I have been fighting for this transfer. I remember in 1968 after the Farmington disaster, I introduced a bill to transfer authority over coal mine health and safety from the Department of the Interior to the Department of Labor. In 1969, I testified repeatedly that the Department of the Interior was a production-oriented agency, while the Department of Labor was employee-oriented. When I testified before the Committee on Education and Labor, there was not a single member of that committee at that time that would support this transfer. So this is a very happy day in the House of Representatives for the coal miners of this Nation. I feel vindicated, Mr. Chairman.

When a person ignores a lot of traffic tickets he is called a scofflaw. There have been a lot of millionaire scofflaws who have been encouraged by the Interior Department as a result of assessments that were not collected by the Interior Department for violations of the Federal Coal Mine Safety and Health Act. The 1969 act has not been enforced by the Interior Department perhaps because of pressure from the coal industry or perhaps because of the nature of the personnel who have administered that act. Edward Failor was placed in charge of collecting assessments. Failor had never been near a coal mine. Interior paid Failor a salary of $36,000—as much as the Director of the Bureau of Mines. Failor did his work well for the special interests—reducing assessments by $2.7 million by the end of 1971, according to the General Accounting Office.

But for whatever reason there has been a lack of sympathy for this act within the Department of the Interior. The Pittston Coal Co., owner of the mine which caused the Buffalo Creek disaster with the loss of 125 lives—had 15 of 37 assessment cases covering nine safety violations reduced by nearly $130,000.

I do not believe, as has been expressed, that the Department of Labor is going to be a captive of organized labor any more than the Department of Interior has been a complete captive of the coal industry. Yet it is very strange that millions of dollars in fines have not been collected, fines levied against great coal companies that have violated the law.

I think it is necessary for the protection of the miners of this Nation, both the coal miners and the hard-rock miners, that this amendment be defeated and that we go on to pass this legislation.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Quie amendments.

Mr. Chairman; I rise in opposition to the Quie Amendment eliminating the transfer provisions in H.R. 13555.

There have been a number of misstatements concerning the Mine Safety and Health Act. These misconceptions have been used to mislead my colleagues in order to defeat the transfer of enforcement of miners' health and safety from the Department of of the Interior to the Department of Labor.

Some opponents of the transfer claim that it would place enforcement of miners' health and safety under the occupational safety and health administration, OSHA. This is absolutely untrue.

This statement is a ploy to create the impression that OSHA will extend its coverage to miners.

I challenge opponents of the transfer to point to one single provision in H.R. 13555 which gives OSHA authority over miners' lives. The opponents of transfer cannot do so, because it simply is not in the bill.

H.R. 13555 creates a new and separate administration in the Labor Department charged with administering the mining safety and health program. The bill creates a new Assistant Secretary for Mine Safety and Health, who is appointed by the President and confirmed by the Senate.

The new Administration for Mine Health and Safety will have rank within the Labor Department equal to the Employment and Training Administration, the Employment Standards Administration, the Labor-Management Services Administration, and OSHA. All of these administrations have their own assistant secretaries, their own staffs, their own functions, their own budgets.

What then is the real reason for opposing the transfer? Let the truth be known—certain mine operators in this Nation feel more comfortable with the status quo because the status quo lets them off the hook. The status quo let 26 miners die in the Scotia Coal Mine just 3 months ago.

The status quo insures that the bureaucrats who are charged with maximizing energy production simultaneously have the conflicting duty of making an attempt to protect the miners.

Let the truth be known—the Interior Department has thought so little of miners' health and safety that it took a national tragedy to make the Department separate enforcement of mine health and safety from the Bureau of Mines.

I speak of the Sunshine silver mine disaster in Kellog, Idaho, in May 1972. Ninety-one miners died in that tragedy. One year later, Interior finally created a separate Mining Enforcement and Safety Administration apart from the Bureau of Mines. Perhaps the Interior Department finally realized in a very limited way that there truly is an inherent conflict between its primary mission to increase production and its secondary commitment to protect the miner.

Things have improved somewhat since MESA is separate from the Bureau of Mines. But "somewhat" is not good enough. I think it is time that the bureaucrats stopped looking out for their own petty fiefdoms and started looking after the welfare of the miner.

I am not impugning the integrity of any person in the Interior Department. I am simply saying that the Department's dual mission creates a conflicting situation. Let us rectify this inherent conflict through new authorizing legislation.

I cannot in clear conscience, say to the widows and children of the Scotia miners or the Sunshine miners, that we should retain MESA in the Interior Department simply because "it has always been there." I cannot justify retaining MESA in Interior because the Department also manages production of coal and mineral resources.

To the families who have lost their breadwinners, such talk is just a lot of bureaucratic jargon, excuses put forth by those who oppose changing the status quo.

Mr. Chairman, the truth is that the status quo with regard to our miners' health and safety is totally and completely unacceptable. Scotia's tragedy is just the most recent example of the ineptitude of the Interior Department in enforcing mine safety and health.

How many more miners must perish before this Congress awakes to the fact that the protection of our miners must be enforced by the Labor Department which has historically been concerned with the welfare of the American worker. The Labor Department is not burdened by a mandate to spur production of our energy resources.

The mission of the Department of Labor is to preserve our human resources. The mission of the Department of Interior is to preserve our natural resources. Let us so declare by opposing the Quie amendment.

Mr. BELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we have to realize and understand that mining is a very dangerous and a very complicated business. It is something with which we cannot make a lot of changes. We have to have the body such as the Department of the Interior that has administered the mines in the past through MESA and understands those problems, understands the problems of gassy mines, understands the problems of machinery in the mines, understands a lot of things that are going on. Without this amendment, under the Labor Department, the problems of mining will not be fully understood and it will be necessary to develop some expertise within the Department of Labor and then oversee MESA. It will be like placing a square peg in a round hole for a while. I think that is one of the detriments—so why do it when the Interior Department already has the expertise? We are dealing with men's lives. This is the more clumsy and dangerous way to do it.

Mr. Chairman, let me point out that the mining programs in the past were not perfect. Certainly there have been accidents. It is a very, very dangerous type of business; however, there have been improvements made. There has been new machinery discovered. There have been new methods of operating. We should keep fighting for newer and better safety methods until we stop these disasters!

Mr. Chairman, I think we ought to stay with the operation we have today and try to improve it rather than change it. These changes out of proscribed departments often make the cure worse than the disease.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I thank the gentleman from California for yielding.

Mr. Chairman, just to put this in perspective, the Metallic and Nonmetallic Safety Act was passed in 1966. In 1970 we passed OSHA and the Coal Mine Health and Safety Act.

So, the administration has been about for the same period of time. In 1975, the improvement in mining was 42 percent. However, the improvement in construction, the most dangerous part of the industry which has been administered by OSHA, was only a 16-percent improvemet over 10 years before. In actual numbers, there are about five times as many people who die each year in the construction industry as in the mining industry.

So, I think we are misleading ourselves if we think that we are going to have a better program under OSHA. Therefore, I urge adoption of my amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota (Mr. QUIE).

RECORDED VOTE

Mr. QUIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 119, noes 263, answered "present" 1, not voting 49, as follows:

[Roll No. 553]

AYES—119

Abdnor
Anderson, Ill.
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Bowen
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable

Conlan
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Erlenborn
Eshleman
Flynt
Forsythe
Frenzel
Frey
Goldwater
Grassley
Guyer
Hagedorn
Hall, Tex.
Harsha
Hightower

Hillis
Holt
Hungate
Hutchinson
Hyde
Ichord
Jarman
Kasten
Kazen
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Lent
Long, Md.
Lujan
McClory
McCollister
McDonald
McEwen
McKay

Mahon
Mann
Martin
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nichols
O'Brien
Passman
Paul
Pettis
Pickle

Poage
Quie
Quillen
Randall
Rhodes
Roberts
Robinson
Rousselot
Runnels
Santini
Satterfield
Schneebeli
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder

Spence
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Vander Jagt
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wilson, Bob
Winn

NOES—263

Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Mich.
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Chappell
Chisholm
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evans, Ind.
Fary
Fenwick
Findley
Fish

Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gradison
Green
Gude
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Hicks
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Koch
Krebs
LaFalce
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lundine
McCormack
McDade
McFall
McHugh
McKinney
Madden
Maguire
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan

Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pike
Pressler
Preyer
Price
Pritchard
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schroeder
Sharp
Shipley
Simon
Slack
Spellman
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Studds
Thompson
Thornton
Traxler
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Weaver
Whalen
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yates

Yatron
Young, Alaska
Young, Fla.

Young, Ga.
Young, Tex.
Zablocki

Zeferetti

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—49

Abzug
Broomfield
Brown, Calif.
Clay
Duncan, Oreg.
Esch
Evins, Tenn.
Fascell
Fountain
Goodling
Haley
Hansen
Harrington
Hawkins
Hébert
Helstoski
Henderson

Hinshaw
Jacobs
Jones, Tenn.
Karth
Kelly
Keys
Landrum
Litton
McCloskey
Madigan
Mosher
O'Hara
Rees
Riegle
Schulze
Seiberling
Sikes

Sisk
Smith, Iowa
Solarz
Stanton, James V.
Steelman
Steiger, Ariz.
Stratton
Stuckey
Sullivan
Symington
Teague
Tsongas
Waxman
Wiggins
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Ms. Abzug against.

Mr. Stuckey for, with Mr. Jones of Tennessee against.

Mr. Teague for, with Mr. Hawkins against.

Mr. Sikes for, with Mr. Waxman against.

Mr. Haley for, with Mr. Solarz against.

Mr. Landrum for, with Mr. Symington against.

Mr. LONG of Maryland changed his vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. GIAIMO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13555) to amend the Federal Metal and Nonmetallic Mine Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969, had come to no resolution thereon.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Ms. HOLTZMAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary be permitted to sit tomorrow during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentlewoman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentlewoman from New York (Ms. HOLTZMAN) define for us which bill will be taken up?

Ms. HOLTZMAN. If the gentleman will yield, the bill will be H.R. 10993. It deals with the question of discrimination in the immigration laws against divorced fathers.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding. I would say to the gentleman from California that this is the bill that was introduced by the gentlewoman from New York, and the subcommittee, on which I am the ranking minority member, would like to meet tomorrow because we have a very heavy agenda on Friday on the immigration laws, as I am sure the gentleman well knows, and this is the day set aside for substantive legislation to be considered.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, this would be primarily hearings and no markups?

Ms. HOLTZMAN. Mr. Speaker, if the gentleman will yield, I think it is primarily hearings.

Mr. ROUSSELOT. I thank the gentlewoman from New York.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from New York?

There was no objection.

COMMUNICATIONS FROM THE CLERK OF THE HOUSE—IN RE: POSSIBLE VIOLATIONS OF 18 U.S.C. 201, 371, 1001, AND 1341

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *July 26, 1976.*

Hon. CARL ALBERT,
The Speaker,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On this date, William Cable, Staff Director for the Committee on House Administration, was served with a Subpoena Duces Tecum by a Representative of the U.S. Department of Justice; said Subpoena was issued by the United States District Court for the District of Columbia.

The Subpoena commands him or his authorized representative to appear before the Grand Jury of the U.S. District Court on July 28, 1976, and requests certain House records that are outlined in the Subpoena itself, which is attached hereto.

House Resolution #9 of January 14, 1975, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The Subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards,
Cordially,
FRANK THOMPSON, Jr.,
Chairman, Committee on House Administration.

The SPEAKER. Without objection, the subpena will be printed in the RECORD.

There was no objection.

The subpena is as follows:

[In the U.S. District Court for the District of Columbia, Misc. No. 76–0093]

SUBPENA DUCES TECUM

In re: Possible violations of 18 U.S.C. §§ 201, 371, 1001 and 1341

To: William Cable, Staff Director, Committee on House Administration, U.S. House of Representatives, Washington, D.C. 20001

Bring with you: The original carbon copies of the official payroll authorization forms for Elizabeth Ray with effective dates of October 31, 1975 and November 1, 1975.

These documents have been found to be relevant to this investigation by a previous order of this Court dated July 1, 1976, in Miscellaneous No. 76–93.

You are hereby commanded to attend before the Grand Jury of this Court on Wednesday the 28th day of July, 1976, at 10:00 A.M. to respond to this subpoena. Compliance with this subpoena will be sufficient if a representative of your office makes the originals of these documents, and not copies thereof, available to the Federal Bureau of Investigation or its laboratory at a mutually convenient time which can be arranged by contacting the Assistant United States Attorney named below.

Witness: This 26th day of July, 1976.

W. B. JONES,
Chief Judge, U.S. District Court for the District of Columbia.

Attorney for the United States, Robert W. Ogren (426–7044), Assistant United States Attorney.

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
July 26, 1976.

Hon. CARL ALBERT,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On this date I was served with a Subpoena Duces Tecum by a Representative of the U.S. Department of Justice; said Subpoena was issued by the United States District Court for the District of Columbia.

The Subpoena commands me or my authorized representative to appear before the Grand Jury of the U.S. District Court on July 28, 1976, and requests certain House records that are outlined in the Subpoena itself, which is attached hereto.

House Resolution #9 of January 14, 1975, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a Subpoena Duces Tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The Subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, U.S. House of Representatives.

The SPEAKER. Without objection, the subpena will be printed in the RECORD.

There was no objection.

The subpena is as follows:

[In the U.S. District Court for the District of Columbia, Misc. No. 76–0093]

In re: Possible violations of 18 U.S.C. §§ 201, 371, 1001 and 1341

SUBPENA DUCES TECUM

To. The Honorable Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Washington, D.C., or his authorized representative:

Bring with you: The original and official payroll authorization forms for Elizabeth Ray with effective dates of October 31, 1975 and November 1, 1975.

These documents have been found to be relevant to this investigation by a previous order of this Court dated June 10, 1976, in Miscellaneous No. 76–93.

You are hereby commanded to attend before the Grand Jury of this Court on Wednesday the 28th day of July, 1976, at 10:00 A.M. to respond to this subpena. Compliance with this subpena will be sufficient if a representative of your office makes the originals of these documents, and not copies thereof, available to the Federal Bureau of Investigation at its laboratory at a mutually convenient time which can be arranged by contacting the Assistant United States Attorney named below.

Witness: This 26th day of July, 1976.

WILLIAM B. JONES,
Chief Judge, U.S. District Court for the District of Columbia.

Attorney for the United States, Robert W. Ogren, (426–7044), Assistant United States Attorney.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution, House Resolution 1429, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1429

Whereas, in a Grand Jury investigation pending in the United States District Court for the District of Columbia, subpenas duces tecum were issued by the said court and addressed to Edmund L. Henshaw, Jr., Clerk of the House of Representatives and to William Cable, Staff Director for the Committee on House Administration, directing them to appear as witnesses before the grand jury of the said court at 10:00 antemeridian on the 28th day of July, 1976, and to bring with them certain papers and documents in the possession and under the control of the House of Representatives; and

Whereas, the Judge of the United States District Court for the District of Columbia did, on June 10 and on July 1, 1976, sign determinations that the documents called for in said subpenas duces tecum were relevant to the said investigation: Therefore, be it

Resolved, That, by the privileges of this House, no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That Edmund L. Henshaw, Jr., Clerk (or his authorized representative), be authorized to appear before the aforesaid grand jury and to deliver the original papers and documents called for in the subpenas duces tecum, under such conditions as will assure that the integrity of said documents shall be preserved: *Provided, however,* That said papers shall remain the property of the House of Representatives, shall remain in the possession of the Clerk or his representative during the period of their examination by the grand jury or its agents, and shall be returned to the Clerk of the House of Representatives immediately upon the conclusion of the examination of the documents by the grand jury or its agents; and be it further

Resolved, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpenas duces tecum aforementioned.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AN ANALYSIS OF THE DIRECT IMPACT OF THE MERCHANT MARINE ON NATIONAL SECURITY OVERVIEW

(Mr. DOWNING of Virginia asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DOWNING of Virginia. Mr. Speaker, I am today introducing a bill to establish an Office of Maritime Affairs Coordinator in the Executive Office of the President. I believe this is a matter of extreme importance as such an office would contribute to a better utilization of all our seapower resources and lead to a strengthening of our national security.

I am confident that no case needs to be made of the essential role of the U.S.-flag merchant marine in our national defense. From the beginning days of our country, experience has clearly demonstrated that the privately owned and manned merchant fleet is a loyal and dependable partner of our military forces.

What is needed, at this time in our Nation's history, is a coordination of all our maritime policies. In fact, there is no one at the White House level today who is knowledgeable in and responsible for all matters relating to our merchant fleet. Instead, America's maritime policies and programs are fragmented among various Federal agencies and departments that do not always give proper emphasis and consideration to our merchant fleet.

To rectify this situation, and to insure the revitalization of a merchant marine which provides national security and economic benefits to the United States, responsibility for coordinating maritime policies should be placed in a national maritime affairs coordinator. The goals of this office would be:

Develop the U.S. merchant marine to compete in world commerce, to support national interests, and to serve as naval and military auxiliary in time of war or national emergency.

Introduce maritime alternatives in all applicable policy discussions concerning national interest and national security.

Produce national economic gains by optimum use of maritime transportation in foreign and domestic commerce.

I would like to point out that the creation of this office has been proposed by the Transportation Institute in its study entitled, "An Analysis of the Direct Impact of the Merchant Marine on National Security."

This study points out the numerous benefits that would result from a greater coordination of our maritime policies: It will insure that tax dollars committed to our many maritime programs and agencies will not be used in duplicate programs. It will enable the merchant marine to provide support services to the Navy, thereby maintaining an active merchant fleet able and ready to respond to any national emergency and freeing naval shipbuilding funds for combat vessels. Finally, it will assist in obtaining a better use of all aspects of our maritime resources to help the United States meet the growing Soviet naval challenge.

Mr. Speaker, the United States recently celebrated its 200th birthday. The most impressive part of our celebration, and the one that attracted the most attention and acclaim, was Operation Sail, the gathering of the "tall ships" and naval vessels from all over the world in the Port of New York.

It is indeed appropriate that seapower played the major role in our Bicentennial activities. It would be equally appropriate for Congress to begin our third century with the establishment of the Office of Maritime Affairs Coordinator in recognition of the importance of the merchant marine to the national security and economy of the United States.

I include the overview section of the Transportation Institute's analysis, as well as the portion discussing the specific need for a maritime coordinator in the Record:

An Analysis of the Direct Impact of the Merchant Marine On National Security Overview

INTRODUCTION

In a recent article in Fortune magazine former Secretary of Defense Schlesinger referred to the present as a "testing time for America." Citing U.S. sea power as the most prominent example, Secretary Schlesinger warned of the hazards to the free world resulting from the demonstrable diminution of American power.

Undoubtedly, this is a testing time not only for American power and will, but also for American ingenuity and creativity in solving difficult problems. Among the most difficult of these problems is the decline of American sea power. The phenomenon of block-obsolescence and the declining number of U.S. Navy and merchant ships is well documented and widely acknowledged. However, the budgetary constraints, coupled with inflation, assure that the naval fleet will continue to decline in numbers. This condition coincides with a period in history when, more than at any other time in our 200 years, use of the sea is essential to the nation for political, economic and military reasons. At the same time, the tremendous growth of the Soviet naval, merchant, research and fishing fleets; the self-reliance lesson of the Yom Kippur War when our allies' airfields, bases and fleets were unavailable; the demise of American influence in Southeast Asia; the tenuous relationship with traditional allies (and our bases in) Portugal, Spain, Italy, Greece and Turkey; and events in Angola all make clear our need for remaining a first class sea power. Clearly, in this context, national security requires new approaches to sea power, approaches that will stretch dollars to provide maximum benefits.

This study examines the U.S. Merchant Marine as one element of sea power. A series of nine issue papers (each supported by more extensive back-up documentation) proposes improvements in U.S. maritime utilization, organization and policy that could enhance our overall sea power and, hence, national security.

The focus of this analysis is on the national security impact of the U.S. Merchant Marine. It should be recognized that "maritime affairs" constitutes a large and complex sea power "system," composed of many elements such as the naval, merchant, ocean research and fishing fleets, the shipbuilding industry, shipping companies, maritime labor, certain Federal departments and agencies, maritime training institutions, and research and development activities. These elements are all interrelated with varying degrees of dependency. Improvement of one element tends to improve other elements and the total improvement can be demonstrated to be a net gain for the Nation as a whole. For example, if the Navy were to start a program of using commercial tug service in one major port on the east and west coast, the added demand for commercial tug services would likely result in shipyard orders for new construction. This would, therefore, benefit the shipbuilding industrial base. The Navy would benefit due to lower charter costs compared to having to continuously operate, man, support and replace their own tug fleet and would, with appropriate authority, be permitted to use the recaptured funds toward procurement of combatant ships, thus further enhancing the industrial base and naval capabilities.

The analysis uncovered a large number of incremental benefits which made the original goal achievement even more attractive. For example, the use of merchant ships for underway refueling of Navy ships could provide direct dollar savings and even increase fleet flexibility. The benefits which would accrue in addition to the primary one of providing comparable services at less cost, would be in developing a broad base of merchant seamen trained to operate with the US Navy. Employment prospects for merchant seamen would be increased and it would also increase US tax revenues. From a military viewpoint it would provide the framework for a worldwide underway refueling capability for the Navy, i.e., any place a US-Flag merchant tanker might be sailing. A recent problem encountered by the Navy in acquiring fuel in the Indian Ocean is a specific example of a situation where a trained crew and properly equipped US-Flag merchant ships would have handily solved the Navy logistics problem.

This analysis included the relationships of the US Navy, US-Flag Merchant Marine and national security objectives, and indicated a number of ways in which a modern, high-technology fleet can (1) undertake specific naval tasks in peacetime, (2) be prepared to move rapidly from peacetime to wartime operations (and thus increase the deterrent effect of conventional forces), and (3) improve the Navy's war fighting capabilities.

US MERCHANT FLEET TODAY

Throughout history great powers have maintained merchant fleets as instruments of military, economic and political policy. In the US the role of the Merchant Marine as a naval auxiliary and instrument of economic policy is established in various statutes and is most concisely set forth in the Merchant Marine Act of 1936 (46 USC 1101). Most recently, in 1970 the President and Congress set forth a national program to rebuild and revitalize the Merchant Marine, including a provision for a 10-year ship construction program. That program is falling considerably short of its objectives and a substantial portion of the funds requested and appropriated for fleet construction and support (in recent years, about $0.5 billion annually) remains unspent. Nonetheless, today, mid-way through the 10-year program, the active, privately owned merchant fleet stands at a level of just over 500 ships. Many of these are among the most modern and efficient ships in the world. This fleet is intended to serve as an auxiliary to the regular Navy fleet of about 480 active ships as the principal components of US sea power.

The inquiry in this study is whether changes in existing US maritime organization and policy can result in (1) enhanced national security, or (2) the present level of national security at less cost, or (3) in the best case, enhanced national security at less cost.

SUMMARY OF ISSUE PAPERS*

1. Performing Peacetime Navy Auxiliary Functions with the Merchant Marine:

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*Numbers indicate attached Issue Papers.

Enhanced sea power and reduced cost could result from greater use of U.S. merchant ships to perform auxiliary functions currently performed by Navy ships, i.e., fuel and logistic supply, cargo transport, missile range and space support, research, surveying and tug services. This would result in: (a) cost savings as a result of greater ship use and reduced personnel costs; (b) an increase in the skilled personnel base available for future mobilization; (c) increased national security by applying cost savings from auxiliary or support functions to enhance combat capability and warship construction.

2. Employing Container Concepts for Specialized Military Support in Peace and in War:

Development and use of specialized military support containers, based on the standard-dimension cargo container carried on merchant ships, could enhance national security and reduce costs. Containers housing specialized communications, electronic intelligence, laboratory, research, surveying and evaluation equipment would add new dimensions of flexibility and versatility to overall U.S. sea power assets. Such containers could enhance the ability of merchant ships to perform cost-effective support for the Navy in peacetime as well as substantially enhance sea power readiness for war or national emergency.

3. Modifying Merchant Ships for Military Sealift During Wartime:

Improved planning and some revised construction features could greatly enhance the military sealift capability of the U.S. merchant fleet, by making them more readily usable to carry military vehicles and equipment during periods of crisis or war.

4. Converting Merchant Ships for Combat Roles:

In previous wars large number of merchant ships have been converted to combat ships. Improved planning and incorporation of specific design features in merchant ships at the time of construction could result in greatly reduced time and cost to convert merchant ships to combat roles such as helicopter/VSTOL carriers and amphibious assault ships. The result could be an increased naval force potential at reduced cost.

5. Employing Merchant Ships to Enhance American Political Presence:

U.S. merchant ships can be more effectively employed to enhance American political and economic influence around the globe, particularly in Third World countries, through increased trade.

6. Developing an Organization for a Strengthened U.S. Maritime Policy:

Government programs and functions relating to the Merchant Marine are at present scattered among various agencies and departments, and are largely uncoordinated. More effective government coordination and management could be accomplished by establishing at the Presidential Assistant level a Maritime Affairs Coordinator who would sit on the National Security Council.

7. Coordinating National Maritime Research Activities:

Greater coordination is required in maritime research and development activities.

8. Comparing National Policies Affecting Sea and Air Transportation and Their Impact on National Defense:

A comparison of national policies affecting sea and air transportation and their impact on national defense should be made.

9. Maintaining a Shipbuilding/Industrial Base Adequate for National Defense:

A coordinated program of naval and merchant ship construction is needed to enhance and maintain the shipbuilding/industrial base and to improve shipyard efficiency and reduce costs.

CONCLUSIONS

The question can be asked: How can the U.S. Navy and U.S.-Flag Merchant Marine working together in peacetime provide a higher degree of national security than we presently experience?

In wartime there is no question that the Merchant Marine must operate with the Navy for protection and must provide the sealift required to support and project military forces overseas. Characteristically, most Merchant Marine losses occur early in the conflict, in part the result of the difficulty in making the transition from civilian peacetime control to wartime naval control. The problems and losses associated with transition from peacetime to wartime would be alleviated if the Merchant Marine and Navy operated together during peacetime. The question thus remains, how are peacetime operations to be conducted and what additional benefits might be expected from joint Merchant/Navy operations?

For commercial type services, i.e., tugs, towing, supply, refueling, sealift, etc., the Merchant Marine would perform what it is ideally suited for—commercial type operations. Higher utilization of assets and savings in Navy personnel costs are key factors in reducing overall Navy expenditures.

The issue of maritime strikes is frequently raised when discussing Navy use of Merchant Marine services; however, the record of maritime unions in regard to Defense cargoes is exemplary and there is no record of a U.S. military cargo not being handled due to maritime strikes. Maritime labor leaders have given assurance that "no-strike" clauses would be honored; maritime union discipline would not tolerate illegal strikes, such as those which have occurred in civilian sectors.

Therefore, we have concluded that there is a large and valuable defense reserve potential in a properly coordinated program of Navy-Merchant Marine peacetime operations. Moreover, the use of commercial sources for commercial type service will ultimately result in substantial net savings to the Navy and the taxpayer.

The changing nature of Soviet naval-maritime activities occurring at a time when U.S. dependence on the sea is increasing should be of major concern to American leaders. In this context, the direct impacts of the U.S. Merchant Marine on national security are of vital importance to the Nation. The attached Issue Papers, taken together, provide a realistic and coherent program to increase the direct impact of the U.S. Merchant Marine on national security.

ISSUE PAPER NO. 6—DEVELOPING AN ORGANIZATION FOR A STRENGTHENED U.S. MARITIME POLICY

SITUATION AND RECOMMENDATIONS

The United States has traditionally conducted its peacetime foreign policy through diplomatic means and has attempted to achieve national security by purely military means. Separate and apart, other governmental activities are normally geared toward international economic achievements. However, there is no organizational mechanism through which maritime related efforts to accomplish national political, economic, and military goals are coordinated.

This is in stark contrast to our principal opponent, the Soviet Union, which has a highly integrated maritime posture. The Soviet Merchant Marine, for example, is openly employed to further national political as well as economic goals while providing direct support for Soviet military activities. These efforts are well documented, and the impact of the Soviet merchant, fishing and research fleets has been strongly felt in the political-economic arenas of Asia and Africa, especially along the periphery of the Indian Ocean.

As U.S. naval forces are reduced to their lowest ship levels in more than 35 years, it has become increasingly necessary for the United States to consider methods of ensuring that all national maritime resources are fully and efficiently utilized. For example, using merchant ships to conduct port visits to show the flag in areas where heretofore a warship provided political presence, or using merchant ships to provide underway replenishment (UNREP) and other services to the Navy which heretofore were undertaken by Navy ships are practical cost-effective alternative courses of action.[1]

At various times in American history from the Revolutionary War onward there were examples of integrated naval-maritime efforts. However, the National Security Act of 1947 (as amended) removed the Secretary of the Navy from cabinet level. This ended the close association of the Navy with other American maritime interests, as the Navy was subordinated within the Department of Defense, essentially a war-fighting organization, and the Secretary of the Navy lost his authority to direct meaningful liaison with such agencies as the State Department, Commerce Department, and Coast Guard without bureaucratic interference. Since the 1947 defense reorganization there has been no senior individual in the Executive Branch to insure the cordination of the Navy and the Merchant Marine as provided in the Merchant Marine Act of 1936.

Similarly, there is no single Congressional committee that can coordinate naval and Merchant Marine interests. The Senate and House of Representatives have separate committees on Armed Services which oversee the Navy, while the Senate Committee on Commerce oversees the Merchant Marine and the House has a Committee on Merchant Marine and Fisheries to oversee Merchant Marine activities.

Accordingly, an examination should be conducted of methods to establish an office of Maritime Affairs Cordinator at the White House Assistant level. The goals of this office would be to:

Develop the U.S. Merchant Marine to compete in world commerce, to support national interests, and to serve as naval and military auxiliary in time of war or national emergency.

Introduce maritime alternatives in all applicable policy discussions concerning national interest and national security.

Produce national economic gains by optimum use of maritime transportation in foreign and domestic commerce.

The Maritime Affairs Coordinator would have responsibilities of: (1) establishing and developing specific legislation for a National Maritime Strategy; (2) coordinating US maritime research programs;[2] (3) designing and coordinating an overall naval-merchant shipbuilding program;[3] and (4) ensuring adherence to the provisions of the various existing laws relating to domestic and foreign trade, and to increasing the Merchant Marine's support of national defense objectives. The Maritime Affairs Coordinator would provide a forum for the exchange of ideas and the coordination of resources and efforts to insure the maximum return for American investment in maritime-related resources. For example, the coordination of commercial and naval shipbuilding efforts could provide for more efficient utilization of available shipbuilding facilities, could help alleviate current personnel recruiting and training problems in the shipyards, and would ensure that shipyard employment opportunities received wide dissemination.

The Maritime Affairs Coordinator would have authority to work directly with the following agencies to ensure inter-departmental coordination of national naval-maritime interests: (1) Navy, (2) Coast Guard, (3) Maritime Administration, and (4) NOAA. Additionally, he would conduct continuous liaison with other government agencies, as appropriate (e.g., State Department, Office of the Secretary of Defense, Office of Management and Budget), and the relevant Congressional committees. The Maritime Affairs Coordinator would be a member of the National Security Council. The attached foldout chart displays a suggested organizational structure for the Office of Maritime Affairs Coordinator.

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[1] See Issue Papers No. 1 and No. 5.

[2] See Issue Paper #7.

[3] See Issue Paper #9.

BENEFITS AND RISKS

A number of political, economic and military benefits can be easily identified with the establishment of an Office of Maritime Affairs Coordinator at the White House Assistant level. In particular would be the direct benefits to national security by White House level coordination and sponsorship of the various programs described in accompanying issue papers.

The Maritime Affairs Coordinator would also ensure that transportation alternatives which involve the use of domestic waterways and coastal waters were fully considered in national transportation planning deliberations. The increased use of waterborne commerce with its inherent energy efficient, low cost features would provide direct economic benefits to the consumer. The general public would gain due to the characteristically reduced noise and air pollution levels associated with waterborne transportation.

No risks have been identified with this issue.

SUMMARY

The establishment of an Office of Maritime Affairs Coordinator would ensure coordination and, hence, maximum effectiveness of US naval and maritime assets.[4] This would be especially valuable in a period when US and world use of the sea is increasing, and US naval-maritime assets are being severely curtailed.

NEED

Establish an Office of Maritime Affairs Coordinator at the White House Assistant level, with the Coordinator being appointed by the President with the advice and consent of the Senate. The Coordinator would be empowered to coordinate plans and policies with the nation's various maritime and naval interests, maintain direct liaison with appropriate Congressional committees, and sit in the National Security Council.

PENNSYLVANIA'S FIFTH DISTRICT—MUSHROOM CAPITAL OF AMERICA

(Mr. SCHULZE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SCHULZE. Mr. Speaker, I am proud to state that the mushroom capital of America is in the Fifth Congressional District of Pennsylvania which I represent. While mushrooms are grown commercially in 24 States, Pennsylvania accounts for 60 percent of the crop. Mushrooms are Pennsylvania's largest cash-producing crop.

I am even more proud of the hardworking, imaginative, determined people who form the foundation of the mushroom industry. Over the last 10 years, this foundation has been seriously undermined by foreign competitors. Had it not been for the unique work ethic and resolve of our mushroom people they would have been out of business long ago.

American mushrooms must compete against the products of more than 100 foreign canneries. Our mushroom industry currently consists of 500 growers and 29 canners. Since 1972 six processors and 200 growers have closed their doors, because of financial loss. Compounding this problem is the fact that an American mushroom worker makes a minimum of $20 a day while his oriental counterpart earns $1. This means that a company can buy canned mushrooms overseas, ship them here and still sell them at a lower price than the domestic variety.

The seriousness of this matter was recognized by the U.S. International Trade Commission and on March 17, 1976, by a majority vote, recommended that import relief be provided. The Commission determined that mushrooms provided for in item 144.20 of the Tariff Schedules of the United States are being imported in such increased quantities as to be a substantial cause of serious injury or threat thereof to our domestic industry. President Ford directed the implementation of adjustment assistance to remedy this injury. However, import relief is warranted and needed now.

Our domestic mushroom industry has been fighting a losing battle which started more than a decade ago with near zero imports, imports which now account for 40 percent of the processed mushroom market.

Therefore, I am introducing legislation today to impose quantitative limitations on the importation of mushrooms into the United States. There is strong justification for action in this matter and I urge my colleagues—particularly those from the primary mushroom growing and canning States of Pennsylvania, California, New York, Michigan, Ohio, and Delaware—to join me in support of this effort to prevent further serious injury to our domestic mushroom industry.

The text of my legislation follows:

H.R. 14881

A bill to impose quantitative limitations on the importation of mushrooms into the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the aggregate quantity of the articles specified in items 144.10, 144.12, and 144.20 (relating to mushrooms, fresh, or dried, or otherwise prepared or preserved) of the Tariff Schedules of the United States (19 U.S.C. 1202) which may be entered during any calendar year beginning after the date of enactment of this Act shall not exceed—

(1) in the case of any foreign country other than a foreign country referred to in paragraph (2) or (3), the aggregate quantity of such articles of such country which was entered during calendar year 1974;

(2) in the case of the Republic of China (Taiwan), 25,000,000 pounds (drained weight); and

(3) in the case of the Republic of Korea, 6,000,000 pounds (drained weight).

(b) The Secretary of Agriculture shall compute the quantities provided for in subsection (a) on the basis of available import data and shall certify to the Secretary of the Treasury the amounts which may be entered from any foreign country under such subsection. The Secretary of the Treasury shall take such actions as may be necessary to insure that the amounts entered under subsection (a) do not exceed the quantities provide for in such subsection.

(c) For purposes of this Act:

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "customs territory of the United States" means customs territory of the United States as defined in the Tariff Schedules of the United States.

LOW-COST AIR SERVICE FOR THE ELDERLY, YOUTH, AND THE HANDICAPPED

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of California. Mr. Speaker, today I am introducing H.R. 14866, a bill which would permit the Civil Aeronautics Board to allow the airlines to offer standby service at reduced fares for the elderly, youth, and the handicapped. This legislation is needed to insure that millions of deserving Americans will not be denied access to our air transportation system and to provide the mobility which is so vital a part of modern-day life.

The fares now charged for air transportation tend to exclude the elderly, youth, and the handicapped. For example, a survey by United Airlines showed that only 5 percent of its passengers were 65 years of age or over, while persons in this age bracket make up 10 percent of the general population. This disparity is largely attributable to the low income levels of many of the elderly. For example, in 1973 the median income for elderly households in 1973 was under $4,600, compared to the national average of $10,500. Similar problems are faced by young people and the handicapped.

An excellent report on the transportation needs of our senior citizens has been issued by the Subcommittee on Federal, State, and Community Services of the Select Committee on Aging, under the chairmanship of Congressman SPARK M. MATSUNAGA. The report points out that a number of Federal programs, such as the urban mass transportation program, include special provisions designed to make transportation more widely available to the elderly. In air transportation there are no programs of this nature, and under existing law the Civil Aeronautics Board is limited in its ability to authorize reduced fare transportation for deserving groups. As a consequence, there are no reduced fare programs currently in effect for the elderly.

Chairman MATSUNAGA's report also suggests that well-designed reduced-fare programs for the elderly have been highly successful. For example:

> Inter-island carriers in Hawaii . . . instituted a half-fare for persons aged 65 and over in 1967, which remained in effect until 1974. During that time one of the carriers, Hawaiian Airlines, reported a 340-percent increase in the number of senior citizens taking advantage of the fare reduction. Moreover, since the seniors were accommodated on a space-available basis, the half-fares charged more than covered the extra costs of carrying them, and returned substantial increased revenues to the carriers.

The report recommends that Congress "reaffirm the power of the Civil Aeronautics Board to permit discount standby air fares for the elderly."

My bill is designed to meet these needs, and to insure that similar reduced fare standby service will be available for young people and the handicapped.

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[4] See attached organization chart.

THE BRIDGE SAFETY ACT OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennslyvania (Mr. HEINZ) is recognized for 5 minutes.

Mr. HEINZ. Mr. Speaker, almost a decade ago the Silver Bridge between Point Pleasant, W. Va., and Kanauga, Ohio, a 1,753-foot eyebar chain suspension bridge, tore loose from its supports and thundered into the Ohio river during the height of the evening rush hour, taking 46 men, women, and children to their deaths. This disaster received widespread news coverage and focused national attention on bridge safety. Unfortunately, in spite of State and Federal efforts directed toward bridge inspection and safety since that tragedy, the problem of unsafe bridges remain as great today as it was when Silver Bridge collapsed in 1967. Last year, near Winston-Salem, N.C., a bridge over the Yadkin river collapsed killing 4 persons and injuring 16, and bridges continue to collapse at a rate of some 150 a year.

Spurred by the Silver Bridge tragedy, Congress recognized the need for emphasis on bridge safety and in the Federal Aid Highway Act of 1970, established the special bridge reconstruction and replacement program. Among other things, this act required the inspection and rating of all bridges in the country. The inspection is now almost 100 percent complete, and the results are not comforting.

Mr. Speaker, studies conducted by the U.S. Department of Transportation show that, of the more than 563,000 bridges in the country, 89,800 have been classified as being "critically deficient." This means that roughly one out of six bridges has been officially pegged as a potential killer. This should surprise no one, Mr. Speaker, since about 407,000 of these 563,000 bridges—72 percent, were built prior to 1935—the year uniform design and construction material specifications came into use. Moreover, most of these older bridges were designed for the lighter, slower traffiic of more than a generation ago, not the high speed, heavier traffic of today.

Mr. Speaker, in consideration of highway problems, it has been customary to deal mainly with questions of roads and streets. Bridges somehow have been taken for granted, as if there were no major difference between a piece of pavement and the structure needed to span a river. For this reason, potentially death-dealing bridges still dot the countryside and are among the greatest menaces to the traveling public. With the number of deficient bridges in this country, we are playing Russian roulette with every mile.

The problem of unsafe bridges, Mr. Speaker, is nationwide. It touches every State in the Union. As such, there must be a nationwide approach to its solution.

The biggest impediment to bridge safety is money. During its entire history, the special bridge reconstruction and replacement program has not had sufficient funding to get the job done. Currently, only $180 million is authorized each year for the next 2 years, while it has been variously estimated that between $10 billion and $31 billion will be required to replace the bridges that currently are classified by the Department of Transportation as being candidates for replacement. Moreover, these estimates exclude consideration of continued deterioration of presently deficient bridges, normal deterioration of safe bridges, and inflation. To date, there have been only 670 bridges replaced or being replaced under this program, a rate of about one bridge per State per year. At this rate, it will take a minimum of 80 years to bring our Nation's bridges to a standard of safety which the citizens of this country have every right to expect.

As an example of the magnitude of the problem in individual States, Mr. Speaker, my State of Pennsylvania has a minimum of 418 bridges which have been classified as replacement candidates by the U.S. Department of Transportation, and a 1975 report to Congress by the Comptroller General of the United States listed 960 Pennsylvania bridges as unsafe. In my district, Allegheny County has a minimum of 19 bridges that are candidates for replacement. Other examples of Pennsylvania counties are as follows: Bucks County, 15; Chester County, 21; Delaware County, 24; Lancaster County, 32; Montgomery County, 34; Northumberland County, 12; Dauphin County, 7; Somerset County, 11; Lycoming County, 21; and Philadelphia County, 6. These bridges can be very costly to repair or replace. For example, the six bridges in Philadelphia are estimated to cost $42 million alone.

Today I am introducing the Bridge Safety Act of 1976. This act is the result of months of study and consultation with highway and transportation officials throughout the country. It recognizes that the problem of unsafe bridges in the United States is so great that it will never be solved by piecemeal legislation. This act builds on the present Federal Aid Highway Assistance Act and makes the amount of money, $720 million per year, for the special bridge reconstruction and replacement program realistic and commensurate with the magnitude of the nationwide problem it is intended to solve. It extends the highway trust fund through 1990, a time sufficiently long to get the job done. Most importantly, this act encourages the immediate repair of existing bridges, thus reducing the threat to human life. Also, by repairing these bridges now, the effect of inflation and the cost of total replacement later will be greatly reduced.

Mr. Speaker, although the Bridge Safety Act of 1976 will be of great benefit to all States, it also recognizes that for various reasons, such as topography, population, length of spans, load carrying capacity, and essentiality for public use, certain States and countries depend on bridges much more than others. This bill directs the Department of Transportation to identify these areas and to give priority to those with the most critical need first. Moreover, a certain percentage of the total appropriation each year will be set aside so that individual counties may apply for emergency funds, exclusive of their State's appropriation.

Mr. Speaker, this proposal is specific and pragmatic. It recognizes the nationwide magnitude of the problem of unsafe bridges, and offers a realistic solution. I commend to my colleagues the Bridge Safety Act of 1976 in the firm belief that through enactment we can prevent future tragedies. I believe this bill is a proper vehicle for our efforts.

WABASH RIVER NAVIGATION STUDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. ROUSH) is recognized for 5 minutes.

Mr. ROUSH. Mr. Speaker, recently I included in the CONGRESSIONAL RECORD a copy of a letter I received from the Corps of Engineers regarding continuation of the Wabash River navigation study. I had written them and asked if they would not discontinue the study since their preliminary findings showed that the Ohio River to Mount Carmel portion of the river could not economically justify a canal. Their answer was not overly precise. At the same time I wrote the Office of Management and Budget asking for the recommendation of a rescission of the $150,000 for the study which was clearly now unneeded. I am glad to report that their reply was more specific and I include it herewith. I hope that this marks the end of the study and restudy of the Wabash River for canal purposes.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 26, 1976.

HON. J. EDWARD ROUSH,
House of Representatives,
Washington, D.C.

DEAR MR. ROUSH: In the Director's absence from Washington, permit me to respond to your letter concerning funds for the Wabash River navigation study.

On receiving your letter we discussed the status of the Wabash study with representatives of the Corps of Engineers to determine whether the $150,000 included in the recently enacted appropriation bill was needed for the study. The Corps has confirmed the information in your letter regarding the lack of economic justification for the reach of the river below Mt. Carmel. They have also informed us that while some funds are programmed for an evaluation of the potential traffic that might be generated by the reach above Mt. Carmel, and for processing a final report on the results of the study for transmittal to the Congress, it is highly unlikely that the full amount appropriated will in fact be needed. In that event, the Corps would allocate any excess funds to other studies in accordance with customary practice, and after appropriate consultation with this Office and with the concerned congressional committees.

We very much appreciate having the benefit of your views on this study and we certainly share your concern that Federal funds should not be spent if it is not absolutely necessary. We will certainly continue to follow this program closely.

With all best wishes.

Sincerely yours,
ALAN M. KRANOWITZ,
Assistant to the Director for Congressional Relations.

FIRST ARCHBISHOP OF HARTFORD DIES

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I hope my colleagues will join me in mourning the death of one of the most distinguished residents of my district, the Most Reverend Henry J. O'Brien, retired Roman Catholic Archbishop of Hartford, who passed away last week. He had just celebrated his 80th birthday.

Archbishop O'Brien was a priest for 51 years and bishop of Hartford for 34 years. He was a man of keen intellectual insight and strong human compassion. We will miss him deeply.

He was ordained a priest in 1923 after studies at the University of Louvain, Belgium. After serving 2 years as president of St. Thomas Seminary in Bloomfield, Conn., he was consecrated auxiliary bishop of Hartford in 1940. In 1945, he became bishop, and 8 years later, in 1953, he was elevated to archbishop when Pope Pius XII decided to create the new archdiocese of Hartford, a metropolitan see with jurisdiction over three smaller dioceses in Connecticut and Rhode Island. Thus, he was Connecticut's first archbishop.

Archbishop O'Brien was a man noted for his strong and unyielding social conscience. He not only condemned racism, he implemented concrete policies in his own archdiocese to achieve reconcilliation among the races. In 1964, he organized the Archbishop's Committee on Human Rights to help solve the evils of racism which are evident on all sides, in education, employment, housing, and so many areas of life. He sponsored Project Equality, an ambitious job opportunity program, and initiated a policy of "cooperative parish sharing," in which prosperous suburban parishes share their resources with poorer parishes in the inner city.

Of course, these concerns became popular during the sixties, but evidence of Archbishop O'Brien's social activism go back further. He called for the repeal of capital punishment as early as 1955, and he consistently opposed proposals for so-called right-to-work laws that would rob many employees of union protection.

I was struck by what the Episcopal bishop of Connecticut, the Right Reverend J. Warren Hutchens, said shortly after the archbishop's death:

> He was a great archbishop who loved his clergy and the people of his diocese.

Bishop Hutchens further said:

> All he did was motivated by love for them.

There can be no greater testimony for the life of a pastor than this simple statement.

I would like to insert the following editorial from the Hartford Courant, which appeared the day after Archbishop O'Brien's death:

[From the Hartford Courant, July 24, 1976]

ARCHBISHOP HENRY J. O'BRIEN

When a community is bereft of a spiritual and temporal leader as eminent as former Archbishop O'Brien, the loss is difficult to set down in words.

Not, indeed, that he had any use for encomiums. A man who shied away as often as politely possible from tributes, anniversary occasions and honorary observances, Archbishop O'Brien would have little tolerance for eulogy.

Yet despite the self-effacement so characteristic of him in daily life and churchly administration, epitaphs to him must and do abound on all sides.

The actual facts and figures chronicling his more than half century as a priest and his episcopacy of three decades are so many that they are best left to his obituary in other columns in this paper.

But even in most summary form they show a man of highest Christian devotion and unremitting practice of it in his relation to his fellow men. In the household of the faith, he has been the spiritual and administrative head of a diocese and province of a million and a half Roman Catholic souls, standing next to the Vatican in his authority. In the eyes of the Vatican he had been esteemed worthy of the first arch-episcopate in the history of the Hartford diocese, and to be an assistant to the Pontifical throne, an honor and recognition next to cardinal.

As of his retirement in 1968, Archbishop O'Brien was in charge of hundreds of priests and religious, more than 200 parishes and nearly 400 schools. In just the last 20 years alone of his office, 45 new parishes, 49 new elementary schools, 11 new secondary schools, two colleges and large hospital expansions came into being as physical monument to him and crowned by the rebuilding of Saint Joseph Cathedral itself.

Monuments of another kind are assuredly to be found in the associated and memories of "his men," as they like to call themselves—his fellow clergymen ordained or aspiring. To his priests he turned an attentive ear, encouraging freedom of exchange of ideas, even though the final decisions were firmly his. By his students at Saint Thomas Seminary, where he taught and presided, he was both revered and cheered. To all his colleagues of the cloth, despite his reserved nature, his reputation was one of fairness, patience and where occasion warranted, the leaven of a shrewd wit.

But Archbishop O'Brien's community had much more than ecclesiastical boundaries. Even before Vatican II, he was known for his encouragement of more open and cordial ecumenical relations with other faiths, of mutual search for solutions of community problems, especially those pertaining to social justice and betterment. He was not unaware of deep divisions, as he acknowledged, but his attempt to help bridge them was constant and sprang from his dedication to Christianity as a way to work for all men.

Archbishop O'Brien's retirement years did not bring him that surcease his myriad friends wished him. He fought the battles of a long period of failing health, all the while still trying to share his wisdom, prudence and experience with others in the Church and in the community. Until the very end, which has now come, the Most Reverend Henry J. O'Brien strove to effect his episcopal motto, Christus Crescat—"Let Christ Increase." His finest memorial will be the dedicated example of himself.

IRS DISCLOSURE CRIPPLES MAJOR GOVERNMENT CASE AGAINST TAX EVADERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, I have long been a supporter of the Freedom of Information Act. However, I have just received reports of an incredible mistaken and improper use of that act—a mistake which could cost the public millions in lost tax revenues.

The disclosure under the FOIA involves a Mr. Burton W. Kanter of Chicago who appears to have received the fastest FOIA disclosure in the history of the IRS.

Mr. Kanter is U.S. counsel for the Castle Bank & Trust Co. of Nassau, the Bahamas. He and the bank have been under investigation for months by the IRS Intelligence Division in an information-gathering operation known as Project Haven. More recently, they have come under investigation by the Justice Department and a Federal grand jury in Miami for alleged participation in schemes to help rich Americans evade hundreds of millions of dollars in taxes.

Tragically, IRS has given Mr. Kanter, an indicted Haven defendant, some 90 pages of prosecution documents. These documents refer not only to Mr. Kanter but other potential defendants as well.

I hasten to add that my comments are in no way intended to impugn the integrity of Mr. Kanter. Heretofore, he has been a well-respected member of the bar. My concern is not with the facts of his individual case. My concern, as chairman of the Ways and Means Oversight Subcommittee, is with the mishandling by the IRS of key prosecution documents.

On February 24, 1976, Mr. Kanter made a routine freedom of information request of a number of Federal agencies for any files pertaining to him. Because the law states that no files may be given up that are "investigatory records compiled for law enforcement purposes * * * to the extent that such records would interfere with law enforcement proceedings," his request was quickly turned down by other agencies. IRS complied, and complied with amazing speed.

But it is not just the speed which is so unusual—for the IRS. The gratuitous nature of the response is stunning. Mr. Kanter asked for only one report. In response, the IRS sent him two dozen status reports on Project Haven spanning a period of 16 months.

The release of these documents to Mr. Kanter will be very damaging to the Government. They provide those under investigation with a blueprint on how to elude prosecution. From these documents, the defendants can determine how far the Government has gotten in its investigation and how much further it would be going. The defendants now know which of their stories are being accepted by the Government and which stories will not fly. The defendants know the Government's tactics and strategy, who is to be indicted and when, and about which cases the Government has doubts.

If the defendants are so inclined, they now know which documents they can safely destroy or manufacture, and they can get together on oral false statements.

The IRS charged Mr. Kanter $9 for the 90 pages of documents he received. Because of this mistake, the Government stands to lose millions in taxes and penalties.

In handling the request, the IRS Disclosure staff did not follow established procedures of consulting the IRS Intelligence Division. Nor was the Justice Department consulted. Had either been consulted, I am confident that none of these documents would have been sent to the defendant.

The IRS advised the Justice Department on April 5, 1976, of the calamity. The IRS admitted in its letter to Justice that the documents should not have been disclosed. The IRS explanation is that it was just the mistake of a low-level bureaucrat.

The explanations are not very convincing, to say the least. We are asked to believe that the officials who handled the request did not recognize the Kanter-Castle Bank-Project Haven connections—or, if they did, they attached no significance to these connections.

I find this hard to believe. One would expect most IRS employees—especially those most intimately associated with the disclosure of tax information—to know of their own organization's interest in Mr. Kanter, Castle Bank and Project Haven. Within recent months, before the Kanter request came in, newspapers carried stories about Mr. Kanter's activities and about the controversy over the protracted suspension of Project Haven during the summer and fall of 1975.

Along with three other lawyers, Mr. Kanter was indicated in March on conspiracy-to-defraud charges. The four were accused of using a Castle Bank trust account to escape taxes on the sale of a Reno, Nev., apartment complex. Further charges are being considered against Mr. Kanter as Project Haven continues.

The Kanter request reached the IRS Freedom of Information Branch on March 3. Two days later, the newspapers carried stories about his indictment. It is especially difficult to understand how these stories could have escaped the attention of IRS employees because of a most interesting quote from Mr. Kanter. The Washington Post and other papers reported that—

> Mr. Kanter charged that the indictment was engineered by the Justice Department and critics of Alexander to justify continuing Project Haven. . . .

Thus, it is difficult for me to believe that the IRS employees who handled the Kanter request were not aware of the Project Haven criminal investigation and Mr. Kanter's indictment. Nor do I understand how it could have escaped notice that the Commissioner was himself under investigation for suspending Project Haven. It has been reported that the names of the Commissioner's former law partners were among the records of the bank allegedly controlled by Mr. Kanter.

The timing of the response is also of great interest. It is highly unusual for the IRS to fill a freedom of information request within 3 weeks. Their usual response time is many months. The ponderous IRS bureaucracy is simply unable to respond within a 3-week period in the ordinary case.

After we learned that the IRS had turned over key prosecution documents to Mr. Kanter, the Ways and Means Oversight Subcommittee wrote the IRS at that time for an explanation. Almost 2 months went by before we received a substantive reply, and even that was a partial reply. The subcommittee is still waiting for the IRS Inspection Service's memorandums and affidavits taken in its investigation of the matter. If these documents had vindicated the IRS, I expect that we would have received them by now.

The documents furnished to us by IRS do not disclose whether the Commissioner was involved in the decision. One news account has quoted sources at the IRS as saying that the decision to release the information came at a "high level" in the agency and that "it was not just a bureaucratic foulup." We will have to reserve judgment until we can complete our investigation, but at the very least:

First. There was a breakdown in the fail-safe mechanism of the IRS for avoiding mistakes like this. IRS procedures, requiring clearance from the Intelligence Division or Chief Counsel, were not followed in this case; and

Second. Nor was any check made with the Justice Department, which is supposed to have the ultimate authority in the Haven cases.

All in all, the handling of the tax Haven case by the IRS is distressingly below the level of vigilance that this kind of investigation would appear to require. I wish to assure my colleagues that the Ways and Means Oversight Subcommittee will continue to exercise vigilance over the IRS investigation of Project Haven.

LEGISLATION AGAINST FURTHER AIR HIJACKING

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 20 minutes.

Ms. ABZUG. Mr. Speaker, the recent hijacking of an Air France plane from Israel to Uganda again points up the need for stricter regulations if this kind of international terrorism is ever to be ended.

The 93d Congress attempted to deal with this problem by passing the 1974 Antihijacking Act. Recent events, however, have demonstrated that the law needs strengthening. We must adopt a policy which penalizes those nations which choose to assist air hijackers, or which continue air operations with countries which assist such hijackers. I am today introducing two bills which will implement this policy.

The first measure changes the Hijacking Act in the following manner:

First. The President would be required to suspend U.S. air operations, for at least 1 year, to or from any country which in any way aids or abets any terrorist organization that illegally seizes an aircraft; and

Second. The President would be required to suspend U.S. air operations to or from any country which maintains air operations with any country assisting such a terrorist organization.

This bill also increases the maximum penalties for failing to suspend operations in these cases by raising those penalties to a $10,000 fine or up to 2 years in prison.

The second measure bars U.S. foreign assistance to any nation during the period in which we have suspended air traffic operations because of its assistance to air hijackers, or because it has continued air operations with a country assisting air hijackers.

These are serious measures. However, we must take actions that will effectively deter any further episodes of hijacking such as we witnessed during the Entebbe incident. Only through such strict measures will this be accomplished.

The American Jewish Congress urged this kind of strong legislation in the New York Times of July 25. I believe that it would be helpful to my colleagues to consider the position of the Congress on this issue. Its statement and the text of the bills follow:

WE CAN STOP AIR PIRACY—IF WE MEAN IT

(A statement by the American Jewish Congress)

The world was uplifted by the heroic Israeli rescue mission in Uganda on the morning of July 4th. But the safety of international air passengers cannot depend on such extraordinary feats of daring. Once and for all air piracy must be stopped by international action.

It is clear that the United Nations cannot and will not act, dominated as it is by political blocs that include the prime perpetrators of terrorism. Nor can we wait for governments to produce still another meaningless international Convention. Every such treaty adopted thus far has deliberately failed to include any mandatory enforcement provisions.

AIRLINES AND AIR PILOTS CAN ACT

Foreign governments are plainly unwilling to risk political confrontation on the issue of air piracy. But airlines and airline pilots operate outside the constraints of formal diplomacy. Air France can do things that the government of France may not be able to do. Pilots and airlines can demand guarantees of air safety, as they have done in the past, without being paralyzed in advance by politics. All that is needed is the will to do so.

There is one way to stop the growing threat to safety in the skies. The private civil aviation community must argue collectively to seal off from air traffic any country whose actions make it an accomplice in the crime of hijacking. The airlines must act together so that no one and no country may reap benefit from air piracy.

Until now the criminals guilty of air kidnapping and the governments that support them and provide them refuge have been allowed to go scot free. Uganda, guilty of complicity in the Air France hijacking, remains an accepted member of the world community, a voting member of the U.N. Not one step has been taken to penalize Uganda or the brutal despot who leads it.

HOW TO END HIJACKING NOW

We propose a course of action that will change this do-nothing policy, that will impose effective penalties—and that can be put into effect at once.

To stop air piracy, we call upon the International Air Transport Association and the International Federation of Airline Pilots Association to make clear that they no longer will fly to any nation that:

(1) Refuses immediately to return a hijacked plane, its passengers or crew,

(2) Gives haven to those responsible for any hijacking, or

(3) Fails to prosecute or extradite hijack terrorists promptly.

The airlines of the world have repeatedly condemned hijacking. But nothing will happen until they act to put teeth into those declarations. They must act now.

WHAT WASHINGTON CAN DO NOW

Without waiting for the airlines and air pilots to act, our own government can move now to end violence in the air. Legislation is needed that will direct the President to suspend air service to:

(1) Any country used as a base of operations or training or as a sanctuary for terrorists,

(2) Any country that arms, aids or abets terrorist organizations, and

(3) Any country that continues to maintain air traffic with an offending state.

At the same time legislation is needed that will curtail all U.S. economic and military assistance to any nation that encourages, protects, supplies—or fails to take appropriate action against—organizations guilty of air terrorism.

SERVING NOTICE ON TERRORISTS

Such a resolute and publicly announced program, combining action by the private international civil aviation community, and by our own government, will not only deter the lawless acts of private persons. It will also serve notice that any country that encourages these acts by condoning them and by offering havens to the guilty will suffer serious penalty.

The brave Israelis who rescued the hostages at Entebbe gave heart to us all. Now we must devise ways to make sure that no one ever again need go to such lengths to protect the lives of innocent victims of air piracy. We must act in concert. And we must act now.

We urge you to write your Senators and Representatives in support of the legislative proposals we have outlined.

We urge you to write to each of the following persons, calling on them to seal off any country that cooperates with air kidnappers:

Mr. Kurt Hammarskjold, Director-General, International Air Transport Assn., Austin Sq. Building, 1000 Sherbrooke St. West, Montreal, Canada 110PQ.

Capt. James J. O'Grady, International Federation of Airline Pilots Assn., 1 Hyde Park Pl., London, W.2., England.

And we invite you to join with us in the American Jewish Congress to help carry forward the campaign to end air piracy now.

H.R. 14885

A bill to require that the President suspend air transportation rights of any foreign nation which assists air terrorists, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Air Piracy Quarantine Act of 1976."

SECTION 1. Section 1114(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1514), is amended to read as follows:

"SUSPENSION OF AIR SERVICES

"SEC. 1114(a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of unlawful Seizure of Aircraft, or if he determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training or as a sanctuary for, or in any way arms, aids, or abets, any terrorist organization which knowingly uses the illegal seizure of aircraft or the threat thereof as an instrument of policy, he shall, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, but in no case for less than one year, suspend (1) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights under this section shall be deemed to be a condition to any certificate of public convenience and necessity or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or for any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section.

Section 2. Whoever violates, or participates in a violation of the provisions of Section 1 of this Act shall be guilty of a felony, and shall be fined not more than $10,000, or imprisoned not more than two years, or both.

H.R. 14884

A bill to bar foreign assistance to any nation air traffic to and from which is suspended for violation of the air piracy provisions of the Aviation Act of 1958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no funds of the United States shall be used to provide or facilitate the provision of any grant loan, credit, guarantee, or other assistance to, in, or for the benefit of any nation which is the subject of a suspension order under section 1114 of the Aviation Act of 1958 (49 U.S.C. 1514).

SEC. 2. Whoever violates, or participates in a violation of the provisions of section 1 of this Act shall be guilty of a felony, and shall be fined not more than $10,000, or imprisoned not more than two years, or both.

SEC. 3. Any person may bring a suit in a district court of the United States, without regard to the amount in controversy, to enforce the provisions of section 1 of this Act.

AIR QUALITY STANDARDS REQUIRED FOR THE INTERIOR OF SCHOOL BUSES AND OTHER SUSTAINED-USE VEHICLES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 30 minutes.

Mr. KOCH. Mr. Speaker, I should like to discuss with our colleagues the need to provide for air standards limiting concentrations of carbon monoxide within the interior of schoolbuses and other sustained-use vehicles such as police patrol cars, taxis, and long-haul trucks. The Clean Air Act Amendments of 1976 will shortly be brought to the floor of the House and it is my intention to offer an amendment to H.R. 10498 which would have the following effect. The amendment provides for a 1-year study by Environmental Protection Agency and the Department of Transportation to characterize and quantify permissible interior levels of carbon monoxide in schoolbuses and other sustained-use motor vehicles, and determine the effect of carbon monoxide at various levels upon the passengers of such vehicles. The study will also review monitoring procedures now available and ascertain the cost effectiveness of strategies for attaining and monitoring the carbon monoxide standards to be promulgated. The Administrator of EPA would then be empowered to issue regulations setting acceptable levels and limitations of carbon monoxide in the interior of these vehicles. The States shall then submit to the Secretary of Transportation plans for the implementation of the promulgated standards.

The time sequence is as follows: The Administrator shall report to the Congress the results of such study within 1 year from enactment of this bill, and not later than 1 year from enactment the Administrator shall, by regulation, promulgate standards applicable to the presence of carbon monoxide in the passenger areas of sustained-use vehicles; within 90 days of the issuance as proposed standards, and after public hearings, the Administrator shall promulgate final standards; each State shall then submit to the Secretary of Transportation within 24 months from the enactment of the legislation an implementation plan for attaining the standards as expeditiously as possible, but in no case later than 3 years after approval of the plan. And such plan shall include adequate monitoring of such vehicles not less than twice during any year. The standards and State plans under this part are enforceable and subject to judicial review in the same manner as standards and plans under title I of the act.

Let me cite just a few instances showing the need for interior air standards:

In Shelby County, Ala., on October 3, 1966, a schoolbus arrived at the county school. After the children had debarked from the bus, the driver noticed two small children unconscious in the rear of the bus. The children, it was determined were suffering from overexposure to carbon monoxide.

Consultation with school authorities and the mechanic at the depot established the fact that the end of the exhaust pipe of the bus had been partially crushed and forced out of alinement, allowing engine exhaust gases to discharge at a point several inches short of and upward toward the rear of the bus directly under the seat occupied by the children.

Shortly after the incident a sampling was made of 190 buses used in the county. Of the total number of buses tested, 99 tested positive for carbon monoxide. The concentrations ranged from 25 parts per million to 800 parts per million. As I will describe later, any concentrations above 25 parts per million—ppm—is considered significant.

Although drivers were not questioned about carbon monoxide overexposure symptoms many volunteered statements that they had headaches or experienced dizziness when they drove their buses. All of the buses concerned tested positive for high levels of carbon monoxide.

On December 16, 1971, in Seattle, Wash., eight schoolchildren became ill on a schoolbus transporting them to school. The symptoms included those normally associated with carbon monoxide overexposure such as drowsiness, headaches, and nausea. Five of the children required immediate hospitalization. All of the children who became ill were seated in the rear of the bus which had a rear-mounted engine. On December 13, 1974, in Denver, Colo., 17 children and a driver became ill, the symptoms again were those associated with an overexposure to carbon monoxide. These buses also had rear-mounted engines.

On September 14, 1975 in Baltimore, Md., a police officer died after being found unconscious in his parked patrol car. The apparent cause of death was carbon monoxide overexposure.

Only 1 month later another police officer in the same locality was hopsitalized for dizziness, headaches, and loss of limb control. The results of the caroxyhemoglobin test indicated that a 25 percent concentration of the gas was in the blood, a near lethal dose.

In Port Newark, N.J., a port authority police officer was recently found slumped over a steering wheel. A test of the interior levels of carbon monoxide indicated levels in excess of 80 to 90 parts per million.

Mr. Speaker, I conducted tests this year to determine the interior carbon monoxide levels of some school buses in New York City. The monitor used was an ecolyzer which provides readings of carbon monoxide parts per million. The vehicles tested were regular school buses provided by the Board of Education to transport schoolchildren who happen to be deaf and attending a school for the deaf. My staff and I tested 35 buses on 3 separate days. In 93 of 105 of the tests significant levels of carbon monoxide were found. The monitor read from 0 to 100 parts per million.

I think it very important to note that the Federal Aviation Administration regulates the presence of carbon monoxide in the cockpits of small engine aircraft. In a study conducted by the FAA in the 1960's covering a 4-year period, 38 reports of carbon monoxide poisoning in cockpits were turned up that caused illnesses and 12 fatalities. In response to these findings the FAA issued regulations pertaining to the presence of carbon monoxide in the interior of cockpits and made provisions in the manufacturing stage of production to detect possible defects. Since the regulations have been issued there has been a dramatic decline in the number of fatalities due to carbon monoxide poisoning.

I am setting forth as one of the exhibits the FAA regulations bearing upon interior ambient air standards.

Mr. Speaker, in 1975, 21 million children were bused over 2 billion miles. And that busing will happen every year. Indeed the numbers may increase. It is unconscionable that we, knowing of the danger to the health of these children, fail to take measures to correct the matter.

I am appending, Mr. Speaker, the proposed amendment, memorandum, and correspondence which I believe will provide the Members with detailed information on the subject and I hope to enlist their support when the amendment comes to the floor. The current cosponsors of the amendment are:

Bella S. Abzug, Joseph P. Addabbo, Herman Badillo, Cardiss Collins, James C. Corman, Dominick V. Daniels, Thomas J. Downey, Robert F. Drinan, Don Edwards, Benjamin A. Gilman, Michael Harrington, Henry Helstoski, John Krebs, Clarence D. Long, Mike McCormack, Matthew F. McHugh, Andrew Maguire, Patsy T. Mink, Joe Moakley, John M. Murphy, Ronald M. Mottl, Richard L. Ottinger, Jerry M. Patterson, Matthew J. Rinaldo, Robert A. Roe, Benjamin S. Rosenthal, Edward R. Roybal, James H. Scheuer, Gladys Noon Spellman, Fortney H. Stark, Henry A. Waxman, James Weaver. Charles H. Wilson, Timothy E. Wirth, and Sidney R. Yates.

The material follows:

AMENDMENT TO H.R. 10498, AS REPORTED OFFERED BY MR. KOCH

Page 302, after line 7, insert:

CARBON MONOXIDE STANDARDS FOR VEHICLE PASSENGER AREAS

"Sec. 220. (a) Title II of the Clean Air Act (relating to emission standards for moving sources) is amended by adding the following new part at the end thereof:

"PART D—CARBON MONOXIDE STANDARDS FOR VEHICLE PASSENGER AREAS

"Establishment of standards

"Sec. 241. (a) The Administrator, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide intrusion into buses and sustained-use motor vehicles. Such study shall characterize and quantify interior levels of carbon monoxide in such buses and motor vehicles and determine its effect upon the passengers (including driver) of such vehicles. The study shall review monitoring procedures available and study the cost effectiveness of strategies for attaining and monitoring the standards promulgated under this section. Within one year the Administrator shall report to the Congress respecting the results of such study.

"(b) Not later than one year after the enactment of this part, the Administrator shall issue proposed regulations applicable to the presence of carbon monoxide in the passenger area of buses which in his judgement causes, or contributes to, or which may reasonably be anticipated to create, a danger to the health of passengers (including the driver) of such buses.

"(c) Not later than one year after the enactment of this part, the Administrator shall by regulation issue proposed regulations applicable to the presence of carbon monoxide in the passenger area of sustained-use motor vehicles which in his judgement causes, or contributes to, or which may reasonably be anticipated to create, a danger to the health of passengers (including the driver) in such vehicles.

"(d) After reasonable time for interested persons to submit written comments thereon (but not later than 90 days after the initial publication of proposed regulations under this section) the Administrator shall, by regulation, promulgate, with such modifications as he deems appropriate, final standards applicable to the presence of carbon monoxide in the passenger areas of buses and sustained-use vehicles which in his judgment causes, or contributes to, or which may reasonably be anticipated to create a danger to the health of passengers (including the driver) of such buses and vehicles. Such standards shall be revised from time to time.

"STATE PLANS

"Sec. 242. (a) Each State shall submit to the Secretary of Transportation an applicable implementation plan which shall include such measures applicable to buses, and sustained-use vehicles as may be required to implement the standards prescribed under section 241. Such measures shall be adequate to attain such standards as expeditiously as practicable (but in no case later than three years after approval of the plan) and to maintain them thereafter. Such measures shall include adequate monitoring and, not less frequently than twice during any 12 month period, inspection of such buses and vehicles. Such measures shall apply to buses and sustained-use motor vehicles manufactured before the effective date of this part (vehicles in use) as well as to buses and sustained-use motor vehicles manufactured on or after such date.

"(b) The Secretary shall approve the plan submitted by the State if such plan provides for such measures as may be required, under regulations promulgated by the Secretary, to attain (by the date required under subsection (a)) and maintain the standards promulgated under section 241. Such plan shall be approved or disapproved in the same manner as plans approved or disapproved by the Administrator under section 110 and the Secretary shall have the same authority with respect to State plans which are not submitted under this part or which are disapproved under this part as the Administrator has with respect to State plans under section 110(c). The Secretary shall also have the same authority with respect to enforcement of plans under this section as the Administrator has under section 113 with respect to applicable implementation plans under title I. Review of any standard promulgated by the Administrator under this section or of any action taken by the Secretary under this section shall be in the same manner as review of standards and other actions of the Administrator under section 307.

"DEFINITIONS

"Sec. 243. For purposes of this part, the term—

"(1) 'bus' means any diesel or gasoline fueled motor vehicle having a passenger capacity of ten or more persons in addition to the driver, including but not limited to a school bus, which is used to transport any person; and

"(2) 'sustained-use motor vehicle' means any diesel or gasoline fueled motor vehicle (whether light or heavy duty) which, as determined by the Administrator, is normally used and occupied for a sustained, continuous, or extensive period of time, including, but not limited to, taxicabs and police vehicles.".

(b) (1) Section 206(a) (1) of such Act (relating to motor vehicle and motor vehicle engine compliance testing and certification) is amended by inserting "and 241" after "202".

(2) Section 206(a) (2) of such Act is amended by inserting "and 241" after "202(b)".

(3) Sections 207(a) and 207(c) of such Act are amended by inserting "and 241" after "202".

(4) Section 207(b) of such Act is amended by inserting "or 241" after "202" in each place it appears.

(c) Each State shall adopt and submit a plan for the purpose of meeting the requirements of section 242 not later than 24 months after enactment of this part. Not later than 4 months after submission of such plan, the Secretary of Transportation shall approve such plan or disapprove such plan and promulgate a Federal plan under section 242 for purposes of meeting such requirements.

Amend the table of contents on page 153 to insert the following item after the item relating to section 219:

"Sec. 220. Carbon monoxide standards for vehicle passenger areas."

Facts About the Koch Amendment to H.R. 10493 the Clean Air Act Amendments of 1976

WHAT WAS THE IMPETUS FOR THE AMENDMENT?

A recent article in the American Journal of Public Health (12–75) revealed that significantly high levels of carbon monoxide are found in the interior of school buses. After reading the article members of Representative Edward Koch's staff conducted tests on school buses in New York City. The results confirmed the findings of the article in the American Journal of Public Health. There have been recent reports about the deaths of police officers due to carbon monoxide over-exposure.

WHAT IS CARBON MONOXIDE?

Carbon monoxide is a colorless, ordorless, nonirritating gas which is generated by incomplete combustion, and it is one of the most important of the urban atmospheric pollutants. The side effects of carbon monoxide over-exposure are headaches, nausea, muscular twitching, disturbed and impaired judgement, fatigue, shortened attention span, depressed heart and respiratory action—and after long enough exposure, death. The gas exerts its toxic effect by essentially starving the body of it's vitally needed oxygen.

HOW CAN THE GAS BE DETECTED?

There are various methods for the detection of carbon monoxide. The most reliable and accurate method for testing is the Ecolyzer, an instrument which gives a constant parts per million reading. The device is also the most expensive of the detecting mechanisms available. Another method is an alarm which goes off when a certain concentration of the gas is present. The cheapest method is the indicator method. This is a tab which changes color when a certain concentration is reached and maintained for a prolonged period of time.

WHAT REGULATIONS PRESENTLY EXIST IN THIS AREA?

Currently, the EPA does not have standards which specifically restrict ambient concentrations of carbon monoxide within the passenger space of an operating motor vehicle. The levels which are presently in existence pertain to outdoor ambient carbon monoxide levels and to carbon monoxide levels in enclosed industrial areas. Although the Clean Air Act does not prohibit EPA from asserting authority over indoor air pollution problems, EPA has never attempted to regulate this most important area. Therefore, the Koch amendment is a necessity.

WHAT IS THE KOCH AMENDMENT?

The Koch amendment to H.R. 10498 (Clean Air Act Amendments of 1976) provides for a study by EPA in conjunction with DOT that will characterize and quantify interior levels of carbon monoxide in public vehicles (buses) and sustained use motor vehicles (police patrol cars and taxis) and determine its effect upon the passengers of such vehicles. The study will also review monitoring procedures available and study the cost effectiveness of strategies for attaining and monitoring the interior carbon monoxide standards which will be promulgated after the conclusion of the study. The States shall submit to the Department of Transportation a plan for the implementation of the promulgated standards.

WHY AMEND THE CLEAN AIR ACT?

Originally, the Congress enacted the Clean Air Act in order to deal with air pollution problems on a Federal level. More specifically, the Act requires that the Federal government set national standards and that the States develop a program to attain and maintain these standards.

In the legislation presently being considered (H.R. 10498) there are provisions for studies to be conducted by EPA with promulgation by EPA standards at the conclusion of the study with the Department of Transportation assuming responsibility for monitoring compliance, (Railroad Locomotive Emission Standards Section 235, 236 H.R. 10498 Clean Air Act Amendments of 1976).

In adopting the 1976 amendments the committee intended to accomplish several objectives:

1. To provide new authorities to deal with environmental problems that were not addressed in earlier legislation;

2. To continue to improve methods for the protection of the public health.

The Koch amendment to H.R. 10498 clearly follows the precedents set by the original Act, and the guidelines established by the Committee in adopting the 1976 amendments.

WHICH STATES SUPPORT THE CONCEPT OF THE KOCH AMENDMENT?

The appropriate departments of the following States have responded in favor of the concept of the Koch amendment. The States are, Alabama, California, Connecticut, District of Columbia, Florida, Idaho, Iowa, Louisiana, Maine, Nebraska, New Hampshire, New Jersey, New York City, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, American Samoa, Puerto Rico.

WHICH ASSOCIATIONS OR ORGANIZATIONS SUPPORT THE INTENT OF THE KOCH AMENDMENT?

The following groups have indicated support for the Koch amendment. They are, National School Transportation Association; Institute for Safety Analysis; Straub Clinic; Honolulu, Hawaii; Physicians for Automotive Safety; Pediatric Department of the Cambridge Hospital at the Harvard Medical School; Borgess Pediatric Center, Kalamazoo, Michigan; Medical Associates, Dover, N.J.; School District 742, St. Cloud, Minnesota; Jefferson County Health Department, Lakewood, Colorado; and the American Academy of Pediatrics; Auto Safety Committee of the Kaiser Permanente Clinics in Oregon; Action for Child Transportation Safety.

Carbon Monoxide in New York School Buses—Tests Conducted by Congressman Edward I. Koch and Staff

February 6, 1976.

Introduction: After reading an article in the December issue of the American Journal of Public Health entitled *Carbon Monoxide in School Buses*, the New York staff of Representative Edward I. Koch decided to test the levels of interior carbon monoxide in local school buses.

Discussion: The carbon monoxide detector used in the study was the Ecolyzer. This apparatus draws air over a catalytically active electrode that converts CO to CO2, the associated ion production being proportional to CO concentration. The machine was the model 2600 a dual range (0–100 and 0–50) instrument. The apparatus was calibrated and tested prior to our use and we were told the machine would read within 1ppm of the actual CO concentration.

We located a school in the district where 35 buses assembled each day. The school was located on a major east-west thoroughfare where the traffic is normally moderate. The children in the school were all deaf and we felt that any significant levels of carbon monoxide would further hinder the learning ability of these children. These tests were conducted on the same buses on three separate occasions.

Results: Day #1—The outside temperature was 32F and the ambient CO was 8 ppm. The winds were variable at 8 m.p.h. We used the same level ranges that were used in the original article.

Levels of CO:	*Number of Buses*	*Percent of total*
0	1	2.8
1–8	2	5.7
9–34	12	34.2
35–49	13	37.1
50–100	7	20.0

The levels were all checked in the rear of the bus, after the bus had been running for at least twenty minutes. All windows were closed and the children still hadn't boarded the buses.

Day #2—The outside temperature was 18F and the ambient CO was 6 ppm. The winds were east-west at 20 m.p.h.

Levels of CO:	*Number of Buses*	*Percent of total*
0	3	8.5
1–8	3	8.5
9–34	9	25.7
35–49	13	40.0
50–100	6	17.1

Introduction: In this test some of the buses in the 35–49 range had their engines shut off. Therefore the levels measured were residual.

Day No. 3—The outside temperature was 22 F and the ambient CO was 9 ppm. The winds were 6 m.p.h. and variable.

Levels of CO:	*Numbers of buses*	*Percent of total*
0	2	5.7
1–8	1	2.8
9–34	5	14.2
35–49	20	57.1
50–100	7	20.0

Summary: The buses tested were not parked next to each other therefore the point of entry of the carbon monoxide was not the firewall but rather the rear exit emergency door. Most of the vehicles were tested as they drove up to the school to pick up the children. According to the drivers the engines were on for about twenty minutes prior to the test. Presently federal EPA has no standards for interior carbon monoxide in vehicles. Therefore, we used as guidelines the EPA standards for ambient carbon monoxide. In 93 of the 105 buses tested the CO levels exceeded the levels for ambient air. Due to the fact these children were handicapped, we were unable to ascertain whether or not they felt any of the symptoms usually associated with a 10–30% COHb blood saturation levels.

Conclusion: According to the article in the American Journal of Public Health and private conversations with the author, Dr. Carl Johnson the problem is not unique to urban areas but is also found in suburban areas as well. We feel that the following three measures should be taken immediately.

1—EPA should immediately set interior carbon monoxide levels for vehicles and require that the local authorities monitor them.

2—DOT should require that all new mass transit vehicles have their exhaust tails placed at a point above the roof. By doing this the noxious fumes will be blown off the top of the vehicle and not into the interior of the passenger compartment.

3—An immediate study should be commissioned to determine how CO intoxication affects scores on standardized examinations. There seems to be a correlation with the students from the buses which have consistently high levels of CO and low standardized test scores.

Acknowledgements: Representative Edward I. Koch thanks the Department of Environmental Protection and Dr. Carl Johnson of the Jefferson County Health Department for his technical assistance. For further information on this topic please contact Mr. Victor Botnick, Staff-Aide to Congressman Edward Koch at 26 Federal Plaza, New York, N.Y. 10007 or (212) 264–1066.

Department of Transportation,
Federal Aviation Administration,
Washington, D.C., July 19, 1976.

Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: This responds to your inquiry of July 7 to Dr. McLucas requesting information on our studies of the carbon monoxide intrusion problem in vehicles and airplanes and proper detection methods.

Enclosed is a copy of our report No. ADS-80, An Evaluation of Low-Cost Carbon Monoxide Indicators, July 1966, which is the sole report on record produced by this agency on that subject. The detection method recommended is a rather inexpensive one, which would impose very little cost on the aircraft owner/operator. However, according to our best current information the manufacturer of that specific detector is no longer available. A more sophisticated technique used in certification for supplemental approval of aircraft is a CO detector produced by the Mine Safety Appliance Company of Pittsburgh, Pennsylvania.

Applicable Federal Aviation Regulations, delineating airworthiness standards on the subject of carbon monoxide in aircraft, are contained in Part 23.831, Ventilation, and Part 25.1125, Exhaust heat exchangers, for general aviation aircraft and transport category airplanes, respectively. A copy of these regulations is enclosed for your information. To our knowledge, however, transport aircraft used in this country do not employ heater equipment subject to carbon monoxide exhaust fumes.

We trust this information is adequately responsive to your inquiry.

Sincerely,

ROBERT W. WEDAN,
Acting Director, Systems Research and Development Service, ARD-1.

Enclosures.

CHAPTER 1—FEDERAL AVIATION ADMINISTRATION

SECTION 23.831 VENTILATION

Each passenger and crew compartment must be suitably ventilated. Carbon monoxide concentration may not exceed one part in 20,000 parts of air.

SECTION 25.1125 EXHAUST HEAT EXCHANGERS

(a) Each exhaust heat exchanger must be constructed and installed to withstand each vibration, inertia, and other load to which it would be subjected in operation. In addition—

(1) Each exchanger must be suitable for continued operation at high temperatures and resistant to corrosion from exhaust gases;

(2) There must be means for the inspection of the critical parts of each exchanger;

(3) Each exchanger must have cooling provisions wherever it is subject to contact with exhaust gases; and

(4) No exhaust heat exchanger or muff may have any stagnant areas or liquid traps that would increase the probability of ignition of flammable fluids or vapors that might be present in case of the failure or malfunction of components carrying flammable fluids.

(b) If an exhaust heat exchanger is used for heating ventilating air—

(1) There must be a secondary heat exchanger between the primary exhaust gas heat exchanger and the ventilating air system; or

(2) Other means must be used to preclude the harmful contamination of the ventilating air.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., June 17, 1976.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: Thank you for your letter of April 23, 1976, regarding carbon monoxide intrusion into school buses. As I have previously indicated, I share your concern about the problem and am pleased to respond to your inquiries.

The report you mentioned, "Field Evaluation of Carbon Monoxide Levels in School Buses," was commissioned by the National Highway Traffic Safety Administration (NHTSA) in connection with its investigation of an alleged safety-related defect in the exhaust system of certain school buses. The purpose of the report was to develop specific information on levels of carbon monoxide that could be expected to exist in school buses under a variety of conditions, including varying types of exhaust system failures.

The report was not undertaken in response to information about deaths or injuries caused by carbon monoxide intrusion into school buses. No such deaths have been reported to the NHTSA. Apart from the Seattle incident, the only instance of sickness due to carbon monoxide in school buses known to NHTSA occurred in 1966 in Shelby County, Alabama, where two children in an improperly-maintained school bus were overcome by carbon monoxide. I am enclosing a copy of an article discussing the Shelby County incident. An incident occurring on May 22, 1976, in which a number of District of Columbia children on a church outing were overcome by exhaust fumes did not involve a school bus, but rather, involved a reconditioned 1952 city transit bus. Investigators from the NHTSA are presently conducting an investigation of that incident.

With respect to the recommendations contained in the Field Evaluation report relating to the monitoring of carbon monoxide levels, the NHTSA is investigating the availability of devices to measure carbon monoxide levels which can be operated and afforded by local school districts, and which give a sufficiently accurate reading to enable a meaningful monitoring of carbon monoxide levels. Clearly, the availability of such devices is a prerequisite to a consideration of whether to require carbon monoxide monitoring as part of a regular inspection program.

Although the absence of reported deaths or sicknesses supports the adequacy of the present NHTSA response to the carbon monoxide problem, the information which you enclosed in your letter of March 16, 1976, raises certain issues which are now being considered by NHTSA. Specifically, your studies of carbon monoxide levels in school buses show higher levels than might have been expected to exist in properly-maintained buses. In addition, the report about the Seattle study underscores the impact of school bus operating practices on the intrusion of carbon monoxide.

Although regulatory action does not appear necessary now, I want to note that there is statutory authority for such action. Under the Highway Safety Act, the Department has standards which include requirements governing inspections of vehicles in use and certain aspects of the operation, maintenance, and inspection of school buses in use. Expansion of those requirements might require legislative authorization pursuant to 23 U.S.C. 402(h). The performance of new motor vehicles, including the intrusion of carbon monoxide into new school buses, could be regulated through the issuance of Federal motor vehicle safety standards under the National Traffic and Motor Vehicle Safety Act. Each standard must satisfy several statutory criteria, including one that it must meet a demonstrable safety need.

I appreciate your continuing interest in the potential problems of carbon monoxide intrusion into school buses.

Sincerely,

WILLIAM T. COLEMAN, Jr.

Enclosure.

MARCH 16, 1972.

[Contract No. DOT-HS-001-1-161]

FIELD EVALUATION OF CARBON MONOXIDE LEVELS IN SCHOOL BUSES

(By Larry D. Smith)

SECTION II

Summary of Findings

Several areas of interest which were investigated in this test effort were found to have little or no effect upon the interior CO levels.

Those relationships which did correlate well are discussed in Section 4. Those items may be summarized as follows:

1. The interior CO levels of all buses tested as received showed 8.0 percent of the buses exceeding 25 PPM. See Table 4-1.
2. The interior CO levels of all buses tested as received averaged 4.6 PPM. See Table 4-1.
3. The interior CO levels of the buses which exceeded 25 PPM averaged 36.8 PPM. See Table 4-1.
4. The interior CO of all buses tested as received showed 1.8 percent of the total sample to have over 65 PPM levels. See Table 4-2.
5. The interior CO of all buses tested with simulated tailpipe defects showed 4.5 percent of the total sample to have over 65 PPM levels. See Table 4-2.
6. The interior CO of all buses tested with simulated exhaust manifold defects showed 25.2 percent of the total sample to have over 65 PPM levels. See Table 4-2.
7. The interior CO of all buses tested with simulated tailpipe defects showed 13.7 percent of the total sample to have over 25 PPM levels. See page 10.
8. The interior CO of all buses tested with simulated manifold defects showed 48.4 percent of the total sample to have over 25 PPM levels. See page 10.
9. Wind velocity effected ICO in an individual case but poor correlation exists with the total bus sample. See Tables 4-4 and 4-5.
10. Idle CO levels (ECO) had significant effect upon passenger compartment CO levels. See Table 4-6 and Figure 4-7.
11. Passenger compartment integrity did effect ICO but the lack of integrity was not necessarily bad. See Table 4-8, 4-9, 4-10 and 4-11.
12. Leaking windows help to lower ICO. See page 21.
13. Boots around control devices do not help reduce ICO although their effect either positive or negative is very small. See page 22.
14. Firewall holes tend to increase ICO in all modes of operation. See page 22.
15. Floor holes and panel separations tend to increase ICO levels. See page 22.

The conclusions which can be drawn from the findings presented above can be summarized as follows:

1. Exposure to CO levels in excess of 65 PPM is occurring in almost 2 percent of the school buses in service.
2. Up to 25 percent of the school bus population could produce ICO levels in excess of 65 PPM with exhaust system failures.
3. In some cases, exposure levels can exceed 500 PPM in the 66 passenger buses.
4. There is no direct means by which an analytical approximation to the expected interior CO levels can be generated and used with any degree of confidence.
5. Material and ambient conditions are all contributors to ICO of school buses, but much resolution of effect is diluted by the large numbers of uncontrolled parameters.
6. The most influential elements, both good and bad, involved in describing the interior CO levels are:

Engine Idle CO.
Firewall Holes.
Window and Door Seals.
Gross Exhaust System Defects.

Recommendations for action based upon this investigation are two-fold. The first is something which can be done to reduce exposure to CO and the second is what may be done to further understand some of the mechanisms of CO intrusion in greater detail.

1. Establish engine carbon monoxide emission levels and relate exhaust system conditions to quantitative valuations. The ECO level should be checked on a maximum of monthly intervals. The CO device used in this investigation costs only $800.00 and has served reliably for over 2 years.

2. An investigation of a more controlled nature should be made in which a relatively small number of buses should be tested with emphasis upon isolation and defination of areas produced by this investigation as having some effect upon ICO. Some items included in this category are:

Defect Area.
Wind Velocity.
Idle CO.

Even though significant effects of the above items have been shown, quantitative evaluation of each item should be possible with more in-depth studies of each individual parameter.

JEFFERSON COUNTY HEALTH
DEPARTMENT,
Lakewood, Colo., July 13, 1976.
Re: Koch Amendment to HR 10498
Hon. EDWARD I. KOCH,
Member of Congress,
Longworth Office Building,
Washington, D.C.

DEAR REPRESENTATIVE KOCH: I support the amendment you have proposed to HR 10498, which will require a more detailed study of the carbon monoxide problem involving school buses and which allows one year for implementation of the recommendations of such a study. It is essential that such action be taken as soon as possible in order to prevent the needless risk of adverse effects on the health of millions of children who ride school buses and tragic accidents which may be due to effects of carbon monoxide on the driving ability of school bus drivers.

The importance of this problem and the need for corrective action was pointed out by my article in the American Journal of Public Health in December of last year describing an investigation which disclosed that a large proportion of school buses have excessive levels of carbon monoxide in the passenger compartments due to poor bus design and maintenance. In reports of other investigations, including your own, these findings are corroborated. I feel the result of the Koch amendment will be the development and the implementation of better standards for design and maintenance of school buses, which will have a far-reaching effect in terms of better health for school children in this country.

The present apparent indifference on the part of many school officials and persons in charge of school bus design and maintenance may stem from their lack of awareness of the amount of carbon monoxide which does occur in school buses. Carbon monoxide poisoning is insidious in that long exposure to low levels may cause measurable effects before children and adults will complain of symptoms.

I strongly urge members of Congress to give their full support to the Koch amendment which addresses this problem.

Sincerely yours,
CARL J. JOHNSON, M.D., M.P.H.,
Director of Health.

COMMONWEALTH OF PUERTO RICO,
DEPARTMENT OF HEALTH,
San Juan, Puerto Rico, May 25, 1976.
Hon. EDWARD I. KOCH,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: Our agency whole heartedly supports your bill (H.R. 12954) from a public-health standpoint.

Even though local legal jurisdiction over air pollution problems falls upon our local Environmental Quality Board, you can count on our support for your project.

Sincerely yours,
JOSÉ A. ALVAREZ DE CHOUDENS, M.D.,
Secretary of Health.

GOVERNMENT OF AMERICAN
SAMOA,
DEPARTMENT OF MEDICAL SERVICES,
Pago Pago, American Samoa, May 24, 1976
Hon. EDWARD I. KOCH,
Congress of the United States,
Longworth Office Building,
Washington, D.C.

DEAR MR. KOCH: This is in response to your Circular of May 7, 1976 in regard to Carbon Monoxide in school buses.

I am enclosing a copy of the report of our Chief of Sanitation about the issue in the Territory of American Samoa.

There had not been any cases reported of carbon monoxide poisoning that I am aware of except on one recent suicide case.

I congratulate you for your thoughtfulness in the subject and hoping that the Congress would approve an amendment in the Clean Air Act for EPA to establish acceptable carbon monoxide levels for the interior of school buses and all vehicles for safety of the public.

Sincerely yours,
NOFO SILIGA, DPH,
Public Health Officer.
DR. PAUL TURNER,
Acting Director of Medical Services.

DEPARTMENT OF EDUCATION,
Nashville, Tenn., May 21, 1976.
Hon. EDWARD I. KOCH,
Congress of the United States, House of Representatives, Washington, D.C.

DEAR SIR: Thank you for your efforts to protect the health and safety of transported pupils.

We have experienced, in past years, the problem of carbon monoxide on Tennessee school buses but fortunately, the effects have been minimal and without serious impact on our transported pupils. We have instituted one of the most rigorous inspection programs in the country, as a result of these isolated occurrences, to combat the possibility of carbon monoxide concentrations in the passenger compartments of our school buses. Our success does not minimize the importance of, or the necessity for, your legislation.

Again, your interest in behalf of all transported pupils is appreciated. Please be assured that we will contact Representative Rogers in support of your legislation.

Sincerely yours,
SAM H. INGRAM,
Commissioner,
State Department of Education.

BOARD OF EDUCATION,
Salt Lake City, Utah, June 16, 1976.
Representative EDWARD I. KOCH,
Longworth Office Building,
Washington, D.C.

DEAR REPRESENTATIVE KOCH: The transportation specialist in this agency has reviewed the legislation you have introduced amending the Clean Air Act requiring the EPA to establish acceptable carbon monoxide levels in school buses and testing to ensure compliance (H.R. 12954).

We have no comments on suggestions for revisions except to say that in our opinion the legislation is needed and we can support your efforts.

Sincerely,
CHARLES P. LLOYD,
Administrator,
External Support Services.

DEPARTMENT OF PUBLIC HEALTH,
Nashville, Tenn. July 8, 1976.
Hon. EWARD I. KOCH,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: Members of my staff have reviewed the legislation you have introdued in Congress to amend the Clean Air Act to require EPA to establish acceptable carbon monoxide levels for the interior of school buses and other vehicles and to provide for semiannual testing to insure compliance.

They feel that while this may currently be a problem in certain situations, the cost of the equipment involved to obtain accurate data would make this approach prohibitive. An alternate approach would be to require the manufacturers to develop a manifold system that insures minimal carbon monoxide exposure to the vehicle occupants and to check these exhaust systems on a periodic basis.

It is my understanding that a number of small planes currently use waste heat from the manifiold to warm cabins. As far as I know, no problems have developed from this system because of the required periodic manifold inspection. I feel certain that the CAB and FAA could provide details on this system.

I wish to express my appreciation for the opportunity to comment on your legislation. I, like yourself, am extremely interested in the safety of our school children and other citizens in passenger hauling vehicles.

Sincerely yours,
EUGENE W. FOWINKLE, M.D.,
Commissioner.

DEPARTMENT OF HEALTH
AND ENVIRONMENTAL CONTROL,
Columbia, S.C. May 19, 1976.
Hon. EDWARD I. KOCH,
The House of Representatives,
Washington, D.C.

DEAR MR. KOCH: The South Carolina Department of Health and Environmental Control does support your amendment to the Clean Air Act and I have directed a letter to Representative Paul Rogers to this effect.

Sincerely,
E. KENNETH AYCOCK, M.D., M.P.H.,
Commissioner.

DEPARTMENT OF HEALTH,
New York, N.Y., May 25, 1976.
Re H.R. 12954.
Mr. VICTOR BOTNICK,
New York, N.Y.

DEAR MR. BOTNICK: It is our opinion that H.R. 12954, introduced by Congressman Koch, has merit and will receive the support of this Department.

We appreciate the Congressman's interest in public health matters, and the commendable fact finding work undertaken by you to identify this particular health problem.

Very truly yours,
RAYMOND SIEDERMAN,
Deputy Assistant Commissioner,
Environmental Health Services.

DEPARTMENT OF HEALTH AND WELFARE,
Concord, N.H., June 1, 1976.
Hon. EDWARD I. KOCH,
Representative in Congress,
Washington, D.C.

DEAR SIR: I am enclosing a copy of the Rules and Regulations for School Transportation by the State of New Hampshire Department of Safety, Division of Motor Vehicles, Concord. Within this publication you will find the rules and regulations governing school bus inspection and compliance. Because of the rigid attitude of the Department of Safety we have never received a report of excessive carbon monoxide fumes within a school transport vehicle.

The seriousness of this problem in other areas of the country cannot be questioned in light of the correspondence you have documented as originating from Washington, D.C. and New York City. Protection of the physical and mental well-being of our children is a prime priority for all. It is heartening to find that you share this philosophy.

Sincerely,
MAYNARD H. MIRES, M.D., M.P.H.,
Director of Public Health Services.

[New Jersey State Department of Health]
COMMENTS RE: H.R. 12954

It is our consensus that subject bill deserves New Jersey's full support to the extent that it would ensure that our school buses would not present an unnecessary threat of carbon monoxide poisoning to the estimated 126,000 children using them daily. This is particularly true since studies have shown that there need not be any measurable carbon monoxide level in a properly maintained school bus.

In his understandable attempt to gain support for H.R. 12954, however, Congressman Koch has made several statements which deserve further study, namely, that no Federal monies would be required to implement this amendment to the Clean Air Act, that the portable equipment to monitor carbon monoxide is inexpensive and that the test takes less than a minute. He notes that the cost of monitoring bus interiors for carbon monoxide would be borne by local and state governments, becoming an integral part of other periodic inspections now required for school buses. The portable equipment required for measuring carbon monoxide, which he notes is inexpensive, costs $975.00 per unit and, additionally, the catalytic cell, which needs replacement periodically with use, costs about $100.00.

Of even greater significance, while it is true that reading the monitoring instrument would indeed take less than a minute, the reading obtained at an inspection station would be meaningless, and give false security, unless road conditions were simulated at the inspection station prior to taking a reading. This implies that the engine should be left running for a reasonably long time (e.g. 30 minutes) to allow possible seepage of carbon monoxide through the floor boards and through poorly maintained doors and windows, with all doors closed. Simulating road conditions prior to taking a carbon monoxide reading would involve considerable man hours and additional costs to local and state governments. Actually, a more realistic approach to monitoring school buses for carbon monoxide would be to test under actual use conditions, as was done by Mr. Victor Botnick, Congressman Koch's aide, in his survey of New York City buses.

In short, we favor the concept of freeing our school buses of any threat to the children or drivers using them from carbon monoxide but the funding of the man hours and the equipment required to do the job right should not be wished on state and local governments by the simple mechanism of stating that "the equipment is inexpensive and the test takes less than a minute."

Department of Education,
Baton Rouge, La., June 1, 1976.
Hon. Edward I. Koch,
U.S. Congressman,
New York, N.Y.

Dear Congressman Koch: This is regarding your letter of May 7, 1976 concerning the existence of carbon monoxide in school buses.

We are happy to learn that you have introduced legislation in Congress to amend the Clean Air Act to require the Environmental Protection Agency to establish acceptable carbon monoxide levels for the interior of school buses and other vehicles and to provide for semi-annual testing to insure compliance. Legislation in this area is probably overdue.

Please do not hesitate to contact us if we can be of further assistance.

Sincerely,
John A. Debarge,
State Supervisor, School Transportation.

Department of
Education and Cultural Services,
Augusta, Maine, May 28, 1976.
Representative Edward I. Koch,
Congress of the United States,
Washington, D.C.

Dear Representative Koch: We in the State of Maine share your concern for the presence of carbon monoxide gases in the passenger compartment of a school bus.

It would appear that legislated exhaust system design changes will not insure carbon monoxide free school buses once they have been in operation a short time.

Because of this hazard, the exhaust system, floor plates, and the emergency door gaskets receive special attention during the four safety inspections each school bus receives during the school year.

It is our thinking that exhaust system maintenance is more important than design changes because of the route the system must follow from the front to the rear of most school buses.

Thank you for bringing this problem to our attention.

Sincerely,
H. Sawin Millett, Jr.,
Commissioner.

Department of Transportation,
Wethersfield, Conn., May 25, 1976.
Re: Proposed Legislation to Establish Carbon Monoxide Standards for Vehicle Interiors (H.R. 12954).
Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Congressman Koch: Commissioner James F. Shugrue has asked me to thank you for your letter of May 7, 1976, concerning the subject legislation.

The Connecticut Department of Transportation is certainly in favor of legislation insuring that significantly high levels of carbon monoxide would not be exceeded in school buses. We therefore support H.R. 12954.

However, enforcement of this type of vehicle inspection would probably be the responsibility of the Department of Motor Vehicles. I am forwarding a copy of your proposed bill to Commissioner Stanley Pac of the Connecticut Motor Vehicle Department for his information.

Very truly yours,
Harold F. Heintz,
Deputy Commissioner, Bureau of Planning and Research.

Department of Motor Vehicles,
Wethersfield, Conn., May 27, 1976.
Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Congressman Koch: The concern you have expressed in your letter, 5–7–76, regarding the danger emanating from carbon monoxide infiltrating the interior of school buses is well taken.

I have for a long time been apprehensive at the presence of exhaust gases in both school buses and transit buses. Of course, the the danger posed by transit buses is more of a nuisance inasmuch as they are generally powered by diesel systems.

On behalf of the State of Connecticut I wholeheartedly support your efforts to place some protective legislation in place. Without waiting for additional legislation we will conduct test studies on our own.

Sincerely,
Stanley J. Pac.

Department of Education,
Tallahassee, Fla., May 20, 1976.
Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: Thanks for your letter of May 7, 1976, and the copy of your bill H.R. 12954 relating to carbon monoxide in the passenger compartment of school buses. I share your concern about the potential hazards to the health of school children from carbon monoxide intrusion in school buses. We have not had a reported incident of children showing symptoms of exposure to carbon monoxide on a Florida school bus. However, the results of a study made in a neighboring state revealed the problem was created by a combination of inadequate maintenance of school bus exhaust systems and failure to maintain adequate seals around emergency doors and at cowl openings. Florida statutes require that all public school buses be inspected at least once each month. The exhaust system and body seals are two of the many components inspected.

In that your staff reported finding a substantial number of buses with carbon monoxide in the passenger compartment we plan to begin a program of checking the level of carbon monoxide in a representative number of school buses as they arrive at schools to determine if we have a problem and if so, the extent of the problem.

Because of our warm climate Florida school buses operate most of the time with open windows. A requirement for "over the bus roof" exhaust systems may increase the potential for carbon monoxide and other exhaust gases entering the passenger compartment. I suggest that The Environmental Protection Agency or The Department of Transportation may find it feasible to conduct a study to determine the design of school bus exhaust systems that will provide adequate protection of students at reasonable purchase and maintenance cost.

I appreciate your interest in the safety of school students.

Sincerely,
Ralph D. Turlington.

Department of Health and Welfare,
Boise, Idaho, May 19, 1976.
Representative Paul Rogers,
Chairman, Subcommittee on Health and the Environment, Washington, D.C.

Dear Representative Rogers: This letter is written in support of Mr. Edward Koch's bill (H.R. 12954) concerning the requiring of EPA to draft regulations for carbon monoxide in the interior of school buses.

Tests have been run on several school districts' buses in Idaho from time to time, but not on any regular basis. In almost every series of tests a significant number of buses were found with excessive levels of carbon monoxide. This concentration was usually caused by faulty exhaust systems and/or excessive wear on the seals of the rear emergency door.

Since most school buses' front doors can only be locked from the inside, it is common practice for drivers to lock the door and exit through the rear emergnecy door. This can cause the seals around the rear doors to become inefficient and allow CO to leak into the bus. Periodic inspections and testing of buses should be required.

Sincerely,
Bruce Bergeson,
Supervisory Environmental Quality Specialist.

The Cambridge Hospital,
Cambridge, Mass., July 11, 1976.
Hon. Edward I. Koch,
Member of Congress,
Washington, D.C.

Dear Representative Koch: I am writing to urge adoption of the amendment H.R. 10498 re carbon monoxide control in school buses.

I do so as a pediatrician, writes on health care of children (see, e.g., Child Health Encyclopedia-Boston Children's Medical Center and Richard I. Fernbloom, m.d.) Delaware, 1975—chapter on Auto Safety for children), and education at Howard Medical School. This amendment is an important step in right direction to protecting children in school buses.

Sincerely yours,
Richard I. Fernbloom, M.D.

Borgess Hospital,
Kalamazoo, Mich., July 12, 1976.
Hon. Edward I. Koch,
26 Federal Plaza,
New York, N.Y.

Dear Sir: I wish to express my support of the amendment of H.R. 10498. As a physician, I've long recognized the occult problem of carbon monoxide poisoning in sustained use vehicles. I feel that once meaningful data has been generated concerning permissible levels of carbon monoxide, the EPA should be impowered to impose such a level as the maximum permissible. Furthermore, I feel that the states should enact testing programs to enforce these levels. It would seem logical that once the problem has been studied, means to carry out the conclusion should be provided.

Thank you for your attention.

Very truly yours,

Paul J. Hletko, M.D.

Medical Associates, P.A.,
Dover, N.J., July 12, 1976.

Hon. Edward I. Koch,
Member of Congress,
New York, N.Y.

Dear Congressman Koch: I have recently become aware of your Bill in Committee to study the problem of carbon monoxide concentration in public conveyances. I am particularly concerned about this problem in reference to school buses.

I would like to communicate to you the feeling on the part of all the Pediatricians in this office the importance of this Bill. However, we are also aware of an amendment No. HR10498 which would put teeth in the Bill in terms of provisions for action in questionable situations. Please be advised that we are wholeheartedly in favor of this and would like to express our support in this matter.

Very truly,

Harold Kratka, M.D.

School District 742,
St. Cloud, Minn., July 15, 1976.

Hon. Edward I. Koch,
26 Federal Plaza,
New York, N.Y.

Hon. Edward Koch: Please accept this letter as support for the adoption of amendment to H.R. 10498.

Regular and thorough inspection of high use vehicles by the public is a must. It is long overdue. No one deserves to be exposed to neglectful hazards such as CO poisoning while riding taxis, public or school buses.

Sincerely,

Paul J. Rooney,
Director, Office of Safety Programs.

Physicians for Automotive Safety,
Irvington, N.J., July 11, 1976.

Hon. Edward I. Koch,
26 Federal Plaza,
New York, N.Y.

Dear Mr. Koch: For the past ten years Physicians for Automotive Safety has been involved in efforts to upgrade school buses to protect the young passengers.

One area of deep concern is the level of CO within passenger compartments of school buses. Confirmed episodes of CO poisoning have been reported in Seattle, Washington and Denver, Colorado.

Probably of even greater concern, however, is the chronic absorbtion of CO at subacute concentrations by children who ride the same school bus every school day. Since school buses have an average lifetime of over 10 years, their maintenance is spotty, loadings can reach 100 and trips may last over an hour, the effects of such long term inhalation has never been satisfactorily determined.

It is our hope that the study proposed in the amendment to the Clean Air Act will determine what level of CO is safe as well as establish reasonable field and construction procedures to assure that these levels are not exceeded.

It is my understanding that as originally proposed, within one year, the promulgation of a pertinent standard would be required. Unfortunately this requirement for action, after study, has been deleted in committee. This must not be allowed to happen. The track record for standards in school buses has been dismal. Although empowered by Congress since 1966 to write standards, and in spite of countless studies, only 1 standard (for window retention) has been produced by DOT's NHTSA in 10 years. Additional standards, 1 in effect now 3 more to take effect in the Spring of 1977, will become operative only because the date was set by Congress in the Motor Vehicle and School Bus Safety Amendments of 1974.

I am convinced that only with a required date for promulgation in the legislation will any change in CO protection for children occur. Any effort on your part to achieve such amendments has our wholehearted support.

Sincerely,

Arthur L. Yeager, D.D.S.

The Institute for Safety Analysis,
Westerville, Ohio, June 9, 1976.

Congressman Edward Koch,
House Office Building,
Washington, D.C.

Dear Congressman Koch: In reference to the article which appeared in the June 1 issue of the National Enquirer with regard to the dangers of carbon monoxide poisoning, please be advised that your concern is well founded.

As former Chief of Pupil Transportation (retired) for the State of Ohio, we lived aware of this deadly potential for many years.

Though inspection programs by the Ohio State Highway Patrol helped control the danger to some extent, keeping tabs on 12,000 school buses was a demanding task.

Since leaving the state service, I have become a full-time safety consultant in the field of school transportation.

One of the projects implemented in Preble County (Ohio) Schools was installation of carbon monoxide detectors on every school bus in Preble County.

The small ceramic wafer simply changes color when carbon dioxide is present. Drivers check the detectors continually.

Just thought you would be interested. For further information you may wish to contact Mr. John Black, Jr., County Superintendent of Schools, Court House, Eaton, OH 45320. A sample of the carbon dioxide detector is enclosed.

Sincerely,

Hanford L. Combs,
Vice President, TISA, Director, School Transportation Safety and Management Division.

Department of Health,
Sacramento, Calif., June 9, 1976.

Hon. Edward I. Koch,
House of Representatives,
Longworth House Office Building,
Washington, D.C.

Dear Mr. Koch: Thank you for calling to our attention your legislative proposal H.R. 12954 for requiring inspection and compliance monitoring for carbon monoxide in school buses.

This department has long been concerned with vehicular carbon monoxide and its health effects. Doctor John R. Goldsmith, Medical Epidemiologist, and his colleagues were among the first to call attention to the relationship of carbon monoxide exposure to heart and vascular disease. A copy of a recent review is enclosed.

We favor the establishment of acceptable levels and of inspection and enforcement which assure compliance. Not only can such a program prevent acute effects which may reach tragic proportions, but the long-term effects, about which little is known, would also be prevented.

I am sending copies of this letter to the California Congressional Delegation.

Sincerely,

Jerome A. Lackner, M.D.,
Director of Health.

Portland, Oreg., *July 12, 1976.*

Hon. Edward I. Koch,
26 Federal Plaza,
New York, N.Y.

The amendment of H.R. 10498 is extremely important for the health of our children. Carbon monoxide that leaks from motor vehicles could cause increased damage to children due to their higher respiratory rate. The EPA must promulgate a standard for maximum permissible carbon monoxide levels in motor vehicles. As a pediatrician, I hope you will do everything possible to insure the passing of this amendment.

Marvin Rosen, M.D.

American Academy of Pediatrics,
Greenfield, Mass., July 9, 1976.

Hon. Edward I. Koch,
Washington, D.C

Dear Mr. Koch: I have just received notice of H.R. 10498 and word of your amendment are standards for maximum permissible "CO" levels in "sustained use" motor vehicles—plus testing programs and monitoring plans. Time limits and weekend office constrictions require I pen this brief note to you. We support H.R. 10498 and the amendment.

Merritt B. Low, M.D.

Mount Kisco, N.Y., *July 16, 1976.*

Hon. Edward I. Koch,
26 Federal Plaza,
New York, N.Y.

Dear Representative Koch: I am writing this letter in support of your bill ordering an investigation into carbon monoxide levels in school buses and other vehicles of "sustained use". I am glad to see that someone is taking action, as this is an important area that is much neglected.

I want to support your efforts introducing this piece of legislation. However, more importantly, I would urge strongly the passage of the amendment of HR 10498. This amendment is vital, since it would go further to remedy a problem than merely studying it. I think that this amendment is important since it would require that:

1. The EPA promulgate a standard for maximum permissible CO levels in "sustained use" vehicles; and

2. States establish testing programs to be approved and monitored by NHPSA to insure that the levels are not exceeded.

I think that the amendment is vital to implement the study and make the effort worthwhile. The problem is particularly acute regarding school buses. These vehicles are often used for many years, when the bodies are already deteriorated. In school buses, the possibilities of CO inhalation is greately increased. Moreover, children, with their naturally higher respiratory rates than adults, and their excitment to and from school, are exposed to greater dangers. Let me note that we have little information on safe tolerance levels to CO. However, there is considerable medical concern that prolonged exposure to even low levels of CO may be cumulative, and therefore not manifest themselves for years. In other words, without precise information as to safe tolerance levels, our role should be a conservative one: to insure that children are protected from even minimal degrees of inhalation.

Sincerely yours,

Howard D. Kibel, M.D.

Mr. LONG of Maryland. Mr. Speaker, after several instances of carbon monoxide related illness of passengers traveling in sustained-use vehicles, it is time we insured those passengers that they are being protected from the effects of this noxious gas.

Because of this concern I am cosponsoring Congressman Koch's carbon monoxide floor amendment to H.R. 10498, the

Clean Air Act amendments, which would require the Environmental Protection Agency to establish acceptable carbon monoxide levels for the interior of vehicles such as taxicabs, patrol cars, and schoolbuses.

Carbon monoxide is an invisible killer which resulted in the death, last fall, of one Baltimore policeman and the serious illness of another. According to the public information officer at Lutheran Hospital, Officer Edward S. Sherman died September 14, 1975, because of the effects of carbon monoxide poisoning caused by a faulty exhaust system. Less than 1 month later, Officer Anthony LaMartina was hospitalized for the same ailment.

This measure is also designed to protect this Nation's 21 million school children who are bused over 2 billion miles each year in 310,000 vehicles. This year, there were approximately 64,635 children in Baltimore County alone who rode over 7 million miles to and from school.

In a recent letter to me, the Maryland Motor Vehicle Administration, which handles bus inspections for the State, suggested that a test for carbon monoxide within the routine inspections would be feasible:

> . . . we feel that such a test would be feasible; however, the presence of variables in the test procedures have probably been responsible for the absence of a uniform standard.
>
> We are, however, forwarding our file in this matter to the National Highway Traffic Safety Administration for their comments.
>
> We will be pleased to keep you apprised of any action this Administration may take in this matter in the future.

This measure could significantly reduce the carbon monoxide death toll of 500 victims a year through public education and safety testing. We must provide the agencies responsible for vehicle inspection with test procedures and uniform standards with a view to eliminating carbon monoxide-related illness.

GENERAL LEAVE

Mr. EDGAR. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks, and include therein extraneous material, on the subject of the special order today of the gentleman from New York (Mr. KOCH).

The SPEAKER pro tempore (Mr. LLOYD of California). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING FOR THE INCLUSION OF CERTAIN ECONOMIC AND SOCIAL STATISTICS FOR ASIAN PACIFIC ISLAND AMERICANS IN THE DECENNIAL CENSUS TABULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 10 minutes.

Mr. MATSUNAGA. Mr. Speaker, today I am introducing legislation which will improve the enumeration and data collection procedures to be used in the 1980 census with respect to Asian and Pacific island Americans. Similar in function and intent to Public Law 94–311, formally known as House Joint Resolution 92, my proposal would require the Departments of Agriculture, Commerce, Labor, and Health, Education, and Welfare to gather and publish regularly statistics on Asian and Pacific Island American ethnic groups in the United States for those States with localities containing significant populations of Asian and Pacific island Americans. These States would include but would not be limited to Hawaii, Alaska, California, New York, Washington, and Illinois.

In addition, this legislation would encourage the Bureau of the Census to establish immediately a formal advisory group, similar to the black and Hispanic advisory groups already established in the Bureau of the Census, for Asian and Pacific island Americans. This group, which would be representative of the ethnic, geographic, and economic distribution of the Asian and Pacific island American population in the United States, would be authorized to make specific recommendations to the Bureau of the Census with regard to amending census enumeration and data collection procedures effective with the 1980 census.

Mr. Speaker, in Hawaii, Alaska, California, New York, Illinois, and a few other States, there is a real problem of identifying the population and detailed characteristics of the Asian and Pacific island American ethnic groups. In Hawaii, for example, the census data are tabulated on the basis of "white," "black," "Spanish-speaking," and "others." However, the tabulations have shown that in Hawaii, there are 39 percent white, less than 1 percent black, and the rest, over 60 percent, are "others," which makes the third category meaningless for all but the most general planning purposes in Hawaii. We find that we are at quite a disadvantage in trying to request and implement funding from various Federal programs due to the absence of detailed census data for Asian and Pacific island Americans in Hawaii. The problem for other States such as California, New York, Illinois, and Washington is not as definitive. However, the nonenumeration of data relating to Asian and Pacific island Americans in the other States remains a significant problem for these ethnic groups.

Currently, the U.S. Bureau of the Census does not publish a single volume of census data for general distribution which provides detailed characteristics on Asian and Pacific island Americans by local planning areas such as census tracts, places of 2,500 to 10,000 in population, or by counties for any State in the Union. However, it is my understanding that such detailed census data on at least the major Asian and Pacific island ethnic groups are collected by the Bureau of the Census in its regular decennial census. Such detailed characteristics are essential for the proper delineation of certain social, cultural, economic, health, and other problems, which in many instances are endemic to Asian and Pacific island ethnic groups. Furthermore, in view of the dramatically increased immigration to the United States from Asia in the last 20 years, particularly from Korea, the Philippines, South Vietnam, and Laos, and from American Samoa, such delineation is critical to the appropriate allocation of Federal, State, and local resources to meet this new and increasing demand for services. The 1970 census tabulations have indicated a general population of 2.25 million Asian and Pacific island Americans in the United States. However, reliable estimates project a doubling of that population by 1980 due to the heavy influx of Asian and Pacific island immigrants to the United States since 1970.

Available data for large cities, standard metropolitan statistical areas, and large geographical regions of the country have outlined in rough figures the needs of the Asian and Pacific island American population in the United States with respect to their elderly, their occupational status and rates of unemployment, their health, welfare, housing, and education status, and their need for bilingual community services. The needs for such services by Asian and Pacific island American communities are comparable to the needs of the black and Hispanic communities in the United States. However, Asian and Pacific island American ethnic groups are unable to obtain adequate assistance from Federal, State and local social service programs due to the absence or incompleteness of planning data on which they must base their request for such services.

In addition, it is my understanding that for a number of reasons, previous censuses did not adequately tally the total populations of the nonwhite ethnic groups in America, including the Asian and Pacific island American ethnic groups. This underenumeration must be corrected in the 1980 census in order to provide for a more equitable and appropriate distribution of Federal, State, and local resources, much of which is allocated on a population formula basis to segments of the American population known to be in great need of such services; namely, our ethnic minorities.

Mr. Speaker, I understand that proposed revisions in the enumeration and data collection procedures used in the 1970 census are currently being tested by the Bureau of the Census for the purposes of the 1980 census. I understand further that revision of the Bureau's computer programing for data collection and enumeration in the 1980 census will be completed in the spring of 1977, at which time the programing will be "locked in," preventing any further revisions. The need for consideration and passage of this legislation in the 94th Congress is therefore extremely important to the Asian and Pacific island American community. I strongly urge my colleagues to thoughtfully consider my proposal and work for its passage in the 94th Congress. At this point Mr. Speaker, I insert the text of my proposal:

H.J. Res. 1034

Joint resolution relating to the publication of economic and social statistics for Americans of East Asian or Pacific Island origin or descent

Whereas more than 2.25 million Americans identify themselves as being of East Asian or Pacific Island background and trace their origin or descent from the East Asian Continent or the Pacific Islands; and

Whereas these Americans of East Asian or Pacific Island origin or descent have made significant contributions to enrich American society and have served their nation well in time of war and peace; and

Whereas a large number of Americans of East Asian or Pacific Island origin or descent suffer from racial, social, economic, and political discrimination and are denied the basic opportunities they deserve as American citizens and which would enable them to begin to lift themselves out of the poverty many of them now endure; and

Whereas improved evaluation of the economic and social status of Americans of East Asian or Pacific Island origin or descent will assist localities, States, the Federal Government and private organizations in the accurate determination of the urgent and special needs of Americans of East Asian or Pacific Island origin or descent; and

Whereas the provisions and commitment of Local, State, Federal and private resources can only occur when there is an accurate and precise assessment of need: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Department of Labor, in cooperation with the Department of Commerce, shall develop methods for improving and expanding the collection, analysis, and publication of labor force characteristics relating to Americans of East Asian or Pacific Island origin or descent for those states with localities containing significant populations of East Asian or Pacific Island Americans.

SEC. 2. The Department of Commerce, the Department of Labor, the Department of Agriculture, and the Department of Health, Education, and Welfare shall each collect, and publish regularly, statistics which indicate the social, health, and economic condition of Americans of East Asian or Pacific Island origin or descent for those states with localities containing significant populations of East Asian or Pacific Island Americans.

SEC. 3. The Director of the Office of Management and Budget, in cooperation with the Secretary of Commerce and with the heads of other data-gathering Federal agencies, shall develop a Government-wide program for the collection, analysis, and publication of data with respect to Americans of East Asian or Pacific Island origin or descent for those states with localities containing significant populations of East Asian or Pacific Island Americans.

SEC. 4. The Department of Commerce, in cooperation with appropriate Federal, State and local agencies and various population study groups and experts, shall immediately undertake a study to determine what steps would be necessary for developing creditable estimates of undercounts of Americans of East Asian or Pacific Island origin or descent for states with localities containing significant populations of East Asian or Pacific Island Americans.

SEC. 5. The Secretary of Commerce shall ensure that, in the Bureau of the Census data-collection activities, the needs and concerns of the East Asian or Pacific Island origin population are given full recognition through the use of East Asian or Pacific Island language questionnaires, bilingual enumerators, and other such methods as deemed appropriate by the Secretary for states with localities containing significant populations of East Asian or Pacific Island Americans.

SEC. 6. The Department of Commerce shall implement an affirmative action program within the Bureau of the Census for the employment of personnel of East Asian or Pacific Island origin or descent and shall submit a report to Congress within one year of the enactment of this Act on the progress of such program.

AGE DISCRIMINATION IN EMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 10 minutes.

Mr. PEPPER. Mr. Speaker, I am today introducing a bill that will have a definite positive effect on the securement of jobs for the American people.

Recently, my State of Florida enacted legislation which prohibits age discrimination in public service employment. This new law adds teeth to a previous law setting forth public policy in this area.

The Florida law, while limited to public employees, goes beyond the Federal Age Discrimination in Employment Act in at least one major aspect. The Florida law has no upper age limit, while the Federal law prohibits such discrimination against persons only up to age 65. The Florida law eliminates a previously existing mandatory retirement age of 70 for public employees. In the Federal civil service, employees are generally forced to retire at age 70. A total of 11 States prohibit age discrimination against State employees without an upper age limit. Now seems the time for the Federal Government to follow the lead of these States by prohibiting mandatory retirement and other forms of age discrimination against Federal workers aged 65 and over.

The following are some of the reasons I oppose mandatory retirement and am introducing this legislation:

Compulsory retirement is contrary to equal employment opportunity. We have made strides in equal opportunity for minorities and women; now it is time for the same equality of opportunity to be afforded to the aged.

Chronological age alone is a poor indicator of ability to perform a job. Many workers can and do continue to work effectively beyond age 65.

Compulsory retirement often results in loss of role and income for individuals, and the American Medical Association believes that arbitrary retirement because of age alone seriously threatens the health of the individual concerned.

Compulsory retirement also causes loss of skills and experience from the work force.

These are some of the reasons that I have opposed discrimination in employment because of age. I am now the cosponsor of pending legislation which would eliminate the upper cutoff age of 65 in the current Age Discrimination in Employment Act, for workers in private as well as public employment. Sixteen States now have laws prohibiting age discrimination without an upper age limit.

Pending the enactment of this broader legislation, I think the Federal Government should lead the way and enact legislation like the bill I am introducing today which would eliminate discrimination in Federal employment for persons of all ages.

The bill follows:

H.R. 14879

A bill to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such Act shall be covered under the provisions of such Act regardless of their age

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended—

(1) by striking out "The" and inserting in lieu thereof "(a) Except as provided in subsection (b), the"; and

(2) by adding at the end thereof the following new subsection:

"(b) The provisions of subsection (a) shall not apply to any employee or applicant for employment described in section 15 of this Act.".

SEC. 2. Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by adding at the end thereof the following new sentence: "The provisions of section 12(a) of this Act shall not apply to any employee or applicant for employment who is involved in any personnel action which is subject to the provisions of this subsection.".

SUMMARY OF GAO REPORT EVALUATING ERDA'S SAFEGUARDS SYSTEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 30 minutes.

Mr. DINGELL. Mr. Speaker, last Friday, the General Accounting Office submitted to my Small Business Subcommittee on Energy and Environment a classified report entitled "Shortcomings in the Systems Used to Control and Protect Highly Dangerous Nuclear Materials—Energy Research and Development Administration." This 81-page report is the result of an 18-month study conducted by the GAO on ERDA's security systems.

Because the House is scheduled to consider the Nuclear Fuels Assurance Act tomorrow, which would increase the quantities of special nuclear materials available, and because this report raises serious questions regarding the effectiveness of existing security and accountability systems, I have had the subcommittee staff prepare a summary which I ask be inserted into today's RECORD so that the information can be available to the Members by tomorrow in time for their consideration of H.R. 8401.

I believe the information contained in this report warrants that the Members carefully consider security implications of this legislation until ERDA can implement the GAO's recommendations and demonstrate that it can adequately protect the amounts of special nuclear materials already in existence in the United States.

I am inserting in the RECORD a subcommittee staff summary of a General Accounting Office classified report entitled "Shortcomings in the Systems Used to Control and Protect Highly Dangerous Nuclear Materials—Energy Research and Development Administration." The report was submitted to the Subcommittee on Energy and Environment of the House Small Business Committee on Friday, July 23, 1976. As a summary, it is only intended to highlight the issues raised in the report and thus contains only a few of the examples found in the full report, which was undertaken by GAO as a result of a December 30, 1974 request from Subcommittee Chairman DINGELL.

Since the GAO report is classified, all references to specific locations and precise quantities have been deleted. It is hoped, however, that these deletions do not in any way minimize the magnitude or gravity of the deficiencies in ERDA's accountability and physical security systems as revealed by the GAO report.

Following the staff summary is an unclassified GAO digest of its recommendations.

The staff summary is as follows:

STAFF SUMMARY

Due to this nation's increasing use of nuclear energy, large quantities of special nuclear materials (SNM) are being produced and processed by both the government and private industry. SNM is plutonium and enriched uranium which can be used as fuel for nuclear reactors and in nuclear weapons. Because of the strategic importance of SNM and the catastrophic consequences that can result from even a single threat of a bomb quantity, (17 kilograms or 37 pounds of enriched uranium, 6 kilograms or 13 pounds of plutonium), it is imperative that such materials be adequately protected so that thefts cannot occur.

The Energy Research and Development Administration (ERDA) relies upon two methods to detect and prevent the theft of SNM. First, quantities are continually audited throughout processing to detect if any amounts are missing. The system is basically a simple accounting procedure where the quantity is weighed at the initiation of process, at various stages of the process, and then at the end, when it is marked and kept in storage. Continuing accounting practices then identify the amount of SNM in storage. Thus, if a measurement at any stage of the audit disclosed that there is less SNM at the end of that stage of the processing than at the beginning, there is a possibility that material is missing and an effort is undertaken to account for it.

Unfortunately, SNM has certain characteristics which reduce the reliability of this system. To begin with, this material audit must consider the physical, chemical, and radiological properties of SNM. This is very difficult because existing measurement equipment cannot produce precise or uniform result. Furthermore, some quantities of SNM become caught in the pipes, filters, and machinery and thus cannot be accurately determined unless the entire process is dismantled and cleaned, thereby disrupting production, and the recovered quantities weighed, a more complicated process than it seems. Some quantities may decay or decompose. As all of these factors must be included in the accounting of these materials, the amount at the end of the process is going to be less than the amount at the beginning. To explain this discrepancy, the agency has devised a term called "material unaccounted for" (MUF), which simply means that the quantity is mathematically missing.

The GAO questioned MUF's imprecision. It was discovered that the reliability of existing measurement systems vary. A reactor fuel scanner has an accuracy of 99.5% and the current state of the art precludes more precise measurements. Additionally, there is no way to accurately measure the quantities of SNM retained in the processing equipment. As a result of these and related accounting problems, including simple clerical error, the MUF figure may fluctuate between a positive and negative value during periodic reporting cycles.

Because of the nature and number of the uncertainties in the measurement instruments, it is seriously questioned if the MUF figures or the accountability systems that generate them can give ERDA reliable indications of whether bomb quantities of SNM have been lost or stolen. (pg. 7). Furthermore, because MUF can fluctuate from a positive to negative value from one period to the next, the usefulness of the data is of doubtful validity and therefore the value and dependence placed upon MUF as a theft indicator by ERDA should be challenged.

The GAO also found two consequences of this inherent imprecision. The report states that, "One of the effects of these imprecisions on the safeguard system is that management may not be immediately concerned with a significant MUF because it is more than likely to be caused by measurement imprecisions than theft." (pg. 8). More importantly, the GAO concluded that, "ERDA's existing SNM accountability system may identify a problem area, but does not necessarily isolate its cause. A complete assessment to identify the cause of a problem may require a time consuming and costly analysis. It can take days, weeks, or even months to resolve." (pg. 11).

Timeliness of detection is another vitally important factor. The report points out that, "In an SNM safeguards environment, hours and even minutes are critical." (pg. 12). However, "quantitative determinations of accumulated material shortages are not made until physical inventories are taken, and the frequency of such inventories range from months at some facilities to yearly at others. Thus, timely response and recovery actions are precluded." (pg. 10). ERDA requires only annual physical inventories.

The report contains some examples of each of these deficiencies. In one case ERDA could not locate over a half kilogram of plutonium for three months before it was found. In another case, a much smaller quantity was noted missing over one year ago, and still has not been located. However, the agency concluded that because it was stored in a large drum and the material was dispersed throughout the drum in packaging material, it could only be removed by vehicle and a crack of vehicle monitors failed to show any evidence of such removal. Therefore, ERDA concluded it was not stolen. (pg. 11).

ERDA asserts that it recognizes the deficiencies of this system and in 1968 initiated a research and development program aimed at improving the state of the art of the instruments used to measure and record nuclear materials. For fiscal year 1976, ERDA had 11 research and development projects funded at about $2.1 million and plans to spend an additional $17.6 million through 1981 for such improvements. Additionally, the agency has devised a material balance accounting system (MBA) which is designed to measure the quantities of materials in specific areas of the plant frequently monitor these measurements to provide more timely information. This system is presently in operation in two of the agency's 34 contractor facilities. Furthermore, it should be noted that the successful effects of these research efforts will take years to complete and implement.

The GAO report contains the accumulated MUF figures for each ERDA facility. In evaluating these figures it must be remembered that some date as far back as 1948 and that until 1966 there was little concern for material accountability. More stringent requirements were imposed in 1972, which the agency states is when it became seriously concerned with the threat of a terrorist attack. It should also be noted that it only requires 17 kilograms (36 pounds) of enriched uranium or 6 kilograms (13 pounds) of plutonium to make a nuclear device. It should also be noted that some of the individual totals include significant quantities of non-weapons grade uranium. Because enriched uranium is traditionally measured in terms of kilograms (2.2 pounds), and plutonium in terms of grams (.035 ounces), the fact that the cumulative MUF amounts to tens of tons indicates the magnitude of the problem. Despite the enormity of these totals, ERDA confidently asserts that no significant or bomb quantity has been stolen, and they believe that only grams have actually been removed.

Recognizing these deficiencies, ERDA continues to rely on MUF as a means of detecting a potential theft and asserts that it is still an important safeguards mechanism. They state that the system has been refined by establishing control ranges based on each facility's historical experience to alert contractors when MUF reaches a level warranting investigation. They have also asserted that knowledge that SNM is being controlled through an accountability system acts as a psychological deterrent to potential thieves.

In view of the GAO's perceived inadequacies of the material accountability system, physical security measures assume greater importance. Unfortunately, the GAO found numerous deficiencies and concluded that until they were corrected, ". . . we believe ERDA's contractor physical security systems are inadequate." (pg. 19).

The range of deficiencies revealed in the GAO report is extensive. The report found in some instances that even minimal and basic security precautions had not been taken. Alarms and steel mesh guards for windows and doors which were within 18 feet of ground level had not been installed. SNM detection devices had not been installed on some doors to certain plutonium-processing buildings. Guard posts did not meet ERDA standards for strength and bullet resistancy, plutonium scrap was being stored within 15 feet of unalarmed security fences and cargo containers were locked with padlocks.

In one instance the GAO found a 10 exit building which was alarmed only during one shift. In another case, there was only one SNM detector at the guardhouse exit, but the building was very close to the fence line. It is obvious that someone could just walk out of the building, throw the SNM over the fence, walk through the monitors at the guardhouse gate, and pick up the material outside the perimeter fence.

The GAO found repeated violations of ERDA's own standards. For example, doorway detection devices can only determine that SNM is passing through a doorway, but cannot determine the quantity. Therefore, someone with authority to transport SNM could carry an additional amount through the doorway. In such circumstances, ERDA requires a "two-man rule". The rule states that two individuals be with the SNM when it is not in storage, so the second individual can verify the quantity. At one facility the rule was "generally not followed". GAO found that guardhouses were not constructed in a manner that complied with security requirements. It found that at parts of one facility, there was an exceedingly small chance that an attempted penetration would be detected. In another instance the report revealed that the communication system was dependent upon the telephone system and did not have a radio or alarm system. Thus, if a person called the guardhouse, whose numbers are published, and did not hang up, the guard could not effectively or promptly send messages alerting security personnel of suspicious activities or actual thefts. The GAO also found SNM storage vaults improperly constructed and observed repeated instances of significant quantities of SNM being improperly stored. In one instance the vault was unsealed. In another case it was found that an unlocked and unalarmed building containing plutonium scrap was within 15 feet of an unalarmed security fence and, during GAO's audit, it was observed to be left unattended.

The report also cites a May 1975 report from ERDA's Chicago operations office which recognizes the deficiencies of the existing system. The report states:

" . . . the requirement for protection of SNM amounts less than 2 kg pu (2 kilograms plutonium), and 5 kg U–235 (5 kilograms uranium–235), in ERDAM (ERDA Manual) 2405 are too general and subject to widely varying interpretations and therefore, are inadequate." (pg. 28).

This summary is a review of some of the major points of the report and included herein are only a few of the examples contained in the GAO report. As such, it is designed only to provide an indication of the magnitude of the problem, so the reader can better understand the evidence supporting the recommendations of the GAO. It should also be emphasized that ERDA has corrected all the deficiencies in physical security cited in this report, but did so only after receiving a draft of the report. Furthermore, as the GAO report notes (pg. 18), ERDA's requests for funds to provide an effective system have, in the past, been significantly reduced. In 1976, ERDA requested $56.5 million for physical security improvements, but OMB reduced this request to $35.9 million and Congress appropriated only $27.8 million. Although $35.9 million was authorized in 1975, OMB denied ERDA's request for supplemental funding of $27 million to correct these facilities. The present budget includes substantial increases in ERDA's budget for such improvements and ERDA has reprogrammed available existing funds to correct deficiencies when found.

Despite these efforts, it must be recognized that serious deficiencies in both the material accountability and the physical security systems were found and that the evidence raises serious questions as to the ability of ERDA's facilities to detect and prevent a theft of bomb quantities of special nuclear materials. While it cannot be denied that ERDA has acted to correct the deficiencies in the physical security systems where they were found by the GAO, the audit involved only a few plants and the gravity and magnitude of the problem at other plants is not known. Furthermore, the new systems are unproven and their reliability has yet to be tested. Given the catastrophic consequences that can result from even a single theft of a significant, although quantitatively small, amount of special nuclear materials, the question arises if the existing systems can adequately detect or prevent theft of SNM or seizure of a plant.

The Subcommittee counsel has noted that all specific examples of deficiencies disclosed in the report are marked as "classified information" by ERDA. Thus, the agency itself has the authority to classify any information regarding its operations, including its deficiencies. In the report, the information is classified by paragraph and it is understandable when the specific location of the deficiency is identified, why the information would be classified.

However, other deficiencies concerning procedural or equipment deficiencies were also classified in circumstances where the need is not so clear and the question then arises if the agency is using its classification authority to shield itself from public criticism.

This ends the staff summary.

The attached is the General Accounting Office's unclassified digest of its recommendations:

[This is an unclassified digest furnished in lieu of a report containing classified security information.]

Report of the Comptroller General of the United States: Shortcomings in the Systems Used To Control and Protect Highly Dangerous Nuclear Material, Energy Research and Development Administration

DIGEST

With increasing reliance being placed upon nuclear-generated energy in the United States, the public must be protected against hazards that can occur from theft or unauthorized use of "special nuclear material"—the most dangerous being plutonium and enriched uranium. In addition to being suitable for the fabrication of bombs, plutonium is an extremely toxic substance, with a potential of causing cancer if inhaled, ingested, or exposed to an open wound.

Because of the importance of effective safeguards for special nuclear material to the development of the nuclear industry, the Congress should favorably consider requests of the Administrator of the Energy Research and Development Administration for funds to improve physical security systems at its facilities where special nuclear material is held.

Such materials, in the hands of malevolent individuals or groups, could be used in an explosive device or as a radioactive poison. As such, they are a potential object of terrorist groups or criminals in this country or of agents of other countries.

The potentially catastrophic consequences of even a single theft of a sufficient amount of special nuclear material makes it essential that such material be adequately protected so that thefts cannot occur.

As the manager of Federal energy research and development programs, the Energy Research and Development Administration is responsible for making sure that all nuclear materials held by facilities it sponsors are safeguarded properly against theft or unauthorized use.

The basic systems used by the Energy Research and Development Administration are:

Accountability and material control systems for detecting thefts; and,

Physical security systems to prevent or respond to thefts of unauthorized uses.

The interaction of these systems at a facility are relied upon to preclude the loss or theft of special nuclear material.

Accounting for nuclear materials is extremely complex, based on physical, chemical, and radiometric measurements. Accurate measurements cannot be obtained because of uncertainties in measurement instruments and difficulties in measuring nuclear materials held up in pipes, machinery, and filters.

As a result, discrepancies normally occur between physical and book inventories. Discrepancies which cannot be identified have been termed "material unaccounted for" which is a prime indicator of the effectiveness of nuclear materials accountability and material control systems.

The Energy Research and Development Administration has recognized the imprecisions and limitations of the accountability systems. Since fiscal year 1968, the agency has had an ongoing research and development program aimed at improving the state of the art of the instruments used to measure and record nuclear materials.

For fiscal year 1976, the agency has 11 research and development projects directed at improving the precision and timeliness of measurement instrumentation. They are funded at about $2.1 million.

Through fiscal year 1981, the agency plans to spend an additional $17.6 million for such improvements. Also the agency is developing a computerized measurement and accountability system that may permit continuous control of such material through automated recording and measurement techniques resulting in more timely special nuclear material data.

The Energy Research and Development Administration's accountability and material control system in our judgment contains vague and outdated requirements which have resulted in inconsistent inspection practices and lack of specific numerical criteria when responding to missing special nuclear material.

GAO recommends that the Administrator:

Undertake an effort to immediately update accountability and material control system requirements to reflect current needs and capabilities of today's safeguarding environment and specify the minimum acceptable levels of measurement precision that will be tolerated for facilities having special nuclear material;

Develop and implement inspection practices that eliminate existing inconsistencies and provide inspectors with uniform, well-defined guidelines explicitly distinguishing between the various special nuclear material environments; and

Develop specific numerical criteria for determining when a "material unaccounted for" becomes significant. GAO also recommends that these criteria be established as operating requirements for facilities having special nuclear material.

With the imprecisions and other limitations associated with the accountability and material control systems of nuclear materials the physical security systems take on increased significance in further attempts to make sure that nuclear material cannot be stolen.

Since fiscal year 1972, the Energy Research and Development Administration has been continually upgrading physical security systems. Recently, the agency has identified additional weaknesses in the physical security systems at its contractor facilities. These include the need for additional guards, alarms, doorway detectors, night vision devices, and improved communication equipment not yet available because funds have not been appropriated.

Other problems were identified by GAO during its review of the agency's physical security programs:

1. The Energy Research and Development Administration needs to strengthen and clarify its existing security requirements regarding the placement of special nuclear material detectors and the protection of windows to buildings having this material to allow for better protection of the material against unauthorized use.

2. The Energy Research and Development Administration has not communicated effectively to its operations offices and contractors the nature and dimensions of the threat so that they can evaluate and police the effectiveness of physical security programs.

3. Physical security requirements have not been established for unclassified special nuclear materials in quantities smaller than 5 kilograms of enriched uranium and 2 kilograms of plutonium.

GAO recommends that the Administrator should

Strengthen and clarify security requirements concerning the placement of special nuclear material detectors and the protection of windows to buildings having these materials,

Improve inspection practices by incorporating specific threat criteria in the formal management system through inclusion in the physical security manual. This will enable those possessing special nuclear material to evaluate and police their systems against an established threat and

Expedite the study of the protection needs for small quantities of plutonium and issue protection requirements to the extent necessary.

Over the past 2 fiscal years the agency has experienced substantial cutbacks in their requests for funds to upgrade existing physical security systems at its contractor facilities resulting in many of the existing problems identified during our review. In fiscal year 1975 they requested $27 million for such improvements and the Office of Management and Budget approved none of it. In fiscal year 1976, the Administration requested $56.5 million from the Office of Management and Budget of which only $35.9 million was approved. Congress later appropriated $22.8 million of that amount.

In view of the potentially catastrophic consequences of even a single theft of sufficient quantities of nuclear materials and the possible impact such an occurrence could have on the development of nuclear-generated energy, the Energy Research and Development Administration should further emphasize to the Congress the need for providing additional funds to correct the identified physical security deficiencies. In the interim, the Administrator should give top priority to reprogramming available funds for the physical security improvements needed.

Although the Energy Research and Development Administration does not agree that the report provides a balanced, objective picture of its present capabilities to control and protect special nuclear material, GAO believes there are no residual differences on the facts contained in this report. The Administration's comments are included in appendix I.

ANOTHER EXAMPLE OF POSTAL SERVICE MISMANAGEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, in a recent meeting with constituents in Iowa, I was alerted to another example of Postal Service mismanagement, another example of poor judgment and poor solutions to our mail delivery problems.

It seems that some mail carrier's routes are being eliminated and other carriers are taking up the slack, adding to what is already a full day's workload. Moreover, apparently in an effort to make up for lost efficiency resulting from this move, the Postal Service has also directed carriers to walk across people's lawns rather than use sidewalks and streets.

The assumptions behind the Postal Service's latest "efficiency" move are deeply disturbing. Both customers and postal workers are bearing the brunt of these ill-considered policy changes with little evidence of improvement in service. U.S. postal workers have been rated the most productive of any nation's mail employees and yet they are being directed to take new and dangerous actions to meet the efficiency experts' conceptions of how the mail can best be routed.

I call these practices dangerous because of the many hidden obstacles like lawn sprinklers, toys, and garden tools, which postal workers have to cope with in the lawn-cutting maneuver. I should also cite the possible connection between over-extended mail carrier work loads and the recent death of Mr. Charles Kaup, a long-time mail carrier from Burlington, Iowa. Last month, Mr. Kaup died of a heart attack while rushing through his delivery route. Although he had told the local postmaster that he would need a few hours off to have a physical examination, his request was not granted. Mr. Kaup was stricken with the fatal attack while rushing to complete his route early so he could make an afternoon appointment for his examination.

His is a case which illustrates the fact that mail carriers can be pushed only so far. Human beings should not be systematized the way machines are. Better performance cannot be assured by setting unreasonable workloads.

Apart from the overloading of mail carriers, the practice of lawn cutting is more than an irritation to homeowners. It is a strange policy that requires Government employees to trample private property after having previously required property owners to provide a clear footpath from the street to the doorstep for mail service. That policy exposes carriers to injury. It also exposes property owners to liability for those injuries.

This sort of mismanagement is not a rare commodity in the Postal Service. Since the reorganization, the Service has presided over constantly deteriorating service, steadily rising rates, and the treatment of mail carriers as little more than walking machines. We have seen extremely expensive mail-sorting machines installed, for example, which are not as efficient as the workers they replaced. The list of foulups and misjudgments is long indeed.

I am asking the Postmaster General to provide me with a formal and detailed justification for the lawn cutting directive. I have already asked the Burlington, Iowa, postmaster to answer the charge of some employees that they have been treated with a lack of concern.

COMBATING TERRORISM

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, as a result of an error for which I take responsibility, I am now listed as a sponsor of a bill which I would not want to sponsor in its present form. That bill, H.R. 14749, and a companion resolution, House Concurrent Resolution 680, were both introduced last week by my distinguished colleague, JACK F. KEMP. The resolution applauds Israel for its brilliant and courageous action in rescuing hostages held in Uganda, and the bill, which I had not read at the time the sponsor discussed it with me, prescribes U.S. legal actions to be taken against terrorists. Although I applaud the goal of the bill, I find that I am not in agreement with all of its provisions, notwithstanding the very desirable and laudatory objectives of its sponsor, which I share. I do, however, support the resolution on terrorism, and I urge my colleagues to sponsor it.

The problem I have with the bill in its present form is that it does not distinguish between guerrilla and terrorist activities. Sometimes that is indeed a difficult distinction to make. William F. Buckley, Jr., in an article published July 24, 1976, sought to make such a distinction and I quote from his article:

> The killing of uninvolved citizens is terrorism, not guerrilla warfare—which is defined as killing armed representatives of the oppressor state.

I agree with this distinction: I would do everything possible to deal with terrorists who attack innocent civilians, but guerrilla actions, directed against the organized military of a country, may in some cases be justified. The Hungarian freedom fighters were not considered terrorists, but patriots, and, of course, we should be careful not to pass legislation which might have unintended results. However, I want to make clear that I do not believe that those who are engaged in civil functions such as police officers can be deemed to be valid objects of guerrilla forces.

There are other matters in the bill which bear further scrutiny and I would be delighted to work with the sponsor of the original legislation and others in drafting legislation which safeguards society from terrorism but does not preclude and prevent those who engage in guerrilla activities against governments from doing so without the United States taking an irrevocable position concerning them. Furthermore, this bill does not relate simply to the United States and what occurs here but effects our relations with every other country in that it assumes jurisdiction over acts labeled as terrorism occurring in other countries.

And, finally, there is a particular problem in making certain actions illegal simply because they are committed pursuant to the advocacy, direction, teachings, or encouragement of a terrorist organization. The bill calls for punishment beyond what is already prescribed by law, if certain offenses are committed pursuant to the "teachings" or "advocacy" of a "terrorist" organization. Besides creating difficulty in defining when an action is taken pursuant to the direction or teaching of a terrorist organization, there will be some difficulty in defining what is truly a "terrorist organization" with all that connotes and what is simply a loose association of misguided or criminal elements. The present bill includes so many "associations," "combinations" or "assemblies" of people as "terrorist organizations", that I am troubled by its scope.

I think a very good approach to dealing with terrorism, particularly skyjacking, is that set forth in the proposal made by the American Jewish Congress, which appeared in the New York Times of Sunday, July 25. And it is my hope that those interested in that approach would work together to provide legislation to effect the goal set forth in that proposal.

I am appending a copy of that proposal for the interest of my colleagues.

WE CAN STOP AIR PIRACY—IF WE MEAN IT

A STATEMENT BY THE AMERICAN JEWISH CONGRESS

The world was uplifted by the heroic Israeli rescue mission in Uganda on the morning of July 4th. But the safety of international air passengers cannot depend on such extraordinary feats of daring. Once and for all air piracy must be stopped by international action.

It is clear that the United Nations cannot and will not act, dominated as it is by political blocs that include the prime perpetrators of terrorism. Nor can we wait for governments to produce still another meaningless international Convention. Every such treaty adopted thus far has deliberately failed to include any mandatory enforcement provisions.

Airlines and air pilots can act

Foreign governments are plainly unwilling to risk political confrontation on the issue of air piracy. But airlines and airline pilots operate outside the constraints of formal diplomacy. Air France can do things that the government of France may not be able to do. Pilots and airlines can demand guarantees of air safety, as they have done in the past, without being paralyzed in advance by politics. All that is needed is the will to do so.

There is one way to stop the growing threat to safety in the skies. The private civil aviation community must agree collectively to seal off from air traffic any country whose actions make it an accomplice in the crime of hijacking. The airlines must act together so that no one and no country may reap benefit from air piracy.

Until now the criminals guilty of air kidnapping and the governments that support them and provide them refuge have been allowed to go scot free. Uganda, guilty of complicity in the Air France hijacking, remains an accepted member of the world community, a voting member of the U.N. Not one step has been taken to penalize Uganda or the brutal despot who leads it.

How to end hijacking now

We propose a course of action that will change this do-nothing policy, that will impose effective penalties—and that can be put into effect at once.

To stop air piracy, we call upon the International Air Transport Association and the International Federation of Airline Pilots Associations to make clear that they no longer will fly to any nation that:

(1) Refuses immediately to return a hijacked plane, its passengers or crew,

(2) Gives haven to those responsible for any hijacking, or

(3) Fails to prosecute or extradite hijack terrorists promptly.

The airlines of the world have repeatedly condemned hijacking. But nothing will happen until they act to put teeth into those declarations. They must act now.

What Washington can do now

Without waiting for the airlines and air pilots to act, our own government can move now to end violence in the air. Legislation is needed that will direct the President to suspend air service to:

(1) Any country used as a base of operations or training or as a sanctuary for terrorists,

(2) Any country that arms, aids or abets terrorist organizations, and

(3) Any country that continues to maintain air traffic with an offending state.

At the same time legislation is needed that will curtail all U.S. economic and military assistance to any nation that encourages, protects, supplies—or fails to take appropriate action against—organizations guilty of air terrorism.

Serving notice on air terrorists

Such a resolute and publicly announced program, combining action by the private international civil aviation community and by our own government, will not only deter the lawless acts of private persons. It will also serve notice that any country that encourages these acts by condoning them and by offering haven to the guilty will suffer serious penalty.

The brave Israelis who rescued the hostages at Entebbe gave heart to us all. Now we must devise ways to make sure that no one ever again need go to such lengths to protect the lives of innocent victims of air piracy. We must act in concert. And we must act now.

We urge you to write your Senators and Representatives in support of the legislative proposals we have outlined.

We urge you to write to each of the following persons, calling on them to seal off any country that cooperates with air kidnappers:

Mr. Kurt Hammarskjold, Director-General, International Air Transport Association, Austin Sq. Building, 1000 Sherbrooke St., West, Montreal, Canada 110PQ.

Capt. James J. O'Grady, International Federation of Airline Pilots Associations, 1 Hyde Park Pl., London, W.2, England.

And we invite you to join with us in the American Jewish Congress to help carry forward the campaign to end air piracy now.

STATEMENT OF CHAIRMAN AL ULLMAN WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF H.R. 14844, THE ESTATE AND GIFT TAX REFORM ACT OF 1976

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, on July 27, 1976, the Committee on Ways and Means ordered favorably reported to the House of Representatives H.R. 14844, the Estate and Gift Tax Reform Act of 1976. This bill would amend the Internal Revenue Code of 1954 to provide comprehensive Federal estate and gift tax reform.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule which I will request for consideration of the bill on the floor of the House. The committee instructed me to request the Committee on Rules to grant a closed rule for consideration of H.R. 14844 which would provide for committee amendments which would not be subject to amendment, which would provide for 4 hours of general debate, to be equally divided, and which would provide for the usual motion to recommit with or without instructions.

We intend to file the committee report on H.R. 14844 by midnight, Monday night, August 2, 1976.

VETERANS' PENSIONS NOT AFFECTED BY COST OF LIVING INCREASES IN SOCIAL SECURITY BENEFITS

(Mr. SKUBITZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, last Thursday, 58 of my colleagues in the House joined as cosponsors to a resolution I introduced which would express the sense of the Congress that no veteran's pension ought to be diminished because of an increase in social security or railroad retirement cost-of-living increases. The resolution also would provide that it is the sense of the Congress—that both the House and Senate committees—immediately consider legislation which would bring about this end.

Today, I am introducing a bill which would remedy the constant decreases those receiving veterans' pensions have had to endure.

The bill provides that no cost-of-living or general benefit increase in monthly social security benefits and no cost-of-living increase in railroad retirement annuities which take effect after 1975 shall be taken into account by the Administrator of Veterans' Affairs in determining the amount of the pension and parent's dependency and indeminity compensation which is payable under the veterans' laws.

The bill applies with respect to any increase taking effect after 1975—and literally means that the ones taking effect—will not affect pensions payable in 1976.

This is because there is always a calendar year lag on computation of annual income for the veterans' pensions.

A VA pension for this year is not going to be bothered by the social security increases that just went into effect for this year, and so it will pick up again with the calendar year 1977 if legislation such as mine is not passed by the Congress.

It is my hope that the House Committee on Veterans' Affairs will immediately consider my bill—or any other legislation—which would bring an end to this constant decreasing of veterans' pensions because of social security and railroad retirement cost-of-living increases.

This would be a small price to pay for a very large debt the people of the United States owe the veterans and their dependents.

STATEMENT OF CONGRESSMAN GILBERT GUDE TO ACCOMPANY INTRODUCTION OF RESOLUTION TO REPLACE THE HOUSE DISTRICT COMMITTEE BY A COMMITTEE ON URBAN AND DISTRICT OF COLUMBIA AFFAIRS

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, we have been aware of the myriad of problems confronting urban America for many years. During this time there have been several proposals, including my own, to establish in Congress a committee that could serve as a focal point for dealing with these interrelated problems in a comprehensive approach rather than the present disjointed manner. Unfortunately, the Congress did not previously fully appreciate the enormity of the problems. The fiscal crisis in New York which almost forced our largest city into bankruptcy has brought home to us both the seriousness of the problems and the full impact of not dealing with them. Therefore, the Congress should now recognize the need to create the focal point for urban action which I and others have proposed before.

The timing is not only correct for recognizing the need for such a committee, but for a readily apparent solution. We already have a committee which has great familiarity with the crying problems of one of our most important urban areas. The Committee on the District of Columbia is intimately aware of the fiscal problems of the Nation's Capital. It has dealt with its transportation problems, its crime problems, its pollution problems, its housing problems, its education problems, and its many other problems. With the advent of home rule, however, the role of the Committee on the District of Columbia in District affairs has changed significantly. With the evolution of home rule, the role of the Committee on the District of Columbia in District affairs can be expected to diminish. At a time when the need for a congressional committee to focus on urban affairs is so great we should take advantage of the experience and expertise of the Committee on the District of Columbia in addressing the problems of one major urban area. We should put this experience and expertise, as well as that of other members from urban metropolitan areas, to good use by expanding the scope of the committee so that it can focus on urban problems throughout the country.

To accomplish this purpose I am introducing a resolution to replace the Committee on the District of Columbia with a Committee on Urban and District of Columbia Affairs. The new committee would be charged with the duty of studying and investigating the problems confronting urban areas. Of particular concern would be municipal fiscal affairs including the limitations of municipal tax bases, the cost of public services, the migration of population and businesses, and the responsibilities of the Federal and State governments. The committee would also be required to address itself to such urban problems as housing, transportation, education, health care, employment, welfare, commercial development, crime, pollution, and water and sewage facilities. Whatever congressional role in District of Columbia affairs evolves under home rule would also be filled by the committee.

I trust that before we have any more municipal fiscal crises such as the one in New York, the Congress will recognize that this is an idea whose time has come and will act speedily on this resolution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Kelly (at the request of Mr. Rhodes), for the remainder of today and tomorrow forenoon, on account of official business.

Mr. Fountain (at the request of Mr. O'Neill), for today and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hyde) to revise and extend their remarks and include extraneous material:)

Mr. Heinz, for 5 minutes, today.

(The following Members (at the request of Mr. Edgar) to revise and extend their remarks and include extraneous matter:)

Mr. Roush, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Cotter, for 5 minutes, today.
Mr. Vanik, for 10 minutes, today.
Ms. Abzug, for 20 minutes, today.
Mr. Koch, for 30 minutes, today.
Mr. Matsunaga, for 10 minutes, today.
Mr. Pepper, for 10 minutes, today.
Mr. Dingell, for 30 minutes, today.
Mr. Mezvinsky, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Koch, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,787.50.

Mr. Hechler of West Virginia, and to include extraneous matter in the Committee of the Whole today on H.R. 13555.

(The following Members (at the request of Mr. Hyde) and to include extraneous matter:)

Mr. Schulze.
Mr. Lagomarsino in two instances.
Mr. Archer in two instances.
Mr. Kasten.
Mr. Mosher.
Mr. Walsh.
Mr. Frenzel in three instances.
Mr. Sarasin.
Mr. Del Clawson.
Mr. Heinz.
Mr. O'Brien.
Mr. Shuster.
Mr. Conte.
Mr. Crane in two instances.
Mr. Findley in two instances.
Mr. du Pont.
Mr. Carter.
Mr. Rousselot in two instances.
Mr. McDade.

(The following Members (at the request of Mr. Edgar) and to include extraneous matter:)

Mr. Addabbo.
Mr. Wolff.
Mr. Waxman in three instances.
Mr. Early.
Mr. Rodino.
Mr. Mikva.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Long of Maryland.
Mr. Santini.
Mr. Danielson.
Mr. Howe.
Mr. Conyers.
Mr. Ottinger.
Mr. Charles H. Wilson of California.
Mr. Boland.
Mr. Stark.
Mr. Sharp.
Mr. Dingell.
Mr. Hefner.
Mr. Rangel.
Mr. Ginn.
Mr. Charles Wilson of Texas.
Mr. Drinan.
Mr. Vanik.
Mr. Matsunaga.
Mr. Teague.
Mr. Udall.
Mr. Oberstar.
Mr. Simon.
Mr. Rogers.
Mr. Russo.
Mr. Fisher.
Mr. Downey of New York in three instances.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2943. An act for the relief of the estate of James J. Caldwell; and

H.R. 7685. An act for the relief of Mildred N. Crumley.

ADJOURNMENT

Mr. DINGELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, July 28, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3695. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1-142, to protect the citizens of the District from loss of property, death, and injury, by controlling the availability of firearms in the community, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

3696. A letter from the Acting Secretary of the Treasury, transmitting the annual report of the Student Loan Marketing Association for calendar year 1975, including its audit report, pursuant to section 439(j) of the Educational Amendments Act of 1972; to the Committee on Education and Labor.

3697. A letter from the Under Secretary of Health, Education, and Welfare, transmitting * * * to reduce the amount of funds required to be reserved for particular projects under the Special Projects Act, to eliminate the proportional requirement for the distribution of funds for particular projects, to eliminate the provision for congressional committee review of the Special Projects spending plan, and for other purposes; to the Committee on Education and Labor.

3698. A letter from the Administrator of General Services, transmitting notice of a proposed new system of records that the General Services Administration will establish for the Washington Metropolitan Council of Governments, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

Received From the Comptroller General

3699. A letter from the Comptroller General of the United States, transmitting a report on actions needed to enhance the effectiveness of the U.S. Marshals Service; jointly, to the Committees on Government Operations, and the Judiciary.

3700. A letter from the Comptroller General of the United States, transmitting a report on changes needed in the Federal annuity cost-of-living adjustment processes; jointly, to the Committee on Government Operations, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PEPPER: Committee on Rules. House Resolution 1430. A resolution providing for the consideration of H.R. 10498. A bill to amend the Clean Air Act, and for other purposes (Rept. No. 94-1367). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 1431. A resolution providing for the consideration of H.R. 12664. A bill to revise and extend the provisions of title XII of the Public Health Service Act relating to emergency medical services systems, and for other purposes (Rept. No. 94-1368). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 1432. A resolution providing for the consideration of H.R. 13958. A bill to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the armed forces, and for other purposes (Rept. No. 1369). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 1433. A resolution providing for the consideration of H.R. 14070. A bill to extend and amend part B of title IV of the Higher Education Act of 1965, and for other purposes (Rept. No. 94–1370). Referred to the House Calendar.

Mr. ICHORD: Committee on Armed Services. H.R. 14846. A bill to authorize certain construction at military installations, and for other purposes; with an amendment (Rept. No. 94–1371). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOWERS: Committee on the Judiciary. H.R. 6684. A bill to amend the Federal Trade Commission Act to provide that exclusive territorial arrangements used in the distribution or sale of a trademarked soft drink product or a trademarked private label food product shall not be deemed unlawful per se; with an amendment (Rept. No. 94–1230, pt. II). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself, and Mr. SNYDER):

H.R. 14866. A bill to amend the Federal Aviation Act of 1958 to authorize reduced-fare transportation on space-available basis for elderly persons, young persons, and handicapped persons; to the Committee on Public Works and Transportation.

By Mr. AMBRO:

H.R. 14867. A bill to amend the Internal Revenue Code of 1954 to provide that certain organizations which are dedicated to honoring and preserving the memory of former Presidents will not be treated as private foundations; to the Committee on Ways and Means.

By Mr. ASHBROOK:

H.R. 14868. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. BEDELL (for himself, Mr. BURKE of Florida, Mr. FRASER, Mr. RISENHOOVER, Mr. YOUNG of Alaska, Mr. ANDREWS of North Dakota):

H.R. 14869. A bill to authorize appropriations for purposes of making certain grants under the Indian Elementary and Secondary Assistance Act, the Elementary and Secondary Education Act of 1965, and the Adult Education Act; to the Committee on Education and Labor.

By Mr. DOWNING of Virginia:

H.R. 14870. A bill to establish an office of maritime affairs coordinator in the Executive Office of the President; to the Committee on Merchant Marine and Fisheries.

By Mr. EILBERG:

H.R. 14871. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit of $250 to an individual for expenditures for health insurance premiums; to the Committee on Ways and Means.

By Mr. FUQUA:

H.R. 14872. A bill to require the Federal Communications Commission to increase the channels available for use in the citizens radio services; to the Committee on Interstate and Foreign Commerce.

By Mr. KASTEN:

H.R. 14873. A bill to grant a Federal charter to the World War I Overseas Flyers, Inc.; to the Committee on the Judiciary.

By Mr. LAGOMARSINO:

H.R. 14874. A bill to amend the Internal Revenue Code of 1954 to allow individuals who have attained age 65 a nonrefundable tax credit for property taxes paid by them on their principal residences or for a certain portion of the rent they pay for their principal residences; to the Committee on Ways and Means.

By Mr. MOSHER (for himself, Mrs. HECKLER of Massachusetts, Mr. LEGGETT, Mr. MCCLOSKEY, Mr. REES, and Mr. WON PAT):

H.R. 14875. A bill to establish a national program of earthquake hazards reduction; to the Committee on Science and Technology.

By Mr. MOSHER (for himself, Mr. SYMINGTON, Mr. BROWN of California, and Mr. GOLDWATER):

H.R. 14876. A bill to reduce the hazards of earthquakes, and for other purposes; to the Committee on Science and Technology.

By Mrs. MEYNER:

H.R. 14877. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. O'NEILL (for himself, Mr. AMBRO, Mr. ANDERSON of California, Mr. BALDUS, Mr. BAUCUS, Mr. JOHN L. BURTON, Mr. DOMINICK V. DANIELS, Mr. FASCELL, Mr. HANLEY, Mr. HARKIN, Mr. HELSTOSKI, Ms. HOLTZMAN, Mr. LLOYD of California, Mr. MCHUGH, Mr. MEEDS, and Mr. NEAL):

H.R. 14878. A bill to amend the Energy Policy and Conservation Act to minimize the use of energy in residential housing, commercial and public buildings, and industrial plants; to create an energy conservation extension service; to establish energy conservation research, development, and demonstration institutes; to authorize a Federal program of research, development, and demonstration designed to promote efficiency of energy use; to insure coordination of Federal energy conservation activities; and for other purposes; divided and referred as follows: Title I, jointly, to the Committee on Banking, Currency and Housing and to the Committee on Interstate and Foreign Commerce; and title II to the Committee on Science and Technology.

By Mr. PEPPER:

H.R. 14879. A bill to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age; to the Committee on Education and Labor.

By Mr. SCHNEEBELI:

H.R. 14880. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act with respect to the tax treatment for retirement purposes of commissions received by certain State and local tax collectors; to the Committee on Ways and Means.

By Mr. SCHULZE:

H.R. 14881. A bill to impose quantitative limitations on the importation of mushrooms into the United States; to the Committee on Ways and Means.

By Mr. SKUBITZ:

H.R. 14882. A bill to amend title 38 of the United States Code in order to provide that recipients of veterans' pension and dependency and indemnity compensation will not have the amount of such pension or compensation reduced because of cost-of-living increases in monthly social security benefits or railroad retirement annuities; to the Committee on Veterans' Affairs.

By Mr. WALSH:

H.R. 14883. A bill to provide that the Federal Government shall assume 100 percent of all Federal, State, and local welfare costs; to the Committee on Ways and Means.

By Ms. ABZUG:

H.R. 14884. A bill to bar foreign assistance to any nation air traffic to and from which is suspended for violations of the air piracy provisions of the Aviation Act of 1958; to the Committee on International Relations.

By Ms. ABZUG:

H.R. 14885. A bill to require that the President suspend air transportation rights of any foreign nation which assists air terrorists, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BROOKS:

H.R. 14886. A bill to revise the appropriation authorization for the Presidential Transition Act of 1963; to the Committee on Government Operations.

By Mr. CLANCY:

H.R. 14887. A bill to amend the Internal Revenue Code of 1954 to prohibit interest on tax in cases in which a taxpayer received erroneous assistance from the Internal Revenue Service with respect to such tax; to the Committee on Ways and Means.

H.R. 14888. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit for tuition expenses of the taxpayer or his spouse or a dependent at an institution of higher education, and an additional credit for gifts or contributions made to any institution of higher education; to the Committee on Ways and Means.

By Mr. DENT (for himself and Mr. SCHULZE):

H.R. 14889. A bill to impose quantitative limitations on the importation of mushrooms into the United States; to the Committee on Ways and Means.

By Mr. HEINZ (for himself, Mr. JOHNSON of Pennsylvania, Mr. MCDADE, and Mr. SHUSTER):

H.R. 14890. A bill to establish a program for repairing and replacing unsafe highway bridges; jointly to the Committees on Public Works and Transportation, and Ways and Means.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 14891. A bill to approve the sale of certain naval vessels, and for other purposes; to the Committee on Armed Services.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 14892. A bill to approve the sale of certain naval vessels, and for other purposes; to the Committee on Armed Services.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 14893. A bill to approve the sale of certain naval vessels, and for other purposes; to the Committee on Armed Services.

By Mr. RINALDO:

H.R. 14894. A bill to prohibit the sale or distribution of mailing lists of individuals under the age of 18; to the Committee on Interstate and Foreign Commerce.

By Mr. RINALDO:

H.R. 14895. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TSONGAS (for himself, Mrs. Burke of California, Mr. Cleveland, Mr. Hall of Illinois, Mrs. Heckler of Massachusetts, and Mr. Matsunaga):

H.R. 14896. A bill to amend title 18, United States Code, so as to establish certain guidelines for sentencing, establish a U.S. commission on sentencing, and for other purposes; to the Committee on the Judiciary.

By Mr. DOWNEY of New York:

H.R. 14897. A bill to amend the Consumer Credit Protection Act; to the Committee on Banking Currency and Housing.

H.R. 14898. A bill to amend title 5 of the United States Code, to exclude individuals who are not citizens of the United States from appointment in the competitive service; to the Committee on Post Office and Civil Service.

By Mr. FITHIAN (for himself, Mr. Roush, Mr. Jacobs, Mr. Hayes of Indiana, Mr. Hungate, Mr. Baucus, Mr. Sharp, Mr. Ottinger, Mr. Brademas, Mr. Evans of Indiana, and Mr. Hillis):

H.R. 14899. A bill to deauthorize the Lafayette Dam and Reservoir, Wabash River, Ind.; to the Committee on Public Works and Transportation.

By Mr. GREEN:

H.R. 14900. A bill to establish a program for inspecting, repairing, rehabilitating or replacing bridges; to the Committee on Public Works and Transportation.

By Mrs. SPELLMAN:

H.R. 14901. A bill to allow any chief of the Piscataway Indian Tribe to be buried at Piscataway Park in Oxon Hill, Md.; to the Committee on Interior and Insular Affairs.

By Mrs. SPELLMAN:

H.R. 14902. A bill to amend title 5, United States Code, to exclude individuals who are not citizens of the United States from appointment in the competitive service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ANDERSON of California:

H.J. Res. 1033. A resolution relating to the withdrawal of all minerals in certain areas of the Los Padres National Forest, Calif., from all forms of appropriation under the mining law and from disposition under all laws pertaining to mineral leasing; to the Committee on Interior and Insular Affairs.

By Mr. MATSUNAGA:

H.J. Res. 1034. A resolution relating to the publication of economic and social statistics for Americans of East Asian or Pacific island origin or descent; jointly to the Committees on Education and Labor, and Post Office and Civil Service.

By Mr. ASHBROOK:

H. Res. 1423. A resolution expressing the sense of the House of Representatives that Israel be commended for its rescue operation in Uganda; to the Committee on International Relations.

By Mr. JOHN L. BURTON (for himself, Mr. Davis, Mr. Baldus, Mr. Lagomarsino, Mrs. Meyner, Mr. Byron, Mr. Bedell, Mr. Dent, Mr. Yatron, Mr. Dominick V. Daniels, Mr. Pattison of New York, Mr. Roybal, Mr. Edwards of California, Mr. Hughes, Mr. Meeds, Mr. Pickle, Mr. Beard of Rhode Island, Mr. Won Pat, Mr. Ford of Tennessee, Mr. Krebs, Mr. Roe, Mr. Heinz, Mr. Rinaldo, Mr. Fithian, and Mr. Frenzel):

H. Res. 1424. A resolution amending Rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution, and to provide for the addition and deletion of names of Members as sponsors after the introduction of a bill, memorial, or resolution; to the Committee on Rules.

By Mr. JOHN L. BURTON (for himself, Mr. Florio, Mr. Lujan, Mr. Sikes, Mr. Charles Wilson of Texas, Mr. Patten, Mr. LaFalce, Mr. Mazzoli, Mr. Preyer, Mr. Krueger, Mr. Dodd, Mr. Badillo, Ms. Abzug, and Mr. Mann):

H. Res. 1425. A resolution amending Rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution, and to provide for the addition and deletion of names of Members as sponsors after the introduction of a bill, memorial, or resolution; to the Committee on Rules.

By Mr. GUDE:

H. Res. 1426. A resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on Urban and District of Columbia Affairs; to the Committee on Rules.

By Mr. HARRINGTON (for himself Ms. Abzug, Ms. Chisholm, Mr. Downey of New York, Ms. Holtzman, Mr. Roybal, Mr. Santini, and Mr. Stark):

H. Res. 1427. A resolution directing the President to provide to the House of Representatives certain information with respect to any payment made by the United States to influence Italian politics and with respect to a certain agreement made by the United States regarding loans to Italy; to the Committee on International Relations.

By Mr. YATES (for himself and Mr. McKay):

H. Res. 1428. A resolution disapproving the proposed deferral of budget authority for the design of a metallurgy research center to be established on the Fort Douglas Military Reservation, Utah (deferral No. D76–110); to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURGENER:

H.R. 14903. A bill for the relief of Young Gun Kim; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

530. The SPEAKER presented a petition of the Fourth Northern Mariana Islands Legislature, Saipan, Mariana Islands, Trust Territory of the Pacific Islands, relative to air service between Saipan and Tokyo; which was referred to the Committee on Public Works and Transportation.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of July 26, 1976, page 23765:

H.R. 14541. June 24, 1976. Banking, Currency and Housing. Provides that elderly persons residing in dwelling units receiving Federal assistance shall be entitled to specified rights concerning lease terminations.

H.R. 14542. June 24, 1976. Interior and Insular Affairs; Agriculture. Authorizes the Secretary of Agriculture to enter into contracts through September 1977, for the sale of timber from national forests and other Federal forest lands in Alaska.

H.R. 14543. June 24, 1976. Public Works and Transportation. Amends the Federal Water Pollution Control Act to redefine the term "hazardous substance" to include fecal material, sewage, municipal or industrial waste, and floating debris.

H.R. 14544. June 24, 1976. Science and Technology. Extends through fiscal year 1980 the appropriations authorized for the weather modification activities oversight program of the Department of Commerce.

H.R. 14545. June 24, 1976. Public Works and Transportation. Designates the Federal office building in Manchester, New Hampshire, as the "Norris Cotton Building."

H.R. 14546. June 24, 1976. Ways and Means. Amends the Internal Revenue Code to provide that for purposes of the Federal income tax the basis of property acquired from a decedent shall be the adjusted basis of the property immediately before the death of the decedent, with such adjustments as provided for in this Act.

H.R. 14547. June 24, 1976. Judiciary. Entitles all persons sustaining damage as a result of the collapse of the Teton Dam on the Teton River, Idaho, to receive full compensation from the United States as determined by the Secretary of the Interior or his designee in accordance with the laws of the State of Idaho.

Stipulates that acceptance of any award made under this Act shall constitute a complete release of all claims of the claimant arising from the dam collapse.

Directs the Secretary to enter into agreements with the owners of irrigation facilities damaged by the dam collapse to finance the repair or reconstruction of such facilities.

H.R. 14548. June 24, 1976. Post Office and Civil Service. Repeals the provisions of Public Law 94–82 authorizing increases in the salaries of Members of Congress.

H.R. 14549. June 24, 1976. Ways and Means. Amends the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving Old-Age, Survivors, and Disability Insurance benefits.

H.R. 14550. June 24, 1976. Ways and Means. Prohibits any business deduction, under the Internal Revenue Code, relating to expenses paid or incurred for the transportation of any person by commercial airplane or railroad in excess of any amount which is equal to the retail price of a coach class fare ticket on such airline or railroad, unless the use of first class accommodations was necessitated by the circumstances of the taxpayer's business activities or by a disability or handicap or because coach tickets were unavailable.

H.R. 14551. June 24, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Commission on Digestive Diseases. Requires the Commission to develop a long-range plan for the use of national resources to deal with digestive diseases.

Directs the Secretary to establish a Coordinating Committee for Digestive Diseases to improve coordination among Federal agencies in the research, training, control, and treatment of digestive diseases.

H.R. 14552. June 24, 1976. Ways and Means. Revises the eligibility requirements for disability insurance benefits for blind persons under the Old-Age, Survivors, and Disability Insurance program of the Social Security Act. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 14553. June 24, 1976. Judiciary; Education and Labor. Establishes standards and procedures which courts are to follow in school desegregation suits. Requires the review of court-imposed orders requiring the transportation of students three years after the date of entry of such order. Establishes a National Community and Education Committee to assist communities in the desegregation of their schools, including grants to community organizations for such purpose. Establishes a Federal Community Assistance Coordinating Council to consult with community representatives seeking Federal aid for programs to facilitate desegregation.

H.R. 14554. June 24, 1976. Ways and Means. Amends the Social Security Act with respect to Old-Age, Survivors, and Disability Insurance by directing the Secretary of Health, Education, and Welfare to establish procedures for expediting (1) replacement of lost, stolen or misdelivered benefit checks; (2) initial benefit payments; (3) hearings on eligibility; and (4) final determinations of eligibility.

H.R. 14555. June 24, 1976. House Administration. Directs the Comptroller General to conduct audits of the financial transactions and accounts of: (1) any Member, officer, or committee of the House of Representatives; and (2) 44 randomly selected Members of the House of Representatives by April 30, of each year.

States that the costs of any public document, published for sale, distributed by a Member of the House of Representatives to anyone not on such Member's staff must be paid to the Superintendent of Documents.

H.R. 14556. June 25, 1976. Agriculture. Amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to direct the Secretary of Agriculture to include in the Renewable Resource Program, national program recommendations which take into account specified policy objectives.

Requires the Secretary to provide for public participation in the formulation and review of proposed land management plans and to promulgate regulations for their development and revision.

Revises provisions relating to sale of timber found on National Forest Service lands.

H.R. 14557. June 25, 1976. Armed Services. Requires the Secretaries of each military department and the Secretary of Defense to review each type of personnel position in his jurisdiction to determine whether such position could be filled by a civilian employee. Prohibits the assignment of active-duty personnel to such a position unless the individual meets specified minimum qualifications and no civilian employee with equal or superior qualifications is available.

H.R. 14558. June 25, 1976. Ways and Means. Amends the Internal Revenue Code to allow a tax deduction in an amount not to exceed $1,000 for amounts paid by the taxpayer to an eligible educational institution for tuition for the attendance of the taxpayer or another individual or individuals at such institution.

H.R. 14559. June 25, 1976. Interstate and Foreign Commerce. Amends the Clean Air Act to direct the Administrator of the Environmental Protection Agency to prescribe standards for carbon monoxide in the passenger area of buses and sustained-use vehicles in order to protect the health of passengers. Requires that State implementation plans include measures to attain and enforce such standards.

H.R. 14560. June 25, 1976. Interstate and Foreign Commerce. Amends the Clean Air Act to direct the Administrator of the Environmental Protection Agency to prescribe standards for carbon monoxide in the passenger area of buses and sustained-use vehicles in order to protect the health of passengers. Requires that State implementation plans include measures to attain and enforce such standards.

H.R. 14561. June 25, 1976. Education and Labor. Amends the Older Americans Act of 1965 to allow States to distribute Federal funds for the establishment of projects to provide home-delivered meals to qualified homebound elderly persons.

Directs the Commissioner of the Administration on Aging to conduct a demonstration project involving at least three States to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administration for the elderly as a component of or substitute for regular nutrition projects assisted under such Act.

H.R. 14562. June 25, 1976. Banking, Currency and Housing. Amends the Flood Disaster Protection Act of 1973 to eliminate flood insurance and community participation in the national flood insurance program as prerequisites for Federal approval of financial assistance for acquisition or construction of, or for lending institution loans secured by, any building, mobile home, or personal property located or to be located in an area having special flood hazards.

H.R. 14563. June 25, 1976. Rules. Amends the Legislative Reorganization Act of 1970 to require that each public bill or resolution reported by a congressional committee be accompanied by a Paperwork Impact Statement which assesses the amount and character of the information that such bill or resolution will require of private individuals and businesses and the cost of time required of such individuals or businesses who must provide the information sought by such legislation.

H.R. 14564. June 25, 1976. Merchant Marine and Fisheries. Amends the Shipping Act of 1916 to expand the coverage of such Act to include controlled carriers. Provides for the regulation of rates, charges and structure of charges maintained by such carriers.

H.R. 14565. June 25, 1976. Ways and Means. Amends the Internal Revenue Code to provide that the current withholding tables as set forth in the Revenue Adjustment Act of 1975 shall remain in effect through August 31, 1976 rather than June 30, 1976.

H.R. 14566. June 25, 1976. Agriculture. Authorizes the Secretary of Agriculture to issue orders for the collection of assessments from freestone peach producers. States that such funds are to be used for research and education programs relating to freestone peaches. Provides for the establishment of a National Freestone Peach Research and Education Board to administer provisions of this Act.

H.R. 14567. June 25, 1976. Ways and Means. Amends the Internal Revenue Code to allow a charitable deduction against the income, estate, and gift tax for contributions by an individual to a domestic fraternal society operating under the lodge system for the purpose of constructing or maintaining a building the principal purpose of which is to house such organization.

H.R. 14568. June 25, 1976. Merchant Marine and Fisheries. Amends the Marine Mammal Protection Act of 1972 to prohibit the issuance of permits thereunder which authorize the taking of marine mammals in connection with commerical fishing.

Amends such Act to grant the Secretary of the Interior exclusive jurisdiction over such Act.

H.R. 14569. June 25, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to indemnify physicians, health care personnel, and health facilities providing nonprofit professional services in connection with the national influenza immunization program against civil claims resulting therefrom, except in cases of gross negligence.

H.R. 14570. June 25, 1976. Public Works and Transportation. Establishes a National Office of Ridesharing to coordinate a Federal ridesharing program in the Department of Transportation in order to reduce reliance on single-passenger motor vehicles. Establishes procedures and guidelines for State ridesharing programs. Authorizes financial assistance for ridesharing programs, research, and demonstration.

Authorizes appropriations from the highway trust fund to finance programs established by this Act.

H.R. 14571. June 28, 1976. Ways and Means. Amends the Internal Revenue Code to provide a single unified rate schedule for estate and gift taxes. Repeals the estate and gift tax exemptions. Substitutes for such exemptions a credit against estate and gift taxes. Provides an additional credit against the estate tax for certain farms and closely held businesses passing to a qualified heir. Increases the estate and gift tax marital deduction. Allows the executor of an estate which includes real property used for farming, open space, or forest, to value the property at its current use rather than at its fair market value determined on the basis of its best use.

H.R. 14572. June 28, 1976. Public Works and Transportation. Authorizes the Secretary of Transportation to assist in the construction and replacement of bridge structures in Allegheny County, Pennsylvania. Authorizes appropriations from the Highway Trust Fund to finance the Federal share of the costs of such projects.

H.R. 14573. June 28, 1976. Standards of Official Conduct. Requires Members of Congress, Congressional candidates, and employees of Congress to file financial disclosure statements revealing: (1) the amounts and sources of income including gifts, honorariums, or compensation for publication of written works; (2) the cash value of all assets held by such person individually or jointly with his or her spouse; and (3) any business transaction involving such person.

Requires such statements to be made annually to the Comptroller General who is directed by this Act to make them available to the public.

H.R. 14574. June 28, 1976. Ways and Means. Amends the Tariff Schedules of the United States to increase for a five-year period the customs duty on specified hand tools.

H.R. 14575. June 28; 1976. Ways and Means. Amends the Medicare program of the Social Security Act to provide that podiatrists shall be treated as "physicians" for certification and related purposes under such program the same as doctors of medicine. Provides coverage under the supplementary medical insurance program for the cutting and removal of warts.

H.R. 14576. June 28, 1976. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 14577. June 28, 1976. Post Office and Civil Service. Declares that the "Star-Spangled Banner" consists of words and music as composed by Francis Scott Key and arranged by Thomas Carr.

H.R. 14578. June 28, 1976. Interior and Insular Affairs. Authorizes reclamations projects to be carried out by the Secretary of the Interior and appropriations therefor of the (1) Kanopolis Unit, Kansas, (2) Oroville-Tonasket Unit, Washington, (3) Uintah Unit, Utah, (4) American Canal Extension, El Paso, Texas, (5) Allen Camp Unit, California, (6) Leadville Mine Drainage Tunnel, Colorado, and (7) M'Gee Creek Project, Oklahoma.

H.R. 14579. June 28, 1976. House Administration. Designates the library of the New York Law School as a depository for Federal Government publications.

H.R. 14580. June 28, 1976. Judiciary. Amends the Clayton Act to require specified classes of Corporations to notify the Federal Trade Commission and the Justice Department of certain contemplated mergers prior to acquisition.

H.R. 14581. June 28, 1976. House Administration. Requires the Comptroller General to conduct an audit of the contingent funds of both Houses of Congress no later than 180 days after the close of a session of Congress. Directs the Comptroller General to make the results of such audits public and to report to the appropriate Federal authorities any substantial evidence of a violation of Federal law disclosed by such audit.

H.R. 14582. June 28, 1976. Public Works and Transportation. Amends the River and Harbor Act of 1970 to extend and increase the authorization for the demonstration program for winter navigation on the Great Lakes-Saint Lawrence Seaway System.

H.R. 14583. June 28, 1976. Merchant Marine and Fisheries. Entitles the foreign-built passenger vessel, "Cunard Adventurer," to be documented to engage in the coastwise passenger trade between ports in the State of Hawaii.

H.R. 14584. June 28, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to operate and maintain the Los Angeles-Long Beach harbor model in Vicksburg, Mississippi, for purposes of testing proposals for improving navigation and environmental quality in the harbor waters of both ports.

H.R. 14585. June 28, 1976. Veterans' Affairs. Provides that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator of Veterans' Affairs rather than deducted from amounts awarded under the claims.

H.R. 14586. June 28, 1976. Ways and Means. Amends the program of Old Age, Survivors, and Disability Insurance of the Social Security Act to provide that attorney's fees allowed in administrative or judicial proceedings under that program or under the Medicare program of such Act, in cases where the claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants.

H.R. 14587. June 28, 1976. Judiciary. Exempts an individual from State income taxes with respect to income received during any period by such individual from transactions occurring, or services performed, in a Federal area located within any State if during such period such individual is not a resident or domiciliary of such State or of any other State which imposes a tax on the income of individuals.

H.R. 14588. June 28, 1976. Interior and Insular Affairs. Amends the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to issue certificates of public convenience and necessity to aid in construction of certain pipelines. Allows certified pipeline carriers to exercise the power of eminent domain in the United States district courts to acquire rights-of-way for coal pipelines.

H.R. 14589. June 28, 1976. Ways and Means. Provides an additional 26 weeks of unemployment benefits (presently limited to 26 weeks) under the Emergency Unemployment Compensation Act of 1974.

H.R. 14590. June 28, 1976. Ways and Means. Amends the Tariff Schedules of the United States to require proof of automobile property and personal liability insurance on automobiles imported for the personal use of nonresidents and foreign government personnel, in an amount equal to the minimum insurance requirements in those States in which the vehicle will be operated.

Directs the Secretary of the Treasury to forward certain identifying information on such vehicles to the Secretary of Transportation who shall forward such information to the appropriate State agency responsible for motor vehicle registration.

H.R. 14591. June 28, 1976. Government Operations. Requires any Federal agency proposing a new rule or any committee of Congress reporting legislation which may have a significant impact on costs to the public to prepare a Regulatory Cost/Benefit Assessment.

Sets forth procedures for preparing such Assessment.

H.R. 14592. June 28, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14593. June 29, 1976. Ways and Means. Amends the Tariff Schedules of the United States (1) to reorganize the classifications of certain iron or steel pipes and tubes, and blanks therefor, and (2) to revise the customs duties imposed on such products.

H.R. 14594. June 29, 1976. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Mayor to accept loans from the Treasury of the United States and the Secretary of the Treasury to make loans to the Mayor of the completion of capital construction and construction services for which funds have been authorized or appropriated by Congress prior to January 2, 1977.

Revises to February 1, the date upon which the Mayor must submit to the District of Columbia Council the financial statement for the preceding fiscal year.

H.R. 14595. June 29, 1976. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to review requirements for local cooperation with respect to the spoil disposal area for the project for Deep Creek in Virginia. Requires the Secretary to determine whether Craney Island disposal area should be used as the spoil disposal area for such project. Suspends temporarily the local cooperation requirements and designates Craney Island as the disposal area pending results of such review.

H.R. 14596. June 29, 1976. Ways and Means. Amends the Internal Revenue Code to establish graduated corporate income tax rates. Increases the estate tax exemption and establishes a new rate schedule for the estate tax. Increases the gift tax exclusion and exemption and establishes a new gift tax rate. Provides special treatment for the sale of stock in a closely held corporation when sold to pay estate taxes. Redefines a subchapter S corporation. Allows tax credits for the hiring of new employees. Redefines section 1244 stock (small business stock, losses on which are treated as ordinary losses).

H.R. 14597. June 29, 1976. Judiciary. Amends the Bankruptcy Act to include among debts which have priority specified debts to consumers of deposits of money made in connection with the purchase of goods or services for personal or household use not delivered on the date of bankruptcy.

H.R. 14598. June 29, 1976. Ways and Means. Amends the Tariff Schedules of the United States to set forth the customs duty on acrylic resin sheets and to exclude from tariff classification as rubber and plastics scrap or profile shapes such scrap or shapes improved by grinding on the edges, drilling, milling, hemming, or otherwise processing for a useful commercial purpose.

H.R. 14599. June 29, 1976. Ways and Means. Amends the Tariff Schedules of the United States to suspend temporarily the customs duty on fluorspar.

H.R. 14600. June 29, 1976. Ways and Means. Amends the Tariff Schedules of the United States to specify traiff treatment and making requirements for clocks and watches with modular movements, liquid-crystal display or light-emitting diode display.

H.R. 14601. June 29, 1976. Education and Labor. Establishes procedures and guidelines for the establishment of equal education opportunity for students in elementary and secondary schools. Requires that States submit equal educational opportunities plans to the Secretary of Health, Education, and Welfare for his approval. Establishes criteria for approval of plans and eligibility for Federal assistance.

H.R. 14602. June 29, 1976. Banking, Currency and Housing. Directs the Secretary of the Treasury to strike a medal commemorating the anniversary of the drafting of the Virginia Statute for Religious Freedom.

H.R. 14063. June 29, 1976. Banking, Currency and Housing. Amends the National Housing Act to authorize expenditures by the Secretary of Housing and Urban Development for repair of major structural defects which create a serious danger to the life and safety of inhabitants of certain family dwellings covered by any mortgage insured by the Federal Housing Administration.

H.R. 14604. June 29, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 with respect to the Civil Aeronautics Board's authority regarding certificates to engage in supplemental air transportation and air transportatiton rates. Revises the declaration of policy of such Act to direct the Board to consider competition in the airline industry as being in the public interest.

Authorizes air carriers to engage in nonstop service between points where the present nonstop authority is unused for a specified period of time. Establishes time limitations in which the Board must determine route applications.

H.R. 14605. June 29, 1976. Veterans' Affairs. Extends the delimiting period in the case of any eligible veteran who is pursuing, during his or her tenth year of eligibility, a program of education.

H.R. 14606. June 29, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to convey certain mineral rights of the United States to the Farm Bureau of Halifax County, North Carolina.

H.R. 14607. June 29, 1976. Public Works and Transportation. Directs the Administrator of General Services to supervise the construction of a public building for Federal officers and employees in Tallahassee, Florida.

H.R. 14608. June 29, 1976. Ways and Means. Amends the program of Grants to States for Services of the Social Security Act to provide that no State shall be required to administer individual means tests for the provision of social services defined as group services under the State social service plan.

H.R. 14609. June 29, 1976. Interstate and Foreign Commerce. Directs the President to remove mandatory allocation controls from the class of petroleum products known as middle distillates. Stipulates that standby allocation authority shall remain in force with respect to such products.

H.R. 14610. June 29, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 14611. June 29, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States arising from losses incurred under certain contracts between such corporation and the United States.

H.R. 14612. June 29, 1976. Judiciary. Authorizes the adjustment of the status of a certain individual to that of an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Declares such individual to be deemed not to have attained the age of 21 for purposes of such Act.

H.R. 14613. June 29, 1976. Judiciary. Declares a certain individual to be considered a resident of the United States and to have been in the United States for purposes of determining eligibility for receipt of child's insurance benefits under the Social Security Act.

H.R. 14614. June 30, 1976. Judiciary. Provides for the deportation of any alien who receives welfare benefits within three years after his or her entry into the United States or who within five years of such entry becomes a public charge from causes not affirmatively shown to have arisen after entry.

H.R. 14615. June 30, 1976. Education and Labor. Authorizes appropriations to the Navajo Community College for construction costs and for operation and maintenance of the college.

H.R. 14616. June 30, 1976. Judiciary. Deletes the provisions of the Immigration and Nationality Act which limit to two the number of petitions for preference status which may be granted to a petitioner on behalf of an alien orphan immigrating to the United States for adoption.

H.R. 14617. June 30, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

H.R. 14618. June 30, 1976. Ways and Means. Amends the Internal Revenue Code to tax married and unmarried individuals at the same rate.

H.R. 14619. June 30, 1976. Education and Labor. Amends the Civil Rights Acts of 1964 to make it an unlawful employment practice for an employer to request that an employee or applicant for employment provide military discharge papers or other service-connected records, except with respect to inquiries regarding education, training, work experience, or convictions by a court-martial when such request is reasonably related to the position.

H.R. 14620. June 30, 1976. House Administration. Directs the Comptroller General to conduct annual audits of any financial transaction of each Member, officer, and standing committee of the House of Representatives involving the contingent fund of the House retroactive to 1973. Requires that each annual report be submitted to the Speaker of the House of Representatives and be available for public inspection.

H.R. 14621. June 30, 1976. District of Columbia. Amends the District of Columbia Income and Franchise Tax Act of 1947 to impose an income tax on nonresidents of the District of Columbia which is derived from sources within the District, including the Federal Government.

Repeals the tax on unincorporated businesses.

H.R. 14622. June 30, 1976. Ways and Means. Amends the Medicare and Medicaid programs of the Social Security Act to include in the coverage provided under such programs the services of licensed registered nurses.

H.R. 14623. June 30, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize the Civil Aeronautics Board to grant exemptions from the requirements of such Act for all-cargo operations in interstate air transportation pending consideration of an application for initial certification under such Act if such exemption is in the public interest.

H.R. 14624. June 30, 1976. Small Business; Government Operations; Banking, Currency and Housing. Amends the Small Business Act to expand assistance under such Act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority concerns. Creates a Commission on Federal Assistance to Minority Enterprise.

H.R. 14625. June 30, 1976. Ways and Means. Amends the Internal Revenue Code to establish graduated corporate income tax rates. Increases the estate tax exemption and establishes a new rate schedule for the estate tax. Increases the gift tax exclusion and exemption and establishes a new gift tax rate. Provides special treatment for the sale of stock in a closely held corporation when sold to pay estate taxes. Redefines a subchapter S corporation. Allows tax credits for the hiring of new employees. Redefines section 1244 stock (small business stock, losses on which are treated as ordinary losses).

H.R. 14626. June 30, 1976. Judiciary. Establishes the Crime Victims Compensation Commission to make annual and supplemental grants to qualifying State programs to assist in covering the costs of paying compensation to the victims of specified crimes.

H.R. 14627. June 30, 1976. Education and Labor; Interstate and Foreign Commerce. Amends the National Labor Relations Act to prohibit employers from making an agreement with a labor organization which shall require membership therein as a condition of employment.

H.R. 14628. June 30, 1976. Banking, Currency and Housing. Establishes an Office for Minority Business Development and Assistance in the Department of Commerce.

Transfers the functions of the Small Business Administration to the Secretary of Commerce, and stipulates that the Director of the Office of Management and Budget shall transfer to the Secretary any separable function of any Federal department or agency which the Director determines relates primarily to the development or assistance of minority business enterprises.

H.R. 14629. June 30, 1976. Interior and Insular Affairs. Amends the Indian Claims Act of 1946 to direct the Court of Claims to review the decision of the Indian Claims Commission which effected a taking of the Black Hills portion of the Great Sioux Reservation, and to render judgment on any claims the Wichita Indian Tribe of Oklahoma have against the United States.

H.R. 14630. June 30, 1976. Ways and Means Amends the Medicare program of the Social Security Act to authorize payment under the supplementary medical insurance program for services furnished by physican extenders.

H.R. 14631. June 30, 1976. Ways and Means. Amends the Internal Revenue Code to provide that the current withholding tables as set forth in the Revenue Adjustment Act of 1975 shall remain in effect through August 31, 1976 rather than June 30, 1976.

H.R. 14632. June 30, 1976. Judiciary. Amends the Patent Laws of the United States to allow prior art citations to the Patent Office and consequent reexainations of patents.

H.R. 14633. June 30, 1976. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Law Enforcement Assistance Administration to make grants to eligible units of general local government to enable such units to maintain levels of essential law enforcement and criminal justice personnel which would otherwise be reduced because of bona-fide budgetary problems.

H.R. 14634. June 30, 1976. Education and Labor. Requires States receiving financial assitsance under the Elementary and Secondary Education Act of 1965 which are operating a program designed to insure reading readiness for educationally deprived preschool children or children in grades 1, 2, or 3 to continue such programs at their present level. Prohibits the exclusion of children enrolled in such program from further participation on the ground that such child has achieved a reading aptitude equal to or greater than the normal reading aptitude for the grade in which the child is enrolled.

H.R. 14635. June 30, 1976. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to initiate and carry out a program for the treatment of Vietnam era veterans and their dependents who are experiencing psychosocial readjustment problems as a result of military service or as a result of problems evolving from readjustment from such service.

H.R. 14636. June 30, 1976. Public Works and Transportation. Modifies the project for Papillian Creek and Tributaries Lakes in Nebraska, in accordance with the recommendations of the Corps of Engineers.

H.R. 14637. June 30, 1976. Government Operations. Directs the Administrator of General Services to pay to local governments in which three percent or more of the land is federally owned and to States in which such governmental units are located, amounts fairly equivalent to the amount of taxes which would be payable with respect to such lands if they were privately owned.

Reduces the amount of such payments by the amount paid in lieu of taxes with respect to any Federal lands within the jurisdiction of the local government or the State pursuant to any other Federal law.

H.R. 14638. June 30, 1976. Public Works and Transportation. Directs the Administrator of the Environmental Protection Agency to establish research and demonstration programs for the control of sludge. Authorizes financial assistance for sludge removal programs. Establishes a permit program to control hazardous sludge.

H.R. 14639. July 1, 1976. Ways and Means. Directs that two percent of all Federal income taxes collected on individual incomes shall be deemed to be revenue for the State or territory from which it is collected to be used for educational purposes only, without an Federal direction or control.

H.R. 14640. July 1, 1976. Ways and Means; Small Business. Amends the Small Business Act to define small business concerns called family enterprises which will entitle them to a minimum percentage of loans under such Act. Requires that rules and regulations are promulgated to reduce the burden on family enterprises of furnishing information to the Government including simplification of specified tax forms.

H.R. 14641. July 1, 1976. Agriculture. Amends the Consolidated Farm and Rural Development Act to make operating and real estate loans under such Act available to private domestic corporations and partnerships engaged in farming or ranching.

Provides for congressional authorization of program levels under such Act.

H.R. 14642. July 1, 1976. International Relations. Amends the International Claims Settlement Act of 1949 to direct the Foreign Claims Settlement Commission of the United States to determine the validity and amounts of claims by United States nationals against the German Democratic Republic for losses arising from nationalization, expropriation, or other taking of property. Specifiies procedures for such determinations.

Directs the Secretary of the Treasury to establish a Claims Fund and to make settlement payments certified by the Commission.

Sets forth procedures and regulations for such payments.

H.R. 14643. July 1, 1976. Rules Require review of Federal programs to determine if they warrant continuation. Directs the President to conduct such review of the programs covered by the annual budget. Requires Congress to make such review every four years.

H.R. 14644. July 1, 1976. Ways and Means. Amendments the Internal Revenue Code to allow a tax deduction in an amount not to exceed $1,000 for amounts paid by the taxpayer to an eligible educational institution for tuition for the attendance of the taxpayer or any eligible dependent.

H.R. 14645. July 1, 1976. International Relations; Public Works and Transportation. Revises the authorization for United States participation in the International Tijuana River flood control project to decrease the amount authorized for construction purposes. Establishes additional criteria for United States participation in land acquisition for such project.

H.R. 14646. July 1, 1976. Veterans' Affairs. Names a Veterans' Administration hospital.

H.R. 14647. July 1, 1976. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax an amount equal to the qualified land conservation expenditures paid or incurred by the taxpayer.

H.R. 14648. July 1, 1976. Government Operations. Requires the Office of Management and Budget to study the efficiency and effectiveness of all Federal agencies every ten years.

Terminates such agency ten years after the submission of such report to the President and Congress unless Congress acts to continue such agency.

H.R. 14649. July 1, 1976. Banking, Currency and Housing. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist in the formation and growth of consumer and other types of self-help cooperatives.

H.R. 14650. July 1, 1976. Science and Technology. Establishes a National Earthquake Hazards Reduction Conference.

Enumerates the duties of the Conference including: (1) the formation of a national program to develop capabilities for earthquake hazards reduction; (2) the establishment of means for disseminating earthquake prediction information and technical assistance; (3) the coordination of earthquake and related hazard research programs; and (4) the establishment of an earthquake prediction board.

EXTENSIONS OF REMARKS

NEW RIVER GORGE BRIDGE SYMBOLIZED BY REVEREND WICKLINE'S PRAYER

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 27, 1976

Mr. RANDOLPH. Mr. President, construction of the world's longest steel arch bridge is progressing across the New River Gorge in Fayette County, W. Va. When completed, the 3,030-foot long New River Gorge Bridge will be an integral part of the Appalachian Corridor System connecting Interstate 79 near Sutton and Interstate 77 near Beckley. This highway will make a section of West Virginia accessible by modern highway across terrain that heretofore has discouraged development of this part of our home State.

It was my pleasure recently to participate in a ceremony marking the closing of the giant steel arch soaring 876 feet above the beautiful New River canyon. It is difficult to use words that adequately match the majesty of this spectacular scenic area and the achievement in the building of this bridge.

On this occasion, the invocation delivered by the Rev. Billy Reed Wickline of the Fayetteville United Methodist Church was movingly appropriate. I wish to share his thoughts with my colleagues, and I ask unanimous consent that the Reverend Wickline's invocation be printed in the RECORD.

There being no objection, the prayer was ordered to be printed in the RECORD, as follows:

INVOCATION BY THE REV. BILLY REED WICKLINE

O Almighty God, Creator of all things: Thou hast arched the heavens above us and enriched the earth beneath us and allowed the trees of the forests to clap their hands and the hills to break forth into singing. Thou hast put hymns in the waters and sermons in stone and strength in steel. We praise Thee for this matchless morning and the occasion of this celebration. We sing unto Thee, O Lord, a new song, for Thou hast done marvelous things!

We thank Thee O Father for the vision for this structure; the task to build it and the strength to continue and complete this handiwork. We beseech Thy blessings upon all who are gathered this day in this place and praise Thee for all Thy people. Thanks be unto Thee for the draftsman who designed it; the engineers who surveyed it; the skilled workmen who have thrilled to the labor and construction of it; for those who have forged the steel and scaled the heights to assemble it; for those who have kept daily vigil in watching it rise. Guard the traffic that shall travel across it that no tragedy may befall them.

We pause in gratitude for those who have sacrificed for the realization of this dream, those who have given their life and those who have received bodily injury in its construction; we remember before Thee, the families who have sacrificed in separateness for its building and those whose sacred soil and homes were yielded for this measure of progress.

O Eternal God, grant this structure to stand as a stalwart sentinel of service, bridging not only the gorge beneath it but the human rifts to lessen our travel and bind communities of our state and the welding of new relationships across our country.

As this bridge towers above the canyon winds and weathers the torrents of rain and eternal snows, let it be to us a symbolic rainbow like God's first one, offering unalterable promises for Thy glory and man's obedience. Allow it to be no novelty, nor permit the labors upon it to be perishable, but continue Thy Presence upon all through its completion, through Jesus Christ our Lord . . . Amen.

PUERTO RICAN INDEPENDENCE DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. RODINO. Mr. Speaker, I am honored to have this opportunity to pay tribute to the people of Puerto Rico who are celebrating the 21st anniversary of enactment of the Puerto Rican Constitution.

Puerto Rican Independence Day is especially important, because it symbolizes what Puerto Rico represents for the rest of the world. Ever since the end of the Spanish-American War, in 1898, the Puerto Rican people have sought to make their concepts of freedom and justice into reality. Their steadily expanding political participation eventually prompted President Truman, on July 3, 1950, to sign an act authorizing the people of Puerto Rico to draft a constitution of their own; since that time the destiny of the people of Puerto Rico has been linked with that of all Americans in the common bond of freedom. With all the troubles which have beset this relatively small island over the past two centuries, it has staked its pledge to representative democracy and held firm.

The rise of democracy in Puerto Rico has been paralleled in the past two decades by substantial improvements in the quality of life there, and I am certain this commitment to progress will continue in the future. I salute the Governor of the Commonwealth of Puerto Rico, Hon. Rafael Hernández-Colón and the Resident Commissioner Jaime Benitez for their continued leadership and dedication to the people of Puerto Rico.

Mr. Speaker, Puerto Rican citizens also occupy the mainstream of American society, contributing to the public good in many ways. The accomplishments of Puerto Ricans have been very evident in my home city of Newark, N.J., with an increasing number of fine public servants such as Newark's Deputy Mayor Raymond Arneses; my good friend Marie Gonzolez, of the Human Rights Commission; Hosea Rosario, president of the Puerto Rican Congress of New Jersey and Tony Perez of FOCUS, to name a few. As we celebrate the birth of our Nation, we are reminded that the character of America is strengthened by the ethnic diversity of our people.

Mr. Speaker, I am pleased to call to my colleagues' attention the celebration of New Jersey Puerto Rican Day this year. It will be a significant and joyous occasion when, on August 1, 1976, New Jersey holds its statewide parade to honor the countless contributions of Puerto Rican Americans. I commend the parade chairman, Miguel Rodriguez, and the master of ceremonies, Raul Davile, and I am proud to offer my congratulations and thanks to Puerto Rican Americans, who mean so much to the American experience.

A TRIBUTE TO SEYMOUR ROBINSON

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. WAXMAN. Mr. Speaker, it is my pleasure to join the Westside Community Center of the Jewish Center Association in paying tribute to Seymour Robinson.

Mr. Robinson will be presented with the Man of the Year award by Mayor Tom Bradley on Thursday, July 29, 1976, at the Health Club Award Night to be held in the Weinberger Auditorium of the Westside Jewish Center.

Seymour Robinson is well deserving of this honor. He has devoted himself to improving relationships between the Jewish community and the black and Chicano communities for the mutual benefit of all. He has been active in movements for school integration and enrichment of educational opportunities. These have been the main thrusts of his very active life, but he has been active in many other areas of social welfare and significance.

He has been president and the organizer of Neighbors Unlimited and helped organize Black Party Neighbors, a group that has worked to develop close ties between the black and Jewish communities living together in the Pico Fairfax area of Los Angeles. He has been chairman, Public Affairs committee, West Side Jewish Community Center, 1973–75; member, Urban Affairs Committee, L.A. Board of Education; member of the Mayor's Advisory Committee to assist small and minority businesses to obtain city contracts. He has also been a member of the Citizens' Committee for the Pan Pacific Urban Park; member, L.A. City Human Relations Commission, and member of the Parents' Advisory Committee of Fairfax High School.

Seymour's wife Anita is currently a medical social worker with Cedars Sinai Hospital where she has been for the last 20 years. They have two sons, David and Billy, and a daughter, Lorraine.

Seymour Robinson is a warm and compassionate human being. I am pleased to consider him one of my personal friends. He is receiving a well earned tribute.

THE DANGEROUS POLITICIZATION OF THE OLYMPICS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. CRANE. Mr. Speaker, in politicizing the Olympic games by refusing to permit the Republic of China to participate, the Canadian Government is guilty of violating not only the ideals of the Olympics but is guilty, as well, of going back upon its own pledged commitment.

In a letter issued in 1969 to the International Olympic Committee, Canada promised that all Olympic athletes would be allowed into the country "pursuant to normal procedures." The Olympic Committee's chairman, Lord Killanin, now declares that he had been "duped" by the letter.

But if the Canadian Government has acted in a less than honorable manner, the International Olympic Committee is seriously in error for having capitulated to the Candian conditions. Similarly, the U.S. Olympic Committee acquiesced in the politicization of the games by permitting American athletes to participate.

Public opinion in the United States seems uniformly to oppose what has happened in Montreal. The New York Times declared that—

> The cynical calculation of Prime Minister Trudeau that the I.O.C. was a paper tiger has proved correct . . . Once again principle is abandoned in favor of expediency just as the Canadian Government no doubt thought would happen when it decided to curry favor with Peking . . . If Canada gets away with this flagrant abuse and misuse of the Olympics, a far-reaching precedent will have been set that could destory the modern Olympic Games altogether.

The 1980 Olympics are scheduled for Moscow. Columnist George Will asks:

> Will it (the Soviet Union) ban Israel? Will it invite the P.L.O. to send a team? Will this draw more than unhappy words from the U.S.?

It is time that the United States made it clear that unless all countries, regardless of politics, are permitted to participate in future Olympic games, the United States will not participate.

In an editorial discussing the collapse of the Olympic ideal, Business Week magazine states that—

> At this point, the U.S. should withdraw from all future Olympics. Out of fairness to its athletes, it should let them compete in Montreal. Then it should put the dream of universal sportmanship on the shelf and refuse to compete again. The whole idea of the Olympics collapses when posturing nations are allowed to use the games to score political points. The ancient Greeks saw the Olympics as the symbol of a unifying civilization that embraced all participants. The modern world unfortunately cannot meet that standard.

It is regrettable that the United States was willing to associate itself with the behavior of the Canadian Government by continuing to participate in the Montreal games. Hopefully, such action will never take place again.

I wish to share with my colleagues the syndicated column by George Will concerning this subject, and the editorial, "Collapse of an Ideal," as it appeared in Business Week of August 2, 1976, with my colleagues and insert them in the RECORD at this time:

CONTRASTING ISRAEL, CANADA

(By George F. Will)

Israel has given the Western world remedial instruction in how to deal with bullies. The Canadian government, as though to the manner born, has been acting the bully.

Israel responded with lethal boldness to the kidnapping of Jews by Palestinian terrorists. By killing the terrorists in the sanctuary provided by Uganda's President Idi Amin, Israel demonstrated that there are no safe havens for terrorists.

Communist China, a good customer for Canadian wheat, did not want Canada even to admit athletes from Taiwan. The government of Prime Minister Trudeau has met Peking halfway. Canada, which is the "host country" for the Olympics, has suddently decided that Taiwan's athletes will not be allowed to compete under the name "Republic of China" and will not be allowed to fly their national flag or play their national anthem.

When Canada was vying with Los Angeles for possession of the 1976 Olympics, Canada promised that it would obey Olympic rules, which forbid such political discrimination. Canada was asked, and gave specific assurances about, accepting the Republic of China, the name recognized by the International Olympic Committee.

Uganda's Amin having taken no trouble to conceal the fact (indeed, having been clever to the point of precocity at advertising the fact), it is no secret that he is not a statesman of advanced design. And it is unlikely that he has a capacity for mordant satire. So although he is a large man with a large sense of mirth, it is unlikely that he was joshing when he said, plaintively, of the Israeli rescue attack on his airport: "I did all I could to help Israel and Israel replied by doing me harm."

Actually Amin may have pioneered in a new dimension in lawlessness by casting Uganda, a sovereign state, in the role of collaborator in, and perhaps instigator of, an act of international terrorism. According to the freed hostages, Amin embraced the leader of the hijacking gang; some terrorists were waiting to join the hijackers in Uganda; Amin's soldiers helped the terrorists guard the hostages and even gave the terrorists weapons.

United Nations Secretary General Kurt Waldheim was weighed in with one of his predictably "even-handed" homilies deploring terrorism and those who resist it. He criticizes Israel for violating Uganda's sovereignty. But anything that hastens the decomposition of the U.N. is welcome and the same is true of the Olympics. The Olympics are to sport what the U.N. is to government; a parody and, increasingly, a plaything of the world's lopsided majority of dictatorships.

The Canadian government, having shown its mettle by dealing sternly with Taiwan's 51 athletes, offered as an "explanation" the fact that Canada recognizes Communist China. Such comportment is becoming Trudeau's trademark. He chose to visit Cuba during Cuba's expedition to Angola, and missed no chance to abase himself before Castro, praising the dictator for his "intense rapport with the Cuban people."

The International Olympic Committee has protested Canada's decision. But it hastened to add that, although it deplores the injection of politics into the Oympics, it will not contemplate withdrawing its sanction of the Montreal games. That would be a jerk on the leash that Canada would understand.

In response to Canada's decision, the U.S. Olympic Committee made simpering sounds, threatening to withdraw from the games if the IOC withdrew its sanction of the games. But the IOC said that it has never "even suggested privately it would take such action."

In 1980 the "host country" will be the Soviet Union, which undoubtedly will edit the list of competitors. Will it ban Israel? Will it invite the Palestine Liberation Organization to send a team? Will this draw more than unhappy words from the U.S.? Such words were the only U.S. response when the IOC, at Moscow's behest, banned Radio Free Europe from covering the winter Olympics in February.

Speaking to his nation about the Nazis, Churchill growled: "What kind of people do they think we are?" It is easy to imagine what kind of people the Peking government thinks the Ottawa politicians are.

Israelis may be the only people in the West who still understand that it is dangerous to be hated but doubly dangerous to be despised. If Israel's policy of prickly self-respect is contagious, people who say that the West will preserve Israel may have things backward.

COLLAPSE OF AN IDEAL

The modern version of the Olympic Games goes back to the years before World War I, when the world believed that sportsmanship could transcend the pettiness of national rivalries. The ideal has never been fully achieved, and this week, in Montreal, it broke down completely. First, Canada, the host country, refused to let Taiwan athletes compete in the name of the Republic of China. Then 17 African nations pulled out in an effort to have New Zealand excluded because it sent a rugby team to South Africa.

At this point, the U.S. should withdraw from all future Olympics. Out of fairness to its athletes, it should let them compete at Montreal. Then it should put the dream of universal sportsmanship on the shelf and refuse to compete again.

The whole idea of the Olympics collapses when posturing nations are allowed to use the games to score political points. The ancient Greeks saw the Olympics as the symbol of a unifying civilization that embraced all the participants. The modern world unfortunately cannot meet that standard.

BOOK ON HISTORY OF POLAND

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues a book on the history of the Polish people written by one of my constituents. Mr. Bogdan Deresiewicz, librarian emeritus at the University of California at Santa Barbara, has translated the famous "Nuremberg Chronicle" in his book entitled "Sarmatia—The Early Polish Kingdom." This work is one which will instill great pride in all people of Polish descent and great respect in non-Polish Americans. I am proud to offer an analysis of Mr. Deresiewicz's work from the Santa Barbara News-Press, and I highly recommend the work to all interested in European or Polish history.

The article follows:

UCSB SCHOLAR'S NEW BOOK TRACES HISTORY OF POLAND

(By Betsy Watson)

Romanticism, wit, folklore and classical clashes between the forces of good and evil—the stuff that spell-binding novels are made of—are the essence of a scholarly work by Bogdan Deresiewicz, UCSB librarian emeritus and bon vivant of classical philology.

His book "Sarmatia—The Early Polish Kingdom" recounts the principal events which shaped the first 500 years of Poland's existence as an independent kingdom, complete with kings and princes, saints and cities brimming with abundance. Moreover, it is a translation from the original Latin of the "Nuremberg Chronicle," the most lavishly illustrated book of the 15th century and second only to the Gutenberg Bible as the most famous of all incunables. The Chronicle's account is the first recorded history of Sarmatia, Kingdom of Poland.

Deresiewicz, a native Pole and leading authority on the "Nuremberg Chronicle," authenticated the Chronicle's text and the accuracy of its many illustrations through two sojourns to Poland's major cities and libraries under the auspices of the Kosciuszko Foundation.

The author of the Chronicle was Dr. Hartmann Schedel, the physician of Nuremberg at the time that city was a leading unfluence in European life. Begun in the latter part of the 15th century, the Chronicle was intended by its author to be a compilation of all the world's history from the book of Genesis through the date of publication which extended into the reign of Maximilian I.

Schedel, a Renaissance scholar and great humanist, probably took his accounts of Sarmatian life from many mouths, including that of the Latin poet of German origin, Konrad Celtes, since a journey from Nuremberg through "forests full of beasts" appears improbable.

Yet, Deresiewicz found the Chronicle's text and illustrations to be amazingly accurate, supported as they are by the many historic documents he reviewed. Of the overall work, he writes in his introduction to the book "The Nuremberg Chronicle is obviously not an original creation of a great historian. Rather, it is a historic compilation undertaken by a great humanist who was in love with his sources."

Such an observation is evident in the diligently translated work which is annotated to clarify the text. It is evident that Sarmatia's chroniclers were as charmed by the riches of such cities as Krakow as they were by its culture, for there are frequent references to its opulence.

Sarmatia itself was described as a "most plentiful land, producing all kinds of fruit and everything which pertains to the nourishment of the human body." The medieval city of Krakow is portrayed through a detailed woodcut, the oldest in existence, and it is said that its citizens were most illustrious "notable for virtue, prudence and courtesy, offering gentleness and hospitality to every traveler freely and intimately."

Krakovian food was described as more sumptuous than that of other regions of Sarmatia, and the Chronicle lauds "a drink made of water boiled with barley and hop" which was in great demand. "If taken according to need and what one is able to bear," the book explains, "there is nothing more appropriate for the nourishing of the human body." A Deresiewicz footnote identifies the drink as beer.

Boleslaw II the Chronicle describes as a cruel despot guilty of abominable and ugly behavior who tormented outstanding citizens with "execrable and horrible punishments." The description is fortified when it recounts the King's "slaughter" of the saintly bishop St. Stanislaw, although the method is disputed by later Polish historians.

Deresiewicz' work also embraces the portions of the Chronicle devoted to Lubeck, now West Germany and Silesia, a part of east central Europe divided between Czechoslovakia and Poland, with its "capital," the city of Nysa. Silesia's "refined civilization" began to develop after the people had accepted the Christian faith, the Chronicle says, though the nobility is said to "aspire to arms and are in love with Mars."

A word should be added about Deresiewicz' translation of the Chronicle dealing with Poland in keeping with the exemplary printing of the original "Nuremberg Chronicle" by the famous printer of the original, Anton Koberger, "Sarmatia—The Early Polish Kingdom" was exquisitely printed in limited edition by the distinguished Plantin Press of Los Angeles. It contains five reproductions of old woodcuts and is bound in cloth.

In a preface to the book, the well known scholar, the late Aleksander Janta, wishes a happy journey to a "beautiful book, destined to give joy and become the pride of collectors, readers, friends."

TRIBUTE TO PHILIP E. HOWARD

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. HEFNER. Mr. Speaker, the veterans of North Carolina and I have suffered a tremendous personal loss upon the accidental death of our distinguished and good friend, Gene Howard.

Words cannot express how much Gene's presence is missed in the House Committee on Veterans' Affairs where he dedicated himself in behalf of all veterans since 1968.

Gene Howard was a quiet man, but he was dynamic in the execution of unselfish service to our Nation's veterans. I extend my sympathy to his family and all his many friends.

I personally depended on Gene's expertise and judgment with regard to the needs and welfare of the veteran. His advice was timely, sound, and of invaluable assistance to me. When I needed help with the recent hearings I held on the VA hospitals in North Carolina, Gene was at my right hand. His efficient organization, comprehensive knowledge of the Veterans' Administration hospital system, and his dynamic energy, resulted in a most productive field hearing which has resulted in improved medical treatment for the veterans of North Carolina.

Gene was one of those likeable persons who formed close bonds with his fellow workers and he will be sorely missed by them. He will certainly be missed by the many veterans for whom he has worked so hard. As for me, I have not only lost a good and valuable adviser, I have lost a good and valuable friend.

DON HALDEMAN—AN OLYMPIC GOLD MEDAL WINNER FROM SOUDERTON, PA.

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. SCHULZE. Mr. Speaker, I want to join with the many friends and neighbors of Don Haldeman of Souderton, Pa., in congratulating him on winning a Gold Medal. Don is a 29-year-old tool and die maker from Souderton, Pa., who scored 190 points out of a possible 200 points to take the Gold Medal in the Olympic trap shooting event in Montreal. The Gold Medalist is an Army Reserve Sergeant, was a runner-up in the 1975 Pan American Games at Mexico City, and was a contender at the 1972 Games in Munich.

His father, C. Stanley Haldeman of 511 East Broad Street, Souderton, Pa., was not surprised that his son won the Gold Medal. "He said he was sure he would do better than 1972 and could hold his own with anyone," said the senior Haldeman.

Don Haldeman has engaged in international competition with the American Army and had compared favorably with European trap shooters, according to his father. Don is the first American to win an Olympic Gold Medal in trap shooting since 1924.

His father said:

> He fired his first shot when he was 9 years old. It was just a shoot at a local service club. I let the man in charge show him how to hold the gun and fire it. Even so, he really didn't do much shooting until he got out of high school. Then he went into the Army, tried out for the Olympic team, and made it.

In recognition of Don's victory, Souderton's Mayor, Charles Allebach, has proclaimed Sunday, August 8, 1976, as "Don Haldeman Day." Don will be honored at ceremonies in the Borough Park at 3 p.m. by his friends and neighbors and by local, State, and Federal officials.

All of us are proud of Don and look forward to welcoming him back to Pennsylvania.

SUFFERING IN THE SOVIET UNION

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. ARCHER. Mr. Speaker, a constituent of mine, Mrs. Dorothy Copeland, recently sent me a copy of an article which appeared in the magazine Underground Evangelism, April 1976. The article, entitled "In Memory of a Young Christian Girl," discusses Stefania Kreminska, who suffered at the hands of the Communist officials in the Soviet Union for her religious faith. As we remembered those individuals enduring hardships under Communist dictatorships during Captive Nations Week—July 18–24—the story of Stefania Kreminska is one outstanding example of the power of faith in the face of tyranny. I would like to enter the article in the CONGRESSIONAL RECORD:

IN MEMORY OF A YOUNG CHRISTIAN GIRL

In loving remembrance of Stefania Kreminska, 17-year-old Russian Believer who died on May 7, 1975.

She loved the Lord, and, in her youthful joy and enthusiasm, witnessed for Him, standing true even in the face of bitter persecution. This was her "crime," for which she was repeatedly arrested, dying mysteriously of unknown causes following her final arrest and release.

Beloved of her parents and seven brothers and sisters, Stefania is now with her Lord and Saviour, another young Russian who suffered for His name's sake.

We, her brothers and sisters in the Lord, around the world, hold her in loving memory. We take new courage from her noble example and steadfast faithfulness to the Lord Jesus Christ, even unto death.

"*. . . . the righteous shall be in everlasting remembrance.*" . . . PSALM 112:6

THE FACTS

Stefania Kreminska, a beautiful 17-year old Russian Christian, was repeatedly arrested by the Soviet police for her Christian witness. Each time, though severely mistreated, she refused to deny her faith, and, apparently, was regarded by the police as "incurable."

After her final arrest, she was subsequently released to her home, where, only a few days later, she became unconscious and died of an unknown cause under very mysterious circumstances.

One who talked with the father personally, reports that the parents strongly feel their heretofore healthy daughter, died as a result of mistreatment at the hands of the Soviet police.

Despite police refusal to permit a Christian funeral, Stefania's family and friends gave her a Christian burial, which was an impressive witness to the whole area.

WHERE WILL IT STOP?

Moiseyev . . . Biblenko . . . perhaps even Stefania Kreminska. These are but a few of the Russian Believers who recently have made the supreme sacrifice for their Christian faith. The violent persecution of Christians goes on and on, year after year, month after month. Young and old alike pay dearly, often with their very lives, in their willingness to follow Christ at any cost.

But where are the cries of an outraged church, raised in righteous indignation on their behalf? Where are the voices of their fellow-Believers in the Free World, crying out in loving compassion and concern for the suffering body of Christ?

Where are the indignant cries of an infuriated Christian world community, the shocked protests against these monstrous crimes? Where are those who care, who will no longer tolerate the flagrant violations of the rights of our Christian brethren in Soviet Russia, persecuted for their faith?

We thank the Lord that there are those, like you, who do care, who are concerned enough to do something on behalf of the Persecuted Church behind the Iron Curtain.

REFLECTIONS ON THE IRISH QUESTION

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. WALSH. Mr. Speaker, the heritage of the Irish has played an enormously important role in the history of the United States.

Those who "wear the green" have been instrumental in building railroads and canals, winning World War I and World War II, in building a nation, and winning justice.

Those of Irish descent have been at the forefront in nearly all fields of endeavor: John Barrymore in drama, John L. Sullivan in sports, James Joyce in literature.

Today, the island of Ireland is twisted by turmoil. A tragic war has raged on at the northern end of the Emerald Isle for many long years. The battle in Northern Ireland ranks as one of the cruelest conflicts the 20th century or any other era has ever experienced.

The president of the New York State Board of the Ancient Order of Hibernians in America, an organization dedicated to upholding the Irish tradition in the United States, is Thomas D. McNabb of Auburn, N.Y., in the 33d Congressional District. He has forwarded an article to me entitled, "Why the Irish Question Should Be of Concern to the United States." I pass this essay on to you as a collection of ideas that must be considered in dealing with the conflict in Northern Ireland.

WHY THE IRISH QUESTION SHOULD BE OF CONCERN TO THE UNITED STATES

(1) In order to prosecute her war in Northern Ireland, England has found it necessary to withdraw troops and equipment from her North Atlantic Treaty Organization (NATO) commitment, most notably the British Rhine Army opposing the Russian Red Army in Germany. This action places an added military and financial burden upon the United States and weakens NATO vis a vis the Communist threat, just so that England may be able to maintain a police state in her oldest overseas colony.

(2) The government of the United Kingdom presently owes to the United States $14.1 billion in unpaid debts. Conservative estimates place the cost of waging war in Northern Ireland at $1 million per day. Until England pays her debts the burden must be borne as a part of our own national debt, that is, paid by the U.S. taxpayer in the form of either increased taxation or inflation. In other words, all Americans (including Irish-Americans) are indirectly subsidizing the British war effort.

(3) At the request of the British government, agencies of the United States government are aiding the British war effort by: domestic intelligence activities aimed at possible sources of support for the cause of Irish Freedom in America; training Royal Marine Commandos at Camp Lejeune, N.C. in preparation for their return to duty in Northern Ireland; permitting the sale and export of war materials to be used by British forces waging war in Ireland, e.g., the infamous "rubber bullets"; harassing and imprisoning Americans suspected of aiding the cause of Irish Freedom, specifically but not exclusively five New Yorkers transported to Forth Worth, Texas and incarcerated without charge or trial in the Federal Correctional Institution (prison) at Seagoville, Texas (two thousand miles from their families) for refusing to incriminate themselves before a Federal Grand Jury (which the government later admitted in Congressional hearings could have resulted in their extradition to England on suspicion of conspiracy charges) which is acting more the part of the Grand Inquisitors of sixteenth century Spanish infamy (the cases of Daniel Cahalane of Philadelphia and Robert Meisel of San Francisco are also in this category); denial of entry visas into the United States for Irish Republican leaders while permitting Unionist extremists to tour freely. This is hardly the "neutrality" which the State Department alleges to be official U.S. policy on the Irish question.

(4) During the recent conflict in Southeast Asia England profited through selling war material to the Communist regime in North Viet Nam. Only the Soviet Union had more ships calling in at Haiphong. A direct result of this war profiteering was a prolongation of the war, of the suffering on all sides, and an increase in battlefield deaths. That is to say, English trade with Red North Viet Nam not only strengthened our Communist adversaries, it also cost in American lives and American blood. Is this the conduct we should expect from an ally? Do they expect us to reciprocate in kind?

(5) Since the time of Thomas Jefferson and George Washington the United States has enjoyed a reputation as a defender of liberty. By supporting England's attempts to keep part of Ireland within the British Empire that reputation becomes tarnished, particularly in the eyes of the newly emerging nations of the "third world." It is especially inconsistent after the expenditure of so much blood and treasure for the ostensible purpose of securing the right of national self-determination for the peoples of Indo-China.

(6) We must realize that the current conflict in Ireland is ultimately a legitimate extension of the continuing Irish was for independence, and that the only real, just, and lasting solution to the Irish Question is a new, free and independent, federal united Ireland. We must recognize and insist upon the right of the Irish people to national self-determination.

(7) The cause of peace and Irish freedom is a just cause and is recognized as such by a growing number of Americans including a great number of Irish and Irish-Americans whose sacrifices help build and defend the United States.

EXPLANATION ON MISSED VOTES

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. DU PONT. Mr. Speaker, on Monday, July 26, I had to return to Delaware early and missed three recorded votes in the House. Had I been present, I would have voted in the following manner:

Rollcall No. 545, "aye".
Rollcall No. 546, "aye".
Rollcall No. 547, "aye".

HOUSING POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. HAMILTON. Mr. Speaker, the Congress is one step away from approving new housing legislation. The House has approved a conference report on the 1977 housing authorization bill, and the Senate is expected to do so right after the July congressional recess. The President has indicated his unhappiness with the bill, especially a provision renewing the public housing program, but he has not firmly promised a veto.

Few matters of public policy have proven more difficult for the Congress than housing. Nobody seeems to know what to do about low-income housing and even the experts are raising questions about future directions for housing policy: How much, overall, can the United States afford to subsidize housing? Is it better to construct housing for low-income families or give them cash to rent or buy housing? Does the small mortgage interest rate subsidy for middle-income home buyers really increase the production of housing? Which elements of the population should be the beneficiaries of the housing subsidy?

Present housing policies are directed at several goals: better housing for low-income families, reducing the cost of home ownership for families of all income levels, and increasing activity and employment in the construction industry. To achieve these goals the Federal Government spends a lot of money. This year the Nation will spend about $2.6 billion for housing assistance to lower-income families, about $1.4 billion for credit and insurance programs, and about $10.4 billion in tax expenditures—that is, loss of tax revenues—in the form of income tax deductions for mortgage interest and property taxes on owner occupied homes.

The Congress is concerned about several aspects of housing policy. Under present policy, upper and middle income families benefit substantially from Federal incentives. Some low-income families also receive substantial benefits from housing assistance programs, but the group as a whole fares less well. The 2.3 million lower-income households helped by Federal housing programs represents only a small portion of the of the 27.7 million eligible households.

Present policies have promoted primarily new housing, partly to stimulate the housing industry. However, because new housing costs more than the improvement of existing housing, fewer households are assisted with the available subsidy.

Increasingly, the Congress is concerned with the high cost of houses, which prices them out of the reach of more and more families. The median price of a new home is $44,100, up about 12½ percent in the last year. Under the usual financing rules, a prospective homeowner would have to have an annual income of about $25,000 to qualify to purchase such a home. A family with the median income of about $13,000 could not afford to purchase a median priced new home. Rising home costs, high interest rates and soaring utility bills have combined to price many middle income families out of the single family housing market. Families with incomes of $15,000 or less are increasingly dependent on rental markets, and only middle income and upper income families are able to afford homeownership.

Another problem in the housing industry which concerns the Congress is the aggravation caused the industry because the flow of funds into housebuilding depends on the economic cycle. High interest rates tend to drive funds away from the housing market. The financial institutions, then, have trouble attracting and keeping funds, especially in a rising economy.

In an effort to ameliorate these problems, two principal kinds of Federal programs are used: housing assistance programs, and mortgage credit and insurance programs. The housing assistance programs are aimed at lower income households. Presently the largest program is the subsidy to local public housing authorities to cover debt service and operating costs. Potentially, the largest of these programs, however, is the section 8 program which subsidizes rents in new and existing housing. The subsidy is equal to the difference between the rent and 25 percent of the tenant's adjusted income.

The mortgage credit and insurance programs are designed to facilitate homeownership by improving the mortgage market. Under these programs mortgage lenders write mortgages at below market interest rates and then sell them to the Government National Mortgage Association at par values. The Federal Government also issues mortgage insurance and guarantees. Another approach is the interest rate subsidy program, under which the Government pays the difference between the market mortgage interest rate and a rate that varies according to the net income of the occupant.

There are other established Federal programs, including rural housing loans and housing for the elderly. In addition, cash allowances are now being tested in a few regions. This experimental program allows a participant to receive a monthly housing allowance to help pay rental costs.

Through these approaches the Congress wrestles with some of the problems of the housing industry. The fact remains, however, that not enough is being done. The annual construction rate on homes is now about 1.4 million against a need of 2.4 million new units a year for the rest of the decade.

A MEMORIAL TO THE SLAIN ISRAELI ATHLETES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. WAXMAN. Mr. Speaker, I would like to share with my colleagues an article that appeared in the July 20 Washington Post. The Olympic games at one time may have symbolized healthy athletic competition between nationals from around the world, as a substitute one would hope for the political rivalries that have brought nations to war. Unfortunately, the 1972 Olympics became a forum for violence and the 1976 games have become one for international dispute.

I believe that the International Olympic Committee, when it denied a request for a moment of silence for the Israeli athletes slain at Munich in 1972, helped politicize the Olympics and treated the widows who requested such a memorial tribute with unjustified callousness.

By denying the request on the grounds that the memorial would be political, the IOC compromised its ideals, and in fact demonstrated its own hypocrisy. By refusing this gesture of respect to the murdered Israeli athletes of the Munich Olympiad, they have, contrary to their protestations, made a statement which stands as an obscenity in giving recognition to senseless violence as a legitimate form of political expression.

I hope that by sharing this article, my colleagues will take note of a further strain on the record of the Olympics as a vehicle for peaceful competition in the world of athletic achievement:

[From the Washington Post, July 20, 1976]

ANGRY OLYMPIC WIDOW REMEMBERS MUNICH

(By Sally Quinn)

MONTREAL, July 19.—Around her neck she wears a white porcelain heart bearing a prayer in Hebrew. The corner of the heart has been nicked by a bullet.

Her husband, Andrei Spitzer, was wearing the heart when he was killed by Palestinian terrorists four years ago in Munich.

She fingers the heart as she talks, alternately touching it and taking agitated puffs of her cigarette.

Ankie Spitzer is angry. Angry at the International Olmypic Committee, angry at the city of Montreal. She wanted one minute of silence at the opening ceremonies for those 11 Israelis who died in Munich. The committee refused. She is here to protest.

"I saved my money for two years to come here," she said. "At first I thought they were going to have a moment of silence. Then the Jewish-Canadian community decided to have a memorial service. So I came for that. I came for that to represent my husband. And to protest."

She says the head of COJO, the local Olympic committee, told her it wouldn't hold a moment of silence because it didn't want to become involved in politics. This angered her more. "I told him that by not doing it he was doing just that, making it political. I believe this would have reminded the world what happened and that it is the opposite of what the Olympics stand for." She shrugged and sighed. "My friends tell me I'm naive."

Ankie Spitzer is one of three Israeli women who have come here to represent the wives and parents of those killed in Munich. "When I speak, I speak for all of them," she said. "This is not a move against Arabs. One of the widows was even born in Egypt. It is a move against terrorism."

She is short with dark hair cut in an attractive bob; she wears dark aviator glasses, a black shirt and a black and white scarf around her neck. "It's Diane von Furstenberg," and she smiles for the first time. She is 30 but she seems much older. There is hardly any spark of youth or joy left in the face, the gestures. She has been crusading for four years.

Spitzer was born in Holland. She was a fencing student when she met her husband, coach of the Israeli fencing team. He was in Holland teaching. They fell in love, decided to return to Israel, marry and raise a family.

Together they had planned to upgrade the sport of fencing in Israel. She converted to Judaism. They had a baby girl, Anouk, three weeks before he was killed. She was the only wife to come to Munich because she wanted to visit her parents. But the baby became sick and they took her to a hospital in Holland. He returned to Munich, checked out of their hotel room and moved into Olympic Village for the last night of his life.

Shortly after Andrei Spitzer was killed terrorists threatened to kill the baby. So Spitzer, her parents and her baby were removed to Israeli and put under heavy guard.

Since then she has been living on a pension, writing children's books and running a two-week fencing camp in the summer in memory of her husband.

There are those among the Israelis who feel that Ankie Spitzer is obsessed with the memory of her husband, that she should look forward rather than backward, and that she perhaps has gone about publicizing the slain men in the wrong way. That she is too aggressive, too hostile, too intense.

Most of the Israelis agree with her position. The head of their Olympic delegation, Shmuel Lalkin, joined her for the interview. He is 51 now. He, too, looked much older. He has been through four wars, spent two years in prison in Jerusalem, has been in the underground and is a lieutenant colonel in the Israeli Army. He also has been through Munich—in the room next to those who were captured and killed. He prefers not to dwell on it, not to talk about it.

"We don't have any difference in the idea, the subject," he said. "We just have differences in the technique. We all wore black things on our lapels in the opening ceremonies. We had a memorial service. I was in the opinion we don't need a press conference. I tell you the truth, I don't think it's good when you go running around, talkling with each newspaper man."

They disagreed on the press conference. Lalkin felt that the other two women are not strong enough, that it might be emotionally devastating for them to have to relive the details of Munich.

"I came prepared for that," Spitzer said stoically.

"Yes, Ankie," Lalkin replied softly, "but the others aren't."

"I feel very strongly about my husband," Spitzer said. "My daughter is Israeli and my identification with Israel naturally became very strong. Living in Israel is not easy with the financial situation and the security problems. It would be much easier for me to live in Holland. But after what happened I couldn't just say 'goodbye Israel' and go sit in my back yard in Holland."

One of the worst problems Spitzer has is what she calls "the pressure of Israeli society to make widows remarry."

She has no intention of doing anything of the kind.

"Mine," she said, lowering her eyes, "was not just another relationship. If I hadn't been so strongly involved with my husband I wouldn't be doing this. At this moment I'm definitely not open for anything else. . . . Of course I can't preclude anything but now I am living from day to day, trying to make life as pleasant as I can for my little girl, trying to live positively. I'm not sitting in the kitchen crying my heart out, but the memory is there. Even if I became involved with someone else the memory will never be erased. And I have living proof of my husband: My daughter."

She says she finds the role of widow difficult in Israel.

"I still don't know how to behave. I'm just trying to get myself emotionally straightened out. In Israel they feel the whole nation grieves with you but they also feel that life has to go on. The pressure on me is enormous. They feel you should get remarried, they feel life has to go on. If everyone sits down and thinks about their own problems then society wouldn't move on one inch. Israeli society pressures widows for new relationships, new children to be born. For the whole nation I find this very healthy but I personally find this very difficult."

"We have so many widows," murmurred Lalkin, "so many."

"They think I'm very strange," she said.

"Yes," he replied, "We were talking, Ankie and I. I told her I feel that she should remarry. Not forget about it. But think about the future. If she remarried she would be more happy. But she has something very special with Andrei. She has told me the whole story. It's not just that her background is different. Maybe one day she will marry."

"Maybe one day," she said, as if not wanting to disappoint him.

"I'll be at the wedding," he smiled, and hugged her. He looked so sweet, trying to cheer her up, trying to understand.

HEINZ MATHIS SELECTED SHERATON'S GENERAL MANAGER OF THE YEAR

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. SHUSTER. Mr. Speaker, the Sheraton Inn of Altoona is one of central Pennsylvania's most successful new business enterprises. It is truly one of the finest inns of its kind that I have seen and offers fine accommodations and exquisite dining facilities.

The outstanding reputation which the Sheraton Altoona has acquired is far from an accident. It is the result of a highly skilled staff, working conscientiously to provide the best food and lodging humanly possible.

Just recently, the Sheraton Altoona received an additional honor by having its general manager, Heinz Mathis, selected as the Sheraton International's General Manager of the Year of 1975. I want to take this brief moment to congratulate Heinz on his accomplishments and wish him and the whole staff of the Sheraton Altoona continued success in the years ahead.

TWO-YEAR SUMMARY SHOWS FLUCTUATIONS IN THE 10TH DISTRICT OF ILLINOIS

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. MIKVA. Mr. Speaker, food prices in major 10th District grocery stores have increased 13 percent over the past 2 years, but only 3 percent from 1975 to 1976, according to the latest food survey conducted by my staff.

Food prices have fluctuated drastically during the 2 years that the survey has been taken. For example, average meat prices in the 10th District increased more than 30 percent from June 1974 to June 1975 and then decreased almost 9 percent from June 1975 to June 1976.

On June 29, 1974, the average price for eight meat items in the 26 10th District grocery stores surveyed was $9.10. The same eight items cost $12.03 on June 21, 1975, and $10.99 on June 19, 1976.

The eight items that were surveyed at monthly intervals in the last 2 years included sirloin steak, boneless rolled rump roast, pork chops, all beef hot dogs, whole fryer chickens, round steak, ground beef, and bacon.

The price of a 27-item market basket of food and household supplies rose an average of 10 percent from 1974 to 1975 and then rose 3 percent from 1975 to 1976.

The fluctuations, such as the decline in meat prices and the smaller percent rise in general market prices is caused by a variety of factors including price wars between Chicago area food chains, variations in wholesale prices, consumer resistance, weather, and availability of livestock.

The surveys were conducted in Des Plaines, Evanston, Glenview, Lincolnwood, Morton Grove, Niles, Northbrook, Park Ridge, Skokie, Wilmette, and Winnetka. The stores surveyed were Kohl's, National, and Treasure Island members of A & P, Dominick's, Jewel, chains.

Some findings of the survey included:

Over the 2-year-long survey, the Kohl and Dominick chains emerged as having consistently lower prices.

Sirloin steak registered both the largest increase and the largest decrease in price in the last 2 years. It increased 30.1 percent in price from June 1974 to June 1975; and then decreased 22.1 percent from June 1975 to June 1976.

The greatest price increase for a nonmeat item was for a dozen grade A eggs, which increased from 61 to 78 cents or 27.9 percent from June 1975 to June 1976.

My staff has been surveying prices at 26 major supermarkets in the 10th district since June 1974. The only change in the surveyed stores has been the substitution of the National at 290 Golf Mill Shopping Center, Niles, for the National at 279 Lawrencewood, Niles, which closed in May 1976.

The June 1976 survey was conducted

by 11 of my high school interns: Mary Anderson of Des Plaines; Esther Levin, Joe Moore, and Jim Greenberger of Evanston; Claire Weiler of Glencoe; Rick Berman of Northbrook; Dina Ciccia and Bob Wagner of Park Ridge; Chuck Çohn and Larry Shulruff of Wilmette; and Lynn Fitz-Hugh of Winnetka.

The survey results follow:

FOOD SURVEY RESULTS

	June 29, 1974	June 21, 1975	Percent yearly change	June 19, 1976	Percent yearly change
MEAT CASE					
Evanston:					
Dominick's	$9.08	$11.45	26.1	$10.44	−8.8
Jewel	9.24	12.37	33.8	11.28	−8.8
Park Ridge:					
Dominick's	8.86	11.34	30.0	10.61	−6.4
Jewel	9.16	12.43	35.7	10.98	−11.7
Wilmette:					
Jewel	9.24	12.37	33.9	11.08	−10.4
National (Skokie)	9.05	12.48	37.9	10.87	−12.9
National (Central)	9.34	12.38	32.5	11.57	−6.5
Treasure Island		11.38		11.28	−.9
Lincolnwood:					
Kohl's	8.94	10.33	15.5	10.39	.6
National	9.14	12.33	34.9	10.87	−11.8
Winnetka:					
A. & P.	9.24	12.45	34.7	11.40	−8.4
Jewel	9.24	12.37	33.9	11.54	−6.7
Northbrook:					
Jewel	8.97	12.47	27.0	11.62	−6.8
National	9.18	12.35	34.5	10.88	−11.9
Des Plaines:					
Dominick's	8.80	11.44	29.5	9.91	−13.0
Jewel	9.16	12.45	35.9	10.76	−13.6
National	8.90	12.37	39.0	10.74	−13.1
Niles:					
Jewel	9.12	12.37	35.6	11.82	−4.4
National	9.09	12.24	34.6	10.89	−10.9
Morton Grove:					
Dominick's	9.06	11.45	26.4	10.36	−9.5
Jewel	9.24	12.47	35.0	11.50	−7.7
Glenview:					
Dominick's	9.10	10.95	20.3	10.54	−3.7
National	8.90	12.43	39.7	11.58	−6.8
Skokie:					
Dominick's	9.10	11.14	22.4	10.45	−6.2
Jewel	9.24	12.37	33.9	11.44	−7.5
National	9.04	12.66	40.0	10.87	−14.2
District average	9.10	12.03	32.2	10.99	−8.6
Chain average:					
Dominick's (6)	9.00	11.29	25.4	10.38	−8.1
National (8)	9.08	12.40	36.6	11.03	−11.1
Jewel (9)	9.18	12.41	35.2	11.33	−9.5
A. & P. (1)	9.24	12.45	34.7	11.40	−8.4
Kohl's (1)	8.94	10.33	15.5	10.39	.6
Treasure Island (1)		11.38		11.28	−.9

	June 29, 1974	June 21, 1975	Percent yearly change	June 19, 1976	Percent yearly change
MARKET BASKET					
Evanston:					
Dominick's	$17.87	$19.49	9.1	$20.01	2.7
Jewel	17.95	19.48	8.5	20.14	3.4
Park Ridge:					
Dominick's	17.81	19.44	9.1	19.81	1.9
Jewel	18.00	19.48	8.2	20.24	3.9
Wilmette:					
Jewel	17.97	19.50	8.5	20.34	4.3
National (Skokie)	17.82	20.44	14.7	20.46	0.1
National (Central)	17.73	20.59	16.1	21.21	3.0
Treasure Island		19.70		20.35	3.3
Lincolnwood:					
Kohl's	17.77	19.27	8.4	19.48	1.9
National	18.14	20.38	12.3	20.40	.1
Winnetka:					
A. & P.	17.76	19.81	11.5	20.15	1.7
Jewel	17.95	19.47	8.5	21.08	8.3
Northbrook:					
Jewel	17.82	19.58	9.9	20.07	2.5
National	18.17	20.13	10.8	20.48	1.7
Des Plaines:					
Dominick's	17.81	19.30	8.4	20.03	3.8
Jewel	17.68	19.68	11.3	20.23	2.8
National	17.41	20.25	16.3	20.24	0
Niles:					
Jewel	18.01	19.54	8.5	20.84	6.7
National	17.73	19.80	11.7	20.52	3.6
Morton Grove:					
Dominick's	17.77	19.40	9.2	19.61	1.1
Jewel	17.91	19.58	9.3	20.55	4.9
Glenview:					
Dominick's	17.81	18.98	6.6	19.69	3.7
National	17.71	20.25	14.3	20.87	3.1
Skokie:					
Dominick's	17.69	19.00	7.4	19.83	4.4
Jewel	18.01	19.48	8.2	20.32	4.3
National	18.05	20.23	12.1	20.42	.9
District average	17.86	19.70	10.3	20.31	3.1
Chain average:					
Dominick's (6)	17.53	19.27	9.9	19.83	2.9
National (8)	17.84	20.26	13.6	20.57	1.5
Jewel (9)	17.92	19.50	8.8	20.49	5.1
A & P (1)	17.76	19.81	11.5	20.15	1.7
Kohl (1)	17.77	19.27	8.4	19.48	1.9
Treasure Island (1)		19.70		20.35	3.3

AVERAGE PRICES FOR 10TH CONGRESSIONAL DISTRICT—INDIVIDUAL ITEMS SURVEYED

	June 29, 1974	June 21, 1975	Percent yearly change	June 19, 1976	Percent yearly change
Sirloin steak	$1.53	$1.99	30.1	$1.55	−22.1
Rump roast	1.44	1.77	22.9	1.48	−16.4
Pork chops	1.42	1.87	31.7	1.91	2.1
Hot dogs	.99	1.23	24.2	1.29	4.9
Chicken	.47	.67	42.6	.63	−6.0
Round steak	1.38	1.71	23.9	1.38	−19.3
Ground beef	.90	1.05	16.7	.98	−6.7
Bacon	.98	1.74	77.6	1.77	1.7
Bananas	.19	.26	36.8	.27	3.8
String beans	.54	.64	18.5	.59	−7.8
Lettuce	.57	.47	−17.5	.57	21.3
Eggs	.62	.61	−1.6	.78	27.9
Milk	.74	.70	−5.4	.79	12.8
Cheese	1.02	.99	−2.9	1.10	11.1
Cottage cheese	.59	.68	15.3	.78	14.7
Bread	.54	.50	−7.4	.57	14.0

	June 29, 1974	June 21, 1975	Percent yearly change	June 19, 1976	Percent yearly change
Crackers	$.60	$.59	−1.7	$.64	8.5
Cereal	.76	.69	−9.2	.73	5.8
Frozen vegetables	.42	.47	11.9	.51	8.5
TV dinner	1.48	1.33	−10.1	1.28	−3.7
Orange juice (frozen)	.62	.61	−1.6	.66	8.2
Canned peaches	.50	.59	18.0	.61	3.4
Vegetable shortening	.70	.71	1.4	.60	−15.5
Catsup	.49	.56	14.3	.62	10.7
Peanut butter	.61	.63	3.3	.69	9.5
Gelatin	.16	.24	50.0	.21	−12.5
Soup	.22	.21	−4.5	.21	0
Dog food	.33	.32	3.0	.32	0
Paper towels	.59	.63	6.8	.69	9.5
Detergent	1.09	1.26	15.6	1.36	7.9
Aluminum foil	.77	.82	6.5	.95	15.8

NEED FOR CONGRESSIONAL ACTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. RANGEL. Mr. Speaker, our recent override of the public works employment bill was a welcome sign that this Congress will not be forced into a political stalemate as a result of President Ford's tendency to veto important social legislation.

We cannot, however, afford to bask in the sunlight of this accomplishment. Much still remains to be done in this Congress and the time is growing short. As the following editorial from the New York Times makes clear, the Congress has been unable to unite on some of the most important pieces of legislation which it has considered. As a result, our efforts at tax and welfare reform, gun control, and health insurance have remained unconsummated. The blame cannot only be laid at the feet of the President. It is time for the Congress to act swiftly and vigorously to enact these much needed reforms.

The editorial follows:

ISSUES, NOT LAWS

With the next election barely three months away, Congress returned to work last week for what is likely to be little more than a mopping-up session.

The morale of the Democratic majority rose sharply, however, when it was able by large margins to override President Ford's veto of the public works jobs bill. This was the ninth time Congress has overridden Mr. Ford. Although this 94th has not been a "veto-proof" Congress, it has been the most successful in recent memory in overriding vetoes.

The two main objectives of the public works bill, on which we have previously commented are to create 200,000 jobs, mostly in the long-depressed private construction industry, and to help states and localities with high unemployment to maintain existing levels of police, fire, sanitation and other essential services.

As Speaker Albert observed in the House debate, President Ford used the same arguments—inflation, excessive bureaucracy and the belief that recovery would come before the program could have much effect—that President Hoover had set forth in vetoing an emergency public works bill passed by the Democratic-controlled Congress in 1932. With unemployment still hovering around 7 percent, Democrats clearly intend to load up Mr. Ford with the bad memories of the 1930's.

On many other fronts, however, Congress has encountered persistent frustration. The Senate is currently demonstrating that it is as nearly impossible for the legislative branch to write its own tax reform law as it was in an earlier era to enact its own tariff law. There are just too many competing and conflicting pressures from a multitude of special interest groups; the result is stalemate rather than consensus. After the House approved an inadequate tax bill that included at least some reforms, the Senate Finance Committee busied itself unraveling most of the gains and stitching in new loopholes.

Although the tax issue has yet to be resolved, it is probable that taxes will join health insurance, welfare reform, gun control, and strip mining on the list of intractable issues.

Election of a President with a fresh mandate in November offers hopes of leadership necessary to reach a national decision on these questions. In addition to the broad economic issue that Democrats have tried so hard to develop, an equally important issue in the coming election may be whether the voters want to resolve these questions or to continue a regime in which control is divided between the two parties and therefore veto-and-stalemate so often become the order of the day.

A FEDERAL CHARTER FOR THE WORLD WAR I OVERSEAS FLYERS

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. KASTEN. Mr. Speaker, on June 10, 1976, I introduced a resolution to designate the week of October 3, 1976, as World War I Overseas Flyers Week. In my introductory remarks I brought to the attention of my colleagues the distinguished service rendered for our Nation and the free world by the men who qualify for inclusion in the organization by virtue of their service to allied air commands in World War I.

Today, I ask my colleagues to consider another tribute to these veterans who pioneered the field of military aviation. I am introducing for appropriate reference a bill to grant a Federal charter to the World War I Overseas Flyers.

It would be a fitting tribute in the Nation's Bicentennial if Congress were to extend this singular honor to a group of brave men who are still dedicated to "promote peace and goodwill among the peoples of the United States and all the nations of the Earth; to preserve the memories and incidents of the air service of the great war 1917–18; to cement the ties of love and comradeship born of the service."

These are the stated aims of the organization and I believe, Mr. Speaker, they are deserving of memorializing by the U.S. Congress. I hope my colleagues will join me in supporting this bill granting them a coveted Federal charter.

A MODEL USED OIL RECYCLING ACT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. VANIK. Mr. Speaker, last month the United States imported more crude oil from foreign countries than ever before—over 6 million barrels of oil per day. Despite all the rhetoric of the now-forgotten "energy crisis," we Americans have grown increasingly dependent upon foreign oil as a major energy source.

However, I believe there is a solution—conservation, which includes among many other purposes the recovery and reuse of used lubricating oil. The only part of crude oil which can be easily recycled is lubricating oil. Lubricating oil, used in engines of all sorts, can be reused a number of times. An estimated 100 million gallons of valuable used lube oil is thrown out each year by car owners alone. Business and Government waste another 400 million gallons a year.

When this oil is thrown out, it is detrimental not only to our economy but also to our environment. Waste oil which is indiscriminately disposed of can pollute water supplies. When waste oil is burned, airborne pollution is created.

Under the authority of the Energy Policy and Conservation Act, the FEA is presently encouraging State and local governments to include oil recycling in their State energy conservation programs. In the fall the FEA is going to offer an oil recycling kit which will assist local and statewide community organizations in forming recycling projects.

I believe oil recycling should be an effort initiated primarily by State and local governments. I have recently learned of a new and important initiative to improve waste oil recovery. The Environmental Law Institute under contract to the FEA has prepared "A Model Used Oil Recycling Act" for State and local governments. I believe this legislation, which was prepared by William A. Irwin of ELI, represents a direct, uncomplicated and, yet, comprehensive answer to the chronic problem of indiscriminate waste oil disposal.

I am hoping that my colleagues will bring this important model bill to the attention of their constituents as well as State and local government officials in their States. This model bill is available by request at FEA–C, Industrial Programs/Used Oil, Washington, D.C. 20461.

I would like to point out that this bill is adaptable to both State and local governments. For example, local governments may want to defer to the State regarding the licensing of used oil collectors and recyclers. In this case, a law which would build the foundations for effective recycling programs, with the exclusion of licensing provisions, could be formed by putting together sections 1–7, 11(a), (f), 12, and 13 through 16. However, the full bill would provide a comprehensive system for flexible control over oil recycling, especially at the State level.

Mr. Speaker, in an effort to assist Members, I am at this time printing the text of this model bill under its title: "A Model Used Oil Recycling Act."

The article follows:

H.R. —

A bill to encourage recycling of used oil

SHORT TITLE

SECTION 1. This Act may be cited as the "Used Oil Recycling Act."

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Sec. 9. Licenses for Used Oil Recyclers.
Sec. 10. Special Permits for Other Uses or Disposal.
Sec. 11. Administration.
Sec. 12. Recycled Oil Products.
Sec. 13. Enforcement and Penalties.
Sec. 14. Severability.
Sec. 15. Repeal.
Sec. 16. Effective Date.

DEFINITIONS

Sec. 2. As used in this Act:

(a) "used oil" means a petroleum-based oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties;

(b) "recycle" means to prepare used oil for reuse as a petroleum product by refining, rerefining, reclaiming, reprocessing or other means or to use used oil in a manner that substitutes for a petroleum product made from new oil, provided that the preparation or use is operationally safe, environmentally sound, and complies with all laws and regulations;

(c) "Director" means the [chief executive officer] of [the agency for environmental protection];

(d) "person" means any individual, private or public corporation, partnership, cooperative, association, estate, municipality, political or jurisdictional subdivision, or government agency or instrumentality.

FINDINGS

SEC. 3. The [legislature; council] finds that [millions] of gallons of used oil are generated each year in the [State; municipality]; that used oil is a valuable petroleum resource which can be recycled; and that, in spite of this potential for recycling, significant quantities of used oil are wastefully disposed of or improperly used by means which pollute the waters, land and air and endanger the public health and welfare.

POLICY

SEC. 4. Used oil shall be collected and recycled to the maximum extent possible, by means which are economically feasible and environmentally sound, in order to conserve irreplaceable petroleum resources, preserve and enhance the quality of natural and human environments, and protect public health and welfare.

PROHIBITIONS

SEC. 5. (a) No person shall collect, transport, transfer, store, recycle, use, or dispose of used oil in any manner which endangers the public health or welfare, or violates any law or regulation.

(b) Disposal of used oil by discharge to sewers, drainage systems, surface or ground waters, watercourses, or marine waters; or by incineration or deposit on land, unless in accordance with a special permit authorized by section 10, is prohibited.

PUBLIC EDUCATION

SEC. 6. The Director shall conduct a public education program to inform the public of the needs for and benefits of collecting and recycling used oil in order to conserve resources and preserve the environment. As part of this program, the Director shall:

(a) adopt rules, in accordance with section 11(a), requiring sellers of more than 500 gallons of lubricating or other oil annually in containers for use off the premises to post and maintain at or near the point of sale durable and legible signs informing the public of the importance of proper collection and disposal of used oil, and how and where used oil may be properly disposed of, including locations and hours of operation and conveniently located collection facilities;

(b) establish, maintain and publicize a used oil information center that will explain local, state and federal laws and regulations governing used oil and will inform holders of quantities of used oil on how and where used oil may be properly disposed of; and

(c) encourage the establishment of voluntary used oil collection and recycling programs and provide technical assistance to persons organizing such programs.

COLLECTION FACILITIES

SEC. 7. The Director shall by rule adopted in accordance with section 11(a) prescribe means for the provision of safe and conveniently located collection facilities for the deposit of used oil by persons possessing not more than 5 gallons at one time at no cost to those persons. The Director may require public persons or sellers of more than 500 gallons of lubricating or other oil annually in containers for use off premises, or both, to provide or contract for the provision of such facilities.

LICENSES FOR USED OIL COLLECTORS

SEC. 8. (a) A person who transports more than 500 gallons of used oil annually over public ways, hereinafter referred to as a used oil collector, or any storage facility that receives more than 10,000 gallons of used oil annually from one or more used oil collectors, also referred to as a used oil collector, shall do so in accordance with a license issued by the Director.

(b) A licensed used oil collector shall transfer used oil only to another used oil collector licensed under this section; a recycler licensed under section 9; a person with a valid special permit issued under section 10; or a person outside the [State; municipality].

(c) A licensed used oil collector shall provide a receipt to any person to whom used oil is transferred; maintain a complete record of all such transactions, documented by reproducible receipts, for two years; and make fully available to the Director, upon request, all records and copies of receipts for the purpose of review and audit.

(d) A licensed used oil collector shall submit an annual report to the Director on his activities during the calendar year based on the records kept in accordance with section 8(c). The report shall state simply the quantities of used oil possessed at the beginning and end of the reporting period, the total amount collected and the amounts transferred during this period. The amounts transferred shall be itemized as follows: to collectors, recyclers and special permit holders in the [State; municipality], and by State or foreign country for those persons outside the [State; municipality].

LICENSES FOR USED OIL RECYCLERS

SEC. 9. (a) A person who recycles 5,000 gallons or more of used oil annually shall do so in accordance with a license issued by the Director.

(b) A licensed used oil recycler shall provide a receipt to any person from whom used oil is received; maintain a complete record of all such transactions, documented by reproducible receipts, for two years; maintain records on the quantities of used oil recycled; and make fully available to the Director, upon request, all records and copies of receipts for the purpose of review and audit.

(c) A licensed used oil recycler shall submit an annual report to the Director on his activities during the calendar year based upon the records kept in accordance with section 9(c). The report shall state simply the quantities of used oil possessed at the beginning and end of the reporting period, the total amount received, and the amounts recycled during this period. The amounts recycled shall be itemized as follows: prepared for reuse as a petroleum product; consumed in the process of preparing for reuse, including wastes generated; and other uses specifying each type of use.

SPECIAL PERMITS FOR OTHER USES OR DISPOSAL

SEC. 10. (a) A person who uses or disposes of more than 55 gallons of used oil annually by means other than recycling, including but not limited to road oiling, incineration and landfilling, shall do so only in accordance with a special permit issued by the Director.

(b) A special permit holder shall provide a receipt to any person from whom used oil is received; maintain a complete record of such transactions, documented by reproducible receipts, for two years; maintain records on the quantities of used oil used or disposed of; and make fully available to the Director, upon request, all records and copies of receipts for the purpose of review and audit.

(c) A special permit holder shall submit an annual report to the Director on his activities during the calendar year based on the records kept in accordance with section 10(b). The report shall state simply the quantities of used oil possessed at the beginning and end of the reporting period, the total amount received, and the amounts used and disposed of during the period. The amounts used or disposed of shall be itemized as follows: type of use and method of disposal.

ADMINISTRATION

SEC. 11. (a) The Administrative Procedure Act for other appropriate statute or ordinance governing rulemaking and adjudication applies to all actions taken under this Act.

(b) The Director shall adopt rules in accordance with section 11(a) governing contents of and fees for applications for licenses and special permits under this Act and procedures for review of applications and for issuance, renewal, denial, and revocation of licenses and special permits. These rules shall provide for joint licenses or special permits for persons requiring more than one authorization under this Act or other acts administered by the Director. The Director shall also adopt rules prescribing provision of receipts, the keeping of records and the filing of reports by license or special permit holders.

(c) The Director shall issue a license or special permit upon determining that the proposed means for collection, transport, transfer, storage, recycling, use, or disposal is operationally safe, environmentally sound and consistent with the policy of this Act and shall impose terms in a license or special permit requiring the license or special permit holder to install or effect controls, processes, or practices necessary to insure continuous compliance with existing laws and regulations.

(d) A license or special permit shall be valid for one year, but may be renewed upon application.

(e) The Director shall prepare and submit an annual report to the [legislature; council], based in part on information submitted in accordance with sections 8(d), 9(c), and 10 (c), summarizing information on used oil collection and recycling, licenses and special permits, analyzing the effectiveness of the Act's provisions in implementing the policies of section 4, and making recommendations for necessary changes in the provisions or their administration.

(f) The Director shall fully implement all sections of this Act as soon as practical, but in no event later than two years after the effective date of this Act.

RECYCLED OIL PRODUCTS

SEC. 12. (a) A person may represent any product made in whole or in part from used oil to be substantially equivalent to a product made from new oil for a particular end use if substantial equivalency has been determined in accordance with rules prescribed by the Federal Trade Commission under section 383(d)(1)(A) of the Energy Policy and Conservation Act, P.L. 94–163, or if the product conforms fully with the specifications applicable to that product made from new oil. Otherwise, the product must be represented as made from previously used oil.

(b) All officials of this [State; municipality] shall encourage the purchase of recycled oil products represented as substantially equivalent to products made from new oil in accordance with section 12(a).

ENFORCEMENT AND PENALTIES

SEC. 13. (a) The Director shall enforce compliance with the provisions of this Act and with the terms of licenses and special permits issued in accordance with this Act.

(b) The Director is authorized to employ the following means of civil enforcement: inspection of the operations of a license or special permit holder; issuance of an administrative order directing specified actions in accordance with a specified schedule; imposition of a civil administrative penalty of up to $500 per day for each violation; revocation of an issued license or special permit, after providing an opportunity for a hearing; and a civil action seeking equitable relief or civil penalties of up to $1000 per day for each violation or both.

(c) A person who violates sections 5 or 12, or any term of a license or special permit issued under this Act, is guilty of a misdeanor and may be fined up to $5000 per day for each violation.

SEVERABILITY

SEC. 14. If any provision of this Act or the application of it to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

REPEAL

SEC. 15. The following acts are repealed:

EFFECTIVE DATE

SEC. 16. The effective date of this Act is 90 days after the date of enactment.

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

HON. ALLAN T. HOWE

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. HOWE. Mr. Speaker, the 1972 amendments to the Social Security

Act called for the creation of professional standards review organizations—PSRO's—to insure more efficient and economical health care for patients covered under medicare and medicaid. Under the provisions of the act, local communities would establish PSRO's composed of professional medical personnel to review health services and treatment in the area and make sure that this health care meets reasonably acceptable standards of quality.

Many communities in the nation are still in the planning stage on this project, but my own State of Utah has proved to be a pioneer in the field and was the first State to receive conditional designation of a PSRO. Dr. Louis Schricker, Jr., who is president of this organization, recently called my attention to an article in the American Medical News on the success of the Utah PSRO. Since many have raised questions about the appropriateness of peer review through PSRO's and since this article contains a very frank assessment of Utah's program, I am submitting it for the information and perusal of my colleagues in the Congress:

PSRO—Fighting Words in Utah, But They're All in Favor of the Program

It's almost as hard to find someone who will knock the Utah Professional Review Organization as it is to find someone who knows what a PSRO is—and/or is going to be.

Utah got on the PSRO bandwagon early. As the home state of PSRO's congressional sponsor, now-retired Republican Sen. Wallace Bennett, Utah and its physicians made a commitment to formalized review at a time when most MDs were dead set against it.

The Utah State Medical Assn. established UPRO in 1971, and it became one of the first and most successful Experimental Medical Care Review Organizations, the government-funded review agencies created in anticipation of the 1972 PSRO legislation.

In 1974, UPRO was designated a conditional PSRO, with responsibility for review of institutional services under Medicare-Medicaid. And it is anticipated that this May 1, UPRO will be among the first full-fledged PSROs the federal government will authorize.

It is, then, a model of sorts for the PSRO program, and offers several lessons for others.

During a two-day visit to Salt Lake City, AMN visited with UPRO leaders, hospital administrators, private subscribers, even a critic or two.

The impression:

Utah believes in PSRO, although it is readily conceded that there are as yet no hard statistics to back up a belief in progress.

The program's major contribution so far is that physicians have committed themselves to peer review. The commitment is proving contagious among nurses, hospital administrators, third-party payers, and others.

The Utah success can probably be transplanted to other states of sparse population, and parts of it may be applicable to all areas.

The intensity of the Utah experience has raised more questions than it has answered about formalized medical review and PSROs.

First, a quick sketch of how UPRO works.

The key UPRO activity is On-Site Concurrent Hospital Utilization Review (OSCHUR), or "Oscar."

(UPRO has an ambulatory care evaluation project conducted under Medicaid, but the hospital-based OSCHUR is the most important, and this report uses "UPRO" and "OSCHUR" interchangeably.)

In reviewing 40,000 hospital admissions annually, 90% of which are Medicare-Medicaid and represent one-fourth of all the state's admissions, OSCHUR's key figure is the nurse coordinator.

There are 18 nurse coordinators, all RNs, employed and trained by UPRO. Working under a physician adviser and using medical care criteria developed by physician committees of UPRO, the nurse coordinator monitors the day-to-day care of hospitalized patients. It is the NC who, in effect, raise the flag whenever a patient's care doesn't conform to the peer-generated criteria.

Each NC processes about 10 admissions daily, has an average census of 70 patients. About 15% of these do not meet criteria and are screened out for review.

When a case is screened out, the medical adviser and his committee of consultants, usually chosen from the hospital's medical staff, discuss the case with the attending physician. In only 47 cases of 34,000 studied from 1971–74, did such a discussion fail to determine appropriate care. The number of cases in which certification is withdrawn now runs about 100 a year.

The cost for such review is estimated at $10 per hospitalized private patient, $15 for Medicare-Medicaid. The benefit is considered to be substantial—though unproven.

"The doctors never said PSRO would be cheaper," stresses William Knox Fitzpatrick, MD, president of the state medical society.

"But there's no doubt that physicians do a better job if they know someone's looking over their shoulder. It's just like driving on the highway and keeping up with the prevailing speed rate. Just like if you're taking an exam and that exam is proctored. You're not going to be tempted to cut corners."

A transplanted Atlantan who has been in Utah since the 1950s, Dr. Fitzpatrick says "USMA is solidly behind the PSRO program. It's hard to measure dollar savings, but there's no doubt our physicians are much more aware of cost factors. And an MD-run program is far better than the alternative."

The President of UPRO, J. Louis Schricker, MD, noted that UPRO "has only scratched the surface with what can be done with PSRO."

Noting that the Institute of Medicine had recently visited the Utah operation, Dr. Schricker said, "We'd like to be thought of as a model. We've had wide acceptance in the community and in the profession.

"Although it's true that the PSRO program got off the ground here because of the efforts of a few dedicated physicians, UPRO now has almost every one of the state medical society's 1,200 members signed up." (There are about 1,500 eligible MDs in the state.)

"Either the medical profession had to do it or the government would have stepped in," observed David B. Wirthlin, administrator of Salt Lake City's 570-bed Latter Day Saints Hospital, the largest in the four-state Intermountain Region.

Noting that LDS' average length-of-stay has dropped from seven to six days under UPRO, Wirthlin said, "Such reduced utilization has saved us from having to build a new wing. Our LOS rates were already very low for a teaching hospital, and knocking off a full day is remarkable. Our pre-UPRO review efforts, consisting of limited tissue studies and audit of medical complications, were primitive compared to today's concurrent review."

The general manager for UPRO's largest private subscriber, Educators Mutual Insurance Assn., is Lorin C. Miles Jr. He says simply, "We believe UPRO provides a benefit to the people we serve, the teachers and other personnel of the state school system."

EMIA represents 80,000 members and roughly 1,200 hospital admissions monthly. About one of every five EMIA admissions is reviewed by UPRO. Miles notes that the group's experience has been that lengths-of-stay have dropped by about one-half day under UPRO.

"However," he said, "some statistics don't forcibly support what we think has happened because of UPRO. When UPRO first came out, we thought it made a lot of sense, and were convinced that it's upgrading the quality of care. But there's some dispute as to whether the LOS savings would have happened with or without UPRO."

Miles referred to a study conducted by Arthur D. Little & Co. for the U.S. Center for Health Services Research and Development. The study covered the experience of EMIA subscribers measured against patients not covered by UPRO. It found, in effect, UPRO had "no program effect" on reduced costs and utilization.

Miles added that EMIA intends to get more mileage for its UPRO dollars by concentrating review on medical problem areas and volume hospitals, and eliminating review of such routine procedures as tonsillectomies and obstetrics.

UPRO needs to broaden its base so that subscribers like EMIA aren't, in effect, subsidizing the improved review other patients receive, Miles said.

UPRO leaders, of course, would like to broaden their base, and are actively recruiting.

Miles said EMIA lists indicate it costs about $8.50 per admission to pay for UPRO review. Given a half-day savings in utilization and current hospital rates of $100 daily, this would appear to produce a savings of about $40.

The little study, however, questions whether such savings can be attributed to UPRO.

Paul Bonner, one of the study's authors, told AMN the study covered 1970–73 at hospitals in Ogden, north of Salt Lake City, and Provo, south of Salt Lake City.

The UPRO program for EMIA members went into effect at the Ogden hospitals in July, 1972; none of the Provo hospitals had OSCHUR. Thus, the study covered 30 months before OSCHUR went into effect, 18 months after, and the Provo hospitals served as a control group.

There was no significant effect, Bonner said, on average length-of-stay; admissions and days of care per 1,000 eligibles; or total cost, whether measured per stay, per 1,000 eligibles, or per patient day.

Bonner noted that the study was experimental and that the results are a "valid but 'soft' findings." He pointed out that of all EMCROs studied by the national center, Utah's was among the most impressive.

Savings or not, Sister Joanne Upjohn, administrator of Salt Lake City's Holy Cross Hospital, where UPRO's initial pilot program was launched, contends, "There's been a real change in attitude around here. The doctors are facing up to the fact that they have to take the responsibility of assuring quality care.

"It may just be a gut feeling, but I know that everyone working in this hospital is much more aware of quality factors because of UPRO. I know our board appreciates having some hard evidence of what the doctors are doing to assure quality. After all, the board has a legal—and moral—responsibility to assure that the care delivered in this hospital is of the highest quality." Wilde adds, "Here in Utah, unlike many other states, the doctors and government talked to each other."

Richard Bigelow, MD, a member of the Holy Cross medical staff, stresses that if there is one message UPRO has, it is that "This is the doctors' program. The doctors are in charge, and are leading the way for improved quality."

Pat Wilde, manager of the state's Medicaid Management Information System, supports UPRO with a question: "How else would I answer all the people who ask me if the care being rendered to Medicaid patients is of adequate quality?"

June Orme, RN, the senior nurse coordinator of UPRO and manager of the OSCHUR program, notes that under the traditional retrospective review, "The patient is lost. There is no way his care can be improved once he's left the hospital. We simply try to assure that day-to-day care meets standards; every dispute is really a failure to communicate."

There are some critics.

One is Harold Hargraves, MD, who told AMN, "The whole program is nothing more than a lot of paper shuffling. It doesn't do one iota of good. Most of those nurses could be using their time much better elsewhere, and the whole thing probably costs ten times what it saves."

Most MDS, however, are for it. Dr. Fitzpatrick, whose wife is a nurse coordinator, though never yet at a hospital where he practices, says, "UPRO is here to stay."

UPRO's executive director, David Buchanan, notes that, "The program has raised more questions about peer review than it has answered. Who knows where peer review will be 10 years from now?"

One man who volunteers an answer is Alan Nelson, MD, formerly UPRO's president, and one of the men most responsible for its success. Dr. Nelson, who is a member of the National PSRO Council, said, "You have to consider PSRO's importance in the context, 'compared to what?' "

"The PSRO program today breaks about the same as it did four years ago," Dr. Nelson says.

"About one-third of the country is doing it in spades, about one-third is sitting on the fence, and the other third has a pretty dismal record.

"Ten years from now, the Feds will pretty much leave alone the third that's doing PSRO properly; the middle third will either upgrade their review or suffer the fate of the dismal-performing areas, which will be subject to an Internal Revenue Service-like audit of quality, probably done under a national health insurance program. The government will probably substitute review by a national commission, the federal Bureau of Quality Assurance, a fiscal intermediary, or the state Medicaid agency."

Utah's OSCHUR program, Dr. Nelson stresses, offers an alternative to several negative features of other review systems.

OSCHUR offers positive features such as eliminating punitive review caused by retroactive denial; reducing physician time commitment and paperwork (UPRO data show that only an average 0.16 physician hour is spent per patient screened); paying physicians for their review; eliminating pre-admission certification as a bureaucratic obstacle to legitimate patient hospitalization; and making quality of care clearly a priority over cost-containment, and linking the review effort to quality assessment.

Utah, then, has made PSRO work. How?

"We have a small (1.2 million), homogeneous population," says Dr. Fitzpatrick. "And there's only one medical school, so we have no town-gown rift. That has been a tremendout unifying force. And, don't forget, although Salt Lake City and the area along the Wasatch Front is 'metropolitan,' it's not so metropolitan that we have the problems a lot of other cities do."

"It has worked here, but it's not for Manhattan or Los Angeles or Chicago," observes Buchanan. "I think our program can work in areas with similar characteristics, but I don't know what it would take in some of the huge cities."

The Little study also had reservations about UPRO's success.

For one thing, it noted that the program success was due to the imagination and innovation of a small band of physicians, notably Russell Nelson, MD, who was a close friend and admirer of Sen. Bennett, and to Alan Nelson, MD, (no relation to Russell), "whose charismatic and energetic leadership" was very influential in persuading his colleagues to try the program.

Also, the study spelled out six areas of conflict between the UPRO and "others," including:

The medical specialties, which are wary of any challenge to their professional standards.

The state medical society, which wants to control the UPRO board.

Conservative physicians, who will brook no more control than absolutely necessary.

Commercial health insurance companies, which are concerned about rising administrative costs.

Blue Cross, which is chary of any inroads on its utilization review prerogatives. (The state Blue Cross Plan pulled its 120,000 Federal Employees Policy Group out of UPRO after a two-year contract.)

The state Medicaid agency, which will reject any review program that is incompatible with the wider range of service programs it must administer.

The Little study also questioned whether UPRO's continuing medical education link is really capable of altering physician behavior. Criticisms aside, the study's authors were impressed with UPRO's feat in establishing a PSRO.

And, although there may be no more concrete proof of the feat than Sister Upjohn's feeling that "people are paying a lot more attention to quality issues now and it's all because of the doctors," that's quite a compliment for Utah's physicians.

TRIBUTE TO OUR POSTAL SERVICE EMPLOYEES

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. GINN. Mr. Speaker, our Federal Government is full of flaws and shortcomings, and perhaps no segment of the Federal service has received more criticism than our U.S. Postal Service. But amid all of this criticism, I believe it is important to keep in mind that the vast majority of our postal employees are dedicated public servants who are doing fine work under difficult conditions.

The postal employees who are on the front lines of service are our letter carriers. They are the most visible contact with the Federal Government for the average citizen, and they carry a heavy responsibility.

I am especially proud of the fact that in my own First Congressional District our postal employees are doing their best to render high quality service. One of these outstanding employees, Mr. George Washington, recently retired after more than 35 years in Government service, the last 22 years as postman in the same area of Savannah, Ga. Mr. Washington is active in the Masons, and in many other areas of his community life. He has a reputation among his postal route customers as being highly efficient, but more important he is also known as a friend and a neighbor. Mr. Washington has established during his many years of work a standard of service in which both he and our Postal Service can take great pride. He has recently retired, and on that occasion he took the time to write each of his route customers a letter.

Col. William E. Mock of Savannah has been kind enough to send me a copy of this letter, and I ask that it be placed in the RECORD at this point. Mr. Washington's words to his customers reflects the personal concern and dedication that should be the hallmark for all Federal employees.

The letter follows:

GEORGE WASHINGTON,
Savannah, Ga.

MY DEAR FRIEND AND PATRON: For the past thirty-five years, I've been employed by the Federal Government, and during that time I tried to give the best service possible both as a civilian and as a soldier during World War II.

For the past twenty-two years and seven months I have been the regular postman in this area of the City and watched it grow into a beautiful section of our community, sharing with you the happiness and sorrows because to me we are one big family, and I care about you and what you must endure from time to time.

Now that the time is near for me to say so long as your postman, I would like to inform you that Friday May 7th will be my last day to work before I begin my retirement.

It has been a pleasure for me to know you and to serve you, and do pray that God will continue to bless you and your family wherever they are and that He will allow us to see each other from time to time.

During my final week (Tuesday through Friday) I would like to say a personal so long if possible.

As you can visualize, one looks forward to this day but when it comes you approach it with mixed emotions.

I close this letter to you with the following excerpts of a song:

If I have wounded any Soul today, If I caused someone to go astray. If I walked in my own sinful way Dear Lord Forgive.

God Bless You and Keep You.

YOUR FRIEND AND POSTMAN.

DOUG McALLISTER, STAFF RECEIVE SBA RECOGNITION

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. FUQUA. Mr. Speaker, recently the Jacksonville office of the Small Business Administration, which serves the constituents in my Second Congressional District of Florida, was presented the District Office of the Year award.

This was a dual honor bestowed on the very deserving District Director of this office, Douglas McAllister, as he was also personally commended for his outstanding efforts and achievements in providing equal employment opportunities.

I, too, would like to add my congratulations and laurels to Mr. McAllister and his management staff. For his is an office which is responsive to the needs of the people and one in which we can all be proud.

I can testify to this through many years of experience in which it has been my pleasure to work with Doug on a number of various projects.

When there is a natural disaster, to which Florida often is subjected by hurricanes, Doug McAllister and his team are there as fast, or sometimes even faster, than Civil Defense and Red Cross, on the spot, ready to assist, and always going beyond the call of duty.

Doug is a direct, energetic, and highly resourceful individual who has that outstanding characteristic of stepping forward with ease.

He joined the SBA in 1962 as a loan officer at the Miami District Office, and served as Chief, Financial Assistance Division, from September 1964 to July 1966, when he became District Director at Jacksonville.

The recipient of the Greater Miami Federal Executive Council's Outstanding Federal Service Award for 1965 in the field of supervision, he is decisive and firm, yet fair in his dealings with all persons regardless of race, creed, color, or sex.

Honest, sincere, with the highest integrity, he is meticulously thorough in his work and welcomes responsibility as he continues to broaden his field of knowledge and increase his value for the betterment of the Small Business Administration and service to the people of his district.

As pointed out by his superiors, his support of special hire and Equal Employment Opportunity—EEO—programs, clearly show that this office has used its creativity and imagination to provide meaningful work and employment for many socially and economically deprived people.

It was also noted that his district office has made significant gains in financial and investment assistance to small businesses in north Florida despite the major loan operation following Hurricane Eloise.

According to the SBA, his district office has exceeded its dollar lending goals, and put the office 26 percent above the national average.

In development company lending, the Jacksonville district leads the southeast region and has exceeded its fiscal year goals by 37 percent.

The office successfully met the challenge of Hurricane Eloise. Despite short staffing, it set up a separate disaster loan office which made and dispersed over 450 special loans without impeding the regular work flow, as has been verified by SBA.

This is, indeed, a well deserved tribute to a fine gentleman, a credit to our Government in its service to the people.

REES' RATINGS EARN 100 PERCENT FOR ALL

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. SARASIN. Mr. Speaker, I would like to submit an item of interest, the Americans for Good Habits congressional voting rating, forwarded to me by my good friend and colleague the Honorable Thomas M. Rees of California.

The AGH ratings have effectively and comically illustrated the limitations of any rating system. The benefits and dangers of statistical maneuvering have been revealed through the rating system developed by Representative Rees, and his efforts deserve to be commended and applauded.

I would also like to mention my sadness at the announced departure of Mr. Rees from the U.S. House of Representatives. As a friend and colleague, his presence will surely be missed and regretted. I, especially, will feel the loss of Congress Rees. With his return to California, we may never again score 100 percent on our congressional voting ratings.

For the benefit of my colleagues who may not have seen it, I submit the following explanation of the AGH rating results by Congressman Thomas M. Rees.

Bicentennial Fever Pulls Congress Together—435 Members Score 100 Percent in AGH Voting Rating for Unprecedented 11th Year

With a note of undisguised patriotic pride, and understandable bewilderment, Congressman Thomas M. Rees (Democrat-California) announced before a jam-packed Capitol Hill press conference that for an unprecedented 11th year all 435 members of the House of Representatives scored 100% in the "Americans for Good Habits" (AGH . . .) Congressional Voting Rating. The normally cynical Capitol press corps was speechless over the announcement.

"I don't know whether it's due to the fervent spirit of the bicentennial year or to Congress's renewed interest in sex, but this year's AGH rating is astounding—love and unity prevail," stated Rees. "Last year it took the House until October 21 to develop 16 AGH-rated votes. This year we had hit 27 AGH votes by July 4. I don't know what made last year such a grim one for the AGH Rating—it might have been the nervousness of the new freshman congressional class, or maybe a letdown from the 1974 impeachment crisis. But this year makes up for everything."

"Last year the Eastern establishment press tried to make us believe there was a conflict between President Ford and a Democratic Congress—maybe that's what led us to disunity. But this year the tone of the press has changed. With the format of the Washington Post rivaling that of the National Enquirer, our Nation's Capitol basks in a new atmosphere. What else could account for the 352–0 vote to codify the rules pertaining to the display of the American flag, or the 279–0 vote to continue the Alcohol Abuse Act?"

"While violent partisanship might rage in other places, Congress continues with dedicated zeal to demonstrate its togetherness on such important issues covered by this rating as grain inspection, railway safety, and veterans pensions."

Rees began the AGH Rating System in 1966, his first year in office, when he found that all he did when he was home campaigning was explain why and how he was rated on all the voting rating systems which inundate Washington.

"I never did have a chance to discuss the issues," he stated as he explained the purpose of AGH at the press conference. "I spent all my time during the campaign trying to explain the reason behind the crazy fluctuations in my ratings—from 0% (ACA—Americans for Constitutional Action) to 95% (ADA—Americans for Democratic Action.)"

Rees concluded that all other rating systems were designed to be divisive, that they tore asunder the overwhelming feeling of contentment, goodwill, and togetherness that permeated the congressional chambers. He contended that ACA, ADA, and COPE deliberately chose the wrong issues to rate the performance of congressmen. It was time for AGH to come to the rescue—"The rating system with a heart," the rating system designed to accentuate the positive.

Now Rees, his voice visibly choked with emotion, announced he would be stepping down as founding director of the AGH Rating.

"I'm afraid that 11 years of combined back-breaking work and tension caused by guiding the AGH Rating System through the labyrinth of legislative maneuvering and chicanery has taken its toll. I need a rest. I've decided to leave Congress. After all, there is only so much love and unity one human being can take."

This year the AGH Rating covers key issues carefully chosen by the editorial board. The measures used to evaluate members of the House for the AGH Rating were:

H.R. 3710: To authorize the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia or its environs. 400–0.

H. Res. 967: To provide for the consideration of a bill to amend the Motor Vehicle Information and Cost Savings Act to provide authority for enforcing prohibitions against motor vehicle odometer tampering. 386–0.

H.R. 12455: To extend the maximum period during which recipients of services under titles IV–A and VI of the Social Security Act, may continue to receive services under title XX of that act without individual determinations. 383–0.

H. Res. 1120: To provide for the consideration of a bill to amend the United States Grain Standards Act to improve the grain inspection and weighing system. 295–0.

H.R. 5523: To improve the administration of fish and wildlife programs. 360–0.

H.R. 11505: To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1977. 362–0.

H. Res. 1167: To provide for the consideration of bill to authorize certain construction at military installations. 385–0.

H. Res. 1177: To provide for the consideration of a bill to amend title 37, United States Code, relating to special pay for nuclear qualified officers. 333–0.

H. Res. 1180: To provide for the consideration of a bill to extend and amend the Higher Education Act of 1965, as amended. 362–0.

S. 2498: To amend the Small Business Act to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, and to establish a National Commission on Small Business in America. 392–0.

H. Res. 1191. To provide for the consideration of a bill to extend for 3 fiscal years the programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. 279–0.

H.R. 13367: To extend and amend the State and Local Fiscal Assistance Act of 1972. 358–0.

H. Res. 1274: In response to a subpoena of the United States District Court for the District of Columbia. 338–0.

H. Res. 1272: To provide for the consideration of a resolution to allow all expenses of the Committee on Standards of Official Conduct to be obtained directly from the contingent fund of the House of Representatives upon vouchers signed by its chairman and ranking minority member. 400–0.

H. Res. 1260: To amend the Rules of the

House of Representatives to allow all expenses of the Committee on Standards of Official Conduct to be obtained directly from the contingent fund of the House of Representatives upon vouchers signed by its chairman and ranking minority member. 400–0.

H.R. 11804: To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations. 322–0.

H. Res. 1289: Waiving certain points of order against a bill making appropriations for public works for water and power development and energy research. 363–0.

S.J. Res. 203: To amend the Higher Education Act of 1965. 350–0.

H.R. 14299: Veterans' Disability Compensation and Survivor Benefits Act of 1976. 351–0.

H.R. 14298: Veterans' and Survivors Pension Adjustment Act of 1976, amended. 354–0.

S.J. Res. 49: To codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America, amended. 352–0.

S. 2853: To insure a proper level of accountability on the part of the food stamp vendors; clearing the measure for the president. 407–0.

KEYNOTE ADDRESS

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1976

Mr. CHARLES WILSON of Texas. Mr. Speaker, when BARBARA JORDAN speaks, those within hearing listen. So it is not for the sake of publicizing her that I seek permission to reprint her keynote speech at the Democratic National Convention here in the CONGRESSIONAL RECORD. Rather, I offer it to my colleagues as a permanent record of her vision for the future of our party and our Nation. It is a masterful exposition of our beliefs which we have labored to translate into national policy—equality, democracy, tolerance.

I would guess there are few Republicans in the House who did not watch Ms. JORDAN deliver this speech in New York, and fewer still who did not share our pride in our colleague. Many have said so. The Grand Old Party also has had great leaders, and it is Abraham Lincoln's legacy that inspires hope that one day both parties will be able to join together to fulfill the vision of which BARBARA spoke.

We Democrats in the House proved our regard and respect for the egalitarian procedures of our great convention. We sent the best that we had.

The address follows:

KEYNOTE ADDRESS

One hundred and forty-four years ago, members of the Democratic Party first met in convention to select a Presidential candidate. Since that time, Democrats have continued to convene once every four years and draft a party platform and nominate a Presidential candidate. And our meeting this week is a continuation of that tradition.

But there is something different about tonight. There is something special about tonight. What is different? What is special? I, Barbara Jordan, am a keynote speaker.

A lot of years passed since 1832, and during that time it would have been most unusual for any national political party to ask that a Barbara Jordan deliver a keynote address . . . but tonight here I am. And I feel that notwithstanding the past that my presence here is one additional bit of evidence that the American Dream need not forever be deferred.

Now that I have this grand distinction what in the world am I supposed to say?

I could easily spend this time praising the accomplishments of this party and attacking the Republicans but I do not choose to do that.

I could list the many problems which Americans have. I could list the problems which cause people to feel cynical, angry, frustrated: problems which include lack of integrity in government; the feeling that the individual no longer counts; the reality of material and spiritual poverty; the feeling that the grand American experiment is failing or has failed. I could recite these problems and then I could sit down and offer no solutions. But I do not choose to do that either.

The citizens of America expect more. They deserve and they want more than a recital of problems.

We are a people in a quandary about the present. We are a people in search of our future. We are a people in search of a national community.

We are a people trying not only to solve the problems of the present: unemployment, inflation . . . but we are attempting on a larger scale to fulfill the promise of America. We are attempting to fulfill our national purpose; to create and sustain a society in which all of us are equal.

Throughout our history, when people have looked for new ways to solve their problems, and to uphold the principles of this nation, many times they have turned to political parties. They have often turned to the Democratic Party.

What is it, what is it about the Democratic Party that makes it the instrument that people use when they search for ways to shape their future? Well I believe the answer to that question lies in our concept of governing. Our concept of governing is derived from our view of people. It is a concept deeply rooted in a set of beliefs firmly etched in the national conscience of all of us.

Now what are these beliefs?

First, we believe in equality for all and privileges for none. This is a belief that each American regardless of background has equal standing in the public forum, all of us. Because we believe this idea so firmly, we are an inclusive rather than an exclusive party. Let everybody come.

I think it no accident that most of those immigrating to America in the 19th century identified with the Democratic Party. We are a heterogeneous party made up of Americans of diverse backgrounds.

We believe that the people are the source of all governmental power; that the authority of the people is to be extended, not restricted. This can be accomplished only by providing each citizen with every opportunity to participate in the management of the government. They must have that.

We believe that the government which represents the authority of all the people, not just one interest group, but all the people, has an obligation to actively, underscore actively, seek to remove those obstacles which would block individual achievement. . . . obstacles emanating from race, sex, economic condition. The government must seek to remove them.

We are a party of innovation. We do not reject our traditions, but we are willing to adapt to changing circumstances, when change we must. We are willing to suffer the discomfort of change in order to achieve a better future.

We have a positive vision of the future founded on the belief that the gap between the promise and reality of America can one day be finally closed. We believe that.

This my friends, is the bedrock of our concept of governing. This is a part of the reason why Americans have turned to the Democratic Party. These are the foundations upon which a national community can be built.

Let's all understand that these guiding principles cannot be discarded for short-term political gains. They represent what this country is all about. They are indigenous to the American idea. And these are principles which are not negotiable.

In other times, I could stand here and give this kind of exposition on the beliefs of the Democratic Party and that would be enough. But today this is not enough. People want more. That is not sufficient reason for the majority of the people of this country to vote Democratic. We have made mistakes. In our haste to do all things for all people, we did not foresee the full consequences of our actions. And when the people raised their voices, we didn't hear. But our deafness was only a temporary condition, and not an irreversible condition.

Even as I stand here and admit that we have made mistakes I still believe that as the people of America sit in judgment on each party, they will recognize that our mistakes were mistakes of the heart. They'll recognize that.

And now we must look to the future. Let us heed the voice of the people and recognize their common sense. If we do not, we not only blaspheme our political heritage, we ignore the common ties that bind all Americans.

Many fear the future. Many are distrustful of their leaders, and believe that their voices are never heard. Many seek only to satisfy their private wants, to satisfy private interests

But this is the great danger America faces. That we will cease to be one nation and become instead a collection of interest groups: city against suburb, region against region, individual against individual. Each seeking to satisfy private wants.

If that happens, who then will speak for America?

Who then will speak for the common good?

This is the question which must be answered in 1976.

Are we to be one people bound together by common spirit sharing in a common endeavor or will we become a divided nation?

For all of its uncertainty, we cannot flee the future. We must not become the new puritans and reject our society. We must address and master the future together. It can be done if we restore the belief that we share a sense of national community, that we share a common national endeavor. It can be done.

There is no executive order; there is no law that can require the American people to form a national community. This we must do as individuals and if we do it as individuals, there is no President of the United States who can veto that decision.

As a first step, we must restore our belief in ourselves. We are a generous people so why can't we be generous with each other? We need to take to heart the words spoken by Thomas Jefferson:

"Let us restore to social intercourse that harmony and that affection without which liberty and even life are but dreary things".

A nation is formed by the willingness of each of us to share in the responsibility for upholding the common good.

A government is invigorated when each of us is willing to participate in shaping the future of this nation.

In this election year we must define the common good and begin again to shape a common future. Let each person do his or her part. If one citizen is unwilling to participate, all of us are going to suffer. For the American idea, though it is shared by all of us, is realized in each one of us.

And now, what are those of us who are elected public officials supposed to do? We call ourselves public servants but I'll tell you this: we as public servants must set an example for the rest of the nation. It is hypocritical for the public official to admonish and exhort the people to uphold the common good if we are derelict in upholding the common good. More is required of public officials than slogans and handshakes and press releases. More is required. We must hold ourselves strictly accountable. We must provide the people with a vision of the future.

If we promise as public officials, we must deliver. If we as public officials propose, we must produce. If we say to the American people it is time for you to sacrifice, if the public official says that, we (public officials) must be the first to give. We must be. And again, if we make mistakes, we must be willing to admit them. We have to do that. What we have to do is strike a balance between the idea that government should do everything and the idea, the belief, that government ought to do nothing. Strike a balance.

Let there be no illusions about the difficulty of forming this kind of a national community. It's tough, difficult, not easy. But a spirit of harmony will survive in America only if each of us remembers that we share a common destiny. Each of us must remember when self-interest and bitterness seem to prevail, that we share a common destiny.

I have confidence that we can form this kind of national community.

I have confidence that the Democratic Party can lead the way. I have that confidence. We cannot improve on the system of government handed down to us by the founders of the Republic, there is no way to improve upon that. But what we can do is to find new ways to implement that system and realize our destiny.

Now, I began this speech by commenting to you on the uniqueness of a Barbara Jordan making the keynote address. Well I am going to close my speech by quoting a Republican President and I ask you that as you listen to these words of Abraham Lincoln, relate them to the concept of a national community in which every last one of us participates: "As I would not be a slave, so I would not be a master. This expresses my idea of Democracy. Whatever differs from this, to the extent of the difference is no Democracy".

SOHIO—CRUDE OIL TRANSPORTATION SYSTEM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. ANDERSON of California. Mr. Speaker, I commend to my colleagues in the House a letter I received from Mr. Charles E. Spahr, chairman of the Standard Oil Co., Ohio.

In it, he explains the proposed Sohio crude oil transportation system between the west coast and the remainder of the United States.

In our area of southern California, supertankers heavy with Alaska's North Slope crude oil will eventually terminate within San Pedro Bay, which houses both Ports of Los Angeles and Long Beach. There unloading and distribution of this Alaskan crude will occur.

Sohio's system of making surplus oil available to the United States will: First, have positive and substantial effect on U.S. balance of payments; second, reduce vulnerability to future disruptive foreign actions; third, make Elk Hills and Naval Petroleum Reserves available to the entire United States; fourth, make surplus west coast crude available to proposed strategic storage areas on the gulf coast; and fifth, integrate a national crude oil distribution system.

Considering the importance of this project to our Nation's future energy needs, I urge you to take the time to read it:

THE STANDARD OIL CO.,
Cleveland, Ohio, July 16, 1976.

Hon. GLENN M. ANDERSON,
Longworth House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE ANDERSON: I am writing to you on a matter which not only is of major significance to our Corporation, but which we feel you will agree represents a vital and urgent national need. A good deal of discussion is now being generated in the media, by governmental bodies, in industrial circles, and concerned consumer groups regarding the development of a surplus of crude oil on the West Coast. In January, 1978, with the Trans-Alaska Pipeline operating at its design capacity of 1,200,000 Barrels Per Day (BPD), Sohio estimates an industry-wide West Coast crude oil surplus in the range of 300,000 to 600,000 BPD. Although forecasts much further into the future are somewhat speculative, Sohio has indicated that during the early 1980's a surplus of even larger magnitude is likely to develop.

As an owner of leases which overlie more than 50 percent of the Prudhoe Bay crude oil reserves, the prospect of a surplus is quite significant to us; since 1974 we have been putting forth a vigorous effort to alleviate the problem. After a thorough evaluation of environmental, economic, engineering, and timing considerations, Sohio has selected a pipeline route across the southwestern United States which utilizes existing natural gas lines and ties in with the major U.S. crude oil distribution network near Midland, Texas. From Midland, existing crude oil lines run north, east, and south, providing direct access to approximately 65 percent of the nation's refining capacity. The benefits of converting unneeded natural gas lines for about 800 miles of the 1,000 mile system in terms of minimizing environmental impacts, conserving total resources, providing economic transportation and achieving timely completion are obvious. The southwestern route also allows the construction of required port facilities within the existing Port of Long Beach, thus avoiding the development of port facilities in areas not currently subject to tanker traffic. Initial design capacity for the gas line conversion project is 500,000 BPD.

We are pleased that genuine concern over the consequences of a West Coast surplus is finally developing. Obviously, as expressed by both the legislative and executive branches of government, it is vitally important to the nation that this Alaskan resource be made available to domestic markets. However, it is disturbing to us that much of this discussion is not being conducted in a productive fashion. The reason for this, it appears, is generally a lack of understanding of the facts and issues involved.

Our purpose in writing to you, then, is to clear up any confusion which may exist regarding the relationship between our pipeline project and other more northerly pipeline projects which have been advanced along with other potential solutions to supply Northern Tier refineries as Canadian crude exports are phased out.

Sohio believes that the concept of a pipeline originating on the West Coast and serving the Northern Tier has merit; however, the construction of such a line would in no way eliminate the need for our project. The fact is that neither northern pipeline proposal is an alternative to our project. The reasons underlying the above statement follow:

The first of the northern pipeline proposals consists of a 300,000 BPD pipeline with its western terminus at Kitimat, British Columbia, extending eastward some 800 miles through British Columbia and into Edmonton, Alberta, to intersect with the Canadian Inter-Provincial Lakehead Pipeline System which currently supplies the Northern Tier states with Canadian crude. It is our understanding that this is the solution favored by the Northern Tier refiners. The second proposal consists of an 800,000 BPD pipeline originating at Port Angeles, Washington, extending approximately 1,500 miles eastward across northern border states to tie in with the Inter-Provincial Lakehead System near Clearbrook, Minnesota.

1. The Sohio Project and the northern pipeline projects do not satisfy the same transportation needs nor transport the same crude oil.

The domestic crude oil surplus expected to develop in 1978 following production and delivery of North Slope oil at the 1,200,000 BPD rate will consist of heavy high sulfur oil. Alaskan crude, for instance, has a sulfur content of about 1 percent, and is a fairly heavy crude oil, producing a higher fraction of heavier petroleum products than does a light crude oil. The Northern Tier refineries in Montana, the Dakotas, Minnesota, and Wisconsin have a limited capacity to process crude of Alaskan quality and have traditionally supplemented the relatively high sulfur local production with low sulfur light Canadian crude. Most of the crude oil which will be phased out as Canadian crude exports are curtailed will be low sulfur light Alberta crude.

The Northern Tier refineries are therefore looking for an alternative supply of low sulfur, sweet crude oil; primarily they are looking to a supply of offshore foreign crude oil which is very similar in quality to the Canadian oil being curtailed.

After considering the amount of high sulfur crude which will be available in the Northern Tier states and from Rocky Mountain area production, existing Northern Tier refineries would have a capacity to process a maximum of 150,000–200,000 BPD of crude of Alaskan quality should a northern line be built. Montana and Wyoming have historically exported crude of this quality to Midwestern states such as Indiana and Illinois, and such exports are expected to continue. Unless costly refinery modifications are undertaken by the refiners located along the Northern Tier pipeine route, high sulfur crude in excess of this 150,000–200,000 BPD would have to be transported to refineries in Chicago and further east before it could be refined.

The Sohio Project, on the other hand, is being advanced to provide an efficient method for transporting the surplus West Coast crude to markets which can readily absorb oil of Alaska quality. From Midland, Texas, existing crude distribution lines run north to the Midwest, east to East Texas and other crude distribution lines, or south to the U.S. Gulf Coast. Approximately 65 percent of the nation's refining capacity is located on the major crude oil pipeline network which runs from the Gulf Coast to the Lower Great Lakes. Gulf Coast ports are currently importing well over 500,000 BPD of foreign offshore crude of Alaskan quality.

The Sohio Project also offers the capability for transporting production from Naval Petroleum Reserves from Elk Hills, Buena Vista, and, in the future, Naval Petroleum Reserve No. 4 in Alaska to strategic storage locations in the U.S. Gulf Coast. Under adverse international circumstances, oil delivered to the Gulf Coast via the Crude Oi Project could be made available to vulnerable East Coast refiners.

Finally, it should be noted that there are potential crude oil customers located along the Crude Oil Project route who have no viable alternative means of crude supply. Since initiation of the Crude Oil Project, Sohio has been contacted by parties who are interested in receiving crude oil in Arizona and New Mexico. The state of New Mexico, for example, has requested that Sohio reserve 50,000 BPD of North Slope crude for refining in New Mexico. Another such party is Southern Union Oil Products Company, a New Mexico refiner, who much like Northern Tier refiners, is faced with decreasing supplies from traditional sources.

2. The Sohio Project is expected to become operational in 1978, whereas it does not appear feasible that either northern project will be implemented before the early 1980's.

It is reasonable to expect that due to the more favorable climate, differences in terrain, and length of line to be built, construction time for the northern line will exceed the construction time required for the Sohio gas line conversion project. The management of the Northern Tier Pipeline Project, for example, has indicated that construction of that project will take two years. The Sohio Project is expected to be operational within twelve to fourteen months from the time construction is initiated.

The major timing concern, however, is associated with the numerous and complex environmental and engineering studies which must be conducted to insure that the project is constructed and operated in a manner which is compatible with the environment. While we believe that an environmentally acceptable northern line could be constructed, problems associated with the environmentally sensitive areas crossed by such a project can be expected to result in permitting delays. Our applications for the gas line conversion project were filed nearly a year ago. The Environmental Impact Assessment has been completed and the appropriate Federal and state lead agencies have been at work for some time on the Environmental Impact Statement and California Environmental Impact Report. We still face procedural difficulties in having the authorization process completed by early 1977, even though our project has minimal environmental impact. To our knowledge, no Federal permits have been filed for either of the northern pipeline projects (National Energy Board permit in the case of the Kitimat to Edmonton project). Financing may also present a problem in the case of the Port Angeles to Clearbrook project.

In no event could a northern line be in place in early 1978 when needed to alleviate the expected West Coast surplus. Permitting time for the Canadian project may be less than for a comparable project in the United States; we lack experience in Canadian permitting matters. Realistically, we do not see how the Port Angeles to Clearbrook line could be in place prior to the 1980's even if the necesary financial backing were to come forth promptly.

3. It may be desirable to have pipeline capacity in excess of that offered by the Sohio Project to transport crude surplus to West Coast needs.

Our projections suggest that by the early 1980's the available crude oil surplus to West Coast needs will have reached a level of 700,000 to 800,000 BPD. Our agreements with the natural gas companies allow for expansion of the system to 1,000,000 BPD through the utilization of a second natural gas line—subject, of course, to approval by the Federal Power Commission that the second line is not needed for natural gas service. While the timing and need is somewhat speculative, such an expansion might be required by 1981 or 1982. We believe that construction of a pipeline originating in the Northwest and serving the Northern Tier refiners would delay or perhaps eliminate the need for expansion of our system, and we would consider such a result to be quite favorable.

In summary, the northern pipeline proposals are not alternatives to the Sohio Project. The Sohio Project is designed to transport high sulfur, heavy Alaskan crude oil which will be surplus in West Coast market areas in early 1978 to existing refineries east of California which have the capability to accommodate such a high sulfur, heavy type of crude oil. On the other hand, the Northern pipeline proposals are designed to provide the Northern Tier refineries with an alternative supply of low sulfur, light crude oil similar to the low sulfur, light Canadian crude oil now being curtailed. Because of the limited capacity of Northern Tier refineries to accommodate high sulfur, heavy crude, it can be expected that a large share of the crude which would ultimately flow through a northern line, if built, will be offshore crude similar in quality to the low sulfur, light Canadian crude it is replacing. The Sohio Project and nothern proposals are therefore complementary, not mutually exclusive, but a northern pipeline could eliminate the need for expansion of the Sohio Project.

An understanding of this concept is of vital importance if we are to avoid the prospect of damaging delays in resolving either of these nationally important issues which require independent solutions.

I want to assure you that Sohio intends to continue to move forward vigorously toward the objective of having this important crude oil transportation link in operation when it is needed in 1978. In this regard your assistance in creating an understanding of the need for and nature of our project as well as the need for prompt governmental response to the remaining issues will be most valuable and deeply appreciated.

Sincerely yours,

CHARLES E. SPAHR,
Chairman.

REVISED CODE FOR U.S. FLAG

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. WOLFF. Mr. Speaker, it is fitting that in this 200th year of America's existence as a free nation, we have put intc law a revised code to insure the proper use of our flag.

This joint resolution provides a codification of customs that have already been widely accepted as common practice as to the use of our flag, symbolizing peace, liberty, and justice.

All proud Americans should salute the enactment of this legislation protecting the flag from misuse, and establishing patriotic standards as to saluting and display.

This resolution allows the flag to be flown at night, if illuminated properly, permitting the flag to remain displayed 24 hours a day.

It also disallows the use of the flag as part of any wearing apparel including costumes, uniforms, or dress; or for use for advertising purposes, bedding, or drapery. It does though, permit the use of lapel flag pins, to be worn on the left lapel near the heart.

The rules concerning the display of the flag are also altered by this legislation. The flag, other than when flown from a staff, must be displayed with the union or blue field uppermost and to the observer's left.

If there is only one entrance in a corridor or lobby, the union of the flag should be on the observer's left upon entering. If there is more than one entrance, the flag should be suspended vertically with the union to the north, when entrances are east to west, or to the east when entrances are to the north and south. If there are entrances in more than two directions, the union should be to the east.

Mr. Speaker, I would like to insert in the RECORD the following excerpt from the Judiciary Committee's report on proper display and use of the flag:

Section 1 of the bill is amended by adding language that permits the display of an all-weather flag for a patriotic effect twenty-four hours a day if properly illuminated during the hours of darkness. This has been technically possible for some time because of advances in outdoor lighting and all-weather materials for flags, but the federal code was never adjusted to permit around-the-clock display of the flag.

Section 2 has been updated to indicate our Nation's holidays, their new names, and other changes in dates, to reflect the special days on which the flag should be displayed.

Language has also been added in sections 2 and 3 which reflect efforts by the committee to update the flag code. No longer is the flag, if displayed on a vehicle, to be "clamped to the radiator cap." It must now be affixed to the right fender.

Subsection (i) of Section 3 has been amended to specifically spell out the display of the flag when displayed otherwise than being flown from a staff. When displayed either horizontally or vertically against a wall the union or blue field should be uppermost and to the observer's left.

Section 3(k) has been amended to indicate the importance of the guarantee of religious freedom by the U.S. Constitution. The new language of this section affirms that when both the flag of the United States of America and the flag of the church are displayed on staffs, the flag of the United States should hold the position of prominence and the position of honor at the clergyman's right. Any other flag so displayed should be placed on the left of the clergyman or speaker or to the right of the audience.

Subsection (m) of Section 3 provides for specific language as to when the flag may be flown at half-staff as a mark of respect to the memory of the deceased. It also states specifically who may order the national flag to fly at half staff—no public official below the office of Governor. It also designates those public officials for whom the flag shall be flown at half-staff and the period of time it is to be flown in that position.

Subsection (o) of Section 3 is a new section which describes the proper display of the flag when suspended across a corridor or a lobby inside a building. If only one entrance, the union of the flag should be to the observer's left upon entering. If more than one entrance, the flag should be suspended vertically with union to the north, when entrances are east to west, or to the east when entrances are to the north and south. If there are entrances in more than two directions the union should be to the east.

Section 4, subsection (d) is amended to preclude any use of a flag as a costume or athletic uniform has been deleted. It is included, however, as a new subsection (j) and provides further guidance as to the use of a flag patch affixed to the uniform of military personnel, firearms, policemen, and members of patriotic organizations. A lapel flag pin, if worn on clothing, should be worn on the left lapel near the heart.

Sections 5 and 7 are changed by adding language that women should salute by placing the right hand over the heart during the hoisting, lowering or passing of the flag and during the Pledge of Allegiance to the Flag.

Sections 6, 7, and 8 of the bill simply reiterate existing conduct for salute of the flag and authority for the Commander in Chief of the Armed Forces to alter, repeal, or add rules pertaining to the rule or custom of displaying the flag of the United States whenever he deems it to be appropriate or desirable.

SPEECH BY DR. BASIL VALAVIANOS AT THE DINNER GIVEN IN BEHALF OF THE MEMBERS OF CONGRESS FROM NEW YORK WHO WERE HONORED BY THE ORDER OF AHEPA

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. ADDABBO. Mr. Speaker, on June 24 Prof. Basil Valavianos spoke at a dinner of the American Hellenic Educational Progressive Association. His words, I believe, are important enough for all of us to consider and I would ask unanimous consent that they be included in the CONGRESSIONAL RECORD:

SPEECH BY DR. BASIL VALAVIANOS

Ladies and Gentlemen: The District Leadership of Ahepa should be highly commended for having brought us together in order to honor our Congress-persons. Thus far, little has been done to express the appreciation and gratitude of their constituents for their stand in the case of the Turkish aggression in Cyprus. Actually, such appreciation and gratitude is due them by every patriotic American, not only those of Greek origin, because what they have done and are doing transcends the limits of the wishes of a national minority.

Great nations strive to promote among the other nations of the world the ideas and ideals for which they stand and which in their belief are the best. For several years some of our policymakers are practicing exactly the opposite. They apply in international relations and promote by every means at their disposal the idea and ideals, we supposedly condemn. The fact that we simultaneously pay lip service to our ideals makes no difference—if anything it makes it worse.

It was high time then that someone prove to the world that we believe in and respect our own principles. This was done by the elite of the representatives of the American people who chose to side with the law and condemn the international crime of aggression, to act in accordance with the principles of justice and decency rather than with the demands of opportunistic and dubious considerations denuded of morality and wisdom. They have rendered tremendous service to the American nation. They saved its honor and its good name and they kept alive the hope that, after all, the great country to which the freedom and peace loving nations of the world have been accustomed to look for guidance and support is still there. That hope was nearly extinguished by the policy of open support and encouragement of the aggressor, the policy of apparent disregard of the most elementary precepts of law and morality in international relations.

Policies based on disregard of justice and morality, abusively called "realistic", have brought nothing but disrepute to this country. Far from having been able to solve any of the problems connected with Cyprus, Greece, Turkey, and the Eastern Mediterranean area in general, they only succeeded in completely disorganizing that area and wrecking substantial American interests connected with it. One such interest, perhaps the most important one, is the trust and good will of the peoples living in the area.

As a journalist I visited Greece and other Eastern Mediterranean countries at the end of World War II. Then, the American name enjoyed the greatest respect and there existed all around a genuine and deep affection for everything American. How sadly different is the picture today. Even the Turks who have been so strongly supported by our government, demonstrate against the U.S.; and this is not at all surprising. Aggressors are difficult to please. When one stops supporting their plans and demands one is faced with violent resentments.

Now, who is to blame for the anti-American feelings in Turkey? The Congress which tries to curb the aggressor and save the good name of the country by applying the U.S. laws, or the Administration which encourages the blackmailer by internationally denouncing the Congress and promising things which are against the American laws and the resolutions of the United Nations, not to speak of justice and morality? The responsibility of the Administration is obvious, and here are two more examples of Turkish way of thinking and acting which show the futility of our policies of appeasement so similar of those of Balfour and Chamberlain towards Hitler.

In 1971, Turkey had agreed to terminate opium poppy growing against payment of $35.7 million. After collecting some $15 million, however, in 1974 Turkey breached the agreement and continued the production of poppies. Simultaneously, she unloaded into the market the opium stockpiled during the ban.

When recently, in spite of their continued and increasing aggression in Cyprus, we offered one billion dollars additional assistance to the Turks, their press insultingly complained because we also extended Greece additional assistance in order to maintain some balance of power. We all hope that the Congress will not confirm these agreements, but it is characteristic that Turkish resentment was there long before any action was taken by Congress. This attests to the well known fact that the more you yield to a blackmailer the more demanding he becomes. The followers of the policy of appeasement sooner or later will have to reckon with Turkey's dissatisfaction, perhaps at a time when we need her most.

Far more tragic, are the results of our shortsighted policies in Greece. After all, Turkey has never been our true ally and in view of her record I am afraid that she will never be. She has been able to survive by playing one Great Power against the other not by fighting for principles. Aside of the durability of her loyalty, however, the very value of the facilities made available to us has been under dispute among prominent strategists.

On the other hand, Greece has always been our ally, and one of the staunchest, more loyal and most efficient one. In World War I, in World War II in Korea she fought alongside our forces, mostly against tremendous odds and always most effectively.

We have succeeded in creating negative feelings among the Greek people. Such feelings are often described as hatred. This is another misrepresentation. No Greek hates America. They are unable to hate America. They are deeply grateful for all they have received from this country, although conscious that other people have received more without matching Greece's contribution and losses. Ingratitude is not part of Greek tradition. The record shows that the opposite is true. Today, however, almost every Greek is utterly disappointed.

Why disappointed? Would you like to know why? Fine! Please allow me then to remind you briefly of Greece's contribution to the Allied cause, her sacrifices, the promises given to the Greeks of the mainland and of Cyprus, the expectations created in them, and the way such promises and the sacred debt to Greece have been dishonored.

You are invited on a trip to Greece at no charge. It is winter of 1941. Greece is at war with Italy because she refused to permit Mussolini the passage through Greek territory of Italian troops destined to fight the British troops in Africa and the Middle East. Greece was not under obligation to enter the war and no one expected her to do so. No one in Greece had illusions about the sacrifices they were called to make. For instance, they knew that they had only 84 first line aircraft, several of them obsolete. Mussolini boasted 2,000 operational fighters and bombers! Why then did the Greeks resist Mussolini and later Hitler? First, because, they are "unrealistic." They are openly called so, for instance, when they demand that Turkish troops withdraw from Cyprus and refugees be permitted to return to their homes.

The Greeks have also the disadvantage of a 2,500 year tradition of crazy decisions. Do you remember Salamis—a few Athenian ships fighting the most powerful Persian armada? You certainly remember Thermopylae—300 Spartans facing 10,000 Persians. Also 1821—a handful of Greeks challenging the Ottoman Empire and the Holy Alliance. This goes on through almost every period of history.

Strangely enough, in almost all such cases, in spite of overwhelming imbalance of power, Greece has ultimately prevailed. The usual explanation is that the Greeks fought heroically. They certainly did. There is also a deeper reason, however. I mean the fact that in all such cases the Greeks fought for right and justice and they profoundly believed in this. Now, with the permission of our "realist" policy makers in Washington I humbly submit that right and justice is might, and history teaches that always in the end the most clever thoughts, the most sinister tricks or diabolical combinations have been proved unable to subdue that might.

Be this as it may let us now complete our voyage to Greece. We arrived in Athens, November 1941. David Walker prefacing the book "The Greek Miracle" describes the situation there as follows:

"In the streets of Athens there is one of the most tragic armies of war: the army of legless men. There are the soldiers whom I drank with in the mountains . . . (they) are now crawling along the pavement, selling cigarettes and matches. They refuse to beg . . . on more than one occasion German military cars and motor cyclists did run them down as they tried to cross the road. They are men whose England should remember and whose story England ought to know." "By the autumn and winter of 1941," Walker continues, "Greece was starving. By the spring 1943 the death rate from starvation in Athens and Piraeus *alone* exceeded 2,000 a day. Of every 10 children born only one lived more than 4 weeks." And he concludes, "Disease and famine will stalk Greece until the war is over. There will be misery and despair on an appalling scale. The legless army in the streets will thin out and possibly will disappear. But their spirit should be known and be remembered by the free countries of the world."

"To the Greek army," wrote the London

Times of January 15, 1941, "falls the honor of the first great victories on land. Her glorious resistance to Facist forces has afforded us advantages which we have already been able to exploit!"

I bypass the many similar American pronouncements and quote from a long statement by Mr. Green, then President of the American Federation of Labor, dated December 18, 1941. "Our people now are your allies. We march in the same ranks against the same foes and we, who have entered the columns so recently, owe more than we can express to you and your people for establishing a pattern of courage to which we all should strive to approach."

Let us now take at random a few of the many characteristic official and unofficial statements concerning Cyprus, which have been the foundation for the expectations mentioned above.

On January 25, 1919 the London Daily Mail, organ of Mr. Macdonald's Labor Party, in an editorial declared that:

"For nearly forty years, we have obstinately refused to grant self-government to the inhabitants of Cyprus. We have turned a deaf ear to their plea. Today, they are repeating that plea. It is up to our Government to give them the freedom they ask."

Shortly later on February 21, 1919, Mr. Macdonald himself at the International Labor and Socialist Conference in Bern emphasized that:

"The principles laid down in the main resolutions before the Conference (the right of all nations to determine their own fate . . .) will be applied, as far as the British Labor Party is concerned, to the people of Cyprus."

Five years later, however, without any discomfort replying to a question about Cyprus, he stated that His Majesty's Government, whose he was then the head, "are not comtemplating any change in the political status of Cyprus."

"Believe me, after the war is over, the name of Cyprus will be included in the list of those who have deserved well; not only of the British Commonwealth of Nations, not only of the united peoples now in arms, but as I firmly believe, of future generations of mankind." The Rt. Hon. Winston S. Churchill, Prime Minister of Great Britain, February, 1943.

"I cannot understand how we can justify for one moment our actions in Cyprus . . . our refusal to grant (the people of Cyprus) self government is an offense against our pledged word in the Atlantic Charter, in the U.N. Charter and in the Charter of Human Liberties. Why do we weaken our great position in the world by laying ourselves open to the charge of hypocrisy because of our refusal to the people of that island a right which is theirs." Clement Davies, Leader of the British Liberal Party, Oct. 2, 1954.

". . . how can Cyprus be used for the defense of the Eastern Mediterranean in the proclaimed cause of liberty and democracy when the people of the island are consistently denied their own national liberty?" The Observer, June 27, 1954.

During World War II the Cypriot Greeks were the first among the people of the Colonial Empire to join the British forces. By official placards placed in the recruiting centers they were invited to "fight for Greece and Liberty". The statement obviously meant England's liberty because when the time came to honor the latter's debt to the Cypriots they were told:

"We do not accept the principle of self-determination as one of universal application. We think that exceptions must be made in view of geographical, traditional, historical, strategical and other considerations." (Mr. Harold McMillan, British Foreign Secretary, September 1, 1955).

In the United States, Mr. Stetinius, then Secretary of State, stated in 1945 that the principle of self, determination should be applied in Cyrus. On March 22, 1948 a New York dispatch revealed that the State Department in a document circulated in Washington favored the cession of Cyprus to Greece. These, and a host of other similar official and unofficial statements as well as the famous article 3 of the Atlantic Charter promising respect of the right of self-determination were forgotten. The British Government succeeded in selling to Mr. Dulles and his successors their policy based on their desire to maintain control on the island and on their well known method of divide and rule. Under various more or less shameless pretexts the rights of the Cypriot people were trampled upon and the tangle of Cyprus was taken over by us blindly, without imagination and without any care for realities and for morality.

Allegedly, this was done in order to protect American interests and indirectly the interests of the free world. What interests? Take a look at and compare todays picture of the area with that of 1954. The metamorphosis is unbelievable indeed.

The Greek-Turkish alliance which constituted the cornerstone of the defense of the area has fallen to pieces. American influence on both Greece and Turkey has become problematic. General distrust reigns supreme in the entire Eastern Mediterranean area. This is especially true in regard to assurances and guarantees offered by the U.S.A. and other powers. NATO Alliance has utterly deteriorated and is in grave danger of actual dissolution in the area. Activity by Soviet naval forces has increased, and Soviet presence and influence in the area have substantially expanded. Defense of Israel is handicapped by prospects of less effective support on the part of the U.S.A. from Atlantic and Mediterranean bases. The illegal,uncontrolled heroin traffic fueled by opium from Turkey has increased and so on and so forth.

Now, I hope that you realize why the Greeks feel so deeply disappointed. If there is anything to wonder about, it is indeed their continued loyalty to the U.S.A. in spite of the abuse they have absorbed.

Before I close I should draw your attention to two more revealing statements. The first comes from a well known Turkish newspaper *Huriet* of Istanbul, October 15, 1953: "The day when the island will revert to its real owner, Turkey, the majority will belong to us again. The island will bleed and your majority, of which you boast so much, will become the minority."

The other statement has come from the Vice President of the United States. According to press reports on April 15, 1975, he was asked how he would feel if he were a Greek and the Turks had used against him weapons supplied to them by the United States. Mr. Rockefeller had repeatedly referred to the Turks and not once to the Greeks as our allies and found Turkey's reaction to the resolutions of the Congress absolutely justified. In reply to the concrete question about the Greeks, he said in essence that they should be grateful to Turkey because her invasion of Cyprus caused the overthrow of the military dictatorship in Greece. He meant the junta government, so strongly supported if not brought to power by U.S.A. policy and whose actions in Cyprus in July 1974 were openly encouraged by our Secretary of State, his protege.

In all this darkness there has been only one light and one hope—the American Congress, represented here this evening by the friends we honor: Honorable Bella Abzug, Honorable Joseph Addabbo, Honorable Mario Biaggi, Honorable Thomas Downey, Honorable John M. Murphy, Honorable Peter Peyser, Honorable Benjamin Rosenthal and Honorable Lester Wolff.

These names, as well as the names of all those who proved by their consistent stand that they are holding to the American principles, are mentioned in Greece and almost everywhere with the greatest respect, gratitude and affection, and I now invite you to applaud them standing, and as warmly as you can.

Thank you very much.

EARLY CONTRIBUTIONS OF IRISH-AMERICANS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. BIAGGI. Mr. Speaker, the contributions of Irish Americans to American life are varied and well known, but the focus is usually placed on the waves of Irish Americans who reached these shores during the latter half of the 19th century.

Little known to most of us are the great contributions which Irish Americans made to the establishment of our Nation and during its trying days of infancy. For that reason, I am inserting at this point in the RECORD an article published by the Bronx Irish American Bicentennial Committee, researched by a 1976 graduate of Iona College, Richard McCann. I am certain my colleagues will find it to be interesting and enlightening:

EARLY CONTRIBUTIONS OF IRISH AMERICANS

While hostilities against British soldiers started on April 19, 1775 at Lexington and Concord, it was the document called the "Declaration of Independence" dated July 4, 1776, that signifies the birthday of our nation—the United States of America. To the astonishment of many of our contemporaries, such famous Americans as George Washington, Patrick Henry, Alexander Hamilton, John Jay and James Madison did not affix their signatures to that great proclamation of freedom!

Of the seventy-six delegates, fifty-six, plus the Secretary of the Continental Congress, incribed their names. They are immortal names for they were the only fifty-seven persons among the two and one-half million inhabitants living at that time in the American colonies.

The consequences for the signers were most grave. They were the most maligned members of the Continental Congress. The homes of fifteen signers were destroyed. Others were punished indirectly through hostile actions against their wives and children. It took courage for the individuals who signed the Declaration because on July 4, 1776 the sails of fifty-two English warships and four hundred and twenty-seven transports were spotted off Staten Island.

It is a tribute to our Irish heritage that twelve signers of the Declaration of Independence were born either in Ireland or were of Irish ancestry. In the Bicentennial year of our country, we believe it is fitting to call attention to those twelve heroic and important Irish-Americans who were our Founding Fathers. As the great Irish patriot Thomas Davis stated:

"If we live influenced by the wind, the sun and free and not by the deeds and passions of the past we are a thriftless and hopeless people."

Matthew Thornton, New Hampshire, was born in 1714 in the city of Derry. His family emigrated from Ireland in 1719. As a medical doctor he practiced in the town of London-derry, New Hampshire. He was one of four signers who were physicians. During our Revolutionary era, he was President of New Hampshire's Revolutionary Convention and a delegate to the Continental Congress. Several authorities claim that he was the last person to sign the Declaration. After the struggle, he became a member of the New Hampshire State Senate and an Associate Justice of his state's Supreme Court. Besides these activities, he was a noted American surgeon.

James Smith, Pennsylvania, was born in the province of Ulster in 1719. He came to the colony of Pennsylvania in 1729 and settled on a farm in York County. His early education was under the direction of another celebrated Irishman Dr. Francis Allison of Philadelphia College. Smith was both a surveyor and an attorney. He was a strong advocate of independence and became an organizer of the first group of Pennsylvania volunteers against England in 1774. Smith also became a delegate to that state's Revolutionary Convention and was then chosen to go to Philadelphia as a representative of the Pennsylvania delegation which included Benjamin Franklin. After the War for Independence, he was a Brigadier General of the Pennsylvania Volunteers and a member of his state's High Court of Errors and Appeals.

George Taylor, Pennsylvania, was born in 1716 in the province of Ulster. For a while he studied medicine in Dublin, but he gave up his studies and came to America at the age of twenty-one. He became owner of the Durham Furnace in Bucks County, Pennsylvania. There, he rose to a position of prominence. During our struggle for independence, he was a member of the Pennsylvania Provincial Congress, a delegate to the Continental Congress and most importantly, a supplier of munitions to George Washington's Continental Army. In the later part of the war, he was a member of the Pennsylvania legislature and Supreme Executive Council.

Robert Treat Paine, Massachusetts, was born on March 11, 1731 in Boston. He was the grandson of Henry O'Neill, a descendant of "Shane the Proud". Henry O'Neill was born in Dungannon, County Tyrone in 1665. The name of Paine was that of an earlier maternal ancestor and O'Neill changed it to "Paine" in the late 1600's after the surrender of Limerick. The change in the family name was done to preserve the family estate holdings from the conquering English. Robert Paine graduated from Harvard College. In 1774, he became a Massachusetts delegate, along with Samuel and John Adams, to the Continental Congress and later served as a member of the Massachusetts Constitutional Convention. After 1783 he was an important state official; he held the positions of State Legislator, Attorney General and Supreme Court Justice.

Thomas McKean, Delaware, was born in Chester County, Pennsylvania on the 19th of March, 1734. His father was William McKean, who emigrated from Dublin to the Colonies in the early part of the Eighteenth Century. His mother was Laetitia Finney of County Leitrim. This signer was educated at Philadelphia College and at an early age, after admittance to the practice of law, started a political career. In 1762 he was elected to the Colonial Assembly from Newcastle, Delaware. McKean was a member of the Stamp Act Congress which met in 1765 in Philadelphia. He was Chairman of the Delaware Revolutionary Committee of Public Safety in 1776. His brother-in-law through his first wife, Francis Hopkins of Rhode Island, was also a signer of the' Declaration of Independence. McKean's later career is interesting; he was at one time Governor of Pennsylvania, and later, acting President of Delaware.

Charles Carroll, Maryland, the only Catholic to sign this famous document, was born on September 20 in Annapolis, Maryland. He was the grandson of Charles Carroll of Kings County, present-day County Leix, Ireland. He received his education both in Maryland and abroad from the members of the Society of Jesus. By the time Carroll was in his early forties, he held the distinction of being one of the richest men in the Colonies. His cousin, John Carroll, was the first Roman Catholic Bishop in the United States. In 1775 Charles Carroll was elected Delegate to the Maryland Revolutionary Convention, followed by his selection as representative of his native colony to the Philadelphia conclave. In 1776, he, along with Benjamin Franklin, was appointed to an unsuccessful mission to urge the Canadians to join forces with the Americans against the British Crown. In later years, Carroll served as member of the Maryland State Senate, and as a United States Senator from Maryland. He held the distinction of being the last surviving signer of the Declaration of Independence—dying on November 14, 1832.

George Read, Delaware, was the son of John Read, a wealthy planter who had emigrated from Dublin and settled in Cecil County, Maryland at the beginning of the Eighteenth Century. This signer was born in 1734. He became a lawyer at the age of nineteen after two years of study. His biographers state that he was a staunch "Republican", asserting the primacy of equality and rights for all. Through marriage, he became brother-in-law to George Ross of Pennsylvania, a fellow signer of the Declaration of Independence. A member of the Continental Congress which produced the Declaration of Independence, he was also a member of the Constitutional Convention which drafted the United States Constitution in 1787. He was also a member of three branches of the Delaware government, legislator, President of Delaware and Chief Justice.

Thomas Lynch, South Carolina, was the grandson of a Connaught man who emigrated from Galway in the last quarter of the Seventeenth Century. Lynch's grandfather left a large estate. Thus, Thomas Lynch was born into comfort in 1749 near Georgetown, South Carolina. He received a degree from the University of Cambridge and upon his return to America, he became a very successful lawyer. At the start of the hostilities in 1775, he was commissioned a captain in the South Carolina Militia. During the war, he served in the South Carolina Legislature. Tragedy came to him at an early age. On a voyage to the West Indies in 1779, his ship sunk during a storm and no survivors were ever found.

Thomas Nelson, Virginia, has an interesting Irish background. Nelson's paternal grandfather was a native of Strabane County Tyrone. He emigrated from Ireland about the middle of the Seventeenth Century. The family name was originally "O'Neill". As was the case so many times during that epoch of Irish history, the name had to be changed to an English synonym to avoid persecution, torture and seizure of land. The famous antiquarian, Dr. Eugene O'Curry, traced Nelson's lineage to Donald O'Neill, Prince of Ulster, who delivered the famous "Remonstrance" of 1315 to Pope John XXII exposing the atrocities perpetrated by the English in Ireland. A cousin of the signer, William Nelson, was a member of the "United Irishmen", who supplied arms for the Wexford Rising in 1798. Thomas Nelson was born in Yorktown, Virginia, December 26, 1738. He studied at Cambridge and was a lawyer by profession. At an early age, he was a member of the Virginia House of Burgesses, joining such men as Patrick Henry, Thomas Jefferson and George Washington. As a prominent figure in the Revolution, Nelson served as a member of the Virginia Provincial Congress, delegate to the Continental Congress, Commander-in-Chief of the Virginia Militia and, after the war, as Governor of Virginia.

John Hancock, Massachusetts, first signer of the Declaration and President of the Second Continental Congress, was born in Braintree, Massachusetts in 1737. His ancestors emigrated from Downpatrick, County Down. A relative, Neilson Hancock, was founder of the Irish Statistical Society. This famous American signer was educated at Harvard College. He was a lawyer by profession. Before the war, he was a member of the colonial legislature. He played a crucial role in Massachusetts revolutionary activities. He was President of the Massachusetts Provincial Congress from 1774 to 1775 and a delegate to the Continental Congress. He was a candidate for Commander-in-Chief of the colonial forces, an assignment which was ultimately won by the Virginian, General George Washington. He was the first state Governor of Massachusetts and, at the end of the 1780's, became President of the State Convention that ratified the Constitution.

Edward Rutledge, South Carolina, was born in November of 1749 in Charlestown, South Carolina. His father, a native of Ireland, emigrated in 1735. This signer was educated in law, graduating with a very high rank among his fellow students in the Charleston Bar. Besides being a delegate to the Continental Congress and a signer of the Declaration of Independence, he served as an artillery captain. He was a prisoner of the British from 1780 to 1781. He also was a member of his state's legislative body and served with distinction as governor of his state.

Charles Thompson, although not a delegate, was the Secretary of the Continental Congress and thus put his signature to our nation's birth certificate. This is the reason why there is confusion as to whether there were fifty-six or fifty-seven signers of the Declaration. Thompson was born at Maghera, County Derry in 1730. He came to America with his father and three brothers in 1741. However, his father died before reaching the American shore. After his formal education, Thompson secured a reputation as a brilliant speaker, a man of high literary accomplishments and a champion of the common man. During the proceedings of the Congress he made voluminous notes which are a valuable guide to past, present and future historians. On a monument at his grave, these words are inscribed: "Here lies Charles Thompson, the soul of Congress."

NUCLEAR AID MISUSE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. BINGHAM. Mr. Speaker, the House will soon be asked to act on H.R. 8401, the Nuclear Fuel Assurance Act. At that time I propose to offer the following amendment: Strike sections 2 and 3. Amend the title so as to read "A bill to insure that the United States has adequate and secure facilities for the production and enrichment of uranium enriched in the isotope–235."

One of the many reasons why I find the unamended bill so objectionable is the potential it establishes for misuse of our nuclear exports. By encouraging the accumulation of a vast stockpile of enriched uranium to fuel nuclear reactors throughout the globe, the legislation can only encourage proliferation of nuclear hardware. Such nuclear assistance is frequently misused to the great endangerment of all mankind.

This was precisely the point made last week by Fred C. Ikle, Director of the

Arms Control and Disarmament Agency, in testimony before the Senate Foreign Relations Committee.

"We've been had," Ikle testified. American reactors were supplied to "some countries which needed them like a hole in the head."

I submit for my colleagues' attention the Washington Post account of Mr. Ikle's testimony:

Arms Control Chief Urges Caution—Nuclear Aid Said Misused

(By Don Oberdorfer)

The government's top arms control official told a Senate hearing yesterday that "we've been had" by nations that used U.S. civilian nuclear assistance in their atomic weapons programs.

Fred C. Ikle, director of the Arms Control and Disarmament Agency, told the Senate Foreign Relations Committee that the United States has acquired a better understanding of the dangers of nuclear exports and has "come a long way in the last three or four years" toward better policies.

However, he declined to make a blanket endorsement of current programs and said U.S. policy should "keep moving ahead."

In testimony on legislation to reorganize nuclear export procedures, Ikle acknowledged that U.S. nuclear assistance helped India prepare for its May, 1974, atomic blast, the country's first.

He said more explicitly than ever before that the United States expects to arrange for the removal from India of a large stockpile of spent fuel enough to make 40 to 80 atomic bombs—before shipping to India fresh enriched uranium for the country's atomic power reactors. Ikle was optimistic about removal of the stockpile, saying that "the Indian government would like to be cooperative."

The Nuclear Regulatory Commission held two days of public hearings this week on the proposed nuclear fuel shipment to India, which is opposed by several environmental groups, atomic scientists and arms control experts.

A prominent social scientist before he joined the government in 1973, Ikle expanded in an interview on his views of U.S. nuclear export policy.

In the 1950s and 1960s the United States was "to exuberant and too cavalier" about extending civilian nuclear technology throughout the world, on the erroneous theory that tight controls on weapons design and a few other aspects could deal with the proliferation problem, Ikle said.

In hindsight, he said, the United States went too far in helping allies such as France and West Germany, which are now selling reactors throughout the world and are planning to export sensitive nuclear "reprocessing" plants to some less developed countries.

Congress recently passed and President Ford signed into law a measure calling for a U.S. economic and military aid cutoff to countries exporting or importing such reprocessing plants—which can produce weapons-grade material but there is no indication that this will stop a West German sale to Brazil, or a French sale to Pakistan.

The United States was "pretty cavalier" about sharing reprocessing information in previous decades, though it did not export any reprocessing plants. Ikle said. He said the United States also gave plutonium, which can be used to make bombs, to some countries. An official identified Italy as one of the plutonium recipients.

American reactors were supplied to "some countries which needed them like a hole in the head," Ikle said.

A U.S. research reactor went to South Vietnam, where it fell into the hands of Communist forces when the country fell in the spring of 1975. A team of U.S. civilian atomic officials had removed the nuclear fuel a few weeks before the Saigon regime's collapse but left the reactor, according to a spokesman for the Energy Research and Development Administration.

And her American research reactor is in Zaire, an African country where security is considered tenuous.

Ikle said the United States "let go" of reactors that use highly enriched uranium, which is close to weapons grade, to South Africa, Brazil, Colombia, and others.

Under a proposal soon to be submitted to Congress, the United States would sell large power reactors to Israel and Egypt, neither of which has ratified the Nuclear Non-proliferation Treaty foreswearing nuclear weapons.

Ikle said his agency does not oppose these transactions because of the strict safeguard agreements that have been drafted. However, he said the executive branch for a time had agreed to require even strict atomic program controls in connection with the proposed sales but later "backed away."

NUCLEAR FUEL AND INDIA

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. LONG of Maryland. Mr. Speaker, on July 20 I testified before the Nuclear Regulatory Commission on the question of granting an export license for the shipment of enriched uranium to India. I strongly oppose this and any future shipment of nuclear fuel to India until the Indian Government returns the stockpile of unseparated plutonium acquired from the fuel supplied by the United States. As my statement below makes clear, India has, by its detonation of a nuclear explosive on May 18, 1974, shown itself to be an unreliable partner in nuclear development. Measures must be taken to avert the use of U.S.-supplied nuclear material in an Indian explosive. Failure to act forcefully in this instance will attest to the bankruptcy of the non-proliferation policy presently pursued by the administration and Congress. As Members are aware, I introduced House Resolution 951 to create a Select Committee on Nuclear Proliferation and Nuclear Export Policy in order to give a new and more effective direction to U.S. nuclear policy abroad. The resolution now has 141 cosponsors—almost a third of the House and half the Democratic membership. The ambiguities of our policy toward India and other nations on the verge of acquiring nuclear weapons testify to the need for prompt consideration of my resolution. The text follows:

Statement of Representative Clarence D. Long, Before the Nuclear Regulatory Commission

I thank the Commission for enabling this ventilation of the urgent issues raised by the proposed export of enriched uranium to India for use at the Tarapur Atomic Power Station.

I agree with the Commission that the Atomic Energy Act, as amended, provides for a periodic re-look at these issues through the export licensing process. The long life of agreements for cooperation makes this procedure necessary if we are to take corrective action when warranted by the changing circumstances that imperil mankind.

I appear before the Commission in opposition to continued nuclear fuel shipments to India under current arrangements which pose a threat to world peace and the security of the United States. I urge in the strongest possible language the stoppage of all nuclear fuel shipments to India until the Commission can assure that no diversion of special nuclear materials supplied by the United States can take place. It is time that the United States move beyond mere detection toward prevention.

The actions of the Government of India undermine our confidence in its good faith in the area of nuclear development. India has refused to sign the Non-Proliferation Treaty and has rejected the universal international safeguards that the Treaty's proponents intended to establish. On May 18, 1974, Indian scientists detonated a nuclear explosive ostensibly designed for peaceful applications. No valid distinction can be made between a purportedly peaceful nuclear explosive and a nuclear weapon. This position of the United States was stated to the Indian government before and after the explosion.

Indian actions have severely complicated the non-proliferation objectives of the United States. The Indian explosion is blamed for spurring Pakistan to obtain nuclear fuel cycle technology and for encouraging Brazil and Iran to do likewise. For these reasons, our response to India is the first test of whether the United States has the policy of stemming the spread of nuclear weapons.

The United States has been a major contributor to India's nuclear development. India's first major atomic power facility, the Tarapur Atomic Power Station, was acquired from General Electric and financed with a $72 million U.S. Agency for International Development loan. The United States trained over 1100 Indians in nuclear physics and related fields at AEC facilities from 1949 to May, 1974. In the past, the United States encouraged India's interest in plutonium recycle technology by training Indians in these techniques. The United States pursued this course, despite the close connection between fuel recycle and fuel reprocessing and despite the knowledge that India had refused to place its plutonium recovery plant at Trombay under safeguards. Subsequent reservations concerning the economic viability and proliferation implications of plutonium recycle have not prevented the use of American-acquired skills to construct India's nuclear explosive.

American technical and economic assistance amounting over the years to $10 billion has freed Indian resources for a nuclear program that now undercuts U.S. non-proliferation goals. We have supplied this aid in the absence of iron-clad assurances that India would not build a nuclear explosive. Despite ample evidence that India was moving ahead with nuclear explosives the U.S. apparently made no attempt, so far as is known on the Record, to dissuade India in the months preceding the explosion.

Mr. Eldon Greenburg, counsel for the petitioners and one who has exhaustively searched the public record on our nuclear policy toward India, notes in his prepared statement that, "While in 1970 an aide memoire (from the U.S.) was reportedly sent to India stating the view that nuclear explosives and nuclear weapons were indistinguishable, it apparently went unanswered.

The case can be made that U.S. technical assistance acquired over a number of decades had been misused for purposes contrary to the American-Indian Agreement for Cooperation. Our technical know-how, training, hardware and special nuclear material were given to India with the explicit understanding that all would be used for peaceful purposes. It seems now that heavy water supplied by the United States was used in the Canadian CIRUS reactor from which India produced its explosive. The contract with India provided that the heavy water could be used only for "research into and use of atomic energy for peaceful purposes."

Commissioner Gilinsky is persuasive in arguing that once we permit reprocessing of irradiated fuel, we abandon effective safeguards over the fissionable by-products such as plutonium. The temptation to violate an existing agreement safeguarding special nuclear material becomes irresistible when ready stockpiles of plutonium are available and when a military threat from a neighboring country is perceived to make the need for nuclear explosives critical. Diversion for illicit use could be so rapid that present methods of detection would fail to give adequate warning. Granted, this is an argument for restricting the scope of all fuel reprocessing whether or not materials are now subject to detection safeguards.

Nevertheless, India insists on reprocessing fuel in plants subject to no detection safeguards at all and the Administration continues to ratify these arrangements by approving fuel transfers to India.

RECOMMENDATIONS

I urge postponement of favorable action on the pending license application (XSNM-845) until the Commission has determined more exacting safeguards to prevent diversion of nuclear material and has stipulated these as conditions for granting the license. U.S.-supplied special nuclear material should be protected against diversion at every phase of the fuel cycle. If U.S.-supplied fuel, after irradiation, were to find its way to an unsafeguarded reprocessing facility, the plutonium contained in that fuel could be used in nuclear weapons. The Commission's final action on this license could prudently await the outcome of the Executive Branch's review of the Tarapur reprocessing facility.

To assure against illicit diversion of special nuclear material, India should be required to agree to U.S. repurchase of all irradiated fuel from Tarapur by the United States. Such repurchase would prevent an addition to any plutonium stockpiled by the Indian government. Admittedly, under a repurchase agreement the U.S. would have to store and dispose of highly toxic material at considerable expense and risk. However, the quantity of spent fuel discharged from the Tarapur reactors, while containing plutonium for a large number of nuclear bombs, represents a small percentage of the nuclear waste material which the U.S. now regularly handles domestically.

Clearly, the United States should refuse permission to reprocess irradiated fuel of U.S.-origin in Indian facilities. Albert Wohlstetter has concluded in a study commissioned by the Arms Control and Disarmament Agency that countries may accumulate large quantities of reprocessed material without necessarily violating international safeguards. This stored nuclear material could be fabricated rapidly into a nuclear explosive within a week after the decision to divert. Thus, if reprocessing is permitted, International Atomic Energy Agency safeguards would not provide timely warning of diversion of special nuclear material.

I conclude by urging the Commission to play a more active and assertive role vis-a-vis the Executive Branch in halting the spread of nuclear weapons capability. The Commission should be more outspoken in advising the Executive Branch to make appropriate changes in existing agreements for cooperation and in setting conditions for the export of special nuclear material that better assure against its diversion for illicit purposes.

The official non-proliferation policy of the United States is seriously flawed. In a story reported in today's (July 20th) Baltimore Sun, Arms Control Agency Director Fred Ikle argued that the U.S. contributed for a generation to the global spread of nuclear weapons technology.

According to Ikle, the U.S. thought the key to developing nuclear weapons was in the design of the actual explosive. Only recently have officials come to realize that the more crucial key was in the preparation of potentially explosive nuclear materials using enrichment and reprocessing technologies.

Safeguards that now rely on detection, however timely, have been outmoded by technical advances which may permit a nuclear fait accompli. More forceful approaches are required to prevent the spread of nuclear explosive capability.

The Commission cannot determine our nuclear non-proliferation policy. That task clearly belongs to the executive branch and to Congress, which have so far, unfortunately, not seen it as their job to bring nuclear proliferation under control. Indeed, they have both done much to make control more difficult. In order, therefore, to investigate where our various policies are leading us and to fashion a nuclear export policy that will not take us all headlong to disaster, I have introduced H. Res. 951 which would establish a Select Committee of Nuclear Proliferation and Nuclear Export Policy. Over 140 Members of Congress and 18 national public policy organizations have endorsed the resolution.

Until legislation has been enacted, however, the Commission can fulfil its function under the Atomic Energy Act of setting conditions of granting nuclear fuel export licenses that more effectively safeguard the security of the United States, by refusing this license until strict conditions are met, the Commission will give the administration additional incentive to amend an inadequate and dangerous agreement with India.

IN TRIBUTE TO CROCKER SNOW, DIRECTOR OF AERONAUTICS IN THE COMMONWEALTH OF MASSACHUSETTS

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. EARLY. Mr. Speaker, few men have contributed more to the development of civil and military aviation in the public interest than has Crocker Snow, director of aeronautics for the State of Massachusetts. Mr. Snow will be retiring this year after 50 years of achievement and service, both to the Commonwealth of Massachusetts and to the Nation. In tribute to his service and dedication I include, at this point in the RECORD, a brief history of Mr. Snow's accomplishments. I know I speak for many in my State when I offer my sincere thanks to Crocker Snow for his unprecedented accomplishments and his commitment to avaition:

TRIBUTE TO CROCKER SNOW

Crocker Snow, Director of Aeronautics for the Commonwealth of Massachusetts, has been actively engaged in civil and military flying since he graduated from Harvard in 1926. Born in Boston, he helped to recreate the Harvard Flying Club, first established in 1910, and gained his first flying experience with the Club, with his older brother, who had flown with the Royal Flying Corps in the first war, and with the Massachusetts Air National Guard.

After college, he became president of Skyways, Inc., one of New England's first and largest fixed base operations, with headquarters at the Boston Airport, and airports of its own from Cape Cod to Portland, Maine. The company sold its assets, in the late 30s, to E.W. Wiggins Airways, Inc.

In 1939, after writing the first comprehensive aeronautical law for Massachusetts, he became Director of the newly created Massachusetts Aeronautics Commission, and in 1940 a member of Governor Saltonstall's three man war-inspired industrial preparedness committee.

In 1941, he was called to active duty at the request of General Bob Olds who had been given the task of getting lend-lease airplanes to England. His first job, as commanding officer of the North Atlantic Sector of Olds' Air Corps Ferrying Command, was to represent the United States Army Air Force in construction of airports at Presque Isle, Maine, Goose Bay Labrador, and Bluie West One Greenland. During this tour of duty, he proposed and tested the unescorted delivery of fighter aircraft across the Atlantic. Subsequently, he represented what had become the Air Transport Command in a tactical and logistical survey of a possible air operation again Japan via the Vladivostok Peninsula.

After leaving the Air Transport Command, he was placed in command of a B–17 bombardment group which he trained and delivered to the United Kingdom in the summer of 1943. On his return he was assigned to B–29s and given the 498th Bombardment Group to organize. He flew the second B–29 to land in the Mariannas and in November of 1944 led the 498th in the first B-29 raid against Tokyo. When the war ended, he was a command pilot, assistant chief of staff A–2 to General Rosie O'Donnell, whose 73rd Bomb Wing, the first B–29 unit in the Pacific, had continued to operate against the Japanese Empire from Isely Field, Saipan. In this last position he had the job of letting the Japanese people know, by leaflets dropped from the air, the story of Hiroshima and what was yet to come .

Returning to his previous job after the war, he became from time to time president of the National Association of State Aviation Officials, chairman of the Conference of National Aviation Organizations, consultant to the Airways Modernization Board and the Federal Aviation Administration, a member of the Harvard College Visiting Committee for the Department of Military, Naval, and Air Sciences, U.S. delegate to the International Bureau for General Aviation of the Federation Aeronautique Internationale, a director of the National Aeronautic Association. president of the Harvard Aviation Foundation, chairman of the New England Council Air Transportation Committee, a consultant to Transportation Secretary Volpe, and chairman of the President's Aviation Advisory Commission, which was created by the Airport and Airway Development Act of 1970. He presently is chairman of the New England Conference of State Aviation Officials and a director of the National Pilots Association.

He is married to the former Janice Vaughan, has 3 children, several grandchildren, and numerous quadrupeds, lives in Ipswich, and commutes to work in his eighth successive personal airplane—a Navion. His current pasttimes are experimental category II landings, polo, and skiing.

CAPTIVE NATIONS WEEK

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1976

Mr. WALSH. Mr. Speaker, in proclaiming the week of July 18 as Captive Nations Week, we, the Members of Congress, both mourn and celebrate, grieve and rejoice, lament and exult.

We mourn the fact that the non-Russian nations of the Soviet Union continue to be held in subjugation contrary to the principle of self-determination.

We celebrate the idea that thousands

of escapees from captive nations have emigrated to the United States to become American citizens and active participants in our democratic process.

We grieve that the satellite countries of Eastern Europe continue to be ruled by tyrannical minority Communist elites.

We rejoice that those descended from Poles, Ukrainians, and other Eastern Europeans have brought a piece of their heritage with them to the United States and have shared it with those of us from different ethnic backgrounds.

We lament at the thought that the populations of numerous different and distinct nationalities are held captive under the guise of an organization which calls itself the Union of Soviet Socialist Republics.

We exult in the fact that the residents of the United States who have emigrated from captive nations have made great contributions to the world in the fields of science, education, literature, and athletics.

But most of all, we, the Members of Congress, we, the citizens of the United States, we, the unoppressed people of the world, must hope.

We must hope that the workmen of Poland, the farmers of the Ukraine, that all of those who are oppressed in the captive nations of the world, will some day be free—free to express their own opinions, free to share their wonderful heritage, free to contribute their vast knowledge, free as people are in the United States of America.

May liberty be theirs.

LET THEM WORK

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. COLLINS of Texas. Mr. Speaker, I eat blueberries and love them. But this year they have been high priced and harder to get. The answer came from a story I read in the New York Times.

One blueberry farmer said he had already lost $100,000 because of lack of pickers. New Jersey is a big blueberry State. It is a hand-picked crop.

The difficulty is that it takes the bureaucrats too long to explain to workers each day about job availability of nonfarm jobs, counseling, testing, job training, and other services. The employment service is striving to meet the Federal judges' orders and are getting complete job applications with full interviews.

I would like to suggest that these interviews and applications be processed on the days that an unemployment person comes in and there are no jobs available. With our bureaucratic requirements it is quite apparent why unemployment is high in New Jersey and why blueberries are rotting on the ground. Here are some of the high points of a story by Donald Janson in the New York Times:

LACK OF PICKERS BECAUSE OF FEDERAL RULES CALLED HARD BLOW TO STATE BLUEBERRY CROP

(By Donald Janson)

HAMMONTON, July 8.—A significant part of New Jersey's multimillion-dollar blueberry crop is deteriorating and rotting for lack of pickers.

Arthur Galletta, president of the Atlantic Blueberry Company here, said the other day that he had lost 80 acres of berries worth $100,000 so far this season.

"If the situation is not corrected quickly," he said, "all hand-picked fruit and vegetable crops in New Jersey will be placed in jeopardy."

He said that could cost New Jersey fruit and vegetable growers $10 million this year, "including $2 million for blueberry growers," and "raise retail prices sky high."

He noted that some stores in the East had been selling early New Jersey blueberries for 89 cents and 99 cents a pint. If the full crop were being picked, he said, the retail price would be no more than 59 cents.

A delegation of New Jersey growers and officials of the State Department of Labor and Industry met late today in Washington with Federal authorities and a court-appointed committee to attempt to unsnarl the situation.

Mr. Sheridan blamed, a "stupid, bureaucratic foulup" by the Federal Department of Labor for new regulations that had kept many day-haul workers from the fields of South Jersey since the harvest began three weeks ago. Mr. Galletta, whose 1,000-acre blueberry farm is the largest in the world, called it "over-regulation."

Day-haul workers are so named because crew leaders "haul" them from the cities, where they live, by bus or station wagon to the fields and return them the same day.

MOST FROM PHILADELPHIA

Winifred Brady, assistant director of the employment service, said that on June 10, the day New Jersey's two-month harvest season began, the Federal Department of Labor notified the state that the placement service for day-haul workers had to be conducted in Philadelphia because most workers lived there.

She said the department had informed New Jersey and Pennsylvania that it was setting up this new day-haul supervisory office to comply with a 1973 order by Judge Charles R. Richey of the Federal District Court in the District of Columbia.

He ordered the Labor Department and the State Employment Offices it finances to stop discriminating against farm workers by failing to inform them, as it does workers in other fields, of the availability of nonfarm jobs, counseling, testing, job training and other services.

To monitor compliance with his order that seasonal farm workers receive the full range of Labor Department Employment Services, Judge Richey established a seven-man special review committee.

David O. Williams, deputy director of the United States Employment Service, said the New Jersey and Pennsylvania employment services had been staffing the new Philadelphia office since it opened Tuesday to notify all who mustered there for field work at 5 A.M. daily of the terms and conditions of their work as harvest hands and of other jobs and services available.

The new office will take a full job application form and provide interview for each day-haul worker who wants it, he said.

This causes so much delay, Mr. Sheridan said, that many berries are not picked in time.

It is nonsense in any case, he said, because most day-haul pickers are welfare recipients who are not interested in full-time work.

MANY SAID TO SHUN OFFICE

Many in this category, he said, will stay away from the new office and field work as well now, because they must apply for work by name, address and Social Security number, information that could be used to cut welfare benefits by tracing how much money was earned in the fields.

Mrs. Brady said New Jersey blueberry growers used 5,500 day-haul workers a year, 4,500 of them from out of state, mostly Philadelphia.

Of about 100 crew leaders who seek licenses from the State and the Federal Department of Labor about May 1 each year, he said, all were registered quickly by New Jersey, but licensing by the Federal Department has been much slower.

Joseph Cassidy of the Philadelphia office of the department's licensing agency said many crew leaders had been slow in providing federally required proof of adequate insurance on their vehicles.

"There is no way we can send them out on the road without it," he said, "because if they got in an accident there would be no insurance for the migrants being transported."

Mr. Sheridan said that the delegation sent to Washington felt that licensing by New Jersey was sufficient and that Federal licensing was time-consuming and superfluous.

Mr. Galletta said the delegation hoped to persuade the committee to support the desire of the state and growers to eliminate duplication in licensing and to put any day-haul supervisory office in Hammonton rather than Philadelphia to speed the delivery of labor to the fields.

QUESTIONNAIRE RESULTS REPORTED

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. O'BRIEN. Mr. Speaker, the final results of my fourth annual questionnaire are in and I think they will interest you and all my colleagues.

My constituents in the 17th District of Illinois really sounded off this year. The poll was delivered to more than 160,000 homes and the reply rate was about 8.5 percent. By changing the format of the questionnaire, I also allowed people to give more detailed answers to a greater variety of questions.

For example, instead of answering just "yes" or "no," they could respond with a range of replies from a "strong yes" to a "strong no" to a "no opinion."

It should come as no surprise that the issue of paramount concern was Federal spending. As the tables below show, voters in my district indicated that they wanted increased spending on only national defense, energy research, and jobs creation. In the remaining categories they wanted the current budget continued or decreased.

They wanted Congress to exercise stricter oversight of our intelligence network and make it illegal to leak congressional secrets. They want more jobs, but would rather they originated in the private sector than the public works, and they wanted limits placed on foreign investments in the United States. They opposed foreign aid and wanted more out of our relationships with Russia and China but they wanted to stay in the United Nations. They wanted to register guns, but not ban them and they wanted mandatory prison terms for using a gun in crime.

The following is a complete breakdown of the results for Will, Kankakee, and Iroquois Counties and the Bloom Township portion of Cook County that together make up my district. I know my constituents would want me to share them with you:

	Much more	More	Same	Less	Much less
I. SHOULD THE FEDERAL GOVERNMENT SPEND ON:					
1. Total budget:					
District total	2	5	25	41	27
Iroquois	0	1	29	46	24
Kankakee	2	1	29	43	25
Will	2	7	23	42	26
Bloom	2	7	25	31	35
2. Conservation:					
District total	10	29	45	12	4
Iroquois	4	27	46	23	0
Kankakee	7	29	46	13	5
Will	12	28	45	11	4
Bloom	13	33	41	8	5
3. Education:					
District total	12	26	44	13	5
Iroquois	7	27	49	15	2
Kankakee	12	26	45	12	5
Will	12	25	45	14	4
Bloom	11	32	39	9	9
4. Energy research:					
District total	27	40	23	7	3
Iroquois	19	43	31	7	0
Kankakee	22	40	26	9	3
Will	29	39	22	6	4
Bloom	30	41	18	8	3
5. Farm price supports:					
District total	4	10	31	31	24
Iroquois	10	16	32	23	19
Kankakee	3	13	32	32	20
Will	4	9	31	31	25
Bloom	4	7	26	33	30
6. Food stamps:					
District total	1	3	10	28	58
Iroquois	0	0	8	34	58
Kankakee	0	2	10	30	58
Will	1	3	11	26	59
Bloom	1	3	8	30	58
7. Foreign aid:					
District total	0	1	13	30	56
Iroquois	0	3	13	32	52
Kankakee	0	0	15	35	50
Will	1	1	13	29	56
Bloom	1	0	13	28	58
8. Health care:					
District total	14	26	35	16	9
Iroquois	5	17	56	18	4
Kankakee	11	22	38	16	13
Will	15	26	34	17	8
Bloom	14	33	31	13	9
9. Housing:					
District total	4	10	28	31	27
Iroquois	0	9	29	40	22
Kakakee	5	11	30	29	25
Will	5	8	27	32	28
Bloom	2	13	25	27	33
10. Jobs creation:					
District total	14	26	23	19	18
Iroquois	12	23	26	26	13
Kankakee	14	28	21	17	20
Will	15	25	24	18	18
Bloom	12	28	23	19	18
11. National defense:					
District total	21	29	34	9	7
Iroquois	20	29	41	4	6
Kankakee	20	23	41	9	7
Will	22	32	31	8	7
Bloom	19	24	33	14	10
12. Pollution control:					
District total	13	24	39	16	8
Iroquois	3	23	30	30	14
Kankakee	11	25	35	23	6
Will	15	24	41	13	7
Bloom	11	25	46	12	6
13. Social security:					
District total	13	22	43	12	10
Iroquois	6	16	56	13	9
Kankakee	12	22	47	12	7
Will	14	22	41	12	11
Bloom	11	23	48	7	11
14. Space technology:					
District total	5	13	32	25	25
Iroquois	1	11	27	28	33
Kankakee	2	9	30	35	24
Will	5	14	36	22	23
Bloom	8	15	26	22	29
15. Transportation:					
District total	5	18	35	25	17
Iroquois	5	22	45	18	10
Kankakee	6	19	32	26	17
Will	5	17	34	26	18
Bloom	7	19	40	19	15
16. Veteran benefits:					
District total	10	20	53	12	5
Iroquois	1	23	65	10	1
Kankakee	12	16	52	15	5
Will	9	22	54	10	5
Bloom	9	18	52	14	7
17. Welfare:					
District total	2	3	12	26	57
Iroquois	0	1	7	37	55
Kankakee	1	4	9	27	59
Will	2	3	13	25	57
Bloom	2	5	13	26	54

II. SHOULD CONGRESS . . .

	Strong yes	Yes	No opinion	No	Strong no
1. Limit foreign investments in the United States?					
District total	38	27	10	19	6
Iroquois	35	27	13	20	5
Kankakee	45	28	6	18	3
Will	36	28	11	18	7
Bloom	35	24	7	26	8
2. Ease taxes on private companies that expand and create jobs?					
District total	24	44	8	18	6
Iroquois	18	47	11	20	4
Kankakee	24	42	8	23	3
Will	26	44	7	16	7
Bloom	23	47	5	20	5
3. Use taxes to create jobs through public works programs?					
District total	13	27	8	27	25
Iroquois	9	28	8	35	20
Kankakee	16	27	10	27	20
Will	13	28	8	24	27
Bloom	13	26	4	33	24
4. Make it a Federal crime to leak, without authorization, secrets revealed in congressional testimony?					
District total	48	23	11	11	7
Iroquois	46	5	15	22	2
Kankakee	46	25	15	11	3
Will	48	22	9	11	10
Bloom	51	25	7	7	10
5. Allow Federal Government to regulate sale of farm exports?					
District total	13	24	11	27	25
Iroquois	1	16	11	22	50
Kankakee	8	25	10	30	27
Will	16	25	11	26	22
Bloom	15	27	14	23	21
6. Exercise stricter surveillance over CIA, FBI, and other intelligence gathering agencies?					
District total	26	32	8	21	13
Iroquois	19	34	8	21	18
Kankakee	27	33	9	18	13
Will	27	30	9	23	11
Bloom	24	31	5	22	18
7. Act to amend the Constitution to ban abortion?					
District total	23	9	12	23	33
Iroquois	17	11	14	20	38
Kankakee	32	9	11	21	27
Will	22	8	11	24	35
Bloom	18	7	16	26	33
8. Act to amend the Constitution to ban forced busing of children?					
District total	72	15	2	6	5
Iroquois	73	14	2	7	4
Kankakee	72	18	2	4	4
Will	71	14	2	7	6
Bloom	74	13	1	5	7
9. Work for more benefits in our relations with Russia?					
District total	24	41	12	15	8
Iroquois	23	51	11	10	5
Kankakee	21	40	13	17	9
Will	25	43	10	15	7
Bloom	22	35	15	14	14
10. Work for more benefits in our relations with China?					
District total	23	43	14	13	7
Iroquois	23	51	12	6	8
Kankakee	20	44	14	15	7
Will	25	43	13	12	7
Bloom	21	37	18	14	10
11. In order to get more money for social security, should Congress:					
(a) Raise the payroll tax rate?					
District total	4	10	6	30	50
Iroquois	0	5	18	28	49
Kankakee	2	10	8	38	42
Will	6	11	5	27	51
Bloom	4	10	6	37	43
(b) Raise the amount of earnings taxed for the program?					
District total	13	23	8	23	33
Iroquois	11	22	16	28	23
Kankakee	13	25	8	24	30
Will	12	24	7	21	36
Bloom	18	16	12	26	28

	Strong yes	Yes	No opinion	No	Strong no
(c) Use money from general tax revenues?					
District total	21	31	7	18	23
Iroquois	11	30	12	22	25
Kankakee	19	33	10	19	19
Will	23	29	6	18	24
Bloom	19	36	6	18	21
III. WOULD YOU . . .					
1. Favor a cut in Federal spending even if it meant cutting some programs you approve of?					
District total	41	39	5	12	3
Iroquois	36	43	4	7	0
Kankakee	36	45	6	10	3
Will	46	34	5	12	3
Bloom	33	44	4	16	3
2. Favor continuing our membership in the United Nations?					
District total	21	42	7	13	17
Iroquois	19	42	2	20	17
Kankakee	24	40	7	17	12
Will	22	40	8	11	19
Bloom	16	45	9	14	16
3. Buy stock in American companies if you got a tax break for doing so?					
District total	30	33	14	16	7
Iroquois	16	41	24	15	4
Kankakee	24	37	15	16	8
Will	32	33	12	15	8
Bloom	31	29	16	19	5
4. Favor permitting military personnel to form and join unions?					
District total	2	3	5	22	68
Iroquois	0	1	4	27	68
Kankakee	2	3	7	27	61
Will	2	3	5	18	72
Bloom	1	1	3	25	70
5. With reference to gun control, would you favor—					
(a) Registration of handguns?					
District total	41	23	4	12	20
Iroquois	19	39	6	15	21
Kankakee	40	20	5	11	24
Will	43	21	4	11	21
Bloom	45	26	3	15	11
(b) Banning handguns except for police?					
District total	24	8	3	23	42
Iroquois	14	9	6	29	42
Kankakee	17	10	3	21	49
Will	25	8	3	24	40
Bloom	30	7	2	22	39
(c) Mandatory prison terms for carrying a gun in a crime?					
District total	79	16	1	2	2
Iroquois	57	29	6	4	4
Kankakee	76	19	2	1	2
Will	82	14	1	1	2
Bloom	80	13	1	3	3
(d) Waiting period before a person can purchase a gun?					
District total	51	29	5	8	7
Iroquois	33	37	4	21	5
Kankakee	43	34	7	11	5
Will	56	27	4	6	7
Bloom	58	26	2	5	9
(e) No gun legislation?					
District total	15	9	6	23	47
Iroquois	14	25	6	28	27
Kankakee	16	10	8	21	45
Will	15	9	5	21	50
Bloom	11	5	6	27	51

IV. HOW MUCH HAS YOUR FAMILY BEEN AFFECTED BY . . .

	Very much	Much	None	Little	Very little
(a) Inflation?					
District total	46	37	2	13	2
Iroquois	50	36	1	13	0
Kankakee	46	37	1	15	1
Will	46	39	1	11	3
Bloom	47	26	5	21	1
(b) Unemployment?					
District total	9	11	37	20	23
Iroquois	6	4	40	18	32
Kankakee	11	13	33	17	26
Will	9	11	36	23	21
Bloom	7	13	32	17	31
(c) Street crime?					
District total	12	13	28	27	20
Iroquois	5	4	28	35	28
Kankakee	11	15	25	30	19
Will	14	14	26	23	23
Bloom	8	14	37	32	9

STOPPING THE LEAKS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. TEAGUE. Mr. Speaker, recently the Dallas Morning News printed an editorial by Dick West, the editorial director, concerning Congressman DALE MILFORD's efforts in trying to get the House of Representatives to act effectively in the handling of classified material.

I believe Mr. West's remarks are worthy of careful consideration by each Member of Congress.

Mr. West's editorial follows:

STOPPING THE LEAKS

Representative Dale Milford is trying to move the Congress to get its own house in order regarding the handling of classified information.

He hasn't had too much luck in that direction yet, but he is right to try. And we sincerely hope that he goes on trying.

The specific instance that concerns him is the leaking of the House Intelligence Committee's final report to CBS newsman Daniel Schorr. The House had voted to keep the report confidential, but someone gave the report to the TV man, who then passed it on to a New York newspaper.

Milford was a member of the committee which probed the operation of U.S. intelligence agencies. In testimony before the House Ethics Committee the other day, he said that he was worried at the time about the way classified documents were being handled. Proper security procedures for the documents were not followed, as he sees it.

Now that someone has seen fit to defy a vote of the House and let this report be published, Milford says he feels that there is a cloud on every member of the committee and its staff.

"We would like the guilty party discovered so that the rest of our names may be cleared," he told the ethics panel.

Milford suggested that the best way to do that is to call Schorr himself as a witness. The reporter was not acting as a newsman, the congressman pointed out, since he merely took the document and passed it on.

"If Mr. Schorr answers these questions, the (ethics) committee will have finished its work and can so report to the House," he said. "Even if he does not answer the questions, I do not see how this committee can report back to the House without having asked them."

The leaking of classified information has for too long been considered as little more than a harmless prank. And the habit has done more than put the members and staff of the intelligence panel under a cloud, it has put the legislative branch itself under a cloud.

What is at stake is nothing less than the Congress' access to sensitive information. Most of the critically important data on the operations of the military, diplomatic and intelligence agencies of this country must be kept confidential, and it is also vital that Congress be informed on what is going on. In the present situation, the two requirements cannot both be met.

So long as Congress and its staff continue to leak national secrets at every opportunity, the chiefs of these executive agencies are unlikely to share the information the legislative needs. Anything presented to congressional panels is subject to being in the headlines within hours and when this is true, government officials must choose between being candid with the Congress or fulfilling their sworn responsibility to protect national security.

This is not healthy for the Congress, for the agencies themselves or for the nation. To change the situation for the better, Congress must act effectively—we say again, effectively—to fulfill its own responsibilities.

Another whitewash won't do it. Neither will a wrist-tap. It is time for Congress to find and stop the leaks and to punish severely the guilty parties.

SURVEY ON THE OCCUPATIONAL SAFETY AND HEALTH ACT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. DOWNEY of New York. Mr. Speaker, the purpose of the Occupational Safety and Health Act of 1970—OSHA—is to decrease the great number of work-related deaths and injuries by establishing safety and health standards. No doubt the intent of this law is commendable but there are countless problems concerning its application and enforcement.

At my request, the Greater New York Automobile Dealers recently conducted a survey of its members' views on OSHA. I would like to present a tabulation of these results at this time.

As you can see from the following table, there are no sharp divisions among the automobile dealers. There is unanimous agreement that OSHA inspectors should be available for onsite consultation with small businessmen to assist them in complying with the regulations before they are cited for violations. Moreover, the majority of the respondents feel that observance of the regulations results in undue economic hardship for individual businesses. Most importantly, there is almost complete consensus that the OSHA regulations are not clearly defined or easily understood.

The results of this questionnaire tend to confirm my earlier findings from a similar survey of small businesses in my congressional district. A summary of that survey appears on page 13715 of the May 12, 1976, issue of the CONGRESSIONAL RECORD.

	Employers whose premises have been inspected		Employers whose premises have not been been inspected		Composite	
	Yes	No	Yes	No	Yes	No
1. Are OSHA regulations clearly defined and understandable?	1	13	1	23	1.0	18
2. Does imposition of OSHA standards serve the purpose of protecting the safety of workers?	5	7	4	15	4.5	11
3. In your view, does compliance place undue economic hardship on individual firms?	13	1	23	1	18.0	1
4. Should inspectors, after giving a citation to an employer, be compelled to outline procedures for correcting violations?	14	0	24	0	19.0	0
5. Should OSHA be compelled to develop an economic impact statement for its standards?	14	0	24	0	19.0	0
6. Should consultations between OSHA experts and employers be conducted so as to avoid an employer's fear of being cited?	14	0	24	0	19.0	0
7. Should grants or loans be made available to small businessmen and farmers to enable them to comply with OSHA regulations?	13	0	21	2	17.0	1
8. Do you believe it is the Government's responsibility to protect the safety and health of workers through regulation of business?	3	10	8	14	5.5	12
9. How many times has your establishment been inspected?						
10. Did the inspector give you advance notice of his intention to inspect before he arrived?	0	14				
11. Did inspector show credentials?	13	1				
12. Did inspector meet with appropriate official of your company?	12	2				
13. Did you receive any citations?	5	9				
14. Were you given reasonable amount of time to correct violations?	7	0				

HEW AND RULEMAKERS

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. DEL CLAWSON. Mr. Speaker, perfect agreement is especially elusive for lawmakers in our dealings with the press and a good argument can be made for the desirability of that state of affairs no matter how frustrating we may find it on occasion. Certainly it keeps us on our toes and if the critical propensity of the press is evenly applied, with no favorites, the resulting opening of the democratic process to scrutiny can be beneficial for all concerned. Accordingly the editorial which appeared in this morning's Washington Post is welcomed for the agreement indicated with some of the points raised by congressional sponsors of legislation to provide methods for congressional veto of rules and regulations which are inconsistent with legislative intent. The comments regarding the new rulemaking procedures announced by the Secretary of Health, Education, and Welfare are in line with remarks I made in the House of Representatives yesterday. The editorial, however, does indicate a lack of information concerning the intent of legislation sponsored by a majority of the Members of this House which I believe calls for response. First, the assumption that "legislators do not have the time or resources to devote to this essentially executive function." What is proposed in our legislation is essentially an expansion of the oversight process, applying on a uniform basis to all rules and regulations procedures which have been applied selectively for some time now in laws already on the books. We are pleased to note that the editorial by implication supports the oversight process. But unfortunately gives Congress bad marks for failure to exercise it effectively. On the other hand, a study of the history of the exercise of the veto authority of existing laws indicates that fears of congressional abuse of the veto power seem unfounded. Of 350 resolution of disapproval from 1960 through 1975, a comparatively small number have been adopted and many of these were in response to Presidential requests to defer expenditures under the Budget Reform Act.

To the assumption that Congress does not have the time or resources to devote to this "essentially executive" function, it should be emphasized that the staff expertise already exists and the anticipated relatively small number of rules and regulations which would elicit disapproval should not tax that capacity. To the assumption that "Congress being Congress, the lobbies would have an even better shot than they now do at bending the rules to fit limited parochial interests" it is well to cite the marked lack of interest in this legislation by interest groups noted for cozy relationships with their regulators in the bureaucracy.

If Congress is faulted for "complicated laws" is it suggested that we pass even more complicated laws destroying flexibility of the executive branch in carrying out the laws? The howls from the bureaucracy would be immediate and not without justification. On the other hand, Congress is faulted for laws which are too vague, in effect "passing the buck" to the bureaucracy. It is a case of "damned if you do" and "damned if you don't" but it becomes increasingly clear to many of us that there is a crying need to resolve these questions once and for all. Therefore we are particularly pleased that the chairman of the Rules Committee has indicated that he will hold at least one additional hearing on rulemaking legislation now before our committee. The addition of specific congressional veto provisions to authorization bills approved by the 94th Congress is a piecemeal approach indicating support of the principle, but it is certainly not the most efficient way to go about resolving these procedural questions. The editorial from this morning's Washington Post is inserted at this point in the RECORD:

HEW AND RULEMANIA

There's a rule that says you can and a rule that says you can't and a rule that says if you don't within 60 days you will have to forfeit your federal benefit and pay a penalty for every day you are in default from the day of notification—all subject, of course, to review provided that application for review is made within 30 days of the date of this ruling. Understand? Because so many people who deal with public programs have answered simply, and defeatedly. No, the great engine of government has finally begun to do something about its mind-boggling output of rules. These, according to President Ford, take up more than 40,000 pages of fine print a year, merely to promulgate, and once in a while, as everyone knows, a real lulu will hit the front pages—as in the recent HEW ruling (now suspended) that Father/Son or Mother/Daughter social functions could not be sponsored by public schools unless such schools wished to risk a loss of federal funds because they were violating anti-sexual-discrimination law.

It struck us as something of an irony, or perhaps just a demonstration of the durability and reach of the nutty rule-making machine, that this latter ruling came out of HEW. That is because HEW Secretary David Mathews is known to be an unabashed zealot on the subject of simplifying the tangle of rules his department puts out—so much so, in fact, that he has regularly been criticized for (1) backing down on strict requirements for compliance with the programs HEW administers and (2) permitting himself to become transfixed by a minor aspect of HEW's operation to the detriment of other business over which he ought to be presiding. So we were not greatly surprised to learn the other day that Secretary Mathews has now come forward with some new procedures for simplifying and rationalizing the HEW rule output. The first thing we will say about the secretary's proposals is that they represent a sound step forward. The second is that they do not amount to the counter-revolution; they amount to a modest and sensible attempt to get the thing under control.

Secretary Mathews has listed a number of changes his department intends to make in the way it formulates its rules. They seek to make the rule-devising process more accessible to the people who will have to enforce or abide by those rules in the field. They also seek to make the rules themselves, once devised, more accessible to everyone concerned by putting them into that strange and anti-bureaucratic tongue known as the English language. In a grand and star spangled sense, all this has to do with getting the public into policy-making, achieving consensus, making democracy work and the rest. From a more practical worm's eye view there are other advantages. An awful lot of free, untapped knowledge is floating around this country concerning the programs HEW administers, and the newly formulated procedures should permit the government to tap that knowledge—the nuts and bolts stuff about how nursing home care or day care or any of a multitude of grant programs really works. This way a lot of predictable anguish and foolishness could be avoided. And so could a lot of recrimination, since people could no longer complain as they now do (and often with much merit) that no one told them in advance how the thing was supposed to work and no one asked them how it should be administered.

Secretary Mathews, never mind his zealotry, is not the first or only public figure to have leapt into this morass. Former Gov. Carter of Georgia has had something to say about it, and so have President Ford and Ronald Reagan. Perhaps more important, though less center-stage in a political way and certainly a whole lot quieter, has been the effort of the folks over at the Federal Register to bring lucidity to the rules they print. Under the direction of Mr. Fred J. Emery they have for some time now been moving to dewhereas their product and also to instruct both the bureaucracy and the public in ways of making the Register more useful. But the Federal Register can't make the rules—and that is why the attention and intervention of Secretary Mathews is so welcome and important.

It is interesting to note in this connection that Congress, which is indirectly the fount of all this rulemaking hocus pocus by virtue of the complicated laws it passes, has lately been toying with appropriating the rule-making function for itself. Outrage over some especially loony and burdensome rules has caused many legislators to conclude that they should pass individually on the rules promulgated by the Executive Branch. We think this is a poor idea for several reasons. The legislators really do not have the time or resources to devote to this essentially executive function. Congress being Congress, the lobbies would have an even better shot than they now do at bending the rules to fit limited, parochial interests. And in any event, to complain that the rule-making function has got out of hand is only another way of conceding a failure of congressional oversight on the part of those committees to which the various agencies of the Executive Branch must answer. But we have no doubt that Congress will go forward with its ill-conceived plan if the Executive Branch does not act to make the rules fairer, simpler, and more effective. That is another reason why Secretary Mathews' initiative is to be applauded and—ideally—followed by his colleagues.

CITIZENS AND RELIGIOUS LEADERS IN MICHIGAN ORGANIZE BEHIND THE HAWKINS-HUMPHREY FULL EMPLOYMENT BILL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. CONYERS. Mr. Speaker, a group of citizens in metropolitan Detroit have launched one of the most impressive projects of social and political action that I have had the privilege of being associated with. They are organizing both employed and unemployed people around the issue of full employment and economic justice, and are working closely with Detroit's religious community.

Spearheaded by the Detroit Industrial Mission, which sponsored in May an interfaith conference on full employment, the Michigan Interfaith Full Employment Committee has already enlisted several hundreds members, disseminated information about the Hawkins-Humphrey full employment bill, conducted workshops on economic issues, and is now in the process of meeting with local, State, and Federal officials to develop ways to deal with the unemployment crisis. It should be no surprise that such an organization has formed in metropolitan Detroit which last year had an official average unemployment rate of 17.4 percent, among teenagers an unemployment rate of 50 percent, and which today, despite the heralded economic recovery in the Nation, suffers an official jobless rate of 14 percent.

Recognizing that chronic unemployment contributes to every major problem in society—the financial insolvency of our cities and the distintegration of communities; the divisions along class and ethnic lines that arise as a result of widespread economic insecurity; the intolerable demoralization of the young; the terrible increase in crime and drug use—the Michigan Interfaith Full Employment Committee is determined to sharpen moral awareness of the need for a full employment economy. Working with religious leaders in metropolitan Detroit, one of the fruits of their effort has been a moving statement of support for full employment legislation, which I wish to bring to the attention of my colleagues:

A STATEMENT FROM RELIGIOUS LEADERS IN MICHIGAN ON FULL EMPLOYMENT

We, the elected and appointed heads of religious bodies in Metropolitan Detroit and Michigan, join with those of the National Council of Churches, the United States Conference of Catholic Bishops, and the National Jewish Community Religious Agencies in addressing a widespread evil in our midst, the evil of unemployment.

Today thousands of people in Michigan cry for deliverance from the debilitating, destructive condition of joblessness. As the U.S. Catholic Bishops said, "The current levels of unemployment are unacceptable and their tremendous human costs are intolerable".

All kinds of work needs to be done—essential health services are shortended, fire, police and many other services are understaffed. The environment needs attention; homes and stores are deteriorating. Thousands need work; there is work to be done, but we haven't found the public intelligence to put them together.

We find it difficult to believe that the industrial, labor, academic and political leadership of Michigan cannot or will not find ways to solve this problem. We are familiar with arguments for inaction. There are those who argue that we inevitably will have either inflation or unemployment, and because inflation affects more people, therefore, unemployment is preferable. The thesis appears false because currently we have both unemployment and inflation. If we can have both, we can also have neither.

Others argue that it is in the self-interest of business to have large numbers of unemployed people to keep labor costs down and to keep working class people under control. If that is true, we condemn such self-interest. If it is not true, then now is the time to give the lie to this argument. Otherwise, Americans must face strong evidence that our economic system is socially and morally a failure.

If unemployment is not forthrightly addressed and full employment remains a hollow promise, the prospects for our society are grim. Already unemployment is threatening the progress made in race relations as the numerous conflicts of seniority with affirmative action indicate. It threatens other aspects of our lives. Family life deteriorates; increasing numbers of people feel worthless, insignificant and desperate. Crime increases; respect for one another's person and property loosens; law is mocked, leaders ridiculed. Those who have jobs are fearful of losing them. The potential is social chaos and the demise of democracy as we know it.

We therefore address a call to the economic and political leadership of Detroit and Michigan. We know that much must be done nationally. We know there is movement at the federal level; for example—the current Humphrey-Hawkins Bill for full employment. But we feel there is also too much waiting for Washington to act. Our region has the resources, the brains, the structure through which to act. We have, above all, the need.

We call on the Governor and the Michigan Legislature to establish a commission with power to act to share the jobs we have, to create jobs by setting people to work on the needs of the state, to demand of the federal government that rightful portion of revenue which is ours in order better to finance needed action, to devise ways that the affluence of Michigan can be used to meet the needs of Michigan, galvanizing our people into sharing.

We address a call to the people of Detroit and Michigan, and to ourselves. We speak particularly to the thousands of us in churches and synagogues. It is a call to consciensness of our condition. It is a call to care, to look up from our secure jobs, from our preoccupations with private life and private consumption, to look up from our secure jobs, from our preoccupations with private life and private consumption, to feel what is happening, to learn the facts, to share and to act. We call for action to inform ourselves, such as the Interfaith Conference on Full Employment to be held in May. We call for pastors and rabbis and congregational leaders to engage their people in analyzing our situation and carrying out whatever is possible to change it at the local level. We call for pressure on our unions, businesses, and the levels of government to take the needed actions to put Michigan to work and heal the poverty and hopelessness that stands in such contrast to the luxurious new shopping structures that dot our region.

It is time for prayer, for knowledge, and for deeds. It is a time for us to place the health of our total community above both public apathy and individual aggrandizement and comfort. We believe it is possible once we summon up the will.

Signed,:

The Rev. Dr. Howard Christensen, President, Michigan Synod, Lutheran Church in America.

The Rev. William H. Daniels, Minister, Detroit Metropolitan Association, United Church of Christ.

His Eminence John Cardinal Dearden, Archbishop, Roman Catholic Archdiocese of Detroit.

The Most Rev. Joseph L. Imesch, Auxiliary Bishop, Archdiocese of Detroit.

Mr. Lewis S. Grossman, President, Jewish Community Council of Metropolitan Detroit.

The Most Rev. Thomas J. Gumbleton, Auxiliary Bishop, Archdiocese of Detroit.

The Most Rev. Arthur H. Krawczak, Auxiliary Bishop, Archdiocese of Detroit.

The Rev. Donald Lester, Executive Presbyter, the Presbytery of Detroit.

Bishop Dwight E. Loder, Bishop, Michigan Area—United Methodist Church.

The Rt. Rev. H. Coleman McGehee, Bishop, Episcopal Diocese of Michigan.

The Most Rev. Walter J. Schoenherr, Auxilary Bishop, Archdiocese of Detroit.

The Rev. John Sundquist, Director, American Baptist Churches of Southeastern Michigan.

The Rev. Duane Vore, Executive Director Elect, Michigan Council of Churches.

The Rev. Eric White, Director, Michigan Association of Christian Churches.

The Rev. Robert L. Wietelmann, President, Michigan District, The American Lutheran Church.

The Rev. Edward B. Willingham, Jr., Executive Director, Christian Communication Council of Metropolitan Detroit Churches.

OFFICIAL SECRECY WINS COURT TEST

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. STARK. Mr. Speaker, much has been written recently about the Freedom of Information Act. I would like to bring the attention of the House, however, to a slightly less recent article which appeared in Federal Times on a blow dealt to FOI by a Los Angeles Federal court, pointing out a major loophole which somehow slipped by Congress.

The decision ruled that Government agencies involved in criminal investigations, in this case the Drug Enforcement Agency, could legitimately withhold information given to them by confidential sources. This is an extremely narrow construction of the Hart amendment which had intended to protect the welfare of informants helping criminal investigations.

An article from the Federal Times points out that, under this ruling, the judge found that the agencies involved could designate an entire police department, an individual, a private entity, a foreign police department, or whatever is chosen, as a confidential source and not have to reveal information gathered from these sources under FOI.

The serious implications of this decision in favor of official secrecy are apparent, and I ask that the article from Federal Times entitled "Official Secrecy Wins Court Test" be included in the RECORD:

OFFICIAL SECRECY WINS COURT TEST

WASHINGTON.—A public interest group recently tested a major loophole in the Freedom of Information Act in a Los Angeles federal court—and lost.

The court ruling could seriously compromise the intent of FOI in favor of government secrecy.

In a suit brought by the National Commission on Law Enforcement and Social Justice against the Drug Enforcement Agency, District Court Judge Warren Ferguson ruled that government agencies involved in criminal investigations could legitimately withhold information given to them by confidential sources.

Ferguson stated that under the Freedom of Information Act—and the Hart amendment which was offered as a palliative to avoid a presidential veto—"the agency can not only withhold information which would disclose the identity of a confidential source, but also can provide blanket protection for any information supplied by a confidential source."

The court said that even though much of the information DEA had sought to keep secret was "silly" and ought to be revealed, it was powerless to order the agency to do so because that would violate the intent of Congress.

Under the law, the judge found, the agency could designate an entire police department, an individual, a private entity, a foreign police department, or whatever it chooses, as a confidential source and not have to reveal information gathered from these sources under FOI.

Hill observers who had fought for passage of FOI admitted "we are in deep trouble with this decision and even in deeper trouble if the case loses on appeal."

One source said Congress had left a dangerous loophole and was now paying its price.

Most congressional staffers including those working for Michigan Democrat Sen. Philip Hart agreed that the decision was an extremely narrow construction of the Hart amendment which had intended to protect the welfare of informants helping criminal investigations.

"But the judge chose to rub our noses in the dust," one staffer said.

Harrison Wellford, a Hart aide, believed it unlikely that the Ferguson decision would be sustained on appeal.

"If it does, we're in trouble," he said.

OUR INEPT NATIONAL HOUSING POLICY

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. RUSSO. Mr. Speaker, it is all too easy to mistake the symptom for the disease. Particularly in cases of violence, we may focus on the scars inflicted rather than the weaponry which made them possible.

The Government itself has provided a "weapon" in some tension-filled neighborhoods. It has been a neglectful and wasteful landlord. Area resident's resentments fester and finally erupt, directed toward the obvious manifestation of that neglectful attitude—defaulting homeowners, homeowners that the Federal Housing Administration has financed.

Our inept national housing policy has led to owner defaults—abandoned houses that fall prey to vandals and the ravages of time. The neighborhood that could once take pride in its appearance has to acknowledge that it has become an eyesore. No wonder residents are angry.

Recently, violence and tension in Marquette Park in the Southwest side of Chicago has drawn media attention. It is a neighborhood whose dilemma is repeated throughout our land. And I must wonder how long the Government will continue to be a prime participant in the development of situations that can lead to fear, unrest, or even violence?

My own active role in introducing and working for the enactment of corrective legislation in the area of housing will continue until the answer to that question is "no longer!" Our citizens deserve a more responsible and effective housing program.

Today, I would like to share with my colleagues two informative editorials that were broadcast on Channel 5, MAQ–TV in Chicago 2 weeks ago.

EDITORIAL NO. 1

This is Marquette Park on the Southwest Side of Chicago. The park has become a symbol of tensions—racial tensions, tensions caused by the fear of a changing neighborhood.

This is a quiet community in the Chicago Lawn neighborhood. The homes are mostly bungalows, well maintained with beautifully manicured lawns. The people who live here are white.

Black people live not far away, just east of here in West Englewood. It is safe to say that the people of Marquette Park don't want their neighborhood to change. It is probably safe to say that most of them don't want black people living in this community.

"The reason," according to a black columnist, "is quite simple." Here is part of what Louis Fitzgerald wrote in the Chicago Daily Defender:

"White folks are afraid their community, which they have worked to build, will become a shambles in a matter of time. The most shocking part of this is there are blacks who want to live in a decent community and can't do so because where they go the filth and decay follow. Yet on the other hand, if a black family moves out to the suburbs, some nut will say he is trying to run from his brothers. Well, damn it, it's true. If, in fact, a black family wants to live in an area where they can feel free to leave a bicycle on the front lawn without it being stolen, why should they not move?"

Columnist Fitzgerald goes on to say, "Black folks must begin to remember that when you spend good money to purchase a home, with that purchase goes responsibility." "And," Fitzgerald says, "believe it if you want to, there are a helluva lot of blacks that just do not believe in responsibility, or for that matter don't know the meaning of the word."

Those words were written by a black man, Louis Fitzgerald, in the Chicago Defender. We commend him for his courage in saying what he believed. And frankly he is largely correct. Those are the reasons why many white residents of middle-class neighborhoods are afraid of change. They have seen deterioration of neighborhoods—and nearly always they have seen it happen when black people have moved in.

Call that racism if you like. We don't think it is. Obviously Mr. Fitzgerald does not think it is either. It is reality—an unpleasant reality to be sure. And it is only part of the story.

In fact, there are economic causes that contribute to the situation—easy FHA mortgages, unethical real estate practices, business people who run scared from neighborhoods. We'll talk about those issues in our next editorial.

EDITORIAL NO. 2

This is the second of two editorials on Marquette Park—or more correctly, the editorial on changing neighborhoods in Chicago.

Previously we said white residents of middle-income areas are afraid, afraid because the recent history of Chicago shows that neighborhoods deteriorate when they change from white to black.

West Englewood, just a few blocks east of Marquette Park, is a visible example.

Change, though, is inevitable. There are open housing laws in this city and state. If a black family wants to buy a home here, it has the legal right to do so.

The history of neighborhood change is not a pretty picture. Whites panic and run, often stimulated by quick-buck realtors who have no stake in a community. The Federal Housing Administration—the FHA—gives mortgages to people without a real commitment to home ownership and without enough money to keep up their property. Business and financial interests get scared and run away.

Look around Chicago. It has happened—repeatedly. It will happen again in neighborhoods that are threatened with change unless certain things are done.

One is that business and commercial interests must not run. A good example is the Greater Southwest Development Corporation which is made up of businesses working to rehabilitate commercial and residential properties in this area. That makes sense. Business people have a big investment, a lot to lose if an area goes under.

Government has a big responsibility. If the city administration really intends to protect areas like Marquette Park, that best can be demonstrated through the city services it provides. The issue goes all the way to Washington and F.H.A. mortgages, which can be a basic cause of neighborhood deterioration. This happens when the F.H.A. makes mortgages available to people with almost no downpayment and no money to maintain a home. All too often the result is people walking away from their homes—the mortgages being foreclosed and the houses boarded up. In blunt terms, the federal government is creating slums. Its policies must be changed.

Finally, survival will depend substantially on human understanding. That may be a cliche. But if there is no local leadership, if people run scared, if panic peddlers take control, if purely racial fears run rampant, if property owners don't stand up for their communities, Marquette Park will go the way of other communities. It will not be the last. No one knows which will be the last.

ENRICHING DECISION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. UDALL. Mr. Speaker, this week the House will be voting on H.R. 8401, the Nuclear Fuel Assurance Act. At that time, the gentleman from New York (Mr. BINGHAM) will offer an amendment to strike those sections which provide for elaborate Government guarantees for private uranium enrichment ventures.

I, too, am disturbed by these unprecedented guarantees. For, as a recent editorial in the Wall Street Journal put it:

> Once the government gets involved in directly allocating capital to energy, a long line of capital starved industries will be close behind.

And, as an excellent editorial in this morning's New York Times declared:

> The fallacy in the Administration's bill as it now stands is the assumption that a private consortium starting from scratch could do the job more effectively—or, in any case, that private industry should be handed a highly lucrative operation without having to assume all the financial and technological risks that the Federal government has already undertaken.

I submit the text of the Times editorial, entitled "Enriching Decision" which I commend to my colleagues' attention:

ENRICHING DECISION

More than five years after the idea first emerged from the Nixon Administration, Congress is scheduled to vote this week on a proposal to let private industry in on the 30-year Government monopoly on manufacturing fuel for nuclear power plants. Whatever its ideological appeal may be, the idea falls flat in economic terms and the proposal should be defeated.

The so-called Nuclear Fuel Assurance Act is designed to start the long process of adding to this country's uranium enrichment capacity to meet anticipated domestic and foreign demand from the mid-1980's onward, when the present output level will probably no longer be sufficient. The lead time for constructing massive enrichment plants is such that a decision must be made now.

The fallacy in the Administration's bill as it now stands is the assumption that a private consortium starting from scratch could do the job more efficiently—or, in any case, that private industry should be handed a highly lucrative operation without having to assume all the financial and technological risks that the Federal Government has already undertaken.

Perhaps the most damaging testimony against the Administration's scheme came from the General Accounting Office, which found that one of the existing three Government-owned (but privately operated) enrichment plants could be enlarged to produce additional capacity equivalent to the proposed privately owned plant—but at 40 percent less cost!

An amendment introduced in the House by Representative Bingham of New York would retain the bill's provisions for extending the Government-owned enrichment plant at Portsmouth, Ohio; but it would strike out all the mechanisms for Federal loan guarantees, financing commitments and even eventual bailout (if the profits aren't big enough) for the proposed private venture.

Opponents of the Bingham amendment try to portray it as just another anti-nuclear maneuver—a strange characterization considering its wide support among moderate and conservative Representatives who know a bonanza when they see one and rightly fear embarking on a program of expensive new Government subsidies.

With the Portsmouth add-on provision of the Administration's bill preserved intact, this country would have adequate nuclear enrichment capacity for at least a dozen years—allowing sufficient breathing space to determine more accurately nuclear demands for the 1990's, and the most equitable way of meeting them.

AMERICA: AN IDEAL FOREVER TO BE REBORN A BICENTENNIAL HOMILY BY THE REV. JOHN WHITNEY EVANS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. OBERSTAR. Mr. Speaker, the Bicentennial has been a time for gaining perspective on America, evaluating our past to apply its lessons to the future.

This reassessment and previewing has been a healthy and productive process, focusing the thoughts of all Americans on the fundamental values which we treasure and which have made our society great.

One of the most thought-provoking of all the dissertations on the Bicentennial theme was a homily which it was my pleasure to hear the Rev. John Whitney Evans deliver at Holy Rosary Cathedral in Duluth, Minn., on July 4.

With a refreshing and well-researched historical insight, Father Evans traced the genesis of our national independence, the "driving force" that motivated our Founding Fathers and the relationship of political and religious liberty that truly constitutes the essence of the American ideal.

Father Evans' message has a very special meaning for all of us as we rededicate ourselves to the ever-renewing task of preserving and strengthening "liberty and justice for all."

I might note in passing that Father Evans' homily was recorded for broadcast later on national public radio—a distinct honor, indeed.

I offer Father Evans' homily for the thoughtful consideration of my colleagues:

AMERICA: AN IDEAL FOREVER TO BE REBORN

It is not quite true to our founders to celebrate today as the "birthday" of America.

Two hundred years ago this month the word, "independence," had an unnerving effect on most colonists in North America: the Continental Congress voted twice before successfully passing the declaration Thomas Jefferson had drafted.

Two hundred years ago today, when the final version of that manifesto was approved, no crowds cheered, no bands struck up, no cannons boomed, no bells rang, and no signatures were affixed. The signing began on August 2 and haphazardly went on for about a month.

For that matter, the success of the armed rebellion begun at Lexington in April, 1775, hung in doubt until the outcome at Yorktown over six years later. And the formation of a viable government to carry out the philosophy of the declaration awaited the ratification of the second federal constitution in June, 1788.

And so the lesson deserves repetition: it is not quite true to celebrate today as the "birthday" of Amerca. That is misleading. For America is not a political entity that sprang on a given day into the family of nations. Rather, America is an ideal that must continually be reborn and developed in the minds and hearts of her citizens.

It is our task this morning to examine the driving force behind this ideal; and to discern how this dynamic has worked itself out in our past. The driving force can be stated at once and simply: "Liberty and Justice for all." The working out cannot be said simply or at once.

Let us begin by looking at "Liberty."

The revision of Jefferson's sentiments approved on July 4, 1776, captured the essence of political liberty perhaps better than it ever was expressed before or probably ever will be again:

> We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness. That, to secure these rights, Governments are instituted among Men, deriving their just Powers from the consent of the governed. That, whenever any form of Government becomes destructive of these ends, it is the right of the People to alter or to abolish it, and to institute new Government, laying its foundations on such Principles, and organizing its Powers in such forms, as to them shall seem most likely to effect their Safety and Happiness.

Here we recall the political philosophy informing our systems of governance. But it was equally certain among the founders, or some of them, that a successful nation took its life also from a related principle. As George Washington admonished in his farewell address of September 19, 1796:

> Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. . . . 'Tis substantially true, that virtue or morality is a necessary spring of popular government . . . let us with caution indulge the supposition that morality can be maintained without religion . . . reason and experience both forbid us to expect that National morality can prevail in exclusion of religious principle.

Although he insisted upon the practical, day-by-day union of religion with morality, and of these to political behavior to establish justice, insure domestic tranquility, and promote the general welfare, our first president also celebrated the political separation of church from state.

Despite the fact that the churches "reached a lower ebb of vitality" around 1800 "than at any other time in the country's religious history," not all contemporary preachers saw this separation as harmful. Quite the opposite. The Congregationalist preacher, Jonathan French, summed it up well in a sermon before Governor Samuel Adams in 1796:

> No form of government yet constructed, ever was so congenial to christianity, as a well regulated Republic. No religion, ever yet known, is so conformable to the genius of a free government, as christianity.

Almost a century later, when organized religious practice was flourishing quite well, an American cardinal repeated this article of the American creed. Preaching in his titular church of Santa Maria in Trastevere in Rome, Cardinal James Gibbons confessed in March, 1887:

> I proclaim, with a deep sense of pride and gratitude, and in this great capitol of Christendom, that I belong to a country where the civil government holds over us the aegis of its protection without interfering in the legitimate exercise of our sublime mission as ministers of the Gospel.

He added that for the progress of Roman Catholicism in the United States, "we are indebted in no small degree to the civil liberty we enjoy in our enlightened republic."

Quite a strange pairing! A Boston Congregationalist and a Baltimore cardinal! But no more surprising than the congruence between these sentiments:

(1) Liberty is the spirit and genius, not only of the gospel, but of the whole of revelation, we have first and last, received from God; and

(2) Man's response to God in faith must be free . . . religious freedom in society is entirely consonant with the freedom of the act of Christian faith.

The first statement comes from John Mellen's "The Great and Happy Doctrine of Liberty," published in Boston in 1795. The other comes from the Second Vatican Council's "Declaration on Religious Liberty," issued in 1965.

This American doctrine of religious liberty was one reason for independence from the Old World. This liberty was a condition favoring the growth of religion in the new nation. Its survival guaranteed that the new country would be prosperous and safe and that its leaders would always be judged by higher than merely secular standards of behavior.

But this American doctrine was even more. The salutary living out of it during nearly two hundred years moved the fathers of the Second Vatican Council to formulate their historic decree on religious liberty. If the Declaration of Independence was a kind of birthday gift to the New World, distilled from the philosophy of the Old World, the Declaration on Religious Freedom can today be seen as a kind of anniversary tribute to the Old, derived from the life of the New.

Let us turn to the second element in the driving force behind the American ideal: "Justice for all."

No serious minded patriot, and certainly none who regards himself or herself as religious and moral, can claim America has lived up perfectly to its ideal of justice for all. We have but to reflect that two hundred years ago, as the Continental Congress was deleting from the Declaration of Independence a section on Negro slaves, any such unfortunate setting foot in England was automatically freed. We could search out a thousand other painful and shameful examples of the distance between what Americans profess in their national idealism and what they have done—and continue to do—in their daily lives regarding justice for all.

But we would do better to dwell upon one single instance of grave injustice, and do so in a spirit of not merely beating breasts but rather determining to lessen the distance between ideal and reality.

We, Americans and Catholics of this Diocese of Duluth, realize that many of our deeds, past and present, although done in good faith or in ignorance, have sometimes been a disservice to Indian people.

Today it is necessary for us to appreciate the strong need these people have, as does any ethnic group, to accept themselves; to feel proud of themselves, of their past, of their culture; and to receive recognition for the contribution they can make to the present.

Would not our lives today be brighter and our land more beautiful and healthy if we shared with the Native Americans their ancient reverence for the earth as a gift from God to be cherished and used with frugal concern? If we imitated their traditional reverence for the unborn, commitment to disciplining children, and concern for the old? If we recaptured their age-old practices of ringing the family with so many loving helps and stern supports that divorce was almost unheard of among them?

When we think of redressing grievances we must join Indian people in reviewing the obvious issues of land rights, treaty violations, and legal arrangements; we must also join them in efforts to promote appropriate economic development; to secure adequate social, educational, and health care services; and to build a competent base of political power.

When we think of the flagrant abuses of secular modernity that invade our lives as well as those of Native Americans—intemperance, pornography, vanity, dishonesty, self-indulgence—might we not be better Americans and Catholics if we also joined them in their two hundred years of resistance to the dominant culture?

Today, as we celebrate two centuries of the American ideal, we stand much as did Abraham Lincoln over the smouldering waste of that field outside Gettysburg. We wonder whether that nation, conceived in liberty and dedicated to the proposition that all people are created equal, can long endure.

American Catholics today bear a special responsibility to insure that the answer will be positive. We have won our place in this land. Under liberty, we and our religion are accepted. Because of justice for all, we and our co-religionists are among the best educated and most affluent citizens of this nation, to say nothing of the world.

It is for us, then, joining with all other like-minded Americans, to throw ourselves into the task that remains before us: that this nation shall, under God, have a new birth of liberty and justice for all.

To accomplish this necessary purpose we can draw strength from the words of God uttered by the prophet Isaiah to an affluent people: What are you endless sacrifices to me? . . . I cannot endure festival and solemnity. . . . You may multiply your prayers, I shall not listen. . . . Take your wrong doing out of my sight. Cease to do evil. Learn to do good, search for justice, help the oppressed. (JB, Isaiah, 1: 11–17)

For, as God, through another Prophet, has instructed us: I tell you solemnly, in so far as you did this to one of the least of these brothers of mine, you did it to me. (JB, Matt., 25: 40)

THE NEED FOR A BALANCED ENERGY POLICY IN THE UNITED STATES

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. DRINAN. Mr. Speaker, there is often a tendency to oversimplify energy policy issues—to imply that single courses of action or dependence on individual resources will best provide for the long-term energy needs of the United States. There can be little doubt about the impending scarcity of our traditional fossil fuel supplies, but much less certainty exists in the field of developing energy technologies.

In the short term, it is essential that we realize the great potential for energy conservation in our society. This is a major recommendation of the 1976 National Plan of the Energy Research and Development Administration—ERDA—which acknowledges that "energy efficiency actions can reduce the pressure for accelerated introduction of new supply technologies." The plan admits "only modest progress" has been made on advanced energy sources, and establishes conservation as the single highest priority for energy research and development at the national level.

In the long run, simple economics dictate that we must keep all of our options open, continually reassess our policy alternatives, and assure adequate development of all potentially cost-effective sources of energy.

For an excellent overview and discussion of this critical national issue, I highly commend the following article by Mr. Manson Benedict, professor emeritus at the Massachusetts Institute of Technology. Though we may have our differences on specific elements of an appropriate national energy strategy—such as the nuclear option—it is difficult not to be impressed by the perceptive and sobering quality of his remarks.

The article follows:

[From the Technology Review, May 1976]

U.S. ENERGY: THE PLAN THAT CAN WORK

The recent increases in fuel prices have shown that low-cost energy is gone forever. The United States will have to shift from oil and natural gas to other, less convenient, and more costly energy sources. What options does the U.S. have to provide for its energy needs to the year 2000?

The Energy Research and Development Administration (E.R.D.A.) describes five alternative "scenarios" for meeting future energy needs. Only one of them, the fifth, seems to me both realistic and realizable; it calls for development and deployment of a balanced mix of numerous energy technologies, coupled with rational conservation. The other alternatives, which I shall not describe, emphasize single measures which, if adopted, would severely distort our energy economy without significantly reducing our dependence on imported oil.

The table on page 52 (not shown) compares our present annual energy consumption with the energy consumption predicted in scenario five for 1985 and 2000, and with estimates of our energy resources. The unit of energy used for these comparisons is a million billion British thermal units, which is coming to be known as the quad. One quad of energy is produced by burning 40 to 50 million tons of coal, 180 million barrels of oil, or 1 trillion cubic feet of natural gas. Consumption of a million barrels of oil per day yields two quads of energy per year. To produce one quad of thermal energy in the type of nuclear power plant used in the United States today requires mining 2,000 tons of natural uranium concentrates.

An increase in annual energy consumption from 79 quads (the current figure) to 98 quads in 1985 and 137 quads in 2000 (the quantities predicted in scenario five) means a growth rate of 2.2 per cent per year. Our past energy growth has been around 3.5 per cent per year. The postulated reduction to 2.2 per cent is a plausible consequence of higher energy prices, lower population growth, and intensive measures to conserve energy. Zero energy growth, although desirable, probably cannot be attained in the next 25 years, given the projected increase in U.S. population and the need to use additional energy to compensate for the depletion of mineral resources.

Domestic and imported oil and gas now provide almost 75 per cent of present energy supplies. This fraction will have to be reduced drastically in the future.

Although conservation doesn't appear in the table, it has been assumed in keeping future energy consumption as low as stated. Necessary conservation measures in our private lives include more efficient automobiles and appliances, better insulated homes, and less waste. Industry and business must adopt more efficient processes, recover waste heat, and reduce energy consumption for heating and cooling buildings.

NATURAL GAS: DECLINING RAPIDLY

Natural gas is a dwindling resource: domestic production peaked at around 22 quads in 1972 and has been declining since. If a pipeline to deliver gas from Alaska is completed by 1985, production will increase temporarily to 24 quads. E.R.D.A.'s higher estimate of 26.5 quads by 1985 depends upon well-stimulation techniques which are not economic at today's low regulated prices, but which might be used if the price were deregulated.

Even with well stimulation and extensive offshore development, natural gas production promises to decline inexorably after 1985. Total resources are estimated at 775 quads without stimulation, and perhaps 1,030 with it. Since this is only a little over 40 years' supply at the present consumption rate, development of alternative energy sources and strict conservation are obviously essential.

Gas is a premium fuel for home heating and chemical feed stock. Its use for purposes for which other fuels suffice, such as generating electricity, is a luxury we can no longer afford. The shortfall in gas supplies after 1985 will have to be made up by synthetic gas, mostly from coal.

PETROLEUM: ALTERNATIVES ESSENTIAL

The supply of U.S. petroleum is as critically short as the supply of gas. Domestic production declined by almost a million barrels per day last year, about two quads per year. Completion of the Alaska pipeline will temporarily increase production by 2 million barrels per day. Extensive offshore production (now restricted in many states) and use of advanced recovery and production techniques could increase U.S. petroleum production to 24 quads in 1985. Then, like natural gas resources, it will decline.

The figure on page 54 (not shown) shows recent U.S. Geologic Survey estimates of our petroleum liquid resources, converted to quads at 5.5 quads per billion barrels. "Demonstrated reserves" of 215 quads are those whose location, amount, and production costs are known well enough to serve reliably for business planning. These reserves represent about eight years' supply at present production rates. "Inferred reserves" are those expected to be found in known formations geologically similar to those already demonstrated. "Undiscovered resources" have an estimated 50 per cent probability of discovery from future exploration. Unfortunately, they constitute more than half the total resource estimate of 793 quads.

To the Geologic Survey's precarious forecasts, E.R.D.A. adds 300 quads potentially available through tertiary recovery methods, such as CO_2 injection or other techniques which may become economic as oil prices rise. The total resource estimate of 1,100 quads is to be compared with our present consumption rate of petroleum, domestic and imported—around 35 quads per year.

Since domestic supplies of petroleum are so limited, means to reduce consumption of liquid fuels and increase their synthesis from other sources must have the highest priority. Measures which must be taken to reduce consumption include increased use of electric propulsion for trains and short-haul automobiles and trucks, development and mandatory use of more efficient engines for automobiles and trucks, and the phasing out of oil for steam-electric power generation. Equally essential is the development of alternative sources of liquid fuels. In the year 2000 in scenario five, eight quads of shale oil are produced and 15.9 quads of coal are converted to 10.5 quads of oil. Through conservation and this production of 18.5 quads of synthetic oil from shale and coal, the amount of oil imported could be reduced to zero.

OIL SHALE: MANY PROBLEMS

The proposed use of oil shale presents major developmental, environmental, and financing problems. One ton of the richest U.S. oil shale produces only four-fifths of a barrel of shale oil, whereas one ton of crude oil produces six barrels of refined products. To produce eight quads of energy per year from oil shale, as scenario five stipulates, we must mine 1.8 billion tons of oil shale per year, three times the rate at which we now mine coal. For eight quads per year, the rate of oil shale production would be about 4 million barrels per day. Since an oil shale refinery will cost at least $15,000 per daily barrel, the investment in oil shale plants would come to over $60 billion. Fred Hartley, Chairman of the Union Oil Co. and a pioneer in shale oil development, says his company could construct 20 processing plants, each producing 7,000 barrels per day. But to reach 4 million barrels per day, 600 such plants would be needed, and 30 companies with Union's capabilities to build them.

Economic feasibility isn't the only problem for oil shale production. Restoration of land scarred by mining 1.8 billion tons of shale per year, disposal of the nearly equal mass of refuse, elimination of carcinogens from shale oil and refuse, and provision of the large amounts of water needed for refineries are additional obstacles. Disposal of refuse by return to mine or quarry is often logistically infeasible, and in any case is not a complete solution since the refuse occupies greater volume than the oil shale from which it was made. The best technical solution appears to be the burning out of harmful residues in oil shale refuse, which could then be piled in dry canyons contoured as closely as possible to the neighboring terrain, followed by assistance of regrowth of natural vegetation.

HYDROELECTRIC AND GEOTHERMAL ENERGY: GEOGRAPHICALLY RESTRICTED

Although hydro sources generate some of the cheapest electricity in the United States, they have little growing room. Almost all the economic sites have already been put to work or are in regions reserved for recreation or wildlife preservation. Moreover, hydrogeneration shares the disadvantage with geothermal energy of being geographically restricted. In 1973, U.S. hydrogeneration amounted to 273 billion kilowatt-hours, or 2.7 quads expressed as equivalent thermal energy by using a generation efficiency of 34 per cent.

U.S. geothermal resources take three forms: dry steam, hot water, and geopressured hot water. Their magnitude is shown in the table above (not shown). Our only dry steam field, at the geysers in Northern California, will produce 1,200 megawatts of electricity for Pacific Gas and Electric Co., at competitive prices. The total electric potential of this field is estimated by the U.S. Geologic Survey to be 477 megawatt-centuries, or around four quads equivalent thermal energy.

Numerous fields of high-temperature hydrothermal water in the western states could be used for electric generation, probably at competitive prices; they could yield over 30 quads. Hot water is more difficult to use than dry steam because more fluid has to be produced and the content of dissolved corrosive material is much higher. Nevertheless, San Diego Gas and Electric Co. is planning an experimental generating station, and it seems reasonable to count on this resource for significant amounts of electricity in the western U.S. The U.S. Geologic Survey estimates that a total 200 quads of hot water, yielding electricity at up to twice today's price, may be found. In addition, numerous sources of lower temperature water, totaling 82 quads, might be used locally for space heating, replacing fossil fuels.

The north slope of the Gulf of Mexico has extensive deposits of geopressured hot water at depths of around five kilometers. Production cost from these depths is unknown, and possible land settling is a concern. Potential resources are estimated at between 80 and 300 quads.

Estimates of total useful resources lie between 35 and 615 quads. Geothermal energy is worthy of development, though limited geographically and of less magnitude than our remaining oil and gas.

SOLAR ENERGY: NECESSARY AND POSSIBLE

Solar energy is a paradox. It is available everywhere, but weak. It is enduring, but varies with weather, time of day, location, and season. It is free, but expensive to collect. The continental United States receives 50,000 quads of solar energy each year, but the average energy flux is only 68 B.t.u.s per square foot per hour.

The principal ways in which solar energy may be used are through growth of crops suitable for conversion to fuel (biomass production), through solar heating and cooling, and through solar electric generation. Indirectly, solar energy can produce minor amounts of power through wind generators and ocean temperature gradients, but in too small amounts to bear discussion here.

Our forefathers obtained most of their energy from wood, but crops grown specifically for fuel now make negligible contributions to our energy supply. Yet if we select plant species, breed better ones, use optimum growing regions, and improve harvesting techniques, E.R.D.A. believes biomass *could* produce 1.5 quads per year by 2000.

Use of solar energy for heating water and buildings and for low-temperature industrial processes is feasible, and at today's high fuel prices, these uses should grow rapidly, especially in new structures specifically designed for them. In much of the United States, each square foot of solar collector could collect 150,000 B.t.u.s per heating season, thus saving 1.5 gallons of fuel oil burned at 70 per cent efficiency. With fuel oil at 40 cents per gallon, and a capital charge rate of 15 per cent per year, this fuel saving justifies investment of $4 per square foot for solar collector and associated pump, piping, and heat storage. Installed costs today are around $15 per square foot, and the total cost for a typical house is around $3,000. Nevertheless, improved technology, mass production, increased fuel prices, and government subsidies to encourage fuel conservation should lead to extensive use of solar heating. As it isn't economic to provide all heat needed during coldest weather, perhaps 70 per cent of a building's annual fuel could be saved by solar heating.

About 18 per cent of U.S. energy is devoted to space heating. If 25 per cent of U.S. buildings adopted solar heating by 2000, we could save 3 per cent of our total energy reserves—perhaps four quads per year.

Two methods for converting solar energy to electricity are being developed, thermal and photoelectric. Both have a long way to go before they can be economic. Aerospace Corp. has estimated that a thermal solar power plant could have an overall efficiency of 13 per cent, collect 72 per cent of the sunlight incident upon it, and have a unit capital cost of $2,385 per kilowatt in 1990. A plant meeting these criteria and generating 1,000 megawatts of electricity during sunlit hours (and none during the night) would require eight square miles of solar collectors. M.I.T.'s Hoyt C. Hottel thinks the cost estimate is optimistic. Even so, the cost, assuming this plant produces electricity ten hours per day, is 2.5 times that of a nuclear plant of the same capacity operating around the clock. The unit cost of photovoltaic solar electric collectors is around $100,000 per kilowatt, clearly out of the question at present.

FUSION: THE ULTIMATE SOURCE

Of the three technologies—solar, the breeder, and fusion—E.R.D.A. names as providing "essentially inexhaustible resources," fusion is the one whose practical utilization is least certain to succeed and furthest in the future. Fusion energy is here today in the sun and stars and—in uncontrolled form—in the hydrogen bomb, but its controlled use for electricity generation will require development of very advanced technologies that are far from certain to be practical.

The fusion reaction that proceeds at the lowest temperature is between deuterium, the heavy isotope making up one part in seven thousand of natural hydrogen, and tritium, a radioactive isotope of hydrogen produced from lithium. The temperature needed for this reaction is merely 100,000,000°C. Two schemes under development for achieving this enormous temperature in controlled fashion are magnetic confinement of hot ionized hydrogen gas, and implosion of hydrogen capsules by focused laser beams in a fusion internal-combustion engine. Neither scheme has yet reached the break-even point, where the amount of fusion energy produced equals the amount of energy consumed to produce the reaction. Both schemes have stubborn materials problems because of high temperatures and intense radiation.

Surely, fusion cannot contribute to U.S. energy production till the next century at the earliest. But if successful, a 1,000 megawatt fusion power plant would be fueled by only four metric tons of lithium and the deuterium in 2,640 tons of water per year. Of these two, lithium is the less abundant resource. In 1970, the U.S. Geological Survey estimated U.S. known and inferred lithium reserves at 6 million metric tons, equivalent to 1.5 million megawatt centuries of electric energy or 130,000 quads of thermal energy. If we could extract lithium from the ocean, the 250 billion tons there would provide the world with 600 billion megawatt centuries of electricity, or 5.5 billion quads of thermal energy. This enormous extension of energy resources is what makes fusion research so important, despite its great difficulty and uncertain success.

COAL: A VERSATILE FUEL

We have seen that domestic supplies of gas and oil are giving out and that new energy sources such as oil shale, solar energy, and fusion will not replace them in this century. The deficiency will have to be made up by coal and uranium. Of these, coal is the more versatile. It can be converted to substitutes for petroleum and natural gas, and it can produce heat and electricity. Uranium is good only for the latter.

Scenario five predicts that in the year 2000, 5.3 quads of coal will be converted to gaseous fuels, 15.9 quads to liquid; and 8.4 quads will fuel 219 gigawatts of electric generation. An additional 9.5 quads will be used for heating and metallurgical purposes.

These statistics don't suggest the difficulty of achieving these goals. We will have to mine over 1.8 billion tons of coal per year, almost three times the present rate. And this increase must take place despite increasing concern about the hazards of underground coal mining and the scarring of land in strip mining. Processes, mostly German-developed, exist to convert coal to synthetic natural gas, but they are expensive and inefficient, losing one-third of the coal's energy in conversion. Synthetic gas is likely to cost over $2 per million B.t.u.s—ten times what regulated natural gas recently sold for at the well.

Processes for converting coal to liquid fuels are less well developed and will require extensive pilot plant demonstration before commercialization. Yet the critical need to reduce our dependence on foreign oil gives this development highest priority. Scenario five's proposed capacity to convert 16 quads per year of coal energy to liquid fuel by 2000 will require facilities costing on the order of $100 billion.

Even the conventional use of coal for electric power generation has its difficulties. Sulfur oxides and small ash particles in stack gases are health hazards. E.P.A.'s prohibition on burning high-sulfur coal has temporarily impounded most eastern coal—35 per cent of our coal resources. Systems to remove sulfur oxides from power plant stack gases are expensive; they break down frequently and produce large amounts of solid wastes. They are not considered a satisfactory long-term solution.

A better method proposed for future coal-burning plants is to convert the coal to low B.t.u. gas in which sulfur is present as hydrogen sulfide, then remove the hydrogen sulfide, and burn the clean gas under boilers. Compared with scrubbing sulfur oxides from stack gases, the advantages are the smaller volume of gas to be treated and the feasibility of converting hydrogen sulfide to elemental sulfur, a readily stored end product. Another alternative for making a low-sulfur boiler fuel from coal is solvent refining. All these means for converting coal to electricity will probably be demonstrated successfully, but they reduce conversion efficiency and increase electricity costs.

NUCLEAR ENERGY: RISKS AND REWARDS

Since coal is our best alternative to vanishing reserves of petroleum and natural gas, we shouldn't waste it on electric power generation. Fortunately, electricity can now be generated at lower cost from uranium than from coal in most of the U.S. A recent study by Arthur D. Little, Inc. and S. M. Stoller Corp. for the New England Electric System forecasts that in the period 1985 to 2000, the cost of electricity in New England will be 3.6 cents per kilowatt-hour from light water nuclear power plants, 5.0 cents from plants burning low-sulfur western coal and 5.7 cents from high-sulfur eastern coal, with stack-gas scrubbing. The table on page 57 (not shown) summarizes these forecasts. The cost of fuel in a nuclear plant is only one-fifth that in a coal plant; this fuel cost saving more than offsets the higher capital cost of the nuclear plant.

Because they produce electricity at lower cost, numerous nuclear plants are being added to U.S. generating systems. Their present capacity is 40,000 megawatts; the total capacity of plants now ordered is 210,000 megawatts. E.R.D.A.'s scenario five postulates a nuclear capacity of 450,000 megawatts by 2000 at a cost of $388 billion—$863 per kilowatt. To generate the same amount of electricity from oil, we would have to burn 11 million barrels per day, which equals the present total U.S. oil production rate. To generate the same amount from coal, we would have to burn about a billion tons per year, almost twice the present rate.

All U.S. nuclear electricity is now produced in water-cooled reactors, which consume about 150 tons of natural uranium concentrates per year per 1,000 megawatt plant. Hence 450,000 megawatts would consume 67,500 tons of uranium concentrates. At that rate, of 3.5 million tons of estimated reserves will last about 50 years, a bit longer than oil and gas.

But this isn't the whole picture. Water-cooled reactors convert to heat only about one per cent of uranium's energy content. The process depends upon fission of the scarce isotope uranium-235 which makes up 0.7 per cent of uranium, and conversion of a small fraction of the abundant isotope uranium-238 to plutonium, which then undergoes fission. But in the liquid metal fast breeder reactor, cooled by sodium, almost all the uranium-238 is converted to plutonium, so that around 70 times more energy can be obtained. U.S. uranium resources, 1,800 quads without the breeder, are thus increased to 130,000 quads with it.

The breeder also makes possible utilization of additional uranium in ores too lean to be economic for water-cooled reactors. The amount of such low-grade uranium is uncertain, but it must be large, so the breeder makes our uranium resource base much greater than 3.5 million tons (130,000 quads).

Obviously, the breeder is essential to our energy future. A 250 megawatt breeder has been operating successfully in France for over a year; a 350 megawatt breeder is planned for operation in the U.S. by 1983. In scenario five, E.R.D.A. assumes that 18 per cent of U.S. nuclear electricity will be generated by breeders in 2000, with the proportion increasing thereafter.

What of the potential risks of nuclear power systems? I believe they can be dealt with so satisfactorily that the incidence of disease or death will be much lower than that from operation of coal-fired power plants of the same capacity.

Routine emission of radioactivity from nuclear plants is being controlled so that radiation exposure offsite is only a few per cent of the natural radiation background. Accidental release of radioactivity through loss of reactor coolant or excessive nuclear reactivity can be made so low by redundant and diverse cooling and control systems that the probability of serious public exposure would be less than one per million years of reactor operation. This is a conclusion of a study recently completed by M.I.T.'s Norman Rasmussen for the Nuclear Regulatory Commission.

Although plutonium is one of the most toxic substances known to man, strict measures that confine plutonium in nuclear facilities are preventing public exposure. How likely is plutonium theft? The only places in a nuclear power system where plutonium is pure enough and free enough of radioactivity to make theft a serious risk are plants that reprocess fuel discharged from reactors, and plants that fabricate fuel for reactors. By locating both types of plants on the same site and providing adequate guards and inspectors, risk of plutonium diversion can be made acceptably small.

Nuclear reactors discharge long-lived radioactive wastes. Although they must be kept out of contact with humans for thousands of years, this can be done safely by storage in salt deposits or other deep geologic strata demonstrably remote from ground waters. The volume of wastes is not large. One 1,000 megawatt power plant produces only 80 cubic feet of highly radioactive waste per year.

The unparalleled safety record of nuclear plants is best attested by the fact that, until now, no member of the public has even been injured, much less killed, by nuclear-related accidents or materials. No other new and potentially hazardous industry has this perfect record.

To sum up: rapid depletion of U.S. oil and gas reserves requires development and use of a number of alternative energy resources. But no one resource can do the whole job; a balanced mix of many is required. Of alternatives to oil and gas, our greatest reliance—at least for the next generation—must be placed on coal and uranium. Coal is indispensable for producing gaseous and liquid fuels, and for some electric power generation. Uranium is essential as the mainstay of our electric power industry. Scarcity and high cost demand conservation and efficient energy use in industry and our private lives.

BUSINESSMEN OPPOSE MANDATORY RETIREMENT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. FINDLEY. Mr. Speaker, when I introduced legislation to abolish mandatory retirement last year, I anticipated some opposition from the business community. I was pleasantly surprised to see in a recent issue of Nation's Business containing the results of a reader response survey on the question "Should retirement be forced because of age?" It is heartening to note that 80 percent of the readers responding said "No."

I include here the text of the report, and commend it to my colleagues as an expression of the support of the business community for eliminating mandatory retirement.

The article follows:

A STRONG PROTEST AGAINST FORCED RETIREMENT

Four out of five Nation's Business readers responding to the May "Sound Off to the Editor" question—"Should retirement be mandatory at a certain age?"—vote no.

One of the most common arguments is that a person's age is an unfair yardstick by which to judge his productivity.

For example, A. H. Metz, president of Modern Plastics, Inc., Hialeah, Fla., says that "many men and women are old at 50, while others are still active and can contribute their share and more at 70. Why put those others out to pasture?"

Frank Stewart, vice president and general manager of Roberts Paper Co., Amarillo, Texas, says: "We have some salespeople who were retired at 65 and still are very productive ten to 15 years after retirement."

Legislation has been introduced in Congress that, in effect, would prohibit compulsory retirement at any specified age. Paul Sperling, vice president of Corrick International of California, Inc., Santa Cruz, thinks the courts could well bar such retirements without passage of such legislation. "I believe forced retirement is illegal," he says. "If we may not discriminate in hiring on the basis of age, then we may not so discriminate in firing." He adds: "The argument that jobs are created for younger workers is specious; the 65-year-olds will be leaving the work force soon enough."

James J. McCormick, an assistant vice president of Liberty Mutual Insurance Co., Boston, feels that "forced retirement because of age is more discriminatory than discrimination because of sex, color, or creed; it strikes everyone." It is also morally wrong, he says, "because it denies older citizens their basic civil rights. It deprives them of dignity, a sense of being needed or wanted."

A. R. Fortier, a vice president of Hartmann-Sanders Co., Elk Grove Village, Ill., votes no and asks his own question: "If judges, politicians, and members of Congress do not have to retire, why should anyone else?"

An emphatic no comes from Felix P. Kinsley, Jr., president of Kinsley & Sons, Inc., St. Louis. He says: "I have seen many business associates who were required to retire at 65 or 70. They were extremely active, loved to work, and were a real asset to the company. The adjustment to retirement was often very difficult, and many of them died within a year."

Several employers voting against compulsory retirement state a preference for their older employees, citing such characteristics in these people as experience, wisdom, loyalty, and dependability. Some say they have never been able to replace satisfactorily older workers who have been forced to retire.

Those in favor of mandatory retirement frequently state that age slows a person down mentally and physically and makes his job performance inadequate. "Without a forced retirement age," says Milton A. Kassner, retired vice president of Wisconsin Telephone Co., Milwaukee, "too many—particularly higher salaried top executives—would hang on without realizing they have lost their vitality and imagination."

Many yes voters agree with Thomas A. Repp, a vice president of Security Benefit Life Insurance Co., Topeka, Kans., who says: "Mandatory retirement provides encouragement and opportunity for younger employees to succeed to more responsible jobs. When the younger employee feels he is blocked from a promotion, he is easily attracted by a competing employer."

Others voting yes feel that mandatory retirement at a certain age has the advantages of forcing companies to implement better retirement plans and forcing employees to plan for their retirement.

The nature of the "Sound Off to the Editor" question prompted a number of respondents to recount what had happened to themselves or others as a result of forced retirement.

Henry W. Lever, owner of The Henry Lever Realty, Madras, Oregon, votes no to forced retirement but tells this happily ending story: "I was retired as a professor emeritus and department head in a prominent western college at 65, even though I was a better teacher at 65 than when I was younger. That was 26 years ago. Good health and a desire for work kept me busy. I am now a successful realtor."

Robert D. Spies, superintendent of the Allegany Ballistics Laboratory of Hercules, Inc., in Cumberland, Md., says that perhaps the most convincing argument against forcing retirements because of age "is the long-term economic impact." Ending such retirements would "somewhat relieve the Social Security funds problem," he explains, "and would probably help relieve the financial problems some company retirement programs are facing."

James L. Shoemaker, public affairs manager for the Utah Power & Light Co., Salt Lake City, wonders if a compromise can't be worked out. "At age 65," he suggests, "hours could be cut 20 percent and the same for salary. Further phasing out of work could be based on a health and alertness formula established with the help of company physicians."

Donald H. Baker, president of Blue Ridge Furniture Co., Lenoir, N.C., is against age-linked forced retirement—"it is poor business to lose a good employee because of an arbitrary age limit," he says—but also against legislation banning such retirements. "My suggestion to government is to confine its efforts where government belongs," he says.

However, M. J. O'Shaughnessy, sales manager for Burlington Northern, Inc., in Lewiston, Idaho, favors forced retirement, arguing that "it helps create much-needed job opportunities."

The subject really strikes home to R. B. Barger, area development and utilization manager for Connecticut Natural Gas Corp., Hartford. "I will be 65 in two months," he says, "and by company policy must retire. Although I would prefer to continue working, I believe mandatory retirement is in the best interests of employees of all ages."

CORRECTION RE AUTHOR OF CARLA'S FABLE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. OTTINGER. Mr. Speaker, on July 20 I inserted into the RECORD an article entitled "Carla's Fable" which I erroneously attributed to Nat Parish, legislative chairman of the New York Association of Renewal and Housing Officials, Inc.

I have learned that Mr. Parish did not write that fable, which has apparently been circulated to a number of people. The author of the fable remains unknown. I would like at this time to apologize to Mr. Parish for this error and to the author of the article, who certainly deserves full credit for the work, whoever he or she may be.

THE FAIR INVESTIGATIVE REPORTING ACT OF 1976

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. DOWNEY of New York. Mr. Speaker, today I am introducing legislation which will amend the Consumer Credit Protection Act and provide for stronger and stricter regulation of credit reporting agencies. Credit agencies exercise a tremendous and invisible power over the consumer. This power has not always been used responsibly. Many reports are casually put together, with little regard for accuracy. Anecdotal materials contained in their data banks are often incomplete or biased. This unfair or erroneous information too often has prevented a man from getting a job or obtaining credit or insurance. In the process, the privacy of millions of Americans has been invaded and their reputations smeared. The Fair Investigative Reporting Act of 1976 would protect the consumer against the tyranny of the information collector.

The legislation I am introducing today is identical to a bill introduced by Senator PROXMIRE and would amend the Consumer Credit Protection Act by:

First. Outlawing quota systems which require credit investigators to include a minimum amount of derogatory material;

Second. Requiring those who seek to compile investigative reports to obtain prior written consent from the consumer;

Third. Guaranteeing to consumers access to all information in their credit files;

Fourth. Requiring reporting agencies which are preparing a report for a prospective employer to first send a copy of the report to the consumer;

Fifth. Mandating that consumers be notified when a file is first opened on them; and

Sixth. Requiring that the user of a report must inform the consumer of the name of the reporting agency when credit or insurance is denied on the basis of that report.

In sum, this legislation will significantly amend the original Consumer Credit Protection Act in an effort to further protect Americans from this credit reporting industry. I believe, it will go a long way toward eliminating the abuses of the credit reporting agencies.

This legislation addresses a problem which is serious, not only because it represents an egregious invasion of privacy, but also because of its potentially severe financial impact upon families who cannot obtain credit. Therefore, I ask my colleagues to support this important legislation.

GENERAL HENRY HUGLIN SPEAKS ON OUR BICENTENNIAL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent, Gen. Henry Huglin. Mr. Huglin is a retired Air Force general, and a lecturer on international affairs. In this article, Mr. Huglin turns his, and our attention to the Bicentennial celebration recently past, and the implications of the renewed patriotism generated by our 200th birthday party:

BICENTENNIAL REVIVING OUR NATION'S SPIRIT

(By Henry Huglin)

The glorious celebration of our bicentennial is doing more good for our nation's confidence and spirit than anyone had anticipated.

The parades, flags, ceremonies, and reflections in our nation's roots and achievements are transforming, in a timely and wonderful way, the malaise which had descended on us in recent years.

Combined with the highlighting of our Nation's problems and prospects in the election campaign and the growing realization of the continuing challenges in the world—such as terrorism, economic problems, and the Soviets' military build-up and expansionism—this bicentennial is helping us to regain a sensible perspective on the world and our necessary leadership role in it.

This convergence of events, leading us back to reality and willingness to face that reality is fortuitous. Our security and well-being and those of many millions of people elsewhere are directly dependent on the wisdom of our Nation's policies and actions and on the will of our people vigorously to support them.

The controversies over Vietnam, Watergate, and the transgressions of the CIA and FBI provided a field day for those at home and abroad who delight in emphasizing our faults and denigrating our Nation.

Our domestic masochistic critics put on the hairshirt and wallowed in sanctimonious condemnation of our country.

Likewise, ivory-tower pacificists and anti-military publicists seized their golden opportunity, in the post-Vietnam witch-hunting climate of the past few years, to promote their objectives of emasculating America's military strength and dynamic world leadership role.

The media—which always emphasize the critical, because it is "newsworthy"—contributed to the spread of the malaise by featuring the critics and often ignoring the good aspects and supporters of our society.

And many politicians adopted the chic rhetoric of these detractors, becoming what can best be termed "dovish liberals"—isolationists in international security affairs. But the candidates of that persuasion were defeated in the primary elections. Their wishy-washiness in respect to our world responsibilities and their often rose-tinted rationalizations of the Soviets' actions and other security problems of the world have been rejected by the majority of the voters.

Abroad, as the result of our orgy of self-criticism and doubts, our allies and friends have been appalled and growingly concerned over our excessive self-flagellation and apparent mood to turn inward, away from the leadership role on which they so greatly depend.

Our adversaries have relished our self-inflicted troubles, turned their propaganda efforts on them, and moved, as in southern Africa, to capitalize on perceived opportunities stemming from our divisions and uncertainties.

There seemingly is always in a nation a latent tendency to seek "an easy way out" of external threats and difficulties. This tendency can surface strongly enough to lead a government to an ostrich-like non-view of the world—as it did Britain and France in the 1930's. The result was that they stumbled down appeasement's primrose path into the tragedy of World War II, when the only remaining alternative was surrender to Hitler's tyranny. But, fortunately, now we seem to be turning away from this deadend course.

What is involved with us (as it was with the British and French 40 years ago) is "nerve;" that is, the collective will, inspired by the proper leadership, to face up to our challenges and the inescapable responsibilities, actions, and sacrifices that will be necessary for our future security and well-being—and for those of much of the rest of the world as well.

Patriotism, without jingoism, is again becoming widespread. And this is an essential step in the restoration of our "nerve."

The excesses of passion over Vietnam, outrage over Watergate, and exposure zeal over the CIA and FBI have been endured and surmounted. Thus, as the conditions evolved for our pendulum of sensibility and perspective to swing back toward a proper balance, our bicentennial has come along to do just that, and to give us a renewal and welling-up of our basic buoyant American spirit, confidence, and vitality—and to help restore our trustworthy and valiant image abroad.

So, we are now rightly engaged in soundly sorting out how we shall play our necessary global leadership role in the future and measure up to the trials that lie ahead—hopefully, even better than we have done in the past.

WARNING: H.R. 8401 ASSURES NUCLEAR PROLIFERATION

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. MOSHER. Mr. Speaker, I intend to vote against H.R. 8401, or at least against those provisions of the bill that would permit private corporations to manufacture enriched uranium in the United States.

For years, I have supported vigorously research and development efforts for new sources of energy, and I have favored responsible efforts to develop a strong nuclear power industry in the United States.

But I must oppose the Nuclear Fuel Assurance Act (H.R. 8401) because I believe this bill would do little or nothing to enhance our energy production capabilities, while it definitely would add greatly to the risks of international catastrophe. I see its disadvantages, the threat from it, as far outweighing any potential advantage.

My main concern is that this is clearly not the time for the U.S. Government to relinquish even the slightest measure of responsibility for, or control over, the production and sale of nuclear materials.

And let us make no mistake about this—ultimately, the debate over H.R. 8401 resolves down to one crucial question, whether or not we shall loosen the Federal Government's grip on materials that can ultimately be used to produce nuclear weapons.

To the extent that fissionable materials, and hence the physical capability of producing nuclear bombs, proliferate throughout the world, to that degree civilized government and rational world order become that much more difficult.

H.R. 8401 proposes to remove from the Federal Government some of the control it now has—by virtue of being the manufacturer and supplier—over the most dangerous material known to man, and thus inevitably would encourage proliferation.

It is my opinion that passage of H.R. 8401 in its present form will greatly exacerbate the problem of nuclear proliferation, because it will stimulate commercial traffic in fissionable materials.

I have long opposed the idea that the United States should amass increased wealth by supplying the world with weapons of war. Therefore, I abhor the possibility that commercial firms now would have a legally encouraged capacity for overproduction of fissionable material. The legislation before us would create the probability that these firms, for economic reasons, will be forced to try to peddle surplus nuclear fuels overseas.

By suggesting that the persons who would run these enterprises might be forced to become "pushers" of nuclear materials, I do not mean to impugn their moral character. They would be obligated to use the productive resources entrusted to them as efficiently as possible. This would mean selling nuclear fuel, above the supply contracted for by U.S. facilities, to foreign countries.

Though current plans foresee beginning contracts under which the Government would guarantee sales in the initial stages of the project, to continue that over the long run would make nonsense of the idea of privatization, which is the presumed purpose of this bill. Eventually these enterprises will be left to sink or swim on their own. We can deduce from the history of U.S. arms and munitions firms that plutonium manufacturers will be able to swim very effectively in the waters of the international system.

It seems to me that some political issues are of such a fundamentally public nature that decisions must be reserved for the representatives of the public alone. Control over materials that can almost instantaneously destroy human civilization clearly is such a public interest.

The Earth's population is over 4 billion people and increasing at a rate of 3 percent a year. Perhaps as many as a quarter of these people are seriously undernourished. At least half of the governments of the world are built upon such poverty, a shaky base for nations without sustaining political traditions.

The world food reserve is now at about 30 days supply. This is down from about 100 days in the mid-1960's.

We are in a period of climatological uncertainty. In the last 10 years, there have been major crop failures on almost all continents. Most climatologists agree that we are at the end of a period of especially good grain-growing weather; failures such as those that we saw in the first half of the seventies are likely to continue to occur in the foreseeable future.

High petroleum prices seem to rule out any dramatic new increase in world food production.

We can, therefore, expect much more political instability on the international scene as population outruns food in the third world.

In addition to this atmosphere of general instability there are certain areas of the world where conflict seems inevitable. Southern Africa, the Mideast and India-Pakistan, are the clearest examples of the dangers to world peace in the foreseeable future.

Into this cauldron the industrialized countries are introducing the capability to make nuclear weapons. Wilbert Wholstetter, a respected political scientist, in a study done for the Arms Control and Disarmament Agency, estimates that by 1985 forty countries will have title to substantial quantities of enriched nuclear materials. Further, at least 20 of these countries will likely have plutonium recycling capability of the sort needed to process fissionable material. These will include South Korea, Taiwan, South Africa, Pakistan, Iran, Brazil, Argentina, Spain, Yugoslavia, and Rumania. This number could rise to 40 depending on the availability of nuclear wastes and plutonium technology. Why should we add to that availability?

We certainly will face, somewhere along the way, the nightmare of an irrational national leader, several of whom pop up in every generation, controlling a nuclear arsenal. Imagine a world in which several Idi Amins control nuclear bombs.

Even under current arrangements, wide proliferation can occur. Wholstetter says:

> It has been understood from the outset of the nuclear age that designing a bomb and getting the non-nuclear components are much easier than getting fissile material in high enough concentrations for an explosive. Research on a bomb design and testing of non-nuclear bomb components are not prevented by agreement, and can proceed in parallel with the accumulation of fissile material.

Dr. Victor Gilinsky, for similar reasons, recently dissented from actions of the U.S. Nuclear Regulatory Commission in licensing further nuclear fuel shipments to India. Currently safeguards against U.S.-supplied nuclear materials being diverted into weapons programs are inadequate.

H.R. 8401, in proposing the privatization of nuclear fuel production, has a potential of making the current dangerous situation even worse. I repeat, it cannot help but increase the pressures to export more nuclear fuel. It would increase the probability of a dangerous international proliferation of nuclear materials.

Even if it were not for the spectre of nuclear proliferation in an increasingly dangerous world, this would not be a good bill. Both the General Accounting Office and the Federation of American Scientists are among those who oppose the bill, on the grounds that the Government is taking most of the risks while industry will get all of the profit.

Personally, I am also troubled by the high level of foreign participation in this venture. At the same time that we are complaining about foreign influences over our petroleum supplies, how can we in the Congress in good conscience help promote a plan that will involve large-scale foreign participation in our nuclear fuel processing for the first time?

Strong as these last two arguments are, though, they pale to insignifiance beside the first issue I raised—that of nuclear proliferation—I believe this world is dangerous enough without making it more likely, that some madman or an irresponsible government can acquire the ingredients for nuclear holocaust.

It is imperative that we vigorously make every effort to protect ourselves, and humanity at large against the dangers of proliferating nuclear weapons. I feel that one of the best ways to do this is to maintain our Government monopoly on the production of enriched uranium in the United States. So, I will be voting "no" on that portion of H.R. 8401 that would end the Government monopoly, and I now urge my colleagues to do likewise.

FOOD MOVES TO INDIAN RESERVATIONS

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. SANTINI. Mr. Speaker, the total Indian population in the State of Nevada numbers approximately 15,000 with 9,400 living on reservations. Nine of the twenty-two occupied reservations were receiving food commodities from the Department of Agriculture's Food and Nutrition Service. As of July 1, all nine reservations were mandated to make a transition from the commodity food distribution program to the food stamp program.

However, the low level of Indian participation in the food stamp program and the inaccessibility of many people to an adequate food supply, all pose serious complications to the nutritional well-being of the Indian population.

Factors influencing the participation in the food stamp program of the Indian people on the reservations are varied. Distances one must travel to obtain food stamps oftentimes precludes any benefits which may be derived from obtaining food stamps. In addition, for many households, the cash outlay required to purchase food stamps is a major portion of the monthly income. Communication problems are also encountered because of indepth information required for food stamp certification.

To alleviate many of these problems, the Inter-Tribal Council of Nevada has implemented a unique program which involves a comprehensive grocery and nutrition education delivery system.

For the benefit of my colleagues, I would like to share a news article, by Ms.

Julie Zuckman, entitled "Switch to Food Stamps Proves Hard for Indians," outlining the activities of this mobile grocery store:

Switch to Food Stamps Proves Hard for Indians

(By Julie Zuckman)

At the end of this month, four Indian tribes represented by the Inter-Tribal Council (ITC) of Reno, Nevada will switch from commodities to food stamps, but the changeover will not be easy.

Subjected to a variety of pressures from state and federal officials, the ITC agreed to switch to food stamps this year. Also, ITC members expressed the belief that commodities, which do not include produce or fresh foods, are nutritionally inferior to products purchased with food stamps. Yet the ITC was sufficiently concerned about the changeover to hire a professional dietitian, Sonja Young, to direct its community food and nutrition program.

The ITC reservations are far from certification and purchase centers. For example, the people of Yomba Reservation must travel 220 miles round trip to obtain their food stamps. In many cases, the bonus gained from using stamps is cancelled out by the cost of traveling to obtain them. Perhaps most important, the purchase requirement for food stamps involves a cash outlay that is beyond the means of many Indian families.

On one reservation there is no electricity, so that refrigeration is impossible. Some of the reservations are far from any food store except the local trading post, which is usually expensive. When the ITC conducted a shopping survey, it learned that people travel off the reservation every two weeks just to purchase groceries.

Both state and federal officials have been aware of the difficulties involved in a switch to food stamps, and the state has made some attempts to provide outreach. However, Nevada's outreach staff consists of one non-Indian woman lacking extensive community contacts. Outreach was limited and did not have an Indian-oriented cultural focus. Hence, the ITC's Sonja Young took over the Indian outreach program in February in hopes of reaching households and solving some of the worst problems.

When the ITC's community food and nutrition program began operating in February, some 1163 households on the nine most isolated reservations were receiving commodities. After four months of effort, only 39 households—about 3 percent of those eligible—had successfully made the switch to food stamps.

The ITC nutrition program staff, which includes local Indian people supported by CETA and Indian Action funds, came up with a plan to provide onsite certification and food at reasonable prices to surmount the worst difficulties involved in the transition. Nutrition education and community-controlled food distribution are also important in the plan.

Young's staff incorporated these various activities in a combination mobile grocery store, certification and resource center housed in a converted moving van. With an initial CSA grant of $74,000, the ITC has assembled this comprehensive nutrition delivery system in the refurbished van. The trailer, pulled by a semi-tractor, travels between reservations so that workers can go into each community and deal with households directly. Young is also writing a proposal to contract the unused portion of the state's WIC caseload for the ITC. Anticipating a potential caseload of 600, her staff has constructed a small WIC clinic in a section of the trailer so that the two nutrition programs can function together.

REFURBISHED VAN

The trailer began visiting reservations this month, promoting all-day "Food Fares" to promote food stamps and interest in nutrition problems. Certification is provided at these Food Fares. Young told CNI Weekly Report that the first Food Fares were received with enthusiasm. The 40-foot trailer is scheduled to visit each reservation every two weeks, carrying such items as meat, produce, dairy products and a variety of canned and packaged foods.

The ITC community food and nutrition program is working against a time limit, however. The federal grant expires on August 31 unless an extension is awarded, and the tractor is on loan from the state only until July 1. Most eligible households still will not be receiving food stamps when commodities are terminated, since certification takes two weeks to a month to obtain. A gap of at least a few weeks will occur during which many families will have neither commodities nor stamps.

The purchase requirement also remains a problem. Although families receive welfare checks at the beginning of each month, the trailer cannot be on nine reservations at once, and households will be forced as before to leave the reservation to purchase food. In response to this problem, the ITC is encouraging households to reserve a portion of their welfare funds in an account earmarked for food stamps and groceries from the trailer. For the future, Young hopes to set up community-run grocery stores that will channel money into the reservation. Looking even further ahead, the program's executive director, Harold Wyatt, told CNI that they would like to see the entire Indian community develop a self-contained food system between the reservations and farm colonies dealing in Indian-grown produce and livestock.

The project has limited funding, and the trailer may need more time and more grants to become self-supporting. Since federal legislation providing special dispensation for such localized projects is not now pending and is highly unlikely, funding will have to come from state or local sources. Yet food stamps cannot work on remote Indian reservations without such special outreach efforts.

COLLEGES AND WASHINGTON NEED TO SIGN A PEACE TREATY

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. FRENZEL. Mr. Speaker, the president of the University of Minnesota, Mr. C. Peter McGrath, recently delivered a speech at the University of North Dakota which was adapted and reprinted in the Chronicle of Higher Education. It calls for closer cooperation between colleges and universities and the Federal Government.

A few years ago that would not have been news. Right now it comes as a welcome relief in the cold war between the HEW and our institutions of higher education. Something must be done to improve the deteriorated relationships. The "new partnership" suggested by Peter McGrath is a good point of beginning. The article follows:

Colleges and Washington Need to Sign a Peace Treaty

(By C. Peter McGrath)

We in colleges and universities are now discovering that it is infinitely more pleasant and compelling to promote good causes for others than to accept rules and regulations applied to ourselves.

This is so even though many of the federal government's regulations are aimed at correcting the same kinds of abuses (at least abstractly) that we were quick to criticize when the target for reform was General Motors or a segregated school district in Alabama or Georgia.

But even as we acknowledge this irony, and the valuable perspective it offers, we must face a fundamental question: Why has government seen fit to issue such a host of regulations in the first place? To be sure, many governmental procedures and guidelines are silly and exasperating. Yet it does seem that we are in the midst of a period of criticizing government with blinders on. We are naive if we fail to understand that rules and regulations do not mysteriously grow out of social vacuums. Regulatory guidelines—no matter how grotesquely written, or how unmanageably enforced—are written to implement legislation passed in response to what elected representatives have judged to be misfirings of our society, misfirings that they are trying to correct through government.

In talking about regulations at the federal level, we are not really talking about the laws themselves; we are talking, rather, about the administrative machinery used to put those laws, including executive orders and other promulgations, into effect. A colleague of mine at the University of Minnesota has described the situation this way: The basic law creating the Environmental Protection Agency is a good law and runs about seven pages; the rules and regulations spawned by those few pages could fill a moving van.

Twelve major pieces of federal legislation govern the behavior of colleges and universities. These laws pertain to such matters as equal opportunity in employment and education, occupational safety and health, and environmental protection. Colleges and universities—public and private—are legally bound by these laws, at the risk of losing federal financial support. Needless to say, they have an overwhelming financial interest in doing what the government tells them to.

Outside of administrative inconvenience, what problems do colleges really face in complying fully with these laws and their accompanying regulations? Are the problems really *that* trying?

Compliance is undeniably expensive. It is estimated that federally mandated regulations and programs aimed at furthering such social objectives as combating racial and sexual discrimination, improving the physical safety of facilities, and assuring the proper expenditures of federal dollars will cost institutions of higher education approximately $2 billion this year. This is equivalent to the total amount of voluntary donations our colleges and universities will attract during this same period. These federal programs (in addition to such things as Social Security taxes, a particularly large expense) are costing colleges and universities 10 to 20 times more today than they did 10 years ago. Somehow these costs must be covered by already thin operating budgets, and, clearly, they put pressures on tuition rates that are already too steep. The objectives are laudable, but the compliance machinery, unfortunately, often has a detrimental impact on a university's ability to do the very things it is supposed to do: teach, conduct research, and offer education-related public services.

Colleges and universities currently find themselves embroiled in a controversy with the Department of Health, Education, and Welfare in the area of scientific and scholarly research. Basically, H.E.W. wants to make certain that researchers are doing the things they are supposed to be doing under the terms of their federal contracts. Fair enough. But H.E.W. has devised a control mechanism—called "effort certification," to use the jargon—that forces universities to collect, collate, and disseminate information regarding how researchers and their support staffs occupy their time, in some instances for every working hour.

Although the intent behind this new procedure is reasonable, its impleemntation is not. There is, for one thing, absolutely no assurance that this new system will actually provide the safeguards of accountability it is meant to provide. Researchers truly interested in bilking the government—and I do not believe there are significant numbers of them—will presumably have little compunction about lying on a time card; they are not going to let such a modest obstacle stand in the way of invalidating a trust, if that is their intention.

There are other costs. Disputes over compliance often wind up in court, resulting in lengthy and expensive legal battles. One major American university expects to spend approximately $400,000 litigating one such current case.

The very fear of this kind of legal entanglement often dissuades talented would-be administrators from accepting important administrative posts because they see these jobs as increasingly risky and too emotionally draining. This is by no means an insignificant problem.

Higher education, of course, does not face this situation alone. Businesses often contend with the same problems. But there is a major difference. Businesses can meet increased operating costs by raising prices; universities have to raise tuitions. The difference is fundamental. The increasing costs of compliance are certainly not the sole cause for constantly growing tuition rates; they are not even the dominant cause. But we must be very concerned about any factor that places significant stress on tuition levels.

Nevertheless, it is essential that we view governmental activities in their proper context. We must understand that laws, and in turn, rules and regulations, do not just happen. There are reasons, usually good ones, behind them. Virtually without exception, these laws represent responses to broad social mandates for reform and for improving our social environment.

Affirmative-action and civil-rights requirements, to select just two examples, have not just happened; they are direct responses to centuries of racial and sexual discrimination, and to our determination to do something about that discrimination.

One could argue that many rules and regulations as they are written and enforced do not, in fact, constitute the best or most effective way of dealing with the problems they are intended to correct. We are not being fair or smart, however, if we lump virtually all governmental regulations and programs together and claim them to be collectively suspect. Most federal and state initiatives have proved beneficial, despite our frustrations from regulations. As a society, and as individual colleges and universities, we have needed a hard collective kick in the pants in a number of areas of crucial social concern. Government has provided that needed kick, and we are, and will be, better off for it.

The challenge, really is where do we go from here? How do we reconcile the problem of acknowledging the government's legitimate obligation to effect needed social change and the fact that so very few people seem pleased with the way it is being done?

First, it is essential that we do not permit our disagreement with certain procedures and regulations to dissuade us from doing what is right. We must not try to wiggle off the regulatory hook simply because it scratches. We are, after all, educators; our perspective should be broad. Moreover, we must openly identify ourselves as being concerned about ways to implement meaningfully the major social initiatives of recent years. We must be willing partners to this new social contract.

Second, administrators, faculty members, students, trustees, and other interested parties to the educational process must lobby more effectively for federal and state procedures compatible with the relatively decentralized and highly professional nature of universities. Universities and colleges *are* different—not necessarily better, but different—from most other kinds of institutions. Applicable rules and regulations, if they are to be effective, must be drafted and enforced with these differences in mind. We must also communicate more forcefully than we have the undeniable fact that increased costs of compliance invariably show up in increased tuition rates.

Federal compliance efforts, if they really are to work, will always be costly, and one question in particular must be answered: How should these costs be met? One of the most frequent and justified complaints voiced by my colleagues is that government, once it has mandated an elaborate and expensive new program, offers little help to universities in paying for it. University officials find themselves caught between legally mandated rocks and economically imposed hard places as they scour their inflexible budgets for needed extra dollars. Government must recognize this severe problem.

Most fundamental of all, there is an imperative need to recreate a climate of civility between higher education and the federal government, as this relationship has seriously deteriorated for a variety of reasons in recent years. We need, in short, a peace treaty between our universities and our government in Washington, and we need it soon. I am convinced this damaged relationship can indeed be repaired, but it will take mutual good will and respect, and intense and precise communication. It will also take trust, and a recognition that the important goals of affirmative action, equal opportunity, occupational safety and health, and fiscal accountability can best be accomplished through cooperation, not costly conflict.

Our objective, overall, should be a new partnership between our universities and the federal government, one aimed at achieving needed reforms, not compromising them.

We run a serious risk in arguing squinty-eyed about the ways in which our nation implements its social policies. We must not destroy the significant progress already made, nor backtrack on the important progress we are still obliged to make in education and in other areas of national life. Most certainly, we must not allow this to happen because we have arguments not with the need for constructive change, but with the administrative tools used in accomplishing that change.

POLISH LANGUAGE NEWSPAPERS PROMINENT IN THE GROWTH OF AMERICA

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. ANNUNZIO. Mr. Speaker, Polish-Americans have made great contributions to the success and strength of the United States, and I call the attention of my colleagues to the prominent part played in the growth of our country by Polish-language newspapers.

An article on this subject follows, written by Dr. Edward C. Rozanski, the general manager of Alliance Publications in Chicago, which publishes the Polish Daily Zgoda:

[From the Scranton (Pa.) Guard, July 15, 1976]

POLONIA'S PRESS . . .

(By Dr. Edward C. Rozanski)

In the celebration of America's bicentennial it is most important to emphasize the prominent role that Polish language newspapers played in the growth and development of the United States.

Appearing on the American scene in the early 1800s, publishing in both the English and Polish languages, they immediately set about informing Polish immigrants on the political, religious, cultural and civic structures of their new-found country.

Included were instructions on how to become an American citizen, lessons on the English language, and many articles on how best to assimilate into the American way of life.

Strictly speaking, the general term "Polish Press in America" is a misnomer. Essentially, the dailies, weeklies and monthlies published by and for Polonia were and continue to be American publications in the Polish language.

It is thus more proper and fitting to refer to them as Polonia's publications and Polonia's press!

Within this framework of reference we can better understand and appreciate the part they played and continue to do in the history and development of American Polonia as an integral ingredient in its sociocultural structure.

The history of Polonia's press dates back to June 1, 1863, when *Echo z Polski* (Echo from Poland) was published in New York at the initiative of one of our luminaries, Dr. Henry Corwin Kallusowski.

Roman Jaworowski was *Echo's* editor. The publication lasted only two years. It was followed in 1870 in Union, Missouri, by *Orzel Polski*, founded by Dr. Alexander Szczepankiewicz and edited by Ignacy Wendzinski, who later became one of the early editors of *Zgoda*.

Orzel Polski merged with *Pielgrzym* in March 1872 and became the property of Jan Barzynski, brother of Rev. Wincenty Barzynski whose strongly controversial activities led to the eventual founding of *Dziennik Chicagoski*.

As early as 1873 however, Wladyslaw Dyniewicz founded *Gazeta Polska* in Chicago whose liberal policies led to the founding of its rival the *Gazeta Polska Katolicka* also in Chicago, by conservative-clerical elements of Polonia under the leadership of Father Barzynski.

Thus Chicago's Polonia set the pattern and pace for other publishing and initially successful ventures by Antoni Paryski in Toledo, Ohio; Michael Kruszka in Milwaukee; the Ruszkiewicz brothers in Buffalo; Maksymilian Wegrzynek in New York, Franciszek Janiszewski in Detroit and others.

At the turn of the century and by the early 1920s Polonia had nine dailies and 42 weeklies. Of this number only two dailies have survived: *Dziennik Zwiazkowy* in Chicago and *Dziennik Polski* in Detroit. They were recently joined by *Nowy Dziennik* in Jersey City.

Of the weeklies, *Gwiazda* in Philadelphia, *Gwiazda Polarna* in Stevens Point, Wisconsin, *Polonia* in Chicago and *Glos Narodu* in New Jersey still remain in business as private enterprises while official organs of our fraternals—*Zgoda* of the Polish National Alliance, *Naród Polski* of the Polish Roman Catholic Union, *Glos Polek* of the Polish

Women's Alliance, *Sokol Polski* of the Polish Falcons of America and *Straz* of the Polish National Union of America (Spójnia), all have become bi-weeklies, with the exception of *Straz*.

The inevitable change from the all-Polish newspaper to one that was to carry an English section came about in the mid 1920s. Dr. Matt W. Majchrowicz gave life to Chicago's *Dziennik Zwaizkowy's* "Sport and Youth Section". He was eventually followed by Dr. Bruno Sadowski and Joe Kowal. Chicago's *Dziennik Zjelnocznia* followed suit with John Czech being another spirited and shining example.

In Milwaukee *Nowiny Polskie* had Zyg Kaminski doing a page that was a very popular feature. In New York City Henry Archacki, who won his newspaper spurs under Dr. Majchrowicz, did the same for *Nowy Swiat*. Archacki was to become even better known for his "Czy Wiecie. Ze" cartoon series, a Polish "Believe It or Not" a la Bob Ripley. Today's Lone Ranger amongst the more knowledgeable sports editors is Stan Malinowski of the *Polish American Journal*.

Speaking of cartoonists, two stand head and shoulders in the history of Polonia's Press, namely: Wladyslaw Kdawiec, a consummate artist of great skill and fresh ideas, who drew political cartoons for *Dziennik Chicagoski*. The other prolific caricaturist was the celebrated actor, Kazimierz Majewski, who also drew daily for *Dziennik Zwiazkowy*.

Back in the late 1940's Henry Dende took his father's all-Polish *Republika Górnik* and broke with tradition by publishing the first all-Polish Polonian weekly, renaming it *Polish American Journal*, a monthly. Another all-English weekly is the Am-Pol Eagle of Buffalo.

Eventually all the organs of the Polish fraternals introduced English sections, thereby arresting some of the attritions of Polonian youth.

Zgoda, the PNA fraternal organ, is now the oldest publication in Polonia with 95 years of uninterrupted publication. However, it is now a bi-weekly, appearing twice a month.

The oldest continuing weekly publication (79 years) is another fraternal organ, *Straz*, founded by Bishop Hodur before his secular founding of the Polish National Union in Scranton, Pa.

The youngest all-English weekly (year 14) is the *Post Eagle* of Clifton, NJ, published and edited by Chester Grabowski, who manages to add spice and controversy to all of New Jersey and Metropolitan New York happenings. Across the Hudson in Greenpoint, Brooklyn, NY, the *Polish American World* (year 18) serves as a sounding board for all that is greening in Greenpoint and environs.

Newer publications include *Perspectives, New Horizon, Pokój* and *Tydzien*.

It is not the purpose of this article to present a history of Polonia's press. A subject of this scope would take at least one good-sized volume. What I would like to emphasize is the important role the editors of our various publications played in the social, cultural, economic and political structuring of our Polonia in the USA.

Without exception they were men of commitment and dedication. And men like Wardzinski, Tomasz Siemiradzki, Jan Przyprawa, Józef Przydatek, Karol Piatkiewicz, Henryk Lokanski, Zygmunt Stefanowicz—to mention only a few of them—deserve a niche of honor in Polonia's history.

They did not come to America as seasoned journalists. Some of them were men of letters, others made their mark through talent, hard work and personal sacrifices. They gave substance, meaning and direction to Polonia's publications.

Natural processes, however, through deaths and retirement, removed them from the scene.

Today there are only a few Last Mohicans of old Polonia journalists still working: Miezyslaw Wasilewski in *Sokól Polski, Józef Wiewióra* in *Zgoda*, Helen Moll in *Dziennik Zwiazkowy*. Luminaries like brilliant essayist Arthur L. Waldo, Zygmunt Stefanowicz, Adam Bartosz, Ignacy Morawski are in retirement. Leopold Dende is still busy even without a by-line.

Fortunately with the influx of Displaced Persons in the 1950s, Polonia gained a number of experienced bona fide journalists from pre-war Poland and they took the editorship of *Dziennik Chicagoski, Wiadomosci Codzienne* in Cleveland, *Dziennik Polski* in Detroit, *Dziennik Dla Wszystkich* in Buffalo and lately *Dziennik Zwiazkowy*. All of these publications, with the exception of *Dziennik Polski, Dziennik Zwiazkowy* and *Nowy Dziennik* are now defunct.

The inexorable liquidation of many of Polonia's publications in the post World War II period was not the fault of the new crop of editors who are highly qualified masters of their profession.

The downfall and the growing difficulties with which the remaining publications have to cope, have been precipitated by steadily growing production costs, by demographic changes in which once solid Polonia scattered into suburbs and, generally, by changing life styles in America.

They are the reasons why Polonia's Press today stands at the crossroads of history.

It is up to Polonia, to every American of Polish origin, to answer this basic question:

Should Polonia's press in the Polish language be assured a new era of growth or should it gradually change the language in which it prints fundamental truths and objective of Polonia?

In view of the rebirth of ethnic consciousness among our young people, I firmly believe that the Polish language in Polonia's press is of vital and crucial importance.

On this belief I base my conviction that what is left of our Polonia's press is headed for a new era of stability and brighter future!

(We have not touched upon the monthlies, bi-monthlies, newsletters and local publications because of their number and limited impact, but some like *Weteran* of the Polish Army Veterans Association go a long way back—some 55 years.) E.C.R.

(Editor's note.—Dr. Edward Rozanski, in whose blood runs a singular strain of printer's ink, is now testing his own premise. As managerial head of the Alliance Publishers and Printers in Chicago, publishing both *Dziennik Zwiazkowy* and *Zgoda*, he has taken the long step forward in the modernization of this venerable printing establishment that eventually became housed in John Smulski's bank building. Starting with its July Bicentennial Issue *Zgoda* has gone into photo offset, a move which should give its publication more leeway in graphic and pictorial illustrations. Many Polonian papers have gone to offset, but not on such a big scale as required by the printing needs of *Zgoda* and *Dziennik Zwiazkowy*.

We wish this advent and event the best possible success!

Yet in stilling the big rotary presses that had run for so many years, Dr. Rozanski waxed nostalgia: "If only these presses could talk!" Perhaps they will one of these blessed days when the ghosts of Polonia's past will be less obstrusive.—HA)

SHOULD WE BREAK UP THE OIL COMPANIES?

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. ARCHER. Mr. Speaker, on June 15, the Senate Judiciary Committee narrowly approved the Petroleum Industry Competition Act with an 8 to 7 vote. Now the measure is ready for what promises to be a fiery debate on the Senate floor. If the proponents of the bill succeed, they would also succeed in providing a serious blow to the efforts of our country to become self-sufficient in the energy field and would greatly increase the price of energy for the American consumer.

Fortunately, a number of newspapers throughout the country and from publications of vastly different political philosophies have looked at this issue and produced some thoughtful and informative editorials on the consequences of divestiture. I insert into the Congressional Record editorials from the Richmond News Leader of Richmond, Va., June 10, 1976; the St. Louis Globe Democrat of St. Louis, Mo., June 8, 1976; the San Diego Union of San Diego, Calif., June 6, 1976; and the Christian Science Monitor, June 21, 1976. My colleagues should read these editorials carefully before this issue comes before the House of Representatives:

[From The Richmond News Leader, June 10, 1976]

DIVESTITURE

America needs to continue developing new sources of energy, and thus reduce dependence on fuel bought from members of the Organization of Petroleum Exporting Countries (OPEC). A simple, practical way to reduce OPEC's share of the U.S. market would be to provide incentives for increased oil production within the United States. So what is the United States Senate doing? It is contemplating a measure that would throw the U.S. oil industry into turmoil, reduce the prospect of investment in the industry—and play in to the hands of OPEC by making the United States even more dependent on imported oil.

The Senate is considering "divestiture": that is, the breaking of America's 18 largest oil companies into smaller, specialized units which would concern themselves with only one aspect of fuel production—be it exploration, drilling, transportation, refining, or sales. Proponents of breaking up "Big Oil" believe divestiture would promote competition within the industry, and result in lower prices for the consumer. The facts suggest otherwise.

The domestic oil industry already is marked by a healthy amount of competition. Some 10,000 companies drill for oil and gas. There are 260 refineries—operated by 131 companies. The four largest oil companies account for 26 per cent of production, 28 per cent of refining, and 29 per cent of gasoline sales. Critics of Big Oil seldom dispute these figures, yet say they are misleading because of the joint ventures that are a feature of the industry. But joint ventures allow the industry to invest in enormous projects—such as the $7 billion Alaska pipeline—that would be beyond the reach of even the largest companies. Moreover, companies that involve themselves in all levels of production can effect economies of scale and reduce duplication.

Divestiture is perceived as a panacea by its proponents. Yet proponents such as Democratic Senator Gary Hart of Colorado cannot guarantee that prices will drop if Big Oil is broken up. And according to Massachusetts Institute of Technology economist M. A. Adelman, a trenchant and long-time critic of the oil industry:

"Divestiture would be a vast exercise in shuffling papers, transferring title to huge assets of plant, cash, and people (and also assigning debt). Every company would try to keep the best and sell or spin-off the rest.

Investment decisions on new plant and equipment and on methods needed to cope with new situations today need all the attention possible. They would have to be kept on the back burner because too much money would depend on sorting out what was already in place. When it was all over, even putting to zero the costs of delay and disruption, we would have less competition because refiners, for example, would no longer be able to enter marketing, or vice versa."

The Senate Judiciary Committee, which has been wrestling with divestiture legislation, is to vote on a bill June 15. If approved by the committee, the divestiture bill will go to the full Senate—while a previous attempt to break up Big Oil was rejected narrowly last fall. The United States should knuckle down and try to develop the country's oil and gas resources (and to expand other energy sources), in order to free itself from dependence on the whims of OPEC. Divestiture would hamper that drive toward independence. The Senators should vote No.

[From the St. Louis Globe Democrat,
June 8, 1976]

The Senate's Oil Slickers

Slick Senate liberals intent on breaking up the major oil companies into small pieces are not going to let the facts get in their way.

They have made this plain as they push ahead with Senate bill 2387, the brainchild of departing Michigan Democrat Philip A. Hart—which would break up the top 18 petroleum companies into as many as 54 pieces.

Thanks to the support of fellow liberal senators, Edward M. Kennedy, Birch Bayh and James Abourezk, this miserable bill was approved by a subcommittee of the Senate Judiciary Committee and now will go before the parent committee for a vote on June 15.

Hart el al are claiming that vertical integration of the oil companies, from the drilling rig to the local gas pump, creates an excessive concentration of market power, vitiates competition and causes inefficiency and higher costs to consumers.

Independent research of competition in the oil industry by a study team associated with George Washington University indicates the proponents of breaking up the integrated oil companies are all wet.

In their study, Competition in the Oil Industry which was funded by the National Science Foundation, the four researchers found the senators wrong on every point.

They are wrong on their charge of heavy concentration of market power. "The oil and other energy industries are among the least concentrated in the United States. Based on this measure alone, there would appear to be little reason for special antitrust legislation aimed at the industry."

Here are other major findings, all of which refute claims of the Hart led movement in the Senate.

"Arguments that vertical integration lessens competition in the oil industry are without foundation."

"The argument that the involvement of oil companies in other energy activities is anticompetitive is equally without foundation."

"There is little evidence that major oil company ownership of pipelines promotes anticompetitive abuses."

"Exchange and processing agreements are available to independent as well as integrated oil firms."

"Directorate interlocks in the oil industry do not pose a serious anticompetitive threat."

"Entry barriers have not been insurmountable. Where they have been most significant, in the refining sector, they have often been the result of government policies—not industry behavior or structure."

"The oil industry's rate of return, particularly when measured over a relatively long period of time, has differed little from the average rate of return for all U.S. industry. There is little evidence that the industry's profits have been excessive or 'obscene,' as some industry critics have charged."

"Perhaps the most important overall finding of the study is that many of the alleged anticompetitive practices in the industry are not the result of collusion, but can be traced to often ill advised policies of local, state, and national governments, as well as various regulatory bodies in Washington."

Obviously the foolish attempt to punish the oil industry for something it hasn't done should be defeated. It is the product of confused minds and the urge to kill the bearers of bad news, i.e., quadrupling of oil prices by the Organization of Petroleum Exporting countries.

It also diverts the nation from the really important issue of how the United States can move toward energy self-sufficiency, about which the Senate and the House have done nothing but make the problem worse.

[From the San Diego Union, June 6, 1976]

Competition Benefits Users: "Divestiture" Would Be Ripoff

To those persons who view the oil industry as a conglomerate of monopolistic empires, "divestiture" is a household word.

They want to "divest" the major oil companies of their oilfield-to-the-motorist capabilities by prohibiting them from controlling production, refining, distribution and marketing simultaneously.

Congress appears to be zeroing in on a divestiture bill that would strip the nation's largest oil companies of their exploration functions, drilling and pipeline investments. Presumably further "divestiture" would follow.

The gravamen of the proponent's arguments is that the oil firms have become so large that they overshadow even the government of the United States in dealing with the Organization of Petroleum Exporting Countries. Their conclusion is that this, in turn, has created the present confrontation with OPEC and the present high prices for energy.

Cold, hard facts counter the arguments. For example:

No one company accounts for more than 11 per cent of oil and gas production. The leading four firms have 31 per cent. The top eight companies 50 per cent.

There are more than 131 different American oil companies operating 264 oil refineries with the largest having only 9 per cent of the total U.S. capacity.

There are 15,000 wholesale distributors and 18,000 fuel oil suppliers in this country. The largest controls only 11 per cent of the market.

There are more than 300,000 individuals retailing gasoline. Ninety-five per cent of them are independent operators.

The facts hardly make a case for charges of an oil oligopoly in the United States. They do exhibit a lively and vital competition that goes to the very heart of the issue. Are Americans paying too much for their energy because the oil companies are so big that they stifle the dynamism of the world market?

First, the profits of oil companies are on a par with all U.S. manufacturing—about 13 per cent over the last 10 years. That hardly constitutes the "ripoff" that many believe exists.

Second, the most recent figures available show that U.S. motorists were paying 58 cents a gallon for gasoline last September. Australians were paying 84 cents, Belgians $1.48. Britains, $1.40, Frenchmen $1.22, Swedes $1.24, Italians $1.72, and Japanese $1.55.

The plain truth is that Americans are getting their energy at bargain rates because of the competitive efficiency of the oil companies.

If Congress destroys that efficiency by breaking up the companies it will bring the price of gasoline and fuel oil to the levels paid by citizens abroad—without really touching on the real energy policy problems that will eventually add still another tier of costs. And that would be a real ripoff.

[From the Christian Science Monitor,
June 21, 1976]

"No" to Big Oil Breakup

Should the major oil companies in the United States be "broken up"? Some Americans say "yes" and Congress is advancing legislation that would force Exxon, Mobil, Texaco and others to split into the industry's component parts—oil and gas production, oil refining, marketing, and petroleum transportation.

But when the emotionalism generated over the Arab oil embargo and oil company profits is stripped away, the economic arguments in favor of "divestiture" of the oil industry do not seem to us conclusive enough to warrant taking such a massive step.

The issue is too complex to examine fully here. But some of the key points can be highlighted:

While "big oil" indeed is big (five of the top ten and eight of the top fifteen on the Fortune 500 by annual sales), it is significantly less concentrated than many other industries. While the four largest oil companies control about 30 percent of refinery operations, for example, other industrial sectors are far more concentrated, automobiles 93 percent, copper 72 percent, steel mills 44 percent, aircraft 66 percent, and so on.

It is true that the oil companies do not always operate independently. They are involved in so many interlocking and interweaving combinations and joint ventures that they often become in effect interdependent. But the relevant question is whether these companies are getting together and fixing prices. The fact is the OPEC cartel controls the world price of oil, and whether there are 18 or 1,800 competitors they must adapt to the world prices.

As for the "joint ventures," such mammoth projects as the Alaska pipeline could hardly be financed by a single company.

Oil company profits have not been "obscene" as some critics have charged. Since 1960, after tax profits throughout the industry have increased annually by less than 8 percent, which is about the same as all other manufacturing sectors. Upon close examination, the "windfall" profits of two years ago were not as high as has been charged nor have they been sustained.

It has been charged that the major oil refiners are squeezing out independent refiners in order to gain a more monopolistic control over that sector of the industry. In fact, the independents have increased their share of domestic oil refining capacity from 20 percent to 30 percent since 1950.

Oil companies divestiture legislation sponsored by the Senate Judiciary Committee would bar all major companies from the pipeline business. But a George Washington University study found "little evidence that major oil company ownership of pipelines promotes anticompetitive abuses." More likely, it was found, the "outcome of actions against the pipelines will be disruption and confusion in the oil industry, precisely what the nation does not need nor should it want at this time."

This is not to suggest there should not be continued public scrutiny of the oil industry. It is in the public interest to keep looking at the American corporate structure for ways to make it more efficient and competitive. But, without demonstrated proof of the advantages of divestiture, the nation would take the risk of breaking up an orderly, complex, efficient organization at the very time efforts are demanded to reduce U.S. dependence on foreign oil.

It thus seems wisest to await the findings of the Federal Trade Commission, which is working on antitrust proceedings against the major oil companies. If monopolistic practices are found, there is no quarrel they should be rooted out.

AUTO EMISSIONS, FUEL ECONOMY, AND THE DINGELL AMENDMENT

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. ROGERS. Mr. Speaker, when the Clean Air Act Amendments of 1976 (H.R. 10498) reaches the House floor one of the major issues to be resolved will be the new car emission standards. The committee bill provides for a 3-year freeze of standards for two of the pollutants—hydrocarbons and carbon monoxide—and a 4-year freeze of the standard for oxides of nitrogen. Thereafter, it authorizes up to 4 additional years of administrative delay of the NO_x standard.

My colleague, Representative JOHN D. DINGELL, has indicated that he will offer an amendment, supported by the auto manufacturers—but not by the UAW which supports the committee bill. I urge the Members of the House to reject the Dingell/auto company amendment and uphold the committee bill for the following reasons:

The Dingell amendment unreasonably exaggerates the fuel economy impacts and costs of the emission standards contained in the committee bill.

The Dingell amendment is based on a misleading analysis of the health effects of auto emissions.

The Dingell amendment would give the auto companies a new chance to lobby against the standards in 1979. It would remove all incentive for continued research, development, and procurement of new emission systems. Proof for each of these statements is presented below.

FUEL ECONOMY

The Dingell amendment fuel economy claims are not supported by the DOT–EPA–FEA study on which he allegedly relies. They are based on the exaggerated claims of the auto industry itself, even though these claims have been discredited in the past. The DOT–EPA–FEA study cited by Representative DINGELL does not support his views; the Three Agency Study actually contradicts Representative DINGELL's claims.

Dingell claim No. 1:

> A 5 per cent loss in fuel economy would result in 1980 under the Committee bill.[1]

Response: In arriving at this figure, Representative DINGELL has selected certain of the relevant information to present and has omitted other equally relevant information. The information that Representative DINGELL submits is the "low range" estimate. This in turn is identified in the Three Agency Study as the General Motors' estimate.[2]

Representative DINGELL's dissenting views do not explain this fact or even acknowledge that the Three Agency Study provides a range of estimates, from which Representative DINGELL identifies only the "worst case." GM's "worst case" is unrealistically pessimistic. The Three Agency Study shows that the fuel economy difference between the committee proposal and the Dingell amendment may be less than 1 percent in 1980. See "high-range" estimate on page 426.

The Three Agency Study itself admits that the "low-range" estimate is an unrealistic worst case that "tends to undervalue the technological improvements that may be made and used in later years." [3] EPA has verified this point in a recent letter to the committee:

> The low range assumption is that no new technology will be in use in 1980, whereas the high range assumption is that all automakers will use the best potentially available technology in 1980. *The estimates in Tables 1–a and 1–b should be read as a range, not as a precise point;* in other words . . . the difference in 1980 fleet-wide fuel economy in the April 8 report was estimated to be a loss of one per cent to five per cent, depending on how much new technology is incorporated on cars by automakers by 1980.[4] [emphasis added]

Thus, two important conclusions result. First, the Three Agency Study is misrepresented in the Dingell views. Second, the automakers can meet the committee bill standards for 1980 with only 1 percent less fuel improvement than under the Dingell amendment, if they are willing to use the best technology available for 1980.

Dingell claim No. 2:

> The differences in 1981 and 1982 resulting from the NO_x standard differentials between the Dingell . . . amendment and the Committee bill could be as high as 20 per cent.[5]

Response: This statement is completely without foundation or explanation. According to the Three Agency Study chart at page 426 of the committee report, there is no fuel economy difference between the committee bill and the Dingell amendment in model year 1982. In 1981, even General Motors' low estimate predicts the difference would not exceed 4 percent, and the high estimate for 1981 shows no fuel economy difference.

EPA has indicated that Representative DINGELL's claims are not supported by the Three Agency Study:

> We are unable to reconcile the April 8 report with the estimate of twenty percent fuel economy loss in 1981–82 due to NO_x control in the House Committee bill vs. the Dingell Amendment. The cases as estimated in the report show a maximum fuel economy loss of five percent for the low range estimate and no loss for the high range estimate, for those model years.[6]

There is no explanation in Representative DINGELL's statement of how he arrives at the 20 percent fuel economy difference. The only way to reach such a conclusion on the basis of information in the Three Agency Study is to make the following assumptions: First, the fuel economy difference between 0.4 NO_x and 2.0 NO_x would be 10 percent; Second, the EPA Administrator will deny a suspension under the committee bill in 1981 and 1982, even if there is a 10 percent fuel loss; and Third, the EPA Administrator would exercise his discretion under the Dingell amendment to set the NO_x standard at 2.0.

These assumptions are flatly ridiculous and inconsistent with the facts. First, the 1977 California Volvo cars have shown that the 0.4 NO_x standard could be met in 197 while achieving a 10-percent fuel economy improvement over 1976 California Volvo's meeting a 2.0 NO_x standard. EPA has earlier projected a 10 percent loss associated with the 0.4 NO_x standard, but had noted that such loss might be eliminated with the "theoretically possible but undemonstrated control of air/fuel mixture coupled with catalytic control of NO_x." On June 23, 1976, EPA advised, "since that time, of course, *Volvo* has demonstrated in hardware the validity of this approach." [7]

Representative DINGELL's second assumption is contrary to the provisions of the committee bill and to the Three Agency Study. For if there were a 10 percent fuel economy penalty associated with the 0.4 NO_x standard, this would clearly be an excessive fuel penalty, justifying an administrative relaxation of the standard. The Three Agency Study makes the assumption spelled out here, contrary to the Dingell assumption.

Representative DINGELL's third assumption is that under his amendment the EPA Administrator would act to set the NO_x standard at 2.0 for 1982 and beyond. Thus, Representative DINGELL assumes that EPA will act foolishly in exercising the discretion under the committee bill, but wisely in exercising his discretion under the Dingell amendment. Obviously, there is a serious logical inconsistency here. And Representative DINGELL's views do not explain or justify it.

If these inconsistent assumptions were reversed, it could just as well be argued that the Dingell amendment would result in a 10 percent fuel economy loss in 1982 over the committee bill.

The point that is ignored in the Dingell analysis is that the committee bill anticipates and authorizes suspensions of the NO_x standard for model years 1981–84 if an excess fuel penalty would result. Obviously, if no fuel penalty would result, then no suspension would be granted. But then the statutory standard would pose no fuel economy problem. On the other hand, if an excessive fuel penalty would result, then a suspension can and would be granted so as to avoid such penalty.

The real difference between the two proposals is that the committee bill requires the automakers to show that the standards need to be relaxed to save fuel, while the Dingell/auto company amendment would relax the standards without requiring the automakers to back up their claims.

Dingell claim No. 3:

Footnotes at end of article.

> The NOx standard of 0.4 is not technologically feasible in the foreseeable future.[8]

Response: Amazingly, not later than 2 weeks after Representative Dingell made this claim, the Volvo Co. proved that its three-way catalyst equipped 1977 California 3,500-pound car could meet all three statutory emission standards, including the NOx standard for 50,000 miles with 10 percent improvement in fuel economy over the 1976 California Volvo. In fact, the Volvo vehicle met levels approaching half of the statutory NOx standard. This new improved technology will be used by Saab and Mercedes in 1978. Ford Motor Co. has announced that it will also use similar technology on a substantial portion of its 1978 fleet.

It should be noted that the three-way catalyst is not the only way to meet the emission standards. The Honda CVCC stratified charge engine can do so without a catalyst. The dual catalyst system appears to be very promising. The Ford Motor Co. has announced its Stirling hot air engine can meet all three standards with up to a 32 percent fuel economy improvement. Other approaches are also feasible.

Third, Leonard Woodcock, president of the United Auto Workers, has indicated his support for the committee bill and "denied the industry's charge that the proposed deadlines are unreasonable." Relying in part on the technical and engineering analyses by the dean of the University of Michigan's School of Engineering, Woodcock has indicated that the committee bill's emission standards are "feasible from an engineering standpoint in the time frame specified," according to the UAW Washington report, June 7, 1976, page 1.

Finally, it must be noted that the American Import Automobile Dealers Association has written to support the committee bill.[9] Again this raises the question: If the foreign manufacturers can meet the standards, why cannot the giant domestic auto companies with all their resources do so?

The answer has been given by the California Air Resources Board:

> The ARB has estimated that by 1981 all cars could use the 3-way system to meet the 0.4 gpm NOx standard if the Congress recommits the Nation to the goal of producing clean cars.[10]

2. COSTS

The Dingell analysis of the costs of the committee bill's emission standards is mistaken for two main reasons.

First, the Dingell analysis again ignores the range of estimates presented by FEA-EPA-DOT and relies solely on the worst case "low range". As table 3c of the Three Agency Study shows, under the "high estimate," there is virtually no significant cost differential between the Dingell amendment and the committee bill prior to model year 1985.[11] Again, Representative Dingell's analysis neither explains nor acknowledges this selective use of the data.

Second, much of the excess cost which Representative Dingell attributes to the committee bill is due to the supposed increase in fuel economy consumption that would result from its adoption. But as the preceding section shows, the assumptions on which such fuel economy penalties are projected are demonstrably false. Therefore, the increased costs supposed to be associated with these alleged penalties are also false.

3. HEALTH

In light of the very slight, if any, cost and fuel economy differences between the committee position and the Dingell amendment, the committee position should be sustained if there is evidence that the committee position is needed to protect public health. Representative Dingell claims that no such need has been demonstrated and that there will be "negligible" health benefits from meeting the committee bill standards. In reaching this conclusion, Representative Dingell again relies on a selective and improper interpretation of the available health data.

Dingell claim No. 4:

> The Dingell analysis assumes that the only health purpose for which NO_x control is needed is to attain and maintain the national ambient air quality standard for annual concentrations of NO_2

Response. This is not the case. As the committee report points out at pages 208—215, NO_x auto emission control is needed for six additional health purposes:

First. To help attain and maintain the 1-hour NO_2 standard that is required under the committee bill in accordance with the recommendation of the National Academy of Sciences;

Second. To reduce nitrate concentrations which have been shown to cause or aggravate asthma, bronchitis, and other respiratory diseases;

Third. To reduce exposures to nitrous and nitric acid which are even more potent respiratory irritants than NO_2 or nitrates;

Fourth. To reduce atmosphere nitrosamine levels—nitrosamines are known cancer-causing agents;

Fifth. To help control smog—oxidant—concentrations, particularly rural oxidants and those which form downwind from major urban areas; and

Sixth. To reduce the photochemical reactions which transform SO_2 to more toxic sulfate, sulfuric acid derivaties.

Representative Dingell's analysis neither notes, nor estimates the impact on health of failure to achieve adequate NO_x control for these purposes. Yet the need for adequate NO_x control for these purposes has been recognized by the National Academy of Sciences, the California and Texas Air Control Boards, and EPA.

Dingell claims No. 5:

> The air quaility impact of the Commerce Committee standards is negligible by comparison to the Dingell . . . amendment and the health benefits are almost imperceptible.[12]

Response: What Representative Dingell's analysis fails to disclose is that the Three Agency Study only examined "selected health effect indicators."[13] As the study itself warns—

> The health effects indicators represents only a partial listing of the effects from high air pollution levels and are not intended to represent a statement of gross benefits from pollution control.[14]

Despite these clear warnings, Representative Dingell's analysis uses these figures in the way that the Three Agency Study says is inappropriate.

Moreover, the analysis trivializes the health effects of NO_x emissions by studying only lower respiratory disease in children. For oxidant, only eye irritation and excess headaches are considered. Yet EPA has reported the effects of NO_x and oxidants include: Aggravation of asthmas, aggravation of heart and lung disorders, increased risk of acute and chronic lung/respiratory disease, cancer, genetic damage, and impaired fetal development.[15]

In effect, the Dingell health analysis has focused on headaches and eye irritation and ignored cancer, birth defects, genetic breakdowns, and chronic lung and heart disease.

Dingell claim No. 6:

> Exactly 31 air quality control regions are expected to exceed ambient standards [in 1990] regardless of which standards are adopted . . . no one has demonstrated the need for 0.4 NO_x standards.[16]

Response: Again the Dingell analysis uses some of the available data in a misleading fashion and ignores other data.

First, by focusing on air quality in 1990, Representative Dingell ignores the disease penalty that would result from his proposal in the early 1980's. As EPA has explained,

> Since the differences in the various emission control scenarios used in the April 8 analysis were primarily in the timing of the standards, the major air quality differences are more evident in the early years. For example, as between the Dingell and the Committee schedules, some 10% more oxident violations would occur in 1980 under the Dingell proposal.[17]

Second, as the EPA letter implicitly points out, what counts for determining harm to health is not the number of regions where the standards are exceeded, but the frequency, duration, and intensity of those violations. Representative Dingell ignores this fact and, thus, the true health significance of the data is distorted.

Third, Representative Dingell's analysis ignores the recommendations of the National Academy of Sciences. In its June 1975 conference, the NAS reviewed all the medical and scientific evidence available and concluded that compliance with the statutory HC and CO standards was "feasible and worthwhile" from a health standpoint in 1978, not 4 years later in 1982, as Representative Dingell proposes.

Most telling of all, Representative Dingell's analysis ignores the more complete Three Agency Study released on February 17, 1976. That study concludes—

> A 53 per cent reduction in respiratory disease disability attributable to NO_2 exposure is anticipated [from 1980–2000] if the statutory standard were implemented. The benefits of implementing the statutory standard are most apparent in the per year estimates for the year 2000, as a 69% reduction is projected for that year.[18]

While some of this health benefit is

Footnotes at end of article.

attributable to the reduction to 2.0 NO_x, the health benefit of the further reduction to 0.4 NO_x, can hardly be called "negligible".

Dingell claim No. 7:

> Further reductions in NO_x can be achieved at lowest cost by[19] control of stationary sources.

Response: Again, the Dingell analysis omits two crucial facts. First, the Three Agency Study health benefit calculations assumed "a high degree of stringency of stationary source control for automobile related pollutants," and pointed out that "less optimistic assumptions would have produced less air quality improvement and a higher level of health effects."[20] In other words, both stationary source and new car controls are needed to reduce—but not eliminate—air pollution harm to health.

Second, the Dingell amendment does not condition its relaxation of auto emission control on achievement of stationary source controls. It simply provides relaxation of the auto NO_x standard regardless of what happens to stationary source controls or the public health.

4. THE HIDDEN SIGNIFICANCE OF THE DINGELL AMENDMENT

Four remaining effects of the Dingell amendment need to be discussed. First, by postponing the statutory HC and CO standards until 1982, the Dingell amendment will give the automakers another opportunity to lobby against the standards in 1979, when the Clean Air Act authorizations must be extended again.

Second, by eliminating the statutory NO_x standard, the Dingell amendment eliminates a research and production target for the auto companies to strive toward in the post 1981 years.

Third, by striking the requirement that auto companies make maximum feasible efforts to comply, the Dingell amendment removes all Federal authority to penalize a bad faith effort by an auto company which simply refuses to try to meet the standards.

Fourth, by striking the full useful life certification option for the manufacturer—1.0 NO_x for 100,000 miles, instead of 0.4 NO_x for 50,000 miles—the Dingell amendment eliminates incentives for the development of more durable emission control systems.

For all these reasons, I urge the rejection of the Dingell amendment and the retention of the committee proposal.

FOOTNOTES

[1] *House Committee Report 94–1175*, p. 517.

[2] *Id.*, p. 435.

[3] *Id.*, p. 425.

[4] Letter from Eric Stork to Committee Counsel, 6–23–76, p. 1.

[5] *House Committee Report 94–1175*, p. 418.

[6] Letter from Eric Stork to Committee Counsel, 6–23–76, pp. 1–2.

[7] *Id.*, p. 2.

[8] *House Committee Report 94–1175*, p. 417.

[9] * * *

[10] California Air Resources Board, "1977 Volvo Three-Way Catalyst Automobiles: Fact Sheet," June 2, 1976, p. 2.

[11] *House Committee Report No. 94–1175*, p. 430.

[12] *Id.*, p. 416.

[13] *Id.*, p. 427.

[14] *Id.*

[15] EPA, *Progress in Implementation of Motor Vehicle Emission Standards Through June 1975*, (1976), p. 36; see also *House Committee Report No. 94–1175*, pp. 91–94.

[16] *Id.*, p. 419.

[17] Letter from Roger Strelow to Rep. Henry Waxman, July 15, 1976, pp. 1–2.

[18] Panel on Air Quality, Noise and Health, *Report to the Task Force for Motor Vehicle Goals Beyond 1980* (Revised Feb. 17, 1976), p. vii.

[19] *House Committee Report No. 94–1175*, p. 419.

[20] *Id.*, p. 427.

THE PROPAGANDA CAMPAIGN OF THE U.S. POSTAL SERVICE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. CRANE. Mr. Speaker, in a recent syndicated column, Allan C. Brownfeld expressed support for legislation which I have proposed in the House, and Senator JAMES L. BUCKLEY has proposed in the Senate, ending the monopoly now possessed by the U.S. Postal Service in the delivery of first-class mail.

Mr. Brownfeld called for competition in first-class mail delivery, pointing to the inefficiencies of bureaucratic management and noting that private carriers have made a profit delivering second- and third-class mail while the U.S. Postal Service loses money in these areas. He suggested that, without the legally mandated monopoly, the same would prove true with regard to first-class mail delivery.

In response to this column, Bernard J. Roswig, Director of the U.S. Postal Service "Public and Media Relations," wrote a lengthy letter to all of the papers which carried Mr. Brownfeld's column. He referred to the writer as having an "arrogant assumption" and called his column "ill informed" and serving only "to confuse."

It has always been my understanding that employees of the U.S. Government, such as Mr. Roswig, had as their responsibility the carrying out of laws passed by the Congress. It is not their job, and is a violation of their mandate, to support or oppose legislation before the Congress. In using the taxpayers money and time to write an abusive letter criticizing a journalist who has come out in support of a specific bill before the Congress, Mr. Roswig has gone beyond his legitimate area of responsibility. He should be censured for this activity and it should cease immediately.

One of the newspapers to which Mr. Roswig dispatched his letter, the Santa Ana Register, replied to it with an editorial, entitled "Postal Stonewalling."

The Register discusses each of the points made in the letter. It notes, for example, that—

> Not long ago Postmaster General Benjamin Bailar, Mr. Roswig's boss, tried to scare Congress into furnishing more tax money by entertaining the possibility of three-days-a-week deliveries and curbside rather than doorstep deliveries. But when columnist Brownfeld reports those threats, along comes Mr. Roswig, quick as a bunny, to accuse him of making a statement that is "absolutely false." We suggest that if Mr. Roswig is looking for somebody's veracity to impugn he might look around his own office.

The Register proceeds to answer each of Mr. Roswig's arguments. It concludes that—

> We thank Mr. Roswig for his letter, and we can only hope it gets the widest possible circulation. We even hope, armed with such specious arguments, the U.S. Postal people keep defending themselves before Congress. That way the day will be hastened when the repeal comes—as it must come.

Perhaps if the Post Office spent more time delivering the mail and less time writing abusive letters in response to journalistic criticism, more efficiency might result. It is high time that this activity be brought to an end.

I wish to share with my colleagues Mr. Roswig's letter and the editorial response which appeared in the California Santa Ana Register of July 11, 1976 and insert it into the RECORD at this time:

DEFENDS POST OFFICE

Allan C. Brownfeld's column about the Postal Service, published in your June 21 editions, contained several errors of fact and draws some rather faulty conclusions based on an apparent lack of information.

Mr. Brownfeld begins with the arrogant assumption that "everyone" agrees with his allegations that mail service is "too costly, too inefficient and too much of a burden to be carried any longer by American taxpayers."

Dismissing his presumptiveness in being the spokesman for one and all, public opinion surveys conducted by the Roper Organization do not support his position. Of 12 services commonly received by the public, postal service outranked all the others in public satisfaction.

Here are a few facts for your consideration. Mail service in America is less expensive than in most industrialized nations of the world. In Switzerland, it costs the equivalent of 15.5 cents to mail a first class letter; in Japan, 16.6 cents; in Belgium, 16.7 cents; in Great Britain, 18.3 cents; in France, 18 cents; in West Germany, 19.5 cents; Italy, 20.3 cents; Australia, 22.9 cents; Sweden, 23 cents. And America has a far greater land mass than any of these countries, over which mail must be transported, and produces more mail volume than all of them combined.

As to Mr. Brownfeld's contention that the U.S. Postal Service is "too inefficient" I think it is worth noting that its efficiency rate is not only much improved over what it was five years ago, but is significantly better than that of most of the world's postal systems. In 1976, 42,374 fewer U.S. Postal Service employes handled 1.1 billion more pieces of mail than in 1971.

The most recent comparable figures available indicate that in the United States, the Postal Service moves 130,614 pieces of mail per man-year; Australia, 79,300 pieces; Canada, 103,852; France, 44,317; West Germany, 54,941; Great Britain, 55,608; Italy, 42,677; Japan, 105,417; Switzerland, 105,211.

Next, Mr. Brownfeld says the Postal Service is "too much of a burden to be carried anymore by American taxpayers." The slightest research would have shown him that until 1971, the taxpayers paid the entire cost of the mail system. Today they only pay that portion of the cost that covers "public services," and to contribute to keeping rates for certain publications artificially low. We are also reimbursed from tax revenues for the cost of handling government mail. All other postal costs are covered by postal revenues, not tax revenues.

Mr. Brownfeld says "three days a week delivery" and "curbside rather than doorstep delivery" are "among the cutbacks now called for" by the Postal Service.

That is absolutely false. We are not considering a cutback to three days a week. And we are not contemplating replacing present door delivery with curbside delivery. What we are doing, and have been doing for years, is providing curbside or cluster-box delivery, rather than door delivery, in many new suburban developments, as an economy measure.

Finally, Mr. Bromfeld concludes that the Private Express Statutes, which give the Postal Service a monopoly over most first class mail, should be repealed. He cites various examples of private delivery companies that have operated at a profit, including the Pony Express. What he doesn't cite is the fact that the Pony Express charged $5.00 a half-ounce when it started, and, later, $2.00 a half-ounce. When the Post Office Department took it over, the cost was reduced to $1.00 a half-ounce. The lesson here is that private companies are in business to make a profit, and do so, at least partially, by abandoning unprofitable operations. That is something the Postal Service cannot do.

It is a fundamental obligation of the Postal Service to provide service to the American people in all areas and in all communities at reasonable prices. No private firm has indicated a willingness to do this. Their interest is only in the densely populated business areas of cities and many suburban areas.

But who would deliver to the hamlets and hollows and small towns of America at rates as low as those charged by the Postal Service? Who would deliver to the ghettoes of the large cities and poor rural areas, areas that—because of great distances, difficulty of terrain or lack of volume—are not profitable?

If private businesses were given the right to compete in the area of first class mail, one result would unquestionably be reduced volume for the Postal Service in the areas where it is cheapest to provide delivery. And reduced volume would have the effect of making postage more expensive for those customers who chose not to use, or would not have access to alternate mail systems.

There are many other considerations that mitigate against repealing the Private Express Statutes. For example:

Few, if any, governments would permit international mail to be exchanged between their country and private contractors.

A customer's mail box and its contents could no longer be guaranteed adequate protection by the Postal Inspection Service, because private carriers would also be using it to make deliveries.

It would be extremely difficult for householders who move to know which mail delivery firms should receive change of address orders if any number of them handled mail deliveries. Last year, 24 million Americans moved.

What protection would the public have from mail order frauds or obscenity in the mails?

Protection against unwarranted search and seizure might never extend to letters in the custody of private firms.

The Postal Service welcomes public dialogue and constructive criticism, but such ill-informed articles as Mr. Brownfeld's only serve to confuse. Hopefully this letter will help to clarify the confusion generated by Mr. Brownfeld.

BERNARD J. ROSWIG,
Director, U.S. Postal Service, Public and Media Relations.

EDITOR'S NOTE.—Please see editorial, "Postal Stonewalling."

[From the Santa Ana (Calif.) Register, July 11, 1976]

POSTAL STONEWALLING

The abysmal state of the U.S. Postal Service being what it is, there is bound to be considerable controversy and confusion. The service has become such a bureaucratic Brontosaurus that there are those in Congress who would repeal the statutes setting it up as a first-class monopoly. Accordingly the monopolists are breathing fire in the direction of the St. Georges.

On June 21, columnist Allan C. Brownfeld, writing from Washington, detailed the egregious inefficiencies of the postal system since Congress, in 1970, mandated that the failing Post Office Department be made over into "quasi-governmental" organization, which simply compounded the errors. "Instead of inefficiency being corrected," he wrote, "there has been a 117 per cent increase in the first class postal rates (from 6 to 13 cents), a six cent increase in the letter sorting error rate, and rather than self-sufficiency by 1977 as envisioned, a continuing increase in taxpayer subsidization."

Well, as it has become a melancholy fact of Potomac life, taxpayers also pay for public relations people to "answer" charges leveled against the bureaucracy. Today the Clearinghouse contains a letter from Bernard J. Roswig, Director of Public and Media Relations in the Office of the Postmaster General, seeking to refute our columnist. We hope his letter is widely read, because it shows better than any postal critic can just how far the system's officials reach in their own defense.

Mr. Roswig attempts to destroy Mr. Brownfeld's assertion that "everyone seems agreed that the U.S. Post Office is too costly" by citing a Roper Poll which purports that of "12 services commonly received by the public, postal service outranked all the others in public satisfaction." Not to mention the low state into which that poll puts most "public services," that is about the same as saying most people prefer K-9 dogfood for dinner over eleven other brands.

Moreover, writes Mr. Roswig, postage in America is less expensive than in "most industrialized nations of the world." He lists other industrialized nations' postage rates, conspicuously leaving out the relevant cost-of-living statistics of those countries—which also are higher than in the U.S.

To demonstrate the supposed growth of postal efficiency, Mr. Roswig happily reports that "42,374 fewer U.S. Postal Service employees handled 1.1 billion more pieces of mail than in 1971." Of course, he failed to say anything at all about the speed with which the mail is getting, or not getting, from Point X to Point Z, and how it was mishandled at Point Y.

Next, Mr. Roswig refuses to explain why, when six years ago it promised self-sufficiency, the postal system still relies on taxes for its subsistence. He notes that the bureaucracy now is only partially tax-supported, whereas "postal revenues, not tax revenues" support the rest. A mild deception. (Directors of Public and Media Relations are paid to make mild deceptions.) Actually, and irrefutably, the overwhelming part of the post office is tax-supported; "postal revenues" mean exorbitant postage rates taken in by dint of the U.S. postal monopoly status, which Mr. Brownfeld would have abolished.

Not long ago Postmaster General Benjamin Bailar, Mr. Roswig's boss, tried to scare Congress into furnishing more tax money by entertaining the possibility of three-days-a-week deliveries and curbside rather than doorstep deliveries. But when columnist Brownfeld reports these threats, along comes Mr. Roswig, quick as a bunny, to accuse him of making a statement that is "absolutely false." We suggest that if Mr. Roswig is looking for somebody's veracity to impugn he might look around his own office.

Next, Mr. Roswig cites the Pony Express as an example of how, ultimately, a profit-making mail carrier cannot make it. He neglects the fact that the Pony Express went out of business when a more competitive profit-maker, the telegraph companies, came along to carry the mail with more efficiency and speed. "That is something the Postal Service cannot"—does he mean "should not"?—"do."

And he asks us to believe private companies would not deliver to rural areas, suggesting only the government monopoly can do that. Well, rural communities right now appoint and pay individuals to travel to county seats or other central locations to pick up local mail; that would of course continue because it is a form of voluntary enterprise, consistent with private contractual arrangements. And only a few months ago, stopped only by a federal court order, the U.S. Postal Service itself was busily closing rural post offices. More deception, eh Mr. Roswig?

So the Director of Public and Media Relations of the U.S. Postal Service, par for Washington, has not learned lesson number one about economics: "profit" and "success" are synonymous. The postal system is not successful because it is not profitable.

Mr. Roswig carries this ignorance, perfectly grand in its silliness, into some general worries, some "what ifs," about repealing the postal monopoly:

1. Foreign governments, he contends, would not deal with private contractors. Tell that, Mr. Roswig, to Lockheed; and to all the foreign politicians now clamoring for private American expertise to streamline their economies.

2. Customers' mail boxes would not be protected. Tell that, Mr. Roswig, to the people whose mail boxes are damaged right now by your boys. And whatever happened to letting householders worry about their own mail boxes? If that is all we have to worry about. . . .

3. People who move from city to city would have difficulty going through the necessary change-of-address procedures. Tell that, Mr. Roswig, to the people who, have moved, have to go to the post office to fill out the forms, but who have a gang of private newsboys, private drapery salesmen, private everything else, jostling on their doorsteps looking for new customers.

4. There would be no protection, with the mail service privatized, against fraud and obscenity. There is precious little of that protection now; private companies would at least contract not to deliver obscene material to those who don't want it. The Los Angeles Free Press, for example, has divided its legitimate section from its juicy ads department, customers buying only what they want. And, speaking of fraud, Mr. Roswig, what about monopolistic bureaucracies that pay Directors of Public and Media Relations to deceive people?

5. Private firms could not protect against unwarranted search and seizure. Egad, Mr. Roswig! Tell that to the federal snoops in the FBI, in the IRS, in the U.S. Postal Service!

Anyway, we thank Mr. Roswig for his letter, and we can only hope it gets the widest possible circulation. We even hope, armed with such specious arguments, the U.S. Postal people keep defending themselves before Congress. That way the day will be hastened when the repeal comes—as it must come.

LONGMEADOW BICENTENNIAL OBSERVANCE

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. BOLAND. Mr. Speaker, the Fourth of July 1976 will be long remembered by millions of Americans as possibly the most spectacular Independence Day in history. It was a wonderful day of celebration in every community from coast to coast. Rarely has there been such a fine display of American patriotism.

I had the good fortune of attending and participating in the Bicentennial Fourth of July celebration in the beautiful New England town of Longmeadow, Mass. Small New England towns, like Longmeadow, played an important part in the Revolutionary War and remain an important backbone of American life today.

The Longmeadow Bicentennial observance was marked by oration, music, and spirit. It was a perfectly organized ceremony that brought out the spirit of our country in everyone in attendance. I would personally like to thank the Longmeadow Bicentennial Commission for inviting me to address the town and congratulate them for the success of their Fourth of July celebration.

At this point I would like to include a list of members of the Longmeadow Bicentennial Committee, and a program from the July Fourth ceremony on the Longmeadow Green. I have also inserted my remarks from that memorable occasion:

LONGMEADOW BICENTENNIAL COMMITTEE

Crawford Lincoln, Chairman.

Charles H. Wilkinson, Robert J. Cress, Walter Maki, Robert B. McTaggart, Harry E. Reynolds, Robert Cizek, Donald Temple, Mrs. Jeanne Peirce.

Harris E. Adriance, Robert Avery, Mrs. Dorothy Alstrom, Mr. & Mrs. Ronald Bachiochi, Phillip Balise, Mrs. Evelyn R. Bosworth, Mrs. Robert Brunett, Douglas Burt.

Victor Catok, Raymond J. Clark, Mrs. Marie Cordis, Mrs. Eleanor Cress, Miss Katie Currier, William Currier, Mrs. Virginia Flint, Mrs. Joan Frost.

Mrs. Jacqueline Garrison, Michael Gelinas, Mr. & Mrs. Grandford Gill, Mrs. Ann Gilman, Mrs. Peggy Godfrey, Mr. & Mrs. Curtis Guild, Harold Hackworth, Mrs. Ina Hamilton.

Mrs. Elizabeth Hayes, Mrs. Christine Isham, Miss Hilliary Johnson, Hayes Landon, Robert P. Leavitt, Miss Jane Londergan, Mrs. Nancy Marshall, David Martel.

Miss Irene E. Mikus, Mrs. Ester M. Moomjian, Robert T. Muldoon, Mrs. Hertha M. Platzer, Alan Pomeroy, Harold Retchin, Peter Santos, Victor Shayeb, Jr.

Miss Marjorie Skiff, Dr. Raymond T. Smith, Mrs. Ann Southworth, Mrs. Margaret Stoler, Bruster Sturtevant, Wallis Sturtevant, Mr. & Mrs. James Sullivan, Mrs. Jean Summersgill.

Mrs. Janice Throne, Maurice Triouleyre, Mrs. Joan Venti, Mack Wallace, Mrs. Louis Watkins, Mrs. Sherron Williams, Alfred L. Wood, George A. Yarsley, Jr.

[From the Longmeadow (Mass.) News, June 30, 1976]

THE PROGRAM

Observance Marking the Bicentennial of the United States of America—July 4, 1976, Longmeadow, Massachusetts.

7 p.m. A Service of Worship; Call to Worship Hymn, The Rev. Bruce K. Benander, Old Hundredth.

Music in colonial churches was confined to the singing of the Psalms, mainly from the Bay Psalm Book of 1640. "All People that on Earth Do Dwell" or "Old Hundredth" is the oldest hymn setting in use today. The singing or hymns, or psalms, was "lined out" by a Deacon of the parish who set the tune. The congregation remained seated and responded phrase by phrase. Mr. Robert Brown, member of First Church of Christ, will "line out" the first verse. All will singe the remaining verses, a capella.

All People That On Earth Do Dwell

All people that on earth do dwell,
Sing to the Lord with cheerful voice;
Him serve with mirth, his praise forth tell,
Come ye before him and rejoice.

The Lord, ye know, is God indeed;
Without our aid he did us make;
We are his folk, he doth us feed,
And for his sheep he doth us take.

O enter then his gates with praise,
Approach with joy his courts unto;
Praise, laud, and bless his name always,
For it is seemly so to do.

For why? Lord our God is good,
His mercy is forever sure;
His truth at all times firmly stood,
And shall from age to age endure.
—Amen.

An Opening Message and Prayer, W. Scott Carter, A Litany of Freedom, the Reverend Father James P. Menge.

God our Father, we thank you for the land we live in, not because it is perfect, but because it is ours—ours to make of it what we will.

May your name be blessed and praised always in our land!

Here we have our homes to share life with those we love—may we show our thanks by working to share our gifts of freedom with others who desire these gifts.

May your name be blessed and praised always in our land!

We seek guidance and strength to be responsible people in pursuing freedom for ourselves and others so that all may rejoice in a united community.

May your name be blessed and praised always in our land!

Those who were the first builders of our nation believed that you stood by us both in the brightest and in the darkest hours—may that faith never be lost.

May Your Name be blessed and praised always in our land!

We have seen days of peace and days of war; days of plenty and days of want, help us to choose those paths that bring peace closer and make unity stronger throughout our land.

May Your Name be blessed and praised always in our land!

PARTICIPANTS

Participants in the Service:

The Rev. Bruce Benander, Pastor, Bethesda Evangelical Lutheran Church, Springfield.

Mr. Robert Brown, Member, First Church of Christ in Longmeadow.

Mr. W. Scott Carter, First Reader. First Church of Christ, Scientist, Longmeadow.

The Rev. Gary A. DeLong, Co-Pastor, The First Church of Christ in Longmeadow.

The Rev. Father James P. Menge, Assistant Pastor, St. Mary's Catholic Church, Longmeadow.

Rabbi Jordan Ofseyer, Beth El Temple, Springfield.

Mrs. Artemis Romell, Contralto, Music Director, St. George Greek Orthodox Church, Springfield.

The Rev. Clarke B. Schaaf, Co-Pastor, The First Church of Christ in Longmeadow.

The Rev. Ward R. Smith, Rector, St. Andrew's Episcopal Church, Longmeadow.

A Dramatic Reading; Introduction: "On the Faith of America," The Reverend Gary A. DeLong; The Reading: "The Wisdom Literature of America," Rabbi Jordan Ofseyer, The Reverend Clarke B. Schaaf.

The Sources: Judges 8:22.

A sermon preached by John Winthrop, the first leader of the Massachusetts Bay Colony on board ship in 1630 evening before landing in the New World.

The Declaration of Independence in Congress, July 4, 1776.

The Preamble to the Constitution of the United States.

Washington's First Inaugural Address.

Thomas Jefferson in his Notes on Virginia, 1781.

Jefferson's Second Inaugural Address.

Lincoln's Second Inaugural Address.

The Gettysburg Address.

The Words Inscribed on the Pedestal of the Statue of Liberty written by the Jewish American Poet Emma Lazarus in 1883.

An address by George Washington to the Hebrew Congregation of New Port on August 17, 1790.

A Prayer, Rabbi Jordan Ofseyer.

Hymn: "O Beautiful for Spacious Skies," Mrs. Artemis Romell, Contralto Soloist and Song Leader.

The congregation will join in singing the last verse:

O BEAUTIFUL FOR SPACIOUS SKIES

O beautiful for spacious skies, For amber waves of grain,
For purple mountain majesties Above the fruited plain!
America! America! God shed his grace on thee,
And crown thy good with brotherhood From sea to shining sea.

O beautiful for pilgrim feet, Whose stern, impassioned stress
A thorough fare for freedom beat Across the wilderness!
America! America! God mend thine every flaw,
Confirm thy soul in self control, Thy liberty in law.

O beautiful for heroes proved In liberating strife,
Who more than self their country loved, and Mercy more than life!
America! America! May God thy gold refine,
Till all success be nobleness, And every gain divine.

O beautiful for patriot dream That sees beyond the years
Thine alabaster cities gleam, Undimmed by human tears!
America! America! God shed his grace on thee,
And crown thy good with brotherhood from sea to shining sea.—Amen.

Benediction, the Reverend Ward R. Smith.

7:30 p.m. Greetings, Crawford Lincoln, Chairman, Bicentennial Commission.

The Bicentennial Concert Part I, the Hartford Concert Band, Mr. Lenzy R. Wallace, Jr., Conductor.

Star-Spangled Banner, Mrs. Artemis Romell, soloist.

Stars and Stripes Forever, John Philip Sousa.

A Colonial Rhapsody, Edward Madden.

The Minstrel Boy, Arr. Leroy Anderson.

Battle Hymn of the Republic, Traditional, Arr. William Moffett.

When the Saints Go Marching In, Traditional, Arr. Harold Walters.

Deep River Suite, Arr. Frank Erickson.

Semper Fidelis March, John Philip Sousa.

The Bicentennial Oration: Pronounced by The Honorable Edward P. Boland, United States Congress, House of Representatives, Second Mass. District.

Introduced by Mr. Robert B. McTaggart, President, Longmeadow Historical Society.

The Bicentennial Concert Part II:

Songs of Scott Joplin, Arr. John Cacavas.

Alexander's Ragtime Band, Irving Berlin.

Strike Up the Band, George Gershwin.

Ballet Parisien, Jacques Offenbach.

A Trumpeter's Lullaby, Leroy Anderson.

Brighton Beach March, William P. Latham.

Audience Singalong, Traditional.

Daisy, The Band Played On, For He's a Jolly Good Fellow, Hail, Hail, the Gang's All Here.

God Bless America, Irving Berlin, Mrs. Artemis Romell, contralto soloist.

9 p.m. The illumination of the Green and

Historic District, Mr. Charles H. Wilkinson, Coordinator.

Special acknowledgements:

The appearance of the Hartford Concert Band is made possible by grants from W. F. Young & Co., Stearns and Yerrall, Valley Bank and the Longmeadow Community Market.

Speech Given by Congressman Edward P. Boland

"Reverend clergy, Chairman Crawford Lincoln and members of the Bicentennial Commission, Citizens of Longmeadow—my fellow Americans.

I am grateful for the invitation that brings me to this beautiful New England town to participate in this bicentennial observance.

I have been here before, on this magnificent common, marking other Longmeadow events, and I never cease to marvel or to be moved by the splendor of the Longmeadow green. It is indeed, as Joan McNally essayed in the Longmeadow News, "The heart of all your centerings where your plaques and plantings and the flag of our land are rooted in this hallowed place."

We come here this evening to etch another event on this historic landmark.

This Town of Longmeadow's bicentennial celebration marking the 200th birthday of the United States of America, to note one of history's most unique declarations. Harken to the last line: "And for the support of this declaration, with a firm reliance on the providence, we mutually pledge to each other our lives, our fortunes and our sacred honor."

Each of those who signed and the many, many more who supported the Declaration, made the pledge. They did so after completing an arduous task.

The Continental Congress spent a great deal of time discussing independence and what it would mean to the colonies.

Independence Hall was filled with debates and compromises, but finally the Congress reached agreement. And that document has symbolized freedom to the world ever since.

It is two hundred years of freedom that we celebrate today. Since this day does mark the anniversary of that declaration and the highlight of the Bicentennial celebrations, perhaps we should ask ourselves—"What happens now?"

Do we simply gather up the red, white and blue bunting and store it away for the tricentennial? Or do we take something with us into this country's third century?

Two hundred years ago, after the liberty bells stopped tolling, the citizens of the new United States were only beginning to realize the difficulties which lay ahead.

Before them were Valley Forge, the desperate, uncertain days, until final military victory, the overwhelming tasks of writing and ratifying a constitution, and establishing a viable government.

The signing of the Declaration of Independence was only the first step on the long road to the formation of a viable nation.

Here in Western Massachusetts the tasks were equally arduous.

Although settled in 1644, the Town of Longmeadow, known as the "Third Parish of Springfield," was not yet "officially" in existence. In fact, Longmeadow was the first town incorporated—in 1783—in the independent Commonwealth of Massachusetts.

The citizens of Longmeadow, after doing their part in the continental armies, had to plan roads, churches, schools, fire wards, commons and greens—in short, establish a community.

All this faced them on July 4, 1776, and the immediate response to the Declaration of Independence, in Longmeadow, as well as in the rest of the country, must have included some trepidation about the challenges facing the new nation.

Those beginnings have been celebrated this year and we know the stories well. Perhaps, however, we can empathize more with the Fourth of July celebration of one hundred years ago.

The centennial celebration of independence took place in a time remarkably like ours. The events of 1876 are, in a way, much easier to understand than the more distant, legendary occurrences of 1776.

One hundred years ago the United States was just recovering from some severe setbacks.

The economy was slowly recovering from the depression of 1873. The Civil War was a recent painful memory. President Grant's administration was riddled with scandal and the Nation was calling for reform. Incredible advances were being made in technology, but to many, these advances seemed to be taking the life out of living.

The people of Longmeadow, after finally getting their sons back from the Union Army, were witnessing a change in the Lower Pioneer Valley—a shift to technology and the accompanying problems of an industrialized society.

The stops of the underground railroad, here in Longmeadow, and elsewhere, were closed; but the United States was still searching for a way to protect the rights and responsibilities of all her citizens.

Change the names, and those problems of 1876 sound very familiar.

Nevertheless, in 1876, the Nation mounted a centennial exposition in Philadelphia that was attended by 10 million people.

The country had an optimistic view of what would happen in the future. We were able to envision another century of progress, another century of success as a Nation.

In spite of wars, depression-recession-inflation, domestic unrest, scandal, the Nation was able to look forward to another hundred years of greatness, another bright day.

Today, in spite of many of the same things, we can do the same.

During this Bicentennial, we have been looking backward, taking pride in the continuity of the Republic, recognize the quality and vigor which has characterized American life for two hundred years. But at the same time, we should be looking to the future.

This year, as in 1876, there are doomsayers abroad in the land. They are foretelling dire things for us as a people and as a nation. All of us recognize the reasons for their concern. I share many of those concerns. What I do not share is their pessimism.

As on July 4, 1776, and again on July 4, 1876, we are facing times that will try us, times that will test us as a nation, times that will determine whether democracy can survive in a changing world.

No bed of roses is waiting for this Nation; there never has been. But I firmly believe that we can meet and solve these problems, that the next century will be as successful as the last two. That success will depend on all of us, on our children and grandchildren. Americans have never shirked this responsibility—we do not shirk it now.

The Fourth of July, 1976, as great as it has been for us, is unavoidably followed by the rest of July and the rest of the year. The bunting is put away and we have to sweep up after the parade. We must make sure, however, that what this Fourth has meant stays with us. That the past celebrated today continues to serve as a guide for the future.

More than 200 years ago, Thomas Paine wrote in his famous work, "Common Sense":

"We have it in our power to begin the world over again. 'Tis not the concern of a day, a year, or an age; posterity are virtually involved in the contest, and will be more or less affected even to the end of time, by the proceedings now. Now is the seedtime of continental union, faith and honor."

Someone no doubt repeated those words with great emphasis in Philadelphia in 1876. Unquestionably, they still serve today to set the struggle that we must still continue to this day.

It wasn't Paine, but Jefferson, that said, "The Price of Liberty is eternal vigilance."

Those two thoughts together show us—as they did our forefathers—that this great experiment in democracy, the United States of America, can only survive through constant attention to the quest for freedom, for justice, for peace.

If at times we falter—as we have in Vietnam and during the Watergate scandals—we learn quickly that it is only in returning to, and abiding by, our earliest expressions of independence, that we can persevere.

Ladies and Gentlemen, today we celebrate the 200th anniversary of the signing of the Declaration of Independence. It is in that document that we can find a blueprint for our next 100 years, for our national policy at home and abroad.

Join with me now in recalling those undying sentiments:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness . . . that to secure these rights, governments are instituted among men . . . that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them, shall seem most likely to effect their safety and happiness."

If we can live up to those sentiments, if we can do so in light of the lessons we have learned as a Nation in such bitter fashion, then we will secure a successful future, another 100 years—for Longmeadow, for Massachusetts, for the United States.

That is the challenge of the Bicentennial.

I congratulate the Longmeadow Bicentennial Commission, the public officials of this town and its people for joining in this celebration. I have the honor and privilege of expressing to all of you the gratitude of the United States of America.

THE OLD FRONT PORCH

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. McDADE. Mr. Speaker, in this Bicentennial Year Americans all across our Nation are taking a long and longing look at some of our oldest traditions. We hear a lot about apple pie, hot dogs, Fourth of July picnics, and Thanksgiving, but in the small cities and towns of our country there is another cherished tradition that gets little notice.

Mr. Joseph X. Flannery, who writes for the Scranton Sunday Times and is one of our most respected columnists in northeastern Pennsylvania, recently called attention to that tradition, the old front porch, as a significant part of our culture. His interesting column will jog a few memories and perhaps take us back to a less hectic time, when sitting on the front porch was a wonderful way to enjoy life on a hot summer night. Here neighbors visited, young lovers dreamed, and families watched the world pass before them, to the enjoyment of an occasional cool breeze.

Mr. Flannery's reflections make most

enjoyable reading, and I am enclosing Mr. Flannery's column for the Members' information:

THE OLD FRONT PORCH

(By Joseph X. Flannery)

DUNMORE, PA.—Air-conditioning, electric fans, refrigerators and even home insulation all have changed the nature of hot summer nights in Small Town, America.

There was a time when the only relief one had from high temperatures and humidity was to spend hours on the front porch—possibly until 2 or 3 o'clock in the morning.

Swings could be heard with their rhythmic squeaks late into the night—with only the sound to indicate that a person was still on the darkened porch. Or it might be a rocking chair upon which a person would sit to await the infiltration of the cool night air into the hot upstairs bedrooms. On one of these chairs, a person could prop himself up with feet on the porch railing and catch a bit of sleep in the comfort of nature's own air-conditioning.

Indoors, a home might have the luxury of a few electric fans, but there was nothing like the big window fans that are so common today. The fans that were popular then were small, swivel models that rippled the air gently but did not do much for cooling people. And air-conditioning in a home was unknown.

Thus, with no electrical means of forcing the cool night air into the stuffy upstairs rooms, when a torrid heat wave arrived, the only real escape was to flee to the front porch. Sure, an occasional mosquito might raise the price for such comfort, but this was more than offset by the other wonders of nature, including falling stars in the black sky, the incessant singing of crickets, the occasional croaking of a frog, "heat lightning" flashing in the sky beyond the nearest mountain range or edge of town, and lightning bugs flickering over the lawn.

The usual front-porch refreshment taken to fight the heat was lemonade, made with real lemons and sugar—not any powdered concentrate with an artificial sweetener.

Many families did not have refrigerators, so the lemonade was cooled in the icebox in the kitchen. If there was ice to spare, some chips might be taken from the main block and added to the pitcher of lemonade. However, if the ice in the box was in short supply—as it usually was—the lemonade would be served without this luxury taken from a local lake the preceding winter.

In some homes, there were certain summer days when it was necessary to put a fire in the kitchen stove. Maybe it was needed to supply water for washing clothes or to heat the oven to bake a week's supply of bread. In any case, the stove was used that day, the day that happened to coincide with the temperature's moving into the 90's, so this added to the heat in the home. This in turn, made the escape to the porch even more certain that evening.

Of course, if the kitchen stove was not needed during the hot weather, the fire was allowed to go out and the cast-iron monster was allowed to sit idle while the cooking was done on a kerosene stove.

While this produced fumes that became one of the characteristic odors of summer, it also had the advantage of not heating up the home. However, it also involved one more job for the children of the family: Carrying a can or jug to the nearest service station to have it refilled with kerosene.

Not even the killing of the fire in the kitchen stove could guarantee cool air in the home, however, so the front porch continued to be the "cooling off" spot in the evening and nighttime hours. Children were usually allowed to join the adults to escape the heat, but first they had to get dressed for bed. The reason for this was that they often fell asleep on the porch and were carried to their beds, destined to spend the balance of the night unaware of the heat in their bedrooms.

The darkness of the porch was a good vantage point for watching the passing strollers—many of them young lovers walking with arms locked around each other and thoroughly enjoying the cool air. The porch on a summer night also was a good place for a neighborhood visit. Often the chit-chat would go on well past midnight.

How would one tell whether someone was on a neighbor's porch and available for a nocturnal visit? Well, the glow of a cigarette or cigar or the touching of a match to a pipe might be one tipoff. Or the creaking of a swing chain or the squeaking of a floorboard under a rocking chair might be another.

Young lovers, lucky enough to get a darkened porch to themselves, wanted no visitors as they painted plans for their future.

Today's homes have many ways to beat the summer heat. Yet, something has gone out of summer enjoyment since architects began building homes without front porches.

FEDERAL PENSION BENEFITS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. ROUSSELOT. Mr. Speaker, Hastings Keith, the distinguished former Member from the State of Massachusetts, in a recent letter to Representative RICHARD WHITE, chairman of the Retirement and Employee Benefits Subcommittee, House Committee on Post Office and Civil Service, has succinctly explained the nature of the inflationary impact of the current 1-percent add-on to the cost-of-living increases for Federal pension benefits. Considering that this issue, currently pending before the House, has provoked considerable controversy over the question of repealing the 1-percent add-on at a savings as high as $38 billion over the lifetime of the present annuitants, I believe that this well reasoned letter merits your serious attention.

The Library of Congress was requested to evaluate the Federal pension benefit projections made by Mr. Keith in his letter to Congressman WHITE. Although the Library estimates are slightly lower than Mr. Keith's, the astronomical effect of a 6-percent inflation rate on Federal pensions is clearly demonstrated.

The letter follows:

BROCKTON, MASS., *June 22, 1976.*

Hon. RICHARD C. WHITE,
Chairman, Subcommittee on Retirement and Employee Benefits, U.S. Congress, Washington, D.C.

DEAR MR. CHAIRMAN: I regret that a hospital stay prevented me from testifying before your committee concerning the proposal to discontinue the so-called "one percent add-in" feature of the Civil Service (Military) Retirement Plan for all federal annuitants. I appreciate your willingness to make this letter a matter of public record in the hearings which you will be publishing of today's meeting.

You know from my earlier appearance—last November 14—that I have been very much concerned with the long-range implications—both social and economic—which flow from this one percent "kicker."

I am convinced that unless this provision is deleted from the existing statutes that it will unnecessarily and unjustifiably increase the pension benefits of the retired federal employees to a degree that will accelerate the very inflation with which it was intended to cope. Furthermore, it will bring about other unforeseen problems that will cause difficulties far beyond those which we have thus far encountered

All of this was forecast by our highly-esteemed former member, Martha Griffiths, who represented Michigan in the Congress for so many years. In 1970, while she was chairing a meeting of the Joint Economic Committee she forecast a taxpayers' revolution which would eventually occur as a result of the taxpayers' conclusion that they would have to work longer hours and pay heavier taxes in order to support the early retirement and the generous pensions that were being legislated for public employees.

That was in 1970, long before the effects of the cost-of-living increase or the one percent add-on had even begun to be felt! Since that time, Mr. Chairman, we have seen the City of New York on the verge of bankruptcy; we have witnessed the state employees of Massachusetts so adamant in resisting change in their pension plan that the governor had to take drastic steps in an effort to remain solvent; we have seen the District of Columbia (the city whose pension plan is very much the creature of Congress) now confronted with unfunded liabilities that are so extensive that Senator Eagleton has warned Congress and the nation of a pending time bomb pension explosion.

Mr. Chairman, there are other signs of disaster—even of revolution—which confront the country in general and Congress in particular. There are big questions which you and your colleagues have been wrestling with for many years; these problems have developed because of the "layering" of benefits that has occurred as Congress has attempted to do something additional for the civil service constituency in most every year, certainly in every election year. I am sympathetic to your problem, and as you know, generally speaking, I supported legislation which this committee has brought to the floor of Congress.

I would, however, in self-defense point out that I have from time-to-time protested some of what seemed to me to be overly-generous amendments which have been added to the Civil Service Retirement Act and to other Acts relating to retirement benefits. I have registered my concern in Congressional debates on many occasions—on abuses in the Railroad Retirement Act of 1960, on the generosity of the federal judiciary's pension plan, and generally on the early retirements of federal employees, whose so-called "hazardous" occupations were frequently used to provide early retirement for them. It seemed to me then as it does now that lateral transfers within the civil service would have made possible a much more effective utilization of their talents and at the same time saved the taxpayers hundreds of thousands of dollars—perhaps millions of dollars.

Finally, Mr. Chairman, I voted for the H. R. Gross amendment that would have deleted the one percent add-on in 1969. I did speak against this amendment but such argumentation was inadequate, and we committed the nation to a course, the fruit of which has brought us to the point where we are now.

Under the Henderson bill those existing add-ons which the legislation seeks to stop are eliminated. No recognition is given to the existence of those add-ons already effected by the extraordinary inflation of recent years.

I do not suggest that they should be taken away—or that the pension should be immediately adjusted downward to correspond to the actual increases that would have resulted from close correlation with the cost of living. What I do suggest is that all of the existing federal annuitants and their surviving spouses continue to receive their present annuities (and this means the present increment of the current pension benefit which is, even now, in excess of the cost of living) until such time as the cost of living catches up with the annuities they are now receiving. This would allow the pensioners to keep, of course, the more than one billion dollars above the cost of living that has already been paid to them and allow them to continue to draw the additional amounts contained in their present pensions for rather lengthy periods of time.

It would mean that they would get another billion dollars in benefits above the cost of living during the catch-up period!

But eventually, Mr. Chairman, the cost of living would catch up with these individual pensions, and these annuities would thereafter keep pace with the cost of living—whatever it may be.

As you probably know, Congressman Findley has offered an amendment which would implement this philosophy. If that amendment were accepted by your committee and the Congress, it would save the taxpayers approximately thirty-eight billion dollars over the life expectancies of the existing annuitants and their surviving spouses.

I realize that it is very difficult for the committee, for the Congress, or for anyone to comprehend how such a relatively small amount of money as a billion dollars could, when compounded at six percent, increase pension payouts by so many billions of dollars, but this is in fact the case. It seems to me that we have all forgotten if we ever knew about Einstein's reply when asked, "What is man's greatest invention?" He didn't say the wheel or the lever; he said, "Compound interest!"

Here is how $100 of Federal pension (without the "add-on") compounds at six percent. The $100 increment increases (compounds) to $242 ($226 according to the Library of Congress) during a life expectancy of fifteen years. The total payments flowing from the increment amount to $28,346 ($27,943 per Library of Congress estimate). At the annuitant's death, the surviving spouse will receive a follow-on pension starting at $136 per month ($133 according to the Library of Congress) and rising during his or her life expectancy of ten years to $245 per month ($229 according to the Library of Congress). Since only fifty-five percent of the pensioners will leave a surviving spouse, the average will total $11,982 (or $11,831 per computations by the Library of Congress).

Assuming conservatively that there are two million military and civilian retirees with an average monthly increment from the one percent add-on of only $50—at six percent inflation—the total over their life expectancies would be about $28 billion. The total follow-on benefits to their surviving spouses would cost another $12 billion.* (All of this is in addition to the basic pension and in addition to cost-of-living increases. And all of it is financed from general revenues. None of it comes from employee contributions. It stands in sharp contrast to the fate of the rest of the American work force which does not share in such a benefit program.)

It is these additional costs, on top of several hundred billion dollars of other unfunded liabilities, that have prompted me to speak out on this question. I am deeply concerned that continuation on the present course will wreak havoc with our economy—and consequently with our society.

Responses which I receive to press coverage on this subject and to my earlier testimony before your committee indicate to me that most of the critics of my arguments are those who are getting small pensions. I would concur that if those retirees have spent the major part of their working years with the federal government and are not being adequately cared for by other federal programs, particularly Social Security, they should get increases in pensions which allow them to live comfortably in retirement.

Mr. Chairman, I believe that it is not only the general public which is concerned with the constantly increasing cost of public pensions. I believe, too, that the hard-working career public servant recognizes that these pension benefits (and taxes) can't continue, and he hopes that the Congress will correct these abuses before the nation suffers a fate somewhat akin to that of New York City and the State of Massachusetts.

Sincerely,

HASTINGS KEITH.

THOMAS AUSTIN YAWKEY, OWNER OF THE BOSTON RED SOX

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. CONTE. Mr. Speaker, I would like to commit to the annals of the RECORD the memory of Thomas Austin Yawkey, the owner of the Boston Red Sox, who died in the afternoon of July 9 at the age of 73, after a long bout with leukemia.

All who knew Tom Yawkey, from his players to his business associates, mourn the passing of a man who epitomized everything positive in the world of sports. Generally accorded the distinction of being the most generous owner in baseball, he was the most generous of men outside the national pastime as well. Tom Yawkey dedicated his 43 years at the Red Sox helm to the best interests of the fans, doing everything in his power to give his loyal supporters in the Hub a world championship. It is perhaps sad that Tom Yawkey's one ambition in life, the winning of a world championship, eluded him, but the fact remains that Tom Yawkey was a "winner" in every sense of the word. He was, as so many have pointed out, all "class."

More than simply the owner of a baseball team, Tom Yawkey was an ardent conservationist, and in his younger days, a true sportsman, as he hunted grizzlies in Wyoming, and big game throughout North America.

He was a man vitally concerned with the welfare of children, and a great deal of Tom Yawkey's time and money was devoted to this area. Much of what he did went unnoticed, as he and his wife, Jean, did their best to avoid publicity for their charitable works. In the seventies, the couple gave a sizable amount to the Tara Hall Home for Boys in Georgetown, S.C.

An then there is the Jimmy Fund, the organization that Yawkey served in a way that should serve as the example for all charitable endeavors. In addition to donating millions of dollars to that worthy organization, he was chairman of the board of trustees and president of the Jimmy Fund for 5 years. The fact that a sign supporting the Jimmy Fund was the only sign ever to adorn Fenway Park says a great deal about this uncommon man.

William S. Koster, vice president of the fund, said this of Yawkey, "He did more for children that were afflicted with cancer than anyone will ever know. Yawkey helped make the Jimmy Fund a world famous foundation. So many children are better off today because Tom Yawkey passed through this world."

There is little anyone can add to such a statement, other than to point out that children were by no means the only ones benefiting from this man's goodness. Everyone he touched came away a better person. Baseball will probably never see another like him, but his spirit of sportsmanship and giving will live on for as long as there is baseball, or philanthropy.

MOTOR VEHICLE LETTER COMMENTS ON THE VOLVO EMISSIONS MYTH

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. DINGELL. Mr. Speaker, the "Motor Vehicle Industry Report," in its June 14, 1976, legislative and marketing trends letter comments on the development of a Volvo auto emission prototype test car that purported to meet the Federal 1978 statutory standards.

As the auto emission standard issue will be under House floor consideration in the days ahead, I believe the material following will be of interest:

VOLVO MYTH

Nationwide attention was given EPA certification tests of a Volvo that met Calif's 77 emission numbers (0.4 HC/9 CO/1.5 NOx) with room to spare. The 140 cid, 4-cyl, fuel-injected engine employed a 3-way catalyst (Englehard) to record 0.2 HC/2.8 CO/0.17 NOx . . . accompanied by a reported 10% increase in fuel economy. To celebrate the results, Calif. Democrat, Alan Waxman, who intends to fight any attempt to delay Fed statutory standards beyond 78 models, invited Calif ARB chief, Tom Quinn to Wash for a press conference . . . designed to support and attract attention to his cause. Quinn, ex-journalist and ex-campaign mgr for Gov. Edmund G. Brown, Jr., took advantage of the occasion to criticize domestic manufacturers and others, for spending more time trying to delay future standards than they do in research that would significantly reduce emissions. Then he gave the Volvo results as an example of what can be done, implying the technology was applicable to all engine families in time to meet all proposed emission standards. Howard Freers, chief of car engr., Ford Product Group, called Quinn's statement, "Half a press release."

Research by this letter has uncovered some important factors that were overlooked in the original announcement such as the noble metal ratios used in the 3-way catalyst, about 2.5:1 of rhodium to platinum. Rhodium is found in unrefined platinum at a ratio of about 15-19:1 and yields about 3% in refining (ie for every 30 grams of platinum you get 1 gm of rhodium). Thus, if the Englehard unit were the answer, as implied, the world's rhodium supply would be exhausted by just 20% of GM's production for any given model year. Ford has worked with Englehard and is convinced this is the direction they are going but has heard of no "breakthrough" on expansion of the world's rhodium supply. In Mar of 75, GM submitted to EPA a 4-cyl Vega with the same emission control system as the Volvo which met all the numbers but when the system was tried on a 6-cyl engine it didn't work because it would not produce the same results on engines with split exhaust manifolds. The results of these tests were published Mar 3, 75 in a report, "General Motors Progress Toward Achieving the 1978 Automotive Emission Standards for Oxides of Nitrogen", which was also given to EPA. The report received no publicity or attention as one industry source said. "People who want to promulgate tighter standards are looking for anything that's doable. They pick out what they want."

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*This information was supplied to me by Mr. Robert Myers, former Chief Actuary for the Social Security Administration and now professor of actuarial science at Temple University.

Low initial cost was another point used which drew this observation from an industry source: "Sure it is a $25 system. $25 over a very expensive base—fuel injection." GM sources say their cars would increase by $150 if the Volvo system were used, incl FI . . . but neither Ford or GM engr feel FI is the answer for mass produced cars . . . and both are pursuing solutions thru either electronically or mechanically controlled carburetion and both have tested different catalyst systems from Englehard, UOP, Ethyl, du Pont, PPG, and Questor. GM is currently developing 2 systems—one using separate reduction and oxidation catalysts—the other combines both functions in one can. Ford is said ready to introduce a 3-way unit as early as 78 with objective of 50,000 mile durability without replacement—but one major obstacle remains before 3-way's can be used, that is precise fuel metering, which means more frequent and mandatory maintenance by owners. Or there is a potential danger from an offshoot emission—hydrogen cyanide. Yes, the very same stuff as they use in Calif gas chambers.

Then there is the question of methodology used in the Volvo emission test. Calif procedures allow for some averaging of results which could be easier to pass than the more lenient Fed standards that require test vehicles to remain on or below the numbers all thru the test. Further, the law requires 50,000 miles of durability for emission systems with allowable maintenance. Volvo reportedly was forced to change oxygen sensors every 15,000 miles. Another theory being advanced is that if we can achieve this success w/4-cyl engines, but not w/6 or 8-cyl. Perhaps all we should build is 4 bangers. Presently there are 44 engine lines in North America—only 3 are producing 4-cyl motors. And under present tax structures, mfrs are taking 13–14 yrs to write off a line. But more importantly, according to Ralph Cross, pres, Cross Co, mfrs of transfer lines (machines that build engines), "at best, the machine-tool industry in the U.S. is capable of supplying just less than 3 complete engine lines per year." It was observed, "They (EPA & Congress) are emotionally swayed by pronouncements such as this." Unfortunately, all too often the information portrayed to the public ends up being "half a press release."

DIPLOMATIC IMMUNITY

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. FISHER. Mr. Speaker, in recent years the exercise of diplomatic immunity has given rise to a variety of problems for U.S. citizens in northern Virginia, the Washington metropolitan area, and in other cities with significant numbers of diplomatic personnel. The issues range from unpaid traffic tickets to automobile accidents involving personal injuries and fatalities.

I believe it is time to focus attention on the proper use and increasingly frequent abuse of the privilege of diplomatic immunity and to air the issue thoroughly.

For this reason, I have introduced, with Representative THOMAS E. MORGAN, chairman of the House International Relations Committee, H.R. 13828, which clearly specifies the privileges and immunities to which foreign diplomatic missions and their personnel are entitled. An identical bill was introduced in the Senate in February at the request of the State Department by Senator JOHN SPARKMAN, chairman of the Senate Foreign Relations Committee.

Current U.S. law, enacted in 1970, provides diplomatic immunity from criminal, civil, and administrative jurisdiction to all foreign nationals who are not permanent residents, and who are assigned the proper nonimmigrant status as employees in embassies in Washington and other U.S. cities. Thus, diplomatic immunity is granted to ambassadors, clerks, secretaries, chauffeurs, and cooks alike whether on embassy business or on a personal night on the town.

My proposed legislation would repeal these statutes and bring U.S. law into conformity with the Vienna Convention on Diplomatic Relations signed by the United States and more than 100 other nations in 1972. The Vienna Convention restricts full diplomatic immunity to high level diplomatic personnel and further narrows the use of diplomatic immunity by distinguishing between the performance of official and unofficial duties. For example, service staff would have the privilege of immunity only in performance of official duties. Private household servants would lose all immunity under the Vienna Convention.

The bill contains certain other provisions that should be carefully discussed. Some nations covered by the Vienna Convention grant more favorable treatment for U.S. diplomatic personnel than others.

The proposed legislation would allow the President authority to grant more favorable treatment to certain nations at his discretion. It may be wise to guarantee in the legislation some congressional role or oversight in the use of this authority. Perhaps a congressional veto would be in order. This point should be examined during hearings which I expect the House International Relations Committee to hold.

Historically, immunity has been accorded so that the essential work of international relations may be conducted without disturbance or harassment to the diplomat by the host countries. Present day facts are quite different. Unfortunately, its most frequent use seems to be in cases of automobile accidents. My bill tries to separate the ordinary civil offense from the traditional diplomatic immunity by sharply limiting the number of persons who can claim immunity and the circumstances to which the immunity attaches.

This month I have also cosponsored H.R. 11560, introduced by Representative EDWARD KOCH, to assist American citizens who have been injured in automobile accidents involving foreign diplomatic personnel. Persons injured have had great difficulty or have been unable to obtain proper financial relief because diplomatic personnel were either not insured or their insurance companies refused to make settlements.

The proposed legislation would require foreign nonresidents who bring automobiles into this country for personal use to obtain liability insurance and to register them with the U.S. Customs Service. Because diplomatic personnel cannot be sued in U.S. courts, the proposed law would give the Secretary of State the power of enforcement. It would also require liability policies to state that payment be made to injured parties regardless of whether the holder of the policy has diplomatic immunity.

I expect prompt consideration of this bill by the Trade Subcommittee of the Ways and Means Committee.

The abuse of the privilege of diplomatic immunity has become serious in the Washington metropolitan area. I believe H.R. 13828 and H.R. 11560 are a good start toward correcting that abuse.

NO RETREAT ON ABORTION

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Ms. ABZUG. Mr. Speaker, it has been 3 years since the Supreme Court decided in Poe against Wade to grant women the right to choose abortion. This historic ruling, based upon the 200-year-old fundamental American judicial principles of right to privacy, freedom of choice, and religious tolerance, placed the decision to terminate a pregnancy where it rightly belongs—with the women and her doctor. However, this court decision has met violent opposition from a highly visible group of antiabortion forces. While this handful of individuals wage a massive emotional publicity campaign, in reality they only represent a minority of Americans according to all the nationwide surveys. Efforts to reverse the abortion decision indicate a serious lack of concern for the health and well-being of those involved, disregard for the social cost of the unwanted child, and denial of a woman's constitutional right. I would like to bring to your attention an article written by John D. Rockefeller III, in the June 21 edition of Newsweek, which addresses the issues surrounding recent attempts to retreat on abortion. The House has once again been presented with legislation to limit the application of the Supreme Court decision affirming a woman's right to an abortion, the Hyde amendment to the Labor-HEW bill which would prohibit the use of medicaid for abortion. I would like to take this opportunity to insert this article in the Record:

No Retreat on Abortion

(By John D. Rockefeller 3d)

It is ironic that in this Bicentennial year there is a strong effort across the nation to turn the clock back on an important social issue. Ever since the Supreme Court legalized abortion in January 1973, anti-abortion forces have been organizing to overturn the decision. They have injected the issue into the campaigns of 1976, including the appearance of a Presidential candidate who ran on the single issue of opposition to abortion.

There have been efforts within the Congress to initiate a constitutional amendment prohibiting abortion. There is litigation being pressed in state courts and appeals to the Supreme Court. Last November the National Conference of Catholic Bishops issued a "Pastoral Plan for Pro-Life Activities" calling for a wide-ranging anti-abortion effort in every Congressional district, including working to defeat any congressman who supports the Supreme Court decision.

Those who appose abortion have won the battle of the slogans by adopting "Right to Life" as theirs. And, by concentrating on the single issue of the fetus, they have found abortion an easy issue to sensationalize. Thus, they have tended to win the publicity battle, too.

CONSCIENCE AND COERCION

In contrast, those who support legalized abortion—and opinion polls demonstrate them to be a majority—have been comparatively quiet. After all, they won their case in the Supreme Court decision. Legalized abortion is the law of the land. It is also in the mainstream of world opinion. The number of countries where abortion has been broadly legalized has increased steadily, today covering 60 per cent of the world population.

In this situation, there is a natural tendency to relax, to assume that the matter is settled and that the anti-abortion clamor will eventually die down. But it is conceivable that the United States could become the first democratic nation to turn the clock back by yielding to the pressure and reversing the Supreme Court decision. In my judgment, that would be a tragic mistake.

The least that those who support legalized abortion should do is try to clarify the issue and put it in perspective. The most powerful arguments about abortion are in the field of religious and moral principles—and this is where the opposing views clash head-on. Abortion is against the moral principles defended by the Roman Catholic Church, and some non-Catholics share this viewpoint. But abortion is *not* against the principles of most other religious groups. Those opposed to abortion seek to ban it for everyone in society. Their position is thus coercive in that it would restrict the religious freedom of others and their right to make a free moral choice. In contrast, the legalized abortion viewpoint is non-coercive. No one would think of forcing anyone to undergo an abortion or forcing doctors to perform the procedure when it violates their consciences. Where abortion is legal, everyone is free to live by her or his religious and moral principles.

SAFETY VS. DANGER

There are also strong social reasons why abortion should remain legalized. In a woman's decision to have an abortion, there are three key considerations—the fetus, the woman herself, and the future of the unwanted child. Abortion opponents make an emotional appeal based on the first consideration alone. But there is steadily growing understanding and acceptance of a woman's fundamental right to control what happens to her body and to her future. In the privacy of her own mind, and with whatever counseling she seeks, she has the right to make her decision, and no one is better qualified. If she is denied that right, the result may well be an unwanted child, with all the attendant possibilities of abuse and neglect.

Finally, as a practical matter, legalization of abortion is a much more sound and humane social policy than prohibition. Banning abortions does not eliminate them; it never has and it never will. It merely forces women to go the dangerous route of illegal or self-induced abortions. Even worse, it makes abortion a "rich-poor" issue. At a high price, a well-to-do woman can always find a safe abortion. But, unable to pay the price, the poor woman all too often finds herself in incompetent hands.

Experience in three Catholic countries of Latin America that I visited provides dramatic evidence of a high incidence of abortion even when it is against the law. Estimates are that there is one abortion for every two live births in Colombia, and that more than half a million illegal abortions are performed every year in Mexico. In Chile, hospital admissions caused by illegal abortions gone wrong exceed 50,000 per year.

In contrast, the access to safe procedures in the United States has resulted in a drastic decline in deaths associated with abortion. In the period 1969–74, such deaths have fallen by two-thirds. Statistics also strongly suggest that about 70 per cent of the legal abortions that have been performed would still have occurred had abortion been against the law. The only difference is that they would have been dangerous operations instead of safe ones.

When you combine the religious, moral and social issues raised above with the fact that women need and will seek abortions even if they are illegal, the case for legalized abortion is overwhelming. We dare not turn the clock back to the time when the religious strictures of one group were mandatory for everyone—not in a democracy.

A PLEA FOR FREEDOM

We must uphold freedom of choice. Moreover, we must work to make free choice a reality by extending safe abortion services throughout the United States. Only one-fourth of the non-Catholic general hospitals and one-fifth of the public hospitals in the country now provide such services. It is still extremely difficult to have a legal and safe abortion if you are young or poor or live in a smaller city or rural area.

On a broader front, we must continue the effort to make contraceptive methods better, safer and more readily available to everyone. Freedom of choice is crucial, but the decision to have an abortion is always a serious matter. It is a choice one would wish to avoid. The best way to do that is to avoid unwanted pregnancy in the first place.

CITIZENSHIP REQUIREMENT FOR FEDERAL JOBS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. DOWNEY of New York. Mr. Speaker, the recent Supreme Court ruling, *Hampton, Chairman, U.S. Civil Service Commission, et al.*, v. *Mow Sun Wong et al.*, striking down the U.S. Civil Service Commission's regulation that bars resident aliens from employment in Federal competitive service jobs is open to congressional correction. The decision does not imply that nonhiring of aliens by the Federal Government is in itself unconstitutional; rather, the decision states that it is unconstitutional for a Federal agency to issue such a regulation on its own. The possibility of future limitations on Federal jobs for aliens is left open. In fact, the decision strongly hints that Congress could pass legislation limiting Federal jobs for aliens:

> . . . Alternatively, if the rule were expressly mandated by the Congress of the President, we might presume that any interest which might rationally be served by the rule did in fact rise to its adoption . . .
>
> . . . In sum, . . . the national interests identified by the petitioners would adequately support an explicit determination by Congress or the President to exclude all noncitizens from federal service . . .

Congress should take immediate action in placing a citizenship requirement on Federal jobs. Surely our Federal jobs pool is too large already, but it is not yet so immense that there are not thousands upon thousands of Americans qualified and available to work for our Government. American workers should hold these jobs, especially during this period of high unemployment. American citizens should not have to compete with over 3.5 million resident aliens for Federal jobs: Americans must have preference.

Consequently, I am introducing legislation today that would amend title 5 of the United States Code to exclude individuals who are not citizens of the United States from appointment in the competitive civil service. The bill does allow the President to waive the prohibition in special circumstances—if there is a need of a special talent which could only be provided by a noncitizen or if no American citizen has applied for a particular position.

The question of restricting resident aliens from employment in Federal service jobs has been raised by the *Hampton, Chairman, U.S. Civil Service Commission et al.*, v. *Mow Sun Wong et al.*, decision. It is imperative that Congress take the responsibility to act on this matter.

The text of my bill follows:

H.R. 14898

A bill to amend title 5 of the United States Code, to exclude individuals who are not citizens of the United States from appointment in the competitive service

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter I of chapter 33 of title 5 of the United States Code, is amended by adding at the end thereof the following new section:

"§ 3328. Competitive service; citizenship

"An individual may not be admitted to a competitive examination held by the Civil Service Commission or appointed in the competitive service unless such individual (1) is a citizen of the United States; or (2) owes permanent allegiance to the United States.".

(b) The table of sections for subchapter I of chapter 33 of title 5 of the United States Code, is amended by adding at the end thereof the following new item:

"3328. Competitive service; citizenship.".

Sec. 2. Section 3302 of title 5, United States Code, is amended by inserting "3328," immediately after "3321,".

Sec. 3. This Act shall take effect on the date of its enactment and it shall not have any effect with respect to individuals who have been appointed in the competitive service before the date of the enactment of this Act.

CODE WORD

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. WAXMAN. Mr. Speaker, it has become distressingly fashionable for critics and analysts of the Middle East to paint Israel as the intransigent party in the area—that if only Israel would withdraw to the 1967—1948?—borders, that if only Israel would unconditionally turn over the West Bank and the Gaza Strip to the Palestinians, that if only Israel would pay reparations to the refugees of the 1948 war of independence, peace would come to the Middle East for all peoples.

It is a convenient and illusory argument. It is one which seeks to rationalize the exploitative power shift which has graced the Arab oil producing states, and their Soviet arms backers, since the Yom Kippur War. It is one which closes its eyes to horror of terrorism, and which washes its hands of the hemorrhage that is Lebanon today. It is, finally, an argument which remains blind to the basic obstacle to peace between Israel and its neighbors: The refusal of the Arab States and the Palestinians to accept Israel's existence within secure and recognized borders.

Such a precept is the basis of all sovereignty. Those who fail to understand Israel's emphasis on this condition fail to appreciate the double standard by which Israel is being judged throughout the world.

Israel does cause the world a lot of heartache and a lot of trouble. It is painful to confront a nation's insistence that it enjoy the same rights and privileges as nations everywhere. It is difficult when one small and courageous country tries to call into account the conscience of a world which refuses to take responsibility for the continuation of terrorism. It is unpleasant to be reminded of the mortgaging of cherished values and principles in the scramble for OPEC oil. Yes, Israel does not make life easy for us.

So it is not hard to understand why much of the world does not like Israel very much, and why so much of the world finds it easy to assume an arrogant posture, and tell the Israelis what is best for them.

But there are many who know better. One of them, Leonard Garment, now serves as the U.S. representative to the United Nations Commission on Human Rights. His is an apt vantage point. He writes eloquently on these themes, on the cruel untruths behind the code word. I commend to my colleagues Mr. Garment's essay on these issues:

[From the New York Times, July 18, 1976]

CODE WORD

By Leonard Garment

One word has come to be applied as a code to describe the position of Israel in the debate over law and land in the Middle East. The word was first used sparingly after 1967, then more assertively and frequently, and now has infiltrated the language of diplomacy and politics and journalism to the point where it stands in place of analysis and argument, and, in my opinion, incorrectly and dangerously so. The word is "intransigence."

The relevant formulations are now familiar ones: Israel may yield a few inches here and a few words there, but basically all this is tactical, and basically its negotiating attitude is marked by stubbornness, unreasonableness, intractability—that is, "intransigence."

Arab leaders are surprisingly flexible. Israeli leaders are predictably unyielding. Repeated often enough, almost any proposition will gain adherents; and so it is with the proposition—now almost a premise—of Israeli intransigence.

The notion of Israeli intransigence flows from the conventional analysis of the Middle East power balance. Since the Arabs—according to this analysis—have all the strategic cards—population, geography, and, above all else, oil, Israel must eventually give in, or be made to give in. Being the most rational of people, the Israelis will ultimately do what logic commands. Therefore, Israel's temporary refusal to recognize what is inevitable and to act appropriately represents "intransigence."

This analysis deliberately ignores the obvious, which is that if the word "intransigence" is to be used at all in this context, it is at least as applicable, and perhaps more so, to the Arabs. After all, they have stubbornly and unreasonably refused to accept the legitimacy and existence of the state of Israel as a negotiating premise.

Why, then, is Israel almost invariably singled out for criticism? Because the analysis tells us that Israel's strategic inferiority means that in the long run and on crucial points of disagreement Israel is the party that will have to yield. Making that clear now simply tends to hasten and soften the process of persuasion.

The fallacy implicit in this analysis is that it assumes Israel will act in accordance with a decision by third parties as to what is objectively logical and reasonable, what is, so to speak, in everybody's interest.

Writing as an outsider, I am virtually certain that Israel will not be so logical and accommodating. Nor should it be. There is no reason why it should entrust others with judgments affecting its survival. There is no reason why it should make life unsafe for itself in order to make life easier for others. Every page of Jewish history points in a different direction.

The uneven and unfair characterization of Israeli policy as "intransigent" is also dangerous. Norman Podhoretz points out that the greatest danger in the Middle East lies in policies "which are calculated to strengthen the hands of [Israel's] enemies while isolating and weakening and finally forcing the Israelis into a desperate corner where only the memory of Samson will serve."

The process of peace in the Middle East will be well served if our foreign policy institutions, both public and private, come to recognize the truth of these words. For peace in the Middle East depends on something far more complex than a policy produced by computers and war games in Brussels and Washington. It depends upon the creation of conditions of physical and psychological security for Israel. This means bilateral bargaining, over time, between the Arab nations and Israel, with the help, not the domination, of outsiders. It means cultural and commercial exchanges, over time, between the Arabs and Israel. It means control by the Arab nations over the Arab household. It means testing. It means time. It certainly means abandoning the incantation of the word "intransigence" whenever Israel refuses to surrender slices of its safety.

HOUSE OF REPRESENTATIVES—*Wednesday, July 28, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Be of good courage and He shall strengthen your heart, all you who trust in the Lord.—Psalms 31: 24.

Almighty and Eternal God, the Creator and Sustainer of life and the Companion of our pilgrim way, we pray for our Nation that with Thy gracious spirit and our genuine efforts all hatred and hostility, all malice and misery, all indifference to the needs of others may come to an end in our land and that light and life, love, and liberty may become increasingly a reality in our Republic. Grant that our citizens may learn to live together doing justly, loving mercy, and with good will in every heart.

We pray for ourselves that with wisdom, patience, and understanding we may do our work well this day. May our presence in this House and Thy presence in our hearts enable us to share more fully the responsibility of governing this land we love. May all the work done be guided by Thy spirit and flow from hearts dedicated to the needs of others.

In the spirit of Him who is the Way, the Truth, and the Life we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION OF COMMITTEE ON EDUCATION AND LABOR TO SIT TODAY DURING 5-MINUTE RULE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor be permitted to sit today during the 5-minute rule.

Mr. Speaker, I make this request so that we may continue to hold hearings which were prescheduled.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman tell us the subject matter?

Mr. LEHMAN. Yes, if the gentleman will yield. The subject matter is that we are holding hearings on the Capitol Page School. There is no controversy in these hearings. We are just gathering information. There will be no markup business.

Mr. BAUMAN. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON PRINTING OF COMMITTEE ON HOUSE ADMINISTRATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Printing of the Committee on House Administration be permitted to sit today during proceedings under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS OF COMMITTEE ON EDUCATION AND LABOR TO SIT TODAY DURING 5-MINUTE RULE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Labor-Management Relations of the Committee on Education and Labor be permitted to sit today during proceedings under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CALL OF THE HOUSE

Mr. MURTHA. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BRADEMAS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 554]

Ambro
Andrews, N.C.
Archer
Armstrong
AuCoin
Badillo
Blouin
Brooks
Byron
Chisholm
Clay
Cochran
Conyers
Corman
Danielson
Davis
Dent
Diggs
Dingell
Drinan
Esch
Eshleman
Fountain
Gibbons
Goldwater
Gude
Hansen
Harrington
Harris
Hayes, Ind.
Hébert
Heinz
Helstoski
Hinshaw
Jones, Ala.
Jones, Tenn.
Karth
Kelly
Landrum
Litton
Long, La.
McDade
McDonald
McKinney
Madigan
Matsunaga
Mosher
Nolan
O'Hara
O'Neill
Peyser
Railsback
Regula
Rhodes
Riegle
Roe
Rostenkowski
Sarbanes
Scheuer
Schneebeli
Sisk
Steiger, Ariz.
Stratton
Stuckey
Sullivan
Symington
Teague
Treen
Tsongas
Udall
Vander Jagt
Wampler
Wiggins
Wilson, C. H.
Young, Tex.

The SPEAKER. On this rollcall 357 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce be permitted to sit today during debate under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from New York assure us that there will be no markup on the bill?

Mr. MURPHY of New York. I will assure the gentleman from California there will be no markup; it is just a hearing.

Mr. ROUSSELOT. Mr. Speaker, I withdraw by reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON HOSPITALS OF COMMITTEE ON VETERANS' AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Hospitals of the Committee on Veterans' Affairs may be permitted to sit today during the 5-minute rule for the purpose of holding hearings.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from Virginia assure us there will be no markup on that bill?

Mr. SATTERFIELD. I make that assurance to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

THE PUBLIC WORKS EMPLOYMENT BILL

(Mr. RUPPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUPPE. Mr. Speaker, last Thursday, the Congress overrode the President's veto of the public works employment bill to the accompaniment of cries on the floor for the need to maintain the momentum of economic recovery and get our people back to work.

The majority in this Congress said this legislation, if enacted, would significantly reduce unemployment by giving the construction industry a desperately needed stimulus and 300,000 workers allied with the construction industry an opportunity to get back to work.

However, Mr. Speaker, the jobs provided by the $3.9 billion can only come about in one way—by action; not a single job will materialize from political rhetoric alone; not one single construction worker will be on a construction site because of all the ringing speeches delivered here on the floor last week.

What the public works employment bill needs now is an immediate appropriation for the implementation of the legislation. The willingness of the Congress to appropriate the $3.9 billion authorized in this bill is the one step we can take to translate our speeches into action and carry out effectively our promises to the 300,000 people who would benefit from this important measure.

I have taken the liberty of writing the distinguished chairman of the Appropriations Committee urging that the committee recognize the need for action so that our pledges to the construction industry can have meaning and substance.

Mr. Speaker, the construction season in northern Michigan is a short one. Communities in my district have applications ready to submit for EDA processing under title I, the $2 billion public works section of the bill, and we could get construction underway and men working yet this year.

But we need one essential ingredient; the willingness of this Congress to translate promises into action and campaign talk into jobs.

PERMISSION FOR COMMITTEE ON BANKING, CURRENCY AND HOUSING TO SIT THIS MORNING DURING 5-MINUTE RULE

Mr. NEAL. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Currency and Housing be permitted to sit this morning during the 5-minute rule for consideration of House Concurrent Resolution 133.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman assure us there will be no markup?

Mr. NEAL. I can assure the gentleman from California there will be no markup. These are oversight hearings on House Concurrent Resolution 133.

Mr. ROUSSELOT. I appreciate the gentleman's assurance.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MINE SAFETY AND HEALTH ACT OF 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R.

13555) to amend the Federal Metal and Nonmetallic Mine Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. DOMINICK V. DANIELS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13555, with Mr. GIAIMO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, Tuesday, July 27, 1976, the committee amendment in the nature of a substitute had been considered as read and open to amendment at any point.

Are there further amendments to the committee amendment in the nature of a substitute?

AMENDMENTS OFFERED BY MR. SARASIN

Mr. SARASIN. Mr. Chairman, I offer four amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. SARASIN: Page 145, line 5, after "Act," insert, "and have access to all records pertaining to employee exposures."

Page 144, line 20, after "possible.", insert the following sentence: "Upon request of any individual for such determination under this subsection, his name and the names of individual miners referred to in such request shall not appear on any record published, released, or made available under this Act."

Page 144, line 10, following "substance", insert: "and physical agents".

Page 144, line 17, following "substance", insert: "or agent".

Page 144, line 22, following toxic", insert: "or harmful".

Page 141, beginning with line 3, strike everything through ilne 10, and insert in lieu thereof the following:

"(2) The Secretary shall coordinate, as he deems appropriate, any research, experiments, or demonstrations under this Act conducted by the Secretary of Health, Education and Welfare and the Secretary of the Interior."

Mr. SARASIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SARASIN. Mr. Chairman, these amendments are basically technical amendments which make small changes in the act to insure, in one case, NIOSH has access to adequate information and to insure in other cases that the proper intent of the legislation has been included.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman from Connecticut briefly explain what these four amendments he is offering en bloc will do? They have been discussed with my staff and the staff has discussed them with me and I believe they are satisfactory to our side.

Mr. SARASIN. Mr. Chairman, the reason for the first amendment, which changes the language on page 145, line 5, is to insure that in the authorizing legislation NIOSH is given access to adequate information on employee exposure in order to make an accurate health determination as part of NIOSH's research functions.

The second amendment concerns or affects page 144, line 20, and will insert language which will protect the confidentiality of a miner who requests a health evaluation by NIOSH. The bill gives such protection to a miner who requests an inspection under section 7. This amendment extends similar protections of confidentiality to miners who request health evaluations.

The third amendment changes the language on page 144, lines 10, 17, and 22, by adding the language "and physical agents" and on line 17 in another place the words "or agent" and on line 22 the words "or harmful." The reason for these changes is that there are important hazards that are classified as "physical agents" rather than "toxic substances." These include noise, cold and heat stress, vibrations, and pressure. We did include physical agents in the section on standard setting where HEW is given authority to develop criteria for physical agents but we inadvertently omitted it from this section. To make the research provisions conform with the standard setting provisions, this amendment is necessary.

The fourth amendment, Mr. Chairman, gives the Secretary, which is the new Assistant Secretary for Mine Health and Safety, the responsibility to coordinate research activities where appropriate. This should insure there will be no overlap or duplication of efforts by the Secretary of the Interior or the Secretary of HEW. The amendment, however, does not tie the hands of the research agencies by making them wait for approval on each and every research or demonstration project.

Mr. DOMINICK V. DANIELS. Mr. Chairman, if the gentleman will yield, I would like to state the amendments are acceptable to us.

Mr. SARASIN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, it is my intention to engage in colloquy with the chairman of the committee. Should I do so at this point or after these amendments have been accepted?

The CHAIRMAN. The gentleman still has time and he may proceed.

Mr. SARASIN. Mr. Chairman, as I stated, I wish to engage in a colloquy with the chairman of the committee for the purpose of setting legislative history. Several legitimate questions have been raised regarding the interpretation of specific provisions under H.R. 13555. I would like to ask the chairman of the subcommittee if he could clarify these points:

First, under section 8(a)(2) of the committee bill, the mine operator is required to maintain and make available to the Secretary records of accidents "together with a description of any conditions similar to those which caused the accident." It has been felt by some that this collection of information on similar conditions could be self-incriminating. Could the chairman indicate how the committee intends that this information will be used?

Mr. DOMINICK V. DANIELS. Mr. Chairman, if the gentlemen will yield, section 8(a)(2) does require that a record be kept of accidents and of conditions in other parts of the mine that are similar to those which cause the accident. The intent of this recordkeeping is not to identify violations of standards for citation. If, in fact, the accident resulted from the failure to comply with a standard, and the operator finds that similar violations exist in the mine, we certainly expect that he will take prompt action to correct the violation wherever it exists. Rather than incriminating himself, this corrective action will result in the avoidance of citations.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent, Mr. SARASIN was allowed to proceed for 3 additional minutes.)

Mr. DOMINICK V. DANIELS. Mr. Chairman, if the gentleman will yield further, however, the reason for requiring records to be kept for "similar conditions" applies primarily to conditions which cause an accident but for which no standard exists. By maintaining records of similar conditions throughout the mine, valuable information can be made available for determining if a standard should be promulgated, and for helping to shape any such standard.

This feature is meant to be neither punitive nor self-incriminating. It is designed to prevent accidents and to encourage awareness among employers.

Mr. SARASIN. The second point I would like to clarify with the chairman pertains to the situation in which an operator has been cited for a violation, but has been unable to abate the violation within the period required. In such a case, would it be possible to extend the monetary penalty if the secretary felt that a penalty would be inappropriate?

Mr. DOMINICK V. DANIELS. Mr. Chairman, if the gentleman will yield, the bill does provide under section 13(c) that the Secretary may modify an abatement period contained in a citation. To receive such a modification, the operator must show that he has made a good faith effort to comply with the abatement requirements of the citation and that the abatement has not been completed because of factors beyond his reasonable control. In these cases, the committee does not intend that a penalty under section 16(b) be assessed. A body of law has been developed under job safety laws for enforcement techniques, and it is expected that this body of precedent will be followed in the implementation of this act.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield at that point?

Mr. SARASIN. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, would this include any instances of imminent danger when the abatement period is extended that might endanger the lives or safety of those working in the mines?

Mr. SARASIN. I do not believe it would. The imminent danger situation would undoubtedly call for a mine closing; but I would defer to Chairman DANIELS.

Mr. DOMINICK V. DANIELS. Mr. Chairman, if the gentleman will yield, I concur. It would call for a mine closing.

Mr. SARASIN. A question has also arisen regarding the entitlement of miners during an enforcement action in which the mine is shut down. It is intended in the bill that the shutdown automatically and irrefutably entitles the affected miners to wages up to 1 week, or does the bill provide some flexibility in this area?

Mr. DOMINICK V. DANIELS. If the gentleman will yield for a reply, the committee bill does provide flexibility. Under the bill, there are two types of enforcement situations in which a mine, or part of a mine can be shut down. These are situations in which: First, the operator fails to comply with the abatement time period and has not received an extension; or second, an imminent danger is found to exist.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent, Mr. SARASIN was allowed to proceed for 2 additional minutes.)

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield further, so that I may complete the answer?

Mr. SARASIN. I would be happy to yield.

Mr. DOMINICK V. DANIELS. In both cases, the bill does establish the right for miners to be entitled to their wages for up to 1 week. If the condition is abated within a day or two and workers are able to return to the job, the period of liability would extend only to that period during which the condition is being abated.

In addition, the operator may have the wage payment requirement modified under an informal review procedure under section 12(f). For instance, in the case where a mine remains shut down in an imminent danger situation only because the operator is unable to bring in a required piece of equipment, the wage liability might be shortened to less than the 1 week maximum.

Mr. SARASIN. Mr. Chairman, I thank the gentleman for his answers.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Connecticut (Mr. SARASIN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 137, line 1, insert "(1)" immediately before "The", and insert immediately below line 6, the following:

"(2) Any rule or regulation prescribed under paragraph (1) may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Secretary adopting same. The Secretary adopting such rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

"(3) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule."

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, the amendment that I am offering was printed in the RECORD on Monday, as offered by Mr. LEVITAS. I offer this amendment on behalf of the gentleman from Georgia (Mr. LEVITAS), as well as the gentleman from North Carolina (Mr. MARTIN).

Mr. Chairman, this amendment could be referred to as boilerplate language, in that it has been adopted in this Congress in other legislation. It has to do with the right of Congress to review regulations adopted to implement congressional action on legislation, so that the regulations would be submitted to Congress and we would have a 60-day period in which to review those regulations.

That is, if we chose in either House of Congress, by resolution, total rejection in whole or in part of the regulations that are proposed by the executive agency then those regulations would not become effective.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, this amendment is acceptable to the committee, or at least on this side of the aisle. I might further state that similar amendments have been offered to legislation pending before the full Committee on Education and Labor, such as youth camp safety bill, basic education bill, and I find no reason why we should discriminate here and not adopt this provision for this particular bill.

Mr. ERLENBORN. I thank the gentleman. I might note that I think the first time such language was adopted was on the education amendments a few years ago, and so it is, I think, perfectly proper for the Committee on Education and Labor in particular to continue to support this sort of legislation.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Minnesota.

Mr. QUIE. In looking over this amendment, the one part I have any reservation about seems to be the opportunity for the Secretary to put a rule or regulation into effect, and it would be in operation during that period of time in which the Congress is reviewing it and having up to 60 days in which to disapprove of it.

As we worked on similar legislation in the Education and Labor Committee, we did not permit the rule or regulation to go into effect until the time of review on the part of the Congress was over with. Because of the fact that there may be some situation in which it is important that the rule or regulation go into effect right away, and there would be no likelihood that the Congress would disapprove anyway, for the purpose of legislative history does the gentleman feel that it would be imperative for the Secretary to check with the Congress to see if there was any likelihood that it might disapprove it before he would go ahead and make his effective date immediately after his approval of the regulation?

Mr. ERLENBORN. I would say that it would be good to make legislative history to see that it would be our intent to have the Secretary manage this in a way that, if the regulation were not important to be in effect immediately, that he would propose the regulation in such form that it would take effect 60 days or more after its proposal. That would give us an opportunity to review it before it goes into effect, but as the gentleman suggests, there may be situations where there is immediate need for the regulation.

The Secretary could then make it effective before the 60-day period, and only in the event that we rejected it, in whole or in part, would it lose its effectiveness. I would think that it would be wise on the part of any Secretary proposing regulations to consult with the Congress to determine whether there was a likelihood that we would reject, in whole or in part, a proposed regulation.

Mr. QUIE. Am I getting the views of the coauthor of this amendment? I understand the gentleman from Georgia (Mr. LEVITAS) is joining the gentleman from Illinois in offering this amendment.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman from Illinois (Mr. ERLENBORN) for yielding to me, and I commend the gentleman for offering the amendment which is before the House. Time and time again, this 94th Congress has asserted the need and right of legislative veto of administrative rules and regulations. This procedure is simply a means of letting the elected Congress have the final authority to pass the laws, which are being called regulations, instead of abandoning that power to the unelected bureaucracy. It must not be forgotten that these rules and regulations have the force and effect of law. The growing support in Congress and in this country of the concept of congressional veto of administrative rules, embodied in H.R. 12048 which I have cosponsored, is one of the most encouraging trends in America today. It is an effort to control the Federal bureaucracy and to make it more responsive, reasonable and accountable. I concur with both the purpose of this amendment and the observations made by the distinguished gentleman from Illinois. I certainly think it would be wise and orderly management for the Secretary to consult with the appropriate committees of Congress to ascertain whether it is likely that the regulation is compatible with congressional intent prior to making it effective during the 60-day period.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. LEVITAS and by unanimous consent Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. In that way, those regulations which are noncontroversial can be put into effect immediately, while the effective date of controversial amendments can be postponed to give Congress the opportunity to work its will. I think this is an important procedure, and I commend the gentleman for offering this amendment.

Mr. QUIE. Mr. Chairman, if the gentleman will yield further, I will say that the suggestion we make in the legislative history that the Secretary contact members of the committee and determine whether there might be any disapproval or rejection of the regulation is not onerous at all.

Our experience with educational legislation, when there has been a need to move more rapidly than the 45 days, we have been contacted and the committee has been cooperative to give the information to the Secretary immediately that no effort toward disapproval would be made.

Mr. ERLENBORN. I thank the gentleman.

Mr. STEIGER of Wisconsin. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hesitate to get into this debate at all, and I carefully avoided saying anything yesterday on the Quie amendment for fear that if I spoke against it, it would obviously pick up votes for it. Now that we have disposed of that issue, let me enter this fray just a bit.

The amendment that we are now debating, Mr. Chairman, if I read it correctly—and let me ask the gentleman from Illinois—is in fact a legislative veto. Is it fair to characterize the gentleman's amendment in that fashion, since it allows either House of the Congress, not both Houses by concurrent resolution, to pass a resolution of rejection in whole or in part of the regulations?

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, I think it could be termed a legislative veto, in a way. The rationale, however, I think is this: The courts have consistently held that regulations have the force of law. They have as much power and force of law as do the bills that are passed by the Congress. Therefore, I think it is altogether fitting and proper for the law-givers—the Congress—to have control over the adoption of the law.

Mr. STEIGER of Wisconsin. Mr. Chairman, I must say that I find myself in a very difficult position, given the acceptance of the amendment offered by the gentleman from New Jersey and the gentleman from Minnesota and the eloquence and ability of the gentleman from Georgia and the gentleman from Illinois.

I think it is wrong. I think it, frankly, is unconscionable for one House of the Congress to exercise a legislative veto over the regulations issued by an executive branch agency. That is the court suit that is going to be heard, and I hope determined favorably, by the Supreme Court in the Federal Election Campaign Act amendments. That was an issue not dealt with by the court in the Buckley against Valeo suit. It was raised by the plaintiffs in that suit, and I think the court will find that that is an unconstitutional exercise of legislative authority.

There would be a far different interpretation, Mr. Chairman, were this to be a concurrent resolution. But it is not. It is a single House resolution of disapproval. I think that is subject to mischief, pressure, and wrongdoing, and I hope the amendment is not accepted.

Having said all that, knowing I will lose, I wonder if I can ask the gentleman from New Jersey, the distinguished chairman of the subcommittee, for the purposes of clarifying the issue that is raised on milling operations, gravel pits, sand pits, cement operations, and a series of present operations in which today an employer is subject to duplicative inspection by, first, MESA, for what is below ground, and OSHA, for what is above ground. Is the gentleman satisfied and is it clear that in the language of the bill and in the language of the committee report that the Department of Labor, under the guidelines in the bill, can transfer to either one or the other the responsibility for inspections of those kinds of operations so that we do not have duplicating inspections?

Mr. DOMINICK V. DANIELS. Mr. Chairman, if the gentleman will yield, the gentleman's statement is absolutely correct. Either one or the other, under the direction of the Assistant Secretary in charge of this particular administration, may do so.

Mr. STEIGER of Wisconsin. I thank the gentleman very much for that answer.

This is, in my view, one of the reasons why I reluctantly opposed the Quie amendment. It does seem to me to make sense to put together in the Department of Labor the health and safety responsibilities for employees, regardless of where they work, in an effort to eliminate duplication and to eliminate confusion that now exists. I think it makes a lot of sense.

Mr. DOMINICK V. DANIELS. Mr. Chairman, if the gentleman will yield further, as the gentleman knows, as my committee conducted extensive oversight over safety legislation we came across many situations, particularly with OSHA, where there was conflicting jurisdiction.

Then we had a different agency such as MESA attempting the same thing. There was a conflict of interest, and yes, I think this bill corrects that.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. STEIGER) has expired.

(On request of Mr. QUIE and by unanimous consent, Mr. STEIGER of Wisconsin was allowed to proceed for 1 additional minute.)

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to my friend, the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, did I understand the gentleman in his question to ask whether the Secretary could, in this situation where OSHA regulates above the ground and MESA regulates underground, determine that one could then regulate both, so that OSHA could regulate both above the ground and under the ground or that MESA could regulate both above the ground and under the ground?

Mr. STEIGER of Wisconsin. That was my question. That is correct.

Mr. QUIE. And the gentleman got an affirmative answer to that question from the gentleman from New Jersey (Mr. DOMINICK V. DANIELS)?

Mr. STEIGER of Wisconsin. Yes, the gentleman is correct.

Mr. QUIE. Mr. Chairman, let me say that my understanding is that if there is an area of disagreement, then it is left to the Secretary to make a determination so there would not be a conflict concerning who does supervise or administer any one part of it, but I do not see how there is any possibility under the bill for OSHA to begin regulating underground in an area that is clearly the responsibility of MESA.

Mr. STEIGER of Wisconsin. My understanding is—and the gentleman from New Jersey can clarify this—that in fact the Secretary could determine that MESA could in fact carry out inspections and the provisions of the act for mine safety both above and below in, let us say, a gravel pit operation.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. STEIGER) has again expired.

(By unanimous consent, Mr. STEIGER of Wisconsin was allowed to proceed for 1 additional minute.)

Mr. STEIGER of Wisconsin. Mr. Chairman, I will ask the gentleman from New Jersey (Mr. DOMINICK V. DANIELS), is what I have stated an accurate reading, in his judgment?

Mr. DOMINICK V. DANIELS. Mr. Chairman, if the gentleman will yield, I would say the answer to the gentleman's question is: Yes.

I would like to direct the gentleman's attention to section (c) on page 139 of the act, and in that section it states that: "the Secretary shall give due consideration to the convenience of administration resulting from the delegation to one Assistant Secretary of all authority with respect to the health and safety of miners employed at one physical establishment."

Mr. STEIGER of Wisconsin. Mr. Chairman, I thank the gentleman very much for his response. I think that does in fact clarify the issue.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment was agreed to.

Mr. QUIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this to find out from the gentleman from New Jersey (Mr. Dominick V. Daniels) the meaning of section (c) which begins at the bottom of page 139. This pertains to just the milling operation, as I understand it, and I gather from the gentleman's answer that any time both OSHA and MESA have authority on the same site, it is possible under any circumstances for them to turn it over to one or the other, and that was not my understanding of this bill.

I do agree with the gentleman that is correct on the subject of the milling of minerals.

Mr. DOMINICK V. DANIELS. Mr. Chairman, if the gentleman will yield, this section pertains to milling, and to the best of my knowledge that is the only time this conflict or question of jurisdiction has arisen.

Mr. QUIE. If there ever is a conflict in matters of jurisdiction, it would only be in the milling operation that this would be possble and not in any other part of the mining operation; is that correct?

I think it is important to know that, because we can see that OSHA might finally get more and more into the jurisdiction of MESA and eventually it could all be administered by OSHA.

Mr. DOMINICK V. DANIELS. Mr. Chairman, to the best of my knowledge, it would apply just to the milling operation.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, the testimony before our committee has been that the only time this situation did arise, bringing about the possibility of overlapping jurisdictions, was in the milling operations, and I wonder if the gentleman has some other situation in mind that prompts him to ask the question.

Mr. QUIE. I do, Mr. Chairman, because now we will have both the mining functions and OSHA functions administered by the Department of Labor.

I, at least, am one of those who is suspicious that this is going to be moving toward the area where OSHA will be administering more and more of it.

I just want to make certain that there is nothing they can point to in the legislative history set forth in the colloquy between the gentleman from Wisconsin (Mr. Steiger) and the gentleman from New Jersey (Mr. Dominick V. Daniels) which would indicate that this could go beyond the milling operation.

Mr. SARASIN. Mr. Chairman, if the gentleman will yield further, I think the jurisdictions are relatively clear for each division of the Department of Labor; for the OSHA Assistant Secretary and the MESA Assistant Under Secretary; and the only situation we became aware of was a possible conflict in milling. That is what we attempted to resolve with this section.

Mr. QUIE. Is it the understanding of the gentleman from Connecticut (Mr. Sarasin) that this is the only place where we could have OSHA apply to the underground operation?

Mr. SARASIN. As I understand that section, we are not talking about the underground operation, but we are attempting to clarify the jurisdiction of the safety agency for the milling operation where we have a milling facility located at the mine.

The testimony before our committee indicated that in some cases they could actually draw lines around parts of that plant, and MESA would come in and claim jurisdiction and OSHA might possibly claim dual jurisdiction.

Obviously, that is an untenable kind of jurisdiction and a tremendous burden on the employer.

This section would allow the Secretary of Labor to make a plain determination and settle the argument. I cannot conceive of any other situation in which OSHA would ever be attempting to get into it, especially into underground operations.

Mr. QUIE. As I understand the colloquy, this goes further than where there just has been disagreement in the past.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. QUIE.. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman perhaps the key issue is the definition of milling operations. I have read the committee report and I have read the legislation. I have also read the hearings. That is why I asked the question. It seems to me that from the standpoint of the employees safety and health, and from the standpoint of the employers affected, it is entirely rational to try to make sure that we do not have what clearly arose in the Alcoa situation, which is untenable, where we have a fight between MESA and OSHA as to who is supposed to be doing it. Therefore, in effect, nobody does it.

Mr. Chairman, all I am trying to do is to make sure that the Secretary, under the provision and with the intent of the authors, can make that determination and settle the argument.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Erlenborn: Page 81, beginning with line 1, strike out everything after "any" down through line 2 and insert in lieu thereof the following: "independent contractor therewith and any agent thereof in cases where such contractor or agent is charged with responsibility for the operation of such mine or for the supervision of the miners in such mine.".

Mr. ERLENBORN. Mr. Chairman the bill before us provides in the definition section the definition of the term "operator."

It says in the bill—

> The term "operator" means any person, partnership, association, or corporation, or subsidiary of the corporation operating a mine and owning the right to do so, and includes any agent thereof charged with responsibility for the operation of such mine.

Mr. Chairman, let me first say that it is proper, I think altogether proper, that the act include more than just the owner-operator and that those who are acting under his direction as an agent ought also to bear responsibility under the act. However the word "agent," as used in this act, is a word of art in the law and would not include an independent contractor. One who is an independent contractor is not an agent.

Mr. Chairman often in the mining situation we will have an owner-operator who may subcontract out the duties to actually operate different sections of the mine to independent contractors who are not legally agents.

Thus independent contractors, under the wording of the bill as it is now, bear no responsibility. I think the responsibility for compliance with the act ought to rest with those who have the day-to-day operating responsibility to make decisions as to how to conduct the mining operations to be within compliance with the safety regulations. Therefore, this amendment would include independent contractors as well as agents within the definition of the term "operator" and therefore would have them subject to the terms of the act the same as the owner-operator and his agent.

I would hope that the amendment would be adopted.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment because it would seriously undermine enforcement activities under the legislation.

Under H.R. 13555, responsibility for assuring safe and healthful working conditions in mines is placed directly on the operator of the mine. The amendment would amend the bill to impose separate and parallel responsibility on independent contractors.

The operator of the mine should have overall responsibility for safety and health in the mine. He has control over all working conditions and, consequently, it is he who controls the conditions under which the independent contractor does his work. It follows, therefore, that the operator should be responsible under the law for insuring that safety and health requirements are complied with by the independent contractor.

The amendment would diffuse compliance responsibility and thus create confusion and uncertainty in the enforcement of the law. Experience under existing mine safety legislation shows that where both operators and independent contractors are subject to enforcement action, issues will arise as to which of these employers is responsible for a particular unsafe or unhealthful working condition. Both the operator and independent contractor will often disclaim responsibility for a particular safety and health hazard. The amendment would therefore work to the disadvantage of both employers and employees. Mine operators will be uncertain as to the precise nature of their safety and health responsibilities. And miners would be deprived of necessary protection because of this uncertainty.

These problems would be avoided by making it clear, as does H.R. 13555, that operators of mines have overall responsibility for insuring compliance with the provisions of the law in mines under their control.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I would note, as I said in my original presentation, that the act itself contemplates more than just the owner-operator being responsible because the bill extends the definition to agent, so if the gentleman's argument were really consistent then we would not include the agent as well as the owner-operator. Following out that thought, because you are taking actions pursuant to the authority of the owner-operator, and you might also be charged with responsibility, you have extended that responsibility to an agent, and I cannot understand why you would extend responsibility to an agent but not to an independent contractor.

Mr. DOMINICK V. DANIELS. The mine owner has control of the mine. He may rent or lease various portions of the mine to several or many independent contractors. It would be very, very difficult to administer this law and to pinpoint responsibility if we do not place full responsibility on a particular party. So, inasmuch as the mine operator has control of the mine, the committee felt that it would be advisable to place that responsibility on the operator.

Mr. ERLENBORN. I thank the gentleman from New Jersey for his answer, although I do not feel it is really responsive. The gentleman has not explained why the gentleman includes within that aura of responsibility the agent. But, if the gentleman is unable to explain that, that is all right. Perhaps I could ask the gentleman to look at the definition in the bill that says that an operator is one who is operating a mine and owning the right to do so.

Mr. DOMINICK V. DANIELS. The gentleman from Illinois is a very able lawyer, and I am sure he realizes the distinction between the principal and agent and the relationship of an independent contractor. Legal liability is not the same, as the gentleman very well knows. A principal is responsible for the activities of his agent, as in the case of an automobile, an owner and a driver are two different people. The owner could be held responsible for the negligence of the driver. But in the case of an independent contractor hiring a vehicle from an owner, that same rule would not necessarily be true.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ERLENBORN, and by unanimous consent, Mr. DOMINICK V. DANIELS was allowed to proceed for 2 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK V. DANIELS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

The gentleman makes the very distinction that I made, that there is legally a difference between an agent and an independent contractor. As I told the gentleman before the debate began today, when we look at this, we are putting responsibility on the contractor who is described as owner-operator, and on his agent, but we do not put any responsibility on an independent contractor.

I foresee a problem here, particularly in the area of criminal responsibility. If the independent contractor takes an action which subjects someone to criminal responsibility, since he is not the agent of the owner or operator, we may not be able to impute responsibility on the owner-operator because he was not aware that this action took place and, therefore, we may have insulated the owner-operator from responsibility because he was not aware and did not have control. He had contracted away control of the work place, and the bill does not make the independent contractor who performed the criminal act responsible, so no one would be responsible under the criminal provisions.

I think that this is defective. I think that we are going to find situations where no one may be responsible because we have excluded the responsible party, and the only party who comes within the definition does not have control of the work place. Therefore, I think that the bill as it now exists before us is deficient and ought to extend responsibility to the independent contractor who is in control of the work place.

I am sorry the gentleman will not accept my amendment.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN), there were—ayes 8, noes 14.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to report their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 555]

Adams
Alexander
Andrews, N.C.
Ashley
Biaggi
Bingham
Bolling
Chisholm
Clay
Conyers
Crane
D'Amours
Daniel, Dan
Davis
Delaney
Dellums
Dent
Derwinski
Diggs
Dingell
Downing, Va.
du Pont
Edwards, Calif.
Esch
Evins, Tenn.
Flynt
Fountain
Gibbons
Hammerschmidt
Hansen
Harrington
Harsha
Hawkins
Hébert
Hefner
Helstoski
Hinshaw
Jarman
Jones, Ala.
Jones, Tenn.
Kastenmeier
Kelly
Kemp
Koch
Landrum
Litton
Long, Md.
Lujan
Lundine
McCloskey
McCollister
McDade
McEwen
McKay
Madigan
Mathis
Melcher
Mezvinsky
Mitchell, N.Y.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Nowak
O'Hara
O'Neill
Peyser
Pike
Rangel
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Risenhoover
Rodino
Rostenkowski
Runnels
Satterfield
Scheuer
Shuster
Sisk
Solarz
Stanton, James V.
Stark
Steed
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Teague
Tsongas
Udall
Ullman
Wampler
Wiggins
Wolff
Wright
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GIAIMO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 13555, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 327 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 159, noes 233, answered "present" 1, not voting 39, as follows:

[Roll No. 556]

AYES—159

Abdnor
Allen
Ambro
Anderson, Ill.
Archer
Armstrong
Ashbrook
Ashley
Baucus
Bauman
Beard, Tenn.
Bedell
Bell
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Fenwick
Fish
Flynt
Forsythe
Frenzel
Frey
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hall, Tex.
Hamilton
Harsha
Hightower
Hillis
Holland
Holt
Horton
Hutchinson
Hyde
Jeffords
Jenrette
Johnson, Colo.
Jones, Okla.
Kasten
Kazen
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Leggett
Lent
Levitas
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDonald
McEwen
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
O'Brien
Ottinger
Paul
Pettis
Pike
Poage
Quie
Quillen
Railsback
Randall
Rees
Roberts
Robinson
Roush
Rousselot
Ruppe
Satterfield
Schneebeli
Schulze
Sebelius
Seiberling
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Stark
Steelman
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Treen
Ullman

Vander Jagt
Waggonner
Whalen
White
Whitehurst
Wilson, Bob
Winn
Wirth
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—233

Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Aspin
AuCoin
Badillo
Baldus
Beard, R.I.
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carter
Chappell
Chisholm
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Delaney
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Fary
Fascell
Findley
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Green
Haley
Hall, Ill.
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pressler
Preyer
Price
Pritchard
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Sharp
Shipley
Sikes
Simon
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Steed
Stephens
Stokes
Studds
Thompson
Thornton
Traxler
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whitten
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—39

Alexander
Clay
Dellums
Dent
Esch
Evins, Tenn.
Fountain
Hansen
Harrington
Hébert
Helstoski
Hinshaw
Jarman
Jones, Ala.
Jones, Tenn.
Kelly
Krueger
Landrum
Litton
McDade
Madigan
Mosher
O'Hara
O'Neill
Peyser
Regula
Rhodes
Riegle
Rostenkowski
Runnels
Sisk
Steiger, Ariz.
Stratton
Stuckey
Sullivan
Symington
Tsongas
Wampler
Wiggins

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Dent against.

Mr. Landrum for, with Mr. O'Neill against.

Mr. Runnels for, with Mr. Jones of Tennessee against.

Mr. Hansen for, with Mr. McDade against.

Mr. Steiger of Arizona for, with Mr. Rostenkowski against.

Mr. Kelly for, with Mr. Clay against.

Mr. Wampler for, with Mr. Dellums against.

Mr. Wiggins for, with Mr. Harrington against.

Mr. FINDLEY changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have another amendment, in fact, three more amendments that I am going to offer. Before doing so, I am taking this time to express my sorrow that the amendment that I offered was just voted down and defeated.

In defining whose the responsibility is in the bill before us, the bill says two things must exist. One must own the right to operate a mine and one must be operating that mine. If we separate those two and the two do not coexist in the one entity, there is no responsibility.

Since my attempt to include a clearer definition and counteract this was just defeated with the defeat of my amendment, the result is one need have only one corporation own the mineral rights and then contract out to an independent contractor the authority to operate the mine. Neither of them fall within the definition and there is no responsible party and there is no way to enforce the provisions of this act.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I might say, having read this particular provision of the act and the gentleman's amendment, I agree 100 percent with the interpretation of the gentleman. I think in fact his amendment was a strengthening amendment which would have eliminated the present dichotomy which I know is contrary to the intent of the drafters of this legislation because I have talked with them about it. Nevertheless, if the present language of the bill is enacted into law, it is sufficiently unambiguous, it seems to me, that the court will never have any occasion to ascertain what the intent was, and it will produce a result exactly as the gentleman has described.

So I too am sorry that the gentleman's amendment was defeated. I would hope that in conference or in some other manner the drafters of this legislation would correct it, so that instead of the conjunctive "and" on the bottom line on page 80 they would use some other drafting phrase to make it clear that either the owner of the right to operate or the operator is liable in any event and that the owners cannot duck this responsibility simply by contracting the operation out to an independent contractor.

Mr. ERLENBORN. I thank the gentleman. I am glad he does interpret this the same way I do. I feel it is so clear that no one and no court could really dispute this interpretation. It is a travesty to have a Mine Safety Act that has no responsible party and no way to enforce the act. That is the result of the rejection of the amendment that was just voted on.

Mr. SEIBERLING. I trust that it will be straightened out in due course before the bill becomes law.

Mr. ERLENBORN. I thank the gentleman.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 81, beginning with line 14, strike out everything down through line 18.

Page 81, line 19, strike out "9" and insert in lieu thereof "8".

Mr. ERLENBORN. Mr. Chairman, this amendment amends the language appearing on page 81 of the bill and has to do with the definition of "injury."

Mr. Chairman, the definition of "injury" as it appears on page 81, subparagraph (8) is unnecessarily broad and would make it difficult to get meaningful comparisons between mine safety and health statistics and those of other industries. "Injury" is not defined in OSHA, it is not defined in the law, and it is not necessary to define it in this act. Since one of the purposes of this bill is to coordinate the collection of data relating to occupational illnesses, reporting should be under the same ground rules or the data will be meaningless. It will be like comparing apples and oranges.

If the definition of "injury" is necessary at all I believe it ought to be established by regulation to insure that mine health and safety regulations would provide for the production of statistics that would be on the same data basis as those from other industries.

Hence my amendment would delete the definition of "injury" and allow the Secretary by regulation to define "injury" so it would be identical with the definition of "injury" in other health and safety acts and then we will have a meaningful data basis on which to make comparisons.

I hope my amendment will be adopted.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in opposition to the amendment. It is my belief that Congress should define the term "injury." I am perfectly satisfied with our definition of "injury" (page 81, line 14 of the bill), which covers work-related accidents and occupational diseases.

The principal purpose of this definition is to permit the Secretary of Labor, in cooperation with the Secretary of Health, Education, and Welfare to compile accurate statistics so we can determine whether this act is working. This is its only purpose—the compilation of accurate statistical information.

The executive branch and the mining industry have given the health and safety of miners a very low priority. Now, once this bill is enacted, the committee will have an obligation to exercise an oversight function on how the provisions of the bill are being carried out by the executive department.

It is essential that we have meaningful information in order to measure the performance of the executive branch in implementing this legislation. We are in the best position to make a judgment about the type of information the Congress needs, and we felt we should not shirk our responsibilities by letting the Secretary of Labor or anyone else decide the kinds of information we should or should not have in carrying out our responsibility.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 19, nays 35.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HECHLER of West Virginia: On page 150, line 12, after the period, insert the following: "The Secretary shall carry out such functions and duties through the Assistant Secretary for Mine Safety and Health established by section 2 of this Act."

Mr. HECHLER of West Virginia. Mr. Chairman, the pending bill in section 19 authorizes a new Assistant Secretary for Mine Safety and Health to oversee the Federal Metal and Nonmetallic Mine Safety Act. It is my understanding that the committee intended that the new Assistant Secretary also oversee the Federal Coal Mine Health and Safety Act as well; but the language of the bill as presently written does not absolutely insure this. My amendment will correct this technicality.

The clear objective of the committee is to separate mine health and safety from OSHA. Unless my amendment is adopted, this objective would not be achieved for coal mine health and safety.

Mr. Chairman, I want to stress that the transfer of mine health and safety to the Department of Labor under a single Assistant Secretary should not be a signal to either the Department of Labor or the Office of Management and Budget that they can proceed to merge funding and personnel as well. This is not the intent of the committee nor is it the intent of the pending bill. It is vital that coal mine health and safety be funded and staffed at least at the current level.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, the amendment has been examined by the majority and it is acceptable to the committee.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank the gentleman from New Jersey.

(Mr. HECHLER of West Virginia asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HECHLER of West Virginia: On page 153, between lines 3 and 4, insert the following new subsection:
>
> "SUNSHINE IN GOVERNMENT
>
> "SEC. 4. (a) Each officer or employee of the Secretary of the Interior, Secretary of Labor, and the Secretary of Health, Education, and Welfare who—
>
> "(1) performs any function or duty under this Act or the Federal Coal Mine Health and Safety Act of 1969 and the Federal Metal and Nonmetallic Mine Safety Act which are amended by this Act; and
>
> "(2) has any known financial interest (A) in any operator or mine subject to such Acts or (B) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to such Acts;
>
> shall, beginning on February 1, 1977, annually file with the appropriate Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.
>
> "(b) The appropriate Secretary shall—
>
> "(1) act within ninety days after the date of enactment of this Act—
>
> "(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and
>
> "(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the appropriate agency head of such statements; and
>
> "(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the action taken in regard thereto during the preceding calendar year.
>
> "(c) In the rules prescribed in subsection (b) of this section, each Secretary may identify specific positions within each agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.
>
> "(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both."
>
> Renumber the succeeding sections.

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD, inasmuch as it has already been printed in the RECORD on June 23, 1976, at page 20122.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, this amendment is cosponsored by my colleagues, the gentleman from Pennsylvania (Mr. MYERS), the gentleman from Connecticut (Mr. DODD) and various others.

It is the same provision which the Congress adopted last December for the Federal Energy Administration and some of the employees of the Interior Department administering Public Law 4-163—the Energy Policy and Conservation Act. On May 20, 1976, the House adopted this provision for ERDA employees in H.R. 13350, which authorized appropriations for fiscal year 1977 for ERDA. Earlier this year, the House added it to H.R. 9560 for employees of Interior administering the Outer Continental Shelf leasing program. Earlier this week the House added it to H.R. 13777, the public lands bill.

My amendment requires officers and employees of the agencies who perform any function under H.R. 13555 and the Federal mine health and safety laws to file annually statements of any known financial interest in the person or persons subject to this bill. Such statement would be available to the public and would have to be reviewed by the agencies. Positions within these agencies that are of a nonregulatory or nonpolicymaking nature could be exempted from this requirement by the appropriate Secretary.

The amendment applies to employees at Interior, HEW, and Labor who have functions under the pending bill and under the existing laws.

The amendment does not prevent any employee from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, Interior and other Federal agencies require their employees who are at the GS-13 level or above and in a decision-making position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. My amendment does.

GAO REPORT OF DEFICIENCIES

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found "deficiencies" in the system at Interior and several agencies, including in the collection and timely review of such statements, and the resolution of problems associated with the statements. In a March 3, 1975, report, the GAO said:

> Many USGS employees have financial interests which appear to conflict with their Government duties. Many of these holdings violate the Organic Act of 1879. We believe that ownership of these conflicting interests is due to deficiencies in the Department's financial disclosure system and that they will have to be corrected to prevent the situation that now exists from continuing.
>
> To improve the effectiveness of the USGS financial disclosure system, we recommend that the Secretary of the Interior:
>
> Review, and take remedial action on, the financial interests of USGS officials which raise conflict of interest possibilities or violate the Organic Act.
>
> Prepare, keep current, and issue to USGS personnel specific guidelines, including a list of prohibited securities, concerning financial interests which may violate the Organic Act.
>
> Require the Bureau Counselor to strictly adhere to the restrictions imposed on USGS employees by the Organic Act.
>
> Insure that adequately trained and experienced personnel, who are knowledgeable of employees' duties and potential conflicts of interest, are appointed to counsel employ-

ees and review financial disclosure statements.

Insure that officials responsible for reviewing financial disclosure statements are given specific guidelines and reference manuals to enable them to adequately evaluate the statements.

Require reviewing officers to sign and date the financial disclosure statements to indicate they have reviewed them and determined that the financial interest do not violate the Organic Act or raise conflict of interest possibilities.

Require the USGS Counselor to report the results of the annual financial disclosure review to the Department and to note any financial interests questioned and any remedial action taken.

Establish procedures for periodically reviewing financial disclosure statements to insure that Bureau Counselors adequately enforce conflict of interest regulations.

In a later report of December 1975 the GAO said that Interior was taking steps to improve the situation, but the GAO said there were 1,435 additional employees who should file statements, of which 1,100 were below the GS-13 level. Most of the 1,435 employees are with the Bureau of Mines or MESA.

DEFINITION OF "KNOWN FINANCIAL INTEREST"

My amendment makes it clear that the appropriate Secretary must look at the positions to determine who should file and not base his decision on the grade level of the employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for each Secretary to define what a "known financial interest" is. Indeed, an example of such a definition Interior published proposed regulations defining this term on March 22, 1976, for the purposes of Public Law 94-163. That definition, which is not yet finalized, of course, is as follows:

> Any pecuniary interest of which an officer or employee is cognizant or of which he can reasonably be expected to have knowledge. This includes pecuniary interest in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline or distributing (other than at the retail level) coal, natural gas, or petroleum products, or in property from which coal, natural gas, or crude oil is commercially produced. This further includes the right to occupy or use the aforesaid business or property, or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest where the business arrangement from which the benefit is derived or expected to be derived has been entered into between the parties or their agents. With respect to officers or employees who are beneficiaries of "blind trusts," the disclosure is required only of interests that are initially committed to the blind trust, not of interests thereafter acquired of which the employee or officer has no actual knowledge.

Finally, the regulations would be expected to make it clear that public disclosure of financial statements shall be only for lawful purposes. A violation of this requirement is subject to criminal prosecution.

I urge adoption of my amendment.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I thank the gentleman for yielding to me. The amendment has been examined by the majority and is acceptable to the committee.

Mr. HECHLER of West Virginia. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STEIGER OF WISCONSIN

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. STEIGER of Wisconsin: section 2 of the bill, section 7(c) of the act: Page 102, lines 16 to 19, strike the sentence beginning with "Any".

Mr. STEIGER of Wisconsin. Mr. Chairman, the amendment I have offered—and as the gentleman from New Jersey knows, I basically am in support of the bill—would strike from the provisions of this legislation what I think we ought to call walk-around pay. I do not think that is an unfair characterization. At no point during the consideration of the Coal Mine Safety Act, or even of the Occupational Safety and Health Act—although I hesitate to use that phrase—was the issue of a legislative mandate for walk-around pay raised. It has been raised since OSHA was passed. It was not included in the Coal Mine Act or in OSHA, and frankly I do not think it ought to be included in the Mine Safety Act Amendments of 1974.

I say that because that, in my judgment, is an intrusion by the legislative branch into what is historically a matter for collective bargaining, and it ought to remain so. That is not a matter that ought to be taken up and dealt with cavalierly by this House at this time. A number of companies and a number of unions have reached agreement under the Occupational Safety and Health Act in terms of what happens to their employees in a walk around, and that is where I think it belongs. I do not think we ought to disrupt it, as this bill does. I think it is among its most serious weaknesses.

Mr. Chairman, there has been no showing, to the best of my knowledge, that employees have at any time been discouraged from accompanying an inspector in a walk around under OSHA or the coal act because their pay was not mandated by the statute. As a matter of fact, I find that except in the one case of the lengthy inspection of an oil refinery where the issue was raised and the Solicitor ruled, by and large most of the time the employees have in fact been willing to serve voluntarily on a health and safety committee for which they get no pay, a joint employee-employer operation, or when the inspector comes, accompanying that inspector through the place of business.

Members will also note, Mr. Chairman, that as the bill is written, pay is mandated only to a "representative" of employees who is also an employee.

When there is no authorized representative, an inspector must consult with a reasonable number of miners during an inspection. Obviously this is designed to do only one thing, and that is to protect or to authorize pay in mines in which the miners are organized. It does not benefit and does not help anybody who is in an unorganized mine situation, and there are a number of those across the country.

So the draft is defective because it is biased in terms of union versus nonunion, and it is defective because I do not believe we ought to have a legislative mandate for walk-around pay.

Mr. Chairman, I urge the acceptance of the amendment.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am opposed to this amendment because it would interfere with the effectiveness of the administration of the act. Under the bill as reported, a representative of miners is required to be given the opportunity to accompany an inspector during the inspection of any mine.

The bill further provides that if such a representative is an employee of the operator, he shall not suffer any loss of pay because he exercises this walk-around right. The walk-around right is an important component of an efficient inspection system because miner's representatives are in a position to point out hazards that may be overlooked by the inspector. The walk-around right is not for the benefit of miners who exercise it, but rather for the benefit of all the miners in the mine and of the public, because the public has determined that it has an interest in having safe and healthy mines.

Under the amendment a miner who exercises this right would be penalized because he would lose his pay while carrying out this quasi-public duty. Because of the penalty, miners might be reluctant to exercise the right and hazards might go undetected.

I do not see why an individual miner should be penalized for partipicating in an activity which is beneficial to the administration of the act. Furthermore, it is appropriate that the employer should pay for this activity because in a real sense it is providing a benefit to the employer. It is the employer's duty to provide a safe working environment, and when the miner accompanies the inspector, he is in effect, assisting the employer in carrying out his statutory obligations. This principle is consistent with formal rulings of the Wage-Hour Administrator who stated:

> Time spent by employees in fire or other disaster drills . . . is considered substantially to the benefit of the employer and therefore is compensable hours of work.

I recognize, and in all honesty, must point out to my colleagues that the courts have ruled differently in a case under the Occupational Safety and Health Act, but that ruling was predicated on a lack of legislative history under that act. I believe that sound public policy requires that employees who participate in the administration of a statute should not suffer a loss of pay because of such activity.

It has also been argued that the matter of pay for walk-around should be left to collective bargaining. However, a large number of miners are not covered by collective bargaining agreements and we need to give these nonunion miners the same protections as their union colleagues get through the collective bargaining process.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. Steiger).

The question was taken; and on a division (demanded by Mr. Steiger of Wisconsin) there were—ayes 12, noes 20.

So the amendment was rejected.

AMENDMENTS OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Chairman, I have four amendments that I wish to offer. I offer the first two amendments at this time, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Roncalio: Page 83, line 22, strike out "The Secretary" and all that follows through "this section." on page 84, line 8.

Page 84, line 9, insert "or without" immediately after "with".

Page 84, line 17, insert "or without" immediately after "with".

Page 85, line 4, strike out all that follows "Act" down through "Act" in line 12, and insert in lieu thereof a period and the following: "The Secretary shall publish in the Federal Register each such standard so determined, unless the Secretary determines that such standard does not promote the health and safety of miners employed in the milling of minerals in mines subject to this Act. The Secretary shall afford interested persons a period of forty-five days after publication to submit written data or comments. Unless the Secretary determines, on the basis of such data and comments, that a standard does not promote the health and safety of such miners, the Secretary shall promulgate by publication in the Federal Register, within thirty days after the close of the comment period specified in the preceding sentence, a standard based upon the standard published under the second sentence of this paragraph and the data and comments received thereon, together with an explanation of the reasons such standard is pertinent to such miners".

Mr. RONCALIO (during the reading). Mr. Chairman, in view of the fact that these two amendments were printed in the Congressional Record of June 18, 1976, I ask unanimous consent that they be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. RONCALIO. Mr. Chairman, in preparing my amendments Nos. 3 and 4, to H.R. 13555, to provide appeal procedures in a variance proceeding and on issues involving the interpretation of a standard, I have considered the question of whether these appeal steps will add undue procedural delay to the final resolution of controversies under the bill. After careful study of this question, I am satisfied that no meaningful delay will result from my amendments because of several reasons:

First. My amendments relate to only a small number, almost an insignificant number, of the controversies that will arise under the bill, and the vast bulk of these controversies are not covered by my amendments. The amounts of civil penalties, whether a violation of a standard has occurred, and similar matters, are all left under the discretionary appeal and judicial review procedures provided by the bill as reported.

Second. Where my appeal procedures are used to have the agency take a second look at the decision of the hearing officer or the administrative law judge, this will obviate the need for judicial review in most cases; so, as a general proposition, there will be no additional delay at all as a result of adding my limited appeal procedures to the bill.

Third. In those few cases where the procedures do increase the length of time that a case may remain open, because both the agency and judicial review procedures are used, the additional time can be justified by the importance of obtaining sound, accurate decisions in the limited but important area of variances and issues involving the interpretation of a standard.

I am therefore confident that my amendments will not result in procedural delay which affects the efficient administration of the new Metal and Nonmetallic Mine Safety and Health Act. More important than the possible procedural delay, however, is the miners' safety. On this I am also confident that the miners' safety will not be affected by my proposed appeal procedures because, no matter how long a case remains open, the agency position under my amendments will always be the position in effect while a case is on appeal. For example, while a variance decision is under appeal, the mine operator must comply with the standard as promulgated by the agency, or cease the activity which makes the standard applicable to his operation. The same applies to the appeal of the interpretation of a standard, as the agency interpretation must remain in effect until and unless it is modified by an appropriate legal forum.

I would also stress, Mr. Chairman, that there may be situations in which the miners, rather than the operators, have reason to contest the accuracy of an agency decision on a variance or on an issue concerning the interpretation of a standard. When these situations arise, the miners' protest will always be on the ground that the agency decision results in a condition or practice which, from the miners' viewpoint, is unsafe, hazardous, or otherwise undesirable. There is certainly every reason to give the miners full rights to have their viewpoint prevail in such situations, but in my judgment the bill in its present form does not afford them the full range of rights that they may need. By giving even handed appeal rights to both operators and miners, my amendments promote the ultimate approval of the most sound viewpoint, irrespective of whether it be the miners' or the operators' viewpoint.

Mr. Chairman, all four of my amendments to H.R. 13555 amend section 2 of the bill, which section establishes a new Mine Safety Act to be cited as the "Federal Metal and Nonmetallic Mine Safety and Health Act."

AMENDMENTS NOS. 1 AND 2

Mr. Chairman, amendments Nos. 1 and 2 provide a period of 45 days for public comment on certain advisory standards and on OSHA milling standards before such standards become final mandatory standards, and I will ask unanimous consent that these amendments be considered en bloc.

AMENDMENT NO. 1

Amendment No. 1 amends section 5 (a) (2) of the proposed Act at page 83. Such section 5(a) (2) requires a review of all nonmandatory standards under the present Metal and Nonmetal Mine Safety Act, known as "advisory' standards, toward the objective of converting such standards into mandatory standards where appropriate. If the advisory committee, which is charged to make the review, recommends that an advisory standard be modified before becoming mandatory, the standard as modified is subject to a 45-day comment period and then promulgated within 30 days thereafter. If an advisory standard is recommended to become mandatory without modification, there is no comment period before the standard is published as a final mandatory standard.

The mere fact that an advisory standard is recommended to be made mandatory without any change is not a sound reason for denying public comment prior to publication. Accordingly, my amendment No. 1 provides a 45-day period for comment on the standards recommended without change, so that all advisory standards are subject to the same 45-day period for public comment.

AMENDMENT NO. 2

Amendment No. 2 amends section 5(a) (3) of the proposed Act. Such Section 5 (a) (4) directs the Secretary of Labor to determine which of the OSHA milling standards pertain to miners employed in milling of minerals at metal and nonmetal mines. After the Secretary makes this determination, he is further directed to publish the OSHA milling standards for metal and nonmetal mines, together with an explanation of the reason such standards are pertinent to metal and nonmetal miners. However, no opportunity at all is allowed for public comment before the OSHA standards are made applicable to metal and nonmetal mines.

The OSHA milling standards in question here have been published pursuant to the OSHA rule making process at some time in the past, and there was opportunity for public comment and a public hearing when they were promulgated under OSHA. However, since the metal and nonmetal mines to which the OSHA standards are now to be made applicable but were not subject to OSHA when the standards were promulgated, but instead were subject to the Metal and Nonmetal Mine Safety Act, there was no reason for the operators of such mines to even examine the OSHA milling standards. And since the OSHA standards were not intended to cover metal and nonmetal mines, there was no reason for operators of such mines to offer comment on the OSHA standards.

Now that the OSHA standards are to be made applicable to metal and nonmetal milling operations, commonsense dictates that some reasonable opportunity for comment be afforded to the operators of the metal and nonmetal operations. My amendment No. 2 provides that opportunity by providing for a period of 45 days for public comment on the OSHA milling standards before they become applicable to the mines covered by the proposed Mine Safety and Health Act.

Amendments Nos. 1 and 2 provide a period of 45 days for public comment on the advisory standards and the OSHA milling standards which I have described, and I urge adoption of these amendments en bloc.

Mr. DOMINICK V. DANIELS. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from New Jersey.

Mr. DOMINICK V. DANIELS. Mr. Chairman, is the gentleman offering for consideration all four amendments en bloc at this time?

Mr. RONCALIO. Just the first two amendments are now being considered.

Mr. DOMINICK V. DANIELS. Amendments Nos. 1 and 2?

Mr. RONCALIO. Amendments Nos. 1 and 2.

Mr. DOMINICK V. DANIELS. Mr. Chairman, these two amendments have been examined by the committee and are acceptable to the committee.

Mr. RONCALIO. Mr. Chairman, I thank the gentleman. I will offer amendments Nos. 3 and 4 after these amendments have been considered.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Wyoming.

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Chairman, I offer two amendments, my amendments Nos. 3 and 4, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. RONCALIO. Mr. Chairman, once again, in view of the fact that these amendments have also been printed in the RECORD, I ask unanimous consent that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The amendments are as follows:

Amendments offered by Mr. RONCALIO: Page 100, insert immediately after line 16 the following:

"(f) Any person aggrieved by a decision denying, or a rule or order granting, in whole or in part, any variance, variation, tolerance, or exception under this section may apply to the Secretary for a review of such decision, rule, or order, under such procedures as the Secretary shall by regulation establish."

Page 132, line 19, insert "(1)" immediately after "(d)".

Page 132, line 25, strike out "The" and insert in lieu thereof "Except as provided in paragraph (2), the".

Page 133, insert immediately after line 4 the following:

"(2) The Commission shall review any report of a hearing examiner if a party aggrieved by a determination made in such report with respect to an alleged violation of a standard, rule, or order promulgated pursuant to section 5 of this Act files an appeal with the Commission within 30 days after the issuance of such report, and if the grounds for such appeal relate to the interpretation of such standard, rule, or order. The Commission shall by regulation establish such procedures as may be necessary for filing appeals under this paragraph."

Mr. RONCALIO. Mr. Chairman, amendment No. 3 adds a new paragraph (f) to section 6 of the proposed act, at page 100 of the bill, in order to provide that a mine operator or the miners shall have a right to an intra-agency appeal and review of the Secretary of Labor's decision on an application for a variance from a health or safety standard.

In its present form section 6 of the proposed act authorizes the Secretary of Labor to make determinations concerning a mine operator's application for a variance from a health or safety standard. A permanent or a temporary variance may be applied for by an operator. In either case, section 6 provides for a hearing opportunity and for notice to the miners affected by the application; however, section 6 is completely silent on whether the operators and the affected miners have rights to an intra-agency appeal and review of the Secretary's decisions on variances.

Although the operator and the miners probably have a right to judicial review of the Secretary's variance decisions where a hearing is held, by virtue of the Administrative Procedure Act, the silence of section 6 on intra-agency review means that neither the operator nor the miners have a right to an intra-agency appeal and review of the Secretary's variance decisions. Moreover, since the courts cannot be expected to have expertise in the technical complexities of underground mining, judicial review is not a practical method for resolving disputes about the accuracy and soundness of the technical decisions which are required to be made in a variance situation. The administrative agency has the professional personnel and other resources needed to resolve such disputes and thus agency review is the only meaningful method by which a disagreement with an initial determination of a variance application can be properly resolved.

This lack of an appeal within the administrative agency is both undesirable and unnecessary. My amendment remedies this problem by requiring the Secretary of Labor to establish intra-agency appeal and review procedures which permit either the operator or the miners to contest the Secretary's decisions on variance applications. Such appeal procedures serve the due process rights of both the operator and the miners alike, and I urge that my amendment No. 3 be adopted.

AMENDMENT NO. 4

Amendment No. 4 amends section 18 of the proposed new act by adding a proviso at page 133, in order to provide an absolute right of appeal in a proceeding which involves the interpretation of a standard.

Section 18 of the bill establishes an independent, three-member Presidentially appointed Commission, which has jurisdiction over controversies arising under the enforcement provisions of the new act. Although the Commission will use administrative law judges to conduct hearings and make decisions in cases where an enforcement action is contested, an inspector's citation or a penalty assessment for examples, there is no absolute right for a mine operator or the miners to appeal the decision of an administrative law judge to the Commission. In its present form, section 18 makes an appeal and review of the decision of an administrative law judge a matter entirely within the discretion of a member of the Commission. If review is not granted by a Commission member, the decision of the adinistrative law judge becomes final subject only to judicial review.

I recognize that the objective of discretionary review is to preclude frivolous and time-wasting appeals. I do not oppose that objective and therefore my amendment No. 4 leaves the vast majority of enforcement controversies subject to discretionary review. As examples, a contest over the amount of a civil penalty would remain subject to discretionary review, as would a case where the issue is whether the evidence proves that a violation of a standard occurred. However, I believe it is a mistake to leave issues concerning the interpretation of a standard subject to discretionary review only, and I would note that the committee report clearly indicates that the Commission is already empowered under the bill to resolve issues concerning the interpretation of a standard. I quote from the last full paragraph of page 12 of the committee report:

> Since the Secretary of Labor is charged with responsibility for implementing this Act, it is the intention of the Committee, consistent with generally accepted precedent, that his interpretations of the law and the regulations shall be given weight by both the Commission and the Courts.

The committee bill thus recognizes the importance of having an accurate and sound interpretation of a standard, but the bill still leaves it within the discretion of a Commission member to grant or not grant review of the decision of an administrative law judge on such matters. My amendment No. 4 remedies this problem by providing an absolute right of appeal to the independent Commission in any proceeding which involves the interpretation of a standard. The appeal would be limited solely to the issue concerning the interpretation of a standard, and other issues in the same proceeding would still be subject to discretionary review. The right of appeal would be available to a mine operator and also to miners who are parties to the proceeding.

Controversies concerning the interpretation of a standard will always involve complex, technical considerations, and judicial review is therefore not a practical method of assuring that the right decision is reached in such controversies. The Commission, having access to the agency's trained technical personnel, is in a much better position than a court to provide competent review of a technical controversy. I therefore urge adoption of my amendment No. 4 to provide an appeal to the Commission as a matter of right where the sole issue on appeal concerns the interpretation of a standard.

Mr. DOMINICK V. DANIELS. Mr. Chairman, I rise in opposition to these amendments.

Mr. Chairman, I am opposed to Roncalio amendment No. 3. This amendment would permit any person aggrieved by a variation or a tolerance issued by the Secretary to apply for a review of that decision. As this act already requires due process procedures before a variation or tolerance can be issued, this amendment would needlessly complicate the procedure without providing any substantial benefit.

Mr. Chairman, I am also opposed to Roncalio amendment No. 4. This amendment would require the Federal Metal and Nonmetallic Mine Safety and Health Commission to review every decision of a hearing examiner upon the request of a party to the action. Under the bill as reported the Commission has the discretion to review a case if any single Commissioner determines it should be reviewed.

This amendment may result in the Commission getting a large backlog of cases while not resulting in any additional protection for the interested parties. Because a single Commissioner can bring a case up for review, it is unlikely that any meritorious case will not receive review. In any event, an aggrieved party may take his case to court whether or not the Commission has granted reveiw.

Discretionary review has been advocated by most experts of administrative law as a management tool in controlling case loads. We do not want the Commission to bog down in hearing unnecessary cases and I, therefore, urge the rejection of the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Wyoming (Mr. RONCALIO).

The amendments were rejected.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have printed in the RECORD and have at the desk two additional amendments which I take this time to announce I will not offer.

I have offered two amendments which I thought would greatly improve this bill. I think many Members, after giving it due consideration, feel that the amendments would have improved the bill. However, it seems quite obvious that the ones whom I must convince are the labor lobbyists outside of this Chamber, who are not listening to the arguments. They have not been convinced. Therefore, there is no chance that these amendments will be adopted.

Therefore, Mr. Chairman, I do not intend to offer them.

AMENDMENT OFFERED BY MR. GRASSLEY

Mr. GRASSLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. GRASSLEY: Page 149, immediately following the period at the conclusion of Section 28(b), inserting the new Section as follows:
>
> "SEC. 29. QUALIFICATIONS OF MINE INSPECTORS.—To the maximum extent feasible, in the selection of persons for appointment as mine inspectors, no person shall be so selected unless he has the basic qualification of at least five years practical mining experience and in assigning mine inspectors to the inspection and investigation of indivdual mines, due consideration shall be given to their previous practical experience in the State, district, or region, and in the particular type of mining operation where such inspections are to be made."

Mr. GRASSLEY. Mr. Chairman, the key words in this amendment—and let me say, first of all, that the wording of my amendment is in the existing statute—are "to the maximum extent feasible."

These words are to insure that administrators will not have their hands tied in choosing inspectors. Yet, the language of the amendment shows congressional intent to be that people hired as inspectors ought to know a little bit about the business of and about laboring in mines.

Still, Mr. Chairman, this amendment and the wording of it is flexible so that changing times and needs can be accommodated in the future.

Mr. Chairman, the lack of congressional direction and the lack of language in this bill would leave open the possibility that people who know nothing about mining could actually be out inspecting those operations.

Quite frankly, Mr. Chairman, we need a balance between this possibility and a congressional straitjacket on administrators. This amendment of mine provides this moderation.

We know what the public reaction to OSHA inspectors is when these inspectors come around inspecting businesses, and some of these very same people know nothing about the businesses that they are inspecting.

This, quite frankly, is a reflection I believe on the Members of this House. As Congressmen, we have had plenty of references on the floor of this House in the last 6 months to such OSHA inspectors going around the country inspecting businesses that they know nothing about. That ought to be enough. I believe that we can learn from the mistakes of the past so as to not permit the same thing to happen in the future in the business of inspecting mining operations. My amendment is motivated by that concern.

There is nothing better, in my judgment, Mr. Chairman, than practical experience if one is going to be an inspector of any sort of operation. Theory, by itself, is useless but, balanced with a little bit of commonsense and experience, a person can become an excellent inspector. Regardless of what safety rules or regulations, or regardless of which agency is charged with the enforcement, it is important that mine inspectors be well qualified. Experience in mine safety is of the greatest importance. In section 17 of the existing Metal Act, there is a provision which sets out minimum qualifications for mine inspectors. There is no such provision in the bill we are now considering. Those persons who will have inspection and enforcement responsibilities under this act must have, as a minimum, experience in the metal and nonmetallic mining industries. Mining utilzes technology whch is quite different from other industries. A recognition of health and safety hazards in any one requires practical work and exposure as well as specialized training. It would be harmful to the thousands of persons employed in mining to eliminate this mining experience requirement.

That is the reason that I am offering this amendment which, in my judgment, can only be classified as technical. It will benefit both management and labor.

There is nothing better than a little bit of practical knowledge along with a little theory to make this possible. But, furthermore, and perhaps my greatest concern, members of the committee, is this, that these people who are inspecting mines, representing government agencies, in a sense are the representatives of you and me as Congressmen before our very own constituents out among the 210 million people of this country. It behooves us, as policymakers of this country, to make sure that we send out people who know something about the business they are inspecting and who can talk the language of the people they are dealing with. We need to, somehow, beef up the balance between theory and practice. This builds confidence among the people in our government. I say to the members of the committee that this has something to do with reestablishing credibility between the people that are served and we Members of the Congress.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall not take the full 5 minutes.

Very simply, the Civil Service Commission presently establishes the qualifications for the selection, appointment, promotion and other qualifying factors concerning mine inspectors, just as it does with similar people in other governmental enforcement agencies. For us to attempt here to usurp the authority of the Civil Service Commission by trying to write specific job descriptions or job qualification standards into a statute of this kind would be a clear departure from what has been sound public policy in the past and very clearly unwise.

Further, neither the sponsor of the amendment nor anyone else who has appeared before the committee or communicated with the committee, criticizes the language of the committee bill for selecting mine inspectors. And, while on its face, it would seem that having so-called practical mining experience is a desirable qualification, if we make it an absolute requirement, then the only people who could apply for service as future mine inspectors would be people presently employed in the mining industry; whether they be management or labor. They could be the simplest kind of unskilled workmen at the opening of a mine or on the surface and meet the 5-year qualification, while someone with 5 years of formal training in the most modern techniques of mine safety and the most modern techniques for dealing with such things as explosive potential in either dust or gas would be barred if he had not first worked for 5 years in a mine. So while on its face it would seem to suggest a qualification for inspection that would have a salutary effect, its effect would be exactly the opposite. It would be about as useful as if we were to suggest that only those people who had served for 5 years as a private in the Army could ever become an officer in our military at a time when our military is becoming a very sophisticated organization that requires highly skilled people with very special training.

For these reasons, Mr. Chairman, I think the amendment should be defeated.

Mr. QUIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to take a few moments to indicate that the amendment offered by the gentleman from Iowa puts back into the act that which was taken out by this bill and is practically identical. So since the act has been in operation since 1966, and effectively—at least in the 1970's—it has required inspectors to have the 5 years of practical mining experience.

Just in the area that I have more familiarity with, vocational education, while there is nothing in the Federal law, what we find is that vocational educators are far superior if they have had experience in the skills they are teaching.

The same would apply here, as the gentleman from Iowa indicated. All of those problems we have had with OSHA we might not have had if they had selected inspectors who had experience before they were inspectors. Then I think we would have had an act that would have been operated more effectively and more efficiently than was the case.

So I say that the gentleman from Iowa is not advocating anything new but only to continue a requirement, and a good requirement, that we have had in the law for a long period of time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GRASSLEY).

The question was taken; and on a division (demanded by Mr. GRASSLEY) there were—ayes 8, noes 14.

So the amendment was rejected.

Mr. FLOOD. Mr. Chairman, as the Member of Congress from the 11th Congressional District of Pennsylvania—the anthracite coal fields—I have a singular and an intense interest in H.R. 13555, the Mine Safety and Health Act of 1976. And, as the coauthor of the Coal Mine Health and Safety Act of 1969, the black lung law, I have a unique overview of this entire situation.

Firstly, let me state that my No. 1 concern, as was the concern of the entire Congress with the original coal mine health and safety bill, is to make each and every mine in America safe for the thousands and thousands of workers who labor there each day. What we must have, what we must insist upon, is a mine working environment as free as humanly possible from accident causing defects and other dangers. What we must have is a mine working environment as safe as the working conditions on any other job in America today.

We must insist upon this not only out of a sense of the need to protect our fellow man in his daily work, but out of the more selfish requirement as well of producing the raw materials and harvesting the natural resources which make America a great Nation.

Permit me to commend Chairman DANIELS and the entire Manpower Subcommittee for their diligent work on this bill. As chairman of the Labor, Health, Education, and Welfare Appropriations Committee I have often worked with and reviewed the legislative handiwork of the Manpower Committee and have consistently found it to be skillfully crafted and with the best interests of the country in mind. The Mine Safety Act is well within this careful tradition and I heartily endorse and support the bill. Thank you.

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

According the Committee rose; and the Speaker having resumed the chair, Mr. GIAIMO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13555) to amend the Federal Metal and Nonmetallic Mine Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969, pursuant to House Resolution 1221, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. DOMINICK V. DANIELS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken by electronic device, and there were—yeas 309, nays 86, answered "present" 1, not voting 36, as follows:

[Roll No. 557]

YEAS—309

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gradison
Green
Gude
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Levitas
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
McCloskey
McCormack
McDade
McFall
McHugh
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Railsback
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Simon
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Studds
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—86

Abdnor
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Broyhill
Burleson, Tex.
Butler
Clancy
Clausen, Don H.
Clawson, Del
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan

Daniel, R. W.
Devine
Downing, Va.
Erlenborn
Eshleman
Flynt
Goldwater
Goodling
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hébert
Hightower
Holt
Hutchinson
Ichord
Johnson, Pa.
Kasten
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lloyd, Calif.
Lujan
McClory
McCollister
McDonald
McEwen
McKay
Martin
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Passman
Paul
Pettis
Poage
Quie
Quillen
Roberts
Robinson
Rousselot
Runnels
Santini
Satterfield
Schneebeli
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Steelman
Symms
Talcott
Taylor, Mo.
Teague
Treen
Waggonner
Whitehurst
Winn

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—36

Biaggi
Clay
Dent
Esch
Fountain
Hansen
Helstoski
Hinshaw
Jones, Tenn.
Karth
Kelly
Landrum
Litton
Lundine
Michel
Mills
O'Hara
O'Neill
Peyser
Randall
Rees
Regula
Rhodes
Riegle
Rostenkowski
Roybal
Sisk
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Wampler
Wiggins
Young, Ga.

The Clerk announcement the following pairs:

On this vote:

Mr. Dent for, with Mr. Landrum against.

Mr. Jones of Tennessee for, with Mr. Kelly against.

Mr. O'Neill for, with Mr. Steiger of Arizona against.

Mr. Lundine for, with Mr. Rhodes against.

Mr. Biaggi for, with Mr. Wampler against.

Mr. Rostenkowski for, with Mr. Michel against.

Mr. Sisk for, with Mr. Hansen against.

Mr. Helstoski for, with Mr. Wiggins against.

Until further notice:

Mr. Stratton with Mr. Karth.

Mr. Fountain with Mr. Mills.

Mr. Roybal with Mr. O'Hara.

Mrs. Sullivan with Mr. Riegle.

Mr. Symington with Mr. Peyser.

Mr. Young of Georgia with Mr. Stephens.

Mr. Clay with Mr. Randall.

Mr. Stuckey with Mr. Rees.

Mr. Esch with Mr. Regula.

Mr. McCLOSKEY changed his vote from "nay" to "yea."

Mr. DON H. CLAUSEN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOMINICK V. DANIELS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 13555) just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 13555

Mr. DOMINICK V. DANIELS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 13555) just passed, the clerk be authorized to make the necessary technical corrections, including corrections of section numbers.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON MILITARY COMPENSATION OF COMMITTEE ON ARMED SERVICES TO SIT THIS AFTERNOON AND TOMORROW MORNING DURING 5-MINUTE RULE

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Military Compensation of the Committee on Armed Services be permitted to meet during the time the House is proceeding under the 5-minute rule this afternoon, July 28, 1976, and tomorrow morning, July 29, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I would like to inquire of the gentleman if this is to mark up a bill.

Mr. NICHOLS. If the gentleman will yield, the purpose is for considering the bill in the subcommittee of the gentleman from New York (Mr. STRATTON), dealing with military doctors. It is not a markup session.

Mr. ROUSSELOT. Further reserving the right to object, can the gentleman tell us if the minority individual is aware of this?

Part of the problem, as the gentleman knows, is that we are going into session at 10 o'clock and we have important legislation. It is difficult for Members to go to three or four subcommittees and still do their job. We just do not have as many Members on our side of the aisle as on the gentleman's side of the aisle.

Mr. NICHOLS. If the gentleman will yield further, we feel that the bill is very much needed. It deals with military doctors. There is very much of a shortage. I hope the gentleman will not object.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I am not arguing that question.

Has the minority been informed?

Mr. NICHOLS. Mr. Speaker, the gentleman from Illinois (Mr. O'BRIEN) is the minority member. He is not on the floor now. He is aware of our request.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I wonder if the gentleman will withdraw his request until the gentleman arrives.

Mr. NICHOLS. If the gentleman will insist.

Mr. ROUSSELOT. Mr. Speaker, I do.

Mr. NICHOLS. Mr. Speaker, I withdraw the unanimous-consent request.

PERMISSION FOR SUBCOMMITTEE ON SCIENCE, RESEARCH AND TECHNOLOGY OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT TOMORROW AFTERNOON WHILE THE HOUSE IS IN SESSION

Mr. MOSHER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Science, Research and Technology of the Committee on Science and Technology be permitted to meet Thursday afternoon, July 29, 1976, while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, does the gentleman plan to mark up legislation?

Mr. MOSHER. If the gentleman will yield, yes.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman tell us what bills?

Mr. MOSHER. If the gentleman will yield, it has to do with earthquake legislation, which is of interest to the gentleman's State of California.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PROPOSAL OF FOUR RESCISSIONS AND FOUR NEW DEFERRALS IN ACCORDANCE WITH IMPOUNDMENT CONTROL ACT OF 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-567)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose four rescissions totalling $126.4 million in budget authority provided in the Second Supplemental Appropriations Act, 1976. In addition, I am reporting four new deferrals totalling $334 million in budget authority.

Three of the proposed rescissions are for education programs of the Department of Health, Education, and Welfare. The other rescission proposal affects the child nutrition program of the Department of Agriculture. These funds are either not needed to accomplish program objectives or, in the case of $3 million which would fund State school financing programs, would be used inappropriately to fulfill a State responsibility rather than a Federal responsibility.

Approval of these rescission proposals would (1) reduce Federal spending by $126.4 million over the transition quarter, 1977, and 1978, and (2) provide the Congress with an opportunity to demonstrate its willingness to prevent unnecessary Federal spending even if this involves reconsidering earlier funding decisions.

One of the deferrals consists of $4 million in construction funds for the Rogers Memorial Hospital in the District of Columbia. This deferral is reported to give Congress time to consider a request to reprogram the funds. The reprogramming that I will propose would allow all eligible medical facilities construction projects in the country an equal opportunity to compete for the funds. The other three deferrals are reported because there will be delays in the use of available funds.

GERALD R. FORD.

THE WHITE HOUSE, *July 28, 1976.*

PROVIDING FOR CONSIDERATION OF H.R. 11656, GOVERNMENT IN THE SUNSHINE ACT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1207 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1207

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11656) to provide that meetings of Government agencies shall be open to the public, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 11656, the Committee on Government Operations shall be discharged from the further consideration of the bill S. 5, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the text of the bill H.R. 11656 as passed by the House.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1207 provides for consideration of H.R. 11656, Government in the Sunshine Act, which would require that meetings of Federal regulatory and other agencies be open to the public, that transcripts be made of closed meetings and released, minus deletion of subjects exempt from disclosure under the provisions of the bill, and which would provide judicial review for challenges of improper closing of meetings, among other provisions.

This is an open rule, providing 2 hours of general debate; 1 hour controlled by the chairman and ranking minority member of the Government Operations Committee and 1 hour controlled by the chairman and ranking minority member of the Judiciary Committee. The bill is to be read for amendment under the 5-minute rule.

The rule further provides that upon passage of H.R. 11656, the Committee on Government Operations shall be discharged from further consideration of S. 5. It then shall be in order to strike all after the enacting clause of S. 5 and to insert in lieu thereof the provisions contained in H.R. 11656 as passed by the House.

The legislation requires that most meetings of independent Federal agencies be open to the public. It applies to agencies covered by the Freedom of Information Act, as well as to the Federal Election Commission, Postal Service, and to organizations headed by two or more members, a majority of whom are appointed by the President with Senate confirmation. Ten specific exemptions, which generally parallel those in the Freedom of Information Act, are provided. The exemptions secure a balance against the right to know and competing values such as the national security or foreign policy, individual privacy rights, and economic stability.

Ex parte communications between agency officials and outsiders affected by pending agency business are prohibited. The bill's ex parte provision stems from a 2-year effort to limit secret contacts with officials by lawyers, lobbyists, and others interested in agency proceedings, and it is similar to a draft proposed by the American Bar Association in 1974.

Forty-eight States have enacted some type of open meeting provisions, including my State of Florida. Mr. Speaker, I believe Florida is one of the pioneers in this needed reform. The experience of States has dispelled concerns that open meetings inhibit free discussion or cast a distorted image on agency proceedings. Instead, open meetings have produced better debate, better reasoned decisions, increased public understanding of agency procedures, and less distrust of government.

Mr. Speaker, this legislation was considered 3 years in the Senate prior to its passage in that body last November by a vote of 94 to 0. Since 1973, most House committee meetings have been open to the public, and recently most Senate committees meetings and House-Senate conferences have been opened. The bill extends this Federal policy into independent Federal agencies. The public has a right to full disclosure of Government decisionmaking processes insofar as the extension of sunshine is consistent with the privacy and the protection of other rights provided for in the bill.

Mr. Speaker, I shall support one amendment to this bill to be offered by the gentleman from New York (Mr. HORTON).

Mr. Speaker, I believe this is a meaningful milestone in the protection of our democracy, and I hope that this bill will be enacted with, as I said, the amendment that I hope will be adopted by this House. Mr. Speaker, I therefore urge the adoption of House Resolution 1207 so that we may proceed to the consideration of H.R. 11656.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out something in this bill to the Members of the House which I think should be clarified—and I have heard no mention that this matter will be clarified—as it affects every Member of this House and his constituency.

We do some foolish things around here in the interest of reform and sunshine and true happiness without ever thinking about what the end result might be.

Mr. Speaker, let me give the Members an example. Some time back we passed a piece of legislation—and I am not going to name it—and we found out later that before we could contact an agency in behalf of one of our constituents, we had to have a written authorization.

Remember that? I will venture to say that not one-tenth of the membership of this House knew that that requirement was in that legislation when it passed this body.

Mr. Speaker, when a Member has an emergency situation in his district and a constituent contacts him about that emergency situation, when the Member has to have a written authorization to contact that agency about that emergency, I think that is absolutely wrong.

Mr. Speaker, we never intended to require such a thing, but it is in the law; and we now have to follow it. As a result, a Member cannot serve his constituency in an expeditious manner in all cases.

Mr. Speaker, Members are sent here to serve not only the United States of America but their constituency.

Let me refer to something in this legislation which I pointed out when the matter was before the Committee on Rules, and I have reference to ex parte communications. Each one of us, as Members of Congress, will be affected by this legislation if it passes in its present form. How will we be affected?

Let us turn to page 17, at the top of the page, and I am not going to read the entire section because I do not want to burden you with this, but unless something is done about it, our malfeasance is going to come home to roost real fast if this legislation is enacted as written:

> . . . a communication prohibited by this subsection shall place on the public record of the proceeding:
>
> "(i) all such written communications;
>
> "(ii) memoranda stating the substance of all such oral communications; and
>
> "(iii) all written responses, and memoranda stating the substance of all oral re-

> sponses, to the materials described in clauses (i) and (ii) of this subparagraph;

Et cetera, et cetera.

What are they talking about? You call up an agency of the Government, to make an inquiry, as you will be doing, assuming this legislation goes on the books as written, that communication will be ex parte and will be a part of the public record for the world to see. That call will concern your constituent's business, not the world's.

Now is that what we want? Is that what our constituents want when he or she contacts us about a personal problem they have with an agency of this Government? I do not think so. I repeat, I do not think so. But there is no privilege, no privilege, written into this legislation to cover that situation.

I say to my colleagues I believe such matters should be privileged communications. When a constitutent contacts you about a tax problem, it is his problem with the Government, and vice versa. Should that communication go on the public record and be open for the world to see? I think not. I think not.

But the way this legislation is before us today, and I have heard of no effort being made to change it, it will go on the public record.

My friends, this is our unwanted provision in this legislation and it affects your constituency and mine.

I talked to some of the leadership about this when the matter was before the Committee on Rules and they did not know our activities in behalf of constituents would be covered. So I think it should be corrected. We are all for sunshine, let the sun come in, let these agencies open up their hearings. But when you contact them about a constituent's personal matter, I do not think it ought to go on the public record. Hopefully this House will adopt an amendment during the 5-minute rule which will provide the privilege that the constituent is entitled in these matters.

Mr. PEPPER. Does the gentleman from Ohio have further requests for time?

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I understood the gentleman from Ohio to say that his concern about the bill was that any communications between an agency of the Government and an individual that are on private matters would be open to public exposure?

Mr. LATTA. That is a possibility under the language as written.

Mr. GOLDWATER. In talking to the leadership and the committee when this came before the Committee on Rules, did they indicate a concern about this and that they are going to make an effort to change that provision?

Mr. LATTA. Mr. Speaker, because I believe that this is a very, very important matter, one that affects every Member of this House and his constituency, and because the gentleman from California (Mr. GOLDWATER) has asked a very important question, I would ask the gentleman to again repeat his question.

Mr. GOLDWATER. I was surprised, and I was wondering if in questioning the individuals, the chairmen of the committees that wrote this law indicated a concern for this apparent violation of privacy. Then they indicate that they are going to examine this and perhaps offer amendments on the floor; is that correct?

Mr. LATTA. In answer to the gentleman, I have, as I indicated, no knowledge at this very moment that an amendment will be offered to correct the language to which I object. I am hopeful than an amendment will be offered. There has been a very feeble effort made in this direction in this legislation, but it does not reach the point that I raise. It says this section does not constitute authority to withhold information from the Congress, and that does not cover the point of my objection.

We have had two committees studying this. Hopefully one of these committees will come forward during the 5-minute rule with an amendment to protect your right to make an inquiry for a constituent.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Of course, the bill does not apply to personal matters at all but to ex parte communications regarding quasi-judicial proceedings. One would not go to a judge and try to twist his arm in the middle of a lawsuit. It is unethical; it is improper. The bill says that we are talking about persons outside of the agency who are contacting people in a "proceeding." We are talking about something in the nature of an adversary proceeding or a quasi-judicial proceeding. We are talking about contacting a person who would be involved in a decisionmaking process. We are not talking about agency staff or personal matters. We are talking about going to somebody who is in the process of making a decision on a pending case. All we are saying there is, "If you want to do that, fine, just spread it on the record." That is all. This is so that all the other parties will know from where they are getting hit with political influence. That is all we are saying.

Let me add that this is the section which practically codifies existing regulations in almost all of the agencies, and it is also the law which the American Bar Association has advocated for many years. It does not set a new precedent. It does nothing frightening. It does not interfere with the constitutional process, or personal privilege. It does not unduly hamper a Member of Congress from doing what he is supposed to do. If one wants to take a position on an adversary proceeding, just go down and put his letter on record and say what his position is. That is all it says.

Mr. GOLDWATER. What the gentleman is saying is that if I as a Representative intervene on behalf of my constituent, as the gentleman from Ohio (Mr. LATTA) pointed out, in a tax matter between him and the agency, would that communication be spread upon the record?

Mr. FASCELL. No; not unless the agency decides to do it. That situation is not even covered under this bill.

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentlewoman from New York.

Ms. ABZUG. I thank the gentleman for yielding.

I think there is a certain amount of confusion injected here. The situation that the gentleman from California described is not involved here. What we are talking about in this section of the law concerning ex parte communications involves adjudicatory proceedings and rulemaking proceedings, not the normal inquiry that the office of a Congressman would make with respect to information.

Mr. LATTA. Mr. Speaker, if the gentleman will yield, I just wish I could be as sure as the gentlewoman from New York or the gentleman from Florida. I have read this bill and I am not convinced. We have to look at the language of the bill and read what it says. The language says:

> . . . "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given.

I say if the sponsors of this legislation fully intended that it exempt Members of Congress in their proper communications with the agencies of Government, then let them prepare an amendment, have it submitted and agreed to by this House, to protect the right of the Members to contact the agencies and departments of the Government in the interests of their constituents without having it spread on the public record.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Michigan. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 0, not voting 41, as follows:

[Roll No. 558]

YEAS—391

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
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Lloyd, Calif.
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Long, La.
Long, Md.
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McCollister
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McEwen
McFall
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Madigan
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Mahon
Mann
Martin
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Melcher
Metcalfe
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Mezvinsky
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Milford
Miller, Calif.
Miller, Ohio
Mills
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Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
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Moore
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Moorhead, Pa.
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Murphy, Ill.
Murphy, N.Y.
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Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
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Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Rousselot
Roybal
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Russo
Ryan
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Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
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Sebelius
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Sharp
Shipley
Shriver
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Simon
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Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Wis.
Stokes
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—41

Biaggi
Burton, John
Carney
Clay
Dent
Esch
Fenwick
Fountain
Gaydos
Hansen
Hébert
Helstoski
Henderson
Hinshaw
Jones, Tenn.
Kelly
Landrum
Litton
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Mathis
O'Hara
O'Neill
Peyser
Rees
Regula
Rhodes
Riegle
Roe
Rostenkowski
Sisk
Skubitz
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Wampler
Wiggins
Wilson, Tex.
Young, Ga.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Landrum.
Mr. Dent with Mr. Stuckey.
Mr. Lundine with Mr. Clay.
Mr. Rostenkowski with Mr. O'Hara.
Mr. Sisk with Mr. Riegle.
Mr. Fountain with Mr. Esch.
Mr. Stratton with Mrs. Fenwick.
Mr. Helstoski with Mr. Hansen.
Mr. Jones of Tennessee with Mr. Hébert.
Mr. Symington with Mr. Kelly.
Mr. Biaggi with Mr. Rees.
Mr. John Burton with Mr. Henderson.
Mr. Carney with Mr. Regula.
Mr. Gaydos with Mr. Mathis.
Mr. Roe with Mr. Peyser.
Mr. Stephens with Mr. Steiger of Arizona.
Mrs. Sullivan with Mr. Skubitz.
Mr. Young of Georgia with Mr. Wampler.
Mr. Charles Wilson of Texas with Mr. Wiggins.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON MILITARY COMPENSATION OF COMMITTEE ON ARMED SERVICES TO MEET THIS AFTERNOON AND TOMORROW MORNING, JULY 29, 1976, DURING 5-MINUTE RULE

Mr. O'BRIEN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Military Compensation of the Committee on Armed Services be permitted to meet during the time the House is proceeding under the 5-minute rule this afternoon, July 28, and tomorrow morning, July 29, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

RESIGNATION AS MANAGER AND APPOINTMENT OF MANAGER ON H.R. 8410, PACKERS AND STOCKYARDS ACT OF 1921 AMENDMENTS

Mr. WEAVER. Mr. Speaker, I ask unanimous consent to be excused from further service as manager on the part of the House on the committee of conference on the bill (H.R. 8410), Packers and Stockyards Act of 1921 Amendments.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. The Chair appoints as a manager of the committee of conference on H.R. 8410, Packers and Stockyards Act of 1921 Amendments, the gentleman from Oklahoma (Mr. ENGLISH), to fill the vacancy just created.

The Clerk will notify the Senate of the change in managers.

GOVERNMENT IN THE SUNSHINE ACT

Ms. ABZUG. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11656) to provide that meetings of Government agencies shall be open to the public, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentlewoman from New York (Ms. ABZUG).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11656, with Mrs. BURKE of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Pursuant to the rule, general debate will continue not to exceed 2 hours, 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

Under the rule, the gentlewoman from New York (Ms. ABZUG), the gentleman from New York (Mr. HORTON), the gentleman from Alabama (Mr. FLOWERS), and the gentleman from California (Mr. MOORHEAD), will each be recognized for 30 minutes.

The Chair recognizes the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the general purpose of H.R. 11656 is to provide that meetings of multimember Federal agencies shall be open to the public, with the exception of discussions of several specific areas. The bill also prohibits ex parte communications to and from agency decisionmaking personnel with respect to the merits of pending proceedings.

This bill is sponsored by 26 members of the Committee on Government Operations and was voted out of the committee by a vote of 32 to 7.

The Judiciary Committee, which also considered this bill, ordered it reported by voice vote; 86 Members of the House are sponsors of either this bill or a very similar version of it, and S. 5, which is also quite like H.R. 11656, passed the other body by a vote of 94 to 0 last November 6. In its present form, this measure represents a great deal of hard work on the part of the members and staff of both committees and an effort to meet all reasonable objections raised by agencies in the executive branch.

Absent special circumstances, there is no reason why the public should not have the right to observe the agency decisionmaking process firsthand. In the words of FCC Commissioner Glen O. Robinson who testified before the Government Information and Individual Rights Subcommittee on this legislation:

> Chief among the benefits (of the legislation) is increasing public understanding of administrative decisionmaking processes. * * * I do not know whether that understanding will lead to greater confidence in administrative decisionmaking. * * * Quite possibly, it could lead to less confidence. But either of these outcomes * * * can be beneficial: If, in the light of sunshine a Government agency shows itself to be deserving of trust, then by all means it should have it; conversely, if that same sunlight reveals an agency to be inept, inefficient, and not in pursuit of the public interest, then obviously that agency does not deserve, and should not have, public trust. (Hearings on H.R. 10315 and H.R. 9868, p. 98.)

The legislation requires that when an agency closes a meeting under one of the exemptions in the bill, it must make a recording or verbatim transcript of the closed portion and release to the public any part of the recording or transcript that does not contain exempt information. A second purpose of this requirement is to assure that a citizen has a meaningful remedy when a meeting has been illegally closed, namely, the release by the court of the transcript of the illegally closed portion.

The purpose of the provisions of the bill prohibiting ex parte communications is to insure that agency decisions required to be made on a public record are not influenced by private, off-the-record communications from those personally interested in the outcome.

SUMMARY OF MAJOR PROVISIONS OF THE LEGISLATION

I. OPEN MEETINGS

The open meeting provisions would apply to approximately 50 Federal agencies that are presently covered by the Freedom of Information Act and the Privacy Act, and are headed by a body of two or more members, a majority of whom are chosen by the President with the advice and consent of the Senate.

Meetings covered under the bill include not only sessions at which formal action is taken, but also those at which a quorum of members assembles to discuss the conduct or disposition of agency business. A chance encounter would not be a meeting within the meaning of the bill so long as no agency business is conducted or disposed of.

The bill requires that every meeting be open to the public unless it falls within one of the bill's 10 specific exemptions. In case of doubt as to whether a portion of a meeting is exempt, the presumption is to be in favor of openness. Even if a matter falls within an exemption, the discussion must be open where the public interest so requires.

No meeting may be closed unless a majority of the membership votes to take such action. Such a vote need not itself occur during a meeting and could properly be taken by circulating a written ballot or tally sheet in advance.

A copy of each vote on closing a meeting must be made available to the public whether or not the meeting or portion is closed. This will inform the public as to the full voting record of each agency member on openness questions. When a vote on the issue of closing fulfills the requirements for closing, an explanation of the action and a list of persons expected to attend the meeting must also be made public.

Agencies are required to publicly announce, at least 1 week prior to a meeting, its date, location, and other relevant information.

The keeping of a complete, verbatim transcript or electronic recording of each portion of a meeting closed to the public would be required—except for discussions dealing with adjudications or agency participation in civil actions—and any portion of each transcript or recording whose release would not have the effect set forth in one or more of the exemptions would have to be made available to the public. Under the bill as approved by the Government Operations Committee, deletions would be replaced by a written explanation of the reason and the statutory authority for each. Written minutes of open meetings will also be required to be kept and made publicly available.

Any person could challenge in court the closing of a meeting or any other violation of the openness requirements of the bill, and the burden of sustaining the closing or other action in question would be upon the agency. The court could enjoin future violations of the act or release the transcript of an improperly closed meeting.

II. EX PARTE COMMUNICATIONS

Section 4 of the bill would enact a general prohibition on ex parte communications between agency decisionmaking personnel, including commissioners and administrative law judges, and outside persons having an interest in the outcome of a pending proceeding. These provisions would apply to executive agencies without regard to whether they are headed by a collegial body or a single individual.

The communications prohibited by the ex parte section would include only those relative to the merits of the proceeding. Thus, an inquiry of an agency clerk as to the procedural status of an adjudication or rulemaking matter would not be unlawful under the bill. A violation of the prohibition could result in sanctions up to and including loss of the proceeding on the merits (as under existing case law). See, for example, *Jacksonville Broadcasting Corp.* v. *FCC*, 348 F. 2d 75 (D.C. Cir.) cert. denied, 382 U.S. 893 (1965).

SECTION-BY-SECTION ANALYSIS

Sections 1 and 2 of the bill entitle it the "Government in the Sunshine" Act and set forth a policy that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government.

Section 3 of the bill, which contains the open meeting provisions, would enact a new section 552b of title 5 of the United States Code. The new section would be composed of subsections (a) through (o), which provide as follows:

Subsection (a) contains definitions. Subsection (a) (1) defines "agency" to include any agency, as defined in the Freedom of Information Act, headed by a collegial body composed of two or more individual members, a majority of whom are appointed by the President and confirmed by the Senate, as well as any subdivision thereof authorized to act on behalf of the agency.

Subsection (a) (2) defines a "meeting" as an assembly or simultaneous communication concerning the joint conduct or disposition of agency business by two or more, but at least the number of individual agency members required to take action on behalf of the agency. A "meeting" does not include meetings held solely to take action under this section.

Subsection (a) (3) defines "member" as an individual who belongs to a collegial body heading an agency. If a majority of the members of an agency or subdivision are appointed by the President and confirmed by the Senate, then any member of the body in question is covered by the bill. For example, the Federal Open Market Committee, which sets our monetary policy, has 12 members, seven of whom are appointed by the President and confirmed by the Senate and five of whom are not. Since the FOMC is an "agency" under the legislation, all 12 individuals are "members."

Subsection (b) (1) provides that agency members shall not jointly conduct or dispose of agency business without complying with the provisions of this legislation.

Subsection (b) (2) provides that every portion of every meeting of an agency shall be open to public observation, except as provided in subsection (c). The agency must provide adequate seating space, visibility, and acoustics. The public is intended to be in the same room as the agency members.

Subsection (c) permits an agency to close a meeting and to withhold the transcript thereof where the disclosure of the information to be discussed can be reasonably expected to come within 1 of 10 exemptions. These exemptions, which roughly parallel those in the Freedom of Information Act, include—

First, material concerning the national defense.

Second, information related solely to the internal personnel rules and practices of an agency.

Third, information required or permitted to be withheld by any other statute containing particular criteria. I have been asked whether section 222(f) of the Immigration Act, 8 U.S.C. 1202(f), comes within this provision. I have reviewed that statute and I believe that it does qualify. The same is true as to 13 U.S.C. section 9, a part of the Census Title.

Fourth, information that would disclose trade secrets and commercial or financial material obtained from a person and privileged or confidential, as interpreted in cases such as *National Parks & Conservation Assn.* v. *Morton*, 498 F. 2d 765, 770 (D.C. Cir. 1974).

Fifth, a discussion that would involve accusing any person of a crime, or formally censuring any person.

Sixth, information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Seventh, investigatory information compiled for law enforcement purposes, if it falls into one of six specific categories listed in this paragraph.

Eighth, information contained in or relating to bank condition reports.

Ninth, information the premature disclosure of which would be likely to lead to significant financial speculation, significantly endanger the stability of any financial institution, or significantly frustrate implementation of a proposed agency action. The last part of this exemption will not apply where the content or nature of the proposed agency action has been disclosed to the public by the agency, or where the agency will be required to make such disclosure prior to taking final action on the proposal.

Tenth, discussions that specifically concern the agency's issuance of a subpena, or the agency's participation in a adjudication by the agency.

Subsection (d) provides methods and procedures for closing a meeting. A majority of the agency membership must vote to close and all votes on the issue of closing must be made public. If a meeting is closed, an explanation of the closing and a list of those expected to attend must be made public. A special short-cut procedure is provided in subsection (d)(4) for agencies who have a large volume of certain types of meetings and expect to close most or all of them.

Subsection (e) requires a week's notice of a meeting, unless agency business requires a lesser time period.

Subsection (f) requires a transcript or electronic recording to be made of a closed meeting, unless closed under exemption (10), relating to civil and adjudicatory proceedings. The transcript or recording shall promptly be made available to the public, except for such portions as the agency determines contain information falling within 1 of the 10 exemptions. The bill as reported by the Government Operations Committee requires that in place of each deletion, the agency must explain the reason and the statutory authority therefor. The Judiciary Committee has recommended that this provision be deleted, but we are opposed to their amendment and will request a separate vote on it when the bill is read for amendment under the 5-minute rule. For meetings that are open to the public—and the idea of the bill is that most agency meetings will be open—only minutes of the meeting need be kept.

Subsection (g) requires agencies to promulgate regulations implementing the legislation.

Subsection (h) provides for judicial review of alleged violations of the open meeting provisions. A plaintiff may sue where the meeting is held, where the agency has its headquarters, or in Washington, D.C. If the court finds that a meeting has been closed unlawfully, it may enjoin future violations or order the release of such portions of the transcript as do not contain exempt information. A court acting solely under this section may not invalidate the substantive agency action taken at the meeting in question, even if it was unlawfully closed. In a judicial proceeding for review of a substantive agency action, the reviewing court may consider, under 5 U.S.C. 706, whether the provisions of this bill have been complied with.

Subsection (i) authorizes an award of attorney fees to a party suing under this section who substantially prevails. Costs may be assessed against a plaintiff only where he has initiated the action primarily for frivolous and dilatory purposes.

Subsection (j) requires annual agency reports to Congress on compliance with this section.

Subsection (k) provides that this act does not affect rights under the Freedom of Information Act, except that the transcripts made under this act are to be governed by this act.

Subsection (l) provides that this section does not constitute authority to withhold information from Congress and does not authorize the closing of any meeting otherwise required to be open.

Subsection (m) provides that nothing herein allows an agency to withhold from an individual a record otherwise available to him under the Privacy Act.

Subsection (n) provides that if any meeting is subject to both this act and the Federal Advisory Committee Act, the provisions of this act shall govern.

EX PARTE COMMUNICATIONS

Section 4 contains the provisions of the bill regarding ex parte communications. It prohibits anyone having an interest in a proceeding to make an ex parte communication to an agency decisionmaking official relative to the merits of a proceeding once the proceeding has been noticed for a hearing. Communications made in violation of this prohibition are to be placed upon the public record.

For a violation of the prohibition, an agency would have discretion to impose sanctions. In an extraordinary instance, these could even include loss of the proceeding on the merits by the violator, but where the violator can demonstrate that the violation was inadvertent, the imposition of so drastic a sanction would be arbitrary and not proper.

GENERAL PROVISIONS

Section 5 makes two amendments of a conforming nature, and section 6 provides that the bill shall take effect 180 days after its enactment and that implementing regulations shall be promulgated prior to the effective date.

Mr. Chairman, I include the following letters in support of the pending legislation for the further information of the Members:

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., July 28, 1976.

Hon. BELLA S. ABZUG,
Hon. DANTE B. FASCELL,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVES ABZUG AND FASCELL: Consumer Federation of America, the nation's largest consumer organization representing more than 30 million consumers, enthusiastically supports the Government in the Sunshine Act (HR 11656).

It is no secret that public confidence in government is at an all time low. A major source of citizen cynicism is the growing conviction that government decisions are often made behind closed doors with access and input being too frequently the exclusive privilege of well-financed special interest groups. The public recognizes the transparence of the standard government position that it can only conduct business effectively if its proceedings are closed to the public.

The legislation which will be considered today is a sensible and drastically needed step in the direction of providing citizens with the opportunity to better scrutinize the vast number of meetings conducted daily at multi-member agencies. It also recognizes the importance of establishing procedures for ex-parte communications.

We are actively opposed to a series of amendments whose architect is Arthur Burns and whose sponsor will undoubtedy be Rep. Frank Horton.

1. DEFINITION OF MEETING

The first amendment would restructure the definition of meeting in such a way that if the announced purpose of the agency meeting was not to "conduct business" the meeting would not be classified as an "open meeting" which the public could automatically attend. Clearly this amendment could and would be used by agency officials intent on thwarting the goal of this legislation. How easy it will be to camouflage a business meeting behind some non-business sounding announced topic. With no objective standard to determine what is a meeting "to conduct business" the ability for judicial review of agency abuse will, practically speaking, be non-existent.

MINUTES VS. VERBATIM TRANSCRIPTS

The second amendment would permit the taking of minutes as opposed to the requirement of a verbatim transcript at "closed" meetings. Minutes taken by the most competent of people are no substitute for the comprehensive verbatim transcript. For example, a particular monologue, dialogue or phraseology may at the time of the actual meeting seem inconsequential and consequently either be omitted from the minutes or paraphrased. Yet later that very issue may be extremely important to affected persons. The participants and the public should never have to rely on minutes of the proceedings. If the issue is serious enough to warrant being discussed at a meeting, any discussion at that meeting should be transcribed. In closed meetings even more than open meetings there must be a check against inaccurate or incomplete minutes.

TRANSCRIPT EXEMPTION

The third amendment would exempt SEC and the Federal Reserve Board from the transcript requirement.

SEC/BANKING AGENCY EXEMPTION

The fourth amendment would be generic description have the practical effect of excluding the SEC and banking agencies.

There is no logical or equitable reason for either amendment and the amendments are particularly offensive because they are new examples of the FED'S consistent attempts to arrogantly transcend accountability.

Finally, we would like to emphasize our active support of an amendment which we understand will be introduced by you, Rep. Fascell. That amendment would require that at anytime there is a "deletion" from the transcript, there must be submitted a written statutory citation to that section of the law which would allow such a deletion. This amendment will ensure an additional measure of accountability into the bill.

Sincerely,

CAROL TUCKER FOREMAN,
Executive Director.
KATHLEEN F. O'REILLY,
Legislative Director.

JULY 27, 1976.

DEAR REPRESENTATIVE: This week the House will vote on the Government in the Sunshine legislation, H.R. 11656, which has been reported by both the Government Operations and Judiciary Committees following thorough hearings and committee debate. We urge you to support this legislation which provides for open meetings in multimember executive branch agencies and sets uniform standards for ex parte contacts. We also urge you to oppose the four Arthur Burns amendments to be offered by Representative Horton and to support the Fascell amendment.

In testimony more than ten years ago, prior to enactment of the Freedom of Information Act, the Federal Reserve testified that an information act would impair the Board's effectiveness both as an instrument of national economic policy and as a regulatory body. In the 94th Congress Arthur Burns made similar predictions of doom about the Sunshine bill, although he admitted in public testimony that the Federal Reserve Board has had no problem under the Freedom of Information Act, a statute of similar purpose and design. In spite of this admission, Burns has lobbied strenuously to remove the Board from the bill. He failed in the Senate and he failed in both House Committees. He should not succeed on the House floor.

The following four weakening amendments which will be proposed on the floor are overlapping because they are all designed to accomplish the same goal: complete or partial exemption of the banking agencies.

1. *Definition of Meetings:* The bill as reported defines a meeting which must be open in terms of what actually occurs—whether agency business is conducted or disposed of. This is an objective standard about which there can be little dispute—either business was conducted or it was not. The agenda for the meeting will state what is intended to be accomplished, but any determination of whether the provisions of the bill apply will be governed by what actually took place. If during a meeting a subject comes up which is covered by one of the 10 exemptions in the bill, the agency can move into executive session, a routine procedure.

The Burns amendment, in contrast, would allow a determination of whether the bill applied on the basis of the intended purpose of the meeting. Thus, if the intended purpose of the meeting is not to conduct business, but it gets conducted anyway, the open meeting provisions would not apply. Passage of this amendment would encourage agencies desiring to avoid open meetings to initiate "gatherings" for one purpose and use them for another. The public has had enough deceptions in government without this subterfuge.

If members are seriously worried that the bill might be interpreted as applying to informal conversations between commission members at social events or on the golf course, they can easily have a colloquy to clarify the legislative history.

2. *Verbatim Transcripts or Recordings:* The bill as reported requires a verbatim recording or transcript be made of any meeting which is closed under the exemptions in the bill, and the subsequent public release of any portions which it turns out are not subject to the exemptions.

The Burns amendment would delete any requirement for recordings or transcripts and substitute instead a requirement for minutes. Anyone who has ever attended a board of directors meeting knows what minutes are. They bear little resemblance to the content of the meeting and contain only what the attendees want to reveal.

In addition to the obvious deficiencies of summary minutes, there are strong reasons for taking transcripts or recordings at closed meetings. Any discussions covering non-exempt material which the public is entitled to know can subsequently be released verbatim. If the closing of the meeting is challenged, the court *in camera* can tell exactly whether the meeting should or should not have been closed and make a definitive ruling to guide future actions. And, disclosure of the transcript is the only remedy in the bill for improper closing of a meeting. Many state laws have far harsher remedies. Twenty-four of the 49 state sunshine laws have criminal penalties for improper closing of meetings, and 19 can render the actions taken at an improperly closed meeting void or voidable. H.R. 11656 has no similar provisions. The only remedy is release of the transcript or recording. Deletion of this provision will be an incentive for avoidance of the law. And there is no evidence that an agency which has transcripts or recordings of closed meetings will allow their improper release any more than they now allow improper release of documents (such improper release also subjects a person to criminal penalties under Title 18 of the U.S. Code).

3. *Transcripts or Recordings for the Fed and SEC:* This amendment is a variation on number 2. It would prohibit transcripts or recordings at meetings closed because of exemption 9(A), that is an agency which regulates currencies, securities, commodities, or financial institutions and the information would be likely to lead to significant financial speculation or significantly endanger the stability of any financial institution. The deficiencies in the amendment are the same as for number 2. It just applies to fewer agencies.

4. *Exemption of Banking Agencies:* The final Burns amendment would exempt from the bill any agency responsible for national monetary policy or regulation of financial institutions except for certain programs such as truth-in-lending, fair credit reporting, fair housing, equal credit, and home mortgage disclosure. There is no rational basis for exemption of these agencies which have for so long tried to hide from public view while at the same time impacting the lives of citizens.

Finally, one important corrective amendment which we urge you to support will be offered by Representative Dante Fascell to require a reason and statutory authority for deletions from the transcripts or recordings of closed meetings. This is an important regulatory reform amendment to permit accurate oversight of agency decisions. Without such minimal information, citizens will have no knowledge of why the meeting was closed and will be put in the position of challenging the agency willy-nilly or not at all. The Freedom of Information Act requires an agency to give a citizen an explicit reason and citation for denial of information. This has not only not been a burden; it has streamlined the operation of the Act. There has been no showing it would not similarly apply here, and without such a requirement in the Sunshine Act there will be no ability by the public or the Congress to oversee the discretionary actions of the federal agencies.

Sincerely,

JOAN CLAYBROOK.

Mr. MARTIN. Madam Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from North Carolina.

Mr. MARTIN. Madam Chairman, let me thank the gentlelady from New York, the distinguished chairman of the subcommittee, for yielding to me.

In order to clarify subsection 3(c) of this bill, H.R. 11656, in this subsection are set forth some 10 standards that would qualify an agency to close its meeting to the public and not disclose its deliberations.

When I served as county commissioner in Mecklenburg, N.C., we adopted a similar policy requiring open meetings—subject to certain reasonable exceptions. One exception which we found to be essential to our duties was the consideration of prospective real estate transactions. We knew that if we publicly discussed proposals to purchase or lease land or facilities and disclosed any details about it, the price of that land or facility would rise. That would especially be true if the owner/seller could see how much we might be willing to pay, or that our alternative opportunities were limited or that we were especially anxious to buy. So we closed our meetings until we could get an option on one or more properties.

In examining subparagraph 3(c)(9)(B) of this bill, I find language which may or may not allow this principle. Subparagraph (9b) protects "information the premature disclosure of which would * * * significantly frustrate implementation of a proposed agency action." I would ask my colleague whether it is intended to include under this exception the preliminary discussion of proposed real estate transactions.

Ms. ABZUG. To answer the gentleman from North Carolina (Mr. MARTIN), Madam Chairman, I think there is no question that subsection (9)(B), which reads: "(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action . . . ," would cover very well the circumstance which the gentleman from North Carolina (Mr. MARTIN) describes.

Mr. MARTIN. Madam Chairman, I thank the gentlewoman from New York for that answer, and I appreciate the gentlewoman's yielding.

Mr. HORTON. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I subscribe wholeheartedly to the objectives of this legislation. The public's faith in the integrity of Government rests on public understanding of the reasons for governmental decisions, and on the accountability of Government officials for those decisions which set legislative or administrative policies which impact on the Nation as a whole. However, as recognized in the declaration of policy of H.R. 11656, the public is not necessarily served by complete and unfettered disclosure of all Government decisionmaking processes. The words "fullest practicable information" as used in the bill indicate the need for certain sensible limitations.

My principal concern is that the Congress which has enacted the two basic planks for Federal information policies, the Freedom of Information Act and the Privacy Act, should adopt a sunshine bill which is consistent with the principles laid down in the two landmark bills we have already enacted. The bill before you does not fully meet this standard since it erodes the clarity and firmness of the FOI Act exemptions, and threatens to erode the privacy protections we have erected for those involved in adjudications before collegial agencies.

I believe that a number of provisions of H.R. 11656 are inconsistent with the declaration of policy contained in the bill itself, and that these provisions would permit or mandate disclosures which would injure the rights of individuals and injure the ability of the Government to carry out its responsibilities.

I addressed my concerns with several specific provisions of H.R. 11656 in the Committee on Government Operations, and in a statement filed with the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary.

At that time, I took issue with the following features of H.R. 11656: First, the verbatim transcripts requirement for closed meetings, second, the definition of "agency," third, the definition of "meeting," fourth, the identification of persons expected to attend a closed meeting, fifth, the prescribed venue for actions brought under this legislation, sixth, the personal liability of individual agency officials, and seventh, the unfettered disclosure of all ex parte communications.

Since then certain improvements have been made by the Judiciary Committee, but serious problems still exist. But I feel it is possible to amend the bill in a way that would let every bit as much sunshine behind the doors of Government agency deliberations and provide a brand of sunshine which is less clouded by procedural redtape and confusion than that created by H.R. 11656.

If the Judiciary Committee amendments are adopted my remaining differences with the bill concern primarily the verbatim transcript requirement and the definition of meeting and at an appropriate time I shall offer an amendment to each of these provisions.

The verbatim transcript requirement of H.R. 11656 as reported by the Government Operations Committee could effectively destroy the provisions of the bill which permit certain meetings to be closed. While the provisions of the bill enable an agency to delete, by recorded vote at a subsequent meeting, sensitive portions of a transcript, they also require the agency to furnish the public what, in effect, are summaries of the deleted portions. In the case of agencies involved in the regulation of financial institutions, for example, harmful inferences drawn from the deletions could result in market speculation or damage to the stability of our financial markets and institutions.

The possibility of later disclosure of a verbatim transcript will inhibit free discussion about sensitive matters and thus impair the decisionmaking process in instances where candor is essential.

Moreover, the effect of the transcript requirement of the bill when coupled with relevant procedural requirements would lead to a situation bordering on the ridiculous.

The bill provides that votes to close meetings must be cast in person, no proxies being permitted. Thus a meeting must be held to vote on closing a subsequent meeting or meetings, and another meeting must be held to vote on any change in the time, place, or subject matter of a meeting already announced.

When these procedural requirements are coupled with the verbatim transcript or electronic recording requirements, the prospect is one of mind-boggling infinity. Thus, when a meeting is properly closed, the complete transcript or electronic recording of the proceedings must be made available to the public except for such portions determined by a recorded vote to fall within the exemptive provisions. In order to avoid the disclosure of such portions of the transcript, the meeting called to discuss, consider and vote on the proposed deletions must also be closed pursuant to the procedural requirements cited above. Since this meeting would be closed to consider information coming within the exemptive provisions of the bill, the complete transscript or electronic recording of such meeting must also be made available to the public except for those portions determined by a recorded vote to fall within the exemptive provisions. Again, in order to avoid the disclosure of such portions of the transcript of the second closed meeting, a third meeting called to consider and vote on the proposed deletions stemming from the second meeting must be closed, and the transcript of that meeting must be examined at a fourth closed meeting and so on and on ad infinitum. Obviously, some rule of reason must prevail in the implementation of such a provision, but the letter of the law, if observed, would be paralytic in its effect.

The Judiciary Committee amendments eliminate the requirement for agency members to vote upon deletions from transcripts and the requirement that agencies provide explanations of the reasons for deletions and the exemption relied upon. However, harmful inferences can still be drawn from the deletions and the possibility of later disclosure will inhibit full exchange of views on sensitive issues.

I do not subscribe to the position that the transcript requirement is essential to the enforceability of the act and I feel that a reasonable compromise can be worked out in this area along the lines of an amendment that I plan to introduce at an appropriate time. The amendment would substitute minutes for verbatim transcripts or electronic recordings. The discovery procedures available to U.S. district courts do not depend upon the availability of verbatim transcripts or electronic recordings of agency meetings. While the concepts embodied in H.R. 11656 stem from "sunshine" or "open meeting" statutes of the States, none of the 49 State statutes, so far as I can determine, has a verbatim transcript requirement for either open or closed meetings.

Meetings covered by the bill should be those gatherings for the purpose of conducting official agency business of at least the number of individual agency members required to take final action on behalf of the agency. The meeting definition in both versions of H.R. 11656 would apply even to casual or social encounters which were not gatherings for the purpose of acting in behalf of the agency. The Judiciary Committee version is the more burdensome and refers to any "assembly or simultaneous communication." Accordingly, I shall offer an amendment to narrow the definition to cover meetings for the purpose of conducting agency business.

I feel that venue for actions brought under this legislation should be limited in accordance with language in the Judiciary Committee amendments, that is to the district in which the agency in question has its headquarters or where the meeting in question occurred or in the District Court for the District of Columbia. The bill as reported by the Committee on Government Operations permits such actions to be brought also where the plaintiff resides or has his principal place of business. This could lead to duplicative lawsuits spread across the country covering the same agency meeting or meetings

I oppose the provisions of H.R. 11656 as reported by Government Operations imposing personal liability on individual agency members for attorney's fees and court costs. Th assessment of attorney fees and other litigation costs personally against individual members of an agency can only lead to a further diminution of the rewards of public service. This provision would not only discourage qualified persons from accepting agency appointments, but would inhibit performance of official duties by those in office. The Judiciary Committee amendment prudently deletes this requirement.

It is not possible to estimate the costs of complying with the provisions of H.R. 11656. Certainly the time of a majority of the entire membership of an agency spent in the repeated voting sessions attendant upon closed meetings; the time spent by lawyers and other staff members examining documents; litigation costs arising from actions created by the bill; the administrative burden of preparing a verbatim transcript of each closed meeting, of deleting exempt portions and of providing a copy of the remainder to the public will be significant.

Let me not be misunderstood. My amendments are not intended to weaken the disclosure requirements of the bill but rather to improve it by achieving a balance between the disclosure requirements and the need for government to operate effectively. Neither complete confidentiality nor complete disclosure is desirable and we need to guard against the temptation to overcompensate for past secrecy in today's morbid climate of distrust and suspicion.

Mr. FLOWERS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I shall be very brief here. Our committee, the Committee on the Judiciary, and the subcommittee which I chair, the Subcommittee on Administrative Law and Governmental Relations, was referred this bill on a sequential basis.

The gentleman from Texas, the distinguished chairman of the Committee on Government Operations, and I, as well as other Members have been somewhat concerned in the last year and a half over what we have gotten ourselves into with dual reference and sequential reference. I am afraid that unless we straighten out our proceedings in this regard before the organization of the next Congress, we are going to find a whole lot of redundant work being done in the 95th Congress like it has been done in the 94th Congress. I hope that someone with more wisdom than I can figure out the solution while maintaining the jurisdictional integrity of the various committees. But I think were it not for the fact that the gentleman from Texas is in the peculiar situation of being the ranking Democrat on the Committee on the Judiciary and the chairman of the distinguished Committee on Government Operations as well, thereby having a position of leadership on both committees having jurisdiction not only of this legislation but of some previous legislation, we could have had some problems in the handling of the bill. Of course, I always welcome the opportunity of working with my distinguished friend from Texas, but we both agree that there is too much ground to be plowed for us to be going over each other's work.

Mr. BROOKS. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

I want to commend the gentleman from Alabama for doing a splendid job on the Committee on the Judiciary in handling this legislation, and I want to say that I share with him a feeling that this is a duplicating effort on the part of Congress.

Mr. BROOKS. We refer a bill to the "A Committee," it works up a bill, the subcommittee has hearings, the legislation is reported by the full committee, and then the bill goes to the Rules Committee to come to the House, and then we have to make up our mind here in Congress to vote for it or not. It is a duplication of effort; confusing bothersome, troublesome, generally a pain, inefficient, and often ineffective when we have to send legislation to another committee and start over through the whole series.

I would say I hope when this new Congress starts we can change this sequential reference because the time has come when we have bills referred to four or five committees. If we want to get anything done in Congress that is not the way to do it. I want to say I share the feelings of my friend, the gentleman from Alabama (Mr. FLOWERS) on this particular subject.

Mr. FLOWERS. We have now before our subcommittee a bill that is referred to four committees for the purposes of those matters under the jurisdiction of the several committees. As the gentleman knows this generally means that when one has a bite at the apple he just takes a look at the apple and takes the bite from the place where it looks best.

We are not always going to be on the receiving end of this matter, because the last time we had an issue between two committees it was our committee that had primary jurisdiction and the Government Operations Committee had the second bite, so this is just an evening out process and in working with the leadership on both sides we hope to circumvent this problem of redundancy in the future.

Mr. HORTON. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from New York.

Mr. HORTON. Madam Chairman, would the gentleman explain to the House and to the committee what he intends to do with regard to the action taken by the Judiciary Committee? What is his intention?

Mr. FLOWERS. If the gentleman will allow me to proceed, I will speak very briefly to the merits and what I intend to do here this afternoon.

We had sequential reference in our committee and we then went over the entire bill with a view to making whatever amendments we deemed to be appropriate. We did make about 10 or 11 amendments, some of them more or less technical in nature and some 3 or 4 rather substantive in nature. I intend at the appropriate time to offer an amendment in the nature of a substitute which will embody all of the amendments that were approved by the Judiciary Committee as well as those amendments that were approved by the Government Operations Committee. There would then be no committee amendments to the bill coming from either committee.

Then the parliamentary situation, as this Member would understand it, is at that point the substitute would be subject to amendment. The gentleman has some amendments, I know the gentleman from California (Mr. MOORHEAD), the ranking minority member on the subcommittee has some amendments, as well as the gentleman from Ohio (Mr. KINDNESS), and we will proceed on those amendments.

I understand that there will be objection on the part of the Government Operations on this side of the aisle to one of the amendments that is in the package of the substitute. The gentleman from Florida (Mr. FASCELL) will offer an amendment to the substitute at one point dealing with the transcript, and then we will proceed as quickly as possible on each one of these things and finish the matter in a very short time.

Mr. HORTON. Madam Chairman, if the gentleman will yield again, I feel that is a very expeditious way to handle this matter because it would be very complicated if we have to handle it by amendment, but with the substitute we would have the entire bill as passed by the Government Operations Committee as amended by the Judiciary Committee, and we can exercise our will on that basis.

Mr. FLOWERS. Madam Chairman, meetings of agencies subject to the provisions of this bill are to be open to public observation unless information being discussed at the meeting falls within an express exception. Public awareness and interest in Government are important in our democratic procedures. This bill, by promoting increased openness in Government, should lead to improved decisionmaking and greater accountability on the part of the Government.

The Committee on the Judiciary was referred this bill on a sequential basis and prior to the Committee on the Judiciary reporting the bill, the bill had been the subject of a report by the Committee on Government Operations. Since the two committees are in essential agreement on the bill, I will confine my remarks to the amendments proposed by the Committee on the Judiciary.

First, the committee recommended a change in the definition of "meeting" as provided in new section 552b added to title 5 by the bill. As so amended, the term "meeting" would mean an assembly or simultaneous communication concerning the join conduct or disposition of agency business by two or more, but at least a number of individual agency members required to take action on behalf of the agency. There would be an exception for meetings required to decide matters covered by subsection (d), the subsection concerning the closing of meetings. The meetings covered by the exception would concern matters which are procedural in nature and involve decisions in voting on closed meetings and on announcement of meetings. Such meetings could not include the conduct or disposition of any other agency business. The committee also recommended an amendment to subsection (b) to add language providing that agency members cannot jointly conduct or dispose of agency business other than as provided in new section 552b. The amended subsection would not preclude agencies from disposing of noncontroversial matters by written circulations.

The subcommittee added the words "or permitted" to exception (3) of subsection (c), which is the exception permitting closing of meetings involving information authorized to be withheld by statute. Prior to the amendment, only those statutes which "required" the withholding of information would authorize the closing. By the insertion of the words "or permitted", many statutes which now permit the withholding of information but allow judgment or discretion will be given force and effect. This amendment is consistent with the language and purpose of those statutes which provide the basic authority for such withholding.

Exception (7) of subsection (c) concerns the closing of meetings in order to avoid disclosure of investigatory records compiled for law enforcement purposes. The exceptions in this bill were patterned after the Freedom of Information Act as set forth in the Administrative Procedure Act provisions of title 5 of the United States Code in section 552. That section concerns written records. This bill has a slightly different orientation and concerns the right of the public to observe agency meetings at which information will be given in oral discussions. This amendment makes a necessary clarification as to the exception so that it applies to information which, if written, would be contained in such investigatory records.

Exception (9) permits the closing of meetings when the premature disclosure of certain information could lead to financial speculation, endanger the stability of a financial institution, or frustrate the implementation of a proposed agency action. In the latter case, the exception would not be available after the content or nature of the agency action had already been disclosed to the public. Amendments were added by the committee to clarify the exception by express language as to the time when the exception would no longer be available. This was done by providing it would not be available after the disclosure or after public notice of rulemaking as provided in the Administrative Procedure Act.

Paragraph (f) of subsection (d) permits the closing of meetings pursuant to agency rules in certain instances where a majority of the business would justify closing, in other words, meetings that fit certain categories. The committee added a clarificaion to better identify the meetings subject to the exception and this was done by deleting the words "of the portions" where the original language would have required that a majority of the portions of agency meetings would have to be closed in order to permit closing by rules, and substituting therefor, the majority of meetings for the same purpose, it being very difficult to determine a majority of "portions" of meetings.

TRANSCRIPT REQUIREMENT

Subsection (f) of the new section concerning transcripts of closed meetings and requires that a complete transcript or an electronic recording which is adequate to record the proceeding shall be made of each agency meeting or portion of a meeting closed to the public with the single exception of meetings closed to the public pursuant to paragraph 10 of subsection (c). The committee considered the difficulties incident to the review of the transcript of closed meetings required by the original provisions of the bill. The bill would have required that each deletion authorized by an exception in the section would be made by recorded vote of the agency taken subsequent to the meeting. It was pointed out this would require a considerable expenditure of the time of the senior officials of the agency and that this would be cumbersome and time consuming. It was determined that the intent of the bill could be adequately carried out by deleting this provision and similarly deleting the provision requiring a written explanation of the reason and statutory basis for each deletion.

These amendments would not change the requirements of the section making revised copies of the transcript or transcription of the electronic recordings available to any person upon payment of the cost of duplication or its transcription. Further, it is provided that if the agency determines it to be in the public interest, the material can be made available to the public without cost. The complete verbatim copy of the transcription or the complete electronic recording of each meeting closed to the public would be maintained by the agency for at least 2 years after the meeting or until 1 year after the conclusion of the agency proceeding with respect to which the meeting was held, whichever occurs later.

COURT JURISDICTION UNDER SECTION 552b(h)

Subsection (h) provides jurisdiction in the district courts of the United States to enforce the requirements of sections (b) through (f) of the new section. Such actions may be brought by any person against the agency prior to or within 60 days after the meeting at which the alleged violation of the section occurred. The time limit would be varied in the event that a public announcement of the meeting had not been made in accordance with the requirements of the section. The original version of the bill would have provided jurisdiction in the courts to bring such actions against the agency or its members. The committee recommended the deletion of the provision for joinder of members for since the subsection authorizes an action against the agency, there would be no necessity to join individual members to gain court jurisdiction.

Further, the committee also amended the bill to delete the provision authorizing the assessment of court costs against individual agency members. These amendments remove the objection that individual agency members would be subjected to suit for official acts and possibly being assessed costs and attorneys fees in these circumstances. In line with these principles, the committee recommends the deletion of the provision in original subsection (j) which would have permitted the assessment of costs against individual members of an agency.

Objections were raised at the hearings on the bill concerning the breadth of the provisions concerning venue for actions authorized by the bill. The committee concluded that there should be no limitation upon the jurisdiction provided in the bill nor persons who could bring the actions contemplated by the bill. However, the bill concerns meetings and matters relating to meetings that have a definite relation to certain locations, and the practical aspects concerning Government action and court consideration of these matters make it logical to provide venue in the district where the agency is held, where the agency has its headquarters, or in the District Court for the District of Columbia.

SCOPE OF JUDICIAL REVIEW

Subsection (i) of subsection 552b as contained in the bill referred to the committee would have provided that any Federal court otherwise authorized by law to review agency action could on application of any person properly participating in the judicial review proceedings inquire into the violations of the requirements of the section and afford any relief deemed appropriate. The committee recommends deletion of this language. It was concluded that the provisions of section 706 of title 5 of the Administrative Procedure Act provides adequate authority to inquire into the matters apparently referred to in original subsection (i).

Section 706 concerns judicial review and details the basis for invalidating agency action. Item 2(d) as contained in that section authorizes a court to set aside agency action which was taken "without observance of proceedings required by law." In consideration of matters covered by this section, the courts, in reviewing actions, would then therefore be prepared to proceed in accordance with their normal procedures under section 706. The weight to be given violations of the provisions of section 552b would be considered as are other matters covered by this provision in the Administrative Procedure Act. The reviewing court would then be in a position to determine whether the violation was of material prejudice to the party involved.

EX PARTE PROCEEDINGS

Section 4(a) of the bill adds a new subsection (d)(1) to section 557 of title 5, United States Code, concerning ex parte communications in relation to adjudication and formal rulemaking under the Administrative Procedure Act. Section 557 concerns decisions based on the record of hearings conducted in accordance with section 556. The new subsection (d) added by this bill would provide express limitations and procedures relating to ex parte communications relative to the merits of agency proceedings. The bar would apply to ex parte communications relative to the merits of such proceeding by interested persons outside the agency made to agency personnel involved or expected to be involved in the decisional process.

Similarly, no such agency official could make an ex parte communication to an interested party outside the agency. The incorporation of the new subsection in section 557 results in the provisions being made applicable to adjudications and to formal rulemaking. The language of the bill provides for communications or memorandum of oral communications to be made a part of the public record of the proceedings along with written responses and memorandums of oral responses. In the event there is such an ex parte communication, the agency, administrative law judge, or presiding employee may require a party to show cause why his claim or interest in the proceeding should not be denied, dismissed, or disregarded, or otherwise be acted upon adversely.

As introduced, the bill would have also amended the Freedom of Information Act provisions of section 552(b)(3) to limit the exception for information covered by statutes to only information covered by statutes which require that information of a particular type or criteria be withheld. This would not provide an exception for statutes which permit the agency to determine whether such information should be released or not. The amendment was made because the language is unduly restrictive. For example, the section concerning release of atomic energy information permits a continuous review of restricted data to permit declassification where information may be declassified "without undue risk to the common defense and security" 42 U.S.C. 2162.

Mr. Chairman, I urge the approval of the bill with the amendments recommended by the Committee on the Judiciary.

Madam Chairman, I reserve the balance of my time.

Mr. HORTON. Madam Chairman, I yield 10 minutes to the gentleman from California (Mr. McCloskey).

The CHAIRMAN. If there is no objection, the Chair would like to recognize the gentleman from California (Mr. Moorhead) for 30 minutes and then come back to the gentleman from New York (Mr. Horton).

The Chair now recognizes the gentleman from California (Mr. Moorhead) for 30 minutes.

Mr. MOORHEAD of California. Madam Chairman, I yield myself such time as I may consume.

Mr. HORTON. Madam Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from New York.

PARLIAMENTARY INQUIRY

Mr. HORTON. Madam Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. HORTON. Madam Chairman, is it the intention of the Chair to rotate?

The CHAIRMAN. Yes, that is the intention of the Chair.

Mr. HORTON. Would the gentleman from California (Mr. Moorhead) then have 30 minutes before I come back to my time?

The CHAIRMAN. The gentleman will probably use a portion of that 30 minutes himself. We will then come back to the gentlewoman from New York (Ms. Abzug) and to the gentleman from New York (Mr. Horton).

Mr. HORTON. Madam Chairman, I thank the Chair.

Mr. MOORHEAD of California. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this piece of legislation that is before us has a very commendable goal, that is, to give the people of America an insight and information as to the operation of our Government. However, this right also must be balanced against a very delicate scale as to the damage and mischief that can be done in any given instance in holding back the effective operation of Government. It must be balanced if we are going to do the job that is required of us. Government in the sunshine is not logical if our Nation's security is compromised by such disclosures. Sunshine is blatantly unfair, perhaps unconstitutional, if it impinges upon individual privacy rights. Sunshine is irrational if it interferes with or threatens our Nation's economic stability or the value of our currency.

My point is that the idea behind Government in the sunshine legislation is attractive and valid only with respect to certain governmental activities. Everyone in this House knows that there are certain activities of Government that cannot and should not be in the public realm or released for general distribution. So, in drafting this type of legislation, we must be very careful about every detail of its impact. Sunshine legislation should not be used as a vehicle to interfere with Government agencies in the valid performance of the functions for which they were created.

H.R. 11656, as amended by the Committee on the Judiciary, goes a long way towards recognizing the important balance of which I am speaking. Both the judicial review and venue provisions in the bill have been improved. An irrational and unnecessary punitive provision imposing liability for court costs and attorneys' fees on individual agency officials has been removed. Importantly, the Judiciary version of this legislation has made the controversial verbatim transcript requirement more reasonable by allowing the deletion of exempt material from meeting transcripts. If this onerous and contradictory requirement is retained in the final bill, it is my hope that the Judiciary modification will also be retained.

Finally, an unwise attempt to reverse the Supreme Court's decision in *Administrator FAA* v. *Robertson,* 422 U.S. 255 (1975), has been altered.

It is my hope that all of the improving amendments added to H.R. 11656 by the Committee on the Judiciary will receive favorable action in this House. These amendments would make this legislation less ambiguous, less likely to produce extensive litigation, and far less likely to impose unrealistic and unfair burdens on Government agencies and officials.

I also strongly urge that the House favorably consider additional improving amendments that will be offered by my good friend and colleague, the gentleman from New York (Mr. Horton). As it comes to the floor, H.R. 11656 defines "meeting" in a confusing and ambiguous manner. This definition is pivotal in the understanding of the scope of the Government in the sunshine legislation. More specificity is required and the amendment of the gentleman from New York (Mr. Horton) would accomplish that.

The gentleman from Ohio (Mr. Kindness), a member of our Judiciary Subcommittee, also has a very important amendment to offer to this legislation, specifying which agencies are to be subject to this act.

I will offer an amendment later on in the debate which would provide that persons bringing an action under this legislation must meet normal Federal court standing requirements.

The legislation, as it is presently written, changes the present court rules to allow any individual, whether he has an interest or not, to bring litigation. This only causes a disruption of our entire court system. It allows professional litigators to get involved for whatever purposes they might want to, many times to make a case for themselves or to make a financial benefit of some kind through encouraging groups to finance their actions. I will offer an amendment which will do away with this particular provision.

I believe that we have made some substantial steps toward improvement in the action of the Judiciary Committee, and for that reason my comments on the sequential referral would not be the same as some of my colleagues have been earlier. I think in this particular case we have made substantial improvements in the case of sequential referrals. I realize, however, that many times it does cause a delay in getting legislation before the House.

My purpose here today is not to be obstructive to this legislation. I strongly agree with the ideals and principles underlying Government in the sunshine legislation. I do not want to hurt the operation of our Government, and for that reason I am supporting the amendments I have already referred to.

Ms. ABZUG. Madam Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. Fascell).

Mr. FASCELL. Madam Chairman, I rise in support of H.R. 11656, the Government in the Sunshine Act.

As the principal sponsor of this legislation in the House, I urge that it be adopted. The bill would make a long overdue reform in our governmental operations so as to help restore confidence among the public.

The bill has been carefully considered for many years. It has been introduced in the 92d, 93d, and 94th Congresses. There have been many hearings by various committees in the House and Senate, and there have been extensive contacts and consultations with the executive branch agencies affected.

The Sunshine measure builds on long experience with the Freedom of Information Act, the Administrative Procedures Act, and the Privacy Act. It is coordinated with those Acts so as to form a balanced and comprehensive information policy in the Federal Government.

The basic justification for this legislation is that citizens have a right to know what is being done by Federal agencies. They need to know not only the final decisions, but the discussions which go into those decisions.

Very few people would argue with the principle of Government in the sunshine. Actually, this is the cornerstone of our democracy. Without public access to information on governmental actions, there can be no adequate basis on which individual citizens can form judgments and cast their votes for those who exercise the functions of Government.

To the extent that secrecy exists in Government, I believe that by and large it is the product of inertia and the following of what seems at first glance to be the easiest expedient—that of withholding information from the public. After all, if the public does not know what happened or what has been done it cannot fault the officials who are responsible for such actions. Thus, the officials involved may feel that by excluding the public they can be safely immune from criticism if the results are not favorable.

Yet, in the long run, such secrecy causes more problems than it solves. Eventually, the truth usually leaks out, and when this happens after-the-fact, it breeds public distrust and condemnation which may be directed against officials other than those responsible for any misdeeds. The whole Government suffers when our people perceive that it is working secretly against them.

What we need is a means to shatter the complacency of officials who needlessly follow practices of secrecy and make it so difficult to operate in such a manner that a policy of open government becomes the easy way out. Then we will have true "government in the sunshine" as officials learn that opening the decisionmaking process to the public is not only harmless, but beneficial.

In seeking to open the conduct of public business by Federal agencies, we in the Congress are asking no more than we have already imposed on ourselves. In 1973, the House adopted legislation which I cosponsored amending the rules to strengthen the requirement for open hearings and open committee meetings including meetings for the markup of legislation. Prior to that action, 56 percent of House hearings and meetings were open to the public in 1972. In contrast, under the stronger open meetings rule adopted in the 93d Congress, 92 percent of all House committee hearings and markup sessions were open to the public in 1974.

I have seen no drastic adverse consequences as a result of the new congressional open meetings policy. Instead, the legislative output has been stepped up, and we can point with pride to the fact that any member of the public can find out virtually all he wants to know about congressional actions, if not more than he wants to know.

The legislation before you would take similar action with respect to Federal agency meetings. Some 50 agencies headed by more than one governing member, appointed by the President and subject to Senate confirmation, come under its provisions. These include such agencies as the Civil Aeronautics Board, the Federal Communications Commission, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Securities and Exchange Commission, and others.

H.R. 11656 sets forth the policy that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. It is the purpose of the act to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities.

Under the bill, agencies may close meetings if the matters to be discussed fall within 10 exempted areas. These areas include national defense and foreign policy, internal personnel practices, information required or permitted to be withheld by another statute, trade information, law enforcement records, and information used by agencies that regulate the supervision of financial institutions.

These exemptions give ample leeway to any agency to protect information where there is a legitimate public interest in secrecy. The exemptions generally parallel the Freedom of Information Act and are consistent with the sound criteria developed through legislative study, administrative experience, and judicial interpretation.

We have included provisions under which a member of the public can go to court to challenge an agency's action closing a meeting or portion thereof. Reasonable attorney's fees may be awarded to a successful plaintiff at the discretion of the judge.

In cases where meetings are closed to the public, the agency is required to keep an electronic recording or transcript. In such cases, or where portions of meetings are closed, the original bill required that the agency explain the reason and statutory authority and provide a summary or paraphrase of the deleted material. The Government Operations Committee, after hearing objections to this from the Federal Reserve Board and others, approved a compromise which merely required a statement of the reason and statutory basis. Unfortunately, the Judiciary Committee amendments would strike even this requirement, so that only a blank space would be left in a transcript without even a hint of what had been removed, or by what authority. I hope that this proposed change is rejected by the House.

One of the reasons for requiring some reference to deleted material is to enable citizens to have some indication of the subject matter. This would enable them to exercise their rights to judicial review. Under the bill, a judge may examine a transcript in camera to determine whether deletions fit within the stated exemptions. Unless a person knows in general the type of subject affected, however, he would be unable to challenge a deletion.

I know that many Members have been contacted by the Federal Reserve Board or by other agencies with respect to provisions of the legislation. Each of their objections was considered in both the subcommitte and full Government Operations Committee, and further in the Judiciary Committee in many instances. We took votes on each objection. Some amendments were approved in line with agency recommendations. The others were found to lack merit, after extensive debate. There have been one or two subsequent matters raised, but on close examination, there also lack merit.

The bill sets forth a workable and practical system for opening up the operations of the agencies to public scrutiny. It make no monumental changes, since to a large extent the bill will codify what agencies are already doing by regulation. In general, the agencies have no great problem with it. Even the burden on agency heads for complying with the requirement of votes on deletions has been exaggerated. This could easily be done by circulating a tally sheet. No second meeting is required.

It is true that the Federal Reserve Board will probably never be satisfied with any legislation which seeks to open its operations even partially. The agency would like to be excluded completely from the bill. Lacking that, it would like to avoid keeping a transcript. This is absurd. Even in the Congress, we keep transcripts on all our meetings. We deal with national security and other information at least as sensitive as anything done by the Federal Reserve Board.

We have listened to everything the Board has said and have more than compromised by approving a specific exemption for financial regulatory agencies which will enable them to close up anything with significant information discussed. To allow them to operate in total secrecy without even keeping a transcript would be a serious mistake.

The agencies' reasonable concerns have been accommodated. We have included a section on ex-parte contacts which is not controversial. In short, the bill takes a fair and balanced approach toward the goal of increased public involvement in the governmental process.

I urge that the Government in the sunshine bill be approved.

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., July 28, 1976.

Hon. BELLA S. ABZUG,
Hon. DANTE B. FASCELL,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVES ABZUG AND FASCELL: Consumer Federation of America, the nation's largest consumer organization representing more than 30 million consumers, enthusiastically supports the Government in the Sunshine Act (HR 11656).

It is no secret that public confidence in government is at an all time low. A major source of citizen cynicism is the growing conviction that government decisions are often made behind closed doors with access and input being too frequently the exclusive privilege of well-financed special interest groups. The public recognizes the transparence of the standard government position that it can only conduct business effectively if its proceedings are closed to the public.

The legislation which will be considered today is a sensible and drastically needed step in the direction of providing citizens with the opportunity to better scrutinize the vast number of meetings conducted daily at multi-member agencies. It also recognizes the importance of establishing procedures for *ex-parte* communications.

We are actively opposed to a series of

amendments whose architect is Arthur Burns and whose sponsor will undoubtedly be Rep. Frank Horton.

1. Definition of Meeting

The first amendment would restructure the definition of meeting in such a way that if the announced purpose of the agency meeting was not to "conduct business" the meeting would not be classified as an "open meeting" which the public could automatically attend. Clearly this amendment could and would be used by agency officials intent on thwarting the goal of this legislation. How easy it will be to camouflage a business meeting behind some non-business sounding announced topic. With no objective standard to determine what is a meeting "to conduct business" the ability for judicial review of agency abuse will, practically speaking, be non-existent.

2. Minutes vs. Verbatim Transcripts

The second amendment would permit the taking of minutes as opposed to the requirement of a verbatim transcript at "closed" meetings. Minutes taken by the most competent of people are no substitute for the comprehensive verbatim transcript. For example, a particular monologue, dialogue or phraseology may at the time of the actual meeting seem inconsequential and consequently either be omitted from the minutes or paraphrased. Yet later that very issue may be extremely important to affected persons. The participants and the public should never have to rely on minutes of the proceedings. If the issue is serious enough to warrant being discussed at a meeting, any discussion at that meeting should be transcribed. In closed meetings even more than open meetings there must be a check against inaccurate or incomplete minutes.

3. Transcript exemption

The third amendment would exempt SEC and the Federal Reserve Board from the transcript requirement.

4. SEC/Banking Agency Exemption

The fourth amendment would by generic description have the practical effect of excluding the SEC and banking agencies.

There is no logical or equitable reason for either amendment and the amendments are particularly offensive because they are new examples of the FED's consistent attempts to arrogantly transcend accountability.

Finally, we would like to emphasize our active support of an amendment which we understand will be introduced by you, Rep. Fascell. That amendment would require that at anytime there is a "deletion" from the transcript, there must be submitted a written statutory citation to that section of the law which would allow such a deletion. This amendment will ensure an additional measure of accountability into the bill.

Sincerely,

CAROL TUCKER FOREMAN,
Executive Director.
KATHLEEN F. O'REILLY,
Legislative Director.

Mr. HORTON. Madam Chairman, I yield 10 minutes to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Madam Chairman, I do not want to belabor the time of the Committee in general debate on this matter on the specific amendments which will be debated more thoroughly later, but I would like to call the attention of the House to the fact that when we enact this legislation, as we will today, there is a particular duty on the House of Representatives to be careful in our craftsmanship, because this is another one of those instances where the Senate passed the bill unanimously by a vote of 94 to 0, without substantial debate on the floor. When the bill was sent to us, however, praiseworthy and laudable its purposes, there were problems of craftsmanship which can plague our Government dearly in the years ahead if they are not recognized.

Consequently, unless several of these amendments are adopted, in my judgment, the bill may provide more problems than it seeks to solve. Let me try to set this in a historical context.

It was only 2 years ago that we enacted the freedom of information amendments, because of what we felt were the excesses in several administrations, culminating in the Nixon administration where the Attorney General at the time stated that if Congress wanted any information from the executive branch, they had an absolute right to withhold it and our sole remedy was impeachment, which we ultimately undertook. With regard to those excesses and abuses of secrecy by the executive branch, in the heat of anger and passion we passed amendments to the Freedom of Information Act in 1974, and then in 1975 we enacted the Privacy Act to try to protect individuals against excessive intrusion by the executive branch.

In both of those acts, we imposed civil or criminal penalties, or both, against Government employees who might violate either the privacy of the individuals or who might excessively claim secrecy for Government documents. We have not held oversight hearings by the subcommittee which presents this bill on the actual operations of either the Privacy Act or the Freedom of Information Act.

I think, frankly, I would feel better about this legislation had we held oversight hearings on the problems for the executive branch which have been created by the Freedom of Information Act amendments and the Privacy Act amendments.

We know, for example, that both the Freedom of Information Act amendments and the privacy bill have imposed incredible new burdens of paperwork and complexity and additional personnel. We have a Paperwork Committee created by this Congress which is studying how to try to cut back on the paperwork and the complexity and the cost to Government to which we have added so substantially with the Freedom of Information Act amendments and the privacy bill.

Madam Chairman, briefly stated, this bill is founded on the proposition that the Government should, to the fullest extent possible, conduct the public's business in public. To that end, the bill requires all Federal agencies headed by more than one person to conduct their business in meetings that are open to all.

I want to make it clear that I have no disagreement with these principles. But, in my opinion, certain of the bill's provisions will, if enacted, needlessly, and even foolishly, interfere with the proper and effective functioning with the Federal agencies. I believe that the enactment of these provisions will end up hurting the people this bill is designed to benefit, by imposing on the Government costly redtape requirements which lower productivity while providing no benefits for anyone.

My differences with this bill are few but important. This bill can be significantly improved in the following ways.

VERBATIM TRANSCRIPTS

The bill in its present form requires a verbatim recording or transcript to be made of every meeting which is legally closed under the narrow exemptions contained in the bill. This is simultaneously the bill's most onerous and its most useless provision. It is onerous because of the tremendous expense involved in meeting this requirement—not only the costs of the recording equipment or stenographer, but the costs of transcribing the verbatim record, reviewing it to see if any portions of it can be made public, and, if so, making the necessary deletions in the transcript. It is uesless because, under the act, these transcripts, made at considerable expenses, will never be made publicly available if the meeting was legally closed. Their only function is to serve as a policing aid to enable the courts to determine if the closing was proper. I think there must be a simpler, more efficient way to accomplish this goal.

This provision will undermine the goals of the two principal planks of Federal information policy, the Freedom of Information Act and the Privacy Act. If these transcripts are in existence, their disclosure will undoubtedly be the object of a significant amount of Federal court litigation. One way or another, some of the information in those transcripts will become public—and the protections provided for individuals contained in the Privacy Act, and for various types of exempt matters in the Freedom of Information Act, will be eroded. Thus, sensitive agency discussions—which the bill recognizes should not be held in public—would be subject to being recorded in full, and to the publication of an edited transcript. Those who will benefit most from this, I am afraid, are the special interests who can well afford to pay their agents or lobbyists to attend every open meeting and pore over every transcript of closed discussions made available.

I believe that the unnecessary transcript requirement should be deleted. Instead, agencies should be required to maintain minutes of closed meetings. These meetings will set forth the matters discussed at a closed meeting, and will enable a court to determine if a meeting was improperly closed. If it was, the court will have every power in equity at its command to remedy the situation in the manner it believes is required.

DEFINITION OF MEETINGS

This bill is directed not only at formal meetings of agencies convened to conduct agency business—which I believe are the legitimate subject of this legislation. Rather, the bill broadly extends its coverage to any "assembly or simultaneous communication concerning the joint conduct or disposition of agency business by two or more" members of the agency.

This language, together with the verbatim transcript provision, would mean that any assembly or simultaneous communication concerning agency matters, whether or not its purpose is to conduct business, would be subject to prior public notice, the open meeting requirement, and the requirement that a recording of the meeting or conversation be made.

In other words, all telephone conversations and meetings of agency members at barbecues, on the golf course, or anywhere would be covered by the act if the conversation included the mere mention of any matter pending before the agency.

A more important objection to this provision than the fact that it may interfere with some agency members' social lives, however, is the fact that this provision vitiates one of the most important exemptive provisions of the Freedom of Information Act, the exemption for intragency discussions. Congress and the courts have long recognized the need for agency personnel to discuss, in private, regulatory matters and to freely explore all options that may be open—without the fear that those discussions will one day be publicly revealed. The heads of multimember agencies have this need as well as the members of their staffs.

I believe that the bill should apply whenever agency members convene in a formal meeting for the purpose of passing upon matters before the agency. It should not apply if the agency members meet informally, not for the purpose of voting or deciding matters, but only for a preliminary discussion among themselves of the important issues they will ultimately have to make an informed judgment upon.

ENCOURAGEMENT OF UNDUE LITIGATION

As I noted, the "sunshine" bill has a laudable purpose. But I think we all also perceive a need to try to cut the cost of Government and, in particular, to cut the need for mountains of paperwork. In addition, we are beginning to perceive a need to discourage undue litigation in the Federal court system. The benefits of open Government which the bill achieves are sharply offset by the costly, and unnecessary, burdens it places on the Government and on the Federal court system.

This act provides that any person—not merely one interested in the matter before the agency—can bring an action to challenge the closing of a meeting. That suit can be brought in the plaintiff's home district, regardless of the place the agency is located or the meeting was held. Obviously, one closed meeting could be the subject of challenge in any number of districts, necessitating extensive travel by Government lawyers to litigate these challenges. The burden of proof is always on the agency, and as agencies have discovered in Freedom of Information Act litigation, that burden is a difficult one to meet. Finally, if in the opinion of the court the plaintiff merely "substantially prevails," he is entitled to an award of attorney's fees and costs.

This act will be a drain on the manpower and monetary resources of the Department of Justice and the legal staffs of the agencies that will have to resist these suits. These provisions will be a bonanza for the legal profession and—more importantly—for the special interests who can afford to hire them to delay, impede, and obstruct the processes of the regulatory agencies.

I am aware that the object of this bill is to make Government open to the people, and there may well be some action taken by public interest groups to force open an improperly closed meeting. But, by and large, the ones who will be taking advantage of this bill's provisions will be corporate and other special interests attempting to stave off what they deem to be unfavorable Government action. We have seen too many cases where agency action was unnecessarily protracted due to long, drawn-out court battles. This bill gives the special interests just one more forum in which to fight the agency.

The right to file suit under this bill should be limited to actions brought by a person aggrieved by agency action taken at a closed meeting—the standard which has governed access to the courts for review of agency action since the enactment of the Administrative Procedure Act in 1946. It is unwise to throw the courts open to anyone, anywhere, who is of a mind to throw a wrench into the workings of the Government.

CONCLUSION

We must remember that the Federal agencies have been created by the Congress, and given the job of promoting goals deemed by the Congress to be of utmost importance. Thus, when we impede the agencies, we only harm our own legislative objectives.

I am aware that criticism may on occasion be justifiably leveled at some agency action. But the answer to that problem is for Congress to address and correct the agencies when they go astray, not to obstruct, indiscriminately, all agency action of every kind.

I think we make a mistake when we try to saddle the agencies with onerous and unnecessary burdens such as the verbatim transcript provision of this legislation, when we erode the protections previously afforded for closed discussions of important policy matters by agency heads and staff, and when we subject them to harassment by burdensome litigation. Who will benefit? Will we protect the man for whose benefit an agency is attempting to devise a protective rule in accord with congressional direction, or will we merely provide a means for the interests that would be affected by that rule to impede the effectuation of the will of Congress?

I would like at this time to ask a question of the gentlewoman from New York. If we pass the sunshine bill today, which in effect adds section 552(b) to the code, the Freedom of Information Act being 552 and the Privacy Act being 552(a), may we not soon have an oversight hearing, within the next year, on the workings of the Privacy Act and the Freedom of Information Act?

Ms. ABZUG. If the gentleman will yield, I think there is no question about it.

While I have the opportunity to answer the gentleman on the Sunshine Act, I would remind him that most of the hearings we have had, or a good number of them, have dealt with oversight of the Freedom of Information Act and the Privacy Act.

On the question of information that is being provided or not being provided under the Freedom of Information Act, questions have come up concerning the application of the Privacy Act and what was required of the Members of Congress in order to get information for their constituents.

We held significant meetings with relevant agencies concerning some of the paperwork and the bureaucratic interpretations of this act, and we continued to hold hearings regularly to deal with the implementation and interpretation of the act.

The gentleman can be assured that this committee and its successor, because it is charged with the responsibility, will have oversight, and I know it will conduct oversight hearings on sunshine.

Mr. McCLOSKEY. If I may respond to the gentlewoman, I do not want to be misinterpreted. I have commended the gentlewoman on the vigor with which she has approached the Freedom of Information Act amendments and the abuses of it, the oversight of the Privacy Act and the abuses of it. But my concern is oversight on the complexity and the cost to Government. It was not appropriate until now that we do this on the Privacy Act because the Privacy Act would have been in effect only a year in September. But we hear rumblings from many agencies. They have all indicated that the cost to the Government has become extremely burdensome, and that the complexity of government operations has increased tremendously.

Ms. ABZUG. If the gentleman will yield further, I think the gentleman makes a valid point. I think an act such as this, which involves privacy, the Freedom of Information Act, and now this Sunshine Act, which involves agencies of Government and the operation of very important functions, should at a certain point, when we have collected the information, be the subject of intensive oversight. I would certainly recommend that and see that it takes place.

Mr. McCLOSKEY. I thank the gentlewoman.

Madam Chairman, I would like to speak briefly on the amendments which will be offered, because I think these amendments are crucial to producing a craftsmanlike bill.

On the first amendment, on the question of meetings, I would ask my colleagues to consider whether we in the Congress could operate with the definition of "meetings," as it presently exists in this bill. The definition of "meetings" in the bill, as it exists now, means if another Member and myself were to meet on, say, committee business, if we were to meet in the well of the House, if we were to meet at the lunch counter or if we were to meet in our offices and discuss the subject of a pending bill, we would have to have a transcript of that meeting and it would have to be promptly produced for the public unless it came within one of the specific exemptions, and we would have to vote on the specific exemptions. This prevents discussion of matters in casual contacts amongst each other.

I think this should be amended. If we look at congressional procedures in the same context, we would preclude the executive branch from doing something we would never consider precluding for ourselves.

Ms. ABZUG. If the gentleman will yield, I want to point out that the gentleman's fear in this connection is not completely carried out. Unless there is a quorum of this agency, there would be no requirement such as the gentleman describes. It would not constitute a meeting under the statute or under the legislation as we now propose it.

Mr. LONG of Maryland. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Madam Chairman, I might point out that under the practices of the Committee on Appropriations, ordinarily two members constitute a quorum.

Mr. McCLOSKEY. This is my problem, Madam Chairman. Let us take my own subcommittee, which has seven members. Assuming that four members constitute a quorum and that four of us should meet in the well of the House to discuss problems we have on a bill, that might well constitute a meeting which would then require a recorded transcript.

Ms. ABZUG. Madam Chairman, if the gentleman will yield further, I would rather not interrupt the gentleman's presentation, except that I do want to clarify this point. The quorum that the gentleman referred to is for the purpose of conducting a hearing and not for the purpose of doing business. I think there is a distinction there, and I do not agree with the gentleman.

I do not want to interrupt the gentleman on this point any further except to make the record clear from a legislative point of view. I think we ought to be clear as to what that means.

Mr. McCLOSKEY. Madam Chairman, we have a disagreement, and it is worth stating and worth debating and worth resolving today. I would point out that much of the argument for this sunshine bill has been on the basis that in many cases enlightened States have adopted sunshine bills.

However, as to this meeting requirement, in my State of California there is no requirement for a casual meeting between a number of people who ultimately can conduct business for a city council or board of supervisors that they have to supply a recorded transcript or have a vote, and there is no requirement. I think we are searching here for balances so we can assure good operations in Government after we have had several decades of abuse of power by Government. We ought to recognize, however, that in the future members of a commission will not be of the same attitude of past members whose abuses we cure here.

We seek for a balance. We are going to have to get good people to serve on the commissions and to govern this country ably.

Frankly, if I were asked to serve as a commissioner under these rules that exist in the bill today, I would ask myself twice whether in the ordinary course of conducting Government business I could comply with these provisions of meetings and furnishing verbatim transcripts and still do my job honestly.

Madam Chairman, I will reserve the balance of my time now and save it for argument on the specific amendments.

Mr. FLOWERS. Madam Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. MOORHEAD of California. Madam Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Madam Chairman, like many other Members of the House, I find that I am in a somewhat anomalous situation with respect to this bill. Here we are again, a small, closely knit group, sitting here in an interested manner debating in a stimulated way a rather important bill. Only a few of us are here, and this is going to affect all of us in some degree.

However, we have here a proposal before us that all of us, I think, can readily agree will aim in the right direction, toward providing openness in the conduct of public affairs. Naturally, we have some disagreements concerning some aspects of the bill. They have all been pointed out at this time, I believe, and I would like to express my support for the concept of this bill.

However, there is a problem, as the bill is now written, because it is my feeling that there are certain governmental functions that by their very nature have to be kept privileged or not published. In fact, the very functions carried out by certain Government agencies, the Federal Reserve Board being one of the prime examples, require a sequestered or restrictive setting for the conduct of their deliberations.

Following the conclusion of general debate, this House will have an opportunity to vote on the amendments that have already been discussed, and yet I would like to emphasize one amendment, and that is the one which would change the definition of "agency."

Most notable among the agencies that might be covered and will be covered by this bill for the Members' special consideration, I think, is the Federal Reserve Board. Similarly, however, the Securities and Exchange Commission has some peculiar considerations for the Members to look at.

The Federal Reserve Board's deliberations on monetary policies often involve sensitive subject matter. If such deliberations become totally open to the public, financial markets may react in some cases dramatically; and the stability of our economy is likely to be affected in some degree.

Madam Chairman, I would just like to point out something by way of quoting from a May 6 letter from Arthur Burns, the Chairman of the Board of Governors of the Federal Reserve System. He states:

> It is our belief that the Federal Reserve Board is unique among Government agencies insofar as the subject matter of its decisional process is concerned. With few exceptions, each of the Board's regularly scheduled meetings is involved with matters the sensitivity and intricacy of which, if exposed to public discussion, could lead to misunderstanding, misinterpretation, and disruptive and harmful speculations. Examples include deliberative processes in monetary policy formulation; receipt, transmission and evaluation of national and international market information; and, incident to the formulation of bank regulatory policy, discussion of confidential appraisals, and sensitive judgments relating to member bank and/or bank holding company operations, individuals, etc.

Ms. ABZUG. Madam Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentlewoman from New York.

Ms. ABZUG. Madam Chairman, I wonder whether the gentleman from Ohio (Mr. KINDNESS) is aware of the fact that all of the subjects that he has mentioned come within the exemptions in the bill. We had in the Government Operations Committee and in the Judiciary Committee extended discussion on this issue, and what we did in the way of exemptions more than covers the gentleman's concerns.

Mr. KINDNESS. I do not choose to yield further on the point because I have the bill, I have read the bill, and I understand what is contained in the bill. I think we could carry this dialog on into several other sections of the bill so as to modify the effect of what the gentlewoman from New York points out.

Ms. ABZUG. If the gentleman will yield further, I just wish to point out that we share his concern and the concern of Chairman Burns on this issue.

This legislation provides adequate protection for those concerns, particularly in exemptions 8 and 9 of the bill.

I might also point out that when we passed the Freedom of Information Act back in 1966, the Federal Reserve expressed similar concerns:

> Could leave exposed to indiscriminate public demand certain critical records and materials related to the Board's credit and monetary policy functions as well as other statutory directed functions. Such a result could impair the Board's effectiveness both as an instrument of national economic policy and as a regulatory body.

This was said by the Chairman of the Board in 1966. This has never happened, and Mr. Burns admitted that when he testified before my subcommittee.

I merely quote it to the gentleman to allay his fears.

Mr. KINDNESS. Madam Chairman, I thank the gentlewoman from New York for seeking to allay my fears, but the attempt fails.

The Federal Reserve Board furthermore, in addition to what has already been read, often has before it detailed financial and managerial information.

The Securities and Exchange Commission often has similar information before it; and those two comprise, I think, probably the most serious questions before us, as to what should be the coverage of this bill.

Mainly, Madam Chairman, I think our

concern should be: Just what is it that we are doing?

I think oftentimes we have measures before us that have wonderful titles, that sound good, and gain all kinds of support; but contained within those bills are provisions that make it very difficult to support the entire content of the bill.

Madam Chairman, when we go about providing for Government in sunshine, I might state that there was no answer given in the subcommittee or in the Committee on the Judiciary itself, in considering this matter, to the question: Why not include all of the executive branch, the departments of the executive branch of the Government, in this Government in the sunshine bill instead of the collegial-headed agencies?

Obviously, the answer has to be that this was a simple formula approach. Collegial agencies only being included, gives us a starting point, but we do not really know how many are really included within the scope of this bill and thus list exactly the agencies we want to cover. As a starting point I think that this is far better than the broad approach that can give us so much trouble as to the question of which agencies and commissions are actually covered.

A further example, which will be brought out during the debate on the amendment is the Commodity Credit Corporation in the Department of Agriculture. Anyone who has to think about it and looks up the law and statutory provisions concerning the Commodity Credit Corporation, will soon discover that the Secretary of Agriculture actually directs the operations of that board. So it is an open question right off the bat as to whether the Commodity Credit Corporation is covered by this bill. Yet it is listed in the Senate report as typical of those agencies that would be covered by the bill.

I assure the Members that the interests of the American people are not best served by having Government in the sunshine litigated but rather by having Government in the sunshine.

Ms. ABZUG. Madam Chairman, I yield such time as he may consume to the chairman of the Committee on Government Operations, the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Madam Chairman, I want to thank the gentlewoman from New York for yielding me this time.

Madam Chairman, this bill is hardly new or surprising. Here in Congress we have become used to operating in the sunshine. Nearly every State has opened its governmental processes to some degree. What is surprising is that we have taken so long to extend this worthwhile practice to the executive branch, and that some of the people there still resist it.

I would like to commend the chairwoman and members of the Subcommittee on Government Information and Individual Rights for the excellent job they did on this bill. It has been carefully considered by two subcommittees and two full committees. All interested parties have had a chance to express their views. As a result, the bill strikes a careful balance between the right of the public to know what its Government is doing, and the need to protect the rights of individual citizens and to assure that the Government's ability to function is not impaired.

When Government actions are taken in secret behind closed door, we not only undermine public confidence in Government, but we can wind up pretty far off target and without the public support our Government needs if it is going to stay in business.

H.R. 11656 should help avoid those possibilities. By opening up the meetings of some 50 Federal agencies, it will assure there is public understanding of the actions of those agencies.

If the public understands and sees what goes on, it is more likely to accept and have confidence in our actions. Opening up those meetings will also assure that the officials of those agencies are accountable for their actions. That is what government of the people, by the people, and for the people is all about.

Certainly there are occasions when meetings should not be open. H.R. 11656 recognizes this and provides for closing them in those situations. It affords protection for trade secrets and information that could be damaging to financial institutions or to stock exchanges. It prevents invasions of personal privacy and guards against disclosure of crime investigation records. National security is also protected. Those safeguards that are needed are provided.

But what H.R. 11656 really safeguards is the public interest. It reinforces the basic constitutional premise that this is a government of the people, and that those who serve it should be fully accountable to the people for their actions.

Former President Harry Truman is justly noted for saying, "If you can't stand the heat, get out of the kitchen." I would add that if you cannot stand the light, get out of the Government.

Mr. HORTON. Madam Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Madam Chairman, the most capable individual in Washington is the person who gives the names to our congressional bills. There is a warm and friendly spirit in the name "Government in the sunshine." But before we rush into this legislation, we should carefully evaluate all that it entails.

There are very few individuals in the administrative groups of Government who have the courage to say things in open meetings that they would say behind closed doors. This applies especially to funding. The pressure group with its key members sitting in the front row will always get more money than will an unrepresented group who might have a more worthy cause.

Last October a bill was passed here in Congress which is hard to understand. It provided for double pensions for a group of 40,000 National Guard technicians. They will get both military and civil service pensions. This bill was opposed by the Defense Department, the Civil Service Commission, the National Taxpayers Union, and the administration. Yet, in spite of a strong fight, the bill passed Congress by 261 to 117.

This bill should have been killed in committee. We created a $1 billion deficiency against an already deficient civil service pension plan. National Guard technicians will now be getting a double pension check whereas a four star general is only entitled to enter one pension plan.

Just as in Congress, where much of this wasteful spending should be eliminated at the committee level behind closed doors, we find the same thing in these agencies. When they talk frankly among themselves, they use more commonsense. When they talk in front of the press, the television, and the pressure lobby groups the administrators have ears sticking out in both directions, and human nature will have them reacting to the pressures of whatever outsiders are present. From the days of Rome, history has shown that a republic which becomes overresponsive to every voter handout request is a republic that is sure to fall.

This bill invites aggressive lawsuits from every lawyer who has time on his hands. I recall a case here in the District of Columbia 2 months ago in which Judge Joyce Green ordered the District of Columbia government to pay an attorney, Gilbert Hawn, Jr., the amount of $168,487 for his work in suing the city to overturn its system or real estate tax assessments. This good attorney managed to find yet another way to confuse an already bankrupt city, and for this service he was paid this exorbitant fee.

I can well understand the enthusiasm of the gentlewoman from New York (Ms. ABZUG), in leading the fight for this "sunshine" bill. However, I would compare the problems developed here with her own New York City which has too much sunshine in its legislation and not enough closed door sessions to work out the fiscal restraints needed in the governmental functions.

We are already too overcommitted with overspending in this country. When President Kennedy came into office, the budget was $97.7 billion. We are now talking about $415 billion. But even more than the fact that we are spending four times as much, we are running a $100 billion deficit.

I do not see how these agency officials of our Federal Government could effectively and conscientiously administer the executive decisions with the hubbub and hassle of press and pressure groups on hand. Sometimes administrators like to ask questions for information to broaden their viewpoints, but even a question can be misinterpreted on a public print basis.

I am always amazed at how we in Congress establish one set of rules for everyone else, and yet think we should live according to a different set of rules ourselves. I serve on the Commerce Oversight and Investigations Committee where I am the ranking Republican. Recently, the chairman and the majority insisted that confidential records taken from the Securities and Exchange Commission files be made public. These records consisted of investigations which were being reviewed and were pending a decision. This information had been brought to the SEC on a voluntary basis and my own personal opinion is that the matter did not warrant any public statement from the SEC. While the SEC was keeping the matter under advisement and reviewing all of the facts, we subpenaed the information and our chairman released it to the press. One immediate effect of this is going to be that it will be very difficult in the future to obtain voluntary disclosures. These companies came forward asking whether they had done anything wrong, and brought in all of the facts and information for an opinion and judgment. But public disclosure is often interpreted by the public in the same manner as an indictment might be interpreted.

Let us look at our own Oversight Committee in Commerce, to which I referred. This committee has 35 members on its staff. They are not appointed by Civil Service, but are appointed entirely and exclusively, subject to hiring and firing, by the chairman of our committee. They are his private staff. We have a rule written by the committee majority that limits any staff member representing the minority from ever seeing the raw material in investigation files. The attorney that represents the Republican side in this committee is not entitled to see any of the raw material as it is being developed and studied by the staff. Furthermore, a Congressman who himself might go in to review the records is not allowed to photostat any of this material to take back for our staff to analyze and study further.

Here is an Oversight and Review Committee that is responsible only to the Majority, and will provide no information to the minority staff. Here is a committee of Congress which is assigned the responsibility of oversight and investigation which works behind closed doors. The chairman of our committee is the author of the Freedom of Information Act.

I feel this way about all of this "sunshine in the Government." There are many in Congress who believe that all the facts should be made public except those that they are personally handling in their own committee. This sunshine bill is one of the most unnecesssary bills to come before Congress this session.

Mr. HORTON. Madam Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. Madam Chairman, to enumerate the myriad problems confronting us as a nation today would merely be repetitive of everything we are seeing and hearing from our constituents and from the newspapers and television. We have gone from an agrarian, family based society to one that has become highly urbanized and mechanized, with different sectors of the society dependent on the other to meet their various needs. We realize that none of us can any longer operate independently. Problems have become too large to be solved on the individual, local, or State level and the Federal Government has become the intercessor to provide needed assistance to resolve these problems.

Government, in large part, has grown as a response to these problems and to act as an arbiter, regulator, and administrator of the problems which people face but cannot solve on their own. Governmental resources are vast, just as the manpower involved in allocating and using these resources has created a large Federal bureaucracy. The problems we face today are inherently more complex than those faced by our ancestors 200 years ago.

Our problems have evolved from the technology and innovation which we have created to make our lives more comfortable. Therefore, we have entrusted to Government agencies the decisionmaking authority to identify and approach these problems—be they environmental, energy, social, or economic. Yet most of these day-to-day agency activities and decisions are removed from public view. Just as our problems have a continually changing face, so must our approaches to finding solutions. Our national goals, our programs and governmental policies must be reshaped and made responsive to these variable conditions.

The Federal Government continues to control many aspects of our daily lives. We are never totally free from the purview of Government. But just as our American Government was created as a Government of the people, so must it remain. The growth of the bureaucracy has led to a protectiveness and secrecy about certain governmental actions. Those in control often forget that their mandates come from the people and it is to the people that they must remain responsive.

The need for open Government has become increasingly apparent through revelations of misuse of Government power, abuse of authority, and infringement of individual rights. This bill would be a major step toward avoiding these kinds of improper activity in the future by opening up these activities to the cleansing light of public visibility.

Open Government would have multifaceted benefits. Citizens would be educated into how Government operates. More importantly, individuals would have the opportunity to review the governmental decisionmaking processes which related directly to their everyday lives. Public policy should be open to public scrutiny. The particular bill which we are debating today, H.R. 11656, would go far in increasing an intelligent understanding of American institutions and how they operate. Although I have difficulty with some portions of the bill, I believe that one of the essential principles of a free government is the right of the people to know how their Government makes decisions.

Although Congress has a reputation for excluding itself from the requirements which it imposes on other Government agencies, especially those of the executive branch, we, too, have acted to open our meetings and hearings to public oversight. It is just this sort of public scrutiny which makes Federal Administrators more responsive to the demands of the American public.

In addition, I favor the safeguards written into the bill, providing protection relating to matters of individual privacy, national security, and financial disclosure. The bill would protect the rights of individuals and the ability of the Government to carry out its responsibilities.

I agree with Thomas Jefferson that effective self-government requires that the people participate in every feature of the political process. The American public has a right to participate in the execution of the laws passed by Congress. Government in the sunshine is a further step in the direction of opening our political processes to public participation.

Mr. STEELMAN. Madam Chairman, it is a pleasure for me to speak today in support of H.R. 11656, the Government in the Sunshine Act. This legislation is the logical result of our realization that we must open up the doors of our Government to public scrutiny. We must allow the people to view the process of decisionmaking to increase understanding, dispel cynicism, and provide access to information vital for an informed citizenry. To deny the public the right to know not only breeds distrust, but, in fact, threatens the basic ideas inherent in and crucial to our democratic form of government.

The "sunshine" bill represents a logical extension of legislation passed by Congress over the last decade designed to give the people the right to know.

We first concerned ourselves with the problem of secrecy in government in 1955 by creating a special Subcommittee on Government Information. The investigative and legislative hearings of this subcommittee contributed significantly to the enactment of the Freedom of Information Act. In March 1973, we adopted House Resolution 259 which required us to open up House committee deliberations to the public. Furthermore, on November 5, 1975, the Senate adopted a resolution which allows public observation of the markup sessions of Senate committees. Despite these efforts, though, too many doors remain closed.

The bill we have before us today will establish a policy of openness for approximately 50 multimember agencies. It requires a majority vote in open session to close a meeting, and then only if certain exemptions apply.

It is significant that the definition of a "meeting" in this bill not only covers sessions where formal action is taken, but also those at which a quorum of members deliberate informally regarding the conduct or disposition of agency business.

It is significant that there is a presumption of openness and that a majority vote by the entire membership is needed to close a meeting or any portion of it.

It is significant that any citizen can challenge in court the closing of a meeting or any violation of the openness requirements of the bill, and that the burden of proof of the propriety in closing a meeting rests with the agency in question.

Another important provision of this bill establishes for the first time statutory prohibitions on ex parte communications with agency members.

In considering "sunshine" legislation, we must remember that public awareness of the processes of its Government is essential to maintain an effective democratic form of Government. James Madison wrote:

> A popular government without popular information or the means of acquiring it is but a prologue to a farce or both. Knowledge will forever govern ignorance. And a people who mean to be their own governors must arm themselves with the power knowledge gives.

It is a contradiction in terms to think we can have a democratic Government without an informed public. Particularly with the increasing size of Government, we must allow the people to review not only the decision, but the decisionmaking process.

H.R. 11656 is one way to handle the crisis of distrust of Government that is rampant in our country today. It may not be a panacea for the problem, but it can aid the restoration of confidence so vital to our Nation's health. The time for "sunshine" is here, and I urge all my colleagues to join me in supporting H.R. 11656.

Mr. ASHLEY. Madam Chairman, I am thoroughly in accord with the principles embodied in the legislation before us today, H.R. 11656, the Government in the Sunshine Act. Passage of this measure will go a long way toward assuring accountability on the part of Federal agencies and increasing public knowledge of and participation in the official proceedings of their Government.

In brief, the bill requires all meetings of Government bodies headed by more than one person to be open to the public, with certain exemptions where such matters as national security and informative trade secrets are involved. The measure thus closely parallels and supplements the Freedom of Information Act in giving the people of this country greater access to the records of official Federal proceedings than has ever been allowed by any government in history.

There are however two provisions in the bill which could prove to be patently unworkable, possibly even mischievous, and I will support amendments to these sections in the interest of passage of a reasonable and practical piece of legislation.

First, H.R. 11656 requires that not only formal meetings be open to the public, but also that any assembly or simultaneous communication concerning agency business by a specified number of agency officials would be subject to prior public announcement, to the open meeting requirement, and to the requirement for a formal vote for closing of the meeting. The broad sweep of this language would make the bill applicable to social gatherings, conference telephone calls, and even the most casual conversations of agency officials bearing on their duties regardless of whether or not their communication was arranged for the specific purpose of conducting public business. This provision appears to me to go far beyond what a desirable and practicable sunshine law should include, and I support the proposed amendment to limit the bill's coverage to only those meetings called for the explicit purpose of discussing agency business.

My second objection is to the requirement that a verbatim record be kept of every meeting which is legally closed under the exemptions outlined in the act. The further requirement that these transcripts be made available to the public threatens to open up to public scrutiny information relating to trade secrets, medical and criminal records, national security, and other topics which the Congress has already seen fit to exempt from the provisions of the Freedom of Information Act. No State sunshine law contains such a requirement, and I believe that its retention in the bill will open us up to serious charges of invasion of privacy and failure to protect a wide range of privileged information. It appears to me that the keeping of minutes of the closed meetings in these areas will be sufficient, in the event that those records are ever needed for any court action or congressional oversight. Consequently, I support the amendment to delete the requirement for verbatim transcripts and believe that we will have a stronger bill thereby.

Mr. LEHMAN. Madam Chairman, recent public opinion surveys indicate that the confidence of the American people in our Government is at its lowest point in years.

Today, the House is considering legislation which if enacted will open up the operations of Government to the public and be of great assistance in restoring the trust of the people in Government. I am referring to H.R. 11656, the "Government in the sunshine" bill.

For too long, the Federal agencies which have come to govern and determine so many aspects of our lives, have been conducting business without being required to operate in full view of the people for whom they exist. In my view, this tendency toward secrecy has produced an unresponsive bureaucracy and caused the alienation of the American people from their Government.

The "Government in the sunshine" bill would require for the first time in history, that this practice by governmental agencies cease. With the adoption of this legislation, meetings and actions of these agencies would be subject to the scrutiny of the American people. Of course, certain exemptions have been made; aspects dealing with national security, matters under the privacy acts, the judicial areas and some regulations dealing with financial institutions.

This legislation has been carefully considered. It was approved by a vote of 94–0 in the Senate. I believe this House should pass this bill and in so doing, take a necessary step in the restoration of a responsible and effective Government, as well as the restoration of confidence by our citizens in our Government.

Mrs. COLLINS of Illinois. Madam Chairman, I rise in support of H.R. 11656, the Government in the sunshine bill which is before the House today.

As my colleagues know this bill, which is the product of many months of diligent work by members of several committees of the Congress, simply seeks to create greater public access to business meetings conducted by the Federal agencies.

It is no secret that Federal agencies do much to affect the lives of the citizens of this land and it is also no secret that the citizens have little opportuity to observe firsthand the workings of those agencies which so often influence their lives. I believe that this bill will provide a very good opportunity to change this present circumstance. In my view H.R. 11656 by providing greater public access, will provide greater Government accountability.

However since we sometimes hear of instances of a good and simple idea when it is reduced to legislative form turns into a problematic restriction on Government and its people, it is wise to point out that the Government in the sunshine bill has been developed with careful consideration and, consequently does not fall in that potentially problematic category. On the contrary, H.R. 11656 represents a balanced approach to a legislative issue that encompasses both the public interest and the business bureaucratic interest.

Evidence of the balanced approach taken by this bill is seen in its provision that permits agencies to close their gatherings to the public if the content of a meeting would contain information that it is not best to widely publicize. Such areas of information are accounted for in specific "exemptions" contained in the bill. These exemptions include diverse matters affecting national security, financial institutions, trade secrets, agency personnel proceedings, and other sensitive areas. The bill consequently guards against the indiscrete discussion of private or highly critical issues. This is a reasonable approach. Yet in requiring that portions of a closed meeting, in which nonexempted material is discussed, must be recorded for public review after the session is concluded the bill shows ample concern for the Government process and the public interest.

A further illustration of the balance in this bill is displayed by the nature of meetings that are to be covered under this measure. A meeting for the purposes of this bill will, broadly speaking, be an assembly or simultaneous communication between two or more people concerning the conditions or deposition of agency business. The openness, as a result, applies to business sessions as well as formal decisionmaking meetings and does not cover "chance encounters" or "social events". This is again a realistic balance of the public interest in Government affairs.

Incidentally, in making notification of the time, place and agenda of meetings available to the public, as H.R. 11656 does, the agencies would be complying, to a large extent, with the action the House of Representatives took several years ago to open its committee business and markup sessions to the public.

Madam Chairman, this bill amply protects the privacy of individuals without being disruptive of the process of Government, and still advances the public's interest in knowing what its Government is doing. It has sensible limits and achieves more openness in our Government. The cost estimates surrounding the bill are modest. It is estimated that over a 5-year period approximately $800,000 would have to be expended to make this bill operational. There are few in this Chamber that would argue this is too high a price to pay for opening the Government process to citizens' review and observation.

I am urging support of H.R. 11656 as reported by the committee. I wish to remind my colleagues of the words of James Madison:

> Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it is but a prologue to a farce or a tragedy or perhaps both.

A vote in support of the Government in the sunshine will, in my opinion, be a responsible vote to advance public knowledge without jeopardizing the Government process.

Mrs. **COLLINS** of Illinois. Madam Chairman, I have read a news report in the New York Times of July 25, 1976 which I find very disturbing. I wish to share it with my colleagues in the House for I think they also will be alarmed at what is told Mr. George Goodman Jr., a Times reporter.

The article indicates quite clearly that as a result of an appearance before a House subcommittee, the International Relations Subcommittee on International Organizations, Mr. Wilson Ferreira Aldunate, a respected conservative figure in Uruguayan politics, has been indicted by the Uruguayan military government and his property confiscated.

Mr. Ferreira testified in a restrained and dignified manner on June 17, 1976 before a House subcommittee investigating questions of human rights violations in Uruguay. A former presidential candidate of reputed good character, Mr. Ferreira presentated information about the present government of his native land and the unfortunate abuse of human rights in that country. His testimony was among the most moving I have witnessed in any number of hearings on the often emotional matters of human rights.

I find it, as I am sure my friends and colleagues in this Chamber will, simply deplorable that a foreign government should move against one of its citizens because that citizen has appeared before a committee or subcommittee of this body.

For this reason, I strongly commend to all Members of the House this account as reported in the New York Times:

URUGUAYAN EXILE FACES INDICTMENT—EX-MINISTER ALSO SAYS HIS PROPERTY IS CONFICATED

(By George Goodman Jr.)

An exiled Uruguayan who told a House subcommittee last month that United States policies helped maintain dictatorships in Uruguay and other Latin American countries says that as a result an indictment has been issued by a military court and his holdings have been conficated.

In an interview last week, Wilson Ferreira Aldunate, a 57-year-old former senator who was defeated for the presidency of Uruguay in a disputed election in 1972, said: "After my testimony in Washington, I learned of an indictment against me and an embargo on my property."

The Uruguayan who testified before a House subcommittee on international organizations on June 17, said he learned that the indictment without detailed charges, had been handed down against him on July 8. He said that his conficated holdings in Uruguay included a 5,000-acre ranch with cattle, a home, an apartment in Montevideo.

FIGHT MORE THAN EVER

"The idea is to silience me, but I will work to fight more than ever," Mr. Ferreira said. "If necessary I would wash dishes."

He added that he is an expert in agriculture. In 1965, as minister of agriculture, he traveled here to renegotiate a $50 million Uruguayan debt with United States banking interests.

In 1973, after the military persuaded President Juan Maria Bordaberry to dissolve Congress, Mr. Ferreira and other legislators fled to asylum in Buenos Aires.

After the Argentine military overthrew President Isabel Martinez de Peron last March, he was forced to flee again along with his wife and son, first to Europe and then to the United States.

At a news conference held here last month by Amnesty International to protest widespread jailings and reported torture in Uruguay, the former senator appealed to the United States to refrain from interfering in his country's affairs as he also did before the subcommittee.

ASKS END TO AID

"We do not come to ask for your help or the intervention of the Government of the United States to overthrow the dictatorship oppressing our people," he said.

He did ask for an end to "open, public sustaining of those sectors responsible for repression." As soon as military regimes come to power, Mr. Ferreira said, the United States rushes in with a wide variety of assistance programs.

"But there is no uniform policy in Latin America because the State Department does not consider Latin America important enough," he added.

In such cases, he continued, policy is created by embassy officials. "The smaller the country the lower the level of bureaucrats setting policy."

During the week that Mr. Ferreira appeared in Washington, the House of Representatives voted to stop military aid for Uruguay.

Mr. **BENNETT**. Madam Chairman, I rise in support of H.R. 11656, the Government in the Sunshine Act. I am cosponsoring this sunshine legislation and I am glad that the House is on the threshold of approving the opening of meetings of agencies in the executive branch.

In a democracy, the people are the source of power for the government. The people have a right to know about the deliberations of their leaders on matters that can affect them either directly or indirectly.

My own State of Florida has had a sunshire law since 1967 and the much-publicized effectiveness of this law deflates the arguments that government functions best behind closed doors. Our Governor has remarked on many occasions that Florida's sunshine law has improved the working of government by providing for an open discussion of important issues.

The dawning of sunshine in the executive branch is simply a natural progression of openness on the Federal level. In recent years, both the House and the Senate have adopted new rules opening the great majority of committee meetings, including markup sessions, to the public. It is certainly time to extend this openness to the nonelected executive agencies.

Our Government was founded on the principle that ultimate power is vested in the people and that only an informed citizenry can properly exercise this power. In this, our Bicentennial Year, it is all the more fitting that the people have the opportunity to view the deliberations of their executive agencies.

Mr. **HANNAFORD**. Madam Chairman, I urge support of H.R. 11656, the Government in the Sunshine Act. One of the worst problems with the growth of the Federal bureaucracy has been the insulation of Federal agencies from public scrutiny. If successful in finding his way through the labyrinth of bureaucratic detours and referrals, the citizen's quest for information relating to Federal agency regulations too often ends with the discovery that the information he seeks is either legally protected from public examination or conveniently not recorded. Nor does the citizen alone suffer from this lack of accessibility: Our own everyday experiences remind us of the impenetrability of administrative agencies and their ability to frustrate congressional inquiries with a lack of documentation of administrative rulemaking.

The Government in the Sunshine Act restores public accessibility to agency proceedings, and this accessibility will hopefully check the departmentalization of Federal power into feudal executive directorates. The public examination of Federal decisionmaking will improve the national debates on Government policies and keep the public informed of decisions affecting them.

But most importantly, events of the recent past have given the public adequate reason to be distrustful of Government, and such distrust is destructive to a free society. Anything that we can do to restore faith in Government must be done. If the public wants to know what is going on behind closed doors, we must open the doors. If this on occasion diminishes our efficiency of operation, that is a sacrifice we must make.

Mr. **MATSUNAGA**. Madam Chairman, I rise to express my full support for H.R. 11656, the proposed Federal Government in the Sunshine Act. As a cosponsor of this legislation, I commend the chairmen of the House Judiciary and Government Operations Committees, Hon. PETER RODINO and JACK BROOKS, respectively, for their substantial efforts to assure a fair bill and to bring it before the full membership of the House.

Madam Chairman, an excerpt from the Judiciary Committee's report on H.R. 11656 succinctly states the basic principle of our system of government which this bill seeks to insure. I quote:

> . . . (it) assumes that citizens have the right to know how their government operates and what the government is doing for them and in their name.

We all know how low public confidence in its Government has sunk. We receive mail every day from constituents who suspect the "real motives" of a decision by various Federal agencies or elected public officials. We hear these same complaints voiced in angry, disgusted, or, saddest of all, resigned tones when we return home. I believe that the reason this sentiment is so widespread is that people feel detached from their Government. Because of Government's increasing tendency to conceal its inner workings and because they are not able to perceive their role in the decisionmaking process, people begin to distrust their own Government. They assume that they have no role, and the result of this conclusion is unavoidably a decrease in confidence in Government.

As serious as this confidence issue may be, it is not the most dangerous consequence of secrecy in Government. This more serious potentiality was realized all too painfully in recent years in the numerous abuses of Government known collectively as Watergate. The Fathers of our system, 200 years ago, knew why these abuses occur. They declared that secrecy breeds a lack of accountability, and nonaccountability breeds the breaching of human rights.

I therefore strongly believe that action by the Congress to reverse the recent trend toward secrecy in Government will contribute immeasurably toward an elevation in public confidence and the increased protection of our constitutional rights. The bill before us today is a concrete, responsible step toward this end. While recognizing quite rightly that individual rights must be protected, and Government must be assured the ability to carry out its responsibilities, it assumes that all U.S. citizens are entitled to know the reasons for all decisions of the executive branch of Government for which the need to limit access is not clear or totally justifiable.

Madam Chairman, in recent years I have joined several of my colleagues in actively supporting several proposals to open up the decisionmaking process of the legislative branch of Government to public scrutiny. I have initiated or supported wholeheartedly efforts to provide for full lobbying disclosure, for full financial disclosure by Members of Congress, for open committee meetings, for televising the proceedings of Congress, and for requiring record teller votes on key amendments. Congress has become stronger for these reforms, for by preventing the opportunity for minority interests to control the legislative process via concealment, the will of the majority has been assured its role as the crucial decisionmaking factor. It is time that we extend the same requirements of full public scrutiny to the decisions of the executive branch. I therefore commend the pending Sunshine Act to the House, and urge that it be given the overwhelming support which it so clearly deserves.

Mr. ANDERSON of Illinois. Madam Chairman, when the chairman of the Government Operations Committee (Mr. BROOKS) testified before our Rules Committee on May 19, 1976, he explained that the purpose of this Government in the Sunshine Act was "to bring to the executive branch some of the sunshine we have been enjoying here in Congress for the past few years."

As the author of nine "Open House Amendments" which would truly bring more sunshine into the House and its committees, I was extremely interested in the chairman's statement and set about to determine just how parallel this "sunshine bill" is to our own House rules. Much to my amazement, though I guess I should not have been surprised given the fact that we tend to be tougher on the executive branch than ourselves, I found that this "sunshine" bill far exceeds any sunshine requirements which now apply to House committees. In effect, this bill establishes a double standard for sunshine between the two branches, and we come out as being the shadier of the two branches of Government.

Madam Chairman, this conclusion is based on an examination of the House Rules, the published rules of each of its standing committees, and a followup phone survey which my staff conducted. The results of this three-part sunshine inquiry and comparative analysis are shocking, to say the least. Let us go down the list of what this bill requires as compared to what is now required or practiced by our House committees.

OPEN MEETINGS

Section 3 of H.R. 11656, the sunshine bill, states that all portions of all meetings of Federal agencies headed by two or more individuals appointed by the President shall be open to public observation, and then goes on to list 10 narrow exceptions to that rule.

Clause 2(g) (1) of House Rule XI states that a committee meeting may be closed by majority vote for any reason.

On January 29, 1975, I introduced House Resolution 114 to amend clause 2(g)(1) of House Rule XI to require that all committee meetings be open to the public unless matters to be discussed would endanger national security, violate any law or rule of the House, or involves internal budgetary or personnel matters—roughly the same rule which now applies to committee hearings. My resolution now has 87 cosponsors and it is still languishing in the House Rules Committee.

VOTE TO CLOSE MEETINGS

Section 3(d)(1) of the sunshine bill requires a rollcall majority vote of the agency to close a meeting and "no proxies shall be allowed."

While clause 2(g)(1) of House Rules XI also requires a majority rollcall vote of a committee to close a meeting, clause 2(f) permits general proxies "for motions to recess, adjourn or other procedural matters." In other words, proxies may be used in House committees for the purpose of closing a meeting.

On January 29, 1975, I introduced Resolution 113 to ban all proxy voting in House committees. That resolution now has 91 cosponsors. It is still stuck in the House Rules Committee.

TRANSCRIPTS AND MINUTES OF MEETINGS

Section 3(f) of the sunshine bill requires that a veritable transcript be kept of all closed agency meetings and that all but protected portions be made promptly available to the public and that copies be furnished to the public at no greater than the cost of duplication or transcription. Likewise, agencies are required to keep minutes of all open meetings and make these promptly available to the public, again providing copies at no greater than cost of duplication.

Clause 2(e) of House Rule XI requires each committee to "keep a complete record of all committee action" but only the "result of each . . . rollcall vote need be made available by the committee for inspection by the public at reasonable times in the offices of the committee." All other information "shall be the property of the House and all Members of the House shall have access thereto." In other words, unlike the sunshine bill, there is no requirement in the House rules that a verbatim transcript be kept of all closed committee meetings, let alone that it be made available to the public. And while, like the sunshine bill, our rules require that a complete record be kept of all committee action, only the rollcall vote portions of the minutes need be open to public inspection.

On January 29, 1975, I introduced House Resolution 112 to require that all committee records, except for information whose disclosure would endanger national security or violate any law or rule of the House, should be open to public inspection. That resolution now has 82 cosponsors and it is still gathering dust in the House Rules Committee.

Madam Chairman, our followup check of committee rules reveals that most are in conformity with the minimal requirements of the House rules, and not many have broader sunshine provisions. It should be noted, though, that most committee markup sessions are now open to the public. Moreover, many committees do permit persons to inspect committee minutes and copy them, though few committees provide a duplication service. Thus, actual committee practices are often somewhat more lenient than House or committee rules would suggest. Nevertheless, these practices vary greatly from committee to committee and presumably are subject to the dictates and whims of the committee chairman. Some committees will not even permit Members' individual staff to make Xerox copies of meeting transcripts which are open to public inspection, thus forcing time-consuming copying by hand.

Finally, it should be noted that all committees retain the sole discretion under clause 2(k)(7) of rule XI over the release of information received or discussed in executive session. Unlike the sunshine bill, they are under no obligation to make public the sanitized portions of such transcripts. And unlike the sunshine bill committees cannot be challenged in a court of law over their compliance with the various sunshine requirements.

Madam Chairman, as one who has long advocated more sunshine in the House, I think it is a bit duplicitous and hypocritical for us to impose more sunshine requirements on Federal agencies than we are willing to abide in our own rules and committees. If we are going to spread this sunshine around, let us do it in such a way that both branches are exposed to an equal amount of light and heat. I hardly think the argument can be made that the Congress is any less a public body than are the Federal agencies which are covered under this sunshine bill.

Mr. ANDERSON of California. Madam Chairman, I rise in strong support of H.R. 11656, the Government in the Sunshine Act.

In effect, this legislation ends secret deliberations by Federal agencies, except in the most sensitive cases. The provisions apply to 47 regulatory agencies that are covered by the Freedom of Information Act, and those headed by a body of two or more members, a majority of whom are nominated by the President and confirmed by the Senate.

I believe the words of Thomas Jefferson best summarize why I was pleased to add my name in cosponsorship of this legislation. Jefferson said:

> The will of the people is the only legitimate foundation of any government. I know of no safe depository of the ultimate powers of the society but the people themselves. Whenever the people are well-informed, they can be trusted with their own government; whenever things get so far wrong as to attract their notice, they may be relied on to set them to rights. Nothing then is unchangeable but the inherent and inalienable rights of man. I have great confidence in the common sense of mankind.

I urge your support for this legislation.

Mr. VANIK. Madam Chairman, I am pleased to speak in support of H.R. 11656, the Government in the Sunshine Act, a bill to insure that the public will have the open and responsive Federal agencies to which they are fully entitled. I particularly support section 552b(f)(1), requiring a complete transcript or full recording of each meeting, or portion of a meeting, which is closed to the public; and section 552b(f)(2), requiring that minutes be kept of open meetings and made available to the public.

I believe that H.R. 11656 will greatly improve the accountability of Federal regulatory agencies, whose decisions have the effect of law. However, I believe that Congress should demand the same openness of our own committees that we would require Federal agencies to have. As many Members of Congress are aware, I have been involved in a dramatic example of the need for openness in our own legislative conference committees.

The conference committees effectively act as a third legislative body, disassembling and redrafting the original bills of the House and the Senate. The final product can resemble a legislative Frankenstein for which no one wants credit or blame. The original intent of the bill can be perverted without a clue as to the source of the changes.

I specifically refer to the Tax Reduction Act of 1975, which became Public Law 94–12 with new language grafted onto section 907—language which had not been part of either the House or the Senate version of the bill. The result was the creation of an enormous tax loophole, primarily benefiting the four corporate owners of the ARAMCO oil consortium, to the detriment of the American public who lost $35 million in annual tax revenues.

I have previously described my efforts to determine the source of section 907(c)(3). My efforts were thwarted by the lack of meaningful records, as is often the case where closed meetings are held. The committee conference members, with only their personal recollections to go by, could not recall how the language responsible for the loophole became part of the law. No one could even recall if it had ever been discussed. Given the extreme pressure under which conference committees normally work—in a race against time to complete legislation before the close of Congress—it is only surprising that this sort of mutation of legislation does not happen more often. The more complex a piece of legislation is, the more hopeless it becomes to account for any single change in its wording or intent without the availability of accurate records.

The agruments for requiring Federal regulatory agencies to hold open meetings with reliable records clearly apply with even more force to the conference committees who give our laws their final form. An agency ruling or decision having unanticipated and undesirable effects can be corrected with far greater speed and fewer complications than the product of a conference committee. Presently, a bill can become law before anyone has time to realize the harm that even a seemingly minor change in the wording can cause because only the end product of the committee work is readily available to Members who are expected to vote it into law. As was the case with the tax reform bill there may be efforts by those who benefit from the unplanned loophole to enlarge it. I have introduced a bill, H.R. 13352, to repeal the questionable language of the Tax Reduction Act. However, my efforts to take up this legislation have not been successful thus far.

Open conference committee meetings would result in improved legislation. Furthermore, a record-keeping requirement, as in H.R. 11656, would have the added benefit of providing improved legislative histories so that courts can interpret laws as Congress intends. Legislation has already been introduced to remedy the problem of the closed conference. The House should adopt the provision for open conference meetings already passed by the Senate as part of S. 5, together with recordkeeping requirements similar to those included in H.R. 11656. The public would then be protected from the abuses fostered by the shroud of secrecy beneath which conference committees are now free to operate.

Mr. LEGGETT. Madam Chairman, openness in Government must be a guiding precept of any true Democrat. I am heartened that it represents a plank in my party's 1976 platform and a major goal of our Presidential nominee. It is thus particularly timely for the House to take another major step toward fulfillment of that goal by passage of H.R. 11656, the Government in the sunshine bill.

In considering this bill, we must look back to first principles. Ours is a Government by consent of the governed. If the people are to exercise their right and duty of consent, they must know. It is not enough that the people's representatives know, for the authority conferred on the executive by the legislature ultimately flows from the people. And, if Government is to be in reality the servant of the people, rather than the reverse, then Government must be fully accountable to a knowing public for its official acts.

Madam Chairman, the issue posed here is basically simple. The modern leviathan which the executive branch has become in the last three decades has become accustomed to doing its business largely insulated from the people. The question is whether we are going to take another needed step in the direction of reversing that trend.

We enacted the original Freedom of Information Act, with the goal of making documents of executive departments and agencies generally available to the public, in 1966. And in 1974, we passed the major strengthening amendments needed to translate that objective into reality.

The purposes of the bill before us are basically twofold. One is to open to the public the meetings of multimember Federal agencies, except for discussions which fall within 10 exempted areas. The other is to prohibit ex parte communications between agency decisionmakers and interested parties, so as to insure that agency decisions which are supposed to be based on a public record are not influenced by private, off-the-record communications.

The open meeting rule would apply to about 50 Federal regulatory agencies, to all others which are covered by the Freedom of Information Act, and to those which are headed by a body of two or more members, a majority of whom is appointed by the President and confirmed by the Senate. It is also explicitly made applicable to the Federal Election Commission and the Postal Service. I might add, as an aside, that the public will doubtless be interested, though hardly inspired, to learn how the moguls of the Postal Service arrive at some of their singularly effective decisions, such as the one to spend a billion or so on machines which speed up parcel post by the rip-and-shred method.

The 10 exempted areas parallel those covered under the Freedom of Information Act. They run the gamut from national security and foreign policy information, to accusations of individual criminal acts, and certain information on the regulation of securities, currency, and financial institutions. The bill requires that when an agency closes a meeting under 1 of the 10 exemptions, it must make a recording or verbatim transcript of the closed portion and release to the public all parts which do not actually contain exempt information. I might add that Dr. Arthur Burns, head of the Federal Reserve Board, who has been so receptive to congressional influence in monetary policy, opposes this bill because of the transcript requirement; but has admitted that all of his meetings on monetary policy and bank regulation could be closed.

I realize that there is much controversy surrounding the definition of those meetings which would be subject to the "sunshine" requirement, as well as the provision for transcripts of closed meetings. I say, however, that if we are to err, let us err for once on the side of openness. We have had a great deal of secrecy in our post-war Government. Why not try a whole lot of openness for a change.

In any event, let us not permit these issues to deflect us from the fundamental principle involved in this bill. We in the Congress have taken the big step of opening our committee and conference meetings to the public, including markup sessions in the House. There is no reason why we should expect any less of decisionmakers in the executive branch.

I urge my colleagues to support H.R. 11656 as another key step toward putting democratic theory into practice.

Mr. SIKES. Madam Chairman, let me begin by saying that I wholeheartedly agree with the objectives of this legislation. Coming from a State that pioneered "Government in the Sunshine," I feel also that I possess a broader view of the pitfalls that can await us if the legislation under consideration is adopted in its present form.

My study of the bill leads me to the conclusion that what we are doing in our zeal to open Government to the people, is creating a legal nightmare that can keep Government bogged down in an endless process of defending itself.

I call attention to four provisions of the bill that greatly disturb me. First. A lawsuit can be brought and the attorney fees and costs are guaranteed merely if the plaintiff "substantially prevails." Second. A plaintiff not only can obtain personal costs against individual members of an agency in certain cases, but costs cannot be assessed against him even if he loses, unless it can be proven that the lawsuit was instigated for purely frivolous and dilatory purposes. Think for a moment of the position of the dedicated public servant. I personally feel it would further hamper our efforts to obtain qualified persons to work for Government. Third. Perhaps the most indefensible provision of the bill is the one that allows a person to bring a lawsuit in his own home district against any agency covered in this act regardless of where that agency held the meeting.

These points alone will provide you with some idea of the legal nightmare we are creating.

In closing I wish to speak to a fourth provision that troubles me. That provision is the requirement that transcripts be kept of all closed meetings and be made availble with proper regard for national security and other exceptions listed. While the intent is to provide the agency with a tool for defense in the event of lawsuits, it also provides a great temptation to those who would like to become instant heroes with the media. I think the House has proved conclusively that secrets are hard to keep.

Mr. MIKVA. Madam Chairman, over the past year, the lead horse of the team pulling almost every political bandwagon has been nourished by attacks on the Federal bureaucrats. During this period, there have been a number of constructive proposals put forward to improve the quality of the Washington agencies.

Today, we have the opportunity to move one of the simplest but, potentially most effective of those proposals, the Government in the Sunshine Act, from the drawing boards of classrooms and committees into the boardrooms of our regulatory agencies.

Government in the sunshine is important not only for the substantive benefits it will provide American business and consumers, but also because the central concept of this bill is so closely tied into the central concept of democracy—the people's right to know. The failure of the Government to respect the right of the people to know what their Government is doing is one of the primary causes of the erosion of public trust in Government. The Government in the Sunshine Act is an essential step toward the restoration of public confidence.

Public scrutiny of the agency decisionmaking process is not a mere cosmetic solution. The exposure of errors and inequities in agency decisions will substantially reduce the frequency of occurrence. But, increased public scrutiny also means a greater awareness by the public of the many fair and judicious opinions promulgated by agency commissioners.

The House of Representatives has recently brought some of its procedures into the sunshine; I urge my colleagues to seek as much from the regulatory agencies.

Mr. OTTINGER. Madam Chairman, by passing a Sunshine Act, we have the rare opportunity not only to help relieve public criticism about a removed, secretive Government, but also to reaffirm the principles on which this great Nation was founded 200 years ago. One of the main tenets of our Government is that it exists "for the people." By opening up governmental processes to the scrutiny of the American public, we can tear down the wall of bureaucratic secrecy and help insure that the Government does indeed exist "for the people."

The concept behind the Government in the Sunshine Act, that of opening meetings of Federal agencies to the public, represents a large step toward restoring the public's confidence in its Government institutions. The Government Information and Individual Rights Subcommittee hearings provided us with a clear picture of how necessary a sunshine law is. At those hearings, David Cohen, president of Common Cause, said:

> For too long secrecy, mystery, remoteness have dominated government practices at all levels and in all branches. Let's have our leaders level with us, tell us what's going on, enable us to understand government decisions. Let's act on the recognition that government belongs to its citizens and not a variety of special interests or public officials.

As it now stands, the bill could use an improvement. The decision to drop statements of the reasons and statutory authority for transcript deletions furthers Government secrecy and represents a regression from the bill's original intentions. People should be able to know why they are prevented from having information about agency proceedings. The Government Operations Committee's original version of this provision properly balanced the need to keep certain matters secret against the people's right to know.

There have been other attempts to weaken the bill. The movement to drop the verbatim transcript requirement must be defeated, as the change would constitute a further diminution of the people's right to know. During the course of legitimately closed meetings, there will occur discussion that would normally be made available to the public, but will not if the transcript requirement is dropped. By purporting to discuss any legitimately closed business, an agency could keep all of its meetings from being made open to the public. The cost of enforcing the transcript requirement is not enough to justify denying the people information that is rightfully theirs.

I believe that if we can resist attempts to weaken the bill, the Sunshine Act that results will be an outstanding legislative accomplishment. Especially since the Watergate crisis, people have withdrawn from and become distrustful of their Government. Government secrecy can only encourage distrust. Effective citizen participation in Government affairs is essential in a democracy, and for people to participate effectively, they must be informed of what goes on within the Government. In this our Bicentennial Year, let us make sure that the people's Government is in fact the people's Government. Let us reestablish the principle of openness in the affairs of the Federal Government.

Mr. DOWNEY of New York. Mr. Chairman, I welcome this opportunity to affirm my support of H.R. 11656, the Government in the Sunshine Act.

This bill would require that meetings of Federal regulatory and other agencies be open to the public. Furthermore, it requires that when an agency closes a meeting under one of the exemptions in the bill, it must make a recording or verbatim transcript of the closed portion, and release to the public any part of the recording or transcript that does not contain exempt information.

To all firm believers of the democratic ideal, the passage of this important bill is obviously long overdue.

The revelations emanating from the Watergate era demonstrate only too clearly that many Federal agencies have been remiss in the honest performance of their delegated responsibilities, particularly when offered the protection of a sanctioned cloak of secrecy. The public often found itself less well served than private interests.

Documented evidence also proved that numerous governmental institutions, acting in a clandestine manner, have been guilty of immoral, unethical, and sometimes blatantly illegal acts that, were it not for some tenacious investigagative newspaper reporting, might still be unknown of today.

The "fourth estate" must be commended for a job well done; but it is simply not enough to expect the press to perform this function on an ongoing basis. It is now time for the Congress to officially remove all roadblocks that may be encountered by anyone seeking to monitor their Government's activities. Our dedication to the concept of open Government, as effectively espoused by the more "democratic" of our Founding Fathers, demands passage of the "Sunshine" Act.

The idea behind the bill is a simple one—open our Government's heretofore closed doors and "let the Sun shine in." Give the American public the opportunity to view their Government in an unfiltered light.

The consequences of the defeat of this bill would be painfully obvious—the abandonment of the ideals of Jefferson and Franklin; and the possible regression into a pre-Watergate Government replete with camouflaged agency operations and lack of citizen participation.

The evidence adduced from Watergate should convince us that a bureaucracy free of public scrutiny is subject to temptations that can often result in violations of our moral and legal codes. The passage of H.R. 11656 will dramatically lessen these temptations.

Therefore, my sense of public responsibility and my faith in our democratic ideals compels me to urge the Members of the House to support the Government in the Sunshine Act. I further urge the rejection of any proposed amendments that seek to weaken this bill. The insertion of any such additions would only create loopholes that might tend to render H.R. 11656 virtually useless. The amendments must be rejected to allow the clear intent of this bill to remain untarnished.

The American public deserves the guarantees presented by this act.

It is our duty, as Representatives, to give America the "Sunshine" Act.

Mr. HORTON. Madam Chairman, I have no further requests for time.

Ms. ABZUG. Madam Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Government in the Sunshine Act".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLOWERS

Mr. FLOWERS. Madam Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Flowers: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Government in the Sunshine Act".

DECLARATION OF POLICY

Sec. 2. It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. It is the purpose of this Act to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities.

OPEN MEETINGS

Sec. 3. (a) Title 5, United States Code, is amended by adding after section 552a the following new section:

"§ 552b. Open meetings

"(a) For purposes of this section—

"(1) the term 'agency' means the Federal Election Commission and any agency, as defined in section 552(e) of this title, headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and includes any subdivision thereof authorized to act on behalf of the agency;

"(2) the term 'meeting' means an assembly or simultaneous communication concerning the joint conduct or disposition of agency business by two or more, but at least the number of individual agency members required to take action on behalf of the agency, but does not include meetings required or permitted by subsection (d); and

"(3) the term 'member' means an individual who belongs to a collegial body heading an agency.

"(b) (1) Members as described in subsection (a) (2) shall not jointly conduct or dispose of agency business without complying with subsections (b) through (g).

(2) Except as provided in subsection (c), every portion of every meeting of an agency shall be open to public observation.

"(c) Except in a case where the agency finds that the public interest requires otherwise, subsection (b) shall not apply to any portion of an agency meeting and the requirements of subsection (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

"(1) disclose matters (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

"(2) relate solely to the internal personnel rules and practices of an agency;

"(3) disclose information required or permitted to be withheld from the public by any statute establishing particular criteria or referring to particular types of information;

"(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) involve accusing any person of a crime, or formally censuring any person;

"(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

"(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

"(8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions;

"(9) disclose information the premature disclosure of which would—

"(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation, or (ii) significantly endanger the stability of any financial institution: or

"(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that this subparagraph shall not apply in any instance after the content or nature of the proposed agency action has been disclosed to the public by the agency, unless the agency is required by law to make such disclosure prior to taking final agency action on such proposal, or after the agency publishes or serves a substantive rule pursuant to section 553(d) of this title; or

"(10) specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

"(d) (1) Action under subsection (c) to close a portion or portions of an agency meeting shall be taken only when a majority of the entire membership of the agency votes to take such action. A separate vote of the agency members shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to subsection (c). A single vote may be taken with respect to a series of portions of meetings which are proposed to be closed to the public, or with respect to any information concerning such series, so long as each portion of a meeting in such series involves the same particular matters, and is scheduled to be held no more than thirty days after the initial portion of a meeting in such series. The vote of each agency member participating in such vote shall be recorded and no proxies shall be allowed.

"(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the agency close such portion to the public for any of the reasons referred to in paragraph (5), (6), or (7), of subsection (c), the agency, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

"(3) Within one day of any vote taken pursuant to paragraph (1) or (2), the agency shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the agency shall, within one day of the vote taken pursuant to paragraph (1) or (2) of this subsection, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

"(4) Any agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9) (A), or (10) of subsection (c), or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof in the event that a majority of the members of the agency votes by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each member on the question, is made available to the public. The provisions of paragraphs (1), (2), and (3) of this subsection and subsection (e) shall not apply to any portion of a meeting to which such regulations apply:

Provided, That the agency shall, except to the extent that such information is exempt from disclosure under the provisions of subsection (c), provide the public with public announcement of the date, place, and subject matter of the meeting and each portion thereof at the earliest practicable time and in no case later than the commencement of the meeting or portion in question.

"(e) In the case of each meeting, the agency shall make public announcement, at least one week before the meeting, of the date, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the agency determines by a recorded vote that agency business requires that such meeting be called at an earlier date, in which case the agency shall make public announcement of the date, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time and in no case later than the commencement of the meeting or portion in question. The time, place, or subject matter of a meeting, or the determination of the agency to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this paragraph only if (1) a majority of the entire membership of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible, and (2) the agency publicly announces such change and the vote of each member upon such change at the earliest practicable time and in no case later than the commencement of the meeting or portion in question.

"(f) (1) A complete transcript or electronic recording adequate to record fully the proceedings shall be made of each meeting, or portion of a meeting, closed to the public, except for a meeting, or portion of a meeting, closed to the public pursuant to paragraph (10) of subsection (c). The agency shall make promptly available to the public, in a location easily accessible to the public, the complete transcript or electronic recording of the discussion at such meeting of any item on the agenda, or of the testimony of any witness received at such meeting, except for such portion or portions of such discussion or testimony as the agency determines to contain information specified in paragraphs (1) through (10) of subsection (c). Copies of such transcript, or a transcription of such electronic recording disclosing the identity of each speaker, shall be furnished to any person at no greater than the actual cost of duplication or transcription or, if the public interest, at no cost. The agency shall maintain a complete verbatim copy of the transcript, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting, or a portion thereof, was held, whichever occurs later.

"(2) Written minutes shall be made of any agency meeting, or portion thereof, which is open to the public. The agency shall make such minutes promptly available to the public in a location easily accessible to the public, and shall maintain such minutes for a period of at least two years after such meeting. Copies of such minutes shall be furnished to any person at no greater than the actual cost of duplication thereof or, if in the public interest, at no cost.

"(g) Each agency subject to the requirements of this section shall, within 180 days after the date of enactment of this section, following consultation with the Office of the Chairman of the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment by any persons, promulgate regulations to implement the requirements of subsections (b) through (f) of this section. Any person may bring a proceeding in the United States District Court for the District of Columbia to require an agency to promulgate such regulations if such agency has not promulgated such regulations within the time period specified herein. Subject to any limitations of time therefor provided by law, any person may bring a proceeding in the United States Court of Appeals for the District of Columbia to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of subsections (b) through (f) of this section, and to require the promulgation of regulations that are in accord with such subsections.

"(h) The district courts of the United States have jurisdiction to enforce the requirements of subsections (b) through (f) of this section. Such actions may be brought by any person against an agency prior to, or within sixty days after, the meeting out of which the violation of this section arises, except that if public announcement of such meeting is not initially provided by the agency in accordance with the requirements of this section, such action may be instituted pursuant to this section at any time prior to sixty days after any public announcement of such meeting. Such actions may be brought in the district court of the United States for the district in which the agency meeting is held, or in the District Court for the District of Columbia, or where the agency in question has its headquarters. In such actions a defendant shall serve his answer within twenty days after the service of the complaint, but such time may be extended by the court for up to twenty additional days upon a showing of good cause therefor. The burden is on the defendant to sustain his action. In deciding such cases the court may examine in camera any portion of a transcript or electronic recording of a meeting closed to the public, and may take such additional evidence as it deems necessary. The court, having due regard for orderly administration and the public interest, as well as the interests of the party, may grant such equitable relief as it deems appropriate, including granting an injunction against future violations of this section, or ordering the agency to make available to the public such portion of the transcript or electronic recording of a meeting as is not authorized to be withheld under subsection (c) of this section. Nothing in this section confers jurisdiction on any district court acting solely under this subsection to set aside, enjoin or invalidate any agency action taken or discussed at an agency meeting out of which the violation of this section arose.

"(i) The court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with the provisions of subsection (g) or (h) of this section, except that costs may be assessed against the plaintiff only where the court finds that the suit was initiated by the plaintiff primarily for frivolous or dilatory purposes. In the case of assessment of costs against an agency, the costs may be assessed by the court against the United States.

"(j) Each agency subject to the requirements of this section shall annually report to Congress regarding its compliance with such requirements, including a tabulation of the total number of agency meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section, including any costs assessed against the agency in such litigation (whether or not paid by the agency).

"(k) Except as specifically provided in this section, nothing herein expands or limits the present rights of any person under section 552 of this title, except that provisions of this Act shall govern in the case of any request made pursuant to such section to copy or inspect the transcripts or electronic recordings described in subsection (f) of this section. The requirements of chapter 33 of title 44, United States Code, shall not apply to the transcripts and electronic recordings described in subsection (f) of this section.

"(l) This section does not, constitute authority to withhold any information from Congress, and does not authorize the closing of any agency meeting or portion thereof otherwise required by law to be open.

"(m) Nothing in this section authorizes any agency to withhold from any individual any record, including transcripts or electronic recordings required by this Act, which is otherwise accessible to such individual under section 552a of this title.

"(n) In the event that any meeting is subject to the provisions of the Federal Advisory Committee Act as well as the provisions of this section, the provisions of this section shall govern.".

(b) The chapter analysis of chapter 5 of title 5, United States Code, is amended by inserting:

"552b. Open meetings."

immediately below:

"552a. Records about individuals.".

EX PARTE COMMUNICATIONS

SEC. 4. (a) Section 557 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) (1) In any agency proceeding which is subject to subsection (a) of this section, except to the extent required for the disposition of ex parte matters as authorized by law—

"(A) no interested person outside the agency shall make or cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding an ex parte communication relative to the merits of the proceeding;

"(B) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or cause to be made to any interested person outside the agency an ex parte communication relative to the merits of the proceeding;

"(C) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or causes to be made, a communication prohibited by this subsection shall place on the public record of the proceeding:

"(i) all such written communications;

"(ii) memoranda stating the substance of all such oral communications; and

"(iii) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (i) and (ii) of this subparagraph;

"(D) in the event of a communication prohibited by this subsection and made or caused to be made by a party or interested person, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the person or party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

"(E) the prohibitions of this subsection shall apply beginning at such time as the agency may designate, but in no case shall they begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

"(2) This section does not constitute authority to withhold information from Congress.".

(b) Section 551 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the "act." at the end of paragraph (13) and inserting in lieu thereof "act; and"; and

(3) by adding at the end thereof the following new paragraph:

"(14) 'ex parte communication' means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given.".

(c) Section 556(d) of title 5, United States Code, is amended by inserting between the third and fourth sentences thereof the following new sentence: "The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557(d) of this title sufficient grounds for a decision adverse to a person or party who has committed such violation or caused such violation to occur.".

CONFORMING AMENDMENTS

SEC. 5. (a) Section 410(b)(1) of title 39, United States Code, is amended by inserting after "Section 552 (public information)," the words "section 552a (records about individuals), section 552b (opening meetings),".

(b) Section 552(b)(3) of title 5, United States Code, is amended to read as follows:

"(3) required or permitted to be withheld from the public by any statute establishing particular criteria or referring to particular types of information;"

EFFECTIVE DATE

SEC. 6. (a) Except as provided in subsection (b) of this section, the provisions of this Act shall take effect one hundred and eighty days after the date of its enactment.

(b) Subsection (g) of section 552b of title 5, United States Code, as added by section 3(a) of this Act, shall take effect upon enactment.

Mr. FLOWERS (during the reading). Madam Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. FLOWERS. Madam Chairman, on the amendment in the nature of a substitute, which represents all of the amendments adopted in the Committee on the Judiciary as well as all the committee amendments of the Committee on Government Operations, I do not know that there is a great deal of controversy save in one particular and I would speak to this one which I believe to be in controversy and then will have something to say in reference to what I know will be the allegations of the opponents of this amendment. In one of the amendments that the Committee on the Judiciary recommends in its package, in regard to subsection (f) of the new section concerning transcripts of closed meetings, the Committee on Government Operations' bill requires that a complete transcript or electronic recording which is adequate to record the proceedings shall be made of each meeting or portion of a meeting, closed to the public, except for a meeting, or portion of a meeting, closed to the public pursuant to paragraph (10) of subsection (c).

The committee considered the difficulties incident to the review of the transcript of the closed meetings required by the original provisions of the bill. The bill would require that each deletion—this is under the Committee on Government Operations' version—authorized by an exception in the section would be made by recorded vote of the agency taken subsequent to the meeting.

It was pointed out that this would require considerable expenditure of time of officials of the Agency, and this would be cumbersome and time consuming. We determined that the intent of the bill could be adequately carried out by deleting this provision and similarly deleting the provision requiring a written explanation of the reason and statutory basis for each deletion.

This is, Madam Chairman, where we cross swords over the matter of the written explanation and the statutory basis for the deletion. And I hope the Members will oppose the gentleman from Florida's amendment.

Mr. FASCELL. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

If the gentleman will permit me, let me express my appreciation first to him and his subcommittee for the very careful and thorough consideration he gave this bill, and for the prompt manner in which he acted on the bill. I also have no objection to the amendments except the difference on the one the gentleman has pointed out. I intend to offer an amendment here as soon as I can to read that in place of each portion deleted from such transcript, the agency shall supply a written explanation of the reason, et cetera, simply on the theory that if we are going to be faced with pages of deletion, at least we ought to know what the citation of the statute is and some explanation of the deletion.

Mr. FLOWERS. I understand the gentleman fully, and it would only be my concern that we could get too specific here, and that the reason for the deletion might require too much elaboration and could be an onerous task.

Let me say before I stop here that I fully support the legislation. I think it is an excellent piece of work that the gentleman's committee has done, the gentlewoman from New York (Ms. ABZUG), the gentleman from Texas (Mr. BROOKS), and all of the members of the Committee on Government Operations. You have brought us an excellent piece of work, something that has been long coming. And I think that the agencies are going to find that the rays of sunshine do not really bother them all that much.

Mr. FASCELL. If the gentleman will yield further, I agree, of course, that we have sunshine in the Congress. We cannot hurt the executive agencies. We are trying to help them.

I was very much impressed with the thorough consideration given by the gentleman's subcommittee. I know that there were a lot of amendments considered. But the committee went through them all and carefully decided which ones they would support.

Mr. FLOWERS. I thank the gentleman for his comments.

Madam Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. FASCELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLOWERS

Mr. FASCELL. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. FASCELL to the amendment in the nature of a substitute offered by Mr. FLOWERS: Page 10, line 12, after "subsection (c)." add the following: "In place of each portion deleted from such a transcript or transcription the agency shall supply a written explanation of the reason for the deletion, and the portion of subsection (c) and any other statute said to permit the deletion.".

Mr. FASCELL. Madam Chairman, the bill provides that most of the meetings must be open to the public and it requires that transcripts be made of the meetings that are closed under the 10 exemptions. Transcripts are required for two reasons; One is so that any portion of the meeting that turns out not to contain exempt material may be released to the public, and in case a suit is brought by the citizen. Under this bill of course that is a remedy a citizen has when a meeting is wrongfully closed.

The original bill considered by the Government Operations Committee requires when material is deleted the agency must state the reason and the statutory basis therefore and give a summary or paraphrase of the deleted material. Because some agencies objected to the requirement of the summary or paraphrase, that was dropped by the Government Operations Committee, leaving only the requirements for the reason and the statutory basis.

Then the bill went to the Judiciary Committee which recommend even that language be removed, and it is that language which I seek to restore to the bill, so that if there is a deletion we would have at least to give the reason and statutory citation. We maintain that is not unreasonable. It does not put an unnecessary or intolerable burden on the agency. But obviously all of us have had experience in dealing with our own transcripts where we are met with pages and pages of blank spaces which simply say "deletion." We can get nothing out of it. I can understand why we might not want to put a summary in and we have left that out, but I see no reason why we cannot say "security deletion, Public Law 1234, paragraph (a), (b), or (c)." That is not so bad.

It is, as the gentleman from Alabama says, no big deal, but we think it will be helpful in carrying out the spirit and thrust of this act. I hope this simple amendment can be adopted.

Mr. HORTON. Madam Chairman, I rise in opposition to the amendment offered by Mr. FASCELL which will require a reason be given for the deletion of certain exempted information or a summary of the deleted information.

First let me state I am opposed to the unique requirement of a verbatim transcript for reasons which have and will be elaborated on. There are many adverse consequences that will result if this amendment is passed but I request my colleagues to reflect on only two very clear and simple ones.

There are only 10 narrowly defined exemptions which can be asserted to withhold information from the public. These 10 are overwhelmingly supported by Members of both bodies of this Congress. Yet, this amendment says there are 10 categories of information that should be protected, but not protected completely. Let us delete it from the public record, then let us sanction "official leaks" by giving the reason or a summary of the information. This clearly is contradictory and unacceptable.

The other point I would like to submit for your consideration is the primary purpose of this legislation. That is, to allow every citizen interested in the work of his Government access to proceedings conducted by various agencies. Again, I remind you of the 10 narrowly defined exemptions. However, if this amendment is passed, there will be hints, clues, and even summaries of information which should not be made public by the 10 exemptions. These clues and summaries will not aid or benefit the vast majority of the American public. They will, however, greatly benefit select and sophisticated groups. This amendment will provide information to these groups which, because of their expertise, can utilize in financial and market speculation. This clearly discriminates against the general public. This amendment could be titled "Aid and Benefit to Financial Speculators."

There are many other serious and complex consequences that will result if this amendment is passed but I only ask consideration of these two very simple and clear results as I feel they are more than sufficient to defeat this amendment.

Mr. MOORHEAD of California. Madam Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from California.

Mr. MOORHEAD of California. Madam Chairman, I am also opposed to this amendment. People in the agencies handling delicate matters, such as those connected with the market and many other things, have told us if they have to give an explanation, that people who are wise in the matters concerned will be able to tell from the explanation really what was in the part that was deleted and we fail to serve the purpose if we require that to be included. In many instances, it will work great harm to the country.

Mr. HORTON. Madam Chairman, I thank the gentleman.

I am opposed to the amendment and urge my colleagues to oppose it.

Mr. FASCELL. Madam Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will not commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 559]

Andrews, N.C.
Ashbrook
AuCoin
Badillo
Boggs
Brown, Mich.
Cederberg
Chisholm
Clay
Cochran
Collins, Ill.
Conyers
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Downing, Va.
Drinan
Esch
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Fountain
Fraser
Gaydos
Hansen
Harrington
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Holland
Jarman
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kemp
Landrum
Litton
McDade
Mathis
Murphy, N.Y.
Nowak
O'Hara
O'Neill
Patterson, Calif.
Peyser
Pike
Railsback
Randall
Rees
Riegle
Roe
Rostenkowski
Ruppe
Santini
Scheuer
Shuster
Sisk
Stanton, James V.
Steed
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Udall
Vander Veen
Wampler
Wiggins
Wilson, C. H.
Wilson, Tex.
Young, Alaska
Zeferetti

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mrs. BURKE of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill H.R. 11656, and finding itself without a quorum, she had directed the Members to record their presence by electronic device, whereupon 352 Members recorded their presence, a quorum, and she submitted herewith the names of the absentees to be spread upon the journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

Mr. BROOKS. Madam Chairman, I rise in support of the amendment offered by the gentleman from Florida (Mr. FASCELL) to the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS) which amendment would require that the agencies seeking to cut out language or delete it in one form or another, to give a written explanation on why they cut it out and any statutes that are said to give them that authority.

The amendment is simple logic. If material is deleted from a transcript, some indication of the reason and the authority for the deletion should be stated and can be stated without any difficulty.

A blank space is going to be meaningless and confusing. It will cause more problems for the agency than a statement of the authority for the deletion would. The amendment is a compromise from the original language. The original bill provided for a summary or a paraphrase of that material. The Committee on Government Operations reduced that to a simple citation of the reason for the deletion. The citation of the authority for the deletion certainly is not onerous. It will not reveal any confidential information.

Madam Chairman, I support the amendment offered by the gentleman from Florida as a very reasonable and worthwhile compromise.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FLOWERS. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I do not think that this amendment and the subject matter we are dealing with here are as important as some of the other things we are going to deal with later on, on which there will be amendments to this legislation. However, I am constrained to oppose it.

The Committee on the Judiciary struck this provision, because it was our considered judgment that it did amount to an onerous task to foster off on these agencies, in addition to all of the other things we are putting into this legislation, if we require them to offer an explanation of the reasons for the deletion and the statutory authority. This could in effect amount to about the same thing as a summary, thereby giving rise to placing in the transcript the same information that would be the reason for their deleting the subject matter in the first place.

The full transcript will still be available for the judge, and we do not think there is any real reason for requiring the additional effort, the additional work on the part of rather high level people in these agencies and departments. Therefore, we did not think this provision was necessary.

Madam Chairman, I urge my colleagues to vote "no" on this amendment.

Mrs. FENWICK. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I would like to ask a question. My trouble with this amendment is the definition of the word "explanation." Perhaps I should address this question to our colleague, the gentleman from Florida.

Mr. FASCELL. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Florida.

Mr. FASCELL. I thank you for yielding.

I will be delighted to answer the question of the gentlewoman. The explanation that is required would be that whatever the deletion is, it is within the statutory exemption, for example, because the testimony herein deleted might adversely affect the national security, or the national economy, or affect the rights or life of an individual, and it requires a citation of the statute of that authority. It does not require a summary or a paraphrasing of the testimony.

Mrs. FENWICK. If the gentleman will yield further, am I correct in saying, then, that the explanation could be as brief as, "national security," "the national economy," "the welfare of the masses," or something of that kind, citing subsection (c)?

Mr. FASCELL. If the gentleman will yield further, the gentlewoman from New Jersey is absolutely correct. The only thing one would have to add to it is the statutory citation.

Mrs. FENWICK. Subsection (c)?

Mr. FASCELL. That is right.

Mr. SEIBERLING. Madam Chairman, I move to strike the last word.

If the gentlewoman from New Jersey would look at the supplemental views of six of the members of the Committee on the Judiciary, including this member—and there are four printings of the supplemental views, but they are all basically identical—she would find that we make a very clear distinction between summaries, which is what was deleted by the Committee on Government Operations, and explanations and citations of authority, which is what was deleted by the Committee on the Judiciary—in my view a mistaken deletion.

I strongly support the Fascell amendment and regret that the majority of my colleagues on the Judiciary Committee took the step of deleting it.

Mr. KINDNESS. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in strong opposition to the amendment and I will yield in a moment to my colleague, the gentleman from New York (Mr. HORTON), who will also fill Members in on the reasons for the opposition.

It is important to learn what we are doing is gutting the exemptions to the bill, in at least some cases. The exemptions to the bill relating to the national security and trade secrets and matters of that sort are in there for a good purpose and they are supported by the overwhelming majority I am sure of the Members of the House and certainly of the other body.

We recognize the need for some materials not being disclosed publicly. This amendment in the case, for example, of the Federal Reserve Board or the Securities and Exchange Commission, if it required disclosure in the way this amendment proposes, would give all the information that is necessary to a highly sophisticated group of people who follow what is going on in the SEC or the FRB. So in effect this amendment would remove part of the effectiveness of those exemptions. I would urge a "no" vote overwhelmingly against this amendment.

I yield now to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Madam Chairman, I thank the gentleman for yielding.

I have already addressed myself to this amendment and expressed my opposition to it, but I would like to point out to the Members that the amendment that has been offered is to restore language that was in the Government Operations Committee bill. Subsequent to the action by the Government Operations Committee the bill was referred sequentially to the Judiciary Committee. We just heard the chairman of the subcommittee that handled this bill for the Judiciary Subcommittee indicate that they had this matter before them and that they decided to remove this language because for all practical purposes it made the Freedom of Information Act deletions or exemptions moot. They are not effective if this amendment goes through.

For all practical purposes, if there is a reason for closing a meeting and one has to explain the reason for those deletions when the report is made or when there is a deletion or when a summary is made available to the public, that is going to mean to those sophisticates who know what is involved in that meeting, exactly what occurred.

I think this is a devastating amendment as far as the ability of these agencies to delete material. On the one hand we say under the Freedom of Information Act they can exempt or delete material before making it public and then on the other hand we turn around and say if they do delete when they make the transcript public then they have to give the reasons for it, so that is tantamount to removing whatever exemptions they might have.

Some of these regulatory agencies have some very sensitive matters that relate to economics and national security and financial matters that ought not be released.

So I hope my colleagues will oppose this amendment and vote it down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL) to the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS).

RECORDED VOTE

Ms. ABZUG. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 168, not voting 32, as follows:

[Roll No. 560]

AYES—232

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bennett
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chappell
Chisholm
Clancy
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Crane
D'Amours
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Grassley
Green
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Holland
Holtzman
Howard
Howe
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jordan
Kastenmeier
Kelly
Keys
Koch
Krebs
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
McHugh
McKay
Madden
Maguire
Mann
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Passman
Patterson, Calif.
Paul
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Rangel
Reuss
Richmond
Rinaldo
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steelman
Stokes
Studds
Symms
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
White
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.

NOES—168

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashley
Beard, Tenn.
Bell
Bevill
Biester
Boggs
Bowen
Breaux
Breckinridge
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conable
Conlan
Coughlin
Daniel, Dan
Daniel, R. W.
Danielson
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Eshleman
Findley
Fish
Flowers
Flynt
Forsythe
Frenzel
Frey
Ginn
Goldwater
Goodling
Gradison
Gude
Guyer
Hagedorn
Hammerschmidt
Harsha
Hébert
Hefner
Henderson
Hightower
Hillis
Holt
Horton
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jarman
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kemp
Ketchum
Kindness
Krueger
LaFalce
Lagomarsino
Latta
Lloyd, Tenn.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McKinney
Madigan
Mahon
Martin
Mazzoli
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nichols
O'Brien
Patten, N.J.
Pattison, N.Y.
Pettis
Poage

Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Treen
Vander Jagt
Waggonner
Walsh
Whitehurst
Whitten
Wilson, Bob
Winn
Young, Alaska
Zablocki

NOT VOTING—32

Ashbrook
AuCoin
Clay
Dent
Esch
Fountain
Hansen
Helstoski
Hinshaw
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Leggett
Litton
O'Hara
O'Neill
Peyser
Riegle
Roe
Rostenkowski
Sisk
Steiger, Ariz.
Stratton
Stuckey
Sullivan
Symington
Wampler
Wiggins
Wilson, C. H.
Wilson, Tex.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. O'Neill for, with Mr. Landrum against.

Mr. Dent for, with Mr. Steiger of Arizona against.

Mr. Helstoski for, with Mr. Wampler against.

Mr. Zeferetti for, with Mr. Wiggins against.

Mr. Rostenkowski for, with Mr. Fountain against.

Mr. Symington for, with Mr. Ashbrook against.

Mr. Charles H. Wilson of California for, with Mr. Hansen against.

Messrs. DERWINSKI, BAUMAN, SYMMS, and SHIPLEY changed their vote from "no" to "aye."

Mr. RANDALL changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HORTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLOWERS

Mr. HORTON. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HORTON to the amendment in the nature of a substitute offered by Mr. FLOWERS: Page 3, strike lines 3 through 9 and insert:

"(2) the term 'meeting' means a gathering to jointly conduct or dispose of agency business by two or more, but at least the number of individual agency members required to take action on behalf of the agency, but does not include gatherings required or permitted by subsection (d); and"

Mr. HORTON. Madam Chairman, this amendment would bring the definition of meeting in line with the realities of life.

As now written, the definition would mean that telephone conversations and gatherings of agency members at social events, on a golf course or elsewhere would be covered by the act if any mention of agency business was made in informal conversation. It makes the decision as to whether there will be a meeting dependent on what occurs at the meeting. The impracticability of subjecting such a broadly defined gathering to prior public announcement, to the open meeting requirement, to the requirement for a formal vote for meeting closing and to the verbatim transcript requirement can only have the effect of restricting the right of assembly and free speech of public officials without any corresponding benefit to the public at large. This is a patently ridiculous requirement, because it does not limit the application of the act to meetings or gatherings called for the purpose of agency business.

The Senate-passed bill defines a meeting as "the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations concern the joint conduct or disposition of official agency business." The House Government Operations Committee bill omits the word "official" from the definition of meetings. This omission immediately broadens the range of member conversations which must be covered by the procedural requirements of the bill. The report on the bill specifically states that "the conduct of agency business is intended to include not just the formal decisionmaking or voting, but all discussion relating to the business of an agency." Then, the House Judiciary Committee set forth a third definition of meeting which in turn differs from the wording recommended by the Judiciary Subcommittee which considered the bill.

It is not easy to strike a balance between the various public interests to be served, but we have a special responsibility to enact responsible legislation which will promote greater openness in Government at the same time that it is not unnecessarily burdensome and does not unnecessarily hinder public officials from carrying out their responsibilities.

My amendment would restore the language adopted by the Subcommittee on Administrative Law and Governmental Relations by a 5-to-0 vote and would make it clear that a meeting, within the terms of this bill, should be limited to a "gathering" of agency members in a single physical location for the purpose of conducting agency business.

I appeal to my colleagues to consider this amendment on its merits and urge its adoption.

Mr. BROOKS. Madam Chairman, I rise in opposition to the amendment.

The definition in the bill is designed to cover any situation in which the number of agency members required to take action do, in fact, discuss or conduct agency business. The amendment of the gentleman from New York would require that the members physically gather together with the express intention of conducting business.

It is easy to see how an agency could avoid the requirements of the bill if the amendment were adopted. The agency members would simply get on the telephone in a series of calls, or in a conference call, and their discussions or any results from them, would not have to be made public.

The amendment also requires that the gathering be for the express purpose of conducting business. So all they have to do is plan a nice social evening—say a birthday celebration for one of the members—and if they happen to talk business over the drinks and dinner, well, that just would not be covered.

What we want to reach in this bill are the deliberations of agency members relating to agency business. The definition in the bill accomplishes this. The amendment of the gentleman from New York would open a huge loophole and I urge its defeat.

Mr. McCLOSKEY. Madam Chairman, I rise in support of the amendment.

Madam Chairman, I would like to direct the attention of the House to the definition of the term "meeting," which we seek to change in this amendment.

The term "meeting" means, and I quote:

> An assembly or simultaneous communication concerning the joint conduct or disposition of agency business by two or more, but at least the number of individual agency members required to take action on behalf of the agency, * * *

Madam Chairman, what that precludes is the casual meeting of people at breakfast or at lunch or elsewhere to discuss any action which may later be taken at the formal meeting of the board.

If two members, for example, of the Securities and Exchange Commission, who, by their rules, are impowered to take action, could meet at breakfast to discuss, even in the most casual way, what they might later take up in a formal meeting with the other members, they would be required to be subject to a civil or other penalty by holding that meeting without holding it in abeyance for 1 day to announce that they were going to have a closed meeting. They would be subject to penalty because they have no transcription of that meeting.

Madam Chairman, this bill in front of us today purports to bring to the Federal Government the same kind of sunshine requirements which have been widely adopted by most of the enlightened States of this Union, including California, with California's Brown Act, which requires public meetings.

The California law, however, makes no requirement that two State legislators who sit on the same committee to act on committee business could not discuss that business if they met casually.

Take the subcommittee which presented this bill and whose chairman is the gentlewoman from New York (Ms. ABZUG) and on which we have seven members. If four of us should meet here in the well of the House to discuss how we could get the rest of the subcommittee to go up to a room to get a quorum, as we have done, so as to pass a bill, that meeting would be illegal because we had not held a public meeting in advance voting to meet in private.

All we do in this bill is to seek to retain good balance between good government and open government. We are reacting as we did in the Freedom of Information Act, and others, because of excessive abuses of secrecy by the executive branch. And obviously the attention of the public that has been focused on that problem will not bring people into the Government and these commissions in the future. I would suggest the question to the Members that if any one of us were asked to serve on such a commission in the future, would we want to subject ourselves to that role if we could not casually discuss a matter that we were ultimately going to act upon with one of our colleagues? That is the effect of the bill as presently written.

Madam Chairwoman, I submit that the amendment should be adopted so as to strike a proper balance between open meetings and the conduct of good government.

Ms. ABZUG. Madam Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment offered by the gentleman from New York (Mr. HORTON) to the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS).

Madam Chairman, I think it is important that the Members be aware that the definition in the bill does not include chance meetings or casual or incidental discussions of agency business. Those Members who support this amendment keep insisting that they would be included. We have made our legislative record here and in our committee reports, and the Members can be assured that the intent here is not to include a casual discussion or chance meeting.

Mr. McCLOSKEY. Madam Chairman, would the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from California.

Mr. McCLOSKEY. Madam Chairman, I do not know how we can take the language of this section other than as written which describes simultaneous communication concerning the joint conduct or disposition of agency business by two or more, not to include simultaneous communication between two people on business that they are about to decide. And the legislative history can only help us when the language is not clear, but this language is clear that any simultaneous meeting between two Members would be precluded.

Ms. ABZUG. If the gentleman from California will read the language, it says that the term "meeting" means an assembly. I think we can hardly interpret incidental or casual getting together as being an assembly.

Mr. FLOWERS. Madam Chairman, would the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, I think that the key words are "concerning the joint conduct or disposition of agency business." I would ask how a casual meeting of two can decide how they are going to do it. This is concerning agency business. If you are just meeting at breakfast, or in the well of the House, or wherever and you are talking about how you are going to get a quorum, that is not concerning the joint conduct or disposition of agency business, and it is not a matter of making up two minds in advance. The definition in the amendment in the nature of a substitute that we are dealing with may be imperfect, but I think it is better than what we are being offered in its stead.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HORTON), to the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HORTON. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 204, noes 180, not voting 48, as follows:

[Roll No. 561]

AYES—204

Abdnor
Adams
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bedell
Bell
Bergland
Biester
Boggs
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fenwick
Findley
Fish
Flynt
Foley
Forsythe
Frenzel
Frey
Gaydos
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Hanley
Harris
Harsha
Hébert
Heckler, Mass.
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
LaFalce
Lagomarsino
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Melcher
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mosher
Murtha
Myers, Ind.
Myers, Pa.
Natcher
O'Brien
Passman
Patten, N.J.
Paul
Pepper
Pettis
Poage
Quie
Quillen
Railsback
Rees
Regula
Rhodes
Roberts
Robinson
Roush
Rousselot
Runnels
Ruppe
Ryan
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Treen
Van Deerlin
Vander Jagt
Waggonner
Walsh
White
Whitehurst
Whitten
Wilson, Bob
Winn
Wright
Wydler
Wylie
Young, Alaska
Young, Tex.

NOES—180

Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Annunzio
Aspin
Badillo
Bafalis
Baldus
Baucus
Beard, R.I.
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clancy
Cleveland
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Diggs
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Calif.
Eilberg
Emery
English
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Fraser
Fuqua
Gibbons
Gilman
Green
Gude
Hall, Ill.
Hamilton
Hannaford
Harkin
Harrington
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heinz
Hicks
Holtzman
Howard
Howe
Hughes
Hungate
Johnson, Calif.
Jordan
Kastenmeier
Keys
Koch
Lehman
Long, La.
McFall
McHugh
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
Patterson, Calif.
Pattison, N.Y.
Perkins
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Randall
Rangel
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Rogers
Roncalio
Rooney
Rose
Roybal
Russo
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Shipley
Simon
Solarz
Spellman
Stanton, James V.
Stark
Steelman
Stokes
Studds
Thompson
Thornton
Traxler
Tsongas
Udall
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wilson, Tex.
Wolff
Yates
Yatron
Young, Fla.
Zablocki

NOT VOTING—48

Ashley
AuCoin
Brodhead
Brown, Ohio
Clay
Dent
Dingell
Eckhardt
Esch
Evins, Tenn.
Fountain
Giaimo
Hansen
Helstoski
Hinshaw
Jenrette
Jones, Ala.
Jones, Tenn.
Karth
Krueger
Landrum
Leggett
Litton
Maguire
Moorhead, Pa.
O'Hara
O'Neill
Ottinger
Peyser
Riegle
Roe
Rosenthal
Rostenkowski
Sharp
Sisk
Staggers
Steiger, Ariz.
Stratton
Stuckey
Sullivan
Symington
Ullman
Wampler
Wiggins
Wilson, C. H.
Wirth
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. O'Neill against.

Mr. Jenrette for, with Mr. Dent against.

Mr. Landrum for, with Mr. Zeferetti against.

Mr. Evins of Tennessee for, with Mr. Moorhead of Pennsylvania against.

Mr. Stuckey for, with Mr. Rostenkowski against.

Mr. Fountain for, with Mr. Staggers against.

Mr. Hansen for, with Mr. Rosenthal against.

Mr. Steiger of Arizona for, with Mr. Symington against.

Mr. Wampler for, with Mr. Charles H. Wilson of California against.

Mr. Wiggins for, with Mr. Sisk against.

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HORTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLOWERS

Mr. HORTON. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HORTON to the amendment in the nature of a substitute offered by Mr. FLOWERS: On page 9, line 23 through page 11, line 2, strike subsection (f)(1) and insert the following:

"(f)(1) For every meeting closed pursuant to paragraphs (1) through (10) of subsection (c), the General Counsel or chief legal officer of the agency shall publicly certify that, in his opinion, the meeting may be closed to the public and shall state the relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the date, time and place of the meeting, the persons present, the generic subject matter of the discussion at the meeting, and the actions taken, shall be incorporated into minutes retained by the agency."

On page 13, lines 2 and 3, strike "a transcript or electronic recording" and insert "the minutes".

On page 13, line 10, strike "transcript or electronic recording" and insert "minutes".

On page 15, lines 1 and 2, strike "transcripts or electronic recordings" and insert "minutes".

On page 15, lines 4 and 5, strike "transcripts and electronic recordings" and insert "minutes".

On page 15, line 13, strike "transcripts or electronic recordings" and insert "minutes".

Mr. HORTON. Madam Chairman, this amendment would delete the verbatim transcript requirement of the bill and replace it with a requirement that minutes be kept of each closed meeting and retained by the Agency.

The bill now requires that a verbatim recording or transcript be made of every meeting which is legally closed under the narrow exemptions contained in the act.

As presently written, this is the most onerous and contradictory provision in the bill. The bill seeks on the one hand to guard against the potential havoc of unrestricted public exposure of agency deliberations by providing 10 exemptions from the requirement for open meetings, but on the other hand it effectively destroys the protection provided by closed meetings by requiring a verbatim transcript which could later lead to public disclosure.

The provision defeats the very purpose of the Freedom of Information Act and the Federal Privacy Act, which properly recognize the need to keep certain categories of information from premature or damaging publication.

Thus agency meetings held to hear preliminary staff reports on SEC stock fraud investigations, Federal Reserve Board bank examination activities, FTC antitrust investigations, Civil Service Commission disciplinary actions, and a host of similarly sensitive situations would be subject to publication of edited verbatim transcripts. No seasoned reporter or counsel for an affected party would have much trouble piecing together what an agency was up to if this procedure is required in the bill.

Proponents of the sunshine legislation repeatedly state that the bill's transcript requirements are essential to provide effective judicial review of agency action in closed meetings. It is my belief, which is shared by others, that this is not the case. The discovery proceedings available to the U.S. district courts do not depend upon the availability of verbatim transcripts or electronic recordings of agency meetings. Deputy Attorney General Harold R. Tyler, Jr., a former Federal judge (D.C., S.D., N.Y.), described the transcript provision in testimony before the House Government Operations Committee as "undoubtedly the most wasteful provision in the bill." He noted that—

> A transcript is not needed to secure judicial review of an improper closure, any more than it is needed to secure judicial review of other improper agency action. Any court can require the agency to supply an affidavit, under oath, as to what was discussed.

The transcript provision will be highly expensive to implement in terms of actual costs and time of agency members. It will result in voluminous paperwork and unnecessary accumulation of highly sensitive documents. It will be a constant source of litigation and an ever-present source of conjecture and speculation.

Moreover, the key sponsors of this bill stated from the outset that the sunshine bill is based on the experience of State sunshine laws. However, not a single State sunshine or open meetings law contains any requirement for verbatim transcripts. This provision is strictly an invention of the bill's sponsors and supporters at the Federal level.

I see no reason for the Federal Government to take such unprecedented action.

I see no reason why this provision should be maintained in the legislation we are considering and urge support for my amendment which would delete the verbatim transcript requirement and replace it with a requirement that minutes be kept of each closed meeting and retained by the agency. Such minutes would obviously be available for subpena and in camera examination in any court action brought to determine whether the open meeting provision of the sunshine law has been violated. Therefore, eliminating the transcript requirement would in no way weaken the enforceability of the open meeting provisions.

I urge the adoption of my amendment.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. PEPPER. Madam Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Florida.

Mr. PEPPER. I thank the gentleman for yielding.

Does the amendment offered by the able gentleman cover anything other than the Federal Reserve Board?

Mr. HORTON. It covers all agencies. What it does is to remove the restrictions of a verbatim transcript, and it also covers the Federal Reserve Board.

Mr. PEPPER. If the gentleman will yield further, does the able gentleman propose to offer another amendment limiting his amendment only to the Federal Reserve Board?

Mr. HORTON. I would not offer that if this carries, and I would hope that this amendment carries because it would cover the Federal Reserve Board, the SEC, and any other agency as defined in this title.

Ms. ABZUG. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in opposition to the amendment, which has been rejected by both subcommittees and both full committees that have considered this legislation. H.R. 11656 generally requires that a transcript or electronic recording be kept of each closed meeting. In recognition of the fact that some agencies have a high volume of ordinary adjudicatory proceedings, transcripts are not required for closed meetings that discuss such proceedings or civil actions in which the agency is involved.

Under the scheme of this legislation, the existence of a transcript of a closed meeting has two critical functions. First, a meeting closed with the reasonable expectation that exempt material will be discussed will in many instances turn out to have little or no such discussion. The existence of a transcript or electronic recording will permit the agency to make public those portions of the discussion that do not contain exempt information.

Second, the existence of a transcript is the primary potential remedy for a litigant who proves to a court that a meeting was unlawfully closed. Since any court ruling will almost always come long after the meeting is held, and since a plaintiff suing only under this act will not be able to overturn the substantive action taken at an unlawfully closed meeting, what remedy has he other than to have the transcripts made available to him? I note in this connection that although the judicial review provisions of this legislation permit the court to make the transcript public if the meeting was unlawfully closed, the court would not disclose discrete items contained within such a transcript which are themselves of an exempt character. For example, if a meeting were closed because of a purported discussion of trade secrets and a court later ruled that the agency did not have a proper basis for this closing, the court would not release the small portion of the transcript that contained a reference to some irrelevant personal proclivity of an individual who was the subject of the discussion, since that would be protected by the bill's personal privacy exemption.

As for the fact that few, if any States require transcripts, it should be noted that 24 of the 49 State open meeting statutes provide criminal penalties for violations, 2 more impose civil penalties, and 19 render the substantive action taken at an unlawfully closed meeting void or voidable. None of these sanctions is available under this bill, leaving the possible disclosure of the transcript as the only remedy for an improper closing.

On the question of cost, given the fact

that most meetings are supposed to be open under this legislation, there should not be all that many transcripts to keep. The Congressional Budget Office, both House committees that have considered the bill, and the Senate Government Operations Committee have all estimated that the average annual cost of this legislation will be less than $3,000 for each covered agency.

This amendment would remove the only enforcement remedy contained in the open meeting provisions of the sunshine bill, and I urge its rejection.

Mr. McCLOSKEY. Madam Chairman, I rise in support of the amendment.

Madam Chairman, there are two aspects that the chairman of the subcommittee, the gentlewoman from New York (Ms. ABZUG) pointed out. She spoke of litigation, and it is quite clear that unless this amendment is adopted, this legislation provides a great case for legislation against the Federal Government in nearly every matter in which the Government operates, because of the lure of obtaining and making public information on the private meetings that are held on the subjects we have exempted, including national security matters, personnel matters, patent matters, and matters which may endanger the stability of financial institutions. The very reason why we should hold these matters private is to accomplish competent government in these fields.

When the gentlewoman speaks of litigation, I think we can see basically the reason why this section is in the bill. It is to permit additional litigation against the Government.

We have seen much litigation in both the Privacy Act and the Freedom of Informaiton Act, which are still in a shakedown process to see whether the benefits of those acts do not impose an undue burden on the Government. We have seen immense litigation in these areas.

I suggest that this verbatim transcript requirement, which is not found in any State law in this country—no Sunshine Act requires a verbatim transcript of private meetings—would be a fruitful source of litigation.

Secondly, let me submit this to my colleagues: Would we impose this on ourselves as Members of Congress? Would we require that all of our discussions of congressional business that are conducted privately be held subject to a full verbatim transcript?

There is no right to revise and extend here. There is no privilege in a verbatim transcript of a collegial meeting to go back and take out the words we thought were wrong. This is a verbatim transcript. This would in effect remove from the Members of the House of Representatives, if we imposed this on ourselves, the right to go back and correct our errors of grammar, our errors of syntax, or our errors when perhaps we went too far in our characterization of a colleague.

There is one final matter, and this goes back to ordinary human experience. Many of us were practicing attorneys in small towns.

If a person came to us and said, "Would you give me a recommendation as to a fellow attorney who can handle a will or a divorce or a criminal action," all of us will give a candid and truthful response: "No." We would say, "That man is corrupt" or "That man is incompetent."

However, would we give that same candid response if we knew that the verbatim words that we spoke in advising as to a fellow colleague were going to be in a record that might eventually be subpenaed and made public?

This has an immensely chilling effect on the kind of derogatory but truthful comment that an agency like the SEC must consider when they consider taking the stock of a company off the trading market because the vice president of the company is dishonest.

What person is going to say in an open meeting or in a closed meeting of which a verbatim transcript is being made, "I believe that man is crooked, for these reasons, A, B, and C, and therefore, we ought to take this stock off the market"?

Madam Chairman, in my judgment, this balance we seek between truth and candor on the part of a regulatory agency and the openness of their records is such that in this case the balance, in my judgment, comes down to the point where we should not require a verbatim transcript of the very meeting which we feel should be held privately in order to give people the opportunity to make candid and truthful comments.

Mr. SEIBERLING. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Madam Chairman, I think it is too bad that the author of this amendment is such a good advocate, because I think the merits of the amendment are far less than the gentleman's statement really justifies.

In the first place, we have already adopted an amendment that says that two persons can meet together and discuss anything they want without its being in the bill.

In the second place, if there is a meeting of members of the executive branch of the Government, which is comparable to a court in terms of its importance—many times it is a quasi-judicial body—then it should all be on the record. It is not the same as our deliberation.

Mr. McCLOSKEY. Let us take the case of our own CONGRESSIONAL RECORD. Would the gentleman say that our verbatim transcripts should not be subject to revision?

Mr. SEIBERLING. This is a legislative body, and our function is entirely different.

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

(On request of Mr. DRINAN and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 2 additional minutes.)

Mr. DRINAN. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Madam Chairman, I appreciate the gentleman's argument, but how do we respond, again, if we get only minutes of a meeting held in secret? Then how can anyone ever establish the question of whether or not they had the right to go into a secret session and decide the fate of something very important?

Mr. McCLOSKEY. I do not think that the question of whether they have a right to go into secret session has anything to do with what they say in the secret session.

Mr. DRINAN. But if we have only minutes and not the transcript, how could anybody establish whether or not they had the right to do this in secret and come to the decisions which they came to, because there is absolutely no discussion; there is no provision for a transcript; there is nothing but summarized minutes? That could leave the petitioner whose fate is decided in secret without any recourse.

Mr. McCLOSKEY. What the gentleman says is properly so. That has been the law in this country for 200 years.

There is no city, county, State, agency, or any other body in government that is required to keep a verbatim transcript of a private meeting.

Would anyone urge that the Congress of the United States ought to impose upon the Federal Government a requirement that has not been imposed on any agency of government in this country for 200 years?

Mr. DRINAN. If the gentleman would yield further, this is a private meeting conducted in private by people who say they have a right to go into private session, and we have no facts on which we can base a decision on the initial question of whether they have a right to go into a private session.

Mr. McCLOSKEY. I know the gentleman from Massachusetts (Mr. DRINAN) looks forward to a new Democratic administration. However, I submit, is there any other government in the world, except this new administration, on which this requirement will be imposed?

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has again expired.

(On request of Mr. HORTON and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Georgia.

Mr. LEVITAS. Madam Chairman, I thank the gentleman for yielding.

Would the gentleman agree with me, in response to the observations made just now by our distinguished colleague, the gentleman from Massachusetts (Mr. DRINAN), that the sunshine laws, which have been in existence for a number of years in many States, including my own, have worked effectively? There have been opportunities for aggrieved parties to show that meetings were improperly held, without the necessity of the transcript, and that that is a sufficient answer to the need to protect the person who would otherwise be aggrieved.

However, let me explore this a little bit further.

Do I understand that this would require the chiefs of staff meeting in a secret session on national security matters to maintain a transcript?

Mr. McCLOSKEY. That is correct. If they are in a commission or a committee and a committee as defined by law is an agency, it would require a verbatim transcript, a recorded vote to close the meeting, and a transcript of the meeting which might ultimately be made available to the public.

My primary objection to this is that if we are going to test whether a verbatim transcript is helpful or harmful, we should not do so with every agency of a Federal Government which has had absolutely no experience at all in holding such hearings. If we wanted to test this as an experiment as to whether an agency might operate better through such a procedure that we should have the Federal Reserve woard or the Securities and Exchange Commission be required to do this. But this is a blanket requirement on all agencies of the Government, and we have had no experience at all. We have no estimates as to what the costs will be. We will be starting into a whole new profession, that of transcribing and reporting these agencies procedures.

Also, Madam Chairman, bear in mind that every member of the Commission is going to spend a day deliberating in the Commission and then spend a day reviewing what they said in the meeting. The paperwork involved and the complexity of these transcripts is going to be stupendous.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. HORTON, and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 2 additional minutes.)

Mr. HORTON. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. HORTON. Madam Chairman, I think the question that was posed by the gentleman from Massachusetts (Mr. DRINAN) went to the question of what can we do without a transcript in the event we want to go to court to test whether or not the meeting should have been closed? I think that is a good question. The answer is that that is done all of the time now. The court can, in camera, examine the proceedings, can get the minutes of the meeting, examine them, get the testimony of those who were present by whatever means are available. But the onerous requirement of having a transcript it seems to me is out of order insofar as the type of meetings we are talking about and the publication or making available the transcript.

Mr. McCLOSKEY. I thank the gentleman.

Mr. BROOKS. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment to the amendment in the nature of a substitute.

Madam Chairman, the requirement that the Government agencies keep a transcript of their closed meeting follows very closely the procedures of many congressional committees. I see no reason why a Government agency could not keep a transcript through equipment that my 9-year-old boy has and can operate. It does not take any special talent as equipment.

In my opinion it is just the desire to keep permanently secret these Government activities of these agencies. But I say, Madam Chairman, that just because a meeting is closed is no reason that an official record of the business could not be and should not be kept. The decision to close the meeting may well have been made at an earlier meeting and if that is later reversed, then it is imperative that a transcript be available if the aims of any "sunshine" legislation are to be met.

Mr. FASCELL. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment to the amendment in the nature of a substitute.

Madam Chairman, the one government in the world that deals with transcripts is the Congress of the United States, I will say to my distinguished colleague, the gentleman from California (Mr. McCLOSKEY). We probably have more transcripts around here than any place else in the world and it is a darned good thing that we do, I will tell the Members, because we would not know what was going on if we did not have the transcripts.

I think it would be very helpful for every agency downtown, instead of having somebody keep minutes that simply say that they met and then the meeting was adjourned, that there be a transcript made so that we would know what was going on.

It seems to me it is very sensible for a government agency to have an official record of its actions in the nature of a transcript, even if it is locked up in its safe. Somewhere there ought to be an official record of the transaction of the business of a body of our Government that deals with the lives of millions of people. There ought to be that transcript somewhere. To say that the mere keeping of minutes is a sufficient substitute is to beg the question.

Let us talk about the fear that has been expressed that in some way the agency is going to be dragged into court, or that State agencies do not now require transcript keeping. The difference in the State agencies is that they have substantive penalties. They can undo the action of the agency when they go to court. No such penalty is provided in this bill.

The critical issue is the public's right to know. How does a transcript come to play in that, and is the fear real that in some way some person with derogatory information might get that information out? The answer is, "No." Why is that?

The plaintiff has the burden of proving his lawsuit that the agency meeting was improperly closed to start with. He has that burden. The relief that is granted under this bill, which is that information which should be released will be released. But the protection in the bill that is provided here is ample and adequate to allay the fears that have been expressed, because it says that the judge can only release that information which should be made public. Any information which would be properly withheld under one of the classifications or exemptions in the bill, the judge would have no right to release.

We cannot be held responsible for leaks in the agencies, if there is a fear that the stuff is going to get out. It is getting out now—the individual Members' copies of the minutes, documents, and papers. The transcript, whether it exists or not, is not going to solve the problem downtown. It is not going to give them any more or less protection.

The issue that is involved is that without the transcript the judge cannot really make a determination whether the plaintiff is entitled to his rights under this bill. What does he get when he gets all of it? What does he get out of it? Do the Members know what he gets? He gets the information which the public should have had in the first place. Why deny him that right? The whole purpose of the pending amendment is simply to do away with the transcripts, to make it absolutely almost impossible that any citizen of the United States would have the right ever to say, "I think that meeting was improperly closed. There is some information there which should have been made public." The court might say, "There is something there that ought to be made public." If it was not classified under this bill or some other law, the judge could release it. But if under this law it is properly exempted, or under some other law it is properly withheld, the judge has no discretion to release that information. The only information he can release is that information which should have been made public in the first instance. And the plaintiff, the citizen, had to go to all of the trouble to bring that suit. Now the gentleman wants to deny him with this amendment the right to the transcript. He wants to deny to the Government and to the Congress the official record, which could be kept locked up in the Government's safe, never to be seen by anybody unless in some way they have violated the law.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. EVANS of Colorado, and by unanimous consent, Mr. FASCELL was allowed to proceed for 2 additional minutes.)

Mr. EVANS of Colorado. Madam Chairman, will the gentleman yield?

Mr. FASCELL. I will be glad to yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding.

One thing that concerns me is the comment that the gentleman made about some citizen's rights being adversely affected in a private meeting and not being able to prove whether or not the meeting should or should not have been private unless he has got a transcript. It seems to me that correctness of the privacy of the meeting is determined by the action taken, that is, the ultimate action taken. What conversation went into the ultimate action that was taken is something else again, and I am a little concerned about feeling that the conversations behind the action are going to be the things that measure whether or not the action taken, of which he complains, was wrong to be taken in a private meeting.

Mr. FASCELL. Madam Chairman, I can say this to the gentleman: that the only way we can ever make the determination is for the plaintiff to bring a lawsuit and the judge to make a decision. The court is going to have to make that decision. If the transcript is available, the judge sees it "in camera" and then decides whether the transcript or any part of it is properly withholdable. If it is, it is not released. If he decides the information was improperly withheld, he has the discretion to release the information which should have been made public in the first instance or he can issue an injunction against the agency.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HORTON) to the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HORTON. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 193, not voting 38, as follows:

[Roll No. 562]

AYES—201

Abdnor
Adams
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Beard, Tenn.
Bell
Biaggi
Biester
Boggs
Bowen
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conable
Conlan
Coughlin
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edwards, Ala.
English
Erlenborn
Eshleman
Evans, Colo.
Fary
Fenwick
Findley
Fish
Flynt
Foley
Forsythe
Frenzel
Frey
Gaydos
Ginn
Goldwater
Goodling
Gradison
Guyer
Haley
Hall, Tex.
Hammerschmidt
Hanley
Harsha
Hays, Ohio
Heckler, Mass.
Hefner
Henderson
Hillis
Holland
Holt
Horton
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kelly
Ketchum
Kindness
Krueger
LaFalce
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McKay
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Michel
Mikva
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mosher
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
O'Brien
Passman
Pepper
Pettis
Pickle
Poage
Pritchard
Quie
Quillen
Railsback
Rees
Regula
Rhodes
Risenhoover
Roberts
Robinson
Runnels
Ruppe
Ryan
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Ullman
Van Deerlin
Vander Jagt
Waggonner
Walsh
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Young, Alaska
Young, Tex.
Zablocki

NOES—193

Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Annunzio
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Chisholm
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Crane
D'Amours
Daniels, N.J.
Danielson
Dellums
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Ind.
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Fraser
Fuqua
Gibbons
Gilman
Gonzalez
Grassley
Green
Gude
Hagedorn
Hall, Ill.
Hamilton
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heinz
Hicks
Holtzman
Howard
Howe
Hughes
Jacobs
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
Lehman
Lloyd, Calif.
Long, La.
Long, Md.
McDonald
McFall
McHugh
Madden
Maguire
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, N.Y.
Neal
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pike
Pressler
Preyer
Price
Randall
Rangel
Richmond
Rinaldo
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Rousselot
Roybal
Russo
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steelman
Stokes
Studds
Symms
Thompson
Traxler
Tsongas
Udall
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
Wirth
Wolff
Yates
Yatron
Young, Fla.

NOT VOTING—38

Burton, John
Clay
Dent
Diggs
Esch
Evins, Tenn.
Fountain
Giaimo
Hansen
Hébert
Helstoski
Hightower
Hinshaw
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Leggett
Litton
O'Hara
O'Neill
Peyser
Reuss
Riegle
Roe
Rostenkowski
Sisk
Stanton, James V.
Steiger, Ariz.
Stratton
Stuckey
Sullivan
Symington
Wampler
Wiggins
Wilson, C. H.
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. Hébert for, with Mr. O'Neill against.

Mr. Landrum for, with Mr. Dent against.

Mr. Steiger of Arizona for, with Mr. Zeferetti against.

Mr. Wampler for, with Mr. John Burton against.

Mr. NEDZI and Mr. MIKVA changed their vote from "no" to "aye."

Mr. McDONALD and Mr. ROUSSELOT changed their vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MOSS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLOWERS

Mr. MOSS. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Moss to the amendment in the nature of a substitute offered by Mr. FLOWERS: Page 19, after line 12, add to section 5 the following new subsection:
>
> "(c) Subsection (d) of section 10 of the Federal Advisory Committee Act is amended by striking out the first sentence and inserting in lieu thereof the following: "Subsections (a) (1) and (a) (3) of this section shall not apply to any portion of an advisory committee meeting where the President, or the head of the agency to which the advisory committee reports, determines that such meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code"."

Mr. MOSS. Madam Chairman, the amendment is straightforward. It would cure an oversight in the Federal Advisory Committee Act. That act regulates, among other things, the organization, makeup, and openness of the many advisory committees which provide information and counsel to agencies of our Government. Unfortunately, the Federal Advisory Committee Act regulates public access to meetings of public advisors to agencies pursuant to the Freedom of Information Act, an act designed to regulate the disclosure of documents.

On its face, this is an inappropriate cross-reference in that act. But it was required when the Advisory Committee Act was passed because there did not exist at that time a measure which regulated meetings. With the consideration by the House of H.R. 11656, this is no longer the case. In substance, my amendment merely provides that the carefully crafted standards regulating openness of meetings contained in the sunshine bill will be made applicable to Federal advisory committees.

I understand that this amendment is acceptable to the committee and I yield the balance of my time to the Honorable BELLA ABZUG for the purpose of receiving the views of the committee on this matter.

Mr. HORTON. Madam Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from New York.

Mr. HORTON. Madam Chairman, the gentleman has presented the amendment to us, and I have gone over it. The minority will be very happy to accept the amendment. I believe it improves the bill.

Mr. MOSS. Madam Chairman, I thank the gentleman.

Ms. ABZUG. Madam Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentlewoman from New York.

Ms. ABZUG. Madam Chairman, this is essentially a conforming amendment which would reflect in the Federal Advisory Committee Act the enactment of the sunshine bill.

When the Advisory Committee Act was enacted in 1972, we did not have a general open meeting law. As a result, that act provided that meetings of advisory committees were to be governed by the exemptions in the Freedom of Information Act. The FOIA exemptions, though, are designed for documents rather than for meetings, and there have been a number of difficulties arising from that discrepancy. Now that we are enacting this open meeting legislation, which contains exemptions like those in the Freedom of Information Act, but tailored especially for meetings, we should apply these exemptions to the Advisory Committee Act as well. That is exactly what this amendment would do, and I am pleased to support it.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, the gentleman from California (Mr. Moss) has gone over this amendment with us, and we have absolutely no objection to it. We concur in the amendment and are glad to accept it.

Mr. MOSS. Madam Chairman, I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss) to the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLOWERS

Mr. MOORHEAD of California. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD of California to the amendment in the nature of a substitute offered by Mr. FLOWERS:

On page 12, line 8, delete "by".

On page 12, line 9, delete "any person".

Mr. MOORHEAD of California. Madam Chairman, I offer an amendment written permits any person, whether that person has an interest or not, to bring legal action to enforce the provisions of this legislation.

Our courts in this country are already tremendously overcrowded. Under the normal rule and under the present law in this country pertaining to courts, in all actions brought, except for a very few exceptions, the plaintiff must make some showing of specific harm to his interests.

There are certain professional litigators in this country who love to get into court and who try to find any kind of excuse to get into court, whether they have a reason for going to court or not. At the same time we have people who are failing to get their day in court on civil actions and who are delayed from month to month because of overcrowding in the courts. We have recently had a situation where many of the criminal defendants in the country who were indicted had to have their cases dismissed because they could not be brought to court on time.

We do not need this kind of delay built into our system. I think it is most important that under this legislation the same requirements for going to court should prevail as would prevail in any other kind of an action.

This amendment would simply require that a defendant who brought the action make some showing that he has been hurt in some way, even though very slightly, and then he could bring the action. If he would have had the door closed on him or if he wanted to be in the room when a hearing was held and had been kept out because it was a closed meeting, he would have a cause of action, but a person who was nowhere near the hearing and showed no interest in it would not have a cause of action.

Madam Chairman, I ask that the amendment be adopted.

Ms. ABZUG. Madam Chairman, I move to strike the last word, and I rise in opposition to the amendment. The sunshine bill is designed to let any citizen see what agencies are doing by attending their meetings.

This bill is not designed for the benefit of those who are parties to agency proceedings, but for the benefit of all members of the public who want to know what the agencies are doing and how they go about making the decisions that affect all of our lives so pervasively. We cannot very well tell our constituents, "We are giving you the right to attend agency meetings, but you may not seek redress if an agency denies you that right." Unfortunately, that is exactly what this amendment would do.

The bill before you does not allow a citizen plaintiff to nullify the substantive action taken at an unlawfully closed meeting. The most that he can get is access to the transcript of the meeting and a court order prohibiting the agency from closing meetings on the grounds in question.

This concept of citizen standing is not a new one. It is in the Freedom of Information Act, which is now a decade old, and also in the Privacy Act. Those who have suggested that the standing provisions contained in the bill raise constitutional questions are not correct in their interpretation. The fact that the statute gives any person the right to attend an agency meeting confers standing sufficient to satisfy the constitutional requirements of article III.

We are giving any member of the public the right to attend agency meetings. To say the very least, it would be a gross misrepresentation and a cruel hoax on our part to at the same time prevent those to whom this right is given from taking any action to enforce it.

The amendment should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MOORHEAD) to the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MOORHEAD of California. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 258, not voting 40, as follows:

[Roll No. 563]

AYES—134

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Bell
Bowen
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conable
Conlan
Daniel, Dan
Daniel, R. W.
Davis
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Edwards, Ala.
Emery
Erlenborn
Forsythe
Gaydos
Ginn
Goldwater
Goodling
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Harsha
Hays, Ohio
Hefner
Hillis
Holt
Horton
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Pa.
Jones, N.C.
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McDonald
McEwen
McKay
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murtha
Myers, Ind.
O'Brien
Passman
Pettis
Pickle
Poage
Quie
Regula
Roberts
Robinson
Rousselot
Runnels
Ruppe
Satterfield
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Treen
Ullman
Vander Jagt
Waggonner
White
Whitehurst
Whitten
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—258

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Annunzio
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Chisholm
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Gonzalez
Gradison
Grassley
Green
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Holland
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Keys
Koch
Krebs
Krueger

LaFalce
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCormack
McDade
McFall
McHugh
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pike
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Randall
Rees
Richmond
Rinaldo
Risenhoover
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Steelman
Steiger, Wis.
Stokes
Studds
Symms
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Tex.
Zablocki

NOT VOTING—40

Burton, John
Clay
Dent
Esch
Eshleman
Evins, Tenn.
Fountain
Hansen
Hawkins
Hébert
Helstoski
Henderson
Hightower
Hinshaw
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Litton
O'Hara
O'Neill
Peyser
Rangel
Reuss
Rhodes
Riegle
Roe
Rostenkowski
Sisk
Stanton, James V.
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Wampler
Wiggins
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. O'Neill against.

Mr. Henderson for, with Mr. Dent against.

Mr. Fountain for, with Mr. Zeferetti against.

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. FUQUA. Madam Chairman, I move to strike the last word.

Madam Chairman, as one of the cosponsors of the Government in the Sunshine Act, I want to say what great personal pride I feel in witnessing this debate today.

My home State of Florida originated government in the sunshine more than a decade ago and the results have been spectacular. People feel more confidence in their decisionmakers and, consequently, have more confidence in the decisions that are finally reached.

We need this concept at the national level and we need it now. Watergate and other events of the last few years have shown dramatically the need for openness in government. For far too long important decisions affecting the lives of all Americans have been made behind closed doors. This is not the way to run a democracy.

When administrative and executive agency decisions are reached, the people have a right to know what alternatives were considered and rejected, what pressures were applied by different interest groups and the reasoning behind the decision. Then, and only then, can we truly expect people to believe in these decisions.

In many important ways, our lives are affected by bureaucratic edicts. The people must have confidence in these edicts and in the way they were developed. This cannot occur when no one knows the decisionmaking processes involved.

The bill we are debating today makes ample room for those few exceptions when privacy at a meeting is required. But closed door meetings must be the exception and never the general rule.

We have made great strides in opening up House and Senate committee meetings as well as opening up the Democratic caucuses. The standards we have applied to ourselves have worked well and should be applied throughout the Federal Government.

People all across this Nation have lost confidence in their Government. We can help restore that confidence by our actions today. The Senate acted in a very responsible manner when they unanimously passed sunshine legislation and now it is the turn of the House of Representatives to show the American people our commitment to openness in Government.

Faith of a people in their Government is the cornerstone of a democracy. Public policy determined after public discussion of the issues is one of the precepts upon which that faith is based and we are all accountable today for our actions in maintaining and enlarging openness in Government.

AMENDMENT OFFERED BY MR. LATTA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLOWERS

Mr. LATTA. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LATTA to the amendment in the nature of a substitute offered by Mr. FLOWERS: Page 18, line 18, after "given" strike the period and insert "; but it shall not include requests for information on or status reports relative to any matter or proceeding covered by this subchapter."

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, the gentleman from Ohio has gone over the amendment with this Member. I think it would perhaps help out in the legislation.

I think that the problem might arise from someone's reading of the term in the first two subparagraphs of subsection 557(d)(1). It might be well to revise the definition of ex parte communication, to alleviate the situation.

Ms. ABZUG. Madam Chairman, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentlewoman.

Ms. ABZUG. Madam Chairman, I have some problem with this. The language used here is "request for information."

Now, I feel "information" is a very broad word. I thought the gentleman was addressing himself to perfunctory inquiries, such as for status reports concerning particular proceedings. The word he has used might raise a lot of trouble and beyond where the gentleman really wants to go. I just wondered if the gentleman recognizes that and if the gentleman did, I might be willing to take this language to conference and there confine it to the intent of the gentleman, without allowing it to go all over the lot.

Mr. LATTA. Madam Chairman, may I respond to the gentlewoman. I think the word "information" is most important to this amendment, because we might get some agency or department downtown very narrowly construing the words "status report" and putting their own interpretation on it. If a Member of Congress calls downtown and wants a status report on a particular matter, they might put a very narrow interpretation on it. I might add that I went over the need for this amendment when I discussed the rule on the bill. I am trying to keep a door open so that we can get information from a department or agency without prejudice.

Mr. FASCELL. Madam Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Florida.

Mr. FASCELL. Madam Chairman, I can appreciate the gentleman's concern about the narrowness of the phrase "status report"; but on the other hand, the question of the broadness or liberality of the word "information" on the other side, raises a question. I do not think the gentleman means this. This is the reason I ask this question. If an individual wants to contact a member of the Board who is making a decision, in the middle of a proceeding, to get information on that decision, that is not covered under this amendment? The gentleman does not contemplate making legitimate, under the law, the right of an individual to get to the decisionmaker in the middle of a proceeding?

Mr. LATTA. We are talking about ex parte communications.

Mr. FASCELL. If the gentleman will yield further, I might make a call to an agency even though I am not a party to the proceeding.

Let me ask this question. Under the gentleman's language, would it be legal for me to go to the judge and say, "Judge, I want you to vote my way on this decision."

Mr. LATTA. Absolutely not.

Mr. FASCELL. That is what I meant. Would it be legal for any other individual to call that judge?

Mr. LATTA. Absolutely not. I might say to the gentleman, people on this side and on that side working on the bill, drew this amendment with the understanding it would apply to everybody and not just be limited to Members of Congress.

Mr. FASCELL. Madam Chairman, if the gentleman will yield further, what the gentleman from Ohio has in mind is that routine inquiries going to agencies saying, "What is the situation? What is going on? How long is it going to take?"

This amendment makes it clear that kinds of inquiries would not be prevented and would not have to be put on the record, but any inquiry which would or could reasonably be considered as affecting or attempting to affect the decisionmakers' decision would be put on the record?

Mr. LATTA. That is correct.

Mr. FASCELL. Thus any ex parte communications which attempts to influence the decisionmaker would not be exempt under your language: is that the intent?

Mr. LATTA. That is what I intend.

Mr. HORTON. Madam Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New York.

Mr. HORTON. Madam Chairman, I have been over the language the gentleman from Ohio has submitted and we feel it would be helpful and we accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. LATTA) to the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. M'CLOSKEY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLOWERS

Mr. McCLOSKEY. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY to the amendment in the nature of a substitute offered by Mr. FLOWERS: On page 4, strike line 10 and everything that follows through line 13 and insert in lieu thereof the following:

"(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title) provided that such statute (A) requires that the matters be withheld from the public, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

And on page 19, strike line 10 and everything that follows through line 12 and insert in lieu thereof the following:

"(3) specifically exempted from disclosure by statute (other than section 552b of this title) provided that such statute (A) requires that the matters be withheld from the public, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;".

Mr. McCLOSKEY. Madam Chairman, this is important because it is the sole amendment in the bill which amends the Freedom of Information Act. I would like to outline the history of this amendment's inclusion in the bill.

We enacted the Freedom of Information Act Amendments in 1974 in order to require Government agencies to disclose information which the administration then in power was wrongfully withholding.

In the case of the FAA versus Robertson, the Supreme Court held that Congress had not intended to have the Freedom of Information Act apply to some 200 statutes which either required or permitted a Government employee to keep information secret. When the Sunshine Act came before the Subcommittee on Government Operations, we amended it to require that only if a statute laid down specific criteria for the withholding of information, would an agency be permitted to do so.

When the bill went before the Judiciary Committee, the words "or permitted" were added, but I think without consideration of what this caused. Our bill was intended to reverse the Robertson case and broaden the Freedom of Information Act. When the Judiciary Committee added the words "or permitted," the new language, in effect, broadened the exemption to allow an administrator under a permissive secrecy statute to keep information secret, unless the statute laid out specific criteria.

What I have done, essentially, in this amendment is to merely divide the two situations. If a statute, such as the Census Act, requires the Census Administrator to keep all information secret, it will not be subject to disclosure. On the other hand, if the statute merely permits the FAA Administrator to exercise discretion as to whether or not information shall be made public, without specific criteria, as to how he shall exercise that discretion, it must be released unless the Freedom of Information Act provisions permit it to be withheld.

In my discussions with the majority side of the Judiciary Committee, I understand, they are willing to accept this amendment.

Ms. ABZUG. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentlewoman from New York.

Ms. ABZUG. Madam Chairman, I have a great deal of difficulty with the gentleman's amendment for the reason that it was he who proposed the amendment which we have in the original bill. I do not know who or what changed his mind, and I will not suggest that I do, except that I want to reassure the gentleman—I have some idea—that the question of confidentiality of the census and patent statute is protected under our present language, so that the purpose of the gentleman's amendment, which is to make sure that the recipient is instructed under the Freedom of Information Act, is different.

The gentleman is now setting up a special criteria even where a statute requires withholding of information, which is just the opposite.

Is that not clear? The gentleman is now saying that we cannot receive the information unless there are particular criteria, is that correct? If not, then what is it?

Mr. McCLOSKEY. I will explain what I am trying to do with this amendment.

The Census Administrator receives information for which there is a specific requirement in the statute that it be kept secret. We never intended, when a person is required to keep information secret, that suddenly there be a requirement to make it public under the Freedom of Information Act. So if a statute requires that the all census information be kept secret, we do not intend that data released under the FOI Act. But when the statute makes the retention of information subject to an Administrator's discretion, we would require that it be subject to the provisions of the FOI Act unless there is specific criteria for its withholding. It strengthens the act by requiring that in discretionary cases, unless a statute is specific about what data can be withheld, it shall be made available to the public under the conditions of the Freedom of Information Act.

Mr. FASCELL. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

The language in the bill before us now places the special criteria of both kinds of statutes, one where it is mandatory, and one where it is permitted. What the gentleman's amendment does now is simply require the special criteria on permissive statutes and not on the mandatory.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. McCLOSKEY was allowed to proceed for 2 additional minutes.)

Mr. McCLOSKEY. If I could yield to the gentleman from Massachusetts, who is on the Committee on Ways and Means, I think this situation will be resolved.

After we adopted this amendment, HEW and the Department of Commerce came to us and said, "Wait a minute. If your amendment remains as is, you are making information available which is required by statute to be kept confidential, such as the personal information gathered under the HEW statute or the data collected under the census statute. In fact, there would be one law saying it must be secret and now another law saying it must be made public."

Mr. BURKE of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I thank the gentleman for yielding.

I understand the gentleman received a letter from the Under Secretary of HEW concerning the impact of this amendment on the confidentiality of information concerning private individuals under the social security program and other programs administered by the Department. Is that letter correct in stating that the amendment has no intention, in revising exemption 3, to invalidate certain statutory provisions administered by HEW designed to protect the privacy of personal information obtained by that Department?

Mr. McCLOSKEY. That is true. In fact, I would like to insert that letter from HEW in today's Extensions of Remarks in order to explain this, as part of the legislative history.

This amendment would continue to protect the privacy of personal information collected under these executive branch programs administered by HEW.

Mr. BURKE of Massachusetts. I understand that can be put in the RECORD.

Mr. McCLOSKEY. I will put it in the RECORD.

Mr. BURKE of Massachusetts. If the gentleman will yield further, may I have the assurance of the gentleman that he will insert that letter when we go back into the House?

Mr. McCLOSKEY. Yes; I will insert it

in the Record today. (The letter appears on page E4148 of the Record of July 28.)

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. Kindness, and by unanimous consent, Mr. McCloskey was allowed to proceed for 2 additional minutes.)

Mr. KINDNESS. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

Is the effect of this amendment intended to be directed specifically to the language in section 552 of this title, which reads that the meeting can be closed if the subject matter would disclose matters specifically exempted from disclosure by statute other than this section.

Mr. McCLOSKEY. Yes. The reason is that we have deliberately made many of the Freedom of Information Act exemptions identical to the Sunshine Act exemptions. But we wanted to make sure that when we excluded matters in the Sunshine Act we did not include them under the Freedom of Information Act. It required the cross referencing of these exemptions between the two statutes.

Mr. KINDNESS. If the gentleman will yield further, could this possibly have the effect of being interpreted as meaning that we cannot close a meeting if it covers subject matter that is covered by one of section 552 exemptions in the Sunshine bill?

At least I read it as possibly being interpreted that way, so it is a conundrum and we might be going around in circles.

Mr. McCLOSKEY. That is a complicated question. I honestly do not know the answer.

Mr. KINDNESS. I certainly have great misgivings on account of that possible interpretation.

Mr. McCLOSKEY. A meeting cannot be closed except by the criteria that are specified in the Sunshine Act, and information cannot be made available under the Freedom of Information Act except as specified under the criteria of those acts.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, I think that we all agree with the intent of the gentleman, but I will say to the gentleman from California (Mr. McCloskey) that I think what we have in his amendment, though, is just a repetition of the same thing in more words. If it is permitted, it is obviously going to conform with the statute that sets up criteria. The permission flows from the criteria in the statute.

Mr. McCLOSKEY. But, Madam Chairman, what the gentleman does not recall is that if we have a statute that requires the Census Administrator to keep matters secret and it just says generally, "All information received," that does not set specific criteria as to what must be kept secret. This is the problem.

We do not want to exclude the statute that applies to HEW or the Census Administration. Yet, by the present language in the Sunshine Act we did. It is understandable why this was not picked up in the Committee on the Judiciary, because the members of the committee were really examining only the basic issues of the Sunshine Act, not the Freedom of Information Act.

The CHAIRMAN. The time of the gentleman from California (Mr. McCloskey) has expired.

(On request of Ms. Abzug and by unanimous consent, Mr. McCloskey was allowed to proceed for 2 additional minutes.)

Ms. ABZUG. Madam Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentlewoman from New York.

Ms. ABZUG. Madam Chairman, there is a certain amount of confusion in this matter. For example, the gentleman correctly stated that we would like to make this language consistent with the language in section 552 of the whole title. However, there are both similarities and differences in the existing law and in the legislation we are now dealing with. I am now speaking of the parenthetical language the gentleman would have added. That, if added, would place an additional burden on this act, and I believe it would create a lack of clarity.

I think I understand the gentleman's intention. Therefore, what I would like to suggest, if I may, particularly after having heard the statement of my colleague, the gentleman from Alabama (Mr. Flowers), is that we sit down and try to work out language that can be accepted in conference.

This amendment can be interpreted in four different ways, and it has been interpreted in different ways on the floor. It now has a different interpretation than it had when the gentleman first offered it. I would like to have an opportunity for us to deal with it, but I do not believe we can do it on the floor. We cannot redraft the amendment at this time.

Mr. McCLOSKEY. Madam Chairman, I do not think we need to redraft the amendment, but I do think that we need to understand what it means.

It seems clear to me. The language says that if the statute requires that information be secret or the meeting be closed, no one is going to do otherwise. But if the statute permits a meeting to be open or closed or if it permits information to be released or not released, then the administrator of an agency becomes confused. If the statute is only permissive and does not set down specific criteria, then provisions of both the Sunshine Act and the Freedom of Information Act will apply. This amendment strengthens both acts.

Ms. ABZUG. Madam Chairman, there are some differences in the title now, and there are some similarities, as there are in the amendment, I will grant that. There are similarities and differences in this act.

Madam Chairman, I would suggest to the gentleman that he withdraw the amendment so that we can deal with it later more aptly.

Mr. McCLOSKEY. Madam Chairman, if we withdraw the amendment, the Robertson case will not be overruled. That is the point. When we adopted my amendment in committee, its purpose was to overrule the Robertson case.

Ms. ABZUG. I think the language we have now overrules the Robertson case. This just presents a new qualification.

Mr. FASCELL. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to get this matter straight in my mind, so I wish the gentleman from California (Mr. McCloskey) would stay right where he is so he can answer my inquiry, because I am having a little problem also.

The original language in the bill of the Committee on Government Operations read that section 552(b)(3) of title V was amended to read: Subsection (3) "required to be withheld from the public by any statute establishing particular criteria or referring to particular types of information," and the gentleman has offered that as an amendment to the Freedom of Informaion Act to undo the Robertson case decision?

Mr. McCLOSKEY. Madam Chairman, if the gentleman will yield, that is correct.

Mr. FASCELL. Then the Committee on the Judiciary came along and added the words, "or permitted," to take care of those cases where we have a permissive statute having authority residing in the Secretary but not mandated by the Congress?

Mr. McCLOSKEY. That is correct.

Mr. FASCELL. Therefore, that covered both questions; that is to say, both types, where the Freedom of Information Act would not require information to be made public where it was required or permitted to be withheld; is that correct?

Mr. McCLOSKEY. That is correct.

Mr. FASCELL. Either by law or by referring to particular types of information; is that correct?

Mr. McCLOSKEY. That is correct.

Mr. FASCELL. I gather that what the gentleman is saying is that the qualifying clauses, to wit, establishing particular criteria or referring to particular types of information so qualify the exemption under the Freedom of Information Act or mandatory statute to the extent that the gentleman or somebody feels that even though we have a statute which authorizes an agency to withhold information, the language would be such that it would be required to release the information. That is the way I understand the gentleman's argument.

Therefore, he changes this around through the present amendment so that the qualifying amendment only applies to permissive statutes, those statutes which provide permission for the administrator; is that correct? It would be required that there be particular criteria or particular types of information, but that it would not apply to mandatory statutes; is that correct?

Mr. McCLOSKEY. That is correct.

What I have not made clear, perhaps, is this: This is my amendment adopted in the committee unanimously, but before the committee heard from HEW or from the Census Bureau.

In other words, we went too far in requiring all mandatory statutes of secrecy to be made subject to the Freedom of Information Act. We are pulling back from that requirement that all information required now to be secret by one law is to be made available under this new law. We are pulling back from the first part of the section.

The second section is the one in which the Committee on the Judiciary added the words "or permitted." They brought into the law the very decision we wanted to overrule in the Robertson case.

What we have done is to prohibit the requirement that when information is required to be made secret, we do not need to apply the Freedom of Information Act or the Sunshine Act to those laws.

Mr. FASCELL. How are we going to be governed under the present language? I do not see how, under the gentleman's amendment, except in the particulars which I have stated.

In other words, the way the amendment reads now, whenever there is a statute which mandates that information can be withheld, that is it, period. When it is withheld, there is no change in that under the bill or under the amendment.

Mr. McCLOSKEY. No, no. Under the bill as it stands, without my amendment now, the statute that requires information to be held secret has to have particular criteria in it or it becomes subject to being made public.

Mr. FASCELL. The gentleman is saying that what happens is that the basic law is being changed by the qualifying language; is that correct?

Mr. McCLOSKEY. That is correct.

Mr. FASCELL. The gentleman is saying that all laws that were passed, that have previously been passed, which required information to be withheld, would be subject to the requirement here so that if they did not say particular classes of information or particular criteria, that would modify the basic law and would make all the information available?

Mr. McCLOSKEY. Yes; in this country there are about 200 of these laws that the Supreme Court referred to, and unless the Court ordered it be made secret and set particular criteria for it to be made secret, then by this amendment we are, in effect, directing the Director of the Census to make the information available, even though there is a specific law, because right in the statute there is a requirement for specific criteria.

Mr. FASCELL. If we take the gentleman's amendment at face value, I would hope it says what he says it does.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY) to the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and the Chairman, being in doubt, the Committee divided, and there were—ayes 34, noes 35.

RECORDED VOTE

Mr. McCLOSKEY. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 282, noes 112, not voting, 38, as follows:

[Roll No. 564]

AYES—282

Abdnor
Adams
Alexander
Allen
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Blanchard
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Brinkley
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Frenzel
Frey
Gaydos
Giaimo
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Green
Gude
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harris
Harsha
Hayes, Ind.
Hefner
Heinz
Henderson
Hillis
Holland
Holt
Horton
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McKay
McKinney
Madden
Madigan
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Michel
Mikva
Milford
Mills
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Obey
O'Brien
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pressler
Price
Pritchard
Quie
Railsback
Randall
Rees
Regula
Risenhoover
Roberts
Robinson
Rodino
Rogers
Rooney
Roush
Rousselot
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Seiberling
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Waggonner
Walsh
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

NOES—112

Abzug
Addabbo
Ambro
Anderson, Calif.
Badillo
Baucus
Bauman
Biaggi
Bingham
Blouin
Bolling
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burton, Phillip
Butler
Carney
Carr
Chisholm
Collins, Ill.
Conyers
Corman
Danielson
Dellums
Diggs
Drinan
Eckhardt
Edwards, Calif.
Eilberg
Fascell
Ford, Mich.
Fraser
Fuqua
Gibbons
Goodling
Hagedorn
Hannaford
Harkin
Harrington
Hawkins
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hicks
Holtzman
Howard
Hutchinson
Johnson, Calif.
Jordan
Kastenmeier
Keys
Kindness
Koch
Lehman
Long, La.
Lundine
McHugh
Maguire
Matsunaga
Metcalfe
Meyner
Mezvinsky
Miller, Calif.
Miller, Ohio
Mink
Mitchell, Md.
Moorhead, Pa.
Moss
Mottl
Nix
Nolan
Nowak
Oberstar
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Paul
Pike
Poage
Preyer
Quillen
Rangel
Richmond
Rinaldo
Roncalio
Rose
Rosenthal
Roybal
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Sharp
Solarz
Stark
Steed
Stokes
Studds
Thompson
Tsongas
Udall
Vigorito
Waxman
Weaver
Wilson, C. H.
Wilson, Tex.
Young, Tex.

NOT VOTING—38

Burton, John
Clay
Dent
Esch
Evins, Tenn.
Fountain
Hansen
Hébert
Helstoski
Hightower
Hinshaw
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Litton
Martin
O'Hara
O'Neill
Peyser
Reuss
Rhodes
Riegle
Roe
Rostenkowski
Sikes
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stratton
Stuckey
Sullivan
Symington
Wampler
Wiggins
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. John Burton against.

Mr. Landrum for, with Mr. Riegle against.

Mr. O'Neill for, with Mr. Clay against.

Mr. SYMMS changed his vote from "no" to "aye."

Mr. BIAGGI and Mr. RINALDO changed their vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KINDNESS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLOWERS

Mr. KINDNESS. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS to the amendment in the nature of a substitute offered by Mr. FLOWERS: On page 2, strike lines 14–21 and insert the following in lieu thereof:

"(1) the term 'agency' means:

Board for International Broadcasting;

Civil Aeronautics Board;

Commodity Futures Trading Commission;

Consumer Product Safety Commission;

Equal Employment Opportunity Commission;

Export-Import Bank of the United States (Board of Directors);
Federal Communications Commission;
Federal Election Commission;
Federal Deposit Insurance Corporation (Board of Directors);
Federal Farm Credit Board within the Farm Credit Administration;
Federal Home Loan Bank Board;
Federal Maritime Commission
Federal Power Commission;
Federal Trade Commission;
Harry S. Truman Scholarship Foundation (Board of Trustees);
Indian Claims Commission;
Inter-American Foundation (Board of Directors);
Interstate Commerce Commission;
Legal Services Corporation (Board of Directors;)
Mississippi River Commission;
National Commission on Libraries and Information Science;
National Council on Educational Research;
National Council on Quality in Education;
National Credit Union Board;
National Homeownership Foundation (Board of Directors);
National Labor Relations Board;
National Library of Medicine (Board of Regents);
National Mediation Board;
National Science Board of the National Science Foundation;
National Transportation Safety Board;
Nuclear Regulatory Commission;
Occupational Safety and Health Review Commission;
Overseas Private Investment Corporation (Board of Directors);
Railroad Retirement Board;
Renegotiation Board;
Tennessee Valley Authority (Board of Directors);
Uniformed Services University of the Health Sciences (Board of Regents);
U.S. Civil Service Commission;
U.S. Commission on Civil Rights;
U.S. Foreign Claims Settlement Commission;
U.S. International Trade Commission;
U.S. Postal Service (Board of Governors); and
U.S. Railway Association;

Mr. KINDNESS (during the reading). Madam Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KINDNESS. Madam Chairman, I think this process that has been worked on this bill has been a very good example of improving some legislation so that it really reaches the point of being, I think, the best product that we can accomplish in the area, with the exception of the definition of "agency."

On page 2 of the bill, the current language defines an agency in terms of those bodies called "collegial" bodies, including members appointed by the President, with the advice and consent of the Senate; but we do not really know what that includes totally.

Over in the Senate, the report of the committee included a listing of the Boards and Commissions that would be within the scope of coverage of the bill as it was dealt with in that body.

It is the long list of some 40-some different commissions and boards. I suggest that this is an occasion when we are taking an important step, but we ought to know exactly what we are doing when we do it. This amendment which I have submitted includes the listing that was in the committee report of the other body, with certain exceptions which I will enumerate.

One of the exceptions is the elimination of the Commodity Credit Corporation from the list. The reason for the Commodity Credit Corporation being eliminated is that, in fact, in statutory language, it is quite clear that it is not really a collegial body in the same sense as most of these others. As originally enacted in 1948, section 2 of 15 United States Code, section 714, the Charter Act of the Commodity Credit Corporation provided that the corporation was subject to the general direction and control of its board of directors. Then it went on, and in 1949, by amendment, that was changed so that the Commodity Credit Corporation functioning is subject now to the general supervision and direction of the Secretary of Agriculture.

Section 9 of the act of 1949 provides that the management of the corporation shall be vested in the board of directors, subject to general supervision and direction of the Secretary. I think it is quite clear that there is a case in which we did not intend to include that type of body; at least I would imagine that is the intention. But nonetheless it was in the listing in the Senate.

Also eliminated from the listing in the other body's committee report is the Federal Reserve Board. Because of some of the points that have been brought out here in debate and discussion today, there is so much involved in the functioning of that Board that by its very nature ought not to be disclosed, it would appear that almost a majority of the meetings of the Federal Reserve Board would be in the category where they have to be closed.

I suspect that we ought to see how this law functions before we start applying it in sensitive areas of that nature. The same is true with the Securities and Exchange Commission, and the same is true with the Parole Board. The Parole Board was on the list in the other body and is not included in the list in this amendment.

I think we really should know exactly what we are doing when we apply this bill, which will become an act, and I am confident that it will. I am sure it has the broadest kind of support, and I suspect that we easily can and will include other bodies if this amendment is adopted. We will include other bodies in the coverage of it as we gain some experience with it.

I suspect that we should do that, and it should be the subject of oversight for the purpose of achieving that goal. We want government in the sunshine just as broadly as we can have it, but I do believe that we are venturing into the area of interminable litigation with the present language of the bill. It invites litigation; it invites uncertainty, and there is nothing better that we can do with the definition of agency than to make it certain and avoid that litigation that, in other references here in the Committee of the Whole today we have heard, would add to the burden of the courts which are already clogged.

Madam Chairman, I would urge support of the amendment.

Ms. ABZUG. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in opposition to the amendment. Again, I want to point out to this body that all four House committees and subcommittees considered this bill, and we all rejected this particular amendment. I think we should follow suit here. The bill as we have reported it contains a simple and entirely clear definition of a public agency, namely any agency subject to the Freedom of Information Act and "headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such positions by the President with the advice and consent of the Senate."

This is the same approach that the Congress has used in the Administrative Procedure Act, which has been in existence since 1946, the Freedom of Information Act, and the Privacy Act of 1974. It has been the subject of relatively little litigation, and it has the advantage of not having to be amended each time an agency's name is changed or a new agency is established on an agency is disposed of.

It has been demonstrated to be eminently workable, and it should be retained.

I want to point out to the Members that this amendment exempts from the operation of this act the Federal Reserve Board, the Parole Board, the Securities and Exchange Commission, and the Commodity Credit Corporation. It seems to me that if we are going to have open government, government in the sunshine, there is no reason why we should leave these agencies in the darkness.

Mr. FLOWERS. Madam Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentlewoman for yielding.

I want to express my complete approval of everything the gentlewoman has said. This bill has been amended to where it is a much more modest proposal than it was in the first instance, and I would think that even the Federal Reserve Board might want to be included under this bill. The general definition is absolutely to be preferred for all of the reasons that the gentlewoman recited, and I wholeheartedly agree with her position.

Mr. FASCELL. Madam Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentlewoman for yielding.

I agree with the gentleman. The general provisions of the bill are workable. We ought to go along with the bill and turn down this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS) to the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS).

The amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. If there are no further amendments, the question is on the amendment in the nature of a substitute offered by the gentleman from Alabama (Mr. FLOWERS), as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCFALL), having assumed the chair, Mrs. BURKE of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11656) to provide that meetings of Government agencies shall be open to the public, and for other purposes, pursuant to House Resolution 1207, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Ms. ABZUG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 390, nays 5, not voting 37, as follows:

[Roll No. 565]

YEAS—390

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Rooney
Regula
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roncalio
Roe
Rogers
Rose
Rosenthal
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NAYS—5

Burleson, Tex.
Collins, Tex.
Dickinson
Poage
Teague

NOT VOTING—37

Burton, John
Clay
Dent
Esch
Fountain
Hansen
Hébert
Helstoski
Hightower
Hinshaw
Ichord
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Litton
Melcher
O'Hara
O'Neill
Peyser
Reuss
Rhodes
Riegle
Rostenkowski
Sikes
Sisk
Stanton, James V.
Steelman
Steiger, Ariz.
Stratton
Stuckey
Sullivan
Symington
Wampler
Wiggins
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Sikes.
Mr. Dent with Mr. Stuckey.
Mr. Zeferetti with Mr. Clay.
Mr. Rostenkowski with Mr. Karth.
Mr. Helstoski with Mr. O'Hara.
Mr. Fountain with Mr. Steiger of Arizona.
Mr. Jones of Tennessee with Mr. Statton.
Mr. John L. Burton with Mrs. Sullivan.
Mr. Landrum with Mr. Wiggins.
Mr. Melcher with Mr. Wampler.
Mr. Riegle with Mr. Young of Georgia.
Mr. Symington with Mr. Peyser.
Mr. Sisk with Mr. Esch.
Mr. Hébert with Mr. Hansen.
Mr. Ichord with Mr. Hightower.
Mr. Jones of Alabama with Mr. James V. Stanton.
Mr. Reuss with Mr. Steelman.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 1207, the Committee on Government Operations is discharged from the further consideration of the Senate bill (S. 5) to provide that meetings of Government agencies shall be open to the public, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill S. 5 and to insert in lieu thereof the provisions of H.R. 11656, as passed, as follows:

That this Act may be cited as the "Government in the Sunshine Act".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. It is the purpose of this Act to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities.

OPEN MEETINGS

SEC. 3. (a) Title 5, United States Code, is amended by adding after section 552a the following new section:

"§ 552. Open meetings

"(a) For purposes of this section—

"(1) the term 'agency' means the Federal Election Commission and any agency, as defined in section 552(e) of this title, headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and includes any subdivision thereof authorized to act on behalf of the agency;

"(2) the term 'meeting' means a gathering to jointly conduct or dispose of agency business by two or more, but at least the number of individual agency members required to take action on behalf of the agency, but does not include gatherings required or permitted by subsection (d); and

"(3) the term 'member' means an individual who belongs to a collegial body heading an agency.

"(b)(1) Members as described in subsection (a)(2) shall not jointly conduct or dispose of agency business without complying with subsections (b) through (g).

"(1) Except as provided in subsection (c), every portion of every meeting of an agency shall be open to public observation.

"(c) Except in a case where the agency finds that the public interest requires otherwise, subsection (b) shall not apply to any portion of an agency meeting and the requirements of subsections (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meetings or the disclosure of such information is likely to—

"(1) disclose matters (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

"(2) relate solely to the internal personnel rules and practices of an agency;

"(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title): *Provided*, That such statute (A) requires that the matters be withheld from the public, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

"(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) involve accusing any person of a crime, or formally censuring any person;

"(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

"(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidental source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

"(8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

"(9) disclose information the premature disclosure of which would—

"(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation, or (ii) significantly endanger the stability of any financial institution; or

"(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that this subparagraph shall not apply in any instance after the content or nature of the proposed agency action already has been disclosed to the public by the agency, or unless the agency is required by law to make such disclosure prior to taking final agency action on such proposal, or after the agency publishes or serves a substantive rule pursuant to section 553(d) of this title; or

"(10) specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

"(d)(1) Action under subsection (c) to close a portion or portions of an agency meeting shall be taken only when a majority of the entire membership of the agency votes to take such action. A separate vote of the agency members shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to subsection (c). A single vote may be taken with respect to a series of portions of meetings which are proposed to be closed to the public, or with respect to any information concerning such series, so long as each portion of a meeting in such series involves the same particular matters, and is scheduled to be held no more than thirty days after the initial portion of a meeting in such series. The vote of each agency member participating in such vote shall be recorded and no proxies shall be allowed.

"(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the agency close such portion to the public for any of the reasons referred to in paragraph (5), (6), or (7) of subsection (c), the agency, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

"(3) Within one day of any vote taken pursuant to paragraph (1) or (2), the agency shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the agency shall, within one day of the vote taken pursuant to paragraph (1) or (2) of this subsection, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

"(4) Any agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9)(A), or (10) of subsection (c), or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof in the event that a majority of the members of the agency votes by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each member on the question, is made available to the public. The provisions of paragraphs (1), (2), and (3) of this subsection and subsection (e) shall not apply to any portion of a meeting to which such regulations apply: *Provided*, That the agency shall, except to the extent that such information is exempt from disclosure under the provisions of subsection (c), provide the public with public announcement of the date, place, and subject matter of the meeting and each portion thereof at the earliest practicable time and in no case later than the commencement of the meeting or portion in question.

"(e) In the case of each meeting, the agency shall make public announcement, at least one week before the meeting, of the date, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the agency determines by a recorded vote that agency business requires that such meeting be called at an earlier date, in which case the agency shall make public announcement of the date, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time and in no case later than the commencement of the meeting or portion in question. The time, place, or subject matter of a meeting, or the determination of the agency to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this paragraph only if (1) a majority of the entire membership of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible, and (2) the agency publicly announces such change and the vote of each member upon such change at the earliest practicable time and in no case later than the commencement of the meeting or portion in question.

"(f)(1) For every meeting closed pursuant to paragraphs (1) through (10) of subsection (c), the General Counsel or chief legal officer of the agency shall publicly certify that, in his opinion, the meeting may be closed to the public and shall state the relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the date, time and place of the meeting, the persons present, the generic subject matter of the discussion at the meeting, and the actions taken, shall be incorporated into minutes retained by the agency.

"(2) Written minutes shall be made of any agency meeting, or portion thereof, which is open to the public. The agency shall make such minutes promptly available to the public in a location easily accessible to the public, and shall maintain such minutes for a period of at least two years after such meeting. Copies of such minutes shall be furnished to any person at no greater than the actual cost of duplication thereof or, if in the public interest, at no cost.

"(g) Each agency subject to the requirements of this section shall, within 180 days after the date of enactment of this section, following consultation with the Office of the Chairman of the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment by any persons, promulgate regulations to implement the requirements of subsections (b) through (f) of this section. Any person may bring a proceeding in the United States District Court for the District of Columbia to require an agency to promulgate such regulations if such agency has not promulgated such regulations within the time period specified herein. Subject to any limitations of time therefor provided by law, any person may bring a proceeding in the United States Court of Appeals for the District of Columbia to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of subsections (b) through (f) of this section, and to require the promulgation of regulations that are in accord with such subsections.

"(h) The district courts of the United States have jurisdiction to enforce the requirements of subsections (b) through (f) of this section. Such actions may be brought by any person against an agency prior to, or within sixty days after, the meeting out of which the violation of this section arises, except that if public announcement of such meeting is not initially provided by the agency in accordance with the requirements of this section, such action may be instituted pursuant to this section at any time prior to sixty days after any public announcement of such meeting. Such actions may be brought in the district court of the United States for the district in which the agency meeting is held, or in the District Court for the District of Columbia, or where the agency in question has its headquarters. In such actions a defendant shall serve his answer within twenty days after the service of the complaint, but such time may be extended by the court for up to twenty additional days upon a showing of good cause therefor. The burden is on the defendant to sustain his action. In deciding such cases the court may examine in camera any portion of the minutes of a meeting closed to the public, and may take such additional evidence as it deems necessary. The court, having due regard for orderly administration and the public interest, as well as the interests of the party, may grant such equitable relief as it deems appropriate, including granting an injunction against future violations of this section, or ordering the agency to make available to the public such portion of the minutes of a meeting as is not authorized to be withheld under subsection (c) of this section. Nothing in this section confers jurisdiction on any district court acting solely under this subsection to set aside, enjoin or invalidate any agency action taken or discussed at an agency meeting out of which the violation of this section arose.

"(i) The court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with the provisions of subsection (g) or (h) of this section, except that costs may be assessed against the plaintiff only where the court finds that the suit was initiated by the plaintiff primarily for frivolous or dilatory purposes. In the case of assessment of costs against an agency, the costs may be assessed by the court against the United States.

"(j) Each agency subject to the requirements of this section shall annually report to Congress regarding its compliance with such requirements, including a tabulation of the total number of agency meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section, including any costs assessed against the agency in such litigation (whether or not paid by the agency).

"(k) Except as specifically provided in this section, nothing herein expands or limits the present rights of any person under section 552 of this title, except that the provisions of this Act shall govern in the case of any request made pursuant to such section to copy or inspect the minutes described in subsection (f) of this section. The requirements of chapter 33 of title 44, United States Code, shall not apply to the minutes described in subsection (f) of this section.

"(l) This section does not constitute authority to withhold any information from Congress, and does not authorize the closing of any agency meeting or portion thereof otherwise required by law to be open.

"(m) Nothing in this section authorizes any agency to withhold from any individual any record, including minutes required by this Act, which is otherwise accessible to such individual under section 552a of this title.

"(n) In the event that any meeting is subject to the provisions of the Federal Advisory Committee Act as well as the provisions of this section, the provisions of this section shall govern.".

(b) The chapter analysis of chapter 5 of title 5, United States Code, is amended by inserting:

"552b. Open meetings."

immediately below:

"552a. Records about individuals.".

EX PARTE COMMUNICATIONS

SEC. 4. (a) Section 557 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) In any agency proceeding which is subject to subsection (a) of this section, except to the extent required for the disposition of ex parte matters as authorized by law—

"(A) no interested person outside the agency shall make or cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relative to the merits of the proceeding;

"(B) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or cause to be made to any interested person outside the agency an ex parte communication relative to the merits of the proceeding;

"(C) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or causes to be made, a communication prohibited by this subsection shall place on the public record of the proceeding:

"(i) all such written communications;

"(ii) memoranda stating the substance of all such oral communications; and

"(iii) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (i) and (ii) of this subparagraph;

"(D) in the event of a communication prohibited by this subsection and made or caused to be made by a party or interested person, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the person or party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

"(E) the prohibitions of this subsection shall apply beginning at such time as the agency may designate, but in no case shall they begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

"(2) This section does not constitute authority to withhold information from Congress.".

(b) Section 551 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the "act." at the end of paragraph (13) and inserting in lieu thereof "act; and"; and

(3) by adding at the end thereof the following new paragraph:

"(14) 'ex parte communication' means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given; but it shall not include requests for information on or status reports relative to any matter or proceeding covered by this subchapter.".

(c) Section 556(d) of title 5, United States Code, is amended by inserting between the third and fourth sentences thereof the following new sentence: "The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557(d) of this title sufficient grounds for a decision adverse to a person or party who has committed such violation or caused such violation to occur.".

CONFORMING AMENDMENTS

SEC. 5. (a) Section 410(b)(1) of title 39, United States Code, is amended by inserting after "Section 552 (public information)," the words "section 552a (records about individuals), section 552b (open meetings),".

(b) Section 552(b)(3) of title 5, United States Code, is amended to read as follows:

"(3) specifically exempted from disclosure by statute (other than Section 552b of this title): *Provided*, That such statute (A) requires that the matters be withheld from the public, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;"; and

(c) Subsection (d) of section 10 of the Federal Advisory Committee Act is amended by striking out the first sentence and inserting in lieu thereof the following: "Subsections (a)(1) and (a)(3) of this section shall not apply to any portion of an advisory committee meeting where the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code.".

EFFECTIVE DATE

SEC. 6. (a) Except as provided in subsection (b) of this section, the provisions of this Act shall take effect one hundred and eighty days after the date of its enactment.

(b) Subsection (g) of section 552b of title 5, United States Code, as added by section 3(a) of this Act, shall take effect upon enactment.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11656) was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter, on H.R. 11656, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1558. An act for the relief of Dr. Gernot M. R. Winkler; and

H.R. 1762. An act for the relief of Mrs. Lessie Edwards.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14233) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes."

The message also announced that the Senate agreed to the House amendments to the Senate amendments numbered 1, 2, 35, and 37 to the foregoing bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2212. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

CONFERENCE REPORT ON H.R. 11670, COAST GUARD AUTHORIZATION FOR FISCAL YEAR 1977

Mr. BIAGGI (on behalf of Mrs. SULLIVAN) filed the following conference report and statement on the bill (H.R. 11670) to authorize appropriations for the use of the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a yearend strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1374)

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11670), to authorize appropriations for the use of the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a yearend strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 8 and 9.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, and 7, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 10 and agree to the same with an amendment as follows: Strike out all after the first sentence of the amendment, and the Senate agree to the same.

That the House recede from its disagreement of the Senate amendment numbered 11 and agree to the same with an amendment as follows: Insert the following clarifying language: (1) in lines 4 and 5 of the amendment, after the word "specific", and before the word "vessels", insert the word "cargo-carrying"; (2) in line 15 of the amendment, after the word "permit", insert the words "issued pursuant to subsection (a)"; and (3) in line 17 of the amendment, after the word "Alaska", insert the words "and only", and the Senate agree to the same.

LEONOR K. SULLIVAN,
THOMAS L. ASHLEY,
MARIO BIAGGI,
THOMAS N. DOWNING,
PAUL G. ROGERS,
PHILIP E. RUPPE,
PIERRE S. DU PONT,
Managers on the Part of the House.

WARREN G. MAGNUSON,
RUSSELL B. LONG,
JOHN A. DURKIN,
TED STEVENS,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11670), to authorize appropriations for the use of the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

PROCUREMENT OF VESSELS

Amendment No. 1: authorizes $86,168,000 for the procurement of vessels, as proposed by the Senate, instead of $187,186,000, as proposed by the House. This reduction in authorization was, in large part, replaced by the new authorizations contained in the amendments of the Senate numbered 6 and 7.

Amendment No. 2: authorizes the procurement of two high/medium endurance cutters, as proposed by the Senate, instead of four high/medium endurance cutters, as proposed by the House.

Amendment No. 3: deletes the authorization for the procurement of four small domestic icebreakers, as proposed by the House.

PROCUREMENT OF AIRCRAFT

Amendment No. 4: authorizes $24,300,000 for the procurement of aircraft, as proposed by the Senate, instead of $92,500,000, as proposed by the House. Of the total reduction of $68,200,000, $59,600,000 involved aircraft for the enhancement of Coast Guard law enforcement capability relating to Public Law 94–265. That part of the reduction was replaced by the new authorization provided in the amendment of the Senate numbered 6. The remaining reduction of $8,600,000 involved the procurement of medium-range surveillance aircraft.

Amendment No. 5: deletes the specific procurement of six long-range surveillance aircraft and five short-range recovery helicopters, as proposed by the House.

PROCUREMENT OF VESSELS AND/OR AIRCRAFT

Amendment No. 6: authorizes $100,000,000 for the procurement of vessels and/or aircraft to carry out Coast Guard missions, including fishery law enforcement, as proposed by the Senate. This authorization replaces $49,000,000 of the reduction in Amendment No. 1, and $59,600,000 involved in the reduction in Amendment No. 4, reflecting the procurement costs of the two high/medium endurance cutters deleted by Amendment No. 2, and the six long-range surveillance aircraft and five short-range recovery helicopters, deleted by Amendment No. 5. The conferees note that no final recommendation has been received by the Congress delineating the exact mix of aircraft and vessels needed for the additional duties imposed upon the Coast Guard through its enforcement responsibilities under Public Law 94–265, which extended United States jurisdiction over coastal fisheries to 200 miles from the coastline.

PROCUREMENT OF VESSELS WITH ICEBREAKING CAPABILITY

Amendment No. 7: authorizes $50,000,000 for the procurement of vessels with icebreaking capability, to be used on the Great Lakes, as proposed by the Senate. The conferees note that this is an authorization in general terms for the specific authorization, proposed by the House, of $52,000,000 deleted by Amendment No. 1, for the procurement of four small domestic icebreakers, deleted by Amendment No. 3.

ANNUAL AUTHORIZATION

Amendment No. 8: would have deleted the House provision that, after fiscal year 1977, no funds may be appropriated to or for the use of the Coast Guard for (1) operation and maintenance; (2) acquisition, construction, rebuilding, or improvement of aids to navigation, shore or offshore establishments, vessels or aircraft, or equipment related thereto; (3) alteration of obstructive bridges; or (4) research, development, tests, or evaluation related to any of the above, unless the appropriation of such funds has been authorized by legislation enacted after December 31, 1976.

Amendment No. 9: This technical amendment, renumbering sections in the bill, is relatd to Amendment No. 8.

ENFORCEMENT OF THE FEDERAL BOAT SAFETY ACT OF 1971

Amendment No. 10: adds a new section to the bill, which would prohibit funds, authorized for the operation or maintenance of the Coast Guard, from being used for enforcement of the Federal Boat Safety Act of 1971 (46 U.S.C. 1451 et seq.), on Lake Winnipesaukee and Lake Winnisquam, their interconnecting waterways, or the Merrimack River in the State of New Hampshire during fiscal year 1977, or while the question of Coast Guard jurisdiction over such Lakes or waterways is before a Federal or State court, and further provides that nothing therein shall (1) prevent or limit the distribution of funds to the State of New Hampshire under the Federal Boat Safety Act, or (2) limit the authority or responsibility of the Coast Guard to assist in search and rescue operations in the State of New Hampshire. As agreed upon by the conference, the amendment strikes the second and third sentences from the amendment of the Senate numbered 10, leaving the first sentence intact. However, the conferees wish to make it clear that the amendment, as agreed upon, is not to be interpreted to prevent or limit the allocation of any funds under the Federal Boat Safety Act, not does it, in any way affect the responsibility of the Coast Guard in undertaking search and rescue operations, pursuant to any law. The conferees note that if a determination is made which asserts the jurisdiction of the Federal Government over the cited lakes or waterways, for the purposes of the Federal Boat Safety Act, and that determination is contested in an appropriate court proceeding, such court has the necessary authority, under appropriate circumstances, to enjoin enforcement of the Act in question, pending resolution of the litigated issue.

CARGO-CARRYING VESSELS IN ALASKA

Amendment No. 11: adds a new section to the bill, which authorizes the Secretary of Transportation (1) to exempt certain vessels operating in remote areas of Alaska from specified laws concerning the inspection or certification of vessels, and (2) to issue individual special permits to those vessels which consist of the only feasible means of supplying fuel and stores to isolated communities in Alaska, but which, because of their construction, cannot comply fully with all applicable vessel inspection laws and regulations. The vessels involved, converted landing craft, are utilized as the only feasible transportation method in areas where there are no available docking facilities for ordinary cargo-carrying vessels. The authorized permits would exempt those vessels from the general inspection statutes, but would enable the Coast Guard to achieve the basic goals of those statutes through special requirements in the permits. In order to make the application of the section completely clear, the conferees agreed on the House amendment, which would add clarifying language as technical changes to Senate amendment numbered 11.

As an overall comment, the managers are agreed that, in the future, Coast Guard authorization bills should be as specific as is reasonably practicable, particularly regarding the authorization for procurement of vessels and aircraft. Too little specificity, leaving too much discretion in the administering agency, is an abdication of Congressional responsibility in the exercise of its legitimate role in establishing priorities for the implementation of mandates and policies established in the legislative process. Sound practice requires specific Congressional decisions in delineating necessary priorities in the authorization of appropriated funds.

Leonor K. Sullivan,
Thomas L. Ashley,
Mario Biaggi,
Thomas N. Downing,
Paul G. Rogers,
Philip E. Ruppe,
Pierre S. du Pont,
Managers on the Part of the House.
Warren G. Magnuson,
Russell B. Long,
John A. Durkin,
Ted Stevens,
J. Glenn Beall, Jr.,
Managers on the Part of the Senate.

S. 391 VETO MUST BE OVERRIDDEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wyoming (Mr. Roncalio) is recognized for 15 minutes.

Mr. RONCALIO. Mr. Speaker, this is a short analysis of President Ford's objections to S. 391. It appears that the President has, unfortunately, seriously misinterpreted the provisions of S. 391, the Federal Coal Leasing Amendments Act of 1975.

In his veto message, the President raised nine specific objections to the legislation. This analysis speaks on a point-by-point basis to each of those objections.

In the veto message, the President says:

> 1. S. 391 restricts the flexibility of the Secretary of the Interior in setting the terms of individual leases so that a variety of conditions—physical, environmental and economic—can be taken into account.

S. 391 does not contain restrictions that prevent the Secretary from considering the impacts of a coal lease. On the contrary, S. 391 specifically instructs the Secretary, "prior to issuance of any coal lease," to "consider effects which mining of the proposed lease might have on an impacted community or area, including, but not limited to, impacts on the environment, on agricultural and other economic activities, and on public services."

> 2. S. 391 would require a minimum royalty of 12.5 percent, more than is necessary in all cases.

S. 391 does not require a 12.5-percent royalty in all cases. The 12.5-percent royalty would be the minimum generally for strip mined coal, the least costly coal to produce.

The President failed to mention that the bill gives the Secretary authority to set a lower royalty rate on the more expensive to produce coal from underground mines.

Also, the President did not mention that the existing section 39 of the Mineral Leasing Act of 1920, a section unchanged by S. 391, will continue to allow the Secretary to "waive, suspend, or reduce" the minimum royalty for any coal mine, surface or underground, "for the purpose of encouraging the greatest ultimate recovery of coal."

> 3. S. 391 would also defer bonus payments—payments by the lessee to the Government usually made at the front end of the lease—on 50 percent of the acreage, an unnecessarily stringent provision.

This provision will help smaller coal companies, which may not have the enormous capital required to pay some front-end bonus bids, to be able to compete in bidding on at least 50 percent of the acreage offered in any 1 year.

It is difficult to see how this provision can be viewed as even remotely adversely affecting coal production, coal prices, or an orderly leasing procedure. Far from being "stringent" as the President charges, this provision will foster competition.

Without it, the field would be dominated by the major coal companies and by the multinational energy corporations with plenty of available front-end money.

> 4. This bill would also require production within 10 years, with no additional flexibility.

Both S. 391 and the regulations issued by the Interior Department itself earlier this year require actual production within 10 years of the issuance of the lease. In both cases, the purpose is the same: to stimulate the production of coal and to end the present situation where idle leases are held for speculative purposes.

It could be argued that the Department's regulations are the more stringent. They require production of 2.5 percent of lease reserves within 10 years, a requirement certainly less flexible than the "production in commercial quantities" language of S. 391.

The Department's regulations do provide for a possible 5-year extension—to a total of 15 years—in some cases. Congress, too, can adjust the 10-year production deadline if it should prove too rigid.

> 5. Furthermore it would require approval of operation and reclamation plans within three years of lease issuance. While such terms may be appropriate in many lease transactions—or perhaps most of them—such rigid requirements will nevertheless serve to set back efforts to accelerate coal production.

S. 391 does not require approval of operating and reclamation plans within 3 years of lease issuance. S. 391 says that such plans must be submitted to the Secretary within 3 years.

> 6. S. 391 requires detailed anti-trust review of all leases, no matter how small.

S. 391 does not require detailed antitrust review of all leases. It simply sets up a procedure under which the Attorney General is provided the opportunity to review leases. The Attorney General is not required to take any action at all.

Actually, this provision is weaker than the similar language in the Naval Petroleum Reserves Production Act (H.R. 49) signed by the President in February.

> 7. It requires four sets of public hearings where one or two would suffice.

S. 391 requires two, not four, public hearings—one on the land use plan and the other before the actual lease sale. The Department's regulations also require two public hearings.

S. 391 does provide for two other public hearings only if: First, leases are to be consolidated into logical mining units; or if second, the Attorney General objects to issuance of a lease on grounds of possible antitrust violation. These would be relatively rare.

> 8. It authorizes States to delay the process where National forests—a Federal responsibility—are concerned.

S. 391 does allow the Governor of a State to hold up issuance of a lease—for 6 months only—where coal to be strip mined is located within a national forest in his State. Nothing in the provision gives any State "veto" power over a coal lease. It is meant only to assure adequate consultation with a State before leases are granted.

If the Secretary notifies the Governor at the same time the Department is conducting its own studies, any "delay" becomes very minimal, or more likely, nonexistent.

> 9. One provision requires comprehensive Federal exploration of coal resources. This provision is not needed because the Secretary of the Interior already has—and is prepared to exercise—the authority to require prospective bidders to furnish the Department with all of their exploration data so that the Secretary, in dealing with them, will do so knowing as much about the coal resources covered as the prospective lessees.

Despite the President's statement, the Interior Department itself believes that its heavy reliance on industry data is a serious problem. To correct that deficiency, the Department has already started a drilling exploration program. And the Department has said:

> Expansion of this (coal drilling) program is necessary to supply the Government with additional data to facilitate the coal leasing program.

Nothing in S. 391 prevents the Secretary from issuing coal leases where he believes he already has adequate information about the nature and extent of the coal. Nothing in S. 391 requires that all known Federal coal be explored and its value determined before any coal lease is issued.

The veto must be overridden.

GOVERNMENT HAS OBLIGATION TO PROVIDE AS MUCH INFORMATION AS POSSIBLE TO FAMILIES OF MIA'S IN SOUTHEAST ASIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, while the U.S. involvement in Vietnam is over, we have found that we cannot really close the books on our actions in Southeast Asia because there are still many men unaccounted for. The families of these men are anxious to know what happened to them and I feel that our Government has an obligation to provide them with as much information as is possible for us to obtain.

Yesterday when the House considered a bill approving certain changes in the Bretton Woods agreement, which established the International Monetary Fund, I offered an amendment that would have required the Executive Director of the Fund to vote against any loans to Laos, Cambodia or Vietnam until these countries started providing us with the information that we know is available on our missing men. There was a strong argument that we should not attach any political considerations to the U.S. participation in the Fund, and while I do not feel that setting a condition on a humane request is political, the amendment was defeated.

Today I have written to the Secretary of the Treasury, the Honorable William Simon, who is the U.S. Governor to the International Monetary Fund, requesting that he do everything within his power to see that current members of the Fund, Laos and Cambodia, and Vietnam, who I understand is actively seeking membership through the position formerly held by South Vietnam, provide us with information they have on our missing men.

When Under Secretary for Political Affairs Philip Habib testified before the Select Committee on Missing Persons he indicated that there were certain routes that could be taken within the Fund to press for this information, and my letter to Secretary Simon urges that he use these means.

Our country will never be able to put our involvement in Vietnam behind us until we get an accounting of our missing men, and our Government must be willing to use the leverage it has to obtain this information.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, on Tuesday, July 20, I missed a rollcall vote and would like the record to show how I would have voted had I been present.

Rollcall No. 517. H.R. 14291, to provide for an elective Governor and Lieutenant Governor of American Samoa. Passed by a vote of 377 yeas to 3 nays. I would have voted "yea."

On Thursday, July 22, 1976, in order to attend business in my congressional district, I was compelled to leave the House of Representatives late in the afternoon. I therefore missed two rollcall votes and would like the record to show how I would have voted had I been present.

Rollcall Vote No. 538. A motion to recommit H.R. 13777, Federal Land Policy and Management Act, to the Committee on Interior and Insular Affairs with instructions to report it back forthwith containing an amendment requiring all regulations promulgated by the Secretary be subject to the review of the Congress. It failed by a vote of 128 yeas to 198 nays. I would have voted "nay."

Rollcall Vote No. 539. H.R. 13777, Federal Land Policy and Management Act of 1976. Passed by a vote of 169 yeas to 155 nays. I would have voted "yea."

READER'S DIGEST ARTICLES MISLEADINGG ON TOBACCO SUBSIDIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. HENDERSON) is recognized for 5 minutes.

Mr. HENDERSON. Mr. Speaker, the Reader's Digest has done it again. On several occasions during my over 15 years of congressional service, the Reader's Digest has carried several misleading articles regarding Federal subsidies for the growing and sale of tobacco and tobacco products. The July issue of Reader's Digest contained another such article entitled "Time To Crack the Tobacco Lobby!" written by Sydney S. Field. This article is not factually correct and is, therefore, misleading. The vice president of Reader's Digest, C. R. Devine, sent Members of Congress reprints of this article by letter dated July 9, 1976.

After protesting to the editors of Reader's Digest that their earlier articles had not been factually correct, I decided action should be taken to determine and publicize the postal subsidy that the Reader's Digest receives. In the Postal Reorganization Act of 1970, I offered an amendment that became section 3626 of title 39, United States Code, that requires the publishers of magazines to specifically request the lower postal rate that entitles the publication to the subsidy I speak of. Since the effective date of that provision, the Reader's Digest has received about $30,200,000 in taxpayers subsidy for the distribution of its magazine, books, and other items sent through the mail.

In 1975 Federal, State, and local taxes on cigarette sales alone amounted to $5.7 billion. Federal taxes received were over $2.5 billion. Therefore, whatever small amount was spent by the Federal Government that could be related to the growing of tobacco and the promotion thereof is a small investment in the commodity that produces such high tax revenues. I wonder how the Reader's Digest Federal taxes would relate to its postal subsidy.

I sure would like to be able to write an unedited article for the Reader's Digest subscribers telling this story, but my request in the past for such an opportunity has been declined by the editors of the Reader's Digest.

FAITH CONGREGATIONAL CHURCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I would like to take this opportunity to offer my warm regards to Faith Congregational Church of Hartford, Conn. Faith is celebrating its 150th anniversary as one of the oldest black churches in America.

Faith Congregational Church was founded in November 1819 when black men and women who attended the local white churches grew tired of being segregated from other worshipers. They assembled in a room of the First Church of Christ—Center Church—Hartford, and were led in their own services by the Reverend Asa Goldborough.

Six years later, the group organized as the African Religious Society of Hartford. Over the years, the society grew. What began as a modest gathering place for a few devoutly religious men and women grew to a meeting hall for some of the most influential and eloquent preachers of the time, such as Arnold Buffman and the Reverend Dr. Henry Highland Garner. William Lloyd Garrison was one of a number of abolitionists who spoke there. The society itself contributed to the eradication of slavery. Eventually, 32 of its young men would fight for the Union Army in the Civil War.

Among its distinguished pastors at this time was the Reverend E. R. Tyler, who changed the church's name to the First Hartford Colored Congregational Church. He was succeeded in 1840 by the Reverend James Pennington, a former slave who escaped via the underground railway and made his way to Hartford. As pastor, he established himself as an eloquent advocate of freedom for all people, black and white. Perhaps the high point of his career came when the University of Heidelberg conferred upon him an honorary Doctor of Divinity degree. This marked the first time that such an honor was awarded to a black. During this century, the church prospered under the gifted leadership of the Reverend James Wright, who was pastor from 1916 until 1960. In recent years, under the leadership of such able ministers as the Reverend Albert A. Thompson and the Reverend David E. Chambers, the church has met the challenges of a rapidly changing society.

Between 1862 and 1953, the church's name was changed a number of times. In 1953 it merged with the Mother Bethel Methodist Church and took its present name, the Faith Congregational Church.

Faith Congregational Church has performed many services over the years. In 1841, the church sent five missionaries to central Africa. The American Missionary Society grew from this first, early effort. In addition, the church has become the center of many community activities and an important contributor to the spiritual and cultural life of the region.

The church is now celebrating its 150th birthday and parishioners can look back with justifiable pride over its history. I wish it well as its new pastor, the Reverend Charles Blake, assumes his duties.

I know my colleagues will join me in congratulating Faith Congregational Church for a remarkable 150-year history, and wish it well as it continues to serve the needs of the community.

NUCLEAR FUEL ASSURANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MOSS) is recognized for 5 minutes.

Mr. MOSS. Mr. Speaker, I rise to address the House on the Bingham amendment to H.R. 8401, the Nuclear Fuel Assurance Act. This amendment will cure the gross defects contained in that bill by striking all but section 4 of that measure. This amendment will provide for the reasonable development of nuclear power while protecting the public purse.

Our retired colleague and former chairman of the Joint Committee on Atomic Energy, Chet Holifield, also supports the policies embodied in Mr. BINGHAM's amendment. Because of Chet's long experience with the development of nuclear power in the public interest, I would like to share his comments on this issue with the other Members of the House:

JULY 27, 1976.

Hon. JOHN E. MOSS,
Rayburn House Office Building,
Washington, D.C.

DEAR JOHN: Your request for my opinion of H.R. 8401 came to a very concerned citizen.

Despite my retirement from the Congress, my interest in this country's energy situation, and particularly in the nuclear option, has not diminished. I have kept in touch with events.

Naturally, I have watched, and been saddened by the present and previous Administration's complete neglect of the need to increase the capacity of our uranium enrichment complex. I say "naturally" because for half a decade preceding my retirement I spearheaded Congressional prodding to try to get the Nixon and Ford Administrations to agree to a reasonable program for adequate augmentation of our enrichment facilities to meet clearly foreseeable needs. I was unsuccessful. I was also compelled to mount a Congressional challenge to the announced intention of the Nixon Administration to "sell" the Government's enrichment facilities to private industry. That challenge was successful.

Now, the present Administration has resurrected the same basic intention, dressed up in new attire. While continuing to stall all initiatives to face up to our need for adequate add-on capacity to the Government's gaseous diffusion complex, the Ford people have come up with a new attempt to give a selected business combine a firm and monopolistic grip on the future supply and pricing of fuel for nuclear powerplants.

H.R. 8401 is bad legislation from every rational standpoint, save one. The sole exception is the acknowledgement in section 4 that ERDA must initiate the design and construction of the much needed expansion of its gaseous diffusion complex. This mandatory go-ahead, however, should be separated from the rest of H.R. 8401 which is wholly undeserving of Congressional support.

When I reviewed H.R. 8401, one of the first thoughts that entered my mind was that the bill might possibly be the worst piece of legislation that I could recall ever emerging from the Joint Committee on Atomic Energy. My recollection is less than perfect because it encompasses a busy, 30-year span of Joint Committee activity, but the thought can't be too far from the mark.

Both the form and the substance of H.R. 8401 are far below any accepable standard. In the three decades following the Atomic Energy Act of 1946, there has not been a single amendment to that Act so devoid of legislative policy content in regard to desired objectives, authorized forms of Government assistance, and appropriate conditions or restrictions. Also in those 30 years, it was not thought necessary or desirable to incorporate in any amendment a condition requiring that authorized major commitments by the AEC or ERDA that would carry out the objective of the legislation be made subject to activation or abortion by some subsequent final action by the Congress.

I have always been a champion of a strong Congress and of the philosophy that Congress should exercise its full range of Constitutional prerogatives. But a built-in condition of final yea or nay by the Congress that would control the whole effectuation of a statute—as in H.R. 8401—exceeds the fullest range of the Constitutional powers assigned to the Congress. Also of great importance, this feature of H.R. 8401 cannot compensate for the absence of Congressionally prescribed policy guidelines and directions to delineate the nature, scope, and dimensions of the Federal purpose and involvement.

To put it simply, the bill is an unsigned blank check to the Administration to make any sort of deal it wishes and then to submit the proposed arrangement for Congressional consideration and possible approval. The extraordinary insufficiency of legislative policy content in the bill, let alone that the measure is a move in the wrong direction, rules out any thought that the bill could be put in any proper shape by the elimination of the Constitutionally vulnerable condition of final Congressional approval.

It is disturbing to observe the flip-flops of the present Administration on this Constitutional issue. They occur frequently. A small fraction of President Ford's extensive record of vetos is based on his declaration that the Congress must stay within its Constitutionally chartered domain and not intrude into the President's panoply of powers. I will not review the record now. But I cannot resist pointing to the fact that in President Ford's press conference on May 26, he conveniently made no mention of any Constitutional problem when he said he would support H.R. 8401 whereas only a few weeks later Dr. Seamans wrote the Chairman of the Joint Committee to advise that the "Administration strongly objects . . . as clearly unconstitutional" to a requirement in Section 3 of H.R. 13350 (ERDA's FY 1977 Authorization bill) for specific approval by the Joint Committee of any proposed pricing changes for enrichment services to be provided by ERDA pursuant to this section. Would the Administration have felt compelled to object if the approval called for in Section 3 of H.R. 13350 was that of the Congress rather than the Joint Committee? One can only guess from the inconsistent record to date. Sometimes the Administration stands on the Constitutional charter, sometimes principle is muted for the sake of expediency.

In the attachment to this letter, I have highlighted the major deficiencies of the bill.

Before closing, I must mention the two fine reports by Elmer B. Staats, the exceptionally able and dedicated Comptroller General of the United States, on the Administration's proposal for assistance to private uranium enrichment groups. One is dated October 31, 1975, the other May 10, 1976. They are instructive, perspectively accurate, and essentially sound of judgment. I hope the Members of Congress take the time to examine those reports before voting on H.R. 8401.

This letter is motivated by my deep concern regarding the policies by which the maximum benefits of atomic energy may be brought to the taxpayers of this country. I hope my views and the attached detailed analysis are helpful.

Sincerely,

CHET HOLIFIELD.

MEMORANDUM

Date: July 27, 1976
To: JOHN MOSS
From: Chet Holifield
Subject: Major deficiencies of H.R. 8401

I. FREE ENTERPRISE OR SPECIAL FAVORITISM

To have followed the history of H.R. 8401 is to be aware that many months ago the Administration started negotiations with only one particular entity, an organization controlled by the Bechtel Corporation and Goodyear Tire and Rubber Company, for the provision of a privately-owned diffusion plant. The exact terms and conditions the Administration was willing to adopt as a reasonable basis for negotiating an arrangement for facilitating a private commercial operation in gaseous diffusion enrichment were apparently revealed only to this private organization. There was no advance solicitation of proposals and screening of the private sector in relation to objectively-formulated criteria reflecting the Government's need and preferences conducive to a fair selection process.

Should H.R. 8401 become law and ERDA submit the proposed arrangement it has been negotiating for the commercial gaseous diffusion plant, Congress would have to be troubled by the consideration that others, if given the opportunity on a fair and reasonable basis, might well have offered the Government a better deal.

Additionally, the details of the proposal by the Bechtel combine indicate the strong likelihood that the arrangement ERDA would submit for Congressional approval will place essentially all monetary risks on the Government and create the sort of risk-free situation for the private owners that is no more illustrative of the free enterprise system than the the complete absence of competition.

II. THE GOVERNMENT'S ROLE IN GASEOUS DIFFUSION ENRICHMENT

The Government's monopolistic role to date in uranium enrichment has worked very well. The supply for the civilian sector has been well-handled and reasonably priced. The Government's costs are being recovered, and the price of uranium fuel has had the stabilizing benefit of a known, relatively-unfluctuating cost factor for the important enrichment step.

Until the free enterprise system truly indicates its willingness to enter this field of uranium enrichment, the Government should continue with its present role on the basis of full-cost recovery, increasing its facilities as required by the anticipated demand for services.

It may be, perhaps, that uranium enrichment by the private, free enterprise sector will occur first through the use of gas centrifuge technology—soon to be demonstrated by the Government—rather than the diffusion process that has been in use for several decades. Beneficial operation of the free enterprise system will determine the course of such business trends and events. The cozy, paternalistic presence of the Government in a surety or risk protector role, even if extended to more than one entity, can only distort free enterprise and betray the taxpayers.

III. COVERAGE OF BOTH COOPERATIVE ARRANGEMENTS FOR GAS CENTRIFUGE PROJECTS AND THE ADMINISTRATION'S PROPOSED ARRANGEMENTS FOR A PRIVATELY OWNED GASEOUS DIFFUSION ENRICHMENT PLANT

For many years, under the Atomic Energy Act, demonstration projects have been entered into pursuant to Congressional authorization included as part of AEC's (ERDA's) normal authorization acts. Demonstration projects, by definition in the Atomic Energy Act, are the end phase of the R & D spectrum, and are envisioned in Section 31 of the Act. H.R. 8401 is not needed for any such demonstration projects. It is clear to me, and as far as I know no one disputes, that cooperative projects for the demonstration of centrifuge facilities are quite in order. The Administration could, and should, have sought authorization for such cooperative arrangements sometime ago. I can only assume that this area of development was deliberately thrust into H.R. 8401 to give the bill the appearance of desirable legislation.

In the 30 years of its existence, the Atomic Energy Act was never amended to authorize Federal assistance to a commercial project that was beyond the demonstration stage. The Administration's proposed arrangement for the privately owned gaseous diffusion enrichment plant would, for the first time, involve assistance under the Atomic Energy Act (as amended by H.R. 8401) for a straight commercial, non-R & D project. As the Comptroller General accurately points out in his October 31, 1975, report (*Examination of the Administration's Proposal for Government Assistance to Private U.E. Groups*) the gaseous diffusion facility that the private entrepreneurs would build would be a "last-of-a-kind" plant, copying the process and hardware the Government has been operating for several decades.

Federal support of a privately owned commercial plant for non-R & D reasons has been wisely avoided by the Atomic Energy Act up to this time. That legislative policy remains a sound one and should be continued.

IV. THE FOREIGN CONNECTION

I happen to believe that, all things considered, it is much more advisable for the U.S. to be in the position of a supplier of enrichment services for foreign use than not to be. But it does not make any sense for the U.S. to become involved as a sort of guarantor in a private deal that offers foreign investors an assured 60 percent of product in return for their substantial investment in the domestic plant.

Requirements of the Atomic Energy Act, that H.R. 8401 would not amend, wisely make it practically impossible to assure foreign buyers that quantities of enriched uranium products would be routinely exported. The Act provides for certain procedures and governmental approvals that cannot be dealt with at one swoop in context of the arrangement the Bechtel combine has indicated it plans to make with its foreign associates. ERDA (as well as other Executive agencies) has certain statutory responsibilities in regard to proposed exports of special nuclear material and other related matters that may well conflict with any express or inferential guarantee on its part that the private assurance of exports of percentages of product will necessarily be effectuated.

Also there are certain Federal licensing conditions that must be satisfied under the Atomic Energy Act. The involvement of ERDA as a contracting party to the private arrangement could inject a note of conflicting interests.

For example, the private plant would be subject to licensing by NRC. However, under presently applicable law, if ERDA were to take over ownership of the plant, such licensing would not be required.

As part of the licensing requirements of the privately owned facility, no construction permit or operating license may be given by NRC to a corporation or other entity if the NRC "believes or has reason to believe it is controlled, or dominated by an alien foreign corporation or a foreign government." This is a finding that NRC would have to make after it carefully reviewed all of the rights and privileges of the foreign investors, and ERDA's involvement in the arrangement on behalf of the Administration could well serve to inject some undue pressure on NRC. And should ERDA take over the plant as a nonlicensed operation, this statutory requirement could be bypassed.

V. CERTAIN CONGRESSIONAL PROBLEMS

Without regard to any Constitutional questions, certain acute problems for the Congress would be invited by the blanket authorization for the Administration to make any arrangement it desired provided it was then approved by the Congress.

To begin with, the timing of the legislation is such that it is being considered by both Houses after the negotiations with the Bechtel combine have apparently been concluded. There is clearly no logical reason why the essential details of the proposed arrangement should not be made available to the Congress before a legislative judgment is made concerning the need for and the precise contents of the bill. Passage of the bill in the dark when illumination is available only serves to put such Congressional action in an unfavorable light, and later to add embarrassment should Congress decide not to approve the submitted arrangement.

Another problem exists in the intricacy of the provisions of the new subsection 45b describing the Congressional consideration and approval process. It is not clear whether Congress must approve a submitted arrangement within the 60-day period in order for the commitment to become effective, or whether Congress, at its election, can take a longer period to act favorably. Such a period of time may not be adequate to examine complex or artfully-drafted commitments with sufficient care. Also, in the same period the Administration may deliberately have ERDA submit all or several of its proposed arrangements for gas centrifuge demonstration projects at the same time the proposed commitment with the Bechtel combine for the diffusion plant is submitted. Insufficient time for consideration can as easily lead to approval as disapproval.

Still another problem exists in the wording of subsection 45b in regard to what the submittal must consist of. There is some indication that the Administration considers the language of the bill to require the submittal of ERDA's proposed agreement with the Bechtel combine but not the agreement with the foreign investors, to which ERDA may or may not be a party. Prudent contracting procedure would dictate that ERDA should also be a party to the agreement with the foreign associates because the meaning and interpretations of that commitment (as understood by the parties thereto) will be a principal component of the entire arrangment. For example, if the domestic entrepreneurs default and the Government takes over the construction and operation of the plant, many of the rights of the foreign associates would probably survive and have an effect on the Government's prerogatives.

But whether or not ERDA is a party to the commitment with the foreign associates, it would be of first-rank importance for the Congress to have the opportunity to review their contract rights and obligations as part of the entire arrangment.

In addition to the foregoing considerations, various provisions of the Atomic Energy Act call for Congressional review of certain proposed nuclear exports. It could be a source of embarrassment for the Congress were it, on the one hand, to give its blanket approval to an arrangement that would promise foreign entities 60 percent of the uranium enrichment product and then later, from time to time, express its disapproval of or prevent specifically-proposed exports of the special nuclear material.

Private commercial deals and governmental functions (of both the Executive Branch and the legislative), like oil and water, don't mix properly.

PROPOSED AMENDMENTS TO H.R. 11552, THE VOTER REGISTRATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON), is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, as a courtesy to the Members of the House and the members of the Committee on Rules, I submit for the RECORD the following proposed amendments to H.R. 11552, the Voter Registration Act.

The amendments are designed to conform H.R. 11552 to the Supreme Court decision in Buckley against Valeo, and to provide for the immediate implementation of the act:

AMENDMENT TO H.R. 11552, AS REPORTED

Page 3, line 5, strike out "and the House of Representatives".

Page 3, line 6, strike out "two Associate Administrators" and insert in lieu thereof "an Associate Administrator".

Page 3, beginning on line 8, strike out "The President shall submit" and all that follows through line 10.

Page 3, line 11, strike out "date of enactment of this Act.".

Page 3, line 13, insert immediately after "The" the following: "Administrator and the".

Page 3, beginning on line 13, strike out "Administrators" and insert in lieu thereof "Administrator".

Page 3, immediately after line 16, insert the following new subsection:

(c) The Federal Election Commission shall carry out the duties and powers of the Administration and shall take such actions as may be necessary to carry out the provisions of this Act during the period beginning on the date of the enactment of this Act and ending on the date on which the first Administrator and Associate Administrator of the Administration are qualified under subsection (a).

Page 10, line 10, immediately after "shall" insert the following: ", subject to amounts appropriated under section 15,".

Page 11, line 14, strike out "approve" and insert in lieu thereof "does not".

Page 11, line 15, insert "disapprove" immediately before "any rule or regulation".

Page 11, beginning on line 19, strike out "not approved" and insert in lieu thereof "disapproved".

Page 11, line 21, strike out "not approved" and insert in lieu thereof "disapproved".

Page 12, beginning on line 21, strike out "section 202 of the Voting Rights Act Amendments of 1970 (42 U.S.C. 1973aa–1), relating to expanded opportunities of registering to vote and voting for electors for President and Vice President" and insert in lieu thereof "the Voting Rights Act of 1965".

Page 14, beginning on line 5, strike out "Administrators (2)" and insert in lieu thereof "Administrator".

Page 14, strike out line 13 through line 21 and insert in lieu thereof the following new section:

EFFECTIVE DATE

SEC. 16. The foregoing provisions of this Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act.

THE ABANDONMENT OF ISRAEL

(Mr. BOLLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BOLLING. Mr. Speaker, the United States and every other democratic nation on Earth has a vital stake in the survival of Israel. We must not waiver in our longstanding determination to see to it that our fellow democracy persists. The following analysis in the July 1976 edition of Commentary can help us all keep the importance of our conduct in the Middle East in clear focus:

THE ABANDONMENT OF ISRAEL

(By Norman Podhoretz)

When, about a year ago, the United Nations declared that Zionism was a form of racism, a measure of comfort for the state of Israel and its supporters could be found in the fact that an impressive degree of opposition was mounted to this "obscene" idea—as the American representative called it—both within the General Assembly itself and in the world outside. At Mexico City in 1975, where the same resolution was first introduced, it was approved with only two opposing votes: that of Israel and that of the United States. Then, at meetings of the OAU in Kampala and of the Group of 77 at Lima (in which neither the United States nor Israel could participate), it was introduced again and passed with no opposition at all. This time, at the UN, Israel and the United States were joined by thirty-three other nations in voting against the resolution, while another thrity-two abstained, leaving its sponsors with a majority but nothing remotely approaching the overwhelming endorsement to which they had by now become accustomed. This time too there were protests from private groups, especially within the United States, where much outrage against the resolution was expressed and virtually no support. Indeed, so great did the revulsion against the resolution appear that in the opinion of the British ambassador to the UN, the net result was a victory for Israel rather than a defeat.

If, however, the Zionism-racism resolution was a victory for the Israelis, it was a victory of the type of which they might with perfect precision have said: One more such and we are undone. Certainly the response to the resolution revealed that Israel was not entirely isolated. But on closer inspection it revealed a deterioration in Israel's position which went much deeper than the gross voting statistics or the mere volume of public protest by themselves could even begin to suggest.

In order to appreciate the extent of that deterioration, it is necessary to bear in mind what the Zionism-racism resolution said about the state of Israel. The resolution did not merely condemn the state of Israel for alleged crimes against the Palestinians, or for discriminating against its own Arab citizens. What the resolution did was to denounce the state of Israel itself as an illegitimate entity. The very idea of a sovereign Jewish state in the Middle East (Zionism), let alone the actuality of one, no matter what its boundaries might be, was by *definition* declared criminal (racist). In the eyes of this resolution, Israel could only cease to be criminal if it ceased to be both Jewish and sovereign—if, in other words, it ceased to exist. Returning to the boundaries of 1967 or even the boundaries of 1948 would make not the slightest difference. For the resolution did not concern boundaries or occupied territories; it concerned the right of a sovereign Jewish state of *any* size or shape to exist in the Middle East.

From Israel's point of view, it was bad enough that a majority of the member-states of the United Nations—under whose auspices the state of Israel had come into being in the first place—when asked whether a sovereign Jewish state had the right to exist in the Middle East, should have answered No. Yet the manner in which most of the member-states who answered Yes to this question chose to do so was in its own way almost as bad. The United States argued vehemently that the resolution was wrong in principle, that it was based on a perversion of language and a distortion of the historical record. But no more than two or three of the other countries who either voted against the resolution or abstained (Costa Rica and Barbados come to mind) acted on any such principled basis. One after another the delegates who had been instructed by their governments to oppose or abstain rose to the rostrum to make speeches "in explanation of vote"; and one after another they argued not that the resolution was wrong but that it was politically unwise. Far from defending Israel, moreover, most of the countries that refused to endorse the resolution went out of their way to assure the world that they yielded to no one in their disapproval and indeed detestation of Israel's many crimes. In effect, while they were not prepared to go so far as to say that Israel had no right to exist, neither were they quite prepared to affirm unequivocally that Israel did have a right to exist.

For all practical purposes, then, the United States remained Israel's only real defender. If the United States had not spoken out so forcefully in defense of Israel, there would in all probability have been no country to speak out in defense of Israel but Israel itself. Yet forceful as the American support for Israel was in the case of the Zionism-racism resolution, it held only cold comfort for Israel.

The reason is that while the United States would unquestionably have opposed such a resolution under any circumstances, it is by no means clear that the opposition would have been as passionate or as effective if anyone but Daniel P. Moynihan had been the American representative at the time. The strong language in which Moynihan denounced the resolution and the tactics he used in lobbying against it originated with him and not in Washington, and they were tolerated rather than enthusiastically endorsed by his superiors in the State Department. Consequently, if not for the accident of Moynihan's presence in the UN when the issue arose, the resolution might well have passed without serious principled opposition and by a margin approaching the near-unanimity achieved by the Arabs at Lima, Kampala, and Mexico City.[1]

In short, Moynihan's behavior, far from being an accurate barometer of American policy toward Israel in general, was—and in retrospect looks more and more like—an aberration in an otherwise consistent pattern of weakening American support for the Israeli position. Officially, of course, the United States continues to affirm its commitment to Israel, and not merely in words. American military aid continues to be supplied to the Israelis in greater quantities than ever, and American votes continue to be cast in the Security Council, in the Human Rights Commission, in UNESCO, in the International Labor Organization, and in the World Health Organization against the endless parade of resolutions condemning Israel and all its works. At the same time, however, everyone senses the presence of powerful undercurrents pulling in the other direction. In the UN, Moynihan's "lectures on democracy and decency"—as, according to the New York *Times,* they are scornfully called by "several diplomats" of unspecified nationality—have given way to the "courtesy and restraint" of William Scranton. "Arab diplomats," the *Times* reports, "lauded what they said was a new 'tone' that Mr. Scranton had introduced in the Middle East debates." And indeed there was a new tone. In the Security Council, in his very first statement as the American ambassador, Scranton praised Jamil M. Baroody of Saudi Arabia for his "inimitable wit and remarkable eloquence and, most important of all and truly and seriously, his very extraordinary knowledge of history." This was just after Baroody had demonstrated "his very extraordinary knowledge of history" by asserting, among other things, that the Zionists had forced Woodrow Wilson into World War I. Baroody then proceeded to put his "inimitable wit and remarkable eloquence" on full display the next day in a speech to the Security Council declaring that *The Diary of Anne Frank* was a forgery and that the Holocaust would some day be exposed as a myth "just as it came out that the Germans did not eat babies when they invaded Belgium in World War I."

The ebbing of political and ideological support so evident in the UN since the departure of Moynihan is matched by a weakening of support in other areas as well. There was a period when few difficulties, if any, seemed to attend the matter of military aid to Israel. Nowadays questions always seem to be raised as to whether the Israelis will get the kinds of weapons they need and as many of them as they need. Anxieties are also aroused by the new cordiality of the United States toward several Arab governments—a cordiality which has already been translated both into the shipment of arms to these governments and into the exertion of pressures on Israel, which grow more and more open with every passing month, to withdraw from the territories occupied in the 1967 war.

In itself this demand for an Israeli withdrawal constitutes nothing new. Even Lyndon Johnson, whose administration represented perhaps the high point of American sympathy for Israel, said that while the United States supported Israel's existence, it did not and could not endorse Israel's conquests in the Six-Day War. But the Johnson administration took the position that the occupied territories were to be returned—and only to be returned—as part of a settlement which would entail recognition of Israel's existence by the Arab countries and direct negotiations among the parties to fix the precise boundaries of the now-recognized state in such a way as to insure its future security. In essence this was also the position taken by the Security Council in Resolution 242. The Israelis were to give up the territories, and the Arabs were to give up their efforts to destroy the state of Israel. The Israelis would move physically and the Arabs would move politically. According to Lord Caradon of Great Britain, who was the chief draftsman of Resolution 242, what it envisaged was "a package deal." The resolution was "a balanced whole." There was to be a *quid* and there was to be a *quo.* Until the Arabs moved politically, the Israelis were under no obligation to move physically. This was what Resolution 242 said, and it was the basis of American policy as well—at least until the election of Richard Nixon.

One of the first things Nixon did upon being elected President was to send William Scranton on a mission to the Middle East in the course of which Scranton—the same William Scranton who, perhaps significantly, was later chosen to succeed Moynihan as American ambassador to the UN—announced that American policy would henceforth be more "evenhanded"; and the same theme was subsequently stressed by Nixon's first Secretary of State, in the so-called Rogers Plan. Yet in view of the fact that nothing could have been more evenhanded than official American policy had already been since 1967, the Israelis and their friends could be forgiven for wondering whether the term might not be a euphemism for, precisely, a move away from evenhandedness and toward an entirely different policy altogether.

By now, it would be hard to deny that these apprehensions were justified. But until the outbreak of the Yom Kippur War, nothing significant occurred to substantiate the idea that a change in American policy was either being planned or was actually taking place. Since the Yom Kippur War, however, the difference between the old evenhandedness and the new has come more and more clearly into focus.

As Theodore Draper describes it: "The old concept used to be that there could be no peace in the Middle East unless Israelis and Arabs came to terms with each other," whereas the new policy "has tended to interpose the United States between Israel and the Arabs." That is, the United States has undertaken to do for the Arabs what the Arabs have been unable to do for themselves: force Israel to surrender the territories. But the United States has not undertaken to force the Arabs to accept the existence of a sovereign and secure Jewish state in the Middle East in return for those territories. Instead of insisting in truly evenhanded fashion on a *quid pro quo* from the Arabs, the new American approach is to compensate the Israelis for the absence of any reciprocal concessions on the part of the Arabs themselves. For example (to quote Draper again): "If a return to the pre-1967 boundaries decreases Israeli security, the United States considers making up the difference with an American or American-plus guarantee. If Israel surrenders the Abu Rodeis oil field in the Sinai, let the United States arrange to get an equivalent amount of oil from Iran."

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[1] The contrast between these earlier votes and the one in the General Assembly obviously disposes of the often-repeated charge that Moynihan's tactics "made things worse" for Israel. The truth is that as a result of those tactics, opposition to the resolution grew as it passed through the parliamentary process on its way to final approval. In the Third Committee, where it was first introduced, the opposing vote (negatives plus abstentions) was 56; in the next stage (a vote to postpone), opposition increased to 61; and in the vote in the General Assembly itself, it rose to 67.

The former Secretary of Defense, James R. Schlesinger, seeking a more accurate name than "evenhandedness" for an approach involving pressures by the United States on a reluctant ally to make unilateral concessions in the face of a deadly enemy, and in exchange only for promises of compensatory American support, recently characterized the new American policy as "the Vietnamization of Israel." In using this term, of course, Schlesinger was thinking not of the process through which the United States got into Vietnam but of the way in which we got out.

Two different explanations have been advanced for this shift from the old policy of evenhandedness to the new policy of "Vietnamization." According to the first and more widely accepted view, the primary objective of the United States is to insure an uninterrupted flow of oil to itself and its allies in Western Europe and Japan, and this can best be accomplished by in effect bribing the Arabs with vigorous political support—a policy carrying the further advantage of increasing American influence in the Arab world at the expense of the Soviet Union. According to the second view, the primary objective of the United States is not to step up its competition with the Soviet Union, but on the contrary to avoid any future confrontation with Soviet power, and this can best be accomplished by a gradual contraction of the American involvement in such regions of potential conflict as the Middle East.

So far as Israel is concerned, however, it scarcely matters—at least in the short run, which in the case of so precariously situated a country may be all the run that is relevant—whether the first explanation is correct or the second. If oil and the displacement of Soviet influence are now the keys to American policy, they clearly seem to dictate American pressures on Israel to make territorial and eventually other concessions involving the PLO without commensurate concessions from the Arabs. (For why should the Arabs make commensurate concessions if no one is forcing them to do so?) Yet even if the overriding imperative of American policy is not to enter into serious competition with the Soviet Union for influence in the Arab world but rather to avoid the danger of serious conflict with an increasingly powerful and increasingly expansionist Soviet Union, one-sided pressures on Israel to accept a "peaceful" settlement would still be required in order to set the stage for an "honorable" American withdrawal from the area. This was what the United States did toward the end in Vietnam, and it may well be—as James Schlesinger for one appears to suggest—what the United States is preparing to do in the Middle East.

Is Israel then to be abandoned? Henry Kissinger thinks not. It would, he once said, be an act of "extraordinary cynicism" for the United States to "negotiate over the survival of Israel"—that is, to bargain the existence of Israel away for the sake of oil or detente or any other objective. Neither the United States, he predicted, nor "in the last analysis Europe" would ever do such a thing. Of course nations (the United States itself supplying one of the most recent examples) have behaved with just such "extraordinary cynicism" throughout history. Why then is Kissinger so confident that Israel represents a limiting case? Perhaps because he thinks that guilt over the Holocaust is still a potent enough factor to prevent the Western world from acquiescing once again, let alone conniving, in the destruction of an entire Jewish community. If so, he has failed to notice that the statute of limitations has, as it were, run out on the Holocaust by now.

It is true that for many people old enough to have fought against the Nazis in World War II, any threat to the physical security of Jews as Jews—which today of course means Israel—remains anathema. This explains why a figure like Jean-Paul Sarte, whose general political stance would naturally incline him toward support of the Arabs and especially of the PLO, continues to side with Israel. It also explains why the West European governments, all of which are run by members of the World War II generation, have not yet deserted Israel entirely despite their almost total dependence on Middle Eastern oil. (They all, for example, voted against the Zionism-racism resolution; and while they have all moved a considerable distance since then toward the Arab position on the PLO and on various indictments of Israel in the Security Council and other UN agencies, they are, the New York *Times* says, still resisting "Arab demands that [they] adopt stronger anti-Israel policies in exchange for economic ties.")

Nevertheless, it is also true that the memory of World War II has been growing dim even for those who lived through it. And for those too young to have been marked by the experience of Nazism, Israel has for some time looked more like a nation of conquerors than like a nation of survivors. Since 1967, indeed, the anti-Israel propaganda emanating from both the Soviet Union and from the Arab world has portrayed the Israelis as the new Nazis and the Palestinians as the new Jews. Shortly after the Six-Day War cartoons were published depicting Moshe Dayan as Rommel, with swastikas on his uniform (and as an added fillip dollar-signs for eyes). More recently, there was the condemnation of Israel by UNESCO for crimes against culture—a charge meant to conjure up the burning of books by the Nazis—and more recently still the Soviet ambassador to the UN accused the Israelis of "racial genocide," while the Committee on the Inalienable Rights of the Palestinian People (which was created by a General Assembly resolution passed on the very same day as the Zionism-racism resolution) compared "the sealing of a part of the city of Nablus" by the Israelis after a series of riots had broken out there to "the ghettos and concentration camps erected by the Hitlerites in several cities of Europe."

In one form or another this theme has struck a responsive chord throughout the Western world (the caricature of Dayan as Rommel was even published in the newsletter of SNCC, one of the most prominent of the radical civil-rights organizations of the mid-60's). And despite the new "evenhandedness" of American policy, an even greater success has been enjoyed by the idea that Israel is the spearhead of American imperialism in the Middle East (the dollar-signs in Dayan's eyes): But the greatest success of all has been scored by the newest twist in Arab-Soviet propaganda, which is to portray the Jews of Israel (half of whose population actually stems from the Arab countries themselves—from North Africa and the Middle East) as a community of European *colons* and the Palestinians as a dark-skinned native population fighting for its natural rights. It was these two ideas—the Israelis as Nazis and the Israelis as white imperialists—which were brought together with such brazen neatness in the identification of Zionism with racism.

To the extent that some such version of the nature of the Arab-Israeli conflict is accepted, the dissolution of the state of Israel, whether by force or by political means, will seem not an act of "extraordinary cynicism" but an act of historic justice. And this, to judge by the debate over the Zionism-racism resolution and the unrelenting ideological offensive which has followed, is how it already seems to many people in many countries. Some of these people live in countries which voted against the resolution for one set of political reasons or another, and they even include a number of American Jews who think that a Jewish state has no right to exist unless it conforms in every detail to the dictates of the contemporary liberal conscience.

Not only, then, is the memory of the Holocaust ceasing to serve as a barrier against the ultimate betrayal of Israel. It even seems powerless to prevent the emergence of a new anti-Semitism especially tailored to the reappearance after so many centuries of a Jewish state in the world. There is a reluctance among some of Israel's friends to describe the hostility to Israel in certain circles as anti-Semitic—a reluctance based on the desire to see the Arab-Israeli conflict as a conventional international dispute amenable to resolution by conventional diplomatic means. Certainly a good part of that conflict does partake of the character of a conventional dispute. But the conclusion seems unavoidable by now that anti-Semitism has also entered the picture to an appreciable degree. For what other epithet can reasonably be applied to a current of opinion which singles out the Jews as the only people in the world who are not entitled to otherwise universally acknowledged rights? All other peoples are entitled to national self-determination; when the Jews exercise this right, they are committing the crimes of racism and imperialism. All other nations are entitled to defend themselves against armed attack; when a Jewish nation defends itself, it is committing the crime of aggression. Of the estimated thirty-five million refugees who have been displaced by war and other calamities since 1945 alone, only the three-quarters of a million displaced in the Jewish war of national liberation are expected to be repatriated. Quoting the Rev. Dr. Douglas Young, President of the American Institute of Holy Land Studies in Jerusalem, who points out that this demand runs "contrary to all treatment of all refugees through the whole world in the last ten or more years," Theodore Draper comments: "There is something suspicious and ominous about a world which permits one rule for refugees from a Jewish state and another rule for refugees from all other kinds of states."

Draper also quotes former Senator Fulbright on the issue of the territories conquered by Israel in 1967 which, of the many millions of square miles of territory conquered during the past thirty-five years alone, are the only ones which are expected to be returned. Fulbright said: "It is natural enough for Israel to resist the honor of being the first modern military victor to be obliged to abide by the principles and specifications of the United Nations Charter, especially when the greater powers who dominate the Security Council have set such a wretched example. Be that as it may, the principle is too important to be cast away because of the hypocrisy or self-interest of its proponents." To which Draper replies: "In short, all the self-interested hypocrites have a right to ask of Israel what they would not dream of doing themselves."

Another thing all the self-interested hypocrites would not dream of doing themselves but have a right to ask Israel to do is break off relations with South Africa. Almost every country in the world—including Arab and Black African countries—does business with South Africa. When Israel does business with South Africa, this means that there is a "Tel Aviv-Pretoria Axis" (the term axis calculated to associate Israel again with Nazism).

In addition to singling out the Jewish state as uniquely illegitimate, and in addition to branding the things it does in common with all other states as uniquely criminal, this current of opinion exposes its anti-Semitic character in a compulsive propagation of precisely the kind of "big lie" in which Hitler himself specialized. Thus Israel—the only democratic society in the Middle East, the only one in which the press is free and speech is free, and the only one in which minorities of every kind, ethnic, religious, and political, enjoy civil and political liberties—is condemned for violations of human rights by tyrannical and barbarous regimes in which there is no freedom of speech or of the press, in which no political opposition is permitted, and in which minorities are systematically persecuted. The PLO, to be sure, claims to be different; it speaks of an intention to found a "secular democratic state." But there is no reason to suppose that the state which an organization of radical Arabs means to establish would be any more secular or any more democratic than the nineteen Arab states already in existence. Every one of these states (including those, like Syria and Iraq, which are ruled by parties of the Left) makes Islam the official religion, and not a single one of them is democratic in any intelligible sense of that word.

To represent the conflict between such regimes and a country like Israel as a struggle of oppressed Third World peoples against Nazi-like aggressors is a stunning inversion of the truth. But it is also a testimony to the persisting vitality of anti-Semitism which, expelled more or less successfully from domestic society in the countries where once it flourished, now reappears, suitably translated into the current language and modalities of international life, to deal with the phenomenon of a Jewish state among other states as it once dealt with Jewish individuals and communities living in states dominated by other religious or ethnic groups.

An additional bonus of the "big lie" in this case is that it undermines the other basis on which the abandonment of Israel by the Western democracies and the United States in particular might be considered an act of "extraordinary cynicism": the fact that Israel is a democratic country. To some extent, at least—and perhaps to a greater extent than toughminded analysts think—the American commitment to Israel has rested on and been strengthened by this fact. Public-opinion polls indeed have shown that the reason most Americans are sympathetic to Israel is not that it is a Jewish state but that it is "a small democratic country which is trying to preserve its independence" against heavy odds and against the hostility of the Soviet Union. Schlesinger expresses a similar sentiment when he asks: If the United States will not defend a democratic country like Israel, whom will we defend? Obviously, then, if democracy in Israel can be "exposed" as fraudulent, abandoning our commitment to the Israelis becomes easier and all the more thinkable.

Most people in the Western countries, to be sure, remain unpersuaded by the portrayal of the Israelis as Nazis or racist imperialists, or the concomitant transmutation of the Arab states into victims of aggression and the PLO into fighters for freedom and democracy. Yet even in the minds of many of the unpersuaded, the moral burden has now been placed on the Israelis who are challenged to prove that they are *not* guilty of all "the affronts to humanity" with which the Arabs, as usual using language reminiscent of the indictments drawn up against the Nazi war criminals at Nuremberg, keep charging them in various agencies of the UN: "mass arrests," "confiscation and appropriation," "ill-treatment, deportation, expulsion, displacement and transfer of . . . inhabitants," and so on. Not surprisingly, some of the mud has stuck. At a recent conference of American intellectuals convoked to discuss measures which might be taken against the expulsion of Israel from UNESCO, for example, many of the participants were so anxious to dissociate themselves from Israel's "policies" that they scarcely found time to deal with the subject the meeting had been called to consider, which was the outrage committed by UNESCO *against* Israel.

More generally, and in consonance with this spirit, a new understanding of the Arab-Israeli conflict has lately taken hold which makes it possible for many people in the United States and Europe to encourage exactly what Kissinger was once so certain neither the United States nor Europe would ever do—"negotiate over the survival of Israel," and to believe themselves to be acting, moreover, not out of "extraordinary cynicism" but with a clear and perfect conscience.

Unlike the thinking behind phenomena like the Zionism-racism resolution, this new understanding has nothing to do with anti-Semitism. It is based, rather, on the premise that the major obstacle to a peaceful settlement in the Middle East is not the refusal of the Arabs to accept the existence of a sovereign Jewish state in their midst, but the "intransigence" of the Israelis. Although the Arabs, in this view, may once have entertained the hope of overrunning the state of Israel and driving its Jewish inhabitants into the sea, and although there are still extremists among them who continue to dream such dreams, moderates who are at least willing to tolerate if not embrace the state of Israel have been gaining the upper hand in the major "confrontation states," and even within the PLO. What these new Arab leaders want is the return of the territories captured by Israel in the Six-Day War and the establishment of a Palestinian state on the West Bank and Gaza under the moderate leadership of Yassir Arafat. If—the argument concludes—Israel agrees to this, the Arabs will live in peace with Israel.

Hence, in this new interpretation, Israel's refusal to surrender the occupied territories and to recognize the PLO is now the only obstacle standing in the way of a resolution of the conflict in the Middle East. Pressuring the Israelis is therefore not merely good for the Arabs or for the United States; it is also good for Israel. Far from being an expression of cynicism, such one-sided pressures are a favor to Israel, a way of saving the Israelis from their own most shortsighted instincts.

This, roughly, is Kissinger's own view of the situation; it is the view of the State Department; and it is evidently the view of the White House as well. It is the view of an ever larger number of Congressmen and Senators, including several who have in the past seemed very friendly toward Israel. ("In the first of a series of hearings on Middle East policy," the Washington *Post* reported a few weeks ago, "Senator Javits and others who recently visited the area . . . described Arab leaders as relatively flexible on crucial points of an eventual agreement in the area, including the right of Israel to exist. But most of the Senators described Israeli leaders as intransigent in their approach to an agreement.") The same view is prevalent within the Council on Foreign Relations and other institutions of what used to be called the foreign-policy establishment. It is also the view most often expressed or reflected nowadays in the national press, from the New York *Times* to *Time*, from *Newsweek* to the Washington *Post*. And it is the view of that increasingly vocal and increasingly visible fraction of the American Jewish community to whom support of Israel is conditional on Israel's good behavior as measured by the liberal pieties in fashion on any given day.

When one considers that the literal survival of Israel may very well ride on the issue, one is bound to be astonished and even flabbergasted at the thinness of the evidence which so many people have taken as proving that the Arabs are finally ready to accept the existence of a sovereign Jewish state in their midst and to desist from any future effort to wipe it out. The best that can be said for this evidence is that it is ambiguous and inconclusive. Sadat has made statements in English or French for Western consumption suggesting or hinting—never declaring unequivocally—that he is now willing to live in some peaceful or at least non-belligerent arrangement with a sovereign Jewish state. Yet for every such statement, he has made another (or is it ten others?) in Arabic, and sometimes even in English or French, pledging never to settle for anything less than the "rights" of the Palestinians as defined in the PLO charter; and the PLO charter explicitly calls for the dissolution of Israel as a sovereign Jewish state and its replacement by a Palestinian Arab nation in which only those "Jews who had normally resided in Palestine until the beginning of the Zionist invasion" (no one is quite sure whether this means 1947 or 1881) would be permitted to remain as a tolerated religious minority.

As for the other so-called moderate Arab leaders, few have gone even as far as Sadat, and none has ever gone any further. Bourguiba of Tunisia has earned his reputation as a moderate through the authorship of a strategy designed to destroy Israel by stages, beginning with a political offensive which strongly resembles what has been occurring in the past few years and ending with a final assault against a reduced, weakened, and isolated Israel. Assad of Syria, only yesterday a partisan of the "rejection front," has gained his reputation as a convert to peaceful coexistence with Israel by whispering hints into the ears of a succession of American diplomats, politicians, and newspaper columnists who obligingly return and spread the word, adding that "naturally" he cannot be expected to say such things in the open; and Arafat has been transformed from a bloody terrorist into a moderate by means of the same technique. All public statements by these Arab leaders reasserting their commitments to the dissolution of Israel as a sovereign Jewish state are dismissed as "rhetoric" which every sophisticated observer knows better than to take seriously.

As against these hints and whispers there stands not only the continually reaffirmed commitment of all the Arab countries to the PLO and its declared aim of doing away with the state of Israel by the combined force of political pressure and arms. There also stands the evidence of the Zionism-racism resolution. Through this resolution the Arab countries, with not a single exception, unmistakably announced their conviction that a Jewish state in the Middle East, no matter where its boundaries might be drawn, was morally and legally unacceptable. Senators "visiting the area" might be told differently, but the rest of us—the rest of the world—were told that returning the Sinai to Egypt, the Golan Heights to Syria, and the West Bank to the Palestinians for a new state of their own ruled by the PLO would not make Israel any more legitimate or morally acceptable in the eyes of the Arab countries than holding on to these territories and refusing to negotiate with the PLO have done.

And why indeed should it? The Arabs did not begin to oppose Israel after the Sinai, the Golan Heights, and the West Bank were occupied or after the Arab refugees had been transmuted into a Palestinian nation in exile. They opposed Israel from the very start and made repeated attempts to destroy it. In the words of Walter Laqueur: "The basic issue in the Arab-Israeli conflict is not the border problem or a Palestinian state—the conflict existed before there were occupied territories and before there was a demand for a Palestinian state." The real issue, writes Elie Kedourie, is the right of the Jews, "hitherto a subject community under Islam, to exercise political sovereignty in an area regarded as part of the Muslim domain." Professor Kedourie asks why the Arabs, who have steadfastly refused to grant this right to the Jews, should suddenly relent just when Arab power and influence have so greatly increased. It is a good question, and one might phrase it in another way to sharpen the point still further: why should people who have dreamed of achieving an objective for so long without much hope of success give up on that objective just at the moment when success for the first time seems attainable?

In sum, the idea that it is the intransigence of the Israelis which has prevented a peaceful settlement in the Middle East is yet another stunning inversion of the truth. The only thing about which the Israelis have been intransigent is their right to live in peace as a sovereign Jewish state among their Muslim Arab neighbors. For this they have always been ready to make territorial and other concessions, and they still are. There is of course a small if strident minority of Israelis who wish at all costs to hold onto all the territories forever. But the polls and every other indication show that the great majority of Israelis are still willing to do whatever may be necessary to achieve a secure and lasting peace. Not only do they know that peace would be desirable in itself; they also understand that retaining territories in which so many Arabs live would in the long run pose a demographic threat to the Jewishness of Israel and (because of the repressive measures which the simple maintenance of order under such circumstances would require) a political threat to its democratic character as well. It is not, then, the Israelis who are the intransigent party in this conflict. The real intransigents in the Middle East are the Arabs who for twenty-eight years have been unwilling or unable to reconcile themselves to the presence of a sovereign Jewish state in their midst, and who on the evidence are no more willing today than they ever were before.

Whatever Kissinger or anyone else may intend, therefore, in abandoning the old policy of evenhandedness and embarking instead on a course of one-sided pressures on Israel, the United States *is* "negotiating over the survival of Israel." For if the change in American policy is dictated by the need to assure an uninterrupted flow of oil from the Middle East to the United States and the other advanced industrial nations, there are no grounds for believing that it can succeed on the diplomatic cheap. Given the intransigent determination of the Arabs to do away with a sovereign Jewish state in their midst, and given their belated discovery that the oil weapon is so potent an instrument for accomplishing this purpose, why would they stop using it after the first victory (the return of Israel to the 1967 boundaries) or even the second (the establishment of a Palestinian state on the West Bank) were won? With Israel reduced and weakened, the way would be open for a military *coup de grace*. Even if Israel's existence were guaranteed by the United States or some combination of countries, the Arabs would have no great cause for concern. After all if the United States and the other Western nations are so afraid of an oil embargo now, and so reluctant to use force against the threat or even the actuality of one, why would they be any the less fearful then?

The logic is as inexorable as it is terrible: a Middle East policy based on oil is a policy based on the eventual abandonment of Israel. To make matters almost morbidly ironic, if such a policy is also supposed to pay off in the coinage of a victory over the Soviet Union in the competition for influence in the Arab world, the indications are that it will fail. Already the much-trumpeted triumph of the new "evenhandedness" in leading to a break between Sadat and Brezhnev more and more begins to seem rather less conclusive than advertised, as the facts become known concerning the uninterrupted flow of arms from Moscow to Cairo after the putative break was announced.[2] Even Jordan, traditionally the most pro-American of the Arab countries, is now making moves in the direction of Moscow for the purchase of arms which, the Jordanians say, they can get from the Soviet Union at a lower price.

But if, conversely, the purpose of the new policy is to prepare the way for a "guaranteed" settlement and an "honorable" American withdrawal from the Middle East in order to preclude the danger of future confrontations with Soviet power, the ultimate abandonment of Israel is just as inexorably indicated. For why, having gone to such length to minimize the risk of clashing with an adversary of greater determination in the use of force than we are now evidently able to mount, would we suddenly decide to rush back into the breach again? Paper guarantees, as the South Vietnamese are only the most recent people to have learned, are a very weak reed indeed for weakened nations to lean upon.

Nor would a joint Soviet-American guarantee be any better for Israel. Even if it could be negotiated, which is highly doubtful, it would not eliminate either the problem of Israel's security against an Arab attack or the problem of a possible confrontation between the United States and the Soviet Union in case an attack were to occur. Such a guarantee, as Draper points out, "would give the Soviet Union a veto power or at least a potentially fatal power of obstruction; the United States would be faced with the alternative of negotiating with the Soviet Union or hurriedly breaking with it on the operation of the guarantee." In the former eventuality, the guarantee would for all practical purposes be nullified; in the latter, the danger of confrontation between the two superpowers would once again arise.

Vietnam, however, is not the only ghost hovering over the idea of a Middle East settlement guaranteed by the United States or some combination of outside powers. The ghost of Munich is also there. Less than a year after a treaty was negotiated at Munich under which the Czechs agreed to "return" the Sudeten regions to Germany and were promised in exchange that Britain and France would come to their aid in the event of an armed attack, Hitler sent his armies across the new boundaries of Czechoslovakia; at that point the British and the French found reasons not to honor their commitment and Czechoslovakia was overrun. Munich has accordingly become the preeminent symbol of exactly the kind of "extraordinary cynicism" Henry Kissinger had in mind when ruling out the possibility of "negotiations over the survival of Israel"—the kind of act, he said, through which the world is "morally mortgaged."

Yet one of the many lessons Munich teaches is that even nations, perhaps the most amoral of human creations, are reluctant to mortgage themselves morally, and will consequently act with extraordinary cynicism only when they can persuade themselves and others that what they are doing is in truth morally justified. Thus in the months leading up to the Munich agreement, the papers in Britain and France were full of articles badgering the Czechs. Their country was criticized for mistreating the German minority in the Sudeten regions, for being an artificial creation, and for posing a danger to world peace: a combination of charges which simultaneously justified forcing the Czechs first to give up the Sudenten territories and then, a bit later, acquiescing in the dissolution of what was after all a "misbegotten state."

These criticisms of Czechoslovakia bear, as Walter Laqueur has pointed out, "an uncanny resemblance" to the criticisms which have been leveled at Israel in the past few years. As Czechoslovakia, a democratic country, was accused of mistreating the German minority in the Sudeten regions, so Israel, also a democratic country, is accused of mistreating the Arab minority within Israel itself and also, of course, in the occupied territories. As the creation of the Czechoslovak state after World War I was called a mistake by Hitler and Neville Chamberlain, so the creation of the Jewish state after World War II is called a crime by contemporary totalitarians and their appeasers. The insistence by the Czechs that surrendering the Sudenten regions to Hitler would leave Czechoslovakia hopelessly vulnerable to military assault was derided, especially on the Left, as a short-sighted reliance on the false security of territory and arms; so a similar insistence by the Israelis with regard to the occupied territories is treated today with lofty disdain by contemporary descendants of these believers in the irrelevance to a nation's security of territorial buffers and arms. And as the effort of the Czechs to hold out against Hitler's demands for a surrender of the Sudeten regions was called a threat to the policy of "conciliation between the totalitarian states and the democratic states," and therefore a threat to world peace, so Israel's "intransigence" over the occupied territories and the program of the PLO is said to be leading to a new Arab-Israeli war which will in turn lead to another oil embargo, a disruption of the policy of détente between the United States and the Soviet Union, and even a nuclear war.

What this "uncanny resemblance" between the attacks on Israel today and the attacks on Czechoslovakia in 1938 seems to suggest is that the Western powers may indeed be preparing to act with the same "extraordinary cynicism" in the Middle East as they did in Central Europe nearly forty years ago. And what it also suggests is that they mean to do so while pretending to themselves and others that they will not thereby be "morally mortgaged" but on the contrary morally justified.

Just as Israel is not Vietnam, however, Israel is not Czechoslovakia. Israel might well be forced into a Paris-type or a Munich-type agreement, but unlike the South Vietnamese in 1975 and unlike the Czechs in 1938, the Israelis would not thereafter allow themselves to be overrun. The Israelis would fight. They would fight with conventional weapons for as long as they could, and if the tide were turning decisively against them, and if help in the form of resupply from the United States or any other guarantors were not forthcoming, it is safe to predict that they would fight with nuclear weapons in the end. No one doubts any longer that they have such weapons, and no one can doubt that they would unleash them in the final extremity. It used to be said that the Israelis had a Masada complex—that, like the Jewish Zealots of the 1st century whose mountain fortress in the Judean desert was about to be stormed by an irresistible force of Roman legionnaires, the Jews of Israel today would commit suicide rather than submit to subjugation by their enemies. But if the Israelis are to be understood in terms of a "complex" involving suicide rather than surrender and rooted in a relevant precedent of Jewish history, the examples of Samson, whose suicide brought about the destruction of his enemies, would be more appropriate than Masada, where in committing suicide the Zealots killed only themselves and took no Romans with them.

It follows that the new American policy in the Middle East is not only immoral and ineffective but mortally dangerous as well. For the specter so often invoked of a nuclear war breaking out in the Middle East because of the "intransigence" of the Israelis is yet one more stunning inversion of the truth concerning the Arab-Israeli conflict. The real danger of nuclear war lies in the opposite direction. It lies in the ideas which have been placing the Israelis under such intolerable moral pressures in the past three years, blaming them and hectoring them, putting them in the dock and on the defensive, magnifying their every fault and discounting their every virtue; and it lies in the policies which are calculated to strengthen the hands of their enemies while isolating and weakening and finally forcing the Israelis into a desperate corner where only the memory of Samson will serve.

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[2] See Uri Ra'anana's "The Soviet-Egyptian 'Rift,'" in last month's Commentary for a detailed accounting of these facts.

If a nuclear war should ever erupt in the Middle East, then, be it on the heads of all those in the United States and elsewhere—inside government and out, in the foundations and in the universities, in the councils and in the press—who under cover of self-deceptions and euphemisms and outright lies are "negotiating over the survival of Israel" instead of making the survival of that brave and besieged and beleaguered country, the only democracy in the Middle East and one of the few left anywhere on the face of the earth, the primary aim of their policies and the primary wish of their hearts.

A REQUEST FOR RESTORATION OF CONGRESSIONAL MEDAL OF HONOR TO THE LATE DR. MARY EDWARDS WALKER

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD).

Mr. HANLEY. Mr. Speaker, on February 21, 1919, Dr. Mary Edwards Walker from Oswego, N.Y., died, ending a lifetime characterized by public controversy and a determined woman's personal struggle for acceptance. Dr. Walker, a physician, writer, lecturer, suffragette, and spy, became the first woman to receive the Congressional Medal of Honor, only to have that award rescinded shortly before her death by an Army Board of Medal Awards. She was also the first woman to be awarded a contract as an assistant army surgeon, the first woman prisoner of war to be exchanged for a man of equal rank, and the first woman to attempt to cast her vote in a Presidential election. Almost 60 years after her death, the controversy over Dr. Walker continues with Congressman MCEWEN's proposed legislation which would restore to her the Congressional Medal of Honor. Yet the future of this bill is bleak.

The Congressional Medal of Honor was awarded to Dr. Mary Edwards Walker on June 24, 1866 for rendering "valuable service to the Government." She lost the right to wear her medal on May 24, 1916 along with 911 other medal holders, with the ruling of an Army Medals Awards Board. Since only those who had participated in battle were eligible to receive the Medal of Honor, the Board ruled that Dr. Walker, under contract as an assistant surgeon during the Civil War, was technically unqualified to possess the award. However, there appears to be some mystery surrounding Dr. Walker's Civil War activities.

The early years of the war were spent in Washington, working as a volunteer wherever her services were needed. Dr. Walker cared for wounded Civil War soldiers in a makeshift hospital in the U.S. Patents Office and also assumed the duties of escorting sick and wounded soldiers to homes or hospitals, occasionally contacting the relatives of dying men in her care. She was instrumental in organizing a Women's Relief Association to provide aid to destitute widows and to women searching for their wounded relatives. However, as usual, Dr. Walker's strong convictions put her in the middle of heated conflict, as she counseled potential amputees to refuse such surgery, against the advice of their doctors.

On November 3, 1863, Dr. Mary Walker requested the authority from the Secretary of War to organize a regiment of men which would have been named "Walker's U.S. Patriots" and of which she would have been head surgeon. After the denial of this request, Dr. Walker traveled to the war-torn area of Chattanooga, Tenn., arriving there just as the Battle of Chickamauga casualties were entering the city. There her work once again evoked mixed reactions. The U.S. Medical Director, at the request of an area medical authority, formed a three-member board of surgeons to review Dr. Walker's qualifications as a physician. Although the board may have been a kangaroo court, in the opinion of the surgeons, Dr. Walker "disclosed such ignorance as to render it doubtful whether she has pursued the study of medicine." The board conceded that Dr. Walker was knowledgeable in obstetrics and recommended that she be employed in the Army as a nurse.

In opposition to this ruling, General Thomas assigned Dr. Walker to Gordon's Mills, Ohio, supposedly to replace the 52d Ohio Volunteer's then recently deceased surgeon. At Gordon's Mills, Dr. Walker received no pay as a surgeon, and her self-assumed duties included little, if any, surgery. She often crossed Confederate lines not only to treat local families, but also to obtain information about the enemy and this "efficiency when engaged in the secret service of the Army" impressed both of her commanding officers, Generals Sherman and Thomas. A short time after her spying activities began, Dr. Walker was captured and confined at Castle Thunder in Richmond, Va. True to her determined nature, in prison Dr. Walker demanded and, surprisingly enough, received a more nutritious diet for the inmates. She was released on August 12, 1864, in exchange for an officer of the Confederate Army, according to some biographers.

Soon after her release, General Sherman assigned Dr. Walker as head surgeon to a women's prison in Louisville, Ky. Less than a month after her arrival, Dr. Walker wrote to General Sherman complaining that the male doctor in charge of the male military prison refused to acknowledge her authority over the inmates in the female prison. Dr. Walker was also unsympathetic to what she considered to be the outrageous demands of her patients and the inmates complained that she treated them cruelly. Paradoxically, the prison staff considered Dr. Walker to be too lenient with the inmates. A short 6 months after assignment, Dr. Walker requested a transfer to the front lines. The Army terminated her contract in March of 1865, when her services were no longer needed.

Dr. Walker settled down to private life once again. In 1866, traveling as a delegate to a social sciences congress, Dr. Walker embarked on a lecture series across England, lecturing on women's sufferage, dress reform, abolishment of capital punishment, and other reforms. She was warmly received by the press and heckled by the masses. On a later lecture tour across the South, Dr. Walker barely earned enough to cover her traveling expenses. During this tour, Dr. Walker's habitual garb of trouser-like bloomers covered by a loose calf-length coat caused her arrest in two different U.S. cities under charges of impersonating a man, attracting a crowd, and wearing unbecoming clothing. Both cases were quickly dismissed by the courts.

Dr. Walker understandably indulged in exaggeration in the relating of her exploits and suffered from a convenient memory, causing some biographers to describe her as arrogant and egotistical. A philandering husband and an early divorce are said to have contributed to her cynicism and to her low esteem for men, but friends in the suffrage movement and coworkers in the medical field remember Dr. Walker's strength and determination to function in society as an equal to her male counterparts. Dr. Mary Edwards Walker, both ridiculed and honored in her lifetime, is remembered mostly as an eccentric. Perhaps it would be more accurate to remember her as a woman fighting for a place of dignity and respect for women in a society dominated by men. In this regard, I have written a letter to the Secretary of the Army requesting that he look into the case of Dr. Mary Edwards Walker, with the desired end of restoring the Congressional Medal of Honor to her.

WILL FRITZ EFAW RECEIVE JUSTICE?

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to survey the background and report the status of a case which I feel is of great importance to many Americans who have been made to suffer by the Vietnam conflict. It is the case of Fritz Efaw, a 29-year-old draft evader who has spent the last 7 years living in Great Britain.

Mr. Efaw applied for conscientious objector status in 1969 and his application was denied. He never received a reason for the denial, and rather than fight in a war he was morally opposed to, Fritz Efaw left the United States. An arrest warrant was issued January 15, 1970, when he was indicted for failing to report for induction.

In November 1974, Attorney General Saxbe, in conjunction with the Executive clemency program, directed all U.S. Attorneys to review their files and to move to dismiss those draft evasion cases which they felt lacked prosecutorial merit. On September 22, 1975, Assistant U.S. District Attorney James Peters in the Washington office instructed the U.S. attorney in Oklahoma City to dismiss charges against Fritz Efaw. This was brought about because the U.S. Court of Appeals for the 10th Circuit had held that a draft board must delineate the reasons for denying conscientious objector status requests, and the Stillwater draft board had never explained the refusal of Mr. Efaw's 1969 request.

The motion for dismissal was denied by U.S. District Court Judge Fred Daugherty because Efaw was still a fugitive.

In late June of 1976, Efaw's defense counsel prepared and filed another motion to dismiss the case, setting out the law relating to the denial of conscientious objector's claims.

This was done because Efaw had been elected as an alternate delegate to the Democratic National Convention. He returned to the United States to attend the convention on July 8. On July 9, Brooklyn U.S. Magisrate Simon Cherein said at Efaw's arraignment that Efaw had voluntarily returned to this country "to face the music" and after placing him under a $5,000 personal recognizance bond, ordered him to surrender to Federal authorities in Oklahoma City by Monday, July 26, thus permitting him to attend the convention.

On Friday, July 23, 3 days before Efaw was to report to Oklahoma City, the U.S. attorney in Oklahoma City, David Russell, filed a motion saying that he had "reluctantly" agreed to the defense request to dismiss the charges against Efaw.

However, U.S. District Court Judge Fred Daugherty has indicated that he may not permit the dismissal, which both the defense and prosecution have requested. On Monday, July 26, Judge Daugherty gave both sides 5 days in which to file additional motions, and U.S. Attorney Russell said that he was taking another look at the case and would prosecute if possible.

I will leave to the judicial system the legal propriety of U.S. Attorney Russell's sudden turnabout. What I would like to take issue with is the morality of prosecuting draft resisters and evaders at a time when the Vietnam war is over, and the selective service law which inducted them has been abolished.

I am appending a letter I have written to Attorney General Levi, and urge my colleagues to write similar letters to him if they are concerned about this issue:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 28, 1976.

Atty. Gen. EDWARD LEVI,
U.S. Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: I have followed with great interest the case of Fritz Efaw, a draft evader from Oklahoma who has spent the last seven years in Great Britain. Mr. Efaw surrendered to Oklahoma City authorities on July 26 and is now awaiting an August 11 trial. On July 23 United States Attorney David Russell filed a motion saying that he agreed to a defense request to dismiss draft-evasion charges against Efaw, but then, on July 26, Russell said he was "taking another look at the case" and would prosecute if possible.

The suddent reversal of the U.S. Attorney's decision disturbs me. I happen to be one who believes in unconditional amnesty for draft resisters as a way of reconciliation. But even if you do not take that point of view surely you would agree that if doubt about the case exists, it should be resolved in favor of Efaw, in a matter of this kind. That such doubt exists was demonstrated by U.S. Attorney Russell's original decision to dismiss the case. Making one more felon out of a person of conscience is not helpful to our country and exacerbates the feeling of revulsion over the fact that former President Nixon received a pardon and that the Efaws of this country go to jail.

I urge your personal compassionate intercession in this matter.

Sincerely,

EDWARD I. KOCH.

RESOLUTION CORRECTION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on July 1, I introduced House Concurrent Resolution 675, a right-to-food resolution. Regrettably, that resolution was printed with an erroneous title. I am therefore introducing a corrected version today, and shall use the new bill number of House Concurrent Resolution 689 as the number for all identification purposes.

LITTLE RED SCHOOL HOUSE OF PRAYER AND PATRIOTISM

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, for the past 10 days residents and visitors in Washington have noted the presence of a replica of a little one-room school house patterned after the village schools of long ago. Situated on the Mall near the reflecting pool at the base of the Capitol, it told its own story of the early faith in our country's God, in our country's future, and the contributions of the little red school houses of that day toward learning, prayer and patriotism.

The little red school house was constructed by Rev. Auburn Hayes, who lives at Harold in Santa Rosa County, Fla. It contains furniture made from juniper logs including the wooden benches of early days. There are old books and other antiques portraying the period. It drew great interest and many visitors while in Washington.

The Little Red School House of Prayer and Patriotism represents American heritage in relation to its humble development. Although not an official Bicentennial project, it fits perfectly with the heritage theme of the celebration.

The project is under the sponsorship of Reverend Hayes' God and Patriotism Foundation. Reverend Hayes is pastor of the First Baptist Church in Harold, Fla., and now has the little red school house on a national tour in an attempt to kindle a renewed interest among the Nation's people in prayer and the important part it played in the development of the Nation. Reverend Hayes is accompanied on the tour by Mr. and Mrs. Bill Arnold and son of Harold; Obie Crain, Jr., editor of the Santa Rosa Free Press, a Milton (Fla.) weekly; and Mrs. Edith DuBose and daughter Rita, also of Harold.

TO REUNITE FAMILIES SEPARATED BY THE IRON CURTAIN

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Vainberger family:

GRIGORY VAINBERGER

Grigory Vainberger is a young man from the Transcarpathian area. He has been trying to emigrate to Israel since 1972 when the rest of his family received their permission. Living alone, without any close relatives, the family is most anxious that he be allowed to join them.

In a recent letter from his mother, Mrs. Elizabeth Weinberger writes:

"I, mother of Grigory Vainberger, "Refusnik" as of 1972, testify that in the past few years, my son is constantly refused the right to leave for Israel. . . . In 1972, our family received permission to leave the Soviet Union but our son was serving in the ranks of the Soviet Army and they wouldn't permit him to leave with us.

We left the Soviet and left our son in the army hopeful that when he finished his two year enlistment time, he would be able to join us (we were so informed by the organs of the regime).

Once he served his two years in the army and gave once more his documents for a visa, he was refused. Now after many inquiries and notices, he is refused an answer even for the question why he is refused.

Our son lives alone without any close relatives because most of them have been repatriated to Israel.

My chief goal and hope is to see my son on our soil in Israel."

ARE WE BEING TAKEN AGAIN?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, at the beginning of May, the fourth United Nations Conference on Trade and Development—UNCTAD—convened in Nairobi, Kenya. 154 nations attended. Several years ago, the group of 77—actually 112 at present—comprising the lesser developed nations, began an effort to revise world economic relationships so as to slow down the process by which the richer industrialized nations keep on getting relatively richer while the underdeveloped or poorer nations are being exploited without the chance of making their economies more viable, cutting down on their increasing foreign debts and, in general, rising to a higher, industrialized scale.

In the first three meetings of UNCTAD, the underdeveloped world gradually expanded their demands for a new economic order in which the Western industrialized world would assume greater responsibilities for lessening the injurious effects of fluctuating prices for raw commodities on the world's markets. Here the underindustrialized world had accepted the thesis that the richer nations, by means of their multinational corporations, were exploiting the poor by paying low prices for basic raw material imports, but exacting high prices for goods without which the lesser developed could not expand. Thus they wanted the prices of their raw material products to be tied to the prices they had to pay for their more sophisticated industrial imports.

After the oil crunch of 1973, little has been done by the Arab OPEC nations or the Communist bloc to relieve the dire straits of the poorer nations. It has fallen to the lot of the major Western nations to increase their individual aid, their subscriptions to international agencies and create other facilities, such as the IMF oil facility and the IBRD gold sale on behalf of the LDCs.

Only Great Britain and Western Germany supported the American proposal of setting up the development fund for stabilizing fluctuative commodity prices, rescheduling long-term debts and helping host nations to get larger percentages on the production by the multinationals.

In the final analysis, the failure of the fourth UNCTAD was due not only to the lack of vision by the leaders of the lesser developed world that only the West can really help them in the long term, but more significantly the fact that they are being manipulated by the Communist world on the grounds of being exploited by the West.

The final vote against Secretary Kissinger's fund proposal was 33 to 31, comprising mostly communist opposition. Forty-four LDC's did not vote and 46 LDC's walked out. It seems that the ones that have received most from the West, particularly the U.S.A. by not voting or walking out think they are hurting the West when in reality they are the sufferers. Their new proposal was for a $6 billion fund to stabilize prices for 10 raw material commodities by buying buffer stocks; $200 million were subscribed by the LDC's. This is scarcely 3 percent of the total. The Communists and Arabs will not help. So who will be left holding the bag? Surely we are being taken if we accede to the extraordinary demands by the LDC's.

One has but to look at the voting in the U.N. in New York to see how the LDC's vote against the West and the U.S.A., yet come to us for extra handouts. The time has come for the U.S.A. to count who its real friends are—friends who will stick with us through thick and thin. I shall vote against subscribing to this new commodity fund while the present attitude prevails among the nations most affected.

The $6 million are infinitesimal in total when disbursed among 112 nations. The greatest resource among these nations is their people who will produce if they have the right incentives to produce, incentives which neither the Communists nor the Arabs can supply. If the governments of the LDC's interfere less in the economies of their own peoples, do away with prestige projects, cut out excessive taxes, tariff barriers, subsidies, nonessential expenditures, help their people to produce, and encourage foreign investments, one will find that the multinationals with private development capital will rush in and in the process raise their economic standards This I will support.

THE MIA FAMILIES

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today's edition of the Washington Post has as one of its editorials an excellent analysis of our Government's efforts to obtain an accounting of our men who are "missing in action" in Southeast Asia. The MIA/POW's and their families deserve the relentless effort of the U.S. Government to obtain as accurate an accounting of their whereabouts, alive or dead, as is possible. The Select Committee on Missing Persons in Southeast Asia was created to investigate the problems all MIA issues and to give impetus to attempts to receive an accounting.

The committee has played a critical role in reviewing the State Department's attention toward the MIA/POW's; but negotiations with foreign governments are the responsibility of the executive branch. Despite the work and will of Congress, the executive has continually failed to follow up the opportunities to negotiate or to begin talks.

I hope that we will learn from our failure to act in March and April of this year and that the next opportunity will not be sacrificed to the immediate political situation at home—Presidential primaries or otherwise. And I hope that all of us realize that it is in our interest, in the interest of the missing men and their families, to talk when the opportunity again arises. That opportunity will not come about by chance and our Government must dedicate itself to beginning negotiations if the time is ever to come.

I call my colleagues attention to the Washington Post editorial which follows:

THE MIA FAMILIES

The presence in Washington of the families of servicemen still regarded as missing in action in the Indochina war prompted us to look again into the reasons why so little progress has been made in easing the agony and heartache of these unfortunate people. What we discovered was that a potentially fruitful diplomatic effort to obtain an accounting of the missing in action, within the larger framework of the overall normalization of relations with Vietnam, had been launched earlier this year. And what we also discovered was that this effort had been torpedoed last spring by a squalid exchange of highly political pronouncements between President Ford and challenger Ronald Reagan in the heat of the presidential primaries.

Immediately after the Communist victory in Saigon in April, 1975, the MIA issue was neglected. But a tentative policy of mutual gestures was begun and, partly under pressure from the families of the missing, and pressure from the House Select Committee on MIAs—a group formed last September to agitate the question—the Ford administration in March authorized talks with the Vietnamese on the MIA issue and other issues in dispute between Washington and Hanoi. On March 31, however, candidate Reagan tore into Mr. Ford for seeking to establish "friendly relations" with Hanoi. "To make it more palatable," Mr. Reagan went on, "we are told this might help us to learn the fate of the men still listed as missing in action." One could have hoped that Mr. Ford would have allowed the utter cynicism and insensitivity of this line of attack to speak for itself. But, no, Mr. Ford apparently felt the need to lash back with a statement that, among other things, called the Vietnamese "international pirates." The Vietnamese promptly fired back a blast of their own, specifically taking umbrage at Mr. Ford's choice of epithets. No talks, apparently, were ever held.

Needless to say, at the annual meeting of the League of Families in Washington over the weekend, neither Mr. Ford nor Mr. Reagan acknowledged what had been going on. Mr. Ford made a personal appearance to say his administration was "employing every effective means to account for your loved ones." Mr. Reagan, playing to the League's well-known distrust of Secretary of State Henry Kissinger, fired an unusually cheap shot, promising, if elected, to appoint a Secretary of State who would take "every reasonable and proper step" to satisfy the families. Neither acknowledged having played on the feelings of the families for his own political advantage. Hypocrisy and deception reigned.

The families of the MIAs deserve better. Many of them are preoccupied now by the thought that when the House Select Committee makes its final report upon completing its year's lease on life in September, the MIA issue will return to the State and Defense Departments which, for bureaucratic reasons of their own, will do nothing about it. Actually, this is an unjust rap, we feel. Within the limits of its negotiating license, the State Department has probably done what it can to get an accounting. The Defense Department has abandoned much of the secretiveness which marked its earlier handling of the issue. Though the House Committee may be extended to next January, its conscientious chairman, Rep. Sonny Montgomery (D-Ala.), believes that its essential work of focusing attention on the issue has been done. The committee also made an earnest attempt to get the Vietnamese to understand that, no matter what they thought had been promised at a certain point by President Nixon, "reparations" or reconstruction aid is now politically out of the question.

The families need to understand that the important issue is not whether their men are shifted from MIA status to a status of presumptively dead. That affects (lowers) the benefits to the next of kin but there is no reason to think it would affect Vietnam's readiness to tender an accounting. The Vietnamese clearly are using the MIA issue as a bargaining chip in the most cynical way. It is about all they currently have in the way of an inducement for the United States to stop barring their way to the International Monetary Fund, and the World Bank and the United Nations—in brief, to the economic and political benefits of full standing in the international community. Mr. Ford did not have the political courage to proceed down the road of negotiations toward this sort of "normalization" in the face of Mr. Reagan's harassing fire. Mr. Reagan did not have the sensitivity or the sense of responsibility, whichever it was, to allow the administration room for maneuver. The families are paying the price for this reckless self-indulgence on the part of the two Republican candidates for President.

MONTHLY LIST OF GAO REPORTS

(Mr. BROOKS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The July 1976 list includes:

Better Federal Coordination Needed to Promote More Efficient Farm Irrigation. RED-76-116, June 22.

Grain Marketing Systems in Argentina, Australia, Canada, and the European Community; Soybean Marketing System in Brazil. ID-76-61, May 28.

Quality of Amtrak Rail Passenger Service Still Hampered by Inadequate Maintenance of Equipment. RED-76-113, June 8.

History and Status of the East Street Valley Expressway, Interstate Highway 279, Pittsburgh, Pennsylvania, RED-76-11, May 28.

Meeting Application and Review Requirements for Block Grants under Title I of the Housing and Community Development Act of 1974. RED-76-106, June 23.

What Can Be Done to Improve the Management of Money and Staff? GGD-75-35, June 16.

The Federal Equal Employment Program for Northeast Oklahoma Construction Projects is Weak. MWD-76-86, May 28.

Disapproval of Seattle, Washington, School District Applications for Emergency School Aid Funds. MWD-76-106, April 7.

Using Comprehensive Employment and Training Act Funds to Rehire Laid-Off Employees in Toledo, Ohio, MWD-76-84, March 19.

Information Resources and Services Available from the General Accounting Office. OPA-76-4, November 4, 1975.

Present and Planned Use of the Federal Building at Laguna Niguel, California. LCD-76-336, June 22.

Need for Greater Audit Coverage of Internal Financial Areas. FGMSD-76-67, June 25.

Federal Government Use of U.S. International Exposition Facilities After the Event—A Continuing Problem. GGD-76-58, June 29.

Information on General Services Administration and Department of Defense Requirements for Insulating Buildings They Construct. LCD-75-343, May 28, 1975.

Answers to Question on Certain Activities Surrounding the Tenure of the Director, Bureau of the Census. GGD-76-57, April 15.

GAO Audits of the House Beauty Shop Released. Calendar years 1968 (B-162878, August 6, 1969); 1969 (April 6, 1970); 1970 (June 9, 1971); 1971 (May 12, 1972); 1972 (July 17, 1973); 1973 (May 30, 1974); and 1974 (GGD-75-110, August 19, 1975).

Manufacturing Technology—A Changing Challenge to Improved Productivity. LCD-75-436, June 3.

Acquisition and Utilization of Wind Tunnels by the National Aeronautics and Space Administration. PSAD-76-133, June 23.

Federal Fire Safety Requirements Do Not Insure Life Safety in Nursing Home Fires. MWD-76-136, June 3.

Inequalities in the Preventive Health Services Offered to Federal Employees. MWD-76-62, June 14.

Federal Efforts to Protect the Public from Cancer-Causing Chemicals Are Not Very Effective. MWD-76-59, June 16.

Answers to Questions on the Issuance of an Emergency Temporary Standard for Certain Chemicals Considered to Be Carcinogens. B-179768, January 6, 1975.

Emergency Temporary Standards on Organophosphorous Pesticides. MDW-75-55, February 24, 1975.

Grant and Contract Activities of the National Center for Health Services Research. MWD-76-80, April 6.

Reasonable Charge Reductions and Related Matters under Part B of Medicare. MWD-76-92, February 2.

Delays in Processing Medicare Part B Payments to Program Participants in Florida. MWD-76-70 or MWD-76-94, March 19.

Problems in Administering Supplemental Security Income for the Aged, Blind, and Disabled. MWD-76-73, June 11.

Evacuation and Temporary Care Afforded Indochinese Refugees—Opeartion New Life. ID-76-63, June 1.

Foreign Military Sales—A Growing Concern. ID-76-51, June 1.

Improvement Needed in Language Training and Assignments for U.S. Personnel Overseas. ID-76-19, June 16.

Progress and Outlook for U.S. Security Assistance to the Republic of Korea. ID-76-28, June 18.

Suggestions to Improve Management of Radio Free Europe/Radio Liberty. ID-76-55, June 25.

Improvements Needed to Prevent Unnecessary Construction of Reserve Forces Facilities. LCD-75-309, June 11.

Observations for Improving Depot-Level Maintenance Construction in the Department of Defense. LCD-76-432, June 7.

Information on the Requirement for Strategic Airlift. PSAD-76-148, June 8.

Opportunities for the Navy to Reduce Its Requirements for Avionics Testing Stations. LCD-76-440, June 14.

Problems in Developing the Advanced Logistics System. LCD-75-101, June 17.

Department of Defense Stock Funds' Declining Financial Position. LCD-76-433, June 16.

Electrical and Hospital Rates Charged by the Panama Canal Company and the Canal Zone Government. FOD-76-14, June 17.

Flying-Hour Programs of the Military Services: Opportunities for Improved Management. LCD-75-451, June 18.

Navy Should Reconsider Planned Acquisition of Two Multimission Ships. LCD-76-209, June 21.

Critical Considerations in the Acquisition of a New Main Battle Tank. PSAD-76-113, June 24.

Savings Possible Through Better Management of Quarters for Enlisted Personnel. LCD-76-327, June 28.

Information on Psychiatric Benefits under the Civilian Health and Medical Program of the Uniformed Services. MWD-76-55, November 14, 1975.

Improvements Still Needed in Federal Energy Data Collection Analysis, and Reporting. OSP-76-21, June 15.

Status of Federal and Private Research and Development Efforts to Conserve Energy by Reducing Electric Power Transmission Losses. RED-76-107, June 1.

Appraisal Procedures and Solutions to Problems Involving the 160-Acre Limitation Provision of Reclamation Law. RED-76-119, June 3.

Opportunities for More Effective Use of Animal Manure. RED-76-101, June 14.

Contract Award by the Federal Power Commission for Developing and Installing a Regulatory Information System. RED-76-59, April 2.

This Country's Most Expensive Light Water Reactor Safety Test Facility. RED-76-68, May 26.

Acreage Limitation on Mineral Leases Are Not Effective. RED-76-117, June 24.

Nondiscrimination Provision of the Revenue Sharing Act Should Be Strengthened and Better Enforced. GGD-76-80, June 2.

Comparing Cost and Time Overruns on Selected Hospital Construction and Air-Conditioning Contracts. MWD-75-50, April 28, 1975.

Additionally, letter reports are summarized including:

The Comptroller General will disallow Medicaid payments to States after July 1 if they do not have an adequate utilization review plan in operation. MWD-76-137, June 1.

How the Bureau of the Census determines the costs for its annual foreign trade data computer tapes. GGD-76-89, June 1.

Acquisition of an IBM computer for the Veterans Administration data processing center in Hines, Illinois. MWD-76-132, June 1.

How the National Security Agency can achieve significant savings in leasing automated data processing equipment. LCD-76-123, June 2.

The Army should use more commercial contractors to perform depot level maintenance of its construction equipment. LDC-76-446, June 3.

Suggestions for improving procurement and supply activities in the Veterans Administration. MWD-76-133, June 3.

GAO investigation into alleged improprieties at the Postal Service's Northern Virginia Sectional Center Facility in Merrifield, Virginia. GGD-76-78, June 7.

GAO analysis of National Forest Products Association position paper on the proposed National Forest Management Act, CED-76-123, June 15.

How the Air Force determined amount to be withheld from final payment on a contract with Action Industries for understaffing. PSAD-76-150, June 15.

Problems with the Department of Health, Education, and Welfare's interpretation of a statute concerning conditional status of Professional Standards Review Organizations (PSROs). HRD-76-138, June 17.

Need for increased emphasis by Federal agency internal auditors on audits of agency financial reports required by Treasury and reviews of accounting systems which produced the reports. FGMSD-76-43, June 18.

Two ways to reduce the time needed to process national agency checks and investigations for new Federal employees. FPCD-76-69, June 18.

The Army and Air Force Exchange Service should consider customer preferences in letting contracts for soft drink vending machines. FPCD-76-66, June 23.

Improper charging of independent research and development costs to the Government by Pratt & Whitney Aircraft. PSAD-76-145, June 24.

The Civil Service Commission needs to improve accounting and management controls and recordkeeping for its revolving fund. FPCD-76-56, June 25.

New York City needs to take a longer-range, more realistic look at the City's financial position. GGD-76-94, June 28.

The Medicare and Medicaid programs are paying for thousands of days of care in hospitals when care in lower cost facilities is appropriate. HRD-76-142, June 29.

What the Washington Metropolitan Area Transit Authority needs to do to improve the operational safety of the Metro rapid rail transit system. PSAD-76-143, May 28.

Information on the Department of Commerce "SavEnergy" Program. OSP-76-27, May 27.

Analysis of the rental agreement between the Navy and the National Aeronautics and Space Administration for space at Bay St. Louis, Mississippi. LCD-76-338, May 25.

Personnel relocation problems resulting from the planned move of the Naval Oceanographic Office from Maryland to Mississippi. LCD-76-332, April 15.

Personnel turnover rates at headquarters and regional offices of the Federal Energy Administration. OSP–76–23, May 24.

How the House of Representatives and the Senate handle travel vouchers submitted by Members. GGD–76–86, May 21.

Comparative data on the Garrison Diversion Project and other Bureau of Reclamation projects. RED–76–80, March 5.

Energy Research and Development Administration's contingency plan for constructing additional uranium enrichment capability at Portsmouth, Ohio. RED–76–55, November 28, 1975.

Summary of information on administration of Public Health Service hospitals. MWD–75–80, April 22, 1975.

Information on the Navy's hyperbaric (high-pressure) facilities used in deep submergence research programs. MWD–75–66, March 6, 1975.

Investigation of complaints about service at the Iowa City, Iowa, Veterans Administration hospital. MWD–75–99, February 19, 1975.

The monthly list of GAO reports and/or copies of the full texts are available from the U.S. General Accounting Office, room 4522, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 275–6241.

Summaries of significant legal decisions and advisory opinions of the Comptroller General issued in June 1976, are also available as follows:

Legal Basis for Executive Actions Concerning Grain Exports. B–176943, June 21, to Congressman Paul Findley, released June 30.

Overtime Pay for Sky Marshal Duties. B–151168, May 25.

Unacceptable Computer Lease Plan Should Be Rejected. B–185592, June 3.

Applicability of Washington Affirmative Action Plan. B–184683, June 10.

Per Diem Entitlement under "Thirty Minute Rule." B–184561, June 21.

Retroactive Promotion and Salary Differential After Reclassification of Position. B–173783.154, June 21.

Reimbursement of Legal Relocation Expenses. B–183102, June 9.

Return of Household Goods and Automobile from Overseas. B–131632, June 17.

Rejection of Bid Improper Where Based on Defective Experience Requirement. B–184662, May 25.

If you need further information regarding these or other decisions, please call (202) 275–5028 or write to the General Counsel, U.S. General Accounting Office, Washington, D.C. 20548.

MAGNET SCHOOLS—THE MILWAUKEE PLAN

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, last month I was joined by my distinguished colleague from Ohio (Mr. WHALEN) in introducing the School Integration Innovation Act of 1976. The bill provides Federal funds to local school districts for the construction and operation of magnet schools, neutral site schools, education parks, and other innovative methods of school integration. The bill is designed to offer alternatives to busing.

One of the most exciting and ambitious applications of the "magnet school" concept is being planned by the Milwaukee school system. Milwaukee schools were found last January to be segregated, and this fall, the school system will institute a bold desegregation plan to meet the court's order that all the 158 Milwaukee schools have between 25 and 45 percent black pupils within 3 years.

The plan relies primarily on magnetizing schools from the elementary through the high school level so that desegregation will take place voluntarily. If the court's orders are not met voluntarily, the plan includes a provision to reassign children to new schools. Very briefly, the plan provides the following:

Elementary and junior high schools will have different philosophies of education from which parents can choose. Included will be the fundamental, basic approach to education, the open classroom approach, nongraded approach, and schools which emphasize individual instruction.

Senior high schools will offer different courses rather than different learning philosophies. Eventually, the plan calls for each high school to offer some courses that are not available at any other school.

Under Wisconsin State law, suburban school districts are permitted to accept black pupils from the city into their school systems as space permits, and vice versa. Officials expect that suburban pupils will be attracted to city schools when the plan is fully implemented.

An article from the Cleveland Plain Dealer explaining the plan in a little more detail is printed following my remarks.

I think Milwaukee school officials should be commended for developing an innovative program, which may serve as a model for other cities. We will be watching their progress closely and sharing their hope for success.

Mr. Speaker, I am very pleased that 16 of our colleagues have joined Mr. WHALEN and me in cosponsoring the School Integration Innovation Act of 1976 and I would like to list them at this time:

Mr. ASHLEY, Mr. BEDELL, Mrs. BURKE of California, Mr. DOWNEY, Mr. EDGAR, Mr. EDWARDS of California, Mr. EILBERG, Mr. MAZZOLI, Mr. MOORHEAD of Pennsylvania, Mr. PREYER, Mr. PRITCHARD, Mr. SCHEUER, Mr. SIMON, Mr. JAMES V. STANTON, Mr. WEAVER and Ms. KEYS.

[From the Cleveland Plain Dealer, July 17, 1976]

MILWAUKEE COULD POINT WAY FOR BUSING HERE—SCHOOLS LEAVE THE OPTION TO THE PUPIL

(By Thomas H. Gaumer)

Milwaukee public schools will begin a desegregation plan this fall that school officials hope will be a model for the nation.

The plan uses a variety of voluntary options designed to attract children to a school. However, the plan includes a provision to reassign children to new schools if it is not done voluntarily.

"We want to give the kids a stronger education in the process of desegregation," said Rick Poulson, a spokesman for the school system.

Milwaukee schools were found last January to be segregated, but school officials had begun working on a plan a year ago.

A decision is expected in about a month on a similar suit filed against Cleveland school officials. Although they have not prepared a specific plan, Cleveland school officials have made it clear that they favor voluntary busing to special programs.

A plan in Cleveland could be expected to include many of the elements found in Milwaukee.

Once the court ordered the Milwaukee school system to draw up a desegregation plan, it was a matter of putting finishing touches on what had already been in the making, Poulson said.

Under the plan, the 158 Milwaukee schools are to be desegregated within three years. School officials hope that about one-third will be done annually.

The court has ordered all schools to have between 25% and 45% black pupils. The school system is about 35% black.

School officials are setting up what they call options for learning. Elementary schools will have different philosophies of education from which parents and children can choose.

For example, there will be a school that stresses fundamentals and a very basic approach to education; one will have open classrooms, another will not have grade levels and one will stress individual instruction.

Junior high schools will be called schools for the transition and will also offer different types of instruction.

Senior high schools will, instead of different philosophies, offer different courses. Eventually, school officials plan that each of the 15 high schools will have courses that are available nowhere else in the system.

The only high school to begin the program this fall will offer courses on computers and data processing. Other programs planned include health education with emphasis on working in local hospitals, agriculture and music.

In addition, the school system plans five centers where pupils will go part of the day to learn specialized subjects.

The centers will teach art, broadcast communications, economics, state and local government and the American legal system.

The plan requires busing to the degree some people would call massive. The difference is that pupils and parents pick their schools.

School officials said it should be easy the first year to attract enough youngsters to special programs to desegregate one-third of the schools. They hope good experiences the first year will convince others to voluntarily change schools the next two years.

If not, then the plan calls for a random selection of enough pupils from segregated schools to desegregate all city schools.

Exact cost of the plan is not yet known, although a new Wisconsin law makes the state pay for pupil transportation that improves the racial balance of schools.

The same law also brings suburban school districts into the plan voluntarily by permitting them to accept black pupils from the city into their school system as space permits.

It will also allow suburban pupils to go to city schools, although officials do not expect much of this until the new programs are operating.

"If this will work, if people will buy these options, this could be the model," Poulson said.

SPEAKER ALBERT'S COMMENTS ON AMERICA'S COMMITMENT TO THE FREEDOM OF EASTERN EUROPE

(Mr. ALBERT (at the request of Mr. FARY) to extend his remarks at this point in the RECORD.)

Mr. ALBERT. Mr. Speaker, this year the United States celebrates its 200th birthday. We mark this occasion with gala celebrations and nationwide festivities. We offer well deserved tribute to those early Americans who gave birth to our great Nation. We reaffirm our love for our country. And yet as we celebrate our

Bicentennial, sharing happiness and national pride, we tend to become caught up in the "celebration." We allow fireworks and parades to obscure its real meaning. In doing so we do ourselves and our country a grave disservice, for we overlook the truly remarkable significance of this our 200th birthday.

America has been free for 200 years. What does this mean?

It means that freedom is our legacy and our heritage. We Americans have been fortunate to have had 200 years of uninterrupted freedom. This fact must not be taken lightly, for many people throughout the world have lived and died without knowing the feeling of true freedom for even a moment, let alone a lifetime.

This thought is in many ways overwhelming. It is certainly reason for both reflection and, more importantly, appreciation. For when one does pause to think of his or her own freedom, the only reaction can be to thank God and our forefathers for such an invaluable gift.

Yet even as we rejoice and give thanks for our freedom it is imperative that we remember that our good fortune is not shared by the majority of the world's people. Totalitarian states, fascist states, and military dictatorships are found throughout the world and the lives of millions upon millions of people are determined by them. Today, what we have, what we take for granted—our freedom—is a very rare commodity. Therefore, it is truly sad, indeed tragic, that in the same month that we celebrate 200 years of American freedom, we must also set aside a week to remember the plight of the peoples of Eastern Europe.

The history of the captive nations of Eastern Europe is well known to all of us. The Soviet Union's forceable incorporation of these nations into its camp still stands as mute testimony to Soviet expansionary designs. However, Soviet hegemony over Eastern Europe has never been accepted by the United States. Only recently Secretary of State Kissinger stated that U.S. policy toward Eastern Europe continues to be based upon "Our traditional principles of human liberty and national self-determination."

And just as the United States remains committed to freedom for the captive nations of Eastern Europe, the East European people themselves refuse to accept dociley the dictates of the Soviet State and its local puppets. The burning of a Polish Communist Party headquarters by dissatisfied workers in June of this year is a clear indication that opposition to communism is still very strong in these nations.

Therefore, in this the year of our Nation's 200th birthday, it is only fitting that we set aside this week to confirm once again the commitment of the American people and their Government to the freedom of Eastern Europe. For we who have freedom must never slacken in our support for those who still struggle to attain theirs. If we do, then we are not deserving of our own.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Hightower (at the request of Mr. O'Neill), after 4 p.m. today, for the balance of the week, on account of a death in the family.

Mr. Zeferetti (at the request of Mr. O'Neill), after 2 p.m. today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Roncalio, for 15 minutes, today.

(The following Member (at the request of Mr. Sarasin) to revise and extend his remarks and include extraneous material:)

Mr. Heinz, for 5 minutes, today.

(The following Members (at the request of Mr. Fary) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Danielson, for 5 minutes, today.
Mr. Henderson, for 5 minutes, today.
Mr. Fraser, for 10 minutes, today.
Mr. Cotter, for 5 minutes, today.
Mr. Moss, for 5 minutes, today.
Mr. Thompson, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Bolling, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,215.50.

(The following Members (at the request of Mr. Sarasin) and to include extraneous material:)

Mr. Hyde.
Mr. Frey.
Mr. Kemp in three instances.
Mr. Archer.
Mr. Snyder.
Mr. Lagomarsino.
Mrs. Holt.
Mr. Abdnor.
Mr. Steelman.
Mr. Anderson of Illinois.
Mr. Dickinson.
Mr. Heinz.
Mr. McCloskey.

(The following Members (at the request of Mr. Fary) and to include extraneous matter:)

Mr. Byron in 10 instances.
Mr. Teague in 10 instances.
Mrs. Keys.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Hawkins.
Mr. Rodino.
Mr. Duncan of Oregon.
Mr. Howe.
Mrs. Meyner.
Mr. Rangel.
Mr. Stratton.
Mr. Brodhead.
Mr. Stark.
Mr. Harkin.
Mr. McDonald.
Mr. Cotter.
Mr. Drinan.
Mr. Hannaford.
Mr. Wolff in 10 instances.
Mr. Santini.
Mr. Danielson.
Mr. Bonker.
Mr. Evans of Indiana.
Mr. Sharp.
Mr. Dingell.
Mr. Satterfield.
Mr. Lehman.
Mr. Eilberg in two instances.
Mr. Moss.
Mr. Maguire.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on July 27, 1976, present to the President, for his approval, bills of the House of the following titles:

H.R. 2943. An act for the relief of the estate of James J. Caldwell; and

H.R. 7685. An act for the relief of Mildred N. Crumley.

ADJOURNMENT

Mr. FARY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, July 29, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXII, executive communications were taken from the Speaker's table and referred as follows:

3701. A letter from the Assistant Secretary of Defense (Manpower and Reserve Affairs), transmitting a report covering fiscal year 1976 on implementation of the Aviation Career Incentive Act of 1974, pursuant to 37 U.S.C. 301a(e); to the Committee on Armed Services.

3702. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3703. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–141, "To establish an office on Latino affairs and a Commission on Latino Community Development," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3704. A letter from the Deputy Attorney General, transmitting the fifth annual report of the Equal Employment Opportunity Coordinating Council, pursuant to section 715 of the Civil Rights Act of 1964, as amended; to the Committee on Education and Labor.

3705. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Israel (transmittal No. 7T–2), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3706. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Israel (transmittal No. 7T–3), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3707. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T-5), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3708. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Israel (transmittal No. 7T-7), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3709. A letter from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting notice of a proposed change in the date of submission of the annual reports on operations under title I, part II, of the Airport and Airway Development Act, required by section 24 of the act; to the Committee on Public Works and Transportation.

Received From the Comptroller General

3710. A letter from the Comptroller General of the United States, transmitting a report on the audit of financial statements of the Saint Lawrence Seaway Corporation for calendar year 1975, pursuant to section 106 of the Government Corporation Control Act (H. Doc. No. 94–568); to the Committee on Government Operations and ordered to be printed.

3711. A letter from the Comptroller General of the United States, transmitting a report on the need for improvements in the administration of Federal assistance programs; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee on Veterans' Affairs. H.R. 14469. A bill to permit agreements providing special pay to physicians and dentists in the Veterans' Administration to be entered into until October 1, 1977 (Rept. No. 94–1372). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 14580. A bill to amend the Clayton Act to provide for pre-merger notification and waiting requirements, and for other purposes; with an amendment (Rept. No. 94–1373). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee of Conference. Conference report on H.R. 11670 with amendment (Rept. No. 94–1374). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STEIGER of Wisconsin:

H.R. 14904. A bill to amend the Internal Revenue Code of 1954 to exempt from industrial development bond treatment certain bond issues the proceeds of which are used for drydock facilities the primary use of which is to be for repairing, inspecting, or servicing vessels; to the Committee on Ways and Means.

By Mr. ANDERSON of California:

H.R. 14905. A bill to amend the Federal Aviation Act of 1958 relating to eligibility for aircraft registration; to the Committee on Public Works and Transportation.

By Mr. ASHLEY:

H.R. 14906. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. BEARD of Tennessee (for himself, Mr. Baucus, Mr. Bedell, Mr. Bevill, Mr. Bowen, Mr. Burgener, Mr. Cederberg, Mr. Cochran, Mr. Robert W. Daniel, Jr., Mr. Devine, Mr. Duncan of Tennessee, Mr. Jenrette, Mr. Moorhead of California, Mr. Paul, Mr. Charles Wilson of Texas):

H.R. 14907. A bill to amend the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty shall be awarded a reasonable attorney's fee and other reasonable litigation costs; to the Committee on Education and Labor.

By Mr. BEARD of Tennessee (for himself, Mr. Esch, Mr. Frenzel, Mr. Guyer, Mr. Kemp, Mr. Ketchum, Mr. Lott, Mr. Miller of Ohio, Mr. Poage, Mr. Quillen, Mrs. Smith of Nebraska, Mr. Treen, and Mr. Whitehurst):

H.R. 14908. A bill to amend the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty shall be awarded a reasonable attorney's fee and other reasonable litigation costs; to the Committee on Education and Labor.

By Mr. BROWN of California:

H.R. 14909. A bill to amend the Federal Railroad Safety Act of 1970 to direct the Secretary of Transportation to issue regulations requiring locomotives and rear cars to be equipped with bulletproof glass; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHN L. BURTON:

H.R. 14910. A bill to prohibit the importation of products made from the livers of ducks or geese which have been force fed; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN:

H.R. 14911. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Education and Labor.

By Mr. de la GARZA:

H.R. 14912. A bill to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes; to the Committee on Agriculture.

By Mr. DUNCAN of Oregon (for himself and Mr. Hicks):

H.R. 14913. A bill to amend section 19 of the National Labor Relations Act to provide that all employees covered by that act who are members of a bona fide religion which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or so support any such organization as a condition of employment; to the Committee on Education and Labor.

By Mr. MICHEL (for himself and Mr. Cleveland):

H.R. 14914. A bill to provide for the personal safety of those persons engaged in furthering the foreign intelligence operations of the United States; to the Committee on the Judiciary.

By Mr. MOLLOHAN (for himself and Mr. Litton):

H.R. 14915. A bill to repeal sections 102 and 202 of the Flood Disaster Protection Act of 1973 which make flood insurance coverage and community participation in the national flood insurance program prerequisites for approval of any financial assistance in a flood hazard area, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. MOORHEAD of California:

H.R. 14916. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. Roybal, and Mr. Young of Georgia):

H.R. 14917. A bill to amend the Elementary and Secondary Education Act of 1965 to provide grants to establish regional demonstration programs to encourage secondary school students from a disadvantaged background to pursue careers in the health professions; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. Roybal, and Mr. Young of Georgia):

H.R. 14918. A bill to amend the Higher Education Act of 1965 to provide grants to certain eligible institutions of higher education for regional medical academic summer enrichment programs to prepare undergraduate students from disadvantaged backgrounds for careers in the several medical professions; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. Roybal, and Mr. Young of Georgia):

H.R. 14919. A bill to provide capitation grants to medical, osteopathic, and dental schools for increasing the enrollment of students from disadvantaged backgrounds; to the Committee on Education and Labor.

By Mrs. PETTIS:

H.R. 14920. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Education and Labor.

By Mr. POAGE (for himself and Mr. Burleson of Texas):

H.R. 14921. A bill to require that imported palm oil and palm oil products made in whole or in part of imported palm oil be labeled, to provide for the inspection of imported palm oil and palm oil products, to require that imported palm oil and palm oil products comply with certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

By Mr. SEIBERLING (for himself, Mr. Whalen and Ms. Keys):

H.R. 14922. A bill to amend the Emergency School Aid Act to provide innovative desegregation programs and procedures, and for other purposes; to the Committee on Education and Labor.

By Mr. STEELMAN (for himself, Mr. Burgener, Mr. Bell, Mrs. Heckler of Massachusetts, Mr. Miller of Ohio, and Mr. Mosher):

H.R. 14923. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes; to the Committee on Rules.

By Mr. STEELMAN (for himself and Mr. Edgar):

H.R. 14924. A bill to establish a minority business development and assistance administration in the Department of Commerce for the purpose of improving Federal assistance to minority business enterprises, and for other purposes; jointly to the Committees on Banking, Currency and Housing, and Government Operations.

By Mr. WYDLER:

H.R. 14925. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. BEARD of Tennessee (for himself, Mr. Clancy, Mr. Hagedorn, Mr. Hammerschmidt, Mr. Hyde, Mr. Ichord, Mr. Johnson of Colorado, Mr. Latta, Mr. McCollister, Mr. Martin, Mr. Montgomery, Mr. Randall, Mr. Rhodes, Mr. Satterfield, Mr. Sebelius, Mr. J. William Stanton, and Mr. Taylor of Missouri):

H.R. 14926. A bill to amend the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty shall be awarded a reasonable attorney's fee and other reasonable litigation costs; to the Committee on Education and Labor.

By Mr. BEARD of Tennessee (for himself, Mr. Breaux, Mr. Broyhill, Mr. Cleveland, Mr. Conable, Mr. Crane, Mr. Dan Daniel, Mr. Hubbard, Mr. Myers of Indiana, Mr. Rousselot, Mr. Runnels, Mr. Symms, and Mr. Bob Wilson):

H.R. 14927. A bill to amend the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty shall be awarded a reasonable attorney's fee and other reasonable litigation costs; to the Committee on Education and Labor.

By Mr. BEDELL:

H.R. 14928. A bill to amend the Agricultural Act of 1949 to provide for increased benefits with regard to disaster relief for any farmer who plants wheat, feed grains, cotton, or rice in excess of his or her allotments for the commodity; to the Committee on Agriculture.

By Mr. MITCHELL of Maryland:

H.R. 14929. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunciations industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOAKLEY:

H.R. 14930. A bill to amend section 167(k) of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. RISENHOOVER:

H.R. 14931. A bill to convey certain Federal-owned land known as the Yardeka School land to the Creek Nation of Oklahoma; to the Committee on Interior and Insular Affairs.

By Mr. ROONEY (for himself, Mr. Metcalfe, and Mr. Madigan):

H.R. 14932. A bill to amend the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, the Rail Passenger Service Act, and the Interstate Commerce Act; to the Committee on Interstate and Foreign Commerce.

By Mr. SYMMS:

H.R. 14933. A bill to amend medicare and medicaid provisions as they relate to rural health care facilities; to the Committee on Ways and Means.

By Mr. TAYLOR of North Carolina (for himself, Mr. Adams, Mr. Bauman, Mr. Bingham, Mr. Bonker, Mr. Byron, Mr. Carr, Mr. Don H. Clausen, Mr. de Lugo, Mr. Harris, Mr. Howe, Mr. Johnson of California, Mr. Lagomarsino, Mr. Lujan, Mr. Meeds. Mr. Miller of California, Mr. Pritchard, Mr. Roncalio, Mr. Sebelius, Mr. Seiberling, Mr. Steelman, Mr. Stephens, Mr. Tsongas, Mr. Udall and Mr. Won Pat):

H.R. 14934. A bill to adjust the boundaries of certain units of the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TAYLOR of North Carolina (for himself, Mr. Gude, Mr. McCormack, Mr. Ottinger, Mr. Rodino, Mr. Solarz, and Mr. Stark):

H.R. 14935. A bill to adjust the boundaries of certain units of the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TRAXLER (for himself, Ms. Abzug, Mr. Won Pat, Ms. Holtzman, Mr. Charles Wilson of Texas, Mr. Lloyd of California, Mr. Eilberg, Mr. LaFalce, Mr. Edgar, Mr. Ford of Michigan, Mr. Florio, Mr. Mottl, Mr. Hubbard, Mr. Roybal, Mr. Hays of Ohio, Mr. Solarz, Mr. Nix, Mr. Kemp, Mr. Rosenthal, Mr. Edwards of California, Mr. Sarbanes, Mr. McHugh, Ms. Keys, and Mr. Waxman):

H.R. 14936. A bill to provide for the monthly publication of a Consumer Price Index for the aged and other social security beneficiaries, which shall be used in the provision of the cost-of-living benefit increase authorized by title II of the Social Security Act; to the Committee on Ways and Means.

By Mr. TRAXLER (for himself, Ms. Abzug, Mr. Baldus, Ms. Holtzman, Mr. Won Pat, Mr. Charles Wilson of Texas, Mr. Lloyd of California, Mr. Eilberg, Mr. LaFalce, Mr. Edgar, Mr. Ford of Michigan, Mr. Florio, Mr. Mottl, Mr. Hubbard, Mr. Roybal, Mr. Hays of Ohio, Mr. Solarz, Mr. Nix, Mr. Kemp, Mr. Rosenthal, Mr. Edwards of California, Mr. Sarbanes, Mr. McHugh, Ms. Keys, and Mr. Waxman):

H.R. 14937. A bill to amend title II of the Social Security Act to provide that the automatic cost-of-living increases in benefits which are authorized thereunder may be made on a semiannual basis (rather than only on an annual basis as at present); to the Committee on Ways and Means.

By Mr. LAGOMARSINO:

H.J. Res. 1035. A resolution proposing an amendment to the Constitution of the United States to provide for a single 6-year term for the President and to limit the number of consecutive Congresses in which Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. LEHMAN:

H.J. Res. 1036. A resolution recognizing the contributions of school volunteers; to the Committee on Education and Labor.

By Mr. SIKES:

H.J. Res. 1037. A resolution providing for the designation of the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week"; to the Committee on Post Office and Civil Service.

By Mr. STEELMAN (for himself and Mrs. Heckler of Massachusetts):

H.J. Res. 1038. A resolution authorizing the President to proclaim the week beginning on November 7, 1976, as "National Respiratory Therapy Week"; to the Committee on Post Office and Civil Service.

By Mr. KOCH:

H. Con. Res. 689. A resolution indicating the sense of Congress that every person throughout the world has the right to a nutritionally adequate diet; and that this country's assistance for self-help development among the world's poorest people should increase substantially over the years; jointly, to the Committees on Agriculture and International Relations.

By Mr. WALSH (for himself, Mr. Hechler of West Virginia, Mr. Breckinridge, Mr. Thone, Mr. Derwinski, Mr. Edgar, Mr. Martin, Mr. J. William Stanton, Mr. Conlan, Mr. Baucus, Mr. Charles Wilson of Texas, Mr. Emery, Mr. Burgener, Mr. Conable, Mr. Gilman, and Mrs. Fenwick):

H. Con. Res. 690. A resolution expressing the sense of Congress that the Constitution does not grant immunity from arrest to a Member of Congress, and for other purposes; to the Committee on the Judiciary.

By Mr. ALLEN:

H. Res. 1434. A resolution relative to investigating the Tennessee Valley Authority; to the Committee on Public Works and Transportation.

By Mr. ANDERSON of Illinois (for himself, Mr. John L. Burton, Ms. Abzug, Mr. Andrews of North Dakota, Mr. Bafalis, Mr. Baldus, Mr. Baucus, Mr. Beard of Rhode Island, Mr. Bedell, Mr. Biester, Mr. Bingham, Mr. Blouin, Mr. Boland, Mr. Bonker, Mr. Breckinridge, Mr. Brodhead, Mr. Brown of Ohio, Mr. Burgener, Ms. Burke of California, Mr. Butler, Ms. Chisholm, Mr. Cohen, Mr. Conable, Mr. Conte, and Mr. Coughlin):

H. Res. 1435. A resolution to amend rule XXXII of the Rules of the House of Representatives to specify conditions for the admission of ex-Members and certain other persons to the Hall of the House and rooms leading therto; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. John L. Burton, Mr. Danielson, Mr. Derwinski, Mr. Downey of New York, Mr. Edgar, Mr. Eilberg, Mr. Evans of Colorado, Mr. Fascell, Mrs. Fenwick, Mr. Fisher, Mr. Fithian, Mr. Forsythe, Mr. Fraser, Mr. Frenzel, Mr. Gradison, Mr. Hagedorn, Mr. Hamilton, Mr. Hanley, Mr. Hannaford, Mr. Harrington, Mr. Helstoski, Mr. Hyde, Ms. Holtzman, and Mr. Hughes):

H. Res. 1436. A resolution to amend rule XXXII of the Rules of the House of Representatives to specify conditions for the admission of ex-Members and certain other persons to the Hall of the House and rooms leading thereto; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. John L. Burton, Mr. Jeffords, Mr. Jenrette, Mr. Ketchum, Ms. Keys, Mr. Koch, Mr. Krebs, Mr. LaFalce, Mr. Lagomarsino, Mr. Lujan, Mr. Lundine, Mr. Maguire, Mr. McEwen, Mr. Mazzoli, Mr. Metcalfe, Mr. Mikva, Mr. Miller of California, Mr. Moffett, Mr. Moorhead of California, Mr. Mosher, Mr. Moss, Mr. Neal, Mr. Ottinger, and Mrs. Pettis):

H. Res. 1437. A resolution to amend rule XXXII of the Rules of the House of Representatives to specify conditions for the admission of ex-Members and certain other persons to the Hall of the House and rooms leading thereto; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. John L. Burton, Mr. Quie, Mr. Rangel, Mr. Rees, Mr. Richmond, Mr. Rinaldo, Mr. Roush, Mr. Sarasin, Mr. Scheuer, Ms. Schroeder, Mr. Seiberling, Mr. Simon, Ms. Spellman, Mr. Stark, Mr. Studds, Mr. Treen, Mr. Udall, Mr. Walsh, Mr. Wampler, Mr. Waxman, Mr. Weaver, Mr. Whalen, Mr. Whitehurst, and Mr. Charles Wilson of Texas):

H. Res. 1438. A resolution to amend rule XXXII of the Rules of the House of Representatives to specify conditions for the admission of ex-Members and certain other persons to the Hall of the House and rooms leading thereto; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. JOHN L. BURTON, Mr. CHARLES H. WILSON of California, Mr. WINN, Mr. WIRTH, Mr. WOLFF, and Mr. WON PAT):

H. Res. 1439. A resolution to amend rule XXXII of the Rules of the House of Representatives to specify conditions for the admission of ex-Members and certain other persons to the Hall of the House and rooms leading thereto; to the Committee on Rules.

By Mr. PATTISON of New York (for himself, Mr. EILBERG, Mr. FLORIO, Ms. HECKLER of Massachusetts, Mr. RANGEL, and Ms. SPELLMAN):

H. Res. 1440. A resolution to create a select committee on the fiscal problems of cities; to the Committee on Rules.

By Mr. PEPPER:

H. Res. 1441. A resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the committee on health; to the Committee on Rules.

By Mr. SCHEUER:

H. Res. 1442. A resolution to establish a select committee on population; to the Committee on Rules.

By Mr. THONE (for himself, Mr. AUCOIN, and Mr. LAGOMARSINO):

H. Res. 1443. A resolution to insure that the quality and quantity of free broadcasting service not be impaired; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

438. By the SPEAKER: A memorial of the Legislature of the State of Alaska, relative to the Seward-Nome historic trail; to the Committee on Interior and Insular Affairs.

439. Also, a memorial of the Legislature of the State of Alaska, relative to immigration visas for alien children adopted by American citizens; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mrs. HOLT introduced a bill (H.R. 14938) for the relief of Bruce M. Davidson, which was referred to the Committee on Armed Services.

PETITIONS, ETC.

Under clause 1 of rule XXII,

531. Mrs. MINK presented a petition of officers and members of 19 credit unions in Hawaii, relative to the proposed "Financial Institutions Act of 1975", which was referred to the Committee on Banking, Currency and Housing.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8401

By Mr. HUGHES:

On page 8, after line 7, insert following new section:

"SEC. 5. No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative arrangement with the Administration under this Act during such time as such officer or employee discharged duties or responsibilities under this Act."

H.R. 10498

By Mr. DINGELL:

Page 258, strike out line 7 and all that follows down through line 2 on page 263 and insert in lieu thereof the following:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1980 and 1981 shall contain standards which provide that the emissions from such vehicles and engines may not exceed .9 grams per mile of hydrocarbons and 9.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1982 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of such section 202 (b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1981 shall contain standards which provide that such vehicles and engines may not exceed 2.0 grams per mile."

(c) Section 202 (b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5) (A)(i) Before April 1 of 1978, the Administrator, after notice and opportunity for hearing (as provided in section 307(d)), shall promulgate regulations containing standards applicable to emissions of oxides of nitrogen which shall apply to light-duty vehicles or engines manufactures during the model years 1982 and 1983 and, in the discretion of the Administrator, subsequent model years.

"(ii) Standards established under regulations promulgated under this paragraph shall provide for the maximum reduction of emissions which the Administrator determines to be technologically practicable for the model year to which they apply, giving appropriate consideration to the cost of compliance, the need for such standards to protect public health and the impact of such standards on motor vehicle fuel consumption.

"(B) Regulations promulgated under this paragraph may be revised pursuant to clause (ii) of subparagraph (A). A standard established in any such revised regulation shall apply for two or more model years and shall be promulgated in final form not later than 36 months before the beginning of the first model year to which it applies.

"(6) (A) Upon promulgation of a regulation under paragraph (5) applicable to any period of two or more model years, the Administrator shall report to the Congress respecting the motor vehicle fuel consumption consequences, if any, of the standards applicable for such period in relationship to the motor vehicle fuel consumption associated with the standards applicable for the model year immediately preceding such period.

"(B) The Secretary of Transportation and the Federal Energy Administration shall each submit to the Congress, as promptly as practicable following submission by the Administrator of the fuel consumption report referred to in subparagraph (A), separate reports respecting such fuel consumption."

H. RES. 1350

By Mr. MYERS of Pennsylvania:

Delete section 6 on page 5 and insert in lieu thereof,

"SEC. 6. (a) The select committee shall report to the House not later than one year after the adoption of this resolution with respect to the results of any investigation conducted by the select committee, or any subcommittee thereof, under section 3(d). The Committee report shall include, but not be limited to, recommendations for consolidation and improvement of Federal narcotic abuse and control policies and programs.

"(b) Upon submission of such report, the select committee shall cease to exist. If such report is made when Congress is not in session, it shall be filed with the Clerk of the House.

"(c) All committee records, data, charts and files shall be the property of the select committee and shall be kept in the offices of the select committee or other such places as the select committee may direct. Upon termination of the select committee such records shall become the property of the Judiciary Committee of the House of Representatives."

Delete line 7 on page 3 and insert in lieu thereof: "control; and

"(3) investigate, study and review any particular problem of narcotics abuse and control as directed by a resolution supported by two-thirds of the Members of the House present and voting."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of July 27, 1976, page 24111.

HOUSE BILLS

H.R. 14651. July 1, 1976. Government Operations. Amends the Budget and Accounting Act, 1921, to require that all departmental budget requests made to the Office of Management and Budget with respect to any fiscal year be submitted to the Congress along with the President's budget for such year. Requires officials requested by the appropriate committees of the Congress to testify before such committees on the President's budget and on such departmental budget requests.

H.R. 14652. July 1, 1976. Public Works and Transportation; Banking, Currency and

Housing. Amends the Disaster Relief Act of 1974 to authorize the President to make grants to a State for disaster relief regardless of the magnitude of the disaster. Specifies victim expenses for which such assistance may be used.

Authorizes the application of such grants to repair and reconstruction facilities.

Amends the National Flood Insurance Act of 1968 to limit liability to $5,000 per dwelling unit or permanent fixture.

H.R. 14653. July 1, 1976. House Administration. Establishes within the Information Systems of the Congress an office to compile and disseminate information relating to pending legislative proposals. Directs the Committee on House Administration to establish and administer such system.

H.R. 14654. July 1, 1976. District of Columbia. Amends the District of Columbia Code to revise the conditions for detention of accused criminal offenders prior to trial. Prohibits pretrial release of anyone charged with murder in the first or second degree.

H.R. 14655. July 1, 1976. Ways and Means. Authorizes any amount received from appropriated funds as a scholarship by a member of a uniformed service who is receiving training under the Armed Forces Health Professions Scholarship Program from an educational institution to be treated as a scholarship, excludable from gross income under the Internal Revenue Code for calendar years 1976, 1977, and 1978.

H.R. 14656. July 1, 1976. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require disclosure on food package labels of the portion of the weight of the food which is sugar in instances where sugar constitutes ten percent or more of the total number of calories in the food.

H.R. 14657. July 1, 1976. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs, in providing therapeutic and rehabilitation activities, to provide for the participation of patients and members in Veterans' Administration health facilities in the assemblage of poppies or other similar projects carried out at such facilities, which are sponsored by a national veterans service organization or its auxiliary.

H.R. 14658. July 1, 1976. Ways and Means. Amends the Internal Revenue Code to allow a tax deduction in an amount not to exceed $1,250 for amounts paid by the taxpayer to an eligible educational institution for tuition for the attendance of the taxpayer or any eligible dependent.

H.R. 14659. July 1, 1976. House Administration; Post Office and Civil Service. Prohibits Members of the House of Representatives from employing any individual who is a relative of any Member of Congress.

H.R. 14660. July 1, 1976. Government Operations. Requires the Office of Management and Budget to study the efficiency and effectiveness of all Federal agencies every 10 years.

Terminates such agency 10 years after the submission of such report to the President and Congress unless Congress acts to continue such agency.

H.R. 14661. July 1, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize and direct the Secretary of Health, Education, and Welfare to make grants to designated State agencies to meet part of the costs involved in planning, establishing, maintaining, coordinating, and evaluating programs for comprehensive services for school-age girls, their infants and children.

Specifies the requirements for State plans to qualify for Federal aid under this Act.

H.R. 14662. July 1, 1976. Ways and Means. Amends the Internal Revenue Code to allow an additional personal exemption and withholding exemption for a taxpayer, a spouse, or a dependent who is disabled.

Allows a tax deduction for personal care services incurred by a disabled taxpayer due to such disability.

H.R. 14663. July 1, 1976. Post Office and Civil Service. Prohibits any agreement between a municipality and the Secretary of the Treasury, with respect to withholding of city taxes from the pay of Federal employees, from reporting to the city the name, address, or other identifying particular, or pay of such employee unless such release is ordered by a United States district court pursuant to a criminal investigation.

H.R. 14664. July 1, 1976. Ways and Means. Amends the Internal Rvenue Code to allow as a deduction an amount equal to 25 percent of the gross income from geothermal steam and geothermal resources property.

H.R. 14665. July 1, 1976. Interior and Insular Affairs. Establishes the Santa Monica Urban Park in California. Directs the Secretary of the Interior to establish the Urban Park Planning Commission to develop the park plan.

H.R. 14666. July 1, 1976. Judiciary. Amends the Federal Rules of Evidence to prohibit, in cases of alleged rape or assault with intent to commit rape, the introduction of evidence of the victim's prior sexual behavior. Makes such prohibition inapplicable (1) to evidence of the victim's prior sexual conduct with alleged assailant, and (2) to evidence of the victim's sexual behavior with others if it is offered by the accused on the issue of whether the accused was the source of the victim's pregnancy, disease, semen, or injury.

Makes inadmissible reputation or opinion evidence with respect to the victims past sexual behavior.

H.R. 14667. July 1, 1976. Agriculture. Directs the Secretary of Agriculture to assure that National Forest System resource management plans provide for multiple uses and sustained yield of forest products and services.

Requires the Secretary to provide public participation in the final adoption and amendment of such plans.

Limits timber harvesting contracts to 10 years, unless the Secretary informs appropriate congressional committees that a longer period is required.

Revises provisions relating to the sale of timber found on National Forest Service lands.

H.R. 14668. July 1, 1976. Interior and Insular Affairs. Directs the Secretary of Health, Education, and Welfare to convey certain lands to D-Q University.

H.R. 14669. July 1, 1976. Education and Labor. Directs the President, through the Secretary of Labor to carry out a program of demonstration projects designed to increase economic productivity and expand employment opportunities. Establishes an Advisory Committee on Human Resources and Employment Opportunities to furnish advice and assistance in the administration of the demonstration projects program.

H.R. 14670. July 1, 1976. Education and Labor. Directs the President, through the Secretary of Labor, to carry out a program of demonstration projects designed to increase economic productivity and expand employment opportunities. Establishes an Advisory Committee on Human Resources and Employment Opportunities to furnish advice and assistance in the administration of the demonstration projects program.

H.R. 14671. July 1, 1976. Government Operations; Rules. Requires the President to report to the Congress yearly for the reform of independent regulatory bodies in order to decrease their inflationary effects and to increase competition.

H.R. 14672. July 1, 1976. Banking, Currency and Housing. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist in the formation and growth of consumer and other types of self-help cooperatives.

H.R. 14673. July 1, 1976. Agriculture. Designates the Department of Agriculture's Bee Research Laboratory in Tucson, as the "Carl Hayden Bee Research Center."

H.R. 14674. July 1, 1976. Government Operations; Rules. Requires the President to submit to Congress, on the last days of January 1978 through 1981, reports of the effect of Federal agency activity upon specified portions of the private economic sector along with his recommendations for reform of such activity. Requires Congress to take action on any such proposals made by the President.

H.R. 14675. July 1, 1976. Judiciary; Education and Labor. Establishes standards and procedures which courts are to follow in school desegregation suits. Requires the review of court-imposed orders requiring the transportation of students 3 years after the date of entry of such order. Establishes a National Community and Education Committee to assist communities in the desegregation of their schools, including grants to community organizations for such purpose. Establishes a Federal Community Assistance Coordinating Council to consult with community representatives seeking Federal aid for programs to facilitate desegregation.

H.R. 14676. July 1, 1976. Judiciary. Incorporates the American Blood Commission.

H.R. 14677. July 1, 1976. Public Works and Transportation. Amends the River and Harbor Act of 1970 to extend and increase appropriations for the demonstration program for winter navigation of the Great Lakes-St. Lawrence Seaway System. Amends such act to expand environmental investigations to include measures to ameliorate adverse impacts upon local communities.

H.R. 14678. July 1, 1976. Banking, Currency and Housing. Authorizes the Comptroller General to audit the programs, activities, and financial operations of the Federal National Mortgage Association.

Amends the Housing and Urban Development Act to provide counseling to owners of single-family dwelling units.

Amends the National Housing Act to limit mortgage insurance to individuals whose mortgage payments do not exceed a specified portion of their income and to increase the amount required to be paid by a mortgagor on a residence before the mortgage is eligible for insurance.

H.R. 14679. July 1, 1976. Post Office and Civil Service. Repeals the provisions of Public Law 94–82 authorizing increases in the salaries of Members of Congress.

H.R. 14680. July 1, 1976. Education and Labor. Amends the Longshoremen's and Harbor Workers Compensation Act to authorize third party actions for contribution or indemnification or other similar relief in worker's compensation cases.

H.R. 14681. July 1, 1976. International Relations. Amends the Foreign Assistance Act of 1961 to direct the Overseas Private Investment Corporation to issue regulations under which investment insurance and guarantees issued by such Corporation shall be terminated upon a determination that an investor has made a significant payment to an official or political party of a foreign government to influence the actions of such government.

H.R. 14682. July 1, 1976. Agriculture. Directs the Secretary of Agriculture to promulgate standards of quality for foreign dairy products which are to be marketed in the United States.

Prohibits the entry of a foreign dairy product into the United States unless such a product has been inspected and found to be pure and wholesome.

H.R. 14683. July 1, 1976. Ways and Means. Authorizes regulated investment companies, under the Internal Revenue Code, to pay exempt-interest dividends in an amount up to 90 percent of the excess of its tax-exempt interest without affecting its tax-exempt status.

Allows shareholders to treat such exempt-interest dividends as excludable from gross income.

H.R. 14684. July 1, 1976. Ways and Means. Repeals that section of the Internal Revenue Code which authorizes the payment of money to individuals who assist the Internal Revenue Service in detecting tax fraud.

H.R. 14685. July 1, 1976. Interstate and Foreign Commerce. Repeals the regulation promulgated by the Federal Trade Commission which subjects purchasers of notes of consumers to defenses such consumers have against the seller of goods or services to whom such consumer issued such note, and prohibits holder in due course protection for such purchasers. Prohibits the Commission from repromulgating such a rule in the future.

H.R. 14686. July 1, 1976. Armed Services. Provides medical and dental care for unmarried former spouses of members and former members of the armed forces if such individuals were married for a minimum of 20 years.

H.R. 14687. July 1, 1976. Ways and Means. Amends the Internal Revenue Code to increase the deduction allowed for contributions to individual retirement accounts.

Eliminates the present prohibition of such deduction by taxpayers who are participants in other retirement plans.

H.R. 14688. July 1, 1976. Banking, Currency and Housing. Provides that elderly persons residing in dwelling units receiving Federal assistance shall be entitled to specified rights concerning lease terminations.

H.R. 14689. July 1, 1976. Judiciary. Declares inapplicable to a certain individual a provision of the Immigration and Nationality Act which makes procedures for adjustment of status of a nonimmigrant to that of a person admitted for permanent residence inapplicable to natives of any county in the Western Hemisphere and specified islands.

H.R. 14690. July 1, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to convey property to Hadley Memorial Hospital in the District of Columbia.

H.R. 14691. July 1, 1976. Judiciary. Declares a certain individual eligible for a naturalization under the Immigration and Nationality Act.

H.R. 14692. July 1, 1976. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 14693. July 1, 1976. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 14694. July 1, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 14695. July 2, 1976. Merchant Marine and Fisheries. Directs the Secretary of Commerce to establish a National Aquaculture Development Plan to identify each aquatic species which can be commercially cultured and to contain a program of aquacultural development for such species.

Establishes the Interagency Committee on Aquaculture to coordinate aquacultural programs and projects.

Establishes within the Treasury a Federal Aquaculture Assistance Fund to guarantee loans for the financing of aquacultural facilities and to make disaster loans available to recipients of such guaranteed loans. Authorizes a program of grants for aquacultural projects.

H.R. 14696. July 2, 1976. Banking, Currency and Housing; Interstate and Foreign Commerce; Science and Technology. Amends the Energy Policy and Conservation Act to establish a program of voluntary standards and certification for energy-conserving products for use in buildings. Authorizes financial assistance to eligible State energy conservation programs in accordance with Federal criteria. Amends the Energy Conservation and Insulation of Buildings Act, the National Housing Act, and the Small Business Act to authorize additional assistance for energy conservation measures.

Establishes an Energy Extension Service in the Energy Research and Development Administration. Authorizes additional programs designed to increase use of energy efficient systems in commercial, residential, industrial, agricultural, and governmental sectors.

H.R. 14697. July 2, 1976. Banking, Currency and Housing; Interstate and Foreign Commerce; Science and Technology. Amends the Energy Policy and Conservation Act to establish a program of voluntary standards and certification for energy-conserving products for use in buildings. Authorizes financial assistance to eligible State energy conservation programs in accordance with Federal criteria. Amends the Energy Conservation and Insulation of Buildings Act, the National Housing Act, and the Small Business Act to authorize additional assistance for energy conservation measures.

Establishes an Energy Extension Service in the Energy Research and Development Administration. Authorizes additional programs designed to increase use of energy efficient systems in commercial, residential, industrial, agricultural, and governmental sectors.

H.R. 14698. July 2, 1976. Banking, Currency and Housing; Interstate and Foreign Commerce; Science and Technology. Amends the Energy Policy and Conservation Act to establish a program of voluntary standards and certification for energy-conserving products for use in buildings. Authorizes financial assistance to eligible State energy conservation programs in accordance with Federal criteria. Amends the Energy Conservation and Insulation of Buildings Act, the National Housing Act, and the Small Business Act to authorize additional assistance for energy conservation measures.

Establishes an Energy Extension Service in the Energy Research and Development Administration. Authorizes additional programs designed to increase use of energy efficient systems in commercial, residential, industrial, agricultural, and governmental sectors.

H.R. 14699. July 2, 1976. Post Office and civil Service. Abolishes the use of franked mail. Establishes a system for the use of postage meters for Congressional mail. Restricts the kinds of mail matter which may be transmitted as Congressional mail to material directly related to Congressional business. Prohibits the transmission by Congressional mail of material laudatory to a Member of Congress, mass mailings, newsletters, reprints from the Congressional Record, news releases, voter registration materials, agricultural reports, mailgrams, and other specified classes.

H.R. 14700. July 2, 1976. Education and Labor. Makes Federal financial assistance available, under the Emergency School Aid Act, for programs and projects are: (1) the construction of "magnet" and "neutral site" schools, and education parks; (2) the pairing of schools and programs with colleges and universities and with leading businesses; and (3) education programs to improve the quality of education in inner city schools and the general use of "education magnetism."

SENATE—*Wednesday, July 28, 1976*

The Senate met at 8 a.m. and was called to order by Hon. John A. Durkin, a Senator from the State of New Hampshire.

PRAYER

Mr. ROBERT C. BYRD. Let us stand for a moment of silent meditation in thanks to our God. [Pause.]

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., July 28, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. John A. Durkin, a Senator from the State of New Hampshire, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. DURKIN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. CULVER. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, July 27, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE LEGISLATIVE SCHEDULE TO AUGUST 11, 1976

Mr. MANSFIELD. Mr. President, for the information of the Senate, the legislative schedule up to and including Wednesday, August 11, when the Senate will adjourn for the purpose of allowing attendance at the Republican Convention in Kansas City and selection of its nominees for the Presidency and Vice Presidency, is as follows:

The pending business on the first track will be Order No. 685, S. 3219, the Clean Air Act, today, Thursday and perhaps beyond. On those days, we shall turn to the tax reform bill, Order No. 891, H.R. 10612, at 2 o'clock. Upon the completion of the Clean Air Act, the Senate will then turn to the consideration of Order No. 915, H.R. 8603, the Postal Service reform bill. That bill will be considered from 9 a.m. until 2 p.m. the day it is taken up and the tax reform bill will follow at 2 o'clock, unless there are changes in the meantime and I would not, at this time, rule out the possibility of a Saturday session.

It is hoped that early next week, the Senate will be able to turn to the consideration of Order No. 983, H.R. 14262, the defense appropriations bill, and, hopefully, if that is concluded in time, Order No. 839, H.R. 12987, the Comprehensive Employment and Training Act. Whether or not the tax reform bill will be taken up on Monday afternoon will be determined by circumstances at that time, and after consultation with the distinguished chairman of the Committee on Finance, the Senator from Louisiana (Mr. LONG).

Following those two bills, we shall take up Order No. 827, S. 3037, the water pollution control bill. Tax reform will continue on the second track. It is possible that an agreement might be reached to consider tax reform only on a one-track basis. The leadership will endeavor, however, to bring up the Export Administration Act, Order No. 872, S. 3084; the extension of higher education, Order No. 838, S. 2657, before the Republican Convention and, hopefully, to lay down on Wednesday, August 11, Order No. 863, S. 3422, the Natural Gas Act.

To recapitulate and simplify the schedule between now and up to and including August 11, is as follows. On the first track:

Order No. 685, S. 3219, Clean Air Act, until completed;

to be followed by

Order No. 915, H.R. 8603, Postal Reform, until completed;

to be followed by

Order No. 983, H.R. 14262, Defense Appropriations, until completed;

to be followed by

Order No. 839, H.R. 12987, Comprehensive Employment, until completed;

to be followed by

Order No. 827, S. 3037, Water Pollution Control, until completed;

to be followed by

Order No. 872, S. 3084, Export Extension, until completed;

to be followed by

Order No. 838, 2657, Higher Education, until completed;

to be followed by

Order No. 863, S. 3422, Natural Gas Act.

The tax reform bill (H.R. 10612) will be on the second track every day unless, at the request of Senator LONG, it is made the pending business on a daily, one-track basis.

The Senate is aware of the fact that this is only a tentative list of proposals, but it is the best schedule the leadership can present at this time.

May I say, also, for the information of the Senate, that it is still the leadership's objective to adjourn sine die on October 2.

The ACTING PRESIDENT pro tempore. Does the distinguished acting minority leader seek recognition?

Mr. GRIFFIN. No, Mr. President. I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, Jr.) will be recognized for not to exceed 15 minutes.

NUCLEAR EXPORTS TO INDIA

Mr. HARRY F. BYRD, JR. Mr. President, the Nuclear Regulatory Commission is presently holding hearings to decide whether U.S. shipments of enriched uranium fuel for India's atomic program should be halted.

As a result of these hearings, there is extensive discussion—in Congress and among the national news media—over whether or not these shipments should be continued.

Mr. President, I think the issue is clear cut.

Canada, unlike the United States, has decided not to provide India with additional uranium because Canadian equipment was used by India for its nuclear explosion in 1974. From every indication, India also used American-supplied deuterium for that same explosion.

This 1974 explosion was in clear violation of the agreement under which India received the nuclear materials from Canada and the United States.

The United States has always been a special friend to India, and a strong supporter of Indian independence.

Our country watched with great anticipation and hope to see how a nation with a population of nearly 600 million people—the world's most populous democracy—would succeed with its experiment in free republican government.

But we did more than watch. We gave India our support.

The United States has given India over $10 billion in economic assistance, since her creation more than any other nation has given her, and more than we have given any other nation.

It is, then, not surprising that the American people are bitterly disappointed in recent developments in India.

Mrs. Gandhi has rejected the founding principles of her own father—the late distinguished first Prime Minister and founding spirit of a free India, Pandit Jawaharlal Nehru—and made a mockery of his hopes for a democratic India.

Mrs. Indira Gandhi has assumed increasingly dictatorial powers, and suppressed the freedoms and liberties of all Indians.

Indeed, she has decreed that Indira is India, and that India is Indira.

With one quick and far-reaching blow, Mrs. Gandhi took India from the path of democracy.

She has turned the world's largest democracy into the world's second largest dictatorship.

Through continued corruption and mismanagement, the Government of India sustains itself by bolstering the inefficient public sector at the expense of the private sector.

India's priorities remain distorted, with the military, and military-related industries taking a disproportionate slice of the annual national budget—at the expense of agriculture, necessary to feed her hungry people.

The Armed Forces of India consume about 25 percent of the annual budget each year, despite the absence of any real external threat to India's security.

Thus, Mr. President, it is with alarm and disappointment that Americans have watched India use its nuclear technology—a technology made available with U.S. assistance—not for peaceful means, not to contribute toward economic progress, but rather for an explosion that under no circumstances can be described as "peaceful" in purpose.

The able and distinguished Director of the Arms Control and Disarmament Agency, Dr. Fred Ikle, who has contributed significantly to our understanding the problems of arms control and nuclear proliferation, has said that "we've been had" by nations that used U.S. nuclear assistance in their atomic weapons programs.

Dr. Ikle also said that U.S. nuclear assistance helped India prepare for its nuclear blast, and furthermore that the United States must remove from India a stockpile of spent nuclear fuel, extensive enough to make 40 to 80 atomic bombs.

Mr. President, recent news reports have confirmed that India has completed construction of a second nuclear reprocessing plant capable of making atomic bomb material from nuclear fuel supplied by the United States.

Since India has refused to sign the Nuclear Non-Proliferation Treaty, and will not accept the safeguards devised by supplier nations over the ultimate use of the nuclear fuel supplied, I believe the United States must immediately stop shipment of further enriched uranium fuel to India.

Mrs. Gandhi, by her own actions, has shown that nuclear technology is a means to enhance her country's military posture; it is not a means to promote the economic development of her country, and the welfare of her people.

India has misused U.S. nuclear assistance, as it has our technological and economic assistance.

Under these circumstances, then, Mr. President, I will oppose any further nuclear assistance to India.

Should the United States continue to ship enriched uranium to India, we would only create further political and military instability in that part of the world, and we would greatly damage the cause of nuclear nonproliferation.

Mr. President, at this time I think it would be fitting to cite the eloquently set forth hopes of Prime Minister Nehru on the eve of India's birth:

> Long years ago, we made a tryst with destiny and now the time comes when we shall redeem our pledge, not wholly or in full, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom. A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends and when the soul of a nation, long suppressed, finds utterance. It is fitting that at the solemn moment we take the pledge of dedication to the service of India and her people and to the still larger cause of humanity.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 10 minutes, with statements limited therein to 5 minutes each.

ORDER FOR SENATE SESSIONS TO BEGIN AT 8 A.M. TOMORROW AND FRIDAY (SUBSEQUENTLY RESCINDED)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 8'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make the same request for tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the order for the convening of the Senate tomorrow morning at 8 o'clock be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GRIFFIN. Was the order for every day this week, that was put in for 8 o'clock?

The ACTING PRESIDENT pro tempore. For Thursday and Friday. But that has been vitiated with respect to tomorrow.

Mr. ROBERT C. BYRD. I ask unanimous consent that it be vitiated for both days.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this does not mean that the order may not be reentered. Our coming in today at 8 o'clock was at the order of the majority leader. I made the request on yesterday at his suggestion.

I made the request this morning that the Senate come in tomorrow at 8 o'clock and on Friday at 8 o'clock, but of course it is the understanding, and everyone understands, that that order could be changed. I merely put in the order so that we would at least have a starting point to work from today. That order can always be vitiated, and it has now been vitiated.

Furthermore, Mr. President, I do not think that that is an order that has to be cleared with the minority. The minority can always change it if it works to the discommoding of any Senator or the minority. In particular, the minority can certainly make its reasons for opposition known to the majority leadership, and if there is justification for the opposition to coming in at 8, the majority leadership will certainly try to act accordingly.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

APPROVAL OF BILLS

A message from the President of the United States announced that on July 26, 1976, he approved and signed the following bills:

S. 586. An act to improve coastal zone management in the United States, and for other purposes.

S. 3184. An act to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

FOUR RESCISSIONS AND FOUR DEFERRALS—MESSAGE FROM THE PRESIDENT

The Acting President pro tempore laid before the Senate the following message from the President of the United States, which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Agriculture and Forestry, Labor and Public Welfare, Foreign Relations, Interior and Insular Affairs, and Armed Services:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose four rescissions totalling $126.4 million in budget authority provided in the Second Supplemental Appropriations Act, 1976. In addition, I am reporting four new deferrals totalling $334 million in budget authority.

Three of the proposed rescissions are for education programs of the Department of Health, Education, and Welfare. The other rescission proposal affects the child nutrition program of the Department of Agriculture. These funds are either not needed to accomplish program objectives or, in the case of $3 million which would fund State school financing programs, would be used inappropriately to fulfill a State responsibility rather than a Federal responsibility.

Approval of these rescission proposals would (1) reduce Federal spending by $126.4 million over the transition quarter, 1977, and 1978, and (2) provide the Congress with an opportunity to demonstrate its willingness to prevent unnecessary Federal spending even if this involves reconsidering earlier funding decisions.

One of the deferrals consists of $4 million in construction funds for the Rogers Memorial Hospital in the District of Columbia. This deferral is reported to give Congress time to consider a request to reprogram the funds. The reprograming that I will propose would allow all eligible medical facilities construction projects in the country an equal opportunity to compete for the funds. The other three deferrals are reported because there will be delays in the use of available funds.

GERALD R. FORD.

THE WHITE HOUSE, *July 28, 1976*.

MESSAGE FROM THE HOUSE

At 4:15 p.m., a mesage from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 13720. An act to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors: and

H.R. 13955. An act to provide for amendment of the Bretton Woods Agreements Act, and for other purposes.

The message also announced that the Speaker has appointed Mr. ENGLISH, vice Mr. WEAVER, as a manager on the part of the House in the conference on the disagreeing votes of the two Houses to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED AMENDMENTS TO BUDGET REQUEST FOR THE DEPARTMENT OF TRANSPORTATION—(S. Doc. 94-240)

A letter from the President of the United States transmitting proposed amendments to the requests for appropriations for the fiscal year 1977 in the amount of $95.6 million for the Department of Transportation (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

PROPOSED AMENDMENT TO BUDGET REQUEST FOR THE DEPARTMENT OF DEFENSE—(S. Doc. 94-241)

A letter from the President of the United States transmitting a proposed amendment to the request for appropriations for the fiscal year 1977 in the amount of $39.3 million for the Department of Defense/Military (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

PROPOSED ACT BY THE COUNCIL OF THE DISTRICT OF COLUMBIA

A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of a proposed act adopted by the council (with accompanying papers); to the Committee on the District of Columbia.

REPORTS OF THE COMPTROLLER GENERAL

Two letters from the Comptroller General each transmitting, pursuant to law, a report entitled (1) "U.S. Marshals Service—Actions Needed To Enhance Effectiveness"; and (2) "Cost-of-Living Adjustment Processes for Federal Annuities Need To Be Changed" (with accompanying reports); to the Committee on Government Operations.

REPORT OF THE GENERAL SERVICES ADMINISTRATION

A letter from the Administrator of General Services transmitting a report describing a certain system of records (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE SECRETARY OF THE TREASURY

A letter from the Acting Secretary of the Treasury transmitting, pursuant to law, the annual report of the Student Loan Marketing Association for 1975 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs, without amendment:

S. 3554. A bill to establish a National Commission on Neighborhoods (Rept. No. 94–1052).

By Mr. MOSS, from the Committee on Commerce, with an amendment:

S. 1508. A bill to require that certain information about gasoline be disclosed to consumers (Rept. No. 94–1055).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

H.R. 10138. An act to create the Young Adult Conservation Corps to complement the Youth Conservation Corps (together with minority views) (Rept. No. 94–1053).

Mr. JACKSON. Mr. President, today I am filing the report of the Committee on Interior and Insular Affairs on H.R. 10138—the Young Adult Conservation Corps bill.

I ask unanimous consent that several recent press reports relating to the problem of youth, and especially minority youth unemployment, be printed in the Record at this point. I also ask unanimous consent that an article from the Washington Post of July 22, 1976, regarding the work of the Youth Conservation Corps be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, July 11, 1976]

Black Teenagers' Jobless Rate Constant Despite U.S. Recovery

(By Charlayne Hunter)

The plight of black teenagers, whose unemployment rates were not only the highest during the recession but have also proved the most unyielding, is viewed as a permanent part of the country's system.

These black youths are regarded as part of a secondary labor class, with little chance of moving out of the perpetual state of joblessness or of escaping the vicious cycle of lowpaying jobs that lack security or chances for advancement.

This is the picture that emerged in interviews with economists, labor analysts, manpower experts, community leaders and black teen-agers themselves.

Many of these same analyses are echoed by other manpower specialists, civil rights officials, fiscal analysts, and others involved in the unemployment problems of youth.

Contrary to the expectations raised by the Great Society programs of the 60's which aimed to break the cycle of poverty through training, remediation and job counseling, the cycle proved resistant.

In fact, as the recession lifts slowly for everyone else, the condition of black teenagers and young adults is steadily deteriorating.

"The worse part of being unemployed for me is that I don't seem to belong anywhere," said Denise Davis, a 16-year-old high school dropout from the Watts section of Los Angeles.

"I don't fit into school anymore. I don't have a husband or a baby to take care of. And I don't have a job. I just feel lost."

The argument by some economists that joblessness among black teen-agers will be reduced by the normal process of labormarket activity is contradicted by the persistence of the high jobless rates even in prosperous times.

In 1955, the jobless rate for black teen-agers was 15.8 percent, compared with 10.3 for whites of the same age. In 1965, it was 26.2 percent, compared with 13.4. And in 1973, it was 30.2 percent for blacks, compared with 12.6 for white youths.

The most recent statistics are equally dismal. As of June 1976, that rate, according to the Bureau of Labor Statistics, was 40.3 percent for blacks, compared with 16.1 for whites of the same age.

For blacks, that rate increased since the last month, when the rate was 38.5. For whites, it decreased from last month, when it was 16.3.

Furthermore, the rate of joblessness among white teenagers, though still high and posing many of the same problems, is expected to attenuate as a result of a declining birthrate of whites.

The black birthrate, however, is three times that of whites and increasing.

Experts and teen-agers alike contended that new policies must take these factors into account, as well as other barriers, like discrimination.

Describing the "double" disadvantage of minority teen-agers, Mervin D. Field, the director of the Field Research Corporation in Los Angeles, said:

"Because of their age, they haven't had time to establish their work records. And because of their race, they have a harder time because programs especially designed for blacks have almost disappeared."

Dr. Bernard Anderson, of the Wharton School at the University of Pennsylvania, said:

"Fiscal and monetary policies alone are not going to solve this problem. You have to have measures intended to increase job skills, that invest in human capital and that attack institutional barriers."

LOST GENERATION

Without these measures, Dr. Anderson and others argued, a generation of blacks may be lost to society.

"The failure to attack these problems," Dr. Anderson said, "is tantamount to writing off the future of black people."

Earlier this year, the Joint Economic Committee of Congress, noting the predictions of severe unemployment through at least 1980, expressed its concern about the social, economic and psychological impact of the unemployment of young people.

A report by the committee predicted "increases in the incidence of crime, drug abuse and other forms of antisocial behavior that can ruin a person's chance of achieving a full and productive life."

The reaction of the young people themselves to their plight is equally grim.

"I don't think I have much of a future," said Rachel Smith, a high-school dropout, who lives with her mother in Watts. "I just get by from day to day."

Michael Wilson, a 17-year-old dropout from Buffalo, said: "The man may not like the way I survive, but I'm not going to lie down and die."

PLIGHT WORSENING

By most accounts, the economic plight of black teen-agers is worsening.

"The paradox is that the economy is better in pockets," said Tom Stewart, the executive director of the Franklin Wright Settlement House, in the heart of Detroit's inner city.

"But the pocket has a zipper in it. And many of our youngsters are not so highly skilled and are not so readily employable. So the zipper doesn't open for them."

Mr. Stewart was among many officials interviewed who said that the job situation this year was worse than last year.

"I'm afraid to face the summer," said Alice Lyte, the director of the Semi-Quois Neighborhood Improvement and Employment Project in Detroit.

In many cities, so many adults are out of work that funds once used to aid unemployed youths are now being diverted to adults.

INFLATION CUTS AID

In Detroit, as well as in other sections of the country, businessmen contended that they had not recovered sufficiently from the recession to increase hiring. And, despite an increase in Federal aid, inflation has reduced the number of job openings.

In some cities, Federal aid itself has been cut.

For example, in Allegheny County, which encompasses Pittsburgh, the county has 2,831 jobs available to disadvantaged youths between the ages of 14 and 21. Last year, $2.7 million was used to hire 4,537 youths for eight weeks at $2.10 an hour for a 30-hour week.

This year, the Federal grant is $1.9 million for jobs paying $2.30 an hour. And there were approximately 10,000 applications for the jobs as early as April.

Though some of these problems may be eased somewhat during an economic recovery, others, like discrimination and poor schooling, are viewed as more intractable.

Adults and students alike complained that students were not being prepared in school academically or through vocational counseling.

At the same time, however, Dr. Anderson's research indicated that job-hunting for black youths was "less favorable" than for white youths largely because of discrimination.

APPEARANCE A FACTOR

"Appearance is a big factor with young people finding a job," said Jack Motley, the manager of the Texas Employment Commission Office in downtown Houston.

"With all the freedom movements blacks have been involved in in the past few years, many have gone to extremes in their dress and hair styles.

"When a young man comes in with a beard that is not kept well and braided hair, he's not going to be hired—not even an entry level job that he's qualified for," Mr. Motley continued. "And quite often they want to say they've been rejected because they are black."

Vernon Evans, a graduating high-school senior in Los Angeles, said that he had applied to "about 110 places" but has had no luck.

"Employers are very afraid to hire black men today," he said. "Even if you come to an interview clean-shaven, short hair, looking real nice, they think you are going to rob the place or do some kind of damage. You might be a genius, but they will never give you a chance."

The reactions of other young blacks are just as pessimistic.

Lon Anderson, 18, lives on the Southwest Side of Chicago and has been unemployed since December, when he returned from the National Guard.

"I know I can get a job if I have a good attitude," he said. "I always try hard in interviews. I dress up and smile, and I try to play the part. Even if I haven't gotten a job, at least I've played the part well."

Many psychiatrists and sociologists fear a lowering of ambition among black youths, which seems to have decreased even since last year.

Miss Davis, the Watts dropout, is one of five children supported by her mother, who is a domestic.

"I don't want to start cleaning people's houses," Miss Davis said. "But what else can I do?"

Her best friend, Rachel Smith, is also unemployed after having worked six months in a fast-food restaurant.

"At that time," she recalled, "I thought it was pretty bad because it was hot and dirty. But now, I wouldn't mind it at all."

SURVIVAL STRESSED

Like many unemployed young people, Miss Smith is idle a lot of the time, and she often spends her days watching television.

"This makes my mother very mad," Miss Smith said, "because she thinks I should work. We have lots of fights about this."

Mr. Stewart, the Detroit settlement house director, sees signs of "incipient [mental] depression" among youths there. In the last two years, 90 percent of Detroit's 18,000 school dropouts were blacks, and there is "a minimum" unemployment rate there of 40 percent for black youths.

"Something that might pass with a laugh is taken seriously and is apt to flare up into a fight," Mr. Stewart said.

And while the rhetoric and "scare" tactics sometimes employed in the 60's are seldom heard nowadays, in quiet, one-on-one conversations with hundreds of black youths, the emphasis was on survival.

"If they're hungry," said a member of one of Brooklyn's hundred or so youth gangs, "they'll rip off a store or a resident of the community. The only thing they're doing is trying to survive."

[From the Denver Post, July 14, 1976]

YOUNG BLACKS WITH NO WORK FUTURE—EXPERTS DIVIDED ON JOBLESS

(By Charlayne Hunter)

NEW YORK.—Despite chronic unemployment among young blacks that now officially exceeds 40 per cent—some estimates range upward of 70 per cent—there has been no agreement among experts about how to avert what could become a human disaster in which millions of blacks become adults with no hope of ever finding jobs with a future.

Some experts have urged mandatory vocational programs for all high school students. Others have seen hope in programs modeled on the Civilian Conservation Corps of the Depression, in which the unemployed worked on programs such as reforestation.

Still other experts have contended that blacks, because they are largely from urban areas, must find employment there, rather than in rural areas.

Then there are those who have insisted that until blacks go to the polls in much larger numbers they can expect very little improvement in their economic condition.

Summing up the approaches to ending unemployment among young blacks, Bernard E. Anderson, of the University of Pennsylvania's Wharton School of Economics, who has done considerable work in the field, said:

"Nothing at the moment promises to reverse the 'permanence' of black youth joblessness."

Indicative of the split on possible solutions to the problem has been the argument about the Manpower Programs of the 1960s, on which the Johnson Administration spent millions of dollars.

Some experts have said that much of that money, particularly that which had been designated for the so-called Summer Youth Programs, had been a form of "riot insurance," a way of getting potentially volatile youngsters off the streets.

The basic thrust, critics of this program have argued, was to contain rather than to train. These jobs didn't lead to a lasting occupation, the critics said.

However, Sar Levitan, director of the George Washington University Center for Special Policy Studies, contended that the approach was a good one.

Levitan said he believed in creation of public jobs and the expansion of stipends for institutional and apprenticeship training and expansion of the Job Corps. With sufficient funds and a sustained program, this would bring about absorption of the bulk of long-term unemployed teen-agers, he said.

The Job Corps, which began 11 years ago with 128 centers, now has only 60 centers, according to John Stetson, the director of the corps.

"The Job Corps," said Levitan, "started at $30 million, and Congress has never had the guts to raise it."

W. Willard Wirtz, secretary of labor in the Johnson cabinet and now head of the National Manpower Institute, has called the present situation "intolerable" and has said that all teen-agers—girls, as well as boys—should get at least 500 hours of firsthand work experience as part of their high school education.

The institute has proposed the establishment of work education councils to operate in several cities. The councils would be comprised of local school officials, employers, union representatives and others in a position to train young men and women for jobs.

The short-term goal of these councils, according to Paul Barton, a staff member of the institute, would be the discussion of the problem. The long-term purpose would be the creation of a plan that would bring about effective transition from school to job.

Nevertheless, its critics, including Eli Ginzberg, the chairman of the National Commission on Manpower Policy, have argued that this approach is wrong for inner-city youth, partly because it bars ex-offenders from participating and partly because it doesn't provide participants with skills that can be utilized in the predominantly urban community where they live.

In Congress, attention has been focused on two bills—a year around Young Adult Conservation Corps and the Hawkins-Humphrey Full Employment and Balanced Growth Bill.

The first bill, modeled on the Civilian Conservation Corps, would provide jobs in insect control, reforestation, campground improvement and similar work. This bill is geared specifically to the economically disadvantaged.

"The Frontier is not the West," said one critic of the program, "but the urban centers. These young people need programs that will not only train them, but that also will upgrade their deteriorating communities at the same time. A major problem for them is that jobs have left their communities."

Critics of the Hawkins-Humphrey Bill, which would create public service jobs to reduce unemployment to 3 per cent, have called it unrealistic. But its supporters have noted that it includes among the "unemployed" anyone who is 16 or more, an important consideration for blacks.

Because of the vagaries of politics, many experts have argued that what the country needs is a national youth policy that would be in effect regardless of the political climate.

Those critics argue that the policy should be federally administered, not only because strong sanctions are needed against employment discrimination, but also as a way of transcending local politics.

"With local governments in control of the monies," said one economist in appraising the current situation, "they tend to cater to people who vote. And let's face it, these kids don't vote."

[From the Washington Post, July 22, 1976]

YOUTH CORPS RESTORES "SHEEN" TO LIGHTHOUSE

(By Sara E. Hansard)

Twenty Washington-area high school students are giving the 120-year-old graffiti-covered lighthouse at Jones Point in Alexandria a facelift.

The teen-agers, most of whom do not know much about the history of the lighthouse, began work on the building Monday. They scraped most of the remaining paint off the building, repainted it, constructed new steps for the porch and plan to weed the area around it, according to Donna Staton, a 19-year-old supervisor of the refurbishing project.

The 20 young people, aged 15 to 18, are part of the Youth Conservation Corps, a jobs program mandated by Congress in 1970. In addition to providing summer jobs for high school students, the corps insures that some low-priority conservation projects, like the lighthouse cleaning are performed. The program is run by the National Park Service.

About 100 youths in other corps groups in the Washington area are dismantling the "Jungleland" billboard at Glen Echo Park in Montgomery County, replacing drainage pipes in Rock Creek Park, cleaning various stone walls along the C&O Canal and improving the trails at Camp Greentop, a camp for the physically handicapped at Catoctin, Md.

Park Service officials said that the lighthouse at Jones Point has steadily deteriorated over the last 10 years and few people visit it now. With the repainting and weeding, the officials said they hope tourists might be more inclined to use the adjacent park, which has an open field and several picnic tables. They also hope that vandalism of the lighthouse will be deterred once it is fixed up.

The lighthouse, located at the southeastern corner of Alexandria, was built in 1856 and operated until 1925, when a blinking light was put in the Potomac to guide boats away from sandbars. The Daughters of the American Revolution kept up the building until the Army Signal Corps used it during World War II.

The DAR turned it over to the National Parks Service in 1964, which restored the outside of the building in 1966, much as the youth corps workers are doing now.

The lighthouse is next to the original South Corner stone marking what once was the southern tip of the District of Columbia. The Youth Conservation corps group is restoring many of the District's 39 remaining boundary markers this summer.

Sheila Chambliss, 15, of 3310 Du Bois Pl. SE, said the lighthouse work "is my favorite project so far." Standing next to her, Sharon Moore, 18, of 1657 Trinidad Ave., NE, quipped, "As much as you complain?" Sheila admitted that "when it gets hot outside it's a little hard to work."

All students are paid $2.20 an hour for 30 hours of work a week. The other 10 hours nonpaid, are devoted to "environmental education" courses.

COAST GUARD AUTHORIZATIONS, 1977 — CONFERENCE REPORT (REPT. NO. 94–1054)

Mr. MAGNUSON submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11670) to authorize appropriations for the use of the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loans, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. MOSS, from the Committee on Commerce:

David A. Clanton, of Virginia, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1969, vice Lewis A. Engman, resigned.

David A. Clanton, of Virginia, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1976. (Reappointment.)

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. MOSS, from the Committee on Aeronautical and Space Sciences:

H. Guyford Stever, of the District of Columbia, to be Director of the Office of Science and Technology Policy.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 13720. An act to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors; to the Committee on Banking, Housing and Urban Affairs.

H.R. 13955. An act to provide for amendment of the Bretton Woods Agreements Act, and for other purposes; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUGH SCOTT:

S. 3704. A bill to impose quantitative limitations on the importation of mushrooms into the United States. Referred to the Committee on Finance.

By Mr. JAVITS:

S. 3705. A bill for the relief of Mr. and Mrs. Francisco J. Garcia-Perez. Referred to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 3706. A bill to amend the Federal Meat Inspection Act to allow the interstate movement of all meat food products which are processed by federally inspected establishments and which are derived from meat which has been slaughtered or processed at certain State inspected establishments. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUGH SCOTT:

S. 3704. A bill to impose quantitative limitations on the importation of mushrooms into the United States. Referred to the Committee on Finance.

Mr. HUGH SCOTT. Mr. President, I am proud to state that the heart of America's mushroom industry is located in Pennsylvania. Although mushrooms are grown commercially in 24 States, Pennsylvania accounts for 60 percent of the total crop. Mushrooms are Pennsylvania's largest cash producing crop.

I stand in praise of the hard-working and persevering people who form the foundation of the mushroom industry. Over the last 10 years this foundation has languished because of increasing intervention by foreign competitors. America's mushroom industry would have long lost its vitality had it not been for the unique work ethic and unyielding determination of its members.

American mushrooms must compete against the products of more than 100 canneries in South Korea and Taiwan. Our mushroom industry currently consists of 500 growers and 29 canneries. Since 1972, 6 processors and 200 growers have been forced to close their doors because of financial loss. This problem is compounded by the fact that an American mushroom worker makes a minimum of $20 a day while his oriental counterpart earns $1. This means that canned mushrooms can be bought overseas, shipped here, and still sold at a lower price than our domestic variety. It is clear that import relief is justified and long overdue. We have recognized the need that exists here—now let us respond.

I urge my colleagues—particularly those from the primary mushroom growing and canning States of Pennsylvania, California, New York, Michigan, Ohio, and Delaware—to join in support of this effort to prevent further serious injury to our domestic mushroom industry.

I ask unanimous consent that a memorandum dated April 12, 1976, from the U.S. mushroom industry to the Members of the 94th Congress and the text of my bill be printed in the RECORD.

There being no objection, the bill and memorandum were ordered to be printed in the RECORD, as follow:

S. 3704

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the aggregate quantity of the articles specified in items 144.10, 144.12, and 144.20 (relating to mushrooms, fresh, or dried, or otherwise prepared or preserved) of the Tariff Schedules of the United States (19 U.S.C. 1202) which may be entered during any calendar year beginning after the date of enactment of this Act shall not exceed—

(1) in the case of any foreign country other than a foreign country referred to in paragraph (2) or (3), the aggregate quantity of such articles of such country which was entered during calendar year 1974.

(2) in the case of the Republic of China (Taiwan), 25,000,000 pounds (drained weight); and

(3) in the case of the Republic of Korea, 6,000,000 pounds (drained weight).

(b) The Secretary of Agriculture shall compute the quantities provided for in subsection (a) on the basis of available import data and shall certify to the Secretary of the Treasury the amounts which may be entered from any foreign country under such subsection. The Secretary of the Treasury shall take such actions as may be necessary to insure that the amounts entered under subsection (a) do not exceed the quantities provided for in such subsection.

(c) For purposes of this Act:

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "customs territory of the United States" means customs territory of the United States as defined in the Tariff Schedules of the United States.

MEMORANDUM

To: Members of the 94th Congress.
From: U.S. Mushroom Industry.
Date: April 12, 1976.
Subject: Report of the U.S. International Trade Commission to the President on Mushrooms.

The U.S. mushroom industry has been under attack for the last 10 years from exports from Taiwan and South Korea. After an escape clause investigation, the U.S. International Trade Commission by a majority vote found the U.S. Mushroom Industry eligible for import relief.

In the ITC Report to the President of March 17, 1976, two Commissioners (Parker and Ablondi) found a threat of serious injury and one Commissioner (Leonard) found the industry was presently suffering serious injury. Two Commissioners (Minchew and Moore) found that imports were not the cause of serious injury and one Commissioner (Bedell) did not vote.

The findings of the ITC included the following:

CANNERS OUT OF BUSINESS

"At present canned mushrooms are being produced by 29 firms compared with 35 firms in 1972 * * *."

INCREASED IMPORTS

"U.S. imports of canned mushrooms increased about 79 percent from 1970/71 to 1974/75. U.S. consumption of the domestic product, with the exception of 1971/72, remained about the same over the period, averaging 116 million pounds. Consumption of canned mushrooms was 35 million pounds higher in 1974/75 than it was in 1970/71, and imports contributed about 34 million pounds of that increase."

IMPORTS TAKE OVER MARKET

"The ratio of imports of canned mushrooms to apparent U.S. consumption of such mushrooms increased irregularly from 19 percent in the 1964/65 marketing year to 40 percent in 1974/75."

CANNERS' EMPLOYMENT

"During 1968/69 to 1972/73, the number of production and related workers engaged in canning operations increased in each consecutive year, from 1,548 to 1,780. Thereafter, such employment declined to 1,632 in 1973/74 and declined further to 1,360 in 1974/75."

PROFIT AND LOSS

The ratio of net operating profit to net sales for the years 1971 to 1975 was:

(Percent)

	Canners	*Growers*
1971	+5.4	+18.2
1972	+2.2	+23.6
1973	−8.1	+2.9
1974	−6.0	+1.0
1975	−2.5	+4.0

Table 25. USITC Publication 761.

As to the remedy, three Commissioners (Leonard, Minchew and Ablondi) recommended adjustment assistance and one Commissioner (Parker) recommended a tariff quota. Technically, since there was a majority finding of serious injury or threat thereof, the President could proclaim an increase in duty, a tariff rate quota, an absolute quota or negotiate an orderly marketing agreement. It is our belief that such an event is highly unlikely unless there is an enormous amount of political pressure put on the President. The "cop-out" of adjustment assistance is such an easy out for the administration that our fight to change this will be extremely difficult.

Under proper circumstances, "adjustment assistance" to individual firms may be an appropriate and effective remedy to a seriously injured industry. These proper circumstances could arise where there are only a small number of firms involved and there is no eminent threat of a tremendous increase of imports into the U.S. marketplace in the near future. In fact, Congress, in referring to "adjustment assistance" as a remedy, permitted to be recommended by the International Trade Commission (ITC) specifically referred to "the serious injury" caused by imports. No mention is made of the future threat of serious injury to the domestic industry. (Report of the Senate Committee on Finance on H.R. 10710, 93rd Cong., 2nd Sess. at 123.)

Mushroom growing and canning have historically been small business with the majority second or third generation family operations. The 500 growers and 29 canners which presently constitute the U.S. mushroom industry certainly could not be considered a small number.

West Germany, the United States and Canada import the largest perecntage of processed mushrooms entered into world trade by the three largest supplying countries, Taiwan, South Korea, and the Peoples Republic of China (PROC). Over the last five years the percentage of exports by the three far eastern countries to North America and West Germany have ranged between 70 and 100 percent of their total exports. Any change in the import policies of any one of the three consuming countries will have a significant impact on the other two countries. The following table shows the increases in imports by West Germany, including the astounding penetration of West Germany by the PROC.

Imports of processed mushrooms into West Germany in millions of drained weight pounds

	1972	*1963*	*1974*
Taiwan -------	22, 984	34, 634	21, 434
Korea ---------	1, 423	7, 043	8, 274
Peoples Republic of China----	154	8, 778	29, 243
Total ----	24, 561	50, 455	58, 951

The ability of the Peoples Republic of China to increase their exports of mushrooms to West Germany by over 29 million pounds (drained-weight basis) in 3 years demonstrates vividly the increasing world supply of mushrooms available for exports. Since the United States is one of the world's largest consumers of mushrooms, it is a natural market for this expanding world supply.

As a result of such increased low priced imports and burgeoning inventories, the European Community restricted imports of mushrooms into the Community effective August 26, 1974 (Regulation No. 2107/74) and further restricted mushroom imports effective July 28, 1975 (Regulation No. 1918/75). The most recent restriction involved a minimum import price/license program which reduced future imports from third countries to 25 percent of the quantity of mushrooms exported to the EEC by Taiwan, South Korea and China in 1973. The effect of the European Community's restriction is to increase the availability of canned mushrooms for export to other consuming areas of which the United States is the principal market.

The absolute quota imposed by the European Economic Community on imports of canned mushrooms and the emergence of Communist China in the world market for canned mushrooms, makes it abundantly clear that without some form of tariff rate quota such as that suggested by the U.S. Industry at the public hearings held by the ITC, the U.S. marketplace will be flooded with low-priced imports. "Adjustment assistance" for the U.S. Mushroom Industry, alone, would not permit the industry to effectively compete with such imports since the very nature of "adjustment assistance" connotes an extended period of time to adapt to import competition. The U.S. Mushroom Industry does not have the luxury of time—the peril is upon us.

Tariff rate quota recommendation included as Attachment A.

The appropriate tariff rate quota, including the following quantities, duties and procedures, should be proclaimed.

(1) The annual tariff quota for 1976 would be 34 million drained weight pounds of prepared or preserved mushrooms at current trade agreement rates of duty. This quantity is 25% of the apparent United States consumption in the crop year 1974/75.

(2) Whenever, in calendar year 1976, or any calendar year thereafter up to and including 1980, mushrooms prepared or preserved are entered into the United States in excess of the tariff quota, they shall be assessed a duty of 50% ad valorem above the rate existing at the time of a Presidential Proclamation.

(3) On or before November 1 of each of the calendar years 1976 to 1979, inclusive, the United States International Trade Commission should determine and report to the President the apparent United States consumption of mushrooms, prepared or preserved during the preceding crop year (July to June). The annual tariff quota for the next calendar year would be 25% of apparent United States consumption for the preceding crop year.

(4) In order to provide for an equitable distribution of the imports among supplying countries, the tariff quota should be allocated among supplying countries on the basis of their annual historical market shares during the period 1970 to 1974 inclusive. Should any portion of a supplying country's allocated quota share remain unused at the end of the quota year, that country's subsequent allocation should be reduced to that extent and that amount should be apportioned among all other supplying countries.

If in the alternative it is believed an orderly marketing arrangement is more appropriate, the U.S. mushroom industry recommends the following country allocations:

(In millions of drained weight pounds)

Republic of China-------------------	23. 7
Republic of Korea-------------------	5. 8
Japan ----------------------------	1. 4
Dominican Republic-----------------	. 7
France ----------------------------	. 6
Costa Rica--------------------------	. 5
Ecuador ---------------------------	. 5
All Others--------------------------	. 8
Total ------------------------	34. 0

By Mr. BENTSEN:

S. 3706. A bill to amend the Federal Meat Inspection Act to allow the interstate movement of all meat food products which are processed by federally inspected establishments and which are derived from meat which has been slaughtered or processed at certain State inspected establishments. Referred to the Committee on Agriculture and Forestry.

Mr. BENTSEN. Mr. President, the small businessman in this country has a time honored position in our history books, but all too often we find him closing his doors and bowing to the intense pressure of his larger competitors, as well as the choking grip of Government overregulation. This dangerous trend does not call for our placing artificial constraints in the path of big business, or granting unfair advantages to the smaller sized companies. It is the responsibility of this legislative body, however, to assure itself that the small businessman is not deprived of his right to compete on equal terms under the law and thus lose his meaningful and important place in our society.

The meat packing industry is characterized, Mr. President, by firms that slaughter and process 5 or 10 animals a week to those that have thousands of animals pass through their plant each day. The various livestock producers as well as the meat consumers have differing needs, but certainly not the least of which is the need for a small, local meat packing plant to offer them personal and often unique service. There are thousands of such plants across the United States, but in the last few years, a great many have been forced to close. The problem is not poor management or lack of need for their service. Rather, the small meat packing plants, that are usually State inspected, find that they have a limited market for their product. This limitation is not set up by competition within the field, but instead it is an artificial restriction created by the law. State inspected meat packing plants may sell their product to a local wholesaler, a local retailer or to another State inspected plant. They cannot legally sell anything to a federally inspected plant for fear that it might become mixed with the Federal product. This restraint stands today even though those plants are certified by the U.S. Department of Agriculture as having standards at least as good as the Federal plants. The State plants thus have their markets unfairly restricted by Government regulation.

The declining number of packing plants has had and will continue to have a significant effect on the cattle industry. The situation is lowering competition, it is reducing the ability of individuals to kill their own beef, and it is causing the disappearance of a vital service in small cities across the Nation. The State inspected plants are being unjustly treated and we need to improve this situation. It is for this reason, Mr. President, that I am introducing a bill to assist small packers in reaching new markets for their product that have been unfairly denied them by the Government.

If passed, this bill would allow the State inspected meatpacking plants, that have been certified as being "at least equal to" the Federal plants, to sell their product to any federally inspected plant in their State. This will allow the smaller plants to sell partially processed meat to the big plants for further processing and provide new outlets for meat by-products as well as new sources of meat for the larger plants. It will increase competition throughout the industry and help put an end to the destruction of the smaller plants.

This is important, Mr. President, not only to the affected small businessmen, but to the cattle industry as a whole. By limiting the markets of the smaller, State inspected plants, we are reducing their economic efficiency and thus contributing to their demise. This in turn, increases the concentration of a few, large packing plants and results in lower competition. Many cattlemen are strongly concerned about this situation and we in Congress should be concerned also.

Mr. President, it is a very real problem that this Nation is losing its smaller packing plants. It is a reality that Government regulation is contributing to the loss of these plants. We must act to improve the situation. Consumer, cattlemen and packer will benefit from the increased competition.

ADDITIONAL COSPONSORS

S. 3182

At the request of Mr. Taft, the Senator from Texas (Mr. Bentsen) and the Senator from Louisiana (Mr. Johnston) were added as cosponsors of S. 3182, to amend the Occupational Safety and Health Act of 1970.

S. 3528

At the request of Mr. Hatfield, the Senator from Nevada (Mr. Laxalt) and the Senator from Idaho (Mr. Church) were added as cosponsors of S. 3528, relating to the establishment of the Desert Trail as a national scenic trail.

S. 3585

At the request of Mr. McGovern, the Senator from South Carolina (Mr. Hollings), the Senator from Florida (Mr. Chiles), and the Senator from Connecticut (Mr. Weicker) were added as cosponsors of S. 3585, the National Meals on Wheels Act of 1976.

S. 3624

At the request of Mr. Hathaway, the Senator from Massachusetts (Mr. Kennedy), the Senator from New Hampshire (Mr. McIntyre), the Senator from Alaska (Mr. Gravel), the Senator from New Jersey, (Mr. Williams), the Senator from Alabama (Mr. Allen), the Senator from Florida (Mr. Chiles), the Senator from New Hampshire (Mr. Durkin) and the Senator from Florida (Mr. Stone), were added as cosponsors of S. 3624, to provide for incentive loans to the commercial fisheries industry.

SENATE JOINT RESOLUTION 206

At the request of Mr. Stone, the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of Senate Joint Resolution 206, proposing a National Leadership Conference on Energy Policy.

AMENDMENT NO. 1905

At the request of Mr. Beall, the Senator from South Dakota (Mr. Abourezk), the Senator from Idaho (Mr. McClure), the Senator from South Dakota (Mr. McGovern), and the Senator from Florida (Mr. Stone) were added as cosponsors of amendment No. 1905, intended to be proposed to H.R. 10612, the Tax Reform Act of 1976.

AMENDMENT NO. 2087

At the request of Mr. Percy, the Senator from Maryland (Mr. Mathias) was added as a cosponsor of amendment No. 2087, intended to be proposed to H.R. 10612, the Tax Reform Act.

SENATE RESOLUTION 495—SUBMISSION OF A RESOLUTION RELATING TO THE CONSIDERATION OF H.R. 10138

(Referred, by unanimous consent, to the Committee on the Budget.)

Mr. JACKSON submitted the following resolution:

S. Res. 495

Resolved, That pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 10138. Such waiver is necessary to help significantly alleviate the pressing problem of youth unemployment in the United States and, at the same time, reduce the backlog of conservation-related projects on the Nation's public lands and waters.

Mr. JACKSON. Mr. President, I submit a resolution pursuant to section 402 (c) of the Congressional Budget Act of 1974, to waive the provisions of section 402(a) of that act with respect to H.R. 10138, legislation to amend the Youth Conservation Corps Act of 1970. I ask unanimous consent that the resolution be referred directly to the Budget Committee without the necessity of being reported from the Interior Committee. The Interior Committee in considering H.R. 10138 recognized the magnitude of the youth unemployment problem in the United States and has recommended that this legislation be enacted.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 496—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. MUSKIE submitted the following resolution:

S. Res. 496

Resolved, That there be printed for the use of the Committee on the Budget three thousand five hundred additional copies of its committee print of the current Congress entitled "Congressional Budget Reform".

AMENDMENTS SUBMITTED FOR PRINTING

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 2102

(Ordered to be printed and to lie on the table.)

Mr. WILLIAM L. SCOTT submitted an amendment intended to be proposed by him to amendment No. 1598 proposed to the bill (S. 3219) to amend the Clean Air Act as amended.

AMENDMENT NO. 2104

(Ordered to be printed and to lie on the table.)

Mr. NELSON. Mr. President, the amendment (No. 2078), which was submitted in the Record July 23, 1976 (page 23612), aims at banning specific propellants in aerosol containers, unless the EPA finds that their continued use poses no unreasonable risk of injury to health or the environment.

The modifications in this amendment are as follows:

The ban would take effect by January 1, 1978, instead of January 1, 1977;

No congressional review would be required if EPA ruled to modify or lift the ban.

This modified amendment differs from an amendment intended to be offered by Senator Packwood in the following way:

It provides that EPA base a decision on banning the propellant substances on whether the substances poses "an unreasonable risk of injury to health or the environment."

The Packwood amendment bases the decision on whether the substances pose a "significant risk to the public health, safety, or welfare."

In determining whether a substance poses an "unreasonable risk," it is necessary that benefits be weighed against risks.

In finding that something poses a "significant" risk, benefits need not be taken into consideration.

That is the major difference between the two approaches.

There is precedent for the "unreasonable" criteria in:

The Pesticides Act;

The Safe Drinking Water Act;

The Medical Devices Act; and

The toxic substances bill as it passed the Senate, including a section banning the use of PCB's—an amendment that I offered on the floor.

The Pesticides Act—Federal Insecticide, Fungicide, and Rodenticide Act—contains the following definition of "unreasonable adverse effects on the Environment"—section 2, definitions, (bb):

> The term "unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

The report on the Toxic Substances Control Act by the House Interstate and Foreign Commerce Committee—page 14—aptly describes what is intended by the definition of "unreasonable risk," in a manner consistent with the intent of this legislation. It states:

> In general, a determination that a risk associated with a chemical substance or mixture is unreasonable involves balancing the probability that harm will occur and the magnitude and severity of that harm against the effect of proposed regulatory action on the availability to society of the benefits of the substance or mixture, taking into account the availability of substitutes for the substance or mixture which do not require regulation, and other adverse effects which such proposed action may have on society.

The amendment to ban the use of fluorocarbon propellants, which scientific evidence indicates deplete the Earth's protective ozone layer and thereby cause more skin cancer, is not intended to:

Undercut ongoing scientific studies. In fact, the amendment relies on the scientific evidence. Nor is it intended that more harmful substances would be allowed as substitutes. If it were found that proposed substitutes were more hazardous, EPA should continue to allow the less risky substances.

This amendment is patterned after

the precedents cited above. It is a reasonable approach to addressing this important environmental problem, in my view.

I ask unanimous consent that the revised amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2104

On page 58, beginning with line 2, strike out all through line 7 on page 59 and insert in lieu thereof the following:

"SEC. 153.(a) On and after January 1, 1978, except as provided in subsections (b) and (c), it shall be unlawful for any person to manufacture, produce, import, export to or from the United States, or sell in commerce any aerosol container containing as a propellant trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen, unless the Administrator finds, by rule, prior to such date, on the basis of a study by the National Academy of Science and other available scientific information, that no unreasonable risk to the public health or the environment results from any or all uses of such containers containing such propellants.

"(b) (1) Any person may petition the Administrator to modify or rescind the prohibition in subsection (a) in whole or in part, by presenting new scientific evidence showing that such change in the prohibition presents no unreasonable risk to the public health, safety, or welfare posed by the discharge of trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen into the ambient air from aerosol containers.

"(2) In determining whether to modify or rescind such prohibition pursuant to subsection (a), the Administrator shall consider new scientific information, available reports, and any other material as he deems necessary, and consult with appropriate Federal agencies and scientific entities, and afford the opportunity

"(3) If he then finds that no unreasonable risk to the public health, safety or welfare is, or may be, posed by the discharge of trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen into the ambient air from aerosol containers, he may by rule modify or rescind the prohibition in subsection (a) in whole or in part, consistent with that finding.

"(c) If the Administrator determines that a particular use of trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compaund not containing hydrogen in aerosol containers is essential for the public health or welfare, and that an adequate substitute for such compound is not available, he may by rule grant exemptions from the prohibitions in subsection (a) to allow the use of small quantities in such particular case.

"(d) The Administrator shall by rule prohibit manufacturers or importers of aerosol containers containing trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen from stockpiling (within the meaning of section 9(d) (2) of the Consumer Product Safety Act (15 U.S.C. 2058(d) (2)) any such containers so as to prevent such manufacturers or importers from circumventing the purpose of this section.

"(e) (1) From time to time the Administrator may revise any rules issued pursuant to subsection (b) (3) of this section in light of new evidence as to the need for such regulations, subject to approval by the Congress as provided in such subsection (b) (3).

"(2) From time to time the Administrator may revise any of the rules issued pursuant to subsection (c) and (d) of this section in the light of new evidence as to the need for such regulations.

"(f) Nothing in this section shall limit, restrict, or otherwise detract from the authority provided in section 154, or any authority vested in the Consumer Product Safety Commission, or any health-related authority vested in the Secretary of Health, Education and Welfare.

On page 59, line 10, strike "1978" and insert in lieu thereof "1977".

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977—H.R. 14262

AMENDMENT NO. 2103

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE (for himself, Mr. GOLDWATER, Mr. SPARKMAN, and Mr. ALLEN) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2105

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2106

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2107

(Ordered to be printed and to lie on the table.)

Mr. HRUSKA. Mr. President, tomorrow, I intend to call up an amendment which I hereby introduce to section 1205 of H.R. 10612, the House-passed tax revision bill, which is currently being considered in the Senate. The amendment would be in lieu of said section 1205.

As drafted, section 1205 would add a new section 7609 entitled "Special Procedures for Third-Party Summonses" to the Internal Revenue Code which would require with certain exceptions that the Government give notice to the person, usually the taxpayer, identified in a summons which is issued to a third-party recordkeeper by the Internal Revenue Service. The taxpayer would be given 14 days with which to notify the recordkeeper not to comply with the summons. Once the taxpayer has thus barred compliance, the Government could only enforce the summons through a court proceeding in which the taxpayer would have a right to intervene and to litigate the matter. A summons to require testimony relating to records would be treated as a summons to produce records. The civil and criminal statutes of limitations would be suspended during the period of such court action if the person barring compliance is the taxpayer. Exceptions are provided for summonses to discover assets for purposes of collecting assessments or judgments, or if there is reason to believe notice may lead to intimidation, bribery, or the concealment or destruction of records. A so-called John Doe summons could only be served after a court proceeding.

Section 1211 of the House-passed bill contains a similar provision which differs from the Senate Finance Committee's version only by the fact that its definition of the third party recordkeeper is more precise, it contains no provision tolling the statute of limitations during judicial enforcement of the summons; and it does not except those situations in which notice may lead to destruction of records or intimidation of witnesses.

Under present law, a taxpayer cannot intervene in a summons enforcement proceeding unless he has a legally protectable interest, *Reisman* v. *Caplin*, 375 U.S. 440 (1964), and only a proprietary interest appears presently to be protected, *Donaldson* v. *United States*, 440 U.S. 517 (1971). Any valid objection that a taxpayer may have to a tax investigation is asserted when the investigation results in proceedings against him.

For ease of expression, I have been referring to the object of the investigation as the "taxpayer"; actually he is nothing of the kind, he is a "taxnonpayer." I am told that only 8,000 of the approximately 100 million tax returns which are filed every year result in any kind of criminal tax investigation. In other words, what we are talking about here is not the average citizen who is asked to document his deductions or to describe his dependents. We are talking about hardcore tax cheats, organized crime figures, and white-collar criminals who can afford to force the third-party recordkeeper into noncompliance and plunge the Government into endless rounds of litigation over every third-party summons issued.

It should not surprise anyone who has thought about it, that the Government does not look at a white-collar criminal and immediately identify all of the sources of information in an investigation. Of course not. What happens is that one third-party recordkeeper will lead Government investigators to another, then another, and another and another.

Under section 1205, as presently drafted, as soon as the Government has summoned information after years of litigating the enforcement of one summons, it will learn of another source, and the so-called taxpayer can then force noncompliance of that summons facing the Government into another round of litigation.

That is not all. The Director of the Administrative Office of the U.S. Courts estimates that enactment of the present version of section 1205 will force over 38,000 summons enforcement actions annually into the already overburdened Federal courts.

There is yet another problem. Although section 1205, as presently drafted, would toll the statute of limitations when the taxpayer intervened, it makes no provision for tolling the statute when a nominee of the taxpayer is the person named in the summons. Of course, organized crime fighters and white-collar criminals frequently act through nominees.

Mr. President, I cannot agree more with those who maintain that the privacy rights of our taxpayers should be jealously guarded. But I believe that we can protect privacy without crippling our fight against organized and white-collar crime. The amendment that I will introduce seeks that end.

Mr. President, I have here a copy of a statement that Assistant Attorney General Scott P. Crampton of the Department of Justice's Tax Division delivered to the Senate Finance Committee on July 22, 1976. I also have copies of letters opposing the present version of section 1205 from the Attorney General, from the Secretary of the Treasury, and from the Director of the Administrative Office of the United States Courts. I ask unanimous consent that they be printed in the Record at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HRUSKA**. The amendment I propose and send to the desk would give the taxpayer—tax-nonpayer—an opportunity to challenge the third-party summons and the investigation which results therefrom, without disrupting completely the enforcement of the tax laws.

The amendment requires that the Government serve the taxpayer with notice of the first or initial third-party summons and gives to that taxpayer standing in court to challenge only that first summons.

He thereby gains the right and the opportunity of a day in court to challenge the Government's efforts on the ground that his basic rights are being threatened or violated.

This is a proper compromise between those who wish to retain present law without right to notice and standing in court on the one hand, and those on the other hand who would grant to an uncooperative taxpayer the means whereby he can stultify and render into a state of futility the enforcement of the laws by long, drawn-out litigation of innumerable challenges to successive summonses.

Mr. President, I repeat my proposition: That the pretended protection of privacy of citizens is being achieved by section 1205 as it now stands in the bill. The fact is that only about 8,000 tax returns per year are subjects of serious consideration and deep investigation preliminary to a decision as criminal prosecution. Those who file such returns avail themselves of every effort to block, obstruct, delay, and frustrate efforts to secure enough information to determine their proper tax liability.

The balance of the over 100 million taxpayers cooperate in furnishing information, and by paying taxes duly computed.

It is unfair to the 100 million—less 8,000 taxpayers—to allow such a condition to exist. The proposed amendment should be approved.

I ask unanimous consent that it be printed in the Record at this point in the text in which I hereby introduce it, and that it be ordered to be on the table.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Amendment No. 2107

On page 759, strike out lines 14 through 18, and insert in lieu thereof the following:

"(A) a summons to which this section applies is served on any person who is an attorney, accountant, or third-party recordkeeper as defined in subsection (c) (3), and"

On page 759, line 23, insert after "summons", the following: "and".

Beginning on page 759, strike out lines 23 through line 6 on page 760, and insert in lieu thereof the following:

"(C) such summons relates to a taxable period as to which notice of the service of a summons under this subsection (a) has not been previously given to the person referred to in clause (B),

then notice of the summons shall be given to the person referred to in clause (B) within 3 days of the day on which such service is made, but no later than the 14th day prior to the day fixed in the summons as the day which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall state that additional summonses may be served relating to the same taxable period without any requirement that notice be given."

Beginning on page 761, strike out lines 13 through line 7 on page 762, and insert in lieu thereof the following:

"(b) Action Permitted.—(1) Notwithstanding any other law or rule of law, the United States district court having jurisdiction under subsection (h) shall have jurisdiction to hear and determine a petition to quash a summons as to which notice is required under subsection (a) if—

"(A) the petition relates to a summons as to which the petitioner is entitled to notice under subsection (a),

"(B) the petition is filed not later than the 14th day after the day such notice is given in the manner provided in subsection (a) (1), and

"(C) such petition is accompanied by an affidavit alleging facts which, if true, would show that the petitioner has a *prima facie* case against the enforcement of the summons in whole or in part.

"(2) In an action under paragraph (1) the United States shall be entitled, in addition to any other right the United States may have, within sixty days from the day the petition is filed, to commence immediately a proceeding for the enforcement of the summons by cross petition or to move for the dismissal of the action without prejudice to any of the parties."

On page 763, insert between lines 7 and 8 the following:

"(3) Third-Party Recordkeeper.—A third-party recordkeeper within the meaning of subsection (a) (1) is—

"(A) a bank or trust company organized under the laws of any State or of the United States,

"(B) a savings and loan association or building and loan association or homestead association organized under the laws of any State or of the United States, or

"(C) a credit union organized under the laws of any State or of the United States."

On page 763, strike out lines 12 through 19, and insert in lieu thereof the following:

"(1) before the expiration of the 14-day period allowed for filing a petition to quash under subsection (b) (1), or

"(2) after a petition which meets the requirements of subsection (b) (1) has been filed, except in accordance with an order by a court of competent jurisdiction authorizing examination of such records or with the consent of the person filing the petition to quash.

On page 763, on line 23, insert after "issued", the following: "or his nominee or agent,".

On page 764, on line 24, strike: ", and (b) (2) (relating to stay of summons)".

On pages 765, on line 12, insert after "subsections" the following: "(b),".

[Department of Justice]

Section 1205 of H.R. 10612, Administrative Summons Provision of the Tax Reform Bill of 1976

(Testimony of Scott P. Crampton, Assistant Attorney General, Tax Division, Department of Justice)

My name is Scott P. Crampton and I am Assistant Attorney General in charge of the Tax Division, Department of Justice. We welcome the opportunity to present the views of the Department of Justice on Section 1205 of the Tax Reform Bill of 1976 captioned "Administrative Summons." This section would amend the Internal Revenue Code of 1954 by redesignating Section 7609 as 7611 and inserting new Sections 7609 and 7610. Proposed Section 7609 is entitled "Special Procedures for Third-Party Summonses" and proposed Section 7610 would provide for fees and costs of witnesses in these new procedures. We believe this proposal, if enacted, would seriously interfere with the enforcement of the tax laws, particularly in the organized crime and white-collar crime areas, and further overburden the federal judicial system.

In principal part and with certain exceptions, Section 1205 of the bill would require notice to the person, usually the taxpayer and hereinafter referred to as such, identified in a summons issued to a third-party record keeper by the Internal Revenue Service. The taxpayer would be given 14 days within which to notify the record keeper not to comply with the summons. Once the taxpayer thus barred compliance, the Government could only obtain enforcement through a court proceeding in which the taxpayer would have a right to intervene and to litigate the matter. A summons to require testimony relating to records would be treated as a summons to produce records. The civil and criminal statutes of limitations would be suspended during the period of such court action, including appeals, if the person barring compliance is the taxpayer. A John Doe summons could only be served after a court proceeding.

Under present law, a taxpayer or third party cannot intervene in a summons enforcement proceeding unless he has a legally protectable interest. *Reisman* v. *Caplin*, 375 U.S. 440 (1964). However, in *Donaldson, et al.* v. *United States*, 400 U.S. 517 (1971), the Supreme Court said this meant a significantly protectable interest. In that case, the Court held against the taxpayer because he had no "proprietary interest" in the records sought and they were not protected by an attorney-client or other legally recognized privilege. It is worth noting at this point that, although the district court had denied the intervention of the taxpayer in *Donaldson*, stays were granted pending appeal; that the summonses were issued on September 12 and 13, 1968, with respect to tax liabilities for 1964 through 1967, inclusive and that the date of the Supreme Court's opinion was January 25, 1971, or some two years and four months after issuance of the summonses. In this context, one can understand the concern the Supreme Court expressed by saying that to allow the taxpayer to intervene in such case would "stultify the Service's every investigatory move" (p. 531). We completely agree and believe that the word "stultify" was used in the dictionary sense: "to impalm, invalidate, or reduce to futility."

As the Supreme Court pointed out in *Donaldson*, the statute (Section 7601, Internal Revenue Code of 1954) imposing the duty on Treasury Department officers to "proceed . . . and to inquire after and concerning" all persons "who may be liable to pay any internal revenue tax" has its roots in the first modern general income tax act, the Tariff Act of October 3, 1913, Sec. II, 38 Stat. 178, and, beyond that, in Section 3122 of the Revised Statutes of 1874. Thus, the express requirement that the Secretary or his delegates go to third-party sources to "canvass and to inquire," as the Supreme Court put it (p. 523, *supra*), is an historical procedure. The implied requirement or practice probably goes back to the beginning of the country. Never was it considered that a taxpayer could or should have the right to prevent this except where he had some legally protectable right in or to the papers at issue. As the late Justice Douglas put it in his concurring opinion in *Donaldson*, "it is difficult to see how the summoning of a third party, and the records of a third party, can violate the rights of the taxpayer."

Thus, the proposal would create a completely new legal right, which, we believe, would be used to frustrate fair and uniform enforcement of the revenue laws. Existing law is a necessary adjunct to the self-assessment system. Many millions of taxpayers are subject to withholding. Declarations of their incomes and the taxes withheld and paid over are routinely submitted to the Government by their employers as required by law. Their incomes are known and their ability to reduce their taxes is limited. Therefore, the proposed section would benefit, primarily, those taxpayers the major part of whose income is not subject to withholding. Congress has recognized that they may not always comply and has enacted criminal sanctions for any person who willfully fails to keep any records or supply any information required by the statutes or the regulations thereunder (Section 7203, Title 26, U.S.C.). However, the Government cannot compel an individual to produce those records against a claim of self-incrimination under the Fifth Amendment. When the individual taxpayer fails to keep records or fails to produce or falsifies the records he has kept, the Government must go to third-party sources to determine the tax liability. Even under existing law, this is not something the Internal Revenue Service undertakes, other than as a last resort, for it is a tedious, time-consuming, and expensive process to reconstruct the income and the tax of an individual or corporation by third-party sources. In fairness to all other taxpayers, however, it is a statutory duty that must be carried out. But it is the breakdown, or alleged breakdown, of the self-assessment system that renders it necessary.

Apparently, the right to privacy is the principal consideration underlying this proposal; yet it would confer this right only on the person named in the summons. The necessity for this highly selective grant of a right to privacy was recognized in the Report of the Senate Finance Committee, fn. 3, p. 369, in the CCH Report, No. 28, dated June 16, 1976, where it is stated:

"Of course, the Service would not be required to send a notice to each person to whom the X corporation wrote a check during the period under examination; not only would this be impossible administratively, but the identity of these persons would not even be known by the Service until the records had been examined."

It might be questioned why the "privacy" of "X corporation" should be respected and that of the thousands of persons having transactions with it not be? And what about the privacy of other individuals in multiparty transactions, not named in the summons, whose status and interest in the records are identical to that of the one who is named? Therefore, it is highly likely that persons other than those named in the summons would attempt to intervene. It could be questioned whether the proposal offers equal protection of the laws to persons whose interests in a record are identical. A court conceivably could permit such persons to intervene.

The foregoing illustrates, and the Report of the Senate Finance Committee concedes, that it is not administratively possible to give equal protection to the "privacy" of all persons involved in commercial transactions. Thus, the effect of this provision would, primarily, be to protect the "privacy" of the individuals who had *not* complied with the requirements of the self-assessment system. It is true that, occasionally, what appear on their face to be adequate records are checked by reference to third-party sources. This is because, as the Supreme Court said in *Holland* v. *United States*, 348 U.S. 121 (1954), p. 132, some records are "more consistent than truthful" and Congress never intended a "act of blinders which prevents the Government from looking beyond the self-serving declarations in a taxpayer's books." It is important, then, to emphasize just whose "privacy" is being protected by this proposal. If neither the record keeper nor the taxpayer objects to the summons, the transactions of hundreds or even thousands of other individuals may be laid bare. Therefore, unlike the historically recognized privileges, there is no uniform standard for the proposed selectivity of persons whose privacy is to be legally protected. There is only the common denominator of being listed on a summons.

Aside from the unfairness of this provision to the millions of taxpayers who fully comply with the law and the highly selective "privacy" that would be protected, we have the following specific objections to the proposal:

1. The delays resulting from taxpayer intervention could effectively frustrate efforts of the Internal Revenue Service to reconstruct income and tax by resort to third-party records. Of the approximately 500 Special Agent summons cases handled by the Tax Division each year, it is most often some special relationship between the taxpayer and the record keeper that accounts for the failure of the latter to comply. If taxpayers are allowed to intervene of right, it could very well take two years for the agents to obtain the records of the first bank and the number of summons enforcement proceedings would only be limited by the number of record keepers involved, most of whom may not even be known until after the records of the first are obtained.

2. The already overburdened courts, in which some 1,100 summons enforcement cases are currently being brought (about 500 Special Agent summons cases and 600 Revenue Agent summons cases), would be further swamped at a time when the Speedy Trial Act means that criminal trials will be occupying more of the courts' time. It would mean substantial increases in the number of agents and the number of lawyers handling such cases. A prime consideration would then be whether the investigation was administratively feasible. The areas most affected would be the organized crime and white-collar crime drives, because those categories of taxpayers have developed delay and noncompliance to a fine art. This proposal would further the process of turning the district courts into administrative tribunals.

Although the statute of limitations would not run when the taxpayer intervened, it would continue to run when the person named in the summons was the nominee of the taxpayer. This is commonly the case (the use of nominees) as to organized and white-collar crime figures. As stated earlier, it is possible that the courts would permit intervention of persons with identical relationships to the records at issue. If the taxpayer did not intervene, the statute of limitations would run. And, there is, of course, the problem that the statute would be running when the record keeper is contesting the summons alone.

4. There would probably be motions to suppress evidence in subsequent proceedings on the ground that there had been some failure on the part of the Government to comply with some aspect of this proposal.

Although we object to the subject proposals, we wish to assure you, Mr. Chairman, that we have a sincere concern with the privacy of individuals. In the sustained effort to comply with the Freedom of Information Act on the one hand and the Privacy Act on the other hand, we are constantly on guard against an inadvertent disclosure that would provide information to one at the expense of the privacy of another. We literally have to make a line-by-line, paragraph-by-paragraph analysis of many documents; and, because of the complex nature of the areas of law we administer, sometimes it takes an experienced tax lawyer to determine what should be turned over and what should be withheld. Knowledgeable defense counsel are now inundating us with requests under these two acts as discovery weapons in current criminal tax cases, including those under investigation by grand juries. This has increased the strain on our limited manpower resources, particularly on our trial attorneys, since the attorney handling the case must, of course, be consulted concerning the documents involved which may range in the thousands. In other words, F.O.I. and Privacy Act provisions are being used effectively and with resulting delay of criminal justice, both at the administrative and subsequent stages. We foresee the proposal here as providing another vehicle for the same result at the investigative stage.

Although we disagree with other aspects of the proposal, we think it may be advisable to have a statutory requirement of notice to a taxpayer that the Internal Revenue Service may be serving summonses on third parties. As noted earlier, there are circumstances when the taxpayer does have a right to intervene under the Reisman and Donaldson decisions of the Supreme Court. A notice was suggested by a committee of the Section of Taxation, A. B. A., see 26 The Tax Lawyer 591, in which the Committee on Civil and Criminal Tax Penalties discussed studying the advisability of registers in each Internal Revenue Service District or Federal Judicial District where such summons would be listed. We think it may be preferable to give the taxpayer notice directly rather than to make a public record at the investigative stage. This notice provides the taxpayer with a last opportunity to substantiate the items on his returns and, thus, to obviate the necessity (in most instances) for a summons. The taxpayer is then in the best position to safeguard his own privacy.

The following examples illustrate our concern about this provision as a means for delay:

1. Taxpayer is in an illegal business and refuses to substantiate the items on his returns. As direct evidence of specific items of income is unavailable, the Government undertakes to reconstruct his taxable income by the net worth method (see *Holland* v. *United States*, *supra*). A summons is issued to his only known bank (bank A); he inter-

venes in the ensuing court proceeding, and it takes from a year to eighteen months to gain access to the records of that bank. In going over the records of that bank, leads to banks or brokerage accounts B, C, and D are obtained, and it appears that property is held for him in the names of nominees. If only nominees intervene in summons proceedings, the statute of limitations is not suspended. At any rate, each proceeding, which could take from one to two years, results in the discovery of leads to additional record keepers, and so on. Obviously, if taxpayer has dealt with multiple institutions which become known through this unraveling process, it may not be feasible at all to develop this type case. Had this proposal been the law, many of the famous net worth cases on prominent racketeers probably could never have been made. See, e.g., *Costello* v. *United States*, 350 U.S. 359 (1956).

2. In an audit of Contractor Jones, a revenue agent obtains documentary evidence, which Jones corroborates, of a bribe paid to Federal Procurement Officer Smith. Smith's return is audited to see if he reported the item. There are items on Smith's return which could include the bribe. Smith refuses to furnish his records from which the reported items may be checked; third-party summons are issued, and Smith intervenes. The agents foresee a year, or perhaps years, of litigation. In the meantime, the Title 18, U.S.C., offense has been referred to the Federal Bureau of Investigation and is soon ready for the grand jury. The alternatives, then, are: (1) to proceed with the Title 18 offense without the Title 26 offense, or (2) to investigate the Title 26 offense by grand jury. The result of the first choice is to weaken the case and to divide offenses which should be joined; the second choice bypasses the careful review process which is essential to uniform enforcement of the revenue laws. Often it is not a simple process to determine whether an item is or is not on a return: considerable investigation and expertise in tax law may be required.

In summary and in conclusion: This proposal would hamstring the investigative procedures of the Internal Revenue Service. It would require large manpower resources in the Internal Revenue Service, in the Tax Division, and in the Offices of the United States Attorneys. It would further overburden the Federal court system. And, most importantly, it would afford procedures whereby those who would thwart the self-assessment system could do so with impunity. Thank you, again, for permitting us to present the view of the Department of Justice on this matter.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., July 21, 1976.
Hon. RUSSELL B. LONG,
Chairman, Senate Committee on Finance, U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: We wish to express the Administration's opposition to Section 1205 of your Committee's version of H.R. 10612, the House-passed tax revision bill.

Section 1205 would add a new Section 7609 to the Code which would require notice to the taxpayer of a summons issued to a person whose business consists "in whole or in part" of keeping records of "business transactions or affairs of other persons." The taxpayer could stay compliance by the person summoned by giving him notice not to comply, forcing the Government to seek enforcement of the summons in a United States District Court where the taxpayer would intervene to challenge the enforcement of the summons. Exceptions are provided, *inter alia*, for summonses to discover assets for purposes of collecting assessments or judgments, or if there is reason to believe notice may lead to concealment or destruction of records, intimidation, or bribery. A so-called John Doe summons could only be served after court review.

Under present law, of course, a taxpayer or third party cannot intervene in a summons enforcement proceeding unless he has a legally protectable interest, *Reisman* v. *Caplin*, 375 U.S. 440 (1964); *Donaldson* v. *United States*, 400 U.S. 517 (1971).

Any valid objection that a taxpayer may have to a tax investigation may be asserted when the investigation results in proceedings against him. If the taxpayer were given the right to force summons enforcement proceedings and to intervene therein, the number of possible enforcement proceedings in any one case would be limited by the number of record keepers. In a complex net worth case requiring the production of thousands of documents from hundreds of institutions, corporations, or individuals, we can envision litigation in hundreds of summons enforcements cases in multiple jurisdictions. Because investigators often encounter leads to additional financial institutions only through the records of others, and because the net worth method of proof requires that all leads be exhausted (see *Holland* v. *United States*, 348 U.S. 121 (1954)), the enactment of this proposal could well spell the end of the net worth and the bank deposits method of proof for determining the tax liability of an uncooperative taxpayer.

Although taxpayer intervention would toll the running of the statute of limitations, time would still be on the side of the taxpayer because witnesses die, their memories fade, and records are lost or destroyed. It should also be noted that the statute of limitations would not be tolled when the records sought were in the names of nominees of the taxpayer and only those nominees, at the urging of the taxpayer, intervened.

Enactment of this proposal would have an immeasurable, adverse effect on the courts who would be forced to act as reviewing administrators for the taxpayers primarily benefited by this legislation—those well-financed litigants whose primary tactic is to retard the judicial process, delay the determination of their tax liability, and make litigation for the Government as expensive as possible. In our view, proposed Section 7609 would seriously impede Internal Revenue Service investigations and would degrade the quality of the criminal and civil tax cases that are presented to the courts for determination.

We have no objection to a statutory requirement of notice to a taxpayer that the Internal Revenue Service will be serving summonses on third parties. Indeed, representatives of our Tax Division and the Internal Revenue Service met with members of the Staff of the Joint Committee on Internal Revenue Taxation and discussed such a proposal with them. This proposal included a 14-day period in which taxpayer could obviate the necessity for summonses on third parties by substantiating the items on his returns.

We understand that the Finance Committee will be holding hearings on this Bill during the week of July 20, 1976. In view of the importance of this subject to tax enforcement, it is requested that a time be reserved by the Committee to permit a representative of the Department to explain our position to the full Committee.

Sincerely,

EDWARD H. LEVI,
Attorney General.

THE SECRETARY OF THE TREASURY,
Washington, D.C., July 21, 1976.
Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR RUSSELL: I have become quite concerned that one of the provisions of Title XII of H.R. 10612, Section 1205, dealing with procedures in the use of administrative summons by the Treasury, will turn out to have a serious unintended effect.

In general, and with limited exceptions, Section 1205 provides a taxpayer with a legal right to stop a summoned third party from giving information to the Internal Revenue Service from the summoned party's own records in the course of an IRS inquiry into suspected noncompliance with the revenue laws, a right to compel the government to institute a court action in order to obtain that information from the third party, a right to be a party to that action, and a right to appeal the court's decision if he does not like the outcome.

I support the Committee's purpose in protecting taxpayer privacy and limiting the opportunity for abuse in the use of the administrative summons. However, I believe the instances of actual abuse are rare, and the provisions adopted by the Committee will have the unintended result of seriously jeopardizing the ability of the IRS to administer the revenue laws in cases of noncompliance. Also, I am alarmed over the implications of the Committee's amendment on other enforcement efforts by the Treasury and the Department of Justice.

It is possible, in my view, to protect the individual taxpayer while not undermining the government's ability to enforce the laws against serious offenders. It is essential this matter again be considered and a modification made in the Committee's amendment.

I have instructed my staff to brief the staff of the Joint Committee on Internal Revenue Taxation on my concerns and to provide them our recommended changes to this section of the bill. We are not suggesting any alterations in the protection afforded an individual under present law and current judicial decisions.

I believe you will agree a change is required.

Sincerely yours,

WILLIAM E. SIMON.

ADMINISTRATIVE OFFICE OF THE
U.S. COURTS,
Washington, D.C., July 20, 1976.
Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: I write to you today to express my concern in respect of the potential impact of Section 1205 of your Committee's version of the Tax Reform Bill of 1976, H.R. 10612, 94th Cong., 1st Sess., on the judicial branch of the federal government.

Pursuant to section 7602 of the Internal Revenue Code of 1954, the Secretary of Treasury or his delegate is authorized to issue what has been referred to as an administrative summons to require the production of books, papers, records, or other data for examination relevant to a lawful inquiry concerning any internal revenue tax return or liability. The summons may be directed to a taxpayer under investigation or to any third-party having possession, custody, or care of the materials sought for examination. Testimony of such persons, including testimony under oath, also may be required. The summons may be enforced by a United States district court pursuant to Int. Rev. Code of 1954, §§ 7604, 7402(b). Penalties for failure to obey a summons are provided in Int. Rev. Code of 1954, § 7210.

Section 1205 of the Tax Reform Bill of 1976, *supra*, if enacted will add a new section 7609 to Internal Revenue Code of 1954 [hereafter referred to as proposed section 7609]. Proposed section 7609 adds new procedural requirements in respect of an administrative summons served on a third-party who is a record keeper. If a record keeper is served with a section 7602 summons requiring the production of (or testimony with respect to) any portion of records made or kept of the business transactions or affairs of any individual [generally the taxpayer under investigation and hereinafter referred to as such] identified in such summons, notice shall be given to any taxpayer so identified, provided no notice is required if the summons is in aid of collection of the liability of any person against whom an assessment has been made or a judgment rendered. Notwithstanding any other law or rule of law, any taxpayer entitled to such notice shall have the right to intervene in any section 7604 enforcement proceeding and further, shall have the right to stay compliance with the summons by the third-party record keeper by giving the requisite written notice as prescribed in the proposed section. Action on the part of a taxpayer to stay compliance causes the tolling of statutes of limitations in respect of his liability for tax for past taxable years and to criminal prosecution. If the taxpayer gives the prescribed notice, absent his subsequent consent the government may not examine the records required to be produced pursuant to that summons prior to obtaining an order of authorization to examine from a court of competent jurisdiction. Apparently jurisdiction over authorization proceedings is vested in the United States district courts pursuant to Int. Rev. Code of 1954, § 7402(a). In accordance with criteria prescribed in the proposed section, the government may petition the court in an ex parte proceeding for authorization to dispense with notice requirements in respect of a particular taxpayer. If the court grants the petition, the taxpayer further loses his right to stay compliance by the third-party record keeper. It is unclear whether he also loses the right to intervene in any enforcement proceeding. Any "John Doe" summons to be served on a third-party record keeper must be authorized in advance by a United States district court. Finally, proposed section 7609 requires that an enforcement proceeding and any "proceeding under this section" take precedence on the docket over all other cases, except as to other cases the court considers of greater importance.

A summary of statistics relevant to civil caseloads in United States district courts is included in Attachment A to this letter. From these statistics, it is clear that there has been a dramatic and progressive nationwide increase in the civil filings in United States district courts. The number of civil cases pending at the close of each reporting period also continues to rise at an alarming rate. For example, in Fiscal Year 1975, the last full fiscal year for which figures are available, 117,320 civil cases were filed in federal district court. Of this total, 31,779 cases involved the United States as either plaintiff or defendant, and 1,673 of these were classified as tax suits. At the close of Fiscal Year 1974, 107,230 civil cases remained pending. The same figure for Fiscal Year 1975 is 119,767. At the close of the first half of Fiscal Year 1976, the number had risen to 133,775.

These figures should be compared with the estimated potential number of administrative summonses which would be subject to the procedural requirements of proposed section 7609. Using figures supplied by the Internal Revenue Service, Attachment B computations result in an estimate of 38,400 such summonses annually.

Under proposed section 7609, these summonses represent not only the potential for actions by the government to obtain authorization to examine records and actions in aid of enforcement of such summonses, but also a potential source of many types of spin-off litigation. Litigation which may be fostered by the proposed legislation includes actions to determine sufficiency of notice, to define "record keeper", to determine the rights which may be raised exclusively by the record keeper, to determine the propriety of exception-from-notice proceedings and John Doe authorization proceedings, and to determine if suppression is an appropriate remedy for failure of the government to comply with the requirements of proposed section 7609. In addition, it is likely that sources which formerly provided data without requiring a summons will begin requesting summonses in the future, thus causing the total number of summonses to increase.

It is clear from the sheer magnitude of this investigatory program that even if only a relatively small proportion of the summonses result in new litigation, the impact upon the federal judiciary will be staggering and could be crippling.

At the direction of the Judicial Conference of the United States, I transmitted on January 15, 1975, for the consideration of Congress two proposed bills to provide for, respectively, the creation of thirteen additional circuit judgeships for the United States Courts of Appeals, and the creation of fifty-two additional district judgeships for the United States District Courts. These proposals were based upon the then current civil and criminal caseloads of federal judges. Although the Senate has passed a bill providing for forty-four new district judgeships (S. 287 (April 1, 1976)) and a bill providing for seven new circuit judgeships (S. 286 (Oct. 2, 1975)), the fact remains that no new district judgeships have been created since 1970 and no new circuit judgeships have been created since 1968.

On January 3, 1975, the Speedy Trial Act of 1974, Pub. L. No. 93-619, 88 Stat. 2076 [hereinafter referred to as the Speedy Trial Act] became law. Title I of this act mandates specific time limits for many phases of the process of bringing criminal defendants to trial in federal district courts. When fully implemented, this legislation is expected to have a particularly heavy impact upon the work of the federal judiciary. Its effects already are being felt. Effective July 1, 1976, the first set of comprehensive time limits prescribed by 18 U.S.C. §§ 3161 (b), (c), (f), and (g) (Supp. IV, 1974), became operational. More stringent time limits become operational the first day of every July until July 1, 1979, when the final, most strict time limits become effective. As a result of the implementation process, an ever-increasing proportion of judicial resources continues to be devoted to criminal trials. The pending civil caseload continues to grow as a consequence of both this fact and the accelerated rate of new filings. Our estimates in 1975 indicated that an additional fifteen to twenty judgeships, over and above the sixty-five requested in the proposed bills, would be necessary to cope with the demands of the Speedy Trial Act in respect of criminal cases and to permit the trial of civil cases to continue.

As Attachment A further indicates, the median time intervals from filing to disposition for civil cases involving trials all exceed one year. With the dedication of an ever-increasing proportion of judicial resources to criminal trials, these median times can be expected to increase. I can foresee only even greater time intervals between filing and disposition in civil cases.

These problems can only be exacerbated by new types of litigation. With new legislation, an evolutionary process usually takes place and caseloads usually grow gradually. In respect of proposed section 7609, however, direct, immediate, and substantial consequences can be anticipated unless the Internal Revenue Service abandons completely the administrative summons as an investigatory tool with respect to third-party record keepers. Furthermore, the impact will be not only on litigation involving the administrative summonses, but also on all types of civil litigation pending in federal district courts.

I note with concern also the inclusion in proposed section 7609 of a provision giving priority to actions in respect of administrative summonses. In accordance with proposed subsection 7609(h)(2):

"Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date."

If the priority provision of proposed section 7609 were enacted, it would constitute at least the thirtieth statute calling for the expediting of cases on the dockets of federal courts. Unfortunately, there is no general rule for the ordering of priorities in federal courts contained in the United States Code. Furthermore, for the most part there are no priorities among the priorities established by previous enactments.

The language contained in this proposed section is very similar to the priority provision of the Freedom of Information Act, 5 U.S.C. § 552(a)(4)(D) (Supp. IV, 1974). Although it provides priority over all cases, the provision is effective subject to the discretion of the court concerning cases of greater importance.

As a consequence of this clause invoking the discretion of the court, it would appear that priority afforded under proposed section 7609 will be inferior to priority granted civil actions arising under statutes mandating a first precedence. Furthermore, and more importantly, for the reasons set forth earlier detailing the necessity of dedicating a greater proportion of judicial resources to criminal trials to achieve compliance with the Speedy Trial Act, your Committee should take no comfort in any priority provision with respect to civil actions. Even for civil actions which are afforded priority status, it is evident that speedy trials will be impossible and that inordinate delays may be anticipated in all civil litigation.

The position of the Chief Justice of the United States concerning the creation of new judgeships is well known. In a recent address before the National Conference on the Administration of Justice in St. Paul, Minnesota, he stated that the sixty-five proposed judgeships were "desperately needed" to deal with the current workload of the federal judiciary.

It is with appreciation for these problems concerning court caseloads and workloads for individual judges that I analyze proposed section 7609. While I am concerned with the prospect of ever-increasing delays in the disposition of civil actions, I would be remiss if I failed to point out the premonition of the Supreme Court in *Donaldson* v. *United States*, 400 U.S. 517, (1971). This case articulates the Court's resolution of the problem of the right of a taxpayer to challenge a third-party administrative summons. In holding that a taxpayer may not intervene in an enforcement action unless he can articulate a "significantly protectable interest," the protection of which otherwise would be impaired or impeded, the Court stated that to hold otherwise and grant an absolute right to intervene would "stultify" the Internal Revenue Service's every investigative move. *Donaldson, supra*, 400 U.S. at 531 and 536.

One of the purposes of proposed section 7609 is to overrule the holding of the Supreme Court in *Donaldson* in respect to the taxpayer's right to intervene in an enforcement action. Proposed section 7609 would grant every taxpayer the absolute right to intervene regardless of the existence of a "significantly protectable interest," the protection of which otherwise would be impaired or impeded, and the "usual process of balancing opposing equities." *Donaldson, supra*, 400 U.S. at 531.

The report of your Committee emphasizes that the administrative summons is a necessary investigative tool for the Internal Revenue Service. S. Rpt. No. 94–938, 94th Cong., 2d Sess. 367–374 (June 10, 1976). At the same time, it is the intent of your Committee to protect from unreasonable infringement the civil rights of taxpayers, including the right to privacy. The report makes clear that the Committee believes the approach taken will afford a "reasonable and *speedy*" means to challenge such summonses. S. Rpt. No. 94–938, *supra*, at 368 (emphasis added). Further, the Committee intends that any taxpayer still will be able to assert any defenses available to him with respect to any evidence obtained by summons in any later court action in which the taxpayer is involved, regardless of whether he waives his rights under proposed section 7609. S. Rpt. No. 94–938, *supra*, at 370. However, it is clear that these provisions are not intended to expand or create any new substantive rights of taxpayers. S. Rpt. No. 94–938, *supra*, at 370. Finally, the report states as follows:

"The Committee does not wish these procedures to so delay tax investigations by the [Internal Revenue] Service that they produce a problem for sound tax administration greater than the one they seek to solve. Accordingly, the Committee amendment provides that the disposition of court actions involved be heard on as expeditious a schedule as possible." S. Rpt. No. 94–938, *supra* at 371.

Since the Committee purports to grant no new substantive rights to taxpayers, it is important to question how the grant of an absolute right to intervene impacts upon normal judicial principles of standing. With respect to the doctrine of standing, it is inescapable that judicial policy determinations have blended with Constitutional limitations. *See Flast* v. *Cohen*, 392 U.S. 83 (1968). The doctrine of standing is related intimately to the Constitutional requirement that there must be a justifiable case or controversy before a federal court can act. *See Massachusetts v. Mellon*, 262 U.S. 447 (1923). A court must decide a judicial controversy, not assume a position of authority over the governmental acts of another and coequal branch, an authority not possessed by the federal judiciary. *Massachusetts* v. *Mellon, supra*. Court developed doctrines such as standing have been founded upon a recognition of the necessity, if government is to function constitutionally, for each branch to keep within its power, including the courts, and a recognition of the inherent limitations of the judicial process, arising especially from its largely negative character and limited resources of enforcement. *See Rescue Army* v. *Municipal Courts*, 331 U.S. 549 (1947).

My purpose in expressing my views on proposed section 7609 is not to offer an opinion in respect of matters which are of a legislative policy nature. At the same time, I believe it is imperative that Congress should have relevant information regarding the impact of new legislation upon the Judiciary's continuing ability to fulfill its responsibilities and perform its functions in our government.

For all of the reasons set forth above, I believe proposed section 7609 contains the potential for adding a staggering and devastating new element to the workload of federal district courts. At the present time when more and more judicial resources are being consumed by criminal trials, we operate under the fear that the caseloads of federal judges may reach the breaking point. We risk impairing the standards of justice and denying civil litigants their day in court.

I can foresee the possibility of the federal courts becoming the final arbiter of how and when administrative summonses may be used not as a consequence of decisional case law, but as a consequence of the failure of the judiciary to adjudicate in a timely manner the many actions pending on civil court calendars.

Sincerely,

ROWLAND F. KIRKS,
Director.

Attachments.

U.S. DISTRICT COURT STATISTICS

	Fiscal year—		
	1974	1975	1976 (1st half)
All civil cases:			
Filed	103, 530	117, 320	65, 061
Terminated	97, 633	104, 783	51, 053
Pending (at close)	107, 230	119, 767	133, 775
U.S. civil cases:			
Filed	27, 585	31, 779	19, 784
Terminated	26, 702	27, 949	14, 677
Pending (at close)	22, 325	26, 155	31, 262
U.S. civil tax cases:			
Filed	1, 872	1, 673	840
U.S. plaintiff	458	381	213
U.S. defendant	1, 414	1, 292	627
Terminated	1, 706	1, 761	740
Pending (at close)	2, 415	2, 327	2, 427
Median Time Intervals From Filing To Disposition (in months)			
All civil cases	9	9	8
No court action	7	7	6
Court action:			
Before pretrial	8	7	6
During or after pretrial	16	16	15
Trial	16	16	16
U.S. civil cases	6	6	6
No court action	4	4	4
Court action:			
Before pretrial	7	7	6
During or after pretrial	15	15	14
Trial	16	15	13
U.S. civil tax cases	12	12	12
No court action	9	11	9
Court action:			
Before pretrial	8	9	7
During cr after pretrial	19	17	16
Trial	20	17	20

ADMINISTRATIVE SUMMONSES

[Computations based upon figures supplied by the Internal Revenue Service]

	February to May 1976	Estimate, 12-mo period
Summonses issued:		
Total	28, 500	85, 500
3d party	20, 500	61, 500
Recordkeepers [1]	[2] 15, 000	45, 000
Other	5, 500	16, 500
Summonses issued in aid of collection:		
Total	5, 500	16, 500
3d party		
Recordkeepers	[3] 2, 200	6, 600
Other		
Summonses potentially subject to proposed sec. 7609 requirements [4]		38, 400

[1] Defined as banks, savings and loan associations, credit unions, brokerage houses, insurance companies, and taxpayers representatives (including attorneys and accountants).

[2] Approximately 5,500 of 15,000 were issued by collection function of IRS. Of this total 60 percent (or 3,300) issued by collection function were not in aid of collection.

[3] Estimate.

[4] Computed as follows: Summonses issued to 3d-party recordkeepers (45,000) less summonses issued to 3d-party recordkeepers in aid of enforcement (6,600) equals 38,400. Summonses issued to 3d-party recordkeepers in aid of enforce-[ment equals 40 percent of summonses issued by collection function annualized—see footnote 2 (40 percent times 5,500 times 3 equals 6,600).]

NOTICE OF HEARING

Mr. SPARKMAN. Mr. President, I should like to announce that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs will conduct 3 days of oversight hearings on the development of new types of home mortgage instruments, both FHA-insured and conventionally financed.

The hearing dates are: Wednesday, August 4, beginning at 2 p.m.; Monday, August 9, and Tuesday, August 10, beginning at 10 p.m. each day. The hearings will be held in room 5302 Dirksen Senate Office Building.

The subcommittee would welcome statements for inclusion in the record of hearings.

NOTICE OF HEARING ON NOMINATION

Mr. McGEE. Mr. President, the Committee on Post Office and Civil Service will hold a hearing on Tuesday, August 3, 1976, to consider the nomination of Hung Wai Ching, of Hawaii, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1981, vice John Y. Ing, resigned, and the nomination of Robert L. Hardesty, of Texas, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1983, vice Frederick Russell Kappel, term expired. The hearing will begin at 10 a.m. in room 6202, Dirksen Senate Office Building.

Any individual or organization wishing to testify or submit a written statement for the hearing record should, as soon as possible, contact Mr. Craig Potter, Senate Committee on Post Office and Civil Service, 6213 Dirksen Senate Office Building, Washington, D.C. 20510 (202–224–5453).

ADDITIONAL STATEMENTS

A CHILL WIND FROM THE NORTH

Mr. STEVENS. Mr. President, while I am not as pessimistic about our ability to rebuild our relationship with our Canadian neighbors, I do think it is important that Members of Congress consider carefully the effects of recent actions in Canada.

For that reason I ask unanimous consent to have printed in the RECORD an editorial commentary from Barron's which was published on June 28, 1976.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

OH CANADA! THERE'S A CHILL WIND BLOWING FROM THE NORTH

(By Robert M. Bleiberg)

"We make enemies," so the editor of the London Economist recently was quoted as saying. "I'm very proud of our enemies." While perhaps a bit bald—no trace of typical British understatement there—such sentiments can scarcely fail to ring a bell with the duly licensed curmudgeons in our shop. As to that, we can still recall our dismay at a testimonial luncheon given a colleague in the daily press, whose host of friends had overflowed the grand ballroom at the Hotel Plaza. "If they can fill the men's room when we retire," we muttered, "we'll know we've failed." Though nobody around here has ever compiled an enemies list, by and large we know what the score is. We'll never run for office in New York City or Washington, D.C. We'll never have a friendly drink with John Doyle of Canadian Javelin, or with a clutch of economists who shall be nameless. And, despite a perennial love affair with tacos, we'll never vacation in Mexico whose Ambassador to the United States, after a recent editorial appeared in Barron's inaccurately but emotionally charged us with harboring "manifest ill-will and hostility . . . for my country."

With what we plan to say in a moment about Canada, we may be cutting off all retreat in that direction. To be sure, this isn't the first time that Barron's has committed the local equivalent of twisting the tail of the British lion or making the eagle scream (damning the beaver?) Several years ago, David A. Loehwing, West Coast correspondent, raised eyebrows and hackles throughout British Columbia when he described the newly elected Premier, David Barrett (since thrown out of office) as a North American Allende. Widely circulated in the Province, the comment provoked a high-level response. Barron's cried Premier Barrett, "must have got out their (sic) Joe McCarthy cut-out kits"; the author, he added, is a "refugee from Rowan & Martin's Laugh-In." Two years later, our phrase-making staffer stirred up controversy coast-to-coast by caustically observing that "If it weren't for U.S. enterprise and capital, it's a pretty good bet that Canada would still be a nation of trappers and dirt farmers. . ."

Poaching, so to speak, on Dave Loehwing's preserves, we don't expect to cause quite so many ripples. Nonetheless, in our view, at any rate, Canada these days rates another hard look. For one thing, the anti-Americanism, or fervent nationalism, deplored earlier remains as rampant as ever. The Pacific Northwest still lives with unexpected cutbacks in petroleum supply, while the price of natural gas for export—talk of Arabs of the North!—continues to balloon. Last winter the American Ambassador to Ottawa created a minor diplomatic flap by ticking off what he regarded as unfriendly Dominion policies: the forced deletion of U.S. commercials from television broadcasts picked up on Canadian cable, tax legislation which penalized local concerns for advertising in American-owned magazines, and the perennial threat in one Province or another of nationalization. Since then Prime Minister Trudeau has won no friends south of the border by his wretchedly timed (during the war in Angola), wide-eyed goodwill tour of Cuba.

Innocent or otherwise abroad, the Canadian chief-of-state has been guilty of virulent collectivism at home. Amidst philosophic preachments of how free enterprise has failed, his Liberal Party, which ran on a platform opposing peacetime wage and price controls, last December suddenly embraced them. Unlike the Nixon Administration, moreover, the Trudeau regime made no pretense whatever of evenhandedness. Under the Canadian system, corporate dividends for the time being have been frozen, while profits may not exceed 85% of the base period's; wages and salaries, in striking contrast, may increase 10% or more per year. Violators are subject to heavy fines and jail sentences of up to five years.

As a consequence, dividends and profits alike have suffered. Foreign—notably U.S.—direct investment in Canadaian resources has dried up. Indeed, as Canadian entrepreneurs have grown increasingly concerned about the hostile climate, an unprecedented capital outflow has set in. Business recovery has lagged and dragged. Meanwhile, owing to the persistent rise in government spending and recurrent heavy budget deficits, domestic inflation—as classical economics ordains and the recent painful U.S. experience confirms—proceeds apace. Bilingualism has become a big issue up north; last week, a bitter dispute over languages shut down airports, all over Canada. In either English or French, however, Ottawa seems dismayingly adept at speaking with forked tongue.

Surely it has pushed bilingualism to absurd, and, in view of those most directly concerned, dangerous lengths. In an effort to appease the separatists, the Trudeau government in the current fiscal year will spend more than $300 million on its languages program, $40 million of which will be used to hire temporary replacements for bureaucrats busy going to Berlitz or its Canadian counterpart. On this score, tempers reached boiling point when the Minister of Transport, over the joint protests of the Canadian Air Traffic Control Association and Canadian Air Line Pilots Association, named a commission to study how to implement bilingual takeoffs and landings at airports in Quebec. Charging that use of two languages (whichever the pilot chooses) constitutes an extra hazard, the airmen, in defiance of a court order, went on strike, thereby grounding flights throughout the Dominion.

In any language, Prime Minister Trudeau's leftist leanings are clear. During the unfortunate Cuban junket, the Canadian chief-of-state missed no opportunity to lionize his Communist host: surrounded to the point of embarrassment by heavily armed security guards, he praised Castro's "intense rapport with the Cuban people," and the "immense progress that has occurred since the Revolution." On the home front, meanwhile, Trudeau has been equally blunt. In a year-end television interview, he told his fellow Canadians: "We haven't been able to make it work, the free enterprise system." Subsequently he elaborated: "Every reasonable person now recognizes the duty of the federal government to manage the country's economy. . . ."

The phrase, as Ottawa evidently understands it, means taking an increasingly hard, unneighborly attitude toward the United States. On this score, the complaints voiced by the American Ambassador—the hysterical response to which struck one Canadian newsman as "ludicrous, because what he said was true"—have been cited. A fortnight ago, by the same token, the Energy Minister announced that effective Sept. 10 and Jan. 1, Canada will raise its export price of natural gas to the U.S. in two stages, from the current level of $1.60 per thousand cubic feet to $1.94. As to U.S. investment north of the border, that has run into a bureaucratic iron curtain. Set up a few years ago to pass judgment on proposed capital inflows, the Foreign Investment Review Agency—to the dismay of would-be venturers like White Consolidated Industries, which twice has failed to gain an official nod for its proposed takeover of the appliance division of Westinghouse Canada—repeatedly of late has been turning thumbs down.

Since Trudeau's economics admittedly derive their inspiration from old Socialist John Kenneth Galbraith, perhaps this country is merely being repaid in kind. Nevertheless, the chief victims are apt to be not American but Canadian. Thanks to controls, wages lately have been rising at an annual rate of more than 13%; corporate profits, contrariwise, in the first quarter of 1976 declined by 9% from like year-ago levels. Both Domtar and Du Pont of Canada have cut their dividends. U.S. direct investment, which used to run to $1 billion per year, has dropped to less than half. Canadian capital outlays also are lagging behind both official projections and earlier estimates. Indeed, for reasons of productivity and cost, local entrepreneurs increasingly are looking to the U.S. labor market. One furniture retailer, which historically imported 10% of its merchandise from this country, now brings in 75%. In an historic reversal of traditional capital flows, Dominion Bridge, Dominion Textiles and Noranda, among others, have decided to expand outside their own borders. If an election were held today, a recent Gallup Poll indicated, the eight-year-old Trudeau regime would fall. Meanwhile, Canadians, so to speak, are registering a kind of pocketbook protest vote.

Lame duck or not, Prime Minister Trudeau has left his mark. Since 1968, the federal budget has risen from $10 billion to the $42 billion estimated for the fiscal year which started April 1. As in the previous fiscal year, the deficit again will come to $4.5 billion. In 1975, money supply rose at an annual rate of nearly 20%, making wage and price controls an exercise in futility and hypocrisy alike. For an alleged good neighbor, moreover, Canada—notably in terms of its military obligations—has a lot of fence-mending to do. According to the International Institute of Strategic Studies in London, Canada has grown shockingly weak, to the point of inability to track the movement of foreign ships through Arctic waters, or to keep predatory nations from looting its Atlantic fisheries. Three thousand miles of undefended border used to be a source of pride on both sides, but there's a chill wind blowing from the north.

NEW YORK—A MAGNIFICENT HOST

Mr. CRANSTON. Mr. President, I want to take a brief moment to call my colleagues' attention to the outstanding efforts of the people of New York not only in preparing for the recent Democratic National Convention, but in assuring that the delegates, their families, and other convention visitors received a warm welcome.

In spite of the problems—and even crises—they have faced over the past months, New Yorkers have a tremendous pride in their city. It was evident in the way they tackled the job of hosting the convention with the resolve that their convention guests would not only be able to do their work as comfortably and efficiently as possible but would also have an enjoyable visit.

And they achieved those goals in magnificent fashion.

From the man on the street, to the shopkeeper, to the policeman, to the taxi driver—the citizens of New York City were the most helpful, warm, and gracious hosts. In talking with members of the California delegation, I heard innumerable stories about New Yorkers going out of their way to explain the intricacies of the subway system; to provide directions to a delegate who was lost; to help with purchasing theater tickets; or to make sure that delegates had a chance to see some of the many facets of New York other than Madison Square Garden. The people from my State, I know, went home with warm memories of the courtesy and friendliness extended to them by the people of New York.

If California is chosen as the future site of one of our national party conventions, I hope, when it is all over, that we can say of our efforts, "we measured up to the fine standards set by the people of New York in 1976."

SOME NAVAL QUESTIONS

Mr. TAFT. Mr. President, I would like to bring to the attention of my colleagues what I think is a most interesting and thoughtful article from the July issue of Government Executive, "Can the

Navy Rebuild the U.S. Fleet," by John T. Hayward.

This article is particularly worth reading because it discusses some of the qualitative problems our Navy faces vis-a-vis the Soviets. For example, it notes in reference to the FFG's that—

> Our modern merchant ships have speeds of up to 30 knots, making it almost impossible for low performance ships (such as the FFG's) to escort them. And, if they did, they would become victims of the modern submarine.

The article quite properly notes that the chief maritime threat to the free world is the Soviet submarine fleet, and that our own nuclear subs are one of our best answers to the Soviet submarine threat.

I do not agree with all of the arguments advanced by this article—for example, I am not concerned too greatly by the Soviet's superiority in cruisers, destroyers, and frigates, simply because this type of ship is a relatively poor investment for the missions we must perform—but I think it makes many useful and interesting points. I commend it to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAN THE NAVY REBUILD THE U.S. FLEET?

(By John T. Hayward)

The shipbuilding program of the U.S. Navy has recently been highlighted in the press and Capitol Hill. The issue features the problem of the ever-growing Soviet Navy and the dwindling U.S. Fleet.

What can be done about it? What are the facts? And how can we make sure the U.S. goes about the task of bringing the Navy up to what it should be?

The area has nothing but controversy—a very unhappy shipbuilding industry, nuclear propulsion vs. fossil fuels, subs vs. aircraft carriers and constantly increasing costs compound the issue.

The voices on all sides are getting shrill. The discussions have highlighted the relative strengths of our Navy and that of the Soviets, largely with respect to numbers and not quality—or the weapons that are the essential ingredients of a warship.

Just what are the tasks that face the Navy and the entire U.S. Maritime effort? I quote the following from the official document presented to Congress by DOD: "The primary mission of the U.S. Navy is to gain and maintain continued control of the seas, and the air over the seas, as required in support of our national objectives.

"Primary functions of our Navy and Marine Corps are to organize, train and equip Navy and Marine Corp forces for the conduct of prompt. sustained combat operations at sea; specifically, forces to seek out and destroy enemy naval forces, to suppress enemy sea commerce, to gain and maintain general naval supremacy, to control vital sea areas, to protect vital sea lines of communications, to establish and maintain local superiority (including air) in an area of naval operations, to seize and defend advanced naval bases, and to conduct such land and air operations as may be essential to the prosecution of a naval campaign."

GROWING SOVIET STRENGTH

A very large mission and one that crosses the entire spectrum—not only actual conflict but in peacetime as well. The details of the above include such things as the deterrent forces Poseidon, Trident down to the actual showing of the flag in many lands.

Where do we stand with respect to performing these missions as of right now? What is the opposition to their accomplishment? The Soviet Admiral Gorshkov has given a complete picture of his strategic approach. What should ours be? Can the Navy, with present management and leadership get the job done?

The existing differences between the Soviet Navy and our forces bear looking at in detail. There is a pattern illuminating some basic differences brought about by different objectives and the strategies to accomplish them.

The U.S. has basic commitments world wide. Our allies lie across oceans. The Free World, in truth, is a maritime alliance. This means that we and our allies must use the seas.

And the chief threat to this is the submarine.

Not since World War II have we faced any submarine opposition—and the modern nuclear submarine is an order of magnitude better than its WWII counterpart.

Our opposition has not only concentrated in the nuclear sub but also has armed them with submerged launchable missiles as well as torpedoes. The conventional solution of large escorted convoys won't work against missile-armed nuclear subs.

The persistent illusion that there will be another Battle of the Atlantic is embodied in the Navy's commitment to build such low performance ships as the FFG–7 class frigates.

QUESTION OF WEAPONS

Our modern merchant ships have speeds up to 30 knots, making it almost impossible for low performance ships to escort them. And, if they did, they would become victims of the modern submarine.

The performance of such subs is so superior to the escort that they can pick and choose attack positions with little danger from the escort.

Evidently our Navy has forgotten John Paul Jones' famous statement about giving him a fast ship for he intended to go in "Harms way". One can never give performance in this area to the enemy.

The numbers of Soviet subs alone indicate their belief in this means of cutting our lines of communication. They have 258 attack submarines (42 SSGN's—nuclear propelled missile launching: 24 SSG's—conventional propelled missile launching; 36 SSN's—nuclear propelled attack submarines and 156 SS's—conventional powered attack submarines.)

Our nuclear attack subs, though less in number, are one of our best answers to this part of the Soviet threat. They would be able to take a large toll of the enemy on his way to cut our sea lines.

They may also be the best means to escort our ships in the future—but we would naturally require a great many more subs.

Remember the 1950's? We defended our building of these subs as primarily a weapon against enemy subs—and those were the days when the rest of the world posed no maritime threat to our power and Congress wasn't even sure we needed a Navy.

Fifteen men and a B–36 were going to keep us supreme in the world.

Our submarines currently have the same deficiency as our surface ships in that they are relatively under-weaponed. The expensive Mk 48 torpedo is their sole weapon. We have no submarine launch ability right now with the exception of the Subroc—which is a nuclear weapon.

The antisubmarine effort has caused multiple advances in sensors and other areas. Air coverage with an ability to read out the sensors and cover large areas in a relatively short time, data processing, and an all-digital approach to communications are also a tremendous plus. We possess what is probably a far superior air ASW force than the Soviets—but they are progressing, in many areas, and we cannot afford to relax.

Shifting to the surface combatant area discloses differences in our strategic approaches. U.S. offensive power at sea is based on the aircraft carrier. Aircraft sink ships, as we all know. Unlike past conflicts, these aircraft will not strafe or bomb but launch missiles 100 miles or more away from their targets.

Remember, the U.S. has not fought at sea since WWII. We have been involved in land warfare. In the future, we will have to fight at sea.

The carrier, and its weapons systems, are the least understood military elements in our history. The carrier serves not only to insure surface sea supremacy, but if we are to project our power across the seas, we must have them. The opponent has no substitute for the carrier's continued use.

The Navy-Marine team, where we are superior to the Soviets, could not operate efficiently without carriers—nor could the Navy meet the mission defined above. Carriers are useful across the entire spectrum.

The Soviets recognize this. The Soviet carriers are a sign that they understand the role of such a system. Their establishment of a naval infantry is another example of their strategy.

Their ships are not mirror images of ours because their situation is not the same—but I would venture that after they obtain experience, they too will grow in size.

NO SEA CREDIBILITY

The real deficient area in the U.S. Navy is with the surface combatants and their lack of adequate weapons. We simply do not have a credible surface ship capability at sea compared to the Soviets.

The Navy is beginning to try and correct this obvious lack of weapons—but it is my belief this will not happen under the present system.

The argument rages about propulsion and the critics of Rickover are blaming him for many things. Yet they are all arguing about the wrong thing.

It is not propulsion that makes a warship; it is weapons.

Would that we had a Rickover in the weapons systems business we would not find ourselves where we are today. Our nuclear ships are the finest in the world—if they are not sufficiently armed it certainly is not Rickover's fault.

Do you believe anyone in Congress can name who in the Navy is responsible for shipboard weapons? No one really is—unless you hold the Chief of Naval Operations as a man of last resort. And if this is true, then the CNO's have not done much of a job in recent years.

Are the people in the DDR&E in DOD responsible? They are not, for they are always involved in arguments against what the service wants. As with many bureaucratic organizations in Washington, DDR&E does not have to live with their sins of omission. They will be long gone when the ships and the men who man them face the crucial furnace of combat.

MORE THAN NUMBERS

Take a look at the Soviet. Not including the Komar and Osa type ships they have 211 surface combatants to our 161. They have 21 missile cruisers to our five—and 1985 will see them with a total of 37 at their present rate of construction, while we may build 9.

We have four nuclear frigates; they have none. In the DLG Class they have 19 against our 18. The DDG Class finds us with 38 to their 30. We have 6 DEG ships with missiles to their none. The straight DD's and DE's find them with 34 to our 32. In the DE Class they outnumber us 107 to 58.

But these are mere numbers and really barely tell the story. In fact, the Soviet Navy is not predominantly superior to us until the weapons aboard their vessels are compared with those aboard ours.

Twenty of their warships have supersonic surface-to-surface missiles and another 36 have surface-to-surface missile capability. By 1985, 64 of their surface combatants will have SS–N–10's and SS–N–11's which are supersonic missiles. They also employ improved surface-to-air missiles and all of these ships have speeds in excess of 30 knots.

The Soviets are also developing a ballistic missile (SS–N–13) for their nuclear subs to be used against surface ships.

In a direct comparison, their 3,800-ton *Krivack* destroyer has 14 topside weapons systems. This includes two surface-to-surface missile launchers, two surface-to-air launchers, 2 twin 76mm guns, 2 ASW launchers, 2 torpedo clusters and 4 point defense guns.

On the other hand, our *FFG Perry* Class has 4 visible weapons systems, consisting of a missile launcher, one 76 mm gun plus a close-in weapons system and torpedoes. These are similar class ships.

On the strategic deterrent side we have the Poseidon/Polaris system with the Trident on the way. We have 41 fleet ballistic missile submarines carrying 656 missiles. They have 76 with 53 SSBN's and 23 SSB's.

Under the SALT agreement we are allowed 710 total ballistic missiles at sea (This currently includes 54 land-based Titans, which when phased out, can be replaced with sea-type weapons.)

The rationale of allowing the Soviets more at-sea missiles is based on our MIRV ability. Yields and throw weights may differ but they will certainy be able to MIRV their missiles in the future. So we cannot afford to relax here and must push ahead with the Trident.

So here we are with the differing strengths of our Navy vs. that of the Soviets. Can the U.S. Navy, with its present approach to the problem, retain and maintain superiority?

INEPT DIRECTION

If there has been a single program very poorly managed it is the Navy's shipbuilding effort. We have put billions of dollars into this and, excepting the nuclear propelled ships and subs, the results have been poor.

Eleven years of the SCN appropriation totalled $23 billion—from 1961 to 1972—and the Navy had to cancel 71 ships for which Congress had appropriated $1.6 billion.

Cost growth, claims, and poor management are the reasons we do not have a modern Navy. We definitely should have far more to show for these expenditures in modern, effective men-of-war.

The present management of our shipbuilding programs leaves much doubt about the possibility of ever having effective programs.

The present claims of about $1.3 billion are a monument to this ineffective management. One can argue for either side but it is apparent that both industry and the government are to blame.

As long as the Navy tries to buy a ship, as it does now, where it does not know what it wants and how much it will cost, there will be claims and overruns.

And these include all kinds of government-furnished equipment that usually arrives late and has never been put into a total system until it meets the ship. How can this possibly succeed?

Maybe they should take a leaf from Rickover's book and build a land-based prototype of the weapons system so it will at least be known that it will work as a system.

Someone must be put in charge of weapons systems and their subsequent integration into fighting ships. Shipbuilders are not interested in weapons. The line officers are the people who will have to do the fighting and they should be in control. Right now there is no one in charge; no one really being held accountable.

It is a bureaucratic maze that defies description and, if it continues, we will lose our superiority at sea.

STABILITY NEEDED

Money alone is not the solution. It is time that the Navy achieved a little stability in the officers who are responsible for the ships and the weapons now being built. The Navy plays such a game of revolving chairs that no one has to live with the results of his decisions. It takes seven years to build a ship of the *Nimitz* class—that is what stability in running programs is all about.

The Navy has little such stability all the way up the line to the CNO and the changes in recent years illustrates just how serious this problem really is.

If it is to be successful, the Navy must take very positive and overall management steps to produce the ships and weapons needed. It can be done—but not under the current management method of operation.

The technology is available and can be applied; it will take strong leadership by the Chief of Naval Operations to see that it is done.

REGULATING NUCLEAR EXPORTS

Mr. **SYMINGTON**. Mr. President, on the matter of shipping nuclear fuel to India, the United States appears caught between a rock and a hard place.

If the Indian shipment is approved, it will not escape attention at home and abroad that the United States may be continuing to support that country's nuclear weapons program; for it is now known that India has already used American "heavy water" in the development of its first nuclear device.

If we refuse to go forward with this shipment, however, India could well turn to other suppliers.

At least three times in the last 2 years other suppliers have stepped into America's shoes when we were hesitant to export nuclear goods.

All too often in the nuclear exports field, we are faced with a "damned if we do, damned if we don't" situation.

At least at the present time, what would appear the one hope—effective international regulation based on sound agreements among all nuclear supplier nations—seems remote.

In the present absence of such international constraints, a prudent course of action would appear to require certain unilateral measures.

If we go forward with nuclear shipments to India and other countries, we must seek the strictest possible terms designed to insure that any transferred material, as well as other nuclear material already in the possession of those countries, will not be used for weapons development.

It has been suggested that the United States require as part of any enrichment contract that the recipient nation return all spent fuel. Dr. Fred Ikle, Director of the U.S. Arms Control and Disarmament Agency, considers this a "promising solution" in many cases, particularly the Indian case.

Dr. Harold Agnew, director of the Los Alamos Scientific Laboratories, has proposed that we lease, rather than sell, nuclear fuel, thereby maintaining ownership.

Another approach now under study by the Arms Control and Disarmament Agency involves the establishment of a "new" fuel cycle, in which spent fuel from a light water reactor would be refabricated—without reprocessing—into fuel for heavy water reactors.

While this approach might be a way to achieve economic value from spent fuel without initially separating out plutonium, we are still left with the problem of what to do with the plutonium at the end of the final fuel cycle.

Whatever technical means are taken, it also would appear that the United States should clarify the terms of the many agreements of nuclear cooperation it has entered into over the past 20 years.

Note that India chose to interpret the "peaceful uses" condition of our nuclear contract with her as not proscribing the development and detonation of a nuclear explosive device; and the United States apparently went along with that misinterpretation.

While modest steps to curb nuclear proliferation have been taken, such as the continuing meetings of nuclear supplier nations in London, this rapidly increasing danger requires accelerated action.

The United States and the Soviet Union should consider summit-level discussions on this matter, because the "horizontal" arms race, with more and more nations acquiring nuclear weapons, is as dangerous to world peace as the "vertical" race between the so-called superpowers.

Taking the lead in curbing nuclear proliferation is a difficult task; but inasmuch as we, in effect, originated the current spread of nuclear power throughout the world, it would seem we have a special responsibility to insure that this unprecedented new power will be used for peaceful purposes only.

STATEMENT OPPOSING THE NOMINATION OF H. GUYFORD STEVER AS PRESIDENTIAL SCIENCE ADVISER

Mr. **HELMS**. Mr. President, at a combined hearing today by the Aeronautical and Space Sciences Committee, the Commerce Committee, and the Labor and Public Welfare Committee, testimony was taken on the nomination of H. Guyford Stever as Presidential Science Adviser.

Unfortunately, a conflict in my schedule made it impossible to appear at the hearing in person to present my objections to Dr. Stever's nomination. Although I did submit a statement for the committees' records, I would like to present substantially the same points on the Senate floor today, since I understand that the nomination may be reported to the Senate very soon. This is a nomination which deserves the fullest and most careful consideration, and the full facts should be available as soon as possible. Therefore, I think that the debate should be thrown open as soon as possible.

I believe it would be a disservice to U.S. science and to the cause of public respect and confidence in Government for the U.S. Senate to approve this nomination.

I, and three other Senators, made

known our views in a letter to President Ford on June 9, before he announced the nomination of Dr. Stever.

While I respect the right of the President to choose his own top advisers, I believe that Vice President ROCKEFELLER and other key supporters of Dr. Stever's appointment to this important high-level office have been remiss by ignoring the nominee's serious shortcomings as Director of the National Science Foundation.

Certainly the President's own screening apparatus, and the Federal Bureau of Investigation, which presumably investigated this nominee's history of past Government performance, have badly fallen down on the job in this case.

Hopefully, the facts I am about to present will help correct and complete the record that must be considered by the Senate in the confirmation process.

It is clear from Dr. Stever's administration of the National Science Foundation that he is a man who shuns controversy, diverse views, and healthy differences of opinion on various sides of an issue.

Rather than face up squarely to mistakes, which is a vitally needed ingredient at all levels of Government today, Dr. Stever appears to be a man who would rather bury any mistakes and avoid acknowledging them to the Congress, the President he serves, and the general public.

Dr. Stever is a man who, it seems to me, demonstrably lacks the fortitude, good judgment, perspective, and sensitivity necessary for the job of top science adviser to the President of the United States.

Furthermore, it appears that he participated in a serious coverup operation to withhold key documents and information from the Congress, which ultimately verified gross abuse and manipulation of the NSF grant award process in order to provide funds to a questionable curriculum project.

Mr. President, I realize that some may consider these to be harsh judgments. But I ask Senators to consider them in the light of the situation.

It is my firm hope that by stating these judgments publicly, and by providing the facts to back them up, the Senate will then be able to say no to the President on this unfortunate nomination, and lay another piece of mortar in the needed new foundation of public trust and confidence in Government.

To document this situation for the record, I must take us back briefly to the spring of 1975.

Parents nationwide had strongly critized National Science Foundation textbook programs, including the controversial fifth grade "Man: A Course of Study" curriculum, known as MACOS.

As a result of these concerns and questions raised in Congress about NSF's precollege curriculum activities, NSF funds for all curriculum development and implementation were temporarily suspended, until the Foundation could provide Congress with a complete factual report about all its activities in this area.

Dr. Stever promised Congress that NSF would conduct a thorough, independent study of all NSF curriculum activities since their inception.

He appointed a special, 11-member internal curriculum review team, headed by Assistant NSF Director Robert E. Hughes, which he said would provide Congress with a no-holds-barred report detailing merits as well as problems in the administration of all 53 curriculum projects supported by the Foundation since 1960.

Five large curriculum projects, including MACOS and another project called "Individuvalized Science Instructional System," were designated as "case studies" for indepth review by the NSF review team.

During the course of the 2-month internal curriculum investigation, Dr. J. Arthur Jones, one of two NSF officials assigned full-time to the multimillion dollar ISIS project "case study," uncovered evidence that "peer review" evaluations of the original ISIS grant proposal had been falsely edited by NSF program managers and misrepresented to the National Science Board in order to manipulate funding approval for the project.

Mr. President, "peer reviews" are expert outside evaluations of grant proposals submitted by scientists and educators in the same or related field as the grant applicant, at the request of NSF.

NSF solicits an average of four peer reviews for almost every grant proposal received by NSF, and these peer reviews are key in the grant award decisionmaking process within the Foundation.

By law, the award decision in the case of ISIS had to be made by the National Science Board. Since it was a proposal for more than $500,000, neither the NSF program manager nor her superiors within the Foundation could approve funding.

But on the basis of an NSF staff recommendation quoting only high praise for the ISIS proposal from mixed reviews, and none of the serious criticisms and concerns of 11 peer reviewers, the National Science Board approved an initial $1.17 million for ISIS in September, 1972, and another $2.17 million in June, 1974.

Dr. Jones, the ISIS investigator on the 1975 NSF internal curriculum review team, discovered that many peer reviewers of the ISIS proposal in 1972 had been falsely quoted out of context in the NSF staff summary sent to the National Science Board in both 1972 and again in 1974.

Jones drew specific attention to this fact of false editing and manipulation of peer reviews in four separate paragraphs in his 14-item report summary entitled, "ISIS: Problems Suggested by Detailed Review," which he submitted for the Hughes report to Congress.

These paragraphs in Jones' summary stated:

> 8. Reviewers raised some very serious concerns about several aspects of the ISIS proposal. Some of these concerns appear to be omitted in the PES program manager's summary statement on reviewers' concerns. . . .
>
> 11. In the ISIS award recommendation memo, the PES program manager in summarizing reviewers comments, appears to take them totally out of context—making negative comments sound as if they were positive by omitting certain key words or phrases from the actual text. . . .
>
> 13. It appears that the National Science Board saw only positive reviewer comments taken totally out of context. Format of materials presented to the Board need to be such that all relevant factual information necessary for making an informed judgment be included. (Nothing should be swept under the rug.)
>
> 14. The second ISIS proposal received only an in-house review before it was sent to the Board. The original reviewers comments, again taken out of context or distorted, were used as justification for continuing support for the ISIS project.

Mr. President, NSF officials wanted the damaging facts in these four paragraphs from Jones' summary of the ISIS project "case study" deleted from the Hughes report to Congress.

Dr. Jones confirmed when asked by Congressman CONLAN's staff that he was pressured by NSF officials to delete the damaging information about false editing of ISIS peer reviews and manipulation of the grant award process from his summary to be included in the Hughes report.

Dr. Jones resisted pressure to rewrite his report. And so Dr. Joel Snow, head of NSF's Office of Planning and Resources Management and executive secretary of the NSF curriculum review team, Dr. Hughes, and other NSF officials rewrote his findings so that they did not reflect the facts of false editing and misrepresentation of ISIS grant award documents to the National Science Board.

Mr. President, Representative JOHN CONLAN discovered this abuse of NSF's grant award process independently. Mr. CONLAN is a member of the NSF Oversight Committee in the House.

He told the House Subcommittee on Science, Research, and Technology on July 22, 1975, that his staff had become suspicious of a single peer reviewer quotation of unqualified praise for the ISIS project—said to represent the views of all reviewers—that appeared in the 1974 NSF staff recommendation for ISIS funding that went to the National Science Board.

The Conlan staff contacted the quoted reviewer, Dr. Philip Morrison of Massachusetts Institute of Technology, to verify the accuracy of the quotation. Finding that the quotation was not accurate, Representative CONLAN requested Dr. Stever to submit the entire peer review for his further study.

Dr. Stever refused to release any of the ISIS peer reviews, citing some alleged claim of confidentiality which he said required that peer reviews be kept secret from anyone outside the Foundation. Stever invoked this claim of confidentiality, even though a July 24, 1972, NSF staff memorandum in the ISIS file stated that the same ISIS reviews requested by CONLAN had been released by NSF in their complete verbatim form to the ISIS grant applicant for his rebuttal almost 4 years earlier.

An 8-month exchange of correspondence between Congressman CONLAN and Dr. Stever, and a near court battle over release of the ISIS peer reviews, took place before NSF was finally forced to release the disputed documents last January.

In the meantime, nationwide publicity over CONLAN's charges of manipulation and abuse of NSF's grant award process appeared in Science magazine and dozens of other nationwide periodicals.

NSF repeatedly denied any wrongdoing, while steadfastly refusing to release the documents that would reveal the true facts.

When questioned about CONLAN's charges before NSF completed the Hughes report and submitted it to Congress, Dr. Snow was quoted by the National Observer on May 24, 1975, as stating that the staff member, Dr. Jones, had "misread the file."

Mr. President, I ask my colleagues to examine the critique as prepared by Dr. Jones, and the laundered version which the Hughes report presented to Congress and I ask unanimous consent that both versions be printed in the RECORD in a side-by-side analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIDE-BY-SIDE COMPARISON OF CRITIQUE OF ISIS PROJECT BY DR. J. ARTHUR JONES AND COVER-UP VERSION PRINTED BY NSF IN HUGHES REPORT

I. ORIGINAL VERSION BY DR. JONES	II. VERSION AS SENT TO CONGRESS IN HUGHES REPORT
ISIS	
Problems Suggested by Detailed Review	*Problems Suggested by Detailed Review*
1. A needs assessment for the ISIS approach to high school science was never made. A single feasibility conference, in this case, appears to be a totally inadequate substitute for a needs assessment.	1. What kinds of needs assessments should NSF require before embarking on long-term support for national curriculum development and implementation projects? Can the results of a single conference in certain instances serve as a needs assessment?
2. The Callaway Gardens conference proposal was handled in an unusually quick fashion by NSF. (An award was made in less than two weeks after the proposal was received.)	2. What role should NSF play when sponsoring feasibility conferences to guarantee that conference participants are really representative of a broad spectrum of ideas for improving the school science curriculums?
3. Thirteen persons out of the 34 persons who attended the Callaway Gardens Conference were from the principal investigator's home institution (Florida State). Were the conference participants really representative of the broad spectrum of ideas for improving the high school science curiculum?	3. What should be NSF policy concerning dissemination of conference reports, especially in those cases where conference results are used as a main justification for NSF support of a national curiculum project?
4. The report of the Callaway Gardens Conference was not widely circulated before NSF entertained a proposal from the conference principal investigator based on the results of the conference.	4. What materials, other than the proposal itself, should be provided to NSF reviewers?
5. Several of the ISIS Advisory Board members, later appointed by the project principal investigator, were attendees at the Callaway Gardens Conference.	5. Because of the highly interdisciplinary nature of the ISIS proposal and the implications it held for change in the high school science curriculum on a national scale, a mail review of the proposal would seem to be quite inadequate. What should be the Foundation's policy on proposal review systems?
6. It appears that none of the reviewers of the original ISIS proposal had available to them copies of the Callaway Gardens Conference report.	6. In what form and under what circumstances should reviewers' comments be transmitted to the proposer?
7. Because of the highly interdisciplinary nature of the ISIS proposal and the implications it held for change in the high school science curriculum on a national scale, a mail review evaluation proces would seem to be wholly inadequate. Why wasn't a panel review considered?	7. What should be the format for grant recommendations by program managers?
8. Reviewers raised some very serious concens abut several aspects of the ISIS proposal. Some of these concerns appear to be omitted in the PES program manager's summary statement on reviewers' concerns.	8. What should be the format for making grant recommendations to the National Science Board? What should be included? What may be excluded?
9. It appears that the PES program manager asked the ISIS principal investigator for reactions to reviewer's comments before all reviewer comments were received at NSF.	9. Three minicourses planned for ISIS may be considered by some individuals to be sex education: *Reproduction, Birth and Growth,* and *Human Sexuality. Human Sexuality* is in a very primitive stage of development and is not yet available for use in the ISIS trial schools. The other two minicourses are in a trial stage and are currently available for use by the trial schools. The procedures for the development and use of these materials should be carefully monitored by NSF. The materials, in their present form, could generate a lot of controversy even though there is an explicit disclaimer included in the minicourse booklets of NSF approval or disapproval.
10. There was apparently no feedback to reviewers by the PES program manager to determine whether their concerns had been met by the principal investigator's reactions.	
11. In the ISIS award recommendation memo, the PES program manager in summarizing reviewers comments, appears to take them totally out of context making negative comments sound as if they were positive by omitting certain key words or phrases from the actual text.	
ISIS	
Problems Suggested by Detailed Review	
12. Three minicourses planned for ISIS may be considered by some individuals to be sex education: *Reproduction, Birth and Growth,* and *Human Sexuality. Human Sexuality* is in a very primitive stage of development and is not yet available for use in the ISIS trial schools. The other two minicourses are in a trial stage and are currently available for use by the trial schools. The procedures for the development and use of these materials should be carefully monitored by NSF. The materials, in their present form, could generate a lot of controversy even though there is an explicit disclaimer included in the minicourse booklets of NSF approval or disapproval.	
13. It appears that the National Science Board saw only positive reviewer comments or reviewer's comments taken totally out of context. Format of materials present to Board need to be such that all relevant factual information necessary for making an informed judgment be included. (Nothing should be swept under the rug.)	
14. The second ISIS proposal received only an in-house review before it was sent to the Board. The original reviewer's comments, again taken out of context or distorted, were used as justification for continuing support for the ISIS project.	

Mr. HELMS. Mr. President, both Hughes and Dr. Stever again categorically denied before the House Science Research, and Technology Subcommittee on July 23, 1975, that the peer reviews had been doctored or misrepresented to the National Science Board.

Dr. Hughes made this astounding statement to the subcommittee:

> I would like to correct one point immediately, and that is that the excerpts from the reviewer's remarks are indeed accurate in the Board report document that was submitted in Mr. Conlan's testimony yesterday. That is to say, they have reflected the remarks made by Dr. Morrison in his review.

But CONLAN insisted on a General Accounting Office investigation of the entire ISIS situation, which verified his charges of peer review misrepresentation and pointed to obvious coverup by top NSF management to suppress the true facts from Congress.

Mr. President, I ask unanimous consent that at the conclusion of my remarks the January 12, 1976, GAO report be printed in the RECORD, along with a news article from Science magazine of February 27, 1976, reporting this scandal within the NSF.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, coverup in this ISIS matter is what thoroughly disqualifies Dr. Stever for the job of Science Adviser to the President.

The fact that this was a carefully calculated and orchestrated coverup operation involving more top NSF officials than just Dr. Snow is made clear by the notoriety and repeated media inquiries about charges of misrepresentation of ISIS peer reviews and abuse of NSF's grant award process.

Science magazine, Science & Government Report, and several other national science news publications carried stories about CONLAN's charges during the first week of June 1975, including the Congressman's call for Dr. Stever's resignation as Director of NSF if he continued his refusal to turn over the disputed documents.

We must assume that the firm top-level decision to holdout on releasing the peer reviews was based on the clear knowledge of their damaging contents, and the way they were misrepresented by NSF program managers to deceive the National Science Board.

Once the January 12, 1976, GAO report officially verified the extent of abuse in the awarding of $3.3 million for the ISIS project, Dr. Stever was finally forced to acknowledge to a House Appropriations Subcommittee the manipulation of the grant award process that he and Dr. Hughes had both so strenuously denied.

In joint testimony before Senator KENNEDY's subcommittee on the Foundation's fiscal year 1977 authorization, and before Congressman BOLAND's House Appropriations Subcommittee, Dr. Stever and Dr. Hughes acknowledged that the same ISIS peer reviews had been used first in 1972 to approve the initial $1.17 million grant—and again in 1974 to get National Science Board approval for a second award for ISIS in the amount of $2.17 million.

The extent to which Dr. Stever and Dr. Hughes have gone to fabricate their story is inescapably borne out by this testimony, because Dr. Hughes stated repeatedly in previous congressional appearances that the ISIS proposal had been seriously revised after the peer review criticism and concerns had first been submitted in 1972.

That being the case, how was it possible for NSF to use those same reviews in connection with a revised proposal that had never been seen by any of the 11 reviewers?

But, Mr. President, those who have examined the record tell me that the initial ISIS proposal was never revised.

Does it not appear that Dr. Hughes and Dr. Stever are trapped in the web that they wove to keep the public from knowing the truth?

Now that the GAO has made public the misrepresentaton of the ISIS peer reviews to deceive the National Science Board and manipulate the grant award process, Dr. Stever's latest incredulous escape is his claim on March 2, 1976, before Mr. BOLAND's subcommittee, that he had never personally reviewed the ISIS file or read the disputed peer review documents throughout the 8 months of heated controversy before release of the GAO report.

Is it conceivable that the Director of the National Science Foundation would allow his agency to suffer such severe political buffeting for almost a year, including calls for his own resignation, without even personally reviewing the manipulated grant award documents to get the full facts for himself?

It is very difficult not to believe that Dr. Stever had read the file, was fully aware of its damaging contents, and was an active participant in the coverup.

But even if we give Dr. Stever the benefit of the doubt, and accept his excuse that he was unaware of the true facts because he had ignored the concerns of Members of Congress and the scientific community about a potential scandalous abuse of the NSF grant award process, without making any effort at all to get the full facts for himself: What then?

In my judgment, I think most objective observers would conclude that Dr. Stever lacks the good judgment, perspective, and sensitivity to be the top adviser to the President on crucial issues involving science matters and foreign policy issues involving scientific concerns.

Mr. President, as I said at the beginning of my testimony, I believe that this committee and the entire U.S. Senate have a great responsibility to the American people at this particular time of public crisis of confidence in Government to take meticulous care in the appointment to all positions of public trust.

Whether those positions are great or small, important or less-important, we must confirm only those citizens with superior credentials and spotless records of prior public service where applicable.

Many such superior individuals are available to serve the President in the capacity of his Science Adviser. But the nominee being considered today by this committee does not meet those essential qualities of excellence.

The General Accounting Office is still conducting an inquiry into the scandalous abuse of NSF's grant award process, and the matter of official coverup within the National Science Foundation.

Since release of the January 12, 1976, GAO report, Dr. Stever has admitted to Congressman JAMES SYMINGTON, chairman of the House Subcommittee on Science, Research, and Technology, at least two or more cases of peer review misrepresentation and grant award abuse involving separate projects.

If the evidence is clear that Dr. Stever was involved in official coverup, as it appears he was, there will be no question about what the Senate's decision should be on his confirmation.

Either way, it should be apparent even to the most partisan advocate of this nominee that his qualifications are significantly flawed by a serious lack of sensitivity, perspective, and judgment for a top position of importance in the administration.

EXHIBIT I

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C., January 12, 1976.

Hon. JAMES G. SYMINGTON,
Chairman, Subcommittee on Science, Research, and Technology, Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with your October 17, 1975, request, we have examined, for accuracy and completeness, the treatment of peer reviewers' comments in a September 5, 1792, National Science Foundation staff memorandum recommending support for what is now the "Individualized Science Instructional System" project. As you agreed, we have obtained Foundation officials' views on our findings, and their comments are considered in the report. Our findings are summarized below and discussed in more detail in the enclosure.

The September 5 memorandum briefly summarized the comments of 11 peer reviewers on five general areas and gave a more detailed account of another comment. To the extent that these comments are summarized in the memorandum, they are accurately represented. However, about 45 comments by 9 of the 11 peer reviewers were not explicitly dealt with in the memorandum, nor was documentation on file to indicate their disposition. A Foundation official said that the Foundation's program staff considered all concerns raised by reviewers, and she orally recounted the disposition of each comment.

Thirty-three excerpts expressing only favorable comments from peer reviewers were quoted in the memorandum. According to Foundation officials, these excerpts were used to explain why the program staff recommended supporting the proposal. Twenty-eight of the excerpts appeared to accurately represent the reviewers' thoughts, but the other five could be considered to not accurately reflect the entire thought of the passages from which they were taken.

In addition, the memorandum stated that all reviewers recommended funding. We believe that the rationale for this statement was not fully justified with respect to 3 of the 11 reviewers.

The three former Foundation officials who approved the proposal said they usually read actual peer review comments and do not rely sorely on a recommendation memorandum in deciding whether to recommend support for a proposal. In the case of the September 5 memorandum, two of the officials stated that they had read the peer reviews before approving the proposal. The third official relied on a prior staff briefing and a review of background documents which gave rise to the proposal because he was given little time to consider the memorandum and peer comments before the proposal was considered by the National Science Board.

At the time of our fieldwork, the Foundation's Director was considering recommendations to improve the science education peer review system. These recommendations were made by a special team that the Director appointed to review precollege science curriculum activities, and by us in our October 14, 1975, report "Administration of the Science Education Project 'Man: A Course of Study' (MACOS)" (MWD–76–26). The Director was also considering changes to the peer review system suggested by researchers as discussed in our November 5, 1975, report "Opportunities for Improved Management of the Research Applied to National Needs (RANN) Program" (MWD–75–84).

As you know, the Foundation is also working with your Subcommittee in surveying researchers' and peer reviewers' opinions concerning possible revisions to the Foundation's peer review systems. Accordingly, we are not now making additional recommendations to the Director for improving peer review. We believe, however, that this report should be provided to the Director for his information. As previously agreed with your office, we will be in touch with you in the near future to arrange for the release of the report.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.

REPRESENTATION OF PEER REVIEW COMMENTS FOR THE NATIONAL SCIENCE FOUNDATION'S "INDIVIDUALIZED SCIENCE INSTRUMENTAL SYSTEM" PROJECT

INTRODUCTION

The National Science Foundation supports development of science education curriculums under the authority of the National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.), as amended. This act authorizes the Foundation to initiate and support (1) basic scientific rsearch, (2) programs to increase research potential, and (3) science education programs, through contracts or other forms of assistance, such as grants.

The Foundation's science education activities, administered by its science education directorate, consists primarily of grant and fellowship programs to improve education for professional careers in science- and technology-based fields, improve scientific literacy, and increase the efficiency and effectiveness of educational processes. Over the last 10 years (fiscal years 1966–75), Federal funds for these activities have totaled over $1 billion.

The Foundation has identified 53 precollege-level curriculum projects in the science education activities area for which it provides about $196 million during fiscal years 1956–75. One of these is the "Individualized Science Instructional System" (ISIS) project ISIS grew out of an unsolicitated proposal sent to the Foundation by Florida State University (Tallahassee, Florida) to develop a "Multidisciplinary High School Science System." The initial grant was made on September 29, 1972.

According to Foundation officials, the ISIS project is intended to develop a flexible, open-ended, interdisciplinary curriculum that will facilitate individualization of science instruction at the high school level (grades 10–12). The curriculum, which is still being developed, is planned to consist of approximately 80 short, essentially independent modules (or minicourses), each requiring 2 to 3 weeks of classroom time. Each module will deal with a specific topic by presenting, in an interdisciplinary manner, concepts from biology, chemistry, and physics. Pertinent social science material is incorporated in units that deal with the social implications of science and technology. Each module provides options which permit the student to probe into more complex aspects of the topic. Guidance in implementing ISIS in a variety of classroom situations is also provided.

The Foundation has provided the grantee with over $3.3 million in development funding for fiscal years 1973-75. In addition, in fiscal years 1974-75, various grantees have received about $158,000 for implementation activities—primarily for activities to increase awareness of the curriculum (such as informational conferences) and for resource personnel development.

In an October 17, 1975, request from the Chairman, Subcommittee on Science, Research, and Technology, House Committee on Science and Technology, and in later agreements with his office, we were asked to examine, for accuracy and completeness, the treatment of peer reviewers' comments in a September 5, 1972, staff memorandum recommending support for what is now the ISIS project. Consequently, our review was limited to analyzing the representations made in that document. To accomplish this, we reviewed the Foundation's project records for the ISIS grant and interviewed present and past Foundation officials.

Copies of our reports referred to on this page and on page 14 of this enclosure and the Foundation's study referred to on page 13 have been provided separately to the Subcommittee staff.

GENERAL PRECOLLEGE PEER REVIEW PROCEDURES

One procedure that the Foundation normally uses for evaluating proposals to develop educational curriculums is the mail peer review system, in which outside peer reviewers are requested to examine proposals and comment on their merits.[1] The outside peer reviewers are primarily scientists and educators competent in the fields involved in the proposals. The peer reviews are advisory to the Foundation in making the final decision as to whether to fund a proposal.

After selecting the reviewers for precollege-level proposals, the Foundation usually sends them a letter noting the factors to be considered in their review. The letter for the initial ISIS proposal asked reviewers to consider such factors as scientific merit, the feasibility and effectiveness of the proposed procedures, the reasonableness of the budget, and the qualifications of project personnel.

Upon receiving the reviewers' comments, the Foundation's program staff assesses them and their impact on a proposal and may then negotiate both substantive and financial aspects of the proposal with the proposer. Generally, a summary of pertinent reviewers' comments is provided to the proposer. If the Foundation's program staff later decides to recommend funding a proposal, a memorandum recommending support is prepared. The recommendation for support is part of a package prepared for review within the education directorate. This package contains the initial and any modified proposals, all peer review comments received, all correspondence between the Foundation and the proposer, all review documents, the recommendation for support, and any other pertinent documents. At the time of the ISIS proposal, the package was usually prepared by the program manager and reviewed in turn by the section head, division director, and assistant director for education.[2]

The proposal must also be approved by the Grants and Contracts Officer, as the designee of the Foundation's Director. In addition, awards involving expenditures of at least $500,000 in a single year or at least $2,000,000 in total must be approved by the National Science Board.

REPRESENTATION OF PEER REVIEWERS' COMMENTS

The Foundation received 11 peer reviews on the Florida State University proposal. In examining the Foundation's Setember 5, 1972, recommendation memorandum, we found that it (1) summarized what the program staff believed were major reviewer concerns and outlined the proposer's reactions to those concerns, (2) did not explicitly address about 45 comments by 9 of the 11 reviewers (their disposition was also not documented in Foundation files), (3) contained 5 excerpts quoted from reviewers that could be considered to not completely reflect the thoughts of the passages from which they were taken, and (4) contained a statement that does not appear to be supported by the reviewers' comments.

Foundation disposition of certain reviewers' comments

The memorandum stated that all reviewers felt that the development of a multidisciplinary, individualized science curriculum was opportune, but that all questioned some aspects of the proposal. From analyzing peer reviewers' comments, the program staff felt that reviewers' reservations about the proposal focused on the following five main areas. Some reviewers:

Felt that scientific concepts often build on each other and feared that the nature of the proposed curriculum would prohibit such growth.

Questioned the instructional management system that the project promised to provide for schools and teachers.

Indicated that there was inadequate provision for laboratory and problem solving within the learning scheme.

Questioned the evaluation procedures as being too limited and too informal.

Speculated that the method of development might prove to be inefficient.

On July 5, 1972, to secure the proposer's response to these concerns, the Foundation sent him verbatim, but anonymous, copies of the review comments received as of that date. According to a Foundation official, sections were marked to indicate the five areas of concern. The official added that when the remaining comments were received, they were transmitted to the project staff either by mail or by telephone. The proposer responded in writing to the five areas on July 19–20, 1972. The recommendation memorandum summarized the response and indicated that the program staff was satisfied with it.

In reviewing the peer reviewers' comments, we noted that all reviewers expressed reservations regarding the proposal in at least one of the five areas of concern that the Foundation considered most important, and that 6 of the 11 reviewers expressed reservations in more than one area. About 40 of the comments of the 11 reviewers were in the five main areas of concern.

The memorandum also noted that one reviewer believed that individual school systems had already done much development on integrated or multidisciplinary approaches to secondary school science. In the memorandum, the program staff recognized the validity of the criticism, but indicated that experience had shown that materials developed by individual school systems could not give results of the quality the proposal promised.

As discussed above, the Foundation's memorandum summarized five concerns raised by all reviewers and a separate concern raised by one reviewer. To the extent that these comments were summarized, we believe that they were accurately represented.

Reviewers' comments not explicitly addressed in the recommendation memorandum

The memorandum did not explicitly deal with about 45 of the peer reviewers' comments, including questions about the reasonableness of the proposed budget, the diversity of the personnel working on the project, the treatment of curriculum material at the introductory level, and the transition problem students may face in further study or in work. Foundation officials stated that although documentation is not available in the Foundation's files, the program staff considered all concerns expressed by reviewers. Examples of reviewers' comments not explicitly dealt with in the memorandum and the then responsible program manager's oral recounting of the comments' disposition are cited below.

Reasonableness of the budget

Three reviewers expressed concern over the reasonableness of certain aspects of the proposed budget. This included concern that the consultants' honoraria were too high, that the project staff appeared to be too large, and that producing prototype equipment was unnecessary since the proposer desired to use equipment readily available in schools.

Regarding the size of the proposed honoraria, the former program manager said the amount had been negotiated downward. The proposer's amended budget shows that moneys requested for consultants and honoraria decreased by $22,000—from $131,500 to $109,500.

Regarding the size of the staff, the former program manager indicated that the proposer had run a large project before and knew about staffing requirements. Secondly, the proposer intended to stagger the introduction of staff so that it would not be underused at the beginning of the project. In addition, she informed us that extensive discussions were held in which the proposer fully justified the proposed budget, including staffing.

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[1] For a more detailed discussion of the Foundation's policies and procedures for evaluating precollege-level education proposals, see pages 4 to 7 of our report "Administration of the Science Education Project 'Man: A Course of Study' (MACOS)" (MWD-76-26, Oct. 14, 1975).

[2] In September 1975 a Grant Review Board was established within the education directorate to supplement its program officials' review of proposed grants and contracts. The board includes officials of the education directorate, as well as business and technical representatives from other Foundation offices, such as the Office of the General Counsel and the Grants and Contracts Office.

Regarding budgeted amounts for prototype equipment to be available to schools during the tryout of the IS^{T}S materials, the former program manager believed this to be a legitimate request. Some materials would not be readily available in the schools, and to ask schools to field test the materials and also to pay for them would be unfair.

Diversity of personnel

Three reviewers raised questions about whether project personnel had sufficiently diverse backgrounds.

One suggested that more users of education curriculums—such as teachers—be represented on the proposed standing committees. The former program manager replied that some teachers were to be included on an advisory committee, and the proposal stated that teacher input would be provided during the field testing of the experimental curriculum.

Another reviewer felt that people with expertise in implementing the curriculum in schools should be included in the project staff. The former program manager disagreed, stating that since this was the initial proposal for a possible 7-year project, involvement in implementation activities was premature. In addition, the project was not to be isolated from implementation concerns, since the proposed staff included persons involved in prior innovative curriculum efforts and since the proposer's institution had a laboratary school.

A third reviewer suggested including more diverse personnel in the proposed advisory committee—such as an engineer, an ecologist, and a health scientist. The former program manager disagreed, indicating that such persons would not be relevant to the primary subjects of the proposed curriculum—biology, chemistry, and physics.

Treatment of material at an introductory level

Two reviewers expressed concern that the discrete nature of the proposed minicourses could result in shallow treatment of science material since it could not be assumed that other, more fundamental minicourses had been used. According to the former program manager, the proposal contained a provision to develop optional activities to treat topics in more depth, and the proposer had agreed that a few modules emphasizing the sequential development of ideas would be developed to teach fundamental science concepts.

Transition problem

Two reviewers believed that the proposed curriculum should be structured so that students could make the transition to another school and to various later kinds of study and work. The former program manager acknowledged that this was a problem in most innovative curriculums. The Foundation discussed the problem with the proposer, who agreed that historically sequenced modules—those that emphasized the sequential development of ideas to teach fundamental science concepts—to help the transition would be included in the curriculum.

Quoted passages from review

The recommendation memorandum contained 33 quoted excerpts from the 11 peer reviews. The quoted passages reflected the reviewers' favorable comments, but contained none of their concerns or criticisms. We believe that 28 of the 33 quoted excerpts accurately represented the thoughts expressed by the respective reviewers. The other five excerpts, however, in our opinion did not accurately or completely convey the entire thoughts of the passages from which they were taken. These five excerpts, together with the relevant passages from which they were taken, are shown below.

COMPARISON OF EXCERPTED AND COMPLETE PEER REVIEWER COMMENTS

Comment as appearing in recommendation memorandum	*Comment within relevant review passage*
". . . I am sympathetic to many of the objectives that lie behind this proposal."	"While *I am sympathetic to many of the objectives that lie behind this proposal,* I find myself drawing back from certain essential aspects of it. My objections are partly philosophical and partly pragmatic. Because of these, I count it a serious weakness of the proposal that no discussion of some of these matters was included in the presentation." (Italics added.)
". . . I would recommend that the project be initiated."	"Assuming the questions and concerns expressed above can be satisfactorily responded to by the proposal writers, including a large reduction of the budget, *I would recommend that the project be initiated.*" (Italics added.)
"The personnel listed have much experience in curriculum development . . ."	"*Project Personnel. The personnel listed have much experience in curriculum development.* Perhaps some new blood is needed, and I would urge that persons in high schools that have experience in individualized instruction (e.g., Seattle, Corvallis, Duluth, Mason City, Iowa) should become involved. No doubt they can supply expertise about implementation of a multidisciplinary learning system that most of the listed project personnel do not have." (Italics added to second sentence.)
". . . The personnel and advisors are excellent . . ."	"4. It seems to me this whole grand scheme goes too far ahead. *The personnel and advisors are excellent,* but they have done very little work to date. I would grant enough to assemble a team able to produce a sample of minicourse topics and a few prototypes. Fifty topic headings, over a wide range of disciplines and levels, and two prototype courses would seem to me a minimum basis for the grant beyond Phase I. Nor would I approve the remaining phases without a strong sample of six months work at least on the Phase I issues. They determine it all: the idea is good, but its execution determines its utility." (Italics added.)
"The procedures to be followed during the proposed seven year effort appear to have been well thought out and include a number of excellent provisions: small working teams that include a communicator, a school-oriented person, and a subject-matter specialist; a rather long shake-down period (Phase II); informal, small scale trials of early drafts; early liaison with professional societies; early contact with publishers . . ."	"*The procedures to be followed during the proposed seven year effort appear to have been well thought out and include a number of excellent provisions: small working teams that include a communicator, a school-oriented person, and a subject-matter specialist; a rather long shake-down period (Phase II); informal, small scale trials of early drafts; early liaison with professional societies; early contact with publishers.* Yet, many questions of strategy and procedure cause the reviewer some concern." (Italics added.) (Reviewer's concerns expressed in following review paragraphs.)

Our rationale for considering these five excerpts misleading and the views of the Foundation's former program manager, who prepared the memorandum, follow. The program manager did not believe that any of the excerpts were misleading. We believe that all the above excerpts could be considered to not accurately reflect the predominant thought of the passage from which they were taken.

The positive tone of the first excerpt does not reflect the overall critical tone of the sentence. In addition, the main idea of the sentence—the reviewer's doubts about certain aspects of the proposal—is excluded. The program manager stated that the reviewer was not opposed to the general philosophy behind the proposal and that all reservations had been disposed of to the program staff's satisfaction.

Although the second excerpt would appear to imply an unqualified recommendation for funding the proposal, the sentence in its entirety qualifies that recommendation. According to the program manager, all the reviewer's expressed concerns—including a negotiated budget reduction—had been taken care of to the program staff's satisfaction.

The third excerpt could give the impression that the reviewer unconditionally endorsed the proposed project staff, but in fact the reviewer made suggestions for enhancing it. The program manager did not consider this excerpt to be misleading because the proposed staff included persons knowledgeable in implementing a multidisciplinary curriculum.

The fourth excerpt does not recognize the reviewer's caveat that because the proposed staff had done little work to date, the grant should be made on a trial basis. The excerpt suggests that the reviewer completely supported the competency of the personnel and advisors. In fact, however, the reviewer urged caution due to his perception of their relative inexperience with the proposed materials. The program manager stated that because this was an initial proposal, the proposed personnel could not have done much work. She also pointed out that the trial startup recommended by the reviewer was agreed to by the proposer.

The fifth excerpt excludes the reference in the last sentence of the paragraph to many questions of strategy that concerned the reviewer. Thus, the excerpt could suggest that the reviewer overwhelmingly supported the proposed procedures, when in fact he was concerned about certain aspects of them. The program manager did not believe the quoted excerpt to be misleading because the memorandum noted that each reviewer raised questions on aspects of the proposal plan.

According to the program manager, the excerpted quotes in the memorandum were meant not to summarize the main thoughts of the reviewers, but to support the proposal and to convey the program staff's reasons for recommending funding. She noted that the memorandum stated:

"* * * Sections from reviewer's letters, quoted below, reflect our reasons for recommending that the proposal to develop a 'Multidisciplinary High School Science System' be awarded funds for a 22-month period."

She added that the memorandum did not purport to imply that peer reviewers made no constructive criticism of the proposal. She cited the discussion of various reviewers' concerns on pages 2 to 4 of the memorandum, noting particularly a sentence on page 2 which states: "* * * All reviewers recommended funding but none without raising questions on aspects of the proposal plan. * * *"

Summary conclusion and recommendation from reviewers

The memorandum stated that all reviewers agreed that the proposal was opportune and that all recommended funding. Specifically, the memorandum stated:

"* * * All reviewers agreed that the development of the 'multidisciplinary Science System' is opportune, especially in view of the proposed flexibility of the curriculum and its modular structure. All reviewers recommended funding but none without raising questions on aspects of the proposal plan. * * *"

Our examination of the reviewers' comments on the proposal showed that all 11 agreed that the development of a multidisciplinary, individualized curriculum was timely. Three reviewers, however, did not explicitly recommend funding the proposal. Their recommendations and the disposition of these recommendations as recalled by the former program manager are discussed below.

One reviewer recommended that the proposal not be funded in its present form. He felt that it explored many areas already investigated and that it would lead to unneeded duplication of effort since similar materials already existed. The program manager said that the reviewer furnished the program staff materials referred to in his review and that, because the materials were generally not of high quality, the reviewer's reservation was considered invalid. The reviewer had not raised other major objections about funding the proposal, so this was considered an implicit go-ahead to recommend funding.

A second reviewer said that the proposal needed a major revision to warrant support of the magnitude requested. Although his review did not appear to single out one overriding concern, issues raised included the method of developing the curriculum, the sequential teaching of widely applicable basic scientific principles, and the method of instructional management. The program manager believed that the matters the reviewer felt needed revision would be attacked later in the project, and that as the project advanced aspects of it would surely be revised. Because all the reviewer's reservations had been dealt with to the program staff's satisfaction, the reviewer was interpreted as reccommending funding for the proposal. In addition, the program manager believed that the following statement by the reviewer implied agreement to recommend funding: "6. Some evidence of the praticality of 'farming out' the development of minicourses should be available prior to making a massive financial commitment."

The third reviewer was reluctant to support the proposal without additional information and recommended that, because of weaknesses he perceived, it be returned to the proposer for additional study. The reviewer's concerns included (1) a lack of assurance that the minicourses would be useful to the educational community except as a supplementary curriculum and (2) inadequate examination of the instructional management scheme by the proposer. The program manager said that need for "additional information" and "additional study" cited by the reviewer were satisfied when the proposer sent the Foundation his written reactions to the reviews. Because of this and because the reviewer's concerns had been addressed to the program staff's satisfaction, the reviewer was considered to have implicitly recommended funding.

Views of education directorate officials who approved the proposal

We asked the former Foundation officials (the section head, division director, and assistant director for education) who approved the proposal whether they considered (1) any of the quoted passages in the memorandum to be quoted out of context and (2) the statement in the memorandum that all reviewers recommended funding to be accurate.

They did not believe that any of the quoted passages were taken out of context, although one believed that one of the quoted excerpts should have been expanded. Two officials believed that all reviewers had recommended funding, while the third felt that only 10 of the 11 had done so. Two of the officials expressed the rationale that, once the program staff had addressed a reviewer's concerns, the reviewer could be assumed to have generally recommended support for the proposal.

The officials advised us that the memorandum was just one part of a package of materials they were given when asked to approve a proposal. All three officials said they read the actual peer reviews when considering whether to recommend supporting a proposal. Two said they had read the peer reviews when the September 5, 1972, memorandum was forwarded to them. The other, however, said he did not review the peer review comments or the recommendation memorandum when considering the Florida State University proposal because he was given little time before the proposal was considered by the National Science Board. He relied instead on a prior staff briefing and a review of background documents which gave rise to the proposal.

FOUNDATION EVALUATION OF PEER REVIEW SYSTEM AND OUR RECENT RECOMMENDATIONS

In April 1975 the Foundation's Director appointed a science curriculum review team to review the Foundation's precollege science education program. The review team's May 1975 report identified, among other things, areas of concern regarding the peer review process. Among these recommendations were that criteria for evaluating reviews should be clearly and fully made known to all parties and that reviews should be documented to guide all parties in Foundation decision-making.

These recommendations are intended to tighten review procedures along the chain of program responsibility and to insure that reviewers' comments are fairly and accurately summarized for Foundation officials who review the recommendation. The Foundation is considering these actions.

The Foundation is also studying its peer review system. One aspect of the study will provide such statistical data as the number of reviewers used, the number of reviews performed by panelists, and the geographical location of reviewers. This data will be used to develop detailed management information about the peer review system and its relationship to the Foundation's mechanisms for review and proposal evaluation. According to a Foundation official, automatic data processing procedures are being completed to make this data readily available.

In another aspect of the study, the Foundation is working with the House Subcommittee on Science, Research, and Technology to obtain opinions about its peer review system. Questionnaires have been sent to about 3,000 prospective principal investigators and to about 1,500 persons who have reviewed proposals for the Foundation. The questions deal with such topics as the respondents' personal experience with the peer review system, their views on the equity and effectiveness of the review of proposals, and suggestions of possible alternative peer review procedures. The results of the survey, to be presented as tabulations and analyses, are expected to be available early in 1976.

Under a third aspect of the study, the Foundation contracted with the National Academy of Sciences for the first phase of a two-phase project to examine the philosophy behind the Foundation's peer review system and to assess its effectiveness. The first phase will consist of a detailed description of the peer review system, including an examination of how funds are allocated among disciplines and how peer reviewers are chosen. This phase is expected to be completed by June 1976.

In an October 1975 report[3] dealing with the administration of a Foundation-supported, precollege science education curriculum, we discussed peer review procedures relating to a proposal to develop an elementary-school-level social studies curriculum. We noted that disposition of peer reviewers' comments were not always documented in Foundation files. We recommended that the Foundation's Director establish procedures to insure that the evaluation and disposition of peer review comments are documented in the future. The Director agreed with our recommendations and stated that actions needed to implement them were being taken.

During our review of the Foundation's Research Applied to National Needs program, a number of researchers advised us that changes were needed in the program's proposal evaluation system to provide increased objectively and accountability. These findings could have Foundation-wide implications. The Foundation's Director agreed with our recommendation to assess the potential impact of the changes to the peer review system suggested by researchers.[4]

CONCLUSIONS

Education directorate officials who approved the ISIS proposal advised us that the September 5, 1972, memorandum was just one part of a package they received containing all pertinent materials relating to the proposal—including the actual peer reviews. Thus, they did not depend solely on the recommendation memorandum for the transmission of peer reviewer's comments. They added that in general, they had no fault with the memorandum's representations of peer reviewers' comments. In our opinion, however, the memorandum recommending support of the Florida State University proposal was not a totally complete and accurate representation of peer reviewers' comments.

The memorandum was incomplete in that it did not discuss many of the concerns raised by peer reviewers. Foundation officials advised us, however, that all concerns raised by reviewers were considered by its program staff, although the disposition was not documented in the project files.

Five quoted excerpts contained in the memorandum could be considered to not accurately reflect the entire thoughts of the passages from which they were taken. The staff's practice of quoting positive excerpts from peer reviewers' comments to aid in recommending a proposal to higher management officials could cause inadvertent misrepresentation of those comments, and should therefore be used with extreme care, if at all.

We do not agree with the Foundation's rationale in stating that all reviewers recommended funding for the proposal. We question the Foundation's approach which assumes that, once a reviewer's criticisms are considered to be disposed of by the program staff, the Foundation can unilaterally consider that the reviewer, in effect, recommends funding for the proposal.

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[3] See footnote [1].

[4] See pages 54 to 69 of our report "Opportunities for Improved Management of the Research Applied to National Needs (RANN) Program" (MWD–75–84, Nov. 5, 1975).

Because the Foundation's Director has already been advised by us and the precollege curriculum review team of the need to improve the Foundation's peer review system, and because he is considering possible improvements, we are not making further recommendations at this time.

House of Representatives,
Washington, D.C., January 26, 1976.
Hon. James W. Symington,
Chairman, House Subcommittee on Science, Research, and Technology, U.S. House of Representatives, Washington, D.C.

Dear Jim: I am most disturbed, as I imagine you are, by the apparent cover-up by top National Science Foundation management concerning the true facts of the ISIS matter, first outlined in my testimony before your Subcommittee last July and now verified in the January 12 report to you from the General Accounting Office.

It has taken me eight months to obtain the disputed ISIS peer reviews and other materials, including a staff memorandum from the ISIS program office which stated that the verbatim ISIS reviews had been marked and provided to the ISIS grant applicant for his rebuttal in July, 1972. This was despite repeated statements by NSF Director Guyford Stever and others that NSF peer reviews were always kept strictly confidential, and that only summaries were ever sent out of the Foundation.

It was this alleged "confidentiality" of peer reviews that Dr. Stever repeatedly cited in his refusals to provide me the ISIS factual record, even though he must have known all the time that the ISIS peer reviews had long before been sent out of the Foundation to the ISIS grant applicant—a member of the general public.

These verbatim ISIS peer reviews must have been studied carefully by NSF's internal curriculum review team headed by Dr. Robert Hughes. ISIS was a "case study" for in-depth review in that group's work. Therefore, the full facts concerning misrepresentation and abuse of the peer review system in the administration of ISIS must have been known to Dr. Hughes and members of that team, and to Dr. Stever himself, since the Director would unlikely have allowed the situation to deteriorate to this point without having checked the full facts with his top management.

Somewhere along the line, there has obviously been a willful attempt to suppress the true facts of the ISIS matter, and to mislead the National Science Board, Members of Congress, peer reviewers involved, the scientific community, and the general public. I would like to request that this latter development of apparent cover-up in the ISIS matter be fully investigated by either the House Science and Technology Committee staff or the General Accounting Office.

I have communicated my concerns to Dr. Stever, and am enclosing a copy of my letter to him for your information. My request that he immediately discontinue NSF support for the ISIS project, implementing the cancellation clause of the ISIS grant to recover any unspent Federal funds already obligated, is based on the fact now apparent that the National Science Board was deliberately misled through NSF staff documents when it funded the ISIS project in 1972 and again in 1974 to the tune of $3.35 million.

I am sure that the Board would not have funded ISIS if it had known the full extent of peer reviewer criticisms and concerns about the Florida State University proposal from Dr. Ernest Burkman, and the failure of Burkman or the NSF staff to adequately address or handle those serious criticisms and concerns.

It is entirely misleading to say that the full record, including the verbatim peer reviews and all other documents, were available for the Board to review in the ISIS grant jacket, and that the NSF staff summaries constituted only one part of the total packet available to the Board. As the GAO report to you clearly points out, one of the ISIS program officer's own NSF superiors had too little time to study any of the peer reviews or other materials in the ISIS grant jacket before the Board considered the multi-million dollar proposal, and had to rely on the program officer's oral briefing for the full facts of the ISIS matter.

The National Science Board must consider many research and education proposals each time it holds its periodic meetings. Board members could not possibly take the time to review reams of back-up material, including all peer reviews, from various grant jackets. The NSF staff memoranda and peer review summaries obviously constitute the Board's sole input, except in extraordinary cases. The NSF argument that the entire ISIS grant jacket was available to the Board for its perusal in addition to the NSF staff summaries misrepresenting peer reviewers and omitting all their negative comments about the proposal is at best misleading, and at worst deceiving.

Finally, the record shows that the 11 peer reviews submitted to the Foundation in 1972 were again represented to the National Science Board as being current reviews in 1974, when the Board was asked to approve a continuation grant of $2.17 million for ISIS.

Once again, none of the original peer reviewers criticisms and concerns about the ISIS proposal were presented to the Board. And there is no evidence that the NSF staff had conducted a thorough evaluation of ISIS development and materials produced during the two-year feasibility stage to determine whether the ignored peer reviewer criticisms and concerns were valid, or whether continued funding was warranted.

The NSF staff's handling of this entire project seems highly negligent and irresponsible, and it greatly concerns me that the same abuses might have occurred in other research and curriculum projects we have not yet taken a close look at.

I hope you share my belief that we should promptly get to the bottom of this entire ISIS matter—particularly the apparent cover-up by top NSF management to prevent our obtaining the full facts of its misrepresentations to the National Science Board and abuse of the peer review system. Then we can move on to study needed reforms in the Foundation's peer review and grants management system, as proposed in my bill (H.R. 9892) referred to your Subcommittee, to help prevent the kind of abuses we are finding.

Since the Subcommittee report on the July peer review hearings is still under development, would you please consider making my enclosed correspondence to Dr. Stever and this letter to you a part of either the printed record of the hearings, or the Subcommittee report itself.

Cordially,

John B. Conlan,
Member of Congress.

National Science Foundation: Criticism From Conlan, GAO

The scene on 10 February could have been a flashback to last summer when Representative John B. Conlan (R-Ariz.) accused National Science Foundation (NSF) officials of misrepresenting the views of peer reviewers. The difference at the 10 February hearings before a House Committee on Science and Technology subcommittee was that in the interim a General Accounting Office (GAO) report had substantiated Conlan's main contention. Also, NSF director H. Guyford Stever had written subcommittee chairman James Symington (D-Mo.) that "we regret these mistakes" and had pledged more strenuous efforts to remedy them.

Conlan testified on 10 February at an authorization hearing devoted to a discussion of NSF's science education program. He charged that there was a "scandal of deceit and corruption of the NSF grant award process" in the foundation's curriculum improvement program. The essence of Conlan's charge was that NSF staff members had misrepresented peer reviewer's comments in a summary of reviews provided to the National Science Board. The NSB is responsible for giving formal approval to major NSF programs. Conlan also accused NSF officials of a "cover-up" and urged that Congress suspend funding of NSF curriculum development activities for a year.

Although Stever and other top NSF officials were on hand for the session, they were not grilled on the Conlan accusations. An investigation by committee staff of the issues raised by Conlan and by the GAO report is now in progress and Stever has promised Symington that he will conduct his own thorough examination of the situation, so an inquest has been at least delayed.

Conlan's ire was concentrated on an NSF-supported interdisciplinary high school science course called Individualized Science Instructional Systems (ISIS) currently being developed at Florida State University. Conlan emerged about a year ago as a resolute critic of NSF curriculum programs (Science, 2 May 1975), when he objected not only to content but to contracting and course-implementation practices associated with an elementary school behavorial science course titled Man: A Course of Study (MACOS).

In the peer review hearings last summer Conlan shifted his main fire to ISIS and insisted that evaluations of outside reviewers had been misrepresented. At the time, he was denied access to the reviewers' original comments on the grounds of NSF policies protecting the confidentiality of verbatim peer review documents. (Under the system of mail peer review prevailing at NSF, reviewers have been asked ndividuially for their opinions and seldom learned whether their suggestions influenced NSF decisions on programs, were brought to the attention of those involved in projects, or were incorporated into the projects.) Subsequently, the material Conlan had sought as background to a 5 September 1972 staff memorandum recommending support of the ISIS project became available as a result of the GAO study, requested by Symington in October.

The GAO report is not a wholesale condemnation of the ISIS transaction. The report notes, for instance, that the staff memorandum in question was only one part of the package of documentation on which the National Science Board based its decision on ISIS. But a major conclusion of the GAO investigators is that "in our opinion, however, the memorandum recommending support of the Florida State University proposal was not a totally complete and accurate representation of peer reviewers' comments."

The cover letter accompanying the report says that, to the extent that the comments of 11 reviewers were summarized in the memo, "they are accurately represented. However, about 45 comments by 9 of the 11 peer reviewers are not explicitly dealt with in the memorandum, nor was documentation on the file to indicate their disposition."

The authors of the report itself concluded, "We do not agree with the Foundation's rationale in stating that all reviewers recommend funding for the proposal. We question the Foundation's approach which assumes that, once a reviewer's criticisms are considered to be disposed of by the program staff, the Foundation can unilaterally consider that the reviewer, in effect, recommends funding for the proposal."

By comparing the original peer reviews with the excerpts used in the summary the

GAO report writers were able to find several examples of highly selective editing.

For example, one comment which appeared as ". . . I am sympathetic to many of the objectives that lie behind this proposal" produces a different impression when quoted in the context of the complete passage.

While *I am sympathetic to many of the objectives that lie behind this proposal,* I find myself drawing back from certain essential aspects of it. My objections are partly philosophical and partly pragmatic. Because of these, I count it a serious weakness of the proposal that no discussion of some of these matters was included in the presentation. (Italics added.)

In the peer review hearings last summer, Conlan drew attention to the use by NSF of an excerpt from the comments in 1972 by one peer reviewer he identified as Philip Morrison of the Massachusetts Institute of Technology. Conlan argued that the excerpt misrepresented Morrison's views. Morrison appeared at the hearings, but the original comments in complete form were not available and the discussion was inconclusive. In his stateemnt of 10 February, Conlan was able to reproduce both the excerpt used by NSF in 1974 in seeking renewal of the ISIS funding and the text of the original comment.

In the staff summary the Morrison quote was: "The general scheme proposed—the system foreseen—has natural and conspicuous appeal. The flexibility and freedom of use are clear advantages. . . . The personnel are excellent. . . . The idea is good. . . ."

In the original form the comment was as follows:

The general scheme proposed—the system foreseen—has natural and conspicuous appeal. The flexibility and freedom of use are clear advantages. So much is clear. But when I read the detailed descriptions—which seem to me very preliminary indeed for so grand a scheme—I grew much less enthusiastic. . . . It seems to me this whole grand scheme goes too far ahead. *The personnel and advisors are excellent,* but they have done very little work to date. I would grant enough to assemble a team able to produce a sample of minicourse topics and a few prototypes. Fifty topic headings, over a wide range of disciplines and levels, and two prototype courses would seem to me a minimum basis for the grant beyond Phase I. Nor would I approve the remaining phases without a strong sample of six months work at least on the Phase I issues. They determine all: *the idea is good,* but its execution determines its utility. (Italics added.)

With respect to the expurgation of the original comments, Conlan was in a position to say, "I told you so." He went on to discuss what he regards as a cover-up on ISIS, stressing that a special NSF Curriculum Review Team formed last spring to look into charges arising from the MACOS furor completely missed the anomalies in the handling of the staff memorandum on ISIS.

At this point Conlan adopted the tone of a prosecuting attorney and, in these excerpts from his statement, made what must be regarded as his most serious charges to date.

As the General Accounting Office report on ISIS shows, and my quotations of ISIS reviews here today, misreading the file was not the problem. The peer reviews were clearly manipulated, deceitfully edited, and misrepresented to the National Science Board.

As of last Friday afternoon, February 6, Dr. Joel Snow, director of the Foundation's Office of Planning and Resources Management and the executive secretary of the NSF Science Curriculum Review Team headed by Dr. Robert Hughes, had requested "reassignment." Those close to NSF understand the meaning of that action.

NSF has apparently found a scapegoat to take whatever blame is to come from falsifications and abuses uncovered by the GAO, my own continuing investigation of NSF activities, and any continued examination by this Committee.

It is inconceivable that Dr. Snow is solely responsible for all the careful scheming, the evasive report writing, and the stonewalling that has gone on at NSF over the past 12 months.

Surely Dr. Robert Hughes must share the blame. He told this Subcommittee last July 23 that the only problem he found in the handling of ISIS could be attributed to what he called "administrative slippages."

But I have concrete documentary evidence that a member of Dr. Hughes' own NSF Science Curriculum Review Team discovered and accurately reported the deceitful misuse and manipulation of ISIS peer reviews to get National Science Board approval of the project's multi-million dollar funding.

This NSF staff official's honest report was laundered by team leaders and the true facts covered up in a skillful job of evasive writing—obviously with Dr. Hughes' knowledge and approval.

I have reason to believe that higher NSF officials are aware of this cover-up, but have not yet acknowledged the full gravity of this matter to Members of this Committee or the scientific community.

At the hearing, Conlan declined to identify his sources of information or to elaborate on his charges but said he would be glad to assist Symington and the committee staff with their investigation.

NSF officials say that Snow's reassignment came at his own request. Snow acted as executive secretary of the curriculum review study which is now under scrutiny from the Hill. In his post as director of the office of planning and resources management he was, in effect, playing a liaison role with Congress in its investigation of management practices, and this placed him in an awkward position. Snow and Stever came to the conclusion that it would be better if Snow moved from the planning job.

An NSF front office spokesman insists that no examples of mismanagement have been found involving Snow or other NSF officials. According to the same sources, Snow is not leaving the foundation but has not yet been given a new permanent assignment.

Although much of Conlan's testimony dealt with ISIS, he also elaborated on broader themes he introduced last year in criticizing the NSF science education program. He said that funding of the science education program should be suspended "until we have been completely reassured next year that the total integrity of NSF's management and grant award process has been reestablished," but he is clearly hoping that NSF's role in education R & D will be reassessed and modified.

In his testimony Conlan quoted extensively from correspondence with commercial textbook publishers who criticized NSF-supported curriculum revision courses on a number of grounds. Included were charges that many are too expensive for school districts to afford in present economic circumstances and are based on innovations which are too extreme to be successfully incorporated in the structure of most educational systems.

In an exchange of views with subcommittee members, Conlan declared himself to be generally in sympathy with those who would sharply limit the federal role in curriculum matters. Conlan said he feels that NSF support in developing a course endows that course with a prestige which gives it a competitive edge when school districts consider various alternatives. He objected even more strenuously to NSF spending on "implementation" activities which provide information on new courses and train teachers to employ them. He is irked by what he calls "career curriculum innovators" who appear to have an inside track with NSF. And he is most disturbed that the program was "getting into value areas." In concluding his testimony Conlan said, in response to a question about his view of NSF's role in education research, "there may be an argument for developing innovative concepts," but the agency should steer clear of "the development of pilot courses" and implementation activities.

There was little show of sympathy for this narrow view of NSF's role among the three subcommittee members who attended the hearing—Symington; Representative Charles A. Mosher (R-Ohio), the ranking minority member of the full committee; and Representative Don Fuqua (D-Fla.). Symington had said earlier in a statement accompanying release of the GAO report that "the Subcommittee has long been a supporter of National Science Foundation programs to improve education in science for the Nation's children and young adults.

The Subcommittee will continue its support." Fuqua took exception to Conlan's choice of language in using words such as "deceit" and "corruption" to describe actions which the GAO report characterizes much less vividly.

It appears that the subcommittee's first concern is to improve NSF program management. Even Conlan conceded that some constructive steps had been taken. These steps, according to a policy statement by Stever, include (i) establishment of award review boards in all grant awarding directorates of the NSF, including the education directorate (these boards are made up of foundation officials not directly involved in the programs they are reviewing); (ii) making available verbatim reviewers' comments at NSB programs committee meetings when proposals are up for recommendation to the full board (this should preclude a repetition of the ISIS controversy); (iii) as announced earlier (*Science*, 11 July 1975), making available verbatim peer reviews to a project's principal investigators on request, with reviewer's identities removed.

Stever also noted that "two of our most capable staff members" have been assigned to head the education directorate. These are Harvey Averch, acting assistant director of education, who appeared at the hearing to present the budget request of the science directorate in uneventful testimony, and Jack T. Sanderson, Averch's deputy until he returned to the planning office as acting director to replace the newly departed Snow.

Averch and his colleagues have been conducting an evaluation of 19 current projects in his directorate using outside experts in the exercise. The results of the study are to be communicated to the National Science Board, and action by the board may well indicate to what extent the board intends to rethink NSF policy on its education role.

There is little firm indication of whether Congress will be disposed to chastise NSF sternly for the ISIS incident. Except for the travail of the education directorate, NSF appears to be doing well in the budget authorization hearings. Conlan himself praises other parts of NSF's operations but concluded his criticism of "mismanagement" in the education program by asking, "How extensive is it? That's the question."

So far, Conlan's colleagues tend to congratulate him for his "provocative" contributions but indicate that they think he is overstating the problem. There is no question, however, that Conlan has shaken up NSF and that the tremors continue.—John Walsh.

WORLD EMPLOYMENT CONFERENCE

Mr. McGEE. Mr. President, last month a highly significant Conference was held in Geneva. The Tripartite World Conference on Employment, Income Distribution and Social Progress and the International Division of Labor was held under the auspices of the International Labor Organization.

The significance of the Conference

was the adoption of a comprehensive program of action by the ILO aimed at meeting the basic needs of the people in the less developed nations of the world. The Conference was unique in the willingness of all participants to begin a discussion on a wide range of internal policy changes required within developing countries in order that the basic needs of their people are met.

In past conferences, such as the World Food Conference, the World Population Conference, Habitat, and the World Environment Conference, discussion focused on a limited range of internal changes which might be useful for developing countries to pursue. The ILO engineered the first world Conference in which a total strategy was the main topic of discussion. For the first time, we have witnessesd the global community coming to grips with the real issues of development in which all facets were brought together in a coherent fashion.

What was particularly important about this conference was the essential acceptance of development strategies contained in the so-called new directions in the bilateral U.S. aid program which was developed primarily as a congressional initiative in 1973.

Mr. President, as a longtime supporter of the International Labor Organization and one who believed the U.S. Government made a grievous mistake last year in notifying the ILO of our intention to withdraw from the organization in 2 years, I think it is important that we understand the significant, and oftentimes indispensable, role of this international institution.

For this reason, I ask unanimous consent that the summary record of the World Employment Conference be printed in the RECORD.

There being no objection, the summary record was ordered to be printed in the RECORD, as follows:

REPORT OF THE COMMITTEE OF THE WHOLE

DECLARATION OF PRINCIPLES

The Tripartite World Conference on Employment, Income Distribution and Social Progress and the International Division of Labour held in Geneva from 4 to 17 June 1976 in accordance with the resolution adopted by the International Labour Conference during its 59th Session (1974):

Aware that past development strategies in most developing countries have not led to the eradication of poverty and unemployment; that the historical features of the development processes in these countries have produced an employment structure characterised by a large proportion of the labour force in rural areas with high levels of underemployment and unemployment; that underemployment and poverty in rural and urban informal sectors and open unemployment, especially in urban areas, has reached such critical dimensions that major shifts in development strategies at both national and international levels are urgently needed in order to ensure full employment and adequate income to every inhabitant of this One World in the shortest possible time;

Aware that industrialised countries have not been able to maintain full employment and that economic recession has resulted in widespread unemployment;

Noting that the Conference is a major initiative on the part of the International Labour Organisation towards the efforts that many of the member countries are making to establish a more equitable international economic order, and that it is consistent with the deliberations of the important world conferences of recent years;

Recalling further the conclusions of the Sixth and Seventh Special Sessions of the United Nations General Assembly, in particular Resolution 3202 (S–VI) concerning the Establishment of a New International Economic Order, and Resolution 3362 (S-VII) concerning Development and International Economic Co-operation;

Noting that underemployment, unemployment, poverty, malnutrition and illiteracy are caused by both national and international factors; that at the national level they are caused by structural factors emanating from underdevelopment and, at the international level, they are due mainly to the deteriorating situation in developing countries, which is partly the consequence of cyclical and structural imbalances in the world economic situation;

Recognising that one of the primary objectives of national development efforts and of international economic relations must be to achieve full empolyment and to satisfy the basic needs of all people throughout this One World;

Committed to the attainment of an equitable distribution of income and wealth through appropriate strategies to eradicate poverty and promote full, productive employment to satisfy basic needs;

Noting:

(a) that unemployment, underemployment and marginality are a universal concern and affect at least one-third of humanity at the present time, offending human dignity and preventing the exercise of the right to work;

(b) that the experience of the past two decades has shown that rapid growth of gross national product has not automatically reduced poverty and inequality in many countries, nor has it provided sufficient productive employment within acceptable periods of time;

(c) the current unsatisfactory international economic situation and the discussions of problems affecting unemployment and related issues in UNCTAD IV;

(d) that the existence of an informal urban sector which has grown out of proportion during the past decades in the developing countries and the chronic lack of jobs in rural areas burden the labour markets and hinder the sectoral and regional integration of national development policies;

(e) that it is necessary to replace the current international division of labour wherein the participation of developing countries in international trade is mainly the exportation of raw materials, semi-processed products and highly labour-intensive manufactured goods and the importation of highly capital-intensive industrial products, so as to enable all countries to engage in other types of production in accordance with their national priorities;

Recalling the Universal Declaration of Human Rights, in particular Article 23, adopted by the General Assembly of the United Nations in 1948;

Considering that only productive work and gainful employment, without discrimination, enable man to fulfill himself socially and as an individual, and reconfirming that the assured opportunity to work is a basic human right and freedom;

Considering that the growth of productive employment is one of the most effective means to ensure a just and equitable distribution of income and to raise the standard of living of the majority of the population;

Convinced that the establishment and modernisation of small and medium-sized enterprises in rural as well as in urban sector will increase the volume of employment and therefore play an important part in a basic-needs strategy and that the private sector has an important role to play in development and employment creation:

Considering that integrated development of developing countries can be achieved only in so far as equal priority is attached to the social, economic and political aspects of development;

Affirming that the problems of underemployment, unemployment and poverty must be attacked by means of direct, well co-ordinated measures at both national and international levels;

Recognising that in most developing countries, the government is the principal promoter of development and employment and the competent instrument to achieve a just and equitable distribution of income, with the effective participation of trade unions, rural workers' organisations and employers' associations;

Recognising that international relations should be based on co-operation, interdependence, national sovereignty, self-determination of peoples, and nonintervention in the internal affairs of countries;

Reconfirming the importance of regional and subregional co-operation as a major instrument to achieve the expansion of domestic markets, to facilitate the use of modern technologies, efficient industrialisation, better integration into the world economy, and to give greater weight to the positions of developing countries in international relations, with a view to accelerating the development of Third World countries;

Noting the firm commitment of the developing countries and of some developed countries to implement the New International Economic Order, based on the principles contained in the Charter of Economic Rights and Duties of States;

Noting that a review and appraisal of the strategy for the Second Development Decade (Resolution 3517 of the United Nations General Assembly) are taking place and that preparations for the Third Development Decade have commenced;

Convinced that the strategy for the Second Development Decade needs to be complemented by a programme of action to guide international and national development efforts towards fulfilling the basic needs of all the people and particularly the elementary needs of the lowest income groups;

Recalling that the ILO, particularly through its World Employment Programme, has a direct responsibility for elaborating such a strategy with regard to the achievement of full productive employment in decent working conditions, and ensuring respect for the freedoms and rights of associations and collective bargaining laid down in Conventions Nos. 87, 98 and 135;

The Conference hereby adopts and requests the Governing Body of the ILO to implement the Programme of Action where appropriate in co-operation with other international organisations.

PROGRAMME OF ACTION

I. Basic needs

1. Strategies and national development plans and policies should include explicity as a priority objective the promotion of employment and the satisfaction of the basic needs of each country's population.

2. Basic needs, as understood in this Programme of Action, include two elements. First, they include certain minimum requirements of a family for private consumption: adequate food, shelter and clothing, as well as certain household equipment and furniture. Second, they include essential services provided by and for the community at large, such as safe drinking water, sanitation, public transport and health, educational and cultural facilities.

3. A basic-needs-oriented policy implies the participation of the people in making the decisions which affect them through organisations of their own choice.

4. In all countries freely chosen employment enters into a basic-needs policy both as a means and as an end. Employment yields an output. It provides an income to the employed, and gives the individual a feeling of

self-respect, dignity and of being a worthy member of society.

5. It is important to recognize that the concept of basic needs is a country-specific and dynamic concept. The concept of basic needs should be placed within a context of a nation's over-all economic and social development. In no circumstances should it be taken to mean merely the minimum necessary for subsistence; it should be placed within a context of national independence, the dignity of individuals and peoples and their freedom to chart their destiny without hindrance.

Strategies and Policies to Create Full Employment and to Meet Basic Needs in Developing Countries

6. In developing countries satisfaction of basic needs cannot be achieved without both acceleration in their economic growth and measures aimed at changing the pattern of growth and access to the use of productive resources by the lowest income groups. Often these measure will require a transformation of social structures, including an initial redistribution of assets, especially land, with adequate and timely compensation. Land reform should be supplemented by rural community development. In some countries, however, public ownership and control of other assets is an essential ingredient of their strategy. Obviously, each country must democratically and independently decide its policies in accordance with its needs and objectives.

7. Any national employment-centered development strategy aiming at satisfying the basic needs of the population as a whole should, however, include the following essential elements, to the extent that countries consider them to be desirable:

Macro-economic policies

(a) An increase in the volume and productivity of work in order to increase the incomes of the lowest income groups;

(b) strengthening the production and distribution system of essential goods and services to correspond with the new pattern of demand;

(c) an increase in resource mobilisation for investment; the introduction of progressive income and wealth taxation policies; the adoption of credit policies to ensure employment creation and increased production of basic goods and services;

(d) the control of the utilisation and processing of natural resources as well as the establishment of basic industries that would generate self-reliant and harmonious economic development;

(e) developing inter-regional trade, especially among the developing countries, in order to promote collective self-reliance and to ensure the satisfaction of basic import needs without depending permanently on external aid;

(f) a planned increase in investments in order to achieve diversification of employment and technological progress and to overcome other regional and sectoral inequalities;

(g) reform of the price mechanism in order to achieve greater equity and efficiency in resource allocation and to ensure sufficient income to small producers;

(h) reform of the fiscal system to provide employment-linked incentives and more socially just patterns of income distribution;

(i) safe-guarding ecological and environmental balances;

(j) provision by the government of the policy framework to guide the private and public sectors towards meeting basic needs, and making its own industrial enterprises model employers; in many cases this can only be done in a national planning framework;

(k) the development of human resources through education and vocational training.

Employment policy

8. Member States should place prime emphasis on the generation of employment, in particular to meet the challenge of creating sufficient jobs in developing countries by the year 2000 and thereby achieve full employment. Specific targets should be set to reduce progressively unemployment and underemployment.

9. The following policies should be adopted to encourage employment creation:

(a) Member States should ratify ILO Convention No. 122 and should ratify, implement and safeguard fair labour standards, such as the right to organise and to engage in collective bargaining, as laid down in ILO Conventions Nos. 87, 98 and 135.

(b) In the criteria for project selection and appraisal, employment and income distribution aspects should have adequate emphasis in development planning and in the lending policies of international financial institutions.

(c) Member States should implement active labour market policies of the type set forth in the ILO Human Resources Development Convention, 1975 (No. 142), and the accompanying Human Resources Development Recommendation, 1975 (No. 150), and adjust enterprise-level policies, especially with regard to recruitment, work organisation, working conditions and work content, so as fully to absorb underutilised labour resources.

(d) Wage policies should be such that:

(i) they ensure minimum levels of living;

(ii) the real wages of workers and the real incomes of self-employed producers are protected and progressively increased;

(iii) wage levels are equitable and reflect relative social productivity;

(iv) anti-inflationary incomes and price policies, where introduced, take these objectives into account.

(e) Equality of treatment and remuneration for women should be ensured.

Rural sector policies

10. Governments should give high priority to rural development, and increase the effectiveness of their policies, including those to reorganise the agrarian structure. Rural development involves the modernisation of agriculture, the development of agro-based industries, and the provision of both physical and social infrastructure. It should encompass educational and vocational training facilities, the construction of main and feeder roads, the provision of credit facilities and technical assistance, especially to small farmers and agricultural labourers.

11. Co-operatives should be promoted in accordance with ILO Recommendation No. 127 and extend not only to the use of land, equipment and credit, but also to the fields of transportation, storage, marketing and the distribution network, processing and services generally. More emphasis should be placed on the development of co-operatives in national policies, especially when they can be implemented so as to involve the lowest income groups, through their own organisations.

12. In most of the developing countries, agrarian reform, land distribution and the provision of ancillary services are basic to rural development. A minimum requirement is to provide house sites for rural and plantation workers and other landless labourers so as to assist them in building their homes and making them independent, especially in case of loss of employment.

13. The main thrust of a basic-needs strategy must be to ensure that there is effective mass participation of the rural population in the political process in order to safeguard their interests. In view of the highly hierarchical social and economic structure of agrarian societies in some developing countries, measures of redistributive justice are likely to be thwarted unless backed by organisations of rural workers. A policy of active encouragement to small farmers and rural workers' organisations should be pursued to enable them to participate effectively in the implementation of:

(a) programmes of agrarian reforms, distribution of surplus lands and land settlement;

(b) programmes for developing ancillary services such as credit, supply of inputs and marketing; and

(c) programmes concerning other employment generation schemes, such as public works, agro-industries and rural crafts.

As specified in ILO Convention No. 141, Governments should create conditions for the development of effective organisations of rural workers.

Social policies

14. Social policies should be designed to increase the welfare of working people, especially women, the young and the aged.

Women

15. Since women constitute the group on the bottom of the ladder in many developing countries in respect of employment, poverty, education, training and status, the Conference recommends that special emphasis be placed in developing countries on promoting the status, education, development and employment of women and on integrating women into the economic and civic life of the country.

16. Specifically, the Conference recommends:

(a) the abolition of every kind of discrimination as regards the right to work, pay, employment, vocational guidance and training (including in-service training), promotion in employment and access to skilled jobs;

(b) that more favorable working conditions be ensured so that women may perform their other functions in society and married women may be able to return to either full-time or part-time productive employment;

(c) that the work burden and drudgery of women be relieved by improving their working and living conditions and by providing more resources for investment in favour of women in rural areas.

The young, the aged and the handicapped

17. In the implementation of basic-needs strategies, there should be no discrimination against the young, the aged or the handicapped. Every effort should be made to provide the young with productive employment, equal opportunity and equal pay for work of equal value, vocational training and working conditions suited to their age. Exploitation of child labour should be prohibited in accordance with the relevant ILO standards.

Participation of organized groups

18. Governments must try to involve employers' organisations, trade unions and rural workers' and producers' organisations in decision-making procedures and in the process of implementation at all levels. These are the organisations which represent the vast majority of the population and, therefore, they must be the ones to help define the basic needs and apply the necessary strategies.

19. Employers' and producers' organisations, trade unions and other workers' organisations such as rural workers' organisations have an important role to play in the design and implementation of successful development strategies. They must be encouraged to participate effectively in the decision-making process. Workers' organisations are also of great importance in the search for a reform of the existing international economic structures and they have a major role to play in the achievement of a fairer distribution of income and wealth.

Education

20. Education is itself a basic need, and equality of access to educational services, particularly in rural areas, is therefore an important ingredient of a basic-needs strategy. Lack of access to education denies many people, and particularly women, the opportunity to participate fully and meaningfully

in the social, economic, cultural and political life of the community.

21. Educational and vocational training systems should be adapted to national development needs and should avoid an élitist bias; priority should be given to adult and primary education, especially in the rural areas.

Population policy

22. High birth rates in poverty-stricken areas are not the cause of under-development but a result of it. They may, however, jeopardise the satisfaction of basic needs. It is only through the fulfilment of these needs, with special emphasis on the development of the position and status of women, that couples will be in a better position to determine the size of their family in a manner compatible with the aims of their society. The Conference is of the view that population policies consistent with the culture and the societies involved, as recommended by the 1974 World Population Conference, should be strongly encouraged. It recommends that information on population programmes should be made available to people in a form and language that they can understand.

International Economic Cooperation

23. The satisfaction of basic needs is a national endeavour, but its success depends crucially upon strengthening world peace and disarmament and the establishment of a New International Economic Order. The World Emplyoment Conference fully supports the efforts being made by the United Nations General Assembly in its resolution as adopted at the Seventh Special Session and through the relevant agencies of the UN system to introduce international reforms in trade and finance in favour of developing countries and thus to contribute to the creation of a New International Economic Order. The Conference recognises that the basic-needs strategy is only the first phase of the redistributive global growth process.

24. In particular, the Conference, recognising the primary objectives of national development, urges ILO member States to continue their efforts through the appropriate UN agencies to:

(a) stabilise developing countries' exports of primary products and improve their terms of trade through financing an integrated commodity programme;

(b) secure expanded access for developing countries' manufactured exports to the markets of rich countries through trade liberalisation measures on a nonreciprocal basis;

(c) increase the net transfer of resources to developing countries, including the mitigation of their debt burden;

(d) increase mutual economic co-operation between countries with different social and economic systems.

25. The Employers' group wished it to be placed on record that they regarded the section on international economic co-operation as being outside the proper competence of the ILO and as being inappropriate for comment by employers. They agreed, however, that the ILO should co-operate with relevant UN organisations, wherever appropriate, in implementing its policies throughout the developing world.

26. A number of Western industrialised countries wished it to be placed on record that they regarded the section on international economic co-operation (paras. 23 and 24) as being outside the proper competence of the ILO. They took the view that, within its area of competence, the ILO should co-operate with other UN organisations, wherever appropriate, in implementing its policies throughout the developing world.

Recommendations

27. The ILO should co-operate with other UN agencies in bringing about these desired reforms in order to give meaning and reality to the expressed commitment of the world community to assist national basic-needs strategies. It should work through, in particular, the World Employment Programme, including its regional components, and its recognised instrumentalities, such as the existing standard-setting activities, technical assistance and industrial activities.

28. The ILO should, in particular, undertake promotion of short-term and quick employment-generating programmes for making an immediate impact on the prevailing levels of poverty and massive waste of human resources. The Conference recommends that a portion of the $1,000 million International Fund for Agricultural Development should be used for the generation of employment in the rural sector.

29. The Governing Body of the ILO is urged to recommend the review of research programmes, operational activities and organisational structures of the UN family so as to focus them more sharply on the contribution they can make to meeting the basic-needs targets, particularly of the lowest income groups. The Administrative Committee on Co-ordination (ACC) should be requested to review, monitor and report on the work of the different agencies and regional commissions of the UN system.

30. The ILO should, in co-operation both with other UN bodies and with interested national governments, consider the feasibility of initiating a world-wide programme in support of household surveys to map the nature, extent and causes of poverty; to assist countries to set up the necessary statistical and monitoring services; and to measure progress toward the fulfilment of basic needs.

31. Member States should, to the extent possible, supply the ILO, before the end of the decade, with the following information:

(a) a quantitative evaluation of basic needs for the lowest income groups within their population, preferably based on the findings of a tripartite commission established for the purpose;

(b) a description of policies, existing and in preparation, in order to implement the basic-needs strategy.

32. The ILO is requested to prepare a report for an annual conference before the end of the decade and to include the following information:

(a) an elaboration of more precise concepts defining basic needs on the basis of national replies;

(b) a survey of the entire range of national replies received and an analysis of the national situations with respect to the levels of basic needs as well as policies to attain them.

33. The Governing Body of the ILO is urged to place the question of the revision of Convention No. 122 on the agenda of an early session of the International Labour Conference.

34. The Conference finally requests that policies required to meet basic needs become an essential part of the United Nations Second Development Decade Strategy and form the core of the Third Development Decade Strategy.

II. International manpower movements and employment

General objectives of national and international policies

35. The aim of national and international policies in this field should be threefold: (i) to provide more attractive alternatives to migration in the country of origin; (ii) to protect migrants and their families from the difficulties and distress which sometimes follow migration; (iii) to take care that neither migration nor its alternatives are prejudicial to the rest of the population or harmful to economic and social development in either the country of origin or the country of employment.

Measures designed to avoid the need for workers to emigrate

36. The development strategy in the countries of origin should include in particular an employment policy which would give workers productive employment and satisfactory conditions of work and life.

37. This strategy should be implemented in the framework of multilateral and bilateral co-operation which would make it possible through such means as encouragement of appropriate intensified capital movements and transfers of technical knowledge to promote a reciprocally advantageous international division of labour; this calls for necessary readjustments in countries of employment.

Measures against migrations in abusive conditions and in favour of the promotion of equality of opportunity and treatment

38. Governments, employers and workers of the countries of employment should ensure that all migrants are protected against any exploitation and effectively enjoy equality of opportunity and treatment. These principles and the means of implementing them are stated in detail in the international standards of the ILO and more specifically in the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and in the complimentary Migrant Workers Recommendation, 1975 (No. 151). A special effort should be made to ratify and apply the Convention and give effect to the provisions of the Recommendation, especially with regard to:

(a) the fight against migrations in abusive conditions, particularly through sanctions in conformity with Article 6 of the Convention;

(b) the promotion of equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms and especially the encouragement of the efforts of migrant workers and their families to preserve their national and ethnic identity as well as their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue.

(c) the elaboration and implementation of a social policy which emphasises:

i) reunification of families;

ii) protection of the health of migrant workers;

iii) establishment of adequate social services.

(d) minimum guarantees as regards employment and residence.

39. In order to combat discrimination and illegal trafficking in manpower, governments, employers and workers should strengthen their action to ensure the application of national legislation and collective agreements and to initiate the early introducion of appropriate penal sanctions against all who organize or knowingly take advantage of illegal movements of manpower.

Multilateral and bilateral agreements

40. Multilateral and bilateral agreements should be drawn up to deal with the migration of workers and problems concerning migrant workers and their families. Such agreements should be in accordance with the principles established in ILO standards. As far as possible, representative organisations of employers and workers should participate in their preparation and implementation.

41. Such agreements should be based upon the economic and social needs of the countries of origin and the countries of employment; they should take account not only of short-term manpower needs and resources, but also of the long-term social and economic consequences of migration, for migrants as well as for the communities concerned.

42. One of the principal objectives of mutually accepted policies in the framework of these agreements should be to even out fluctuations in migration movements, return migration flows and remittances and make them

as far as possible predictable, continuous and assured so as to facilitate the implementation of long-term programmes of economic and social development.

43. Taking into account the economic and social circumstances in the countries and regions concerned and the characteristics of the migration movements concerned, these agreements should in appropriate cases:

(a) facilitate the coordination of employment policies, especially in the framework of efforts for economic and social integration on a regional basis;

(b) regulate the recruitment of migrant workers without discrimination and according to their free choice under the auspices of the employment services of the countries concerned;

(c) provide for periodic exchange of information between the countries concerned on the occupational categories and the number of workers to whom contracts could be offered and who would be ready to emigrate or return to their country of origin; for this purpose skilled manpower pools or data banks should be established to provide reliable information on the supply of and demand for skilled, professional and technical manpower;

(d) reinforce co-operation between the employment and other services dealing with migration and migrant workers in the countries concerned;

(e) give priority to the recruitment of workers who are underemployed or unemployed;

(f) provide that countries of origin should adopt appropriate measures so as to avoid the departure of skilled workers, including adaptation of education and training schemes to national needs and offering highly trained personnel conditions permitting them to remain and serve their own country;

(g) provide that countries of employment should refrain from recruiting skilled and highly skilled workers when there are recognized or potential shortages of such workers in the country of origin;

(h) provide that the countries of employment could take complementary measures to aid the developing countries to minimise their loss of qualified manpower, for example, by increasing training possibilities for their own nationals in those fields where skills are scarce and by eliminating any part of their immigration laws and regulations which have the effect of encouraging the entry of professional and other highly qualified migrants;

(i) provide ways of limiting losses in countries of origin, particularly developing countries, which may result from the departure of skilled personnel whose education and training they have provided;

(j) establish training facilities, where these do not already exist, making possible:

(i) suitable preparation, documentation and training of candidates for emigration;

(ii) vocational training and advancement of migrant workers in the country of employment;

(iii) training of workers wishing to return to the countries of origin, taking account of the aptitudes of such workers and the needs of their countries;

(k) adopt the necessary measures to facilitate the voluntary return to their countries of origin of migrant workers and their resettlement;

(l) provide for social security benefits for families which have stayed in the country of origin and for suitable means of ensuring that migrant workers returning to their home countries enjoy continuity of social security benefits;

(m) take into consideration the need for financing the above measures by appropriate means.

The role of the ILO

44. At their request, the ILO should provide technical co-operation to the countries concerned and technical support to regional organisations in order to make it possible to prepare and implement the above measures.

45. At the request of governments concerned, the ILO should study the possibility of setting up at regional or subregional level a system designed with the collaboration of the representative employers' and workers' organisations concerned to improve information on the availability of job opportunities in certain industries and certain types of employment for the benefit of candidates for emigration or return to their country of origin.

46. The Office should:

(a) initiate studies on the economic and social effects of different kinds of migration for employment;

(b) make studies and organise meetings at regional or subregional levels on the problems of migrant workers who have not been regularly admitted or who lack official papers.

III. Technologies for productive employment creation in developing countries

Policy Objectives

47. Technology has an important role to play in the process of development. Since technology is linked with the choice of products as well as with capital investment, labour and skills required to produce them, it has a bearing on the level of productive employment and the distribution of income. Technology, therefore, is an important element of the basic-needs strategy, which must be part of an over-all national, economic and social development strategy.

48. There is an urgent need for appropriate and optimal technology, that is, management and production techniques which are best suited to the resources and future development potential of developing countries. Such technology should contribute to greater productive employment opportunities, elimination of poverty and the achievement of equitable income distribution.

49. The exclusive use of labour-intensive techniques will neither solve the problems of the developing countries nor reduce their dependence on industrialised countries. Likewise, the exclusive use of capital-intensive techniques will present the developing countries with serious problems: financial difficulties, lack of managerial staff and supervisory personnel and delays in the solution to employment problems. Thus developing countries should arrive at a reasonable balance between labour-intensive and capital-intensive techniques, with a view to achieving the fundamental aim of maxamising growth and employment and satisfying basic needs. This strategy of equilibrium between the various types of technologies should also take account of the desire to adopt advanced techniques, with a view to reducing the existing technological gap between countries.

50. Choice, development and transfer of technology require that proper emphasis should be placed on the building up of national infrastructure for human resources development, particularly to promote training of workers, technicians and managers for appropriate technology selection.

51. In the selection of new technologies appropriate to their needs, the developing countries should take due account of the need to protect their ecology and natural resources. There is also a need to pay due attention to social aspects, working conditions and the safety of workers when introducing new technologies.

Action at the National Level

52. The choice of appropriate technologies is dependent on the conditions prevailing in each country and the characteristics of each economic sector. This choice must also be based on the full utilisation of national resources. Thus each developing country has the right and duty to choose the technologies which it decides are appropriate. To facilitate such a choice, it will be helpful to establish national subregional and regional centres for the transfer and development of technology and to promote co-operation both between developing countries and between the latter and developed countries. The ILO should help in the establishment of these centres in conjunction with other agencies of the UN system.

53. The promotion of research should be a fundamental priority in policies to increase the national technological capacity of developing countries and reduce their dependence on industrialised countries. This research should mainly be undertaken within, and under the direction of, the developing countries themselves or in corresponding regional or subregional bodies where these exist, with the technical and financial assistance of international and other agencies presently involved in such activities. Technological research should furthermore contribute towards the satisfaction of basic needs.

54. Each developing country should accelerate appropriate technological advancement in the informal urban and rural sectors, in particular, to eliminate underemployment and unemployment and raise productivity levels.

55. Foreign firms, in response to the national legislation of developing countries and in negotiating with them, and taking into account the national economic development plans, should:

(a) introduce technologies which are both growth- and employment-generating, directly or indirectly;

(b) adapt technologies to the needs of the host countries, and progressively substitute national for imported technology;

(c) contribute to financing the training of national managers and technicians for the better utilisation and generation of technology;

(d) supply resources and direct technical assistance for national and regional technology research; and

(e) spread technological knowledge and help in its growth by subcontracting the production of parts and materials to national producers, and particularly to small producers.

56. Each developing country should accelerate the formulation and implementation of a training plan at the following levels:

(a) middle-level technicians and skilled workers to be employed in the production technologies associated with the goods and services required to satisfy basic needs;

(b) professionals, technicians, managers and skilled workers to replace expatriate staff who presently apply advanced technology;

(c) professionals and technicians needed to manage research and studies undertaken by national and/or regional technological research bodies; and

(d) technicians, professionals and skilled workers, who should be assured of a measure of social status and incentives to prevent a brain drain, in order to promote the utilisation of technologies designed to achieve material and social objectives.

Action at the international level

57. International agencies and bilateral and multi-lateral aid programmes should devote resources and technical assistance to competent developing countries' efforts.

58. At present several organisations of the U.N. system are engaged in work on appropriate technologies for developing countries. Better co-ordination of this work would ensure that the full potential benefits may be realised.

59. The U.N. Interagency Task Force on Information Exchange and the Transfer of Technology is working towards the establishment of a network for the exchange of technological information. At its second session in May 1976 it recommended that: "organisations of the United Nations system and other organisations having substantive responsibility in the field of technological information and the transfer of technology should develop their relevant activities as components of the over-all network, and in mutual co-operation make available their own informa-

tion bases and information-handling capabilities as appropriate".

The ILO should strengthen its activities in the field of the collection and dissemination of information on appropriate technologies, especially for the rural sector, and so make an important contribution towards the establishment of the information exchange network referred to above.

60. The ILO should reorient and strengthen its existing programme in order to provide more manpower training and human resources development in the developing countries.

61. The ILO should pursue its research and technical co-operation in the field of development and transfer of technology. It should set up a Working Group in which employers and workers would be represented to examine action on appropriate technology for employment, vocational training and income distribution. The developing countries should participate directly in this Working Group, which should not encroach upon the activities of other U.N. agencies.

62. The Group of 77 endorsed the establishment of a Consultative Group on Appropriate Technology and an International Appropriate Technology Unit, especially directed to research on the choice of alternative use of resources allowing a greater utilisation of labour per unit of investment, provided that such mechanisms are integrated with the ongoing activities of the U.N. system. The Workers' Group also endorsed these proposals but emphasised that these bodies should be tripartite in character. Most Western industrialised countries did not support these two proposals. The Workers' Group and the Group 77 supported the UNCTAD proposal for an international code of conduct for technology transfer. This should be of a legally binding, not voluntary, nature. They further supported the suggestion that the Paris Convention of 1883 on industrial property should be drastically revised.

IV. Active manpower policies and adjustment assistance in developed countries

General Principles

63. Governments of developed countries should pursue a determined policy to achieve and maintain full employment, i.e. to provide employment opportunities for all those who want to work, and contribute to a fair distribution of income and wealth in these countries. Employment policy should be closely integrated with over-all economic policy and national planning. It has to be related to other social policies.

64. The success of active manpower policies pursued with this aim will facilitate adaptation to structural changes including those which result from expanding trade with developing countries, thereby supporting growth and increased employment in these countreis. Employment policy should not exclusively be based on measures to influence general demand. It should also be based on a range of selective measures to create new job opportunities. Such selective measures should also make a contribution to the struggle against inflation. Governments in the industrialized countries should strengthen the co-ordination of economic policies to maintain full employment. Measures should also be taken to ensure close collaboration concerning the migratory movement of workers between countries of origin and reception.

65. This policy will contribute to a high level of economic activity and improvements in the international economic order as called for by the UN General Assembly, and will lead to increased trade with the developing countries, thus increasing growth and employment in these countries.

66. Structural changes resulting from modifications in the international economic order must not take place at the expense of workers. Such changes should contribute to job creation in both industrialised and developing countries, and assure suitable employment to all workers, involving countries of whatever social and political system. The governments concerned should provide adjustment assistance in order to facilitate the establishment of new economic relations between developing and developed nations. It is envisaged that such adjustment assistance would not diminish development aid.

Policy Measures

67. The priorities of national employment policies should be:

(i) the maintenance of as high a demand for labour as is necessary in order to achieve full employment;

(ii) measures and policies to promote stable economic growth, which should include both general and selective measures;

(iii) the reinforcement of measures designed to provide protection against undesirable effects of cyclical evolution or structural change, such as those mentioned in ILO Conventions and Recommendations. These measures could include:

Provision of maximum practicable notice of change for workers whose jobs are threatened;

Provision of appropriate income levels for a reasonable period and the safeguarding of pension rights;

Provision of retraining;

Provision of special measures for women, migrants, young workers, and handicapped workers whose re-employment involves special problems.

These matters should be dealt with in close co-operation between governments, employers and workers.

68. Many of these features already exist in the policies of industrialised countries.

69. In implementing employment and manpower policies, the industrialised countries should continue to pursue and expand trade liberalisation policies in order to increase imports of manufactures and semi-manufactures from developing countries in an effort to increase their employment and incomes, while continuing to maintain employment in industrialised countries. Adjustment assistance is considered preferable to import restrictions.

70. Consistent with national laws and systems, adjustment assistance should start well before workers lose their jobs, when this can be clearly established, and not only when unemployment is imminent.

71. Regional or national readjustment funds could be set up by the industrialised countries or existing funds (for example the EEC Social and Regional Funds) could be adapted for the purpose of assisting in the adjustment of industries and workers affected by changes in the international economic situation. This ought not to reduce development aid.

72. The competitiveness of new imports from developing countries should not be achieved to the detriment of fair labour standards.

73. The World Employment Conference expresses the hope that the discussions in the Multilateral Trade Negotiations concerning the GATT safeguard clause, i.e. GATT Article 19, will lead to improvements in the international safeguard system.

74. Governments and employers' and workers' organisations shall work together to improve industrial life. Employers and workers should consider participation by workers in matters of recognised mutual concern.

Proposals for an ILO Action Programme

75. The traditional role of the ILO regarding labour standards should be continued in order to ensure respect for fair labour standards in developing and industrialised countries alike.

76. The ILO could contribute to the exchange of information and experience on the functioning and problems of active manpower policies and adjustment assistance. The Workers' members felt that the ILO could, within its special competence and in the context of multi-lateral trade negotiations, contribute to the improvement of an international safeguard system covering employment and income guarantees, fair labour standards and adjustment measures.

77. ILO Industrial Committees could provide a forum for discussing the problems of employment and working conditions resulting from structural change.

78. The Turin Centre, CINTERFOR and other regional vocational training centres have an essential role to play in training, a role which could usefully be widened into areas not currently covered.

V. The role of multinational enterprises in employment creation in the developing countries

The Conference was unable to reach a consensus on the role of multinational enterprises in developing countries. The following paragraphs reflect the position of the different parties.

Declarations of Government Members

79. Some governments stressed the positive aspects of the activities of multinational enterprises in developing countries, which they saw as direct employment creation, the linkage effects on the economy, the firms' contribution to an improvement of training, the creation of social services, etc.

80. Some governments stressed that multinational corporations had a role to play in the implementation of a basic-needs strategy. However, it is necessary first to identify the different types of corporation according to their objectives in order to determine which ones could be expected to contribute to the implementation of a basic-needs strategy.

81. Some governments on the other hand underlined the negative effects of the activities of multinational corporations in developing countries, which they saw as the creation of an international division of labour unfavorable to these countries, the control of raw materials, the lack of respect for the sovereign rights of States, the insecurity of the employment provided, the lack of respect for trade union rights and notably the expatriation of profits.

82. Some governments felt that efforts should be made to try to reinforce cooperation between host countries and multinational enterprises, especially through the creation of a favorable climate for private foreign investments. In addition, according to these governments, multinational corporations should not be treated less favorably than local companies.

83. Other governments expressed the opinion that the application of discriminatory measures with regard to multinational enterprises as opposed to local enterprises was one of the sovereign rights of States.

84. The Government members of countries belonging to the Group of 77 based their position on Resolution 3201 adopted by the General Assembly of the United Nations on 1 April 1974 on the establishment of New International Economic Order based on equity, equality, sovereign rights, interdependence, common interests and cooperation between all States regardless of their economic and social systems, as well as on the conclusions and recommendations adopted by the Fourth Conference of Non-Aligned Countries in Algiers. These countries stated that transnational enterprises were responsible for the world-wide imbalance, that they infringed the sovereignty of States, and that they sometimes tended to constitute monopolies that all action vis-a-vis transnational enterprises must be taken within the framework of a global strategy conceived to bring about quantitative and qualitative changes in the present system of economic and financial relations. They recalled the sovereign rights of

States and condemned all interference in the internal matters of the countries in which transnational enterprises invested.

85. The member countries of the Group 77 recommended strengthening national enterprises to enable them to take necessary steps with a view to preventing the negative effects of the activities of transnational corporations (TNCs). They also recommended that member States and the ILO continue to provide full support to the activities of the UN Commission on Transnational Corporations to regulate the activities of such enterprises particularly in relation to the Code of Conduct which TNCs should observe, containing the following basic principles:

(i) TNCs must be subject to the laws and regulations of the host country and in the event of a dispute accept the exclusive jurisdiction of the courts of the country in which they operate;

(ii) TNCs should refrain from all interference in the internal affairs of the States in which they operate;

(iii) TNCs should refrain from interference in their relations between the government of the host country and other States, and from influencing these relations;

(iv) TNCs should not serve as an instrument of the external policy of another State nor as a means of extending to the host country juridicial regulations of the country of origin;

(v) TNCs should be subject to the permanent sovereignty which the host counrty exercises over all its weatlh, natural resources and economic activities;

(vi) TNCs should comply with national development policies, objectives and priorities and make a contribution to their implementation;

(vii) TNCs should supply the government of the host country with relevant information on their activities in order to ensure that those activities are in accordance with the national development policies, objectives and priorities of the host country;

(viii) TNCs should conduct their operations in such a way that they result in a net inflow of financial resources for the host country;

(ix) TNCs should contribute to the development of the domestic, scientific and technological capacity of the host countries;

(x) TNCs should refrain from restrictive trade practices;

(xi) TNCs should respect the socio-cultural identity of the host country.

86. The Group of 77 also recommended that developing countries adopt measures at the national, regional and international levels in order to ensure that transnational enterprises should reorient their activities so as to undertake further manufacturing processes in developing countries and processing in those countries of raw materials for national or foreign markets. They also recommended that the ILO and member States co-operate with a view to bringing the UN Commission on Transnational Corporations to consider among the points to be included in the compulsory Code of Conduct of TNCs those concerning the obligation of these enterprises to hire local labour, not to discriminate against local workers in respect of salaries, conditions of work, training, promotion and access to different levels of seniority. And lastly they recommended that developing countries take steps in order to regulate and control the activities of transnational enterprises so as to ensure that they would act as a positive factor supporting the efforts of developing countries to expand their exports, through the direct impact which the diversification and expansion of such exports can have on the generation of productive employment.

87. The Group of 77 considered that, in conformity with the policies laid down in national development plans, and adhering to the national laws and priorities, and fully respecting the sovereignty of the host countries, the transnational corporations should:

(i) introduce technologies which are both growth- and employment-generating, directly or indirectly;

(ii) adapt technologies to the needs of the host countries;

(iii) contribute to financing the training of national managers and technicians for the better utilisation of technology;

(iv) supply resources and direct technical assistance for national and regional technology research;

(v) spread technological knowledge and help in its growth by subcontracting the production of parts and materials to national producers and particularly to small producers;

(vi) disclose and fully make available to the host countries all the technical know-how and information involved in production maintenance, design, construction, research and development, etc.

88. The Group of 77 supported the proposals of the Workers' Group set out in paragraph 113(i)-(vi) below, in particular the suggestion that the ILO Governing Body should place the issue of transnational enterprises and social policy on the agenda of the 1978 Session of the International Labour Conference in order that Conventions on TNCs should be adopted in the following areas: industrial relations, employment and training, conditions of life and work.

89. Government members of the European socialist countries supported in principle the position of the Group of 77 as well as that of the Workers' members, and endorsed the proposal to place the issue of multinational enterprises and social policy on the agenda of the International Labour Conference in 1978. They felt that in the countries where multinational enterprises operated, they should contribute to employment creation without hindering either a just distribution of incomes or social progress. They underlined that States had an unconditional right to control the activities of multinational enterprises, and that these enterprises must respect the sovereign rights of States and must not interfere in their internal affairs.

90. Most Government members of industrialised market economy countries underlined the positive effects of the activities of multinational enterprises on the economic development of developing countries. These governments underlined the importance of the task of all countries concerned in assisting the economic development of the Third World. They were of the opinion that the multinational enterprises could contribute to the economic development of the host country, especially through the creation of employment. The governments of home countries of multinational enterprises, while considering their own national requirements, should continue to apply selective incentives for foreign investments in such a way as to encourage investments which met the basic needs of the host country. Countries which welcomed foreign investment should create a favourable and stable investment climate which encouraged multinational enterprises to adapt their activities to the economic needs of the country. For this purpose the governments of the host countries should avoid introducing or maintaining inequalities of treatment between multinational enterprises and domestic enterprises in social matters affecting their respective workers.

91. Most Government members of industrialised market economy countries expressed the hope that such policies would help in taking full advantage of the positive aspects of the activities of multinational enterprises. In this spirit these Government members noted the recommendations of the ILO Tripartite Advisory Meeting on the Relationship of Multinational Enterprises and Social Policy, held in Geneva from 4 to 13 May 1976, that appropriate arrangements be made with a view to preparing an ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, which would provide the ILO's input into the much broader Code of Conduct which is currently considered by the United Nations Commission on Transnational Corporations. The interests of both the host countries and multinational enterprises were best served, in the long run, by an atmosphere of mutual trust, in which the rules for inter-relationship were known in advance and strictly observed, relevant information was available to all parties concerned, and negotiations were conducted in a flexible manner.

92. In the light of the above, the Government members of industrialised market economy countries were of the opinion that the present contributions of multinational enterprises to the creation of employment in the developing countries could be further increased through various measures such as:

(i) local subcontracting when this was technically possible;

(ii) a progressive increase in the local processing of raw materials;

(iii) local reinvestment of profits to the greatest extent possible;

(iv) replacement of expatriates and maximum utilisation of local personnel;

(v) training and promotion of local production workers and of local management personnel;

(vi) co-operation on matters of training between the multinational enterprises and the various local institutions providing training.

It should be understood, however, that the role the multinational enterprise could play in employment creation varied from one host country to another, from one time-period to another, and from one firm to another. On the other hand, the contribution of multinational corporations could only be partial since the reduction of unemployment in developing countries was a global task, the responsibility for which lay primarily with governments. It was therefore up to them to ensure that the contribution of multinational corporations to employment creation was maximised. The multinational enterprises should respect the sovereign rights of States as well as the relevant laws, rules and national practices and recognised international obligations, it being understood that it would be desirable to refer to Conventions and Recommendations of the ILO when legal, political and economic considerations so permitted. Multinational enterprises should adapt the activities of their subsidiaries to the development programmes and economic objectives of the countries where they were established. This adaptation should take into account all the economic and social factors of these countries.

93. Government Members of the industrialised market economy countries considered that it was necessary to reinforce the technical negotiating capacity of developing countries vis-à-vis the multinational corporations. For this purpose:

(i) it recommended that the ILO should study regulations in the employment and training fields, adopted by developing countries, regarding foreign investment and multinational corporations.

(ii) it would be desirable to clarify the need for training in developing countries for the purpose of dealing with foreign investment and to establish corresponding training programmes which would assist governments in negotiating with multinationals on matters relating directly or indirectly to employment creation and the improvement of training;

(iii) it was desirable that the ILO, to the extent of its competence, should be ready to provide technical assistance as required in those fields to governments which requested it.

Also it would be desirable to ask the ILO to carry out studies on employment, training and wages policies adopted by developing countries regarding multinational enterprises. Research should equally be strengthened in the field of appropriate technology and labour-intensive goods, the production of which should be promoted in developing countries.

94. Certain Government members of developing countries associated themselves with most of the proposals in paragraphs 92 and 93 above.

95. Government members of industrialised market economy countries felt that multinational enterprises should so far as possible devote themselves to stepping up research and development in the field of appropriate technology and to the development of products to further employment creation. And that, lastly, for their part, governments should be able, before accepting the investment of multinationals on their territory, to be sure that the techniques proposed were those most suited to employment creation, taking account also of other factors affecting production and marketing.

96. Certain representatives of industrialised market economies, whilst in agreement with certain general points made in paragraphs 90 to 93 above, nevertheless expressed their sympathy vis-a-vis the declaration of the Group of 77. They also expressed their agreement with the procedures proposed in the Tripartite Advisory Meeting of May 1976, as well as with the proposal for research which the ILO could undertake in collaboration with the United Nations Commission on Transnational Corporations, without this implying, however, an acceptance of all the conclusions of that meeting. In addition they stated that it was necessary to co-ordinate the ILO's activities on multinational enterprises with those of the UN Commission on Transnational Corporations.

97. Certain governments, while recognising the importance of a Code of Conduct regulating the activities of multinational enterprises, put the stress on relations on a bilateral character which can exist between host countries and multinational enterprises and on the importance of national regulations for controlling the activities of these enterprises.

Declarations of the Employers' Members

98. The Employers' members stated clearly that the relevant agenda item as determined by the Governing Body at its 196th (May 1975) Session, called for a discussion of "the role of multinational enterprises in employment creation in the developing countries" and that they were prepared to discuss this specific question. They considered that companies in general, including multinational enterprises, as well as governments and trade unions, had a responsibility to bring about a better balance in the distribution of the world's products and knowledge. Multinational enterprises in conjunction with home and host governments and trade unions had an important role to play in advancing social progress. It was not possible for multinational enterprises to solve the problem of employment and to meet the basic needs of the world, but they had a contribution to make in this field; nevertheless, the responsibility of this task lay primarily with governments.

99. The Employers' members stressed that the discussion of the problem should concentrate on which kind of employment opportunities multinational enterprises could create. These enterprises did concern themselves with developing new activities important for employment, the example in agriculture. Although direct creation of employment by multinational enterprises was limited, the indirect effects were significant and could stimulate national economic development and know-how.

100. They believed that it was up to each government to decide what kinds of industrial activities and technologies were best suited to meet the development needs of its country. New activities of multinational enterprises in developing countries should fit into national plans. Agriculture should be given priority attention in developing countries, and multinational enterprises could provide assistance in developing the production of industrial inputs to agriculture and in building up industries processing agricultural outputs.

101. The Employers' members stressed that multinational enterprises were a significant vehicle for the transfer of advanced technology, that choice of technology was often dictated by governments and that governments of developing countries generally insisted upon the most sophisticated kinds of technology.

102. They further expressed the view that multinational enterprises had beneficial effects on wages and working conditions. It was for host governments to define the social obligations under which multinational enterprises should function. It was the general practice of multinational enterprises to recognize workers' rights as well as the maintenance of labour standards and working conditions. In general, multinationals were responsible, did train local staff, had good industrial relations, had pay scales as good as, or better than, those of national companies, and worked within national regulations. Multinational enterprises were entitled to a fair remuneration for their efforts.

103. The Employers' members pointed out that multinational enterprises were free not to invest and that foreign investors needed a stable investment climate. Tough rules were acceptable as long as they were not arbitrarily changed. Moreover, multinational enterprises objected to regulations which were not applicable also to national companies. The Employers' members insisted on equal treatment on social matters.

104. Taking cognisance of the five reports prepared by the ILO at the request of the Tripartite Meeting on the Relationship between the Multinational Corporations and Social Policy which met in Geneva from 26 October to 4 November 1972 and of the agreed conclusions reached at the Tripartite Advisory Meeting on the Relationships of Multinational Enterprises and Social Policy of 4–12 May 1976, the Employers' members believed that it was not the mission of the World Employment Conference to discuss the content of principles to govern multinational enterprises. A voluntary code of conduct could be helpful.

105. The Employers' members considered that the ILO study on international principles and guidelines was a clear and comprehensive survey of possibilities in the ILO context. The ILO studies had shown that the multinationals in general behaved responsibly. They had failed to reveal the existence of problems of the kind referred to by the Workers' members. The multinationals had been shown in the ILO studies to be a force for economic development. Indeed, they were the most effective means yet found for reducing the time-span for producing the management skills needed to organise resources and muster finance. It was necessary to be careful that any action taken would not have adverse implications for the future. The Employers' members were therefore unconvinced of the need for international action in regard to multinationals in the social field. In particular, they considered that any move towards the adoption of an international labour Convention in this area risked creating an impossible situation through the variations in the extent of ratification or acceptance in different countries—a risk mentioned in the ILO study. There was also a question of discriminatory treatment. The bulk of the existing Conventions were of general application, the exceptions to this being so narrow in scope that there was no analogy between them and the wide range of enterprises and industries covered by the term "multinational", with their varying degrees of foreign and national ownership. A Convention applying to all employees of any enterprise under any degree of foreign ownership would place these employees under special regulations that might well be more favourable than those in the prevailing industrial economy of the country, with adverse effects on the orderly conduct of industrial relations. Having regard to the variety of industrial relations patterns and behaviour in different countries, the Employers' members believed that such matters must primarily be determined by the governments of the country concerned and the ordinary law and practice of the country.

106. Another approach that had been suggested was the preparation of a tripartite declaration of principles which could eventually be embodied in more comprehensive United Nations guidelines. The Office study had pointed to the guidance given in Conference resolutions and conclusions of Industrial Committees and other advisory meetings as indicating the feasibility of such a procedure. The Employers' members were not against guidelines in principle, as shown by those published by the International Chamber of Commerce as long ago as 1972 and the active participation of their organisation in OECD's work on a code. The Employers' members were however convinced that such a declaration would not be useful and might well be harmful unless the guidelines met the following points:

(a) that they ensure that the operations of multinational enterprises can continue effectively to the benefit of society as a whole;

(b) that they are non-mandatory but mutually agreed through a tripartite declaration of principles on responsible behaviour for multinational enterprises, governments and trade unions;

(c) that they ensure in social matters that all parties respect the laws and regulations of the host country;

(d) that they recognise the principle of equal treatment for foreign-owned and for national enterprises in matters of industrial relations and social policy;

(e) that they do not bind multinationals to observance of ILO standards not ratified or accepted by the host country, or introduce a system of standards making existing ILO Conventions and Recommendations applicable only to multinational enterprises;

(f) that they are flexible enough to permit application to very different national situations and national objectives and in regard to widely different types of companies and industries;

(g) that they apply effectively to enterprises with public or mixed ownership as well as to privately-owned companies.

Restrictive legislation would only slow down employment creation in developing countries by multinational enterprises. Multinational enterprises were already subject to many regulations and governments had adequate powers of their own, any of which could frustrate a company's expectations of a reasonable return.

107. The Employers' members stated that, following the proposal in paragraph 106 above, the Tripartite Advisory Meeting had recommended that a small tripartite group should be established to draft a voluntary declaration of principles applying to multinational enterprises, governments and trade unions. In view of this, the Employers' members did not consider it appropriate to place the question of multinational enterprises and social policy on the agenda of the International Labour Conference in 1978.

108. The Employers' members, after two

weeks of discussion, were reluctantly forced to accept that no consensus existed in the group because the differing views of Government, Workers' and Employers' members were irreconcilable.

109. The representatives of employers of European socialist countries fully supported the point of view of the Government members of the European socialist countries with regard to the role of multinational enterprises in employment creation in developing countries.

Declarations of the Workers' Members

110. The Workers' members expressed the concerns and preoccupations of trade unions and workers with regard to the effects of the activities of multinational enterprises on employment and more generally on development. They declared that the questions raised under item 4 in Chapter 11 of the Director-General's Report were not exhaustive and therefore should not limit the discussion. Consequently, the discussion ought to include other questions which were just as important. The Workers also underlined the fact that consideration of the problem should not be restricted by the conclusions of the Tripartite Advisory Meeting held in May 1976. Under these circumstances, the three international trade union federations asked that, on the international and national levels, steps should be taken to strengthen control of multinational enterprises. This control should be exerted by the countries in which they operated. The area in which international and national action should take place were, in particular, as follows:

(i) in all the countries where multinational enterprises operated, the existing Conventions of the ILO ought to be applied, in particular Conventions Nos. 87 on trade union liberities, 98 on collective bargaining, 100 on equal remuneration, 122 on employment, 135 on representation of workers, 140 on paid education leave and 143 on migrant workers. In addition, reference to ILO Conventions must include working conditions for multinational enterprises in countries which had not yet ratified these ILO standards and in those countries where they were persistently violated;

(ii) employment of local workers and non-discrimination should be guaranteed. Non-discriminatory working conditions should be established on a democratic basis and should correspond to the highest wages, salaries, working conditions and standards of hygiene and safety in all the branches and units of multinational enterprises;

(iii) multinational enterprises ought to guarantee that the enterprises supply the representatives of the workers with essential information, especially on the composition of capital, the general organisation of the company at the level of the parent company and the branches, the evolution of the company with respect to workers' participation, detailed investment plans, current and former agreements, conditions of work, wages and recruitment of personnel in each factory, data on financial management and results, etc.;

(iv) in addition, the right of trade unions to take solidarity action at the level of each factory and of the multinational organisation as a whole, and the right of trade unions to decide freely on any action designed to enforce economic sanctions;

(v) the transfer of activities following labour conflicts should be prohibited. In the case of a transfer of production, workers should be provided with new jobs with equivalent working conditions, and a compensation fund should be created to support workers losing their jobs;

(vi) furthermore, in a more general economic context, the profits of multinational enterprises should remain in the countries in which these enterprises operated in order to contribute to the creation of productive employment and to a healthier balance of payments situation.

111. The Workers' members felt that in order to achieve this, several convergent paths should be followed at both national and international levels. On the one hand, it would be desirable to strengthen legislative and executive powers to provide the possibility of prohibiting certain economic concentrations, to integrate the activities of the companies in national planning and to provide for real public control over exchange, prices, monetary movements, investments, taxation and credit. On the other hand, the sovereign rights of States to nationalise in order to control their development and their sovereignty over natural resources should be respected. The right to nationalise should apply particularly when the interests of the workers or the country were threatened. Finally, it was necessary that a code of conduct should be elaborated at the international level defining the obligations of multinational enterprises. This code should take into account notably the principles and measures presented by the Workers' members. It should have a legal and binding form.

112. The Workers' members recognised the importance of the principle of nondiscrimination between multinational enterprises and national companies in industrialised countries, but stressed that the very nature of multinational companies and the problems relating to them necessitated the possibility of making exceptions to this principle. In developing countries it was permissible and in some cases even necessary, in the interest of the development of these countries, to take measures which were discriminatory.

113. All foreign investments should be undertaken under the general conditions set out in paragraphs 110–112 and 118. In this context the multinational corporations should abide by the following principles:

(i) local subcontracting when this is technically possible;

(ii) a progressive increase in the local processing of raw materials;

(iii) local reinvestment of profits to the greatest extent possible;

(iv) replacement of expatriates and maximum utilization of local personnel;

(v) training and promotion of local production workers and of local management personnel;

(vi) co-operation on matters of training with the various local institutions providing training.

114. Multinational enterprises should be required to study the manner in which they could adapt the activities of their subsidiaries to the development programmes and economic objectives of the countries where they were established. The multinational enterprises must respect the sovereign rights of States and take into consideration the legislation, regulations and relevant national practices as well as internationally recognised obligations. They must also recognise the rights of workers and should not undermine but contribute to progress in the field of standards and conditions of work in the host country.

115. As to future action of the ILO, a majority of the Workers' members insisted on the need to strengthen the technical capacity of developing countries to negotiate with multinational enterprises. In this field it was desirable that the ILO, to the extent of its competence, should be ready to provide the required technical assistance to governments desiring to strengthen their bargaining power vis-a-vis multinational enterprises.

116. A large number of the Workers' members thought that it would also be desirable to request the ILO to carry out studies on policies concerning employment, training and wages followed by developing countries in relation to multinational enterprises. It would also be desirable to step up research in the field of appropriate technology and on products with a high employment content, the production of which it would be desirable to promote in the developing countries. For their part the multinational enterprises, so far as possible, should devote themselves to stepping up research and development in the field of appropriate technology and the development of products for furthering employment creation.

117. The Workers' members stressed that the ILO should deal with all the areas relating to the social aspects of the activities of multinational enterprises. The work of the ILO in these fields should be closely co-ordinated with the activities of the UN Commission on Transnational Corporations.

118. The Workers' members finally considered that:

(i) the ILO should continue its current work concerning multinationals and social policy on the basis of the conclusions of the Tripartite Advisory Meeting of 4-12 May 1976, but without confining itself to those conclusions;

(ii) the ILO should contribute in the field of its competence and within the United Nations to the elaboration of an international instrument (Code of Conduct) with a binding character permitting the control of multinational companies;

(iii) the ILO, within the framework of a reform of the mechanisms for examining questions concerning the violation of trade union freedom, should provide for a procedure to be applied to multinational corporations;

(iv) the ILO Governing Body should at its next meeting give consideration to the respective positions of the governments, the Employers' Group and the Workers' Group at the World Employment Conference;

(v) the ILO Governing Body should place the issue of multinational enterprises and social policy on the agenda of the 1978 Session of the International Labour Conference, in order that Conventions on multinational enterprises should be adopted in the following areas: industrial relations, training for employment, conditions of life and work.

119. The Workers' members expressed their profound dissatisfaction that it was not possible to reach any common points of agreement on this crucially important subject. They moreover wished to point out in this context that a number of individual points of agreement were recorded between the Workers' members and several governments. The Workers' members expressed their support for the proposals of the Group of 77, in particular the basic principles covered by paragraph 85. They also supported points (i)-(vi) in paragraph 92 as proposed by the Government members of industrialised market economy countries.

CHAIRMAN BURNS TESTIFIES BEFORE THE JOINT ECONOMIC COMMITTEE

Mr. HUMPHREY. Mr. President, on June 30, as part of the Joint Economic Committee's Midyear Economic Review, the committee heard testimony from Dr. Arthur Burns, Chairman of the Federal Reserve Board, who presented the Board's views on the economic outlook and monetary policy.

Recently, there has been much confusion about the growth rate in monetary aggregates. This confusion has resulted from a pattern of money supply growth which has been less than consistent over the last year. An analysis by the JEC itself shows that whether the growth in the monetary aggregates has fallen within their respective target range depends entirely upon the time period surveyed. For instance, looking at the targets established for the period from the third quarter of last year to the third quarter of this year, the narrowly defined money supply—M_1—in the current quarter will fall below the target range, while the broader measure M_2, will be within it. However, if the targets are measured from fourth quarter to fourth quarter, M_1 falls within the range but M_2 is above it. Looking at the latest targets, those which run from first quarter 1976 to first quarter 1977, both measures are presently above the target range.

The result of this confusion has been that we have at times sidetracked into an excessive discussion of M-this and M-that at the expense of discussion of our more basic economic objectives. We need to remember that the growth in the money supply is important only to the extent that it affects what happens to production, employment, and purchasing power.

In his testimony Chairman Burns presented an optimistic view of the economic recovery. He cited the increase in total production, led by an "especially vigorous" rebound of activity in the industrial sector, and the decrease in the unemployment rate as the primary indicators that the economy is in the midst of a sustained recovery.

Dr. Burns attributes the strength of the recovery to increased consumer confidence in the handling of our economic problems. He stated that as consumers' confidence increased, consumers "became more active buyers, and the rise in consumer spending outstripped by a considerable margin the increase in disposable personal income." He expects consumer confidence to continue to increase and stressed that the recent slowdown in consumer spending is a "transitory phenomenon" which is not uncommon during periods of cyclical expansion.

Dr. Burns expects further economic stimulus to come from increased business outlays for new plants, equipment, and machinery which he believes will strengthen the recovery. He stated that—

> Although the increase in business capital investment has been somewhat delayed in the present recovery, the traditional pattern of increased capital investment is again emerging.

In analyzing the still depressed construction industry, Dr. Burns reminded the committee that—

> New housing starts last month were almost 50 percent above their trough in early 1975, and unemployment among construction workers has fallen by a third from its cyclical peak.

He forecasts a "gradual further advance in homebuilding during the second half of this year."

I agree with Dr. Burns that there are many encouraging signs in our economy, but there are also some discouraging signs. Dr. Burns pointed out that the physical volume of total production will be about 7½ percent higher than a year ago, but this means that the growth rate has slowed to about 4½ percent in the second quarter. Although the statistics show that industrial production is up 13½ percent since March last year as Dr. Burns pointed out, it should also be pointed out that the industrial production has risen at a much slower 5.7 percent annual rate in the last 3 months. Finally, although housing starts are above their prerecession low, there has been almost no upward trend in housing starts during the last 6 months. Housing starts in the second quarter were still at a low annual rate of 1.4 million.

In comparing the current economic recovery to past recoveries, Dr. Burns stated that "The intensity of the economic recovery to date has been close to average for cyclical upswings of the period since World War II," and I agree with him. But it is important to emphasize that we are only having an average recovery from a worse than average recession. As a result, I am puzzled and disappointed by apparent administration fears that the recovery is proceeding at too rapid a pace. More than a year after the recovery started, there are still over 7 million people unemployed and the capacity utilization index for basic materials is still only 73.5 percent. These figures hardly indicate the recovery is going too fast.

Although he acknowledged that considerable progress has been made in the fight against inflation, Dr. Burns warned that it appears that the "underlying annual rate of inflation has not diminished since mid-1975, and that it may still be about 6 or 7 percent." He believes that such a rate of inflation constitutes a serious threat to the economy. He stated, and I agree with him, that it is clearly the Government's responsibility to see that any fresh outburst of inflation is avoided. However, I would like to add that it is also Government's responsibility to reduce the unconscionably high rate of unemployment and to return the economy to full production.

In reviewing monetary policy, Dr. Burns stated that—

> The course of moderation in monetary policy pursued by the Federal Reserve this past year has aided the process of economic recovery.

And he believes that recent Board actions have "served to reassure the business and financial communities that the Federal Reserve Board intends to stick to a course of monetary policy that will support further growth in output and employment while avoiding excesses that would aggravate inflationary pressures and thus create trouble for the future."

AUGUST 21, 1968

Mr. PERCY. Mr. President, on August 21, 1968, the Soviet-led forces of the Warsaw Pact occupied Czechoslovakia and brought to an end the Czechoslovak experiment in liberalization. It was a very sad day for Czechoslovakia and for the world.

Now, 8 years later, the government and peoples of Czechoslovakia are still held firmly under Soviet domination. In these circumstances it is especially important that Members of Congress take note of this fact and speak out on the anniversary of the deplorable invasion of 1968. We should make our voices heard about the continuing deprivation of liberty endured by the peoples of Czechoslovakia.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has been argued in the past by opponents of the Genocide Convention that the treaty serves no useful purpose. I disagree.

The fact is that our continuing failure to ratify this treaty is a handicap to us in our dealings with other countries, particularly in the United Nations. During any kind of negotiation or debate, no matter how sincerely we argue in favor of human rights and freedom, our opponents have a ready-made vehicle with which to challenge that sincerity: The fact that the United States, alone among the major Western Powers, has failed to take a firm stand against genocide.

A quarter-century ago the United Nations General Assembly endorsed the Genocide Convention, the first human rights convention which that body considered. The United States was one of the principal leaders in drafting that document. Indeed, President Truman took the major leadership in pushing for a Genocide Convention. In the intervening years, every President of the United States has supported the convention. Over 75 nations have ratified this treaty. It seems an anomaly, therefore, that a nation which was a pioneer in the field of human rights would fail to ratify this basic and fundamental document of liberty.

It is time to reassert our leadership in the area of human rights by approving the Genocide Convention as soon as possible.

PROTECTION OF U.S. BROADCASTERS

Mr. HUGH SCOTT. Mr. President, the relationship between the United States and Canada has always been one of mutual respect and admiration. A long-standing record of cooperation marks the history of the two nations, and it is indeed a record which other countries might do well to emulate. However, no relationship is without its problems. When irritants to further good neighbor relations do arise, the situation warrants close consideration. The irritant of which I presently speak is the so-called television broadcasting border war.

The Canadian cable television industry exists primarily to satisfy the desire of the Canadian viewers to receive more adequately the signals of U.S. broadcasting stations. The cable operators do not, however, pay royalties to the U.S. stations for this service.

Because of the widespread rebroadcasting of U.S. telecasts by the Canadian cable industry, some $20 million are spent annually by Canadian businesses for advertising on U.S. stations.

In hopes of recapturing such lost revenue, the Canadian Radio-Television Commission, CRTC, told a number of cable companies to begin deleting commercials from U.S. broadcasts, and replace them with public service messages. In this way, advertisers on those channels would not be certain if their product were reaching the viewers.

A second proposal by the CRTC regards a legislative effort to provide that those Canadians who advertise on U.S. television cannot claim such spending as a business expense. The legislation has the effect of imposing a 50-percent tariff on all Canadian businesses who choose to advertise on U.S. broadcasts.

Reluctant to stand idly by while these efforts were being undertaken in Canada, three U.S. border stations filed with the Federal Communications Commission for permission to establish new transmitters for the purpose of blanking out all U.S. broadcasts to Canada.

There is no clear solution to the problem. What is clear, however, is that the difficulties must be handled with expediency and fairness. It is my sincere hope that the U.S. State Department and the officials of the Canadian Government can reach common ground on this issue, and restore once again that relationship of which we can all be so proud. To that end, several of my colleagues and I have joined in sending to the Secretary of State a letter expressing our concerns, along with a copy of proposed legislation to remedy the situation in the absence of a diplomatic settlement. I ask unanimous consent that the text of the letter and accompanying legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 27, 1976.

HON. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: On January 6, 1976, Senator Jackson and Senator Magnuson sent you a telegram in which they expressed their concern that the State Department had failed to address the entire range of Canadian policies adversely affecting U.S. border broadcast stations. In that telegram, they stated that the problems of the U.S. border station broadcasters were related to two separate Canadian proposals pending at that time, one an internal Canadian regulatory proposal to delete commercials from U.S. broadcast signals carried over Canadian television cable systems and the other an internal Canadian tariff proposal pending before Parliament to disallow as tax deductible business expenses the legitimate costs Canadian advertisers experience in using U.S. broadcasting stations.

On January 8, 1976, the Assistant Secretary of State Robert J. McCloskey informed Senator Jackson and Senator Magnuson that "I can assure you that we (the State Department) plan to discuss both commercial deletion and the potential impact of pending Canadian tax legislation which would adversely affect U.S. border television stations" during a meeting with Canadian officials in Ottawa scheduled for January 13.

Nevertheless, the Canadian Parliament has now passed Bill C–58, the Canadian tax proposal. It is our understanding that the bill will not be promulgated by the Canadian Government until a determination is made by the Minister of Communications that "sufficient advertising time is available on Canadian stations to satisfy Canadian needs adequately." We ask that you contact the Canadian Government and indicate the United States' interest in proceeding with immediate negotiations on the entire range of Canadian policies adversely affecting U.S. border broadcast stations before Bill C–58 is promulgated.

For your information, we note that the Report of the Standing Senate Committee on Banking, Trade and Commerce of the Senate of Canada on Bill C–58 represents the Minister of Communications as stating that Mr. Vine, speaking on behalf of the United States, agreed that the issues embraced by Bill C–58 should not be discussed at the same time as commercial deletion in negotiations between the two countries. This matter should be immediately clarified with the Canadian Government, particularly in light of Mr. McCloskey's statements to Senator Jackson and Senator Magnuson in his letter of January 8, 1976.

We continue to believe that both the United States and Canada should make good faith efforts to accommodate adequately the legitimate broadcasting interests of both nations. A satisfactory solution can be reached which treats both sides fairly. Early and thorough negotiations are critical to a fair conclusion. These negotiations must include the entire range of broadcast issues between the two countries. We had hoped that neither side would act precipitously in a legislative environment before those negotiations were completed. However, if Canada insists on promulgating Bill C–58, we believe it is appropriate that the United States seriously consider a legislative response. We have enclosed for your information the text of a possible legislative response.

Sincerely yours,

Warren G. Magnuson, John Tower, Harrison Williams, Patrick Leahy, Howard Baker, Jesse Helms, James B. Allen, Hugh Scott, James L. Buckley.

Henry M. Jackson, Bill Brock, Dick Schweiker, Richard (Dick) Stone, Lawton Chiles, Robert Stafford, John Tunney, Jacob Javits, Hubert H. Humphrey.

Enclosure.

S. —

A bill to protect United States broadcast stations and electronic communications subject to regulations by the United States against interference by foreign nations, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection of United States Broadcasters Against Foreign Interference Act of 1976".

SEC. 2. CERTIFICATION.

Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"§ 224. Certification regarding unfair treatment of United States broadcast stations

"The Commission may, upon petition by any interested person or upon its own initiative, issue a certification under this section if it finds that any foreign nation or instrumentality thereof with the approval or passive acquiescence of the government thereof, engages in any unfair treatment of, discriminates against, or has adopted laws, regulations, or policies which restrain or otherwise adversely affect, United States broadcast stations whose signals cross international boundaries. Any such certification shall be transmitted by the Commission to the President for appropriate remedial action pursuant to section 301 of the Trade Act of 1974 (19 U.S.C. 2411). As used in this section, unfair treatment, discrimination, and restraint include, but are not limited to, the disallowance of advertising expenditures as an ordinary business expense for purposes of a foreign nation's tax laws if such expenditures are made by a company doing business in such nation to a broadcast station licensed by the United States under circumstances in which such expenditures would be allowed to be so deducted if made to a broadcast station licensed by such nation."

SEC. 3. REMEDIES.

Section 301 of the Trade Act of 1974 (19 U.S.C. 2411) is amended by adding at the end thereof the following new subsection:

"(f) Whenever the President receives a certification from the Federal Communications Commission pursuant to section 224 of the Communications Act of 1934, the President may, with respect to the foreign nation involved, prohibit the importation from such nation into the United States of the following:

"(1) Feature films made in or produced by such nation.

"(2) Video tape recording or film of any kind in excess of five minutes in duration, made or produced in such nation for use on television.

"(3) All sound recordings, including, but not limited to musical jingles, made or produced in such nation.

The President, in his discretion, may also direct the imposition of an excise tax on the export from the United States to any such nation of any videotape or film television production of any kind in excess of five minutes in duration made or produced in the United States for use on television in an amount equal to 50 per centum of the proposed sales price of each such item. The proceeds from such excise tax shall be placed in the Public Broadcasting Fund and dispersed pursuant to subsection 396(k) of the Communications Act of 1934.".

BALTIC RESOLUTION

Mr. PERCY. Mr. President, passage of Senate Resolution 319, the Baltic resolution, shows our concern for the peoples of the Baltic States who for 36 years have been unable to govern themselves in their own way, who have suffered foreign intervention in all aspects of their national life and who long to enjoy the rights of national sovereignty.

On this occasion I want to pay tribute to the members of the vibrant Lithuanian, Latvian, and Estonian communities in the United States who keep faith with their heritage and who keep before the American people the aspirations of those who live under foreign domination. Were it not for the important national and local Baltic organizations in this country, the cause of the Baltic peoples might not be so high on our agenda today, because the people in the old country have been silenced and cannot make direct appeals to us. But these fine communities, their newspapers, their radio programs, and their informed and articulate leadership, continue to speak up for those who cannot speak for themselves. And I have nothing but admiration for them.

I am pround that the U.S. Senate has adopted this resolution as a declaration that we remember, that we care, and that we support President Ford's policy of nonrecognition of the annexation of the Baltic States. I trust that the international news media, as well as Voice of America, Radio Liberty and Radio Free Europe, will carry this message to the Soviet Union, to the nations of Eastern Europe and around the world.

ACT ON TASER BILL, MR. RODINO

Mr. HUGH SCOTT. Mr. President, the so-called Taser Public Defender is still in the marketplace and is already being used effectively by the criminal element in our society to immobilize and torture innocent victims. The Taser, if you will remember, is that flashlight-like weapon that shoots tiny darts into the human target and with a flick of a switch propels a 50,000 volt shock through the body of the hapless victim.

Congressman LARRY COUGHLIN of Philadelphia introduced legislation several months ago that would classify the Taser as a destructive device. I have introduced an identical bill in the Senate and no action has yet been scheduled.

The company that sells this weapon advertises that "the peace of mind alone is worth the price." I have no peace of mind knowing the availability of the Taser.

I ask unanimous consent that an editorial from the July 19 Philadelphia Inquirer entitled "Act on Taser Bill, Mr. Rodino," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ACT ON TASER BILL, MR. RODINO

The Taser has struck again. An electric dart gun that can be used to inflict pain and immobilize victims with repeated shocks up to 50,000 volts, it was used against a vending machine company employe in a South Philadelphia holdup last week. The torture instrument, which fires darts attached to electric cords, has been used in a number of other crimes in the Philadelphia area and elsewhere.

Federal legislation is needed to ban distribution and sale of electric dart guns nationally. Although the U.S. Treasury Department has issued a directive which prohibits sale of the devices to certain persons—such as minors, convicted felons, mental incompetents, and drug addicts—that does not go far enough. Nor does a weak amendment to a gun control bill now buried in the House Rule Committee.

A bill introduced by Congressman Lawrence Coughlin of Villanova would designate the Taser a destructive device. The effect would be to ban the weapon nationally except under federal license in special circumstances—as, perhaps, to immobilize airline hijackers when lives are endangered.

Rep. Coughlin's bill is awaiting action in the House Judiciary Committee chaired by Peter Rodino of New Jersey. He should move the bill, and Congress should approve it, before more of these fiendish devices fall into criminal hands.

UTILIZING OUR NATURAL RESOURCES

Mr. HUGH SCOTT. Mr. President, at this time in our Nation's development, with energy of so much concern to all Americans, it is especially important that we utilize our natural resources efficiently. Ironically, our most abundant resources, coal, is the least efficiently used.

According to the U.S. Bureau of Mines, there are approximately 434 billion tons of coal reserves that have been firmly defined in formations of comparable thickness and depth to those being mined under current technological conditions. This represents about 11 percent of the coal reserves that are estimated by the U.S. Geological Survey to exist in the United States. In 1974, 392 million tons of coal were used to produce electric power. By 1984, 781 million tons will be used to generate electric power, an increase of almost 100 percent.

The increased use of coal in the production of electricity would reduce our heavy dependence on oil and natural gas for this purpose. Further, an increase in the production of electric power can provide, in many applications, a substitute for oil and gas and make them more readily available for uses for which there are no suitable alternatives. Such an accomplishment would be a great step toward our goal of energy self-sufficiency. I therefore urge we take affirmative action to overcome present obstacles to the development and full utilization of our abundant coal reserves.

One element of this governmental program is the conversion of present gas and oil fired boilers in powerplants to coal. This conversion requires a large capital expenditure which utility companies are unable to amass without substantial increases in utility rates.

Fortunately, there is a way to achieve the conversion and avoid price increases. It is manifested in S. 3209, the Coal Substitution Incentives Act, which my colleague Senator HUMPHREY recently introduced and of which I am a primary cosponsor. This bill would provide limited, temporary assistance for pollution abatement equipment for firms converting to coal.

Specifically, the bill would authorize the Federal Energy Administration to: First, provide up to $1 billion over the next 10 years in low interest loans for pollution abatement equipment; second, guarantee loans up to a total of $5 billion over the next 10 years for pollution abatement equipment, and third, require all loans and loan guarantees to carry a modest insurance fee to avoid any Federal revenue loss should default occur.

If completely utilized, this assistance would effect the displacement of oil and natural gas equivalent to 2 million barrels daily—one-third of current imports.

This act would also complement the existing Federal Energy Administration's mandatory coal conversion program for powerplants, as well as the desirable expansion of that program envisioned in S. 1777, the Natural Gas and Petroleum Conservation Act of 1975.

S. 3209 is only one means toward energy self-sufficiency. Others exist, such as gasification and liquefaction of coal, but they are only slowly becoming an economically feasible idea. Although these alternative processes have long been a necessity, scientists still have not identified or evaluated essential chemical components in the structure of coal.

Knowledge of the chemical composition is not the only knowledge of coal that we are lacking. We also lack the technology to mine economically and feasibly a large part of our known reserve which is contained in thin beds and deeply buried beds.

It is evident that more research is needed in this vital area if we are to meet the information needs required for energy policy and action in the remainder of the seventies, eight is, and nineties. We must provide initial and continuing support for reconstruction of the base that will generate that necessary information.

The best means for rejuvenating this information pool is to encourage universities to develop mining engineering programs with an emphasis on coal research. A bill I introduced early in the first session of this Congress, S. 62, the Coal Research Laboratory and Energy Research Fellowship Act, would accomplish this goal.

This bill would establish coal research laboratories at selected universities and provide for graduate fellowships for students who intend to enter the field of energy studies.

At present, the high salaries large corporations offer recent mining engineering graduates discourages them from continuing their education or pursuing academic careers. Thus, the number of faculty available for new departments is severely limited, as well as the number of researchers with advanced degrees. By offering fellowships for graduate study in this field, we hope to encourage more people to continue their education.

Time is of the essence. The longer we delay in developing our coal research facilities and coal conversion efforts, the longer we will need to rely on other nations for our vital energy needs. I therefore urge my colleagues to move forward with these bills in order to help the United States gain its energy independence.

AN ARMY CANNOT FOLLOW TWO MASTERS

Mr. THURMOND. Mr. President, the drive to unionize the military in our armed services moves steadily forward. This month a membership drive is reported to be underway in our Reserve Forces. Recently, a fine article appeared in the Army, which points out the clear and present danger to our country should we stand idly by and watch unionization of our Armed Forces.

I ask unanimous consent that the article in the Army, July 1976, "An Army Cannot Follow Two Masters," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN ARMY CANNOT FOLLOW TWO MASTERS

(By L. James Binder)

Even in the not-so-distant past when "advocacy journalism" was the deadliest of professional sins, one of the banes of the most objective reporter's existence was the accusation that he had taken sides in a news story.

No matter how carefully noncommittal his analysis and impeccable his attribution, he was not immune from charges that he had shown bias. And the more controversial the issue, the more likely that some readers were going to get angry.

The rise of subjective reporting has not made it any easier for the writer who strives for detachment. Indeed, if he clings determinedly to the middle ground he leaves himself vulnerable to the additional charge of being afraid to take a stand.

When the publication is one like Army, whose masthead proclaims its dedication to the interests of the service for which it is named, the situation can get explosive.

The elements are there in the debate over union plans to organize the U.S. armed forces, a subject which has touched off more outrage and horror among career military people than any other in memory. Before we proceed further, we want it to be clear that AUSA and Army magazines share this feeling of acute repugnance—if anything, it's possibly even more visceral with us because it's part of our business to find out what actual unionization could mean to military readiness.

This, of course, is not the first stand that AUSA and Army magazine share this feeling the idea of military unions. Army warned against the consequences in a strongly worded editorial in August, 1975; the association expressed its "unalterable opposition" in a resolution last October and AUSA reiterated its position in a Fact Sheet distributed in May.

But declaring where we stand and why is not enough. A free citizenry must have the facts to make up its own mind, and to this end we are carrying in this issue an article which endeavors to explain the views of the various sides in the dispute (see Page 28).

Another reason—and certainly one which a military man can understand—is that an army which does not know its adversary is an army in danger.

Among those interviewed by an Army editor in his study of the issues were spokesmen for the American Federation of Government Employees (AFGE), the union most serious about adding members of the uniformed services to its rolls. Their case is not a convincing one; indeed, the logic is so weak that the reader could well wonder if the union is saving its best shots for the battle ahead.

For example, AFGE's general counsel pooh-poohs the specter of a nation made defenseless because of a strike of troops. Even if the union could and would confine its activities to non-combat operations, as its officials say they intend, this would not mitigate the threat an iota. Support troops are as essential to battlefield success as combat troops.

Nor do such promised provisions as the suspension of grievance processing during national emergency and combat training stand up under thoughtful scrutiny. What constitutes a national emergency is wide open to interpretation.

What if the union disagreed with the authority responsible for assessing the threat? Congress or a President could conceivably render a union impotent by keeping the nation in a perpetual state of emergency. The emergency might be real, but it is doubtful if any union would stand for being kept inactive for a long period that did not include outright hostilities.

This situation also raises the question of whether the unions would expect to be taken into the government's confidence when troops were placed on secret alert.

The fact is that such promises are nonsense. Even if a workable plan were implemented, the damage that unionization would inflict upon discipline, morale and overall fighting effectiveness would have taken place long before this marvelous period the enemy apparently is supposed to allow us to get ourselves ready for war.

There is a great deal more of the weak and absurd in the union's position, and we are confident that the militarily knowledgeable people who make up the bulk of Army's readership will have no difficulty at all in finding these places.

But the union does not seem to be making its appeal to those who know the importance of instilling discipline long before a battle is fought, or who see the asininity in a position which holds that support troops are expendable. Its pitch at the moment, obviously, is to people outside of the military establishment, the ones who will make the decision on whether or not to permit our troops to be unionized.

Some will be placated and swayed by simplistic assurances that the nation will sacrifice nothing in defense readiness if its armed forces band together in a union.

It is vital to our security that many more—including those influential in the union movement itself—will not.

Up to a year or so ago, the idea of unionizing the military was virtually unthinkable. If any union were to have such a foolish notion, it was assumed that surely the country's powers that be, had authority to stop it.

Perhaps so, but these powers are not all that omnipotent or unquestioned, and it is not at all certain that they would stand up in court. Concepts just as seemingly unassailable have been declared unconstitutional or otherwise shattered by judicial decision.

No known poll has been taken to determine how many service people favor a union, but it is reasonable to surmise that it would have no difficulty getting members—unless, of course, it could be clearly shown that unionizing would be detrimental to our forces. That there is a breed of soldier to whom belonging to a union is not unthinkable should not come as a surprise to anyone familiar with today's Army.

What is more disturbing to many, however, is to realize that it is a subject for serious discussion among people with many years of service. How many of these career people would want to be part of a unionized Army, Navy, Air Force and Marine Corps is debatable although probably small, but what is remarkable about their attitudes is that they say they can see why others might want to be represented by a union.

The reason cited most often is what one newspaper editorialist recently termed "congressional perfidy"—efforts by lawmakers to cut back on such benefits as retired pay, housing and medical benefits. If Congress is going to chip away at such career incentives, maybe we need a union to protect us, the argument goes.

No one in uniform would deny that this is a valid concern, but so far whenever this option is brandished it has had the ring of peevishness, rather than one of conviction that the union way is the better way. Anger is understandable, and so is uneasiness about how resolute the government is toward honoring what most career people regard as a contract.

But the soldier should also realize that he has many good friends in Congress and in other influential places, as evidenced in steadily rising pay and strong opposition to proposed inroads in benefits.

The person who makes a career of military service usually marches to a different drummer than the citizen who opts for the civilian life or he would not stay in an arduous vocation which demands so much of him and his family. Whatever the prevailing reason—sense of duty, a desire to serve others or some other motive—it seems doubtful that he would feel union representation is worth the price.

In an age in which the very existence of unions can still be a controversial issue in some circles, it is easy to be taken for a union movement's foe because you differ with one of its ideas. We are emphatically not anti-union and have a great deal of respect for this great American institution's immense contributions to the nation.

But the union is not for us, thank you, not when the armed forces are the last thing standing between our citizenry and a world that can be most unfriendly. Anything that lessens the ability of those forces to respond quickly and totally to the will of the people they serve dangerously weakens us at a time in history when it was never more important to be strong.

BEST WISHES TO COLONEL PETERSON

Mr. PERCY. Mr. President, Col. Thorwald Roger Peterson has completed a 3-year tour of duty as the District Engineer, St. Louis District, U.S. Army Corps of Engineers, and is moving onward to a new assignment. This prompts me to note officially the worthy achievements of Colonel Peterson while serving in this post.

His 23 years of service with the Corps of Engineers is replete with honors and commendations, and his record of service indicates that he has served in responsible positions with the U.S. Army both here and at foreign posts. Colonel Peterson arrived in the St. Louis District immediately following the Mississippi Valley floods of 1973. He was personally involved in directing the efforts of the flood recovery operations including the assessment and the repair of damaged flood control works to provide considerable relief for the local citizenry and governments. This work resulted in high praise from his superior officers and those agencies, organizations and citizens who required this speedy help in recovering from the disaster.

By a coordinated and participative planning effort, the operating procedures for the Corps' projects on the Kaskaskia River, Lake Shelbyville and Carlyle Lake were significantly improved, resulting in a better achievement of the congressionally authorized project purposes. These actions earned Colonel Peterson respect from farmers and landowners who had expressed their earlier concern about the operations of these projects.

His personal attention to the facilities and scope of recreational needs of the visitors at Lake Shelbyville, Carlyle Lake, and Rend Lake has resulted in th successful operations of these projects. Public visits to the three lakes now exceed those at the Grand Canyon.

During Colonel Peterson's tenure, the Kaskaskia Navigation Project was opened. This project provides the benefits of water-borne transportation to a 36-mile radius of the lower Kaskaskia River, which opened the way for water-borne movement of coal and grain from mines and fields of southern Illinois. The availability of this new addition to the inland waterway also was significant in the selection of a site nearby for the development of one of the Nation's first experimental coal gasification plants.

Most recently, Colonel Peterson has played a key role in the highly controversial Locks and Dam 26 replacement project on the Mississippi River at Alton, Ill. In doing so, he has been very helpful to me and members of my staff, carefully responding to controversial questions. His patience and willingness to explain elements of the proposed project have contributed to my present understanding.

All of us in the State of Illinois are, indeed, indebted to Colonel Peterson and the members of his staff in the St. Louis district. I am happy to have the opportunity to express the thanks of the people of Illinois to Colonel Peterson, and wish him well in his new post.

THE WORLD'S GREATEST ATHLETE—JIM THORPE

Mr. HUGH SCOTT. Mr. President, on the occasion of the 21st Olympiad held this year in Montreal, I would like to take this opportunity to offer my congratulations to all those athletes who participated in the spirit of international sportsmanship.

In an age when we hear many negative statements regarding youth, it is refreshing to see such a display of dedication on the part of the amateur athlete.

The Olympic story is indeed one of accomplishment. Each Olympiad brings with it new world records. The physical limitations of only 4 years ago are now overcome. We now reach heretofore unreachable goals.

As unprecedented accomplishments fill the recordbooks, however, there remains a record that has not been equaled in over 60 years of Olympic competition. It is a record that reflects the dedication of a truly great American athlete, Jim Thorpe.

Mr. Thorpe, a Sac and Fox Indian from Indian Territory, Oklahoma, won both the decathalon and pentathlon at the 1912 International Olympic Games in Sweden. Hurling himself through new tests of human endurance, he presented an example for all athletes to come: one of skill, perservance, and courage.

King Gustav of Sweden, while presenting him with a chalice in the shape of Viking ship, hailed Thorpe as the "world's greatest athlete."

Jim Thorpe died in 1953, but to this day, no Olympic recordbook documents his accomplishments, no gold medal bears his name. Due to a minor technicality. Thorpe's trophies were ordered returned in 1913, and his name expunged from the Amateur Athlete Union. It seems he had played minor league baseball in 1910, a sport unrelated to his Olympic events. He later explained:

> I did not do it for the money there was in it, but because I like to play ball.

The story of Jim Thorpe is one filled with honor and achievement, yet the crowning moment of his athletic career is denied and viewed by officialdom as a nonevent. Because of the mere pittance he received for playing a game he loved, Thorpe died without regaining the official recognition due him.

Recently, the National Board of Governors of the Amateur Athletic Union unanimously voted to restore Jim Thorpe's amateur status, but the ultimate authority on such matters is the International Olympic Committee.

As a consponsor of Senate Resolution 144, I join with my colleagues in expressing the sense of the Senate that the International Olympic Committee take the appropriate action to recognize the contribution Jim Thorpe has made to the world of amateur athletics, and to restore to the recordbooks the history-making accomplishments of Jim Thorpe, the "world's greatest athlete."

DEFENSE SPENDING AND THE STATES

Mr. PROXMIRE. Mr. President, the effects of defense spending on State and regional economies has long been a source of speculation and discussion. For example, it has been noted by many observers that there has been a tendency in recent years to close down or reduce military bases located in the Northeast and to transfer military activities to the South and the Southwest.

In addition, there has been a tendency for defense contractors to locate in the South and the Southwest, as well as the Pacific coast.

The results of these trends has been for military sepnding to be concentrated in the South, the Southwest, and the Pacific coast, relative to other areas of the Nation.

IMBALANCE IN THE ALLOCATION OF MILITARY RESOURCES

James R. Anderson, a political scientist at Michigan State University, has provided new evidence of the magnitude of the imbalance in the allocation of military resources. Dr. Anderson has tabulated the facts in a series of tables showing the relationship between defense outlays and obligational authority and the tax burdens carried by each region and individual State.

According to these tabulations, there are dramatic imbalances in the allocation of defense resources and the sources of tax revenue which support them. Several areas, including the Northeast, the Midwest, and the Great Plains States show significant losses in the sense that they contribute more than they receive. Thus, the States of the Northeast receive $10 billion less in total defense outlays than they contribute as their share of the total defense tax burden. The States of the Midwest show a net loss of $15 billion while the Great Plains region shows a net loss of nearly $2 billion.

Using the same methodology, the States of the South, the West, and the Pacific coast region are the major gainers.

EQUITY ISSUE

Dr. Anderson, in presenting his findings, raises the issue of equity. As he states in his analysis,

> The existing and proposed levels of military outlays must be examined closely and critically from the standpoint of the inequity and maldistribution which they will almost inevitably create. The political and economic fabric of the Midwest and Northeast is under heavy stress now; decisions to increase the military budget are tantamount to decisions to increase that stress, and the stagnation and political crisis which accompany the stress.

I ask unanimous consent that the analysis by Dr. James R. Anderson entitled "The State and Regional Impact of the Military Budget" be printed in the RECORD at the close of my remarks, and I hope that all my colleagues will take the time to look over these significant and disturbing figures.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

THE STATE AND REGIONAL IMPACT OF THE MILITARY BUDGET

(By James R. Anderson)

The Department of Defense budget is the largest controllable item in the Federal budget. Its' size and magntiude make it a major, sometimes decisive, influence in the political economy of the states and regions of the United States. The particular thrust of this study is a close and comprehensive examination of the pattern of DOD outlays in relation to the sources of the tax burden required to finance a given level of outlays. The study allocates the proposed DOD budget for fiscal year 1977 of $101 billion in outlays by state and region, and also allocates a proposed increase for FY 1977 of $13.9 billion in additional DOD obligational authority. By consideration of the location of outlays in relation to the sources of the equivalent tax burden, considerable insight into the sources and beneficiaries of the DOD budget is obtained.

Table 1 represents an allocation by region of FY 1977 outlays of $101 billion. Striking imbalances are immediately evident. The Northeast will suffer a net loss of more than $10 billion, when DOD outlays of over $17.3 billion are deducted from a DOD tax burden of $27.4 billion. While the New England region is approximately in balance, the Mid-Atlantic region suffers a drain of $10.3 billion, almost half of its' military tax burden of $20.8 billion. Despite military outlays of $5.4 billion, New York, for example, suffers a net loss of $5.3 billion when its military tax burden is taken into consideration.

Although the defense burden imposed upon the Northeast is a heavy one, the widest imbalance between military outlays and tax burdens occurs in the Midwest, especially in the Great Lakes region. A military budget of $101 billion will require $28.3 bilion in taxes from the Midwest, and will return about $13.2 billion in military outlays, for a net drain of $15.1 billion, or 53.4 per cent of the military tax burden. The Great Lakes region, comprised of Ohio, Indiana, Illinois, Michigan, and Wisconsin, suffers the heaviest tax drain in the nation. Michigan loses $3.4 billion, or 70.6 per cent of its military tax burden. Illinois loses $4.7 billion, or more than 73 per cent of its military tax burden. Wisconsin suffers the heaviest percentage loss of its military tax burden in the entire nation, with a net drain of $345 per capita, equivalent to 78.1 per cent of the Wisconsin military tax burden.

The South and the West, in particular the Pacific Coast region, are the major beneficiaries of military outlays, not only on a gross, or outlays basis, as is widely known, but also on a net gain or loss basis. The South is a net gainer of $5.2 billion, nearly 20 per cent above its military tax burden, and the West has a net gain of $7.7 billion, about 30 per cent above its military tax burden. The Pacific region absorbs most of this net gain, obtaining $6.7 billion more in military outlays than it pays in military taxes, a gain of 46.7 per cent. California is the major beneficiary in absolute dollar terms, while Alaska has the largest per capita and percentage gains.

Table 2 is designed to focus the issue of the state and regional implications of a proposed increase of $13.9 billion in obligational authority for FY 1977. The proportions of taxes and outlays are the same for each state and region as those of the overall budget, but our attention is focused upon the financing and disposition of the budget increment. Since the same broad pattern of imbalance in distribution is found, we will not repeat the analysis shown above, although it should be stressed that exactly the same pattern exists. An additional $3.8 billion in taxes will be drawn from the Northeast, while an estimated $2.4 billion in military outlays will be received, for a net regional drain of $1.4 billion. New York alone will suffer an additional drain of $727 million, over and above its present military tax burden, if the DOD budget is increased by $13.9 billion.

The Midwest will suffer a further drain of over $2 billion, with over $1.8 billion of that drain concentrated in the Great Lakes region. A decision to increase the military budget by $13.9 billion will mean a net drain of $648 million from Illinois, $463 million from Michigan, and $218 million from Wisconsin.

The South and West will receive substantial portions of the revenues drawn from the Northeast and Midwest. The South will have a net gain of $718 million, and the West a gain of $1.1 billion, with $930 million of the West's gain accounted for by the Pacific region. The District of Columbia and overseas payments account for the balance.

Tables 3 and 4 provide rank order allocations by state of the two budgets under consideration. California, Virginia, and Washington are the largest absolute gainers, while the District of Columbia, Alaska, Hawaii, and Mississippi have the largest percentage gains.

New York, Illinois, and Michigan are the largest absolute losers, while Wisconsin, Iowa, and Illinois are the major percentage losers.

This data poses a fundamental issue: Is the acute imbalance an inequity? The magnitude of the imbalance and the evident correlation of prosperity or economic hardship with the level of military benefit or burden suggests an affirmative answer to the question. In such a case, the existing and proposed levels of military outlays must be examined closely and critically from the standpoint of the inequity and maldistribution which they will almost inevitably create. The political and economic fabric of the Midwest and Northeast is under heavy stress now; decisions to increase the military budget are tantamount to decisions to increase that stress, and the stagnation and political crisis which accompany the stress.

It is tempting to argue that the problem may be alleviated by devoting more military spending to the Midwest and Northeast. This route offers, at best, a short-term stimulus, because the military budget has a relatively low component that can be assigned to the equity expenditure category. The pressing needs of the Midwest and Northeast are in the category of job-creating public and private investment, where the needs are enormous. It should be pointed out that even though the South and West are beneficiaries of military expenditure, they are receiving relatively little public and private equity, considering the enormity of the dollar sums involved. The B-1 bomber, for example, may provide billions in short-term stimulus to the suburbs of Los Angeles, but the Los Angeles transportation system will not be improved by this outlay.

A detailed discussion of solutions to this problem lies beyond the scope of this study, but some possible areas of approach might include prudent reductions of wasteful or counterproductive components of the military budget, adjustments in revenue sharing formulas to compensate for imbalances, state and regional tax reductions in hardship areas, and counter-cyclical public and capital project programs for hardship areas. The alternative is the decline of the Midwest and Northeastern economies.

TABLE 1.—ALLOCATION BY REGION OF PROPOSED FISCAL YEAR 1977 DOD OUTLAYS OF $101.100 BILLION AND REQUIRED TAX BURDEN

Region and State	Total DOD tax burden (millions)	Total DOD outlays (millions)	Net gain or loss (millions)	Per capita gain or loss	Percent gain or loss
Northeast	$27, 367.9	$17, 262.8	−$10, 105.1	−$204	−36.9
New England	6, 541.3	6, 727.2	+185.9	+15	+2.8
Maine	389.2	212.3	−171.9	−162	−44.7
New Hampshire	374.1	455.0	+80.9	+99	+21.6
Vermont	182.0	175.9	−6.1	−13	−3.4
Massachusetts	3, 154.3	2, 638.7	−515.6	−88	−16.3
Rhode Island	465.1	303.3	−161.8	−175	−34.8
Connecticut	1, 981.6	2, 942.0	+960.4	+310	+48.5
Mid-Atlantic	20, 826.6	10, 535.6	−10, 291.0	−276	−49.4
New York	10, 655.9	5, 368.9	−5, 287.5	−292	−49.6
New Jersey	4, 418.1	2, 042.2	−2, 375.9	−325	−53.8
Pennsylvania	5, 752.6	3, 125.0	−2, 627.6	−222	−45.7
Midwest	28, 277.7	13, 178.4	−15, 099.3	−262	−53.4
Great Lakes	21, 008.6	7, 572.4	−13, 436.2	−328	−64.0
Ohio	5, 307.8	2, 527.5	−2, 780.3	−258	−52.4
Indiana	2, 466.8	1, 476.1	−990.7	−187	−40.2
Illinois	6, 430.0	1, 718.7	−4, 711.3	−423	−73.3
Michigan	4, 771.9	1, 405.3	−3, 366.6	−368	−70.6
Wisconsin	2, 032.1	444.8	−1, 587.3	−345	−78.1
Great Plains	7, 269.1	5, 606.0	−1, 663.1	−100	−22.9
Minnesota	1, 718.7	697.6	−1, 021.1	−260	−59.4
Iowa	1, 223.3	303.3	−920.0	−321	−75.2
Missouri	2, 183.8	2, 446.6	+262.8	+55	+12.0
Kansas	1, 021.1	1, 203.1	+182.0	+80	+17.8
Nebraska	677.4	364.0	−313.4	−203	−46.3
South Dakota	222.4	156.7	−65.5	−96	−29.5
North Dakota	222.4	434.7	+212.3	+334	+95.5
South	26, 720.6	31, 941.9	+5, 221.3	+77	+19.5
South Atlantic	14, 012.4	17, 198.6	+3, 186.2	+115	+22.7
Delaware	353.9	190.1	−163.8	−283	−46.3
Maryland	2, 264.6	2, 628.6	+364.0	+89	+16.1
Virginia	2, 244.4	4, 943.8	+2, 699.4	+543	+120.3
West Virginia	667.3	202.0	−465.3	−258	−69.7
North Carolina	2, 022.0	2, 025.7	+3.7	+1	+.2
South Carolina	930.1	1, 344.6	+414.5	+147	+44.6
Georgia	1, 961.3	2, 365.7	+404.4	+82	+20.6
Florida	3, 568.8	3, 498.1	−70.7	−8	−2.0
South-central	12, 708.2	14, 743.3	+2, 035.1	+59	+16.0
Kentucky	1, 193.0	1, 142.4	−50.6	−15	−4.2
Tennessee	1, 597.4	866.4	−731.0	−175	−45.8
Alabama	1, 213.2	1, 546.8	+333.6	+92	+27.5
Mississippi	647.0	1, 708.6	+1, 061.6	+453	+169.1
Louisiana	1, 344.6	1, 395.2	+50.6	+13	+3.8
Arkansas	647.0	450.9	−196.1	−93	−30.3
Oklahoma	1, 041.3	1, 324.4	+283.1	+104	+27.2
Texas	5, 024.7	6, 308.6	+1, 283.9	+105	+25.6
West	18, 238.2	25, 952.6	+7, 714.4	+204	+29.7
Mountain	3, 922.5	4, 923.7	+1, 001.2	+104	+25.5
Montana	293.2	192.1	−101.1	−135	−34.5
Idaho	283.1	161.8	−121.3	−148	−42.8
Wyoming	171.9	131.4	−40.5	−108	−23.6
Colorado	1, 142.2	1, 435.6	+293.2	+116	+25.7
Utah	424.6	687.5	+262.9	+218	+61.9
Nevada	323.5	262.9	−60.4	−102	+18.7
Arizona	899.8	1, 476.1	+576.3	+259	+64.0
New Mexico	384.2	576.3	+192.1	+167	+50.0
Pacific	14, 315.7	21, 028.9	+6, 713.2	+238	+46.9
California	11, 009.8	15, 670.5	+4, 660.7	+220	+42.3
Oregon	1, 021.1	283.1	−738.0	−323	−72.3
Washington	1, 658.0	3, 194.8	+1, 536.8	+434	+92.7
Alaska	182.0	586.4	+404.4	+1, 149	+222.2
Hawaii	444.8	1, 294.1	+849.3	+982	+190.4
District of Columbia	494.4	2, 244.4	+1, 750.0	+2, 444	+354.0

TABLE 2.—ALLOCATION BY REGION OF PROPOSED FISCAL YEAR 1977 DOD BUDGET INCREASE OF $13.9 BILLION, IN ADDITIONAL OBLIGATIONAL AUTHORITY

Region and State	Total DOD tax burden (millions)	Total DOD outlays (millions)	Net gain or loss (millions)	Per capita gain or loss	Percent gain or loss
Northwest	$3, 762.6	$2, 373.5	−$1, 389.1	−$28	−36.9
New England	899.2	925.0	+25.8	+2	+2.9
Maine	52.8	29.2	−23.6	−22	−44.7
New Hampshire	51.4	62.6	+11.2	+14	+21.8
Vermont	25.0	24.2	−0.8	−2	−3.2
Massachusetts	433.7	362.8	−70.9	−12	−16.3
Rhode Island	63.9	41.7	−22.2	−24	−34.7
Connecticut	272.4	404.5	+132.1	+43	+48.5
Mid-Atlantic	2, 863.4	1, 448.5	−1, 414.9	−38	−49.4
New York	1, 465.1	738.1	−727.0	−40	−49.6
New Jersey	607.4	280.8	−326.6	−44	−53.8
Pennsylvania	790.9	429.6	−361.3	−31	−45.7
Midwest	3, 887.9	1, 813.0	−2, 074.9	−36	−53.4
Great Lakes	2, 888.5	1, 041.1	−1, 847.4	−70	−64.0
Ohio	729.8	347.5	−382.3	−36	−52.4
Indiana	339.2	202.9	−136.3	−26	−40.2
Illinois	884.0	236.3	−647.7	−58	−73.3
Michigan	656.1	193.2	−462.9	−51	−70.6
Wisconsin	279.4	61.2	−218.2	−47	−78.1
Great Plains	999.4	771.9	−227.5	−14	−22.8
Minnesota	236.3	95.9	−140.4	−36	−59.4
Iowa	168.2	42.9	−125.3	−44	−74.5
Missouri	300.2	336.4	+36.2	+8	+12.1
Kansas	140.4	165.4	+25.0	+11	+17.8
Nebraska	93.1	50.0	−43.1	−28	−46.3
South Dakota	30.6	21.5	−9.1	−13	−29.7
North Dakota	30.6	59.8	+29.2	+46	+95.4
South	3, 673.9	4, 391.7	+717.8	+11	+19.5
South Atlantic	1, 926.6	2, 364.6	+438.0	+13	+22.7
Delaware	48.6	26.1	−22.5	−39	−46.3
Maryland	311.4	361.4	+50.0	−12	+16.1
Virginia	308.6	679.7	+371.1	+75	+120.3
West Virginia	91.7	27.8	−63.9	−35	−69.7
North Carolina	278.0	278.5	+.5	+.09	+.2
South Carolina	127.9	184.9	+57.0	+20	+44.6
Georgia	269.7	325.3	+55.6	+11	+20.6
Florida	490.7	480.5	−9.8	−1	−2.0

TABLE 2.—ALLOCATION BY REGION OF PROPOSED FISCAL YEAR 1977 DOD BUDGET INCREASE OF $13.9 BILLION, IN ADDITIONAL OBLIGATIONAL AUTHORITY—Continued

Region and State	Total DOD tax burden (millions)	Total DOD outlays (millions)	Net gain or loss (millions)	Per capita gain or loss	Percent gain or loss
South-central	1,747.3	2,027.1	+279.8	+8	+16.0
Kentucky	164.0	157.1	− 6.9	−2	−4.2
Tennessee	219.6	119.1	−100.5	−24	−45.8
Alabama	166.8	212.7	+45.9	+13	+27.5
Mississippi	89.0	234.9	+145.9	+62	+163.9
Louisiana	184.9	191.8	+6.9	+2	+3.7
Arkansas	89.0	62.0	+27.0	−13	−30.3
Oklahoma	143.2	182.1	+38.9	+14	+27.2
Texas	690.8	867.4	+176.6	+14	+25.6
West	2,507.6	3,575.6	+1,068.0	+28	+42.6
Mountain	539.3	677.5	+138.2	+14	+25.6
Montana	40.3	26.4	−13.9	−19	−34.5
Idaho	38.9	22.9	−16.0	−20	−41.1
Wyoming	23.6	18.1	−5.5	−15	−23.3
Colorado	157.1	197.4	+40.3	+16	+25.7
Utah	58.4	94.5	+36.1	+30	+61.8
Nevada	44.5	36.1	−8.4	−14	−18.9
Arizona	123.7	202.9	+79.2	+36	+64.0
New Mexico	52.8	79.2	+26.4	+23	+50.0
Pacific	1,968.3	2,898.1	+929.8	+33	+47.2
California	1,513.7	2,161.5	+647.8	+31	+42.8
Oregon	140.4	38.9	−101.5	−44	−72.3
Washington	228.0	439.2	+211.2	+60	+92.6
Alaska	25.0	80.6	+55.6	+158	+222.4
Hawaii	61.2	177.9	+116.7	+135	+190.7
District of Columbia	68.1	308.6	+240.5	+336	+353.2

TABLE 3.—ALLOCATION BY STATE OF PROPOSED FISCAL YEAR 1977 DOD OUTLAYS OF $101 BILLION AND RELATED TAX BURDEN

Rank and State	Total DOD tax burden (millions)	Total DOD outlays (millions)	Net gain or loss (millions)	Per capita gain or loss	Percent gain or loss
1 District of Columbia	$494.4	$2,244.4	+$1,750.0	+$2,444	354.0
2 Alaska	182.0	586.4	+404.4	+1,149	222.2
3 Hawaii	444.8	1,294.1	+849.3	+982	190.9
4 Mississippi	647.0	1,708.6	+1,061.6	+453	164.1
5 Virginia	2,244.4	4,943.8	+2,699.4	+543	120.3
6 North Dakota	222.4	434.7	+212.3	+334	95.5
7 Washington	1,658.0	3,194.8	+1,536.8	+434	92.7
8 Arizona	899.8	1,476.1	+576.3	+259	64.0
9 Utah	424.6	687.5	+262.9	+218	61.9
10 New Mexico	384.2	576.3	+192.1	+167	50.0
11 Connecticut	1,981.6	2,942.0	+960.4	+310	48.5
12 South Carolina	930.1	1,344.6	+414.5	+147	44.6
13 California	11,009.8	15,670.5	+4,660.7	+220	42.3
14 Alabama	1,213.2	1,546.8	+333.6	+92	27.5
15 Oklahoma	1,041.3	1,324.4	+283.1	+104	27.2
16 Colorado	1,142.4	1,435.6	+293.2	+116	25.7
17 Texas	5,024.7	6,308.6	1,283.9	+105	25.6
18 New Hampshire	374.1	455.0	+80.9	+99	21.6
19 Georgia	1,961.3	2,365.7	+404.4	+82	20.6
20 Kansas	1,021.1	1,203.1	+182.0	+80	17.8
21 Maryland	2,264.6	2,628.6	+364.0	+89	16.1
22 Missouri	2,183.8	2,446.6	+262.8	+55	12.0
23 Louisiana	1,344.6	1,395.2	+50.6	+13	3.8
24 North Carolina	2,022.0	2,025.7	+3.7	+1	.2
25 Florida	3,568.8	3,498.1	−70.7	−8	−2.0
26 Vermont	182.0	175.9	−6.1	−13	−3.4
27 Kentucky	1,193.0	1,142.4	−50.6	−15	−4.2
28 Massachusetts	3,154.3	2,638.7	−515.6	−88	−16.3
29 Nevada	323.5	262.9	−60.4	−102	−18.7
30 Wyoming	171.9	131.4	−40.5	−108	−23.6
31 South Dakota	222.4	156.7	−65.7	−96	−29.5
32 Arkansas	647.0	450.9	−196.1	−93	−30.3
33 Montana	293.2	192.1	−101.1	−135	−34.5
34 Rhode Island	465.1	303.3	−161.8	−175	−34.8
35 Indiana	2,466.8	1,476.1	−990.7	−187	−40.2
36 Idaho	283.1	161.8	−121.3	−148	−42.8
37 Maine	384.2	212.3	−171.9	−162	−44.7
38 Pennsylvania	5,752.6	3,125.0	−2,627.6	−222	−45.7
39 Tennessee	1,597.4	866.4	−731.0	−175	−45.8
40 Delaware	353.9	190.1	−163.8	−283	−46.3
41 Nebraska	677.4	364.0	−313.4	−203	−46.3
42 New York	10,655.9	5,368.4	−5,287.5	−292	−49.6
43 Ohio	5,307.8	2,527.5	−2,780.3	−258	−52.4
44 New Jersey	4,418.1	2,042.2	−2,375.9	−325	−53.8
45 Minnesota	1,718.7	697.6	−1,021.1	−260	−59.4
46 West Virginia	667.3	202.0	−465.3	−258	−69.7
47 Michigan	4,771.9	1,405.3	−3,366.6	−368	−70.6
48 Oregon	1,021.1	283.1	−738.0	−323	−72.3
49 Illinois	6,430.0	1,718.7	−4,711.3	−423	−73.3
50 Iowa	1,223.3	303.3	−920.0	−321	−75.2
51 Wisconsin	2,032.1	444.8	1,587.3	−345	−78.1

Total population of 23 gain States plus District of Columbia (millions)	92.3
Total population of 27 loss States (millions)	120.8

TABLE 4.—ALLOCATION BY STATE OF PROPOSED FISCAL YEAR 1977 DOD BUDGET INCREASE OF $13.9 BILLION IN ADDITIONAL OBLIGATIONAL AUTHORITY, AND RELATED TAX BURDEN

Rank and State	Total DOD tax burden (millions)	Total DOD outlays (millions)	Net gain or loss (millions)	Per capita gain or loss	Percent gain or loss
1 District of Columbia	$68.1	$308.6	+$240.5	$336	353.2
2 Alaska	25.0	80.6	+55.6	158	222.4
3 Hawaii	61.2	177.9	+116.7	135	190.7
4 Mississippi	89.0	234.9	+145.9	62	163.9
5 Virginia	308.6	679.7	+371.1	75	120.3
6 North Dakota	30.6	59.8	+29.2	46	95.4
7 Washington	228.0	439.2	+211.2	60	92.6
8 Arizona	123.7	202.9	+79.2	36	64.0
9 Utah	58.4	94.5	+36.1	30	61.8
10 New Mexico	52.8	79.2	+26.4	23	50.0
11 Connecticut	272.4	404.5	+132.1	43	48.5
12 South Carolina	127.9	184.9	+57.0	20	44.6
13 California	1,513.7	2,161.5	+647.8	31	42.8
14 Alabama	166.8	212.7	+45.9	13	27.5
15 Oklahoma	143.2	182.1	+38.9	14	27.2
16 Colorado	157.1	197.4	+40.3	16	25.7
17 Texas	690.8	867.4	+176.6	14	25.6
18 New Hampshire	51.4	62.6	+11.2	14	21.8
19 Georgia	269.7	235.3	+55.6	11	20.6
20 Kansas	140.4	165.4	+25.0	11	17.8
21 Maryland	311.4	361.4	+50.0	12	16.1
22 Missouri	300.2	336.4	+36.2	8	12.1
23 Louisiana	184.9	191.8	+6.9	2	3.7
24 North Carolina	278.0	278.5	+.5	.09	.2
25 Florida	490.7	480.9	−9.8	1	−2.0
26 Vermont	25.0	24.2	−.8	2	−3.2
27 Kentucky	154.0	157.1	−6.9	2	−4.2
28 Massachusetts	433.7	362.8	−70.2	12	−16.3
29 Nevada	44.5	36.1	−8.4	14	−18.9
30 Wyoming	23.6	18.1	−5.5	15	−23.3
31 South Dakota	30.6	21.5	−9.1	13	−29.7
32 Arkansas	89.0	62.0	−27.0	13	−30.3
33 Montana	40.3	26.4	−13.9	19	−34.5
34 Rhode Island	63.9	41.7	−22.2	24	−34.7
35 Indiana	339.2	202.9	−136.3	26	−40.2
36 Idaho	38.9	22.9	−16.0	20	−41.1
37 Maine	52.8	29.2	−23.6	22	−44.7
38 Pennsylvania	790.9	429.6	−361.3	31	−45.7
39 Tennessee	219.6	119.1	−100.5	24	−45.8
40 Delaware	48.6	26.1	−22.5	39	−46.3
41 Nebraska	93.1	50.0	−43.1	28	−46.3
42 New York	1,465.1	738.1	−727.0	40	−49.6
43 Ohio	729.8	347.5	−382.3	36	−52.4
44 New Jersey	607.4	280.8	−362.6	44	−53.8
45 Minnesota	236.3	95.9	−140.4	36	−59.4
46 West Virginia	91.7	27.8	−63.9	35	−69.7
47 Michigan	656.1	193.2	−462.9	51	−70.6
48 Oregon	140.4	38.9	−101.5	44	−72.3
49 Illinois	884.0	236.3	−647.7	58	−73.3
50 Iowa	168.2	42.9	−125.3	44	−74.5
51 Wisconsin	279.4	61.2	−218.2	47	−78.1

Total population of 23 gain States plus District of Columbia (millions)	92.3
Total population of 27 loss States (millions)	120.8

Methodology for Study of Fiscal Year 1977 DOD Budget Outlays and Additional Obligational Authority

Column 1. Total D.O.D. Tax Burden.—This computation expresses the individual state's share of the total taxation required to pay for military outlays or obligational authority at a given level. The proportion of the tax burden carried by each state is based upon Table 101, Allocation of the Federal Tax Burden by States, Facts and Figures on Government Finance, 1975 edition; published by the Tax Foundation, Inc. For example, Wisconsin bears 2.01 per cent of the Federal Tax burdens. Its share of $101.1 billion in proposed D.O.D. outlays is therefore $2.0321 billion.

Column 2. Total D.O.D. Outlays.—Each state's D.O.D. outlays for Fiscal Year 1975 is obtained from the Federal Outlays in Summary, Fiscal Year 1975. The state outlays for Fiscal Year 1975 are computed as a percentage of total D.O.D. outlays for Fiscal Year 1975 of $86.249 billion. (Source: Facts and Figures of Government Finance, 1975 edition, Table 65.) This percentage is then multiplied by the proposed outlays or obligational authority figures in Fiscal Year 1977 to obtain a projected state total allocation for Fiscal Year 1977.

Column 3. Net gain or loss.—Column 2 minus Column 1.

Column 4. Per capita gain or loss.—Column 3 divided by estimated population of July 1, 1975. Source of population estimates: U.S. Department of Commerce, Bureau of the Census, "Estimates of the Population of States: July 1, 1974 and 1975," P-25, No. 615, December, 1975.

Column 5. Percentage of gain or loss.—Column 3 divided by Column 1.

FINANCIAL STATEMENT OF SENATOR LEAHY

Mr. LEAHY. Mr. President, for years I have made available a copy of my financial statement to the public. I did this before coming to the Senate while a State's attorney in Vermont, and it is my intention to do it each year in the Senate. In that regard, I quote what I put in the Congresssional Record last year at page 31328:

> It will be my habit to make available on July 30 of each year a statement of my personal finances. I also will make available to anyone who is interested copies of income tax returns filed by me for each year I serve as a Member of the U.S. Senate.

I ask unanimous consent that the statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Financial Statement of Patrick and Marcelle Leahy Assets and Liabilities, July 30, 1975

ASSETS	
Savings accounts	$5, 200. 00
Checking accounts	790. 45
Total of savings and checking accounts	5, 990 .45
Appraisal value, residence, 1141 Randolph Road, McLean, Va.	85, 000. 00
Appraisal value, farm, Middlesex, Vt.	59, 200. 00
Personal property (automobiles, furniture, and so forth)	20, 000. 00
Cash value of life insurance policies	2, 000. 00
Stocks and bonds	----------
Retirement fund	5, 207. 23
Total assets	177, 397. 68
LIABILITIES	
Notes and mortages	124, 764. 29
Total liabilities	124, 764. 29
Net worth	52, 633. 39

I will make available, for anyone who is interested, copies of income tax returns filed by me during each year I have served as a United States Senator.

In summary, my wife and I paid in taxes last year:

Federal income tax	$9, 488. 00
State income tax	2, 626. 00
Vermont local taxes	2, 800. 00
Total taxes	14, 914. 00

S. 2925, THE GOVERNMENT ECONOMY AND SPENDING REFORM ACT OF 1976

Mr. MUSKIE. Mr. President, since I joined with Senators Roth and Glenn in the introduction on February 3 of S. 2925, the Government Economy and Spending Reform Act of 1976, I am pleased to note that 54 Senators have expressed their support and have asked to be added as cosponsors to this landmark proposal.

I regret to note, however, that the names of several of these Senators have not officially been recorded as cosponsors and I wish to ask that these names be included on this legislation. The Senators are: Church, Cranston, Domenici, Eagleton, Humphrey, Johnston, Kennedy, Leahy, Mondale, and Proxmire.

The Subcommittee on Intergovernmental Relations completed action on this legislation on May 13 and we have been assured by the chairman of the Government Operations Committee that full committee consideration of this proposal will occur on Tuesday, August 3.

Public support for S. 2925 has mounted steadily as the media and public officials have brought it into the public arena. As an example of this interest, I ask unanimous consent that an article by Neal R. Pierce in the Washington Post entitled "Programs That Self-Destruct" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, July 21, 1976]

Programs That Self-Destruct

The "sunset" law idea—to force government agencies and programs to justify their own existence or face extinction—is advancing rapidly in Congress and spreading like a prairie grassfire among the States.

Sunset measures were introduced this spring in California, Florida, Illinois and Louisiana—even before Colorado, in April, could complete action on its pioneering bill to put 40 state regulatory agencies on a seven-year life cycle. Maryland has set up a 15-member commission to study the feasibility of a sunset law.

The Colorado chapter of Common Cause, which originated the sunset idea, reports inquiries from 30 states. "I wouldn't be surprised if two dozen legislatures were debating sunset bills by next winter," says Rosalie Schiff, executive director of Colorado Common Cause.

On Capitol Hill, 47 Senators, of every ideological hue, are sponsoring sunset legislation requiring federal government programs, grouped by functional area, to come up for renewal every five years. Programs that couldn't pass muster would be cut back or eliminated altogether. Those that proved themselves would be given a new lease on life by Congress.

The bill cleared the Senate Intergovernmental Relations Subcommittee by a 7–0 vote May 13, and sponsors Edmund S. Muskie (D-Maine) and William V. Roth (R-Del.) hope it will reach the Senate floor this summer.

On the House side, a companion bill has more than 100 sponsors including 41 members of the freshman class lined up by chief backers James J. Blanchard (D-Mich.) and Norman Y. Mineta, (D-Calif.). House committee hearings are scheduled to begin this month.

Broad support—from Common Cause to the Chamber of Commerce of the U.S.—for the sunset legislation was forthcoming during Senate hearings. Only one interest group—the veterans—had the temerity to oppose the idea in public, out of fear that Congress might cut back their benefits.

Blanchard says he's "absolutely convinced" sunset legislation will eventually pass Congress. If he's right, the results could be revolutionary: the most effective brake on federal spending and programs in modern times—perhaps ever.

Muskie and Roth see sunset as a logical extension of the new congressional budget process, now in its second year. Whereas the budget process lets Congress establish spending priorities and overall ceilings, the sunset mechanism would force Congress to make periodic decisions on whether federal programs are really working so that duplicative or unnecessary ones can be weeded out.

Up to now, bureaucratic and political pitfalls have made it almost impossible to eliminate programs or agencies once they're on the statute books.

The sunset bill tries to avoid those pitfalls in three ways. First, a triggering mechanism requires that Congress must act every five years to keep a program alive. The burden of proof is shifted to a program's backers, to show that it deserves continued life. According to Alvin From, staff director of the Senate Intergovernmental Relations Subcommittee, "it will be very hard for a committee to justify reauthorizing the Tea-Tasters Board or 228 individual health programs."

Second, the sunset measure requires that all related programs—in manpower or health or national security, for example—come up for review and a decision on extension in a single year. Under strict budget guidelines, Congress will have to decide which programs are the most worthwhile, which might be dropped or consolidated.

Finally, the sunset bill as it's now written requires a zero-based review of each federal program, to be prepared for Congress by executive agencies and the General Accounting Office. Zero-based review shows the consequences of cutting any program's budget 25 percent or more, eliminating it altogether, or providing the services another way.

The zero-based review process alarms professional budget-makers. Roy Ash, former director of the Office of Management and Budget, says that zero-based review of an average of 250 programs a year "is like attempting to jump aboard a 747 in full flight." Others say the bill is overly ambitious, would set a "papermill" in motion and create "a staggering workload." They suggest more modest pilot or test runs.

Muskie and Roth show little patience with such arguments. If Congress proceeds at the pace predicted by many critics, Roth says, "I will be dead by the time the work is completed." Much of the resistance, sunset law backers believe, stems from normal bureaucratic terror of any radical change in their way of doing business.

Even federal tax incentives are the target of a sunset provision suggested by Ohio's Sen. John H. Glenn (D). However noble their original purpose, Glenn says, tax incentives often degenerate into loopholes that cause an annual loss of $101 billion in tax revenue—as much as the entire national defense budget.

Common Cause urges a kind of sunset for Congress itself—reorganizing committees into more clear-cut functional areas and forcing members to rotate committee assignments every few years to break up "unholy" alliances between committee members and special interest lobbyists.

Even an imperfect sunset system, however, could help breathe life into the oft-neglected oversight role of the legislature, prompt the executive to be more accountable, and begin the arduous process of rescuing government from its own cumbersome inefficiencies and the nadir of public esteem where it finds itself today.

SERMON BY THE REVEREND FELTHAM S. JAMES, D.D., IN OBSERVANCE OF THE BICENTENNIAL

Mr. THURMOND. Mr. President, it was recently my privilege to read the sermon of the Reverend Feltham S. James, D.D., which was delivered at the South Carolina American Legion Convention in Charleston, S.C., on June 27, 1976, in observance of our Nation's Bicentennial.

Dr. James career as a minister in the Methodist Church and his work with the American Legion encompass more than four decades of selfless and distinguished public service. A native South Carolinian, Dr. James was educated at Wofford College and Duke University. In World War II he served as a chaplain at posts of duty at Fort Jackson, Fort Belvoir, and Walter Reed Army Hospital from 1941–46.

Dr. James' work with the American Legion began shortly after World War I. Since that time, he has served in various leadership capacities, including national chaplain, department commander, and department chaplain. Since 1956, Dr. James has been awarded the Freedom Foundation Medal five times and was awarded a doctor of divinity degree by his alma mater, Wofford College, in 1960. Dr. James currently resides in Aiken, S.C., where he is the chaplain of the Aiken Community Hospital.

Mr. President, in order to share the sermon of this great American with my colleagues, I ask unanimous consent that it be printed in the Record.

There being no objection, the sermon was ordered to be printed in the Record, as follows:

In the Beginning—A Nation Under God, by Feltham S. James, D.D., Aiken, S.C., in Observance of the Bicentennial of the United States of America, 1776–1976

"In the beginning God . . ."—Time begins there.

"In the beginning God . . ."—Creation begins there.

"In the beginning God . . ."—The Bible begins there.

"In the beginning God . . ." The Creeds of the Church begin there.

"In the beginning God . . ."—America begins there.

Indeed, America has had a unique background of faith in God from its very beginning. On November 11, 1620, the Pilgrims gathered in the cabin of the Mayflower and drew up the first charter of a government of the people, by the people, and for the people. That Compact began with the words: "In the name of God, Amen."

It is obvious, even in a cursory study of history, that we live in a nation founded by men of religious conviction. In the Declaration of Independence they wrote eloquently: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, and among these are Life, Liberty and the pursuit of Happiness."

Our Founding Fathers were men of vision, men of spiritual insight who valued their God-given rights more than the material security they possessed. They did more than merely acknowledge their faith in their Creator, they voluntarily lived by it and died for it. It was no idle boast when they stated: "and for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our Sacred Honor."

Religion has always been a cornerstone in American life and has provided us with men and women of enormous inner strength—a strength which comes from faith in God. To deny God is to deny America. Should America lose its religious faith and its reliance on spiritual guidance, it would lose itself. John Adams said, two hundred years ago, "Without religion this world would be something not fit to be mentioned in polite company—I mean hell."

Quite apart from the religious feelings of any individual or the tenets of any church, faith in God has a special and priceless meaning to Americans. However, as R. H. Edwin Espy, the historian, says, "We tend to forget the important role that religion played in the founding of our nation and that it is a primary source of our common values." To support this observation, we cannot help but notice that our present day political leadership does not seem to be inclined, as our Founders were, to weigh issues and standards from the standpoint of religious principles. However, when they do, they are criticized to high heaven by those who are ignorant of our Nation's history.

Sometimes I wonder if the young child of Congressman John Culver of Iowa was not blessed with some kind of mystic insight. The night before Representative Culver was leaving to assume his seat in the House, he and his wife overheard their three youngsters saying their bedtime prayers. The youngest one was saying:

"Now I lay me down to sleep.
I pray the Lord my soul to keep.
God bless mommy, daddy, grandma and sister,
And now goodbye God, we're going to Washington."

The Supreme Court has all but eliminated religion from our public schools, implying to our youth that religion is not important enough to be in our total education. A little prayer verse, known so well to millions of American children, goes like this: "We thank you for the flowers so sweet; We thank you for the food we eat; We thank you for the birds that sing; We thank you God for everything." Well, that little prayer verse was banned from kindergartens by the Court of Appeals in Chicago and backed up by the Supreme Court because it was, and I quote, "too religious." I wonder what Judge Swygert would do, if he had his way, with the Mayflower Compact, the Declaration of Independence, and the Constitution. According to his interpretation, they could also be called "too religious." We have just about reached the point where we have not a "government of the people, by the people and for the people" but rather a government of the courts, by the courts and against the people."

We know that the Constitution provides for the separation of Church and State. The courts have now extended its implications to separation of God and the State. The result of all this elimination of religion from public life is, according to Rheinhold Neibhur, "a consistently secularized education that the founding fathers certainly did not intend." To this end, James Hitchcock, the historian, adds: "There is a broad and deeply held conviction throughout America that moral values are being swiftly eroded, that in fact this erosion has become almost an avalanche."

Such was not the case two hundred years ago. Benjamin Franklin maintained that history shows "the necessity of a public religion" to sustain the truths of morality as "the cement of society." Even Thomas Paine, the writer of pamphlets, said, "I believe in One God." Faith in God resounded through the documents and speeches of the Revolution. So much so until it became "itched in the consciousness of the people."

The eloquent voices of ministers of all denominations reverberated through the colonies like a tidal wave, calling their people to arms and reminding them that a free people rule themselves with God's Authority. It was on a Sunday morning in mid-1776 that a Lutheran minister by the name of Peter Muhlenburg stood in his pulpit in the Shenandoah Valley of Virginia and used for the text of his sermon the first verse of the third chapter of Ecclesiastes: "For everything there is a season, a time for every matter under heaven." Having finished his sermon, he led his people in solemn prayer. He, then, threw off his clerical robe and stood before his startled congregation dressed in the uniform of a Colonel in the Continental Army. Lifting his voice again, he said, "In the language of the Holy Writ, there is a time to preach and a time to fight. And now is the time to fight—Roll the drums for recruits." Peter Muhlenburg stepped forth to lead his 300 recruits in what became the Eighth Virginia Regiment of the American War of Independence.

Much the same thing can be said about a South Carolina Baptist preacher, Richard Furman. President James Monroe gives this account of this young preacher: "It seems young Furman was not only an enthusiastic Baptist preacher but an ardent advocate of rebellion, and everywhere, on stumps, in bars, as well as in the pulpit, prayed and preached resistence to Britain and alarm to the Tories." So successful was he until Lord Cornwallis offered a thousand pounds for his head.

John Witherspoon, a Presbyterian minister, left his president's chair in the halls of learning of the College of New Jersey and took to the political stump. He did more than even Patrick Henry and Paul Revere to tell the country that the British were coming. He served in the Continental Congress and was the only clergyman to sign his name to the Declaration of Independence.

The voices of the clergymen were but among the many that believed the new Nation to have a divinely appointed destiny, a special mission, to bring new "light to the nations." The seed of faith had been planted a hundred years before the Revolution as we hear John Winthrop, the Governor of the Massachusetts Bay Colony, saying: "the Lord will be our God and delight to dwell among us as his own people and will command a blessing upon us."

On the basis that the rights of the people are derived from the "Laws of Nature and Nature's God," and that they cannot be usurped by any monarch or government and appealing to the "Supreme Judge", our Founding Fathers declared the thirteen British Colonies an independent nation. In so doing they declared their "firm reliance on the protection of Divine Providence." Twice that short document, adopted by the Continental Congress on July 4, 1776, invoked the divine source of their cause.

Records of the meetings of the Continental Congress are filled with reference to God, to Jesus Christ, to the Christian Religion, to public worship and to prayer. That first meeting of the Congress in 1774 established the practice of opening its sessions with prayer. This practice continued each time the Congress met and, in fact, became a standing rule. Prayer still opens each day's business in both Houses of Congress. When National Chaplain, I had the privilege on one occasion of leading this prayer in the Senate.

Not only did the sessions of the Continental Congress open with prayer, but four times the Congress set days of public prayer and fasting. For instance, in July 1775, following the battles of Lexington Green, Bunker Hill and Fort Ticonderoga, came the call for prayer to "the Great Governor of the World."

A further testimony of the faith of our fathers lies in the fact that on many occasions companies and regiments of militiamen would go in a body to a church before marching off to join one of the Armies. And when George Washington was made Commander-in-Chief of the Continental Forces, he issued an order that all "officers and soldiers attend divine worship."

This fervant faith in God did not find expression simply because of the crisis of war. It was well founded in the past and projected itself into the years ahead. When the Constitutional Convention of 1787 had ground to a halt in conflict, it was Benjamin Franklin, who at 81 was the oldest person present, got to his feet and said: "In this situation. . . . how has it happened, sir, that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understanding?"

"We have been assured, sir, in the sacred Writings, that 'except the Lord build the house, they labor in vain that build it' . . . And if a sparrow cannot fall to the ground without His notice, is it possible that an empire can rise without His aid?"

"I have lived a long time, sir, and the longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men. I firmly believe that, and I also believe that without His concurring aid we shall succeed in this political building no better than the builders of Babel."

Following these words by Franklin, Edmund Randolph of Virginia proposed that a special sermon be preached on July 4th and that there would be daily prayers in the Convention. A compromise was reached and the United States Constitution was born—"on the wings of prayer."

In spite of the erosion of our moral values, we still have some of our early reliance on faith in God left in our national life, if we would but take time in this Bicentennial to see beyond the secular celebrations the golden thread of this faith in God. Let me lift up a few of the links in this chain of faith that are still with us: Prayers in the opening sessions of our legislative bodies; our National Anthem—"praise the power that has made and preserved us a nation"; Chaplains in the Armed Forces—first appointed by George Washington; our National Motto—"In God We Trust", found on all our coins; our Pledge of Allegiance to the Flag—"one Nation Under God"; our reference to God in most Presidential inaugurations, "So help me, God" at the conclusion of oaths—first said by George Washington at his inauguration as President; the symbolic "eye of God" with the Latin words meaning, "He has smiled on our undertakings", found on our one dollar bills; and our references to divine sovereignty in most of our state Constitutions.

And yet, as we look at America today, we must agree with Sidney Ahlstrom, the historian, who says, "We must confess right now that flag-waving, fireworks, brass bands, red-white-and-blue automobiles, parades and a million miles of baloney will not save us from the crisis that threatens the well-being of our country. What we need is not a crusade, but a retreat—a withdrawal to positions of greater moral strength."

For the American Revolution to be successful and alive today, we must pay the price of "eternal vigilance." The ideals of the Revolution and the understanding of the divine source of those ideals, as embodied in the Declaration of Independence, must be alive in our hearts for that Revolution to be alive. If we simply celebrate and forget our heritage of faith, we will lose our freedom and liberties, and perhaps our independence. I say again, should America lose its religious faith and its reliance on spiritual guidance, it would lose itself. Those in the world today who would enslave us, know that if they can get us to deny God or prevent us from knowing God, there will be an end to a belief in God-given rights. Because of this, the price of liberty is eternal vigilance.

I am sure you realize that we are living in an age of uncertainty, an age when the struggle between freedom and totalitarianism is drawing to a climax. We now have need of faith as never before in the two hundred years of our Nation's history. Along with that faith we must have "increased determination to defend our laws, our Constitution and the greatest blessing man has ever had, the American Way of Life."

For two centuries we have reaped the results of the faith of our Founding Fathers. This should have taught us to have a deeper and more abiding faith in our Creator.

As we conclude, let us contemplate these words of John Adams as he projected his thoughts to our day: "Prosperity (that's us), you will never know what it cost to preserve your freedom. I hope you will make a good use of it. If you do not, I shall repent it in Heaven that I took half the pains to preserve it."

Never have the people in America lived in a time of greater opportunity to exhibit the importance of faith in God and of obedience to His will, and never in the history of our nation would failure to do so be more disastrous. For as William Penn said, "Unless we are governed by God, we will be ruled by tyrants."

FEDERAL FINANCIAL INCENTIVES FOR ENERGY DEVELOPMENT

Mr. MOSS. Mr. President, yesterday the Energy Task Force of the Senate Budget Committee continued hearings on Federal financial incentives for energy development. The hearing concentrated on the budgetary considerations—how should Federal incentives for energy development in the form of contingent liabilities be treated in the budget.

The Federal financial incentives proposed are basically Government guarantees which are aimed to help private energy ventures borrow in private capital markets by sharing with the private sector the risk of project failure. Such arrangements may assure the loans of private ventures, the price at which the products of the venture can be sold, the overall success of the venture or some other aspect of its operation. But these guarantees constitute contingent liabilities of the Federal Government and are generally proposed to appear only partially on budget or not at all. A loan guarantee is a contingent liability that must be honored. Full consideration of loan guarantees is a complex undertaking. And I believe it would be useful if Congress developed a uniform budget treatment for various guarantee programs.

The budgetary implications of the President's fiscal 1977 energy proposals is an important question. The President's off-budget proposals for energy far exceed his on-budget proposals. Off-budget arrangements, present a smaller current budget but do not change the Government's ultimate liability.

I think it is important that the Congress understand the financial commitments that will be required to carry out the administration's energy proposals if the Congress decides to improve them. In reviewing the budgetary implications of the administration's energy proposals, Congress should also consider energy's role in our national priorities. We must continue to be concerned about reducing the Federal budget. However, the importance of energy to our economy and to the whole future of this Nation means that we cannot afford to be penny wise and pound foolish.

To explore these and related matters in yesterday's hearing the Energy Task Force had the assistance of a distinguished group of witnesses as follows: Mr. James L. Mitchell, Associate Director for Natural Resources, Energy and Science, Office of Management and Budget; Dr. William T. McCormick, Director of Commercialization, ERDA; Mr. Phillip S. Hughes, Assistant Comptroller General, U.S. General Accounting Office; and Dr. Arnold Packer, Chief Economist, Senate Budget Committee.

Mr. President, because of the timeliness and importance of the subject of this hearing I ask unanimous consent that highlights from yesterday's hearing be printed in the RECORD.

There being no objection, the highlights were ordered to be printed in the RECORD, as follows:

HIGHLIGHTS OF OPENING STATEMENT OF SENATOR FRANK E. MOSS

Today we continue hearings on Federal Financial incentives for energy development by focusing on the budgetary considerations.

No issue is likely to have greater budgetary importance in the years ahead than energy. It's impact on spending, revenues, taxes and the general goals of fiscal policy are of great importance.

At present expenditures for energy approximate 1 percent of the Federal budget. But the importance of energy far overshadows it's relatively small part of the budget.

The President's energy proposals do not appear to involve a significant increase in expenditures initially—in fiscal 1977. However, they carry a significant contingent future budget liability. In addition, some of them depart from past practices. As I indicated in yesterday's hearing, the Congress accorded a high priority on the budgeted energy items in passing the First Concurrent Budget Resolution in May. However, the President's request for off-budget financing far exceeded his on-budget proposals. For example, the Administration's off-budget proposals included $100 billion for the Energy Independence Authority and $8 billion contract authority for uranium enrichment. Therefore, the budgetary implications of the President's fiscal 1977 energy proposals and how the Federal financing incentives are to be treated—on or off-budget—are important questions that deserve careful consideration.

Federal government spending provides centralized management of the effort but increases budget expenditures. Off-budget arrangements present a smaller current budget but do not change the government's ultimate liability. Off-budget support may, however, reduce Federal control.

Of concern to the Task Force are: How should Federal incentives for energy development in the form of contingent liabilities be provided for in the budget? Are there useful general rules for budget treatment of such liabilities which apply across the range of energy financing options? How should the contingent liabilities posed by the uranium enrichment and synthetic fuels proposals now before Congress be represented on the budget for fiscal 1977 and future years? What are the likely budget outlays in future years represented by these proposals? Yesterday we touched on some of the relative advantages of various Federal financial incentives from the standpoint of providing the best energy response. Among the considerations of interest today are the relative advantages from a budgetary perspective.

I believe the Budget Committee has a mandate to provide a clear picture as to the full budgetary impacts of the Administration's fiscal 1977 energy proposals. If Congress decides to approve them, we want to be sure we understand the financial commitments that will be required to carry out such proposals. And that is a primary objective of these hearings. However, we must look beyond mere bookkeeping conventions. We are all concerned about reducing the Federal budget. But the importance of energy, to our economy and the whole future of this nation means that we cannot afford to be penny wise and pound foolish. Accordingly, in reviewing the budgetary implications, we should also consider energy's role in our national priorities.

HIGHLIGHTS OF TESTIMONY OF MR. MITCHELL

Basically our budget is a cash-box view. OMB is concerned that "we display what is happening with the cash of the Federal Government properly." We are also concerned, in any accounting period on what the future may hold. Therefore, we have a concept of budget authority.

These various transactions should be fully reflected in the budget process.

Regarding the Nuclear Fuel Assurance Act, OMB does "not foresee any future or present expenditure of Federal funds." And therefore has not shown any budget authority for it. This is a proven technology. The uncertainties are basically what the government can deliver. The government is being obliged to transfer to the private sector knowhow and technology. And "we have every confidence the government will meet its end of the bargain." Only in the remotest case under any situation does OMB foresee "where the government could be required to make any expenditure." Accordingly budget authority has not been requested.

Re synthetic fuels, the government is not the principal performer, it will be private industry. This is an emerging technology which has not yet been demonstrated on a commercial scale.

There is greater uncertainty regarding whether the government will have to make good on guarantees there. It has been estimated that about 25 percent could be needed in the future as a government outlay and therefore it is appropriate to reflect this as budget authority so both the Congress and the public understand that amount of money ultimately could be spent.

HIGHLIGHTS OF TESTIMONY OF DR. MCCORMICK

There is need for certain types of Federal financial assistance for energy development. Congress has already authorized the Geothermal Loan Guarantee Program and legislation is needed for NFAA and synthetic fuels. ERDA has a substantial ongoing R&D effort in energy supply and conservation technologies which is funded with Federal funds. Some projects are on a cost-shared basis with industry.

The private sector faces technological uncertainties and other risks in trying to commercialize new energy technology. Included are "capital uncertainties" and those related to the "rate of return on investment."

Because of "financial barriers" in certain circumstances, it may be in the national interest for the Federal Government to share the risks associated with commercialization of some energy technologies. Both synthetic fuels and uranium enrichment proposals have serious lead-time problems. Types of Federal financial incentives best suited to commercialization differ depending on the "nature of financial barriers." If the private sector risk "is mainly one of capital exposure or inability to obtain investment capital, then direct loans or loan guarantees are appropriate incentives." If, however, uncertainty is competing energy prices and therefore an uncertain rate of return, "then a product price guarantee or a purchase agreement could be the most effective financial assistance."

Re synthetic fuels, there are two major industry structures which have different risks: (1) those in which fuels are expected to be regulated (e.g., pipeline quality gas from coal;) and (2) those in which the fuels will compete in the open market (e.g., oil produced from shale). In general, fuels with regulated price, in effect, have an assured market with a guaranteed price. However, because of limitations on rate of return, "regulated industries have only entered into projects with minimal risk." The problem in financing a large $1 billion synthetic gas plant is obtaining necessary debt financing which may be 75 percent of plant cost. Because net worth of regulated utilities are on the order of total required debt for a single major plant lenders are leery and these projects have not yet been able to obtain financing. In this instance most effective incentive appears to be a Federally guaranteed loan for debt financed portion of the plant. Other incentives can be appropriate for other situations.

Budget requirements for synthetic fuels as in H.R. 12112, are $2 billion in loan guarantees for each FY 77 and 78.

Re uranium enrichment—problems facing potential private sector enrichers relate to enrichment plants: being highly capital intensive (ratio of plant investment to sales exceeding all other industries): no private sector commercial experience; and serving an industry which has many uncertainties.

Proposed NFAA will help overcome such obstacles by authorizing temporary financial assurances and cooperation for limited period until full commercial operation is attained. "The cooperative arrangements . . . will be negotiated and presented to Congress for approval."

HIGHLIGHTS OF TESTIMONY OF MR. HUGHES

Under the Nuclear Fuel Assurance Act, ERDA would be authorized to . . . contract for cooperative agreements with private firms to build privately-owned uranium enrichment plants. Total authority under the bill would be $8 billion. Under H.R. 12112 ERDA would be authorized to provide private firms up to $4 billion in support of synthetic fuel, renewable resources, and industrial conservation projects. The funds provided by the proposed legislation are "intended to reduce or eliminate the risk borne by private firms in development of technologies whose commercial success is uncertain."

The budget should provide "full disclosure" of the impact of all existing and proposed Federal credit and credit support programs. Only by this means can the full impact of such programs be evaluated and tradeoffs evaluated.

He supports the recommendations of the 1976 President's Commission on Budget Concepts which urged "a unified budget" and which would "put an end to competing measures." There has been "a significant departure in recent years from this concept through . . . off-budget programs." Outlays for existing off-budget programs are estimated at $11.1 billion for FY 1977 and this would be increased by the proposed energy financial incentives.

Exclusion from the budget of budget authority and potential outlays in the energy incentives would be on the theory that they are "loan guarantees," but this is a "technicality." The loan guarantee technique may not be the most effective way to achieve the objectives of the bills, and loan guarantees should be "weighted against other options."

HIGHLIGHTS OF TESTIMONY OF DR. PACKER

The peculiar uncertainties that attend long-term investment in new energy technologies suggest a need for some government involvement to reduce the risk. But there is concern that loan and price guarantees will become the "new backdoor . . . funding programs." Aside from the merits of any particular guarantee, it would be useful if Congress developed a uniform budget treatment for various guarantee programs.

The deficit is a politically significant number but budget authority is extremely important. In many areas such as defense or education, budget authority is most important. This year's authority determines the outlays and deficits of future years.

A guarantee for a loan that defaults causes outlays and is another story. Spending to cover a default competes with other spending and increases the deficit. A loan guarantee is a contingent liability that must be honored just like paying unemployment compensation. A default may occur after the budget year and lead to an increased deficit when the default occurs. A direct loan this year increases this year's outlays. Re-price guarantees plant construction might begin next year, but the Federal subsidy would not start until the plant was operating.

The problem in dealing with loan and price guarantees is that the economic activity precedes the potential outlays by many years. While it is important that Congress be aware of the future outlay implications of current decisions, there is no way to put these programs "on-budget" in a manner that will force trade-offs between guarantees and current direct spending programs. However, the Budget Committee has an interest because loan or price guarantees create potential for future outlays and will have a macroeconomic effect when granted.

Loan and price guarantees are not the only Federal programs that have an impact on the economy even though they do not show up as budget outlays. Full consideration of loan guarantees is a complex undertaking. Simply putting budget authority on-budget will not solve the problem.

Mr. MOSS. Mr. President, copies of the complete statements are available from the Director of Publications, Senate Budget Committee. And it is anticipated that the hearing record will be published later as a committee print.

HEARING OF THE COMMODITY FUTURES TRADING COMMISSION

Mr. MUSKIE. Mr. President, the Commodity Futures Trading Commission held a hearing Monday in Presque Isle, Maine, on proposals to change the futures contract for Maine potatoes. I was delighted that the new Commission agreed to my request to go to Maine, and I know they will value the strong opinions of Maine people expressed during the day.

I had the opportunity to testify in the morning session on the range of issues involved. To help my colleagues follow the continuing debate on these issues, I ask unanimous consent that my testimony be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Senator Edmund S. Muskie

Mr. Chairman and members of the Commission, I would like to begin by welcoming you to Aroostook County and by thanking you for agreeing so readily to my request that the Commission hold a hearing in Aroostook.

Today's hearing will provide an important opportunity for the new Commission to explain its role and responsibilities to people whose lives and livelihood are profoundly affected by the decisions you make. And this hearing will give the people of Aroostook County and central Maine, an important opportunity to present their views and to have a say in what is done with futures trading of potatoes.

The focus of today's hearing is the economic impact of the proposed new contract for potatoes on the New York Mercantile Exchange. This new proposal results from the defaults on 1,000 contracts last May. Everyone here is aware of the developments in the May trading. And everyone here has heard that the May developments have resulted in depressed prices and non-payment problems for potato producers.

Mr. Chairman, as I told you at the Agriculture Subcommittee hearing in Washington on June 21, when you agreed to my request to hold this hearing, many Maine farmers have for years said that futures trading has been subject to manipulation and has created a market which does not truly reflect actual supply and demand.

But trading has continued, for many reasons—not the least of which was the fear of representatives of other commodities that a ban on trading potatoes could endanger all exchange trading of futures. And problems have occurred. For example, there was manipulation of the price of May, 1971 potato futures on the Chicago Mercantile Exchange, involving some of the same principal figures involved in the defaults this May on delivery of Maine potatoes. Mr. Jack Simplot and Mr. Pete Taggares both were named in commodity exchange authority complaints.

But Maine producer opposition to trading has abated in the past few years because there has been a more consistently favorable market. Traditionally, Maine farmers counted on only an occassional year of favorable prices. In recent years, however, a stronger market has been maintained, so the suspicion of manipulation of the market by speculators has fallen off.

But because of the May contract developments, many of the worst suspicions of Maine farmers were confirmed. Massive violations of the rules of the exchange occurred along with many possible violations of the Commodity Exchange Act. And speculators, both short and long, have created a situation which has renewed Aroostook interest in a ban of trading. Testimony later today will detail the overwhelming votes in referendums over the years which have shown that Maine potato farmers do not favor the trading of their commodity on the New York mercantile exchange. As recently as last week, a referendum was conducted by the Maine Potato Council, which resulted in an almost 2½ to 1 vote against trading.

Therefore, those here today will be glad to know that Chairman Bagley has said, "It is obvious that there is something drastically wrong with that marketplace . . . we have told the exchange that at the very least there will have to be major changes in their contract and very soon so that trading does not go on under present circumstances. . .".

An important point to be covered at this hearing is whether the elimination of trading will play into the hands of speculators from the West or elsewhere. Congress has given the CFTC the power to stop all trading and eliminate the Maine potato futures contract. But many, including the commission, see dangers in that course of action. As an alternative pricing mechanism, a carefully controlled futures market is said to provide farmers with market protection against the concentrated economic power of a few large figures in the cash market. Many have suggested that the large shorts on the May contract actually meant their defaults to bring an end to the potato futures contract. It is for this reason that the commission is proposing to greatly change the potato futures contract, rather than eliminate trading.

But if the cash market can be manipulated by the concentrated purchasing power of a few large purchasers, and if it is best to guard against this with a sound potato futures contract, we must be assured that the futures market can never again be manipulated. So the proposed new contract should be carefully examined to determine if it is the best approach to the needs of Maine's potato industry, and to determine whether it will prevent problems like those experienced with the May trading.

The exchange's proposed contract calls for many changes in the terms of the contract for trading for future delivery of potatoes, changes which I know you will go into in detail at this hearing. These changes include:

Allowing the contract to be fulfilled by delivery of potatoes from seven Eastern States other than Maine;

Requiring that shipments be made by truck rather than rail, and allowing the exchange to allow rail shipments if trucks cannot deliver;

Reducing the size of the contract to conform with truck weight regulations;

Tighter limits on price fluctuations;

And new obligations for delivery and payment for both buyers and sellers.

The economy of the Maine potato industry could be profoundly affected by these changes. So we need answers from this hearing on why the proposed contract is to the advantage of Maine farmers and the entire industry.

First, what was wrong with the old contract which requires these changes? Could better enforcement procedures for the New York Mercantile Exchange have prevented the May default problem? Will the new contract prevent similar problems, without tighter enforcement procedures?

Second, will the expansion of origins of deliverable potatoes to seven other Eastern States provide greater stability to the futures market? Will this mean steadier, but lower prices for Maine potatoes? Could it result in such a steady market that speculators will lose interest in the exchange trading of potatoes, thereby killing futures trading of Maine potatoes?

Third, will the change from rail to truck for shipments meet the transportation needs of farmers on a steady basis? Can the Bangor and Aroostook Railroad, reasonably be expected to maintain capactiy for potato shipments if rail shipment is called for only in emergencies? Will the trucking industry be flexible in dealing with new developments, as the Bangor and Aroostook was in meeting the demands coming from greatly increased export sales this past season?

Fourth, should there be a May delivery month? Because the availability of deliverable supply has been a problem during May trading, and speculation has revolved around the month of May, will a contract expanded to include potatoes from other States assure supplies and reduce the possibility of manipulation?

I hope today's hearing will answer these and the many other questions which remain.

Additionally, I want to encourage the exchange and the Commission to act as quickly as possible to resolve the problems of the defaults on May's contracts. The largest immediate problem of Maine farmers is the problem of non-payment to farmers for delivered cash market potatoes. Holders of long positions with defaulted contracts owe about $2 million to Maine farmers, and have been awaiting the release by the exchange of funds for liquidation of those contracts to pay their debts to farmers.

It is critical to the integrity of the exchange and the reputation of the new commission that the default problems be settled soon, so the Exchange's house can be put in order again, and so that the Maine potato industry will not be harmed further.

In closing, I want to stress that the Commodity Futures Trading Commission literally has the economic health of our potato industry in its hands. That is why it is vital that the Commission understand the concerns and needs of Maine, and that is why I am delighted you are here today.

INTER-AMERICAN HUMAN RIGHTS COMMISSION

Mr. KENNEDY. Mr. President, a year ago, an amendment I offered to the Foreign Assistance Act—adopted and enacted into law—authorized an additional $102,000 each of the next 2 years for the Inter-American Human Rights Commission beyond our normal contribution.

In a letter recently sent to the Organization of American States, U.S. Ambassador William S. Mailliard, Permanent Representative of the United States to the OAS formally made the offer of additional funds to the Commission.

Hopefully, this action will only be the first of several voluntary contributions from nations of the hemisphere to strengthen the capability of the Commission to perform its invaluable work.

We have seen the importance of the Commission's recent work in exposing the violation of human rights in Chile, in disclosing the continuing violations in Cuba, and in expressing the need to awaken a general concern throughout the hemisphere for the protection of certain basic human rights.

I am hopeful that the funds will be accepted and used to expand the activities of the Commission. Initially, I am hopeful that there will be immediate action to complete the staffing of the Commission with talented, and capable lawyers and investigators—the best that the hemisphere can provide—to propel forward the work of the Commission.

I ask unanimous consent that the OAS press release and Ambassador Mailliard's letter be printed in the Record.

There being no objection, the press release and letter were ordered to be printed in the Record, as follows:

U.S. Makes Special Contribution To OAS Human Rights Commission

Organization of American States,
Washington, D.C., July 26, 1976.

Washington, D.C. (OAS).—The United States offered a special voluntary contribution of $102,000 to support the work of the Inter-American Human Rights Commission (IAHRC) of the Organization of American States (OAS), it was learned today.

In a letter to OAS Secretary General Alejandro Orfila, Ambassador William S. Mailliard, Permanent Representative of the U.S. to the OAS, states that this offer is being made under a provision of the Foreign Assistance Act, adopted by Congress last June 30.

With this action, the U.S. reiterates the position stated by Secretary of State Henry A. Kissinger at the Sixth General Assembly of the OAS, held in Santiago, Chile, in early June. At the time, Kissinger proposed that the IAHRC's mandate be broadened so that "instead of waiting for complaints," it could initiate regular reports on the status of human rights in the Hemisphere. He also suggested that the budget and staff of the Commission be enlarged, to demonstrate concretely "our dedication to the special qualities of rich promise that make our Hemisphere a standard-bearer for freedom-loving people in every quarter of the globe."

In his letter to Orfila, Ambassador Mailliard remarks that "budgetary stringencies . . . have tended to limit the scope and effectiveness of the IAHRC" and expresses the hope "that other member states with an equal commitment to human rights will manifest their support for the work of the IAHRC through voluntary contribution."

The additional funds would be earmarked for personnel, travel, and equipment expenses of the Commission.

The IAHRC is an OAS agency established in 1959 for the purpose of watching over the observance of human rights in the Americas. It is made up of seven wellknown jurists of different American nationalities, selected on the basis of their personal stature. Its Washington-based secretariat receives complaints about alleged human rights violations and investigates them by various means, including communications with the governments involved and field visits.

IAHRC's reports, submitted to the OAS General Assembly, contend that respect for human rights is declining in too many countries of the Hemisphere.

During the time covered in its latest reports, the IAHRC has received complaints of violations from a number of American countries, including the United States.

At present, members of Commission are Andres Aguilar of Venezuela, chairman; Tom Farer of the U.S.; Carlos Alberto Dunshee de Abranches of Brazil; Gabino Fraga of Mexico; Carlos Garcia Bauer of Guatemala; José Joaquín Gori of Colombia; and Fernando Volio Jiménez of Costa Rica.

July 16, 1976.

His Excellency Alejandro Orfila,
Secretary General of the Organization of American States, Washington, D.C.

Excellency: I have the honor to inform you that a provision of the Foreign Assistance Act of the United States, adopted by Congress on June 30, 1976, authorized my delegation to make a special contribution of $102,000 to support the work of the Inter-American Human Rights Commission of the Organization of American States. It is the intent of the Congress that these special funds be allocated as part of the voluntary contribution of the U.S. Government specifically to provide budgetary support for the Inter-American Human Rights Commission during Fiscal Year 1976.

The provision of these special funds under the Foreign Assistance Act is intended as an earnest of the importance my government attaches to the cause of human rights in the hemisphere and its support for the work of the IAHRC in the fulfillment of the mandate granted by the VI Regular Session of the General Assembly of the OAS. Budgetary stringencies in the past have tended to limit the scope and effectiveness of the IAHRC and it is the hope of my government that certain high priorities of the Commission in the field of personnel, equipment and travel can be realized by means of special contributions. It is also the hope of my government that other member states with an equal commitment to human rights will manifest their support for the work of the IAHRC through voluntary contributions. It would be appreciated if you would advise my delegation of the appropriate procedure to effect transfer of the special contribution for human rights.

Accept, Excellency, the renewed assurances of my highest esteem.

William S. Mailliard,
Ambassador, Permanent Representative of the United States of America to the Organization of American States.

THE NEED FOR A THIRD BLACK MEDICAL SCHOOL

Mr. KENNEDY. Mr. President, I would like to enter in the Record an article by Dr. Louis W. Sullivan explaining "Why A Third Black Medical School Merits Nation's Support."

Dr. Sullivan, is director of the medical education program, at Morehouse College in Atlanta, Ga., and has been an exceptionally effective advocate for the development of a new medical school in that part of the country.

When he testified before the Senate Health Subcommittee, Dr. Sullivan made it quite clear that there remains a continuing need for more physicians to serve people in the neglected and underserved areas of rural communities and in the crowded neighborhoods of our inner cities. Physicians and other health care providers trained by the Nation's two predominantly black medical schools, are the prime source of medical care for these areas today. But Dr. Sullivan explicitly notes that the American Medical Association's optimal ratio of 1 physician for every 650 people would justify an increase of 29,000 physicians to serve all black Americans.

With the health manpower bill, recently passed by the Congress, the Senate Health Committee has begun to address the critical need for doctors as identified by Dr. Sullivan and others who are alarmed by the current neglect of health care providers for underserved communities.

I request unanimous consent to print in the Record a copy of the article "Why a Third Black Medical School Merits Nation's Support" as it appeared in the Boston Globe on July 22.

Why a Third Black Medical School Merits Nation's Support

(By Louis W. Sullivan)

Of the 300,000 physicians in the US, only 6600, or 2.2 percent are black. Nationally, there is one white physician for every 538 white persons, but only one black physician for every 4100 blacks.

This ratio is bad enough as it is, but the difficulty is compounded by the fact that US medical schools are not adequately addressing the need for more minority physicians.

Indeed, the percentage of black students in the first year class of the nation's medical schools has actually decreased from 7.1 percent in 1971–72 to 6.8 percent in 1975–76. This has occurred when, in order to attain the American Medical Association's "optimal ratio" of one physician for every 650 people, the black population in the United States needs an additional 29,000 physicians immediately.

At present, there are 114 medical schools in this country, among which only two—Meharry Medical College in Nashville and Howard University Medical College in the District of Columbia—are predominantly black. It is significant, I think, that, according to the president of Meharry Medical College, 80 percent of the graduates of that institution are in practice in rural areas or in urban ghettos.

This tendency of black physicians to practice in areas where they are most needed, providing primary health care to those who have hitherto been most neglected, is among the chief considerations behind our efforts to establish America's third predominantly black medical school at Morehouse College in Atlanta, Ga.

The factor uppermost in the minds of those at Morehouse is not simply to create an institution for making black students into physicians, but to provide the Southeast and the nation with the qualified medical practitioners, a significant number of whom would be black, willing to undertake to meet the health needs of all underserved and minority communities.

Those in higher education have long accepted the need for a pluralism of institutions. We have religious colleges, sectarian colleges and a variety of institutions founded upon particular philosophical beliefs or to preserve and transmit a unique cultural heritage for a segment of our population as well as to our society at large. In medical education there is a growing awareness a special sensitivity and orientation must be imparted to those students who will be carrying out their professional functions chiefly among people with cultural backgrounds different from those of the majority population of the United States.

There are particular health problems that blacks are specially affected by, such as hypertension and diseases related to poverty, among others.

This is part of what we will be seeking to accomplish at Morehouse. Our primary emphasis will be on academic excellence—the finest teachers, teaching methods and instructional facilities that can be obtained; an alert and dedicated student body. Along with this, the medical school curriculum will emphasize and provide for on-going exposure to the humanities and social sciences, to increase in our graduates a sensitivity to the multiple human concerns and factors which impinge upon the state of health and the reaction to illness in our citizens, to appreciate to a greater extent the social considerations which contribute to our health care and our medical environment.

To succeed, an ambitious undertaking such as this requires support on many levels. The most obvious and immediate needs is for financial support—from governmental sources at the Federal and state levels and from the private sector, both corporate and individual. The extent to which this support appears to be forthcoming is heartening. But perhaps even more heartening is the fact that so many of those individuals whose basic health needs have gone unmet for so long now are gradually coming to realize that there are those who care and that something is being done toward reaching and alleviating their ills and deprivations.

THE CHINA EARTHQUAKE

Mr. KENNEDY. Mr. President, yesterday one of the most devastating earthquakes ever to be recorded struck an area south of the capital of the People's Republic of China. Preliminary reports suggest much destruction, loss of life, and human misery. The shock of the earthquake—which registered over 8.2 on the Richter scale—was the world's most severe earthquake since 1964 when Anchorage, Alaska, was jolted by an earthquake that registered 8.6 on the Richter scale.

The earthquake in China reportedly struck a highly populated area in the province of Hopeh. Although reports from Peking are scattered and incomplete, it appears that the people of China have suffered an immense human tragedy. The international community should stand ready to offer any humanitarian assistance that may be requested by the Chinese Government. And I am pleased to learn that the Department of State has already sent a cable to officials of the Chinese Government expressing a willingness to be of assistance. I commend this humanitarian gesture by our Government.

As chairman of the Subcommittee on Refugees, I want to express my deep personal sympathy and concern to the people and Government of the People's Republic. The subcommittee will closely follow developments there in the critical days ahead.

I also want to commend officials in the Office of Disaster Relief in the Agency for International Development—AID—who have already begun to monitor the situation, and who are awaiting additional information regarding the full extent of the earthquake disaster.

Finally, I am happy to report that a congressional staff delegation currently visiting Peking has reported to the Department of State that all members are safe.

THE TAX REFORM (?) BILL: SENATOR LONG REPLIES

Mr. FANNIN. Mr. President, I rise to commend Senator Russell B. Long, chairman of the Finance Committee, for the excellent statement which he had published in the Washington Post today concerning the so-called tax reformers and those who would criticize the Finance Committee for its current work on the tax reform bill. Under his leadership the Finance Committee held extensive hearings over several weeks and then met in executive session for several additional weeks prior to sending the tax reform bill to the floor. Even while the bill was pending on the floor, Senator Long held additional hearings and a further executive session in order to allow all interests to be heard. I commend him for his sincere attempt to have a true tax reform bill and ask unanimous consent that his statement to the Washington Post be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The Tax Reform (?) Bill: Senator Long Replies

(By Russell B. Long)

Recent Washington Post articles, including your July 20 editorial "The Tax Reform (?) Bill," give a gross misimpression of the Senate tax bill.

You fail to recognize that the self-anointed "tax reformers" are not proposing genuine tax reform. They want to eliminate incentives for capital formation, for growth of industry, for creation of jobs in the private sector and for keeping U.S. firms competitive abroad—but without a commensurate lowering of basic tax rates.

In fact, that group's leader, Sen. Edward M. Kennedy, attempted (but was beaten 59–24) to increase the maximum rate on earned income from 50 to 70 per cent.

The "reformers" unrelenting opposition to reducing tax rates was further demonstrated in their defeat of a modest committee amendment to cut the rate from 70 to 50 per cent on a limited amount of dividend income. Thus the law remains that corporate profits, taxed at a top rate of 48 per cent, can be taxed again at 70 per cent when distributed as dividends—a cumulative tax of 85 per cent.

Although both Treasury Secretary William Simon and Jimmy Carter want to phase out this double taxation of corporate dividends, such a reform would be attacked violently by other "reformers."

You conveniently ignore the bill's almost 50 provisions which meet any objective definition of real reform. For example:

The $1 billion minimum tax on wealthy taxpayers.

The earned income credit for the working poor.

The incentives for employee stock ownership plans for the benefit of working people.

The many provisions allowing 92 per cent of taxpayers to use only three simple tax tables rather than 12.

The various provisions which will permit 9 million taxpayers who now itemize to use the standard deduction instead.

If, despite these reforms, you must still blame someone for failure to achieve your kind of radical tax change, you should direct your scorn not at me alone but at the majority of the Ways and Means Committee, the majority of the House, the majority of the Finance Committee and the majority of the Senate who have not voted that way.

I offer no apology for my efforts to defeat a patently false tax reform movement. That movement would have collapsed long ago without the support of many moderate and even some liberal senators who hesitate to vote against anything called "tax reform," no matter how unwise or untimely.

Your writers argue that many narrow-impact items in the bill make it a fraud. You call them "special interests" and agree with Sen. Kennedy and Sen. William Proxmire, who call them "midnight loopholes" although they had been carefully screened by our committee staffs and agreed to subject to reconsideration.

Such statements agitate the public, but most senators reject this cynical view of the legislative process. We naturally expect all taxpayers to pay their fair share of taxes—or, in lieu of taxes, to use their resources in legally defined ways which serve a public interest. Where circumstances justify an exception from a general rule, it should be considered on its merits.

The American people want and expect their elected representatives to exercise legislative judgment and discretion in such matters. It was in this spirit of concerned, representative government that most of those amendments to which you object so bitterly were recommended by senators for inclusion in the bill.

While Sens. Kennedy and Proxmire have screamed about the procedure by which the committee approved some amendments while acting under a severe deadline, they have been able to find little fault indeed with the substance of the amendments so approved.

Far more responsible than the media's silence on this legislative oddity was the Senate's emphatic response. When Sen. Kennedy moved (with Sen. Proxmire's active assistance) to recommit the bill to committee with instructions to drop all these provisions, the Senate voted "NO!" by a resounding margin of 64-28.

The ultimate nature of the Senate bill is not yet clear because after adopting most amendments recommended by the Finance Committee, the Senate has also voted to extend the $35 personal tax credit through fiscal year 1977.

This would involve a revenue shortfall of $1.5 to $2 billion, but that can be handled in one of three ways. We could reconstruct the package in the House-Senate conference to balance it out. We could cut spending. Or we could raise the spending ceiling. I favor the answers in that order, but in no event is this an insurmountable problem. In any case, the necessary adjustment will not involve more than a fraction of 1 percent of the budget.

If the ringleaders of the false reform group had their way, they would not return the revenue gains of their "reforms" to taxpayers by lowering tax rates. They would end many of the incentives which encourage private enterprise to expand and to create new jobs in order to plow these billions into bigger government, more bureaucracy, and ever-expanding social welfare programs.

If that is what the American taxpayer really wants, then he should have it. But it should not be fed to him under the guise of "tax reform."

If American business is to be denied the incentives to provide answers to America's problems in a free enterprise way, then big government will surely be eager to fill the vacuum, either with ever-increasing tax money or with the printing press money of which rampant inflation is made. In either event, this would amount to requiring business to pay for its own extinction and burial. I will continue trying to see that this does not happen.

Mr. HANSEN. Mr. President, I concur with the distinguished Senator from Arizona in his praise of the leadership of the chairman of the Finance Committee, Russell Long. Senator Long has attempted in every way to be fair in allowing all sides to be given a hearing with respect to the tax reform bill currently before us. His statement in the Washington Post today points out how the so-called tax reformers have ignored the over 50 provisions that would meet any objective definition of real tax reform.

CHILE

Mr. KENNEDY. Mr. President, it is difficult to understand the reality of the deprivation of human rights which has occurred in Chile under the junta. Frequently, we discuss conditions there in legalistic terms—lack of due process, violation of constitutional norms or international standards, abolition of Congress, dissolution of parties and restrictions on press, labor, and academic freedom. It is only when one is able to listen to those who have suffered under the junta that one begins to understand what is really meant by violation of human rights.

I had that opportunity recently when Dr. Sheila Cassidy, a British subject who had been tortured in Chile late last year, visited the United States.

A portion of her testimony to the United Nations Human Rights Commission has been published in the journal "Index on Censorship." I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TORTURED IN CHILE

(By Sheila Cassidy)

On 21 October I was telephoned by a Chilean priest who said he had a request to make of me. He then came to my house and told me that there was a wounded leftist revolutionary who had two bullet wounds in the leg and who needed medical treatment. He asked if I was prepared to assist this man and I agreed. I was fully cognisant of the risk of being detected, detained, interrogated and expelled from the country I had no doubts that it was correct to attend this man as the torture methods of the Chilean Secret Police are such that an important revolutionary person would be very severely tortured and probably killed. This information is well documented in Chile by the Committee for Peace which is an entirely non-political organisation composed of a union of the Roman Catholic and other Christian Churches.

I was taken to the house of the American Sisters Notre Dame where I treated Nelson Gutiérrez and where I met his girl friend Maria Bachman and Mary-Ann Beausire, who is the girl friend of Andres Pascal Allende, the head of the MIR (Movimiento Izquierdo Revolucionario), the revolutionary leftist movement in Chile.

I found Gutiérrez to have three bullet wounds in the leg. One was an exit and entrance wound of one bullet and the other was only an entrance wound which meant that the bullet was still in his leg. I explored the wound but was unable to find the bullet. I operated on his leg and drained a large abscess. It was at this time my impression that his condition would improve with rest and anti-biotics and I agreed to return 48 hours later. This I did and found his condition greatly worse. He had a high fever and was unable to walk. I once more explored the wound to try to find the bullet but this was impossible as his leg was greatly swollen and the bullet was very small. It was my considered medical opinion that it would be impossible to treat him in this house without proper medical equipment and I thought that his life was in great danger as he could very possibly die from a generalised septicaemia and was already showing signs of this condition. I explained to him that it was impossible for him to go into hiding, that he was putting in risk the lives of the people who were helping him and that furthermore he was likely to reach a state of delirium in which he would be a danger to his own friends. He therefore agreed to accept the offers of asylum which had been made to him by the priests who had been helping him. I left the house and went to speak with the priests who were assisting him and they then proceeded with necessary negotiations to get him political asylum.

The following day I was telephoned and asked to go to another convent for an urgent discussion. This I did and was presented to one of the bishops of Santiago. I explained to him my medical reasons for the urgency for asylum for Nelson Gutiérrez and I agreed to come to the house of the Nuncio the following day to make a further attempt to extract the bullet. They told me that it was absolutely out of the question to send Gutiérrez to a hospital even under the protection of the Papal Nuncio as this was far too dangerous and they considered his life would be gravely in jeopardy.

On Saturday 25 October, I went therefore to the house of the Papal Nuncio. This house is very heavily guarded by police with machine guns. I felt it inadvisable to reveal my own identity and therefore called myself Sister Isobel. This was the only occasion on which I had ever called myself by a false name or said that I was a religious and it was done with a very specific purpose.

When I entered the Nunciatura, the house of the Nuncio, I was told that another doctor had been called. I did not see Gutiérrez on this occasion and I have not seen him since. I returned to my home and during the week that followed I carried on with my ordinary life and work.

THE ARREST

On the evening of Saturday 1 November, I was in the house of the Columban Fathers, which is very close to my home. These missionary priests many of whom are Irish, American or Australian are my friends and I was a frequent visitor in their house.

I was at that time caring for an American nun who had had a nervous breakdown due to overwork and I was visiting her on this particular occasion. While I was with her in her room at the back of the house on the first floor I heard a loud scream and ran downstairs thinking that the maid had had an accident. I found her lying prone on the floor, with her back towards the French windows leading onto the street. There was a large pool of blood at her side and a large bullet wound in her back. I then pulled her by the hands towards the back part of the house because bullets began to enter from the direction of the street. After a very brief period I got the impression the bullets were coming through the dining-room and the kitchen windows, that is from the other side of the house, and I realised that I could do no more for the maid and that my own life was in grave danger. I therefore hid under a table in the kitchen and waited for the gunfire to cease. I would estimate that firing continued over some 10 to 15 minutes. The only people in the house at this time were Father William Halliden who is the chief of the Columban priests in Chile and Sister Connie Kelly who is a young American religious. All stories put forward by the Chilean government that I was accompanied by a friend with a gun are totally without foundation.

When the firing ceased there was a loud knocking on the back door and Father Halliden opened it. A man in ordinary clothes but armed with a machine gun entered brusquely, followed by some five or six similarly armed men. They pushed past us both and ran to search the house. Their first comment was 'who fired upon my men?' and they then asked me my name and when I told them it was Sheila they said 'she is the one we are looking for'. There was then an interval while they searched the house, rang the hospital for an ambulance to take away the maid and brought the sick nun down so that she was confronted with the dying maid. Again they asked me what my name was and again commented among themselves 'she is the one we are looking for'. They refused all of my requests for identification. I went upstairs and hid in the bathroom because it seemed a nice safe place. After a while however they began to call my name and began to search the house and when they came to the bathroom door they began to break it down, so fearing that they would begin to fire I came out. I was led at gunpoint from the house and managed to call to Father Halliden to inform the British Consul. I was not given any kind of warning or told why I was being detained and at this point I had no idea what they had detained me for or who they were. I was led to a private car and a man with a machine gun got in beside me. As soon as we drove away he struck me sharply across the face and then put a blindfold upon my eyes. As we drove through Santiago (it now being dark), he told me that he knew that I had treated Nelson Gutiérrez so I saw no point in lying. I was driven for about 15 minutes through the streets of Santiago. I managed to lift the blindfold over my left eye without my guard realising and I recognized that we were driving parallel to the canal which is in one of the smart residential areas of Santiago. This is in a street which is called Tobalaba. We crossed the canal and went a short distance along a street, a dirt road in an area which I believe to be Penaloen. We stopped outside a house and I clearly saw that this was a dark red colonial building on the left hand side of the road as we were going away from the canal.

We entered the house and I was taken immediately to a room of interrogation. I was interrogated for what I think was only a few minutes and then told to remove my clothes. I declined to do so and my interrogator then began to tear my shirt off. Not wishing to be further manhandled, I removed all my clothes. I was then told to lie on the bed. In the room there was a double metal bunk. They removed the mattress from the bottom floor of the bunk and I was tied to the frame of the bunk. My wrists and ankles were secured to the side of the bunk and I was spreadeagled with my legs apart. I was further secured by a wide band across my abdomen and two straps were passed around my upper arms. I was very tightly blindfolded but before they tightened the bandage I was able to see that this was a small room in which there was a metal bunk, a chair and a large street map of Santiago hung from the wall. There was also a woman present amongst the group of some five men. They then began to interrogate me. They immediately gave me a violent electric shock which seemed to be a generalised shock. At that time I think the electrodes had been placed on my wrists but I couldn't be sure. They asked me where I had treated Gutiérrez. When I saw that they didn't know where I had treated him I realised that they must be ignorant of the involvement of the priests and nuns in the treatment and subsequent asylum of Nelson Gutiérrez. Not wishing to implicate the Church, and more especially not wishing to endanger the lives of the Chilean priests who had helped him, I invented a long and detailed story of how I had treated Gutiérrez in a private house at the request of a Chilean doctor and in a distant part of Santiago. It was not particularly difficult to invent this story as all their questions were direct and I just fabricated answers to each of the questions. When I realised that they were believing me and that I was diverting them completely from my friends it became easier still to lie in this way. Every time I faltered in my story they gave me another electric shock. These were extremely painful, but providing I kept talking it was possible to bear it. Eventually I persuaded them that perhaps I might be able to identify the house so they allowed me up. They lifted me from the bed as I was unable to move alone and they dressed me as I was likewise too weak to dress myself. My eyes were then secured with sellotape and I was taken by car accompanied by armed guards to look for the house.

When we got to the centre of Santiago, to the region of the Central Station, they removed the sellotape from my eyes and told me to look out for the house. After some distance they pressurised me considerably to identify the turning and I said I thought that we had arrived at it. We cruised around looking at houses for some 15 minutes while they became progressively angrier; then they stopped the car, had a conference with another of their group and told me, with great excitement, that they thought they had found the street. I had told them that I thought the street was called "Bishop something-or-other", "Obispo no se cuanto." They had by some curious coincidence found a street called "Obispo Subercaseaux."

With the finding of this street they became convinced that I was telling the truth; we cruised along and again by curious coincidence we found a house which fitted very closely the description that I had given. I had told them that the house was a large white colonial house with black gates; this in actual fact fits the description of many houses in Santiago, but it was curious to find one in this street, because this was an area that I had never before visited.

They then took me to a police station and handcuffed me and blindfolded me with my sweater. When they realised that I could see through the sweater they wrapped a thick velvet curtain around my head. There was then a lot of shouting and telephoning and movement of men and I realised that they were organising a raid. After a while they took me again by car and we went and waited in the shadows of the street alongside the house. I was by then beset by considerable moral qualms as to whether I was doing the right thing but I thought that this would be a house with rich people and they would be able to explain to the Police very rapidly that they had no connections with the MIR.

This manoeuver of mine was a mixture of desperation and a play for time because I kept hoping that the Consul would be able to contact the Secret Police and that I would be freed.

THE "BARBECUE"

We entered the house and I found to my great distress that it was not a house of rich sophisticated people but there was an elderly couple who were obviously guarding the house while it was being remodelled; I immediately said that this was not the house. They didn't believe me, but eventually I persuaded them and they became very angry and said that I was obviously lying and that I should go back to what they call 'The Parilla', which is Spanish for 'barbecue'.

I was taken by car, once more blindfolded, back to the original place of detention. I was led immediately to the same room, ordered to remove my clothes and once more secured to the bed frame. This time they inserted an electrode in my vagina and began to stimulate me with a wandering electrode, by which I mean they had an electrode which had some kind of a pincer and they stimulated me in various parts of my body, largely over my lower abdomen and thighs and pubic regions. Whether because of the siting of the electrodes or because of the increase of current, this pain was greatly more severe, and I was very distressed. Their attitude was very much more aggressive and although they told me that when I was prepared to talk, I should raise my fingers; when I did so they gave me several more shocks, each time before they removed the gag from my mouth to allow me to talk. After what I would imagine was about 20 minutes of this repeated shock treatment, I disclosed that I had treated Gutiérrez in a Roman Catholic convent. They found this idea so fantastic and, because I had previously lied, did not believe me, so they continued with the interrogation and the shocks. After a total of about an hour they believed me and I was once more freed and taken from the bed, dressed and taken by car to show them the location of the convent. This I did and I was brought back to the detention site.

I should mention that during these two journeys to Santiago, my guards said to me on more than one occasion, "it would really be much easier if we were to kill you here and now." This was said in a casual way and I had no cause to disbelieve them.

On one occasion I tried to escape, in that three young men passed by and I grabbed hold of the jacket of one of them and said "I am a prisoner of the DINA, please help me," they were very frightened and tried to run away and eventually I was forced to let go of the jacket.

After my second return to this house of interrogation, I was again returned to the bed, stripped and tied in a similar manner, electrodes were again placed in my vagina and I was again given electrical shocks over various parts of the lower part of my body. This time because of the known association between Nelson Gutiérrez and Pascal Allende and especially because Mary-Ann Beausire had been in the house when I treated Gutierrez they were convinced that I knew his whereabouts, but they did not believe me and continued with repeated shocks. They shouted at me many times that I was lying. In between the shock sessions I was left stripped, tied to the bed, while my interrogators went away to confer amongst themselves. While left in the hands of men who I presume are more junior members of the torture team, I was frequently stroked and fondled and asked if I enjoyed it. They repeatedly asked whether or not I was a virgin and I was very fearful that they would try to rape me.

I was then taken from the bed and into an office for interrogation. I was interrogated by a group of men, I don't know how many, I would say at least three. I told them that I had attended Gutiérrez because he was a sick man and that it was not in my code of behaviour to refuse attention to somebody who needed my help. They found this, frankly, too incredible to believe and were convinced that I was an active member of the MIR.

They were also becoming progressively more angry at the fact that Gutiérrez had escaped them and were obviously very angry at the association of the nuns and priests, because they felt unable to touch them.

During the third interrogation session under torture, I told them that I had been told that day, in response to a question as to the physical state of Nelson Gutiérrez, that a priest I knew had tried to find asylum for Pascal Allende. This information I gave in considerable desperation, because of their repeated insistence and inability to believe that I had no more information.

During the interrogation in the office, I was offered to be taken to the British Embassy if only I would disclose the whereabouts of Pascal Allende. I repeated that I did not know where he was.

I should mention at this point that at the very beginning of the torture I told them that I was a British citizen and that their behaviour could lead to an international incident, and they replied "Our image abroad is so bad that it doesn't matter."

I was interrogated in all over a period of 12 hours, and judging by the voices and behavior of the interrogators at the office, it was by a group of very senior men. It was certainly not one or two junior torturers, and a man, who I believe to be a senior official, told me, "Doctor, you are a sensible woman, you must realise that you have now received three sessions of electrical treatment and that this can go on and on, up to ten or twelve or thirteen, and that after each session you will be in a progressively worse physical condition."

Eventually, I was returned on two further occasions to the torture room where I was stripped and tied to the bed, but on each of these last two occasions there was a long lapse of time and a discussion with the chief of the interrogation and I was released without further electrical current being passed. At about 7:00 in the morning after I had given the address for the priest who had tried to get Pascal Allende into asylum, I was told that I would be taken away to rest. The man who led me away spoke kindly, but I was given clearly to understand that he proposed to have sexual relations with me; this was obviously just to try and frighten me because I was taken to a dormitory where there were three other young women. He then left us and locked us in.

DICTATED REPLIES

I was detained with three young professional women in this room for the next four days. On Sunday 2 November I was interrogated many times during the day but received no further torture. I was, however, struck many times about the head and face, but not enough to leave any permanent damage apart from a slightly split lip. I was taken on one occasion to the room where I had been tortured and told that I would be making a statement. I was told that if I did not make this statement things would go very badly for me and that I was to say just what I was told to say. The statement began, "I, Sheila Cassidy in Santiago without any physical or mental duress declare". Then they dictated to me questions and answers. The information contained in the statement was true apart from the fact about it not being made under duress. At no time was I left without armed guards. I had some difficulty in writing clearly but they spoke harshly to me and told me that I must make a big effort.

I should mention that I had been told by the other prisoners that it would be very dangerous for me to drink water during the first 24 hours after the electric shock treatment, and during the time I was being interrogated I was offered a cup of coffee. I drank half of this and the man who had given it to me then said, "It's just as well you didn't drink it all, because you could have had a serious convulsion."

At about midnight on Sunday, that is a little after 24 hours from the time of my detention, the intensity of the interrogation and activity outside the room where I was resting lessened. I was able to sleep.

On the Monday, Tuesday and Wednesday I received no further torture but was obliged to make another long statement giving the names, descriptions and addresses of all the nuns and priests involved in the case of Nelson Gutiérrez. I was also questioned about the activities of two people who had been detained from my house during the time I was in England last year visiting my father.

They asked me many different things, one of them being that I was able to speak Russian and for a long time they thought I was an active member of the Revolutionary Left, but after apparently making further investigations they convinced themselves that my involvement was limited to what I had told them.

On Wednesday 5 November, I was taken from the room where I had been held prisoner, again had my eyes taped with scotch tape and was led through the grounds of the building. I was taken by car through Santiago and at this stage I believed that I was being driven to the British Embassy. At no time was I given any information or told where I was being taken. When we arrived at our destination the tape was removed from my eyes and I found that I was in another military establishment; this I later knew to be the grounds of Tres Alamos, which is the political detention centre in Santiago. I was taken, however, to a special part of Tres Alamos, which is known in Chile as Cuatro Alamos, or Four Poplars. This is a place of secret detention, the existence of which, I believe, is denied by the Secret Police. It is a place of very strict segregation, there are some 15 rooms and prisoners are either alone or in groups of four or five and they are never allowed to meet or see each other. By this I mean that when the food was brought to the rooms, my door was opened, I was given my food and the door was locked before the next room was opened. In fact the same procedure was observed when we were allowed to go to wash or to the lavatory. It was later explained to me that this is a place where people are held while their physical condition improves and while further investigations are made into their case.

There was frequent medical attention and on the first night I was greeted by a man who told me that he was a doctor. He tried on two occasions, each lasting about an hour, to hypnotise me and I realised that he was trying to make me forget the torture. He told me that it would be very bad for me to talk about it when I was released from prison and I took this to be a warning.

On Friday 7 November, I received my first visit from the British Consul. He was allowed to speak to me in the presence of the Commander of the detention camp and of the doctor. We were given strict instructions that our conversation was to be in Spanish. Mr. Fernyhough enquired after my health and I told him that I was very well thank you. It was completely impossible to hold any kind of private conversation and I was extremely frightened. I tried to communicate to Mr. Fernyhough that I had been tortured, but I was only able to say to him "mains" a code word of trying to communicate that I had received electrical treatment. He was very distressed by my obvious fear, but there was nothing we were able to do apart from relay messages of love and support from my family and from the British government.

Up until this time I had not been able to change my clothes because I only had the clothes in which I had been detained. This state of affairs continued until the middle of the following week. This means that I spent ten days in the very heavily bloodstained clothes in which I had attended the maid. I was also without a tooth brush or facilities for doing my hair.

FALSE ALLEGATIONS

On Monday 10 November, I was taken for the first time before the Fiscal: he is the government lawyer who had been put in charge of the investigation of my case and that of the priests involved. He asked me whether or not I had been mistreated and again I told him 'no' because I feared reprisals.

The following day I was brought for further interrogation and I made a statement over a period of some four hours. My treatment in this military court, which consisted of the lawyer and his two assistants, both of whom were young lawyers, was dignified and without any kind of mental or physical duress. I made a full statement as to my activities and it was then for the first time that I realised that suggestions had been made that I had been involved in killing the maid. I was very frightened by these allegations and strongly denied the presence of a companion, although I admitted that theoretically it was possible that an unknown person could have been present in the house as the house was extremely large and I had obviously not searched it as I entered.

That night I was transferred to the women's prison by order of the government lawyer.

I was detained in the women's prison until the Friday of that week, that is 14 November.

On 14 November I was taken again before the Fiscal, who confirmed that my statement was true, and was told that I had been cleared of the charges against me and that I was at liberty. I was told that the only charge against me was of not informing the police that I had treated a man wounded by a bullet. I was told that I was free to return to my house and to my work, but that I should report again before the Court in 15 days' time. I was told, however, that I had to report back to the prison to sign my discharge papers.

When I returned to the prison I was told that I could not be released until they had received confirmation of the order from the Sendet; this is a department of political detainees. During this evening Mr. Fernyhough and my lawyer spent 4½ hours ringing various government officials, trying to secure my release. They were forced to give up at 12:30 a.m. because of the impending curfew.

The following morning, Saturday 15 November at 9 o'clock, I was told that I was to be transferred to Tres Alamos prison. I refused to move until the Consul arrived. When he arrived I told him that I was very frightened and thought that the DINA would try to kill me because it would be dangerous for me to be released after torture. I was assured that I would be in a prison with access to the Consul and to visitors, and eventually I went with Mr. Fernyhough and my lawyer and prison guards to Tres Alamos prison.

After Mr. Fernyhough and the lawyer had gone I was led down a passage and returned to Cuatro Alamos. As I was handed from one guard to another they said to each other that this was the result of a sudden call from the Minister of the Interior.

I was then detained for a further ten days in solitary confinement. During this time I received no information, but was not interrogated or harmed in any way. I was very frightened and the food was extremely bad, but I was not harmed. After ten days I was transferred to Tres Alamos detention camp, where I was in a completely different situation. This is a publicly known detention camp for women political prisoners and I was one of 120 prisoners all held under the ruling of a state of siege and all without charges.

THE RELEASE

During this five weeks I received no information as to why I was being held. I was not interrogated in any way and I made no further statements. Mr. Fernyhough was given permission to visit me three times a week and he came regularly; later Mr. Seconde also visited me. I was allowed visits from my friends and suffered only the deprivation of my liberty and extremely bad food.

On Friday 26 December, Mr. Fernyhough visited me and told me that I would almost certainly be released on the following Monday. On Monday 29 December I received no notification, but at about 11 o'clock in the morning the Commander of the camp came and called us all on parade. He then told all the women to go to another part of the camp where we normally received visitors. As I prepared to go with them he called me back. He then told me that I had three minutes in which to pack my bags. I went with the woman wardress and changed my clothes and packed my bags and then followed him. I was taken to the central block where the offices are in Tres Alamos, where I was physically searched, although without any undue indignity, and all my luggage and papers were searched. Sketches which I had made of various fellow-prisoners were confiscated, as were drawings of the inside and of the outside of the camp.

I had been given to understand by Mr. Seconde that he would come to accompany me to the airport, but although the Commander told me that I must hurry because the Ambassador would be waiting for me, when I was led out to the car of the International Police, Mr. Seconde was not there. I was met by Mr. Cossak who was the head in Chile of the International Committee of the European Migration but as I had not met him previously and as I had not realized that he would be accompanying me to the plane, I thought that he was another member of the DINA, the division of International Intelligence, and I was once again extremely frightened. I was driven by the International Police to the outskirts of the airport and they told me that they had instructions to wait until exactly 3:30 before I was taken to the plane which was due to leave at four o'clock. I was taken across the tarmac at 20 minutes to four and allowed some three minutes' conversation with Mr. Seconde and Mr. Fernyhough. I was then placed on the plane and left Chile.

I would like to make a comment about the after-effects of the torture. The electrical treatment appeared to cause some kind of prolonged muscle damage in that I had quite severe muscle pains in all the muscles of my body over a period of 10 to 14 days. After two weeks, however, I was able to move without difficulty and had no sequela. I did, however, have quite severe urinary infection which I assume to be the result of the trauma and infection caused by the insertion of unclean instruments in my vagina. This was most unpleasant but passed after a course of antibiotics. I had no physical sequela, and apart from living in a fairly constant state of fear during these two months I believe that I have no particular mental trauma.

AID FOR THE HEARING IMPAIRED

Mr. PERCY. Mr. President, I have been involved for some time in a joint project undertaken by the Department of Health, Education, and Welfare and the Public Broadcasting Service—PBS—to study the feasibility of implementing a "closed captioning" television system for the hearing-impaired. For more than 2 years, this project, which converts verbal information to written translations, has been used by a number of television stations around the country. Overwhelming support has been received by those hearing-impaired who have had the pleasure of viewing a captioned program just as the hearing-impaired have enthusiastically applauded the outstanding captioned film program developed and administered by HEW.

The PBS project is now under consideration for rulemaking by the Federal Communications Commission. This PBS petition would permanently authorize programs to be broadcast with "closed captions." The establishment of the transmission standards by the FCC would offer nationwide hearing-impaired persons the opportunity to view television regularly on commercial networks.

Mr. President, I have written the FCC urging the adoption of the closed captioning system. I encourage my colleagues to lend their support to this project which will help bring those who suffer a hearing loss into the mainstream of our society.

At this time, I would like to bring to the attention of my colleagues a statement by Lawrence Grossman, president of the Public Broadcasting Service on the need for television service for the hearing-impaired. Recently, Mr. Grossman and I participated in a press conference focusing on the significance of the PBS proposal and the demand for implementation of such a television system.

Mr. President, I ask unanimous consent that Mr. Grossman's statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Lawrence K. Grossman

In this country today, nearly 14 million people suffer some form of hearing deficiency.

We in public television feel a very strong obligation to serve them. We do so, I might add, in the same spirit of service which we accept to all disadvantaged Americans.

Through years of research, and with the help of government and educators, PBS has developed a system that promises, finally, to give the hearing-impaired full access to television. This "closed captioning" system allows us to broadcast hidden subtitles—visible only to hearing-impaired viewers with special decoders attached to their home receivers. If implemented, the system would open the door to the information, enlightenment and entertainment that television offers routinely to those not impeded by a hearing disability.

Extensive over-the-air testing has convinced us that this closed captioning system can work—and at a cost that both broadcasters and consumers can afford. The hundreds of hearing-impaired persons who have seen demonstrations of the system have responded enthusiastically—and have, without exception, expressed the hope that it can be offered routinely for most television programs.

Since November 1975, a PBS petition to authorize the incorporation of this captioning service in the normal broadcasting process has awaited action by the Federal Communications Commission. The FCC, recognizing the urgency of this matter issued proposed rulemaking promptly after receiving this request. But since that time, action has been stalled by opposition from prominent institutions in the commercial broadcasting and manufacturing industries—including all three commercial networks, the commercial broadcasters' national trade association, and the consumer electronics manufacturers' representative organization.

Their objections are varied. Some simply question the commercial viability of broadcasting captioned material, or of marketing home decoders. Some counsel excessive caution, and ask the FCC to go slow in authorizing the captioning system because possible technical problems might arise. And some are just frivolous—such as the one broadcaster who questioned whether hearing-impaired people would actually ***benefit*** from captioning!

We do not wish to suggest that those organizations which have delayed the implementation of this system are acting irresponsibly. But we do maintain that if, indeed even after intensive testing problems with the system that need to be resolved, all broadcasters and equipment manufacturers should be working together to address any opportunities to improve the system. They should not be engaging in procedural delays which serve no purpose other than to deprive America's substantial hearing-impaired population of television service which they, through their purchasing and tax support, help maintain.

We urge the FCC, Congress, the entire broadcasting community receiver, manufacturer and all concerned Americans to join forces in making this captioning service, which has already come so close to fruition. a working reality.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CLEAN AIR AMENDMENTS OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of S. 3219, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 3219) to amend the Clean Air Act, as amended.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to amendment No. 1798.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. MUSKIE. The pending business, as I understand, is the Randolph amendment.

The ACTING PRESIDENT pro tempore. The Senator is correct. The yeas and nays have been ordered.

Mr. MUSKIE. Yesterday, there was some discussion of a proposed Moss substitute for the Randolph amendment. Would such an amendment be in order?

The ACTING PRESIDENT pro tempore. The amendment submitted yesterday by the Senator from Utah (Mr. Moss) was not in order as a substitute.

Mr. MUSKIE. Is any amendment to the Randolph amendment in order?

The ACTING PRESIDENT pro tempore. A proper substitute would be in order.

Mr. MUSKIE. Then, Mr. President, the only issue pending before us is the proposed study incorporated in the Randolph amendment. There seemed to be no objection to that study yesterday. I think it was fully explained. I see no reason for consuming any more time in that discussion, and so I have nothing further to say at this point.

Mr. STONE. Mr. President, the Senator from Utah requested that we not take action on the pending amendment until he could arrive, and he had a previously scheduled commitment that he could not avoid until about 9 o'clock. He expected to be here by 9.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I talked with the Senator from Utah yesterday. He was amicable to coming in at 8 o'clock. He said he would be here about 8:15. It places the Senate in a most difficult position, in view of the schedule we have and the time limits attached thereto.

I would hope some word could be gotten to the Senator from Utah to get over here as soon as possible as it was to meet his convenience that the Senate met at 8 o'clock this morning.

Mr. STONE. The Senator from Utah was called as a witness on the House side and did plan to come as quickly as he could. He was their first scheduled witness. We can call over there and urge them to hurry up.

Mr. MANSFIELD. This is more important, I think, than appearing as a witness before a House committee, because he could certainly put a statement in the record there, or he could put a statement in the record here. We discussed this schedule with the distinguished Senator from Utah and came in at 8 o'clock to give him a chance for a free-wheeling swing, which would take him 4 or 5 hours, he indicated, to present his amendment.

I suppose we will have to accede to his wishes.

Mr. STONE. The Senator from Utah is willing for the extra 45 minutes it will take him to get here to be deducted from the time he indicated to the leadership that he needed.

Mr. MANSFIELD. Well, he used up that time yesterday, when he took up an hour and a half of the Senate's time on his amendment.

We have a tight schedule; on August 11 we go out until August 23, and then come back for a few more days. But the business of the Senate must always come first.

Mr. BAKER. Mr. President, on our side there are no further remarks to be made at this time on the pending business. I am entirely sympathetic with the dilemma we are in.

I hesitate to suggest it, but I wonder if we might recess for 15 minutes and see if we cannot get ourselves out of this dilemma.

Mr. MUSKIE. May I first explore the possibility of other amendments?

Let me say I appreciate the right of the Senator from Utah to present his amendment any way he wishes. Frankly, the pending amendment is for a very simple study. I mean it could have been disposed of yesterday very quickly; or we could have disposed of other amendments. There are 22 or more, I think, pending at the desk.

But the Senator from Utah chose that point because of some fears he expressed, because of the order in which the Randolph amendment was being considered, that consideration at that time might prejudice his rights. So he proceeded to debate his amendment, and I understood we would be doing that at 8 o'clock this morning.

We had a hearing in the Public Works Committee last evening on the Clean Water Act that required the presence of several of us until 9:30 last evening.

It was not very easy for me to get home last night and then get up early enough to arrive here at 8 o'clock this morning. Frankly, I can see no reason why we should not vote on the Randolph amendment. It does not prejudice the case of the Senator from Utah in any way whatsoever. His amendment would still be in order.

The threat of a study amendment somehow prejudicing the votes he could get exists whether or not the first vote comes on his amendment or the Randolph amendment. So, it seems to me that over some very ephemeral fears we are being asked to hold up action on the bill.

Without belaboring that point, if there is any way of getting some other amendments up while we are waiting here, I desire to make productive use of this hour. I really did not particularly desire to be present in the Chamber at this hour this morning. Just sitting here waiting in a recess is not the most productive way for any Senator to use his time.

Mr. MANSFIELD. Mr. President will the Senator yield?

Mr. MUSKIE. I yield to the Senator.

Mr. MANSFIELD. Yesterday with that thought in mind I did visit a number of Senators, but the uniform answer was they were waiting to see what happened to the Moss amendment. So the Moss amendment is the key to the whole process, and we do not have all the time in the world.

So, in view of the circumstances, I suggest that Senator Moss be contacted and asked if he can, if possible, be here at 8:30 a.m.

RECESS UNTIL 8:30 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 8:30 a.m. today.

There being no objection, the Senate, at 8:21 a.m., recessed until 8:30 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. DURKIN).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. Amendment No. 1798, by the Senator from West Virginia (Mr. RANDOLPH).

Mr. ALLEN. Mr. President, at the conclusion of my remarks, I will offer amendment No. 2101, on behalf of myself and the Senator from Florida (Mr. STONE) and, hopefully, the distinguished Senator from Utah (Mr. MOSS). We have had general discussions about the effect of the amendment. It pretty well accomplishes the purposes of the Moss amendment.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. MUSKIE. I understand that the Senator is talking about amendment No. 2101.

Mr. ALLEN. Yes, that is correct.

Mr. MUSKIE. The pending business is the Randolph amendment; and on its face, the amendment of the Senator from Alabama is not an amendment to that amendment.

Mr. ALLEN. I believe it is. If the Senator will check the title, it says that it is to amendment No. 1798. Is that not the Randolph amendment?

Mr. MUSKIE. I am sorry. I did not read that. I apologize to the Senator.

I just wanted a clarification, and the Senator has given it.

Mr. ALLEN. I believe the distinguished manager of the bill will find that it is a proper amendment—that is, appropriate from a parliamentary standpoint if not in substance, according to the opinion of the distinguished manager of the bill.

Mr. MUSKIE. Would the Senator object to a parliamentary inquiry to clarify that point now?

Mr. ALLEN. I have no objection.

Mr. MUSKIE. There has been some dispute as to what was a proper substitute.

Mr. ALLEN. I yield, then, for the purpose of the distinguished Senator from Maine making a parliamentary inquiry as to the question of whether this amendment would be in order. I have no objection to that.

Mr. MUSKIE. Mr. President, I do make that inquiry—whether this amendment is in order.

The ACTING PRESIDENT pro tempore. This amendment is a proper perfecting amendment to the amendment offered by Senator RANDOLPH.

Mr. MUSKIE. I thank the Chair.

I say to the Senator that I put the inquiry not for the purpose of obstructing his amendment but simply for making the point clear. I am perfectly happy to proceed.

Mr. ALLEN. I appreciate the Senator making the inquiry. I am glad that the inquiry was made and confirmed the thinking of the Senator from Alabama that the amendment he has prepared is, in fact, in order.

Mr. President, I am somewhat in a quandary as to whether to discuss the amendment itself or to make my general speech with respect to the bill itself. Since I did not have an opportunity to make a general speech with respect to the bill itself and we became confronted with the Randolph amendment prior to the time that I had the opportunity to discuss the bill in general, I shall, at this time, make my general remarks with respect to the bill and then be a little more specific as to the Randolph amendment, the Moss amendment, and this perfecting amendment, which is pretty well a halfway position between the Randolph amendment and the Moss amendment. While this amendment actually was inserted in the closing minutes of the session last evening, I have not had an opportunity to discuss the amendment in detail with the distinguished Senator from Utah (Mr. MOSS), and the distinguished author of the pending amendment (Mr. RANDOLPH). I hope that we can have a general agreement on taking this approach. I hope that there would be general acceptance, even acceptance by the manager of the bill.

Mr. MUSKIE. If the Senator will yield to clarify that point, I assure him he will not have that kind of acceptance from the manager of the bill. I find that the amendment is as objectionable as the Moss amendment for the same reasons, and I am sure that those will emerge in the course of the debate.

Mr. ALLEN. May I then inquire if the manager of the bill does support the Randolph amendment?

Mr. MUSKIE. Yes, it is a study amendment. This goes one step further—it does two things, as I read it. It suspends the implementation of the nondegradation provisions of the bill until the study is completed by the commission. Beyond that, if I understand the last lines of this Allen amendment, it, in effect, delegates to the commission legislative power in the sense that it says this:

> and none of the provisions of subsection (g) of section 110 of the Act—

That being the nondegradation provisions—

> in contravention of the recommendations of said Commission as contained in said report shall be enforced or implemented.

So the commission, by that language, is delegated legislative power, to negate by its recommendations, the nondegradation provisions of this bill. So on those two counts, I object, and I am sure I shall expand on my objections as I listen to the Senator's reasons for offering it.

Mr. ALLEN. As I understand the parliamentary procedure, this amendment is, itself, subject to amendment. If the Senator could offer some possible compromise with respect to this amendment, possibly agreement could be reached on that.

I do have another amendment in that does not have the second aspect of amendment No. 2101. It merely says, with respect to section 6—that is, the subsection with respect to section 110(g), that those provisions would not be operative until 1 year after the making of the report by the Commission. But it would be in the law—section 6 would still be in the law—and it would merely be stayed for a period of 1 year after the Commission made its report.

What is the logic of that 1-year stay? Under the Randolph amendment, as I understand it, section 6—that is to say, section 110(g) of the act—becomes effective immediately on the enactment of the bill. In the meantime, the study goes on. Well, the study might show that the provisions of section 6 were inimical to the public interest; yet the provisions would still be part of the law. We have a law saying, do one thing, have certain requirements, and we have the study that says these requirements are not good, they ought to be something else. So what good has the study done if it is made at a time when section 6 is in full force and effect?

Mr. MUSKIE. Will the Senator yield?

Mr. ALLEN. Yes, sir.

Mr. MUSKIE. The history of the Clean Air Act is replete with such studies. We asked for a study and the Senate approved a half million dollars for a study of the ambient air standards that were established under the Clean Air Act of 1970, at the request of some of those who were regulated by those standards, for the purpose of reexamining the validity of those standards. This was done in 1973, 3 years after the enactment of the Clean Air Act. That study was commissioned for the purpose of examining the underlying bases of the ambient air quality standards.

We proceeded, and we have proceeded for 3 years, to operate under those standards. That study, which took a year to complete, happened to confirm those standards, but if it had not, the standards could have been changed. Nothing was lost; as a matter of fact, a great deal was gained, even if those standards had been changed, because those standards had never been achieved. We had moved toward them and if a lesser standard became the ultimate standard, we at least would have progressed to the lesser standard. So no ground was gained, no time was gained, nobody was discommoded, no economic penalties occurred because of the fact that a study occurred while we were in the process of implementing the policy which was being studied. So there is ample precedent in the Clean Air Act alone for something like the Randolph amendment. In the 1972 Clean Water Act, we commissioned the establishment of the National Water Quality Commission for the purpose of evaluating the goals and the targets and the deadlines which were set in 1972.

That commission was established, it was formed. It was headed by Nelson Rockefeller, who was not yet Vice President at that time. I was a member of that commission, Senator RANDOLPH was a member of that commission. That study went on for 2 years. We have its report, and that report is valuable to us as we monitor the continued operation of the law that was in effect. It is still in effect.

We are still moving and we are getting insights into it as a result of that report. So there is ample precedent, may I say to the Senator, for this kind of ongoing study.

As a matter of fact, the whole area of environmental pollution is so replete with uncertainties, because ours is a dynamic, ongoing, involving, industrial society, that we can never have a status quo we can measure in all its dimensions. You have to have ongoing studies. Whenever you finally decide for policy you have got to have ongoing studies in order to constantly enlarge your knowledge.

But what the Senator seems to be arguing is we ought not to have a policy of any kind until we reach a point where all uncertainties have been eliminated, until we have established a stable status quo in our industrial society, that will never change, so that every element of the problem is fixed and unchanging, and then and only then can we have a policy that we implement.

But a policy that requires ongoing study, apparently the Senator from Alabama finds objectionable.

As far as I am concerned, the Senator from Maine, I have been studying this field for 13 years, and I expect, as long as I am involved in it, whether it is 5, 10 or 15 years more, we will have to continue to study, to determine whether or not the policies currently being enforced are wise, whether they ought to be changed, whether they ought to be tougher, whether they ought to be more liberal, and that is never going to change, and I hope it does not because we cannot fix our policies in concrete in the way that the Senator's amendment would suggest we ought to.

Mr. ALLEN. I thank the distinguished Senator for his expression of his views.

As I stated, I intended at the outset to make a talk on the general provisions of this bill, S. 3219.

I might state that after I have concluded my remarks there will be ample time for others to discuss the amendment which I plan to offer, and I would rather be allowed to complete my remarks than to have the continuity of my remarks interrupted by a discussion and criticism of my amendment. That opportunity will be presented to any Member of the Senate later.

Mr. President, the air is polluted by charges and countercharges regarding the legislation before us, S.3219, the propose Clean Air Act amendments. Many Senators, over the past several months, have spoken out about many of the critical matters facing us in the measure. But since the bill was reported to the floor of the Senate with only one dissenting vote, one might be led to believe that the issues dealt with are minor or merely technical, and that the thrust of the legislation is, in fact, uncontested by both the majority and minority members of the legislative committee.

The case is not that simple. When we read the individual or separate views of the members of the committee in report 94–717—and I am delighted to see the distinguished Senator from North Carolina (Mr. MORGAN) on the Senate floor. I believe he wrote the separate view that is part of the committee report—we find that almost every Member has had, or has, serious reservations or significant questions about the final product of the committee. In the end, the committee decided that the whole Senate should work its will on the complex issues involved.

I certainly do not have any specific insight about the thinking processes that went into reporting a bill almost unanimously—with qualifications—but I submit that the facade of unanimity is fragile and that this "consensus" bill is more than a matter of "compromises" and "accommodations." S. 3219 reflects the inability of the committee to come to grips with the age-old dichotomy of fitting reality to desires. In the end, the committee appears to have opted for another statement of verbal support to cleaning up our environment, but without taking on the hard, realistic task of supporting the dream with facts. The chairman of the committee, after endorsing the concept of the legislation, qualified his position by saying:

> Limitations on visible emissions and opacity limitations, where they are not related to ambient air quality standards, should not be imposed to restrict expansion of industrial capacity.

In other words, he appears to be saying that we must do something to clean up the environment and particularly the air, but whatever is done cannot be done at the expense of keeping our economy viable and growing.

The distinguished author and floor manager of the bill, the Senator from Maine (Mr. MUSKIE) took a different tack from the above and said:

> . . . an economic growth policy which abandons environmental objectives would be a foolish course. The Nation must have clean growth.

And certainly with that I would agree in principle—

> If the price of that clean growth is to restrain the size of particular activities pending the development of new pollution control technologies or new production procedures, then new technologies and processes can and will be developed in order to take advantage of the economies of scale.

What the distinguished Senator did not mention in his individual views is that the legislation does not create the "new technologies," the "new processes," only that they "can and will be developed." I am reminded of many legislative proposals brought before this body which assume, from thin air, that the passing of a law will create something from nothing just because it is right and proper that that thing or concept should be invented, designed, built, or implemented in some way. The question "how" is rarely spelled out. Unfortunately, there is an assumption on the part of many legislators—at all levels of government—that "somehow" the free enterprise system will come up with an answer to whatever problem is at hand. I take no backseat to anyone in my belief in the imagination, inventiveness, ingenuity, and productivity of the free enterprise system, but it is difficult to tell the American businessman to create, or invent, or implement, and then tie his hands with regulations, decisions, laws, and redtape so that he cannot do his job. There is an element of such an attitude in the provisions of S. 3219 and that attitude must be expunged if, in fact, we expect the free enterprise system to be a willing partner in our national quest for a cleaner environment.

Further on in his individual views on this legislation, Chairman MUSKIE makes the point that—

> The burden of environmental protection should rest with those who use environmental resources.

In theory, I believe we can all agree with such a statement as long as we understand that we are all the "users" of the products of "those who use environmental resources." The chairman appears to be trying to separate types of users of our national and natural resources; it cannot be done—we is them, they is us.

It cannot be done.

Mr. MUSKIE. Will the Senator explain that? I do not recognize in that statement any philosophy that I had.

Mr. ALLEN. The point is, I will say to the distinguished Senator, when we talk about the users of the environment, that is not just the immediate first user of the environmental resources.

Mr. MUSKIE. I understand.

Mr. ALLEN. That will go down and include every consumer.

Mr. MUSKIE. I understand.

Mr. ALLEN. It is not limited just to the initial user. When the Senator says that those who use our environmental resources are the ones who should pay, it goes far beyond that.

Mr. MUSKIE. I understand that fully.

Mr. ALLEN. Yes.

Mr. MUSKIE. I say to the Senator, I am not a first-grade student of economics, after all, but when a paper company, for example—and I use an industry in my own State as an example—uses the resources, whether they are forests of Maine, or the waters of Maine, only they are in a position to exercise whatever responsibility is to be exercised with respect to the conservation of those resources.

The individual consumer of toilet paper is not going to be able to go up into Maine and influence the policies that would determine the conservation of those resources.

He will have to pay for the cost of doing so, but he is hardly in a position to implement the conservation policy, whether it is an industry generated policy or a Government-generated policy.

But obviously, the whole society pays the costs, whether the costs are in the form of a defiled environment or higher prices. I understand that lesson. It is elementary.

Mr. ALLEN. I understand that. But the Senator is saying that what I was saying had no connection with what he had been saying.

Mr. MUSKIE. No. The Senator said that I, apparently, was trying to separate users into two classes.

I did not recognize in that single statement any philosophy that I entertain.

Mr. ALLEN. The Senator will see the connection about using it.

Mr. MUSKIE. As long as the colloquy has fleshed out my position, then I have helped the Senator use up some time and also improve the record.

Mr. ALLEN. I thank the Senator for his concession that the Senator from Alabama is not putting the remarks of the Senator from Maine in an improper light.

My heating bill, his electric bill, my automobile, his automobile, my partially synthetic fabric suit, and his equally processed fabric clothing, are examples of the products we gain as a result of the productive genius and capacity of our free enterprise system. We are both "users" and, to whatever degree we enjoy the fruits of our free enterprise system, we are part of the national problem resulting from fulfilling our basic needs and even our frivolities.

So I say to the distinguished Senator, the cost he talks of as being necessary to bear is one that all of us shall bear. We could bear the cost of zero pollution by accepting higher prices for the goods and services we now enjoy, or paying for the same things through Government ownership and high taxation, or, if manufacturing is curtailed by Government edict and shortsightedness, then the cost we shall bear shall be in the form of shortages and reductions in our standards of living.

Mr. President, one could go on at some length about the "qualifications" built into the legislation that has been presented to us; but I believe if each Member will carefully read the individual views of the members of the committee in the report before them, he will see a pattern of doubt and uncertainty about how to achieve, on the one hand, the national goal of cleaning up our air quality and at the same time, not create a significant deterioration of our standard of living.

While the chairman of the committee has attempted to separate as a "class" those who are "users of environmental resources" and thus falsely lay the burden on "them" for the cleaning up of the environment, there are other Members of the Senate who have favored a "no growth" or "slow growth" policy in order to improve the quality of our physical environment. I have no response to those Senators, because what they advocate is the very opposite of what this country is proud of—individual initiative, progress, and increasing opportunities for all citizens to partake of the life provided by a system of free enterprise.

THE PRICE OF CLEAN AIR

Mr. President, it seems obvious to me that we cannot promote the general welfare without cost. The committee leads us to believe that, simply by "cracking down" on the "users of environmental resources," we can achieve clean air but very little is mentioned about the cost of such a crackdown. Who pays for clean air? Of course the users do, but I hope I have already demonstrated that we all are the users. The environmentalists and preservationists tell us that we cannot, as a society, go on doing damage to the environment indefinitely without paying a price for this damage. What is equally true, however, is that if we decide to reduce the adverse effects which economic activity has on the environment or to alleviate the damage which has been caused by past activities, we must also pay a price for this. There are a wide range of environmental objectives which the society may choose to pursue, but each of these is associated with some real resource costs. Society must decide which environmental controls are worth the expenditures they require and which are not. For most commodities, we rely on the free operation of the marketplace to make decisions as to how much is enough. We cannot do so with regard to environmental impacts because the commodities which are damaged—water and air for example—are not normally exchanged in the marketplace. Consequently, to achieve optimal environmental controls we must rely upon a process of social decisionmaking occurring through legislation, administrative regulations, and the Courts. Over the past few years, there has been a substantial effort to do just that—to legislate a cleaner environment.

This effort is reflected in the National Environmental Policy Act—NEPA—in the Clean Air Act of 1970, and in the Federal Water Pollution Control Act of 1972, and clearly it is an effort which has not ended with this legislation but one which has merely begun.

Over the past 2 or 3 years, there have been numerous attempts to assess the cost impact of Federal pollution control legislation, primarily with respect to air and water. The most comprehensive assessment of cost is that made by the Council on Environmental Quality, which in its 1975 report suggested that the 1974 to 1983 capital expenditures on pollution control legislation will be $115.2 billion and that annual expenditures in 1983 will be about $34.5 billion, or about 1.5 percent of the gross national product in that year. The CEQ estimates are not, however the final word on the subject of costs. The National Commission on Water Quality estimated the capital requirements of the Federal Water Pollution Control Act at costs ranging from $95 to $182 billion over this period as compared with the CEQ estimate of $48.8 billion.

As I am sure everyone here realizes, every industry is involved in the "estimating the cost of pollution control game" and to name one such industry—the electric utilities—they too have come up with staggering figures for the cost of meeting the goals of a cleaner environment. The vice president of National Economic Research Associates of New York, in a report done for the utilities, stated that NERA's estimates of the costs of air pollution control for the industry, combined with the CEQ estimates for other pollution control costs, totaled out to a capital investment between 1974 and 1983 of between $175 and $263 billion and annual costs in 1983 of $55 to $66 billion. Whether one uses private or Government figures for the basis upon which to make social and legislative decisions, there is no questioning the fact that the sums are staggering. One estimate has the average household paying between $679 and $815 annually for pollution control and/or abatement by 1983. Fortunately, or unfortunately, the industry estimators broke down their figures as to cost to the ultimate consumer, the household. From the standpoint of good public relations, this must have been an oversight for everyone knows that it is the "users of environmental resources" who should bear the costs of pollution control, not me, the consumer.

The sancty estimates I mentioned ignore the costs of compliance by the electric utility industry with State legislation where these are in excess of what is necessary to comply with Federal legislation and, moreover, they ignore that component of expenditure on nuclear powerplants which is solely or largely satisfying the need for environmental protection. The Council on Environmental Quality estimates expenditures for environmental controls on nuclear plants at only $100 million over this 10-year period when most observers agree that a very large part of the expenditures on such plants would not have occurred in the absence of environmental pressures.

The magnitude of these expenditures does not necessarily suggest that they are unwarranted. Environmental degradation is a serious problem which requires serious responses. The estimates do suggest that environmental legislation such as that before us, represents a significant reordering of our national priorities which will only come about at the expense of other national objectives.

S. 3219 AND "GROWTH"

The Clean Air Act presently imposes several important overriding imperatives on the complex process of balancing social costs and benefits that should be the heart of intelligent land use planning decisions. These decisions directly affect it, where, when, and under what limitations, continued economic growth may occur in society. In recent years, these land-use decisions have been made primarily by State and local planning authorities under the police power, which is reserved to the States by the Constitution. The Federal Government, constitutionally lacking any specific police power of its own, has instead invoked its power under the commerce clause to partially preempt State and local land use regulation to the extent coincident with the welfare clause of the Constitution.

Under the present Clean Air Act the undisputed overriding imperatives are the requirements to assure compliance with federally set ambient air standards: a primary standard set to assure protection of public health and a secondary standard designed to protect other public welfare values. The issue addressed in S. 3219 is whether Federal preemption of State and local land use planning should be extended further—beyond the current requirements to meet primary and secondary ambient air quality standards. Whether or not the language of the present act contains implicit authority for the Environmental Protection Agency to impose limitations beyond those limits in order to prevent deterioration of air quality that is "better" than that required by those standards is an issue now pending in the courts. These cases are headed toward a definitive Supreme Court decision probably in late 1977.

Acting on order of the U.S. Court of Appeals for the District of Columbia circuit, affirmed by a 4-to-4 vote of the Supreme Court, the EPA has issued "no significant deterioration" regulations that are now in effect in the interim. The purpose of the proposed Senate bill provisions on this subject are twofold: First, to remove decision of the question of statutory intent as to preemption from the courts and, second, generally to require imposition of more stringent substantive "no significant deterioration" limitations than EPA's present regulations now provide.

A substantial number of the Governors of the States have voiced opposition to any extension of Federal preemption beyond the current clearly defined Clean Air Act requirement to meet Federal primary and secondary standards. The Association of the State and Territorial Air Pollution Program Administrators has taken a similar stand. Removal of ultimate resolution of the major policy decision from the courts would not be achieved by enactment of new legislation on the subject at this time. All that would result is that the issues facing the courts would be restated and definitive decision of key constitutional issues by the Supreme Court would be delayed rather than expedited.

In addition to the constitutional questions, many of the States and most of the potentially affected industries have objected to new legislation on "no significant deterioration" at this time for another, significant, reason: Not enough is known about the potential adverse effects on economic growth, employment, standards of living, balance of trade, national defense, and other major social impacts that will result from these more stringent requirements.

Some of the technical questions which still have to be resolved, and are not so resolved in the present legislation are:

First. Which areas would ultimately be classified as either "no significant deterioration areas" or else "primary impacted areas"?

Second. What would be the effects of the S. 3219 3-hour and 24-hour class II increments and their parallel House percentages?

Third. What would be the effects of class I designations on new facilities in adjacent areas?

Fourth. What areas ultimately would or would not finally be class I areas?

Fifth. What would be the effect of the S. 3219 definition of what plants beginning operation after 1975 will or will not be subject to "no significant deterioration" requirements?

Sixth. What kind of modeling, background data, and other administrative requirements would be imposed in administration of the new program?

Seventh. What would be the effect of this further air quality imperative on the other social benefits overridden in the land-use planning process?

Obviously, these questions are broad and need further refinement. In an attempt to get some answers to just such questions, the distinguished Senator from West Virginia (Mr. RANDOLPH) posed a series of questions to various Federal agencies last year. He said, in a statement on the floor of the Senate on April 1 of this year:

> I asked them to provide me with their best judgment as to the impact of the proposed amendments on future economic development and job opportunities in our Nation.

Senator RANDOLPH provided the responses for all to see in the CONGRESSIONAL RECORD of April 1, beginning at page 9012. I cannot adequately summarize all of the responses, but the tone of the responses was fairly uniform which raises even further questions about the advisability of legislation dealing with "no significant deterioration" at this time, or without further detailed analysis. The Department of Commerce sent Senator RANDOLPH a paper entitled, "Economic Evaluation of Nondeterioration Proposals," and in the first two paragraphs thereof, pretty well sums up the feeling of the agencies and certainly, the consensus of opinion of the industrialists I have talked to about this problem. The paper begins:

> The Department of Commerce finds that the economic consequences of nondeterioration proposals have not been fully appreciated. Our analysis and our review of other studies indicate that the significant deterioration proposals under consideration will force a change in the pattern of expansion of economic activity and will result ultimately in a cessation of industrial growth.
>
> The slowing and ultimate cessation of industrial growth can be avoided only if the assumption is made that economically achievable technologies capable of zero pollutant emissions will be available. This assumption is not justified. There is no clear indication that economically available technologies will be forthcoming . . .

SUMMARY

Mr. President, I have attempted in this statement to look at the broadest possible picture with regard to the pending legislation. We know that this is—next to the pending tax reform legislation—one of the most complex, comprehensive, and far-reaching pieces of legislation to be considered by the 94th Congress. As the debate progresses, I intend to address myself, in more detail, to some of the more specific issues involved in the many provisions of S. 3219. I should like to engage in a colloquy with proponents of the bill with regard to the impact of State and local land-use planning. I hope there will be a full discussion of the economic "cost-benefit" studies that could and should be done with respect to the proposals in the bill. I am not qualified as an engineer nor economist to get deeply into "model building" but I hope the proponents of the measure will, in layman's language, explain the intricacies and impact of drawing up regulations to affect many industries on the basis of studies pertaining to one or two industries. Naturally, I shall plan to speak in support of a number of amendments which have been offered to clarify, modify, and define the scope of the studies to be carried out by the proposed National Air Quality Commission. There is the question of "nonattainment" in section 11 which commends itself to full discussion and perhaps, even before we delve into the complexities of "significant deterioration" embodied in section 6 of the bill.

In conclusion, Mr. President, there are many issues which need full discussion on the floor of the Senate and considering the fact that we are talking about the future health and well-being of all the industries in Alabama and indeed, those throughout the Nation which contribute to our high standard of living and provide the livelihoods for the vast majority of our citizens, I hope for a debate that will capture the attention of the American public. In my view, Mr. President, there is nothing quite as important as deciding, or trying to decide, whether or not we shall continue to strive for economic growth or turn in a different direction as suggested by some of the bill's proponents. There is, in S. 3219, great potential for attacking and perhaps, solving, some basic social, economic, and political problems faced by our Nation. The debate on such issues should reflect our recognition of the importance of the bridge we are asked to cross.

Mr. President, the distinguished Senator from Utah (Mr. MOSS) has called my attention to the possibility that an order for the major amendments to this bill might possibly be worked out that would allow his amendment, the Moss amendment, to be voted on up and down.

If that is correct, I would not, of course, offer at this time my amendment.

The Senator from Utah understands that the Senator from Alabama supports his amendment. The reason he has suggested he is going to offer an amendment that occupies a halfway position between the Randolph amendment and the Moss amendment is the fact that under the parliamentary situation, unless an agreement is reached, there would be no opportunity prior to a vote on the Randolph amendment of having a vote on the Moss amendment.

But if the Moss amendment can be voted on up and down prior to the Randolph amendment, then the Senator from Alabama would be glad to see that order.

ADDITIONAL STATEMENT SUBMITTED

Mr. THURMOND. Mr. President, the legislation before the Senate involves some of the most important environmental policy questions likely to come before this body. Therefore, I hope this bill will be seriously and thoughtfully considered. The protection of clean air where it exists, and the promotion of cleaner air where it is now foul and unhealthy, are laudable, ambitious objectives of great importance to present and future generations of Americans. Yet, these goals cannot and should not be considered in a policy vacuum. They must be discussed and established in concert with equally important, worthwhile national goals, such as continued economic growth, energy conservation and independence, and others.

Mr. President, I am particularly concerned about section 6 of S. 3219, which explicitly codifies into Federal law additional air quality standards designed to protect the existing level of air quality in those areas of the Nation where the air is cleaner than the primary and secondary standards of the 1970 act. Such a policy of nondegradation, or more corectly, prevention of significant deterioration, has developed through the unfortunate backdoor route of judicial interpretation and bureaucratic regulation. I agree that it is the responsibility of Congress to clearly enunciate what the policy should or should not be with respect to this difficult question, rather than leaving the matter entirely to the courts and the Environmental Protection Agency.

Yet, if Congress is to make a sound legislative decision on a matter with such profound consequences, it should do so on the basis of the most complete, factual, scientific, and economic data obtainable. Furthermore, any proposal to protect clean air areas and thereby limit the nature and quantity of industrial growth and economic development should be subjected to specific legislative hearings, with an opportunity for thorough public input from all affected parties. Unfortunately, such has not been the experience with the section of S. 3219 dealing with prevention of significant deterioration. Even now, industry, chambers of commerce, development boards, and State and local officials are confused and uncertain about what these provisions will require, and they are even more uncertain about what they will cost.

Mr. President, in my opinion, there is no urgent, compelling need for Congress to hastily write into law a policy that is so little understood and whose impacts have not been fully studied. Before I can lend my support to any such policy, I want to see some more complete and precise information to help legislators better answer the following important questions:

What will be the approximate cost to industry of installing "best available pollution control technology, in order to prevent what the committee has defined to be significant deterioration in clean air areas? What will be the cost to industry of doing the environmental-economic analysis necessary to apply for and secure permits from State pollution control agencies? What is the likely impact of this policy on jobs and employment? How will these new requirements affect the rate of inflation and consumer costs in the future? Just how growth limiting is the policy expected to be? Does a nondegradation stance conflict with efforts to develop new energy sources—especially coal and coal-derived fuels—in order to achieve energy independence for the United States as rapidly as possible?

These are just a few of the questions that I think need to be more adequately answered before a policy of prevention of significant deterioration is established in law. Because comprehensive supporting data of this sort is sadly lacking at present, I shall support amendments expected to be offered by Senators Moss and Scott to delete this section from the bill for the purpose of a thorough economic and energy-impact analysis by a knowledgeable panel of scientists and economists.

Mr. President, in addition to uncertainty about the economic consequences of this bill, I am greatly concerned about the powerful, preemptive role of the Federal Government, and, in particular, the Environmental Protection Agency, that is evident in the existing Clean Air Act and in this bill. I fully recognize that air and air pollutants are no respecters of State boundaries. However, I do not believe that is sufficient reason to dictate to each State what its growth policy should be and how much pollution control it must achieve. On the one hand, it may be desirable to establish realistic national goals for clean air, and, indeed, for a better quality environment in general. On the other hand, I believe it is also highly desirable to leave it primarily to governments closer to the people to precisely balance environmental benefits against pollution control costs in determining how clean the surrounding air should be. In particular, I contend that it should be principally a State and local government responsibility to decide how much pollution control is required of stationary pollution sources.

The Senate Public Works Committee has placed emphasis on the expanded States' role in these amendments to the Clean Air Act. I am thankful for this increased recognition of where the major implementation and enforcement responsibility should reside. However, let us not deceive the public. This bill charts new territory, especially in the nondegradation section. It represents a further shift in power from the private sector and from decentralized government toward a too powerful Federal bureaucracy. Throughout this bill, the Administrator of the Environmental Protection Agency is given veto power over State decisions. So, while S. 3219 may not completely centralize the execution of these new policies in the hands of a Federal agency, it still gives EPA far more preemptive power than I believe is necessary in order to protect and enhance clean air.

Mr. President, while I remain very critical of this legislation and of the Clean Air Act in these aforementioned respects, I recognize that there is substantial merit in particular parts of this bill. For instance, I strongly support the responsible, effective manner in which S. 3219 confronts the stratospheric ozone layer depletion problem. The bill mandates necessary research to thoroughly analyze the seriousness of this problem, the most likely causes of ozone deterioration—including the probable impact of halocarbons released from aerosols—and the most effective means of coping with the problem. If the evidence gathered from ongoing and planned research supports remedial action, the Administrator of the Environmental Protection Agency may restrict the manufacture and/or use of aerosols as he deems necessary.

I think this is a responsible approach, and it is a legitimate area of Federal concern, because of the scope of the problem. However, I do not support the "ban now—find out later" and "negative burden of proof" philosophy held by some of those who are, to be sure, sincerely concerned about this environmental issue. I will oppose any amendment which is based on such an emotional, misguided approach to this problem.

The committee has also considered the question of auto emissions controls and has attempted to reach a proper balance with respect to standards for controlling mobile source pollution. However, I regret that the committee did not accept President Ford's recommendations for a further delay in the most stringent standards, in favor of a 40-percent increase in fuel efficiency. The committee apparently feels that the American people can have it both ways, and that the final emission limitations should be both more stringent and achieved sooner than the Environmental Protection Agency and the President have recommended. While I recognize that auto emissions are the major air pollution problem in some urban areas, I think it is unfortunate that all purchasers of the new cars are made to pay an additional several hundred dollars for these pollution control devices and the excess fuel they may waste. Such costly equipment is an unnecessary addition to cars operated in most areas of the country, where major air pollution problems do not exist.

Mr. President, I also have some strong concerns regarding section 11 of S. 3219, which deals with industrial plant expansion in areas not yet meeting the established air quality standards. The Public Works Committee has recognized the problem, although I do not believe section 11 provides the degree of flexibility needed. This Nation cannot afford to completely halt job-producing economic growth, even in areas with serious air pollution problems. We must continue to have a desirable balance between pollution clean-up and economic development objectives. That balance can be achieved, Mr. President, without completely sacrificing either of these worthy goals. I hope the members and staff of the Senate Public Works Committee will continue to work with the architects of the comparable House bill to find an optimum solution, which will allow desirable economic growth in air quality control regions and also protect public health. At a later time in the discussion of this bill, I hope to make some further comments regarding this issue.

In summary, Mr. President, this is a very complex bill of as yet undetermined impact. There are both good and potentially harmful provisions in it—all designed to further a highly desirable and necessary goal, that of improving and maintaining a healthy ambient air quality. I look forward to a vigorous discussion of the several issues in S. 3219 and am prepared to give each thorough and thoughtful consideration.

Mr. HOLLINGS. Mr. President, as a cosponsor of the Moss amendment, I commend my colleague, Senator Moss, for proposing this amendment and I urge its overwhelming adoption by the Senate. My colleague from Utah has gotten to the heart of the matter, and our dilemma as responsible legislators, namely acting after all the facts are in, having a reasonable idea of what the ramifications of our actions will be. In some fronts the Moss amendment has been painted as antienvironmental, but we merely need to look at our colleague's Senate record to know that he certainly is not one who acts against the interests of consumers. Rather he has dedicated his career to protecting those interests and this particular amendment is consistent with his concerns. It is the only responsible position to take.

As we stand here debating the enactment of the Clean Air Act amendments, we are asked to make, in this case, a decision which will affect the economic and social well being of this country for decades to come. Section 6 of the committee bill, S. 3219, establishes a policy of nondeterioration in those areas of the Nation having air cleaner than that required under present national ambient air quality standards. The net effect of this proposal will be to restrict, and in some cases eliminate, development and expansion of industrial facilities even if the sources use the best available pollution control technology.

While the data presently available is too incomplete to list which areas will be affected in what way, there seems to be general agreement that the new policy would drastically curtail industrial expansion in the majority of States, especially those States which have energy resources that we will be calling upon to meet the goals of energy independence and those States which are predominantly rural in their makeup at this time.

There is no Member of the Senate which would contend that we should have a national policy which does not protect the health and welfare of our citizens. However, under section 109 of the existing Clean Air Act, the Environmental Protection Agency has the responsibility and the authority to set national ambient standards adequate to protect health and welfare plus an adequate margin of safety. It would appear to me that if this mandate were carried out, nondeterioration as contemplated in section 6 of S. 3219 would be unnecessary as a national goal. It is irresponsible to vote at this time for a policy of nondeterioration when we not only are confronted with the existing law which seems adequate to protect health and welfare, but in addition, have no comprehensive study of the economic effect that imposition of a nondeterioration policy would have.

The Moss amendment sets out to address the questions raised and the lack of reliable and adequate data on the subject of nondeterioration. Further, it sets out to identify the areas of the country that would be impacted by such a policy and to what extent they would be impacted.

The position of the National Governor's Conference has been that individual States should have the authority to set clean air goals higher than those set by existing law. Clearly, if a State chooses to promote or mandate pristine air or any quality of air higher than the national level, it is their prerogative to do so. However, it is a far different matter to impose on the whole Nation a substantially higher standard than that which currently exists.

There is no harm to be done by delaying our action for 1 year. If the nondeterioration policy has merit, the study will show it. If it requires modification in order to be implemented fairly and with the least impact on industrial development, we will find that out. The year lost to obtaining this information will be well spent and in the interim, industry can continue to achieve compliance with existing law. The record of the industry to date has been good. It has been estimated that industry has achieved 85 percent compliance in meeting the existing air quality standards, and in 1975 alone, they spent $15 billion to meet air and water quality goals. Those are major strides, actions which should be encouraged and built upon in the interest of public health and welfare.

When I see a proposal such as nondeterioration, I worry about the effect such a proposal will have on a State such as mine. As the Governor of South Carolina, I helped to introduce major industry to the State. We have one of the best vocational education programs in the country and it has served as a model for many other States' programs.

We have beaten the bushes in this country and abroad to encourage industrial development in the State. At the same time, we enjoy relatively clean air and water, good beaches, beautiful mountains. However, the State still needs to increase its industrial base and I fear that a policy such as nondeterioration will prevent us from achieving that needed base. According to the testimony of the Sierra Club, Richard Lahn, advised the subcommittee that a paramount reason why 19 States joined the Sierra Club brief in encouraging the courts to adopt nondeterioration was to prevent industry from fleeing industrial areas to rural areas. To quote Mr. Lahn:

> Aside from the environmental aspects described, perhaps the most important reason for preventing significant deterioration of air quality in clean air regions is the possible impact the lack of this provision might have on the economic well-being of our already industrialized urban centers. The incentives to develop in rural areas, draining the industrial development in urban areas was a major concern of the 19 States which filed friend of the court briefs before the Supreme Court.

That brief stated:

> The health of the economies of urban-industrial regions is dependent upon industrial continuation and growth. It is in the best economic interest of these regions that sources remain in them and utilize the emission controls necessary to reduce pollution levels to the numerical limits of the standards.

The industrial achievements of this Nation are the main reason we enjoy the highest standard of living in the world. In the past we have not adequately recognized the impacts of this industrial development on our environment, and the existing air and water quality laws were designed to correct that situation. We are asked now to set a significantly different and stricter goal. Before we take that course, Senator Moss contends we should know the ramifications it bodes for the industries that are essential to economic recovery and energy independence. He is absolutely right.

Mr. MOSS. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. MOSS. I appreciate the statement of the Senator from Alabama. I am anxious, of course, to move this matter along in a legislatively acceptable way.

I had a private discussion with the manager of the bill about how we might get out of the parliamentary situation that exists.

The matter of fact is that there are really three amendments that all focus somewhat in the same area. One that the Senator from Virginia (Mr. WILLIAM L. SCOTT) has indicated he would like to have a vote on, and I have no objection to that, I would be glad to vote on it.

But since the Randolph amendment occupies the least change and mine is sort of in the middle, I think that mine ought to be tested first. If my amendment cannot carry, then, of course, the Randolph amendment would be the next thing up and we would then have to face up to that.

I had suggested that we could make an agreement or an arrangement of some sort and couple it with a time limit so we knew we could proceed and get this matter disposed of, that that might be an acceptable way to go. I would be very happy to discus it with the floor manager.

I do appreciate the Senator from Alabama yielding to me to make my position clear on the matter.

Mr. MUSKIE. If the Senator will yield, may I say first of all that I could not make an agreement without agreement on the part of my colleagues on the Republican side, which I may be in a position to do if we get movement on this side.

But I have never viewed the Randolph amendment as occupying any of the substantive ground occupied by the Scott amendment or the Moss amendment. All it is is a study amendment. There seems to be no dispute in the Senate as to the wisdom of an ongoing study. We have done it before.

So the Randolph amendment was offered yesterday, not as a competitor of the Moss or Scott amendments, but rather, as one of the items of business we could take care of yesterday when the leadership was pressing to get business done and more controversial amendments were not being offered.

Yesterday we took up the Domenici amendment, two or three of them, Senator RANDOLPH had indicated willingness to bring his up, which he conceived to be noncontroversial. We had a couple of others lined up to come up.

Then Senator Moss, as in his prerogative, viewed the Randolph amendment as in some way prejudicing his position on his amendment.

That is what led us to the present stalemate.

Now, I have no particular preference with respect to the order as long as Members are put on notice as to what issues will be voted and when.

We can have it Scott-Moss-Randolph or Moss-Scott-Randolph, Randolph-Scott-Moss, or Randolph-Moss-Scott, or any order. Then we have the Allen amendment to fit in.

Mr. ALLEN. The Senator from Alabama—by the way, Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from Alabama has the floor.

Mr. ALLEN. As the Senator from Alabama stated, he favors the Moss amendment. But the Moss amendment, under the rulings of the Parliamentarian, is not in order as an amendment to the Randolph amendment.

Mr. MUSKIE. Except by unanimous-consent agreement, I think.

Mr. ALLEN. Yes, that is all right. That is the reason why the Senator from Alabama presents his amendment No. 2101, which does provide a halfway position between the Randolph amendment and the Moss amendment, and would be more acceptable than the Moss amendment.

If we can have a prior vote on the Moss amendment, the Senator from Alabama would not offer his amendment. But if the Moss amendment failed, and then the Randolph amendment again becomes the pending business, the Senator from Alabama would feel that he had the right to offer his amendment at that time.

Mr. MOSS. Mr. President, will the Senator yield to me?

Mr. ALLEN. Yes, provided I do not lose my right to the floor, and provided the resumption of my remarks is not considered to constitute a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. First, may I ask the Senator from Alabama a question? What I have been trying to work out, as a result of Senator Moss' suggestions as to the sequence, was a time frame within which the nondegradation issue can be disposed of in toto.

If we are going to be dragged on indefinitely with regard to the nondegradation issue, as the manager of the bill, I want to preserve my parliamentary freedom the same way other Senators like to preserve their parliamentary freedom. But if we can reach a time agreement, I do not care whether it is 5, 10, 15, or 20 hours——

Mr. MOSS. That is a part of the agreement as I presented it.

Mr. MUSKIE. No, but as I understood the Senator from Alabama's comment, he seemed to say that if there is a vote on the Moss amendment, and the Moss amendment is defeated, he then reserves his right to offer an Allen amendment subsequent to that.

I would want any time agreement, if we are to have a time agreement—and I am all for that, and all for any sequence the two Senators can agree upon—I would be happy as long as that sequence includes every nondegradation issue of which we are aware at the moment, including that of the Senator from Alabama.

Mr. ALLEN. My primary concern is that the Moss amendment have the opportunity to be presented to the Senate, and that it not be undercut by another amendment that might go just a little portion of the way that the Moss amendment goes, and, it having been adopted, the Moss amendment then would be more difficult of passage.

If it can be voted on prior to the Randolph amendment, then, as the Senator from Alabama said, if the Randolph amendment then becomes the pending business, he would feel that he has the right to offer an amendment.

I would not have any objection to placing a time limit on the amendment to the Randolph amendment, but I do feel I should have the right to offer amendments, and not rule out the possibility of offering amendments to the Randolph amendment if that becomes the pending business.

Mr. MUSKIE. I understand. If the Senators could agree to, say, 5 hours, which will take us to roughly 2 o'clock, I would like to have a vote today if we could. I would hope we could vote today by 2 o'clock. We could vote on the Scott amendment first, the Moss amendment second, the Randolph amendment third, and then possibly have a vote on the Allen amendment if the parliamentary situation is such that the Randolph amendment is first among those three, a possible amendment by Senator ALLEN to amend the Randolph amendment.

Mr. ALLEN. Amendment or amendments. But I do not see how we could possibly conclude the issue at 2 o'clock, with a series of amendments to be voted on. I do not see how that is possible.

Mr. MUSKIE. What time frame is the Senator mulling over in his mind?

Mr. ALLEN. I have not mulled at all.

Mr. MUSKIE. Oh, I see.

Mr. ALLEN. I have no objection whatsoever to limiting the time with respect to these amendments, provided the sequence can be agreed to.

Mr. MUSKIE. I know, but you see it is a very difficult thing the Senator asks for, I know the kind of bargains the Senator likes to strike.

Mr. MOSS. I would suggest the time——

Mr. ALLEN. I have stated the position of the Senator from Alabama. I stated I would be willing to have a time limit on any amendments I might offer to Randolph. But it is true that 5 hours of debate would carry us beyond 2 o'clock right now, without any votes.

Mr. MUSKIE. Would the Senator care to suggest a time limit?

Mr. ALLEN. I would suggest a vote tomorrow on the Scott or Moss amendment.

Mr. MUSKIE. I think we have no schedule as to coming in tomorrow. May I ask the majority leader if he could suggest a time?

Mr. MANSFIELD. Mr. President, I would suggest 8 o'clock, and I intend to make such a request, but I intend to discuss the matter with Senator GRIFFIN first.

I would point out that that is a courtesy usually accorded the majority leadership, which has to set the schedule and tries to do so on all occasions with the Republican leadership.

If we come in at 8 o'clock, it will not be because we necessarily are entranced with that hour, but because we have no other choice, in view of the time limits affecting the Senate relative to the Republican Convention, the Labor Day recess, and the determined desire of the leadership to adjourn sine die on October 2.

Mr. BAKER. Mr. President, if the Senator will yield, I know he understands that we on our side are certainly willing to consider that, but Senator GRIFFIN particularly asked me to suggest that that matter of the question of the hour of convening tomorrow be reserved for the moment.

Mr. MANSFIELD. I have so indicated that that would be my intention, but that I would discuss it with the acting Republican leader.

Mr. MUSKIE. May I say to the Senator from Utah and the Senator from Alabama that the agreement being contemplated, if it can be reached, regarding the time, would require unanimous consent.

Mr. MOSS. Yes.

Mr. MANSFIELD. And Senator GRIFFIN would not—or is he all right on that part of it?

The remaining question is the time, and you might consider what you would like in that respect.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MANSFIELD. The Senator from Idaho would like to be heard.

Mr. McCLURE. My understanding of the situation—and I hope someone will correct me if I have either misunderstood or been misinformed as to the situation—is that the only amendment now pending is the Randolph amendment, and the Randolph amendment deals with a study.

Mr. MUSKIE. There has been an Allen substitute or perfecting amendment.

Mr. McCLURE. Has the Senator from Alabama offered his amendment?

Mr. MUSKIE. Not yet.

Mr. ALLEN. I was fixing to have it offered at the conclusion of my remarks, but I stated I would not offer it if the order of voting be put in line with the discussions we have had here, the first vote being on the Scott amendment tomorrow, and then the Moss amendment, that being the order. If the Moss amendment fails, then the Randolph amendment would be offered, which would itself be subject to amendment, and I stated I would be willing to limit the time on the amendments to the Randolph amendment, but I do not want to say how many amendments there will be. There would not be an undue number; but I put in two last night, and I understand the distinguished Senator from Utah has an amendment, or a substitute.

Mr. MOSS. Possibly.

Mr. ALLEN. I was willing to get a time limitation, so we would be sure of having a vote at some time.

Mr. McCLURE. I understand the parliamentary situation is such that no amendment to the Randolph amendment would be in order which amends any other portion of the bill.

Mr. ALLEN. Well, on the request of the distinguished Senator from Maine for a parliamentary ruling, the Chair has ruled that amendment 2101 by the Senator from Alabama and the Senator from Florida (Mr. Stone) would be in order, and it is a halfway position between Randolph and Moss, but it has not been offered, and I shall not offer it if we can have agreement that the Moss amendment be voted on first.

Mr. McCLURE. If the Senator will yield further, my understanding is, while the Senator has several amendments that are printed and could be offered, the Senator from Alabama has announced that his intention is to offer amendment No. 2101 to the Randolph amendment at the conclusion of his remarks unless some other unanimous-consent agreement is reached. Is that correct?

Mr. ALLEN. That is correct. But then if the Randolph amendment became the pending business again on the possible defeat of the Moss amendment, the Senator from Alabama and any other Senator would have an opportunity to offer amendments that would be in order to the Randolph amendment. But I am willing to agree to a time limit on those amendments. I am not trying to prevent a vote. But I wish some opportunity to discuss amendments. That has always been the custom in the Senate.

Mr. McCLURE. Will the Senator from Alabama yield further for a question dealing with the merits of his amendment rather than a parliamentary situation?

Mr. ALLEN. I yield.

Mr. McCLURE. Amendment 2101, which would seek to amend the Randolph amendment, does not directly suspend the provisions of the current law of the current EPA regulations; is that correct?

Mr. ALLEN. It would not suspend anything except this new section 6 which is section 110(g). It would suspend that for 1 year after the filing of the report to give an opportunity to amend the law to correspond with the Commission's recommendation. Then it has a second feature which says that none of these provisions would be enforced or implemented that contravene the recommendation of the Commission.

Mr. McCLURE. But then the effect of the Allen amendment to the Randolph amendment, the way it relates to the bill reported by the committee, for a period of 1 year following the Commission's report, it would leave in effect during the period from now until that time the current provisions of law and EPA regulations under current provisions of law.

Mr. ALLEN. It has absolutely nothing to do with present law. It merely would suspend for 1 year the operation of this new section 6.

Mr. McCLURE. That is right. So that the current law would be in effect from now until that time occurred.

Mr. ALLEN. That is correct, yes.

Mr. MOSS. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. Yes, I am delighted to yield.

Mr. MOSS. I think we are coming close to an agreement, or at least I hope we are, and I suggest as a possibility that we agree to take up the Scott amendment no later than 10 a.m., and that the Scott amendment be limited to 1 hour.

Mr. ALLEN. Scott amendment to what?

Mr. MOSS. The Scott amendment to the Moss amendment. I have to put the Moss amendment up first, that is right. I shall ask that the Moss amendment be permitted by unanimous consent to be laid down, and then that the Scott amendment be in order on the Moss amendment with debate limited to 1 hour on the Scott amendment and then that the Moss amendment either as amended or not by the Scott amendment have 4 hours, at which time there would be a vote and thereafter that the Randolph amendment then be in order and have not to exceed 2 hours on the Randolph amendment at that point, and that amendments be in order to the Randolph amendment if and when it returns as the pending business.

Mr. ALLEN. Yes. What about amendments to the Moss amendment?

Mr. MOSS. I certainly think they are in order, yes. Give an hour on any amendment to the Moss amendment.

Mr. ALLEN. I certainly am glad to agree to that.

Mr. President, I ask unanimous consent that I might suggest the absence of a quorum and at the completion of the quorum call have the floor returned to me.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object.

Mr. MANSFIELD. What was the request?

The PRESIDING OFFICER. The request of the Senator from Alabama was he suggests the absence of a quorum, retaining the right to the floor after the quorum is completed.

Is there objection?

Mr. BAKER. All I wish to say on the reservation is that Senator William L. Scott of Virginia is not here.

Mr. MOSS. He will be here at 9:45 a.m.

Mr. BAKER. That is right; that is my information as well. Since his rights are materially involved in this growing and evolving unanimous-consent request I think I ought to say to our colleagues that we will not agree on this side until we have had a chance to confer with Senator William L. Scott.

Mr. MOSS. Of course, the Senator should confirm that, but we have been talking with him.

Mr. ALLEN. The purpose for the quorum call is to see if we could work it out.

The PRESIDING OFFICER. If there is no objection to the request of the Senator from Alabama, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, without any rights of Senator Allen to the floor being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Tim McKeever, of my staff, having the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Morgan). Without objection, it is so ordered.

RECESS UNTIL 10:45 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 10:45 a.m. today.

The PRESIDING OFFICER (Mr. Culver). Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, will the Senator from Alabama then have the floor under the unanimous-consent request?

Mr. MANSFIELD. Yes. We have it now. So it would hold.

Mr. ALLEN. Then I do not object.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. Has the Chair ruled?

There being no objection, the Senate, at 10:20 a.m., recessed until 10:45 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Hansen).

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I ask unanimous consent that Mr. Bevinetto of the staff of the distinguished Senator from Wyoming (Mr. Hansen) be given the privilege of the floor during consideration of and votes on this bill and amendments to the bill. Also, I ask unanimous consent that Mr. Bill Smith and Mr. Henry Poole be given the privilege of the floor.

The PRESIDING OFFICER (Mr. Culver). Without objection, it is so ordered.

Mr. MUSKIE. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. MUSKIE. There is some discussion of trying to set aside the pending matter and move onto the Bentsen amendment whenever Senator BENTSEN is available—shortly, I hope. Would that accord with the Senator's convenience?

Mr. ALLEN. I would have no objection. I should like to have permission to offer the next amendment to the Randolph amendment. In other words, I should like to have unanimous consent that I might offer the first amendment to the Randolph amendment.

Mr. MUSKIE. That is, when we go back to the Randolph amendment?

Mr. ALLEN. Yes.

Mr. MUSKIE. In other words, what the Senator would like to preserve is his right——

Mr. WILLIAM L. SCOTT. Mr. President, I cannot hear the distinguished Senator from Maine. I do want to know what he is saying.

Mr. ALLEN. We can handle it by reserving my right to the floor when the Senator has completed action on the matter he wishes to take up at this time.

Mr. MUSKIE. May I say to the Senator from Virginia that what I asked the Senator from Alabama is whether or not he would have any objection to setting aside the pending matter, which is the Randolph amendment, and the Senator's proposed amendment—he has not yet offered it—to the Randolph amendment, so we can take up the Bentsen amendment, which is on another subject, and hope to dispose of it before we turn to the tax bill today.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's explanation.

Mr. MUSKIE. What the Senator from Alabama is asking is, if we do that, he would like to preserve his present status.

Mr. ALLEN. That is right.

Mr. MUSKIE. I see no problem with that.

Mr. ALLEN. I have no objection to that.

Mr. MUSKIE. Why not proceed until the Senator from Texas arrives?

Mr. ALLEN. Does the Senator wish to wait until the Senator from Texas comes in before we move to this other matter?

Mr. MUSKIE. Yes, I want to be sure it meets his convenience.

Mr. WILLIAM L. SCOTT. Mr. President, if the Senator will yield briefly, we have a hearing of the Committee on the Judiciary, and I should like to be present because of the matter under consideration. May I have an understanding that we are not going to change the rules for the next 10 or 15 minutes so I may run over there?

Mr. MUSKIE. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, in behalf of the distinguished Senator from Alaska (Mr. GRAVEL) I ask unanimous consent that Mr. Don Argetsinger be granted the privilege of the floor during consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. The Senator from Alabama.

Mr. ALLEN. Mr. President, earlier this morning I was discussing the general provisions of the Clean Air Act, and I stated that at the conclusion of my remarks I did plan to offer, and I do plan to offer, amendment No. 2101. It would be an amendment to the amendment, now pending, of the distinguished chairman of the Public Works Committee, the distinguished Senator from West Virginia (Mr. RANDOLPH), and I might state it would preserve the Randolph amendment and the concept of the distinguished Senator from West Virginia (Mr. RANDOLPH) as to the setting up of a commission to study the effects of the nondegradation policy and, specifically, to study the implementation of section 6 of the bill, which is also an amendment to section 110 of the act.

But it does not disturb the Randolph conception of the mandate to the Commission for its study. It leaves that intact. As a matter of fact, it would greatly strengthen the role, the mission, and the function of the Commission set up by the Randolph amendment.

I might state that it occupies a middle position as between the pending amendment, the Randolph amendment, and the Moss amendment, that is, where both have to do with the setting up of a commission. Their mandates are different, but the amendment I will offer preserves the Randolph concept under the Randolph amendment. It would not deprive the distinguished chairman of the committee of being the author of the amendment that sets up the Commission to make this study.

Now, under the pending amendment, the Randolph amendment, a commission is set up to study the matter of the degradation of the environment and, specifically, to study the implementation of section 6 which, as I say, is a section that is added as section (G) of section 110 of the act.

Now, the Randolph commission would begin operation, I assume, when they are appointed, when it comes into being. But while they are studying the question, section 6, the nondegradation section, becomes law and is subject to being implemented and enforced, so you would have an ongoing study of something that has already become law, and nothing that the Commission could do would prevent that law from being implemented.

The Commission could find that the implementation of the law would have serious economic effects on the economy of a particular State or particular locality; that it might have serious economic effects on the economy of the entire Nation. But if they make that finding it could not change the law. The law would be there. So what is the use of passing a law and then setting up a commission to see whether the law is a wise law or not?

Mr. RANDOLPH. Mr. President, will my able colleague yield?

Mr. ALLEN. I am delighted to yield.

Mr. RANDOLPH. I am appreciative always of the consideration the Senator from Alabama (Mr. ALLEN) gives to not only this subject but to all subjects considered in the Senate. I would only want the record to show that we have begun to realize in the Senate at long last—and I have advocated it for many years—that we have a constancy of oversight. After a law is enacted, agencies sometimes do not carry out what we believe is the intent of the law. This is one of the reasons in recent years that we have an expanded oversight process here in the Senate, and I think that has been very helpful. We have adopted it in the Public Works Committee.

Many of the measures we adopted provide for complex regulation and the attainment of far reaching goals. Therefore, we have established review commissions to examine the implementation of these laws and the propriety and attainability of the goals.

I mention this because, in a sense, this is what we are doing here. In connection with the control of water pollution, for example, we felt it was very necessary, and I offered the amendment which created a National Commission on Water Quality. The Commission was directed to study the effects of that law and to make recommendations as to the future of the water pollution control program. That, of course, is what is proposed here, as the Senator well understands.

Change is constantly under way, and it is impossible to write a law in hard and fast language which can carry over from one year to the next without review. In legislation of this kind, the bill managed here by the able Senator from Maine (Mr. MUSKIE), we prescribe certain guidelines, regulations, and goals that keep in mind the energy, economic, and social problems of the United States, while we work to improve the quality of air for the American people.

So we continue to study and revise, at the same time we impliment the law within the framework adopted by the Congress.

Does my colleague agree with me that all times we must do this?

Mr. ALLEN. I think it is well to have an ongoing study. But, it seems to me, we are putting the cart before the horse when we pass the law and then provide in six different major categories of action required under that law that this Commission will be called on to examine the merits of such requirements.

I would say it would be much better to set up the Commission, assign it the same mission of studying these various points, and then, on the basis of the recommendation of the Commission, act, and act on the basis that this, in effect, is a hearing by this Commission. It would make an investigation, and I am sure it would conduct hearings. But this is just like passing a bill without having hearings. You pass the law, you pass section 6, and then set up a commission and say, "You gentlemen" or "you ladies and gentlemen, check this out and see if this law is a good law, and if it provides protection in these various areas."

So the Moss amendment has a somewhat different concept.

I will not go into the different measures or mandates of those two commissions. I do not know that I am sufficiently advised on that point and I am not worried. I do not care which commission is set up and I am for the setting up of a commission to make a study.

But what the Moss amendment does, it seems to have a much more practical approach. This says, let us set up a commission, let us study nondegradation issues, let us see how proposed section 6 will operate on the economy, how it will operate on the environment, does it place too heavy a burden, can it be achieved.

Find these things out before we legislate. That is the Moss amendment.

Mr. MORGAN. Will the Senator yield?

Mr. ALLEN. If the Senator will let me complete this thought on these three different approaches.

The Moss amendment takes, as I understand it, this view.

Yes, let us set up a commission, let us study this matter, and after we have studied it, let us then legislate. Let us legislate on the basis of knowledge, of information gathered, on scientific information. Let us find out what the facts are, what the effects of this law will be, and then let us legislate.

But the parliamentary situation is such that when the distinguished Senator from Utah (Mr. Moss) sought to offer his amendment as an amendment to the Randolph amendment, he was advised that this amendment was not in order because it amended different sections of the bill from the sections of the bill amended by the Randolph amendment.

So it seemed that we were going to have to have an up and down vote on the Randolph amendment.

I have two or three amendments. Amendment No. 2101 takes a halfway position, a midway position, between the Moss and the Randolph approaches.

I might say that I am for the Moss approach, if we can get an up and down vote on that amendment.

I thought we had an agreement pretty well worked out to allow the Moss amendment to be acted on by the Senate in an up and down vote, but negotiations for a unanimous-consent agreement did break down.

So that put us back to amendment No. 2101.

It is in two parts. It might not be two parts, based on the parliamentary ruling, but it does have two parts because I have separate amendments to do separately what No. 2101 would do by itself.

The first part of 2101 would provide that section 6, or, wording it another way, subsection (g) of section 110, would not be enforced or implemented for 1 year after the filing of the report of the commission set up by the Randolph amendment.

This does not put the Moss commission approach into the Randolph amendment. It preserves the Randolph amendment on the setting up of the Commission and the mandate and function of the Commission.

But section 6 would go ahead and be subject to being enacted by the Senate. It would become law. But it would become law with the Randolph amendment as amended by No. 2101 that would say that none of the provisions of section 6 would be implemented for 1 year after the filing of the report. After that year, they could be implemented.

But why the year? That gives Congress an opportunity to study the report of the Commission set up by the Randolph amendment, gives it 1 year to study it, see what is good and what is bad in putting into effect section 6, the nondegradation feature.

It gives the Congress an opportunity to get the benefit of the Commission's recommendation. It gives it a whole year, which is not too long in the legislative process, gives it the opportunity for 1 year to study those recommendations and to enact a statute having in mind or drawing upon the recommendations of the Commission.

If the Congress does not pass anything, then section 6 would become operative at the end of the 1 year after the filing of the report.

The Moss amendment would knock out section 6.

The Randolph amendment would leave section 6 in, leave it in full force and effect while a study is being made.

Amendment No. 2101 would suspend the operation of section 6 for 1 year after the filing of the Commission's report to give the Congress an opportunity to study the report and get some benefit out of the study made by the Commission.

Mr. MORGAN. Will the Senator yield?

Mr. ALLEN. Yes, I am delighted to yield for a question.

Mr. MORGAN. I wonder if the Senator would engage in a colloquy with me for a few moments so that I can understand this?

Mr. ALLEN. Yes, I am delighted to.

The Senator from Alabama certainly will gain much information from a discussion with the distinguished Senator from North Carolina because of the expertise of the Senator in this field.

I have read with great interest his individual views that are a part of the report of the committee.

Mr. MORGAN. I appreciate the Senator's kind remarks. I am afraid they were written so long ago that I have forgotten a great deal in it.

Mr. ALLEN. That shows why we need a year to study the recommendations of the Commission before we start enacting laws.

Mr. MORGAN. As I understand it, section 6 deals with nondegradation?

Mr. ALLEN. That is my understanding, yes.

Mr. MORGAN. And is it the Senator's understanding that this question arose because of a decision of one of the appellate courts which had disallowed deterioration of the air?

Mr. ALLEN. I feel that decision had some effect upon the thinking that went into this amendment. I do not know that it was a direct cause, but certainly it had some effect on the thinking.

Mr. MORGAN. It is my understanding now that under the present law, if the Congress fails to act at all, no new industry can come into my area that would degrade the air to any extent unless EPA promulgates some regulation that would permit that to take place. Is that the Senator's understanding of it?

Mr. ALLEN. I am not absolutely sure. As I understand section 4, it goes beyond the present regulations. It adds a new concept, a new regulation, beyond what the present law is.

Mr. MORGAN. I am not sure but what I may later agree with the Senator from Alabama and the Senator from Utah because many, many questions have arisen about this matter since it came to the floor.

I may say to the Senator that I am new in the Senate, and this bill itself arose in a somewhat unusual way. We had a series of hearings over a period of a year or two and then the bill itself was drafted with no specific period on the particular provisions of the bill. Since the bill has been brought out I have been deluged with constituents who say this measure means this or this measure means something else.

My thought is that at least in this section there is some authority delegated to the State planning or regulatory agency, some discretion. But if we repeal this section or if we suspend it, would we not then leave ourselves completely at the mercy of the Federal bureaucracy rather than the State bureaucracy? That is the question which enters my mind.

Mr. ALLEN. If we knock section 6 out or if we suspend its operation, as my amendment would do, we would be under the present law, under which EPA has closed factories in my State. I did not agree with EPA in the action that it took. What the amendment of the Senator from Alabama would do would merely stay this section until the committee has an opportunity to report. The Congress has 1 year in which to avail itself of the recommendations of the Commission in shaping some legislation.

Mr. MORGAN. I must assume the Chair in a moment, but I would say that the Senator gives an illustration which concerns me. EPA here in Washington closes a factory in Alabama.

Mr. ALLEN. They threw 300 men out of work, I might say.

Mr. MORGAN. Under the present situation, the State of Alabama clean air commission or environmental protection agency, or whatever it is called, had no input into that situation at all. But under section 6 the State agency does have some input. I recall, for instance, having offered one amendment which would have restricted the use of best available technology, taking into consideration social, economic, and environmental factors. In other words, what I am saying, and I am not taking a position, is if we suspend section 6 are we not jumping out of the frying pan into the fire?

Mr. ALLEN. I think not. The Senator has made a more detailed study of this issue than has the Senator from Alabama. But I believe the option which the State has under section 6 is as to section 6 provisions. I would seriously doubt if it gives the State agencies control over existing regulations. I do not state that emphatically because I do not know for sure. But I believe the power given to the States has to do with the nondegradation features set up by section 6.

Mr. MUSKIE. Will the Senator yield?

Mr. ALLEN. The distinguished Senator from Maine can correct me if I am wrong.

Mr. MUSKIE. I would like to comment on three points which appear to have arisen in the colloquy between the Senator from North Carolina and the Senator from Alabama.

In the first place, permits under the nondegradation provisions of this bill are issued by the States, not by EPA. We have made it a State-administered program.

Second, the provisions of this bill are not more strict than EPA regulations; they are less strict. It is for that reason that testimony before the committee is replete with requests by industry to shape a congressional policy. The Senator from North Carolina referred to the way the provision came into the bill. It came into the bill because we were urged by industrial sources and by environmental sources to direct ourselves to this issue. The issue was in the process of being defined by the courts. That was fine with me. We just did not reach out and grab a handful of trouble for ourselves because we were looking for trouble. We took up the issue because we were urged to do so by people on both sides, industry and environmentalists.

The third point I would make is that the nondegradation provisions cannot be used to close factories. All the nondegradation provisions do is protect areas that are not developed from the consequences of irresponsible, unrestricted, and unrestrained growth. It does not apply to existing industry. It cannot be used to close existing industry doors.

Those three points, it seems to me, had to be clarified, given the nature of the colloquy between our two colleague.

May I at this point ask this of the Senator from Alabama: We have a time agreement on the Bentsen amendment which would enable us to get to maybe one or two votes before 2 o'clock, if he is now ready to resume.

(Mr. MORGAN assumed the chair at this point.)

Mr. ALLEN. I want to answer one or two things the Senator has spoken of. The Senator from Alabama did not say that the plants in Alabama was closed under the nondegradation feature, which has not yet been enacted into law. What the Senator from Alabama said was that under existing law they did close a factory in Alabama only recently. If this section 6 and this bill in general places less of a burden on industry, it seems strange to the Senator from Alabama that industry seems to be making an all-out fight against section 6. That is what makes it very strange to me.

I did not quite complete the analysis of my amendment, No. 2101.

I explained the fact that the provisions of section 6 would be stayed for 1 year following the filing of the report so that Congress could analyze the recommendations that were made and pass legislation in line with the Commission's report.

On the second feature of this amendment, it is possible I will offer only one part of the amendment, one that I might possibly not insist upon. I indicated that by filing a different amendment knocking out the second part as to section 6, or, stated another way, subsection (G) of section 110 of the act.

If the Commission was able to point out that the provisions of this section 6 were so burdensome or nonattainable that as to any of the provisions of section 6 that contravened the recommendations of the Commission they would not be implemented or enforced, that would provide some basis or reason for having the Commission if its recommendation will have some force and effect.

I would now be delighted to ask unanimous consent to lay this matter aside in order that the Bentsen amendment may be brought up, provided I will be recognized immediately upon disposition of the Bentsen amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. MUSKIE. Mr. President, I ask unanimous consent that we turn now to the Bentsen amendment, to be followed by the Baker amendment, both on a different subject than the one which is pending; that we agree to a time limitation of 2 hours on the Bentsen amendment to be equally divided between Senator BENTSEN and myself, and a time limitation of 1 hour on the Baker amendment, to be equally divided between Senator BAKER and myself or my designee, who might conceivably be Senator BENTSEN; that following the disposition of those two amendments, we return to the consideration of the Randolph amendment, and the status of the Senator from Alabama will then be that he will have the floor and be in a position to offer the amendment we have been discussing.

Mr. ALLEN. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, and I shall not object, I wonder if we can have a better identification of the two amendments the Senator has referred to.

Is the Bentsen amendment a printed amendment?

Mr. BENTSEN. It is printed amendment No. 1614, and we will give the Senator a great deal of identification in the next hour.

Mr. McCLURE. And the Baker amendment?

Mr. BAKER. The Baker amendment will be a perfecting amendment to the Bentsen amendment. It is printed amendment No. 1586.

Mr. McCLURE. I thank the Senators.

Mr. BENTSEN. I always object to the use of the word "perfecting" as to any amendment I have submitted, but I understand that is normal.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1614

Mr. BENTSEN. Mr. President, I call up my amendment No. 1614 to S. 3219, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an amendment numbered 1614: On page 70, beginning with line 13, strike out all through line 5 on page 73, and insert new language.

Mr. BENTSEN's amendment (No. 1614) is as follows:

On page 70, beginning with line 13, strike out all through line 5 on page 73, and insert the following:

"SEC. 27. (a) Section 207(b)(2) of the Clean Air Act (42 U.S.C. 1857f–5a(b)) is amended by adding the following at the end thereof: 'No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a) (2).'.

"(b) Section 207(a) of such Act is amended by inserting '(1)' after '(a)' and by adding the following new paragraph at the end thereof:

"'(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer of such part may certify that use of such part not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of enactment of this paragraph.'

"(c)(1) Section 207(b) of such Act is amended by striking out 'its useful life (as determined under section 202(d))' in each place it appears and inserting in lieu thereof 'a period of eighteen months or eighteen thousand miles (or the equivalent), whichever first occurs'.

"(2) Section 207 of such Act is amended by adding the following new subsection at the end thereof:

"'(g) In lieu of the eighteen-month or eighteen-thousand-mile period of use referred to in subsection (b) there shall be substituted "the useful life of the vehicle or engine (as determined under section 202 (d))" if the Federal Trade Commission finds under section 27(d) of the Clean Air Act Amendments of 1976 that no significant anticompetitive effects result from the application of such warranty for such useful life.'.

"(d) The Federal Trade Commission shall undertake a study to determine whether or not any anticompetitive effects would result from any warranty required to be provided pursuant to section 207(b) of the Clean Air Act if such warranty applied for the useful life (as determined under section 202(d) of such Act) of vehicles and engines to which such warranty applies in lieu of the eighteen-month or eighteen-thousand-mile period specified in such section 207(b). Such study shall include public hearings. Such study shall incide an analysis of any measures implemented by the Administrator to prevent or diminish such anticompetitive effects and shall include a finding with respect to whether or not a significant anticompetitive effect would nevertheless result from such warranty if the warranty applied for such useful life. Such study shall be undertaken primarily by the Bureau of Competition in consultation with the Bureau of Consumer Affairs.

"(e)(1) Section 207(c)(3) of such Act is amended by inserting after the first sentence thereof the following 'In no event and under no circumstances shall a manufacturer (in written instructions or otherwise), specify, require, or designate the use of any proprietary or brand name automotive part, material, or substance for purposes of this paragraph. For such purposes, the manufacturer may only specify performance standards or engineering specifications or the use of parts which have been certified as provided in subsection (a)(2) or parts meeting such standards or specifications. No manufacturer may directly or indirectly specify for such purposes that maintenance, replacement, or repair may only be performed by franchised dealer or approved automotive service establishments. The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance of the emission control devices and systems may be performed by any automotive repair establishment or any individual using any automotive part which meets the performance and engineering specifications of the manufacturer or which has been certified as provided in subsection (a) (2).'.

"(f) Section 207(c) of such Act is amended by adding at the end thereof the following new paragraph:

"'(4) In the case of any nonconformity of any vehicle or engine required to be remedied at the expense of the manufacturer under this subsection, the owner of such vehicle or engine shall be, under regulations promulgated by the Administrator, compensated by the manufacturer for any amount expended by him with respect to such nonconformity before the date on which such nonconformity is required to be remedied under this subsection.'".

On page 73, line 6, strike out "SEC. 30" and insert "SEC. 28".

Renumber sections 31 through 38 as sections 29 through 36, respectively.

On page 88, beginning with line 15, strike out all through line 9 on page 89.

On page 89, line 10, strike out "SEC. 40" and insert "SEC. 37".

Renumber section 41 as section 38.

Mr. BENTSEN. Mr. President, this is my amendment to reduce the 5-year/50,000-mile performance warranty to 18 months or 18,000 miles, whichever comes first.

The immediate reaction to that is, "Why would you do that to the consumer?"

The facts are, we are trying to do something to protect consumers, and I think that will be developed as we go through this debate.

In addition, I am concerned about the fact that we have some 400,000 independent repair shops in this country, 1,700 independent parts manufacturers, and 22,000 independent parts distributors, accounting for 80 to 85 percent of all the work performed in garages throughout this country, and I think that small, independent businessman ought to be able to stay in the business. I think when we try to tie on a 5-year/50,000-mile performance warranty, in effect we close their doors.

In no way am I doing away with the production warranty. We have two warranties involved. One of them is a 5-year/50,000-mile production warranty. The other is a 5-year/50,000-mile performance warranty.

I want to keep the obligation, the responsibility, and the burden on the automobile manufacturers in this country to produce a car that will have a production warranty of 5 years and 50,000 miles, with all the ways to implement that, and see that it is done by forcing recalls when they do not meet those production standards.

But when it gets to the performance warranty, that is quite another thing. If you leave that 5-year/50,000-mile performance warranty in there—remember, performance, not production—you are going to build that right into the cost of the automobile. In addition to that, you are going to find these people, when the car fails on performance, going back to the franchised dealers, so that you are really wiping out the small independent car mechanic in this country.

I am pleased and grateful that 14 Senators have joined me in cosponsoring this amendment.

The 1970 Clean Air Act requires auto manufacturers to provide two warranties on their emission control systems. The first is the so-called section 207(a) "production" warranty which requires the manufacturer to do two things: first, to "design, build and equip" his vehicles to meet the requisite standards at the time of sale; and second, to build them free of defects in materials and workmanship which would cause them to fail to conform with the standards during the useful life of the vehicle, a period which is defined as 5 years or 50,000 miles, whichever occurs first. The production warranty thus requires the auto manufacturers to equip new cars with emission control systems which work at the time of sale and which are sufficiently durable to insure that the car will meet the standards during its useful life.

That I want to retain. I want that obligation and responsibility to stay. I believe it is absolutely essential to the purposes of the act, and I do not propose a change in any way on that.

My concern, however, is with the second warranty mandated by the act, the so-called performance warranty of section 207(b). The performance warranty is not now being implemented because a short, reliable emissions test has not been developed, but once it is, this second warranty would work as follows: Should the emission control system fail while in actual use, the performance warranty obligation would require the manufacturer to pay for the cost of repair, provided the carowner could demonstrate—now, get this—that he had properly maintained and operated his vehicle. The requirement of proper maintenance is a rather big qualification; however, and I would like to briefly discuss its ramifications.

During testimony before the House Small Business Committee in 1974, the auto manufacturers made clear what they intended "proper" maintenance to mean. To claim coverage under the performance warranty, the carowner would have to do three things: First, he would have to demonstrate that he had routine service work—tuneups, oil changes, and so forth—performed according to the schedule outlined in the owner's manual; second, that he would have to use original equipment manufacturer's parts—the brand made and marketed by the auto manufacturers—or their certified equivalents; and third, that he would have to insure their proper installation.

Particularly on that latter requirement, the one dealing with proper installation of the parts, the actual quality of the work performed, the final determination as to whether the vehicle had been properly maintained would rest with the manufacturer and his representative, the franchised dealer.

During those hearings, the manufacturers confirmed what many others had long feared—that the potential under this warranty for a tie-in of the owner to the auto manufacturer was real, that the likely result of its implementation would be a significant shift of automotive service work to the auto manufacturers through their franchised dealers, and that hundreds of thousands of small, independent repair shops and the industries which service them would be placed at a decided competitive disadvantage.

The House Small Business Committee concluded that the 5-year/50,000-mile performance warranty was unnecessary, anticonsumer, and anticompetitive.

Again, remember it is the performance warranty we are talking about, not the production warranty. After carefully reviewing this issue, I have come to agree, and I would like to take this opportunity to list the factors which support these three conclusions.

The 5-year/50,000-mile performance is "unnecessary" because first, under the already mentioned production warranty, the manufacturer is already held liable to produce an emissions control system which works at the time of sale and remains effective for the useful life of the vehicle; second, under the production-line test of section 206(b) and which these 1976 amendments require to be initiated during model year 1977, EPA will be able to insure that those vehicles actually do meet the standards as they leave the assembly line; and

No. 3, under the recall provision that I referred to earlier in my comments, that is section 207(c), the agency is required to investigate reports that a particular vehicle or engine model is not complying with the standards during actual use and to require their recall for repair if the manufacturer is at fault.

The combination of the 207(a) production warranty and the enforcement mechanisms would thus seem to assign sufficient legal and financial obligation for the manufacturers to produce a durable, effective emission control system.

If they do not do it, they are going to pay the penalties for it through the recall process.

The 5-year/50,000-mile performance warranty would also actually appear contrary to the best interests of the carowning public because:

One, it will increase the purchase price of a new car by $160 to $260 as the anticipated expenses of the manufacturers' honoring this warranty obligation are passed on to the carowner. The old story that there is just no such thing as a free lunch is true. You are going to have to pay for this at one time or the other, but you are running the risk of tying them really to franchised dealers in doing this and you are going to deny the small independent garage owner his normal business.

This initial cost will be paid by all new car purchasers, whether or not coverage under the performance warranty is ever sought.

It will, however, not provide blanket coverage. If the carowner cannot demonstrate that he has properly maintained his vehicle, he will not qualify for compensation under the performance warranty. In that event, he will be out the sum he paid for the warranty at the time of purchase plus the cost of bringing the system back into repair, and that is a rather costly form of double payment that the carowners of this country are going to face.

It will, therefore, likely restrict the carowner's service options, because having his vehicle serviced at the franchised dealer is the only means of insuring that he does not invalidate this performance warranty. He is taking a risk if he goes to the independent dealer after this kind of legislation is on the books. So why should he take the risk? Just let the independent dealer close his door.

It might well result in higher service costs to the carowner. Americans today overwhelmingly choose to have their vehicles repaired and serviced by the independent service sector, or some of them want to do that work themselves. Some of them have a knack for the work of automobile repair and like to do it. With the inflated costs we are running into in sectors of the economy today, some of them find that is the way to meet their budget. Convenience, quality of work, and lower costs are, I believe, the major reasons for these service preferences.

If public policy as embodied in a mandated 5-year/50,000-mile performance warranty causes a major shift in service work to the auto manufacturers and their franchised dealers, the carowner can be expected to pay more for that work, both at the time it is performed and over the longer term as a number of the independents who provide real competition in the aftermarket go out of business.

I cannot believe that any of those developments will be in the best interests of the carowners of this country.

That latter point suggests the third conclusion of the House Small Business Committee, and the one I want to stress in concluding my remarks. The 5-year/50,000-mile performance warranty will be highly detrimental to continued healthy competition within the automotive aftermarket service industry.

Let us make this point, because it is of utmost importance. For most of us, the words "automotive emissions control" have been synonymous since 1975 with a single device—the catalytic converter. In placing a legal requirement on the auto manufacturers to control vehicular emissions, we have wanted them to build and utilize devices which are effective and durable. And we must insist upon that.

However, we should also realize that automotive emissions control actually involves at least several score of interrelated parts, all of which must be working propely for the desired pollution reductions to occur.

I recall at one time EPA suggested that as many as 400 auto parts could actually affect the performance of a vehicle's emissions control system. I am not sure but what that is not something of an exaggeration. Even so, there is a great number involved here.

I think we can with reasonable assurance assume that the following are involved: Air cleaners, oil filters, drivebelts, motor oil, carburetors, distributors, hoses, manifolds, PCV valves, chokes, exhaust gas recirculation systems, evaporation control systems, engine coolants, vacuum fittings, intake and exhaust valves, ignition timing and advance systems, wiring, and the fuel pump, just to name a few.

Emissions control on vehicles should thus be properly thought of as a system rather than as a single device.

And that suggests just how important proper maintenance of the vehicle is—not just of the emissions control device, but of the entire combustion system. What immediately comes to mind is the tuneup, one of the most elemental but nevertheless important repairs needed for the vehicle.

The performance warranty is really conditioned upon the proper performance of tuneups and other routine service work. The warranty would not pay for the tuneup; the warranty would provide subsequent coverage only if the tuneup were performed properly, that is, according to the schedule outlined in the owner's manual, with approved parts which were satisfactorily installed.

Let me underline that—satisfactorily installed.

The owner must demonstrate each of these things. If he cannot, the 5-year/50,000-mile performance warranty has been invalidated, and he must pay for any needed repairs himself.

I want to repeat this point because of its importance. If the emissions system fails the test, the cause will in many instances be that the vehicle has not been properly and recently tuned. No compensation could be obtained under the performance warranty—whether it be 5 years/50,000 miles or 18 months/18,000 miles—because the car would not have been properly maintained.

We know one of the reasons why we must use unleaded gasoline now on new cars is that if you run leaded gasoline through that car and that engine, you are going to render your catalytic converter ineffective.

We should also know that the functioning of numerous other car parts also directly affects its performance. For example, if the carburetor is not properly adjusted, unburned gasoline may be flowing through the engine and into the converter, or if the timing is not properly set, full combustion may not be occurring and the exhaust stream may be at a lower temperature than normal.

The catalyst is designed to reduce the emissions from the engine's exhaust, but is optimally efficient only when that exhaust stream is within a certain range of chemical composition and temperature. Should either differ substantially from the norm, what the system was designed to handle, then the catalyst's effectiveness will decline and the likelihood of that engine meeting its emission test is substantially lessened.

I think we should also ask ourselves, however, what might happen if the owner can demonstrate that he has had the car tuned on schedule and that acceptable parts have been used but the franchised dealer determines that the work was not satisfactorily done. We are going to have some really intense negotiations between that car owner and dealer. There is the question as to whether the dealer eventually decides to have the work done at company expense in the hope of not losing a customer, and it may be someone who is traveling when the problem occurs, who may not be a local customer, where the dealer never expects to see him back again.

The point will be made that all the trouble could have been avoided if the car owner had allowed the dealer to service the vehicle in the first place. If you do not think that is not going to make an impression on that car owner, you are mistaken. He is going to decide that the safe way for him to do it is always to go to the franchised dealer. The only way to insure that the performance warranty has not been invalidated is to have the work done by that franchised dealer.

The franchised dealer fulfills a very useful role in our economy. He contributes in a major way to the efficient and effective distribution of our automobiles. But today, again, we have hundreds of thousands of independent dealers, and there is a place for each. One should not be put out of business at the expense of the other.

Section 29 of S. 3219 attempts to address this problem by a simple prohibition on conditioning the performance warranty to the use of certain brands of parts and certain brands of service. The committee recognized this problem, so they tried to forestall it and overcome it. They talk about the parts and the repair shops of the auto manufacturers. But such a prohibition does not and cannot counter the subtle pressure that the only foolproof means of guaranteeing continued coverage under the performance warranty is to have that vehicle routinely serviced by the franchised dealer.

What will the effect of this subtle pressure be on the aftermarket, that sector of our economy which earns its living servicing automobiles?

Let me emphasize how many folks are involved—the small businessmen in this country. Today, there are some 400,000 independent repair shops that may well be put out of business unless we pass my amendment; 1,700 independent parts manufacturers; 22,000 independent parts distributors—accounting for 80 percent to 85 percent of all the service work performed in garages throughout this country.

The tuneup and the assorted other routine repairs constitute a vital part of their business. In fact, the average service station derives as much as one-third of its earnings from this service work.

Implementation of the 5-year/50,000-mile performance warranty can be expected to divert a substantial share of the service work away from these independents, with the result that the auto manufacturers at last are able to win a significant share of the service market.

The charge has been made that the automobile manufacturers will be the major beneficiaries of my amendment. Nothing could be further from the truth. I believe that they will be the only beneficiaries if we permit the 5-year/50,000-mile performance warranty to be implemented. Retail sales and services are the sector of the automobile industry which is truly competitive. That is perhaps its most healthy characteristic and one which public policy should encourage.

Mr. President, today almost 50 percent of the market in manufacturing is held by one company, and that company is doing a good job of it; but I do not see any reason for it or all of the manufacturers to have 50 percent of the service market in addition. That is what would result unless we take action to correct what has been done here on a 5-year/50,000-mile performance warranty. I believe this to be of great importance, and that is why I have offered my amendment.

I am pleased to report that this amendment already has been approved by the House Commerce Committee and that it appears in the House bill. I hope that the Senate, likewise, will approve it.

Mr. President, I reserve the remainder of my time.

Mr. MUSKIE. I yield myself 15 minutes.

Mr. President, I wish to make this point with reference to the Senator's amendment. In the first place, the aftermarket industry now controls 80 percent to 85 percent of the business which is involved. It does that notwithstanding the fact that the modern automobile has many complex systems: the ignition system, the transmission system, the brake system, and the air conditioning system. We go through the list. The automobile has become more and more complex, tempting one to the conclusion that, more and more, the consumer would turn to the manufacturer to correct any deficiencies or difficulties that developed in those complex systems.

Yet, according to the sponsor of this amendment, the aftermarket industry now has 80 percent to 85 percent of the business with which it is dealing. He argues that this performance warranty would have an effect different from the complexity of all these other systems, that this would turn the consumer away from the aftermarket industry to the franchised dealer. I think that is quite a tough case to make.

Second, this performance warranty has been on the books for 5 years, and the aftermarket industry has flourished in that 5-year period.

Mr. President, why do we need a performance warranty? If we have learned anything in the 13 years that we have tried to prod the automobile industry to clean up automobile emissions, it is that the industry will not do anything voluntarily. It will not do anything that public policy does not require. The deadline for achieving standards was one such public mandate that Congress overwhelmingly approved; and although we postponed the deadlines, we have stuck to the mandate because we all know that.

In addition, the performance warranty is a way of making the manufacturer stick to his commitment as mandated by public policy.

At the rear of the room is a chart. (The same information was printed in table E on page 23864 of yesterday's RECORD.) What does that chart tell us? It tells us that, notwithstanding the standards required by the 1970 law, the automobiles manufactured since 1967, have not actually met those standards in use.

For example, with respect to hydrocarbons, the black line indicates what the current law requires in terms of standards. The red line indicates the actual in-use performance. It is clear that the cars that the manufacturers put on the road do not meet the standards for which they are certified when they ask EPA to clear their models for the next production year. That is the gap, Mr. President.

The second one indicates the same story on carbon monoxide, which is the most deadly of these pollutants. Again, the black line indicates what the current law requires. The black line indicates the standards for which the automobiles were certified by EPA, and the red line indicates how they actually performed on the road with emissions far in excess of the standard.

I remind Members of the Senate that the standard is set by public health requirements; so that these automobiles that have been certified under public law since 1967, in actual use, have been violating public health requirements.

What is the answer to that? The do-it-yourself garage mechanic? Or do you put the burden on the automobile manufacturers? I ask a simple question: The present performance warranty requirement is that the car shall be manufactured to meet those standards for 50,000 miles. I ask this question: If we change that requirement from 50,000 to 18,000 miles, what is your guess as to what the manufacturer's response will be? What is your guess, given the record of the last 13 years? What is your guess? You know very well that the manufacturers will tailor their automobiles to meet an 18,000 mile performance standard and then leave it to the consumer and his mechanic to meet whatever penalties are thereafter imposed upon the consumer because the manufacturer has cut back on his own effort. It is as simple as that.

Do the sponsors of this amendment really believe that if the standard is dropped from 50,000 to 18,000 miles, the manufacturer is going to feel the same pressure to upgrade the performance of his cars that he does with a 50,000-mile warranty? Nobody can make that argument with a straight face.

So, Mr. President, this amendment would undermine the objective of the Clean Air Act. The existing warranty helps to protect public health by making the manufacturer responsible for building cars to meet the standard for 50,000 miles. This eliminates any incentive for the manufacturer to design and build cars that meet the standard beyond 18,000 miles. It shifts the burden and the expense of repairing a faulty emission control system from the manufacturer to the owner of the car.

As the Senator from Texas has pointed out, an adequate in-use test has not yet been perfected, but when it is, if the automobile of any individual owner fails to meet the public standards, that owner will be harassed and prodded by whatever enforcement agency the State creates to do whatever that State agency deems necessary to put that car into condition to meet that standard.

With respect to safety, we have put into public law policies which require the manufacturer to recall automobiles that do not meet safety standards, and we have seen story after story of hundreds of thousands of cars being recalled by manufacturers because they did not meet the safety standards.

Let us project an in-use test for emission standards. Poor Joe Blow buys a car, puts it on the road, runs it for 18,000 miles, then the emission controls fail and the in-use test identifies the failure. Would the manufacturer be required to repair the car under the Bentsen amendment? Of course not. That burden will fall on the consumer.

It does not matter what it cost, it does not matter whether or not the engine was basically so far off standard that it could not be restored to the standard. The owner would be stuck with it. We take the position that the manufacturer has the obligation.

The Senator from Texas is concerned that the performance warranty would drive the consumer into the hands of the franchised dealer. It would have that effect only if the manufacturer has a way of intimidating the consumer to take that course of action. If the manufacturer cannot intimidate the consumer into going to the franchised dealer, what reason in heaven would push the consumer in that direction? I am one consumer who does not go to a franchised dealer if I can avoid it, and if I have a good mechanic who can deal with my car himself. If the manufacturer cannot intimidate the consumer into going to the franchise dealer, he is not going to go. It is with that in mind that the committee, in the pending bill, wrote in these provisions:

The first provision requires all owners' manuals to contain instructions that maintenance does not have to be performed by the dealer or with the manufacturer's own parts.

Second, the bill makes illegal—makes illegal—any warranty provision that attempts to tie coverage to the use of the dealer's service and parts.

Third, the bill provides for the establishment of a program which will enable aftermarket parts manufacturers to certify that their parts perform as well as the auto manufacturers' parts, and the auto manufacturers have no role in approving such certification.

Finally, the bill provides for a Federal Trade Commission study of any anticompetitive effect that might still exist, notwithstanding these provisions.

So, what have we done in this bill? We have said to the automobile aftermarket parts dealers and manufacturers, "We understand that you applaud the objectives of the Clean Air Act and that you would want your parts to be consistent with the objectives of the Clean Air Act, so we shall make provision for certification of your parts so that you can consistently support your own objective of implementing the Clean Air Act."

Now, if they do not want to meet the objectives of the Clean Air Act, then they will object to that certification procedure. But if they mean what they say, that they subscribe to the objectives of the Clean Air Act, then the certification procedure would be a service to them and would eliminate whatever pressure there may be in that respect on the consumer to go to the franchised dealer.

The other two provisions that we have written into the law insure that the manufacturer cannot, through the written provisions of the warranty or through any arrangement with his dealer, create the impression, or even mandate, that the consumer has to go back to the dealer in order to get service, or in order to get parts replacements if they relate to emission control.

These provisions were put into the bill after careful study and analysis, and I think they eliminate any potential for the manufacturer to so intimidate the consumer that the consumer will be driven into the arms of the franchised dealer.

An amendment to be offered by the distinguished Senator from Tennessee (Mr. BAKER), I think, will add to these safeguards in an important way and he will present that as a substitute or perfecting amendment to the Bentsen amendment, as I understand it. I shall leave it to him to explain that amendment.

I have undertaken to restrict myself to the explanation of the committee amendments. But the heart of the difference between my good friend from Texas and myself is reflected in that chart, the problem of assuring that 110 million automobiles in this country that are on the road meet the standards required by law for their useful life.

From the first time that I wrote a law dealing with auto emissions, we have always conceded that the big problem was not the new car coming off the line but the tens of millions of used cars on the road, because if the new car coming off the line was not adequately engineered and built, it would add to the family of 110 million used cars that do not, and likely cannot in their lifetime, meet those standards. Those curves show that since 1967 that conclusion has been right, and borne out by the record.

I mean, a new car becomes an old car the minute it changes hands, and unless it has been engineered up to that point so that it would meet those standards during its useful life, it is simply going to continue that red curve into the indefinite future.

The actual life of a car is more than 50,000 miles. We all know that. It approaches 100,000 miles, I think, increasingly, but it was our feeling that a 50,000-mile warranty would put sufficient pressure on the manufacturers to meet the standards so that if they met them for 50,000 miles, the chances were that the standards would be met pretty closely for the car during all of its useful life, even if it extended beyond 50,000 miles.

Well, 18,000 miles falls so far short of the actual useful life of an automobile that if the Bentsen amendment is adopted, for all practical purposes enforcement of the clean air standards will be in the hands of the individual consumer in this conutry, and there is ample evidence on the record that many consumers resist these standards; that they have asked their mechanics to disengage air pollution controls on their cars; that they have disconnected air pollution controls on their cars, and that their mechanics have worked with them to do so.

I can understand their frustration, but their frustration stems directly from the fact that the manufacturers have picked the wrong technology to meet those standards, and because they failed to use the right technology, you have had the performance shown on those charts. The only way you are going to force the manufacturers to move toward the clean air technology is to keep the pressure on and not relax it in the way the Bentsen amendment would propose. That would relax the pressure; it would intensify that problem. It would delay the day when the 100 million used car population of this country begins to come close to what the public health requires in terms of clean air performance.

Mr. President, I think I have said about all that I have to say on the subject, and I reserve the remainder of my time. I yield at this point to my good friend from New York, Senator BUCKLEY, for whatever time he may need.

(Mr. BIDEN assumed the chair at this point.)

Mr. BUCKLEY. Mr. President, I thank my friend from Maine. As a matter of fact, he has stated the case so well in opposition to Senator BENTSEN's amendment that I find it very hard to add to it. I shall try to approach it from a different view.

What we are coming down to is really a question of durability. We have to have some kind of mechanism to make sure that the auto manufacturers engineer into their products durability, which will carry forward, with some degree of reliance, throughout the useful life of the automobile. I can think of no device other than this guarantee, the 5-year, 50,000-mile warranty, better suited to do that.

I believe the arguments utilized by the Senator from Maine, addressed to the questions of the effects on the after market, are persuasive. I share the sentiments of the Senator from Texas (Mr. BENTSEN) about the need to protect that after market and the independent dealers. I utilize them and shall continue to utilize them whether or not this amendment is enacted. But I would like to focus—as I know the Senator from Tennessee will be addressing the broader sphere—on one matter that was touched on by the Senator from Texas in his citation of a report issued by the House Committee on Small Business.

I totally disagree with the conclusions he has drawn from that study. The hearings upon which the House committee made its findings demonstrated no drift toward lack of competition as a result of the performance warranty, particularly in view of such legislation as the Magnuson-Moss Act.

I would like to examine, for the purpose of clarifying the record, some of the testimony given before that House subcommittee.

Mr. D. A. Jensen is the director of Ford Motor Co.'s auto emissions office. He testified as follows:

> Ford believes that any part which meets the original component performance specifications, regardless of its source, may be used in the maintenance and repair of Ford vehicles without voiding the warranty coverage on that vehicle. We believe that the use of performance, as opposed to design, specifications for purposes of determining component equivalency is highly desirable.

To assist in resolving this problem, the bill contains language establishing a parts certification process.

Another witness was Mr. Edmund Doyle, vice president and general manager for parts and service of Chrysler Corp. This is what he said in his testimony:

> In order to keep the warranty in effect, an owner must, among other things, maintain his vehicle in accordance with certain specified instructions issued by Chrysler, a copy of which is also attached. Among the required maintenance services are the following:
>
> (1) Engine oil and filter changes;
>
> (2) Service of the carburetor choke shaft, fast idle cam, and pivot pin;
>
> (3) Maintaining or replacement of drive belts;
>
> (4) Cleaning and replacement of carburetor air filters;
>
> (5) Service of the engine idle speed, ignition timing and idle;
>
> (6) Service and replacement of the PCV valve;
>
> (7) Replacement of the filter element (in the vapor storage cannister);
>
> (8) Service of the crankcase inlet air cleaner, the exhaust gas recirculation system and the choke;
>
> (9) Spark plug replacement;
>
> (10) Inspection of the orifice spark advance control valve;
>
> (11) Replacement of the fuel filter; and
>
> (12) Service EGR system.
>
> An owner is free to have all of the above-referred to maintenance requirements performed at any servicing agency of his choice and none need be performed at a Chrysler Motors Corp. dealership. Further, any replacement filter, spark plug, belt, valve, et cetera, necessary as a result of the performance of this required maintenance, need not be one manufactured or sold by Chrysler Motors Corp.

That to me does not sound very dangerous to competition.

Now, Mr. President, Mr. John C. Bates, director of the service section at the other big automaker—General Motors—made this observation:

> Third, the existing maintenance instructions, if continued unchanged, would not have the effect of invalidating a section 207 (b) performance warranty for a GM car on which nongenuine GM parts should be installed.

That was followed by the testimony of Mr. Jack Whitaker, president of Whitaker Cable Corp. He testified as follows:

> If we can establish that the use of independent aftermarket parts and services is "reasonable maintenance" and if we can administratively induce vehicle manufacturers not to persuade or coerce the consumer into going through only their own market channels, and if we can establish that aftermarket parts are equivalent in the critical areas, which we believe they clearly are, we think we will have dealt with the prime area of concern; namely, the reasonable maintenance area.

Mr. Whitaker's statement continues:

> So the statement that has been made earlier that the consumer will not pay for some-

> thing that he can get free, is really beside the point. The heart of the problem, not the entire problem, but the heart of the problem is what constitutes reasonable maintenance, and not what services are performed without charge under the warranty.

In testimony before the House, Mr. Bertram M. Kaplan, president of Kastar, Inc., testified as follows:

> It is a continuing problem which must be watched closely by EPA. We feel that an affirmative statement to the effect that the warranty will be maintained if the prescribed work is done properly regardless of who does it, is necessary.

When asked about the same point, Volkswagen responded as follows:

> Proper maintenance in accordance with the manufacturer's recommendations and the use of proper parts by an independent service center will not affect the rights of the car owner under the warranty for new Volkswagen vehicles emission control system.

A final viewpoint was presented by Mr. Alan G. Kirk II, who was then Assistant Administrator for Enforcement and General Counsel of EPA. He said:

> In conclusion, I wish to emphasize that the agency opposes any weakening of the in-use enforcement provision of the Clean Air Act. We feel that these provisions must remain and must be vigorously enforced, if the clean air goals of the act are to be met. With no sanctions after sale, there would be little incentive for manufacurers to design and build vehicles capable of meeting standards for the life of the vehicle as defined by the act. The warranty and recall provisions provide this incentive. They also provide an incentive to purchasers to comply with the maintenance instructions, thereby increasing the prospects of in-use compliance. We believe that these provisions are essential to achieve the goals of the act and that adequate safeguards can be developed to protect the aftermarket from undesirable side effects of these provisions.

Mr. President, I believe that the criteria I have cited from Mr. Jack Whitaker, regarding the safeguards to make sure the major automobile producers do not insist on the utilization of their franchise dealers, have, in fact, been met by the legislation we have before us, and by the provisions of the Magnuson-Moss Act.

I believe that further safeguards are incorporated in the amendment that will be offered by the Senator from Tennessee (Mr. BAKER), an amendment that I have cosponsored along with the Senator from Vermont (Mr. STAFFORD).

I believe that we have those measures, those protections, that are essential to the protection of competition in the after market.

I urge that the amendment offered by Senator BENTSEN be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Vermont?

Mr. STAFFORD. Will the Senator from Maine yield me 8 minutes?

Mr. MUSKIE. Mr. President, how much time do I have?

The PRESIDING OFFICER. Thirty-one minutes.

UNANIMOUS-CONSENT AGREEMENT

Mr. MUSKIE. Mr. President, I ask unanimous consent that, following the statement by Senator STAFFORD, we put aside the Bentsen amendment temporarily, reserving to Senator BENTSEN and myself whatever time remains to each of us, that we then turn to the Baker amendment for the purpose of discussing it, with all of the previously agreed upon time limitations still to be in force.

Have I put that clearly enough to my colleagues?

Mr. BAKER. Mr. President, I am sorry to impose on the Senator from Maine, but I was talking to staff on this matter when he made the proposal. I wonder if he can state it again.

Mr. MUSKIE. My proposal is that, following the statement of the Senator from Vermont, we put aside temporarily the amendment of the Senator from Texas, reserving to both the Senator from Texas and myself whatever time remains to us on that amendment, that we proceed to the Baker amendment under the time limitation previously agreed upon, and, finally, that votes on the two amendments take place at the completion of the debate, back to back, the Bentsen amendment to be voted on first and the Baker amendment to be voted on second.

Mr. BAKER. Mr. President, reserving the right to object, and I do not expect to object, that is fine with me. I think procedurally it might be attractive to take up the Baker amendment and then see if the distinguished Senator from Texas would like to offer the Bentsen amendment as a substitute to the Baker amendment. In that way, the Bentsen amendment——

Mr. BENTSEN. I understand there may be a minor modification to my amendment.

Mr. BAKER. I think that would be fine.

The request, I suppose, would be that we temporarily lay aside the Baker amendment and make the Bentsen amendment the pending amendment, with the expectation that the Senator from Texas would offer his amendment as a substitute to the Baker amendment. His vote would occur first on the substitute. Following that, and depending on the outcome of that amendment, the Baker amendment would or would not be voted on at that time.

Mr. MUSKIE. It occurs to me if the agreement is approved as I put it, those parliamentary options are available to us without including them in the agreement.

Mr. BAKER. I think that is fine.

Mr. DURKIN. I would like to request 2 minutes to present a statement.

Mr. MUSKIE. May I change this to propose that following the Stafford statement and a 2-minute statement by the distinguished Senator from New Hampshire (Mr. DURKIN) we turn from the Bentsen amendment, each of us reserving whatever time remains, to the Baker amendment, under the time limitation previously agreed to, and the votes to occur when all time has expired on the Bentsen amendment and the Baker amendment, in that order.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, Mr. President, I want to understand what it is we have done here and how it changes the previous unanimous-consent agreement. My understanding is that the Bentsen amendment is now pending. What we are trying to do under this new agreement is to agree that the Baker amendment may be called up as an amendment to the bill and voted on not as an amendment to Bentsen?

Mr. MUSKIE. That is correct.

Mr. BAKER. Mr. President, reserving the right to object, in answer to the distinguished Senator's question, I understand that the parliamentary situation is that the Bentsen amendment is now pending.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. The proposal by the distinguished Senator from Maine was that at the conclusion of the remarks by the Senator from Vermont, and the Senator from New Hampshire, each side reserving any remaining time, that we temporarily lay aside the Bentsen amendment. The Baker amendment, No. 1586, would then become the pending amendment under the previous time order. It would be in order and we would expect the Senator from Texas would then offer the Bentsen amendment as a substitute, or a perfecting amendment in the nature of a substitute, to the Baker amendment. The voting sequence would be first on the Bentsen substitute to the Baker amendment and, secondly, on the Baker amendment.

Mr. McCLURE. I would understand that the new amendment to be offered by the Senator from Texas would have the time limit of the remaining time on the original amendment.

Mr. BAKER. That is my understanding.

Mr. BENTSEN. That is correct.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous-consent request is agreed to.

The Senator from Vermont.

Mr. STAFFORD. Mr. President, how much time has the Senator from Vermont?

Mr. MUSKIE. Mr. President, while we have enough Senators in the Chamber, could I ask for the yeas and nays on each of the amendments?

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Is it in order to ask for the yeas and nays on the Baker amendment at this time? If not, I ask unanimous consent that it be in order to ask for the yeas and nays on the Bentsen amendment.

The PRESIDING OFFICER. Without objection, it is in order to request the yeas and nays.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the Baker amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Vermont has 6 minutes remaining.

Mr. STAFFORD. The Senator thanks the Chair.

Mr. President, I wish to state my strong opposition to this amendment, which eliminates any effective clean-car warranty protection for the consumer. Rather than promoting competition in the aftermarket, or reduce consumer costs, this amendment will have the effect of relieving the auto industry of many of its responsibilities under the present act.

I believe that the real issue surrounding the clean-air warranty is now best to assure the public that the auto manufacturers are building and designing cars that actually meet a particular pollution standard over a reasonable period of time. Reducing the length of the warranty from 50,000 miles to 18,000 miles will enable the auto manufacturers to ignore development of trouble-free pollution control systems, which would both protect the consumer and protect the manufacturer against potential warranty claims. On this point, EPA Administrator Train wrote Senator BUCKLEY on July 20, stating:

> I must conclude that our ability to elicit the much-needed improvement in durability of emission controls will be impaired if the term of the warranty is reduced.

Senator BENTSEN argues that the public will still be protected by the certification procedures. This is what General Motors said on that point last year:

> The deterioration factors obtained from certification testing will seldom represent the actual field use of vehicle by car owners. The reasons for this are many but one is the fact that durability cars are driven night and day in order to complete the necessary certification requirements in a 3 to 4 month period.

Thus, the simple fact that a prototype has been certified as meeting the standard for 50,000 miles will not assure that production line cars meet the standard.

Nor can the recall provision be expected to provide realistic control. According to Administrator Train:

> A recall investigation is a protracted and resource-intensive process. The nature of this process will inherently limit the number of recalls that will actually be achieved.

The Senate is told that the so-called "independent aftermarket" favors a reduction in the warranty term. While that may be true, the Senate must realize that the auto industry also favors a reduction, and that the manufacturers would be the true beneficiaries of the shorter warranty. General Motors told a House committee that—

> It would be best to limit the 207 warranty to a period of one year and 12 months rather than five years and 50,000 miles.

I disagree with the view that the manufacturers should be released from their present responsibility to maintain quality control of the emissions control systems it sells for a period of 50,000 miles.

Under the Bentsen amendment, the consumer would have to pay to have his car returned to compliance after 18,000 miles. The only way to avoid this would be to do away with maintenance and inspection programs, which would surely lead to dirtier air. On this point, Mr. Train said:

> It is my belief that a reduction in the term of the § 207(b) warranty will deter initiation of inspection and maintenance programs of many areas. Should reduction in the term of the present five years/50,000 miles warranty be inevitable, some mechanism to encourage implementation of inspection and maintenance programs should be substituted.

If the manufacturer carries the responsibility to maintain the car at the standard for 50,000, compliance can be achieved and maintained by more careful quality control and improved design at the factory.

The advocates of the 18,000-mile warranty state that the automakers have already indicated that if they are to remain liable under this performance warranty, they will require use of their own original equipment manufacturer's parts—OEM—or their equivalent, installed by their franchised dealers. Where is the evidence of this statement? When the issue was raised in 1974, the House Small Business Committee states:

> As the malfunctioning or deterioration of these parts is a result of the normal operation of the vehicle, and not the result of the emission control device, it is the owner's responsibility to have these functions serviced at his or her own expense . . . These automakers, with their extensive legal departments, realize that the antitrust laws prevent them from requiring that only their parts be used to replace those which they know will wear out prior to the expiration of the 5-year/50,000 mile warranty, or that the servicing of these parts only be performed by a franchised dealer.

Thus the House committee recognizes that the existing warranty can not be used as a tool to usurp business from the independent parts dealers. That report, however, was in error when it implied that nearly all the recent increases in car prices have been due to air pollution controls and that the industry had added $300 to the cost of each new car to cover costs of repairing emission control systems. The actual increase, according to the Bureau of Labor Statistics, has been $1 per car.

The so-called anticompetitive potential within the clean-car warranty is pure hypothesis. If it exists, at all, I believe that it has been eliminated by the adoption of five sections already included in the bill, as reported by the committee. These include a provision for an FTC study, one that recognizes that the clean-air goals of the act are significant. Any further doubts can be resolved by the adoption of amendment 1586, sponsored by myself and Senators BAKER and STAFFORD. That amendment states affirmatively that the car owner can go anywhere to have maintenance work done without infringing the clean-air warranty, including doing the work himself. While the Baker-Buckley-Stafford amendment in no way lessens the incentive to the manufacturer to maintain quality control and develop vehicles that are inherently low in pollution, it protects fully the consumer and the aftermarket parts and service industry.

I would also note that several provisions of Senator BENTSEN's amendment—subsections (b), (d), and (e)—are virtually identical to provisions already contained in the reported bill.

Thus the members of the Senate need not vote in favor of this amendment to require the FTC study and allow for parts certification.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 2 minutes.

Mr. DURKIN. Mr. President, I rise in opposition to the Bentsen amendment. My concern is that I am afraid the consumer is going to pay three times. He is going to pay for inferior auto pollution equipment; he is going to pay for the upkeep of that equipment, and then he is going to pay with his lungs, with the increased level of pollution.

I think the air quality index in the Nation's capital is a disgrace. I think many people would agree that much of that is auto pollution. Even in New Hampshire we are beginning to see pollution levels rise in the southern part of the State. Again, much of this or most of this is a result of auto pollution.

I think if the auto industry takes the cue from the three-way converter that has been adapted and produced by the Engelhard Co. of New Jersey, that is the answer. They can meet the standards and I believe they can preserve the warranty.

Furthermore, I think if the auto industry would spend as much time in perfecting their pollution devices as they do in perfecting square headlights and nonessential changes on the automobiles, we would all be a lot better off. Finally, my concern is that the Bentsen amendment is not going to help the small business, independent corner repairman in New Hampshire or any other State. For that reason, I must express my opposition.

The PRESIDING OFFICER. Under the previous unanimous-consent order, the Senator from Tennessee is recognized.

AMENDMENT NO. 1586

Mr. BAKER. Mr. President, I call up my amendment No. 1586, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Tennessee (Mr. BAKER) for himself and others, proposes an amendment numbered 1586.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER's amendment (No. 1586) is as follows:

> On page 70, strike line 13 through line 25, and insert in lieu thereof the following:
>
> "SEC. 27. Section 207(a)(1) of the Clean Air Act is amended by adding the following new sentences at the end thereof: The cost of any part, device, or component of any light-duty vehicle that is designed for emis-

sion control and which in the instructions issued pursuant to subsection (c)(3) of this section is scheduled for placement during the useful life of the vehicle in order to maintain compliance with regulations under section 202 of this Act, the failure of which shall not interfere with the normal performance of the vehicle, and the expected retail price of which, including installation costs, is greater than 2 per centum of the suggested retail price of such vehicle, shall be borne or reimburse at the time of replacement by the vehicle manufacturer and shall be provided without cost to the ultimate purchaser, subsequent purchaser, or dealer. The term "designed for emission control" as used herein means a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. It is not intended to include those vehicle components which were in general use prior to model year 1968 and the primary function of which is not related to emission control.'.".

On page 73, after line 5, insert the following new section, and renumber the succeeding sections accordingly:

"SEC. 30. Section 207 of the Clean Air Act is amended by adding the following new subsection:

" '(g) For the purposes of this section, the owner of any motor vehicle or motor vehicle engine warranted under this section is responsible in the proper maintenance of such vehicle or engine to replace and to maintain, at his expense at any service establishment or facility of his choosing, such items as spark plugs, points, condensers, and any other part, item, or device related to emission control (but not designed for emission control under the terms of the last three sentences of section 207(a)(1)) that has a design life of less than the useful life of such vehicle or engine, unless such part, item, or device is covered by any warranty not mandated by this Act or unless such part fails prior to its design life.' ".

Mr. BAKER. Mr. President, this amendment is sponsored by the Senator from New York (Mr. BUCKLEY), the Senator from Vermont (Mr. STAFFORD), and myself. It states affirmatively that the owners of automobiles can go anywhere they choose to have necessary and proper maintenance work done, including the accomplishment of the work themselves if they want to, without infringing their rights under the warranty for that automobile. To a very great degree, this language will meet the problems raised by members of the so-called after market parts industry, without endangering a viable auto-emission control program.

Reasonable pressure must be kept on the automobile industry to assure that the cars built and sold to consumers actually continue to meet the clean-air standards in use. Nevertheless, I agree that the Congress must be equally firm in working to prevent any anticompetitive effects that could result against the auto servicing business.

To balance such dangers, the Committee on Public Works has already included five specific provisions in this bill: Sections 25, 27, 28, 29, and 39. I support those sections. I believe that our substitute will further clarify the right of the consumer to have necessary maintenance work done wherever he chooses.

Our substitute appears necessary because of the strong conviction that remaining among some representatives of the independent auto parts and service industry that the clean air warranty could drive business into the shops of the car dealers. I believe that this substitute achieves that protection without the several failings that I believe are inherent in the Bentsen amendment.

The Bentsen amendment, I believe, ignores the objective of clean, healthy air.

It imposes additional burdens on the consumer, as it would shift the cost of repairing a faulty emission control system from the manufacturer to the owner.

Possibly most significant, it eliminates any financial or practical incentive for manufacturers to produce an emission control system that functions effectively for the car's life, since the manufacturer's exposure would be for only 18,000 miles.

And it fails to accomplish the stated objective of improving the competitive position of the independent garage owner, at least in comparison with the protection in the present bill.

Strong warranty provisions are vital if the goals of the Clean Air Act are to be achieved. Reducing the length of the performance warranty, of course, does not terminate the responsibility of the consumer to assure that his car remains in compliance with required standards. More and more States are adopting emission inspection programs. Under the Bentsen Amendment, the consumer would lose his protection against any failure of the manufacturer to produce a clean car, even before most cars are paid for. In recognition of this fact, the Consumer Federation of America and Consumers Union have stated their strong opposition to the Bentsen amendment.

Nor, I believe, will the Bentsen amendment augment the competitive position of the independent garage owner. Under current law, automakers are prohibited from conditioning any performance warranty upon the purchase of parts or service from a franchised dealer. The committee bill requires that all owners' manuals contain instructions that any necessary maintenance need not be performed by a franchised dealer or using the manufacturer's parts.

The 50,000 mile warranty has been in the law and in the drivers manuals for over 5 years. The independent parts dealers now hold some 80 to 85 percent of the business. That proportion has actually increased in the years since adoption of the 50,000 mile warranty in 1970.

The performance warranty establishes a realistic test of whether the manufacturer is carrying out its responsibility that cars be built to meet the emissions standards for the useful life of each vehicle. Without an effective performance warranty, I am convinced we will eliminate any incentive to the manufacturer to produce an emissions system that, when properly maintained, performs to the emission standard for which the consumer has paid.

If we cannot be sure that new cars meet the standards and that those cars will continue to meet those standards on the highway, our clean air goals will not be realized and public health may be endangered.

Mr. President, in summary, this amendment to the bill, contains two provisions:

First, it strikes the language of the bill that requires the manufacturer to provide a free replacement of any device principally related to emissions controls that costs at least $75 and must be replaced before 50,000 miles. That provision in the committee bill would be deleted, and, instead, the Baker amendment would specify that such replacement specifically relates only two things, the catalytic converter, or a thermal converter, if they are scheduled for replacement prior to 50,000 miles and if the replacement cost exceeds 2 percent of the sticker price of the automobile, which I believe in every case would be more than the $75.

Second, and more important, the Baker amendment adds a sentence that states the carowner can go anywhere he wants to go to have the proper maintenance on that car performed, with whatever parts may be appropriate. It places the burden for proper maintenance on the carowner, but relieves him of any real or imagined resonsibility to go back to the car dealer to have routine maintenance work done.

As the distinguished Senator from Texas and others have pointed out, the business of the replacement of spark plugs, of points, of oil filters, of air filters, and the like can be done in dealers' shops, but this amendment makes it clear that it need not be done there, and, as pointed out previously, up to 80 or 85 percent of that work already is done outside the franchised dealers' shops.

The choice, I believe, is between an 18,000-mile warranty and a 50,000-mile warranty. The Baker amendment would preserve the 50,000-mile warranty. On the other hand, it provides sufficient protection against the anticompetitive implications of the provision, so that the after-market industry is fully protected. I have discussed this amendment with substantial and significant parts of the after-market industry, and while they are not entirely satisfied with it, they much prefer it to the law as it stands now, and even prefer it to the improvements written into the law by the full Public Works Committee.

I think the Bentsen amendment goes too far. I think the Baker amendment provides enough protection for the after-market industry, without sacrificing the clean air goals of the act, and of the Senate, over the past several years, and protects the consumer, ultimately, in an important way.

Mr. President, I reserve the remainder of my time.

Mr. McCLURE. Mr. President, will the distinguished Senator yield for a question?

Mr. BAKER. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, just very briefly, I am troubled by one problem we have in this whole situation, which the Senator's amendment seeks to clarify, and that is, which components of the automobile are those which are principally, primarily, or exclusively for pollution control?

The Senator has used the examples of the catalytic converter or the exhaust gas recirculator. Those, I think, are clearly so; and under the language appearing at the bottom of the first page of the Senator's amendment, which ways, "the failure of which shall not interfere with the normal performance of the vehicle," very clearly eliminates things like carburetion, fuel injection, spark plugs, and so on.

Then I get over to page 2 of the amendment, lines 10 to 13 where, as the Senator seeks to define the term "designed for emission control," he has added terminology which lends confusion to my mind, at least, and tends to cloud that definition, where it is said it is not intended to include those vehicle components which were in general use prior to model year 1968, and the primary function of which is not related to emission control.

Does that mean that the purchaser of a Chrysler lean burn engine has no warranty provision that will apply because the manufacturer's strategy for the attainment lies in the carburetion? Does it eliminate from the warranty provision the purchaser of a Cadillac so far as the electronically controlled and monitored carburetion is concerned?

Mr. BAKER. Mr. President, let's look at the Chrysler lean burn engine. It, of course, does not have a catalytic converter or a thermal converter. Rather it has a sensing system which feeds, I believe, six inputs into an electronic computer and does a very exotic job of regulating the spark advance and retard and produces then, as the name implies, a clean burning engine. It really produces a very lean burning engine.

I think that clearly the provisions of line 6 through 8 would not apply.

> The term "designed for emission control" as used herein means a catalytic converter, thermal reactor.

They have neither of those, they would not have any problem with this—

> or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions.

Mr. McCLURE. I have no problem with that portion of the definition. I agree with the Senator.

Mr. BAKER. All right. It is not intended to include those vehicle components which were in general use prior to model year 1968, meaning that certain exhaust system components, certain recirculation systems, certain air induction heating systems, and others, that were put on for performance and not for emission controls. To make sure, we do not by this amendment go back and make automobile manufacturers pick on things that were never intended to be emission control devices, but may now be used in certain control strategy in current model year cars.

Mr. McCLURE. Or might incidentally affect the pollution performance of the automobile, but are not really intended for that purpose.

Mr. BAKER. Not solely or primarily for that purpose, as the amendment states.

Mr. McCLURE. Yes. But it is the addition, the remainder of that sentence that causes me the problem because it goes on to say "* * * and the primary function of which is not related to emission control * * *."

Mr. BAKER. The interpretation that I put on it, as the major author of it, is that it is just as stated; that is meant to separate out those devices which appeared on cars for performance purposes as distinguished from emission control purposes.

Mr. McCLURE. Is it the Senator's expectation then that the sensing devices in the Chrysler lean burn that are related to carburetion would be covered?

Mr. BAKER. It is my hope that they would be covered, if they are scheduled for replacement at more than 2 percent of the car's cost. They were certainly put on for emission controls. A good argument, in my view, could be made for using them for performance improvement as well, and we do probably get a little performance improvement. But I do not think anyone could make a serious argument against the idea that the computer sensors in the Chrysler lean-burn system were put there to meet statutory emission standards without the use of a thermal converted or a catalytic converter.

Mr. McCLURE. So that that would be a covered portion of the emission controls, even though it is part of the carburetor or carburation system; the same thing would apply to any other automobile in which an electronic system has been added in order to move in the direction of pollution control.

Mr. BAKER. I think that is true. I think it ought to be borne in mind as well, though, that the amendment provides that there is a responsibility for the manufacturer to do it under section 207 (a) only if the cost exceeded 2 percent of the sticker price of the car. That might or might not remove the Chrysler lean-burn system from the coverage.

There is one point I wish to make, though, to the Senator in that respect. It probably does not mean a lot now. It concerns this business of the cost and the coverage of exotic ignition or fuel metering systems. But it is going to mean a whole lot because, as we go into more advanced cars and in future model years, as we may go into multiple catalysts, more fuel injection, and they may have to meter, not only the fuel mixture, but the whole series of environmental parameters, meaning air pressure, temperature, the amount of oxygen in the mix, and the like. As we have to do, the complexity of those systems will grow.

I shall say now for this RECORD that it is in contemplation of that sort of intricate and complex system that I believe "primarily for emission controls" ought to be included and was included in this amendment.

Mr. McCLURE. When we refer, then, to those systems which are more complex than simply adding a converter or replacing a converter, or a thermal reactor, we are dealing with a complex system which has many components. That gets back to the second question that I have about the amendment of the Senator, which deals with the 2 percent of the suggested retail price of the vehicle. Is the Senator talking about the entire system, or is he talking about each component of the system? Is he talking about the cost of the system, as a whole, or the individual repair which will be required to bring it back up to performance standards?

Mr. BAKER. Mr. President, the Senator poses a problem that it is almost impossible to answer if we do not yet know what systems are going to be adopted by the major manufacturers. We have a good idea, but we do not yet know. We do not quite yet know how the systems will be interrelated. My hope and expectation would be that the amendment would cover two things. Now and in the future, clearly, it would cover the cost of the catalytic converters and thermal reactors. I do not think there is any argument about that. And beyond that, it is my hope and expectation that it would cover the entire aggregation of components that were dedicated to the mission control program for the car, if they are scheduled for replacement before 50,000 miles and would cost over 2 percent of the sticker price.

One can extend that ad infinitum. But I am speaking now of such things as fuel metering, air metering, afterburner treatment, fuel injection, electronic ignition, and the range of sensing systems that are calculated to burn lean or to otherwise control the level and type of emissions that come from the car.

All of those ought to be treated as a system. They ought to be thought of primarily for the purpose of reducing vehicle emissions.

Keep in mind, also, that this only involves prepaid replacement of those parts We are not talking about whether or not one can go back under his general car warranty and allege, for instance, that his fuel injection metering pump went out. That would be covered under the regular warranty on the car anyway. But we are talking about the prepaid items where one can go back and say: "Look, I have already paid for this, and it is scheduled to last 30,000 miles. Its primary purpose was to reduce vehicle emissions; therefore, I want my part."

Mr. McCLURE. My only problem remaining with that is this: Let us take an electronic fuel metering system, where they are complex and interrelated and the entire system cost in excess of 2 percent of the cost of the automobile, but the individual part that failed was only $40; the cost of the part with installation might be $65. Will the amendment of the Senator from Tennessee cover that individual component and labor where it would be less than 2 percent of the cost of the automobile, although the entire system was more than 2 percent of the cost of the automobile?

Mr. BAKER. I think the Senator is asking me to say things I do not know. I do not blame him because they are good questions. But I do not think it is possible to know.

Let me give the Senator a precise example. Let us take the case of a Cadillac Eldorado where fuel injection is an option and not standard. It is standard, I understand, on the Cadillac Seville. Let us assume that it is this year's model, where fuel injection is there as an option because it is attractive from a performance standpoint and, as far as I know, is not necessary for the performance of the catalytic converter or any of the other emission control devices. In that case, in my judgment, the fuel injection system will be covered by the general car warranty. Let us take it 2 more years. Let us change it. Let us assume that we have a Volvo, with triple catalyst and a fuel metering system that is going to meter not only for performance but also in order to accommodate the more complex requirements of that intricate catalytic conversion system, where you have to measure not only the temperature but also the amount of oxygen and pressure and certain other parameters. In that case, fuel injection is absolutely essential if you are going to use a multiple catalyst.

In the case of the Volvo—with no disservice to the Volvo—that is part of the fuel system and that is part of the cost. It will be covered in the 50,000 mile warranty as a prepaid cost if it is scheduled for replacement prior to 50,000 miles and would cost 2 percent or more.

Mr. McCLURE. As I understand, if the total cost exceeds 2 percent, any component required would be covered by the warranty, under the amendment.

Mr. BAKER. Will the Senator repeat his question?

Mr. McCLURE. If I understand correctly, from the remarks of the Senator from Tennessee, it would be his intention, as the principal author of this amendment, that if the entire system costs more than 2 percent of the cost of the automobile, the replacement of any component part of it still would be covered by the provisions of this, even though it would be less than 2 percent of the cost of the automobile.

Mr. BAKER. Under the 50,000-mile warranty.

Mr. McCLURE. Under the provisions of this amendment, it would be covered.

Mr. BAKER. Which is the same as the existing law.

Mr. McCLURE. Excuse me?

Mr. BAKER. The 50,000-mile warranty being the same as the warranty under existing law.

Mr. McCLURE. I just wanted to make sure that we did not end up with some ambiguity as to what this amendment means. If indeed a component replacement cost is less than 2 percent of the automobile cost, would it be covered under the language of this amendment? My understanding is that if any other system of which it is a part costs more than 2 percent, the replacement of any component part of that system also would be covered in the same way that the entire system would be—no greater or no lesser amount.

Mr. BAKER. The best answer I can give is this: We are talking about parts that are scheduled for replacement before 50,000 miles. In the amendment, we are talking about parts that cost more than 2 percent of the sticker price. We are providing that the manufacturer must prepay those parts. In those cases, if they are scheduled for replacement, the manufacturer does prepay it. It does not make any difference, so long as it is related to emission controls.

In the other example, where we have a part that is not scheduled for replacement but it fails, such as a fuel injection pump, it would be covered under the general requirement of the existing law that says you have to warrant the performance for 50,000 miles.

Mr. McCLURE. Regardless of cost?

Mr. BAKER. Regardless.

Mr. McCLURE. And it is not the Senator's intention, by this amendment, to affect that?

Mr. BAKER. That is right.

Mr. McCLURE. I thank the Senator for the clarification.

Mr. BAKER. Mr. President, before I yield to the Senator from Vermont, I ask unanimous consent that the full Bentsen amendment, No. 1614, may be offered as a substitute for my amendment No. 1586, so that there will be no question about the appropriateness of the Bentsen amendment being offered as a substitute for the Baker amendment, as contemplated by the previous unanimous consent order.

Mr. BENTSEN. That is with the understanding that the provisions of the Bentsen amendment, as applied to the bill itself, will be fully incorporated.

The PRESIDING OFFICER. Will the Senator please use the microphone?

Mr. BENTSEN. That is with the understanding that the provisions of the Bentsen amendment, as applied to the bill itself, will also be fully implemented.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BAKER. I yield 5 minutes to the Senator from Vermont.

Mr. STAFFORD. I appreciate the Senator yielding to me.

Mr. President, the amendment offered by the Senator from New York (Mr. BUCKLEY), the Senator from Tennessee (Mr. BAKER), and myself is designed to provide both clean air and fair and free competition in the servicing of automobiles.

It is important that reasonable pressure be maintained on the auto industry to have the auto manufacturers produce cars that not only meet clean air standards when new, but continue to meet those standards when they are being used by American motorists.

It is equally important that this goal is achieved in a way that will prevent any anti-competitive situation from developing in the business of servicing automobiles.

It is my conviction that the committee bill contains provisions that protect the consumer and the after-market industry. But, in view of the continued concerns that have been expressed by the after-market industry, the amendment we have offered makes clearer the intent of the act. That intent is to protect the right of the consumer to have repair work performed wherever the consumer chooses.

The committee bill does not intend that the Clean Air Warranty should drive business into the shops of the automobile dealers, and the bill does not do that.

Our amendment makes it clear that the owner of a car has a responsibility to maintain that car in proper fashion. It would be the responsibility of the owner to replace or to have maintenance done on parts that have a design life of less than 50,000 miles, which is the "useful life" of the car. In this matter, we are talking about spark plugs and oil changes, and the like. That maintenance work may be done wherever the owner wishes, without jeopardizing the owner's rights under the warranty.

Our amendment also makes it clear that the manufacturer will have to stand behind the warranty of 50,000 miles for the essential and specifically designed emission control device or part. That means, generally, the catalytic converter, thermal reactor or other major component installed on the auto for the sole, or primary, purpose of controlling emissions.

To reduce the warranty terms to 18,000 miles would be unwise for at least two major reasons. It would enable the auto manufacturer to relax quality control to the point where the quality of our air would be reduced; and it would also place greater maintenance and costs burdens on the consumer.

I urge Senate approval of our amendment, Mr. President.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, I yield 3 minutes to the Senator from New York.

Mr. BUCKLEY. I thank the Senator from Tennessee.

Mr. President, I join the Senator from Vermont in urging support for this amendment. I am very pleased to be a cosponsor of the Baker amendment. I feel that it strengthens the provisions already in the act to protect the after-market.

I believe that this amendment will clarify the point that car owners can go anywhere they please to obtain service for their cars. As such, this amendment will eliminate any residual anticompetitive effects that some argue exist in the present performance warranty.

In a recent statement—and I think this is most significant—the Motor Equipment Manufacturers Association, an association of some 750 parts makers, stated its "overwhelming and unbending support of the amendment to be offered by Senators BAKER, BUCKLEY, and STAFFORD."

The first part of our amendment is a substitute for the provisions in section 27 that requires prepayment for any device principally for pollution control that costs $75 or more. Our substitute specifies that such prepayment will extend only to items such as the catalytic muffler and that the price be based on a percentage of the car's sale price, rather than a fixed dollar amount. While the concept of this provision in section 27 is essential to assure that cars are not certified with catalysts that will last only a few thousand miles, I believe that our substitute provides a more reasonable definition, one that inflation cannot outrace.

The second—and more significant—

part of this amendment makes clear that it is the carowner's responsibility to maintain his car properly to obtain the benefits of the performance warranty. It makes explicit what is now implicit in the law. It will be the responsibility of the owner to have this maintenance done on parts that have a design life less than the 50,000-mile useful life of the car, such as spark plugs or motor oil. That maintenance work may be done wherever the owner wishes, without jeopardizing the owner's rights under the warranty.

An illustration that was included in the committee report may prove helpful: The manufacturer of a car recommends to the buyer that he replace the spark plugs at 12,500 miles. In this example, the spark plugs may need replacement on a particular car at 14,000 miles. It has been argued, incorrectly, that the performance warranty requires the carowner to return to his dealer to have those spark plugs replaced.

The PRESIDING OFFICER. All the time of the Senator from Tennessee has expired.

Mr. MUSKIE. Mr. President, I yield whatever additional time the Senator from New York wishes.

Mr. BUCKLEY. I thank my friend from Maine. I shall only take another minute or two.

It is the intent of the present law—and it is spelled out in this amendment—that the owner carries the responsibility for this work, which can be done anywhere the owner wishes. If the owner does not make those needed replacements, and that becomes the reason a car fails an in-use air-standards test, then that is evidence of improper maintenance, voiding the effectiveness of the warranty coverage, at least until the spark plugs are replaced by the owner. This amendment should encourage wise and proper maintenance of cars.

The alternative approach suggested by my good friend from Texas (Mr. BENTSEN) would reduce the warranty term to 18,000 miles. That would be unwise. It would enable the automotive industry to relax its quality control to the point that cars in use are likely to become far heavier sources of pollution. This would increase the burden on the consumer to have cars brought back into compliance at the consumer's expense, should they fail an inspection test of emissions, even with careful and proper maintenance.

Mr. President, I urge that the Senate support the Baker amendment.

Mr. BAKER. Mr. President, will the Senator yield me 30 seconds for a unanimous-consent request?

Mr. MUSKIE. Yes, I do.

Mr. BAKER. Mr. President, I ask unanimous consent that the distinguished Senator from New Hampshire (Mr. DURKIN) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, under the unanimous-consent agreement, I indicated that the time on the Baker amendment would be divided between Senator BAKER and myself and Senator BENTSEN.

All I want to do at this point is say that I support the Baker amendment. It was filed at the same time as the committee bill. There is a description of it that was contained in the individual views that were included in the committee report. I think its effect is to strengthen the provisions of the bill and add some other acceptable safeguards. For reasons that I think have been so well spelled out in the colloquy between Senator BAKER and Mr. McCLURE and by Senator BUCKLEY and Senator STAFFORD, I support the amendment. I am happy to turn over to Senator BENTSEN whatever time remains on the Baker amendment.

Mr. BENTSEN. I thank the manager of the bill.

First, on the question of lessening the clean-air standards, there is no intent at all to try to bring that about, and I do not think my amendment does that. What we are looking at, again, is a production warranty that must not be confused with a performance warranty. We have adequate safeguards in the production warranty to see that the burden still stays on the manufacturer. When we talk about going from 5 years/50,000 miles on the performance warranty to 18 months or 18,000 miles, whichever comes first, we have not at all affected the production warranty requirements of 5 years or 50,000 miles, and have no intention of doing to. We have procedures under the act providing EPA the right to check assembly line production. We also have the recall procedure which, if EPA finds five of the models not meeting that standard, an investigation can be initiated and a recall ordered.

If we had a situation where EPA saw vehicles out there at 20,000 miles and the whole class or model of cars failed, that is obviously a production failure and there would be a recall ordered. Again, you have the recall requirements put on them so we have adequate safeguards there.

I have heard some people on this floor say that they have taken care of the independent garageman. The message has not gotten across to him, and he does not believe that at all. I agree with those garagemen that we have not.

The National Congress of Petroleum Retailers, the gas station operators, write:

> Our members are certain that the provisions as currently drafted will have a disastrous effect on their business, on their employees, and on the consumer's ability to get the best price and service for their vehicles. The performance warranty will effectively force the consuming public to return their vehicles to franchised dealers for all parts and services to their cars for 5 years or 50,000 miles so they can be sure they are not invalidating their warranties.

My good friend from Tennessee has addressed himself to the problem and he has attempted to protect the independent garageman, but, frankly, I do not think he has gone far enough. The pressures are going to be on that carowner. When he has a failure in performance and has been using an independent garageman and goes to the franchised dealer for warranty repair, that franchised dealer has to make, in part, a judgmental decision. Some judgment will be involved there. There will be a swearing match as to what was done, whether the owner really followed the manual, whether the independent garageman did. They are going to have a hassle.

Finally, perhaps, he gets paid, even if it happens to be a car owner who is on the road and will never see that franchised dealer again. We would hope that even under those conditions, his warranty coverage is provided and he gets just compensation. But there is no question that there is going to be more argument involved than if he had been going to a franchised dealer all the time.

How does the car owner avoid that? The way he avoids it is just to go to franchised dealres from then on and not have that kind of dispute. Those are the pressures that are going to be on the car owners of this country. That is how we are going to close the doors of 400,000 independent garagemen in this country.

I think that is wrong. I think that lessens competition. There is a place for the franchised dealer. He does a great job. But there is a place for that independent garageman who also does a good job for the people of this country in giving them competitive service.

The sponsors of the Baker amendment said that cutting back to 18,000 miles and 18 months on the performance warranty, not the production warranty, puts an additional cost on the consumer, because it shifts the burden and the expense of repairing the faulty emission control system from the manufacturer to the car owner.

Under a warranty, the question is not who pays, but when. Is anybody under the illusion that it is not going to be a car owner who finally pays? He is the man who is going to pay the cost.

It is just a question of when it is done. Under a prolonged performance warranty, the owner pays for coverage at the time of purchase and then must properly maintain the car and have the warranty work performed by the franchised dealer of the manufacturer if he really does not want to be hassled over it.

Also, under a prolonged 5-year and 50,000-mile warranty, the consumer, the car owner, pays for the coverage, which he may never claim. If his vehicle never fails an emission test, he will not seek warranty repairs and he will have lost the $160 to $260 he paid for that coverage at the time he purchased the car. That cost will be built into his car and he will be paying for it.

In the meantime, the manufacturer will be drawing interest on his money for the extra charge that he made.

Coverage under a performance warranty of 5 years or 50,000 miles or any other period of time will not be automatic or be a blanket. The car owner will have to maintain his car according to the schedule outlined in the owner's manual. He must show that he has used the original equipment maufacturer's parts or their certified equipments, and that he has had them properly installed. If he cannot prove all three of those conditions, he can be denied compensation under the warranty.

I applaud the distinguished Senator from Tennessee in trying to meet a problem, but I do not think he has gone far enough in trying to accomplish that.

The charge has been made that the 18 months and 18,000-mile performance warranty would eliminate any financial incentive for the manufacturer to produce a durable emission control system. That simply is not correct. The 5-year/50,000-mile production warranty obligation would remain in effect, and the auto maker is required to warrant that the vehicle is designed, built and equipped to meet those standards at the time of sale. The warranty also requires that the vehicle is free from defects in materials and workmanship which would cause that engine or that vehicle to fail to conform to the applicable regulations for its useful life, and that useful life is now set at 5 years and 50,000 miles, and it is going to stay that way under my amendment.

I do not affect that in the least, but I agree with the House Small Business Committee in saying that the 5-year/50,000 mile warranty is unnecessary and may well put many of your independent garagemen, all 400,000 of them, out of business.

Mr. President, I would hope that the amendment of the distinguished Senator from Tennessee is defeated, and that the Senate will approve the substitute measure which I have sent to the desk, as proposed by the Senator from Texas.

I am willing to yield back the remainder of my time if the Senator from Maine is.

The PRESIDING OFFICER (Mr. HATHAWAY). Who yields time?

Mr. MUSKIE. Let me ask, I would just like to have 2 minutes to sort of summarize this point, but before I do that let me ask if the Senator from Tennessee requires any more time.

Mr. BAKER. Mr. President, I do not require any more time.

Mr. MUSKIE. May I ask Senator BUCKLEY.

May I just say this—and I yield myself 2 minutes and I will be through—does the Senator want some more time?

Mr. McCLURE. Five minutes.

Mr. MUSKIE. Would the Senator like it now?

Mr. McCLURE. Yes.

Mr. MUSKIE. I yield 5 minutes to the Senator from Idaho. I will not take more than 2 minutes, may I say to the Senator from Texas, following the Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator for yielding this time because I have a problem with the Baker amendment involving this entire question, and I think it is a question of understanding, and I would like to at least get that understanding on the record.

In our conversations in the committee, on the floor, in the hallways and everywhere else we have failed to make the distinction, I think, that must be made essentially as to what 207(a) and 207(b) cover, the distinction between the warranty under 207(a) and 207(b).

As I understand, the 207(a) warranty to which the Baker amendment addresses itself primarily, at least in the 2-percent requirement, that is a design warranty. It is not a performance warranty. It does not say that this part, installed in the car, must go 50,000 miles or the manufacturer is liable. It says that the manufacturer must design that part to go 50,000 miles, and if it is designed and produced as though it ought to go that far, they have met their responsibility unless the car-owner can prove that there was a defect in materials or workmanship that might bring them back into a warranty provision.

But if it fails in less than 50,000 miles, and the car owner cannot show a defect in material and workmanship, the manufacturer is not liable, as I understand, under 207(a).

It also says you can design a part that must be, that is designed to be, replaced in less than 50,000 miles, and if the car manufacturer designs such a part for such replacement and it is a part of the emission control system that the part must be replaced, the replacement must be made for the 50,000 mile period. But we should not assume that the 207 (a) warranty is a 50,000-mile performance warranty of that part because the very essential element of the proof of defect in materials and workmanship is a very difficult one, and the fact that it failed in less than 50,000 miles does not guarantee replacement of that part by the manufacturer at the manufacturer's expense.

So the 207(a) warranty is not a warranty that in all instances will bind the manufacturer to replace, under the committee bill, under existing law, or under the Baker amendment.

I think if anybody disagrees with that statement I wish he would say so now so we can at least understand what it is we are dealing with in the provisions of the law.

Mr. MUSKIE. If the Senator will yield, Mr. President, I think that is an accurate statement of the law. Replacement will be required if the part is defective, as I understand it. The Senator from Tennessee may want to add to it.

Mr. McCLURE. Let me add further, do not misunderstand what I am saying about the 207(a) warranty as affecting the 207(b) warranty, which is a different matter.

Mr. BAKER. Mr. President, if the Senator will yield for just a minute, I think the Senator is right insofar as (a) goes.

(a) is a design warranty. It says:

> Either you build this part so you think it will last 50,000 miles, and that EPA agrees it will last 50,000 miles, or if you do not do that then design it so it will last less than 50,000 miles and you are going to replace it as a matter of routine maintenance if it is brought back.

The kicker in the thing, so far as the after parts market is concerned, is they say, "Look, we are losing all that bring-it-back trade because you always have to take it back to the dealer."

What we are saying is, no, you do not. You only have to take it back to the dealer if it is a prepaid part that costs more than 2 percent of the net sticker price of the car and it is a catalyst or thermal reactor.

Mr. President, the 207(b) provision is, in fact, a performance warranty. I remember very well when the clean air amendments of 1970 were enacted that section (a), as I recall it, was my proposal. Section (b) was John Sherman Cooper's proposal, and we ended up, as we often do, doing both.

Mr. McCLURE. The reason I raise the issue is that there should be no illusion as to the extent of the 207(a) design warranty for 50,000 miles; 207(b) does include plugging a portion of that omission under 207(a), but there is a different burden of proof under 207(b) than there is under 207(a), and the burden of proof is a burden of proof on the car owner in each instance.

That is true under the Baker amendment, under the section of the Baker amendment, as well. If I understand the second page of the Baker amendment, section 30 that appears on page 2 of the amendment at line 16, that burden of proof lies with the owner as it does under the committee bill, if I understand both the committee bill and the Baker amendment; am I correct?

Mr. BAKER. Mr. President, so far as the burden of proof is concerned, all you have to prove is that the thing does not perform according to the emission requirements.

Mr. McCLURE. And that you have maintained the automobile according to the maintenance schedule published by the manufacturer.

Mr. BAKER. That is correct, but you do not have to do it at the dealer's showroom.

Mr. McCLURE. Right.

The reason I bring that out is because it may be a difficult burden of proof for the owner to bear, and also invites the manufacturer to establish a more elaborate maintenance schedule than otherwise would be required, so that you can, in essence, create more doubt about whether the maintenance schedule was maintained or not, and if it was not, then it voids the warranty and it voids the liability of the manufacturer.

Mr. BAKER. If the Senator will yield further, Mr. President, we ought to say for the record though, in all justice and fairness to the automobile industry, that they have been very, very good about their performance on these warranties. Most times I know of when there has been any question they have resolved it in favor of the owner. I am sure there are exceptions to that and, no doubt, I will get letters pointing them out. But, by and large, the automobile industry has been very, very good about that, and what we are dealing with here is whether or not we need to protect the aftermarket suppliers, the independent garage owner, the mechanic, and the like. The purpose of the Baker amendment is to do that and to strengthen the protection and the competitive position of the independent operator under (a) and (b).

Mr. McCLURE. Mr. President, I do not mean to burden this discussion unduly, but it seems to me when we start talking about protecting the consumer, what we are trying to do here, as we are trying to compromise the various pressures we are dealing with, is actually increasing the cost to the consumer of maintaining his automobile.

Because we are, in essence, trying to thread three needles at once.

With my eyes and the sight that I have, I find very great difficulty getting the thread through the eye of one, let alone trying to thread three at once.

But we are trying to thread three at once. We are trying to say to the manufacturer, "You build that car this way, you meet these requirements."

At the same time, we are trying to protect the market freedom of both the purchaser and the supplier of the goods and services in the market so that we do not force everyone to go back to the franchised dealer or the manufacturer.

Third, we are trying to protect the consumer in this instance against merchandise that does not meet the warranty.

We are also trying to find a way by which we can see that these cars perform the way they are supposed to perform in use and not just in theory, and we compromise each one of those as we try to find the best way of balancing.

It seems to me that inherent in all this is going to be an increased cost of maintenance. That is an inherent part of the problem of meeting the pollution goals we are trying to meet.

As we are trying to clean up the air in this country, the consumer is going to pay a bill. A part of that bill will be paid on the maintenance of his automobile. We are trying to determine just exactly where that cost is going to be paid. But it is going to be paid by the consumer in the original price or in the kind of maintenance he has to do and in the maintenance requirements themselves.

Mr. BAKER. Will the Senator yield me one more minute?

Mr. MUSKIE. Of course.

Mr. BAKER. Mr. President, in a nutshell, we are going to decide in the Baker-Bentsen amendments whether the warranty on the car ought to be 18,000 miles or 50,000 miles.

I happen to think it ought to be 50,000 miles.

Next, we are going to decide whether or not we ought to beef up the protection of the individual garage owner or leave it to the automobile dealer.

I think we ought to beef it up for the independent garage owner and I think we have in the Baker amendment, without throwing the 50,000-mile warranty out the window.

Last, America does a lot of things well. But I do not think anybody even approaches America in the building of quality automobiles.

The PRESIDING OFFICER. Only 2 minutes remaining on this amendment.

Mr. BUMPERS. Will the Senator yield?

Mr. BENTSEN. I would like a little of the time in opposition. I am ready to yield back.

Mr. MUSKIE. I understand and also am disappointed on that because we will have a couple of votes very quickly.

The PRESIDING OFFICER. Once the Bentsen substitute is offered, there will be 50 minutes which can be used in addition, but at the present time there are only 2 minutes remaining on the Baker amendment.

Mr. MUSKIE. There are only 2 minutes remaining on the Baker amendment, 50 minutes remaining on the Bentsen amendment.

The PRESIDING OFFICER. Once it is offered.

Mr. MUSKIE. Then why do I not reserve my time.

Mr. BENSTEN. Let the Senator from Arkansas have a chance.

Mr. BAKER. I can reserve any statement I have until later. I will try to claim any remaining time later to finish my accolade to the automobile industry.

Mr. BUMPERS. My questions go to the Senator from Tennessee.

One, how long has the 5-year, 50,000-mile warranty been in effect in this country?

Mr. BAKER. The question was asked on that, and it has been in effect since the Clean Air Amendments of 1970.

Mr. BUMPERS. The second question: Under the Senator's amendment is it permissible for a consumer to take his automobile to anybody to have the emission control device replaced if it turns out to be defective?

The PRESIDING OFFICER. All time on the Baker amendment has expired.

The Senator can be recognized to offer a substitute.

Mr. BUMPERS. The Senator was yielding to me.

The PRESIDING OFFICER. He has no time. The Chair states that the Senator from Texas has no time until his amendment is offered.

Mr. BENTSEN. The Senator from Texas has time on the Bentsen amendment.

The PRESIDING OFFICER. Yes, but it has not been offered.

Does the Senator from Texas offer it?

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. We are operating under a unanimous-consent agreement which I propounded and which, provided that we were to set aside the Bentsen amendment temporarily, reserving all time still remaining to us, and turn to the Baker amendment under the 1 hour time limitation previously agreed to.

So that the Senator from Texas and the Senator from Maine still have, under the terms of that unanimous-consent agreement, whatever time remained to us on the Bentsen amendment when we turned to the Baker amendment.

The PRESIDING OFFICER. The Senator is correct, but the amendment has to be laid before the Senate.

Mr. MUSKIE. The amendment was offered when we began discussion of this whole business and is going to be reoffered as a substitute for the Baker amendment. But the unanimous-consent agreement was not conditioned upon that.

Mr. BENTSEN. If there is any question in the Parliamentarian's mind——

The PRESIDING OFFICER. The Senator is correct. It has to be reoffered because it was withdrawn at the time the unanimous-consent agreement was entered into. All we have to do is report the Bentsen amendment in order to have 50 minutes of time.

AMENDMENT NO. 1614, AS MODIFIED

Mr. BENTSEN. Mr. Presdient, if the Parliamentarian will allow me, I offer the amendment in the nature of a substitute to the Baker amendment, applicable to the provisions and applicable as originally proposed to the bill itself.

The PRESIDING OFFICER. There is an order allowing that, and the amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language intended to be proposed by the Senator from Tennessee (Mr. Baker) insert the following:

On page 70, beginning with line 13, strike out all through line 5 on page 73, and insert the following:

"SEC. 27. (a) Section 207(b)(2) of the Clean Air Act (42 U.S.C. 1857f–5a(b)) is amended by adding the following at the end thereof: 'No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2).'.

"(b) Section 207(a) of such Act is amended by inserting '(1)' after '(a)' and by adding the following new paragraph at the end thereof:

"'(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer of such part may certify that use of such part not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of the enactment of this paragraph.'

"(c)(1) Section 207(b) of such Act is amended by striking out 'its useful life (as determined under section 202 (d))' in each place it appears and inserting in lieu thereof 'a period of eighteen months or eighteen thousand miles (or the equivalent), whichever first occurs'.

"(2) Section 207 of such Act is amended by adding the following new subsection at the end thereof:

"'(g) In lieu of the eighteen-month or eighteen-thousand-mile period of use referred to in subsection (b) there shall be substituted "the useful life of the vehicle or engine (as determined under section 202(d))" if the Federal Trade Commission finds under section 27(d) of the Clean Air Act Amendments of 1976 that no significant anticompetitive effects result from the application of such warranty for such useful life.'.

"(d) The Federal Trade Commission shall undertake a study to determine whether or not any anticompetitive effects would result from any warranty required to be provided pursuant to section 207(b) of the Clean Air Act if such warranty applied for the useful life (as determined under section 202(d) of such Act) of vehicles and engines to which such waranty applies in lieu of the eighteen-month or eighteen-thousand-mile period specified in such section 207(b). Such study shall include public hearings. Such study shall include an analysis of any measures implemented by thee Administrator to prevent or diminish such anticompetitive effects and shall include a finding with respect to whether or not a significant anticompetitive effect would nevertheless result from such warranty if the warranty applied for such useful life. Such study shall be undertaken primarily by the Bureau of Competition in consultation with the Bureau of Consumer Affairs.

"(e)(1) Section 207(c)(3) of such Act is amended by inserting after the first sentence thereof the following: 'In no event and under no circumstances shall a manufacturer (in written instructions or otherwise), specify, require, or designate the use of any proprietary or brand name automotive part, material, or substance for purposes of this paragraph. For such purposes, the manufacturer may only specify performance standards or enginering specifications or the use of parts which have been certified as provided in subsection (a)(2) or parts meeting such standards or specifications. No manufacturer may directly or indirectly specify for such purposes that maintenance, replacement, or repair may only be performed by franchised dealer or approved automotive service establishments. The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance of the emission control devices and systems may be performed by any automotive repair establishment or any individual using any automotive part which meets the performance and engineering specifications of the manufacturer or which has been certified as provided in subsection (a)(2).'.

"(f) Section 207(c) of such Act is amended by adding at the end thereof the following new paragraph:

"'(4) In the case of any nonconformity of any vehicle or engine required to be remedied at the expense of the manufacturer under this subsection, the owner of such vehicle or engine shall be, under regulations promulgated by the Administrator, compensated by the manufacturer for any amount expended by him with respect to such nonconformity before the date on which such nonconformity is required to be remedied under this subsection.'".

On page 73, line 6, strike out "SEC. 30" and insert "SEC. 28".

Renumber sections 31 through 38 as sections 29 through 36, respectively.

On page 88, beginning with line 15, strike out all through line 9 on page 89.

On page 89, line 10, strike out "SEC. 40" and insert "SEC. 37".

Renumber section 41 as section 38.

Mr. BENTSEN. Now I would like to yield to my distinguished friend from Arkansas to ask the questions.

Mr. BUMPERS. Let me ask the Senator from Texas this question.

I have tended to support the Senator's amendment because of what I thought were anticompetitive elements of the way they were carried out.

What I want to ask is, if the Baker amendment is adopted it was my understanding that this warranty could be perfected at any dealer and not necessarily the dealer from whom the automobile was purchased, or a similar dealer.

For example, if I owned a Chevrolet automobile and the emission control device became defective at any time during its life, in this case we will say 5 years and 50,000 miles, I could take it to any garage, not necessarily the Chevrolet dealer from whom I bought it, or any other dealer, but any garage, and have it replaced or repaired.

Now, do I understand the Baker amendment correctly?

In other words, it would prohibit the automobile manufacturer from insisting we bring it back to that dealer?

Mr. BAKER. The Senator from Arkansas is entirely correct.

Mr. BENTSEN. Let me further add, that I think the Baker amendment is a step in the right direction. I congratulate the Senator for it.

The problem is this. The man is entitled to go to anyone for service he wants to, but then the burden of proof is on him when he goes to that franchised dealer to get fulfillment on his warranty when he has had a problem. And here we have a situation where we have, in effect, a man who becomes the judge as to whether or not there was compliance with the "proper" maintenance requirement, whether the owner really fulfilled the obligation spelled out in the manual.

And who is the judge? He is the franchised dealer.

And what is he judging? The work of his competitor, the independent garageman.

So I think that is loaded against the independent. That is my concern.

I think what the Senator from Tennessee is trying to do is a very worthwhile objective. He is trying to achieve the same thing I am trying to achieve.

But the problem we have is that the judgment of that franchised dealer just has to be colored by the fact that this man who has done the work is not one of his own mechanics, not one of his own colleagues, but actually a competitor of his.

Mr. BUMPERS. I thank the Senator.

Mr. BENTSEN. With that, if the Senator is ready to get a vote on this——

Mr. MUSKIE. Let me just take the 2 minutes I asked.

Mr. BENTSEN. That last 2 minutes went about 20 through no fault of the Senator's.

Mr. MUSKIE. I want to make two points, I say to the Senator, in order to make clear what I think are the critical points on that chart.

That chart, in my judgment, is the whole argument against the Bentsen amendment.

We have been struggling since 1963 to clean up the new car because the used car is not amenable to retrofit for that purpose in any effective way.

Since the 1967 act we have been imposing standards upon new cars for the purpose of cleaning up old cars. The black line on each of those charts shows what the standards have been. They have changed: they have grown tougher as we have gone along. Hydrocarbons, carbon monoxide, and nitrogen oxides are shown on the chart. Those are the standards for which automobiles were certified before they went into production.

In use, the red line shows that they have failed to meet the standards by wide margins.

How in heaven's name are we going to get that red line down to the black line and meet the health standards unless we use every tool that is available to us for bringing pressure upon the manufacturer?

If the used car were amenable to modification for cleanup purposes, then the neighborhood garage, the neighborhood dealer, the neighborhood mechanic could do it. But they cannot. Only the manufacturer can design the car so that it will meet the clean air standards. If we tell the manufacturer to design it for an 18,000-mile warranty instead of a 50,000-mile warranty, we are never going to get that red line down to the black line.

That is the problem. That is the issue before the Senate.

With respect to the after-market parts industry, nobody is more concerned about their welfare than I am. But we have written safeguards into the bill. The Baker amendment adds other safeguards which protect their competitive position; which prohibit the automobile industry from intimidating the consumer into using the franchised dealer; which give the independent parts manufacturer an opportunity to get his parts certified so that they will meet the clean air standards. I think all of that is a reasonable concession to the desire and the need for competitiveness in the parts industry.

With those two arguments, Mr. President, I have really stated the heart of my opposition and I am prepared to yield back the remainder of my time. The Senator from Texas may like to respond briefly.

Mr. BENTSEN. I would like to respond for 2 minutes.

On these lines on the chart which concern all of us, what we are talking about is the fact that the performance warranty has not been in effect during that period of time. They have not had the ability to enforce the performance warranty. That is the major reason.

The point we must make sure of is that we do not confuse the production warranty with the performance warranty. What the Senator from Maine is really concerned about, I believe, is a conscientious enforcement of that production warranty. I share that with him. I believe we have the tools in the bill, and I have not touched that in any way, to see that that production warranty is enforced and that the big cars have that problem, that responsibility and that obligation.

But I do not want to see in the after service market the 400,000 independent garagemen in this country precluded from doing business.

With that, I yield back the remainder of my time.

Mr. BUMPERS. Before the Senator does that, will he yield for one more question?

I do not think I received the right answer to my question of a while ago. As I read the Baker amendment, it says the owner is responsible for those items which are related to emission control but not the emission control device itself. Is that correct?

Mr. BAKER. Are we talking about the second section of the bill?

Mr. BUMPERS. Section 30(g).

Mr. BAKER. Mr. President, it says:

> For the purposes of this section, the owner of any motor vehicle or motor vehicle engine warranted under this section is responsible in the proper maintenance of such vehicle or engine to replace and to maintain, at his expense at any service establishment or facility of his choosing, such items as sparks plugs, points, condensers, and any other part, item, or device related to emission control

Mr. BUMPERS. But then it has in parenthesis "but not designed for emission control."

Mr. BAKER. That means items such as the catalytic converter or a thermal reactor, as spoken of in the previous section. But everything, really, on the car is related to emission—spark plugs, points, air filter, oil filter, and the like.

Mr. President, it is my view that with the Baker amendment one can take the car anyplace he wants to and get anything done as long as the parts are certified, or a person can do it himself.

ADDITIONAL STATEMENTS SUBMITTED

Mr. GRIFFIN. Mr. President, I rise in support of amendment No. 1614, offered by the Senator from Texas (Mr. BENTSEN).

I am a cosponsor of this amendment which would modify the section 207(b) warranty provision of the 1970 Clean Air Act. I share the view of many in the independent service sector and those "do-it-yourself" carowners who are concerned about requirements that preclude them from performing emission control-related repair work.

It is a well-known fact that the independent repair service sector plays a significant role in the automobile industry. It consists of 1,700 independent parts manufacturers, 22,000 parts distributors, and 420,000 independent repair shops. Indeed, independent repair businesses perform over 80 percent of all service done in garages across the Nation. In addition, the individual carowner may do as much as 25 percent of all the service work done in the country. It would be ironic if, in our haste to control emissions, we would threaten this distinctly independent element of the automobile industry.

Yet, there remains a great deal of apprehension that the present provisions of S. 3219 will not adequately protect the independent businesses and individual carowners from the threat of warranty invalidation.

For example, under S. 3219, the EPA is authorized under certain conditions to waive the prohibition against the conditioning of the performance warranty upon use of the automakers own parts and trained mechanics. Also, the long-term, 5-year/50,000 miles performance warranty is retained, even though a 5-year/50,000 miles production warranty is already in effect and provides adequate protection for the carowner.

The Bentsen amendment, on the other hand, would provide the changes that the independent service sector feels are necessary in order to successfully compete and provide alternative services to those offered by the automaker.

This amendment would require the EPA to establish procedures for certifying parts for warranty purposes, prohibit the manufacturer from invalidating the performance warranty when certified parts not produced by the manufacturer are used, amend the performance warranty to cover the first 18 months or 18,000 miles, and require the automaker to pay the carowner for emission control repairs performed on a vehicle which subsequently becomes the subject of a recall order. In addition, an FTC study is to be undertaken to study the anticompetitive effects of the performance warranty.

The certification procedure by EPA will, of course, help in the performance warranty validation process. However, the most controversial part of this amendment is the reduction in the length of the performance warranty from 5 years/50,000 miles to 18 months/18,000 miles. The reason for this reduction is that most carowners tend to take their new car back to the dealer for repairs within the first 18 months, and this time period should be adequate to insure that any needed adjustments can be made.

After 18 months, the work is usually done by independent repair shops. To require that the long-term, 5-year/50,000-miles performance warranty be purchased would discourage independent service repair during this warranty period.

In closing let me make two points. First, this amendment really would not affect present warranty provisions, as the performance warranty is not currently being enforced, nor will it be enforced until after the EPA has authorized a prompt and reliable test for accurately measuring auto emissions.

Second, if the FTC study commissioned under this amendment shows that our concern over a longer performance warranty period is not justified, then the 5-year/50,000-mile provision will be reinstated.

I believe this is a fair, even-handed approach to the performance warranty problem and urge that the Senate adopt the amendment.

AUTO PERFORMANCE WARRANTIES

Mr. DOLE. The 1970 Clean Air Act established a 5-year or 50,000 mile performance warranty on an automobile's emission control system, to insure that all vehicles would meet clean air standards during their normal "useful life." This warranty program was never implemented, however, as no valid "in-use" emissions test has ever been developed. The Environmental Protection Agency is working to develop such a test, and once the warranty program is functional, an auto manufacturer will be required to repair any car that fails an emission inspection during the warranty period, provided it has been properly maintained.

Recognizing the possibility that this program may become functional in the foreseeable future, a number of independent parts manufacturers and repair shops have begun to express concern about the impact this provision may have on their own business. In fact, I have been contacted by a number of Kansans in recent weeks who have expressed genuine alarm about this matter. I share that concern and certainly feel that it would be unfair for the Federal Government to curtail the business of independent shops, either directly or indirectly, by requiring that routine maintenance during the warranty period be handled by auto manufacturers or their franchised dealers. While positive efforts must be made to insure that auto emission systems are durable, there must be, in my opinion, sufficient assurances that miscellaneous minor auto parts—such as spark plugs, air filters, and fuel pumps—can be routinely replaced by independent repair shops with appropriate equipment during the warranty period without endangering the effectiveness of the overall system warranty.

BILL PROTECTS INDEPENDENT REPAIR SHOPS

It is for this reason that I am pleased to see that the Public Works Committee has taken action to insure that no anticompetitive effect will occur under the performance warranty program. The committee has included language within the bill now before us that would require all owners' manuals to specifically advise the auto owner that routine maintenance does not have to be performed by a franchised auto dealer or with the manufacturer's own parts. The bill further declares that it is illegal to condition any warranty coverage on the use of a particular dealer's service and/or parts.

In addition, independent aftermarket parts manufacturers will be able to certify that their parts perform as well as the auto manufacturer's parts for routine repair purposes which do not endanger the warranty provisions. Earlier, after an initial study of the possible impact of the 1970 Clean Air Act, the Federal Trade Commission recommended that these same provisions be enacted in order to prevent any "anticompetitive" impact under the performance warranty program. The Baker amendment, in effect, reinforces the provisions of the committee bill, and I support it.

In effect, these provisions, now contained in S. 3219, will prohibit any auto manufacturer from voiding a performance warranty on the basis that a replacement part was not made or installed by the manufacturer or a franchised dealer. The auto owner, in seeking proper interim maintenance of his car and its mechanical system, is neither forced nor encouraged to obtain that maintenance work at any particular service station. In fact, he can do the repair work himself, provided he uses replacement parts that have been certified as being of acceptable quality. And it is especially beneficial that the auto dealer must clearly indicate within the warranty itself that the carowner may use whatever parts and whatever form of service he wishes without destroying the emission system guarantee.

And, as added protection against any possible adverse effects on independent businesses, the Public Works Committee included a requirement that the Federal Trade Commission continue to study the "impact on competition" of the Clean Air Act warranties. The FTC is expected to hold hearings on the matter, at which any independent parts manufacturer or repair shop would be able to register complaints about the warranty program. The results of the FTC study are to be submitted to Congress within 18 months after passage of this bill. And at that time, if there is any reason to believe that this provision discriminates against small independent businesses, I would certainly join with my colleagues in the Senate in correcting that problem, based on clear and concrete evidence.

In the meantime, continuance of the 50,000-mile warranty period will help to protect the carowner against poor quality emission systems that would otherwise have to be repaired or replaced at the owner's expense; and it will also help protect the quality of our Nation's air from faulty emission control systems.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

Mr. BENTSEN. Do I understand that the first vote will be on the Bentsen amendment?

The PRESIDING OFFICER. That is correct.

All time has been yielded back.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the second rollcall vote, being a back-to-back vote, be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from California (Mr. TUNNEY), and the Senator from South Dakota (Mr. ABOUREZK), are necessarily absent.

The result was announced—yeas 45, nays 51, as follows:

[Rollcall Vote No. 425 Leg.]

YEAS—45

Allen
Bartlett
Bentsen
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Domenici
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
Long
McClure
McGee
Montoya
Morgan
Moss
Nunn
Randolph
Scott, William L.
Sparkman
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Tower
Young

NAYS—51

Baker
Bayh
Beall
Bellmon
Biden
Brock
Brooke
Buckley
Burdick
Case
Church
Clark
Cranston
Culver
Dole
Durkin
Fong
Gravel
Hartke
Haskell
Hatfield
Hathaway
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Thurmond
Weicker
Williams

NOT VOTING—4

Abourezk
Metcalf
Mondale
Tunney

So Mr. BENTSEN'S amendment (No. 1614, as modified) was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE) and the Senator from California (Mr. TUNNEY) are necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 426 Leg.]

YEAS—97

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—3

Metcalf
Mondale
Tunney

So Mr. BAKER'S amendment No. 1586 was agreed to.

NONSIGNIFICANT DETERIORATION

Mr. TUNNEY. Mr. President, clearly the clean air amendments which we are considering today embody the most important environmental legislation in the 2d session of the 94th Congress. These amendments are the first of the so-called second generation environmental laws. Six years ago the Congress plotted a bold path for improving and protecting the quality of the air we breathe. The experience of 6 years of program development and implementation have revealed the need for significant midcourse corrections in specific areas of the Nation's clean air program. However, the ultimate goal of articulating policies designed to protect public health and welfare through the establishment of ambient air quality standards has never been seriously questioned.

Section 6 of the Clean Air Amendments of 1976 (S. 3219) contains language that would prevent the significant deterioration of areas where air quality is presently cleaner than the existing standards. As we are all aware, this provision has become the focus of congressional debate relating to the future of the Clean Air Act. Because of the difficult nature of this particular issue, I would like to take this opportunity to explain my position, and how I arrived at it.

HISTORY

Although the issue of significant deterioration is highly controversial, it is not particularly new. Nondegradation policy was first articulated in 1967 in both the Federal water pollution control law and the Air Quality Act. Section 101 (b) of the Clean Air Act of 1970 states the intent of Congress:

> To protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population.

The air pollution control strategy set forth in the 1970 Act gave careful consideration to the need for cleaning up dirty areas. However, it largely overlooked the need to develop a clear and workable policy to protect our Nation's vast clean air regions. Nevertheless, it is most certainly not the intent of Congress to allow our remaining clean air resources to degenerate to the minimum ambient air quality standards defined in the law.

Since the Clean Air Act of 1970 does not explicitly require regulations for the prevention of significant deterioration of air quailty, requirements to implement this policy were deleted from EPA's guidelines in 1971. Subsequently, 20 States—including California—joined the Sierra Club or submitted independent suits requesting the courts to require a nondegradation policy. The act was interpreted by the courts—Sierra Club against Ruckelshaus—to require EPA to promulgate such regulations for protection of pristine areas. This decision was affirmed by the U.S. Supreme Court on June 11, 1973. As a result, EPA promulgated regulations to prevent significant deterioration of air quality on December 5, 1974. The Supreme Court decision has not only set in motion the regulatory machinery at EPA, it has also created a situation that has been characterized by litigation and confusion.

NEED FOR CLARIFICATION

The uncertainties and confusion precipitated by the EPA nondegradation regulations clearly reveal the need for Congress to settle the issue once and for all. Environmentalists, leaders of industry, and public officials are united in their demands that Congress clarify the situation. The United Steelworkers of America contend that:

> If there is an argument that economic growth can be constrained because of the significant deterioration issue, it is because the issue has been clouded by uncertainty as to the specifics of that policy.

The administration also asked Congress to address this issue when it submitted the Clean Air Act Amendments of 1974.

One key question that is inherent in the debate surrounding the amendments introduced by Senator Moss is: What policy will the Nation have for the next 2 years—a bureaucratic/judicial policy or a congressional policy? In answering this question an important consideration must be taken into account:

If the Moss amendment passes, the court-ordered EPA regulations will remain in effect, and litigation pending against those regulations will continue to cloud long-range prospects regarding the construction of major industrial facilities for years to come.

NEW SENATE PROVISIONS

Mr. President, I believe that my colleagues on the Senate Public Works Committee should be commended for their willingness to come to grips with the difficult issue of nondegradation. I concur with my distinguished friend, Senator MUSKIE, when he claims that the Senate Public Works Committee has produced an important clarification of that policy in the Clean Air Amendments of 1976—S. 3219.

I have spent a great deal of time determining my personal position on the issue of significant deterioration. In the process I have spoken with many of my fellow Californians who represent conflicting points of view. My deliberations were made much more difficult by the wealth of misinformation that abounds throughout California, and the Nation. However, the longer I studied the various provisions and their likely ramifications, the easier the answer seemed to become.

Stated simply, S. 3219 provides that areas where air quality is presently cleaner than the existing standards must be protected by nondeterioration standards. Only two pollutants—sulfur oxides and particulates—are to be governed by a defined numerical increment. The increments are amounts of new pollution which may be added by new facilities to existing air quality.

The most carefully protected areas are to be designated as class I areas. All other areas shall be class II areas. The decision regarding classification is basically a State decision. In addition, all international parks, national parks, and national wilderness areas which exceed 5,000 acres in size shall be designated a class I area.

The increments only apply to major sources which emit more than 100 tons of sulfur oxides and particulates. The provision is further restricted to apply to only the 28 types of point sources identified in the bill. Other pollutants from major emitters are to be governed by a permit process which will require the use of "best available control technology." Best available technology is defined as the maximum pollution reduction technologically achievable, as determined by the State on a case-by-case basis for each facility to be constructed in a class II area.

Mr. President, in my own State of California, Gov. Edmund G. Brown, Jr., and the California Air Resources Board—ARB—support a strong Clean Air Act. The chairman of the ARB has stated that:

> The enactment of a clear statutory mandate governing significant deterioration of air quality and setting allowable ceiling will be an important step in allowing us to keep the air clean where it is already clean, rather than implying that we wait until air quality deteriorates before taking necessary action. The provisions allowing more state control over air quality associated with federal lands and over classification will give state plans greater comprehensiveness and flexibility in meeting the strict standards.

As I understand them, the Moss amendments will delete the nondeterioration section from the bill for the purpose of studying it for 1 year. The Commission set up by the bill itself, to review air quality standards, will make that study and report to the Congress within 1 year from the date of enactment of S. 3219.

As you know, the Public Works Committee argues that ongoing studies of implementation should be conducted, but extensive studies—my colleague, Senator MUSKIE, has cited 44 relevant documents—already exist analyzing nondegradation policy and options.

Furthermore, the committee has held specific hearings on nondegradation in 1973, 1974, and 1975. In 1975, 14 days of hearings were held and 48 markup sessions were conducted. Representatives from California have had ample opportunities to participate in an active dialog with my friends on the Public Works Committee.

State officials in California have expressed a strong interest in preserving the nondegradation provisions that have been developed by the committee. In addition, California State air pollution control efforts would benefit greatly from the committee provisions which will grant "more State control over air quality associated with Federal lands and over classification" of various air quality regions.

For these reasons, I am greatly concerned by the fact that the Moss amendments would result in: Continuation of the requirement that new facilities in clean air regions obtain Federal permits; continuation of the authority of Federal land managers to unilaterally designate any Federal lands as class I without concurrence by States; continuation of the 60–100-mile buffer zones around any such class I area; continuation of Federal authority to reject any State efforts to gain control of this program; and continuation of uncertainty caused by lack of congressional policy on this issue.

On the other hand, as my colleague from Maine explained, the committee provisions would result in State rather than Federal permits for new major facilities, and State authority to issue or deny permits for facilities even when such facilities are located on Federal land; no designation, except by statute, of any areas as class I without concurrence of the State; and, elimination of Federal authority to second-guess State efforts to control this program except through judicial proceedings with a Federal burden of proof.

PUBLIC MISUNDERSTANDINGS

Mr. President, as I mentioned earlier, I have spent a great deal of time discussing this important issue with many of my constituents in California. Those discussions revealed a tremendous amount of public misunderstanding and apprehension about the issue of significant deterioration. One constituent told me:

> The "non-degradation" provisions, as I understand them, would provide that no industrial growth could take place that would result in a lesser quality of air in that area regardless of how high the quality of the air might be.

Another California resident expressed the belief that:

> There have been no hearings on the nondegradation provisions of the Clean Air amendment. The facts regarding the provisions and the far-reaching results of them, if passed, are not known.

Another Californian expressed the concern that:

> The non-deterioration provisions would, if passed, have very serious effects on the economy, economic growth would be dampened in most areas of the country, if not stopped entirely.

Still another constituent told me:

> The solution represented by section 6 of the bill is an arbitrary Federal imposition of land use control which cannot be justified on any scientific basis.

Mr. President, these anxieties are endemic of the serious misconceptions which I repeatedly heard during my travels throughout California. Certainly if these charges were valid, I would do anything within my power to bring about the resounding defeat of the committee's bill. However, careful study has led me to conclude that the committee provisions are defined in sufficiently narrow terms, and do not curtail allowable activities in a way that will be detrimental to future economic and industrial growth.

I am convinced that section 6 will not trigger economic depression and higher levels of unemployment.

It is important to remember that the nondegradation provisions do not apply to all development, but only a select number of the major stationary industrial sources. The California Air Resources Board has informed me that 7 of the 19 designated source-types cannot even be found in California—these include: Coal cleaning plants; primary aluminum ore reduction plants, primary copper smelters, municipal incinerators charging 250 tons per day, phosphate rock processing plants, fuel conversion plants, and ferro-alloy plants. Thus, contrary to widespread public belief, activities such as construction, farming, light manufacturing, and residential development are not affected by the nondegradation provision.

The charge that the significant deterioration language constitutes a de facto Federal land use policy based solely on the criteria of air quality seems to me to be totally unfounded. S. 3219 embodies provisions that give the States the authority to make their own determinations of what significant deterioration is allowable within a framework of defined air quality increments. Furthermore, the nondegradation provision requires the States to consider and balance their various objectives, with full public participation.

ALLOWABLE ACTIVITIES

Mr. President, an EPA analysis of the impact of the Senate significant deterioration proposal proved particularly informative to me. This analysis explains in very clear terms what industrial activities will be able to continue in class II areas. This analysis was especially enlightening when taken in the context of the abundant misunderstanding and misrepresentation that has characterized the public debate on nondegradation.

I would like to take this opportunity to quote several provocative excerpts from the EPA analysis:

SUMMARY OF EPA ANALYSIS OF THE IMPACT OF THE SENATE SIGNIFICANT DETERIORATION PROPOSAL

INTRODUCTION AND CONCLUSIONS

A. Introduction

A major purpose of the Clean Air Act of 1970 is "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." The Act is administered by the U.S. Environmental Protection Agency (EPA) and has been interpreted by the courts as barring the degradation of air in areas that are cleaner than the National Ambient Air Quality Standards.

The Senate significant deterioration proposal allows for the allocation of major industrial sources. Specifically, the minimum required separation distance for economically sized facilities meeting Federal New Source Performance Standards (NSPS) or an equivalently defined control level is 0 to 40 miles for power plants, 0 to 12 miles for kraft pulp and paper mills, 0 to 3 miles for oil shale plants, 0 to 30 miles for gasification plants, 0 to 18 miles for refineries, and 5 to 16 miles for copper smelters. If control beyond NSPS is assumed, the separation distances are reduced to 0 to 31 miles for power plants, 0 to 8 miles for paper mills, 0 to 6 miles for gasification plants, and 0 to 10 miles for refineries.

ESTIMATED SIZE OF MAJOR INDUSTRIAL FACILITIES THAT CAN BE CONSTRUCTED UNDER SENATE PROPOSAL

1. Coal-Fired Power Plants—

Between an 1100 to greater than 4000 mw coal-fired power plant meeting New Source Performance Standards (NSPS) could be built in areas of flat or moderate terrain (i.e., where the surrounding terrain is below the top of the stack).

2. Petroleum Refineries—

EPA's analyses show that refineries in flat or moderate terrain will not be constrained by the Senate Class II increment. Assuming compliance with NSPS, one 300,000 bbl/d fuel oil refinery and two 300,000 bbl/d gasoline refineries could be built at one site. If control beyond NSPS is assumed (i.e., .3% oil), two 300,000 bbl/d fuel oil refineries and three 300,000 bbl/d gasoline refineries could be built at one site.

3. Synthetic Fuel Plants—

EPA's analyses show that in areas of flat or moderate terrain typical size oil shale (50,000 bbl/d) and gasification plants (250 mmscf/d) would not be constrained by the Senate Class II increment. In fact, it would be possible to put several oil shale and gasification plants at one site without violating the Senate Class I increments for sulfur dioxide.

4. Kraft Pulp and Paper Mills—

EPA's analyses show that at least two 1000 ton per day kraft pulp and paper mills meeting NSPS with on-site coal-fired generation could be constructed in areas of flat or moderate terrain. Since most kraft mills burn fuels with much lower sulfur content than coal, this analysis is extremely conservative.

Unbleached mills have much lower emissions and would be significantly less restricted. In view of the fact that the typical size for new paper mills is about 1000 tons per day and 400 tons per day for expansions at existing sites, it can be concluded that the Senate proposal will not prevent the construction of economically efficient kraft pulp and paper mills.

MINIMUM REQUIRED SEPARATION DISTANCE BETWEEN MAJOR INDUSTRIAL FACILITIES UNDER THE SENATE PROPOSAL

1. Coal-Fired Power Plants—

More than two 1000 plants meeting NSPS could be constructed at one location in areas of flat terrain. In moderate terrain, two 1000 mw new plants would have to locate up to 28 miles apart in order not to violate the Senate Class II increments.

2. Petroleum Refineries—

The Senate proposal probably will not constrain the collocation of new refineries.

3. Synthetic Fuel Plants—

In areas of flat or moderate terrain, several oil shale or gasification plants could be built at one site without violating the Senate Class II increments.

4. Pulp and Paper Mills—

Since most new paper mills are projected to be located in remote areas, it can be concluded that the collocation of new mills will not be affected by the Senate proposal.

Mr. President, I submit that these EPA findings illustrate that the significant deterioration provisions incorporated in S. 3219 will not preclude necessary and desirable future economic and industrial growth. At the same time, the nondegradation provisions will protect the integrity of our Nation's clean air program.

CONCLUSION

Mr. President, after careful consideration of the Public Works Committee approach to the problem of nondegradation, and after comparing it to the alternative offered by Senator Moss, I have come to a firm conclusion. I am now convinced that rather than harming industrial and economic growth, the significant deterioration provisions will channel growth into areas that will not require after-the-fact regulation, and possibly dislocations at a later time. I feel strongly that provisions guaranteeing prevention of significant deterioration must be included in the amendments to the Clean Air Act.

I urge my colleagues to vote with the Public Works Committee on the issue of significant deterioration.

Mr. HOLLINGS. Mr. President, as we begin the debate on the Clean Air Act, I would remind my colleagues of the importance in resolving the controversy over emission levels. We must act soon and we must keep in mind the lead times needed by the automotive industry in planning for their new models, and the interrelationship between emission levels and fuel economy standards.

Last December we passed the Energy Policy and Conservation Act and included therein was the establishment of fuel economy standards for automobiles, setting the actual standards for model years 1978, 1979, and 1980. From the origins of this provision in the Senate Commerce Committee, we have recognized the interrelationship between auto emissions and fuel economy. Accordingly, the law provides for an adjustment mechanism whereby manufacturers may apply for an adjustment in the fuel economy standards if emissions or safety or damageability standards had the effect of significantly reducing fuel economy.

Nineteen hundred and seventy-eight is the first year these fuel economy standards are in effect. Although both the Senate Public Works Committee and the House Commerce Committee have recognized that the emissions levels presently in the law for the 1978 model year are not appropriate, the Congress has yet to approve new levels for the 1978–80 model years. I think it is important for the Senate to recognize—particularly those of us who are responsible for the passage of the fuel economy bill—that it is virtually impossible for manufacturers to plan vehicles for those years without knowing what the emission levels will be.

Emission levels should parallel the same time frame as those fuel economy standards established in the law. The Senate public works bill would do this because it sets standards for the time period 1970–80. It is important that the Senate not deprive the auto manufacturers of this advanced knowledge of the levels and timetables, because to do otherwise could impair the achievement of the goals of the Energy Policy and Conservation Act for those years. If our action does not resolve the levels for those model years, manufacturers will have to continue planning at several possible emission levels—inevitable detracting from, and adding cost to, their efforts to meet the fuel economy law. If they fail, our goals for energy conservation will not be realized.

Additionally, because of the interrelationship between these two sets of standards, it seems totally inappropriate to alter the decisions of the Public Works Committee with respect to the 1978 model year, as Senator HART's amendments would do, because we have already passed the time when automakers should have begun the certification process for that model year. To change the 1978 model year standard at this time would delay certification, increase consumer costs, and adversely affect fuel economy, since manufacturers would be deprived of the needed development time in which to optimize certified engines for fuel economy.

The automobile industry and its employees need an answer now and they need an answer which recognizes the timing realities of their industry. The opportunity to tinker with 1978 emission levels has passed unless in doing so you are willing to jeopardize conservation of fuel. I believe that this is not an appropriate trade off because of the importance in moving forward as quickly as possible on the fuel economy front. To tamper with 1978 emission levels would be a serious and unwarranted blow to fuel economy. We have made significant strides in the area of auto emissions. I applaud them, and in addition, I commend the Public Works Committee for reporting to us a bill which responsibly addresses the trade offs between emission levels and fuel economy standards.

TAX REFORM ACT OF 1976

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 1902

Mr. TAFT. Mr. President, I call up my amendment No. 1902.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Sec. . Adjustment of Certain Features of the Individual Income Tax to Make It Neutral.

(a) Rates of Tax.—Section 1 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(e) Inflation Adjustment.—

"(1) Changes in amount.—Before the beginning of each calendar year, as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the most recently ended adjustment year bears to the price index for the adjustment year preceding the most recently ended adjustment year. Each dollar amount listed in the tables under subsections (a), (b), (c), and (d) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for taxable years beginning during the calendar year following the adjustment year for which such report is made

"(2) Definitions.—For purposes of paragraph (1)—

"(A) Price index.—The term 'price index' means the average over a calendar year of the Consumer Price Index—(all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) Adjustment year.—The term 'adjustment year' means the 12-month period beginning on the first day of July 1975 and of each subsequent calendar year."

(b) Standard Deduction.—Section 141 (relating to standard deduction) is amended by adding at the end thereof the following new subsection:

"(f) Inflation Adjustment.—

"(1) Changes in amount.—Before the beginning of each calendar year, as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the most recently ended adjustment year bears to the price index for the adjustment year preceding the most recently ended adjustment year. Each dollar amount listed in the tables under subsections (b) and (c) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for taxable years beginning during the calendar year following the adjustment year for which such report is made.

"(2) Definitions.—For purposes of paragraph (1), the terms 'price index' and 'adjustment year' have the same meaning as in section 1(e)."

(c) Personal Exemptions.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) Inflation Adjustment.—

"(1) Changes in amount.—Before the beginning of each calendar year, as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the most recently ended adjustment year bears to the price index for the adjustment year preceding the most recently ended adjustment year. Each dollar amount in subsections (b), (c), (d), and (e) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for taxable year beginning during the calendar year following the adjustment year for which such report is made.

"(2) Definitions.—For purposes of paragraph (1) the terms 'price index' and 'adjustment year' have the same meaning as in section 1(e)."

(d) Adjustment of Withholding and Filing Requirements.—Before the beginning of each calendar year for which amounts are adjusted under sections 1(e), 141(f), and 151(f) of the Internal Revenue Code of 1954 (relating to inflation adjustment), the Secretary of the Treasury shall—

(1) prescribe a new table under section 3402(b) of the Internal Revenue Code of 1954 (relating to percentage method of withholding) to reflect the appropriate amounts to be taken into account with respect to each withholding exemption for such taxable years, and

(2) adjust the dollar amounts set forth in section 6012(a) of the Internal Revenue Code of 1954 (relating to persons required to make returns of income generally) necessary to reflect the adjustments made under sections 1(e), 141(f), and 151(f) and in effect for such taxable years. The table so prescribed, and the amounts so adjusted, shall apply for taxable years beginning during such calendar year in lieu of the table set forth in section 3402(b) of such Code and the amounts set forth in section 6012(a) of such Code.

(e) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1977.

Mr. TAFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—COAL LEASING ACT VETO

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Tuesday next, the Senate take up the President's veto of the Coal Leasing Act, S. 391; and that there be a half hour for debate beginning at 1:45 p.m. and ending at 2:15, the time to be equally divided between the Senator from Montana (Mr. Metcalf) and the minority leader or his designee.

Mr. HANSEN. Reserving the right to object.

The PRESIDING OFFICER. Did the distinguished majority leader state whether or not the committee should be discharged from further consideration?

Mr. MANSFIELD. Yes, at that time.

Mr. HANSEN. Reserving the right to object, Mr. President, and I do not intend to object, but, inasmuch as I favor and strongly support the veto override, I think there ought to be some contact, and I am sorry I have not talked with him, with Senator Fannin, who likely will be voting on the other side. If we can clear it with him, then I should think that would be appropriate. Would that be the opinion of Senator McClure?

Mr. McCLURE. Yes.

The PRESIDING OFFICER. Does the Senator from Montana withhold his request?

Mr. MANSFIELD. I thought the Senator told me it is all right to go ahead, subject to agreement by Senator Fannin.

Mr. HANSEN. Yes, subject to his agreement.

The PRESIDING OFFICER. Any objection?

Mr. HANSEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. BEALL. Mr. President, I ask unanimous consent that the amendment of the Senator from Ohio be temporarily laid aside and that my printed amendment No. 1905 at the desk be called up and made the pending order of business.

The PRESIDING OFFICER. Is there objection?

Mr. TAFT. Mr. President, reserving the right to object, I wonder if the Senator would include in his uanimous-consent request a provision that the amendment of the Senator from New Mexico be in order immediately after the amendment of the Senator from Maryland and that then the amendment of the Senator from Ohio, No. 1902, be the order of business?

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I would like to follow the Senator from Ohio as I have something on title XIII, and if the manager does not mind. Is that all right with the Senator?

Mr. TAFT. It is certainly fine with me to amend the unanimous-consent request, and the Senator would so amend it.

The PRESIDING OFFICER. Does the Senator from Maryland amend his unanimous-consent request?

Mr. BEALL. Mr. President, the Senator from Maryland amends the request to incorporate the suggestions made by the Senators from Ohio and New York.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, I would hope I could persuade the Senator from Ohio to let us proceed with these other amendments to title XIII.

I believe the Senator's amendment more properly belongs at the end of the bill. I think it would be preferable if he would be willing to permit us to take it up then, in view of the fact that his amendment, probaby will take at least 4 hours of debate. It is a very significant amendment and deferring debate would give us an opportunity to dispose of some of these other things which we can dispose of much more quickly than that.

I wonder if the Senator would be willing to consider offering his amendment at the end of the bill rather than on title XIII?

Mr. TAFT. Would the Senator agree to a time certain involved in that?

Mr. LONG. I would be happy to. I do not know precisely at what point we will finish the titles we have here, but I would be glad to agree to a limitation of debate.

Mr. TAFT. The Senator's problem is that the Senator from Ohio is very likely going to have to be out of town on business on Friday, and he would not be able to bring up the amendment at that time.

Mr. LONG. How about Tuesday? May I ask the Senator if we could bring it up on Tuesday?

Mr. TAFT. I would be very happy to have such unanimous consent.

ORDER FOR CONSIDERATION OF TAFT AMENDMENT NO. 1902 ON TUESDAY, AUGUST 3

Mr. LONG. Mr. President, I ask unanimous consent that we consider the Taft amendment on Tuesday and, as far as I am concerned, I ask unanimous consent that it be in order to consider the Taft amendment on Tuesday.

Mr. TAFT. As the first order of business on the bill.

Mr. LONG. On the revenue bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. I thank the distinguished Senator.

Mr. JAVITS. Has action been taken on the unanimous consent request?

The PRESIDING OFFICER. Action has been taken on the unanimous consent request of the Senator from Maryland and on the request of the Senator from Louisiana.

Mr. JAVITS. I thank the Chair.

AMENDMENT NO. 1905, AS MODIFIED

Mr. BEALL. Mr. President, I call up my amendment No. 1905 and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) proposes amendment No. 1905: At the appropriate place insert the following: tax incentives to encourage the preservation of historic structures.

The amendment is as follows:

At the appropriate place insert the following:

SEC. TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES.

(a) AMORTIZATION OF REHABILITATION EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Part VI of subchapter B of chapter 1 (relating to itemized deductions) is amended by adding at the end thereof the following new section:

"SEC. 192. AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES.

"(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subsection (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure subject to the allowance for depreciation provided in section 167 which—

"(A) is listed in the National Register,

"(B) is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

"(C) is located in a historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district."

"(2) AMORTIZABLE BASIS.—The term 'amortizable basis' means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

"(e) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

"(f) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of 'National Register' and 'Registered Historic District', see section 470 et seq. of title 16 of the United States Code.

"(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1238.".

(2) GAIN ON DISPOSITION.—Section 1238 (relating to amortization in excess of depreciation) is amended by inserting after "facilities") the following: "or section 192 (relating to amortization of certain rehabilitation expenditures for certified historic structures)".

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 192. Amortization of certain rehabilitation expenditures for certified historic structures.".

(B) Section 642(f) (relating to amortization deductions of estates and trusts) is amended by striking out "and 191" and inserting in lieu thereof "191, and 192".

(C) Section 1082 (a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "or 191" and inserting in lieu thereof "191, or 192".

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 191" and inserting in lieu thereof "191, or 192".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to additions to capital accounts made after June 14, 1976 and before June 15, 1981.

(b) Demolition.—

(1) DISALLOWANCE OF DEDUCTIONS.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280. DEMOLITION OF CERTAIN HISTORIC STRUCTURES.

"(a) GENERAL RULE.—In the case of the demolition of a certified historic structure (as defined in section 192(d)(1))—

"(1) no deduction otherwise allowable under this chapter shall be allowed to the owner or lessee of such structure for—

"(A) any amount expended for such demolition, or

"(B) any loss sustained on account of such demolition; and

"(2) amounts described in paragraph (1) shall be treated as property chargeable to capital account with respect to the land on which the demolished structure was located.

"(b) SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.—For purposes of this section, any building or other structure located in a registered historic district shall be treated as a certified historic structure unless the Secretary of the Interior has certified, prior to the demolition of such structure, that such structure is not of historic significance to the district."

(2) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280. Demolition of certain historic structures."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to demolitions commencing after June 30, 1976, and before January 1, 1981.

(c) DEPRECIATION OF IMPROVEMENTS.—

(1) METHOD OF DEPRECIATION.—Section 167 (relating to depreciation) is amended by redesignating subsection (n) as (p), and by inserting after subsection (m) the following new subsection:

"(n) STRAIGHT LINE METHOD IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (as defined in section 192(d)(1)) which is demolished or substantially altered (other than by virtue of a certified rehabilitation as defined in section 192(d)(2)) after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply,

"(B) the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method.

"(2) EXCEPTION.—The limitations imposed by this subsection shall not apply to personal property.

"(3) CERTIFIED REHABILITATION.—The term 'certified rehabilitation' means any rehabilitation of certified historic structure (as defined in section 192(d)(1)) or of any other structure located in a Registered Historic District or in a State or local government historic district established under a certified statute as described in section 192(d)(1)(C) which the Secretary of the Interior has certified to the Secretary or his delegate as being consistent with the historic character of such property or district.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1975, and before January 1, 1981.

(b) SUBSTANTIALLY REHABILITATED PROPERTY.—

(1) Section 167 (relating to depreciation) is amended by inserting after subsection (n) (as added by subsection (c) of this amendment) the following new subsection:

"(o) SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—

"(1) GENERAL RULE.—Pursuant to regulations prescribed by the Secretary, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated historic property as though the original use of such property commenced with him. The election shall be effective with respect to the taxable year referred to in paragraph (2) of this subsection and all succeeding taxable years.

"(2) SUBSTANTIALLY REHABILITATED PROPERTY.—For purposes of paragraph (1), the term 'substantially rehabilitated historic property' means any certified historic structure (as defined in section 192(d)) with respect to which the additions to capital account for any certified rehabilitation (as defined in section 167(n)(3)) during the 24-month period ending on the last day of any taxable year, reduced by any amounts allowed or allowable as depreciation or amortization allowable thereto, exceeds the greater of—

"(A) the adjusted basis of such property, or

"(B) $5,000.

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of section 1250(c)), whichever is later.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to additions to capital account occurring after June 30, 1976, and before July 1, 1981.

(e) TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—

(1) INCOME TAX DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 170(f)(3) (relating to charitable contributions) is amended—

(A) by striking out "or" at the end of subparagraph (B)(i),

(B) by striking out "property.", at the end of subparagraph (B)(ii) and inserting in lieu thereof "property,",

(C) by adding after clause (ii) of subparagraph (B) the following new clauses:

"(iii) a lease on, option to purchase, or easement with respect to real property of not less than 30 years' duration granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes, or

"(iv) a remainder interest in real property which is granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes.", and

(D) by adding at the end thereof the following new subparagraph:

"(C) Conservation purposes defined.—For purposes of subparagraph (B), the term 'conservation purposes' means—

"(i) the preservation of land areas for public outdoor recreation or education, or scenic enjoyment;

"(ii) the preservation of historically important land areas or structures; or

"(iii) the protection of natural environmental systems."

(2) ESTATE TAX DEDUCTION FOR TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 2055(e)(2) (relating to deductions from gross estate) is amended by striking out "(other than a remainder interest in a personal residence or farm or an undivided portion of the decedent's entire interest in property)" and inserting in lieu thereof "(other than an interest described in section 170(f)(3)(B))".

(3) GIFT TAX DEDUCTION FOR TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 2522(c)(2) (relating to deductions from taxable gifts) is amended by striking out "(other than a remainder interest in a personal residence or farm or an undivided portion of the donor's entire interest in property)" and inserting in lieu thereof "(other than an interest described in section 170(f)(3)(B))".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to contributions and transfers made after June 13, 1976, and before June 14, 1977.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BEALL. Mr. President, I ask unanimous consent to be allowed to make four minor, technical and nonsubstantive corrections in this amendment, and I am sending to the desk the corrected text of my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place insert the following:

SEC. . TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES.

(a) AMORTIZATION OF REHABILITATION EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Part VI of subchapter B of chapter 1 (relating to itemized deductions) is amended by adding at the end thereof the following new section:

"SEC. 192. AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES.

(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subsection (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure subject to the allowance for depreciation provided in section 167 which—

"(A) is listed in the National Register,

"(B) is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

"(C) is located in a historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district."

"(2) AMORTIZABLE BASIS.—The term 'amortizable basis' means the portion of the basis attributable to amounts expended in connection with certified rehabilitaton.

"(3) CERTIFIED REHABILITATION.—The term 'certified rehabilitation' means any rehabilitation of certified historic structure (as defined in section 192(d)(1)) or of any other structure located in a Registered Historic District or in a State or local government historic district established under a certified statute as described in section 192(d)(1)(C) which the Secretary of the Interior has certified to the Secretary or his delegate as being consistent with the historic character of such property or district.".

"(e) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

"(f) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of 'National Register' and 'Registered Historic District', see section 470 et seq of title 16 of the United States Code.

"(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1238.".

(2) GAIN ON DISPOSITION.—Section 1238 (relating to amortization in excess of depreciation) is amended by inserting after "facilities)" the following: "or section 192 (relating to amortization of certain rehabilitation expenditures for certified historic structures)".

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 192. Amortization of Certain Rehabilitation Expenditures for Certified Historic Structures.".

(B) Section 642(f) (relating to amortization deductions of estates and trusts) is amended by striking out "and 191" and inserting in lieu thereof "191, and 192".

(C) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "or 191" and inserting in lieu thereof "191, or 192".

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 191" and inserting in lieu thereof "191, or 192".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to additions to capital account made after June 14, 1976 and before June 15, 1981.

(b) Demolition.—

(1) DISALLOWANCE OF DEDUCTIONS.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280. DEMOLITION OF CERTAIN HISTORIC STRUCTURES.

"(a) GENERAL RULE.—In the case of the demolition of a certified historic structure (as defined in section 192(d)(1))—

"(1) no deduction otherwise allowable under this chapter shall be allowed to the owner or lessee of such structure for—

"(A) any amount expended for such demolition, or

"(B) any loss sustained on account of such demolition; and

"(2) amounts described in paragraph (1) shall be treated as property chargeable to capital account with respect to the land on which the demolished structure was located.

"(b) SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.—For purposes of this section, any building or other structure located in a registered historic district shall be treated as a certified historic structure unless the Secretary of the Interior has certified, prior to the demolition of such structure, that such structure is not of historic significance to the district."

(2) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280. Demolition of Certain Historic Structures."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to demolitions commencing after June 30, 1976, and before January 1, 1981.

(c) DEPRECIATION OF IMPROVEMENTS.—

(1) METHOD OF DEPRECIATION.—Section 167 (relating to depreciation) is amended by redesignating subsection (n) as (p), and by inserting after subsection (m) the following new subsection:

"(n) STRAIGHT LINE METHOD IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (as defined in section 192(d)(1)) which is demolished or substantially altered (other than by virtue of a certified rehabilitation as defined in section 192(d)(3)) after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply,

"(B) the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method.

"(2) EXCEPTION.—The limitations imposed by this subsection shall not apply to personal property."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1975, and before January 1, 1981.

(d) SUBSTANTIALLY REHABILITATED PROPERTY.—

(1) Section 167 (relating to depreciation) is amended by inserting after subsection (n) (as added by subsection (c) of this amendment) the following new subsection:

"(o) SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—

"(1) GENERAL RULE.—Pursuant to regulations prescribed by the Secretary, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated historic property as though the original use of such property commenced with him. The election shall be effective with respect to the taxable year referred to in paragraph (2) of this subsection and all succeeding taxable years.

"(2) SUBSTANTIALLY REHABILITATED PROPERTY.—For purposes of paragraph (1), the term 'substantially rehabilitated historic property' means any certified historic structure (as defined in section 192(d)) with respect to which the additions to capital account for any certified rehabilitation (as defined in section 192(D)(3)) during the 24-month period ending on the last day of any taxable year, reduced by any amounts allowed or allowable as depreciation or amortization allowable thereto, exceeds the greater of—

"(A) the adjusted basis of such property, or

"(B) $5,000.

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of section 1250(c)), whichever is later.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to additions to capital account occurring after June 30, 1976, and before July 1, 1981.

(e) TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—

(1) INCOME TAX DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 170(f)(3) (relating to charitable contributions) is amended—

(A) by striking out "or" at the end of subparagraph (B)(i),

(B) by striking out "property.", at the end of subparagraph (B)(ii) and inserting in lieu thereof "property,"

(C) by adding after clause (ii) of subparagraph (B) the following new clauses:

"(iii) a lease on, option to purchase, or easement with respect to real property of not less than 30 years' duration granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes, or

"(iv) a remainder interest in real property which is granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes.", and

(D) by adding at the end thereof the following new subparagraph:

"(C) Conservation purposes defined.—For purposes of subparagraph (B), the term 'conservation purposes' means—

"(i) the preservation of land areas for public outdoor recreation or education, or scenic enjoyment;

"(ii) the preservation of historically important land areas or structures; or

"(iii) the protection of natural environmental systems."

(2) ESTATE TAX DEDUCTION FOR TRANSFER OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 2055(e)(2) (relating to deductions from gross estate) is amended by striking out "(other than a remainder interest in a personal residence or farm or an undivided portion of the decedent's entire interest in property)" and inserting in lieu thereof "(other than an interest described in section 170(f)(3)(B))".

(3) GIFT TAX DEDUCTION FOR TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 2522(c)(2) (relating to deductions from taxable gifts) is amended by striking out "(other than a remainder interest in a personal residence or farm or an undivided portion of the donor's entire interest in property)" and inserting in lieu thereof "(other than an interest described in section 170(f)(3)(B))".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to contributions and transfers made after June 13, 1976, and before June 14, 1977.

Mr. BEALL. My amendment has now been cosponsored by the following Senators: ABOUREZK, DOLE, DOMENICI, GOLDWATER, JAVITS, MATHIAS, MCCLURE, MCGOVERN, HUGH SCOTT, STONE, TAFT, and TOWER. Amendment No. 1905 is similar to legislation I introduced on February 12, 1975, S. 667, the Historical Structures Tax Act of 1975, which has subsequently been cosponsored by 20 Senators. The Historic Structures Tax Act amendment would achieve the following objectives:

First. It would encourage the preservation of historic buildings and structures certified by the Secretary of the Interior as registered or qualified for registration on the National Register of Historic Places; or located in a historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary or his delegate as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district.

Second. It limits depreciation to the straight-line method in the case of buildings constructed on sites which were formerly occupied by demolished historic structures.

Third. It permits a 5-year writeoff of rehabilitation expenditures incurred with respect to historic structures which are used in the taxpayer's trade or business or held for the production of income provided that property acquired in connection with such expenditure is otherwise eligible for the depreciation allowance.

Fourth. It provides that on the disposition of a certified historic structure, gain would be treated as ordinary income to the extent that the special writeoff provided under this section exceeded the depreciation deduction which would have otherwise been allowable, without regard to this provision.

Fifth. It adds a new section to the Internal Revenue Code providing that no deduction be allowed for amounts expended in the demolition of a registered historic structure, or for the undepreciated cost of such a structure.

Sixth. It provides that, if a taxpayer substantially rehabilitated depreciable property, he would be permitted to elect to compute depreciation with respect to his pre-existing basis in the building as though the entire structure was first placed in service by him. This will permit a taxpayer who purchases a used building and rehabilitates it to utilize the so-called accelerated methods of depreciation, a privilege which is not now accorded taxpayers under the law. In order to qualify for this special treatment, the amounts added to capital account during a 24-month period must be at least $5,000 and must be greater than the undepreciated cost of the property, determined at the beginning of the 24-month period.

Seventh. It provides that a charitable deduction will not be denied on the transfer of a partial interest in property, where the interest is either an easement of 30 or more years duration granted exclusively for conservation purposes, or is a remainder interest in real property which is granted exclusively for conservation purposes. "Conservation purposes" mean the preservation of open land areas for public outdoor recreation or education, or scenic enjoyment. The preservation of historically important land areas or structures, or the protection of natural environmental systems.

Mr. President, amendment No. 1905 has several changes which were not incorporated in S. 667. The amendment incorporates a series of drafting changes, suggested by the Department of the Treasury.

These changes correct drafting defects in the original bill and the Treasury Department has expressed its full and unequivocal support for amendment No. 1905. In a letter dated July 19, 1976, Acting Treasury Secretary George Dixon, said:

> We have reviewed amendment No. 1905 carefully. From both a policy and a technical standpoint, it has our full support. I also note that we believe it would produce an insubstantial revenue loss.

Mr. President, I ask unanimous consent that the full text of Secretary Dixon's letter along with two earlier letters from Secretary Simon be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. BEALL. The second change incorporates a provision I introduced as a separate amendment on December 19, 1975. That amendment, No. 1325 to S. 667, extended the bill's coverage to include buildings located in a historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior as containing criteria which will substantially achieve the purpose of the district. This provision was a direct result of my visit, not too long ago, to the Union Square historic district in Baltimore City. That walking tour, which was conducted by Mrs. Robert E. Whitely, convinced me that we should recognize and encourage State and local governments to establish historic districts as a way of revitalizing our urban areas. Mr. President, I ask unanimous consent that additional material on the Union Square district be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BEALL. The third change places a 5-year termination date on the provisions of amendment No. 1905. As a mem- of the Budget Committee, I believe that tax expenditures should be periodically reviewed by the Finance Committee just as other Federal programs are reauthorized from time to time.

Mr. President, amendment No. 1905 coincides with our national objectives as expressed by the President and the Congress. I personally believe that a knowledge of and respect for our Nation's history is vital to maintaining our sense of national unity. During this our Bicentennial Year, we find our Nation divided and troubled. We need to strengthen the bonds which unite all Americans, which maintain our esprit de corps as a Nation, and which will enable us to weather our current adversities as we have done so often in the past.

One of the great unifying elements in this Nation is our common historical experience. Since 1776, our Nation has demonstrated its ability to endure the rigors of a Valley Forge, the invasions of 1812, a bloody Civil War, the First World War, the Great Depression, World War II, Korea, Vietnam, and the sometimes oppressive burden of world leadership which has devolved onto us since 1945.

My amendment seeks to strengthen our sense of national unity and purpose, preserve our history, reinvigorate our urban communities, and make additional open spaces available for the use of our people and the protection of our environment. This amendment seeks to do this by constructively utilizing our Federal tax system so as to encourage the long range and highly desirable socioeconomic and environmental goals which we as a Congress have set for our Nation.

Mr. President, if we are to achieve the objectives outlined in this amendment, we must go beyond the current Federal, State, and local programs designed to preserve our Nation's past. At the rate we are going large numbers of historically significant structures are being destroyed for the sake of modernization. Approximately 25 percent of the buildings recorded by the Historic American Buildings Survey of 1933 have since been destroyed. Our tax system does not now favor the restoration and rehabilitation of such buildings, especially those that are privately owned. The incentive, as it currently exists in our Federal tax structure, actually encourages the demolition rather than the retention of older structures. This produces increasingly less diversity in our urban centers, destroys buildings of historical significance, and makes our cities increasingly less pleasant and desirable places in which to live.

Mr. President, the National Advisory Council on Historic Preservation has concluded that the enactment of the Historic Structures Tax Act amendment would have additional positive benefits in the area of energy and raw material conservation and job creation. In a memorandum entitled "Historical Preservation Tax Revisions," the Council summarized the probable beneficial effects which would flow from the enactment of this legislation. These benefits are as follows:

> PROBABLE BENEFICIAL EFFECTS
>
> H.R. 6225 and S. 667 would remove tax generated pressures for redevelopment of commercial structures of recognized historic or architectural importance. Removal of present disincentives and the provision of limited incentives to rehabilitation would encourage private investors to place greater emphasis on renovation rather than demolition and replacement. Besides obvious benefits in terms of preserving historic properties, a number of side benefits would accrue:
>
> A. Stimulation of jobs by encouraging rehabilitation work which is significantly more labor intensive than new construction.
>
> B. Conservation of energy and raw materials by reusing sound, existing buildings which were designed to more effectively use natural sources of heating, cooling, and lighting.
>
> C. Revitalization of existing commercial centers that do not require substantial new public investment in infrastructure.

Mr. President, the time has clearly come for us to harness the constructive energies in our Nation's tax system so as to bring private funds and commercial interests actively and enthusiastically into the field of historic preservation. The time has clearly come for the Congress to wipe away many of the existing tax incentives which run directly counter to our national goals.

Mr. President, on February 12, 1975, at the time of the introduction of the original legislation, S. 667, I inserted into the CONGRESSIONAL RECORD a section-by-section analysis of the Historical Structures Tax Act and excerpts taken from the environmental impact statement which was prepared by the Department of the Treasury. In June of 1974, the Finance Committee conducted a series of hearings entitled "Tax Increase Proposals." I submitted a lengthy statement on the Historical Structures Tax Act which begins on page 783 of part 2 of the hearings report. Included as part of that statement was a section-by-section analysis of the bill, the environmental impact statement prepared by the Department of the Treasury, an analysis by the Advisory Council on Historic Preservation, a memorandum from the Library of Congress summarizing the effects of the Historical Structures Tax Act on existing tax law, and letters from various governmental departments and agencies and private organizations commenting on this legislation. Additional material supporting the Historical Structures Tax Act appeared in the CONGRESSIONAL RECORD on August 3, 1973, May 8 and 9, 1974, February 12, 1975, and December 19, 1975.

This legislation was originally proposed and supported by former Treasury Secretary Schultz and it has the support of Secretary Simon. Since first introducing this bill on August 3, 1973, I have received hundreds of letters expressing support from individuals and groups who have a particular interest in the preservation of our Nation's historic treasures.

I strongly believe that this amendment will have a significant impact upon efforts to preserve our Nation's historic buildings which add diversity and flavor to our urban environment and encourage the preservation of open space and wilderness areas.

Mr. President, because of the importance I attach to this legislation and the goal it seeks to achieve, I urge my colleagues to approve amendment No. 1905 and incorporate the Historic Structures Tax Act provisions in the Tax Reform Act of 1976.

EXHIBIT 1

THE SECRETARY OF THE TREASURY,
Washington, D.C., July 19, 1976.
Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: Having been previously advised of the Treasury Department's and the White House's continuing support for tax legislation encouraging historic preservation, you have requested the Department's views on Amendment No. 1905 to H.R. 10612. This amendment would provide a variety of measures designed to equalize the tax treatment of new buildings and restored historic structures.

We have reviewed Amendment No. 1905 carefully. From both a policy and a technical standpoint, it has our full support. I also note that we believe it would produce an insubstantial revenue loss.

With best regards,
Sincerely yours,
GEORGE H. DIXON,
Acting Secretary.

THE SECRETARY OF THE TREASURY,
Washington, D.C., October 27, 1975.
Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR GLENN: You have inquired as to the Treasury Department's position regarding S. 667. This bill represents a revised version of those provisions in earlier Administration environmental proposals which dealt with historic structures.

This matter has recently been the subject of communications between the Department and the White House. We are all favorably disposed toward legislation of this nature, although we have not yet decided on a specific vehicle.

As your letter notes, personnel in the Office of Tax Legislative Counsel are in the process of reviewing S. 667 and similar bills from a technical viewpoint. In particular, Title III of S. 667 should be amended, because as now worded it would confer substantial tax benefits on all kinds of real property, not just on historic structures. I have instructed these personnel to keep you informed of the results of their efforts and of all further development in this area.

With best regards,
Sincerely yours,
WILLIAM E. SIMON.

THE SECRETARY OF THE TREASURY,
Washington, D.C., March 19, 1976.
Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR GLENN: On behalf of the President and myself, I want to thank you for your letters of February 12, 1976, providing a copy of the amendment to S. 667, your bill on historic preservation, and urging that such legislation be made a part of the Administration's 1976 program.

As I indicated in my letter of October 27, both the Treasury Department and the White House continue to support tax legislation encouraging historic preservation. The Department in particular favors H.R. 6225, introduced by Mr. Conable, which is quite similar to S. 667 but which has been revised in order to correct a number of drafting problems. These revisions have been supplied to Mr. Rust of your staff and we would be happy at any time to discuss them with you.

In previous Congresses, the Department submitted formal legislative proposals that included a title on historic preservation similar to S. 667. This legislation has not been formally resubmitted in view of Mr. Conable's introduction of H.R. 6225. We are awaiting consideration of that bill by the Ways and Means Committee.

With best regards,
Sincerely yours,
WILLIAM E. SIMON.

EXHIBIT 2

[From the News American, May 9, 1975]

ONE HUNDRED TWENTY EIGHT YEARS OLD SATURDAY, UNION SQUARE IS REBORN

(By Jacques Kelly)

The Victorian oasis soon to be blooming in West Baltimore is no mirage.

When opened in October, this handkerchief of lacy foliage will debut in proper, mid-19th century finery. Its fountains will flow, grass freshly sodded, pink pavements replaced, lighted by electrified gas lamps and boarded by herringbone-pattern brick footways.

And the redeemed Union Square will be the lush green emerald shared by the matronly row homes that face it on three sides of Hollins, Lombard and Stricker Streets.

The square—that will be 128 years old Saturday—has been the special project of the Union Square Assn. since it was formed by concerned residents and renovators in 1967. In the succeeding years the group, whose current president is Capt. Joseph S. Parker, USA, has worked with city agencies toward the restoration of the focal point of their neighborhood.

The past 35 years have not been particularly kind to the square. Its grass grew spotty, the fountain was taken down, trees died, the pavement cracked and the shrubs and planting looked the worse for the wear.

Union Square's best friends since the revival began seven years ago have been a couple, Robert and Connie Whitely who have become synonymous with the area and the moving force behind Union Square's rowhouse renaissance.

Standing in her own 12-foot parlor front window, Mrs. Whitely points with pride out toward the work in progress.

"I've always found that the city appreciated having a community that works with its agencies. By doing its part, the neighborhood can assist in the preservation of an amenity.

"We've had marvelous cooperation with the department of Recreation and Parks and the city forester. There was no detail overlooked. There has been great unity between historical groups, contractors and the city.

"What's happening in Union Square is an example of what can happen if people are careful," she said.

Under the plan for restoring the square, a new, herringbone-pattern brick pavement will replace the traditional concrete walk around the block's perimeter. The neighborhood met and selected a special brick that would most closely resemble the other brick sidewalks left in the community.

Inside the square precincts, contractors are presently ripping up old pavement and replacing it with a new pink-tinted concrete walks. These footways will be scored when the concrete is still wet to imitate the original diamond-shaped slabs of paving material.

The pattern of walks within the square is unusual in itself. The promenades enter the square at the corners and at the middle, making a criss-cross effect of paths. Added to this, semi-circular trails curve around in the spaces defined by the straight segments.

The community also worked with Wilbur H. Hunter, director of the Peale Museum, to identify an early gas lamp, a type of which would have been in use in the square during the 1850s.

A local street lamp company accepted their design for an eight sided, clear glass lamphead, supported by a replica standard, complete with the rest of the lamplighter's ladder.

The lighting company that developed the lamp named it the "Union Square" model. In addition to the fixture's eight sides of clear glass, it will be mounted by a copper finial and be illuminated by a low-glare, sodium vapor bulb.

The department of Recreation and Parks, which is handling most of the park project, will also be restoring many of the old, cast iron benches and replacing their broken slats with fresh planks. There will also be some additional new benches installed when the square opens in the fall.

Extensive research by city forester Calvin Buikema and Gerald J. Moudry, horticulturalist for the parks department, went into locating what trees and shrubs and flowers would have flourished in a Victorian city square.

The forester found that red and white oak, black gum, red maple, sweet gum and sugar maple would be appropriate, and had examples planted. Checking the records also disclosed that square's trees originally were transplanted from the bed of Mount Street, when it was cut and opened more than 100 years ago.

Mount Street led up to an old estate, probably "Willowbrook," the Donnell family property. It eventually became the House of the Good Shepherd Home.

Research also centered on old plants and shrubs characteristic of the Victorian period. Slender deutzia, a white blossomed shrub that blooms in May, was introduced about 1840 and was probably used in Union Square or parks similar to it.

Japanese and California privet, both popular in the 1840s too, have also been planted. So has mock orange, which dates from the Colonial period, and an assortment of Japanese yews and weigela. In all, some $8,000 was spent on the planting of trees and shrubs.

Another long Union Square Association project has been the replacement of the fountain. At present, the sculptor making the replica (the original was destroyed) is casting the components.

When completed, the fountain will stand free in a six-foot wide circular basin. It will have an ornate pedestal design modeled entirely from old photos of the original.

The fountain, now in the final stages of completion by sculptor Malcolm Harlow, has had to be cast in epoxy resin and bronze. The fountain project has been in the works for the past several years and has suffered several financial setbacks due to a sharp price hike in the cost of its bronze.

It is expected to be unveiled—gushing water and complete with goldfish—on H. L. Mencken's birthday in September. The fountain will be dedicated to The Sage and bronze plates of all his major books will be attached to the base. H. L. Mencken, of course, was Union Square's most famous resident.

Once the fountain project is completed, the association will move on to several more long-range restoration tasks in the square. Their first order of business will be the restoration of a cupola atop the Greek-styled "gazebo" in the square. This tiny temple once shaded a gushing spring noted for its delicious and cool waters.

The square residents also hope to tap the spring once more, and replace the granite steps that once descended to the waters. A longer-range goal is to replace the cast iron fence that once enclosed the square, but was taken down years ago.

"It's all been an ordeal in a way, yet all the while it knew it would be successfully completed," says Mrs. Whitely.

Sherwood Gardens, watch out, you're going to have competition.

[From the News American, May 9, 1975]

EFFORTS RESTORING HOLLINS MARKET

(By Jacques Kelly)

Sunday morning about 8 o'clock should see the start of a concentrated neighborhood and business effort to fix up the old Hollins Market.

The market building, portions of which date from 1838, will be partially refurbished with a donation of some $13,000 worth of labor and materials contributed by the neighborhood's citizens, market stall keepers and the West Baltimore business community.

The building, located on Hollins Street several blocks east of Union Square (see accompanying article), will see extensive restoration work completed through an unusual spirit of neighborhood cooperation.

The union of the residents and merchants will replace all the broken windows in the landmark old building's upper floors.

"It's a community setting the pace for Preservation Week," says Mrs. Connie Whitely, of the Union Square Association.

"We're all going to get together and clean up the second story that now is nothing but a bird sanctuary.

"By the end of the day we hope to have all the windows fixed with non-breakable glass. We've even got a professional glazier—Albert (Eddie) Bowen—to donate his time to the project," said Mrs. Whitely.

She explains further that persons of all income levels have made sizable donations to the project. The market merchants and the West Baltimore Street shopkeepers have been generous, she says.

The city's department of Public Works will subsequently do the major part of the market renovation, including the cleaning of the exterior brick with chemicals, a new roof, plumbing work and restoration of the rotting sections of the old cornice.

"Baltimore's market system really is unique in the country. I think we deserve to put our historic buidings on the National Register to obtain funds for restoration.

"Preservation is an everyday thing that can belong to everyone, even an old market," said Mrs. Whitely, who in addition to her role in Union Square activities is a member of the Baltimore committee of the Maryland Historic Trust.

The community says it plans to press for the market's preservation.

Hollins Market once stood in what was one of the city's most fashionable neighborhoods. It was on April 16, 1835 that one George T. Dunbar conveyed to the mayor and city council "a lot of ground on Hollins Street for the purpose of erecting a market house."

A market house was soon erected, only to blow down in a wind storm, about three years later.

The present east end of the market, sometimes referred to as the "chicken coop," is actually the oldest portion of the market and was built in 1838.

According to research done by the Union Square Assn., in 1864, a two-story addition was built on the western half of the property for use as a public hall and market. Later additions were built in 1877.

The present building—where the renovation effort is being aimed—is a high, classically styled brick building whose first floor is a series of rounded arch entries. It is said to be modeled after the medieval market halls of England, where the vendors sold their wares on the first floor, just below a large, second floor meeting hall.

It has been comparatively recently that the outdoor vendors stopped setting up booths in the street, and sold their produce from under canvas tent-like contraptions.

The Hollins Market is the least changed of any city market.

[Taken from a publication entitled "Baltimore Is Alive and Well and Living In-Town"]

LIVING IN UNION SQUARE

"The Hollins Street neighborhood, in the eighties, was still almost rural (for there were plenty of vacant lots nearby) and the open country began only a few blocks away. Across the street from our house was the wide green of Union Square, with a fishpond, a cast-iron Greek temple housing a drinking fountain, and a little brick office and toolhouse for the square keeper. . . . And I recall my mother reading to me, on a dark Winter afternoon, out of a book describing the adventures of the Simple Simon who went to a fair, the while she sipped a cup of tea that smelled very cheerful, and I glued my nose to the frosty window pane, watching a lamplighter light the lamps in Union Square, across the street, and wondering what a fair might be." H. L. Mencken, Happy Days, 1880–1892

To mention the Victorian neighborhood of Union Square, without mentioning H. L. Mencken, is like mentioning Currier without Ives.

The Baltimore Sage lived his entire life, from age 3, on the Square, which remains today the best-preserved in the city. Where once the lamplighter walked, a jogger may now be seen. But the cast-iron gazebo remains, the fountain has been reproduced and dedicated to Mencken, and the houses surrounding the square have, if anything, improved with age. Certainly, recent restorations have enhanced the beauty of the Square and property values in the neighborhood.

Union Square was deeded to the city in 1847 by the Donnell brothers, owners of the Willowbrook estate, who rightly believed the value of the surrounding building lots would be thereby increased. Union Soldiers camped there during the Civil War, hence its name.

Mencken's home, at 1524 Hollins Street, now houses offices of the University of Maryland School of Social Work, but the rest of the Square is mostly residential, with old-line families mixing with young marrieds and students in single family houses and apartments.

Steuart Hill Elementary School, on the west side of the Square, is one of the most innovative in the nation, and provides a complete recreation center. (It's one of five schools in the area.) Just a few blocks to the south is Carroll Park, with complete facilities for tennis, football and baseball. The Park is also the site of the Mt. Clare Mansion, reputed to be the oldest house in Baltimore. Bustling Hollins Market and the B & O Transportation Museum are two other historic attractions in the area.

The University of Maryland Schools of Medicine, Law and Dentistry lie seven blocks to the east. Three hospitals are only blocks away. As are three churches.

The neighborhood extends from Baltimore Street on the north, to Pratt Street on the south, N. Arlington Avenue on the east and N. Fulton Street on the west.

Good, sound housing is still available in this Victorian wonderland, at prices considerably lower than in some of the other restoration areas. However, in 1970 the majority of this area became the Union Square Historical and Architectural Preservation District by Mayor and City Council decree, and values are certain to increase as more and more people discover what there is about Union Square that Mencken never wanted to leave.

Mr. LONG. Can the Senator tell me whether a person would have the advantage of the tax benefit provided by this amendment if the person were actually living in the historic building that he purchased? Suppose he is using it as a residence?

Mr. BEALL. It cannot be just a primary residence.

Mr. LONG. It cannot be just a primary residence.

Mr. BEALL. It cannot be just a residence. It could be a business place. It could be residential property, but not exclusively used for residential purposes. There has to be a revenue gain on which to take the loss.

Mr. LONG. Then can we assume that this would have to be a building subject to depreciation in the absence of this bill?

Mr. BEALL. Yes.

Mr. LONG. I see. I thank the Senator.

Mr. President, the copy of the letter to which the Senator made reference, the letter from the Treasury supporting his amendment, has he submitted it for the Record?

Mr. BEALL. Yes, I asked unanimous consent that the letter from the Acting Secretary of the Treasury in support of my amendment be printed in the Record.

I will read again what they said:

> This amendment would provide a variety of measures designed to equalize the tax treatment of new buildings and restored historic structures.
>
> We have reviewed Amendment No. 1905 carefully. From both a policy and a technical standpoint, it has our full support. I also note that we believe it would produce an insubstantial revenue loss.

Mr. LONG. The estimates I have been handed on this would indicate that the estimated revenue loss for fiscal 1977 would be $17.5 million, that for 1978 it would be $71 million, going up to $195 million in 1981.

Of course, that starts out fairly low, but it would mean a substantial amount eventually.

Does the Senator see an estimate to that effect?

Mr. BEALL. I have not seen those figures. I believe the Senator is using figures that apply to legislation I introduced in 1973 which has since been amended at the suggestion of the Treasury Department to tighten the provisions of the bill considerably.

So those figures are no longer applicable.

Mr. LONG. Then, Mr. President, I would like to have recognition long enough to say that this amendment was not studied in the committee. It was not the subject of hearings.

I have discussed this with my ranking member (Mr. Curtis). He finds a great deal of appeal to the amendment, and, of course, so would I.

I think all of us would like to preserve historic things around the country. I really have no strong objection to it.

If that be the will of the Senate, if the Senate would like to vote for the amendment, as far as I am concerned, that is the judgment of the Senate.

We would ordinarily like to have a chance to study it at greater length. But I understand the Senator's problems. If he does not get it agreed to on this bill, he will not get it agreed to in this Congress.

If the Senate is disposed to support the amendment, then I would be happy to ask the House to consider it and, hopefully, they would agree to it. I assume he would have the support of at least one Member of the House when it got to the other side.

I applaud the Senator's very fine motives in seeking to preserve historic buildings.

As far as I am concerned, I am willing to trust it to the judgment of the Senate.

Mr. BEALL. I appreciate the remarks of the distinguished chairman of the Finance Committee. I appreciate the fact that he is not in opposition and is in sympathy with the directions in which we are going.

The chairman is correct in saying that this could be the last chance in this Congress to get the Historic Structures Tax Act considered.

I think it is appropriate during this, our Bicentennial Year, for the Congress to take meaningful action to encourage the preservation of historic property.

I think the most meaningful way of doing this is through the passage of this amendment to the tax reform bill so people can be aided in carrying out something that is very much in keeping with our national objectives.

Mr. LONG. May I say to the Senator, I have been looking for an opportunity to do something along the lines of this amendment for a number of years. I simply have not been able to work out a legislative proposal to meet the various objectives that I would like to see achieved. But I know this would do part of what I would like to see done.

If the Senate will pardon me for voting on something that has not been considered in committee, I think I will vote for it myself.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), and the Senator from California (Mr. Tunney) are necessarily absent.

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 427 Leg.]

YEAS—94

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—2

Fong
Proxmire

ANSWERED "PRESENT"—1

Pell

NOT VOTING—3

Metcalf
Mondale
Tunney

So Mr. Beall's amendment (No. 1905) was agreed to.

Mr. STEVENSON. Mr. President, I call up an amendment I have at the desk.

Mr. LONG. Mr. President, I believe we had a unanimous-consent agreement——

The PRESIDING OFFICER. The Senator from Louisiana is correct. The Chair is advised that under the previous order the Senator from New Mexico (Mr. Domenici) is to be recognized.

Mr. LONG. Mr. President, the Senator from New Mexico has an amendment, and if he is not here, I suggest the absence of a quorum.

Mr. JAVITS. Mr. President, if the Senator will yield, I follow him, and I think my amendment will be accepted. Shall I go ahead?

Mr. LONG. Mr. President, I ask unanimous consent that in the event we can agree upon the Javits amendment, we can go ahead and consider it, but that in the event that objection is heard, we then revert to the amendment by the Senator from New Mexico.

Mr. JAVITS. That is acceptable to me.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 255

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Javits) proposes an unprinted amendment numbered 255.

Mr. Javits' amendment is as follows:

On page 809, after line 24, add the following new section:

(f) Certain Stock of Cooperative Housing Corporations.—

(1) Section 216(b) is amended by adding at the end thereof the following new paragraph:

"(5) Stock acquired through foreclosure by lending institution.—If a bank or other lending institution acquires by foreclosure (or by instrument in lieu of foreclosure) the stock of a tenant stockholder, and a lease or the right to occupy an apartment or house to which such stock is appurtenant, such bank or other lending institution shall be treated as a tenant-stockholder for a period not to exceed three years from the date of acquisition. The preceding sentence shall apply even though, by agreement with the cooperative housing corporation, the bank (or other lending institution) or its nominee may not occupy the house or apartment without the prior approval of such corporation."

(2) The amendment made by paragraph (1) shall apply to stock acquired by banks or other lending institutions after the date of enactment of this Act.

The PRESIDING OFFICER. The Senate will be in order. The Senator will withhold for just a moment, until order is restored. Senators, staff members and guests will assist in restoring order.

The Senator may proceed.

Mr. JAVITS. Mr. President, this amendment provides that where a bank makes a loan to a person who acquires a cooperative apartment, and gets as security the stock and the cooperative lease which the tenant has, and then is compelled to foreclose on that loan, the Bank may be subrogated to the tenant shareholder's position for a period of 3 years.

That is important in order to encourage cooperative ownership of apartments. The normal amount involved, in cities, is about $3,000 a room. What the amendment does for the bank is that the bank is then able to pay the rent on the apartment, pay its share of the maintenance, and hang onto the apartment so that it can be sold, whereas it could not do so otherwise because it is not an individual under the law, nor would it get the benefit of the tax treatment the shareholder gets for interest on the basic mortgage and for taxes.

The thought is to encourage banks to be able to make loans on cooperative apartments without suffering because they are not in the position to be subrogated to the tenant shareholder's rights; not to make that forever, but to limit it to a short period of time to give them time to dispose of the apartment. The suggestion is 3 years, but if the Senator from Louisiana feels that is too long, for any other period, just so long as it is practical to give the bank a chance to dispose of the property.

We have worked this out, we feel, with the staff of the Committee on Internal Revenue Taxation, and I have just explained the amendment to the Senate.

Mr. LONG. Mr. President, the amendment was not studied in the committee, but it relates to a situation that I believe is somewhat narrow. I believe it is of specific concern to the Senator's State, and the amendment seems to be meritorious. I am willing to accept the amendment.

Mr. JAVITS. I thank the Senator. Mr. President, I ask unanimous consent to have printed in the Record a detailed explanation of the amendment.

There being no objection, the explanation was ordered to be printed in the Record, as follows:

Detailed Explanation

The object of the amendment, and the basic reason for it, is to give impetus to legislation adopted by the New York State Legislature in 1971 (Chapter 376), which authorizes savings banks to make loans to the purchasers of cooperative apartments, and was intended to facilitate the conversion of middle income, rent controlled apartments to cooperative ownership.

While the amendment I propose is simple, and would deal exclusively with this one problem, the reason for its need cannot be simply stated, for it arises out of complex tax laws and laws relating to cooperative apartments, both of which are often little understood.

I need not remind my colleagues of the alarming and increasing deterioration of originally well constructed apartment houses in New York City, the impact of which falls mostly on tenants of middle and low income, who, as a result, must either live in deteriorated housing until it is totally abandoned, or move into more expensive and often less well constructed apartments. The buildings I am talking about are not the Old Law Tenements, whose days should be numbered, but modern apartment houses, built mostly in the 20's, the rentals of which are, for the most part, still controlled under City Rent Laws.

Many of us believe that one method of reversing the trend is to encourage tenants to acquire buildings on a cooperative basis. Experience proves that substantially every apartment house in New York, converted from rental to cooperative ownership, has almost immediately been upgraded. The benefit to the tenants (and the City as a whole) lies not only in improved housing conditions, but in an assurance to the tenants that the rents they pay are measured exactly by the cost of operating and maintaining the buildings, thus eliminating any provision for profit, which a rental owner must, of course, receive.

Encouragement of tenants to buy under a Cooperative plan, by moral suasion or logic. is never enough; for to buy an apartment, the tenant must have cash, which is often not available to those most in need of just this solution to their problem. I do not speak of tenants in Government subsidized housing, because funds are made available to them under various city and State programs. It is the self-supporting tenants who need help in buying self-supporting, fully taxpaying cooperative apartment houses.

That encouragement was needed to tenants in this category was recognized in 1971 by Governor Rockefeller and the New York State Legislature, as a result of which Chapter 376 of the Laws of 1971 was adopted, which permits savings banks to make loans to the purchasers of cooperative apartments (of up to 75% of the purchase price on a self-liquidating loan, for 20 years). As a result of the enactment of this statute, not only were savings banks permitted and encouraged to make loans to cooperative apartment buyers, but commercial banks as well moved into the field. In a typical westside apartment house, cooperative apartments sell for between $2,000.00 and $3,000.00 a room, so that a purchaser of a six-room apartment needs between $12,000.00 and $18,000.00, which most of them don't have. If they can borrow 75% of the purchase price on a loan repayable over 20 years, they usually have the difference available in a savings bank.

The law permits banks to make these loans secured solely by a pledge of the stock and lease, which are the evidence of ownership of a cooperative apartment. While both borrowers and lenders speak of these loans as "mortgages" on the "apartment", they are, of course, not mortgages, and do not even provide the same kind of security that a second mortgage on real estate provides; for the legal interests of the owner of a cooperative apartment are quite different from the legal interests of the owner of real estate. If an owner of real estate defaults on his first mortgage, the second mortgagee can protect his interest by curing the defaults on the first mortgage, or paying it off. On the other hand, if a cooperative apartment owner defaults under his proprietary lease, the corporation can then terminate the lease, and the bank's security is lost. Almost every proprietary lease of a cooperative apartment provides that if the lease itself is terminated for a lessee's default, his stock in the cooperative apartment corporation is automatically cancelled. If the bank could—after curing the tenant's default under a lease—acquire title to the borrower's stock and lease, it could protect itself, and would be adequately secured. However, no one can acquire title to cooperative apartment stock and lease, without the consent of the cooperative apartment corporation, and because of the present language of Section 216 of the Internal Revenue Code, cooperative apartment corporations will not grant such consent.

Under Section 216, tenant-owners of cooperative apartment houses are entitled to income tax deductions for their proportion of the real estate taxes and mortgage interest paid by the cooperative apartment corporation, if that corporation meets the requirements of the tax law. But, under the tax law, as it is presently written, the ownership of cooperative apartment stock by a bank could disqualify the corporation because:

1. Section 216 defines a tenant-stockholder as "an individual," which a bank, of course, is not. The Internal Revenue Service has rightly ruled that an individual, acting as nominee for a corporation, cannot qualify as a tenant-stockholder.

2. The right to tax deductions to tenant-stockholders exists under Section 216(b)(1)(D) only if "80% or more of the gross income (of the cooperative corporation) is derived from tenant-stockholders".

With these two provisions in mind, it is clear that in a case where 19% of a cooperative corporation's income is derived from stores or offices (as it is in many New York apartment houses), the ownership by a bank of stock allocated to one apartment could tilt the scale, and deprive all other tenant-stockholders of their right to tax deductions. Even in a case where there are no stores and where a cooperative corporation has no income, except from tenant-stockholders, if the cooperative corporation were to give banks the right to take title to the stock and lease of a defaulting borrower, it could easily be—if 20% of the stockholders defaulted on their lease or loan—that banks would be paying more than 20% of the corporation's income, and those tenant-stockholders who had not defaulted on their loans would thus lose their right to tax deductions.

It is because of this possibility that most cooperative apartment corporations to date do not give banks the right to acquire title to stock and lease, and in consequence, many banks are reluctant to make loans authorized by New York Law.

My amendment would deal with this problem by allowing a bank to step in as a tenant-shareholder for a period of three years to provide time to dispose of the stock.

In considering whether the amendment I propose is feasible, I draw your attention to the fact that Section 216 was amended in 1969, by the addition of subdivision (4) to paragraph (b), so as to permit the ownership of stock and lease by Governmental Agencies. This provision was added at a time when, under Federal, State and City Laws, Governmental Agencies found it useful to buy cooperative apartments for the use of tenants of low income, and it was recognized that if the amendment were not adopted, tenant-stockholders would be denied their right to tax deductions. The amendment I propose will achieve substantially the same result where tenants who are not on welfare are being assisted by bank loans.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico (Mr. DOMENICI) is recognized.

AMENDMENT NO. 2062

Mr. DOMENICI. Mr. President, I call up my amendment No. 2062, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and Mr. MONTOYA, proposes an amendment numbered 2062.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI's amendment (No. 2062) is as follows:

On page 841, beginning with line 15, strike out all through page 842, line 14.

On page 832, line 15, strike out "SEC. 1324." and insert in lieu thereof "SEC. 1323.".

On page 846, strike out "SEC. 1325." and insert in lieu thereof "SEC. 1324.".

Mr. DOMENICI. Mr. President, for the benefit of the Senator from Arizona (Mr. FANNIN), I need about 5 minutes——

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until order is restored.

The Senator may proceed.

Mr. DOMENICI. Mr. President, for the benefit of my distinguished friend from Arizona (Mr. FANNIN), I need about 5 minutes for that purpose. Therefore, I would ask for a quorum call, and then embark immediately upon my amendment.

Mr. LONG. That is all right.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, in a sense this amendment appears to be quite simple, but in another sense it is a very serious amendment. The Committee on Finance, at the request of the distinguished Senators from Arizona, Senators FANNIN and GOLDWATER, has placed in this title of the bill a proposal that would prohibit State taxes on the generation of electricity within a State if that tax directly or indirectly resulted in consumers of electricity outside of the State generating that energy paying a higher gross tax or net tax on that electricity than the gross or net tax paid in the State of generation.

Mr. President, my amendment is not basically a substantive one. All it does is seek to strike that language from this bill. So in a sense what I am asking the Senate to do is to return the law to its present status with reference to this issue.

I shall discuss the issue a little bit and then yield to my distinguished senior colleague for his remarks.

I do not think this is necessarily, Mr. President—and I say this to the Members of the Senate—a battle or a fight between the State of New Mexico and the State of Arizona, or the State of New Mexico and the State of California. I think there is a very basic issue here and we are trying to decide it on a so-called tax reform bill, and I think everyone ought to understand the consequences. If as a matter of fact or as a matter of law what the State of New Mexico has done is infringement upon the authority of Congress to regulate interstate commerce under the Constitution, then so be it, but this is not the forum to decide that issue.

If as a matter of fact or law what the State of New Mexico has chosen to do is infringement, this is not the forum to decide it. I might add, parenthetically, we are not the first. The State of Washington has sought to compensate itself as a State for the burdens that are attendant to generating electricity and using their resources. I might say that, in that particular dispute between the States of Washington and Oregon, a very similar contention was made that any kind of imposition of a generating tax by an exporting State that might result in some different treatment of the taxpayers of the producing State from those of the receiving State, the courts of this land determined the Washington tax was not unconstitutional because the court examined the overall tax law to find whether or not there has been a violation of the interstate commerce clause or of due process.

Now we have a very similar situation. The State of New Mexico in the four corners area has been a haven for the generation of electricity, a substantial portion of which is exported across this country, some to Arizona, California, and Colorado.

Our State legislature decided that there would be a tax on the generating of electricity from coal within the State of New Mexico, and there is no argument that they put a uniform tax on that particular act occurring in our State. It is uniform. The tax is imposed for the privilege of generating electricity in our State with our resources. As a matter of fact, it is not an onerous tax, because if it were they have another remedy. If a State imposes a tax that is so onerous that it is unfair, there is always the attack of violation of due process under our constitutional protection. No one says it is onerous in that respect.

But the State of Arizona chooses to fight this tax on the basis that it is "discriminatory."

I submit that one might define discriminatory as one wishes. There is a disequal treatment in the final product here when we are all through. Groups of taxpayers are treated differently. I submit, Mr. President, that is not the kind of discrimination in terms of the imposition of a State tax structure by a State exercising its sovereign right. The fact that citizens from without and within are treated differently should not be the basis of defining it as discriminatory and thus illegal as this particular provision of the reform act that we have before us is going to do.

Mr. President, what the State of New Mexico did is very simple. They said that all utility companies producing electrical energy in our State will pay a tax, and then they said, in their own judgment as a State, that the utility companies located in our State have a responsibility to our citizens to pay a share of the general purpose tax in our State, and in our State it is a sales tax. They said those utility companies that are in our State will pay a slightly lower sales tax than others in New Mexico, and if they pick up the difference they have balanced what outside utility companies will pay per unit of electricity and provided for a lesser figure for New Mexico utility companies by saying that the in-State utlities have a slightly lower burden to pay for the general purpose taxes in the State of New Mexico.

If that is discriminatory and the kind that this Congress wants to say is illegal, then I submit when I opened these remarks that it appears to be simple but it is serious, because as we proceed through this energy crisis, as we proceed through the States of this Union, recognizing that the development of their resources for these United States is indeed a collective responsibility, but if these States decide that as their resources are depleted, as burdens inure to a local area, as the Four Corners area from the growth that is coming from buildings these utilities, if they decide that they want a different tax structure to place the burdens differently, this Senate will be saying that, per se, is discriminatory and illegal.

In this instance, just to use some figures, if the out-of-State utility users pay a million dollars under our uniform utility tax, we are saying that our State utilities will pay a million dollars less of general purpose taxes for their share of the burden of general government. That is not quite correct. It is not a million dollars for a million dollars, but they will get the credit, and it is equal percentagewise.

Mr. President, I know that both Senators from Arizona understand that I have a serious responsibility to my State, because my State intends to use this revenue for exactly the kind of thing that the utility construction and energy development in this region brings as a burden to the area.

Mr. President, the Four Corners area, where this electricity is being produced, is literally without roads. We have a new electrical generating system, with a dirt road going to it. We must pay for it so that we can provide our people and my good friends from Arizona and California their electricity. We have a two-lane road that is a death trap that feeds this Four Corners area, and it provides service between Albuquerque and Farmington. We are going to improve it with this money.

This gives a glimpse of why I believe we are biting off an extremely big chunk when we describe this kind of treatment as being the kind of discrimination which justifies our taking away from a State its inherent prerogative to levy a utility tax that is reasonable. If it is not, let the courts decide, to distinguish to some extent between out-of-State users and in-State users. I do not think they want to do so, because the courts would rule that it is legal. They would say that if in the rest of our tax structure we provide any difference in any other tax that we imposed on our in-State utilities so as to cause a slightly higher burden of general purpose government on the importer it is going to be deemed discriminatory and illegal. If that is the case, we are entering a quagmire of passing judgment on every State's internal tax structure, to determine whether or not they have placed a different burden on the use of its resources by outsiders versus insiders.

The courts already have said that you look at the whole structure; and if you cannot find it to be inherently discriminatory, if there is any reason whatsoever, you must opt for the policymaking provisions of State government and their general purposes legislation and taxing power.

Mr. President, if my distinguished senior colleague is ready to comment, I will yield to him, and then I will be delighted to respond to my good friends from Arizona.

First, I ask the Senator from Arizona (Mr. FANNIN) this question: If the State of New Mexico, in its gross receipts tax which it imposes on its people, said, "We want to give the grocery stores the benefit of this disparity," and they decided that they were going to cut their gross receipts tax because in some way groceries are related to energy, I wonder if we would be here saying that is illegal because we pick up a little extra taxes for the groceries to offset what Arizonans and others are paying for utilities. I do not ask that in a facetious way.

Mr. FANNIN. I do not think the Senator from New Mexico intends to imply that there is any relationship between the sale of groceries and the sale of this power. I am sure that as we go along in this discussion, that will be brought forth.

I will cover power generation—which is the important concern here at the time I get the floor.

Mr. DOMENICI. I ask my senior colleague if he cares to comment before the Senator from Arizona does.

Mr. MONTOYA. Mr. President, I should like to defer to one of the Senators from Arizona at this point. Then I will ask for some time, immediately after.

Mr. FANNIN. Mr. President, we are not talking about only Arizona and New Mexico. We are talking about what could happen all over the United States. We are talking about a potential taxing war on the sale of power which could be devastating.

To illustrate: In my own State of Arizona, New Mexico charges us a tax. The Governor of Arizona has suggested that Arizona retaliate as illustrated by a recent newspaper article entitled: "Governor Castro Pushes Retaliation for New Mexico Utility Tax." He says that if they are going to charge a discriminatory tax, that Arizona should do the same to benefit from the large nuclear generating facilities which will be operating in the future. Governor Castro and others feel Arizona can make a great deal of money that way. What is going to be the end of it? This is going to happen all over the country. Every State in the continental United States imports some energy. Every State would be affected.

Let us look at what we are talking about. We are talking about discriminatory taxation between States. Section 1232, of H.R. 10612, would prohibit any electrical energy exporting State from imposing, directly or indirectly, a discriminatory tax on electrical energy consumed outside a State at a rate higher than that imposed on electrical energy consumed within the State.

What happens now in New Mexico?

To show the intent—and I think this is very clear—for 4 years they tried to get a measure such as this through the New Mexico Legislature. Representative Lopez, chairman of the taxation and revenue committee, stated on the floor of the New Mexico Legislature, and I quote:

> I find myself in the unique position this year, Mr. Speaker, of having to support a measure of this nature. As you know, for the last four years, I have stood up in opposition to the imposition of this sort of tax, but my opposition was based on the fact that there was no way to impose the tax without placing a burden on the New Mexico taxpayer or utility user. So, for that reason, I stand before you today supporting this bill and carrying it.

In other words, Mr. President, here is an admission as to why this tax was enacted. Let us not charge our own customers through a subterfuge, we might say. The New Mexico statute provides a tax credit for that portion of the electricity consumed in New Mexico but does not provide for a similar tax credit for electricity transmitted across State lines and consumed elsewhere. Quite a few States in the West are involved. The Senator mentioned Colorado. In addition, we have California, Texas, and Nevada. Nevada purchases power from Arizona, and this tax is passed on to Nevada. So this is not just an Arizona-New Mexico discussion. It is a discussion of what would happen throughout the United States. It could be devastating in a war on the export of power.

Mr. President, I want to explain the discriminatory effect of the New Mexico tax which is in the application of the tax credit provision provided by the statute. A tax credit is provided against the gross receipts tax owed New Mexico for that portion of the generation tax which is attributable to electricity generated and consumed in New Mexico. This discriminatory result was planned.

I think it is highly proper that we settle this issue. It certainly is something over which the Committee on Finance has jurisdiction. Section 1323 amends 73 Stat. 555, 15 U.S.C. 381, relating to nondiscriminatory State taxation of interstate commerce. This existing statute was under the jurisdiction of the Finance Committee. Therefore the substance of section 1323 is clearly within the Finance Committee's jurisdiction.

Mr. President, Arizona State University was billed for $20,000 during the last year. Imagine. It cost an extra $20,000 for just one State school. The University of Arizona paid just as much or more. Hospitals and public schools have to pay this extra tax, which is absolutely discriminatory.

Mr. President, I know that the Senator stated earlier that this would help them build roads. He happened to be talking about roads on a reservation. New Mexico is getting Federal assistance for building roads on the reservations. Arizona would like to build roads all over our reservations.

We know that the Federal Government has a responsibility in that regard and they are helping New Mexico, and I am pleased that they are. I would assist in that regard.

Mr. President, we cannot sit idly by and watch a fight of this nature continue. It is very unfair and I feel that it is something that should be stopped now by the Congress. We have the opportunity to do so; it is only proper that we take that opportunity.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. FANNIN. I shall be very pleased to yield for a question.

Mr. DOMENICI. The Senator indicated that we have to get this over with because we have to get the tax issue settled because people are paying it.

Mr. FANNIN. They are not paying it into New Mexico, they are paying it into a fund; but nevertheless, they are paying it and it is a burden upon them.

Mr. DOMENICI. And there is a court case pending?

Mr. FANNIN. That is right, that could go on for years.

Mr. DOMENICI. May I ask if the New Mexico tax is constitutional?

Mr. FANNIN. It could go on for years, the Senator knows that. It is in the courts of New Mexico. Regardless of the outcome, it is probably going to be appealed and that could go on and on. It is something we have an opportunity to settle. We could take a burden off the consumers. It is highly improper for us to disregard our responsibility in this matter.

Mr. President, the chairman-elect of the Multi-State Tax Commission, Mr. Richard Heath, Director of the Arkansas Department of Finance and Administration, commented when I introduced a bill on this matter in the Senate. We talked about it; it was to cover all exportation of electrical energy and the Multi-State Tax Commission objected to it at that time. When we brought up this particular provision of the bill, however, the chairman of the Multi-State Tax Commission had this to say:

> One of the principles upon which the Multi-State Tax Commission was founded is nondiscriminatory taxation. Your amendment certainly fosters that goal.

I am not talking about something that is just of interest to the States I have named. This is something that is going to be vital to all of the States of the United States. It certainly could be very devastating if we do not, at this time, take the action that is available to us. It would be an irresponsible move if we deleted this particular stipulation from the bill.

Mr. DOMENICI. May I ask one other question of my good friend from Arizona?

Mr. FANNIN. I shall be very pleased to answer.

Mr. DOMENICI. Does the Senator contend that a State cannot adjust its internal tax structure so as to avoid double taxation of the same product or activity?

Mr. FANNIN. I am talking about the exportation of electrical energy. A State can do anything it wants to as long as it does not discriminate between its residents and those of another State. New Mexico's action in this matter is clearly discriminatory. It is just inviting other States to do the same. They need to raise State funds. They have raised about $5 million annually by this tax; $3 million from Arizona and the remainder from other States. This is certainly not the way that we should handle interstate commerce.

The Senator referred to Washington State. Alan O'Kelly, of the Edison Electric Institute, is of the opinion—and certainly he is an authority—that no other State has a comparable electrical generating tax and, therefore, no other State would be affected by section 1323.

O'Kelly was an attorney in the Washington State case to which the Senator from New Mexico referred. He stated that the tax involved there was also not comparable, as it involved a sales tax and not a generating tax.

Mr. DOMENICI. Mr. President, I wish to make one more comment, then I shall yield. Will the Senator yield for just one more moment?

Mr. FANNIN. I shall be very pleased to yield.

Mr. DOMENICI. Mr. President, I think that to stand up and call something discriminatory over and over again does not solve the problem and it does not answer the question. The issue here is essentially this: Does the State of New Mexico, which basically has two distinct taxes, the first being a 4 percent sales tax, which no one deems to be illegal. It comes along and says, "We want another kind of tax, and we call it a manufacturing tax," and there can be no one who would say that the State of New Mexico does not have the authority to levy a manufacturing tax. I believe that the distinguished Senator from Arizona would agree that his first bill, which sought to make a manufacturing tax for the generating of electricity for interstate commerce illegal, would never fly.

Let me finish, I say to my good friend.

So, if our State has the authority to levy a sales tax and the authority to levy a manufacturing tax, I merely ask whether or not the State of New Mexico has the authority to determine that its residents should not necessarily pay both of those taxes because they are directed at the same kind of product or activity. So they allow a credit on a manufacturing tax against a sale tax, and that is within their power and their discretion.

The Senator can call it discriminatory, but that is what they have done. They have said, "Our sales tax is one tax, the manufacturing is another. We choose not to levy the manufacturing tax on top of the sales tax for a certain kind of activity in New Mexico." If it falls on Arizona, it falls on them, but it is not discriminatory against interstate commerce.

Mr. FANNIN. The Senator from Arizona, and I think most of the people I have talked to in the utility industry have agreed that this is a discriminatory tax when you pass along a State tax only to out-of-State users. Again, Ed Lopez, chairman of the New Mexico Taxation and Revenue Committee stated on the New Mexico House floor, that they imposed this tax because it does not place any tax burden upon the energy consumers of New Mexico.

Mr. DOMENICI. The reason I argue about it is that our manufacturers, the same electric utility companies, pay a gross receipts tax in New Mexico. What that particular legislator in New Mexico is saying is that we do not choose to tax them twice; we choose to give them a credit against their sales tax. But the manufacturing tax is going to be paid by those who do not pay the sales tax.

Mr. FANNIN. Will you give a credit to the out-of-State payers of that taxation?

Mr. DOMENICI. I do not understand the question.

Mr. FANNIN. Well, can the people and companies in Arizona receive the same benefits of a tax credit as do the consumers in New Mexico?

Mr. DOMENICI. Do they want to pay the New Mexico sales tax?

Mr. FANNIN. Of course not; they should not. Our utility companies are paying hundreds of thousands of dollars, in fact millions of dollars, to the State of New Mexico. Certainly, New Mexico is benefiting greatly by the utility companies of Arizona operating in New Mexico. But why should they be penalized by a subterfuge that is a way of relieving the people in New Mexico and placing the burden out of State?

I ask the Senator not to forget that Arizona—the Arizona people pay sales tax on that energy, consumers pay a sales tax to Arizona on this energy imported from New Mexico.

Mr. DOMENICI. I understand that.

Mr. FANNIN. This has nothing to do with what any other State does. When they tax, whatever they decide to do on their own, they can do. This is just to prohibit the exporting State from imposing, directly or indirectly, a discriminatory tax on electrical energy. That is exactly what my provision does.

Mr. MONTOYA. Mr. President, will my colleague from New Mexico yield me some time on this?

Mr. DOMENICI. I will be pleased to yield to my senior Senator.

Mr. MONTOYA. Mr. President, I have listened with great interest to the debate on this amendment and the positions taken by my colleague from New Mexico and by my distinguished friend from Arizona (Mr. FANNIN).

It seems to me that facing this Senate is the question of whether we are going to interfere with the taxing power of a State, the kind of taxing power which has been constitutionally upheld by the courts through many precedents.

Yes, my distinguished friend from Arizona states that this tax is discriminatory. But, as we evaluate and analyze the New Mexico statute, the tax imposed is an excise tax on the generation of electricity. It applies equally as well to companies that operate in New Mexico as well as companies that export it to other States. The only difference is the tax credit which is applied against gross receipts paid in New Mexico by the users of or the distributors of generated electricity within the State.

There are two basic reasons why I support the striking of section 1323:

First, it appears the matter is already being adjudicated in the courts, where all questions of constitutionality will be addressed. If, in fact, the judicial result is favorable to the proponents of this section, the law is not required.

I believe the courts should settle this matter. For Congress to try to judicially arbitrate this matter, as is being attempted through this section, is to start a bad precedent that could apply to many items produced by many States within their respective borders, which items are destined to go into interstate commerce. This is a bad precedent, Mr. President.

Second, the section would wipe out the years of legal precedent on the questions of State taxation of these items for interstate distribution. There is ample precedent in court decisions which clearly uphold the right of a State to assert its taxing power on manufacturing, on generation of electricity, and on manufacturing of other items as well.

Yes, the principal case in this area is a decision by the U.S. Supreme Court in *Public Utility District No. 2 of Grant County* v. *State of Washington*, 82 Washington 2d 232, 510 P. 2d 206 (1973).

The appeal was dismissed for want of a substantial Federal question.

In that decision the court refused to invalidate a State tax of the exact kind section 1323 would outlaw since, in the Courts opinion, the taxing structure as a whole did not result in an unconstitutional discrimination against interstate commerce. I have not heard my distinguished friend from Arizona contend that this is an unconstitutional tax. All he has said is that this is a discriminating tax that discriminates against the citizens of his State.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. MONTOYA. Yes.

Mr. FANNIN. It is unconstitutional, this issue presently is before the courts in New Mexico and has been for almost a year. They are still in the preliminary stages. No progress is being made. This delay will probably go on for several years. It will be appealed, and no one known when it will ever be settled.

The Senator referred to the Washington State case, to which I had referred earlier. Mr. Alan O'Kelly, of the Edison Electric Institute, was the attorney in the Washington State case and he has stated that the tax issue involved there was a sales tax and not a generation tax which is the subject of section 1323.

Mr. MONTOYA. I might say if the distinguished Senator from Arizona is convinced this tax is unconstitutional then, perhaps, a judicial determination is very much in order rather than congressional interference and arbitration with respect to the constitutionality of this particular tax.

I have not given this matter a study in depth, I want to be frank about that. But I cannot recall from my study of constitutional law or my study of congressional procedures and precedents where the Congress has, through a special statutory provision, said to a State, "You cannot enact a tax which falls within the taxing power of your particular State." I do not recall since I have been in Congress for 20 years that we have ever done this, prohibit a State from levying a tax that rightfully is within its taxing jurisdiction.

So I do hope that the amendment, primarily sponsored by my colleague from New Mexico, is agreed to by the Senate.

Mr. CRANSTON. Mr. President, I wish to briefly state my support for the effort of the Senator from Arizona to retain section 1323 of the bill to prohibit discriminatory State taxes for generation of electricity.

The principle of nondiscrimination clearly is required by the Constitution. Out-of-State consumers who must pay the New Mexico State generation tax, but who are not eligible for the New Mexico rebate, should not have to wait for years of litigation for relief.

Congress has the power to act, and should do so. Discrimination exists because New Mexico residents do not pay the tax and out-of-State customers do pay the tax.

I do not question the right of New Mexico to tax the generation of electricity. They, of course, have that right. Out-of-State residents should pay their fair share of the burden on New Mexico, but only their fair share.

For that reason I urge defeat of the amendment that would strike section 1323 from the bill.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, we are arguing something which, to me, is very, very fundamental, the constitutionality which, naturally, enters into it, but we are not close to the time when the Supreme Court will be in a position to make that judgment, and they are the only ones who can.

When we get to talking about this general subject, we are talking about six different States. I might open by explaining what we talk about when we talk about Four Corners. Four Corners is the only place in the United States where four States come together, are contiguous. At this particular location in our country there are vast deposits of very cheap shale that can literally be bulldozed into the furnaces which, in turn, run the generating plant to create electricity.

The interesting thing about this whole matter is that New Mexico has a very small amount of money invested in this electric plant, a very large plant, developing over 2 million kilowatts, and which are very vital to the Southwestern part of the United States. We are the fastest growing part of this country, and even with these 2 million kilowatts we are power short.

If we continue this kind of discrimination—and I do not care how the Senator from New Mexico tries to describe discrimination, but when the people in his State—I do not care what kind of hocus-pocus they use—act by having two taxes, or one tax, discriminate against the taxpayers of a State that adjoins them or a State that is contiguous to the general area, I call that discrimination, and I do not know any other name to call it.

Almost 91 percent of the electricity generated at the plant is transmitted in interstate commerce from New Mexico to the States of Arizona, Texas, and California.

Two of the companies, two of the participants, in this plant are the Salt River project and the Tucson Gas & Electric. Collectively they provided electrical service to the vast majority of consumers of electrical energy in Arizona during 1975.

We are arguing here about the tax that has recently, in the past several years, been enacted by New Mexico which we call an electrical generation tax. I do not care what else they want to add to that. The amount of the tax is four-tenths of a mill per kilowatt hour of electricity generated. The end result of the legislation is to tax all electricity generated in New Mexico which moves in interstate commerce and is consumed outside New Mexico and then, Mr. President, to exempt from the generating tax all of the electricity generated and consumed in New Mexico.

I call that discrimination.

In addition, New Mexico collects a 4-percent gross receipts tax on all retail sales of electricity to that State's consumers. In order to relieve the New Mexico consumer of the added cost of the generation tax, each utility is allowed a credit against the 4-percent gross receipts tax in an amount equal to that paid on the generation tax.

So, in effect, on electricity generated inside this State, New Mexico, and consumed in this State which was subject to the electrical energy tax, the amount of such tax paid may be credited against the gross receipts tax due this State.

Again, whether it is two different taxes or five different taxes, I do not care how we get around it. This is discrimination against the users of electricity developed in New Mexico and sold, 91 percent of it sold, to other States.

If we want to pursue this, Mr. President, and I see my colleague from Arizona coming back, he was Governor of my State and one of the finest we ever had, I need only remind him that there are people in our legislature today that are advocating legislation that will cause the State of Arizona to copy New Mexico when our first nuclear plant—we are going to build two of them—is finished and we will not need to buy electricity from New Mexico.

The day will come when New Mexico will either go to nuclear power for its reserves or have to buy it from the State of Arizona. Already, there is talk in our legislature about, "Well, let's get even with them. We'll put the tax on them."

We do not want it. Both my senior Senator and I are fighting this legislation in our State, and we think we will prevail.

Utilities which have no retail sales in New Mexico, as in the case of Arizona Public Service, Salt River project, Tucson Gas & Electric and Southern California Edison Co., are unable to take any credits against generation taxes paid. The net effect then, is that the electric consumers in New Mexico pay no generation tax and electric consumers outside New Mexico pay the entire amount.

In the case of the Four Corners power plant, the effect of this tax is to increase the cost of the electricity which moves in interstate commerce from New Mexico by nearly $5 million in 1976. Energy costs for the consumers of electricity from the three Arizona companies involved in Four Corners are increasing approximately $3 million annually because of this tax.

Mr. President, I agree with the Senators from New Mexico when they say that this could and probably will some day have determination by the courts. But, in the meantime, we are faced with a rather unusual situation in California and in Arizona where we are not paying this amount. Now we are collecting it and we are compounding it into funds. But we are not going to pay it to New Mexico until the courts make a decision or until we do something with this legislation that is before us today.

So actually it is of no benefit to New Mexico in the present form.

It is a great problem to our institutions in Arizona and California that have to pay into these various funds. It is also a problem in the maintenance of the funds, and so forth.

Mr. President, while I realize that this could, in effect, have an effect on New Mexico, in the long run, it is not going to have an immediate effect at all. If we wait for the courts to act in their usual slow way, it will be many years before that determination is made at those levels.

So I hope we can have a vote and have this whole matter cleared up at this time.

The PRESIDING OFFICER (Mr. HANSEN). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I appreciate the remarks of my distinguished friend, Senator GOLDWATER, and his obvious concern for an early determination.

I repeat that it appears to me the issue can be adequately resolved in the courts. I honestly believe when the courts look at the entire picture, they will resolve the issues in favor of the validity of that tax and this taxing structure under the interstate commerce clause in the Constitution as a perfecly valid exercise of the general policies and taxing powers of the State of New Mexico.

I might add also, Mr. President, that the State of New Mexico has built into this law a reciprocal provision giving the same credit on gross receipts for the generation of electricity outside of New Mexico upon which our utility companies pay a manufacturing tax in the State that it is generated.

So if the State of Arizona chooses, as I think they have the perfect prerogative to do, to levy a tax on the energy generated from utilizing their resources and burdening their area, if they want to levy this kind of manufacturing tax, if some flows back into New Mexico, the New Mexico law clearly recognizes that we do not want our utility companies to pay double. We want them to pay our gross receipts tax and not a manufacturing tax, and we are going to give them credit for the manufacturing tax against the New Mexico gross receipts tax if Arizona or California decides to do what we did.

I think it is just the proper exercise of sovereign rights of the State, and it is judicious. It has been passed on before in the State of Washington.

So I come to this final conclusion for the Senators here: Do we here in the U.S. Senate want to pass judgment that these States of the United States cannot arrange their internal tax structure so as to avoid causing an in-State utility company to pay both a manufacturing tax which that State levies and a gross receipts tax which that State levies?

It just appears to me that we cannot call it discrimination, and have a self-fulfilling prophecy that it is discrimination of the type we ought to legislate against.

The issue is clear. Should we interfere with the internal taxing structure or should we let the courts pass on due process in terms of what is onerous, and on the interstate commerce clause?

I believe on both scores they will rule the State of New Mexico acted prudently.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, in brief response, I would agree with my friend from New Mexico that this body has no right meddling in the affairs of State taxation, but we are not talking about that so much.

What we are talking about is the fastest growing part of this whole United States, a part of this United States that is desperately in need of power. We are power short today, and we are going to continue to be power short.

The day is going to come soon when New Mexico will be demanding all 91 percent of that power that is now going out of the State.

What I would like to see this body do is exercise its good judgment to see we use good judgment in our two States so that we do not wind up in what we used to call the old time shooting war over "whose water is this."

That is my interest. I want to help New Mexico. I do not want to find Arizona in the position of being power surplus—and we will be within the next 7 years—and New Mexico power short, which they can be with our great growth, and the only power supply they have is Four Corners at this time.

I want to be in a position of saying to my friend from New Mexico, "We will sell you power, we will sell you all the power we can afford to sell you, but we are not going to charge you an extra tax for it that is discriminatory, because we do not charge our own users the same."

That is how simple this matter is and why I think it should be decided in the Senate instead of going through the long harangue of waiting for this case to be settled in the courts.

Mr. FANNIN. Mr. President, I have just a brief statement, and then I would like to call for the yeas and nays.

The Senator from New Mexico keeps referring to the Washington case. I have stated before and state again that if he will investigate, the Washington case he will find that it involved a sales tax and not a generating tax.

I agree with my distinguished colleague from Arizona. This is a matter of a discriminatory tax, one State charging a tax to out-of-State consumers that they do not charge their own residents.

Mr. President, it is certainly something that could be devastating throughout this Nation if we permit this practice to continue. Where will the next discriminatory State tax be enacted, and what States will be affected? On the list on Senators' desks are the States which could very well be involved.

I feel, Mr. President, that this is a matter which is very clear. There is no reason why the Senate should not go along with the provisions of the bill, enactment of section 1323 will be of benefit to the entire Nation.

Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, was there a sufficient second?

The PRESIDING OFFICER. There was a sufficient second.

Mr. DOMENICI. Mr. President, I am not going to belabor the point, but the last comments by the distinguished Senator from Arizona cause me to respond very briefly.

Mr. President, to attempt to distinguish the Washington case based upon one being a sales tax and one being a generating tax is to assume that a court would rule that a generating tax might be unconstitutional where a sales would not be.

That is not the issue, Mr. President. It is very clear that we are not talking about the genesis of the tax; we are talking about something that happens subsequent to its imposition. The sales tax in the State of Washington was not held to be valid or invalid in terms of how or upon whom it was imposed. The challenge was against what happened in the imposition to treat people differently. That is the same issue we have here.

In that case, the Court ruled that they had to look at the whole State's taxing structure, not whether or not one group, even a group outside of the State, came out of the tax imposition with a different burden. So I think it is germane to the constitutional issue.

Second, Mr. President, there should be no impression left of a serious nature that a State cannot tax the generation of electricity.

Mr. President, I would ask this question: Is there anyone in this body who will contend that what the State of Wyoming wants to charge as a tax for the removal of coal within the sovereign State, coal which belongs to the State of Wyoming, cannot be substantially different from the State of New Mexico?

Obviously, they will export the electricity. They will export. They will be an exporter. Unless my arithmetic is faulty or there are no economics involved, if the State charges more for the privilege of removing the coal in the ground, the companies have to charge another State more money for using it.

If the neighboring State wants to charge less for the coal, that is the royalty to the State for its removal, they are going to be able to sell it to somewhere else a little bit cheaper, based on economics.

So that is not relevant here, whether or not New Mexico makes the energy cost more by the valid imposition of a tax.

I do not think my good friend meant that, because that is not the issue before this body.

If it was, and if everyone understood that we are almost saying that here, the vote would not be close. I thank the Chair.

Mr. FANNIN. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The result was announced—yeas 17, nays 79, as follows:

[Rollcall Vote No. 428 Leg.]

YEAS—17

Baker
Bayh
Bellmon
Biden
Brock
Burdick
Chiles
Domenici
Griffin
Helms
Johnston
Magnuson
Mansfield
McClure
Montoya
Randolph
Scott, Hugh

NAYS—79

Abourezk
Allen
Bartlett
Beall
Bentsen
Brooke
Buckley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Curtis
Dole
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Long
McClellan
McGee
McGovern
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—4

Mathias
Metcalf
Mondale
Tunney

So Mr. DOMENICI's amendment (No. 2062) was rejected.

Mr. FANNIN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENSON and Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. LONG. Mr. President, will the Senator yield to me a moment?

Mr. STEVENSON. I yield.

The PRESIDING OFFICER. Will the Senator withhold until the Chair gets some order? The Chair cannot hear the Senator's request. Senators kindly cease conversations and take their seats.

The business of the Senate will be expedited if Senators will refrain from audible conversation.

The Senator from Louisiana.

ORDER FOR THE PERCY AMENDMENT TO BE THE PENDING QUESTION UPON RESUMPTION OF H.R. 10612 TOMORROW

Mr. LONG. Mr. President, I ask unanimous consent that tomorrow when the tax reform bill is the pending business, that the Percy amendment relating to social security numbers be the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Illinois (Mr. STEVENSON).

AMENDMENT NO. 1850, AS MODIFIED

Mr. STEVENSON. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes amendment numbered 1850, as modified.

Mr. STEVENSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title XIII insert the following:

(a) GENERAL RULE.—For purposes of section 38 of the Internal Revenue Code of 1954 (relating to the credit for investment in certain depreciable property), the lessee of any qualified urban mass transit property shall be treated as having acquired such property for an amount equal to the aggregate amount paid by the lessee after August 15, 1971, to a governmental unit for purposes of assisting such governmental unit in acquiring such property.

(b) DETERMINATION OF QUALIFIED INVESTMENT.—For purposes of section 46(c) of such Code, the qualified investment in any qualified urban mass transit property under subsection (a) shall be the applicable percentage (as defined in section 46(c)(2) of such Code) of the aggregate amount referred to in subsection (a) of this Act with respect to such property.

(c) DISPOSITIONS.—For purposes of section 47 of such Code (relating to certain dispositions of section 38 property), any qualified urban mass transit property under subsection (a) shall cease to be section 38 property with respect to the lessee when the lease terminates.

(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) The term "qualified urban mass transit property" means any new section 38 property acquired by a governmental unit pursuant to the Urban Mass Transportation Act of 1964 (9 U.S.C. 1601 et seq.).

(2) The term "governmental unit" means any State or political subdivision thereof or any agency or instrumentality of any State or political subdivision thereof.

(3) The useful life of this property shall be the useful life of the property in the hands of the lessee.

Sections 48(a)(5) and 48(d) of such Code shall not apply.

Mr. STEVENSON. Mr. President, this amendment is intended to insure that the investment tax credit is made available in all the circumstances intended by Congress.

I have no great brief for the investment tax credit but believe that as long as it is law, its benefits should be made available equitably and to all the beneficiaries intended by Congress.

A transaction has been called to my attention in Illinois where the credit is not available despite the fact that it meets all the substantive tests for investment tax credit treatment.

This case involves the purchase of mass transit equipment by the Illinois Central Railroad through the Chicago South Suburban Mass Transit District. In this transaction, the South Suburban Transit District received a Federal urban mass transit grant. The local share of $13 million was made available by the Illinois Central. The Illinois Central took possession of the property from the Mass Transit District under a lease. It now operates the equipment, part of the purchase price of which it paid for to the tune of $13 million.

This arrangement was necessary, because under the Mass Transit Act, a local public body, as the recipient of Federal funds under the act, is required to retain title to the equipment regardless of whether it uses its own funds to acquire the equipment or the funds of some other entity.

The consequence in this transaction was to deprive the Illinois Central, which paid $13 million for the equipment, of the benefits of the investment tax credit despite the fact that its funds were used to pay that price. Since it could not take title, it could not take the investment tax credit. And since the local public body is not a taxable entity, there was no tax credit for it to receive or pass through to the lessee. So, a transaction which otherwise would have been eligible for investment tax credit treatment under the Internal Revenue Code was deprived of that treatment by a technicality in another law.

The result is, I believe, unintended and inconsistent with the purposes of the law. The Illinois Central stands in the same shoes as a purchaser of new equipment and clearly should be treated as such for purposes of the investment tax credit. Its outlay of millions of dollars for new equipment is exactly the kind of behavior which the investment tax credit seeks to encourage in order to stimulate economic activity. In addition, the purchase of modernized railroad commuter equipment directly advances the Urban Mass Transit Act's goal of improving mass transit systems.

Mr. President, this amendment would be retroactive to August 1, 1971, in order to insure that it covers this particular transaction. I do not know of other circumstances in which it would apply, though there may be some. The estimated revenue loss is $900,000.

I hope that the committee, in order to avoid what I believe is an unintended and inequitable result in this particular case, would see fit to accept the amendment.

Mr. LONG. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. LONG. Mr. President, the Senator has made a very fine argument. I have to insist that this is a type of amendment that should be studied in the committee. We should have a hearing on it and let the Treasury people come in and explain their position, as well as having others who are concerned explain theirs.

The Senator is aware that the committee has been held up to scorn, because we did have a number of amendments on the bill that were narrowly drafted but which we felt were meritorious and which we felt the Senate should consider and should vote on. We recommended that the Senate do vote on these meritorious, though narrow provisions, because we felt that there are many inequities in the tax laws. Even if an inequity affects only a single taxpayer, it should be corrected, if it is wrong. We should try to do justice to everyone, whether it be a single taxpayer or a broad class of taxpayers.

However, in view of the publicity given to a special interest amendment—a narrowly drafted amendment—which involves one corporation or a few corporations, the Senator's amendment would be prejudiced if it were offered at this moment, I fear. I urge the Senator to submit the amendment to the committee, and we will try to find a proper occasion to hear the amendment and to provide all the information that one could want with regard to it. Hopefully, we can give the Senator consideration by the committee during this Congress.

Mr. STEVENSON. Mr. President, I can appreciate the full import of the distinguished chairman's words. One man's special interest is another man's injustice.

In this case, I have tried conscientiously to represent a constituent. I have studied the matter and am convinced that an injustice has been done and that it was unintended by Congress. But I am not unaware of the difficulties ahead, especially in this climate, of righting that wrong.

Consequently, because I think that my constituents' interests—and perhaps others in the same shoes—would be best served with an assurance that the committee will give this matter, and others like it, serious and prompt attention, I will withdraw the amendment.

I thank the Senator for that consideration.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 2099

Mr. KENNEDY. Mr. President, I call up my amendment No. 2099. I offer it on behalf of myself and the distinguished Senator from Arkansas (Mr. BUMPERS) and the distinguished Senator from South Carolina (Mr. HOLLINGS).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without ojection, it is so ordered.

The amendment is as follows:

On page 846, at the end of title XIII, add the following new section:

SEC. 1326. DISALLOWANCE OF FIRST-CLASS AIR TRAVEL AND CERTAIN LUXURY TRAVEL AS A BUSINESS EXPENSE TAX DEDUCTION.

(a) IN GENERAL.—Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting immediately after subsection (g) the following new subsection:

"(h) FIRST CLASS TRAVEL EXPENSES.—Notwithstanding the provisions of this section or section 212 (relating to expenses for production of income), no deduction shall be allowed for any expense paid or incurred for the transportation of any person (1) by commercial aircraft in excess of an amount which is equal to the lowest priced, generally available, unrestricted fare, tariff, or ticket for such person on the same aircraft to the same destination at the same time of day and at the same time of year, as determined by the Secretary or his delegate, or (2) by noncommercial aircraft in excess of an amount which is equal to the lowest priced, generally available, unrestricted fare, tariff, or ticket for such person on a commercial aircraft for such transportation, except such excess shall be deductible if commercial transportation substantially similar to transportation by noncommercial vehicle is not available for such transportation, as determined by the Secretary or his delegate."

(b) Disallowance of Travel by Supersonic Commercial Aircraft as a Business Expense Tax Deduction.—Notwithstanding the provision of section 162 (relating to trade or business expenses) or section 212 (relating to expenses for production of income) of the Internal Revenue Code of 1954, no deduction shall be allowed for any expense paid or incurred for the transportation of any person by supersonic commercial aircraft in excess of an amount which is equal to the retail price of the lowest priced, generally available, unrestricted fare, tariff, or ticket for the transportation of such person by nonsupersonic commercial aircraft to the same destination at the same approximate time of day and at the same time of year, as determined by the Secretary or his delegate.

(c) Disallowance of First Class Travel by Officers and Employees of the United States Traveling on Appropriated Funds.—No funds appropriated by any Act of Congress may be obligated for the transportation of officers and employees of the United States by commercial aircraft in excess of an amount which is equal to the lowest priced, generally available, unrestricted fare, tariff, or ticket for such person on the same aircraft to the same destination at the same time of day and at the same time of year, as determined by the Secretary or his delegate. If there is no such fare ticket, the preceding sentence shall be applied in accord with regulations of the Secretary.

(d) Effective Date.—The amendments made by subsections (a), (b), and (c) shall apply with respect to transportation that begins after December 31, 1976.

Mr. KENNEDY. Mr. President, the Senate had an opportunity to discuss a similar amendment just a few days ago. We modified the amendment to deal with some of the objections that were raised. However, it seems to me that on a bill of this size and this importance, the Senate of the United States should be able to have a significant and important vote on the issue of expense account living.

One of the clearest areas for action is first-class travel.

What we are doing with this amendment is allowing the business deduction for the value of the coach fare. If a businessman or woman wants to travel in first class, they can do it, but they can only deduct the amount of the coach fare. If a corporation wants to pay for their executive's first-class travel and feels that his or her time is sufficiently important that they should travel in first class, they may do so, but they will only be entitled to a deduction for the fare at the coach level as a business expense.

Mr. President, one of the arguments that was made a few days ago was this: Are we not setting a rather dangerous precedent in terms of the Internal Revenue Service interfering with the practices of American industry and American business? The fact is that the IRS is already deeply involved in what will be allowed as legitimate business deductions in a wide variety of areas, such as in hunting lodges; in yachts, and in a number of different areas that are listed in the Internal Revenue Code.

Mr. President, what we are doing in this amendment is saying that it is entirely legitimate as a business expense to travel by air. But why the ordinary taxpayer should have to underwrite half the expense of the businessman who is traveling in first class is something that I find difficult to justify or to support. The overwhelming number of Americans who travel pay for their travel out of their pockets. The business man or woman has to travel. That is a business expense, and we recognize it. If they go from point A to point B, they will be allowed to deduct, under this amendment, the cost of coach fare for that travel. However, what will not be permitted as a deduction is the additional expense of traveling first class, with all its implications in terms of additional luxury and benefit to people who travel that way.

It does not seem to me to be warranted or justified to expect that the ordinary taxpayer must pay for that amount in addition—the luxury fare in addition to what would be expended if they traveled in coach.

The Internal Revenue Code, as we all know, allows a tax deduction for "ordinary and necessary" business expenses. Over the years, the deduction for business deductions has been abused in some areas as a subsidy for "expense account living." Travel and entertainment expenses have been a particular and continuing source of controversy, confusion, and injustice in the tax laws.

The amendment deals with only a small part of the problem—first class versus coach class air travel. It does not affect meals, hotels, entertainment, and so forth, which raise separate issues.

With a corporate tax rate of 48 percent, each dollar of deductible expenses saves the corporation 48 cents in tax. In the case of first-class travel, the Treasury—and therefore the average taxpayer—pays half the cost of the first-class ticket. For high-bracket individuals, the saving is even greater—the Treasury may pay up to 70 cents of each dollar of expense.

It is an entirely legitimate business decision to travel by air instead of by car or train or bus or ship. But once the decision is made to travel by air, the business objective is achieved by traveling in coach class. The executive travels on the same flight, and arrives at the same time and in the same place. This is all that is required to implement the valid business decision, and it is all that should be allowed as a deductible business expense. The additional cost of first-class travel is primarily a luxury item and should not be deductible.

There are many precedents for the amendment. I mentioned some of them in the earlier discussion. The Internal Revenue Code and regulations contain detailed rules on deductions for foreign travel and for luxury items like yachts, hunting lodges, gifts, and entertainment. These areas of existing law denying business deductions are far more complex than the present proposal.

Abuse of the current deduction in the case of private jets is also prevented by the amendment. In certain cases, the use of private planes can be justified as a business decision, involving factors such as greater flexibility in scheduling and the need to fly to places not served by commercial flights. But in cases where use of the private jet is not justified by legitimate business factors, the deduction will be disallowed.

Since the amendment is likely to increase the demand for coach-class seats, the airline industry will meet the demand and the traveling public will benefit. A first-class seat now takes up the space of $1\frac{1}{2}$ coach seats. As airlines modify their cabin space, the total number of available seats per plane will increase, thereby relieving the crowded conditions and waiting lists that coach passengers now endure during peak travel periods, and producing a more rational allocation of space throughout the entire airplane.

The amendment may well lead to lower air fares. In California and Texas, intrastate airlines have been offering all-coach service for several years at fares that often average 50 percent less than CAB-regulated interstate airlines. The all-coach configuration is a significant element in the success that intrastate airlines have had with low-cost air transportation. To the extent the amendment facilitates this development, citizens will benefit as both taxpayers and travelers.

Thus, the amendment is justified on grounds of both tax equity and airline efficiency. The large annual Treasury subsidy for first-class air travel should be ended.

Mr. President, based on CAB estimates of first-class air travel, the amendment will produce a revenue gain of $165 million for fiscal year 1977 and $315 million for fiscal year 1978. I hope that this amendment can be adopted.

Mr. LONG. Mr. President, in principle, this is the same amendment that the Senator offered 2 days ago. It was debated at very considerable length and, finally, one Senator stood up and said that, in view of the fact that he was going to have to leave after awhile, he would move to table the amendment because he wanted to bring it to a head and decide the matter one way or the other. Now the Senator from Massachusetts is offering an amendment that is basically the same as the one he previously offered.

If the earlier amendment had been tabled by a very close vote, I could see the merit in debating this matter in extenso and taking another 2 or 3 hours to debate it at length all over again. But in view of the fact that this amendment did not meet with the approval of the Senate and the amendment was tabled when the Senate voted on it—and any Senator has the right to table an amendment—I shall have to inform Senators who are complaining about how long this tax bill is taking, that this could take forever.

We could not pass a bill between now and New Year's Eve or between now and this time next year if every time we vote an amendment that is debated at length, a Senator comes back with virtually the same amendment, or one that is only slightly different, even though his original amendment was overwhelmingly defeated.

Mr. President, we are going to have to make a decision. If Senators are so vacillating in their own judgments that they cannot make up their minds on what they want to do even after hearing a 3- or 4-hour debate, there is no way of passing a bill like this.

Mr. President, I move to lay the amendment on the table.

Mr. BUMPERS. Will the Senator withhold his motion to table for a moment?

Mr. KENNEDY. The Senator from Arkansas is a cosponsor of the amendment. I think he should have some time to speak.

Mr. LONG. How much time does the Senator want?

Mr. BUMPERS. Mr. President, I have heard the floor manager say many times that he does not want to cut off anybody and I want to say that this is not the same amendment. I do not want to take a long time, but I would like to speak for 3 or 4 minutes.

Mr. LONG. I am not going to withhold. I move to lay the amendment on the table, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. BUMPERS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from California (Mr. TUNNEY), the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 56, nays 37, as follows:

[Rollcall Vote No. 429 Leg.]

YEAS—56

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Byrd,
  Harry F., Jr.
Case
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Garn
Glenn
Griffin
Hansen
Hathaway
Helms
Hruska
Huddleston
Inouye
Javits
Johnston
Laxalt
Long
Magnuson
Mathias
McClellan
McClure
McGee
McIntyre
Montoya
Morgan
Muskie
Nunn
Packwood
Pearson
Percy
Ribicoff
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—37

Abourezk
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hollings
Humphrey
Jackson
Kennedy
Leahy
Mansfield
McGovern
Moss
Nelson
Pell
Proxmire
Randolph
Roth
Stafford
Stevenson
Stone
Symington
Williams

NOT VOTING—7

Bayh
Goldwater
Gravel
Metcalf
Mondale
Pastore
Tunney

So the motion to lay on the table Mr. KENNEDY's amendment was agreed to.

AMENDMENT NO. 1903

Mr. HANSEN. Mr. President, I call up my amendment No. 1903 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STAFFORD). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes an amendment numbered 1903.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . EXCLUSION FROM EXCISE TAX ON CERTAIN ARTICLES RESOLD AFTER MODIFICATION

(a) IN GENERAL.—Section 4063 (relating to exemptions from excise tax on motor vehicles) is amended by adding at the end thereof the following new subsection:

"(d) RESALE AFTER CERTAIN MODIFICATIONS.—Under regulations prescribed by the Secretary, the tax imposed by section 4061 shall not apply to the resale of any article described in section 4061(a)(1) if prior to such resale such article was merely combined with any coupling device (including any fifth wheel), wrecker crane, loading and unloading equipment (including any crane, hoist, winch, or power liftgate), aerial ladder or tower, snow and ice control equipment, earthmoving, exacavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the resale of any article on or after the date of enactment of this Act.

Mr. HANSEN. Mr. President, this amendment of mine is one that would have been considered, and was initially, in the Finance Committee which deals with repealing of the manufacturers' excise tax on truck bodies, chassis, parts and accessories.

Mr. President, during markup of this bill in committee, the Finance Committee considered the possibility of repealing the Federal manufacturers' excise tax on truck bodies, chassis, parts and accessories. One reason for considering repeal of the tax was concern for the inequities involved in administering it. These problems are numerous, but the most important of them involves the application of the rule of "further manufacture." Under this rule, the distributor who buys a body from one supplier and equipment, such as a hoist, from another supplier is considered to be the manufacturer of a new taxable item when he combines and sells them. Thus, each time one taxable item is combined with another a new tax is due, despite the fact that the sale of the combined item is usually priced far higher than would have been the case if the items had been combined by the original manufacturer. Thus, the same item is taxed in different amounts depending upon where in the chain of distribution it is assembled. This results in an unreasonable competitive advantage to some manufacturers.

This amendment would obviate that sort of situation.

I feel that this is not the purpose of the statute and that it works a real hardship upon distributors of truck bodies and equipment. I believe that in the case of large items such as bodies and major items of equipment the tax should be imposed just once, when the item is originally manufactured and sold. To this end, I am sponsoring an amendment to section 4061 of the Internal Revenue Code which would enumerate specific items of equipment which would not be taxed when combined with a tax-paid body for resale. All of these items—hoists, winches, cranes, loading and unloading devices, and the like—would be taxed when originally sold. When later combined with the tax-paid body, no further tax would be due.

We believe that this amendment will result in little, if any, revenue loss. Moreover, if there is any loss it will be substantially recouped by gains in administrative efficiency both at the Internal Revenue Service and in the businesses affected by this tax.

As is evident, the amendment I propose is a very limited solution to this problem, designed merely to alleviate the most severe inequities in the tax. The Treasury Department acknowledges the existence of the problem, and I believe that this amendment is a relief measure which is properly the subject of tax reform. It is my understanding that this amendment has been studied by the Treasury Department, the Internal Revenue Service and the staff for the Joint Committee on Internal Revenue Taxation and meets with the approval of each of these organizations.

Mr. HARRY F. BYRD, JR. Mr. President, it is the understanding of the acting manager of the bill that the Treasury Department has no objection to the amendment offered by the able Senator from Wyoming.

The committee staff has looked it over and finds no objection to it.

That being the case, while I cannot speak for the committee, as such, the acting manager of the bill sees no objection and is willing to accept the amendment.

Mr. HANSEN. I thank the chairman.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. HANSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARRY F. BYRD, JR. I move to lay that motion no the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 256

Mr. KENNEDY. Mr. President, I send an amendment to the desk for myself and the Senator from Wisconsin (Mr. PROXMIRE.)

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. PROXMIRE, proposes an unprinted amendment numbered 256:
>
> On page 818, beginning with line 12, delete all through line 12 on page 819.

Mr. KENNEDY. Mr. President, although this is an unprinted amendment, we have familiarized the staff of the Finance Committee with the fact that we were going to bring this up. It would strike 1308.

Mr. LONG. Mr. President, I would like to offer an amendment to which I hope there will be no objection, and I ask if I might be recognized for that purpose immediately after this amendment has been voted upon.

The PRESIDING OFFICER. The Chair informs the distinguished Senator that the Chair anticipates recognizing Senator FORD.

Mr. LONG. Then may I be recognized immediately after Senator FORD finishes with his amendment?

Mr. FORD. Mr. President, was the Senator's amendment up?

Mr. KENNEDY. Yes. I do not expect it to be lengthy.

Mr. LONG. Mr. President, if the Senator will yield, I ask unanimous consent that Richard Bacon, of the staff of the Joint Committee on Internal Revenue Taxation, be granted privilege of the floor during consideration of H.R. 10612.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment offered by myself and the Senator from Wisconsin (Mr. PROXMIRE) deletes section 1308, including the 12-year retroactivity feature that extends the benefits back to 1964.

The personal holding company provisions in current law, Mr. President, are designed to prevent the tax abuses that would occur if wealthy individuals were allowed to incorporate their activities, not for economic reasons, but simply to reduce their tax brackets from the 70 percent rate for individuals to the 48 percent rate, or the 20 to 22 percent for corporations.

The law now provides a 70 percent tax rate for income of such "personal holding companies," and these are the so-called "incorporated pocketbook" provisions.

Present law allows certain exceptions to these strict rules, in cases where a bona fide real estate operating corporation leases property to its large shareholders. Rent received in such cases is not defined as personal holding company income. However, the exception does not apply to royalties or other passive investment income, including the lease of intangible property such as a franchise.

The Finance Committee provision—section 1308—extended the exception to franchises in cases where the franchise is used along with tangible property for carrying on a trade or business.

The Finance Committee amendment also reached all the way back to 1964—12 years. The retroactive provision is apparently intended to benefit the Montgomery Coca Cola Bottling Co. in Alabama.

The Treasury opposed the provision on both the substantive issue—as creating "an unwarranted technique for circumventing the personal holding company provisions"—and the retroactive date—as "providing a windfall for affected taxpayers."

After its hearings last week, the committee modified the amendment to allow the tax break both for shareholders who lease a franchise from the corporation and for third parties who lease it. This meets part of the Treasury objection. The Treasury now only opposes the retroactive date. It is not accurate, however, to say that the Treasury supports section 1308 as modified, since they are still concerned about the potential for abuse. All the Treasury said was that it was illogical to treat shareholders more favorably than third parties. The illogicality has been removed, but not the potential for tax abuse.

Let me offer an example of the possible abuse. Assume a person receives $100,000 a year in unearned and income is taxed at 70 percent rates, so he pays $70,000 in tax. To save money, he transfers a franchise to his corporation, and leases it back for $100,000 a year. He deducts the $100,000 lease payments from his other income and pays no tax. In effect, he uses the deduction to create a tax shelter. The corporation pays 48 percent tax on the lease income, or $48,000. Thus, he saves $22,000. If he can take advantage of the lower tax rates for small businesses, he may pay as little as 22 percent tax.

In effect, the committee modification has simply extended the potential for abuse to a larger group of taxpayers. The provision is less of a "fingerprint," but more of a loophole.

A case can be made that individuals should be able to transfer a franchise to a corporation, then lease it back. Since the corporation is perpetual, the franchise is protected. To avoid the personal holding company tax, the royalties could easily be distributed to the stockholders. Instead, the amendment would let the stockholders store the payments in the corporation at low tax rates.

The focus of the debate should not be on the legitimate business reasons for the corporation to have the franchise, but on the tax shelter the amendment creates for wealthy individuals.

Finally, serious questions of equity arise if a taxpayer can go back 12 years. Many other taxpayers have relied on the provision of existing law and paid their taxes and arranged their businesses accordingly. Many might have liked to lease franchises to a shareholder, but they understood the law and abided by it. It would be unfair to rewrite the laws retroactively for the benefit of one taxpayer. All taxpayers should be treated the same. All should bear the burden of the old law. No taxpayer should be singled out for special favoritism in the form of retroactive benefits.

The revenue effect of the amendment is negligible; the issue is the principle which is involved.

Mr. President, I would hope that this particular provision, section 1308, including the 12-year retroactivity feature that extends back to 1964, would be deleted. That is the purpose of the amendment and I hope it will be deleted.

The PRESIDING OFFICER (Mr. STONE). The Senator from Alabama.

Mr. ALLEN. Mr. President, the basic amendment having to do with the personal holding company was introduced in 1972 by the Senator from Alabama now speaking and his distinguished senior colleague (Mr. SPARKMAN) to correct an injustice in the interpretation by the IRS of the personal holding company statute. The personal holding company tax is not quite what the distinguished Senator from Massachusetts said it is. The personal holding company tax is a punitive, penal, well-nigh confiscatory tax.

We are not talking about a normal tax, a surtax, on corporations or individuals. All of that tax was paid in the particular instance that the Senator referred to. All normal tax, all surtax, was paid. But the trouble is that the personal holding company tax, after all regular taxes are paid, normal and surtax, on that portion that is not distributed to stockholders, is an additional 70 percent, a staggering 70 percent.

One pays their normal taxes and then they pay a tax of 70 percent on what is left after they distribute to the stockholders.

I support the amendment of the Finance Committee to the Internal Revenue Code to relieve the unintended hardship of section 543(a)(6) on taxpayers who unwittingly became subject to the personal holding company tax.

Under present law—and this is rather technical—a corporation can lease its property to a shareholder owning 25 percent of the company and that rent is not treated as personal holding company income unless the corporation has other personal holding company income in excess of 10 percent of the gross income of the corporation. In other words, as long as it is rent on the assets of the corporation it is not treated as personal holding company income unless the corporation has other personal holding company income more than 10 percent of its income.

What is personal holding company income? It is income that is of a passive nature. It is not a result of the workings of an active business. It would be interest on bonds, interest on mortgages, dividends. Passive income is not the result of a going business.

There was no such situation here.

The distinguished Senator from Massachusetts objects to the retroactive feature. The IRS waited until 1971 to treat certain of this income as personal holding company income, even though they did go back for as far as they could go when they finally assessed the tax.

The point is this: the statute allows a corporation to lease its property to a shareholder owning 25 percent of the company and that income is not personal holding company income, unless, as I say, the company has personal holding company income of more than 10 percent from other sources.

What the IRS did was say "That is all right about tangible personal property, but intangible property, such as the right to market the product, is not going to be considered an asset along with personal tangible property."

What was leased in this case was the building, the trucks, the machinery, and the right to bottle the product, the soft drink—as the distinguished Senator says, the Coca-Cola.

But for the first time in 1971, even though the statute does not say so, they said that intangible property does not come under the rule that the company can lease its property.

Under present law a corporation can rent its properties to its shareholders without the rental income being considered to be a personal holding company income unless these payments are used to shelter passive income in excess of 10 percent of the corporation's gross ordinary income. The theory behind these provisions is that rents received from stockholders for the use of corporate property in legitimate business enterprises are not intended to be classified as personal holding company income unless these rents are used to shelter other passive investment income.

So when IRS ruled that the income from intangible personal property did not apply under the general rule that the corporation could rent its property to a shareholder, they made that income personal holding company income, and since that was more than 10 percent of their gross income, all of it became personal holding company income subject to the 70-percent tax—70 percent over and above the regular taxes.

Figure it for yourself. After you pay 48 percent, and then after you pay 48 percent you pay another 70 percent on what is left, it does not take many minutes to see that your entire income for these back years has been confiscated.

As the distinguished Senator from Louisiana has said, where injustice has been done to one person, the tax laws ought to be changed to do justice to that person.

However, the Internal Revenue Service has taken the technical position that where the rental property consists of both tangible and intangible property any payments which are made for intangible properties are royalties under section 543(a)(1) rather than compensation for the use of corporate property under section 543(a)(6). This position of the Internal Revenue Service applies the personal holding company tax even though the company has not been used to shelted passive investment income.

Certainly the concern shown by Congress in enacting the present law should cover situations like this where the assets of the corporation consist of tangible as well as intangible property. Such a corporation is no more an incorporated pocketbook at which the personal holding company provisions are aimed than a corporation whose assets happen to include only tangible assets necessary for legitimate business operations. It is important to note that this amendment will apply only where the intangible assets are part of an integral group of business assets consisting of tangible and intangible assets and will not apply where the corporation merely licenses an intangible asset, as the Senator from Massachusetts referred to.

This amendment, so far as I know, would apply to only one concern, and it is the concern in the city of Montgomery, Ala., that bottles Coca-Cola and sells it in a prescribed area. What they did, back many years ago, back in the thirties, in order to maintain the continuity of the corporation so that it would not be affected by deaths among the owners of the corporation, was set up a corporation which leased all of the assets to partnerships in which the stockholders had interests, and which they controlled. They leased all of their property, the tangible property, and the only intangible they leased was the right to bottle Coca-Cola.

This does not involve the parent Coca-Cola Co. at all. It has to do with individuals in the city of Montgomery, Ala., who I believe and my distinguished senior colleague (Mr. SPARKMAN) believes had been unjustly treated by a ruling of the IRS going back for some 5 years, or however long it was allowed.

It was never contemplated that there should be a different rule between tangible assets and intangible assets; but the fact that they say that the intangible assets does not come under the same rule made whatever they paid for that intangible asset personal holding company income, and since that was more than 10 percent of their gross income, all of their income became subject to this well-nigh confiscatory tax of 70 percent, after paying all the other taxes.

Also, the amendment leaves undisturbed and preserves the existing prohibition against using payments from shareholders for the use of business assets to shelter substantial amounts of outside investment income.

It is my understanding that all objections originally raised by Treasury, except the retroactive feature, have been removed. Initially the provision was to apply only to compensation received from a 25-percent or more shareholder under section 543(a)(6) and not to rents under section 543(a)(2). At the insistence of Treasury the provision was redrafted so that rentals received under section 543(a)(2) will also include compensation for the use of intangibles. In addition, it was made clear in the statutory language that in order to receive rental treatment the intangible property must be used in connection with tangible property owned by the corporation and both must be leased to a person for use in the active conduct of a trade or business. Thus the only remaining objection by Treasury is the retroactive nature of the amendment.

Mr. President, I stated this provision was incorporated in a bill, carrying out the single purpose of providing for the righting of this wrong, which was introduced in 1972. It is not something that the Committee on Finance just decided they would put in at the last minute. It is something that has been before the Senate since 1972.

Then the bill was introduced again in this Congress. There was no treatment by the Finance Committee of any special consideration. The bill was called to the attention of the Committee on Finance and they did put it in the general tax bill rather than reporting it out themselves.

When this matter was first called to my attention in 1972, I asked the person involved to go to the staff of the Joint Committee on Internal Revenue and talk to the staff about this matter and see if it were of sufficient justification to seek to pass a bill to right this wrong. They were encouraged to proceed in this fashion and the bill resulted.

Thus the only remaining objection by Treasury is the retroactive nature of the amendment.

Mr. President, I might say that the administration's position on this amendment as shown by its June 15, 1976, statement on page 19 of that statement—and I will point out this has been modified—but on June 15, they stated on page 19 of that document, "Bill section 1308, personal holding company income amendment, no objection."

That was their attitude at that time when the matter was presented to them by the Committee on Finance.

Then on July 20 they did voice an objection in their amended position. They did voice an objection to it. Then they have since taken a third position.

I have a letter here dated July 28 from Mr. Charles M. Walker, Assistant Secretary. It says:

> DEAR SENATOR ALLEN: In view of your interest in Section 1308 of the Tax Reform Bill (H.R. 10612), which would amend certain of the personal holding company provisions of the Internal Revenue Code, I want to advise you of the current position of the Administration with respect thereto.
>
> As you know, the Administration on July 20, 1976 stated its opposition to Section 1308. Subsequently, on July 23, the Senate Finance Committee, at the suggestion of the Treasury Department, made certain amendments to the section.

And, Mr. President, these amendments broaden the application of the amendment to cover more people. They thought enough of the measure to say:

> Yes, this is a good amendment for the future. Let us open it up. Let us broaden it.

That is what they did.

But they objected to the retroactive feature. If a wrong has been done, the retroactive feature should apply and the wrong should be righted:

> On the basis of those amendments the Administration no longer opposes the substance of the section. However, the Administration continues to oppose the section because of its retroactive effective date.

I ask unanimous consent that this letter may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, D.C., July 28, 1976.
Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: In view of your interest in Section 1308 of the Tax Reform Bill (H.R. 10612), which would amend certain of the personal holding company provisions of the Internal Revenue Code, I want to advise you of the current position of the Administration with respect to thereto.

As you know, the Administration on July 20, 1976 stated its opposition to Section 1308. Subsequently, on July 23, the Senate Finance Committee, at the suggestion of the Treasury Department, made certain amendments to the section. On the basis of those amendments the Administration no longer opposes the substance of the section. However, the Administration continues to oppose the section because of its retroactive effective date.

Please contact me if I can provide you with any additional information in connection with this matter.

Sincerely yours,
CHARLES M. WALKER,
Assistant Secretary.

Mr. ALLEN. With respect to retroactivity, it can be unequivocally stated that the law as it now stands is simply both wrong and unintended. Taxpayers should not have to suffer because of this. Any refund of taxes which may result is not a windfall but rather return of moneys which should not have been collected in the first place. There is ample precedence for such action, since Congress has twice in the past provided relief under a very similar set of circumstances.

I am not sure the distinguished Senator from Massachusetts realizes this.

Prior to the Revenue Act of 1950, personal holding company income included amounts received for the use of corporate property by shareholders. That was personal holding company income prior to the Revenue Act of 1950. And it did not have to have the provision that also it must receive other personal holding company income in excess of 10 percent of their total gross income.

But in 1950 the attention of Congress had been called to examples where, through a set of unforeseen circumstances, corporations had become closely held and also had rented most of their assets to the individuals holding the stock of the company for use in the operation of the shareholders' businesses. It was pointed out, therefore, that unwittingly the corporations had become personal holding companies and subject to the personal holding company tax. To take care of this problem, section 223 of the Revenue Act of 1950 provided for the elimination of rents for the use of a corporation's property by its shareholders from the category of personal holding company income, where the property is used, as it was in this case, in the operation of a bona fide commercial, industrial, or mining enterprise.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. LONG. I know this matter is complicated, but let me explain it the way it seems to the Senator from Louisiana.

Mr. ALLEN. Let me read one more sentence here if I may.

Mr. LONG. Go ahead.

Mr. ALLEN. This provision was made to apply to the taxable years ending after 1945 and before 1950. And it was done again later, as I will explain.

I am delighted to yield to the distinguished chairman.

Mr. LONG. The personal holding company tax is supposed to apply to a situation where people are trying to avoid paying the personal income tax.

Mr. ALLEN. That is correct, yes, I assume.

Mr. LONG. Everyone agrees that this is not that type situation. That is not the problem at all. No one here is trying to avoid paying the personal income tax that would be owed. Therefore, this is not a personal holding company type situation. The personal holding company tax is intended to prevent avoidance of the individual income tax. Certainly that is not what is involved here. In this case it is merely a question as to whether one corporation or another corporation is taxed on the income. The operating business in this case would hold the property now held by the other corporation and no question would then be raised that this is personal holding company income.

This is one of those situations where the Treasury contends that technically this transaction is subject to the personal holding company tax even though they agree it should not be subject to the personal holding company tax.

Mr. ALLEN. That is correct.

Mr. LONG. As far as the taxpayer has been concerned, he has been fighting Treasury for years because he has said he does not owe the tax even technically. So the quarrel has been going on for a long time. As I understand it, Treasury is willing to concede that there should be no personal holding company tax owed in this type situation. However, they are not willing to concede that they were wrong in saying that technically there is a personal holding company tax owed.

Mr. ALLEN. They are willing to correct it for the future, yes, that is true.

Mr. LONG. That is right. They are willing to say that that is not how the law should be. But they are unwilling to admit that the law has never been that way to begin with because that is not how the law was intended to be.

Mr. ALLEN. That is certainly a fair statement.

Mr. LONG. So the result of it is that, when the whole thing was explained to the committee, it gets down to one of those cases where one can say, "Well, a taxpayer should exhaust his rights in court."

But a taxpayer has the right to come to Congress and say, "Look, surely you never intended this."

And Congress has a right to say, "That is right, that is not the kind of thing we had in mind. That is not the kind of thing we had in mind with the personal holding company tax."

That being the case, Congress could say, "Well, we will solve all that battle. There is no point in you arguing that point any longer in the court. We never had that in mind to begin with."

We have other type situations about which some protest, and we have a couple of those situations in this bill, where we in Congress, with the help of our technicians, fail to draft the law to say what we would like it to be, and we simply have an error there.

That happens. We have at least two situations like that in this bill.

So, everyone agrees there was an error, and everyone agrees it ought to be corrected, including the person who made the error. I guess the best advocate for correcting it is the person who made the error in the first instance. He is honest. He will say, "I am sorry. We were working under enormous pressure, working long hours pactically, around the clock, and it is impossible to do a perfect job under that kind of pressure, and that was a mistake and ought to be corrected."

I do not know of any better testimony a lawyer could have for his case than the man who made the mistake and who says it is a mistake and it should be corrected. He is the legislative draftsman.

There used to be a time when Senators used to try to draft these things themselves. Now we impose that burden on others. If I stood here and said, "I drafted this thing, and I hate to admit it, fellows, but in this situation it is just as wrong as could be; I made a mistake, please forgive me—if I were here, confessing my sin and asking for forgiveness, one would think the Senate would be willing to forgive me for making an error, in failing to spell out what I had in mind, as a result of which a taxpayer has suffered needlessly. That should be so when one explains that the whole situation is, that this is not a personal holding company tax situation, that the person is not trying to avoid paying his personal income tax, but wants to pay it and is happy to pay it.

But the Treasury feels that technically these people are liable for personal holding company tax, and they have been in court for years arguing about it.

Congress looks at it and says, "It was not our intention that this is a personal holding company tax situation and it was never intended to be; this is an inequity."

If they keep fighting the case in court, eventually the taxpayer might win the case, and the court might rule that it never was the congressional intent, and we know it never was the congressional intent.

The question is, do you provide relief in a situation where you think the taxpayer is right? Do you take a look at what the intent of Congress was? That is not what we had in mind, and that was never intended. The question is, when a taxpayer is being done an injustice, is he entitled to relief? If he is entitled to ask Congress to correct an error it made, even though he be only one taxpayer?

I have yet to have explained to me why, if something is wrong, it should not be corrected merely because it involves one person. It seems to me that if it is wrong, it should be corrected; and if it is right, you should insist on keeping it the way it is. But when something is wrong and when people study it and determine it is wrong, I fail to understand why the evil should continue just because it involved a single person.

I can understand Treasury's position, where, out of pride, they fought this case for a number of years and contend that technically the taxpayer owed a tax, even though on the merits they realize it is not a personal holding company tax situation, and it never was really the intent of Congress to tax this taxpayer, and the taxpayer contends he does not owe it at all. I have difficulty understanding why he should be denied relief because only one taxpayer is involved. It seems wrong to me. It is a tax Congress never intended to put on this man. If it is wrong, it should be corrected; and if it is right, it should not be changed.

Mr. NELSON. Mr. President, will the Senator yield so that I may put a question to the chairman of the Committee on Finance?

Mr. ALLEN. Yes, I am delighted to yield.

Mr. NELSON. I have not heard all the debate, and I cannot specifically recall this amendment, but what was the Treasury position on it?

Mr. LONG. The Treasury position, as I understand it, is that the Senator from Alabama is right on the merits, that this type situation never was intended to be covered by personal holding company tax. In that regard, as I understand it, the Treasury agrees with the Senator from Alabama.

The Treasury has been in court for years, fighting this case. The Treasury agrees that this is not the type thing Congress had in mind when it passed that holding company tax law; but they contend that technically the taxpayer does owe, even though it is not the kind of thing Congress had in mind. They have been in court, and the Treasury objects to the retroactive feature of it. The taxpayer is still in court and contends he never owed it.

The question is, did we do this without intending it? Did Congress pass a law that says this taxpayer owes this tax, without ever intending to do so? The Treasury contends that technically that is how it is. They object to the retroactive feature, but they agree that on the merits, the Senator from Alabama is right.

Mr. ALLEN. Not only do they agree, they ask that the amendment be opened up. Whereas it originally applied, section 543(a)(6), to a stockholder owning 25 percent or more of the corporation coming under this rule, they say it should be opened up and applied to all stockholders. They not only approve of the amendment of the Senator from Alabama but also ask that it be opened up to consider more situations.

Mr. LONG. We did open it up that far.

Mr. ALLEN. I know. I think that is one of the things the distinguished Senator from Massachusetts objected to; and at the proper time, I have an amendment that will seek to go back to the original language, which is more restrictive.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. SPARKMAN. I have had correspondence with the Treasury Department on this matter, as has my colleague from Alabama, and I am sure that we received the same reply. They said, in so many words, that they had no objection to the amendment, except as to the retroactive feature.

Mr. ALLEN. Yes. I inserted such a letter in the RECORD.

Mr. SPARKMAN. I have the same letter.

It seems to me that there can be no argument against any feature except the retroactive part.

Mr. ALLEN. It so happens that that is where the error did the damage which should be repaired.

Mr. SPARKMAN. That is right.

Mr. LONG. This is the type situation in which the Government goes after the taxpayer and the taxpayer says, "I do not owe this." The Government says "Oh, you do. We will show you where you do owe it. It says thus and so, and we will show you these words right here, and that is what this clearly means, even though Congress never intended it."

The whole battle is over something that everybody agrees with—if the Government wins, the Government is right technically and wrong in every other respect. So the Government has managed to victimize a taxpayer on an unintended error.

Mr. ALLEN. The same situation, the release of the property, including tangibles and intangibles, has been going on for many, many years; and it was not until 1971 that the IRS said, "Wait a minute. You are not doing this right," although they approved it for years on end.

That is the reason for the retroactive feature of it, because they went back as many years as they could. A 70-percent tax plus interest added to the other taxes on the company's earnings indicates clearly that their entire earnings were well nigh wiped out for these years.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. ALLEN. I still have the floor.

Mr. HASKELL. I was going to ask the Senator from Alabama if I could ask the chairman at least two questions.

Mr. ALLEN. I have no objection. I have not completed my talk, but I have no objection to the Senator's asking. I do have an amendment at the desk that I am going to call up.

Mr. HASKELL. I wish to ask the distinguished chairman: Is this matter in litigation at the moment?

Mr. ALLEN. I do not believe that it is, I state to the chairman.

The taxpayer has paid the tax. That is the reason the retroactive feature is necessary.

Mr. LONG. I stand corrected. I was under the impression that the taxpayer was still in court.

Mr. HASKELL. Then I gather that the taxpayer has paid the tax. Has the taxpayer indicated that he will sue for a refund, or is he now suing? In other words, is it in court?

Mr. LONG. I beg the Senator's pardon?

Mr. HASKELL. I was asking the Senator whether this matter is in court, in litigation.

Mr. ALLEN. I do not believe it is in court. There has been no court determination on that, to my understanding.

Mr. HASKELL. The taxpayer indicated that he will sue for a refund, or does he happen to agree with the Treasury?

Mr. ALLEN. No, he does not agree with the Treasury because, as I pointed out when the Senator was not in the Chamber, my distinguished senior colleague and I introduced a bill in 1972, shortly after the IRS ruling. It was felt that the best approach was to seek to amend the law, because it is quite obvious that this result was not intended under the law.

Mr. HASKELL. So, if we pass this particular provision, we shall be mandating a refund of tax to this taxpayer.

Mr. ALLEN. That is correct, tax that should not have been levied in the first place and that the IRS is admitting now should not be the rule for the future.

Mr. HASKELL. I have one more question of the chairman of the committee.

Do we have a written communication from the Department of the Treasury approving of this grant of a refund, which it really is?

Mr. LONG. Not that part of it. They agree with the Senator's provision for the future. They do not approve of the retroactive aspect.

Mr. HASKELL. I thank the Senator.

Mr. ALLEN. In their original position on June 15, they stated they had no objection to the entire bill, including the retroactive feature.

Mr. HASKELL. Just so we get the record straight, is my understanding correct that their current position is that they do not object to this amendment of the law if it applies prospectively, but they do object if it applies retroactively?

Mr. ALLEN. That is correct.

Mr. HASKELL. I thank the Senator.

Mr. ALLEN. Further to answer the Senator, who was not here when I gave this information on the retroactivity, prior to the Revenue Act of 1950, personal holding company income included amounts received for use of corporate property by shareholders. By 1950, the attention of Congress had been called to examples where, through a set of unforeseen circumstances, corporations had become closely held, and also had rented most of their assets to the individual holding the stock of the companies for use in the operation of the shareholders' businesses.

It was pointed out, that therefore, unwittingly the corporations had become personal holding companies and subject to the personal holding company tax. To take care of this problem, section 223 of the Revenue Act of 1950 provided for the elimination of rents for the use of a corporation's property by its shareholders from the category of personal holding company income—the very same situation we have here—where the property is used in the operation of a bona fide commercial, industrial, or mining enterprise. This was a bottling concern, of soft drinks, certainly a legitimate enterprise.

This provision was made to apply to taxable years ending after 1945 and before 1950. So we have that precedent.

The second retroactive relief came in 1955 when the application of this provision was extended to years before 1954, and recognition of the fact that the Internal Revenue Code of 1954 provided relief from this problem for the years beginning with 1954—just as the Treasury Department is willing to agree to the prospective use of it, but in 1950 and in 1955 the relief was give for the retroactive years at that time.

Thus, two times previously Congress has provided retroactive relief when corporate taxpayers had unwittingly become subject to the personal holding company provisions as a result of renting property to their shareholders. Once again we are confronted with such a situation and relief, as in the past, should be granted. Actually, this provision in the bill corrects a more egregious situation than the previous two cases since here, unlike in those cases, it is clear that it was never intended that the statute include the income with which we are concerned as personal holding company income.

Mr. LONG. Will the Senator yield?

Mr. ALLEN. Yes, I yield.

Mr. LONG. There is a matter that should be corrected immediately. This matter has been checked by the staff and the matter is still in litigation. The people paid their tax and then proceeded to file their claim for refund in the Court of Claims. So the matter is still being litigated.

Mr. ALLEN. I thank the Senator for that information. I did not have it.

Therefore, I strongly support this amendment, which will rectify an extremely inequitable situation that exists in the personal holding company provision of the Internal Revenue Code.

UP AMENDMENT NO. 257

Mr. President, I call up my amendment at the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment:

On page 818, line 12, strike out all through line 12 on page 819 and insert in lieu thereof the following:

"SEC. 1308. PERSONAL HOLDING COMPANY INCOME AMENDMENTS.

(a) IN GENERAL.—Section 543(a) (relating to definition of personal holding company income) is amended—

(1) by striking out "and" at the end of paragraph (1)(B), by striking out the period at the end of paragraph (1)(C) and inserting in lieu thereof ", and", and by inserting after paragraph (1)(C) the following new subparagraph:

"(D) amounts described in paragraph (6).";

(2) by adding at the end of paragraph (2) the following new sentence: "For purposes of this paragraph, the term 'rent' does not include amounts described in paragraph (6).";

(3) by inserting "or a trust" after "individual" in paragraph (6); and

(4) by adding at the end of paragraph (6) the following new sentence: "For purposes of this paragraph, the term 'property' includes intangible property, if such intangible property and tangible property owned by the corporation are used by a person in the active conduct of a trade or business."

(b) The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1964."

Mr. SPARKMAN. Will the Senator yield?

Mr. ALLEN. I am delighted to yield, yes.

Mr. SPARKMAN. Mr. President, I wish to add my support to the proposed amendment to the personal holding company income provisions which deal with the leasing of corporate property to a 25 percent shareholder. As I understand the situation, the law presently allows rents received from a 25 percent shareholder for the use of corporate property to be free from the taint of personal holding company income so long as the corporation does not have more than 10 percent passive investment income.

The Internal Revenue Service, however, has taken the position that in order to qualify for this relief the rents must relate only to tangible, as opposed to intangible, property. Thus, where a lease between a corporation and its shareholder includes both tangible and intangible property, only that portion of the rental received with respect to tangible property qualifies as non-personal holding company income. Consequently, the rents attributable to the intangible property are considered to be royalties, and therefore personal holding company income which must meet the 10 percent passive income test.

This situation prevails even where the intangible property is an integral part of the business assets which are leased to the shareholder, such as a license to make or use a particular product, name, or the like. Where the payments attributable to the intangible property amount to more than 10 percent of the income of a corporation, then all of its income is considered to be personal holding company income. This result is grossly unfair where the intangible item is an integral part of the business assets which are leased to the shareholder for use in his trade or business. Consequently, the Senate amendment merely corrects an injustice by recognizing the realities of leasing transactions which involve business assets that are both tangible and intangible. It in no way creates a loophole to allow taxpayers to convert what would otherwise be passive income into rental income and thus avoid the personal holding company provisions.

The fact that this legislation is retroactive is the only criticism raised by the Treasury Department. This criticism can be answered in two different ways.

First, as has been stated before, this legislation is extremely meritorious, merely correcting an unintended hardship existing under the current personal holding company provisions.

Second, there is precedent for retroactive relief since the Congress has twice before, under similar circumstances, granted retroactive relief in 1950 and again in 1955. It is my understanding that the proposed amendment is more meritorious than either of the two previous retroactive provisions, since here it was never the intent of the Congress to treat income from tangible and intangible properties differently where there is a lease of a going business.

In conclusion, there is no question but that this provision will not allow a company to act as a corporate pocketbook at which the personal holding company provisions are aimed.

Mr. President, as I indicated, I join with my colleague from Alabama. I think this case has been thrashed out about as thoroughly as a case could be and has been admitted to be just, the way I interpret it, by the Department of the Treasury itself. Furthermore, this is not a brand new thing. The junior Senator joined with this Senator—I believe it was over 4 years ago——

Mr. ALLEN. 1972, that is correct.

Mr. SPARKMAN. In 1972 in dealing with this very subject matter. So it is not something that has been neglected. As has been pointed out, it is in litigation, it has been recognized as a matter for litigation and for correcting a wrong, adjusting an error, if we want to call it that. Certainly, I think the amendment should be agreed to.

Mr. ALLEN. I thank the distinguished Senator.

Mr. President, what this amendment that I am offering does is go back to the committee amendment—the original committee amendment, before the Treasury came into the picture, opening the amendment up further for the future. The original amendment applied to the case under section 543(a)(6) of the Internal Revenue Code, where a shareholder owning more than 25 percent of the stock of a company could rent the property of the corporation and the rent to the corporation would not be treated as personal holding company income if the corporation's income from other sources did not consist of personal holding company income in excess of 10 percent.

I ask Members of the Senate to read this section with me on the matter of personal holding company income. This is saying that certain income is not personal holding company income:

> Section 543(a)(6): Use of corporation property by shareholder. Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual"—

and so forth.

It is not personal holding company income, unless they have more than 10 percent of their gross income in personal holding company income, and the sole point involved is with the phrase "right to use property of the corporation."

Now, if intangible property, that is, the franchise to bottle the soft drink, is not property of the corporation, well I do not know what it is when you say "right to use property of the corporation."

After years of not counting the

franchise or license any differently from any other property, in 1971 the Internal Revenue Service said, in effect:

> We have been handling this thing wrong all these years. We cannot lump this together, and we have got to set up a separate rule for this franchise, and that is personal holding company income, and that does not come under this section here where it says they have got a right to use the property of the corporation.

So they got themselves a confiscatory 70 percent tax on the remainder of their earnings after they had already paid the tax, the normal 48 percent tax. You pay a 48 percent tax, and then on what is left you pay an additional 70 percent. That is hardly a very nice present for the IRS to send you.

If there is any feeling that this period ought to be chopped off, after the Internal Revenue Service ruling, I would have no objection to that, to confine these from 1965 through 1971, if that would make the amendment any more acceptable to the distinguished Senator from Massachusetts.

I stated, in the absence of the Senator from Massachusetts, if it would be any more acceptable to the distinguished Senator from Massachusetts, I would be willing to agree to chop off the years subsequent to the IRS ruling in 1971, which would make the years 1965 through 1971, if that would make the amendment any more acceptable to the distinguished Senator.

But the IRS says:

> Well now, look, let us not let this apply just where it is being represented by a 25 percent corporate holder. Let us open it up for everybody so it won't be personal holding company income.

That is what the provision of the IRS now says in the committee amendment.

So not only do they think the amendment is good, they want to open it up so that more people will get the benefit of the future application of the law.

The Senator has made reference to the fact, I believe, that this would open it up. My amendment would go back to the original amendment of the Finance Committee in lieu of the recent language of the Treasury Department.

That is what the amendment does. It is all it does and, as I say, I would be willing—Mr. President, I do modify my amendment. On the bottom line where it says this shall apply to tax years after December 1, 1964, add "and prior to January 1, 1972." So it would make it to be for future years.

The PRESIDING OFFICER (Mr. STONE). The Senator has a right to modify his amendment.

Mr. ALLEN. I so modify it.

The PRESIDING OFFICER. Will the Senator be good enough to send his modification to the desk.

The amendment, as modified, is as follows:

On page 818, line 12, strike out all through line 12 on page 819 and insert in lieu thereof the following:

"SEC. 1308. PERSONAL HOLDING COMPANY INCOME AMENDMENTS.

(a) IN GENERAL.—Section 543(a) (relating to definition of personal holding company income) is amended—

(1) by striking out "and" at the end of paragraph (1)(B), by striking out the period at the end of paragraph (1)(C) and inserting in lieu thereof ", and", and by inserting after paragraph (1)(C) the following new subparagraph:

"(D) amounts described in paragraph (6).";

(2) by adding at the end of paragraph (2) the following new sentence: "For purposes of this paragraph, the term 'rent' does not include amounts described in paragraph (6).";

(3) by inserting "or a trust" after "individual" in paragraph (6); and

(4) by adding at the end of paragraph (6) the following new sentence: "For purposes of this paragraph, the term 'property' includes intangible property, if such intangible property and tangible property owned by the corporation are used by a person in the active conduct of a trade or business."

(b) The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1964 and prior to January 1, 1972.

Mr. ALLEN. That would mean after the IRS has ruled, after that ruling, then they would be subject to the holding company tax until this amendment passes.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. ALLEN. I offer this amendment on behalf of the distinguished Senator from Alabama (Mr. SPARKMAN) and myself.

I call for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I have listened with very considerable interest to the debate and the discussion during the comments of the Senator from Alabama and the Senator from Louisiana.

Situations involving personal holding companies can get very complex. But the principles involved in this particular case are rather simple, they are understandable by the Members, and should be by the Members of the Senate.

There is not a tax lawyer who does not understand the concept of the personal holding company limitations and why these personal holding company limitations were fashioned in the Internal Revenue Code, to avoid the kind of abuses which would occur if we do not strike out this particular section.

The basic dangers have been debated, the kind of issues that we have been debating in the earlier weeks of the discussion on this bill. The abuse involves the ability to change ordinary income, on which individuals will pay tax at a high rate, into income which will be taxed at a lower rate. In this particular case, we are talking about shifting income from individual rates to corporate rates.

For a period of years there have been a number of assaults on that particular provision in the Internal Revenue Code which have not been successful and, I think, thankfully so. Otherwise we would be opening up what I consider to be major tax shelters for millions of Americans.

A great deal has been said about the position of the Treasury Department in June and July, and then in today's letter that the Senator from Alabama has received. But with the amendment of the Senator from Alabama, the position taken by the Treasury on July 20 would still hold. What do they say, according to the analysis? Mr. President, I ask unanimous consent that the entire analysis be printed in the RECORD. This is under section 1308.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

[Excerpt from Administration Position July 20,1976]

SECTION 1308: PERSONAL HOLDING COMPANY INCOME AMENDMENTS

DESCRIPTION

This section of the Bill would modify the personal holding company provisions to provide generally that royalties do not constitute personal holding company income if received from an individual owning 25 percent or more of the stock of the personal holding company.

REVENUE ESTIMATE

Negligible (i.e., less than $5 million).

ANALYSIS

Under present law, a corporation which is a personal holding company is taxed on its undistributed personal holding company income at a rate of 70 percent. Royalties (other than mineral, oil, or gas royalties or copyright royalties) always constitute personal holding company income. Rents constitute personal holding company income unless certain requirements, designed to exclude rents received by bona fide real estate operating corporations, are met. These requirements are somewhat more stringent where the rent is received from a person who owns 25 percent or more of the stock of the personal holding company.

Under section 1308 of the Bill royalties received from an individual who owns 25 percent or more of the stock of the personal holding company would be subject to the same rules that now apply to rents received from such an individual thereby allowing royalties in certain situations to escape characterization as personal holding company income. The policy underlying the rental income rules, that rents received by bona fide real estate operating corporations should not be subject to the personal holding company tax, is generally inapplicable in the case of passive income such as royalties. Accordingly, section 1308 would create an unwarranted technique for circumventing the personal holding company provisions. In addition, section 1308 contains a 1964 effective date, thereby providing a windfall for affected taxpayers.

Furthermore, section 1308 would create an anomalous situation in which royalties received from the owner of the personal holding company would receive more favorable treatment than royalties received from third parties. For example, assume an individual formed a corporation, transferred to it a franchise, and paid royalties to the corporation for the continued use of the franchise in his trade or business (other than the corporation). Under the proposed amendment the corporation would escape the personal holding company tax. If, however, instead of receiving royalties from its shareholder, the corporation received the royalties from an unrelated third party, it would be subject to the personal holding company tax. The special interest of the proposal is evidenced by the fact that self dealings receive more favorable treatment than arms length transactions.

It appears that the provision is intended to provide relief where individuals transfer ownership of intangible property utilized in

> their trade or business to a corporation they own in order to protect the property by reason of the perpetual life of the corporation, and then pay a royalty to the corporation for the right to continue to use such property in their trade or business. In such a situation, however, the corporation under present law could avoid the personal holding company tax by distributing the royalty income to its shareholders. Since the income is attributable to the individuals' business, we believe it is inappropriate to permit the individuals to accumulate the income within the corporation and thereby be subject to taxes at the corporate rates instead of the generally higher individual rates.
>
> ADMINISTRATION POSITION
>
> The Administration is therefore opposed to this section of the Bill.

Mr. KENNEDY. I will read from that analysis by the Treasury:

> Accordingly, section 1308 would create an unwarranted technique for circumventing the personal holding company provisions.

Then it continues:

> In addition, section 1308 contains a 1964 effective date—

which has been remedied partially, as I understand, by the Senator from Alabama's amendment—

> thereby providing a windfall for affected taxpayers.

Finally, the Treasury objected to the scope of the amendment, on the ground that its provisions are too narrowly limited.

The fact of the matter is there were millions of American taxpayers who consulted with attorneys and who are able to understand and comply with the law. In terms of fairness and equity I fail to see why we ought to be willing to provide some windfall—and that is the word of the Treasury Department—"windfall"—to a few affected taxpayers.

Finally, the Treasury analysis concludes:

> Since the income is attributable to the individuals' businesses, we believe it is inappropriate to permit the individuals to accumulate the income within the corporation and, thereby, be subject to taxes at the corporate rates instead of at the generally higher individual rates.

That is the heart of the issue. The serious reservations and opposition of the Treasury Department are based on three very sound grounds: First, on the basis of the merits; second, on the scope of the amendment; and, third, on the issue of retroactivity.

The Senator from Alabama adjusts only the scope of the amendment, so he meets one of the Treasury's three objections. But I think that any fair reading of the opposition of the Treasury Department on the merits would indicate that their rationale and their reasons for it are just as applicable to the amendment of the Senator from Alabama today as they were when they filed their statement with the Finance Committee on July 20 of this year.

It is a very simple, very fundamental, very basic kind of concept. Are we going to create a circumstance where those in the upper income brackets, the top brackets, are able to convert high tax dollars into low tax dollars, and use this particular provision to do so?

It seems to me it is unwarranted and unjustified. I hope that the amendment of the Senator from Alabama will be defeated.

Mr. ALLEN. Mr. President, the distinguished Senator from Massachusetts said there were millions of taxpayers that were able to understand this law.

There may be, as the Senator thinks, millions of personal holding companies, but I doubt it. He might have familiarity with more personal holding companies than the Senator from Alabama does. But personally, he has no knowledge of a single personal holding company, unless this could possibly be construed as being one, as the Department did at one time.

But this lengthy objection he read to this amendment was apparently withdrawn because the Treasury Department not only accepts the amendment for the future, but seeks to broaden it and make it applicable to more people, to get more people to get the benefit of the provisions of the law.

So this is far from being a windfall, Mr. President. This is money IRS choked out of these taxpayers through this interpretation of the law which they had failed to apply for many years, possibly for decades, under similar situations, since the 1954 act came into being.

Then, all of a sudden, they rule it is a personal holding company.

So the IRS, if they say it is wrong and it ought to be changed for the future, it is wrong for the past as well.

It is not right they have forced this company to pay many years of back taxes, and I am sure interest, as well, on these back taxes.

So what we are doing is, by this amendment I have offered, to make the amendment less costly to the Treasury because it would not widen the scope of the applicability of the amendment and it would have it more closely defined so as not to cost the Treasury money in years to come.

Mr. HATHAWAY. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. HATHAWAY. Would the Senator explain in a little more detail how it narrows the scope and what the effect of his amendment is?

Mr. ALLEN. This amendment has to do with the section of the holding company law. It is section 543(a)(6) of the Internal Revenue Code.

That provision says that a corporation can rent its property to a stockholder having 25 percent or more interest in the corporation and those rents will not be treated as personal holding company income being subjected to the 70 percent tax after payment of all the taxes, provided the other income of the corporation does not contain more than 10 percent of its gross income as personal holding company income.

Ever since the Revenue Act of 1954, the provision here has been construed where it says that the property of the corporation can be leased, they made no distinction, and the statute does not authorize any distinction between a truck or building and a franchise to bottle and sell the soft drink.

In 1971, they said: "Wait a minute here, we haven't been hitting you heavy enough here. This franchise should be treated as personal holding income."

Not only that, since that is more than 10 percent of the gross income, they were going to hold that the income on the tangibles was subject to the personal holding company tax.

What the amendment at the desk does is to say the words, "Property of the corporation, shall include the property of the corporation, including intangibles, where all of them are rented together in a package to a business or enterprise."

That is the case here.

In effect, it would abolish the distinction between tangibles and intangibles under section 543(a)(6).

Mr. HATHAWAY. If the Senator will yield further, is that not already in the Senate Finance Committee's reported amendment, page 819?

Mr. ALLEN. Yes. That is right.

The point the Senator from Alabama is making is that the IRS had the Finance Committee open this amendment up and not just apply it to this strict 543(a)(6), but to say that this rule would apply to the lease by a corporation of its property, not only to a stockholder having 25 percent, but to anybody.

So they open it up rather than keep it limited.

Mr. HATHAWAY. So the Senator's amendment would knock out the third party?

Mr. ALLEN. Mine leaves the law as it is, but just reaches the tangible-intangible question. The point had never been made prior to 1971 that the franchise did not come under the wording of the statute, the property of the corporation.

Mr. HATHAWAY. If the Senator will yield further, is this not really a subject for litigation in the courts, as to the interpretation of the statute?

We have millions and millions of words in the Federal statutes and just because the enforcing agency does not get around to doing something about a hidden activity until 4 or 5 years after the law has been passed does not mean that the person who is alleged to be the law breaker by that agency should be protected.

If he made the wrong interpretation back in 1964, that is unfortunate. I suppose that happens to people every day in the week.

It would seem to me that the Senator from Alabama's company, or the company in the Senator's State, should be subjected to the same proceeding.

It may be that the court will decide intangibles were included in the word "property" and give them the money back, which is the way it should be rather than have us do it legislatively.

Mr. ALLEN. I stated while the Senator was not in the Chamber that before I introduced this original bill back in 1972, along with my distinguished senior colleague, I had the persons directly involved check with the staff of the Joint Committee on Internal Revenue to see if they felt this was a proper item for legislative action.

The interpretation was contrary to the express wording of the statute. And it should be rectified by the Congress in the opinion of the Senator from Alabama.

I might point out to the distinguished Senator that on two occasions the Congress has acted retoactively at the instance of a number of taxpayers who were coming under similar provisions back under the old construction of the law.

On two occasions, both in 1950 and in 1955, they did say that the provisions would not apply during those tax years. So we are only doing something which has been done by the Congress on two other occasions. We have that precedent to go by.

Mr. HATHAWAY. I do not think the Government made a mistake on the two previous occasions.

Mr. ALLEN. And I hope the Congress does not make one now.

Mr. HATHAWAY. I hope we will not continue to make a mistake.

Mr. ALLEN. I think we will make a mistake if we do not follow the precedent.

Mr. HATHAWAY. It seems to me we are opening the door for a lot of others who are litigating the interpretation of words, the Internal Revenue Code, and other statutes, who would come before the Congress and say, "Here is the tough problem I got into. I want you to legislate me out of it by making this retroactive to help me with my case."

We certainly do not want to do that.

Mr. ALLEN. But the Congress decided differently on two different occasions.

Mr. LONG. If the Senator will yield, one reason is that the Internal Revenue Service issued a ruling that was retroactive about 12 years. They go after a taxpayer and issue an order to make themselves right 12 years ago. That is why it is retroactive.

Mr. ALLEN. I thank the Senator for that information.

Mr. President, I call for the yeas and nays, if I have not already done so.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from California (Mr. TUNNEY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Arkansas (Mr. McCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Minnesota (Mr. HUMPHREY) would vote "nay".

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 47, nays 44, as follows:

[Rollcall Vote No. 430 Leg.]

YEAS—47

Allen
Bartlett
Bellmon
Bentsen
Brock
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Gravel
Hansen

Helms
Hruska
Huddleston
Javits
Johnston
Kennedy
Laxalt
Long
McClure
McGee
Montoya
Morgan
Moss
Nunn
Packwood
Pell
Percy

Randolph
Ribicoff
Scott, Hugh
Scott,
  William L.
Sparkman
Stennis
Stevens
Stone
Symington
Talmadge
Thurmond
Tower
Williams
Young

NAYS—44

Abourezk
Baker
Bayh
Beall
Biden
Brooke
Buckley
Bumpers
Burdick
Case
Chiles
Church
Clark
Cranston
Culver

Durkin
Eagleton
Ford
Garn
Glenn
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Jackson
Leahy

Magnuson
Mansfield
Mathias
McGovern
McIntyre
Muskie
Nelson
Pearson
Proxmire
Roth
Schweiker
Stafford
Stevenson
Taft

NOT VOTING—9

Goldwater
Humphrey
Inouye

McClellan
Metcalf
Mondale

Pastore
Tunney
Weicker

So the Allen-Sparkman amendment, as modified, was agreed to.

Mr. LONG and Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I am sure that there will be a motion made shortly to reconsider this. While Senators are present, I wish to explain this amendment as it looks to the committee.

The Treasury agrees that the Allen amendment is right in principle.

Mr. ALLEN. Mr. President, will the Senator yield for a moment?

Mr. LONG. I yield.

Mr. ALLEN. I will appreciate the Senator calling this amendment the Allen-Sparkman amendment.

Mr. LONG. The Treasury agreed that the Allen-Sparkman amendment is right in principle, and for the future and from this point forward the Treasury would advocate that the law be changed to read exactly this way.

The Treasury has been contending for some time that technically the taxpayer owes this 70-percent tax on the theory that technically this personal holding company tax applies to this situation. The purpose of the tax is to keep a taxpayer from avoiding his personal income tax. The taxpayer is perfectly content to pay the corporate tax and the individual tax would not apply in any case if the property were held by the operating business.

The only problem is that the taxpayer contends that it was never intended that he should pay this personal holding company tax of 70 percent in addition to all that.

The Treasury says that they agree with the principle of the Allen-Sparkman amendment, but they object to any retroactive feature.

The reason it is retroactive is the Treasury issued an order saying: "Technically, you owe the tax. We order that you pay it 12 years back."

So Treasury made it 12 years retroactive by their own orders. They did not have to make it retroactive. But they did.

The matter is still in court. The taxpayer is still contesting the matter. In every one of these, this is the situation where a holding company tax should not apply to a taxpayer in this type situation where there is no effort involved and no problem involved about whether the taxpayer will pay the corporate income tax. That he has paid.

It is simply whether they wish to insist where it is contended, at least, that the law works out contrary to the way Congress intended that the taxpayer should, nevertheless, be required to pay the tax.

Mr. PACKWOOD. Is the Treasury not in an anomalous position? They support the amendment. The matter we are talking about the committee said was meritorious. We made a mistake in the past. This poor fellow would not owe the money if we had not made the mistake. Because we made it we now want him to pay it.

Mr. LONG. That is what it amounts to. It never should be this way. It ought to be changed for the future. We contend, technically, it is that way. The taxpayer should be made to pay even though no one ever intended it should be that way.

The taxpayer is still in court saying: "No one ever intended, and the law does not require, us to pay the tax."

When we come in to correct a drafting error, to correct something we never intended, and everyone agrees it should not be that way, then someone says: "Oh, but this is special interest because without ever intending it, you passed a provision to do exactly the opposite of what you had in mind."

Now when we seek to correct it, it is called special interest legislation because we are relieving the taxpayer for not paying something we passed in error, which gets down to the type of situation I mentioned where the collector says:

> You must pay this because that is what the law says, whether it makes any sense or not.

So we have a very unfortunate situation where we never intended it to be this way, and the result comes out that the case continues to be litigated and Treasury then issues an order that taxes the taxpayer back 12 years on the theory that something never intended should be applied to that taxpayer.

Mr. KENNEDY. Mr. President, I have a good deal of respect for the Senator from Louisiana. But when he suggests to the Members of the U.S. Senate that the Treasury of the United States is supporting the Allen amendment he is absolutely, categorically wrong, and I am going to explain to the membership why this is so.

The Treasury says it no longer opposes the committee modification on the merits. But the Allen amendment restores the original language of the bill, to which the Treasury has never withdrawn its opposition.

There are some very basic and fundamental questions that are before the Senate now. We have debated this issue for about 2½ hours. They involve a variety of complex provisions in the personal holding company sections of the tax laws. But there are some very basic and fundamental issues that are at stake.

At the time Congress developed the personal holding company concept in the legislation it did so with a fundamental, and justifiable reason, to avoid the tax abuse of transferring high bracket income into lower corporate tax rates. That was the concept behind it. It is an idea that is understood by every tax attorney worth his salt in the country. These personal holding company provisions are well marked with warning flags in the tax laws. Most taxpayers stay far away from them.

There may be a different interpretation of the law in Alabama, exactly as there may be different interpretations by different businessmen all over the country. If they guess wrong, they pay their taxes. But most have the good sense to avoid those provisions.

The effect of the amendment of the Senator from Alabama is to rescue a few taxpayers who ran afoul of the personal holding company provisions. There are hundreds and millions of other businessmen who do not take that position, who read the Internal Revenue Code as it should be read. They are willing to give the benefit of a particular doubt to their own attorney who was advising them, and not risk the effect of these provisions. They arrange their businesses to stay well clear of them.

Now, the Senator from Alabama asks us to rescue a special taxpayer from these provisions. He asks us to do so by creating a new loophole in the provision, and he asks us to make the loophole retroactive.

What does the Treasury Department say with regard to this provision? I will read it. I have made it a part of the RECORD earlier. I will read the sentence:

> Accordingly, section 1308 would create an unwarranted technique for circumventing the personal holding company provisions.

That is what the Treasury Department says about it, and for a very good reason, because the possibility exists of opening up new tax shelters and new tax abuses through this provision.

Here is the second thing the Treasury said:

> In addition, section 1308 contains a 1964 effective date, thereby providing a windfall for affected taxpayers.

A windfall—that is what the Treasury says.

They go on to say:

> Since the income is attributable to the individuals' businesses, we believe that it is inappropriate to permit the individuals to accumulate the income within the corporation and be subject to taxes at the corporate rates instead of the generally higher individual rates.

That is what we are talking about.

I think that any fair reading of the Treasury position would indicate that the Treasury was opposed on the merits, that the Treasury was also opposed on the scope of the amendment, and on the retroactivity issue.

So, the committee modified the amendment to eliminate the objection in the scope of the amendment. But the other two objections have not been met.

What does the Senator from Alabama do now? He goes back to the original narrow scope of the amendment that the Treasury opposed. Neither the Senator from Louisiana nor the Senator from Alabama can give us a single indication that the Treasury supports the amendment in this form. Yet that was the matter that was before the Senate a half hour ago.

The Senator from Alabama simply restores his amendment to the way it was when it was evaluated by the Treasury Department on July 20. The amendment falls squarely within the statement of opposition of the Treasury of the United States.

That happens to be where we are in this case.

As a result of the parliamentary situation, when the Senator's amendment was approved, it foreclosed action on the amendment of the Senator from Massachusetts and the Senator from Wisconsin to strike the whole section. That is where we are. The Senate is precluded from striking that particular provision unless we reconsider the vote by which that provision was agreed to. So I do not think there should be any mistake about what the issue is.

The Senator from Maine (Mr. HATHAWAY) in his dialog with the Senator from Alabama pointed out very well the fact that business men and women are constantly making interpretations of the Internal Revenue Code. If the time comes when a company or corporation is found to have made the wrong interpretation, they generally do not come to the Senate of the United States and demand a reversal. Yet, that is what this amendment does. I make a motion to reconsider, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, the distinguished Senator has said that the IRS is opposed to this amendment, the concept of this amendment. Not only are they not opposed to the amendment, but also the amendments that the distinguished Senator is talking about, which the Treasury Department asked for, would be amendments that, recognizing the merit of this amendment, would extend the benefits of the amendment to many others for the future. So, far from being an objection to the amendment, their position is that it should be extended to others as well.

Mr. KENNEDY. Mr. President, will the Senator yield on this point?

Mr. ALLEN. I did not ask the Senator to yield.

Mr. KENNEDY. This is on the question of the position of the Treasury Department.

Mr. ALLEN. I am getting to that.

Mr. KENNEDY. I ask the Senator if that is the matter we are considering before the Senate.

Mr. ALLEN. It certainly is.

Mr. KENNEDY. The Senator from Alabama knows that that has been modified.

Mr. ALLEN. No, sir. This is dated July——

Mr. KENNEDY. The Senator knows that the pending amendment is not supported by the Treasury. The amendment is the version the Treasury strongly opposed.

Mr. ALLEN. There is not——

Mr. KENNEDY. To represent that that is the Treasury's position——

Mr. ALLEN. I do not yield tc the Senator.

The PRESIDING OFFICER. The Senator does not yield.

Mr. ALLEN. It is exactly my amendment, and it is dated July 28. I will read what it says:

> DEAR SENATOR ALLEN: In view of your interest in section 1308 of the tax reform bill, H.R. 10612, which would amend certain of the personal holding company provisions of the Internal Revenue Code, I want to advise you of the current position of the administration with respect thereto.

Originally, in their letter to the committee as to the administration position, they stated that they had no objection to any phase of the amendment, retroactivity and all. Then they modified that on July 20, which the distinguished Senator from Massachusetts has read. Now, their position on July 28, based on an extension of the amendment causing more prospective loss to the Treasury, broadening the application of the amendment, is that they will support it.

> As you know, the administration, on July 20, 1976—

They do not mention that on June 15 they said they had no objection.

> As you know, the administration, on July 20, 1976, stated its opposition to section 1308. Subsequently, on July 23, the Senate Finance Committee, at the suggestion of the Treasury Department, made certain amendments to the section. On the basis of those amendments, which opened it up—

I have explained that it is a technical opening, opening it up to more people for the future.

> On the basis of those openings, the administration no longer opposes the substance of the section. However, the administration continues to oppose the section because of its retroactive effective date.
>
> Cordially,
>
> CHARLES M. WALKER,
> *Assistant Secretary.*

Mr. President, I do not know of any personal holding companies—other than that the IRS says that this company was a personal holding company. A personal holding company is a corporation the majority of whose stock is owned by five or fewer people and whose income is of a passive nature. In other words, it is not an operating company. It does not operate a business. Listed in that category of passive income are royalties and rents, unless the rent is more than 50 percent of the gross income of the company, and then it is not holding company income; dividends; interest on bonds; interest on bank deposits, and so forth.

The Internal Revenue Code of 1954 said that a corporation can lease its property to a stockholder owning 25 percent or more of the stock of the company and that the rents from that lease would not be treated as personal holding company income unless the corporation received more than 10 percent of its gross income as personal holding company income. This company was operating under that provision, and no point was made that it was a personal holding company.

It did lease all of its assets to partnerships consisting of the people who owned the corporation. They paid rent. They leased everything—the building, the machinery, the trucks, the bottles, and the right to bottle the drink. That is not personal holding company income under the Internal Revenue Code, section 543 (A)(6) unless more than 10 percent of the income of the corporation is personal holding company income, which was not the case, because they had practically no other income. Then, after this law had been in effect since 1954, in 1971, the IRS said, "Wait a minute, the statute says that the corporation can lease its property"—I read from it earlier in the afternoon—"to a stockholder," and that income is not personal holding company income unless the corporation has other income, more than 10 percent of its gross income, as personal holding company income. Then, in 1971, after having made no point of it since 1954, when the law went into effect, they said that the intangible asset—which is property—of the franchise or right to bottle the drink and distribute it, did not come under this definition of "property." Intangible property is personal holding company income—the rent of that. And, since that is more than 10 percent of the income of the corporation, all of the income is personal holding company income.

The personal holding company tax, as Senators may know, comes after the normal surtax total rate of 48 percent is applied against the corporation. What is left is not distributed to stockholders. It is taxed at a rate of 70 percent. Almost everybody would realize that after he pays income taxes, if he has to pay 70 percent on what is left, that is a confiscatory tax.

Mr. LONG. Will the Senator yield at that point?

Mr. ALLEN. Yes.

Mr. LONG. In 1950, when Congress passed the personal holding company tax, it tried to permit the type of situation that the Senator is contending for. Everybody agrees now—we all agree now—that that is how the law ought to be. Let us read what the law says. It says:

> Amounts received as compensation for the use of, or right to use, property of the corporation . . .

That is the language. Treasury contends that when it says "property" that means tangible property, but that it does not mean intangible property. It says "property."

Mr. ALLEN. That is right.

Mr. LONG. It does not say "property of a tangible nature but not of an intangible nature." It says "property." Everybody knows that a man can own intangible property, such as patent rights or royalties, franchises, all sorts of things; there are all sorts of intangible property a person can own. A franchise or license is just as much your property under the law as a piece of real estate.

It says "property." It does not make any distinction whatsoever. That is the Senator's case.

The Department of the Treasury has been contending now to make it the case that, 12 years retroactively, when it says "property," it does not mean property, it means only tangible property. That is what we are arguing about.

Now the Treasury agrees for the future that when it says "property," it means property—all property, tangible or intangible, "But for the past, we think it ought to mean only tangible property, because for us, property means tangible and not intangible."

Now, it does not say that. That is the taxpayer's position. Treasury has been calling and arguing about it now in the court, to apply it 12 years retroactively. They ought to agree that the Senator from Alabama is right: When it says "property," it ought to mean property. That is what property ought to mean, property.

Let us say it means some kind of property but not others. If Senators want to vote that property means property, they will vote for the Senator from Alabama. That is all there is to it. That will settle the whole argument. That is what we had in mind all the time. That is what Congress thinks it ought to be, that is what Treasury thinks it ought to be.

That is what we all thought it ought to mean in the beginning: property means property. But, no sir. We have to go through all this to pass a law to benefit somebody because in 1950, when Congress said "property," what do you think it meant—property.

[Call of "Vote."]

Mr. HASKELL addressed the Chair.

Mr. ALLEN. Mr. President, I move to table the motion of the Senator from Massachusetts.

Mr. KENNEDY. I call for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Arkansas (Mr. McClellan), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from Rhode Island (Mr. Pastore), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Rhode Island (Mr. Pastore) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 43, nays 47, as follows:

[Rollcall Vote No. 431 Leg.]

YEAS—43

Allen
Bartlett
Bellmon
Bentsen
Brock
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Gravel
Griffin
Hansen
Helms
Hruska
Huddleston
Johnston
Laxalt
Long
McClure
McGee
Montoya
Morgan
Moss
Packwood
Pell
Percy
Randolph
Ribicoff
Scott, Hugh
Scott, William L.
Sparkman
Stevens
Stone
Talmadge
Thurmond
Tower
Young

NAYS—47

Abourezk
Baker
Bayh
Beall
Biden
Brooke
Buckley
Bumpers
Burdick
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Garn
Glenn
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Muskie
Nelson
Nunn
Pearson
Proxmire
Roth
Schweiker
Stafford
Stevenson
Symington
Taft
Williams

NOT VOTING—10

Goldwater
Humphrey
Inouye
McClellan
Metcalf
Mondale
Pastore
Stennis
Tunney
Weicker

So the motion to lay on the table Mr. Kennedy's motion to reconsider the vote was rejected.

The PRESIDING OFFICER. The question recurs on the motion to reconsider.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I shall not detain the Senate long.

There is some question or doubt in some Senators' minds about the advisability of the retroactive portion of the amendment. The chairman stated that they went back 12 years. Actually, it would be 12 years from now, but when the ruling was made in 1971 it went back to and including the year 1965, the tax year 1965.

So the amendment does limit the retroactive feature starting with the year 1965 on through the year 1971 when the ruling was made by the IRS.

Mr. President, has Congress ever acted retroactively in this very same area before? The answer is yes, they have.

Prior to 1954, the rule was that any rent was personal holding company income, and in 1950 many companies had unwittingly become personal holding companies on account of the nature of their income.

Congress in 1950 passed a law as part of section 223, the Revenue Act of 1950, which wiped out the provisions of this law for the years ending after 1945 and before 1950.

So they acted retroactively there in an almost similar situation having to do with this section of the revenue code.

Then the second retroactive relief came in 1955 when the application of this provision was extended to years before 1954 in recognition of the fact the Internal Revenue Code of 1954 provided relief from this problem for years beginning with 1954.

So twice they have moved retroactively in this area.

I am informed that the total amount involved—and it would be a one-time affair—is approximately $500,000. That is the amount of back taxes and interest that was assessed against this concern through the misconstruction of section 543(a) (6) on the matter of what is property.

In 1971, after having done nothing about it since the Revenue Code of 1954, for the first time they said that intangible property was not property, that it came under some other provision, making all of their income personal holding company income, and after they paid their 48 percent tax, on what was left they had to pay an additional 70 percent, and it just confiscated the earnings of this company over a period of some 6 or 7 years.

So the amendment is not for 12 years back. It goes back only to 1965 and up to 1971.

There is no request for any relief after the IRS made their ruling, but for the years during which the IRS had not made the contention it was a personal holding company, relief is requested.

I think it is a reasonable request and I hope that the Senate, having agreed to the amendment, will not reconsider.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. PACKWOOD. Mr. President, let me clarify for the RECORD one thing about the Treasury Department's position on this committee amendment and the Allen-Sparkman amendment.

The Treasury Department does, indeed, support the substance of the committee amendment as it is before us. They do not support the retroactivity.

To that extent, they also support the substance the Allen-Sparkman amendment. The substance. They do not support the retroactivity.

What Treasury says is:

> This law says a certain thing and we are obligated to enforce the law despite the fact that we think the law is unfair and wrong, and we are recommending changing it in the future. We have an obligation to enforce the law as it is.

That is the Treasury's position.

Mr. HATHAWAY. Will the Senator yield?

Mr. PACKWOOD. No.

The obligation to enforce the law.

The taxpayer is saying, "Well, that is not even what the law says, anyway, and that is the matter that is currently in litigation."

What does the law say? Bear in mind, Treasury says, "We are sorry, we wish it did not say that; it should not say that, there was a mistake when it was passed, and we recommend that in the future that law be changed so that this particular situation never occurs again."

It is unfair. It is inequitable. But for some reason, they are opposed to retroactivity, although frequently they will support it for something else before the committee.

So there is only one issue before the Senate, unless somebody wants to argue about the fairness of the merits, but I think on that the fairness is reasonably well accepted.

Should we pass a piece of legislation to correct an error we made in the past, an unfair decision that maybe the Finance Committee or the Ways and Means Committee made? Should we correct it so that it does not unfairly apply to this taxpayer in the past?

Because we are going to change it for the future. The support is for it in the future. Nobody objects to changing it in the future.

If there is only one taxpayer affected, I do not know if there might be another, but if there is only one and it is unfair and we never intended it be taxed the way the Treasury Department is saying it should be taxed, what is wrong with changing it to try to rectify an error that we never intended. I would very much hope that the Senate would not vote to reconsider this. The merits are on the side of this taxpayer who has perhaps been discriminated against by an unintentional error that this Congress made when they initially passed the law.

SEVERAL SENATORS. Vote!

Mr. HATHAWAY. Mr. President, before we vote. I want to make a couple of comments.

As I read the letter to Senator ALLEN, dated July 28, from the Treasury Department, the Treasury would not support the Allen amendment on which we are about to vote to reconsider. I think the Senator from Alabama would have to agree with that. The Treasury wanted section 1308 to extend the royalty provision not only to stockholders but to other third parties as well.

The Senator's amendment would cut out the other third parties as well. That is in direct opposition to what the Treasury wanted us to do and which we did do in the Finance Committee. That is borne out by the letter to the Senator dated July 28.

The further problem is the one mentioned by the distinguished chairman of the committee, that property means property means property. Well, that may be true. But property may include intangible as well as tangible property. This matter is in the court. That is up to the court to decide. If we are going to decide every single case involving every word that we have legislated, we are not going to be doing anything other than deciding those cases. Since it is in the court, let the court decide it. Maybe the court will interpret it the way the Senator from Alabama and the Senator from Louisiana want it determined. Maybe it will not, because there are policy considerations involved in here.

I think the court might very well have a narrow interpretation placed on the word "property" because this is a loophole. The court could easily construe the Congress did not intend to expand that loophole beyond the rental of tangible property and not include intangible property. In any event, that is an issue before the court.

The Senator, I know, will make the argument that the Treasury did not rule on this until 12 years later. Does the Senator really mean that we have to wait for Treasury to come out with rulings on what we are going to be passing here in the Internal Revenue Code before that legislation becomes effective? Of course not.

We may not have rulings on some of these matters for 5 or 6 years. But the law will be on the books as of the certain date, and the law is effective as of that date. Just because the Treasury does not make a ruling as to the interpretation of a certain word in the law until 5 years later does not mean that if some taxpayer did not interpret it the way Treasury does, he will be exonerated from liability.

That is exactly what the Senator from Alabama is contending, that the taxpayer ought to be exonerated from liability because that taxpayer interpreted property to include intangible property and then the Treasury came along and said he was wrong.

Mr. LONG. Will the Senator yield?

Mr. HATHAWAY. Maybe he is not wrong, but let the court decide. We can certainly not exonerate everybody who has a different interpretation than Treasury between the time the law is enacted and the time Treasury happens to get around to a ruling on this particular individual's case.

Mr. LONG. Will the Senator yield for a question?

Mr. HATHAWAY. I yield.

Mr. LONG. If this matter were prospective, so that the Treasury would have no objection to it at all, would the Senator vote for it then?

Mr. HATHAWAY. No, I would not, I do not like the provision. I do not like to include intangibles in this because I think it creates a larger loophole than is in existence. We can show, for example, where a person can shelter income just under the rental provision that is in the law at the present time. To expand it to include not only rental but royalties means that he is going to have a bigger shelter.

So an individual could transfer a piece of property to a corporation, take a deduction for whatever that may be when he leases it back, and use that deduction against other of his income. He cannot only take a deduction for the rent, but he can take a deduction for the royalties in addition to that and get a bigger shelter. So I would be opposed.

Mr. LONG. So the Senator would be against it, even if the Treasury were for it.

Mr. HATHAWAY. The Treasury is for it for the future, maybe, but certainly the Treasury does not state that concerning the past.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all rollcall votes for the remainder of this day, it being after 7 p.m., be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Regular order, Mr. President.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), the Senator from Wisconsin (Mr. NELSON), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from Vermont (Mr. STAFFORD), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 42, nays 42, as follows:

[Rollcall Vote No. 432 Leg.]

YEAS—42

Abourezk
Bayh
Beall
Biden
Brooke
Buckley
Bumpers
Burdick
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Muskie
Nunn
Pearson
Proxmire
Roth
Schweiker
Stevenson
Taft
Williams

NAYS—42

Allen
Bartlett
Bellmon
Bentsen
Brock
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Garn
Gravel
Griffin
Hansen
Helms
Huddleston
Johnston
Laxalt
Long
McClure
McGee
Montoya
Morgan
Moss
Packwood
Pell
Percy
Randolph
Ribicoff
Scott, Hugh
Scott,
William L.
Sparkman
Stevens
Stone
Talmadge
Thurmond
Tower

NOT VOTING—16

Baker
Goldwater
Hruska
Humphrey
Inouye
McClellan
Metcalf
Mondale
Nelson
Pastore
Stafford
Stennis
Symington
Tunney
Weicker
Young

So the motion to reconsider was rejected.

Mr. LONG. Mr. President, I suspect this matter should be closed up for tonight. Senators had expected we would adjourn by 7. It is now 7:35. I suggest we adjourn and come back tomorrow. [Applause.]

I see the majority leader nodding his head.

Mr. MANSFIELD. We have had the last vote.

Mr. LONG. I am happy to announce that we have had the last vote on this bill tonight.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT SUBMITTED ON AMENDMENT NO. 1905

Mr. PELL. Mr. President, in the rollcall vote today on printed amendment No. 1905 to the tax reform bill (H.R. 10612) presented by Senator BEALL, I voted "present" because of the possibility that my personal interests could be affected by the provisions of that amendment.

Senator BEALL's amendment provides for tax incentives for the rehabilitation and preservation of historic structures. The amendment's definition of an eligible historic structure includes a building listed in the National Register maintained by the Department of the Interior. Because my residence in the District of Columbia is listed in the National Register, that property could be eligible for the tax incentives provided in the amendment. For that reason I voted present.

Although I was constrained by these circumstances to withhold my vote on this amendment, I strongly favor the amendment, not because of any possible personal benefit, but because of the importance of the amendment to the preservation of the many historic structures in my State of Rhode Island. Rhode Island has a rich heritage of buildings of great architectural and historic significance, and several registered historic districts within which buildings would be covered by the provision of this amendment.

Private individuals and historic and preservation societies in Rhode Island have worked hard to maintain and preserve this historic heritage for the benefit of this generation and future generations. They have done an excellent job with limited resources, but additional assistance is needed. The amendment offered by Senator BEALL should help significantly in the preservation of historic properties in Rhode Island. For that reason I strongly support the amendment.

ORDER SETTING TIME FOR VOTE ON OVERRIDE OF PRESIDENTIAL VETO, S. 391

Mr. ROBERT C. BYRD. Mr. President, an order has already been entered providing for a limitation of time for debate on the vote to override the veto of S. 391, the Federal Coal Amendments Act of 1975, such debate being limited to 30 minutes. The debate is to begin at 1:45 p.m. on Tuesday, August 3, and is to end at 2:15 p.m. on Tuesday, August 3, and no order was entered for a vote to occur immediately upon the hour of 2:15 p.m. being reached.

I ask unanimous consent that the vote to override the veto of S. 391 occur at the hour of 2:15 p.m. on Tuesday, August 3.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER CONTROVERSIES RESOLUTION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 808, S. 2069.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 2069) to regulate commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes.

Mr. GRIFFIN. Mr. President, we would have to adopt the committee amendments before other amendments would be in order; is that correct?

The PRESIDING OFFICER. Unless they are amendments to the committee amendments, that is correct.

Without objection, the Senate will proceed to consider the bill.

The first committee amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, I wonder if we could simplify this by inquiring as to whether or not an amendment by Mr. TUNNEY at the desk is an amendment to any of the committee amendments?

The PRESIDING OFFICER. The Chair will have to ascertain that.

Mr. ROBERT C. BYRD. All right. I have the amendment by Mr. TUNNEY, and I sent it to the desk on his behalf.

The PRESIDING OFFICER. The process could be simplified by agreeing to consider the amendments en bloc and as original text.

Mr. ROBERT C. BYRD. I make that unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. GRIFFIN has an amendment I believe.

Mr. GRIFFIN. Have we adopted the pending amendment?

Mr. ROBERT C. BYRD. No, not yet.

Mr. GRIFFIN. No.

The PRESIDING OFFICER. No.

Mr. ROBERT C. BYRD. We have only adopted the committee amendments en bloc. They will be considered as original text for the purpose of further amendment.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have been asked to offer the Tunney amendment on his behalf.

I ask unanimous consent that the amendment be considered en bloc. I understand it consists of a series of technical amendments. Is that correct?

The PRESIDING OFFICER. It appears to be technical amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER VITIATING ALL ACTIONS ON S. 2069

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all action on the measure be vitiated and it be returned to its former place on the calendar at the present time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, if the Senator will yield, I merely wish to commend the distinguished majority whip and associate myself with his action in refusing to go forward with Calendar No. 808, in a situation where there were amendments to be presented on behalf of other Senators who are not here and without proper explanation. I just think the Senate ought to be on notice that the leadership is not going to consider legislation in that manner, and it would be very unfortunate, I think, if we did.

If a Senator has an amendment he ought to be here to offer it, or it certainly ought to be clear that it is only a technical amendment, if that is the case, and the leadership, the Parliamentarian, and Presiding Officer should not be required to guess as to whether amendments are technical or otherwise.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

I certainly wish to accommodate any Senator in this body on either side of the aisle, wherever I can do so, and I will do so.

However, in circumstances in which I am asked to offer an amendment which I know nothing about, cannot explain, and no one in the Chamber can explain, then I am reluctant to go forward in the offering of such an amendmet.

While in the event such amendment were offered and adopted, it may earn the plaudits of all Senators who later come to know what it means, at the same time it may be an amendment in connection with which we would all regret the passage thereof.

So I am unwilling to proceed to offer amendments when I cannot have an explanation of what the portent is and there is no explanation available, and I am just not going to proceed in that manner.

I think that is a bad way to legislate, and I do not intend to be a willing partner in such a transaction.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS, AND FOR RESUMPTION OF CONSIDERATION OF S. 3219 AND H.R. 10612 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized, under the standing order, there be a period for the transaction of routine morning business tomorrow of not to exceed 10 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the Senate resume consideration of the Clean Air Act and that at no later than 2 p.m. tomorrow the Senate resume consideration of the unfinished business, the tax reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow. After the two leaders have been recognized, there will be a period for the transaction of routine morning business of not to exceed 10 minutes with statements limited therein to 5 minutes each, at the conclusion of which the Senate will resume consideration of the Clean Air Act, at which time the question will be on the adoption of the Randolph amendment No. 1798, with the understanding that Mr. ALLEN be recognized when the Senate resumes consideration of the unfinished business to propose an amendment to the Randolph amendment.

Rollcall votes will likely occur on amendments to the bill and/or on motions in relation to the same.

At no later than 2 p.m. tomorrow, the Senate will resume consideration of the unfinished business, the tax reform bill, at which time, under the order previously entered, Mr. PERCY will be recognized to propose an amendment relative to social security numbers.

Rollcall votes will undoubtedly occur on amendments throughout the afternoon for the tax reform bill and/or on motions in relation to the same, and the Senate is expected to carry on into the evening tomorrow as it has today.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 7:50 p.m., the Senate adjourned until tomorrow, Thursday, July 29, 1976, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1976:

DEPARTMENT OF JUSTICE

Donald I. Baker, of New York, to be an Assistant Attorney General, vice Thomas E. Kauper, resigned.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Raymond L. Telles, Jr., of Texas, to be a member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1978, vice Lowell W. Perry, resigned.

INTER-AMERICAN FOUNDATION

Manuel R. Caldera, of California, to be a member of the board of directors of the Inter-American Foundation for a term expiring October 6, 1980, vice Charles W. Robinson, term expired.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Frederick Carlton Weyand, [redacted] Army of the United States (major general, U.S. Army).

IN THE ARMY

Gen. Bernard William Rogers, [redacted], Army of the United States (major general, U.S. Army), for appointment as Chief of Staff, U.S. Army, under the provisions of title 10, United States Code, section 3034.

EXTENSIONS OF REMARKS

CHANGE OF COMMAND

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, July 28, 1976

Mr. HARRY F. BYRD, JR. Mr. President, U.S. News & World Report in its issue dated July 26, published an excellent editorial captioned, "Change of Command."

I ask unanimous consent that this editorial by Howard Flieger be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CHANGE OF COMMAND

(By Howard Flieger)

Right now, when people's thoughts are on politics, let the record show:

On July 1, 1976, Cdr. John S. McCain III was given command of Attack Squadron 174, Naval Air Station, Jacksonville, Fla.

Chances are you didn't see it on television or in the newspapers. Such changes in military command are small swatches of the total fabric of current events.

But this one deserves special notice.

The ceremony on the above date marked the fact that young John McCain had made it all the way back.

Nine years ago he lay ill and neglected in a filthy prison cell in North Vietnam—with two broken arms and a broken leg. A Navy flier, he had been shot down by enemy rockets and captured by the Communists.

The ordeal of imprisonment, brutality and abuse lasted nearly six years before he made it back to the United States. His first-person account of his experience—typical of many others—was published in this magazine in May, 1973, and attracted nationwide attention.

But there is more to the story than his release, recovery and the return to active duty that has now put him in command of one of the Navy's crack flying outfits.

John is the third generation in a family dedicated to what is known in the military as "career Navy."

His grandfather, the first John S. McCain, was on combat duty in two World Wars. In World War II, he was an admiral in the Pacific. He was on the deck of the battleship *Missouri* in 1945 when Gen. Douglas A. MacArthur accepted the formal Japanese surrender.

Commander McCain's father, the second John S. McCain, was a submarine commander in World War II and stood with his father on the *Missouri* to witness the surrender.

In the years that followed, John S. McCain II rose to the rank of four-star admiral. At the time of his retirement in 1972, he was commander in chief of all Pacific forces. He served in that post burdened with the knowledge that his own son was a prisoner in the hands of the North Vietnamese.

The man who nursed young John McCain back from the edge of death in Hanoi was a fellow prisoner, Maj. George E. Day. He, too, has made it all the way back—promotion to colonel and to vice commander of the 33rd Tactical Fighter Wing at Eglin Air Force Base in Florida.

Still another former prisoner, R. Adm. James B. Stockdale, is now commander of the Antisubmarine Warfare Wing of the Pacific Fleet. He and Colonel Day received Medals of Honor at the White House March 4.

Of this experience as a prisoner, Admiral Stockdale once said:

"Most men need some kind of personal philosophy to endure what the Vietnam POW's endured. For many it is religion; for many it is patriotic cause; for some it is simply a question of doing their jobs. . . . In our effort to survive and return with honor, we drew on the totality of our American heritage."

Capt. Jeremiah A. Denton—now a rear admiral—put it another way when he and the other POW's came home from Vietnam at the end of the war.

To those who welcomed them, he said:

"We are honored to have the opportunity to serve our country under difficult circumstances. We are profoundly grateful to our Commander in Chief and to our nation for this day. God bless America!"

Many find it difficult to understand those who persist in service to their country despite, in Kipling's words, the taunts of others "makin' mock o' uniforms that guard you while you sleep."

But in a significant way the Days, the Stockdales, the Dentons and three generations of John S. McCains are an important part of what the Bicentennial year is all about.

PUERTO RICAN CONSTITUTION DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. RODINO. Mr. Speaker, I am honored to have this opportunity to pay tribute to the people of Puerto Rico who are celebrating the 21st anniversary of enactment of the Puerto Rican Constitution.

Puerto Rican Constitution Day is especially important because it symbolizes what Puerto Rico represents for the rest of the world. Even since the end of the Spanish-American War, in 1898, the Puerto Rican people have sought to make their concepts of freedom and justice into reality. Their steadily expanding political participation eventually prompted President Truman, on July 3, 1950, to sign an act authorizing the people of Puerto Rico to draft a constitution of their own; since that time the destiny of the people of Puerto Rico has been linked with that of all Americans in the common bond of freedom. With all the troubles which have beset this relatively small island over the past two centuries, it has staked its pledge to representative democracy and held firm.

The rise of democracy in Puerto Rico has been paralleled in the past two decades by substantial improvements in the quality of life there, and I am certain this commitment to progress will continue in the future. I salute the Governor of the Commonwealth of Puerto Rico, Hon. Rafael Hernandez-Colon and the Resident Commissioner Jaime Benitez for their continued leadership and dedication to the people of Puerto Rico.

Mr. Speaker, Puerto Rican citizens also occupy the mainstream of American society, contributing to the public good in many ways. The accomplishments of Puerto Ricans has been very evident in my home city of Newark, N.J., with an increasing number of fine public servants such as Newark's Deputy Mayor Ramon Aneses; my good friend Marie Gonzalez of the Human Rights Commission; Jose Rosario, President of the Puerto Rican Congress of New Jersey and Tony Perez of FOCUS, to name a few. As we celebrate the birth of our Nation, we are reminded that the character of America is strengthened by the ethnic diversity of our people.

Mr. Speaker, I am pleased to call to my colleagues' attention the celebration of New Jersey Puerto Rican Day this year. It will be a significant and joyous occasion when, on August 1, 1976, New Jersey holds its statewide parade to honor the countless contributions of Puerto Rican Americans. I commend the parade chairman, Miguel Rodriguez, and the master of ceremonies, Raul Davila, and I am proud to offer my congratulations and thanks to Puerto Rican Americans, who mean so much to the American experience.

THE FEDERALIZATION OF RESEARCH AND DEVELOPMENT IS UNDERCUTTING THE INNOVATIVE PROCESSES ESSENTIAL TO MAINTAINING AMERICA'S TECHNOLOGICAL LEAD

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. KEMP. Mr. Speaker, during the past 2 years I have become increasingly involved in the question to what extent should the Federal Government be directing the innovative processes—what we usually call research and development—in the United States.

This question arose in my mind for two reasons.

First, as a member of the Subcommittee on Defense of the Committee on Appropriations, I saw what I felt were too many instances where our technological lead seemed to be slipping, and the more Government was involved in the project, the faster our lead seemed to be slipping.

Second, as someone who is committed to a restoration of a free enterprise system, I have been the prime sponsor of a joint resolution to clarify and reaffirm the basic policy that Government should rely upon the private sector for goods and services—in short, that Government ought to get out of the business of being in business.

As I expressed my feelings about these matters, a growing number of persons, institutions, companies, and universities, talked or corresponded with me about specific examples of where research and development were being slowed by Government intrusion, redtape, drain of creative talent away from companies, and direction and of where Government was unnecessarily competing with the private sector in providing goods and services either to itself or to the Nation.

I have been deeply encouraged by the perception of some of the best brain power in this country of what is happening and their recognition of the almost inescapable results of not doing something to reverse the process. And while I have been discouraged by the resistance of the bureaucracy to do much about this problem—unfortunately allowing the interests of agency missions, staffs, and budgets to take precedence over what is needed for the country—I have been encouraged in the past several weeks by the efforts of some conscientious civil servants with the Office of Management and Budget, the Assistant Secretary of Defense for Procurement, and the Department of Commerce to do something positive about this problem. These few persons—whose number I hope will grow dramatically after this week—have faced the problems I have underscored here this afternoon and have started the difficult task of trying to get Government off the backs of the innovators in our society and out of competition with the private sector.

One of the most perceptive presentations made on this subject was recently made before the Subcommittee on Domestic and International Scientific Planning and Analysis of the House Committee on Science and Technology. That testimony was made by Richard S. Morse, the senior lecturer at the Sloan School of Management at the Massachusetts Institute of Technology and the president of the MIT Development Foundation, a man whose credentials are impeccable in this subject field. Mr. Morse was the president and founder of the National Research Corp., and served as the Assistant Secretary of the Army for Research and Development.

I think this testimony warrants a careful reading by all my colleagues, and while I do not agree with it in every instance—such as the statement that science and technology hold the answers to our social problems—I think it makes points with which this Congress must reckon in the coming months.

Mr. Morse's testimony follows:

TESTIMONY OF RICHARD S. MORSE, PRESIDENT, MIT DEVELOPMENT FOUNDATION

As your Committee addresses problems of science and technology, it may be appropriate to consider the current National environment and the extent to which many aspects of our technological society have both changed and deteriorated since World War II. I am concerned specifically with Government involvement, the time scale magnitude of National R and D programs, rather than university research or the role of private industry in the commercialization of products and processes for public use.

During the 1940's, under the leadership of the Office of Scientific Research and Development, the combined scientific and technical resources of our governmental, industrial, and academic communities were rapidly and effectively mobilized. New management mechanisms with fast reaction times were evolved. It was possible to delegate appropriate authority and responsibility for specific technical programs, usually without political constraints at the federal or local level. The very best talents available within our universities and industry were combined for the development and production of synthetic rubber, nuclear weapons, penicillin and radar. Technical and management talents of private industry were selected on the basis of competence and experience for particular tasks. Stone and Webster, the country's most experienced large engineering firm, built the uranium separation plant at Oak Ridge which was, and still is, very successfully operated by Union Carbide. Du Pont designed, built and operated the plutonium facility at Hanford.

The Kellex Corporation was organized as a subsidiary of M. W. Kellogg, one of our country's major chemical engineering firms, to design the U_{235} diffusion separation process, etc. We relied on the most competent industrial organizations in each of these cases and the results were impressive, to say the least.

There were no computer programs or complex multi-layered management reporting systems, nor were thousands of people engaged in paper studies, program analysis, and the continued rejustification of funding.

"Letter contracts" were made by telephone with subsequent confirmation to permit immediate initiation of R/D programs. Our present time and talent consuming system of competitive bidding had not been born.

At the close of the war, the large scientific groups in such places as the universities of Columbia, Chicago and California and the Radiation Laboratory at M.I.T. were dispersed, synthetic rubber plants were taken over by industry for commercialization, and OSRD was disbanded.

Today Science and Technology has assumed quite a different posture; its effective application to the solution of National problems leaves much to be desired. More specifically, we have, intentionally or not, instituted the socialization of R and D as a National policy. Federal funding for scientific and technical information activities alone is currently running at about $500,000,000 per year. Current R/D programs in university administered R/D centers are funded by the Government at an annual rate of $1 billion, and intramural funding of in-house government laboratories has increased steadily during the last decade in current dollars. Today probably more than half of all the scientists and engineers in the United States are dependent upon Government funding of R and D.

In addition to the three traditional sectors of society, i.e., Academic, Industrial, and Governmental, we now have a fourth hybrid component, i.e., the Defense/Aerospace industry, Government laboratories, and a variety of profit and non-profit institutions whose activities depend almost exclusively on Federal R/D.

This "Socialized R/D" has generated great technical achievements, but few organizations in this fourth component of society have been able to successfully apply their management talents or technology in the competitive commercial world. The Apollo program, as differentiated from important military space programs relating to reconnaissance, communications, weather and navigation, was initiated purely for political reasons. The technical achievement was fantastic. We should now recognize the serious impact of this activity in the sense that relatively little of the resulting management experience, technology, or extensive facilities can be applied to current National needs in such fields as transportation, energy, housing, etc., where market acceptance by the public and profit incentives for industry are essential.

Government funded R and D now involves complex management systems, with associated review committees, financial controls, and inadequate decision making procedures, to the point where the effectiveness of many programs is radically reduced. Resulting costs for Federal R/D activities may now well be twice those of private industry because of the attempts of government to over-manage and delay decisions. This bureaucracy within Government Agencies, for example, results in delays of 5–7 months to actually formalize a contract, after funds are available and the receipt of program approval.

Many of our in-house Government laboratories and "non-profit" institutions represent National Asset which should be maintained consistent with appropriate needs of the Government, particularly in areas of National Security. Many such institutions are now in direct competition with the private sector and are supplying management services and coordinating development work in areas where they have no unique expertise, nor qualifications or ability, to expedite the public use of the resulting technology. Science and Technology is too valuable a National asset to be employed as a mechanism for job creation in the "Socialized R and D" sector.

The performance of R and D is, in itself, now a way of life and constitutes a big business any necessity for ultimately producing products or processes for use by the public. Decisions for the initiation or expansion of programs under our present system of "Socialized R/D" are often political and based on their impact on jobs rather than sound technical, economic, and commercial factors. With this evolution of Research and Development as a Government-funded and operated business, we have concurrently evolved an antipathy to government on the part of many of our most competent technologically based corporations, who, for good reasons, no longer wish to become involved with government programs. Unfortunately, it is the most innovative, best managed and successful corporations whose talents are unavailable and our "Socialized R/D" must heavily rely upon organizations with no experience in the competitive marketplace under so-called free enterprise.

We seem to have forgotten that one becomes educated, or conducts research and development, or analytical studies, in order to make a useful contribution to society. We have, in short, created an almost unlimited ability for the absorption of federal funds to analyze, study and conduct research programs as requested by, or "sold" to, the government without any regard of the criteria for approval that would be used by private industry.

There appears to be ample evidence to suggest that a disproportionate number of innovative ideas emanate from our smaller technically based companies. Because of greatly increased costs, government and State regulations, and the lack of any real spokesman for the small business community at the Federal level, our small companies now have a particularly difficult time. The small technical venture is very vulnerable to the complex and costly contracting procedures of Government regulation, inordinate time delays and competition from Government laboratories, the so-called "non-profits" and the large government contract oriented corporation. Few small innovative technically based companies today will work for the Government by choice. The name of the game is to reduce Government R/D support to a minimum and develop commercial, profitable products.

Some of us also suspect that for several reasons the spirit of technological innovation and risk taking is declining within many large corporations. This may result from such factors as management emphasis on "return on investment" certain, growth by acquisition, cost of capital and inflation. Concurrent with this situation, we are finding a relative increase on the part of foreign governments and corporations to seek out American technology. There is also substantial Foreign interest in supplying venture capital to finance and acquire new technology in the U.S., with obvious interest in exploiting its use abroad. We should recognize our own deteriorating R/D environment and the extent to which both foreign governments and innovative companies export American technology—technology that is essential to maintain a position of world leadership and create jobs here at home.

We are going to find it increasingly more difficult to depend upon the use of science and technology to solve our National problems. The best technical, and particularly management talents, are in many cases not even available under our present system. A substantial portion of our Federal R/D Budget is used to maintain programs and employment rather than to mobilize our best scientific, technical and management resources in the interest of long-term National needs. This country must develop an environment within which Government, Industry, and our Academic community can work towards common objectives in a spirit of mutual trust, now totally lacking. In the absence of such an improved environment, I see no possibility of capitalizing upon the tremendous, and as yet untapped, resources of this country. Project Independence was not an unrealistic technical objective, but it can never be achieved in the current environment with its attendant constraints.

Technical and economic decisions regarding such areas as nuclear and solar energy are too important to be made on the basis of media influence, public pressure, or local politics. We must develop a political system which recognizes the long-term nature of most of our major National problems, whose solution depends on science and technology. We have the greatest scientific, technical and management talent on earth—as has been demonstrated many times. We need the National will and mutual trust of all concerned to get on with the job.

With the creation of ERDA, our new Energy Research and Development Agency, Congress has appropriately created a new mechanism for addressing our future National needs. For the first time we have established a Government Agency charged with the specific task of "commercializing" mammoth research and development programs. ERDA, however, arose full born with tremendous associated laboratories, facilities, and 100,000 employees. This organization has absolutely no experience in the competitive industrial world which must ultimately utilize the results of ERDA R/D programs if we really believe in a free economy. In the field of energy, it is absolutely essential that our most competent industrial corporations and their technology, management capability and knowledge of the market, be utilized more effectively.

RECOMMENDATIONS

1. Recognize and reverse the current trend toward "Socialized R/D".
2. Support and encourage participation of the best industrial management and technical capabilities in planning and performance of major R and D programs.
3. Expedite the R and D procurement cycle by the decentralization of authority and responsibility and the development of improved contracting mechanisms.
4. Develop a realistic Federal policy and appropriate legislation with regard to patents and "know-how" to encourage participation of industry in Government R and D programs and expedite the commercialization of science and technology.
5. Initiate appropriate Executive and Legislative action to improve the business environment for technically based enterprises.
6. Limit Federal R/D funding of "non-profits," in-house government labs, and other government sponsored Institutions to basic research or to development programs which relate to or depend upon unique, demonstrated competence not available in industry.

Mr. Speaker, I will be reintroducing House Journal Resolution 818—the legislation addressed to getting Government out of competition with the private sector—on Tuesday, August 10, and I welcome my colleagues to join with me in that sponsorship.

THERE IS ONLY ONE SHADE OF RED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. McDONALD. Mr. Speaker, there is a theory being bandied about nowadays that the European Communist Parties have suddenly become completely independent of all direction from Moscow, and that it really would not matter if the Communists form the government in Italy or say France in the near future. After all, we all remember how well "polycentrism" crippled the Warsaw Pact when it marched into Czechoslovakia in 1968, don't we? David Rees, writing in the London Daily Telegraph of July 19, recently exposed the fallacy of this sort of thinking and I commend this thoughtful editorial to the attention of my colleagues:

THERE IS ONLY ONE SHADE OF RED

(By David Rees)

Despite the significant increase in the Communist vote in the recent elections, there is already a firm consensus in much of the British and American media that Italian Communism really is different.

Signor Berlinguer, we are told, is not a "real" Communist, and that the new-look, "independent" Italian Communist party comprises a dedicated bunch of urban reformers, comparable to the British Labour party. This is rather an ambiguous comparison, but evidently some Labour politicians share the feeling. According to one lengthy Italian report, Mr. Anthony Crosland believes that Italian Communism has "evolved in a European direction," and that Berlinguer's entry into the Rome government would not pose a serious threat to NATO.

Such complacent assumptions are rapidly congealing into a dogma. Yet if the pundits are wrong, if Berlinguer is both electorally successful and true to his 30-year-long Communist past, then the decade's end could see Soviet warships based at Naples and Russian troops at Ventimiglia. These are the real strategic stakes at issue in the current debate over the nature of Italian Communism.

True, Berlinguer has promised the PCI's loyalty to NATO. The recent East Berlin conference of European Communist Parties has also proclaimed the "independence" of each party. Yet the Italian Communists (and other West European parties) remain dependent on Soviet money and other support. Moreover, to the faithful the PCI's functionaries stress the party's Marxist-Leninist orthodoxy, emphasising its "democratic centralist" discipline, the classic Leninist formula for dictatorship. Even Berlinguer's own anodyne speeches on NATO are censored in Italian Communist publications.

There exists little awareness of this side of Italian Communism in the Western media. Clearly, there are limits to our "investigative" journalism. In this way, with minimal effort by the PCI, a new political myth arises in the West. "Eurocommunism" is different!

Yet it has all happened before. For the myth-making process which now extols "Eurocommunism" was instrumental a generation ago in foisting an idealised view of Stalin and Mao on to a hapless Western public. The distinctive mixture of credulity, muddled Utopianism, and above all self-deception, remain unchanged.

The greatest beneficiary of the Western myth-makers in recent times was Josef Vissarionovich Stalin. In the mid-1930s, as the dictator moved decisively to establish his Oriental despotism with the great purges, Sidney and Beatrice Webb published "Soviet Communism: A New Civilisation?"

This apparently definitive work had enormous influence at the time. The great Fabians considered that with the 1936 Stalin constitution, Russia became "the most inclusive and equalised democracy in the world." Stalin, they wrote, is not invested by law with authority over his fellow citizens, and not even over the members of the party to which he belongs. "Free criticism," stated the Webbs, "However hostile it may be, is permitted, even encouraged in the USSR." One of the Webbs' subtitles even referred to "the constructive work of the OGPU."

There followed a deluge of sympathetic comment on Stalin's Russia which extended across the Western political spectrum. Stalin worship reached its zenith with the spectacular manifesto published by 400 leading American writers, artists, and clergymen on August 14, 1939. This denounced "the fantastic falsehood that the USSR and the totalitarian states are basically alike." Less than ten days later the Nazi-Soviet Pact was signed in Moscow.

The Nazi-Soviet Pact was the starter's pistol for the Second World War. But with the Nazi invasion of Russia in June 1941, the Pact was instantly forgotten, and Stalin became everyone's favourite "Uncle Joe." This process reached its climax with President Roosevelt's conviction after the 1943 Teheran conference that once Russia was given full recognition, "she would be tractable and cooperative in maintaining the peace of the postwar world."

WHEN UNCLE JOE BECAME BIG BROTHER

This was undoubtedly Stalin's greatest cod of all, for it directly paved the way for the Russian seizure of Eastern Europe at the war's end. Only now, at last, did Uncle Joe become Big Brother.

Stalin possessed an instinctive ability to exploit Western credulity, a talent Berlinguer evidently deploys today. But no account of these grand deceptions would be complete without noting the way in which the Chinese Communists appeared as "agrarian reformers" in the critical years of the 1940s.

The myth was born with Edgar Snow's visit to the caves of Yenan in 1936. Snow recognised Mao, as a dedicated Communist revolutionary, but wrote also in "Red Star Over China" of the rural equalitarianism" of the Communist areas. The Pacific War now supervened, but with coming end of hostilities in 1944. Western newsmen hurried to Yenan. For many, it was clearly an idyllic experience.

Evidently recognising the need for Western sympathy during his coming civil war with Chiang Kaishek, Mao stated in numerous interviews with journalists and officials that his only ambitions were to defeat Japan, institute democracy in China, and to solve the agrarian problem. His foreign policy was "in line with the Atlantic Charter." According to one of the most influential American foreign service officers in China, John Paton Davies, reporting from Yenan in November 1944:

> The Chinese Communists are backsliders. They still acclaim the infallibility of Marxian dogma and call themselves Communists. But they have become indulgent of human frailty and confess that China's salvation can be attained only through prolonged evolutionary rather than revolutionary conversion. Like that other backslider, Ramsay Macdonald, they have come to accept the inevitability of gradualness.

All this, however well-intentioned, was at a period when Mao was assuring party conferences of his revolutionary, dictatorial objectives. The analogy with today's Italian "backsliders" is obvious.

During 1945–46, the Chinese "agrarian reformer" myth became common currency in the West. In an editorial in January 1945, the

Times wrote: ". . . the Yenan system is not Communism; it resembles an agrarian democracy." By the end of that year, even the United States Secretary of State, James Byrnes, was publicly referring to "the so-called Communists" in China, a phrase that still rings down the years. Soon afterwards, the Chinese civil war broke out, an apocalyptic event involving millions of men. In early 1949, the great Chinese Ramsay Macdonald entered Peking at the head of his victorious troops. There was not an agrarian reformer in sight. China was undisputably Communist.

For many, it should be stressed, acceptance of these great, cruel myths has proved fatal. Especially this was the case in Czechoslovakia between 1945 and 1948, a situation with a sinister resemblance to Italy today. Here the Communists systematically and successfully encouraged the idea that they were "more Czech than Communist," and would abide by the democratic rules. Then came the Prague coup of February 1948. As the testimony of the brief Dubcek era showed Communist repression in Czechoslovakia was subsequently more severe than in any other East European country.

Only Berlinguer's assurance, so it argued here, precludes a similar fate for Italy in the event of a future PCI electoral victory. Yet there remains a simple test to assess the enormous promises now being made in the name of "Eurocommunism," a test I propose to call Truman's Law. During 1947, so it said, Mr. Truman was being urged by his advisers to make yet more concessions to the Russians over Eastern Europe in the cause of "peace." Moscow would deliver, Stalin's word was his bond, above all the Communists would keep their promises.

From the desk where the buck stopped, the man from Missouri was adamant in his refusal: "Show me."

MAJOR DEFICIENCIES IN THE MINE SAFETY AND HEALTH ACT OF 1976

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. ABDNOR. Mr. Speaker, H.R. 13555, the Mine Safety and Health Act of 1976, is scheduled for House consideration Wednesday. I would like to take this opportunity to point out to my colleagues some of the numerous major deficiencies in the proposed legislation.

First of all, this bill would transfer jurisdiction over noncoal mine safety from the Secretary of the Interior to the Secretary of Labor. The need for this transfer has not been adequately demonstrated and would do immeasurable harm to ongoing mine safety programs in the Department of the Interior and MESA.

The legislation also fails to provide a formal rulemaking procedure with mandatory input from an advisory committee and includes administrative items that have no bearing on safety or health such as miners' entitlements which should be included in the collective bargaining process. Another provision in the bill could be interpreted as requiring mandatory penalties of up to $10,000 for virtually all violations. Section 8 of the bill would provide the Secretary with the authority to take whatever action he deemed as appropriate, to supervise and direct rescue activities. This delegation of authority is unnecessary and unwise; the responsibility for directing rescue operations in any mine should rest in those people most familiar with the mine, its operation, its system, and conditions.

In conclusion, H.R. 13555 is not an example of good legislation. It could result in jeopardizing what progress is now being made under the existing programs. I feel the Federal Metal and Nonmetal Mine Safety Act provides all of the Federal authority and enforcement powers which are necessary to improving the health and safety standards in the Nation's metal and nonmetal mines.

THE SOVIET INVASION OF CZECHOSLOVAKIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. EILBERG. Mr. Speaker, in a few weeks the free world will again recall with sorrow the fateful date of August 21, 1968, when the armed forces of the Soviet Union invaded Czechslovakia to crush the movement for freedom and democracy, which was sweeping the land.

On that date, there was an immediate reaction by the Congress. House Resolution 718 and Senate Resolution 450, which called upon the President to express support for the people of Czechoslovakia and condemn the Soviet aggression.

As we are all too aware that movement for freedom was ended, but the spirit and desire for freedom of the people of Czechoslovakia still lives.

At this time, I enter into the RECORD a statement by the Czechoslovak National Council of America about the events of August 21, 1968:

STATEMENT BY THE CZECHOSLOVAK NATIONAL COUNCIL OF AMERICA

On this sad occasion of the eighth anniversary of the brutal Soviet-led invasion and occupation of peaceful and freedom-loving Czechoslovakia, we American citizens of Czech, Slovak and Subcarpatho-Ruthenian descent, again remind the entire world of this Soviet violation of key principles of international law incorporated into the Charter of the United Nations:

The brutal Soviet aggression and occupation:

(1) violated the sovereignty of a member state of the United Nations (Article 2, Section 1);

(2) was carried out in violation of Article 2, Section 4, which prohibits the use of military force in the relations between individual members of the United Nations;

(3) violated the principle of self-determination of peoples (Article 1, Section 2);

(4) was in conflict with Article 2, Section 7, which prohibits outside intervention in matters essentially within the domestic jurisdiction of any state;

(5) was in conflict with a number of resolutions of the General Assembly of the United Nations, particularly with Resolution 2131 (XXI) adopted at the meeting of December 21, 1965, upon the Soviet Union's own motion, prohibiting any intervention in the domestic affairs of any state and guaranteeing its independence and sovereignty.

The continued Soviet occupation of Czechoslovakia is another crime against the right of a small country to determine its own destiny and aspirations. The invasion was an intervention by the forces of reactionary communism to prevent the Czechs and Slovaks from establishing their own social order that did not endanger anyone and sought to contribute to the building of bridges across the discords of a divided world and to lend aid to a better understanding and cooperation among all nations on the basis of true progress and humanity.

The people of Czechoslovakia have not resigned themselves to these aggressive plans of Moscow. The day of August 21, is being commemorated in Czechoslovakia as a Day of Soviet Shame in a mighty and disciplined resistance against Soviet pressure. We are joining our friends in Czechoslovakia in asking the entire civilized world to support the people of Czechoslovakia in their effort to achieve The Withdrawal of Soviet Troops From Czechoslovakia.

NEW MANAGEMENT INITIATIVES

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mrs. HOLT. Mr. Speaker, during the Bicentennial Year we have been inundated with discussion of the Revolution as we recall the great determination and accomplishments of our forefathers.

I would like to bring another revolution to the attention of my colleagues, a quiet and current one taking place within the Air Force and spearheaded just outside this city at Andrews Air Force Base in the headquarters of the Air Force System Command—AFSC. Under the command of Gen. William J. Evans, the AFSC is efficiently accomplishing its mission of directing the research, development, and acquisition of new air weapon systems. I refer to the efforts of the AFSC as a revolution because the incredible pressures brought on by unprecedented technological advances and equally unprecedented inflation have made necessary bold new management techniques which General Evans is directing with great effectiveness.

Mr. Speaker, recently the editor and staff of Aviation Week & Space Technology visited the various installations of the AFSC and they have devoted a major portion of the July 19, 1976, issue to discussion of the performance of this command. I am proud to have this command in my congressional district and recommend that each of my colleagues review this publication. I insert a portion of an editorial from this publication, written by Mr. Robert Hotz:

NEW MANAGEMENT INITIATIVES

Increasingly sharp management of the burgeoning technology that is spawning new generations of weapon systems has become the key to the expanding Air Force effort to modernize and reequip its combat inventory.

For many years the primary emphasis was given to the research and development required to hatch the new technology. Now, the increasing complexity and expense of the new technological systems, a galloping inflation and rising manpower costs are forcing equal emphasis on developing efficient management techniques to accomplish the military goals within the limited resources available. This major shift in emphasis has been developing for several years in the Air Force

Systems Command, which has prime responsibility for the research, development and initial procurement of new weapon systems. It has reached its current level of emphasis under the command of Gen. William J. Evans. A special editorial task force of Aviation Week & Space Technology under the direction of Executive Editor Cecil Brownlow has explored these new management techniques and presents their impact on the aerospace industry in a special report beginning on page 16.

These new management concepts will impact significantly on the aerospace industry, with which Systems Command now monitors some $51 billion in current contracts with new increments added at a rate of more than $8 billion annually. They represent major changes in both conceptual and operational procedures.

Among the key management techniques emphasized by Gen. Evans and detailed in this special report are:

Major improvements in manufacturing technology.

Improved interface between the Air Force and its major contractors to remove some of the traditional adversary relationship and obtain a better mutual understanding of how to do military business more efficiently.

Military evaluation of industry performance.

Heavier emphasis on test and evaluation.

Better transition from development to production.

Better interface between research laboratories and weapon system development.

Total Systems Acquisition Concept.

Life-Cycle Cost.

The whole American political, economic and military system is facing a management challenge of unprecedented complexity to accomplish the tasks that must be done to keep this nation sound and secure within the well definable finite limits of our resources. It is a fundamental change from an environment of prodigal waste and seemingly unlimited resources to finely honed efficiency that can make full use of finite resources.

This is basically the challenge to which Air Force Systems Command is devoting its major effort. We recommend the aerospace industry, the Congress and the American taxpayers study this effort carefully in the hope that it may suggest some better paths to the future.

H.R. 50 TESTS BICENTENNIAL SPIRIT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. HAWKINS. Mr. Speaker, I think it is important that each Member take advantage of this opportunity to read a most illustrative article written by Vernon K. Jarrett, syndicated columnist for the Chicago Tribune, which appeared in the July 24, 1976, edition of the Baltimore Sun. Mr. Jarrett's article, entitled "H.R. 50 Tests Bicentennial Spirit," questions the accuracy of many of the objections raised concerning the Full Employment and Balanced Growth Act of 1976, including those describing it as inflationary or a threat to free enterprise. He also presents evidence that a 3-percent unemployment rate has been achieved in other highly industrialized nations, without inflation. Mr. Jarrett states—

The essence of the bill is that it seeks to have this country follow up its 200-year-old dedication to the "pursuit of happiness" for all its citizens.

He concludes by urging that this time-honored commitment be fulfilled. The article follows:

H.R. 50 Bill Tests Bicentennial Spirit

(By Vernon K. Jarrett)

Washington.—America won't have to wait until the November elections to begin measuring its commitment to the principles it has been celebrating this bicentennial year.

In a matter of weeks, maybe days, the Humphrey-Hawkins Bill, also known as H.R. 50 and the Full Employment Act of 1976, will reach the floors of the House and Senate.

For the last three weeks representatives of the bill's chief sponsors, Representative Augustus F. Hawkins (D., Calif.) and Senator Hubert H. Humphrey (D., Minn.), have met almost non-stop with representatives of organized labor, economic advisers of Jimmy Carter, and several of the country's "most respected economists" to amend the bill into a "broadly acceptable document," the Chicago *Tribune* was told by a ranking member of the Congressional Black Caucus.

Supporters of the bill want this country to establish a set of long-range goals and general economic policies based on "the right of all adult Americans able, willing, and seeking work to opportunities for useful paid employment at fair rates of compensation."

The bill calls upon the Congress to commit itself to the "continuing policy and responsibility of the federal government to use all practical means, consistent with its needs and obligations and other essential national policies . . . to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining . . . conditions which promote balanced growth and useful employment opportunities . . ."

It has been attacked as another "New Deal make-work scheme," another "WPA project," another "step toward socialist planning," and a sure road to more inflation.

President Ford sees it as an inflationary boondoggle and has promised a veto.

Mr. Carter, the Democratic nominee, objected to the original bill but has accepted it after several alterations. It is now a part of the platform of the Democratic party.

The sponsors spelled out that full employment would be pursued "in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions which promote balanced growth and useful employment opportunities, including self-employment. . . ."

I agree with the dismay of Representative John Conyers (D., Mich.) when he commented to me last week: "Can you believe it? There are members of Congress, including some Democrats, who believe that this bill is too radical."

Bill Higgs, legislative assistant and counsel to Mr. Hawkins, declined to give the specifics of the recent changes and additions to the bill, but he said that they eliminate all reservations about inflation.

"This bill is precisely anti-inflationary as it has been amended."

Mr. Hawkins was not available for comment, but Mr. Higgs says the anti-inflation sections of the bill are such that "a vote against H.R. 50 is a vote for inflation and more unemployment."

Mr. Humphrey rejects the argument that "the only way" we can fight inflation is to maintain high unemployment levels. "A 6 per cent unemployment rate in 1980 is unacceptable to me," he said in a chat during the recent Democratic National Convention.

Most of Western Europe kept unemployment down to 1.8 per cent from 1960 through 1972 and Japan and Australia also have proven that low unemployment can be achieved while keeping inflation down, he said.

The bill would establish a goal of not more than 3 per cent of the labor force over 20 years old (originally the age was 16) within four years after the bill's passage.

It also would direct the President to transmit to the Congress each year an "Economic Report" that would review the nation's economic trends while putting forth longterm full employment goals and policies for carrying out the mandates of the bill.

Does this smack of a planned economy? No, says Mr. Conyers. "The genius of the Hawkins bill is that it doesn't tell us how to get there or create a set number of jobs," he said. "It simply says to the Congress, the President and the Federal Reserve, "Thou shalt work out a plan.' "

The essence of the bill is that it seeks to have this country follow up its 200-year-old dedication to the "pursuit of happiness" for all its citizens. But shortly we shall see just how wide is that chasm that separates commemoration of an idea from a commitment to its fulfillment.

THE NATION'S OLDEST BLACK SORORITY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. RANGEL. Mr. Speaker, last week, the Nation's oldest black sorority, Alpha Kappa Alpha, gathered at its annual convention in New York City. The reunion was symbolic of the solidarity, strength, and determination which those women share. Founded in 1908, on the black campus of Howard University, the AKAs continue to achieve activism in the black community and to successfully promote the cause for which they stand. I am truly proud of their commitment to maintain our black campuses which is the source of their own strength as most of the members were educated at those educational institutions.

Today, Alpha Kappa Alpha maintains that unity and its membership continues to thrive with an active alumni while enjoying an ever increasing number of new members. And its commitment has remained to those who share that common bond of humanitarianism. AKA is to be commended for its handsome contribution to the United Negro College Fund which is a source of financial assistance for black students seeking higher education. Another organization sharing a similar commitment, the National Association for the Advancement of Colored People, was rewarded in a like manner so as to continue its work to foster greater equality for black Americans. The list grows as AKA continues to build upon its strength in the black community. Herewith, I submit that admirable record which was recently noted in the New York Daily News:

Black Sorority Sheds Frivolity Label

(By Jean Perry)

The Nation's oldest black sorority, Alpha Kappa Alpha, opened its convention at the Waldorf-Astoria Sunday with presentation of $100,000 to the United Negro College Fund and $25,000 to the National Association for the Advancement of Colored People, continuing efforts to shed the "frivolity" label usually tagged on sororities.

"The word sorority conjures up notions of frivolous girls on a college campus, so we often have to explain ourselves," declared Mrs. Ann Mitchum Davis, executive director.

The Alpha Kappa Alpha conclave will run through Thursday. The sorority was founded in 1908 on the campus of Howard University in Washington, D.C.

"Unlike many sororities where women join in their undergraduate days and forget the group when they leave college we have a very active alumni membership," Mrs. Davis said.

The alumni is responsible for the sorority's impressive fund-raising campaigns.

A MORAL OBLIGATION

"We chose the United Negro College Fund because the financial plight of black schools is at an all-time low," Mrs. Davis explained. "Many of our members are graduates of those schools, and AKA has chapters on just about all of the predominately black campuses in this country. And, of course, without the great legal battles of the NAACP, few of us would be where we are today.

"When they announced a deficit," she continued, "we felt a moral obligation to help erase it."

Locally, AKA purchased furniture for several rooms in the Addicts Rehabilitation Center, a resident treatment program at 1881 Park Ave., worked with mentally retarded youngsters in the South East Bronx Neighborhood Program and conducted a math and reading program in Port Chester. They are active throughout the city and Westchester.

"And our scholarships and domestic and foreign travel grants have opened up new vistas for many young people," said AKA member, Adrena Cook, who with Jean Gordon and Jacqueline Ray helped plan and coordinate the New York convention.

The sorority also donated $25,000 to the Martin Luther King Memorial Fund, for the upkeep of the birthplace of the late civil rights leader in Atlanta, and a like amount to Central State University in Wilberforce, Ohio, for restoration of its rare books library, destroyed by tornado in 1974.

Their largest national project is the administration of a Jobs Corps Center in Cleveland. Operated for 500 women of all races and from all sections of the country, AKA is the only black oriented group to continuously hold a Jobs Corps contract with the Federal government.

STRESS EQUALITY

The convention's keynoter was Ambassador Angie Brooks Randolph, Liberian representative to the UN. Mrs. Randolph, a lawyer, joined AKA while a student at Shaw University in North Carolina. She later became a founding member of the sorority's chapter in Liberia, West Africa.

"While I was in the process of joining the sorority," Mrs. Randolph recalled, "it was felt by those who did not support my candidacy that it would be useless for me to join because after leaving the U.S. I would not be able to continue my affiliation. There were no international chapters at that time.

"But when I returned to Liberia," she declared, "I helped found an AKA chapter. We stress the AKA concept of education as a weapon to fight discrimination against women where there is a need for equal opportunity with men."

Yesterday's activities included talks by Eleanor Guggenheim, commissioner of the city's Department of Consumer Affairs; Ernesta Procope, president of Bowan Procope Associates, an insurance firm, Cardis Collins, a member of the House of Representatives, Sarah Moore Greene, a civil rights leader from Knoxville, Tenn., and Julia Cooper Mack, associate judge of the Washington, D.C. court of appeals.

There was also a musical narrative of the black woman in America from 1776 to 1976.

Today designer Scott Barrie will show his fall collection to the music of ragtime composer Scott Joplin.

SAFE PASSAGE FOR RAFAEL GONZALEZ

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. HARRINGTON. Mr. Speaker, several of my colleagues and I are interested in the recent statements of Rafael A. Gonzalez Verdugo pertaining to the murder of Charles Horman in Chile, shortly after the coup in September 1973. Mr. Gonzalez reportedly was present in the room at the Ministry of Defense when the Chilean General Lutz ordered Horman's death. Mr. Gonzalez also has said that an individual whom he believes to have been an American intelligence agent was present when the order was given. To date, the junta has claimed that the Chilean military has had no part in this case. Clearly his testimony would be valuable in the long overdue effort to resolve the Horman murder.

We are worried that Mr. Gonzalez' life is in danger. For the past 9 months, Mr. Gonzalez has had to seek political asylum in the Italian Embassy in Santiago with his wife and child. Mr. Gonzalez holds a resident permit in the United States and his 6-year-old son is a U.S. citizen. We hope that the Department of State will renew its efforts on behalf of the Gonzalez family, taking cognizance of Congress interest in the welfare of an American citizen and in the information which Mr. Gonzalez holds.

I submit for the RECORD a copy of the letter which we are sending to Secretary Kissinger asking that he make every possible effort to secure the Gonzalez' safe passage out of Chile:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 23, 1976.

HON HENRY A. KISSINGER,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: The undersigned members of Congress ask that you make every possible effort to secure the safe passage of Rafael A. Gonzalez Verdugo out of Chile.

We understand that the Department of State has recently requested that the Chilean government guarantee Sr. Gonzalez's safe passage, and has made known our willingness to welcome him and his family to the United States. Since no positive response has been forthcoming, we urge you in the strongest terms possible to make further, more energetic initiatives in his regard.

We seek Sr. Gonzalez's release in order that he might leave Chile with his wife and child, who is a U.S. citizen, and so that he might appear before a Congressional subcommittee inquiring into the circumstances surrounding the murder of Charles Horman after the coup in September, 1973.

Sr. Gonzalez has provided the first clue in the Horman case. He was present when General Lutz allegedly ordered that Horman be killed. His testimony would be crucial in this serious case which involves the murder of an American citizen.

The Gonzalez family deserves our assistance for humanitarian reasons as well. The family has had to seek asylum in the Italian embassy in Santiago for the past nine months. Sr. Gonzalez believes that he will be shot if he leaves this sanctuary and fears even to go into the embassy courtyard for the same reason. The family lives in very cramped quarters; their six-year-old son suffers from anemia and needs medical attention.

The Chilean government shows no sign that it will grant Sr. Gonzalez safe passage without considerable outside pressure. We as members of Congress are very interested in his case and will take into consideration Chile's treatment of Sr. Gonzalez when examining U.S. economic assistance to that country next year. We will endorse any Department of State action on his behalf.

Please act promptly. We fear for Sr. Gonzalez's life if you delay on this matter.

Your sincerely,

Michael J. Harrington, George Miller, Andrew Maguire, Edward I. Koch, Tom Harkin, Helen S. Meyner, Edward Mezvinsky, Donald M. Fraser, Herman Badillo, Bella S. Abzug, Anthony Toby Moffett, Paul E. Tsongas, Robert F. Drinan, Phillip Burton, Frederick W. Richmond, Parren J. Mitchell, Henry Helstoski, Ronald V. Dellums, Gerry E. Studds, Stephen J. Solarz, Fortney H. (Pete) Stark, John L. Burton, Benjamin S. Rosenthal.

MILTON FRIEDMAN'S PENETRATING CRITIQUE OF THE HUMPHREY-HAWKINS BILL SHOWS WHY IT IS A DISASTER

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. KEMP. Mr. Speaker, almost everyone had assumed the Humphrey-Hawkins so-called full employment bill was dead. This was so not because people are not committed to the goal of full employment but rather because Congress had realized that centralized economic planning by Uncle Sam was not the answer to the problems of unemployment. Both the concept behind the bill and its specific text had been severely criticized. Much of that criticism came from economists usually friendly to similar measures.

All the laws of economics and experience of history notwithstanding, we started hearing rumors that the bill would be considered this session.

Last week we heard that agreement had been reached to redraft the measure and put it before the House no later than the week of either August 2 or August 9. This agreement was a political agreement, for the immutable laws of economics are not so easily compromised, which, of course, is why the bill will never work, no matter by what majority it is passed or by whom it is signed into law.

Prof. Milton Friedman has a penetrating analysis of the Humphrey-Hawkins approach in the current issue of Newsweek, and I think it is worthy of the careful reading of all of us. It shows us why this bill should not be brought up. The Humphrey-Hawkins bill is a perfect example of where Congress could be more consistent with the prevailing attitudes of both the public and those knowledgeable in this subject field by not doing something, rather than responding to a political or emotional urge to do something.

The analysis follows:

HUMPHREY-HAWKINS

(By Milton Friedman)

A centerpiece of the Democratic fall campaign is the "Humphrey-Hawkins Full Employment and Balanced Growth Act of 1976." Support of that bill has become the litmus test of the true-blue Democratic faith of every candidate from Jimmy Carter to the aspirant for dogcatcher.

The present expanded version of the Humphrey-Hawkins bill embraces the earlier Humphrey-Javits bill. It proposes to establish a process of long-range economic planning to achieve a "full-employment goal . . . consistent with a rate of unemployment not in excess of 3 per centum of the adult Americans in the civilian labor force, to be attained . . . within not more than four years after the enactment" of the act, as well as a long list of other goodies.

ADAM SMITH'S CRITIQUE

The best critique of this bill that I have come across was published 200 years ago in that great book, "The Wealth of Nations" by Adam Smith—the original Adam Smith, not the current impostor who has had the effrontry to adopt that pseudonym.

Wrote Smith: "The statesman, who should attempt to direct private people in what manner they ought to employ their capitals, would not only load himself with a most unnecessary attention, but assume an authority which could safely be trusted, not only to no single person, but to no council or senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it."

Has any contemporary political writer described Hubert Humphrey more concisely?

Not to put too fine a point on it, the Humphrey-Hawkins bill is as close to a fraud as has ever served as a campaign document. It is full of pious promises but contains no measures capable of fulfilling those promises. It would not reduce unemployment but simply add to government employment and reduce private employment, in the process making us all poorer and very likely igniting a new inflationary binge.

How can such a bill do otherwise? Easy enough to say that the government will be the employer of last resort. But where does the government get the money? Ultimately, from you and me, by hook or by crook. If it spends, we don't. If it employs people, we don't.

Of course, people on welfare could be relabeled "civil servants assigned to home duty," thereby reducing recorded unemployment without additional spending. But to do more—and Humphrey-Hawkins promises to do far more—requires more government spending. The extra spending could be financed by higher explicit taxes. In that case, taxpayers would have less to spend and would hire fewer people. The extra spending could be financed by higher borrowing. In that case, the lenders, or the borrowers outbid by government, would have less to spend. Government employment would replace employment in building homes or factories. Finally, the government could print the money, which would tax us indirectly via inflation. We would have more pieces of paper to spend but could buy less. For a time, that could mean more government spending without less private spending, but surely by now we have learned that that is a fool's paradise that would not last.

Is anyone so naive as to suppose that the government jobs created will be more productive than the private jobs destroyed?

VISIBLE GOOD, INVISIBLE HARM

Why do Democrats believe that Humphrey-Hawkins is such potent political soothing syrup? Do they have such a low opinion of the intelligence of the American people? I do not think so. It is for a very different reason—one that is the source of so many harmful government policies: the visible vs. the invisible effects of government measures.

People hired by government know who is their benefactor. People who lose their jobs or fail to get them because of the government program do not know that that is the source of their problem. The good effects are visible. The bad effects are invisible. The good effects generate votes. The bad effects generate discontent, which is as likely to be directed at private business as at the government.

The great political challenge is to overcome this bias, which has been taking us down the slippery slope to ever bigger government and to the destruction of a free society.

THE POVERTY OF EQUALITY

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. ARCHER. Mr. Speaker, Mr. Irving Kristol, Henry Luce professor of urban values at New York University and coeditor of the quarterly the Public Interest, has written a number of informative articles on national issues. One of his best articles appeared under the title "The Poverty of Equality" in the Wall Street Journal of July 12, 1976.

Professor Kristol directs his attention to the question of the so-called problem of income distribution in the United States—and effectively knocks down certain of the myths on this topic. I call attention to a few of the conclusions made in this perceptive piece:

First. Census Bureau Statistics are misleading on distribution of income since they refer only to cash income and ignore in-kind transfers—for example, food stamps, subsidized housing, medicare—which have grown tremendously during the last 15 years.

Second. Income distribution is not the most effective means to end poverty especially in underdeveloped countries; the alleviation of poverty is dependent on economic growth, not politicians expropriating limited resources.

Third. Poverty is more than a mere shortage of money. Poverty as a human condition depends on how one copes with poverty.

Fourth. Our welfare system as a means to cope with poverty has created dependency and has resulted in a demoralized welfare population with high rates of crime, juvenile delinquency, drug addiction, and other problems.

Fifth. Efforts of Governments to redistribute income by Government fiat impairs economic efficiency and growth. The additional rates of taxation on the productive population diminishes incentives to produce.

Sixth. Economic growth, not income redistribution, is the most efficient and effective way of abolishing poverty.

While there seems to be a minimal effort in the Congress to devise incentives and programs to create additional wealth and promote economic growth, we do find this Congress voting on more and more schemes to redistribute the wealth—to transfer money via heavier taxes from the most productive segments of our population to the less productive. It is time we face up to the problem that we cannot continue to do so without facing serious economic and social consequences. I urge my colleagues to read Mr. Kristol's "The Poverty of Equality":

THE POVERTY OF EQUALITY

(By Irving Kristol)

Is there a "problem" in the distribution of income in the United States today? We are frequently assured that there is, and are confronted with Census Bureau statistics to prove it. Those statistics, widely quoted, show that the top 20% of American families get 40% of the national income, while the lowest 20% of the population get only 5%. The statistics are accurate enough—but they are also widely misleading.

One reason they are misleading is that they refer only to cash income. They omit in-kind transfers (e.g., Medicare, Medicaid, food stamps, subsidized housing, etc.), and it is precisely such in-kind transfers that have mushroomed during the past 15 years. Edgar K. Browning (The Public Interest, Spring, 1976) has shown that, once such in-kind transfers are included, the lowest fifth gets almost 12% of the national income, the top fifth about 33%.

Moreover, even this revised picture grossly exaggerates the degree of income inequality. That is because the statistics are not corrected for age. Clearly, young people who have recently entered the labor force, and old people who have left it, will have significantly lower incomes than those in mid-career. Even in a strictly egalitarian society, where everyone's lifetime income is equal, a cross-cut statistical snapshot at any one moment will show substantial inequality.

USING COMMONSENSE

The statistical problems involved in correcting the picture of income distribution for age are formidable, and there are no meaningful percentages to be quoted. But where statistical precision is lacking, common sense will take us at least part of the way. Let us assume that any revision which takes account of age has only modest effects—that, perhaps, it will show the top 20% of the population to receive 28%-30% of the national income. Does this degree of inequality represent an "inequity"? Is it a "problem"?

Obviously, it is for those who believe in the ideal of absolute equality for all. But most Americans who express concern about inequality have no such extreme thoughts. Indeed, most of their interest in inequality arises from the very reasonable desire to eradicate, or at least alleviate, poverty. And this confusion between the issue of inequality and the issue of poverty is indeed a very serious problem.

The notion that income redistribution is the effective means to end poverty is age-old: one finds it expressed in the civil strife of the Greek city-states, the medieval peasant rebellions, the socialist movements of the past 200 years. But if the modern science of economics has taught us anything, it is that the connection is usually spurious.

The redistribution impulse is most powerful today in those poor countries, the so-called less-developed countries, where it makes the least sense. In such countries, the alleviation of poverty is utterly dependent on economic growth. There never is enough money among the small number of wealthy citizens to make a significant dent in the poverty of the masses. When the rich are expropriated in such countries, everyone becomes equal in poverty—though the political authorities who do the expropriating usually end up being more equal than the rest.

Even in affluent, developed societies where the poor are a minority, the alleviation of poverty is mainly dependent on economic growth. (The one instance where it makes sense to think of income redistribution as a cure for poverty involves the aged and infirm, that portion of the population who are not in the labor force because they are by nature dependent.) The experience of the United States over these past 15 years demonstrates how the idea of "abolishing poverty" through income redistribution turns out to be a will-o'-the-wisp.

Let us draw the poverty line at a fairly high level—at one-half the median income. (This is the level preferred by most liberal reformers, as distinct from the official "subsistence" level fixed by government.) Well, in New York City, where our politicians are notoriously compassionate, we have achieved even that high level. A family of four on welfare receives in cash and kind, between $7,000 and $7,500 a year. (The median household income in the U.S. is about $12,500 annually.) We have abolished poverty in New York City!

So why hasn't anyone noticed?

The reason is that for the non-aged and non-infirm, poverty turns out to be more than a simple shortage of money. Poverty as a human condition, as distinct from a statistical condition, is defined to a substantial degree by the ways in which one copes with poverty. A visitor to the Greek islands, or to an Italian village, is impressed first of all, not by the poverty of the people there—which is acute—but by their determination to make the best of things and their extraordinary ability to do so.

And what is true for the way one copes with poverty is also true for the way one goes about abolishing poverty. For the way in which poverty is abolished turns out to be more important than the statistical abolition itself. In New York, we have tried to abolish poverty through a generous welfare program, and have therewith rediscovered the truth of an old adage; dependency tends to corrupt and absolute dependency corrupts absolutely. Our welfare population, statistically lifted out of poverty, has actually and simultaneously sunk to various depths of social pathology. It is largely a demoralized population, with higher rates of crime, juvenile delinquency, drug addiction, teenage pregnancy, alcoholism, etc., than when the welfare checks were less generous.

The reason for this demoralization is obvious enough, though scholars with a middle-class background have difficulty in perceiving it. Being a "breadwinner" is the major source of self-respect for a man or woman working at a tedious, low-paying job that offers few prospects for advancement. It is also the major source of such respect as he (or she) receives from family, friends, and neighbors. When welfare provides more generously for his family than a breadwinner can, he becomes a superfluous human being. Both self-respect and respect soon crumble, family ties unravel, and a "culture of poverty" sets in that has more to do with the welfare system than with poverty itself.

Meanwhile, there are many poor people (including, of course, poor blacks) in this country who are too proud to go on welfare, who prefer to work hard at low-paying jobs, earning less than if they had gone on welfare—and whose spirits are undestroyed, whose lives are less afflicted, and whose children are less likely to "get into trouble." It would be instructive to see a comparative study of those two groups of poor people. But when the state of California tried to sponsor one, liberal academe and the liberal media—committed to reform-through redistribution—denounced and killed the idea.

WHATEVER HAPPENED TO . . .

So the evidence is clear that trying to abolish poverty through income distribution does nothing of the sort. The evidence is also clear that when poverty is abolished through economic growth, something real and desirable has occurred. The history of the United States since 1940 testifies to the truth of this latter proposition. What happened to the "Okies" whom Steinbeck and others wrote so poignantly about? What happened to the poor whites who, in most American cities (and all American movies), lived on "the other side. of the tracks"? And what is happening to Appalachia today, where a boom in coal mining is accomplishing what a dozen government programs failed to do?

But, ironically, efforts to redistribute income by governmental fiat have the precise effect of impairing economic efficiency and growth—and therefore of preserving poverty in the name of equality. All such schemes of income distribution imply higher rates of marginal taxation for the productive population, with a consequent diminution of work incentives and a shrinking of capital available for reinvestment. When this happens on a sufficiently large scale, the results become disastrous for everyone.

This is evidently the case in the United Kingdom today, where a massive redistribution had indeed taken place, and where the society as a whole is getting poorer with every passing year. Twenty years ago, there was no noteworthy "poverty problem" in Britain. As things are now going, however, there will surely be one tomorrow. Egalitarianism may be motivated by a sincere desire to abolish poverty, but it is one of the most efficient poverty-creating ideologies of our century.

FLOOR PRIVILEGE REFORM RULE BARS EX-MEMBER LOBBYISTS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. ANDERSON of Illinois. Mr. Speaker, today the gentleman from California (Mr. JOHN L. BURTON) and I are reintroducing our floor privilege reform rule with 97 cosponsors, including 63 Democrats and 34 Republicans.

Originally introduced as House Resolution 1364 on June 24, 1976, this resolution would amend House rule XXXII to deny floor privileges at all times to any former Member of Congress or former elected officer who is now employed for the purpose of influencing, either directly or indirectly, any legislation pending in the Congress or any of its committees. The floor privilege ban extends to those rooms adjoining the floor including the cloakrooms and Speaker's Lobby.

Mr. Speaker, as House rule XXXII now reads, former Members and elected officers may now have floor access unless they have an interest "in any claim or directly in any bill pending before Congress." In 1945, Speaker Rayburn ruled that the floor privilege ban applied to former Members having a personal interest in legislation coming up for consideration in the House or who are employed by an organization that has legislation before the Congress. While this ruling would seem to bar ex-Member lobbyists from the floor at all times, the interpretation over the years has been to bar these people only when a bill in which they have a personal or professional interest is actually under consideration in the House. In other words, they are free to lobby Members on the floor and in the adjoining rooms at all other times.

Mr. Speaker, the resolution which Mr. BURTON and I have introduced with nearly 100 cosponsors prescribes a more strict and literal interpretation of the Rayburn ruling by banning ex-Member lobbyists from the House floor and adjoining rooms at all times when the House is in session. Former Members who are not employed for the purpose of influencing legislation, yet who might have a direct personal or pecuniary interest in a particular bill, would only be barred from the floor when that measure is actually coming up for consideration in the House.

Under the terms of our proposed new floor privilege rule, all former Members and elected officers would have to register for floor access and make a declaration, on honor, that they are not employed for the purpose of influencing legislation and do not have a personal interest in any measure coming up for consideration in the House. Essentially, this would be a self-enforcing, honor code type of rule, though the Doorkeeper would be charged with the responsibility of keeping out anyone not properly registered, and any House Member would still be privileged to challenge the presence of anyone who had registered and yet might not be in compliance with the conditions of the rule.

Mr. Speaker, I think it is important to point out that our proposed rule is no radical departure. Prior to the 1880 rules revision our rules did contain such a registration requirement and former Members had to indicate they were not interested in any claim pending before Congress in order to be granted floor privileges. In 1872 the House Rules Committee sent to the floor a rule nearly identical to the one which we are reintroducing today, barring former Members interested in any legislation pending before the House or any of its committees, and requiring that they register and declare on honor they were not so interested in a pending bill. Unfortunately, that proposed change was defeated by the House at that time. However, in 1880 the House adopted a revised rule expanding the prohibition to Members directly interested in any bill as well as claim pending before Congress. While the registration requirement was dropped from the rule at that time, the House precedents of 1936 indicate that a register was still kept. Today, no such register is kept to my knowledge, and there is no way for the Doorkeeper to determine which former Members may or may not have a personal or professional interest in pending legislation.

Mr. Speaker, I think the time has come for us to recognize that the floor privilege for former Members was never intended to be used for the purpose of advancing their current professional interests. Whether or not former Members use that privilege for that purpose is not necessarily the important issue here. Rather, what is important is the appearance that the privilege could be used for lobbying purposes. I think any former Member who goes on to become a lobbyist must automatically forfeit his floor privileges so that he will be on an equal footing with other lobbyists, so that there will never be any lobbying taking place on the House floor or in the adjoining rooms, and so that there will never even be the appearance that this might be taking place. The current interpretation of the rule is a meaningless compromise since most critical lobbying takes place before a bill ever reaches the floor.

Mr. Speaker, it is our sincere hope that this rule can be speedily approved by the Rules Committee and sent to the House floor. There is no reason for delay on this. The issue is quite simple and clearcut. The overwhelming bipartisan support for this reform should demonstrate that the House is ready now to implement this necessary change.

Mr. Speaker, at this point in the Record, I include a copy of a letter I received from the legislative director of the AFL–CIO, Andy Biemiller, himself a former Member, in support of this rule change; a copy of the resolution, and a list of the 97 House cosponsors:

American Federation of Labor
and Congress of Industrial
Organizations,
Washington, D.C., June 29, 1976.

Hon. John B. Anderson,
U.S. House of Representatives,
Washington, D.C.

Dear John: I have read with interest your discussion in the Record of June 24th pertaining to the change in Rule 32 proposed by you and Congressman John Burton.

I have scrupulously observed the Rayburn Rule since I have been working for the AFofL and the AFL–CIO. I agree with you that any former member who is a lobbyist should not be on the floor during any session of the Congress.

However, it seems to me there is one possible exception to the literal interpretation of your proposed amendment. I have on two or three occasions been present during sessions of the Congress which were addresed by the President or visiting Heads of State. I do not see any harm in such an appearance on the floor. I was present during the recent session for Former Members of Congress. That, however, would not be an issue under your proposed amendment, as I believe a special invitation was accorded by the Congress itself to cover this one day.

I shall be interested in watching the progress of your amendment as I find that many members are confused by the present rule. The most extreme example of this confusion occurred when I was testifying on a lobbying bill several weeks ago. A member of the Subcommittee asked me if I would object to a rule barring former members who are lobbyists from the privilege of the floor. I responded that in my opinion Rule 32 already did so.

If I can be of any help on this matter I shall be pleased to do so.

Hope to see you soon.

Sincerely yours,
Andrew J. Biemiller,
Director, Department of Legislation.

H. Res. 1364

Resolved, That rule XXXII of the Rules of the House of Representatives is amended in the following way:

Rule XXXII, clause 1, is amended by striking the word "ex-Members" as it first appears through the word "consideration", and substituting in lieu thereof the following: "the Parliamentarian, elected officers, and elected minority employees of the House (other than Members), clerks of committees when business from their committees is under consideration; and ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and former elected minority employees of the House, subject to the provisions of clause 3 of this rule".

Rule XXXII is further amended by adding the following new clause:

"3. Ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and former elected minority employees of the House, shall be entitled to the privilege of admission to the Hall of the House and rooms leading thereto on making declaration, on honor, in a register to be kept for that purpose, that they do not have any direct personal or pecuniary interest in any legislative measure coming up for consideration in the House, or that they are not in the employ of, or do not represent, any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat or amendment of any legislative measure before the House or any of its committees. The Doorkeeper shall be held responsible to the House for the execution of this rule.".

Cosponsors of Floor Privilege Reform Rule

Mr. John B. Anderson, Mr. John L. Burton, Ms. Abzug, Mr. Mark Andrews, Mr. Bafalis, Mr. Baldus, Mr. Baucus, Mr. Beard of Rhode Island.

Mr. Bedell, Mr. Biester, Mr. Bingham, Mr. Blouin, Mr. Boland, Mr. Bonker, Mr. Breckinridge, Mr. Brodhead.

Mr. Brown of Ohio, Mr. Burgener, Ms. Burke of California, Mr. Butler, Ms. Chisholm, Mr. Cohen, Mr. Conable, Mr. Conte.

Mr. Coughlin, Mr. Danielson, Mr. Derwinski, Mr. Downey, Mr. Edgar, Mr. Eilberg, Mr. Evans of Colorado, Mr. Fascell.

Mrs. Fenwick, Mr. Fisher, Mr. Fithian, Mr. Forsythe, Mr. Fraser, Mr. Frenzel, Mr. Gradison, Mr. Hagedorn.

Mr. Hamilton, Mr. Hanley, Mr. Hannaford, Mr. Harrington, Mr. Helstoski, Mr. Hyde, Ms. Holtzman, Mr. Hughes.

Mr. Jeffords, Mr. Jenrette, Mr. Ketchum, Ms. Keys, Mr. Koch, Mr. Krebs, Mr. LaFalce, Mr. Lagomarsino.

Mr. Lujan, Mr. Lundine, Mr. Maguire, Mr. McEwen, Mr. Mazzoli, Mr. Metcalfe, Mr. Mikva, Mr. Miller of California.

Mr. Moffett, Mr. Moorhead of California, Mr. Mosher, Mr. Moss, Mr. Neal, Mr. Ottinger, Mrs. Pettis.

Mr. Quie, Mr. Rangel, Mr. Rees, Mr. Richmond, Mr. Rinaldo, Mr. Roush, Mr. Sarasin, Mr. Scheuer.

Ms. Schroeder, Mr. Seiberling, Mr. Simon, Ms. Spellman, Mr. Stark, Mr. Studds, Mr. Treen, Mr. Udall.

Mr. Walsh, Mr. Wampler, Mr. Waxman, Mr. Weaver, Mr. Whalen, Mr. Whitehurst.

Mr. Wilson of Texas, Mr. Charles H. Wilson of California, Mr. Winn, Mr. Wirth, Mr. Wolff, Mr. Won Pat.

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mrs. KEYS. Mr. Speaker, on July 27, 1976, I was unavoidably absent for a vote (rollcall No. 553) on an amendment to the Mine Safety and Health Act of 1976 (H.R. 13555) which sought to retain the functions of the Mining Enforcement and Safety Administration within the Department of the Interior. Had I been present, I would have voted "no."

APOSTLES OF LOVE ARE RANKLED

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. HYDE. Mr. Speaker, as we bask in the afterglow of the recently concluded Democratic Convention, and as the euphoria of Governor Carter's inspirational and edifying acceptance speech begins ever so slowly to recede, a clear analysis of what transpired is thankfully available from the pen of columnist Patrick Buchanan. I hasten to share this with my colleagues:

[From the Chicago Tribune, July 27, 1976]

Apostles of Love Are Rankled

(By Patrick Buchanan)

Washington.—Former First Lady Pat Nixon was still at Long Beach Hospital recovering from a stroke when a grinning Walter Mondale gripped the lectern at the Democratic National Convention. Sniffing out the mood of his audience, the vice presidential choice of what Jimmy Carter calls the "party of compassion'" ripped into President Ford for having interrupted the prosecution of former President Nixon.

Carter was up next. "Our country," he said, "have lived through a time of torment, it is now a time for healing." Carter's idea of healing was to tear the scab off the Watergate wound and remind his cheering audience that "bigshot crooks," are going free.

Two years after Ford's magnanimous pardon of his predecessor—done at great political cost and no personal gain—it still rankles the Nixon-haters. If there is any political juice left in that rotten old melon of Watergate, you can bet that Carter and Mondale, the candidates of compassion and love, are just the boys to find it.

Now, do not get them wrong. They are not against charity—just charity toward the Nixons. They are not against pardons, either. In fact, they plan to dole out about 5,000 pardons the first week they are in office—to the draft dodgers who ran away to Canada and Sweden when other, better young men went off to fight and die in Viet Nam in what Carter likes to call our "racist" war.

Seeing the apostles of love up there stoking the embers of revenge was not the only paradox at the Madison Square Garden convention.

We heard endlessly about the abuses of the Federal Bureau of Investigation and the Central Intelligence Agency—nothing about the principal abusers, Presidents Kennedy and Johnson.

We heard corruption in government denounced. And the oratory was applauded by enthusiasts of a fighting 94th Congress which has distinguished itself by the amount of boodle it has extracted from the taxpayers and the number of trollops it has put on the payroll.

One of the more appropriate pledges was the promise to make the birthday of the Rev. Martin Luther King, Jr. a national holiday. It is fitting that Democrats should take the lead here, since it was their last two presidents who wiretapped the telephones and bugged the bedroom of the late civil rights leader.

One wonders what went through the mind of "Daddy" King, delivering his benediction to a convention which contained politicians and press who knew, and kept silent, during the early 1960s when the agencies of a Democratic administration were gathering and distributing dirt on his murdered son.

But, back to the pardon of Nixon. While controversial and costly, it remains the most presidential decision of Ford's abbreviated term in office. True, it produced a firestorm, but it was the last firestorm. It lanced the boil that had been festering, at great cost to the nation, for 18 months.

Left to the Democrats or liberal press, we would still be recycling the garbage, replaying the tapes.

Two years after the pardon, after the revelations of the sins of previous Presidents are laid alongside those of Nixon's men it is clear that what the Left was after was not justice, but Nixon. For 18 months they had been mainlining it on Watergate. And the individual, no matter his name, who cut off the supply, who put them through cold turkey, would earn their eternal enmity. Ford, courageously, chose to be that man.

Because of his single act in September, 1974, this nation entered its Bicentennial far less divided, with a political climate far less poisoned than it would have been had that decision been left to those who were profiting personally, psychologically, and politically from the Watergate circus.

FINANCIAL STATEMENT

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. PATTERSON of California. Mr. Speaker, I believe the best interest of the American people requires that personal financial disclosure statements should be made to the public by the President and Vice President, Members of Congress, candidates for Federal office, and highly paid employees of the legislative, executive and judicial branches of our Government. I have cosponsored the Financial Disclosure Act which would make that a requirement, and which I believe would do much to restore trust in our Government and give the public the ability to evaluate the financial integrity of its public officials.

Consistent with my cosponsorship of that measure, and with my philosophy of honesty and openness in Government, I am at this time making public a statement of my own personal financial condition: The amount and source of my income; assets; liabilities; and taxes paid.

PERSONAL FINANCIAL STATEMENT OF JERRY M. PATTERSON, U.S. CONGRESSMAN, JULY 1, 1976

I. 1975 INCOME

1. Jerry M. Patterson—Salary	$39,172
2. Legal fees earned prior to Election to Congress, but received in 1975	3,038
3. Speaking fees and Honoraria	1,600
4. Mary Jane Patterson—Salary	12,995
Total income	56,805

II. PRESENT ASSETS (ITEMIZED IF OVER $5,000)

1. Real Property, Santa Ana, Calif.	52,500
2. Real Property, Buena Park, Calif.	50,000
3. Real Property, Washington, D.C.	40,000
4. 1974 Automobile	10,000
5. 1976 Automobile	8,000
6. 1976 Automobile	5,000
7. Savings	10,000
8. Furniture, Furnishings, Paintings, and Jewelry	30,000
9. All other and Miscellaneous items	4,500
Total estimated value of assets	210,000

III. PRESENT LIABILITIES (ITEMIZED IF OVER $1,000)

1. First Trust Deed on Santa Ana Property	28,000
2. First Trust Deed on Buena Park Property	41,000
3. First Trust Deed on Washington, D.C., Property	31,300
4. Legal Lien on 1974 Automobile	4,800
5. Legal Lien on 1976 Automobile	3,700
6. Bank of Washington	5,000
7. All other non-itemized debts	6,500
Total liabilities	120,300

IV. MAJOR TAXES PAID IN 1975

Federal Income Taxes	7,000
State Income Taxes	2,557
Local Property Taxes	1,057

TERRORISM IN ARGENTINA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. McDONALD. Mr. Speaker, perceptive observers of international Communist activity, including leaders of the AFL–CIO, pointed out shortly after the Argentine military bloodlessly deposed Mrs. Isabel Peron in March that an international campaign of protest against Argentina's military government and against other similar Latin American governments would soon gain publicity.

It is necessary to examine the course of development of political terrorism in Argentina and adjoining countries to understand the complexity of that country's political situation.

Since 1970 Argentina has been subjected to continually escalating political terrorism which has led to a virtual state of anarchy during the early months of 1976 prior to the predicted military coup. As early as 1962, Nahuel Moreno, the top Latin American agent of the Trotskyist Communist Fourth International—FI—had selected Argentinian Trotskyist cadres who were sent to Cuba for terrorist training. However, organized political terrorism did not commence on a large scale until 1970. That year at its secret convention the Argentinian section of the Fourth International, the PRT—Revolutionary Workers Party—created an armed terrorist section called the ERP—People's Revolutionary Army—which was under the political direction of the PRT and which received its money in part from bank robberies, kidnapings, and extortion and in part from the Fourth International.

After quarreling with the Fourth International and the PRT over money and support, the ERP, led by Mario Roberto Santucho, declared its political "independence" in 1974 while at the same time drawing closer to Cuba. One section of the ERP, however, remains a member of the Fourth International. It is noted that while the Cuban Communists will work with the "heretical" Trotskyists in foreign countries, Castro imprisoned the Cuban Trotskyists in the 1960's.

In 1974, the ERP formed an alliance with three other Castro-supported Latin American terrorist groups. This united terrorist command is called the JCR—Revolutionary Coordinating Council. The JCR includes the ERP, the Chilean MIR—Movement of the Revolutionary Left—the Bolivian ELN—National Liberation Army—founded by Che Guevara, and the Uruguayan NLM—National Liberation Movement—which is better known as the Tupamaros.

The Bolivian and Uruguayan security forces had by the early 1970's virtually wiped out terrorist activity by the ELN and Tupamaros. Surviving terrorists and their supporters had found a welcome in Chile under Salvador Allende's Unidad Popular regime. Some of the foreign Marxist-Leninists worked with the Chilean Communist and Socialist Parties, while the ELN and Tupamaro terrorists developed links with the MIR. Upon the overthrow of Allende in September 1973, the Chilean revolutionaries were joined in their flight abroad by the members of the other Latin American terrorist groups whose haven had been destroyed. Many of these people were granted legal residence in Argentina; others entered Argentina illegally over the Andes.

Juan and Isabel Peron made their country a haven for thousands of revolutionaries and terrorists from Chile, Bolivia, and Uruguay. During 1974 and early 1975 there was little terrorism in Chile, Uruguay, or Bolivia because most of the revolutionaries, and many of those who had not been active terrorists but had formed part of the terrorist support apparatus, had become "political refugees" in Argentina.

In Argentina, the foreign terrorists joined with the Argentinian ERP and the Montoneros in attacking the very Government which had granted them entry. Through 1973 the guerrilla terrorists in Argentina were a serious problem, but police and military had held them back. Just prior to Juan Peron's return as leader of Argentina, his caretaker President Campora gave amnesty to the hundreds of imprisoned terrorists.

The released ERP cadres immediately refused to support Peron and resumed their terrorist activity. The Montoneros guerrillas who had been recruited from the extreme left of the Peronist movement initially accepted amnesty went underground again in 1974.

In 1975, the ERP was estimated to have as many as 2,500 armed members with large centralized camps in the Andes and other urban guerrilla terrorist units in the cities, all supported by a much larger sympathizer apparatus. United under the JCR central command, ERP casualties in unsuccessful raids have often included not only Argentinians, but some of the "political refugees" who were actually Miristas or Tupamaros.

The Montoneros are the ERP's principal leftist rival in terrorism. With a larger support base than the ERP, drawn from among the left wing of the Peronist socialist movement, the Montoneros prior to Peron's return had attacked both the Argentinian military government and military facilities, and U.S.- and foreign-owned companies. A legal organization during 1973 and 1974 until it chose to return to terrorism after Juan Peron's death, the Montoneros, led by Mario Eduardo Firmenich, have altered their ideology slightly. Whereas when they followed Peron's Mussolini-style national socialism the Montoneros were classified as "fascists," they now have proclaimed allegience to Marxism-Leninism and "revolutionary socialism."

Like the ERP, the Montoneros have made a specialty of assassinations, kidnapings for money, often holding victims in tiny cells dug under the cellars of houses for months on end, bombings and other acts of urban terrorism. It is noted that a young U.S. citizen, Olga Talamantez, was arrested last year in Argentina in the company of Montoneros. She was held for a year, released, and recently returned to this country.

In late 1974 a third terrorist organization appeared in Argentina called the Argentine Anticommunist Alliance—AAA. The AAA has conducted a campaign of intimidation by making threats against leftist refugees who were active terrorists, and against leftist intellectuals, entertainers and public figures who support the Marxist terrorists. Several distinct groups appear to have used the AAA name, some of whom have been identified and arrested. As with the ERP and Montoneros, criminal gangs have used the AAA name to disguise their murders and robberies and engage in gang wars.

Groups using the name AAA have committed gross atrocities and have gravely contributed to the collapse of law in Argentina.

Society certainly has the right to impose the death penalty on persons convicted of terrorist acts such as murder and assassination by bomb and ambush. But a just society operates by law, not by private gangs, and imposes maximum sentences only after careful court trials and presentation of conclusive evidence of guilt. The AAA terrorists are increasing the breakdown of their country's society. They are providing a "justification" for the continued atrocities of the ERP and Montoneros. They drive the moderate left not engaged in active support of terrorism into the arms of the ERP and Montoneros thereby increasing the polarization of Argentinian society.

Terrorism—violent attack upon the non-combatant, civilian segment of the community, for the purpose of intimidation to achieve a political or military objective—is a completely unacceptable method of political warfare. Clearly the people of Argentina have a difficult task ahead.

Nevertheless the political violence in Argentina should not be an excuse to open our borders to "political refugees" who are members and supporters of terrorist organizations. The violence in Argentina does not mean that the United States should open its borders to several hundred MIRistas, Tupamaros, and their supporters in other Communist groups.

JOHN McGUINESS RETIRES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. EILBERG. Mr. Speaker, John McGuiness is retiring tomorrow after 22 years of service in the office of the Attending Physician, U.S. Capitol. He has served Members of Congress and visitors to the Capitol since 1954. His quiet, personal charm and eagerness to serve have earned him the respect of most of the people who have come into his office.

A former chief hospital corpsman in the Navy for 10 years before coming to work in the Capitol, John has been an outstanding representative of that service and he has served both the Navy and the U.S. Congress well and in the finest naval tradition.

I personally will miss him as I am sure will all of the Members of the House.

INCREDIBLE, TRAGIC LEBANON

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. LAGOMARSINO. Mr. Speaker, the turmoil in Lebanon during the past few months has greatly concerned us all. There are many stories of personal tragedy, and of innocent people being killed or having their lives destroyed by the civil war. We all can and must learn from the experience of Lebanon how to deal with these situations and how to prevent such outbreaks of violence in the future. My constituent, Gen. Henry Huglin—retired—has written a column on this subject, which I would like to bring to the attention of my colleagues:

INCREDIBLE, TRAGIC LEBANON

(By Henry Huglin)

For more than a year the news has often been filled with the latest act of the tragic, bizarre drama of the Lebanese tearing themselves apart—for reasons of religion, ideology, economic and social justice, and political power.

In a recent bad scene in early June, our ambassador and one of his key assistants were slain, in an extremists' presumed attempt to eliminate our country's conciliation efforts. Subsequently, in a much-publicized operation, over 100 Americans and several hundred other people were evacuated from Beirut, the devastated capital, in a U.S. Navy ship.

In this internecine warfare, an estimated 28,000 Lebanese have been killed, many more wounded, and their cities, businesses, and way of life destroyed.

What are we to make of this horrible spectacle? What lessons are there in it?

Well, the Lebanon situation is certainly complex and confusing, even unreal.

Except for a brief period in 1957, Lebanon had been a peaceable, pleasant, prospering land from the time of its independence in 1943 from French mandated rule until last year. But its political institutions were structured on a division of political power among the Christian and Moslem communities, according to a rigid formula which became outmoded. This tenuous arrangment broke down, in part from the built-up pressure of the many Palestinian refugees who have for decades lived in camps in Lebanon, becoming more radical and militant.

The war started as a struggle between the Lebanese Christians and Moslems, who are both divided into a number of factions with their own well-armed militias. Then the radical Palestinians, who also have several well-armed factions, joined the fighting—with the apparent goal of gaining an upper hand, both to better use Lebanon as a base for guerrilla warfare and to dominate the Arab cause against Israel.

The action of the radical Palestinians worried the Syrians and led to their intervention. The Syrian incursion has escalated to a force of about 13,000 heavily armed troops which have taken over much of Lebanon "to maintain peace and security" and "to save it from itself," according to Syrian spokesmen.

But whether the Syrians can achieve their apparent goals of snffing out the civil war, putting down the radical Palestinians, and getting a stable Lebanese government going remains to be seen. So far, their intervention has greatly riled the Palestinians and the more radical Arab nations, and has seemed to escalate the fighting around Beirut.

The situation appears to be deteriorating and foreigners' involvement expanding. The radical Lebanese Moslems, in league with the radical Palestinians, are supported by Iraq, Libya, and Algeria on one side, while the Lebanese Christians and moderate Moslems are supported by Syria, Saudi Arabia, and Kuwait on the other side.

Among the possible consequences of this grave situation are these:

The intervention of forces from other Arab nations may result in an extended war in Lebanon involving the radical and moderate Arab nations against one another.

Or Lebanon may be the tinderbox for another Mideast Arab-Israeli war.

Or Lebanon may end up being partitioned into several smaller states—Christian, Moslem, and Palestinian—with perhaps a part annexed by Syria.

Certainly for the Lebanese their war has become a disastrous horror. The unleashed passions have brought incredible, widespread slaughter, suffering, and chaos.

The many diverse Lebanese and Palestinian factions—and now the other Arab nation intervenors—feed their lusts for power and machismo with unrestrained warfare against their perceived enemies, wreaking terrible death and destruction.

For us, it is shocking to have demonstrated again how thin is the veneer of civilization, how tenuous can be societies' structure, law, and order, and how loss of feelings of community, conciliation, tolerance, and forebearance can so easily escalate uncontrollably into wanton human and physical wreckage and deep tragedy.

Lebanon is another stark reminder that man's greatest challenge is still how to control his greeds, hatreds, and violence. Its agony, as Ireland's and Cyprus', ought to be a grim warning to many other countries to promote equal human rights and economic and social justice or face possible similar consequences.

How comforting it would be if we could rightfully say "it is no concern of ours." But we can't. As a great power we have to be concerned, use our influence, and help when appropriate. As mediator and conciliator, we need to keep on trying to dampen down the mayhem, reverse the anarchy, and resolve this tragic situation.

As we have to do in most crises, we have to play a useful role in the Lebanon crisis—for humaneness and to avoid it spilling over into wider conflict which could affect the security and well-being of our country or of our allies and others dependent on us.

PERSONAL FINANCIAL DISCLOSURE

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. SHARP. Mr. Speaker, as a matter of personal policy, my wife and I annually make public a statement of our assets, liabilities, and tax payments. To make our most recent statement a matter of public record, I ask that it be included at this point in the CONGRESSIONAL RECORD:

PHILIP R. AND MARILYN A. SHARP STATEMENT OF ASSETS AND LIABILITIES MAY 1, 1976

Assets:	
Cash (checking and savings accounts)	$7,446.19
Deposit in Teachers' Retirement Funds	1,951.63
Investments:	
U.S. Savings Bonds	200.00
Residence in Muncie (at cost)	19,500.00
Muncie Business Building (at cost)	25,000.00
Real Estate Mortgage	3,750,00
Total investments	48,450.00
Automobiles (1970 and 1974 Chevrolet)	4,475.00
Total assets	62,322.82
Liabilities: Mortgage on Home	14,794.41
Total liabilities	14,794.41
Total assets	62,332.82
Less total liabilities	14,794.41
Net assets	47,528.41

STATEMENT OF INCOME AND TAX PAID FOR 1975

Total Income for 1975	$40,665.25
Federal Income Taxes Paid for 1975	6,763.00
Indiana Income Taxes Paid for 1975	696.24
Property Taxes Paid to Delaware County on Home and Business Building for 1975	538.00
Total taxes paid for 1975	7,997.24

HOW THE PRESS IGNORES TAX REFORM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. DRINAN. Mr. Speaker, I take pleasure in bringing the attention of my colleagues to an excellent article written in the Christian Science Monitor on July 23, 1976, by Senator HATHWAY of Maine.

Senator HATHWAY perceptively points out that the media have ignored the "billion-dollar giveway" in our tax bills and have failed to keep the public informed about the very tough struggle in which Senator HATHWAY and others in both the House and the Senate are engaged to bring about real tax reform.

The article follows:

HOW THE PRESS IGNORES TAX REFORM

On June 10, 13 senators called a press conference in the Capitol and expressed dissatisfaction with the tax reform bill as it was reported by the Senate Finance Committee. They outlined their plans for amending it when floor debate began. The room was crowded with journalists, and the next day a brief story appeared in the nation's papers, anywhere from page 3 to page 60, mostly in the financial section. The broadcast media gave it similar coverage.

The Senate began debate on schedule, and in the face of intense corporate pressure, yielded billions of dollars back to corporate treasuries in the form of special tax benefits. This bicentennial rip-off was again relegated to the back pages by our print journalists and hardly noted by our broadast journalists.

The public, during this billion-dollar giveaway, was being whipped into a frenzy over the sex habits of a few members of Congress. An alleged $14,000-a-year mistress was being touted and made famous by the press, while several billions of dollars were being stripped from the Treasury with hardly more than a footnote. Why? Is the press so fascinated with sex that they ignore robbery?

There was no public outrage over this billion-dollar giveaway because the public was not informed as to what was going on here. The senators in the majority received few angry letters on their votes against tax reform, but hundreds or thousands on congressional moral habits. There is public pressure aplenty for Congress to clean up its petty cash box, but hardly a whisper on asking us to replenish the public Treasury.

On the issue of tax reform, the media have failed the American people.

Where are the financial Bob Woodwards and Carl Bernsteins? Where is the righteous indignation of the editorial writers and columnists when it isn't being focused on the human weaknesses of one or two, or even a half dozen, members of Congress?

If it is the responsibility of the press to guard against private immoralities by constant, well-placed stories and comments, is it not also their responsibility to do the same on matters concerning public money?

It is my opinion that they do. The Supreme Court ruling recently recognized the special role the press plays in our system of government. The press is accorded free access to the goings-on of our government, and at the same time is given free opportunity to exercise its judgment on what will be covered, what will be said, and how much exposure to give each issue.

Yet, the press has been irresponsible in its coverage of the tax reform proposal in both committee and floor debate. I challenge them during this congressional period to right this wrong, and to give the people an opportunity to review this tax proposal as it is presently constructed, as well as to review the many real tax reform amendments that were proposed and defeated simply because the people were not adequately informed as to what this single law will cost them.

WILLIAM D. HATHAWAY,
U.S. Senator, Maine.

WASHINGTON.

THE FINANCIAL DISCLOSURE ACT

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. BRODHEAD. Mr. Speaker, today I testified before the Subcommittee on Administrative Law and Governmental Relations of the Judiciary Committee in support of H.R. 3249, the Financial Disclosure Act, of which I am a cosponsor. I would like to share that testimony with my colleagues:

STATEMENT OF REPRESENTATIVE WILLIAM M. BRODHEAD BEFORE THE ADMINISTRATIVE LAW SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY, JULY 28, 1976

"Publicity," the late Justice Louis D. Brandeis once wrote, "is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most effective policeman."

These words are particularly relevant today when we are facing an unprecedented crisis of confidence in government. We have seen the unbelievable excesses of the Watergate era. We have seen the Vice President of the United States drummed out of office for taking money under the table and we have seen the President, himself, forced to leave office in disgrace.

At the same time, we have seen case after case where our own colleagues in Congress have been accused of bribery, conflict of interest and misuse of public funds.

Congress has righteously passed laws to curb abuses in the Executive Branch and in private industry . . . but we have failed to apply that same standard to our own Houses.

I've said it before, Mr. Chairman, and I will say it again today. We must end this double standard! We must throw open the curtains and let the rays of sunshine penetrate the halls of Congress. We will not have true reform in Congress until we require the personal finances of Congressmen to be exposed to full public scrutiny. To require disclosure of campaign contributions and not to require personal financial disclosure is to tell only half the story—when the whole truth is desperately needed.

H.R. 3249 would require public financial disclosure by all elected Federal officials, candidates for federal office, federal employees paid $25,000 per year or more, and persons in policy making positions whose decisions could generate potential conflicts of interest.

Financial disclosure legislation would shed light on the shocking number of conflicts of interest that exist within the federal government. Some examples follow: An Interior Department official who was charged with monitoring oil company operations on leased lands had owned stock since 1971 in Mobil Oil, Standard Oil of New Jersey, and Standard Oil of California, all companies which operate on leased federal lands.

A Representative who has been recommended for a reprimand by the House Ethics Committee, voted in 1973 for a $138 million appropriation for the A–10 aircraft built by Fairchild Industries while he owned a sizeable block of Fairchild stock. This Representative also helped to obtain a charter for the first private bank ever allowed on a U.S. naval base while he held stock in the bank.

Ninety-eight Members of Congress hold regular or reserve military commissions, including 23 who are retired with pay from the armed forces while voting on military pay and pension increases which can directly affect their own interests. As late as 1973, 113 House Members held financial interests in banks and 66 had holdings in companies on the list of the 100 biggest defense contractors.

Political reform has moved altogether too slowly in Congress, particularly in the House of Representatives. The Senate has already passed financial disclosure legislation as part of the Watergate Reform Bill. The states have moved farther and faster than the federal government in passing financial disclosure legislation. Thirty-eight states, including the state of Michigan, now require some form of public financial disclosure by government officials.

H.R. 3249, introduced early in the first session of this Congress, now has 168 cosponsors. Obviously, this legislation has broad and strong support within the House of Representatives. The House is on trial in the court of public opinion; and only swift action on this legislation this year will suffice. I call upon the Judiciary Committee and the Ethics Committee to announce a public timetable for swift completion of this legislative business. Truly, financial disclosure legislation is an idea whose time has come. The time for action is now.

NUCLEAR POWER IN PROPER PERSPECTIVE

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. SNYDER. Mr. Speaker, with the clamour and hoopla that always accompany any discussion of the future energy requirements of our Nation, we often get tangled up in the rhetoric and lose sight of reality. When this happens it makes good sense to listen to what the experts of the energy field have to say and clear a bit of the deadwood out of our thinking. I would like to share with you the thought-provoking remarks of one such expert, Mr. Dave Dance, GE vice chairman of the board and executive officer.

The article follows:

GE's Dave Dance Places Nuclear Power in Proper Perspective

Remember all those motorists with short tempers waiting in long lines for gasoline back in 1973? An instant replay of those gloomy days could occur at any time because our dependence on foreign oil sources is steadily increasing. Six years ago, 23 per cent the oil used in America came from foreign wells. The total had climbed to 44 per cent by this March. And, with a record 60 per cent of all U.S. oil imports coming from the same guys who turned the oil off and put the squeeze on three years ago, another oil embargo lasting six months could stop our economic recovery and send another 1.5 million Americans to the unemployment lines.

If you think there's got to be a better way, you're not alone. "We have enough coal to last for over 200 years, more energy than all the Mideast countries put together. And, if the U.S. had 200 large nuclear power plants in operation today instead of 55, we would be saving the equivalent of all the oil we are now importing," declares Dave Dance, GE vice chairman of the board and executive officer.

However, Dance states that using coal as a major energy source isn't very likely for several reasons, including: the enormous sums of money needed to mine the quantity of coal required are not readily available; and, much of the coal that could be mined couldn't be burned because of air pollution restrictions.

According to Dance, that leaves nuclear power as a key part of any plan designed to end our ever-increasing reliance on foreign-oil imports. Stripping aside the emotional charges of the critics, these facts remain:

Nuclear power plants cost a great deal of money—averaging nearly $1 billion for a single reactor plant—but burning uranium supplies 10 million times as much energy as we get from the same amount of coal or oil.

Nuclear power plants save consumers money. In 1975, nuclear power plants saved utility customers over $1 billion in their electrical bills.

Nuclear plants are safe. Worldwide, commercial nuclear power plants have logged over 700 reactor years of operation without a single fatality or serious injury.

Nuclear power plants don't emit harmful levels of radiation. In fact, the natural radiation given off by the granite at New York's Grand Central Station is 500 times greater than the radiation a person would receive at the gate of a nuclear power plant.

Nuclear power is a job provider for Americans. In addition to the millions of man-hours put in by the building trades to construct a nuclear power plant, each new nuclear plant provides enough energy to sustain 25,000 to 30,000 permanent jobs.

Long-term, Dance states there is little disagreement that conservation, more efficient energy conversion, and technical advances to tap new energy sources will greatly reduce our dependence on imported oil. "But," Dance adds, "we don't have the 20 or 30 years needed to make them work. Short-term, we must rely on our two most abundant energy resources—coal and nuclear power.

"This," Dance says, "is not simply a question of corporate gain or loss. It is, in fact, a matter of national survival. If we, as a nation, keep nibbling at the energy problem like timid rabbits, we're going to run out of time and energy!"

SO LONG UNTIL TOMORROW

HON. FRANK E. EVANS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. EVANS of Colorado. Mr. Speaker, I would like to point out that Lowell Thomas, originally from Cripple Creek, Colo., has discontinued his evening news broadcast on radio after 46 years, but will continue to work in television. I am pleased to bring to the attention of my colleagues the story of the man whose voice is perhaps the most recognized in all of history.

After shattering all records, Lowell Thomas has given up his evening radio news broadcast after 46 years.

This is by far the oldest of all programs on the air. Actually, Thomas' first broadcast was 51 years ago for KDKA, Pittsburgh, when Walter Cronkite was 9 years old.

On September 29, 1930, Thomas took over the first network newscast in history and for 1 year was on both networks—CBS and NBC. For the next 15 years his "so long until tomorrow" was heard only on NBC, and for the past 30 years he has broadcast on CBS. Incidentally, he also was the first news commentator on television during pre-World War II radio simulcast.

It has been estimated that his audience has long since passed the 100 billion mark. Via radio, television, Movietone News, and Cinerama his voice has been heard by more people than any other in history.

Thomas' success in his current television series "Lowell Thomas Remembers" has encouraged him to devote more of his time to television. Although he recently celebrated his 84th birthday, he is planning one series that could keep him busy for the next 5 years.

He also plans to devote more time to Capital Cities, a communications group that controls 6 major television and 13 radio stations, as well as Fairchild Publications.

He is much involved in the World Center for Exploration, to which he gave a six-story midtown New York building. Its major objective is to interest the youth of America in land, undersea, and space exploration.

For half a century, he has been active in a nonsectarian, nonracial, nonpolitical clinic, which has cared for more than a million and a half mothers and children in Jerusalem—an organization that has carried on its humanitarian work under the Turks, the British, the Jordanians, and now the Israelis.

The University of Denver will build a law school near the State capitol to be named for him containing space devoted to his memorabilia, his travels, his Cinerama productions, and his library of 46 years of news broadcasts.

Another of his lifelong interests has been gold mining. As a young man, when Cripple Creek, Colo., was producing more gold than any other mining area in America, he worked in the mines and for a long time, edited two daily newspapers. Thomas is now part owner of the mines where once he worked underground roasting ore in an assay furnace.

The Professional Ski Association of America has elected him a member of its esoteric organization. He is believed to be the oldest "down-mountain" alpine skier in America, perhaps in the world. Recently, the American Olympic skiers also elected him an honorary member of the Olympic Team the first time this has happened to anyone. His latest honor was a doctorate in aviation on the occasion of Embry-Riddle Aeronautical University's 50th anniversary.

In addition to his experiences in World War I, when he was with Lawrence of Arabia and with Allenby at the fall of Jerusalem, he has led more than a score of expeditions to every continent. He also was the "Father of Cinerama," the medium which introduced the wide screen era. Thomas is also the author of 54 books.

Colorado is proud to lay claim to Lowell Thomas, the pioneer of radio and television news.

COST OF THE QUORUM

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. BONKER. Mr. Speaker, Senator PROXMIRE has gained some notoriety for his "Golden Fleece" awards. Nothing he has dredged up, however, compares with the unnecessary quorum call in the House for sheer waste.

Those who persist in initiating calls of the House deserve to share in the "Tin Horn" or "Three Ringy-Dingies" award, commemorating the cost to the American taxpayer of the quorum call, which works out for 1975 as follows:

Number of recorded quorums: 216.

Average time per Member required to respond: 11 minutes.

Average number of Members responding: 362.

Cost per minute of Member's time (assumes 2,000 hours per year of official time and 1975 salary of $43,025): $0.36.

Total cost of 1975 quorums: $309,640.

Amazingly, the party of "fiscal responsibility" was responsible for initiating two-thirds of the quorum calls in 1975. Could it be that our Republican colleagues spent $207,459 of taxpayers' money for the gratuitious walking exercise of Members—that is, to reduce congressional "waist"?

PROFIT/LOSS KEEPS SCORE

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. DUNCAN of Oregon. Mr. Speaker, the following article recently appeared in one of Oregon's newspapers, the Willamette Week. Mr Moshofsky is very active in the Portland community, especially at the economic level. He presents an interesting perspective and while I do not fully subscribe to all his remarks, I do think his comments are worthy of consideration by Members of Congress:

Profit/Loss Keeps Score

(By Bill Moshofsky)

One of the most incredible anomalies of our time is widespread misunderstanding, negativism and even antagonism toward profits.

Since everyone in this country is heavily dependent upon the multiple benefits profits produce, we need some straightforward dialogue on the role of profits in society.

Profits are as important to a business as wages are to a worker—the major difference being that workers' wages are usually guaranteed, while profits are not. No one should expect someone to work without pay. The same is true of business.

Regardless of what some may say, profits are the reason a business is in business. If a business didn't expect profits it wouldn't be in business, and if it fails to become profitable it can't stay in business. People don't go into the grocery business to sell groceries—they do it to make a profit. Even the providing of jobs is an incident, not an objective of a private enterprise.

This may not sound altruistic—but it is true, and it is good social policy. To secure profits, businesses serve human needs and wants by providing food, shelter, clothing, autos, energy, recreation and most other goods and services at prices and in quantities that are the envy of the world. In the process business payrolls give employes money to buy those goods and services. Businesses also pay or otherwise generate the tax revenues essential to finance government jobs, services, welfare and social programs.

I have difficulty seeing any legal, moral, practical or political objections to a concept that performs such vital social functions.

Perhaps hangups over profits stem from the feeling profits are too large. But what is too large a profit, and who is qualified to judge? Is it fair to "judge" after the profit is made and the work, risk and worry have been incurred?

Those who talk about obscene, excessive or windfall profits never talk about obscene, excessive or windfall *losses*. Yet the latter are as likely as the former—just as "nonexcessive" losses are as likely as "nonexcessive profits.

Remember the hullabaloo over oil company profits caused by the huge Arab price increases and the boycott? Little recognition was given to the previous long period of generally low profits. No one spoke of the "high risk" aspects of oil exploration and development. No one suggested that technological breakthroughs could have caused prices to drop rather than jump. Oil companies could have suffered heavy losses. Anyway, oil profits are down again and risks continue—oil companies are now having their assets abroad taken by foreign governments and are facing the threat of dismemberment at home.

If government outlaws so-called excess profits, it discourages or destroys incentives for many ventures (particularly the higher risk types) and effectively destroys all the social benefits that stem from such ventures.

Aside from objections to size of profits, an analysis of what happens to so-called excess profits should help dispel animosity. Federal taxes take nearly 50 percent of corporate profits (subject to variations Congress directs). Shareholders must then pay taxes on dividends received from after-tax corporate profits. Gains on sale of stock (or ownership rights) are also taxed.

Estate and gift taxes share accumulated profits. State and local governments also take a percentage. All things considered, the public (without investment or risk) benefits more from profits than the investors and risk-takers who earn the profits.

Moreover, profits that are not taxed away are not left idle—they also serve important social functions. They are (1) reinvested in the same venture, (2) put in some other investment, (3) spent or (4) given away—thereby providing in varying degrees more benefits to others.

Looking at so-called excess profits another way, the higher the profits in an industry or service activity the more "attraction" to other profitseekers, thereby increasing competition and usually reducing profit levels.

This "attraction" aspect serves the public. Competition spurs more efficiency, innovation and productivity, resulting in more and better products at lower prices for the consumer. More importantly, the profit mechanism insures that businesses provide the goods and services consumers need and want. Business must constantly anticipate, react and respond to consumer choices—often long before the consumers actually choose. In the process, limited resources are allocated to coincide with consumer interests. Some may argue with the choices some consumers make—but aren't consumer choices preferable to government making the choices for consumers?

Putting it another way—the profit/loss system is like keeping score and winning or losing in sports. If you don't keep score you won't know how the game is progressing or who won or lost—the players won't train or play as well, and neither players nor spectators will enjoy the game nearly as much. Profit/loss statements continuously "keep score," weeding out the inefficient, ineffective or unlucky and rewarding the efficient, effective or lucky.

Support for the profit/loss incentive system doesn't rule out the need for considerable government involvement and regulation. For example, profit seeking may result in undesirable environmental impacts, such as pollution of water and air. So regulations are necessary to protect the public interest. Where such regulations are imposed, they should reflect a balancing of all interests concerned and protect the profit system to a maximum degree.

The widespread misunderstanding of profits is most serious. Our nation is and always has been heavily dependent on the profit system. Workers, consumers, aged, young, poor, sick, unemployed and retired—everyone—must realize that this invisible, pervasive, tremendously powerful "genie" underpins virtually every aspect of human welfare, including our freedom and security.

DOCTOR OF THE DEEP

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. FREY. Mr. Speaker, Sea World of Florida has made significant strides in the fields of marine environment education and scientific research, as well as providing the American people with enjoyable aquatic entertainment.

Unfortunately, many people are unaware of the "behind the scenes" operations at Sea World. Many people are unaware of Sea World's beached animal program, through which aproximately 100 beached animals per year are brought to Sea World for emergency medical care. Nor are they aware of personal care and attention given to all animals at Sea World.

Mr. Speaker, I would like to provide for the RECORD a copy of an article recently published in the Florida magazine illustrating one man's dedication to marine animals:

Doctor of the Deep

(By Ed Hayes)

A trainer wanted to toss the killer whale a handful of fresh fish, but for the moment, the glistening 8,000-pound superstar of Sea World preferred to keep an eye on his doctor.

"When he sees me, he knows something is going to happen," said Dr. Diedrich "Deke" Beusse.

Nothing happened this day. The man responsible for the veterinary care of animals at the Florida attraction had simply dropped by the tank to show a visitor where he sporadically takes blood test specimens from the fluke fin of the whale.

When the doctor walked away, the whale swam back to accept his snack.

Extracting blood from a whale for the first time was a memorable experience for Beusse, a procedure they don't teach at the University of Georgia or any other veterinary school.

Until February 1973, 44-year-old Beusse—who knew he was going to be a veterinarian ever since he first stuffed a toad into his pocket as a boy—was a small-animal practitioner. He still is, still has his own clinic. But in three years at Sea World, he has become an expert in marine mammal medicine.

"Wow, what a thrilling new field," he said.

His face is kindly, patient, but excitement for his work is reflected in his voice, his sea-blue eyes.

"There are so many things that haven't been done in this field," said the tall Atlanta native. "So many opportunities to research. I think the basic research is what thrills me."

His lifelong feel for cats and dogs and exotic animals hasn't diminished, but his professional panorama has been expanded to what he labels "the exotic exotic"; dolphins, sea lions, otters, penguins, seals, waterfowl, birds, Japanese sika, European fallow deer, sea turtles, whales.

"The animals are so intelligent," he said. "They kind of pep you up. This is what put the spark in me. You better have a sense of humor, too, because you can't come out here without getting wet."

After accepting this position, Beusse was sent to Sea World of San Diego for several weeks to observe, attend meetings, learn by doing, and to share the knowledge of Dr. Lanny H. Cornell, vice president and corporate curator of mammals.

Beusse delved into fish and mammal cram courses, studied countless volumes on his own, took part in captures and training, and, when Sea World of Florida was ready to open, he helped bring in all the big mammals.

The whale Shamu, of course, is the star of the show and Beusse, expectedly, strongly objects to congressional legislation that would prevent the capture of killer whales. Specifically, he is affronted by the accusation that the animals are treated inhumanely.

"Naturally, you're going to hear the extremes of both sides," he said, "but we go out of our way to treat our whale humanely. The trainers talk to him and treat him like a brother. After all, it's a great expense to capture, house and maintain them.

"You know, 15 and 20 years ago people shot whales, then they found out they could be friends of man. It took Sea World to show how nice they are, and now we're being told we can't capture them and exhibit them. Yes, I'm against the bill. We obtain federal permits. When we go by the letter of the law I don't see why we shouldn't be allowed to bring them in, train them and show them to people."

An abundance of the backstage work at Sea World has nothing to do with exploitation as a tourist attraction. Most of the animals are not in training.

A prime example is the manatee transported here April 16.

Sea World is not allowed to touch manatees because they are on the list of endangered species, but Beusse was called to the rescue by the Florida Marine Patrol.

The manatee, affectionately christened Henry, had become entangled in a crab net at the 520 Causeway over the Banana River and was in danger of losing a fin.

"His circulation was cut off and he was in bad shape," Beusse said as he stood beside Sea World's "hospital" tank that is removed from public viewing. "Now look at him. He's going super. He eats four cases of lettuce a day and he's gained 50 pounds during his stay with us."

He theorized that the manatee had come up to hold onto the net and rub his back, and by turning around had gotten hopelessly anchored there. "It wasn't a malicious act on anybody's part," Beusse said. "The harder Henry pulled the tighter the knot became. Now he's almost ready to be put back in the water near Titusville where he came from."

Also, in the more dramatic vein, there was the motherless infant whale brought to Sea World on June 12. The rare, beaked mesoplodon calf was discovered several miles from Melbourne Beach where its mother had beached herself while under attack from sharks.

Suddenly, the new arrival was the most important living thing at the park, even though Beusse and his staff realized that chances of saving the baby were almost nonexistent. The calf died June 14.

Between 80 and 100 beached animals are brought to Sea World annually as part of its emergency medicine program.

The services off stage are not always so dramatic. A broken wing demands intensive care, too.

The average Sea World visitor has no conception of the mechanics involved in keeping the complex running daily; the daily miracles performed beyond the fences.

Sea World has the most advanced laboratory for specialized marine mammal care in the world. Blood chemistry norms are being established for the first time with research on breeding, population dynamics, biology and life-support systems being documented to share with researchers throughout the world.

"Eighty per cent of the medicines we use are human drugs," said Joe Baucom, senior lab and medical technician.

"It's quite expensive but we try to use the best," Beusse said. "We try to do everything in house. We can see the white count on a blood test in five minutes and that's as fast as Orange Memorial Hospital."

There is space for minor surgery. Water quality control is checked twice a day. The bacteriology department is meticulous. The 1,500 pounds of fish fed daily to the animals—160 pounds to Shamu—are suitable for human consumption. Every day is vitamin day for every animal.

If Beusse is stumped by a medical problem, he confers with Dr. Cornell in San Diego and Dr. Robert Temple, the veterinarian at Sea World of Ohio.

"At some parks of this nature, you have to justify this or that," Beusse said. "Here, if it's for the health of the animal, there is no question. If the drug costs $500, you get it. Many of the animals are better off with us than in their natural habitat. They probably live longer in captivity than in the wilds.

"This is especially true in birds. They won't show signs of illness, masking all symptoms until they fall over. They can't show weakness in the wilds because then they become prey. You have to get the trainers and keepers to learn and perceive. I can't be everywhere, so they become my eyes."

It only seems that the doctor is everywhere.

He's at the park a part of almost every day and still maintains his clinic, with the help of a capable associate, Dr. Carl Crisler.

Beusse, who's president-elect of the Florida Veterinary Medical Association, was an associate himself for a year, in Miami, before opening his Orlando clinic in 1960 because, he said, he could see this as the coming area.

"I always wanted to live in Florida. I had been here many times. My father was in the hotel business. He was general manager of the Biltmore in Atlanta for, oh, at least 45 years."

Orlando was a natural stop for Beusse because of his interest in water skiing. His teen-age son Doby is a skier of national prominence. Beusse and his wife, Carole, who shares his enthusiasm for all things bright and beautiful in the animal kingdom, also have a teen-age daughter, Laura.

The prevention of illness and disease is the main target of the Sea World vet, and this is the basis of an article he has prepared for the American Veterinary Medical Association Journal's November edition. The article outlines the "astounding success" of an experiment to prevent heartworm in the California sea lion by using Diethylcarbamazine Citrate.

Shaking out the terribly technical language of the piece, you learn that Florida is an endemic area for heartworms and that this species of sea lion is second to the canine in susceptibility to the disease. Heartworms are carried by mosquitoes.

In layman's language, Beusse said: "Without giving this drug we would have lost some of our animals."

Walking around the complex, Beusse had difficulty in singling out a favorite animal, but he gave the impression that his pet work, so to speak, centers in the cetacean area: dolphins and killer whales.

Whales have been in captivity for so few years that breakthroughs in their husbandry are possible almost daily. Each time Beusse moves close and sizes up Sea World's mobile giant, he is tongue-tied by Shamu's overload of sleek magnificence. It's like looking for him for the first time all over again and the vet becomes a tourist in a Sea World uniform.

Shamu can swagger without causing a ripple in the water. He responds to his name like a lap dog. You expect him to whistle "Dixie" on cue. Shamu is his stage name. To intimates, he's Ramu.

Pressed for a preference among all his Sea World friends, Beusse nominates the dolphin.

"Yes, I imagine the dolphin would have to be my favorite because they are so intelligent. I've been with them in the wilds and brought them in, and watched them train. And occasionally I take blood from them."

It is not a job without demands for strength and courage.

As a handler kept a 4,000-pound elephant seal occupied with tidbits, the vet walked around his hulk carefully. "Good boy," he said.

This animal is a rarity of the capitive world.

"A lot of people think we can walk up there and just stick a needle in them," Beusse said. "We have to have some way to control them."

Out back, there is a squeeze cage to hold the sea lions in place while the doctor performs his duties. The cage is similar to those you can find on almost any cattle ranch. It does the job without pain, without pressure.

When tourists moved away from an enclosure, Beusse walked over to say hello to Hannibal, an old friend, an 800-pound South America sea lion. "He comes right up to your face and makes a lot of noise like he's going to tear your head off. He spits all over you but he stops right there. Hannibal is a big bluff."

The variety of his duties keeps Beusse on his toes. There's no way he can sit down, dry his hands and say: "Well, that's that." As Sea World continues to physically expand, so do his problems, knowledge, enjoyment and satisfaction.

On a hot day, he might have to put on a coat and enter a refrigerated house to check on an ailing Antarctic emperor penguin. How many veterinarians can make that statement?

Sea World currently has 37 major research projects in the works. Subjects range from "Heavy Metals and Pesticides of Carcharodons in the Gulf of California" to "Feeding Habits and Preferences of the Beluga Whale" and "Investigations of Sound Patterns Made by Two Porpoises Separated Except Via an Acoustical Link."

Because of his full days, Beusse cannot address as many meetings and school groups as he'd like. Requests for personal appearances and talks are voluminous.

He is also an intriguing departure from the cat-and-dog lectures at veterinarian conventions. He can get up in front of a group of peers and say: "Now let me tell you about this killer whale I've been treating . . ."

The doctor lives in a new world that shows no symptoms of getting old.

ARTHUR LAFFER DISCUSSES WHY WE MUST REDUCE THE TAX ON EMPLOYMENT IN ORDER TO CREATE JOBS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. KEMP. Mr. Speaker, I want to call the attention of all my colleagues in the House to an extremely important article by Arthur Laffer, professor of economics at the University of Southern California, in today's Wall Street Journal.

Dr. Laffer says that there is nothing more obvious in economic science than that a tax will reduce the amount of whatever is taxed and a subsidy will increase the amount of whatever is subsidized. He says it is no wonder that the United States has fallen so short of its employment and output potentials and has so many inefficiencies and so much unemployment when it heavily taxes work and subsidizes nonwork.

Professor Laffer terms the difference between the wages firms pay and the wages employees receive the "wedge." It consists of taxes and all the costs involved in complying with Government regulations, and "it's one of the key factors in creating unemployment."

Professor Laffer points out that the United States will never be able to achieve and sustain full employment until the tax "wedge" on producers and workers is reduced. He points out that the Humphrey/Hawkins bill would increase the "wedge" and add to our economic and employment problems.

The U.S. Government must cease reducing the incentive to work and invest before we totally Britainize our economy.

The article follows:

THE INIQUITOUS "WEDGE"

(By Arthur B. Laffer)

There is no economic issue more important than relieving unemployment. Unemployment and all the attendant side effects that word connotes have been millstones around the neck of our country. Unemployment, misemployment, underemployment and withdrawals from the labor force are all different facets of the common problem.

On strictly humanitarian grounds, the plight rendered by unemployment is abominable to the wage earner and his family. The market failure to make use of a perishable natural resource makes all of us poorer. The lost value to the United States far exceeds any strict dollar measure. Part of our role as world leader is predicated upon our economic prowess. Our capacity to deter potential belligerents not only rests on our defense capabilities narrowly defined, but is further enhanced by our production base.

Perhaps no proposition is more obvious in economics than the proposition that if taxes on a product are raised there will be less of that product. Likewise, if subsidies for a product are increased, in general, there will be more of the now subsidized product.

In the United States today we tax employment through a multitude of taxes such as the personal and corporate income taxes. We also subsidize inefficiencies, non-work, and the absence of production through a wide range of governmental programs.

It is no wonder that the United States today has fallen so short of its employment and output potentials and has so many inefficiencies and so much unemployment.

The Full Employment and Balanced Growth Act of 1976 would add to our economic and employment problems. The revenue for its expenditures can only come from current producers and employment. This act would add to the already onerous tax on employment and output. The expenditures themselves will be used to pay wages above what could be earned elsewhere. The value of the product the government extracts will also be of questionable marketability. It is inconceivable that such a program will do anything other than hurt workers, consumers, and the truly needy who rely on other government programs.

THE NUTS AND BOLTS OF HIRING

A firm's decision to hire is based, in part, upon the total cost to the firm of the employee's services. For most firms, the more it costs them to hire workers the fewer workers they will hire. Likewise, the less it costs firms to hire workers, the more they will hire.

Employees' decisions to work are also, in part, based upon the amount of earnings the employee himself gets. The more the employee gets, the more willing he is to work, and vice versa. Employees are not concerned with the total costs to the firm. All employees care about is how much they get net.

In sum, firms worry about the total wages they have to pay, while employees are concerned with the wages they receive. The difference between the wages firms pay and the wages employees received is called the "wedge." This "wedge" consists of all taxes as well as such things as the market value of the accountants and lawyers firms hire in order to maintain compliance with government regulations.

If the "wedge" is increased, wages paid by firms must rise. Firms will hire fewer workers. Wages received by employes will fall. Employes will be less willing to work. Both the firm's desire to hire workers and the workers' willingness to work will be reduced as the "wedge" increases. Output unambiguously falls and the level of total employment falls as the "wedge" increases.

In the United States, the wedge can be represented by either total government spending or by the total of transfer payments. Basically, transfer payments are real resource transfers from producers and workers to people based upon some characteristic other than work or production. As such, transfer payments reduce the amount of goods and services available to the people who produced them. Transfer payments are simultaneously a tax on production and a payment based upon a characteristic other than work. Transfers are often a payment explicitly for nonwork. Examples of this are agricultural subsidies, food stamps (income requirement), Social Security payments (retirement test), housing subsidies 235-236 (means test) and, obviously, unemployment compensation itself.

The Full Employment and Balanced Growth Act of 1976 will increase the "wedge." In virtually every aspect, this act places additional burdens on producers and workers and simultaneously gives little in the way of final output in return. As such, this act would increase unemployment and reduce total employment.

Viewing the cyclical nature of the economy from this vantage point also gives us a slightly different perspective.

Let us imagine an economy that produces 1,000 real units of output and has government spending of 500 real units. The producers and workers who produce the 1,000 real units of output are allowed to keep 500 of those units. While these producers and workers are paid 1,000 units, they receive only 500 units and therefore have a "wedge" of 50%. For every two units someone produces, he gets to keep only one. Fifty percent is taxed away and given to someone else.

Viewing the current U.S. economy in this manner, let us see what happens if, for whatever reason, there is a shortfall of income or output down from the 1,000 level to, say, 900 real units. In our economy, as output and employment fall, government spending rises, here almost entirely as a result of increased transfer payments. Increases occur across a whole range of categories. Let's imagine government spending rises by 40 real units.

Therefore, while output falls from 1,000 to 900, government spending rises from 500 to 540. The "wedge" in the economy rises from 50% to 60%. Now producers and workers receive only 4/5th of one unit for every two they produce, as opposed to receiving the one unit for every two produced previously.

By increasing spending during a recession, the government reduces the incentives to produce and work. Far from stabilizing the economy, such counter-cyclical spending, will, in fact, accentuate the cyclical aspects of the economy. The greater government spending is, and the more closely tied to the level of unemployment it is, the more cyclical will be the economy.

Several features of the Full Employment and Balanced Growth Act of 1976 impact directly on the cyclicality of the economy. By having a permanent counter-cyclical grant program to state and local governments, this act would increase the severity of recessions and heighten excessively expansionary booms. The employment program will do the same. This program raises the tax "wedge" during recessions and lowers the tax "wedge" during booms. As a consequence, the economy would become more unstable.

To achieve more employment and greater output we should make employment more profitable and make it more profitable to employ. An economy does not reduce unemployment and increase output by taxing work and employment. To see this clearly one need only imagine how much would be produced if all output were taxed away from those who produced it. Production would cease.

TAX REDUCTIONS NEEDED

If we are ever to achieve a sustainable high level of output, the tax "wedge" on producers and workers must be reduced. It is especially important for the reductions to be on marginal rates of taxation. In addition to reducing tax rates on production and work, inequitable and distortive spending must also be restrained.

At present, corporate-held capital is taxed at exceptionally high rates on the margin. Workers work better with capital. To induce people to save in order to provide the capital to employ workers, there must be higher after tax "wedge" yield. Reducing tax rates, especially the high marginal tax rates on capital, will reduce unemployment, increase employment, and attract potential workers back into the labor force.

Another tax drastically in need of reduction is the personal income tax. Here again the "wedge" is apparent. By cutting personal income tax rates, employes' after-tax wages rise while the pre-tax cost to employers falls. More people will be hired.

Cutting personal income taxes is especially appropriate seeing that a substantial portion of the current rise in tax rates results from the effects of inflation on progressive tax schedules. Perhaps the best measure would be to index the personal income tax.

The taxes on the less educated and more disadvantaged potential employes and workers are unbelievably high. If a minority youth in a poor neighborhood would like to work for $1.50 an hour and a small minority-run business would like to hire him at that wage rate, he still can't legally work because of the minimum wage law. After being unemployed for several years, the person becomes close to, if not literally, unemployable.

While complicated tax schedules and arcane building codes, along with other modern bureaucratic developments, can be coped with by college graduate entrepreneurs, they present a serious impediment to the economic development of the poor and less educated neighborhoods. As if there already weren't enough difficulties inherent in starting a successful business in poor neighborhoods, the government-imposed tax "wedge" is probably at its highest there. It is precisely in these neighborhoods where the Full Employment and Balanced Growth Act of 1976 will be used the most. It is rather ironic that one massive government program is proposed to undo the damaging effects of others. It is tragic that this new program would result in further deteriorations in areas already heavily deteriorated.

I doubt very much whether the United States can maintain peacetime full employment without a substantial reduction in the level of government spending as a share of GNP. At the very least, this spending must be redirected in such a way as to reduce the direct incentives for non-production and non-employment.

LEGISLATIVE HISTORY OF THE SUNSHINE ACT

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. McCLOSKEY. Mr. Speaker, pursuant to the dialog with the gentleman from Massachusetts (Mr. BURKE), I place this letter in the RECORD as part of the legislative history of the Sunshine Act:

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to inform you of this Department's views with regard to an amendment which we understand will be offered to H.R. 11656, the "Government in the Sunshine Act", when that bill is considered by the House of Representatives. We understand that Congressman McCloskey will offer an amendment to section 5(b) of the bill, which would amend the third exemption of the Freedom of Information Act—5 U.S.C. 552(b)(3).

The amendment which we understand Congressman McCloskey will offer on the Floor would revise subsection (b)(3) of the Freedom of Information Act to read as follows:

(b) This section does not apply to matters that are—

* * * * *

(3) Specifically exempted from disclosure by statute; provided: that such statute (A) requires that the matters be withheld from the public or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

In summary, the Department would support this amendment if legislative history is provided to make clear that there is no intention in revising exemption 3 to invalidate certain statutory provisions administered by this Department designed to protect the privacy of personal information obtained by the Department. As so clarified, the amendment would substantially resolve a number of problems which we have noted in the version of the amendment contained in the bill as reported by the House Judiciary and Government Operations Committees.

Under section 5(b) of H.R. 11656 as reported by the House Judiciary Committee, the third exemption in the Freedom of Information Act would have been amended to exempt from disclosure only material required or permitted to be withheld from the public by any statute establishing particular criteria or referring to particular types of information. We have indicated that this provision may threaten the privacy of records relating to individuals maintained by the Social Security Administration and by other components of the Department.

There are a number of statutory provisions which currently authorize the Department to protect the privacy of information about individuals which is maintained by the Department. Principal among these provisions is section 1106 of the Social Security Act which provides that no disclosure may be made of certain Internal Revenue returns or of any other file, record, report, or other paper obtained by the Secretary in discharging his duties under that Act, except as the Secretary may prescribe by regulations. Section 406(d)(2) of the General Education Provisions Act and section 438(c) of that Act authorize the withholding of information on individuals and their families gathered in connection with certain statistical activities of the Education Division of this Department. Likewise, section 308(d) of the Public Health Service Act provides similar authority with regard to the release of information gathered in the course of health statistical activities and health research, evaluations, and demonstrations. We were concerned, however, that none of these provisions establishes "particular criteria" or refers "to particular types of information" so as to fall within the third examption from the Freedom of Information Act as it would be amended by H.R. 11656 as reported.

We believe that the amendment which Congressman McCloskey intends to introduce will help to resolve the problems noted above. In particular, we believe that clause (A) of the amended provision, which refers to any statute that requires matters to be withheld from the public, would include the provisions of the Social Security Act, the General Education Provisions Act, and the Public Health Service Act referred to above which require the Department to withhold certain information from the public in the interest of protecting the privacy of individuals. To the extent that the proposed amendment is intended to accomplish this result, we fully support the amendment and urge that it be adopted. However, we would hope that the debate on this provision and the report of the Conferees on the bill (if a Conference is held and this provision is included in the bill as reported) clearly indicate that the statutory provisions referred to above, which are designed to protect the privacy of personal information, will remain in full force and effect.

The amendment to the Freedom of Information Act contained in this bill will, of course, affect other agencies of the Federal government. The views expressed above relate only to the effect of this amendment on programs of this Department and we defer to other affected agencies as to the desirability of this amendment from their standpoint.

We are advised by the Office of Management and Budget that there is no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely,

MARJORIE LYNCH,
Under Secretary.

WHAT'S THE HURRY?

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mrs. MEYNER. Mr. Speaker, the dispute in Congress over the value of the B-1 bomber program continues. The debate is especially important because it involves a weapons program of major, long-term strategic importance with a price tag that could reach $100 billion.

The current issue in Congress is whether construction of the plane should wait until the heat of the current political compaign is over and a new President is inaugurated. I insert in the RECORD at this point an editorial from the Easton Express in Easton, Pa., which makes a particularly strong case for a delay in construction:

WHAT'S THE HURRY?

Within the next six months President Ford could either be unemployed—or ensconced in the White House for another four years. Or the guy at the country's helm could be former Hollywood player-cum-governor of California Ronald Reagan, presently unemployed, but seeking to rectify his jobless state in November.

In either case, the Air Force generals and their spokesmen in Congress and the presidential advisory circle would have no difficulty starting us on the road to an expenditure of up to $90 billion for the B-1 bomber—the most costly outlay for a single weapons system in the world's military history. The only difference might be that Mr. Reagan would want to spend more to build more of the big bombers—he has been complaining for months in his battle for Republican Convention delegates with the President that Mr. Ford is stifling our arms development and moving the U.S. into the realm of Second Class power.

On the other hand, neither of these candidates could survive the election in November. There's a possibility—it's too early to tell how distinct—that a Georgia peanut grower and ex-governor of that state named Jimmy Carter might be the Facto Factotum of the Oval Office come January, 1977. And Mr. Carter, in one of the limited number of campaign questions in which he has taken an unreserved position, is an outspoken opponent of U.S. commitment of taxpayer money for construction of the B-1.

In the manner characteristic to presidential electioneering, however, the issue has been politicized; sound judgments are impossible under the pressures of the campaign. The sensible thing to do now—the time factor is not that critical—is to let the matter rest until after the disorder of the politicking is cleared away and the issue of national leadership is settled in the fall election.

This was the course taken by the Senate in its vote earlier in the present session on President Ford's demand for an immediate beginning on the B-1. The Senate sensibly voted, 44–37, to defer a decision until the man who will take the presidential chair in January could determine whether building the bomber is truly in the national interest.

The House, however, voted for a start on the B-1, and, in the House-Senate conference committee review of the measure, knocked out the Senate provision. About $1 billion was earmarked for a start on the bomber in the $32.5 billion arms authorization bill sent to the White House last week. The only chance to correct this now is when the Congress is asked to approve the actual appropriations for the B-1. And the more reasonable course under the circumstances would be to hold up the money.

The B-1's opponents may be right—it could be the most wasteful military boondoggle ever foisted on the people. Or, as the military advocates insist, it may be an imperative future defense need in our sorely troubled international community. But the issue must be settled on these bases, rather than on the exigencies of political campaign interests.

THE PREVENTION OF ALCOHOLISM

HON. ALLEN T. HOWE

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. HOWE. Mr. Speaker, I would like to bring to the attention of my colleagues an outstanding alcoholism prevention plan which has been developed in my district. This program, called the Cottage Meeting Program, has been so successful that it merits review by all State health officials who deal with the ever-increasing problem of alcoholism. The

Cottage Meeting Program was established to help those with tendencies toward alcoholism before the disease becomes severe, for example, before the individual has lost his job, become alienated from his family and friends, and ruined his health. Its focus is on education and prevention rather than rehabilitation.

The Cottage Meeting Program has proven successful not only in Utah where it was developed, but also in such widespread areas as Alaska, northern California, and Montana. Because the program is administered by local volunteers who understand the cultural and ethnic backgrounds of their neighbors, it is potentially workable in any area of the country, from the small town to the inner districts of our large metropolitan cities. It is also a highly cost-effective program. In the 2-year period from 1974 to 1976, the Cottage Meeting Program in Salt Lake City spent approximately $246,000 while receiving volunteer contributions equal to $259,000. Furthermore, volunteer service has enabled a reduction of staff from 12 to 5 full-time employees without decreasing the productivity level of the service provided by the program.

This program was begun in 1972 and developed through a 3-year demonstration grant from the National Institute on Alcohol Abuse and Alcoholism's Division of Prevention, beginning in 1974. I seriously urge that my colleagues review the following excerpts from "The Cottage Meeting Program: An Approach to the Prevention of Alcoholism," and bring this material to the attention of health officials in their own districts. Additional information may be obtained by contacting Mr. Bernie Boswell or Ms. Sandy Wright at The Cottage, 732 South Fifth East, Salt Lake City, Utah 84111:

THE COTTAGE MEETING PROGRAM: AN APPROACH TO THE PREVENTION OF ALCOHOLISM

(By Bernie Boswell and Sandy Wright)

THE HISTORY OF THE COTTAGE MEETING PROGRAM

The Cottage Meeting Program was launched as an experimental pilot program in alcoholism education in February, 1972, in Salt Lake City, Utah. It was created and developed by Bernie Boswell and Sandy Wright, who were then employed in an outreach counseling program administered by the Utah Alcoholism Foundation.

Dr. Kimball Van Sant, at that time the Executive Director of the Utah Alcoholism Foundation, had a concept called the "Good Neighbor Program" which involved knocking on doors in the community and establishing one resident on each block to act as the 'good neighbor' or 'block warden' for his neighbors, and to the informed on Alcoholism treatment resources in the community. The Cottage Meeting Program evolved out of this concept, and was expanded to include a volunteer training program to train lay people to conduct educational meetings on alcoholism in the homes of community residents.

The first group of ten lay volunteers began by going out into the community, knocking on doors, and discussing alcoholism with community residents. These same volunteers were later learned how to hold cottage meetings on alcoholism with the residents who were interested in learning more about it.

When the program's designers realized that lay volunteers, with no background in alcoholism, could successfully be trained to help with community education on alcoholism, the Cottage Meeting Program was born. The program evolved out of the efforts of many other people, too, who were willing to take a risk—a new path into the prevention and early treatment of alcoholism.

Since it's inception, in February of 1972, the target of the Cottage Meeting Program has been the total community, not just those who were personally affected by alcoholism. Trained volunteers began meeting with small groups of residents in their homes, clubs, and churches to discuss various aspects of alcoholism: how to recognize it, how to prevent it, and how to treat it.

While the program was primarily initiated as a method of bringing education, awareness of, and earlier intervention into alcoholism, to that segment of the community not being reached, it became evident that it was reaching many families where an alcohol problem was already existent, sometimes critical, but in which no one had yet sought help. These families benefited—and continue to benefit—enormously from the informal education offered in the group discussions. Many such people sought further help after their first exposure to a cottage meeting. So, thus, the Cottage Program has been seen as a program of intervention, as well as prevention, in alcoholism.

Stigma and fear prevent people from seeking treatment for alcoholism at a period when something can be done. Alcoholism may be compared to the illness of malaria. Frantically swatting mosquitoes while the swamp is still infested will not solve the problem. The problem is the swamp. To treat problem drinking, while ignoring the society and family from which it emerges, is only a partial solution. We must begin to educate and treat the environment!

The Cottage Meeting Program believes that early intervention and prevention through education is the answer. Generally speaking, large public gatherings and mass education meetings have proven ineffective in educating the community about alcoholism. The Cottage Meeting Program departs dramatically from any other alcoholism program now operating. By utilizing trained volunteer forces, small groups of residents are being brought together in homes, clubs, churches and places of business, and are being provided education and awareness of alcoholism at the grass roots level.

THE COTTAGE MEETING—ITS PROCESS

What is it? The cottage meeting is a small, informal gathering of individuals held in the home of an interested resident. The host or hostess invites the group members. These may be friends, neighbors or family members. The group discussion is educational in nature and is loosely structured around two handouts. These handouts were designed to encourage questions and participation on the part of those attending the meeting. Cottage meetings are often held, also, at the Cottage, which is the main volunteer training center in Salt Lake City.

More recently, cottage meetings have been held with small groups of employees and working associates in industrial settings, and with small groups of students during and after school.

Educational meetings in these settings have been found to be just as effective as in homes, and volunteers can just as easily be trained to hold them.

Who holds it? Any interested individual can hold a cottage meeting. These people may range from those who are simply interested in rendering a community service to those who have been or are affected by alcoholism. Often, individuals will call and arrange for a series of cottage meetings to be held for their club meetings, church groups, employee groups, or schools. The market for cottage meetings has expanded enormously, during the last four years. While the first meetings were held in homes, more recently the requests for educational meetings have come from the sources mentioned above. Trained volunteers are continuing to moderate these meetings, even in more sophisticated settings.

Who leads it? Trained volunteers function as group moderators in cottage meetings; Volunteer training sessions are now being scheduled at least every two months at one of the Cottage training centers in Salt Lake City. These training sessions are presently held as twenty-hour weekend workshops. In the sessions, qualified volunteers learn how to work in teams, moderating cottage meetings in the community. Experience has shown that after twenty hours of training, a lay person—a person with no previous background in alcoholism—can be adequately prepared to moderate cottage meetings.

In addition to the regularly scheduled volunteer training sessions in Salt Lake City, training sessions have been and are currently being arranged in other locations, out-of-State. These sessions also train groups of volunteers, in their own areas, to initiate the Cottage Meeting Program and to moderate cottage meetings. Cottage meeting volunteer training workshops which are held in locations other than in Salt Lake City, may be two-day, three-day, or four-day workshops, depending upon the needs and the desires of those requesting the training.

How often are cottage meetings held? Normally, two meetings with the same group are scheduled. These are usually held one week apart. In the event that family alcoholism problems arise within the group, which happens occasionally, the group may be referred to a professional worker in alcoholism, a highly-skilled therapeutic volunteer, or an outside treatment agency. These resource people can continue to meet with the group, when it is necessary. The Cottage Meeting Program is an educational program, not a treatment program. Therefore, volunteer participation does not normally extend beyond the end of the second cottage meeting.

How are cottage meetings initiated? Cottage meetings can be created through the following methods:

Through door-to-door canvassing.

From requests for help on the part of family members.

From incoming telephone calls to alcoholism information centers.

As presentations for clubs, churches and schools.

Through people attending cottage meetings who ask to hold their own meeting.

As educational programs for industry.

As projects for service clubs.

The possible sources for generating cottage meetings in the community are too numerous to list.

THE COTTAGE MEETING—ITS CONTENT

Cottage meetings vary tremendously in group composition. The content, built around two cottage meeting handouts, has proven flexible enough to permit meeting a wide variety of needs, whether the meeting is held with a troubled family or as a talk with a group of Girl Scouts.

Essentially, the goal of the cottage meeting is to educate and treat the environment, background or whole situation relevant to the person with the drinking problem. It is based on the premise that drinking behavior is usually reinforced by the environment, and that, through simple re-education, the environment can be taught not to reinforce the drinking problem, and thus to initiate recovery. Many times, those in the environment of a person with a drinking problem actually recognize a problem before the one who is drinking recognizes it. In these cases, treatment must begin with them.

Who has the problem? It has become increasingly apparent that a large part of the problem of alcoholism is the behavior of certain key persons living close to the one with the drinking problem. This is especially true in family situations. Family members, almost always without realizing it, are too "supportive" to the alcoholic, ameliorating his crisis, covering for him, rescuing him, and unwittingly perpetuating the problem which is so troublesome to them. It is also clear that in most cases they are unaware that they are doing this. Their attempts to help the alcoholic are sincere, but misled. Even when the problem-drinker does originate treatment, which is rare, a change is desperately needed in the family context, or the natural environment.

The traditional treatment approach in alcoholism has been the medical model of removing the problem drinker from his home or natural environment, giving him treatment in a recovery center, hospital or clinic, and then returning him to his environment. This approach is inadequate, because the reinforcing environment is left untreated.

Additionally, there is the very real confusion of "Who has the problem?" By far, the vast majority of calls for help come from family members, relatives and friends. When asked if the problem-drinker will come in for treatment, the reply is: "Oh no! He (or she) doesn't think he has a problem." One then has to ask himself, who does have the problem?

The Cottage meeting, with education aimed at helping the significant others, is at least one possible opportunity of affording help to a family. Those living with an alcoholic must learn to focus away from his drinking, and toward being responsible for themselves, so that they are not looking to the behavior of another person as a solution to their own problem. Many times, those living with an alcoholic are suffering more from the alcoholism than he is.

In the majority of cases, family members and community members must learn to stop trying to change the alcoholic or to get him or her sober. They must simply cease reinforcing the drinking behavior in ways which will be subsequently discussed. The entire family, environment and community around persons with alcoholism can profit from education, and can begin, even if only very slightly, to initiate the recovery process through nonreinforcement.

Treating the whole family. The need to treat the entire family, or system, when one individual is having symptoms, is essential. Many workers in family therapy have found it difficult to treat the symptoms of any given individual outside of an environment which expects and reinforces the symptoms. Jay Hayley, who has done pioneering work with schizophrenic families, has stated:

"An essential part of the medical model was the idea that a person could be changed if he were plucked out of his social situation and treated individually in a private office or inside a hospital. Once changed, he would return to his social milieu transformed because he had been "cleared" of the intrapsychic problems causing his difficulties . . . the focus of family treatment is no longer on changing an individual's perception, his affect, or his behavior, but on changing the structure of a family and the sequences of behavior among a group of intimates . . . the problem is to change the living situation of a person, not to pluck him out of that situation and try to change him."

VOLUNTEER TRAINING PROGRAM

Where are volunteers recruited? The sources for recruiting volunteers appear to be unlimited. In Salt Lake City, where this program is currently underway, a large number of volunteers are coming from churches, schools, and industry. The Cottage Meeting Program is an ideal project for active church members. Clergymen who have to deal with alcoholism in pastoral counseling are eager to implement the program within their congregations. Industrial management leaders who have to combat alcoholism in their employees are also eager to initiate employee education programs. Universities can enable psychology and sociology students to receive credit for participation in any phase of the program. The University of Utah's department of Educational Psychology now offers 3 credits to anyone who enrolls in the Cottage Volunteer Training Workshops.

Other excellent sources for volunteer recruitment are civic groups, service organizations and clubs of all kinds. Alcoholism, and the battle against it, is a timely issue today, and there are many many individuals in the community who are simply committed to combatting the destructive condition.

It has been most gratifying to find that a lack of familiarity with or background in alcoholism presents no problem whatsoever in training volunteers for this program.

How are volunteers trained? The basis of the entire Cottage Meeting Program is the training of lay people to conduct educational discussion meetings on alcoholism in the community. This can be accomplished in either a 20-hour weekend workshop, a 3-day workshop, or a series of 7 3-hour classes, held on a weekly basis for seven weeks. All three of these types of volunteer training workshops are being held currently in Salt Lake City, as well as in locations out-of-State.

During the training period, trainees participate in both classroom and field work. They have a door-to-door canvassing experience, using the techniques which were developed for this program. In the classroom, they are taught that alcoholism is a condition which usually involves more people than the one who is drinking. Their focus is brought to bear on the non-alcoholics surrounding the person with alcoholism.

Following the training workshop, trainees attend a variety of cottage meetings with a trained moderator. This increases their knowledge and confidence and prepares them quickly to function on their own.

CONCLUSION

Based on the results to date, our conclusion can only be that we have discovered a method for bringing early intervention, prevention and awareness of alcoholism to that segment of society which heretofore has not been reached.

It is our feeling that the Cottage Meeting Program will be successful in any geographical area, at any socio-economic level of the community. Our experience has shown that the structure and content being used is versatile enough for any small gathering of people, regardless of age or background.

All indications are that once the volunteer organization is created, the Cottage Meeting Program will carry itself—largely through volunteer efforts. Subsequently, it would appear that this program could be implemented in any community at a minimum of cost.

In a neighborhood survey conducted from January 5, 1976 to February 25, 1976, by staff members and volunteers, the following results were obtained:

Total number of door-to-door contacts: 1,409.

Total number of people seen and interviewed: 613.

Total number of people responsive to interviewer and agreeing that alcoholism is a problem: 509.

Total number of people requesting more information: 516.

Number of people who had heard of the Cottage Program: 155.

Community visibility is the most important aspect of any effort at community education. The 25.3% visibility which the Cottage Meeting Program has achieved in the last four years in Salt Lake City, indicates that we are making a good start at changing the attitude of the community toward alcoholism!

EVALUATION

Reed M. Merrill, Ph.D., consultant from the University of Utah's Educational Psychology Department, has served as the Research Director for the Cottage Meeting Program since June, 1973.

With his staff, he has conducted six research and development reports to determine the value of the Cottage Meeting Program.

The first study, a small survey follow-up of about 300 Cottage participants, showed the participants to be highly favorable to the experience—characterizing it as helpful, informative and important. The second study focused on high school students who had experienced cottage meetings at school. These students evidenced highly significant changes in attitude toward alcohol usage after participating in the meetings. Further, they reported that they enjoyed the meetings and suggested that such meetings be conducted in other high schools. The third study found that Cottage participants clearly changed their ideas and attitudes on various aspects of alcohol usage after participating in the meetings. The changes in ideas and attitudes could be described as becoming more tolerant, enlightened, and confident regarding their knowledge of alcohol usage. It was suggested that these changes should help the participants to avoid alcohol problems in the future.

The fourth study validated the mail survey findings of the first study through personal interviews with approximately 100 Cottage participants. The great majority of these participants reported positive feelings toward the Cottage, gains in understanding, and an increased ability to cope with the problems of alcoholism.

The fifth study demonstrated that volunteers can play an effective role in the Cottage Meeting Program. At the same time, the study demonstrated a need to improve the selection and preparation of volunteers and to permit more flexibility in the program administration.

The sixth study focused on providing an Effective Living Skills component to some participants of the Cottage Meeting Program. The results were favorable to further development of this additional component of the Cottage Meeting Program.

To date, the Cottage Meeting Program has reached 16,498 people from all segments of our communities. For each person who experiences the program, there is a direct impact on three to four other people. Subsequently, it is estimated that the total impact in the Salt Lake area has been 52,794 people.

At the present time, 25 people out of every 100 have heard of the program, and identify the Cottage as a place where a person can learn more about alcoholism, or get help.

LIFE SUPPORT SYSTEMS

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. HARKIN. Mr. Speaker, my wife Ruth and I have just become proud new parents. Consequently, the joys, and above all, the responsibilities, of parenthood have been much on my mind lately.

Parenthood and the family are the bedrock of American society. Nothing has brought this home to me more than becoming a parent myself! Surely, it is the duty of American government, within the limits of our Constitution, to protect the family and to enhance the well-being of the family unit.

When I saw my wife and our firstborn for the first time, I could not help feeling deeply for new parents and prospective parents everywhere. And yet, I was poignantly aware that as a U.S. Representative I know for a fact that not every prospective parent faces such a joyful prospect for the future as my new family.

I could not help remembering the startling statistics which came to light during recent Senate hearings on the various proposals for a constitutional amendment to protect the right to life.

I felt especially strongly for the thousands of sometimes very young women with unintended pregnancies, who face an exceedingly difficult future, and who are confused, panicky in some cases and unsure of the alternatives available to them. Those Senate hearings brought some very hard facts to public attention. Consider, for instance, the fact that one out of every seven girls or young women between the ages of 12 and 17 will give birth to a child next year, and about 40 percent of these will bear their child out of wedlock. This percentage, although already a dramatic increase over that of the past decade, is expected to further increase in the next decade, due to changing social attitudes toward marriage.

Most alarming of the newly acquired statistics is the increase in pregnancies in the under-15 years of age group. This group is the only one in the childbearing years which is actually showing an increase in its rate of pregnancies, as well in total number of pregnancies.

These teenage mothers, still children themselves, and their children will continue to suffer if we ignore their needs. Despite the efforts of concerned volunteers and agencies, the costs associated with teenage child-bearing are as unacceptable as they are unnecessary.

There are so many conflicts facing the pregnant adolescent, so many risks and emotional traumas, that they may turn to abortion without realizing that there are other ways to handle the situation. Although the pregnant teen may be aware of other alternatives, she sometimes encounters difficulty in obtaining the necessary assistance. We owe these young women a real alternative to abortion—one which will allow every prospective mother to consider all the possible avenues for help.

A major area of concern for these unprepared and unready expectant mothers is the health factor. Medical evidence has shown that the teenage mother has a higher probability of complications during pregnancy and delivery than any other group except for women 40 and over.

Nutrition should be an area of great concern to the pregnant mother. Normal teenage growth and good health require increased nutrition, and it is known that the mother's health at the moment of conception plays a decisive role in formulating the expected baby's health. It has been found that there are increasing incidences of toxemia, prolonged labor and iron deficiency anemia among adolescent mothers. Similarly, infant mortality due to poor health is significantly higher among births to teenagers than older women—children born to mothers under the age of 15 have a mortality rate twice as high as children born to women in their early twenties, and the rate is 52 percent higher for infants born to women between 15 and 19 years of age, than for children born to mothers between the ages of 20 and 24.

Present Federal policies are unfocused and ill-suited to meet problems faced by pregnant adolescents. Current Federal medical assistance programs have eligibility requirements which suffocate attempts by the mother to be self-sufficient, thereby forcing teen mothers to go on welfare in order to get medical benefits.

Since teenage mothers are often punished and expelled from school systems, their incomplete education makes them high-risk unemployment candidates, likely to become dependent on the welfare public assistance system. Additionally, these mothers, because of the stigma of pregnancy, are forced out of normal social activities.

It is imperative that we help these young women adjust to their new roles as parents and that we help their children. Quite often the parents of the teenage mother cannot afford to help as much as they would like, or they may refuse to help at all. Because of the confusion and proliferation of services, and because of the myriad eligibility requirements, they may not be able to obtain benefits they could use to stay together as a family—to help their children with her child. If we in the Congress did nothing other than provide a coordinated series of services, we would have accomplished a great deal.

To begin this effort, I have cosponsored the Life Support Centers Act. Similar to legislation introduced by Senator BAYH last year, this bill provides health care services to pregnant adolescents before and after childbirth. Also, it establishes national "life support centers" through State health agencies and nonprofit organizations, to provide a coordinated array of medical, social, and counseling services, including nutrition and adoption assistance if desired. Among the services offered through these centers would be:

First, health care to the prospective teen mother, both prenatal and postnatal, including nutrition programs;

Second, health care to infants of adolescent mothers during the preschool years;

Third, referral services to other agencies that may be able to help, if such referral is deemed necessary;

Fourth, coordinated social services, including educational, vocational, legal, and social counselling for the mother;

And fifth, funds to provide adoption services for adolescent mothers who are considering voluntary placement of their child in adoptive homes.

This legislation limits the Federal share of assistance to such "life support centers" programs to 75 percent of the cost, and authorizes $30 million in appropriations for a 2-year period.

In all the debate on the abortion question, there has been entirely too little emphasis placed on providing services to sustain life, and thereby minimize the need for abortions. The legislation which I have cosponsored provides those services, to give pregnant adolescents the best possible care so that their children will have the opportunity to survive successfully.

Mr. Speaker, the bill, H.R. 14733, follows:

H.R. 14733

A bill to amend the Public Health Service Act to provide health care services for pregnant adolescents before and after childbirth

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Life Support Centers Act of 1976".

SEC. 2. Title III of the Public Health Service Act (42 U.S.C. 201) is amended by adding after section 319 the following new section:

"SPECIAL SERVICES FOR ADOLESCENTS

"SEC. 320. (a) The Secretary is authorized and directed to make grants to health agencies of any State (or political subdivision thereof) or any other qualified nonprofit agency, institution, or organization (with the approval of the State agency) for originating, continuing, extending, or improving programs involved in the provision of—

"(1) necessary health care to prospective adolescent mothers, including, but not limited to—

"(A) tests for pregnancy,

"(B) screening, diagnosis, and treatment of all prenatal and postnatal conditions, including nutritional deficiencies for a period of one year after birth; and

"(C) referrals when appropriate to other agencies for treatments not covered under this section;

"(2) necessary health care to infants of adolescent mothers during their preschool years, including but not limited to—

"(A) medical examinations,

"(B) diagnosis and screening of—

"(i) nutritional deficiencies,

"(ii) visual and hearing defects,

"(iii) genetic birth disorders,

"(iv) mental retardation and learning disorders,

"(v) crippling and handicapping conditions, and

"(vi) catastrophic illness,

"(C) referrals when appropriate to other agencies for services not covered under this section;

"(3) family planning services;

"(4) a coordinated program of social services including educational, vocational, legal, social, counseling, and referral services (including adoption counseling) designed for adolescent mothers for the period extending to the point in time that the agency finds that parent and child are capable of caring for themselves; and

"(5) funds to purchase adoption services (approved by the Secretary) for adolescent mothers participating in a program established under this section who are considering the placement of their children in adoptive homes.

"(b) The Federal share of assistance to programs under this section shall not exceed 75 per centum of the cost of such program.

"(c) (1) Applications for grants under this section shall be made in such form and contain such information as may be required by the Secretary.

"(2) The Secretary shall approve only those applications which—

"(A) provide that the project for which assistance is sought will be administered by or under the supervision of the applicant,

"(B) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of Federal funds,

"(C) provide assurances that it will employ professionals skilled in maternal and child health, public health services, nutrition, and social services,

"(D) provide for cooperation with the State agency administering or supervising the administration of the State plan approved under title XIX of the Social Security Act in the provision of care and services, available under a project, for recipients eligible for such a plan approved under such title XIX, and

"(E) provide for the coordination of health and social services provided by the project with, and utilization (to the extent feasible) of Federal, State, or local health, welfare, and education programs.

"(d) Payments under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

"(e) Nothing in this section shall be construed to require any project receiving financial support to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under this section for any purpose, if such person or his guardian objects.

"(f) No individual shall be required as a condition precedent for the receipt of assistance under this Act or any other law to participate in programs established or assisted by Federal funds unless such individual has given their informed consent to such participation.

"(g) There are authorized to be appropriated to carry out the purposes of this section $30,000,000 for the fiscal year ending June 30, 1977, and for each of the next two succeeding fiscal years.".

CONSERVATION AS IF PEOPLE MATTERED

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. BROWN of California. Mr. Speaker, as we continue our deliberations on major conservation legislation, such as amendments to the Clean Air Act, the Water Pollution Control Act, and basic land management issues, to name just a few of the important matters under consideration, I believe we would do well to pause and reflect upon the reason for all of this legislation. One of the groups which has consistently added an element of reflection to the legislative process, especially in California, is the California Tomorrow Foundation. In the recent issue of Cry California, the official publication of California Tomorrow, a great deal of reflective material was presented which would be of interest to this body in its own deliberations.

The letter of transmittal which accompanied this publication was addressed to the current Governor of California, Jerry Brown, and signed by the current president of California Tomorrow, William Matson Roth, who was himself a very active candidate for Governor in 1974. While this letter, and the material it addresses, are focused on California, it would be completely valid, and quite useful, to extrapolate from California to the United States on this issue. For example, one of the themes addressed is governmental reorganization. This theme is hardly limited to the State of California.

I would like this transmittal letter printed at this time:

Gov. EDMUND G. BROWN, JR.,
Governor's Office,
Sacramento, Calif.

DEAR GOVERNOR BROWN: Five years ago, this organization published The California Tomorrow Plan, a comprehensive attempt to deal with the state's future in "a systematic, constructive way." It was a plan that stressed the need to intertwine the quality of life and the environment with measured economic growth.

We were pleased that political leaders in both the legislative and the executive branches subscribed to the thrust of our recommendations. As a candidate for governor, you yourself responded to these issues in the following way:

"I intend to do everything possible to restore clean air throughout California, provide comprehensive land-use planning on a statewide level, develop rapid-transit systems and encourage research into the development and allocation of energy resources.

"At the present time, more than two dozen separate state agencies, bureaus and departments share responsibility in the areas of environmental and energy planning. Our efforts are fragmented, confused, often contradictory. My first act as governor will be to undertake a reorganization of our executive branch. We need one major agency for energy development and research. Another agency should have overall responsibility for environmental protection and planning.

"The governor has an obligation to set goals—to plan. The present structure of our executive branch makes this extremely difficult . . ."

This was very well stated, going to the heart of a major concern of California Tomorrow—the need to develop a consensus on objectives and then to build the governmental structures and process to implement them. Today, more than a year and a half after you took office, we find some gains have been made. Your administration has made progress toward the restoration of clean air throughout California, is reexamining our transportation priorities, and has wisely accepted the Warren-Alquist Act establishing a single energy commission. However, we see no sign of progress toward comprehensive land-use planning, nor is state government substantially less "fragmented, confused and contradictory" than before. Your intention "to set goals—to plan" has not, we believe, gone significantly beyond the statement of principle.

We certainly agree that government programs are often inadequate and that bureaucracies develop built-in prejudices that are not always responsive to public concerns. We also believe, however, that a government in drift creates even greater problems. If a political leader does not translate his goals into comprehensive executive and legislative programs, and does not place the full authority of his office behind them, he plays into the hands of the very bureaucrats you so eloquently describe.

It is with these thoughts in mind that we present to you this review of some selected areas of past and present planning in California. In it, we indicate some current problems and point to a few of the many alternative solutions that might be considered. We believe public dialogue on these matters must be accelerated and that your role in this is essential.

Sincerely,

WILLIAM M. ROTH,
President.

The "overview" article from this publication discusses what "conservation" means today. As the author pointed out:

All of our issues of employment, inflation, housing, energy, food, are all basically conservation issues.

One paragraph deserves special emphasis, because of its relevance to the issues confronting the Congress today:

The conservationist today is fighting a war that many people do not understand and do not want to join. The war is for survival and the goals are the following:

Assurance of survival at a decent standard of living for all members of the society in this and future generations.

Wide freedom of choice in type of work and manner of living.

Open, accessible and accountable government.

A society that lives in harmony with nature—observing its limits and reaping its benefits without waste.

The entire article follows:

OVERVIEW—CONSERVATION AS IF PEOPLE MATTERED

The word "conservation" is widely used today, and there is something curiously ambiguous about our reverence for it. Most of the time it seems that nobody is against conservation. But when we start asking hard questions about who will do the conserving and what will be conserved, the reverence turns to distaste; suddenly it begins to seem that almost nobody is *for* it.

We need to resolve some of this ambiguity, and we might well begin by considering the *Webster's* definition of conservation as the "planned management of a natural resource to prevent exploitation, destruction or neglect." Conservation is part of every major social problem we face today. All of our issues of employment, inflation, housing, energy, food, are basically conservation issues. They have to do with how we manage our resources—or, to put it another way, how we choose to operate within the limits set by nature.

There is nothing new about limits. Living within them has been a basic part of human history, and that understanding is a basic part of our cultural heritage. The *Book of Genesis* is sometimes cited as the authority for humanity's domination of the world, but actually in *Genesis*, Adam and Eve are charged with keeping and replenishing the Garden; it is the source of our concept of stewardship.

Yet in another way there *is* something new about the idea of limits, because for a time we lulled ourselves into believing it did not apply to us. For centuries, America seemed to have nearly limitless land. More recently, our wondrous technological advances have allowed us to believe in a limitless capacity to produce (and waste) ever more consumer goods; we were led to believe that the world contained a limitless supply of fossil fuels, which would provide the energy to run machines—and that the machines, in turn, would make life easier and more productive for all of us.

Today we begin to see that this is not true, and the discovery is not a pleasant one. We resent it and resist it.

Today the garden is entering an era of scarcity. The limits (which were there, but unrecognized by us) are now making their presence felt. The summer of 1973 was an important landmark in American history: for the first time in the lives of many of us, we were forced to consider the uncomfortable thought that petroleum does not exist in infinite amounts. Now the oil is flowing again, but many voices remind us that the energy crisis is still here—we cannot maintain our present ways of operating and not use up our fossil fuels within the next 20 to 50 years. This means we must change, and it is a natural human trait to fear change—especially when change is forced upon us by circumstances we cannot entirely control.

The conservationist today is fighting a war that many people do not understand and do not want to join. The war is for survival and the goals are the following:

Assurance of survival at a decent standard of living for all members of the society in this and future generations.

Wide freedom of choice in type of work and manner of living.

Open, accessible and accountable government.

A society that lives in harmony with nature—observing its limits and reaping its benefits without waste.

These are humane and reasonable goals, and yet somehow all too many people have been led to believe that the conservationist is against people, against economic and technological progress, even against democratic government. This misunderstanding has come about partly because anti-conservationist interests have labored hard to make it come about. But the conservationists must also accept some of the blame. All too often they have been preoccupied with the politics of "no" and have failed to offer clear alternative goals and programs. They have appeared to be deeply concerned about the welfare of wilderness and wildlife, but indifferent to the needs of human beings in an urbanized world. When they revealed a concern for people, it often seemed to be exclusively focused on posterity—and it may not be safe to assume that all Americans really care that much about future generations. (It was an American politician, "Czar" Reed, who asked: "What has posterity ever done for us?")

If conservation is to carry its message across, it must do so in terms that will make sense to people. Above all, it will have to make economic sense.

CONSERVATION ECONOMICS

We must have a healthy ecology if we are to have a healthy economy—one is inseparable from the other.

The first thing we need to understand if we are to make economic sense about conservation is the uncomfortable but inescapable fact that our system, as it currently works, is wasteful. We produce too many unnecessary items, goods not made to last, disposables, inefficient containers. Companies grow not only by meeting demand, but by stimulating it through advertising—and the most responsible corporate managers are swept along in the pursuit of growth at any cost. The same thing happens with the companies that supply our energy: a utility that produces 53 billion kilowatt-hours in 1976 and, because of its enlightened conservation policy, again in 1986, is penalized as a "no growth" or poorly managed institution. Such growth involves the depletion of many resources, excess consumption of energy, enormous amounts of capital, and the creation of vast amounts of garbage—and all of these become public problems that we pay our taxes to solve.

How much do we really pay for our manufactured goods, our transportation, our food? The fact of the matter is that the public rarely knows much about the hidden costs. They can hardly be blamed for this, since most professional economists don't know much about it either. One leading economist, Robert Heilbroner, admitted this in his discussion of "externalities":

"By externalities, we mean effects exerted by the process of producing or consuming goods that bypass the price system. For example, ordinarily when we consider the price of a good—say an automobile—we assume that this price fully reflects all its costs of manufacturing. But suppose that the auto factory emits smoke that lowers local real-estate values or multiplies local cleaning bills. These are costs that are not included in the price of autos. Or suppose that the use of automobiles requires the installation of traffic lights or expensive throughways. These are consumption externalities that will impose costs (taxes) on users and non-users alike. . . .

We used to believe that externalities were mere curiosities of the economic process—that the prices of a perfectly competitive market system fully reflected all costs of outputs or all benefits that buyers expected to obtain from them. But we have begun to recognize that externalities are a pervasive and inescapable attribute of nearly all economic processes, and that one of the problems of even a perfect market system is that it fails to take into account their benefits or costs."

A better understanding of this would undoubtedly have an impact on public decision-making. It might also help to reveal the shallow thinking behind the current environment-vs.-economy talk; perhaps we could let go of some of our concern about the "high cost of cleaning up the environment" and instead think about the high cost of destroying it.

We will also have to revise our ideas about energy. Our past economic growth has been in effect subsidized by fossil-fuel energy—which we thought was both cheap and limitless. Now we are beginning to find out it is neither. Such writers as Barry Commoner and Nicholas Georgescu-Roegen remind us that our economic system is subject to the laws of thermodynamics.* Their work is technically complex, but its basic message is devastatingly simple—fossil-fuel energy costs much, much more than we thought, and the supply is finite. Our wasteful use of it plugs us into inflation and environmental destruction, and takes dangerous risks with the future.

We will also need to take a new look at our assumptions about size. Generally we believe that size, productivity and efficiency all go together: bigger is better, whether it is bigness in industry, business, agriculture or government. Now these beliefs are being challenged: the articulate spokesman for the opposition is E. F. Schumacher, whose *Small Is Beautiful* has become the best-selling economics book of our time.

Schumacher argues that the gains we get from bigness are seriously deficient in several ways: for one thing, they are quantitative gains. We may produce more goods, but we do not necessarily produce better goods. These quantitative gains also result in environmental and social damages (externalities again) that will have to be paid for sooner or later. And they draw heavily on non-renewable resources—thus achieving levels of growth that cannot be sustained. As Schumacher put it in a recent magazine interview: "You can increase your wheat production and, assuming that you don't ruin the soil and aren't dependent on oil, you can keep your production at that new level. But if you increase oil or coal prodction, you haven't achieved anything at all, except you have increased the rate of fetching things out of the larder. You have increased the rate of larder depletion." One inevitable consequence of this is more inflation—sooner or later, practices that are ecologically unsound turn out to be economically unsound as well.

The greatest deficiency of large institutions, according to Schumacher, is their failure to meet the needs of human beings who must function within them. Schumacher proposes alternative forms of productivity in agriculture and industry. He calls for the evolution of "small-scale technology, relatively nonviolent technology, 'technology with a human face,' so that people have a chance to enjoy themselves while they are working." He defends his small-scale technology not only for its ability to tap individual enthusiasm, but also for the quality of its productivity and its lower capital requirements.

Schumacher's view of economics falls into line with many courses of experimentation and activity that are currently under way in California. I would like to survey the work of some of these groups, because they have to do with the question of what one individual (or small group) can do. The example of the following efforts shows that—even while you work to change "the system"—you can also go ahead and create new systems that put your beliefs into action.

DEMONSTRATING ALTERNATIVES

In California today, there are many small groups trying to put into action the goals set forth above—to show that it is possible to be less wasteful and more productive. Three of these are The Farallones Institute, the Round Valley Garden Project, and the Community Economic Council.

The Farallones Institute. The president of the institute is California's state architect, Sim Vander Ryn. The institute, he says, was formed in 1974 to "create a living, learning and research community to extend ways for people to move toward lighter living more in keeping with finite resources, ecological harmony, personal growth and cooperative effort."

The Farallones Institute operates two working demonstration projects: one in the country and one in the city.

The Rural Center, in Occidental, combines all farm processes into a unified and productive flow of resources, eliminating waste as much as possible. The resident staff and students are developing ponds from springs and winter creeks; they use a solar/woodfire water-helping system that is incorporated into the shower room; a Clivus Multrum toilet and a home-designed privy produce compost instead of simply disposing of waste. Students are learning design, carpentry, blacksmithing, architecture and gardening. They share the daily work of gardening, cooking, and doing the animal chores. Visiting lecturers give demonstrations and talks on natural energy systems, housebuilding, organic-farming techniques, and waste-resource handling.

The Integral Urban House in Berkeley is a demonstration of self-reliance in the city. Emphasis is placed on research and classes related to small-scale waste management, solar energy for space and water heating, aquaculture, raising small stock, beekeeping, and site assessment and planning.

The purpose of Integral House is not only to teach its participants how to live in a self-reliant fashion in the city, but also to accure enough information to be able to answer the people who need to know how to convert to a more efficient style of urban life.

The Round Valley Garden Project. This is a unique school that brings back the art of agriculture through horticulture. Its education programs are based on a synthesis of European methods as presented by the noted British horticulturist, Alan Chadwick, who is the project's director. The methods are labor-intensive and extremely productive. They improve soil fertility at the same time that they yield food with a high nutritional value.

The school functions through the year and its program of studies and practices coincides with the cycle of seasons and climatic conditions. Students come as apprentices for a minimum of one year's study, receiving instruction in return for their commitment and participation in building the garden.

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*See references.

The aim is to train skilled, competent people who are able, with the knowledge and experience gained there, to productively practice and teach these methods throughout the world.

The methods are reflected most clearly in the garden itself, which consists of areas for building soil fertility and producing compost; nursery and potting shed; cut-flower area; orchard parterres, featuring companion planting and unique pruning methods that promote both longevity and fruit perfection; and the herb garden.

The garden demonstrates a lifestyle as well as a method of agriculture. The people who tend it have chosen to become responsible members of the society, and in their daily work they learn what real productivity is.

The Community Environmental Council. Partly in response to the major oil spill that occurred in the Santa Barbara Channel in 1969, and partly out of the more general need to provide leadership in solving environmental problems, the Santa Barbara Community Environmental Council (CEC) was formed in 1970. It is based on the premise that a new environmental ethic can arise when people of varying ages and backgrounds research, learn and teach each other about the relationship that exists between resources and human needs.

The CEC serves primarily as a resource. It houses a library on alternative energy, intermediate technology, organic farming and mass transportation. Its office is used as a switchboard by most of the environmental-interest groups in Santa Barbara. It sponsors research to provide the public with information on current issues.

Some local programs are sponsored by CEC in the absence of initiation by government or other action groups. The most successful is the recycling program, one of the few smoothly operating ones in the state. At present, the recycling project achieves 35-percent recovery of newspapers in the area, and aims toward 50 percent. It also recycles flattened cardboard, crushed aluminum cans, glass and computer paper. The recycling project is a labor-intensive operation, partly because the economic return on increased volume would not support the heavy capital requirements that would be required to replace labor, and partly because CEC is committed to the concept of creating and preserving jobs wherever possible.

The Mesa Project, another effort sponsored by CEC, is an experimental center for introducing energy-conservation measures for home heating, organic-waste reclamation, and water conservation. It hopes to become a demonstration center for development of urban-agriculture programs.

CEC has also been instrumental in catalyzing efforts toward creation of a comprehensive development plan for the central and waterfront districts of Santa Barbara. Each year CEC sponsors one or more major public forums with the continuing education division of Santa Barbara City College. Through its years of work, CEC has become a leading voice in the quest for comprehensive environmental planning in Santa Barbara County, demonstrating what can be accomplished by an informed and united citizen-action group.

These groups represent alternatives that are already in existence, that work, and that can help offset the destructive and wasteful practices of the past. They illustrate what can be done by individuals who take responsibility for their lives, produce, create, and obey nature.

Can these principles be transplanted to the system as a whole, be allowed to exert some influence upon planning and decision-making of state and federal governments, multinational corporations? Undoubtedly it will take much time and effort, but we believe there are many ways our system can be made to function less wastefully; the main purpose of this issue of Cry California is to explore some planning efforts, past and present, with this question in mind.

Contemporary ecological politics is a dialogue between purists and pragmatists. The pragmatists are convinced that there is no practical alternative to the way we are currently doing things, and that our greatest need is to find new sources of energy and raw materials. The purists seem to be convinced with equal certainty that our present institutional arrangements—big government, big business, big labor—are incapable of making the necessary adjustment. Schumacher, the guru of the purists, is himself a rather pragmatic individual. He spent most of his working years as a high-level bureaucrat—chief planner and economist for the British Coal Board—and is currently working with several different kinds of organizations, not only independent research groups such as those described above, but also national governments and multinational corporations. He believes that we must build upon our past individual and economic achievements, not discard them—create alternatives within the system, not alternatives to the system. "We are not against anything," he says, "we are only in favor of developing those tools that are now lacking. If tractors are the right answer, then we're in favor of tractors. We're only against tractors when it's automatically assumed they're always the right answer. In Britain we now have tractors with 24 gears. Is this really necessary?"

Planning in California—as many of the articles in this issue show—has tended strongly in the direction of the 24-gear tractor. The present challenge is to see if we can find other ways to work, to open up the system so that people can run their lives and their communities in the ways they find most satisfying. If we can, we will find that conservation makes sense, both economically and politically.—*Richard A. Wilson.*

DISCOVERY '76

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. TEAGUE. Mr. Speaker, since the Arab oil embargo in 1973, we, as a nation, have become acutely aware of the need to find new sources of energy as well as the need to conserve those sources we now have. An example of what is being done in the private sector to find new sources of energy appeared in a recent issue of Fort Worth, the official publication of the Fort Worth Area Chamber of Commerce. This article describes a promising project in the solar energy field.

The project is called Discovery '76 and is a solar-powered house. This house will serve as an ongoing solar energy research facility, because it is designed to incorporate new solar technologies as they are developed. Discovery '76 was a joint project of the Construction Research Center of the University of Texas at Arlington, the Texas Electric Service Co., and over 40 other companies who donated building materials and was totally financed by private funds.

At present, the cost of such a house is prohibitive for widespread application. With projects like Discovery '76, however, which are researching more economical applications of solar energy, the day of the solar-powered house as a viable energy-saving alternative may not be far off.

In establishing the Energy Research and Development Administration—ERDA—over 18 months ago, the Congress recognized the necessity of establishing both a national commitment and direction to the development of alternative energy sources. The willingness of Congress to do its part is clearly shown by a substantial increase in funding for solar energy research and development in the ERDA budget for fiscal year 1977. The $290 million budget represents a large commitment; but the Federal Government cannot and, indeed, should not carry the burden alone. That is why projects like Discovery '76 are so important.

I would like to commend the project director, Dr. Gerald Lowery, and all associated with Discovery '76 for their initiative in undertaking a project which will have long reaching ramifications for both the Federal and private sectors.

I strongly recommend this article to my colleagues:

SOLAR POWER

THE SUN PROVIDES MORE THAN JUST LIGHT FOR UTA'S EXPERIMENTAL SOLAR HOUSE

The sun, you might say, is a very hot item these days. The solar energy bandwagon overfloweth.

There are conferences here, symposia there, seminars everywhere. Lots of heat, but, as yet, little light. Except, that is, at the University of Texas at Arlington.

While others have been talking, University of Texas at Arlington has been building Discovery '76, Texas' first single-family home to be heated, cooled and supplied with hot water by the sun's rays.

It's a good example of the straightforward, "run it up the flagpole" approach favored by UTA's Construction Research Center. The simplest way to discover if solar-power houses can lead us out of the energy wilderness, they reasoned, was to build one. So they did.

Project manager Dr. Gerald Lowery emphasized there were no mind-bending scientific breakthroughs involved in Discovery '76. With only a handful of exceptions, all the hardware is "off the shelf."

"There's no great trick to building a solar energy house," he said. "The catch is to build one that's economically practical."

That's the nitty-gritty of it—economics. Solar-powered buildings have been around a while, but only as expensive scientific playtoys. That kind of thing Neiman's might offer as his and hers Christmas goodies.

But that was before the Arabs tied a knot in the oil pipeline and the cost of energy began to rise. What had been a technological curiosity now is looked to as a possible means of fiscal salvation.

UTA hopes so, and so does Texas Electric Service Co., which doubtless enjoys asking for rate hikes no more than city councils enjoy granting them.

Indeed, TESCO put up a sizeable chunk of the money it took to build Discovery '76—and it took a lot. Dr. Ernest Buckley, associate director of the Construction Research Center, estimated that the house, if privately built, would cost more than $100,000.

Fortunately for UTA, it didn't, thanks largely to the more than 40 companies who donated materials for the roof, the foundation and just about everything in between. Not a nickel of federal money was used, a far cry from most research projects.

But why such a high cost? We're supposed to be talking about economy, right?

"Right," said Dr. Buckley, "but Discovery '76 is far from being an ordinary house. It's a research facility. Many of its features wouldn't be found here otherwise. The object of the program wasn't necessarily to find out how cheaply we could build it, but how cheaply we can operate it."

This, of course, is the whole point of Discovery '76. If you have your water heated by the sun, it doesn't need to be done by a water heater. If you use that hot water for heating the home, you don't work the furnace overtime. Ditto for the air conditioner, in this case a gas absorption unit modified to run on hot water.

The home, located on the corner of West Mitchell and Pecan at the southeast corner of the UTA campus, is a three-bedroom, 1,950-square-foot affair. The contemporary design is easy on the eye, yet some of the architectural niceties had to be sacrificed in the name of research.

Project architect Todd Hamilton of UTA explained that while Discovery '76 was intended to look as far as possible like any middle-income home, its design was influenced by two important factors.

"We wanted a design which would lend itself to energy conservation," he said. "Also, we had to make certain compromises in order to facilitate the research function."

He pointed to the roof with its double bank of solar collectors. "These might have been integrated into the design of a pitched roof in order to make them less conspicuous," Hamilton said. "Instead, they were left free-standing so that the collector configuration can be changed very easily to accommodate improved designs."

This is another unique feature of Discovery '76—adaptability to technological advances. If more efficient solar collectors are developed, they can be installed with a minimum of fuss. The three 1,200-gallon water storage tanks take up half the garage for easy replacement. Normally, they would be underground, out of sight and well insulated with a blanket of earth.

Though construction was completed in time for the house to be viewed by thousands of visitors to the National Home Builders Association and American Society of Heating, Refrigerating and Airconditioning Engineers conventions earlier this year, the tinkering won't stop.

"In a way," said Lowery, "Discovery '76 will never be finished. We'll always be changing things around, testing new components and construction techniques."

The huge mass of data gathered at the solar house will be compiled by a small computer, located on the other side of the garage, and relayed to UTA's Data Processing Center for analysis and storage. The information will be shared with manufacturers, government agencies, other research institutions and home builders.

Discovery '76 will be vacant for about the first year of operation, but most of the research, projected to take at least five years, will be done in a real-life environment. A graduate student from UTA's College of Engineering and the student's family eventually will live in the home.

And they'll be kept busy collecting data. UTA scientists are concerned not only with the production of energy, but its consumption. And to that end, every appliance in the house is wired on a separate circuit. The back of the garage (which by now, you can readily see, has no room for cars) is a meter reader's heaven—or hell. More than 25 instruments measure the quantity of energy used by each facet of the house. Others will monitor the flow of heat energy through doors, windows, walls, ceilings and foundation.

Because while solar energy is the home's outstanding feature, other less visible construction techniques add to the conservation of energy. The Construction Research Center is particularly interested in learning how various types of building materials can cut energy and construction cost at the same time.

Insulated, double-pane glass was used in the windows, which are shaded wherever possible to help reduce heat transfer. The doors have insulation sandwiched between the surfaces. Both rigid urethane sheets and rockwool batts are used to insulate most of the walls and roof. The entire roof deck and certain exterior wall sections utilize Tectum II, composed of long wood fibers bonded together with inorganic binders backed by a layer of insulating urethane foam. On the exterior, it can be covered with a wide variety of standard materials. Inside, it may be left exposed to serve as an acoustical surface, or can be covered with wallboard. Altogether, Discovery '76 has about a 50 percent greater insulation value than a comparable single-family house.

But the heart of the home is the solar system, and the "eyes" of the system are the 42 solar collectors. The collectors are long troughs of galvanized metal covered with a curved, plastic Fresnel lens—10 square feet of lens per collector.

The lenses focus the sun's ray on black-coated copper tubing running the length of the collector. Water flowing through the tubing is heated up to 250 F and stored in the trio of tanks to be used for heating, air conditioning and domestic hot water.

The "eyes" are always turned sunward by means of a tracking device. Two light-sensitive silicon cells trigger a small electric motor which works a rope and pulley system, enabling the collector lenses to follow the sun from east to west.

While research is the price consideration of Discovery '76, it has also served as a classroom of sorts for UTA engineering and architecture students. The students were deeply involved in both the planning and design and "hammer and nails" stages.

Interior design student Nancy Taylor, for instance, was given a class project of furnishing the home for its viewing by conventioneers. She had six weeks and a budget of zero. Learning quickly the finer points of begging, she had the house beautifully decorated—including toys for the children's bedroom.

When you're counting on the sun for energy, weather becomes a vital consideration and Discovery '76 has its own rooftop meteorological station to evaluate the effects of changing climate conditions on energy production and consumption. Buckley, while noting solar research in other parts of the country, said, "Much of the data collected elsewhere doesn't have significant value in our climate. Obviously, there's much more potential for solar energy in New Mexico than in Maine, Arizona than in Alaska."

Which brings up the question of just what happens to Discovery '76 if the sun fails to show its face for a long stretch? The storage tanks hold about three days worth of heated water, Lowery said. "If a cloud cover lasts longer than that, we will switch over to an auxiliary, conventional hot water heating system."

There's no doubt that a solar energy system such as that of Discovery '76 will slash energy costs dramatically. "Some of the studies have shown that in an all-electric home, up to 40 percent of the electricity may be expended just to heat the water for a large family," Lowery said. "When you add the heating and air-conditioning, you're looking at a savings of in the neighborhood of 65 percent."

That sounds great, but there's a big joker in the deck—initial installation costs.

"Right now," admitted Lowery, "a solar energy residential home probably would not be cost effective. But as solar technology advances and construction materials and techniques are improved, it may become so. If I were building a new house today, I do not think it would be economical to put in a solar heating and cooling system at this point."

He added that converting a conventional home would be even more impractical. "To put a solar energy system on an existing house would cost somewhere between $8,000 and $10,000," he said, "It's very doubtful if the homeowner would be able to recover that cost in reduced utility bills. Given the present cost of utilities, that would take a very, very long time."

The catalyst behind solar energy research, however, is the fact that the "present" cost of utilities is proving highly impermanent. Rates are changing as often as the weather. Unlike the weather, though, the changes all are in the same direction.

With conventional energy costs going up and solar energy costs coming down, the twain may meet in hourses very much like Discovery '76. UTA researchers may well find their "house of the future" a lot closer to the present than they think.

CONGRESSMAN STRATTON RELEASES 1975 TAX RETURNS AND CURRENT NET WORTH STATEMENT

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. STRATTON. Mr. Speaker, I have long favored a fuller financial disclosure by Members of Congress and other public officials than is presently required by law or the rules of the House. In accordance with a practice I began in 1974, I am therefore once again making public the 1975 income tax returns of my wife and myself, plus a statement of our net worth as of July 1, 1976:

1975 JOINT FEDERAL TAX RETURN OF SAMUEL S. AND JOAN H. STRATTON, AMSTERDAM, N.Y.

Three dependent children: Kevin, Kim, Brian.

Line 9 Wages, salaries, $42,850.00.

Line 10 Dividends, None.

Line 11 Interest Income, $126.74.

Line 12 Other Income (excess of travel reimbursements over travel costs), $773.55.

Line 13 Total of above, $43,750.29.

Line 14 Less adjustments to income (excess of congressional expenses over congressional reimbursements), $1,272.50.

Line 15 Adjusted Gross Income, $42,477.79.

ITEMIZED DEDUCTIONS

Line 35 Medical, $150.00.

Line 36 Taxes (State, local, real estate, etc.), $4,790.15.

Line 37 Interest expenses, $2,177.95.

Line 38 Contributions, $482.50.

Line 40 Misc. (congressional office expenses over allowances), $231.74.

Line 41 Total Deductions, $7,832.34.

Line 45 Adjusted Gross Income less deductions, $34,645.45.

Line 46 Exemptions (5), $3,750.00.

Line 47 Taxable Income, $30,895.45.

Line 16a Federal tax computation, $8,229.23.

Line 16b Credit for personal exemptions, $150.00.

Line 16c Balance, $8,079.23.

Line 17 Credits (for political contributions), $17.50.

Line 20 Total Federal Tax, $8,061.73.

Line 22 Total Federal tax withheld, $8,803.10.

Line 25 Amount of tax refund, $741.37.

Total 1975 Federal tax paid, $8,061.73.

Total taxes paid 1975:
Federal, $8,061.73.
New York State, $3,520.43.
Maryland real estate, $1,325.56.
Total $12,907.72.

NET WORTH OF SAMUEL S. AND JOAN H. STRATTON, AS OF JULY 1, 1976

ASSETS

Cash on hand and in banks	$3, 753. 39
Cash value of life insurance	1, 249. 79
Accumulated dividends on life insurance	413. 70
Home, Bethesda, Md. (estimated market value)	80, 000. 00
Government bonds (cash value)	1, 187. 50
Automobiles (book value):	
1975 Ford Pinto	$2, 800. .00
1969 VW convertible	1, 050. 00
Total	3, 850. 00
Sailboat (estimated)	300. 00
Furniture, clothes, prsonal possessions (estimated)	3, 950. 00
Accumulated contributions to congressional retirement funds (available only for retirement purposes)	44, 369. 38
Total assets*	139, 073. 76

LIABILITIES

Accounts payable	1, 945. 61
Notes outstanding (National Bank of Washington)	4, 250. 00
Mortgage on Bethesda home	27, 536. 12
Total liabilities	33, 731. 73

COMPUTATION OF NET WORTH

Assets	$139, 073. 76
Liabilities	33, 731. 73
Total net worth	105, 342. 03

*Notes on assets:

1. Bethesda home, purchased in 1965 at $42,600.
2. Amsterdam residence is a rented apartment.
3. Total term life insurance held: $87,000.

WOODY WARDLOW'S LOVE AFFAIR WITH OUR U.S.A.

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. KEMP. Mr. Speaker, most of the parades and fireworks and, certainly, the preponderance of speechmaking in observance of our Nation's Bicentennial are fading.

Despite fringes of some crass commercialism and rare cynicism, the birthday party has been rewarding, exciting, and, definitely, inspiring.

The observance has brought out much that is the best of the American people and our national heritage. Most important, the Bicentennial has given the people a fresh appreciation of their American citizenship.

The most articulate expression of that appreciation, in my judgment, is an article entitled "A Love Affair for 1976" written by an outstanding newsman and my good friend Elwood "Woody" Wardlow, the managing editor of the Buffalo Evening News.

Mr. Speaker, I should like to share Mr. Wardlow's article—printed as a Bicentennial salute—with my colleagues:

A LOVE AFFAIR FOR 1976

(By Elwood Wardlow)

I keep running into people who reach for a magazine, or begin to yawn, when I bring up the matter of the Bicentennial. I bring it up often, so I've seen a lot of glassy-eyed people in the past couple of years.

I can only say, "Forgive them, Uncle, for they know not what they do."

I'm not a zealot—of any kind; as an editor, I can't afford to be. And I *can* see our country's warts; as an editor, I see them all too large and clearly every day.

But what a lot of Americans don't realize is that you can have a love affair with your country without losing your sense of reality and becoming a fanatic, or a simpleton, or a militarist, or a kook.

If you doubt that, hear me out. Here is why I feel supremely lucky that I was born in the U.S.A.; why I want to celebrate that fact in 1976; and why I wish all other Americans would feel the same way:

BEAUTIFUL AND BOUNTIFUL

Our 50 states cover 3,615,125 square miles, making us the fourth biggest country (the U.S.S.R. is more than twice as big, Canada and China are slightly bigger, Brazil and Australia are slightly smaller). More importantly, most of our land is livable, and much of it is beautiful and rich in diversity. (About 90 per cent of all Americans live in the benign strip between 30 and 45 degrees latitude—New Orleans to Minneapolis. By contrast, about 90 per cent of the Soviets live between 45 and 60 degrees—Minneapolis to the Yukon Territory.)

The Pilgrims gave thanks because the land was bountiful—and in the 15 generations since, we have multiplied their harvest a billionfold. Our farms and ranches grow a major share of the world's foodstuffs. We *give away* more food to the hungry—here and abroad—than most other nations grow.

We also have an almost unparalleled wealth of minerals, fuels, woods and waters—and have blended those great assets into a pacesetting standard of living through "Yankee ingenuity" and the operation of a free economy. Most of the world lives well below what is regarded in the U.S. as the poverty line. After the devastation of World War II, much of the world nurtured itself back to health with American succor, and our great industries provided the model for emerging technologies elsewhere.

But there is more in our land than material strength. We have developed the world's most richly textured arts and letters; the broadest perimeters in education; and clear leadership in science and research. The Americans, not the British, have made English the world's premier tongue.

A DURABLE DEMOCRACY

The U.S. is part of the New World, and we are counted among the "new" great powers. But among governments, we're as old and solid as a reigning oak in the forest. We've had one form of government for 200 years, longer than almost anyone except the United Kingdom and a few of the smaller European countries. The current average span for the world, between overthrows, has been estimated at 11 years.

The great secret for us, of course, is our marvelously contrived and deftly balanced Constitution. It is graced with sufficient flexibility for change (through amendment and ongoing judicial interpretation) and with the continually freshened consent of the governed (through the electoral process). It has withstood the erosions of time, corruption, war, civil strife, depression, subversion, political ambition, incompetence, Watergate, the works—and deserves its place beside the Magna Carta as the world's finest political instrument.

THE GLORY OF FREEDOM

Liberty is the jewel in our crown, of course. The first Europeans came here in quest of greater individual independence. When the hard hand of the English king followed them across the ocean, they revolted in protest. They, and the later arrivals from all parts of the earth, molded their new government over the next century with the freeman as the central figure—and he remains that today.

More than three-quarters of the world is presently under authoritarian or despotic rule. The citizens must obey the wishes of their rulers, but the rulers are not obliged to hear the voices of the citizens. To most Americans, such a system would be unthinkable—barren of option and choice, devoid of personal growth and individual opportunity, blunted in its cultural and intellectual ranges, unheeding to those seeking correctives or change. There are some in our land who would accept those terrible costs, in the thought that the individual's greater good can somehow be arranged better by the state than by the individual himself. But the logic of extreme or radical groups has traditionally escaped most of our population, and their strident or violent persuasions have tended to alienate rather than to enlist.

Our land today has a wide range of problems, some of them severe, and many of our citizens carry a heavy load of miseries. But in America public help—tens of billions of dollars per year—is available to anyone who is truly in want. The sick are treated, the hungry are fed, the poor are given shelter and sustenance. And always, there is opportunity to do better. America since its infancy has held open the "golden door" for those who wished to enter; their talent and energy, nourished in the seedbed of freedom, graced their own lives and carried on in the lives of their sons and daughters. Where personal excesses collided with the common good, the American genius for corrective measures within the existing system came into play. We see that at work today in our environmental and consumer movements; in our codes to monitor financial and business operations; and in the laws and rulings to safeguard the person and property of every individual.

THE GREAT OPPORTUNITY

So what's the big deal about the Bicentennial? I think it's an opportunity we can't afford to miss, for these reasons:

—The fun of it all. Our 200th birthday offers a great excuse for a big party—and boy, do we need it!

—A lot of Americans have lost sight of the good things we are and do. They take their problems seriously, and sometimes everything seems bad. Things get out of focus. We ought to have a pause, at least once every hundred years, to get our bearings back.

—We ought to take the opportunity, too, to tell the rest of the world that we're still alive and well and living in a remarkable land. Other parts of the earth, listening to our own "song sung blue," may have come to think otherwise.

—We need to gear up for the long haul. American solutions have always been based on consensus. Consensus is rooted in the public's sense of values. The year 1976 offers a splendid chance to firm up and focus those values for heavy duty in the decades to come.

—The Bicentennial also offers us the chance to sort through the whole American experience, to identify both the best and worst in our past. We should pause to honor the one, and to repudiate the other—and then remember the difference as we proceed into our third century.

—And above all, we should use the year to refortify our sagging spirit of freedom. We should fan the flame until it flares as brightly as it did at Lexington and Concord. And then, just as the Revolution's first volley was heard 'round the world, the sparks from our rekindled flame may spread through every land and make freedom once again the mightiest engine in the service of man.

THE BALANCE(S) OF POWER: IV(i) STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. BRECKINRIDGE. Mr. Speaker, to begin my discussion of the strategic defense balance in my continuing series on the "Balance(s) of Power," I wish to insert a summary overview of the Soviet war-survival program. The summary, which follows, is extracted from a book "War Survival in Soviet Strategy," Coral Gables, Fla.: Center for Advanced International Studies, University of Miami, 1976, by Leon Gouré of that institute.

The summary follows:

WAR SURVIVAL IN SOVIET STRATEGY

A SUMMARY OVERVIEW OF THE SOVIET WAR-SURVIVAL PROGRAM

The point of departure

The Soviet Union has the largest and most comprehensive war-survival program in the world today. While the focal point of the program is the USSR Civil Defense structure, much more is encompassed than civil defense measures of the type familiar to Americans. Along with relatively massive civil defense training, indoctrination, and organizing activities, there has long been under way a systematic effort to ensure preservation of industrial production capacities through a far-reaching dispersal and "hardening" program, including, as Brezhnev reaffirmed at the 25th Soviet Party Congress held in February–March 1976, further development of "a West Siberian complex," and a "fundamentally new state in the exploitation of the productive forces of Eastern Siberia." At the same Congress, Kosygin added on March 2 that the "eastern regions," and in particular, Siberia, "will develop at increasing preferential rates," while the development of industry during 1976–1980 "in the European part of the USSR and in the Urals will be implemented primarily by means of the technical re-equipping and modernization of existing enterprises." Also, the regime has extended to truly large-scale proportions the long established practice of maintaining on-site reserves of spare parts, fuel and other materials at major industrial complexes, and it is evidently increasing military grain reserves to a level that can take care of civilian requirements for an extended period. There is a rather remarkable hardened system for protecting the Soviet leadership and the command and control structure through which it manages every aspect of life in the USSR. And throughout the country military commanders and staffs, as well as special units of the armed forces, plan, direct, participate in and support civil defense activities and the development of war-survival capabilities. In addition, these military organizations are being prepared to command and control civil defense and recovery operations during and after a nuclear conflict.

The strictly "civil defense" component of the Soviet war-survival program has been steadily growing since the mid-1950's, and especially since 1961, when it was placed under the control of the USSR Ministry of Defense. Civil defense has now become very much a part of the Soviet life, involving nearly all segments of state activities, the economic system and the entire population. The civil defense organization today, both civilian and military, includes tens of millions of persons, and has the active participation of party committees and local leaders, the Young Communist League (Komsomol), the Pioneer Movement, the elected councils (Soviets), administrators, economic managers, educators, medical personnel, scientists, and all elements of the mass media. It is also a major preoccupation of a variety of mass para-military and propaganda organizations, such as the Voluntary Society for Assistance to the Army, Air Force and Navy (DOSAAF), the "Znanie" (Knowledge) Society, and the All-Union Sports Organization. As with other elements of USSR military power, Soviet spokesmen make repeated use of a standardized formula to indicate the value of civil defense: "The Communist Party and the Soviet Government attach great importance to civil defense and show constant concern for strengthening it." Indeed, civil defense is not only of long standing but has received in the past and continues to receive large allocations of relatively scarce Soviet resources.

The advent of "detent" in U.S.-Soviet relations has not led to any decline in Moscow's efforts to continue to improve Soviet war-survival capability. On the contrary, since mid-1972 a marked upsurge has taken place in activities, with the stated aim being to raise the "combat readiness" of the civil defense forces and of the population generally to the level of that of the Soviet Armed Forces. The reason for this is that the Soviet leadership has come to view civil defense as a critical "strategic factor" which, in a large measure, can determine the course and outcome of a nuclear war. This recognition is reflected in the appointment of the chief of the USSR Civil Defense, Colonel-General Altunin, who took command in the fall of 1972, to the post of Deputy USSR Minister of Defense, and in the fact that since 1972 Civil Defense has been publicly ranked on a par with the other services of the Soviet Armed Forces.

The revisions introduced into the USSR Civil Defense Program since 1972, and particularly in 1973–1974, appear to reflect a new sense of urgency and of realism in the development of the Soviet war-survival capability. Currently, Soviet authorities appear willing to allocate resources at a level which appears to be appreciably higher than the estimated average one billion dollars per year of the past two decades. This is indicated by decisions to increase the rate of shelter construction and to seek to provide shelter space for all urban residents; to initiate large-scale construction of special training facilities in order to provide more effective and realistic training of the civil defense formations and of the population as a whole; to complete the equipping of civil defense formations; to carry out a complex of measures to improve the survivability of industry; and to provide advanced training for responsible civilian defense leaders. The expanding scope and increasing complexity of civil defense exercises also attest to the seriousness of the effort now being made by the authorities to raise the operational readiness of civil defense to a new and higher level.

The growing Soviet war-survival capability is evidently viewed by the Soviet leadership as being of great significance for the Soviet military position as against the U.S. The development of this capability not only accords with the Soviet views on nuclear war and strategy but, in particular, is regarded as reinforcing the credibility of the Soviet deterrence and war-fighting posture, while putting into question that of the U.S., and as providing substance for the stated Soviet claim that, if necessary, the USSR can "win" a nuclear war; and, above all, as augmenting Soviet ability to use military might as an instrument of Soviet foreign policy.

Soviet military analysts are well aware of the asymmetries in Soviet and U.S. war-survival capabilities, both in terms of the respective civil defense programs and of the relative vulnerability of vital economic regions to attack. Specifically, they point out that the present U.S. civil defense capability is "far from corresponding to the level of requirements of a modern missile-nuclear war." They stress also that in the U.S. there is "a high concentration of industry, including defense industry, in a comparatively small number of industrial centers," which "is in obvious contradiction to the requirements of a missile-nuclear war" and lends to these centers a "strategic significance, the loss of which would undermine the economic capabilities" of the U.S. in wartime and with respect to a postwar recovery. This asymmetry in war-survival capability is one of the factors which influence the Soviet belief that the "correlation of world forces" is shifting in favor of the USSR and hence one that bears importantly on Moscow's strategic and risk calculations and on assessments of the probable outcome of a nuclear war between the USSR and the United States.

The political-strategic context

Soviet active concern with war-survival capabilities as a special element of the strategic doctrine and military posture of the USSR derives from the fundamental and unchanging Soviet premise that the struggle for dominance between the communist and capitalist systems and the states belonging to them is unavoidable, irreconcilable and unrelenting, and that this struggle will, and indeed must, continue, regardless of any agreements between states belonging to the opposing sides. In his report to the 25th CPSU Congress on February 24, 1976, Brezhnev once again reiterated this Soviet view, asserting that "the relaxation [in U.S.-Soviet relations] does not in the slightest abolish, and cannot abolish or alter, the laws of class struggle."

Given this view of basic relations between the USSR and the U.S., Moscow long contended that war between opposing systems was inevitable and that the Soviet Union had to make every effort to prepare for it. With, however, the USSR's acquisition of nuclear weapons and intercontinental missiles, Khrushchev began to argue at the 20th CPSU Congress in 1956 that such a war was no longer "fatalistically" inevitable because nuclear weapons provided the Soviet Union with the means of threatening its capitalist opponents with destruction. The credibility of the Soviet deterrence posture and the utility of Soviet military power as an instrument of foreign policy became in the minds of the Soviet leaders all the greater when the USSR reached strategic parity with the U.S. and, in their view, thereby "forced" the latter to give up its attempts to deal with Moscow "from a position of strength" and to accede to the principles of detente, or rather to the Soviet concept of "peaceful coexistence." Even so, the Soviet leaders continue to take the possibility of the occurrence af war seriously, the fundamental Soviet premise being that as long as capitalism survives in the world the danger of war will persist.

According to Soviet perceptions, the change in the military-strategic balance, which in Moscow's view has been at the core of an assumed shift in the "correlation of world forces" in Moscow's favor, has altered the character of the struggle "between systems." In the Soviet understanding, the principles of "peaceful coexistence," as Brezhnev at the 25th Party Congress most recently explained, are "concerned with interstate relations" and mean "primarily that quarrels and conflicts should not be decided by war, use of force or the threat of force." At the same time, however, the Soviet Union insists that while these principles constrain the U.S. from opposing the revolutionary and national liberation movements, the Soviet Union remains entirely free to do everything it can to promote and support these by whatever means it chooses. Indeed, Brezhnev forcefully reaffirmed this Soviet view in his 25th Congress statement, asserting that "our party is rendering and will render support to peoples who are fighting for their freedom." Soviet support for these movements and for "progressive" states engaged in the "anti-imperialist" struggle, primarily against the U.S. are, therefore, seen by Moscow as an integral part of the "global revolutionary process," and are proclaimed to be "one of the paramount principles" of Soviet foreign policy.

This Soviet interpretation of "peaceful coexistence" rejects any notion of the preservation of the international political status quo. Instead, it is asserted that "peaceful coexistence," by restraining Western responses, "facilitates" the upsurge of revolutionary and national-liberation movements and their successes, and that the "relaxation of tensions" in no way implies the "inviolability" of the social-political systems in "areas remaining in the [West's] sphere of influence." According to Moscow, this fully sanctions a Soviet approach to East-West relations that is admittedly aimed at disrupting international stability and at eroding U.S. interests, influence and positions in the world. Soviet leaders argue that the policy of "peaceful coexistence" should moderate rather than increase the risk of dangerous confrontations with the U.S. However, in actual practice, according to Brezhnev, the principles of "peaceful coexistence" merely reduce "to a certain extent" the danger of an outbreak of a nuclear war. Going on the assumption that the capitalist countries, and especially the U.S., will attempt to resist communist encroachments, he has warned that, in realistic terms, "wars and acute international crises are far from being a matter of the past," and that "it would be extremely dangerous" if people came to believe that the "threat of war has become illusory."

In order to meet all Soviet political and security objectives, the Soviet leadership specifies that the USSR's military posture must provide means to deal with a broad range of contingencies. Specifically, it must provide the Soviet Union with a preponderance of military might in the "correlation of world forces" in order to facilitate Soviet advances without war, i.e., it must be able to deter the U.S. from effectively resisting Soviet encroachments. At the same time, however, the Soviet Armed Forces and the USSR as a whole must at all times be ready to wage, survive, and win a war at any level, including a nuclear war.

The fundamental Soviet view is that the better the USSR is prepared for war, the greater and more credible is its ability to deter its adversary from risking a military confrontation. This is the main reason why Moscow categorically rejects any concept of security based on a balance of "mutual assured destruction." Such a balance, Moscow says, is "inherently unstable," and the U.S. in advocating it, seeks, in effect, to paralyze Soviet foreign policy in order to deprive the USSR of the political use of its military power, and to make Moscow vulnerable to "nuclear blackmail." As against this, Soviet leaders persistently call for the "further strengthening" of Soviet military power, with the aim of achieving military superiority over the U.S. and thereby ensuring that, in Brezhnev's words, "no question of any importance in the world can be solved without our [i.e., Soviet] participation, without taking into account our economic and military might." In other words, the Soviet Union seeks to achieve such a "correlation of world forces" as to allow it to deal with the U.S. and the rest of the Free World from a position of increasingly superior strength.

While denying that war serves as a "midwife of revolution," Soviet spokesmen are highly critical of "bourgeois pacifists" who claim that nuclear war cannot be an instrument of policy and that it leads to mutual annihilation, with neither side being able to win. Soviet leaders assert that "nuclear war, like all wars" is a continuation of a country's policy and is waged in accordance with that country's political aims. As to the "no-win" argument, the Soviets do not share the apocalyptic view of nuclear war so widespread in the West. They contend that capitalists attempt to use this view "to paralyze revolutionary processes" and to prevent "progressive" changes in the non-communist world. "We are not pacifists," Brezhnev warned in January 1974 in Havana. "We do not want peace at any price." And, Moscow asserts, the USSR will not only not be deterred by the specter of nuclear war, but if one actually comes, will survive, while its enemies will be destroyed. Indeed, Soviet leaders are the only ones who publicly assert that a nuclear war can be won, and that, if such a war were to occur, the USSR will emerge as a viable state and system, and with the necessary power to impose its will on its opponents.

In their discussions of the danger of war and the need to prepare to win it, Soviet leaders make clear they have not only the U.S. but also China in mind. Nevertheless, it is obvious from Soviet pronouncements and analysis that the U.S. is perceived as the main enemy, the one capable of threatening the survival of the Soviet Union and of effectively containing its global advances. While condemning China's "war hysteria," no specific mention has been made since the late 1960's of China as a probable aggressor against the Soviet Union.

The specific rationale for Soviet war-survival capability

The Soviet leadership makes clear that it is well aware that offensive strategic capabilities aganist a strong enemy such as the U.S. do not guarantee the Soviet Union against retaliatory nuclear strikes, and that, consequently, victory is impossible without assuring the survival of the Soviet Union as a political system, a state, and a military-economic power.

Given the destructiveness of nuclear weapons, Soviet spokesmen point out that it has become necessary "to calculate more scrupulously not only the damage which could be inflicted on the enemy, but also the damage suffered" by one's own country. They contend, therefore, that no country can rationally and credibly threaten nuclear war if it accepts that such a war would be suicidal. Thus, the credibility of deterrence in the nuclear age depends not only on a country's strategic offensive capability but also on its ability to convince itself, and especially its enemy, that it can survive a nuclear war and, therefore, that it can rationally threaten to resort to war if this proves necessary.

Soviet leaders make clear that they believe that in a war between the opposing systems there will be no restraints on the weapons used by the belligerents on the targets to be attacked. They expect these targets to include not only the opponent's strategic forces and other military objectives, but also his industry, administrative, transportation and communication centers and similar resources, the destruction of which would disrupt his war effort and deny him the possibility of post-conflict recuperation from nuclear strikes. As for the USSR, Soviet leaders profess to believe the U.S. "assured destruction" deterrence posture which, according to former Secretary of Defense R. McNamara, relies on the ability to kill from one-fifth to one quarter (i.e., 51 to 64 million as of 1976) of the Soviet population and the ability to destroy at least one-half of Soviet industry, can be negated. Thus, the Soviet war-survival capability aims at frustrating the U.S. "assured destruction" posture, and thereby to deny to the U.S. an effective deterrent for any Soviet action, and the ability to "destroy" the Soviet Union in an actual war.

A basic element of Soviet military doctrine is the belief that a war between the opposing systems may become protracted and consequently that it cannot be waged and won with only the weapons and equipment in being at its start, but that additional weapons will have to be produced during the course of the armed struggle, so as to replace losses and make possible a steady buildup of military superiority in the course of the conflict and at its end. In effect, Soviet leaders believe that the Soviet Union must be prepared to wage a "broken back" war of uncertain duration. Therefore, in Soviet thinking it is essential to protect industry and the necessary labor forces not only from destruction, but also from being immobilized as the conflict develops, so as to assure continuing war production.

Given the destructiveness of a nuclear war, Soviet authorities believe that victory is impossible without a careful moral-psychological preparation of the population to withstand the rigors of the war itself and to retain its will to struggle and to sacrifice in order to ensure the defeat of the capitalist enemy and the subsequent building of a global "new society." The Soviets contend that their "socialist system" with its "Leninist way of work" gives them an innate advantage over the U.S. in this area. "The Leninist way," Brezhnev said at the 25th Congress, "is creative, alien to subjectivism, permeated with the scientific approach to all social processes. It presupposes high demands on oneself and others. It has no place for complacency, opposes any manifestation of bureaucracy and formalism." Still, Brezhnev stressed, in the same report, special educational efforts are required: "During the present period, the party organizations have devoted much effort to the cause of patriotic education of the working people, and at the same time to the strengthening of the internationalist consciousness of the masses." In this, Brezhnev added, "one has to dwell on the immense role played by the Soviet Army. Young men enter the military family without any life experiences. But when they leave the army they have already passed through the school of self-restraint and discipline . . . ."

Soviet spokesmen emphasize, however, that beyond patriotic education and discipline the hardening of morale to the point needed under conditions of nuclear war requires assurances to the population that measures are being taken to ensure its survival from enemy attacks. Hence the great concentration on the efficacy of civil defense by the massive Soviet propaganda and indoctrination mechanisms.

In view of the critical importance of a war-survival capability for deterrence as well as for war-fighting and war-winning, Soviet leaders consider it to be a "decisive strategic factor" which exerts "effective influence" on the "overall balance of forces of the belligerents in the event of a war"; all the more so under conditions of U.S.-Soviet parity in strategic offensive capabilities. With war-survival capability being viewed by the Soviet leadership as an "integral" part of the overall Soviet strategic posture and military power, its role in altering the strategic balance becomes all the greater as the superpowers negotiate arms control agreements limiting their respective offensive forces. At the same time, Soviet spokesmen argue that because the Soviet Union is, by definition, "pursuing a peace policy," its civil defense program "does not incite, does not promote, and does not provide an impetus for war," but rather "strengthens international security as a whole," and, therefore, does not violate the principle of "equal security" in U.S.-Soviet relations.

The Soviet Union does not rely on passive defense measures alone to assure the survival of the country in the event of a nuclear war, realizing that these measures can be overcome if the enemy is allowed to bring his full offensive capability to bear. According to Soviet strategic doctrine, the war survival of the Soviet Union will be assured by a combination of pre-emptive first counterforce strike, designed to "considerably weaken the enemy's means of nuclear attack," and an active anti-aircraft, anti-submarine, and civil defense. Thus, according to a 1974 statement by the Chief of the USSR Civil Defense: while the armed forces will have as their "objective to prevent the use of destructive means against the rear" of the Soviet Union by destroying the "attack weapons" before they are launched, or intercepting them "on their way to their targets," civil defense, "by carrying out protective measures and the thorough preparation of the population," will be responsible for assuring the "maximum weakening of the destructive effects" of the surviving enemy's strike forces.

JUDGE RONALD L. WALKER RETIRES

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. DANIELSON. Mr. Speaker, this coming Friday evening, July 30, 1976, many of the friends and associates of the Honorable Ronald L. Walker, bankruptcy judge, will attend a dinner at the Huntington-Sheraton Hotel in Pasadena, Calif., honoring him on his retirement.

It is hard to realize that Judge Walker has now reached the time of retirement and he will be both missed and remembered with respect and affection when he leaves the bench.

Ron, as he is best known, was born in Pomona, Calif. on November 4, 1901. Pomona was then a small village known chiefly for its oranges and its fine college.

In 1915 Ron moved with his family to Los Angeles where he attended and graduated from Los Angeles Polytechnic High School where, in extracurricular activities, he won the southern California championship in the low hurdles and was Lieutenant Colonel in the ROTC regiment. After high school Walker attended Pomona College, graduating with a bachelor of arts degree, and then attended the law school of the University of Southern California earning his juris doctor degree in 1927.

Since 1927 Judge Walker has been engaged in the practice of law and as a bankruptcy judge in the Los Angeles area an aggregate of 49 years of professional service to our community.

Among the highlights of his career were his service as Chief of the Civil Division, Office of the U.S. Attorney, Southern District of California, followed by his appointment as special master in the Long Beach Federal Savings & Loan Association case. Later, for several years, he represented the Government of Yugoslavia in a much-publicized case in which Yugoslavia was seeking the international extradition of Andrija Artukovic for multiple charges of murder. Artukovic had been Minister of the Interior in the puppet government which existed in Croatia during the dark days of World War II.

Since 1957 Judge Walker has been a bankruptcy judge and has brought honor and distinction to that office.

Judge Walker has all of the attributes and good qualities that the people want in a judge. He is not only highly intelligent and learned, but has the priceless qualities of wisdom, humility, and compassion. He has always presided over his court with consummate fairness and understanding and has thereby won, and he richly deserves, the respect, admiration and affection of all who have come before him.

As with all great men and women, Ron Walker did not do it all alone. He was lucky enough and wise enough to find and to win a wonderful wife whose good qualities match his own. Ron was married to Helen Loveland, of Loveland, Colo., and they celebrated their golden wedding anniversary on August 10, 1975. Helen was a professional educator. Ron and Helen have shared their lives together and have three fine children, Mrs. Barbara A. Wallquist, Charles E. Walker and Alan L. Walker. They have 12 grandchildren.

We are all going to miss Judge Walker on the bench, but we will always remember him as a fine judge, a gentleman and a true friend of all mankind.

RECOGNITION FOR SCHOOL VOLUNTEERS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. LEHMAN. Mr. Speaker, I am today introducing a joint resolution to recognize the contributions of school volunteers to our school and our society. My distinguished Florida colleagues, Senators LAWTON CHILES and RICHARD (DICK) STONE, are introducing the joint resolution in the other body.

School volunteer programs involve people from all facets of life, including parents, older students, senior citizens, businesses, and various civic, cultural, and other organizations. These programs often provide rich rewards for the volunteers, but it is clearly the students who benefit most.

Miami has an active and vital program, and results of studies and evaluations there demonstrate the usefulness of volunteer participation in the schools. Students working with volunteer tutors have achieved higher math and reading scores for themselves, and have actually improved faster than their untutored classmates. Individual counseling by volunteers has assisted many students in working out personal problems which have limited their potential. Community resource speakers, dealing with subjects which correspond to the regular curriculum, add a depth to the classroom experience which would be unattainable without them. And many more volunteers help in many other areas.

Millions of Americans nationwide give generously of their time and energy toward improving our school systems. This joint resolution would recognize their worth, encouraging broader citizen support and participation, and request the President to issue a proclamation recognizing their efforts and their contributions.

Mr. Speaker, the text of the joint resolution follows:

JOINT RESOLUTION

Recognizing the contributions of school volunteers.

Whereas school volunteers contribute significantly to the extension and enrichment of the education of American youth and both utilize and serve a broad spectrum of Americans of all ages, interests, and political persuasions;

Whereas there is a need and desire for continued expansion of the school volunteer movement, for continuing nationwide review and assessment of the impact of school volunteer programs, and for further study and analysis of future directions for such programs;

Whereas the recognition of the school volunteer movement would focus attention on the efforts and contributions of school volunteers for millions of Americans of all ages; and

Whereas the recognition of school volunteers would provide a basis for a continuing commitment by all interests in education to increase and protect the utilization of school volunteers in the classrooms of America; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress—

(1) recognizes the worth and contributions of school volunteers;

(2) encourages all Americans to continue and support the nationwide effort toward utilization of school volunteers, to review and assess the impact of school volunteer programs on the quality of education, and to determine further steps required to renew the commitment and dedication of each American to increasing the participation of volunteers in the educational process; and

(3) authorizes and requests the President to issue a proclamation recognizing the contributions made by the millions of Americans who are voluntarily working to improve the quality of education in the United States of America.

VOLVO BREAKTHROUGH

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. MAGUIRE. Mr. Speaker, recently our colleagues received a letter—July 23, 1976—from the Honorable John D. Dingell concerning the Volvo auto emissions breakthrough in the context of the Clean Air Act Amendments of 1976. The letter criticized California Gov. Jerry Brown's endorsement of the Waxman-Maguire amendment to section 203 of H.R. 10498, which was circulated to all Members of the House. Since the data cited by Mr. Dingell is complex and subject to misinterpretation by Congress, auto manufacturers, and the public, let us turn to the testimony of experts to clarify the feasibility of our amendment. The Volvo breakthrough merely strengthens my conviction that Detroit can simultaneously reduce auto emissions while increasing fuel economy, on a schedule that grants a delay until 1981 for compliance with Federal statutory standards now mandated for 1978.

The opinions expressed below are based on correspondence with one, Mr. Tom Austin, deputy executive technical officer, California Air Resources Board; and second, Mr. Eric Stork, Deputy Assistant Administrator for Mobile Source Air Pollution Control, U.S. Environmental Protection Agency. I am including these letters in support of my remarks; the latter will be separately submitted.

To summarize briefly, the judgments of these experts directly refute the contentions expressed in Representative Dingell's letter. A point-by-point rebuttal follows:

I. A four-cylinder Volvo that achieved a 10% gain in fuel economy despite the use of a three-way catalytic converter could have passed 1978 EPA statutory standard certification, according to Mr. Eric Stork of the EPA. Minor recalibration for CO emissions, the only pollutant to fail the test on the durability care, would have resulted in compliance with the 1978 EPA standards, according to Mr. Austin. These standards are being delayed for five years under the Committee bill, and seven years under the Dingell-Broyhill Amendment.

II. Volvo's simultaneous emissions reduction and 10% increase in fuel economy is definitely a "significant breakthrough"—it is not "exaggerated in inference." The auto manufacturers called this an impossible trade-off until last year; now it is referred to by Mr. Dingell as a "catchup." The CARB Fact Sheet clearly stated that the 10% increase in fuel efficiency was in contrast to 1976 Volvo automobiles sold in the other 49 states that do not utilize three-way catalytic converters under less stringent Federal standards. An improvement of 6–7% in mileage compared to 1976 California Volvos with emission control systems is no less significant.

III. There is no shortage of the noble metals necessary for use in the three-way catalytic converters. EPA estimates that known world reserves would last almost one hundred years even if all American cars were equipped with converters using amounts similar to Volvo's. But Englehard Industries, the domestic developer of the Volvo system, predicts that they will soon be able to reduce by half the required amount of Rhodium, leaving us with a potential two-hundred year supply. In fact, Ford's 1978 California Pinto will use less Rhodium than Volvo's 1977 car. In addition, a large reserve of Rhodium has just been discovered in the continental United States, further augmenting the available supplies, Mr. Austin has indicated.

IV. It will be unnecessary for Detroit to mimic the expensive Volvo fuel injection system to achieve emissions reductions similar to Volvo's while increasing fuel economy. Detroit possesses the capability to develop the technology at an affordable cost, but has had little incentive to do so on a nation-wide basis. Faced with the more stringent California standards, Ford Motor Company is now responding with a unique, cost-effective system. Ford's 1978 California Pinto will use a feedback carburetor that is cheaper than, but equivalent in fuel economy improvement to, any fuel injection system. Used together with the new carburetors, Mr. Stork has estimated that the entire three-way catalytic converter could add only $20–50 to the cost of a car. Any notion that U.S. manufacturers will have to use foreign technology from expensive production models is a myth.

We must maintain the incentives for Detroit to adapt to a stringent schedule for complying with auto emissions standards. In the words of Mr. Austin, "If Congress reaffirms the challenge given the auto industry in 1970, I believe you can expect developments from Detroit that will be an even better solution than Volvo's approach." A National Academy of Sciences Report (June 1975) stated that the 1978 statutory emissions standards "could and should be achieved while improving fuel economy." Volvo has already done just that in California.

The Waxman-Maguire Amendment would grant Detroit a three-year extension of the compliance timetable, postponing the target date three years until 1981. This will allow the auto manufacturers an adequate time in which to convert to production methods already planned for use in California. The Dingell Amendment would stay this date four more years until 1985, a total of seven years beyond what the National Academy of Sciences said was technically achievable!

If Volvo can do it now, should Detroit be far behind? The answer, as we have seen, is a definite NO! Let us not grant a fourth delay for the compliance date that is unnecessarily long, thereby perpetuating pollution at the expense of our air quality and our health.

Air Resources Board,
Sacramento, July 12, 1976.

Hon. Andrew Maguire,
U.S. House of Representatives,
Washington, D.C.
Attn: Steve Johnson.

Dear Mr. Maguire: Your letter of June 28, 1976 requested an analysis of the letter of the New York Times from Ronald A. Glantz on the subject of the Volvo 3-way catalyst system. The letter concluded that the 3-way catalyst system has limited applicability to the U.S. market because of claimed problems concerning compliance with EPA standards, adaptability to Vee type engines, catalyst availability, oxygen sensor life, unregulated emissions, and cost. The statements used to support the letter's position range from being false to highly questionable.

To briefly summarize our response to the claims made in the letter to the Times:

1. California Air Resources Board certification procedures are nearly identical to EPA's and the small differences which do exist in no way diminish the significance of the Volvo 3-way catalyst test results.

2. The 3-way system is equally effective on Vee type engines built by domestic manufacturers and has been shown to be effective in tests run by U.S. manufacturers.

3. World supplies of the raw materials needed for 3-way catalysts are available in sufficient quantities to allow all manufacturers to use 3-way catalysts on all of their production well into the next century even assuming no recycling and no new mining operations.

4. The oxygen sensors necessary for 3-way catalyst systems now appear to have a longer life than spark plugs (at least 30,000 miles) and are easily changed.

5. Neither normal operation nor any known "failure mode" causes any "unregulated pollutants" to be emitted from the 3-way system at levels that are hazardous.

6. The cost of the 3-way approach may be competitive with current systems because fuel injection appears to be unnecessary and the use of the 3-way approach eliminates the need for existing hardware such as air pumps and EGR valves.

The first attachment to this letter covers these points in more detail and provides specific references to substantiate my statements concerning the more significant issues such as the availability of the necessary raw materials.

I hope that my response to the criticisms of the one of the promising systems which can meet stringent emission standards will convince your colleagues to support a strong Clean Air Act. The Clean Air Act Amendments of 1970 caused incredible advancements in the state of the art in emission control technology. I personally feel that without the "push" the Congressional mandate gave the industry we would not have vehicles available today which are as clean and as economical. The 1970 amendments essentially "forced" a new technology (oxidation catalysts) to be developed which not only allowed substantial reductions in exhaust emissions but resulted in a 27% improvement in fuel economy at the same time. The dismal fuel economy performance of the 1974 model vehicles is a good example of the results of approaches to standard setting which only rely on the capability of systems which have essentially proven themselves on every possible engine configuration.

Analyses by EPA and the Air Resources Board indicate a real need for automobile emission standards at least as low as 0.41 gpm hydrocarbon and 0.4 gpm NO_x not only in California but in other states as well. Although Volvo has proven the feasibility of achieving the statutory standards with good fuel economy while using a conventional engine there is no reason to believe the same type of system used by Volvo must be used if the current statutory standards are enforced. Any notion that U.S. manufacturers will have to use foreign technology is a myth. The U.S. automotive industry has far more engineering capability than they are given credit for. The industry would prefer not to devote their efforts to reducing emissions since lower emission performance doesn't sell cars. If, however, Congress reaffirms the challenge given the auto industry in 1970 I believe you can expect developments from Detroit that will be an even better solution than Volvo's approach.

Thank you for the opportunity to comment on this issue again. If the Air Resources Board can be of further assistance to you, do not hesitate to contact us.

Sincerely,

Thomas C. Austin,
Deputy Executive Officer—Technical.

Attachments.

California Air Resources Board Comments in Response to Criticisms of the 3-Way Catalyst System

1. It has been stated that ". . . EPA disqualifies a car exceeding federal standards at any point of the 50,000 mile run" and that the California Air Resources Board (ARB)

requires only that average emission levels over 50,000 miles meet the standards. Both of these statements are incorrect. Both EPA and ARB require that the emission levels of the 4000 mile "data cars" meet the standards at 50,000 miles when multiplied by the deterioration factor established by the "durability cars" which must run 50,000 miles.

A major difference between the durability cars and the data cars is that the durability cars have the basic system to be sold but the data cars are required to be more similar to the actual production vehicles from the standpoint of test weight, calibration, etc. Compliance is based on the emission levels of the data cars adjusted by the deterioration shown with the durability cars. The only difference between the way ARB and EPA evaluate a system's performance is that EPA requires that a straight line fit through the durability car data points (by the method of least squares) never exceed the standards while ARB allows the line to exceed the standards if the calibrations to be used in production produce low enough emission levels so that the cars are projected to meet the standards throughout 50,000 miles of use. EPA does not disqualify a vehicle for exceeding the standards once during the durability test as has been claimed.

Using full EPA procedures, the Volvos would have certified at the statutory levels of 0.41 gpm hydrocarbon and 0.4 gpm Nox. The statutory CO standard of 3.4 gpm would have been exceeded by .4 gpm. It is clear from the performance of the data cars, however, that rerunning a durability car using the same calibrations used with the data cars would allow the 3.4 gpm CO level to also be met.

2. On the issue of adaptability of 3-way catalyst systems to Vee type engines, there is no reason to anticipate any significant engineering problems in this area. Volvo has, in fact, confirmed in writing (letter attached) to the ARB that they intend to certify a Vee configuration engine for 1978. At worst we expect the Vee configuration to require one additional oxygen sensor (about $5 cost to the manufacturer) and minor electronic circuitry changes.

3. Regarding the availability of noble metals for 3-way catalysts, the ARB has investigated this situation with both catalyst manufacturers and the suppliers of the raw materials. Rustenburg Mines has informed us (letter attached) that their own reserves are sufficient to supply the anticipated 1980 world useage rate for 50 years. Rustenburg would prefer to supply platinum (Pt) and rhodium (Rh) in the ratio of 1 to .055, which is the naturally occurring ratio. Both Engelhard and Matthey-Bishop have related data which indicate acceptable 3-way catalyst performance is possible with no more than this 5½% Rh content.

Concern has also been expressed over problems with Ruthenium (Ru) availability for 3-way catalysts. Many 3-way catalysts use none. Ruthenium naturally occurs at about 9% of the Platinum level and no good 3-way catalyst that the ARB has heard about uses this much.

While Rustenburg's deposits are substantial there are other sources of noble metals as well. International Nickel Company processes noble metal as a by-product of their nickel mining in Canada and the Soviet Union also processes noble metals from the same source. The most encouraging information to date, however, is that Johns-Manville has discovered a prospect in Montana. Several years' effort already expended to locate the richest deposits in the area may result in mining operations within one year according to a representative of Johns-Manville.

4. On the issue of oxygen sensor life, Volvo has recommended 15,000 mile change intervals but the same sensor is now being certification tested with 30,000 mile change intervals. Since the sensor is easily changed, intervals of this length may be acceptable but longer service intervals may be possible in the near future.

5. "Unregulated pollutants" from 3-way catalyst systems has also been discussed as a possible cause for concern. All tests indicated, however, that the 3-way system may have fewer unregulated pollutants than current vehicles or uncontrolled engines. The sulfuric acid emission levels associated with conventional oxidation catalysts are not a problem with 3-way. EPA has measured 3-way catalysts for unregulated pollutants like hydrogen cyanide and found that even when the fuel system is adjusted to fail in the "rich" mode the levels produced are not harmful. If a oxygen sensor fails or is removed from the system the fuel system becomes lean in actual use. In this case only NO_x control is lost and no unregulated pollutants present a problem.

6. The cost of the 3-way approach will probably only exceed the cost of current control systems significantly *if* fuel injection is required in which case the EPA has estimated[1] a cost of $190.00 would be typical. The use of carburetors, however, appears feasible based on preliminary tests reported by Engelhard. With the use of carburetors some cars may actually realize a cost reduction.

ASCS DISASTER PROGRAM

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. BEDELL. Mr. Speaker, I am proposing today legislation which would correct an inequity in the Commodity Credit Corporation's disaster payment program for crops, administered by the Agricultural Stabilization and Conservation Service—USDA.

The program, authorized under the Agriculture and Consumer Protection Act of 1973, covers the 1974–77 crops of feed grains, wheat and cotton. It is primarily intended to aid farmers who have obtained low yields because of drought, flood, hail or other natural disasters or conditions beyond the farmer's control.

Among other factors, these payments are based on a system of acreage allotments, established for a producer's farm by the U.S. Department of Agriculture. With my bill, I am proposing that ASCS disaster payments for failed crops be based not on allotments, but rather on the acreage actually planted.

Originally, these allotments were established in conjunction with a set aside program to cut down on crop production and allow for the absorption of enoromous surpluses.

Since 1973, the situation has changed dramatically. The message has gone forth loudly and clearly from Washington that all-out, fence-row-to-fence-row production is to be encouraged. The set aside program is no longer active.

Still, as the pressures increase to expand production, the stagnant allotment system remains as one of the major elements in determining the amount of relief a farmer can receive, or indeed, whether he will receive anything at all. in cases of crop failure.

Under the current system, if a farmer does as he has been requested and plants fence-row-to-fence-row, and in doing so plants double his allotted acres, he would have to lose about three-fourths of his crop to qualify for disaster assistance. The farmer who does not try to maximize production and plants only to his allotted acreage will qualify for aid if he loses about half of his crop.

If we are going to have a system of assistance that farmers can count on in times of humanly uncontrollable crop failure, it is necessary that such a system be consistent and fair. This is not the case with the ASCS disaster program, based as it is now, on obsolete acreage allotments.

The farmer deals enough with the vagarities of fortune—weather, rising costs of production, sinking prices in the marketplace, and even the uncertainty of whether such markets will be open to him. He should not have to cope with the sways of fortune and luck when dealing with his own Government—a government of laws and principles, not one based solely on the benevolence of men and women.

A number of flaws have been pointed out within the ASCS administered crop disaster program. Further, very basic questions have been raised as to whether this is even the wisest approach in assuring the inextricably linked viability and economic health of the farmer and the American agricultural economy.

These are serious questions which must be addressed when Congress conducts a comprehensive review of the American farm program early next year. At that time, programs will be judged on their individual merits and on their worth in combination with other programs. Until then, it behoves us to at least seek to remedy a very real injustice within the administration of crop disaster payments. This is what my bill proposes to accomplish.

The text of the bill follows:

H.R. —

A bill to amend the Agricultural Act of 1949 to provide for increased benefits with regard to disaster relief for any farmer who plants wheat, feed grains, cotton, or rice in excess of his or her allotments for the commodity

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the section 107(c) of the Agricultural Act of 1949, which applies to the 1971 through 1977 crops of wheat (7 U.S.C. 1445a(c)) is amended—

(1) by striking out "is less than 66⅔ percent of the farm acreage allotment" in the third sentence and inserting in lieu thereof "is less than 66⅔ percent of the acreage planted in wheat (or cotton, corn, grain sorghums, or barley planted in lieu of wheat)"; and

(2) by striking out the period at the end of the third sentence and inserting in lieu

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[1] Automobile Emission Control—The Technical Status and Outlook as of December 1974, Emission Control Technology Division, U.S. EPA, January, 1975. (A. $250 fuel injection system cost plus a $20 oxygen sensor cost plus a $20 catalyst premium is offset by a $40 cost reduction for deletion of EGR, a $40 cost for deletion of air injection, a $15 cost for deletion of quick heat manifolding, a $5 cost for deletion of spark retard control).

thereof the following: ", except that in calculating the amount of the payment for any producer receiving benefits under this sentence the Secretary shall use the amount of the acreage planted in wheat (or cotton, corn, grain sorghums, or barley planted in lieu of wheat) in lieu of the farm acreage allotment.".

SEC. 2. The section 105(b)(1) of the Agricultural Act of 1949 which applies to the 1974 through 1977 (7 U.S.C. 1444b(b)(1)) crops of feed grains is amended—

(1) by striking out "is less than 66⅔ percent of the farm acreage allotment" in the fifth sentence and inserting in lieu thereof "is less than 66⅔ percent of the acreage planted in feed grains (or wheat, or cotton planted in lieu of the allotted crop)"; and

(2) by striking out the period at the end of the fifth sentence and inserting in lieu thereof the following: ", except that in calculating the amount of the payment for any producer receiving benefits under this sentence, the Secretary shall use the amount of the acreage planted in feed grains (or wheat, or cotton planted in lieu of the allotted crop) in lieu of the farm acreage allotment.".

SEC. 3. Section 103(e)(2) of the Agricultural Act of 1949 which applies to the 1971 through 1977 crops of upland cotton (7 U.S.C. 1444(e)(2)) is amended—

(1) by striking out "is less than 66⅔ per centum of the farm base acreage allotment" in the third sentence and inserting in lieu thereof "is less than 66⅔ per centum of the acreage planted in cotton"; and

(2) by striking out the period at the end of the third sentence and inserting in lieu thereof the following: ", except that in calculating the amount of the payment for any producer receiving benefits under this sentence, the Secretary shall use the amount of the acreage planted in cotton in lieu of the farm acreage allotment.".

SEC. 4. Section 101(g)(4) of the Agricultural Act of 1949 which applies to the 1976 and 1977 crops of rice is amended—

(1) by striking out "is less than 66⅔ per centum of the acreage allotments of producers on the farm or of the farm acreage allotment" in the fourth sentence and inserting in lieu thereof "is less than 66⅔ per centum of the acreage planted in rice"; and

(2) by striking out the period at the end of the fourth sentence and inserting in lieu thereof the following: ", except that in calculating the amount of the payment for any producer receiving benefits under this sentence, the Secretary shall use the amount of the acreage planted in rice in lieu of the farm acreage allotment.".

SEC. 5. The amendments made by this Act shall apply beginning with payments made with regard to the 1976 and 1977 crops.

SUPPORT OF H.R. 8401—NUCLEAR FUEL ASSURANCE ACT

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. DICKINSON. Mr. Speaker, over the past few weeks much misleading and factually incorrect information has been circulated in opposition to H.R. 8401, the Nuclear Fuel Assurance Act. In an attempt to correct the false impressions that might have been generated by these letters, I have circulated a "Dear Colleague" letter and a factsheet which addresses some of the more serious allegations.

I strongly support the Nuclear Fuel Assurance Act and I urge my colleagues to support the bill as unanimously reported by the Joint Committee on Atomic Energy and to defeat any crippling amendments which might be offered to negate the reason the bill exists—to allow private enterprise to finance, build and operate the next increment of uranium enrichment capacity.

At this point I insert the factsheet which I prepared that corrects many of the allegations made concerning the bill:

NUCLEAR FUEL ASSURANCE ACT FACTSHEET

Allegation: The Act proposes massive federal guarantees and subsidies (up to $8 billion) to private industry, thereby shifting the risk for these ventures to the taxpayer.

Fact: The Act provides no subsidies to private industry for construction of enrichment plants. However, the Act does provide guarantees that the enrichment technology which has been previously held by the government will work. Would you buy a new car without a warranty from the dealer?

The taxpayer will not bear any of the burden for construction of the facilities. In fact, the Act provides a mechanism for relieving the taxpayer of the burden of financing additional enrichment facilities. In the unlikely event that private industry did not build the next increment of enrichment capacity, then—and only then—would there be a drain on the federal treasury.

And, in the extremely unlikely event that the government had to take over ownership of the plant being built to government standards and processes, it would only have to incur approximately 40% of the cost of the plant.

Further, the Act provides for general reimbursement to the federal government, on a royalty basis, for use of the government-owned technology. The proposed contract by Uranium Enrichment Associates (U.E.A.) with the Energy Research and Development Administration (ERDA) would result in approximately $2.7 billion in federal tax revenues over 25 years; approximately $400 million in royalty payments to the federal government over 17 years; and some $460 million to state and local governments from ad valorem taxes, sales taxes and other returns over 25 years.

Allegation: The Act, through authorization of both the government "add-on" at the Portsmouth enriching facility and additional private facilities, would result in a huge excess of enriching capacity by 1985.

Fact: At the present time, the government-owned enrichment facilities have contracted for more enrichment services than they can economically produce through at least 1985. In order to meet growing demands for contracted enriching services, ERDA is now forced to operate its facilities at an uneconomical level, putting additional pressure on the supply of uranium and thus depleting a very precious natural resource.

The government "add-on" will only enable ERDA to meet current demands at an economic optimum. Additional necessary enriching capacity will have to come from the private sector under contracts approved by the Congress.

The Joint Committee on Atomic Energy in its unanimous report of this bill found that: ". . . current estimates are that the United States will require for domestic needs added enrichment capacity by the year 2000 equal to six to nine plants of a size comparable to any of the three existing plants, and that added capacity for the total market, foreign as well as domestic, served by the United States will equal nine to 12 similar size plants."

Allegation: The projected 60% foreign ownership of the private facility means that secret technology will "leak" into the hands of foreign nations, some of whom have not signed the Nuclear Nonproliferation Treaty.

Fact: The Atomic Energy Act of 1946, of which the Nuclear Fuel Assurance Act will become a part, provides stringent restrictions against dissemination of sensitive technology, as well as other restrictions designed to protect U.S. interests. The Joint Committee on Atomic Energy, which will review and approve or disapprove each contract proposed by ERDA, stated in its report on this Act that it will require many safeguards as part of the contract.

Additionally, foreign investors will only be buying fuel source for their power plants, not access to technology.

As for nuclear proliferation, failure by the U.S. to provide significant additional enrichment capacity will do great harm to our efforts to control the spread of nuclear weapons and accelerate competing enrichment capacity in many nations. Failure for the U.S. to maintain the lead in enriching technology would cause a further decline in U.S. economic and world trade position in the vital energy and natural resource areas.

Allegation: The Act will retard technological advances in commercializing centrifuge enrichment plants.

Fact: This statement is totally false! The Act will provide the first opportunity for multiple ventures utilizing the centrifuge process on a commercial scale. Indeed, ERDA is presently reviewing three proposals for private uranium enrichment, using the gaseous centrifuge technology. Unless this bill is passed, ERDA will be unable to enter into contracts with these companies. Failure to pass this Act will prohibit further development of a private uranium enrichment industry. On the other hand, passage of this Act clearly provides a mechanism for bringing the centrifuge technology, which has until now been strictly a government development program, into the private sector.

Allegation: The Nuclear Fuel Assurance Act would require the federal government to raise the prices on its own enriched uranium resulting in higher electricity prices.

Fact: The fact that ERDA has planned to increase its price for enriched uranium is coincidental to and not a result of the Nuclear Fuel Assurance Act since ERDA has considered a price increase for some time. The capacity for enriching in the existing production facilities is currently sold out and any enriching services supplied from the "add-on" will cost significantly more than those services from existing facilities. Additionally, the current pricing structure does not reflect such important cost elements as taxes, insurance and return on equity. Thus, the current price, while based on full recovery of cost including contingencies, does not fully reflect a private market place. The upward revision in price will remove a subsidy to foreign and domestic enriching customers, as well as reflect the higher construction and operating costs associated with the "add-on" facility.

Allegation: The cost of enrichment is a substantial portion of the total cost of generating electricity.

Fact: Approximately 5% of the cost of nuclear generated electricity is related to the nuclear fuel, and only 30% of the fuel cost is due to the enrichment of the fuel, a net of 1.67%. If the commercial charge is 30% greater than the ERDA charge now in effect, the impact on the consumer from an all-nuclear utility would be one half of one percent. Because there are no utilities more than half nuclear, the maximum impact on the consumer would be negligible.

Allegation: The Act offers no firm guidelines to ERDA for contracting with private parties; Congress will be acting "after the fact" in reviewing contracts already negotiated by ERDA.

Fact: On the contrary, the Act is quite specific in setting forth the framework within which the Administrator of ERDA may structure cooperative agreements with private industry. Further, the act specifies that the Administrator must submit any proposed agreement to the Joint Committee for review; subsequent to such review, the Joint Committee will submit its recommendations to both Houses for concurrent resolution. The Act thus sets forth, within the specific framework for contracting, a "check and balance" system for Congressional overview and approval or disapproval of each specific proposed contract.

Allegation: Passage of the Nuclear Fuel Assurance Act will divert attention from other energy sources.

Fact: Congress cannot ignore or exclude any potential energy source if it intends to attain the goal of energy independence. Nuclear energy is a necessary component of that goal and passage of the Nuclear Fuel Assurance Act is an essential step in its realization.

PHILIP EUGENE HOWARD

HON. DAVID E. SATTERFIELD III

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. SATTERFIELD. Mr. Speaker, a terrible accident occurred during the congressional recess which cost the veterans of this country and me a valued friend. All of us who knew Philip Eugen Howard were stunned to learn of his tragic death. In the world of veterans affairs everyone knew Gene Howard, and all who knew him admired him and had great respect for him.

A veteran of service in the Army, Gene, was himself a disabled veteran. On returning to his native Virginia at the close of his military service, he soon allied himself with the national veterans' organization AMVETS and rose to be their executive director in the Washington office. There, he was in the forefront of the move to establish and improve many veterans programs. He was largely responsible for establishing the annual AMVETS award, the Silver Helmet Award, which recognized distinguished Americans committed to helping war veterans and their families.

After leaving the AMVETS in 1962, Gene was chosen by the Republic of South Korea to establish for that country a department of veterans' affairs patterned after our own Veterans Administration. In 1964 Gene was appointed Special Assistant to the Administrator of Veterans' Affairs, William J. Driver. For 4 years in this position, he was a most valuable assistant helping the Administrator advance the cause of veterans and their dependents in many ways. He was recognized by the Members of Congress and by all national service organizations as one who could get the job done for veterans. He enjoyed the confidence and was privileged to work with President Lyndon B. Johnson and his administration in providing a better life for all veterans. During this period, he worked closely with the White House staff, Members of the Congress and particularly with the Veterans' Affairs Committee.

Gene joined the staff of the Committee on Veterans' Affairs in 1968, and it was during these latter years that I knew him best. His specialty was in hospitals and health care programs. As chairman of the Subcommittee on Hospitals, I worked very closely with Gene. I have seen his industry and perseverance in developing the facts necessary for the committee to move forward in enlightened legislative programs for veterans and for their dependents. No job was too tiring, no task too difficult, and no assignment ever came at an inopportune or unacceptable time. He was dedicated to his service to the committee and all veterans. I learned to rely on his sound judgment, upon his never failing compassion, to assist me in developing legislative recommendations and in pursuing the long and sometimes tedious road through law required to bring new or improved benefits to veterans and their families.

Mr. Speaker, Gene was a very private man, yet a warm and sensitive man. He was a man of compassion. He loved his country, his family and his friends. In his passing, Mr. Speaker, I have lost a valued coworker and a personal friend. We all miss him. I extend to his wife Beverly and to their fine children my deepest sympathy during their time of bereavement.

SUNSET LEGISLATION

HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. EVANS of Indiana. Mr. Speaker, I would like to call attention to legislation which I believe warrants immediate consideration by this Congress. This legislation commonly referred to as "sunset" will expose the burdens caused by the runaway bureaucratic state of our Federal regulatory agencies. Two bills which I have cosponsored, H.R. 9125, the Regulatory Agency Self-Destruct Act and H.R. 12055 the Government Economy and Spending Reform Act of 1976, will effectively work toward revealing and then solving the burdens these agencies place on our citizens. Both bills initiate a process by which Congress can control Federal spending by eliminating duplicative and outdated governmental agencies and by evaluating their general performance.

The passage of some form of sunset legislation is important to assure that Federal agencies will once again be more responsive to changing conditions and to the needs of the public. Mr. Speaker, "sunset" legislation will do this for instance by exploring the administrative efficiency of each agency. Federal agencies are commonly plagued by delayed handling of the consumers' needs. I believe that Congress owes it to the taxpayers to see that their money is spent in securing the most efficient management in Federal agencies.

Another problem area that "sunset" legislation will focus on is the relationship between regulator and regulatee. Mr. Speaker, Federal regulation effects numerous facets of our everyday lives. For this reason, I encourage periodic review of Federal agencies to guard against Federal regulation that is in the interest of the industry, rather than in the public's interest. I believe that "sunset" legislation can discourage agencies from depending on the regulated industry for information needed to make their policy decisions.

Mr. Speaker, passage of "sunset" legislation is needed to because review of agency procedures can reveal when consumers are being unjustifiably burdened economically. The periodic review of Federal agencies proposed by "sunset" legislation will alert Congress when monopoly is encouraged at the expense of free competition in an open market. Federal agencies, Mr. Speaker often serve as economic mediators for the industries they regulate. Commonly, Federal agencies determine which competition will enter the marketplace, along with the product or services they offer and the rates they charge. I believe "sunset" legislation will protect the citizen from the potential high costs of a monopoly by stimulating and preserving our free market. The evaluation of an agency's performance is also vital to prevent policies contributing to inflation. A prime example of this area is transportation. Mr. Speaker, CAB has judged who will compete in interstate airlines and with what features. Perhaps we should begin to question for example why a flight from Washington, D.C. to New York should be more than a flight from Los Angeles to San Francisco. "sunset" legislation would allow exploration of such an issue along with exploring those policies that are inflationary.

The evaluation of Federal agencies is vital to eliminate those agencies that have outlived their purpose. It has been reported that employees remain on the Federal payroll essentially without a job.

Mr. Speaker, the reorganization regulatory agencies has been the concern of most administrations since the New Deal era. However, today we need to go beyond executive studies to positive steps of action. I believe "sunset" does just this by creating a method to review the efficiency of Federal regulatory policies and procedures. Since Congress created these agencies and vested authority in them, Congress has an obligation to guarantee their effective operation. I believe H.R. 9125 and H.R. 12055 can help encourage free competition among industries while also protecting the public from unfair business practices.

SAM LOVEJOY: ADVOCATE OF NUCLEAR SABOTAGE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. McDONALD. Mr. Speaker, in February 1974 Samuel Holden Lovejoy cut the guy wires supporting a $50,000 weather tower which was part of a nuclear powerplant under construction in Montague, Mass. Lovejoy, a leader of the environmentalist and antinuclear group called nuclear objectors for a pure environment—NOPE—who lives on an organic farming commune which once served as the headquarters of the revolutionary Liberation News Service, surrendered to police, confessed his act of sabotage and went to trial. During the trial Lovejoy freely admitted his destruction of the tower. Lovejoy's action was supported in court testimony by a number of radical "antiwar" and environmentalist witnesses.

After a 7-day court proceeding during which Lovejoy argued that his sabotage had been committed in the "public interest," the judge directed acquittal on grounds of a faulty indictment. Lovejoy then triumphantly told the press:

> The publicity * * * was a great victory, and we've entered the issue of civil disobedience into the environmental movement.

Lovejoy has since been working to build an antinuclear power alliance among radical Marxists, leftist pacifists, and ecology groups across the country. Some of these groups have previously engaged in "civil disobedience" tactics. To Lovejoy and his allies, civil disobedience means deliberate violations of the law including the destruction of property.

Lovejoy has sought to build his "direct action" coalition from groups including Ralph Nader's Critical Mass, the War Resisters League and Women Strike for Peace.

Lovejoy has described his activities on behalf of the recently defeated Nuclear Safeguards Initiative in California in an article published in the July/August, 1976 issue of Grass Roots, the newspaper of the People's Party.

Lovejoy clearly expresses his rejection of the constitutional electoral process for making changes stating "anyway, commonsense and political reality both say you do not change basic policy of capitalist America through simply tossing a piece of paper in a ballot box."

Lovejoy proceeds to describe a meeting of Project Survival, the principal California anti-nuclear organization at which he advocated in plain terms sabotage of nuclear plant facilities—and shockingly claims to have received approval from his audience:

> I gave a talk in San Luis Obispo, where the Diablo Canyon "twin" nukes are just about ready to start up, and of the roughly 150 people attending, the majority were over 50 years of age. * * * first I suggested that a big demonstration and sit-in at the plant gates might stop the workers, or maybe a fuel shipment from entering * * *. Then I blurted out what was honestly in my head. "If I lived here, and was afraid for the life of my community, and thus decided to stop the plant's operation (and yet I couldn't actually tamper with the nuclear machine itself), the only way was to make the machine useless by 'cutting the umbilical cord" * * * then almost the entire crowd was on its feet applauding!
>
> The message is simple: straight people can be educated to nuclear power's danger—but liberal solutions just don't match the gravity of the situation. * * * So there I was suggesting sabotage of the nukes' transmission lines (with a P.G.&E. representative there!) and concerned citizens with little prior knowledge or experience in direct political action were enthusiastically responding.

The question, says Lovejoy, is where the nuclear movement goes from here.

FCC STUDY OF PRO FOOTBALL "BLACKOUT LAW" IS A TRAVESTY AND ONLY SEEKS TO RATIONALIZE GOVERNMENT INTERVENTION AND CONTROL OF PRIVATE ENTERPRISE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. KEMP. Mr. Speaker, sports—both amateur and professional—have been highly successful in large measure because they have not been subject to the burden of Government intervention and regulation which affect nearly all other segments of our society. Sports—by definition—rest on abilities to compete—player against player and team against team. The maintenance of this competitiveness—arising from the aspirations of players, coaches, and teams— has been a constant preoccupation within sports. It is this spirit of competition—and the means of assuring it—which could be seriously impaired by Government intervention. The bureaucrats at the FCC see it differently of course and seek to perpetuate Government control over private enterprise.

In recent years Government has become more involved in sports, and I think we have to be cautious about any extension of that involvement. An example of this is the decision now before a conference committee either to extend the present blackout law or to make it permanent.

It is my understanding that the conference committee is considering reporting a permanent blackout bill, primarily on the basis of a staff report prepared by the Federal Communications Commission, a report whose validity is being increasingly brought into question.

A revealing editorial in the Sporting News of July 10 highlights what is wrong with this staff study, showing rather convincingly that it ought not to be the basis for any serious decisionmaking. I intend to read that editorial into the RECORD in a moment, but I think the members of the conference committee would not be sacrificing any policy goals by simply extending the present law for another year or two. A decision to make it permanent ought to rest only on the strongest factual information, and the FCC study gives us little of that. I would hope that this is what the conference committee will do and thus reject this biased and totally irrational attempt to do to pro football what the ICC has done to the railroads.

The editorial follows:

> BIG BROTHER AGAIN
>
> From time to time there are calls for a national sports czar or a federal sports commission to oversee the management of professional sports in this country.
>
> If anyone has any doubts that ill effects would follow if such proposals were enacted into law, we recommend they read the Federal Communication Commission's "Report on the Effects of the Sports Anti-Blackout Law," most of which concerns the National Football League.
>
> As a masterpiece of bureaucratic gobbledygook, the FCC treatise is in a class by itself. Prepared by a young man not too long out of college, the report contains mathematical equations so involved and complex that congressional staff committee members are said to have been unable to understand them and forced to await the author's return from vacation for an interpretation. It really doesn't matter because one distinguished mathematics professor has termed the equations unworkable in an attempt to put emotional factors into a computer.
>
> The FCC presentation runs 293 pages plus two appendices and contains such profound (for the bureaucrats) statements as, "Baltimore fans tend to stay at home when it rains," and "Buffalo fans are more likely to stay at home when the weather is cold."
>
> It also informs us that "Buffalo fans appear to be more interested in getting into the playoffs instead of seeing their team win particular games." How a team can get into the playoffs without winning games is a question left unanswered by the great brains in Washington.
>
> The report makes the inference that a contributing reason for no-shows at sellout games in Buffalo is the fact that many people there don't know where the stadium is located. Now we've heard a lot of bad things about Buffalo, but the idea that the local citizenry can't find its way to a game after purchasing tickets for said game strikes us as absurd.
>
> The FCC claims the law "has had a positive impact on season ticket sales." Since season ticket sales throughout the NFL declined by more than 70,000 in 1975, and the prognosis for 1976 indicates a continuing decline, we can only assume that, when the government talks of a "positive impact," the purpose of the law must be to reduce the number of buyers of season tickets.
>
> In 1973, there were 109 NFL games televised locally because the games were sold out. The figure dropped to 86 in 1974 and 75 last year. That, as even government economists can see, represents a decline in the number of sellouts in the league.
>
> What we have here, then, is a dropping off of season ticket sales and sold-out games. We hardly think that's a good business trend and we're afraid it's typical of what happens when Big Brother intrudes in areas which may not be the legitimate concern of government.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1976

Mr. MAZZOLI. Mr. Speaker, due to responsibilities in my district I was not present to vote on certain matters coming before this body on Thursday, July 22, 1976. Had I been present I would have voted as follows:

Rollcall No. 537, an amendment to H.R. 13777, the Federal Land Policy and Management Act of 1976, "no."

Rollcall No. 538, a motion to recommit H.R. 13777, "no."

Rollcall No. 539, vote on final passage of H.R. 13777, "yea."

HOUSE OF REPRESENTATIVES—*Thursday, July 29, 1976*

The House met at 10 o'clock a.m.

Rev. Bryant C. Wilson, First Baptist Church of Pacific Beach, San Diego, Calif., offered the following prayer:

O God, King of Glory, blessed be Your name forever.

We ask You to be present this day in the affairs of our country, in the deliberations to be made by these men and women chosen to lead us.

Lord, may You grant us forgiveness of our failures, both personal and national, and may You bestow to all our leaders the wisdom to legislate with justice and mercy. And, O Father, where human laws are powerless, may Your spirit prevail, that we, the individuals comprising this Nation, might love one another.

In the name of Jesus we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries.

REV. BRYANT C. WILSON

(Mr. BOB WILSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB WILSON. Mr. Speaker, this is a very proud day, one of the proudest days of my life.

Mr. Speaker, I just want to say that this not only is a great day for me, but I know it is a great day for my son. He served as a page in this House 11 years ago and got to know the Speaker and the majority leader and many Members who are still here from that time.

He is now the associate pastor of the First Baptist Church at Pacific Beach, Calif. He has done a magnificent job in working with young people.

I must say, I at first tried to dissuade him from going into the ministry, because I told him he might starve but he said, "I'm not worrying about starving." He said, "I want to work with young people. They need help," and he is certainly doing that in his ministry.

I thank God we have young people like this. I want my colleagues to meet him in the next few moments, if they can.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BOB WILSON. Mr. Speaker, I must say before yielding, that there are many pages that have gone on to honor and distinction. We have some in the House. For example, the gentleman from Michigan (Mr. DINGELL) is a former page, as is the gentleman from Maryland (Mr. BAUMAN), my son's former boss, to whom I now yield.

Mr. BAUMAN. Mr. Speaker, I want to acknowledge and welcome my former page colleague, the Reverend Mr. Wilson. We are all happy to have him in the House today. His presence proves that some former pages go on to know and love and serve the Lord and do great things, and others become Congressmen.

PERMISSION FOR SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION, OF COMMITTEE ON EDUCATION AND LABOR TO SIT DURING 5-MINUTE RULE TODAY

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor be permitted to continue its prescheduled hearings during the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Florida assure us that there will be no markup during the hearings?

Mr. LEHMAN. There will be no markup, just simple testimony and hearings.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROPOSED RESCISSION IN BUDGET AUTHORITY APPROPRIATED TO LEGAL SERVICES CORPORATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–569)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $45 million in budget authority appropriated for payment to the Legal Services Corporation.

Approval of this rescission proposal will reduce Federal spending by $45 million over 1977 and 1978. The proposed rescission would prevent unneeded expansion of Legal Services Corporation activities and delay greater geographic coverage until program evaluations are completed.

The details of the proposed rescission are contained in the attached report.

GERALD R. FORD.

THE WHITE HOUSE, *July 29, 1976.*

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 566]

Abzug
Ambro
Andrews, N.C.
Ashley
AuCoin
Badillo
Brooks
Burke, Fla.
Burton, John
Chisholm
Clay
Conyers
Cotter
Crane
Dellums
Dent
Diggs
Dodd
Drinan
Du Pont
Eckhardt
Edwards, Calif.
Esch
Eshleman
Fascell
Fountain
Gaydos
Hansen
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Heinz
Helstoski
Hightower
Hinshaw
Jones, Ala.
Jones, Tenn.
Landrum
Leggett
Levitas
Litton
McCollister
Matsunaga
Melcher
Minish
Mosher
O'Hara
Passman
Peyser
Rees
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Scheuer
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Thompson
Thone
Udall
Ullman
Van Deerlin
Wiggins
Wright
Wydler
Young, Ga.
Young, Tex.
Zeferetti

The SPEAKER. On this rollcall 358 Members have recorded their presence by electronic device, a quorum.

By unanimous consent further proceedings under the call were dispensed with.

REQUEST FOR PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman tell us what report the Committee on Rules intends to file.

Mr. PEPPER. If the gentleman will yield, yes. It will be on H.R. 11552, the Voter Registration Act, reported by the Committee on House Administration, which the Committee on Rules will take up today.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

RELATIVE TO INVESTIGATION OF A COMPLAINT AGAINST REPRESENTATIVE ROBERT L. F. SIKES

Mr. FLYNT. Mr. Speaker, I offer a privileged resolution (H. Res. 1421) relative to the investigation of a complaint against Representative ROBERT L. F. SIKES, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1421

Resolved, That the House of Representatives adopt the report of the Committee on Standards of Official Conduct, dated July 23, 1976, on the investigation of a complaint against Representative Robert L. F. Sikes.

The SPEAKER. The gentleman from Georgia (Mr. FLYNT) is recognized for 1 hour.

Mr. FLYNT. Mr. Speaker, for the purpose of debate only, I yield 20 minutes to the gentleman from South Carolina (Mr. SPENCE) and, for purposes of debate only, I yield 20 minutes to the gentleman from Florida (Mr. SIKES). Pending that, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1421 is a one-sentence resolution which, if adopted by the House, would approve House Report 94–1364, the report of the Committee on Standards of Official Conduct on the investigation of a complaint against Representative ROBERT L. F. SIKES.

The report was filed on July 23, 1976, and has been available to all Members since Monday, July 26, 1976. A summary of the committee's findings and conclusions appears in the first five pages of the report and is fully documented and supported in the remaining pages. The report was approved by the committee by a vote of 10 to 2 with all members of the committee being present and voting. The dissenting views of Representative HÉBERT are included in the report.

Mr. Speaker, the committee conducted this investigation in an atmosphere of total objectivity and with the determination to be thorough and to be eminently fair.

The thrust of the report essentially consists of findings of facts, conclusions, and recommendations. The latter two—the conclusions and the recommendations—are necessarily the result of a decisionmaking process by the committee. The findings of fact, however, are not subject to a judgmental decision or decisionmaking process; they are established by the record. An outstanding American jurist once wrote that any individual has a right to be wrong in his opinions or his conclusions, but no one has the right to be wrong in his facts. This committee believes that the findings of facts set forth in the report are totally accurate and are supported by clear and uncontradicted documentation.

Mr. Speaker, service on the Committee on Standards of Official Conduct is not an easy or a pleasant assignment, yet there is a responsibility which must be met and duties which cannot be shirked. It is never pleasant nor enjoyable to sit in judgment on one's peers. However, the House of Representatives has constituted this committee and given it a charter and a mandate. The committee is frequently confronted with complaints, inquiries, and requests for advisory opinions. This committee responds to all such complaints, inquiries, and requests. Frequently the persons and organizations do not agree with the answers, responses, and the results of committee actions. This committee does its best to follow the rules of the House and to act accordingly. The committee also seeks to interpret such rules in the most judicious manner possible, consistent with precedent, sound judgment, and commonsense.

This committee is not going to be a part of a lynch mob. We are not going to substitute persecution for factfinding and decisionmaking. We shall seek to avoid a prosecutorial role; at the same time we have no bucket of whitewash and no brush.

There has been some comment that the committee stands between a rock and a hard place because it cannot investigate the actions of its peers without incurring their sharp displeasure. The committee cannot fail to pursue every trail which might lead to disclosure. Granted that there is some truth in that bifurcated threat, there is more to serve the spirit of disquietude than this. It is that unless one actually serves on the bench, he prefers not to play the role of a judge.

The point is not, as in the case of litigation, whether anyone has violated a structure of the law; the question is whether by dent of motivation, spirituality, and social dedication one has adhered to the principles of public trust and leadership. Unfortunately, it cannot be said of us what was written of the great Pericles in Greece in the 5th century B.C. They said of him:

> His self-possession was never lost. His dress and grooming were never disordered but always immaculate. His language was ever-studied and measured. Every time he spoke he offered up a prayer to heaven that no word might escape his lips which he would wish unsaid, that no act or deed would be done which he wished undone.—"A Brief History of Ancient, Medieval and Modern Peoples." A. E. Barnes and Co., 1883.

Government, business, the professions, the media, and labor are all having trouble with ethical stewardship on the part of leaders. For that matter, the stain runs through our social structure from bottom to top. There is no excuse for malfeasance. Wrongdoers know they are wrong. Wrong is wrong if everyone is wrong, and by the same token, right is right if no one is right.

The late Supreme Court Justice Robert Jackson wrote in the "Gifford Lectures" delivered to Harvard Law School that there is such a thing as universal law. All men know the difference between right and wrong.

The Communists in the Soviet Union deny to others justice and mercy in their courts, but in our courts and in the courts of public opinion, the first demand that they make is for the same justice and mercy that they deny to others.

The key problem for this committee is to know where to start and where to stop. Nevertheless, without fear, favor, affection, reward, or the hope thereof, it is our duty and our intention to give to the problems at hand the very best attention that we can. If there is a question to be raised with reference to performing one's duties it shall not be leveled at this committee. Our actions shall leave no lingering or malingering doubts. Additionally, it must be said that in this era of carnival and circus, the committee has no intention to dramatize evil for the unsated appetites of writers, or readers, broadcasters, or listeners. Our only aim is to accomplish what the concerned citizens of the United States of America desire and deserve. We can only have an enduring Nation for the people if the leaders elected by the people are the very best of the people.

I realize that in matters such as this there will be differences of opinion as to the conclusions at which the committee arrived and that no report of this nature will be satisfactory to everyone. There may be some who feel that the conclusions and recommendations of the committee are too harsh; others may feel that they are too mild. But the recommendations of the committee contained in the report were arrived at after thorough investigation and careful deliberations and lie between those two conflicting points of view.

On two of the matters brought before the committee, the committee recommends a reprimand and has provided in the report that the adoption of House Report No. 94–1364 will constitute such reprimand. On the third charge brought, the committee dismissed that charge based upon the doctrine of the statute of limitations in law, and the doctrine of laches in equity.

Mr. Speaker, no Member of this body will envy me this duty I now perform. Indeed, no reasoning person at all will be unsympathetic toward the great struggle one must face when he passes judgment upon his peers.

The report before us now was arrived at not without that struggle. It was arrived at with humility and with great respect for all that it means for now and for the future.

Mr. Speaker, I urge the adoption of House Resolution 1421 and I reserve the balance of my time.

The SPEAKER. The gentleman from Georgia (Mr. FLYNT) has consumed 10 minutes.

The gentleman from South Carolina (Mr. SPENCE) is recognized for 20 minutes for purposes of debate only.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur in the remarks of my good friend, Mr. FLYNT, the distinguished chairman of the Committee on Standards of Official Conduct.

The responsibilities assumed by your committee in connection with this case were not taken lightly. We spent many days agonizing over this matter, and our consideration of the evidence was painstaking. The conclusions contained in the committee's report were not hastily drawn, but represent many hours of careful deliberation.

Our task was not an easy one. Your vote today will not be an easy one.

As the chairman has pointed out, the resolution on the floor calls for the formal adoption of the report before you, along with the findings and recommendations included therein. I believe that the action called for is fair, judicious, and fully consistent with the evidence.

Mr. Speaker, I join with the chairman in urging adoption of this resolution.

Mr. Speaker, I have no further request for time, and I reserve the balance of my time.

The SPEAKER. The gentleman from South Carolina (Mr. SPENCE) has consumed 2 minutes.

The gentleman from Florida (Mr. SIKES) is recognized for 20 minutes for the purposes of debate only.

Mr. SIKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I took the same oath at the beginning of this Congress that all other Members took. I have taken it many times—more than most of the Members of this body. Not once have I taken it lightly. Always it has been in good conscience. Never in the conduct of my responsibilities as a Member of the House have I knowingly failed to uphold the traditions of this great deliberative body, an institution which I love and one where I have spent more than half of my life.

The House is now asked to approve a report of the Committee on Standards of Official Conduct which recommends a reprimand. This action is disappointing and, in my opinion and in the opinion of others, it is unjustified. I am glad that the report states that I violated no law and did not attempt to conceal my business dealings. All of those dealings have been in my own name and on public record. They are minimal in extent, taking place over a period of 40 years in public life.

I was denied even the basic constitutional rights to due process which our system of justice requires be given to those who are accused. Neither my attorney nor I was given an opportunity to hear the evidence which the committee's investigation had gathered. Nor was my lawyer given the opportunity to present any argument whatsoever in my defense. We requested both of these rights but they were denied. The committee, behind closed doors, listened to a one-sided presentation of so-called evidence with no opportunity on our part for rebuttal. During this closed-door session, the committee heard charges outside the formal compaint made by a nameless, faceless accuser not under oath, which to this very day we have not been given the opportunity to hear or see.

The delays and leaks which have accompanied the investigation by the Committee on Standards of Official Conduct also are very disappointing. A very distinguished Member of the House and of the committee, the Honorable F. EDWARD HÉBERT, has stated in the committee's report in this connection:

> I am also most concerned about the manner in which the entire investigation was conducted—an investigation which should have been concluded quickly instead of being dragged out for months. The investigation, in my opinion, was not conducted in an objective vein, but on an adversary basis in an effort not to get the facts but to prove Congressman Sikes guilty of charges made by an organization which formally withdrew its alleged charges when the Committee went into executive session.

He continues:

> I find shocking, reprehensible, and most embarrassing the recent leaking to the news media of the actions which took place during an executive session of the investigation of Congressman Robert L. Sikes by the Committee on Standards of Official Conduct.

The delays and leaks which have occurred, even if planned and deliberate could not have been more damaging to me or more beneficial to the purposes and plans of those who initially sought the inquiry—plans not remotely associated with justice or facts. The committee seeks to reprimand me because I owned small lots of stocks not reported to the House. Apparently the committee gave little or no consideration to motive or to extenuating circumstances.

First the matter of motive: The Fairchild stock was purchased to show appreciation for the location of a plant in my district which employed my constituents. I announced at the groundbreaking for the plant my intention to purchase the stock to encourage local support for a local project. The amount of stock was minimal—from 500 shares to a maximum of 1,800 shares out of a total of 4½ million shares issued by Fairchild. I lost money on the investment. Failure to report was an oversight—nothing more.

On the First Navy Bank, it was my interpretation, concurred in by counsel, that reporting was not required because First Navy was a State-chartered bank. We did not understand FDIC to be constituted as a regulatory agency. The decision of the chairman of the committee that FDIC is considered a regulatory agency was not known to me. I question that these are grounds enough to reprimand a Member.

Both Fairchild and the Navy Bank were established to satisfy an obvious need for jobs or services. They were for the benefit of the people. The benefit was to the people. If open investments by public officials are improper, how many in the House today are blameless?

The report presumes that I am at fault in the manner in which the Navy Bank stock was acquired. The fault lies in incomplete information to the committee. The answer of record understandably is interpreted that I took the initiative in acquiring First Navy Bank stock, a procedure to which the committee strongly objects.

There is the distinct likelihood the committee counsel's questions were designed to entrap rather than to obtain information. In any event, a complete amount would have provided information such as that contained in a notarized letter dated July 7, 1976, from Porter F. Bedell, president, First Navy Bank, Pensacola, in which he states:

> *To Whom This May Concern:*
>
> This is to certify that shortly after the charter for the First Navy Bank was approved, I, by direction of other officials of the Bank, discussed with Congressman Bob Sikes by telephone the possibility of his purchasing stock in the Bank and serving on the Board of Directors. He stated that he wanted to take this matter under advisement and that he would contact us when he reached a decision. The exact date of this conversation is not recalled. Subsequently, Mr. Sikes advised me that he would like to purchase stock but did not feel that he should serve as a member of the Board.

It is true that I contacted the bank officials about buying the stock. But it is also true that the suggestion previously had been made to me that I become a stockholder and a member of the board of directors. The answer which was given in the interrogatory is not complete due to the nature of the question.

The committee's conclusion on the bank matter should reflect the fact that the bank officials initiated the action which subsequently led to a purchase of stock by me.

On the charge of a possible conflict of interest involved in leaseholds of beach property, let me state very simply that the reverter clause bill on which the committee charges are based was introduced at the request of the Okaloosa Island Authority so that the authority could obtain funds for improvements for which Holiday Isle, under the terms of its lease, was not eligible. The bill as introduced referred only to Santa Rosa Island. Holiday Isle is not a part of Santa Rosa Island. It was not intended that the bill benefit Holiday Isle.

The facts on gulf tracts on Santa Rosa Island are equally clear had the committee chosen to accept facts rather than conjecture. A commitment by both the lessor and the lessees was made and down payment deposited with the Okaloosa Island Authority for a lease several months before the reverter clause bill was introduced. My interest in gulf tracts was sold before the bill passed the Senate and several months before it became law. This was done specifically to avoid possible conflict of interest.

The committee ignores these obvious facts and speculates on punishment for an offense which could not have occurred because a situation for punishment did not exist. This is totally unfair to me and my record in the Congress.

Again, I refer to comments by Mr. HÉBERT in his dissenting statement:

> On the third matter, the land situation in Florida which occurred 15 years ago, at no time did I detect an effort on the part of Congressman Sikes to hide or cover up from the Armed Services Committee his participation or his knowledge or his understanding of the matter. And I sat on the subcommittee at that time. That was 15 years ago. I can only rely on what the record shows, and it does not show any indication of a cover-up, and I have no recollection of any such effort by Congressman Sikes. If we are to go back and investigate matters which occurred long before the Committee on Standards of Official Conduct was organized and long before we were engulfed in the things we are engulfed in now, I wonder how many of us would find ourselves in the position of not being able to explain things we had done, whether innocently or not, in past years.
>
> I repeat that we should not have considered this matter at all, but particularly should not have since it was brought before the committee by a disgruntled reporter. It must also be pointed out that this latest alleged evidence against Congressman Sikes was not brought to the attention of the committee under existing rules nor was this information brought to our attention under a sworn affidavit. If we are going to give this kind of lengthy consideration to a declaration or charge made by anybody, then the Committee on Standards of Official Conduct is headed for big trouble.
>
> Finally, nothing would be served at this point to go into detail on the manner in which the whole investigation was conducted. But the time used, the weeks and months spent, which could have been consolidated into a shorter time, speaks for itself. We even came to a point, as the Committee knows, where philosophy was to be injected into the report as well as the history of punishment as related to the House of Representatives.

Now, a final quote from Mr. HÉBERT:

> On another subject, I disagree with the use of the word "reprimand." I was definitely against its use in this instance. I think Congressman SIKES explained his position in these matters immediately upon learning that his compliance with the rules, as he understood them, was not correct. Is he to be reprimanded for that?

Mr. Speaker, the result of the committee action is to make me a scapegoat, a sacrifice to expediency under pressure. Common Cause, which instigated the complaints, now has its pound of flesh.

If my colleagues take the trouble to read the Common Cause complaint against me and my answer to it, I am sure I will be fully exonerated today. Not only are the charges without merit, but Common Cause charged me with violation of rules of ethics which do not exist; others that did not exist at the time of the activities referred to; and still others which specifically, by precedents of the House of Representatives, do not apply to the activities Common Cause tried to link them to.

The committee has gained only the briefest of accolades from Common Cause because Common Cause did not get what it wanted. The committee has repudiated the severe allegations by Common Cause after that organization had spent an untold amount of money in trying to substantiate its charges; after causing the Congress also to spend large amounts of taxpayers' dollars investigating allegations, innuendos, and barroom gossip. They have caused valuable time of the committee to be wasted when time is important to Congress and the Nation. The result is one step short of exoneration. This is far less than the demand by Common Cause to have me censured and removed from my committee. This is a significant defeat for Common Cause and its objectives. Consequently, Common Cause is ready to turn on the committe and on the Congress again in its quest for power and its insatiable drive to dominate Congress—to rule or ruin. Many of my colleagues know first hand of what I speak.

The sad fact remains that the House has been used by Common Cause and we can now anticipate that it will happen again, again, and again.

I trust that those who feel they must support the committees action will realize there are two sides to this question, will search their conscience and earnestly follow it. And I wonder how many can say, "There but for the grace of God go I."

As for myself, the people back home are the final judges. Eighteen times they have decided that I am the person best suited to fight their battles, to work for their interests, and to uphold this Nation's goals in the Halls of Congress. Eighteen times they have had the power to "reprimand" me, to deny me a seat in Congress. Eighteen times they have shown their confidence in me—overwhelmingly in each election since 1946.

They still are the final judges for each of us.

Mr. Speaker, I reserve the balance of my time.

Mr. FLYNT. Mr. Speaker, for purposes of debate only I yield 3 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, the report of the Ethics Committee that we are here to act on today is a most significant and important report. It is the first time since the formation of the Ethics Committee that the committee has come to the floor of this House with this type of recommendation.

The committee has found that in several specified instances the conduct of one Member of the House does not conform to section 5 of the Code of Ethics for Government Service which prohibits any person in Government service from accepting

> . . . for himself, or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

In short, the committee has found conduct which cannot and should not be tolerated by this House or by any legislative body or by the American people.

The Ethics Committee acted only after much delay and much prodding. Nevertheless, this is an important and useful report which finally brings to this body the necessity of acting on the standards of official conduct which we say we believe in but which too often have been ignored, or sidestepped because of the operation of the buddy system, or the reticence of individual Members to criticize colleagues.

Now, I think it would have been better had the Ethics Committee been willing to address itself to recommendations with respect to the land holdings issue which the committee said concerned it the most. The history of the legislation sponsored by the gentleman from Florida (Mr. SIKES) in 1948 and 1961, and his financial interests in land which was the subject of those laws, has been treated without recommendations, and incompletely.

Unfortunately, the committee did not really probe the financial interest that the gentleman from Florida (Mr. SIKES) had in the CBS Corp. in any great detail. I think that is an omission in the report.

The committee did not confront the question whether conflict of interest, or a pattern of conflict such as has been described here, should disqualify a Member of the House from serving as a committee chairman. That is a matter on which I think the most serious thought should be given. Unfortunately, the Ethics Committee has not given us any assistance with that. Presumably, the Members will think about that between now and the next opportunity for election of committee chairmen.

Finally, Mr. Speaker, I think it is unfortunate that we did not receive a recommendation for more than a reprimand. Censure has been the precedent in both the Senate and the House for serious violations of ethical conduct, of official conduct, in which personal financials interests are involved.

The SPEAKER. The time of the gentleman from New Jersey has expired.

Mr. FLYNT. Mr. Speaker, for purposes of debate only, I yield 1 additional minute to the gentleman from New Jersey.

Mr. MAGUIRE. But with these shortcomings, Mr. Speaker, I think it is essential that we adopt this report today by an overwhelming margin; that we announce, in effect, by so doing, a new and more encouraging chapter in the history of this House with respect to its concern for the ethical conduct of its Members and for standards of official conduct.

Perhaps as we look ahead, we can also think about ways to reform and strengthen the Ethics Committee itself, because several serious and glaring weaknesses have become apparent this past year.

We have found, for example, that the Ethics Committee has no way of disqualifying or replacing its own members in cases of conflict or potential conflict of interest of its own members with respect to matters which may come before the committee.

We have found that the Ethics Committee chooses to require a formal sworn complaint in some cases, but not in others.

Mr. Speaker, these are some of the issues we should address—and there are others with respect to the Ethics Committee which we do not have time to discuss now. I would look forward, with other Members of the House, to strengthening and improving the Ethics Committee at the beginning of the next Congress and revising our rules, so that we have a more effective Ethics Committee.

Mr. FLYNT. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

Mr. STARK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. Two hundred forty-one Members are present, a quorum.

RECORDED VOTE

Mr. STARK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

PARLIAMENTARY INQUIRY

Mr. RONCALIO. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RONCALIO. Mr. Speaker, is this recorded vote on the previous question or on the resolution?

The SPEAKER. The Chair will state that the vote is on agreeing to the resolution.

Mr. RONCALIO. I thank the Speaker.

The vote was taken by electronic device, and there were—ayes 381, noes 3, answered "present" 5, not voting 43, as follows:

[Roll No. 567]

AYES—381

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio

Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford

Harkin
Harrington
Harris
Harsha
Hawkins
Hechler, W. Va.
Hefner
Henderson
Hicks
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha

Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Van Deerlin
Vander Jagt

Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen

White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff

Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NOES—3

Hébert
Steed
Teague

ANSWERED "PRESENT"—5

Burke, Mass.
Chappell

Haley
Mills

Sikes

NOT VOTING—43

Abzug
Badillo
Boggs
Brooks
Burton, John
Clay
Cotter
Dent
du Pont
Esch
Evins, Tenn.
Fountain
Hansen
Hayes, Ind.
Hays, Ohio

Heckler, Mass.
Heinz
Helstoski
Hightower
Hinshaw
Jones, Ala.
Jones, Tenn.
Landrum
Levitas
Litton
Matsunaga
Minish
O'Hara
Passman
Peyser

Riegle
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Ullman
Wiggins
Wydler
Young, Ga.
Zeferetti

Mr. COUGHLIN changed his vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

STATEMENT OF CONGRESSMAN SIKES

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the House has approved a report of its Committee on Standards of Official Conduct which recommends a "reprimand." I am reprimanded for two technical violations of the rules adopted in 1968.

Mr. Speaker, I took the same oath at the beginning of this Congress that all other Members took. I have taken it many times—more than most of the Members of this body. Not once have I taken it lightly. Always it has been in good conscience. Never in the conduct of my responsibilities as a Member of the House have I knowingly failed to uphold the traditions of this great deliberative body, an institution which I love and one where I have spent more than half of my life.

The action of the House is disappointing and, in my opinion and in the opinion of others, it is unjustified. I am glad that the report stated that I violated no law and did not attempt to conceal my business dealings. All of my business dealings have been in my own name and on public record. They are minimal in extent, taking place over a period of 40 years in public life.

The delays and leaks which have accompanied the investigation by the Committee on Standards of Official Conduct also are very disappointing. A very distinguished Member of the House and of the committee, the Honorable F. EDWARD HÉBERT, has stated in this connection in his dissenting views:

> I find shocking, reprehensible, and most embarrassing the recent leaking to the news media of the actions which took place during an executive session of the investigation of Congressman Robert L. F. Sikes by the Committee on Standards of Official Conduct.

These delays and leaks, even if planned and deliberate, could not have been more damaging to me or more beneficial to the purposes and plans of those who sought the inquiry—plans not remotely associated with justice or facts. The committee sought to reprimand me because I owned stock not reported to the House. Apparently the committee gave no consideration to motive or to extenuating circumstances.

Mr. HÉBERT also stated:

> I am also most concerned about the manner in which the entire investigation was conducted—an investigation which should have been concluded quickly instead of being dragged out for months. The investigation, in my opinion, was not conducted in an objective vein, but on an adversary basis in an effort not to get the facts but to prove Congressman Sikes guilty of charges made by an organization which formally withdrew its alleged charges when the Committee went into executive session.

The first violation is described as my failure to file an annual report of the ownership of a miniscule amount of stock in a defense industry. The committee found that the failure to so report was not motivated by an effort to conceal the financial holding from Members of the House or the public. This is significant.

I first purchased this stock in 1964. I sold it, as the committee found, at a loss of more than $4,000. The Fairchild Co. built a plant in my district in 1964. I attended the groundbreaking and made a public announcement at that time that I would personally buy some stock to encourage local support for this local project.

The committee finds that I was incorrect in my interpretation of the rules to the effect that I did not have to report this stock ownership under the 1968 rules unless I made at least $1,000 a year from the stock.

On the basis of the above facts, the committee, at least its majority, recommended a reprimand. The committee strictly and rigidly construed the rules to provide that any "failure to report" deserves a reprimand.

Although I respect the opinion of the committee majority, I believe its decision was unjustified and erroneous and that it misunderstood the intentions of the House in 1968 when it adopted the Code of Ethics. In my opinion, and I voted for the code in 1963, only an intentional failure to report or a refusal to correct an inadvertent failure to report after notice by the committee was intended to require a reprimand. My action could not be considered more than an oversight—not one justifying a reprimand.

The second violation is described as my failure to file an annual report of the ownership of a minority stock interest in a State bank located in a U.S. Naval Air Station. Here, also, the committee found that the failure to so report was not motivated by an effort to conceal the financial holding from Members of the House or the public.

The report presumes that I am at fault in the manner in which the Navy Bank stock was acquired. The fault lies in incomplete information to the committee. The answer of record understandably is interpreted that I took all the initiative in acquiring First Navy Bank stock, a procedure to which the committee strongly objects.

There is the distinct likelihood the committee counsel's questions were designed to entrap rather than to obtain information. In any event, a complete account would have provided information such as that contained in a notarized letter dated July 7, 1976, from Porter F. Bedell, president, First Navy Bank, Pensacola, in which he states:

> *To Whom This May Concern:*
>
> This is to certify that shortly after the charter for the First Navy Bank was approved, I, by direction of other officials of the Bank, discussed with Congressman Bob Sikes by telephone the possibility of his purchasing stock in the Bank and serving on the Board of Directors. He stated that he wanted to take this matter under advisement and that he would contact us when he reached a decision. The exact date of this conversation is not recalled. Subsequently, Mr. Sikes advised me that he would like to purchase stock but did not feel that he should serve as a member of the Board.

It is true that I contacted the bank officials about buying the stock. But it is also true that the suggestion previously had been made to me that I become a stockholder and a member of the board of directors. The answer which was given in the interrogatory is not complete.

The committee's conclusion on the bank matter should reflect the fact that the bank officials initiated the action which subsequently led to a purchase of stock by me.

On the basis of the above facts, the committee, at least its majority, recommended a reprimand. The committee strictly and rigidly construed the rules to provide that any "failure to report" deserves a reprimand. How many in the House today could escape reprimand under that strict interpretation?

I repeat that, although I respect the opinion of the committee majority, I believe its decision was unjustified and erroneous. I fully believe that it was the intentions of this House in 1968 when it adopted the Code of Ethics that only an intentional failure to report or a refusal to correct an inadvertent failure to report after notice by the committee was intended to require a reprimand.

On the charge of a possible conflict of interest involved in leaseholds of beach property, let me state very simply that the reverter clause bill on which the committee charges are based was introduced at the request of the Okaloosa Island Authority so that the authority could obtain funds for improvements for which Holiday Isle, under the terms of its lease, was not eligible. The bill as introduced referred only to Santa Rosa Island. Holiday Isle is not a part of Santa Rosa Island. It was not intended that the bill benefit Holiday Isle.

The facts on Gulf Tracts on Santa Rosa Island are equally clear had the committee chosen to accept facts rather than conjecture. A commitment by both the lessor and the lessees was made and downpayment deposited with the Oklahoosa Island Authority for a lease several months before the reverter clause bill was introduced. My interest in Gulf Tracts was sold before the bill passed the Senate and several months before it became law. This was done specifically to avoid possible conflict of interest.

The committee ignores these obvious facts and speculates on punishment for an offense which could not have occurred because a situation for punishment did not exist. This is totally unfair to me and to my record in the Congress.

I refer to comments by Mr. Hébert in his dissenting statement:

> On the third matter, the land situation in Florida which occurred 15 years ago, at no time did I detect an effort on the part of Congressman Sikes to hide or cover up from the Armed Services Committee his participation or his knowledge or his understanding of the matter. And I sat on the subcommittee at that time. That was 15 years ago. I can only rely on what the record shows, and it does not show any indication of a cover-up, and I have no recollection of any such effort by Congressman Sikes. If we are to go back and investigate matters which occurred long before the Committee on Standards of Official Conduct was organized and long before we were engulfed in the things we are engulfed in now, I wonder how many of us would find ourselves in the position of not being able to explain things we had done, whether innocently or not, in past years.
>
> I repeat that we should not have considered this matter at all, but particularly should not have since it was brought before the committee by a disgruntled reporter. It must also be pointed out that this latest alleged evidence against Congressman Sikes was not brought to the attention of the committee under exising rules nor was this information brought to our attention under a sworn affidavit. If we are going to give this kind of lengthy consideration to a declaration or charge made by anybody, then the Committee on Standards of Official Conduct is headed for big trouble.

Two points are obvious and controlling with respect to all of the foregoing:

First, I had no intent to violate any rule of this House, and any inadvertent and technical violation did not benefit me in any way.

Second, all of my personal business transactions are conducted openly, in my own name and without concealment and are simple, honorable transactions.

Now, let me turn to that part of this process, and that area of these proceedings, which I deem to be of the greatest importance to this great body.

There is an element in these proceedings, and perhaps a lesson that transcends the mere case of Bob Sikes. I speak of this, realizing that to some, I may appear to be chasing phantoms. To those Members of this body whose thinking so inclines, I remind you that I have spent more than half of my life, 40 years, in public service. A great deal of that time has been spent in this very House. I have taken the same oath at the beginning of this Congress and many times before, and always in good conscience. I have always felt, and I feel now, in every fiber, that it is the Congress of the United States which is the supreme guardian of our ancient rights and liberties.

Last year a series of events commenced which are apparently still in process. They were unique. Attempts were made, and in some cases successfully, to unseat senior members of the great committees of this House. In the process, both directly and by subterfuge and innuendo, and rumor, some of our finest public servants were held in disrepute. Although these actions were taken by some Members of this House, they were almost without exception inspired and directed by persons outside of this House. These persons were not elected officials of our Nation, but in at least a most significant element, were self-appointed, would-be arbitrators of this country's destiny. One of the undisputed leaders of these actions was one John Gardner. I do not know as much about Mr. Gardner as I would like, but it is, I believe, significant that he is a man whose expertise is psychology, in which he received a doctorate from the University of California at Berkeley. He served as a Secretary of Health, Education, and Welfare, until he was, shall we say, abruptly removed by the Johnson administration. He now heads a self-styled citizens' lobby which calls itself Common Cause. This is a group of people who supposedly support themselves chiefly by contributions from unidentified persons in many parts of the United States. There are many who say Eastern liberal monied interests, including the Rockefellers, are the principal and always dependable sources of revenue for Common Cause. In any event, it is a very well endowed movement.

About a year ago, I received a letter dated July 10, 1975, from this Mr. Gardner, written on the stationery of this group that calls itself Common Cause. This letter stated in substance that because of "recent press reports" he had decided that I was involved in conflicts of interest "and particularly in the objectivity of the military appropriations process." He concluded this unsolicited letter by stating that, speaking for Common Cause,

> We call upon you to resign your chairmanship of the House Appropriations Subcommittee on Military Construction.

Those of you who know me will not have to be told the answer I gave to this high-handed conduct.

Apparently miffed by the fact that I did not either beg for Mr. Gardner's forgiveness or shoot myself, it was not very long after this that the Columbia Broadcasting System featured an alleged expose of the same stale technical errors which I have recited heretofore and which are contained in the report of this House committee. The program, what else, featured Mr. John Gardner, and in person. Anyone who saw the program or who reads the transcript, knows that Mr. Gardner expounded at great length concerning his personal knowledge of my affairs, and in his eyes, my alleged transgressions.

When this program fell as flat as it did, despite the aid and comfort of certain antidefense-oriented sections of the media, a complaint was filed with this House in the name of Common Cause. The committee accepted this complaint. I do not criticize the committee for doing so because our rules are less than clear as to what constitutes a valid complaint; but this House should know that this complaint was sworn to, not by the ubiquitous Mr. John Gardner, but by one of his young assistants, who swore that he had personal knowledge that the complaints made were based upon press reports. You know and I know, and the committee knew, although the rules did not so provide, that this House never intended at any time to permit its Members to be prosecuted on the basis of newspaper reports or barroom gossip.

I hope that the House will take prompt action to prevent the kind of situation in which I have been involved and the kind of costly expenditure of time and money in which I have been involved and require that in similar cases an individual comes forward, in his own personal capacity, and is willing to swear that he has personal knowledge of the charges which he makes, and which he asks the House to prosecute. It is one thing to face John Gardner's programed misinformation. It is another to attack some nebulous publicity monger such as Common Cause, which alleges through one of its officers that it has truly and duly read some newspaper clippings and demands prosecution on the basis thereof.

Adding to the confusion which our guillotine-minded citizens lobby produced with their charges, as one of the committee opinions reported to this House, the Common Cause lobby "formally withdrew its alleged charges when the committee went into executive session."

But most significant are the charges made by the hand of Common Cause and of John Gardner. They state in their conclusion that they request the committee to recommend that Representative SIKES be disqualified from serving on the House Appropriations Committee. One only has to be able to add two and two to put the letter of a year ago and the charges of a few months ago together to get one of the ugliest results of all. That result is, bluntly, "blackmail."

For the charges that I had failed to file certain reports were merely subterfuge. To take advantage of what we usually call the Watergate atmosphere and certain other unfortuante events, to try to oust another active defender of a strong U.S. defense from a position where I could try to protect my country's interests as I have for so many years, in the light which I see necessary.

This whole charade starts with Gardner calling upon me for my resignation from defense-related activities. When this fails, Gardner and his lobbyists and their media friends call upon the House to oust me from my work helping to protect the integrity and defense of the United States. Mind you, these charges were made after the technical errors in reporting were called to my attention, and as the House report to you shows, I filed such reports. No doubt this crusade by those who, because of some kind of mental abberrations, believe that weakening our military posture is the answer to our problems, both foreign and domestic, will be continued in the party caucuses and in the press next year.

The sad fact remains that the House has been used by Common Cause and we can now anticipate that it will happen again, again and again.

I trust that those who feel they must support the committee's action will realize there are two sides to this question, will search their conscience and earnestly follow it. And I wonder how many can say, "There but for the grace of God go I."

As for myself, the people back home are the final judges. Eighteen times they have decided that I am the person best suited to fight their battles, to work for their interests, and to uphold this Nation's goals in the Halls of Congress. Eighteen times they have had the power to "reprimand" me, to deny me a seat in Congress. Eighteen times they have shown their confidence in me—overwhelmingly since 1946.

They still are the final judges for each of us.

PERSONAL EXPLANATION

Mr. LEVITAS. Mr. Speaker, I was absent from the House Chamber this morning due to a speaking engagement before the American Society of Professional Engineers in Philadelphia and, therefore, missed the rollcall vote on House Resolution 1421, complaint against ROBERT L. F. SIKES. Had I been present, I would have recorded my vote as "yea." My speaking engagement was one scheduled many weeks ago and was arranged to permit my return to the House in time for voting on pending matters after the usual noon hour of convening of the House. The 10 a.m. meeting today was not announced until 2 days ago and the vote on the SIKES matter, which occured at 10:46 a.m. was not announced until this morning.

STATE CASHOUT STATUS UNDER SSI PROGRAM

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1416 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1416

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14514) to permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in supplemental security income benefits and all of any subsequent increases in such benefits. After general debate which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment to said bill shall be in order except amendments recommended by the Committee on Ways and Means and the text of the bill H.R. 14764 if offered as an amendment in the nature of a substitute, and said amendments shall not be subject to amendment, except that it shall be in order to debate said bill. At the conclusion of the consideration of the bill H.R. 14514 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes for the minority to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, before I explain the content of the rule, I ask unanimous consent to correct a clerical error in the resolution.

The clerical error was made as we deleted some language from the proposed rule, and the comma on page 2, line 8, and the phrase which follows beginning with the word "except" through the word "bill" should not appear in the rule. They have no useful purpose, and therefore I ask unanimous consent to make that correction.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, knowing how careful the gentleman from Missouri (Mr. BOLLING) is in his work on the Committee on Rules, would the gentleman explain how this rather substantial error occurred?

Mr. BOLLING. If the gentleman will yield, the error actually is not substantial. If the gentleman from Missouri were not feeling precise at the moment, he would just let it go because it does not have any effect on the rule itself. It is just some excess language which was left in after we removed a phrase which both the minority and majority agreed should be removed.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I think my disappointment is that the Rules Committee decided that the bill or any amendment made in order by the rule could not be debated at length under the 5-minute rule. The committee accomplished their purpose by striking out the language in the rule which would have allowed the offering of pro forma amendments. As has been more and more the case in recent days the "knife" which the Rules Committee used to "cut off" debate was imperfect—and the "cut" was not clean. It is my judgment that this action has some effect on the consideration of the bill by the House and I am sorry that the gentleman from Missouri has to ask unanimous consent of the House to make this change.

I am just sorry for the bad staff work and that the House must "unanimously" agree with the action of the committee and concur in the limitation on debate.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BOLLING. Mr. Speaker, this rule was recommended to the Committee on

Rules by both the majority and minority of the Committee on Ways and Means. It makes in order a bill that is very complicated and is a bill which affects only one State, the State of California. The rule is closed but it makes in order the consideration of an amendment in the nature of a substitute which will be offered, as I understand, by the gentleman from California (Mr. KETCHUM) to the bill that will be brought up for consideration under this rule. That amendment will not be subject to amendment. No other amendments other than committee amendments are in order but a motion to reconsider with or without instructions is in order. As I said at the outset, Mr. Speaker, there was no controversy before the Committee on Rules and, therefore, I reserve the balance of my time.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 14514 is a bill which enables a State which no longer qualifies for hold-harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a portion of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in benefits.

This bill is an extremely complicated one, Mr. Speaker, and, therefore, in order to facilitate orderly debate, House Resolution 1416, provides a modified closed rule. There will be a single hour of general debate. Only amendments offered by the Committee on Ways and Means and the text of H.R. 14764—which will be offered as a substitute—will be in order. These amendments will not be subject to amendment.

Mr. Speaker, at this time I want to express my strong support for the substitute measure, H.R. 14764, the so-called Ketchum amendment. The substitute and the committee bill are similar; however, the committee bill requires the State of California to provide a specific increase—an increase of $3—to SSI recipients and a proportionate increase to couples, as well as other provisions. The substitute does not. All that the Ketchum amendment does is to permit Californa to continue its status as a cashout State. It recognizes that the Congress of the United States should not try to direct the fiscal affairs of the State of California or any other State in our Union for that matter. It allows the State of California to decide on its own—without unnecessary and extraneous Federal dictation—how it wants to allocate its money, and it allows that State to bear the responsibility, as it should, for its own actions without allowing it to, later, pass the proverbial buck back to this body.

Mr. Speaker, I urge my colleagues to vote in support of the substitute and ask that the rule be adopted.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14514) to permit a State which no longer qualifies for hold-harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. CORMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14514 with Mrs. SPELLMAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. CORMAN) will be recognized for 30 minutes, and the gentleman from California (Mr. KETCHUM) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise to support the bill H.R. 14514 which, under a committee amendment, will give California the option to deny food stamp eligibility to its SSI beneficiaries who had previously been ineligible for food stamps and would become eligible. To take advantage of this option, the State of California must meet the following conditions:

First. That it provide a general increase in the amount of the State supplementary payment, payable for each month to any eligible SSI individual or couple under the State's supplementary payments program according to the law in effect as of June 1, 1976, and

Second. That it provide an increase in the total income from SSI of at least $3 per month in the case of an eligible individual and at least $4.50 per month in the case of an eligible couple during the first year of enactment.

In subsequent years, the State must pass through the full cost-of-living increase in the Federal SSI payment plus the increase mentioned earlier in the State supplement.

Under current law, as of July 1 when California lost hold-harmless status, it simultaneously lost the right to provide additional funds in lieu of food stamps. The State of California has presented information to the Ways and Means Committee indicating that the administrative cost of extending food stamps to SSI recipients in California would be a prohibitive $66 million during the first year, with an estimated food stamp bonus value of only $24 million.

The net effect of the bill in its amended form would be to allow the State of California to cash out food stamps as long as it complies with the benefit increases mandated by this bill.

I want to reassure my colleagues that passage of this legislation will not involve any Federal expense, but instead will result in a saving to the food stamp program.

I urge my colleagues to support this important legislation.

Madam Chairman, I will offer a committee amendment in the nature of a substitute. However, to enable the gentleman from California (Mr. KETCHUM) to offer his substitute, I shall withhold. In the event his substitute should carry, then would settle the matter.

Madam Chairman, I reserve the remainder of my time.

Mr. KETCHUM. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would have to concur with the remarks of the gentleman from California (Mr. CORMAN) my colleague and cochairman, that this bill only refers to the State of California and none other. The differences between us are simply that I feel that the Congress of the United States should not instruct the State of California as to how much it will pass through, but rather give it and its Governor what they seek.

During the recent recess I spent a rather substantial amount of that time in the city of Sacramento, our State's capital, and during that period there were innumerable news stories about a bill which the Governor had just signed which gave a cost-of-living increase to SSI recipients and to AFTC and AFTC youth recipients as well.

The Governor when questioned as to why he had spent such a long time before signing this very important legislation, said it was his feeling that he was waiting for the Congress to find out if the Congress was going to allow him the cashout privilege which they had enjoyed up to July 1, 1976. That is all that the Governor of the State of California asked for, which was to remain a cashout State, cash being in lieu of food stamps for the SSI recipient.

There are two other States, and I understand that both of those States have chosen to go the food stamp program, those States being New York and Nevada.

If it were left to me, I really honestly feel that California would be better off by offering food stamps to SSI recipients, but that is not what California wants to do. California elects to remain through this legislation a cashout State.

The bill before us will mandate the passthrough of $3 and the subsequent passthrough of any increases as they may arise. My substitute simply says to the State of California: "You will remain a cashout State." And that is all that the Governor of the State of California has asked for. If we believe that California should remain a cashout State, then I truly believe that this is all that the Governor needs.

I have discussed my amendment with members of the Governor's staff as recently as day before yesterday, and the Governor's staff has assured me that they can live with this substitute.

The choice is very simple. If my amendment is not adopted or if the bill is not passed, California must then become a food stamp State. That is the end result. The Governor of California has estimated that if California becomes a food stamp State, that in order to pass out about $24 million in food stamp benefits it will cost the State of California $62 million in administration. I find those figures a little difficult to buy. If it does indeed take that much in administrative expense to hand out $24 million worth of food stamps, I would strongly suggest a change in some of the bureaucracy at least—and I would not go much further than that on this floor.

I would urge the adoption of the substitute which I will offer in just a very few moments.

Mr. CHARLES H. WILSON of California. Madam Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to my colleague, the gentleman from California (Mr. WILSON).

Mr. CHARLES H. WILSON of California. The gentleman has mentioned the Governor's name. I wonder if he can tell me what the position of the State of California is in this matter as represented by the Governor.

Mr. KETCHUM. I can only tell the gentleman that the position is as I have outlined from the newspapers, which is that the Governor of the State of California wanted to retain the cashout position.

Mr. CHARLES H. WILSON of California. Madam Chairman, may I ask the gentleman from California (Mr. CORMAN), through the gentleman from California (Mr. KETCHUM), if he will yield, to respond to my question.

Mr. CORMAN. Madam Chairman, if the gentleman will yield, I have spoken with the Governor several times. The Governor is in support of the bill H.R. 14514 as it is presently written. He has not communicated to me that he is in support of the Ketchum amendment.

I am personally opposed to the Ketchum amendment and when the amendment is offered I will explain why. It affects not only the Governor of the State of California but it also affects the people of the State of California. The Governor has never told me he is in support of the Ketchum amendment. His staff have called me almost daily in support of H.R. 14514.

Mr. KETCHUM. The staff has indicated a need certainly, let us say, for the Corman bill to be passed only because they could get a little faster action, they thought, than with my amendment, and only because the Senate has already passed a similar piece of legislation.

I urge support of my amendment.

Mr. CORMAN. Madam Chairman, I have no further requests for time.

Mr. KETCHUM. Madam Chairman, I yield 5 minutes to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Madam Chairman, I think we can get to the bottom line. I address myself particularly to my colleagues from California and will go into a little more detail when the amending process arrives, which I am sure will be very shortly.

Madam Chairman, I intend to support the Ketchum amendment, because I believe that if the bill, H.R. 14514, passes in its present form, it will seriously discriminate against the aged in California, to the benefit of the State budget, or if the Governor and the legislature elects, the AFDC recipients, who I point out already have a built-in annual cost of living in the formula in California.

I remind my colleagues that SSI, the supplemental security income, is the federalized program that used to be called aid to the aged, the totally disabled, and the blind.

Let me explain what will happen to a single aged person should this bill be adopted. As we all know, the Federal grants for single aged were increased on July 1st of this year from $158 to $168 per month. Then we add the State supplementation which an aged single person would have received prior to July 1, $259 a month. That would go to $273 a month, absent this bill; plus it would give the recipient a benefit they do not now enjoy; namely, the eligibility to purchase food stamps.

Madam Chairman, I would ask, who has a greater need than SSI recipient without outside income? I remind my colleagues that they cannot be eligible for this grant if they have outside income, so these people are obliged to exist on this amount of money. It is extremely difficult.

All of us want food stamp reform. Reform means to give food stamps to people who need them most, and who in the world needs them most than an elderly person, single or married, on $273 a month, or a little bit more? The SSI recipient needs our assistance and needs our help. If we pass this bill, it will give the State of California an option the State ought not to have; namely, an option for a budget savings where we ought not to save, or an addition to the AFDC recipient at the expense of the aged.

Madam Chairman, I will develop this further a little later. I thank my colleagues for their attention.

Mrs. COLLINS of Illinois. Madam Chairman, I rise in opposition to H.R. 14514, a bill entitled: "State cash-out status under SSI program." If passed, this bill would permit the State of California to retain its present system of providing direct cash payments, instead of food stamp privileges, to supplemental security income—SSI—recipients. It is my fear that should this bill pass the Congress and become public law, it would encourage other States to seek special treatment and special exemption from mandated national social service programs. Such a circumstance would be a dangerous precedent that could find the Congress beseiged with individual requests from States to exempt them from the provisions of beneficial Federal programs. The States would argue, I suppose, that a particular program caused them a hardship if implemented. The Congress is not equipped to review appeals of this part. It is my personal belief that federal programs should be uniformly applied throughout the country and, when they are, they tend to be beneficial to all classes of Americans. Permitting a particular State to be excluded from the uniform application of a national program can open the door to abuse of programs designed to benefit all the citizens. In my view, there should be no special application of the rules and requirements of a national service program except, perhaps, in the most extreme case. In short, there is "no compelling national jurisdiction" for the legislation, and on the contrary, to construe that one exists may result in serious future difficulties.

In the particular issue before the House, California has made it known that they feel a switch of their SSI recipients from the present direct cash program to a food stamp program will result in large administrative costs. I must take issue with this argument for the simple reason that the State of California has already in place a food stamp apparatus to serve the non-SSI population and because no other State has indicated that it has suffered a hardship created by the establishment of food stamp benefits for supplemental security income beneficiaries.

Although California has attempted to provide services for the elderly SSI recipients by permitting substantial increases in their benefits in lieu of providing food stamps, and there is certainly merit in that, I must point out that there are no guarantees nor are there reasons to conclude—that the direct cash payments will be used by an SSI recipient to purchase nutritional food to enhance their diets.

There is no question, Mr. Speaker, that the elderly of our country deserve a dignified life free of the economic worries of inflation and free from the fears and uncertainties of an economic picture of which they feel so small a part. I respect California's efforts to provide for their older citizens, but I am not convinced that passage of H.R. 14514 is the proper way to provide adequate nutritional opportunities for senior citizens. With this in mind and the fact that I sincerely feel that no State should be exempt from the uniform application of a national program, I oppose passage of H.R. 14514.

Mr. LEGGETT. Madam Chairman, I rise in support of H.R. 14514, a bill to permit California to continue its present supplemental security system. There is no logical reason why California should be forced to issue food stamps in lieu of its present system of cash bonuses for supplemental security income recipients. The termination of this "cashout option" is not related in any way to the success or failure of the present cash-benefits program, but to the basically irrelevant condition of California's hold-harmless status. H.R. 14514 does not sanction any extraordinary or untried measures. It merely allows us in California to retain a system that has already proven effective for our needs.

Our reasons for preferring the cashout system over food stamp benefits are compelling. First, only one-third of those eligible for food stamps are expected to benefit from a food stamp program. This means that two-thirds of the State's SSI beneficiaries will lose a portion of their present benefits if California makes the change. Second, the costs of administering an SSI-based food stamp program are expected to exceed the total benefits to SSI recipients by almost $50 million.

Thus, to abandon the cashout program would cause substantial financial losses to both the State and a majority of the recipients. I do not think there can be any question that the cashout program is superior to a food stamp program in every way as far as the residents of the State of California are concerned.

The only question is whether H.R. 14514 will be contrary to the interests of any other party. I cannot see how this might be the case. The bill is not expected to cost the Federal Government one additional penny since the Federal benefits will cost the same whether they take the form of food stamps or cash. Nor does his measure harm the interests of any of the other States. The charge has been brought by the administration that the bill favors only California and should be rejected because it thus is unfair to other States. The reason that the bill affects only my State is simply that no other State has the same conditions that make a food stamp program so unfit for California, not that benefits are being withheld from other States. Other States in a similar position knew of this legislation, but freely decided that their purposes would be better served by converting to food stamps. The provisions of this bill are restricted to California for purposes of clarity, not of favoritism.

There has been some question as to whether this bill is the one that best serves California's interests, or whether it would be better to remove some of the restrictions and let the State determine its own internal policies. It is a long-acknowledged fact that local problems require local solutions, and the solution that California's Legislature and Governor have decided to adopt is identical to the bill that is before us now. H.R. 14514 simply enables the State to carry out the provisions of its own legislation. This is proof enough for me that this is the bill California needs.

I hope that you will not rise against this measure just because it affects only California, since it does not in any way harm the interests of anyone else. I urge all my colleagues to vote in favor of this bill.

Mr. CORMAN. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Under the rule, the bill is considered as having been read for amendment. No amendment to said bill shall be in order except amendments recommended by the Committee on Ways and Means and an amendment in the nature of a substitute, which contains the text of the bill (H.R. 14764), and said amendments shall not be subject to amendment.

The bill is as follows:

H.R. 14514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of Public Law 93-233 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) In any case where—

"(1) a finding with respect to the level of a State's supplementary payments under section 1616(a) of the Social Security Act has heretofore been made by the Secretary in accordance with subsection (c) of this section, but

"(2) on or after July 1, 1976, the limitation on fiscal liability under section 401 of the Social Security Amendments of 1972 no longer applies so as to reduce the amount which would otherwise be payable to the Secretary by such State, with the result that the finding so made is no longer effective (and that the food stamp eligibility of the households and persons involved is or would be restored),

the Secretary shall nevertheless find upon the request of such State, for the purposes specified in subsection (c) of this section, that the level of such State's supplementary payments has been specifically increased so as to include the bonus value of food stamps during any period in which—

"(A) the law of such State requires that there be passed on to all recipients of such payments for any month an amount equal to any portion of the amount payable to an individual with no other income pursuant to section 1611(b) of the Social Security Act for such month, in excess of the amount such an individual would have been so paid if the dollar figures in effect under such section (and section 1611(a)(1)(A) and (a)(2)(A) of such Act) were $1,977.60 (in the case of an eligible individual) and $2,967.60 (in the case of such an individual with an eligible spouse), which results from and would not be payable but for one or more cost-of-living increases occurring in or after 1976 pursuant to section 1617 of such Act or one or more general increases enacted by law in or after 1976 in such dollar figures; and

"(B) the amount required to be passed on pursuant to such State law in any month is in addition to any increase in the payment described in section 1616(a) of the Social Security Act, or in the payment made under an agreement entered into under section 212 (a) of Public Law 93-66, which is made by or under State law (or would, but for an increase in supplemental security income benefits referred to in subparagraph (A), be so made) and which becomes effective on or before the date on which the increase in supplemental security income benefits (referred to in such subparagraph) is effective. If the preceding sentence is not applicable to a State with respect to any period beginning after September 1977 because such State is not in compliance with subparagraph (B), but becomes applicable to such State with respect to a subsequent period upon such compliance, there shall be substituted for the dollar figures specified in subparagraph (A), for purposes of applying such subparagraph with respect to such subsequent period, the corresponding dollar figures which were in effect immediately prior to the beginning of the period during which such subparagraph was not applicable to such State.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KETCHUM

Mr. KETCHUM. Madam Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. KETCHUM: Strike out all after the enacting clause and insert the following:

That (a) section 8 of Public Law 93-233 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Upon the request of the State of California the Secretary shall find, for purposes of the provisions specified in subsection (c) of this section, that the level of such State's supplementary payments of the type described in section 1616(a) of the Social Security Act has been specifically increased for any month after June 1976 so as to include the bonus value of food stamps.".

(b) The provision of section 8 of Public Law 93-233 redesignated as subsection (f) by subsection (a) of this section is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

Mr. KETCHUM (during the reading). Madam Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. KETCHUM. Madam Chairman, there is really no point in pursuing this at great length, because it has been discussed in the general debate. The gentleman from California (Mr. BURGENER) has really gotten to the bottom line of what we are really talking about, and that is, should the Congress of the United States dictate to the State of California the amount of money that they will pass through to SSI recipients?

To those Members who may not be familiar with the SSI, as are apparently some of the Members of the other body, we are talking about the aged, the blind and the disabled. If the bill in its present form passes, $3 will be passed through to those recipients. The balance of approximately $7 can be used for anything that the administration chooses to use it for. They could build a bridge with it if they wanted to. But, the real intent, at least as I understand it and as I believe my colleague from California, the chairman of the subcommittee, understands it, is that it will be utilized to offset the cost-of-living increases recently granted to the AFDC recipients.

I suppose that one could make an argument for that. These are all people in need, but there is a vast difference between the SSI recipient and the AFDC recipient beyond the need. In most cases the SSI recipient through his grant, this is the only money that he does receive. Most SSI recipients cannot work, cannot supplement their income, but almost all AFDC recipients can. That is where the difference is. All we are saying with this substitute is to tell the administration of the State of California, "You can remain a cash-out State; you can make that decision if you choose in your State."

This will not deny the governor of the State of California from only passing through $3 if that is what he wants to do, but let that decision be the Governor's and not that of the Congress. Let the Congress, if it so desires, continue to extend the cash-out provision to the State of California, and let the State of California make a determination of how much it will pass through.

It will be argued that the benefits extended to SSI recipients are somewhat higher than they are for AFDC recipients, and that indeed an elderly couple receives more benefit than perhaps the AFDC mother with three or four children. That may be true when we are talking about the bottom line, but not certainly when we include all the other benefits they receive.

As recently as yesterday, the Subcommittee on Public Assistance discussed the earnings disregard. With the earnings disregard—and incidentally, a bill with which I am in total support—an AFDC recipient will be able to receive up to in excess of $600 per month. Try, any Member here, to live on $250 per month.

Madam Chairman, I urge the Members to adopt the substitute, let the State of California have the cash out provision and let the elected representatives of the State of California, in its legislature and with its Governor determine how they are going to do it.

Mr. CORMAN. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I must say that I am confused. I do not know whether Mr. Burgener speaks in support of Mr. Ketchum, and I cannot tell for whom Mr. Ketchum speaks. This is an extremely complex subject matter, but for the sake of perhaps missing a few technicalities let me try to sketch for the Members why we are where we are.

When the Federal Government federalized aid to the aged, it made provisions that if States paid as much as they were paying in 1972, they would become what we called "hold harmless" States. They would not ever have to pay more than that, and they would be protected against case load growth. Six States qualified as hold harmless States. We further said to those States, "If you wish to increase the benefit by $10 over the amount your beneficiaries would otherwise receive, you may refuse food stamps to SSI recipients.

Although we protect the States from caseload growth, we did not hold the States harmless from inflation. And so now three of those six States will, after the last fiscal year, no longer be hold-harmless States and, therefore, they cannot cashout food stamps.

The State of California wants to continue to be a cash-out State. They say to us, "We will demonstrate that we will make that extra cash payment so that our elderly will not be disadvantaged by letting us continue to be a cash-out State."

The committee looked at it and said, "In view of the benefit levels of the State of California, if we put in this protection, then the elderly in California will not be disadvantaged." And we said, "In view of the fact that you are giving a $14 increase for an individual this year on your own, upon that condition that you give $3 more we will let you be a cash-out State for this year. But next year if you want to continue to be a cash-out State and not permit the elderly to have food stamps, then you must pass through the full amount of any Federal cost-of-living increase that may be granted."

The gentleman from California (Mr. Burgner) complains we are not letting the elderly have food stamps, and, of course, the way to do that is to defeat the Ketchum amendment and the bill.

The gentleman from California (Mr. Ketchum) complains we are not going to protect the elderly, but his amendment would withdraw the protection that the committee bill would write into law.

I tell the Members it would be a bad precedent for us to say to the other five States which either are or will be in similar circumstances that if you want to continue to deny food stamps to your elderly and if you want to keep in your own treasury the cost-of-living increases we give you, you may do that. That would be terribly unfair. It would make it even more difficult for the elderly to live on the dollars they have.

The gentleman from California (Mr. Ketchum) complains—and I share his complaint—that it is very difficult for the elderly to live in California. I call to the attention of the Members that the elderly in California received a greater increase in SSI this year than the elderly in any other State of the Union, except Alaska.

Mr. BURGENER. Madam Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from California (Mr. Burgener).

Mr. BURGENER. I thank the gentleman for yielding.

I do not believe any misstatement was made by the gentleman in the well or by us intentionally. It is a complex subject matter.

Does the gentleman agree that, absent this bill, two things would occur? If this bill does not pass, No. 1, the Federal grant to SSI would go up $10 from the Feds to the State of California?

Mr. CORMAN. No, sir; that is not correct. The only thing that would happen if this bill is not passed is that the people receiving SSI benefits in California will be eligible to purchase food stamps.

Mr. BURGENER. If the gentleman will yield further, does the gentleman feel that they should not be eligible to purchase food stamps because of the administrative cost?

Mr. CORMAN. I feel that if the State will pay the amounts prescribed under this bill, that the elderly will be better off because, although case by case some might get more dollars in food stamps, the fact of the matter is that only about one-third of the elderly, blind, and disabled ever buy food stamps.

Mr. BURGENER. If the gentleman will yield further, I could be mistaken, but it is my conviction that two things will occur, absent this bill: The increase of $10, which is the cost-of-living increase in all States, if California does not reduce its supplemental payment and the eligibility to purchase food stamps, which I think is essential for the elderly.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. Ketchum).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KETCHUM. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. Ketchum) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 227, not voting 43, as follows:

[Roll No. 568]

AYES—162

Abdnor
Adams
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bevill
Biester
Blouin
Boggs
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Cornell
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Dellums
Derwinski
Devine
Dickinson
Duncan, Tenn.
Emery
English
Erlenborn
Evans, Ind.
Fenwick
Findley
Fish
Flowers
Foley
Forsythe
Frenzel
Frey
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hammerschmidt
Harkin
Harsha
Hechler, W. Va.
Heckler, Mass.
Hillis
Holt
Horton
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Kasten
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lloyd, Tenn.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McKinney
Madigan
Martin
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Nichols
O'Brien
Paul
Pettis
Pike
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Stark
Steiger, Wis.
Symms
Talcott

Taylor, Mo.
Teague
Thone
Thornton
Vander Jagt
Waggonner
Walsh
Wampler
Whitehurst
Whitten
Wilson, Bob
Winn
Wylie
Young, Alaska

NOES—227

Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Carney
Chisholm
Collins, Ill.
Conlan
Conte
Conyers
Corman
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flynt
Ford, Mich.
Ford, Tenn.
Fraser
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Green
Hall, Tex.
Hamilton
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hefner
Hicks
Holland
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Jacobs
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kelly
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McFall
McHugh
McKay
Madden
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Poage
Pressler
Preyer
Price
Randall
Rangel
Rees
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Staggers
Stanton, James V.
Steed
Stokes
Stratton
Studds
Taylor, N.C.
Thompson
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
White
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NOT VOTING—43

Abzug
Badillo
Brooks
Burton, John
Clay
Conable
Cotter
Dent
du Pont
Edwards, Ala.
Esch
Fountain
Hansen
Hays, Ohio
Hébert
Heinz
Helstoski
Henderson
Hightower
Hinshaw
Jones, Ala.
Jones, Tenn.
Landrum
Lent
Levitas
Litton
O'Hara
Passman
Peyser
Riegle
Sikes
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symington
Treen
Ullman
Wiggins
Wydler
Young, Ga.
Zeferetti

The clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Ms. Abzug against.

Mr. Passman for, with Mr. Badillo against.

Mr. John Burton for, with Mr. Hays of Ohio against.

Mr. Sikes for, with Mr. Fountain against.

Mr. Conable for, with Mr. Zeferetti against.

Mr. Hansen for, with Mr. Helstoski against.

Mr. Treen for, with Mr. Dent against.

Mr. Wiggins for, with Mr. Symington against.

Mr. Wydler for, with Mr. Levitas against.

Messrs. SATTERFIELD, DAN DANIELS, MILLER of California, Mrs. BURKE of California, Messrs. ICHORD, JARMAN, JENRETTE, BLOUIN, CARR, ADAMS, McCORMACK, HALL, CORNELL, CHAPPELL, FLOWERS, NICHOLS, BEVILL, HECHLER of West Virginia, Mrs. LLOYD of Tennessee, Messrs. HORTON, DELLUMS, Mrs. BOGGS, and Mrs. SPELLMAN changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CORMAN

Mr. CORMAN. Madam Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. CORMAN: Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 8 of Public Law 93–233 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Upon the request of the State of California the Secretary shall find, for purposes of the provisions specified in subsection (c) of this section, that the level of such State's supplementary payments of the type described in section 1616(a) of the Social Security Act has been specifically increased for any month after June 1976 so as to include the bonus value of food stamps if—

"(1) the State law as in effect for such month specifically provides for increases in such payments on account of increases in the level of benefits payable under title XVI of the Social Security Act in a manner designed to assure that, whenever a cost-of-living increase in the level of benefits payable under such title XVI becomes effective for any month after June 1976, the amount of the State supplementary payment payable, for each month with respect to which such cost-of-living increase in effective to any individual or to any individual with an eligible spouse, will be increased by such amount as is necessary to assure that—

"(A) the aggregate of (i) the amount payable for such month to such individual, or to such individual with an eligible spouse, under such title XVI and (ii) the amount payable for such month to such individual, or to such individual with an eligible spouse, under the State's supplementary payments program,

will exceed, by an amount which is not less than the monthly amount of such cost-of-living increase (plus the monthly amount of any previous cost-of-living increases in the level of benefits payable under title XVI of the Social Security Act which became effective for months after June 1976)—

"(B) the aggregate of the amounts which would otherwise have been payable, to such individual (or to such individual with an eligible spouse), under such title XVI and under the State's supplementary payments program for such month under the law as in effect on June 1, 1976; and

"(2) such month is (A) the month of July 1976, or (B) a month thereafter which is in a period of consecutive months the first of which is July 1976 and each of which is a month with respect to which the conditions of paragraph (1) are met.

As used in this subsection, the term 'cost-of-living increase in the level of benefits payable under title XVI of the Social Security Act' means an increase in benefits payable under such title XVI by reason of the operation of section 1617 of such Act; except that the cost-of-living increase in the level of benefits payable under such title XVI which became effective for the month of July 1976 shall be deemed (for purposes of determining the amount of the required excess referred to in the matter following subparagraph (A) and preceding subparagraph (B) in paragraph (1)) to have provided an increase of $3.00 per month in the case of an individual without an eligible spouse and $4.50 per month in the case of an individual with an eligible spouse.".

(b) The provision of section 8 of Public Law 93–233 redesignated as subsection (f) by subsection (a) of this section is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

Mr. CORMAN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California.

There was no objection.

Mr. CORMAN. Madam Chairman, I urge adoption of the amendment in the nature of a substitute and the passage of the bill.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. CORMAN).

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mrs. SPELLMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 14514) to permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits pursuant to House Resolution 1416, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. KETCHUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 179, not voting 43, as follows:

[Roll No. 569]

YEAS—210

Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Biaggi
Blanchard
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Carney
Carr
Chisholm
Conte
Conyers
Corman
Cornell
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Gaydos
Giaimo
Gilman
Gonzalez
Green
Hall, Ill.
Hamilton
Hanley
Hannaford
Harrington
Harris
Harsha
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Horton
Howard
Howe
Hughes
Hungate
Jacobs
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McCloskey
McCormack
McFall
McHugh
McKay
Madden
Maguire
Mann
Matsunaga
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Nedzi
Nix
Nolan
Nowak
Oberstar
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Preyer
Price
Randall
Rangel
Rees
Reuss
Richmond
Risenhoover
Rodino
Roe
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stokes
Stratton
Studds
Taylor, N.C.
Teague
Thompson
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Tex.
Zablocki

NAYS—179

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Baucus
Bauman
Beard, Tenn.
Bevill
Biester
Bingham
Blouin
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burton, Phillip
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Duncan, Tenn.
Emery
English
Erlenborn
Eshleman
Evans, Ind.
Fenwick
Flowers
Flynt
Forsythe
Frenzel
Frey
Fuqua
Gibbons
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Tex.
Hammerschmidt
Harkin
Hefner
Henderson
Hicks
Hillis
Holland
Holt
Holtzman
Hubbard
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lloyd, Tenn.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mahon
Martin
Mathis
Mazzoli
Melcher
Michel
Milford
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mosher
Mottl
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
Obey
O'Brien
Paul
Pettis
Pike
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rogers
Rousselot
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Thone
Thornton
Treen
Vander Jagt
Waggonner
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Winn
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—43

Abzug
Badillo
Brooks
Burton, John
Clay
Conable
Cotter
Dent
du Pont
Edwards, Ala.
Esch
Fountain
Gude
Hansen
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hightower
Hinshaw
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Landrum
Levitas
Litton
O'Hara
Passman
Peyser
Riegle
Roncalio
Sikes
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Symington
Ullman
Wiggins
Wydler
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Fountain for, with Mr. John L. Burton against.

Mr. Hawkins for, with Mr. Hébert against.

Ms. Abzug for, with Mr. Passman against.

Mr. Badillo for, with Mr. Sikes against.

Mr. Levitas for, with Mr. Landrum against.

Mr. Dent for, with Mr. Conable against.

Mr. Symington for, with Mr. Hansen against.

Mr. Zeferetti for, with Mr. Steelman against.

Mr. Clay for, with Mr. Steiger of Arizona against.

Mr. Hays of Ohio for, with Mr. Wiggins against.

Mr. Helstoski for, with Mr. Wydler against.

Mr. Riegle for, with Mr. Stuckey against.

Until further notice:

Mr. Cotter with Mr. Hightower.

Mr. Jones of Alabama with Mr. Johnson of California.

Mr. Roncalio with Mr. O'Hara.

Mr. Jones of Tennessee with Mr. Peyser.

Mr. Brooks with Mr. du Pont.

Mr. Edwards of Alabama with Mr. Esch.

Mrs. Sullivan with Mr. Gude.

Mr. Ullman with Mr. Heinz.

Mr. Young of Georgia with Mr. Litton.

Mr. O'BRIEN and Mr. BINGHAM changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries.

CONFERENCE REPORT ON H.R. 11481, MARITIME APPROPRIATION AUTHORIZATION ACT OF FISCAL YEAR 1977

Mr. DOWNING of Virginia, on behalf of Mrs. SULLIVAN, filed the following conference report and statement on the bill (H.R. 11481) to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1375)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11481) to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 14 and 16.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15 and 17, and agree to the same.

LEONOR K. SULLIVAN,
THOMAS L. ASHLEY,
JOHN D. DINGELL,
THOMAS N. DOWNING,
JOHN M. MURPHY,
PHILIP E. RUPPE,
PAUL N. MCCLOSKEY,
Managers on the Part of the House.

WARREN G. MAGNUSON,
RUSSELL B. LONG,
ERNEST F. HOLLINGS,
J. GLENN BEALL, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11481), to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE OF THE ACT AND CONFORMING AMENDMENTS

Amendment 1 provides for a new section 1 to read as follows: "That this Act may be cited as the 'Maritime Appropriation Authorization Act of Fiscal Year 1977' ". The House bill does not contain a comparable provision.

Amendment 2 redesignates section 1 of

the House bill as section 2. Senate amendments numbered 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 15 and 17 are technical or conforming amendments. The conferees agreed to accept these amendments.

RESEARCH AND DEVELOPMENT

Amendment 7. The Senate amendment would increase the amount of funds authorized for research and development activities of the Maritime Administration of the Department of Commerce from $19.5 million contained in the House version, to $22.5 million. This increase of $3 million is intended to accelerate an ongoing Maritime Administration R & D project to fund ocean testing of industrial plant ships and to conduct the necessary studies regarding the long-term prospects for commercialization of ocean thermal energy. The conferees wish to point out that no hearings were held on this provision in the House. The House conferees desire that this subject matter be examined during the hearings on the fiscal year 1978 maritime authorization bill.

As this $3 million has not been included in the appropriate Appropriations Act, the conferees on the part of the House receded from this disagreement to Senate amendment 7, as an expression of support for this important project.

STATE MARINE SCHOOLS

Amendments 14 and 16. Senate amendment 16 would amend section 6(a) of the Maritime Academy Act of 1958, as amended (46 U.S.C. 1385(a)), to increase the annual subsistence payable to the students at the State marine schools from $600 to $900. Senate amendment 14 would amend the authorization bill to increase the amount authorized for the State marine schools from $4 million to $5.2 million in order to fund this increase in subsistence payments. The conferees note that this increase of $1.2 million would account for an increase to the students from $600 to $1200. Since it was the intention of the Senate amendment to increase the payment from $600 to $900, and in enrolling the bill in the Senate a clerical error was made, the figure in amendment 14 should be $4.6 million. The Senate receded from these amendments, as the question of subsistence to the students at the State marine schools is the subject of an ongoing study by the General Accounting Office.

LEONOR K. SULLIVAN,
THOMAS L. ASHLEY,
JOHN D. DINGELL,
THOMAS N. DOWNING,
JOHN M. MURPHY,
PHILIP E. RUPPE,
PAUL N. MCCLOSKEY,
Managers on the Part of the House.
WARREN G MAGNUSON,
RUSSELL B. LONG,
ERNEST F. HOLLINGS,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

FIFTEENTH ANNUAL REPORT OF U.S. ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on International Relations:

To the Congress of the United States:

As we celebrate our Bicentennial year, we are thankful that America is at peace. For the first time in many years, no American is engaged in combat anywhere in defense of our freedom. But we know that there are in the world forces hostile to freedom, and that to protect our security and the values we prize we must maintain our strength, our resolve, and our endeavors to safeguard peace.

To meet our responsibilities today we must deal with the problems of security in ways never dreamed of by our founding fathers. We must influence the policies of possible adversaries in two ways: by keeping our military forces strong, and by pursuing negotiations to create stability rather than a spiraling arms race in weapons of incalculable destructiveness.

In both these endeavors, there are grounds for confidence. We have and will maintain a strategic relationship with the Soviet Union which preserves our security. At the same time, we will continue to pursue arms control agreements that lessen the danger of war and serve to promote a stable and peaceful international order. We are negotiating with the Soviet Union, with the Warsaw Pact countries, in the multilateral Geneva-based Conference of the Committee on Disarmament, and in the United Nations. We are mindful that many difficult questions remain to be solved, but I can report that steady progress has been made.

On May 28 I signed the Treaty on Underground Nuclear Explosions for Peaceful Purposes which has now been submitted to the Senate together with the related Threshold Test Ban Treaty. Both treaties represent genuine progress in the two-decade struggle to halt nuclear weapons testing.

In the current phase of the Strategic Arms Limitation Talks, we and the Soviet Union have made considerable progress since the Vladivostok meeting. Most of the elements needed for final agreement are already agreed. Certain issues are still unsettled but we will continue our effort to resolve them in a way that protects the interests of both sides, and enables us to complete a new Salt agreement on the basis of the Vladivostok accords.

In negotiations to reduce forces in central Europe, both the NATO and the Warsaw Pact nations have made new proposals. Through these negotiations we hope to achieve a more stable military balance in central Europe at lower levels of forces. And in the Conference of the Committee on Disarmament, the United States and the Soviet Union have tabled identical draft texts of a convention to outlaw environmental modification techniques for hostile purposes.

The Administration has undertaken a vigorous action program to strengthen the barriers against further proliferation of nuclear weapons. We have moved to increase the effectiveness of the Non-proliferation Treaty and the International Atomic Energy Agency. Controls on American exports of nuclear materials and sensitive technology have been made even more rigorous. The United States has taken an important initiative to establish new cooperation with the other major nations supplying nuclear equipment and technology, and a common understanding has been reached on principles and standards governing nuclear exports.

These are tangible evidence of progress. This fifteenth annual report of the U.S. Arms Control and Disarmament Agency sets forth in detail and perspective the advances that have been made and the difficult, essential work that must still be done. My Administration remains dedicated to continued and determined efforts for the control and balanced reduction of armaments.

GERALD R. FORD.

THE WHITE HOUSE, *July 29, 1976.*

INTERNATIONAL BANKING ACT OF 1976

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1343 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1343

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13876) to provide for Federal regulation of participation by foreign banks in domestic financial markets. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Currency and Housing, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1343 provides for the consideration of the International Banking Act of 1976 (H.R. 13876).

It is a simple 1-hour open rule.

The bill seeks to achieve parity between the treatment of foreign banking operations conducted in the United States and the domestic institutions with which they compete.

The stated purpose of the bill is to subject foreign operations to the same requirements and limitations imposed on domestic banks while according them the same rights and privileges, as well.

The committee has shown considerable sensitivity to the risk of retaliation against American banks abroad and has, therefore, applied the provisions of this legislation only to future branching activities.

This legislation was originally proposed by the Federal Reserve as a response to rapid unregulated growth of foreign institutions in the United States. The Committee on Banking, Currency and Housing and, particularly the Subcommittee on Financial Institutions, Supervision, Regulation, and Insurance, has examined the problem closely and proposed the legislation presented today as a sensible answer to the situation.

An amendment was offered in committee by the gentleman from Michigan (Mr. BLANCHARD) which would prohibit discrimination similar to that proposed by several Arab interests. The amendment was defeated on a tie vote in Committee and will be offered on the floor. I rise in strongest possible support of the gentleman's amendment.

Mr. Speaker, this is a simple rule which leaves the bill fully open to amendment and I urge its adoption so that we may proceed to consider H.R. 13876.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my distinguished colleague has explained, House Resolution 1343 furnishes an open rule with 1 hour of general debate for consideration of H.R. 13876, the International Banking Act of 1976.

H.R. 13876 has two principal objectives. The first objective is to initiate Federal regulation of foreign banking activities in our domestic financial markets, the authority of administration being vested in the Federal Reserve Board. The second is to insure comparable treatment of foreign and domestic banks operating in the United States.

Under existing law, domestic banks are prohibited from branching outside the State in which their home offices are located. In contrast, foreign banks can accept domestic deposits in more than one State. The bill grandfathers existing interstate banking activities, but it prohibits the establishment of any new branches outside the home State unless national banks are allowed to engage in interstate branching as well.

H.R. 13876 further provides a substitute for deposit insurance. It limits insurance to domestic deposits and specifies that the FDIC administer the program independent from the domestic insurance fund.

With regard to the securities business, the bill grandfathers all nonbanking activities existing prior to December 3, 1974, excluding securities activities of foreign banks in the United States. This bill would restrain, subsequent to December 13, 1985, any foreign bank that was involved in securities activity on or before December 3, 1974, from engaging in any securities activity not open to national banks with the exception of underwriting securities.

Finally, it is estimated that the enactment of H.R. 13876 will result in no additional budgetary expenditures.

The Committee on Banking, Currency and Housing has reported H.R. 13876 by an overwhelming vote of 29 to 3, and there is no controversy regarding the rule of which I am aware. Therefore, I propose that the rule be adopted and that we move to consideration of the bill.

Mr. Speaker, I have no requests for time and reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ST GERMAIN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13876) to provide for Federal regulation of participation by foreign banks in domestic financial markets.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts (Mr. MOAKLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13876) with Mr. BERGLAND in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Rhode Island (Mr. ST GERMAIN) will be recognized for 30 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Chairman, I yield such time as he may consume to the chairman of the full committee, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I thank the distinguished gentleman from Rhode Island (Mr. ST GERMAIN), the chairman of the subcommittee, for yielding to me. I congratulate the gentleman and all members of the subcommittee for the very thorough and able job they have done and I pronounce my full support for this legislation.

Mr. Chairman, the International Banking Act of 1976 deals with an important area in banking and necessarily involves some rather complicated issues. This is an area which has only developed in importance over the last decade, and encompasses a number of institutions and operations which are new to banking.

A more detailed explanation of its provisions has been provided by Mr. ST GERMAIN, the chairman of the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance which had jurisdiction over the legislation.

This legislation provides for Federal regulation of an increasingly important segment of the banking system. The assets of foreign banks with offices in the United States have grown from $7 billion in 1965 to more than $60 billion currently. The operations of these offices have a direct impact on U.S. money markets and an important influence on the level of interest rates. Since a sizable amount of funds flow into and out of the United States through these offices, they also have an important effect on the U.S. balance-of-payments position. Therefore, there is a need to bring the U.S. operations of foreign banks under the direct influence of Federal Reserve monetary policy. That is perhaps the most important aspect of H.R. 13876 as reported by the Committee on Banking, Currency and Housing.

The bill also provides for equal treatment in chartering and regulating foreign banks. Currently, foreign banks have the advantage of being able to branch in more than one State and engage in securities activities. They have these advantages because their branch and agency operations are chartered and regulated by individual states without any form of oversight by Federal regulators. There are no provisions presently in Federal law for chartering and regulating these kinds of operations. This constitutes a competitive disadvantage for foreign banks.

H.R. 13876 authorizes Federal charters of branches and agencies, but also provides for Federal regulation of existing State chartered operations, much as State chartered member banks are now regulated. By putting foreign banks into a framework comparable to that which governs their U.S. competitors, the bill provides for equal treatment for foreign banks estabilshing new operations in the United States and eliminates any further competitive advantages or disadvantages. The bill would, however, grandfather existing multistate branches and, with some restrictions, grandfather nonbanking operations as well.

In this, as in all other aspects of the legislation, the committee is satisfied that the treatment accorded foreign banks is fair and equitable, and in accordance with the laws and regulations governing the domestic banking system. I urge a favorable vote.

Mr. ST GERMAIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the International Banking Act of 1976 has had a fairly lengthy history. Legislation to provide Federal regulation of foreign banks in the United States was first introduced by the late Chairman Patman as early as 1967. Since that time there has been a growing awareness among many of the Members concerning the national and international economic ramifications resulting from the rapid growth and size of foreign bank operations in the United States. The Federal Reserve Board likewise recognized the impact of the rapidly expanding foreign bank activities in the United States when it first called upon the Congress to regulate their activities in the United States in a legislative proposal submitted in the 93d Congress. The Fed reemphasized the urgency of enacting this type legislation in light of the substantial bank operations of foreign banks in the United States currently totaling $47 billion in assets held in the United States, and which are exempted from Federal monetary and bank supervisory control when it submitted a similar proposal in this Congress which Chairman REUSS and I introduced upon request, H.R. 5617.

Mr. Chairman, the significance of foreign bank operations in the United States, as well as U.S. banking operations abroad, will, in my judgment, continue to have an all-encompassing impact on the smooth functioning of our own banking system as we continue to find the ways and means to fulfill our domestic needs.

Recognizing the importance of foreign bank operations in the United States, when the committee began its deliberations on comprehensive financial institution reform in conjunction with its FINE—financial institutions and the Nation's economy—study, it was evident that for financial institution reform to be meaningful it must develop a comprehensive national policy on the regulation of foreign bank activities in the United States. At the outset of the FINE study, Chairman REUSS and I identified foreign bank operations in the United States as one of the five major components of the study.

Last August, the committee's Subcommittee on Financial Institutions Supervision, Regulation, and Insurance held a series of meetings with officials of foreign central banks to discuss the problems being encountered given the nature of the international scope of banking today.

During 5 weeks of extensive hearings on what was known as the FINE study "discussion principles" last December and January, testimony was received fully representing every perspective on the committee's proposals dealing with the regulation of foreign banks operating in the United States. Witnesses included all the Federal financial regulatory agencies, the Department of Treasury, the Securities and Exchange Commission, the New York Stock Exchange, the securities industry, representatives of foreign banks as well as U.S. banks operating abroad, the American Bankers Association, the Bankers Association for Foreign Trade, the Independent Bankers Association, the Institute of Foreign Bankers, the Conference of State Bank Supervisors, as well as individual State banking supervisors and prominent academicians. As a result of those hearings, a comprehensive legislative proposal containing the proposals for regulation of foreign bank activities in the United States was drafted and upon which an additional 2½ weeks of hearings were held in March.

Mr. Chairman, as our colleagues know, the comprehensive legislative proposal was split into three separate bills, one of which, "reform of the Federal Reserve," the House has already considered and passed. The bill before us today is the second bill resulting from the committee's efforts to provide a framework for the smooth functioning of our banking system that will be responsive to the public's needs. It represents a broad consensus resulting from the sincere efforts of the members of the committee to resolve many conflicting interests. The strength of that consensus is reflected in the fact that the bill was reported out of the committee's subcommittee by a vote of 14 to 1 and was ordered favorably reported by a vote of 29 to 3.

Mr. Chairman, this bill also has the wholehearted support of Chairman Burns of the Federal Reserve Board which he most recently reiterated in his letter of June 30 from which I quote:

> As you know, in my letter of April 30, 1976, I wrote to offer the Board's strong support for the enactment of the proposed International Banking Act of 1976, which had been introduced as H.R. 13211. Since that time, H.R. 13211 has been reintroduced as H.R. 13876 and in the process has undergone several changes both in your Subcommitte and in the full House Committee on Banking, Currency and Housing, which changes generally have made the legislation correspond more closely to the Board's own legislative proposal in this area—the "Foreign Bank Act of 1975", which was introduced as H.R. 5617. In this regard, I would like to reiterate the Board's strong support for enactment of H.R. 13876 during this term.

While the legislation before us today may not resolve all of the many complex issues involving foreign bank activities in the United States, we must recognize that it is a vitally important and necessary first step toward implementing a comprehensive national policy affecting international banking.

The purpose of this bill is to provide for Federal regulation of foreign banking activities in the United States and to insure equal treatment for foreign banks chartered in the United States.

Section provides the necessary definitions of foreign bank operations and sections 2 and 3 authorize waivers in the National Bank Act and the Edge Act to permit foreigners to serve on boards of directors of these institutions, thus opening the way for the establishment of national banks and Edge Act corporations by foreign banks. The bill also provides for chartering of Federal branches and agencies by the Comptroller and defines their powers. Currently the only provisions for operation of these types of offices by foreign banks are in State law. Thus, section 4 provides an important new option for foreign banks in choosing a form of regulation.

Section 5 deals with one of the more controversial issues of the bill, the question of interstate branching. Currently, foreign banks can have branches in more than one State and many foreign banks do accept deposits in two or three States. U.S. banks—even those with loan production offices, Edge Act subsidiaries and finance and other affiliates owned by their holding companies—cannot accept deposits outside their home State unless they were grandfathered under the 1956 Bank Holding Company Act. In the spirit of that act, the bill grandfathers multistate operations of foreign banks, but prohibits the establishment of new branches outside the home State of the foreign bank as defined in section 5.

The question of insuring foreign bank deposits has been one of the more difficult issues to resolve. Currently, the FDIC does not consider deposits of branches of foreign banks eligible for insurance and former FDIC Chairman Frank Willie indicated during our consideration of this legislation that he would not consider even federally regulated branches of foreign banks as eligible for insurance. The reason is that no U.S. regulator can examine the parent foreign bank and thus cannot guarantee the soundness of the branch which is legally—and to a large extent operationally—part of the parent. Therefore, section 6 of the bill provides for a surety bond or pledge of assets to protect deposits in foreign branches to the same extent as domestic deposits, but without including foreign branch deposits in the domestic insurance fund.

Section 7 authorizes the Federal Reserve Board to supervise and regulate the activities of State chartered branches, agencies and commercial lending affiliates of foreign banks to an extent comparable to its supervision and regulation of State member banks. This covers approval of applications, examinations, reporting, et cetera, as well as the very important authority to impose reserve requirements on the liabilities of these offices.

Foreign banks with worldwide assets of $1 billion would be exempt from this requirement. Discussions in the subcommittee indicated that this provision had substantial approval among a majority of the members as a means of accomplishing the objective of providing Federal regulation of all foreign bank activities in the United States without causing a major disruption of the existing structure or denying the individual States an equal voice in the matter of regulating foreign bank entry and operations. The provision reflects and preserves the existing framework of the dual banking system.

Aside from their present ability to branch interstate, foreign banks have another important competitive advantage over domestic banks in that those which currently operate only under State law through branches and agencies can engage in both commercial and investment banking. If they were chartered as banks they would be in violation of Glass-Steagall which, since 1933, has prohibited U.S. banks from engaging in securities operations either directly or through affiliates. Section 8 of H.R. 13876 would apply the restrictions of the Bank Holding Company Act to all offices of foreign banks and thus prohibit any new nonbanking activities. It does grandfather the very limited amount of nonbanking activity of foreign banks other than their securities operations, and grandfathers the securities activities of 19 foreign banks with the restriction that, after 1985, they can only act as dealers, buying and selling securities, outside the United States.

This restriction expresses the views of a majority of the members that Glass-Steagall issues involving conflict of interest and bank soundness are too important to be ignored but that a means of dealing with these issues without dealing too harshly with too many of the foreign banks is preferable.

Another important section of the bill

deals with guidelines for entry and operation of foreign banks. It expresses the legislative intent to provide parity of treatment between domestic and foreign banks. It also authorizes the Secretary of the Treasury to set guidelines to assist those responsible for chartering foreign banks in processing applications and sets forth the general policy objectives which the guidelines should seek to attain. This section, section 9, also requires that regulators solicit the views of other appropriate agencies in considering applications.

Mr. Chairman, H.R. 13876 is needed to provide a more rational regulatory structure for foreign banks operating in the United States. Because foreign banks have grown so rapidly and are now so significant a portion of the U.S. banking market, their activities require better coordination of regulation and supervision than is currently provided by the several State regulators acting separately. Moreover, their impact on the economy and their significance in the credit markets as providers of more than 10 percent of all commercial and industrial loans made in the United States requires that they be subject to the influence of Federal Reserve monetary policy.

I therefore urge that you vote for the bill.

The bill will be debated more fully on some of the most controversial aspects during the amendatory process. In the interests of time, I therefore reserve the balance of my time.

Mr. ROUSSELOT. Mr. Chairman, I think many of us on this side of the aisle feel that a substantial amount of time was given to this bill; that hearings were very complete and that the committee as a whole had an opportunity to review the impact that this would have on international banking in this country. I myself will not support the legislation unless the Stephens amendments pass, but I know that my colleague from Georgia, a very staunch member of the committee, will explain those at the time they come up.

The basic objective of this bill is to apply to foreign and domestic banks doing business in this country the same restrictions and conditions of doing business. It might fairly be said that what we are trying to do is to correct "inequities" in the present competitive balance. However, I would remind my colleagues that there are two ways to resolve inequities. We can increase the amount of regulation to which we subject foreign banks operating in this country, or we can reduce the regulation of our domestic banking system. I have joined my friend and colleague from Texas (Mr. Paul), who has contributed so actively and effectively to the committee's work in the short time that he has served, in his plea in Additional Dissenting Views on this bill for deregulation of an industry in which "Government regulation has deliberately fostered a lack of competition, for which the consumer ultimately pays."

There is a provision for continued Federal involvement in the chartering process for foreign banks which deserves more comment than it will receive today. The limited "screening" procedures set forth in section 9 of the bill are, in my judgment, necessary in the face of suggestions that the United States should adopt an unreserved "open-door" policy because they are designed to deal with the reality that many foreign governments restrict entry of U.S. banks in what we consider to be an arbitrary or unfair manner. Judicious exercise of screening authority can provide necessary leverage to enable the United States to achieve "the negotiation and implementation of reciprocal arrangements with other countries to strengthen international trade."

As all of my colleagues know, the Committee on Banking, Currency and Housing has conducted extensive hearings on discussion principles and on legislation to reform the regulatory structure of financial institutions. Many procompetitive proposals were presented to the committee during those hearings. Unfortunately, few of them survived in the draft bill which languishes in the Subcommittee on Financial Institutions. The distinguished subcommittee chairman (Mr. St Germain) and I are committed to continuing our efforts toward financial reform. Let us only hope that any additional regulations that we impose upon foreign banks today in the name of equity will not be set in concrete and that we will carefully study such issues as securities underwriting and interstate banking which we resolve for the time being today.

I wish to compliment the chairman of the subcommittee, the gentleman from Rhode Island (Mr. St Germain), who made every effort to make sure that all individuals interested in this legislation had an opportunity not only to be heard but to offer amendments. Members of the committee were able to fully participate in the legislative process.

Mr. Chairman, I reserve the balance of my time.

Mr. ST GERMAIN. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. Tsongas).

Mr. TSONGAS. Mr. Chairman, there have been extensive hearings on this bill, and I would like to commend the chairman of the subcommittee and the chairman of the International Trade Subcommittee as well. I think the bill is needed, and I think we ought to move in that direction.

I would, however, like to call to the attention of the committee three possible concerns that I do not think have been fully explored, and which are something that we will have to continue to look at as time goes on.

No. 1, this bill may be interpreted by foreign bankers, and governments in which the United States has its own banks as being negative in terms of their own interests. I think we should be concerned about the possible retaliatory impact of this bill. Two instances, I think, should be cited:

First, the right to engage in commercial banking and securities activities is accepted conduct in Europe. It is not the way it is done here, but Europeans are used to it. Indeed, it is the right of commercial banks to engage in securities activities. The bill as it is presently written would make that impossible.

Second, American banks in Europe today have the right to branch anywhere. There are prohibitions in this bill which impact the right of foreign banks in the future to engage in banking in more than one State.

Second, the impact, I think, has to be looked at so that foreign banks coming into the United States provide investment, especially in terms of the Northeast, my own State of Massachusetts. That is a continuing issue.

Third and finally, as has been suggested by some, including myself, that there is a very serious impact, a negative impact, by this bill on the regional stock exchanges, in the Boston, Midwest and Pacific exchanges. There will be an amendment offered which will try to minimize some of that impact.

These three things are very serious. I think they should be looked at as time goes on, keeping a careful eye on what the impact is going to be. It is something, hopefully, that the committee will continue to monitor.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. The gentleman stated that U.S. banks abroad can branch at will.

Mr. TSONGAS. Not at will, but they would have more power to branch than foreign banks do here subsequent to this bill. For example, they are not limited to one county, one region, as they would be in this country.

Mr. ST GERMAIN. Within the various countries the subcommittee and its staff visited, we found that there were restrictions. There are restrictions within individual countries in Europe as to where U.S. banks can establish operations.

Mr. TSONGAS. There are restrictions, but ours would be of a different magnitude.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from California.

Mr. REES. I thank the gentleman for yielding.

This bill has been a negotiated bill. Negotiations have lasted for about 2 years. Even before the bill was in print, we sent mimeographed copies of it to domestic and international banking agencies, central banks, groups such as the Common Market, and asked them to comment. So, a substantial portion of this bill has been worked out in cooperation with the foreign banking institutions. As the gentleman so ably pointed out, one problem, and perhaps the most serious problem we have, is the Glass-Steagall Act: The U.S. commercial banks are forbidden to go into the securities business. Foreign banks doing business in the United States can go into the securities business. This is a problem we are still trying to deal with. It is a very serious problem.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. ST GERMAIN. Mr. Chairman, I

yield 2 additional minutes to the gentleman from Massachusetts (Mr. Tsongas).

Mr. REES. If the gentleman will yield further, every attempt was made to place the U.S. banks and the foreign banks in the exact same competitive position. There is no restrictive intent in this bill. The bill seeks to set up a Federal regulatory framework for foreign banks doing business in the United States.

Mr. TSONGAS. I might tell the gentleman that when I represented the committee at the conference in Berlin there were a number of foreign bankers who were there, the seminar being on banking, and their view was this: That should this bill pass in its current state, "Your banks can do something in our country which our banks cannot do in your country," whereas we would argue that, "Your banks can do in our country what our banks can do in our country."

In the foreign banking community there is a different view of this bill, and it may have an impact on our banks overseas and their banks in the United States.

Mr. REES. If the gentleman will yield further, I think it would be difficult to allow foreign institutions and banks and businesses to have additional power—to be exempt from United States laws when they do business in the United States. The U.S. banks do business under the laws of the country in which they are operating. I do not think we can say that merely because it is a foreign bank operating in the United States that it should have more rights and privileges than a U.S. bank doing business in the United States, or, say, a French bank doing business in France.

Mr. TSONGAS. I do not disagree. I am just trying to point out what the possible impacts are, in view of our own economy.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from Ohio (Mr. Wylie).

Mr. WYLIE. Mr. Chairman, the bill before us, H.R. 13876, the International Banking Act of 1976, is one which has some very important aspects which ought to be emphasized and of which Members should be made especially aware. The actual provisions of the bill have been described by others; so, I will confine my remarks to my layman's explanation of the highlights of what we are doing and why and to providing some background on the subcommittee's work in preparing the legislation. This is important and far-reaching but very complicated legislation in its impact.

The bill's objectives are to provide for equality between domestic banks and foreign banks operating in the United States. In order to do this, it is necessary to change the law to make available the same options to foreign and domestic banks with respect to the regulatory framework which governs the majority of U.S. banks. Since almost all U.S. banks are insured by the Federal Government and are thereby subject to Federal regulation, it was necessary to bring branches and agencies of foreign banks under Federal regulation for the first time by statute, and to provide some form of substitute insurance for their U.S. deposits. In addition, the bill gives foreign banks the option of establishing branches and agencies under Federal charter or State charter.

In order to provide for equal treatment of domestic banks with foreign banks, it was also necessary to erase some competitive advantages which foreign banks have now. The legislation provides that no longer will interstate branching be permitted for foreign banks unless and until national banks are given the same privilege. The bill also provides that after 1985 foreign banks will no longer be allowed to engage in both commercial banking and the securities business which is a violation of the Glass-Steagall Act for domestic banks. Finally, the bill requires that the Eurodollar borrowings of foreign banks be subject to the same reserve requirements as U.S. banks.

In paving the way for this legislation, members and staff of the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance went to Europe in August 1975, and met with officials of the central banks and bank regulatory agencies in England, France, Germany, Switzerland, and Italy. I might add that we were told ours was the first group of foreigners ever to have the privilege of being in the presence of all the members of the Central Bank of Switzerland in one room. So, they felt the meeting was important. Various legislative proposals for regulating foreign banks in the United States were discussed with these officials so that subcommittee members could learn of possible effects U.S. regulation might have on the banks and economies of these countries. Of course, we hoped to be able to frame a bill that would be in the best interests of both the United States and its major trading partners. I think we succeeded in persuading most of the overseas bank regulatory and central bank officials that our motives were genuine and our concerns well founded. We also discussed the issue of reciprocity and found very little threat of punitive action against our banks if legislation were enacted which would provide equality of treatment of our domestic banks with foreign banks.

During the course of these discussions, we had the benefit of learning how other countries regulate foreign banks, particularly U.S. banks and what their concerns are. We also discussed these issues with the officers of four major U.S. banks with overseas operations and got from them a pretty good picture of their modus operandi and what are some of their problems.

All in all, I think our trip had a very positive impact in shaping this legislation, and I would like to assure Members that the subcommittee gave considerable time and attention to some of the delicate political as well as economic issues involved. No one can predict with certainty what will happen when this bill becomes law. But, to me it makes sense that our domestic banks should not be at a competitive disadvantage with foreign banks in our own country. And, the heavy inflow of foreign bank operations in the United States in the last few years indicates to me they could be in a short time if we do not pass this bill. So, I do support the bill and urge its passage.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I want to compliment the gentleman on his statement. I know that the gentleman is one of the members of the committee who works very diligently to understand legislation. He is very diligent when we have legislation before our committee in attending the hearings, and he works hard to become fully informed on all ramifications of proposals which come before the committee.

Again, Mr. Chairman, I compliment the gentleman on his fine statement.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for his complimentary remarks, and I wish to return the compliment to my good friend the gentleman from California (Mr. Rousselot), the ranking minority member of the subcommittee for his diligence, for his continuing fine efforts as our ranking member. He is highly respected for his continuing excellent efforts on banking legislation.

Mr. ROUSSELOT. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. Johnson), the ranking member of our committee.

Mr. JOHNSON of Pennslyvania. Mr. Chairman, when this bill was before the committee, I had some real apprehension that if this bill became law, as was planned, it would have a very serious effect on American banking abroad.

I say this because many of us have traveled, as the gentleman from Ohio (Mr. Wylie) has, and visited with bankers.

Last summer, when we were in Rio de Janeiro, we saw that the Chase Manhattan Bank of New York has a bank of some $200 million in assets in there; that the First National City Bank of New York has between $150 and $200 million in assets there; and that there are American banks practically all over the world. They are enjoying relative freedom of operation and, in effect, are sitting ducks in this day of tyranny and retaliation.

Mr. Chairman, referring to my worries about the bill—and I intend to support the bill, as the gentleman from California (Mr. Rousselot) will, if certain amendments are adopted—we all received a letter from the National Bank of Greece in which they say they are a $6 billion institution, but they only have one branch in the United States, located in Chicago, Ill. However, they would like to have additional branches, one each at the seashores of the States of Massachusetts, California, and Texas, and one in the District of Columbia.

Of course, they say that these plans would necessarily be nullified if this bill passes in its present form; and they very politely suggest, with reference to Greece, that United States banking institutions operating one or more branches in Greece are: the First National City Bank of New York; the Chase Manhattan, New York; the Bank of America of California; the American Express, New York; the First

National Bank of Chicago; and the Continental Bank of Illinois. In addition, Manufacturers Hanover Trust Co. is a substantial partner with the Credit Bank of Athens.

In other words, Mr. Chairman, here is one nation which is, in effect, saying, "You have a pretty substantial banking representation in our country."

Therefore, Mr. Chairman, I think we have to be very careful. I agree that we should make sure that these foreign banks are safe in this country; but I would hate to create an atmosphere in which the word would get out that we, the United States, have retaliated, in effect, against foreign banks operating in the United States, whether we are doing it or not. I do not want to see that impression created.

Also, Mr. Chairman, we have all received numerous letters from the Swiss banking people who are in the securities business in this country; and they are very disturbed about the effect of this bill on them.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Johnson) has expired.

Mr. ROUSSELOT. Mr. Chairman, I yield 1 additional minute to the gentleman from Pennsylvania.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. I yield to the gentleman from California.

Mr. REES. Mr. Chairman, may I say that the only restriction is as to interstate branches. There is no restriction with respect to esablishing a foreign bank except that it has to be approved by State law.

In those States which do not approve of foreign banks, they cannot go in anyway. Therefore, all this does is to affect the branches. If the bank agrees to go to California, they could start an agency or a subsidiary. There is no restriction in California that would not allow them to come into California. The intent of this is not to be restrictive.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I thank the gentleman for the explanation, but what I said is in accord with what the National Bank of Greece has to say in this letter.

Mr. REES. I know more about the bill than the National Bank of Greece does.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, I appreciate the comment of the gentleman from California (Mr. Rees), and I am sure that he does.

Mr. ST GERMAIN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. Rees).

Mr. REES. Mr. Chairman, and Members of the Committee, we do not have any Federal law that regulates foreign banks. There are no foreign banks in the United States by virtue of Federal law. One of the major purposes of this bill is to set up a Federal regulatory structure so that if a foreign bank wishes to do business under Federal statutes, it could then come in under Federal statutes. We do not really affect the States. If the foreign banks wish to come under State statute, they can come in under State statute if that State allows foreign banks.

Right now the only entrance of foreign banks into the United States is through the States. In California, for example, we allow foreign agencies to do business in California, and we also allow subsidiaries controlled by foreigners to do business in California. Hence, we have a very vigorous competitive situation in my State.

I think that Lloyd's, Bank of Tokyo—which is now First California—and Barclay's Bank each have over 100 branches of their subsidiaries in California. So one can see that the foreign banking community is very vigorous there. Also they are vigorous in Chicago, and they are vigorous in the State of New York. Those are the three major States that allow foreign banks.

We have several types of structures. We have a branch of a foreign bank which is actually a branch of the bank of the country of origin. These branches can take in deposits but basically they are a wholesale bank, doing primarily wholesale business. If a bank wants to go into the retail business and make commercial loans, usually they come in as a subsidiary; then, they are essentially a U.S. bank under U.S. banking laws.

We also have an agency which is like a branch, but they cannot take deposits, and there is no restriction here about agencies going from State to State. In California we do not allow branches because there is no insurance on the accounts as under the FDIC. So most people, if they want to put their money in a bank, will not put it in a foreign branch because they do not have any insurance on their account. They will give it to a subsidiary, if they want to do business with a foreign bank, so they can get FDIC insurance.

But the situation is rather complicated with each State having its own statutes, with no real Federal regulatory structure.

Part of the problem is that most of the foreign banks are the largest banks of the country of origin. You do not have any small foreign banks doing business in the United States. They are the major banks of their countries. Much of their business is international business. That is why we put them all under Federal regulation because the Fed is responsible for domestic and international monetary policies.

These banks are such big banks that they should be under Federal regulation, with Fed reserve requirements and other safeguards which the Federal Reserve Board has.

I want to emphasize that the purpose of this act is not to discriminate against foreign banks. The act says that—

> The Federal regulatory agencies in the administration of this Act, shall seek to achieve a parity of treatment for foreign banks, branches, agencies, and commercial lending companies relative to their domestic counterparts.

It also says:

> To the extent practical, allow foreign banking institutions to have the same rights, duties and privileges and be subject to the same limitations, restrictions, or conditions as our domestic banking institutions.

And that is it. There is no attempt to be prejudicial against a foreign bank.

Many foreign countries do not understand our Federal system. They do not understand the dual banking system: that we have a State banking system and a Federal banking system, and they exist together; they exist very well together. So they complain and say, "Why can't we go into all of the States?" The answer is very simple: because U.S. banks cannot branch into the 50 States.

I would like to have interstate branches. I would like to see Bank of America here and maybe in New York, but we cannot do that because that is specifically prohibited by the McFadden Act. U.S. banks can only do business in one State—their own State.

I think it is rather ridiculous to say, "Well, gee, that does not matter; let foreign banks do business wherever they can."

In this bill, we do allow foreign banks to have agencies in any State where agencies are allowed. There is no restriction on that. If California allows agencies, the Bank of Greece can have an agency in California, and as an agency, it can loan money. It can do everything a bank can do, but it cannot take in deposits. So the Members can see here that we are essentially trying to develop parity. We want to stimulate foreign banking in the United States, and one way to stimulate it is to come up with a uniform regulatory procedure.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. St Germain, and by unanimous consent, Mr. Rees was allowed to proceed for 5 additional minutes.)

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

I think another important point the gentleman would want to make is that we are dealing here now with approximately $48 billion in assets in these foreign banks. Certainly the Federal Reserve Board, I think, is justified in its request that there be some control. How can monetary policy be implemented if such a large amount of money, that will certainly keep growing, does not come within the purview of the Federal Reserve Board in its monetary policy functions?

Mr. REES. Yes, and if I might ask the gentleman, I was looking on page 16 of the bill at the authority of the Federal Reserve System. In this section we find that the Fed can put reserve requirements on the obligations of any branch or agency. It is my interpretation of this that the Fed would look at every situation and say, "Well, in this case we are not going to put full reserve requirements on the liabilities; we are just going to put partial reserve requirements because we do not want them to get caught between the cracks." They could be in a situation where they have to pay reserve requirements both in the country of origin and here.

Mr. ST GERMAIN. If the gentleman

will yield further, I would like to make another point. I shall be offering an amendment—it will be Mr. JOHNSON'S amendment—to section 7 that would strike the word "liability" and in lieu thereof insert the word "obligation," because the word "liability" would, unfortunately, be much too broad.

Mr. REES. That is a good amendment because it does narrow the base and adds classification.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

Do I understand correctly that the bill as written would allow the establishment of a branch of a foreign bank in any State where it was legal?

Mr. REES. Yes.

Mrs. FENWICK. Is that allowed to American banks?

Mr. REES. Under this bill as it is written, a new bank coming in can have a branch in a single State, but it cannot have a branch in any other State. It can have an agency in one State, and it can have an agency in any State where agencies are permitted by State law.

Mrs. FENWICK. But only one branch?

Mr. REES. Only one branch.

Mrs. FENWICK. Is that true of American banks also?

Mr. REES. American banks are retricted to do business in a single State under the McFadden Act.

Mrs. FENWICK. But no branch?

Mr. REES. The gentlewoman must remember that we cannot think of "branch" in terms of branches like, say, the Riggs Bank in Washington. If a foreign bank seeks to go into the retail business, such as Lloyd's or Barclay's in California, it becomes a subsidiary bank, and as a subsidiary bank it is the same as a U.S. bank and, as I say, it can branch freely in California. For instance, each of three major banks has over 100 branches in California, but this is under State law. If the State law does not allow branches, then the foreign banks cannot do it.

Mrs. FENWICK. I thank the gentleman for his comments.

Mr. STEPHENS. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Georgia.

Mr. STEPHENS. I thank the gentleman for yielding.

The gentleman and I have had some discussion in respect to the effect of the Glass-Steagall Act that is covered in this bill to some extent. If a foreign bank organization—call it a bank—in a State here in the United States does not accept deposits and is not a commercial bank, if it does that, can it continue even after the passage of this act with the privilege of underwriting securities just as an investment bank has always been able to do if it is not a commercial bank?

Mr. REES. It is my impression from this bill that if the foreign bank has a branch or an agency, it cannot also have a securities affiliate. If they are grandfathered under this bill the foreign banks can have a securities affiliate for 10 years and then they have to divest themselves of the securities affiliate. But they can have a representative office, for example, and also have a securities affiliate. But they cannot have a branch or an agency.

Mr. ST GERMAIN. Mr. Chairman, if the gentleman will yield, at the end of 10 years securities affiliates of foreign banks do not have to divest themselves but they cannot sell securities in this country.

Mr. REES. I stand corrected. After 10 years they can only sell on behalf of customers outside of the United States. Right now they can sell both outside and inside the United States.

Mr. STEPHENS. Mr. Chairman, if the gentleman will yield further, the question then is that if they do not have a full service banking business in a branch in the United States and are here solely for the purpose of investment of securities, they would not be covered by this bill?

Mr. REES. If they are not in the banking business here, and they have a securities business here, this bill does not affect them. They can be tied in the country of origin, but that does not matter. The only thing that matters is what business they are engaged in within the United States, and if they are engaged in the securities business, that is it; this bill would not affect them.

Mr. ROUSSELOT. Mr. Chairman, I yield such time as he may consume to my distinguished colleague, the gentleman from Connecticut (Mr. MCKINNEY).

Mr. McKINNEY. Mr. Chairman, the aim of H.R. 13876 to establish Federal regulation of foreign banking activities to assure equal treatment of domestic and foreign banks under U.S. law is highly commendable. I support the bill, subject to the qualifications contained in Congressman STEPHENS' amendments.

Currently, most domestic banks are subject to both State and Federal regulation. Federal regulation is sparked by virtue of the fact that most U.S. banks are insured and thus are within the regulatory purview of the FDIC. In contrast, foreign banks operating in the United States are chartered and regulated by the States alone and are exempt from Federal laws which control most U.S. banks.

The lack of Federal regulation of foreign banks is reenforced by the stringency of the National Banking Act and the Edge Act which effectively exclude foreign banks. Under these acts, a bank applying for Federal chartering must satisfy strict U.S. citizenship requirements for its board of directors. The acts discourage Federal chartering of foreign banks because few can meet the citizenship conditions.

The result of this dual system of regulation for U.S. and foreign banks is unsatisfactorily unequal treatment. The bill highlights certain key sources of imbalance. The National Banking Act prohibits national banks from any interstate branching; foreign banks may participate in multistate operations. National banks must comply with FDIC insurance requirements; foreign banks need not pay insurance premiums since they are not required to insure domestic deposits. The Glass-Steagall Act forbids domestic commercial banks from engaging in securities activities; foreign banks may combine both. U.S. banks must maintain reserves against borrowing by domestic offices from foreign banks; foreign banks need not meet the FRB requirements.

The bill successfully addresses several of the anomalies in the current banking situation. H.R. 13876 modifies the National Banking Act and allows Federal chartering where only a majority—as opposed to all—of a foreign bank's directors are citizens. The Edge Act is also amended to strike the board citizenship requirement completely. I applaud this relaxation of the conditions for Federal chartering of foreign banks. They now have an option, as do domestic banks, between State and/or Federal chartering.

Certain other aspects of the unequal treatment of the various banks are addressed in too extreme a fashion by H.R. 13876. Therefore, despite my general support of the bill, I aline myself with Mr. STEPHENS' objections to various portions of the bill and urge their amendment.

H.R. 13876 is premised on the belief that foreign banks enjoy a competitive edge over domestic banks because they may engage in interstate branching. Accordingly, the bill prohibits extension of such branching by foreign banks under section 5. Multistate foreign branches established prior to May 1, 1976, would be grandfathered while no new branching would be permitted unless a domestic national or State bank would be allowed to do so under U.S. laws.

This section places an unnecessary constraint on foreign banks. It appears, contrary to the bill's assumption, that there is only limited interstate branching and that it does not threaten or competitively challenge domestic banks. The United States operates more banking institutions abroad than it hosts foreign banks here and there is a risk that by placing limitations on foreign banks in the United States restraints may be placed on U.S. banks abroad.

Therefore, I reject section 5 of H.R. 13876 and support Mr. STEPHENS' amendment permitting a foreign bank to operate a branch, agency, or commercial lending company in a State other than its home State where this is permitted by State law of the locale of the branch.

The Stephens' amendment to section 7(a) is also in point. The bill authorizes the FRB to apply existing FRB reserve requirements and interest rate controls to all foreign bank branches and agencies where the parent bank's total assets exceed $1 billion. The amendment seeks to strike this provision on the ground that it denies foreign banks the privilege enjoyed by domestic banks of optional affiliation with the FRB.

Similarly, sections 7(d) and 7(e) should be struck from the bill since they unnecessarily extend the FRB's authority into traditional State realms. The FRB should not have the authority to approve and regulate State-chartered foreign branches.

In addition to the changes I have indicated, I also wish to stress the importance of House passage of the Blanchard amendent. This crucial modification would include an explicit and forthright antidiscrimination provision in the bill. We must adopt this amendment so as to make it absolutely clear that discrimination on the part of those dealing with the United States will not be tolerated.

The need for antidiscrimination measures is manifest and is most strikingly illustrated by two specific instances. On February 24, 1975, the Comptroller of the Currency wrote in a letter to all national bank presidents:

> This office has recently learned that some national banks may have been offered large deposits and loans by agents of foreign investors, one of the conditions of which is that no member of the Jewish faith sit on the bank's board of directors or control any significant amount of the bank's outstanding stock.

Discriminatory practices have thus been acknowledged, but the administration officials have been hard-pressed to combat the problem without clear legislative direction from Congress. For example, the Department of Commerce circulates among U.S. firms bid invitations which include boycott clauses. The Department also indirectly invites compliance with the boycott by stating in its rules and public notices that firms are encouraged, but not legally required, to avoid compliance with the boycott. Such language in effect encourages boycott compliance. But we cannot fairly expect the Department to take the necessary strong antiboycott stance and to challenge the practices of foreign banks since the consequence frequently is the discouragement of commerce. The Department cannot singlehandedly fight the discrimination battle without clear direction from Congress.

In the past, Congress has evidenced strong support for antiboycott legislation. More than 100 Members of the House have cosponsored at least one of the four antiboycott bills now pending. There is also a consensus among domestic business people that discrimination must be discouraged. The feeling is there; but Congress has not been explicit in stating this policy of nondiscrimination. We must finally make clear our position by providing unequivocal legislative guidelines. Therefore, H.R. 13876 should include the Blanchard amendment. We can no longer leave regulatory agencies and banking institutions to their own resources to fight the discrimination problem.

With the modifications proposed, H.R. 13876 presents a viable solution to the present incongruity between treatment of foreign and domestic banks. It pinpoints the most grossly inequitable aspects of the banking laws and provides meaningful ways to rectify the problems. The House report acknowledges that the bill does not achieve absolute equality of treatment. But H.R. 13876 as modified closely approximates equality and rights the most glaring wrongs.

Mr. ROUSSELOT. Mr. Chairman, I yield such time as he may consume to my distinguished colleague, the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, the legislation we are considering today will fill an important void in the regulation of financial institutions in this country. Under our present laws, foreign banks operating in the United States are free from any Federal regulation—free from the regulations which their competitor banks—the U.S. domestic banks—must face every day.

This present lack of regulation offers a competitive advantage to the foreign banks. H.R. 13876 would end this competitive advantage and bring equal treatment to both foreign and domestic banks in the United States. The legislation affects five major areas where the foreign banks now enjoy a competitive edge.

First, under present law, foreign banks are allowed to engage in multi-State operations without being subject to the same Federal laws and regulations which govern almost all U.S. banks. This bill would bring foreign banks under the same dual jurisdiction as our domestic banks.

Second, under present law, domestic banks are required to bear the expense of deposit insurance. Foreign banks have no such expense. This bill would require foreign banks to participate in a deposit insurance program similar to the one operated by the FDIC. Not only does this provision put foreign and domestic banks on equal footing, but it also provides an additional margin of safety for domestic depositors.

Third, foreign banks are not required to maintain reserve requirements under present law. This bill authorizes the Federal Reserve to impose reserve requirements. In addition to eliminating another competitive advantage currently enjoyed by foreign banks, this provision will provide the Federal Reserve with additional influence over monetary policy.

Interstate branching is another power enjoyed by foreign banks under present law. This bill would terminate that additional power. Existing branch offices would be "grandfathered in," but the establishment of new branches outside the home State would be forbidden unless national banks are allowed the same powers. Again, this bill puts foreign and domestic banks on equal ground.

Finally, present law allows foreign bank operations to engage in the securities business, while domestic banks have been forbidden from this area since the Glass-Steagall Act. H.R. 13876 would eliminate this unfair competitive advantage and prohibit any bank operating in the United States from engaging in any securities activities except underwriting.

Mr. Chairman, I commend the committee for its fine work in doing the job at hand—and going no further. So many times this Congress has committed that unpardonable crime of overcuring a problem.

It is clear, Mr. Chairman, that each provision of this bill works efficiently and effectively to put foreign and domestic banks on equal footing in our Nation's financial markets. That is the goal we are seeking today, and that is the goal this bill will achieve. I urge my colleagues to join me in supporting this bill.

Mr. ROUSSELOT. Mr. Chairman, I yield such time as he may consume to my very distinguished colleague, the gentleman from Ohio (Mr. J. WILLIAM STANTON).

Mr. J. WILLIAM STANTON. Mr. Chairman, I wish to join with those who support H.R. 13876, the International Banking Act of 1976.

H.R. 13876 represents a comprehensive and equitable approach toward the Federal regulation of a long neglected area within this Nation's financial community—the operations of foreign banks within the United States.

Presently, the activities of foreign banks in the United States are regulated by State governments. This arrangement has created a regulatory gap between our domestic banks and those foreign banks operating in the United States. Foreign banks are not subject to many of the basic Federal laws that are applied to U.S. banks. Foreign banks in the United States are not restricted by the Glass-Steagall Act; they are not required to hold FDIC insurance; they are not required to maintain reserve deposits with the Federal Reserve; and they are not subject to normal restrictions against interstate branching. H.R. 13876 is designed to fill this regulatory gap and remove any unfair competitive advantages that exist because of it.

The regulatory framework that is established by H.R. 13876 is based on equity. For years, the United States has maintained an open-door policy toward inward foreign investment. H.R. 13876 is in keeping with this policy. While the bill provides for Federal regulation it does so without imposing any unfair restrictions on the operations of foreign banks. In other words, under H.R. 13876 foreign banks are to be treated just like U.S. banks.

The regulatory framework established by H.R. 13876 is also a flexible, workable arrangement. H.R. 13876 does not attempt to turn foreign banks into U.S. banks. It recognizes that the clientele of foreign banks are predominately non-U.S. citizens. Thus, rather than mandate exact conformance to U.S. laws, the bill provides for new, flexible procedures. For example, instead of mandating membership in the Federal Reserve System or Federal Deposit Insurance Corporation, H.R. 13876 provides only for the maintenance of a surety deposit with FDIC and simply allows the Fed to impose reserve requirements on the foreign banks.

Finally, Mr. Chairman, H.R. 13876 is a reasonable approach to a highly complex issue. The bill itself is a product of compromise and accommodation. As originally introduced it contained several provisions which would have jeopardized the activities of foreign banks in the United States. Through open deliberations, however, the bill was modified into its present workable form.

Mr. ROUSSELOT. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I would like to go on record as opposing this bill as I have dissenting views printed in the report. My basic opposition to this bill is, even though I recognize the problem that the foreign banks are growing more rapidly than our banks, that I see the problem as overregulation of our banks and not underregulation of foreign banks. I think this point was inadequately considered by the Banking Committee.

It is typical of our Government operation to overregulate and overcomplicate and slow things down, and then try to solve the problem with more regulation. I want to go on record for deregulation of the banking industry as well as all segments of our economy.

On this point I quote Professor Milton Friedman who said:

> In my view, a far more important need than nationalizing the administration of bank regulation is reducing the amount of such regulation. The banking system is regulated to a greater extent than almost any other sector of the economy. The public would benefit from a vast reduction in such regulation.

This bill should be defeated; it represent an improper solution to the problem that exists.

Ms. ABZUG. Mr. Chairman, I rise in support of H.R. 13876, the International Banking Act and would like to express my particular support for the amendment offered by the gentleman from Michigan to limit the impact of the Arab boycott of Israel in the United States. This amendment directly addresses itself to the need to end exclusionary treatment of U.S. citizens by foreign financial institutions. We cannot demonstrate our genuine intent to assure implementation of the principle of equal rights, unless we are willing to take such firm steps as this amendment provides to see that our interactions with other nations and business interests do not compromise that principle.

I have been a strong supporter and very active in attempts to end discrimination at every level of government activity. I have held hearings and worked in the Government Operations Subcommittee on Individual Rights, which I chair, to eliminate the impact of the Arab boycott on Americans. Not acting against the Arab boycott would, in effect, be an American condonation of discriminatory practices based on race, religion, national origin or sex. The acceptance of this amendment is the kind of positive action which we must take.

Discriminatory practices in any area are a threat to our commitment to the ideal of equality of opportunity. We must continue our efforts to see that the fullest implementation of these ideals is achieved.

This amendment would be one of the necessary actions we must take. I will continue efforts in my subcommittee to combat the effects of the boycott, and will offer my full support for any further proposals to end its intolerable discrimination.

This amendment is significant in that it represents a concrete attempt to discontinue discriminatory practices by foreign firms conducting business in the United States. Banks and other major corporate powers must be prevented from engaging in inequitable business policies, and I support this move to do so.

Mr. ST GERMAIN. Mr. Chairman, I have no further requests for time and I ask that the Clerk read.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND DEFINITIONS

SECTION 1. (a) This Act may be cited as the "International Banking Act of 1976".

(b) For the purposes of this Act—

(1) "agency" means any office or any place of business of a foreign bank located in any State of the United States at which credit balances are maintained incidental to or arising out of the exercise of commercial banking powers, checks are paid or money is lent but at which deposits may not be accepted from citizens or residents of the United States;

(2) "Board" means the Board of Governors of the Federal Reserve System;

(3) "branch" means any office or any place of business of a foreign bank located in any State of the United States at which deposits are received and checks are paid or money is lent;

(4) "Comptroller" means the Comptroller of the Currency;

(5) "Federal agency" means an agency of a foreign bank established and operating under section 4 of this Act;

(6) "Federal branch" means a branch of a foreign bank established and operating under section 4 of this Act;

(7) "foreign bank" means any institution that (1) is organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, and (2) either (A) principally conducts its banking business outside the United States or (B) is a subsidiary, as that term is defined in the Bank Holding Company Act of 1956, of any institution which, on a consolidated basis, principally conducts its banking business outside the United States. For the purposes of this Act, the term "foreign bank" includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(8) "foreign country" means any country other than the United States, and includes any colony, dependency, or possession of any such country;

(9) "commercial lending company" means any institution, other than a bank or an organization operating under section 25 of the Federal Reserve Act, organized under the laws of any State of the United States, or the District of Columbia which maintains credit balances incidental to or arising out of the exercise of commercial banking powers and engages in the business of making commercial loans;

(10) "State" means any State of the United States or the District of Columbia; and

(11) the terms "bank", "bank holding company", "company", "control", and "subsidiary" as used in this Act shall have the same meanings assigned to those terms in the Bank Holding Company Act of 1956, and the terms "controlled" and "controlling" as used in this Act shall be construed consistently with the term "control" as defined in section 2 of the Bank Holding Company Act of 1956.

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 1 be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, why does the gentleman from Rhode Island not ask that for the whole bill?

Mr. ST GERMAIN. Mr. Chairman, if the gentleman will yield, I would rather do it by section.

Mr. ROUSSELOT. All right.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

AMENDMENTS OFFERED BY MR. ST GERMAIN

Mr. ST GERMAIN. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ST GERMAIN: Page 2, line 4 and page 3, line 21, strike the word "commercial". Page 2, line 6 strike the words "and checks are paid or money is lent".

Mr. ST GERMAIN. Mr. Chairman, these are technical amendments to effectuate the purpose and intent of the act. I do not see any reason for any further discussion.

Mr. ROUSSELOT. Mr. Chairman, the minority has no reservations or objection to the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The amendments were agreed to.

The CHAIRMAN. The Clerk will read section 2.

The Clerk read as follows:

ESTABLISHMENT OF NATIONAL BANKS

SEC. 2. Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the period at the end of the first sentence and adding the following new provision: ", except that in the case of an association which is a subsidiary or affiliate of a foreign bank, the Comptroller of the Currency may in his discretion waive the requirement of citizenship in the case of not more than a minority of the total number of directors.".

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The CHAIRMAN. Are there amendments to section 2? If not, the Clerk will read.

The Clerk read as follows:

EDGE CORPORATIONS

SEC. 3. (a) The second sentence of the fourth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 614) is amended by striking out ", all of whom shall be citizens of the United States" after "to elect or appoint directors".

(b) The first sentence of subparagraph (a) of the fifth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615(a)) is amended by inserting "except with the approval of the Board of Governors of the Federal Reserve System," after "but in no event".

(c) The second proviso of the first sentence of the ninth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 618) is amended by inserting ", except with the approval of the Board of Governors of the Federal Reserve System" after "That".

(d) The tenth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 619) is deleted and the following paragraph is inserted in lieu thereof:

"Except as otherwise provided in this section, a majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States. Notwithstanding any other provisions of this section, any foreign bank or any bank organized under the laws of the United States, any State of the United States, or the District of Columbia, the controlling interest in which is owned by a foreign bank, group of foreign banks, or institution organized under the laws of a foreign country which owns or controls a foreign bank may, with the prior approval of the Board of Governors of the Federal Reserve System and upon such terms and conditions and subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, own and hold 50 per centum or more of the shares of the capital stock of any corporation organized under this section, and any such corporation shall be subject to the same provisions of law as any other corporation organized under this section. For the purposes of this paragraph the terms 'controls' and 'controlling interest' shall be construed consistently with the definition of 'control' in section 2 of the Bank Holding Company Act of 1956, and the term 'foreign bank' shall have the meaning assigned to it in the International Banking Act of 1976.".

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 4, line 21, strike "subparagraph (a) of the fifth", and insert in lieu thereof "the sixth".

Page 5, line 1, strike "ninth" and insert in lieu thereof "twelfth".

Page 5, line 6, strike "tenth" and insert in lieu thereof "thirteenth".

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. ST GERMAIN

Mr. ST GERMAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ST GERMAIN: Page 6, line 9, insert "the preceding sentence of" before "this paragraph".

Mr. ST GERMAIN. Mr. Chairman, once again, this is a clarifying amendment. I do not think it is necessary to discuss it further.

Mr. ROUSSELOT. Mr. Chairman, the minority has no objection to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read section 4.

The Clerk read as follows:

FEDERAL BRANCHES AND AGENCIES

SEC. 4. (a) Except as provided in section 5, a foreign bank may, with the approval of the Comptroller, establish a Federal branch or agency in any State in which (1) it is not operating a branch or agency pursuant to State law and (2) the establishment of a branch or agency, as the case may be, by a foreign bank is not prohibited by State law.

(b) In establishing and operating a Federal branch or agency, a foreign bank shall be subject to such rules, regulations, and orders as the Comptroller considers appropriate to carry out this section, which shall include provisions for service of process and maintenance of branch and agency accounts separate from those of the parent bank. Except as otherwise specifically provided in this Act or in rules, regulation, or orders adopted by the Comptroller under this section, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges as a national bank at the same location and shall be subject to all the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank doing business at the same location, except that (1) the requirements of section 5240 of the Revised Statutes (12 U.S.C. 481) shall be met with respect to a Federal branch or agency if it is examined at least once in each calendar year; (2) any limitation or restriction based on the capital stock and surplus of a national bank shall be deemed to refer, as applied to a Federal branch or agency, to the dollar equivalent of the capital stock and surplus of the parent bank, and if the parent bank has more than one Federal branch or agency the accounts of all such branches and agencies shall be aggregated in determining compliance with the limitation; (3) a Federal branch or agency shall not be required to become a member bank, as that term is defined in section 1 of the Federal Reserve Act; and (4) a Federal branch or agency shall not be required to become an insured bank as that term is defined in section 3(h) of the Federal Deposit Insurance Act.

(c) In acting on any application to establish a Federal branch or agency, the Comptroller shall take into account the effects of the proposal on competition in the domestic and foreign commerce of the United States, the financial and managerial resources and future prospects of the applicant foreign bank and the branch or agency, and the convenience and needs of the community to be served.

(d) Notwithstanding any other provision of this section, a foreign bank shall not engage in the business of receiving deposits or exercising fiduciary powers at any Federal agency. A foreign bank may, however, maintain at a Federal agency for the account of others credit balances incidental to, or arising out of, the exercise of its lawful powers.

(e) No foreign bank may maintain both a Federal branch and a Federal agency in the same State.

(f) Any branch or agency operated by a foreign bank in a State pursuant to State law and any commercial lending company controlled by a foreign bank may be converted into a Federal branch or agency with the approval of the Comptroller. In the event of any conversion pursuant to this subsection, all of the liabilities of such foreign bank previously payable at the State branch or agency, or all of the liabilities of the commercial lending company, shall thereafter be payable by such foreign bank at the branch or agency established under this subsection.

(g)(1) Upon the opening of a Federal branch or agency in any State and thereafter, a foreign bank, in addition to any deposit requirements imposed under section 6(a) of the International Banking Act of 1976, shall keep on deposit, in accordance with such rules and regulations as the Comptroller may prescribe, with a member bank designated by such foreign bank, dollar deposits or investment securities of the type that may be held by national banks for their own accounts pursuant to paragraph "Seventh" of section 5136 of the Revised Statutes, as amended, in an amount as hereinafter set forth. Such depository bank shall be located in the State where such branch or agency is located and shall be approved by the Comptroller if it is a national bank and by the Board of Governors of the Federal Reserve System if it is a State bank.

(2) The aggregate amount of deposited investment securities (calculated on the basis of principal amount or market value, whichever is lower) and dollar deposits for each branch or agency established and operating under this section shall be not less than the greater of (1) that amount of capital (but not surplus) which would be required of a national bank being organized at this location, or (2) 5 per centum of the total liabilities of such branch or agency, including acceptances, but excluding (A) accrued expenses, and (B) amounts due and other liabilities to offices, branches, agencies, and subsidiaries of such foreign bank. The Comptroller may require that the assets deposited pursuant to this subsection shall be maintained in such amounts as he may from time to time deem necessary or desirable, for the maintenance of a sound financial condition, the protection of depositors, and the public interest, but such additional amount shall in no event be greater than would be required to conform to generally accepted banking practices as manifested by banks in the area in which the branch or agency is located.

(3) The deposit shall be maintained with any such member bank pursuant to a deposit agreement in such form and containing such limitations and conditions as the Comptroller may prescribe. So long as it continues business in the ordinary course such foreign bank shall, however, be permitted to collect income on the securities and funds so deposited and from time to time examine and exchange such securities.

(h) A foreign bank or agency with a Federal branch operating in any State may (1) with the prior approval of the Comptroller established and operate additional branches or agencies in the State in which such branch or agency is located on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by a national bank if the principal office of such national bank were located at the same place as the initial branch or agency in such State of such foreign bank and (2) change the designation of its initial branch or agency to any other branch or agency subject to the same limitations and restrictions as are applicable to a change in the designation of the principal office of a national bank if such principal office were located at the same place as such initial branch or agency.

(i) Authority to operate a Federal branch or agency shall terminate when the parent foreign bank voluntarily relinquishes it or when such parent foreign bank is dissolved or its authority or existence is otherwise terminated or canceled in the country of its organization. If (1) at any time the Comptroller is of the opinion or has reasonable cause to believe that such foreign bank has violated or failed to comply with any of the provisions of this section or any of the rules, regulations, or orders of the Comptroller made pursuant to this section, or (2) a conservator is appointed for such foreign bank or a similar proceeding is initiated in the foreign bank's country of organization, the Comptroller shall have the power, after opportunity for hearing, to revoke the foreign bank's authority to operate a Federal branch or agency. The Comptroller may, in his discretion, waive such opportunity for hearing if he determines such waiver to be in the public interest. The Comptroller may restore any such authority upon due proof of compliance with the provisions of this section and the rules, regulations, or orders of the Comptroller made pursuant to this section.

(j) Whenever the Comptroller revokes a foreign bank's authority to operate a Federal branch or agency or whenever any creditor of such foreign bank shall have obtained a judgment against it arising out of a transaction with a Federal branch or agency in any court of record of the United States or any State of the United States and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the Comptroller shall become satisfied that such foreign bank is insolvent, he may, after due consideration of its affairs, in any such case, appoint a receiver who shall take possession of all the property and assets of such foreign bank in the United States and exercise the same rights, privileges, powers, and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller.

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 10, line 21, immediately after "A foreign bank" insert "with a Federal branch" and strike "with a Federal branch" after "or agency".

The amendment was agreed to.

The CHAIRMAN. Are there amendments to section 4 of the bill? If not, the Clerk will read section 5.

The Clerk read as follows:

INTERSTATE BANKING OPERATIONS

SEC. 5 (a) Except as provided by subsection (b), no foreign bank may operate a branch, agency, or commercial lending company subsidiary outside its home State unless (1) in the case of a Federal or State branch, the State is one in which it could operate a branch if it were a national bank located in its home State, (2) in the case of a State branch, agency, or commercial lending company, it is approved by the regulatory authority of the State in which such State branch, agency, or commercial lending company is to be operated, (3) or in the case of a Federal branch or agency, its operation is not prohibited by the laws of a State in which it is to be operated.

(b) Unless its authority to do so is lawfully revoked otherwise than pursuant to this section, a foreign bank may continue to operate, outside its home State, any branch, agency, or commercial lending company subsidiary whose operation was lawfully commenced, or whose establishment had been approved by the appropriate State authority, prior to May 1, 1976.

(c) For the purposes of this section, the home State of a foreign bank—

(1) which has no branch or subsidiary bank in the United States, but which has an agency or commercial lending company in one or more States, is whichever of such States is determined by election of the bank, or, in default of such election, by the Board of Governors of the Federal Reserve System.

(2) which has a branch or subsidiary bank in one State only, is that State.

(3) which has a branch or subsidiary bank in more than one State, is whichever of such State is determined by election of the bank, or, in default of such election, by the Board of Governors of the Federal Reserve System. An initial election under this subsection shall be made by means of a written declaration filed with the Board of Governors of the Federal Reserve System not more than one year after the date of enactment of this Act by the foreign bank concerned. After the home State of a foreign bank has been determined pursuant to this subsection, it may be changed only by the Board of Governors of the Federal Reserve System, either upon the application of the bank, or upon its own motion, for cause shown. Any foreign bank that does not maintain a branch, agency, or commercial lending company subsidiary, or that is not a bank holding company or a subsidiary thereof on the date of enactment of this Act, shall have its home State deemed to be the State in which it establishes its initial branch, agency, commercial lending company subsidiary, or bank subsidiary (including any commercial lending company subsidiary or bank subsidiary acquired by a company of which it is a subsidiary) in the United States.

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 13, line 8, insert "and" after "operated," and strike "or" after "(3)".

Page 13, line 9, strike "laws of a".

The committee amendments were agreed to.

The CHAIRMAN. Are there amendments to section 5?

AMENDMENT OFFERED BY MR. ST GERMAIN

Mr. ST GERMAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ST GERMAIN: Page 13, line 3, strike "or".

Page 13, line 4, immediately after "lending company subsidiary" insert: ", or bank subsidiary".

Page 13, line 13, strike the period and insert in lieu thereof: ", and (4) in the case of a bank, its acquisition would be permissible under section 3 of the Bank Holding Company Act of 1956 if the foreign bank were a bank holding company the operations of whose banking subsidiaries were principally conducted in the foreign bank's home State."

Page 13, line 17, immediately after "lending company subsidiary" insert: ", or bank subsidiary".

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. ST GERMAIN. Mr. Chairman, this amendment is similar to the other amendments which I have offered. This also is an amendment which is agreed to by both sides.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, the minority has no objection to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STEPHENS

Mr. STEPHENS. Mr. Chairman, I offer an amendment to section 5.

The Clerk read as follows:

Amendment offered by Mr. STEPHENS: On page 13, strike all of lines 5 and 6 through and including "State," on line 7 and on line 7, strike "(2)" and insert in lieu thereof "(1)".

On page 13, line 11, strike "(3)" and insert in lieu thereof "(2)".

On page 13, line 12, strike the words "not prohibited" and insert in lieu thereof the words "expressly permitted".

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

At the time the point of no quorum was made, the gentleman from Georgia (Mr. STEPHENS) had been recognized for 5 minutes in support of his amendment.

The Chair recognizes the gentleman from Georgia (Mr. STEPHENS).

Mr. STEPHENS. Mr. Chairman and Members of the House, the effect of amending section 5(a) is to eliminate the requirement that Federal statutes be changed to permit national banks—or State member banks—to branch across State lines before foreign branches, agencies, or commercial lending companies can do so.

The rationale for the above restriction on the multistate presence of foreign branches, agencies, and commercial lending companies is based on the assertion that because these foreign institutions can engage in interstate activities, and our domestic banks cannot do so under Federal statutes, the foregoing foreign institutions enjoy an unfair, significant competitive advantage over our domestic commercial banks.

This assertion should be put into perspective. According to data from the Federal Reserve Board, there are 17 foreign bank branches in more than one State and these are confined almost exclusively to New York, California, and Illinois. All but one of the above multistate branches also have an agency operation in California. Foreign agencies and commercial lending companies—which are only in New York State—unlike foreign branches do not accept domestic deposits.

In contrast to this limited multistate presence by a relatively few foreign branches and agencies, our domestic banks do a far greater interstate banking-type business. There are 12 bank holding companies alone which have "nonbank" affiliates in 43 States and operate 1,400 "nonbanking" offices located outside the State in which their headquarters are located. A large proportion of these so-called nonbank, out-of-State facilities provide specialized financial services comparable to those provided by some domestic commercial banks. These same 12 bank holding companies conduct interstate operations through 34 Edge Act corporations and 23 loan production offices—which are similar to foreign agencies. Beyond this, there are some 128 multistate domestic bank affiliates of multibank holding companies which have been grandfathered.

Aside from the unsupportable claim that foreign banking institutions through the interstate activities of foreign branches and agencies enjoy a major competitive advantage over domestic banks, it is believed that a State should be permitted to invite an out-of-State foreign branch, agency, or commercial lending company to operate within its borders if this is consistent with its interests and is not in conflict with the State laws where the out-of-State foreign banking facilities are located. Illinois, for example, has since 1973 invited foreign branches to locate within certain areas of Chicago. This action is part of the State's efforts to develop as an international financial center. It is believed in our national interest to permit and to facilitate such efforts by States to increase their respective roles in international banking matters, if this is their objective. To do otherwise in the foreign banking field would likely result in foreign banks choosing California or New York, exclusively, for their U.S. operations, to the detriment of other States.

In view of the foregoing, I do not believe there is any valid reason to make the right of a State to invite the entry of out-of-State foreign branches, agencies, or commercial lending companies contingent on Congress reaching a legislative consensus at some future time relative to whether or not domestic banks should be permitted to branch across State lines.

In conclusion, this amendment and an amendment which I will offer to section 7 are important for keeping the strength of our dual banking system.

Again, let me make it clear and simple what this and my other amendment do. They are to keep the law like it now stands.

When an American group seeks a bank charter, it has the option to choose a Federal charter or a State charter. This also determines who sets reserves.

H.R. 13876 makes it mandatory for a foreign bank to have a Federal charter if it branches and, also, it is mandatory that reserve requirements be set by Federal authority.

My amendments say that foreign banks may also have the option to be State chartered or federally chartered and not mandated into the Federal category alone.

I hope my amendments will be favorable considered. State banking authorities support my amendments without exception.

Mr. ST GERMAIN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Georgia (Mr. STEPHENS) to section 5. As has been said repeatedly today, one of the major objectives of this legislation is to remove the competitive advantages which foreign banks have over domestic banks. Mr. STEPHENS' amendment would perpetuate one of the major competitive advantages which foreign banks now have—the power of branches to accept deposits in more than one State.

Section 5 of H.R. 13876 would prohibit a foreign bank operating in the United States from establishing a branch outside its home State—the State in which it already accepts deposits, unless national banks are allowed the same privilege. In a response to my request for the Board's comments on this amendment, Chairman Burns notes that this section—

> Seeks to equalize the ground rules for interstate banking competition between large domestic banks and foreign banks. In contrast, the proposed amendment to Section 5 would endorse the *status quo* and would thus continue to permit foreign banks to engage in multistate branching operations not permitted domestic banks. The Board prefers section 5 of H.R. 13876 in its present form because it would, in our judgment, be more consistent with the principle of national treatment.

Mr. STEPHENS' amendment to section 5 would permit foreign banks to branch in any number of States as they do now provided they are chartered by the States. The prohibitions against interstate branching in the Stephens amendment would apply only to federally chartered branches. The committee bill makes provision for the first time in Federal law for chartering of branches and agencies of foreign banks. Currently they can only be chartered by States. But while we thought this was an important new option for foreign banks and might give them opportunities which they do not now possess, the Stephens amendment would make the Federal charter totally unattractive to foreign banks.

Some of those who have opposed the prohibition against interstate branching did so because they thought that States which were attempting to attract foreign banks for the first time would be at a disadvantage. In considering this argument, several points should be made. The present legislation will allow foreign banks to establish agencies in more than one State since agencies cannot accept domestic deposits. Agencies are even now the preferred form of operation for foreign banks. Forty-four percent of the total foreign bank assets in the United States are held in agencies. Only 25 percent of total foreign bank assets are held in branches and the rest—31 percent—in banking subsidiaries. Moreover, some States, including California and Georgia, already have laws which prohibit foreign banks from accepting domestic deposits and therefore restrict them to the agency form of operation in that State. Meanwhile, other States which do permit full service operations—such as Alaska and Massachusetts—have nevertheless not attracted a substantial number of foreign banks.

In considering this legislation the committee decided to grandfather existing interstate operations even though it would give a permanent competitive advantage to a large number of foreign banks. There are 49 foreign banks with multistate operations and they have $47 billion of assets in their U.S. offices. Forty-seven of the foreign banks operating in the United States are among the top 100 worldwide in terms of deposits. Only 18 U.S. banks are among the top 100. The aggregate assets of the foreign parent banks which have multistate operations in the United States are $715 billion—more than two-thirds of the total assets of all insured commercial banks in the United States. The fact that banks of this size can accept deposits in more than one State enhances their ability to grow.

To extend the privilege of branching interstate further as the Stephens amendment proposes, would be to endorse a policy of giving even further competitive advantages to some of the largest banks in the world. One of the major purposes of this bill as has been noted is to provide equality between foreign and domestic banks operating in the United States. This amendment would reverse that intent. Therefore, I urge Members to vote against it.

Mr. GRADISON. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

Mr. Chairman, based upon the discussion during the markup in the committee it was my understanding that State-chartered foreign banks would be accorded the same reciprocal branch privileges as accorded the State-chartered banks. On a close examination of section 5, it is obvious that that is not the case.

I understand from the statement just made by the distinguished chairman of the subcommittee, the gentleman from Rhode Island (Mr. ST GERMAIN) that he cannot support this amendment because it would permit State-chartered foreign banking institutions, which are otherwise afforded treatment similar to State member banks, to branch interstate, and he would not support this until Congress made a determination to allow, as well, State member banks to likewise branch interstate through a change in the McFadden Act.

In its present form, Mr. Chairman, section 5 of H.R. 13876 does not appear to square, in my judgment, with the intent of providing equal treatment. Section 5 would permit interstate branching by State-chartered foreign banks only if interstate branching were permitted for domestic national banks. If two States were to grant reciprocal branching privileges to their State-chartered banks, those privileges would not extend to State-chartered foreign banks.

Since, as I understand it, the purpose of the International Banking Act is to equalize treatment of foreign and domestic banks, it would seem inconsistent to me to distinguish between domestic and foreign State-chartered banks in the matter of reciprocal branching privileges. For this reason, Mr. Chairman, I urge my colleagues to support the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

The gentleman realizes the McFadden Act applies to State member banks as well as to national banks. If they are member banks of the Fed, it applies.

Mr. GRADISON. May I pursue this with my distinguished subcommittee chairman. My concern simply goes to a situation in which a State-chartered bank was considering branching into another State which granted reciprocal privileges. It is my understanding that if New York and California were to permit State-chartered banks to have reciprocal banking privileges, a domestic State-chartered bank chartered either in New York or California would have such a privilege, but under this act a foreign bank would not, simply because of the way the measure is written.

Mr. ST GERMAIN. If the gentleman will yield further, as the gentleman knows from the letter I wrote him on this particular point, I made the point that we are dealing here with a situation like comparing an ameba with an elephant. The State banks that could do this would be the very, very small banks, because the large banks are not in the competitive class of the foreign banks we are talking about. That has been explained before. Most of these foreign banks are the large banks of the foreign countries established to do business here. They are the very large banks, and the large domestic banks are member banks. So we are not dealing here with an equal situation and an equally competitive situation.

Mr. GRADISON. If I may respond very briefly, in my judgment, the principle of the dual banking system is violated by making that distinction. After all, there is nothing in the present laws to stop a major U.S. bank, major in terms of size, from deciding to operate as a State-chartered bank if it wishes to do so. In that case the elephant becomes an ameba, to use the gentleman's words.

I think if we are going to maintain the integrity of the dual banking system, we cannot prejudge whether State-chartered banks are going to be large or small. I think that depends upon the interplay and the development of the dual banking system.

Mr. ST GERMAIN. If the gentleman will yield further, I find myself in one of the peculiar situations where I am happily in concert with the Federal Reserve Board, and I am going to stick with them on this one.

I thank the gentleman for yielding.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

We all remember the FINE study discussion principles which my colleague, the gentleman from Rhode Island, signed and on which he had a press conference. One of the principles discussed was the right of interstate branching by our domestic commercial banks. It was discussed as an idea whose time had come.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ST GERMAIN, and by unanimous consent, Mr. GRADISON was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. If the gentleman will yield further, I think that the point my colleague, the gentleman from Ohio, has made is a good one, that unless the Stephens amendment is adopted, the dual banking system, which we have held dearly in this country, will be dealt a substantial blow, and those States such as Georgia, Texas, Missouri, and others that may want to encourage foreign banks to come into their States will be substantially disadvantaged. I think my colleague, the gentleman from Ohio, has made a significant move in that direction.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from Rhole Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Just very briefly, I want to set the record straight on the FINE discussion principles that were originally released. Yes, there was a suggestion that there be interstate branching allowed, but I assure the gentleman that my position at that time was in opposition, and it still is.

I thank the gentleman from Ohio.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TSONGAS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to put in the record or refer in the record to two statements which I think summarize the feelings of those of us who support the amendment. Basically, as was stated by the gentleman from California, if a State decides that it is in its own interest to invite the foreign banks, for the investment that it represents or for the capital influx that it represent, it should be free to do so. The situation which now exists is that the foreign banks and all the advantages that accrue therefrom are now limited in essence to New York, Chicago, and San Francisco, and the New York, Illinois, and California trade centers, but there are other communities and other States that would like to participate in the advantages of having foreign banks in these communities. Massachusetts is one, Georgia is another, and it can be any State.

If a foreign bank today is to be limited to one State, it is going to go into the New York's or the Chicago's or the San Francisco's, and the locations in other States are going to be effectively precluded from the influx of capital and the other advantages that these foreign banks represent. It seems to me if any State other than those three decides it wants that participation in that investment and can regulate the investment within the State's own framework, it should have the right to do so.

I strongly support the Stephens amendment and I ask that other do so as well.

Mr. WYLIE. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I think we should put this amendment in proper perspective, if I may, as a layman and not as a banker try to do that.

All branches of foreign banks in the United States now operate through a State law. There is no such thing as a federally chartered foreign branch bank in the United States. If you want to defeat the entire purpose of this bill, which is to provide competitive equality between domestic banks and foreign banks, then support this amendment and vote for it. The purpose of the amendment, as I see it, is to maintain the status quo and take us back to where we have been for the past several years. Nothing would be changed if we vote for this amendment and the next Stephens amendment except the bill does provide the opportunity to foreign banks for prestige to have a Federal charter, but no representative of a foreign bank would be in his right mind if he did opt for the State charter if the foreign bank can continue business as usual or continue business as his foreign counterparts have been doing in the past.

We have been talking for almost a year now about restoring competitive equity between foreign banks doing business in the United States and the domestic banks. In short, at the present time we discriminate against our own banks. Section 5 of the bill in its current form puts foreign banks on an equal footing with domestic banks when it comes to interstate branching. Were we to adopt the amendment offered by my good friend, the gentleman from Georgia, it would open a giant loophole and invite the uncontrolled expansion of billion dollar foreign banks throughout the land.

Here are the competitive inequities that the amendment offered by the gentleman from Georgia (Mr. STEPHENS) would perpetuate in favor of foreign banks:

First. Foreign banks can operate branches and agencies in the United States without the approval of Federal authorities; thus, they are able to engage in the business of banking in more than one State, which Federal national banks cannot do. Domestic banks have not been able to branch across State lines for some time because of the McFadden Act.

Second. Since the foreign parent bank obtains approval to conduct branch and agency operations from State authorities, they can establish or acquire interests in companies which buy and sell securities and engage in underwriting without divesting themselves of their banking operations. Again, this is something an American national bank cannot do. It is prohibited by the Glass-Steagall Act.

Third. As State-chartered institutions, foreign banks' branches, agencies, and subsidiaries are not subject to the same reserve requirements as are Federal Reserve member banks.

The large U.S. banks with whom the foreign banks compete are members of the Federal Reserve System and are subject to its reserve requirements on domestic operations. Thus, foreign banks operate in the United States with an advantage that the U.S. banks do not have when they operate overseas.

No foreign country permits the foreign branches and subsidiaries of the U.S. banks to hold lower reserve requirements against domestic requirements than are required of its own banks, such as we do at the present time.

Fourth. The operations of foreign banks are of a very volatile nature. Given the significance of their operations, which is now a $48 billion operation in the United States, State chartering agencies lack adequate information on their operations in both domestic and international money markets. The State chartering authorities lack sufficient information on their activities and this inability, in my judgment, to influence these activities by the Federal Reserve complicates the implementation of the monetary policy of the United States.

Mr. Chairman, I refer to the statement of Mr. ST GERMAIN, the chairman of the subcommittee, when he made reference to a letter from the chairman of the Federal Reserve Board, Mr. Arthur Burns, who says that to adopt the Stephens amendment to section 5 would endorse the status quo and would thus continue to permit foreign banks to engage in multistate branching operations not permitted to domestic banks.

In other words, nothing would be done if the two Stephens amendments are adopted today.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. WYLIE was allowed to proceed for 1 additional minute.)

Mr. WYLIE. Mr. Chairman, those who would support this amendment today claim that the bill in its present form would encroach upon the dual banking system. The truth is that the dual banking system never was and never will be meant for foreign banks. The dual banking system was specifically designed for the benefit of domestic banks, particularly small State banks.

Mr. Chairman, in the final analysis we must not make a mockery of our promise to restore competitive equity between domestic and foreign banks. Moreover, in my judgment, we invite the financial chaos similar to that associated with the failure of the Franklin Bank, if this amendment is adopted today.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

I clearly understand what the gentleman has said, but I am afraid what the gentleman assumes in his statement is that all State bank regulatory authorities do not examine foreign banks which seek charters and do business in their States and that is not true.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WYLIE) has again expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. WYLIE was allowed to proceed for an additional 2 minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. WYLIE. I yield to the gentleman from California.

Mr. ROUSSELOT. The gentleman from Ohio is assuming that New York, Illinois, and California, where most of the foreign banks are now located, may be the only ones capable of regulating foreign bank operations just because this bill basically freezes the status quo and makes it impossible for other State banks under this law to permit foreign banks whose home offices are in other States to operate State-chartered branches, agencies, and commercial lending companies.

Now, I think it is wrong to imply that dual banking system has not worked or that the States have not done their job, that they have not investigated when a foreign bank seeks authority to do business in a State, and that they do not establish reserves, as they do for State-chartered domestic banks.

The gentleman's statement seems to imply an attack on the whole system of State regulation and supervision of their chartered banks.

Mr. WYLIE. Mr. Chairman, State regulators, at the present time do not insist on adequate reserves for foreign banks in the United States for one thing.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, many States on the basis of the proper exercise of their regulatory and supervisory responsibilities clearly do the same thing that the Federal Reserve Board does. I am sure that the gentleman is not telling us that the Federal Reserve Board is so superior in regulating foreign banks that those States which are, or which aspire to become, international financial centers cannot demonstrate or achieve a comparable degree of excellence.

Mr. WYLIE. Mr. Chairman, I respectfully disagree with the gentleman as to the ability of State regulatory agencies to do the job. I assume the gentleman is going to speak in support of the amendment.

Mr. ROUSSELOT. I certainly am.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, in the last response of the gentleman from California, the problem is, No. 1, these States do not examine and have no knowledge whatsoever of what the status of the parent bank is.

No. 2, if a foreign bank is operating in two, three, four, or five States, the regulators in the individual States know what that particular branch or affiliate or agency is doing in that particular State. They do not have the overview, and the important thing here is an overview of the overall operation here in the United States, which the States do not have. The State supervisors do not have it.

Mr. WYLIE. I would ask the gentleman from California, is he in favor of providing competitive equality between U.S. banks and foreign banks or not?

Mr. ROUSSELOT. Of course, the gentleman knows that I am.

To respond to my colleague, from Rhode Island, the Federal authorities do not go overseas and regulate the operations of parent companies or home offices of foreign banks. They conduct examinations of U.S. banks operating abroad, but so does the New York State bank superintendent.

Mr. WYLIE. Federal regulatory agencies do go overseas to examine American banks on a regular basis and have the expertise. Moreover, the Federal Reserve gains additional and unique expertise through its contacts with foreign authorities which regulate, as domestic banks, banks which have branch and subsidiary operations in this country.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(On request of Mr. STEPHENS and by unanimous consent Mr. WYLIE was allowed to proceed for 1 additional minute.)

Mr. STEPHENS. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Georgia.

Mr. STEPHENS. I have heard the gentleman's statement and I agree with him that he caught the point of my amendment. That is, that we do not change the law. My argument is that the law has been operating all right and we ought not change it. I am glad the gentleman has the point on his side of the aisle. My real point is that I am trying to put the law back to where it is.

Mr. WYLIE. I commend the gentleman for his integrity in putting the issue in proper perspective. That is exactly what the amendment will do, leave the whole situation where we are today.

Mr. ST GERMAIN. The problem is, there is no law today, and I think the time has come for us to set some guidelines.

Mr. WYLIE. I think that puts it all in proper perspective, and I thank the gentleman from Georgia for making his position clear that he wants to leave the law as it is. The question to me is whether we want competitive equality between foreign branch banks in the United States and U.S. banks. It seems to me that the Stephens amendment says we do not want competitive equality.

Mr. STEPHENS. I do not agree with the gentleman on that point, but I agreed with him on the other point.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Georgia. I think we have had enough discussion on the issue, but I would wish to reemphasize that if one is totally dissatisfied with the present dual banking system, he should vote against this amendment; but if one believes that we should preserve what we now have in this system which permits alternative chartering and regulatory authorities, he will support the amendment offered by the gentleman from Georgia.

It is important, especially to the States which are presently smaller in terms of their international banking activity that they be permitted to make a determination, if they wish, to charter foreign branches, agencies, and commercial lending companies in their States rather than be inhibited in their ability to become international banking centers, as they would be under this legislation.

Mr. Chairman, I rise in support of the amendment to section 5 of H.R. 13876 offered by my distinguished colleague from Georgia (Mr. STEPHENS). The distinguished chairman of the Subcommittee on Financial Institutions (Mr. ST GERMAIN) in his letter of June 24, 1976, to the learned gentleman from Ohio (Mr. GRADISON), provided a clear explanation of the effect of this legislation on interstate operations of foreign bank branches, agencies, and commercial lending companies:

> As you know, the legislation as currently drafted would prohibit foreign banks operating in the U.S. from establishing a branch outside its "home" state unless national banks are accorded the same privilege.

There are three reasons why I believe that States should be accorded the power to permit foreign banks to establish operations within their borders:

First, Chairman ST GERMAIN has correctly noted that the committee has given some consideration to the question of whether national banks in this country should be permitted to engage in interstate branching. It is clear that no action will be taken on this important issue in this Congress, but all Members must recognize that the committee's ongoing consideration of its merits takes place against the background of an extremely fluid and dynamic competitive environment.

It would be extremely unrealistic for the committee to entertain any illusions that this competitive activity can or should be frozen indefinitely while Congress decides whether to permit interstate branching. While there is no doubt in my mind that the chairman intends to move toward a timely resolution of this and many other issues which emerged from the Hunt report and the FINE study, it is my belief that the continued possibility that foreign banks may expand interstate activities will serve as a useful incentive to proceed with dispatch.

Second, retention of the power of States to charter foreign branches, agencies, and commercial lending companies outside their home States is far more consistent with maintenance of a strong "dual banking system" than is the current prohibition. This is an important consideration because a strong State regulatory system provides a vital check on the tendency of Federal authorities to restrict unduly the choices available to bankers and consumers alike.

State regulatory authorities have been responsible for the rapid development of NOW accounts, which Chairman ST GERMAIN joins me in favoring; variable rate mortgages, which I am hopeful he will one day come to support; and many other valuable innovations. It would be most unwise, in my judgment, for Congress to restrain this creative force in advance of a thorough study and a legislative determination that there is a compelling need for such restrictions.

Third and finally, my colleagues should pause to consider the basic unfairness of a prohibition of branching activities outside of the "home State." The vast bulk of foreign banking activities presently take place in New York State and in the Chicago Loop, where foreign branches are permitted, and in California, where many major foreign banks have agencies. The present legislation would prevent major foreign banks from expanding their operations into States which are anxious to join New York, Illinois, and California as international banking centers. Georgia, represented by the distinguished sponsor of this amendment (Mr. STEPHENS) and Texas, which has offered bipartisan support for this amendment through Mr. GONZALEZ and Dr. PAUL, members of the committee, are just two examples of States which might find their international commercial and financial development stunted as a result of this legislation.

Nor are the established international banking States opposed to this amendment, for even they may find themselves adversely affected by the restrictive language in this bill. I have a letter from the superintendent of banks for the State of California, Carl J. Schmitt. This letter, dated June 28, 1976, primarily expressed opposition to the bill because of a deposit insurance problem. However, Mr. Schmitt went on to state that:

> (S) ections 5 and 7 of the bill contain provisions which would have impaired and will impair California's development as an international financial center. I understand that Congressman Stephens will introduce amendments which will at least mitigate the restrictive effects of this measure on our state's growth, and allow its continued development as an international financial center.

For all of the above reasons, I strongly urge my colleagues to support this first of two highly meritorious amendments offered by the gentleman from Georgia (Mr. STEPHENS).

Let me also review "The Statement of Position" of the State of New York, which despite its prominence as an international financial center, is not opposed to enlarge opportunities for other States to compete.

The statement follows:

NEW YORK STATE BANKING DEPARTMENT
STATEMENT OF POSITION
INTERNATIONAL BANKING ACT OF 1976
(H.R. 1387B)

The International Banking Act of 1976 would effect substantial changes in the establishment and operation of foreign banking in the U.S. by:

(1) significantly expanding the role of the Federal Reserve Board in the regulation of foreign banking;

(2) eliminating interstate branching by foreign banks; and

(3) limiting the nonbanking activities in which foreign banks may engage.

Since New York State is the leading center of foreign banking activity in the U.S., this proposed legislation is, of necessity, of great interest to the State. Through more than 100 years of supervision of foreign bank activity, the New York State Banking Department has gained in depth understanding of the requirements of effective regulation of this foreign bank presence. Drawing upon this extensive experience, the Banking Department wishes to comment on the International Banking Act of 1976.

Summary of New York State Banking Department position. The views of the Banking Department on the Act may be summarized as follows:

(1) The Act would impose upon foreign banking organizations reserves and other requirements of membership in the Federal Reserve System, prohibitions on interstate branching, and the Bank Holding Company Act restraints on nonbanking activities. In so doing the Act may invite retaliation by other countries against the activities of American banks abroad. These activities involve three times the total assets of foreign banks in the U.S.

(2) The Act increases the authority of the Federal Reserve Board over foreign banking in the U.S. to the point of substantially preempting State authority. This is contrary to the duality of powers with respect to domestic banks and would establish an unfortunate precedent.

(3) By eliminating interstate branching and requiring foreign banks to choose a "home" state, the Act would seem, at first glance, to be beneficial to New York in that it would encourage foreign banks seeking entry to set up their single branch in New York. Further reflection on this point, however, suggests that the Act's benefit to New York is probably marginal since New York is the money market center of the U.S. and the world, and most foreign banks interested in expansion in the United States would seek a New York presence. In other words, foreign banks will most likely choose to center their American banking activity in New York for reasons having little to do with anything written into the International Banking Act of 1976. The primary impact of the Act in this regard would be to deny to states other than New York and perhaps, California, the presence of foreign banks.

Principles of regulation of foreign banks. The New York State Banking Department believes that the regulation of foreign banking should be consistent with certain principles:

(1) It should be a central purpose of any system of regulation of foreign banking to sustain and invigorate the American centers of international trade and finance so as to facilitate thereby the flow of capital through the U.S. capital markets and the movement of trade into and out of the U.S.

(2) The structure of regulation which is established should seek, for foreign banks, to provide the same opportunities and to impose the same limitations as presently exist for domestic banks. The goal should be equality of options and equality of treatment once an option has been selected.

(3) It is a fundamental tenet of the American dual banking system that supervisory authority is decentralized so that bank entry and conditions of bank operation are determined in response to locally perceived needs. The demands of New York and Chicago money market centers are vastly different from those of suburban counties or rural sectors. While the resultant system of mixed

federal and state regulation is complex, it has worked well with respect to supervision of foreign bank activity in the U.S. There has been no evidence brought forward that this system has impeded the attainment of national policy objectives.

Building upon the foundation of these principles, the Banking Department would make the following comments upon the proposed International Banking Act of 1976. While not dealing with all subjects covered by the bill, this statement touches on those issues of greatest concern to the Department.

Federal Reserve Board authority (section 7). The bill would expand greatly the authority of the Federal Reserve Board to regulate foreign banking. Specifically, section 7 (a) would authorize the Federal Reserve Board to make the branches, agencies, and commercial lending companies controlled by foreign banks subject to reserve requirements and interest rate controls imposed on Federal Reserve member banks. Foreign bank offices will not be subject to reserve requirements if the worldwide banking assets of the parent do not exceed $1 billion.

Section 7 would also authorize the Federal Reserve Board to impose reporting and examination requirements and further regulations and restraints upon State-licensed branches, agencies, and commercial lending companies of foreign banks as if these offices were member banks of the Federal Reserve System.

Finally, section 7(e) provides that the establishment of any branch, agency or commercial lending company pursuant to state law must be approved by the Federal Reserve Board.

Comment. At present U.S. banks are free to seek charters from State banking authorities to engage in a full scale banking business without seeking approval from federal regulatory authorities, provided they choose not to become Fed members or to operate as bank holding companies. Equality of treatment requires that the same option be open to foreign banks, i.e., with the approval of State banking authorities, they should be able to establish a banking operation without being subject to a veto by the Federal Reserve Board. Furthermore, no showing has been made that State approval of foreign bank activity in the U.S. has in any way run counter to the U.S. national interest. New York State authorities have consulted regularly with Federal bank regulators and the State Department with respect to foreign bank entry.

Representative Robert G. Stephens (D. Ga.) plans to introduce certain amendments when the International Banking Act of 1976 reaches the floor of the House. One amendment would strike from the Bill section 7(e). The New York State Banking Department supports this amendment.

The agencies and commercial lending companies of foreign banks are barred from accepting deposits. Therefore, they do not function as banks. As a result, the Federal Reserve Board should not be authorized to impose upon them reserve requirements and other regulations and restraints as if they were member banks. The Banking Department suggests that the terms "agency" and "commercial lending company" be deleted entirely from section 7.

With respect to branches of foreign banks, it may be argued that since U.S. banks do not have to become Fed members, it is discriminatory to foreign banks to subject them to required reserves equivalent to those imposed on member banks. On the other hand, it is true that virtually all U.S. banks with over $1 billion in assets are, in fact, members of the Federal Reserve System. Thus, to subject the branches of foreign banks with world-wide assets of over $1 billion to the Fed's reserve requirements is not inequitable—if equity is judged by the present reality of domestic bank operation. The imposition of reserve requirements for foreign branches is also supported by the comments set forth in the third paragraph of page 3 of the Committee on Banking, Currency, and Housing report of May 26, 1976 (No. 94–1193).

Apart from the imposition of reserves, however, the Fed should not be permitted virtually to preempt the regulation of state-licensed foreign branches by being granted authority to conduct examinations and to impose additional regulations as if these entities were member banks. The Banking Department supports Representative Stephens' amendment which would eliminate this grant of authority to the Fed while requiring state-licensed branches to file reports of condition with the Fed.

Interstate branching. Section 5 of the bill would bar a foreign bank, operating a branch in the U.S., from establishing a second branch in another state until national banks are authorized to establish branches across state lines. Interstate activities in existence on May 1, 1976, could be permanently continued under a grandfather clause.

Comment. Those who support this section of the bill argue that foreign banks have a great advantage over U.S. banks because of their ability to branch across state lines. In fact, foreign banks appear to enjoy no meaningful competitive advantage vis-a-vis U.S. banks with respect to multi-state activity.

U.S. banks have developed extensive multi-state systems of financial intermediaries and loan production offices which conduct a wide range of banking activities excluding, for the most part, the taking of deposits. These domestic banks have the ability to conduct banking activity in more than one state by way of the following forms:

(1) loan production offices and operating subsidiaries;

(2) interstate non-banking activities of bank holding companies permitted under section 4(c)(8) of the Bank Holding Company Act (Federal Reserve figures indicate 662 of the applications filed for such interstate activities were approved between 1971 and 1974);

(3) Edge Corporation offices (thirty-two banks have some seventy-seven out-of-state Edge Corporation offices involved in international banking activity); and

(4) grandfathered multi-state banking (as of year end 1974, eight U.S. bank holding companies held banks in more than one state under the Douglas Amendment to the Bank Holding Company Act of 1956).

A recent series of articles in the American Banker discussed the extent of this multi-state activity. The articles indicated that 12 bank holding companies, located in 7 states, had a total of approximately 1,400 offices engaged in banking-related activities and located in states other than that of the anchor bank of the holding company. In addition, the same 12 holding companies conduct operations across state lines through 34 Edge Act Corporations and 23 loan production offices. BankAmerica Corp., for example, has 336 non-bank offices in 32 states while Citicorp. has 284 non-bank offices in 34 states.

Foreign banking organizations, on the other hand, have established rather limited banking activities across state lines. For one thing, any foreign bank which has established a full service bank in the U.S. is subject to all of the restraints on interstate banking which the Bank Holding Act imposes on domestic banks.

At the same time, however, it is argued that foreign banks enjoy an advantage in retail banking since foreign banks have established deposit-taking branches in five states (New York, Illinois, Washington, Oregon, and Massachusetts), while United States banks may not branch across state lines. It is this fact which is the basis for the claim that foreign banks have an advantage over domestic banks with respect to interstate activities. Relatively few foreign banks, however, have established branches in more than one state.* Moreover, the basis for such multi-state activity as now exists is a positive authorization in the law of the receiving state and such an avenue is legally available as a basis for interstate banking by domestic banks.

Specifically, the opportunity for full service banking across state lines is presently available to domestic banks by way of section 3(d) of the Bank Holding Company Act. Section 3(d) permits acquisition or establishment of full service commercial banks by bank holding companies if state law contains positive language to that effect. And this opportunity to conduct full service banking across state lines is available equally to foreign or domestic bank holding companies. States have simply chosen to extend reciprocal branching privileges to foreign countries but not to sister states.**

In summary, then, the interstate activity of foreign banks is limited, and it is conducted on the basis of invitations extended by individual states. The states may, if they choose, extend similar invitations to domestic bank holding companies.

The Banking Department believes that this existing legal framework, which is a key feature of the Bank Holding Company Act, within which banking may be conducted across state lines is consistent with the principles of foreign bank regulation set forth at the beginning of this statement, and the Department, therefore, supports its continuation.

Impact on New York State. The New York State Banking Department supports the continuation of the existing authority for interstate banking despite the fact that the International Banking Act's ban on interstate branching by foreign banks might, in a limited way, benefit New York. Although existing interstate banking activities would be grandfathered, with respect to the establishment of future branches under the Act each foreign bank would have to choose one state as its home state. Only within that one state could the foreign bank establish and operate a branch or subsidiary. By requiring the selection of one state as home state, the Act might appear to insure preservation of New York's preeminent position in foreign banking in the U.S.

Further examination suggests, however, that the Act is of but limited benefit to New York. In the first place, most of the largest foreign banks at present carry on banking activity in New York. The Act would permit these banks to continue, permanently, whatever interstate activity they now have. Thus, the Act would have no effect, positive or negative, on existing activities in New York. Foreign banks with branches presently in New York would be barred from establishing branches in other states; this would probably be of marginal benefit to New York to the extent, perhaps, of increasing the activity of New York facilities, but it would be a significant disservice to other states which want greater foreign banking.

There are, however, a substantial number of second level foreign banks interested in establishing for the first time banking operations in the U.S. The chances are that most of these foreign banks will choose to establish their principal banking offices in the nation's money market center, namely, New York. But they will make that choice quite apart from the International Banking Act's requirement that they choose a home state. They will choose New York because of the realities of finance and trade which have established New York as a world center. The Act's requirement of choosing a home state as location for a branch will simply serve as a bar to the foreign banks in establishing branches in other states.

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* According to data prepared by the Federal Reserve Board, a total of 15 banks had established branches in more than one state as of September 1975.

**New York State authorities on several occasions, including this year, introduced legislation which would allow reciprocal interstate banking.

Finally, the Act's requirement of choosing a home state for branching may have a negative impact upon New York with respect to the Asian banks—especially the Japanese. Forced to choose a single home state, it is this group of Asian banks which may well choose a state other than New York: namely, California, and thereby be precluded from establishing a branch or subsidiary in New York. For example, there are now 10 foreign banks with only an agency or commercial lending company in New York which have a branch or subsidiary in another state (in most cases, a subsidiary in California). These banks would be barred by this bill from establishing a branch or subsidiary in New York.

In summary, then, the Banking Department does not see the Act's limitations on interstate banking as being of substantial benefit to New York.

Furthermore, the Department believes that the regulation of foreign banking in the U.S. should function with the goal of encouraging the foreign banking presence to sustain and invigorate the various American centers of international trade and finance in order to facilitate thereby the flow of capital through the U.S. capital markets and the movement of trade into and out of the U.S. Section 5 of this bill, by barring interstate branching, would not further this goal and the Banking Department, therefore, urges support for the amendment to be introduced by Representative Robert G. Stephens of Georgia which would permit a foreign bank to establish a branch, agency or commercial lending company outside of its home state where this is permitted by the bank regulatory authority or the law of the state in which the branch, agency or commercial lending company is to be located.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STEPHENS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 205, answered "present" 4, not voting 38, as follows:

[Roll No. 570]

AYES—185

Alexander
Anderson, Ill.
Archer
Armstrong
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bell
Bevill
Biaggi
Boggs
Boland
Bolling
Brademas
Breaux
Brinkley
Brown, Mich.
Brown, Ohio
Burgener
Burke, Calif.
Burleson, Tex.
Burton, Phillip
Butler
Byron
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conable
Conte
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Derwinski
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Erlenborn
Eshleman
Evans, Ind.
Evins, Tenn.
Fenwick
Findley
Fish
Fithian
Flynt
Forsythe
Frey
Fuqua
Giaimo
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Haley
Hall, Tex.
Hamilton
Hanley
Hannaford
Harrington
Heckler, Mass.
Hefner
Henderson
Holland
Holt
Horton
Howe
Hubbard
Hutchinson
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
LaFalce
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDonald
McEwen
McKay
McKinney
Madden
Madigan
Mann
Martin
Mathis
Melcher
Michel
Milford
Moakley
Montgomery
Moore
Moorhead, Calif.
Moss
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Neal
Nichols
O'Neill
Pattison, N.Y.
Paul
Pettis
Poage
Preyer
Pritchard
Quillen
Railsback
Rees
Rhodes
Roberts
Robinson
Roncalio
Rose
Roush
Rousselot
Runnels
Ryan
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shriver
Skubitz
Slack
Spence
Staggers
Stephens
Stratton
Studds
Symms
Talcott
Taylor, N.C.
Thornton
Treen
Tsongas
Vander Jagt
Vigorito
Waggonner
Walsh
Wampler
White
Whitehurst
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Young, Alaska

NOES—205

Abdnor
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bingham
Blanchard
Blouin
Bonker
Bowen
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Carney
Carr
Carter
Chisholm
Cleveland
Cohen
Collins, Ill.
Conlan
Conyers
Corman
Cornell
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Devine
Diggs
Dingell
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Fary
Fascell
Fisher
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Gaydos
Gonzalez
Green
Gude
Hagedorn
Hall, Ill.
Hammerschmidt
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hicks
Hillis
Holtzman
Howard
Hughes
Hungate
Ichord
Jarman
Jones, Okla.
Jordan
Kasten
Kastenmeier
Keys
Koch
Krueger
Leggett
Lehman
Lloyd, Calif.
Long, Md.
McCollister
McDade
McFall
McHugh
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murtha
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pepper
Perkins
Pickle
Pike
Pressler
Price
Quie
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rooney
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Shipley
Shuster
Sikes
Simon
Sisk
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Taylor, Mo.
Teague
Thompson
Thone
Traxler
Udall
Van Deerlin
Vander Veen
Vanik
Waxman
Weaver
Whalen
Whitten
Wilson, Tex.
Wirth
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

ANSWERED "PRESENT"—4

Gibbons
Mineta
O'Brien
Rogers

NOT VOTING—38

Abzug
Andrews, N.C.
Biester
Brooks
Burton, John
Clay
Cotter
Dent
du Pont
Edwards, Ala.
Esch
Fountain
Hansen
Hays, Ohio
Hébert

Heinz
Helstoski
Hightower
Hinshaw
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Litton
O'Hara
Passman
Peyser
Riegle
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Symington
Ullman
Wiggins
Wydler
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Hebert for, with Ms. Abzug against.

Mr. Passman for, with Mr. Dent against.

Mr. John Burton for, with Mr. Helstoski against.

Mr. Fountain for, with Mr. Zeferetti against.

Mr. Jones of Tennessee for, with Mr. Clay against.

Mr. Landrum for, with Mr. Symington against.

Messrs. DODD, DRINAN, PHILLIP BURTON, WALSH, and PATTISON of New York changed their vote from "no" to "aye."

Messrs. MAGUIRE, BUCHANAN, FOLEY, McCOLLISTER, ASHBROOK, GAYDOS, EVANS of Colorado, ANDREWS of North Dakota, ABDNOR, and AMBRO changed their vote from "aye" to "no."

Mr. ROGERS changed his vote from "aye" to "present."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 5? If not, the Clerk will read.

The Clerk read as follows:

ACCEPTANCE OF DEPOSITS

SEC. 6. (a) No branch may accept deposits of United States citizens, residents, or businesses whose principal place of business is in the United States unless the branch maintains with the Federal Deposit Insurance Corporation a surety bond or pledge of assets. The amounts and types of such bonds and assets shall be determined under such rules as the Federal Deposit Insurance Corporation may prescribe for the purpose of protecting such deposits to the same extent and in the same amount that the deposits would be protected under the Federal Deposit Insurance Act if the branch were an insured bank under that Act. Liabilities to offices, branches, agencies, subsidiaries, and affiliates of a foreign bank shall not be treated as deposits in a branch of such foreign bank for the purposes of this section.

(b) This section does not apply to any bank organized under the laws of Puerto Rico, nor does it prohibit any branch or agency from maintaining credit balances for the account of customers incidental to, or arising out of, the exercise of its lawful powers.

(c) With respect to branches in existence on the date of enactment of this title, this section shall take effect January 1, 1977.

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to

the request of the gentleman from Rhode Island?

There was no objection.

The CHAIRMAN. Are there any amendments to section 6? If not, the Clerk will read.

The Clerk read as follows:

AUTHORITY OF FEDERAL RESERVE SYSTEM

SEC. 7. (a) (1) Except as provided in paragraphs (2) and (3) of this subsection, subsections (a), (b), (c), (d), (f), (g), (i), (j), (k), and the second sentence of subsection (e) of section 19 of the Federal Reserve Act shall apply to every branch and agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank in the same manner and to the same extent as if the branch, agency, or commercial lending company were a member bank as that term is defined in section 1 of the Federal Reserve Act and, for the purposes of those provisions, the Board is authorized to define any or all of the liabilities of any such branch, agency, or commercial lending company as deposits; but the Board either by general or specific regulation or ruling may waive the minimum and maximum reserve ratios prescribed under section 19 of the Federal Reserve Act and may prescribe any other ratio, not more than 22 per centum, for any liability of any such branch, agency, or commercial lending company that the Board may deem reasonable and appropriate to effectuate monetary policy objectives, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on branches, agencies, and commercial lending companies in such graduated manner as it deems reasonable and appropriate.

(2) A branch or agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(3) A commercial lending company shall be subject to this subsection only if it is controlled (A) by a foreign bank that has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) by a group of foreign banks that, in the aggregate, have total worldwide consolidated bank assets in excess of $1,000,000,000; (C) by a foreign company that owns or controls a foreign bank or banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (D) by a group of foreign companies that own or control a foreign bank or banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(b) Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank, and any commercial lending company in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch, agency, or commercial lending company is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1976. In exercising any such powers with respect to any such branch agency, or commercial lending company each Federal Reserve bank shall give due regard to account balances being maintained by such branch, agency, or commercial lending company with such Reserve bank and the proportion of any such branch, agency, or commercial lending company's assets being held as reserves under section 7 of the International Banking Act of 1976. For the purposes of this paragraph, the terms 'branch,' 'agency,' 'foreign bank,' and 'commercial lending company' shall have the same meanings assigned to them in section 1 of the International Banking Act of 1976.".

(c) Each branch or agency of a foreign bank, other than a Federal branch or agency, and each commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, shall be subject to (1) paragraphs 7, 8, and 20 and the reporting requirements of paragraph 6 of section 9 of the Federal Reserve Act (12 U.S.C. 325, 326, 335, and 324), (2) subparagraph (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248(a)), and (3) paragraph (5) of section 21 of the Federal Reserve Act (12 U.S.C. 483), to the same extent and in the same manner as if the branch, agency, or commercial lending company were a State member bank. In addition to any requirements imposed under section 4 of this Act, each Federal branch and agency shall be subject to subparagraph (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248(a)) and to paragraph 5 of section 21 of the Federal Reserve Act (12 U.S.C. 483) to the same extent and in the same manner as if it were a member bank.

(d) Each branch or agency of a foreign bank established or operating pursuant to State law and each commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall also be subject to such other duties, restrictions, conditions, limitations, or civil penalties or liabilities applicable under the Federal Reserve Act to a State member bank, which the Board, by regulation or order, determines appropriate to insure the safety and soundness of banking operations, or to maintain competitive equality with State member banks, or to otherwise carry out the purposes of this Act except that (1) the Board may make such exemptions or exceptions from such duties, restrictions, conditions, limitations, or civil penalties or liabilities that it deems to be reasonable and appropriate in light of the different organizational structure or character of business conducted by such branches, agencies or commercial lending companies, and (2) any limitation or restriction based on the capital stock and surplus of a member bank shall be deemed to refer, as applied to a branch or agency, to the dollar equivalent of the capital stock and surplus of its parent foreign bank, and if the parent foreign bank has more than one branch or agency the accounts of all such branches and agencies, including Federal branches and agencies, shall be aggregated in determining compliance with the limitation or restriction.

(e) No foreign bank may, after the date of enactment of this Act, establish any branch or agency pursuant to State law and no foreign bank, group of foreign banks, or one or more foreign companies that control a foreign bank may acquire control of a commercial lending company without first obtaining approval of the Board of Governors of the Federal Reserve System. Whenever the Board receives an application from any such foreign bank, group of foreign banks, or foreign companies to establish a branch or agency, or to control a commercial lending company, the Board shall send a copy to the Secretary of State, the Secretary of the Treasury and the bank supervisory authority of the State where the branch or agency or commercial lending company is to be located and shall allow thirty days within which their views and recommendations may be submitted. In acting on any such application, the Board shall take into account the effects of the proposal on competition in the domestic and foreign commerce of the United States, the financial and managerial resources and future prospects of the applicant foreign bank, group of foreign banks, or one or more foreign companies and the branch, agency, or commercial lending company concerned, and the convenience and needs of the community to be served.

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

AMENDMENT OFFERED BY MR. ST GERMAIN

Mr. ST GERMAIN. Mr. Chairman, I offer an amendment. I am offering this amendment with Mr. JOHNSON of Pennsylvania of the minority.

The Clerk read as follows:

Amendment offered by Mr. ST GERMAIN: On page 16, line 12, strike all after "Act" through and including "deposits" on line 15.

On page 16, line 19, strike " liability" and insert in lieu thereof the word "obligation."

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. Mr. Chairman, I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I have no objection to the amendment.

Mr. ST GERMAIN. Mr. Chairman, both sides are in agreement on this amendment. I move its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 7?

AMENDMENT OFFERED BY MR. STEPHENS

Mr. STEPHENS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEPHENS: Amend Section 7(a) by striking all of line 2 on page 16 through and including line 25 on page 17 and insert in lieu thereof the following:

"SEC. 7. (a) (1) Except as provided in paragraph (2) of this subsection, subsections (a), (b), (c), (d), (f), (g), (i), (j), (k), and the second sentence of subsection (e) of section 19 of the Federal Reserve Act shall apply to every federal branch and federal agency of a foreign bank in the same manner and to the same extent as if the federal branch or federal agency were a member bank as that term is defined in section 1 of the Federal Reserve Act, but the Board either by general or specific regulation or ruling may waive the minimum and maximum reserve ratios prescribed under section 19 of the Federal Reserve Act and may prescribe any other ratio, not more than 22 per centum, for any obligation of any such federal branch or federal agency that the Board may deem reasonable and appropriate, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on federal branches and federal agencies in such graduated manner as it deems reasonable and appropriate.

"(2) A federal branch or federal agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000."

In subsection 7(b), the word "federal" before each of the words "branch" and "agency" wherever they appear in lines 1 through 24.

On page 18, line 7, strike ", and any" and on line 8 strike "commercial lending company".

On page 18, line 10, after "branch" strike the "(,)" and insert in lieu thereof the word "or", strike ", or commercial" and on line 11, strike "lending company ".

On page 18, line 14, following the word "branch" insert the word "or" and strike "or commercial lending company".

On page 18, line 16, strike the "(,)" after "branch" and insert in lieu thereof the word "or," strike ", or com-" and on line 17, strike "mercial lending company".

On page 18, line 18, strike the "(,)" after "branch" and insert in lieu thereof the word "or". Also, strike "agency" and insert in lieu thereof the word "agency's", and strike "or commercial lending". On line 19, strike "company's".

On page 18, line 21, following "'agency'", insert the word "and" and on line 22, strike "and 'commercial lending company'".

Amend Section 7(c), on page 19, line 4, strike all after "subject to" through and including all of line 9 and insert in lieu thereof the following:

". . . the provision requiring reports of condition contained in paragraph 6 of Section 9 of the Federal Reserve Act (12 U.S.C. 324), to the . . ."

Strike all of Sections 7 (d) and (e) by striking on page 19 all of lines 18 through 25, all of page 20 through and including line 16 on page 21.

Mr. STEPHENS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. STEPHENS. Mr. Chairman, this amendment to section 7 has the effect of limiting the authority of the Federal Reserve Board, in its application of reserve-setting authority only to Federal branches and Federal agencies of foreign banks. This amendment permits the individual States to determine reserve-setting policy with regard to those foreign bank branches which elect State charters. This would be in accordance with the treatment provided our domestic commercial banks whereby national banks have their reserves determined by the Federal Reserve System, and States would set reserves for State-chartered banks.

The amendment to section 7(a) is intended to make it clear that the Fed's reserve-setting authority is applicable only to Federal branches and agencies. Because commercial lending companies are State chartered institutions, there being only five chartered by the State of New York in existence, and since they do not accept deposits or do a retail-type of banking business, they are omitted from section 7 entirely.

Subsection 7(b) is amended so as to remain consistent with section 7(a). This is done by srtiking the references to commercial lending companies and making it clear that the subsection applies only to Federal branches and Federal agencies. Subsection (b) as amended, provides that the privileges associated with membership in the Federal Reserve System such as check clearing and the discount privilege, will be available only to those branches and agencies of foreign banks which are federally chartered.

The amendment to subsection (c) provides that those branches and agencies which are State chartered will nevertheless be responsible for filing reports of condition with the Federal Reserve Board as paragraph 6 of section 9 of the Federal Reserve Act requires. The intent of this legislation, roughly stated, is to provide information to a responsible Federal authority about the activities of foreign banks in this country. Under this amendment the information will be provided.

It is a fact that the foreign banks doing business here have been providing information to the Fed on a voluntary basis for a number of years. Making this policy mandatory will insure that the Federal Reserve System will continue to have the information necessary for their conduct of a sound monetary policy and not do violence to the dual banking system.

My amendment to section 7(c) would also strike from the bill the examination authority of the Fed over State-chartered foreign branches and agencies. The Federal Deposit Insurance Corporation has been engaged in a program known as "selective withdrawal," whereby the FDIC has encouraged the States to take over more of the examination process themselves of the State-chartered nonmember domestic banks. To now require State-chartered foreign branches and agencies to be subject to examination by the Fed, as the bill does, is to be inconsistent with current Federal efforts. This is clearly an invasion of the domain of our individual States. My amendment does away with this Federal examination authority.

Section 7(d) of this bill would be an affront to the dual banking system. It would treat all State-chartered foreign bank branches and agencies as if they were domestic State member banks. The State-chartered foreign banks would be subject to conditions, limitations, civil penalties, or liabilities applicable under the Federal Reserve Act to State member banks. This is a frightful derogation of the principles of the dual banking system and my amendment would strike this subsection and subsection (e). Further, there has not been any showing that either of these subsections is necessary.

Subsection (e) would prohibit any foreign bank, henceforth from the date of enactment of this bill, from establishing an office in any State without first obtaining the approval of the Federal Reserve Board—an unwarranted invasion of a State's rights by the Fed. This amounts to no more than an invitation to the Fed to overreach its authority.

There has been no showing made by anyone as to why this incursion by the Federal Reserve Board into the rights of the individual States to regulate foreign banking within their borders is necessary.

Mr. Chairman, at the present time the Federal Reserve System sets reserve requirements for all domestic nationally chartered commercial banks and for those domestic State-chartered commercial banks which choose to become members of the Federal Reserve System. Those State-chartered domestic banks which do not desire to join the Federal Reserve System have their reserves fixed in accordance with the law of the State in which they operate.

This optional affiliation with the Fed for reserve purposes for State-chartered banks has been in effect for many years, and I know no reason to change such provisions as they affect our domestic banks.

Although one of the stated purposes of H.R. 13876 is to provide the same treatment for both domestic and foreign banks operating in this country, the bill would actually discriminate against State law in several ways. For example, a branch or agency—even though State-chartered—would be subject to the reserve-setting authority of the Federal Reserve System where: First, its parent foreign bank has total worldwide consolidated bank assets in excess of $1 billion; second, its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1 bilbillion; second, its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1 lion; second, its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1 billion. A commercial lending company, as defined in this bill, would also be subject to the Fed's reserve-setting authority under similar conditions.

This bill would treat foreign branches and agencies differently than we now treat our domestic banks by requiring foreign branches and agencies, as well as commercial lending companies to become affiliated with the Fed for reserve-setting purposes under conditions I have just outlined.

Because I believe we should continue to permit State-chartered foreign branches to have their reserves determined in accordance with State law, and federally chartered branches to have their reserves determined by the Federal Reserve System, I am submitting the amendment to section 7 of the bill. I would call attention to the fact that the amendment does not mention foreign agencies or commercial lending companies. It is my understanding that neither foreign agencies nor commercial lending companies accept domestic deposits and therefore, I know of no reason that they need be affiliated with the Federal Reserve System for reserve-setting purposes.

Mr. Chairman, foreign banks have been operating in this country for approximately 100 years under State law and under State charter. It is true that foreign banks, branches, and agencies have been growing in this country in recent years, but I am not aware that the absence of the Federal Reserve Board's regulatory control over these State-chartered foreign banks, branches, or agencies, or the fact that the Fed has not heretofore had the authority to deny or approve the admittance of these institutions under a State charter has adversely affected our monetary policies or been contrary to our national interests. This extension of the Federal Reserve Board's authority is unwarranted in the absence of a clear showing that the States supervisory role regarding foreign banks, branches, and agencies has been inadequate. The vast majority of foreign bank assets in this country are located in New York, California, and to a lesser extent, Illinois. These States possess outstanding banking departments and I believe the extension of authority granted to the Fed under section 7 is unwarranted and that these sections should be stricken from the bill.

Mr. ST GERMAIN. Mr. Chairman, I rise in opposition to the amendment to section 7 offered by the gentleman from Georgia (Mr. STEPHENS). As you have heard many of us say today, the purpose of this bill, as stated in its title, is:

> To provide Federal regulation of participation of foreign banks in domestic financial markets.

The amendment offered by Mr. STEPHENS would reverse the intent of the legislation and perpetuate the status quo.

Our objectives throughout consideration of this legislation have been to insure, to the extent possible, equal treatment for foreign and domestic banks operating in the United States.

Therefore, we have provided joint regulation by the States and the Federal Reserve Board for State-chartered foreign operations on a basis comparable to that which applies to State member banks.

The foreign banks which establish branches in the United States are invariably of such great size that if they were established or headquartered in the United States their size as a practical matter would compel them to be members of the Federal Reserve System. About 25 foreign banks operating in the United States have aggregate assets in their U.S. offices which are larger than those of the 150th largest U.S. bank—that is, in excess of $787 million. Frequently they operate their U.S. offices as a network. Thus, the assets which may be held in any single office do not really reflect the power that these banks have in the U.S. market. Their lending limits are based on parent capital and so they could in some cases use all of their liabilities in a given office to make a single loan to a U.S. corporation. As I hope this makes clear, the branches of foreign banks are in no way comparable to offices of small State-chartered nonmember banks. They do not operate in the same ways and their resources are infinitely greater. As Chairman Burns noted in his letter to me commenting on Mr. STEPHENS' amendment—

> In the Board's judgment, such substantial banking operations should not be exempted from Federal monetary and bank supervisory controls.

To exempt them from Federal regulation would have the effect of making this bill meaningless.

As I have already pointed out, foreign banks operate their U.S. offices in several States as a network. This presents real problems in terms of the adequacy of regulation under the current structure. Individual State regulators see only a piece of the action because there is no single regulator who oversees these operations as a whole. Therefore, it is difficult to ascertain how soundly they are being conducted and what possible violations may have taken place. Chairman Hills of the Securities and Exchange Commission has pointed out that the SEC has found examples of cases where foreign banks have advanced credit for stock purchases to U.S. citizens or residents in excess of amounts allowed by U.S. credit regulations. This, I think, is an important example of the way in which the State regulated offices can evade important regulatory restrictions, and why they need to be regulated under Federal authority.

In summary, I would like to make the point that the committee proposes a bill to accomplish the objective of providing Federal regulation for foreign banks. The hearings and other information that has been developed has indicated the need for this legislation. It has the support of the Federal Reserve Board. Therefore, I can only oppose an amendment which would strike the very sections of the bill which are necessary in order to achieve its purpose.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, I associate myself with the remarks of the gentleman in the well and especially urge my colleagues to defeat this last amendment.

Mr. ST GERMAIN. I thank the gentleman from Massachusetts.

Mr. REES. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, the purpose of this bill is to establish a Federal regulatory framework for foreign banks doing business in the United States. We recognize the dual banking system. We do not adversely affect the dual banking system. Under this bill, if a bank wishes to come into the United States as a State bank, it can do it. If they wish to come in as a Federal bank, they can do it. But what we do here that we do not do to State banks generally is to require that the Federal Reserve have regulatory authority over foreign State branches and agencies and provide that it can require foreign branches and agencies to put up reserve requirements.

The amendment offered by the gentleman from Georgia (Mr. STEPHENS) would delete that, and if this were to be deleted there would be very little purpose for this bill, because all foreign banks would opt to go in under the State rules rather than the Federal.

Why do we want the Fed in here? We do that because the foreign banks are not just mom and pop banks down the street. Let me read the Members some of the assets of banks that now have agencies and branches in this country:

The National Bank of Paris has $34 billion in assets;

Barclay's has $29 billion assets;

Credit Lyonnais has $28 billion in assets.

These banks which do business in the United States are the major bank of the country they come from. They are the CitiCorp, the Chase, the Bank of America, and they are dealing in international business.

The Federal Reserve Board has the responsibility for domestic and international monetary policy, and if we do not have control over these international transactions, the Fed therefore no longer would have monetary control and cannot come up with an adequate monetary policy affecting our domestic and international problems.

Now, this does not put any onerous burden on the banks, because most banks are members of the Fed, most banks have to keep reserves. All we are trying to do is make sure that we have some idea of what the foreign banks are doing.

In this bill, time after time, we say we want foreign banks to have the same power as U.S. banks, no more, no less. That is all we are doing. We are trying to give parity. We want foreign banks in the United States. It is good for the economy, but this amendment would, in effect, kill this legislation. It would mean that the Fed, which is responsible for monetary policy, would have absolutely nothing to say about how foreign banks operate in this country.

Mr. Chairman, let me state that I have a great deal of respect for the dual banking system, but my banking commissioner in California does not look at agencies of foreign banks, because he does not have the experience to look at agencies of foreign banks. He does not have that sophistication to understand the Eurobond market or the Eurodollar market. We have to have Federal regulation so we can have some idea as to the massive movement of billions of dollars between States and between the United States and other areas of the world.

Mr. Chairman, the Stephens amendment, as I say, would kill the bill. It would defeat the whole purpose of the bill. We recognize the dual banking system in this bill, as I think we should; but I do not think we should go any further on this amendment, unless Members feel that foreign banks should not be regulated at all in the United States, that the largest banks in the world should be able to do what they want and not pay any attention to U.S. domestic or international monetary policy.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the present section 7 of H.R. 13876 would impose upon State-chartered foreign banks the reserve-setting and regulatory authority of the Federal Reserve Board, whether or not such State-chartered banks are members of the Federal Reserve. The committee report states that these steps will promote achievement of two policy objectives; namely, "to provide a system of Federal regulation of foreign banking activities" and "to provide to the extent possible or appropriate equal treatment for foreign and domestic banks operating in the United States."

These proposals result from a long-standing effort by the Federal Reserve to achieve the imposition of reserve requirements and other incidents of membership in the Federal Reserve System upon all banks operating in the United States. Fortunately, the committee report disclaims any desire to use the outcome of this contest as a precedent for deciding the larger question regarding the fate of State-chartered, nonmember banks. The report states, on page 9:

> Resolutions involving the more controversial issues—the imposition of compulsory Federal Reserve requirements—should be viewed only as efforts to deal with special situations related to the unique status or operations of foreign banks. There is no intent to use the legislation as a means for setting precedents or policies affecting the domestic banking system.

Nevertheless, it is my belief that an adequate showing has not been made that "special situations" require the imposition of broad Federal reserve setting and regulatory authority upon State-chartered foreign banking entities. Concerning the first objective stated above, it should be observed that a "system of Federal regulation" can be provided for without superimposing it upon existing State regulatory systems. Concerning the issue of "equal treatment," it is relevant to note that domestic banks which are State chartered have their reserve requirements set by their State regulatory authorities, a practice which is consistent with the preservation of the "dual banking system."

The major justification advanced for the imposition of reserve requirements of the Federal Reserve System upon State-chartered foreign banks is that this step is necessary to achieve subsidiary objectives of the bill, "to effectuate monetary policy objectives and to maintain fair and vigorous competition between and among these institutions and member banks."

With regard to the first objective, there has been no showing that enactment of these provisions will provide the Federal Reserve with sufficient additional control over monetary policy to meet its stated needs. A 1974 study conducted by Prof. Ross M. Robertson and Almarin Phillips for the Conference of State Bank Supervisors addressed itself to this issue:

> Based on their analyses of the historical evolution of the role of bank reserves plus more contemporary evidence on the manner in which monetary policy affects the economy, the authors conclude:
>
> 1. A large number of variables affect the level and rate of change of the money supply, even though some variables may weigh more heavily than others.
>
> 2. The interrelationships among variables are complex and uncertain. Attempts at precision assume knowledge of major variables that does not exist and cannot reasonably be expected to exist in the foreseeable future.
>
> 3. Major monetary policy weaknesses have been revealed in the recent past, and a prudent person should anticipate more in the future. . . .
>
> 4. Compulsory affiliation of additional banks with the Federal Reserve for reserve purposes would further increase the power that the Federal Reserve has over banks and would force the dilution of state and local determine of the structure.
>
> 5. Foregoing the known merits of the dual banking system with its healthy state-federal checks and balances for uncertain benefits, if any, from compulsory affiliation of all banks with the Federal Reserve for reserve purposes would not be in the public interest—From Preface by Donald E. Pearson to "Optional Affiliation With the Federal Reserve System is Consistent With Effective Monetary Policies" by Prof. Robertson and Phillips.

Conversely, it has not been demonstrated that the additional reporting requirements, which state regulatory authorities are willing to administer for the benefit of the Federal Reserve will not provide the Fed with as much control over monetary policy as it can reasonably expect to achieve under the present state of the art.

However, such a convincing case has not been made for the powers granted to the Federal Reserve under section 7. Therefore, I strongly support the amendment of the gentleman from Georgia (Mr. STEPHENS) and urge my colleagues to do likewise.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The amendment was rejected.

The CHAIRMAN. Are there amendments to section 7? If not, the Clerk will read section 8.

The Clerk read as follows:

NONBANKING ACTIVITIES

> SEC. 8. (a) Except as otherwise provided in this section (1) any foreign bank that maintains a branch or agency in a State, (2) any foreign bank or foreign company controlling a foreign bank that controls a commercial lending company organized under State law, and (3) any company of which any foreign bank or company referred to in (1) and (2) is a subsidiary shall be subject to the provisions of the Bank Holding Company Act of 1956, and to sections 105 and 106 of the Bank Holding Company Act Amendments in 1970 in the same manner and to the same extent that bank holding companies are subject thereto, except that any such foreign bank or company shall not be deemed a bank holding company for purposes of section 3 of the Bank Holding Company Act of 1956.
>
> (b) After December 31, 1985, no foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may retain direct or indirect ownership or control of any voting shares of any nonbanking company in the United States that it owned, controlled, or held with power to vote on the date of enactment of this Act or engage in any nonbanking activities in the United States in which it was engaged on such date unless authorized by subsection (c) of this section or by the Board of Governors of the Federal Reserve System under section 4 of the Bank Holding Company Act of 1956.
>
> (c) After December 31, 1985, notwithstanding the prohibitions of subsection (b) of this section, a foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may continue to engage in nonbanking activities in the United States in which directly or through an affiliate it was lawfully engaged on December 3, 1974 (or on a date subsequent to December 3, 1974, in the case of activities carried on as the result of the direct or indirect acquisition, pursuant to a binding written contract entered into on or before December 3, 1974, of another company engaged in such activities at the time of acquisition) and may retain direct or indirect ownership or control of any voting shares of any nonbanking company that it (1) owned, controlled, or held with power to vote on December 3, 1974 (or on a date subsequent to December 3, 1974, if acquired by a written contract entered into on or before such date) and (2) that does not engage in any activities other than those in which such foreign bank, company, or affiliate may engage by virtue of this subsection or section 4 of the Bank Holding Company Act of 1956, as amended; except that the Board by order, after opportunity for hearing, may terminate the authority conferred by this subsection (c) on any such foreign bank or company to engage directly or through an affiliate in any activity otherwise permitted by this subsection (c) if it determines, having due regard to the purposes of this Act and the Bank Holding Company Act of 1956, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States. Notwithstanding any exercise of the authority conferred upon the Board by this subsection (c), in the case of any such foreign bank or company that engages directly or indirectly through an affiliate in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States, such foreign bank or company may continue to engage in such business in the United States to the extent not prohibited for national banks by paragraph Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) and, in addition, may continue to engage in the United States in the business of underwriting and distributing "investment securities" as that term is defined in paragraph Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) to the extent necessary to participate in customary and usual syndicate activities in the United States by the managing underwriters or other underwriters on behalf of all syndicate members in connection with underwritings of such securities so long as the individual selling and distribution activities of any such foreign bank or company (whether direct or indirect through an affiliate) in connection with any such underwriting are confined to jurisdictions other than the United States. Nothing in this subsection (c) shall be construed to authorize any foreign bank or company referred to in this subsection (c), or any affiliate thereof, to engage in activities authorized by this subsection (c) through the acquisition, pursuant to a contract entered into after December 3, 1974, of any interest in or the assets of a going concern engaged

in such activities. Any foreign bank or company that is authorized to engage in any activity pursuant to this subsection (c) but, as a result of action of the Board, is required to terminate such activity may retain the ownership of control of shares in any company carrying on such activity for a period of two years from the date on which its authority was so terminated by the Board. As used in this subsection, the term "affiliate" shall mean any company more than 5 per centum of whose voting shares is directly or indirectly owned or controlled or held with power to vote by the specified foreign bank or company.

(d) Nothing in this section shall be construed to define a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank or foreign company that controls a foreign bank as a "bank" for the purposes of any provisions of the Bank Holding Company Act of 1956, or section 105 of the Bank Holding Company Act Amendments of 1970, except that any such branch, agency or commercial lending company subsidiary shall be deemed a "bank" or "banking subsidiary", as the case may be, for the purposes of applying the prohibitions of section 106 of the Bank Holding Company Act Amendments of 1970 and the exemptions provided in sections 4(c) (1), 4(c) (2), 4(c) (3), and 4(c) (4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c) (1), (2), (3), and (4)) to any foreign bank or other company to which subsection (a) applies.

GUIDELINES FOR FOREIGN BANK OPERATIONS

SEC. 9. (a) The Secretary of the Treasury in issuing guidelines under this section, and the Federal regulatory agencies in the administration of this Act, shall seek to achieve a parity of treatment for foreign banks, branches, agencies, and commercial lending companies relative to their domestic counterparts. It is the purpose of this Act to establish a basic statutory framework which, giving due consideration to the structure of our domestic monetary mechanisms and our national interests, will, to the extent practical, allow foreign banking institutions to have the same rights, duties and privileges and be subject to the same limitations, restrictions, or conditions as our domestic banking institutions. It is the intent of the Congress that this Act shall establish a pattern for equitable treatment which State regulators may adopt in their regulation of foreign banking institutions.

(b) The Secretary of the Treasury shall issue guidelines with respect to the banking operations of foreign banks, companies, and individuals in the United States, in order to assist Federal and State banking agencies in acting on applications by such foreign banks, companies, and individuals to establish branches or agencies of foreign banks in any State or to acquire interests in banks, corporations organized under sections 25 or 25(a) of the Federal Reserve Act, or commercial lending companies organized under State law.

(c) In issuing guidelines under this section, the Secretary of the Treasury shall endeavor to foster participation by foreign interests in international financial markets in the United States to the maximum extent consistent with maintenance of fair and vigorous competition in such markets, and with international economic policies of the United States, including policies relating to the balance of trade, the balance of payments, the international payments mechanism, and the negotiation and implementation of reciprocal arrangements with other countries to strengthen international trade.

(d) Whenever the Comptroller of the Currency receives an application to establish a national bank, Federal branch or agency, he shall send a copy to the Secretary of State, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and the bank supervisory authority of the State where the bank, branch, or agency is to be located. He shall wait thirty days for such officials to submit their views before acting on the application.

(e) Whenever a State bank supervisory authority receives an application to establish a branch or agency of a foreign bank or to organize a bank or a commercial lending company that will be controlled by a foreign company or group of foreign companies, he shall transmit a copy of such application to the Secretary of the Treasury, the Secretary of State, and the Board of Governors of the Federal Reserve System, and shall allow a thirty-day period within which their views and recommendations may be submitted.

(f) Whenever the Board of Governors of the Federal Reserve System receives an application from a foreign company or group of foreign companies for approval under section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) or receives an application from a foreign bank under sections 25 or 25 (a) of the Federal Reserve Act and whenever the responsible Federal banking agency under the Bank Merger Act (12 U.S.C. 1828(c)) receives an application under that Act involving a bank that is controlled by a foreign company or group of foreign companies, it shall transmit a copy of such application to the Secretary of the Treasury and the Secretary of State and allow a thirty-day period within which their views and recommendations may be submitted.

REPRESENTATIVE OFFICES

SEC. 10. (a) Any foreign bank that maintains an office other than a branch or agency in any State shall register with the Secretary of the Treasury in accordance with rules prescribed by him, within one hundred and eighty days after the date of enactment of this Act or the date on which the office is established, whichever is later.

(b) This Act does not authorize the establishment of any such office in any State in contravention of State law.

CEASE-AND-DESIST ORDERS

SEC. 11. Subsection (b) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following new paragraphs:

"(4) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any branch, agency, and any commercial lending company controlled by one or more foreign banks or by one or more foreigin companies that control a foreign bank, as those terms are defined in the International Banking Act of 1976, in the same manner as they apply to an insured bank, and for that purpose the appropriate Federal banking agency shall be the Comptroller of the Currency with respect to a Federal branch or agency of a foreign bank and the Board of Governors of the Federal Reserve System with respect to a branch, agency, or commercial lending company subsidiary operating pursuant to State law.

"(5) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any foreign bank or company to which subsection (a) of section 8 of the International Banking Act of 1976 applies and to any subsidiary (other than a bank) of any such foreign bank or company in the same manner as they apply to a bank holding company and any subsidiary thereof (other than a bank) under subparagraph (3) of this subsection. For the purposes of this subparagraph, the term 'subsidiary' shall have the meaning assigned to it in section 2 of the Bank Holding Company Act of 1956.".

REGULATION AND ENFORCEMENT

SEC. 12. (a) The Comptroller, the Board, and the Secretary of the Treasury are authorized and empowered to issue such rules, regulations, and orders as each of them may deem necessary in order to perform their respective duties and functions under this Act and to administer and carry out the provisions and purposes of this Act and prevent evasions thereof.

(b) Compliance with the requirements imposed under this Act shall be enforced under section 8 of the Federal Deposit Insurance Act by the appropriate Federal banking agency as described in this Act.

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the remaining committee amendments.

The Clerk read as follows:

Committee amendments: Page 22, line 8, insert "by reason of this subsection" after "company shall not".

Page 23, line 16, strike "1956, as amended;" and insert in lieu thereof "1956;".

Page 24, line 12, strike " 'investment securities' as" and all of lines 13 and 14 and insert in lieu thereof "securities".

Page 30, line 21, strike "this" and insert in lieu thereof "that".

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. REES

Mr. REES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REES: Page 22, line 18, immediately after "(c)" insert "(1)".

Page 23, strike line 22 and all that follows through page 24, line 19, and insert in lieu thereof the following:

United States. Subject to any exercise of the authority conferred on the Board by this subsection (c), and to all other provisions of this subsection, any such foreign bank or company that engages in the securities buiness may continue to do so.

(2) In the case of any such foreign bank or company that engages directly or indirectly through an affiliate in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, or other securities in the United States, the Board, in consultation with the Securities and Exchange Commission, shall within three years from the date of enactment of this Act prescribe such regulation as may be necessary to separate the direct or indirect commercial banking activities of such foreign bank or company in the United States from the foregoing direct or indirect investment banking activities in order to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States.

(3) At least once in each three-year period after the enactment of this Act, the Board shall evaluate the extent to which the authority of such foreign banks and companies to engage in the securities business presents actual or potential conflicts of interest, or provides a competitive advantage relative to domestic banks and bank holding company subsidiaries, or is otherwise contrary to the public interest and the national policy requiring the separation of commercial and investment banking as set forth in the Glass-Steagall Act. The Securities and Exchange Commission is authorized to evaluate the effects on the functioning of the securities

markets, including but not limited to competition therein, of such foreign banks and companies engaging in the securities business. Unless the Board determines that such effects are sufficiently favorable as to outweigh any adverse effects found by the Board or the Commission, the Board shall by rule terminate the authority of such foreign banks and companies to engage in the securities business after such reasonable period of time as may be appropriate.

(4) Nothing in this sub

Page 25, after line 10 insert:

(5) As used in this subsection the term "engage in the securities business" means to engage directly or through an affiliate in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States to any greater extent or under any other conditions than those permitted for national banks.

Mr. REES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. REES. Mr. Chairman, the most difficult job in any legislation is to try to put in a grandfather clause. We have to play God, more or less, and say that after this day it is illegal, but before this date it is legal.

We have a problem here with foreign banks doing business in the United States because many of them are engaged in businesses which, under U.S. law, are illegal. The most important one here now is that a foreign bank can have a securities affiliate, and U.S. banks cannot have securities affiliates. We split those apart right after the Depression with what is called the Glass-Steagall Act. We said, "You can have a commercial bank, but you cannot have that and also an investment activity." The reason was that commercial banks were tending to allocate their money into investment banking subsidiaries and not allocating it where it should be, and also that many of the investment securities were not very good.

So, this is why we passed the Glass-Steagall Act, but foreign banks are not prohibited from doing business in securities. This amendment is an attempt to try to grandfather this. Under the bill, foreign banks can deal in most banking activities that are prohibited, and deal in securities until 1985. This amendment is an attempt to soften the grandfather clause.

It is rather difficult for a foreign bank which came in here 20 years ago, and in good faith has a security affiliate, but where they are not necessarily engaging in those activities that caused the Glass-Steagall Act, to be in this situation. They feel that they have been here in good faith.

What we are doing here in paragraph 2 of the amendment is to state that within 3 years the Federal Reserve has to come up with rules and regulations which separate the commercial and investment banking functions.

What is this? How do we separate them? It does not mean divest; it means they have to build a wall between them so that there is no relationship between what they are doing in the United States. They can do whatever they want to in their own countries.

We also, in terms of separation, want to give the Board the power to prohibit certain activities which might be considered dangerous by the Federal Reserve Board in terms of giving foreign banks undue competitive advantage over U.S. banks.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, it is my understanding that the separation concept as set forth in paragraph 2 of the gentleman's amendment means that the Federal Reserve Board has the authority to require the termination of some, but not necessarily all, securities activities of a domestic affiliate of a foreign bank or company operating in the United States.

Mr. REES. The gentleman is correct.

Mr. MURPHY of New York. In other words, the gentleman's amendment envisions that the Fed will carve out those securities activities of foreign banks falling within the scope of subsection (a) of section 8 which would not result in undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

Mr. REES. Yes; the gentleman is correct. In the amendment, if the Fed decides that it just does not want them in securities, they could also make that point.

The gentleman is correct in his analysis.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Is it not the case that the gentleman used the word "separate" as opposed to the word "divest" to make that particular distinction?

Mr. REES. The intention of this language is to separate and not to divest. So that the home bank could still own a securities affiliate and that the securities affiliates could be doing business in the United States; but the bank and the securities affiliate could not be together in the United States.

Mr. TSONGAS. So long as the concerns about concentration of resources are met, then the separation could not take place.

Mr. REES. The Board has to make a finding, in paragraph 3, every 3 years that the foreign banks having this privilege of having a securities affiliate do not misuse that privilege. And if there is undue competition, it could be terminated.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

As I understand the amendment, we in effect would be saying that the foreign bank would have a certain privilege which in effect is denied an American-chartered bank. Is that correct?

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. REES was allowed to proceed for 3 additional minutes.)

Mr. REES. Mr. Chairman, this is a grandfather clause, and it says that banks doing business at the enactment of this act can remain in those businesses, but that the Fed will make a determination within 3 years as to the nature of their participation in the business, and they also have to separate the securities affiliates from the commercial banking affiliate. But we do allow them to continue in the securities business. We put a very tight ring around them so that they could not engage in the securities business that would be detrimental to competition or the economy.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I thank the gentleman for yielding.

I have been listening very intently to the gentleman in the well.

Is the gentleman in the well not the author of the present language in the bill?

Mr. REES. Yes, I was the author of the section that is being amended. Then my good friend, the gentleman from New York (Mr. MURPHY), had some reservations. And for the past 2 or 3 weeks we have been negotiating, trying to get some reasonable language in the bill.

There were also some very strong protests from banks that would be affected, and they said if they are forced to withdraw from the securities business that there could be a problem of retaliation against U.S. banks doing business abroad.

So what we tried to do with this was to restrict the foreign banks very tightly as to the type of securities business they are doing.

Mr. J. WILLIAM STANTON. If the gentleman will yield further, would the gentleman agree that what he has done here in his amendment is indeed broadening very much the ability of the foreign banks to operate in the securities business than what is in the legislation?

Mr. REES. Yes, it restricts a great deal of what foreign banks can do now.

Mr. J. WILLIAM STANTON. I was with the gentleman a little while ago when he was in the well in opposition to the previous amendment when he stated the premise on which we all brought this bill to the House floor, and that is that foreign banks operating in the United States should be brought on a par, no less, no better than the domestic banks in the United States.

Would not I be correct that indeed if this amendment passes it gives a very big competitive advantage to foreign banks in the United States?

Mr. REES. Under the bill, if it gives a substantial advantage to foreign banks doing business in the United States, then the Fed will terminate all of the activities.

Mr. TSONGAS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, what the gentleman from California (Mr. REES) and the gentleman from New York (Mr. MURPHY) have done is to put together a compromise that is very artfully drawn. What it does, in essence, is to say that we are concerned about certain potential abuses and should those abuses take place, then the Board will separate the securities activities from the commercial banking activities.

The language the gentleman from Ohio (Mr. J. WILLIAM STANTON) was trying to find is in the latter part of section 2, and that is: "To prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States."

If that occurs, then that separation would immediately take effect.

So there is a protection of both the American banking position and of those foreign banks that came to the United States in good faith and now engage in securities transactions as they do in their home countries.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I would like to go back to my original premise. In its present form, the amendment the gentleman from California (Mr. REES) has offered broadens the ability of foreign banks to operate in the securities field, as compared to the ability of present banking interests.

Mr. TSONGAS. Mr. Chairman, under the current situation the foreign banks coming into the United States engage in securities transactions without restriction. What the gentleman's amendment does by its terms is to "prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices," and that is within the jurisdiction of the Chairman of the Federal Reserve Board.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from California.

Mr. REES. Mr. Chairman, I would like to read the finding that the Federal Reserve Board has to make every 3 years. This is what the amendment says:

> . . . the Board shall evaluate the extent to which the authority of such foreign banks and companies to engage in the securities business presents actual or potential conflicts of interest, or provides a competitive advantage relative to domestic banks and bank holding company subsidiaries . . .

Then if they find that, then, as it says:

> The Board shall by rule terminate the authority of such foreign banks and companies to engage in the securities business . . .

That is the language of section 3 of the amendment.

Mr. TSONGAS. Mr. Chairman, a further point I would like to make is that there are stock exchanges, especially the Boston, the Pacific, and the Midwest Stock Exchanges, which have foreign securities operations going on in this country, and business is conducted by foreign banks without regulation, and this is an integral part of their operations. If we cut them out arbitrarily without any concern about the impact and without any concern about the competitive disadvantage, I think it would be unfair to those banks which have come in and dealt with the United States.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman form California.

Mr. ROUSSELOT. Mr. Chairman, I think the gentleman has made an excellent point about the free market stock exchanges that would be badly damaged if the amendment is not passed, as an example the Boston and Pacific stock exchanges.

Mr. TSONGAS. And the Midwest Stock Exchange as well.

Mr. ROUSSELOT. The gentleman is right. I think that point should be reemphasized. If the Members of this House want to cut out that competion or reduce their natural markets, then a vote against this amendment would be understood. However, I believe that the gentleman from Massachusetts (Mr. TSONGAS) has made a good point, that they will be affected if this amendment is not agreed to.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I appreciate the gentleman's yielding.

If what the gentleman from California (Mr. ROUSSELOT) just said is going to happen, why do we not allow the commercial banks of this country to do that? That would certainly avoid just the opposite of that. Personally I am opposed to this.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I wish to join the gentleman from Massachusetts (Mr. TSONGAS) in support of the amendment and in expressing concern over the impact that could occur on our regional stock exchanges. It is rather significant, because foreign members on the Boston Stock Exchange account for 13 percent of the total membership, on the Midwest Stock Exchange they account for 8 percent, on the Philadelphia Stock Exchange they account for 6 percent, and on the Pacific Stock Exchange they account for 5 percent.

The removal of that number of members would have a very significant impact on the standing and the liquidity of the markets themselves, and a sudden removal could have a very adverse impact. That, of course, runs directly counter to the action this House took in adopting the Securities and Exchange Amendments of 1975 whereby we mandated an open market and a deepening of liquidity.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. TSONGAS) has expired.

(On request of Mr. Moss and by unanimous consent, Mr. TSONGAS was allowed to proceed for 3 additional minutes.)

Mr. MOSS. Mr. Chairman, will the gentleman yield further?

Mr. TSONGAS. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, the problem here is that we must maintain our capital markets. The gentleman from California (Mr. REES) has offered a reasonable compromise, one that does no violence to the basic objectives of the legislation. At the same time it does preserve some degree of consistency between the action this Congress took in 1975 and the action it is proposing to take now in 1976.

I think we can have very serious repercussions from foreign governments against American banking institutions, and I think that a contact with American banking institutions would very quickly convince Members that they are also apprehensive over the impact of this particular provision. The grandfathering, as modified, is highly desirable; and I commend it to the Members.

Mr. TSONGAS. Mr. Chairman, I thank the gentleman from California (Mr. Moss) for his contribution.

Mr. ST GERMAIN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, it is with deep regret that I have to oppose this particular amendment of my colleague, the gentleman from California (Mr. REES), because we have worked together on this legislation for a long period of time.

The bill, as written and as reported from the committee by a vote of 29 to 3, provides that those foreign banks which were engaged in the securities business in this country, as of December 1974, shall have until 1985, 9 years, to continue operating as they now operate.

From that date forward, they shall continue to operate. However, they will only be able to sell securities in foreign lands. They will not be able to buy and sell securities for their own account in a domestic market, to U.S. citizens.

Mr. Chairman, this Congress, in its wisdom, adopted the Glass-Steagall Act prohibiting commercial banks from engaging in the securities business, and with good reason: for the stability of those institutions and for the protection of depositors and stockholders.

That being the case, until such time as the Glass-Steagall Act is changed, I submit, Mr. Chairman, that equality of treatment should be the norm and the criterion in regulating the securities activities of foreign banks. We have upheld that in previous amendments. The whole purpose of this legislation is to provide equal treatment. We give no more to foreign banks than we give to domestic banks. We do not restrict foreign banks any more than we restrict our domestic banks. Equal treatment is what we are looking for.

Mr. Chairman, the point was made that some of these securities affiliates of foreign banks were important to certain regional stock exchanges. The Securities Act Amendments of 1975 were also referred to. But these amendments will permit the foreign banks to become members of the New York Stock Exchange for the first time. The minute those become effective, we can bet our bottom dollar that the foreign banks will become members of the New York Stock Exchange so that there is little question that the regional exchanges will be affected by legislation which has already been passed.

When Congress passed Glass-Steagall in 1934, the Members gave our domestic banks 1 year to divest themselves of their securities business. We are giving these banks 9 years, and they have been on notice that this was going to happen. It does not come as a complete surprise.

As to retaliation—hogwash. Just as we want foreign banks to continue operating in this country, and we do, so do foreign countries want our domestic banks operating in their countries. There will be no retaliation.

Mr. Chairman, we had lengthy hearings on this bill and not one American bank or banker came in in opposition to this section or to state, "Don't do it because we are afraid of retaliation." There was not a whisper, not a word; and we had thorough hearings.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, Governor Mitchell of the Federal Reserve, on page 1020 of the hearings, states:

> The Board shares Congress' concern that the policies of the Glass-Steagall Act and the Bank Holding Company Act be enforced; however, rather than abolish existing foreign-owned bank affiliations that would be prohibited by those Acts, it seems that a better and fairer course of action would be to give the Board the power to terminate such affiliations if, in a particular case, the Board found, after notice and opportunity for hearing, that such action was warranted. Congress, in fact, adopted this type of procedure in connection with its permanent grandfathering of certain of the nonbanking interests of one-bank holding companies in 1970. The Board has suggested a similar review power over any permanently grandfathered nonbanking interests of foreign banks in its proposed foreign bank legislation.

I think that answers the gentleman's question on the evidence before the House.

Mr. ST GERMAIN. No, it does not, I would say to the gentleman from New York. Certainly the Federal Reserve Board has not shown adequate concern with respect to the bank holding company amendments. They themselves have admitted it. The Federal Reserve Board admitted in the hearings that they have not properly supervised the bank holding companies. That is why we had the "problem lists." That is why earnings dipped so low and real estate investment trusts practically destroyed some of our larger banking institutions. And when we look at the amendment, as worded, frankly I think it would be a cold day in California before the Board would force any of these firms to divest and separate.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. J. William Stanton, and by unanimous consent, Mr. St Germain was allowed to proceed for 2 additional minutes.)

Mr. ST GERMAIN. I thank the gentleman for yielding me the additional time and I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, there are a couple of points I wanted to ask the subcommittee chairman, the gentleman from Rhode Island (Mr. St Germain) about, because there are technical differences. And since we have so many Members present who are searching for the right thing to do, would the gentleman from Rhode Island agree that, first of all, one of the primary reasons for this legislation is because foreign banks are coming in here in larger numbers than ever before? Is that true?

Mr. ST GERMAIN. That is correct.

Mr. J. WILLIAM STANTON. Is it not true, however, that if this amendment should pass, which would relieve the foreign banks from being covered under the Glass-Steagall Act, that foreign banks could then show up in Houston, Tex., Cincinnati, Ohio, or New York and Massachusetts and enter the operation and branches of now existing banks and they could operate in the securities business?

Mr. ST GERMAIN. Does the gentleman have the cutoff date? Is the December 1974 date included in this amendment?

Mr. J. WILLIAM STANTON. Mr. Chairman, I am merely asking the question for the benefit of the Members.

Mr. ST GERMAIN. I would suggest this, however, that there is nothing that would prohibit the existing firms from enlarging their operations tenfold or twentyfold. The gentleman is exactly right. How is the Board going to find that there is any probable anticompetitive effects? How is the Board going to find whether a bank, investment or security firm is affecting our economy that drastically? It cannot be done. I repeat, it cannot be done. As for putting people out of business, we passed amendments on pollution and put people out of business.

Mr. J. WILLIAM STANTON. Is it not also true, I would ask one last question, would it not be natural if we pass this amendment that the national banks and other banks in this country, being left under the Glass-Steagall Act, would argue for an exemption from the Glass-Steagall Act if we do not bring in foreign banks under that act?

Mr. ST GERMAIN. I think it is a good toehold in the door.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from California (Mr. Rees). The stated objective of the amendment is to preserve and promote competition in securities markets. I understand and sympathize with this objective, but it seems to me that this amendment will have the opposite effect in banking markets. It will give one group of banks which already have a substantial share of the commercial banking market a very important competitive advantage over all other foreign banks and U.S. banks.

The 19 foreign banks operating in the United States have securities affiliates with U.S. banking assets in excess of $100 million. In fact, all but 3 of the 19 have more than $500 million in U.S. banking assets and 9 have banking assets in the United States which exceed $787 million which is the asset size of the 150th largest U.S. domestic bank. The combined assets in the parent networks of these 19 banks are in excess of $329 billion, more than one-third of the total assets of all insured commercial banks in the United States. It seems to me unreasonable to authorize additional powers which would provide a permanent competitive advantage over all other banks in the United States to banks of such size.

After considerable discussion the subcommittee decided that it would be reasonable to grandfather the securities operations of foreign banks with some restriction on their activities. This would assist in removing a major competitive advantage which foreign banks have over U.S. competitors and help prevent unsound banking practices and conflict of interest. At the same time, 9 years seems a reasonable time within to divest without serious economic consequences. Our concern for the public interest in this area has support from Chairman Roderick Hills of the Securities and Exchange Commission. In testimony before a Government Operations Subcommittee on June 28, the SEC Chairman noted that there have been a number of incidents in which foreign banks have violated U.S. securities laws concerning public disclosure. In addition, he indicated that some foreign banks had been involved in questionable activities such as insider trading and have advanced credit for stock purchases to U.S. citizens for residents "well in excess" of amounts allowed by U.S. credit regulations. Mr. Hills asked Congress to restore the SEC's administrative authority to discipline foreign banks that violated Federal securities law. He testified that the Securities Act amendment enacted last year removed the Commission's authority over foreign banks.

For these reasons, we think that the attempt by the Committee on Banking, Currency and Housing to restrict securities dealings of foreign banks has merit. The amendment would remove these restrictions and provide that a finding that terminating the securities activities of foreign banks would be detrimental to competition in securities markets should encourage the Board to allow them to be continued unless there is a risk to depositors. The practical effect of the Rees amendment will be to allow all activities to continue without any restriction. To accept this amendment would allow foreign banks here to operate with a decided advantage over U.S. banks and do violence to the equality concept as enunciated in the bill before us. So I urge a "no" vote on the amendment.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chariman, H.R. 13876, the International Banking Act of 1976, is an excellent and an important piece of legislation. However, I support very strongly the language and the intent of the amendment offered by the gentleman from California (Mr. REES).

The bill, of course, is designed to create parity between domestic commercial banks and foreign bank branches and agencies operating in the United States. In so doing, it precludes foreign banks from owning, directly or indirectly, more than 5 percent of U.S. broker-dealers. This particular provision may, unintentionally, have a very serious impact on the U.S. securities markets.

I want to quote from a letter from the Deputy Secretary of the Treasury to the chairman of the subcommittee, the gentleman from Rhode Island (FERNAND J. ST GERMAIN) and it is from George Dixon.

It says:

> The committee print does not provide for complete grandfathering of existing U.S. securities affiliates of foreign banks. Rather, these secruities affiliates would have to cease their selling and distributing activities within the United States within a certain time period. We believe such forced divestiture would be unnecessarily burdensome and unfair. Furthermore, we have received some indication that a lack of complete grandfathering—

This is complete grandfathering as opposed to the qualified grandfathering in Mr. REES' amendment——

> could cause foreign governments to change their attitudes toward U.S. securities firms doing business abroad.

Governor Mitchell reiterates in even stronger language in his testimony before the subcommittee that same philosophy.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. REES. I thank the gentleman for yielding.

I would want to clarify some statements that were made. Under this legislation a foreign branch or agency cannot operate in any State unless the State law permits operation of that branch or agency in the State. In the securities business I think it is interesting to note that the constituents of the Fed are the U.S. banks. Again, the language says here that if there is an actual or potential conflict of interest, or if it provides a competitive advantage role to domestic banks, the Fed will terminate the securities activities.

I think it is very plain what the intent is.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding.

My colleague, the gentleman from Rhode Island, tried to indicate that there might not be any retaliation overseas. Yet our banks today are permitted to conduct security operations overseas through Edge Act corporations. I think that it would be a mistake to believe that retaliation against these operations is not a possibility. Neither my colleague, the gentleman from Rhode Island, nor I can guarantee that there would be no retaliation. But if this bill passes as is, I am sure it would be very tempting for foreign countries to just say, "Well, we will take care of the American banks conducting operations here." Such retaliation might even be viewed by some in this country as assistance in enforcing the Glass-Steagall Act.

I do not understand why there is such fear of a high securities monopoly by foreign banks in this country. They do not have a monopoly here. They have to compete in the open marketplace in the securities business like anyone else. I do not know why so many people here express this great fear that our American-based securities firms cannot compete with these foreign bank affiliates which are here primarily to serve their home-based multinational corporations. Our American firms compete aggressively and successfully. Why do we have to clamp down on foreign banks underwriting activities and snuff them out because we are afraid of them?

I support my colleague's, Mr. REES', amendment, which I know it is cosponsored by my colleague (Mr. MURPHY).

These foreign owned security dealers provide a legitimate marketplace here in this country and some of our banks operating on foreign soil do the same thing. Why should we be fearful of that natural exchange in the international marketplace?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 4 additional minutes.)

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 4 additional minutes.)

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio (Mr. J. WILLIAM STANTON).

Mr. J. WILLIAM STANTON. Mr. Chairman, I appreciate what the gentleman in the well is saying. Indeed, I sympathize with him. There is a gray area.

But in answer to my friend the gentleman from California, I have no fear of competition. What I want to do is to be as fair and impartial as we possibly can and have the international banks under the same rules and regulations as we have for our national banks.

Mr. MURPHY of New York. This is a gray flannel area. The problem is we are here trying to get rid by fiat of the bona fide banking operations that have been operating in this country. We set 1974 in this as a cutoff date for grandfathering in and here we are trying to wipe out by a stroke of the pen this competition that has been operating in this country.

Mr. McCOLLISTER. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. Mr. Chairman, I thank the gentleman for yielding.

I do not know whether it is the eloquence of the gentleman from California or the good sense of the proposition, but in any case I commend the gentleman for his support of the amendment and I associate myself with his remarks.

I guess it is the many hours we have spent on what became the Securities and Exchange Amendments of 1975, the bills H.R. 5050 and H.R. 5111, that have persuaded me that the securities business needs all the participants in it that we can get. It needs that activity. That argument plus the argument here of retaliation from other nations persuades me that the amendment is worthy and I am going to support it.

I thank the gentleman for yielding.

Mr. MURPHY of New York. Mr. Chairman, I want to state categorically what the amendment does. This amendment provides a very practical solution and I am sure my colleague, the gentleman from Ohio, would agree with this, by providing substantial safeguards against any conceivable harm or abuse resulting from the securities activities of these banks. It does this in the following manner. After 3 years from the date of enactment these securities firms may remain in business only if the Federal Reserve Board determines that such activities will not present conflicts of interest, provide competitive advantages relative to domestic banks, or be otherwise contrary to the public interest. In making this determination the Board must consult with the Securities and Exchange Commission and balance the effect of such activities on the U.S. securities market. Moreover, within 3 years of enactment the Federal Reserve must also provide regulations to effectively separate the commercial banking functions from any potential harm connected with these securities activities.

I believe that this amendment, so carefully drafted and worked on by my colleague, the gentleman from California, satisfies both the clear need to isolate banking from the risks of the securities business as well as the critical importance to our Nation in maintaining the liquidity of the securities markets and competition in the securities industry.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio (Mr. J. WILLIAM STANTON).

Mr. J. WILLIAM STANTON. Mr. Chairman, I want to assure the gentleman in the well, if we are going to have what I consider a double standard, his amendment, or that of the gentleman from California (Mr. REES), is excellently written and extremely well done, but I just doubt we should have this double standard.

Mr. WYLIE. Mr. Chairman, will the gentleman yield,

Mr. MURPHY of New York. I yield to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, since my name was mentioned by the gentleman from California, I would like to respond. He says: Are we afraid of competition? That begs the question.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

(By unanmous consent, Mr. MURPHY of New York was allowed to proceed for 1 additional minute.)

Mr. WYLIE. Mr. Chairman, if the gentleman will yield further, we are here to provide competitive equity for U.S. national banks and we can do that in one of two ways. We can say the foreign banks operating in the United States cannot deal in securities or we can say the U.S. banks can deal in securities. The language in the committee bill says that foreign banks doing business in the United States cannot deal in the United States in securities, just as the domestic banks cannot deal in securities under the Glass-Steagall Act. I submit therefore that the amendment offered by the gentleman from California does violence to the concept of the committee bill.

Mr. REES. Mr. Chairman, if the gentleman will yield again, I would like to read what the amendment says, and remember, that these U.S. banks are the ones who vote for the members of the various regional Feds.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

(By unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. REES. Mr. Chairman, if the gentleman will yield further, the Board has to make this finding every 3 years. These are for the firms that were in business. It is not for new firms. They have to evaluate whether such foreign banks engaging in the securities business present an actual or potential conflict of interest or provide a competitive advantage relative to domestic banks. So we know if they tried to push and expand past the place they are already in, that the domestic banks would go to the Fed and demand that the Fed would have to make a finding. That is the provision in the amendment.

Mr. JENRETTE. Mr. Chairman, the provision in section 8 to allow the Federal Reserve Board to require the termination of securities activities of foreign banks after a 10-year "grandfather" period is a fair and equitable compromise between the need to maintain stability in the securities market and the need to insure a fair competitive regulatory framework which does not discriminate against American firms. We should welcome foreign firms into our commercial banking and securities markets, but the need to insure market stability can be fulfilled without an indefinite continuation of preferential treatment to foreign firms, putting American firms at an unfair competitive disadvantage.

Section 8 in the committee bill provides a fair mechanism for an orderly transition of foreign securities operations into coverage by the same regulations which bind American firms. Therefore, I urge defeat of any attempt to change section 8 by permitting continuation of securities activities by foreign commercial banks after the 10-year "grandfather" period.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. REES).

The question was taken; and on a division (demanded by Mr. REES) there were—ayes 34, noes 24.

RECORDED VOTE

Mr. ST GERMAIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 142, noes 240, answered "present" 8, not voting 42, as follows:

[Roll No. 571]

AYES—142

Anderson, Calif.
Anderson, Ill.
Badillo
Beard, Tenn.
Bell
Biaggi
Biester
Bingham
Bolling
Bowen
Breckinridge
Brinkley
Brown, Ohio
Burgener
Burke, Calif.
Burke, Mass.
Burton, Phillip
Butler
Clausen, Don H.
Cochran
Collins, Tex.
Corman
Crane
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Dellums
Derrick
Derwinski
Dodd
Downey, N.Y.
Drinan
Eckhardt
Edwards, Calif.
Emery
Eshleman
Evans, Colo.
Fisher
Florio
Flynt
Forsythe
Giaimo
Ginn
Goldwater
Goodling
Gude
Haley
Hanley
Hannaford
Harrington
Hefner
Holt
Hubbard
Hyde
Jeffords
Johnson, Calif.
Johnson, Pa.
Jordan
Karth
Kasten
Kemp
Ketchum
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Leggett
Lent
Levitas
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McKinney
Madden
Mann
Martin
Meeds
Melcher
Metcalfe
Miller, Ohio
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moss
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Nowak
Paul
Pettis
Preyer
Pritchard
Railsback
Rangel
Rees
Richmond
Robinson
Roncalio
Rousselot
Roybal
Ryan
Sarasin
Scheuer
Schneebeli
Sebelius
Shuster
Sisk
Snyder
Solarz
Spence
Stanton, James V.
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Symms
Tsongas
Udall
Van Deerlin
Wampler
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff

NOES—240

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Blanchard
Blouin
Boland
Brademas
Breaux
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clawson, Del
Cleveland
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Cornell
Coughlin
D'Amours
Daniels, N.J.
de la Garza
Devine
Dickinson
Dingell
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Eilberg
English
Erlenborn
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fithian
Flood
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gilman
Gonzalez
Grassley
Green
Guyer
Hagedorn
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Henderson
Hicks
Hillis
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Keys
Krueger
Lehman
Lloyd, Calif.
Long, La.
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Mathis
Matsunaga
Mazzoli
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moorhead, Pa.
Morgan
Mosher
Motti
Murphy, Ill.
Murtha
Neal
Nedzi
Nichols
Nix
Nolan
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Poage
Pressler
Price
Quie
Randall
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Runnels
Ruppe
Russo
St Germain
Santini
Sarbanes
Satterfield
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Spellman
Staggers
Stanton, J. William
Stark
Steed
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Vander Jagt
Vander Veen
Vanik
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

ANSWERED "PRESENT"—8

Gibbons
Gradison
Heckler, Mass.
Mineta
O'Brien
Quillen
Rogers
Winn

NOT VOTING—42

Abzug
Boggs
Bonker
Brooks
Burton, John
Chisholm
Clay
Cotter
Dent
Diggs
du Pont
Esch
Evins, Tenn.
Fountain
Hansen
Hays, Ohio
Hébert
Heinz
Helstoski
Hightower
Hinshaw
Holland
Jones, Ala.
Jones, Tenn.
Landrum
Litton
O'Hara
O'Neill
Passman
Peyser
Riegle
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Symington
Treen
Ullman
Vigorito
Wiggins
Young, Ga.
Zeferetti

Messrs. HAGEDORN, EDWARDS of Alabama, and CHAPPELL changed their vote from "aye" to "no."

Mr. LAFALCE changed his vote from "no" to "aye."

Mr. WINN changed his vote from "aye" to "present."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. TSONGAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish the RECORD at this point to reflect that Dr. Telli Sismanides, who represents the Bank of Greece in this country, is married to my aunt. I would accordingly have abstained from participating in the international banking bill but for two reasons: First, the interests of Massachusetts and the Boston Stock Exchange are involved and I am the only Massachusetts member on the Banking Committee. Second, my long-term professional interest in the Congress is international trade and finance, a commitment that existed prior to my arrival in Washington.

I insert this to make the record clear.

AMENDMENT OFFERED BY MR. BLANCHARD

Mr. BLANCHARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLANCHARD: On page 28, after line 19, insert the following new subsection (g):

"(g) (1) Every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall conduct its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

"(2) Notwithstanding any other provision of law, no application for a branch or agency under this Act shall be approved by the Comptroller and no application referred to in subsection (d), (e), or (f) of this section shall be approved by the Comptroller, the Board of Governors of the Federal Reserve System, or a State bank supervisory authority, as the case may be, unless the entity making the application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against individuals or other persons on the basis of the race, color, religion, sex, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which the entity to be established is to do business."

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. BLANCHARD. Mr. Chairman, the amendment I am offering is intended to require foreign banks and bank holding companies which do business in the United States to adhere to antidiscrimination laws which presently govern comparable business dealings by American firms.

When H.R. 13876 was considered in committee, I offered a similar amendment which lost in a 16–16 tie vote. However, since that time, I have consulted with a number of those who opposed it on largely technical grounds, and I believe it has now been revised in such a way as to eliminate most of the objections.

Mr. Chairman, I believe the two principal questions which come to mind in considering this amendment are:

First, why is it necessary, in view of the traditional policy of our Government to oppose discrimination, and in view of the civil rights laws already on the books?

And second, what is its purpose, since it does not alter or strengthen those laws?

The answer to both questions is essentially the same. It is intended to clarify the views of Congress on discrimination, for all of those both in this country and abroad who are uncertain about our intentions.

During the last year and a half, since the Arab boycott first made headlines across the country, those of us who have been concerned with this issue have become more and more aware of how necessary such clarification is.

We have watched with varying degrees of surprise and, at times, bewilderment as the seemingly straightforward language of the Export Administration Act of 1969 has been contorted by some of those in the bureaucracy to produce remarkable interpretations: Interpretations, for example, allowing the Department of Commerce to circulate bid offers from foreign governments which contain antiboycott clauses—or requiring the Secretary of Commerce to withhold information gathered under the act from the Congress.

Both of these interpretations, I might add, were abandoned only recently, and after substantial controversy and debate.

What has made the events even more bizarre, however, has been the fact that other administration officials have, to my knowledge, acted wisely and thoughtfully in interpreting the same act. I speak in particular of former Comptroller of the Currency James Smith, Federal Reserve Board of Governors Chairman Arthur Burns, and the administrators of the Federal Deposit Insurance Corporation, all of whom should be commended for their actions in this regard.

Considering the history of legislative and bureaucratic interaction in this area, I think a fresh statement of intent by Congress is most timely and appropriate.

As to the boycott itself, the amendment is limited in its effect, primarily because of the scope of the legislation to which it is proposed to be attached.

There are two major forms of boycott activity. The one which has attracted the most attention in the media involves the inclusion in contracts, letters of credit, and other documents of a clause requiring certification that a product has not been manufactured in, or that a ship has not called at port in, the State of Israel.

That type of activity would not be affected by this amendment. It is my understanding that legislation strengthening the provisions of the Export Administration Act will be brought before this body in the future, and I believe that such legislation is the appropriate way to deal with that aspect of the boycott.

The second form of the boycott has not received as much attention, and very likely is not nearly so widespread. To my way of thinking, however, it is much more ominous in its implications for our way of life. I refer to domestic discrimination against persons of Jewish faith or heritage.

On February 24, 1975, the Comptroller of the Currency wrote to the presidents of all national banks in the United States, saying in part:

> This office has recently learned that some national banks may have been offered large deposits and loans by agents of foreign investors, one of the conditions for which is that no member of the Jewish faith sit on the bank's board of directors or control any significant amount of the bank's outstanding stock.

The Comptroller went on to state that—

> Discrimination based on religious affiliation or racial heritage is incompatible with the public service function of a banking institution in this country.

Additionally, on more than one occasion, reference has been made in testimony before the various congressional subcommittees investigating the boycott to involving religious discrimination requests that have been made to domestic firms.

Mr. Chairman, I believe there is a general understanding among businessmen in this country that such discrimination is wrong, and that it is against the traditional policy and laws of this country.

The amendment clarifies that understanding and draws it to the attention of those from other countries who seek to do business here.

Since H.R. 13876 is aimed specifically at establishing a framework for the operations of foreign banks and bank holding companies in this country, and promoting parity between them and domestic firms, I believe the amendment is a necessary addition to the bill.

I might add that a further desirable effect of the amendment will be to subject any discriminatory practices which may be disclosed in the future to enforcement proceedings under the Federal Deposit Insurance Act, which I believe will be more appropriate and effective in relation to the banking industry than the enforcement provisions and procedures contained in the civil rights laws.

In summary, I believe the amendment is needed, both to shed some light on a hitherto "gray" area in the law, and as a clear signal that the Congress, as the elected representatives of the American people, remains implacably hostile to this kind of invidious discrimination.

All of us know that these practices

have no place in the United States. It is time for us now to write that principle into law so that it cannot be misinterpreted or misunderstood.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, the amendment I am offering with Mr. BLANCHARD simply prohibits foreign banks from discriminating against any individual in its business transactions on the basis of race, color, religion, sex, or national origin.

The International Banking Act is designed to bring foreign bank operations under Federal regulation for the first time. Given the impact of foreign banking operations on the economy—almost 10 percent of all commercial loans in the United States are granted by foreign banks—the establishment of such a regulatory system is imperative.

Its absence has created a competitive advantage for foreign banking institutions which not only undermines the effectiveness of this Nation's fiscal policies, but provides an avenue for the intrusion of foreign restrictive trade practices and boycotts that contravene the expressed policy of the United States.

Freedom from discrimination because of race, color, religion, sex, or national origin is the essence of our political and social heritage. It is a sacred guarantee of the civil rights and liberties of all our citizens. It is a principle which has been affirmed in numerous laws. It is a doctrine which is essential to the operation of a free market, and which guides the quality of all public commerce in this country.

The amendment we are offering simply extends the current prohibition against discrimination which applies to domestic banks, to foreign banks, their agencies, and commercial lending companies. As section 9(a) of H.R. 13876 states:

> The Secretary of the Treasury, in issuing guidelines under this section . . . shall seek to achieve a parity of treatment for foreign banks . . . relative to their domestic counterparts.

Of what does such parity consists? On December 1, 1975, the Commerce Department issues a series of regulations under the Export Administration Act to combat the growing scope and effectiveness of the Arab boycott. Those regulations prohibit exporters and related service organizations, such as banks, from taking any action which has the effect of furthering or supporting any restrictive trade practice which discriminates against U.S. citizens or firms on the basis of race, color, religion, sex, or national origin.

It is unconscionable to me that such a prohibition would apply only to domestic banks and not to their foreign competitors who engage in business in this country. Our amendment would insure, consistent with section 9(a) of this legislation, that such a disparity would not exist.

The need for our amendment has been well documented. On February 4, 1975, the Comptroller of the Currency revealed that large deposits and loans by foreign investors had been offered to several national banks on the condition that no Jews sit on their boards of directors or control significant amounts of the banks' stock. The Comptroller served notice to the Nation's banks that such practices would not be tolerated, and added:

> Discrimination based on religious affiliation or racial heritage is incompatible with the public service function of a banking institution in this country.

Nevertheless, pressure to comply with the Arab boycott's demands has not relented even though increased attention has been focused on these reprehensible activities. On June 8, the Commerce Department testified that American banks have been complying almost in toto with the boycott. Specifically, from December 1975 to March 1976, 119 American banks received over 10,000 boycott-related requests. On only 5 percent of these instances did the banks refuse to accede to these discriminatory demands. Eighty percent of the requests came from Saudi Arabia, Kuwait, Iraq, and the United Arab Emirates—our largest Arab trading partners.

Additionally, the Commerce Subcommittee on Oversight and Investigations, of which I am a member, has accumulated data which shows that over the past year, there has been a significant increase in U.S. bank branches and affiliates in the Arab world, and a significant decline of U.S. bank branches in Israel.

The Arab boycott is unique in that it seeks to make our commercial and financial institutions tools of the Arabs' economic state of war against Israel. It is clear that the growing influx of foreign capital into the Arab world as a result of OPEC's price increases, and the growing influence of the Arab boycott as a result of this new economic strength, is holding an even larger sector of our economy hostage to these discriminatory demands.

Although we are gravely concerned by these developments, Mr. Chairman, it is important to realize what this amendment does not do. It does not prohibit compliance or acquiescence with the so-called secondary boycott imposed by the Arab League. Typically, with respect to banks, this involves the issuing of letters of credit which contain conditions that the goods to be exported not be of Israeli origin, and that the goods will not be shipped on Israeli or other blacklisted carriers.

Regrettably, even though it is the policy of the United States to oppose restrictive trade practices and boycotts, compliance with such demands is not prohibited by law. Even the Commerce Department's regulations of last December state only that exporters and banks are—

> . . . *encouraged and requested* to refuse to take any action . . . that has the effect of furthering or supporting other restrictive trade practices or boycotts fostered or imposed by foreign countries . . . (15 CFR 369.3, emphasis added).

I have vigorously communicated my belief to the Commerce Department that these regulations, despite their prohibition against discrimination, are a wholly inadequate response to the Arab boycott, and effectively undermine our Nation's ostensible opposition to it.

The Department's refusal to act more vigorously, therefore, makes it incumbent upon the Congress to act forthrightly, through comprehensive legislation, to prohibit any and all compliance with the Arab boycott. As Chairman Arthur Burns has stated:

> The time has come for Congress to determine whether it is meaningful or sufficient merely to "encourage and request" U.S. banks not to give effect to the boycott. It is unjust, I believe, to expect some banks to suffer competitive penalties for responding affirmatively to the spirit of U.S. policy, while others profit by ignoring this policy. This inequity can be cured if Congress will act decisively on the subject.

Congressman BLANCHARD and I very much would have liked to amend this bill to prohibit foreign banks from becoming instruments of the Arab boycott by prohibiting their compliance with these practices. But we feel it more appropriate to approach this in a more comprehensive manner by so amending the Export Administration Act, which will be on the floor later this summer.

Our amendment remains, however, one which will terminate the most blatant and offensive boycott practice—discrimination by banks in their operations on the basis of race, color, religion, sex, or national origin. As this prohibition applies to domestic banks, it should be extended to foreign banks in this country. As discrimination is incompatible with the principles and values we cherish as a nation, our amendment deserves the overwhelming approval of this House.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, this amendment and a similar amendment were considered in committee. The amendment now presented contains essentially the language of the committee report, and for this side of the aisle I am prepared to accept the amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I voted for the gentleman's amendment in the committee; and under the excellent draftsmanship of the gentleman from California it was approved; and we are for it.

Mr. BLANCHARD. Mr. Chairman, I urge the Members to adopt my amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BLANCHARD).

The amendment was agreed to.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. BERGLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13876) to provide for Federal regulation of participation by foreign banks in domestic financial markets, pursuant to House Resolution 1343, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read the third time.

MOTION TO RECOMMIT OFFERED BY MR. JOHNSON OF PENNSYLVANIA

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. JOHNSON of Pennsylvania. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. JOHNSON of Pennsylvania moves to recommit the bill H.R. 13876 to the Committee on Banking, Currency and Housing with instructions to report the same back to the House forthwith with the following amendment: Add to the bill as amended by the Committee of the whole, the Stephens amendment to section 5.

The SPEAKER. The gentleman from Pennsylvania (Mr. JOHNSON) is recognized for 5 minutes in support of his motion to recommit.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I will not take the full 5 minutes.

Mr. Speaker, I am asking the House to again pass on the Stephens amendment. I am doing so because of the fear, as I suggested in my previous remarks, of extreme retaliation against American banks doing business abroad.

It was pointed out in the debate here that we had not heard from anybody. Well, I have a letter here from the First Pennsylvania Bank of Philadelphia. Here is what they say about the bill:

> Domestic banks, as well as the nation as a whole, have so much more to lose than they have to gain by restricting foreign bank operations in the U.S. Operations of U.S. banks overseas, which have been relatively free of restrictions, are infinitely more extensive and much more profitable than are foreign bank operations in the U.S.

Then earlier today I read from a letter which I received from the National Bank of Greece. Here is another paragraph from that letter:

> The thrust of H.R. 13876 is to create competitive equality within the United States between foreign and domestic banks operating in the United States. It ignores the present imbalance in favor of the United States and the world at large. The United States is a net exporter of banking facilities.

Then it goes on to say that this probably will eventually lead to retaliatory action and legislation elsewhere in the world.

Only through the adoption of the Stephens amendment can we save ourselves from this excessive retaliation.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania for yielding to me.

Mr. Speaker, I wish to reemphasize for those Members who come from smaller States that if you do not want to prevent your State from having the option—I repeat—having the option to charter a branch, agency, or commercial lending company of a foreign bank headquartered in another State, a vote for this motion to recommit would allow that option to remain open.

I think it was a mistake to defeat the Stephens amendment. I do not think it was fully understood. It was obvious that many Members were not present on the floor to hear the entire debate.

If the Members believe in the concept of State regulatory bodies being able to permit interstate operations of foreign banks to be conducted within their borders, they should vote for this motion to recommit.

Let me add that all of the other amendments that have been adopted on the floor in the Committee of the Whole are included in this motion to recommit.

I believe that our colleague, the gentleman from Georgia (Mr. STEPHENS) who serves on the Committee on Banking, Currency and Housing not only understands this legislation but also its total impact on the Financial Community. Mr. STEPHENS properly presented to this House an amendment that would allow each of the States to retain an option which is important to their future economic growth.

I hope that the Members will vote in favor of the motion to recommit.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The Chair recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Speaker, just very briefly, because we want to complete action on this bill, I would like to point out that there is nothing in this bill that says that the smaller States, the medium sized States, and the "biggies" will not be able to charter foreign banks in case they desire to charter foreign banks. There is no such prohibition in the bill as it is written.

I ask for a no vote on the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. JOHNSON of Pennsylvania) there were—yeas 33, nays 98.

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed, and all amendments thereto.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

AUTHORIZING PRINTING OF JOINT COMMITTEE ON ATOMIC ENERGY PRINT ENTITLED "REVIEW OF NATIONAL BREEDER REACTOR PROGRAM"

Mr. BRADEMAS, from the Committee on House Administration, reported the concurrent resolution (H. Con. Res. 592, Rept. No. 94–1377) authorizing the printing of 2,000 copies of a Joint Committee on Atomic Energy print entitled "Review of National Breeder Reactor Program", which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR PRINTING OF MATERIALS COMMEMORATING THE YEARS OF SERVICE OF JUSTICE WILLIAM O. DOUGLAS

Mr. BRADEMAS, from the Committee on House Administration, reported the concurrent resolution (H. Con. Res. 513, Rept. No. 94–1376) providing for the printing of a compilation of materials commemorating the years of service of Justice William O. Douglas, which was referred to the House Calendar and ordered to be printed.

CALL OF THE HOUSE

Mr. WOLFF. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 572]

Abzug
Andrews, N.C.
Archer
Biester
Boggs
Bonker
Brooks
Burton, John
Cederberg
Chisholm
Clay
Cochran
Conlan
Conyers
Cotter
Coughlin
Dent
Diggs
du Pont
Esch
Eshleman
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Ford, Mich.
Forsythe
Fountain
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Hays, Ohio
Hébert
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Holland
Horton
Jarman
Johnson, Colo.
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Leggett
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McDade
Madden
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Nichols
O'Hara
O'Neill
Passman
Peyser
Riegle
Scheuer
Schneebeli

Schulze
Shuster
Sikes
Sisk
Snyder
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Symington
Teague
Treen
Ullman
Vigorito
Wiggins
Young, Ga.
Zeferetti

The SPEAKER. On this rollcall 353 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROVIDING FOR THE ESTABLISHMENT OF A SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1350 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1350

Resolved, That (a)(1) there hereby is established in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of eighteen Members of the House.

(2) Members of the select committee shall be appointed by the Speaker of the House. One member of the select committee shall be designated by the Speaker to serve as chairman of the select committee.

(3) At least one member of the select committee shall be chosen from each of the following committees of the House: The Committee on Armed Services, the Committee on Government Operations, the Committee on International Relations, the Committee on Interstate and Foreign Commerce, the Committee on the Judiciary, the Committee on Merchant Marine and Fisheries, and the Committee on Ways and Means.

(4) Any vacancy occurring in the membership of the select committee shall be filled in the same manner as the original appointment.

(b) The chairman of the select committee may establish such subcommittees of the select committee as he considers appropriate. Any such subcommittee shall be composed of not less than four members of the select committee.

Sec. 2. The select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing comprehensive study and review of the problems of narcotics abuse and control, including, but not limited to, international trafficking, enforcement, prevention, narcotics-related violations of the Internal Revenue Code of 1954, international treaties, organized crime, drug abuse in the Armed Forces of the United States, treatment and rehabilitation, and the approach of the criminal justice system with respect to narcotics law violations and crimes related to drug abuse; and

(2) to review any recommendations made by the President, or by any department or agency of the executive branch of the Federal Government, relating to programs or policies affecting narcotics abuse or control.

Sec. 3. (a) For purposes of this resolution, the select committee, or any subcommittee thereof authorized by the select committee, may sit and act at such times and places as it considers appropriate whether the House is sitting, has recessed, or has adjourned.

(b) For purposes of this resolution, the select committee, or any subcommittee thereof authorized by the select committee to hold hearings, may hold such hearings, and may require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, documents, and other exhibits and materials, as it considers necessary. Subpenas may be issued under the signature of the chairman of the select committee or any member of the select committee designated by him, and may be served by any person designated by such chairman or member.

(c) A majority of the members of the select committee shall constitute a quorum for the transaction of business, except that the select committee may designate a lesser number as a quorum for the purpose of taking testimony. The chairman of the select committee, or any member of the select committee designated by him, may administer oaths or affirmations to any witness.

(d) The select committee and any subcommittee thereof and its staff may conduct field investigations or inspections. Members and staff of the select committee may engage in such travel as may be necessary to conduct investigations relating to the purposes of this resolution.

Sec. 4. The select committee may employ and fix the compensation of such clerks, experts, consultants, technicians, attorneys, investigators, and clerical and stenographic assistants as it considers necessary to carry out the purposes of this resolution. The select committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the select committee, other than expenses in connection with meetings of the select committee or any subcommittee thereof held in the District of Columbia.

Sec. 5. The provisions of clause 2(g)(1) of rule XI of the rules of the House shall apply to the select committee.

Sec. 6. (a) The select committee shall report to the House with respect to the results of any investigation conducted by the select committee, or any subcommittee thereof, under section 3(d).

(b) The select committee shall submit an annual report to the House which shall include a summary of the activities of the select committee during the calendar year to which such report applies.

(c) Any report of the select committee under this section which is submitted during a period in which the House is not in session shall be filed with the Clerk of the House.

The SPEAKER. The gentleman from Illinois (Mr. Murphy) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Mississippi (Mr. Lott) for debate purposes only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1350 provides that there be established in the House of Representatives a Select Committee on Narcotics Abuse and Control. The select committee would be composed of 18 members to be appointed by the Speaker. Seven of those members would be selected from the following committees: Armed Services, Government Operations, International Relations, Interstate and Foreign Commerce, Judiciary, Merchant Marine and Fisheries, and Ways and Means. The Speaker will designate one member to serve as chairman of the select committee.

The select committee would have no legislative authority. The committee would be charged with conducting a comprehensive study and review of the problems of drug abuse and control. The committee would study international drug trafficking, enforcement, prevention, narcotics and its relation to organized crime, the approach of the criminal justice system with respect to narcotics law violations, and crimes related to drug abuse among other drug-related problems.

Second, the committee would review any recommendations made by the President or any agency related to programs and policies affecting narcotics abuse or control.

This resolution gives the select committee subpena power as well as the authority to conduct field investigations and inspections. An annual report is required in which a summary of the activities of the select committee must be included.

There are at least seven standing committees in the House which share jurisdiction in the area of narcotics abuse and control. Moreover, there are 17 agencies and departments in the executive branch responsble for policy related to narcotics control. This approach is too fragmented and thus inadequate to deal with the ever-increasing narcotics problem. We need a concentrated effort to combat and control drug abuse in our Nation. The select committee would serve as a coordinating as well as an investigative arm of the Congress.

Statistics recently released by the Illinois Legislative Investigating Commission estimate some 37,500 addicts in Cook County, Ill., alone. It costs those drug addicts $1,875,000 a day or $684,375,000 annually to support their habit. Nationally the direct cost of drug abuse is $17 billion a year, with almost 50 percent of all robberies, muggings and other property crimes committed by addicts supporting their habit.

This situation is intolerable. Drug addiction must be controlled. I repeat what I mentioned to this body about this resolution on June 24. We need a comprehensive look at drug abuse. We have to coordinate the education programs with the rehabilitation and treatment. We have to be certain that the law enforcement approach is not in conflict with the courts' handling of convicted pushers and users. We have to provide a check on bureaucratic jealousies that have plagued the narcotics fight since the beginning. We have to be certain that State and local efforts are consistent with the Federal Government's role and vice versa.

The 220 Members who have already cosponsored this resolution show that the House has recognized the need for a concentrated effort in this area. I strongly urge the adoption of House Resolution 1350 to create today a Select Committee on Narcotics Abuse and Control.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Speaker, I would

first like to commend the gentleman from Illinois (Mr. MURPHY) for his remarks.

Mr. Speaker, I am a cosponsor and strong supporter of this resolution which will establish a Select Committee on Narcotics Abuse and Control. Nevertheless since my Committee on the Judiciary has primary jurisdiction over many aspects of the drug problem, I would like to inquire of the distinguished gentleman concerning the relationship between the select committee, the Judiciary Committee, and other standing committees with legislative jurisdiction in this area. More particularly, my question is: Will the select committee keep the legislative committees fully and currently informed as to the results of its continuing investigation?

While the resolution specifically requires an annual report to the full House, I would inquire of the gentleman from Illinois (Mr. MURPHY) whether the select committee will report on a more frequent basis its findings of fact to the appropriate legislative committees.

Mr. MURPHY of Illinois. Mr. Speaker, I can assure the distinguished chairman of the Committee on the Judiciary that this resolution in no way affects the current legislative jurisdiction of any House committee. Furthermore, it is the purpose of the resolution to coordinate legislative efforts in this area and to review on a continuing basis the activities of various Federal agencies that are involved in the Federal program to combat the national problem of drug abuse. It is strictly an oversight committee and it is my understanding that the select committee will report on a regular basis, either formally or informally, its findings to the various legislative committees and will keep those committees currently informed on all issues which are the subject of its investigation.

It is hoped that such a close relationship between the select committee and the legislative committees, in addition to the fact that members of those committees will serve on the select committee, will enhance the legislative response to the serious problem of drug abuse in this country.

We in no way will interfere with the legislative function of any of the seven committees that we have mentioned. This is nothing more than an oversight and an investigating committee reporting back on an annual basis and periodically to the other seven committees and the agencies in the Federal Government.

Mr. RODINO. The gentleman says that the committee would report on an annual basis. Would it be the intention of this committee to report more than on an annual basis and to keep the respective legislative committees that have jurisdiction in their various areas informed as to the findings as the committee goes along with its investigation?

Mr. MURPHY of Illinois. The gentleman is absolutely correct. The Speaker will, as I understand it, appoint members from these various legislative committees who, in turn, will be sitting and investigating along with the other members; and they, in turn, can go back, along with the chairman of the committee and the committee itself, to these legislative committees with their findings, and then let the legislative committees come up with the ideas for recommendations and legislation.

Mr. RODINO. Mr. Speaker, I thank the gentleman from Illinois (Mr. MURPHY) for his response, and I support House Resolution 1350. It is my deep conviction that the problems posed in America by narcotics trafficking and addiction place a special burden upon the Congress.

For a great many years, we in Government have decried the dangers posed by narcotics, yet we have failed to act in a systematic, coordinated fashion. The results have not satisfied any of us.

This fact alone is enough to justify the extraordinary step of creating a select committee of the House to focus our best efforts upon this terrible and crippling national problem.

But when the costs in human lives and suffering are added—together with the monetary losses each year—the need becomes still more apparent.

An estimated $10 billion or more is spent or lost each year through law enforcement, addict treatment or crime directly resulting from narcotics abuse.

Millions of persons have suffered directly or indirectly because of drugs.

And while this toll has inexorably increased, Government and private agencies alike have conducted long debates on what should be done. Too often, not enough has been done. Worst of all, no consensus has emerged that can be pursued diligently and effectively by those dedicated to the reduction of drug addiction and its related problems.

I believe that this select committee is a proper beginning to acquire hard facts, formulate solid ideas and reach a real consensus that will at last improve what until now has been a frustrating undertaking.

A great many proposals exist for combating various aspects of the narcotics problem. These should be evaluated carefully and dispassionately. Much remains to be learned about the nature of addiction and about the criminal activity it causes. Much remains to be done about the production of opium abroad, about its refinement into heroin and about its smuggling into the United States.

These are questions that cannot be addressed separately. They must be considered as part of an overall crisis that threatens the welfare of a great many Americans.

I know that the distinguished gentleman from New York (Mr. WOLFF) and those who have worked diligently with him in the preparation of this legislation feel that the responsibility rests with the Congress. I join them in that conviction and I urge the adoption of the bill.

Mr. MURPHY of Illinois. Mr. Speaker, I appreciate the gentleman's remarks.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. MURPHY of Illinois. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

I do not think that any Member of the House would disagree that there is a grave need to solve the problems of drug abuse that this committee intends to address in its deliberations. However, I do want to ask the gentleman a few questions about the committee.

In section 3, on page 3, the select committee or any of its subcommittees is given unlimited power to sit and act at such time and places as it considers appropriate, whether the House is sitting or not.

Does that provision waive the prohibition against sitting during the 5-minute rule and what would be the reason for doing that?

Mr. MURPHY of Illinois. Because this committee is not a legislative committee, I would say to the genteman from Maryland, that rule would not apply. I believe it is covered by the fact that it is not a legislative committee.

Mr. BAUMAN. So that the intention is to at least place that power in this committee to sit during such times?

Mr. MURPHY of Illinois. To conduct its own investigations.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for that response.

Then, on page 4, in section (d) this select committee is given power to engage in unlimited travel as they may consider necessary to conduct their own investigations. Does this contemplate international, foreign travel, at the discretion of the committee, without any limitation?

Mr. MURPHY of Illinois. I would say yes to the gentleman from Maryland. The resolution anticipates that type of travel. Approval would be at the discretion of the chairman of the committee.

I believe it is also true that the committee intends to travel to various cities and towns around the country where this drug problem has become a scourge. We want to hear what the experts along the Mexican-American border have to say about it. We want to hear what the problems are regarding influx into our major cities of Mexican brown heroin. To repeat what I noted earlier, an extensive investigation is contemplated, and along with that would be some travel.

Mr. BAUMAN. I assume that would include international travel as well?

Mr. MURPHY of Illinois. I would again say yes to the gentleman from Maryland.

Mr. BAUMAN. Did the Committee on Rules hear testimony as to what accounting procedures and reporting would be required for this select committee? Would it report under the normal procedures?

Mr. MURPHY of Illinois. It would report under the normal procedures and would have to go to the Committee on House Administration for its funding, as would any other committee.

Mr. BAUMAN. I thank the gentleman from Illinois for that answer.

Lastly, Mr. Speaker, in section 4, the committee is given complete and unlimited power to employ and fix the compensation of a number of different types of employees that are described here, consultants, attorneys, investigators, and so forth. Was there any testimony given whatsoever about the number of staff members that would be required in view of the fact that there are seven other standing committees involved with staff members who have expertise?

Mr. MURPHY of Illinois. Mr. Speaker, it is contemplated that this committee will draw heavily upon the expertise of members and staffs of existing committees, which is the reason why we mention them in the resolution.

To begin with, on the Committee on International Relations there is a man by the name of Mr. Jack Brady who is an acknowledged expert on international narcotics abuse. Additionally, the Department of State is lending us for a time Mr. Fred Flott who has done extensive work in this area. We contemplate having other salaries picked up by the select committee as well. There is contemplated a salary limitation.

Mr. BAUMAN. Does the gentleman from Illinois have any figures as to the total number of staff the committee would have?

Mr. MURPHY of Illinois. We anticipate a minimum number of staff. For this year we are asking $100,000 for total expenses.

Mr. BAUMAN. How many staff members would that cover?

Mr. MURPHY of Illinois. I would yield to the gentleman from New York (Mr. Wolff) to reply to your question.

Mr. WOLFF. Probably somewhere in the neighborhood of five, and that would include, as well, all travel expense and other needed expenses for reporting, and so forth.

Mr. MURPHY of Illinois. I appreciate the concern of the gentleman from Maryland. He has worked long and hard in this field of narcotics. I might add that I have a member on my staff who is familiar with this problem. Also the gentlemen from New York (Mr. Badillo and Mr. Wolff) as well as the chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino) and many, many others have staffers who are narcotics experts. We expect to call on these people, as well as their staffs in order to help us in this matter.

Mr. BAUMAN. The gentleman says that the budget that will be requested from the Committee on House Administration for the remainder of this year is $100,000 for the approximately 4 or 5 months remaining?

Mr. MURPHY of Illinois. I envision we will not use the entire amount but it will carry over to next year.

Mr. BAUMAN. And I assume next year the budget will be $300,000?

Mr. MURPHY of Illinois. I have no figure in mind. If the resolution is approved today, we are going to sit down to discuss it and I assure the gentleman the committee's expenses will be held to a minimum cost.

Mr. BAUMAN. I thank the gentleman.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

The gentleman from Illinois has been using "we" and "us." It is my understanding the committee has not been appointed yet. Is the gentleman a member of this committee already?

Mr. MURPHY of Illinois. No, not to my knowledge. I use the pronouns "we" and "us" in a collective sense, meaning the House of Representatives.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

The gentleman from Maryland has raised a question of cost. This Congress passed recently the Drug Abuse Policy Act and thereby included within the Administration—and we appropriated $250,000—that Commission which only envisioned possibly two or three or maybe five staff, and we have already been advised it will probably cost about $2 million for them to operate that Commission within the Administration. This select committee, which I commend the gentleman in the well for sponsoring, will give the Congress the same opportunity we are giving to the Administration. The coordination of all of these programs on the Administration right now has proliferated in over seven different places. We cannot put our finger on where policy is or how policy is to be made in the Administration, so we adopted in this Congress the Drug Abuse Policy Act and have funded it, so this will be the counterpart within the House to work to finally find out how and where we are going to go to finally win the battle against this cancer which is destroying this Nation—narcotics.

Mr. MURPHY of Illinois. I appreciate the gentleman's remarks.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us, House Resolution 1350, has been read and very well explained by the gentleman from Illinois. It provides for the establishment of a Select Committee on Narcotics Abuse and Control to be composed of 18 Members appointed by the Speaker. At least one Member of the select committee will be chosen from each of seven House committees listed and read.

I might say, Mr. Speaker, several people have asked about this. This original jurisdiction resolution establishing the select committee from the Committe on Rules will be handled something like a rule and will not be subject to amendment. I would like also to take the opportunity to join with my other colleagues in commending the gentlemen from New York, Mr. Wolff, Mr. Rangel, and Mr. Gilman, and the gentleman from Florida (Mr. Burke) for their efforts and leadership in bringing this matter to the attention of the House. I think it also is of interest that the Committee on Rules does not very often report out a resolution providing for such select committees, and I think that that indicates, and the testimony in the Committee on Rules did show, that there was very active and aggressive support for this resolution, and that it is something that is really needed, and something that the Members are generally concerned about.

While this select committee will not have legislative jurisdiction, it may conduct a study of narcotics abuse and control problems and review any executive branch recommendations relating to any narcotics abuse and control programs. In carrying out these functions, the select committee may issue subpenas for witnesses and documents, and it may conduct field trips.

With respect to the question of the gentleman from Maryland, I think, obviously, there should be some field hearings on this matter, because it is something that affects all of the country. Regardless of whether it is north, south, or at the borders, it is something that affects us all, and we cannot really tell at this point how much money will be needed for those field hearings. I think we have to wait and look and see where we have to have them. We have to select these areas carefully.

The results of the investigation are to be made available to the House, and the select committee is directed also to make annual reports.

It has already been pointed out that 220 Members of the House have joined in sponsoring this or a similar resolution. It is designed to help coordinate congressional policy in fighting drug abuse. I think if the Members will look at the record, it will be obvious that there has been some overlapping of jurisdiction and as a result of that, not enough effort and not enough legislation has been directed at trying to deal with this problem. There has been a lot of talk about it during the 4 years I have been a Member of Congress. It is time we have some coordinated efforts to look at what the problems are and where they are and make recommendations.

This resolution to create the select committee is designed to help coordinate congressional policy in fighting drug abuse and reducing the estimated $17 billion annual drug-related crime costs presently being paid by American taxpayers.

I strongly support this resolution, and I hope we will proceed to its swift adoption.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. Railsback).

Mr. RAILSBACK. Mr. Speaker, as America enters a third century of nationhood, she finds herself facing problems of a nature and complexity never dreamt of by her early citizens. Of necessity, over the years the scope of interest of the Federal Government—and, concomitantly, of Congress—has greatly expanded. Also of necessity, certain interests have come to demand a highly specialized and focused effort. This fact also is reflected both in the structure of the executive branch and in the organization of the two legislative Chambers. It goes without saying that Madison or Adams would find themselves bewildered by the maze of activities in which the national Government is involved today.

The growing notion of what is appropriately a matter of Federal interest has taken us, in the present century, into the field of so-called social problems—those areas where results are often the most difficult to achieve, and therefore, areas highly frustrating to an action-oriented people like ourselves. The brute facts of endemic poverty, of vice, of human weakness, and of human aggression would in themselves be nothing unfamiliar to the Founding Fathers; the great difference lies, of course, in the change in our perception of what government can and should do.

This central question of the role of government has been sharply debated by American political parties and political philosophers since colonial days—a debate itself inherited from the European world out of which those colonies emerged. In our times, however, a consensus has been achieved, among the majority of U.S. citizens, that there are certain areas, even of the so-called social problem variety, that require Government intervention. Moreover, there is also a consensus that some of these problems are of such a nature and significance that Federal attention is demanded. The resort by large numbers of Americans to nonmedical and habitual use of narcotics and other dangerous drugs is such a problem.

The Federal Government took an early lead in attempts to control a narcotics abuse menace that surfaced in this country during the years following the Civil War. Not only were a number of medical morphine addicts produced by the war, a time when the hypodermic needle first was widely employed in the treatment of sick and wounded soldiers, but during the post-war years the patent medicine industry flourished, and many of those medicines contained some narcotic ingredient. The first attempt by Washington to curb the spread of what was quickly recognized as a threat of potentially great dimensions took place in 1870, when a duty of $1 per pound was placed upon the importation of raw opium, and $6 per pound on smoking opium.

A series of enactments from 1880 until 1914 testifies to the growing concern of the country and of Congress over the drug threat, and in the latter year the Harrison Narcotics Act was enacted for the strict regulation of narcotics, with the intent of limiting usage strictly to medical purposes. The Federal interest expanded in character in the late twenties when Congress voted to establish two narcotic "farms" for addict treatment, the institutions at Lexington, Ky., and Fort Worth, Tex., which were to become the principal centers in the country for this purpose.

Without belaboring the point, I wish to point out that over the years the Federal role has been extended continually until today it would be difficult if not impossible to name a mode of drug abuse control that is not carried out or funded by the U.S. Government. This fact reflects the genuine anxiety that the drug abuse problem generates in the American people, and the widespread perception that it constitutes a menace of national proportions.

It is interesting to note that although the President's budget for fiscal year 1977 proposed the consolidation of many categorical health service programs into a program of bloc grants to the States, the activities of the National Institute on Drug Abuse were a significant exception. Thus, even to an administration loyal to the philosophy of the "new federalism," there are reasons for a special Federal concern for, and direct actions to alleviate, the problem of drug abuse.

There may come a day when the Federal Government can retire from some of the efforts it has undertaken to control the misuse of drugs, but that time has obviously not been reached. As everybody knows, there for a while, in 1972 and 1973, we thought the worst of our heroin epidemic was over and that the problem would gradually fade away. As everybody also knows, our optimism was misplaced. Instead, after what does indeed appear to have been a bona fide decrease in the use of the principal target drug, heroin, in certain metropolitan areas, an increase of usage appeared in our middle-size and smaller cities, following a typical pattern in the diffusion of social developments. And subsequently, as Mexican heroin entered the country in increasing quantities, addition again sharply increased—from all available indicators—in those very metropolitan areas where our earlier successes had given us so much cause for hope.

The pattern shown by the heroin user estimates of the National Institute on Drug Abuse tell the simple story of a success followed by backtracking. In 1971 there were between 500,000 and 600,000 daily heroin users in the country. By 1973, apparently through a broad combination of factors, this number had been reduced dramatically to the range of 200,000 to 300,000. Today, however, 3 years later, the estimate had climbed sharply back up, to the level of 300,000 to 400,000. There is good reason to fear that we may altogether lose the great gains of the early seventies.

The reasons for the abuse of heroin, and a number of other dangerous drugs as well, are many and complex, and the approaches to prevention and control are likewise. This fact has been reflected not only in the organization of the executive branch efforts but also in the widespread jurisdiction over drug matters within the Congress. Some seven House committees have official authority over laws or activities in this field, and a number of other committees have from time to time become involved in some aspect of the issue.

A proliferation of jurisdiction over drug abuse matters is unavoidable and not necessarily undesirable. At the same time, because no one congressional group manages to look at the problem as a whole, or perspective has suffered. With the ominous reversal of the once favorable trends in heroin use, the substance of greatest concern, the time has come to rectify that situation. For this reason, I support the resolution to establish a Select Committee on Narcotics Abuse and Control, House Resolution 1350, and recommend its adoption by the House.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

I want to join in expressing support for this legislation. I am very proud to be a cosponsor.

I would like to compliment the same individuals who have been complimented earlier.

I would merely state further that this is an area where there is an urgent need for coordination in bringing numerous disciplines and interests to focus on this agonizing problem. I hope this resolution will be quickly approved so that the select committee can get on its way to deal with this acute problem.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. BURKE).

Mr. BURKE of Florida. Mr. Speaker, I rise in support of H.R. 1350, which will, if passed, provide for the establishment of a Select Committee on Narcotics Abuse and Control.

When, Congressman WOLFF first talked to me about this bill I became an enthusiastic cosponsor, and would like to commend him for his leadership and for his efforts in the past, and now, in his fight against the illegal trafficking in narcotics.

As a member of the Ad Hoc Committee on Narcotics Abuse and Control, I have traveled with Mr. WOLFF and Mr. MORGAN MURPHY and others to Asia and Europe. I have seen where the opium poppies are raised and I also talked to drug enforcement officers in many countries—including some here at home. We have seen the problems here at home, also. Here there are some who believe that, if we close our eyes, that the drug problems will go away. There are some who think that the illegal sale and use of drugs is on the decline. The truth is that they are wrong. The truth is—that is, the drug problem is bigger now than ever.

Mr. Speaker, if we are to reduce the flow of illegal drugs into our Nation we must be able to stop them at the source. Today we are battling a cruel enemy: Powerful, unscrupulous, and deadly. This enemy in its thirst for money and power cares nothing about the safety or the lives of our people, young or old. This enemy cares nothing for our creed of our people as stated in our Constitution, namely our right to life, liberty, and property.

This enemy has for too long now put himself above the law.

Mr. Speaker, this enemy presents to the American people a threat so deadly that it strikes at the very fibers of our national existence. This enemy is illusive, yet it is so pitiless and so ruthless that the life of the individual and our social and institutional structures can be destroyed if we do not destroy it. This enemy lurks behind the innocuous title of "drug abuse" because the history of drug abuse is a stained slaughter bench of destroyed lives and families, as well as the destroyed hopes and dreams of those whose lives have been touched by the tragedy of this curse to us all.

We must now meet this enemy in

mortal combat and we must destroy it. Declaring war is not enough.

We in the Congress must inform the public of the need of their support. By adopting this resolution creating a select committee we would be better able to coordinate our national effort in this regard.

As our colleague Mr. MORGAN MURPHY pointed out, there is no congressional forum where agency representatives can go beyond the narrow jurisdictions of the present committees and talk about the drug problem in the broad context necessary.

Today the seven standing committees in the House that have jurisdiction over this subject cannot adequately coordinate either their efforts or their findings properly no matter how well they function. It is my conviction that a select committee as suggested by H.R. 1350 will give more coordination to our efforts to fight the illegal traffic and abuse in the use of drugs.

I urge you to vote in favor of this bill. This committee, I feel, will not work at ends detrimental to the standing committees now having jurisdiction in this field, but should work in a manner which will coordinate their efforts.

Mr. Speaker, again I would like to commend the gentleman from New York (Mr. WOLFF), the gentleman from Illinois (Mr. MURPHY), the gentleman from New York (Mr. RANGEL), and the gentleman from New York (Mr. GILMAN) who have so diligently worked for their interest in this bill in order to help fight this problem.

I would like to mention the time when I was in a committee meeting and had the opportunity of hearing the testimony of the gentleman from New York (Mr. RANGEL). I think his testimony somewhat opened my eyes to the idea of the broad scope of the illegal drug traffic and what it is doing to the American people. It is not something just happening in small isolated neighborhoods. It is not provincial matter. It is a matter that must be taken care of in a broad scope and attacked from all side.

Mr. Speaker, for these reasons, I urge support of my colleagues for this legislation.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding, and as a cosponsor of House Resolution 1350, establishing a Select Committee on Narcotics Abuse and Control, I would like to note the dedicated efforts of my distinguished colleague, the gentleman from New York (Mr. WOLFF) in his continuing fight against narcotic trafficking and abuse, along with the gentleman from New York (Mr. RANGEL), the gentleman from New Jersey (Mr. RODINO), the gentleman from Illinois (Mr. MURPHY), and the gentleman from Florida (Mr. BURKE). As the main sponsor of this resolution and as chairman of the Ad Hoc Subcommittee on International Narcotics Control, of which I am pleased to be a member, the gentleman from New York has also been instrumental in articulating the need to centralize the work of the seven congressional committees exercising jurisdiction over the multifaceted problem of drug abuse and control.

Mr. Speaker, the essence of House Resolution 1350 is to coordinate, not to legislate, the work of the following seven committees: Armed Services, Government Operations, International Relations, Interstate and Foreign Commerce, Judiciary, Merchant Marine and Fisheries, and Ways and Means, one member of each of these committees having disparate interests in narcotics being appointed to serve on the select committee, and to develop a comprehensive study and review of the problems of narcotics abuse and control. This would include reviewing the recommendations made by the President and the programs and policies of any department or agency of the executive branch of the Federal Government.

The fact that seven congressional committees and 17 different Federal departments and agencies administer a plethora of narcotic programs and policies—at best a disjointed and fragmented approach to the drug problem—indicates that the growth of narcotics abuse has outpaced our efforts to control it and that we need an effective oversight body to provide the necessary congressional action and coordination to help fight this war on drugs.

Furthermore, such a congressional commission could conduct a comprehensive study and review of the problems emanating from drug trafficking and drug abuse. Through such studies on the problems of controlling drugs, eradicating foreign sources, and interdicting narcotics traffic we will be able to better coordinate our national effort to stamp out this evil.

Mr. Speaker, in support of this measure, I recently received correspondence from Sterling Johnson, Jr., New York City's special narcotics prosecutor, stating:

> I was delighted to hear of the plans by Congress to create a Select House Committee to oversee Government activity in the narcotics enforcement area.
>
> Drug abuse, in this country and especially in New York is escalating at an alarming rate. Pushers have put brand names on heroin and it is as easy to purchase drugs in New York as it is to buy bread in a supermarket.
>
> Because the problem is so large and complex, enforcement must coordinate its attack on the problem. Presently, there are many agencies involved in the war on drugs. At times, because of the lack of coordination, some violators escape arrest and prosecution.
>
> The creation of a Select House Committee for narcotics would do much in helping this country solve what is a very serious problem.

The need for establishing this select committee is underscored by the grim statistics reporting that last year, 5,000 Americans, mostly youngsters who had not reached their 21st birthday, died from drug overdoses; that there are over 500,000 hardcore drug addicts in the United States; and that drug-related crimes cost the American public last year an estimated $17 billion.

Mr. Speaker, in the interest of developing a comprehensive plan to combat narcotics abuse and control and in eradicating the deadly drugs that find their way into the bloodstream of hundreds of thousands of our Nation's citizens, I urge my colleagues to support this legislation and to help stamp out the evil that causes so much suffering to so many of our citizens.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, the gentleman mentioned that the purpose of the committee was to coordinate the drug abuse jurisdiction of seven other committees in the House. Does that mean they will no longer have the jurisdiction they now have in this area?

Mr. GILMAN. No; that is not the intention. The intention of this legislation is to try to make our fight against narcotics an overall planned and coordinated effort. A representative of each of those committees would serve on the select committee, so there would be better liaison in the broad attempts to stamp out this problem once and for all.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. GUYER).

Mr. GUYER. Mr. Speaker, I thank the gentleman for yielding to me and I shall be very brief.

Having long identified and associated myself with the gentleman from New York (Mr. WOLFF) and his colleagues in this crusade, I want to rise in support of both the resolution and the serious problem the select committee will attack.

Congressman WOLFF has led an almost one-man crusade against the narcotic traffic to almost every corner of the earth. He has followed the "heroin trial" from the poppy fields of Turkey and the Golden Triangle of Asia, to the Mexican border and the refineries of the "French Connection," and even into the veins of youth on the streets of New York.

The story of illicit narcotics is a hideous story of addiction and death resulting in the destruction of bodies, minds, and souls.

I believe the creation of a select committee by this resolution today, is a landmark in instituting a battle and a plan for saving the lives of young and old alike from this traffic of addiction, misery, desolation, and death. I commend all who sponsored the resolution and pledge my full support by percept and action.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, as a cosponsor of the resolution, I am pleased to support the gentleman from New York (Mr. WOLFF).

As chairman of the Ways and Means Oversight Subcommittee, I have had the opportunity during recent months to study the administration's efforts against organized crime and major narcotics traffickers.

There are two main aspects to narcotics trafficking: There is the man on the street who sells drugs, and there is the organized crime figure who never touches the hard drugs, but merely sits back and rakes off millions in his role as middleman. It is almost impossible for general law enforcement agencies to touch these hidden forces. The only effective way that these people can be brought to justice is through the tax laws and the almost universal failure of drug traffickers to accurately comply with the Internal Revenue Service requirements.

Therefore, if we ever hope to stop the flow of hard drugs in this country, we must wipe out the middleman, the importers, the financiers of this "industry."

How well is the Internal Revenue Service carrying out this vital mission? Everyone knows that the President has announced a major new tax enforcement program aimed against drug traffickers. Unfortunately, Treasury and the IRS are totally ignoring the Presidential and congressional policy of seeking convictions against the major narcotics wholesalers.

While President Ford's sentiments as expressed in his message of April 27 are laudable, apparently he has no control over the bureaucracy.

In 1971, the IRS did set up a narcotics traffickers tax program to accomplish the very mission that Mr. Ford now wishes to accomplish. But that program was merged out of existence by the IRS on July 1, 1975. And funds specifically requested of Congress for this program were diverted to other IRS programs.

As a result, under this administration, tax and penalty recommendations have fallen off dramatically. For fiscal year 1974, almost $70 million in taxes and penalties were proposed against narcotics traffickers. Less than $10 million have been proposed against narcotics traffickers for the first 9 months of this fiscal year. If the narcotics traffickers tax program was not killed by recent policies, it was certainly maimed. As a matter of fact, the Internal Revenue Service has become so embarrassed about its criminal tax enforcement statistics that it stopped publishing its quarterly statistics in June 1975.

The narcotics traffickers tax program—NTTP—grew from outlays of $10.2 million to fund 482 positions in fiscal year 1972 to outlays of $22.5 million to fund 913 positions in fiscal year 1974.

In the last several years, support for the narcotics traffickers tax program was cut drastically. The amount claimed by the IRS to have been spent for this program fell by one-third in fiscal year 1975 to only $15 million and 598 positions. Even these reduced amounts were not actually devoted to the narcotics traffickers tax program. Inferring from the productivity figures for the period, 70 percent of these claimed outlays were actually diverted to other programs. Only 181 positions and $4.5 million of the amounts claimed to be allocated for tax cases against narcotics traffickers were actually used for that purpose in fiscal year 1975.

There was no separate NTTP program for fiscal year 1976. Worse yet, the President's budget ax for fiscal year 1977 whacks a full one-third out of the special enforcement program.

The incredible bureaucratic failure is the strongest argument I know of for the creation of this special committee to study and oversee drug enforcement policies. There is incredible bureaucratic infighting in the enforcement of the narcotics traffickers tax program. Only through active congressional oversight and the work of this select committee can we hope to make these programs successful.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. MURPHY of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. Pickle).

Mr. PICKLE. Mr. Speaker, I rise in support of this resolution.

Mr. Speaker, this resolution that we are presently considering would, for the first time, coordinate the activities of the House of Representatives to concentrate on a very serious and complex problem in our society.

For the past decade, Americans have seen the abuse of dangerous drugs spread to every locality, age group, and economic level in our society. This social cancer, which has destroyed countless lives and broken many families, has now even become commonplace in our elementary schools.

And, for the past decade, Congerss has approached this growing problem in a fragmented manner. The seven committees that have jurisdiction in this area cannot present a concerted program for dealing with the problem of drug abuse. This problem long ago reached a magnitude which could not be handled by our present patchwork process.

This resolution establishing a Select Committee on Narcotics would finally remedy this situation and present a unified approach to drug abuse.

It would be unrealistic to believe that the unlawful sale and use of narcotics could ever be totally eliminated. But we can work toward reducing these crimes and their effect on our society by coordinating our Federal programs.

Mr. MURPHY of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Scheuer).

Mr. SCHEUER. Mr. Speaker, I rise in support of this measure, which I am pleased to cosponsor, establishing a Select Committee on Narcotics Abuse and Control, and I commend my colleague from New York (Mr. Wolff) for his highly intelligent, persevering, and untiring efforts to end trafficking in narcotics.

I have a long-standing interest in the problems of addiction and drug abuse prevention. I have been actively involved in this area for the past 7 years:

As a member of the Education and Labor Committee, I sponsored with our colleague from Washington, Mr. Meeds, the Drug Abuse Education Act of 1969.

In 1971 I was appointed as a congressional adviser to the U.S. delegation to the International Psycotropic Drug Protocol Convention in Vienna.

In 1971, I authored the original legislation to establish within the Executive Office of the President, an office of drug abuse control which later became the Special Action Office on Drug Abuse Prevention—SAODAP.

In 1971, I introduced the first legislation to provide foreign assistance for crop substitution programs in opium producing countries and, later negotiated with the White House to obtain a $35 million subsidy for Turkish farmers to enable them to diversify their crops to end their financial dependence on opium production.

Most recently, I have served on the Interstate and Foreign Commerce Subcommittee on Health and Environment which exercises jurisdiction over some aspects of the drug problem.

Drug abuse continues to constitute a serious menace to our country and has withstood the recent concerted efforts of our drug abuse treatment and law enforcement agencies. In 1970 in a speech to the International Symposium on Drug Abuse at Ann Arbor, Mich., I noted that there were somewhere between 200,000 and 250,000 heroin addicts in the United States. Six years later, and 3 years after Richard Nixon announced to a White House Conference on the heroin problem that "we have turned the corner on drug addiction in the United States," the number of heroin addicts has doubled—soaring to more than 500,000—and has shown no sign of tapering off. Narcotics addiction is destroying our youth and our cities. This epidemic, once restricted to the center cities of large metropolitan areas is spreading to smaller cities and towns and even to some rural areas.

At the same time that there has been a shift in the location of the heroin problem, the composition of the heroin population has changed. Heroin use is growing most rapidly among whites, both male and female. In fact, today there are more white than black addicts in this country, though the rate for blacks is still somewhat higher.

It is estimated that over 5,000 young Americans die each year because of drug abuse. Narcotics addiction is the cause of more than one-half of our street crimes—particularly violent crimes against people—and is overwhelming our police and clogging our judicial machinery.

Drug-related crime costs Americans $17 billion annually, despite the fact that the Federal Government spends around $750 million for control and treatment of narcotics. Robert DuPont, Director of the National Institute on Drug Abuse—NIDA—admits that heroin use has increased at a steady, though slow rate since mid-1973. According to NIDA's 1976 Heroin Indicator Trend Report, the street level purity of the drug has improved and the price to the user has decreased because of its availability. In other words, the brief war which President Nixon declared on drugs in 1971 failed miserably.

Our efforts to deal with the international aspects of the problem have also failed. Only 2 years ago, heroin usage in this country seemed to be on the decline. Turkey, the main source of heroin, had finally banned opium poppy cultivation and the U.S. withdrawal from Vietnam removed another channel of supply. But, this decline was short lived. Mexican heroin began to close the gap in the

French-Turkish and Asian connections. Now, the Drug Enforcement Administration (DEA) has declared that illegal heroin is more available in the United States than it has been since 1971 and that up to 80 percent of it is brown heroin from Mexico.

The new heroin pipeline begins in the Mexican mountain states of Sinaloa, Durango, Chihuahua, and Sonora where the opium poppies are grown. Once harvested, the opium is taken to makeshift laboratories in small Mexican villages where it is refined into heroin which is smuggled across the border into the United States. Chicago has become one of the main distribution centers for the Mexican heroin. From there it spreads into Midwestern and Western towns which had previously escaped the heroin plague. There is evidence that Mexican heroin is not managed by a monopoly distributor or by a few tightly organized connections. Thus, it is difficult if not impossible for DEA to immobilize many traffickers with a few key arrests.

DEA has only 2,000 agents to deal with countless suppliers of several hundred thousand heroin addicts. John Bartels, Jr., Former Administrator of DEA, pointed out:

> We have only two-thirds the number of officers that the New York Transit Authority employs and whereas they need only cover three subway lines, we must fight a three-front war overseas (Turkey, Mexico and Southeast Asia) and a sixty-city war in the United States.

It might also be mentioned that DEA employs one-third the number of field officers as the Environmental Protection Agency.

While officials of the Mexican Government, together with DEA officials, have been working vigorously to halt opium production, the problem is enormous, and effective cooperation has been hampered by growing resentment and rivalry between the narcotics agents of the two countries.

Now there is evidence indicating that Turkey, who has rescinded its ban on opium production, has made a successful effort to control opium production and opium smuggling. Three senior offiicials of the U.N. Fund for Drug Abuse Control recently made an inspection tour of Turkish poppy fields and have concluded that Turkey has done an outstanding job in halting the illegal use of the opium poppy crop. An indepth study of the Turkish experience in opium production control would be invaluable to an understanding of the drug trafficking problem. An all-out effort must be made to encourage all drug-producing nations to initiate similar opium production control programs.

At the same time, we cannot continue to view production and smuggling as isolated phenomena. We must look at drug abuse as the result of a system which begins in the mountains and small villages of Mexico or the high plains of Anatola and then moves across our southern border or through Marseilles into the United States and then onto the streets of our cities and small towns into our schools and homes.

The Federal Government still has many critical roles to play in the prevention of drug abuse, and there is still a clear need for a coordinated policy and a coordinating mechanism to carry out these roles. The problem of fragmentation has continually frustrated our efforts to combat the problem of drug abuse. In 1970, I introduced legislation to create a special office in the White House to oversee and coordinate our drug abuse prevention efforts. In 1971, such an office, the Special Action Office for Drug Abuse Prevention—SAODAP—was established.

In 1973, President Nixon established the Drug Enforcement Administration to consolidate the drug enforcement functions of several agencies. More recently, two Cabinet-level committees—one on drug abuse prevention, treatment, and rehabilitation and one on drug law enforcement—have been created. Yet the Federal handling of narcotics control policy is still chaotic, since 17 agencies and departments split jurisdiction.

The Congress has only exacerbated the situation. Agency heads are now answerable to seven standing committees of the House which currently exercise jurisdiction over legislation dealing with the various aspects of the drug abuse problem. These Committees include Armed Services, Government Operations, International Relations, Interstate and Foreign Commerce, Judiciary, Merchant Marine and Fisheries, and Ways and Means. This overlap in jurisdiction has seriously impeded oversight review and comprehensive consideration of the drug problem as a whole.

Congress can no longer ignore its responsibility. The resolution introduced by Congressman Wolff calling for the establishment of a Select Committee on Narcotics Abuse and Control represents a significant first step toward an urgently needed focus by Congress on our Nation's efforts to end drug abuse. The creation of a select committee will help the seven committees, which now exercise jurisdiction over different aspects of the narcotics problem, to formulate comprehensive plans and responses to this serious problem. It would enable us to create a balance and an interface between our many drug programs—between those which are aimed at eliminating demand and those aimed at reducing supply.

Another area to which Congress has given little attention, is the problem of sniffing aerosol sprays. I would like to call my colleagues attention to a July 25 Washington Post editorial entitled "Costly Euphoria," which I will include at this point in the Record. This editorial discusses the social and medical hazards connected with the increasingly popular practice of sniffing. Certainly, this would be an appropriate area of investigation for a select committee on drug abuse. The editorial follows:

COSTLY EUPHORIA

> There is scientific evidence that young people, in startling numbers, are risking brain damage and even death from the increasingly popular practice of inhaling industrial solvents and spray paints. Their objective is a quick and inexpensive "high." A few years ago only airplane glue was thought to be involved, and the sniffing practice was regarded by many people as a harmless lark, one that tended to be overplayed in the news media. But 76 scientists from 11 countries met in Mexico City in late June to discuss the problem, and they concluded that the intentional inhalation of toxic substances has the potential of becoming a worldwide epidemic, and is in any case no joking matter.
>
> "By all indications," Philip Vargas, a drug abuse authority, told the Mexico City conference, "deliberate inhalation of fumes from aerosols and metallic spray paints (mostly paints, hairsprays, deodorants and frying pan sprays) is the fastest growing and most widespread problem of substance abuse" in the United States. Other scientists at the meeting, physicians, psychologists and pharmacologists, share his concern. The Americans among them urged Congress to hold hearings soon on the dimensions of the problem.
>
> Both the medical and social dangers are great enough to warrant such an inquiry. Those who persist in the abuse of organic chemicals get, in addition to a big hallucinogenic "rush," a buildup of heavy metals in their bodies. Scientists say the body has no mechanism for disposing of those metals, so they remain behind to cause cancer, brain damage and other physiological defects. Increasingly, doctors familiar with the problem fear, these agents cause deaths that are being attributed to other causes, or to no cause, because many medical practitioners are unfamiliar with the symptoms of aerosol abuse.
>
> For a time, doctors thought the practice was confined to the poor and to children of minorities. Now, according to Mr. Vargas and others, there is no reason to believe it is not widespread in the society—made more so by people's easy access to the substances. The cans of hairspray and metallic paints are themselves cheap by the standard of the hallucinogenic marketplace. Furthermore, they are readily and widely available. Any youngster with a weakness for such abuse can easily find the substance of his or her choice.
>
> Worse, students of the problem report that the "high" young people achieve from these substances is superior in force to that available from many other abused substances, thus adding to their popularity. Very young children are among the aerosol abusers. No one can say whether aggressive behavior follows the abuse or whether aggressive youngsters tend to be more inclined to this form of substance abuse; the results, however, appear to be an outbreak of aggressive behavior among those who get high on aerosols.
>
> From almost any standpoint, the problem as framed by the scientists at Mexico City warrants thoughtful attention from government at all levels. Priority should be given to information—the alerting of parents, teachers and others who deal with young people to the fact that this is a real problem, not a joke. The same message must be gotten across to youngsters themselves, preferably before their first sniff. Doctors are becoming more and more persuaded that this is a problem that cannot be ignored in the vain hope it will vanish.

In a speech on the floor of the House in March of 1971, I argued that—

> The (drug) programs which we have devised are unrelated and disjointed in design, largely unevaluated and of doubtful efficacy, poorly led, and starved for resources.

Unfortunately, much of this statement is as true today as when I made it 5 years ago.

We are at a crisis period in our efforts to combat drug abuse, and Congress must act immediately. I believe that a select committee is the best vehicle for the exchange of ideas in the hopes of formulating a policy to enable us to successfully bring the narcotics problem under control. I urge my colleagues to support this resolution.

Mr. Speaker, at this time, I include in the RECORD an edited copy of an issues and recommendations paper prepared by the Domestic Affairs Task Force of the Democratic Advisory Council of Elected Officials:

RECOMMENDATION PAPER

THE PROBLEM

Alcoholism and drug abuse are and will continue to be problems which face Americans. Drug effects on individuals can be damaging to physical and mental health, and to family life and work adjustment. Their consequences to society are costly in respect to crime, to vehicular, auto and home accidents, and in the costs of policing, treatment, welfare, research as well as the loss of potentially productive persons. Although perfectly accurate figures cannot be obtained, there are likely to be 8 million Americans with alcohol problems, several million compulsively and illegitimately using barbiturates and/or amphetamines, and up to half a million compulsive heroin users. Of special concern is the increasing rate of involvement of children. One estimate has 25% of adolescents using alcohol without adult supervision and unsafely. One large school study shows 20% of suburban 7th graders using glue, pills or heroin/cocaine. A 1975 report to the President estimates total costs (revenue and crime losses, intervention programs) arising from the use of illicit drugs to be between $10 and $17 billion a year. Alcoholism is likely to cost that and more, given its greater prevalence and clear involvement in illness, accidents and violent crime. Let us estimate then that a total of 10 million Americans directly suffer from their own use of psychoactive drugs, alcohol, barbiturates, heroin and others—that certainly that many more suffer because their family members are the compulsive users, and the rest of society incurs death and injury in accidents, alcohol induced battery, burglary and other crimes plus the tax costs of treatment, enforcement, prevention and rehabilitation and other services, the dollar costs of which all sum to at least $20 billion.

* * * * *

THE POLITICS OF IT

When events become a matter of public concern because they seem out of control and threaten the security of the citizenry, these events become political, insofar as scarce resources must be allocated, moral doctrines are invoked in the name of control, and divisive conflicts between groups occur as to what is right or wrong, politization is intensified. Since the last two decades have been such a sequence with respect to drugs; as for example, the rise of the hippie, the spread of heroin as a correlate of rising delinquency and street crime rates, rising vehicular accident rates (until the 55 mph speed limit) much of it due to drunken driving, the fear that new kinds of drug use by youth threatened conventional values and ways of life. No wonder drug policy became a matter of politics—and of government debate. Since some of our own drugs originate abroad—and some of the drugs used abroad were created in laboratories in the U.S.—it became not just a U.S. affair but an international one as well. And since billions of dollars in pharmaceutical and alcohol trade and advertising are involved—as well as the recreation of citizens, the rights of research workers, the practice of physicians, the tranquility of schools, the safety and aesthetics of the streets, the integrity of the family—central elements in our society became parties to partisanship, politicking and policy. That is still the case, although the signs are—happily—that some consensus is being achieved in some areas. Such consensus is based on accumulated and communicated research and experience, a discrimination between that which is dangerous and that which is simply different, and perhaps some accommodation to the notion that in a pluralistic society, different preferences in drug use and conduct may be part of pluralism. We are also learning that not all preferences, even those voiced as a "right," need be good for people. The perennial problem of designating when the State may intervene to intrude on preferences and pleasures, especially those with a risk of damage to self or others, remains at the heart of the debate.

SPECIFIC ISSUES

We now turn to specific issues which become the basis for the Democratic platform and, hopefully, later Executive and Federal policy.

Issue I: What should be the major goal for Federal policy with regard to drug abuse and alcoholism?

Under the Nixon-Ford tenure, the stated goal has been that of preventing or eliminating drug abuse. The contrasting position is to take a more modest but realistic goal. *This Democratic policy would seek to prevent, contain, reduce drug-associated problems but does not promise a cure-all.* Implicit in the latter position—which reflects the DNC 1972 policy and that of almost all scientists and professionals in the field—is the need to carefully define the social and clinical problems which are covered by the general term "drug abuse" and then seek to limit these problems as such. It recognizes that some ill effects are inevitable as long as humans use drugs, and that no democracy will introduce the totalitarian prohibitions required to prevent all drug use (which would include not just alcohol but many useful psychoactive medications.) There is recognition that when there are human problems the federal government cannot hope to solve them all.

* * * * *

POLICY IMPLEMENTATION: SOME SUBORDINATE ISSUES

If one accepts as an alternative policy that of general prevention and damage limitation, plus benefit enhancement, there are critical subordinate questions as to how one goes about it. At the very least, the goal of (partial) prevention, control and treatment does imply that one supports actions which aim to prevent not all drug use but only misuse, to control not all use but consumer-endangering aspects of drug production or advertising or citizen endangering criminality. One provides assistance to those users who suffer from conditions demonstrably capable of being aided by medical, social, religious, rehabilitative, etc. interventions. Problem limitation can also be accomplished in the social arena by densensitization and legislation, that is, by acknowledging that some things previously considered public problems need not be so in fact, and that the phenomena may be removed from the sphere of either official penalization or public supervision and disposition. (Examples are decriminalization of drunkenness as such or of marijuana use.)

Treatment is certainly a public commitment to those who are, in fact, ill or in pain. (We say, "in fact" because the notion of illness has overreached itself when applied to recreational drug users, predatory criminals and the like.) A policy in support of treatment is necessary, and easily offered but its implementation is often quite difficult given certain realities. These include the misapplication of the disease concept to many drug users, the confusion of "treatment" with law enforcement goals, the lack of success in current treatments if success is defined as eliminating drug use as such, let alone conduct such as crime or circumstances such as unemployment, and the fact that many users of drugs who are disapproved by society and called "abusers" do not want to stop using, do not want "treatment" and may not concur that there is anything wrong in what they are doing (from highly visible skid row alcoholics or nodding heroin addicts to marijuana or cigarette smokers or normal social drinkers.)

One can support the proposal that anyone who is a drug user be offered assistance if he/she is suffering ill effects from that use which he/she define as painful or undesirable—or finds the use itself uncontrollable so that they wish to escape the compulsion. The essence is a voluntary program. Implied are a variety of forms of assistance offered locally. The minimum specifications for that treatment would be its being humane, available as needed (either continuous or periodic) and comprehensive in that medical, psychological, familial and vocational needs may all appropriately be considered. This proposal differs from current federal policy in its refusal to define all users as "ill", in its unwillingness to exploit "treatment" either as a substitute for the criminal sanction when users are delinquents or felons or as a means of "capturing" or retaining undetected offenders for the criminal justice system, and in its assurance of services to drug users other than heroin users—for almost all federal moneys now go to methadone maintenance for a highly selected heroin population.

* * * * *

Subordinate issues arising from a voluntary treatment policy—one which clearly deemphasizes law enforcement, are those of voluntary versus compulsory treatment; humane (diversified individualized, costly) services versus the "sound management" (industrialized) treatment philosophy of the present Federal stance—which encourages methadone because it is most economical (true over the short run).[1] This alternative objective does not exclude users of other drugs nor non-addicted heroin users, for it calls for the availability of treatment of all those people who want it. It does not assume that one drug is more important than another one, that people only use one drug (they don't), that addiction is the only problem (it isn't) or that the medical model rationalized into maintenance by methadone is appropriate for all clients (it isn't.) It does assume that the object of treatment is a person, not a particular drug user.

The voluntary treatment policy does not rule out involuntary programs for those who, as drug users, may also be offenders, i.e. manslaughter drivers, thieves, alcoholic rapists, barbiturate-high teenage hoods, etc. Coerced programs—be these for those on probation or in jail—are best not called "treatment" for one does not wish to imply that the primary effect is "helping"; the goal is to protect others from the depredations of dangerous persons whose drug use may or may not have anything to do with their offenses.

In considering voluntary programs for those who do come in present drug-related complaints, it is also necessary to recognize that the drug complaint may be simply an excuse to seek aid—or an excuse to avoid looking at a much more profound difficulty, as for example, mental ill health, marital discord, etc. It is also found that the client or patient is suffering from a number of difficulties which cannot be helped by himself/herself alone; lack of skill, disadvantage, joblessness, chronic ill health, etc. For these reasons, drug treatment facilities must have the capability to assist or to refer for assistance in a variety of personal and institutional trouble areas; medical, familial, social, etc.

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[1] Methadone is a preferred treatment for some addicts..

Further limitation must be acknowledged in that a treatment program is not a prevention program. Treatment is for people who want it because they already have and recognize a difficulty. It does not affect those who have not begun to use hazardous substances, who use them quite safely (even if others disapprove of their preferences) or who use them and/or have problems/misbehave but don't want to change. As an example, most people who use heroin do not, in fact, become "addicts." They may well enjoy their use and will not be prevented from it by the existence of voluntary treatment programs. Many skid row alcoholics or committed heroin addicts are also enjoying a way of life, even if it is distasteful to others and has real hazards for the person. Neither public distaste nor these hazards will be "prevented" by treatment programs which are not attended.

* * * * *

Insofar as voluntary treatment is to be a policy element, there should be emphasis on flexible, broad, community-based approaches. The one constant relative to the drug scene is that it is changing, will change. Community-based programs must contain components for crisis intervention, medical management, detoxification, drug maintenance, drug-free aftercare, vocational rehabilitation, general mental health care and more. The contribution of free clinics as alternative mechanisms in health care delivery has been under-emphasized. Over 500 free clinics in the U.S. receive over 3 million patient visits a year; yet federal programs provide little recognition and support of these—or other—spontaneous community-based activities. Such clinics naturally attend to persons, not drug demons fashionable as enemies, and thus they can respond to such drug problems as may actually exist—be these associated with alcohol, amphetamines or multiple drug use (polydrug use.)

Treatment flexibility anticipates that few wars are going to be won against any popular and attractive drug; such wars as exist are in fact waged against people, most often young drug users whose personal preferences and life styles are disapproved.[2] Consider that Nixon's war on heroin was "won" because he said so, but, in fact, we are now in another round of epidemic heroin use. Quite likely heroin and other less conventional but, nevertheless, pleasurable drugs will have cyclical histories. The current federal approach is targeted against one enemy, the drug heroin, but the guns fire at youngsters not crystalline powders. That federal endeavor marches off the field triumphantly as soon as heroin is substituted by other drugs (the historical and epidemiological rule is that there is much interchangeability among drugs by people who are interested in enjoying drug effects) and disregards what happens thereafter. Single target programs ready to be dismantled at each turn of the cycle demonstrate that such "treatment" is not a policy.

Those recommending treatment must be aware of the diversity and complexity of such "people problems" as do exist. Too readily it is assumed that the bad, the sick and the deviant are all wrapped in the same package; the "abuser", the "addict" or the "alcoholic" as a type. Not so. There are few who fit as "types." These words embrace millions of Americans, some few of whom may share common experiences or be diagnosed as having one among dozens of possible syndromes. They are not the same people; they do not have the same problems. Insofar as patient or inmate client populations represent extreme groups suffering perhaps the greatest collection of dissatisfactions, disabilities and adverse experiences, than people found in clinics and jails will be most likely to mix health, personal, social difficulties and delinquent propensities. Yet, as one thinks of policies, it is necessary to realize that identified "cases," those who do come to institutional attention, are the rarest birds and that words and methods fitting them do not readily fit others who have in common only the use of a particular substance and the label (e.g. "abuser") which is abstractly attached. It is simply incorrect to think of all users of any drug as similar enough to assume any problems are shared (except perhaps those imposed by inappropriate public labeling and legislation.) As policy, it is inappropriate to assume that an element, e.g. "treatment" will fit everyone so labeled.

Most policy-derived interventions in the drug field, while aimed at the extreme case—the skid row drunk, the heroin using burglar, the suicidal LSD user, the hepatitis-suffering-amphetamine injector, the aggressive barbiturate user—function so that they "capture" more and more people who are not fit clients. We have too many people arrested and prosecuted for drug offenses; we have too many people enticed into costly treatments they don't really want and can't benefit from, and too many coerced by "diversion" into programs called "treatment" which are exercises in the monopolizations by the state and manipulations in matters of private morals (or lack thereof). "Diversion", for example, captures cases for the criminal justice system which would otherwise have been ignored by the cops, thrown out by prosecutors, denounced by judges, or found not guilty in five minutes by any jury; cases—almost entirely youngsters—who would have "outgrown" whatever it was (smoking a joint, sniffing gas, downing a pill, slugging some wine) but now become the official clientele of a growing official and professional apparatus which costs money, intrudes on lives, and mystifies the public with phony alarms, claims and terminology. It's a crying shame. We're so damn accustomed to nonsense in this country we've gotten out of the habit of telling these busybodies to get off our backs.

Issue II: There is no realistic current administration policy

If we recognize that the stated policy, as seen in the official Strategy and Presidential warfare ballyhoo and blatherskiting, is no real policy, then the absence of policy is an issue. We offered, under Issue I, what we believe is a reasonable goal and suggested some subordinate elements in policy pertinent to that goal. Here we emphasize that the cost of an unrealistic goal has been, for the administration, poor policy and no policy.

Consider the results of a policy Delphi conducted by the National Coordinating Council on Drugs Education (NCDDE) an organization to which almost all major voluntary agencies, industries, professions, unions, with drug-related concerns are affiliated. The Delphi policy goal which emerged, in late 1975, with the highest priority was "To create an explicit drug abuse strategy/policy which includes a statement of objectives in order of priority and delineates short and long-term strategies to achieve them." Delphi participants included past and present Administration drug officials—although none at high levels of responsibility. The formulation of this objective is an indictment of the Administration effort to date.

Recall that SAODAP (the White House Strategic Action Office on Drug Abuse Prevention) was created by Nixon to do just this, and has been in operation for over three years. Ford recently asked that it be transferred to NIDA in HEW but Congress, and others have been critical both of SAODAP and its move into NIDA. Ford has now created yet another task force to review and assess the Federal effort (aside from SAODAP there are four such councils, commissions, etc.). The criticisms on the Hill and elsewhere are that there is too much agency competition for funding, that enforcement is overly-emphasized, and that there is no accountability. This is particularly the case for DEA and other enforcement arms whose budgets contain little or no money for evaluation and whose reports are primitive and self-serving. The NCCD Delphi conclusion, as seen in the primary objective, may be interpreted as an admission that the Administration—granted not alone—has yet to decide where they are going or how to get there. In the absence of accountability through evaluation they have settled for "tough management" via OMB which has industrialized "treatment," and supported unrealistic enforcement efforts and "tougher laws".

Secondary priorities arising from the NCCD Delphi all focus on definite objectives. Had the Administration set a realistic major goal originally, the current need for specifying subordinate objectives would not be so great. If we grant that setting objectives precedes rational policy-making, we conclude that we are, in 1976, still uncertain about the objectives for the federal drug effort.

Fairness requires that we acknowledge several major points. One is that under conditions of social change—including drug phenomena—objectives do need constant reassessment, as do derived policies and programs, so that no administration is to be faulted for up-dating. Secondly, scientific, administrative and clinical knowledge about drug matters change; objectives and programs should change as that information expands. Third, public sentiments alter over time; people learn that the social costs of criminalizing private morals are not worth paying or that some drugs are not the demons they were thought to be, or even that government as such is not the effective force in some areas that it was in others; all this means that any administration's objectives will change responsively. There is no point in being partisan about these realities. Any administration in a democracy will have trouble knowing what to do about drug use; any will change its objectives over time. Indeed, the Administration's White Paper of 1975 is a sensitive and sensible reflection of this process. But until it is adopted—and revised where it is weak—and as long as warfare ballyhoo and heroin treatment slots are the order of the day—then there is no Administration policy worthy of the name.

At this point, we list the policy objectives which the NCCD Delphi developed. We endorse them:

Realistic policy objectives

Management Objectives:

To create an explicit drug abuse strategy/policy which includes a statement of objectives in order or priority and delineates short and long-term strategies to achieve them.

To remove the resource allocation function from short-term political considerations or influence.

To seek actively alternative sources of fiscal support other than general revenue funds.

To increase the quality and quantity of research in all aspects of the drug abuse area.

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[2] Consider that in 1974, 420,000 people were arrested in the U.S. for marijuana possession at a cost (according to the Marijuana Law Reform Organization) of $420,000,000 federal dollars, more than the entire federal treatment budget. It does not count the cost to the youngsters arrested in terms of the stigma, lawyer's fees, time lost from work and school. Again a war, again one against youngsters, and again one with a very dubious allocation of resources.

To have available more adequate epidemiological estimates of a) prevalence of use, by drug type; b) incidence of use, by drug type and use characteristics; and c) discontinuance of use, by drug type, based on data gathered with rigorous respect for reliability and validity.

To establish a management information and decision process capable of dealing with comparative evaluations of drug abuse functional areas such as prevention, treatment, rehabilitation, criminal justice processes, etc.

To increase the quality of service delivery in the drug abuse system.

To minimize institutional, bureaucratic and other restraints on adopting and reviewing objectives in relation to changing conditions in the drug abuse field.

Treatment Objectives:

To establish a flexible, comprehensive national service system for dysfunctional drug use with defined responsibilities at the Federal, State, and local levels.

To provide enough effective rehabilitations for all forms of dysfunctional drug use so that all abusers may receive treatment according to their needs.

To conduct research and evaluation studies to determine the effectiveness[3] of different kinds of treatment/treatment programs for the different kinds of users.

Prevention Objectives:

To establish, in appropriate agencies, the responsibility for defining the objectives of each of the program areas: education/prevention; law enforcement; treatment/rehabilitation; and to provide an acceptable rationale for each.

To mobilize "countercultural" drug education personnel, whose opinions concerning destructive use of drugs (including alcohol and tobacco) will be esteemed by adolescents.

To reduce the supply of illicit drugs available for abuse.

Eliminate all legal penalties for personal use in private and for possession for personal use of drugs.[4]

To develop social definitions of acceptable use and unacceptable use of psychoactive chemicals.

To promote basic research into physical/physio/social elements which predispose persons to dependency and/or addiction.

To promote greater awareness among policymakers of the necessity for developing differential prevention strategies tailored to the needs of the major cultural/ethnic sub-populations in the U.S.

Define prevention as research area and create priorities for research, e.g., drug education.

To make rational use of resources and policy by limiting criminal process involvement to generally hazardous drug related behavior.

To allocate an increasing proportion of resources to prevention activities.

To provide viable alternatives to harmful drugs.

Examine the potential impact of other possible social programs (e.g., income maintenance) on drug use.

Issue III: What should be the role of enforcement in drug abuse and alcoholism

Public intoxication has been a statutory offense since 1606 when Parliament prohibited the "loathsome and odious sin of drunkenness . . . being the root and foundation of many other enormous sins." Opiates, marijuana and now other drugs have only been criminalized in the 20th century. A joint ABA and AMA commission drafted a model law to decriminalize alcoholism (with the exception of those disorderly intoxicated) and a similar model was drawn up by the Legislative Drafting Research Fund at Columbia University. These two models form the basis for the Uniform Alcoholism Act adopted in 1971 by the Commissioners on Uniform State Laws. The Act, in essence, trades criminalization for medical treatment and, since it applies to those publically intoxicated, primarily attends to skid row and other inebriants. Sixteen states have adopted the basic tenets of the Act, including the disease conception implied. Although most hailed the trend originally as humane, as relieving justice system overloads, and as making both alcoholics and their caretakers more respectable, in practice things have not worked out so well. The alcoholic does not always agree that he is ill, doctors and hospitals do not like to take in "drunks," and the concept of "protective custody" still leads the police to be major caretakers of public inebriants. Some alternate programs do work, but in the meantime, although "drunk arrests" are less than 40% of all no-traffic arrests that occurred in the past, pressures from merchants and citizens still place police in the role of the major "casefinders" doing what they did before.

With reference to other drugs, "narcotics and dangerous drugs" as much legislation still has it, there are two competing trends. Rockefeller in New York brought in life sentences for drug dealers—almost always users who support themselves in drug barters and sales—and President Ford has called for mandatory minimum sentences for "traffickers"—those again mostly user-dealers in their rhetorical masks. President Ford has also called for the ratification by the U.S. of the UN Psychoactive Drug Convention, an instrument which emphasizes only the criminal sanction as an approach to drug control. Simultaneously, states are moving toward decriminalization; 6 states having done that for marijuana. Less official but pervasive, police departments are likely to give less and less attention to drug offenders and studies of dispositions show that no more than a few percent of repeat offenders—"dealers" included—go to jail. The ideological lines here are hard—"liberals" want all drugs decriminalized for possession and use, the Administration wants "tough penalties" for "traffickers" who end up being, when one studies actual police arrests, either drug-using delinquents, hippies or naive youngsters easily caught in their trades and sales. And then there are the over 400,000 arrested simply for marijuana possession.

With respect to those chronically publicly intoxicated (only a few percent of America's alcoholics), the issue of what to do now that reform hasn't lived up to expectations is important socially, medically and legally, but probably not politically. That because mostly Skid Row residents and alcohologists are the only interested constituency. Perhaps the sensible thing to do is to try to provide non-public places for Skid Row folks to drink, to get more used to public drunkenness, accept the police role as temporary custodians, provide alternative housing to jails, and experiment with residency and other programs without hoping for too much from the disease model except to support biochemical/pharmacology and research on diseases such as cirrhosis.

As for the Administration's current "hard line," it is real. They have backed up tough laws and tough talk with the lion's share of the money for a single enforcement approach, creating the DEA, an institution known now in Washington for in-fighting, ineffectiveness and the shadow on its recent director, Bartels, a Nixon appointee. The 1975 STRATEGY, setting forth the 1976 program and budget, emphasizes enforcement, strains to prove there is some link between it and health services and talks big about hitting the "big traffickers," stopping supplies at the source, and creating international police cooperation and UN treaties. Such facts as there are suggest that no amount of police intervention has reduced illicit supply over the long term—the Administration, of course, is still talking about opium/heroin and barely nods at the other drugs including alcohol, LSD, amphetamines, etc. The great promises for the role of the UN are sheer balderdash (a recent UN study shows it has had no effect anytime anywhere on illicit traffic). The success of law enforcement and the criminal law in the UN—and in the U.S.—has been on legitimate industry and honest citizens (manufacturers, doctors, druggists, ordinary folk, all of whom do respond to the law). Astonishingly, this success is unnoticed as the Administration pays little attention to regulation as a control device.

In the 1975 Strategy for the 1976 budget much is made of international enforcement supplying equipment abroad, training foreign narcotics people, assigning our agents abroad, altering UN treaties, etc. The appeal is unrelated to performance. The Administration has, for example, recently supplied helicopters to Burma to fight drug traffic there. It is a narcotics Viet Nam. The Burmese dictator; an incompetent, will use these to fight the chronic insurrection of the hill tribesmen who grow the opium (much of it now in Chinese controlled territory). There is no hope whatsoever that supplying military equipment will do anything except get people killed. DEA officers overseas, less than 200 in number, also pose problems, as for example, when they carry weapons and arrest local nationals, or by their presence they encourage local officers to leave it to Uncle. The UN Psychotropic Convention, pushed by Nixon but now fallow in Senate hearings, is a scientific disaster (see Controlling Drugs published under the auspices of a UN Agency and pointing to its many inadequacies.) It relies, of course, on the punishment model as the primary response to drug control. It will also end up reversing marijuana decriminalization by states—the UN Treaty has primacy—and will find some tranquilizer users enjoying the same punishments as heroin addicts.

The big talk in all Federal law enforcement is that they are hitting the big time traffickers. No one has yet released the statistics showing how many arrests per year DEA, Customs, etc. make (or how many convictions they get) or the proportion of these that are non-users engaged in transactions netting, say, $100,000 a year cash or more. One guess, based on police studies, is that no more than 0.1% would be in this category. It would be amusing—horrifying—to see the cost per arrest of these chaps. Deterrence is argued, but unless arrest and punishment are certain—and that known to the offender—deterrence seems an uncertain effect in the narcotics arena. What is evident is that efforts have failed; there is plenty of opium and heroin in the world, indeed more in 1976 than for many years. Its origin is Mexico where our international collaboration is the closest.

To define the supply control problem as heroin ignores the substitutability of one drug for another. The Nixon Administration claimed that they had "turned the corner" or conquered the drug problem—one study on Washington, D.C. treatment applications for methadone maintenance and local arrests was the evidence. Now it's generally recognized that the corner turned led to an even more difficult street. We noted that studies now show heroin use remaining high, that there is a chain effect to smaller towns, that most heroin users never become addicts, and that reasons for the reduction in entrance to treatment "slots" is reduced because methadone maintenance done by "management objectives" is not a very good way to treat everyone. There is enough methadone—and cheap heroin—for sale on the street that junkies don't have to go to the clinics to get their stuff. More than that, users of heroin are also users of alcohol, barbiturates, cocaine, etc. The terrible flaw in the Administration emphasis is on focusing on one drug and trying to control or treat "it." What exists is a person, albeit one who may be a criminal or an inadequate, who is using a variety of chemicals intensively and compulsively for a number of reasons, some of which may be sheer pleasure, not "illness." In doing so, he engages in disapproved behavior, sometimes it is self-endangering, often it is part of a drug-centered delinquent life style. As long as the Administration "objectives" do dehumanize the "problem" as one of drugs, not people, they will always be chasing will-o-wisps. Chasing them with guns is simply a matter of self-indulgent heroics, cowboy Bob turned mean and sour.

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[3] There is much evidence that treatment programs, regardless of type, all have about the same impact and that this is better—but only a little better—than no treatment. This evaluation must also be for matters of decency, consumer satisfaction, cost and the like.

[4] This is the most controversial of the Delphi objectives.

Alternatives to the Administration emphasis on DEA, exist. The most extreme position advocated is to decriminalize all drugs, heroin included, and let people have at it. That is not a sound political position, except for alcohol and tobacco, for clearly with these drugs that is the national sentiment. A modified position calls for decriminalizing now popular drugs such as marijuana, and the trend is for marijuana possession to be charged, at most, like a traffic citation. One can also decriminalize possession of any drug for private use. One way to de-emphasize the pointless police role in minor drugs is for the Party to encourage states *to decriminalize that drug conduct where there is clear evidence that the prohibited drugs seem no worse than those legally available, that most people use them safely, and that law enforcement has been ineffective, costly and in practice discriminatory.*

Another alternative is to do for Federal law enforcement what the Strategy does for treatment; get it out of Federal hands and into local ones. DEA is such a mess and so expensive that there are good arguments for its dissolution. Customs would take over the international smuggling responsibilities, locals the rest; such coordination as would be needed could be done by the FBI.

A less extreme proposal which deserves consideration is to *reform and reduce the size and scope of DEA*. It can act as a clearinghouse for information and as a training agency to assist local police. It can also supervise their enforcement role, should major responsibilities be decentralized, to insure that local abuses do not easily occur—either that corruption which is inevitably associated with any vice enforcement, or that brutality which can show its head when deviant or powerless groups suffer moral reprisals from blue-coated avengers. What is clearly needed is *expanding the regulatory effort over drug manufacturing and distribution* so as to prevent diversion (most amphetamines and barbiturates used illegally are diverted.) Should FDA resist the opportunity to take over this function, DEA might be revamped so as to perform it more adequately. At present DEA devotes only 10% of its work to regulation to prevent diversion; a sorry misemphasis, we believe.

Anyone who looks at narcotics (and other vice) policing costs and effectiveness usually concludes the system is nonsense. INTERPOL takes that position (privately) and long ago Volmer, father of modern American policing, recognized that. Yet most people are reluctant to give up the expression of their moral objections via the criminal law and, further, both stereotype and fact link (some) drug users to (some) street crimes. The usual fall-back position is to call for enforcement against the big time dealers, whilst the visible drug dependent cases—the small time dealers—are to be "diverted" to treatment. Unfortunately, that too is difficult. As we have noted, most dealers are users, many of the small fry drug-centered dealers are otherwise delinquent; cops have a hell of a time finding big time dealers (especially ones who are not heavy drug users for very few exist); and "diversion," while the theme song for the Republicans in last year's strategy and now for much of the justice system, is totally unexamined as to its costs and consequences. Diversion (i.e. a guy is arrested but goes to a clinic or some such instead of court) is one way of taking the heat off prosecutors, the load off the courts, and that guilty feeling off citizens, but what actually happens is unknown. With this scheme, the "linkage" that the Strategy talks about between justice and health systems, there is as yet no evaluation and no accountability. Certainly some predators just go right back on the streets. Others, who would have been dropped charges, become incorporated into the justice system because diversion is now available. Certainly, there is reason to believe that many of the wrong people are being "diverted" to uncertain fates.

One set of proposals for improvement focus not on the enforcement side or diversion, but on the dispositions in the justice system itself. Most people arrested for drug offenses do not go to jail even if there is clear non-narcotic criminality. It is not an issue alternative as much as a criticism of the court system to suggest that for most criminal offenses the courts simply are not operating well.[5] That conclusion, put in terms of a systems failure emerged in 1967 from the President's Crime Commission, but things are no better. Framed in terms of drug law enforcement, one important step is to *narrow the focus of enforcement and prosecution* (i.e. pay no attention to users/possessors not engaged in non-drug delinquencies.) Those genuine non-vice offenders who do get arrested must then at least be *assured speedy trial and predictable sentencing*; with reduced appeal opportunities (a general need in our criminal system—one linked to the need to reduce penalty harshness); first offenders perhaps to probation, second offenders to short mandatory jail terms, etc.

Issue IV: Decentralization, reducing the Federal role

One theme of the Nixon then Ford Administrations has been decentralization. In practice this meant reduced Federal interest in education, treatment and rehabilitation, for Federal law enforcement efforts continue to increase. There is no quarrel with the concept of reducing the bureaucracy, increasing local responsibility and control, and reserving for the Federal function those more impersonal and specialized activities which can be done in a central facility and then exported for application generally. Research, the design of model codes, setting drug screening standards, and, of course, funding fall in this category. So does international work.

The problem, addressed by the 1975 Strategy in a virtuous section on "scarce resources" is that; as in many areas of public welfare, states and communities do not have the money for their needs. The Federal Government provides some, but not enough. Decentralization in practice can mean sink or swim on your own resources. Another problem is that such government money as is expended is done so under rather strict regulation. Few probably would call for unsupervised distribution of Federal monies, but there has been much complaint about Federal rigidity and lack of flexibility for local innovation and tailored responses. Indeed the 1975 Strategy calls for much more of this in demanding "credentialing" for drug service providers. Since no one is yet sure what modalities work best—and since the one, methadone maintenance, that the Feds stress has been shown to work in but a limited way (only some reduction in across-the-board drug use or crime—mostly for older, motivated clients), it is premature to bureaucratize and freeze the local effort. Big Brother talks freedom but puts the locals in handcuffs.

One very serious implication of Federal support guidelines is the emphasis on industrialized, highly productive—on paper and by "body count"—"treatment" focusing on drug abuse, i.e. heroin. What this means is that support for general programs in mental health, vocational training, medical care is almost impossible to secure even if these may be more pertinent to the needs of drug abusers. The heroin emphasis has also meant that most Federal monies have been earmarked for heroin "addicts" and that large numbers of other citizens in trouble with drugs amphetamines, barbiturates, alcohol—have been ignored. There is an Alcohol Institute which funds designated programs, but with an overall budget about one quarter of the total drug abuse budget (and two-thirds of the NIDA budget). Thus our main problem drug, alcohol, and our major problem population, people with alcohol problems, receive far less Federal attention either through treatment program support or research than do that minority of heroin addicts. The priorities are misplaced.

There are two further difficulties. One is that Federal support to states comes most readily to medical programs espousing the medical model of drug use as an illness: Historically this concept was a good step, allowing more humane care and seeking to assure that when some physiological problem was present it could be attended to. But there is no reason to believe that the variety of human behavior engaged in by drug users, some of which is called a "problem" is any more the business of medicine than it is of politics or theology. If one looks at AA, for example, or Synanon, it seems that some of our best treatments are not medical at all but essentially special communities. These are less easily monitored, not so neat, as giving someone his methadone orange juice and calling that "success." What is needed is further innovation, not insuring oligopolistic practices.

The other difficulty is that "treatment" places little emphasis on reintegrating the treated person into the community, especially giving him a job. Why treat someone who can't find a job and returns to drugs/crime or mental disturbance? The 1975 STRATEGY mentions jobs and rehabilitation about 10 times, passes it by as though all were well, and goes on to more law enforcement, treatment and "slots." The general problem here is that employment for the former drug user is, like that for former convicts, mentally ill, physically handicapped and the rest, damned hard to get when a real 10 or 15% of the able bodies are out of work. Drug treatment without job help is ridiculous.

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[5] Certainly the symbolic and general deterrence functions ordinarily ascribed to the criminal sanction do not appear to work their best in controlling drug use. Studies of drunk driving, for example, show that the most effective deterrence is when punishments are minimal but quickly, predictably, widely applied. The mess of delays, appeals, inconsistent sentences, etc. can easily be understood because of the heavy penalties that lawmakers may brag about but in practice trouble prosecutors and juries and which offenders must fight with "not guilty" pleas because of their severity. We have proportionately more people in jail for drug offenses than any other country, certainly more adjudicated—and now more "diverted". We also have more of our population in jail generally than any other democracy, and our sentences are longer, too. We do not like the way China and the Soviet Union enforce their ideologies, but our drug ideology enforcement smacks of that brand of harshness.

If the Federal role is to be reduced, *there must be more revenue sharing, more Federal assistance by way of research and suggestions for standards, but less forcing into predetermined molds, and more recognition that communities need flexible multipronged programs.*

Issue V: Education

Each year the OMB budget sent up the Hill gives about zero support for a Drug Education unit in the Office of Education. Some time back the Nixons set a moratorium on drug education, that in response to a backlash from materials that were being paid for by HEW that were scandalously poor. The 1975 STRATEGY mentions education four times, speaks of NIDA's role but hardly of OE, and says the strategy is to "de-emphasize drug education" in favor of personal "value development" and other modish but vague themes. The fact is (or seems to be, facts change each day) that school and family education remains a paramount avenue for intervention which the Administration ignors ("Families" do not appear in the STRATEGY index.) Such research as exists shows that how families rear their children makes a great deal of difference in drug risk. It also show that formal drug education in schools can have a positive impact, and at low cost. To ignore the education of the young in family and school is a remarkable oversight, although one can see how an Administration dedicated to treatment "slots," helicopters for Burma and "program management" would find it difficult to think of educating anyone—after all that might turn the tide against these slogans. The STRATEGY does mention the need for educating physicians, but other than sponsoring development of a model curriculum offers nothing else; certainly nothing for the several hundred thousand practicing physicians whose history-taking fails to pick up drug problems; whose knowledge of drugs of abuse or new approved pharmaceuticals can be abysmal; and whose ability to refer patients into appropriate treatment may well be questionable.

The issue of education is then fairly simple. The Administration strategy ignores it for the most part, leaving it to state and locals to flounder along (spending about half a billion dollars each year on untested programs.) We contend that *education to children in school, to their parents, and to practicing physicians as well as medical students is a national need.* We enter one caveat. As a Norwegion observer here said, "drug education is the opiate of legislatures" giving the appearance of action without offending any vested interests. In proposing education we do not mean any kind, anywhere. We mean pretested, proven intervention of the kind that studies now show does make a difference. Education like all other efforts should proceed after one knows how it is to be done effectively, how audiences are to be reached, and insuring continuing evaluation of costs and outcomes.

Issue VI: Liquor/pharmaceutical advertising and special taxes

Advertising: advertisements on TV, radio for over-the-counter drugs have been criticized as "teaching" people to use drugs to counter minor ailments which are better left alone. Alcohol industry advertisements have been blamed for increasing interest in and the volume of liquor consumed, some of that with dire effects (about 10 to 15% of adult drinkers are estimated to suffer alcohol problems). The pharmaceutical industry has had its advertisements to physicians analyzed with the finding that ever-broader indications are given for the use of psychoactive drugs, that is, previously normal behavior is defined by the industry as a symptom needing a prescription (e.g. a mother crying as she watches her toddler go off to school the first day, a businessman anxious over the recession). Each such complaint about advertising has led to *calls for controls over advertising media, content, times, etc.* The success of this campaign is seen in the prohibition of spirits and cigarette ads on TV. Industry spokesmen and those distrustful of FCC and FDA regulations oppose further controls. Opponents can argue that it would reduce profits, unfairly prevent new products or new entrants from competing in the market place and further strengthen a costly, overly controlling Federal apparatus. There is no hard scientific evidence that total advertising effects total volumes of psychoactive products consumed nor creates a disposition in people toward such consumption. These are assumptions on the part of proponents. One is reminded of the effort to show the effects of violence on TV; a (possibly biased) commission found no research support for an effect even though some individual studies do allow that inference. Nevertheless, it is hard to believe that advertising does not encourage positive attitudes toward drug use. That is why sponsors pay for it. Restrictions proposed on alcohol/tobacco/over-the-counter and pharmaceutical industry advertising would face very powerful industry resistance. The effort may be worth it.

Special Taxes: In some states bills have been introduced increasing taxes on spirits to create special funds for alcoholism treatment programs. Such dedicated taxes have a long history. Broader proposals can be made arguing that any drug product which produces special health hazards but which is voluntarily purchased should tax the risk-taking consumer to pay for his treatment should an adverse effect occur, rather than burdening the general taxpayer. Thus cigarettes could be taxed for a contribution to lung disease research, alcohol for alcoholism research and treatment, etc. One problem is that as special taxes increase there is incentive for tax avoidance through smuggling. It can also be argued that when demand is inelastic and the consumer poor, his increased costs for these products will, if a significant part of his budget, threaten his own or family living standards (think of the skid row alcohol who has no money for food because he spends it on booze; the same argument is used to make gambling a criminal "vice".)

With higher taxes there will be some reduction in use (valued in itself insofar as drug volume consumed does correlate with prevalence of hazardous outcomes) and costs are more heavily borne by the voluntary at-risk group. *Higher taxes on unnecessary and luxury drugs do seem to be in order.*

Issue VII: International cooperation in drug control

We have considered this earlier under the role of law enforcement. The Republican Administration under Nixon and under the 1976 program (1975 strategy) lays great emphasis on using the UN as an instrument for criminal sanctions, and for using the DEA as a master international drug police outfit. Military aid is given to countries which grow opium and who say they want to suppress it; money has been given (e.g. Turkey) to buy growers out, and police have been assigned abroad. An appealing set of notions, even worthy experiments, but all a flop. As long as inelastic demand exists, there will be sanctuaries for production. If there are interruptions in supply, i.e. opium for heroin production—people shift to alcohol, barbiturates, come in for methadone or buy that on the streets. In the new UN treaty [6] we have a drug classification system which is scientifically and socially inappropriate, a control device which obligates criminal sanctions for member states, and support for a bureaucracy in Geneva which has proven unable to be effective (what they can do is determined by what member nations are willing to do). International control does work on legitimate industry and commerce, just as within the U.S. regulations are effective on honest people.

If international cooperation is to be considered as a separate issue, the arguments are clear. We bought off the Turks and they are back in business. Not that it matters very much; Mexico is the big producer of opium; our own industry produces amphetamines and barbiturates and our distilleries are sufficient, to say the least, for our alcohol demands. We are giving military equipment to Burma to help a dictator fight a civil war, not control agricultural production of drugs. We assign DEA officers abroad who do the work of and for local cops. We support a UN apparatus that is secretive, overpaid, lazy, in-bred, etc. We push for badly written UN treaties that would handcuff our own national response to drugs, perpetuate the punishment approach, and show no evidence of effectiveness. All this at great cost. *Smaller informal collaborative relationships not resorting to threat or weaponry of a bilateral nature will be more flexible and pertinent;* U.S.-Mexican drug control efforts are a good example (and whilst the good example has been growing, so too drug imports. Moral: don't hope for too much).

Issue VIII. The Controlled Substances Act

The heart of the UN Psychoactive protocol was borrowed from our own 1970 Controlled Substances Act. The Administration claims that works well, others that it does not. An excellent Drug Abuse Council study of methaqualone (a sedative) indicates that there is "profound confusion . . . regarding the meaning of the statutory scheduling criteria . . . in the five years since the passage of the Act, neither DEA nor FDA has established working definitions of the scheduling criteria . . . DEA often appears relatively unconcerned with scientific and medical data . . ." Media and political pressures have influenced drug classification decisions under the Act, actual data has been ignored, and guidelines for needed information are missing. The classification system is itself inconsistent. *The Act should be revised.* Psychoactive drugs available only on prescription might well be subject to refill limitations, the revised Act administrators could be given greater discretion to select from among a variety of controls rather than being forced into rigidity. The attachment of criminal penalties contaminates the purported intentions to protect public health and are inappropriate in the Act. Indeed, if the public health emphasis is to be believed, if Big Brothers is to get off our collective backs, then a research strategy is implied; to continue the search for effective analgesics, sedatives, and other types of compounds which are medically useful but have minimal "behaviroal toxicity." If they are safe, even if they do give pleasure, the criminal sanction need not be invoked although supervision of manufacture and distribution through regulation will be a priority. The same is true for the UN protocol. Its punitive preoccupations are not welcome just as its inattention to implementing regulation is a serious oversight.

Issue IX: Prevention

Preventive efforts are globally but conventionally described in Strategy documents as efforts to restrict drug supplies and drug demands; the former through regulation and law enforcement involves control over production and sales; the latter over people's drug interests or opportunities, this via deterrence, treatment and the like. As we have noted, the historical record is not salutary for the ability of governments to intervene in these matters effectively—especially on the demand side—short of totalitarian measures. Most of the real controls over drug preferences, use and associated behaviour, arise naturally during the development of healthy personalities, from the standards of acceptable conduct operating among informal social groups and institutions, from proper supervision of healing efforts, etc. and out of community morals and influence. Unless the state substitutes itself for or intrudes heavily in these normal environments where people learn to and do live, work, play, love, seek health, worship, etc., the state will have far less effect than these normal life influences. Since the thrust of democracies is to safeguard these spheres of freedom in living rather than to compel their content and direction, it is perfectly proper that the influence of government on those forces which guide personal preferences—and behavior including drug use—be secondary. The consequence is that government-sponsored programs will necessarily be inefficient. That inefficiency may be a good thing if one wishes to preserve democracy. But it does caution us as to our expectations of what can be accomplished by efforts to control "supply" and "demand". It also strongly suggests that the best place for "prevention" influences to be exercised are where they are normally exercised; the family, the associations of friends and workers, in clubs and recreational settings, in church and school.

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[6] The Psychotropic Convention.

The 1975–76 budget analysis shows that the Administration has opted not to engage in any preventive measures which address general populations prior to the emergence of problems, except insofar as the heavy criminalizing effort may be conceived as a teaching-deterring influence. Certainly the efficiency of enforcement as a general deterrent is open to question, even though it may well reinforce community standards of disapproval. Treatment, although referred to as "prevention" in the sense that individual users are expected to reduce their "demand" as a result of being treated, cannot be sure of having that effect. As elsewhere noted, treatment for alcoholics or other compulsive drug users does work—but only somewhat better than none—and in many cases simply teaches the substitution of an approved drug—methadone or alcohol, for example—for a disapproved one (e.g. heroin).

There are arguments for preventive efforts of a different sort—that going beyond the formal education in school which we proposed as Issue V. If we examine, for instance, an extreme behavior such as drug dealing, we find it begins with drug-involvement in adolescence, often with demonstrable alcohol problems by age 17, and with dealing in other drugs by age 16 or 17. Serious young dealers are also likely to be maladapted young delinquents from criminogenic families—their mothers and fathers have drug problems and strong delinquent histories. These "serious" dealers differ from most kids who, as users, deal but quit spontaneously as they grow older. *Prevention here implies early attention to delinquents, alcoholic emotionally disturbed and/or drug involved youngsters in the early teen years*. Schools, family health or counseling centers, welfare agencies and other institutions linked to the daily lives of children and families can be alerted to such "case finding" and mechanisms can be developed for referral. The current Administration approaches totally disregard such possibilities.

Considerable data show the importance of the family in the production of drug risk, delinquency and emotional disorders. Since most parents try to do a good job and studies show they do respond, when they can, to child rearing advice, there is an opportunity to teach parents how to reduce drug risk through better child rearing (in adult education, through referrals by ministers at time of marriage, by teaching kids in high school how to be parents, etc.) The Administration has paid no attention whatsoever to the American family, to parental guidance needs, or to prevention vis this elementary route.

If we look at the sum total for research on or prevention projects funded Federally, it will be found to be less than 0.5% of the total budget. Yet, if one were to ask citizens or state officials how they'd like to proceed, their priorities would be for these general efforts to construct better, safer lives. Prevention, as a goal, allows the hope that one is assisting, not in a response to a particular bit of drug conduct, but toward sensible, rewarding living as such. One must recognize that the more diffuse are ones' goals the more difficult it is to evaluate progress toward them. That is the case with "prevention of drug problems" through provision of parental guidance, rational education, alternatives to drugs, socio-economic reform. We must not be hypnotized by our own language and hopes; a serious effort requires the test of particular programs to see what they accomplish.

Our discussion in Issue VI, controls over advertising and special (dedicated) taxing on drugs (alcohol, tobacco included) alludes to another preventive enterprise. As noted, there is reason to believe that as the volume of a drug consumed per capita is reduced, the prevalence of problems associated with its use is reduced. Cirrhosis of the liver, for example, is less common when people drink less liquor. One dare not be simple-minded about the formulation, but there is sense in surviving to *control supply*, not via the criminal sanction so much but *through regulations over legitimate production, advertising, sales* (controlling hours, place, age of customers, etc.). Regulations on legitimate enterprises and settings do have an effect on drug use and conduct—this is one of the happy lessons from history and research.

One can also *seek individual deterrence via extra-criminal sanctions*, as for example, removal of licenses from bars providing alcohol to those visibly intoxicated, or to underage customers, removing driver's licenses from offending drivers, requiring course attendance for offending drivers, etc. Such regulations exist in many states but are spottily applied.

Another intervention is to *provide alternatives to drug use* as a means to altered states, relaxation, sociability, status-seeking, religious experience, etc. (typical motives for non-medical drug use.) Some successful school programs provide for yoga, music, personally suited sports (from karate to dance) and the like. A review of the temperance movement shows that some of the products of their efforts—unlike Prohibition—were important contributions; the YMCA, the YWCA, the soft-drink industry, libraries, recreation areas. These efforts are "inefficient" in the sense that many people may enjoy them who would not develop drug problems anyway, nor do they promise "prevention" to all who are drug involved. Yet, as amenities and as creative contributions to living, they are self-validating.

There are also ways to "insulate" drug use so that it does not trespass on the public taste; so that social controls operate on conduct at the time; and so that there are controlled transitions from the sequestered drug use environment to normal settings where neither the drug use nor its sequelae are acceptable. Typically, the darkened bar is such a setting for normal drinkers; the home is an insulated setting for discrete marijuana smokers. In neither instances are there non-users to be provoked nor is enforcement likely to intrude. The problem is to devise settings for the less discrete—quite often people who are less mature, less adequate, or more compulsive in their drug use. The methadone clinic is, in fact, one such invention—as is the heroin dispensing clinic in the UK. New York's Camp LaGuardia where boozy folk can drink beer in the country is another.

People recoil from legislating or allowing enclaves because of the implied encouragement of "immorality" or approval, be these special drinkeries for skid row derelicts who can there be drunk without offending merchants and shoppers; "pads" for young drug users, or cult centers where drug use and mystical religious intermix. Nevertheless, such enclaves develop; for the discrete or street-wise they may be bars, street corners, alleys—or homes or college campuses known to be safe. The Netherlands institutionalized such settings in special clubs for young people. The results were that although drug use was at first facilitated—current reports are that most habitues are more involved in cards, games, music and that drug use is decreasing. That is an example of the influence of informal social controls among healthy young people. Politically it may be awkward to propose such sanctuaries, even though they exist in every community in fact (bars, homes, campuses.) One can endorse experiments with sanctuaries such as in skid row supervised drinkeries, private lodging houses, heroin-dispensing clinics, and protected clubs for young people where supervised responsibilities are clearly set forth, and the like. One can also insist that the supervisors of such enclaves control movement out, that is, no user leaves until he is capable of acting normally in public.

Protection of the down-and-out is a very different kind of prevention. It seeks to prevent the abuse of individuals charged under the laws with one or another drug violation, for often such persons do not know their rights and are not represented in court except cursorily as guilty pleas are entered. It also seeks to prevent the patronizing or exploitation of this section of the population by various reformers, predators and what-have-you. Skid row residents are run out of their hotels by redevelopment projects, rotated through revolving doors of custody by bureaucrats on the make. (See Wiseman's Stations of the Lost), the drunk court punishes any plea other than guilty (yet when Legal Aid defense was provided to inebriates in New York City the rate of conviction fell below 1%) and merchants take them to the cleaners. *Community organization* for those heavily drug involved along with legal *services are very much in order*. Release in London has long been an example of combined legal and social services to the drug using poor and disadvantaged.

A Further Note on Drugs and Crime

"Linkage" between justice systems and medical systems is what the 1975 Strategy tries to prove. It is a wrongheaded policy. We have little evidence, except for alcohol and barbiturates that drugs "cause" crime (and then only with certain people and settings,) and so no reason to believe that treatments oriented to drugs will "cure" crime (note again how the current philosophy leads one to speak abstractly, not specifically about events or individuals raising such hell.) We have little reason to believe that intervention via the justice system drug approach has cut down non-drug crime. We have little reason to expect diversion to medical authorities to provide the "cure" for crime either. Aside from general pessimism about reducing crime or curing drug users by any methods now know (such pessimism is well in order, especially for younger chronically involved delinquents and/or drug-centered folks,) the effort to employ the one (drug programs) actually to alleviate what the public rightfully senses to be another real problem (crime) attenuates both efforts. Criminals get diverted out of justice systems to roam free while undergoing treatments that may not affect their crime rates; heroin users are handled as offenders even if they are not otherwise delinquent; and other drug "abusers," even if they do have a drug problem for which they want help (alcoholics, etc.), can't readily get assistance because Federal funds mostly go to the junkies. The junkie is King. What we can do is to *call for "decriminalizing" our drug abuse policy while more strongly "criminalizing" our criminal justice system where it counts* (which, of course, requires major changes in the law and judiciary and might increase penal costs considerably even though we reduced sentence length and utilized probation.) This might straighten out our drug objectives and remain sensitive to crime as a separate and major issue.

Seeing the light?

In the foregoing discussion we have had occasion to criticize what is and has been under Nixon and Ford. There are signs of a change. The White Paper on Drug Abuse issued by the Domestic Council is generally excellent. Were its contents to be believed by administration staff and its recommendations followed, the Administration would have taken a giant step forward; doing much that the 1972 DNC recommended in 1972. The White Paper themes are as follows:

1. We must be realistic about what can be achieved and what the appropriate Federal role is in the war against drugs.
2. Not all drug use is equally destructive, and we should give priority in our treatment and enforcement efforts to those drugs which pose the greater risk, as well as to compulsive users of drugs of any kind.
3. Supply reduction is broader than law enforcement and we should utilize a variety of supply reduction tools.
4. Federal law enforcement efforts should focus on the development of major conspiracy cases against the leaders of high-level trafficking networks, and should move away from "street-level" activities.
5. The current treatment focus of demand reduction efforts should be supplemented with increased attention, prevention and vocational rehabilitation.
6. Neither successful prevention or successful rehabilitation is drug specific; both should be closely integrated with other social programs.

We have no quarrel with any of these nor with most of the document, for it represents a dramatic change of heart over the last 8 years. Much that we now see as conflict between a Democratic policy and Republican program would disappear were the full proposals of the White Paper to be put into effect.

There remain some areas in which disagreement must be registered. These are as allows:

Alcohol and tobacco are excluded from concern and from priority budgeting. The Report argues that public and social policy for these are totally different from marijuana-barbiturates-heroin, etc. That need not be so in the future. As we have seen, the problems are very much the same as are the challenges for intervention.

A strong argument is made to expand the use of of conspiracy laws to make drug cases. Many legal scholars consider conspiracy cases to be the weakest to argue, the charge and evidence gathering generative of violation to Constitutional rights. The Report's proposal cannot be accepted without rigorous scrutiny.

Approval is voiced for the work of the UN Fund for Drug Abuse Control to which the U.S. contributes four-fifths of the budget. The Report proposes that support be continued. No evidence is offered for this positive evaluation. Objective scholars evaluating UN drug operations hold the Fund in low esteem, describing its efforts as undirected, disorganized, futile, naive, and a pork barrel. No support for the Fund should be given under present conditions.

The Report claims that the scheduling system under the Controlled Substances Act is working well. It argues that the Act has reduced misuse. The DAC study, earlier cited, provides evidence to the contrary. Such reductions as have occurred, e.g., methaqualone, took place before scheduling. The DAC study calls attention to the importance of medical and social forces in drug use control and to the weaknesses of the Act. We recommend the Act be revised, not praised.

The Report makes mention of preventive education on only one page, faintly praising it while recommending against any federal funding of any kind, not even research on how education can best be done. This is a most serious omission. Similarly, the Report makes no mention of the data linking family child-rearing patterns to drug risk and offers no encouragement for assistance to parents in child-rearing. Again a serious omission.

The Report praises DEA, slides over its misbehavior and failure, and calls for it to retain its role as dominant in law enforcement. We believe DEA must be re-examined and either dismantled or reformed and redirected.

We commend the new light in the Ford Administration eye and hope it will brighten into policy. If it does not then the full thrust of the arguments in this paper should be reflected in Democratic positions. If there is a Republican change, then our disputes are happily diminished and will remain only on the issues where punishment continues to confuse drug use with crime control, where prevention is ignored, where poor legal thinking substitutes for competent logic, administration and scientific data in core drug legislation, and where the emphasis continues to be on drugs rather than on people.

Caveat. In presenting the Republican stance, the assumption is made that the Administration was responsible for its policies. That is politically true but does not mean it really knew what it was doing or even set out to do what it ended up doing. That can happen to any administration. If we as Democrats are careful to make our policy objective's specific, then test how we implement their achievement, we might avoid the same fate.

Mr. Speaker, this issues paper places alcoholism and drug abuse in a social perspective which can guide us to rational political action at the Federal level. It reports eloquently on the damage caused by drug abuse to physical and mental health, to family and work life, and on the costs to society in crime, accidents, law enforcement, treatment, welfare, research, and the loss of human productivity.

Intractable as the drug abuse problem seems to be in the United States, we seem to be arriving at the point of creative political consensus on useful mitigating steps. The conclusions of the Domestic Council's white paper on drug abuse are similar to those of the Democratic study group's in several areas, including agreement on the principle that not all drug use is equally destructive and that Federal law enforcement efforts should focus on the development of major conspiracy cases against the leaders of high-level trafficking networks and not on "street level" activities. With these and other basic agreements in mind, I hope that the Congress can begin moving more effectively on the problems of drug abuse.

Mr. MURPHY of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I rise in support of the legislation.

As the gentleman from Florida (Mr. BURKE) said, narcotics consumption is not on the decline, as some people would have us believe, but it is on the increase. There is no question that there is a need for this committee.

Mr. Speaker, I congratulate the sponsors and my colleague, the gentleman from New York (Mr. WOLFF) for his leadership in this action.

Mr. Speaker, I rise to indicate my full support of House Resolution 1350, legislation which will create a new House Select Committee on Narcotics Abuse. As a cosponsor of the companion House Resolution 1351, I consider passage of these resolutions to be vital if the House is finally going to donate specific attention to one of this Nation's gravest medical and social problems—narcotics abuse.

For too long, the House's authority to look into matter related to narcotics abuse has been fragmented and ineffective. No less than seven separate committees of the House has jurisdiction over matters related to narcotics abuse and control. The creation of the committee will pull together the collective expertise of members of each of these seven committees and finally give us a cohesive unit exclusively dedicated to investigating and recommending solutions to the narcotics abuse problem.

Narcotics abuse—whether it be alcoholism or drug addiction—invades all sectors of the American society—old and young—rich and poor—black and white. All of these groups have felt the evil presence of narcotics addiction within their ranks. We know with sufficient clarity that the problem of narcotics abuse does indeed exist. What we now need to do is find realistic solution to control this problem. This would be the sole function of this committee.

I am pleased to see that this resolution gives this select committee sufficient authority to do an effective job. Among these powers will be the authority to subpena, as well as the right to require production of evidence and testimony. Finally the select committee will be able to make recommendations to the President.

The creation of this committee is long overdue. We have allowed the problem of narcotics abuse to proliferate in this Nation. It must be ended. The creation of this committee will be an important step in this process and I urge its prompt approval today.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, in recognition of the overwhelming need for a rational legislative approach to the problems of drug abuse—I am pleased to be recorded as one of the 220 cosponsors of House Resolution 1350 as introduced by my distinguished colleague from New York (Mr. WOLFF). This legislation will provide for the establishment of a Select Committee on Narcotics Abuse and Control—a necessary response to our currently fragmented attack against drugs and their addictive capacity.

My involvement with the phenomenon of drug addiction came about with the creation of the House Select Committee on Crime in 1969. I was asked to chair the select committee which was empowered to probe "all aspects and elements of crime" in the United States, and to report its findings and recommendations to the House of Representatives.

Hearings held by the committee touched on all aspects of crime and served as an overview to help members of the committee focus on specific problems in need of resolution.

With over 200,000 heroin addicts in the United States in 1970, a rise in violent crimes, an increasing involvement in juvenile usage of drugs—the Crime Committee realized the critical need for a full investigation of the drug crisis and the formulation of an appropriate role for the Federal Government to play in curbing the spread of this horrible crippling social disease.

Hearings revealed the extremely serious nature of drug addiction—and, the accompanying commission of crimes to pay for such addiction. It was discovered that drugs were directly threatening the mental and physical health of our Nation's youth; that drug-related crimes, particularly the crimes that citizens fear the most—burglary, robbery, and mugging were overwhelming Federal and State police; that drugs were seriously threatening the orderly operation of our court systems and correctional institutions; but, far and beyond the crime and waste of human potential associated with habitual drug usage, surfaced the stark fact that many heroin addicts died as a result of their addiction—and most died young. In 1969, heroin killed more young people in New York City than any other single cause of death, including heart disease, cancer, homicides, and suicides.

Drug abuse surveys conducted by reliable authorities indicated an extensive use of drugs—in all forms—by youth. Our investigation indicated that dangerous drugs: Narcotics, stimulants, depressants, and hallucinogenics, are readily available—frequently at very low cost—to school-age youth of our country. The sale of drugs take place with alarming regularity, and with little or no effort, in school cafeterias, hallways, washrooms, playgrounds, and parking lots.

So, during committee hearings, it became clear that the drug problem was not only confined to the ghetto. Drug addiction was not class-specific, but rather, existed within all socioeconomic levels of our society. Although the areas most affected by crime and hardcore addiction were inner cities of the Nation—drug addiction could be found in both city and suburb, school and home.

The roots of the drug problem, the committee discovered, were varied and complex—stemming from society itself—thus demanding analysis from social, economic, medical, legal and moral perspectives. Such root causes included lack of jobs and lack of challenges for many young people—thus turning youth to drugs as a viable alternative to social alienation.

So, opportunities for jobs, decent and clean neighborhoods, and the reduction of poverty were recommended as desirable policies in their own right by the Crime Committee—and, as necessary precedents for the future prevention of drug addiction. However, since the drug problem is national as well as international, in scope and in effect—it would be unrealistic to hope that drug abuse could be solved merely through social reforms. To deal with the drug trafficking problem on the scale which it now exists demands effective and efficient law enforcement. In turn, effective enforcement will not be realized as long as the knowledge assimulated by various congressional committees, interested policymakers, and research arms remains fragmented. It is clear that long-range and comprehensive planning as incorporated in this legislation before us today is absolutely necessary. For too long the congressional response to drug abuse has been piecemeal and inadequate.

Six years ago, my committee in one of its reports recommended an all-out national effort, similar to the "Manhattan Project" to solve the problems of heroin addiction.

If the "Manhattan Project" approach was recognized as the rational response to the drug problem then—the need for such an approach is eminently clear now. Since the conclusion of my committee hearings in 1972—300,000 new addicts have entered the drug markets.

The creation of the Select Committee on Narcotics Abuse and Control recognizes the need for a coordinated approach to the multifaceted, interdisciplinary problem of drug addiction and control. At the present time there are seven House committees which exercise jurisdiction over various aspects of the drug problem, thus undermining the possibility of formulating a comprehensive legislative policy with which to deal with the problems of drug abuse. It is clear that narcotic abuse must be evaluated in the full environmental field within which it exists—in order that potential points of intervention and prevention can be identified.

Since I am in complete agreement with the degree of emergency that currently exists in this Nation with respect to the misuse of narcotics—and, the resultant criminal activity, I feel that Mr. WOLFF's resolution, House Resolution 1350, is the most propitious mechanism for seeking out a comprehensive answer to the problem. If we are to have an impact on the drug problem, a well-conceived, concerted national effort, such as this legislation proposes is essential. Nothing less, in my judgment, will prove effective.

I urge the expedious enactment of this resolution.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I rise today in vigorous support of Congressman WOLFF's resolution to create a Select Committee on Narcotics Abuse and Control.

The days when I must come before this body to inform my colleagues of the effects of the drug problem in this country are long past. We are now all too aware of the tragic consequences of the drug epidemic which has swept our Nation and shows no sign of abatement. Our cities continue to bear the brunt of the burden, but increasingly, rural areas, too, are being torn asunder by the disruption and fear which seem to inevitably accompany the introduction of drugs into a community. There can no longer be any question that drug use is intertwined with the rising crime rates reported in virtually all sections of the Nation. It is estimated that the losses from drug-related crime have risen to $17 billion annually, and this does not include the psychological burden borne by millions of families either directly or tangentially affected by the drug problem. It is a rare day when I do not receive a letter from a constituent who is afraid to go to the grocery store or to send a child to school, because of the addicts who terrorize the neighborhood. I feel a moral obligation to help these people, and feel, that even if the select committee will not immediately provide all the answers, it will at least be a step toward finding them.

Unfortunately, to this point, congressional initiatives in the field of drug control have been fragmented and hence often, not wholly successful. Drug-relate issues have been considered by seven committees of the House, resulting in a well meant, but uncoordinated approach to the drug abuse problem. In the past we have found that putting the lid on drug trafficking from one area of the world has only caused an increase in the inflow from other areas. Hence we simply cannot deal with the problem by attacking individual trouble spots without paying attention to the world situation as a whole.

The creation of 300,000 additional addicts in the past 3 years is clear evidence that the drug problem has grown more acute, increasing the necessity for more effective congressional action. Such action can only be obtained by setting up one committee in which ideas can be exchanged as to how we can effectively control drug abuse.

None of us can be sure which is the best path to follow in combating the drug abuse problem. Perhaps this, more than anything else is a reason for creation of a committee which will allow us to develop a coherent and hopefully effective policy in the months ahead. We cannot afford to slight a problem of this magnitude. I urge you to support House Resolution 1350.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Speaker, House Resolution 1350, introduced by the gentleman from New York (Mr. WOLFF) and seeking to establish a Select Committee on Narcotics Abuse and Control, is an urgently needed piece of legislation. Over 225 of my colleagues have cosponsored it to date, and I hope that the

House will consider it speedily and favorably.

Drug abuse is seriously undermining the welfare of our Nation. According to recent studies, drug-related crime in the United States last year cost $17 billion. An estimated 5,000 individuals die each year from the improper use of drugs. The number of hardcore addicts in the Nation is estimated to be between 300,000 and 400,000, and the total number of users over 700,000. A National Institute on Drug Abuse study estimates that of the 19 million men between the ages of 20 and 30 in our population, 1,140,000 use drugs and 340,000 were heroin addicts during the period of 1974–75. Significantly, no such study appears to exist on the status of women.

Clearly, we need to act urgently and effectively. Yet we are prevented from doing so by fragmented jurisdictions and insufficient resources. In the House at present seven major committeees, the Committee on Armed Services, the Committee on Government Operations, the Committee on International Relations, the Committee on Interstate and Foreign Commerce, the Committee on the Judiciary, the Committee on Merchant Marine and Fisheries, and the Committee on Ways and Means have jurisdiction over drug-related matters. In the executive branch, in addition to the Alcoholism, Drug Abuse, and Mental Health Administration, at least 14 major agencies, including the Social and Rehabilitation Service, the Office of Human Development, the Department of Defense, the Veterans' Administration, the Department of Housing and Urban Development, the Department of Justice, the Department of Transportation, the Food and Drug Administration, the Drug Enforcement Administration, the Bureau of Customs, the Internal Revenue Service, the Department of Agriculture, and the Department of State are responsible for and administer drug-related programs—and apparently are getting nowhere. Drug addiction and drug trafficking, after declining in 1973, are on the rise again.

In my congressional district the lives of my constituents are irreparably blighted and seriously jeopardized by addiction and drug-related crimes. The number of hardcore drug addicts in New York City is presently estimated to be around 100,000 to 125,000. Of these, 19,000 are in methodone maintenance programs and 27,000 participate in drug-free rehabilitation. The rest are left to their own devices and are presumably written off by a society that refuses to allocate the necessary resources to eradicate this problem. High-grade heroin is plentiful in New York—as plentiful and available as ever. Funds for rehabilitation and prevention are scarce—almost scarcer than ever before. Some of the most effective programs have been cut back for budgetary reasons. All manpower and prison counseling programs have been discontinued.

The court referral program, which enjoyed a national reputation and rerouted approximately 3,000 individuals annually from prison to rehabilitation programs no longer exists. All youth centers of the Addiction Services Administration have been closed. Nineteen out of its 68 delegate agencies no longer exist. All other prevention and rehabilitation programs have been reduced by approximately 18 percent.

Mr. Speaker, my interest in drug related problems is not of recent origin. Years ago, as a member of the mayor's Committee on Narcotics I developed an intimate acquaintance with the scope and dimension of the situation in New York. Since coming to Congress, I have endeavored in every way to assist my constitutents only to find that Federal programs were underfunded, not responsive to their needs, and hopelessly legalistic in their requirements.

We have, in this moment of time, reached a very critical stage in our war on drug abuse. Our successful efforts to stem importation and illegal trafficking originating in Turkey and Europe significantly reduced narcotics smuggling from those sources. Unfortunately, because we could not achieve a simultaneous lessening of demand for these drugs, it also resulted in a shift of this illegal activity to Mexico and South America. In 1972 Mexico accounted for 38 percent of the U.S. narcotics market. By 1975 its share has risen to 90 percent. There is strong indication that other South American countries are becoming increasingly involved. It is only too clear that, acting alone, the United States cannot solve the narcotics problem. Nor can it delineate the new, cooperative effort needed while retaining its present fragmented jurisdictional structure. In order to develop the clear, forceful, effective approach mandatory for dealing with this situation, we must have, at least on the congressional level, an entity capable of probing, understanding, and responding to this many-faceted problem in a comprehensive fashion.

Internationally, we in Congress must insist that countries desiring to maintain economic, cultural, and trade relations with us cooperate in eradicating the illegal production of narcotics within their borders. Although difficult, this can be done and would, of course, drastically reduce illicit supplies.

Nationally, the control of drug trafficking should not be left to local police because of the immense possibility of corruption. Organized crime, which controls this vicious exploitation of human beings, is a national syndicate and cannot be effectively combatted by the overworked police forces of such cities of New York, Grand Rapids, Mich., or even Plains, Ga. We must devise and develop a method for the greater involvement of Federal agents in the control aspect of the narcotics problem.

Locally, we must resolve the issue of dealing with the drug addict. We must determine, with as much community involvement as possible since the addict is in and of the community, what type of rehabilitation programs should be developed. Should they be drug-free, methodone, or mixed? What facilities should we build? Do we need half-way houses? To what extent should we rely on community based programs? What components should our rehabilitation programs include? Should we have manpower training programs? What about education? What type of opportunities should we make available?

Also unresolved and to a large extent unexplored is the aspect of prevention. I believe we must make drastic changes in our present policies in this area and develop comprehensive programs at the level closest to the community—the local school boards if feasible. In no instance should the design of such policies be allowed to become more remote than the county or the city level.

In dealing with prevention, we must explore the whole spectrum of human needs—nutrition, housing, education, prisons, crime. We must deal with the whole person in the totality of his or her environment. At present these various aspects of human life fall within the jurisdiction of different committees and hence no total oversight of the situation can be developed. We desperately need an entity the proposed select committee, that would be authorized to oversee and outline policy on them all, even though other, legislative committees, would be required to act on those recommendations.

Congressman WOLFF, as chairman of the Ad Hoc Committee on International Control, and his colleagues, Congressman RODINO, Congressman GILMAN, and Congressman RANGEL have done an outstanding job of highlighting the problems and pinpointing the needs within the limited framework of the authority bestowed upon them. But they realized the restrictions perforce imposed on their efforts and drafted House Resolution 1350, establishing a Select Committee on Narcotics Abuse and Control empowered to oversee and investigate all aspects of this complex situation.

It is imperative that, faced with this great national need, Congress has the means to take the initiative in developing national policy. If we pass this resolution and establish the select committee, we shall be in a position to do so. I urge my colleagues to act decisively.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from New York, Mr. WOLFF.

Mr. WOLFF. Mr. Speaker, I want to thank the distinguished gentleman from Illinois (Mr. MURPHY) for yielding. This resolution which is cosponsored by more than a majority of the Members of the House of Representatives, representing the leadership and membership from both sides of the aisle, will establish the Select Committee on Narcotics Abuse and Control. This action is a major step toward responding to the drug abuse epidemic which is threatening this Nation.

It is now more than 6 years since drug abuse was labeled public enemy No. 1. During the past 5 years, I have worked with many distinguished colleagues, particularly Chairman RODINO, Mr. RANGEL, Mr. MURPHY, Mr. BURKE of Florida, and Mr. GILMAN on the problem of drug abuse.

I might interject that without the longtime support and efforts of these dedicated Members who have served as members of our ad hoc narcotics committee the Nation would have little more than flowery words to serve as the front line defense against drug abuse. Along with these Members, I have investigated drug abuse, convened hearings, met with administration representatives and discussed drug abuse programs with several Presidents. We will now have as a result of the support of the Speaker and Majority Leader O'NEILL as well as the leadership on the other side of the aisle, the forum to adequately put the interest and expertise of these Members to the best possible use. The Nation owes a great deal to these Members and I look forward to working with them in the coming years. It is only with their leadership that the Congress will be able to construct a comprehensive drug abuse program.

We have heard declarations of war on drugs fall on deaf ears; we have seen recommendations from commissions, task forces and white papers on narcotics abuse fail to be enacted and we have seen executive reorganizations and investigations of reorganizations fail to make the Federal effort more effective. The bottom line is we are witnessing an increase in the number of hard and soft drug abusers, and an increase in the costs to society in the form of drug related crime, currently some $17 billion a year. According to the National Institute on Drug Abuse the number of heroin users has doubled in the last 3 years and currently totals more than 500,000. The crisis calls out for a comprehensive response.

The select committee can serve as the forum for the formulation and coordination of the Federal program to control drug abuse. For too long the congressional approach has been fragmented between numerous legislative committees. This oversight committee will not have legislative jurisdiction but will be able to examine the problem of drug abuse with all of its medical legal, and social aspects instead of being forced as the legislative committees have to only deal with a particular facet of drug abuse because of the limits on the jurisdiction of the committee. The select committee will coordinate legislative efforts in the area of drug abuse and review on a continuing basis the work of all facets of the Federal Government which deal with narcotics abuse and control.

As the chairman of an international relations subcommittee and the chairman of the Ad Hoc Subcommittee on International Narcotics Control, I have focused on international trafficking and the control efforts of the producing countries. I know that narcotics trafficking has international ramifications but it is at its heart a domestic problem. For this reason it is essential that the efforts of the Congress focus not only on supply reduction but also on demand reduction. The select committee must consider as one on the goals the rehabilitation of the individual drug user. In this vein, enforcement programs must be balanced with prevention and treatment efforts. The United States can no longer rely on foreign countries and foreign agents to keep narcotics from our streets and cities. Responsibility for eliminating drug abuse is certainly a burden shared with our international partners but the ultimate solution rests in this country. The select committee will evaluate all aspects of the drug abuse syndrome and assist in the formulation of a comprehensive drug abuse legislative package which will strike at the heart of the demand and supply side of the equation.

The magnitude and severity of the present drug abuse threat requires that such a coordinated and comprehensive evaluation of the current drug abuse crisis be undertaken. The fragmented and piecemeal approach by the executive branch and the Congress is no longer sufficient.

The overwhelming support which Members of the House have shown for this proposal underlines the commitment which we are ready to make. The drug menace threatens the quality of life in this country. The select committee will provide the forum and the resources for the House of Representatives to examine the domestic and international aspects of drug abuse in the fashion which a problem of this severity demands.

Mr. FREY. Mr. Speaker, when the United States was hit by a staggering drug problem in the 1960's, the Federal Government struck back in an intense battle against narcotics. We created special agencies and total Federal expenditures grew from less than $100 million to over three-quarters of a billion dollars per year for prevention, control, law enforcement, and international control of this devastating problem. Drug abuse kills 5,000 Americans each year. The cost to society is estimated at $17 billion per year.

Today, drug abuse is still striking at our Nation's future—our young people. Drug abuse cases, crimes, and deaths have been on the increase. The impressive battle we were waging just a few years ago is being lost. And although we have made great strides in arresting the drug traffickers, that ability to apprehend will be lost unless we can effect changes in the criminal justice system dealing with drug traffickers after their arrest. Example: a Justice Department study showed that 1 out of every 4 persons convicted of heroin trafficking received no prison sentence at all; 1 out of 3 received a sentence of less than 3 years; and in a sample of individuals arrested for trafficking in narcotics, 1 out of 2 were implicated in postarrest drug trafficking while out on bail. Other studies reveal that one-fourth of all bail jumpers in drug cases are aliens who were caught smuggling drugs into the country.

As evidenced in our factfinding trips, our own battle at home is dependent on the cooperation of foreign governments controlling their own production and shipment of drugs.

The threat of narcotics abuse is overwhelming, its effects are seen everywhere—from elementary schools and playgrounds to the housewife and businessman. It is undermining the orderly operation of our court systems, plaguing our correctional institutions, and threatening the mental and physical health of our young and old alike. The pusher—the underworld businessman peddling purely for profit—posting bond time and time again, beating the courts and back on the streets in no time. The addict—from the child in the classroom to the criminal on the street, robbing and killing to meet the demands of the pusher-inflicted habit.

Establishing a select committee to conduct a comprehensive study and bring all the facts together is a must. We have made progress—but much remains to be done.

Mrs. SPELLMAN. Mr. Speaker, I rise in strong support of House Resolution 1350 to establish the Select Committee on Narcotics Abuse and Control, which would have oversight and investigatory powers to evaluate the Federal effort to curb drug use and related crimes. House Resolution 1350 would provide for the coordination of all committee efforts into one committee. I believe that this bill would reduce the current bureaucratic red tape which encircles the anti-drug movement. Establishing one specific committee to study and review the drug problem would ensure a more efficient and coordinated effort by the Federal Government to deal with this problem.

We in Prince George's County feel the effect of drug related crimes. These crimes have escalated in the past 10 years—people are concerned and they want action. Last week, District of Columbia Police Chief Cullinane, discussing Sting II—a recent police undercover operation in which several dozen were arrested—said that over 50 percent of those arraigned were either current or former heroin addicts. Statistics show that $620 million are spent annually on State and local police actions in drug-related cases. Each year there are an estimated 15,000 drug-related deaths, and 32,000 addicts/users are institutionalized each year for drug abuse. Although we have no exact figures for the number of heroin addicts in this country, there are an estimated 500,000 heroin users at any given time. It is interesting to note that there were 642,000 arrests for the sale and/or possession of narcotics last year.

Narcotics seem to play a large role in the increase of crime. Since most narcotic-related crimes tend to be State crimes, like robberies and muggings, the Federal Government's efforts must begin with the Federal statutes dealing with the narcotic that caused the crime, that drove the criminal to the crime.

It grieves me to think that 300,000 new addictions happened in the past 3 years. We must make a concerted effort to put an end to these senseless and horrifying circumstances. If we, as legislators, are to cope with this situation and are to formulate a solution to the problem, then we must make it an all-out attempt. Coordination is where that attempt begins.

I must commend Congressman WOLFF for his initiative to create one coordinated body which would study this problem of narcotic abuse and control. I think that with the help of this committee some promising new ideas and action can be taken to reduce the tremendous social and economic costs of drug abuse to our society.

I urge my colleagues to join me in support of this vital legislation which is needed to end drug addiction and drug-related crimes.

Mr. EDWARDS of California. Mr. Speaker, I wholeheartedly support the establishment of a Select Committee on Narcotics Abuse and Control, and I commend my colleague from New York for his efforts.

To date congressional attention has been fragmented and consequently has failed to confront the full ramifications of the drug abuse problems of our country. The undivided attention the select committee will devote is, I think, an excellent first step.

My own interest and attention to drug abuse problems has been closely related to my committee work and my congressional district. In the last 5 years, hearings held by the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights, which I chair, have revealed serious inadequacies in the treatment and rehabilitation of narcotics addicts processed through the criminal justice system. Studies by the General Accounting Office for the subcommittee showed that legal and medical programs were limited in effect and were not being fully implemented.

At the same time I was becoming more familiar with community-based treatment programs throughout the country. In 1973, statistics suggested that we had made significant progress against the illegal importation of narcotics. As a result Federal support for community treatment centers was decreased. By 1975 it was apparent from both enforcement and medical statistics that our success was ephemeral and that, after the brief hiatus in poppy growing by Turkey, heroin was once again becoming widely available.

In the summer of 1975 I surveyed treatment programs in our largest metropolitan areas and found that most were facing serious decreases in Federal support. The effect of these cutbacks was exacerbated by increased Federal and State regulation, making the administration of facilities and services even more expensive.

In my own congressional district I have had the opportunity to visit the community-based treatment centers of San Jose and the surrounding suburban communities. The accomplishments of these centers have been impressive, but they face critical obstacles. For example, the drug treatment centers in southern Alameda County are now under a decided handicap in competing for county funding, because locally imposed criteria are heavily weighted in favor of programs located in the urban areas of Berkeley and Oakland.

In order to begin correcting some of these problems we must refocus public attention on the many ways the distribution and illegal use of hard drugs have such tragic impact on our society. We see the evidence in our schools and in all our social programs. It has become a critical problem in the military. Each one of us is a potential victim, because drug abuse is associated with a plethora of criminal activities, ranging from petty larcency to income tax evasion.

There is always the influence of organized crime. To be truly effective, the enforcement of trafficking laws requires unprecedented cooperation among Federal, State, and local law enforcement agencies and task forces. Methods for combating illegal importation continue to raise questions of serious diplomatic consequence.

These are only some of the issues the select committee will face in the coming months. Their task is mammoth and necessary. As a member of one of the seven legislative committees that will benefit from the Select Committee's comprehensive study of narcotics addiction, I look forward to their attention to these issues and to their recommendations.

Mr. CONTE. Mr. Speaker, I am pleased to join more than 220 of my colleagues in cosponsoring this resolution to create a Select Committee on Narcotics Abuse and Control. With all due respect for the seven House committees which presently have overlapping jurisdiction over this matter, narcotics abuse is too great a national concern to be permitted to fall through the cracks between committees.

Mr. Speaker, as a member of the Labor-HEW Appropriations Subcommittee, each year I hear the testimony of the National Institute of Drug Abuse. I regret to say that over the years, the picture of drug abuse prevention and treatment has not become significantly brighter. After about 18 months of declining heroin use, beginning in late 1973, the use of heroin has now been increasing again for the past year or so. This is a very disturbing trend, and one which we must respond to with appropriate action.

The select committee will balance and coordinate solutions to the interrelated complexities of our drug abuse problem. Drug abuse involves social, medical, and legal problems, and is both national and international in scope. Only by bringing all of these aspects under the jurisdiction of one committee can we hope to deal with this crisis.

Mr. Speaker, over 300,000 people have become new addicts in the last 3 years; drug-related crimes cost American society in excess of $17 billion annually. The magnitude and severity of the present drug abuse threat requires concerted effort. To that end, I urge my colleagues to adopt this resolution to create a Select Committee on Narcotics Abuse and Control.

Thank you.

Mr. WON PAT. Mr. Speaker, today we are considering the opening of another "front" in our Nation's war on narcotics abuse, House Resolution 1350, which would create a select committee on narcotics abuse and control.

Narcotics use, particularly of hard drugs, has proven to be one of the most pervasive and persistent enemies of our Nation. It diverts billions of dollars annually from our national economy and into criminal channels. It fosters crimes of violence. It clogs all phases of our judicial system. Worst, of all, narcotics debilitate our youth and deprive individuals and society of the productive lives and talents of hundreds of thousands, if not millions, of our citizens.

There are no boundaries to this scourge. It has penetrated all social and economic stratas. Geographically, it affects our metropolitan, suburban and rural areas alike. I am sorry to report that even in my district of Guam, relatively isolated in the Pacific Ocean thousands of miles from the U.S. mainland, narcotics abuse and related criminal activity and social problems are increasing at an alarming rate.

Six years ago the President of the United States declared drug abuse America's public enemy number one. Congress has enacted entensive legislation to be used in the war by the executive branch.

However, despite some small successes, the dedication of billions of dollars to the effort and virtually countless programs implemented to eradicate it, drug abuse is more prevalent than ever. An estimated 300,000 new addicts have been created in our nation in the last three years alone.

One of the obvious weaknesses of drug abuse prevention efforts has been the fragmentation of efforts within the executive. Even within the House, there are seven committees exercising jurisdiction over some aspect of the war on drug abuse.

Clearly there is a need for greater concentration and coordination of efforts to eliminate this national problem if there is to be any chance of success.

House Resolution 1350 is designed to do just that. It would create a Select Committee on Narcotics Use and Control to combine in a single entity, at least within the House, all the programs and problems related to narcotics use. Present uncoordinated efforts are producing only a growing national tragedy.

As a cosponsor of this resolution, I urge all of my colleagues to vote approval of this measure to better enable the Congress to do its part in opposing narcotics abuse in our country.

Thank you.

Mr. DOWNEY of New York. Mr. Speaker, I am in support of House Resolution 1350 which provides for the establishment of the Select Committee on Narcotics Abuse and Control. Such a committee is greatly needed, as over 220 of our colleagues in this House have recognized by their cosponsorship of this resolution.

Drug abuse is still a major problem in the United States today. We all know that narcotic addiction leads to the disorganization and waste of many lives, mostly those of young people. It causes destruction of human lives both directly, through overdoses, and indirectly, through crime to support habits. The cost of drug-related crimes was estimated to be at least $17 billion last year. Furthermore, the recent rise in crime is a direct consequence of narcotic addiction. This country cannot afford to let the drug abuse problem continue, especially at its present rate. Clearly we must finally remedy the situation before even more people suffer. Mr. Speaker, the resolution we have before us today, House Resolution 1350, is a step in the right direction.

There are now 7 House committees and 17 Federal agencies and departments that deal with some aspect of the narcotics question. This results in a fragmented response to this pressing problem. Coordination of these numerous existing offices is necessary—indeed it is essential. One committee to oversee the entire governmental operation would inevitably lead to a more effective and consistent program.

Moreover, the formation of this one committee would result in the centralization of resources. This in turn would make information more readily available to the public and to the appropriate law enforcement agencies. Education of the people is imperative if they are to understand and combat the narcotic problem.

This nonlegislative committee will be comprised of 18 members, including at least 1 from each of the 7 existing committees with authority in this area. This organization is fair and efficient. The members will study the various aspects of the drug abuse problem, such as enforcement of the drug laws, prevention, treatment, rehabilitation, decreasing the incoming supply, organized crime's role, and the military drug abuse dilemma. They will review the proposals of the President and any executive department or agency concerning this subject. Also, they will help the standing committees with their programs and plans. In short, this urgently needed committee will act as an investigative and oversight body.

Thus, I strongly urge the passage of House Resolution 1350. Let me emphasize once again that the creation of the Select Committee on Narcotics Abuse and Control is imperative for a coordinated approach to the many problems caused by drug addiction. The various people concerned with this problem all must be aware of each other's actions in order to insure a comprehensive and effective program. The committee is also essential for the orderly dissemination of information to the public. Citizens must comprehend the many sides of the drug abuse problem.

Mr. **MURPHY** of New York. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The **SPEAKER**. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **RUSSO**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 10, not voting 61, as follows:

[Roll No. 573]

YEAS—361

Abdnor
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Florio
Flowers
Flynt
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Heckler, Mass.
Hefner
Henderson
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Stephens
Stokes
Stratton
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Vander Jagt
Vander Veen
Vanik
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NAYS—10

Burlison, Mo.
Early
Foley
Frenzel
Hechler, W. Va.
Hicks
Mink
Paul
Steiger, Wis.
Van Deerlin

NOT VOTING—61

Abzug
Adams
AuCoin
Bergland
Boggs
Bonker
Brooks
Burton, John
Clay
Conlan
Cotter
Coughlin
Dent
du Pont
Esch
Eshleman
Flood
Fountain
Hansen
Hays, Ohio
Hébert
Heinz
Helstoski
Hightower
Hinshaw
Holland
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Lehman
Litton
Lundine
Morgan
Mottl
Nolan
Obey
O'Hara
O'Neill
Passman
Peyser
Pritchard
Riegle
Ruppe
Schneebeli
Shuster
Sikes
Steed
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Symington
Teague
Thompson
Ullman
Vigorito
Wiggins
Wirth
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mr. O'Neill with Mr. AuCoin.
Mrs. Boggs with Mr. Morgan.
Ms. Abzug with Mr. Helstoski.
Mr. Sikes with Mr. Bonker.
Mr. Hébert with Mr. Heinz.
Mr. Passman with Mr. Esch.
Mr. Dent with Mr. Clay.
Mr. Flood with Mr. Conlan.
Mr. Fountain with Mr. du Pont.
Mr. John Burton with Mr. Eshleman.
Mr. Brooks with Mr. Jones of Alabama.
Mr. Jones of Tennessee with Mr. Landrum.
Mr. Mottl with Mr. Peyser.
Mr. Teague with Mr. Coughlin.
Mr. Thompson with Mr. Pritchard.
Mr. Vigorito with Mr. Ruppe.
Mr. Zeferetti with Mr. Schneebeli.
Mr. Wirth with Mr. Steelman.
Mr. Ullman with Mr. Hansen.
Mr. Lehman with Mr. Steiger of Arizona.
Mr. Lundine with Mr. Stuckey.
Mr. Nolan with Mrs. Sullivan.
Mr. Obey with Mr. Litton.
Mr. Cotter with Mr. Shuster.
Mr. Adams with Mr. Steed.
Mr. Bergland with Mr. Riegle.
Mr. Hays of Ohio with Mr. Hightower.
Mr. Symington with Mr. Karth.
Mr. Holland with Mr. O'Hara.
Mr. Wiggins with Mr. Young of Georgia.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **MURPHY** of Illinois. Mr. Speaker, I ask unanimous consent that all

Members may have 5 legislative days to revise and extend their remarks on the resolution just agreed to.

The **SPEAKER.** Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 11552, VOTER REGISTRATION ACT

Mr. **MURPHY** of Illinois from the Committee on Rules, submitted a privileged resolution (H. Res. 1444, Rept. No. 94–1378), which was referred to the House Calendar and ordered to be printed.

NUCLEAR FUEL ASSURANCE ACT OF 1976

Mr. **YOUNG** of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1242 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1242

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8401) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment uranium enriched in the istotope-235, to provide for authorization of contract authority therefor, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Joint Committee on Atomic Energy, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Joint Committee on Atomic Energy now printed on page 4, line 2 through page 6, line 6 of the bill notwithstanding the provisions of clause 7, rule XVI. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER.** The gentleman from Texas is recognized for 1 hour.

Mr. **YOUNG** of Texas. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. Anderson), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1242 is an open rule providing 2 hours of general debate on H.R. 8401, a bill authorizing cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium and to provide authorization of contract authority therefor. House Resolution 1242 further provides that it shall be in order to consider an amendment recommended by the Joint Committee on Atomic Energy which is printed in the bill on page 4, line 2 through page 6, line 6, notwithstanding the provisions of clause 7, rule XVI, the germaneness rule. The amendment would require that arrangements entered into by the Administrator of Energy Research and Development and private persons relating to the development of a private uranium enrichment industry would have to receive affirmative congressional approval and to facilitate the consideration of the arrangements resolutions of approval would be granted a privileged status. The amendment is thus not within the jurisdiction of the joint committee and could not be considered without the waiver.

Mr. Speaker, H.R. 8401 would provide a basis under which ERDA could seek to encourage private enterprise to engage in the production and enrichment of uranium. The passage of the bill would not obligate the Government in any way but would provide an opportunity for private enterprise to demonstrate to the executive branch and to Congress that it is capable of providing this vital energy service.

Mr. Speaker, I urge the adoption of House Resolution 1242 so that we may proceed to the consideration of H.R. 8401.

Mr. **ANDERSON** of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1242 makes in order House consideration of the bill H.R. 8401, the Nuclear Fuel Assurance Act. The purpose of this bill is to provide a basis under which the Energy Research and Development Administration could seek to encourage private enterprise participation in the needed expansion of this country's uranium enrichment capacity. This bill simply provides a procedural mechanism whereby proposed contractual arrangements between ERDA and prospective private uranium enrichment firms could be submitted to the Congress for prior review and approval. I would emphasize that nothing in this bill would provide the authority for the consummation of any contractual arrangement; rather, this bill only establishes the framework and procedures for that process. I intend to discuss these substantive aspects of the bill in greater detail once this rule has been adopted and we proceed to general debate.

Mr. Speaker, under this rule there would be 2 hours of general debate equally divided between the chairman and ranking minority member of the Joint Committee on Atomic Energy. The bill will then be open to all germane amendments under the 5-minute rule. This resolution also waives clause 7 of rule XVI against the committee amendment printed on page 4, line 2, through line 6 on page 6 of the bill. Clause 7 of rule XVI is the germaneness rule. The committee amendment against which this rule is waived deals with the congressional approval procedure for proposed contracts.

You will note particularly on page 6, at lines 1 and 2, that once the Joint Committee has reported a resolution of approval or disapproval, it "shall become the pending business of the House in question." We have been properly advised by the Parliamentarian that by making such resolutions the pending business of each House, a privileged status is attached to such resolutions, thus in effect changing the rules of the House insofar as what matters may be considered as privileged questions. Since such a change is within the jurisdiction of the Committee on Rules, it is necessary in this rule to waive the germaneness rule against this provision so that the committee amendment may be considered in its present form.

Mr. Speaker, in addition to establishing this prior congressional approval procedure for private contractual arrangements for uranium enrichment, the bill authorizes up to $8 billion in contractual authority to ERDA, subject to prior appropriations, and authorizes $255 million for the expansion of the existing Government-owned uranium enrichment facility at Portsmouth, Ohio.

Mr. Speaker, I strongly support House Resolution 1242 which would make in order consideration of the bill H.R. 8401, the Nuclear Fuel Assurance Act. The purpose of this bill, as the gentleman from Texas (Mr. Young) has just told the Members, is merely to preserve the nuclear option. It is merely to provide a legislative framework, a basis under which the Energy Research and Development Administration could seek to encourage private enterprise to participate in the necessary expansion of this country's uranium enrichment capacity.

The bill, in other words, does not build a single enrichment plant. What it does is to set up a procedural mechanism whereby proposed contractual arrangements between ERDA and prospective private uranium enrichment firms could be submitted to the Congress for prior review and approval.

I want to make that point again, even at the risk of being repetitious: that nothing contained in this legislation provides or gives any authority for the consummation of any particular contractual arrangement. It establishes the framework, the processes, the method of congressional review. I can assure the Members that the provisions of the bill, as they are explained in detail, will convince even I think the most doubtful Member that these are very carefully thought out, very meticulous provisions preserving the right not only of the Joint Committee on Atomic Energy but also of the full House of Representatives and the other body as well to participate in the act of approving any proposed contractual arrangements that ERDA proposes to enter into.

Mr. **SKUBITZ.** Mr. Speaker, will the gentleman yield?

Mr. **ANDERSON** of Illinois. I yield to the gentleman from Kansas.

Mr. **SKUBITZ.** Mr. Speaker, am I correct that the bill does authorize loan guarantees in an amount not to exceed $8 million? Is this true?

Mr. **ANDERSON** of Illinois. The bill does call for guarantees that could not exceed $8 million for four enrichment plants, including one proposed gaseous diffusion and three proposed gaseous centrifuge plants, but none of these guarantees can be made unless there has been a prior appropriation act approved by this Congress authorizing any amount of guarantee.

Mr. SKUBITZ. I will get to that point a little later. On page 5, the bill indicates that it would take possibly 9 plants to meet the needs of our country and it could take up to about 12 plants to meet our needs and the need of countries abroad and total guarantees in that instance could run, based on 1975 dollars, from $31 billion to $42 billion in loan guarantees?

Mr. ANDERSON of Illinois. No; that is not correct. The figures to which the gentleman from Kansas has reference are the figures that are estimated in 1977 dollars to be the total cost that would be involved in the construction of those plants.

It is true that the estimate that we have from ERDA, and it is backed by very reputable evidence, I think, is that we will ultimately need from 9 to 12 uranium enrichment plants, not only to take care of the domestic nuclear power industry, but to continue what has been a very, very profitable business for this country. To date we have earned something over $1,100 million in badly needed foreign exchange from the sale of enrichment services to other countries; but the figure to which the gentleman had reference is the total estimated dollars in 1977 dollars of the 9 to 12 plants that we think will have to be constructed between now and the year 2000.

There is nothing in this legislation that remotely constitutes any authority for this Government or the Treasury of the United States or any other agency or instrumentality of the Government offering guarantees in that amount.

Mr. SKUBITZ. Mr. Speaker, if the gentleman will yield further. It does call on page 5 for an estimated cost in 1975 dollars of 9 to 12 plants, at a range of $31 billion to $42 billion.

Mr. ANDERSON of Illinois. The gentleman is correct. That refers to the cost of the plant. It does not refer to any guarantees that are contained in this legislation or any contemplated legislation that I know of.

Mr. SKUBITZ. Mr. Speaker, if the gentleman will yield further, if we pass this legislation, we can look to $31 billion to $42 billion of guaranteed loans in these plants.

Mr. ANDERSON of Illinois. No, no; the gentleman totally misapprehends the point of this legislation. What we are doing when we attempt to initiate the privatization of the uranium enrichment industry is to turn over what is essentially an industrial commercial process to the private sector for the first time.

Now, this is technology that, even though it was developed 30 years ago and is presently being used in three Government enrichment plants, has never before been in the hands of the private sector. Therefore, it is only understandable, I think, that in order to get the necessary financing for the initial venture that some guarantees have to be given; but I want to emphasize also, because I have heard this comment around the floor in the last few days, that Members have a tendency to confuse the loan guarantees that would be provided in this bill with the kinds of loan guarantees that are proposed in the so-called synfuel legislation. In that bill we are talking about demonstration projects. We are talking about in large measure totally unproven technology that we are trying to bring on stream to meet the energy crisis; but when we talk about diffusion technology, we are talking about a well-known processs. We could go into and explain some of the technical matters, such as the Barrier system; but I do not think too many Members are even interested, but it is a technology that has been in three different plants for some 30 years; but when we introduce a new technique into the private sector, they cannot get the debt financing to put up a $3 billion plant unless they get the guarantees provided in this bill. It is a limited guarantee. It would last only of the first year of the operation of the plant. It would not guarantee any fixed rate of return to investors or anything else. It is just a guarantee, and nothing more, that the technology that the Government provides and sells, and it is selling this technology to private industry, that it is simply a warranty that the technology is going to work. We need that if we are going to attract the private capital market to put up these plants; but my expectation is that this plant is going to be built. It is going to operate successfully and as these additional plants come on line, I do not think we are going to need Government guarantees for the next three plants or six plants or nine plants or whatever the total number turns out to be.

But, this is a new venture, and I do not try to make any bones about that fact. It is for that reason that we are proposing this kind of legislation. It is actually a guarantee, as I have said before, that involves minimal risk to the Federal Government. There is not any question in my mind that the Government is never going to pay out a dime, but in order to get the financing, to get the banking community to participate in the financing, we have got to offer this kind of protection. The technology as shown by the Government will, in fact, work.

Mr. SKUBITZ. Is not the gentleman saying that in order to get companies to get into this business of production, we are going to have to guarantee loans, and under this bill we are talking about an authorization of around $8 billion. If a guarantee is made in order to construct the plant, and that plant goes sour, who picks up the check?

Mr. ANDERSON of Illinois. The Government in that case would take over the plant, complete the plant; it would sell the output of that plant, and the Government even in that case would not lose a dime. It would not lose a dime.

There is not anything that is going to come out of the pocket of the taxpayers, but if the gentleman is going to go down the line and continue this Govnerment monopoly and build 9 to 12 plants at a cost of between $30 billion and $40 billion, every dime of that money is going to come out of the pocket of the American taxpayer.

We are proposing in this legislation, with the privatization of the uranium enrichment industry, a bill whereby we can meet our future energy needs of this country without costing the taxpayer any money. Given that kind of choice, there should not be any doubt in anyone's mind as to the route we ought to follow.

Mr. SKUBITZ. May I say to my colleague that every argument he has advanced has been made for every guaranteed loan that this body has given.

Mr. ANDERSON of Illinois. Again, I have tried to explain to the gentleman that we are not talking about the synfuel kind of program, I say to the gentleman from Kansas, if he would hear me out. We are not talking about untried, unproven technology or demonstration projects. We are talking about plants that have been onstream, producing enriched fuel for American reactors and for foreign reactors ever since we started selling them 20 years ago.

Mr. SKUBITZ. The gentleman from Kansas understands that.

Mr. ANDERSON of Illinois. Then I do not known why the gentleman is suggesting to this House that we are involving the Federal Government in some kind of risk. There is minimal risk. There is minimal risk, but we have got to have this kind of guarantee if we are going to get the private capital market to participate in financing.

Mr. SKUBITZ. I thank the gentleman from Illinois.

Mr. ANDERSON of Illinois. I had not intended to get into substantive detail because I wanted the Members first to hear from the cosponsor, the vice chairman of the committee, the gentleman from Illinois (Mr. PRICE), who I think can answer many of the questions the gentleman from Kansas has asked, if I have not already put his mind at ease, but this bill was reported out on a bipartisan basis from the Joint Committee on Atomic Energy by a vote of 15 to 0. There was not a single vote against it, Democratic or Republican.

We have held days and days of hearings, this committee on which I have sat for some 13 years, and the distinguished gentleman from Illinois has been a charter member since it was founded back in 1946. We have examined this enrichment problem ever since 1969. The President sent up a message to us in June 1975, and we have spent literally hundreds of man-hours since that time going into the whole question of the best way we ought to proceed.

We are convinced that this bill is the very best answer at the lowest cost to the taxpayer to preserve the very important nuclear option for the American people.

Last night, I picked out of the paper a story that had a headline, "Oil Imports Push Trade Into Deficit." It said:

> Oil imports surged about 34 percent in June to meet growing American demands and pushed the U.S. foreign trade balance back into deficit after a one-month surplus, the government said today.
>
> The Commerce Department said imports exceeded exports by $377.3 million in June, compared with a $395.6 million surplus of exports over imports during May.

All we are asking under this legislation is to let us preserve the option of the utility industry in this country to go the nuclear route if it decides that is the best and cheapest way to go.

This legislation does not force them to go nuclear. It does not force anybody to put up an enrichment plant. It provides the legislative framework whereby under the auspices of private industry we can go that way if the demand is there. Those of us on the committee think that it is. We think that the time has come, given the lead time of some 10 years that is required to put up one of these plants, that we have to make a decision now, or this Congress is going to stand indicted in the future for having been derelict and negligent in its duty to see that a long-range plan is made to meet the energy needs of our country.

Mr. Speaker, I ask support of the rule, and I ask support for the legislation.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8401) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, and for other purposes.

Mr. RONCALIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. It is too late for that.

Mr. RONCALIO. Mr. Speaker, I have been trying to get recognition for 3 minutes.

The SPEAKER. The gentleman was not on his feet. The Chair was looking at the gentleman when the resolution was agreed to.

Mr. YATES. Mr. Speaker, I was on my feet.

The SPEAKER. The gentleman did not address the Chair.

The Chair is going to insist on decorum in this Chamber.

Mr. YATES. Mr. Speaker, may I be recognized for 1 minute?

The SPEAKER. Not at this time. There is a motion pending to resolve into the Committee of the Whole on the bill H.R. 8401.

PARLIAMENTARY INQUIRY

Mr. YATES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. YATES. Mr. Speaker, I thought I had an agreement with the gentleman from Texas to provide me with 1 minute.

The SPEAKER. The Chair had no knowledge of that whatsoever.

Mr. YATES. Mr. Speaker, that was the reason I was on my feet, and I had intended to make a demand for a rollcall under the rule. I was on my feet talking to him when the gentleman made the motion.

The SPEAKER. If the gentleman had addressed the Chair, which is the regular procedure of the House, the Chair would have recognized the gentleman. The Chair never tries to run over Members.

Mr. YATES. Mr. Speaker, the Speaker is correct.

Mr. YOUNG of Texas. Mr. Speaker, I ask unanimous consent to withdraw my motion on the previous question so that we can have a rollcall, if that would satisfy the gentleman.

The SPEAKER. The resolution has been agreed to and the motion to reconsider laid on the table. The gentleman is too late with his request. There is a motion pending.

The question is on the motion offered by the gentleman from Illinois (Mr. Price) that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H.R. 8401.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8401, with Mr. Pike in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. Price) will be recognized for 1 hour, and the gentleman from Illinois (Mr. Anderson) will be recognized for 1 hour.

The Chair recognizes the gentleman from Illinois (Mr. Price).

Mr. PRICE. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, I rise in support of H.R. 8401, the Nuclear Fuel Assurance Act of 1976.

The purpose of this bill is to provide a means for helping to assure the construction of additional U.S. uranium enrichment capacity. Natural uranium needs to be enriched before it can be used to make fuel for nuclear-electric powerplants. The present U.S. capacity for accomplishing this enrichment process has been fully committed since mid-1974. Thus, action is needed now to build additional plants to assure that sufficient enriched uranium will be available in the mid-1980's to provide a continuing supply of fuel to nuclear powerplants here and abroad.

The joint committee has been concerned about this problem for a number of years, and has held extensive hearings with the objective of developing a workable approach for assuring that the future enrichment needs of this country are met. On June 26, 1975, President Ford transmitted to the Congress proposed legislation entitled the Nuclear Fuel Assurance Act of 1975. This legislation has received careful consideration by the committee, including 9 days of committee hearings. In addition, the General Accounting Office, at the committee's request, prepared a comprehensive review of the proposed legislation. This exhaustive review process culminated in substantial revisions to the administration's proposal.

As reported by the committee, the bill H.R. 8401 provides for both an opportunity for private enterprise participation in the needed expansion, as well as for expansion of the existing Government-owned diffusion plant located at Portsmouth, Ohio. The opportunity for private participation is provided through an authorization for ERDA to negotiate proposed coperative arrangements with private organizations to build, own, and operate uranium enrichment plants. I would emphasize that enactment of the bill will not in inself obligate the Government in any way or provide the authorization for the consummation of any proposed contract. Under the amendments adopted by the joint committee, two requirements must be met before any proposed arrangement with private organizations to build, own, and operate enrichment plants can be consummated. The proposed arrangement must first be submitted to the Congress and the joint committee for review, and the Congress, by the passage of a concurrent resolution, must specifically approve the proposal. In addition, any contingent liability on the part of the Government under the proposed arrangement must first be provided for this purpose in a prior appropriation act.

The bill also importantly authorizes and directs the Administrator of ERDA to proceed with the expasion of the existing Government-owned uranium enrichment plant located at Portsmouth, Ohio. It was the judgment of the committee, that in view of the urgent need to take action, the expansion of the public facility is necessary regardless of the potential construction of private enrichment facilities. The authorization of $225,000,000 for expansion of the uranium enrichment plant at Portsmouth, Ohio, is a restatement of the authorizations already recommended by the joint committee in the ERDA authorization bill for fiscal year 1977—H.R. 13350—and enacted by the Congress in the ERDA authorization act for fiscal year 1976—Public Law 94-187. The authorization in this bill is not intended to increase the total of $255,000,000 which would be authorized for this project, assuming the enactment of the ERDA authorization bill for fiscal year 1977. Neverless, in view of the importance of this project, the committee determined to restate the authorization in order to minimize the chance for Presidential veto. I now understand that the President intends to support this legislation.

In summary, it is my belief that this bill does provide a workable basis for assuring that the vitally needed additional enrichment capacity is provided on a timely manner. H.R. 8401 is clearly in the public interest, and should be enacted. I urge passage of the bill.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman for yielding.

With regard to the hearings and what the gentleman from Illinois (Mr. Price) has stated, I understand that this bill only authorizes the executive branch to explore and to enter into some sort of agreement with the private sector which must be submitted back to Congress for authorization; is that correct?

Mr. PRICE. That is true.

Mr. GOLDWATER. In these plans, there is authorized the guarantee of loans, and the gentleman stated that we are not guaranteeing any losses; is that correct?

Mr. PRICE. There was no guaranteed loan. That is a statement of the gentleman from Kansas (Mr. SKUBITZ). That is not correct. There is no guaranteed loan.

The only guarantee given to industries in this matter is that the technology will work.

Mr. GOLDWATER. If the gentleman will yield further, the Government is guaranteeing the loan put up by the private sector; is that not correct?

Mr. PRICE. No. There is no Government guarantee with the exception of the one that I mentioned to the gentleman.

Mr. GOLDWATER. How does that work?

Mr. PRICE. That would not be effective in the case of mismanagement, it would be effective only if the failure were due to the technologies supplied by the Government, on the basis of those technologies being wrong.

Mr. GOLDWATER. Where would this money come from that the Government guarantees?

Mr. PRICE. If that unforeseen circumstance ever happened, it would come from the U.S. Government.

Mr. GOLDWATER. Therefore the taxpayers would be liable for the amount of the guarantee?

Mr. PRICE. Only if the technologies supplied to the builders of these facilities were incorrect, were wrong. There is not any possibility of that because it is a proven thing.

Mr. GOLDWATER. But the money would be put up by the banks?

Mr. PRICE. That is correct.

Mr. GOLDWATER. The Government would guarantee that amount of money?

Mr. PRICE. No. The Government would not guarantee the money as such.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. PRICE. Mr. Chairman, I yield myself 1 additional minute.

The only thing it would guarantee is the technology.

Mr. GOLDWATER. How can one guarantee technology when you are guranteeing money?

Mr. PRICE. We guarantee the operator from loss due to erroneous or misleading technology.

Let me repeat that we are only guaranteeing the known technologies, not for mismanagement.

Mr. GOLDWATER. Whose money would we be protecting, the bank's money?

Mr. PRICE. We are protecting the investor's money in the event that the government has supplied erroneous technology, which we do not believe is possible.

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield, I would like to read to my colleague the gentleman from Illinois (Mr. PRICE) from page 2 of the bill.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. SKUBITZ. I ask unanimous consent, Mr. Chairman, that the gentleman from Illinois be permitted to proceed for 2 additional minutes.

The CHAIRMAN. The Chair will state that the gentleman from Illinois has control of the time.

Mr. PRICE. Mr. Chairman, let me say to the gentleman from Kansas that there will be others here who will attempt to answer these questions. I have a full list of people who want to speak on this and my time is practically all allocated.

Mr. SKUBITZ. Would the gentleman yield for just 1 additional minute?

Mr. PRICE. Mr. Chairman, I yield myself 30 additional seconds.

Mr. SKUBITZ. It reads:

> The Administrator of Energy Research and Development is authorized, subject to the prior congressional review procedure set forth in subsection b. of this section without regard to the provisions . . . of this Act . . . the Administrator may deem necessary or desirable. . . .
>
> to enter into arrangements for the purpose of providing such Government cooperation and assurances as the Administrator may decide.

Mr. PRICE. The answer to that is that we are talking only about technology, that is all we are talking about.

Mr. SKUBITZ. Does the word construction mean technology?

Mr. PRICE. We are talking only about technology.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to join with my distinguished colleague from Illinois the vice chairman of the joint committee, in urging favorable consideration of H.R. 8401, the Nuclear Fuel Assurance Act.

The 94th Congress has made major strides in the field of nuclear energy and the Nuclear Fuel Assurance Act is just one of this series of congressional actions which carry out the mandate of the Atomic Energy Act of 1954—to make the maximum contribution to improving the general welfare, to promote world peace, increase the standard of living and strengthen free competition in private enterprise. These are high ideals and difficult orders to carry out but I think that in the record of this Congress significant progress has been made in creating a truly independent and peaceful use of atomic energy for the betterment of all mankind.

For instance, the Price Anderson bill was amended to transfer the responsibility for providing indemnification to the private sector. We have made major strides towards establishing an independent and credible regulatory Commission, the NRC. We have set the stage for finally building our first demonstration breeder reactor, the natural and logical follow on to the light water reactor. We are moving steadily toward a decision on waste management and plutonium recycle. The step that we are contemplating now would be a high point of this Congress if this Congress acts affrmatively.

Nuclear fuel has been provided by the Federal Government now for nearly 30 years. We have developed and operated a technology that has worked well and is now capable off being transferred to the private sector. In my opinion we should have made this step years ago but because of a resistance to making the move too quickly, the unsettled nature of future nuclear growth and many differing opinions of various administration, the decision has been put off until now. Today we will decide.

The import of the decision we now have before us is simply staggering. The joint committee has been aware of this for many years. And I think at this time that it is worthwhile relating two pieces of legislative history of this bill which give some indication of the work that our committee has done and the level of scrutiny that this piece of legislation has been subjected to.

The President sent the Nuclear Fuel Assurance Act to the Congress on June 26, 1973 in a form which since has been amended. As I am sure most Members of this body are aware, the joint committee held extensive hearings on the bill during the latter part of 1975 and the early part of this session. However, the background for these hearings was laid much before the hearings of the 94th Congress. As early as 1969 and in great detail during the 93d Congress, the committee developed an extensive record on uranium enrichment, the possibilities of Government, Government corporation and private enterprise enriching ventures and the problems involved in each.

I think it fair to say that this committee has held a rather jaundiced view toward privatization of enrichment over the years for various reasons. And the deep seated proclivity toward continued Government involvement was without question obvious in the hearings that this Congress has undertaken. Nevertheless, the committee reported out this bill 15 to 0, evidencing its strong conviction that at this time in history, Federal priorities are such that we must give every indication that this Government is sincerely interested in transferring enriching to the private sector, providing that the private sector is willing to take on an appropriate share of risks.

Early in this process it was not clear just what level of risk private industry was willing to take. But their early position had to be, as any negotiator worth his salt will tell you, a good bit farther from where they were going to end up so that there was some room for negotiating and compromising.

And to be fair, this was true from the Government side as well. The important point is that stories that had their source early in the negotiating process, such as the reluctance of key administration officials to move in this direction, the insistence of private industry on exhorbitant Government assurances, should be taken with a grain of salt.

What should be considered here today, by this body, is just where the negotiations are today and what potential kinds of assurances are being provided. This is a long way from where I started arguing this bill myself, I would like to emphasize. We cannot really consider a blank check, we must try to see just how much is going to be entered on that check and I think that the record of the committee's hearings and the committee report provide just that source of important information.

To develop a few pieces of relevant information, let me dwell briefly on some key questions.

First. Do we need new enrichment capacity and what will it cost.

Second. Where should this money come from and who will eventually end up paying the bill for these plants.

Third. What warranties and assurances are contemplated in this bill.

Fourth. What assurances does this Government have that neither foreign governments nor private ventures will have access to this technology for clandestine purposes.

The nuclear policy of this country, as ratified by this Congress on numerous occasions, as ratified by the people of California in the much celebrated ballot initiative on June 8, 1976, proposition 15, and as revealed in numerous polls taken of the people of this great country, is to build nuclear powerplants. Our people very clearly want them built safely and operated safely and so does every Member in this body. But I emphasize that a sizable majority, 2 to 1, have given us a mandate that we must fulfill.

Each large enriching plant, Mr. Chairman, provides fuel for about 90 reactors. Thus if we expect somewhere around 600 reactors to be operating in the year 2000, a moderate growth of nuclear power, then we would need about 6 to 7 plants. However, it is very much in the interest of this country to extend our fuel marketing activities to other nations and with an expected moderate involvement in the foreign market one can forsee easily the need for three or four additional large, full scale enrichment plants.

The pricetag on these plants comes high, about $3 to $3.5 billion each in 1977 dollars. Thus a totally funded Government program will cost somewhat in excess of $30 billion, money which must be essentially committed in the next 15 years, owing to the long lead time involved in bringing these plants on line.

The question then arises—given that this is a priority Government program then where do these funds come from—the Federal taxpayer, from the capital markets through a Government corporation or from the capital markets through private enterprise ventures.

There can be no question that the private enterprise route has the least impact on the Federal taxpayer and represents the least distortion of the energy picture and the capital markets. Because the technology is held by the Government and because the technology has not existed in the private sector before, private industry needs temporary Government warranties and assurances and I will discuss these in more detail later.

However, if the Government funds the program then the Federal taxpayer must pick up the entire pricetag and the pricetag is staggering. The net accumulated deficit in building 11 large plants reaches a maximum of more than $15.6 billion in 1987 and the taxpayer does not show a net return on his money until 21 years after the first commitment is made, 1998. And moreover, during the first 15 years when the money must be authorized and nearly all of it appropriated, ERDA will be requesting somewhere between $50–$75 billion for their energy R. & D. programs, energy programs that will include solar, geothermal and wind systems and at that time will be at the demonstration stage where large capital requirements are likely.

There can be no question that the needed funds for enriching plants will squeeze out energy R. & D. in other areas. And in a time when we must be developing as many alternatives as we can to take up the slack for dwindling supplies of oil and gas, this kind of research squeeze would be devastating. It seems to me that this long term look at our energy programs and our energy needs speaks clearly in favor of removing this heavy budgetary deficit from the Federal treasury, opening up the way for more and better research on alternative energy sources.

It was in consideration of these hard realities that the joint committee reported out this bill. From the testimony that was presented to the committee, it was clear that to create a private enriching industry one had to overcome through a limited and temporary Government warranty and assurance program, the obstacles that existed in obtaining financing from normal commercial sources. These obstacles included a lack of commercial experience with this classified technology, the large size of the capital investment required for each plant and the long time before that investment is paid back.

As my distinguished colleague on the joint committee has already pointed out, this legislation, as amended by the committee, would not obligate the Government in any way or authorize ERDA to consummate any proposed private enriching venture. Therefore, the precise terms of any such agreements and the Government obligations under those agreements are not precisely known at this time. However, from the testimony before the joint committee of a number of private concerns interested in entering the enrichment field, it is possible to get a general understanding of the kinds of guarantees that the Government will provide and the length of time that they will exist.

Specifically, the Government would be required to guarantee that the technology and essential components which the Government supplies for any private venture would work. This guarantee would be limited in time. The single diffusion proposal indicates that for a year after full power operation assurances would be needed. In the case of centrifuge ventures, due to the lack of commercial experience with the technology and other reasons, the assurances might extend for a longer time.

In any event, the guarantee would be solely for the protection of the domestic investment in the facility and would not extend to foreign investment.

In view of the very large contingent liability that the Government is assuming under this bill, the joint committee felt it essential that the Congress have a specific role in review and acceptance of these contracts. Therefore, the President's bill was amended to include an unprecedented congressional review procedure. The contracts will be presented to the Congress for their review. The joint committee within 30 days must file a report with the House and Senate and report out a resolution of approval or disapproval of each contract. Originally the committee amendment provided for a concurrent resolution but because of some potential constitutional difficulties, the committee will be offering an amendment later on to change this to a joint resolution, thus avoiding any constitutional problems.

In reviewing any proposed arrangements, I can assure you that the joint committee will also insist that the arrangement provide for:

Protection against dissemination to foreign investors of classified information;

Continued classification and protection of sensitive enrichment technology;

Requirements that exports take place pursuant to appropriate international agreements for cooperation and be subjected to safeguards to prevent diversions;

Preclusion of control or domination of a private enrichment venture by an alien, a foreign corporation or a foreign government; and

Effective domestic safeguards and physical security measures for the plants, and their products.

In conclusion, Mr. Chairman, I would like to emphasize to my colleagues that this legislation is tightly drawn. This committee has worked hard on this bill for over a year. Extensive negotiations have taken place between our staff and administration officials to iron out problems and work out acceptable ways for this Congress to become convinced that all of the Government interests are effectively protected.

Unfortunately the issue is complex and the time has come for decision. This step, passage of the Nuclear Fuel Assurance Act, does not obligate the Government to privatization. Only when the Congress approves contracts has that point been reached. But we cannot really tell whether the arrangements that ERDA has reached with the private ventures are acceptable until those contracts get sent to us for ratification. I say pass this bill, get the contracts up here in the full light of the day and if they are OK then we have provided for a very important part of our energy future with very little impact on the Federal taxpayer. If the contracts are not acceptable, then we can say that we tried and now the Government must fulfill its obligation and build the plants.

That process is sensible and well thought out. Let us pass this bill and get on with it.

Mr. SIEBERLING. Mr. Chairman, would the gentleman from Illinois yield so that I might ask a further question?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. SEIBERLING. It may not be in the bill, but I have read the proposal that the United Energy Associates—

UAE—the Uranium, whatever they call it.

Mr. ANDERSON of Illinois. Uranium Enrichment Associates.

Mr. SEIBERLING. That the Uranium Enrichment Associates have proposed. As I understand it, they propose to provide that 1 year after the startup of their plant that the Federal Government will agree to in effect take over and buy them out if they do not have a market for their product. Is that correct?

Mr. ANDERSON of Illinois. No, no. The gentleman is incorrect.

Mr. SEIBERLING. Would the gentleman from Illinois enlighten us on that?

Mr. ANDERSON of Illinois. There is no warranty as to its management. There is a warranty, as the gentleman from Illinois (Mr. Price) has said, that the technologies which will be furnished by the Government will, in fact, work.

Mr. SEIBERLING. I will have to restudy the proposal.

Mr. ANDERSON of Illinois. I think the matter, I would say to the gentleman from Ohio, is very clearly outlined in the committee report.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield for a question?

Mr. ANDERSON of Illinois. I yield to the gentleman from Kansas.

Mr. SKUBITZ. The gentleman from Illinois always explains things so well. I just want an explanation of the language on page 2.

Mr. ANDERSON of Illinois. Page 2 of what?

Mr. SKUBITZ. Page 2 of the bill.

It says:

> The Administrator of Energy Research and Development is authorized, subject to the prior congressional review procedure set forth in subsection b. of this section without regard to the provisions of section 169 of this Act—

Now, get this:

> to enter into cooperative arrangements with—

Which could be contractual arrangements, it could be the loaning of money:

> any person or persons for such periods of time as the Administrator may deem necessary or desirable—

For what?

> for the purpose of providing such Government cooperation and assurances—

And those assurances could be guarantee loans.

> to encourage—

To encourage what?

Those assurances could be guaranteed loans to encourage what? The development of a competitive private uranium enrichment industry, and to facilitate the design, construction, and ownership. It says nothing about guaranteeing the technology. It is talking about construction.

Will the gentleman explain what the word construction means in this sense?

Mr. ANDERSON of Illinois. It has its normal accepted meaning. We are talking about the physical construction of a facility for the purpose of furnishing enriched material that can be used in power reactors here and by our foreign customers.

The one thing I want to reiterate, and which should completely allay the fears of the gentleman from Kansas is he did not stop long enough on lines 4, 5, and 6 when he read from section 45 on page 2 of the legislation.

> The Administrator of Energy Research and Development is authorized, subject to the prior congressional review procedure set forth in subsection b. of this section. . . .

The gentleman is going to have an opportunity, if this legislation is approved—and I hope it will be—and I would say in response to something said by my friend, the gentleman from Illinois (Mr. Price) the President of the United States as late as this morning told a congressional group that he hopes very much that this House will act promptly to approve this bill. Once it is approved, all it does is set in motion a procedure whereby ERDA can proceed to conduct negotiations and then come back to the joint committee with a definitive contract which must set forth just exactly what the provisions are, what the guarantees are, and then for 60 days that contract lies before the joint committee. Within that time we have to furnish the Members here in the Congress a report, a recommendation. The Members have an opportunity to vote on a resolution approving that contract. So this is not an effort to pull the wool over anybody's eyes or to slip in some language that is going to extend loan guarantees on the part of the Federal Government that are going to come back to haunt us. The Members are going to see that contract. They are going to see the fine print.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 5 additional minutes.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

I simply want to say at this point to my colleague that experience seems to be a pretty good teacher around this place. I can remember when we had the railroad bill up, we were supposed to have 60 days to approve or disapprove. Members of this Congress certainly remember what happened. The 60 days went on through and so did the railroad bill.

Mr. ANDERSON of Illinois. The gentleman cites an analogy that is so totally irrelevant that I hesitate to take the time of the House to reply.

This statute when enacted into law specifically provides a procedure for congressional review. We on the committee must send the Members a report; we must report a resolution of approval; we must within 60 days take a vote on that resolution—the other body as well. There is not any possibility in the world of anything slipping through in 60 days without a vote in this Chamber. I can assure the gentleman of that with all the conviction that I can possibly muster.

Mr. SKUBITZ. If the gentleman will yield further, I understand that. I have read subsection b through several times myself. I know what the procedures are. What I am getting at, though, and I think the gentleman is admitting it, is when we talk about an $8 billion authorization here, it is not just for guaranteeing the technology; it carries with it the language and also the possibility of arrangements for the provision of funds for the construction of plants.

That is what I am objecting to.

Mr. ANDERSON of Illinois. If the gentleman does not like the provisions of the contract he is going to have an opportunity to vote on the contract. What we are seeking to do here is at least make a start, give the agency authority to go out and negotiate a contract, bring it to the committee, and we will give the gentleman a report and he can vote on it. Then is the appropriate time to make his objection, not simply by blocking completely, by opposing this legislation, any effort at all to go down the road toward turning this over to private enterprise.

If the gentleman wants the taxpayers to have to dole out $30 billion to $50 billion to provide enrichment capacity, that is one thing. But if he wants to use private capital and foreign capital to build that capacity instead, then he ought to vote for the bill.

If I understand anything about the gentleman's economic philosophy at all, he would not want to stick the taxpayers with that at all. The gentleman, of all people, ought to be supporting this with everything he can.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I accept the gentleman's assurance the House would have an opportunity to vote up or down any proposal on the part of the administrator. There are two concerns I have. One of the concerns is why we need this bill at all in order for them to come up with a proposal.

But the real concern I have is over these loan guarantees. There are a few in the House who look with disfavor on Government guarantee of loans to private enterprise, although I know we have some $200 billion of loan guarantees outstanding at this time. If in fact this technology is some 30 years old and we have produced $1 billion-plus in profit, I assume, why then is not private enterprise attracted to this? Why are not the capital markets attracted to it? What testimony has the gentleman received that was so overwhelming that we would provide loan guarantees in this bill?

Mr. ANDERSON of Illinois. In response to the gentleman from California, and I know well his fear and his philosophy on this subject of loan guarantees, I sought in my opening remarks to make clear we are not talking about loan guarantees in connection with unproven technologies, but notwithstanding the fact that this process has operated successfully in three Government plants, it has been in the bosom of the Government. It has been a process that has not been made available to private industry. No private industry has had the opportunity heretofore to go out and build one of these plants and to prove that the technology will work and that they can provide the separate work units of enrichment and sell it to their customers.

Given that fact—and I cannot give the gentleman chapter and verse now but I will spend the time between now and tomorrow morning when the House convenes again to search out the hearing record, the positive testimony from the banking community, that they simply cannot go ahead and make the financial arrangements necessary for the construction of this initial diffusion plant unless there is this guarantee on the part of the Government that the technology is going to work.

Mr. GOLDWATER. I accept the gentleman's explanation although I do not accept the proposal.

Mr. ANDERSON of Illinois. And I will furnish the gentleman with some documentation for the statement I have just made as to the testimony the committee received on the difficulty of the financing of this project without the kinds of guarantees contemplated in the bill.

Mr. Chairman, I had a lengthy statement. There are virtually no Members presently on the floor who are not also members of the committee—and I pay tribute to the gentleman from Ohio and the gentleman from Connecticut and the others who are here—so I am going to insert therefore in the RECORD the statement that I had intended to deliver on this occasion.

I do want to say that this legislation in addition to having the strong personal support of the President of the United States is supported by a very, very impressive array of labor unions as well and this is not just a business proposition.

I have before me telegrams signed by Charles H. Pillard, International President of the International Brotherhood of Electrical Workers, urging support and a vote in favor of this legislation.

I have a similar telegram from Mr. Harold Buoy, International President of the International Boilermakers, Iron Shipbuilders, Blacksmith Forgers, and Helpers of the AFL–CIO.

I have other telegrams which I will not take the time to read.

Perhaps I should make reference to one in particular:

> The Building and Construction Trades Department of the AFL–CIO urges your vote in support of H.R. 8401 and against any amendments which would impede its objective of providing the needed capacity in a timely fashion and specifically any amendment which would prohibit developing licensable and commercially viable facilities.

Signed: Robert A. Georgine, president, Building and Construction Trades Union.

Here is another one from Martin Ward, general president, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry and so on.

This is legislation that has broad support in the country. Sixty-seven percent of the American people in a recent poll indicated that they wanted to see nuclear power continued as a viable option in the energy field. We had a vote recently in the State of California where, as I recall, by a vote of more than 2 to 1, the voters of that State defeated so-called proposition 15 and indicated they did not want that State to take the kind of action in its legislature which would impede their development of nuclear power.

We need additional enrichment capacity. We are going to get it in one of two ways. We are going to get it by continuing and perpetuating a Government monopoly of what is essentially an industrial and commercial process at a cost to the taxpayers of this country of between $30 billion and $50 billion. We are going to get it that way, or we are going to get it by providing the modest incentive and kind of a guarantee that expose the Government, I assure the gentleman from California (Mr. GOLDWATER) to the most minimal type of risk, because in the event that that plant had to be taken over by the Federal Government, what would they do? They would complete the plant, of course. They would then use the manufacturing facilities of that plant to make separative work units and sell them on the market to domestic industry or foreign buyers.

I can assure the gentleman the taxpayers of this country are not going to lose a dime if we permit that kind of arrangement.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 1 additional minute.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I believe the statement made by the gentleman from Illinois to our mutual friend, the gentleman from California, is almost fraudulent. It does not serve the Representatives of this body to say that if Bechtel cannot complete this successfully, the Government can and will then take over. It has been described by Bechtel as a dead-horse issue. If we work on this and it becomes a dead horse, then you pay for it. How can the Government turn out SWU's, when we have a "dead horse."

The gentleman from Illinois may be right on some points. This may be a good bill, and I concur that it ought to be debated. That is why I reported the bill out.

I would like to have a calm and honest discussion of its assets and liabilities.

I think it is fraudulent to say the Government has no liability. It has a real liability and it is if the private sector loses a buck on this, they get reimbursed by the Government. That is all I wanted to say.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 2 additional minutes.

Mr. Chairman, I am grieved that my friend, and he is my friend, would suggest even to the small group of Members who are now present on the floor that I would employ a fraudulent argument before Members of this body. It is only because I know that the gentleman from Wyoming on occasion is given to what I would describe as the extravagant use of language that I would not ask that the gentleman's words be taken down.

Because, I have nothing to apologize for. I have said nothing to defraud the Members of this body when I suggested that the liability of the Government under the kind of guarantees proposed here is minimal. That is what I said, and I would repeat it again and again and again.

The gentleman is wrong when he suggests that any consortium, any company that undertakes to construct a plant under the provisions of this bill would not lose a dime. In the first proposal, the UEA proposal, they could lose $210 million, which is the equity investment—which is the equity investment that is provided for under the original plan that has not yet been reduced to contract form. I do not know how the gentleman can possibly, as a member of the committee who has faithfully sat there day after day and listened to the testimony, suggest that investors could not lose anything under the legislation we are talking about this afternoon. They could lose their equity. They could lose their equity.

Mr. RONCALIO. May I have a minute? The gentleman is a man of integrity and excellence and wisdom——

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I certainly would want to yield myself an additional minute in view of the gentleman's remarks so far.

Mr. RONCALIO. I, of course, meant this, that we must recognize the fact that when men of general engineering excellence at Bechtel can no longer make a success of this, and their chief executive, one of their top officers who has labored with this for years and is pleased with the fact that he will not labor much longer because he is going to retire, has simply said that, "If we end up with a debt or lose billions of dollars, we will ask the Government to pick up our investment."

Mr. ANDERSON of Illinois. Could I interrupt the gentleman there? If the Government sells this technology, we are selling it under a royalty arrangement, a 3-percent royalty for 17 years. Does the gentleman think that if we sell technology, and it does not work, that there is anything wrong about the Government responding then to the people who have purchased that?

Mr. RONCALIO. If I may respond, if we could get to the discussion now of the royalty, of the return of what is being given to these people and the potential for profit, then we would be making an intelligent colloquy. That is what we should proceed to, and get away from our mutual admiration society. I do apologize to the gentleman for any remarks I have made, that may have hurt his feelings. I know he would not intend to procure support of this measure by misstating any facts.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. MCCORMACK).

Mr. McCORMACK. Mr. Chairman, I rise in support of this bill, and I remind the Members that the bill was passed unanimously by the Joint Committee on Atomic Energy by a vote of 15 to 0. I would like to discuss for a few minutes, for the Members who are here, what the bill would do, and not do.

What the bill would do is essentially what we have been talking about in the presentations by the vice chairman of the committee, the gentleman from Illinois (Mr. PRICE) and the ranking minority member, the gentleman from Illinois (Mr. ANDERSON). It would allow the Energy Research and Development Administration to enter into contractual agreements with private industry which, if approved would allow industry to use existing technology, which has so far been classified and restricted to the Federal Government, for the enrichment of uranium. This is provided only on the basis that these contracts come to this body for specific, positive approval both in the House and in the Senate.

That is, this bill would say that ERDA may enter into a contract with private industry to get into the business, but the contract must come to the Congress and must be voted on by a positive motion in this House, and must be voted on by positive motion in the other House as well. The bill would also reconfirm what we have provided in the authorization and appropriation bills for the Energy Research and Development Administration this year, to add on to the Portsmouth, Ohio plant additional facilities for enrichment, as part of the Federal program. That is all the bill would do, and I hope we can understand that.

What would the bill not do? I will review a few points because I think it is important to get this debate down to the most rational level possible so that we can understand just what it is we are really discussing.

This bill has nothing to do with the proliferation of weapons. It has nothing to do with the proliferation of weapons material. We are not even talking about weapons material. We are not talking about anything that can be made into anything that can be exploded. We are not talking about safeguards or security or safety. These will be exactly the same whether we are operating as we are today, with private contractors working for the Federal Government, or by private industry licensed by the Federal Government.

The bill has nothing to do with an excess of enrichment capacity, because nothing forces anyone to build additional plants. The plants will be built as required, either by private industry or by the Federal Government, only as needed, and depending upon whether this legislation is passed, and whether or not proposed contracts are accepted. The bill has nothing to do with foreigners gaining our technology. They already have enrichment capability, and even foreign investment in enriching plants would give no technology to other nations.

If I had been writing this bill, I would not have written it exactly as it is. Questions have been raised during this discussion about guarantees for private industry that the technology will work. I think such guarantees are unnecessary for the diffusion process. We have been using it for 30 years in Government-owned plants. Guarantees apply only if the technology fails, and I do not see how the diffusion technology can fail.

So, let us debate the real issues. Should private industry be in? That is the issue, and that is the only issue.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Chairman, I wonder if the gentleman could expand a little bit on the issue that he has just raised, that in his judgment the guarantees are not necessary, because I think that is something that is bothering several Members.

Mr. McCORMACK. I do not mind expanding on that.

I would have written the bill differently, because I think the guarantees for the diffusion process are unnecessary. Industry asked for these guarantees. Industry came in and requested authority to build plants, and the committee rewrote the bill which says that ERDA may negotiate a contract for private operation, conditioned upon congressional approval.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. PRICE. Mr. Chairman, I yield 5 additional minutes to the gentleman from Washington (Mr. MCCORMACK).

Mr. ROUSSELOT. If the gentleman will yield further, on that point I will say most of us have a similar feeling as the gentleman from Washington. If that feeling was there, why do we have to have these guarantees? If the gentleman from Washington, who certainly is an authority to some substantial extent in this field, feels that the guarantees are not necessary, I really would like to have a better explanation from somebody as to why they are.

Mr. McCORMACK. Perhaps this can come at a later time.

Mr. ROUSSELOT. I thank the gentleman.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, I understand the Bechtel Corp. is one of the corporations that is being considered.

Mr. McCORMACK. As I understand it, that corporation does plan, as part of a consortium, to propose a contract.

Mr. OTTINGER. If the gentleman would yield further, this is the same corporation that has been responsible for quality control on the Alaska pipeline?

Mr. McCORMACK. I do not think the gentleman from New York knows anything more about the Alaska pipeline than I do, and I shall not yield further.

Mr. Chairman, let us look at what the nuclear fuel cycle really is, and who does what.

Exploration for uranium is done by private industry, backed up by the Federal Government. The mining is done by private industry.

The milling of the ore is done by private industry; the chemical processing of U_3O_8 which we call yellow cake—is done by private industry. Enrichment, and that is what we are talking about in this bill, is done by the Federal Government, although it contracts with private industry to operate its plants. Fuel elements are fabricated by private industry, and the powerplants are operated by private industry. The reprocessing procedure, so far, is done by private industry, although Federal ownership may occur in the future. Waste management, of course, will be a Federal operation.

This is the picture, and the question is very simple. Who should perform nonweapons uranium enrichment? Who should do it? That is the question.

Let us look at enrichment for a second and see what it is we are discussing. Those of us on the committee take this so much for granted that we fail to realize that others may not understand it. Enrichment is changing the isotopic ratio of uranium-238 to uranium-235.

Let us assume that we have a barrel of dried peas and out of every 1,000 peas, 7 are white, and the rest are green. Let us say that instead of 7 out of 1,000 peas we wanted 32 white peas out of 1,000, for some reason. Let us say then we take our barrel of peas and pick out the white peas with a tweezer and recount them and put the green and white peas back together so that we have a small container with 32 white peas out of 1,000, and a larger container with only 2 or 3.

That is what happens, but with uranium in an enrichment plant, we take the uranium in gaseous form and force it through filters, and change the ratio of the isotopes. We get a small amount of uranium with 3.2 percent uranium-235, and a larger amount with less than the starting ratio. This latter is called the tails.

One cannot make weapons with it. There is no way to explode it, and there is nothing dangerous about it.

Mr. EVINS of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Tennessee.

Mr. EVINS of Tennessee. Mr. Chairman, we know that this matter has been considered by the courts and by the committee time and time again. The late subcommittee chairman, Chet Holifield, vowed that he would never let it come to the floor.

Why now has the Joint Committee on Atomic Energy reversed its former position?

Mr. McCORMACK. Mr. Chairman, I think the best way to answer the question the gentleman has asked is that the bill, as it is written today, simply gives private industry the opportunity to write a proposed contract and submit it to us. This bill grants no permission to private industry to do anything but come to the Congress with a proposal which we must accept by an affirmative vote if it is to be accepted.

The CHAIRMAN. The time of the gentleman from Washington (Mr. MCCORMACK) has expired.

Mr. PRICE. Mr. Chairman, I yield 2 additional minutes to the gentleman from Washington (Mr. McCORMACK).

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, the thing that bothers me about the bill—and I wish the gentleman would explain this—is that ERDA can enter into agreements or arrangements for doing two things:

No. 1:

> . . . for such periods of time as the Administrator may deem necessary or desirable for the purpose of providing such Government cooperation and assurances as the Administrator may deem appropriate and necessary to encourage the development of a competitive private uranium enrichment industry. . . .

That is one arrangement. Now, the second arrangement reads this way:

> . . . and to facilitate the design, construction, ownership, and operation by private enterprise . . .

What do the words, "facilitate the . . . construction," mean in this bill if they do not mean that ERDA could go ahead and guarantee a loan for the construction of a plant?

Mr. McCORMACK. Mr. Chairman, I will try to answer the gentleman's question.

It is my opinion that loan guarantees for construction are prohibited under this bill.

Mr. SKUBITZ. Mr. Chairman, let me ask a question.

Mr. McCORMACK. Mr. Chairman, I wish the gentleman would let me proceed.

Mr. SKUBITZ. But I did not hear the gentleman.

Mr. McCORMACK. Then I will say it again. It seems to me that any loan guarantees for construction are prohibited. There is no provision for them.

To aid in construction, in the context of the bill, means to provide technical assistance to the corporation in the building of the plant. There is a large amount of technology involved, and I am confident that, in the context of the legislation, it is intended that ERDA may submit a contract to us which would allow ERDA to provide such technical assistance as is necessary for the corporation to build its facilities.

The bill does not permit loan guarantees. There is nothing in the bill about loan guarantees.

Mr. SKUBITZ. Then will the gentleman be willing to accept the terms of the amendments that will provide that no funds in this bill will guarantee loans for construction?

The CHAIRMAN. The time of the gentleman from Washington (Mr. McCORMACK) has expired.

Mr. PRICE. Mr. Chairman, I yield 1 additional minute to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, to answer the question of the gentleman from Kansas (Mr. SKUBITZ), I am not in a position to make a determination about what amendments should be accepted. I personally would have no objection to a prohibition of loan guarantees for construction of plants.

Mr. SKUBITZ. If the gentleman will yield further, I will address the question to the chairman of the full committee.

Would he object to amendments in this bill that would prohibit ERDA's giving any loan guarantee for plant construction?

Mr. PRICE. If the gentleman will yield, I tried to impress upon the gentleman from Kansas that that is not the situation here, but we would object to a loan for the construction of a building. We are talking only about guaranteed technology, and that is what we are interested in. The gentleman from Kansas does not seem to be able to understand that, but that is what it is.

Mr. SKUBITZ. Then I assume the gentleman's answer is "no."

Mr. McCORMACK. Mr. Chairman, may I now conclude my remarks? There is nothing mysterious or dangerous about uranium enrichment or the materials involved, although key elements of the technology are classified. Uranium 238 and Uranium 235 are handled with no more protection than rubber gloves, although if there are dust problems involved, special ventilating conditions or aspirators are required. The maximum enrichment level of Uranium 235 is between 3 and 4 percent. It cannot be made to explode in any way, or made into anything that can explode. Of course, uranium fuel produces plutonium in nuclear powerplants. However, then it would require large, sophisticated, expensive, and remote equipment to separate the plutonium from the other materials. The most important factor involved in uranium enrichment is that its very expensive in dollars and in energy consumption. This is why private industry simply cannot take the plunge into this without extensive preparation and capital, along with the assurance that the technology will work.

Uranium enrichment is not a monoply of the U.S. Government. There are at least six different methods of enriching uranium, of which several are employed overseas; and several others are the subject of intense research and development throughout the world.

Now, where are we today in this country with respect to enrichment? The United States has had three federally owned and operated uranium enrichment plants on the line for many years—one at Oak Ridge, Tenn.; one at Portsmouth, Ohio, and one at Paducah, Ky. A small fraction of production of one of these plants is used for weapons, but most of the material is used for fuel for nuclear energy. The productive capacity of these plants is about 15 million "separative work units." Since this is a confusing unit of measure, I would prefer, for this discussion, to use metric tons of uranium feed to these three plants. In layman's language, then, the total feed is about 15,000 metric tons a year—a metric ton is about 10 percent larger than an English ton. Today, these three Federal plants are upgrading through what we refer to as CIP and CUP, programs. They will, by 1982, handle 27,000 metric tons of virgin uranium per year.

All of this 27,000 metric tons has been committed, since mid-1974, for plants in the United States that are now in existence, under construction or committed; and for foreign commitments.

Thus, it is obvious that we must have additional enrichment capacity. The question that we must decide is: Who will do it, the Federal Government alone, or the Federal Government in combination with private industry.

Finally, the question arises of how much do we need and when. To answer that question, one starts with the fact that the average nuclear plant requires between 2,500 and 3,000 metric tons of virgin uranium during the lifetime of the reactor. ERDA figures show that there are about 230 nuclear electric generating plants in operation, under construction, or committed in this country. These plants will require, in their lifetimes, between 600,000 and 700,000 metric tons of virgin uranium, which must be enriched. If one extrapolates to the year 2000, the demand will be about 2 million metric tons of uranium for this Nation. Our existing Federal plants, operating during the balance of this century, can process about one-third of this material with the "add-on" at Portsmouth, almost one-half. In addition, we will need a similar amount of enriched uranium to supply other nations of the world under contracts and controls that will help reduce the potential for weapons proliferation. So, again, the question before us today is: Who will own the enrichment facilities?

I want to congratulate the gentleman from New York (Mr. BINGHAM) for his approach in offering amendments to this bill—which I will oppose—because he states that he does not wish to obstruct the production of uranium, but only to prevent private ownership of enrichment facilities. This is the issue. The Joint Committee on Atomic Energy, in reporting out this bill, has expressed its belief that private industry, working with the Energy Research and Development Administration, should have an opportunity to come before the Congress with a proposal seeking our approval for them to participate. This is the issue facing us now.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I would like to address my remarks to the distinguished gentleman from Illinois (Mr. PRICE).

I participated in many of his hearings, and I listened to the debate among Members when they were conducting the hearings and when they were marking up the legislation, that is, the members of the Joint Committee on Atomic Energy. I read the report and much of the hearings on this legislation, and I am convinced that the committee fully intends that the add-on facility at Portsmouth, Ohio, set forth and described in section 4 of this bill, is to be constructed and placed into operation. Is that the intention and direction of the Joint Committee on Atomic Energy?

Mr. PRICE. If the gentleman will yield,

yes, it is; and that is the reason we put the section in the bill.

Mr. HARSHA. As I say to my good friend, the gentleman from Illinois (Mr. PRICE), I am taking this time to make some legislative history.

Therefore, there is no question as to the intent of the committee, but I also have received some correspondence from the Deputy Administrator of ERDA, which I shall place in the RECORD at the appropriate time. In addition thereto, I have had several discussions with ERDA officials as well as White House officials; and I have been assured by them that both the private enterprise facility and the Portsmouth add-on can be constructed simultaneously.

Is that likewise the intention of the Joint Committee on Atomic Energy?

Mr. PRICE. Yes, it is.

Mr. HARSHA. Mr. Chairman, I thank my good friend, the gentleman from Illinois, for that information.

Obviously, I have a rather provincial interest in this legislation; but that is not the sole reason I am supporting it.

I do support it because I know of the urgent need for the Federal Government to get on with the business of providing the necessary uranium so that we may have an adequate supply of electric power in the years ahead. If we do not do this, then the burden is going to fall again on some alternative type of power, which means either coal or oil; and we are going to run into much more severe problems in that event because we lack the capacity to serve all of the needed electrical demands by coal at the present time. Also, if we have to have more oil to do it, it will have to be imported. Again, of course, it will be extremely expensive to the consumer.

Mr. Chairman, let me urge my friends in the administration to proceed with the add-on at Portsmouth as expeditiously as possible because the plans and specifications, I understand, are nearing completion and because there are, in fact, in existence supporting facilities which will enable that plant to be constructed much more quickly.

Mr. Chairman, I include the following letter which has several questions which I feel will be of interest to the Members:

ENERGY RESEARCH AND
DEVELOPMENT ADMINISTRATION,
Washington, D.C., July 23, 1976.

Hon. WILLIAM H. HARSHA,
House of Representatives.

DEAR MR. HARSHA: I am writing this letter to answer the questions you raised concerning the possibility of concurrent construction of a Portsmouth add-on gaseous diffusion plant and the proposed private UEA gaseous diffusion plant.

As you know, the President stated in Columbus, Ohio, on May 26 that he would accept the Nuclear Fuel Assurance Act reported on May 14 by the Joint Committee on Atomic Energy. Among its provisions, that bill authorizes and directs ERDA to initiate construction design and planning, construction and operation activities for expansion of an existing uranium enrichment facility. The JCAE report makes clear that the expansion would be at the Portsmouth, Ohio, plant. An excerpt of the transcript of the President's statement in Columbus is attached as part of this letter.

The President also stated in Columbus that he would ask the Congress to appropriate necessary funding for FY 1977 for the complementary program at Portsmouth, including funding for design, planning and procurement of long lead-time construction. On June 4, the President requested $178.8 million for fiscal 1977, and this amount has been approved by the Congress.

In recent discussions with my staff, you asked about a newspaper article in which our Mr. Voigt was quoted as saying "the Portsmouth add-on plant and the UEA plant cannot be constructed simultaneously." I can certainly understand your concern and want to be sure that you have from me ERDA's latest and best assessment of our capability to handle two gaseous diffusion enrichment projects, a government-owned add-on plant at Portsmouth and the proposed privately owned plant in Alabama.

I would like to make clear that I believe it is possible to proceed successfully with both plants in the same time frame.

Our assessments indicate that the principal problems in proceeding with two plants at once relate to the adequacy of some resources that will be needed, principally experienced design personnel, production of compressors, and capacity to produce barrier required for the plants. We believe the situation is manageable as long as there is sufficient advance planning and management coordination to assure proper sequencing of demands on available resources. There are limits on the number of people who are capable of designing critical aspects of gaseous diffusion plants, but ERDA has such people within its organization at Oak Ridge and Portsmouth.

As you know, conceptual design work for an add-on plant has been underway since 1973. More detailed design work is being carried out with the $12.6 million requested by the President on May 5, 1976, and approved by the Congress for the last part of FY 1976 and the Transition Quarter. Invitations for the first two architect-engineering design packages for the Portsmouth add-on were issued in January and March, 1976 and ERDA HQ approval of the selection of contractors is now underway. We anticipate proceeding with additional design packages soon. The $178.8 million requested by the President and approved by the Congress in the 1977 Public Works Appropriations Bill includes funds for continuing design work for a Portsmouth add-on.

The manufacture of compressors will be handled by private industry, and we believe that the requirements can be worked out so that both plants can proceed in the same time frame.

Since the production of barrier is a highly classified process, the only capacity available is an ERDA-owned plant at Oak Ridge. The plant was recently expanded and is now providing the barrier requirements for the improvement of ERDA's existing plants, including Portsmouth. That job will be finished in time so that the plant would be able to produce barrier for both a government add-on plant and a privately owned diffusion plant.

We have concluded that it would not be necessary to delay work on either plant since the critical engineering work could be sequenced. ERDA has the capacity to integrate and manage the planning and scheduling so that uranium enrichment capacity would be available in time to meet the demand for nuclear fuel and to conserve our natural uranium resources.

We are now proceeding to the extent practical, pending action on the Nuclear Fuel Assurance Act. Early enactment of this bill is imperative to assure that we can proceed much more vigorously to provide the additional uranium enrichment capacity that the country needs so urgently.

In sum, it is possible to proceed successfully with both a Portsmouth add-on diffusion plant and the proposed private plant in the same time frame. If there is additional information we can provide, please let me know.

Sincerely,

ROBERT W. FRI,
Deputy Administrator.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I rise in support of this bill that will simply permit ERDA to enter into agreements with private industry to encourage the development of competitive private uranium enrichment plants. ERDA would also provide various forms of assistance that would include materials and equipment at cost provided to the plant. If the plant could not be completed under private auspices, ERDA could acquire the assets and liabilities and pay the domestic debt of the plant. However, all contracts between ERDA and private industry must receive congressional approval before becoming effective. Thus, this is different from a loan guarantee, rather we are permitting ERDA to enter into agreements with private industry that would be subject to congressional approval.

It is apparent that our country is facing an energy crisis. We are relying more and more on foreign oil for our energy needs. We must start to "think ahead" and the only way we can do that is to develop alternative energy supplies. Nuclear fuel offer a needed alternative. It seems to fill the gap between now and the energy sources of the next century. We need to act now to help this industry that will benefit us all, off to a good start.

A little over a hundred years ago, our Nation relied on wood, wind and water for her energy. Just as our energy sources have changed over the past century, so they must change over the present century.

Mr. Chairman, I do recognize that the handling of waste materials must be adequately established. I think we can do that. If we cannot, then we all must recognize the shortcoming of the nuclear approach. During the last few years, though, we have seen an approaching shortage of oil and gas. We must therefore depend more on coal and lignite but we know we must also depend on nuclear power. It is here and now.

Unfortunately, I will be out of the city tomorrow but I want the House to know of my support of this measure. The environment program, and ERDA must work together and we should support this approach.

Mr. RONCALIO. Mr. Chairman, I thank my eminent vice president from Illinois (Mr. PRICE) for the time he has been able to give me in the midst of some rather ugly and unfortunate personal irritation in the past hour. About half an hour ago I asked for time under the rule. It was denied me. At that time there were better than 325 Members in this Chamber, this Hall of the House of Representatives. There were something like 225 Democrats. Now I look around and find exactly two Members of the House—

no, four Members of the House who are not members of the committee. And of the nine members of the committee, four of those are absent from here, the Joint Committee on Atomic Energy. And now I am given time.

What good are my remarks when they are made to the same seven or eight of us? This again points out the sadness that tactics such as these are employed, and decisions affecting millions of lives, billions of dollars and the future course of mankind are made under these shoddy conditions of debate.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I will not yield.

My great friend, the gentleman from Illinios (Mr. ANDERSON), was quick to assure our mutual friend, the gentleman from California (Mr. GOLDWATER), that the matter of guarantee is negligible. I hope the gentleman does not withdraw his remarks, and I hope the words are not changed in the CONGRESSIONAL RECORD, and that what I am talking about will appear in the CONGRESSIONAL RECORD as it took place on the floor.

Let me refer the Members to page 291 of the hearings held by the Joint Committee on Atomic Energy, which reads:

> Chairman PASTORE. Would you recapitulate on the question of the dead horse?
>
> Mr. KOMES. The dead horse is a question that was raised in our reviews with the utilities where they said, "Let us"—or better yet the term that always is used is, "what if" the plant is completed and we have long-term contracts with UEA and you are depending on those contracts and the sales of s.w.u's to develop the funds to pay off the debt. And on the day the plant is completed everybody marches in. They press the button to start the plant and it won't work. They say in that case we would have a dead horse on our hands because their contracts were guaranteed and they would be required to take or pay.

That means that the private utilities with their contractor would be out of the SWU business.

Said Mr. Komes, in conclusion, "after they have built this plant, when they find that they have got a dead horse contract, that it means that it is a dead horse contract to the Government as well as to the people and, therefore, without those assurances." Further, Mr. Chairman, Senator BUCKLEY said:

> To make sure I understand, in other words the Government would be guaranteeing that the technology operates?
>
> Mr. KOMES. Yes, sir.
>
> Chairman PASTORE. And that is the only guarantee?
>
> Mr. KOMES. That they will not be selling us a dead horse. If the horse is dead, it is yours. That is what we want to say.

Hear that? Tell somebody else that this is not laboring the facts.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I do not yield.

I want every Member here to take the time to read from page 24221 of the CONGRESSIONAL RECORD and see one of the finest statements ever made on this by our great former Member, Chet Holifield. What did he say of this bill? He said:

> . . . the bill might possibly be the worst piece of legislation that I could recall ever emerging from the Joint Committee on Atomic Energy. My recollection is less than perfect because it encompasses a busy 30-year span of Joint Committee activity, but the thought can't be too far from the mark.
>
> Both the form and the substance of H.R. 8401 are far below any acceptable standard. In the three decades following the Atomic Energy Act of 1946, there has not been a single amendment to that Act so devoid of legislative policy content in regard to desired objectives, authorized forms of Government assistance, and appropriate conditions or restrictions. Also in those 30 years, it was not thought necessary or desirable to incorporate in any amendment a condition requiring that authorized major commitments by the AEC or ERDA that would carry out the objective of the legislation be made subject to activation or abortion by some subsequent final action by the Congress.

Maybe that is an overstatement, but it cannot be far from wrong.

I think that this bill should be referred back to the Joint Committee on Atomic Energy. I would wish to offer that privileged motion. Unfortunately, I will not be here tomorrow to do so, and it is a privileged motion which the minority normally would make. I hope and beg that one Member of the minority will make that motion to recommit this bill back to the Joint Committee on Atomic Energy. Let my colleague, the gentleman from Washington (Mr. McCORMACK), work out and make the corrections he earlier suggested.

Let us go back to the utilities and obtain their unqualified commitment, if possible, to set this up as a free enterprise operation.

And further, let us tighten up the chance for proliferation which the gentleman from Illinois (Mr. YATES) wished to speak to and could not even get a chance to a measly minute tonight. Let us come back with an improved piece of legislation, and then let us pass it.

By that time we might have a new President. President Reagan and Vice President SCHWEIKER might have something to say about it.

I do not believe this bill should be passed. I think it would be a sacrilege for the House to do so.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PRICE. Mr. Chairman, I yield 5 additional minutes to the gentleman from Wyoming.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

I have only one question. My colleague is a member of the committee; is he not?

Mr. RONCALIO. That is true.

Mr. SKUBITZ. Is it his understanding that ERDA can guarantee loans for the construction of a facility, or am I wrong?

Mr. RONCALIO. ERDA can most certainly advance it, but under this legislation that will not be required. The private sector will get its own financing.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

ERDA cannot guarantee one thing under this legislation. I do not know how many times that point has to be made. They have to come back here with a contract. It is only in a contract that any guarantee is made. This legislation does not guarantee anything to anybody.

Mr. RONCALIO. It is your dead horse. It is your dead horse. That is said in here by the man who runs Bechtel Corp.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I know that the gentleman cannot be here tomorrow. I deeply regret that because he has profound knowledge of this situation.

Mr. RONCALIO. I doubt if it is profound knowledge, but I have worked at obtaining some understanding.

Mr. BINGHAM. We had in mind having the gentleman move to recommit the bill. The question is bound to be raised when that matter is mentioned. When the gentleman's remarks are read in the RECORD, the question will be raised tomorrow on it.

Mr. RONCALIO. I voted to report the bill out as did Senator TUNNEY and perhaps one or two others, with great ambivalence. I first voted againt reporting this out. I believe I then said, "Mr. Chairman"—I believe my chairman recognized me—"I cannot vote not to report out a bill; I have done too much work on it."

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Illinois.

Mr. PRICE. The vote in the committee reported the bill out by 15 to 0.

Mr. RONCALIO. May I continue? So therefore I said "I will change" and I joined the majority. It was a day or two later that I heard from Mr. MURPHY that Senator TUNNEY had also done about the same thing and, therefore, the vote was unanimous. I had worked too hard not to report out something at this time.

Mr. BINGHAM. If the gentleman will yield further, just to make the matter clear, the gentleman believes the bill should be recommitted?

Mr. RONCALIO. I believe the bill in its present form should be recommitted to the Joint Committee on Atomic Energy, and in its hands I should hope it would get the judicious deliberation that it did not get done in this case.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

It has been stated here that what we are guaranteeing is the technology. Is the gentleman convinced that the technology is so inferior, that so little is known of this technology, that there is some need for Government guarantees?

Mr. RONCALIO. I recognize gas centrifuge is the oncoming technology and one preferred by most of our foreign competitors. Why we are building a fourth gaseous fusion add-on, why I am not sure. But Mr. Bechtel would be, since they are paying for the plant, I presume they have good reasons. I prefer to wait for breakthroughs from Dr. Agnew and others within the research facilities of AEC, especially in laser fusion technology useful in uranium enrichment.

Again, I think we ought to wait because there is not that much hurry for the services of enriched uranium. I believe that uranium nuclear power generation, which I advocate, is in serious trouble from its own shortfalls and economic competition with other sources—not from Ralph Nader who believes it should be shut down.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

That centrifuge technology is not in fact proven, is it, in its early stages?

Mr. RONCALIO. I am not competent to answer that. My colleague, the gentleman from Washington, very well may be, but I am not.

Mr. OTTINGER. I just wonder in terms of the necessity for guarantees if in fact the technology has not been demonstrated, and whether it should be necessary and whether it should in fact be developed by the Government.

Mr. MILLER of Ohio. Mr. Chairman, section 4 of the proposed bill would authorize the Administrator of Energy Research and Development to initiate preliminary engineering design and planning, construction and operation activities for expansion of a Government-owned uranium enrichment facility, and would authorize to be appropriated the sum of $255,000,000.

The original intent of this section as submitted by the Administration was to provide a "hedge" plan in the event the private diffusion plant effort was not successful. As amended, the Joint Committee has directed and authorized that an additional Government-owned enriched uranium production facility be constructed and placed in operation. The amended language thus is a direction to the Energy Research and Development Administration that regardless of the construction of private enrichment facilities, the expansion of the public facility at the Portsmouth, Ohio, site is necessary. The project authorized is the same as "project 76–8–g, enriched uranium facility, Portsmouth, Ohio" as authorized in section 101(b)(8) of Public Law 94–187. Funding in the amount of $25,000,000 was authorized in Public Law 94–187 for project 76–8–g and that amount would be increased by $230,000,000 for a total of $255,000,000 in the recommended fiscal year 1977 authorization for the Energy Research and Development Administration.

It is emphasized that the direction and authorization of the project in section 4, and the $255,000,000 authorized is for project 76–8–g, enriched uranium facility, Portsmouth, Ohio, and for no other. The direction and authorization, although for that same project, is separate and apart from the same authorization in the authorizing legislation for the Energy Research and Development Administration. The $255,000,000 funding authorized for project 76–8–g is only for the funding required through fiscal year 1977.

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFall) having assumed the chair, Mr. Pike, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 8401) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, on rollcall No. 561 yesterday, all the conferees on FEA, Energy and Power Subcommittee, including me, missed the vote because of a staff error failing to notify the conferees who were meeting on the Senate side that the vote was called.

Had I been present I would have voted "nay" on this amendment by the gentleman from New York (Mr. Horton), to weaken the disclosure requirements with respect to the definition of what constitutes a meeting subject to the Government in the Sunshine Act.

JOHN McGUINESS OF THE OFFICE OF ATTENDING PHYSICIAN

(Mr. FLYNT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FLYNT. Mr. Speaker, for the past 22 years, Members of Congress have enjoyed the services of John McGuiness in the Office of Attending Physician, U.S. Capitol.

John enlisted in the U.S. Navy in August 1942 and advanced through the enlisted rates of the Hospital Corps, becoming a chief hospital corpsman on December 15, 1952, in which rate he was serving when he was assigned by the Navy to the Office of Attending Physician in 1954. John retired from the Navy in July 1962 after 20 years of service, and remained to serve in the Office of Attending Physician as a civilian until his retirement on July 30, 1976.

John's service is marked by the pleasant efficiency with which he has always discharged his responsibilities. His services have been enjoyed and appreciated by Members of the Congress for more than two decades. We wish him Godspeed as he enters his second retirement.

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. McFall). Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. Heckler) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I was unavoidably absent for the vote and debate on House Resolution 1421 approving the report of the Committee on Standards of Official Conduct reprimanding Representative Robert L. F. Sikes.

Had I been present I would have voted "yea."

PRESIDENT REAFFIRMS SUPPORT FOR COMPROMISE IN 404 CONTROVERSY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. Cleveland) is recognized for 10 minutes.

Mr. CLEVELAND. Mr. Speaker, President Ford is entitled to great credit for his responsiveness to the need to curb the threat of bureaucratic overregulation in the administration of wetlands protection activities of the Corps of Engineers without sacrifice of safeguards.

On two recent occasions, first when H.R. 9560, the Water Pollution Control Act Amendments of 1976, was before this body, and on July 27, as the other body opened hearings on the issue, his administration supported a moderate and balanced compromise.

Members are well aware that the House, acting first on a substitute to the amendment supported by the administration, on June 3 adopted that substitute as introduced by my good friend from Texas (Mr. Wright).

I urged the President to reaffirm his position in a letter on July 9, for reasons amply spelled out in that communication. And as the New York Times reported on July 29, the President indeed reaffirmed that position, though also proposing certain amendments.

My view was and is that the compromise amendment to section 404 of Public Law 92–500, coauthored by myself and the gentleman from Ohio (Mr. Harsha), would do the job as written.

However, general concern generated by the Federal bureaucracy's track record of regulatory performance and specific fears generated by misinformation about the 404 program have created a distinct issue of credibility and acceptability. On these grounds, I am prepared to consider additional safeguards proposed by the administration in terms of the needed reassurance they may give the public, provided satisfactory language can be worked out to fully preserve the original intent of the compromise legislation.

The text of my letter to the President and the New York Times article follows:

House of Representatives,
Washington, D.C., July 9, 1976.

The President,
The White House,
Washington, D.C.

Dear Mr. President: Your support for the Cleveland-Harsha amendment to the Water Pollution Control Bill, designed to remove the threat of bureaucratic overregulation of farming, forestry and other practices while assuring continued wetlands protection, was most welcome. I am encouraged to believe, moreover, that ultimately it will prove decisive.

While our amendment was prevented from coming to a vote by adoption of the Wright substitute, I am confident that had it done so it would have prevailed. I hardly need recall to you the fact that the parliamentary situation and the confusion it creates place at a disadvantage a given provision when a substitute with almost total Committee backing is brought to a vote first.

A close re-reading of the Record bears me out. Our amendment was the only provision circulated and subjected to scrutiny for an entire week before the bill came to the floor. Yet, it was scarcely discussed by its opponents, much less criticized by the floor managers of the successful Wright amendment. Unable to challenge it responsibly, they had no option but to talk around it in terms of the Phase 2 and Phase 3 regulation. The absence of responsible criticism of Cleveland-Harsha is significant, particularly in view of the defects of the Wright substitute.

Indeed, I had occasion to remark on the Floor that the hue and cry raised about legitimate farming practices, which would be taken care of very clearly in the Cleveland-Harsha amendment, were being used as arguments in support of the Wright substitute. Moreover, the Wright amendment incorporated (though in excessively broad terms) our concepts of statutory authority for general permits and exclusion of certain farms and forestry practices.

I am continuing to press my efforts to see the principles of Cleveland-Harsha enacted into law: no alteration of federal jurisdiction, general permits, statutory exemptions for certain enumerated practices, and continued involvement of the Corps as the responsible federal agency.

This strikes me as the most responsible middle ground between existing law as currently interpreted, at one extreme, and the Wright amendment with its incorporation of the Breaux approach, at the other. The only reasonable further amendment to Cleveland-Harsha I have heard discussed would be a state delegation provision. Unlike the Wright version, however, it should be modeled after the permit program in section 402 with specific performance requirements and provisions for federal oversight. This I would prefer to see left to the conference, unless its inclusion proved essential to Senate acceptance of Cleveland-Harsha.

As part of that priority effort, I am preparing remarks for the Senate hearings scheduled for later this month. It would be most helpful to me, and to the cause of a rational and responsible resolution of this controversy to receive a reaffirmation of your support for the approach authored by Bill Harsha and myself. I have reason to believe there is bi-partisan support for this approach on the Senate Public Works Committee, a nucleus which your support will greatly assist us in enlarging.

Cleveland-Harsha represents an excellent compromise at the time you first endorsed it. Compared to the Wright amendment—particularly in view of some of your executive agencies' assessments of it—it remains the vehicle most deserving of your continuing support.

A response affording time for maximum exposure would be most useful.

Sincerely,

James C. Cleveland,
Member of Congress.

[From the New York Times, July 29, 1976]

Ford for Control of All U.S. Waters—Supports Environmentalist Stand on Interpreting Antipollution Law

Washington, July 28.—The Ford Administration, adopting a position close to that of environmentalists, has announced it supports a broad jurisdictional interpretation of the Water Pollution Control Act of 1972.

Four spokesmen for the Administration, including Russell E. Train, the administrator of the Environmental Protection Agency, disclosed the newly articulated policy in testimony at a hearing last night of the Senate Public Works Committee.

The Administration and environmental groups, led by the Natural Resources Defense Council, support Government protection by a permit program of "all waters" of the United States, including wetlands, marshes, swamps and tributaries. The Army Corps of Engineers would administer the program, designed to control draining, dredging and filling of these areas.

But the Senate committee is considering an amendment to the law that would restrict Government jurisdiction to "navigable waters," defined as a "means to transport interstate or foreign commerce" or as "waters which are subject to the ebb and flow of the tide."

LIMITATION OF CONTROL

These provisions would remove as much as 75 percent of the nation's 80 million acres of wetlands from Federal protection, according to the Natural Resources Defense Council.

The House of Representatives has already approved a similar limitation on Government jurisdiction, in an amendment offered by Representative Jim Wright, Democrat of Texas, which was adopted on June 3.

The advocates of Government control acknowledged that the law did not specifically grant broad jurisdiction, but they argued that its general mandate, applying to "all waters of the United States," provided the basis for such authority.

This mandate, according to Mr. Train, was further strengthened because "several Federal courts have endorsed the wisdom, and constitutionality, of this committee's observation that: 'Water moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source.' "

The Administration and the environmentalists said that broad control was necessary because of the interdependent nature of water systems. "Dredged and fill material can physically destroy essential parts" of these systems, Mr. Train said.

REGULATION OF FARMING

Senator Edmund S. Muskie, a member of the Public Works Committee who had helped draft the original law, accepted the need for maintaining the quality of the nation's water. But he objected to the methods used by the Corps of Engineers.

During the hearing, the Maine Democrat said that the corps, since initiating its expanded program last summer, had never envisaged, covering activities we never had in mind."

Mr. Muskie and several other committee members expressed their constituents' concern that broad interpretation of the law, if taken to an extreme, could result in Federal regulation of normal farming activities, such as plowing, harvesting, and the creation of stock and feed ponds.

The spokesmen for the Administration disputed this, saying that their goal was to regulate dredging and filling that had a "significant impact," and that this excluded small farms.

The Administration proposed to give the corps discretionary authority, allowing it to exempt from permit regulations areas currently in agricultural use, normal agricultural and forestry activities and other activities "with minimal impact."

On the issue of exemptions, the Natural Resources Defense Council's environmental lobby took exception to the Administration's position, asserting that it might create a loophole allowing large industrial and commercial concerns to develop the wetlands without Government control.

Ron Outen, a member of that lobby, said in an interview today that the "little farmers" were being used as "pawns of big agribusiness and the people who want to gobble up the wetlands."

In spite of the objection, Mr. Outen said, the environmental lobby was "pleased and encouraged" by the Administration's position, which, he said, "maintains the concept that all waters are connected."

The White House press office said today that the Government representatives at the hearing spoke "with the President's complete endorsement."

CONSCIENCE CLAUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Don H. Clausen) is recognized for 30 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, this morning I had the privilege of testifying before the Labor-Management Relations Subcommittee, Education and Labor Committee, concerning the "conscience clause" in Federal labor relations legislation. I would like to thank the chairman of this subcommittee, Frank Thompson, for holding this hearing and recognizing the importance of this matter to the many people whose Biblical principles prevent them from joining or financially supporting a labor union.

I would also like to submit this testimony in the Record along with a letter from the president of the General Conference of Seventh-Day Adventists concerning the Adventist employees who are affected by this problem. I am hopeful we can advance the legislation this year and assure religious freedom to these dedicated, dynamic, and humanitarian members of our society.

Testimony of Don H. Clausen

During the debate on the proposed Bill of Rights in the First Continental Congress, Representative Daniel Carroll of Maryland sounded a warning that could well be echoed as we consider H.R. 1528:

"The rights of conscience are, in their nature, of peculiar delicacy, and will little bear the gentlest touch of governmental hand."

H.R. 1528 would protect the rights of conscience of thousands of sincere people who believe it to be a violation of Biblical principles to join or financially support a labor union.

The central issue is the preservation of full religious liberty for the country and, in particular, those religious organizations in our country that have consistently demonstrated strict adherence to these matters of conscience that are inherent in the accepted principles of their beliefs. Specifically, there are at least seven religious groups in this country which, according to their religious teachings, do not allow their members to belong to a union or to any other organization to which they must pay dues.

We do not need to share their viewpoint, indeed we do not even need to understand it to stand emphatically in support of these people's conscientious convictions. Religious liberty is not, after all, simply to respect a man's religion, it is to protect his right to practice a religion we may not respect.

H.R. 1528 would protect religious freedom by exempting any employee "who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization." The people who ask us to recognize the "peculiar delicacy" of their conscientious convictions are good people. Many are members of small denominations comprising the National Association of Evangelicals.

They bear names such as Mennonite, Amish, Plymouth Brethren IV, and one larger group having 500,000 members in the United States, the Seventh-Day Adventists. In seeking the exemption from union shop agreements these people cannot be called "freeloaders." In fact, these people are perfectly willing to pay the full amount of initiation and the full amount of dues to a charity that is mutually acceptable to both the union and to the people who as a matter of conscience could not join the union.

Amendments have been offered and accepted by the Congress to protect the religious liberty of these people in specific instances. It is clearly in the interest of these people, as well as all people, to have a conscience clause apply in general terms in all matters pertaining to labor relations.

My good friend and colleague, John Erlenborn, has outlined the legal decisions which are pertinent in this matter and I must defer to him for any questions on the legal aspects of this conscience clause. However, I can state that this measure would not interfere in any way with a union's right to enter into a union security agreement. It does not address the question of political dissent or any type of conscientious objection not based on religion.

It is, in fact, simply a restoration to our Federal labor laws of the full constitutional guarantee of freedom of religion to practice religion. In my judgment the greatest contribution to the social progress of mankind, anywhere on Earth, has come as a result of the established guidelines in our Constitution. Of all the constitutional amendments I personally believe the first amendment has been the most constructive and protective of our basic and cherished freedoms.

It is my hope that this Congress will reestablish this guaranteed protection of religious freedom in perpetuity so we can remove the concern, once and for all, for those dedicated religious people organizations that provide some of the finest medical, education, and religious programs in the country. As Elder Robert Pierson, president of the General Conference of Seventh-Day Adventists said in his letter to me, which I am submitting for the hearing record:

"Adventist workers are having problems all across the country. Hundreds of our members have lost their jobs rather than join labor unions. In fact, during the past year, labor union problems have ranked with sabbath work problems as the two most perplexing religious liberty issues facing Seventh-Day Adventists in the United States."

Elder Pierson continues:

"I do want to emphasize that the church teaching, which urges members not to join or otherwise support a labor union, is not based on economic or political premises, but rather on the Bible. Indeed the teaching is not anti-union, but a far broader statement of allegiance and independence. You may be aware that the same convictions have undergirded the refusal of many Adventist youth to bear arms while impelling them to serve their country as stretcher bearers, medics and so forth. We are deeply grateful to Congress and the American armed forces for their providing means of alternative service . . ."

"On behalf of the more than 3,470 local Seventh-Day Adventist congregations in the United States, I would like to thank you for your support of H.R. 1528. And on behalf of the hundreds of workers who have lost their jobs—particularly our black Adventists, many or whom are clustered in big city industrial complexes which are unionized—I would plead for a broadened mantle of protection for religious conscience."

The legislative effects of the measure before this subcommittee go beyond simply permitting the free exercise of an individual's religious conscience in his employment. It is a reaffirmation by the Congress that we will take whatever steps are required to insure in every way the right of each American to worship his God in his own way. And, further, that no action by government—directly or indirectly—will be allowed which would limit this right.

This Bicentennial Year is a particularly appropriate time for us to reflect upon and act upon the remarkable tradition of religious liberty that has truly made our country a haven for all those whose religious views have been punished or scorned in their original homelands.

The very first permanent arrivals from the old world sought religious refuge here. Succeeding generations have come to enjoy the freedom that has flourished in true religious liberty and diversity.

The Virginia statute for religious freedom, which was adopted in 1786 and which has served as a statutory model for American Public policy with regard to the free exercise of religious beliefs states:

"Be it enacted by the general assembly, that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief: but that all men shall be free to profess and by argument to maintain, their opinion in matters of religion: and that the same shall in no wise diminish, enlarge, or affect their civil capacities."

Unless we act, the present condition can continue which can force an individual to give up gainful employment if a vote is taken to require union membership as a condition of employment. Our religious liberty means nothing if it does not allow the minority in such a situation its opportunity to follow its conscience.

There are few situations in the United States of America in which we allow discrimination for religious reasons. Even during periods where our national sovereignty has been under attack from other nations, those people whose religious views have prevented them from bearing arms have been excused from combat. At no time have they asked to be excused from carrying their share of the burden associated with alternative service.

We can do no less than this in every area if we are to maintain our Nation as an example for all others. Rights of conscience are of "peculiar delicacy." Let us be remembered as statesmen who recognized this fact, and who acted resolutely and intelligently in their defense of and for the cause of religious freedom in America.

General Conference of
Seventh-Day Adventists,
Washington, D.C., July 26, 1976.

Hon. Don H. Clausen,
House of Representatives,
Washington, D.C.

Dear Mr. Clausen: My associate, F. C. Webster, has told me of your interest in House Bill 1528. I am deeply grateful for your concern for Seventh-day Adventist employees who cannot in good conscience join or otherwise support labor unions.

As you may be aware, Adventist workers are having problems all across the country. Hundreds of our members have lost their jobs rather than join labor unions. In fact, during the past year, labor union problems have ranked with Sabbath work problems as the two most perplexing religious liberty issues facing Seventh-day Adventists in the United States.

I do want to emphasize that the church teaching, which urges members not to join or otherwise support a labor union, is not based on economic or political premises, but rather on the Bible. Indeed the teaching is not anti-union but a far broader statement of allegiance and independence. You may be aware that the same convictions have undergirded the refusal of many Adventist youth to bear arms, while impelling them to serve their country as stretcher bearers, medics, and so forth. We are deeply grateful to Congress and the American Armed Forces for their providing means of alternative service. In some lands, Adventist youth today are serving long prison terms because religious conviction is not regarded as an inalienable right, as it is here.

On behalf of the more than 3,470 local Seventh-day Adventist congregations in the United States, I would like to thank you for your support for House Bill 1528. And on behalf of the hundreds of workers who have lost their jobs—particularly our black Adventists, many of whom are clustered in big-city industrial complexes which are unionized—I would plead for a broadened mantle of protection for religious conscience.

Sincerely,

Robert H. Pierson,
President.

ORPHANS OF THE EXODUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Derwinski) is recognized for 5 minutes.

Mr. DERWINSKI. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus," dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Shostakovsky family.

Ilya Shostakovsky

Ilya Shostakovsky, 31, is a bachelor, living without any family since 1973. In 1973 Ilya and his parents applied for permission to emigrate to Israel where many of their relatives were living. Four months after applying, he was called to the visa office and told that his parents would be allowed to leave right away but that he would have to wait a year and a half before he could join tnem. When only seven months of that period were left, the waiting period was extended five and a half more years. He has been repeatedly refused ever since.

Ilya's refusals can hardly be justified on the basis of his being a security risk. Nine years ago when he graduated from the Institute with a degree in nuclear physics, he was not allowed to enter the field. For the next two years he was a junior engineer at a geological project and had no access to strategic or secret information. After being fired from that job he has had no connection with science or technology and has been reduced to employment as night watchman in a milk store—punishment for having applied to leave the Soviet Union.

In the meantime, Ilya's father has had a heart attack and the family is despondent at the long separation they have endured with no hope for an immediate reunion.

In January, his telephone was disconnected and he came under tremendous pressure at work. This culminated in his being dismissed from his job. Five days after that he was summoned to the KGB who threatened him with either a charge of parasitism or conscription into a hard labor gang. This threat still stands—a catch 22 situation which so many Soviet Jews find themselves caught up in.

AMERICAN HOSTAGES IN TURKEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, we have a very serious situation on our military bases in Turkey. One that I am sure is unprecedented in the history of our country. The American personnel who are assigned to Turkey must live in conditions dictated by the whims of Turkish commanders who now control our bases. The American personnel are essentially hostages as every aspect of their daily lives is controlled by the Turkish base commanders while our own American military officers are relegated to a position of following the orders of these commanders.

This situation developed over the Turkish invasion of Cyprus in 1974. Congress then voted to impose a prohibition on continued arms sales to Turkey. There was an attempt to ease the embargo, but after the House, in the summer of 1975, voted against this attempt the Turks took over United States and NATO bases. Since that time both our Secretary of State and Turkey's Minister of Foreign Affairs have initialed a defense cooperation agreement which is subject to congressional approval, and at the present time this agreement is pending in the International Relations Committees of both Houses of Congress.

In January of this year I had written to President Ford protesting the conditions under which our American personnel were living in Turkey after hearing from several families in my district. I requested that President Ford express strong concern about the welfare of Americans in Turkey and make clear that unless our good faith effort to improve relations at least produces decent treatment for our people serving there that we should consider withdrawing them. I stated that the United States has made a bona fide effort to accommodate Turkey and the least we can expect in return is reasonable treatment of Americans in that country. The following is the text of my letter:

JANUARY 5, 1976.

Hon. GERALD R. FORD,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I have received information from relatives of servicemen in Turkey that U.S. citizens are daily subjected to despicable and atrocious treatment. Clearly this must be stopped. The United States should never be in a position of paying tribute to a government that oppresses and humiliates our citizens.

I request that you express your strong concern about the welfare of Americans in Turkey and make clear that unless our good faith effort to improve relations at least produces decent treatment for our people serving there, or our servicemen will be withdrawn. The United States has made a bona fide effort to accommodate Turkey. The least we can expect in return is reasonable treatment of Americans in that country.

Respectfully yours,
HENRY B. GONZALEZ,
Member of Congress.

Several weeks after I wrote to the President, I received a reply from the White House that a number of problems bearing on the welfare of American personnel recently had been resolved and others were on the road to being settled satisfactorily. The following is the text of that letter:

THE WHITE HOUSE,
Washington, January 21, 1976.

Hon. HENRY B. GONZALEZ,
House of Representatives,
Washington, D.C.

DEAR MR. GONZALEZ: The President has asked that I reply further to your telegram of January 5 regarding treatment of American servicemen in Turkey.

We are aware of the difficulties and inconveniences faced by U.S. servicemen and their families in Turkey, and our concerns in this area have been made known repeatedly by the American Ambassador in Ankara to the highest levels of the Turkish Government.

A number of the problems bearing on the welfare of American personnel recently have been resolved, and still others are well on the road to being settled satisfactorily. The Government of Turkey, for example, has temporarily lifted its ban on APO packages, resumed registration of automobiles belonging to U.S. service personnel and cleared many military shipments previously held up in Turkish customs.

You may be sure that the welfare of American personnel serving in Turkey will remain a primary concern of this Administration.

Sincerely,
VERNON C. LOEN,
Deputy Assistant
to the President.

This was 6 months ago. In the last few weeks I have again received mail on the situation in Turkey, and I am afraid that the conditions have not improved. What seems to anger the American personnel the most is that they cannot even fly the American flag. One serviceman wrote to me and said:

Do you know you won't see an American flag flying here in Turkey? If you are caught flying it you are put in prison. Real nice isn't it when we can't even pay respect to old Glory.

Another reported that they were not permitted to celebate our Bicentennial on their military base by order of the Turkish Government. Other examples of the conditions our personnel are subjected to include the holding of their luggage, cars, and household goods, the rationing of food, the limiting of mail service including prohibiting packages to be sent or received, and various other forms of harassment to humiliate and oppress our citizens.

Something must be done to resolve the situation confronting our American personnel. Those of us sitting in our comfortable homes cannot ignore their pleas. They are for all practical purposes hostages in a diplomatic dispute. Their position must be considered and action must begin soon to rescue them from their present fate.

SUPPLEMENTAL SECURITY INCOME "PASS THROUGH"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 10 minutes.

Mr. FRASER. Mr. Speaker, on July 1, supplemental security income benefits rose by 6.4 percent. For those individuals receiving only Federal SSI benefits, the July increase meant additional income of $10.10 per month.

However, for many people receiving State supplemental benefits in addition to their Federal payments, the 6.4 percent increase was not what it appeared to be. Many of those receiving both Federal and State benefits found that the Federal increase was completely wiped away by "dollar for dollar" cuts in State payments. Others found that the higher Federal payments were partially offset by reductions in State benefits. In all, nearly 1 million elderly, blind, and disabled people were adversely affected. State actions, in effect, deprived these people of all or part of the 6.4 percent increase.

Today, I am introducing legislation to remedy this problem. My bill insures that, starting next year, SSI recipients will receive the full benefit raises to which they are entitled. This measure, which takes effect with the July 1977 Federal increase, requires States to "pass through" to recipients future cost-of-living increases. Because of the unique features of its program, the State of Massachusetts is exempted from this requirement.

My bill requires neither the Federal Government nor the States to increase spending for supplemental security income. All the bill says is that States cannot reduce expenditures at the expense of recipients.

When H.R. 8911, the Supplemental Security Income Amendments of 1976, reaches the House floor, I intend to offer my bill as an amendment to that legislation.

Mr. Speaker, some may claim that the level of State supplementation should be of no concern to the Federal Government. They view SSI only as a program which provides one uniform Federal benefit standard for the entire country. But the fact remains that SSI is more than a Federal program. Congress has already directed States to provide supplemental benefits for certain classes of recipients. Earlier today, in fact, the House voted to apply the principle embodied in my bill to the State of California. H.R. 14514 provides a full mandatory "pass-through" in California, starting next year.

We can continue to argue about which level of government has the responsibility for increasing benefits, but if we do so, the only losers will be the recipients.

At this point, I would like to include with my remarks, a chart which shows the impact of the 6.4-percent Federal increase on SSI recipients receiving State supplemental benefits and my bill:

IMPACT OF THE JULY 1976 FEDERAL COST-OF-LIVING INCREASE IN SSI BENEFITS ON RECIPIENTS RECEIVING STATE SUPPLEMENTAL BENEFITS

State	Estimated number of recipients	Full "pass-through" [1]	Partial "pass-through" [1]	No "pass-through"
Alabama	22,170			×
Alaska	3,369	×		
Arizona	1,430			×
Arkansas	2,158			×
California	654,289	×		
Colorado	31,583	×		
Connecticut	10,889		×	
Delaware	900			×
District of Columbia	1,100			×
Florida	3,375			×
Georgia	3,531			×
Hawaii	8,935		×	
Idaho	3,012	×		
Illinois	43,140			×
Indiana	1,072			×
Iowa	2,357	×		
Kansas	491			×
Kentucky	9,002	×		
Louisiana	7,059			×
Maine	6,730	×		
Maryland [2]	1,600			×
Massachusetts	125,900		×	
Minnesota	5,901			×
Michigan	106,158	×		
Mississippi	1,439			×
Missouri	50,659	×		
Montana	507	×		
Nebraska	5,603			×
Nevada	3,800			×
New Hampshire	3,386			×
New Jersey	46,400		×	
New Mexico	14			×
New York [3]	379,053		×	
North Carolina	10,548			
North Dakota	416			×
Ohio	1,970			×
Oklahoma	73,118		×	
Oregon	20,680		×	
Pennsylvania	136,104	×		
Rhode Island	14,308	×		
South Carolina	1,244			×
South Dakota	599			×
Tennessee	290			×
Texas	0			
Utah	213			×
Vermont	8,154	×		
Virginia	2,164			×
Washington	43,980		×	
West Virginia [4]	36			×
Wisconsin	55,900			×
Wyoming	1			×
Total	1,916,737	1,026,232	708,955	181,550

[1] Includes parallel increase in State benefits.

[2] Excluding State administered optional supplements—information not available.

[3] Full "pass-through" effective Oct. 1, 1976.

[4] Current data not available—number cited is as of July 1, 1975.

H.R. 14941

A bill to amend title XVI of the Social Security Act to assure that States do not utilize cost-of-living increases in supplemental security income benefits as a means of saving money at the expense of the recipients of such benefits, by requiring that all such increases be passed on to such recipients, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Title XVI of the Social Security Act is amended by adding immediately after section 1617 the following new section:

"OPERATION OF STATE SUPPLEMENTAL PROGRAMS

"SEC. 1618. (a) In order for any State which has at any time after December 1973 had in effect a program of supplementation payments described in section 1616(a) to be eligible for payments pursuant to title XIX, with respect to expenditures for any calendar quarter which begins—

"(1) after June 30, 1977, or, if later,

"(2) after the calendar quarter in which supplementation payments are first made under such program, such State must have in effect an agreement with the Secretary whereby the State will—

"(3) continue to operate such program, and

"(4) maintain, under such program, a level of benefits which is not lower than the level of benefits under the program for the first month that the program was in effect.

"(b) In determining for purposes of subsection (a) the level of benefits provided under a State supplementation program and the aggregate amount of any increases in such level, the Secretary shall (after reviewing the program as it affects the various classes and categories of beneficiaries covered thereunder) consider the program as it affects the vast majority of beneficiaries; and the Secretary shall not determine that a State has failed to meet the requirements imposed by paragraph (4) of such subsection solely because its supplementation program does not meet such requirements in one or more respects, or in the case of one or more classes or categories of beneficiaries, if the Secretary finds that the level of benefits provided under such program to the beneficiaries thereunder, when such beneficiaries are viewed as a single group, is not significantly lower than the level which would obtain if such requirements were fully met in every respect and in the case of each and every class or category of beneficiaries.".

(b) Section 212(a)(3)(C)(1) of Public Law 93–66 is amended by inserting "(except that there shall not be counted so much of any such benefit for any month as is attributable to any increase made in the level of supplemental security income benefits pursuant to section 1617 of such Act)" immediately after "Social Security Act".

(c) The requirements imposed by section 1618 of the Social Security Act (as added by subsection (a) of this section), and the requirement imposed by the amendment made by subsection (b) of this section, shall not apply in the case of any State with respect to which the limitation of fiscal liability imposed by section 401 of the Social Security Amendments of 1972 applies so as to reduce the amount payable to the Secretary of Health, Education, and Welfare by such State pursuant to its agreement or agreements under section 1616 of the Social Security Act.

SEC. 2. The provisions of this Act shall be effective with respect to benefits payable for months after June 1977.

PASSAGE OF CLEAN AIR ACT AMENDMENTS OF 1976 IS A MUST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 10 minutes.

Mr. PREYER. Mr. Speaker, it should be remembered that there is only one basic issue in the Clean Air Act Amendments of 1976—the assurance that the quality of the air we breathe does not endanger the public health and public welfare. Nothing is more important than the health of our people, and even though cost, growth factors, and environmental concerns must be weighed, they all must be balanced against health. There are those who would contend that we cannot afford the provisions of this bill. I would argue that we cannot afford not to pass this bill.

The minority views to H.R. 10498 argue—

> That the provisions of the bill will result in substantially reduced growth potential for much of our nation, significantly increase the administrative burdens of the states, magnify our energy shortages, place additional inflationary pressures on our citizens, and confuse our efforts to achieve our Congressionally-recognized economic goals. (p. 487 Committee Report)

These sweeping statements do not measure costs against benefits from the bill, nor are they supported by the many studies which have been performed with respect to this bill. This bill does not mandate an "environmental" solution nor an "industrial" solution to the problems of clean air. Instead, it represents a balancing of the "three E's"—energy, environment, and economics.

Section 203 on light duty auto emissions, and the oft-debated requirements that are considered too stringent by some and too lenient by others provide a good case in point. I believe the committee measure not only is acceptable, but that it strikes a delicate balance among productivity, growth, and health protection.

It should be noted that the basis for Mr. DINGELL's proposed amendment to relax requirements—which I oppose—is the March, 1975 statement of EPA Administrator Russell Train. Mr. Train has himself stated that the sole rationale for the relaxation of auto emission standards was the concern about possible problems with sulfuric-acid mists. Mr. Train acknowledged at that time that it was technologically feasible for new models to meet the statutory HC and CO standards in 1977 without undue fuel penalty or cost increases.

The committee has found, however, that earlier concerns about potential sulfuric acid mist from catalyst-equipped cars were grossly overestimated, to the extent that EPA does not now expect to propose a sulfuric acid emission standard in the immediate future—page 197. Consequently, the committee concludes:

> There is no longer any basis for the Train proposal. (p. 198)

Furthermore, the Dingell amendment is based on two assumptions, both of which are misleading. Mr. DINGELL assumes that between 1975 and 1985, there will be no significant improvement in automobile fuel efficiency, while emission standards are being met. Second, he assumes that no new generation of catalysts or other pollution control systems will ever be developed successfully. Only a few weeks ago, Volvo in California certified that for 50,000 miles, a 3,500 pound car meets the full 90 percent reduction in auto exhausts that the committee bill requires to be in effect for 1985. This Volvo has already done what Mr. DINGELL assumes could not be done for years to come.

His pronouncement "the NOx standard of four-tenths is not technologically feasible in the foreseeable future"—page 417—simply is not valid. Mr. DINGELL further assumes that it will not be necessary to reduce nitrogen-oxide emissions beyond 2 g/mi., and he is clearly refuted by the committee report—pages 208–215, especially pages 213–214.

With respect to fuel efficiency, this California Volvo is 10 percent more fuel efficient than the 1976 California models. According to the National Academy of Sciences:

> Delaying or relaxing standards does not insure that gains in fuel economy will be forthcoming. In fact, over the last two years, fuel economy has increased by more than 25 percent despite the imposition of more stringent emission standards. (p. 200)

The National Academy of Sciences' finding that fuel economy improvements should occur independent of emission levels is confirmed by both FEA and EPA. In a joint technical paper dated February 20, 1976, the two agencies concluded:

> The remainder of the fuel economy improvement over 1974 models required to be achieved by the three major U.S. automakers by 1985 . . . will be achieved almost totally by non-emission control related changes. (p. 202)

Proponents of the Dingell amendment also claim that the committee standards will produce negligible air quality benefits. This is the crux of the issue, where health really comes into play. The report speaks directly to this point. "Automobile emissions may account for as much as one quarter of 1 percent of the total urban health hazard,"—page 208—or up to 4,000 deaths per year nationwide.

Quantification of crop and real estate losses due to air pollution is obviously difficult but some estimates range as high as $16.1 billion annually—in 1968 dollars. Another study concluded that at least $2 billion—in 1970 dollars—would be saved each year by a 50 percent reduction in air pollution levels in major urban areas. It is probably not a coincidence that lung cancer rates are consistently higher in major metropolitan areas where the exhaust fumes from automobiles are trapped amidst the additional pollution created by industry.

Mr. DINGELL's assumption that the bill would increase consumer costs does not seem to have supporting evidence. In fact, there do not seem to be significant cost differences between the committee compromise and the Dingell amendment. As far as auto sales are concerned, the fact remains that, in 1976, when emission standards are more stringent than ever before, Detroit is enjoying its second best sales year in history.

Interestingly enough, only the year before had been extremely unsuccessful for the auto manufacturers. The concern lies in the state of the economy, and now that the recession is ending and consumer confidence in the economy is being rapidly restored, the public is buying cars at near record rates. In other words, there does not appear to be any correlation between the very small costs for meeting new auto emission controls and consumer demand.

Ultimately, the case in favor of the committee's position on the light duty motor vehicle emissions boils down to commonsense. The Clean Air Act Amendments, as written, are a moderate, intelligent proposal that painstakingly seeks to balance industrial needs and growth with protection of the earth and its inhabitants.

The bill is reasonable and it is balanced. In my view, a full understanding of the bill shows that it is not controversial. Distinguished colleagues, since the health of our people is too big a price to pay for our neglect, I strongly urge your support for this most important piece of legislation.

THE BICENTENNIAL SALUTE TO THE CAPTIVE NATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, our Bicentennial theme of national independence resounded throughout the period of the 18th observance of Captive Nations Week. Both here and abroad observers emphasized the natural relationship between the prime significance of our Bicentennial and the prime yearning and aspiration of all the captive nations, including those in the Soviet Union, for national independence and freedom. Many proclamations of the week issued by our Governors and mayors contrast our democratic, freedom objectives with the imperialistic, totalitarian policies of Moscow.

One of the largest rallies on this 18th observance was held on July 11 near the Statue of Liberty in New York Harbor. Over 4,000 witnessed the festivities that conveyed the message of our Bicentennial Salute to the Captive Nations. The message expressed the natural affinity between the essence of our American Revolution and the basic hope and determination of all the captive nations for national independence. This impressive rally, carried by NBC, would not have been possible without the leadership of President George Meany of the AFL–CIO and the enthusiastic and magnificent support of the New York City Central Labor Council and its associated labor organizations. As transmitted by both Radio Liberty and Radio Free Europe, the peoples of the captive nations in Eurasia were informed of this outstanding rally and its Bicentennial salute, and doubtlessly are aware of the millions of Americans who have not forgotten their plight and view them as natural allies in a common struggle for freedom against Soviet Russian and Red Chinese imperialism.

For the RECORD, Mr. Speaker, I introduce the proclamations of Gov. Hugh L. Carey of New York, Gov. George Busbee of Georgia, Mayor Tom Bradley of Los Angeles, and Mayor Thomas D. Dolan of Dearborn City and, also, the program at the Statue of Liberty and an article by Lee Edwards, who coordinated the Liberty program and raises the question "Which Will Be the Next Captive Nation?"

PROCLAMATION—STATE OF NEW YORK EXECUTIVE CHAMBER

The desire for liberty and independence by the overwhelming majority of peoples in conquered nations constitutes a powerful deterrent to the ambitions of aggressive leaders to initiate a major war.

The freedom-loving people in captive nations look to the United States as the citadel of human freedom and to its people for guidance and inspiration.

The Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe this week with appropriate prayer, ceremonies and activities expressing their sympathy with and support for the just aspirations of captive people.

Now, therefore, I, Hugh L. Carey, Governor of the State of New York, do hereby proclaim the week of July 18–24, 1976, as Captive Nations Week in New York State.

PROCLAMATION: CAPTIVE NATIONS WEEK

By the Governor:

Whereas: The imperialistic policies of Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of many lands; and

Whereas: The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas: The freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas: In 1959 the Congress of the United States passed by unanimous vote Public Law 86–90, establishing the third week in July of each year as Captive Nations Week; now

Therefore: I, George Busbee, Governor of the State of Georgia, do hereby proclaim the week of July 18–24, 1976, as "Captive Nations Week" in Georgia.

CITY OF LOS ANGELES—PROCLAMATION: CAPTIVE NATIONS WEEK

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples:

Now, therefore, I, Tom Bradley, mayor of the City of Los Angeles do hereby proclaim the week of July 18–24, 1976 as Captive Nations Week in Los Angeles, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

July 1976.

TOM BRADLEY,
Mayor.

CITY OF DEARBORN—RESOLUTION: CAPTIVE NATIONS WEEK, JULY 18–24, 1976

Whereas, the imperialistic policies of the Soviet Union have led to the subjugation and enslavement of the people of Poland, Hungary, Lithuania, the Ukraine, Czechoslovakia, Latvia, Estonia, Rumania, Bulgaria, Armenia, Albania, Serbia, Croatia and other nations; and,

Whereas, the wishes of the majority of the people in these conquered nations serves as a powerful deterrent to any ambitions that the communist leaders may harbor toward initiating a major war; and,

Whereas, during the Bicentennial year, when Americans commemorate the birth of their freedom, the people of these conquered nations look to the United States as the home of human freedom and personal liberties; and, Whereas, the United States has established itself as a nation that will get involved with those less fortunate in the fight against imperialistic tyranny; now, therefore, be it

Resolved, that the Dearborn City Council joins with Mayor Orville L. Hubbard and the People of Dearborn, many of whom have ancestors and relatives still confined in the conquered nations, in lending support and encouragement to those individuals who work toward obtaining the freedom of these nations; and, be it further

Resolved, that July 18–24 be proclaimed as the 19th observance of Captive Nations Week, and that a copy of this resolution be presented to Daniel J. Flood and Edward J. Derwinski, members of the U.S. Congress, who are on the advisory committee of the National Captive Nations Committee.

THOMAS D. DOLAN.

The Bicentennial Salute to the Captive Nations, Sunday, July 11, 1976, 1–4 P.M., Liberty Island, New York Harbor

(Sponsored by: The American Bicentennial Committee for the Independence of the Captive Nations)

Rollcall of captive nations

People or nation:	*Year of Communist domination*
Armenia	1920
Azerbaijan	1920
Byelorussia	1920
Cossackia	1920
Georgia	1920
Idel-Ural	1920
North Caucasia	1920
Ukraine	1920
Far Eastern Republic	1922
Mongolian People's Republic	1924
Estonia	1940
Latvia	1940
Lithuania	1940
Albania	1946
Bulgaria	1946
Serbia, Croatia, Slovenia, etc., in Yugoslavia	1946
Poland	1947
Rumania	1947
Czechoslovakia	1948
North Korea	1948
Hungary	1949
East Germany	1949
Mainland China	1949
Tibet	1951
North Vietnam	1954
Cuba	1960
South Vietnam	1975
Cambodia	1975
Laos	1975

PROGRAM

Pre-rally music: 12:30-1:00 p.m.

Rally: 1:00-4:00 p.m.

Posting of Colors: Catholic War Veterans.

Pledge of Allegiance: Edward Fermoselle-Cuba.

U.S. National Anthem: Miss Penka Lamar-Bulgaria.

Invocation: Rev. Florian Goldau, Rumanian Orthodox Church.

Roll Call of Captive Nations: Dr. Ivan Docheff, Co-Chairman, Captive Nations Week Committee of New York.

Welcoming remarks by M.C.: Lee Edwards, Executive Director, National Captive Nations Committee.

German Bavarian Dance Ensemble.

Remarks by Dr. Lev E. Dobriansky, Chairman, National Captive Nations Committee.

Ukrainian Dance Ensemble.

Remarks by Rep. Mario Biaggi of New York.

Byelorussian Women's Ensemble.

Remarks by Rep. James Delaney of New York.

Chinese Dragon Dance Group.

Remarks by Dr. Ku Cheng-kang of the Republic of China.

Remarks by Rep. Dan Flood of Pennsylvania.

Remarks by Rep. Edward I. Koch of New York.

Croatian Dance Group.

Remarks by Mayor Abe Beame of New York City.

Remarks by Tran Van Don of South Vietnam.

Turkish Dance Group.

Remarks by Lt. Gov. Mary Anne Krupsak of New York.

Lithuanian Dance Ensemble.

Prayer and Introduction by Rabbi Nathan Schorr.

Remarks by Avraham Shifrin of Israel, formerly of Gulag Archipelago.

Polish Dance Group.

Remarks by Sen. James Buckley of New York.

Hungarian Dance Ensemble.

Remarks by George Meany, President, AFL–CIO.

"God Bless America": Miss Penka Lamar.

Benediction by Very Rev. Patrick Paschak, Provincial of the Basilian Fathers (Ukranian Catholic Church).

Retreat of Color Guard.

American Bicentennial Committee For the Independence of the Captive Nations

AFL–CIO.

American Council for World Freedom.

American Friends of ABN.

Americans to Free Captive Nations, Inc.

Armenian Missionary Association of America.

Assembly of Captive European Nations.

Association of Free Chinese, Inc.

Byelorussian Congress Committee of America.

Bulgarian National Front of America, Inc.

Cambodian Association of America.

Captive Nations Committee of New York.

Catholic War Veterans Ladies Auxiliary.

Committee For A Free China.

Committee to Unite America, Inc.—"For America."

Conservative Party of New York County.

Estonian War Veterans Organization.

Federation of Turkish American Societies.

Free Albania Committee.

Free Pacific Association.

German American National Congress (D.A.N.K.).

Hungarian Freedom Fighters Federation.

Latvian-American Republican Federation—New York State Div.

Lithuanian American Council of New York.

Military Order of the Purple Heart-Greater New York.

National Captive Nations Committee.

National Committee for Responsible Patriotism.

New York City Central Labor Council—AFL–CIO

New York Estonian War Veterans Organization.

Polish Army Veterans Association of America.

A. Philip Randolph Institute.

The Chinese Consolidated Benevolent Association.

Ukrainian Congress Committee of America, Inc.—United Ukrainian American Organizations.

Women for Freedom, Inc.

World Federation of Cossack National Liberation Movement.

Our Special Thanks To: Mr. Francis J. Barry, President, Circle Line Ferry.

THANKS

The American Bicentennial Committee thanks the following labor organizations without whose help this Bicentennial Salute to the Captive Nations would not have been possible:

American Federation of Labor and Congress of Industrial Organizations, George Meany, President.

AFL–CIO Region VII: Michael Mann, Director; Lewis W. Johnson, Special Rep.; Jose Lopez, Field Rep.; Charles Longo, Field Rep.

New York City Central Labor Council, AFL–CIO: Harry Van Arsdale, Jr., President; Christopher Plunkett, Adminis. Asst. to the President; Gerald R. Waters, Sr.

New York City District Council: United Brotherhood of Carpenters and Joiners of America, AFL–CIO; Conrad F. Olsen, President; William Mahoney, First Vice President.

New York Joint Board of Shirt, Leisurewear, Robe, Glove and Rainwear Workers, ACTWA, AFL–CIO: Charles J. Garrahan, Manager; Olga Diaz, Secretary.

DALU 3059, Bill Posters, AFL–CIO: William Mirault, Sec.-Treas.

Local 1212, Radio and Television Broadcast Engineers, IBEW, AFL–CIO: Vincent D. Bartilucci, Business Manager; Alfonso Bressan.

Local 11, National Association of Broadcast Employees and Technicians, AFL–CIO: Arthur Kent, President.

Local 829, United Scenic Artists: Brotherhood of Painters and Allied Trades of America, AFL–CIO: Andy Clores, Business Manager; Leo Kerz, Assistant Business Manager.

Local 1, Theatrical Protective Union: I.A.T.S.E., AFL–CIO, Solly Pernick, President.

Local 1181, Amalgamated Transit Union, AFL–CIO: Fred Saporita, President.

Local 44, Upholsterers, Decorators and Allied Crafts Union, Upholsterers International Union of N.A., AFL–CIO; Michael Mastrangelo, Business Manager.

Music for this event is provided by a grant from the Music Performance Trust Funds of the recording industries.

Salute coordinators: Lee Edwards, Dr. Walter Dushnyck.

Which Will Be the Next Captive Nation?

(By Lee Edwards)

This melancholy question is frequently asked of Dr. Lev Dobriansky, chairman of the National Captive Nations Committee, particularly as we approach the 18th observance of Captive Nations Week during last week.

In 1975, three new nations were added to the list—South Vietnam, Cambodia and Laos. Some argue that Angola now belongs although Dr. Dobriansky, an economist by profession and an optimist by nature, is still waiting the final outcome in that African country. Anti-communist forces are still stubbornly fighting there.

When pressed, Dr. Dobriansky will reply that the next captive nation could be South Korea, if the U.S. withdraws its military forces, or the Republic of China on Taiwan, if we derecognize the Nationalist government, or perhaps Jamaica, now in a state of martial law.

He is certain of one thing: There will inevitably be more captive nations unless and until the U.S. challenges the root cause of why more than 1 billion people live, not by their choice, under communism. That cause is Soviet imperialism.

After all, Moscow harbored Ho Chi Minh, Tito, Gomulka and countless other communist leaders. Whatever their present differences, the Soviet Union supported and nurtured the Chinese Communists as far back as the 1920's. Without their help, Mao Tse-Tung would not be in power today.

Moscow is the forge of world revolution. It is the Soviet Union and no other force on earth that is most responsible for the Iron and the Bamboo and the Sugar Cane Curtains.

But what can we do? Is there no other answer to peaceful coexistence but a nuclear holocaust?

Indeed there is. We can show our concern and give at the very least our psychological support to the captive nations, including those non-Russian nations within the USSR.

It is a little known fact that non-Russian areas inside the Soviet Union account for 50 percent of the population. Some 32 key natural resources and elements are located in non-Russian areas like Ukraine, Byelorussia and Georgia.

These captive peoples are our best and strongest allies, but they need to know that we have not forgotten them. That is the purpose of the Captive Nations Week, which President Ford quietly proclaimed last weekend when he probably hoped no one, especially the Soviets was looking.

Mr. Ford said some predictable things about the spirit of liberty and then touched the heart of the matter, declaring:

"We do not accept foreign domination over any nation. We reaffirm today this principle and policy."

Of course, he did not mention the Soviet Union or Moscow, or heaven forbid, communism. Henry Kissinger would have thrown a tantrum if he had.

But President Ford did renew this nation's support for the "aspirations for freedom, independence and national self-determination of all peoples."

That may not mean very much to us Americans who have all three, but it is a clear signal to every captive people around the world and to the Soviets. It now remains for the U.S. to couple deeds with words.

For example, we could make further trade conditional upon democratization within the Soviet empire.

We could require the Soviets to live up to the Helsinki agreement of August 1975, allowing families and friends to cross borders, and exchanging journalism, academicians and scientists.

We could point out that the right to leave a country is an intrinsic right and that not only Jews but Christians and Moslems and even the non-religious should be allowed to leave the Soviet Union if they want to.

We could increase the broadcasts over Radio Free Europe and Radio Liberty, which carry the truth into the heart of the Soviet empire.

We could do many things if we put our minds to it, if we decided that there must be no more captive nations, realizing that if we do not act we will one day become a captive nation too.

ACTS ADOPTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA AND TRANSMITTED TO THE SPEAKER JULY 26–29, 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Diggs) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, as an update of the report I submitted to the Record on July 26 on acts adopted by the Council of the District of Columbia, I wish to add the following legislation, which was transmitted to the Speaker during the week of July 26–29.

The House Committee on the District of Columbia has in its files the Council bills and the accompanying Council reports, if Members desire further information.

Acts Adopted by the Council of the District of Columbia and Transmitted to the Speaker July 26–29, 1976

Act 1–141: Latino Community Development Act. To establish an Office of Latino Affairs and Commission on Latino Community Development in the District of Columbia. Adopted by Council June 29, 1976. Signed by the Mayor July 19, 1976. Transmitted to the Speaker July 28, 1976.

Act 1–142: Firearms Control Regulation Act of 1975. To protect the citizens of the District from loss of property, death, and injury, by controlling the availability of firearms in the Community, pursuant to section 602(c) of Public Law 93–198. Adopted by the Council on June 29, 1976. Signed by the Mayor July 23, 1976. Transmitted to the Speaker on July 26, 1976.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Minish) is recognized for 5 minutes.

Mr. MINISH. Mr. Speaker, early today I was unavoidably detained at the Bethesda Naval Medical Center. Consequently, I was absent for rollcall No. 567, final passage of House Resolution 1421. Had I been present, I would have voted "aye."

GOVERNOR CARTER'S 1974 LAW DAY SPEECH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Brademas) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, "Equal justice under law" is a precept at the heart of our democratic system of Government but a precept is sometimes honored only in the breach.

Indeed, the events of recent years have caused some Americans to wonder whether our traditional regard for fairness in the administration of the laws has become merely window dressing.

I took great pleasure, therefore, in reading only a few days ago a remarkable address delivered on May 4, 1974, by the then Governor of the State of Georgia, the Honorable Jimmy Carter.

Governor Carter's speech, delivered on the occasion of the 1974 Law Day ceremonies at the University of Georgia, bespeaks a keen sensitivity to the ways in which the unequal administration of justice rots away the foundation of democracy.

Governor Carter acknowledged that we have had progress, particularly in the area of race relations, toward making real the promise of our democratic principles. But he also challenged us to ask the question: "What can we still do to restore equity and justice or to preserve it or enhance it in this society?"

The distinguished theologian, Reinhold Niebuhr, once wrote:

> Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary.

Governor Carter's speech is a prescription for democracy based on equal justice. His address merits the attention of all who care for our liberties and I insert the text of it at this point in the Record:

Governor Jimmy Carter, Transcription of Law Day Speech, University of Georgia, Athens, Ga., May 4, 1974

Senator Kennedy, distinguished fellow Georgians, friends of the Law School of Georgia and personal friends of mine:

Sometimes even a distinguished jurist on the Supreme Court doesn't know all of the background on acceptances of invitations. As a matter of fact, my wife was influential in this particular acceptance, but my son was even more influential. This was really an acceptance to repair my ego. There was established in 1969 the L.Q.C. Lamar Society. I was involved in the establishment of it, and I think a lot of it. As Governor of Georgia I was invited this year, along with two distinguished Americans, to make a speech at the annual meeting which is going on now.

I found out when the program was prepared that Senator Kennedy was to speak last night. They charged $10 to attend the occasion. Senator William Brock from Tennessee is speaking to the Lamar Society at noon today. I found out that they charged $7.50 for this occasion. I spoke yesterday at noon, and I asked the Lamar Society officials, at the last moment, how much they were charging to come to the luncheon yesterday. They said they weren't charging anything. I said, "You mean they don't even have to pay for the lunch?" They said, "No, we're providing the lunch free."

So, when my son Jack came and said, "Daddy, I think more of you than you thought I did; I'm paying $7.00 for two tickets to the luncheon," I figured that $3.50 lunch ticket would salvage part of my ego and that's really why I'm here today.

I'm not qualified to talk to you about law, because in addition to being a peanut farmer, I'm an engineer and a nuclear physicist, not a lawyer. I was planning, really, to talk to you more today about politics and the interrelationship of political affairs and law, than about what I'm actually going to speak on. But after Senator Kennedy's delightful and very fine response to political questions during his speech, and after his analysis of the Watergate problems, I stopped at a room on the way, while he had his press conference, and I changed my speech notes.

My own interest in the criminal justice system is very deep and heartfelt. Not having studied law, I've had to learn the hard way. I read a lot and listen a lot. One of the sources for my understanding about the proper application of criminal justice and the system of equity is from reading Reinhold Niebuhr, one of his books that Bill Gunter gave me quite a number of years ago. The other source of my understanding about what's right and wrong in this society is from a friend of mine, a poet named Bob Dylan. After listening to his records about "The Ballad of Hattie Carol" and "Like a Rolling Stone" and "The Times, They Are A Changing", I've learned to appreciate the dynamism of charge in a modern society.

I grew up as a landowner's son. But, I don't think I ever realized the proper interrelationship between the landowner and those who worked on a farm until I heard Dylan's record, "I Ain't Gonna Work on Maggie's Farm No More". So I come here speaking to you today about your subject with a base for my information founded on Reinhold Niebuhr and Bob Dylan.

One of the things that Niebuhr says is that the sad duty of the political system is to establish justice in a sinful world. He goes on to say that there's no way to establish or maintain justice without law; that the laws are constantly changing to stabilize the social equilibrium of the forces and counterforces of a dynamic society, and that the law in its totality is an expression of the structure of government.

Well, as a farmer who has now been in office for three years, I've seen firsthand the inadequacy of my own comprehension of what government ought to do for its people. I've had a constant learning process, sometimes from lawyers, sometimes from practical experience, sometimes from failures and mistakes that have been pointed out to me after they were made.

I had lunch this week with the members of the Judicial Selection Committee, and they were talking about a consent search warrant. I said I didn't know what a consent search warrant was. They said, "Well, that's when two policemen go to a house. One of them goes to the front door and knocks on it, and the other one runs around to the back door and yells 'come in'." I have to admit that as Governor, quite often I search for ways to bring about my own hopes; not quite so stringently testing the law as that, but with a similar motivation.

I would like to talk to you for a few moments about some of the practical aspects of being a governor who is still deeply concerned about the inadequacies of a system of which it is obvious that you're so patently proud.

I have refrained completely from making any judicial appointments on the basis of political support or other factors, and have chosen, in every instance, Superior Court judges, quite often State judges, Appellate Court judges, on the basis of merit analysis by a highly competent, open, qualified group of distinguished Georgians. I'm proud of this.

We've now established in the Georgia Constitution a qualifications commission, which for the first time can hear complaints from average citizens about the performance in office of judges and can investigate those complaints and with the status and the force of the Georgia Constitution behind them can remove a judge from office or take other corrective steps.

We've now passed a Constitutional amendment, which is waiting for the citizenry to approve, that establishes a uniform Criminal Justice Court System in this state so that the affairs of the judiciary can be more orderly structured, so that work loads can be balanced and so that over a period of time there might be an additional factor of equity, which quite often does not exist now because of the wide disparity among the different courts of Georgia.

We passed this year a judge sentencing bill for non-capital cases with a review procedure. I've had presented to me by members of the Pardons and Paroles Board, an analysis of some of the sentences given to people by the Superior Court Judges of this state, which grieved me deeply and shocked me as a layman. I believe that over a period of time, the fact that a group of other judges can review and comment on the sentences meted out in the different portions of Georgia will bring some more equity to the system.

We have finally eliminated the unsworn statement law in Georgia—the last state to do it.

This year, we analyzed in depth the structure of the drug penalties in this state. I believe in the future there will be a clear understanding of the seriousness of different crimes relating to drugs. We've finally been able to get through the legislature a law that removes alcoholism or drunkenness as a criminal offense. When this law goes into effect next year, I think it will create a new sense of compassion and concern and justice for the roughly 150,000 alcoholics in Georgia, many of whom escape the consequences of what has been a crime because of some social or economic prominence, and will remove a very heavy load from the criminal justice system.

In our prisons, which in the past have been a disgrace to Georgia, we've tried to make substantive changes in the quality of those who administer them and to put a new realm of understanding and hope and compassion into the administration of that portion of the system of justice. Ninety-five percent of those who are presently incarcerated in prisons will be returned to be our neighbors. And now the thrust of the entire program, as initiated under Ellis MacDougall and now continued under Dr. Ault, is to try to discern in the soul of each convicted and sentenced person, redeeming features that can be enhanced. We plan a career for that person to be pursued while he is in prison. I believe that the early data that we have on recidivism rates indicates the efficacy of what we've done.

The GBI, which was formerly a matter of great concern to all those who were interested in law enforcement, has now been substantially changed—for the better. I would put it up now in quality against the FBI, the Secret Service or any other crime control organization in this Nation.

Well, does that mean that everything is all right?

It doesn't to me.

I don't know exactly how to say this, but I was thinking just a few moments ago about some of the things that are of deep concern to me as Governor. As a scientist, I was working constantly, along with almost everyone who professes that dedication of life, to probe, probe every day of my life for constant change for the better. It's completely anachronistic in the make-up of a nuclear physicist or an engineer or scientist to be satisfied with what we've got, or to rest on the laurels of past accomplishments. It's the nature of the profession.

As a farmer, the same motivation persists. Every farmer that I know of, who is worth his salt or who's just average, is ahead of the experiment stations and the research agronomist in finding better ways, changing ways to plant, cultivate, utilize herbicides, gather, cure, sell farm products. The competition for innovation is tremendous, equivalent to the realm of nuclear physics even.

In my opinion, it's different in the case of lawyers. And maybe this is a circumstance that is so inherently true that it can't be changed.

I'm a Sunday School teacher, and I've always known that the structure of law is founded on the Christian ethic that you shall love the Lord your God and your neighbor as yourself—a very high and perfect standard. We all know the fallibility of man, and the contentions in society, as described by Reinhold Niebuhr and many others, don't permit us to achieve perfection. We do strive for equality, but not with a fervent and daily commitment. In general, the powerful and the influential in our society shape the laws and have a great influence on the legislature or the Congress. This creates a reluctance to change because the powerful and the influential have carved out for themselves or have inherited a privileged position in society, of wealth or social prominence or higher education or opportunity for the future. Quite often, those circumstances are circumvented at a very early age because college students, particularly undergraduates, don't have any commitments to the preservation of the way things are. But later, as their interrelationship with the present circumstances grows they also become committed to approaching change very, very slowly and very, very cautiously, and there's a commitment to the status quo. I remember when I was a child, I lived on a farm about three miles from Plains, and we didn't have electricity or running water. We lived on the railroad—Seaboard Coastline railroad. Like all farm boys I had a flip, a slingshot. They had stabilized the railroad bed with little white round rocks, which I used for ammunition. I would go out frequently to the railroad and gather the most perfectly shaped rocks of proper size. I always had a few in my pockets, and I had others cached away around the farm, so that they would be convenient if I ran out of my pocket supply.

One day I was leaving the railroad track with my pockets full of rocks and hands full of rocks, and my mother came out on the front porch—this is not a very interesting story but it illustrates a point—and she had in her hands a plate full of cookies that she had just baked for me. She called me, I am sure with love in her heart, and said, "Jimmy, I've baked some cookies for you." I remember very distinctly walking up to her and standing there for 15 or 20 seconds, in honest doubt about whether I should drop those rocks which were worthless and take the cookies that my mother had prepared for me, which between her and me were very valuable.

Quite often, we have the same inclination in our everyday lives. We don't recognize that change can sometimes be very beneficial, although we fear it. Anyone who lives in the South looks back on the last 15 to 20 years with some degree of embarrassment, including myself. To think about going back to a county unit system, which deliberately cheated for generations certain white voters of this state, is almost inconceivable. To revert back or to forego the one man, one vote principle, we would now consider to be a horrible violation of the basic principles of justice and equality and fairness and equity.

The first speech I ever made in the Georgia Senate, representing the most conservative district in Georgia, was concerning the abolition of 30 questions that we had so proudly evolved as a subterfuge to keep black citizens from voting and which we used with a great deal of smirking and pride for decades or generations ever since the War between the States—questions that nobody could answer in this room, but which were applied to every black citizen that came to the Sumter County Courthouse or Webster Courthouse and said, "I want to vote". I spoke in that chamber, fearful of the news media reporting it back home, but overwhelmed with a commitment to the abolition of that artificial barrier to the rights of an American citizen. I remember the thing that I used in my speech, that a black pencil salesman on the outer door of the Sumter County Courthouse, could make a better judgment about who ought to be sheriff, than two highly educated professors at Georgia Southwestern College.

Dr. Martin Luther King, Jr., who was perhaps despised by many in this room because he shook up our social structure that benefited us, and demanded simply that black citizens be treated the same as white citizens, wasn't greeted with approbation and accolades by the Georgia Bar Association or the Alabama Bar Association. He was greeted with horror. Still, once that change was made, a very simple but difficult change, no one in his right mind would want to go back to circumstances prior to that juncture in the development of our Nation's society.

I don't want to go on and on, I'm part of it. But, the point I want to make to you is that we still have a long way to go. In every age or every year, we have a tendency to believe that we've come so far now, that there's no way to improve the present system. I'm sure when the Wright Brothers flew at Kitty Hawk, they felt that was the ultimate in transportation. When the first atomic bomb was exploded, that was the ultimate development in nuclear physics, and so forth.

Well, we haven't reached the ultimate. But who's going to search the heart and the soul of an organization like yours or a law school or state or nation and say, "What can we still do to restore equity and justice or to preserve it or to enhance it in this society?"

You know, I'm not afraid to make the change. I don't have anything to lose. But, as a farmer I'm not qualified to assess the characteristics of the ninety-one hundred inmates in the Georgia prisons, 50% of whom, ought not to be there. They ought to be on probation or under some other supervision and assess what the results of previous court rulings might bring to bear on their lives.

I was in the Governor's Mansion for two years, enjoying the services of a very fine cook, who was a prisoner—a woman. One day she came to me, after she got over her two years of timidity and said, "'Governor, I would like to borrow $250.00 from you."

I said, "I'm not sure that a lawyer would be worth that much."

She said, "I don't want to hire a lawyer; I want to pay the judge."

I thought it was a ridiculous statement for her; I felt that she was ignorant. But I found out she wasn't. She had been sentenced by a Superior Court judge in the state, who still serves, to seven years or $750. She had raised, early in her prison career, $500. I didn't lend her the money, but I had Bill Harper, my legal aide, look into it. He found the circumstances were true. She was quickly released under a recent court ruling that had come down in the last few years.

I was down on the coast this weekend. I was approached by a woman who asked me to come by her home. I went by, and she showed me documents that indicated that her illiterate mother, who had a son in jail, had gone to the County Surveyor in that region and had borrowed $225 to get her son out of jail. She had a letter from the Justice of the Peace that showed that her mother had made a mark on a blank sheet of paper. They paid off the $225, and she has the receipts to show it. Then they started a 5-year program trying to get back the paper she signed, without success. They went to court. The lawyer that had originally advised her to sign the paper showed up as the attorney for the surveyor. She had put up 50 acres of land near the county seat as security. When she got to court she found that instead of signing a security deed, that she had signed a warranty deed. That case has already been appealed to the Supreme Court, and she lost.

Well, I know that the technicalities of the law that would permit that are probably justifiable. She didn't have a good lawyer. My heart feels and cries out that something ought to be analyzed, not just about the structure of government, judicial qualification councils and judicial appointment committees and eliminating the unsworn statement—those things are important. But they don't reach the crux of the point—that now we assign punishment to fit the criminal and not the crime.

You can go in the prisons of Georgia, and I don't know, it may be that poor people are the only ones who commit crimes, but I do know they are the only ones who serve prison sentences. When Ellis MacDougall first went to Reidsville, he found people that had been in solitary confinement for ten years. We now have 500 misdemeanants in the Georgia prison system.

Well, I don't know the theory of law, but there is one other point I want to make, just for your own consideration. I think we've made great progress in the Pardons and Paroles Board since I've been in office and since we've reorganized the government. We have five very enlightened people there now. And on occasion they go out to the prison system to interview the inmates, to decide whether or not they are worthy to be released after they serve one-third of their sentence. I think most jurors and most judges feel that when they give the sentence, they know that after a third of the sentence has gone by, they will be eligible for careful consideration. Just think for a moment about your own son or your own father or your own daughter being in prison, having served seven years of a lifetime term and being considered for a release. Don't you think that they ought to be examined and that the Pardons and Paroles Board ought to look them in the eye and ask them a question and if they are turned down, ought to give them some substantive reason why they are not released and what they can do to correct their defect?

I do.

I think it's just as important at their time for consideration of early release as it is even when they are sentenced. But, I don't know how to bring about that change.

We had an ethics bill in the State Legislature this year. Half of it passed—to require an accounting for contributions during a campaign—but the part that applied to people after the campaign failed. We couldn't get through a requirement for revelation of payments or gifts to officeholders after they are in office.

The largest force against that ethics bill was the lawyers.

Some of you here tried to help get a consumer protection package passed without success.

The regulatory agencies in Washington are made up, not of people to regulate industries, but of representatives of the industries that are regulated. Is that fair and right and equitable? I don't think so.

I'm only going to serve four years as governor, as you know. I think that's enough. I enjoy it, but I think I've done all I can in the Governor's office. I see the lobbyists in the State Capitol filling the halls on occasions. Good people, competent people, the most pleasant, personable, extroverted citizens of Georgia. Those are the characteristics that are required for a lobbyist. They represent good folks. But I tell you that when a lobbyist goes to represent the Peanut Warehousemen's Association of the Southeast, which I belong to, which I helped to organize, they go there to represent the peanut warehouseman. They don't go there to represent the customers of the peanut warehouseman.

When the State Chamber of Commerce lobbyists go there, they go there to represent the businessman of Georgia. They don't go there to represent the customers of the businessman of Georgia.

When your own organization is interested in some legislation there in the Capitol, they're interested in the welfare or prerogatives or authority of the lawyers. They are not there to represent in any sort of exclusive way the client of the lawyers.

The American Medical Association and its Georgia equivalent—they represent the doctors, who are fine people. But they certainly don't represent the patients of a doctor.

As an elected governor, I feel that responsibility; but I also know that my qualifications are slight compared to the doctors or the lawyers or the teachers, to determine what's best for the client or the patient or the school child.

This bothers me; and I know that if there was a commitment on the part of the cumulative group of attorneys in this State, to search with a degree of commitment and fervency, to eliminate many of the inequities that I've just described that I thought of this morning, our state could be transformed in the attitude of its people toward the government.

Senator Kennedy described the malaise that exists in this Nation, and it does.

In closing, I'd like to just illustrate the point by something that came to mind this morning when I was talking to Senator Kennedy about his trip to Russia.

When I was about 12 years old, I liked to read, and I had a school principal, named Miss Julia Coleman, Judge Marshall knows her. She forced me pretty much to read, read, read, classical books. She would give me a gold star when I read ten and a silver star when I read five.

One day, she called me in and she said, "Jimmy, I think it's time for you to read War and Peace." I was completely relieved because I thought it was a book about cowboys and Indians.

Well, I went to the library and checked it out, and it was 1,415 pages thick, I think, written by Tolstoy, as you know, about Napoleon's entry into Russia in the 1812–1815 era. He had never been defeated and he was sure he could win, but he underestimated the severity of the Russian winter and the peasant's love for their land.

To make a long story short, the next spring he retreated in defeat. The course of history was changed; it probably affected our own lives.

The point of the book is, and what Tolstoy points out in the epilogue is, that he didn't write the book about Napoleon or the Czar of Russia or even the generals, except in a rare occasion. He wrote it about the students and the housewives and the barbers and the farmers and the privates in the Army. And the point of the book is that the course of human events, even the greatest historical events, are not determined by the leaders of a nation or a state, like presidents or governors or senators. They are controlled by the combined wisdom and courage and commitment and discernment and unselfishness and compassion and love and idealism of the common ordinary people. If that was true in the case of Russia where they had a czar or France where they had an emperor, how much more true is it in our own case where the Constitution charges us with a direct responsibility for determining what our government is and ought to be?

Well, I've read parts of the embarrassing transcripts, and I've seen the proud statement of a former attorney general, who protected his boss, and now brags on the fact that he tiptoed through a mine field and came out "clean". I can't imagine somebody like Thomas Jefferson tiptoeing through a mine field on the technicalities of the law, and then bragging about being clean afterwards.

I think our people demand more than that. I believe that everyone in this room who is in a position of responsibility as a preserver of the law in its purest form ought to remember the oath that Thomas Jefferson and others took when they practically signed their own death warrant, writing the Declaration of Independence—to preserve justice and equality and freedom and fairness, they pledged their lives, their fortunes and their sacred honor.

Thank you very much.

JOHN McGUINESS RETIRES FROM THE OFFICE OF THE ATTENDING PHYSICIAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. LONG) is recognized for 5 minutes.

Mr. LONG of Louisiana. Mr. Speaker, it has been said among Navy people that naval hospital corpsmen are the equal of the average physician in civilian life. Corpsmen in the Navy have traditionally reacted to emergency medical situations with the highest level of competence and expertise. We of the Congress have been extremely fortunate over the years to have the services of members of this elite corps in the office of our attending physician. For the last 22 years we have enjoyed the friendship and assistance of John McGuiness who is retiring at the end of this month.

John McGuiness enlisted in the U.S. Navy in August of 1942. His skill and hard work brought him steady advancement and on December 15, 1952, he achieved the rating of chief hospital corpsman. John served with the 69th Naval Construction Battalion—North Atlantic; the U.S. Naval Bases in New London, Conn., and Charleston, S.C.; the Naval Research Institute; and in Naples, Italy before being assigned to the office of the attending physician in the U.S. Capitol in 1954.

For 22 years John McGuiness has served the Members of this House and of the other body with the same warmth, competence and devotion that characterized his naval career. His duties in the office of the attending physician have included physical therapy, maintenance of health records, and the administration of injections. The importance of his skill in the latter cannot be overestimated—even to the bravest Member of Congress. John McGuiness has the deftness to make most shots quite painless and the personal charm to make the ones that were not painless soon forgotten.

We are losing a good friend as well as a trusted medical assistant. I know that our good Dr. Cary and the other very competent members of his staff will miss John as much as we will. I am certain that my colleagues in the Congress join me in wishing John McGuiness health, prosperity and happiness in his well-earned retirement. Lastly, I am sure that his wife, Irene, his daughters, Linda Davajon and Janet Mewhort, and even his grandson Jonathan, are looking forward to seeing more of him in the years ahead than they have in the years, past during which he has given so generously of his time and energy in the service of his country.

COMPENSATING VICTIMS OF CRIME

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I would like to direct the attention of our colleagues to the growing public concern regarding innocent victims of violent crimes and their dependents. As former chairman of the Committee on Crime, I am aware that there is a need at either the Federal or State level for meeting the uncompensated economic losses of victims of crime who have suffered personal injury.

As you know, legislation is being considered which I feel is responsive to this current crime issue. The subcommittee has held debates and hearings on H.R. 13157, The Victims of Crime Act, which recognizes the need for providing Government financial assistance to victims of compensable crimes.

On behalf of the State of Florida and myself, I offer into the RECORD the State of Florida House of Representatives' Memorial 4134 with which I concur in urging Congress to adopt this legislation which would provide matching grants to States with programs compensating victims of crime.

"A MEMORIAL TO THE CONGRESS OF THE UNITED STATES, URGING CONGRESS TO ADOPT LEGISLATION RELATING TO THE COMPENSATION OF VICTIMS OF CRIME

"Whereas, the Legislature of the State of Florida recognizes that many innocent persons suffer personal physical injury or death as a direct result of criminal acts or, secondarily, as a result of their efforts to prevent crimes or to apprehend persons committing or attempting to commit crimes, and

"Whereas, the Legislature of the State of Florida believes that there is a need for government to provide financial assistance to such persons, or their dependents, who suffer disabilities, incur financial hardships, or become dependent upon public assistance, and

"Whereas, a bill, HR 13157, presently before Congress, would assist the State of Florida and the other states in implementing legislation to provide compensation to such persons by providing matching grants to states which implement such legislation, now, therefore,

"*Be It Resolved* by the Legislature of the State of Florida:

"That the Florida Legislature respectfully petitions the Congress of the United States to adopt legislation which would provide matching grants to states with programs compensating victims of crime.

"*Be it further resolved* that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Represenatives, and to each member of the Florida delegation to the United States Congress."

ON THE TRAIL OF THE FOUNTAIN OF YOUTH

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, aging is a natural phenomenon which, as far as is known, affects all higher forms of life and perhaps all living things. No matter how aging is defined, its implications for the individual and for society are profound, 22 million Americans, 10 percent of our population, are now over 65 years old. In 50 more years, 40 million persons may be that old. Two-thirds of the Federal money spent on health in this country goes for persons over 65. One million people over 65 years of age live in institutions, and a significant proportion of them are incapacitated by a variety of diseases and degenerative conditions. Although the dimensions of the problem of aging are great, they can at least be diminished through continued research.

The obvious need for tangible and immediate improvement in the quality of life for the aged has shifted research away from its exclusive disease orientation with its study of the sick and institutionalized to broader inquiry into normal physiological changes occurring with age, and the social, cultural, and economic environment in which the elderly live. This direction was set forth in the preamble to the Research on Aging Act (Public Law 93-296) which established the National Institute on Aging. On July 1, 1975, the National Institute on Aging was separated from its parent Institute, the National Institute of Child Health and Human Development. On May 1, of this year, Dr. Robert Butler, a distinguished gerontologist, psychiatrist, author, and advocate assumed the Directorship of the new Institute.

I urge my colleagues to take time to read the following article, "Science Is on the Trail of the Fountain of Youth" which appears in this month's Fortune. This analysis provides a valuable insight into the research initiates which Dr. Butler has set forth as the objectives of the National Institute on Aging.

Equally important, this article underscores the distinction between the research efforts of the National Institute on Aging and the activities of other components of the National Institutes on Health. NIA is people oriented, whereas the major thrust of the other Institutes is patient oriented. By no longer defining aging as a disease process, but simply as the organism's progressive loss of ability, after maturity, to function optimally within its environment, NIA's research extends into many special fields of inquiry—cellular biochemistry, molecular biology, enzymology, behavioral sciences, sociology, and others.

The National Institute on Aging merits the strong support of this Congress. Our support should be reflected not only in providing adequate funding for the research efforts but also in assuring sufficient staffing for the Institute. While we have distinguished ourselves in providing funding through the HEW-Labor appropriations measure for fiscal year 1977, granting the new Institute funding increases to the extent which it can absorb, further attention should be given to strengthening the staffing of the Institute. The administration's budget for fiscal year 1977 requested a decrease of 20 positions from the congressionally set limit of 193 positions for fiscal year 1976. Both the House and the Senate during consideration of the fiscal year 1977 appropriations provided for modest increases from the fiscal year 1976 level to staff limit of 200. Looking to the future, however, if we want to get the maximum dollar amount for our research moneys, Congress must be willing to allow sizable staff increases for the Institute to perform intramural research, such as the activities praised below being undertaken by the Intramural Gerontology Research Center in Baltimore, Md.

The article follows:

[From Fortune, July 1976, Vol. XCIV, No. 1]

SCIENCE IS ON THE TRAIL OF THE FOUNTAIN OF YOUTH

(By Gene Bylinsky)

Until just recently, research into the causes of aging produced such confusing and fragmented results that there seemed to be little hope of understanding this truly universal affliction, much less doing anything to counteract it. Armchair philosophers held center stage, introducing all sorts of misguided theories. It seemed as though almost every prominent scientist, regardless of his field, felt obliged to concoct a theory of aging, especially as he got older himself. After World War II, physicist Leo Szilard popularized the idea that radiation is a cause of aging. The theory has since been discarded. Leslie Orgel, a chemist studying the origins of life, came up with the "error catastrophe" hypothesis, which held that a pileup of errors in the transcription of DNA in the cells eventually decayed the cells and the organism. This theory, too, has been abandoned.

Some biologists sought to demonstrate that a cellular "clock" caused aging in all living things, from microbe to man. This emphasis on the importance of the cell did a lot to boost consumption of vitamin E, which helps dispose of cellular debris known as lipofuscin. But the debris turned out to be harmless and this line of research another dead end. As a serious science, the whole field of study seemed to stagnate. "Aging was such a fuzzy and poorly defined area," says Nathan W. Shock, director of the Baltimore research center of the new National Institute on Aging, "that young scientists traditionally avoided it like the plague. To recruit staff, you had to get down on your knees and practically sing 'Mammy' to them."

Now, a dramatic turnaround is evident both in the quality of scientists coming into the field and in the significance of the findings. Though their work is still rather meagerly funded, teams of researchers at the Baltimore center and several leading laboratories are quietly producing some spectacular results so new that they haven't hit newspaper headlines yet. The scientists have closed in on two related sets of bodily functions, the endocrine and the immune systems, where they are beginning to detect coherent mechanisms of senescence.

What's more, the scientists are beginning to manipulate these controls of aging in laboratory animals. Their goal, it should be emphasized, is not to create a society that would be overwhelmed by the senile old, but rather to prolong the healthy middle years of life. As that becomes possible, the life span intrinsic to the species will be stretched—for the first time in history.

HEALTHY ORGANS DO NOT AGE

Already, the researchers have learned enough to think about aging in an entirely new way. They have learned, for example, that the body's organs don't deteriorate dramatically with age. The misconception that they do arose from the fact that organs selected for study—whether from old humans or old laboratory animals—had commonly been affilicted by disease. The much-publicized loss of brain cells in old age, for instance, is by no means universal. Neither is the decline in the levels of testosterone. The healthy heart doesn't age significantly, and an older liver seems to be just as good as a young one in disposing of alcohol.

When presented with that old puzzler as to why an Adenauer or a Churchill could carry the burdens of leadership at a time of life often associated with senility, today's researchers answer: because they were healthy at an age when most people are ill. They were healthy because they were blessed genetically with endocrine systems that stayed in balance and immune systems that remained strong. In the vocabulary of the new research, it is to the decline of these two systems that the term "aging" properly refers.

This new work get much of its impetus from the growing realization of just how urgent the medical problems of the aging have become. Modern medicine can justly take credit for increasing the individual life expectancy at birth. In 1900 that figure stood at 46.2 years for American men and 48.3 for women; today it's 68.3 and 75.9 years. But this achievement, which raised the probability that an individual would live out his normal life span, came mainly through the defeat of infectious diseases, and brought with it a cruel byproduct. For the survivors, there lay in wait rheumatoid arthritis and the rest of Hamlet's "thousand natural shocks that flesh is heir to." Some argue that by prolonging lives medical science may have *increased* human suffering. Heart disease, stroke, and dreaded cancer came to the fore as killers.

Researchers on aging are convinced that the most effective way to counteract these newly important diseases of the elderly is not to try to pick them off one by one. At the most such a strategy might add ten more or less painful and decrepit years to an individual's life expectancy. The aim, rather, is to extend healthy life significantly. This goal can only be achieved by defeating the diseases of old age en masse by extending the longevity of the body's natural defense system against disease.

One leading researcher on aging, Roy L. Walford, a pathologist at the U.C.L.A. School of Medicine, argues that the medical sciences, without quite realizing or acknowledging the fact, have arrived at a crossroad. "Unless the basic rate of aging can be influenced," Walford wrote recently, "we are approaching the end of medical progress on a population basis, although of course not on an individual basis. There is less territory to win than formerly [in fighting the major diseases], and we must give increasing thought to the etiology and pathogenesis of the aging process itself."

Walford has prepared a "life-extension curve" to demonstrate his view of what the future holds when the breakthroughs that he expects are made. The young and the middle years have been greatly expanded. The last 10 percent of the surivors on this curve may still be senile, says Walford, but since the life span will be longer, the percentage of senile persons in the population would decrease. "The popular nightmare of an increasing army of senile oldsters cannot be realized biologically," he declares.

THE BRAIN'S MISSION CONTROL

As so often happens in scientific research, many of the most important new insights into the aging process have emerged as byproducts of other investigations. In this case the most important contributor has been work on the electrochemical controls in the brain. Over the past twenty years much has been learned about such "neurotransmitters" as norepinephrine, dopamine, and serotonin, which ferry signals between neurons and powerfully influence a whole range of emotions and activities—from mood swings to muscle motion.

Where aging is concerned, the chemicals act through two adjoining parts of the brain: the thalamus, which controls muscle movements, and the hypothalamus, which governs the body's "master gland," the pituitary (see the diagram on page 135). From the pituitary go forth hormones that control the processes of metabolism, growth, and reproduction. Other networks of neurons in the hypothalamus control hunger and satiety, body temperature, water balance, blood pressure, heart rate, and many other functions.

As scientists perceived that the hypothalamus was the most important center for the control of bodily functions, they naturally began speculating about what role it might play in aging. But the clue that the neurotransmitters themselves were involved flowed from discoveries about Parkinson's disease.

This affliction, in which movements become disorganized, had long intrigued researchers because it seemed in some ways to be a form of premature senility. Then, in the mid-1960's, researchers discovered that the major chemical defect in Parkinson's disease is a deficiency of the neurotransmitter dopamine. Some patients, given massive doses of L-dopa, a building block for dopamine, got out of their wheelchairs and walked. Once this powerful effect of dopamine on the thalamus and motor reactions was understood, researchers wondered what the effects might be on the neighboring hypothalamus.

OLD MICE FEEL YOUNG AGAIN

Some young American scientists have now begun to produce the proof that the effect is substantial. They are working mostly with mice, whose brain chemistry is so similar to man's that one scientist refers to mice as "miniature men." At the University of Southern California's Andrus Gerontology Center, biologist Caleb E. Finch and his associates have discovered that as the mice age, dramatic disturbances take place in their neurotransmitter metabolism. Particularly striking is the depletion of dopamine in both the hypothalamus and the basal ganglia of the thalamus. "We think," says Finch, "that Parkinson's disease represents an extreme development of what is a normal trend of aging—there is a general trend of impaired dopamine function in most mammals."

In the hypothalamus, dopamine depletion takes place in the median eminence, just above the pituitary. It is this region that controls the "releasing factors" which trigger the flow of hormones from the adjoining pituitary. In a mouse, this key part of the brain consists of perhaps 100,000 neurons; in man, it may contain a million. In either case, it is a tiny segment of the brain, yet it may serve as the pacemaker of aging for the rest of the body.

It isn't yet known exactly why this clock runs down. Indications from Finch's lab are that transport of dopamine across the neuronal membranes is somehow impaired. "One can begin to imagine a series of endocrine changes in which the brain has the role of controlling and at the same time reacting to the change," says Finch. "So there could be a kind of a cascade mechanism which results in disturbance of the equilibrium."

In any event, one prominent scientist has shown that equilibrium can be restored. George C. Cotzias of the Memorial Sloan-Kettering Cancer Center in New York City, who first introduced L-dopa as a treatment for Parkinson's disease, has been feeding mice diets containing various dosages of the drug. He and his co-workers find that animals on a heavy dosage (160 milligrams a day) experience a 10 percent grain in life span beyond their normal limit of twenty-eight months. Many more of the mice stay healthy late in life. A dose of four milligrams a day, in contrast, seems to have little effect.

In a day when the public expects miracles from medical science, results so dramatic might be expected to set off a run on L-dopa. But Cotzias is extremely cautions about extrapolating too much from his mouse studies—even though it is also now known that many sufferers from Parkinson's disease who take L-dopa are able to live out their normal life spans.

The drug has drawbacks. Some patients being treated for Parkinson's disease have suffered disturbing symptoms of mental imbalance not unlike the signs of schizophrenia. "Right now," says Cotzias, "L-dopa, being the very powerful drug it is, should be sold only for medical purposes intended, and nothing else."

GOOD NEWS FOR FOOD FADDISTS

Pharmaceutical companies have come up with variants that don't have these side effects. And food faddists will be pleased to learn that their old favorite, wheat germ, is one source of L-dopa. The velvet bean, once grown in the South for fodder, is an even richer source. At this point, nobody knows whether such foods can even influence dopamine levels in the brain—much less whether they could affect aging. But other drugs that might retard aging are being tested at the University of California's Berkeley campus by physiologists Paola S. Timiras and Paul E. Segall. These researchers and other specialists on aging think that we may be closer to a life-extending drug than is generally realized.

Along with these glimmerings of a future breakthrough, however, researchers have learned enough about the broader dimensions of aging to realize that they will be swimming upstream against nature all the way. To put it bluntly, nature has little interest in the survival of individual members of a species once they have had time to give birth to and rear their young. "As long as you can drive the car back to the lot for a trade-in," says one scientist, "you don't care whether it falls apart the next day. The logic of evolution is the same."

This cruel logic has been highlighted by researchers using L-dopa to investigate the onset of the menopause. No other alteration that comes with age stands out so starkly as this female "change of life." It is clearly not related to any disease condition but represents a programmed event in which the production of one female hormone, estrogen, ceases almost entirely while output of another, prolactin, increases. Nature is indifferent to the unfortunate fact that prolactin appears to be a causative agent of breast cancer.

Until recently, it was thought that the timing of menopause was controlled by the depletion of egg cells in the ovary. Now Joseph Meites and his colleagues at Michigan State University have shown that the menopause, like other milestones of aging, is primarily controlled by the brain. Working with old rats, Meites restarted estrous cycles, or reproductive "heat," by either of two methods: administering L-dopa and related drugs, or electrically stimulating the hypothalamic regions of the brain.

A TREATMENT FOR BREAST CANCER

Meites and his colleagues also learned that L-dopa reduces the incidence of mammary tumors in rats. Apparently, by boosting dopamine levels in the hypothalamus, L-dopa increases the release of the gonadotrophins that influence ovulation and simultaneously *decreases* the amount of prolactin in the blood. Doctors are now beginning to treat certain types of breast cancer with L-dopa as a result of that work with animals. The fact that the drug may reduce the incidence of cancer does not mean, of course, that it is also a cure.

This point is a key one, for the repelling of cancer and other diseases is the function of the body's immune system, which, in further proof of nature's indifference to individual survival, seems to start sliding downhill long before the age of menopause. The efficacy of L-dopa in prolonging the life of mice indicates that it helps slow this decline, but no research has yet been done to see if it can rejuvenate the body's defenses in old age.

The immune system, the second focus of the new research on aging, consists mainly of lymphocytes, a kind of white blood cell generated by stem cells in the bone marrow. Some stem cells migrate to the thymus, a gland high under the breastbone, and develop there into T (for thymus) lymphocytes, or T cells. From the thymus the T cells enter the blood and the lymphoid tissue. They are the killer cells that attack cancer cells, as well as viruses, bacteria, and other invaders.

Some other stem cells from the bone marrow move directly to the peripheral lymphoid tissue as B (for bone marrow) lymphocytes, or B cells. They produce antibody molecules that lock onto invading foreign objects and incapacitate them. To be really efficient, however, B cells must be stimulated in some still unknown way by the T cells. The debris of the battles is cleared by macrophages, cells that act as garbage trucks.

THE SHRINKING THYMUS

Many studies now implicate the thymus as a key in the aging of the immune system. Not many years ago, scientists didn't even know what role the thymus played in the body. It starts shrinking very early in life and was generally thought to have something to do with sexual maturation. There appears to be a link between the hypothalamus, the pituitary, and the thymus. In any event, the slow atrophy of the thymus is paralleled by a decrease in the number of T cells. As a result, older people become more susceptible to a whole range of diseases, from cancer to diabetes. Even heart disease is beginning to be viewed by some scientists as a result of a decline in the efficiency of the immune system.

And as aging proceeds, that perversion of immunity, the "autoimmune response," appears. Lymphocytes mistakenly attack the body's own cells as foreign, bringing on such autoimmune diseases as rheumatoid arthritis, one type of anemia, and certain kidney ailments.

Back in the 1930's, Cornell biologist Clive McCay stumbled on one way to prolong the life of the immune system—though it is not a method likely to attract the masses. He fed rats a diet exceedingly low in fats and carbohydrates. The rats developed slowly, the diseases of old age were postponed, and some test animals lived twice their normal life span. Perhaps not surprisingly, diets in communities of long-living people—in the Caucasus, Ecuador, and the Hunza—tend to resemble the McCay rat diet, providing in some cases only a bit more than half of the 2,600 calories that the National Academy of Sciences recommends for an active adult male.

McCay didn't look specifically at the immune systems of his rats. There wasn't much he could have seen in those days anyway. So recent are the advances in immunology that only in the 1950's were the lymphocytes unequivocally identified as being responsible for immune reactions. And it wasn't until the 1960's that the lymphocytes were separated into their two distinct functional classes.

Immunologists who have entered the field of aging research in recent years have not only been analyzing the decline of the immune response with sophisticated new techniques; they also are trying to slow down or reverse the process—and by methods more specific than retarding development through underfeeding. More and more, we'll be hearing a new term, "immunoengineering."

TRANSPLANTING IMMUNITY

Last year there came what looks like a big break in this new field. Takashi Makinodan and his associates at the National Institute on Aging succeeded in transplanting thymuses and bone marrow from young mice into older ones. Because genetically inbred strains of mice were used, there was no rejection problem. Newly equipped with both components of the immune system, the mice apparently started making more antibodies. Immune systems of nineteen-month-old mice were rejuvenated to the level of four-month-old animals. In human terms, this would be like transplanting a twenty-year-old's immune system into someone sixty years old.

Superimposed on these experiments came an unplanned additional one when a Sendai virus, the mouse equivalent of influenza, raced through the 9,000-mouse colony at the Baltimore center. Interestingly, many of Makinodan's mice with the enhanced immune systems survived while many of the unprotected mice died. Some of the mice with the enhanced immune system are still alive, about one-third beyond their normal life span.

The Baltimore scientists are understandably excited by the progress so far. "We can trip the clock," says Marguerite M. B. Kay, a young immunologist who works with Makinodan. "We can make mice live longer."

Success with bone-marrow transplants in children to treat inherited blood disorders, leukemia, and other conditions, hints at the possibility of applying the technique to older people, too. At least a dozen medical teams in the U.S. are doing bone-marrow transplants (really injections of bone-marrow cells into the veins), and some patients are still alive almost six years later.

Makinodan has also taken lymphocytes from young mice, preserved them in a frozen state, and then injected them into the donor animals after the animals had reached the ripe old age of twenty-five months. He thinks that old people may one day be revitalized by injections of their previously extracted teenage lymphocytes.

THE SEARCH FOR A "DEATH HORMONE"

Yet there remains the possibility that nature is not merely indifferent to survival after procreation—as the decline of the immune system would indicate. She may be downright hostile.

There are, in fact, remarkable examples in nature of precisely programmed death mechanisms operated by hormones. In a species of an Australian mouse, the male dies dramatically after copulation, from massive flooding by the adrenocorticotrophic hormone. Similarly, Pacific Northwest salmon go from youthful vigor to senile weakness and death in a bare two weeks after reaching their spawning grounds and depositing their eggs. A flood of the same pituitary hormone kills the fish.

W. Donner Denckla of the Roche Institute of Molecular Biology, an arm of Hoffmann-LaRoche in Nutley, New Jersey, is proceeding on the somber hypothesis that some such process is at work, though not so dramatically, in humans too. Denckla thinks that the pituitary starts releasing a specific "aging hormone" after puberty. "The mechanism for killing an organism must be tied in with puberty," says Denckla. "If it weren't, you'd throw out the baby with the bath water." That is, reproduction must obviously precede death for any species to survive.

Once puberty is attained, says Denckla, the gradual destruction of the organism begins. The most suitable death mechanism that is conveniently linked with puberty, in Denckla's view, is the brain's control of thyroid hormones. He thinks it's no accident that man reaches the peak of his physical strength at nineteen and that the thyroid hormones control both psychomotor reaction time and maximum strength. If his theory is correct, the same hormonal controls now kill man at seventy or so that once, in effect, caused his demise at twenty-five—when he could no longer outrun or overpower younger men or stronger animals.

Denckla got interested in his subject as a young intern. He was struck by the fact that the majority of people die from failure of two major systems, the cardiovascular and the immune. After he became a research scientist, he began to study thyroid hormones because the thyroid gland seemed to be involved in running both systems. They both fail in people with thyroid deficiency.

Denckla had some earlier research to draw upon. At the beginning of this century, a flurry of excitement accompanied the finding that there seemed to be similarities between symptoms of "normal" old age and hypothyroidism in young people. Attempts to rejuvenate elderly people with thyroid hormone failed, however, and interest in the subject waned.

Those investigators had no way of knowing why their experiments didn't work. In the early 1970's, Denckla found the clue. He was startled to discover that while levels of thyroid hormones remain almost unchanged in old rats, responsiveness of their tissues to the hormones declines to about one-third of the youthful value. There is evidence that this is also true in humans. In other words, old people still have plenty of thyroid hormones, but the hormones don't seem to do their intended job.

The molecular basis of this failure is only now beginning to come into focus. It appears that receptors on the surfaces of cell membranes either decline in number or become less sensitive to the hormones. These receptors float in the membrane like ships at sea; they allow a hormone molecule to dock with them and enter the cell.

Denckla's theory is that this decreased receptivity to thyroid hormones is caused by an "aging hormone" secreted by the pituitary. He notes that underfeeding rats, as McCay did in those early experiments, results in a severe decrease in output of the pituitary hormones. He has found that when the pituitary is removed in an old rat, the animal regains some of its youthful physiology. The process can be observed in experiments on phagocytes, cells of the immune system that decline in old rats to one-sixth their original value. By removing the pituitary and giving the animals thyroxine, the principal thyroid hormone, Denckla gets the level back up five-and-a-half-fold. The removal of the pituitary apparently shuts off the flow of the "aging hormone."

Two years ago, Denckla managed to isolate from bovine pituitaries a crude extract that he calls DECO (for "decreasing oxygen consumption factor"). Its effect on animal tissue matched Denckla's expectations: it blocked the effects of thyroxine. But the substance subsequently lost its potency and Denckla is engaged in a renewed effort to purify the mysterious hormone.

THE ULTIMATE MEDICINE

He doesn't think of his pursuit of the death agent as a gloomy line of research at all. Finding the "death hormone," he explains, will be the first step toward creating a drug to block its action. He is after nothing less, in other words, than the fountain of youth. "If we can reproduce the immune competence of a ten-year-old—when man is at his healthiest—your expected life span will go up to 200, 300, or even 400 years," says Denckla. "That's what we'll be dealing with in the next century."

Ponce de Leon thought so, too, of course. Yet even after a dash of cold water from the fountain of common sense, a basis for hope remains. From three distinct but related areas of research—in brain chemistry, the immune system, and Denckla's death hormone—answers seem likely to emerge. Already, in seeking to keep people young, this new science is recounting with astonishing precision that most poignant and universal of chronicles, the aging and death of man.

COMPARISON OF MEDICARE HOME HEALTH LEGISLATIVE PROPOSALS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I am pleased to note that interest is increasing in the enactment of legislation expanding medicare home health benefits as an alternative to costly and often inappropriate institutionalization of our Nation's elderly. Some legislative proposals have over 100 cosponsors. The House Aging Subcommittee on Health and Long-Term Care, which I have the privilege of chairing, issued a report in January of this year, "New Perspectives in Health Care for Older Americans," calling for expanded home health benefits.

In view of this increased interest, I attach for the use of our colleagues a comparison, prepared by the Library of Congress, of selected medicare home health care legislative proposals in the 94th Congress.

I particularly wish to thank Janet Kline of the Library of Congress Education and Public Welfare Division, in the Congressional Research Service, for her work in the preparation of this comparison.

The study follows:

Selected Home Health Care Legislation in the 94th Congress; Amendments to Title 18 of the Social Security Act

In accord with your request we have prepared summary descriptions comparing legislation introduced in the 94th Congress with the Committee on Ways and Means proposal to amend Medicare's home health benefit. The legislation specified to be compared include: (1) H.R. 9829, (2) H.R. 12676, (3) S. 1496, and (4) S. 2591.

Although the legislation described include provisions which amend other sections of the Medicare statute, for the purposes of these summaries, we have only included provisions amending Medicare's home health benefit. For your additional information, we have included Bill Digest summaries of bills related to the legislation specified.

Title: Committee on Ways and Means proposal of April 6, 1976.

Date Introduced: Not applicable.

Chief Sponsor: Representative Dan Rostenkowski.

Description:

A. General Approach: The Committee proposal would expand the number of allowable home health visits under Part A of Medicare, eliminate the home health benefit under Part B, and liberalize the conditions for receipt of service under Part A.

B. People Covered: Individuals enrolled in Part A of Medicare.

C. Scope of Benefit: The proposal would liberalize Medicare's home health benefit by transferring the 100 visits presently available under Part B to Part A to make a total of 200 home health visits covered under Part A. The current requirement for prior hospitalization under Part A would be deleted. Part B would no longer contain a home health benefit.

D. Definitions: No change to Medicare's current definition of home health services.

E. Administration: Administering procedures with respect to the Part B deductible would no longer apply.

F. Financing and/or Reimbursement: (1) The home health benefit would now be financed from the Hospital Insurance Trust Fund; (2) The Secretary of Health, Education, and Welfare would be directed to include consideration of the relationship between a home health agency's overhead costs and the direct costs of providing services when determining a Medicare provider's overall reasonable costs.

G. Cost and/or Quality Controls: The proposal would: (1) authorize the Secretary of Health, Education, and Welfare to require planning agency approval of the need for additional or expanded home health services and agencies; (2) direct the Secretary of Health, Edcation, and Welfare to designate an organizational unit devoted solely to the detection and prevention of fraud and abuse in the Medicare program.

H. Related Bills: None.

Title: H.R. 12676 (No short title)

Date Introduced: March 18, 1976

Chief Sponsor: Representative Claude Pepper

Description:

A. General Approach: H.R. 12676 would amend Title 18 of the Social Security Act to expand Medicare's home health benefit. The bill would remove limits on the number of allowable visits. liberalize the requirements for receipt of service, and broaden the definition of reimbursable home health services.

B. People Covered: Individuals enrolled in Part A and B of Medicare.

C. Scope of Benefit: H.R. 12676 would provide for unlimited home health visits under Part A and B and would remove the current prior hospitalization requirement under Part A. The Part A requirement that the service be provided for further treatment of the condition for which the patient was institutionalized is deleted. However, the requirement that the individual be in need of skilled nursing care or physical or speech therapy in order to receive services is retained.

D. Definitions: H.R. 12676 would broaden the current definition of "home health services" (section 1861(m)) to: (1) include periodic chore services, hospital outreach services, nutritional counseling provided by or under the supervision of a registered dietician, and professional guidance and personal counseling for aged and disabled individuals living at home alone. The present requirement that the individual be in need of skilled nursing care or therapy services and be under the care of a physician when services are furnished would not apply with respect to the provision of these new additional home health services; (2) delete the requirement that a physician must establish and periodically review an individual's home health care plan. Instead, the bill requires that the plan be established and reviewed by an appropriate health professional (as determined by regulation); and (3) delete the requirement that medical social services, when provided as a home health service, be provided under the direction of a physician. In addition, H.R. 12676 would repeal the definition of post-hospital home health services (section 1861 (h)), and provide a statutory definition of the terms "periodic chore services", and "hospital outreach services."

E. Administration: No change to current Medicare procedures.

F. Financing and/or Reimbursement: H.R. 12676 would amend Medicare's definition of "reasonable cost" (section 1861(v)) to permit the Secretary of Health, Education, and Welfare to develop new or additional methods and standards for reimbursement, if such standards and methods, to the maximum extent feasible, are on a reasonable cost-related basis.

G. Cost and/or Quality Controls: H.R. 12676 would amend section 1155 of the Social Security Act to make it a statutory function of Professional Standards Review Organizations to review health care services provided by home health agencies.

H. Related Bills: With respect to the inclusion of nutritional services as a home health service, H.R. 11098, introduced by Representative John J. Duncan on December 10, 1975, and S. 2547, introduced by Senator George McGovern on October 21, 1975.

Title: National Home Health Care Act of 1975 (H.R. 9829)

Date Introduced: September 24, 1975

Chief Sponsor: Representative Edward I. Koch

Description:

A. General Approach: H.R. 9829 would amend Title 18 of the Social Security Act to expand Medicare's home health benefit. The bill would increase the number of allowable home health visits, liberalize the requirements for receipt of services, and broaden the definition of reimburseable home health services.

B. People Covered: Individuals enrolled in Part A or B of Medicare.

C. Scope of Benefits: H.R. 9829 would increase the maximum number of allowable home health visits under the Hospital Insurance Program (Part A) from 100 to 200) and provide for unlimited visits under the Supplementary Medical Insurance Program (Part B). Home health services would be provided on the basis of need (1) for intermitant nursing care or other home health services as defined by section 1861 (m) of Title 18, or (2) as an alternative to institutional care. The prior hospitalization requirement in present law would be retained under Part A, but the current requirement that the service be provided for further treatment of the condition for which the patient was institutionalized is deleted. The requirement that the individual must be under the care of a physician while home health services are furnished is deleted.

D. Definitions: H.R. 9829 broadens Medicare's definition of home health services (section 1861(m)) to include (1) part-time or intermittent services of a homemaker, (2) services provided to certain blind or hearing-impaired beneficiaries to enable them to avoid institutionalization, and (3) any professional health services provided by hospitals or staff members of hospitals as alternatives to institutional care, if such services are not otherwise covered under Title 18. H.R. 9829 also (1) provides a statutory definition of "home health aide services", "homemaker services", and "medical supplies", and (2) clarifies the term "speech therapy services," when provided as a home health service, to mean speech pathology or audiology services.

E. Administration: No change to current Medicare procedures.

F. Financing and/or Reimbursement: H.R. 9829 would: (1) if necessary, finance the expenses incurred under amendments made by H.R. 9829 through general revenue appropriations to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund; (2) provide, in certain circumstances, payments for the purchase of goods and services from related organizations, on the basis of "actual costs" without allowance for profit or other considerations.

G. Cost and/or Quality Controls: H.R. 9829 would: (1) prohibit payment from home health services, when provided as an alternative to institutionalization, if such services are more costly in the aggregate than corresponding care in a skilled nursing facility; (2) for purposes of reimbursement, require the Secretary of Health, Education, and Welfare to assess a person's need for home health services and ensure that such person is referred to an appropriate level of care; (3) specify that need for Part B home health services must be recertified by a panel of three health care providers at least (one of whom must be a physician) within 30 days after initial physican certification. After initial certification and recertification, the panel is required to certify continued need for such care at least twice yearly as long as the individual is receiving or claiming entitlement to covered services; (4) amend Part C of Title 18 to establish a home health patient ombudsman in the Department of Health, Education, and Welfare to be responsible for monitoring and maintaining oversight with respect to home health programs under Titles 18 and 19 of the Social Security Act; (5) mandate a Department of Health, Education, and Welfare study of the desirability and feasibility of requiring Medicare to reimburse for home health and nursing home services acocrding to a prospective cost-based method utilizing the prudent buyer methods of purchase; (6) require full disclosure of a Medicare home health agency's corporate interests, and the extent of its interests in businesses providing it with goods and services.

H. Related bills: S. 1163. Introduced by Senator Moss and others on March 12, 1975.

Title: Home and Family Services Health Care Act of 1975 (S. 2591)

Date Introduced: October 30, 1975

Chief Sponsor: Senator Lloyd Bentsen.

Description:

A. General Approach: S. 2591 amends Title 18 of the Social Security Act to expand Medicare's home health benefit.

B. People Covered: Individuals enrolled in Part A or B of Medicare.

C. Scope of Benefit: S. 2591 would increase the maximum number of allowable home health visits from 100 under Part A and 100 under Part B to 200 visits under each part. The prior hospitalization requirement under Part A would be retained; but, the requirement that the individual be hospitalized for at least three consecutive days as a condition to receipt of service is deleted.

D. Definitions: S. 2591 would amend the definition of a "home health agency" (section 1861(o)) to: (1) require the agency to provide directly skilled nursing care services plus at least one other therapeutic service; (2) specify that an organization operated by a hospital or skilled nursing facility is eligible to become a home health agency under Medicare. In addition, S. 2591 would define the term "skilled nursing care", for the purposes of receiving home health services under Medicare, as nursing care provided under and requiring the supervision of a registered professional nurse.

E. Administration: No change to current Medicare procedures.

F. Financing and/or Reimbursement: No change to current Medicare procedures.

G. Cost and/or Quality Controls: S. 2591 would require with respect to all home health visits in excess of 100 provided during a calendar year: (1) physician certification (and recertification every 60 days) that the visits were necessary to prevent or delay institutionalization, and (2) that the total cost of such visits would not exceed the reasonable cost incurred if the individual were an inpatient in a skilled nursing facility or intermediate care facility. S. 2591 aso makes it a statutory function of Professional Standards Review Organizations to determine if any home health visits in excess of 100 provided during a calendar year were necessary to prevent or delay institutionalization.

H. Related Bills: None.

Title: S. 1496 (No short title)

Date Introduced: April 21, 1975

Chief Sponsor: Senator Pete V. Domenici

Description:

A. General Approach: Amends Title 18 of the Social Security Act to expand Medicare's home health benefit and liberalize the conditions for receipt of service.

B. People Covered: Individuals enrolled in Part A or B of Medicare.

C. Scope of Benefit: S. 1496 would permit the provision of home health services on the basis of need for intermediate or basic nursing care, as well as skilled nursing care or physical or speech therapy.

D. Definitions: S. 1496 would broaden Medicare's definition of home health services (section 1861(m)) to include (1) intermediate nursing care provided by or under the supervision of a registered professional nurse, a licensed practical nurse, or a nursing aide, and (2) with respect to Part B services only, homemaker services and services provided in day care centers. The bill would also amend Medicare's definition of home health services to permit home health agency screening teams to establish and review patient care plans for home health services under Part B. In addition, S. 1496 would: (1) amend Medicare's definition of "home health agency" (section 1861 (o)) to require the agency to be primarily engaged in providing skilled and intermediate nursing care services and at least two other therapeutic services, (2) amend Medicare's definition of "provider of health services," (section 1861(u)) to include day care centers, and (3) permit an organization primarily for the care and treatment of mental diseases to qualify as a home health agency for the purposes of providing home health services under Part B.

E. Administration: No change to current Medicare Procedures.

F. Financing and/or Reimbursement: Expenses incurred under S. 1496 would be financed by general revenue appropriations. Funds appropriated would be transferred to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund.

G. Cost and/or Quality Controls: No provisions.

H. Related Bills: None.

FIRST NATIONAL CONFERENCE OF THE AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, this conference addressed the absence of opportunity for minorities and women to enter the sciences and medical professions. My able and distinguished colleague, Edward R. Roybal, who joined with me on July 28 in the introduction of three bills providing for equal educational opportunities in the medical professions for all our Nation's students from deprived educational or economic backgrounds, addressed the conference. Minorities are highly represented among all our Nation's disadvantaged groups and I wish to share with all my colleagues Representative Roybal's speech given at the First National Conference of the American Association for the Advancement of Science held February 19 through 21, 1976, in Boston, Mass. The entire proceedings of the Conference on Minorities in Science are scheduled to be published by Plenum Press, New York, N.Y.

Mr. Speaker, I insert in its entirety Congressman Roybal's speech at this point in the Record:

Affirmative Action: A Congressional Perspective

The essence of good government lies in its humanity—in its commitment to help the oppressed and the poor find economic well-being and equality.

Affirmative action is a manifestation of that commitment. Its justification derives from the history of exclusion and discrimination suffered by millions of Americans who have sought, and been denied, equal access to employment and educational opportunity in this country.

Affirmative action seeks to correct past and present discriminatory patterns, and their effects. The concept dates back to the Wagner Act which forty years ago required "affirmative action" against employers whose anti-union activities violated the law. Title VII of the Civil Rights Act of 1964 has applied this concept to racial, national origin, and sex discrimination in employment.

Executive Order 11246, issued in 1965, barred employment discrimination in the Federal Government and by Federal contractors and subcontractors.

In addition, title VI of the Civil Rights Act prohibited racial and national-origin discrimination in the participation and enjoyment of benefits in federally assisted programs. In 1971 the Public Health Service Act barred sex discrimination in admissions to health-related training activities and schools of nursing. In 1972 title IX of the Education Amendments prohibited sex discrimination in most education programs.

EQUAL PROTECTION

The foundation for all of these laws emanates from the spirit and language of the Constitution. The fourteenth amendment, for example, guarantees "equal protection of the laws", and is designed to end the oppression of inequality and class privilege.

Under the aegis of the fourteenth amendment, affirmative action goes far beyond the simple condemnation of discriminatory and unequal policies. It is not enough for our institutions to advertise as "equal opportunity employers" or promise an end to "discrimination in hiring." By themselves these expressions are but paper assurances.

If "equal protection of the laws" is to have meaning, it must include affirmative steps to reverse the status quo—to overcome the exclusion of minorities and women from the full employment of health and medical opportunities.

Affirmative action also calls for a deep and lasting commitment on the part of our educational leaders to provide academic opportunity in all areas. But our institutions have yet to move in that direction. In fact, very little if any civil rights enforcement has been occurring at our campuses.

FEDERAL FINDINGS

1. In a 1975 report, the General Accounting Office concluded that the Department of Health, Education, and Welfare "has made minimal progress in making sure that colleges and universities have acceptable affirmative action programs." It cited HEW's failure to send "show cause" notices to non-

complying institutions; failure to conduct pre-award reviews; overly prolonged negotiations; and failure to adequately enforce the program at the Berkeley campus.

2. In 1975 the House Subcommittee on Equal Opportunities held extensive hearings on affirmative action at higher educational institutions. The Subcommittee found "no evidence to indicate that academic institutions are so unique as to warrant equal employment regulations different from other federal contractors and insisted that there be no 'special cases' in the enforcement of the Executive Order." The Subcommittee noted also that the enforcement of equal opportunity at institutions of higher education has been ineffective and federal contract compliance deficient.

3. The U.S. Commission on Civil Rights found, that same year, that "the inadequacy of HEW's enforcement effort . . . permits the continuation of practices which result in the denial of equal education and employment opportunities to women and minorities."

It noted that HEW had failed to carry out "indepth and regular" compliance reviews of higher institutions receiving federal funds. Over a 10-year period, HEW had reviewed less than 30 percent of all campuses covered under title VI. Further, the Commission found that during fiscal year 1974, HEW conducted compliance reviews of only 6 percent of campuses covered under the Executive Order.

Like GAO, the Commission expressed concern over HEW's consistent failure to issue show cause notices to non-complying institutions. For instance, from 1971 through 1974, HEW issued only two notices despite the uncovering of numerous violations.

The Commission was critical of HEW's willingness to accept only the assurances of institutions to develop affirmative action plan, although the standard of compliance has always been the actual existence of the plan. HEW's retreat displayed a kind of convoluted logic involving a plan to have a plan, which was given classic expression in the belabored Berkeley agreement.

4. There has been very little evidence of a federal or institutional commitment to equal opportunity in the health area. Most educational institutions lack any formal and effective mechanism to ensure that federally funded training and research activities on campus actively involve minorities and women.

The National Institutes of Health spend well over $2 billion for health research and training; $123.5 million will go directly for training activities this year alone. Despite this sizable infusion of federal funds each year, NIH has yet to conduct pre-award checks or to monitor grantee institutions to determine the adequacy of their equal opportunity efforts.

The National Cancer Institute controls 15 percent of NIH's training budget; and yet it conducts no monitoring, only "public relations" which it has assigned to its equal employment office.

The same pattern of indifference exists among other health related agencies. The Office of Human Development spends $22 million a year for the training of 9,000 rehabilitation workers in such areas as mental illness, medicine, nursing, counseling, and speech pathology and audiology. And yet agency officials admit that they conduct no pre-award checks.

ABSENCE OF OPPORTUNITY

What we clearly have is an absence of substantial opportunity for minorities and women to enter the sciences and medical professions.

1. An analysis of data furnished by the National Academy of Sciences shows that minorities are severely under-represented in federally funded graduate training programs. Although minorities comprise nearly 20 percent of the total population they represent only 5 percent of graduate recipients. (Black Americans constitute 2.7 percent; Mexican Americans and Puerto Ricans, 0.8 percent; American Indians, 0.6 percent; and Asian Americans, 0.9 percent.)

Further, the data reveal only a slight increase in science and engineering Ph.D.'s for minority citizens. Over a 40-year period, minority representation in this area has moved from an imperceptible 0.6 percent for Blacks and Latinos to a marginal 1.4 percent.

2. Despite the fact that the federal government provides nearly $1 billion in medical financial support, minority enrollment in the health professions remains deficient. For academic year 1974–1975, Black and Latino enrollment in medical schools represented 7.8 percent, with 1.2 percent Latino. Further, Black and Latino first year enrollments showed a decline from 9.5 to 8.8 percent for 1975–1976.

3. And Black and Latino enrollment in public health schools comprised only 7 percent of total enrollment for 1974–75.

4. In the field of physician assistants, the level of Black and Latino graduates is expected to decline from 7.3 to 4.6 percent in 1976.

5. In the employment area, we find a similar pattern of under-representation. Equal employment data (1974) for nearly 4,200 employers in the area of health services show that Blacks and Latinos are severely under-represented in the health professions. Blacks comprise only 4.4 percent and Latinos 1.8 of health professional staff. While their employment picture improves for white-collar and office manager positions, they remain relegated to the lower occupational categories.

Similarly, 1974–75 figures on federal employment show that Blacks & Latinos represented only 5.9 percent of the 7,560 medical and dental officers employed governmentwide. Latinos, for instance, comprise only 1.4 percent of the Health Services staff, and less than 1 percent in Health Resources and in Alcohol, Drug Abuse & Mental Health. Further, Latinos represent 0.6 percent in the entire National Institute of Health.

ACADEMIC STANDARDS

It has been argued that facts and figures do not justify changes in admission standards and the pursuit of academic excellence, that these ideals must be preserved at all cost. But such an argument suffers from some basic flaws.

First, the argument implies that changes in standards are detrimental. This position reflects a status quo mentality—one which lacks critical self-analysis which is a prerequisite of a scientific approach. What are these standards? They are highly subjective impressions that lack validation, and are based on judgments of who shows greatest intellectual or creative promise, or who would be the most effective health practitioner. But the danger is that such standards of merit are likely to reflect the particular biases of the white-dominant educational elite that selects the students and faculty.

The argument also ignores a basic educational ideal to which we have already committed billions of federal dollars—and that is, to fully develop our scientific and health resources among our entire population. That includes the active recruitment of talented and promising minority individuals.

If it means the establishment of special recruitment and Outreach efforts, or of extended educational and entry programs, then it must be done and can be without jeopardizing standards. For the consequence would be a return to white-only medicine and the inestimable loss of talent, resources and excellence of those with minority backgrounds.

The argument overlooks the recent findings presented in the Journal of the American Medical Association (December 1975). The Journal reports that the retention rate among minority students in medical schools was "at a high level of most groups". In fact, for minority students admitted 1972–73 through 1974–75 and still in medical school or graduated, the retention rate increased from a respectable 88.5 percent to 95.6. And for women the rate was 96.8. A 1975 study of Chicano medical students showed that 85 percent came from the top third of their high school classes, which compared favorably with figures on non-minority students.

The point that needs to be hammered over and over again is: How can we continue to justify such a tremendous loss of talent and potential by ignoring the 20 percent minority and 50 percent female population in this country? How can we continue to deny equal access and opportunity to a large segment of our taxpaying population who support the administrators, the researchers, the health practitioners and teaching professions at our educational and medical institutions?

FINANCIAL AID

The fact is that minority students are doubly faced with the economics of obtaining an education, especially in the medical professions. Minority families do not have the financial resources to help cover tuition and other related expenses. The data shows that these families represented only 3.5 percent of the total reported family contributions to student assistance during 1973–74.

In a study of midwestern colleges, one researcher found that 80 percent of minority students needed financial support; and that over three times as many minority freshmen, as compared to other freshmen, needed full financial assistance.

A recent sampling of Los Angeles city high school graduates revealed that only 60 percent of low-income area students who were eligible to enroll at the University of California or similar institutions were able to do so; 27 percent went to work. By contrast, 80 percent of eligible students from high-income areas entered four year colleges; only 9 percent went to work.

It is very likely that this negative economic pattern will continue, especially during periods of high unemployment which have a disproportionate effect on minority families.

As devastating as this situation may be, President Ford proposes to add insult to injury by cutting student assistance in the health professions by 50 percent. The President's budget would—

Abolish supplemental opportunity grants and direct loans for students;

Reduce work-study funds by 50 percent while raising the institutional matching share from 20 to 50 percent; and

Cut back on special programs for the disadvantaged and eliminate university community services.

In addition, the President's budget seeks a 37 percent reduction in health services to our communities. In line for cuts are programs for maternal and child health, emergency medical services and community health centers.

The executive budget calls for a 36 percent slash for community mental health and alcoholism services, and completely eliminates health grants to the states.

If implemented, these proposals will cause a drastic retreat in student assistance and health services for the disadvantaged. They spell disaster for those students and families already crippled by lack of economic and health resources. As long as health and other living expenses skyrocket, and student financial assistance dwindles, the level of minority enrollment and graduation, particularly in the health professions, will decline.

RECOMMENDATIONS

This is, indeed, a pessimistic reflection on the current state of affirmative action and equal opportunity in this country. It is for this reason that our colleges and universities must be firmly committed to actively involve minorities and women at all institutional levels, including the positions of leadership and decision-making.

I recommend that educational and health institutions be willing to—

Conduct a self-analysis of the minority and female composition of the student body, faculty, and administration, to identify areas of deficiency and their causes;

Evaluate admission standards and employment prerequisites such as degree attainment, publication achievements and tenure;

Develop goals and timetables for overcoming under-representation;

Develop a plan of affirmative action in the area of educational services, financial assistance, and research and training opportunities;

Provide for the involvement of minorities and women in the development and assessment of all affirmative goals and studies;

In the case of publicly supported systems of higher education, develop a statewide plan of educational opportunity for all students;

Develop year-long cooperative educational programs with local school districts to encourage and train minorities and females to enter the health and scientific fields;

Develop close working arrangements with community organizations in fostering recruitment and outreach programs for disadvantaged students; and

Require an annual self-evaluation to determine areas of success and failure in meeting affirmative action and equal opportunity objectives.

It is clear that these recommendations, if fully realized, would cause changes in institutional leadership and decision-making. This is, to a great extent, the reason for current reluctance and resistance to affirmative action. And yet the pursuit of excellence requires us to bring new perspectives and ideas into our institutions of higher education. The pursuit of excellence demands that we actively recruit and seek out new talent and creative minds from the untapped and disadvantaged communities of this nation. This is the significance and necessity of affirmative action.

EQUAL EDUCATIONAL OPPORTUNITIES IN THE MEDICAL, OSTEOPATHIC, AND DENTAL PROFESSIONS FOR THE ECONOMICALLY AND EDUCATIONALLY DISADVANTAGED

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, the amount and quality of medical care available to our citizens on a national basis has been progressing steadily, but there are sections of the country where this is not true. I refer principally to those areas where a lack of income on the part of the people, the language, or other cultural barriers does not encourage medical professionals to take up residence.

Therefore, on July 28, I introduced a package of three bills providing for long, intermediate and short-term objectives to increase the number of qualified applicants from disadvantaged groups in the belief that this will help to provide more adequate medical services in those areas of our country that need health services so desperately.

I am pleased to be joined in the introduction of this legislation by two of my able and distinguished colleagues, Representative EDWARD R. ROYBAL of California, and Representative ANDREW YOUNG of Georgia.

Many young men and women who would be inclined to seek medical careers in underserved areas come from similar socioeconomically disadvantaged environments and either do not seek or are unable to obtain a medical education.

Both medical educators and the Government have recognized the need for more adequate representation of individuals from disadvantaged backgrounds in our medical schools. Although advances have been made, the representation of disadvantaged students is still far short of reasonable national goals.

The three bills we are introducing provide for grants to medical, osteopathic, and dental schools. Two of them provide for supplemental educational opportunities to young people seeking a medical education, but who may be lacking in the necessary educational preparation. The other bill offers greater incentives to medical schools to increase the representation of disadvantaged students in the student bodies.

H.R. 14917 which meets the long-term objectives amends the Elementary and Secondary Educational Act of 1965 to give the Secretary of Health, Education, and Welfare the authority to make 3 year demonstration grants to schools of medicine, dentistry, and osteopathy, in amounts no greater than $500,000 per institution for the 3-year period. A total authorization of $5,000,000 is provided.

This bill provides for academic enrichment programs. The curricula would be designed by the medical schools and carried out in conjunction with the secondary school systems which predominantly serve the target populations. Basic deficiencies such as reading, writing, and mathematics that are characteristic of most disadvantaged students will be addressed. In addition, programs using role models, clinical experiences, and other resources available at the medical institution, will introduce secondary students from disadvantaged backgrounds to the health professions. Through such programs students displaying sufficient motivation and promise can be identified and encouraged to pursue a career as a health professional.

This legislation would serve approximately 2,260 students over the 3 years. Students participating in the programs would be made aware of the importance of good health. By communicating their newly acquired ideas with others, they would be an asset to their families and the communities. The medical institution sponsoring the programs would be required to provide for an evaluation of the impact of the program based on the careers chosen by the participants.

The second bill, H.R. 14918, meets the intermediate term objectives. It amends the Higher Education Act of 1965 to give the Secretary of Health, Education, and Welfare the authority to provide grants to medical institutions and graduate schools of biomedical sciences, for the purpose of offering premedical-dental academic summer enrichment programs. The programs would stress biomedical sciences, cognitive skills, and test-taking techniques.

This program is based on the highly successful CLEO Regional Summer Institutes—Council on Legal Education Opportunity—which address the same problems related to law school admission as are encountered in medical-dental school admission. The enrichment programs would provide medical schools a method of qualifying the better risk among marginally qualified disadvantaged students. These are students who may not have been accepted under traditional admissions criteria which are based on evaluators of performance that may not adequately test the potential of disadvantaged students.

The legislation is designed to reach a maximum of 3,000 students and a minimum of 1,500. In the past, the percentage of CLEO students that complete law school and are admitted to the practice of law compares favorably with the national average. Because of the similar rigors and demands of the medical student, it is expected that results similar to that of CLEO would ensue.

The third bill, H.R. 14919, provides capitation grants to the medical schools to increase the number of acceptable students from disadvantaged backgrounds immediately.

This bill, like the second, is intended for a limited short-term basis. It is necessitated by the fact that despite Government and private philanthropic efforts during the 1960's which provided some financial support to medical schools to try to increase their enrollment of students from disadvantaged backgrounds, the percentage of entering students among the disadvantaged who are minority students has remained relatively constant from 1971 to 1975 and has declined since 1975.

A school would be granted $1,500 for each disadvantaged student it matriculates the first year; $1,000 the second year; and $500 for the third year. The school would be eligible for grants only after the school admissions had exceeded the higher of the number of disadvantaged students determined by: First, the number of disadvantaged students it had enrolled in its previous first year classes beginning with 1973–74 and ending with the last full academic year preceding the year of application for the grant, or second, two-thirds of the product of the average national percentage of full-time students who come from disadvantaged backgrounds, and the number of full-time students enrolled in such year class for such school year.

I emphasize that in order to receive such grants, the school must admit the additional disadvantaged students by expanding the class size and not by the elimination of admissions once filled by nondisadvantaged students.

A total authorization of $10 million is provided for the 3-year program. This would permit a total of 3,333 bonus students under the capitation grants, or an average of 1,111 students for each year.

This legislation is designed to enable medical schools to maintain high standards from the time of admission through graduation in the medical profession, and at the same time, admit immediately disadvantaged students who have the intelligence, motivation, and determination but lack some of those prerequisites required by the schools.

The proposed programs embodied in this legislation have been in effect in a few institutions and have proven to be successful.

Mr. Speaker, I am indebted to Arthur H. Hoyte, M.D., assistant professor of community medicine and international health, Georgetown University Medical School, District of Columbia, who furnished me the information and data on several academic enrichment programs upon which this proposed legislation is based. I was assisted also by Vijaya L. Melnick, Ph. D., professor of biology at Federal City College in the District of Columbia, and the Oak Ridge Summer Graduate School of Biomedical Sciences, Oak Ridge, Tenn. Dr. Hoyte and Dr. Melnick both are dedicated and outstanding authorities in the field of program development for the education of disadvantaged youth.

RESOLUTION URGING FEDERAL ACTION TO END CERTAIN LEASES RELATING TO CONDOMINIUMS AND COOPERATIVES

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I would like to direct the attention of our colleagues to the concern of many condominium homeowners over the terms of agreement involved in some of the developments of this new type of home ownership.

The House of Representatives of the State of Florida is particularly concerned with recreation, land, or similar leases relating to condominiums and cooperatives.

It is for this reason that I offer into the Record the State of Florida House of Representatives' resolution 4225 which calls for an end to the above-mentioned leases which were entered into as a mandatory condition of ownership as a part of a sale of a condominium or cooperative:

Resolution No. 4225

A resolution urging Federal action to end certain leases relating to condominiums and cooperatives

Whereas, over 800,000 Florida citizens reside in condominiums, and

Whereas these residents have unknowingly entered into longer than lifetime agreements which will, unless voided, result in loss of their homes, and

Whereas, the courts of Florida may be unable to remedy this problem and the Legislature may be unable to provide an adequate remedy to correct abuses in existing agreements, and

Whereas, the Federal Trade Commission has jurisdiction to enforce the Sherman Antitrust Act, which is violated by many of these agreements, and

Whereas, the Congress of the United States has funded the Federal Trade Commission to begin further investigations which would or could lead to prosecution of violations of the antitrust laws, and

Whereas, it appears obvious that the only adequate relief available for our citizens is action on the federal level, Now, therefore,

Be It Resolved by the House of Representatives of the State of Florida:

That the Federal Trade Commission is urged to extend an immediate order without delay, calling for the absolute end to all recreation, land, or similar leases, which were entered into as a mandatory condition of ownership as part of a sale of a condominium or cooperative, as void and unenforceable: that those persons who perpetuated these leases on the public be subject to any and all provisions of the antitrust laws of the United States; that the Federal Trade Commission be given sufficient latitude to file charges; and that the Attorney General authorize prosecution.

Be it further resolved that copies of this resolution be forwarded to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Florida delegation to the United States Congress, the Department of Housing and Urban Development and the Federal Trade Commission.

THE ATTORNEY GENERAL SHOULD EXPEDITE A PAROLE VISA PROGRAM FOR URUGUAYANS AND CHILEANS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am pleased to announce that the Secretary of State has requested the Attorney General in writing to parole into the United States 200 refugee families from Chile and Uruguay. This action comes in response to the requests made by Senator Edward M. Kennedy, Democrat, of Massachusetts, Congressman Donald M. Fraser, Democrat-Farm Labor, of Minnesota, and myself, who together with 35 Members of the House, have cosponsored House Concurrent Resolution 656 which requests the establishment of a parole visa program for Chilean and Uruguyan refugees.

The proposed program would provide that 100 additional families now in Chile requiring refugee status, be added to the number heretofore assigned for parole status and be allowed to enter the United States. In addition, 100 Chilean and Uruguayan families now in Argentina also needing refuge would be allowed to enter the United States under similar parole status.

As a result of recent terrorist activities in Argentina, the situation worsens each day and as a matter of mercy, I urge Attorney General Edward H. Levi to provide his consent forthwith. I know that under the procedures traditionally used by the State Department, the Justice Department will consult with the House and Senate Judiciary Committees. I urge that that consultation take place immediately, and I know that the members of those committees will respond immediately.

The following Members are cosponsors of House Concurrent Resolution 680:

List of Cosponsors

Abzug, Badillo, Baucus, Brown (Calif), Burke (Calif), Burton, Chisholm, Collins (Ill), Conte, Dellums, Downey, Drinan, Edwards, Fraser, Gude, Harkin, Harrington, Koch, McHugh, Mikva, Mitchell (Maryland), Moffett, Mosher, Moss, Ottinger, Pattison, Rangel, Rees, Richmond, Rosenthal, Scheuer, Simon, Solarz, Waxman, Weaver, Wilson (Texas), and Wirth.

PANAMA CANAL EMPLOYEES

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DOMINICK V. DANIELS. Mr. Speaker, I have introduced today legislation which would protect the retirement of employees of the Panama Canal Railroad Company, a quasi-public corporation. I have introduced this legislation in order that the matter of their retirement status might be brought before the appropriate committee and legislation drafted on the basis of those hearings.

I have been advised that employees of the railroad were induced by company officials to leave positions with domestic U.S. railroads to work for the Panama Canal Railroad Company by promises that their private service would be linked to their service with the canal railroad for the purposes of benefits under the Federal Civil Service Retirement System. Since the officials of the company are in effect agents of the U.S. Government, and if it was in fact the official policy of the U.S. Government that the employees were to have received such benefits, then I believe that we ought to determine why the employees have been denied the benefits which led them to move their families to the Panama Canal Zone and work there for many years and whether their previous private service ought now to be linked to their service with the canal company.

I am certainly not wedded to the terms of the legislation I have introduced today since I believe that the matter ought to be heard by the appropriate committee and legislation drafted after proper hearings. The issue should be considered at the earliest possible date given the unstable conditions which now exist in the Canal Zone.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Roncalio, for official purposes on Friday, July 30, on account of filing.

Mr. Adams, for official business and filing announcement, on July 30, 1976.

Mr. Cotter (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hyde) to revise and extend their remarks and include extraneous material:)

Mrs. Heckler of Massachusetts, for 5 minutes, today.

Mr. Cleveland, for 10 minutes, today.

Mr. HEINZ, for 5 minutes, today.

Mr. DON H. CLAUSEN, for 30 minutes, today.

Mr. DERWINSKI, for 5 minutes, today.

(The following Members (at the request of Mr. HARKIN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FRASER, for 10 minutes, today.

Mr. PREYER, for 10 minutes, today.

Mr. KOCH, for 10 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr. MINISH, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. LONG of Louisiana, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SCHEUER, and to include extraneous matter notwithstanding the fact that it exceeds seven pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $2,288.

Mr. SIKES to revise and extend his remarks following conclusion of the discussion and action of House Resolution 1421.

Mr. LEVITAS, to revise and extend his remarks immediately after the vote on House Resolution 1421.

Mr. MATSUNAGA, immediately following the vote on House Resolution 1421 today.

Mr. MILLER of Ohio to revise and extend his remarks during debate on H.R. 8401.

(The following Members (at the request of Mr. HYDE) and to include extraneous matter:)

Mr. ANDERSON of Illinois.

Mr. HEINZ in two instances.

Mr. ARCHER in two instances.

Mr. WYDLER.

Mr. FREY in two instances.

Mr. FRENZEL in two instances.

Mr. GOLDWATER in two instances.

Mr. WALSH.

Mr. FINDLEY.

Mr. BELL.

Mr. ASHBROOK in two instances.

Mr. BOB WILSON.

Mr. COHEN.

Mr. JOHNSON of Pennsylvania.

Mr. COLLINS of Texas.

Mr. DERWINSKI in two instances.

(The following Members (at the request of Mr. HARKIN) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. SANTINI.

Mr. OTTINGER.

Mr. KARTH in two instances.

Mr. BOLLING.

Mr. CARR.

Mr. VANIK in four instances.

Mr. OBEY.

Mr. REES in two instances.

Mr. BLANCHARD in two instances.

Mr. RISENHOOVER.

Mr. BAUCUS.

Mr. McDONALD in two instances.

Mr. BONKER.

Mr. MEZVINSKY in two instances.

Mr. HAWKINS.

Mr. DRINAN in two instances.

Mr. MINISH.

Mr. LONG of Louisiana.

Mr. MAGUIRE.

Mr. TRAXLER.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1558. An act for the relief of Dr. Gernot M. R. Winkler;

H.R. 1762. An act for the relief of Mrs. Lessie Edwards; and

H.R. 14233. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes.

ADJOURNMENT

Mr. HARKIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p.m.) under its previous order, the House adjourned until Friday, July 30, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3712. A letter from the Secretary of Defense, transmitting the annual report on reserve forces for fiscal year 1975, pursuant to 10 U.S.C. 279; to the Committee on Armed Services.

3713. A letter from the Assistant Secretary of the Air Force (Financial Management), transmitting a draft of proposed legislation to amend title 10, United States Code, to provide for the investigation of accidents involving aircraft of an armed force, and to clarify the use of reports of those investigations; to the Committee on Armed Services.

3714. A letter from the Chairman, Cost Accounting Board, transmitting a proposed new cost accounting standard entitled "Part 415—Accounting for Cost of Deferred Compensation,' pursuant to section 719(h)(3) of the Defense Production Act of 1950, as amended; to the Committee on Banking, Currency and Housing.

3715. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new system of records for the Department of the Army entitled "Child Protection Case Management Files," pursuant to 5 U.S.C. 522a (o); to the Committee on Government Operations.

3716. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new system of records for the Department of the Army entitled "Army Apprenticeship Program Participation Files," pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3717. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Air Force to offer to sell certain defense services to Saudi Arabia (transmittal No. 7T–4), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3718. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Saudi Arabia (transmittal No. 7T–6), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3719. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles to Germany (transmitted No. 7T–8), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3720. A letter from the Comptroller, Defense Security Assistance Agency, transmitting a quarterly report as of June 30, 1976, on foreign military sales letters of offer, pursuant to subsections 36(a) (1) and (2) of the Arms Export Control Act; to the Committee on International Relations.

3721. A letter from the Chairman, Securities and Exchange Commission, transmitting the 41st annual report of the Commission, covering fiscal year 1975, pursuant to section 23(b) of the Securities Exchange Act of 1934, as amended; section 23 of the Public Utility Holding Company Act of 1935; section 46(a) of the Investment Company Act of 1940; section 216 of the Investment Advisers Act of 1940; section 3 of the Act of June 29, 1949, amending the Bretton Woods Agreement Act; and section 11(b) of the Asian Development Act; to the Committee on Interstate and Foreign Commerce.

3722. A letter from the Chairman, U.S. International Trade Commission transmitting a special report on prospects for Soviet imports of selected manufactured goods from Western industrial countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SULLIVAN: Committee of Conference. Conference report on H.R. 11481 (Rept. No. 94–1375). And ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. H. Con. Res. 513. Concurrent resolution providing for the printing of a compilation of materials commemorating the years of services of Justice William O. Douglas (Rept. No. 93–1376). Referred to the House Calendar.

Mr. BRADEMAS: Committee on House Administration. H. Con. Res. 592. Concurrent resolution authorizing the printing of 2,000 copies of a Joint Committee on Atomic Energy print entitled "Review of National Breeder Reactor Program" (Rept. No. 94–1377). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 1444. A resolution providing for the consideration of H.R. 11552. A bill to establish a voter registration administration within the Federal Election Commission for the purpose of administering a voter registration program through the Postal Service, and for other purposes (Rept. No. 94–1378). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DOMINICK V. DANIELS (by request):

H.R. 14939. A bill to amend title 5, United States Code, to include as creditable service for purposes of the civil service retirement system certain periods of service by individuals before the date they were employed by the Panama Canal Company or the Panama Railroad Company; to the Committee on Post Office and Civil Service.

By Mr. FASCELL (for himself, Mr. Morgan, Mr. Zablocki, Mr. Nix, Mr. Fraser, Mr. Rosenthal, Mr. Yatron, Mr. Ryan, Mr. Solarz, Mrs. Meyner, Mr. Broomfield, Mr. Burke of Florida, Mr. Whalen, Mr. Biester, Mr. Winn, Mr. Guyer, and Mr. Lagomarsino):

H.R. 14940. A bill to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes; to the Committee on International Relations.

By Mr. FRASER:

H.R. 14941. A bill to amend title XVI of the Social Security Act to assure that States do not utilize cost-of-living increases in supplemental security income benefits as a means of saving money at the expense of the recipients of such benefits, by requiring that all such increases be passed on to such recipients and for other purposes; to the Committee on Ways and Means.

By Mr. GUDE:

H.R. 14942. A bill to amend the National Capital Planning Act of 1952 and for other purposes; to the Committee on the District of Columbia.

By Mr. HARRINGTON (for himself, Ms. Abzug, Mr. Badillo, Mr. Bingham, Mr. Downey of New York, Mr. Drinan, Mr. Helstoski, Mr. Mitchell of Maryland, Mr. Moakley, and Mr. Nix):

H.R. 14943. A bill to establish a national system of regional capital development banks to provide venture, modernization, and expansion capital for private enterprises for the purposes of increasing employment, expanding production, and enhancing the quality of life in various regions of the United States; to the Committee on Banking, Currency, and Housing.

By Ms. KEYS (for herself and Mr. Jacobs):

H.R. 14944. A bill; the Government Executive Reduction Act; to the Committee on Post Office and Civil Service.

By Mr. LEHMAN:

H.R. 14945. A bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, and for other purposes; to the Committee on the Judiciary.

H.R. 14946. A bill to amend the Federal Pollution Control Act to increase the penalties for discharging oil and hazardous substances; to the Committee on Public Works and Transportation.

By Mr. LUNDINE (for himself, Mr. Cornell, Ms. Keys, Mr. Mineta, Mr. Rosenthal, Mr. Stark, and Mr. Vander Veen):

H.R. 14947. A bill to provide for a program, to be carried out through the Secretary of Labor, of demonstration projects and an advisory committee to promote economic stability by increasing employment opportunities and improving productivity; to the Committee on Education and Labor.

By Mr. MATHIS (for himself, Mr. Jenrette, Mr. Jones of North Carolina, Mr. Bowen, and Mr. Moore):

H.R. 14948. A bill to require that imported palm oil products made in whole or in part of imported palm oil be labeled, to provide for the inspection of imported palm oil and palm oil products, to require that imported palm oil and palm oil products comply with certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

By Mr. STAGGERS:

H.R. 14949. A bill to extend the Federal Energy Administration for 11 days; to the Committee on Interstate and Foreign Commerce.

By Mr. MATSUNAGA (for himself and Mr. Won Pat):

H.R. 14950. A bill to amend the State Taxation of Depositories Act, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. MIKVA (for himself, Mr. Anderson of Illinois, Mr. Crane, Mr. Derwinski, and Mr. Hyde):

H.R. 14951. A bill to validate certain past social security coverage of policemen and firemen in positions covered by the Illinois Municipal Retirement Fund; to the Committee on Ways and Means.

By Mr. PRESSLER;

H.R. 14952. A bill to provide loan guarantees to restock foundation herds, to provide operational loan guarantees after disaster loss to crops, to provide direct loans to farmers in disaster areas and for other purposes; to the Committee on Agriculture.

By Mr. QUIE (by request):

H.R. 14953. A bill to reduce the amount of funds required to be reserved for particular projects under the Special Projects Act, to eliminate the proportional requirement for the distribution of funds for particular projects, to eliminate the provision for congressional committee review of the special projects spending plan, and for other purposes; to the Committee on Education and Labor.

By Mr. GUYER (for himself, Mr. Bafalis, Mr. Mosher, and Mr. J. William Stanton):

H.R. 14954. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HALEY:

H.R. 14955. A bill to authorize the Secretary of the Interior to convey certain property to the Hadley Memorial Hospital, Washington, D.C.; to the Committee on Interior and Insular Affairs.

By Mr. HARSHA:

H.R. 14956. A bill to designate the "Joe L. Evins Post Office and Federal Building"; to the Committee on Public Works and Transportation.

By Mr. MANN (for himself, Mr. Mazzoli, Mr. Ress, Mr. Nowak, Mr. Fauntroy, and Mr. Railsback):

H.R. 14957. A bill to amend title 23 of the District of Columbia Code with respect to the release or detention prior to trial of persons charged with certain violent or dangerous criminal offenses; to the Committee on the District of Columbia.

By Mr. MURPHY of New York (for himself, Mr. Krueger, Mr. Brown of Ohio, Mr. Archer, Mr. Bowen, Mr. Butler, Mr. Don H. Clausen, Mr. Dickinson, Mr. Hightower, Mr. Johnson of Pennsylvania, Mr. Jones of Oklahoma, Mr. Ketchum, Mr. McClory, and Mr. Mann):

H.R. 14958. A bill to assure the availability of adequate supplies of natural gas; to the Committee on Interstate and Foreign Commerce.

By Mr. MURPHY of New York (for himself, Mr. Krueger, Mr. Brown of Ohio, Mr. Martin, Mr. Mathis, Mr. Mollohan, Mrs. Pettis, Mr. Robinson, Mr. Sarasin, Mr. Steelman, Mr. Waggonner, Mr. White, Mr. Whitehurst, and Mr. Winn):

H.R. 14959. A bill to assume the availability of adequate supplies of natural gas; to the Committee on Interstate and Foreign Commerce.

By Mr. REES (for himself, Mr. Mazzoli, Mr. Dellums, Mr. Fauntroy, Mr. Stuckey, Mr. McKinney, Mr. Whalen, Mr. Fraser, Mrs. Meyner, Mrs. Spellman, and Mr. Nowak):

H.R. 14960. A bill to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits; to the Committee on the District of Columbia.

By Mr. STEIGER of Wisconsin (for himself and Mr. Frenzel):

H.R. 14961. A bill to amend the Internal Revenue Code of 1954 to require that an annual report on the effects of inflation (or deflation) on the Federal income tax be transmitted to the Congress; to the Committee on Ways and Means.

By Mr. HARRINGTON:

H. Con. Res. 691. A resolution disapproving the proposed sale to Kenya of F-5E/F aircraft and related equipment and training; to the Committee on International Relations.

By Mr. KOCH (for himself, Mr. Fraser, Mr. Baucus, Mr. Brown of California, Mr. Conte, Mr. McHugh, Mr. Mikva, Mr. Mosher, Mr. Rees, Mr. Richmond, and Mr. Scheuer):

H. Con. Res. 692. A resolution expressing the sense of the Congress that the Attorney General, in accordance with existing law and U.S. humanitarian tradition, parole into the United States those South American aliens having fled to Argentina and those Uruguayans within Uruguay who are in danger of losing their lives; to the Committee on the Judiciary.

By Mr. LONG of Maryland (for himself and Mr. Rose):

H. Con. Res. 693. A resolution expressing the sense of Congress respecting action by the Consumer Product Safety Commission against defective home canning lids; to the Committee on Interstate and Foreign Commerce.

By Mr. HARSHA:

H. Res. 1445. A resolution expressing the sense of the House relative to foreign palm oil development loans; to the Committee on Banking, Currency and Housing.

By Mr. HEINZ:

H. Res. 1446. A resolution urging the President to deny to any country granting sanctuary to international terrorists the benefits of designation as a beneficiary developing country under the General System of Preferences of the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. PAUL:

H. Res. 1447. A resolution to disapprove the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia; to the Committee on the District of Columbia.

By Mr. RINALDO (for himself, Ms. Abzug, Mr. Alexander, Mr. Ashbrook, Mr. Badillo, Mr. Beard of Rhode Island, Mr. Biaggi, Mr. Blanchard, Mr. Breckinridge, Mr. Burgener, Mr. Cotter, Mr. Dan Daniel, Mr. Dominick V. Daniels, Mr. Dodd, Mr. Downey of New York, Mr. Duncan of Tennessee, Mr. Fascell, Mr. Flowers, Mr. Frenzel, Mr. Gilman, and Mr. Gude):

H. Res. 1448. A resolution expressing the sense of the House of Representatives that Israel be commended for its rescue operation in Uganda; to the Committee on International Relations.

By Mr. RINALDO (for himself, Mr. Hansen, Mr. Howard, Mr. Hughes, Mr. Jeffords, Mr. Jenrette, Mr. LaFalce, Mr. Long of Maryland, Mr. Martin, Mr. McDonald, Mr. Meyner, Mr. Mikva, Mr. Miller of Ohio, Mr. Minish, Mr. Moakley, Mr. Ottinger, Mr. Riegle, Mr. Rosenthal, Mr. Santini, Mr. Sarasin, Mr. Scheuer, Mr. Sikes, Mr. Solarz, Mr. Traxler, and Mr. Walsh):

H. Res. 1449. A resolution expressing the sense of the House of Representatives that Israel be commended for its rescue operation in Uganda; to the Committee on International Relations.

By Mr. RINALDO (for himself, Mr. Waxman, Mr. Whitehurst, Mr. Peyser, Mr. Charles Wilson of Texas, Mr. Young of Florida, and Mr. Zeferetti):

H. Res. 1450. A resolution expressing the sense of the House of Representatives that Israel be commended for its rescue operation in Uganda; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

440. By Mr. PEPPER: A memorial of the Legislature of the State of Florida, relative to compensation of victims of crime; to the Committee on the Judiciary.

441. By the SPEAKER: A memorial of the Legislature of the State of Louisiana, relative to gun control; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. PICKLE presented a bill (H.R. 14962), for the relief of Jacinta Estrada-Balderas, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

532. Mr. CORNELL presented a petition of members of five credit unions in the Eighth Congressional District of Minnesota, relative to the proposed "Financial Institutions Act of 1975," which was referred to the Committee on Banking, Currency and Housing.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of July 28, 1976, page 24235.

HOUSE JOINT RESOLUTIONS

H.J. Res. 996. June 22, 1976. Post Office and Civil Service. Designates August 26, 1976, as "Women's Equality Day."

H.J. Res. 997. June 22, 1976. Government Operations. Provides for the establishment of an Office of Hispanic Affairs in specified departments and agencies of the executive branch which shall participate in all policy planning and development for all programs.

Requires the Secretary of Commerce to establish a Hispanic Information Clearinghouse.

H.J. Res. 998. June 22, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the week beginning November 7, 1976, as "National Respiratory Therapy Week."

H.J. Res. 999. June 23, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the fourth Sunday in September each year as "National Good Neighbor Day."

H.J. Res. 1000. June 23, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the fourth Sunday in September each year as "National Good Neighbor Day."

H.J. Res. 1001. June 23, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the fourth Sunday in September each year as "National Good Neighbor Day."

H.J. Res. 1002. June 24, 1976. Judiciary. Proposes a constitutional amendment which provides that no law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.

H.J. Res. 1003. June 25, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Day."

H.J. Res. 1004. June 30, 1976. Post Office and Civil Service. Authorizes and requests the President to designate the 2d day of July, 1976, as "Bicentennal Day of Prayer of Thanksgiving and Guidance."

H.J. Res. 1005. June 30, 1976. Post Office and Civil Service. Authorizes and requests the President to designate the 2d day of July, 1976, as "Bicentennial Day of Prayer of Thanksgiving and Guidance."

H.J. Res. 1006. June 30, 1976. Post Office and Civil Service. Designates September 6 of each year as "National Cancer Day."

H.J. Res. 1007. July 1, 1976. Post Office and Civil Service. Designates the poem, entitled, "Humanity Above All Nations," as the "Bicentennial Prayer for Peace."

H.J. Res. 1008. July 1, 1976. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week."

H.J. Res. 1009. July 1, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Day."

H.J. Res. 1010. July 1, 1976. Interior and Insular Affairs. Grants independence to Puerto Rico.

H.J. Res. 1011. July 1, 1976. Post Office and Civil Service. Authorizes and requests the President to designate the 2d day of July 1976, as "Bicentennial Day of Prayer of Thanksgiving and Guidance."

H.J. Res. 1012. July 1, 1976. Post Office and Civil Service. Authorizes and requests the President to designate the 2d day of July 1976, as "Bicentennial Day of Prayer of Thanksgiving and Guidance."

H.J. Res. 1013. July 1, 1976. House Administration. Designate the American Beauty rose as the national flower of the United States.

H.J. Res. 1014. July 1, 1976. Post Office and Civil Service. Designates the period March 1, 1976, through March 7, 1976, as "National Weights and Measures Week."

H.J. Res. 1015. July 1, 1976. Ways and Means. Establishes a nine-member National Commission on Social Security. Requires the Commission to study and investigate titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act.

H.J. Res. 1016. July 1, 1976. Judiciary. Proposes a constitutional amendment adding specified provisions of the Declaration of Independence to the Preamble of the Constitution.

H.J. Res. 1017. July 1, 1976. Post Office and Civil Service. Designates the week beginning June 19, 1977, as "National Food Service Employees Week."

H.J. Res. 1018. July 1, 1976. Post Office and Civil Service. Designate September 8 of each year as "National Cancer Day."

H.J. Res. 1019. July 2, 1976. Judiciary; International Relations. Directs the President to proclaim that Valentyn Moroz shall be an honorary citizen of the United States. Urges the Soviet Union to allow Valentyn Moroz to accept the invitation of Harvard University for the 1976–77 academic year.

HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 670. June 30, 1976. Education and Labor. States that every foster child has specified inherent rights and standards for treatment.

H. Con. Res. 671. June 30, 1976. Armed Services. Declares it the sense of Congress that a certain individual should receive a commission in the United States Army.

H. Con. Res. 672. July 1, 1976. Reaffirms Congress commitment to the ideals and principles expressed in the Declaration of Independence.

H. Con. Res. 673. July 1, 1976. Judiciary. Expresses the sense of Congress that the Attorney General parole into the United States those South American aliens having fled to Argentina and those Uruguayans within Uruguay who are in danger of losing their lives because of their political beliefs.

H. Con. Res. 674. July 1, 1976. Judiciary. Expresses the sense of Congress that the Attorney General parole into the United States those South American aliens having fled to Argentina and those Uruguayans within Uruguay who are in danger of losing their lives because of their political beliefs.

H. Con. Res. 675. July 1, 1976. Agriculture; International Relations. Declares it the sense of Congress that every person has the right to a nutritionally adequate diet, and that the United States increase its assistance for self-help development among the world's poorest people.

H. Con. Res. 676. July 1, 1976. House Administration. Directs the Joint Committee of Congress on the Library to procure a bronze facsimile of the original documents of the Constitution of the United States and cause such facsimile to be displayed in an appropriate location in the U.S. Capitol.

H. Con. Res. 677. July 1, 1976. Judiciary. Expresses the sense of the Congress that the U.S. Constitution does not grant any immunity from arrest or prosecution on a charge of violation of any criminal statute of any jurisdiction to a Member of either House of the Congress.

H. Con. Res. 678. July 19, 1976. Directs the Clerk of the House of Representatives to make specified corrections in the enrollment of H.R. 11504.

H. Con. Res. 679. July 19, 1976. Ways and Means. Expresses the sense of the Congress that no individual shall have any Federal benefits decreased as a result of an increase in social security benefits.

HOUSE RESOLUTIONS

H. Res. 1351. June 23, 1976. Rules. Establishes in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control.

H. Res. 1352. June 23, 1976. Rules. Establishes in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control.

H. Res. 1353. June 23, 1976. Rules. Establishes in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control.

H. Res. 1354. June 23, 1976. Rules. Establishes in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control.

H. Res. 1355. June 23, 1976. Rules. Establishes in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control.

H. Res. 1356. June 23, 1976. Rules. Establishes in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control.

H. Res. 1357. June 23, 1976. Rules. Establishes in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control.

H. Res. 1358. June 23, 1976. Rules. Establishes in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control.

H. Res. 1359. June 23, 1976. Rules. Establishes in the House of Representatives a select committee to be known as the Select Committee on Narcotics Abuse and Control.

H. Res. 1360. June 23, 1976. International Relations; Ways and Means. Condemns the oppression of minorities in Rumania by the country's Communist regime.

H. Res. 1361. June 23, 1976. Interstate and Foreign Commerce. Expresses the intent of the House of Representatives that the Federal Communications Commission exert its jurisdiction over utility pole attachment fees charged to cable television systems.

H. Res. 1362. June 24, 1976. Interstate and Foreign Commerce. Disapproves the Federal Energy Administration's proposal energy action numbered 3 which would exempt number 2 heating oil and number 2-D diesel fuel from mandatory petroleum allocation and price regulations.

H. Res. 1363. June 24, 1976. Interstate and Foreign Commerce. Disapproves the Federal Energy Administration's proposed energy action numbered 4 which would exempt middle distillates (other than number 2 heating oil and number 2-D diesel fuel) from the mandatory petroleum allocation and price regulations.

H. Res. 1364. June 24, 1976. Rules. Amends Rule XXXII of the Rules of the House of Representatives to allow specified present and former employees and Members of the House to enter the Hall of the House.

H. Res. 1365. June 24, 1976. Rules. Directs the House Committee on Ways and Means to conduct an investigation of the feasibility of increasing the funds in the Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund through the imposition of a severance tax on natural resources removed from land owned by the United States.

H. Res. 1366. June 24, 1976. House Administration. Requires Members of the House of Representatives to include information relating to their employees in newsletters mailed by such Members.

H. Res. 1367. June 24, 1976. House Administration; Standards of Official Conduct. Requires that actions by the Committee on House Administration to fix or adjust allowances be approved by the House by resolution. Modifies procedures regarding allowances available to Members.

H. Res. 1368. June 25, 1976. Rules. Establishes the Commission on Administrative Review in the House of Representatives to conduct a study of the administrative services of the House.

H. Res. 1369. June 25, 1976. House Administration. Provides that the Committee on House Administration of the House of Representatives shall provide for the management and operation of the House restaurant and the cafeteria and other food service facilities of the House through the award of contracts.

H. Res. 1370. June 25, 1976. House Administration. Provides that the Committee on House Administration of the House of Representatives shall provide for the management and operation of the House restaurant and the cafeteria and other food service facilities of the House through the award of contracts.

H. Res. 1371. June 25, 1976. Rules. Creates a House select committee which shall conduct an investigation of all records, memorandums, papers, documents, books, and other information of any standing or select committee of the House or officer of the House respecting expenses incurred by or on behalf of any such committee or its members or employees.

H. Res. 1372. June 28, 1976. House Administration. Provides that changes by the Committee on House Administration in expenditures from the contingent fund of the House for allowances may be made without a resolution of the House only under specified circumstances.

H. Res. 1373. June 28, 1976. Rules. Amends the Rules of the House of Representatives to provide that in appointing Members to conference committees, the Speaker shall make such appointments without regard to seniority.

H. Res. 1374. June 28,1976. Amends Rule XXVIII of the Rules of the House of Representatives to provide that conference committee meetings between the House and Senate shall, at all times, be open to Members who desire to attend such meeting.

H. Res. 1375. June 28, 1976. Rules. Amends the Rules of the House of Representatives to provide that a conference committee meeting may be closed to the public only upon a vote in the House specifically authorizing the closing of such meeting.

H. Res. 1376. June 28, 1976. Rules. Amends Rule XXVIII of the Rules of the House of Representatives to prohibit conference committees from conducting business through the use of subcommittees.

H. Res. 1377. June 28, 1976. Rules. Amends the Rules of the House of Representatives to afford a Member an opportunity to appear before a conference committee to make comments respecting any amendment which such member has successfully offered in the House.

H. Res. 1378. June 28, 1976. Rules. Amends the Rules of the House of Representatives to provide that Members of conference committees may not vote by proxy on conference committee business.

H. Res. 1379. June 28, 1976. Rules. Amends the Rules of the House of Representatives which set forth the procedures to be followed by conference committees.

H. Res. 1380. June 28, 1976. Rules. Amends Rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution.

H. Res. 1381. June 28, 1976. House Administration. Directs that there be reprinted for the use of the House Committee on Interstate and Foreign Commerce the subcommittee print entitled "The Costs of Regulation and Restrictive Practices."

H. Res. 1382. June 29, 1976. Rules. Authorizes the House Commission on Congressional Mailing Standards to seek to intervene in the pending action entitled "Common Cause et al. v. Benjamin Bailar et al."

H. Res. 1383. June 29, 1976. Rules. Sets forth the rule for the consideration of H.R. 12438.

H. Res. 1384. June 29, 1976. Sets forth in response to a certain subpoena duces tecum the Rules of the House of Representatives with respect to judicial process regarding personnel, Members, and documents of the House.

H. Res. 1385. June 29, 1976. Sets forth in response to a certain subpoena duces tecum the Rules of the House of Representatives with respect to judicial process regarding personnel, Members, and documents of the House.

H. Res. 1386. June 29, 1976. House Administration; Rules. Requires that expenditures of funds from the contingent fund of the House of Representatives for allowances to Members, officers, and standing committees be fixed or adjusted only through the adoption of a resolution by the House. Creates a select committee to conduct a study respecting all records of any standing or select committee of the House.

H. Res. 1387. June 29, 1976. Rules. Sets forth the rule for the consideration of S. 3625.

H. Res. 1388. June 30, 1976. Rules. Amends Rule X of the House of Representatives to provide that any Member of the House Committee on Standards of Official Conduct may, at his or her own discretion, disqualify himself or herself from participating in any investigation of the conduct of any Member, officer, or employee of the House.

H. Res. 1389. June 30, 1976. Rules. Amends Rule X of the House of Representatives to provide that any Member of the House Committee on Standards of Official Conduct may, at his or her own discretion, disqualify himself or herself from participating in any investigation of the conduct of any Member, officer, or employee of the House.

H. Res. 1390. June 30, 1976. House Administration. Provides that funds shall not be expended from the contingent fund of the House of Representatives for allowances to Members, officers, or standing committees of the House except through the adoption of a resolution by the House of Representatives.

H. Res. 1391. June 30, 1976. Rules. Creates a House select committee which shall conduct an investigation of all records, memorandums, papers, documents, books, and other information of any standing or select committee of the House or officer of the House respecting expenses incurred by or on behalf of any such committee or its members or employees.

H. Res. 1392. June 30, 1976. Standards of Official Conduct. Expels Andrew J. Hinshaw, Representative from California, from the House of Representatives.

H. Res. 1393. June 30, 1976. Sets forth the rule for the consideration of H.R. 12455.

H. Res. 1394. June 30, 1976. Sets forth the rule for the consideration of H.R. 13955.

H. Res. 1395. June 30, 1976. Sets forth the rule for the consideration of H. Res. 1368.

H. Res. 1396. June 30, 1976. Sets forth the rule for the consideration of H. Res. 1372.

H. Res. 1397. July 1, 1976. Rules. Amends the Rules of the House of Representatives which set forth the procedures to be followed by conference committees.

H. Res. 1398. July 1, 1976. Rules. Directs the House Committee on International Relations to conduct hearings to determine if any officials, agencies, or instrumentalities of the Federal Government are involved in the hostilities in Northern Ireland.

H. Res. 1399. July 1, 1976. Agriculture; Banking, Currency and Housing. Directs the Secretary of Agriculture to study the impact of the development of the foreign palm industry on the domestic vegetable oil industry.

H. Res. 1400. July 1, 1976. Agriculture; International Relations. Expresses the sense of the House of Representatives that the Secretary of Agriculture study the impact of the development of foreign palm oil industry on the domestic vegetable oil industry.

SENATE—*Thursday, July 29, 1976*

The Senate met at 9 a.m. and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Serve the Lord with gladness: come before His presence with singing.

Enter into His gates with thanksgiving, and into His courts with praise: be thankful unto Him, and bless His name.—Psalms 100: 2, 4.

Our Father-God, make this place a Holy of Holies and in this reverent moment accept the dedication of our lives to the highest and best. For Thy greatness and Thy goodness we give Thee thanks. Be to us more than a name, more than a distant deity, but rather a quickening presence, a sustaining power—

"* * * a living bright reality
More present to faith's vision keen,
Than any outward object seen.
More dear, more intimately nigh
Than e'en the closest earthly tie"

Walk with us and work through us until the day is done.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 29, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. FORD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, July 28, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

EXPORT-IMPORT BANK OF THE UNITED STATES

The second assistant legislative clerk read the nomination of Delio E. Gianturco, of Virginia, to be First Vice President of the Export-Import Bank of the United States.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

FEDERAL TRADE COMMISSION

The second assistant legislative clerk read the nomination of David A. Clanton, of Virginia, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1969, and for the term of 7 years from September 26, 1976.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. GRIFFIN. I yield back the time, Mr. President.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 10 minutes, with statements therein limited to 5 minutes each.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

RESCISSION OF BUDGET AUTHORITY OF THE LEGAL SERVICES CORPORATION—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, the Judiciary, and Labor and Public Welfare:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $45 million in budget authority appropriated for payment to the Legal Services Corporation.

Approval of this rescission proposal will reduce Federal spending by $45 million over 1977 and 1978. The proposed rescission would prevent unneeded expansion of Legal Services Corporation activities and delay greater geographic coverage until program evaluations are completed.

The details of the proposed rescission are contained in the attached report.

GERALD R. FORD.

THE WHITE HOUSE, *July 29, 1976.*

ANNUAL REPORT OF THE ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

As we celebrate our Bicentennial year, we are thankful that America is at peace. For the first time in many years, no American is engaged in combat anywhere in defense of our freedom. But we know that there are in the world forces hostile to freedom, and that to protect our security and the values we prize we must maintain our strength, our resolve, and our endeavors to safeguard peace.

To meet our responsibilities today we must deal with the problems of security in ways never dreamed of by our founding fathers. We must influence the policies of possible adversaries in two ways: By keeping our military forces strong, and by pursuing negotiations to create stability rather than a spiraling arms race in weapons of incalculable destructiveness.

In both these endeavors, there are grounds for confidence. We have and will maintain a strategic relationship with the Soviet Union which preserves our security. At the same time, we will continue to pursue arms control agreements that lessen the danger of war and serve to promote a stable and peaceful international order. We are negotiating with the Soviet Union, with the Warsaw Pact countries, in the multilateral Geneva-based Conference of the Committee on Disarmament, and in the United Nations.

We are mindful that many difficult questions remain to be solved, but I can report that steady progress has been made.

On May 28 I signed the Treaty on Underground Nuclear Explosions for Peaceful Purposes which has now been submitted to the Senate together with the related Threshold Test Ban Treaty. Both treaties represent genuine progress in the two-decade struggle to halt nuclear weapons testing.

In the current phase of the Strategic Arms Limitation Talks, we and the Soviet Union have made considerable progress since the Vladivostok meeting. Most of the elements needed for final agreement are already agreed. Certain issues are still unsettled but we will continue our effort to resolve them in a way that protects the interests of both sides, and enables us to complete a new SALT agreement on the basis of the Vladivostok accords.

In negotiations to reduce forces in central Europe, both the NATO and the Warsaw Pact nations have made new proposals. Through these negotiations we hope to achieve a more stable military balance in central Europe at lower levels of forces. And in the Conference of the Committee on Disarmament, the United States and the Soviet Union have tabled identical draft texts of a convention to outlaw environmental modification techniques for hostile purposes.

The Administration has undertaken a vigorous action program to strengthen the barriers against further proliferation of nuclear weapons. We have moved to increase the effectiveness of the Nonproliferation Treaty and the International Atomic Energy Agency. Controls on American exports of nuclear materials and sensitive technology have been made even more rigorous. The United States has taken an important initiative to establish new cooperation with the other major nations supplying nuclear equipment and technology, and a common understanding has been reached on principles and standards governing nuclear exports.

These are tangible evidence of progress. This fifteenth annual report of the U.S. Arms Control and Disarmament Agency sets forth in detail and perspective the advances that have been made and the difficult, essential work that must still be done. My Administration remains dedicated to continued and determined efforts for the control and balanced reduction of armaments.

GERALD R. FORD.

THE WHITE HOUSE, *July 29, 1976.*

MESSAGES FROM THE HOUSE

At 1:30 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1558. An act for the relief of Doctor Gernot M. R. Winkler.

H.R. 1762. An act for the relief of Mrs. Lessie Edwards.

H.R. 14233. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 2:20 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (S. 5) to provide that meetings of Government agencies shall be open to the public, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 14514. An act to permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.

At 5:48 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 13555. An act to amend the Federal Metal and Nonmetallic Mine Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969.

COMMUNICATIONS FOR EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Report of the Assistant Secretary of Defense

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a report relating to the number of members of the Armed Services entitled to receive monthly incentive pay for flying duties (with an accompanying report); to the Committee on Armed Services.

Proposed Construction Projects for the Air National Guard

A letter from the Deputy Assistant Secretary of Defense transmitting a list of five construction projects to be undertaken by the Air National Guard (with accompanying papers); to the Committee on Armed Services.

Reports of the Comptroller General

Two letters from the Comptroller General each transmitting a report entitled "Audit of Financial Statements of Saint Lawrence Seaway Development Corporation Calendar Year 1975" and "Administration of Federal Assistance Programs—A Case Study Showing Need for Additional Improvements" (with accompanying reports); to the Committee on Government Operations.

Published Regulation of the Cost Accounting Standards Board

A letter from the Chairman of the Cost Accounting Standards Board transmitting, pursuant to law, a copy of a proposed regulation published in the Federal Register relating to standards promulgated by the Board (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

Proposed Legislation by the Department of the Air Force

A letter from the Assistant Secretary of the Air Force transmitting a draft of proposed legislation to amend title 10, United States Code (with accompanying papers); to the Committee on Armed Services.

Report of the General Accounting Office

A letter from the General Counsel of the General Accounting Office reporting, pursuant to law, on the status of certain proposed budget authority; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Labor and Public Welfare, Agriculture and Forestry, Banking, Housing and Urban Affairs, and Commerce, and ordered to be printed.

New System of Records in the Department of the Army

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a copy of a proposal on a new system of records entitled "Army Apprenticeship Program Participation Files" (with accompanying papers); to the Committee on Government Operations.

Report of the Nuclear Regulatory Commission

A letter from the chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, the fourth report on abnormal occurrences at licensed nuclear facilities (with an accompanying report); to the Joint Committee on Atomic Energy.

PETITIONS

The ACTING PRESIDENT pro tempore laid before the Senate the following petitions, which were referred as indicated:

A supplement to petition for investigation of certain activities of the AT&T on behalf of MCI Telecommunications Corporation; to the Committee on Rules and Administration.

Resolution No. 228–1976, adopted by the Legislature of the Northern Mariana Islands; to the Committee on Commerce:

"RESOLUTION No. 228–1976

"A resolution relative to requesting the President of the United States of America and the Civil Aeronautics Board to award the Tokyo-Saipan route case Docket Number 24421 to Pan American World Airways

"Whereas, several United States Air Carriers have applied to the Civil Aeronautics Board for commission to provide air services from Saipan to Japan; and

"Whereas, the Civil Aeronautics Board has conducted extensive investigations relative to this route case; and

"Whereas, the Civil Aeronautics Board has recommended the selection of Continental/Air Micronesia to provide air services between Saipan and Japan primarily because of the benefits that will result to other districts in Micronesia; and

"Whereas, it is important to understand that the proposed route case only involves services from Japan to Saipan, and any passenger desiring to visit other areas in the Pacific, must make connection to other areas and with the passage of House Joint Resolution No. 549 between the United States Congress in March, 1976, which has become Public Law 94–241, the Northern Mariana Islands officially became a part of the United States of America— separate and apart from the other districts of Micronesia and, therefore, should be treated on a separate basis; and

"Whereas, we, the elected leaders of the Northern Mariana Islands, be and on behalf of the people we represent to hereby go on record of supporting the application of Pan American World Airways to provide air services from Japan to Saipan, and urged the Civil Aeronautics Board and the President of the United States of America to expedite the granting on the authority to Pan American World Airways to begin services on this route immediately;

"Now, therefore, be it resolved by the Fourth Northern Mariana Islands Legislature, Eighth Regular Session, 1976, that the Civil Aeronautics Board and the President of the United States of America be and they hereby are respectfully requested to award the Tokyo-Saipan route case, docket number 24421 to Pan American World Airways; and

"Be it further resolved that the Speaker certify to and the Legislative Secretary attest the adoption hereof and thereafter transmit copies of these Resolution to the President of the United States of America; the Chairman of the Civil Aeronautics Board; the President of Pan American World Airways; the High Commissioner of the Trust Territory; the Resident Commissioner of the Northern Mariana Islands; the Secretary of the United States Department of the Interior; the Secretary of the Department of State; the Secretary of the Department of Defense; the President of the Trusteeship Council of the United Nations; the President of the United States Senate; and the Speaker of the United States House of Representatives."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. **EASTLAND**, from the Committee on the Judiciary:

Senate Resolution 497. An original resolution authorizing supplemental expenditures for the Committee on the Judiciary for inquiry and investigation relating to internal security. Referred to the Committee on Rules and Administration.

By Mr. **MUSKIE**, from the Committee on the Budget, without amendment:

Senate Resolution 494. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 10339, an act to encourage the direct marketing of agricultural commodities from farmers to consumers (Rept. No. 94-1057).

MARITIME AUTHORIZATIONS, 1977—CONFERENCE REPORT (REPT. NO. 94-1056)

Mr. MAGNUSON submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11481) to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. **PEARSON**, from the Committee on Commerce:

Richard B. Ogilvie, of Illinois, to be a member of the Board of Directors of the United States Railway Association for the remainder of the term expiring July 8, 1976, vice William W. Scranton, resigned.

Richard B. Ogilvie, of Illinois, to be a member of the Board of Directors of the United States Railway Association for the term of 6 years expiring July 8, 1982. (Reappointment.)

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. **LONG**, from the Committee on Commerce:

H. Guyford Stever, of the District of Columbia, to be Director of the Office of Science and Technology Policy.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. **WILLIAMS**, from the Committee on Labor and Public Welfare:

H. Guyford Stever, of the District of Columbia, to be Director of the Office of Science and Technology Policy.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 13555. An act to amend the Federal Metal and Nonmetallic Mine Safety Act and to transfer certain functions relating to coal mine health and safety under the Federal Coal Mine Health and Safety Act of 1969; to the Committee on Labor and Public Welfare.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BAKER:

S. 3707. A bill to amend the U.S. Information and Educational Exchange Act of 1948. Referred to the Committee on Foreign Relations.

By Mr. BROCK:

S. 3708. A bill to amend title XVIII of the Social Security Act to include community mental health centers among the entities which may be qualified providers of services for medicare purposes, to redefine terms used in such title so as to reflect such inclusion. Referred to the Committee on Finance.

By Mr. STONE (for himself and Mr. CHILES):

S.J. Res. 208. A joint resolution recognizing the contributions of school volunteers. Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAKER:

S. 3707. A bill to amend the U.S. Information and Educational Exchange Act of 1948. Referred to the Committee on Foreign Relations.

Mr. BAKER. Mr. President, I am today introducing legislation that will allow the U.S. Information Agency to release to the Knoxville Symphony Society a film produced by USIA in 1957 entitled, "Symphony Across the Land." This legislation is necessary, Mr. President, because the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) prohibits the distribution within the United States of films produced by USIA unless specifically allowed by an act of Congress.

The reason for seeking the release of this particular film is that the Knoxville Symphony Society in conjunction with the University of Tennessee and Broadside Video, a nonprofit organization incorporated in the State of Tennessee, has received a grant of $3,500 from the Tennessee American Revolution Bicentennial Commission to film and televise over the Public Broadcasting System—PBS—a program featuring Dr. David Van Vactor and the Knoxville Symphony Orchestra.

Dr. Van Vactor, the composer laureate of the State of Tennessee, was commissioned by the Tennessee Arts Commission to score an original work observing the American Bicentennial. The work was performed by the Knoxville Symphony Orchestra, under the baton of Maestro Arpad Joo on March 11, 1976.

The grant from the Bicentennial Commission of $3,500, matched by $2,500 provided by the Knoxville Symphony Society, is being used to televise the entire process from Dr. Van Vactor's original ideas and inspiration to the concert itself. Sections of the USIA film, "Symphony Across the Land," which also featured Dr. Van Vactor and the Knoxville Symphony Orchestra, is to be used to complement the television production of "Symphony No. 5."

It should be noted that this legislation provides that the film shall be made available to the Knoxville Symphony Society at no cost to the U.S. Government. It should be further noted that the production in which the USIA film will be used is not a commercial or profit-making undertaking and is to be used solely to commemorate the Bicentennial on the Public Broadcasting System.

Mr. President, Knoxville has long been proud of the cultural accomplishments of the Knoxville Symphony Orchestra; and it has played a major role in raising the level of the performing arts in the State of Tennessee. The services of Dr. Van Vactor have been a blessing for which we are all very grateful, and I am grateful for this opportunity to make available to the American public the artistry of David Van Vactor and the Knoxville Symphony Orchestra.

My colleague, Congressman JOHN DUNCAN, is introducing a corresponding bill in the House; and we are hopeful for its early consideration by the Congress.

By Mr. BROCK:

S. 3708. A bill to amend title XVIII of the Social Security Act to include community mental health centers among the entities which may be qualified providers of services for medicare purpose, to redefine terms used in such title so as to reflect such inclusion. Referred to the Committee on Finance.

LEFT HAND, RIGHT HAND AND MENTAL HEALTH

Mr. BROCK. Mr. President, time and time again we see two congressional committees or two administrative agencies come out with conflicting regulations. Some of these are understandable, for example an agency concerned with productivity is bound to have conflicting ideas with one concerned with environmental problems. These are problems that must be worked out and I can understand and appreciate that kind of problem.

What I do not understand, however, is how one committee and agency of HEW can encourage the establishment of something as important as community mental health centers, with Federal funds, while another agency and committee say that service cannot be reimbursed with Federal funds.

Congressional and administrative support for community mental health centers goes back to at least 1963 when Congress passed the Mental Retardation Facilities and Community Mental Health Centers Construction Act (P.L. 88–164). Throughout the years, congressional support has been strong. Two years later, the act was amended by Public Law 89–105 to provide for matching funds for staffing of these centers. The law was further amended to extend the length of staffing grants support (P.L. 90–31), then to give special consideration to programs serving poverty areas (P.L. 91–211) and then to all centers in meeting the special needs of alcoholics, drug abusers and children (P.L. 90–574). Finally and most germane to the problem, Congress mandated in Public Law 94–63 that community mental health centers serve the elderly.

What is the problem? The problem is that although both Congress and the administration agree that the Community centers should serve the community and then collect as much money as possible from third party providers, another agency has restricted the flow of third party funds from one of the largest programs—medicare. This is particularly sad since most of our elderly Americans only have medicare coverage.

The administration has promulgated regulations and policies that severely restrict center reimbursement under medicare, but the fault is not all with the administration. Another problem is that four different House and Senate committees have jurisdiction over CMHC legislation and medicare programs and they have also failed to correct this injustice.

The bill I am introducing today is to correct this obvious discrepancy of having the Federal left hand aiding the community mental health centers while the Federal right hand says that they cannot be reimbursed with Federal funds. My bill simply states that qualified community mental health centers with qualified persons would be allowed to be reimbursed for their services from medicare. It is time that the Federal left and right hands got together in this vital area of concern—mental health.

ADDITIONAL COSPONSORS

S. 2135

At the request of Mr. THURMOND, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2135, to authorize the construction of the General Drazha Mihailovich Monument in Washington, D.C.

WITHDRAWAL

At the request of Mr. THURMOND, the Senator from Illinois (Mr. STEVENSON) was withdrawn as a cosponsor of S. 2135, supra.

S. 3276

At the request of Mr. ROTH, the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. FANNIN), the Senator from Wyoming (Mr. HANSEN), the Senator from North Carolina (Mr. HELMS), and the Senator from Pennsylvania (Mr. HUGH SCOTT) were added as cosponsors of S. 3276, to amend title 18 United States Code.

S. 3277

At the request of Mr. ROTH, the Senator from Arizona (Mr. FANNIN), the Senator from Wyoming (Mr. HANSEN) and the Senator from Pennsylvania (Mr. HUGH SCOTT) were added as cosponsors of S. 3277, to amend the Omnibus Crime Control and Safe Streets Act of 1965.

S. 3278

At the request of Mr. ROTH, the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. FANNIN), the Senator from Wyoming (Mr. HANSEN), and the Senator from Pennsylvania (Mr. HUGH SCOTT) were added as cosponsors of S. 3278, to amend the act entitled "An Act To Establish a Code of Law for the District of Columbia", approved March 3, 1901.

S. 3349

At the request of Mr. GRIFFIN (for Mr. MATHIAS), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Oregon (Mr. HATFIELD), and the Senator from South Dakota (Mr. McGOVERN) were added as cosponsors of S. 3349, the Bill of Rights Procedures Act.

SENATE JOINT RESOLUTION 206

At the request of Mr. STONE, the Senator from Georgia (Mr. NUNN), was added as a cosponsor of Senate Joint Resolution 206, proposing a National Leadership Conference on Energy Policy.

AMENDMENT NO. 1993

At the request of Mr. BUCKLEY, the Senator from Texas (Mr. TOWER) was added as a cosponsor of amendment No. 1993 to H.R. 10612, the Tax Reform Act of 1976.

AMENDMENT NO. 2094

At the request of Mr. BEALL, the Senator from Texas (Mr. TOWER) was added as a cosponsor of amendment No. 2094, intended to be proposed to S. 2657, the Education Amendments of 1976.

SENATE RESOLUTION 497—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution:

S. RES. 497

Resolved, That S. Res. 375, Ninety-fourth Congress, agreed to March 3, 1976, is amended as follows:

(1) in section 2, strike out "$4,109,700" and insert in lieu thereof "$4,209,700".

(2) in section 11, strike out "$195,300" and insert in lieu thereof "$295,300".

AMENDMENTS SUBMITTED FOR PRINTING

MANDATORY MINIMUM SENTENCES—S. 3276, S. 3277, AND S. 3278

AMENDMENTS NOS. 2108 AND 2109

(Ordered to be printed and referred to the Committee on the Judiciary.)

AMENDMENT NO. 2110

(Ordered to be printed and referred to the Committee on the District of Columbia.)

Mr. HUGH SCOTT. Mr. President, I have just joined Senator ROTH as a cosponsor of his legislation to provide for mandatory prison sentences for criminals who victimize the elderly.

I feel that Senator ROTH's legislation, S. 3276, S. 3277, and S. 3278, should be quickly considered and enacted by the U.S. Senate. Crime touches all Americans, but the elderly are particularly vulnerable. Because criminals view them as defenseless victims, they suffer a disproportionate number of purse snatchings, physical assaults, rapes, and muggings. Many of our senior citizens do not pose a physical threat to criminals. These contemptible criminals capitalize on the frailities of age. For this reason, I believe that any criminal who commits a personal crime against a senior citizen should be subject to mandatory minimum prison sentences. Such sentences act as a deterrent to this particularly despicable criminal behavior.

With this in mind, I would like to propose an amendment to Senator ROTH's legislation which I feel is important and appropriate. My amendment would extend the ambit of his legislation to require mandatory prison sentences for two other classes of U.S. citizens who also suffer at the hands of criminals—the physically handicapped and mentally retarded. Like the elderly, these people are perceived by the criminals as helpless, hopeless victims who pose no threat to the criminal.

I am deeply troubled over the vulnerability of these citizens to violent crime. By establishing mandatory prison sentences for crimes against them, we will act to deter significantly potential offenders, and will help to reduce substantially crimes against these citizens. Someone who preys on the weak and defenseless can expect no mercy, and the criminal element should know it.

Mr. President, I respectfully ask unanimous consent that the text of my amendments be printed in the RECORD. I urge all of my colleagues to support Senator ROTH's legislation and to give my proposed amendments careful consideration.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2108

On page 2, line 8, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 2, line 16, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 2, line 24, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 3, line 8, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 3, line 17, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 4, line 1, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 4, line 11, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 4, line 19, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 5, line 2, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 5, line 10, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 5, line 18, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 6, line 1, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 6, line 10, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 6, line 25, immediately after "offense,", insert the following: "or involving an offense the victim with respect to which had, at the time of such offense, a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

Amend the title so as to read: "A bill to amend title 18, United States Code, so as to provide for mandatory minimum sentences with respect to certain offenses against victims sixty years of age or older, or victims suffering from mental or physical defects, injuries, illnesses, or conditions which substantially diminish the victim's ability to defend himself or herself or to flee from danger.".

AMENDMENT No. 2109

On the first page, line 4, immediately after "Elderly" insert "and the Handicapped".

On the first page, line 8, immediately after "elderly", insert a comma and the following: "and persons who have mental or physical defects, injuries, illnesses, or conditions which substantially diminish their ability to defend themselves or to flee from danger".

On page 2, line 2, immediately after "elderly" insert the following: "and persons who have mental or physical defects, injuries, illnesses, or conditions which substantially diminish their ability to defend themselves or to flee from danger,".

On page 2, line 5, immediately after "elderly", insert "or such persons".

On page 2, line 12, immediately after "elderly", insert "and persons who have mental or physical defects, injuries, illnesses, or conditions which substantially diminish their ability to defend themselves or to flee from danger".

On page 2, line 15, immediately after "elderly" insert "or such persons".

AMENDMENT No. 2110

On the first page, line 9, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 2, line 8, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 2, line 16, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 2, line 24, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 3, line 7, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 3, line 15, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 3, line 23, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 4, line 5, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 4, line 13, immediately after "thereof,", insert the following: "or if the victim of any such offense, at the time thereof, had a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

On page 5, line 2, immediately after "offense,", insert the following: "or involving an offense the victim with respect to which had, at the time of such offense, a mental or physical defect, injury, illness, or condition which substantially diminished the victim's ability to defend himself or herself or to flee from danger,".

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977—H.R. 14262

AMENDMENT NO. 2111

(Ordered to be printed and to lie on the table.)

Mr. BELLMON (for himself and Mr. CULVER) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2112

(Ordered to be printed and to lie on the table.)

Mr. CURTIS submitted an amendment intended to be proposed by him to the amendment No. 2082, proposed to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2113

(Ordered to be printed and to lie on the table.)

FARM TRUCK EXEMPTION

Mr. McGOVERN. Mr. President, Senator DOLE and I have both introduced bills—S. 17 and S. 2897—designed to remedy inequities in the way in which the highway use tax currently applies to vehicles used for agricultural and closely related purposes. Today, we are introducing a measure combining our concerns in the form of an amendment to H.R. 10612, the Tax Reform Act of 1976.

The use tax was designed to generate highway trust fund revenues in order to offset increased road construction and maintenance costs associated with heavy vehicle operation. Some critics argue that the rates are too low—$3 per year for each 1,000 pounds of taxable gross weight or fraction thereof on vehicles with a taxable gross weight of 26,000 pounds or more—but there are few who would quarrel with the principle of a use tax.

The overwhelming majority of those who pay the use tax are commercial truckers. As regular users of the road system, it is entirely appropriate to expect these truckers to contribute toward public expenses which are necessary to sustain their own industry.

Unfortunately, however, the current language of the law is so broad that it extends user tax liability to those relatively few persons who make very limited use of the public road system for agricultural rather than commercial purposes. In one case with which I am familiar, for example, the IRS found a farmer fully liable for the use tax on his truck despite the fact that he operated 90 percent of the time on township roads or on his own farm. To make matters worse, this individual, as well as others from whom I have heard, had no idea that he might have to pay the tax until he received a bill from the IRS some 18 months after he registered the truck. My earlier bill, S. 2897, was intended to exempt farm vehicles from the use tax.

In addition, the IRS has also found that vehicles used exclusively in soil and water conservation activities are liable for this tax. In spite of the fact that a recent survey showed that the average conservation vehicle travels only 3,000 miles a year—and 80 percent of that on State and county roads—these vehicles continue to be subject to an average Federal tax of $175 per year. Senator Dole introduced S. 17 in an attempt to correct this unjust situation.

Mr. President, I do not think that it makes sense to treat these vehicles in the same way we treat commercial trucks for highway user tax purposes. I do not believe that it was the intention of Congress to equate the farmer handling his own supplies or the small businessman engaged in soil and water conservation with a long-distance trucker moving the Nation's freight.

Our amendment will correct this situation by adding heavy trucks used for farm and soil and water conservation purposes ot the list of exemptions from the highway use tax under section 4483 of the Inetrnal Revenue Code of 1954. The amendment specifically excludes vehicles registered in the name of any corporation with gross receipts for the last taxable year in excess of $950,000 or which derived more than 50 percent of its gross receipts in that taxable year from activities other than farming.

If enacted, this measure will have a minimal effect on highway trust fund revenues. The gross amounts with farm trucks involved are so small that the Internal Revenue Service does not bother to segregate income from this source in compiling its own internal data. Senator Dole has estimated the loss from the soil and water conservation vehicle provision at approximately $7 million. It can be argued that the cost of collecting the tax from farmers probably comes to a significant percentage of the total income generated by this means.

I submit that this tax is little more than a nuisance. It penalizes farmers and small businessmen unfairly, produces little revenue, and absorbs IRS time and energy which could better be expended elsewhere. I see no good reason to retain this discriminatory tax.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT NO. 2113

On page 846, insert after line 21 the following:

SEC. 1326. EXEMPTION OF FARM AND SOIL AND WATER CONSERVATION TRUCKS FROM CERTAIN TAX.

(a) EXEMPTION.—Section 4483 (relating to exemptions from tax on use of certain vehicles) is amended by adding at the end thereof the following new subsection:

"(d) FARM, AND SOIL AND WATER CONSERVATION TRUCKS.—Under regulations prescribed by the Secretary, the tax imposed by section 4481 on the use of highway motor vehicle shall not apply to a vehicle owned by an individual who is the owner, tenant, or operator of a farm if such vehicle is used primarily for farming purposes (within the meaning of section 6420(c)(3)) or for transporting agricultural or horticultural commodities, livestock, bees, poultry, or furbearing animals or wildlife, or supplies and equipment used in connection with such farming purposes, between his farm and other places; or used in soil and water conservation practices or in the transport of equipment used for soil and water conservation. This subsection does not apply to a vehicle registered in the name of a corporation the gross receipts of which for the last taxable year exceeded $950,000, or which derived more than 50 percent of its gross receipts for such taxable year from activities other than farming or soil and water conservation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to uses after June 30, 1976.

AMENDMENT NO. 2118

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. Humphrey, Mr. Kennedy, Mr. Percy, Mr. Proxmire and Mr. Muskie) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10612), supra.

Mr. JAVITS. Mr. President, the Senate will soon consider section 804 of title VIII of the Tax Reform Act of 1976 which would give expanded and unprecedented permanent inducement to the formation of a particular plan for employee stock ownership qualified under section 301(d) of the Tax Reduction Act of 1975. Under present law, companies establishing these unique ESOPs receive a tax credit of 1 percent of their qualified investment in plant and equipment. Under the proposed bill, the additional tax credit would be doubled, to 2 percent, and it would become a permanent part of the tax law.

Preliminary estimates of the Finance Committee are that this proposal will cause a revenue loss of $235 million in fiscal year 1977. Further, I understand that the loss attributable to the "grace period"—retroactivity provision was not included in the preliminary estimate. Inclusion of that provision adds another $150 million, making a conservative estimate of the revenue loss equal to $385 million for fiscal year 1977. The revenue loss is expected to approach $1 billion by 1981. These estimates are modest in light of projections that the establishment of an ESOP by one of our major capital intensive public utilities alone could cost the U.S. Treasury $340 million by the end of 1977, according to the company's own estimates. It is not unreasonable, therefore, to expect that the tax revenue loss associated with this provision might cost the U.S. Treasury $500 million or more in fiscal year 1977.

When the Senate turns to consideration of section 804 of title VIII, I intend to offer an amendment on behalf of myself and Senators Humphrey, Percy, Kennedy, Proxmire, and Muskie, to maintain the present tax credit policy for ESOPs to wit: A tax credit of only an additional 1 percent which would be continued through calendar year 1977.

In addition, our amendment would delete a new provision which would qualify corporations for the additional tax credit retroactive to 1975. Our amendment could cut the revenue loss associated with this title by $300–$400 million for 1977 alone.

It should be emphasized that it will be neither the intent nor the effect of this amendment to reduce or modify in any way the present special tax incentives for adoption of ESOPs. The present 1 percent extra investment tax credit for companies adopting ESOPS would be maintained, as would the provision which enables employers, in effect, to deduct the principal component plan repayments as well as interest by making contributions to leveraged ESOPs.

Our purpose is not to impede the development of employee stock ownership or to discourage companies from adopting ESOPs. On the contrary, I am firmly committed to the goal of broadening employee stock ownership. I have endorsed enthusiastically the conclusion of the Joint Economic Committee that expanded stock ownership should be equally with full employment and price stability as our national economic goals. Furthermore, I joined with Senator Humphrey in authoring the Employee Stock Ownership Fund Act of 1976 to make employee stock ownership part and parcel of the collective bargaining process.

Nevertheless, I offer this amendment because section 804 provides unnecessary and inappropriate further inducement only to the ESOP form of employee stock ownership. Such inducement is contrary to recommendations contained in the June 14, 1976, staff study prepared for the Joint Economic Committee entitled "Broadening the Ownership of New Capital: ESOPs and Other Alternatives." The study concluded:

> Further incentives for the establishment of ESOPs are not needed at this time.

Since the employer already receives substantial tax advantages under the Internal Revenue Code.

According to the Study, further legislative inducement is also inappropriate, because it would discriminate further against alternative methods for broadening stock ownership, and evidence is beginning to come in that the ESOP device may not be the best way in many cases to broaden employee stock ownership; indeed, the recently published Joint Economic Committee staff study has raised many questions about the soundness the universal approach to employee stock ownership of ESOP. Specifically, the characteristics of leveraging and nondiversification of holdings in many uses magnifies the risk to which the employee participant is exposed; and the JEC study also indicates that the benefits of the so-called second income hypothesis, particularly as they accrue to lower-salaried workers, have been exaggerated by ESOP proponents.

Peter Drucker in his recent, much discussed book commenting on the Kelso-ESOP points out:

> . . . it would make the workers "owners" but, for half or more of them, in bankrupt companies or declining industries, thus depriving them of the pension they need.

Drucker goes on to conclude that the Tax Reduction Act of 1975, to the extent that it provides a substantial tax credit inducement to companies to switch from diversified pension plans to ESOPs, "is essentially an incentive to expropriate workers' pension funds so as to finance weak companies that otherwise could not get capital."

This essential aspect of possible insecurity of the employees' financial interest in the leveraged, non-diversified ESOP is also contained in the June 7, 1976, compendium of papers on the Tax Reform Act assembled by Joseph Pechman of the Brookings Institution and Stanley Surrey of Harvard. The conclusion is unmistakable:

> An ESOP is clearly inconsistent with the aims expressed through Federal regulation of private retirement programs. The risk to an employee's future security if his retirement fund is invested entirely in his employer is unacceptable. Financial failure of the employer becomes a double-edged sword—the job and retirement income are lost in one swoop.

In a forthcoming article in the Tax Law Review, D. Bret Carlson, of the law firm of DeBevoise, Plimpton, Lyons & Gates, writes that:

> ESOPs disadvantages are obvious from the employees' point of view:
>
> (1) An ESOP inevitably results in a high concentration of trust assets in the stock of a single corporation. It is doubtful that an independent investment manager would recommend such a concentration in the shares of one enterprise.
>
> (2) The employer's stock may not be a desirable investment for an employees' trust, especially if not balanced by other holdings. Other securities or investments may well hold more promise for income or increase, perhaps with less risk of loss.
>
> (3) The flexibility of a managed investment portfolio is lacking in an ESOP. The trustee must stay with his single investment through bad times and good.
>
> (4) The financial fate of an ESOP trust is doubly tied to the success of the employer and the individual employee's fate depends even more on that success. If the employer's business flags, the value of the trust fund is likely to decline, since it is heavily invested in the employer's stock. Moreover, the same poor business performance that causes the employer's stock to decline may threaten the continuation of employer contributions to the trust (notwithstanding the employer's commitment to the lender to maintain them) and it may even affect the job security of individual employees. They truly have all their eggs in one basket.

Of course, we realize that in certain limited instances the ESOP model can be useful, particularly for closely held companies that have real growth possibilities. This is why our amendment would not alter the substantial inducements for ESOPs now offered by our tax laws. However, as the JEC study shows, "ESOPs are not universally beneficial."

Furthermore, by favoring ESOPs alone, the Tax Reform Act would in effect favor capital intensive as opposed to labor intensive businesses, and within these businesses discriminate against lower and middle income workers via allocation formulas which favor the highly paid. In addition, the act would promote a capital formation device which in many cases is questionable and less efficient because of excessive reliance on debt. Many economists maintain that the ESOP tax credit provides little incentive to capital formation because, since companies must issue new stock equal to the credit, the proceeds of the credit do not raise net income, as the 10 percent general investment credit does.

The JEC staff study concluded that there were alternative arrangements that could be developed to expand stock ownership. These alternative methods will be the subject of more extensive study by the Joint Economic Committee and the Senate Committee on Labor and Public Welfare during the next year. The Labor, Tax, and Economic Committees of both Houses of Congress should examine the question of the employees' financial security and the issue of the ESOP's effect on capital formation before Congress acts to make permanent the tax incentives for one model.

The JEC committee Staff Study findings, as well as the need to accumulate further information about the alternative methods to broaden stock ownership suggest that the inducements for the adoption of ESOPs be continued in their present form pending further analysis and developments in employee stock ownership.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2118

On page 290, line 18, strike out through line 2 on page 291 and insert in lieu thereof the following:

"(a) Treatment of Additional Credit Amount for Ratemaking Purposes.—Subsection (f) of section 46 (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the following paragraph:".

On page 295, beginning with line 10, strike out through line 6 on page 297.

On page 297, line 7, strike out "(3)(A)" and insert in lieu thereof "(2)(A)".

On page 297, line 24, strike out "(4)" and insert in lieu thereof "(3)".

On page 298, line 7, strike out "(5)" and insert in lieu thereof "(6)".

On page 299, beginning with line 20, strike out through line 4 on page 300.

On page 300, line 5, strike out "(e)" and insert in lieu thereof "(d)".

On page 302, beginning with line 16, strike out through line 13 page 303.

On page 303, line 14, strike out "(g)" and insert in lieu thereof "(f)".

On page 307, after line 22, insert the following:

"(g) Termination of 11 Percent Investment Credit Election Provisions.—Subparagraph (B) of section 46(a)(1) (relating to 11 percent credit) is amended by adding at the end thereof the following: 'This subparagraph shall not apply for any taxable year beginning after December 31, 1977.'."

On page 308, lines 2 and 3, strike out "(a)(1), (c)(2), and (d)" and insert in lieu thereof "(c)(2), and (d)".

On page 308, line 7, strike out "(b)(5)" and insert in lieu thereof "(b)(4)".

On page 308, line 13, strike out "(2), (3), and (4)" and insert in lieu thereof the following: "(2) and (3)".

On page 308, line 23, strike out "(a)(2)" and insert in lieu thereof "(a)".

FEDERAL RESERVE ACT AMENDMENTS—S. 2304

AMENDMENT NO. 2114

(Ordered to be printed and to lie on the table.)

Mr. TOWER. Mr. President, at the request of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Comptroller of the Currency, Senator PROXMIRE and I introduced S. 2304 last September. Hearings were not held on the bill by the Banking Committee until March. The intervening period—more than 6 months in length—gave more than enough time to all potentially interested parties to study the bill, to prepare their arguments for and against the bill and to prepare amendments to the bill.

When hearings were held in March, all interested parties were given an opportunity to testify. The three bank regulatory agencies presented and defended their arguments favoring S. 2304; and the banks, which would be regulated under the bill, presented and defended their arguments for changes in the bill. When the bill was marked up in April, the Banking Committee weighed the relative merits of the arguments presented during the March hearings.

During the markup, the committee also adopted an amendment, requested by the Federal Home Loan Bank Board, which would give the Bank Board powers similar to those given by the original version of S. 2304 to the Federal Reserve, the FDIC and the Comptroller. Mr. President, as I have noted already, between the time S. 2304 was introduced and the time hearings were held on the bill, the Bank Board had 6 months to prepare such an amendment and request an opportunity to appear at the hearings to present and defend their arguments for the amendment. The Bank Board made no such request. If the Bank Board had appeared at the hearings to argue for the amendment, the savings and loan associations which would be regulated under the amendment, in turn, would have had an opportunity to present and defend their arguments for changes in the amendment. The savings and loan industry had no such opportunity.

If the Bank Board had defended its position and the industry had defended its position, the Banking Committee could have weighed the relative merits of the two positions when the bill was marked up. The committee had no such opportunity.

Mr. President, the full legislative process was circumvented when S. 2304 was amended to give the Federal Home Loan Board powers similar to those given by the original version of S. 2304 to the Federal Reserve, the FDIC, and the Comptroller. Therefore, today I am offering an amendment to the bill which would strike those provisions giving additional powers to the Bank Board.

In offering this amendment, I am not prejudging the wisdom of granting these powers to the Bank Board. Rather, I am attempting to defend the integrity of the legislative process. If the Bank Board wants additional powers over savings and loan associations, the Bank Board should come before the Banking Committee to present and defend its arguments for the additional powers. The Federal Reserve, the FDIC, and the Comptroller were required to do this. Before the Bank Board receives additional powers, the savings and loan industry should be given an opportunity to present and defend its arguments. The banks were given such an opportunity by the Banking Committee. Mr. President, the legislative responsibility of the Banking Committee requires no less.

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENTS NOS. 2115 AND 2116

(Ordered to be printed and to lie on the table.)

Mr. WILLIAM L. SCOTT (for himself, Mr. BARTLETT, Mr. CURTIS, Mr. EASTLAND, Mr. FANNIN, Mr. GARN, Mr. GOLDWATER, Mr. HELMS, and Mr. THURMOND) submitted two amendments intended to be proposed by him to the bill (S. 3219) to amend the Clean Air Act, as amended.

AMENDMENT NO. 2117

(Ordered to be printed and to lie on the table.)

Mr. THURMOND. Mr. President, the purpose of this amendment is to expand the charter of the National Commission on Air Quality, created in this bill, to specifically require a study of the most desirable means of permitting continued economic growth in air quality control regions where the national ambient air quality standard for any pollutant regulated under the Clean Air Act is being exceeded.

I think it is apparent that it is in the public interest to both, first, hasten the achievement of a healthful level of air quality as promptly as reasonably possible, and second, allow job-creating economic growth to continue at a desirable level which does not undermine attainment of the objectives of the Clean Air Act. While it is true that these two goals will, at some point, likely conflict with each other, that does not mean that a desirable balance between them cannot and should not be achieved. My amendment would direct the National Commission on Air Quality to address this issue in its studies and provide recommendations to Congress for constructively dealing with it.

I hope the managers of this bill will accept this amendment.

ADDITIONAL CAPITAL FOR HOME MORTGAGE MARKET—S. 3193

AMENDMENT NO. 2119

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BROCK submitted an amendment intended to be proposed by him to the bill (S. 3193) to stimulate the purchase of new and existing housing, to assure the steady flow of capital into the mortgage market, and for other purposes.

ADDITIONAL STATEMENTS

A COOPERATIVE EFFORT IN DEA

Mr. EASTLAND. Mr. President, I would like to comment today on a report issued by the Senate Government Operations Subcommittee on the Drug Enforcement Administration. I think our problems in drug enforcement rest with the courts far more than with the enforcement agencies—Federal, State, or local. And as far as the integrity of the Drug Enforcement Administration: in my own State DEA is thought of highly and its agents respected for their professionalism.

When our Governor, Charles C. Finch, looked for help to assist in curbing the drug traffic in Mississippi, the new DEA Administrator met with him not only in Washington, but then flew to Jackson with his top staff to help put together a combined Federal-State-local task force.

The State legislature has written into the law which organized the Mississippi Bureau of Narcotics that all State agents must attend the DEA training school in Washington and I know personally that the cooperative enforcement effort in Mississippi has been a success. Working together, the Mississippi Bureau of Narcotics and DEA, along with Customs and local departments, have pursued investigations that led from Florida to California. Substantial amounts of drugs have been seized and significant violators arrested. The cases these men work are not "street level"; some have involved important interstate and international traffickers who would never have been brought to justice without this cooperative effort.

WHAT YOU CAN DO TO KEEP AMERICA GREAT

Mr. BAKER. Mr. President, Larry Shelton, vice chairman of GENESCO, Inc., recently delivered an eloquent address to the graduating class of his alma mater, Western Kentucky University. His remarks expressed a theme that I am sure the graduating students found inspiring and one that I believe is of timely interest to all Americans. So often these days we have a tendency to dwell upon only the negative aspects of our society, but Mr. Shelton's remarks, "What You Can Do To Keep America Great," offer a historical perspective and some sound advice that all of us should remember as we contemplate what the future has in store for us. While certainly none of us, including Mr. Shelton, would casually dismiss as insignificant the problems which our society faces in the coming decades, I think Mr. Shelton has articulated a persuasive argument for a determined and optimistic outlook in our attempts to find workable solutions to our most frustrating dilemmas. I ask that Mr. Shelton's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

WHAT YOU CAN DO TO KEEP AMERICA GREAT

(By Larry B. Shelton)

President Downing, members of the Board of Regents, distinguished guests, ladies and gentlemen. I am delighted to be back on the campus of Western Kentucky University and proud to be a part of such a significant occasion for the 1976 graduates, their families, and the University.

It is hard to believe that 20 years ago this month I also participated in a commencement exercise. At that time, I was a member of the graduating class of the old business university which was a separate institution located down the hill on College Street. Since then the business university has merged with and is now an active part of Western. All of us BUer's are proud of this development and delighted that we are now alumni of such an outstanding institution as Western Kentucky University.

Twenty years is a long time but it's amazing how fast time passes. As the years go by and you look back to your graduation from college, it's not important that you remember who delivered your commencement address or the precise details of what was said. For my remarks to be of value to you, however, it is very important that they challenge your thinking and provide specific direction so the actions you take will have a meaningful impact on your life and the lives of those around you in the years ahead.

It is within the framework of this serious challenge that I have developed the message I want to leave with you today. This thought is:

"What you can do to keep America great!"

I think it is particularly significant in relation to this theme that your graduation is an event of 1976—our country's 200th birthday.

What's so important about a bicentennial year?

Perspective is extremely important in answering this question. To see the United States of America in proper perspective on the occasion of its 200th birthday, let's take a look at what has been accomplished in 200 years.

200 years seems like a long period to us, but historically it is insignificant. For example, if all of the 6,000 years of recorded history were compressed into a single day, the entire history of the United States would encompass slightly over 45 minutes. Yet, in that relatively short time, we have become the greatest nation in history.

How do you measure greatness in a nation? One measure accepted by financial leaders and economists is the total production of goods and services. The United States recently topped $1.4 trillion, or approximately 30% of the world's production. Another important gauge is the standard of living of the nation's people. The U.S. production of goods and services per capita was $6,155, the highest for any nation with a major population. In the past the great nations were those which explored the world and stretched the boundaries of countries. The U.S. has explored not only the earth but the moon as well.

Another evaluation is the health and welfare of our citizens. The life expectancy in the U.S. is 67.4 years, one of the longest in the world. And we care for our sick with some 340,000 physicians and provide health care services in some 7,000 hospitals.

Historians often point out how nations have advanced man's knowledge of his universe. If we look at a list of 450 major inventions and discoveries in science, medicine and industry in the last two centuries, 240 were the result of initiative by Americans.

And in the area of art and culture, while I will not measure relative contributions, the U.S. is certainly no cultural wasteland. We can name Americans who have made important contributions in any of the arts.

To sum up, in a very short period of history, this nation has risen to unprecedented heights of achievement. How did we do this? What unique factors enabled us to reach this peak, especially in such a short time?

There are many things we could discuss, but I see three elements that are the keys: an *attitude*, a *system*, and an *invention*.

The attitude was the willingness and the desire of the people to work. The earliest explorers and some of the colonists who followed came to America expecting to find great wealth for the taking. They found instead abundant resources which could only be cultivated and extracted through strenuous effort. The immigrants who came were fully prepared to make their own way with the sweat of their brow and the skin of their palms.

And work they did, exploring, building, and developing at a fast pace. And this willingness and ability to work for what was needed has been a major factor in the rapid development of our nation.

The second ingredient contributing to America's achievement is a unique political and economic system based on personal enterprise which rewards merit, not birthright, and which encourages initiative, not blind obedience. The key to the system was freedom to work as one chose and the right to profit from a successful choice. And because of these factors, the new people of America poured enormous energies into a multitude of enterprises.

I doubt that I have surprised any of you by citing the work ethic of the people and the free enterprise system as key ingredients in our nation's development. But I believe the third ingredient—the invention—will surprise you. It's surprising because we don't really think of it as an invention. What I'm referring to so mysteriously is the invention of professional management.

To understand the significance of this ingredient, we must first compare it to the professional management of the time. For those of you who saw the movie *Barry Lyndon*, you will recall that all of the business of the estate was handled by one person. And in the film, it was clear that management was a burdensome task, and characteristic of the business enterprises of that time. But it was obviously inadequate to marshal the resources necessary to develop the new continent. The scope just grew too large for the European system.

So somewhere along the line, Americans began to develop a system of management which decentralized decision making and established levels of responsibility and authority to deal with different types of problems. The new system was characterized by two vital ingredients: speed and scope. Professional management could react quickly to changing conditions. And it enabled an organization to coordinate the labor, capital, and raw materials necessary for projects far too huge for the single proprietor style management to handle.

So to summarize, this nation reached its unprecedented position because it was filled by people willing to work, because it had a political and economic system which encouraged and rewarded individual enterprise, and because it developed a system for managing its efforts in a manner required for such swift and extensive growth.

What we've been talking about so far is the legacy which our ancestors have left us. It's an impressive inheritance. Now, what can you and I do to preserve and improve it for those who will follow?

Well, to begin, we can work to preserve those conditions which enabled us to get to this point in the first place.

Let's start with that capacity for work. When the London Company representatives came to Jamestown in 1607, they fully expected to find an earthly paradise, where riches came "without toil." After 67 of the original 105 settlers died, a new captain was chosen: John Smith. Captain John Smith was no renowned political philosopher, but he was blessed with common sense. The first rule he passed was elementary but effective: "He that will not work neither shall he eat."

Since that time there have been people who wanted to believe that there is some way to get something for nothing. Governments are particularly good at that. But every time someone promises you something for nothing, remember Captain John Smith's wisdom. There is no such thing as a free lunch.

Second, let's work to preserve our free enterprise system which inspired so many to achieve so much. Because we all know that Christopher Columbus *did* reach the New World, we tend to forget that he risked his life to make the voyage. We also forget that he traveled throughout Europe for 12 years looking for financing. Columbus endangered himself and Queen Isabella risked her jewelry in the expectation of one objective: *profits*.

In some areas, "Profit" tends to be a dirty word these days. But there is a risk to any venture, and the profit provides the incentive to take that risk. The profit motive is essential to the success of our system. It provides not only the reward to those who take the risk but also a major portion of the capital required for businesses to grow and create new job opportunities.

Third, let's demand that the methods and skills of professional management be applied to our government and institution. Our federal government is obviously the biggest business in the world. It employs almost 3 million civilians and had revenues last year of $281 billion. If ever an institution required professional management, it's the Federal Government.

Finally, let's develop a positive attitude about the future and stay informed in order to refute the arguments of the doomsday prophets who paint such a bleak picture. I'm sure all of you have heard the neo-Malthusian theory of the limits of growth. Simply stated, this is the theory that the world is running out of natural resources, energy, and food, while at the same time over-populating at a rate which will produce catastrophe. As a result, the Malthusian philosophy says we should stop our efforts at growth and begin retrenching.

This theory is called neo-Malthusian because in the 1800's British preacher and economist Thomas Malthus predicted that population would expand beyond food supply, thus creating starvation. To show you the danger of extrapolation, English editor Norman Macrae once observed that if the trends of the 1800's continued, today's cities would be buried under horse manure. Macrae missed his prediction because he failed to consider the impact of technology—that something called an automobile would replace the horse drawn carriage.

Is the world running out of precious raw materials? In 1950 the world's known oil reserves amounted to 75 trillion metric tons. In the succeeding 20 years, the world burned enormous quantities of oil. So in 1970 the known reserves of oil were not 75 but 455 trillion metric tons! What happened? Increased demand caused increased exploration. In 1950 the known reserves of iron were 19 trillion metric tons. Twenty years later the discovered reserves had increased to 251 trillion tons. And the same is true for most of the other resources we can think of. In short, as prices rise, it becomes economically feasible to increase explorative and extractive efforts.

But what about food to feed the world's population? Doesn't the majority of people go to bed hungry? Hunger is a problem. But it's a problem of management, not resources. Consider U.S. agriculture for a moment. It is highly efficient, capable of producing far more than we need. If the under-developed nations could institute a system half as efficient, the world food supply could be increased dramatically. By the way, in my judgment the key ingredients to the growth of our agricultural system are the same ones listed before: modern management and the incentive of free enterprise.

Finally, what about the population bomb—the greatest threat of all? The neo-Malthusians forecast an exponential growth in population leading to mass starvation, warfare, and worse. But is that assumption of an ever increasing birthrate accurate?

Historically, as nations develop economically, their birth rates tend to fall. In 1775 the U.S. birthrate was an extremely high 40 per thousand. But by 1925, it had fallen substantially, and is now approaching replacement level. It only took the Soviet Union 40 years to go from the high, preindustrial birthrate to a very low rate, and for Japan, the period was 25 years.

That's for industrialized nations. For the 1960's demographers found a definite decline in birth rates in 15 developing nations. If we continue a policy of growth, and if the developing nations continue to industrialize, it is not unreasonable to expect a moderation in world birthrates over the next several decades.

All this does not mean that world population isn't going to continue to increase. But, there's good reason to believe that we can provide for the additional population, if we use proper management.

As additional evidence of the bright outlook for the future, I encourage you to read *The Next 200 Years* by Herman Kahn. This book does an outstanding job of punching holes in the arguments of the doomsday philosophers.

In conclusion, I'd like to recap those points that I hope you will take with you as you leave university life.

In the short time span of 200 years, the United States of America has become the greatest nation in the history of the world primarily because of:

1. The work ethic of the American people.

Achievement and hard work go hand in hand.

2. The Free Enterprise Economic System which provides the freedom and the reward to take the risks always associated with major accomplishments.

3. A technique of professional management that has made it possible to combine labor, materials, capital, and technology in a manner to take maximum advantage of the opportunities inherent in the Free Enterprise System.

As we look ahead to the next 200 years, each of you has an important role to play in seeing that the legacy of the past is preserved and improved upon. Specifically, you should do everything in your power to:

1. Rekindle the desire to provide a full day's work for a full day's pay. It's essential to reverse the current trend where increasing numbers of people are expecting the government to look after them and provide their livelihood.

2. Stand up for the free enterprise economic system. While not perfect, it's vastly superior to any alternative. Each day the foundations of this system are being eroded by the increasing role of the Federal Government. This trend must be reversed.

3. Insist on professional management in public institutions. History has clearly demonstrated the correlation between professional management and the success of institutions in the private sector. See to it that your elected representatives have the ability and the fortitude to insist on professional management in government.

4. Think positively. Refute the arguments of the doomsday prophets. Don't let the doomsdayers scare you into stopping progress.

As you step into your place in life, whatever that may be—homemaker, teacher, doctor, lawyer, businessman, minister, politician, carpenter—do your very best to perpetuate these elements that have contributed so much to our success during America's first 200 years. If you do, I'm convinced that when you look back upon your life, it will be with the satisfaction that you have done your part to Keep America Great.

AFL–CIO ANALYZES THE ECONOMIC RECOVERY

Mr. HUMPHREY. Mr. President, there continues to be a high degree of concern about the strength of the economic recovery in the minds of many Americans.

At its recent meeting, the AFL–CIO Executive Council analyzed the current economic situation. The council urged congressional action on several legislative measures designed to accelerate the pace of economic recovery and to reduce the present intolerably high rate of unemployment, which continues to be our worst economic problem.

Mr. President, the council's statement deals with matters which affect the economic well-being of all Americans. I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE NATIONAL ECONOMY

(Statement of the AFL–CIO Executive Council)

The American economy—still ravaged by double-digit unemployment—is recovering so slowly as to pose new dangers.

Unemployment still affects one out of every ten workers. Adding to the "officially" unemployed those discouraged workers who have given up looking for non-existent jobs and part-time workers who want and can't find full-time jobs, there are really 9.7 million unemployed or 10.2 percent of the labor force.

In June, the official unemployment rate worsened for heads of families, all full-time workers, black teenagers (where the official rate jumped to 40.3 percent), construction workers (where the official rate jumped to 17 percent) and Vietnam veterans aged 20 to 24 (with one out of five unemployed).

Especially troublesome was the sharp rise in the duration of unemployment. The June average was nearly 17 weeks—up sharply from May. Workers exhausting unemployment compensation benefits now number 50,000 a week.

Four-fifths of the nation's labor market areas are still suffering from substantial unemployment—over 6 percent. In June, 124 out of 150 major labor market areas had substantial unemployment, not much better than the peak of 135 in September 1975. Including both major and smaller labor market areas, 1,271 out of almost 1,500 areas are suffering substantial and persistent unemployment.

Employment in manufacturing and construction is still way below prerecession levels. In June 1976 there were 1,400,000 fewer jobs in manufacturing and 687,000 fewer jobs in construction than there were in December 1973. There was also a loss of nearly 200,000 jobs in transportation and public utilities.

The harsh reality of high and continuing unemployment cannot be hidden by the Administration's election-year rhetoric, for the unemployment statistics have remained virtually unchanged during the past five months.

During 1976, some 20 million workers—about one out of every five workers—will have one or more spells of joblessness.

Basic industries in the American economy are still operating far below capacity. The Federal Reserve reports basic industry utilization of plant and machinery at less than 80 percent for the first quarter of 1976, far below the 92.3 percent level in the third quarter of 1973.

As a result of the gap between actual and potential output, the American people are losing more than $200 billion worth of goods and services this year. In the last three years, the U.S. economy has been deprived of more than $550 billion worth of goods and services—an outrageous waste of economic resources and a tragic, unnecessary waste of human resources.

Big business profits shot up in 1976 in spite of below-capacity production. So the chief beneficiaries of an economy ravaged by unemployment are, once again, the big corporations.

In the first quarter of 1976, corporate profits were up 47 percent over the profit-level in the first quarter of 1975. For the full year 1976, corporate profits seem certain to be up 25 to 30 percent over the previous year.

But the slowdown in business activity demonstrates the thinness of the recovery, threatens economic progress in the remainder of 1976 and raises the possibility of renewed recession in 1977 unless major changes are made in national economic policy.

Industrial production, while rising, is still below the levels of 1973 and 1974.

Retail sales in May and June slowed and dropped, raising questions about consumers' current buying power and expectations about the future.

Inventory buildup in the first quarter of 1976 has left manufacturers with reduced pressures for inventory investment during the rest of this year.

Business investment in plant and equipment is currently still below real investment in 1973 and 1974.

Housing starts—at a 1.4 million-unit rate—are still far below the prerecession high and far below the rate needed to overcome the nation's housing deficit.

Cutbacks in the federal budget stimulus to the U.S. economy are also contributing to economic slowdown.

To do nothing more than maintain the current level of government services in the face of inflation, the fiscal 1977 federal budget should be $420 to $425 billion. Unfortunately, Congress bowed to veto threats by President Ford and set the fiscal 1977 budget at $413 billion. This means the federal government is doing less for the American people—and those who suffer most are low- and middle-income families. Furthermore, the economy suffers from a loss of $7 to $12 billion in spending for goods and services. Production of these goods and services could add one million jobs to the U.S. economy.

It is obvious that the fiscal 1977 budget cutbacks are injuring the nation's economic welfare, since each percentage point of unemployment, almost one million people out of work, costs the federal treasury $16 billion ($14 billion in lost tax revenues and $2 billion in added social costs).

State and city governments are also cutting budgets, payrolls and services to their citizens. New York City, Detroit, and many other communities have been hit so hard by the recession that they are pushed to drastic measures. Federal antirecession funds and other targeted federal programs could alleviate the squeeze on state and local governments.

Interest rates are moving up again—with injurious effects on state and local government as well as on small businesses, homebuyers and other consumers. The prime loan rate for the banks' most credit-worthy borrowers is around 7.25 percent, and high-grade corporate bonds are up over 8.5 percent. And the Federal Reserve is tightening up on the money supply. After allowing some reasonable money growth earlier this year, the Federal Reserve returned to its tight-money policy in May and June.

In addition to the dangers of high interest rates, there is a continuing threat to the American economy resulting from the dependence on imported oil, which leaves the nation still highly vulnerable to oil price-gouging and to foreign oil blackmail. Furthermore deregulation efforts by the Ford Administration threaten new energy price rises. And foreign buying of U.S. food commodities, if not effectively regulated, may accelerate inflation of food prices.

The seven-year economic mess created by the Nixon-Ford Administration must be ended. America's unemployed men and women must be put back to work. America's hard-pressed cities and states must get help.

The Ford Administration—with its vetoes and hostility to the needs of working people and the unemployed and their families and to the needs of the cities and the states—masquerades as "inflation-fighters" while actually contributing to inflation.

It is therefore essential to get action in 1976 on the AFL-CIO program to restore full employment, full production and balanced economic growth.

We again endorse the program spelled out at the Executive Council meeting in February 1976.

We again urge Congress to act promptly to approve the Humphrey-Hawkins Full Employment and Balanced Economic Growth Act of 1976.

We urge Congress to override the President's latest veto of Accelerated Public Works bill which would help create jobs and aid the hard-pressed cities and states.

And we urge Congress to expand substantially the job-creating programs of the Comprehensive Employment and Training Act.

These are essential steps to get the U.S. economy on the right track and to put America back to work.

SOVIET NAVAL STRATEGY

Mr. TAFT. Mr. President, today's Washington Post contains a column by Messrs. Evans and Novak which I think should be read carefully by all Members of the Senate. This column, "A Rare Glimpse of Soviet Naval Strategy," discusses the revelations contained in a new book by Admiral Gorshkov, admiral of the Soviet fleet.

Admiral Korshkov's book shows only too clearly that the Soviet Union has come to appreciate the lesson taught by Alfred Thayer Mahan, that control of the sea is the sine qua non to control of everything else. As I have pointed out many times in this Chamber, the Soviets have conceived and built a navy which may today be more capable of cutting the sea lanes than the U.S. Navy is of defending them. Admiral Gorshkov has now discussed the key question of what the Soviets intend to do with this powerful fleet; and his message brings us no comfort.

All of the broad, world-ranging missions which we have assigned to the U.S. Navy are now the province of the Soviet Navy also. No longer is the Soviet fleet merely a coastal defense force. Admiral Gorshkov speaks not only of sea denial, but of sea control. He makes it clear that the current buildup of the Soviet Navy is aimed at achieving sea control:

> Establishing the conditions for gaining sea control has always required prolonged periods of time and the execution of a series of measures while still at peace.

The Soviets are using that time and taking those measures.

The Soviet admiral also discusses the mission of projection of power ashore, into remote areas of the globe. He sees the influence of naval forces on Third World countries, springing from an ability "to extend a military threat to any level, beginning with a show of military strength, and ending with the disembarkation of a landing party." In this context, it is clear what the entry of the first Soviet aircraft carrier, the Kiev, into the Mediterranean last week means.

The Soviet Union, a land power by history and by nature, today seems to show a better understanding of the vital importance of seapower than does the United States, a country by nature a maritime nation. The Soviet Navy outnumbers ours; the Soviets are building ships faster than we are; many of the Soviet ships are individually often more capable than their American counterparts; and Soviet naval concepts are thoroughly up to date, where ours seem to reflect the thinking of 30 years ago. Now, thanks to Admiral Gorshkov, it is clear what the Soviets intend to do with their impressive naval capability.

Mr. President, I ask unanimous consent that this article, "A Rare Glimpse of Soviet Naval Strategy," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, July 29, 1976]

A Rare Glimpse of Soviet Naval Strategy

(By Rowland Evans and Robert Novak)

The father of the modern Soviet navy has drafted a frightening blueprint that for the first time publicly projects Soviet naval power "to effectively utilize the world ocean in the interest of building communism" in direct contradiction of detente.

This projection is the heart of a new book by the brilliant Soviet naval strategist, admiral of the fleet Sergei Gorshkov. While contradicting official Kremlin policy, his grand strategy is viewed by officials here as an accurate mirror of Kremlin designs.

There are indications that Gorshkov's book, "The Sea Power of the State," was designed strictly for internal consumption by Communist Party leaders and cadres within the Soviet military. Accordingly, excerpts which have reached the West are being closely studied in military and intelligence circles for a rare glimpse of inner Soviet strategy on maximum use of sea power in the struggle for world supremacy.

For the first time, that strategy emerges vividly with propaganda wraps stripped away, raising obvious implications for the current debate over U.S. naval construction.

Desire to keep Gorshkov's study out of Western hands is understandable. Gorshkov's repeated references to the "enemy"—that is, the U.S.—are incompatible with the official Soviet line.

His message is powerful and unmistakable: Soviet sea power, merely a minor defensive arm when Stalin died in 1953, has become the optimum means to defeat the "imperialist" enemy and the most important element in the Soviet arsenal to prepare the way for a Communized world.

Gorshkov, Soviet navy chief for 21 years, was architect of its shift from a coastal to a blue-water navy with an extraordinary variety of ships and weapons. His vision is without limits, as in this candid assertion: "Establishing the conditions for gaining sea control has always required prolonged periods of time and the execution of a series of measures while still at peace.

What are these measures? According to Gorshkov, they include: adequate ships and weapons in constant readiness for combat; disposing of naval forces in prospective war theaters so that "they will have superiority of position over the enemy"; building up "a base system" to handle these forces together with a system for controlling the bases.

Gorshkov thereby spells out as the modern role of Soviet naval power a system which almost exactly fits the routine Soviet description of capitalist imperialism, the declining system of Western pre-eminence that Gorshkov evidently intends the Soviet Union to make its own.

The astonishingly rapid development of the Soviet Navy is no secret. It has reached virtual equality with the U.S. in the Mediterranean (where the Russians recently introduced their first aircraft carrier), the Pacific and the Indian Oceans. With the ships and weapons come Soviet bases strategically placed, such as in Cuba off the U.S. Coast and in Somalia on the Red Sea Coast. But never before Gorshkov has the meaning of this rapid advance toward sea power equality and future superiority been so starkly or publicly spelled out by a Russian. The "military aspects" of Soviet naval power, Gorshkov writes, are by no means the only ones that exert an effect on the role of navies . . . while indispensable (for) armed combat, also are constantly being utilized as an instrument of state policy in peacetime. The sea is a no-man's land, and therefore navies do not encounter in their activities many of the limitations which prevent utilization of other branches of the armed forces in peacetime for political purposes."

Thus, today's navies have assumed new political significance. This, says Gorshkov, includes "influence on coastal countries" when military conflicts threaten and the ability "to extend a military threat to any level, beginning with a show of military strength and ending with the disembarkation of a landing party."

Most experts here perceive Gorshkov's treatise as a clear reflection of new Soviet policy arising out of last February's 25th Communist Party Congress. A minority, however, thinks it signifies a debate with Gorshkov making the case for naval pre-eminence within the Soviet military apparatus.

Considering the momentum and rising trend of Soviet naval power since Gorshkov took over in 1955, the safe assumption is the majority position: Gorshkov is spouting clandestine but official Soviet policy.

The menace to the U.S. has now been made explicit. Mix Gorshkov's fearsome naval potion with the quixotic brew of detente and the result could be deadly for the West.

STATES AND LOCAL GOVERNMENT SUPPORT COAL LEASING BILL

Mr. JACKSON. Mr. President, on Tuesday, the Senate will vote to override President Ford's ill-advised veto of the Federal Coal Leasing Amendments Act (S. 391). One of the basic principles of Federal coal leasing policy which the bill would establish would be close coordination with State and local governments. These provisions reflect the desire of the Congress to insure that development of the Federal Government's coal takes into careful consideration all the impacts of that development on the people who live and work in the areas affected. I ask unanimous consent that letters urging the Congress to override the President's veto from the National Association of Counties, the National Farmers Union, and the Governors of the Federal coal States be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

National Association of Counties,
July 19, 1976.

Re Veto override for coal leasing bill (S. 391).

Dear Senator: The National Association of Counties (NACo) urges your support for a veto override for the Coal Leasing Reform Bill (S. 391).

This bill amends the Mineral Leasing Act of 1920 to provide for a comprehensive coal leasing program on federal lands.

The bill has several important provisions for counties and other local governments that would be impacted by federal coal leasing activities. Consultation with state and local governments and the public is required in the preparation of the federal land use plans. Further, the Secretary of Interior "shall consider the effects which mining of the proposed lease might have on an impacted community or area, including, but not limited to, impacts on the environment, on agricultural, and other economic activities and on public services."

Of critical importance is the provision in the bill to raise the states percentage of federal coal leasing revenue from 37½% to 50%. The additional 12½% would be available to a state and its subdivisions giving priority to those communities socially or economically impacted by federal mineral development activities.

Your support for a veto override on S. 391 with these provisions will be greatly appreciated.

Sincerely,

Jim Evans,
Legislative Representative.

National Farmers Union: Memorandum,
July 27, 1976

To Members of the United States Senate.
From Tony T. Dechant, President.

National Farmers Union urges you to vote to override the President's veto of S. 391, the Federal Coal Leasing Amendments Act of 1975. S. 391 (then H.R. 6721) passed the House by an overwhelming vote of 344 to 51 in January and was approved by voice vote in the Senate of June 21.

National Farmers Union strongly and unequivocally endorses the basic thrust of S. 391 and believes the bill will promote competition in the coal industry, provide the public with a more fair return from the leasing of Federal coal, prevent speculation in coal leases, encourage the maximum economic recovery of the resources, mandate sound environmental and land use planning prior to leasing and provide increased mineral development impact assistance funds to mineral leasing states.

Of particular merit are the following: .

1. The requirement that leasing be proceeded by the formulation of comprehensive land use plans. These plans should help insure that coal leasing does not occur in areas of high agricultural productivity or potential.

2. The features of S. 391 which are designed to promote competition in the coal industry, and ultimately lower prices to consumers. This includes the stipulation that non-profit utilities such as rural electric cooperatives will have access to Federal coal leases on an equitable basis—a provision which should reduce electric bills for many of our members.

3. The realloction of receipts from mineral leasing will increase the money going to the states for mineral development impact assistance. These funds in affected states are needed to provide for pollution control systems and other public facilities and services that will accommodate and accelerate mineral, especially coal, development and for other related purposes.

[Telegram]

SANTA FE, N. MEX.,
July 19, 1976.

Senator HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: As Governor of one of the Nation's largest energy producing States, I was greatly distressed to learn of President Ford's recent veto of S. 391, the amendment to the Mineral Leasing Act.

New Mexico strongly supported passage of this bill. We particularly favored those provisions which would give increased mineral royalty return to the states, and would allow those revenues to be expended in meeting the energy impact needs of those states.

As you may know, northeast corner of our state is already experiencing severe impact from rapid energy development. The funds, that would be made available through implementation of S391, could help finance the planning and construction of public facilities and services that are urgently needed to prevent boom town situation from occurring.

New Mexico is committed to helping the Nation meet its energy needs. However, we feel there should be a parallel commitment at the Federal level to ensure, that as a mineral development proceeds, we are given adequate financial assistance to deal with the affects of this development. Enactment of S391 would be a responsible way of achieving this goal.

I strongly urge you and your colleagues to override a presidential veto of S391 when the issue is brought back before the Congress.

Sincerely,

JERRY APODACA,
Governor, State of New Mexico.

STATE OF MONTANA,
OFFICE OF THE GOVERNOR,
Helena, July 23, 1976.

Hon. GERALD R. FORD,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Your veto of S. 391, the Federal Coal Leasing Amendments Act of 1975, is most disappointing.

The increase in the state share of revenues generated by the leasing and extraction of Federal minerals and the modernization of the Federal coal leasing procedures provided in this legislation would have accomplished two objectives.

First, state and local governments would have received financial assistance to initiate advance planning, the construction and maintenance of public facilities, and the provision of services needed by the influx of people expected to accompany increased Federal coal development. As Senator Lee Metcalf so accurately and eloquently has said (Congressional Record, June 21, 1976):

"No other substantial Federal assistance is available to the coal-producing states to deal with predicted population increases triggered by Federal coal development. The new financial resources provided in S. 391 could spell the difference between, on one hand, the chaotic distintegration of a stable life style dominated by agriculture, together with all the social ills, and on the other hand, an orderly transition to an urban or semi-urban lifestyle."

Your agreement that the Federal government should provide assistance to the states by increasing our share of Federal leasing revenues from 37½ per cent to 50 per cent, as stated in your veto message to Congress, is appreciated.

Second, the Federal Coal Leasing Amendments Act of 1975 has been designed to eliminate the speculative holding of Federal coal leases, assuring development of Federal coal on a timely basis and in a manner beneficial to the public. Nearly sixteen billion tons of federal coal have already been leased in the western states, but only 242 million tons have been developed.

Conservative estimates indicate that the tonnage available under existing leases could support over fifty 2,000 megawatt power generating stations for forty years. Nonetheless, the Department of Interior has renewed coal leasing without establishing the need to do so and without conducting environmental studies to determine which coal reserves already leased are acceptable for mining. By requiring the federal coal leased by the Department of Interior be produced within ten years and that the holders of non-productive leases be ineligible to receive additional leases, S. 391 assures the production of coal to achieve national energy independence.

With all due respect, Mr. President, I submit that the objections in your veto message of S. 391 are unfounded.

In your July 3rd statement, you said that S. 391 "would insert so many rigidities, complications, and burdensome regulations into the Federal coal leasing procedures that it would inhibit coal production of Federal lands, probably raise prices for consumers and ultimately delay our achievement of energy independence."

Unnecessary and duplicative regulations at all levels of government clearly should be eliminated. But regulations designed to serve efficiently actual public needs must continue to be established and employed.

You state that a minimum royalty of 12½ per cent based on the value of the coal is more than is necessary in all cases. This rate, however, would eliminate inequities noted by the General Accounting Office in its study of royalties. Increasing the minimum royalty with a concurrent increase in the state share would have more evenly distributed the costs of coal development. The Secretary of Interior would still retain discretionary authority to reduce this royalty to encourage underground mining and the conservation of coal.

Legislation enacted by the State of Montana last year increased severence taxes on coal from 10 to 30 per cent, with production continuing to expand. Outer Continental Shelf oil and gas royalties of 16½ per cent have been established with no indication that leasing and production have been discouraged. A minimum royalty as set forth in S. 391 will not render Federal coal uneconomical to mine, provided that the national need truly exists.

The undisputed environmental value of the western states, recognized by numerous presidents and the Congress for many years, more than justifies the requirement of S. 391 for reclamation planning.

Specific provisions, requiring lease termination when production is not attained within ten years and the submittal of a mining and reclamation plan within three years from issuance of a lease, would not frustrate accelerated Federal coal development. On the contrary, these provisions would insure it. Production requirements in S. 391 are less stringent than Interior's new regulations, but admittedly do not contain language which allows an extension to meet specified production levels. These statutory provisions discourage speculative holding of Federal mineral leases. With the mining industry presently stating that at least four to six years lead time is necessary for the purchase of required equipment associated with site-specific mining plans, the above time sequence does not appear restrictive.

Contrary to another of your objections, the antitrust review requirement and the deferred bonus payment one one-half of the leased acreage would strengthen competitive aspects of the coal industry and hold down consumer prices. Delays caused by the Attorney General's review of proposed lease sales would be minor compared with those caused by lengthy litigation. Smaller companies would be encouraged to participate in the competitive bidding process, knowing that the deferred bonus payment system requires less front-end capital so easily available to the larger coal and multi-national oil companies.

I view the provisions of this legislation allowing the states' review and comment on proposed lease sales within National Forests as essential. The maximum eight month delay resulting from this prerogative is negligible when compared to the potential long range effects on our states' mining of federal minerals in National Forests.

You contend, Mr. President, that the requirement of public hearings is excessive, yet leasing regulations issued in May, 1976, by Interior Secretary Kleppe require the opportunity for the same number.

Comprehensive Federal exploration of Federal coal reserves is necessary to determine the actual value of tracts proposed for lease sale, to estimate the reserves for establishing logical mining units and specifying advanced royalties. It seems logical that the Federal Government should not depend on industry to furnish this data. The U.S. Geological Survey has recognized the need for this program in projecting a three-fold expansion by 1979 of its coal reserve base investigations.

In short, I view S. 391 as constructive, progressive, and fair legislation for the purpose of correcting mismanagement of the coal resources owned by the people of this nation. Recent comments by Secretary Kleppe before the American Coal Association noted, in a manner contradictory to his testimony before Congress and your subsequent veto action, that the Federal Coal Leasing Amendments Act of 1975 ". . . not seriously hamper the administration's schedule for coal development." Denial of desperately needed financial assistance to mitigate the impacts of Federal actions because of an inexplicable administration reversal of this view is a tremendously painful price to ask of the western states and the areas of natural splendor entrusted to our care.

In conclusion, Governors Castro of Arizona, Lamm of Colorado, Exon of Nebraska, O'Callaghan of Nevada, Apodaca of New Mexico, Link of North Dakota, Kneip of South Dakota, Rampton of Utah, and Herschler of Wyoming join me in expressing our extreme concern and dissatisfaction with your veto of S. 391. We endorse and fully support affirmative overriding action by Congress.

Sincerely,

THOMAS L. JUDGE,
Chairman, Western Governors' Regional Energy Policy Office.

WATERGATE REFORM: LORD PROTECT US FROM PROTECTORS

Mr. FANNIN. Mr. President, in light of the overwhelming vote by which the Senate recently approved the so-called Watergate Reform Act, I wish to call to the attention of my colleagues the article by David Broder in the Washington Post.

Broder, who is hardly a "rigid conservative," a Nixon lover or a defender of political corruption, has provided us with a perceptive, incisive analysis of this unfortunate and unfortunately named legislation. As he wisely observes, by such legislation we may well be creating in the Office of Permanent Special Prosecutor a monster much worse than that which arose out of Watergate.

In reading this article, I was reminded of something which has bothered me most of all about these showcase reforms in which the Congress seems to specialize these days. This Watergate Reform Act was touted by its sponsors as an imperative, overdue reform. The same arguments were given to the Federal campaign reform laws enacted in 1974 and the pending array of tax reform and regulatory reform bills now being considered. In fact, one can readily see that few of these bills contain substantive reform if looked at with the same objectivity and perspicacity that Mr. Broder commends to us when analyzing Watergate reform. Worst of all, such reform legislation is passed, not because the Members voting for it really like or approve of its various provisions—or would like or approve of it if they had bothered to study the provisions—but because the legislation has the appearance of reform.

Few Members seem genuinely concerned about content or reality but only about appearances. How will a vote on this so-called reform bill be interpreted in the media and regarded by the electorate? No one seems to believe that the folks back home can stand to hear the truth about phony reform legislation or even care to hear the arguments pro and con. The assumption seems to be that it is better to pass legislation that smacks of reform, even though it is not genuine reform or may even be bad law, than to do nothing at all or to cast a nay vote.

Personally, I have always had greater faith in the people. I think they can stand the truth and will not readily be fooled by appearances. For instance, they seem to be wising up about Congress' habit of voting itself more benefits and giving itself more privileges at the taxpayers' expense. I wonder what the voters will say when they discover that, in the guise of Watergate reform, the Congress has established for itself a tax-free, public-supported congressional legal counsel which can represent Members of Congress in courts of law. How nice it would be if the taxpayers could have such handy, cheap legal counsel and representation.

It is this sloppy thinking and shoddy attitude exhibited in the "world's greatest deliberative body" that bothers me and troubles Congress watchers like Mr. Broder even more than the specific horrors of this "Watergate Mouse" or some other faddish reform proposal.

Mr. President, I ask unanimous consent that the text of Mr. Broder's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WATERGATE REFORM ACT: "DANGEROUS, OFFENSIVE"

(By David S. Broder)

Well, the congressional mountain has labored and brought forth a second Watergate mouse. The first landmark piece of legislation that resulted from the great scandal was the Federal Campaign Finance Act of 1974, which provided public financing of presidential campaigns and did other things supposedly guaranteed to cleanse the political process.

It was hailed in Congress and on the nation's editorial pages. But when the Supreme Court got around to examining the law, it decided that several of its key provisions were unconstitutional infringements on the freedom of speech.

A similar caution is in order on the near-unanimous praise being lavished on the Watergate Reorganization and Reform Act of 1976, which passed the Senate last week by a vote of 91–5 and is expected to have equally easy sailing in the House.

The five dissenters in the Senate were five of the more rigid conservatives in that body—Carl Curtis, Paul Fannin, Roman Hruska, Paul Laxalt and William L. Scott. Hardly a commentator to the left of Pat Buchanan would willingly enlist in such company.

But I am going to ignore the proprieties and say plainly what I think—that the main provision of the bill is offensive, deceptive and dangerous, and that, once again, Congress has avoided the opportunity to come to grips with the real problems of Watergate.

That bill creates a permanent Independent Office of Special Prosecutor within the Department of Justice, to be headed for a single three-year term by someone appointed by the President and confirmed by the Senate. The prosecutor will have jurisdiction to investigate and prosecute any possible violations of federal criminal law by the President, Vice President, senior administration officials, members of Congress and the judiciary.

One thing that is offensive about the bill is the proviso that the special prosecutor cannot be anyone who, in the previous five years, held a "high-level position of trust and responsibility" in a political party or the personal organization of any candidate for federal office. (For good measure, Sen. Lloyd Bentsen amended the bill to put the same prohibition on anyone appointed Attorney General or Deputy Attorney General.)

I do not know what word except "contempt" expresses my attitude toward a set of practicing politicians who accept as valid the premise that anyone affiliated with politics is automatically unfit to conduct one of the highest responsibilities of government—the administration of justice.

If politicians can't be trusted to administer justice, then why in the world should we trust them to collect taxes, or provide for the national defense, or decide whether our children fight in a war? Why not be consistent and say that no one connected with politics should serve in public office?

The dangerous notion in the bill is the assumption that the safety of our republic lies in finding non-political "good men," who can be trusted with powers we would not trust to politicians.

That is an absolute perversion of the doctrine of the American Constitution. Such men of perfect virtue are as rare as Plato's "philosopher-kings." In real world terms, a lawyer with a three-year non-renewable charter to investigate anything of importance in the upper levels of all three branches of the American government would be under enormous pressure to find things to prosecute. As Sen. Sam Nunn said, "He wants trophies for his wall when he's through." It is the perfect launching pad for the ruthless demagogue's political career.

Rather than depending on godlike virtue in public servants, the American Constitution protects freedom by holding officials accountable for their actions.

But the special prosecutor, under this law, is accountable to no one. He reports annually to committees of Congress but can be removed by the President only "for extraordinary improprieties, for malfeasance in office or for any conduct constituting a felony." For all practical purposes, he is a free agent, exercising extraordinary power without check. He is, in short, the very kind of official which Watergate should have warned us against.

What is deceptive about this scheme is well-explained by Professor Philip B. Kurland of the University of Chicago, in a letter printed as part of the debate of the bill.

"You have certainly misconstrued history," he wrote the senators, "if the concept of a special prosecutor is based on the notion that the Watergate special prosecutor contributed to the discovery and remedy for the Watergate abuses." The press and two congressional committees did that work of exposure and "the special prosecutor undertook criminal prosecutions of those malefactors."

That is the proper division of labor, Kurland said, but the bill's proposed "utilization of special prosecutors at a stage prior to criminal trial is once again an evasion of congressional responsibility . . . Every time an important governmental problem has arisen in recent decades, Congress has pusilanimously delegated the treatment of the ailment to someone else. Thus, the proposed public prosecutorial scheme . . . is only another symptom of the Watergate syndrome, rather than a contribution toward its elimination."

Instead of passing such showboat legislation, Congress could be employing its constitutional powers to judge and expel those of its own members who have been charged with almost every kind of abuse of power and breach of law. It can also investigate alleged improprieties in the Executive Branch.

But that is the difficult course of political responsibility, so Congress prefers to pass the buck to a non-political special prosecutor. If this scheme comes to pass, we can all recall what the English said at the time of Cromwell: Lord protect us from Protectors.

MISINTERPRETED CRITICISM OF THE FULL EMPLOYMENT AND BALANCED GROWTH ACT

Mr. HUMPHREY. Mr. President, too often sincere criticism of the Full Employment and Balanced Growth Act of 1976—especially constructive criticism from liberal economists—has been interpreted as outright rejection of the bill.

Nothing could be further from the truth.

The position of Dr. Walter Heller, Chairman of the Council of Economic Advisers during the Kennedy and Johnson administrations, is a case in point.

While he endorses the purposes of the bill and acknowledges the need for its enactment, Dr. Heller, like many other moderate and liberal economists, is concerned about the possible inflationary impact of the legislation. He feels that the extensive provisions in the bill designed to combat inflation should be further strengthened. Rather than reject the bill, Dr. Heller very much wants to see it adopted following modification which reflects his thinking regarding adequate anti-inflationary provisions.

Mr. President, as a coauthor with Representative AUGUSTUS HAWKINS of the Full Employment and Balanced Growth Act, I think that many of the measure's critics have failed to recognize the flexible way in which the provisions of the legislation can be utilized to achieve its goals of 3 percent adult unemployment within 4 years while maintaining reasonable price stability.

The bill primarily requires the administration and Congress to develop and implement those fiscal and monetary policies and programs that will achieve and sustain an economy that presents private sector commerce and industry with maximum incentives to utilize their full capacities for the efficient production of goods and services. In this way the Nation can approach the legislation's full employment goal while checking inflationary tendencies.

Any gap between the employment goal of the measure and private sector employment levels would be filled with temporary federally funded economic development, public works and facilities, and public service employment programs. It is on these points of public expenditures that some economic experts express concern because they envision enormous, pervasive, and costly public works and public service employment projects and programs.

In reality, the bill is designed so that federally funded programs can be carefully tailored for and targeted at areas of greatest need—areas characterized by chronic unemployment and unskilled and semiskilled surplus labor, for example—in order to achieve maximum benefits while minimizing inflationary tendencies.

Furthermore, the bill contains a series of anti-inflationary provisions. These include establishment of a comprehensive inflation alert information system to constantly monitor the economy; the implementation of programs to provide an adequate supply of food, services, skilled labor, and capital to meet demands in tightening markets; establishment of programs to promote increased productivity on the part of both labor and management; and directives to strengthen antitrust enforcement and improve competition.

However, these features notwithstanding, I am completely willing to consider adding any reasonable steps that might be taken to hold inflationary pressures in check.

Mr. President, Dr. Heller made his position clear on these matters when he appeared on Meet the Press last spring and was questioned about the Full Employment and Balanced Growth Act of 1976, sometimes referred to as the Humphrey-Hawkins bill. I ask unanimous consent that the excerpt from the program transcript on this subject be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Mr. MONROE. Dr. Heller, the Democratic candidates appear to be pushing for a major government program to bring down unemployment, but critics of this idea say that this would accelerate inflation, and they say that unemployment may not be doing as much harm as we think because we have unemployment compensation these days and many of those unemployed are not heads of households. What is your answer to this?

Dr. HELLER. You are talking about the Humphrey-Hawkins bill which has a target of three percent unemployment for the adult population in four years. They have already modified that substantially. Initially it was three percent in 18 months, and I think that is going to go through further modification.

If you say we have a dual problem, that is, we have to get rid of this unemployment that is wasting—quite apart from misery and hardship, unemployment is an incredible waste. We are wasting $150 billion of resources a year, and we are undercutting worker morale and spirit and so forth by this unemployment. But quite apart from that, it seems to me that we have to follow a program that would both curb inflation and promote a reduction in unemployment.

The Humphrey-Hawkins bill has some good anti-inflationary provisions. I think in the course of its progress through Congress it is likely to pick up a little more strength on the anti-inflation side, side by side with its very worthy attempt to cut down unemployment.

I might just say one other thing. One thing I like about the Humphrey-Hawkins bill is that it would rededicate us to the purposes of the Employment Act of 1946, which I think are being very largely ignored in the White House these days, and we need a new commitment.

Mr. MONROE. You seem to be predicting further modification of the Humphrey-Hawkins bill. Does that suggest you believe it should be further modified because in its present form it would either cost too much or accelerate inflation or both?

Dr. HELLER. I would put it this way, that I think it ought to have more emphasis on such things, for example—although it is in there, not too strongly, but it is in there—emphasis on specific things to do to fight inflation, like setting up buffer stocks, not just buffer stocks of human beings, which is what we are relying on now to combat inflation, but buffer stocks of critical materials, of food, of oil. We are beginning on that. It ought to have something on an incomes policy. In other words, there are things that should be built in there to make it a little bit better balanced. I would say like most legislation at an early stage of the game like this, it is good in its objectives; it has some bugs that need to be worked out. I think they will be, and I am delighted that this bill is now before Congress.

LIBERTY AT THE EXPENSE OF SUFFERING AND SACRIFICE

Mr. TOWER. Mr. President, on July 5, the Houston Post reprinted, for the purposes of a Bicentennial feature, a column which had appeared in that paper more than three decades ago, written during World War II by Hubert Roussel, their music and drama critic, after learning his eldest son had been killed in action.

This poignant column is a testimonial to an enduring truth that the blessings of liberty have not been achieved without suffering and sacrifice.

It is a reminder that the promises of the Declaration had to be sustained at Valley Forge, Saratoga, and a hundred other places in distant lands and faraway skies.

Because of its timeliness, I ask unanimous consent that it be printed in the RECORD in order that others may have an opportunity to read and study this moving tribute.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FATHER'S STIRRING LAMENT FOR FALLEN SON

VOICE OF THE DEAD CALLED MAN'S "MOST TERRIBLE COMMAND"

(By Hubert Roussel)

In a war such as this, prolonged expression of grief over personal loss is a luxury that no one can afford. Sorrow is too widespread. If everyone gave way to his feelings, as he is tempted to do, the burden of agony pressing down on the nation would become of insupportable weight. We would lose heart, spirit and determination, and that would lead surely to the swift loss of those sacred and priceless possessions that are ours only because other generations of Americans had the courage to set an ideal above any consideration of self, and to suffer for it the greatest of hardships. To fail them now would be the deepest of treachery. The first nation that whimpers in this war is lost.

Our son has given his life for his country, I know the feelings he had, and the motives that led him to take one of the most terrible risks asked of the men who are waging this battle for freedom. They were not merely the urges of reckless youth. He gave himself for an order of life which he believed to be worthy of any sacrifice. And among the good things of American life which enjoyed his respect were the arts of the drama and music. He loved them in their best manifestations, as he loved all that was food for the spirit. Were it not for this knowledge, I could hardly hope to recover my own interest in the work I followed throughout most of his lifetime.

Today would have been his 21st birthday, but he was already mature in thought. He had seen a good deal of the world and had formed his opinion of many things. He was the most strongly individual character I have ever known, and personal freedom with him was a passion. He was not quick to evaluate people or the habits of life, but once he had done so, there was no changing his mind by any pressure, persuasion or argument. He knew perfectly his reasons for whatever he did, and for all that he liked or disliked.

He was impatient of any form of pretension, so that many people thought he was brusque, but that was only because he saw clearly and could not tolerate false values in anything. In serious mood, he spoke to the point and with great brevity, but he had a wonderful sense of the humorous. His observations on whatever came under his eye were invariably seasoned with a quiet, penetrating wit that got into his school themes and destroyed the decorum of teachers.

I was proud of a letter received the other day which described him as a typical American boy. I think that is what he was. He would not have wished a more eloquent tribute. With high spirits he had a deep, mystic appreciation of Nature that only poets and artists would understand. He loved to be alone under the sky with the good things of the earth, and I think his happiest moments were solitary. He found something in the stillness of a clear night, or the bluster of a windy day, that had a particular meaning for his spirit, and which nobody could share with him.

He was given that complete love and understanding of Nature that makes the storm as acceptable as the sunshine. In the midst of a great hurricane, when houses shuddered and little souls were in terror, I have known him to go calmly to bed and fall into a sleep as peaceful and untroubled as though the tempest outside were a summer breeze. His attitude toward those who lamented the upheavals of Nature was amused. It was as though he understood something that others failed to divine about the laws of the elements.

This mysterious chamber of his spirit, which nobody could enter, perhaps gave him the unusual poise and reserve that determined his course in the war. When he joined the Army Air Corps, two years ago, he volunteered as an aerial gunner. The sky and the great space, were without terror for him, and perhaps he felt that his temperament, no less than certain physical qualifications, made him better adapted to this service than to any other assignment in the war. In the midst of grim and increasingly ominous preparations, he reported only the beauty of the scene. I have a letter in which he wrote: "It is good to look down on the earth from a great height. It seems so peaceful and orderly."

He loved this country itself—the broad land and the free sky, the colors and shapes, the good feel of the ground and the play of the sun on water. He went to his death for what he loved, doing the hard duty he chose for himself, as thousands of other typical American boys have done in this battle for decency.

In a sense they were all my boys; in a sense my own boy belonged as much to every family in this country as he did to me. I have wept for the others as I have wept for him, but we can not repay them with tears. We can only resolve, with all the fury and fire in our souls, to carry on with the fight they have left, to win the victory for which they died, and having won it, to secure the peace in which they truly believed—a peace that will actually make the world better and safer, and not merely a training ground for another generation of youth to be slaughtered at the whim of war-makers.

The voice of the dead in this struggle is the most terrible command ever given the races of man. It is more terrible than all the engines of destruction combined. Let it ring in the ears of the politicians and statesmen, and let us see that they never escape it.

God pity any man who shall fail those who have died in this war.

AGING IN AMERICA

Mr. EAGLETON. Mr. President, Robert N. Butler, M.D., who was appointed Director of the National Institute on Aging several months ago, is a most unusual scientist. His book entitled "Why Survive? Being Old in America," won a Pulitzer Prize this year. It is a most compelling and humane account of problems faced by older persons in our society and reflects Dr. Butler's deep concern for human values as well as scientific truth.

A most interesting interview with Dr. Butler was published in the July 12, 1976 issue of U.S. News & World Report. I ask unanimous consent that the text of this interview be published in its entirety at the close of my remarks. I commend Dr. Butler's remarks to those who are interested in issues related to our Nation's elderly population.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. On another point, it is my understanding that Dr. Butler and his associates some time ago completed work on a plan for a research program in aging which was due to be transmitted to Congress and the President no later than May 31, 1976. It appears that the research plan is currently undergoing a lengthy review process by other echelons in the Department of Health, Education, and Welfare bureaucracy.

Mr. President, Congress earlier granted a 1-year extension on the deadline for submission of this report and it is now nearly 2 months overdue beyond that extended date. I urge that the Secretary of Health, Education, and Welfare intervene to bring the review process to an expeditious conclusion so that this most important research plan can be made available to the President and to Congress.

Exhibit 1

How To Have a Longer Life and Enjoy It More

(What are the signs of middle age? Can changing careers make you feel younger? Is senility inevitable for the elderly? The Government's top authority on aging destroys myths, offers frank advice on growing older.)

Q. Dr. Butler, is it true that Americans are more sensitive about aging than people in other countries?

A. That's a common accusation, but I'm not absolutely certain that it's the case.

We were caught by surprise in this twentieth century by an incredible explosion of older people. Our health-care system, our economic system was not geared to meet this problem.

So we have had a switch from veneration of old age to uneasiness about what it means in terms of job security and how to care for the aged population.

There are a lot of myths about "the good old days" and how awful it is now. But when you think back on the diseases and lack of adequate care that faced older people in the past, it's really hard to believe that we could be more fearful about aging than we used to be.

Q. Are we "staying young" longer?

A. Not really. We haven't so much extended longevity as we have augmented the chances of survival into old age. I had a boyhood friend, for instance, who died of scarlet fever. That wouldn't happen today, so his chances of living to old age would be greater.

But the likely life span of a man who reaches 65 has changed hardly at all in the last decade. Even if we eradicated all cancer, life expectancy would increase by only an average of 2.8 years.

Q. Do people age at different rates according to race, occupation or other factors?

A. Definitely. There is evidence that varying rates of aging are due to genetics, to the caliber of health care, to national attitudes and to other causes.

Q. Can you point out some national or racial differences in longevity?

A. Blacks, for instance, don't live as long as whites. This may be due to external reasons—lack of adequate health care and so forth. It's striking, however, that if black males reach the age of about 75, they suddenly become better survivors than white males of 75. Perhaps it's a survival of the fittest. If they can make it that long, then they are made of such tough stuff that it's likely they will live some years longer.

Spanish-heritage Americans also have a lower life expectancy than white Americans. Yet, in Spain itself, males live longer than American men.

Q. What about reports of people in certain regions living for extraordinary long periods—130 years or so?

A. By and large, those claims are not well substantiated or supported by documentary evidence. That is not to say that certain peoples may not tend to live longer than the average, but it probably isn't as long as all that.

It's interesting, however, to note that in three areas of the world where people are reputed to live extremely long—the Hunza area near Tibet, the Caucasus region of the Soviet Union, and in Equador—the terrain is very hilly. People have to walk a lot—be physically active. They also tend to be moderate in their diets in terms of cholestrol, they don't drink or smoke excessively, and they are very much involved in their society.

We've got something to learn from them.

Q. Do certain occupations shorten or extend life spans?

A. It could be, but again we know very little about this.

It is apparent that symphony conductors—to mention one group—have unusually long lives.

Athletes, even those who enter other careers after college, don't do so well. There is some speculation that this might be due to enlargement of the heart from exercise, but we don't know.

People who are engaged in hazardous occupations, such as foundry workers or coal miners, do not live as long as the average person. Farmers do quite well on the whole.

The data are very mixed on the question of stress. One study of executives by the American Telephone & Telegraph Company did not demonstrate any greater incidence of so-called diseases such as hypertension and coronaries. On the other hand, middle-aged American men die exactly at twice the rate of middle-aged men in Sweden.

Some people had predicted that as women got more into managerial and stress-related jobs that we'd see a greater mortality among women. But it hasn't happened.

Q. Do people act "middle-aged" or "old" because that's how society expects them to behave at certain ages?

A. In many cases, yes. An awful lot of people, for instance, think that when you get old you're not supposed to have sexual activity. Yet all our studies show that sexual desire and activity continue right up until death itself. So some people do fulfill these prophecies and stereotypes—but others refuse to conform.

The difference between the two groups shows up in a study we did at the National Institutes of Health in which we used the same Rorschach ink-blot tests on older people that had been given to American servicemen who had been captured in the Korean War.

It turned out that those older people who accepted all the stereotypes about age—that you're washed up, you're senile, you're not able to be physically active—reacted to the tests in the same way as those prisoners who had collaborated with the Communists. Those older people who disagreed with what society expected from the aged followed the pattern shown by the prisoners who resisted collaboration.

MIDDLE AGE "CAN BE VERY PAINFUL"

Q. What are the telltale signs of middle age?

A. One is that moment in time when you begin to count backward from death instead of forward from birth. You start to think of the number of years remaining, rather than in terms of going forward, birthday by birthday. That's a very important psychological event.

Another symptom is when people begin to take stock of themselves: "Have I achieved what I had hoped to achieve? Where do I stand now? It can be very painful.

A third telltale sign of middle age is a greater preoccupation with the body. It's called "body monitoring" or being more conscious of oneself. This is the period in which you begin to get obesity, excessive alcoholism, drug addiction.

These are the kinds of problems that emerge in the middle years, but with them also come a lot of fear and uneasiness.

Q. Is there anything the middle-aged person can do to delay or reverse the aging process?

A. You often can do something about the ravages of disease, poor habits of life style, social attitudes and so forth—the accompaniments of aging. But if you're talking about reversing that implacable, mysterious clocking system called aging—we can do nothing yet about that.

Q. Does changing careers help keep you younger in middle age?

A. It can, as the change makes some sense. It can't be a precipitous, impulsive change that may turn out to be self-destructive or harmful to one's family. But there are many people who do make a career shift.

I once treated a man who was very successful, but he hated his work because he had inherited the firm from his father and never really thought he had a life of his own. About the time his children were ready to go off to college, he suddenly quit and literally made himself go broke. A compromise was finally worked out, and he went into a totally different field—became a real-estate salesman. He never made as much money as before, but he was a lot happier.

Q. What is the best way to deal with middle age?

A. First of all, be open and frank about it. Don't try to pretend that it isn't happening. This is the biggest problem today, particularly in the United States; the desire to not look at what's happening to you as you go through time, whether it's middle age or old age.

If you are conscious of those middle-age signs, if you do take inventory, if you do reorganize your commitments, you're much better off. That's certainly the best piece of advice I can think to give to people.

Q. Is this what's called "growing old gracefully"?

A. No. That phrase unfortunately is often interpreted to mean being sweet and nice, not making any noise and so forth. I don't think that's the way to go.

There's nothing wrong with older people being alive and vibrant, speaking up. I would recommend growing old candidly, openmindedly and flexibly rather than gracefully.

Q. Are people in the 40s or 50s usually at the peak of their powers in job performance and general activity?

A. It depends on the job. If you're a Muhammad Ali or most other athletes, you begin to go at 30. But philosophers and painters actually become greater with age.

Many people feel that Verdi's "Otello," which he composed when he was 73, was his greatest opera. Had Cervantes died at 55, we would not have "Don Quixote," Benjamin Franklin invented bifocal lenses when he was in his 70s. The first textbook on geriatric medicine was written by a man in his 60s.

Q. Do men and women age differently going into their middle years and beyond?

A. Yes, but we don't really know why. Most studies on aging have been done with men. Women have been badly neglected as a group in terms of studying the aging process. Yet women live an average of eight years longer than men. Why? It would be very important to find the answer.

Q. There has been talk in recent years about a "male menopause." Is there really any such thing?

A. Not physiologically, of course, since there's no male menses. And there are no data of a sharp fall in testosterone or the other androgens with age.

Women, on the other hand, clearly undergo a sharp physiological change that still needs study.

Q. Then what accounts for the decline in sexual activity by many men of middle age?

A. Alcohol, drugs and poor medical advice are responsible for much of that problem.

We have an awful lot of alcohol drinking in the United States, which has a very pervasive effect on the sexual apparatus over time. A glass of wine may be perfectly appropriate in a romantic setting, but it's when you go beyond that much that you get into trouble. As Shakespeare said, alcohol has the effect of increasing desire while decreasing performance.

Drugs also are very culpable in terms of effect upon sexual libido and potency. I'm talking about tranquilizers, antidepressants, antihypertensive medications and so forth.

Doctors may be quite thoughtless in realizing how important this is to men. They'll say, "Well, what do you care, after 40?" That's partly because we never had any education about sex in medical schools until 1961. Most doctors today are still notoriously uninformed about sexuality.

Q. Do people get wiser as they get older?

A. They certainly do. The deepening of human experience in itself has a special value in attaining this elusive thing called "wisdom."

The older I get, the more I value judgment in people: how to make a decision, when to make a decision, to know when to speak, how to counsel someone. It's very, very valuable stuff.

The French philosopher Montaigne said old age is a chance to really speak frankly and bluntly. After all, if you can't speak frankly and bluntly then, when can you? Certainly you do run into some older people who glory in being "old curmudgeons," and some may not use that opportunity wisely. But others use it with great wisdom.

Q. Can older people still learn new things the way they did when they were much younger?

A. Of course they can. Scientific studies show, contrary to what many think, that learning capacities do not diminish with age. If you compare a group of 70-year-olds with a group of 20-year-olds, it might appear that there's a loss in intellectual functioning among the older people. But longitudinal studies—those which follow the same people over a long period—clearly show that intellectual abilities of healthy people grow greater through the years, not less.

FORCE RETIREMENT: "TOO DESTRUCTIVE"

Q. Does retirement hasten or delay the onset of old age?

A. Retirement cuts several ways.

If you have been an assembly-line worker, done backbreaking work on a farm or worked in a hazardous occupation, you may be delighted to retire. You may even get healthier after retirement.

But if you've been in an occupation that you love, you may be hastened into death after retirement. You'll notice that self-employed people often don't retire if they can avoid it. The people who retire, generally speaking, are those working under a compulsory-retirement system. For some of them, the retirement syndrome can be devastating.

Actually, retirement had always been functional throughout the world until relatively recently. It was introduced partly through an entitlement system of social welfare by Chancellor von Bismarck in Germany in the 1880s and really became established in the United States during the depression of the 1930s.

But now the trend is in the other direction. Sweden is moving its retirement age up to 67. Japan is moving away from 55. The United Kingdom and the Soviet Union also are changing their retirement policies. It's too expensive otherwise, and it's too destructive to people.

I have no doubt that the day will come when mandatory retirement will cease.

Q. How widespread is senility among older people?

A. It's a serious problem, but one that probably is not as common as most people think. About 20 per cent of the people over 65 have at some point a need for institutional care, and that's probably a rough approximation of the extent of serious mental deterioration.

Most of these people are those over 75 or 80—the "frail age" group. But at any one moment, only 5 per cent of our old people are in any kind of institution. The other 95 per cent are living on their own.

To be specific, of the 1.2 million people in American nursing homes, about 1 million are the elderly. At least half of that group suffers from senile demantia, which means that brain cells have died away. It's the fifth-leading cause of death in this country, even though the ultimate cause is reported as pneumonia, congestive heart failure or some other disease.

Q. What causes senility? And is it inevitable?

A. Senility has a hundred causes. And—no—it is by no means inevitable. We need a lot more research in this field, but already we know some causes of senility. Some evidence suggests that the major cause of senility—senile dementia—may be what doctors calls an "autoimmune phenomenon." That means that somehow the body's capacity to differentiate between foreign proteins and body proteins gets fudged with age. The "screen" that keeps toxins from getting into the brain gets hit by an allergic reaction, and you get a breakdown that can include destruction of brain cells.

There's also evidence that one form of senile dementia may be due to a slow virus. Researchers have found a condition called "kuru" that was discovered in New Guinea can be transmitted from chimpanzees to humans. It has all the appearance of senile dementia.

Persons who begin suffering serious memory loss in their 50s might have normal-pressure hydrocephalus. This results from an increased amount of fluid in the brain, and it is treatable by shunting the fluid to other parts of the body.

Another cause of senility can be a clogging in the external carotid artery. If you remove that blockage, you overcome the reduction in blood flow and oxygen to the brain and reverse the senility.

Q. Can a tendency to become senile be inherited?

A. There is some evidence from Sweden that senile dementia can occur on a familial basis.

A much more common cause of senility, however, is simple malnutrition. Some older people, particularly those who live alone, may just lose interest in food. They get anemia: The red blood cells are reduced, and they don't get enough oxygen going to the brain. The result is that they begin to get fuzzy mentally. A few days on a good diet often solves things.

Alcohol is another big cause of senility. We're beginning to see a shocking amount of excessive alcohol intake in old age—people who never drank in their lives. Many are lonely women who may start to drink to forget their loneliness, to overcome the pain from arthritis, to deal with grief of one sort or another.

Q. Dr. Butler, how does a family decide whether it's best to put an aged relative in a nursing home?

A. First off, we must realize that fully half of the elderly in nursing homes today have no families. News stories often accuse our society of dumping its aged into institutions.

but that's seldom the case. In my experience, this decision is made only after the family makes incredible efforts to keep the relative at home.

But some things, such as incontinence or wandering in the night and being picked up by the police, are just too much for families to deal with. Whenever an elderly person's state of dependency is too great for a family to bear without the family itself being seriously damaged—that's the time when institutional care makes sense.

HOW TO SELECT A GOOD NURSING HOME

Q. What should you look for when choosing a nursing home?

A. One good precaution is to check Social Security inspectors' reports on those nursing homes which get federal funds—medicare or medicaid. That would apply to about half of the 23,000 institutions in this country.

It's also very important to know if the home is State-licensed, if the administrator has experience, what the ratio of patients to nurses is, whether there is a medical director. Check on the number of registered nurses and the staff turnover rate.

If it's a multistoried building, how many elevators are there to evacuate patients in case of fire? When was the last fire drill, and did the patients participate?

Q. How about retirement communities? Are they good places for the elderly to live?

A. It depends on the person. I think it's important for people to have a choice.

For some, a Sun City, a Leisure World or a St. Petersburg is ideal. For others, it's not.

Personally, I favor a "life cycle" kind of community with a mix of all age groups. My kids saw an elderly couple across the street go from their 70s into their 80s and finally die. It shows children the realities of what aging is. And it's just as important for older people to keep in contact with the young, to share in their vitality.

But some people can't stand kids. They never could. If they prefer to live in a retirement community with their peers, they should have that right.

It's worth noting that of the 23 million older Americans, probably not more than about 500,000 live in various types of retirement communities.

"A PARTNER IS CRUCIAL TO SURVIVAL"

Q. Dr. Butler, is there any set of rules that can lead to a longer and happier life?

A. If you're asking for the secret of life, I'm afraid we don't have it yet. But we do have data that suggest the following:

One is that having a partner is very crucial to survival. It may be because two people have an emotional involvement that keeps them alive. Or it could be the advantage of having someone who can care for you if you're sick.

Secondly, it's important to maintain a continuing involvement in activities. That means having specific goals and tasks—belonging to certain clubs, having certain objectives, having a calendar of certain things to do each day. Folks who do this tend to live longer.

Physical fitness clearly is a third important factor, although we don't know yet precisely how this fits into the aging process.

Another important survival characteristic is flexibility or resourcefulness—the ability to keep learning.

Ages of your parents, of course, are important, but that should not be overemphasized. Long-lived parents are a good sign, but you can undo that by poor self-care. On the other hand, the data suggest that one can transcend genetic shortcomings by taking good care of oneself.

Q. How does the National Institute on Aging hope to help Americans enjoy longer and happier lives?

A. We're the youngest and smallest of the National Institutes of Health, so our proposed budget for the next fiscal year is only about 27 million dollars, and we have only 180 employes. That's not much, considering that our research efforts affect 10 per cent of our population.

But we have a major biomedical program. We're trying to learn why resistance to disease decreases with age, why an older person may suffer a heart attack without pain, exactly how cells age and die, what happens to a person's memory as he grows older, and many other subjects. We want to make a deep study of the inner lives and experiences of people from youth through old age to learn how and why they develop the way they do.

Part of our job is to find out how to deliver care of older people more effectively. We're charged with developing more education of professionals and the public about the elderly. There's not a chair of geriatric medicine in the United States, and not one medical school requires its students to go through a nursing home.

We're clearly way behind in both our knowledge of the aging process and how to treat our older people. The latest census studies indicate that people over 65 will make up at least 17 per cent of the U.S. population by early next century. If we have a breakthrough in a major disease, the ratio may be even higher. We're not prepared to deal with this huge group of elderly Americans now, and it's our task to make certain that we get ready.

Finally, there's no point to keeping people alive longer if they are not able to enjoy life. It's improving this quality of life that lies at the heart of the mission of the National Institute on Aging.

AMENDING THE SOCIAL SECURITY ACT

Mr. HUGH SCOTT. Mr. President, in January and February of 1975, I either introduced or cosponsored six bills to amend the Social Security Act, as follows:

S. 357. A bill to increase the social security payments to the retired.

S. 446. To continue the social security payment to an individual's spouse through the month of his death.

S. 1183. To extend the eligibility of blind persons to receive disability insurance.

S. 1469. To authorize expanded home health services under medicare.

S. 2525. To provide coverage under medicare for dental, aural, and optical services.

S. 3036. To extend chiropractor's services.

The administration of social security payments, as we have all become increasingly aware, needs a great deal of streamlining and equalizing. These several bills will amend present social security law to make it more responsive to the needs of those it seeks to assist.

The passage of this legislation is vital not only to Pennsylvanians, but also to the millions of people in every State who desperately need the limited social security income they are receiving. It is only recently that we have recognized the need to assume, as a people, rather than as individuals, the responsibility for the care of the aged, the disabled, and the blind.

In the last 2 years, the cost of living has risen approximately 12 percent, making necessary health care almost prohibitive for those living on moderate incomes. In Pennsylvania alone, 1,181-291 adults—not including children and other dependents—receive social security payments. I do not believe for one moment that Americans have become less concerned for the well-being of their parents, grandparents, and the blind, or that they have become callous in the face of personal property and better standards of living. In reality, the problem is much deeper, touching the institutions and structures of our society as these have evolved in response to a dynamic social and economic context.

Mr. President, I have written to Chairman RUSSELL LONG of the Finance Committtee, urging action on these bills. Because I believe that such as expansion of benefits will have a fundamental impact on the quality of life of many of our citizens, I respectfully request that all my colleagues study these bills, and take action on them before this Congress adjourns.

THE SORRY STATE OF AMERICAN PREPOSITIONED COMBAT EQUIPMENT IN EUROPE

Mr. HUMPHREY. Mr. President, over a year ago I read press reports which indicated that the overall combat effectiveness of American troops stationed in Europe was impaired by inadequate training and serious equipment problems. As a result of my concern, I asked the General Accounting Office to investigate the readiness of U.S. combat forces in Europe and inform me as to the general accuracy of the press reports I had read.

I have thus far received two GAO reports. One concerns the readiness of first-line armored divisions and the other deals with the condition of prepositioned combat equipment. This equipment is stored in Europe for use in a war by troops airlifted from the United States.

Portions of both of these reports were classified and both contained unclassified summary digests. The first report reinforced my concern about the lack of combat readiness among units critical to our NATO obligation. I believe that there is no excuse for the deficiencies found by the GAO with respect to Army equipment, personnel and ammunition. Despite the rather detailed analysis undertaken as recently as 7 months ago by the General Accounting Office, both the Army Secretary and Defense Secretary Rumsfeld claimed that the GAO findings do not represent the current situation in Europe. I disagree with their contention that the GAO report deals with a nonexistent situation. In fact, the letters I have received in response to the first GAO report from soldiers in Europe only strengthen the GAO's findings.

As a result of the gravity of the conclusions in the first report, I requested Chairman SPARKMAN of the Foreign Relations Committee to request that Secretary Rumsfeld, the Chairman of the Join Chiefs of Staff and the Army Chief of Staff and appropriate State Department officials come before the committee to discuss the long-standing problems of readiness and their foreign policy implications.

A new study prepared at my request by the General Accounting Office provides evidence of continuing problems with the condition of combat equipment and the readiness of U.S. forces to carry out our NATO obligation.

The magnitude of the problems casts doubt on whether the Army could carry out the mission assigned to it in existing operational war plans that require the use of prepositioned equipment stored for U.S.-based units.

The problems identified by GAO include shortages of combat-essential equipment, ammunition and repair part stocks, deterioration of vehicles kept in open storage facilities, shortages of skills and noncommissioned officers in the U.S.-based units, and higher personnel turnover rates.

One of the most disturbing aspects of the GAO report is the finding of serious deficiencies in the Army's reporting system.

The equipment-readiness reporting system does not provide an accurate report of the status of equipment prepositioned in Europe. While the reporting system does accurately report that the equipment is not ready to support its overall mission, it is not definitive enough to show what missions can be supported or to pinpoint specific problems.

One weakness is the equal treatment given to equipment items regardless of their importance in combat. The Army's readiness-reporting system gives the same weight to trailer-mounted bakery plants and portable bath units as combat tanks, machine guns, howitzers and armored personnel carriers.

In addition, GAO found that the data needed to compute ammunition requirements was both inaccurate and outdated, invalidating some of the stated requirements.

The Army Inspector General concluded last year that procedures to monitor supplies and insure that sufficient spare parts were on hand were inadequate, and that the information on exact quantities of authorized line items on hand was highly suspect.

The GAO report comes as disappointing news to those of us who have worried about the Army's ability to manage the large sums appropriated by Congress to hold up our end of the NATO alliance.

The GAO first reviewed the prepositioned-equipment program 3 years ago and reported serious deficiencies in the Army's management.

The current review, performed from July 1975 to February 1976, increases the doubts about the effectiveness of the prepositioned-equipment program.

The GAO does report some improvements, especially in the area of storage and maintenance facilities.

Some of the problems reported are not surprising. The increased shortage of equipment is attributed in part to shipments to Israel and other Middle East countries during and after the 1973 Middle East War.

What is surprising is the continued existence of many problems and the time it is taking to correct them. Some problems seem to be getting worse.

The shortages in some combat-essential skills and military specialties are so pervasive and serious that one division commander indicated that if improvements were not made, he would downgrade his division's overall readiness rating.

The present situation is not fair to our allies, to our own troops, or to the American taxpayer.

I am reiterating the request I made on July 9 to the chairman of the Senate Foreign Relations Committee that the Secretary of Defense, the chairman of the Joint Chiefs of Staff, the Army Chief of Staff and appropriate State Department officials be asked to come before the full committee to discuss this report and the earlier report on readiness of U.S. combat armored units in Europe and their foreign policy implications.

I am also sending a copy of the GAO report to the chairman of the Senate Armed Services Committee.

Mr. President, it is questionable whether troops intended to be deployed from the United States to Europe for use in an emergency could be fully effective because of the sorry state of the prepositioned combat equipment program. I believe that such a situation could jeopardize the mission of American troops in an actual combat situation.

As this administration knows, I have been a strong supporter of NATO and of maintaining American troops in Europe as a necessary cornerstone of our national defense policy. But I do not believe in maintaining troops in Europe under false pretenses. Either they are in a state of readiness with well-trained soldiers and equipment which is ready to go on a battlefield, with adequate resupply stocks, or the units do not belong among firstline defense forces in Europe. The Army has an obligation to Congress and to the American taxpayer to solve its management inadequacies which cause these problems. It is not good enough to blame these problems on post-Vietnam difficulties or on our supply of Israel during the October war. Both of these events are long over.

The time has come for the Army to put its house in order in Europe. Management needs to be improved. Training and supply programs must be examined critically. The Army readiness reporting system needs to be thoroughly analyzed and perhaps overhauled.

Mr. President, I ask unanimous consent that a copy of the GAO's unclassified digest from its report on prepositioned defense equipment be printed in the Record along with an exchange of correspondence which I have had with Secretary Rumsfeld following the release of the first GAO report.

There being no objection, the material was ordered to be printed in the Record, as follows:

Report to the Joint Economic Committee—Continuing Problems With U.S. Military Equipment Prepositioned in Europe; Department of Defense, Department of the Army

DIGEST

The Army stores large quantities of equipment in Europe for use in an emergency by troops deployed from the United States by air. The equipment is stored under a concept referred to as prepositioned equipment configured to unit sets. This means that each U.S.-based unit's equipment is stored as a set or entity, at the particular site to which the unit would deploy in Europe. Equipment for three divisions and their related support units are included in this program. In December 1975, the value of prepositioned equipment authorized for stockage was $778.4 million. The value of equipment on hand is classified for security purposes.

GAO originally received this program in the 1971–72 period. GAO's report, entitled "Problems with U.S. Military Equipment prepositioned in Europe," (B–146896, March 9, 1973) concluded that units with prepositioned equipment could not effectively perform their assigned missions in the required time, basically because some of the authorized equipment was not prepositioned and much of the equipment was inoperable.

To work effectively, the prepositioned equipment program requires two major ingredients—adequate quantities of (1) combat-ready equipment properly stored in Europe and (2) combat-ready troops who can meet the deployment requirements of war plans.

Since GAO's 1973 report, the type of problems with the program and their relative magnitude changed; however, the overall effects are much the same. Thus, GAO's earlier conclusion—that it appears questionable whether the Army could be fully effective in the missions assigned troops with prepositioned equipment—has not changed. Some of GAO's findings follow.

There were important shortages of combat-essential equipment in prepositioned equipment stocks, many of which will exist for a number of years. In addition to major items there were shortages of certain types of ammunition and repair parts.

The condition of equipment available in the prepositioned equipment program had improved considreably since 1973. However, because of problems in completing maintenance programs, some of the vehicles in the prepositioned equipment program were deteriorated. Further, the equipment readiness reporting system did not provide an accurate report of equipment status.

Storage and maintenance facilities had improved but major deficiencies still needed correction.

There were not enough personnel responsible for maintaining prepositioned equipment to handle the workload.

Although accountability and physical control of prepositioned equipment stocks had improved, the equipment locator system was still quite inaccurate and a system was needed to account for smaller items—those particularly subject to pilferage.

Shortages in prepositioned stocks would likely require some forces to bring equipment from the United States, probably by sea, thus increasing their time to deploy.

In addition, GAO found that equipment in the hands of these forces was not as combat ready as indicated in readiness reports, and, thus, likely would require maintenance before deploying, further increasing deployment time.

The annual deployment of certain troops to Germany for training and the issuance of equipment from prepositioned stocks to them is not done in a manner which provides a realistic test of redeployment under emergency conditions.

U.S.-based units were not plagued with overall personnel shortages as in 1971–72; however, there were still shortages of certain essential skills and noncommissioned officers.

The major problem facing the prepositioned equipment program is the important shortage of combat-essential major end items. Some of these shortages will likely exist for some time due to production base limitations in producing sufficient assets to satisfy all outstanding requirements.

GAO believes that it is now time to make major decisions regarding the future role of the prepositioned equipment concept and options that may alleviate some existing problems.

Accordingly, GAO recommends that the Secretary of Defense and the Secretary of the Army reevaluate the prepositioned equipment program to determine its future role in our wartime commitment to Europe. This evaluation should consider the following alternatives.

Providing the resources required to make the current prepositioned equipment program workable and effective.

Reducing the scope of the present prepositioned equipment program; i.e., the amount of equipment stored and number of units to deploy, to a level that could be supported as intended.

Abandoning the prepositioned equipment concept in Europe and developing another program which could be effectively supported and still meet the NATO commitments of the United States.

If the first alternative is chosen, GAO recommends the following approaches be considered for making the prepositioned equipment concept more viable.

Assign the program a higher priority for items coming off production lines.

Consider withdrawing some equipment now in the possession of U.S.-based units that would deploy to Europe under the concept and transferring it to the prepositioned equipment program.

Consider alleviating program shortages with a combination of these two possibilities.

The above alternatives are somewhat long-term solutions to alleviating the problem of the viability of the prepositioned equipment concept.

In the interim, GAO believes that, by properly managing the existing equipment in prepositioned equipment stocks, there would be greater assurance that, at least, a certain number of units could be satisfactorily deployed to Europe and employed in the field as required by the current war plan.

Therefore, GAO recommends that the Secretary of the Army direct Headquarters, U.S. Army, Europe to identify those specific units which can be fully equipped from available assets, insure that the equipment for these units is stored in a unit set configuration where practical, and take all other steps necessary to insure that these units could be deployed and equipped as envisioned under the current operational war plan.

Other conclusions and recommendations pertaining to specific elements of the current prepositioned equipment program are presented in each chapter of this report.

In accordance with instructions from the Committee, GAO did not obtain written agency comments on this report. However, GAO discussed the report findings, conclusions, and recommendations with representatives of the Department of Defense and the Department of the Army and considered their comments.

SECRETARY OF DEFENSE,
Washington, D.C., July 12, 1976.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: Your statement on 8 July 1976 with regard to the GAO study "Readiness of First Line U.S. Combat Armored Units in Europe" has come to my attention. I am quite concerned that this statement does not in fact represent the current situation in Europe and will be misunderstood by the American people.

The report is based on information approximately 18 months old and collected from only two units of the entire Army in Europe. To conclude, today, that the readiness of our forces in Europe is "woefully deficient," based on a selective extraction of information, could be misleading to the public in that it does not represent the current condition.

The GAO report does cite problems existing in early 1975 which have been actively addressed in the intervening time, and many of which have been redressed.

Your statement did not note that the GAO report acknowledges followup discussion with USAREUR officials in January 1976. These discussions convinced GAO that the U.S. Army in Europe is actively and positively pursuing many of the problems highlighted in the GAO report. Your press release also neglected to mention that the GAO inspectors agreed with the commanders in Europe that our units were more than capable of giving a good account of themselves, should the need arise.

The Department of the Army is dedicated to assuring that our forces in Europe are maintained at the highest possible levels of readiness. Readiness in Europe shows steady improvement despite problems, many of which are related to resource shortages. We have been keeping the Congress fully informed of these problems and their status.

I encourage you to visit Europe to determine first-hand what problems still exist there, what we are doing to solve them, and ways that the Congress can be helpful. The upcoming REFORGER exercises from September 7 through 17 would provide an excellent opportunity.

I welcome your interest and look forward to the opportunity to make available briefings on the current readiness of the Army in Europe.

Sincerely,

DONALD RUMSFELD.

CONGRESS OF THE UNITED STATES,
Washington, D.C., July 15, 1976.

Hon. DONALD RUMSFELD,
Secretary of Defense, Department of Defense,
The Pentagon, Washington, D.C.

DEAR SECRETARY RUMSFELD: Your letter of July 12, 1976 expresses concern that the statement I made recently on the GAO study "Readiness of First Line U.S. Combat Armored Units in Europe" does not represent the current situation in Europe and will be misunderstood by the American people.

You go on to say that the report is based on information approximately eighteen months old and collected from only two units of the entire Army in Europe. You say further that many of the problems existing in early 1975 cited by the GAO report have been redressed, and that my statement did not note the GAO report acknowledges follow-up discussions with Army officials in January, 1976.

If you will read the full text of the statement I issued from my office on July 8, 1976, you will find that I noted that "a copy of the unclassified digest of the GAO report is available on request" from my office. The digest contains a number of the items of information which you apparently believe ought to have been contained in my statement.

For example, the digest states that units of one mechanized regiment and one armored division were selected for study by GAO.

The digest, in a section headed "Agency Actions and Comments," also states that in discussions held in January, 1976 the Army indicated to GAO that a number of actions had been or were being taken for readiness and readiness reporting.

It was unnecessary for me to repeat all the facts from the digest in my own statement when the digest and my statement were being released simultaneously.

I might add, concerning the actions reportedly taken or being taken by the Army to improve readiness and readiness reporting, that these actions have yet to be verified by GAO.

A major thrust of your argument is that the GAO report is out of date. This is not the case. While some of the information drawn from Army reports may be eighteen months old, much of it is considerably more current. The digest itself mentions follow-up work done by GAO at the units in November, 1975.

In fact, GAO's fieldwork was begun in early 1975 and was completed toward the end of the year. A draft of the report was made available to the Army in early 1976, just a few months ago. The Army raised no objections that the information in the report was out of date or not current and has apparently taken some steps as a direct result of the report.

Finally, reports of readiness problems have been brought to the attention of Congress for a number of years, and it is most discouraging that the kinds of problems identified in the GAO study can persist for so long. Many of the problems were avoidable and should have been avoided by proper Army management. This is particularly true wth respect to the deficiencies in the Army's reporting system.

In your letter you state that many of the problems "are related to resource shortages." Most of the problems identified in the GAO report are not related to resource shortages. What we seem to have, is a shortage of resourcefulness and not of resources.

Despite your assurances that steps are being taken to solve the redress problems, I have reasons to remain concerned. Another report by GAO has been brought to my attention which reflects poorly on our military establishment in Europe. The report, dealing with prepositioned military equipment, will be released in the near future.

While I would certainly make myself available for briefing on the current readiness of the Army in Europe, I am reiterating my request to Chairman Sparkman that you and other officials be asked to appear before the full Senate Foreign Relations Committee to discuss this matter.

Sincerely,

HUBERT H. HUMPHREY,
Chairman.

NATIONAL HOSIERY WEEK

Mr. HELMS. Mr. President, the Nation's hosiery manufacturers, the industry's suppliers and their trade association, the National Association of Hosiery Manufacturers, have selected the week of September 12–18, 1976, for their sixth annual celebration of National Hosiery Week.

The goal of National Hosiery Week is to focus the consumer's attention on the many diverse, but consistently high quality, products of the American hosiery industry. Combining fashion flair with functional practicality, the socks, pantyhose, and stockings this industry produces provide the country's consumer with good fit and long wear at prices that the inflation of the past few years has virtually ignored.

During 1975, the U.S. hosiery industry produced nearly 2.7 billion pairs of hosiery, or more than 12 pairs for every man, woman, and child in the country. Of the total, over 1.5 billion pairs were socks of every description in sizes to fit everyone from the smallest infant to the largest man. The rest were women's pantyhose and stockings.

Mr. President, of the total, 94.2 percent was made in the South. As the largest of the hosiery producing States, North Carolina alone accounted for 51.7

percent of the total. However, hosiery mills are located in over half of the 50 States and in Puerto Rico.

This hosiery was produced by some 73,000 workers in 357 companies, operating 474 plants. Many of these individual manufacturers are small businessmen working hard to earn a profit while providing jobs for others and helping the economy of numerous small towns and cities.

Thousands of retailers around the country—including department stores, supermarkets, mass merchandisers, drugstores, shoe stores, and specialty shops—will join the hosiery industry in celebrating National Hosiery Week.

The National Association of Hosiery Manufacturers has provided these retailers with National Hosiery Week idea kits, colorful display posters, lapel badges for employees, and hosiery fashion information to assist them in preparing their displays and promotions highlighting hosiery products and the industry's contribution to the Nation's economy.

Through this combined National Hosiery Week effort, the manufacturers and the retailers hope to further educate the consumer to hosiery's many special features to help keep feet comfortable and fashionable throughout the busiest day.

USDA MEAT GRADING PROGRAM

Mr. McGOVERN. Mr. President, as chairman of the Senate Select Committee on Nutrition and Human Needs, I have asked the Office of Technology Assessment to assess the USDA meat grading program. Such an assessment is timely in light of recent revisions of the beef grading standards. This subject is of great concern to ranchers, livestock feeders, and consumers throughout the United States. There has been mixed reaction by both producers and consumers.

Litigation by several meat industry organizations and consumer groups prevented the revised U.S. beef grade standards from being implemented as intended on April 14, 1975. However, the new standards are now in effect.

The new standards contain four major changes: First, all beef carcasses graded will be graded for both quality and yield; second, conformation—shape of carcass—will no longer be a factor of the quality standard; third, leaner beef will now qualify for U.S. Choice and U.S. Prime; and fourth, the range of the U.S. Good grade is more restrictive than before.

Of these four major changes, the third revision, leaner beef for the U.S. Prime and U.S. Choice grades, has disturbed some consumer organizations, who fear that shoppers will have to pay "Choice" prices for lower quality beef. Beef in the new Choice grade can be leaner than before. Therefore, this beef could cost less to produce since less grain will be required to feed cattle, and this savings at the production level may result in lower retail prices. Consumer groups have expressed concern that the retail price will not reflect lower production costs; supporters of the revisions maintain they will.

The revised quality standards raise the grade of the top third of beef previously labeled as "Good" to 'Choice" and the top third of "Choice" to "Prime."

This new grade would contain beef which has been elevated from "Good" to "Choice" under the revised standards. Consumers feel the retail price more likely would reflect the lower production costs of beef qualifying for this new grade than of beef qualifying for the revised Choice grade.

Most agree that leaner beef is more healthful and many find the flavor and tenderness of the leaner beef acceptable. Many supermarket chains have been selling a leaner beef under a house grade for well over a year. Consumers are questioning, however, the relationship of the retail price to the grade. Consumers are raising the important question of the relationships between grade and retail price, between grade and health considerations.

Cattle feeders likewise are raising questions about the impact of the revised standards. The president of the National Livestock Feeders Association Donald Hunter of Centerville, S. Dak., has said that the timing of adoption of the new standards has inflicted serious economic injury on cattle feeders.

On the grade yield level, many packers have expressed serious reservations with regard to the new standards. This standard relates only to transactions between packer and retailer. For instance within the choice range there are four different grades with respect to meat yield. Grade I results in the greatest number of lean pounds and the least amount of fat. Thus a retailer might pay one price for a U.S. choice, grade yield I, and another price for a U.S. choice, grade yield V.

Many Members of the Congress have heard from their constituents—both those who produce cattle and those who buy their beef in the supermarket. I am hopeful that a study such as this can provide the Congress with the information they need to make informed judgments on this controversial matter.

OTA, in its assessment of the USDA food grading program, will address itself to such economic questions in addition to the technical data which affect the quality standards of the various food commodities. It is my hope that OTA will be able to obtain the essential information which will conclusively answer some of the economic questions raised by consumers and cattle producers.

Cattlemen must be assured of a fair and profitable price for their steers, and consumers must be assured that they are paying a fair price for the quality that they buy from the grocer.

VALENTYN MOROZ

Mr. HUGH SCOTT. Mr. President, in April, I joined with Senator ROBERT TAFT in sponsoring Senate Resolution 67, which addresses the plight of Valentyn Moroz, the renowned Ukrainian historian. This valiant man is among the so-called dissidents in the U.S.S.R. who seek to preserve the Ukrainian national identity, their national language, and the freedom of cultural expression. His arrest has been condemned as a violation of fundamental human rights by the world.

On June 4, 1976, in consideration of his plight, Senator TAFT and I joined with 21 of our Senate colleagues in writing directly to Secretary Brezhnev to urge favorable action on his application for an immigration visa. To date, the Secretary has not replied.

Sadly, I have just learned that Mr. Moroz has been transferred to a labor camp. I believe, therefore, that an expression of concern by the U.S. Senate for the safety and freedom of Mr. Moroz at this time would be especially propitious.

Mr. President, I have written Chairman SPARKMAN of the Foreign Relations Committee, urging him to take action on Senate Resolution 67. I respectfully request the support of all of my colleagues in this matter.

COSTLY EUPHORIA

Mr. HATHAWAY. Mr. President, on July 26 an editorial appeared in the Washington Post pointing out the serious problem of intentional inhalation of aerosol sprays in order to receive a hallucinogenic "high." Many of the most commonly inhaled aerosols, such as spray paints, deodorants, hair sprays, and oven cleaners, contain toxic chemicals and poisonous heavy metals. Although some evidence indicates that this type of drug abuse seems to occur with greater frequency among minority groups, such as Chicano, American Indians, and Puerto Rican youngsters, reports from all over the country indicate this activity may be becoming more widespread, due to easy availability of the substances.

Inhalant abuse is serious, because of the extreme dangers it poses for young abusers. It had been noted by the Consumer Product Safety Commission that over 100 young people die each year as a result of seeking a high through deliberate inhalation of toxic substances. Add to this the thousands who sustain serious brain, kidney, and liver damage seeking pleasure or oblivion through these substances and we see emerging a growing and dangerous health problem growing from our dubious "technological progress."

The Subcommittee on Alcoholism and Narcotics, of which I am chairman, has been investigating this problem, and the subcommittee plans to include this subject in its examination of substance abuse among children and youth during next year's session of Congress.

I ask unanimous consent that the Washington Post editorial on this subject be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

COSTLY EUPHORIA

There is scientific evidence that young people, in startling numbers, are risking brain damage and even death from the increasingly popular practice of inhaling industrial solvents and spray paints. Their objective is a quick and inexpensive "high." A few years ago only airplane glue was thought to be involved, and the sniffing practice was regarded by many people as a harmless lark, one that tended to be overplayed in the news media. But 76 scientists from 11 countries met in Mexico City in late June to discuss the problem, and they concluded that the intentional inhalation of toxic substances has the potential of becoming a worldwide epidemic, and is in any case no joking matter.

"By all indications," Philip Vargas, a drug abuse authority, told the Mexico City conference, "deliberate inhalation of fumes from aerosols and metallic spray paints (mostly paints, hairsprays, deordorants and frying pan sprays) is the fastest growing and most widespread problem of substance abuse" in the United States. Other scientists at the meeting, physcians, psychologists and pharmacologists, share his concern. The Americans among them urged Congress to hold hearings soon on the dimensions of the problem.

Both the medical and social dangers are great enough to warrant such an inquiry. Those who persist in the abuse of organic chemicals get, in addition to a big hallucinogenic "rush," a buildup of heavy metals in their bodies. Scientists say the body has no mechanism for disposing of those metals, so they remain behind to cause cancer, brain damage and other physiological defects. Increasingly, doctors familiar with the problem fear, these agents cause deaths that are being attributed to other causes, or to no cause, because many medical practitioners are unfamiliar with the symptoms of aerosol abuse.

For a time, doctors thought the practice was confined to the poor and to children of minorities. Now, according to Mr. Vargas and others, there is no reason to believe it is not widespread in the society—made more so by people's easy access to the substances. The cans of hairsprays and metallic paints are themselves cheap by the standard of the hallucinogenic marketplace. Furthermore, they are readily and widely available. Any youngster with a weakness for such abuse can easily find the substance of his or her choice.

Worse, students of the problem report that the "high" young people achieve from these substances is superior in force to that available from many other abused substances, thus adding to their popularity. Very young children are among the aerosol abusers. No one can say whether aggressive behavior follows the abuse or whether aggressive youngsters tend to be more inclined to this form of substance abuse; the results, however, appear to be an outbreak of aggressive behavior among those who get high on aerosols.

From almost any standpoint, the problem as framed by the scientists at Mexico City warrants thoughtful attention from government at all levels. Priority should be given to information—the alerting of parents, teachers and others who deal with young people to the fact that this is a real problem, not a joke. The same message must be gotten across to youngsters themselves, preferably before their first sniff. Doctors are becoming more and more persuaded that this is a problem that cannot be ignored in the vain hope it will vanish.

TEXT OF S. 3693, THE INVESTMENT POLICY ACT OF 1976

Mr. HUMPHREY. Mr. President, on July 23, I introduced the Investment Policy Act of 1976. The text of the bill was inadvertently omitted at that time, and I ask unanimous consent that the text of this bill, S. 3693, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Investment Policy Act of 1976".

TITLE I—FINDINGS AND DEFINITIONS

SEC. 101. The Congress concludes that the lack of a national policy on investment is a serious deficiency which can adversely affect the economic health and well-being of the Nation. This conclusion is based on the following findings:

(1) the success of a modern and expanding private enterprise system in terms of the production of goods, the providing of services, the employment of workers, the opportunities for profit, and the payment of taxes, is essential to the well-being of the Nation;

(2) ultimate success in international competition for United States and world markets depends on the availability and better use of essential resources—human, financial, material, plant, and equipment;

(3) efficient and modern plant and equipment (machines, tools, and facilities) are a prerequisite for American enterprises becoming more productive, improving working conditions, increasing individual skills, enhancing the ability of each individual to achieve full economic potential, and providing job opportunities;

(4) improvements in plant and equipment and the financial resources for working capital are affordable only from savings; namely, that part of income which citizens and their private enterprises decide to put to work for future benefits rather than their being directly and presently consumed;

(5) these private savings put to work in our competitive enterprises for plant and equipment and working capital are termed investments;

(6) more productive enterprises also require additional financial resources for investment in working capital to meet larger payrolls and expenditures, as well as to carry larger inventories and customer receivables; But the Congress also recognizes that—

(7) in recent years business enterprises in other nations have made very large and significant investments in proportion to their nation's gross domestic product enabling many non-United States business enterprises to improve their competitive positions vis-a-vis similar United States enterprises;

(8) United States enterprise should be encouraged to increase its ability to be competitive in all markets of the world;

(9) worldwide demand for goods and services will continue to increase;

(10) productive capacity to satisfy this increasing demand requires new plants, production equipment, and working capital;

(11) production equipment wears out or becomes obsolete and must be replaced and modernized;

(12) replacement and/or modernized equipment is increasingly costly due to inflation;

(13) compliance with governmental health, safety, and environmental standards requires sizable investments for many enterprises in the United States;

(14) private investment must be encouraged so as to provide new plants and equipment together with the working capital required.

TITLE II—DECLARATION OF NATIONAL POLICY

SEC. 201. The Congress hereby declares that it is the policy and responsibility of the Federal Government, in cooperation with State and local governments, to use all practical means consistent with other essential considerations of national policy to provide sufficient incentives to assure maximum investment in private enterprise in order to increase the production of goods, the providing of services, the employment of workers, the opportunity for profit, and the payment of taxes.

TITLE III—FEDERAL AGENCY COORDINATION AND COOPERATION

SEC. 301. In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means to improve and coordinate Federal plans, functions, programs, policies, and resources to the end that the Nation may:

(1) optimize the return from its allocation of resources to education and training which, among other objectives, prepares citizens for professional responsibility in the economy;

(2) provide an environment in which each citizen has the opportunity and is encouraged to achieve his or her full economic potential and thereby secure the benefits of the fullest utilization of his or her capabilities;

(3) assure for United States private enterprise effective competitive access to world markets, including the United States domestic market;

(4) encourage the effective use of advancing technology in the development and use of natural and manmade economic resources consistent with the preservation of a healthy environment, of our social and political values, and our national heritage;

(5) enjoy quality goods and services produced and provided at reasonable prices to consumers and at profitable price levels resulting from higher productivity by producers;

(6) create an economic environment in which there will be the incentive to invest sufficiently and to allocate an adequate portion of savings for investment in necessary plant and equipment and in working capital necessary to strengthen the private sector of the national economy.

SEC. 302. The President shall include in his annual Economic Report to the Congress an Investment Policy Report which shall include information on:

(1) the levels of investment capital available, required, and applied;

(2) current and foreseeable trends in the levels of investment capital;

(3) reviews of the economic programs of the Federal Government, and reviews of other economic conditions affecting capital investment in the United States;

(4) programs for carrying out the policy declared in section 201.

The President shall also transmit to the Congress as a part of the Economic Report such other recommendations as he may deem necessary or desirable to achieve the policy declared in section 201.

SEC. 303. The Investment Policy Report, when transmitted to the Congress, shall be referred to the Joint Economic Committee. It shall be the duty of the Council of Economic Advisers to the President to analyze and interpret economic developments and to appraise programs and activities including those of the Federal Government relating to the policy declared in section 201 and to formulate and to recommend to the President measures and activities designed to promote the generation and use of investment for the Nation's competitive private enterprise system.

S. 2908: VETERANS OMNIBUS HEALTH CARE ACT OF 1976: MORE DUE PROCESS PROTECTIONS FOR TITLE 38 EMPLOYEES

Mr. CRANSTON. Mr. President, S. 2908, the proposed Veterans Omnibus Health Care Act of 1976, has unanimously been ordered reported by the

Committee on Veterans' Affairs, and should be before the Senate shortly. My office has received a number of inquiries about a misunderstanding that has arisen over one of the bill's provisions. The provision in question, one of several contained in section 114 of the bill as introduced, concerns the authority of the Veterans' Administration to transfer physicians, dentists, nurses, and certain other non-civil-service health care personnel "for the good of the service."

To staff its 500 health care facilities in the United States, the VA employs 136,000 health care personnel. About 100,000 of them are civil service employees, whose pay and conditions of employment are established by civil service law and regulations. The remaining 36,000—primarily physicians, dentists, and nurses—are known colloquially as "title 38 employees," because their salaries and conditions of employment are prescribed in title 38 of the United States Code and regulations thereunder.

Federal employees are generally subject to involuntary transfer as a condition of employment. Transfer can take one of two forms.

First, employees may be transferred because their services are needed at another duty station. The formulation of this transfer authority varies; under civil service regulations, for example, an employee may generally be transferred "for such cause as will promote the efficiency of the service," while title 38 employees are subject to transfer whenever "necessary to meet the needs of the medical program." These transfers, known generically as transfers "for the good of the service," are nondisciplinary in nature. Court cases have uniformly sustained the authority of Federal agencies to order such transfers. To my knowledge, no court has ever questioned the inherent administrative authority to move employees between duty stations as necessary to promote efficiency and good management.

The second kind of transfer is the so-called "disciplinary transfer"—one which results in reduction in pay, grade, or relative standing, or which is ordered to discipline or punish an employee for unsatisfactory job performance, misconduct, or similar grounds.

The rights of a Federal employee who is subject to either of these two kinds of transfer depend in part on the particular personnel system to which the employee belongs. Mr. President, let me begin by discussing transfers for the good of the service. Under civil service regulations, any civil service employee whom the employing Federal agency proposes to transfer may file a formal grievance against the agency to protest the transfer action. The grievance process affords the employee a number of important procedural protections against the arbitrary exercise of the transfer authority, such as specification of the reasons for the transfer and resolution of the grievance by a fair, impartial, and objective examiner.

The situation is very different, however, with regard to title 38 employees. Under present VA regulations, the VA has virtually unrestricted power to order transfers for the good of the service from one health care facility to any other in the United States. Personnel whom the agency proposes to transfer have no procedural rights and no way of appealing within the agency. The grievance process may not be invoked because, under VA regulations now in effect, a transfer for the good of the service is not subject to adjudication by grievance.

It is my belief, Mr. President, that the 36,000 title 38 personnel in the VA deserve the same protections against arbitrary transfer as the 100,000 civil service employees in VA health care facilities with whom they work. Consequently, in drafting the many comprehensive health care reforms encompassed by S. 2908, I included, in section 114 of the bill, a comprehensive rewrite of existing section 4110 of title 38, defining due process rights for certain title 38 employees. One provision in the revised section 4110 would give title 38 employees major new protections against the arbitrary exercise of the VA's authority to transfer for the good of the service.

Under that provision, any physician, dentist, nurse, or other title 38 employee ordered transferred for the good of the service would be entitled, as a matter of statutory right, to file a grievance with the agency any time he or she suspects that the transfer ostensibly "for the good of the service" has actually been ordered for disciplinary reasons. Applicable VA procedures entitle an employee filing a grievance complaint to receive upon request, a full range of due process rights and protections—all of which, under my proposed revision of section 4110, the employee could invoke once such a transfer is made a grievable employment issue.

The ultimate grievance protection under VA regulations is the right to a full, trial-type hearing on the transfer if less formal procedures fail to produce a resolution satisfactory to the employee. In a VA grievance hearing, which is far more complete than the one available under the civil service grievance process, the employee would have the right to present his or her case to an impartial hearing committee, to be represented by counsel, to cross-examine witnesses, and to appeal an adverse finding to the VA's Chief Medical Director.

None of these rights, Mr. President, is provided under current law. By giving title 38 employees the protection of the grievance process, I believe we have added significant protections against arbitrary transfers—protections, Mr. President, which are currently available to the vast majority of Federal civilian employees and other VA employees.

As an added protection, under our provision a proposed transfer for the good of the service would be held in abeyance pending resolution of the grievance process, so that a title 38 employee could not actually be transferred until the final agency appeal is exhausted. This protection is not provided to other Federal employees under civil service regulations. I believe this added protection is necessary for title 38 employees, since these employees are not subject to transfer for disciplinary reasons until after the hearing and agency decision processes are completed. It would make little sense, Mr. President, to have the transfer stayed in the disciplinary context, yet permit transfer immediately in the nondisciplinary context of a transfer for the good of the service. Under both circumstances, we have thus provided for a stay of a proposed transfer until the employee has had every chance to present his or her case to the agency for final administrative resolution.

In short, the revised section 4110 is designed to provide title 38 employees with significant procedural rights now possessed by VA civil service employees—and even to provide additional protections—to guard against the arbitrary exercise of the transfer authority.

In fairness, it should be pointed out that the VA rarely exercises this authority. There has been only one transfer for the good of the service of a title 38 employee in the past 4 years. I suspect, Mr. President, that much of the misunderstanding which has grown up around this provision stems from that fact. Transfers for the good of the service are so rarely ordered that many title 38 employees may not be aware that the agency has that very broad authority under current law. Section 114 does not create any new authority to transfer employees. In fact, it does quite the opposite—it sharply limits the agency's summary authority to order transfers by providing employees with important new protections against the arbitrary or unjustified exercise of that authority.

Let me turn now, Mr. President, to the second type of transfer—the so-called "disciplinary transfer" resulting in pay or grade reduction or ordered for disciplinary or punitive reasons.

Under existing VA regulations which date back to 1964, the agency has exercised broad authority to order disciplinary transfers, and employees have been afforded very little in the way of procedural protection against such transfers. But a series of Federal court decisions over the last decade has significantly restricted the circumstances under which this authority may be exercised. The courts have consistently held that a Federal agency employee—including a title 38 employee—may not be subjected to a disciplinary transfer unless the agency affords the employee a full, trial-type hearing and all the procedural rights associated with any proposed disciplinary action.

Mr. President, these basic protections would be codified and written into statute under the revised section 4110. Any physician, dentist, nurse, or other title 38 employee whom the VA proposes to transfer for an asserted or demonstrated disciplinary reason would be entitled, as a matter of statutory right, to a full hearing, at which the agency would bear the burden of justifying the appropriateness of the transfer action.

The American Federation of Government Employees, which represents 114,000 VA employees, and the American Nurses Association, representing most of the VA's 25,000 registered nurses, have endorsed section 114 of S. 2908, and have recently reiterated their strong support for the transfer limitation provisions in that section.

Nevertheless, and inexplicably, some people have misinterpreted these provisions as restricting VA personnel rights rather than enlarging them. How such a misconstruction could have come about is difficult to know for sure. But all of us in this Chamber know how strange inversions of facts and intent can occur from time to time during public debate—and how distracting they can be if not promptly rectified.

I hope this explanation relieves any uncertainties about the purpose and effect of section 114. Two staff members—Larry White—ext. 41311 and Jonathan Steinberg—ext. 47651—are available to answer any questions my colleagues or members of their staffs may have on this matter.

Mr. President, today I received a letter from VA Chief Medical Director John D. Chase on how the revised section 4110, in the VA's view, relates to the rights title 38 employees now have under existing law and regulation. I ask unanimous consent that this July 29 letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Veterans Administration,
Washington, D.C., July 29, 1976.

Hon. Alan Cranston,
Chairman, Subcommittee on Health and Hospitals, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is in response to your letter of July 21, 1976, asking me to compare the proposed revision of 38 U.S.C. 4110 as contained in section 114 of S. 2908 with our current law and administrative regulations.

I find it difficult to understand how anyone who has read the language of section 114 of the bill and compared it with existing law and regulations could make the statements reported in the July 8 and 15 issues of the Stars and Stripes—The National Tribune and in the July 18, 1976, Washington Star Federal Column. Even a cursory analysis of the language of the bill reveals a significant expansion of the employees' rights under the bill. There are additional changes proposed which would codify existing case law, or make some regulatory provisions statutory.

The only proposed revision that could be viewed as restricting the rights of employees is the removal of the right of the employee to appeal a decision of the Chief Medical Director to the Administrator. This was done in the belief that the interest of both the employee and the agency in having disciplinary actions resolved expeditiously is more compelling than is the preservation of a step in the administrative process that has seldom been useful to the employee except for the purpose of exhausting his administrative remedies prior to filing an action in the courts. The decision to delete this step was made only after consideration was given to the frequency of reversal of decisions of the Chief Medical Director by the Administrator. The facts are that such reversals of decisions of my predecessors or of my decisions have been extremely rare.

Under current law and regulation (38 U.S.C. 4110, VA Manual MP-5, part II, chapter 8) an employee against whom disciplinary action is proposed is entitled to the following procedural protections:

(1) Notice of proposed action

(2) Specific charges

(3) A hearing prior to the taking of action

(4) A hearing board composed of a majority of members of the same profession as the charged employee

(5) Representation by counsel of his own choosing and at his own expense

(6) The right to call upon witnesses willing to testify (all VA employees are required to testify if called)

(7) The right to cross-examine agency witnesses

(8) The right to have a stenographer present, or a mechanical verbatim record of the hearing made

(9) The right to appeal to the Administrator.

If the proposed section 114 of S. 2908 becomes law, the employee would retain all of the same rights listed above which he now has except (9), the right of appeal to the Administrator. In addition to continuing these rights, the proposed revision extends the following additional rights to the employee:

(1) A grievance on any transfer or reassignment of any title 38 employee, alleged to be disciplinary in nature, which must be resolved prior to the transfer or reassignment. The grievance process would include a full, trial-type hearing for any employee who requests one.

(2) A full section 4110 hearing on any transfer or reassignment determined by a grievance committee to be disciplinary in nature, prior to the implementation of the transfer or reassignment.

(3) A full section 4110 hearing for a probationary employee against whom disciplinary action is proposed on the ground of misconduct.

(4) A full section 4110 hearing for any resident or intern appointed under 38 U.S.C. 4114(b) when it is proposed to take disciplinary action against such resident or intern on the ground of misconduct.

(5) A reduction of the probationary period for title 38 employees from 3 to 2 years.

Subsection (e) of the proposed section 4110 might be judged by some as expanding the power of the Chief Medical Director with regard to the action he may take on the findings and recommendations of disciplinary boards, and with regard to the penalties that can be imposed.

I am told by agency lawyers that the proposed revision does not expand the Chief Medical Director's powers. Under existing law, the board is to recommend suitable disciplinary action within limitations prescribed by the Administrator. The limits prescribed by the Administrator as a guide, range from admonishment to discharge. The revisions to the law would not change that. The references to transfer as one possible disciplinary action are in the law solely to ensure that transfer is not used as discipline without first affording the employee the full panoply of procedural rights required by section 4110 and due process.

In meeting the medical needs of the Department of Medicine and Surgery in the past four fiscal years, only one employee has been transferred for the good of the service. Although it has been reported that there were eight directed transfers, seven of these were only after the employee had been afforded appropriate procedural protection under 38 U.S.C. 4110.

Neither would the law be changed with regard to the action the Chief Medical Director could take on the findings and recommendations of a disciplinary board. The changes, I believe, merely state the existing options of the Chief Medical Director more clearly than present law. The Chief Medical Director, under the revisions, would continue to be subject to the administrative law concept of arbitrary and capricious action. I believe that just as my actions are subject to reversal, should a court find them to be arbitrary and capricious, so should the action of a disciplinary board be subject to such reversal, if in my judgment its action is arbitrary and capricious. Moreover, it would be inconsistent to vest final decision in the Chief Medical Director, while making findings and recommendations of a disciplinary board binding on him.

In summary, I would answer your questions by stating that section 114 of S. 2908 not only does not abolish employee due process rights that now exist, and does not pose a serious threat to the rights of all Federal employees, but instead it greatly enhances the due process rights of title 38 employees, and is a significant step forward in the general area of Federal employee rights.

I appreciate the opportunity you have afforded me to express my views on the proposed revisions of law, and trust that these comments will be helpful.

Sincerely yours,

John D. Chase, M.D.,
Chief Medical Director.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record at this point the seven notifications I have just received.

There being no objection, the notifications were ordered to be printed in the Record, as follows:

Office of the Director, Defense Security Assistance Agency, and Deputy Assistant Secretary (Security Assistance), OASD/ISA,
Washington, D.C., July 28, 1976.

In reply refer to: I-3133/76

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 7T-2, concerning the Department of the Army's proposed Letter of Offer to Israel estimated to cost in excess of $25 million.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

Transmittal No. 7T-2

(Notice of proposed issuance of letter to offer pursuant to section 36(b) of the Foreign Military Sales Act, as amended)

a. Prospective Purchaser: Israel.

b. Total estimated value: [Deleted].

c. Description of Articles or Services Offered: [Deleted].

d. Military Department: Army.

e. Date Report Delivered to Congress: July 28, 1976.

Office of the Director Defense
Security Assistance Agency
and Deputy Assistant Secretary (Security Assistance),
OASD/ISA,
Washington, D.C., July 28, 1976.

In reply refer to: I-4064/76

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 7T-3, concerning the Department of the Army's proposed Letter of Offer for Israel estimated to be in excess of $25 million.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

Transmittal No. 7T-3

(Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act)

a. Prospective Purchaser: Israel.

b. Total Estimated Value: [Deleted].

c. Description of Articles or Services Offered: [Deleted].

d. Military Department: Army.

e. Date Report Delivered to Congress: July 28, 1976.

Office of the Director Defense
Security Assistance Agency
and Deputy Assistant Secretary (Security Assistance),
OASD/ISA,
Washington, D.C., July 28, 1976.

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 7T-4, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for student pilot training estimated to cost $26.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

Transmittal No. 7T-4

(Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act)

a. Prospective Purchaser: Saudi Arabia.

b. Total Estimated Value: $26.0 million.

c. Description of Articles or Services Offered: Undergraduate pilot training and F-5E qualification of forty (40) students.

d. Military Department: Air Force.

e. Date Report Delivered to Congress: July 28, 1976.

Office of the Director Defense
Security Assistance Agency
and Deputy Assistant Secretary and (Security Assistance),
OASD/ISA
Washington, D.C., July 28, 1976.

In reply refer to: I-5633/76

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 7T-5, concerning the Department of the Navy's proposed Letter of Offer to Saudi Arabia for an estimated cost of $185.6 million.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

Transmittal No. 7T-5

(Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act)

a. Prospective Purchaser: Saudi Arabia.

b. Total Estimated Value: $185.6 million.

c. Description of Articles or Services Offered: This is amendment No. 1 to provide additional funding identified by repricing at the completion of contract design for [deleted] ships.

d. Military Department: Navy.

e. Date Report Delivered to Congress: July 28, 1976.

Office of the Director Defense
Security Assistance Agency
and Deputy Assistant Secretary and (Security Assistance),
OASD/ISA
Washington, D.C., July 28, 1976.

In reply refer to: I-5745/76

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 7T-6, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for trucks and trailers estimated to cost $25.3 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

Transmittal No. 7T-6

(Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act)

a. Prospective Purchaser: Saudi Arabia.

b. Total Estimated Value: $25.3 million.

c. Description of Articles or Services Offered: Sixteen hundred and eighty-five (1,685) trucks ranging in size from ¼ ton to 2½ ton and eleven hundred and ninety-nine (1,199) trailers ranging in size from ¼ ton to 2½ tons.

d. Military Department: Army.

e. Date Report Delivered to Congress: July 28, 1976.

Office of the Director Defense
Security Assistance Agency
and Deputy Assistant Secretary (Security Assistance),
OASD/ISA,
Washington, D.C., July 28, 1976.

In reply refer to: I-5992/76

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 7T-7, concerning the Department of the Navy's proposed Letter of Offer for Israel estimated to cost in excess of $25 million.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

Transmittal No. 7T-7

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

a. Prospective Purchaser: Israel.

b. Total Estimated Value: [deleted].

c. Description of Articles or Services Offered: [Deleted].

d. Military Department: Navy.

e. Date Report Delivered to Congress: July 28, 1976.

Office of the Director Defense
Security Assistance Agency
and Deputy Assistant Secretary (Security Assistance),
OASD/ISA,
Washington, D.C., July 28, 1976.

In reply refer to: I-6264/76

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 7T-8, concerning the Department of the Navy's proposed Letter of Offer to Germany for SIDEWINDER missiles estimated to cost $43.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF.

Transmittal No. 7T-8

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

a. Prospective Purchaser: Germany.

b. Total Estimated Value: $43.0 million.

c. Description of Articles or Services offered: Five-hundred (500) SIDEWINDER AIM-9L missiles and support.

d. Military Department: Navy.

e. Date Report Delivered to Congress: July 28, 1976.

POSITION PAPER NO. 1: HIGHLIGHTS OF S. 50 AND H.R. 50—THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976

Mr. HUMPHREY. Mr. President, I think it should be acknowledged in this Bicentennial Year that the work of securing the basic rights of our people remains unfinished.

It remains unfinished while more than 7 million workers are unemployed, the victims of another in our tragically recurring series of recessions.

It remains unfinished while a vast segment of our population is forced to live with futility and despair as they spend their days unsuccessfully looking for work.

It remains unfinished while unemployment tears families apart and generates emotional instability that results in physical and mental illness, crime, and death.

It remains unfinished while jobless men and women who want to be productive are beset with the conviction that they have been rejected by our economic system and abandoned by our society.

It remains unfinished because life, liberty, and the pursuit of happiness are hollow words for these people.

Mr. President, the Full Employment and Balanced Growth Act of 1976 directly and permanently responds to these intolerable circumstances. It states:

> The Congress declares and establishes the right of all adult Americans able, willing, and seeking work to opportunities for useful paid employment at fair rates of compensation.

The Full Employment and Balanced Growth Act, in a very real sense, is an economic bill of rights for American workers. Under its basic provisions the Government of our Nation would be mandated to provide the leadership necessary to reduce unemployment to 3 percent of the adult work force while maintaining adequate safeguards against inflation.

The administration and Congress would be required, on a continuing first priority basis, to develop and coordinate comprehensive long- and short-range policies and programs to achieve and sustain these goals. This would be done first by utilizing general fiscal and monetary policies to establish the economic climate necessary for commerce and industry to utilize their full productive capacity, and second, by temporarily implementing selective federally funded private sector incentive, public works and facilities projects, and public service employment programs to fill any employment gap that exists between private sector performance and the employment goal of the bill.

In the best sense of American tradition, the Full Employment and Balanced Growth Act is a revolutionary document drafted to end the economic disasters that, with recurring frequency and severity, have shattered the lives of millions of our people and raised havoc with our capitalist enterprise system.

Because of its very nature, the bill is one of the most controversial legislative proposals to be considered by Congress. Of necessity, it is a complex measure drafted in answer to complex problems. Many of its provisions have been misquoted and misunderstood, even in the course of sincere, constructive debate.

Mr. President, it was in the interest of furthering that debate and to clarify public understanding of the Full Employment and Balanced Growth Act of 1976 and the problems addressed by it that Representative Augustus Hawkins, who introduced the bill in the House, and I, who have introduced it in the Senate, issued position paper No. 1, a description of the highlights of the bill, H.R. 50 and S. 50.

I ask unanimous consent that this position paper be printed in the Record.

There being no objection, the paper was ordered to be printed in the Record, as follows:

Position Paper No. 1

BASIC CONSIDERATIONS

This position paper has been prepared to provide much-sought-after-information about the Hawkins-Humphrey Bill, and to correct some misimpressions about its nature and foreseeable consequences.

The bill is *not* a simple jobs bill designed to achieve full employment by creating "last resort public service jobs" in the Federal service and financed with Federal funds. Instead, the bill creates a new general economic policy framework and process, with a comprehensive package of policies and programs to give the new structure direction and meaning. In large measure, the bill is designed to put teeth into the Employment Act of 1946 by requiring the President, the Congress, and the Federal Reserve to take certain actions to ensure that full employment and balanced growth are achieved. But the actual activities will vary from year to year, depending upon economic conditions, and this flexible process is a major strength of the legislation.

Utilizing *all* of the policies relevant to full employment, balanced growth, and price stability, the bill is designed to accelerate the enlargement of the total number of jobs needed to achieve 3 percent adult unemployment within four years of enactment. This is to be achieved through the *balanced* growth of private and public job opportunities. These additional jobs shall be predominantly private, with the remaining jobs allocated at all levels of government, distributed in rough accord at all levels of government, distributed in rough accord with past trends and current conditions, with due allowance for structural adaptation to technological change in various sectors and changing patterns of national needs.

But the bill is not aimed toward full employment only, nor to the creation of "jobs for their own sake," regardless of their utility and productive output. Instead, the bill is aimed toward the *balanced* development of full employment, production, and purchasing power. An important portion of the additional jobs created would wed the utilization of idle human and other resources with the production of goods and services which meet essential and enduring priority needs, now grossly slighted. The bill focuses upon quality as well as quantity, upon a better as well as a bigger effort. The bill is not aimed only at optimum economic growth, but also at those changes in the *composition* of growth which are responsive to changing priorities.

The bill is designed, in a practical manner, to restrain price inflation, reduce and then remove the Federal deficit, and to generate benefits, including benefits to the Federal Budget, immensely outweighing the costs involved.

The need for enactment of the bill is not reduced by the current economic recovery. That recovery still leaves us with immense idleness of workers and other productive resources, and there is a significant chance of another recession in 1977 or 1978, and the prospect in any event of intolerably high idleness of resources even in 1980 and 1981. Far more importantly, the bill does not stem solely from the most recent economic recession nor from the current economic situation. It is designed to prevent repetition of the five business cycles of stagnation, recession, and inadequate upturns which have plagued us since 1953, and which have caused us to forfeit in the neighborhood of 3 *trillion* 1977 dollars of total national production and in the neighborhood of 60 million man- and woman-years of employment opportunity. The Full Employment and Balanced Growth Act of 1976 would initiate planning for sustained full employment, production, purchasing power, and price stability.

A large part of the materials set forth herein are facts. The projections and estimates, as to operations subsequent to enactment of the proposed legislation, are designed to portray broadly the fundamental purposes of the measure, and to indicate a pattern of developments subsequent to its enactment which would be consistent with achieving its objectives. *It must be stressed that these projections and estimates are not intended to depict precisely what would actually be the developments pursuant to enactment of H.R. 50 and S. 50. Consistent with the essential purpose of the measure, these developments would reflect year-by-year actions of the President and the Congress, adjusted to unfolding economic trends and needs.* Nonetheless, the projections and estimates, as set forth herein, are useful for the purpose of providing a general perspective that will increase the public understanding and evaluation of H.R. 50 and S. 50.

THE PROPOSED ACT DOES NOT "GUARANTEE" A JOB TO ANYONE

Does the Full Employment and Balanced Growth Act of 1976 commit the Federal Government to a job "guarantee," in some legal sense, for all adult Americans? No, the measure does not "guarantee" a job to any particular claimant, nor give anyone the right to sue in court for a job. It confers no legal right upon anyone to claim a job.

Instead, the Congressional policy declaration of the "right of all adult Americans able, willing, and seeking to work to opportunities for useful paid employment at fair rates of compensation" is a statement of national policy values. It represents a national commitment to pursue that objective. It is a pledge that all practical means will be used to provide job opportunities for all adult Americans who seek jobs, and sets the goal of reducing unemployment to 3 percent within four years after the date of enactment of the measure. The measure includes a sufficiently broad range of methods to make achievement of this goal entirely feasible with vigorous administration of the Act.

VALIDITY OF GOAL OF REDUCING UNEMPLOYMENT TO 3 PERCENT WITHIN FOUR YEARS OF ENACTMENT

Contrary to some impressions, the current House version of the bill (H.R. 50) defines the term "adult Americans" to include those 16 years of age and over, which is the definition now used for current official portrayal of the rate of unemployment. The current Senate version (S. 50) does not yet define the term "adult Americans," although Senator Humphrey has indicated that he favors 18 years of age and over.

Some objections to the proposal, on the ground that the 3 percent figure within four years is too low, or that no specific and quantitative goals are meaningful and realistic, are in our view not justified. It is true that the 3 percent goal is ambitious. But it is attainable. And only by setting such a long-term goal is it credible that the nation will marshal the policies and sustain the commitment necessary to achieve full employment. The implementation of the Employment Act of 1946, which the current bill is designed to supplement, has been deficient in recent years because, among other things, there have been no specific and quantified goals. And during some other periods under the Employment Act, the absence of specific goals was accompanied in general by high and secularly rising unemployment.

In contrast, the Employment Act has worked best when such full employment goals were identified in its operation. During 1947–1953, the first period of administration under the Act, goals were specified each year, and unemployment was reduced to 2.9 percent by 1953, compared with 5.9 percent in the recession year 1949. Goals were again set in 1961, following three years of sporadic recession and recovery and a longer period of low average real economic growth and rising unemployment. An interim target of 4 percent unemployment was set, and unemployment was reduced from 6.7 percent in 1961 to 3.8 percent in 1966 and 3.5 percent in 1969.

Assuming enactment of the proposed legislation by the end of 1976, it is estimated that, to reduce unemployment from the estimated rate at the end of 1976 to 3 percent by the end of 1980 would involve additional jobs in the range of 10–12 million, or 11–13 percent of the estimated civilian labor force at the end of 1976. We have done almost as well as this in percentage terms at times in the past although we started from rates of unemployment much lower than that estimated for the end of 1976. In addition, the Full Employment and Balanced Growth Act of 1976 includes many facilitating programs which were not available during these earlier periods of high accomplishment.

During the four year period from 1949 to 1953, the increase, measured against the civilian labor force in 1949, was about 6 percent, despite the fact that a recession started in early 1953. From 1961 to 1966, a period of five years, the increase in civilian employment similarly measured was more than 10 percent, equivalent to about 8 percent in four years. From 1966 to 1969, a period of three years, the increase was about 7 percent, which equates with 9 percent in four years. From 1970 to 1974, a period of four years, the increase so measured was almost 9 percent. In the base year of all of these periods, as already stated, the level of unemployment was much lower than now, and there had been no recession comparable in duration or severity to the most recent one. Looking at these base years, the rate of unemployment was 5.9 percent in 1949, 6.7 percent in 1961, 3.8 percent in 1966, and 4.9 percent in 1970. Because we are now in a period of relatively lower plant and labor utilization, the opportunity and responsibility to exceed these earlier rates of growth exist.

From March 1975 to March 1976, the increase in employment was more than 3 percent of the civilian labor force in March 1975, or equivalent to almost 13 percent in four years, allowing for compounding. With much more comprehensive, vigorous, and sustained efforts, the goal of increasing employment by 11–13 percent in the four years from the end of 1976 to the end of 1980 is quite reasonable.

The objection is raised, in some quarters, that most records cited just above were during periods of limited war in Korea and Vietnam. But there was no war when the strong recovery from the 1949 recession became manifest. During the period 1961–1966, the Vietnam war was not significant in its economic size relevant to the size of the economy. And during 1970–1974, the economic size of the Vietnam war had declined greatly relative to the size of the economy. In any event, we reject emphatically any proposition to the effect that full prosperity is unattainable without at least limited wars. What we did during those times, partly to drop bombs on others, we assuredly can repeat and better in economic performance terms, for the nobler purposes of lifting living standards and eradicating the misery of massive unemployment and the wastage of other idle resources at home.

There is another way of measuring the feasibility of reducing unemployment to 3 percent by the end of 1980. This would require an average annual real economic growth rate of about 7.0 percent from 1976 to 1980, with somewhere in the neighborhood of 9 percent for at least one year, and year-by-year diminution of this growth rate in the later years as the economy moves closer to full potential. Due to the utilization of a wide variety of micro-economic measures under the proposed legislation, it appears that the 3 percent goal could be reached with a somewhat lower average anual rate of real economic growth than through relying entirely upon general fiscal and monetary measures.

During the first three months of 1976, the annual rate of real economic growth was 7.5 percent, or much higher than in earlier stages of the current recovery movement. But this 7.5 percent rate is not expected to continue under current policies and programs, because it resulted in large measure from a nonsustainable rate of inventory change. And it is widely recognized that even ths real growth rate, and more so the real growth rate during the *total* recovery movement thus far, has been inadequate to reduce unemployment at an acceptable pace; that the real economic growth rate now forecast for the balance of 1976 and future years is too low to reduce unemployment substantially; and that the need is pressing to improve the performance greatly in the period ahead if we are not to run the risk of another recession, and if, even without another recession, we are not to be left at intolerable levels of unemployment and other idle resources as late as 1980 or 1981.

The feasibility and indeed the necessity of the real economic growth in the neighborhood of 9 percent for a year, considering how far we now are from reasonably full resource use, is not solely the conviction of the proponents of H.R. 50 and S. 50. For example, *Business Week* of February 2, 1976 sets forth the view of Professor James Tobin of Yale University, past President of the American Economic Association, and one of the ablest former members of the Council of Economic Advisers. Professor Tobin's views are set forth as follows:

"Tobin argues that, after coming out of the steep recession, a 6 to 7 percent rate is just too low a target to shoot for, and that, given the low level of capacity utilization, the economy can grow *9 percent this year without any inflationary impact*. (Italics added.) Tobin wants fiscal and monetary stimuli to push the economy to this higher growth level."

The views just cited relate only to the feasible and necessary pace of the economic restoration during the first year. Meanwhile, there are some who assert that a pattern of real economic growth rates consistent with reaching 3 percent unemployment by the end of 1980 is attainable for a year or two but not for four years. In support of this, there is citation of the performance record of the economy from 1953 to date. But the entire objection neglects the obvious fact that during this long period we experienced five cycles of upturns, stagnations, and absolute downturns or recessions, with the most recent recession being by far the longest and deepest since the Great Depression. We have had ineffectual economic policies during most of this period. As a result, each upturn at its peak has tended to leave us with more idle workers and other productive resources than the peak of the previous recovery. Never since the 2.9 percent rate of unemployment in 1953 have we returned to full employment or full production. With some undulations, the long-term or secular trend of unemployment has been severely upward. And the very recent period of the most serious economic deterioration, in terms of idle resources, have been accompanied at times by the highest rate of price inflation since the Civil War.

The purpose of H.R. 50 and S. 50 is not to accept a repetition of the bad things that have happened, but rather to benefit from the lessons learned, and to prevent these things from continuing to happen. The central purpose of the bill is to set up a new process and program to implement government economic policy in a coherent manner. We should look through the front window, and move toward where we want to go and can go, not looking through the rearview window showing the rocky road of the past and letting that dismal perspective lead us to more of the same.

It should also be recognized, in connection with the goal of reducing unemployment to 3 percent by the end of 1980, that other industrialized countries consistently achieve lower rates of unemployment than the U.S. During the period 1962–1968, while the U.S. had an average unemployment rate of 5 percent, Japan, France, the United Kingdom, Sweden, and Germany had an average unemployment rate of 1.8 percent. During our most recent recession, the differential widened. In 1975, the unemployment rate in the U.S. was 8.5 percent, compared with an unemployment rate average of about 3.5 percent for the European countries cited.

Finally, it should be borne in mind that a goal is a goal—not an absolute and rigid requirement. The purpose of setting goals is to help us do better, not to achieve perfection for all times. H.R. 50 and S. 50 provide for annual review of the goals and, it should be emphasized, also require the President in the first year to review the full employment goal and timetable and "report to Congress on any obstacles to its achievement and, if necessary, propose corrective economic measures to insure that the full employment goal and timetable are achieved."

H.R. 50 AND S. 50 DO NOT CONCENTRATE UPON PUBLIC SERVICE JOBS, BUT UPON BALANCED ADDITIONS TO PRIVATE AND PUBLIC ENVRONMENT

H.R. 50 and S. 50 do *not* place major emphasis upon reservoirs of public service jobs in Federal employment and financed by the Federal Government. To the contrary, the measure is designed to integrate all efforts toward balanced-growth job expansion, in this clear order or priority:

(1) Expansion of *conventional* private sector jobs, through improved monetary and fiscal policies; promotion of an economic environment in which private enterprise would be encouraged by the assurance of full and growing markets for its products, and by greater stability and certainty in public policies; removal of undesirable Federal rules and regulations; improved training programs; and the "multiplier" effect upon private employment of all of the other employment and investment activities provided for in the bill;

(2) Expansion of national priority jobs, with improved Federal assistance of a marginal nature, the need for which is already recognized. Even these additional jobs would not be mainly public jobs, much less "public service" jobs. They would be mainly private jobs, as is clear from the nature of the priority needs cited in the proposed legislation—aspects of housing, mass transportation, environmental improvement, resource development, health, education, etc. Even the priority jobs in the public sector would be mainly State and local, rather than Federal; and most of these public sector jobs would have a high "multiplier" effect upon private employment and investment;

(3) Supplementary to the above means of providing jobs, a series of micro-economic policies and programs, more specialized and pinpointed than fiscal and monetary policies, and designed to reduce the inflationary strain which would be involved in using fiscal and monetary policies alone to achieve and maintain full employment. These micro-economic policies and programs include countercyclical employment measures, a countercyclical grant program to help stabilize State and local budgets during periods of high unemployment and low production; regional and structural employment measures; and youth employment measures. The jobs thus provided would also be mainly private, although with marginal Federal aid;

(4) *As a last resort*, for those otherwise unemployed, and subject to many strict criteria of eligibility, H.R. 50 and S. 50 provide for reservoirs of public and private nonprofit jobs, financed by the Federal Government although a large portion of them would not involve Federal employment. It is likely that such public service jobs, at their peak, would not be more than 1–1.5 million. The C.B.O. estimates less than one million such jobs at their peak. The 3 million public jobs in the initial year as estimated by the C.B.O. (discussed later) includes other types of public jobs under the legislation, such as some of the national priorities jobs, and is in our view far too high, because it assumes that other provisions of the legislation would not add substantially to employment.

It is not possible to project in detailed precision the distribution of the additional jobs between now and the end of calendar 1980. This would depend upon how well private enterprise responded to the various inducements offered to it, and upon year-by-year decisions of the President and the Congress with respect to specific policies, programs, appropriations, etc. But it is feasible to make some very rough and preliminary estimates, to provide a rough perspective of developments under the proposed legislation. To reach 3 percent unemployment by the end of calendar 1980 might involve total civilian jobs, by the end of calendar 1980, 10–12 million above the total estimated for the end of calendar 1976. Somewhere between two-thirds and three-quarters of these additional jobs would be conventional private jobs, including a good number resulting from microeconomic approaches; and in addition a substantial number would be jobs in the private sector related to federal financial assistance of national priorities in areas such as housing, health, food, and transportation. Thus, only somewhere in the neighborhood of one-fifth of the additional jobs would be State, local, and federal, with the increase in federal jobs coming to only a small fraction of the total increase in government jobs. The Federally-financed reservoirs of public service jobs would at their peak be only a small fraction of the total additional jobs, and a majority of these, as stated above, would not be Federal employment.

THE BILL IS NOT AIMED AT JOB CREATION ALONE: IT IS AIMED ALSO TOWARD BALANCED ECONOMIC GROWTH

Although work opportunity is of intrinsic value to the individual, H.R. 50 and S. 50 are not designed just to create jobs. They are designed to promote conditions whereby enough of the additional jobs, and the resultant output, private and public, are devoted to the great priorities of our economic and related human needs. The Full Employment and Balanced Growth Plan, in addition to goals for full employment, would encourage integrated attention to the use of appropriate portions of the additional employment and G.N.P. in such specified fields as energy, transportation, food, small business, environmental improvements, health, education, housing, child care and other human services, Federal aid to State and local governments, and national defense and international.

In the perspective of our total needs and resources, these priority programs would be evaluated and shaped in terms of the economy's ability to support them without strain, in terms of their relevancy to achievement of sustained full employment, full production, and balanced growth, and in terms of their relevance to the real needs of the American people. Most of these priority jobs would be in the private sector, although many of such jobs, as always, would need Federal assistance.

These aspects of H.R. 50 and S. 50 are of transcendent importance. Since the launching of the first Sputnik in 1957, we have written and spoken billions of words about the imperative need to reorder our national priorities. But words have hardly been followed by deeds. The new legislation will, for the first time, initially define these national priorities more precisely, require that they be made an integral part of the annual development and review of Full Employment and Balanced Growth Plan, and greatly improve the shaping of these priority endeavors.

EFFECT UPON WOMEN, TEENAGERS, AND MINORITIES

As the current rate of total unemployment is accompanied by a several times higher rate of unemployment among women, teenagers, and minorities, concern has been expressed that the reduction of total unemployment to 3 percent would be accompanied by several times this rate of unemployment, or at least very high rates of unemployment, among these three groups. This concern is unfounded.

When unemployment is very high, various factors have combined to increase unemployment among these three groups much more than among others. In consequence, reduction of total unemployment to 3 percent would, percentagewise, necessarily reduce unemployment among these three groups much more than among others; without this, it would be impossible to get total unemployment down to 3 percent.

Past experience demonstrates that, when total unemployment is very low, the differential between the rate of unemployment among these three groups and among others is very small. For example, the overall rate of unemployment averaged 1.7 percent during 1943–1945, and the rate among women was 2.2 percent. During 1951–1953, the overall rate was 3.1 and the rate among women was 3.8 percent. It is probable that these differentials would be even smaller under Hawkins-Humphrey, which includes a special program for youth employment, and strong provisions against discrimination in any form.

Moreover, women, minority groups, and teenagers would benefit in manifold other ways. These include enlarged employment opportunity for males who are heads of families, higher real wage rate gains when the economy is fully prosperous, much more marked reduction of poverty, and much larger public revenues available for health services, education and day care, housing, social insurance protection, etc. And with more employment and higher earnings among male heads of families, those women who prefer to stay at home with young children, instead of being forced to take jobs because of low family income, would be much freer to do so.

THE PROPOSED LEGISLATION WOULD NOT CREATE NOR ENCOURAGE "WASTEFUL" OR "NONPRODUCTIVE" JOBS

This is made abundantly clear by the foregoing description of the types of additional jobs which would be created with Federal financial assistance or in Federal employment. It is clear that such jobs in the past have, with rare exceptions, not been less useful to the nation and the people than some private jobs developed willy nilly, without regard for their purpose and their value to the nation and the people. Moreover, employment is more useful and productive than unmerited unemployment, accompanied by large public payments to the unemployed and not accompanied by any output of goods and services on their part.

Nor is there merit in the proposition that those engaged in the new and needed types of jobs would want to "hold on" to these jobs, regardless of their marginal worth to the economy and the people, and would be reluctant to return to various types of conventional private employment. And for reasons already stated, most public jobs would not be of an "emergency" nature. Also, the worth of jobs to the nation and the people is determined by the needs they serve, not by their labels. Insofar as some of the additional jobs would be "emergency jobs, prior experience during the 1930's does not indicate any great difficulty in the shift of workers from "emergency" types of public jobs back to private employment, when the private employment opportuntiy really became available. Further, any revealed deficiencies in performance under public service jobs would be remediable through review under the legislation.

There is little merit in the proposition that the new types of jobs developed under the proposed legislation would register less productivity growth than some conventional types of jobs. The facts bearing upon relative productivity growth do require much further study. But the relative rates of productivity growth, conventionally measured, are no final test of the utility of the jobs to the economy and the people. Even if there were less productivity growth, conventionally measured, among teachers, those working in the health field, and those planting trees and developing parks, than among those manufacturing superficial gadgets and building more gambling casinos or luxury hotels on the beaches, it does not follow that the former types of employment are not of far greater value to the nation than the latter.

WAGE PROVISIONS IN THE BILL: THESE INVOLVE NO SHIFT FROM PRIVATE TO "PUBLIC SERVICE" JOBS

The argument is made in some quarters that the wage standards set forth in Section 402(C)(1), as applied to reservoir employment projects under Section 206, would be inflationary, and also would draw many millions of workers from private employment to these reservoirs of employment projects, with further augumentation of inflationary pressures. This argument is unfounded. Section 402(C)(1) merely provides that persons employed on reservoir projects by States, political subdivisions, and other public agencies or institutions shall be paid the prevailing rates of pay for persons employed in similar public occupations *by the same employer*. This provision is sound on its face, because it would be manifestly unworkable and unfair for a person employed on a reservoir project to be paid less than someone not on a reservoir project but doing the same type of work for the same employer. Offering lower pay than that prescribed in the Bill for such reservoir employees would obviously tend to break down the standards of pay for public service employees in general laboriously achieved over the years, and would be highly undesirable for other reasons set forth below.

The further argument is made that the standard of pay prescribed for reservoir employees would in some cases be higher than that of workers privately employed in the same type of work, and that this would draw many millions of people from private employment to reservoir employment. This argument is based on Section 206(e)(4), which states the criterion that no one shall be employed on a reservoir project who refuses to accept or hold some other job, subject to the provision that this refusal shall not work against an applicant for reservoir employment if the prevailing wage for the type of work in which the other job occurs is lower than the standard set in Section 402 (C)(1) as set forth above for wages on the last-resort or reservoir job. It is argued that these two provisions, taken together, would draw many millions of people from private to reservoir employment, with high inflationary and other undesirable consequences.

This argument is not properly related to the clear provisions and intent of the proposed legislation. The point could be made that it conceivably might be undesirable public policy to prevent people from seeking useful reservoir employment, at pay no higher than that of other public employees of the same employer for the same type of work, when such pay in a small proportion of the cases is somewhat higher than the pay privately offered elsewhere. But, it is needless to press this point for the following reasons:

There is no possibility that the reservoir projects would draw people from private employment.

First, the entire thrust of the legislation is to maximize private employment, not only of the conventional type, but also through the countercyclical and structural programs, as well as the priority programs which are entirely different from the last-resort reservoir employment.

Second, There are very tight eligibility and priority criteria established in connection with the reservoir employment, set forth explicitly in Section 206(e)(3) and (4), that restrict access to the last-resort jobs. These eligibility criteria practically prohibit resort to a reservoir job on the part of anyone voluntarily leaving or refusing to take a private job at fair compensation.

Third, the Congressional Budget Office, in its recent report to the Joint Economic Committee, has estimated that the number of last-resort reservoir jobs would be less than one million at their peak, which negates the possibility that any substantial number of people would be drawn from private to reservoir jobs, much less any possibility that many millions of people would be so drawn.

Fourth, all operations under the proposed legislation, and certainly those relating to reservoir jobs, would be under the constant scrutiny of the Congress, and reservoir jobs could be created only in accord with amounts appropriated by the Congress. It is entirely unthinkable that the Congress would support by appropriations any reservoir job program which drew substantial numbers of people from private employment. Nor would any President or Secretary of Labor under the proposed legislation undertake to initiate or defend a reservoir job program which drew substantial numbers of people from private employment. The Report of the House Committee makes it clear that the reservoir jobs would be phased in gradually, and would not be put in operation even minimally until two years after enactment. And there are various triggers in the Bill which would adjust the availability of public jobs to the actual unavailability of private jobs.

Fifth, in view of the temporary nature and other uncertainties connected with reservoir jobs, it is not credible that substantial numbers of people would even attempt to leave or refuse private jobs in order to seek reservoir jobs. Despite some highly selected examples to the contrary, most public jobs of the type which reservoir projects would undertake pay less than comparable private employment for the same type of work. In addition, private jobs, unlike prospective reservoir jobs, frequently have seniority and other benefits. And the provisions in all States that those who voluntarily leave private jobs are not eligible for unemployment compensation would work strongly against the movement from private jobs to reservoir jobs.

Beyond all these considerations, there are other compelling reasons why the above stated provisions of the proposed legislation are not susceptible to the criticism leveled against them. In the first place, even if it were to be assumed, contrary to all likelihood, that a very small fraction of the 11.5 million people at most employed upon reservoir projects were paid slightly more than some people privately employed, the total size of this wage differential would be so miniscule compared with the total volume of wages in the U.S. economy that any claim that it would have an inflationary impact is entirely without merit.

And in the second place, this entire issue must be viewed in the larger context of the wage problem in the U.S. economy generally. The economy is now operating 200-250 billion dollars below full employment and full production. Somewhere in the neighborhood of 40 percent of this, or somewhere in the neighborhood of 80-100 billion dollars, is in the form of a deficiency in incomes and spending on the part of wage and salary earners. From the fourth quarter of 1973 to the fourth quarter 1975, real wages and salaries went down 1.6 percent and, in view of large amounts of additional employment, the decline in real wage and salary rates was even greater. On the so-called problem of "wage-push" inflation, each past period of vigorous economic upturn and each short period when we have come even close to full employment have been characterized by real wage rate gains in the private economy lagging far behind productivity gains in the private economy. The current period of economic recovery affords another strong documentation of this empirical fact. From first quarter 1975 to first quarter 1976, productivity in the total nonfarm economy rose 5.2 percent, while real wages and salaries rose only 2.3 percent and, in view of increased employment, real wage rates rose even less. The only times when there have been any indications of wage-push inflation have been in the face of high unemployment and high idleness of plant, when productivity gains have been very low or even negative.

Under this combination of circumstances, the real problem will be the great difficulty of achieving full employment, and adequate expansion of consumer purchasing power toward this end, even when the proposed legislation is enacted. We should therefore not be distracted by insupportable claims, not supported by any quantitative or empirical evidence, to the effect that the legislation would result in too many last-resort public service jobs, or excessive wages on these jobs, or any inflationary pressures upon the economy at large in consequence of these jobs, or the drawing of any substantial number of workers from private to reservoir jobs.

FULL EMPLOYMENT DOES NOT ENCOURAGE INFLATION

The sponsors of the legislation do not accept the argument that the progress of the economy required to reduce unemployment to 3 percent by the end of calendar 1980 would be too costly in terms of inflationary pressures. Those who insist that increased production and employment augment inflation have, in the main, got things turned upside down. The principal way to reduce inflation is to increase production, productivity, and the supply of goods and services to meet the nations needs. This has not happened during recent years. Nor has there been, during recent years and now, any conventional "trade-off" between unemployment and inflation. The only "trade-off," insofar as there has been any, has been mainly in the opposite direction: more unemployment and more inflation, and vice versa. The following eight points deal with the inflation issue.

(1) The empirical evidence strongly supports the conclusion that a faster rate of real economic growth, conducive to a rapid reduction of unemployment, is conducive to *less* inflation than low growth and high unemployment.

During 1947–1953, an average unemployment rate of 4.0 percent and reduction to 2.9 percent in the last year was accompanied by an average inflation rate of 3.0 percent and reduction to 0.8 percent in the last year. Full production did more to restrain inflation than controls, which were not needed by the last year. And a very low rate of inflation persisted for a number of years after controls were abandoned, refuting any claim that a "time lag" results in "delayed" high inflation *after* the termination of very low unemployment.

During 1958–1966, unemployment was reduced from 6.8 percent to 3.8 percent, and the average annual inflation rate was only 1.5 percent, and only 2.9 percent in the last year. The rising inflation in 1967–1969 was accompanied by a sharp reduction in real economic growth, and by very little reduction in unemployment below the 1966 level. The rising inflation was not due to low unemployment. It was due to the unwise delay in lifting taxes in view of the rapidly accelerating Vietnam war and the inflationary expectations thus generated. During 1969–1975, the average annual unemployment rate was 5.6 percent, and rose to 8.5 percent in the last year, while the average inflation rate was 6.6 percent and rose to 9.1 percent in the last year. From 1973 to 1974, unemployment rose from 4.9 percent to 5.6 percent (and to 7.2 percent in December 1974), and the rate of inflation rose to 11.0 percent.

The current recovery movement is entirely consistent with the observation that lower unemployment brings lower inflation. Unemployment dropped from a May 1975 high of 8.9 percent to 7.3 percent in May 1976, with a rebound in economic growth to a real annual rate of 7.5 percent during the first three months of 1976, while the annual rate of price inflation declined to 3.7 percent. The decline from double digit inflation was only partly due to the disappearance of such factors as the oil crisis and the crop failures; it was significantly due to the improved economic performance.

Even if the above data are subject to some differing interpretations, they certainly do not justify any repression of employment growth and deliberate cultivation of high unemployment on the theory that this restrains inflation.

The foregoing correlations are sometimes challenged on the ground that there is a substantial "time lag" between the end of a period of very low unemployment and high real economic growth and the advent of rapid or accelerating price inflation after the advent of rising or high unemployment and low or negative real economic growth. This challenge is based upon the assertion that the rising inflation occurs because of prior "overheating" of the economy in terms of employment and production during a period when prices behaved very well. But very little empirical evidence supports this thesis. At least, the evidence is so ambivalent that it is devoid of any persuasiveness as a guide to employment policy.

For example, as already stated, the period 1947–1953 was "overheated" in the sense that these years averaged high real economic growth, low unemployment, and low inflation, and culminated in 1953 with an unemployment rate of only 2.9 percent and an inflation rate of only 0.8 percent. On the theory of the "time lag," one would have expected high inflation in the following period 1953–1960, when the economy was anything but "overheated," but the inflation rate averaged annually only 1.2 percent during this period. And, in further repudiation of the "trade-off" theory, the inflation rate was 2½ times as high in the last year of this period as in the first year, although unemployment rose from 2.9 percent in the first year to 6.7 percent in the last.

The theory of the "time lag" is usually associated with the assertion that real wage rates advance faster than productivity gains during the "tight labor markets" associated with the "overheating" in the form of low unemployment and high real economic growth, and that price inflation, after this period is over, accelerates to "catch up" with the earlier wage rate advances. But the empirical evidence is almost all to the contrary. During periods of lower unemployment and higher real economic growth, real wage rate gains have not been "inflationary"; they have lagged far behind productivity gains. For example, from first quarter 1975 to first quarter 1976, productivity in the private nonfarm economy increased 5.2 percent, while real wages and salaries increased only 2.3 percent. Allowing for additional employment, the gap was even greater.

(2) Perhaps the most important single factor, operating counter to the conventional "trade-off" theory that high production and full employment increase inflation, involves the behavior of productivity. More rapid increases in productivity reduce inflationary pressures, and a declining rate of productivity growth increase inflationary pressures. For example, the average annual productivity gains in the private nonfarm economy were only 0.1 percent during 1972–1975, when the average annual rate of increase in real G.N.P. was only 0.2 percent and when the average rate of unemployment was very high. From first quarter 1975 to first quarter 1976, in contrast, the rate of such productivity gains was 5.2 percent, while the rate of real economic growth was 6.9 percent and unemployment was reduced substantially. The same conclusion is supported by review of experience since 1947.

(3) Due to the cumulative impact of this empirical evidence, there is increasing recognition, even in President Ford's 1976 Economic Report, and in recent statements by

Alan Greenspan and Arthur Burns, that the "trade-off" between unemployment and inflation no longer has validity. The Economic Report states on page 4 that "inflation and unemployment are not opposites but related symptoms of an unhealthy economy." Arthur Burns said, in a University of Georgia speech in September 1975: "Whatever may have been true in the past, there is no longer any meaningful tradeoff between unemployment and inflation."

(4) Although increased production and improved productivity are the best weapons against inflation, it is recognized that, as the economy approaches full utilization of its human and capital resources, bottlenecks and price pressures may develop. To avoid this, the Full Employment and Balanced Growth Act utilizes a wide range of *both* employment and anti-inflation policies which will improve our ability to achieve full employment and reasonable price stability. These include the use of many micro-economic job measures that would exert less inflationary pressures per increase in employment than the exclusive use of general monetary and fiscal measures to attain the same increases in employment, e.g., youth employment policies, regional and structural employment policies, reservoir projects, and improved coordination of efforts at all levels. The long-range planning efforts under the bill, including the identification of priority needs, would also tend to improve the allocation of resources and increase the supply of goods and services to critical areas experiencing restricted supplies.

In addition, the bill provides these direct anti-inflation measures: comprehensive information system to monitor and analyze inflationary trends; more refined use of monetary and fiscal policies; programs and policies to increase supply of goods, services, labor, and capital in structurally tight markets, with particular emphasis upon increasing the supply of food and energy; encouragement to labor and management to increase productivity; recommendations to strengthen and enforce the antitrust laws and to increase competition in the private sector. The bill also calls for other recommendations for administrative and legislative actions to promote reasonable price stability if situations develop that seriously threaten reasonable price stability. The measure does not call for comprehensive price-wage controls, however, because the evidence is lacking that increasing real economic growth and reducing unemployment in accord with the bill's time schedule necessitates such controls. Even those who believe that low unemployment at some point requires controls do not expect unemployment to reach that low a level until two years or longer after enactment of the bill, so even they should adopt a wait-and-see position as to controls.

(5) As will be subsequently demonstrated, the fulfillment of the objectives of H.R. 50 and S. 50 would gradually reduce the Federal Budget deficit and achieve a surplus in due course. In contrast, huge and continuous budget deficits are certain to continue, so long as national policies continue vainly to attempt to squeeze the blood of adequate federal revenue from the turnip of a repressed economy. This point should have compelling weight among those who insist that a huge budget deficit is a prime cause of inflation.

(6) Beyond the proper approaches to the restraint of inflation, the real "trade-off" issue is not between unemployment and inflation. The real issue involves recognition that the much larger real G.N.P. and other benefits resulting from Humphrey-Hawkins immensely outweigh any highly uncertain estimated variation in the inflation rate which might result from the higher rate of real economic growth and the more rapid reduction of unemployment. It is therefore wise and beneficial to elect the certain benefits of a full economy rather than get hung up on what are, at best, extremely dubious and undemonstrable hypotheses as to the relationship between the state of the real economy and the amount of price inflation. Forecasts of variable rates of inflation in future, based upon variable rates of real economic growth and unemployment, are too hazardous and uncertain to use them in support of accepting massive unemployment and immense real G.N.P. forfeitures. This is supported by the fact that the inflation forecasts in recent years by competent economists as to the rate of inflation have been extremely wide of the mark. Who among them anticipated that double-digit inflation would accompany the highest unemployment and the biggest real G.N.P. downturn since the Great Depression?

(7) On perhaps a higher plane of discussion, it is immoral to tolerate deliberately, and even to induce, the evils of massive unemployment on the questionable ground that this enables the employed and affluent to benefit by somewhat less inflation than if the unemployed had useful jobs. We should move toward full employment at all deliberate speed, and simultaneously direct appropriate anti-inflationary measure to any serious manifestations of inflation if these in fact appear.

(8) The Congressional Budget Office has very recently suported the proposition that the Full Employment and Balanced Growth Act of 1976 need not increase inflationary pressures, and might substantially reduce them.

Alice Rivlin, Director of C.B.O., in a letter to Congressman Augustus F. Hawkins, dated April 22, 1976, in response to a series of questions submitted by him on April 1, 1976 with reference to H.R. 50 and its provisions, said this:

". . . . most would also agree that measures to reduce structural imbalances in the labor market, to improve labor mobility, to reduce frequent occurrences of unemployment among the unskilled, and to improve employability by training and the elimination of discrimination could lower the unemployment rate at which the labor market becomes "tight." If such measures were adopted and were effective, a non-inflationary unemployment rate could potentialy be even lower than 3 percent."

Ms. Rivlin's letter also said:

"Supplementary measures to reduce potential inflationary pressures both during the recovery period and in the full-employment economy envisioned in H.R. 50 could hold down price increases. Their effect might work both through reducing inflationary expectations as well as by mitigating some of the underlying economic forces that contribute to price increases. Materials costs might be reduced by some of the measures suggested; and a weakening of the market power of monopolies might result in somewhat lower prices if profit margins are reduced thereby . . . Increasing productivity in the private sector could be advantageous, particularly if unskilled workers are to be drawn into private sector jobs at relatively high wages.

"While the effects of such measures would seem to work in the direction of reducing inflation, it is difficult to analyze how great that effect would be without more detail as to the specific policies envisioned. Further, while it is unlikely that such measures would result in less inflation at 3 percent unemployment than if no anti-inflation program were adopted, it is not possible to conclude that the inflation rate under these circumstances would be more or less than if a slower-recovery strategy and/or a high long-run unemployment rate target were adopted."

This second statement *at least* makes no claim that additional inflationary pressures would result from a faster rather than a slower reduction of unemployment. However, we regard as more significant and conclusive the *first* statement by Ms. Rivlin, set forth above.

THE BENEFITS AND COSTS OF THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1976

Any attempt to appraise the Federal Budget dollar costs of implementing the legislation will become hopelessly confused unless these costs are measured against: (1) the enormous economic benefits gained from increased production, employment, and wealth; (2) the increased Federal Budget revenues due to higher employment and production; and (3) the Federal Budget savings in some programs, resulting from higher employment and lower unemployment, and from savings which would result under the legislation. For if one only wanted to minimize the Budget dollar costs of this or any other legislation, the logical conclusion would appear to be to do nothing. This would be incorrect, because it does not recognize that Budget expenditures are necessary to meet vital national needs and that, when wisely used, they generate economic and Budget benefits. For example, the creation of a job for one person may cost twice or more as much in Budget dollars as unemployment compensation or welfare—but remember that the person then has a productive role creating *valuable goods and services* for the society. Building a house or factory will cost more in dollars than doing nothing—but remember that we then have the national *asset* of a house or factory. In other words, doing something usually costs more in dollars than doing nothing, but if we are wise about how we spend money—Budget dollars and other dollars—the benefits from the investment will be far greater than the costs.

For the reasons given above, the Humphrey-Hawkins bill should be evaluated in the context of its broad benefit—cost ratio. We believe that this evaluation demonstrates an excellent economic and financial bargain on all scores.

First, as the economic benefits which the legislation would bring, in terms of production, employment, and national wealth. *It is not feasible, at this stage, to estimate these benefits precisely, because the size and composition of these benefits will depend largely upon the future behavior patterns of the economy at large, and upon year-by-year decisions and actions by the President and the Congress, who alone can propose or enact legislation or appropriate funds.* The proposed Act does not and cannot take the place of these year-by-year developments and decisions. Like recent legislation reforming the Congressional budget process, the Act can only provide a flexible framework to promote policy and program improvements as the process of Executive and Congressional responsibilities unfolds over the years.

But saying this is not enough. Recognized methods are available for estimating roughly the differences between (a) the course of the economy under a firm determination to use all available means to reach 3 percent unemployment by the end of 1980, this being the Congressional mandate under the proposed Act, and (b) the course of the economy if it proceeds through 1980 in accord with normal unfolding of the current Administration's policies and programs. *These estimated differences are offered only to provide a broad perspective, not to forecast exactly what the President and the Congress will do. They will do as they see fit.* Although variations between these broad estimates and actual developments during 1976–1980 under alternatives (a) and (b) above might be substantial, they would not be large enough to affect the utility of these broad estimates in evaluating the potential benefits under the proposed legislation.

It is estimated roughly that the Humphrey-Hawkins bill, properly adhered to after enactment, would result in about 725 billion dollars *more* in G.N.P. or production of goods and services during the four calendar years 1977–1980, or an annual average of approximately 181 billion more in G.N.P. benefits, than would result under normal unfolding of the current Administration's economic policies and programs. These estimated G.N.P. benefits are based upon comparing (a) the real average annual growth rate of about 7 percent designed to reduce unemployment to 3 percent (within four years) during 1976–1980 with a pattern of growth rates that are higher in the first years and taper off as the economy approaches full employment, with (b) a projected real average annual growth rate of 4 percent under the present Administration policies. We regard the assumption of a 4 percent growth rate under current Administration policies as generous, in view of the 1.8 percent average annual real growth rate which actually occurred during the period 1969–1975.*

It is further estimated that the difference between G.N.P. courses (a) and (b) would relate to a difference, during the four year period, of somewhere in the neighborhood of 12.5 million man- and women-years of jobs.

There are additional factors that could either raise or lower these G.N.P. benefit estimates between now and 1980. Some argue, for example, that the high growth rates projected cannot be achieved nor maintained. This negative analysis is rejected for the reason enumerated on pages 4–6. We believe that the broad range of new policies and programs in the legislation will enable us to achieve much higher rates of real economic growth than would otherwise occur. These new techniques may also make it possible to reduce unemployment relatively more per increase in production than has been the case traditionally.

In addition, there are other factors associated with a movement toward full employment, which not only make it easier to achieve the required growth rate but also, and far more importantly, confer other benefits besides higher real economic growth. These include the reduction of crime and other social aberrations; improved mental and physical health in consequences of employment rather than unemployment for millions of breadwinners and their families; increased family contentment and stability; betterment of the living environment due to better housing conditions, cleaning the environment in the more limited use of the term, and enlarged social services generally; reduction of the stigma and anxiety of poverty; and the vastly improved social and civil climate when everyone able, willing, and seeking a job is provided an opportunity for a productive and respected role in society. Although it is difficult to place a dollar value on such benefits, without more extensive research than we can undertake, these are almost incalculable gains that will result from the proposed legislation when enacted.

The benefit of about 725 billion fiscal 1977 dollars *more* of G.N.P. during the four calendar years 1977–1980 inclusive, about 181 billion *more* on an annual average, and about 252 billion *more* in 1980 alone, comparing the estimated consequence of reducing unemployment to 3 percent by the end of 1980 with the estimated consequences of reasonable adaptations of current national policies and programs, would also bring these benefits to the Federal Budget itself: Using for rough purposes a 20 percent ratio of Federal Budget receipts to G.N.P. (assuming existing tax rates), there would be about 145 billion fiscal 1977 dollars *more* Budget receipts during the four fiscal years 1977–1980 inclusive, about 36 billion *more* on an annual average, and about 50 billion *more* in 1980 alone.

Having taken account of the multiple-benefits under the legislation as set forth above, we turn to consideration of the increased Federal Budget outlays which would result from the legislation. The only such outlay which requires insertion in the fiscal 1977 Budget at this stage is the estimate of administrative costs during the first year of operations under the Act. These administrative costs would need to cover the many initial planning and development steps required to establish the new process and to determine the new policies and programs. This is estimated to be only 50 million dollars, in view of the intent to carry forward the Act's specified Federal activities under the aegis of existing agencies and instrumentalities. In later years, it is estimated that these administrative costs would be no higher, and might be considerably lower, in that many of the planning and developmental steps in the first year would be of lasting utility.

The larger issue is how much would be needed in the Federal Budget to implement the policies and programs embodied in the Full Employment and Balanced Growth Act of 1976. Obviously, no precise estimates are feasible now, any more than under the Employment Act of 1946. For the new proposal is primarily an exercise in improved policymaking. Thus, Federal Budget policy under the new legislation would depend, as we have indicated, upon unfolding events from year to year, including the performance of the private sector under the many inducements which the legislation would offer, and depend also upon year-by-year decisions, reconsiderations, and adjustments by the President and the Congress.

The impracticality of precise or detailed Federal Budget expenditure estimates at this stage is fully recognized by the Congressional Budget Office. In a very recent paper entitled "An Economic Analysis of the Full Employment and Balanced Growth Act of 1976," the C.B.O. states this: "Because the state of the economy in any future year is unknown and because a variety of policy options are available in S. 50 [and H.R. 50], it is not possible to provide a single cost estimate of S. 50 [and H.R. 50] for any particular year."

However, for the same reasons as stated above with respect to G.N.P. and related benefits, it is desirable to estimate in broad perspective the increased Federal Budget expenditures that the legislation would entail, which is done in a very recent Congressional Budget Office study furnished to the Joint Economic Committee and released by its Chairman, Senator Humphrey. Assuming modest economic growth between now and 1980 (not the higher growth rate in consequence of the current legislative proposal), the C.B.O. estimates that it may be necessary to create public employment for approximately 3 million persons (*not* just last-resort jobs, as earlier explained) if we are to achieve an unemployment target of 3.5 percent, the target relevant for an 18 year old definition of "adult." The initial net annual Budget cost of such a program would be approximately 17.5 billion dollars, with such costs declining to about 8 billion dollars annually after 24 months because of decreased welfare and unemployment compensation and higher tax revenues. These later net annual Budget costs would be 11–12 billion dollars if the unemployment target is 3.0 percent, the target relevant for a 16 year old definition of adult. (The C.B.O. estimates of gross Budget costs are higher, running from about 27 billion dollars in the initial year and reduced to about 27 billion dollars in the initial year and reduced to about 23 billion on a long range annual basis. But only the net Budget costs, reflecting proper offsets due to reduced Budget costs in consequence of fuller employment, are really relevant.)

The C.B.O. estimates other factors that could raise these net budget cost estimates. The C.B.O. makes a higher cost estimate as an alternative, which is based on a very large "displacement" of workers from existing to newly created jobs. Although this could occur if job creation is not properly carried forward, we do not believe it will occur because the proposed legislation is designed to add to *net* employment, and because the proposed legislation contains various specific provisions to assure that public employment will not be offered to those who can obtain private jobs despite serious efforts, or who leave or refuse to accept other jobs. For a more complete explanation of displacement and the various estimates of gross and net Budget costs associated with this legislation, see "An Economic Analysis of the Full Employment and Balanced Growth Act of 1976," Congressional Budget Office, May 21, 1976.

In addition, the C.B.O.'s net Budget cost estimates would be reduced by taking into account other savings to the Federal Budget under the legislation. Some examples are savings from reduction in crime, reduced interest costs on the national debt, lower recession-related grants to State and local governments, the economy in government provisions in the legislation, and so forth. Although it is not possible to compute with any precision these Budget savings, they are certain to be several billion dollars a year, and to rise year by year.

In summary, the C.B.O.'s estimate of net Budget costs of 8–12 billion dollars annually on a long range basis is a liberal estimate of the Budget costs under the legislation, given the uncertainties we face with respect to future economic conditions and the implementation of the policies mandated.

Although such Budget costs are significant when viewed alone, they are very small at the highest when compared with the benefits from a full employment policy, as estimated above. As we have already indicated, the nation can expect the annual benefit of additional economic growth of roughly 181 billion dollars a year, compared with projection of current policies and programs. This will mean additional Federal tax revenues, as estimated above, several times the C.B.O. estimates of the net Budget costs under the new law. This will also mean a rapid reduction in Federal deficits and the prospect of a Budget surplus by 1980, or not long there after. As our common sense tells us, and the figures show, full employment is a great bargain on all scores.

FURTHER IMPROVEMENTS IN H.R. 50 AND S. 50

On the basis of useful suggestions from a wide variety of sources, we have under consideration amendments to H.R. 50 and S. 50, to be incorporated at an appropriate stage in the consideration of this legislation. These amendments are not designed to alter the measure in any fundamental respect, but only clarify and improve important portions of it.

WORLD PLAN OF ACTION

Mr. CLARK. Mr. President, it was 1 year ago this month that delegates from around the world met in Mexico City for the United Nations World Conference of the International Women's Year.

A comprehensive and extensive world plan of action resulted from the debates and discussions of that conference, outlining the broad goals that women would strive for, both on the short term and the long term. It is a historic document which will prove a valuable reference for everyone interested in achieving the principle of equity for everyone.

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*All benefit projections are in constant fiscal 1977 dollars.

The Women's Equity Action League educational and legal defense fund, under a grant from John D. Rockefeller III, has prepared a condensed version of the world plan of action. I ask unanimous consent that the section entitled "National Action" be printed in the Record.

There being no objection, the section was ordered to be printed in the Record, as follows:

National Action

TOWARD PEACE

An essential condition for maintaining and strengthening international cooperation and peace is the protection of human rights among and within nations. In order to involve more women in this endeavor, the peace efforts of women as individuals and in groups should be recognized and encouraged.

The free flow of information and ideas among countries should be facilitated, and exchange visits between women of different countries to study common problems promoted.

Women and men should be encouraged to instill in their children the values of mutual respect and understanding for all nations and peoples, racial equality, sexual equality, the right of every nation to self-determination and the desire to maintain international cooperation, peace and security in the world.

POLITICAL ACTION

Despite the fact that women make up half the world's population, in the vast majority of nations only a small percentage of women hold leadership positions in government. Consequently, women are not involved in the decision-making and their views and needs are often overlooked in government planning.

Many women also lack the education, training, civic awareness and self-confidence to participate effectively in political life—participation as voters, lobbyists, elected representatives, trade unionists and public officials in all branches of government including the judiciary. Where special qualifications for holding public office are required, they should apply to both sexes equally.

Governments should establish goals, strategies and timetables for increasing within the decade 1975–1985 the number of women in elective and appointive public offices. Special efforts in this direction could include:

Reaffirming and publicizing official government policy concerning equal political participation by women.

Issuing special governmental instructions for achieving equitable representation of women in public office, then compiling periodic progress reports.

Making a special effort to recruit, nominate and promote women, especially to fill important positions, until fair representation of the sexes is achieved.

EDUCATION

Access to education is not only a basic human right; it is a key to social progress. Illiteracy and lack of education and training in basic skills contribute to the vicious circle of underdevelopment, low productivity and poor conditions of health and welfare. In a great many countries illiteracy is much more widespread among women than among men, and the rates higher in rural than in urban areas.

In most countries female enrollment at all levels of education is considerably below that of men. Girls tend to drop out of school earlier than boys, and boys are given precedence over girls when parents have to make a choice if education is not free. There is often discrimination in the nature and content of the education provided and in the options offered. Girls' choice of areas of study are dominated by conventional attitudes toward the roles of men and women in society.

As long as women remain illiterate and are subject to discrimination in education and training, the motivation for change so badly needed to improve the quality of life will fail—for in most societies it is the mother who is responsible for the training of her children during their formative years.

Governments should provide equal opportunities for both sexes at all levels of education and training within the context of lifelong education, and on a formal and nonformal basis, according to national needs. Target dates should be set for the eradication of illiteracy, and governments should be joined in this effort by social institutions, such as cooperatives and voluntary organizations.

Free and compulsory primary education should be provided without discrimination for girls and boys. Where possible, textbooks, school lunches, transport and other essentials should be provided free of charge.

Textbooks and other teaching materials should be reevaluated and, where necessary, rewritten to ensure that they reflect an image of women in positive and participatory roles in society. Research should be carried out to identify discriminatory practices in education and new teaching techniques to correct them encouraged.

Vocational programs of all types should be equally accessible to both sexes so that girls and boys will have a wide choice of employment opportunities. Both sexes should have equal opportunities to receive scholarships and study grants.

Special measures should be developed to help women who wish to return to work after a long absence, owing in particiular to family responsibilities. Multipurpose training centers could be established in rural and urban areas to provide education and training in various disciplines and to encourage a self-reliant approach to life.

Girls and boys alike should be encouraged through vocational and career guidance programs to choose a career according to their real aptitudes rather than on the basis of deeply ingrained sex stereotypes. They should also be made aware of the education and training required to take full advantage of the employment opportunities available.

EMPLOYMENT

This Plan seeks to achieve equal opportunity and treatment for women workers and their integration in the work force in accordance with the accepted international standards recognizing the right to work, to equal pay for equal work, to equal conditions of work and to advancement.

Available data shows that women constitute more than a third of the world's economically active population; approximately 46 percent of the women between 15 and 64 years old are in the labor force. Yet the vast majority of women are concentrated in a limited number of occupations at lower levels of skill, responsibility and pay. Women frequently experience discrimination in pay, promotion, working conditions and hiring practices, and, even where policies of nondiscrimination are in effect, cultural constraints and family responsibilities further restrict their chances for employment.

Governments should formulate policies expressly directed toward equality of opportunity and treatment for women workers and the guarantee of their right to equal pay for equal work. Special efforts should be made to foster positive attitudes toward the employment of women, irrespective of marital status, among employers and in society at large, and to eliminate obstacles based on sex-typed divisions of labor.

Governments should seek new sources of self-help activities, such as training programs in community development and entrepreneurial skills, which should be opened equally to both sexes.

In order to to extend women's range of economic roles, cooperatives and small-scale industries could be developed and encouraged with government support. Cooperatives should be organized, especially in areas where women play a major role, such as food production, marketing, housing, nutrition and health. Cooperatives may also be the most appropriate and feasible arrangement for child-care and could provide employment opportunities as well. Essential to the success of such cooperative ventures, however, are training and access to credit and seed capital.

Specific target dates should be established for achieving a substantial increase in the number of qualified women employed in skilled and technical work. Special efforts should also be made to increase the number of women in management and policymaking positions in commerce, industry and trade. Discriminatory treatment of women in national social security schemes should be eliminated to the maximum possible extent.

Trade unions should adopt policies to increase the participation of women in their work at every level. They should have special programs to promote equality of opportunity, including leadership training for women.

HEALTH

Imposed access to health, nutrition and other social services is essential to the full participation of women in development activities, to the strengthening of family life and to a general improvement in the quality of life.

Comprehensive simple community health services could be developed in which the community identifies its own health needs, takes part in decisions on delivery of health care in different socio-economic contexts and develops primary health care services that are easily accessible to every member of the community. Women themselves, especially in rural areas, should be encouraged through adequate training programs to provide such health care services to their communities. Provision should be made to ensure that women shall have the same access to that care as men.

Improved, easily accessible and safe water supplies, sewage disposal and other sanitation measures should be provided both to improve health conditions of families and to reduce the burden of carrying water, which falls mainly on women and children.

Governments should pay particular attention to women's special health needs, by providing prenatal and postnatal and delivery services, gynecological and family planning services during the reproductive years, comprehensive health services to all infants, preschool children and school-children without prejudice on grounds of sex, specific care for preadolescent and adolescent girls and for the postreproductive years and old age, and research into the special health problems of women.

Programs should be formulated for the reduction of infant, child and maternal mortality by means of improved nutrition, sanitation, maternal and child health care and maternal education. Education programs should be developed to overcome prejudices, taboos and superstitions that prevent women from using existing facilities.

A massive program of health education and services could be organized in rural and urban neighborhoods, and women should be actively encouraged to participate.

Because women are important not only as users but as providers of health care, steps should be taken to incorporate them as fully informed and active participants in the health planning and decision-making process at all levels. Women should also be trained as paramedics and encouraged to organize health cooperatives and self-help programs. Women should have the same right of access as men to any training establishment or course for any health profession and to continue to the highest levels.

THE FAMILY

In the total development process the role of women, along with men, needs to be considered in terms of their contribution to the family as well as to the society and the national economy. Higher status for the role in the home—as a parent, spouse and homemaker—can only enhance the personal dignity of a man and a woman. Household activities that are necessary for family life have generally been perceived as having low economic value and prestige. All societies should, however, place a higher value on these activities, if they wish the family group to be maintained and to fulfill its basic functions of the procreation and education of children.

The family is also an important agent of social, political and cultural change. If women are to enjoy equal rights, opportunities and responsibilities, and contribute on equal terms with men to the development process, the functions and roles traditionally allotted to each sex within the family will require continual reexamination and reassessment in light of changing conditions.

The rights of women in all the various forms of the family, including the nuclear family, the extended family, consensual union and the single-parent family, should be protected by appropriate legislation and policy.

Legislation relating to marriage should be in conformity with international standards. In particular it should ensure that women and men shall have the same right to free choice of a spouse and to enter into marriage only with their free and full consent.

Legislative and other measures should be taken to ensure that men and women shall enjoy full and equal legal capacity relating to their personal and property rights, including the right to acquire, administer, enjoy, dispose of and inherit property (including property acquired during marriage). During marriage the principle of equal rights and responsibilities would mean that both partners should perform an active role in the home, and share jointly decisionmaking on matters affecting the family and children. At the dissolution of marriage, this principle would imply that procedures and grounds of dissolution of marriage should be liberalized and apply equally to both spouses; assets acquired during marriage should be shared on an equitable basis; appropriate provisions should be made for the social security and pension coverage of the work contributed by the homemaker; and decisions relating to the custody of children should be taken in consideration of their best interests.

In recognition of the growing number of single-parent families, additional assistance and benefits, wherever possible, should be provided for them. The unmarried mother should be granted full-fledged status as a parent, and children born out of wedlock should have the same rights and obligations as children born in wedlock.

POPULATION

The status of women and, in particular, their educational level, whether or not they are gainfully employed, the nature of their employment and their position within the family are all factors that have been found to influence family size. Conversely, the right of women to decide freely and responsibly on the number and spacing of their children and to have access to the information and means to enable them to exercise that right has a decisive impact on their ability to take advantage of educational and employment opportunities and to participate fully in community life as responsible citizens.

The hazards of childbearing, characterized by too many pregnancies, pregnancies at too early or too late an age and at too close intervals, inadequate maternity care and resort to illegally-induced abortions, result in high rates of maternal mortality or maternal-related morbidity. Where levels of infant and early chilhood mortality are high, their reduction—a desirable end in itself—may also be a prerequisite of the limitation of the number of pregnancies that the average woman will experience, and of the society's adoption of a smaller ideal family size where this is a desired goal. Fewer pregnancies may be more easily achieved when there is a reasonable expectation that children born will survive to adulthood.

In some parts of the world, young women constitute the major component in the rural-to-urban migratory stream caused by urbanization. Such selective migration results in sex imbalances in both the urban and rural populations which can be detrimental to individual and family welfare. Just over half of the total female population of the world currently resides in rural areas of developing countries—the particular demographic, social and economic problems of these areas require special development efforts.

While nations have a sovereign right to determine their own population policies, individuals and couples should have access, through an institutionalized system, to the information and means that will enable them to determine freely and responsibly the number and spacing of their children and to overcome sterility. All legal, social or financial obstacles to the dissemination of family planning knowledge, means and services should be removed.

HOUSING

The majority of women still spend more of their time in and around the house than do men; therefore, the improvement of the house, its related facilities and its neighborhood will bring about a direct improvement in the daily lives of women. In addition to the considerations of health and comfort, well-designed and suitably furnished houses offer comparative relief from monotony and drudgery, making easier the pursuit of other interests and bringing women's lives closer to the demands of human dignity.

The design of the house should take into account the needs of the entire family, especially the women and children.

Use of the following should be encouraged:

1. building materials that require minimal or no maintenance;

2. equipment and appliances that do not present safety hazards;

3. labor-saving interior finishes and surfaces conducive to comfort and hygiene;

4. furniture that is movable, storable and easily replaceable.

Neighborhood planning should provide for services and facilities that respond to the expressed needs of women, reducing labor and travel for vital needs such as water, food and fuel. Accessibility of neighborhood centers for the women and children should be considered in the design of networks of neighborhoods. Training and orientation courses should be organized in the use of new facilities made available to women, as well as in various aspects of home ownership and maintenance.

OTHER QUESTIONS

Women are usually affected to a greater extent than men by the social problems caused by rapid modernization and industrialization. Social services play a crucial role in anticipating these problems and in reducing the need for remedial action at a later stage. Government should therefore encourage the development of social services as a useful tool in mobilizing human and technical resources for the benefit of all marginal and social groups.

Special efforts should be made to provide for the needs of migrant women and for women workers and their families who live in urban slums and squatter settlements. Training, job counseling, child-care facilities, financial aid and, where necessary, language training should be provided. Special attention should also be given to elderly women, many of whom are indigent and who frequently receive less protection and assistance than men.

Special attention should also be paid to female criminality, which is increasing in many parts of the world, and to the rehabilitation of female offenders, including juvenile delinquents and recidivists. Research in this field should include study of the relationship between female criminality and other social problems brought about by rapid social change. Special legislative and other measures should be taken to combat prostitution and the illicit traffic in women, especially young girls.

RETURNABLE BEVERAGE CONTAINERS VERSUS THE THROWAWAY ETHIC

Mr. HATFIELD. Mr. President, I would like to call to the attention of my colleagues an excellent article by Jerry Uhrhammer in this week's issue of Sports Illustrated, August 2, 1976, entitled "The Point of No Returns." This article focuses on the continuing debate between the opposing sides of the returnable beverage container issue. On one hand there are those of us who have recognized the need to return to less wasteful consumption habits in this area of scarce energy and abundant solid waste. On the other hand, there are those in the container industry who would have us continue our wasteful throwaway attitude in the name of consumer convenience, but at the expense of these scarce resources and at the expense of cities and States which are facing the mounting crisis of solid waste management.

As my colleagues will remember, on July 30, the first attempt to enact returnable beverage container legislation was defeated. This vote, however, did not signal the end to further consideration of this issue in the Congress. The resource and solid waste problems we face will not just go away, nor will solutions such as the one I have proposed.

I remain committed, as do many of my colleagues I am sure, to passage of this legislation. I am confident that the merits of discarding the throwaway ethic in favor of more responsible attitudes and policies on the part of both the manufacturer and the consumer will become evident. We can start by reinstituting a national system of returnable beverage containers, a system which worked well until the 1960's when industry gave us the one-way, no-deposit-no-return bottles and cans, and which has worked well in Oregon since 1972.

I ask unanimous consent, Mr. President, that the Sports Illustrated article be printed in the RECORD, and I would urge my colleagues to give it careful consideration, because we will be faced with this issue again in the future.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE POINT OF NO RETURNS

(By Jerry Uhrhammer)

A summer-long experiment in California's Yosemite National Park is proving that no one snould underestimate the power of a nickel in cleaning up America. Last May, without fanfare, the park concessionaire began charging a 5¢ deposit on every beverage container sold. The purpose was to encourage consumers to collect cans and bottles rather than toss them away as litter. Early returns have been remarkable.

"Every week we're recycling more aluminum cans than we did all last year," reports John Crofut, public-relations director for the Yosemite Park and Curry Company, which will sell about one million cans of beer and soft drinks during the 10-week test. "The return rate is up to 76% and it may go to 80%. The amount of litter in the park has been greatly reduced. We find people from five to 95 out picking up the cans."

The Yosemite experience could be a preview of what lies ahead in other national parks if U.S. Environmental Protection Agency plans aren't sidetracked. The EPA is formulating regulations that would make mandatory a deposit on all pop and beer sold in federal parks, buildings and military bases.

But Yosemite soon may find itself smack in the middle of The Great Bottle Bill War. The battle began 300-odd miles to the north, in the state of Oregon, in 1971 when the legislature passed a law requiring deposits on all beer and pop containers and banning the ubiquitous pull-tabs. By placing an economic value on every container, proponents reasoned, there would be fewer throwaways, and ugly litter along roadsides and beaches would be drastically reduced. And that's exactly how it worked.

Not surprisingly, the bottle bill encountered opposition. The deposit-and-return concept is anathema to a container industry, which profits from the manufacture of 60 billion throwaway cans and bottles annually. National brewers also have a sizable stake in the continued use of the one-way containers, which allows them to expand their markets and compete against regional beers without having to worry about shipping empties back for refilling. The container industry complains that Oregon's bottle bill and others since passed in Vermont and South Dakota are discriminatory, focusing on only a fraction of "total" litter. As an alternative, the industry argues for tougher litter laws and better education programs to change the behavior patterns of the people responsible for litter.

The industry has argued that Oregon is a unique place, suggesting it is full of woodsy weirdos, and while the bottle bill might be effective there, it probably wouldn't work elsewhere. Other representatives of industry use another approach, asserting that Oregon's bottle bill has actually been a failure. Tom McCall, the former governor of the state who signed the bottle bill into law, calls it "the most lied-about piece of legislation in history." His successor, Bob Straub, also has uttered some strong words. In a letter to William B. Renner, president of the Aluminum Company of America, Straub charged ALCOA with "incredible lies, innuendos and gross inaccuracies." Straub was concerned about an ALCOA advertising campaign that warned of "Trouble on the Oregon Trail." Among ALCOA's claims: Oregon's beverage-container litter problem had actually gotten worse, prices were up, sales were down and the aluminum can had been "lost," depriving the consumer of his freedom of choice. "Mr. Renner, this is simply not responsible advertising," Straub wrote. But Renner, in his reply, defended the advertising and spoke of ALCOA's commitment to solving the *total* litter problem.

ALCOA's assessment is sharply at odds with the way most Oregonians perceive the bottle bill. After the law took effect in October 1972, the impact on the outdoors became obvious, and Oregonians became believers. A 1973 public-opinion survey found 91% of the citizens favoring the law.

A fishermen's organization conducted annual litter pickups along the Siuslaw River and Lake Creek, two popular steelhead streams, and after the bottle bill went into effect, the chairman of the clean-up group wrote, "Two years ago we picked up an estimated 3,000 beer cans and bottles, all nonreturnable, amounting to about 80% of our catch on that trip. Last Sunday, less than 1% of the litter we picked up was beer cans and bottles."

"You can walk on the beaches now and hardly ever see a bottle or can," says Don Waggoner, a 41-year-old industrial executive and past president of the Oregon Environmental Council, the coalition of citizens' groups that lobbied for the bill. Waggoner says state highway litter surveys show that beverage-related litter declined 83% during the first two years of the deposit system.

Ski-area operators report drastic reductions in the debris picked up after the snow melts. At Crater Lake National Park rangers are stopping less frequently to pick up discarded containers along the roads. Backpackers are finding less litter on trails and in campsites. "We once considered banning the taking of cans and bottles into our wildernesses because we have no disposal systems there," says Al Sorseth, recreation officer for the Willamette National Forest on the western slope of the Cascades. "But in the last few years we would not have been able to justify such a regulation—what's taken in seems to be coming out. One reason is that the bottle bill has created an emphasis . . . an awareness."

At a rodeo in eastern Oregon, Governor Straub recently saw proof that while bottles are still thrown away, they don't necessarily end up as unsightly litter. As rodeo spectators tossed away their empties on the hillside that served as a natural bleachers, small boys collected the bottles almost before they landed and carried them off in boxes to claim the refund bounty. "When the rodeo was over and people left, there wasn't a bottle or can left in the whole area," Straub says.

Oregon's return rate for refillable bottles is reported at 94%. Some of the refillable bottles make 20 trips or more. John Piacentini, owner of a chain of markets, says, "Every grocer I know claims he is buying back as many—if not more—empty containers as the number of full ones he is selling. If this is true, how can people still be littering?"

And how can ALCOA claim beverage-container litter is worse than ever? By ingenious—too ingenious—use of litter statistics, says Waggoner. The claim was based on differing sets of data that, in Waggoner's opinion, couldn't be compared without coming to misleading conclusions. Renner seems reluctant to discuss specifics. "I think you're beating a dead horse to death," he says. "You can prove anything you want to prove. The important think is that we all agree there is a litter problem—the only area of difference is how to improve it."

Tom McCall thinks it is time to stop disputes over what the litter statistics do or do not show. "I keep telling people to bring to Oregon the most empirical of all research instruments, the human eye, and have a look for themselves," he says.

Anyone who takes McCall's advice is likely to make an additional discovery. The aluminum can was not lost on the Oregon Trail; it only dropped out of sight temporarily while nondetachable "button-down" tops were in the process of being developed to replace the outlawed pull-tabs. Retailers also needed time to devise ways of handling the empty cans. Now the aluminum can is making a comeback, though not in its previous numbers, and is available for the consumer who prefers it.

Consumers are bringing back the empty cans almost as faithfully as they return the bottles. The return rate is averaging 80%.

The high return rates achieved in Oregon and Yosemite strongly suggest that the deposit system may be the answer. Although the aluminum industry recently announced with a touch of pride that 3.9 billion all-aluminum cans were collected for recycling last year—a record performance—that was only one out of four cans sold. Approximately 11.7 billion cans wound up as part of the country's solid-waste stream.

Bottle-bill legislation similar to Oregon's has been introduced in almost every other state, with minimal results. Only Vermont has a mandatory deposit law in effect (since 1973) and the experience there parallels Oregon's. South Dakota passed legislation that was scheduled to take effect this year, but the bill was repealed under industry pressure and replaced with a substitute that takes effect in 1978.

Bottle-bill enthusiasts invariably find themselves outgunned financially by interested corporations. Colorado brewer William Coors, a maverick who favors a uniform federal deposit law, estimates that industry is spending $20 million annually to fight the bottle-bill war. In Dade County, Fla., the beverage and container industry spent more than $180,000—66% of it coming from outside the county—to defeat a deposit bill in a local referendum. Greater Miami civic groups supporting the proposal had a war chest of only $1,751.

Perhaps understandably, labor is siding with industry, seeking to protect some jobs that would be affected by a return to a two-way system. "The power of big business and big labor marching in lock-step simply overwhelmed us," said Oregon Senator Mark Hatfield on June 30 after the U.S. Senate rejected, 60–26, his amendment to ban throwaway beverage containers over a five-year period.

Economic issues, with the emphasis on jobs, have been the most potent weapon in repelling bottle-bill threats. But studies in several states found that what happened in Oregon would be repeated elsewhere; bottle bills would create more jobs than the number lost. At the same time, these studies showed, a switch to refillable containers would probably mean lower retail prices for the consumer. A one-way can has to be much more costly than a bottle that can be used again and again.

Deposit-law referendums are expected this year in Michigan, Massachusetts, Maine and Colorado. The Michigan United Conservation Clubs, Inc., representing some 100,000 sportsmen, collected more than 400,000 signatures in 30 days to put a bottle bill on the November ballot—only to be challenged in the courts by an industry-labor coalition. But polls show pro-bottle-bill sentiment running 75% and higher, says MUCC Executive Director Tom Washington.

"In the final analysis, the man on the street is fed up with cans in his yard, along the highway and driveway and everywhere else—that's probably what will sway the vote," Washington says.

While litter reduction has immediate political appeal, energy is showing signs of becoming the major issue in the bottle-bill debate. Hatfield told the Senate that a switch to returnables would reduce the container industry's energy consumption by 42% and save the equivalent of 125,000 barrels of oil a day. In Oregon alone, according to Don Waggoner's busy slide rule, the bottle bill has resulted in an energy savings of 1,400 trillion BTUs annually, enough to provide the natural-gas heating needs of 12,000 homes.

A clue that industry can adapt swiftly to legislative changes came after Vermont strengthened its law, requiring all bottles to be refillable by Jan. 1, 1977. "Within one week," reports Donald Webster, Vermont's director of environmental protection, "Schlitz flooded the market with refillable bottles and advertising that said, 'Save money with money-saver refillable bottles.' "

The year ahead should be the most decisive one of the bottle war. So if the issue makes you fighting mad—one way or the other—take to the field.

ACTION NEEDED NOW TO HELP WISCONSIN FARMERS

Mr. PROXMIRE. Mr. President, Congress must act now to help drought-stricken farmers in Wisconsin.

Robert C. Bjorklund, the very competent and knowledgeable farm editor of the Wisconsin State Journal, amply documents this need to act in his July 27 article appearing in that publication. As Bjorklund points out, drought losses in Wisconsin so far this year have exceeded $400 million. And he graphically portrays what the drought has meant in human and dollar terms in one of Wisconsin's affected counties.

Farmers have been the major victims of the devastating losses caused by the drought. But consumers also stand to lose because they will ultimately face higher food costs as a result of the drought.

Mr. President, not only is my home State of Wisconsin being hurt by this cruel drought. South Dakota, Minnesota, and other areas of the upper Midwest are suffering as well.

Senators McGovern and Abourezk have introduced a bill which can help the farmers in Wisconsin and elsewhere cope with this emergency situation. I am glad to be a cosponsor of this measure, S. 3691, the Emergency Agricultural Relief Act of 1976, which would provide loan guarantees to restock foundation herds, operational loan guarantees after disaster loss to crops, and direct loans to farmers in disaster areas.

Mr. President, I urge the Senate to give S. 3691 the top priority attention it deserves. Mr. Bjorklund's excellent article in the July 27 Wisconsin State Journal—entitled "Drought Loss Tops $400 Million"—shows why immediate action is needed on this vital legislation. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Drought Loss Tops $400 Million

(By Robert C. Bjorklund)

Dodgeville.—The United States Dept. of Agriculture (USDA) Emergency Board in Iowa County has tabulated a $19-million crop loss in the county because of the drought, Nordeen Gilbertson, executive director of the county Agricultural Stabilization and Conservation Service office (ASCS), said Monday.

Completion of the report pushed the estimated state total in drought losses this year to more than $400-million, covering every county in the state.

Gilbertson said that corn losses alone accounted for $11.8-million of the $19-million loss figure for Iowa County.

"Agriculture is big in Iowa County and you don't get an idea of the size of the loss farmers are facing until you realize that the current estimate is the property loss you would have if a tornado were to totally wipe out Mineral Point and Arena. Those two towns have a full property value of more than $19-million or the same as the county's drought loss this year," Gilbertson said.

"And what makes it worse is that the drought is continuing," he added.

More than 100 farmers in Iowa County applied for ASCS disaster payments through the feed grain disaster program as they watched their corn crop wither and die. The program provides limited cash payments to farmers if corn production is less than half of the allotted acreage multiplied by the farm yield.

Each application for disaster payments is followed by a field appraisal to determine qualification for payments.

Gilbertson told of a corn field west of Dodgeville that had an official ASCS yield of 122 bushels per acre, but this year the appraisal showed that the yield would be only 17.8 bushels per acre.

Iowa County as a whole is expecting a corn crop that will be only about 40 percent of normal "and this is going to be rough on the economy of the entire county," he continued.

"Farmers are worried, they are pulling in their horns and doing less buying and now businessmen are looking at the clouds as desperately as are farmers," he said.

"The farmer is the customer in Iowa County," he added.

In addition to corn losses of $11-million, the Iowa County drought losses include $2.4-million in pasture; $3.9-million in hay, $432,535 in oats, $160,000 in soybeans and $294,525 in canning crops like sweet corn and sweet peas.

Officially, rainfall in Iowa County totalled 4.22 inches in April, 2.35 inches in May, 1.64 inches in June and as of last Friday, .34 of an inch for July.

The drop-off in corn expectations for the county declined as the monthly rainfall declined, Gilbertson said.

In 1974, the year of the early frost (Sept. 22) there was a $5-million to $7-million corn loss in Iowa County, but when that happened, there were barns full of hay and oats.

"Now everything has been hit by the drought and we are suffering. We have corn that is burned right out and a lot of it 2½ feet tall with the top leaves yellow. Normally, corn in this field would be over your head," Gilbertson said.

Some farmers are going to have difficulty remaining in farming as a result of the drought.

"They gamble on good weather every year, but then this happens. And for some of our farmers like those in the Barneveld area, there was hail, then frost and now this," Gilbertson added.

"If they can't get their creditors to stay with them in this emergency, I don't know what they will do. But I am sure the creditors don't want the farm, they want to keep the man and his family going," he said.

One farmer Gilbertson described has to maintain a monthly payment on 22 items—starting with his electricity, telephone and insurance payments and going right through his normal operating bills.

"And that farmer knows that everything has to be paid each month," Gilbertson said.

PRESIDENT CRUIKSHANK PRESENTS HIS REPORT TO THE NATIONAL COUNCIL OF SENIOR CITIZENS

Mr. CLARK: Mr. President, the Congress and the administration have differed frequently during the past 2 years on policies affecting aged and aging Americans.

The administration has repeatedly proposed cutbacks in programs affecting the elderly. Almost no new initiatives have been recommended. To a very large degree, the administration has pursued policies of retrenchment and "standpatism."

In many instances, the Congress has been put on the defensive, finding it necessary simply to sustain earlier hard-won victories for the elderly.

One such example is the continuation of a community services jobs program for low-income persons 55 or older, despite the administration's attempt to terminate it.

In addition, the Congress blocked the administration's plan to increase food stamp charges in 1975—to the point that most aged recipients would find it uneconomical to participate in the program.

However, there have also been several important advances for aged and aging Americans, including:

An 8-percent social security cost-of-living increase in 1975 for nearly 32 million persons, instead of the arbitrary 5-percent ceiling recommended by the administration.

Funding for the construction of 30,000 units under the section 202 program, the most successful housing program ever enacted for the elderly.

Enactment of the Older Americans Amendments of 1975 which extended and expanded the Older Americans Act, the Older American Community Service Employment Act, and other legislation for the elderly.

A 25-percent increase this year in the number of jobs for the senior community service employment program.

Last month the National Council of Senior Citizens met in Chicago to conduct its 13th annual convention. A record crowd of 5,000 attended the convention and focused on many subjects, including legislative and administrative actions during the 84th Congress.

NCSC President Nelson Cruikshank presented a frank, comprehensive, and forceful report to the convention delegates, guests, and observers.

Mr. President, I commend Mr. Cruikshank's report to Members of the Senate, and ask unanimous consent that a summary of his remarks—from the July edition of "Senior Citizen News"—be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

President Cruikshank Presents His Report to the Convention

Members attending the 13th Annual Convention of the National Council of Senior Citizens heard a report from President Nelson H. Cruikshank, covering NCSC activities over the two-year period since the 12th Convention in June 1974.

Here are the highlights of his report:

For the first time in our Council's history, we are holding our Convention outside of Washington, D.C. The decision by our Executive Board, and by the Officers of the National Council of Senior Citizens to hold the Convention here in Chicago was based on a desire to make it easier for our members from the Midwest and from the Western states to participate in the policy making and in the election process of this organization. To all of you who were thus able to attend a National Council Convention for the first time, we extend a special warm welcome.

All of you who were present at our last Convention—held in June 1974—will recall that the City of Washington, D.C., in which we met, was under a dark and menacing cloud. Our country was without leadership, and the man who had been elected President and all the President's men, had been unmasked as a petty, corrupt, and power-hungry mob.

At that Convention, the National Council delegates passed a resolution calling for the impeachment of Richard M. Nixon as "the only Constitutional remedy for abuses of Presidential power."

The resolution declared that, "Any grant of immunity from prosecution would be reprehensible."

It was reprehensible in June 1974—and it was no less reprehensible just three short months later—when, as one of his first acts upon assuming the office of President, Gerald R. Ford issued a complete and final pardon to the former President.

It is clear from the review of what's been happening in this country since we met two years ago, that the man appointed by President Nixon has simply continued the policies that have brought on and continued the recession, the inflation, and the host of other problems we have been fighting since Nixon first took office in January 1969.

Two years ago you charged your officers and staff with certain definite goals. Let's look now and let me report to you where we have had some modest successes and where we have not been successful as well.

I must say that in the present climate of this Administration in Washington for the most part our efforts have had to be on the defensive. We have had to fight hard, not to gain improvements in the programs that are on the statute books, but to hold those gains that we have succeeded in gaining in the last years that have preceded this Administration. We have had to run like the devil to stand still in the Ford Administration.

HOUSING

Now one exception is in the field of Housing. You remember that one of the first acts upon coming into office by Richard Nixon was to freeze all the housing programs, both the good and the bad. The 202 section that had operated for housing for nonprofit organizations, where there had never been a default on any payment on interest or principal, was thrown in with the difficult and problem programs and all of it was annulled and we were denied any public housing for either the elderly or any other segment of our population needing housing assistance.

Now, having failed in its attempt to stop the enactment of Congres of Section 202 housing, the Administration, after Congress did act, simply refused to implement the program. This they did by impounding the funds and then later saying that the funds were only available for construction loans, knowing full well that that was tantamount to a veto of the program.

Had the National Council of Senior Citizens not been organized to fight back, had we not sent our Senators and our Congressmen letters, telegrams, and marched on the picket line a year ago, the story we have to report to you today would be different and a far sadder one.

But you did fight, you did picket, you did write your Congressmen and your Senators, and if you will look in your kit and see the *Senior Citizens News* for this month you will see the headline, "NCSC Wins Approval for Elderly Housing." But we have to remember that this was a hard fight and a victory of Congress over the President. A victory of Congress backed up by your efforts.

JOBS FOR THE ELDERLY

Now let's look at the record of jobs for the elderly. This was another important matter that we talked about in 1974. I reported to you then on our Senior AIDES Program, under which men and women 55 years of age and up are given part-time jobs in community service work. At that time, I spoke to you fresh from a battle with the Administration's Department of Labor—a battle from which we then emerged victorious.

As a result of that fight, we were able to keep our Senior AIDES Program—and all other job programs designed especially for the elderly—from being swallowed up by the revenue sharing process that is the favorite scheme of this Administration.

Having firmly established then, by our refusal to accept general revenue sharing as the answer to the employment needs of the elderly, and demanding categorical job programs for older Americans, we moved forward, expanding the programs.

In 1972, we had 12,400 men and women employed under Title IX of the Older Americans Act. We have since raised that number to 14,970. And our goal, for Fiscal 1977, is 18,000 jobs under Title IX.

LONG-TERM CARE

Then there is that ever present, nagging problem of long-term care.

In a resolution concerning nursing homes passed at our Convention in 1972, the delegates called for an amendment to the Medicaid and Medicare laws that would require participating nursing homes and other homes for long-term care to be inspected at least twice a year without prior notice. Unfortunately, we are still having to fight that fight and we haven't won it yet. But we have allies.

At a recent AFL-CIO Executive Board meeting, the Board Members voted that they would start a program to improve nursing home care throughout the United States. In their resolution, they specifically told their staff that they should work with the National Council of Senior Citizens in this effort. We are now in the midst of preparing and working out that program in harmony and cooperation with our strong friends in the labor movement.

NURSING HOME INFORMATION SERVICE

At our headquarters we have a pilot program of Nursing Home Information Services. While we did not get the inspection rights that we were asking for, under the Freedom of Information Law we were able to get the reports covering the nursing homes in the District of Columbia and the surrounding areas.

Under this Act, these homes must make available to interested citizens the facts about the way they operate and about the way they care for their patients or fail to care for their patients.

The National Council of Senior Citizens has made good use of the availability of this information and has opened up, in our national headquarters, a pilot project which we hope, after we work out the bugs in the program which we are rapidly doing, to be able to extend to other communities.

FOOD STAMPS

I would be remiss indeed if I did not report to you on one of the issues touching the elderly that came up at our last Convention, namely food stamps. This is a program which is of vital necessity to many people, but with a heartless disregard for the needs of the poor, the Secretary of Agriculture has worked assiduously to cut down the program.

Let me give you, however, one little example of "Senior Power." A year ago last January, the Secretary of Agriculture with the approval of the President, announced an arbitrary Administrative cutback in the Food Stamp Program. He was going to raise the price of the stamps on the millions of people who depend upon them.

We went to the legislature and the Subcommittee called immediate legislative hearings. They were going to put an act through Congress that would make it impossible for the Secretary to carry out this order.

We also joined with some other liberal friends and went to the court and sought an injunction. Now the representatives of Secretary Butz went into the court where the injunction was being heard and said, "Don't move Mr. Judge, because this matter is now before the Congress." Almost on the same day, the representatives of the Department of Agriculture were before the Agriculture Committee saying "Don't move Members of Congress because this matter is now before the courts." But, fortunately, the judge saw through this and wrote up an injunction which he did not put into order. He said, "If the Congress does not act, then this injunction will become automatically approved."

And let me tell you our organization, the National Council, with our friends and some liberal organizations had the President of the United States right here. If he moved in one direction he was caught by the courts, if he moved in the other direction he was caught by Congress, and the Food Stamp Program was not put into effect. This without any ifs, ands, or "Butz."

Now they tried again to move and they are moving again to cut down the Food Stamp increase, but we're fighting that again in the Halls of Congress.

LEGAL RESEARCH AND SERVICES FOR THE ELDERLY

In our Legal Research and Services for the Elderly, since we last met, this National Council-sponsored unit, has expanded its activities carried out under a grant from the Administration on Aging. LRSE, as it is known, is now working in 19 states, assisting state and area agencies with programs of legal assistance to the elderly, and in the training of personnel to provide legal counseling for older men and women.

SOCIAL SECURITY

Among the most important items which we considered two years ago was the matter of the social security system. I warned you then that we were in for a barrage of anti-social security propaganda—but I told you that it was just a lot of noise, and that we had nothing to worry about. Well, we know now that there is need to strengthen the finance of this system in both the short-run and the long-run.

In the short-run financial needs, the Administration has proposed a tax rate increase. This would raise the taxes for everybody under social security, but would give no one any better protection.

What we have proposed is to raise the base of the amount of wages that are subject to the tax. This would give the middle- and upper-income worker better protection. We would move toward that goal that was reached in 1935, when the tax covered the total earnings of 96 per cent of the covered workers. It now covers only 85 per cent.

We believe this would make the tax less regressive. We believe it would protect the middle-income worker better. And we believe with every tax increase, there should be some increase in benefits. Our program provides that; the Administration's program denies that.

I have to say that I think there is some threat, although not to the payment of those now under the program. I have no doubt that my social security check and your social security check will still be delivered on the third of the month.

But there is a threat to the long-run stability of the social security program which would deny the promised benefits of those who are now working and paying their taxes that permit us to get our checks.

We don't believe that those who are now working and providing the funds for the system should be shortchanged even in the year 2015. But the real threat to the social security system is in the plan of the Treasury Department and Secretary Simon, who under the law is the managing trustee of the trust funds, to use the long-term financing needs to cut the benefits of future retirees.

So there is a threat to the social security system in the long-term future. And that threat exists in the reelection of Gerald Ford and the continuation of a Wall Street broker as the managing trustee of the social security funds.

MEMBERSHIP

Every Convention we have ever had seems to end with the resolve to go back home and spread the good word about the National Council of Senior Citizens. The last Convention was no exception, and I want to congratulate you. You've done a good job. Because, since 1974, we have added 400 new clubs as affiliates of the National Council, and have increased our membership by 15 per cent.

In addition, our list of state councils who have joined with us continues to grow. Since we met two years ago, we have welcomed six more state councils—New York, Ohio, Pennsylvania, Texas, Idaho, and Michigan, as well as ten new area councils.

Three major labor unions have added their names as supporters of the National Council; all affiliated with the AFL–CIO. These unions are the International Leather Goods, Plastic, and Novelty Workers Union; the International Union of Operating Engineers; and the Communications Workers of America.

Senior power is beginning to mean something. We know and the people of elected office know, that one vote out of every three cast next November will be by someone over 55, either retired or beginning to think about retirement.

We find ourselves in another election year and we know that the National Council of Senior Citizens, all its clubs, and all its members will be on hand and working in the polls and getting other people to the polls to show these people who would cut back Medicare and call it improvements, these people who would hold back cost-of-living increases in social security, show these people who would annul by impoundment the housing programs passed by Congress, that we don't mean that they will continue in office. That is our purpose and that is our goal for 1976.

In this bicentennial year we can well look to our founding fathers for inspiration and continuing leadership.

But the more remarkable thing—and a fact more meaningful to us seniors—is the way they carried on after their great cause was won.

Thomas Jefferson from the age of 57 to age 65, was President of the United States, after which he retired to Monticello. There he was active in architecture, working at the University of Virginia, and conducting the affairs of his extensive holdings—but, more particularly, carrying on a correspondence with the fighters for liberty all over the world until he, too, on July 4 on the 50th anniversary of the signing of the Declaration, died at the age of 83.

The picture we get from this review is that of a band of brilliant and dedicated men—men who might have felt they had finished their work and made their mark in history when they developed the Declaration at the age of 45. But they never felt that their work was completed and 50 years after the signing of the Declaration we see the last of them still fighting for the causes in which they believed.

Our generation too has had its revolution. But, like our forefathers, our revolution, too is not finished. We, too, are called on to continue the struggle for freedom, for justice, for dignity, even into our later years.

As long as two out of five older people in this nation live on incomes that keep them below the poverty line, our revolution is not complete.

As long as millions of elderly live in substandard and unsafe dwellings, we have a cause to finish.

As long as any man, woman, or child is denied quality medical care, we have a revolution still to carry on.

As long as there remain hundreds of thousands of elderly warehoused in firetrap nursing homes with no purpose in life left to them but to be kept breathing so some nursing home proprietor can collect his unholy gain from their pain-racked bodies, the American Revolution remains to be won—the American dream is still a dream.

I know this little army we call the National Council of Senior Citizens will continue that revolutionary struggle through this bicentennial year and all the years to come, until that revolution ends in victory.

Working with you, we can make this country not only a great place to grow up in—but also, a great place in which to grow old.

CHANCELLOR SCHMIDT ADDRESSES NATIONAL PRESS CLUB

Mr. HATFIELD. Mr. President, the recent visit of Chancellor Schmidt to the United States provided citizens of the United States a unique opportunity to learn about international economics from an extremely qualified person. In Chancellor Schmidt, we had someone well versed in economics as the head of the government of an important country in the world's economy who also is fluent in English. From people who heard Chancellor Schmidt speak at the several public occurrences, I understand that he uniformly did an outstanding job.

As Chancellor of the Federal Republic of Germany, he has led Germany through one of the deepest recessions of the past two decades. He also has been a key member of the international leadership helping guide Western economies out of this recession.

International economics is a dry, although very important, subject, and Chancellor Schmidt did an excellent job of articulating his concerns about future problems faced by countries throughout the world, as well as explaining the situation Germany herself faces.

One of Chancellor Schmidt's speeches was to the National Press Club luncheon on Thursday, July 15, 1976. In addition to a thoughtful and provocative speech, I call the attention of my fellow Senators to the question-and-answer session that followed. His answers to the wide range of questions showed how skillful he is at providing substantive answers to his listeners in a language not his own.

Mr. President, I ask unanimous consent that Chancellor Schmidt's speech and question-and-answer session be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPEECH BY THE CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY, HELMUT SCHMIDT, BEFORE THE NATIONAL PRESS CLUB

Ladies and Gentlemen: Way back in medieval times there was the inquisition—today there is the press.

Nevertheless, I shall face up to your inquisition and your cross-examination, and so that you may have enough ammunition, I shall first make a few introductory remarks:

1. The most serious crisis in the world economy since the thirties has been overcome.

In Puerto Rico, three weeks ago, the heads of state and of government of the seven largest industrial countries in the world were agreed that the world economic trend is on the upturn and that consumer demand and investment are increasing. In most countries confidence in the future is growing. The prospects of growth have improved. We can count on a 10 percent real growth in world trade. For the seven major industrialized countries a 5.5 percent growth of the real GNP has been estimated.

2. The leading industrial nations have not just waited for the new world economic upswing as children wait for Santa Claus—on the contrary. We have all worked together to bring it about.

We proceeded from the unquestionable experience that, in cyclical terms, national economies—even the super-economy of the United States with its comparatively small proportions of external trade—have become increasingly interdependent. The age of self-sufficient national economies is over. We are entering the age of international economy.

For some time past we have been experiencing what was foreseen by one of the distinguished political leaders of this country, Wendell Willkie, who said:

"Political internationalism without economic internationalism is a house built upon sand. For no nation can reach its fullest development alone."

On the basis of this conviction the leading industrial nations have managed to coordinate their common objectives to a very large degree.

Visible signs of this have been the conferences of Rambouillet and Puerto Rico, the first summit meetings designed to harmonize economic policies. The common objectives are to eliminate unemployment, to ensure new, steady growth, to achieve and maintain monetary stability, that is, to avoid further inflation.

In pursuit of these objectives we have introduced a variety of national measures to stimulate economic activity. We have jointly and successfully avoided trade restrictions. In our efforts to master balance-of-payments problems, we have exercised practical solidarity—I would recall the credits made available to Italy and Great Britain to mitigate their balance-of-payments troubles.

Your country and my country have been the "cart-horses", or if you like "locomotives", for the fresh upward pull of the world economy. As a result of our massive expansion policy our imports in the crisis year 1975 rose by 6 per cent while our exports declined by more than 8 per cent.

After Rambouillet and Puerto Rico we are still far from living—like Voltaire's "Candide"—in the best of all worlds. What we have to do is disprove Voltaire's remark "common sense is not so common". The tasks of the future call for more common sense in international affairs than many may think necessary at the present time. The United States showed us after the Second World War how much international common sense a country is capable of.

3. What is needed now is an effective global policy for stability and growth.

What we need in all countries is more fixed investment to create new crisis-proof jobs. In my view the propensity to invest in the capital sector is still insufficient.

The prerequisite to growing investment activity is greater confidence in future developments—confidence, above all, in the continuity of official economic policies. At the same time, everything must be done to prevent the resurgence of inflation mentality. What is needed is a monetary policy which, while leaving sufficient scope for economic growth, will check inflation rates, nowhere should one nourish the erroneous idea that inflation can be a means of maintaining full employment.

The upturn requires the support of an income and price policy benefiting all sections of the community. In Puerto Rico we felt the British pay deal to be particularly encouraging. It shows that it is possible in democratic societies, too, and under difficult conditions, to reconsider one's economy policy.

As regards the new wage agreements in my country, the trade unions have again, as so often before in 1975 and 1976, shown a large measure of responsibility. And to keep things in the same vein, employers should not use every opportunity for jacking up prices.

All social groups must be clearly aware that steady and balanced growth is not feasible without social consensus, and to ensure that the right policy mix of our governments is carried by that consensus, nobody can do more than you the press.

4. National efforts supported by multilateral assistance are necessary to rectify weak balances-of-payments.

Many countries still have an imbalance which is partly due to the increase in oil prices. These weaknesses need to be removed by real-value economic measures. In the long-run a rapid growth of international indebtedness is no way out. It will put the global policy for stability in jeopardy because necessary though often painful structural adjustments are left undone.

There is no question that some countries need to improve their economic performance. International stability presupposes that national economic developments must neither lead to excessive budgetary deficits nor to an over-supply of money. Partnership also implies obligations.

In Puerto Rico there was agreement that international credit aid must be conditioned by economic policy measures so as to help the national economy concerned to recover. Conditioned credit aid means that borrowed international liquidity should not be used to import veal but to strengthen the country's own export structure.

5. Our two countries must ensure the freedom of capital transactions and of trade.

During 1975, the year of crisis, the balance of trade between the United States and the Federal Republic of Germany swung in the opposite direction. For the first time again your country exported more goods to the Federal Republic than it purchased from it (U.S. exports: 14.2 billion DM, U.S. imports: 13.1 billion DM). On our exports of automobiles alone we had a loss of 2 billion DM in 1975. On the other hand, for the first time more direct investments were made by German firms in the United States than by American companies in the Federal Republic. The fact, that Volkswagen is setting up a factory of its own here is not only a good thing for Volkswagen, it will be a good thing for Pennsylvania too once that factory starts production there.

Your country should not start tampering with its open-door policy just because there is an increase in direct foreign investment. We Germans have always been in favour of it and the books today show the difference: American direct investments in the Federal Republic of Germany amount to 17.1 billion German Marks, while German investments in the United States amount to only 4.2 billion German Marks.

It was beneficial to all sides that the American administration did not use all the restrictive possibilities provided for in the 1974 trade act. As a result, confidence in free world trade has been strengthened and our two countries, the world's two biggest trading countries, have a special responsibility for ensuring that this remains so. Slogans like "Buy German", or "Buy American" will, if successful, satisfy protectionists, but in the long run they mean the death of free exchange of goods.

6. We must, with the aid of our alliance, ensure that peace also remains stable.

We have protected freedom and democracy by our consistent policy for economic and social stability. But they are threatened from outside as well.

The Soviet Union keeps increasing and improving its nuclear weapons arsenal. It is expanding its fleet considerably. The Warsaw Pact ground forces are numerically superior.

Yet, one thing is sure: A war-like confrontation between the North-Atlantic Alliance and the Warsaw Pact would be fatal for both sides.

The basic condition for peace is, and remains, the balance of powers. This need not go for each individual service branch, but it must go for the system as a whole. That is why we Europeans welcome the presence of American troops in Europe and the recent strengthening of the alliance in the Mediterranean. It was necessary to resume defence aid to Greece and Turkey.

We who live in the Federal Republic of Germany along the seam between East and West are aware every day that there is no alternative to the Atlantic Alliance. This alliance must remain strong, so that our common security can be maintained. We contribute our share to this with our Federal Armed Forces.

On the basis of this strong alliance we continue our policy of relaxation of tensions and actively participate in disarmament talks so as to moderate that nonsensical arms race and secure peace in a joint effort.

In doing so, we build on American leadership. In the fields of foreign and security policy as well as economic policy, we Germans do not consider our possibilities to be as large as many of your papers would make us believe. But on the basis of our bilateral relations which are entirely without problems and thus amount to an unprecedented bond of trust between the United States and the Federal Republic of Germany, we shall assume as much responsibility in world affairs as is due to us and as we are able to bear.

In the past 30 years the countries of Europe were rebuilt. Now they begin to grow together. Your country has actively contributed to this. It has assumed responsibilities for Europe, so that in those 30 years any serious conflicts could be avoided. This has been most important for the success of the reconstruction efforts.

We now need a further strengthening of the cohesion between America and Europe by means of closer co-ordination and links between our policies. Only thus can we build more confidence, confidence also in fruitful international co-operation which will enable us to cope better with future threats to the world economy. By building more confidence we can integrate the developing countries more firmly into the world economy—for their own benefit, and to increase their possibilities of development.

This world's power blocs will not be dissolved overnight. In the present ideological conflict the opposite side will not yield an inch of their ground; on the contrary: They believe now as before that their views will one day prevail world-wide.

In this ideological conflict we can hold our own with composure in the same way as, relying on our capability, we approach the problems of the world economy.

On the Bicentennial of this great democracy, this is what I have to state: We are convinced that freedom and democracy alone will help us to a better life. This as well as confidence in each other's reliability is the foundation on which we can master all problems.

Now if you have any questions, I shall be glad to answer them.

UNOFFICIAL TRANSCRIPT OF THE RECORDING OF QUESTIONS AND ANSWERS WITH FEDERAL CHANCELLOR HELMUT SCHMIDT AT THE NATIONAL PRESS CLUB

Q. Herr Schmidt, what was the range of your conversation with President Ford, did you compare notes and such items as delegates and votes?

A. No, Sir, we did not, And regarding the fact that we have a campaign running in Germany as well and our elections are going to be held one month earlier than yours, namely on the 3rd of October, I do not wish to interfere with yours.

Q. Is there any special reason that you are visiting President Ford at this time?

A. Yes, Sir, there is. This visit has been arranged already three years ago under my predecessor, my friend Willy Brandt; because already then it was decided that Germany should bring her congratulations to the 200th Birthday of the United States as a nation. So I am fulfilling promises today which had been made at the first instance by my predecessor.

Q. Do you support the Israeli action in rescueing the hostages from Uganda? Do you favor closing of airports to landing by terrorists and hijackers?

A. I do not want to be too specific, given the ongoing debate in the United Nations at this point of time; but I do not see what different course of action was left open to the Israeli government.

Q. President Ford said, he would like to see the IOC-Executive Board decision on Taiwan participation in the Olympic games being reversed; what is your view on this?

A. I am going to see Prime Minister Trudeau next week, so I ought to be careful today. But I have the general feeling, I have had that feeling since a couple of years—you will remember that Germany has acted as the host of the last Olympic games four years ago—a general feeling that is—one should leave the decision on who is fit to participate in the Olympic games to the International Olympic Committee.

Q. Do you expect that economic summitry would continue under "President Carter"; do you believe that these summits serve a useful purpose?

A. I am strongly convinced of the usefulness of meetings between heads of states or heads of governments not only in times of political crises, but also on world economic matters. They are going to happen again in the future, with no regard who is American President or German Chancellor.

Q. One reads that East Germany is making economic strides; when—if ever—will the Berlin wall come down?

A. I think it is going to come down some day. It is difficult to predict the date or even the year, but let me say, that this question gives ample opportunity to the German Chancellor to point out to an American audience that 30 years after the war our country and our nation is still divided and our former capital of Berlin still being divided. They are all Germans, whether they are living in the West or in the East. And it is to a great degree for this reason that we do strive for a reduction or relaxation of tensions between the West and the East; of course under the presupposition, which I stated earlier, of the maintenance of military forces in Europe.

Q. During the first half of this year the Soviet Union has allowed about 5,000 ethnic Germans to immigrate to the Federal Republic—a rate unmatched since Social Democrats came to power in late 1969, according to the questioner. Do you believe this favorable development indicates Moscow's desire to compensate West Germany for the lack of progress on other bilateral issues such as Berlin. Also, do you believe this rate of immigration is a deliberate effort by the Soviets to help you during your election campaign?

A. To the latter part of the question the answer is a flat NO; because the development you are quoting has not only taken place in the last recent months, but has been developing over the recent couple of years. The number of Germans being released from the Soviet Union and being permitted to come to Western Germany, has been increased ever since 1970. And I do not think it has so much to do with the parties in office in Bonn. It has much to do with the new foundations of German-Soviet relations by the so-called Treaty of Moscow, which was negotiated and concluded between Chancellor Willy Brandt on the one side and First Secretary Leonid Breshnev in 1970 on the other. Since then we have made quite a bit of progress in our bilateral relations. There have also been, of course, set-backs, which was expected, and again new progress after set-backs.

But as you have mentioned Berlin in the question, you read out, I would like to point to the fact that the United States and the United Kingdom and France on the one hand, and the Soviet Union on the other had, that these four powers in the course of our policy of relaxation of tensions concluded an international four-power-agreement, the Treaty on Berlin, in order to ease the situation of that divided city. I really mean what I say when I state that since then the situation in and around Berlin has become much more relaxed than it ever has been during the early '60ies or all of the '50ies or even the '40ies, when Berlin was beleaguered, one might say, at least economically cut off from the West totally by the so-called Berlin Blockade under Stalin.

Q. Does such immigration also bring more spies?

A. Sir, you will have spies anyway.

Q. How do you generally appraise the policy of reconciliation with the East bloc nations, inaugurated by former Chancellor Willy Brandt—as a success or a disappointment?

A. Taking all into account, what is great success? Some might have had illusionary expectations which have not proven to be right so far. But I would also like to add that these policies of Willy Brandt and his Foreign Secretary Walter Scheel, who is now our Federal President, policies which have been continued by our present Foreign Secretary Herr Genscher, who is also in Washington today, and myself, are not just autonomous policies of German origin only, but were policies in concert with the general attempt of the United States and others to relax tensions with the Soviet Union and the East as a whole, and I might go back as well to the times of, let us say, the Cuban missile crisis shortly after which the first agreement was concluded between the United States and the Soviet Union on the ban of nuclear tests. I might point also to the SALT I-agreement, I already mentioned the Treaty with the Soviet Union, I did mention the Four power Agreement on Berlin, I would like to hint to the fact that the United States and the Soviet Union right now and since a number of months are negotiating a SALT II-agreement. We have answered a question on MBFR I believe. And if you look at all these matters as a whole you will see a slow but continuous progress in relaxation of tensions in the last 12 or 15 years and you will detect that it is not only a process which originated in Germany and Bonn, but a process which in the first instance originated in your place in Washington, D.C., to which we were in the situation to contribute quite a bit.

Q. The questioner writes: My definition of a liberated woman is a truthful, creative, realistic, independent yet expressably loving woman. What's yours—and incidentally your wife specifically assured me that she did not send this question up.

A. Despite the fact, Sir, that this question does not stem from my wife, I subscribe to that definition.

Q. What would the impact be on Germany if the United States withdraw its troops.

A. If ever the United States would withdraw its troops from Germany or from Europe or from the Mediterranean, there would be a great impact not only on Germany, but also on other Westeuropean nations, also on Easteuropean nations and indeed on the equilibrium, the equilibrium of power all over the globe. It would be a catastrophic impact I must say. There is only one thing I can think of, namely reducing the number of forces you employ abroad and reducing the number of forces at all if and so far as at the same time the Soviets are reducing their troops adequately. I restate again that the maintenance of the equilibrium of military factors working inside Europe and working upon Europen from outside, that the maintenance of that equilibrium is a prerequisite for any policies of peace and for any policies of relaxation of tensions between West and East.

Q. In view of the way the blatant terrorist bombings in West Germany especially on U.S. Army bases, what is the German government doing to combat the pro-Meinhof activities now prevalent.

A. As far as the Baader-Meinhof activities are concerned, they are before the court now, and it is not for the government to comment upon that trial. As regards other terrorist activities, Germany is by no means an exception from the general situation. I do not know how many airplanes have been abducted in your country; at least I read about the abduction of airplanes every once in a while in many countries of the world, I read of terrorist activities in many countries of the world, whether it is France, whether it is Austria, whether it is Northern Ireland, whether it is Britain, whether it is Germany, its an international disease nowadays and what we need is international cooperation to overcome that disease.

Q. What is your opinion of the recent congressional action which establishes American policy concerning standardization of arms within NATO. What do you think the chances are that the United States will purchase the Leopard tank?

A. Sir, I am not a salesman for leopard tanks nor for weaponry in general. So I will not comment upon the latter half of your question. Regarding the first half I, as a former Secretary of Defense of my country, I could only say that it is really in the interest of our common defense and also in the interest of our taxpayers, whether in the United States, or in France or Britain or Germany or any other country which belongs to the alliance, that we try to standardize and thereby save money—standardize our weaponry and our aircraft.

Q. If after your parliamentary election your Social Democrats and the Free Democrats have only a 5 to 10 seat majority in the Bundestag, are you certain that Free Democrats will rejoin your party in a coalition?

A. I am quite certain that the coalition will last for another four years, plus two months which is the time we need to go until the election day. But let me, please, say quite frankly, that I did not like the "if" in the beginning of your question.

Q. Would you prefer the new American method of choosing a Vice Chancellor the way Carter chose Mondale to the German method?

A. Let me again say that I do not want to interfere in the domestic American politics. In our constitution it is said that the Chancellor is to be elected by the Parliament on the proposal of the Federal President—not being elected by the people in general. The constitution says that the Chancellor appoints one of his ministers to act as his deputy. This provision of the constitution has been executed all the time for 27 years and is also going to be executed the next four years.

Q. Mr. Chancellor, are you concerned about the Soviet naval and military build-up in Africa. Which steps should the NATO-countries do to counteract the Communist threat?

A. I am to some degree worried about the maritime build-up at large that you referred to. I think that this regards Africa as well as other places or continents in the world; it is true that I said earlier that we in order to maintain the balance of power—the equilibrium of power—should bring about an optimum if not to say a maximum of cooperation between Western nations.

Q. Do you believe that Soviet aggression against or interference in third countries such as Angola can be deterred by total withholding of Trade?

A. It seems to me that this is a hypothetical question. I really don't like to answer hypothetical ones too much. But it gives me a chance to point out that in the course of the last five or six years, or so, the dependence of the Soviet economy—whether it is in the field of grain and food, whether it is in the field of investment goods and machinery, technology, or whether it is in the field of credits—the dependence of the Soviet economy on the well-functioning, of the rest of the world has become much greater than ever before, Indeed the interdependence is growing; also the Western countries in some respect are nowadays more dependent on selling goods to the Soviet Union than in earlier decades. But evaluating both sides of this equation, I have the feeling that the greater amount of dependency has up to now developed on the Eastern side. I regard this to be rather a development which one should welcome, because as much as people economically depend on each other it is less likely that they destroy each other and I would like you to know that the dependence of the Soviet economy and other European economies on the well-functioning of the world economy nowadays is greater than it ever has been since the days of Lenin.

Q. What is your attitude toward an Italian government with communists being in NATO?

A. I don't like to have communists in government in any place of the world, whether it is Italy or other places. I don't like to have communists in NATO governments but I should, having said this, refrain from interfering in Italian domestic policies, coming from a German mouth on American soil.

Q. What are your thoughts on the question of releasing Rudolf Hess?

A. Judging this case with the normal standards in the American society, the legal system in your country, or with the standards which apply to people who have gotten a life sentence I have the feeling that the time for grace has come.

Q. Is Naziism completely extinguished in West Germany?

A. The answer is Yes.

Q. What is your governments' policy on the question of human rights. Do you see hope for real international cooperation on this issue?

A. I beg your pardon, I am not sure whether I understand the underlying meaning of that one. Could you repeat it once more please?

Q. What is your government's policy on the question of human rights. Do you hope for real international cooperation on the question of human rights?

A. I must confess I still do not know to which area of problems this question is hinting to. Is it hinting to the racial questions in some of our societies? If so, I would say that I, like all of our government and the great,

great majority of our people, do abhor racial discrimination whether it is taking place in a democratic society or whether it is taking place in any other form of society.

Q. Mr. Chancellor, what is your reaction to the concern expressed by many members of the United States Congress on the sale by the Federal Republic of sensitive parts of the nuclear fuel cycle to countries which have not ratified the nuclear non-proliferation treaty, such as Brazil? Is the Federal Republic reconsidering its policy on this matter?

A. The answer is no; we are not reconsidering our policies in this matter. The answer is that we have closely consulted the United States Administration in that matter before. We came to our decision—it's right that Brazil is not a party to the non-proliferation treaty, but the agreements which were signed between Brazil and us and also the international authority in Vienna which is the organization by which the non-proliferation treaty is operated—the treaties, the agreements which we have signed with Brazil do also include the international agency in Vienna as a third party and I welcome this opportunity to state before an American public audience that by those treaties with the Brazilian Government we have brought the Brazilian Government to undertake even greater duties toward non-proliferation than they would have to undertake if they were a partner to the non-proliferation treaty.

Q. Why do you feel that Germany should not play a leading role if the European Community should become a reality in the near future?

A. The articulation of the question does state an attitude which I would not share in the way it was formulated here. I do think that a country of 60 million inhabitants given its solid economic strength, given its democratic and social stability, has to play some role in the further development of Europe and further integration of those nine European countries which have 18 or 19 years ago founded the European Community. But I hasten to add that I do not see and do not seek a leading role of Germany in that process. This is a Community of equals and I hate the thought that some countries are more equal than others.

Q. What is your third line fuel resource in your plan for the future of Germany when your coal is gone and uranium is unavailable?

A. I don't foresee that uranium is going to be unavailable in the foreseeable future and even more so I do not see any future in which our coal is gone. We have in a time when oil was rather cheap and crude oil was rather cheap in the world's markets, we have very diligently and with great energy avoided to close all our coal pits—on the contrary, the trade unions as well as the Government as well as the state government of North-Rhine Westphalia and of Saarland—these are the two states in which our coal mines are situated—we have striven energetically to maintain our coal production in order to thereby maintain our possibility at least to a great part to rely on domestic fuel resources.

Q. To what specifically do you attribute Germany's economic success?

A. If you compare the factors working inside the German society and inside the German economy it is difficult to see that the factors differ from those in other European countries which have reached the same level of technology, who are at the same level of civilization, the same level of—as regards skilled labor—at the same level of engineering, the same level of education, and professional education included. There is I think, only one difference if you compare my country with a number of others. That is in the field of labor relations or better to say, that is the role of the German trade unions inside our economy. There are little strikes. Of course, sometimes they are also in our country the strike does occur, but mostly wage disputes are being settled by negotiation. The state is not interfering, we refrain strictly from interference, and in those 27 years since the founding of our Republic the trade unions and their negotiation partners have to 99% of the cases been able to bring about agreement by negotiation. On the other hand, the legislative branch and the government and the executive branch over all these 27 years, and even more so in the last seven, have seen to it that the fields in which the trade unions have acquired responsibility be enlarged. You know that in any German factory the employees do in a private ballot elect a workers council and this is the case since more than 20, more than 25 years now, and there are many things which the management of the factory cannot do without the consent of the workers council, which to many American ears might sound as being socialism, and indeed it is, but it works quite nicely and has made for very, very good labor relations. And on top of that, since 1951 or so we also had a 50% participation of the delegates from the workers, from the employees and from the trade unions on the supervisory boards of our great corporations in coal mining and in steel industry.

We are now about, or parliament has already taken action, to, under some variations which created some dispute in Germany, political dispute as well as dispute between entrepreneurs and the trade unions, to stretch, to expand that system from the branches of coal mining and steel to all the branches of industry including banking, insurance and the rest. I mention this one feature, just in order to illustrate how far on the one hand free negotiations by the trade unions and their partners and on the other hand the legislation in order to bring about a progressive social order has made for a stable social peace in my country and I think this is the only fact one wants to mention, in order to answer your question what were the factors behind the good economic performance of Germany.

Q. I will not make the same disclaimer as I did in presenting an earlier question on this next one; what is your attitude towards the private life of a politician?

A. My attitude is: I am longing for it; but this does not mean that I am not going to win the elections.

Q. Before the final question I would like to present to you Chancellor Schmidt, the National Press Club Certificate of Appreciation, and also for those hours of sailing at your week-end at home the National Press Club wind breaker. (Before asking the last question I would like to ask the audience if they could remain for just a moment or two while the Chancellor and his party leave for a ceremony at Lafayette Square, And now for the final question.)

Q. Do you look for an increase in German import of peanuts in 1977?

A. Well, as far as human consumption is concerned, I do not, because I think we are already fed quite well. As far as you can use peanuts for other things, I don't know, I am not an expert on peanuts I must confess. But the underlying sense of the question seems to be what is my conception of the future development of the American-German relationship, and I am quite sure that it is going to be smooth and its going to be a relationship of hearty, mutual understanding of cooperation and I also think that it is going to be beneficial for my country and my nation I even venture to believe that it is going to be beneficial to yours as well.

Thank you very much and I include in my gratitude the wind breaker which you gave me. I will use it on the campaign.

THE GENOCIDE CONVENTION AND FREE SPEECH

Mr. PROXMIRE. Mr. President, some who oppose the Genocide Convention have voiced the concern that American ratification would serve to endanger free speech in this country. They fear that article III of the Convention will empower the Government to prevent citizens from exercizing their constitutional right to speak freely.

There are two major flaws in this argument. First, it conveniently overlooks the impact of the first amendment to the Constitution, which specifically guarantees all Americans the right to free speech. Article VI says that the Constitution is the supreme law of the land. Acts of Congress and treaties are also the supreme laws of the land when they conform to the Constitution. The U.S. Supreme Court and other Federal courts have consistently maintained that acts of Congress and treaties which do not conform to the provisions of the Constitution are necessarily null and void. Therefore, the Genocide Convention cannot in any way abridge the constitutional guarantees of freedom of speech.

Second, the crime defined in article III(c) of the convention is "direct and public incitement to commit genocide." To prohibit public incitement to commit genocidal acts would not be an abridgement of free speech. It has long been recognized that the first amendment does not give a person the right to say anything he wishes. Incitement of persons to commit criminal acts is clearly not a manifestation of free speech, deserving of constitutional protection. A person cannot incite others to commit any crime, whether murder, arson, riot, or, if this treaty is ratified and the implementing legislation enacted, genocide.

Mr. Preisdent, once again I call upon the Senate to ratify the Genocide Convention as soon as possible.

GAO AUDITORS PERFORM WELL

Mr. PROXMIRE. Mr. President, in 1974 two auditors from the General Accounting Office were hired temporarily by the Senate Appropriations Committee to look into several matters regarding the renegotiation of defense contracts.

The two auditors, Bernard J. Trescavage and Woodliff Jenkins, were placed temporarily on the staff of the Subcommittee on Housing and Urban Development, Space, Science, and Veterans of the Appropriations Committee, which I chair. In 1973 and 1974 the subcommittee held several hearings on the subject of renegotiation. In these hearings very disturbing disclosures were made about the conduct of the Renegotiation Board and its enforcement of the program enacted by Congress to insure that excessive profits are not paid on defense contracts.

Mr. Trescavage and Mr. Jenkins performed their assignment in an exemplary and highly professional fashion, and following completion of their examination into a number of problem areas they were invited to present their findings in public hearings. Again, the two individuals performed very ably.

Mr. Trescavage has described his experiences on Capitol Hill in an article published in the GAO Review, winter 1976. I ask unanimous consent that the article by Bernard J. Trescavage, entitled "Journey Through the Corridors of Power: Assignment to a Congressional Committee" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Journey Through the Corridors of Power: Assignment to a Congressional Committee

(By Bernard J. Trescavage)

What is an assignment to a congressional committee actually like? For Woodliff Jenkins and I, that question was answered when we were selected to work on renegotiation matters for Senator William Proxmire's Subcommittee on Housing and Urban Development, Space, Science, and Veterans, Senate Committee on Appropriations.

Renegotiation is a process whereby the Renegotiation Board determines the amount of excessive profits which a contractor/subcontractor may have realized as a result of doing business with designated Federal agencies and which must be refunded to the Government.

In 1974, Senator Proxmire held a series of hearings on renegotiation. Because of charges and countercharges made by Board officials at those hearings, and the conflicting testimony which resulted, Senator Proxmire asked the Comptroller General to provide two staff members to review the cases of several corporations which were discussed at those hearings—Mobil Oil, McDonnell Douglas, and Northrop. I was selected because I had been site supervisor on a Renegotiation Board audit assignment which had resulted in a congressional report 2 years earlier.

During our assignment to the committee, we were free to make travel decisions and to meet with Government and corporate officials. We met with top Mobil officials in New York to discuss Mobil's fiscal year 1972 filing with the Board. We drafted telegrams for Senator Proxmire's signature which informed Mobil of our pending visit and other matters. Because complicated issues were involved in this case, we met with high-ranking officials of the Internal Revenue Service to obtain background information on oil company pricing policies and practices. We also met with a staff member of the Senate Permanent Subcommitte on Investigations.

At least once a week, we briefed the General Counsel of the Joint Economic Committee. He informed us, during one of the briefings, that we would testify on April 2, 1975—one of the most memorable days of my professional career—before the Senator's Subcommittee on Priorities and Economy in Government of the Joint Economic Committee. We had about 1 week to prepare both our statement and eight related charts. The charts showed that the Renegotiation Board's excessive profit determinations had allowed the three corporations to retain significant profits beyond comparable industry average profits.

We met with Senator Proxmire on the day of the hearings to inform him of what we had found, although he said that the General Counsel had been briefing him during the course of our review. What happened next was, to me, a very exciting experience. We walked to the Old Senate Office Building and into a huge hearing room with chandeliers. Television cameras, press reporters, a photographer, industry representatives, and the general public were everywhere. And there on the stand, in the front of the room, were our charts.

In his opening statement, Senator Proxmire remarked that the Board, in his opinion, was doing a poor job of determining excessive profits realized by contractors/subcontractors and that, unless its operations showed some definite improvement, there was no need for it to continue operating.

Admiral Hyman G. Rickover was the first witness. The Admiral immediately showed his displeasure for the way the Board was doing business. He called the Board a "sieve" because he felt large amounts of excessive profits were not being recovered.

We followed Admiral Rickover, reading our statement and then answering the Senator's questions about our charts. We testified for about an hour and, needless to say, were apprehensive about what was to follow.

Renegotiation Board officials were the last to testify. During their testimony, we were seated with the General Counsel behind the Senator. At one point, the Senator asked the Board officials to comment upon our charts. The officials, however, asked for more time to study the charts and that they be allowed to furnish their response, at a later time, for the record. The hearing ended on a somewhat conciliatory note, with the Senator proclaiming that the Board's staff were capable people but that Board members must strengthen the renegotiation process. Following the hearing, the Senator thanked us for our testimony.

The General Counsel had forewarned us that reporters would probably want to interview us and that we should make our decisions about whether to talk to them and what to say. The first reported to approach us was Morton Mintz of the Washington Post. Several days later, we met with a St. Louis newspaper reporter. We restricted our discussions to the facts presented in our testimony because we felt any expansion or interpretation of those facts should be made by the Senator or the General Counsel.

In summary, the assignment was both personnally and professionally rewarding. Although we had some problems (mostly administrative), they now appear insignificant in terms of what we gained in experience. For me, the assignment was especially rewarding because of the responsibility the General Counsel entrusted to us and his confidence that we could do the job with little direction from him. Our final product to Senator Proxmire was a written report on the three cases and other matters which the General Counsel had asked us to comment upon.

ARGENTINA

Mr. KENNEDY. Mr. President, I want to call attention again to the continuing crisis in Argentina and the need for expedited action to respond to the U.N. High Commissioner on Refugees in assisting with emergency resettlement of some of the political refugees in that area.

Only last week, we saw the disappearance of Margarita Michelini, the daughter of a former Uruguayan Senator, Zelmar Michelini, who himself was abducted by a paramilitary group and later found dead. Now his daughter has disappeared.

Ms. Michelini was among some 30 Uruguayan exiles who were abducted last week. Amnesty International has informed me that several small children were among whole families who were abducted. I shall ask unanimous consent to have their names printed in the Record.

Also, we read of the senseless executions of three Roman Catholic priests and two seminarians in the parish residence in Buenos Aires earlier this month. I shall ask unanimous consent that news articles describing these events be placed in the Record.

The political violence from the right has been matched by terrorism from the left. Both must be halted.

I have introduced a resolution, Senate Concurrent Resolution 120, along with Congressmen Fraser and Koch, to urge our cooperation in humanitarian efforts in Argentina, Uruguay, and Chile. I also recently wrote to the Secretary of State and the Attorney General urging that expeditious action be taken to extend and expand the current Chile parole program.

Now I have received a response from the Department which I shall ask unanimous consent to place in the Record. Given the continuing plight of these individuals, I am confident that this Government will respond in keeping with its deep humanitarian traditions.

In that regard, I have received an open letter from a cross-section of European political leaders which urgently calls for the Government of Argentina to press toward a democratic solution and respect for human rights.

This plea is signed by the Prime Minister of Denmark, the Prime Minister of Sweden, the Chancellor of Austria, the new Prime Minister of Portugal and other leading European political figures. I shall ask unanimous consent that the names of all the signatories, be printed along with the open letter in the Record.

Mr. President, I ask unanimous consent that the names, news articles, and the open letter be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Amnesty International

Margarita Michelini de Altuna, Raul Altuna, Leon Duarte, Felix Diaz Zerdayes, Elena Amunteon Almedia de Dias, Enrique Rodriguez Larreta, Raquel Nogueira de Rodriguez Larreta.

Ana Salvo de Espiga, Sara Mendez Lomporio, Estela Marie Riquelo, Simon Antonio Riquelo, Asilu Maseiro, Elena de Andres, Alicia Alarcon, Victor Libionsky, and 15 children and young people ranging in age from a few months to late teens.

[From the New York Times, July 6, 1976]

Argentines Shocking by Slaying of Five at Church

(By Juan de Onis)

Buenos Aires, July 5.—The killing of three Roman Catholic priests and two seminarians of an Irish-Argentine order shocked public opinion here today.

The five, including the Rev. Alfred Leden, 60 years old, the highly respected parish priest of St. Patrick's Church, were shot in the back of the head as they kneeled in the parish residence early yesterday.

Words written in chalk on the wall of the residence, later rubbed out during a police inspection of the building, indicated that the killings were in reprisal for the explosion of a bomb Friday that killed 18 policemen.

According to a priest who saw the writing, it said, "For the police that died" and "Corrupters of innocent minds."

"This is a senseless killing," said the priest, who asked not to be identified. "These priests never had any political activity."

Since the bomb explosion in the headquarters of the superintendency of federal security, the investigatory arm of the federal police, more than 20 persons have been killed in what appear to be reprisals.

A machine-gunned body was found early today at the obelisk that stands at the main-intersection of this capital, Corrientes and 9 de Julio Avenues.

On Saturday, 15 bullet-riddled bodies were found in various empty fields and parking lots in the city.

The coffins carrying the bodies of the slain priests and seminarians were displayed at St. Patrick's Church this morning before hundreds of parishioners from the middle-class neighborhood where many Irish-Argentine families live.

A woman lifted a white lace cloth covering the face of the Rev. Alfred J. Kelly, Argentine-born but trained for the clergy in Thurles, Ireland. Tears rolled down her cheeks. She touched the dead priests face, then turned and buried her head against the shoulder of her husband.

The mass at the church today was attended by Archbishop Aramburu of Buenos Aires and the Papal Nuncio, Msgr. Piol Laghi, as well as hundreds of parishioners, churchmen and groups from parochial schools.

There were a number of army officers in uniform at the mass, and they inquired of the clergymen of the Order of Irish Fathers about the circumstances of the killing.

Since the start of this year, more than 600 people have been killed in political violence here. The conflict is between leftwing guerrilla organizations and the security forces.

[From the New York Times, July 20, 1976]

Exiles in Argentina Reported Abducted

Buenos Aires, July 19.—A new large-scale kidnapping of Uruguayan political refugees was reported here today by the United Nations High Commission for refugees.

About 30 Uruguayan exiles were reportedly taken from their homes or on the street. Most of them were registered as refugees with United Nations offices here.

The report of the new kidnappings alarmed the refugee community here, particularly the 8,000 Chilean refugees who have been staging hunger strikes to dramatize their appeal for visas to leave the country.

Among the persons reported missing by the Uruguayan sources was Margarita Michelini, whose father, former Senator Lelmar Michelini, was removed from a hotel by armed men several weeks ago and found dead later with Hector Gutierrez Ruiz, former president of the Uruguayan Chamber of Deputies.

Nineteen Chilean refugees were expelled from the Frontero Hotel by the police today on orders from Rev. Lino Dubcek, the president of the Argentine Coordinating Committee. He said a hunger strike called there was "politically inspired." The refugees were on the street outside the hotel tonight.

Department of State,
Washington, D.C., July 22, 1976.

Hon. Edward M. Kennedy,
U.S. Senate.

Dear Senator Kennedy: The Secretary has asked me to reply to your letters of June 23 and 25, including the copy of your letter to the Attorney General dated June 25, urging establishment of a parole program for refugees in Argentina or in Uruguay, as well as the continuation of the Chile Refugee Parole Program and the extension of that program to include refugees in Argentina.

With respect to Chilean detainees and Chilean refugees in Peru, we are very close to completing our program to admit up to 400 heads of households plus members of their families, from those two countries. We are now evaluating the present situation so as to determine what are the most prudent means to assist additional numbers of Chilean detainees who would still need relief when the present program is concluded. I will report to you on our efforts as soon as a decision has been taken.

Likewise, the plight of refugees in Argentina is of deep concern to us. We are reviewing in detail the appeal from the United Nations High Commissioner for Refugees (UNHCR), asking the United States and thirty-three other countries to assist in providing resettlement opportunities to the 1,000 most seriously endangered of the Chilean, Uruguayan and Bolivian refugees in that country. We are now obtaining more detailed reports from our embassies in the relevant Latin American capitals, and are studying the situation to determine what steps we might take to respond to the UNHCR's appeal and provide assistance to these persons. As you know, the factors involved in each of these situations are complex; nevertheless we realize the urgency of the situation and will make every effort to act as expeditiously as possible, given these factors.

Officers in the Department have been in communication with your staff regarding these matters, and we shall continue to make every effort to keep you informed of our efforts.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

Argentina

We are deeply worried by the recent turn of events in Argentina. In particular, we are concerned that in an election year, the armed forces should have chosen a coup d'etat as the appropriate means for putting an end to a situation of undoubted administrative corruption and continuous violations of human rights.

We believe in the democratic road and in political solutions to the problems of nations. We consider that the measures adopted to date by the military junta which governs Argentina put new obstacles in the ways of a peaceful and democratic solution to Argentina's problems, promoting instead further violence. These measures have included: The indefinite postponement of elections, the dissolution of Parliament, the purging of the judiciary, the imposition of military courts, the violent occupation of the executive branch of government, the introduction of the death penalty, the suspension of political parties, the military control of trade unions, the suppression of the right to strike, the occupation of factories with armoured cars, and the detention of workers who had nothing to do with the ousted regime.

With this situation in mind, we join the democratic forces of Argentina in asking the new authorities to adopt the following measures which, in our opinion, could favour a democratic and peaceful solution for the people of Argentina, avoiding the present danger of a civil war:

1. The immediate calling of general elections, without political exclusions of any kind;
2. The restoration of the rights of political parties;
3. The restoration of the civil courts;
4. Restoration of the liberty of the press, education and expression;
5. The elimination of the death penalty;
6. Restoration of all trade union rights, including the right to strike;
7. An end to the indiscriminate detention of workers and trade unionists in their places of work;
8. Liberty for the thousands of political prisoners, without charges or sentence, sometimes already acquitted by the courts, who remain in prison;
9. Early trial and guarantees for the defence for all those detained for political reasons;
10. An end to the torture of political and trade union prisoners, and to the inhuman treatment suffered by all prisoners;
11. Respect for the constitutional right which allows political prisoners to choose exile if no charge is brought against them;
12. Guarantees for political exiles from neighbouring countries, particularly those from Chile and Uruguay;
13. An end to the illegal repression exercised by terrorist organisations such as the Triple A and the Comando Libertadores de America, which have assassinated with impunity more than 2,000 workers, trade union leaders, politicians, members of parliament, priests, intellectuals, journalists, political exiles, lawyers and members of the families of political prisoners, common people without political activity.

Our desire is to contribute to the restoration of peace and democracy in Argentina, in order to avoid the fratricidal struggle which threatens the peaceful future of a great nation.

Tom Bradley, Chairman British Labour Party; Ron Hayward, Secretary General British Labour Party; Anker Jorgensen, Prime Minister of Denmark; Bruno Kreisky, Chancellor of Austria; Franceso de Martino, Secretary General, Italian Socialist Party; François Mitterrand, Leader, French Socialist Party; Olof Palme, Prime Minister, Sweden; Mario Soares, Leader, Portuguese Socialist Party Future Prime Minister; Ed Van Thyn, Leader of Prime Minister's Party in Dutch Parliament.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CLEAN AIR AMENDMENTS OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 3219, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3219) to amend the Clean Air Act, as amended.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is the amendment of the distinguished Senator from West Virginia (Mr. Randolph), No. 1798.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the permission of the Senator from Alabama, who has the floor and will retain the floor.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair must remind the Senator from Maine that the Senator from Alabama is to be recognized under a previous order.

Mr. MUSKIE. Will the Senator yield

briefly without losing his right to the floor?

Mr. ALLEN. Yes, Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Maine (Mr. MUSKIE) without losing my right to the floor and without the continuation of my remarks being considered a second speech.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Maine is recognized.

Mr. MUSKIE. The leadership is pressing to get this matter disposed of and get it to a vote. In a spirit of cooperation, I wonder if the Senator from Alabama would be agreeable to a proposal of 3 hours and a half on the Allen amendment, the 3 hours for the Senator from Alabama, the 30 minutes for the Senator from Maine.

Mr. ALLEN. That request would be as to what amendment? I have not offered an amendment as yet.

Mr. MUSKIE. May I ask, then—the Senator, as I understood it, was holding the floor yesterday for the purpose of discussing an amendment which he proposed to offer. If that is still his intent, I wondered whether or not, with that assumption, the Senator would be agreeable to that kind of agreement?

Mr. ALLEN. I say to the distinguished Senator that I have not yet offered the amendment. As I outlined here, on the floor, my preference is to act first on the Moss amendment. We have explored, as the Senator knows, the various possibilities of ordering of the votes on the amendments that have been offered or that Senators plan to offer. I am still hopeful that something can be worked out in this regard in order that the Moss amendment might be brought up first.

I think the distinguished Senator from Utah has some remarks he would like to make with respect to his thought that it had been understood that the Moss amendment would come up first. Until such time as we have completed our exploration of the possibility of acting first on the Moss amendment, I am not inclined to offer my amendment which is close to the Moss amendment but not fully the Moss amendment.

I have only finished a small portion of my prepared remarks on the bill generally, and I have quite a few other prepared remarks to make, and then other remarks that have not been prepared but that might possibly come to mind during the discussion.

I am not able to agree on a time limit on an amendment that has not yet been offered.

Mr. MOSS. Mr. President, will the Senator yield to me under the same conditions as he yielded to the Senator?

Mr. ALLEN. Yes, I will yield under the same conditions.

The ACTING PRESIDENT pro tempore. The Senator from Alabama yields to the Senator from Utah without losing his right to the floor and his remarks being shown as a second speech.

Mr. ALLEN. I thank the Chair.

Mr. MOSS. I thank the Senator from Alabama for his explanation of the position we occupy. I deplore the delay we have gotten ourselves into on the clean air amendments. I was assured that my amendment would be considered first on the matter of nondegradation and the study commission.

Mr. MUSKIE. Mr. President, will the Senator yield on that point? The Senator received no assurance from me. I have been——

Mr. MOSS. I do not have the floor and I cannot yield.

Mr. MUSKIE. Mr. President, will the Senator from Alabama yield so I can correct the record?

Mr. MOSS. All right.

Mr. MUSKIE. The Senator received no such assurannce from me. I have been trying since last April, and I have agreed to postpone bringing up the Clean Air Act time and time again, several times out of deference to the Senator from Utah, and I have tried to reach an agreement on time when we could deal with the Moss amendment first. That was not possible. So the bill was finally brought up on Monday.

There was nothing but talk on Monday. Then Tuesday came and the leadership pressed me, not the Senator from Utah, to get amendments up and to get them disposed of in order to get the bill moving. The Senator from Utah made it quite clear to me that he did not want his amendment brought up until Wednesday, and so I scurried around looking for other amendments, noncontroversial amendments, that had been pending at the desk that I could dispose of to fill the time on Tuesday so that I could accommodate the Senator from Utah on Wednesday.

We disposed of three Domenici amendments, proceeded in due course to the Randolph amendment which, as far as we knew, was noncontroversial, and a mere study, and the Senator from Utah chose to interpret that move as an assault upon his position, which was not the intention whatsoever, and I still do not regard it as an assault on the position of the Senator from Utah.

So whatever delay that has been occasioned has been occasioned because the Senator from Utah interpreted the laying down of the Randolph amendment as a precipitation of the nondegradation issue, which it was not at all.

Mr. MOSS. Mr. President, may I now proceed?

Mr. MUSKIE. The Senator from Alabama has yielded to me.

Mr. MOSS. May I now proceed?

Mr. MUSKIE. So I just want to make the record eminently clear that this Senator is not responsible for the delay I tried to accomodate in every way I could the wishes and the prerogatives of the Chairman of the Public Works Committee, Senator RANDOLPH, who presented an amendment in all good faith, and has a right to have his amendment voted up or down, just as the Senator from Utah has.

So far as I am concerned, I do not see anybody's rights as being prejudiced if we have a vote on the Randolph amendment, proceed to the Moss amendment and dispose of it.

The ACTING PRESIDENT pro tempore. The Senator from Alabama has the floor.

Mr. ALLEN. I have yielded to the distinguished Senator from Utah, and I shall not yield to anyone else without the permission of the Senator from Utah.

Mr. MOSS. I asked to say that because the manager of the bill jumps up and constantly interrupts, when any statement is made, that he wants to correct the record. He knows as well as I know that the Moss amendment was the focus of the debate that had to be determined in this matter to see where we were going to go on the Clean Air Act amendments, and he knows as well as I that it was his suggestion, to which I agreed, that I would go over until Wednesday so that we could take it all in and, perhaps, dispose of it in one session and not chop it up.

He knows as well as I that we got into this parliamentary morass because the Randolph amendment was projected into the debate before we had any general debate on degradation and the study before any orderly discussion of the Moss amendment, which all the Senators here had been expecting.

I quote the leader yesterday. He said:

> I did visit a number of Senators, but the uniform answer was that they were waiting to see what happened to the Moss amendment.

So the Moss amendment is the key to the whole process.

I would like to get on with my amendment. I cannot see why the manager of the bill and the chairman of the Public Works Committee are reluctant to get on to the key of this debate. The Moss amendment has been the focus of the debate for over 4 months. All of my colleagues are aware that there are two parts to the Moss amendment, a study and a deletion of section 6 while the study is being made.

The Randolph amendment surfaced within days after my amendment was first printed, and it is clearly on its face an attempt to copy part of my amendment, and it confuses the issue. But the Randolph amendment is a weak substitute on the study section, and it fails to meet the issue.

So I would want to get the study section coupled with the suspension of section 6.

So I find the delay of the managers to get to the bill, the heart of this bill, regrettable. And, indeed, the Senator talks about the right of the chairman of the Public Works Committee, which is his right, I will agree, to present an amendment and to hope that he can get a vote on it. But I am within my rights, and I think the Senator from Alabama is within his rights, as are others, to say if we are going to dispose of this in an orderly manner, let us get to the Moss amendment. Let us vote it up or down. If it is voted down, that is fine. If it is voted to pass, and the Moss amendment becomes part of the bill, that is fine, too, and that is what this body should proceed on and not find itself snarled, as it is now.

But I can say, having worked on these amendments for months, and in consultation with many, many people, not only in my own State but many others, that this is the key to the bill that is before us. If we do not get to the Moss amendment and have it disposed of in an orderly manner then we will probably have no bill, and I would regret that, too, Mr. President, because I think there are parts of that bill, in fact, the main thrust of the bill, that are good, and I agree with them, and I would hate to see the whole bill go down just because we cannot get to the nondegradation plus a study to see whether or not we are going to go in that direction now.

I would expect to have some rather extensive remarks yet to make on this subject and on this bill, following the Senator from Alabama, and I understand he has very extensive remarks to make, and many others have come to me and said they, too, have some rather extensive remarks to make.

So we put ourselves into an impasse where we are not going to get anyplace unless they let us come to the issue that is the basic issue now before the Senate, whether or not we are going to have nondegradation written into the law before any study is made or whether we are going to hold it out of the law until a study is made. It is that simple.

I thank the Senator from Alabama for yielding to me.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. ALLEN. Mr. President, there is no disposition on the part of the Senator from Alabama to prevent a vote on the Moss amendment. As a matter of fact, on yesterday I proposed here on the floor that if the Moss amendment is allowed to be the pending business, I would be willing to agree to a time limit, a reasonable time limit on the Moss amendment, because I am persuaded, just as is the Senator from Utah (Mr. Moss), that the Moss amendment is the critical issue and the critical point in this entire matter.

The distinguished Senator from Maine has stated that section 6, the nondegradation, is something that lightens the load on environmental matters.

It is something that benefits a business, an industry. But if this is a benefit to business and industry, I would hate to see a detriment to business and industry.

At some point in the proceedings, the Secretary from Maine said something about his preference might be just to continue the present environmental position and not go forward with this.

I think that might be a proper solution in this matter. There are at least two aspects to the bill. One is the automobile emissions and then the nondegradation feature of the bill.

I think we might well split the bill off and go forward with the emissions section and abandon the nondegradation.

The parliamentary situation is such that with the Randolph amendment, providing for enacting section 6 and then, after enacting it, studying whether it is good or bad and in what way it is bad, that amendment, since this is the pending amendment, prevents the Moss amendment coming up and being voted up or down.

So it would seem to me that the matter is pretty simple. There is no resistance whatsoever to having a vote up or down on the main question in the bill, and that is whether the nondegradation section will be enacted before the study.

What comes first, the chicken or the egg? Are we going to enact section 6, as the Randolph amendment would provide, and set up a study commission to study whether it is a good thing or not, or will we go the Moss amendment route and have a study to see whether the nondegradation provisions of section 6 should be enacted?

To me, that is a simple issue. Let us study and then enact, rather than enact and then study. That is the issue here between Randolph—and when I say Randolph, I refer to the amendment—that is the issue as between Randolph and Moss.

The Randolph amendment says, "enact and then study."

The Moss amendment says, "study and then enact in the light of that study."

I feel that the reasonable approach to that would be to study and then enact, because if we enact and then study, we can well find that what we have enacted is no good, that we need a different approach, that the goals are unattainable, that the goals put too heavy a burden on business and industry, that it would cause the loss of jobs, that it would cause great economic hardship in particular areas, that it would provide for a no-growth policy for many areas throughout the country.

So after we have enacted legislation and then find out what we have done is bad, how are we going to rectify the matter?

It would take more legislation. All the while, we have a statute already enacted, the Commission perhaps saying that this is not advisable, we made a mistake, we ought to amend it in this fashion or that fashion.

But under the present situation, Mr. President, we are not allowed to consider the Moss amendment up or down. If that question could be resolved, there is no reason whatsoever we could not proceed in an orderly fashion to dispose of this bill in a matter of 1, 2, or 3 days.

I am willing and the distinguished Senator from Utah is willing to set a time limit—set a time limit on the Moss amendment, set a time limit on amendments to the Moss amendment. If we want action, that is the way to get it.

Why not decide the major question first, the central question first, the question that has been considered and debated backward and forward for months and that has been recognized as being the chief, salient feature of this entire controversy?

Why shunt it off to the side and say, "Let's take up something else?"

So it looks as if it might be just a little bit of obstinacy on both sides of this issue. But if we can decide the whole thing up or down on one vote, why is that not the practical way to approach this issue?

The Moss amendment has been held as not being in order as to the pending amendment No. 1798 by the distinguished senior Senator from West Virginia (Mr. RANDOLPH).

The Moss amendment, therefore, has to wait in the wings. The major amendment has to wait in the wings until some disposition is made of the Randolph amendment.

Since the Moss amendment was not in order as an amendment to the Randolph amendment, it occurred to the Senator from Alabama that it might be advisable or in order to offer an amendment to the Randolph amendment that would be a somewhat middle ground as between the Randolph amendment approach and the Moss amendment approach, and an amendment that would be in order and come just as close as possible to the Moss amendment.

I have no hesitancy in saying that I prefer the Moss amendment over my own amendment, even though I wrote my amendment and did not write the Moss amendment. I prefer his. But we cannot at this time get a vote on his and we can get a vote on the amendment that I have prepared.

What is the gist of the amendment that I have prepared? In a short time I will get to some of my prepared remarks, but at this time I want to analyze some of the issues before the Senate. It may be that I will not get to prepared remarks, but I hope before I have completed I will be able to.

My amendment, for the benefit of Senators who were not here when I discussed it before, is printed amendment No. 2101. I had thought that I would offer the amendment at the conclusion of my remarks, whenever they might be concluded. I hesitate to offer the amendment because it might hamper efforts to bring up the Moss amendment. As soon as I offer the amendment and yield the floor, it is subject to a motion to table. That would have a vote by the Senate on what we might call a quasi Moss amendment. It is not what the Moss amendment provides, but it is in that general direction.

What amendment No. 2101 provides is that we will accept the Randolph approach on the Commission; that the mandate given to the Commission under the Randolph amendment, the composition of that Commission, the work that they are to do, and the study they are to perform would be the plan advanced by the distinguished Senator from West Virginia. So we preserve, in amendment No. 2101, the Randolph concept on the work of the Commission. My amendment does not alter that in the slightest. As a matter of fact, my amendment does not knock out a single word in the Randolph amendment.

One of the functions of the Randolph Commission would be to study the implementation of title VI, which is subsection (g) that is added to section 110 of the act. The Commission is to study the implementation of section 6 in the bill.

This proposed amendment adds a two-faceted proviso.

The whole amendment is only eight lines long. Though it is all in one sentence there are two distinct aspects of the amendment. The first aspect, would say, in effect, "Yes, go ahead and enact section 6," this controversial section, the nondegraduation, that the Moss amendment would not enact. The Moss amendment would strike out section 6 but the Randolph amendment would allow section 6 to be enacted.

I might say I am joined in this amendment by the distinguished Senator from Florida (Mr. STONE).

My amendment would provide for enacting section 6, just as the Randolph amendment does. It would provide for this study. But the implementation and enforcement of section 6 would be stayed, held, or delayed for 1 year after the report of the Commission set up by the distinguished Senator's amendment.

I hope the distinguished Senator from West Virginia will look with favor on this amendment because it does no violence whatsoever to his concept, I will say to the distinguished Senator. It sets up the Commission that he sets up. It gives the mandate that the Senator wishes. It merely delays the coming into effect of section 6 for 1 year following the report.

That would give the Congress a 1-year period to consider these recommendations. If certain aspects of section 6 were found by the Commission to be inadvisable or punitive, or as being adverse to the economy, then the Congress would have 1 year in which to modify section 6 before it goes into effect.

Mr. BUCKLEY. Will the Senator yield for a unanimous-consent request?

Mr. ALLEN. Yes.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that Catherine Adams, of my staff, be granted the privilege of the floor during the balance of debate on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BUCKLEY. I thank my friend from Alabama.

Mr. ALLEN. So, Mr. President, that is the first aspect of the amendment.

Mr. RANDOLPH. Mr. President, will my able colleague from Alabama (Mr. ALLEN) yield at this point?

Mr. ALLEN. For a question, yes.

Mr. RANDOLPH. Is it the understanding of the Senator from West Virginia that if the amendment to which the Senator now addresses himself were acceptable to me in connection with the pending amendment, he would withdraw his endorsement of the Moss amendment?

Mr. ALLEN. No, sir, it does not. I would still be for the Moss amendment. As far as I am concerned, however, it would allow the Randolph amendment to come to a vote, if this is accepted.

It goes one step farther. This is not absolutely necessary on the bill as I have two other amendments on the bill, one having one aspect of this amendment and the other one having the other aspect. This amendment combines the two provisions.

The second provision is not absolutely necessary, to my mind. I prefer it, but if we could get action on the first aspect, the one-year suspension, we might say, of section 6, 1 year after the commission makes its report, then I would not necessarily insist upon the other, because the other aspect provides that after the commission makes its report, then no provision of section 6 that is in contravention to the recommendations of the commission could be implemented or enforced.

So that would be a permanent suspension of whatever provisions of title VI were in contravention to the committee's recommendation. But if we could get general agreement on the first aspect of this amendment, I would certainly be willing to see it come to a vote, and, if adopted, I would be willing to vote for the Randolph amendment if it comes up, up or down on the Randolph amendment.

Mr. RANDOLPH. May I ask another question?

Mr. ALLEN. Yes.

Mr. RANDOLPH. But still the Senator reaffirms that even if that happened, the Senator would continue his support of the Moss amendment?

Mr. ALLEN. Of the Moss amendment; but I call to the Senator's attention that once this is in the bill, the Moss amendment would not touch this provision. If it were added, it would just be an additional appendage on the bill, and would in no way strike out what the Senate had done with respect to adopting the Randolph amendment. It would not supplant the Randolph amendment.

It would be there, and the Moss amendment would also be there, and it would be up to the conference to go one route or the other.

Mr. RANDOLPH. And a further question, if the Senator will indulge me.

Mr. ALLEN. Yes.

Mr. RANDOLPH. If the amendment I have offered would contain the provision which is sponsored by the able Senator, and that was passed, and later the Moss amendment were defeated in this body, would the Senator then support the measure?

Mr. ALLEN. I might not support the measure, I will say to the distinguished Senator, but I would certainly hope for an early vote on the measure.

I do think this would definitely improve it, and I believe the Senator recognizes that it would be well to stay the enforcement of section 6 until the commission has made its report, and give to Congress a 1-year period to comply with the recommendations of the Commission. I believe this is in line with the Senator's thinking. I would hope that I could enlist his aid on this amendment.

May I turn the tables and ask the Senator if he thinks well of this approach? I mean would this possibility be acceptable to him?

Mr. RANDOLPH. Well, not at the moment.

Mr. ALLEN. I see.

Mr. RANDOLPH. Because at the moment I determine that the Senator is going to be, I believe, against the bill if the Moss amendment is not contained therein.

Mr. ALLEN. I am going to be against it, but my efforts against it would be diminished, I will say to the Senator.

Mr. RANDOLPH. You mean the strident attack you are now making would be modified to a timid approach?

Mr. ALLEN. No. I would hope it would come to an early vote.

Mr. RANDOLPH. I thank the Senator.

Mr. ALLEN. And I hope that when the Senator from Alabama concludes his remarks, he will have enlisted the support of the distinguished Senator from West Virginia, because I think that would be decisive of the matter. If the Senator from West Virginia would support the amendment, I believe we could have an early vote on it, and move on to something else.

And I would say this: Though possibly I should not give my personal assessment of it, I would think that if the Randolph amendment as amended by the amendment of the Senator from Alabama were agreed to, I would say that would greatly lessen and greatly reduce the chances of the passage of the Moss amendment, and I believe the Senator realizes that is correct. So if we get this amendment adopted and the Randolph amendment adopted, I believe that would pretty well bring the matter to a close.

I reiterate, as the Senator asked me to, that I do continue to support the Moss amendment as being a much better approach than the amendment of the Senator from Alabama, but since the Moss amendment is not in order and the amendment of the Senator from Alabama is in order, we just have to vote on what we are able to vote on.

I might state also that I am appreciative of the fact that the distinguished Senator from Maine (Mr. MUSKIE), I assume thinking possibly that the amendment of the Senator from Alabama would not be in order, asked the Chair for a ruling on whether amendment 2101 is in order, and I am pleased that the Chair did rule that this amendment, if offered, would be in order.

So, Mr. President, amendment 2101 is a halfway position between the Randolph amendment and the Moss amendment, and I believe it is a fairly reasonable approach. It does not—speaking now of amendment 2101—prevent the enactment of section 6, the nondegradation section of the bill. It does not prevent it from being enacted. The Moss amendment would strike section 6 out of the bill, and there would be no legislation on that subject.

The Randolph amendment would allow the enactment of section 6, and would not prevent its immediate implementation and enforcement. So amendment 2101 has a halfway position; it follows the route of the Senator from West Virginia in setting up a commission, giving it its mandate, and allowing the enactment of section 6, but provides for the suspension of its applicability for a period of 1 year following the report of the commission.

Mr. President, that would certainly seem to the Senator from Alabama to be a reasonable approach. It would set up a commission to study the provisions of section 6, its effect on the economy, and its effect on the environment, and then they report back.

I believe it is unlikely, with the mandate given the commission on the points to study set out in amendment 1798, the Randolph amendment, that the commission is going to rubberstamp every single aspect of section 6.

So amendment No. 2101 would allow the enactment of section 6. We would have it on the statute book. It would not be necessary to come back to Congress and try to pass something. It would be there. It would be on the books. But pending the report of the commission and the 1 year time for implementing not section 6 but the recommendation of the commission with respect to the provision of section 6, we would have a logical method of proceeding.

Let us see some of the provisions. There must be some doubt about section 6. The Randolph resolution calls on them, under section (A), section (B), section (C), section (D), section (E), and section (F) to study various aspects of section 6.

Let us see. Starting off here they are supposed to study:

> . . . whether the provisions relating to the designation of, and protection of air quality in class I regions under this Act are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to (i) add to or delete lands from such designation, and (ii) provide appropriate protection of the air quality over such lands; . . .

They are supposed to investigate how this section 6 is going to fit into that.

The next portion of their mandate is to study, among other things, and this does not limit them to this:

> . . . whether the provisions of subsection (g) of section 110 of this Act, . . ."

That is, section 6.

> . . . including the 3-hour and 24-hour increments, (i) affect the location and size of major emitting facilities, and (ii) whether such effects are in conflict or consonance with other national policies regarding the development of such facilities; . . .

This is another phase of section 6 that they are supposed to investigate. All the while section 6, under the Randolph proposal, is in full force and effect, and there is nothing to prevent them acting in these areas as to which they are conducting studies.

Then the Commission is called on to study as to section 6, this section that would be enacted under this bill:

> . . . whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act, including an analysis of the costs associated with that technology; . . .

There is a great big—I will not say it is a loophole—gap in information, with respect to the provisions of section 6 because from this section here it would seem to indicate that we are not in possession of this very vital bit of information before we move forward.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. ALLEN. I will yield in just a moment; I wish to finish my comment on section (C).

Under section (C), the Commission is called on to make a study, and this is such a tremendously important aspect of the study, on this important feature.

> . . . whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act, . . .

And I might say that those phrases can be used interchangeably, as I understand it. Section 6 or it could be referred to as subsection (g) of section 110 of this act. When we use one we also are using the other.

When we are enacting section 6, if we do not even know and we are calling on the Commission to determine, and right here in the Randolph amendment this Commission is supposed to study it, whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this act, including an analysis of the costs associated with that technology, how in the world are we going to enact a section when we do not even know whether they have the technology available to control emissions that are required to be controlled under section 6?

And we do not know the cost, apparently, because under the Randolph amendment, we are asking this Commission to make that study.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. ALLEN. I say to the Senator from Nevada that I promised the distinguished Senator from New York I would yield for a question if he wishes to propound one and then I will be delighted to yield to the Senator from Nevada.

Mr. BUCKLEY. Mr. President, I thank the Senator from Alabama. It was not so much asking the Senator to yield for the privilege of asking a question as to suggest that the statement that he has made thus far seems to me to suggest that he does not fully understand the state of the current law as it affects nondegradation. If he did fully comprehend this, I believe he would be urging the enactment of section 6 to bring a degree of certainty to an area where there is now enough ambiguity, and enough litigation in the courts to create a certain amount of paralysis.

The committee, in this provision, is not increasing the standards or tightening standards. What we are doing is simply codifying portions of the existing regulatory program, developed pursuant to a Supreme Court decision. In doing so, we are creating certainty where there is now uncertainty. We are making it possible for business to go ahead with investments.

Mr. ALLEN. If the Senator will allow me, I understood the Senator was going to ask me a question rather than to make a speech on the subject. I say to the distinguished Senator that if this does lighten the load and clarifies the present law, that bit of information has not penetrated the thought of those who would be regulated by this law, and they are of the opinion that far from lightening their load this greatly increases it. I think that those who are to be regulated by it would be the best judges of whether this new bill imposes greater or less restrictions.

The point I was making is if we are going to have to get this Commission to study such questions as to whether we have the technology available and what it would cost to put in the requirements that are authorized under this section and if we do not even know that, we certainly need to study that prior to the enactment of legislation.

I thank the Senator for his nonquestion, and I yield for a question to the distinguished Senator from Nevada.

Mr. CANNON. Mr. President, I am going to say that I am disappointed that apparently we are not going to get to vote on the Moss amendment, as I understand the procedural situation now. Of course, short of that, I would certainly support the Senator from Alabama, and I shall ask him if he would be willing to listen to some statements that I have to make here and then give me a comment on them. I put that in the form of a question so he would not lose his right to the floor.

Mr. ALLEN. Provided it would be treated as a question, I inquire of the Chair, so I do not lose my right to the floor.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

Mr. CANNON. Mr. President, I represent a State whose economy depends substantially on the future growth and development of the Nation's mineral resources, in particular copper. I am deeply troubled about the conflicting picture that is developing about the impact this provision will have on my State, as well as on the Nation's ability to maintain and enhance its mineral resource position. Confusion and contradiction abound throughout a multiplicity of preliminary studies and statements addressing the impact of nondeterioration.

The Department of Commerce revealed in a recent study that no new copper, lead or zinc smelters of economic size could be built on open lands in the continental United States if nondeterioration becomes law. Even the expansion of existing nonferrous smelters in certain sections of the country would be severely limited under this proposal, according to this study.

This is a grave warning. Yet, the Environmental Protection Agency has released a study stating that the predicted impact on the mining and metals industry will be minimal. I cannot consider "no expansion" and "severely limited expansion" "minimal."

I say to my colleague that I happen to be chairman of the Stockpile Subcommittee, and we are very much concerned with the stockpile requirements of this country. I do not see how they are going to be able to be met if we follow this kind of shortsighted policy.

The Department of Commerce also has available summaries of some additional 17 studies examining the initial impact of nondeterioration. These studies examine the impact on our capacity to generate electric energy from fossil fuels; on the future growth of the coal industry; on the growth in the pulp and paper manufacturing industry, and on future growth in petroleum refining.

Yet, EPA has provided us a study which asserts that nondeterioration will have only minor effects on many of these industries, affecting only specific location and/or plant size.

Frankly, I do not know which of these assessments is correct. I know only that both cannot be right. These studies have made it abundantly clear that there is much we do not know about regulating future growth and development through increments of air quality.

It seems highly inappropriate to enact major legislation of such magnitude as nondeterioration without actually knowing the areas which will be affected and the economic impact which the legislation will have, as the Senator from Alabama has been pointing out.

This is particularly true when the limits to be set are more stringent than those which we have deemed adequate to protect public health and welfare.

There is a second aspect of nondeterioration which has received very little attention. Debate has centered on the economic costs of nondeterioration versus its environmental values and has virtually ignored the social costs of such legislation.

I cite for the Senate's examination an exploratory study published by the Department of Health, Education, and Welfare in 1973, following court decisions upholding nondeterioration. This HEW study raises the serious prospect that the social costs of nondeterioration may be far in excess of any benefits to be gained—costs that would be borne disproportionately by the poor, the aged, the disadvantaged and the racial minorities. According to this study, nondeterioration, by curtailing the creation of potential jobs and by creating higher prices for energy, transportation and manufactured goods, impacts hardest on the innercity, low-income resident and the rural poor.

Despite our national commitment to improve the environment, no law should be passed which risks imposing severe hardship on the American people, particularly those who do not yet fully participate in America's high standard of living.

Right now, we are confronted with a situation in my State, to which I will address myself later, in which we are forced to shut down a copper smelter in the eastern portion of the State. The closest town besides the two towns that are directly dependent on this copper smelting operation is 77 miles away. The closest town of any appreciable size is more than 200 miles away. Yet, we are going to have to shut down this smelter and put this business out of existence in order to protect the environment in that area; and the only people living in the area are in two small communities, Ely and McGill, that are dependent upon this industry for their livelihood.

So we are going to protect the environment. We are going to turn it back to the jackrabbits and the rattlesnakes. That is what it will amount to in this particular instance.

Confusion abounds in yet a third area related to nondeterioration and that is the adequacy of the information on which we base our standards to achieve clean air. The Public Works Committee, in reporting the Clean Air Act amendments, noted it would be useful "to have an ongoing review of this process." There is little consensus about our ability to measure pollutant levels from industrial sources in meaningful ways and even less about the magnitude of the effect of these pollutants on health and welfare.

Taken together, studies of the impact of nondeterioration indicate that answers to crucial questions are lacking. In the absence of well-founded information, confusion has filled the vacuum. We need further study on our measuring, monitoring, and interpretative capability; on the land areas covered under nondeterioration; on the impact on the specific areas which are likely candidates for installations of powerplants, copper smelters, and other essential industrial facilities; on the impact on jobs, on standard of living, on the availability of critical raw materials, on the social impact on all citizens.

Definite answers do not appear to be available. Yet we are about to vote on legislation that may seriously curtail the capability of our industrial sector to fulfill its proper role in economic recovery and expansion.

Senator Moss' proposal would expand the mandate of the National Commission on Air Quality, which is proposed under the clean air amendments, to report on the economic and energy effects of nondeterioration and to consider the policy in terms of its measurability and interpretative certainty. Senator Moss' proposal does not strike at the intent of the Clean Air Act. It provides us with an opportunity—an opportunity we can ill afford not to take—to understand the impact of a nondeterioration policy before we legislate it.

It is for these reasons that I fully support the Moss amendments and urge my colleagues to do the same.

I say to the Senator from Alabama that it seems to me that his position—as I said, I would favor the Moss position—is certainly a reasonable one. I ask him if he thinks that these observations are the proper observations to máke in support of the proposal that he has.

Mr. ALLEN. Yes, I certainly think so.

The Senator has pointed out the impact that this legislation could have on business and industry and the economic growth of his area. I certainly agree with his conclusion that with all these unanswered questions and the lack of information we apparently have on this subject, we should not be legislating in the blind. We should study first, find out the answers to this multitude of questions that the Commission is charged with studying, and get the answers before we enact legislation.

I certainly agree with the points that the distinguished Senator from Nevada has made. I assure him that I, too, favor the Moss amendment over the amendment I am suggesting, offering amendment No. 2101. It has been prepared only because the Moss amendment is not in order as to the Randolph amendment, and there has not yet been an agreement that the Moss amendment might be voted on first.

I say to the distinguished Senator from Nevada that the Senator from Alabama and the Senator from Utah (Mr. Moss) and others interested in this matter agree that if the Moss amendment would be allowed to be considered first, we would completely agree on a time limit with respect to the Moss amendment, and we would greatly expedite the final vote on this bill.

Mr. CANNON. I ask this question of the Senator from Alabama: Is it not a fact that we would find ourselves in the position of legislating and then create a commission to study whether or not we have legislated correctly?

Mr. ALLEN. That is exactly right.

Mr. CANNON. In other words, we should know whether we are legislating correctly on the basis of a study before we enact the legislation.

Mr. ALLEN. Yes. There must be some doubt about the advisability of this legislation, because, as I pointed out in reading from the Randolph amendment, there seem to be six tremendous areas of uncertainty and doubt about the bill. The Commission is charged with studying these particular questions. I was going through those when the distinguished Senator from New York asked if I would yield to him.

Mr. CANNON. I thank the Senator.

Mr. ALLEN. I thank the distinguished Senator from Nevada.

Mr. BUCKLEY. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. BUCKLEY. I understand that the Senator is concerned about the impact of section 6 on business, because of the tremendous outpouring of concern expressed by the business community.

It is my belief that this is the result of a great deal of misinformation circulated by the Chamber of Commerce and others. In an attempt to clarify that, on Tuesday, I introduced a statement that included many of the assertions that are being circulated about this provision, and I have answered those points with specific statements as to what the facts are. This appears incidentally, in the Record of Tuesday, at page S 12581. I should like to note, for the benefit of the Senator from Alabama, some of these specific assertions, and my rebuttal and ask him if I am wrong as my assertions on the actual impact of this legislation.

Mr. ALLEN. Before the Senator proceeds, I might state that in recent days, I met with the operators of some industries in Alabama, one of which recently had a plant closed by the EPA, which threw 300 people out of work. I asked them a question, and in answer to facts that I related to them, I told them that the distinguished manager of the bill, Mr. Muskie, had assured me that the provisions of section 6 were less burdensome on industry than is the present law. Well, I might state that my statement as to Senator Muskie's views was not—I shall have to say that it was scoffed at, because the operators themselves, of the plants—and this is not some sort of Chamber of Commerce release, this is the actual operators of the plants—fear that they are going to be run out of business if this bill passes and it will have a tremendous impact on the future economic growth of the Nation.

I wonder why the sponsors of this bill have not been able to do a better job in convincing those who they say are going to be beneficiaries of this legislation that, in fact, they are beneficiaries rather than victims. I should like for the distinguished Senator to tell what effort has been made by the sponsors of this bill to show that they are wrong in their conception that the enactment of this legislation will run them out of business, prevent future economic growth in an industrial area.

I yield, then, for whatever comments the Senator might wish to make, Mr. President, provided I do not lose my right to the floor and provided that the continuation of my remarks will not be treated as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. I am delighted that the Senator from Alabama has cited that particular example, because it illustrates the point I have tried to make. It illustrates the extent of the misinformation and why I took pains not only to insert clarification in the RECORD, but also to circulate them some months ago for the benefit of Members of the Senate.

The people in the industries of Alabama who state that section 6 will result in the closing of any plant in the United States simply have not read section 6. It gives no one any authority to close down anything. What it does control is the degree to which new pollution can be added through the construction of new major polluting facilities. We are not talking about existing plants. We are talking about limits on the size of new plants, in terms of additional pollution permitted. It is precisely this misconception that has caused such a tremendous lobbying effort to block this legislation, which as I say, would have the effect of removing uncertainties, without changing the thrust of the law as it exists today.

For example, in the statement to which I referred, I said that, in one of these broadsides, we had the following assertion:

> The committee's bill goes considerably beyond existing law.

That, in effect, is what people in Alabama told the Senator from Alabama. The fact is that the requirement to "protect" existing levels of clean air has been law since 1967. This bill refines that requirement more precisely, replacing existing EPA regulations with a defined congressional policy. I might add that the policy that we would substitute for EPA regulations would place less reliance on the bureaucracy, and shifts responsibility to the States, so that the States may use their discretion.

I shall bring up another assertion that is made, for the benefit of the Senator from Alabama. It is asserted that class I areas will be off limits to construction of major new polluting sources. I point out in the statement, which I circulated earlier, that the class I areas are national parks and national wilderness areas. Logic and the existing legislation affecting national parks and wilderness areas is such that there is not going to be any construction in those areas of major pollution sources, such as steel mills.

Mr. WILLIAM L. SCOTT. Will the Senator yield briefly at that point?

Mr. BUCKLEY. Yes.

Mr. WILLIAM L. SCOTT. It is my understanding that the pristine areas covered under this bill would include Shenandoah National Park. We have the Valley of Virginia paralleling the parklands, and I understand that we cannot have new construction near the park if it might pollute the park area. Is that accurate?

Mr. BUCKLEY. Only if it would affect the air quality values for which the Shenandoah Park was set aside. That determination will be made essentially by the States.

Mr. WILLIAM L. SCOTT. Will not the Administrator of the Environmental Protection Agency have the right to overrule any State action and make the final determination?

Mr. BUCKLEY. No.

Mr. WILLIAM L. SCOTT. Page 3 of the report indicates that he does.

Mr. McCLURE. Will the Senator yield?

Mr. BUCKLEY. Surely.

Mr. McCLURE. I think this is one of the most misunderstood parts of the action that the committee took, and I think it demands clarification. The Senator from Virginia has expressed it exactly as many people understand it. That is not the way the committee intends it. I think the manager of the bill, the Senator from Maine, the day before yesterday, made a very clear statement regarding the State's position and that decision.

The bill states that the Federal land manager of the class I area has the right and the responsibility to intervene in the State decisionmaking process with respect to the major emitting facilities that might be built on land, which is not inside the Federal, class I area. If he thinks the plant will violate the air quality related values for which that area was created and managed, he has the duty to intervene. But the decision shall be the State's.

Mr. WILLIAM L. SCOTT. If the Senator will yield further on that point. We have Russell Train as the present Administrator. I understand he calls himself an environmentalist, and I believe he is more interested in the environment than he is in the business community and a healthy, expanding economy. I think his record will indicate that. Looking at page 3, we find:

> The Administrator's role is one of monitoring State actions. States have authority to issue construction permits to new major emitting facilities in clean air areas.

That would indicate the Senate language favors the State. But reading further, we find:

> The Administrator thus could go to court to stop a permit for activities which would exceed the increments of pollution or which otherwise did not comply with the requirements of this section, including use of best available control technology. But the Administrator could not and should not attempt to burden this section with unnecessary regulations and guidelines.

Skipping the next paragraph, one down, it states:

> The Committee has also asserted a Federal interest in protecting air quality over certain areas of Federal ownership, by a separate test. The potential activity outside those Federal lands—such as national parks, and wilderness areas and international parks—could be prohibited if it would impair the air quality values associated with those Federal lands.

I think that that is contradictory to what the distinguished Senator from New York is saying.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. McCLURE. I thank the Senator.

The Senator from Virginia has accurately stated the report. But again I think there is a misunderstanding of the committee's intention. The first paragraph that the Senator read relates to the action the Administrator takes to enforce in the class II areas, not class I.

The second paragraph which he read relates to the Administrator's responsibility with regard to class I areas.

The first paragraph refers to the court tests, the second does not.

I think it would be clear that the Administrator, or anyone else, who thought that either the Administrator or the State had taken erroneous action could go to court to test whether the State's decision was correct. But it does not detract from the fact that the State has control over the final decision.

Mr. WILLIAM L. SCOTT. Let us look at the next paragraph:

> The policy is clear: there is a uniform national standard against which deterioration is judged; there is a national requirement that each new major facility to be located in a clean air area install the best available control technology; and there is a national interest in the protection of air quality-related values in national parks and wilderness areas.

Is it not a matter that to a large extent would depend on the interpretation by the Administrator of the Environmental Protection Agency as to how far the Federal authority goes?

Mr. McCLURE. I thank the Senator for raising the issue, because I think the legislative history will be much clearer after this colloquy. There is a separate test, as was stated in the second paragraph the Senator read, for the air quality-related values for which a class I area was created.

The final paragraph the Senator has read, relating to the uniform national standard says, in the second part of that paragraph, that there is a special interest in the class I areas, as we are indicating.

So I think it is very clear that the intention of the committee is to treat the class I area process and the class I area standards separately from the uniform national standard. The Administrator has certain responsibilities on the class II areas. He does not have the same kind of responsibility on the class I areas.

But I think, too, we might just add at this point the fact that in the committee's deliberation on this matter, we discussed the definition of "major emitting facility." We carefully limited the kind of industrial source that would fall within the category of a "major emitting facility." We looked at the action that was taken by the Administrator in a draft study, which had been presented to EPA by the Research Corp. of New England. The study listed 190 different kinds of facilities that might be determined to be major emitting facilities.

The EPA Administrator, in the regulations, extracted from that list of 190, exactly 19 types of sources that he thought should be initially classified as major emitting facilities.

The committee, in looking at that, said, "That is not quite as far as we would like to go," and we added 9 others to that list of 19. But there were 162 of the 190 on the list that this committee did not specify as being typical of the types of sources that the committee desired to reach under the list of major emitting facilities.

Mr. President, I ask unanimous consent that an extract from that report of the Research Corp. of New England, listing the 190 types of sources, from which the EPA took 19, and the committee took 28, be printed in the Record at this point as an illustration of what the committee examined and the kinds of sources the committee intended to include and exclude, recognizing that it is neither exclusive nor invariable. There is administrative discretion to add to the list, to change the list. But the committee spoke very clearly on its intent on that question.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 5-1.—STATIONARY SOURCES OF AIR POLLUTION

	Particulate	NO_x	SO_x	HC	Fluoride compounds	CO	Trace metals	Hazardous pollutants	Acid mist	Lead	Ammonia	Sulfides	Chlorine	Odors
I. STATIONARY COMBUSTION SOURCES														
Boilers, fossil fuels:														
0.3×10^6 Btu/hr	×	×	×	×		×	×							
$0.3–10\times10^6$ Btu/hr	×	×	×	×	×	×	×							
$10–250\times10^6$ Btu/hr	×	×	×	×	×	×	×							
250×10^6 Btu/hr	×	×	×	×	×	×	×							
Mixed fuel:														
Coal and refuse	×	×	×											
Oil and refuse	×	×	×											
Wood waste	×													
Engines, stationary:														
Gas turbines:														
Electric utility	×	×	×			×								
Pipeline	×	×	×			×								
Internal combustion:														
Spark ignition (heavy duty gas fired)		×	×	×		×								
Diesel and dual fuel	×	×	×	×		×								
Incinerators:														
Auto body	×	×		×		×								
Conical	×	×	×	×		×								
Industrial/commercial	×	×	×	×		×								×
Municipal	×	×	×	×		×							×	×
Pathological	×	×		×		×	×							×
Sludge	×						×							×
Miscellaneous combustion:														
Open burning:														
Commercial/industrial	×	×	×	×		×								×
Agricultural	×	×		×		×								×
Orchard heaters	×		×	×		×								
II. CHEMICAL PROCESS INDUSTRY														
Acids:														
Adipic		×												
DMT/TPA (nitric acid oxidation)		×												
Hydrochloric														
By-product									×					
Salt									×					
Hydrofluoric	×		×		×									
Nitric		×												
Phosphoric														
Wet process					×									
Thermal process	×													
Sulfuric			×						×					
Acrylonitrile				×		×								
Ammonia:														
Methanator plant				×							×			
Regenerator and CO-absorber plant				×		×					×			
Carbon black:														
Channel process	×			×		×								
Furnance process	×			×		×						×		
Charcoal	×			×		×								
Chlor-alkali:														
Diaphragm cells						×							×	
Mercury cells						×		×					×	
Crude oil and NG production, sulfur recovery			×									×		
Detergent	×													×
Essential oils														×
Ethylene dichloride (Oxychlorination process)				×		×								
Ethylene Oxide				×										
Explosives:														
High	×	×	×											
Low		×	×											
Formaldehyde				×		×								
Fuel conversion, coal gasification:														
High Btu gas												×		
Low Btu gas												×		
Paint	×			×										
Phthalic anhyiride:														
Naphthalene				×		×								
O-xylene				×		×								
Printing ink				×										
Soap	×													
Sodium carbonate (solvay process)	×										×			

TABLE 5-1.—STATIONARY SOURCES OF AIR POLLUTION—Continued

	Particulate	NO_x	SO_x	HC	Fluoride compounds	CO	Trace metals	Hazardous pollutants	Acid mist	Lead	Ammonia	Sulfides	Chlorine	Odors
II. CHEMICAL PROCESS INDUSTRY—Continued														
Synthetics:														
Fibers:														
Acetate				X										X
Dacron	X													X
Nylon	X			X										X
Viscose rayon												X		X
Polyethylene:														
High density				X										
Low density				X										
Polypropylene	X			X										X
Polystyrene				X										
Polyvinyl chloride	X			X										X
Resins:														
ABS–SAN				X										X
Phenolic				X										X
Urea melamine				X										
SBR rubber	X			X										X
Varnish				X										X
III. FOOD AND AGRICULTURAL INDUSTRY														
Agricultural:														
Cotton ginning	X													
Fertilizer:														
Ammonium sulfate	X													
Diammonium phosphate	X				X						X			X
Granulated triple superphosphate:														
Production					X									
Storage	X				X									
Nitrate	X	X									X			X
Normal superphosphate	X				X									X
ROP triple superphosphate	X				X						X			X
Superphosphoric acid:														
Submerged combustion	X				X				X					X
Vacuum evaporation					X									X
Pesticides								X						X
Food:														
Animal feed defluorination	X				X									
Animal husbandry														X
Beer processing	X			X										X
Canneries														X
Castor bean processing	X			X										X
Coffee roasting	X	X		X										X
Deep fat frying	X			X										X
Direct firing of meats	X			X										X
Feed milling and storage:														
Alfalfa dehydrating	X													
Other	X													
Fish processing (fish meal cookers and driers).	X											X		X
Grain handling and processing:														
Transfer	X													
Screening, clearing	X													
Drying	X													
Processing	X													
Meat packing														X
Meat smoke houses	X			X		X								X
Poultry processing														X
Rendering														X
Starch manufacturing	X													X
Stockyards and slaughterhouses														X
Sugar cane processing:														
Bagasse burning	X													
Field burning	X	X		X		X								
Vegetable oil manufacturing	X			X										X
Whiskey processing	X			X										X
Other:														
Pharmaceuticals								X						
Tanneries														X
IV. MINERAL PRODUCTS INDUSTRY														
Asphalt:														
Batching	X		X	X										X
Roofing:														
Saturator	X													X
Blowing	X			X		X								X
Concrete:														
Batching	X													
Cement plants (kilns, clinker coolers)	X	X	X											
Mining:														
Sand and gravel	X													
Stone quarrying and processing	X													
Processing:														
Brick and related clay products	X	X	X	X	X	X								
Calcium carbide	X		X	X		X								
Castable refractory	X				X									
Ceramic clay	X	X			X				X					
Clay and flyash sintering:														
Clay	X													
Flyash	X													
Coal cleaning (thermal drying)	X		X											
Fiberglass:														
Wool processing	X	X	X	X	X	X								X
Textile processing	X	X	X		X	X								X
Frit	X				X		X							
Glass:														
Soda lime glass	X	X	X											
Opal glass	X	X	X		X									
Gypsum	X													
Lime	X	X	X											
Mineral wool	X	X	X	X		X								
Perlite	X													
Phosphate rock:														
Calcining	X													
Drying	X													
Grindg.ni	X													

TABLE 5-I.—STATIONARY SOURCES OF AIR POLLUTION—Continued

	Particulate	NOx	SOx	HC	Fluoride compounds	CO	Trace metals	Hazardous pollutants	Acid mist	Lead	Ammonia	Sulfides	Chlorine	Odors
V. METALLURGICAL INDUSTRY														
Primary metals:														
Aluminum smelters	X		X		X									
Coke ovens:														
Bee-hive oven	X	X	X	X		X					X	X		X
By-product oven	X	X	X	X		X					X	X		X
Copper smelters	X		X											
Ferroalloy	X					X								
Iron and steel plants:														
Blast furnace	X					X	X							
BOF	X				X	X	X							
Electric arc furnace	X				X	X	X							
Open hearth furnace	X				X		X							
Sintering	X		X			X								
Scarfing	X													
Lead smelters	X		X							X				
Zinc smelters	X		X							X				
Secondary metals:														
Aluminum production:														
Sweat furnace	X													
Reverb furnace	X								X				X	
Brass and bronze smelting	X						X			X				
Cast iron foundry:														
Core ovens				X										X
Cupola funace	X					X								
Electric furnace	X													
Copper:														
Material handling	X													
Smelting and refining	X													
Lead smelter:														
Blast furnace	X	X	X				X			X				
Pot furnace	X									X				
Reverb furnace	X	X	X							X				
Magnesium smelting	X	X		X		X								
Steel foundries	X	X												
Zinc:														
Distillation	X	X												
Sweating	X	X		X		X								
VI. EVAPORATION LOSS SOURCES														
Degreasing				X										X
Dry cleaning				X										
Graphic arts:														
Gravure				X										X
Flexography				X										X
Lithography				X										X
Letterpress				X										X
Metal decorating				X										X
Petroleum storage and transfer:														
Nonpipeline transfer (tank cars, trucks, and marine)				X										X
Refueling motor vehicles				X										X
Service stations				X										X
Tank storage				X										
Industrial surface coating				X										
Textile processing:														
Heat setting/finishing				X										
Texturizing				X										
Carpet manufacturing				X										
VII. PETROLEUM INDUSTRY														
FCCU	X		X			X	X				X			X
TCCU and HCCU	X		X			X	X				X	X		X
Process gas combustion	X	X	X	X										X
Valum distillation				X										
Miscellaneous point sources				X										
Refinery fuel gas, sulfur recovery			X									X		
VIII. WOOD PRODUCTS INDUSTRY														
Wood processing:														
Pulpboard	X													
Plywood	X			X										X
Wood pulping:														
Kraft process (sulfate)	X		X	X		X						X		X
Sulfite	X		X											
NSSC			X											
IX. ASSEMBLY PLANTS														
Automobile				X										
Lead acid battery	X			X					X	X				
Waste disposal (noncombustion)														
Industrial waste handling (liquids)														X
Sewage treatment														X

Mr. BUCKLEY. With all due respect to the Senator from Virginia, I would like, if I may to continue my presentation.

Mr. WILLIAM L. SCOTT. I just wanted to make the brief comment that the committee and the distinguished Senator, my friend from Idaho, are just a little more confident in the bureaucracy than I am in the issuance of regulations by the Environmental Protection Agency. I think that is part of the problem, not part of the solution.

Mr. McCLURE. May I respond to that? I thank the Senator from New York for allowing me to respond, because I know the Senator from Virginia has very grave doubts about the wisdom of allowing the bureaucracy to make decisions which the Congress ought to make. That is something on which I agree fully.

We tried to do two things in the committee bill: One was to carefully limit that discretion, much more carefully than is ordinarily done in legislation, with much more carefully defined roles than would occur if the Moss amendment passed, which would leave it to the EPA to do without any restrictions at all.

Second, we did affirm again the principle that these decisions ought to be made primarily by the State agencies, rather than the Federal agency, and that, too, is clearly expressed in this bill.

Mr. WILLIAM L. SCOTT. That is the purpose of my amendment 1617.

Mr. BUCKLEY. I understand that, and I believe, incidentally, this has been an extremely useful exchange, I think, frankly, the honest alternatives are either the committee bill or the William L. Scott amendment. These are the issues: Are we going to continue our present existing policy of nondeterioration, or are we going to abolish that policy? What the committee does is to recognize and continue that policy, but to take it away from EPA, enhancing the authority of the States in making the critical judgments.

I wish to continue to discuss some of the misconceptions held by members of the business community, and to explain the facts regarding our bill.

To complete the discussion that the Senator from Idaho and the Senator from Virginia and I had, I wish to point out a few questions about matters of procedure.

Question: Who issues the permit? The committee bill says that the State does. The existing situation, under the court-required EPA regulations, leaves that to EPA.

Second question: Who determines a class I designation for national parks and wilderness areas? Under the committee bill, the answer is: Congress. Under the current law, it is the Federal land manager.

Third question: Who determines a class I designation for other Federal lands?

Under the committee bill, it is the State and Federal land manager, with either having a veto. Today that authority is exclusively vested in the Federal land manager.

The fourth question: Who determines what level of technology is needed?

Answer: Under the committee bill, it is the States. Under existing law, it is EPA.

Mr. President, there are a number of other misconceptions about this bill that I would like to address. The chamber of commerce and others have said that the significant deterioration provision in the bill will have a more severe impact on some States than on others.

The fact is that the opposite is true. By setting a single standard for determining significant deterioration, the bill equalizes the impact as much as possible. Certainly this is true in comparison to the more rigid, three-tiered scheme in the existing EPA regulations, which industry now appears to favor. Our committee was urged by industry to resolve this issue with some kind of legislation to remove some of the uncertainties that attend the EPA regulations, uncertainties compounded by litigation that will keep this issue in limbo for another year or two or even longer. Now they say, give us back the uncertainties. I disagree.

Another misconception, and I quote:

> The mandatory establishment of class I zones will drastically limit, if not prohibit, the citing of large fossil-fuel electrical generating facilities in California.

That statement was made by the Pacific Gas & Electric Co., which circulated maps showing "how little of the State of California remains for development" based on a 50-mile buffer zone around "California's national forests and national monuments":

> These buffer zones, within which major sources will also be prohibited, can extend 150 miles." (Pacific Gas and Electric).
>
> The fact is that national forests and monuments do not receive Class I review unless the State and the Federal Land Manager agree to provide Class I designation for specific areas.

Today, only the Federal Government makes that judgment, but we are giving the States a veto power over that judgment:

> Each plant-location decision will be made under the Senate bill after a case-by-case analysis on the air quality value for which a particular national park or wilderness is operated.
>
> *Assertion:* Assateague Island National Seashore would be established as a Class I area and there would be a 55-mile buffer zone around the seashore "within which any industrial, commercial or residential development would be strictly limited." (Delmarva Power).
>
> The fact is that any designation of a national seashore as a Class I area would be made jointly by the State and the Federal Land Manager; it is not mandated by the Senate bill. Each major facility proposal would be reviewed separately on the basis of air quality values; there would be no reference to a buffer zone. The provisions for analyzing significant deterioration involve only specified types of major new industrial sources.

As the Senator from Idaho explained, these are limited in number, and they are the major pollution sources.

The provisions of this bill have no impact whatsoever on commercial or residential development:

> *Assertion:* "No new construction of a major facility may be begun in an area with air better than the Federal Standards without an EPA permit." (Deere and Company). The provisions on significant deterioration give "a single appointed official in Washington, D.C., the final say-so on how states and their citizens can use public and private lands." (Chamber of Commerce)
>
> The fact is that the Senate bill arguments reliance on state authority. The bill requires a state permit, not an EPA permit. It is the present EPA regulations that could be construed as increasing reliance in Washington.

The adoption of the Moss amendment would extend indefinitely the exclusive authority of the EPA or Federal land managers in these various areas.

The next misconception:

> In discussion expansion, a hypothetic plant might take up "65 percent of the allowable pollution increment estabilshed by the Senate bill. But if, several years after our construction program is underway, significant construction is begun by several other employers or by a municipality in the same or nearby cities which uses up the remainder of our allowable increment (and this appears quite likely), we would simply have to stop building." (Deere and Company)
>
> The fact is that this statement is false. The Senate bill creates a pre-construction review process. Once the state agrees to permit construction of a facility, this legislation imposes no restrictions that could halt construction, unless the source violates the terms of the permit itself.
>
> *Assertion:* "The technology necessary to determine with reasonable precision whether the proposed allowable non-deterioration increments are met is not presently available." (Deere and Company)
>
> The fact is that the prevention of significant deterioration involves a permit-review process, based upon fully available measurement and modeling techniques to determine the dispersion of anticipated levels of pollutants.

Again, I will refer to the chamber of commerce and one of the misconceptions that it has broadcast so successfully across the country:

> *Assertion:* Even in Class II areas, "smaller facilities with package boilers, such as small industrial, commercial, and public buildings, and large apartment houses, would also be restricted."
>
> The fact is that this bill establishes a single national norm, allowing extensive growth up to that norm. According to Delmarva Power, "A plant as large as 2,000 megawatts could be built without violating the Class II increments for SO_2 or total suspended particulates (TSP) proposed by the Senate."

We do not in any way affect public buildings, large apartment houses, and so forth. Again, the restrictures are limited to 28 specific types of sources, major polluting sources.

The next misconception, again quoting from the chamber of commerce:

> "Any new or modified plant would have to use the best and most expensive air pollution control equipment, plus use the lowest sulfur coal."
>
> The fact is that the significant deterioration analysis affect only a few, specified industries, not "any new or modified plant." Thus, it will not affect the vast majority of construction. The Senate bill does not require use of the "best and most expensive" pollution control equipment; it requires use of the "best available control technology," which is defined in the bill as a level to be determined on a "case-by-case" basis by each State, "taking into account energy, environmental, and economic impacts and other costs." Rather than forcing the use of "the lowest sulfur coal," the Senate bill seeks to promote the use of reasonable technology, thus encouraging industry to abandon its present posture favoring the burning of low-sulfur coal in preference to the installation of control devices.

I believe, Mr. President, this analysis by no means encompasses a majority of the misstatements that have been circulated on the bill. But I hope that my statement will serve to cause Members of the Senate, who have not had the opportunity to analyze its provisions in detail to compare what we propose against existing law. I hope that this will cause people who oppose the bill, or favor the Moss amendment, to study the legislation and study the committee report, so they know exactly what it is that is proposed.

We must face the fact the committee would remove the uncertainties of which the business community has complained. We establish certainty and increase the authority of the State, as opposed to authority of EPA.

And, yes, the committee has provided for the creation of an air quality commission, because we understand that there is a lot we do not know. There is a lot we need to determine about better ways of measuring costs and effects.

When that Commission reports its findings, of course, the committee will sit down and take note, in order to determine what needs to be done to improve further our approach to the balanced control of air pollution.

Until we have such a study, we will either exist under the present law, or we will exist under a clarified law.

If we compare the state of the law now, which is based on court interpretations implemented by EPA regulations—which are attacked by environmentalists as well as businessmen—we have a situation where many people are afraid to move forward with major investments.

By removing these ambiguities, our bill would permit business to go forward with reasonable development and growth in the clean-air areas. And to go forward with assurance.

It is a step forward, not a step backward, which we propose. We do not propose new structures on business. Rather, we seek to lift strictures from business.

I thank my friend from Alabama. If he contests the accuracy of anything I have stated, I would be happy to be educated.

Mr. MUSKIE. Will the Senator yield?

Mr. BUCKLEY. The Senator from Alabama has the floor.

Mr. WILLIAM L. SCOTT. Will the Senator from Alabama yield briefly?

Mr. ALLEN. Let me first answer the distinguished Senator from New York and then I will yield to the distinguished Senator from Virginia.

I am somewhat intrigued by the sponsors of the bill saying that this will react to the benefit of those industrial concerns who would be regulated by the provisions of section 6, whereas the people to be regulated feel that it would place a great additional burden on them. I would call to the attention of the distinguished Senator from New York, who knows this perhaps better than any Member of the Senate, that Big Brother legislation is always represented as helping the people affected by that legislation. That is always the reason given for Big Brother legislation.

I am wondering if this legislation might not be subject to the same type of criticism. The Senator is saying that it is to the benefit of the people to be regulated, that it puts fewer burdens upon them, whereas those who are to be regulated feel like a great additional burden is being placed upon them.

Mr. BUCKLEY. Will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. BUCKLEY. I would like to point out that it is not a question of "to be regulated." They are already regulated.

Mr. ALLEN. I understand that. But they feel that this would give specific authority to regulate them far beyond what should be required, to the point where they will literally be run out of business, causing the loss of jobs throughout the Nation and causing great adverse economic impact throughout the country.

Mr. McCLURE. Will the Senator yield?

Mr. ALLEN. I am referring, certainly, to my State of Alabama.

I want to ask the Senator from New York one specific question.

Mr. McCLURE. Before asking the specific question, could I respond a little further than has the Senator from New York?

Mr. ALLEN. All right.

Mr. McCLURE. I thank the Senator from Alabama. He is always courteous and I appreciate that. The Senator from Alabama has said the sponsors of the bill seem to want to enact legislation that would, in effect, creat a Big Brother.

Mr. ALLEN. I did not say that. I said that Big Brother legislation is enacted under the guise of helping the public, whereas it enslaves the public. I did not say this was Big Brother legislation. I asked if the same criticism might not be made of this.

Mr. McCLURE. That Big Brother already exists in the form of the court decision, under the existing law, and the EPA regulations. All we are trying to do in this legislation is to define the limits of the actions of that Big Brother, and to restrict its activities more carefully than it is under the present law, or would be under either the Moss amendment or the pending Allen amendment.

Mr. ALLEN. That is the very point the Senator from Alabama is making, that the Senators have not been very effective in getting across to those who are to be regulated that we are trying to help them.

They feel we are trying to regiment them. I am taking the view of my constituents over the professed desire and intention of the legislation.

I would like to ask the distinguished Senator about another item. In comparing the present regulations and authority with the provisions of this bill and the intent and purpose of this bill, the EPA regulations now, as I understand it, have a class III for industrial development. Since I see only references to classes I and II, it would appear that the Senate bill wipes out class III and only allows class II increments, which I understand possibly are much stricter than EPA class III regulations. I would like the distinguished Senator to comment on that.

Mr. BUCKLEY. The Senator's statement of that particular fact is correct. I would point out that the EPA is being sued on the basis that under the Supreme Court decision in question it had no authority to carve out a class III.

No. 2, I believe that any time somebody sits down and actually calculates what the Senate definition of class II permits in terms of industrial expansion, there is a great deal of growth that is, in fact, allowed.

For example, it has been calculated that with the existing technology, it is possible in some areas to build a powerplant of up to 5,000 megawatts in a class II area. The largest powerplant now in existence in this country is a little more than 2,000 megawatts. It is a misconception that somehow or other the class II designation and the emission increment prohibits the expansion of major facilities. It does not.

Another thing that our bill does in another section is to make it easier for an existing powerplant to expand in areas where air is dirtier than the secondary and primary standards, provided the expanded plant does not increase the pollution burden. In my judgment, this is a very balanced act.

Mr. ALLEN. I thank the Senator for his explanation.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. ALLEN. Is the Senator through with his question?

Mr. BUCKLEY. Yes.

Mr. ALLEN. I shall not seek to pass the floor on to any other Senator because I recognize I do not have that right even though that practice does obtain in the Senate. I would like to announce for the benefit of the Senate that I do plan to yield the floor sometime between 11:15 and 11:20. Senators can be on notice in order that they might address the Chair for recognition.

Mr. President, I was discussing some minutes ago before I yielded to Senators for questioning, the provisions of the Randolph amendment. I was pointing out that apparently there is so little information available regarding the impact of section 6 that we should not proceed with enacting that section until the study has been made.

I was pointing out the various areas which this Commission which is set up under the Randolph approach and under the Moss approach to study, the areas covered by section 6.

There are six major areas as to which the Commission is charged with the duty of studying and making recommendations. These very areas are the areas as to which section 6 enacts provision. I was pointing out that we were getting the cart before the horse in enacting legislation and then mandating a commission to study the very areas covered by the legislation. I was pointing out that if we do not have the information now that it seems we do not have, we certainly have no business legislating in those areas.

I had read the first three of the areas that the Commission is to study, and I am going to go back to the last of those, to comment on that.

The Commission is charged with the duty of studying—this is the third area—

> Whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act, including an analysis of the costs associated with that technology;

I might say again that subsection (g) of section 110 of the act is the same thing as saying section 6. Those terms can be used interchangeably. But if we do not even know whether the technology is available that would be required under section 6, and we do not know the cost of the technology if it is available, and yet we go ahead and enact legislation that would require the use of technology where we do not even know whether that technology exists, and if we did know whether or not it existed we would not know the cost of it, and we enact this statute and say to the Commission, "You ladies and gentlemen go out and find out whether they have got adequate technology to do what we are requiring, and after you find that out, find out the cost of that technology," I had to use the word, but that is how foolish this procedure is, that we enact a law and then find out whether it is possible to implement that law.

Why not find out first whether the technology is available, how much it costs, and whether it will place too great a burden on business and industry, and then enact the law in the light of the information the Commission obtains?

All right, let us go to the next area they would investigate. They would investigate—

> Whether the exclusion of nonmajor emitting sources from the regulatory framework under this Act will affect the protection of air quality in class I and class II regions designated under this Act;

Well, Mr. President, I assume that if we had the information we would not have to ask the Commission to ascertain the information, so I think it is safe to assume, by process of logic, that if we ask them to get the information, we do not have the information. Well, if we do not have the information we ought not to be legislating in that area. We ought to find out what the facts are, and then legislate.

All right, what is the next area? They are charged with the duty of studying—and of course making recommendations based on that study—

> Whether the increments of change of air quality under this Act are appropriate to prevent significant deterioration of air quality in class I and Class II regions designated under this Act;

I am reading from the Randolph amendment.

Well, why not find that out to start with, before we start legislating?

Under subsection (F), they are supposed to study—

> Whether the choice of predictive air quality models and the assumptions of those models are appropriate to protect air quality in the class I and class II regions designated under this Act for the pollutants subject to regulation under subsection (g) of section 110 of this Act.

There again, it is legislating before the facts are ascertained.

Going back to the first two areas that they are to study, under subsection (A) they are to study—

> Whether the provisions relating to the designation of, and protection of air quality in class I regions under this Act are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to (i) add to or delete lands from such designation, and (ii) provide appropriate protection of the air quality over such lands;

It seems to me that the knowledge that we have at this time is mainly noteworthy by its absence. We seem to have no expertise in this area that has been adduced or accumulated up to this time, if we have got to have a commission to make studies in all of these areas about the subject of the legislation proposed in section 6.

That is the trouble with a whole lot of the legislation we pass here in Congress. It is based on lack of information quite often, or misinformation quite often.

It would seem to me that this Commission, in effect, would be doing what might be accomplished by a Senate standing committee in having hearings and the like, but I do not object, and as a matter of fact I like the idea of having this Commission to make the study. I believe they would make a more exhaustive study. They can work at it pretty well full time, whereas a committee is quite limited in the days that it could apply to a hearing, and moreover a hearing is generally based on the oral testimony of witnesses, and really does not give the opportunity for research that a commission would have. So I like the idea of the Commission to ascertain these facts. But I do object strenuously to legislating and then studying the area as to which we have legislated.

And most anyone, I would think, would feel it would be more logical to study first and then legislate.

That is not what the Randolph amendment provides for. It provides for legislating and then studying. The Moss amendment provides for the study and then, if Congress so desires, legislating with respect to the information obtained and the recommendations made by the Commission. The Moss amendment sets up a commission to make this very same study that the Randolph amendment provides for. But pending the action of the Commission, there is no legislation enacted—none at all.

The Parliamentarian has advised, as I understand it, that the Moss amendment is not in order as to the Randolph amendment, which is pending, and that caused the distinguished Senator from Florida (Mr. STONE) and me to prepare an amendment that will, I trust, in time be brought up that is a halfway position between the Moss amendment and the Randolph amendment.

While I feel that the Moss amendment is the best approach, if we can at this time vote on the Moss amendment, and I am hopeful yet that we will vote first on the Moss amendment, I would rather vote first on the amendment of the distinguished Senator from Florida and myself ahead of the Randolph amendment.

Our amendment provides, in effect, that section 6 will be enacted, the Commission will be set up, make its study and its report, and after that report is made Congress, or the public, those concerned, would have 1 year before the provisions of section 6 would go into effect.

So, section 6 would be passed, but it would not be implemented or enforced until 1 year after the Commission makes its report.

Well, a year really is a very short time, as we know, when we consider legislation of this magnitude. Really, it ought to be 2 years.

Congress would have 1 year in which to implement the recommendations of the Commission and revise section 6 in such a manner as the recommendations of the Commission indicated that it should be revised. There would be a 1-year waiting period after the Commission makes its report. And if Congress could pass some law revising section 6 in line with the recommendations of the Commission, that would be fine, and that is what I hope they would do, but if they are unable to get any legislation through, we would still have section 6 as the law; good or bad, it would be there, even though the Commission says it is bad. We have a year to work it out and perfect it, not as provided by the Randolph amendment, which would put section 6 into effect immediately on the enactment of this bill. So they would be studying something as to which legislation had already been enacted.

So at some stage of the proceeding, and I do not think it will necessarily be right away, in consultation with the distinguished Senator from Florida (Mr. STONE), the present occupant of the Chair, we will offer this amendment—and I am hopeful that this can be done—unless an agreement can be reached for taking up the Moss amendment, which everyone realizes contains the heart of this entire controversy, that is not enacting until after a study has been made, and that is the central point of this entire discussion. As I have stated in the Chamber, and it looked like for a while an agreement was going to be reached, I would agree and I know the distinguished Senator from Utah (Mr. MOSS) would agree, because he stated that he would, to a time limit on the Moss amendment. If we want to move this thing off dead center, let us take up the amendment that everyone expected to be offered and be the center of the entire controversy; but yet it cannot be offered under the parliamentary situation, and that is what prompted the Senator from Florida and me to prepare amendment No. 2101, which is as near to the Moss amendment as we could get under the parliamentary situation, bearing in mind that under the Senate's intricate rule the Moss amendment cannot be offered at this time even as an amendment to the Randolph amendment.

Mr. President, I have indicated, I believe, my theory of how we should proceed in this matter. I do not feel that at this time the amendment of the Senator from Florida and the Senator from Alabama will be offered, but it will be at the desk ready for calling up at the appropriate time unless some agreement can be worked out for an orderly consideration of these matters.

With that, Mr. President, I yield the floor.

Mr. MOSS. Mr. President, I first commend the Senator from Alabama for his explanation of the amendment which he and the Senator from Florida have prepared and which is at the desk and I understand fully his reasoning for the preparation of that amendment by the two distinguished Senators and the reasons for having it prepared, although it is not yet offered, because as the Senator from Alabama pointed out both the Senator from Alabama and the Senator from Florida wish to have a vote on the Moss amendments in order to determine, if they can, what the central focus of this bill is going to be and, therefore, where we are going.

Mr. President, I talked at some length about the Randolph amendment, which is the pending business at this time, and I had much more to say. Although I talked at some length, I think that at least half of the time was taken up by the proponents of the Randolph amendment rather defending it or defending the situation in which we find ourselves, but I wish to discuss, if I can, with the Senate what the Moss amendment does as compared with the Randolph amendment and what it does not do.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield a minute before he goes into his comments?

Mr. MOSS. I will yield for a question to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. It was my intention today to call up my amendment No. 1617, and I had talked with the distinguished authors of the amendment now before the Senate. The Senator from Alabama and the Senator from West Virginia were agreeable to this procedure, to set aside temporarily the pending business and to permit me to bring up the amendment. It is my understanding that the distinguished Senator from Utah would prefer that we do not do that and would object if I made a unanimous-consent request.

I bring up this matter at this time because I had requested a number of my colleagues to join me here at 10 o'clock so that we could debate this matter.

Is it the intention of the Senator from Utah to object to such a request?

Mr. MOSS. Yes, it is.

I did confer with the Senator from Virginia on several occasions, and at one point I thought it might be suitable to permit that kind of set-aside. However, on mature reflection, I think that the amendment of the Senator from Virginia, if it is brought up, probably should come as a proposed amendment to the Moss amendment. Otherwise, it would not be in line with what we are trying to get focused on in the Senate. Therefore, I am compelled to say that I would object to a unanimous-consent request.

I appreciate the cooperation and understanding of the Senator from Virginia. I talked with him earlier, and he was given the impression that he could go ahead, but it became necessary for me to tell him that I will have to object.

Mr. WILLIAM L. SCOTT. Mr. President, I have no quarrel with the position of the Senator from Utah. Each Senator has a right to present his point of view and to object when we depart from the normal procedures. I respect his right to do this. It came at a late hour. It did work an inconvenience, in that I had talked with about 10 other Senators about the matter. I wanted to make this statement for the record and for the information of my colleagues with whom I talked, to indicate that it was not my desire to change what I had told them earlier.

In response to the Senator's comment about my offering an amendment to the Moss amendment, I say that I have such an amendment. It has been printed, although I have not looked for the number of it. I have a separate amendment which would knock out completely the nondegradation provisions, not only as to section 6 in the bill but also as to the court decisions under which many regulations have been issued. I want to offer both amendments at the proper time.

I thank the Senator for yielding.

Mr. MOSS. I thank the Senator.

Mr. ALLEN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOSS. I yield.

Mr. ALLEN. Mr. President, I asked the distinguished Senator to yield because I failed to make a unanimous-consent request for the distinguished Senator from Alaska (Mr. GRAVEL).

I ask unanimous consent that Mr. Bill Hoffman, of Mr. GRAVEL's staff, have the privilege of the floor during the consideration of this bill and during votes on amendments and the bill itself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, before discussing my amendment and comparing it with the Randolph amendment, I should like to point out that in discussing this matter, we are talking about the Moss amendment, which has the approval of the President of the United States.

I have in my hand a clipping from the Deseret News, of Salt Lake City, Utah, of July 16, 1976, which contains an article by Mr. Gordon Elliott White, who is a Washington correspondent for the Deseret News. This is a report of an interview which Mr. White had with the President of the United States on the 15th of July. It appeared in the newspaper on the 16th of July. The interview, of course, covers other matters besides the Moss amendment, but the paragraphs that have to do with the Moss amendment are as follows:

Mr. White, in summarizing what the President was for or against, said:

> The President favors an amendment which would delay for a year the new, stricter provisions of the Clean Air Act.

A later paragraph in the same article reads:

> Ford said a legislative proposal by Senator Frank E. Moss (D-Utah) to put off new, stricter Clean Air Act amendments for a year is a good one.

Then he quotes the President directly, as follows:

> I am sympathetic to the Moss amendment. I believe that the significant deterioration issue requires more study, and I think the Moss amendment would give that time.

Finally, the third paragraph in the same article, which is directly on the matter now before the Senate, reads as follows:

> Proposed new legislation which the Moss amendment would delay would prohibit any significant deterioration of existing clean air over Federal lands. It has been attacked by the State as barring development in large parts of Utah.

I read those excerpts into the RECORD simply to make it clear that the President of the United States has spoken very directly on this matter. He was asked specifically about the Moss amendments, and he declared that he supports the Moss amendments, and he gives some of his reasons for doing so.

So, in face of this debate, which has been going on now for approximately 4 days, the opinion of the administration and the President has not surfaced, I do not believe, and I do not know why we have not got around to discussing whether or not this met with the approval of the United States. If this body should pass the Clean Air Act amendments and the House should be in agreement, it would not become the law of the United States unless the President were willing to sign it or unless we were prepared to override the President by a two-thirds veto in both bodies of Congress. If this matter is controversial, as we say—if it is close here now—I am sure we would not have two-thirds who would override if the President vetoed.

I am not saying that the President indicated that he would veto anything that did not contain the Moss amendment. But by saying that he favored it and by describing it, saying that there should be time for study before we lock in nondegradation, he has indicated his state of mind, which leads me to infer that he most likely would veto a bill that wrote nondegradation in as the law of the land, simply providing for a later study to see whether it should be taken out of the law of the land.

That is the thing I come back to again and again here: That we should not lock ourselves in until we know what the effects of section 6 will be.

My amendment provides that the law on clean air will remain as now written. I think everybody agrees that if it is enforced fully, it is enough to protect the health and welfare of the country, without going on to this farther out area of nondegradation. I believe that during that year, we are not going to come to any disastrous result in the United States. If that were so, we would be in trouble right now. We would have people being sick and disabled and whatever else might come from polluted air.

I also would like to point out, in connection with a statement by the President himself, that my amendment has received scrutiny from six of our major Federal agencies that would have to do with the problems that would be raised by air quality standards that included nondegradation. Of the six agencies that have reported back to me and my committee, only the EPA—only the EPA—has said that they would not support the Moss amendment. The others have all indicated that they would favor the proposition that there be a 1-year suspension—at least a year—of any nondegradation until the study is completed and until it can be evaluated and we can determine what the impact of nondegradation would be.

I ask unanimous consent to have printed at this point in the RECORD copies of letters that I have received from the Chairman of the Council of Economic Advisers, the Department of Labor, the Energy Research and Development Administration, and the Federal Energy Administration, as well as the Department of the Interior.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE CHAIRMAN OF THE COUNCIL
OF ECONOMIC ADVISERS,
Washington, D.C., June 8, 1976.

HON. FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: This is to respond to your request for CEA views on the nondeterioration section of the Clean Air Act Amendments of 1976. As you have indicated, the courts have interpreted the Clean Air Act of 1970 to mean that polluted regions shall be brought into compliance with ambient standards and that clean regions shall not be significantly deteriorated, even if the standards are not violated.

Strictly enforced, this interpretation could constrain industrial growth in the United States. Growth could occur only to the extent that existing industry reduced pollution and other sources, such as automobiles, were kept in check. The EPA regulation that would establish three classes of regions, two of which could be deteriorated, recognizes this but at the same time this regulation is still subject to question as to how it will affect both industrial development and the environment.

The question of whether industries should be allowed to locate in clean areas hinges on the nature of pollution damage as dependent on discharge levels and on the distribution of costs and benefits among different geographic and socio-economic groups. If the damage caused by additional pollution rises with the pollution level, it is less damaging to locate new industry in relatively clean areas. If damages increase more slowly as pollution levels rise, it is better to locate new industry in areas that are already polluted. Not much is known about pollution damage functions, but most researchers hypothesize that damages per increment of pollution become more severe as pollution levels rise.

But there are important factors to the contrary. One is that visibility drops off more rapidly with early increments of pollution, so that pollution should be avoided in certain areas of natural beauty. It is difficult to weigh the health costs in Chicago against the visibility cost in Cheyenne, but that is what is required. Perhaps best of all would be a plant site with low pollution, few people and little natural beauty.

A second factor concerns individual preferences. Some environmentalists claim that people who like clean air or suffer greatly from air pollution locate in areas like Cheyenne. To spread pollution evenly across the country would offset the location decisions of such people and remove the option of finding pure air somewhere in the United States. The argument certainly supports the notion that some areas should be kept clean. We should not aggregate costs and benefits and forget about the impacts on particular groups or regions of the country.

It is our judgement that properly cited power plants in some low population States have more net benefits than other sites, taking economics, the environment and energy independence into account. But we are concerned with distributional impacts. Any Government action creates gainers and losers, but the dichotomy may be especially sharp where nondeterioration is concerned. The impacts on future generations are also relevant. Much revision in procedures has to take place before we have a system that accurately accounts for the important implications of such siting decisions.

I concur in the President's recommendation to Chairman Randolph on April 28 that the Senate as well as the House should amend the Clean Air Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

Sincerely,

Alan Greenspan.

U.S. Department of Labor,
Washington, D.C., June 11, 1976.

Hon. Frank E. Moss,
U.S. Senate,
Washington, D.C.

Dear Senator Moss: This is in response to your letter requesting our views on your proposed amendment to S. 3219, a bill amending the Clear Air Act, as it was reported by the Senate Public Works Committee.

Your amendments provide for a study and a report to Congress by the proposed National Commission on Air Quality on the economic and energy effects of the nondeterioration requirements of the bill.

By way of background I should mention the concern that former Secretary Dunlop and I stated in our letters to Senator Randolph. In Secretary Dunlop's letter of December 15, 1975 he states his concern that the provisions of section 110(g) "should reflect a proper balance between our interest in maintaining air quality and our interest in job growth." Secretary Dunlop urged the Committee to regard both clean air and job growth as equally important objectives in its consideration of nondeterioration proposals.

In a second letter to the Committee of February 25, 1976 I reiterated that concern and also pointed out the problems involved in determining the potential economic and job growth impacts of nondeterioration proposals. These problems were reflected in various studies done in several industries in which the economic impact of nondeterioration proposals could not be assessed clearly.

I stated that the inconclusive nature of the studies as well as the views of various interested parties (government, labor, industry, environmentalists) "argue for the need for enough flexibility in the proposed amendments to permit both general economic impacts and job impacts to be taken into consideration in improving and maintaining our air quality."

Beyond this, I stated these specific concerns with the bill then under consideration by the Committee:

1. That no provisions were made for a Class III category even though Administrator Train's letter of December 17, 1975 had stated that Class III is necessary for the aggregation of major large industrial sources at one site . . . Class III may be necessary where there is required fuel switching from lower to higher sulfur fuel . . .
2. That care be used in designating Class I areas and the requirement either implicit or explicit for "buffer zones".
3. That the bill did not require the inclusion and consideration of "relevant social and economic data, including job impact data in the development of nondeterioration plans".

The bill as reported provides for the establishment of areas in each State to prevent significant deterioration of air quality.

Class I designated land areas would comprise all international parks regardless of size and each national park, wilderness area and memorial park exceeding 5,000 acres which exists on the day of enactment. Those national parks and wilderness areas established after enactment shall be designated Class I, but may be designated Class II. All other land including Federal lands shall be designated Class II areas.

Each potential new source (manufacturing plant, etc.) which would emit more than 100 tons of a pollutant a year and identified by category in the bill must apply to the State for a permit to construct a new emitting facility in a Class II area.

The Committee rejected a Class III designation which would have allowed the States to set aside some clean air areas for more intense industrial development.

The Committee also eliminated the buffer zone that encircled Class I areas and instead set the Class I increment as a flexible test. We would also point out that State plans need not contain specific economic and impact data.

We continue to feel that the bill should reflect balanced weighing of the objectives of clean air and job growth. In our previous reviews of studies and of the views of interested parties together with our reading of the bill as reported and of the accompanying Committee Report, we cannot find an adequate basis for agreeing with the statement on page 21 of the Report that "this section protects clean air areas from deteriorating while permitting the economic development necessary to achieve a steady improvement in our standard of living."

As the President indicated in his letter to Chairman Randolph on May 28, the Administration cannot endorse the changes recommended by the respective Senate and House Committees with regard to significant deterioration of air quality.

I support the President's recommendation to amend the Clean Air Act to preclude application of all significant deterioration of air quality provisions until sufficient information concerning final impact can be gathered.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

W. J. Usery, Jr.,
Secretary of Labor.

U.S. Energy Research
and Development Administration,
Washington, D.C., July 11, 1976.

Hon. Frank E. Moss,
U.S. Senate

Dear Senator Moss: Thank you for the opportunity to comment on your proposed amendments to S. 3219, a bill which may be cited as the "Clean Air Amendments of 1976."

Section 6 of S. 3219 would add a new subsection (g) to section 110 of the Clean Air Act of 1970, as amended. That subsection would divide the Nation's clean air regions (those areas having air quality better than required under national ambient air quality standards) into two categories in which certain increments of additional sulfur oxide and particulate emissions would be allowed. To enforce the increment limits and thereby regulate development in these regions, states would issue construction permits to all major new pollution sources. These permits would require the new plant to use "best available control technology," as determined by the state in accordance with general guidelines. Section 6 contains increments for two pollutants: particulate matter and sulfur oxides. The Environmental Protection Agency is required to study strategies to prevent significant deterioration for other regulated pollutants, and it is required within one year to inform the Congress of appropriate increment for hydrocarbons and oxides of nitrogen.

Section 37 of S. 3219 would add a new section 315 to existing law. A National Commission on Air Quality (NCAQ), composed of Congressional and public members, would be established to study and report to Congress within three years on the adequacy of the clean air programs, and the implications of implementing such programs.

As we understand your proposed amendments, they would delete section 6 in its entirety. They would also amend section 37 to require the NCAQ to study the economic and energy effects of implementing such a nondegradation policy as proposed by section 6 and to determine whether existing measuring, monitoring, and interpretative capability is sufficient for effective implementation. The NCAQ would be required to report its findings on these matters to Congress within one year.

The Research and Development Plan (76–1) issued on April 19, 1976 by ERDA suggests that by the year 2000 the Nation will need 100 to 400 new fossil fueled power plants, 70 to 140 coal gasification and liquefaction plants, and 40 to 80 oil shale plants. Many of these new energy facilities will be located in clean air regions. Section 6 embodies a first-come, first-served approach for siting such major new facilities. This could result in inadvertently using up available pollution increments before all needed plants are constructed and, therefore, produce bad-land use planning.

Secondly, the long-term consequences of the open-ended directive to EPA to study strategies to prevent significant deterioration from pollutants other than particulate matter and sulfur oxides should be understood before, not after, legislation is passed.

In view of the uncertain and potentially serious implications of section 6 for long-term energy development, ERDA believes that any provision such as section 6 should be deleted and the Clean Air Act amended to preclude application of any significant deterioration provisions so that these implications can be studied before any non-degradation policy is statutorily enacted. This approach is the one recommended by President Ford in his letter to Chairman Randolph on May 28.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely.

JAMES A. WILDEROTTER,
General Counsel.

MAY 17, 1976.

Hon. FRANK E. MOSS,
U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: In your letter of April 15, 1976, you requested the Federal Energy Administration's (FEA) views regarding the significant deterioration (SD) including best available control technology (BACT) and non-attainment provisions of the proposed amendments to the Clean Air Act. Consultants retained by FEA have just completed two studies with respect to these provisions. An analysis of the overall impact of the SD provisions on energy and economic impacts was prepared by ICF, Inc., utilizing in part FEA's Project Independence Evaluation System (PIES). The implications of SD for surface mining of coal were analyzed by Environmental Research and Technology, Inc. (ERT). Summarized below are the major findings of the ERT and ICF studies and the principal areas of uncertainty with respect to the impact of the Clean Air Act Amendments pending in the Senate.

FINDINGS

1. Increased oil consumption—

It is projected by the PIES model that the utility sector will increase its consumption of oil by about 1 million barrels per day by 1990. Over the 1980–1990 period, this would mean that an additional 1.9 billion barrels of oil would be consumed, representing about $25 billion at $13 per barrel. One million barrels per day is equivalent to the total crude oil production from the Gulf of Mexico in 1975; it also represents an increase of 68 percent over 1974 utility oil consumption. By further comparison, the Trans-Alaska oil pipeline is scheduled to deliver 600,000 barrels per day in 1977 and 1.2 million barrels per day in 1978.

No authority currently expects to prevent the above projected increase in consumption of oil. The Energy Supply and Environmental Coordination Act of 1974, (ESECA) as amended, exempts combustion gas turbines and combined cycle units from its prohibition against new oil-fired utilities. FEA's authority to issue orders under ESECA expires on June 30, 1977.

If new ESECA legislation were extended and made applicable to all new base load and intermediate generation, (legislation of this type is hereinafter referred to as "New ESECA") the above mentioned energy penalties obviously would not be incurred. However, as indicated below, capital costs for additional sulfur dioxide pollution controls incurred by the utility sector would almost triple.

2. Increased capital costs—

The utility sector would have to spend an additional $6 billion on sulfur dioxide control equipment in the period 1980–1990. Under New ESECA, these additional capital costs for pollution control equipment would increase to over $16 billion for the same period.

3. Reduced coal production—

National coal production would be reduced by about 150 million tons by 1990 from current projections of 1.3 billion tons per annum. This reduction represents about 25 percent of current coal production. Over the 1980–1990 period, 825 million tons of projected coal production would not be produced or consumed. Under New ESECA, coal production would approximate that projected for 1990. The regional impacts are important and are examined in the report.

4. Surface-mining—

Production from new Western coal surface mines could be severely constrained by violation of applicable standards for suspended particulates if the SD increments were applied to such operations. About 90 percent of future Western coal production is expected to come from surface mines. The Senate Bill explicitly identifies a number of types of stationary sources exclusive of surface mining which would be subject to the SD increments, but also provides for "such other major emitting facilities as the [Environmental Protection Agency] Administrator determines to be significant potential sources of air pollutants."

5. Increased operating/consumer costs—

Electricity bills would go up $4 to $6.5 billion over the period 1980–1990 depending on whether oil is allowed or not. This reflects an increase in electricity rates of 0.6 percent on a national average basis, and of 2.4 percent for the high percentage change geographic region, by the year 1990.

UNCERTAINTIES

1. Important uncertainties regarding the implementation of the proposed amendments, which could result in the understatement of their impacts, include:

How the Best Available Control Technology provisions would be interpreted,

Which atmospheric dispersion models and meteorological assumptions would be employed,

What the effects of terrain and the location of other facilities would be on the emission reductions required of a single facility,

How many areas would be designated as Class I on a discretionary basis, in addition to those which would be mandatory Class I,

What percentage of the SD increments would be allocated by the states to each new facility.

For example, it is possible that emissions reductions below those achievable with scrubbers on high sulfur coal in the East could be required. This requirement, which would require scrubbers and low sulfur coal, could increase the impacts summarized above.

2. It is unclear whether the SD provisions would provide a substantial stimulus for urban development. Further, it appears that the non-attainment amendments would not substantially relieve the constraints of the current Clean Air Act on urban development.

3. The SD and non-attainment provisions could lead to substantial delays in siting new facilities.

4. Natural violations of National Ambient Air Quality Standards could inhibit industrial development.

We are enclosing for your reference a copy of the Executive Summary of the ICF report. We expect to deliver a copy of the full report to you when it is available. Also enclosed is a copy of the ERT report.

Finally, annexed to this letter for your information is a listing of additional on-going studies by Federal agencies related to the proposed amendments.

Transmittal of this letter has been approved by the Office of Management and Budget.

Sincerely,

FRANK G. ZARB,
Administrator.

Enclosures.

ONGOING SIGNIFICANT DETERIORATION AND NONATTAINMENT STUDIES

A. FEA Studies—

Growth Impacts in the Chemical and Petroleum Industries in Selected Areas Where NAAQS are not Being Attained.

Interface of Significant Deterioration and Non-Attainment Requirements for Mayor U.S. Cities.

B. Joint FEA/EPA Studies.

Impact of Signficant Deterioration on the Location/Size of Synethic Fuel Facilities.

Impact of Significant Deterioration on the Copper Smelting Industry.

C. Other Agency Studies—

- Impact of Clean Air Act on Industrial Expansion [several major industries to be studied], including Impact of Non-Attainment Provisions on Expansion in Petroleum Storage, and Petroleum-Refinery Industries (EPA).

Impact of Significant Deterioration on the Pulp and Paper Industry (EPA).

An Analysis of the Impact of Alternative Approaches to Significant Deterioration in the Non-Ferrous Metals Industry (DOC).

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., May 3, 1976.

Hon. FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: I appreciate very much your concern with question of Utah natural resource management raised in your April 15 letter to me. More particularly, I share your concern about the pending Clean Air Act amendments, especially the significant deterioration provisions.

As you know, the Environmental Protection Agency has developed a comprehensive set of regulations in response to the Supreme Court's 1973 "significant deterioration" decision, *Sierra Club* v. *Ruckelshaus.* These regulations provide for division of areas with cleaner air than the primary sulfur oxide and particulate standards into three classes. Relatively little additional pollution would be allowed in Class I areas, limited deterioration would be allowed in Class II and pollution up to the primary standards would be allowed in Class III. Each class specifies the increment of additional pollution allowed beyond a determined base level of pollutant concentration.

As reported, S. 3219 allows states to use only the Class I and Class II designations and mandates as Class I designation for certain Federal lands, e.g. national parks and wilderness areas over 5,000 acres. Your letter and draft floor statement correctly observe that the bill will place substantial constraints on growth and resource use. In contrast, the EPA regulations contain desirable flexibility to accommodate other valid concerns such as those you have suggested, while still protecting air quality. We are, of course, not in a position to say that the EPA regulations are the "last word" in resolving the significant deterioration issue appropriately, but they represent what I think is as good a resolution of these questions as I have seen based on presently available data.

Your letter and statement also discuss the adequacy of information available to make the necessary decisions regarding clean air and resource management. I am deeply concerned about this and believe that we should press forward with obtaining the basic data required.

This, of course, does not mean that we should forbear action and decision until the last "i" is dotted and "t" is crossed in the last study of these issues. But, we should be attuned to the need for adjustment and flexibility, and in this regard, I commend the EPA regulations, or something like them, to the Senate, as it prepares to pass a bill.

Sincerely yours,

THOMAS S. KLEPPE,
Secretary of the Interior.

Mr. MOSS. Mr. President, I wish to discuss the Moss amendment, which I am hoping we can get up for consideration.

I believe its essence is too important, and the parliamentary attempt to deny this body the opportunity to consider this amendment and allow intelligent debate and reasoned dialog would deprive this body of the opportunity of understanding fully what that amendment does.

Technically, the Moss amendment amends section 37 of the committee bill by inserting a new subsection (a) and then adding two additional new subsections (b) and (c). The essence of section 37 then remains in place.

Section 37 of the committee bill establishes a National Commission on Air Quality—similar in scope and makeup as we enacted for the clean water bill. Its charge is to study and report to Congress on six major areas:

First, the economic, technological, and environmental consequences of achieving or not achieving the purposes of this act and programs authorized by it;

Second, available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and to achieve the other purposes of the act, including achievement and maintenance of national ambient air quality standards and prevention of significant deterioration of air quality:

Third, the technological capability of achieving and the economic, energy, and environmental impacts of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen—including the research objective of four-tenths gram per vehicle mile—in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

Fourth, air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

Fifth, the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality;

Sixth, the ability of—including financial resources, manpower, and statutory authority—Federal, State, and local institutions to implement the purposes of the act.

The Moss amendment retains this charge of the commission in its entirety but enhances it by adding three new responsibilities related to the new thrust of no significant deterioration. If we are to choose to enhance our air by requiring no significant deterioration, we should enhance the charge of this national commission to let us know how its implementation will affect the Nation. After all, the whole episodic case for nondeterioration is based on the word "enhance."

The first additional charge required by the Moss amendment is that this national commission will also study and report to Congress on "the effects of the implementation of any proposed or existing requirement on the States or the Federal Government under this act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current primary and secondary standards."

Surely, if this body is to enact the most far reaching and encompassing air pollution requirements ever considered in the Congress of the United States, it should certainly require an assessment of how this will affect the Nation.

The Moss amendment then adds two new subsections, (b) and (c). Subsection (b) is the heart of the Moss amendment and reads:

> Studies and investigations conducted pursuant to paragraphs (a) (1) and (2) shall include:
>
> (1) the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including state and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects; and
>
> (2) the effects of any existing or proposed policy of prohibiting deterioration of air quality in areas identified as having air quality better than required under existing or proposed national ambient standards on employment, energy, the economy (including state and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense, and its other social and environmental effects.

Subsection (c) states:

> The Commission shall, as a part of any study conducted under subsection (a)(1) of this section, specifically identify any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural and water resources, as well as land surface-use resources.

These questions are valid. And yet the answers to these questions are not presently available. Before we act on this far-reaching legislation, let us determine whether the policy of nondeterioration is needed, does it really enhance health and welfare at an affordable price tag, and if it is really the way to allocate our resources for the benefit of the Nation. These provisions are far too important to be acted on hastily.

Study of the nondegradation concept and the adequacy of the information on which that policy is based is necessary. We need to know the answers to a host of questions. For example:

What land areas will be covered?

How will the law apply to those States which are currently experiencing or are expected to experience future economic growth?

What will the economic impact be in terms of jobs, incentives to build abroad, anticompetitive effects, costs of construction delays?

Development of our energy resources?

National security and national defense?

What are the health and welfare hazards in light of the fact that the proposals set restrictions which are more limited than those imposed by the present national health or welfare standards?

What are our present technical air monitoring capabilities?

Are they sufficient to intelligently implement and administer the legislation we are considering?

The answers to these questions are not presently available. Yet they form the critical factual case necessary for making the major planning judgments which the nondeterioration provisions imply. Everyone is for a healthy environment. But everyone is equally supportive of a healthy economy. We need to know if the microcosmic increments to be imposed on the Nation by nondegradation standards is in harmony with the macrocosmic scale of our national economic security and our national defense security.

For this reason the second major provision of my amendment is to delete section 6 of the committee bill. This is done to avoid enacting into law a nondegradation program whose consequences on the Nation—and I stress these would become permanent consequences—are unknown at this time.

Now, it seems to me it is lame to say—

> Well, let us enact section 6 and have a study and then, after the study is in, come back on this floor and the floor of the House and begin an argument about how we should amend section 6 because of some of the factors that were turned up in the study.

How much wiser it is not to go to section 6 until we know the impact, and then put it into law, if that is the will of this body and the President of the United States, and if we do that then we will not find ourselves trapped into something that we could not foresee.

I think a lot of legislation about which we hear great complaint out in the country is because for a perfectly valid and sound reason we enacted a statute of some kind or other, and then in its application it has been found to be uneven and unfair, and we come back again and again trying to do something with what we have already put in place, and some administrative agency is charged with administering.

For example, I would say look at what has happened with OSHA. I do not quarrel with the purposes of OSHA, and I cannot imagine anybody who does not think we ought not to have environmental health and safety standards for working people in the places where they work.

But we enacted OSHA and handed it over for administration, and its administration has been very dismal, at least in my part of the country, and from what I hear in other parts of the country, and I hear the greatest hue and cry against OSHA.

Well, those people who are putting up the hue and cry really are not in favor of having bad safety standards or health standards for workers. Their hue and cry is against the way the thing was mandated and administered.

It is a case of where we did not fully see what the impact was going to be and we did not tailor our legislation to the point where its administration had to be on a fair and cooperative basis.

I think bit by bit we are getting that maybe tinkered around to where it is not so oppressive as it once was, but we have had a very bad time.

I simply cite that as an example of what I think we might be into if we enacted section 6 and clamped down by law these standards, and then we found that we had eliminated many areas of our country where there could be any increase in the increment of particulates and SO_2 in the air because they would degrade it beyond the present standards, and this might be much more widespread than the Senate now perceives.

In fact, if I have an opportunity I would like to present a map that had been drawn for me taking data that come from EPA itself in most instances, and other sources where EPA does not have the data, and these data will show on overlays on the map that we are excluding vast areas of our country from any further development if it increases the increment of SO_2 or particulates, and if we do that we have limited large areas of our country from any further economic development.

In my own State, where we are now under great pressure to produce a lot more coal because we need the energy, additional type of energy, we are building new towns and we are building power generating plants, mine-mouth plants, in order to generate electricity, and we are exporting vast amounts of coal.

It is very interesting to note, I was in a mine in Utah just 2 weeks ago where the total tonnage of that mine goes on a unit train every day all the way back to St. Louis where it is put on a barge and it goes up the Mississippi and into the Ohio—no, it is lower than that because it goes up the Ohio. But anyway that coal is sold on a long-term contract to companies generating electricity on that river.

The interesting thing I noted about it is they are even selling coal into Pennsylvania. It is interesting as to what the great demand is for coal, and that is the reason we are expanding so rapidly, and that is the reason we finally are being able to put to use what is a vast resource in my State and a vast national resource, because we have great coal beds. It is low-sulfur coal and very desirable. In fact, the reason they bring this coal all the way to Pennsylvania is to mix it with the other coal they have and bring down the sulfur content so that they can meet EPA standards that have been set now on emissions back there.

But these are the economic, population and demographic problems that are brought up by section 6, and I want to know the answers. So I do not want section 6 in the law until I know what the answers would be if we imposed the standards of that section on the country at this time.

Deletion of section 6 is the only prudent decision to make. The Moss amendment does not avoid the issue of nondegradation. What it does is bring full attention to it by enabling adequate and necessary studies by Federal agencies and the State governments that will be required to enforce a nondegradation law, and by industries that will be required to comply.

The Moss amendment does not negate congressional responsibilitity to legislate national policy. I fully concur that this issue must not be left for the courts to interpret, but for the Congress, as the legislative partner of this country's Government to determine. The Moss amendment does not take away this congressional prerogative, but rather wisely provides for the necessary postponement of a lasting decision until we can truly assess all ramifications of this proposal. We must insure that the embryo we create by a one-time vote does not grow into a helium-filled bureaucratic monster hovering over our Nation's prosperity.

If we are to push the Nation down a more restrictive path of environmental regulations, business, labor, State and local officials, scientists, economists, and consumers—the mainstream of American life—have the right to participate in the analysis and determination of this important issue. This is what public acceptability is all about.

Unless we vote with confidence that all of our society be adequately protected, we may live to reap a national vote of no confidence in what we have wrought. Without it there will be no public acceptability.

The Moss amendment goes to the very heart of the necessity for public acceptability. It is intended to seek the answers people want to know—on how this proposal will affect their jobs, their energy resources, their economy as well as the environmental and other societal effects on them. The Randolph amendment does not do this. The importance of public acceptance of the purposes of the Clean Air Act, brought about through understanding of the issues and knowledge that they are necessary and proper, has been an important theme stressed by the committee members—during present floor deliberations on Tuesday and during the committee hearing process. The junior Senator from New Mexico eloquently expressed this need for public acceptability of the purposes of the Clean Air Act on Tuesday, and we adopted his two amendments related to transportation control plans which give local governments more participation and involvement in the planning process for implementing these programs that will affect them.

In the committee transcript record EPA Administrator Russell Train addressed this issue. Let me read to my colleagues his remarks from the March 19, 1975, hearing record on the need for public acceptability of environmental law, and the fact that it is not just environmental but social as well:

> I think that one of the areas which it is important for the Congress to address and to discuss with us are not only the energy and economic nonenvironmental factors which are important, but I would also add the social aspects of some of these programs.
>
> I am thinking particularly of transportation control plans, for example, and the impacts on traditional patterns of behavior in communities and the country.
>
> I suppose nondegradation would perhaps fit into the same kind of areas. Here I think elected representatives of the people have a particularly sensitivity to these facts of our programs which are very important for us to receive guidance on.

I continue to quote from Russell Train:

> They are not strictly technical questions. I think you can look to us and should look to us for advice on strictly technical matters. But many of these things go beyond technical matters. They go to the whole range of public acceptability. Here is where I think we do need the Congressional input most particularly.

During March 20 testimony, the distinguished chairman of the Environmental Pollution Subcommittee spoke on the philosophy of the need to study issues—surely this same philosophy would apply to the most important provision of this bill—nondegradation—and the philosophical theme of public acceptability. To quote the chairman:

> Without belaboring the procedure, I think Congress would find it valuable to not only have the finished product, but the inputs of the particular agencies so that we can put the finished product in its total perspective. I suspect there are other agencies than EPA on the environmental side, as well as the energy side. We would like to be able to evaluate the finished product in the context of those individual inputs.

At this point, I call attention to the fact that of the six agencies who responded and who had concern about environmental degradation, five favored the Moss approach of not enacting section 6 until such time as a full study had been conducted, and only EPA came back in favor of the committee version and against the Moss amendment approach.

Here the chairman has said, "I suspect there are other agencies than EPA on the environmental side."

Well, if the environmental side is in opposition to the Moss amendment, his prediction turned out to be wrong. The only one that came back favorable to the committee side as now written was EPA.

A major question that is being raised is what areas will be covered by this nondegradation policy. No one seems to know what air sheds will be included, and on a county-by-county basis how specific areas will be classified. According to the committee bill those areas presently meeting secondary standards for either or both total suspended particulates and sulfur dioxide emissions would be classified as class II. In the committee bill the maximum allowable class II pollution increment for particulates is 10 micrograms per cubic meter on an annual basis; and 30 micrograms per cubic meter on a 24-hour basis. Who in this Chamber understands this measurement? And yet some would like to adopt it for the Nation. The present national standards for this pollutant are 75 micrograms per cubic meter on an annual average; and 260 micrograms per cubic meter on a 24-hour basis. This proposed new national requirement would reduce from 260 to 30 in a given 24-hour period the allowable pollution emission of industrial sources. Can it even be done? Who knows? What studies have been conducted to verify capabilities? The answer is none.

The class II increment standard for sulfur dioxide becomes 15 micrograms per cubic meter on an annual basis in the committee bill, compared with the number 80 under existing law. On a 24-hour basis, it drops to 100 micrograms per cubic meter from presently allowable 365 micrograms per cubic meter. But the committee bill goes even further and imposes a 3-hour emission requirement not to exceed 700 micrograms per cubic meter, compared with 1,300 under existing law.

To quote directly from the committee report, page 23:

> The chief tool to be used in implementing the no significant deterioration requirements is the permit that must be issued by the state for any major emitting facility to be located in any clean air area, including Federal lands. The permit must include an emission limitation based on best available technology. It must insure that total emissions from the facility are such that the increments will never be exceeded.

Let me repeat this last requirement: total emissions from the facility are such that the increments will never be exceeded.

Let me repeat this last requirement:

> Total emissions from the facility are such that the increments will never be exceeded.

Otherwise, the State cannot grant a license to permit the building of a plant.

Will there be any industry in this Nation's economic structure that would dare to invest millions, indeed billions of its capital—capital that comes in large measure from the investments of the little people, the working people, the retired citizens' savings—in a venture that may never exceed miniscule increments we neither understand, know if they are possible to achieve, or if they are even necessary for protecting visibility, let alone public health?

What land areas will be affected? This is an unknown question and in floor debate the distinguished chairman of the Environmental Pollution Subcommittee advised that you cannot draw maps of land areas that could be affected—that they are not only inappropriate but irrelevant. Yet we would like to have some idea of what areas in the Nation will be subjected to these increments. Based on EPA data and that from individual State environmental agencies, using the bill's language that those areas presently achieving national standards for particulates and sulfur dioxide, approximately 80 percent of the land mass of the continental United States, could be included in this new sweeping regulatory program.

At this point Mr. PELL assumed the chair.

Mr. STONE. Will the Senator yield for several questions?

Mr. MOSS. I will be happy to yield for questions.

Mr. STONE. If the Senator from Utah carried through his example of the low-sulfur coal mined in Utah, and which proceeds by barge and otherwise until it gets to Pennsylvania and is there mixed with coal in order to reduce the sulfur content, would the Senator answer what might happen to the resulting air quality of coal from the Pennsylvania area were it not able to be mixed with lower sulfur coal from the western area if the restrictions of this section 6 were opposed to prevent the further development of the low-sulfur coal?

Mr. MOSS. Obviously, in the Pennsylvania area and elsewhere we already are bumping against or exceeding the ceiling of SO_2 in the atmosphere coming from their generating plants. That is the reason they can economically afford to send to Utah and bring in low sulfur coal to mix with it. If that ceiling is reduced still further, either in Pennsylvania or in Utah, then they either cannot economically continue and must shut their plants down or they have to go to another fuel. Maybe they have to appeal to get petroleum again, or natural gas, which we all know we want to conserve because our reserves are diminishing. We want to get other sources of energy.

In Utah, we would lose a market and have to lay off people. It would be an economic catastrophe on both ends, I believe.

Mr. STONE. Environmentally, would it not be the case that the mix of higher sulfur coal would be barred from the use of the lower sulfur coal in terms of environmentally perfecting the air quality when related to the use of coal?

Mr. MOSS. It very well could be. If that is the case, of course, we have defeated our purpose here of trying not only to improve our air quality but to keep our eye on the economics, the job requirements, and the energy requirements of our country.

Mr. STONE. Will the Senator from Utah explain to us why the specific numbers are in this bill in terms of the nondegradation, that is, the exact numbers of particulates permitted and increments permitted? What is the evidence that suggests only those numbers are the correct numbers, whereas either higher numbers or lower numbers would be incorrect?

Mr. MOSS. That is what I have not been able to determine, how those numbers were procured and how the judgment was made that these represented the ceilings that must be imposed. As I pointed out, the existing ceilings and the ones proposed in this bill drop so drastically that, without being a scientist in any way, it just looks to me like the lowering of feasibility is catastrophic. It is like a factor of 10 or more in what must be dropped in the emissions of either particulates or SO_2 under the figures that I read.

I have not read all of the record, but I have not read any place where it was calculated to say, "This is the optimum ceiling for these reasons," and then talk about health, welfare, and visibility. I would like to add of economics, jobs, energy, and the rest of it.

It seems to me I would characterize it as just an arbitrary situation that was made in and by EPA.

Mr. STONE. If there were a commission study such as the Moss amendment describes, then those numbers and any competing numbers could be studied on a region-by-region basis, if not even more locally applied than that, to determine, with air currents in such areas, with land surfaces, sea surfaces, and water surfaces in such areas, mountain areas, and other topography, climatic conditions, what the impact might be environmentally. Otherwise can we really know what the impact of these numbers will be, for example, in a flatland area with sea breezes compared to a mountainous area without sea breezes?

Mr. MOSS. The Senator is right and his question suggests the answer. We cannot determine what we need. What this body should have before it is a model saying that with these levels this would be the result, and with another particular level it would be here. Then we can look down the list, as it were, and decide as a legislative body what we think those optimum numbers could be. If these that are arbitrarily presented to us can be justified, that is fine. Let the legislative body then decide upon it. But if they cannot be justified, let us find where they can.

We always have to have all of the objectives in view. The thing which has been overlooked, in my opinion, is that they look only to environmental purity, which, of course, we all want, and esthetic concerns, and then do not look beyond to say there are other things that must be considered.

I want to consider esthetic concerns. I want to have environmental purity, as nearly as we can have it. But I do not want to do those in a vucuum, aside from other considerations that ought to be out there for us to see.

Mr. STONE. The Senator from Florida appreciates the answers of the Senator from Utah and wants to comment that the Senator from Florida does want further and additional protections and does want reduction in permitted particulate emissions on SO_2 and other things. But the Senator from Florida wants to operate on the basis of information, on the basis of specific, scientific recommendations, not only in the area of climatic and regional differences but in the area of what it costs. Then, when the costs can be determined on the basis of an objective study—not a legislative but an objective study, out of the legislative process—doing a scientific job of analyzing and finding the facts, the Senator from Florida is perfectly ready to vote for further and additional restrictions. But to fly blind seems to the Senator to be a little bit wild at this stage.

Mr. MOSS. I thank the Senator from Florida and I appreciate his questions. I think he and I are in total agreement on how we ought to proceed in this air quality-environmental matter. I assure the

Senator from Florida that as long as I can I will stand on this floor and insist that we have that opportunity to deal with the legislation so that we have a study and have that information before we write into law, before we cement in, the ceilings and the requirements that are set forth here in section 6.

Mr. President, what I was talking about is the class II designations. It is in addition to the National Parks, wilderness areas and memorial parks exceeding 5,000 acres, which exist on the date of enactment, that would automatically become class I.

The class I no significant deterioration increments for particulates in the committee bill are:

Five micrograms per cubic meter on an annual basis and 10 micrograms per cubic meter in a 24-hour period; this compares with 75 micrograms per cubic meter on an annual basis and 260 micrograms per cubic meter in a 24-hour basis, respectively, for the national primary standard; and 60 micrograms per cubic meter on an annual basis and 150 micrograms per cubic meter in a 24-hour period for the national secondary standard.

The class I no significant deterioration increments for sulfur dioxide are 2 micrograms per cubic meter on an annual basis, 5 micrograms per cubic meter on a 24-hour basis, and 25 micrograms per cubic meter on a 3-hour basis; the national primary standard is 80 micrograms per cubic meter on an annual basis and 365 micrograms per cubic meter on a 24-hour basis; and the secondary standard is 1300 micrograms per cubic meter on a 3-hour basis.

These are areas where individual States, working with their citizens and with private industry, have made the effort to clean up. Is the reward for the huge expenditure of dollar resources and human resources and skills that if you have attempted to comply with the letter of the law and even go beyond, that you will now be forced to go even stricter—at a tremendous economic penalty—in terms of limited industrial expansion, potential job loss, and potential lost revenues to a State's tax base from expansion that cannot now take place under no significant deterioration?

My colleague the junior Senator from Florida raised the very valid question on the floor of what air sheds in his State would fall under this classification. His question was dismissed out of hand as irrelevant. I say it is relevant—highly relevant. Florida ranks eighth in the Nation in population. Do not its citizens have the right to know how their homes and livelihood will be affected? Florida is also one of our most prestigious States where retired people have chosen to live—for the good life.

These are people living on fixed incomes. What will the economic consequences to them be individually if utility rates do in fact increase as a result of no significant deterioration—the Florida Public Power Co. estimates that its costs to serve customers will go up by $120 to $300 million. What will be other potential price increases applied against their fixed income?

Gentlemen, individual maps of all the 50 States have been drawn showing the areas in your States that are now meeting the required standards under present law for particulates and sulfur dioxide, and which would therefore be subject to the new more strict class II standards. These are placed on your desk for reference and you may find it of interest to look over these maps. It may be noted that these are not "buffer zone" maps. The committee advises that their bill is a no buffer-zone bill—though how in the world you achieve protection of pristine areas without some sort of buffer around them is beyond my comprehension.

With respect to the fact that the class II increments established in the committee bill are far more restrictive than present law, I think it is important to make note of the difficulty of some areas in attaining the current particulate levels. If nonattainment at the high levels prescribed by law is a compliance problem, how much greater will the problem be compounded by enacting even stricter standards?

In a followup letter from Administrator Train to the committee dated May 12, 1975, let me quote on the problem of attaining particulate standards for the ambient primary and secondary standards:

> DEAR MR. CHAIRMAN: Your letter of February 28, 1975, raised important questions related to progress in implementing the Clean Air Act. At this time, I would like to provide additional information on this progress and present some of the problems, as well as suggested solutions, that have emerged during the last four years of implementation. The enclosed information provides an assessment of our status in relation to the standards set pursuant to the Act, summarizes problems encountered in attempting to achieve statutory goals, and provides our assessment of possible solutions to these problems. This material will amplify my testimony at recent Clean Air Act implementation oversight hearings.
>
> First of all, I would like to point out that significant progress has been made in improving the Nation's air quality under the provisions of the Act. Air quality trends show continued decreases in air pollution across the Nation. However, a number of air quality control regions will not meet the ambient air quality standards by the statutory deadlines, in many cases due to circumstances either beyond the reach of regulatory action or controllable only at a cost unforeseen at the time of the Act's amendment in 1970.
>
> Specific problems are discussed in the context of the status of efforts to meet the national ambient air quality standards through the State Implementation Plans. Legislative amendments that we have proposed to the Congress for solving some of the problems encountered are mentioned in the discussion on progress and impediments. The topics generally follow those set forth in your letter.
>
> If I can be of further assistance, please let me know.
>
> Sincerely yours,
>
> RUSSELL E. TRAIN,
> *Administrator.*

The distinguished chairman of the subcommittee that reported this bill is now claiming that the primary and secondary standards in our present law are not adequate. That they were only intended to clean up dirty air areas—our cities—but they are not good enough for clean air areas. If these standards are not good enough for clean air but only for dirty air, what about all the millions of citizens who live in these teeming cities? Did we adopt substandard standards and margins of safety for their protection? This hypothesis that the present national ambient primary and secondary standards are not good enough for clean air, to my knowledge, was never discussed in either the hearings or the markup. That what we have is no good. After 5 years and billions of dollars spent to meet these standards, and how many court orders and compliance orders and industry harrassment are we now to believe that it was all for naught?

Let me quote from the transcript of these committee hearings from respected government witnesses, including the Administrator of the Environmental Protection Agency, the Honorable Russell Train, and members from the scientific community—all attesting to the fact that the primary and secondary standards are good and adequate:

Hon. Russell Train—March 19, 1975:

> The cornerstone of the Act rests on air quality standards. In 1971, EPA set standards to protect the Nation's health and welfare for six major air pollutants: sulfur oxides, particulate matter, nitrogen oxides, hydrocarbons, carbon monoxide, and photochemical oxidants. These standards have been the subject of extensive debate since that time. Both the research community and industries subject to regulation have debated their propriety. I believe we have put these arguments to rest: Our continuing review and the studies undertaken by the National Academy of Sciences on sulfur oxides and on the motor vehicle related pollutants continue to support these standards.
>
> Progress has been made in attaining the standards by the relevant dates. The mean annual average concentrations of sulfur dioxides have decreased 25 percent and mean annual particulate matter levels have decreased 15 percent from 1971 to 1974. *Problems still exist however, in urbanized areas particularly with the 24-hour standard for these pollutants.*

Let me remind Senators that the no significant deterioration class II increments for these pollutants are far stricter than the present ones that certain areas are even now having problems with.

To continue Mr. Train's quote:

> It is anticipated that approximately 101 of the 247 air quality control regions in the nation will probably not attain the primary particulate standards by the mandated dates. When I speak of nonattainment, I mean the failure to meet national standards at one or more monitoring sites in an air quality control region. This does not necessarily mean that the air quality throughout the region exceeds the standards. The non-attainment may be caused by "fugitive dust," such as soil from arid lands that becomes airborne due to the wind, or by urban "background sources" such as street dust raised by wind and traffic, fires, cooking, aerosols, and conversion of gaseous pollutants into particulates.

Mr. President, I ask unanimous consent that I be permitted to suggest the absence of a quorum call at this time without losing my rights to the floor in order that I may continue my discussion thereafter. This is for the purpose of discussing a matter with the majority leader.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. STEVENS. Mr. President, I object at this point.

The PRESIDING OFFICER (Mr. PELL). The objection is heard.

The clerk will continue calling the roll.

The clerk resumed calling the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MOSS. Mr. President, I was discussing the fact that there are many areas where the background sources cause an excess of the standards that are set now of particulates and some of the gaseous pollutants. How are we going to deal with this problem of natural caused particulates which will be intermeshed with industrialized particulates under the no significant deterioration proposal? How will we be able to monitor which is natural and which is manmade in measuring the limited increment allowed under the committee bill?

Mr. Train also advised the committee:

> Occasionally there are circumstances where the setting of performance standards are infeasible. For example, it is extremely difficult and costly to measure emissions from petroleum storage tanks.

And yet, petroleum storage tanks are covered by the Nondegradation amendment—subject to the class II increments—in the committee bill.

Since Mr. Train emphasized the validity of the national standards, let us also note the progress he cited in compliance:

> We estimate that there are over 200,000 sources of air pollution nationwide subject to such regulation. Of this number we believe there are approximately 20,000 major sources accounting for 85 percent of the Nation's air pollution burden from stationary sources. Of the identified major sources, 71 percent are currently known to be meeting emission limitations or are meeting compliance schedule requirements. We expect this percentage to rise to more than 85 percent by the mid-1975 attainment.

It is now mid-1976.

The day the subcommittee received testimony from the scientific community whether the ambient air quality standards and the health basis for them was scientifically valid, it was the consensus of the health panel that the ambient standards are proper. This distinguished witness panel which testified on this issue before the subcommittee on April 22 included:

Dr. David M. Anderson, manager, environmental quality control, Bethlehem Steel Corp.

Dr. Benjamin G. Ferris, Jr., professor of environmental health and safety, Harvard School of Public Health.

Dr. John F. Finklea, Director, National Institute for Occupational Safety and Health.

Dr. Herschel Griffin, Chairman, Subcommittee on Health Effects of Air Pollutants, Committee on Medical and Biological Effects of Environmental Pollutants, National Science Foundation.

Dr. John H. Knelson, Director, Human Studies Laboratory, Environmental Protection Agency.

Dr. H. M. D. Utidjian, representing Tabershaw-Cooper Associates, Inc.

CAUSES OF NONATTAINMENT

The indicated nonattainment of the standards may occur for a variety of reasons, including lax compliance on the part of sources, although nonattainment is not all attributable to the failure of control measures—A discussion of control efforts is provided later, with a discussion of problems related to unreasonable control measures. The most significant problems related to reasonableness of control measures are related to "fugitive dust" and the urban particulate background in relation to the TSP standards, availability of low-sulfur fuels in relation to the sulfur dioxide standards, and reasonableness of control requirements for hydrocarbons and carbon monoxide in view of the serious social and economic disruption that would ensue from their implementation. These problems are related to the timeframes established by the act; solutions for most of them could be found if additional time is provided for attainment and an orderly implementation of control measures. The alternatives to providing increased flexibility in attainment dates would be a legally difficult position—attainment will be impeded by the nature of the problems regardless of the statutory requirements.

A. PARTICULATE MATTER (TSP)

Two distinct problems have been noted which may affect the attainment of the national particulate matter standards. These problems include the impact of fugitive or windblown dust on air quality, particularly in the West where windblown dust from farms, unpaved roads, and construction sites may cause high ambient concentrations.

The second particulate problem involves the high background concentrations in many urban areas. It is believed that numerous miscellaneous sources contribute to high background concentrations such that the attainment of national standards may be difficult without the application of new and long range control techniques. Background sources include: tire particles, pollen, vegetative matter, sand and soil particles from snow control, windblown dust from exposed surfaces, reentrainment of street dust caused by wind and traffic flow, as well as secondary particulate formation in the atmosphere from the conversion of gaseous pollutant emissions by complex atmospheric transformations.

Preliminary evaluations in major problem cities have indicated that the measures necessary to attain national standards for particulate matter would include: conversion to gaseous fuels, extremely stringent emission limitations, elimination of small incinerators, extremely low sulfur content fuels, elimination of additives—such as lead—in fuels, comprehensive fugitive dust control, and stringent control of hydrocarbons to reduce photochemical formation of aerosols. Replanning of future growth and development would also be involved in at least some areas. Although long-term solutions may be feasible, these solutions are not currently available for implementation. Proposed amendments to the act would permit consideration of these factors in extending attainment dates and in selecting control measures that are to be implemented.

COMPARISON OF MOSS STUDY WITH RANDOLPH STUDY

Before we vote on this issue, we should compare what the Moss study would accomplish versus what the Randolph study would not. What the Moss study would do versus what the Randolph study would not—bearing in mind that in the Randolph amendment section 6 would remain intact and thus become law—his study would be assess the law; my proposal would set aside section 6, not giving it sanction of law, until we know if it is proper and necessary.

It is essential that there is clear understanding of the aims and objectives of these two studies. For they are far different. The Moss study will address all the questions that have been raised on proposed nondegradation—how it will affect our jobs market, our economic structure, our energy requirements, and a host of other real-world concerns. The Randolph study does not address any of these issues—its main thrust is to determine if the nondegradation measure—and remember this would be the law of the land—and considerably more restrictive than present law—is strict enough or should be made even more stringent.

The Moss study that the National Air Quality Commission to be created would fully treat a specific list of vital concerns. The Randolph amendment does not. What would be the result of the Moss study compared to the Randolph upon their completion—and bear in mind, the Moss study is set for 1 year, and so would not drag out—while the Randolph study provides for 2 years—we would be into the results of 2 years of implementation of nondegradation at that time. Would it even be possible to reverse such law if it is proven unwise?

Let us do a side-by-side comparison of what the Moss study will question compared to what the Randolph study will not. The following list of issues to be covered by the Moss study is aimed at determining the effects of nondegradation on these basic issues. We would seek and find the answers and know in advance what would result, not see in hindsight the aftermath. The Moss study will seek answers for and resolve uncertainties on these issues—the Randolph study, since it does not even address them, would leave the same gaping question marks that have created this controversy:

ISSUE, MOSS STUDY, AND RANDOLPH STUDY

Assess effects of nondegradation on:

Employment: Moss, answer; Randolph, ?.

Energy, Moss, answer; Randolph, ?.

The economy—including State and local economies: Moss, answer; Randolph, ?.

Relation of new standards to objective scientific and medical data: Moss, answer; Randolph, ?.

Relation on new standards and environmental effects: Moss, answer; Randolph, ?.

Economic growth: Moss, answer; Randolph, ?.

National defense: Moss, answer; Randolph, ?.

Protection of public health: Moss, answer; Randolph, ?.

Identify any loss or irretrievable commitment of resources, including:

Mineral resources: Moss, answer; Randolph, ?.

Agricultural resources: Moss, answer; Randolph, ?.

Water resources: Moss, answer; Randolph, ?.

Land surface use resources: Moss, answer; Randolph, ?.

As demonstrated, the Randolph amendment would not address any of these valid questions — would answer none of them. If there is controversy and conflict now under administrative regulations, what will ensue over a public law that remains unresolved? Instead, the total thrust of the Randolph amendment is to decide, upon completion of a 2-year study, if the nondegradation increments contained in section 6 of the committee bill go far enough to protect cleaner than clean air. The Commission that would be set up by the Randolph amendment is specifically directed to determine the following:

First. If the provisions of the bill are appropriate to protect the air quality over lands set aside, and to come up with recommendations and methods to add or delete lands from such designation; and provide appropriate protection of the air quality over such lands.

Just as the list of real-world concerns, bread and butter issues, is the heart of the Moss amendment, in comparison, the heart of the Randolph amendment is to determine if we need to go yet further than we are now contemplating—exclusively for the sole criterion of air visibility protection without any regard for equal protection of equally significant human concerns of daily life that are as natural to a modern society as the very air we breathe.

Let us stop a moment and review debate on this issue. The able chairman of the Environmental Pollution Subcommittee advised this body that the lawful primary and secondary standards were not good enough for clean air—they were only ever intended for dirty air. And yet the standards were adopted and verified as those necessary to protect public health and welfare. Indeed one of the main protective requirements for the secondary standard—which is stricter than the primary standard, and thus more costly to comply with—is to protect visibility. We are now further being advised that the present law is not adequate to protect animal life, vegetation, crops, and the like. But again, the protective requirements of the secondary standard are such to fully protect and preserve these welfare standards. Let me read to you from the law the definition of the secondary standard:

> Section 109(b)(2)—Any national secondary ambient air quality standard prescribed under subsection (a) shall specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. Such secondary standards may be revised in the same manner as promulgated.

Title III, section 302(h) defines "Welfare":

> All language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation as well as effects on economic values and on personal comfort and well-being.

Gentlemen, in short, the present law provides the protection for, by virtue of already very strict secondary standards, crops, vegetation, animals, wildlife, weather, visibility, and climate. These are the areas that proponents of nondegradation are now claiming are not protected under the law.

We are now being told that the secondary standard of the law is inadequate despite the fact that it is very clearly written into the law that it is adequate and proper protection and despite the fact that the highest official of the Environmental Protection Agency and members of the scientific community testified in justification of our present standards in oversight hearings. We are being asked to adopt a tertiary standard, far more stringent than the secondary by virtue of section 6, and we now are being asked, by virtue of the Randolph amendment, to perhaps make it even more restrictive in a few years. Gentlemen, where will this end?

The distinguished chairman of the Environmental Pollution Subcommittee advised us on this floor that we want to avoid requiring plants to be forced to retrofit later, at tremendous cost, if they are not adequate to meet new standards. Part of his argument for us to adopt section 6 is to avoid the "evils of retrofitting plants," but now we have the Randolph amendment—whose results may show us that indeed if plants now spend millions of dollars to put on scrubbers to meet the section 6 standards, and we do not even know if this will be enough, we may then be required after this 2-year study to indeed rip down and retrofit with additional pollution control equipment at inestimable cost. Gentleman, I say to you that it has been eloquently argued that we need to adopt section 6 to end the confusion—that industry is not constructing new facilities now because they do not know the rules, but section 6 will give them the certainty they are waiting for. But the Randolph amendment gives cause for alarm. We are not going to see new plant growth until after the 2-year Randolph study. Industry will be again forced to wait and see what the Federal bureaucracy requires them to do.

In addition to the main directive of the Randolph amendment on whether the class I and class II nondegradation increments are strict enough, his study includes other key areas that fully demonstrate the committee bill does not have the answers necessary for certainty and planning of economic growth. The other required issues to be covered by the Randolph study include:

First. Should the lengthy list of industry sources now covered by the nondegradation increments in the section 6 be expanded?

I ask: If the committee is so certain that this bill is necessary and proper, why do not they have this answer?

Second. Are the nondegradation increments for class I and class II in the committee bill adequate?

I ask: If the committee claims it has not selected arbitrary increments—as some seem to claim—why is there a need to study if their increment numbers are adequate?

Third. Are the models to be used and the monitoring devices adequate to protect the class I and class II areas set aside in the committee bill?

I ask if the committee is not satisfied that the modeling to be used is appropriate, and the monitoring devices adequate, can they disclaim the concern of industry that since there is so much controversy over proper modeling, to try to implement the law will only result in endless lawsuits over whose model is correct?

Fourth. Is the technology that will be required to implement these provisions available?

I ask if the committee does not know if the technology is there or can become available, how is nondegradation to be implemented?

Gentlemen, I say to you that a careful reading of the Randolph amendment of itself provides the full justification for delaying enactment of section 6 into national law. This amendment is an admission that the committee which reported this bill, and expects us to adopt, does not know enough about the increments it has designated as gospel. It is an admission that the committee is not even certain if the necessary technology to implement the provisions is available or will become available. It is an admission that the committee does not know enough about the modeling techniques that are fundamental to implementation.

Gentlemen, the distinguished chairman of the Public Works Committee is urging us to adopt section 6, and yet his amendment, by its very content of questions, should be enough to convince us that we will be voting a measure into law that is laden with basic unanswered questions. In all my years in the Senate, I must confess I am nothing short of consternated that we are being so eloquently urged to vote a measure that the committee itself, by virtue of the written admission of the Randolph amendment language, is presenting to us as a "pig in a poke."

This controversy of nondegradation or not has now been going on for 5 years—

and the controversy is because Congress in 1970 did not make clear what it meant. Now we have this issue before us for the first time as a legislative matter—and it should be—it should not be for the courts to interpret or the EPA to carry out by fiat. But are we now to vote out a final product and still not make clear what it means—or worse, not know what it means?

If the committee, by virtue of the Randolph amendment, admits it does not have any of the answers on whether the increments are proper or not, if there is technology to implement it or not, if the modeling technique is proper or not, if enough sources are covered or not, how in the world are the State and local governments who must issue the permits and monitor the air quality and determine who can build and where and how much—how are they to know? How is industry to know what it can and cannot do, what it must and must not do?

At a time when American people are demanding less government intervention and bureaucratic redtape in their lives, at a time when the American electorate is vocally expressing lack of confidence in their Government, surely it would be the greatest hypocrisy to vote this measure when we admit we apparently do not even know what we are doing.

After 5 years of total confusion in the courts, is it improper for this body to ask that we allow a 1-year study in order to resolve these unknowns? In reviewing the Randolph amendment, it might even be wise to include some of his questions as a strengthening to the Moss amendment.

Gentlemen, I can only reemphasize that how we vote today in this Chamber on the issue of nondegradation will mold the future economic development of the 50 States of this Nation. If we adopt a national nondegradation law for the entire country, it must be with the realization that we are setting a third, more restrictive standard to supersede the existing primary and secondary standards we previously enacted. It must be with the realization that we will be renouncing as inadequate the standards that we have until today accepted for the protection of health and welfare; it must be with the realization that we are setting on a new course for the Nation without knowing if the new standards are workable; or what the impact of a permanent national law of nondegradation will have on jobs, the economy, inflation, energy requirements of our industrial Nation, additional bureaucratic redtape, and last, but certainly not least, States rights. It will be costly and we must know if this is truly necessary for the Nation.

I for one cannot vote on a proposition of this magnitude without satisfying myself that we at least have some indication of its total effects. I am proud of my environmental record in this great Senate, but I cannot be coerced into voting for a measure when I have been given no adequate information that it is a good and environmentally sound way to go. For all these reasons I have sponsored the Moss amendment. It shares bipartisan cosponsorship of colleagues from varying geographic regions and varying economic bases of this Nation.

Gentlemen, the choice is before us. I am of the conviction that there is only one choice. To postpone enactment of nation nondegradation until a full assessment is carried forward. Then we will make the final and lasting decision.

Mr. President, I ask unanimous consent that I may yield to my colleague, the junior Senator from Utah.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

Mr. GARN. Mr. President, without question, the most important provision of S. 3219 is section 6, the nondeterioration proposal, which if adopted, will set the course of future national growth policy of this country and its 215 million citizens. Without question, this is also the most controversial provision of S. 3219. In its present form as administrative regulation of the Environmental Protection Agency, the policy of nondeterioration is being challenged in the courts as too extreme on the one hand, and not stringent enough on the other hand. In this climate of uncertainty, the Clean Air Act of 1970 has come up for amendment. Since present law leaves unclear congressional intent on a national nondegradation policy, it is up to Congress to make this determination.

The amendment offered by the Senate Public Works Committee goes considerably beyond existing law. It is my concern that this amendment may not present a balanced approach between national priorities on environmental protection and necessary future economic development. It is my further concern that this body does not have the necessary facts and inputs to make such a decision of lasting importance to the Nation. For this reason, I cosponsor with Senator Moss an amendment, which shares the bipartisan cosponsorship of 19 Members, which calls for a comprehensive study of the full ramifications of this proposal on our environmental goals, energy self-sufficiency, economic recovery, consumer costs, and State and local planning initiatives.

This study would be conducted by a National Commission on Air Quality, to be created under these amendments, which would enable a resolution of all the fragmented and divergent analyses that have been conducted on a "crash basis" over the past months in reaction to the committee proposal.

Surely there is no national emergency that dictates an instant decision by the Congress. Nondegradation relates to esthetic values, not life or death decision on our people's health and welfare. The present law wisely provides this protection. Moreover, the present EPA regulations would remain in force until this study is completed.

Surely this body, if it is to act judiciously and wisely in the public interest, is entitled to all the facts. But it has been argued that there is no need to consider my amendment and that reasoned delay, as I propose, is totally unnecessary. It has been stated that all the facts are known and that this issue has already been "studied to death." It has been stated that the legislative proposal before us has been developed only after extensive legislative hearings, that the committee has received comments from virtually all interest groups affected and has worked closely with State and local government officials.

(At this point, Mr. CULVER assumed the chair.)

I wish to draw my colleagues' attention to certain "facts" and "allegations" contained in the May 26 CONGRESSIONAL RECORD to set the record straight that this body does not have all the necessary facts and inputs to make such a lasting decision that will place an indelible stamp on the lives and livelihood of all Americans. And of equal importance, to set the record straight that there is not the general concensus of support for this provision as implied.

ALLEGATION

Extensive legislative hearings were held on the nondegradation proposal contained in S3219. To quote from the May 26 CONGRESSIONAL RECORD,

> In 1975, 14 days of hearings were held . . . One entire day of hearings was focused completely on nondegradation in 1975, and the subject was discussed in numerous other hearings that year.

FACT

Comprehensive legislative hearings were not held on the issue of nondegradation. No hearings were held on the language contained in section 6 of S3219. The nondeterioration amendment was drafted and revised during subcommittee and committee markups, and the final version bears little resemblance to any proposal on which testimony was received.

Going to the official four-volume documentation of the committee hearings record, contained in 1895 pages of recorded testimony and submissions for the record, it is accurate that the subcommittee did conduct 14 days of hearings on provisions of the Clean Air Act. However, only 1 day was "focused completely on nondegradation," and this "entire day," as cited in the May 26 CONGRESSIONAL RECORD lasted a total of only 3 hours—the subcommittee convened at 10 a.m. on April 23, 1975, and recessed at 1 p.m. Moreover, only four witnesses were heard—two in support of a national nondegradation policy, one with mixed views and one witness opposed. The witness list for this single session included:

Mr. Richard M. Lahn, Washington Representative of the Sierra Club, accompanied by Mr. Bruce Terris.

Mr. Cubia Clayton, Director, Air Quality Section, New Mexico Environmental Improvement Agency.

Mr. J. D. Geist, Executive Vice President, New Mexico Public Service Co.

Mr. C. Howard Hardesty, President, Eastern Hemisphere Petroleum Division, Continental Oil Co., representing the American Petroleum Institute.

So, contrary to 1 full day of exhaustive hearings, 3 hours were held with four witnesses.

I hardly think that is adequate for this body to make a decision on nondegradation policy on the basis of 3 hours of hearings and the testimony of four witnesses.

Other than this "1 entire day" of specific hearings on nondegradation, the subject was not discussed "in numerous other hearings," as cited in the May 26 Congressional Record. Again, going to the official committee record, no other witnesses devoted full testimony to the subject of nondegradation. Only six witnesses made any reference as part of their testimony on overall provisions of the present law and this sparked questioning only twice by the subcommittee. Following are the dates and appearances of witnesses:

March 19, 1975: Environmental Protection Agency—Administrator Russell Train briefly referenced nondegradation in the closing three paragraphs of his prepared statement; there was apparently no discussion throughout the 123 pages of the hearing transcript.

March 20, 1975: Federal Energy Administration—Administrator Frank Zarb included nondegradation in prepared testimony on the Administration position on Clean Air Act Amendments. The statement was not read and there was no discussion of nondegradation in the entire 417 page transcript.

April 21, 1975: National League of Cities—Mr. Walter Rockenstein commented that without a national nondegradation policy, industry would leave the cities and relocate in rural areas. When questioned that his statement "almost sounded selfish," the witness replied that in part he was misunderstood, but "Obviously we don't care to lose the industries which provide jobs for our people."

April 22, 1975: Iron and Steel Institute—Mr. David M. Anderson, Environmental Quality Control, Bethlehem Steel (who also serves on the Environmental Protection Agency Air Quality Criteria Advisory Committee) observed that the steel industry will require construction of approximately 30 million additional tons of steel capacity but it may be necessary to import this with resultant loss of jobs for American workers as a result of overly stringent air quality standards. He advised that other major industries would face the same problem.

May 1, 1975: Pacific Power & Light Company—Mr. George D. Rives, Counsel, advised the Subcommittee that he would support elimination of the nondegradation requirement from Federal law.

May 1, 1975: American Steel Institute—Mr. Fred Tucker advised that no other nation has regulations or limits based on significant deterioration and if domestic steel needs are to be met, we will have to import foreign produced steel.

Mr. Tucker also advised that because of the steel industry problems of compliance in maintenance areas it may be necessary to construct a new "grass roots" complex in a Class II area where air quality is above standards. But the Committee proposal would not allow this. The Senate Public Works Committee staff summary of nondegradation states in the April 1 Congressional Record, "Class II, as defined by EPA regulations and the Senate proposal, typically permits the individual siting of a 1,000 megawatt coal-fired power plant and any one of the major industrial source categories with the exception of a major new grass roots steel complex—none of which are planned." In correspondence to the Committee, also referenced in the April 1 Congressional Record, EPA Assistant Administrator for Air and Waste Management, Roger Strelow, makes the same comment.

Despite the fact of what was said in the Record over a year ago about exhaustive hearings and 1 full day, the actual record of those committee hearings shows that this has hardly been discussed at all.

Yet here in the Senate of the United States we are considering passing it with such a little bit of testimony indicated and without any factual knowledge whatsoever of the implications of the nondegradation policy.

ALLEGATION

States have been adequately involved in developing these amendments:

> Twenty States joined the Sierra Club or submitted independent suits requesting the courts to require a nondegradation policy.
>
> Eight states testified in 1975 during the Clean Air hearings. All submitted comments on nondegradation. It was on the basis of the suggestions made in such meetings and statements from these witnesses that caused the Committee to make substantial changes in the legislative proposal regarding nondegradation.

The National Governors' Conference supports the committee bill and "opposes the Moss amendment."

FACT (20 STATES)

Twenty States did join the Sierra Club in its suit for a national nondegradation policy. But why?

According to testimony of the Sierra Club in the nondegradation hearing April 23, Mr. Richard Lahn advised the subcommittee that a paramount reason 19 States joined the Sierra Club brief was to prevent industry from "fleeing" to rural areas.

To quote from Mr. Lahn:

> Aside from the environmental aspects described, perhaps the most important reason for preventing significant deterioration of air quality in clean air regions is the possible impact the lack of this provision might have on the economic well-being of our already industrialized, urban centers.

Again, a little bit of selfishness, not going to the merits or the impact of it, not at all, just let us not lose our industry from the urban area.

The incentives to develop in rural areas, draining the industrial development in urban areas was a major concern of the 19 States which filed friend of the court briefs before the Supreme Court.

The brief filed by 16 of the States makes the point well:

> The health of the economies of urban-industrial regions is dependent upon industrial continuation and growth. It is in the best economic interest of these regions that sources remain in them and utilize the emission controls necessary to reduce pollution levels to the numerical limits of the standards.
>
> Thus, it is beneficial to those regions that the requirement of no significant deterioration prevents rural regions from allowing lenient emission controls that are so much less expensive that an industry will have a financial incentive to relocate in a rural region.
>
> The requirement of no significant deterioration removes the possibility of economic coercion between competing regions based on the stringency of emission control requirements.

FACT

In short, industrialized areas of the country were fearful that industry would migrate to rural areas and therefore supported the concept of nondegradation in order to hold industry hostage. This same concern was expressed by the National League of Cities in testimony April 21—the only comment made on nondegradation in that hearing.

This but represents another misconception of the highly complex issue of the nondegradation proposal and the present law itself. This phenomenon simply would not happen because of the "new source performance standards"—NSPS—required by the law. The present law carefully plans for the control of pollution that might result from industrial growth in new areas. Any new industry must meet the most stringent pollution reduction emissions possible to attain primary and secondary air quality standards. If they do not, they would not be granted permits:

Section 111 of the law requires the Administrator of EPA to establish performance standards applicable to new or modified stationary sources that may contribute significantly to air pollution. Such standards, known as "new source performance standards"—NSPS—require the "best system of emission reduction available" and are applicable even in those areas of the Nation where the ambient air quality is better than that required under the national primary and secondary standards.

Nine of the 19 States which originally joined the Sierra Club suit, have now expressed strong concern or opposition to enactment of a national nondegradation policy. Of the 19 States that joined the suit—Alabama, California, Connecticut, Florida, Illinois, Kansas, Louisiana, Maine, Massachusetts, Michigan, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Vermont, and Texas—the nine States that have advised of their grave concerns with the impact of such policy are: Alabama, Florida, Kansas, Louisiana, Maine, Michigan, Ohio, North Carolina, and Texas. Their comments, together with those of other State Governors follow:

GOVERNORS COMMENTS ON PROPOSED NONDEGRADATION LEGISLATION

The Governor of Alabama, Hon. George C. Wallace:

> . . . the way nondegradation is defined can have a significant effect on growth plans and employment in our State. I urge you to oppose any specific definition of nondegradation. (Proposals) will concentrate development more heavily in already impacted areas and completely shut off further development in the relatively underdeveloped areas. The several states are in a better position than Congress to define areas needing specific controls. (2/12/76)

The Governor of Arizona, Hon. Raul H. Castro:

> Consequently, the economic development of this State could be unduly determined at the Federal level. It is essential that State rights are preserved and that opportunities to participate in the decision making process are provided to local governments particularly when sandards to protect human health and welfare are not exceeded. I urge Congress to establish a study commission to investigate and analyze the implications and consequences of the non-deterioration provisions as promulgated and proposed and to consider the alternative approach outlined by my staff in the enclosed report. (2/19/76)

The Governor specifically supports the study as proposed in the Moss amendment.

The Governor of Florida, Hon. Rubin O. D. Askew:

> One resource which is vital to Florida is the quality of air and the tourism which depends on it. Florida's air quality is for the most part better than secondary air quality standards. Florida has enacted a rule to prevent significant deterioration and the Florida Environmental Regulation Commission has resolved to continue the protection of areas with air quality better than the primary and secondary standards. I strongly urge you to carefully consider the consequences of adopting (nondegradation) and empowering the federal Environmental Protection Agency (EPA) to preempt the states' prerogatives in these areas. It is our position that the States are more capable of evaluating the economic and social implications of desired air quality within their boundaries than EPA. (2/11/76)

The Governor of Georgia. Hon. George Busbee:

> I have previously taken a strong public position against the provisions . . . and I shall continue to speak out against them where possible. I have advised our Congressional delegation of our position with respect to proposed amendments to the Clean Air Act. (3/16/75)

The Governor of Kansas, Hon. Robert F. Bennett:

> We share your concern that the proposal, as well as the existing federal involvement in the issue seriously erodes the state's authority to make the decisions necessary to strike a reasonable balance between environmental, economic, energy and social needs. (3/24/76)

The Governor of Louisiana, Hon. Edwin Edwards:

> The Air Control Commission has requested that every effort be made to remove the offensive "Significant Deterioration" provisions from the bill since each state already has the right to choose small increments of deterioration in favor of economic and social gain for its populace and the proposed law effectively curtails that prerogative: Defeat of the entire bill may be in the best interest of the state if the offensive "Significant Deterioration" provisions cannot be satisfactorily resolved. (4/20/76)

The Governor of Maine, Hon. James B. Longley:

> I share your concern over the possibility of further encroachment by the Federal government on the rights and destinies of Maine citizens and I concur with you that decisions affecting the local communities of Maine and other states should, whenever possible, be made at the local level. The State of Maine through our State Legislature and our Department of Environmental Protection has enacted some of the most sound and comprehensive environmental laws and regulations to be found anywhere in the entire nation. However, these laws and regulations are not so stringent as to preclude economic development. The people of Maine are justifiably proud of their State and its environment, but they are also very much concerned about the present economic picture in which there are not enough jobs for the people who want to work. (2/25/76)

The Governor of Michigan, Hon. William G. Milliken:

> In letters to members of the Michigan Congressional delegation:
>
> The amendments pending in Congress could lead to a federally mandated land-use program based on air quality. I have consistently maintained that land-use planning should be performed at the local level, and the legislation I have supported in Lansing (HB 4234) requires that planning be done at the local level. It is inappropriate to base a land-use program on air quality. The quality of the earth—not the quality of the air—is the only appropriate and sound basis for land use decisions. (4/29/76)

The Governor of Mississippi, Hon. Cliff Finch:

> If pending amendments to the Clean Air Act are passed, it will virtually halt economic development in our state. I am a firm advocate of the stated objectives of the Clean Air Act; that is, that the State takes action to protect the health and welfare of its citizens through the adoption and enforcement of the National Ambient Primary and Secondary Standards. Court rulings and EPA regulations that go beyond the attainment of the National Ambient Primary and Secondary Standards should be overturned. The proponents seem to be anxious to get these provisions set in concrete in the law before the present court rules on this matter again.

The Governor of New Hampshire, Hon. Meldrim Thomson:

> Resulting zero growth and adoption of a National Land Use law by this indirection would ruin the economy of small states such as New Hampshire as well as create an economic vacuum in enormous areas of the larger states. The punitive results of this amendment will fall upon our most needy citizens first and most heavily. Is there no end to these attempts by the Congress to hoist this country on its own petard?

The Governor of North Carolina, Hon. James E. Holshouser, Jr.:

> North Carolina is well aware of the provisions of both the House and Senate versions of amendments, and we have actively opposed and intend to continue to oppose the enactment of either of these amendments in the Law.

The Governor of Ohio, Hon. James A. Rhodes:

> The Governor has asked me to inform you that the Ohio Environmental Protection Agency has strongly opposed the nondegradation aspects of the U.S. Environmental Protection program. It is our opinion that such standards as are proposed by the subject amendment represent overreaching by EPA and would have a serious effect upon land use in our state. The Governor appreciates receiving your comments regarding this very important matter." (Thomas J. Moyer, Executive Assistant to the Governor)

The Governor of Oklahoma, Hon. David L. Boren:

> Thank you for your letter concerning the Clean Air Act. I have already expressed my opposition to various Congressmen. I feel that environmental protection should be left at the state level, and I will continue to oppose federal regulations in this area.

The Governor of South Carolina, Hon. James B. Edwards:

> We are asking the members of the South Carolina delegation in Washington to oppose the proposed amendments to the Clean Air Act of 1970.

The Governor of Tennessee, Hon. Ray Blanton:

> The concern is that these amendments, if adopted, may infringe upon our state's authority and inhibit industrial expansion. I would appreciate your attention for your consideration and appropriate action you may be able to do to protect the rights of the State of Tennessee.

The Governor of Texas, Hon. Dolph Brisco:

> I urge your support for any provisions that will accomplish the principles stated in the resolution adopted by the Interagency Council on Natural Resources and the Environment. The significant deterioration proposals would restrict growth in areas where the standards are not exceeded. In these clean areas where public health is not threatened such arbitrary limitations on growth simply are not acceptable to the majority of the citizens of Texas. Any decisions affecting growth must take into account the wishes of the people in the affected areas and must include a broad spectrum of considerations. Growth determinations must not be based solely on air quality as now perceived by the federal government. The provisions of the amendments proposed by the Senate and the House infringe upon the right of the states and the citizens to determine growth rates and patterns according to local needs and goals. The proposed increments are arbitrary and far too restrictive. These increments will allow the Administrator of EPA to exercise undue control over land use throughout the country.

The Governor of Utah, my own State, the Honorable Calvin L. Rampton, the only Governor in the history of the State to be elected for three terms, one of our most popular Governors, and a Democrat, of the opposite party from me:

> While there is much to be regretted in the bill from a technical and practical stand point, I find that the legislation is even more offensive administratively. The state is the ostensible administrator for the program, but in reality the states' role is purely ministerial. The air quality standards to be enforced are federally imposed, the land are to be included in each class are specified, and the limited discretion left to the state to redesignate can only occur after certain conditions are met. This bill is an example of good intentions run riot and what results from the lack of a coherent national energy policy. In the interest of environmental protection it imposes a no-growth policy on Utah without any regard for the long-term national interest.

The Governor of Virginia, Hon. Mills E. Godwin, Jr.:

> If this legislation is enacted in its present form, Virginia would feel impelled to ask the courts to set it aside as unconstitutional. The National Governor's Conference adopted a resolution in September, 1975, which recommended that each State retain the flexibility to determine for itself what is "significant deterioration" consistent with local values. The Southern Governor's Conference also in September, 1975, expressed serious concern that "significant deterioration" provisions might arbitrarily prohibit economic development of many areas, even though the air quality would be much better than the level required for good health. The organization of State and Territorial Air Pollution Program Administrators also recommended, through resolution, that the Clean Air Act be amended to expressly provide that there shall be no requirement to establish air quality standards more stringent than the primary and secondary standards.
>
> At the very least, the Committee should refer the nondeterioration provisions to a study commission for a thorough analysis of their implications, to be followed by public hearings where the full impact of any resulting recommendations may be focused on

by State and local government representatives and concerned citizens.

I get a little bit offended when I look at the testimony that was put in the CONGRESSIONAL RECORD on May 26, which made these allegations, including an allegation that indicated that most of the Governors were in favor of this proposal, when I have just gone over the individual testimony of many, many Governors, and could relate many more Governors' statements of how they are opposed to it, and a National Governors Conference policy specifically opposed to these provisions.

Yet here we are again, 535 Members of the House of Representatives and the Senate, who continue to decide that we are brighter, that we are more intelligent, than the elected Governors of this country, the experts in air pollution control, and the local mayors and county commissioners.

Of course, it may be politically popular to be for clean air. I do not know of anyone who is not for clean air. But, despite all this testimony against it from those who must administer these programs in the States and those who must be responsible to their constituents, who have to raise taxes in their States, cities, and counties to provide for local governmental services, we back here, with only the responsibility to legislate and no responsibility to direct and administer these programs, are willing to go ahead with a nondeterioration policy without any regard whatsoever to the side effects or the economic impact on this country.

The American taxpayer and the American consumer will be the one who pays the bill for our mistakes. I think it is absolutely irresponsible that we continue to pass laws without basing our decisions on facts, and that is really all the Moss amendment is talking about. It is not even saying we should not have a nondeterioration policy; it is merely saying, "Let us not rush into a decision on the basis of emotion or politics when we do not have any idea of the economic impact on this country."

But Congress seems to have a habit of doing that. We do it in the Banking Committee all the time. We pass legislation concerning all of the banks, savings and loan institutions, and credit unions of this country. As I, in hearings, over and over again ask, "What does this cost?" very rarely am I able to get an answer from either the proponents or the opponents of the legislation; they simply do not know.

We pass legislation without knowledge, on the basis of which direction the wind is blowing or how cold it is outside today, or some other factor with no basis in reality.

I believe that is what we are doing here. We are passing a national no-growth land use policy without any idea of the impact it will have on the States and cities of this country, and ignoring the testimony of those Governors, mayors, and administrators who have to deal with the programs we pass.

In all fairness, we must point out that eight States did testify during the Clean Air Act hearings, but only one State, New Mexico, testified on nondegradation. None of the remaining States submitted any comment for the record, as indicated in the May 26 CONGRESSIONAL RECORD.

Again I hope that the Senate will look at the facts of what has happened, and not accept the statement that we have had extensive hearings and the comment that this has been studied to death. It has not been significantly studied at all. There are no factual bases on which to oppose or to be in favor of this particular section.

The seven States that did not testify were Nebraska, Texas, Colorado, New York, California, Montana, and West Virginia. They were concerned with other provisions of the act, and I have already read the testimony of several Governors from States that were included as testifying in favor, which did not testify at all.

It is, therefore, of question that "statements from these witnesses caused the committee to make substantial changes in the legislative proposals regarding nondergradation."

Well, the facts simply do not relate to that.

The National Governors' Conference adopted a unified position on the issue of nondegradation at its conference in New Orleans in 1975 and there has been no indication that the basic position has changed since then.

Most of the statements I read from the Governors were in late 1975 and early 1976. So there really is no basis for the statements that this has been worked out very carefully and closely with the Governors of the country. I think the hearing record certainly bears that out.

As cited in policy positions 1975–76, National Governors' Conference:

> The significant deterioration issue should be resolved by Congress in a manner which gives each State the flexibility to determine for itself what is meant by 'significant,' consistent with local values.

States are different around this country. Most of the Eastern States of this country would have no idea whatsoever, certainly none of my Senate colleagues from the Eastern States could comprehend the implication of having the Federal Government own two-thirds of his State. Two-thirds of the State of Utah is owned by the Federal Government. So, in effect, we certainly do have national land-use planning. It is in national forests, national parks, and in Bureau of Land Management land. We cannot turn around without asking BLM, EPA, OSHA, any of the Federal agencies what we can do. Two-thirds of the land value of the State of Utah is removed from the tax rolls. The Governor, local mayors, and county commissioners have to deal with that.

I wonder what would happen to the State of Pennsylvania if two-thirds of it were owned by the Federal Government and it was removed from the tax rolls of that State to provide taxation to support the municipal and State services that citizens need to live together in urban and rural areas and, furthermore, if at any time they decide to build any kind of a factory, an electrical generating plant, or whatever, they had to run through the bureaucracy.

I sometimes wish that two-thirds of the Eastern United States were owned by the Federal Government, because then their representatives would suddenly come to the realization of what it means to have to be a mayor or a Governor, and be dictated to by some GS at EPA or OSHA or at the other Federal agencies. They then might be a little more sympathetic to those Senators, as myself, who come from the public lands States.

Utah is in rather good shape compared to Nevada. Nevada is owned about 86 percent by the Federal Government. Other Western States have a similar situation, whereas in the East you may have 1 or 2 percent, maybe 5 percent, and it does not seriously impede the economic growth and development or the job producing private sector as it does in the West.

In a letter dated April 18, 1975, to the Senate Subcommittee on Environmental Pollution, Governor Salmon, chairman of the National Governors' Conference Committee on Natural Resources and Environmental Management conveyed this same position:

> The issue of significant deterioration should be resolved by Congress in a manner which gives each State the flexibility to determine for itself what is meant by "significant," consistent with local values.

This was during implementation of the Clean Air Act—1975, hearings, part 2, page 1939.

Subsequent to that time, consensus of the 50 Governors has not been reached on legislative proposals. This was brought to the attention of the full Public Works Committee in January 1976 by Gov. Thomas P. Salmon, chairman, Committee on Natural Resources and Environmental Management, National Governors' Conference:

> As Chairman of the Natural Resources and Environmental Management Committee of the National Governors' Conference I have followed this controversial issue closely. The Committee's Clean Air Task Force has attempted to reach a consensus on prevention of significant deterioration, but the varying policy positions of the 50 Governors has precluded formulation of a legislative amendment which would gain unqualified NGC support.
>
> Our Clean Air Task Force has advised me that the prevention of significant deterioration provisions contained in Senate Print No. 6 are unacceptable. However, the Task Force has been unable to develop an alternative proposal that would be acceptable to the National Governors' Conference.

Here again they are saying that they have not come up with a consensus.

We have heard testimony from many Governors. They all disagree on different means, perhaps in different degrees, but nevertheless they disagree, and the Governors state that they have not been able to come up with an alternative proposal that would be acceptable to the National Governors' Conference.

Yet we are led to believe that Governors have all been consulted and they have helped formulate this provision of the law, section 6. It simply is not true.

I wish to make that clear over and over and over again so that this Senate is not misled that Governors of this country have worked on this proposal and are in favor of it.

The concern of the Governors for State determination was reiterated in the telegram of Governor Ray, chairman, quoted in the May 26 RECORD.

In their December 1975 conference in Austin, Tex., the 25 State and territorial air pollution program administrators—STAPPA—who are charged with implementing the provisions of the Clean Air Act in their respective States unanimously adopted the following resolution which opposes standards stricter than present law:

> That Sec. 101(b) of the Clean Air Act should be amended to read as follows: "(1) to protect and enhance the quality of the Nation's air resources by establishing, achieving and maintaining national ambient air quality standards, standards of performance for new stationary sources and national emission standards for hazardous air pollutants so as to promote the public health and welfare and the productive capacity of the Nation, but nothing in this Act is intended to require the establishment by the Administrator of air quality standards more stringent than primary and secondary ambient air quality standards; and that Section 110 should be amended by adding the following subsection (g) thereto: '(g) Each state plan shall determine what degradation of air quality, if any, is to be permitted.'"

A unanimous resolution by those who have to administer the State and territorial air pollution program administrators, the experts who have to administer what we do, unanimously say "Don't do it."

We constantly hear in the Chamber again and again that we should.

Again, I suppose we have greater wisdom in this Chamber, and maybe the swamp gasses from the Potomac make us brighter. I do not know.

But I suggest we start listening to Governors and program administrators and not substitute our own judgment.

The State pollution control officials endorsing this resolution included the administrators from Arkansas, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New York, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

I hope we have laid the allegation to rest that the States are in favor of this proposal and, as a matter of fact, helped put it together. They did not.

Another allegation in the May 26 legislative proposals submitted to the committee and considered by the committee included: The American Paper Institute, the American Mining Congress, Dupont, the National Association of Manufacturers, Shell Oil, Utah Power & Light, Cast Metals Federation, Chamber of Commerce, National Association of Counties, the Electric Utility Industry, Continental Oil Co., the Sierra Club, and the State of New Mexico. This was in addition to the President's proposal.

The fact of submissions is not the case in point but the extent to which the committee "considered" these proposals is questionable. As stated earlier, full accord was given by the subcommittee to the Sierra Club and the State of New Mexico, proponents of a nondegradation policy. But as previously stated, the President's proposal, which was to have been presented by FEA Administrator Frank Zarb, was in fact not discussed during his appearance before the committee. The fact is that the President's proposal was ignored in the hearing process. While it is printed in the committee record it was certainly not given the consideration normally accorded the presentation of any administration witness on policy recommendations to the Congress that affect the entire Nation.

Moreover, the remaining legislative proposals received from industry were not treated during any hearing but merely appear as statements for the record, in large part contained in the appendix of the hearing report.

Without exception, all of these statements for the record express grave concerns with the job and economic implications of the committee proposal.

Again, the facts are quite different from what was stated in the CONGRESSIONAL RECORD on May 26.

ALLEGATION

No studies have been done. A further 1-year study is necessary to have adequate information upon which to base a decision.

FACT

No one has claimed that no studies have been done. Indeed, a minimum of 20 individual studies have been made in an attempt to analyze impact of the committee proposal on such vital issues as employment, coal development, oil imports, consumer costs, and economic growth. It should be noted that because these studies were put together on an individual piecemeal basis it is impossible to provide for a comprehensive overview of total impact. It should be further noted that these studies were developed in reaction to the committee amendment; and, therefore, any conclusions of potential adverse consequences were not part of the consideration in developing this nondegradation proposal. The very fact that so many studies were developed in reaction to the committee proposal, of itself, indicates the serious questions raised on the effect of this proposal on the Nation's economy.

Of the studies annotated in the May 26 CONGRESSIONAL RECORD, it should be noted that 21 of these were prepared, not in connection with the proposal before us, but prior to 1975 in relation to the EPA regulations. Since the Committee proposal, and its impacts, is far different from the existing regulation, it is questionable if this listing is relevant to the questions now being raised.

It certainly does not provide an overall, comprehensive viewpoint or answer the questions that the proposal in the Moss amendment—to have a complete study over a 1-year period, a comprehensive, complete study, analyzing all aspects of the problem—would provide Congress, so that we then could make a decision based on facts rather than political or emotional considerations.

I wish to call my colleagues' attention to the annotated bibliography "Studies on Nondeterioration of Air Quality," prepared by the Department of Commerce Regulatory Policy Committee in May 1976, which I am inserting in the CONGRESSIONAL RECORD.

This compilation lists 17 studies done to date on proposed nondegradation legislation and provides summaries of conclusions for each of the studies. I believe this will be very helpful to my colleagues to review—first, to point out the specific questions being raised on inhibiting effects of section 6 on diverse economic sectors of the country and second, in demonstrating the need for unified, comprehensive study of this issue, as the Mos amendment would do. To quote from the Department of Commerce Summary to this compilation of studies:

> These studies have contributed valuable insights on the technological and economic ramifications of nondeterioration proposals. In the process of doing so, they have shown the difficulties involved in developing an overall assessment. They point out the gaps in knowledge and point the way to completing the necessary industrial and regional analyses which would fill the gaps.

Geographically, these analyses attempted to cover the implications of nondeterioration for the following localities:

> Colorado, Florida, Iowa, Maine, Minnesota, New Mexico, Texas-Louisiana, West Virginia, Wisconsin, Boston, Dallas-Fort Worth, Four Corners, "East," "Central," "West," Rural areas, Urban areas, Regions, general.

While the nondegradation proposal of section 6 in S. 3219 applies to 28 major sources, the analyses cover only 9 major industrial sources. This again demonstrates the gap in knowledge of the full effects of this proposal. Following is the listing of major sources coverage of studies:

MAJOR SOURCE COVERAGE OF STUDIES

LIST OF 28 MAJOR SOURCES IN S. 3219

Source studied, not studied:

1. Fossil-fuel fired steam electric plants, studied.
2. Coal cleaning plants, not studied.
3. Kraft pulp and paper mills, studied.
4. Portland Cement plants, studied.
5. Primary zinc smelters, studied.
6. Iron and steel plants, not studied.
7. Primary aluminum ore reduction plants, not studied.
8. Primary copper smelters, studied.
9. Municipal incinerators, not studied.
10. Hydrofluoric acid plants, not studied.
11. Sulfuric acid plants, not studied.
12. Nitric acid plants, not studied.
13. Petroleum refineries, studied.
14. Lime plants, not studied.
15. Phosphate rock processing plants, not studied.
16. Coke oven batteries, not studied.
17. Sulfur recovery plants, not studied.
18. Carbon black plants, not studied.
19. Primary lead smelters, studied.
20. Fuel conversion plants, studied.
21. Sintering plants, not studied.
22. Secondary metal production facilities, not studied.
23. Chemical process plants, not studied.
24. Fossil-fuel boilers, studied.
25. Petroleum storage and transfer facilities, not studied.
26. Taconite ore processing facilities, not studied.

27. Glass fiber processing plants, not studied.

28. Charcoal production facilities, not studied.

MAJOR SOURCES NOT LISTED IN S. 3219

Coal mining, studied.

Oil and gas extraction, studied.

Industries, generally, studied.

Out of 28 major sources, the majority has not been studied. Yet, we continue to be told we are ready to pass this section 6. I am a little dumbfounded that we, as a Senate—supposedly the greatest deliberative body on the face of the earth—is willing even to consider this section at this time, with all these sources that have not been studied. Yet, we continue to hear testimony that it has been studied to death.

I think it is a shame that we are in our usual situation of having three or four Senators in the Chamber. As is usual, when the time comes to vote, they will not know what the facts are. They simply will say, "It has been studied to death. We have to have clean air. We have to have this and that." But they will ignore the facts. Hopefully, a few of them will look at the Record and will look at the facts. Perhaps we will have some basis to make a decision.

The analyses cite a number of factors which enter into considerations of the impact of proposed nondeterioration legislation such as industry factors of size and location of plants, energy source and use, availability of water and raw materials and plant design; and regional factors such as meteorological conditions, terrain, background emissions and availability of land. The assumptions, methodologies and analytical measures of impact vary widely but certain conclusions are common to many of the studies.

Class I areas, including "buffer zones," appear to be a major obstacle to economic growth for the industries analyzed;

Capital costs required to meet the nondeterioration requirements are higher than the Clean Air Act current requirements;

Nondeterioration requirements will necessitate the use of smaller size plants, the installation of additional control technology, the construction of taller stacks, and relocation of plants at alternative sites.

Future growth opportunities will be restricted without a class III designation or a variance from class II requirements.

To highlight some of the individual study conclusions on some of the industries that were studied:

Oil refineries.—Production costs would increase due to reduction in plant capacity, the necessity to use stringent control technology and locating plants at less advantageous sites. Dislocation of planned industrial plants to nonimpacted sites would cost $640 million to $1.8 billion in capital investment in 1975 dollars in order to meet 1985 demand growth. The regulations will affect energy independence. (Bonner & Moore study)

Power plant capacity.—In flat terrain, a 2000 megawatt powerplant could be built; but in hilly or mountainous terrain, only a small plant could operate in a class II area. For example, in New Mexico, the maximum size calculated allowable was 158 megawatts, an inefficient size for a new facility, and in very hilly terrain, such as West Virginia, 49 to 64 megawatts would be the maximum size allowable. (ERT study)

Western coal mining.—For air quality control regions (AQCR) where more than one surface mine is proposed, the proposed amendments would prohibit new surface mining operations in such AQCR's. (ERT study)

State of Maine.—Industrial development in Maine would be more severely restricted than in many other States. The presence of hilly or mountainous terrain and the potentially large number of class I areas would exclude industrial development in many parts of Maine. (ERT study)

State of Florida.—Significant deterioration proposals will add $120 to $300 million to costs of electricity supplied to Florida Light and Power Company customers. (Florida Power & Light Co. study)

States of Minnesota and Wisconsin.—Impact on both Minnesota and Wisconsin would be severe in terms of the siting of new powerplants and providing electricity for new industries in these States. (Hoffman & Bechtold study)

Rural areas.—Rural area development will be higher in cost due to added control requirements; not locating plants where they would otherwise have been located; plants would be built smaller than otherwise. (ICF study)

Urban areas.—Economic development and employment in urban areas violating NAAQS would not increase; this is attributable to current Clean Air Act. Nondeterioration provisions may result in siting new facilities further from urban centers than would otherwise occur. This would tend to contribute to further urban sprawl, a lengthening in job travel time, adverse environmental effects and other socioeconomic effects. (ICF study)

Energy development.—Oil consumption would increase by 1 million barrels a day (MBD) of largely imported oil. Oil field development, such as tertiary recovery, could be inhibited. Natural events which degrade air quality, e.g., dust storms, could preclude development of energy and material resources such as oil shale, coal, and copper. (ICF study)

Consumer utility bills.—In the absence of nondeterioration, the Clean Air Act will cost each American household $1,500 between 1975–1990. The nondegradation amendment to S. 3219 would add $299 to $673 per household. (NERA study)

I wonder: If the American public, the taxpayer and the consumer, started to find out some of the facts on the few industries that were studied and learned what Congress was going to impose on them in the name of clean air, I wonder how many Members would be reelected if they were going to continue to impose these costs? Because the consumer will pay the bill for what we are doing, there is no doubt about that, and it will be a big bill:

Jobs.—The electric cost per household between different regions "indicates the extremely disparate regional effects of the legislation. To the extent these costs are passed on to industrial customers regionally, they are likely to discourage the expansion of electric-intensive industries in high-cost areas, and, as a consequence, adversely affect employment and economic growth in those regions." (NERA Study)

Electric utility industry.—The electric utility industry will experience the major economic impact. The Senate proposal will increase the electric utility industry capital requirements by about $11.5 billion over the next 15 years. (EPA Study)

Based on the projected growth rate of 7.5 percent in generating capacity, capital requirements for production equipment in the utility industry would range from $107 billion to $127 billion over the 1981–1990 period. Total production costs would range from $170 to $250 billion. (GE Study)

ALLEGATION

EPA's basis for requiring pollution cleanup has been challenged and ERPA staff has been charged with deliberately distorting data regarding the effects of pollution. These charges have effectively been laid to rest by the hearings held Friday, April 9, by the House Interstate and Foreign Commerce and the House Science and Technology Committee.

FACT

These charges have not been effectively laid to rest. There still remain many questions on the veracity of this study. The House Science and Technology Committee Subcommittee on Environment and the Atmosphere, chaired by Congressman George Brown of California, is now conducting a technical field investigation of the EPA CHESS study because of the controversy and its relation to sulfate standards promulgated by EPA. The congressional hearing of April 9 served only to clarify the issues involved; the congressional investigation underway is intended to examine the methodologies employed by EPA in arriving at the results of the CHESS study in order to resolve the present controversies as far as the Congress is concerned.

I wish to call my colleagues' attention to the May 4 Congressional Record (12331–12332) House consideration of H.R. 12704, EPA's authorization for research and development, during which considerable time was devoted to questions on the CHESS study. Chairman Brown advised the membership of the committee's investigation into the methodology of the CHESS study and submitted a memorandum outlining the committee investigation.

In summary, Mr. President, as the committee record indicates, the actual hearings on this issue were limited at best, certainly not extensive hearings. Yes, 14 days of hearings were held. Only 3 hours were held on nondegradation and four witnesses testified at that hearing. But more important than the actual, very limited testimony on nondegradation, the most critical amendment of the Clean Air Act is the limited scope of hearings that were held on the issue. The limited scope of the hearings did not address properly any of the major unknowns to national interest related to the economy, jobs, and energy resource development. They were conducted before the fact and not after the fact, treating the issue of nondegradation only in the broadest philosophical terms, without considering any of the pragmatic questions that must be resolved before formulating national policy, which could be detrimental to our national welfare.

There was no discussion in committee hearings on the technical questions arising from the final committee proposal; there was no discussion of the cost of compliance and if this cost could be met by industry; there was no discussion regarding the capability to meet the stringent emission increments under the class I and class II areas; there was no discussion of how States would address how to grant construction permits to industries competing for the same limited increment; most important, there was no discussion of what would be the full ramifications on the national economy in terms of capital cost requirements, job constraints, unemployment, and energy resource development. Surely this body should have the full and complete picture before making a final legislative decision for the country that will affect the lives and livelihood of virtually all Americans.

Further, we can ill afford having the American people subjected to a rational policy which, without proper study, could lead to lasting and possibly severe penalties—particularly during our Bicentennial Year.

I do not know exactly what the studies would show. I do feel very strongly that we do not have adequate information on which to base a decision, and that, with so many of the industries not studied and so many geographical areas of the country not included in any analysis, without any idea of the total impact on the economy, on jobs, and particularly, the cost that the American taxpayer will have to bear, I would suggest that we simply do not have adequate information on which to act. I feel that it is a very reasonable proposal in the Moss amendment, that we strike section 6, that we have a very detailed, comprehensive study for 1 year. At the end of that 1 year, we would be able then to come back and debate this issue on the basis of facts, not on the basis of emotion or on the basis of someone's opinion.

I also think there is another factor that we cannot ignore. That is the wishes of the American Governors, mayors, and county commissioners and of State legislators, who are almost universally opposed to this kind of assumption of States' rights, of taking away the individual rights of States to determine what nondegradation means in their State. Their wishes should be considered so that they will be able to balance economic development along with the goals of having clean air. I doubt very much that there is anyone in this body who disagrees with having clean air. We certainly do not want to deteriorate the quality greatly and impose that on future generations, but we also do not want to impose joblessness, unemployment, and tremendous additional costs on the American taxpayer and the American consumer, either. So I think on the basis of facts, we should look at some balance.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HOLLINGS. Mr. President, in recent months, I have become increasingly aware of a problem that may exist with the Clean Air Act. In essence, this act may not provide enough flexibility to allow for installation of new facilities in areas where it appears—often based on inadequate and questionable data—that the national ambient air quality standards are being exceeded. While the committee has attempted to address this problem through section 11 of the Clean Air Act Amendments of 1976, the relief offered may not go far enough, and I would hope the conferees would give further consideration to this issue.

Efforts to upgrade the quality of ambient air are of vital importance and command our unified support. Yet, recognition must also be given to the need for balance between clean air goals and economic growth. Population expansion, accompanied by increasing job demands, necessitates the maintenance of a vigorous employment market. The prospect of industrial stagnation poses problems of substantial magnitude. This is particularly so where that stagnation may result from well meaning but misguided attempts to solve ill-defined and poorly understood problems by the imposition of draconian measures.

Mr. President, let me outline this problem as I see it. Section 110 of the Clean Air Act of 1970 requires each State to adopt a plan which provides for implementation, maintenance, and enforcement of the federally determined primary and secondary air quality standards. Subsection a(4) of that section requires that this plan provide for "adequate authority to prevent the construction or modification of any new source to which a standard of performance under section 111 will apply at any location which the state determines will prevent the attainment or maintenance within any air quality control region (or portion thereof) within such state of a national ambient air quality primary or secondary standard."

In essence then, a State which contains a region where a primary or secondary standard is being exceeded must prevent the construction of any new or expanded facility if it would emit any amount of the pollutant for which the standard is being exceeded. In theory this may be fine. In practice what has happened is that EPA has set standards which may be unattainable and which some feel are, at least in part, unjustified.

Furthermore, vast areas of the country are being classified as not meeting the standard based on inadequate and, in some cases, questionable data. Finally, in its wisdom, both the EPA and now this body, if it enacts this bill, have granted substantial delays in auto emission standards and in the application of transportation control plans. The result is that large areas of this country may be foreclosed from further development, even when that development is extraordinarily clean, based on dubious strategies to achieve questionable standards. Mr. President, my record of being responsive to environmental concerns is clear. I am worried, however, that policies like this that prohibit growth with only questionable environmental benefit extract too great a penalty in foregoing job opportunities.

To give an idea of the national scope of this problem, the EPA on July 12 sent letters to 45 States requiring revision of their implementation plans because the existing plans are insufficient to achieve the national primary standard for one or more pollutants. It is conceivable that economic growth could be precluded in major portions of these 45 States. At this point, I ask unanimous consent to have printed in the RECORD the following table identifying the areas affected by this EPA mandate.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CALLS FOR SIP REVISIONS BY STATE AND POLLUTANT, JULY 1, 1976

	PM	SO_2	CO	O_x	NO_2
Alabama	×				
Alaska					
Arizona			×	×	
Arkansas	×				
California	×		×		×
Colorado	×		×	×	×
Connecticut	×	×	×	×	
Delaware				×	
District of Columbia	×		×	×	
Florida					
Georgia			×	×	
Hawaii					
Idaho	×	×			
Illinois				×	
Indiana				×	
Iowa	×				
Kansas	×				
Kentucky		×	×	×	
Louisiana	×			×	
Maine	×		×	×	
Maryland	×		×	×	
Massachusetts	×	×	×	×	
Michigan				×	
Minnesota				×	
Mississippi					
Missouri	×	×			
Montana	×	×			
Nebraska	×				
Nevada			×	×	
New Hampshire	×		×	×	
New Jersey	×	×	×	×	
New Mexico	×	×	×		
New York	×	×	×	×	×
North Carolina			×	×	
North Dakota					
Ohio			×	×	
Oklahoma					
Oregon	×		×	×	
Pennsylvania	×	×	×	×	
Rhode Island	×	×	×	×	
South Carolina	×				
South Dakota	×				
Tennessee	×			×	
Texas	×				
Utah	×				
Vermont			×	×	
Virginia			×	×	
Washington					
West Virginia	×			×	
Wisconsin				×	
Wyoming	×				
American Samoa					
Guam					
Puerto Rico	×	×			
Virgin Islands					

Mr. HOLLINGS. Although we have implemented strict enforcement plans to control ambient air pollution, South Carolina is in violation of the national standard for oxidants. While EPA's strategy for control of oxidants relies entirely on control of hydrocarbons, a so-called precursor for oxidant formation, our own State officials question the technical basis for this approach. My concern about this problem is that if we are unable to further control oxidant levels, new industries may be banned from our area at a time when our economic development needs are substantial. Governor Edwards has addressed this problem in a letter to me asking that I consider more flexible provisions for industrial growth than those offered in the Clean Air Act Amendments of 1976.

At this point, I ask unanimous consent to insert in the RECORD letters to me from the South Carolina Department of Health and Environmental Control via our State development board, and from Governor Edwards.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE DEVELOPMENT BOARD,
Columbia, S.C., July 2, 1976.

Hon. ERNEST F. HOLLINGS,
Member of the Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLINGS: In response to your inquiry regarding air quality in South Carolina, I asked Mr. Bill Crosby, Chief of the Bureau of Air Quality Control of the South Carolina Department of Health and Environmental Control to discuss this question so that we could all be more informed.

I am enclosing Mr. Crosby's excellent analysis of the situation in South Carolina. I hope you will be able to use this information as you work with the Clean Air Act and subsequent amendments to it.

Sincerely,

ROBERT E. LEAK,
Director.

[From the South Carolina Department of Health and Environmental Control, Office of Environmental Quality Control, Columbia, S.C.]

MEMORANDUM

To: Robert Leak, Director, S.S. State Development Board.

From: W. G. Crosby, Chief, Bureau of Air Quality Control.

Subject: Air Quality in South Carolina—Compliance Status.

Date: June 25, 1976.

As we discussed over the phone, air quality in South Carolina is good and has met all of the national primary standards except that for oxidants. The circumstances surrounding this latter are quite complex, and I will attempt to give our experience shortly. Suspended particulate matter is the only other pollutant which gives us any problems, although we have attained the primary standards. We have two problem areas here, though, as well.

We operate two continuous oxidant monitoring stations in South Carolina, one at Rock Hill and the other at Columbia. Both show levels in excess of the national standard intermittently with meteorological conditions definitely playing a role. The disturbing part of it is that, although the maximum levels are never more than twice the national standards, the frequency of the periods during which the standards are contravened increases with every year.

This is not just a South Carolina problem. Reports from around the nation indicate that this is the usual case. For instance, in EPA's Region IV consisting of the eight southeastern states, forty one of forty eight sampling stations showed contraventions of the standards last year. New England, Midwestern, North Central, Southwest, it seems to make little difference; periods when the oxidant standards are not met abound.

The major component of the oxidant concentrations is ozone, held to result from the photochemical reaction between hydrocarbons, oxides of nitrogen and ultraviolet rays of sunlight. Through long and complex mechanisms the end result is mostly ozone and photochemical smog. Technically, the presence of hydrocarbons is not necessary for the production of ozone, but they do accelerate the reactions and, as a practical consideration, are usually involved.

It was originally thought that only "reactive" hydrocarbons were involved to any extent, these being organic vapors containing only hydrogen and carbon which brought about rapid photochemical reactions. Lately it has been recognized that many hydrocarbons and other organic vapors can produce the same results, but take longer, thus allowing time for long-range transport to different parts of the country before being felt as ozone at distant locations. Also, terpenes, pinenes and other naturally occurring organic vapors can help produce the same end products, such as the haze which adds the blue to the Blue Ridge Mountains and the smoke to the Smokies. During stagnant high pressure systems, frequent visitors to the southeast, we have air from aloft descending to earth containing much of the ozone. This same condition prevents the upward movement of oxidants generated here, and these are the circumstances under which we exceed the standards.

I apologize for going into so much detail but felt I couldn't give a simple explanation. Even now we do not know how much of the responsibility lies with hydrocarbons and organic vapors from automobiles, from stationary sources or from natural sources. We have no good way to measure and identify organic materials on a practical basis in the field and are waiting for EPA to develop more information. We do expect the forthcoming tighter tail-pipe standards for motor vehicles to bring about a substantial reduction, however.

In the industrial part of Charleston and in the city of Georgetown we have just barely met the primary standards for total suspended particulates (TSP). This condition makes it unlikely that the standard will continue to be met unless there is a further tightening of emissions allowances in these areas, and does not offer much promise for growth. However, these areas are quite confined and Bushy Park nor other parts of the counties should be affected insofar as failure to maintain TSP standards is concerned.

There is substantial evidence indicating that a large part of the TSP problem in Charleston is due to vehicular re-suspension of dust from paved roadways and arteries. Just how this will be controlled we do not know, but I have misgivings about our ability to make major reductions by turning the screws in on industrial sources alone. We are studying the area intensively to try to come up with the best mix of further emission reductions with the smallest economic impact. We have a somewhat similar situation in the heart of Georgetown, although the issues are a little clearer there.

In the Greenville area TSP levels are in good shape, being well within standards. However, due to projected traffic growth alone, with the accompanying resuspension of particulates from paved thoroughfares, dispersion modelling predicts a problem with maintaining standards ten years from now. We plan to take no further steps there for several years until we can verify or refute what the theoretical modelling predicts, since it is far from an exact science.

Secondary TSP standards are contravened from time to time in rural as well as urban areas due to dry weather and wind or plow action. This is not serious, however, and appears to be widespread in this as well as other parts of the country.

This is a rather lengthy rundown on the status of things in our state, but I hope it will be of some use. I shall be pleased to furnish additional information and discuss the ramifications as much as you wish, to the extent that I am able.

OFFICE OF THE GOVERNOR,
Columbia, S.C.

DEAR SENATOR HOLLINGS: Undoubtedly, the various states of the nation will be watching the Senate debate on S.B. 3219 (Amendments to the Clean Air Act of 1970) with a great deal of interest as well as a certain degree of trepidation. South Carolina is no exception. Please permit me to share some of the concerns our State Development Board and this office have about the Clean Air Act as well as the proposed Amendments.

While we applaud the basic intent of Congress, the courts and the Environmental Protection Agency to improve the ambient air quality of the nation as a means of benefiting the health and welfare of the citizenry, we are also alarmed that regulations may be drawn by E.P.A. which provide that air quality be the only determinant in allowing a new or expanded manufacturing plant project. As you are well aware, the economic development needs of South Carolina are still substantial. We would, therefore, hope that the State of South Carolina would have the right under the amended Clean Air Act to determine when an industrial development project would be clearly in the best interest of the State and its people.

It is with these concerns firmly in mind that we make the following recommendations for your consideration and whatever action you deem appropriate during the forthcoming debate:

1. The question of no-significant deterioration should be postponed until enough data to make a reasonable decision on the subject can be obtained. The cost/benefit ratio of this proposal is highly questionable from our perspective. We would, therefore, support the Moss Amendment which would postpone the adoption of the no-significant deterioration policy.

2. Regarding the Clean Air Act Amendments as recommended by the Senate Public Works Committee, we have real concerns about Section 11 of the proposed amendments. In subparagraph (C) (please see attachment), we believe it would be impossible under this regulation for a manufacturing plant to expand its facilities in non-attainment or maintenance areas of the state even though the existing facility was utilizing best available control technology. This would be unfair to both the company and the community as air quality would be the overriding consideration. Many of the newer industries in South Carolina already utilize best available control technology and, therefore, have nothing to trade off in their efforts to expand in the state. These companies would be at a disadvantage to those companies which have yet to install new pollution abatement facilities on their older plants.

3. Subparagraph (D) leaves much to conjecture and should be clarified as to intent. We would, therefore, recommend that it be clarified or deleted.

4. Insofar as we believe that the social, economic and environmental benefits from a particular project which utilizes best available control technology may far outweigh any air quality deterioration which might result, we feel that some mechanism be instituted to provide for this overall assessment. In South Carolina, this could be accomplished with an economic impact analysis of a specific project being provided by the State Development Board to the Department of Health and Environmental Control. Other states could institute similar procedures.

In this context, it would be beneficial if the amendment could carry an additional subparagraph (E) worded along the following lines:

"The foregoing regulations will apply in every instance unless in the judgment of responsible state and local government agencies the social, economic and environmental benefits of such proposed facility outweigh any air quality benefits to be derived by preventing such construction or modification, but in no instance shall less than best available control technology be permitted."

It would be extremely detrimental to the future of South Carolina, and indeed to all states, if air quality regulations were to be permitted to override the state's overall economic development needs. Please assist us in this matter.

Sincerely,

JAMES B. EDWARDS,
Governor.

Mr. HOLLINGS. I would like to congratulate the committee on their recognition of this problem and their efforts to minimize the economic consequences implicit in the Clean Air Act. I am concerned, however, that the committee approach does not adequately address the problem. To illustrate the type of consideration that remains to be resolved, I would to talk a little bit about the oxidant standard and the problems surrounding it.

As Senators are well aware, oxidant levels exceed the national primary standard in vast areas of the country despite strict enforcement of control mechanisms. This phenomenon has caused increased controversy over the source of hydrocarbon emissions and the effectiveness of current control strategies. At this point, I quote from the sixth annual report of the Council on Environmental Quality, issued December 1975:

> Until recently, ozone and other oxidants were generally considered an air pollution problem only for the large urban areas because they were produced by photochemical reactions of locally emitted reactive hydrocarbons and oxides of nitrogen and were abated through controls on auto emissions and transportation control programs. But, during the past few years, oxidant levels exceeding the 1-hour ambient standard were found in some rural areas, far from any cities or other known major sources of hydrocarbon or nitrogen oxide emissions.
>
> While studying air pollution damage to Christmas trees in western Maryland and eastern West Virginia in the summer of 1970, EPA investigators unexpectedly found rural oxidant levels frequently exceeding the 1-hour standard. Additional studies carried out in Maryland, Pennsylvania, Ohio, and West Virginia showed that nearly all rural oxidants were ozone and that the problem was significant. In the four rural areas, the ambient ozone standard was violated in 15 percent (Area 4, West Virginia) to 37 percent (Area 1, Maryland) of all measurements made during the study. In fact, the standard was even exceeded by the average of all afternoon and evening ozone levels measured at the Maryland site in 1973.
>
> These rural conditions are not unique. In California, the ambient standard for ozone was exceeded more often in Indio than at any other site in the State, and Indio is 140 miles from Los Angeles. High ozone concentrations have also been observed in several nonurban areas in California and in Florida, New York, and Wisconsin.

Considered with our knowledge of hydrocarbon emission control problems, the Council's observations offer a basis for reconsideration of the existing measures to reduce the oxidant concentration in our ambient air.

Mr. President, as I see it, four main technical issues surrounding the oxidant question need to be addressed before we lock ourselves into a strategy which may or may not be necessary to protect the public health but which definitely will preclude development in large areas of our country.

First, we must obtain adequate monitoring data. The CEQ states again in their sixth annual report:

> Ambient oxidant data are also too sparse and too regionally oriented to permit a meaningful nationwide summary.

Wide areas of this country are not yet monitored for oxidant at all. In other cases, vast regions of a State are classified as not meeting the standard because perhaps one or two monitors, purposely placed in the most suspect areas, record violations of the standard. Even though these violations may be localized, further development of large areas may be precluded. At this point, I ask unanimous consent to insert in the RECORD a compilation of monitoring data showing the number of stations reporting and the number of oxidant violations found in various regions throughout the country.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIR QUALITY CONTROL REGIONS HAVING VIOLATIONS OF PRIMARY AIR QUALITY STANDARD FOR OXIDANTS

Regions in violation	Number of values exceeding 1-hr standard	Number of stations reporting
004—Metropolitan Birmingham	869	2
005—Mobile-Pensacola-Panama City-southern Mississippi	71	2
013—Clark Mohave	232	2
015—Phoenix-Tucson	156	2
018—Metropolitan Memphis	31	2
024—Metropolitan Los Angeles	23, 296	37
025—North-central coast	77	4
028—Sacramento Valley	1, 943	5
029—San Diego	667	6
030—San Francisco Bay area	2, 370	22
031—San Joaquin Valley	3, 857	6
032—South-central coast	47	2
033—Southeast desert	2, 949	5
036—Metropolitan Denver	927	6
042—Hartford-New Haven-Springfield	785	6
043—New Jersey-New York-Connecticut	1, 556	11
044—Northwestern Connecticut	135	1
045—Metropolitan Philadelphia	7, 116	17
047—National Capital	781	11
056—Metropolitan Atlanta	7, 021	2
060—Hawaii	8	1
067—Metropolitan Chicago	556	7
069—Metropolitan Quad Cities	1	3
070—Metropolitan St. Louis	1, 765	14
072—Kentucky	28	1
075—West-central Illinois	51	1
077—Evansville-Owensboro-Henderson	6	1
078—Louisville	11	2
079—Metropolitan Cincinnati	79	3
080—Metropolitan Indianapolis	396	6
085—Metropolitan Omaha-Council Bluffs	2	1
088—Northeast Iowa	11	3
092—South-central Iowa	2	2
094—Metropolitan Kansas City	13	5
097—Northwest Kansas	47	1
099—South-central Kansas	1, 356	4
103—Huntington-Ashland, Portsmouth, Ironton	17	1
106—Southern Louisiana-southeast Texas	288	3
117—Berkshire	196	1
118—Central Massachusetts	421	2
119—Metropolitan Boston	477	5
120—Metropolitan Providence	505	2
121—Merrimack Valley-southern New Hampshire	138	1
123—Metropolitan Detroit-Port Huron	4	1
131—Minneapolis-St. Paul	16	3
148—Northwest Nevada	2	2
151—Northeast Pennsylvania—Upper Delaware Valley	1, 930	5
152—Albuquerque-mid Rio Grande	4	4
153—El Paso-Las Cruces-Alamogordo	296	4
158—Central New York	170	3
159—Champlain Valley	126	1
160—Genesee-Finger Lakes	82	1
161—Hudson Valley	323	3
162—Niagara Frontier	441	3
164—Southern Tier West	3	1
167—Metropolitan Charlote	31	2
171—Western Mountain	54	1
173—Dayton	324	7
174—Greater metropolitan Cleveland	24	2
176—Metropolitan Columbus	105	1
178—Northwest Pennsylvania—Youngstown	687	4
184—Central Oklahoma	373	2
193—Portland	145	2
195—Central Pennsylvania	282	1
196—South-central Pennsylvania	1, 281	3
197—Southwest Pennsylvania	355	3
200—Columbia	52	1
207—Eastern Tennessee-Southwestern Virginia	206	3
208—Middle Tennessee	530	4
212—Austin Waco	78	1
214—Corpus Christi-Victoria	200	2
215—Metropolitan Dallas Fort Worth	294	3
216—Metropolitan Houston Galveston	364	5
217—Metropolitan San Antonio	15	1
220—Wasatch Front	37	7
223—Hampton Roads	255	2
225—State capital	322	2
229—Puget Sound	54	11
239—Southeastern Wisconsin	781	6
240—Southern Wisconsin	67	2
010—South-central Alaska	0	1
065—Burlington-Keokuk	0	1
066—East-central Illinois	0	1
092—South-central Iowa	0	1
095—Northeastern Kansas	0	1
102—Bluegrass	0	3
115—Metropolitan Baltimore	0	5
143—Miles City	0	1
186—Northeastern Oklahoma	0	1

Source: Information obtained from EPA 1974 Monitoring and Air Quality Trends Report, published February 1976.

Mr. HOLLINGS. Second, we must thoroughly examine the standards themselves. It is probably not widely known what is meant when we say an area exceeds the oxidant standard. Do we mean the average air quality is worse than a certain level? No. In the case of oxidant, we mean that one monitor in one location exceeds the level established for more than 1 hour in a year. In other words, further development in whole States, or in large portions of States, could be precluded by a recording in one location of an oxidant concentration greater than the standard for two 1-hour periods during an entire year. Is that really what we intended when we passed the Clean Air Act in 1970?

Third, we must better understand the contribution of nature itself to oxidant levels. R. A. Rasmussen of Washington State University, in a paper appearing in the July 1972 issue of the Journal of the Air Pollution Control Association, estimated that—

> The annual contribution of forest hydrocarbon emissions to the air pollution problem on a global basis is reflected in the 175 million tons of reactive hydrocarbons from tree foliage sources compared to the 27 million tons from man's activities; in other words, there is a 6.2-fold greater emission level from natural sources than from manmade sources. The fate of these gaseous olefins in the atmosphere is undetermined.

Additionally, as pointed out in the letter I have already inserted in the RECORD from the South Carolina Air Board, it is theorized that some of the high oxidant readings we obtained may be a result of incursions of the stratospheric ozone layer—which we are also worried about—into the lower atmosphere. What sense does it make to preclude the development of clean, minimally emitting industry in wide areas of the country when nature itself may be responsible in whole or in part for ambient air concentrations which violate the standards established by EPA?

Finally, we must recognize that air pollution does not stay in one particular location. Particularly in the case of oxidant we are discovering more and more that long-range transport of pollutants is significant. In section 7 of this bill we have extended the time allowed before transportation control plans need to be adopted. Transportation control plans were initiated in part to control hydrocarbon emissions from mobile sources. These hydrocarbon emissions, as we have seen, are a precursor for oxidant formation. Charlotte, N.C., is an urban area where the oxidant standard is being exceeded. Parts of South Carolina are impacted by emissions from the Charlotte urban complex.

When we have given urban areas additional time to implement control plans and when these urban areas, via the long-range transport phenomena, may be responsible for exceeding the standard in far-removed areas, does it make any sense to prohibit industrial expansion in those rural areas as the net result of our actions on this legislation? I, for one, do not believe South Carolina development should be penalized because of our inability to control emissions from various urban complexes.

In conclusion then, Mr. President, through my remarks I hope I have brought into sharper focus an issue which I feel is of crucial importance. I do not feel this issue has been adequately addressed by the committee bill. I understand that the Bentsen and Domenici amendments deal with the oxidant question and the natural background for particulates. While these amendments are improvements, I remain concerned that the immediate problem of what course of action to follow in nonattainment areas remains unresolved.

EPA currently has in draft form a trade-offs strategy which they propose as a solution. I hope that in conference the conferees will evaluate all these various proposals and with the flexibility available to them reach an adequate resolution of this issue.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed in the Record an article entitled "What Do the Hydrocarbons From Trees Contribute to Air Pollution?" published in the Journal of the Air Pollution Control Association.

There being no objection, the article ordered to be printed in the Record, as follows:

WHAT DO THE HYDROCARBONS FROM TREES CONTRIBUTE TO AIR POLLUTION?

(By Reinhold A. Rasmussen, Washington State University, Pullman, Wash.)

(Figures do not appear in the Record)

Plant species release appreciable quantities of volatile organic substances to the atmosphere. The major compounds emitted are monoterpenes (C_{10}) like α-pinene, β-pinene, and limonene and the hemiterpene (C_5) isoprene. The rate of emission of isoprene is light dependent and ranges between 0.04 to 2.4 ppb/cm^2/min/l for oak, cottonwood, and eucalyptus foliage. The rate of emission of α- and β-pinene and limonene is dependent on the rate of transpiration, structural integrity of the oil cells and resin glands, and temperature of the foliage. Rates of emission for conifer foliage range from 0.4 to 3.5 ppb/g/min/l. An inventory of North American forest regions for the frequency of occurrence of these chemicals released by different tree species showed that 15% was the lowest value for a specific forest-type that emitted terpenes to the atmosphere. More commonly 100% of the trees of a given forest-type emitted terpenes to the atmosphere. An average of 70% is typical of the United States forested regions as a whole. The annual contribution of forest hydrocarbon emissions to the air pollution problem on a global basis is reflected in the 175 X 10^6 tons of reactive hydrocarbons from tree foliage sources compared to the 27 X 10^6 tons from man's activities; in other words, there is a 6.2-fold greater emission level from natural sources than from man made sources. The fate of these gaseous olefins in the atmosphere is undetermined.

The release of volatile substances through the aerial organs of plants is a well-known characteristic of the plant world. However, only the exchange of the metabolic gases of water, oxygen, carbon dioxide, and ethylene has been extensively studied; the nature of many other volatile emissions is as yet little studied. There are indications that a much more complex metabolic picture of gaseous exchanges with the atmosphere may exist. Ivanov and Yakobson[1] reviewed the Russian literature for volatile plant excretions from intact uncrushed tissues and reported that the leaves of a considerable number of plant species release into the atmosphere the following gaseous chemicals: hydrogen, a number of low-molecular weight hydrocarbons, several aldehydes, a wide variety of essential oil components, and acidic and basic compounds. Rasmussen and Went[2] reporting on gas-chromatographic data obtained *in situ* for the concentration of organic compounds in temperate forest and field atmospheres found that the concentrations of organic substances such as isoprene and pinenes in the air showed a diurnal variation and were related to the mass of the viable foliage.

BACKGROUND

Recently, Rasmussen[3] using mass spectrometry, infrared spectroscopy, and gas-chromatography identified isoprene, in the gas phase, as an actively emitted foliar volatile from a wide variety of plant types. Previously, Sanadze and Dolidze[4] and Rasmussen[5] had observed several low molecular weight hydrocarbons as foliage volatiles, the major component tentatively identified as isoprene. It had been generally believed (Bonner[6]) that isoprene was not a natural plant product.

Robinson and Robbins[7] reported on the source, abundance, and fate of gaseous atmospheric pollutants. Their calculations on a global scale of the inputs and outputs of the atmospheric trace gases showed that the major sources of H_2S, NH_3, N_2O and hydrocarbons were natural emissions possibly from plant foliage, while the sources of the trace gases SO_2 and CO were determined to be derived mainly from pollutant sources related to mankind's activities.

The biological and atmospheric fate of foliar emissions such as these hydrocarbons and inorganic trace gases is poorly understood. In the laboratory Rasmussen *et al.*,[8] observed that the organic volatiles emanating from tropical foliages can be utilized by wild populations of fungi as the hydrocarbon source for growth. Furthermore, the data showed that the naturally occurring organic volatiles beneath the canopy of the tropical forest are produced as well as utilized by the microbial life growing epiphytically on the vegetation surfaces. The studies suggested that the volatile organic components of the atmosphere are absorbed in significant amounts by components in the soil. This disposition of atmospheric trace gases by absorption in soil must influence directly or indirectly the soil microflora and the root systems of plants. These studies suggested that naturally occurring organic volatiles are disposed of in a biological sink.

More recently, Inman *et al.*,[9] reported that soil was a natural sink for carbon monoxide. Hill[10] has proposed from his studies on the uptake of several gaseous air pollutants by vegetation canopies that vegetation could be an important sink for HF, SO_2, Cl_2, NO_2, O_3 and to a lesser extent for peroxyacetyl nitrate during the growing season. Abeles, *et al.*,[11] reported that soil, through microbial or chemical means, can remove ethylene, other hydrocarbons, SO_2, and NO_2 from the air. Gonzales and Hutton,[12] have also reported similar observations that the microbial flora in tropical leaf litter are capable of selectively removing or metabolizing certain hydrocarbon types from diluted auto exhaust. Rasmussen and Hutton[13] in attempt to explain their biological observations in the tropics have proposed a hypothesis suggesting that the phyllosplane and rhizosphere component of certain plant communities offer large global sinks for the removal of naturally occurring organic violatiles.

An alternate approach to understanding the fate of naturally occurring organic volatiles is the parallel that exists between the fate of the olefins from automobile exhaust and the fate of isoprene and α-pinene in the atmosphere. In the Haagen-Smit[14] photochemical mechanism for smog formation olefins, nitric oxides, and sunlight react to form ozone, peroxacyl nitrate-like compounds, and aerosol material. Subsequently, Went[15,16] proposed a similar fate for the terpene emissions in the atmosphere. The aerosols (Aitken nuclei) produced as a result of this photochemical polymerization process are believed to be responsible for the natural atmospheric blue haze associated with vegetation.

Glasson and Tuesday[17] determined the reactivity of isoprene as one of a large number of hydrocarbons in the atmospheric photooxidation of nitric oxide. They determined the reactivity of isoprene as a rate of 3.7 ppb/min in the photooxidation of NO. This rate was intermediate between the high rate of 11.2 ppb/min for trans-2-butene and the moderate rate of 1.7 ppb/min for ethylene.

There is very litle published detail on the atmospheric photochemical reactions of a terpene-nitric oxide system. Stephens and Scott[18] were the first to include two terpenes (pinene and α-phellandrene) with their study of the relative reactivity of various hydrocarbons in polluted atmospheres. Both terpenes showed the high reactivity predicted by their olefine structures. Rasmussen[5] generated Aitken nuclei from several terpene compounds and foliage emissions at terpene concentrations of 100 ppm and low concentrations of nitric acid vapor (difference of 50 ppm). The data suggested fragmentation, dimerization, and polymerization via a free radical mechanism. Repperton *et al.*,[19] have reported an excess rates phenomenon for the gas phase ozone-pinene reaction. Most recently Stephens and Price[20] have reported that the infrared spectra of organic aerosols from α- and β-pinenes showed promient CH and carbonyl bands, whereas the spectra of smog aerosol are similar to those of sulfuric acid aerosol. Philips and Wyat[21] report that they have been able to distinguish between gasoline derived aerosols and aerosols from pine cone volatile emissions, on the basis of the index of refraction of the respective particles. These data are most interesting and suggest new ways of studying the nautral blue haze aerosols over forested areas.

PRESENT STUDY

The research reported in this paper is concerned with the source and quantity of two terpene hydrocarbons, isoprene and α-pinene, which are emitted from intact, uncrushed plant foilage under natural conditions. The aspects reported are: (1) An inventory of dominant forest tree-types related to the chemical compounds emitted. (2) The emission rate of selected plants species. (3) A calculation of the potential contributions that the foliat emissions of isoprene and α-pinene may make to the

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hydrocarbon load of global and the U.S. continental air masses.

STUDY OF FOLIAGE EMISSIONS

Apparatus

The gas chromatographic equipment used in the study was a Hewlett-Packard Model 5751-B and a Perkin Elmer Model F11 with flame ionization detectors. All columns were constructed of 0.125 in. O.D., 0.105 in. 1:D., 304 stainless steel tubing. For a readout a 1 mv potentionmetric recorder was used with chart speed of 30 in./hr.

Column A was 6 ft in length, packed with 4% Carbowax 20 M on HMDS treated chromosorb W, acid wash. 60 to 80 mesh. This column was used to measure the monoterpene (C_{10}) emissions. Isoprene was resolved on this column in the air-peak injection disturbance area. Column temperature was maintained at 60°C, injector temperature was 170°C, detector temperature was 250°C. Helium flow rate was 45 ml/min. Sample sizes varied between 1 and 5 ml. All samples were pre-pressurized to inlet pressure before injection using Pressure-Lok® gas syringes manufactured by Precision Sampling Corporation.

Column B was 7 ft in length and packed with Porapak Q, 100 to 120 mesh, and was used to quantitate the rate of isoprene emission. Column temperature was 150°C, injector temperature was 180°C and detector temperature was 250°C. Helium flow rate was 35 ml/min. Sample sizes varied between 1 and 5 ml.

Materials

The foliages studied were on intact plants in leaf assimilation chambers (volume 1 liter). The light intensities were 50, 340, 700, and 1200 ft cd. Temperatures were 17, 28, and 30-32°C. The light quality was a mixture of Gro-Lux® and cool white fluorescent tubes and incandescent bulbs. The relative humidity was stabilized at 92% + RH in the closed chamber within 10 min. Broad-leaved foliages of 300 to 500 cm^2 total area (both upper and lower surfaces) were kept in the chambers for varying lengths of time, however, usually most experiments were run for one hour. Conifer (needle) foliages of 3–5 g were studied by the same method.

The folia released volatile organics (isoprene and α-pinene) were monitored using 1–ml gas samples injected into the gas chromatograph and the concentrations determined by peak height measurements. Analyzed gas mixtures of 8.3 ppm isoprene and 6.1 ppm α-inene by volume in nitrogen were used as reference concentrations (Scott Research Laboratories, Inc.).

TABLE 1.—*Emissions of major eastern forest trees*

Softwoods		Hardwoods	
Emit a Pinene	*Emit Isoprene*	*Emit isoprene and a Pinene*	*Type of emission unidentified*
White pine	Oak	Sweetgum	Hickory
Red pine	Sweetgum	Yellow poplar	Blackgum
Jack pine	Sycamore	Balsam poplar	Beech
Longleaf pine	Willow	Spruce (softwood)	Birch
Slash pine	Cottonwood		Maple
Shortleaf pine	Balsam poplar		Ash
Loblolly pine	Aspen		Black walnut
Hemlock			Hackberry
White cedar			
Larch			
Spruce			
Fir			
Balsam fir			
Cypress			

Results and Discussion

Isoprene and α-Pinene Emissions from Forest-Types. The prime source of the terpenes emitted from trees is believed to be the foliage. The emissions occur in conjunction with the plant's normal photosynthetic and respiratory exchange of atmospheric gases. However, oleoresin blisters and freshly exuded bud resins also contribute significant amounts of these monoterpenes to the surrounding air as do leaf, bark, and wood tissues undergoing cellular lysis and decay.

The types of terpenes emitted naturally from undamaged foliage identified to date are terpene hydrocarbons. The data suggest that 5 to 6 monoterpenes, α-pinene, camphene, β-pinene, limonene, myrcene and β-phellandrene, are characteristic chemical components of conifer (softwood trees) terpenic emissions. The dominance of these monoterpene types in the foliar emissions parallels the high percentages of the same monoterpene types in the extracted oils from the sapwood, bark, and leaves.

In Figure 1, representative gas chromatograms of the volatile monoterpenes from several types of aromatic foliage are given. All of the analyses were made on uncrushed foliage, enclosed in leaf assimilation chambers. The total concentrations range from 1–4 ppm in 2–ml air samples. From eucalyptus and spruce trees the hemiterpene isoprene is emitted in addition to the monoterpenes.

The composition of the foliar emitted terpenes is very reproducible for the individual species specimen under study and in many instances is characteristic of the species in general. Therefore, the distribution of recurring terpene types can be used to fingerprint and distinguish emission sources: pine from spruce, mixed pine-sagebrush from fir or hemlock, juniper from pine, fir-hemlock from redwood, and eucalyptus from redwood groves.

Coniferous foliages are not the only forest tree types that emit terpenoid materials freely into the atmosphere. The mature broadleaved (hardwood tree types) foliages of aspen, black locust, cottonwood, willow, oak, sweetgum, sycamore, yellowwood, paper mulberry, buckthorn, and Oregon grape emit isoprene (Rasmussen[3]) and ethylene at concentrations directly measurable by a flame ionization detector.

In the calculation of the percent contribution different forest types may make to the hydrocarbon burden of the atmosphere, some facts on tree type distribution are necessary. Hardwood forest types occupy approximately 53% of the nation's commercial forest lands, and softwood types, 47%. However, distribution of types differs sharply between the eastern and western U.S. (Figure 2).

In the west softwood types represent 93% of the forest acreage. Whereas, in the east they represent only 30%. Most of this western softwood forest is on the Pacific coast where Douglas fir and ponderosa pine predominate, (52%). Hardwood forests, on the other hand, are concentrated almost exclusively in the east. Here they exceed the area of softwood types by 2 to 1 (60 to 30%). The hardwood forests are largely (45%) oak-hickory type while the southern pine (loblolly-shortleaf pine) predominates in the eastern softwood forest acreage (50%) (Figure 2).

In the softwood (conifer) group all of the 31 major tree types in the eastern and western forests emit several monoterpene hydrocarbons from their foliage under natural conditions. The most common terpene measured is α-pinene, usually comprising 20–98% of the gaseous terpenoid foliar emission. However, β-pinene together with α-pinene were the most frequent and usually the largest peaks resolved in the analysis of the thirty-one conifer foliages studied (Table I and II).[22] The hardwoods are not noted for essential oils, therefore (no α-pinene emissions) the picture of their foliar emissions is more complex. However, isoprene has been identified to be emitted by oak, sycamore, sweetgum, willow, cottonwood, and aspen trees. Of the 20 major hardwood forests trees representing the eastern and western forest-types group, 40% emit isoprene to the atmosphere. α-Pinene, as well as isoprene, is emitted by the balsam poplar, the yellow poplar, and the sweetgum foliage, 15% of the forest group. The remaining 45% of the hardwood trees emit no terpene hydrocarbons; the volatiles emitted are unknown chemically (Tables I and II).

Six out of 19 of the forest types, in the eastern and western forest groups, are comprised of 51 tree species. These species occupy more than 50% of the commercial forest area in the U.S. As mentioned previously the softwood and hardwood types are about equal in area: 47 to 53%. However, as a result of the fixed distribution of forest types due to climatic conditions and the inroads of 300 years of forest harvesting, the western softwood area is slightly larger than the east's: 125 to 115 million acres (M.A.). Nevertheless, the eastern hardwood area exceeds the western softwood area by 2:1, 258 to 125 M.A. Therefore, the contribution by non α-pinene hardwood forests in the east is of importance because isoprene is emitted by the dominant hardwood tree types (Table III).

TABLE II.—*Emissions of major western forest trees*

Softwoods	Hardwoods
Emit a Pinene	*Emit isoprene*
Ponderosa pine	Aspen
Jeffrey pine	Buckthorn
Sugar pine	
Limber pine	Type of emission
Western white pine	Unidentified
Lodge pole pine	
Grand fir	Tanoak
White fir	Red alder
Alpine fir	
Western hemlock	
Western red cedar	
Douglas-fir	
Redwood	
Larch	
Sitka spruce—also isoprene	
Englemann spruce—also isoprene	
Colorado blue spruce—also Isoprene	

Footnotes at end of article.

TABLE III.—COMPOSITION OF U.S. FOREST-TYPE GROUPS BY FOLIAR TERPENE EMISSIONS

	Percent total U.S. forest area	Percent α pinene emitters	Percent isoprene emitters	Remarks
EASTERN TYPE GROUP				
Softwood types:				
Loblolly-shortleaf pine	11.0	∼100		Some from oak and sweetgum associates.
Longleaf-slash pine	5.0	∼100		Do.
Spruce-fir	4.0	∼75	25	From spruce, which also emits α pinene.
White-red-jack pine.	2.0	∼90	10	From aspen trees.
Subtotal	22.0	∼91	∼9	
Hardwood types:				
Oak-hickory	23.0	[1] ∼10	70	Diluted by hickory, maple and black walnut.
Oak-gum-cypress	7.0	∼50	50	From plurality of oak, cottonwood and willow.
Oak-pine	5.0	∼30	60	Diluted by black gum and hickory associates.
Maple-beech-birch.	6.0	∼15		Terpene foliages are hemlock and pine.
Aspen-birch	5.0	∼20	60	Diluted by birch, α pinene source balsam fir and balsam poplar.
Elm-ash-cottonwood.	4.0		30	From cottonwood, sycamore, willow.
Subtotal	50.0	∼21	∼45	
Total	72.0			
WESTERN TYPE GROUPS				
Softwoods:				
Douglas-fir	7.0	∼100		
Ponderosa pine	7.0	∼100	5	From aspen associates.
Lodgepole pine	3.0	∼90	10	From Engelmann spruce and aspen.
Fir-spruce	3.0	∼100	40	From spruce trees.
Hemlock-Sitka spruce.	2.0	∼100	25	From Sitka spruce.
White pine	1.0	∼100	5	From Englemann spruce.
Larch	1.0	∼100		
Redwood	.5	∼100		
Subtotal	24.0	∼98	∼12	
Hardwoods	2.0		∼100	From aspen trees.
Total	26.0			

[1] Pine.

Examined by tree species (Figure 2), the most extensive timber in the U.S. is oak-hickory (116 M.A.). The loblolly-shortleaf pine type ranks second nationally (58 M.A.); followed by oak-gum-cyprus (38 M.A.), Douglas-fir (37 M.A.), ponderosa pine (36 M.A.) and the maple-beech-birch type (33 M.A.). The stocking of forest land is complex even when simplified by describing the regions by tree-type and area. In addition to area and tree species it is important in understanding the potential emissions from forest lands, to know the stand density, age of tree (virgin forest, vs. 1st, 2nd, or 3rd cut over) and the growth capability or productivity of the forest type.

Rates of Emission. The rate at which gaseous terpenoid chemicals are emitted from undamaged plant foliage varies with the plant species, maturity of the foliage, integrity of the oil glands or resin ducts, and the leaf temperature. The emission of the hemiterpene isoprene is dependent on the additional variable of light. No isoprene is emitted from foliages in the dark. Monoterpenes, like α- and β-pinene, are emitted from foliages in the dark.

The rate of α-pinene emission was measured for white pine, ponderosa pine, loblolly pine, and white fir. The rates of emission Table IV) at a given temperature were observed to vary between 0.2 and 3.5 ppb/min/g/l of fresh tissue depending on the temperature. At 17°C very low emission rates were measured. These rates are probably the result of the following two factors: first, the low temperature has the physiological effect of maintaining transpiration and metabolism at a low rate. Second, the boiling point of α-pinene is 156° C so that a temperature of 17°C does not induce a sufficiently active vapor pressure for the distillation of α-pinene from the foliar oleoresins. At 30–32°C the foliage was actively transpiring. The loss of water from the leaf tissue through the stomates must significantly influence the distillation of α-pinene from the foliages through its entrainment in the water drawn from the substomatal chambers and the associated resin ducts. Therefore, the emission of a few ppb or less of a α-pinene in the transpirational stream is possibly the major route of terpene emission from undamaged plant foliage. Care was taken to exclude α-pinene from the evaporation of oleoresin blisters on the branchlets supporting the foliage.

TABLE IV.—RATE OF FOLIAR a-PINENE ACCUMULATION IN A CLOSED ATMOSPHERE[1]

Plant	Units	Temperature °C: 17	Temperature °C: 30 to 32
White pine	Ppb/min/gm	[2] 0.4	2.0
Ponderosa Pine	do	.3	1.2
Loblolly pine	do	.5	3.5
White fir	do	.2	1.5

[1] Conditions: Bell jar. 1 liter, light, 1,200 ft-cd.

[2] Values are means of 7 replicated measurements on same plants.

The rate of isoprene emission from the broad-leaved tree species was measured to range from 0.04 to 2.4 ppb/min/cm²/l. Table V shows the dependence of isoprene emission on light intensity for oak, sweetgum, eucalyptus, and cottonwood leaves.

Contribution of Forest-Type Emissions to Earth's Air Mass. Estimating the amount of foliage for different forest tree types in order to calculate the total amount of terpene (α-pinene and isoprene) emitted to the global atmosphere is an immense task. Nevertheless estimates using regression equations have been made of the total amount of foliage on an acre by Kittredge,[23] Blow,[24] and Cable.[25] However, the complexity of the task for assigning the correct quantity of terpene emitted by each tree type within a given forest-type necessary to calculate the subtotal of the forest-type for use in calculating the total terpene emission is too large to be presented in this paper. Rather the rate of 100 ppb/hr (1.6 ppb/minute) measured for a mix of oak-pine foliages in a one liter flask, *in situ* under field conditions is in agreement with the studies made in growth chambers and will be used to estimate the impact of forest terpene emissions to the atmosphere.

Table VI shows the rationale of the system used to estimate the contribution to the atmosphere of foliage volatiles accumulated in a closed vessel. The sample calculation includes, besides the actual 10-cm foliage canopy depth used in the measurements, a 50, 75, and 200-cm canopy depth for enlarging the vertical foliage cover over the vegetated basal area. Thus the 23.4×10^{6} metric tons/year for the earth's vegetated surface with a foliar depth of 10 cm is increased to 117×10^{6} for a 50-cm canopy, 175×10^{6} for a 75-cm canopy, and 464×10^{6} for a 2.0-meter foliage depth.

Footnotes at end of article.

Annual terpene emission estimates are also compared in Table VI for: (1) the earth's vegetated surface, (2) the total U.S. area, and (3) the commercial U.S. forest land. The emission estimate for the earth's vegetated surface is 23.4×10^{6} metric tons for a minimal vegetation foliage coverage of 10 cm.

TABLE V.—RATE OF FOLIAR ISOPRENE ACCUMULATION IN A CLOSED ATMOSPHERE[a]

[ppb/min/in²]

Plant	Light intensity (ft. cd.): 50	340	700	1200
Oak	[b] 0.04	0.40	1.7	2.4
Sweet-Gum	.02	.21	.70	1.4
Eucalyptus		.26	.83	
Cottonwood		.31	1.2	

[a] Conditions: Bell Jar. 7 liter; temperature. 28°C.

[b] Values are means of 6 replicated measurements on same plants.

TABLE VI.—ESTIMATION OF TOTAL CONTRIBUTION TO ATMOSPHERE FROM RATE OF FOLIAR TERPENE ACCUMULATION IN A CLOSED ATMOSPHERE[1]

Region	Area cm²	Metric tons (10^{6}) per Canopy Depth in cm: 10	50	75	200
Vegetated earth surface	10^{18}	23.4	117.0	175.0	464.0
Total United States area	10^{17}	2.34	11.7	17.5	46.4
Commercial United States forests	2×10^{16}	.47	2.4	3.5	9.4

[1] Conditions: Rate: 100 ppb/hour; daily output 10 hr/day; annual output 180 days/yr; Volume enclosed. 1 liter: land area enclosed, 10 cm² Calculation: Rate (% vol)×Wt of 1 liter at (convert to wt %)×daily output (hr)×annual output (days) ×veg. surface of region (cm²)/area enclosed (cm²): $100\times10^{-2}\times1.3$ gm/1×10 hr×180 days×10^{18} cm²/10 cm²; 23.4×10^{1} metric tons/yr for earth's vegetation at depth of 10 cm.

The estimate for the total U.S. land area is an order of magnitude less. The emission estimate for the commercial U.S. forest land is 20% of the total U.S. area. The emission estimates at the 10-cm, canopy depth compare favorably with Robinson and Robbins' report[7] for world-wide hydrocarbon output of reactive pollutants. Robinson and Robbins' world-wide reactive pollutant emission value of 27 $\times 10^6$ tons lies about one-third of the way between 17.5 $\times 10^6$ and 46.4 $\times 10^6$ tons terpene emission estimates for the total U.S. area at the 75 and 200 cm canopy depths, which is equivalent to the emissions from the forested area of the U.S. at a canopy depth of 120 cm.

Previously, Went[25] Rasmussen and Went,[2] and Ripperton et al.,[19] reported estimates of world-wide emissions of terpene-like compounds. Their values are summarized in Table VII. There are several interesting points in these data. (1) The wide range of estimates, from 13.5 to 432 $\times 10^6$ tons; (2) Went's original estimate of 175 $\times 10^6$ tons is the median value, and is the same as that for a canopy depth of 75 cm; and (3) Ripperton's et al., suggestion for increasing the 432 $\times 10^6$ tons estimate by 2- to 10-fold. Ripperton, et al., concluded there was a need for this increase in the annual world-wide terpene emission estimate by assuming that terpene-like materials (α-pinene as the representative type) are the major natural atmospheric organic gases that consume ozone in the troposphere and thus keep the ozone contribution from the stratosphere in balance.

TABLE VII.—WORLDWIDE TERPENE EMISSION ESTIMATES

Investigator	Year	Method	Estimate in tons
Went	[22] (1960b)	Sum of sagebrush emission and terpenes as percentage of plant tissues.	175×10^6.
Rasmussen and Went	[2] (1964)	1. Bagging foilage 1 liter/10 cm^2.	23.4×10^6 [a].
		2. Enclosure forbs 0.65 m^3/m^2.	13.5×10^6 [a].
		3. Direct in situ ambient conc.	432×10^6.
Ripperton, White, and Jeffries.	[16] (1967)	Rx Rate O_3/pinene	2 to 10× previous estimates.

[a] Not corrected for vertical foliage area over ground area.

In truth a world-wide terpene emission estimate is an extremely tenuous figure and presently only of value as a resource guideline. Terpene emissions from trees are real, but their quantitative impact in the atmosphere is unknown.

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FOOTNOTES

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[22] "Timber Trends in the United States," Forest Service U.S. Department of Agriculture, Forest Resource Report No. 17 (Feb., 1965).

[23] J. Kittredge, "Estimation of the amount of foliage of trees and stands," *J. Forestry*, 42: 905 (1944).

[24] F. E. Blow, "Quantity and hydrologic characteristics of litter under upland oak forests in eastern Tennessee," *J. Forestry*, 53: 190 (1958).

[25] D. R. Cable, "Estimating surface area of ponderosa pine foliage in central Arizona." *Forest Sci.* 4: 45 (1958).

[26] F. W. Went, "Organic matter in the atmosphere and its possible relation to petroleum formation." *Proc. N.A.S.*, 46: 212 (1960_b).

Mr. McCLURE. I was particularly concerned about the definition of "major emitting facilities," section 302(k), during the committee markup of S. 3219. This key term assures that industrial plants of significant impact are fully covered, yet also assures that smaller activities are not subject to overzealous regulation.

The jurisdictional term "major emitting facilities" is of great importance. and has been given a carefully drafted two-part definition. For most purposes of the bill, such facilities are those sources which have the potential to emit 100 tons per year of any pollutant, but recognizes that this is not always an appropriate test. As the committee report states, this is an appropriate standard for large industrial sources, and one presently used by EPA and the States.

The second part of the definition also provides the basis for a review-and-permit mechanism to guard against significant deterioration. However reasonable and necessary this process may be for very large sources, it would be unreasonable for smaller operations. A small gasoline jobber, or a heating plant at a community college, could have the potential to emit 100 tons of pollution annually. Had the committee chosen to use a broad definition for significant deterioration, many of these limited operations would be subject to unnecessary controls. As I noted in the markup sessions, regulation of steel mills and other heavy industries should not preclude a junior college from expanding its heating plant.

To protect such smaller operations from regulation, the committee has approved a restrictive list of specific industrial categories to be included in the no-significant-deterioration review. The 28 categories of industry are delineated in the bill itself, avoiding any misinterpretations of intent. The Administrator is given the discretion to add to this list but the list used in the bill clearly indicates the intention to limit the designation to the carefully restricted types listed.

Earlier proposed language introduced the list of categories with the phrase "including but not limited to" and closed with vague wording allowing the Administrator of EPA to add on to the list. Industries to be included in the permit and review process are now explicitly limited to the 28 listed categories. The Administrator is given the discretion to add such other "major emitting facilities" as he "determines to be significant potential sources of air pollutants," and only industries of the type listed shall be added.

The Administrator does need some flexibility. As new technologies and plants arise, he should have the requisite power to act. This language allows such action, and in fact mandates it. But, only when such sources would be significant major emitters. This is a vital safeguard both against new pollutors and overregulation.

Other members of the committee and myself are pleased that we have succeeded in stating precisely what is included, what is not, and what role the Administrator plays.

Mr. President, I ask unanimous consent that a memorandum by B. J. Steigerwald, of the Office of Air Quality Planning and Standards, dated May 3, 1976, be printed in the Record at this point.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

ONE HUNDRED TON POTENTIAL SOURCES

(B. J. Steigerwald, Director, Original Signed by Office of Air Quality Planning and Standards and Roger Strelow, Assistant Administrator for Air and Waste Management)

The following memo is to inform you of some potential impacts to our revolving NSR program which are likely to be incurred under the current draft amendments to the Clean Air Act.

The Congress in both Houses is now considering bills that require the review of all stationary sources that would locate in a non-attainment area[1] with an annual emission potential of at least 100 tons for any criteria pollutant. Congress has attached the label of "major source" or "major emitting facility" to such sources. However, a point source which has this potential is in many cases quite small. For example, a municipal incinerator for a community of 7000 people, an oil-fired heating system for a 3000-student high school, a typical beer processing plant, or most average sized commercial and industrial boilers (not fired by gas) all have a pollution potential greater than 100 tons per year. Fortunately, most truly small boilers and typical space heating operations would not be covered. Tables 1 and 2 identify several source types for which the average sized facility has at least 100 ton potential. (These tables have already been provided to Barbara Brown of OTLUP for use in her discussions with Congressional staff per her request.)

Many of the small sources that are currently excluded from State NSR and even some that are listed in our proposed Appendix Q[2] would also be covered under the current Congressional definition. For example, Appendix Q and many State regulations typically exempt gas fuel burning units of less than 250 million BTU's per hour heat input which have the potential to emit 240 tons per year of NO_x. (As you know, the review of NO_x sources has not been heretofore stressed by this Agency.) Table 3 lists several examples of sources exempted by State NSR regulations which can potentially emit more than 100 tons per year.

As a result, the implementation of our NSR policy for non-attainment areas under the 100 ton potential rule is likely to cause large new demands for detailed preconstruction reviews. Many smaller sources typically included as part of the area source growth allowed for in the SIP's would now be forced to experience a thorough air quality analysis. In addition, these smaller sources would often be required to undergo a mass-emission tradeoff analysis which in turn would necessitate an accompanying SIP revision. Table 1 was used to estimate that nearly 3000 sources of particulate matter alone per year could exceed 100 tons in potential. Of course, the actual number of reviews and subsequent resource demands will depend on the number of sources attempting location, expansion, or modification in non-attainment areas.

I support the concept that most if not all 100 ton potential sources should be reviewed to insure the installation of necessary controls to meet applicable emission limitations. However, a full NSR (i.e., both an air quality modeling and emission limitation analysis with requirements for mass emission tradeoffs as needed) should not be required of *all* 100 ton potential sources if our goal of performing a manageable number of NSR's is to be realized. We recognize that any "major source" criteria to require a detailed and complete NSR must be necessarily more complex than a simple 100 ton potential cut size. That is, the actual need for air quality and mass emission tradeoff analyses depends on many other source and site specific variables. Existing air quality, actual source emissions, terrain, meteorological conditions and effective stack height can all affect the need to review prospective new sources in detail.

Because the Congress may be unaware of the number and type of sources that have a 100 ton potential, I suggest that we pass this information on to them through the Office of Legislation. It should be noted, however, that a good alternative to the Congressional approach is not now available, except that they authorize us to determine what constitutes a "major source."

For your information, OAQPS is in the process of establishing criteria to determine which sources should undergo a complete NSR review and not solely an emission limitation analysis. The guidance is likely to identify those sources of greater than 100 ton potential that must always face a full NSR and outline procedures for determining on a case-by-case basis which of the remaining 100 ton potential sources must face a more detailed analysis.

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[1] The bill before the House goes even further in its use of the 100 ton potential rule. All 100 ton potential sources are covered under their PSD program and in their plan to accelerate development of additional NSPS over the next 4 years.

[2] The proposed Appendix Q to 40 CFR Part 51 lists minor sources which States may simply exclude from the NSR without a specific demonstration that the sources have a negligible air quality impact.

SUMMARY OF TYPICAL SOURCE EMISSIONS[1]

Source category	Average plant size	New plants per year	Potential emissions (tons per year)	Pollutant	BACT emissions from typical plant
Phosphate rock processing	1,200 TPD	4	50, 370	PM	1, 010
Fuel conversion (coal gasification)	250 MCFD	2	90, 228	SO_2	3, 650
Lime plants	450 TPD	6	16, 671	PM	17
Sulfur recovery plant	140 TPD	8	10, 219	SO_2	51
Carbon black plant (furnace process).	120 TPD	4	98, 550	CO	99
Kraft pulp mill	800 TPD	5	29, 302	SO_2	714
Primary copper smelter	1,000 TPD	2	237, 250	SO_2	1, 186
Municipal incinerator	300 TPD	25	902	PM	75
Petroleum refinery	150,000 BPD	3	788, 400	HC	65, 700
By-product coke oven	180 TPH	2	12, 614	SO_2	2, 234
Portland cement plant	100 TPH	7	32, 850	PM	175
Primary zinc smelter	560 TPD	1	112, 420	SO_2	1, 686
Iron and steel mill	200 TPH	14	126, 144	PM	1, 756
Coal cleaning plants	465 TPH (dryer)	3	40, 326	PM	202
Fossil-fuel steam electric units	600 MW	40	183, 960	SO_2	18, 396
Primary lead smelter	293 TPD	1	35, 292	SO_2	706
Sulfuric acid plant	750 TPD	20	7, 528	SO_2	41
Primary aluminum	500 TPD	5	8, 395	PM	164
Ferroalloy production	7 T/H	1	13, 823	PM	138
Sludge incinerator	0.5 TPH	76	263	PM	4
Refuse-fuel boiler	17.3 TPH	17	27, 733	PM	277
Rubber (styrene butad.)	8,650 TPH	7	3	PM	<1
Starch	7.5 TPH	4	263	PM	<1
Deep fat frying	359 #/H	134	9	PM	<1
Animal feed deflour	5.7 TPH	1	15, 604	PM	2
Beer processing	3,900 gal/hr	41	93	PM	5
Grain handling:					
Processing	2 TPH	726	53	PM	<1
Drying	58 TPH	50	152	PM	2
Cleaning	6.3 TPH	231	166	PM	2
Handling	15 TPH	97	1, 319	PM	2
Whiskey manufacturing	5,900,000 gal/yr	20	129	PM	6
Glass manufacturing (soda/lime)	8.5 TPH	28	74	PM	1
Steel foundaries	130 TPD	62	247	PM	3
Lead acid battery	5,000 BAT/D	5	119	PM	1
Glass manufacturing (Opal)	65 TPD	1	27	PM	<1
Paint manufacturing	1.9 10^6 gal/yr	50	----------	PM	<1
Detergent	17.5 TP I	1	6, 899	PM	35
Charcoal	5.9 TPD	37	379	PM	4
Vegetable oil	4.1 TPD	10	1, 131	PM	11
Fiberglass:					
Textile	4.7 TPH	3	1, 729	PM	30
Wool	4.7 TPH	3	1, 976	PM	178
Frit	0.5 TPH	13	39	PM	<1
Flyash sintering	200 TPH	1	96, 360	PM	96
Stone quarrying	100 TPH	116	6, 789	PM	68
Clay sintering	420 TPD	1	1, 993	PM	2
Secondary brass and bronze	25 TPD	2	307	PM	1
Concrete batching	65,320 TPY	337	3	PM	<1
Ammonium sulfate	17.3 TPH	15	1, 495	PM	75
Nitrate fertilizers	15.5 TPH	11	864	PM	17
Feed milling	5.2 TPH	33	456	PM	2
Smoked meat	2.3 TPH	10	3	PM	1
Bagasse burning	51.4 TPH	1	4, 953	PM	495
Cast iron foundry (elec. furn.)	8 TPH	19	156	PM	2
Second. copper:					
Smelting	3.2 TPH	5	1, 186	PM	20
Matl. han	3.2 TPH	2	2, 971	PM	12
Autobody inctr	3.4 TPH	3	30	PM	8
Pathological inctr	680 #/H	3	19	PM	3
Soap manufacturing	2.3 TPH	1	131	PM	<1
Polypropylene	7.1 TPH	8	93	PM	1
PVC plants	7.1 TPH	5	1, 088	PM	11
Boilers:					
10–250×10^6 Btu/hr	10^7 Btu/hr	1, 446	876	PM	53
0.3–10×10^6 Btu/hr	1.3×10^6 Btu/hr	11, 215	6	PM	2
Ceramic clay	4 TPH	30	3, 075	PM	31
Brick and clay—Related products	4 TPH	61	2, 286	PM	23
Gypsum	22.5 TPH	3	12, 978	PM	30
Perlite	0.7 TPH	6	64	PM	3
Castable refractories	0.5 TPH		556	PM	10
Mineral wool	2.2 TPH	22	312	PM	35
Sand and gravel	19.4 TPH	336	8. 5	PM	<1
Asphalt roofing:					
Blowing	50 TPH	1	920	PM	9
Saturator	50 TPH	1	1, 599	PM	20
Asphalt batch	150 TPH	139	6, 750	PM	20
Second. lead	50 TPD	2	2, 464	PM	9
Second. zinc:					
Distillation	4.6 TPH	1	927	PM	34
Sweating	2.8 TPH	1	295	PM	11
Second. magnesium smelting	148 #/H	1	2	PM	<1
Second. aluminum:					
Sweating	0.5 TPH	5	72	PM	4
Reverb	1.5 TPH	9	1, 281	PM	9
Plywood/veneer	41 10^6 ft ^{2}/yr	43	2, 706	PM	26
Pulpboard	500 #/H	80	1	PM	<1
Cotton ginning	13 bales/hr	5	683	PM	27

[1] This table was constructed only to give some insight into the types and numbers of new sources that can exceed 100 tons in yearly potential. Year round source operation at full capacity was ssumed in computing the annual emission potential of each source.

Reference: Impact of New Source Performance Standards on 1985 National Emissions from Stationary Sources—vol. I, TRC—the Research Opearion of New England, October 1975.

TABLE 2.—FUEL BURNING EQUIPMENT

Size of unit (10^6 Btu/Hr), type, and fuel [A]	Average [B]		Potential emissions (tons per year)					Bact emissions [D] (tons per year)		
	Percent 5	Size (10^6 Btu per hour)	PM	SO_x	NO_x	CO	HC	PM	SO_x	NO_x
1 to 10, commercial/institution:										
Coal	1.5	5.0	14	57	6	10	3	3	15	6
Gas		2.0	<1	<1	1	<1	<1	<1	<1	1
Oil	1.0	3.0	1	12	4	<1	<1	<1	12	4
10 to 100, commercial/institution:										
Coal	1.5	40.0	728	457	120	16	8	15	65	40
Gas		24.0	2	<1	20	1	1	2	<1	20
Oil	1.0	36.0	23	157	69	6	3	5	157	69
10 to 100, industrial:										
Coal	1.5	45.0	819	513	135	18	9	16	72	45
Gas		34.0	3	<1	28	2	1	1	<1	28
Oil	1.0	23.0	15	101	45	2	2	3	101	45
Over 100, commercial/institution:										
Coal	1.5	190.0	4,237	2,156	681	37	11	43	134	486
Gas		378.0	24	1	960	27	2	5	1	681
Oil	1.0	241.0	56	1,104	696	20	13	10	148	202
Over 100, industrial:										
Coal	1.5	339.0	7,560	3,847	1,215	66	20	76	231	865
Gas		264.0	17	1	672	19	1	3	1	477
Oil	1.0	245.0	57	1,123	710	20	14	10	150	504
1,000 to 10,000, electric utility boiler:										
Coal	2.3	5,320.0	118,626	92,571	19,065	1,059	318	1,192	5,579	13,571
Oil	.7	5,320.0	124	17,000	1,636	47	31	1	1,020	1,162
3,000 MW, powerplant: Coal	2.3	[1] 4–750.0	668,945	522,016	107,499	5,973	1,792	6,723	31,463	76,542
0.1, residential space heating: Coal	1.0	.1	.12	.23	.02	.54	.12			
0.1, International Falls, Minn.: Oil	.5	.1	.01	.07	.01	.005	.003			

[1] MW units.

ASSUMPTIONS

A—1.5% sulfur and 1.0% sulfur were the respective median values used for small to medium-sized coal-fired and oil-fired boilers. (Distributions of Industrial and Commercial—Institutional External Combustion Boilers, Research Triangle Institute, February 1975). The actual values ranged greatly with 0.1% by number exceeding 5.0% sulfur by weight. 2.3% sulfur and 0.7% sulfur were used for the larger boilers (larger than 100 x 10^6 BTU/hr) and reflect the average values used in power plants for 1974. 11,000 BTU/lb, 150,000 BTU/gal, and 140,000 BTU/gal were the heating values assumed for the coal, residual oil and distillate oil combusted and are in accordance with the typical values cited in AP-42 Compilation of Air Pollution Emission Factors (second edition, April 1975). Bituminous coal with 7% ash was assumed for all cases involving coal-fired boilers. Residual oil combustion was assumed for all oil-fired units greater than 10 x 10^6 BTU/hr heat input.

B—Average sizes for all boilers except for units over 1000 x 10^6 BTU/hr were computed from 1975 GCA report (Volume II Preliminary Environmental Assessment of Conventional Stationary Combustion Systems, GCA Corporation, September 1975). Herein existing average size was assumed to represent the future average-sized unit. The average unit size for boilers ranging from 1000 to 10,000 BTU/hr was computed from FPC projections for future coal-fired power plants (April 1, 1974).

C—Year round operation (8760 hrs/yr except for space heating example) and AP-42 emission factors were assumed in computing potential emissions. Spreader stoker firing was used for all coal-fired units under 100 x 10^6 BTU/hr.

D—BACT emissions were generally calculated using emission factors from 1975 TRC report (Impact of New Source Performance Standards on 1985 National Emissions from Stationary Sources—Volume I. TRC—The Research Corporation of New England. October 1975).

(Size 10^6 Btu/hr) and fuel	Percent control efficiency per pollutant under BACT		
	PM	SO_2	NO_x
1 to 10: Coal	81	73	0
1 to 10: Oil, gas	81	0	0
10 to 100: Coal	98	86	67
10 to 100: Oil, gas	98	0	0
Greater than 100: All fuels	99	94	29

TABLE 3.[1]—SOURCES EXEMPT FROM STATE NSR LIKELY TO BE POTENTIALLY LARGER THAN 100 TONS PER YEAR [2]

State and exempted source	Pollutant	Potential emissions (tons/year)
California: [3]		
Sources which emit ≤ 150 #/hr or 1,500 #/D.	CO	≤ 274
Sources which emit ≤ 15 #/hr or 150 #/D.	Other	[4] ≤ 137
Connecticut: Manufacturing operations which emit ≤ 30 #/h.	All	[5] ≤ 235
Delaware:		
Operations (except for 13 source types) ≤ 25 T/Y which emit.	All	[4] ≤ 125
Gas fired units $\leq 250 \times 10^6$ Btu/hr.	NO_x	≤ 240
Illinois: Stationary engines $\gtrsim 1{,}500$ hp.	NO_x	
Indiana:		
Fuel-burning equipment $\leq 250 \times 10^6$ Btu/hr.	NO_x	≤ 240
Sources ≤ 250 #/D	EO	[6] ≤ 188
Iowa: Fuel-burning units $\leq 250 \times 10^6$ Btu/hr.	NO_x	≤ 240
Kentucky: Fuel-burning units $\leq 250 \times 10^6$ Btu/hr.	NO_x	≤ 240
Maryland:		
Incinerators $\leq 250 \times 10^6$ Btu/hr.	CO	≤ 450
Rock crushers ≤ 5 TPH	PM	≤ 285
Nebraska: All point source causing ≤ 100 tons/yr.	All	[7] > 100
New Mexico: Gas fired fuel-burning units $\leq 250 \times 10^6$ Btu/hr.	NO_x	≤ 240
North Carolina: Gas fired units $\leq 250 \times 10^6$ Btu/hr.	NO_x	≤ 250
Rhode Island: Incinerators $\leq 2{,}000$ #/hr.	CO	≤ 450
Wisconsin: Fuel-burning units $\leq 250 \times 10^6$ Btu/hr.	NO_x	≤ 240

[1] Reference: Environmental Reporter.
[2] This list is not meant to be all inclusive.
[3] Proposed by ARB.
[4] Assuming 80 percent control.
[5] Assuming 80 percent controls, 10-hr day, 6-day week.
[6] Assuming 80 percent controls/300 days operation.
[7] Actual emissions depend on number of controls.

Mr. BARTLETT. Mr. President, today the Senate is now considering the Clean Air Act Amendments of 1976. I would like to take this opportunity to speak to the nondegradation of air quality provisions of the bill. It is my belief that the amendments relating to nondegradation would seriously affect future economic growth, employment, domestic energy supplies, and capital availability for productive investments without providing significant benefits in air quality for the protection of the public health and welfare.

The National Ambient Air Quality Standards—NAAQS—were established to protect the public health and welfare. The proposed amendments would override the NAAQS and limit the allowable ambient air concentrations in most "clean" areas to levels well below the NAAQS and only to a small fraction of the NAAQS in some areas. I see these provisions as representing a "no growth, no win policy" for our rural areas.

Nondegradation areas are those areas where air quality meets national secondary standards for either sulfur dioxide (SO_2) or particulates or both. Virtually the entire State of Oklahoma will fall in the nondegradation area category if section 6 of this bill is allowed to become law. This circumstance will certainly play havoc with Oklahoma's industrial development program. For this reason and the reasons stated above, I cosponsored the Moss amendment to delete these provisions from the bill and instead study the matter for a better solution than is proposed in S. 3219.

I am now of the belief that a step further needs to be taken if my State, and many other States, are to be able to make any significant progress in its industry-developing program. In view of this belief, I have also cosponsored the Scott amendment, which in addition to deleting section 6 of the clean air bill and calling for a study, also provides for the suspension of the present regulations under which EPA is operating as a result of the Supreme Court decision in Sierra Club against Ruckelshaus. I believe this is a more logical way to handle this most important, and far-reaching matter.

Because the impacts of the proposed nondegradation regulations are very complicated, and also very significant, in-depth definitive studies, which have not been made on many of the impacts, should be carefully made. However, preliminary studies on some of the effects this legislation would have on future energy supplies are as follows:

First. A sulfuric acid plant meeting EPA's new source performance standards to produce acid for the acid-leaching in a large uranium mill and with a stack height of less than 200 feet could not be located in an EPA class II area based on SO_2 emissions. This plant would also have to be located over 20 miles from a class I area. These studies did not consider other sulfur oxides from this mill, did not consider other pollutants and did assume the maximum class II area increment was available for the acid plant emissions.

Second. The proposed legislation and the ultimate regulations would seriously affect the timing and economics of development of coal deposits between now and the early 1980's and in addition the development of nuclear, oil shale, and coal conversion projects as domestic energy supplies. The impact would seriously impede our goal to develop the Nation's future energy supplies.

Third. Future supplies of gas and oil could be affected as the nondegradation regulations are extended to hydrocarbons, nitrogen oxides, carbon monoxide, and other pollutants that EPA decides are to be included as provided in the proposed legislation. Meeting these more restrictive hydrocarbons and other standards could increase the cost of gas and oil. Such standards might also restrict oil and gas production in some areas and present siting problems for new refineries and plants as well as expansions.

Many of the areas that would be designated as class I are in the western States. Many of these same areas have the energy reserves that will have to be developed for future domestic energy supplies. The nondegradation proposals would prevent development of many alternate fuel sources to the level we need to provide greater energy independence.

The National Ambient Air Quality Standards are more than adequate for the protection of public health and welfare and more restrictive standards such as the nondegradation plan in the Clean Air Act Amendments being considered are unnecessary and unjustified on environmental considerations. Such a plan could have serious detrimental impact on our Nation's growth, on employment opportunities, and on domestic energy supplies.

These consequences would certainly apply to Oklahoma. Activities in Oklahoma that could be seriously affected by these amendments are metal smelters, utilization and mining of coal, new gasoline plants and refineries, and agriculture activities that produce particulate emissions.

School buildings, shopping malls, and similar-sized facilities with heating plants of 250 million Btu's would be subject to control under the proposed act. I feel it is unconscionable for Congress even to be considering such provisions until the full consequences are measured and evaluated.

To construct new homes, schools, business, and so forth, a State would have to assure that the air quality impact of growth associated with the new facility would not adversely affect the EPA standards. Existing facilities would be subject to increasing penalties. One can imagine that a number of marginal industries, operating in rural areas, would shut down.

A rural area that wants to build a vocational-technical school, surely does so with the hope of attracting industry with the new reservoir of skilled workers that the school will produce. This kind of initiative on the part of a State would most certainly be curtailed if the proposed Clean Air Act amendments are enacted.

As a former Governor of the State of Oklahoma, I can personally testify that one of the goals of Oklahoma is a higher quality of economic growth for its people while still respecting the environment. Oklahomans very much want to achieve both, but not one—either one—at the expense of the other. However, while this legislation is couched in rhetoric regarding the "quality of life," it ignores the fact that a decent and satisfactory life involves more than "pristine air".

(The following proceedings occurred during consideration of the Tax Reform Act and are printed at this point by unanimous consent.)

UNANIMOUS-CONSENT AGREEMENT—S. 3219

Mr. MANSFIELD. Mr. President, I am now about to propound the following unanimous-consent request covering the Clean Air Act, which was the pending business this morning and has been for the past four mornings:

Ordered, That commencing not later than 8:30 a.m. on Tuesday next, during the further consideration of S. 3219, on every amendment or motion, except a Gary Hart and a Packwood amendment upon which 2 hours will be provided, and a William L. Scott amendment upon which 1½ hours will be provided with 1 hour to Senator William L. Scott and one-half hour to the opponents thereof, the time shall be limited to 1 hour to be equally divided and controlled in the usual manner; and provided further

That immediately upon the further consideration of S. 3219 on Tuesday next, the amendments of the Senator from Utah (Mr. Moss) shall be considered en bloc and made the pending amendments to the bill; that the vote on the Moss amendments en bloc shall occur no later than 1:30 p.m. on Tuesday next

Provided further, That at any time during the consideration of the Moss amendment, a William L. Scott amendment may be offered; and debate allocated to the proponents of the William L. Scott amendment to the Moss amendment shall be limited to 2 hours; and

Provided further, That the Senator from Maine (Mr. Muskie) shall be allocated 1 hour in opposition to either of those amendments; and

Provided further, That the vote on final passage of S. 3219 shall occur no later than 1:45 p.m. on Thursday next;

Provided, however, That S. 3219 shall have been pending before the Senate for a period of 15 hours commencing with its consideration on Tuesday next, including the consideration of the above-described amendments and amendments of Senators Gravel, Randolph, Gary Hart, Hatfield, Nelson, Stevens, and Morgan; and

Provided further, That the Senator from Alabama (Mr. Allen) will be reserved 2 hours included within the 15 hours for the purpose of offering his amendments and motions.

The PRESIDING OFFICER. Is there objection.

Mr. MUSKIE. Mr. President, reserving the right to object, and I shall not object, with respect to the Scott and Moss amendments, the manager of the bill is limited to less time than the proponents, which is something that I have agreed to; but I want it clearly understood that with respect to all other amendments the time is to be equally divided, with the manager of the bill having half the time.

Mr. MANSFIELD. The Senator is correct.

Mr. PACKWOOD. Mr. President, reserving the right to object, regarding the 15 hours, does that include the Moss amendment and any amendments to the Moss amendment?

Mr. MANSFIELD. Yes.

Mr. PACKWOOD. It looks as though we have more remaining amendments than we have remaining time.

Mr. MANSFIELD. No; as a matter of fact we have more time than amendments; and if we have to, we will come in at 8 o'clock, and we will probably have to on one or two of those mornings. But within those 18 hours, the Senator's time will be fully protected.

Mr. PERCY. Mr. President, reserving the right to object, and I shall not, as I understand, on Tuesday the first vote will not occur before 10 o'clock at the earliest?

Mr. MANSFIELD. Oh, probably later.

Mr. MOSS. Probably later.

Mr. President, reserving the right to object, and I shall not object, I want to say I appreciate the efforts of the majority leader, and especially the efforts of the Senator from West Virginia (Mr. Randolph), chairman of the Committee on Public Works, in working this out. It was a difficult parliamentary situation. I appreciate what has been done, and I think I can live with the proposal.

Mr. KENNEDY. Mr. President, reserving the right to object, and I shall not object, would the majority leader indicate his plans with regard to the tax bill as well?

Mr. MANSFIELD. Yes.

Mr. KENNEDY. I do not want to complicate this, but I would like to have some idea.

Mr. MANSFIELD. It would be the intention—and this meets with the approval of the distinguished chairman of the committee—to spend all day tomorrow on the tax bill. Then I would like to call up, on Monday, the defense appropriation bill.

On Tuesday, the division of time starts to go back, on that day, to the 2 o'clock time for the beginning of debate on the tax bill, and I would like to, with the Senator's approval, on next Friday set aside the whole day again for consideration of the tax bill, which should be finished that afternoon.

Mr. KENNEDY. Just on this point, I think it would be useful tomorrow, for debate on the tax bill, to get into title VIII. If we are not going to get into title VIII, there may be other amendments other Senators have, but I think the Senate may be spinning its wheels, if we do not get into title VIII.

Mr. MANSFIELD. Will the Senator let us get this cleared up, and not get it too much mixed up with the tax bill? We had a hard time getting this worked out.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, I would like to state to the distinguished majority leader that for 2 days I have been discussing an amendment I had planned to offer to the Randolph amendment, which is amendment No. 2101. I would like to have an opportunity to offer that amendment prior to the time of drawing down the Randolph amendment, so that my amendment will appear in the RECORD. Could that be arranged?

Mr. MANSFIELD. It is my understanding that the Randolph amendment will follow the disposal of the Moss amendment.

Mr. ALLEN. Well, I would like to have it, though, since I have been stating I was going to present it, I would like to have that opportunity prior to the time of it being—it is the pending business now, and has not been withdrawn. I would like to have an opportunity of offering my amendment.

Mr. MANSFIELD. Would the Senator consider doing it after the Randolph amendment? Because we have made a quasi-commitment that it would follow the Moss amendment.

Mr. ALLEN. I wonder if we could not just get it in now.

Mr. MANSFIELD. Oh, yes.

Mr. ALLEN. May I ask unanimous consent that that amendment be called up and offered to the Clean Air Act?

Mr. MANSFIELD. Yes, but it would would not be called up until after we got through with SCOTT and Moss.

Mr. ALLEN. No, I want to call it up at this time, or prior to it being withdrawn, because I have stated here on the floor that it was my intention to offer that amendment.

Mr. MANSFIELD. But not today.

Mr. ALLEN. Well, I would like to have it offered before the RANDOLPH—I am not going to say a word on it, but I would like to have it offered to appear in the RECORD, because I have been discussing this amendment for hours, and it has not yet been offered. I would like an opportunity of offering it.

Mr. MANSFIELD. Well, all right.

Mr. BUMPERS. Mr. President, reserving the right to object, and I shall not, could I have the manager tell us when we will get to title VIII?

Mr. LONG. Not at the moment.

The PRESIDING OFFICER. Does the Senator from Montana also include in the request that the provisions of rule XII be waived?

Mr. MANSFIELD. Rule XII, yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That on Tuesday, August 3, 1976, at not later than 8:30 a.m., the Senate resume consideration of S. 3219 (Order No. 685), a bill to amend the Clean Air Act, as amended, and that debate on any amendment (except an amendment by the Senator from Colorado (Mr. HART) and an amendment by the Senator from Oregon (Mr. PACKWOOD), on each of which there shall be 2 hours, and an amendment by the Senator from Virginia (Mr. SCOTT), on which there shall be 1½ hours, to be divided with 1 hour to the mover of such and ½ hour to the manager of the bill), debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That immediately upon resuming consideration of S. 3219 on Tuesday, August 3, 1976, the amendments by the Senator from Utah (Mr. MOSS) shall be the pending question and shall be considered en bloc, with the vote thereon to occur not later than 1:30 p.m. on Tuesday, August 3, 1976: Provided, That at any time during consideration of the Moss amendment, the Senator from Virginia (Mr. SCOTT) may offer an amendment to the Moss amendment, with debate thereon by the proponents to be limited to 2 hours: Provided further, That the Senator from Maine (Mr. MUSKIE) shall have a total of 1 hour in opposition to the two amendments to be offered by the Senator from Utah (Mr. MOSS) and the Senator from Virginia (Mr. SCOTT).

Ordered further, That the vote on final passage of S. 3219 occur no later than 1:45 p.m. on Thursday, August 5, 1976: Provided, That S. 3219 shall have been the pending business of the Senate for at least 15 hours commencing with its consideration on Tuesday, August 3, 1976, including the consideration of the above mentioned amendments and amendments to be offered by the Senator from Alaska (Mr. GRAVEL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Colorado (Mr. HART), the Senator from Oregon (Mr. HATFIELD), the Senator from Wisconsin (Mr. NELSON), the Senator from North Carolina (Mr. MORGAN), and the Senator from Alaska (Mr. STEVENS): Provided further, That the Senator from Alabama (Mr. ALLEN) will be reserved 2 hours included within the 15 hours for the purpose of offering amendments and motions.

AMENDMENT NO. 2101

Mr. ALLEN (for himself and Mr. STONE) proposes an amendment to the amendment numbered 1798 as follows:

On page 2, line 11, strike the period and insert a semi-colon and add the following: "none of which provisions shall be implemented or enforced until a period of one year shall have elapsed from the date on which the Commission submits the report required of it on the results of its study and investigation, and none of the provisions of subsection (g) of section 110 of the Act in contravention of the recommendations of said Commission as contained in said report shall be enforced or implemented.".

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, tomorrow all day we will spend on the tax bill exclusively.

Now, could I raise the question two of my colleagues have raised?

Mr. LONG. Will the Senator yield?

Mr. MANSFIELD. How late are we going to work tomorrow?

Mr. LONG. I would be glad to talk to the Senator about how many amendments we want to dispose of.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. LONG. Could I suggest, first, that if someone wants to make a speech and they need not have a big audience here to hear it, it is all right with me to come in as early as 7 o'clock for him to make his speech, with the understanding that we do not start voting until about 9 o'clock, so that those who might want to get a speech off their chests can get that done if they want to.

Mr. MANSFIELD. We have no requests for speeches. We will come in at 9, and hopefully get to the tax bill about 9:10.

Mr. KENNEDY. Mr. President, would the Senator agree that we get started on title VIII tomorrow? There are a number of other items I think we could do, which would be fine as far as I am concerned, if that is agreeable. I think unless we get into title VIII, we are not going to be doing much tomorrow.

Mr. LONG. Well, we will have to vote on title VIII, and, as the Senator is aware, I think we have an agreement between myself, Senator HUMPHREY, and Senator NELSON that we will take up the employee stock ownership proposal on Wednesday, when we will probably have everyone here who is interested in that.

Mr. KENNEDY. Could we put that aside and do the other sections of title VIII tomorrow?

Mr. LONG. That is all right with me.

Mr. KENNEDY. That would be fine.

Mr. MANSFIELD. Mr. President, I had indicated to some of my colleagues that we would take up the defense appropriation bill tomorrow, but, as already stated, we will spend tomorrow exclusively on the pending business, the tax reform bill.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. ON MONDAY

Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until the hour of 9 o'clock on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF PERIOD FOR ROUTINE MORNING BUSINESS ON MONDAY

Mr. MANSFIELD. And that after the two leaders have been recognized and special orders attended to, there be a period of 10 minutes for the conduct of routine morning business, with a time limitation on speeches of 3 minutes each attached thereto.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, will the Senator yield on that?

Mr. MANSFIELD. Yes.

Mr. GOLDWATER. I did not get the Senator's last statement.

Mr. MANSFIELD. Brief morning business. And that following the completion of morning business, the Senate then turn to the consideration of Calendar No. 983, H.R. 14262, the defense appropriation bill.

Mr. GOLDWATER. Mr. President, reserving the right to object, and I shall not object, for the information of my colleagues, and I speak as only one member of the Armed Services Committee, the only controversial matter on the defense appropriations bill that I know of is the B-1.

I know of no legislation that will be introduced to attack the B-1 on the floor. The only thing of which I know that might be controversial will be an amendment that will be offered by Senator Proxmire relative to helicopter training.

Mr. MANSFIELD. I thank the Senator. That I think is good news. It indicates it might be possible to finish the defense appropriation bill in 1 day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. That is about it as I see it at this time.

I thank the chairman of the committee and the Senator from Connecticut.

(This concludes the proceedings that occurred later in the day and are printed at this point by unanimous consent.)

TAX REFORM ACT OF 1976

The PRESIDING OFFICER (Mr. Culver). Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

The Senate resumed consideration of the bill.

Mr. MANSFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized to bring up an amendment.

AMENDMENT NO. 2087

Mr. PERCY. Mr. President, the pending business, in accordance with the unanimous consent obtained yesterday by Senator Long, is amendment No. 2087, dealing with the use of social security numbers.

I offer this amendment on behalf of myself, Senators Goldwater, Muskie, Ribicoff, and Mathias. The amendment changes section 1210.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois (Mr. Percy), for himself, Mr. Goldwater, Mr. Muskie, Mr. Ribicoff, and Mr. Mathias proposes amendment No. 2087.

The amendment is as follows:

On page 789, line 7, strike out "law or program" and insert in lieu thereof "tax law".

On page 789, line 10, strike out "or program".

On page 789, line 14, strike out "or program".

On page 790, line 9, after "individual" insert "for purposes of this title".

Mr. PERCY. Our amendment changes section 1211 to limit the authorization of State and local authorities in the use of the social security number to allow it for tax administration purposes only. The section, as presently written, states that the social security number may be used for the administration of any law or program and is not limited to tax purposes.

In passing the Privacy Act of 1974, the Congress enacted a limitation on new uses of the social security number as an identification device. Section 7 of the act states that it is unlawful for a Federal, State, or local governmental unit to deny any right, benefit, or privilege provided by law to an individual, because of an individual's refusal to disclose his social security number. It does not apply to those uses of the social security number which were in existence by statute or regulation before January 1, 1975, or to disclosures required by Federal law.

This limitation was an outgrowth of concern that the social security number was increasingly becoming a standard universal identifier of individuals at all levels of government. Section 1211 of H.R. 10612 as currently included would lift the limitation on new uses of the social security number thereby allowing it to once again progress toward being a universal identifier.

The Finance Committee in its report on H.R. 10612 gave reasons for changing present law regarding social security numbers stating that—

> State and local governments consider the use of Social Security Numbers to be needed as a means of positively identifying taxpayers and as a means of comparing information on State income tax returns with Federal tax returns. The adoption of separate State systems of identifying numbers would be costly, duplicative and confusing to taxpayers.

The amendment to S. 1211 will fulfill the committee's stated purpose by authorizing State and local tax authorities to use social security numbers in administering general revenue measures. This amendment clearly confines the authorization to those purposes which were outlined in the Finance Committee report and still preserves the intent of the Privacy Act with respect to the unlimited expansion of the use of the social security number. There has been no demonstration that any further uses of the social security number are necessary or justified.

Mr. President, on July 23, 1976, a letter was addressed to Chairman Russell Long by Quincy Rodgers, Executive Director of the Domestic Council Committee on the Right to Privacy. This letter stated, and I would like to read it:

> Washington, D.C.,
> *July 23, 1976.*
>
> Hon. Russell B. Long,
> *Chairman, Committee on Finance U.S. Senate, Washington, D.C.*
>
> Dear Senator Long: We are advised that your Committee will resume hearings beginning July 20, on H.R. 16012, the Tax Reform Act. We would like to bring to your attention our concern regarding Section 1211 of the Act. This section permits state and local governmental agencies to require individuals to disclose their social security numbers for the purpose of establishing the identification of individuals affected by any law or program within their jurisdiction. Section 1211 is not limited to social security number (SSN) use in tax administration programs but applies to any program properly within state jurisdiction. We are concerned that although the thrust of the Senate Report is for use of the SSN for tax purposes, the text of Section 1211 may have gone beyond the intent of the Senate Report.
>
> In its current form, H.R. 10612, would repeal that part of Section 7 of the Privacy Act (5 USC 552a, PL 93-579) that prohibits State and local government agencies from requiring individuals to disclose their social security number except pursuant to explicit Congressional directive or when required in connection with the operation of a program in existence before January 1, 1975, provided that such disclosure was required under a statute or regulation adopted before January 1, 1975. In effect, Section 7 establishes a moratorium on use of social security numbers in any new state or local government record-keeping system.
>
> Social security number use is a visible and vexing privacy issue. Four out of five Americans, including almost all working age adults, now have a social security number. During the last 15 years the SSN has been used to identify records on taxpayers, purchasers of various government bonds, civil service annuitants, persons admitted to VA hospitals, military personnel, persons opening checking accounts, as a tool for coordinating Federally assisted welfare and social insurance programs and to identify persons listed in the National Drivers Register, among other things. The private sector is not far behind. Some universities use the number as their student identifier; some employers use it as their employee identifier; certain hospitals use it as a patient identifier; numerous department stores use it as a charge customer identifier; and the list is endless.
>
> In 1972 Congress took a final step to insure that all members of the public will eventually have a social security number. PL 92-603, among other things, requires the Secretary of HEW to assign numbers to citizens, including "children of school age at the time of their first enrollment in school."
>
> The spreading use of the SSN has not been without its critics. According to some privacy and consumer complaint groups, social security number use is the most frequently heard complaint in the privacy area. Rightly or wrongly, many Americans perceive SSN use as a threat to their privacy and a force that could change the character of our society. The SSN's symbolic importance has an impact on the public's trust in government.
>
> Congress adopted the moratorium approach after it was clear that more study and debate was necessary before any agreement could be reached concerning a definitive social security number policy. As a part of this policy making process Section 5 (c) (1) (C) of the Privacy Act authorizes the Privacy Protection Study Commission to look into the use of social security numbers and other numeric identifiers. The Privacy Commission expects to include SSN recommendations in its final report to be completed in 1977. Enactment of Section 1211 would preempt debate on social security number use as regards *all* State and local government programs and would render much of the Privacy Commission's SSN study useless.
>
> We think it would be a misfortune to repeal the State and local government moratorium on use of the SSN in omnibus tax legislation. To do so would compromise the process which has been established for the resolution of what has become a difficult and charged issue. This process offers the best hope for achieving a national consensus on this issue and for a thorough airing of the competing choices involved.
>
> We urge that Section 1211 be amended to limit use of the SSN to the tax administration purposes outlined in the Senate Report. We are advised by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the Administration's program.
>
> Sincerely,
>
> Quincy Rodgers,
> *Executive Director.*

Mr. President, the administration fully supports our amendment as vital to protecting the right of privacy of our citizens.

Mr. President, I have been joined in this amendment, as I have indicated, by some of my distinguished colleagues. Again I would like to pay tribute to Senator GOLDWATER, whose vigilance in this matter has been a source of inspiration to all of us. I have followed his interest from the outset and have associated myself on a number of occasions with efforts he has made to protect this privacy right of individuals.

We worked long and hard to see that a privacy act was adopted by the Congress of the United States. It is now the law of the land, and we are determined to not have that undone in a tax reform measure.

This legislation has been, despite all the earnest efforts made by the Committee on Finance, subjected to a lot of criticism. I would not wish to add our voice of criticism, in a very small section, but in a very big way, for invading the privacy of individuals, particularly considering that it would nullify the work of a study now underway by the Domestic Council Committee on The Right of Privacy.

I am happy to yield to my distinguished colleague from Arizona.

Mr. GOLDWATER. I thank my friend from Illinois.

I know I speak for millions of Americans when I say that I thank him for the work he has done in this field.

Mr. President, to me, opposition to this approach indicates that the opposer does not really understand what we are getting at.

The social security number is rapidly replacing individual names in this country. There are many of us old fashioned enough to like to use our own name and not become known by a number, whether it is a serial number of the military or the social security number.

I will be the first to recognize that we can use social security as an identifying source where we might track down a husband who has not been paying attention to his alimony, where we might track down somebody else for some other reason.

But, Mr. President, there are over 160 million names now in the computers. Over 160 million names, and these computers can tell what each one of these individuals has done all through his life.

In fact, I testified when we passed this bill before that over 23 pages of typewritten material could be obtained on each of the 160 million Americans whose names appear in the computer file which I am talking about.

So this is what the Senator from Illinois and I are talking about. The desire of privacy on the part of individual Americans.

I can recite personally, and I think many people in this body can, because the Internal Revenue seems to have a particular delight in looking up our tax records.

Once a name is made up in the computer list at Internal Revenue, for any reason at all, it is there forever.

I know they have been after me for 12 years. So far, I am well ahead of them, so maybe I should hope they keep it up, but I do not.

I like my privacy. I do not like some machine blinking lights and spitting out numbers and coming up with my past.

I am not ashamed of my past, but there may be some things I have forgotten which I would not want people to know about.

There is an interesting development that I do not think my friend from Illinois has been told about which I would like to present.

Mr. President, the fears which we have expressed about the potential for abusing the social security number are not in the realm of the future. The technology exists today to make these fears come true.

In fact, the leading scientific and technical organization in the computer field has adopted a resolution urging that we pass "legislative safeguards against the misuse of universal identifiers, including the social security number." This warning was given to us by the Council of the Association for Computing Machinery. The membership of this group consists of mathematicians, engineers, physical scientists, business system specialists, and social scientists who are interested in the computing and data processing fields.

In short, this expert professional body has found that the social security number is rapidly becoming a universal population identifier. Members of this group, who know at firsthand of the link between identity numbers and the use of computers are warning us to act while there is still time.

What is the potential of computer storage systems? Well, the National Academy of Sciences reported in 1972,

> That it is technologically possible today . . . to build a computerized, on-line file containing the compacted equivalent of 20 pages of typed information about the personal history and selected activities of every man, woman and child in the United States.

This report went on to say that,

> Such a system could be arranged so that any single record could be retrieved in about 30 seconds.

The problem which we must confront has been raised by Warner and Stone, two scientists who wrote a book called "The Data Bank Society." They ask:

> If one central source has all the data concerning our life-history, and is bent upon regulating our behavior to conform to the prescribed goals of society, how can this be opposed?

The answer is:

> Only by the society demanding that sufficient thought be taken before the threat becomes a fait accompli.

What these writers understand is that a big brother society, in order to control its members, needs information. On the basis of this information, people can be manipulated, conditioned and controlled.

Mr. President, I repeat what I have said before in this debate. If we still care about personal liberty, if we still put a value on freedom and human independence, then we had better act now to control government—before government controls us.

Mr. President, in order to shorten the time, I ask unanimous consent that a resolution adopted by the Council of the Association for Computing Machinery and passed November 14, 1974, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas:

1. The existence of a universal identifier (UID) makes it possible to match and combine records about individuals;
2. This matching, which is usually not economically or technically feasible with manual data processing methods, is relatively simple and inexpensive with the use of computerized data banks that are able to communicate with each other;
3. In many circumstances this computerized matching simplifies technical problems and offers benefits both to individuals and to society;
4. However, despite some current efforts, present safeguards (technical, organizational, and legislative) are inadequate to prevent unacceptable abuses of the right to personal privacy that the combination of an UID and the use of computers makes possible;
5. The Social Security Number is rapidly becoming a *de facto* UID;
6. Members of the ACM, being intimately aware of the scope of potential mis-use of computers, are concerned that this potential mis-use be prevented; Therefore:

The Council of the ACM states its concern over the absence of legislative safeguards against the mis-use of universal identifiers, including the Social Security Number, and urges the prompt generation and passage of such legislation.

Mr. GOLDWATER. Mr. President, I sincerely hope that this vote will be favorable. We have passed this bill once. It is the law today.

The fact that some of our multitudinous agencies and bureaucracies are finding it a little difficult to act without having access to everything that every man, woman and child in his country has ever done means nothing to me.

In fact, I wish we had a computer that could overnight do away with all these bodies I am talking about.

We want privacy in this country. I do not care if the use of computers does help some elements of law enforcement. There are other ways of helping law enforcement than having available the prying into the private lives of all Americans.

I thank my friend from Illinois.

Mr. PERCY. Mr. President, I thank my distinguished colleagues for a very persuasive argument.

I yield to the majority leader for a unanimous-consent request.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROCK). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 258

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment No. 258: On line 2 of printed amendment 2087, after

the word "tax", insert the following: ", general public assistance, driver's license, or motor vehicle registration".

Mr. LONG. Mr. President, what I am seeking to do here is to accommodate the sponsors of this amendment to the greatest extent I believe we can, and still do those things which we think are essential within the jurisdiction and the duty of the Finance Committee.

We need to have the benefit of social security numbers if we are going to work with the States and cooperate with the States in preventing welfare cheating, welfare chiseling, keeping runaway fathers from forever escaping their duty to help support their children, and in checking on whether people are entitled to benefits that are available under welfare programs. Where States have laws that social security numbers are to be shown on their driver's license records, as many States do, and on their motor vehicle registration records they have a social security number as well, that is of enormous help in preventing welfare cheating, chiseling and other sorts of corruption which cost the taxpayers, I should think, more than $10 billion a year.

We are making some headway at long last in trying to see to it that a father making $25,000 a year, who has every duty under conscience and law to support his little children, who leaves those children for the mother to support——

Mr. RIBICOFF. Will the Senator yield for a question?

Mr. LONG. I yield.

Mr. RIBICOFF. I commend the Senator from Illinois and the Senator from Arizona for trying to obtain what the committee sought to achieve. I am a cosponsor of the Percy-Goldwater amendment. I do see considerable merit in what the Senator from Louisiana is trying to achieve. Will the chairman of the Finance Committee please explain what is the situation with runaway fathers in welfare cases? What does the distinguished chairman feel will be accomplished if we make an exception in this particular instance?

Mr. LONG. Let us just take the runaway father problem alone. A man deserts his family and he has a duty under law, and even by a court order, to support those little children. He leaves and he has plenty of income. He goes somewhere. We are trying to locate the man and trying to proceed against him legally to do his duty under law to support his family. We have passed laws where the States will cooperate and the Federal Government will cooperate. We need to find the man, wherever he may be, so that we can proceed to try to make that man do his duty.

When he goes to another State, he is going to need a driver's license, sooner or later. When he applies for the driver's license, under the cooperative arrangements States have with one another, that gives us a chance to find out where that man is. We get a chance to find out when he takes a job somewhere else and the employer reports on withholding tax.

One might say, "Well, you have a chance to find him with regard to withholding." That is right. It may be that person might give a fraudulent social security number when he goes to apply for a job. It may be that when States prune their list to see if there is duplication of people obtaining drivers' licenses under false social security numbers, or if there are persons who have no business having a driver's license because they were found to be a menace on the highway, they come across this number of this person that we would like to find because he is escaping his duty to society.

Suppose the name is John E. Smith, just to take a simple name. Just look it up in the phone book, a quick look. In the Washington phone book alone there might be about 10 John E. Smiths. Nationwide, if we multiply it, I would think there are probably 2,000 John E. Smiths. It does not do any good only to have a name. We have to know where is this particular John E. Smith so we can seek to serve that man and call upon him to do his duty under law. Otherwise he has one more good chance to mislead, deceive, and deny his family its rights and to impose on taxpayers part of this many billions of dollars' worth of burden of chislers, cheats, and frauds who are victimizing the public in this country. The taxpayer is having to pay for all of this.

In my State, the social security number is required on a driver's license. I am glad to have it there. The last time I applied for a driver's license I did not have my social security number with me and they waived that requirement temporarily. It is an inconvenience to me that the number is not on it. I have to keep the number in my wallet separately so that if I forget what my number is I can find it out. It is a big convenience to me to be able to identify myself.

The 99 percent of the people who are trying to do what is right in this country, do not have a problem of trying to hide themselves from society. They are trying to identify themselves half the time.

Mr. RIBICOFF. Before I ask this other question, I understand the majority leader would like to have the Senator yield to him.

Mr. MANSFIELD. Mr. President, I ask that this appear at a separate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The proceedings which occurred at this point are printed in the RECORD at the conclusion of the consideration of the Clean Air Amendments of 1976.)

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. RIBICOFF. Mr. President, if I may have the attention again of Senators, I notice the Senator from Louisiana also wishes to make an exception concerning the driver's license. Is this due to the fact that this probably is one of the items where there is more fraud and deception than practically every other line of endeavor? A person goes to a motor vehicle department and gets a driver's license. No identification is needed. Then he uses that driver's license as identification for all other reasons.

Is that what is in back of the Senator's thinking as an exception?

Mr. LONG. That is part of it.

To show how easy it is for people to get on the welfare rolls under more names than one, one of the delegates to the Democratic National Convention we held in Miami in 1972 was a welfare client on the rolls under two different names.

We come across the situation where people get on the rolls numerous times, and one person was on the rolls under 18 different names.

When anyone seeks to defraud the Government by getting on the welfare rolls under more names than one, you would think what they routinely do is ask if that person has a driver's license; if so, they ask to see it. If the person is giving a fraudulent social security number and the number appears on the driver's license, that is enough to alert the person that this might be a fraudulent claim.

That, then, puts the one who would defraud the Government in the position of having to get a second driver's license, which is also against the law, so they have to defraud more laws than one in order to defraud the American people. It is one more impediment that makes it difficult for people to justify, deceive, defraud, and victimize the public.

As the Senator knows, the amendment applies also to general assistance. The State and Federal governments are all partners in this undertaking. We do not have Federal funding for general public assistance. But, if a person applies to get general assistance from the State and he applies in the adjoining county as well, or in three different counties, the States need to have some way to identify people, and what they have been using and wish to use is the social security number. That is the most logical thing to use as it is an easy reference to see if that person is on the rolls under more names than one.

Mr. RIBICOFF. I thank the Senator.

I believe the Senator from Illinois has a question.

Mr. PERCY. Mr. President, if the Senator will yield, I have a brief comment on the driver's license aspect.

The Senator from Connecticut said there is a lot of fraud in driver's licenses. I imagine, if every one of us, representing 50 States, were to pull out our driver's licenses, almost every one of us would have our social security number on the driver's license. It is used now. It is used by compulsion by State law in 28 States, and that is grandfathered in. They can continue to do so. Others request it voluntarily. Our amendment does not in any way restrict the States from asking for its voluntary use.

We do not have the social security number, to my knowledge, on the passport. There is very little fraud in passports. There is some but very little.

There is a tremendous amount of fraud in social security numbers. It is the easiest thing in the world to get another social security number.

What we are trying to say is that there is no evidence today that this is going to help in the driver's license field; it is really going to help in the parent-locator field.

There is not one shred of evidence that it is useful and helpful, and yet we do know the practice of assigning a number and having it proliferate is just going rampant now, and that is what we are trying to say. Enough is enough. Let us cease and desist. There is no evidence, however, that the use of the social security number has stopped the fraud in duplicate driver's licenses.

Mr. LONG. Mr. President, we have tightened up on the issuing of multiple social security numbers in the 1972 law, and the Senator from Connecticut is well aware of that. We went into this problem and tightened up as much as we thought we could tighten up on people obtaining more than one social security number. But we cannot get any better identification. I know people object strongly to suggestions that we ask for fingerprints on an application for some of these welfare benefits. So, therefore, we do not. But at least if we tightened up on the issuing of social security numbers, as we have done, and then we use social security numbers in the administration of welfare programs, that is our best hope to cut down on deception and on fraud.

Of course, there are more than simply social security aspects of this involved. It is costing this Government literally billions of dollars because it is costing merchants of this country billions of dollars when people obtain fraudulent driver's licenses and use those falsely.

For example, the program 60 Minutes recently showed how a young lady could so easily, and she did it before cameras, go down and get herself another birth certificate under someone else's name, another social security number, a driver's license under another's name, establish a bank account under a false name, purchase on credit all sorts of valuable things, cameras and jewelry, and she then proceeded, with all this loot, to get a passport and an airplane ticket on credit and leave the country.

But when we let more than half the States use the social security number anyhow, at least we have that much going for us, when we show that they can check one license against the other. Without that I simply challenge anyone to show me how we could trace down a person who has no business having a license, a menace out there on the highway, who has had his license suspended in another State. I know the Senator from Connecticut had a magnificent record in improving highway safety, during the time he was Governor of that great State. If you take away the license of a person who is a complete menace on the highway in one jurisdiction, but he goes and gets a driver's license in another jurisdiction, there is no way to check on this unless we can have the use of social security numbers in this area.

There is talk and worry about the book "1984," this Big Brother business. I have not read the book, but to me I think the problem is fairly apparent already. If someone is going to get a lot of information about people and going to use the information wrongly, what we ought to do is act against the wrongful use of the information. We can say to anyone in Government that we can restrict the amount of information that he will keep in his files, if we wish to so do. We can pass laws and constitutional amendments, if that is a problem, to say what information can be kept in computer banks and what information cannot be kept in computer banks. We can regulate these computer banks, as we have from time to time passed strict regulations on other things.

That is a better answer—to say that, while people are using these social security numbers all over the country to defraud, deceive, and misrepresent facts, the Government can use them to protect the public interest.

Mr. NUNN. Mr. President, will the Senator yield for a question?

Mr. PERCY. Mr. President, will the Senator yield for a comment?

Mr. LONG. I yield to the Senator from Georgia.

Mr. NUNN. I think the Senator from Louisiana is 100 percent absolutely correct on this matter. I believe his amendment is a reasonable approach, that not only takes into consideration the right of privacy, and limits the use of social security numbers, but also recognizes the right of the Government that is paying, for instance, welfare because of a man who is running away and trying to hide from State, local, and Federal authorities. That same Government has the social security number in a file. I think it is the height of absurdity for that Government, representing the taxpayers of this country, who are paying for that man's family when he should be paying for it, not to be able to let the State or local government use that social security number to trace him down.

The Senator is absolutely correct. Anybody who wants to do anything about welfare fraud had better listen carefully to this debate, because we are just about to wreck one of the few bold initiatives in welfare reform in the last 10 or 12 years. That is a statement, and then I have a question.

Mr. LONG. Let me respond first. If we do not do something about this fraud in the program, it is going to so hurt the image and the reputation of the program that the public will be turned off and will not want to give any of these poor people anything, because they will tend to paint them all with the same broad brush.

Mr. NUNN. Can the Senator from Louisiana say what the result would be if there were a question on a poll to the American people about what they thought was the most serious question facing our country—welfare fraud or the excessive use of social security numbers?

Mr. LONG. I know what the answer would be. They are worried about chiseling and cheating on the welfare program.

Mr. NUNN. One of the most vivid issues before the public is this, and we finally do something about it. We finally pass something HEW is against and a lot of people are against. But we finally get it through Congress, and now there is an attempt to wipe out that effort.

Mr. LONG. What percentage of the people of this country are scared to death that somebody might find out who they are? That is basically what we are talking about.

Mr. NUNN. I will tell the Senator from Louisiana who is afraid. It is the fellow who ran from Houston County, Ga. to California because he does not want to take care of the children he fathered into this world. That is the same man who would not think of volunteering under the approach advocated by the Senator from Illinois.

Mr. LONG. Thieves, dope peddlers, extortionists—those kinds of people are very much concerned about somebody finding who they are, and I can understand why.

Look at the problem in the retail establishments alone. Three percent of their gross sales represent what is being stolen from their stores, a lot of it by misuse of the credit facilities. That is a burden on the taxpayer, because the retailers declare that as a deduction. We have heard that you and I have to pay for people cheating on taxes. It costs $1 billion a year to let people deduct—and it is a proper deduction—for the thievery and the confidence games people are subjected to in this country in trying to operate retail establishments. Three percent of all retail sales is a lot of pilferage and disappearance of articles, not to mention all they are losing because they cannot protect their credit systems.

Uncle Sam pays half of that, because that is deductible so far as the retailer is concerned, and that cuts his taxes. When he reduces it, half of it is borne by Uncle Sam, because they have that much less profits on which to pay taxes.

We need to be able to use identification properly, and that is what we are seeking to do here. In doing so, we are happy to cooperate with someone who uses someone else's identification or information improperly. All we want to do is to protect the rights of the Government to protect its own people.

Mr. NUNN. As I understand the Senator from Louisiana's amendment, the use of social security numbers by State and local governments would be limited to general assistance programs, motor vehicle registration, administration of the tax law, and drivers' licenses. Is that correct?

Mr. LONG. That is right.

Mr. NUNN. It is not wide open. It is limited for valid purposes.

Mr. LONG. That is right, in addition to what they were able to do prior to 1975. Of course, if prior to that time they were able to use social security numbers in their programs, the Privacy Act permitted them to continue to do that. My amendment says that in certain areas where there is need for standard procedure to use social security numbers to help honestly administered Government activities and protect the taxpayers, the States should not be denied that.

Mr. NUNN. The Senator from Georgia understands that the most recent quality control report covering the last 6 months of calendar year 1975 shows that 26.6 percent of the total AFC caseload have errors. Are those figures in the ball park? Are they correct?

Mr. LONG. They are.

Mr. NUNN. I understand, further, that there are 6.4 percent ineligible, 14.7 percent with overpayments, and 5.6 percent with underpayments. Would the Senator from Louisiana's amendment help to uncover welfare fraud, reduce overpayments, remove ineligibles, and correct underpayments in the AFDC program?

Mr. LONG. It certainly would. That is the purpose of it.

Mr. NUNN. I ask the Senator from Louisiana this question: In 1974, Congress passed child support legislation which is designed to assure that children are supported by their parents. In that law, we required that the States have programs for finding absent parents and collecting support.

Mr. LONG. As the Senator knows, we reduced the amount of funds a State would have available to it if it does not have a program to cooperate in this area.

Mr. NUNN. Is it not true, further, that under this law passed by Congress, HEW issued certain regulations and that the regulations provide that the child support agency of the State government must use, by those regulations, appropriate local locating sources, such as officials and employees who are administering these general assistance programs? They must, at a minimum, include those departments which maintain records of public assistance, unemployment compensation, income taxation, drivers' licenses, vehicle registration, and criminal records. That is what is required under the regulation, is it not?

Mr. LONG. Yes.

Mr. NUNN. Would the Senator from Louisiana's amendment today help us in the overall administration of that important program?

Mr. LONG. Yes, it certainly would. Keep in mind that we are trying to do right, to do justice.

We have here one of our able staff technicians who has worked in the welfare area. They had the embarrassment one time of seeking to proceed against a man for child support, to bring that man back from Massachusetts. They went through rigamarole and legal proceeding to track this man down. When they brought somebody back from Massachusetts, and they find out that he was of a different race from the man they were trying to find. Imagine their embarrassment. They brought somebody from Massachusetts to the District of Columbia, to make him do his duty toward his family, and they found that they had the wrong man.

Then you have to go slow and be careful to lean over backwards when going against the next fellow, because you might have the wrong fellow. What you need is the social security number, to know that the person is the right one.

Mr. NUNN. It is the Senator from Georgia's understanding that the Privacy Act of 1974, to which the Senator from Illinois and the Senator from Arizona made reference—which has a lot of good provisions, and I readily acknowledge that—permits disclosure of records containing the name and identifying number, such as the social security number, to any agency for a civil or criminal law activity. Is it not reasonable that if it can be used for civil or criminal law activity, it also can be used for the Federal Government, the State governments, and the local governments to go after a loafer who is earning money, who is not supporting his children, and whose children the taxpayers of the United States are supporting with their hard-earned money?

Mr. LONG. It certainly is.

I think we would have difficulty justifying to the average taxpayer—especially one who knows that man—why he had to pay taxes to support that family, when all you had to do was to make that person do something that the taxpayer was doing—just identify himself from time to time in one situation or another, so that you could find out where the man was.

Mr. NUNN. Would not the Senator from Louisiana hate to go back home and explain to his constituents that Congress was so anxious to protect their social security numbers that we ended up protecting people who would not support their children, yet who are capable of it?

Mr. LONG. That is exactly right. It just gets back to the same problem we had. We had crime increase in this country, in serious crime, in practically all sorts of crime. We had it multiply in America during the time I have been a Member of Congress. Part of this we can blame on the courts. They made some erroneous decisions. But how are we going to explain our own mistakes? How will we answer someone who says: "You make it possible for people to violate the law and get away with all kinds of mischief, deceive and rip off the taxpayers of this country. You are letting the people break the law and getting away with all kinds of mischief for which the people have to pay."

When somebody says that to you, how can you say that you are doing right for the citizens of this country?

In the law enforcement area, we have seen laws passed and we have seen court decisions that put the handcuffs on the police instead of on the criminals. Now, when we are trying to catch a bunch of chiselers, cheaters, liars, fakers, and frauds, here we see an amendment to stop us. Every honest man is carrying credit cards and other identification trying to prove who he is. But if you happen to be some runaway father, trying to avoid doing your duty to your own children, or trying to cheat on welfare by being on there under 18 different names, you do not have to identify yourself. You do not have to give that social security number when you get a driver's license, when you register an automobile or when you apply for Government assistance. Laws have been passed in Congress to protect your privacy. You do not have to identify yourself when you start chiseling and cheating on Uncle Sam or that State government.

What kind of sense does that make, I ask the Senator from Georgia?

Mr. NUNN. The Senator from Georgia does not understand it. The Senator from Georgia does not understand why we talk about doing something about welfare reform. We talk about it over and over again. Most of the people in the body run on that platform. I have not seen many races run on the issue of privacy of social security numbers. Perhaps there have been, but that has not come to my attention. Now, when we are finally to the point of getting something done, when HEW did not want to do anything—as the Senator from Louisiana knows, they would like to drag their feet for the next 30 years on this problem—they are finally moving. We come in and try to use social security numbers, to find these runaway parents, and some want to destroy this system which is the first progress that has been made in year.

Mr. LONG. My feeling about it is if you want your privacy protected, all you have to do is set out on foot, and between now and sundown, you can be in the beautiful George Washington National Forest and nobody is going to come there looking for you. You can stay there as long as you want to stay in there, you can come out anytime you feel like it, or not come out if you feel like that. Nobody is going to bother you.

On the other hand, when you want a privilege, when you want to get something out of Uncle Sam, when you want welfare payments, or you want unemployment benefits, or you want food stamps handed to you, or you want something at the expense of the other guy—when you seek these advantages, you ought to be expected to identify who you are.

Mr. NUNN. How would the Senator from Louisiana like to go down home and talk to a group of mothers who are trying to collect child support payments from their husbands, those who are on welfare and those who are not on welfare, and explain to them how it is that the Congress of the United States has said that the governments of this Nation, including the State and local governments, cannot use a social security number in a government file to require that there be an enforcement of the U.S. law? How would the Senator from Louisiana like to campaign on that platform?

Mr. LONG. I know I would not.

Several years ago, I was dictating a speech on the subject we are talking about. Three are about 9 million fathers in the country——

Mr. NUNN. And we are trying to protect their privacy.

Mr. LONG. Yes, there are about 9 million men in this country who are successfully avoiding doing the first decent act toward their own children. I was dictating a letter to my secretary, who was a good stenographer, a very devoted, hard-working woman, about the need to make these men do something honorable for a change. In the course of it, she stopped writing shorthand and said, "Senator, would you mind including me in that amendment?"

I said, "What do you have in mind?"

She said, "Well, my former husband and I had a parting of the ways and he has a court order where he agrees to help pay for the support and education of my child. That man has gone. He is in another jurisdiction and I cannot get any help from anybody, and I don't have the money to go out and pursue that man legally to try to make him contribute something to the support of his child, which he agreed to do by court order in the State of Maryland."

We finally passed a law to let her pay for the Government's part of the expense and the Government will give her the same sort of service that a welfare mother can receive, since she is out making a living and not on welfare. Having achieved that much, to where she could at least get the help of her Government if she is willing to pay for it, now we find before the Senate an amendment that makes it difficult to make that law work.

Mr. NUNN. What we have is a situation in most of these cases where a person, usually a female, has gone into court, the judicial branch of the Government of this country. She has spent months and months, either in the criminal division or in the civil division, under the divorce and alimony laws, trying to finally get that husband to pay something. What happens after she gets the court order? He gets up and decides it is better to work in California, where she cannot find him, than to work in Georgia, where she can. He goes out to California and we have a part of this great big Government, with a social security number that would help the State of Georgia in trying to track him down, working with the California authorities. We also have the judicial branch of Government involved, working like heck trying to find the guy. We have the executive branch of Government now, under this provision, that would really have an identification number that would allow them to track him down, saying, "Not this man, we do not want to disturb his right of privacy; therefore, we are not going to let you have the number."

Mr. LONG. Let us compare the more ordinary case, where the woman does not have the skill to be a top stenographer. This woman is forced to apply for public welfare. We are going to protect her husband so well that we are not even going to ask who he is, we are not going to ask where he came from. He has his privacy protected.

But how about that woman with that baby? Does she not have any privacy? No—she has to go down and apply for welfare, go through an investigation so that everything they want to know about her can be checked, and all so that the father who deserted his family can have some privacy.

Mr. NUNN. And all her children, with their lack of privacy, have to be identified on a Federal welfare roll down there as dependents on the welfare rolls of America. Where is their privacy?

Mr. LONG. And they have to have somebody investigate them to try to get some welfare money to hold hide and hair together because we have protected this man's privacy.

Mr. NUNN. Usually, they have to have a welfare worker come by every so often to see if they really exist, to make sure they are not just a number, to look at them every once in a while to make sure they are there.

Mr. LONG. We understand they have to to check on these situations for the protection of the public. Those people would not be a problem to anybody if we had not been so oversolicitous of this man in the beginning, this one of 9 million who are getting away with their mischief because they are overprotected by society.

Mr. NUNN. One final comment by the Senator from Georgia: The most important goal of the law we are talking about, the runaway father law, is, in the estimation of the Senator from Georgia, not to get all those AFDC recipients off the rolls, but that the law is going to be preventive in nature for those who do not want to go on the rolls but may have to because their own father will not support them. Would the Senator from Louisiana agree with that?

Mr. LONG. I agree.

Mr. NUNN. I think the Senator from Louisiana is eminently correct and I shall support him in sponsoring this amendment.

Mr. PERCY. Will the Senator yield?

Mr. LONG. I yield.

Mr. PERCY. I wish first to ask a question of the distinguished Senator from Louisiana.

Will the Senator from Georgia be able to stay on the floor for just a moment, because I have been extraordinary interested in the dialog?

I really have trouble finding any relevance to this amendment in the dialogue because the Senator from Illinois concurs completely, and I am sure the Senator from Arizona concurs completely, with what has been said. It is a very interesting dialogue, but it has no relationship whatsoever to the amendment that is pending before us.

I ask this question of the Senator from Louisiana: First, is it not true that the local AFDC office, which dispenses welfare payments, can actually, today, under existing law, compel the parent to reveal his or her social security number and, if they do not have one, they even have the authority to compel them to get a number? Is that not true, under the present law?

Mr. LONG. If someone is applying to go on welfare, yes, they have a right to ask their social security number.

Mr. PERCY. We are only talking about people who are on welfare.

Mr. NUNN. The Senator is missing the point. The man we are talking about is not the one who goes to the welfare office. We are talking about the man who runs away, goes out to California, and his wife and children have to go to the welfare office. If he went to the welfare office, we would not have any problem, because they would then require him to pay for his own children, instead of letting the taxpayer do it. But he is not going down applying for welfare. It is his abandoned children who are going down.

Mr. PERCY. Is it not true that under present law the parent locater agency can get any information it wants, and in order to simply reaffirm that the Senator from Illinois does not in any way wish to impair this program. As I have said time after time, I am for the program, for getting at those who abuse our public assistance programs. I have said that in any number of ways and over a period of many years on the Senate floor——

Mr. LONG. May I say to the Senator now, that——

Mr. PERCY. The Senator from Illinois would be very happy to——

Mr. LONG. Well now, may I respond to that for a minute? I fail to see the relevance of what the Senator is saying. The social security number is not going to do us any good if it is not somewhere where we can find it. If we are trying to find a runaway father and, as I understand, there are 2.5 million whose children are on AFDC and who are either absent or are not paying anything, if we are trying to find a runaway father, if his number is on those State drivers' licenses, we have a chance to find him. But if it is not on one of those State drivers' licenses we do not have any chance of finding him.

If a man is picked up for a traffic violation and he is required to present a driver's license on which his name appears, with that social security number, we have a chance to find him. We certainly do not have a chance to find him if it is not on that driver's license.

It does not do any good for somebody to have a social security number if it is not in a record somewhere where you can find it.

Mr. PERCY. As the Senator from Illinois understands the way the system now works, when the mother applies for welfare, she then makes that application, and is then compelled to reveal her social security number.

Mr. LONG. That is not what we are talking about. That is not where the problem is. The problem is where there is a father who is fully able to support that family, and we would like to find that father. If that social security number is somewhere, we have a lot better chance to find him than if that social security number is not somewhere.

Mr. PERCY. Does the Senator from Louisiana assume that the mother applying for welfare knows the social security number of the presumed father? Would the Senator from Louisiana know his own social security number? The Senator from Illinois certainly does not know his, and I would doubt that many wives would be able to repeat the numbers of their husbands or the presumed fathers of their children.

Mr. LONG. Well, oftentimes the mother might know the place where the man is working.

Mr. PERCY. If the mother knows where the man is working, the Parent Locators have a name and an address. The social security number does not seem to be very helpful.

Mr. LONG. The Senator just heard me tell about the case where the people here in the District tried to bring a man back from Massachusetts in a child support case. They brought him back after going to great difficulty and overcoming a lot of resistance—but he was not the right man. If you had a social security number we would not have that trouble.

We had a big fight just to prevent, HEW denying the States the social security numbers where they had them. But we finally got that. It took about 18 months, by the way. That is one of the achievements of this Privacy Act. But we finally got the department to agree that the spirit of this thing does not preclude the Social Security Administration from giving us the social security number so we can then try to find the man.

Now we get the social security number. If the State drivers' licenses have the social security number that would give us a better chance to find a man. But if it is not on the drivers' licenses you certainly are not going to find it by looking up the driver's license.

Mr. PERCY. The distinguished Senator, in drafting the parent locator program, I think, really underestimates what was accomplished by the law.

As I understand the Federal parent locator service, when someone is across the State line, that office has all the authority it needs to get any information that is required, including a social security number, to assist and help in the location of this father.

The Senator from Illinois and, I feel sure, the distinguished Senator from Arizona, would be happy to add to our amendment this following sentence, which would clarify and put right on the record exactly our desire to cooperate in every way possible. The following wording may help us resolve this problem:

> *Providing,* That nothing in this section shall affect the authority granted to the parent locator service under title IV of the Social Security Act to obtain and use the social security number to administer its program.

Now, Mr. President, the Senator from Louisiana has been thoughtful in leading——

Mr. LONG. Mr. President, who has the floor?

Mr. PERCY. I would like to make a few general comments in response to the long dialog that has been carried on.

First, I should like to point out what is on every social security card today, in every one of our wallets, if we happen to have them with us. The one thing that is evident right on the face of that card, that the probably 150 million cards that have been issued now carry is: "For social security and tax purposes. Not for identification." This is the assurance that the Government of the United States and the Social Security Administration have provided to every single individual.

What are we going to do, pick up 150 million cards and change the card and print on the bottom, "This is your universal identification number"? That would be what we would have to do. We could not put this provision in the tax bill and adopt it and continue to issue social security cards with this representation.

I would like to make a suggestion to the distinguished Senator from Louisiana. I hope that the Finance Committee, before it would act precipitately in this matter on the present tax bill, would take into account the letter dated July 23, 1976, from the Executive Director of the Domestic Council Committee on the Right of Privacy, addressed to Senator Long, and the representation made there that the committee is now in the midst of a basic study involving the ues of the social security number. If we adopt this present provision in the tax reform bill, it would abnegate the intent and purpose of that study. I would hope the Senate Finance Committee would hold hearings on the parent locator service because there have been no hearings held since it was adopted by Congress in 1974, and no evidence, not one shred of evidence, in the form of testimony or letters demonstrating the need for any State and local agency to begin using the social security number that is not using it and were not "grandfathered" in under the Privacy Act.

I do not know of any requests that have been made, and I hope the chairman of the Finance Committee, on an important matter where obviously some of his colleagues feel very strongly, as do a great many other people, including the administration, will have hearings and see whether or not there is any evidence that can be built up that the use of the social security number would assist this program in a way that is not now being done.

It is the belief of the Senator from Illinois that there is plenty of authority in the Parent Locator Act as it now stands on the books to find deserting parents and bring them to issue on their responsibilities.

Without any evidence demonstrating the need or hearings on the issue we do not know, as a practical matter, if expanding the right to compel use of the social security number would even assist the operation of the parent locator system, and the operation of that system is still too new, in my judgment, to make any informed decisions. To move precipitously ahead to open up and undo the work we have taken years in accomplishing, under the leadership of Senator Ervin, in enacting the Privacy Act which clearly climaxed, in a sense, a great career of a great colleague of ours.

Twenty-eight States are using the social security number as an identifier either with another number or by itself for their drivers' license registration programs. Of those 28, some have no specific law or regulation authorizing use of the number and, therefore, were not grandfathered in by the Privacy Act. But there is no evidence they have had any difficulty in obtaining the social security number on a voluntary basis.

Twenty-four States have chosen not to use the number either by statutes, regulations, or on a voluntary basis.

In order to locate an undetermined number of parents who have abandoned their children, my distinguished colleague from Louisiana is—to put it dramatically—attempting to tatoo the file on every driver, automobile owner, and applicant for State or local general welfare assistance with the social security number. Without any evidence to document the need, this seems to be an overly broad response, a tremendous overresponse, an overreaction to a problem we all admit we have and which we are all united in trying to do something about.

I think we are really moving in massively on the right of privacy and undoing a law that we have worked years to enact solely to solve this one narrow problem, which I think there is plenty of authority right now to solve.

The Senator from Illinois would be happy to add a provision to the amendment if the Senator from Louisiana feels that that would be a reassurance, right in the amendment itself, that we are in no way detracting from the authority granted to the parent locator service which was enacted 2 days after the Privacy Act and which fully took into account that act.

Certainly, I do not intend to undo or minimize the authority of the parent locator service to fulfill its function and duty.

I know the Senator, my distinguished colleague and cosponsor from Arizona, wishes to comment at this point.

Mr. GOLDWATER. I thank my friend from Illinois.

I think the suggestion he has made for the change in language should certainly answer any objection that the Senator from Louisiana might have on this point.

Sitting here listening to the discussion a while back, it was rather amazing. Here we have a bill before us with 1,586 pages. Over 1,500 pages, and we call it a tax bill.

Right smack dab in the middle, we get worried about finding wayward fathers. They total about 1.2 to 1.6 percent of the people who have social security cards.

In other words, we are sort of killing mice while the elephants are running around stamping things out.

Mr. President, I agree with my friend from Illinois when he says we should have hearings on this. We cannot prove that the States do not have the power to do these things, that the Federal Government cannot do these things.

The sponsor of the amendment has not presented any evidence, not any evidence at all; that State government and Federal agencies cannot find an alternative identification system. Not one. And there should be full-scale hearings on making a change in the existing law.

I have to remind my colleague that after a long debate, after many months of hearings, this body passed a law. What we are talking about here is changing a law that took many men and women many days and months to put into the structure.

The Senator from Louisiana can stand up and bemoan the fact that they cannot get welfare cheaters, they cannot get wayward husbands, and things like that.

I remind him there are 160 million social security cards. Those are the people I worry about. I worry about law-abiding citizens, the man who does not want the Federal Government snooping into what he has done in his lifetime. The man or woman who wants to live in privacy.

That was the whole reason for this act. That is why it was called the Privacy Act.

This, to me, is the whole guts of what we are discussing today, whether we want to give these 160 million holders of social security cards a guarantee of privacy, as much as we can, or whether we are going to begin cutting into it.

As I sense it, this is only an effort to get the foot in the door.

I have no faith in the Internal Revenue Service. I think if the Tax Committee would want to get engaged in a really productive effort, they might find out more about that body and maybe we could fix things there so we would not have to worry about the things we are talking about today.

But I think the least we can do is wait until we hear from the Privacy Protection Study Commission, which is to finish its report on the social security number later this year.

Mr. President, I think we have a choice to make here in the tax bill. Do we support the mere administrative convenience of the States or do we uphold personal liberty?

I get back to that, we are not talking about taxes here, we are not talking about procedures. We are talking about the privacy of the individual.

I am far more concerned about the privacy of the individual, and I would campaign in Georgia or any other State on that subject, than I am about whether we catch a wayward husband here or catch a wayward husband there, or whether we catch a welfare cheater here or there.

I would like to know what we do with the welfare cheater when we catch him. I have not heard anything.

Mr. NUNN. If the Senator will yield, we have not been catching them, that is the purpose——

Mr. GOLDWATER. I think the Senator from Georgia has, in a way, admitted that in his own State he has them. In my State we have them. We are catching them and we are stopping them. We are taking them off welfare. They do not like it.

But I do not want my privacy inhibited, because somebody is cheating the Federal Government out of a dollar or two.

Mr. President, as I say and the Senator from Illinois has argued, the arguments we have heard about the number being absolutely necessary to stop welfare fraud is interesting. It is very interesting. But as I asked, where is the proof? Where are the hearings?

In 1974, there were hearings in both the House and the Senate on controlling the social security number. As a result of those hearings and after much labor, much compromise, we passed a law. That is what we are arguing about right here in the middle of a tax bill that we have become engaged in arguing about now, really, for 3 weeks, with no end in sight.

Mr. President, I have had called to my attention an editorial in the Washington Post of July 28 concerning this and I ask unanimous consent to have this printed in the RECORD at this point in my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PROBLEM NO. 788-24-1211

It has become routine to find another problem in the Senate's 1536-page tax bill every day. Even so, we were somewhat surprised to learn that the Finance Committee had stuck in some language—prominently featured on page 788, line 24, sec. 1211—that would encourage state and local governments to expand their uses of citizens' Social Security numbers as administrative and record-keeping aids. This would reverse the go-slow policy embodied in the 1974 Privacy Act, and could accelerate official tendencies to amass more records on citizens without first developing effective safeguards against errors, unfair information practices or invasions of privacy.

Because Social Security numbers are already so widely used, they have assumed a conspicuous role in controversies about computers and record-keeping policies. Some citizens, including many with common names, like or tolerate the idea of having a unique 9-digit identity. To others, the number symbolizes what they apprehend as a relentless movement toward a depersonalized, computer-run society. Even among people not obsessed by fears of 1984, there is considerable concern about the number's function as a key that may facilitate abuses of personal records. From another perspective, some experts argue that even if a universal identifying number should become necessary and acceptable, the Social Security number should not be employed that way because it is too vulnerable to errors and fraud.

The basic concerns about individual identity and the control of data banks would exist even if the Social Security number had not come into such common use. Problems of the misuse of records and computers are essentially problems of policy and attitudes. Before these complex questions can be properly addressed, however, many public and private habits of rather mindless trafficking in data must be changed. Congress concluded in 1974 that one way to promote such rethinking, and meanwhile to allay citizens' fears, was to arrest the tendency to use Social Security numbers for everything from food stamp vending to voter registration. Thus the Privacy Act prohibited any government from compelling disclosure of the numbers for any purpose not authorized by law or regulation before Jan. 1, 1975.

Ironically, this freeze created particular problems in an area in which the use of Social Security numbers has become fairly routine—the tax collection field. Following the federal lead, some 44 states have begun to use the numbers as aids in finding unreported income and detecting tax frauds. Like so many other information practices, however, this one had spread rather informally. Many states had not explicitly authorized the technique before the Privacy Act took effect. There is even some question about the adequacy of federal regulations.

This was the specific problem that the Senate Finance Committee fed into its drafting machine. What came out, however, was something else: sweeping language authorizing state and local governments to require Social Security numbers for any purpose at all. Such a policy reversal has not even been considered by the government operations committees which developed the Privacy Act. Moreover, federal and state agencies have only begun to address the large questions of data management which need to be resolved before data-collection is allowed to accelerate again. Sen. Charles Percy (R-Ill.) and others are trying to restrict provision 788-24-1211 to the tax field. The Senate should agree to that, or shelve the section entirely.

Mr. GOLDWATER. I hope, Mr. President, that my friend from Louisiana will really get down to what this problem is all about, a matter of privacy.

It does not involve, in my opinion, taxes. It has no place, in my opinion, in a tax bill, although I guess it could be called germane.

I think we should quit tampering with this law. It is too important a law to the lives of our people. If we want to change it, let us hold hearings on the whole ball of wax and find out if it needs changing. In my State of Arizona, for example, we use the locator system with the highway department. My driver's license has my social security number on it. But for the life of me, I do not know it. I can tell you my old serial number in the Air Force, but I cannot tell you my social security number. That is about the way with most Americans.

Mr. President, I am very proud to be associated with my friend from Illinois on this. We have been associated throughout this whole matter. I would hope that we can come to a quick vote and have the matter decided.

Mr. PERCY. I would like to thank my colleague and simply say publicly what I have said to my distinguished colleague from Louisiana, for whom I have the greatest reverence. We have really tried very earnestly to work out and resolve our differences.

The Senator from Illinois is extraordinarily concerned about the invasion of privacy that is going on in American society. We have seen it at the governmental level and we have done a great deal to protect it. But the one thing that we really feel is sacred is our own home. That is why on the disclosure bill, which the Senator from Illinois is very much in favor of, he fought very hard to make absolutely certain it was not necessary to reveal the address of personal property, residences of the Attorney General, members of the Cabinet, Members of the Congress, or Supreme Court Justices. How many have hopped over the White House fence in the last year or two, and tried to make it under the security and protection that the White House has? How many times do we get people angry at us for a vote that is cast, for a decision that is made by the Supreme Court or the Attorney General, or whoever it may be.

Protecting the sanctity of our residence is something we want to do.

I think there is something else we ought to protect. I think everyone has the right to have his or her medical records as his or her own. We ought to have the right not to have someone go in and locate every piece of personal property we have.

The Senator from Illinois has had an experience in his own home. After 1,450 leads had been run down by State authorities, Federal authorities, and local authorities, it was narrowed down to two gangs of highly sophisticated criminals who, we believe, used the technique of bribing someone in an insurance office to get and locate insurance policies so that they could determine where the valuables are. They pinpoint exactly where they are going to go and what they want to find.

With the computer technology that we have, with the increasing degree of sophistication of the criminal elements in this country, what greater weapon would we offer them than a universal number for each of us? They could get a dossier for any purpose they might want, for character assassination, for an attempt to rob or invade the privacy of a home, or any other purpose whatsoever.

That is why the people of this county are concerned. They want to have a name. They do not want to be known as a number. And they do not want that number to be affixed to them from birth and then have their privacy invaded by any Government agency at any level or by commercial interests.

As the Commission on Privacy has indicated, there is a proliferation in the number of people using the social security number. It was set up four decades ago for the purpose of social security. On every single card issued to the 150 million recipients of it we say, "This is for social security and tax purposes." In big bold letters it says, "Not for identification."

What this amendment is doing is wiping away that four decade pledge in a little insert on tax reform bill and undoing the work that was done by the distinguished Senator from North Carolina, Senator ERVIN, the Government Operations Committee, and the work done by my distinguished colleague from Arizona.

We feel very strongly about this. The proposal the Senator from Illinois and the Senator from Arizona have made is that if there is concern about the authority of the parent locator program we will put into this amendment a provision which specifically says the authority granted to the parent locator service under title VI of the Social Security Act to obtain and use the social security number to administer the law be retained. That clarifies that issue.

The Senator from Illinois is 100 percent behind the efforts of our distinguished colleague to fulfill and perform the authority, purpose, and intent of the parent locator service, but let us not do it in this way.

First, let us have hearings. Let us see what we are doing. Let us get evidence. Let us hear from HEW. Let us hear from the various States. Let us not precipitously move ahead on this without knowing what we are doing.

I ask once again, give us one solid bit of evidence that this amendment of Senator LONG would really strengthen and improve the parent locator service program. There is not any evidence which has been offered. It is simply judgment. It is simply rhetoric. But there is no solid concrete evidence.

That is not the way to legislate on an important issue of this kind.

Mr. LONG. Mr. President, the Senator wants some evidence. I will stand here and testify as a witness myself on what we have achieved in this area up until now. It took us years to make the Internal Revenue Service tell us where this father was. We are not talking about just one person, but we are talking about millions of men who are escaping doing their duty to their children, with the Government having to pick up the tab for their family's support.

It took us years to make the Internal Revenue Service give us the whereabouts of the father who should be supporting that family, perhaps making $25,000 a year.

They did not want to have anything to do with it. They wanted to protect his privacy. It was not so much for his good, but it was just that they did not care to be bothered with that.

They took the view that it was not a tax collector's job—if they got the tax money, they should not have to tell you where the man was.

Finally, we managed to muscle it through and put it on the President's desk in a bill the President would sign, to say that the tax collector will have to tell the welfare agencies where this man is who ought to be supporting his family.

Then along came the Privacy Act. Since that was passed 1½ years ago we have had privacy advocates who say: "You must not make anybody identify himself. He has a right to be private. He has a right to keep his privacy even though he is the head of the Mafia. He has a right to have his privacy protected."

A mother may be seeking to have help on behalf of her children. She would call upon the social security people for the social security number so they could ask the Internal Revenue Service where he is. Unless he is using a fraudulent number, it would show in their tax returns where the man is. But we have to have the number, because if his name is John Smith, there might be thousands of John Smiths in America.

Then the social security people tell us, and then the White House group, these arch protectors of privacy, that it does not violate the letter of the law to provide the social security number "but we think it violates the spirit of the law to tell you what the man's social security number is. Even though you have a duty to try and find him and the tax collector has a duty to find him, we are not going to tell you what the number is so you can get from first base to second base."

It took 18 months to turn that around. It got to the point where I was resisting appointments in that department to get them to make a decision. They finally made the decision that, yes, States can have the numbers. So they can get the numbers now, at long last, to help try to make these absent fathers do their duty.

Now we are confronted with this problem: having obtained permission to use the number, the number is not going to do any good unless you can find it somewhere. Where do you have a prospect of finding it?

Well, there is some prospect you might find it at the Internal Revenue Service. And the States have shown a disposition to keep that number on their driver's licenses; it helps to identify the person.

Most people have a problem identifying themselves. I carry about five credit cards in my wallet, and have about six more at home, to use in trying to identify myself if I go somewhere. If a person has a driver's license, that is something that can be used to help identify him.

If States are permitted to have the social security number on a driver's license, that gives a better chance to identify a person. And in checking whether someone should be permitted to go on welfare, it is good to know how much property he owns, or in seeking to ascertain the proper level of benefits it is good to know how much property he owns.

The Senator stated that 29 States use social security numbers on the driver's licenses. My impression was that there were more States that did so, but in any event a great number of States have that information, and if they have it, that helps. If, on the other hand, they are going to make it a voluntary system as to whether or not they have that information on their driver's licenses, obviously all those people who are seeking to violate the law will escape because those who expect to engage in criminal conduct are not going to have it, and the only information you will have will be in the cases where it is not needed.

Congress has specifically provided for the use of the social security number in administering the new child support law aimed at locating absent parents and requiring them to provide support to their families. The primary method of locating a parent involves the use of the social security number, but these efforts will be frustrated if the State or local agency with information that will help locate the absent parent does not maintain records with a social security number. Files based on names alone are usually inadequate because of the number of people with the same names.

In addition to that, the States have general assistance laws. They are permitted to have social security numbers when they are dealing with Federal laws, but the law does not secure their right to have those numbers when they are dealing with general assistance laws. So in the State general assistance programs, to know whether a State government is being victimized by one who is already on a State program somewhere else, or is receiving payments in an adjoining county or across the State boundary, and receiving these benefits under more names than one, social security numbers should be used.

The Senator's amendment would prevent that, and we think, Mr. President, that those numbers should be made available. That is what our amendment would seek to do.

Mr. PERCY. Mr. President, the Senator from Illinois and the Senator from Arizona are prepared to vote on the Long amendment at this time. I presume he wants the yeas and nays on it.

Mr. LONG. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. LONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. There is no time limitation.

The question is on agreeing to the amendment of the Senator from Louisiana. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Utah (Mr. MOSS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

The result was announced—yeas 49, nays 42, as follows:

[Rollcall Vote No. 433 Leg.]

YEAS—49

Allen
Bartlett
Bayh
Bellmon
Bentsen
Brock
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Curtis
Domenici
Durkin
Eastland
Fannin
Fong
Ford
Glenn
Gravel
Hansen
Hathaway
Helms
Hruska
Huddleston
Inouye
Jackson
Johnston
Long
Magnuson
McClellan
McIntyre
Nunn
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Sparkman
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Young

NAYS—42

Abourezk
Baker
Beall
Biden
Brooke
Buckley
Case
Clark
Cranston
Culver
Dole
Eagleton
Garn
Goldwater
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hollings
Humphrey
Javits
Kennedy
Laxalt
Leahy
Mansfield
Mathias
McClure
McGovern
Muskie
Nelson
Packwood
Pearson
Percy
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stone
Taft
Tower
Williams

NOT VOTING—9

Hartke
McGee
Metcalf
Mondale
Montoya
Morgan
Moss
Tunney
Weicker

So Mr. LONG's amendment was agreed to.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

UP AMENDMENT NO. 259

Mr. PERCY. Mr. President, I send to the desk an amendment to the pending amendment.

Mr. BENTSEN. Mr. President, what is the procedure?

Mr. LONG. Mr. President, the Percy amendment has not yet been disposed of.

Mr. BENTSEN. I thought the amendment had been disposed of.

Mr. LONG. Mine was an amendment to his amendment.

The PRESIDING OFFICER. The Senator from Texas has the floor. Does the Senator from Texas yield?

Mr. PERCY. For the information of the Senator from Texas, I think it will take just a few moments, but we will have an immediate rollcall vote.

Mr. BENTSEN. I say to my distinguished colleague that I have the floor, but I am delighted to yield. I understand.

Mr. PERCY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Illinois is recognized, and the amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY), for himself and Mr. GOLDWATER, offers an unprinted amendment numbered 259 to amendment No. 2087, as amended.

The amendment is as follows:

At the end of the amendment add the following:

On page 789, following line 25, insert the following clause:

"(iii) For the purpose of clause (i) of this subparagraph, an agency of a state (or political subdivision thereof) charged with administration of general public assistance, motor vehicle or driver registration law that did not use the social security account number for identification under a law or regulation adopted prior to January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i) above and for the purpose of responding to requests for information from an agency operating pursuant to the provisions of parts A or D of title IV of the Social Security Act."

On page 790, following line 9, add the following:

"(d) Any individual who discloses, uses or compels the disclosure of the social security number of any person in violation of the laws of the United States shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both."

Mr. PERCY. Mr. President, the purpose of this amendment, which I have discussed with the manager of the bill, is very simple. It is divided into two sections.

I believe the intent of the Senate in adopting the exceptions to the Privacy Act proposed by the Senator from Louisiana was to assist in the administration of the Parent Locator Service, which the sponsors of our amendment did not intend to interfere with at all. The amendment I have just introduced limits the use to which these newly authorized agencies can put the social security number to first, identifying individuals for purposes of the Parent Locator Program and second, administering the program of the particular agency that is authorized to compel its disclosure.

It would prevent, for example, the sale of lists of names of automobile registrants identified by social security number—sales such as have been made by automobile registration agencies and purchased by commercial and other private interests. It would prohibit the disclosure of an individual's social security number by one of these newly authorized agencies to anyone other than when necessary to the administration of the laws specified, and in response to requests made under the authority of the Parent Locator Program.

The second section provides for penalties. Existing law makes it a misdemeanor for any individual to improperly use or misrepresent his or her social security number to obtain benefits to which he or she is not entitled. This amendment applies the same penalties to any individual who uses, discloses, or compels the disclosure of the social security number in violation of Federal law. It does not further restrict the use of the social security number, but it will help assure that where Congress has placed specific limitations on its use, those restrictions will be adhered to.

I trust that the amendment will be acceptable to the manager of the bill.

Mr. LONG. Mr. President, I think that the amendment, as modified by my amendment and the additional Percy amendment that follows, makes a gain for both sides. I am all for preventing people from using the information improperly, and I am a hundred percent in favor of using it properly. I think the amendment amounts to a gain for both sides, and I am happy to support the amendment.

Mr. PERCY. Mr. President, I ask for the yeas and nays.

Mr. PASTORE. Before the Senator does that, if everybody is agreeable to this amendment, why do we have to have the yeas and nays? All we are doing is wasting time. We have been on this bill for 4 weeks.

Mr. LONG. Certainly, the amendment to the amendment should not require the yeas and nays.

Mr. PASTORE. That is what I am talking about.

Mr. PERCY. Mr. President, I move that the amendment to the amendment, as amended by the Long amendment, be adopted.

The PRESIDING OFFICER. The Chair advises that this will take unanimous consent.

Mr. LONG. I ask unanimous consent that the amendment may be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question now is on agreeing to the modified Percy amendment as amended.

The amendment, as modified and amended was agreed to.

UP AMENDMENT NO. 260

Mr. BENTSEN. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes unprinted Amendment No. 260:

At the end of title 13 of the bill add the following new section:

SEC. 3. Section 502(b) of the Trade Act of 1974 (Public Law 93-618; 88 Stat. 1978) is amended as follows:

(1) At the end of paragraph (5) thereof strike out "and".

(2) At the end of paragraph (6) thereof strike out the period and insert in lieu thereof a semicolon and the word "and".

(3) Immediately below paragraph (6) thereof insert the following new paragraph:

"(7) if such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism."

(4) In the unnumbered matter at the end thereof, immediately after "(5)," strike out "and" and immediately after "(6)" insert "and (7)".

Mr. BENTSEN. Mr. President, I ask unanimous consent that Senator CHILES, Senator STONE, and Senator DURKIN be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, this amendment would have the effect of prohibiting preferential tariff treatment for those countries which aid and abet international terrorists. The world has witnessed a tragic spate recently of international terrorist incidents. But in spite of increased efforts by certain nations to crack down on terrorist groups, terrorism has widened in scope and there is growing evidence of cooperation among international terrorist groups. Since 1968 alone, approximately 800 people have been killed and over 1,700 injured in international terrorist incidents; 114 U.S. citizens have been involved and 26 of them killed.

In spite of the fact that international terrorism is becoming increasingly frequent, no multilateral solutions are at hand. Many nations, particularly in the Third World, are unwilling to cooperate in efforts to combat terrorism, which, they say, can be justified under certain circumstances. Sources report that almost half of those terrorists captured in the last 5 years have been released. These nations unwillingness to bring the full force of the law to bear against these international outlaws threatens the peace and safety of all nations.

I believe it is time to take concrete steps to meet the problem of foreign governments harboring terrorists. Last month, I introduced a bill to end economic and military aid, Government and commercial arms sales, Export-Import Bank loans, and eligibility for the generalized system of preferences to any country which willfully aids and abets international terrorism. This bill is designed to serve as a deterrent to nations contemplating aiding terrorists.

I also think we should negotiate an international agreement with the other developed nations and the Soviet Union to terminate aid and trade as well. And serious consideration should be given to isolating nations aiding terrorists by cutting off air, sea, and ground transportation to them.

Mr. President, those nations which are generally considered to be friends of international terrorists do not have any considerable economic relations with the United States. Consequently, there are few sanctions this nation can impose unilaterally which will have any real impact. But there is one thing we can do—we can prohibit preferential tariff treatment to any country that the President determines aids and abets terrorists. That is what my amendment of this afternoon does. We have to serve notice that we will not countenance acquiescence to terrorism and that we are willing to take steps to deal with this problem.

Mr. President, I hope very much that the Senate will support my amendment.

Mr. LONG. Mr. President, the Senator has told me he planned to offer this amendment, and I am aware of the fact that he was planning to offer it. I do think the amendment has merit. Do I understand that he wants to deny a trade preference to people who are engaged in terrorist activity?

Mr. BENTSEN. I am talking about trade preferences to nations that harbor terrorists and that do not apply the full force of their own laws. I think we have to do everything we can to stop people who plant bombs in airport lockers and who maim and kill innocent men, women, and children in the name of some so-called higher political cause. A denial of trade preferences is the kind of pressure that I think will have some results.

Mr. LONG. I see no problem with the amendment, personally. If there is something objectionable about the amendment, I am sure we will find out about it before the conference can be completed. As far as I am concerned, I shall be happy to vote for the amendment.

Mr. CURTIS. Will the Senator yield?

Mr. BENTSEN. I yield.

Mr. CURTIS. We do not have a copy of the amendment and I would like to ask a question or two about it.

What trade benefits or concessions would be affected by the Senator's amendment?

Mr. BENTSEN. This would deny preferential tariff treatment that so many of these nations have been seeking with our country.

Mr. CURTIS. The most-favored nation treatment?

Mr. BENTSEN. It would be title V of the trade bill, which is the preferential tariff treatment.

Mr. CURTIS. Does the Senator also refer to what is called GSP, the general system of preferences?

Mr. BENTSEN. Yes, that is correct. The way the amendment is written, the President could waive the provision on GSP if he determines it would be in the national economic interest of the United States and reports that determination to Congress.

Mr. CURTIS. Who determines the guilt of the nations?

Mr. BENTSEN. The President would.

Mr. CURTIS. The President would?

Mr. BENTSEN. Yes.

Mr. CURTIS. Mr. President, I have no objection to this amendment.

Mr. BENTSEN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHURCH and Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will please state the inquiry.

AMENDMENT TO UP AMENDMENT 257

Mr. ALLEN. Mr. President, I desire to ask unanimous consent to amend unprinted amendment No. 257, which the Senate agreed to last evening. The amendment has reference to the amount of possible refund for taxes paid in past years. The amendment would provide that there would be no interest paid by the Government on the amount of these refunds. The purpose would be to save the Government some $168,000 from the amount of Government liability under the amendment that was passed by the Senate last evening.

The question I should like to ask is, if unanimous consent is given for considering this amendment, would that open up this section to further action by the Senate?

The PRESIDING OFFICER. The Senator is advised that it would not.

Mr. ALLEN. Very well.

Mr. President, I ask unanimous consent that I may offer an amendment to unprinted amendment No. 257, which was agreed to last evening. The distinguished Senator from Massachusetts pointed out in his argument against this amendment that where the amendment allowed the provisions of the amendment to become effective for prior tax years, that amounted to a windfall for the taxpayer. I do not feel that it amounts to a windfall, but I do not want the amendment to have any aspects or any contention made against it that does amount to a windfall. So I want to eliminate from the amount of refund that could be claimed by the taxpayers any interest to be paid by the Government, to eliminate any interest.

The amendment would save the Treasury $168,000, as computed by those involved.

I would like to ask unanimous consent to offer such an amendment under those conditions.

The PRESIDING OFFICER (Mr. LAXALT). Is there objection?

Mr. KENNEDY. Reserving the right to object, I would like to extend my appreciation to the Senator from Alabama for notifying me that he was going to make this unanimous consent request on the floor at this time.

I wonder if the Senator from Alabama would clarify for the record how many individuals will benefit and how their interests are broken down. Would it have all gone to one individual? How many beneficiaries would there be and to what extent does the Senator have figures of precisely who will benefit and how much. We talked about a figure of $500,000 last night, and I wonder if the Senator would clarify that.

Mr. ALLEN. Yes, I can give those exact figures which I obtained since last evening.

I do not know who would benefit, I do not know the names of individuals who would benefit by the action of the Senate which it has taken.

What we are talking about here is waiving benefits and seeing that some $168,000 is not required to be paid by the Government. So I want to disabuse the Senator's mind. This is putting money into the Treasury rather than taking money out.

Mr. KENNEDY. The Senator from Massachusetts understands that. What we are trying to do is to find out, so the record will be complete, who is going to benefit and the extent to which they are going to benefit, even without the interest payments.

The parliamentary situation precluded the opportunity for the Senate to consider the amendment of the Senator from Massachusetts to strike this entire section, after the Senate in a seesaw battle ended up in a tie vote by going on record in support of the modification of the Senator from Alabama's amendment. As a result, the Treasury would be paying this $100,000 in interest to a few beneficiaries, along with a much larger sum representing the return of taxes ordered by the amendment. I would like to see if we can find out some more information as to how many beneficiaries there are, who they are, and how big a check is going to be from the Federal Treasury to the beneficiaries, even without the interest. I would be interested in that, so that the record will be clear and the Senate can understand what it has voted. We have had a lot of debate and discussion, about 6 hours, on this last night, and I am just trying to find out now where we finally stand on this item.

Mr. ALLEN. Well, if the Senator is making the point, I am almost persuaded that I will just withdraw the request. But I did state I will reply to the Senator's request for information to the extent that I can.

I do not know who the beneficiaries would be because I do not know the names of the owners of the corporation. The immediate beneficiary, of course, would be this corporation alleged by the Government to be a personal holding company. The Senator stated on last evening that this was the Coca-Cola Bottling Co. in the city of Montgomery. The Senator is correct, that is the name of the company, as I understand it. I do not know the exact names of the owners, but I will tell the Senator the amount involved.

Mr. KENNEDY. Yes.

Mr. ALLEN. I stated here on the floor that I thought the amount was approximately $500,000. The amount of taxes that was paid through 1969 was $385,534.05. The interest that was paid by the taxpayers when they stuck them with the back years' assessment was $73,325.51, making a total paid by the taxpayers of $458,859.56.

There is hanging in abeyance—these taxes have been paid. There is an alleged liability of $81,210.65 for the year 1970. That has not been paid, and it is in litigation. That would amount to $539,000. That is fairly close to what I said when I said I thought it was approximately a half-million dollars.

If this amount should be refunded it would bear interest in the amount of $162,182, and that is what I am trying to get waived. I am trying to say that these taxpayers should not be allowed to claim interest; that to that extent it might possibly be a windfall to some extent, and I want to withdraw, which the amendment allows, their right to claim interest on the amount of taxes. This request I am making would save the Government $182,000, if the Senator is interested in effecting a saving for the Treasury.

Mr. KENNEDY. And the effect also will be, Mr. President, that the Government will send a check of approximately $500,000 to the beneficiary, the company.

Mr. ALLEN. No sir, the Senator is absolutely wrong. The request has only to do with the saving of $168,000. That is what the request is.

Mr. KENNEDY. But, as a result of the Senator's amendment adopted yesterday——

Mr. ALLEN. That is not within the Senator's reach.

Mr. KENNEDY. I am trying to understand the impact of the amendment, as modified. Even with this consent agreement, the effect of our actions will still be to send the bottling company in Montgomery, Ala., a Treasury check for $500,000.

Mr. ALLEN. That is not so. If the Senator is going to persist in haggling to prevent this $168,000 from being paid by the Government, I will withdraw the request.

Mr. KENNEDY. That is up to the Senator. The Senator can exercise his rights and I will ask whatever questions I wish to ask when these matters come up. If the Senator wants to withdraw his request, that is his privilege. I will not be intimidated from asking questions by that suggestion, may I say to the Senator. So I think it is important. We debated this issue for several hours last evening. This sort of special interest provision is one of the things we have been talking about during the debate on this bill. One of the basic issues is whether he has a clear understanding of who the beneficiaries of such provisions are, what the revenue impact is, and what the merits of the provisions are. It is for this reason that I have asked these questions of the Senator.

Mr. ALLEN. Very well. I have been happy to respond to the Senator's question.

I ask unanimous consent if I may offer this amendment and under those circumstances.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Several Senators addressed the Chair.

Mr. ALLEN. I ask that the amendment be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

Mr. FORD. Mr. President, I yield to the distinguished Senator from Alabama for 30 seconds.

Mr. ALLEN. That will be sufficient. I thank the Senator.

Mr. President, I ask unanimous consent that a memorandum from the Honorable William P. McClure, a local tax attorney, with respect to unprinted amendment No. 257, be printed in the RECORD as part of the legislative history with respect to the amendment.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM TO SENATOR JAMES B. ALLEN

(From William P. McClure, July 29, 1976)

Under your compromise, the taxpayer would be entitled to the following:

Total taxes paid through fiscal 1969	$385,534.05
Interest paid for those years	73,325.51
Total	$458,859.56

The taxpayer would not be required to pay the taxes for the fiscal year 1970 which have not been paid and are hanging in abeyance in the amount of $81,210.65 (or, of course, any interest thereon).

However, we will be prepared to waive interest on all refunds. According to our computations, this will amount to $162,182.03.

This result can be accomplished by adding the following sentence at the end of the amendment as modified: "Any interest with respect to any refund or credit made as a result of the application of the amendments made by subsection (a) shall not be allowed for any period prior to the date of enactment of this Act, except that sentence shall not apply to interest actually paid with respect to any deficiency."

The PRESIDING OFFICER. Does the Senator from Louisiana wish to be heard?

The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

UP AMENDMENT NO. 261

Mr. LONG. Mr. President, I send to the desk an amendment.

Mr. ALLEN. Mr. President, I still have the floor, do I not?

Mr. LONG. I thought we agreed to the Allen amendment?

Mr. ALLEN. I wanted to make further comment on it, if there is no objection.

The PRESIDING OFFICER. The Senator cannot retain the floor at the time the amendment is agreed to.

Mr. ALLEN. Very well.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes unprinted amendment No. 261.

The amendment is as follows:

On page 830, line 15, strike out "beneficiary." and insert in lieu thereof the following:

"beneficiary, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in sec. 267(c)

(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust."

On page 831, line 9, strike out "beneficiaries." and insert in lieu thereof the following:

"beneficiary, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in sec. 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust."

Mr. LONG. This is an amendment I said I was going to offer to make sure, insofar as it is possible to make sure, that no relative of the Senator from Louisiana, the manager of this bill, would be benefited by a provision in the law of which he had no knowledge when it was offered in committee.

This relates to the problem involving the depletion allowance of a trust. It relates to the amendment which was offered by the Senator from Kansas.

So far no one has told me why the Dole amendment should not be agreed to. Everybody agrees it corrects an inadvertent error that was made in passing the Tax Reduction Act last year. But I would not want this bill to provide any benefit one way or the other for any relative of mine.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. I would like to ask the distinguished Senator, if the Dole amendment to which the Senator refers, to which he has offered an amendment, was an amendment of general application as to, perhaps, a great number of taxpayers; is that right?

Mr. LONG. We know it applies to a broad group of taxpayers across the country—there are people in Louisiana, Oklahoma, Texas, and Arkansas—and so much so that we had a representative of the American Bankers Association come out of Dallas and testify that the American Bankers Association favored the Dole amendment.

It has to do with an unintentional inequity that occurred in passing the Tax Reduction Act last year.

The Dole amendment seeks to correct a mistake that sometimes happens under the pressure of circumstances in drafting legislation. I am sure some have read the nationwide publicity to the effect that this amendment could favorably affect my two daughters and some nieces and nephews of mine. I do not think the provision would have much effect on them, if at all. But, in any event, it had people believing that perhaps I had asked the Senator from Kansas to offer the amendment, or that I knew something about it, or had some interest in the amendment. There is no way we can satisfy suspicious minds.

Mr. CURTIS. I understand, but——

Mr. LONG. Under my amendment the provision would not benefit any relative of the Senator from Louisiana.

Mr. CURTIS. I would like another minute to add this to the record.

This not only is an amendment of general application for the benefit of many taxpayers, but it is also an amendment that ought to be enacted. It is good law. It is to correct an error. Among other suporters, the American Institute of Certified Public Accountants recommended the passage of this amendment.

I think the record should also show that never at any time was it in the purview of something for the benefit of the distinguished chairman of this committee. In fact, the contrary is true.

And those careless people who pictured this to the public as a connived, special benefit for the distinguished chairman of this committee, have rendered a disservice to the people of the United States in their failure to truthfully interpret public happenings.

I think this amendment the chairman now offers is unnecessary.

I commend him for his desire to want to do it, and the fact he does it, because he has gone the extra mile to make sure that nothing over which he presides is for his benefit.

I commend him for it.

Mr. LONG. Mr. President, I ask unanimous consent that the testimony of Mr. Laurence Woodworth, explaining the background of how this problem arose and how he has sought to correct the matter, when he appeared before the Finance Committee, be printed in the RECORD at this point.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

Chairman LONG. I would like to ask Mr. Larry Woodworth to take the chair. I would like to have him explain something for the record that he understands better than anyone.

STATEMENT OF LARRY WOODWORTH

The CHAIRMAN. Mr. Woodworth, you have heard the discussions in this room today and on previous occasions about the problems inadvertently created with regard to the 65 percent limitation involving the depletion allowance.

Would you expain to us how that came to be in the law and what has been done to modify that provision at this time?

Mr. WOODWORTH. I would be glad to do so. The Joint Committee staff was asked to prepare an amendment for Senator Cranston in 1975. That amendment contained a provision which provided that the deduction for percentage depletion may not reduce taxable income by more than 50 percent. Subsequently, in conference, this was increased to 65 percent.

There was included in the Cranston amendment the concept that if a taxpayer has retail outlets he would not be eligible for percentage depletion.

The CHAIRMAN. What was the purpose of that limitation, if you had retail outlets you would not be able to——

Mr. WOODWORTH. It was intended as a way of being sure that integrated companies, or the majors, were in no event to be eligible for any allowance for percentage depletion. That was my understanding of the purpose of it.

Staff members prepared this amendment for Senator CRANSTON. It contained no special provisions relating to trusts.

As first drafts often do, it probably needed subsequent refinement which we were not able to get at that time in part because of the fact that it was a floor amendment and not reviewed by the committee as is usually the case. As the Senator will recall——

The CHAIRMAN. That had to be drafted on short notice, did it not?

Mr. WOODWORTH. Yes, it did.

The CHAIRMAN. The reason was that the Senator wanted to offer it on the floor?

Mr. WOODWORTH. I believe it had to be available within a day or two of the time I was asked to prepare the draft. Also there was not any opportunity for the usual staff review of this particular provision.

In any event, it contained a number of problems which we have heard about since that time. In the ordinary course of events these would have been the kinds of problems which would have been brought out in hearings by those testifying before the Finance Committee.

There was no opportunity for that type of consideration of technical problems. In any event, almost as soon as the legislation was passed, we began to hear about the problems with deminimis types of retail outlets.

I have heard about problems of that type almost from the day the bill became law. As a result we knew that this was a problem area and we recognized that the tax committees probably would want us to try to work it out. In other words it did not appear to us to be within the intent of the Congress to cover cases of this type in this amendment.

The problem with respect to trusts, I did not hear about until quite recently. That was called to the attention of our staff by a member of a law firm here in town, Mr. J. D. Williams' law firm, who met with my staff. I was not at that particular meeting.

This problem was outlined and the staff went over the problem, thought that there was merit in the proposal and presented it to me. From my analysis it appeared to me that this treatment was in fact what was basically intended in the original legislation.

The 65 percent rule in the case of trusts has an unfortunate result in that in applying the limitation only the income which remains after the distributions to the beneficiaries is taken into account.

The effect of this is reduce the percentage depletion to almost nothing in those cases where most or all of the income is distributed to beneficiaries currently. The question with respect to the beneficiaries is whether there was an intent in the original legislation to prevent the advantages of percentage depletion from being passed through to the beneficiaries. I do not believe there was any such intent.

The Dole amendment also contained a modification to the transfer rule under which no change of beneficiaries of a trust is to be considered a transfer if the change occurs because of the death, birth, or adoption of a beneficiary if the transferee was a beneficiary under the trust prior to the triggering event or is a lineal descendant of the grantor or any other beneficiary.

As a result of the conference my staff had with a member of Mr. J. D. Williams' firm and the subsequent staff study, I was prepared to analyze this problem when it came up before the Finance Committee. When it was presented before the committee by Senator Dole, I explained the provision and said that I thought it was a desirable technical provision. I did not at any time discuss it with you, Senator Long, prior to it coming up in the committee session.

The CHAIRMAN. When Mr. Dole brought up that matter, you explained it in this committee room, and I was here. You explained at that time that it, insofar as trusts were concerned, had to do with the adoption of someone or death.

I do not recall anything being said about that technical and complicated matter which I did not understand. It has to do with the fact that when a trust receives income which it distributes to the beneficiaries, it somehow winds up losing its depletion allowance, although the law never intended that.

I do not recall that being explained. It took me a long time to understand how anyone would be contending that any of my family could be affected by that. They are all young people and in robust health and I am not planning to adopt any children so I did not see how anything of that sort could possibly involve anyone in whom I am very much interest.

The same would be true with regard to my brother, sister, nieces and nephews. Did you fail to mention the 65 percent limit and the technical problems involved with it which would cause a trust to lose its depletion allowance in connection with the intricacies of that provision?

Mr. WOODWORTH. I cannot remember how much of the provision I explained to the committee. As you will recall there were a number of provisions coming up fairly rapidly at that time.

I do not have any recollection as to exactly what I explained on this provision. I thought that I explained that feature. However, it may be that I unintentionally overlooked it. Certainly I should have explained it. If I did not do so, I erred in that respect.

The CHAIRMAN. The provision that this part of the Dole amendment is seeking to correct, if I understand your statement, was an inadvertent error. It was something that never would have been done in the first place if someone's attention had been directed to it. Isn't this the type of thing you ordinarily regard as a technical amendment to correct an unintentional error?

Mr. WOODWORTH. Yes, sir.

The CHAIRMAN. We have the statements here of Mr. Daniel Davis speaking for the American Banker's Association and I notice he was Vice President of the First National Bank in Dallas. I assume they have a problem with this provision in Dallas, Texas where those banks handle the affairs of people involved in the oil and gas industry.

We also have a statement here from a Mr. Carl W. Sebits of the Independent Oil and Gas Operators speaking for people who are similarly affected, representing 4,000 independent operators.

If you will permit me to say it, I had no knowledge whatsoever of this problem.

In fact I had no knowledge of the amendment before it was offered. I think Senator Dole can testify that I never discussed the matter with him, nor did I discuss it with anyone else, at any point prior to the time he offered that amendment.

Senator DOLE. Absolutely not. I just want to add to the list that it, of course, did have the approval of the Treasury Department which I think is important. This was a technical amendment.

Also the Tax Division of the Institute of Certified Public Accountants supported it. It was not limited to one state or one trust or one anything else. It had broad application and was a technical amendment.

I remember a brief discussion with Larry concerning it. I do not know how he handled the 65 percent provision in the committee but in any event, I think the Chairman stated it accurately.

The CHAIRMAN. I just want to make it clear that as far as I am concerned, this is one of those many unintentional errors that creep into the law. That is one of the reasons why we are here, to correct things of that sort.

As far as I am concerned, I would not want to benefit from the provision, even if it corrects an unintentional error. I would like to ask you to see if you can prepare an amendment that in the event that this technical error, which does an injustice to taxpayers by discriminating against certain people, should become law that the injustice would continue as far as anybody related to me is concerned.

Thank you very much.

(Whereupon, the hearing adjourned at 12:36 p.m.)

Mr. DURKIN. Will the Senator yield for a question?

Mr. LONG. Yes.

Mr. DURKIN. What is the effect of the Senator's amendment he has just offered?

Does that eliminate any application of the Dole amendment?

Mr. LONG. The effect of the amendment is to make it certain that no daughter, niece, or nephew of the Senator from Louisiana could benefit from anything in the Dole amendment. Simply, that is the provision of the law that could benefit relatives of mine.

Mr. DURKIN. Mr. President, I think the record will show I voted consistently with the so-called reform package, the reform bill. I think the record will show I have not even talked to Senator LONG on this matter.

But at the appropriate time, I am going to move to table the Senator's amendment because if the Dole amendment has broad impact, if it is good law, I do not think we can go around cutting out individuals. I do not think we can end up with Senators that have no relatives, that have no entanglements whatsoever.

If it is good law, it should rise or fall, notwithstanding that certain Members of the Senate or certain relatives may or may not, in this case, benefit, or in the next case suffer disadvantage.

I think we have to write tax laws for the entire country.

At an appropriate spot, I am going to move to table this.

Mr. LONG. Mr. President, I plead with the Senator not to do this. Mr. DOLE has been the subject of unfair accusation merely because this amendment might favorably affect some relative of mine.

I urge the Senator not to subject himself to that. Some people will think the worst, until proven beyond a standard that even the Deity would not require, that we people are devious, conniving, deceitful people, engaged in tricks and unworthy conduct.

I hope the Senator will not let himself in for that. I have been through enough of this to know. The only way anybody can be satisfied that neither the Senator from Louisiana, nor any of his relatives, in any way benefit from that provision is to be sure it cannot possibly happen.

So please do not do that. I appreciate very much the Senator's motives. They are laudable and I appreciate it. But this is one occasion when I would appreciate it if no friend would rescue me.

I would like to have it so that nothing in this amendment could benefit the Senator's relatives in any respect.

I plead with the Senator, do not do that. I promise, if he does, he is very likely to be accused and held up to suspicion by people he would never expect it from. I urge him not to do that. Do not make that mistake because there are some people who are very suspicious and no matter how hard we try, we never satisfy them.

But this is not something that the Senator had discussed with the Senator from Louisiana, and on that type of thing, I plead with the Senator not to do it.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I was not aware the amendment would come up at this time.

The distinguished chairman discussed this possibility in full committee meeting—an open committee meeting—when all the press was present.

I might suggest, as the Senator from Nebraska pointed out, this is an amendment of general application. There was a great deal of publicity in certain quarters about the amendment.

The Senator from Kansas personally believes it was an effort by some in the press to attack the efforts of the committee and not so much an attempt to discredit the amendment. I believe it was an attempt by some of the press to attack the efforts of the chairman or anyone who was not in a so-called "tax reformer" category—whatever that is.

But if we read the Washington Star, at least the person who writes on tax matters for the Evening Star, or read the New York Times, or the sensational headlines in the Kansas City Star, one could get the impression that some of us on the committee are for tax reform and some are not, and that some of us are really guided by an outside force. Colleagues not on the committee come in and tell us how to respond and conduct ourselves as members of that committee.

The so-called Dole amendment was offered in good faith, not, as has been alluded to in certain press reports, as an effort to aid the Long family, or relatives of the Long family.

It is of general application. It is supported by the Department of the Treasury. It is supported, I think, by every member of the committee. It has not been opposed by so-called public interest groups, including Public Citizen, the Nader group. There is no objection to the amendment.

If the chairman insists he remove any possible benefit for his family, I assume that is a right he has.

I think it is fair to say that in years past amendments have been added to tax bills that have aided Members' families, who were in the Senate or outside the Senate, and no great howl was made. But there may be a reason for that.

I only suggest that the amendment is very meritorious. It is needed to remedy unintended effects of last year's bill on trusts with petroleum income.

I ask unanimous consent that a memorandum explaining the amendment again, along with a letter from the Treasury Department, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOLE OIL DEPLETION AMENDMENTS: BACKGROUND MEMORANDUM

The problems these amendments seek to remedy arose out of the Tax Reduction Act of 1975. That act repealed the percentage depletion allowance for oil and gas with two exceptions. Under one of these exceptions—the so-called "small producers' exemption"—the percentage depletion allowance is retained for a limited amount of domestic petroleum production. However, there are several restrictions which limit the ability of certain taxpayers to qualify for the small producers' exemption.

One of these restrictions is the so-called "retailer exclusion," which denies the percentage depletion allowance for small producers who sell oil or gas (or any product derived from oil or gas) through a retail outlet operated by the producer or a related person. A second restriction is the so-called "transfer rule," which prohibits the percentage depletion deduction on proven property which has been transferred after 1974. The third major restriction is the so-called "65% limit," which provides that the percentage depletion deduction for any year may not exceed 65% of the taxpayers' taxable income. It is these three restrictions on the availability of the small producers' exemption which the Dole depletion amendments in Section 1317 of H.R. 10612 are designed to clarify.

(1) *Retailers' exclusion amendment.*

Under current law, a taxpayer is subject to the "retailer exclusion" for any taxable year in which the taxpayer either directly, or through a related person, sells oil or gas (or any product derived from oil or gas) either (a) through a retail outlet operated by the taxpayer or a related person, or (b) to any person who is obligated under a contract with the taxpayer (or a related person) to use the trademark of the taxpayer (or a related person) in marketing oil or gas (or derivative products), or who is given authority under a contract to occupy a retail outlet controlled by the taxpayer.

As explained in the Finance Committee report, "the retailer exclusion can be construed to apply in many cases where it was not intended to apply. For example, the retailer exclusion could be interpreted to deny the small producer exemption to a royalty interest holder who holds a mere 5% interest in a partnership that operates a corner drugstore which sells petroleum jelly." More realistically, many small producers who have interests in one or more retail gas outlets have been denied the small producer exemption, and thus, percentage depletion, on their petroleum properties.

In a letter to the Chairman of the Finance Committee on April 14, 1975 (see appendix), Senator Dole commented:

"Surely this is not the result intended by the Congress. The 'Joint Explanatory Statement of the Committee on Conference' does not contain any indication that the retailers exclusion section of the law is restrictive. The Statement says only that [t]he exemption is not available to any producer *owning or controlling* a retail outlet for the sale of oil or natural gas or petroleum products. (Emphasis added.)

"Nor does the Finance Committee staff summary of the Conference Report reflect the restrictive nature of the 'retailers exclusion.' It provides only that [t]his exemption is not available to any producer *owning or controlling* a retail outlet. (Emphasis added.)

"Such explanatory language would not appear to accurately describe a statutory provision with respect to retail ownership which equates a five percent interest with 'ownership' or 'control.' This fact assumes special importance since most Members did not have a copy of the actual statutory language available for their examination when the Act was passed late in the evening of March 26, 1975.

"I am aware of the severe—though artifically created—time pressure on the staff in preparing the final version of the bill. And, overall, they performed magnificently. But I feel that the final draft of the retailers exclusion provision does not conform to the intent of the Conferees or to the explanatory materials available to the Members at the time of final passage."

The thrust of this letter was forwarded, under the signatures of both Senators Dole and Long, to the Staff Director of the Joint Committee on Internal Revenue Taxation, on October 28, 1975. It was in response to this letter that the staff prepared the "retailers exclusion" clarifying amendments which were agreed to by the Finance Committee and are incorporated in Section 1317 of H.R. 10612.

The Finance Committee amendment (Section 1317 of H.R. 10612) is grounded on the premise "that the retailer exclusion was intended to apply only where the taxpayer has substantial retail operations and not to the cases where a taxpayer's retail operations are essentially *de minimis*." Specifically, the Finance Committee's "retailer exclusion" amendment provides:

(A) If, in the case of any taxpayer, gross receipts from the sale of oil or gas, or products derived therefrom, by all retail outlets of the taxpayer (or related persons) do not exceed $5 million for the taxable year, such taxpayer will not be treated as a retailer for that year. Thus, if the taxpayer and related persons operate a total of five outlets, the taxpayer will be subject to the retailer exclusion only if the aggregate gross receipts from the sale of oil, gas, or their derivative products by these outlets exceed $5 million for the year. This *de minimis* exception applies to retail outlets occupying land owned, leased, or controlled by the taxpayer as well as those outlets owned directly by him.

This portion of the Finance Committee amendment clarifies the availability of the depletion allowance to independent oil producers in Kansas and other petroleum producing areas, and was originally brought to the Committee's attention by Senator Dole's letter of April 14, 1975.

(B) A taxpayer will not be subject to the retailer exclusion for any taxable year for which all retail sales of oil, gas, or their derivative products by retail outlets are made outside the United States. This is the so-called "Belco amendment," which was suggested by the staff and not originated by Senator Dole. It is designed to deal with a certain company which has domestic petroleum production and retail sales of petroleum products in Israel.

(2) *The "transfer rule" trust amendment.*

Under current law, the small producers' exemption is not available "in the case of a *transfer* * * * after December 31, 1974, of an interest (including an interest in a partnership or trust) in any proven oil or gas property," except that this rule will not apply to a "transfer of property at death." According to the Finance Committee report:

"The rule prohibiting the percentage depletion deduction on proven property which has been transferred was intended to prevent a proliferation of the amount of proven oil or gas reserves that might be eligible for percentage depletion when produced. The Committee believes that the rule was not intended to apply to some cases of transfers which occur *by operation of law*. For example, where property is held in trust and the beneficiaries are entitled to percentage depletion with respect to the property, the birth or death of a beneficiary may constitute a transfer. This kind of transfer was not intended to give rise to the nile of percentage depletion." (Emphasis added.)

Specifically, the Finance Committee amendment adds an additional exception to the transfer rule. Under this exception no change of beneficiaries of a trust shall be considered a "transfer" if the change occurs solely by reason of the death, birth, or adoption of any beneficiary if the transferee was a beneficiary under the trust prior to the triggering event or is a lineal descendant of the grantor or any other beneficiary. *Example*:

"A testamentary trust provides that income of the trust (including oil and gas income eligible for the depletion allowance) shall be distributed to A for life, remainder to the children of B. At the time the trust becomes operative, B has three children—C, D, and E. Later, a fourth child, F, is born. Under the amendment, the addition of F to the 'class' (children of B) would *not* be deemed a *'transfer.'* "

The technical and complex problems this amendment seeks to clarify have been the subject of much discussion within the legal, accounting, and banking communities over the past several months.

(A) On December 16, 1975, the American Bankers Association submitted comments on proposed Treasury Department regulations dealing with the transfer rule, in which the issues dealt with by the Dole amendment were raised. Specifically, the ABA observed:

"The first sentence of proposed Section 1.613A–7(n) also refers to "any change in * * * equitable ownership by * * * a change in the beneficiaries of a trust." These words may be interpreted to result in a "transfer" when any event (other than perhaps death) causes a change in the trust beneficiaries. For example, consider a trust which directs that income be paid to A for ten years thereafter to B for his life with the principle to be distributed to B's issue who survive him, per stirpes. Does a 'transfer' take place at the expiration of the ten year period when A ceases to be a beneficiary? Does a 'transfer' take place upon the birth of a child of B during the trust term? These questions should be answered in the negative."

(B) Similar support for the Dole amendment concept with respect to the transfer rule is found in a comment on the proposed Treasury regulations submitted by the Wichita Falls, Texas, law firm of Sherrill, Pace, Rogers, Crosnoe & Morrison on November 15, 1975:

"The definition of 'transfer' should not include a distribution by a * * * trust since * * * beneficiaries are the beneficial owners of the property prior to the distribution. In this connection, the reference in the proposed regulations to a 'transfer of property at death (including the distribution by an estate)' should include a distribution not only by an estate, but by a testamentary trust to its beneficiaries pursuant to the provisions of the decedent's will since the transfer of a beneficial title occurs at the death of the decedent.

After reviewing the comments submitted with respect to the "transfer rule," the Department of the Treasury concluded that the Dole amendment was necessary. Upon request, the Treasury commented in writing on the amendment in a letter dated July 1, 1976:

"The first amendment would provide that a transfer is not considered to have taken place in the case of a change of beneficiaries of a trust by reason of the death, birth, or adoption of any beneficiary if the transferee was a beneficiary is a lineal descendent of the grantor or any other beneficiary. If in the case of a 'sprinkling trust' a transfer is considered to take place and it involved the transfer of a proven property, then the beneficiary would not be eligible for the independent producers' exemption to the repeal of percentage depletion on the income from that property.

"The Treasury supports this amendment.

The treatment of such a situation is unclear under current law. However, there is no reason why the beneficiaries of a sprinkling trust should be treated differently from the beneficiaries of an ordinary trust. This amendment would simply clarify the law to provide equality of treatment."

(3) *The Dole "65% limit" amendment.*

Under current law, for any taxpayer eligible for the small producer exemption, the depletion deduction for any year attributable to such small producer exemption may not exceed 65% of the taxpayer's taxable income. The technical amendment which clarifies this restriction is explained in the Finance Committee report:

"Under the trust laws of certain states, as well as the provisions of some existing trust instruments, the entire depletion allowance is required to be allocated to the *trustee*, even though income distributions are made to beneficiaries. Such distributions reduce the taxable income of the trust and, because of the 65% limitation, jeopardize the deduction under the small producer exemption. The Committee believes that this result was not intended. Thus, to correct this situation, the Committee's amendment provides, for purposes of the 65% of taxable income limitation, that a trust's taxable income shall be computed without a deduction for distributions to beneficiaries during the taxable year. In addition, the language of present law is changed to make clear that in computing taxable income for purposes of the 65% of taxable income limitation, percentage depletion under the small producer exemption is not treated as a deduction from taxable income. (Otherwise, there would be a circle, with percentage depletion reducing the base of taxable income against which the 65% limitation is measured.)"

Example:

"Assume a trust has $100 in taxable income (before distributions to beneficiaries) from oil and gas property eligible for percentage depletion. Under current law, the trust would be eligible for $22 in depletion deduction (@ 22% rate). That leaves $78 taxable income. 65% of $78 is greater than $22, so the trust would be eligible for the full percentage depletion. If, before the end of the taxable year, all $100 of oil and gas income was *distributed* to the trust beneficiaries. Without the amendments, the 65% limit would be applied to $0 taxable income, thus the trust would receive no depletion deductions. Under the amendment, the 65% would be applied to the full $100 taxable income, not just to the $78 of taxable income remaining after the depletion deduction is taken."

(A) In its July 1, 1976, letter, the Treasury Department voiced support for the Committee amendment:

"The second amendment would provide that in determining the 65% of taxable income limitation to the amount of percentage depletion allowed under the independent producers' exemption, the taxable income of a trust shall not be reduced by any distributions to its beneficiaries.

"The Treasury Department also supports this amendment. Such a rule is necessary in the computation of percentage depletion in the case of trusts and their beneficiaries. If for purposes of this computation a trust's taxable income will be reduced by distributions to beneficiaries, then in the normal case, of a trust that distributes all or most of its income, no percentage depletion would be allowed either to the trust or to its beneficiaries since they may only take their allocable share of the percentage depletion computed at the trust level. The Treasury Department does not believe that it was the intention of the Tax Reduction Act of 1975 to deny percentage depletion to the vast majority of trusts and their beneficiaries. Therefore, we had decided prior to the introduction of this amendment that the Treasury regulations under Section 613A should incorporate the substance of the second amendment. While we believe we have authority to adopt such a rule by regulations, our authority may not be entirely clear. For that reason, we believe adoption of the amendment would be desirable." (Emphasis added.)

(B) The Federal Tax Division of the American Institute of Certified Public Accountants, in a meeting on January 5, 1976, also commented favorably on this technical interpretation of the 65% limit:

"The 65% limitation will work an unintended hardship on trusts, both simple and complex. For example, under Texas trust law, a trustee is required to allocate 27½% of gross mineral income to the principle of the trust. If taxable income for purposes of applying the 65% limitation is reduced by the deduction for distributions to beneficiaries, substantial percentage depletion will be denied to the trust permanently. Distributions to beneficiaries are in essence a sharing of the trust's income, although characterized as 'deductions.' It is suggested that the definition of taxable income in the case of trusts and estates subject to the 65% limitation be computed without regard to 'any deduction for distributions to beneficiaries.' "

(C) The Oklahoma Bankers Association, in a submission to the Treasury Department on December 15, 1975, suggested that the "most simple solution would be to provide that, for purposes of the 65% of taxable income limitation, distributions by the trustee shall be disregarded."

(D) Similar support for the concept of the Finance Committee amendment was voiced by the Wichita Falls, Texas, law firm of Sherril, Pace, Rogers, Crosnoe & Morrison in a communication to the Treasury Department on November 14, 1975:

"Section 6.13A(b)(c)(1) provides for a limitation on percentage depletion so that the same will not exceed 65% of the taxpayer's taxable income. * * * In this connection, it is strongly urged that for the purpose of this limitation, the taxable income of an estate trust be computed before the deduction for distribution for beneficiaries. This is an extremely important provision, since the beneficiary of a simple trust would be denied all depletion since each year, it is required that all distributable net income be distributed to the beneficiaries leaving a taxable income of zero to the trust."

DEPARTMENT OF THE TREASURY,
Washington, D.C., July 1, 1976.

Hon. BOB DOLE,
U.S. Senate, Washington, D.C.

DEAR SENATOR DOLE: This letter is in response to your request for the views of the Department of the Treasury on two provisions contained in section 1317 of the Tax Reform Act of 1975, which is presently being considered by the Senate. Both provisions are amendments to section 613A of the Internal Revenue Code, the limitation on percentage depletion in the case of oil and gas wells.

The first amendment would provide that a transfer is not considered to have taken place in the case of a change of beneficiaries of a trust by reason of the death, birth, or adoption of any beneficiary if the transferee was a beneficiary or is a lineal descendent of the grantor or any other beneficiary. If in the case of a "sprinkling trust" a transfer is considered to take place and it involved the transfer of a proven property, then the beneficiary would not be eligible for the independent producers exemption to the repeal of percentage depletion on the income from that property.

The Treasury Department supports this amendment. The treatment of such a situation is unclear under current law. However, there is no reason why the beneficiaries of a sprinkling trust should be treated differently from the beneficiaries of an ordinary trust. This amendment would simply clarify the law to provide equality of treatment.

The second amendment would provide that in determining the 65 percent of taxable income limitation to the amount of percentage depletion allowed under the independent producers exemption, the taxable income of a trust shall not be reduced by any distributions to its beneficiaries.

The Treasury Department also supports this amendment. Such a rule is necessary in the computation of percentage depletion in the case of trusts and their beneficiaries. If for purposes of this computation a trust's taxable income were reduced by distributions to beneficiaries, then in the normal case, of a trust that distributes all or most of its income, no percentage depletion would be allowed either to the trust or to its beneficiaries since they may only take their allocable share of the percentage depletion computed at the trust level. The Treasury Department does not believe that it was the intention of the Tax Reduction Act of 1975 to deny percentage depletion to the vast majority of trusts and their beneficiaries. Therefore, we had decided prior to the introduction of this amendment that the Treasury regulationis under section 613A should incorporate the substance of the second amendment. While we believe we have authority to adopt such a rule by regulations, our authority may not be entirely clear. For that reason we believe adoption of the amendment would be desirable.

Sincerely yours,
WILLIAM M. GOLDSTEIN,
Acting Assistant Secretary.

Mr. DOLE. I would only add that there is widespread interest in this amendment. We have had testimony to that effect from many States and many areas, from bankers and accountants, and others who deal in the trust area. I agree with the distinguished Senator from New Hampshire. It seems to this Senator it is an amendment of general application, an amendment offered after discussion, after approval of the staff, after approval of the Treasury.

We have had rehearings on the amendment; we have had testimony on the amendment; we have had opportunity for questioning on the amendment. If for some reason unknown to the sponsor of this amendment it does benefit someone's family, I would join with the distinguished Senator from New Hampshire in suggesting that the chairman's amendment not be offered. Again, knowing his interest in wanting no misunderstanding, if the chairman insists on the amendment, the Senator from Kansas would only ask to be assured that it does not damage the thrust of the amendment. I am sure the chairman's amendment would be carefully drafted so it does not exclude anyone else. Should we find later that somebody's third cousin who has a relative in Congress benefits, would they be excluded?

Mr. LONG. Mr. President, the Senator can be sure that this would meet the qualifiactions of a closely drafted amendment. I predict with great confidence that this amendment would apply to no one except the person to whom I have made reference. It has been drafted very closely with that in mind. I would urge the Senator to vote for this amendment for that reason.

I think it is very important that people who are entitled to justice in this country should not be denied it by completely irrelevant issues. There has been a great effort made by some people to try to make it appear that some of us on that committee were corrupt, the chairman in particular. I am doing what I think is right as the Lord gives me the right to see it. I am sure the other members of the committee are doing the same thing, and the Senate is doing the same thing. I do not want this matter confused or obscured by any allegation, potential, or present, that some of us may be doing this for unworthy motives. Therefore, I would like to have the amendment agreed to and have a vote on it.

Mr. DOLE. Mr. President, on that basis the Senator from Kansas will not object. The amendment has widespread support and it is of universal application. I would hope that the Senator from Louisiana in offering his amendment is not setting some sort of a precedent where we have to go back over the records of the past 10, 15, 20, or 25 years to see if some Senator or Senator's family benefited from any amendment offered to any tax bill.

So, on that basis, I have no objection to the Senator's amendment. I thank the distinguished chairman.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized. He has been most patient.

UP AMENDMENT NO. 262

Mr. CHURCH. Mr. President, I send an amendment to the desk for myself and my colleague, Mr. McClure, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. Church), for himself and Mr. McClure, proposes an unprinted amendment No. 262.

At the proper place in the bill, insert the following new section:

Sec. . Amendment to Supplemental Security Income Program.

Section 1612(a)(2)(A)(iii) of the Social Security Act is amended by striking out "fifth month" and inserting in lieu thereof "seventeenth month".

Mr. CHURCH. Mr. President, the purpose of this amendment is to extend the period that supplemental security income beneficiaries can receive their full benefits when they are forced to reside in another's household because of a presidentially declared disaster, from 6 to 18 months.

I have discussed the amendment with the distinguished floor manager of the bill. He understands the reasons for it, occasioned by the Teton Dam disaster in Idaho. It is my understanding that the amendment is acceptable to him.

Last month, the Senate approved the Church-McClure-Tunney amendment to provide relief for victims of the Teton Dam collapse.

This measure allows SSI beneficiaries to continue to receive their full benefits for 6 months if they are forced to leave their households because of a major disaster declared by the President under the Disaster Relief Act.

President Ford signed this proposal into law, Public Law 94-331, on June 30, 1976—slightly more than 3 weeks after the collapse of the Teton Dam caused extensive flooding within a five-county area in Idaho.

The amendment which Senator McClure and I offer would extend this period from 6 to 18 months.

It is quite clear now that many of these victims will not be able to return to their homes within 6 months.

In fact, it may be years before some SSI recipients can reestablish their residences.

Federal damages must be approved to reimburse them for their property loss. For example, the Teton Disaster Relief Act provides monetary damages for property loss, personal injury, and death. Victims must submit their claims within 2 years. President Ford recently signed into law the fiscal 1977 Public Works Appropriations Act, which includes funding for this purpose.

Numerous homes are still inundated with mud and debris. A massive reconstruction effort will also be required to renovate the damaged homes.

This will, of course, require considerable time. Under these circumstances, an 18-month period clearly seems more appropriate than 6 months.

Otherwise, SSI recipients who must continue to reside in another's household beyond 6 months will have their basic grants reduced by one-third.

In terms of dollars and cents, this means that the Federal monthly SSI income standard will be reduced by $55.93, from $167.80 to $111.87. And for eligible couples, the income standard will be reduced by $83.93, from $251.80 to $167.80.

These individuals have already suffered enough and should not be forced to endure further economic hardship.

America is a humane nation. We have repeatedly helped others in time of tragedy, whether they live here in the United States or throughout the world. We have compiled a record of compassion, of which we can all be proud.

And, I strongly believe that we should do everything possible to ease the suffering of those victimized by the Teton Dam collapse.

For these reasons, I urge approval of the Church-McClure amendment.

Mr. LONG. Mr. President, I hope the Senator will not be accused of offering a special interest amendment. The Senator feels additional time will be needed to permit victims of a disaster that occurred in his particular State to obtain the benefits of a measure which he had previously assisted in passing, he and his colleagues.

The beneficiaries will need more time in order to relocate and to try to find housing or to build housing. This would prevent them from losing a part of their SSI payments during an additional period of time. I believe it is a meritorious amendment.

Before we vote on this, Mr. President, I am informed that the Senator from Illinois (Mr. Percy) would like to have a rollcall vote on the Percy amendment, as amended. I asked unanimous consent that it be in order for us to vote again on the Percy amendment, as amended, at the conclusion of the amendment to be offered by the Senator from Nebraska (Mr. Curtis).

Mr. McCLURE. Mr. President, I am pleased to join my distinguished colleague, Mr. Church in offering this amendment. I wish to stress that it will not involve an increase in the benefits of the SSI recipients affected by the Teton Dam collapse, but will merely maintain funds at levels established prior to the disaster while allowing victims to seek shelter with friends and relatives. The Church-McClure amendment will insure that SSI beneficiaries will not be penalized by an unfair reduction in SSI assistance: it will retain these benefits for an appropriate time period in order to allow victims to reestablish their own households. Therefore, I join with my colleague from Idaho in urging your acceptance of this amendment.

The PRESIDING OFFICER. We have not disposed of the Percy amendment.

Mr. LONG. I ask unanimous consent that at the conclusion of the consideration of the Curtis amendment, that the Senate proceed to reconsider and vote on the Percy amendment, as amended.

Mr. CURTIS. It is all right with me.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. I have an amendment I will offer later.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I reserve the right to object, and I will not object. Yesterday I was on the list to be recognized and I yielded to the distinguished Senator from Massachusetts for 5 minutes and it lasted 3½ hours. I understood I might follow Senator Percy today, and I find I am third or fourth on the list. Now the distinguished floor manager says we are going to have a vote after the Senator from Nebraska presents his amendment. All I want to know is, do I get an opportunity for a couple of noncontroversial amendments that would not help nor hurt anybody?

[Laughter.]

The PRESIDING OFFICER. The Senator from Kentucky is advised that he is now next on the list.

Mr. FORD. I thank the Chair and will not object to the Senator's request to have a vote after the amendment of the Senator from Nebraska.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the amendment of the Senator from Idaho.

The amendment was agreed to.

AMENDMENT NO. 2097

Mr. FORD. Mr. President, I call up my amendment No. 2097.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. Ford) proposes an amendment No. 2097.

On page 838, after line 23, add the following:

"(4) Any vessel, barge, or craft which is operating in a navigable waterway which lies entirely within the boundaries of a State.".

Mr. FORD. Mr. President, I will take just a very few moments to briefly explain the amendment.

Section 1321 of the Senate committee amendment prohibits the States or their political subdivisions from imposing taxes on any vessel, barge, or craft engaged in the interstate transportation of commerce on the navigable waterways of the United States. My amendment excepts those waterways that lie entirely within the boundaries of a State.

The committee amendment applies to waterways that form boundaries and to waterways that lie totally within the boundaries of a State. Admittedly confusion and conflict can result in the first category.

I realize that a little paperwork may be involved for the barge lines, but the principle is far too important for us to set this precedent. Is the next step to limit taxes on railroads, airlines, buses, and trucks involved in interstate commerce? Federal funds have been expended and the same jurisdiction can be presented. I feel very strongly that we should not limit the taxing authority of States except in unusual and flagrant situations.

I have seen no explanation in the report of the Finance Committee to indicate abuses or unusual hardships that have been created under the present law. Consequently, I believe that we should not place this prohibition on the States and their political subdivisions especially when the navigable waterways lie entirely within the boundaries.

Let me quote the administration position:

> The Federal Government has, over the years, imposed relatively few constraints on the power of States to impose taxes. The fact that current State tax practices impose recordkeeping and financial burdens upon barge operators is not a sufficient reason for the Federal Government to prevent the States from imposing taxes on this form of transportation. Similar taxes are imposed on other forms of transportation.

I agree with that conclusion. However, realizing a potential problem for waterways that form the boundaries in midstream, my amendment is restricted.

I urge acceptance of this amendment.

I have checked with those who were interested in this amendment. It has, I think, been cleared with all those who would have an interest in it.

I would ask the chairman of the committee if he will accept this amendment.

Mr. LONG. Let me ask the Senator a question about what this amendment includes and what it does not include.

If we are talking about, let us say, the Mississippi River, where it passes through Louisiana, there is an area where you have Mississippi on one side and Louisiana on the other. I assume that under such a situation, the jurisdictions on neither side could tax the barge as it goes through.

Mr. FORD. The Senator is correct.

Mr. LONG. All right. Let us take the second situation. South of Natchez, La., is on both sides of the river. Does that give every parish in Louisiana the right to tax that barge when it goes south of Natchez along that river?

Mr. FORD. The intent of my amendment is that where the waterways lie entirely within the boundaries of a State——

Mr. LONG. Then do I take it the Senator is talking about a river or a stream which commences and ends within a State?

Mr. FORD. Well, it is awfully hard to have a river start and end in a State. We might have, in Kentucky, for instance, the Green River, that would start and flow through the State, and spill into the Ohio River. Maybe that is the end, or it might be the Barren River, which started in Kentucky and ends up in Cumberland Lake, or Barren Lake, if you call that a termination point.

Mr. LONG. What I am seeking is the legislative intent. "Any vessel, barge, or craft which is operating in a navigable waterway which lies entirely within the boundaries of a State."

We have some rivers in Louisiana that both commence and end within Louisiana.

Mr. FORD. I think the State would have the ability, under my amendment, to tax vessels that use that waterway. I think the key word there is "entirely."

Mr. LONG. It would be the intent of the Senator's amendment, as I understand it, then, that Louisiana would not have the right to tax a barge that commences, say, at Memphis and terminates at New Orleans?

Mr. FORD. The Senator is correct.

Mr. LONG. But, on the other hand, if this is one of those rivers like the Mermentau, where the river both begins and ends in Louisiana——

Mr. FORD. That would be entirely within the State.

Mr. LONG. Fine; and the Senator has discussed his amendment with other Senators who are interested in the matter, I take it?

Mr. FORD. Yes, I certainly have, and it is agreeable.

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. FORD. I yield.

Mr. HATHAWAY. Does the Senator mean where the river is entirely within the State's borders, and does not tie in with some other waterway?

Mr. FORD. No. For instance, the Green River in Kentucky goes through the entire State, but it still ends at the Ohio River. That would not mean it could carry over to the Ohio River, or the Mississippi River, where the State's border is in the middle of the stream.

Mr. HATHAWAY. The entire waterway would have to begin and end within the State's boundaries?

Mr. FORD. "Entirely" is the key word, I think, in my amendment.

Mr. LONG. Basically, as I understand it, what the Senator is contending is that in a matter entirely of intrastate commerce, where the barge starts within a State and ends within the same State, it could be taxed.

Mr. FORD. Yes.

Mr. NELSON. Mr. President, may I ask a question? If the river drains into another interstate waterway, the Senator is not saying, I take it, that his amendment would permit a tax to be levied on commerce that went from one State to another? Or is the Senator saying that? I understood the Senator from Louisiana to be saying that if the commerce were totally intrastate, and the shipment went from one point within a State to another point within the same State, that that commerce might be taxed.

Mr. FORD. It is the intent of my amendment, and the word "entirely" is supposed to be the key word, that the State then would have the ability to tax those vessels that use its waterways.

Mr. NELSON. What does the word "entirely" modify? Entirely what?

Mr. FORD. Let me go back to what was in section 1321. It eliminates the State's entire ability to tax. I am giving back to the States, which I think should be their prerogative, the right to tax those vessels used on waterways entirely within the boundaries of the State.

I would presume that if a river is used within the State, that is, it is totally within the boundaries, the State would have the ability to tax that vessel. When the name is changed, and it spills into another waterway outside the boundaries, the State would not have the right to tax on that waterway. But, when they are using a waterway entirely within the jurisdiction of the State, it would have that right.

What we have eliminated is the right of two States to tax, or two counties or parishes at the same point along the way, to tax a barge line as it goes down the Mississippi River, where the boundaries go to the middle of the stream—where, if the vessel goes on both sides of the boundary, both States would have the ability to tax. This is what we are eliminating.

Mr. NELSON. But is the Senator saying that when commerce comes up the Mississippi, that it is coming up the Mississippi, when it gets into my part of the country, the Mississippi is bordered on the east by Wisconsin and on the west by Minnesota——

Mr. FORD. Where is the boundary line on that waterway?

Mr. NELSON. One boundary is on the Wisconsin side and one is on the Minnesota side.

Mr. FORD. Not necessarily. Its boundary has to be somewhere. I think the Senator is saying the boundary is in the middle of the river.

Mr. NELSON. Oh, I guess the water law is it is in the middle. Is that right?

Mr. FORD. I guess.

Mr. NELSON. Yes; I think that is what the law is. Is the Senator suggesting that Wisconsin could then levy a tax?

Mr. FORD. No; what I am suggesting is they cannot.

Mr. NELSON. All right. Now, the next question is, that commerce is going up, and that river is now bounded by Wisconsin on one side and Minnesota on the other, and pretty soon, branching into the Mississippi, is the St. Croix. So commerce is coming up the Mississippi, it branches into the St. Croix, and it goes on up through to some powerplants. Now, the St. Croix, at some stage, becomes wholly within—not there, but if you went up far enough, the St. Croix would be wholly within the State of Wisconsin. If commerce went that far, which it does not on the St. Croix, and went into the river when it was wholly within the State; could the State levy on that commerce at that point?

Mr. FORD. Senator, let me say this: Your State has had the opportunity to tax these vessels for years. What we are saying to them now is, where States have boundaries in the middle of the stream, they will be excluded from taxing, where before they could levy taxes. If that commerce comes into the boundary of the State, and the St. Croix is totally within the State, then they would still have the prerogative.

Mr. NELSON. My example is not a very good one. A better one is when the Mississippi became entirely within the jurisdiction of Minnesota, which it does. Will the commerce coming up from New Orleans and all the way up that river, when the Mississippi becomes bounded on both sides by the State of Minnesota, can the State of Minnesota levy taxes on that commerce?

Mr. FORD. No; my impression is that when the trip——

Mr. NELSON. No; under the Senator's amendment.

Mr. FORD. Under my amendment, no, the entire trip has to be within the State.

Mr. NELSON. The entire trip?

Mr. FORD. Yes.

Mr. NELSON. There is not very much shipping of that kind. All right. If it goes from the Mississippi below and then into Minnesota, in Minnesota, and outside the State, under the Senator's amendment no tax can be levied.

Mr. FORD. That is my impression, and that was the intent of the amendment.

Mr. NELSON. So the Senator is saying that the barge or the ship would have to leave one point within the boundaries of the State and unload at another point within the boundaries of that State and that river would have to be bounded on both sides by that State; is that correct?

Mr. FORD. That is the intent of my amendment. What we have done is taken all the prerogatives away from the State. Here I give at least that much back to them, which I think is the intent, that was not meant to be taken away from them.

Mr. NELSON. But if it is interstate commerce the Senator's amendment does not permit any tax?

Mr. FORD. That is correct, with this little innocuous amendment.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. FORD. I yield.

Mr. McCLELLAN. I wish to get some specific clarifications. Very fortunately my State is an inland State that has navigation, and the principal navigation is the Arkansas River, aside from that on the Mississippi River. The Arkansas River has been recently developed and made navigable all the way through Arkansas up to and including Oklahoma.

Mr. FORD. And into Oklahoma.

Mr. McCLELLAN. Into Oklahoma.

Mr. FORD. Yes.

Mr. McCLELLAN. First, let me ask does this tax apply to the barge? Is it a tax on the barge, is it tax on the cargo, or is it a tax on the right to navigate the stream?

Mr. FORD. Under the language of the Committee on Finance, it prohibits, as it is now written, the States or political subdivisions from imposing taxes on any vessel, barge, or craft, and that is all we are talking about.

Mr. McCLELLAN. We are not talking about cargo?

Mr. FORD. No; we are not.

Mr. McCLELLAN. We are talking about the vessel itself?

Mr. FORD. The vessel itself, and I am not eliminating the language or the intent of the Committee on Finance in the interstate commerce aspect. What I am allowing under my amendment is where the navigable stream lies entirely within the boundary of the State. Where the shipment would start and end within that State, the State would retain its prerogative to tax.

Mr. McCLELLAN. That is what I wished to make clear. As to interstate commerce it cannot apply at all?

Mr. FORD. That is correct.

Mr. McCLELLAN. It does not apply to a barge engaged in interstate commerce.

Mr. FORD. Under my amendment, then, we retain the language of the Committee on Finance, and I only allow the intrastate.

Mr. McCLELLAN. I see. We have another stream in my State that is navigable within the State. The river I am speaking of is the White River in my State. It is navigable some distance up to Newport, I believe, in certain seasons of the year when the water is abundant. But those barges usually carry agricultural products, and the cargo goes beyond the boundaries of the State and enters the Mississippi River and goes on down the gulf. Barges then traversing that stream are engaged in interstate commerce if they go beyond the State boundary.

Mr. FORD. Let me interrupt, if I may, and clear up any problems that might be in the minds of Senators. Under my amendment on lines 3 and 4, I wish to modify my amendment—

> . . . entirely in the portion of a navigable waterway which lies within the boundaries of a single State.

I believe that will clear up any problem that we might have as to interstate transportation.

Mr. McCLELLAN. All right, let me see.

The PRESIDING OFFICER. The Senator will suspend. The Chair announces the Senator has the right to modify his amendment if he will send the modification to the desk.

Mr. FORD. All right.

I shall state my modification if I may, Mr. President.

On my amendment, (4) would read:

> Any vessel, barge, or craft which is operating . . .

And I change that to read:

> . . . entirely in the portion of a navigable waterway which lies within the boundaries of a single State.

I think that ought to do it.

Mr. McCLELLAN. Let me see about that.

The PRESIING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

> On page 833, after line 23, add the following:
>
> "(4) Any vessel, barge, or craft which is operating entirely in the portion of a navigable waterway which lies within the boundaries of a single State.".

Mr. McCLELLAN. If the cargfio originates on the White River in Arkansas and moves out of the State into the Mississippi River and on down to the gulf, it would not apply.

Mr. FORD. That is interstate commerce and could not be taxed.

Mr. McCLELLAN. Is that correct?

Mr. FORD. That is correct.

Mr. McCLELLAN. That would be true if the cargo came in from outside and is going up the river?

Mr. FORD. That is correct.

Mr. McCLELLAN. This of course applies to the Arkansas River?

Mr. FORD. That is correct.

Mr. McCLELLAN. Or any other navigable waterway?

Mr. FORD. That is correct.

Mr. McCLELLAN. What the Senator seeks to tax then, as I understand it, are barges operating within the State.

Mr. FORD. Vessels, barges, or crafts.

Mr. McCLELLAN. Any vessel that is engaged in cargo. I said barges.

Mr. FORD. It could be a boat, a transportation for parties, overnight housing, and that sort of thing.

Mr. McCLELLAN. Yes; I agree.

I was not making a technical distinction. I assume all of those are included?

Mr. FORD. Yes.

Mr. McCLELLAN. What I am trying to ascertain is if we have a cargo service, let us say a barge service or ship service, or whatever, from one town to another in Arkansas, with all of the action exclusively in Arkansas, the transportation and the navigation, then that could be taxed.

Mr. FORD. By the State of Arkansas.

Mr. McCLELLAN. By the State of Arkansas.

Mr. FORD. Yes.

Mr. McCLELLAN. Or by any municipality in the State that would be affected thereby?

Mr. FORD. That is correct.

Mr. McCLELLAN. If a vessel is carrying both within the State, say it originates some cargo at Fort Smith, Ark., that it drops off at Pine Bluff, Ark., but it also has other commodities, other cargo, that it carries on down to New Orleans and maybe goes on overseas; is that taxable?

Mr. FORD. The intent of my amendment is no, it is not taxable.

Mr. McCLELLAN. It is not taxable if any interstate commerce is involved, is that correct?

Mr. FORD. That is correct.

Mr. McCLELLAN. Only where it is exclusively intrastate?

Mr. FORD. That is correct.

Mr. McCLELLAN. I thank the Senator.

Mr. CURTIS. Let us vote.

The PRESIDING OFFICER (Mr. HASKELL). The question is on agreeing to the amendment, as modified, of the Senator from Kentucky.

The amendment was agreed to.

Mr. CURTIS. Mr. President, I call up my amendment No. 2032.

Mr. FORD. Mr. President, I think I still have the floor. I have three items, and I send an amendment to the desk.

The PRESIDING OFFICER. The Chair announces that the Senator from Kentucky cannot retain the floor after the amendment. The name of the Senator from Nebraska was on the list, and he sought recognition and was granted recognition.

AMENDMENT NO. 2032

Mr. CURTIS. Mr. President, I call up my amendment 2032 and ask to have it stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes amendment No. 2032.

Page 839, line 12, strike "water" and insert in lieu thereof "electric energy, gas (through a local distribution system or transportation by pipeline), water,".

Page 839, line 17, strike "water" and insert in lieu thereof "electric energy, gas, water,".

Page 840, line 4, strike "water and" and insert in lieu thereof "electric energy, gas, water, or".

Mr. CURTIS. Mr. President, this amendment would extend to all regulated public utilities the benefits of section 1322 of the committee bill. As reported by the committee, this section provides that the so-called contributions in aid of construction will not be regarded as taxable income to the utility receiving such contributions. I fully support this result. My amendment would simply apply this rule to all utilities and not merely to water and sewer companies.

Contributions in aid of construction have traditionally been regarded as nontaxable. Indeed, for over 50 years regulated public utilities have not included in income amounts received as contributions in aid of construction. These amounts are treated as contributions to capital. They are not included in the rate base; therefore the utilities do not earn any return on them. They are not included in the depreciable base for income tax purposes; therefore the utilities do not get depreciation on them.

A recent IRS ruling suggests that the Internal Revenue Service may propose to change this longstanding practice and require regulated public utilities to include all contributions in aid of construction in their income.

Many of the contributions are made by governmental agencies as incidental to road relocation, subway construction, and urban redevelopment programs. Others are made by customers to which the utility services would not otherwise be available.

If these contributions are now made taxable, it means that the governmental agency or business would have to contribute $2 for every $1 now contributed, if the utility is to have $1 left for construction after paying $1 in Federal income tax. As a practical matter, however, this is impossible. If the bill is not amended to continue the longstanding practice, the work made possible by these contributions will be sharply curtailed. Alternatively, the utilities will have to seek rate increases or bear the costs themselves. Rate increases are hardly feasible at a time when customers are already protesting sharply increased rates. If the utilities are forced to bear the costs, it will further decrease their earnings which, in turn, will impair their ability to get the new equity or loan capital which is desperately needed if the utilities are to continue to serve their customers. Utilities are capital intensive industries; the IRS proposal is capital formation in reverse.

Recognizing these problems, the Finance Committee added section 1322 of the bill to continue the historical treatment of contributions in aid of construction. My amendment does no more than assure that this rule of nontaxability—the proper rule—applies to all utilities.

Mr. President, this amendment does not in reality involve a revenue loss. The IRS has not been collecting any revenue from these transactions for 50 years. The committee amendment—and my amendment—simply preserve the status quo and thus will not reduce revenues below what is now collected.

Mr. President, this is a reasonable amendment. It is fair and it is just. I urge that it be accepted.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. GRAVEL. What the IRS is doing is levying a tax where they have not enjoyed any income by altering the rules of procedure that have been in existence in excess of 50 years. By altering those rules with respect to this capital formation, they are levying a tax. If we do not go back to the 50-year modus operandi, we will be party with them to levying a new tax—an excise tax, we might say—on those who are in the construction business or those who are buying new homes. That is what the excise tax will be.

So the $100 million revenue loss which the IRS says is relative to the Senator's amendment is not a revenue loss. It is a revenue exception that they will receive once they have changed this part of the law.

I do not think we want to place an excise tax on the construction industry, which has been in trouble ever since the beginning of the recession and which is the slowest to come out of trouble today.

I commend my colleague on his efforts I think the committee almost agreed to the inclusion of his amendment, together with the one that was agreed to with respect to water and sewer systems.

This would well make development lots, housing lots, increase their costs by several thousands of dollars and would alter the real estate market appreciably for purchasers of small homes and medium-sized homes who are having difficulty acquiring homes on the open market today.

I commend my colleague for his remarks. I ask him if he agrees with me that this, in fact, would be the levying of an excise tax that would take place.

Mr. CURTIS. It is in that nature. I thank the distinguished Senator for his contribution.

It amounts to this: If they are building a new highway and they have to relocate a utility, whether it is a water line, a natural gas line, or an electric line, the governmental subdivision makes a contribution to the utility for the relocating of the line. Under the rule that has prevailed for 50 years, that contribution is not taxable, but neither does the utility get to add it on for the basis of rate making; neither does the utility get to take depreciation on it. It merely lessens the cost of the construction.

I cannot imagine that the Congress of the United States would permit it for long. But if this becomes taxable, and if the subdivision of Government, whether it is the District of Columbia or some other, pays a million dollars to relocate some lines and the Federal Government takes half of it in taxes, how are they going to relocate the lines? If they get the money from elsewhere, then the money goes into the ratemaking, and the customers ultimately pay the bill.

This proposal has applications that affect individuals. For example, in my area, we use natural gas as a means of energy to pump water to irrigate. Sometimes there will be a farmer a little distance from a natural gas line. The gas company says to him, "If you will pay x dollars of the cost of running the line there, we will extend you that service." That is a contribution to capital.

Under the rule that has prevailed for 50 years, that is not income to the utility; consequently, it cannot be included in the ratemaking which would result in higher costs; neither can it be depreciated. It is merely regarded as a contribution of the nature that lessens the cost of the construction to the utility.

Mr. President, something might be said in favor of a change—I do not agree with it—but certainly all public utilities should be treated alike. The section of the bill extends the present rule for water and sewer utilities but does not include other utilities. The purpose of my amendment is to treat them all alike.

Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, the Senator has already yielded. Will he respond to a question?

Mr. CURTIS. I am happy to.

Mr. PACKWOOD. As I understand the amendment, and I was in support of it in the committee when it applied to some utilities and it seemed logically to extend to all. What the Senator is saying is it is six of one and half a dozen of the other. The utilities say, "If we are going to put down a pipe, we are going to have to pay for it somehow." The local government has traditionally said, "If you relocate that pipe, we will pay part of the cost in aid of construction." That money has not been taxed as income. Now, the IRS seems to be saying, "I somebody pays part of the cost of construction when a utility puts down a pipe, it counts that as income, and they have to pay a tax on it."

Mr. CURTIS. That is correct. They have to count it as income.

Mr. PACKWOOD. Or in the alternative, the farmer asks the utility to run a line to his farm. The gas utility says, "All right, but we will charge the farmer part of the cost." But the IRS wants $1 if it costs $2 and because it considers that contribution as income.

Mr. CURTIS. That is correct. Also, without this amendment, someone who runs a waterpipe would get different treatment than someone who extends an electric wire or a pipe that carries natural gas.

Mr. PACKWOOD. That kind of dichotomy makes no sense.

Mr. CURTIS. No; that is special legislation.

Mr. PACKWOOD. What we are asking in essence is, one, treat all utilities the same; two, continue to count this as a contribution to capital so that at least, the basic burden of the cost is borne by the people who actually use the extension, they will be the people who actually pay for it, rather than say all the ratepayers pay half the cost, because half of it is going to have to go to the Government.

Mr. CURTIS. That is correct.

Mr. PACKWOOD. I thank the Senator.

Mr. GRAVEL. Will the Senator yield?

The Senator from Oregon will be interested in hearing this. What this actually is is the application of an excise tax, an excise tax to water and electric lines and gas lines and any other type of utility, because presently, the Government is not collecting the tax in this regard. It is all treated as capital. What the Government is now doing, and we should make it clear to the American people, is, on the one hand, we give them a tax cut but on the other hand, we are establishing a tax and it is an excise tax on these utilities.

We saw the wisdom of this in committee for water and sewer. I hope that this body will see it with respect to the balance of the utilities.

When they say this will cost the Treasury $100 million, it will not cost the Treasury $100 million; that is $100 million that the Treasury will pick up if this excise tax is now levied. So I think that is a fine point that should be understood.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HARRY F. BYRD, JR. I withdraw the request temporarily.

This section of the bill amends the current rules concerning nonshareholder contributions to capital by specifying that amounts received as "contributions in aid of construction" by a water or sewerage disposal utility which are used for qualified expenditures and which are not included in the rate base for ratemaking purposes by the regulatory body having ratemaking jurisdiction will be treated as nontaxable contributions to the capital of the utility. The proposed amendment would broaden this provision to apply nontaxable treatment to contributions in aid of construction to electric and gas utilities.

A majority of the committee felt that the extension of the provision to electric and gas utilities is unwarranted for several reasons. First, the effect of contributions in aid of construction for water and sewerage disposal utilities is significantly greater than for electric and gas utilities. There are instances where water and sewerage utility rates would have to be at least doubled if contributions in aid of construction to such utilities were taxable. The effect of such an increase on customers of water and sewerage disposal utilities would be devastating. On the other hand, it is not likely that electric or gas utility rates will be permitted to be increased by reason of the taxation of contribution in aid of construction to such utilities.

Second, and most importantly, the revenue loss if the provision were broadened to include electric and gas utilities would be substantial. The revenue loss of the provision for water and sewerage disposal utilities is only about $15 million. However, the revenue loss in the case of electric utility industry alone it has been estimated, could be as high as $125 million. Thus, this amendment would have a substantial impact on the net overall cost of the tax reform legislation and our efforts to meet the budget resolution.

Mr. President, a summary of the statement by Richard A. Rosen, on behalf of the American Gas Association before the Senate Committee on Finance said this:

> For almost fifty years, contributions in aid of construction to regulated public utilities have been excluded from income as contributions to capital. Recently, the Internal Revenue Service cast doubt on the continuance of this treatment for traditionally excluded types of contributions in aid of construction.

It is not clear just what the Internal Revenue Service does have in mind. Probably it is an area that should be considered by Congress at some time, but at the present time, there appears to be inadequate information as to the need for the amendment proposed by the Senator from Nebraska and also inadequate facts as to just what the contributions in aid would cover.

For that reason, since the committee had considered this and a majority of the committee felt that extending the proposed legislation as reported by the committee beyond what the committee reported would not be warranted at this time, as acting manager of the bill, I must oppose the amendment offered by the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I disagree with my distinguished friend. There is no loss of revenue. What is a loss of revenue? When you lose something, you lose something you have, not something you hope for or not something that is speculative. To lose something means to lose something you have. For 50 years, they have not collected any revenue on these transactions and that is a bogus argument that there is any revenue loss here. There is not any.

Second, there is no defense of a proposal to treat one class of public utilities different than the other. As a matter of fact, if Congress—and I cannot imagine the amendment of the Senate Committee on Finance surviving conference as it is. If Congress chooses to vote for the status quo for one class of utilities, water and sewer, the Internal Revenue Service is going to say that was affirmative action by Congress that we should change our rule concerning all other utilities without any rhyme or reason. If this should be treated as income, it should be applied to water and sewer.

What is the difference? Suppose the Federal Government and the citizens of the District of Columbia are taxed to raise some money to relocate a utility line because we are building highways and that money is not used to relocate the lines but is treated as income and they have to pay taxes on it; they have to then acquire more capital. The fact that they have had to pay taxes on it will be woven into the rate structures and it will be higher prices for the consumer.

Mr. FANNIN. Will the Senator yield?

Mr. CURTIS. I am happy to yield.

Mr. FANNIN. I commend the distinguished Senator from Nebraska. It is discriminatory to treat one group of utilities differently than others as far as contributions in aid of construction, because the need exists in both. Certainly, we do not have objection to water and sewer construction facilities having this assistance, but why should we say that they are any more deserving than the tremendous need we have for the other utilities?

Mr. CURTIS. I certainly agree with my distinguished friend. Is it not also true that to allow a suggested rule to go into effect that would treat these contributions as income would be a disservice to every utility user and consumer in the country?

Mr. FANNIN. A tremendous disservice. The greatest problem in the country today is inadequate capital formation. The utilities, gas and electric utilities, in almost every State in the Nation and in almost every town or city of the Nation, need extension of lines. They need to do more. Of course, this applies to water and sewers also.

We need to have utility services available for people who are moving into new areas or in areas where facilities are lacking today.

To place a barrier on certain utilities—and that is what we are doing—by not including them in section 1322 of this bill is clearly discriminatory and will result in increased utility bills to consumers across the country. This action is wrong.

I support the distinguished Senator from Nebraska. The capital needed to meet electrical energy needs is growing more rapidly perhaps than any other capital need in the country.

I have a statement from our Senate

committee hearings, and it explains the tremendous capital needs today.

The Electric Institute witness testified that the institute's estimate was that under conditions of modern economic growth electrical energy consumption will grow at an average rate of 5.3 to 5.8 percent per year, and that the 1975 growth was below the anticipated average because they have not had the capital to provide needed utilities.

So, Mr. President, when we start cutting back—and that is what we are doing in saying that we are going to help one group of utilities or one type of service, and not another—we are certainly being unfair. This is a good amendment and should be adopted.

As far as the cost is concerned, it is spread over so many areas of our country and to so many consumers that certainly it is very minor.

Mr. CURTIS. Would the Senator agree that this is capital formation in the reverse?

Mr. FANNIN. Yes, it certainly is capital formation in the reverse because it is diluting, it is taking away money that has been raised for capital formation and then taxing it and making it much more difficult for them to obtain those funds.

Mr. CURTIS. My friend is a distinguished citizen of an important city in the State of Arizona. If that city raises a sum of tax money in order to make it possible for a utility to relocate a line in order for the city to carry out its construction program in streets and highways, do not the taxpayers of that city have a right to expect that that money will be used undiluted to relocate the line?

Mr. FANNIN. Absolutely, it does. It is for that purpose, and it is very unfair to go ahead and take that money and utilize it for another purpose.

Mr. CURTIS. Yes. That is very true.

If the taxpayers of your city are taxed to raise, say, $1 million to pay to a utility to relocate lines because of the development in the city, and the Federal Government comes in and takes half of it from the utility, then the utility does not have the funds, other than to go to some other source, to carry out their commitment to the city; is that not right?

Mr. FANNIN. Absolutely. They have to raise $2 for every $1. They have to go out and raise $2 because $1 is going to be taken away from them. So they have to double the amount needed in order to have the money that is sufficient.

Mr. CURTIS. In that case will it not result in an increase in rates to the consumers for the utility service used?

Mr. FANNIN. There is not any doubt about that. It would be very unfair to the consumers and, especially, the small consumers.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for the purpose of getting the yeas and nays?

Mr. CURTIS. I yield to the Senator.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FANNIN. Mr. President, I have a statement that was made on June 9 in hearings before the Joint Economic Committee, and I feel that it is very pertinent to what we are discussing here today. It is a plea for the Federal Government to take greater recognition of the tremendous needs that the utility industry has for capital formation.

All over this Nation we have consumers who are forced to change to a different source of energy either because of a shortage in the energy they have been utilizing or because they are building in areas where they cannot receive service that, perhaps, they had formerly used.

We have many customers who must make decisions, and they cannot make a decision as to what they are going to do for example in a new home, as far as utility services are concerned, unless they know that they cannot change that particular utility service.

We must legislate in this area of the law which has been drastically changed recently by the court and IRS or the Nation's utilities are going to find it difficult, if not impossible, to meet the needs of consumers.

Let us realize that the utility industries, particularly the electrical industry, it is probably the most capital intensive. For every $1 in revenue about $4 must be invested in plant facilities.

Now, in contrast in many other industries, they are $1 for $1. But in the utility industry, because of the capital that is needed, it is highly essential that we go forward with these programs that will assist them. If we do not, then we are penalizing the consumer, and he is paying that penalty just because of our negligence.

The difficulties that have been experienced by most electric utilities in raising capital have been a major reason for deferrals and cancellations of new generating facilities. We may find ourselves in a few years in a serious energy-short situation.

We have talked a great deal about trying to assist the utilities in furnishing the services that are so badly needed. On the one hand, we give an investment tax credit, and, on the other hand, we take the money away. This does not make sense.

It is absolutely essential that we recognize their capital needs and establish a consistent rational policy which encourages capital formation, rather than giving in one instance and taking away in another.

Mr. President, I hope the Senate will approve the amendment of the Senator from Nebraska. I think it is a highly essential amendment.

Mr. President, I ask unanimous consent that the statement I have referred to be printed in the RECORD at this point.

There being no objection, the Statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JAMES J. O'CONNOR

My name is James J. O'Connor. I am Executive Vice President of the Commonwealth Edison Company which provides electricity to Chicago and the northern one-third of Illinois. I appreciate the opportunity to appear here today to discuss capital formation and its importance to the electric utility industry.

CAPITAL NEEDED TO MEET ELECTRIC ENERGY GROWTH DEMANDS

In 1975, the Edison Electric Institute, the major national association of investor-owned companies in our industry, completed a major study which concludes that moderate, continuing economic growth is desirable to improve the "quality of life" and the standard of living of the American people and that growth can be sustained by the United States for the foreseeable future. Improved productivity is essential to growth and this means capital investment—buying more and better tools to produce more per manhour, which effectively curtails inflation, and building new facilities to provide employment for the nation's growing work force. While other factors are important, the key to increased productivity is the formation of capital.

The Institute estimates that under conditions of moderate economic growth electric energy consumption will grow at an average rate of 5.3 to 5.8 percent per year. (In 1975, growth was below the anticipated average due to the depressed conditions of the economy. Although residential and commercial sales increased, 6.2 percent and 7.0 percent respectively, industrial sales declined 4.5 percent, resulting in an overall growth of only 2 percent.)

The electric utility industry has encountered difficult problems in raising the capital necessary to finance the power plants and associated facilities required to supply the anticipated growth in electric energy consumption. The problems result from drastically increased costs—particularly the cost of fuel, the cost of new plant facilities, and the cost of capital required to finance the facilities—together with an inability to obtain prompt authorization for increased rates to cover these increased costs. For some companies this has led to inadequate "coverage" of interest and dividends, which, under indenture covenants, limits or presents the sale of senior securities. Despite improvement during the past year, the market price of many electric utility stocks, including that of my company, are still below book value. Accordingly, as it becomes necessary to sell additional common stock, there is a dilution of the value of existing shares. Because such a dilution shrinks their earning power, investors become increasingly reluctant to purchase utility equity securities.

In 1964, electric utilities were able to provide about 64 percent of the funds needed for new plant investment with internally generated funds, principally retained earnings, depreciation, and deferred taxes. By 1974, declining earnings and rising prices for the equipment needed to serve utility customers made it possible to finance only 33 percent of capital expenditures in this way.

The electric utility industry is by far the most capital-intensive industry in the country. For every $1 of revenue, about $4 must be invested in plant facilities. In contrast, the oil industry generally considered to be very capital-intensive, needs only about $1 of investment for every $1 of revenue, and the automobile industry requires only about 50 cents of investment for each $1 of revenue.

In a study concluded in 1975, the Technical Advisory Committee on Finance to the Federal Power Commission estimated that construction expenditures of the electric power industry will increase from an annual rate of $16½ billion in the first half of the 1970's to about $23 billion in the last half. From 1976 through 1989, construction expenditures of the investor-owned utilities are expected to total in excess of $500 billion in current dollars; this is four times the expenditure during the preceding comparable period. (See attached chart showing breakdown by year.) As a result, the need for financing from outside sources will increase more than proportionately, and the investor-owned electric industry will have to raise over $300 billion in the outside market during this time.

Difficulties experienced by most electric utility companies in raising capital have been a major reason for deferrals and cancellations of new generating facilities. Currently, our figures show that between April 1, 1974 and October 1, 1975, a total of 181,000 megawatts of capacity were delayed or removed from the schedule. Of this total, 125,000 megawatts were in nuclear units, most of which were due to be completed in 1980 or later. This is equal to roughly 35 percent of the total present installed generating capacity. It is estimated that the project deferred or removed involve approximately 100,000 construction jobs annually. Of course, deferrals and removals have an immediate deterring effect on employment and the current economy. Even more important are the implications for the national economy in the future if there is then a significant shortage of electric power. In all likelihood, there will be shortages of electricity if action is not taken promptly to restore the deferred and cancelled projects.

The principal solution to this serious problem is adequate and expeditious authorization for rates to cover increased costs and attract new capital. However, changes in the Internal Revenue Code are a necessary concomitant in the overall capital picture because existing tax laws impose a severe burden on capital investment.

RECOMMENDATIONS OF THE PRESIDENT'S LABOR-MANAGEMENT COMMITTEE

The President's Labor-Management Committee has recommended a number of changes in the Internal Revenue Code that would help to solve our industry's financial problems and thus stimulate construction of urgently needed electric facilities.

We strongly endorse their recommendations and urge early and favorable consideration by the Congress.

Investment tax credit

We support the recommendation of the President's Labor-Management Committee that the investment tax credit be increased to 12 percent for electric utilities, that it apply indefinitely and that it be applicable in full to qualified progress expenditures. Also, we urge that normalization accounting and rate treatment be required for additional investment credits under any new legislation.

Since 1962, the investment tax credit has been authorized, suspended, restored, terminated, and then authorized again. Because of the long lead time necessary for the construction of large generating plants and transmission lines, there is a need for assurance that the credit will be allowed for an indefinite period. On the average, it takes over five years to place a coal-fired generating unit in operation and ten or more years for a nuclear facility. Large amounts of capital are tied up during these extended periods, which serves to strain the financial position of utility companies. Allowance of the investment credit at a 12 percent rate would provide important capital funds and significantly ease the strain.

In order to receive full advantage of the increased cash flow resulting from the additional investment credit, the limitation for electric utilities, which is scheduled to fall ten percent per year until it reaches 50% in 1981, should be maintained for an indefinite period at 100% of an electric utility company's pre-credit income tax liability.

Also, allowing the investment credit on the full amount of qualified progress expenditures without regard to the transitional adjustment should reduce the lag between incurring the expenditure and realizing the credit.

The increase in investment credit should apply to generating facilities in which petroleum products (including natural gas) are to be used where the utility was committed to the construction of the facilities prior to recognition of the energy crisis. Denial of the investment tax credit on such facilities would cause an undue burden on companies which have acted reasonably and in good faith.

Finally, it should be pointed out that provision of the current one percent investment tax credit to finance Employe Stock Ownership Plans (ESOP) should be extended. The proposal of the Labor-Management Committee to increase the present 10 percent investment tax credit to 12 percent does not appear to contemplate a loss of the ESOP credit but does not provide for the extension.

Dividend reinvestment

One of the principal recommendations of the President's Labor-Management Committee concerns the deferral of current income taxes on dividends immediately reinvested by a shareholder of an electric utility company into stock of the paying company under a qualified dividend reinvestment plan.

This proposal is of considerable importance to the industry. Our industry's needs for new common equity financing are expected to be over $3 billion a year during the next five years. These requirements are 50 percent higher than those in each of the past five years.

The dividend reinvestment proposal would assist materially in encouraging investment in utility common stock and aiding in the formation of capital for utility investment. In December, 1975, the average utility stock was trading at about 47 percent of its level ten years earlier. Even with overall market conditions improving in recent months, many utility stocks are still valued below book value and with the financing needs of the industry some means to encourage investment in utility common stocks is essential. We strongly urge this proposal because the primary effect of tax deferral on dividends reinvested would be to provide needed equity capital.

This would merely provide a treatment similar to that now provided conventional stock dividends. Many utility stockholders purchase their stock for the cash yield and it is therefore not practical for utilities to change their dividend policy to provide for lower cash dividends to be supplemented by stock dividends. Under the language previously suggested by the Treasury Department, the proposal results only in a deferral of ordinary income taxes which is even less favorable than the treatment accorded stock dividends.

Taxes will be recouped by the Treasury at ordinary income rates when the stock is disposed of by the shareholder. Hence, there is no permanent loss of tax revenues to the Treasury.

It should be pointed out that the public service obligation of utilities distinguishes our fund-raising needs from those of other industries. Our industry must raise capital on terms that are, at times, highly uneconomical because we must construct required plant to meet customer demand. Common stock is the foundation of our capital structure and, to continue construction, stock must often be sold even when market conditions make such issues uneconomical. Since utilities do not have the investment discretion enjoyed by other industries, the dividend investment proposal offers an important and needed way to make electric utility stock more attractive.

The results of a survey made last spring of Institute members which presently have a dividend reinvestment plan indicate that the deferral of taxation on reinvested dividends primarily would help the small stockholder. The results of the survey are as follows:

[In percent]

	Companies using outstanding shares	*Companies using unissued shares*
Percent of total common shareholders participating	5.4	9.6
Percent of total common shares held by those participating	1.8	4.9
Average common shares held by those participating	95	125

Depreciation

In view of the long lead time necessary to bring major generation and transmission facilities into operation, we urge that qualified progress expenditures included in the base for ratemaking purposes be eligible for tax depreciation. Normalization accounting and rate treatment should be required in order to obtain this tax benefit. The combined effects of additional tax depreciation and inclusion of qualified progress expenditures in rate base will add materially to the internal cash generation of an electric utility.

Many regulatory commissions have already recognized that some or all construction work in progress (CWIP) should be included in rate base. By allowing qualified progress expenditure property to be eligible for tax depreciation only if the regulatory body allows the utility to include the same property in the rate base and to normalize the tax effect of the depreciation, the internal cash generation problems of electric utilities would be materially alleviated. With major generating plants now taking five to ten or more years to construct, the need for additional internal generation of capital is obvious. With CWIP in the rate base utilities will be replacing bookkeeping earnings with real earnings, and normalization of rate treatment will assure that the cash remains available to the utility for use in acquiring needed facilities. This results in a tax deferral not a permanent loss in taxes to the Treasury.

For the reasons stated above under the investment credit heading and where long standing commitments have already been made, qualified progress expenditures relating to generating facilities in which petroleum products are to be burned should be eligible for tax depreciation when incurred.

Amortization of pollution control and fuel-conversion generating facilities

The President's Labor-Management Committee recommends extension of the provision for rapid amortization of pollution control facilities and also recommends that rapid amortization of the cost of fuel conversion generating facilities to use fuels other than oil or gas be permitted. Our economic studies show that this proposal would not achieve the goals intended unless the investment tax credit also is available with respect to such facilities. Loss of the investment tax credit would nullify the advantage of rapid amortization because it would be more advantageous for a taxpayer to elect an accelerated method of depreciation, the ADR system, and a 12 percent investment tax credit rather than rapid amortization with no investment tax credit. Of course, the 60-month amortization period would limit the amount of the investment tax credit to two-thirds of the amount otherwise available.

The right to amortize fuel conversion costs should include as eligible costs those associated with conversion from gas to oil. Boilers in plants which were designed to burn natural gas could rarely, if ever, be converted to burn coal. Because of the differences in the nature of the two fuels, essentially a new boiler with storage and handling equipment would be required. Because natural gas-fired plants are the least costly to construct, the cost of converting one to burn coal, together with the cost of adding coal handling equipment, would probably be as much as or more than the original cost of the entire gas-fired plant. Further, many natural gas-fired plant sites do not have the physical space to stockpile coal, making an adaptation to coal impossible.

A conversion to burn residual oil would be entirely consistent with the national energy program for the best usage of natural resources. Residual oil (the product existing after refining crude oil into gasoline and distillate oil) has only industrial uses, with the most common being used as industrial boiler fuel. If rapid amortization for the costs of converting a gas-fired plant to burn residual oil is denied, many companies' conversion efforts will be impaired, which would not be in furtherance of the natural energy program of the most prudent usage of natural resources.

Estimated tax revenue impact

In recent testimony before the Budget Committee, Assistant Secretary of the Treasury Charles Walker estimated that the enactment of these recommendations would reduce electric utility income tax liabilities in future years.

A breakdown for fiscal year 1977 indicates that a $300 million temporary loss would result from the deferral of taxes under dividend reinvestment, and while the proposal generates cash for the utilities, the tax deferral would be to the benefit of utility company stockholders rather than reducing the electric companies' income tax bill. Also, as previously mentioned, the tax deferral would not be a permanent loss to the Treasury.

Tax savings of $200 million to the electric utilities are attributed to depreciation of qualified progress expenditures. The savings again are only temporary in nature because the total depreciation deductions applicable to such facilities over the lives of those facilities would be the same as those allowed by current law. The tax benefits are accelerated but not increased.

Consequently, the increase in the investment credit, estimated by Secretary Walker to amount to $70 million in fiscal year 1977, would be the only permanent tax benefit to the electric utilities, assuming that limitations relative to the credit would currently or eventually allow use of the credit.

Additional Tax Proposals

Integration of the corporate and individual income tax

In recent statements, Treasury Secretary Simon, Ways and Means Chairman Ullman, Securities and Exchange Commission Chairman Hills and others have focused on the growing problem of capital formation in the United States. They agree that our present tax system is biased against capital formation. By taxing corporate profits twice—once at the corporate level and again at the shareholder level—the system inhibits the flow of capital in the economy. Because the capital needs of the electric utility industry are so great, it is particularly affected.

Double taxation obviously encourages the retention of earnings so as to avoid the second tax. But traditionally many purchasers of utility stock have acquired such stocks on the basis of yield and utilities which therefore have a high percentage of earnings are placed at a substantial disadvantage when compared to those corporations which retain a much greater portion of their earnings. Elimination of the second tax would greatly assist utilities in raising equity money.

Many plans have been suggested for alleviating these problems by integrating corporate and individual income taxes. We fully support the underlying principles and objectives of such proposals.

Carryover and carryback modifications

Section 172 of the Internal Revenue Code currently provides for net operating loss carryover and carryback periods for taxpaying businesses of five and three years, respectively. Because those electric utilities currently experiencing the most severe financial problems have little or no taxable income, the granting of additional incentives which further reduce taxable income would have little or no meaning because little or none of such incentives could be utilized within the current statutory carryover and carryback periods. However, these utilities have paid substantial income taxes in the past and will undoubtedly find themselves in this position once again in the future.

We recommend, therefore, that Section 172 of the Code be amended to provide for electric utilities maximum periods of 7 years for carryover and 10 years for carryback of net operating losses, with an increase in the carryback period to be available only if the taxpayer reduces the carryover period by an equal number of years.

Congress has in the past recognized the special needs of particular classes of taxpayers and has provided several modifications to the general rule, such as the 10 year carryback period applicable to "Financial Institutions" and the 7 year carryover period provided for "Regulated Transportation".

Analogous modifications of investment credit carryover and carryback provisions would be similarly helpful to companies that would gain little or nothing from the grant of additional current tax deductions and investment tax credits.

Costs of meeting national environmental standards

The meeting of reasonable national environmental standards, a goal which the electric utility industry fully supports, accounts for a substantial part of the industry's capital needs in coming years. Our latest estimates are that in the years 1976 through 1980 the investor-owned electric companies must invest over $10 billion for this purpose. This is intimately tied in with attainment of national energy goals, since a substantial part of the environmental concerns result from the switch to nuclear and coal from oil and gas as energy sources.

Two particular income tax provisions could be of immense value in helping the industry meet its capital requirements in this area. First, 5-year amortization of all pollution control facilities, not just facilities retrofitted on existing plants, should be permitted. Essential elements of such a provision would be that the investment credit be allowed and that fast amortization not be permitted unless the resulting tax deferral is normalized for rate-making purposes. As previously pointed out allowance of the investment credit is necessary because little, if any, tax advantage results from use of 5-year amortization without the credit instead of accelerated depreciation over asset depreciation range lives with a ten percent or higher credit. Normalization is necessary both because it is sound economically and because if the tax deferrals are flowed through in rates no capital is provided to help finance the required facilities.

Second, there should be incorporated in the tax law provisions which make effective the existing provision of Section 103(c)(4)(F) relating to industrial development bond financing of air or water pollution control facilities. We believe that the Internal Revenue Service and the Treasury Department have largely nullified this provision by means of highly restrictive interpretations and unconscionable delays in responding to requests for ruling. There should be included in the statute a definition of "air or water pollution control facilities" that expresses the intent of Congress specifically enough that Section 103(c)(4)(F) will become truly effective as a means of helping in the financing pollution control facilities. This is a vitally important matter for at least two reasons. First, because interest rates are lower on tax-exempt than on taxable borrowings, tax-exempt financings exerts a lesser upward, inflationary pressure on electric rates. Second, the market for tax-exempt obligations is in the main, distinct from the market in which most utility debt financing is done, and access to this other market should significantly enhance the industry's ability to raise needed capital.

We suggest as an additional measure to assure that the intent of Congress in enacting Section 103(c)(4)(F) is given effect that it be made possible to sue to obtain a declaratory judgment when IRS acts adversely or fails to act with respect to a request for ruling on a proposed financing. The provision should closely parallel Section 7476, declaratory judgments relating to qualifications of retirement plans, which was enacted as a part of the Pension Reform Act of 1974. Pollution control financings and qualifications of retirement plans have the common attribute that when IRS acts adversely or fails to act, the affected parties are virtually helpless.

Mr. FANNIN. Mr. President, the statement I submitted previously was that of the electric association. I have a report from the American Gas Association as to just what they have been up against in recent times. Their greatest need, too, is capital formation. They say:

> The denial of capital contribution treatment to these traditionally excluded types of contributions in aid of construction (which do not include normal customer fees) would have a serious, adverse impact on gas utilities, but more important on gas customers in terms of higher rates.

Mr. President, this is an example in the gas industry. We just talked about an example in the electric industry. So the utilities are going to face a very serious problem, even with the assistance we give them in the bill. Their problems will become more serious if we do not give them an opportunity to do what has been available to some of the regulated industries for over 50 years. Vital capital formation is the issue and the Senate should act to do what is necessary in this area.

Mr. President, I ask unanimous consent that a statement by Mr. Richard A. Rosan on behalf of the American Gas Association be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Summary of Statement of Richard A. Rosan, on Behalf of the American Gas Association, Before Senate Committee on Finance on Contributions to Capital of Regulated Public Utilities in Aid of Construction (Section 1322 of Committee Bill)

For almost fifty years, contributions in aid of construction to regulated public utilities have been excluded from income as contributions to capital. Recently, the Internal Revenue Service cast doubt on the continuance of this treatment for traditionally excluded types of contributions in aid of construction, such as contributions to gas utilities by governmental units in connection with gas line relocations required by road relocation and urban renewal projects and contributions by customers relating to line extensions.

The denial of capital contribution treatment to these traditionally excluded types of contributions in aid of construction (which do not include normal customer connection fees) would have a serious, adverse impact on gas utilities, but more important on gas customers in terms of higher rates.

We urge the Committee to continue by statute the long-standing exclusion of contributions in aid of construction to regulated gas utilities. This will involve no revenue loss since such contributions are not now and never have been subject to tax.

STATEMENT OF RICHARD A. ROSAN ON BEHALF OF THE AMERICAN GAS ASSOCIATION BEFORE SENATE COMMITTEE ON FINANCE ON CONTRIBUTIONS TO CAPITAL OF REGULATED PUBLIC UTILITIES IN AID OF CONSTRUCTION (SECTION 1322 OF COMMITTEE BILL)

MR. CHAIRMAN: I am appearing before you today on behalf of the American Gas Association (A.G.A.) in support of § 1322 of the Tax Reform Act of 1976 and of an amendment to that section. The A.G.A. is composed of more than 300 member companies, including both gas distribution and gas transmission companies. A.G.A. member companies serve approximately 93 percent of the 43 million homes, businesses, and industrial facilities in the 50 states using natural gas, including some 160,000,000 of our population.

Under present law, contributions to the capital of a corporation, whether or not contributed by a shareholder, are not includible in the gross income of the corporation. This rule has been applied for almost fifty years to regulated public utilities which traditionally have obtained significant amounts of the capital for the construction of facilities through contributions in aid of construction. By a recent administrative ruling, however, the Internal Revenue Service has cast doubt on whether these contributions may be excluded from gross income. The current proposal seeks to continue by legislation the long-standing rule that contributions to regulated utilities in aid of construction are not includible in gross income.

On December 4, 1975, the Internal Revenue Service, without advance notice and the opportunity for public comment, announced the issuance of Rev. Rul. 75-557 which would include in income a "connection fee" charged the customer by regulated public utilities. We are concerned that the Ruling will be applied broadly to reach other contributions in aid of construction. In the case of gas utilities these include contributions by governmental units relating to the relocation of gas pipelines, both distribution and transmission, required by road relocation projects and urban renewal projects, and contributions by customers relating to line extensions.

The Service has cited as its sole authority for including customer contributions in the income of public utilities, a Supreme Court case which pertains to government subsidies paid to a railroad for certain signals and crossing facilities even though the case only with the issue of depreciable basis under the Internal Revenue Code of 1939 (which issue was statutorily resolved in the 1954 Code) and the Court expressly stated that the qualification of subsidies as income "is an issue not raised in this case, and we intimate no opinion with respect to it". U.S. v. Chicago, Burlington & Quincy Railroad Co., 412 U.S. 401, 37 L. Ed. 2d 30, 93 S. Ct. 2169 (1973).

The issuance of the administrative ruling by the Internal Revenue Service portends a change in almost 50 years of consistent administrative practice whereby contributions to public utilities in aid of construction have been excluded from gross income. The ruling challenges this 50-year practice notwithstanding that—

(1) The Service has long acquiesced in many court decisions holding such contributions to be excludable form the income of regulated utilities. (Since the contributions are excluded from income, they are not included in the basis for depreciation deductions.)

(2) The Service considered the problem carefully in the late 1950's, concluded that such contributions should continue to be excluded and published Rev. Rul. 58-555, 1958-2 C.B. 25, to that effet.

(3) In a letter dated May 20, 1960, the Commissioner of Internal Revenue told the A.G.A. that the Service had again "studied the problem thoroughly" and had decided that "no change will be made in its position" and "the matter is therefore concluded".

(4) The Federal Power Commission and many state regulatory commissions require the investments made with such contributions to be excluded from the utility's rate base and therefore no return thereon is earned and included in charges to customers.

The effect of the anticipated administrative change of concern may be demonstrated in an example by assuming that an urban renewal program will require the expenditure of $4,000,000 for relocation of gas distribution lines, or a road relocation program will require the expenditure of $4,000,000 for relocation of gas transmission lines. This capital expenditure of $4,000,000 will be contributed by a governmental agency. If this amount is included in gross income, the gas utility must raise at least an additional $2,000,000 to pay the tax and must charge the customers not only this tax but also a reasonable rate of return.

The additional $2,000,000 cannot be reflected in customer rates without a new rate determination. Thus, if this increase in income taxes becomes a stockholder burden [decreases return on equity] and decreases the overall rate of return, it will remain so until another rate determination. This lag in recovery of cost decreases the utility's earnings and adversely affects its ability to furnish other needed public service projects. When the regulatory commission adds the increased tax to cost of service, it becomes a burden to be passed on to customers. As a rule of thumb, the annual cost of capital in rates is about 20%. Thus the $2,000,000 of taxes will cost the ratepayers a minimum of $400,000 additional in their rates.

It is thus clear that any major change in the income tax treatment of any item of deduction or exclusion which will result in increased income taxes for regulated public utilities is an extremely serious matter. As public utilities operate under a regulatory philosophy of earning a return sufficient to maintain financial integrity and to enable the utilities to attract the capital necessary for the proper discharge of their public duties, the loss of tax deductions or exclusions previously used to reduce customer rates immediately becauses the stockholders' burden and reduces the net income of the utilities dollar for dollar by the amount of the tax increase. This will trigger scores of applications and filings with regulatory agencies for immediate rate relief.

While we have no way of determining the exact amounts, it is obvious the rate increases would total millions of dollars and would add to the inflationary spiral. A recent informal survey of 22 natural gas companies indicates that in a single typical year, receipts of contributions in aid of constructon totaled approximately $25,000,000. These companies are, of course, only a small segment of the the total industry. For the entire natural gas industry, the amounts would probably exceed $125,000,000. Exposure in other regulated public utility industries would likewise be very heavy.

It should be noted that an increase in customer rates tends to hit the low income groups the hardest; on the other hand, if rate adjustments are not quickly forthcoming, the financial structures of the utilities themselves can be adversely affected, thereby further compounding the difficulties in development of gas supply.

Section 1322 of the bill would continue the prior, long-standing rule and provide that contributions in aid of construction would not be included in the gross income of regulated water and sewage disposal companies. We urge the Committee to extend the proposal to those contributions in aid of construction of gas distribution and gas transmission companies which traditionally have been excluded from income by the industry. These principally involve contributions by governmental units for gas line relocations in connection with urban renewal and road relocations and contributions by customers in connection with gas line extensions. They do not include normal customer connection fees and other service fees, which as a general practice have been included in income by the industry.

It has been suggested that this would result in an unacceptable revenue loss. This is not so because the government is not now collecting and never has collected taxes on contributions in aid of construction of regulated public utilities. To forego the collection of new taxes is not a revenue *loss*.

If these contributions become taxable, the utility must charge its customers $2 for every $1 needed for construction—$1 for actual construction and $1 to pay the tax. This further increase in customer bills would be most unfortunate.

Since there is no compelling need for the anticipated administrative change, we urge the Committee to continue by statute the long-standing rule of excluding contributions in aid of construction to regulated gas utilities. This can be done by enlarging § 1322 of the bill to include gas distribution and gas transmission companies. We also support the extension of § 1322 to electric utilities since it is our understanding that the practices of, and potential problems confronting, the electric and gas utilities in this regard are essentially the same.

Mr. FANNIN. I thank the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I do not want to prolong this debate, but I do believe that the Congress has the responsibility to exert every effort to legislate uniformly for similar industries.

Mr. PERCY. Will the Senator yield so that I might ask for the yeas and nays on the Percy-Goldwater amendment, which is to follow immediately after the Curtis amendment?

Mr. CURTIS. I yield.

Mr. PERCY. Mr. President, I ask for the yeas and nays on the Percy-Goldwater amendment.

The PRESIDING OFFICER. Does the Senator first ask for unanimous consent that it be in order to ask for the yeas and nays?

Mr. PERCY. Mr. President, I ask unanimous consent that it be in order that I may ask for the yeas and nays on the Percy-Goldwater amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CURTIS. Mr. President, a few Members have been able to enter the Chamber that were not here before. I will just briefly restate what this amendment is all about.

The bill carries a provision that a contribution to capital to a water and sewer public utility is not taxable. That is in conformity with the practice of the IRS for the last 50 years. It will lose no revenue because they have not been collecting any, the policy has been otherwise.

The amendment I have offered would extend the same treatment to all public utilities, gas and electric.

Here is how it would work. If a city took tax money to pay for a public utility to relocate some lines, for 50 years that has not been taxable income to the utility. Neither has the utility been able to put it into their rate structure. It has just been treated as costing that much less for the new line.

(At this point, Mr. STONE assumed the chair.)

Mr. CURTIS. This comes about because the IRS has indicated they might reverse a 50-year procedure. So the committee corrected it with reference to water and sewer.

The amendment I have is to extend it to electric and gas lines.

If we do not have this and if the IRS treats such a contribution as income, then the Federal Government will take half of it in taxes.

How are they going to build the new line? Raise more money that goes into the rate structure and the consumers pay more. That is what will happen.

Mr. HASKELL. Will the Senator yield?

Mr. CURTIS. I am happy to yield to the Senator.

Mr. HASKELL. I gather the thrust of the Senator's argument is, basically, that a contribution in aid of construction, if it were taxable would increase the cost to the utility to the householder?

Mr. CURTIS. That is correct.

Mr. HASKELL. That is basically your position.

I think we are probably all aware that utilities, by their very nature, are not competitive. In other words, they are a regulated monopoly.

Mr. CURTIS. That is correct.

Mr. HASKELL. And that is the purpose of it.

Of course, as the Senator from Arizona pointed out, the need for additional capital in utilities is very substantial these days because of growth of the population and the growth of the use of energy.

Would the Senator agree with that?

Mr. CURTIS. I do.

Mr. HASKELL. It would seem to me that possibly we are making a mistake in imposing an income tax on utilities because all they do is pass that on in their rate base to the consumer.

It would seem to me that that would flow logically from the Senator's argument and might have merit. I wonder if the Senator would agree with that.

Mr. CURTIS. I agree with that.

Also, this is not income in the sense they could take that money and pass it on to shareholders through dividends. This is money paid in in order to replace or to carry on a capital construction. It is treated as lessening the cost of the capital construction and, therefore, does not go into the rate structure.

Neither is the utility allowed to take depreciation on it.

Mr. HASKELL. I think in view of the logic of the Senator's argument, the need for expansion of utilities, and the fact that, as the Senator realizes, any income tax is merely passed on to consumers, it may be a mistake, both to the utility and the consumer, to continue to impose an income tax.

I am very pleased that the Senator concurs.

I have no further questions.

Mr. CURTIS. Mr. President, one more thing and then I am ready to vote.

This has an application to a lot of individuals, as I mentioned a minute ago. There is an irrigator in my State and he wants to pump water with natural gas. The line does not come to him, so he makes a contribution to bring in the line to him.

For 50 years that has not been income to the utility because if it is income it will add to the thing and it will cost more to the consumer.

My amendment would keep that arrangement.

Mr. President, I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Regular order, Mr. President.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. McGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from North Carolina (Mr. MORGAN), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New Mexico (Mr. DOMENICI) is absent due to illness.

The result was announced—yeas 40, nays 47, as follows:

[Rollcall Vote No. 434 Leg.]

YEAS—40

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brooke
Buckley
Byrd, Robert C.
Cannon
Chiles
Church
Curtis
Dole
Fannin
Fong
Garn
Goldwater
Gravel
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Laxalt
Mathias
McClellan
McClure
Packwood
Pearson
Percy
Randolph
Scott,
William L.
Sparkman
Stevens
Talmadge
Thurmond
Tower
Young

NAYS—47

Abourezk
Bayh
Biden
Brock
Bumpers
Burdick
Byrd,
Harry F., Jr.
Case
Clark
Cranston
Culver
Durkin
Eagleton
Eastland
Ford
Glenn
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
McGovern
McIntyre
Montoya
Muskie
Nelson
Nunn
Pastore
Pell
Proxmire
Ribicoff
Roth
Stafford
Stennis
Stevenson
Stone
Symington
Williams

NOT VOTING—13

Domenici
Hartke
Johnston
McGee
Metcalf
Mondale
Morgan
Moss
Schweiker
Scott, Hugh
Taft
Tunney
Weicker

So Mr. CURTIS' amendment (No. 2032) was rejected.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 10 A.M. ON MONDAY, AUGUST 2, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday, it stand in adjournment until the hour of 10 o'clock on Monday morniing.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOVERNMENT IN THE SUNSHINE ACT

Mr. RIBICOFF. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 5.

The PRESIDING OFFICER (Mr. STONE) laid before the Senate the amendment of the House of Representatives to the bill (S. 5) to provide that meetings of Government agencies shall be open to the public, and for other purposes.

(The amendment of the House is printed in the RECORD of July 28, 1976, beginning at page 24215.)

Mr. RIBICOFF. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives and request a conference with the House on the disagreeing of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RIBICOFF, Mr. MUSKIE, Mr. METCALF, Mr. CHILES, Mr. PERCY, Mr. JAVITS, and Mr. ROTH conferees on the part of the Senate.

Mr. PASTORE. Mr. President, I do not mean to be facetious about this, but I was very much interested in the fact that we have done something about sunshine. I hope we will begin to do something about sunset.

I came here early this morning, and the first vote was at 3:30. Now I am told we are going to be here until 8 o'clock tonight. It strikes me we ought to do the business of the Senate when we are wide awake during the sunshine period, and not wait for the sunset and the darkness before we get around to voting.

I would hope we would bear that in mind.

SEA GRANT PROGRAM IMPROVEMENT ACT

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13035.

The PRESIDING OFFICER (Mr. Stone) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 13035) to amend the National Sea Grant College and Program Act of 1966, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MAGNUSON. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed, from the Committee on Commerce Mr. Magnuson, Mr. Hollings, and Mr. Stevens and from the Committee on Labor and Public Welfare Mr. Pell, Mr. Cranston, and Mr. Javits as conferees on the part of the Senate.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, this has been cleared with the minority side. I ask unanimous consent that the Subcommittee on Oil and Natural Gas Production and Distribution of the Commerce Committee be authorized to hold an oversight hearing on August 9 during the session of the Senate.

The PRESIDING OFFICER (Mr. Glenn). Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that the Committee on Government Operations be permitted to meet on August 3 and 5 to mark up S. 2925, the Government Economy and Spending Reform Act of 1976, and H.R. 3884, the National Emergencies Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. LONG. Mr. President, under the unanimous-consent agreement it was agreed that we would now vote on the Percy amendment, as amended.

I ask for the yeas and nays on the Percy amendment, as amended.

The PRESIDING OFFICER. The yeas and nays have previously been ordered.

Mr. PASTORE. Mr. President, will this be a 10-minute vote?

ORDER LIMITING VOTE TO 10 MINUTES

Mr. LONG. Mr. President, I ask unanimous consent that the vote on the Percy amendment, as amended, be a 10-minute vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as amended, of the Senator from Illinois.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Hartke), the Senator from Louisiana (Mr. Johnston), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from North Carolina (Mr. Morgan), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney), are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Pennsylvania (Mr. Schweiker), the Senator from Pennsylvania (Mr. Scott), the Senator from Ohio (Mr. Taft), and the Senator from Connecticut (Mr. Weicker), are necessarily absent.

I further announce that the Senator from New Mexico (Mr. Domenici) is absent due to illness.

The result was announced—yeas 80, nays 6, as follows:

[Rollcall Vote No. 435 Leg.]

YEAS—80

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Curtis
Dole
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClure
McGovern
McIntyre
Montoya
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Williams
Young

NAYS—6

Biden
Cranston
Culver
Haskell
Kennedy
Nelson

NOT VOTING—14

Domenici
Hartke
Johnston
McClellan
McGee
Metcalf
Mondale
Morgan
Moss
Schweiker
Scott, Hugh
Taft
Tunney
Weicker

So Mr. Percy's amendment, as amended, was agreed to.

Mr. FORD. Mr. President, I send an amendment to the desk.

The amendment will be stated.

Mr. BENTSEN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. FORD. I yield.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on title XIII at an appropriate time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, will the Senator yield so that I may ask a question of the floor manager on title XIII?

Mr. FORD. I yield to the Senator from Illinois for a question to the floor manager.

Mr. PERCY. Mr. President, the Senator from Illinois has an amendment to title XIII involving municipal bonds—allowance for mutual funds in municipal bonds. The Senator from Illinois would prefer to bring this up next Tuesday or Wednesday. I understand that Senator Taft has obtained permission also to bring up an amendment next Tuesday or Wednesday on this title. Would the floor manager feel that the Senator from Illinois could be assured that even if we do adopt this title tonight or tomorrow, the Senator from Illinois, through unanimous consent, could be permitted to bring up an amendment on Tuesday or Wednesday?

Mr. BENTSEN. I really do not think that the Senator's amendment, if he is talking about a mutual fund based on municipal bonds, has to come under title XIII. He could bring it under another title of the bill.

Mr. PERCY. It has been drafted to fit title XIII.

Mr. BENTSEN. It can be drafted for another title.

What we try to avoid, to the extent we can, is taking them out of sequence. We can make a unanimous-consent request, if the Senator so desires; but it could be framed to go in another part of the bill.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. MANSFIELD. I wish the Senator from Illinois and all other Senators would take a look at the legislative schedule on their desks and do as much as they can to cooperate.

If it could come in some other section, I think it would be much better. If we get title XIII out of the way, we will be in good shape, and some result could be achieved.

Mr. BENTSEN. The Senator will have no trouble drafting it under another title of the bill, and we will cooperate with him in having it done.

UP AMENDMENT NO. 263

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from Kentucky.

The second assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. Ford) proposes an unprinted amendment numbered 263.

The amendment is as follows:

At the appropriate place, insert the following new section:

Title XIII, relating to Miscellaneous Provisions, is amended by adding the following new section:

"Sec. 1326. Study.

The staff of the Joint Committee on Taxation shall conduct a study comparing the tax treatment of individuals, who currently qualify as married, single, or heads of household, under the Internal Revenue Code in order to evaluate the best method of achieving fair tax treatment for all individuals, and in order to suggest any changes in present law which the study indicates would improve tax equity under the individual income tax provisions."

The study shall be completed by September 30, 1977.

Mr. PERCY. The Senator from Illinois has been fully answered on this question. It can be drafted for another title, and I will be glad to do so.

Mr. FORD. Is the floor manager of the bill prepared to listen to the Senator from Kentucky?

Mr. BENTSEN. Which amendment is the Senator bringing up?

Mr. FORD. It is an unprinted amendment. It refers to the study for the tax structure.

Mr. President, it has come to my attention that a great many taxpayers believe that the present tax treatment of individuals as married, single, or heads of household, results in unequal and unfair tax liabilities because of marital status or dependency relationships. I am aware that this problem has been studied in the past and that it is difficult to respond to these complaints with an answer which satisfies all groups of taxpayers.

However, in view of the large number of inquiries, and particularly considering the increase in the number of households with a single parent supporting a family, the increase in the number of households where both spouses work and the increase in the number of single persons living independently, I believe that these classifications should be reviewed.

I propose that the Joint Committee on Taxation study the issues raised by married and single taxpayers, and those qualifying as heads of households, and if the staff finds it necessary, suggest legislative proposals to improve tax equity for taxpayers whose marital status and living situations vary.

Mr. BENTSEN. I say to the distinguished Senator from Kentucky that he raises a problem that has been with us for some time, the problem of providing equity to various taxpayers depending upon their marital status. We will be happy to cooperate in this matter I see no objection to the proposal of the Senator from Kentucky and am prepared to take it to conference.

Mr. FORD. I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time, and I urge the adoption of the amendment.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FORD. Mr. President, I have filed an amendment on which I would like to have a colloquy with the floor manager for a moment, if I may.

I have filed an amendment to treat State employees under retirement systems not covered by social security with the same exemptions that now exist for employees who are covered by social security benefits.

I recognize the dilemma that was faced by the Senate Committee on Finance in seeking to give fair and equal treatment to all citizens and the need to assure adequate financial resources to pay for essential programs.

Because of past experience, I would prefer that adjustments be tied to cost-of-living index. I understand the opposition to automatic increases.

Furthermore, I would prefer that the exemption for employees not covered by social security be automatically increased as the social security exemptions are increased. Neither of these provisions was included in title 5.

I do believe that the action we took substantially corrects defects in the existing law.

The Committee on Finance sought to correct this inequity for all of the elderly, and I commend them for their objective. I believe that the provision in that amendment will alleviate this problem if regular adjustments are made.

Over the last several years, there has been no adjustment in the dollar amount of the retirement income credit for which these retirees are eligible, and on which they reply. As a result, these individuals, who receive no tax-exemption, have fallen behind social security beneficiaries in terms of both tax and real economic benefits.

It is my understanding that the new credit levels provided by the Finance Committee in the revised elderly credit generally would provide these retired teachers and retired Federal workers with economic and tax parity with social security recipients. I am concerned, however, that if the amount of the credit is not regularly revised to reflect increases in the cost of living and increases in social security benefits, these elderly taxpayers who rely on this credit will again suffer economically compared to social security recipients.

Mr. President, has the Finance Committee considered the possibility of regular adjustments in the levels of this new credit to reflect changing economic conditions?

Mr. BENTSEN. I say to the distinguished Senator from Kentucky that we are aware of the problem that he posed and certainly agree with him that the amount of credit should not remain the same if the cost of living or the social security benefits increase significantly. As he is probably aware, the Committee on Finance and its professional staff have devoted a significant amount of time and effort to simplify the retirement income credit in order to make it easier for eligible taxpayers to take advantage of its benefits. While conducting this simplification study, we deferred any action on the retirement income credit so that, eventually, we could propose a comprehensive revision. I believe that the revised elderly credit provided in the committee amendment is both comprehensive and equitable.

I believe it is the intent of the committee and will be the concern of Congress to adjust the amount of this credit much more frequently in the future in order to provide tax equity for elderly persons who are not entitled to tax-exempt social security benefits. If the revised elderly credit is adopted, I believe that adjustments from time to time in the amount of the credit will be necessary to reflect changed economic conditions.

Mr. FORD. I thank the floor manager of the bill. I am glad to have this reflected in the RECORD. I appreciate the time he has given to me.

UP AMENDMENT NO. 264

Mr. STONE. Mr. President, I call up an amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. STONE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title XIII, insert the following new section:

SEC. . EXTENSION OF CARRYOVER PERIOD FOR CUBAN EXPROPRIATION LOSSES.

Subparagraph (D) of section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out "15" and inserting in lieu thereof "20".

Mr. STONE. Mr. President, this amendment would extend for an additional 5 years the carryover period for Cuban expropriation losses sustained when individual business property was nationalized and expropriated by the Castro government.

An original 10-year carryover period was extended 5 years in 1971 by Public Law 91-677. This alleviated but did not correct the inequity for people who sustained losses but could not offset them because they were generating small annual incomes. The Internal Revenue Service estimates that there are a few hundred claims with losses remaining to be carried forward. These Cuban expropriation losses had to be claimed prior to December 31, 1965. They have been investigated and accepted by the Internal Revenue Service as actual losses. The amendment I am proposing is a simple 5-year extension of the carryover period, and no new claims for losses would be allowed.

It is surely harsh and unfair to permit large corporations with enormous incomes to use their entire loss, and deprive the small businessmen and private citizens the same right. It is, in fact, these persons for whom the expropriations have been the most tragic and severe. The Senate Committee on Finance recommended an extension of the carryover period in 1971 and said in its report:

> It has come to the attention of the Committee that because of the magnitude of the losses sustained as a result of the Cuban expropriations, some taxpayers—particularly small businesses not generating large annual incomes—have been unable to offset their expropriation losses against their income in the ten-year carryover period. Because of this, the committee believes that it is appropriate to extend the carryover period further in the case of Cuban expropriation losses.

When the period was first extended, there was no indication that this 5-year period had any special significance. The reason for the extension was to permit the use of the losses sustained. Since there are still some who have not had that chance, particularly those people least able to reestablish themselves, it is appropriate that an additional extension be provided.

This legislation would apply to a decreasing number of persons, and their losses are not among the largest Cuban losses. It would, therefore, have only a slight impact on the tax structure. But the fact that the amounts involved are not great is not the strength of this proposal; its true strength lies in the equity that it would achieve.

Mr. President, these businessmen are finally generating income that will allow them to carry forward their losses.

This amendment has been discussed with the distinguished chairman of the committee and his staff. I believe that without opening up the class to any further claimants, we can do justice to these several hundred people who now are beginning to make a decent living and who can now use this 5-year carry-forward extension.

Mr. BENTSEN. I say to the distinguished Senator from Florida, it has been heartening to see how these people have worked their way into American life, the contributions they have made to our society. On behalf of the Committee on Finance, we are sympathetic to the proposal the Senator makes and will be pleased to take it to conference.

Mr. STONE. I thank the distinguished Senator.

Mr. President, I ask for the vote.

Mr. RANDOLPH. May I ask the Senator to yield to me?

Mr. STONE. I yield.

Mr. RANDOLPH. What about the American citizen like my friend, who moved a plant into Cuba at the request of people there who needed employment? Some 300 Cubans were at work. He invested his money. He was productive. He helped the economy there. On one trip, as he went to visit his plant, his car was stopped, he was taken from his car and thrown in a ditch and the automobile was burned. His plant was confiscated. He died a pauper. He never received a single dollar from the Castro government or those who were in the process of bringing it into being.

I just want, as we have a debate of this kind and we are thinking of people who come here to find their way, to ask us to think about those Americans by the hundreds who have had their property taken over and no compensation given to them. Many even lose their lives in the process. I knew this man well. He held one of the first pilot licenses in this country, I say to my friend, the chairman of the Subcommittee on Aviation (Mr. CANNON).

What about this man? What about these hundreds and hundreds of Americans? We should say something for them here tonight; should we not?

Mr. STONE. We certainly should. I thank the distinguished Senator from West Virginia for reminding us of what took place in Cuba. This particular provision extends to Americans who suffered losses in Cuba as well as those who have come from Cuba. If this gentleman was still living and had not been able to write off his loss he could continue to carry it forward under this amendment for an additional 5 years.

The distinguished Senator from West Virginia is so correct to remind us of the human dimension that stands behind the Internal Revenue Code. The people we are talking about have suffered the loss of all their property, and even, in some cases, the loss of their lives.

Mr. RANDOLPH. I appreciate the response and the comment of the able Senator from Florida. I had not really heard the debate from the standpoint of the eligibility of Americans as well as Cubans to receive this aid.

Mr. STONE. Oh, yes, absolutely.

Mr. RANDOLPH. In view of that provision to the amendment, which is necessary, in my mind, to be incorporated, I shall support him.

Mr. STONE. I thank the distinguished Senator from West Virginia.

Mr. President, I ask for the vote.

Mr. BENTSEN. The Committee on Finance is prepared to accept the amendment. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BENTSEN. Mr. President, I move the adoption of title 13. The yeas and nays have previously been ordered.

The PRESIDING OFFICER. The question is on agreeing to title 13. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Utah (Mr. MOSS), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN), and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senators from Pennsylvania (Mr. SCHWEIKER and Mr. HUGH SCOTT), the Senator from Ohio (Mr. TAFT), the Senator from North Dakota (Mr. YOUNG), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New Mexico (Mr. DOMENICI) is absent due to illness.

The result was announced—yeas 73, nays 2, as follows:

[Rollcall Vote No. 436 Leg.]

YEAS—73

Allen
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd,
 Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Long
Mansfield
Mathias
McClure
McGovern
McIntyre
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott,
 William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Williams

NAYS—2

Biden
Haskell

NOT VOTING—25

Abourezk
Baker
Bayh
Domenici
Eastland
Goldwater
Hart, Philip A.
Hartke
Johnston
Magnuson
McClellan
McGee
Metcalf
Mondale
Montoya
Morgan
Moss
Schweiker
Scott, Hugh
Stennis
Symington
Taft
Tunney
Weicker
Young

So title XIII (committee amendment No. 23) was agreed to.

COMMITTEE AMENDMENT NO. 24

Mr. BENTSEN. Mr. President, I ask that we lay before the Senate now title XIV (committee amendment No. 24) and I ask for the yeas and nays.

The PRESIDING OFFICER. The committee amendment No. 24 will be stated.

The second assistant legislative clerk read as follows:

On page 847, line 1, strike all through page 854, line 17, and insert in lieu thereof:

TITLE XIV—CAPITAL GAINS

SEC. 1401. ALLOWANCE OF 8-YEAR CAPITAL LOSS CARRYOVER IN CASE OF REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Paragraph (1) of section 1212(a) (relating to capital loss carrybacks and carryovers for corporations) is amended by striking out "and" at the end of subparagraph (A) and by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) except as provided in subparagraph (C), a capital loss carryover to each of the 5 taxable years succeeding the loss year; and

"(C) a capital loss carryover—

"(i) in the case of a regulated investment company (as defined in section 851) to each of the 8 taxable years succeeding the loss year, and

"(ii) to the extent such loss is attributable to a foreign expropriation capital loss, to each of the 10 taxable years succeeding the loss year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to loss years (within the meaning of section 1212(a)(1) of the Internal Revenue Code of 1954) ending on or after January 1, 1970.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, I see no serious controversy with title XIV.

Hopefully, that will prove true. If so, we will have the vote tonight.

The House bill makes three changes in the area of capital gains and losses; first, it increased the holding period defining long-term capital gains from 6 months to 1 year; second, it increased the amount of ordinary income against which capital losses can be deducted from $1,000 to $4,000; and third, it increased the capital loss carryover period for mutual funds from 5 years to 8 years.

The committee amendment accepts the House provision on the capital loss carryover of mutual funds. Since mutual funds cannot use the 3-year capital loss carryback that is generally available to corporations because they distribute virtually all their capital gains to shareholders, an additional 3-year capital loss carryover period compensates them for their inability to use the 3-year carryback.

The committee amendment deletes the House provisions on the holding period and the deduction of capital losses against ordinary income.

Mr. President, I know of no serious controversy on this. If there is none, I move the adoption of title XIV. The yeas and nays have been previously ordered.

I state further that I believe this to be the last vote.

The **PRESIDING OFFICER.** The question is on agreeing to title XIV (committee amendment No. 24). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. **ROBERT C. BYRD.** I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Utah (Mr. MOSS), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN), and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. **GRIFFIN.** I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senators from Pennsylvania (Mr. SCHWEIKER and Mr. HUGH SCOTT), the Senator from Ohio (Mr. TAFT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from New Mexico (Mr. DOMENICI) is absent due to illness.

The result was announced—yeas 75, nays 0, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS—75

Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Long
Mansfield
Mathias
McClure
McGovern
McIntyre
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Williams

NAYS—0

NOT VOTING—25

Abourezk
Baker
Church
Domenici
Eastland
Goldwater
Hart, Philip A.
Hartke
Johnston
Magnuson
McClellan
McGee
Metcalf
Mondale
Montoya
Morgan
Moss
Schweiker
Scott, Hugh
Stennis
Symington
Taft
Tunney
Weicker
Young

So committee amendment No. 24 (title XIV) was agreed to.

Mr. **LONG.** Mr. President, I ask that the Senate now turn to title XV of the bill.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

COMMITTEE AMENDMENT 25

On page 856, line 1, strike all through page 885, line 10, and insert in lieu thereof:

TITLE XV—PENSION AND INSURANCE TAXATION

SEC. 1501. RETIREMENT SAVINGS FOR CERTAIN MARRIED INDIVIDUALS.

(a) ALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"SEC. 221. RETIREMENT SAVINGS FOR CERTAIN MARRIED INDIVIDUALS.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction amounts paid in cash during the contribution period by or on behalf of such individual for the benefit of himself and his spouse—

"(1) to an individual retirement account described in section 408(a),

"(2) for an individual retirement annuity described in section 408(b), or

"(3) for a retirement bond described in section 409 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this title, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

"(b) LIMITATIONS AND RESTRICTIONS.—

"(1) MAXIMUM DEDUCTION.—The total amount allowable as a deduction under subsection (a) to an individual for any taxable year may not exceed—

"(A) in the case of an amount described in subsection (a) which is paid on behalf of the individual and his spouse, to an individual retirement account, annuity, or bond in which the taxpayer and his spouse have an interest having the same effect as a joint tenancy with right of survivorship, an amount equal to the lesser of 15 percent of the compensation includible in his gross income for such taxable year or $2,000; or

"(B) in the case of amounts which are paid to both (i) an individual retirement account, annuity, or bond established exclusively in the name of the individual, and (ii) such an account, annuity, or bond established exclusively in the name of the spouse of the individual, an amount equal to the least of 15 percent of the compensation includible in the individual's gross income for such taxable year, $2,000, or twice the lesser amount paid to an account, or for an annuity or bond, described in clause (i) or (ii).

If for a taxable year of an individual an amount (other than a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(2), or 409(b)(3)(C)) is contributed by or on behalf of the individual for the year to an individual retirement account, annuity, or bond described in subparagraph (A), and such an amount is also contributed by or on behalf of the individual to an individual retirement account, annuity, or bond described in subparagraph (B), no deduction shall be allowed under subsection (a) for the taxable year with respect to the amount contributed to the individual retirement account, annuity, or bond described in subparagraph (B).

"(2) COVERED BY CERTAIN OTHER PLANS.—No deduction is allowed under subsection (a) for an individual for the taxable year if for any part of such year—

"(A) he or his spouse was an active participant in—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a),

"(iii) a qualified bond purchase plan described in section 405(a), or

"(iv) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

"(B) amounts were contributed by his employer or that of his spouse for an annuity contract described in section 403(b) (whether or not his or his spouse's rights in such contract are nonforfeitable).

"(3) CONTRIBUTIONS AFTER AGE 70½.—No deduction is allowed under subsection (a) with respect to any payment described in subsection (a) which is made for a taxable year of an individual if either the individual or his spouse has attained age 70½ before the close of such taxable year.

"(4) RECONTRIBUTED AMOUNTS.—No deduction is allowed under this section with respect to a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C).

"(5) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no deduction is allowed under subsection (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(6) EMPLOYED SPOUSES.—No deduction is allowed under subsection (a) with respect to a payment described in subsection (a) made for any taxable year of the individual, if the spouse of the individual has any compensation (determined without regard to section 911) for the taxable year of such spouse ending with or within such taxable year.

"(7) DISALLOWANCE OF DEDUCTION.—No deduction is allowed under subsection (a) for any taxable year in which a deduction is allowed to the taxpayer under section 219 or 220.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' includes earned income as defined in section 401(c)(2).

"(2) MARRIED INDIVIDUALS.—This section shall be applied without regard to any community property laws.

"(3) DETERMINATION OF MARITAL STATUS.—The determination of whether an individual is married for purposes of this section shall be made in accordance with section 143(a).

"(4) CONTRIBUTION PERIOD.—For purposes of this section, the term 'contribution period' means the period beginning with the first day of a taxable year and ending with the 45th day after the close of such taxable year.

"(5) PARTICIPANTS IN GOVERNMENT PLANS FOR RESERVE COMPONENT MEMBERS.—A member of a reserve component of the armed forces (as defined in section 261(a) of title 10) is not considered to be an active participant in a plan described in subsection (b)(2)(A)(iv) for a taxable year solely because he is a member of a reserve component unless he has served in excess of 90 days during the taxable year on active duty (other than days on active duty for training)."

(2) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (14) the following new paragraph:

"(15) RETIREMENT SAVINGS FOR SPOUSES.—The deduction allowed by section 221 (relating to retirement savings for certain married individuals)."

(b) JOINT RETIREMENT ACCOUNTS AND JOINT RETIREMENT ANNUITIES.—

(1) IN GENERAL.—Section 408 (relating to individual retirement accounts, etc.) is amended by redesignating subsection (j) as (l) and inserting after subsection (i) the following new subsections (j) and (k):

"(j) JOINT RETIREMENT ACCOUNTS.—For purposes of this section, a trust created or organized in the United States for the exclusive benefit of an individual and his spouse or their beneficiaries shall be treated as an individual retirement account (described in subsection (a)), but only if the written governing instrument creating the trust satisfies the requirements of paragraphs (2) through (5) of subsection (a), and meets the following requirements:

"(1) The interest of each individual in the assets of the trust is in a form having the effect of a joint tenancy with right of survivorship,

"(2) Except in the case of a rollover contribution described in subsection (d)(3), section 402(a)(5), 403(a)(4), or 409(b)(3)(C), or an amount contributed under section 219(c)(3), 227(c)(7), or 221(c)(4), no contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of $2,000,

"(3) The entire interest of the individuals for whose benefit the trust is maintained will be distributed to them not later than the close of the taxable year in which the older individual attains age 70½, or will be distributed, commencing before the close of such taxable year, in accordance with regulations prescribed by the Secretary, over—

"(A) the joint lives of the individuals, or

"(B) a period not extending beyond the joint life expectancy of the individuals, and

"(4) If the individuals for whose benefit the trust is maintained die before their entire interest has been distributed to them, or if distribution has been commenced as provided in paragraph (3) to the surviving individual and such surviving individual dies before the entire interest has been distributed to such individual, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within 5 years after the death of the last to die of such individuals, be distributed, or applied to the purchase of an immediate annuity for their beneficiary or beneficiaries (or the beneficiary or beneficiaries of the surviving individual) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence does not apply if distributions over a term certain commenced before the death of the first to die of the individuals for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (3).

"(5) No distribution shall be made from the trust unless each individual for whose benefit the trust is maintained consents (in writing) to such distribution—

"(A) in the case of consent to a definitely determinable series of distributions, not more than 6 months before the series of distributions commences, or

"(B) in the case of any other distribution, not more than 6 months before such distribution is made.

"(k) JOINT RETIREMENT ANNUITY.—For purposes of this section, an annuity contract, or an endowment contract (as determined under regulations prescribed by the Secretary) shall be treated as an individual retirement annuity (described in subsection (b)) only if such contract is issued by an insurance company and meets the following requirements:

"(1) The contract is not transferable by the owners.

"(2) The annual premium under the contract will not exceed $2,000 and any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits.

"(3) The entire interest of the owners will be distributed to them not later than the close of the taxable year in which the older owner attains age 70½, or will be distributed, in accordance with regulations prescribed by the Secretary, over—

"(A) the joint lives of such owners, or

"(B) a period not extending beyond the joint life expectancy of such owners.

"(4) If the owners die before their entire interest has been distributed to them, or if distribution has been commenced as provided in paragraph (3) to the surviving owner and such surviving owner dies before the entire interest has been distributed to such owner, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within 5 years after the death of the last to die of such owners, be distributed, or applied to the purchase of an immediate annuity for their beneficiary or beneficiaries (or the beneficiary or beneficiaries of the surviving owner) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence shall have no application if distributions over a term certain commenced before the death of the first to die of the owners and the term certain is for a period permitted under paragraph (3).

"(5) The entire interest of the owners is nonforfeitable.

"(6) The contract is jointly owned.

For purposes of subsection (b) and this subsection, such an annuity contract shall not be treated as an individual retirement annuity for any taxable year of an owner in which it is disqualified on the application of subsection (e) or for any subsequent taxable year. For purposes of this subsection, no contract shall be treated as an endowment contract if it matures later than the taxable year in which the first of the individuals in whose names such contract is purchased attains age 70½; if it is not for the exclusive benefit of the individuals in whose names it is purchased or their beneficiaries; or if the aggregate annual premiums under all such contracts purchased in the names of such individuals for any taxable year exceed $2,000."

(2) COORDINATION WITH SECTION 408(d).—Section 408(d) is amended as follows:

(A) Paragraph (1) is amended by striking out the second sentence and inserting in lieu thereof the following sentence: "Notwithstanding any other provision of this title, the basis of any person in such an account or annuity is zero."

(B) Paragraph (2) is amended by inserting after "paragraphs (1), (3), (4), and (5) of subsection (b)", "or, in the case of a joint annuity contract (described in subsection (k)), paragraphs (1), (3), (4), (5), and (6) of subsection (k)";

(C) Paragraph (3) is amended by—

(i) striking out "the individual for whose benefit the account or annuity is maintained" and inserting in lieu thereof "an individual for whose benefit the account or annuity is maintained" in subparagraph (A),

(ii) adding at the end of subparagraph (A) the following sentence:

"Clause (ii) shall only apply if the amount received is paid or distributed to the individual with respect to whom was made the rollover contribution from a plan described therein.",

(iii) striking out "individual retirement account" each place it appears and inserting in lieu thereof "an individual retirement account described in subsection (a)", and

(iv) striking out "individual retirement annuity" each place it appears and inserting in lieu thereof "an individual retirement annuity described in subsection (b)".

(3) COORDINATION WITH SECTION 508(e).—

(A) Section 408(e)(2)(A) is amended by striking out "the individual" and by inserting, in lieu thereof, "an individual" each place it appears therein;

(B) Section 408(e)(3) is amended by striking out "the owner" and by inserting in lieu thereof, "an owner";

(C) Section 408(e)(4) is amended by striking out "the individual" and by inserting in lieu thereof, "an individual"; and

(D) Section 408(e)(5) is amended by striking out "the individual" and by inserting in lieu thereof, "an individual".

(4) EARLY DISTRIBUTION.—Section 408(f) is amended by inserting after paragraph (3) the following new paragraph:

"(4) JOINT RETIREMENT ACCOUNT AND JOINT RETIREMENT ANNUITY.—For purposes of applying this subsection in the case of a joint retirement account (described in subsection (j)) and a joint retirement annuity (described in subsection (k))—

"(A) paragraph (1) shall not apply after the older owner attains age 59½,

"(B) paragraph (2) shall be applied by substituting—

"(i) 'the older owner has not attained' for 'the taxpayer has not attended', and

"(ii) 'the tax of the owner in whose income the amount is includible' for 'his tax', and

"(C) Paragraphs (1) and (2) do not apply if the amount paid or distributed, or the disqualification of the account or annuity under subsection (e) is attributable to disability within the meaning of section 72(m)(7) of either the taxpayer or his spouse."

(5) Coordination with section 408(c).—Paragraphs (1) and (2) of section 408(c) are amended to read as follows:

"(1) The trust satisfies the requirements of (A) paragraphs (1) through (7) of subsection (a) or (B) paragraphs (1) through (4) of subsection (j), whichever is applicable.

"(2) There is a separate accounting for the interest of each employee or member or in the case of a trust described in paragraph (1)(B), each employee, member or spouse of an employee of member."

(c) Joint Retirement Bond.—

(1) In general.—Section 409 (relating to retirement bonds) is amended by adding after subsection (c) the following new subsection:

"(d) Joint Retirement Bonds.—For purposes of this section and section 221, a bond issued under the Second Liberty Bond Act, as amended, to an individual and his spouse in a form having the effect of a joint tenancy with right of survivorship shall be treated as a retirement bond described in subsection (a) provided that such bond, by its terms, or by regulations prescribed by the Secretary under such Act—

"(1) meets the requirements of paragraphs (1), (2), and (5) of subsection (a);

"(2) provides that it ceases to bear interest, or provide investment yield on the earlier of—

"(A) the date on which older individual in whose name it is purchased (hereinafter referred to as a 'registered owner') attains age 70½; or

"(B) 5 years after the date that the first of the registered owners dies, but not later than the date on which the older of the registered owners would have attained age 70½ had both registered owners lived; and

"(3) provides that, except in the case of a rollover contribution described in subsection (b)(3)(C) or in section 402(a)(5), 403(a)(4), or 408(d)(3), or an amount contributed under section 219(c)(5), 220(c)(7), or 221 (c)(4), a contribution for the purchase of such bonds may not exceed $2,000 in any taxable year."

(2) Coordination with section 409(b).—Section 409(b) is amended—

(A) by adding after the second sentence of paragraph (1) the following new sentence: "Notwithstanding the preceding sentence, in the case of a joint retirement bond described in subsection (d), if such bond has not been tendered for redemption before the close of the taxable year in which the older registered owner attains age 70½, the amount of proceeds of such bond to which the owners would have been entitled if the bond had been redeemed at such age shall be included in the gross income of the such older registered owner";

(B) Paragraph (2) is amended by striking out "The basis" and inserting in lieu thereof, "Notwithstanding any other provision of this title, the basis";

(C) by adding at the end of paragraph (3) (B) the following new sentence: "Notwithstanding the preceding sentence, in the case of a joint retirement bond described in subsection (d), if such bond is redeemed after the close of the taxable year in which the older registered owner attains age 70½, the proceeds from the redemption of the bond are excluded from the gross income of the registered owners to the extent that such proceeds were includible in the gross income of either registered owner for such taxable year.";

(D) by striking out "section 403(d)(3)" in subparagraph (C) and inserting in lieu thereof "section 408(d)(3)"; and

(E) by adding after subparagraph (C) of paragraph (3) the following new subparagraph:

"(D) Rollovers from a joint retirement bond.—In the case of a joint retirement bond (described in subsection (d)), subparagraph (C) shall apply except that the following modifications shall be made in the first sentence thereof:

"(i) 'the older registered owner attains age 70½,' shall be substituted for 'the registered owner attains age 70½',

"(ii) 'either registered owner transfers the entire amount of his proceeds' shall be substituted for 'the register owner transfers the entire amount of the proceeds', and

"(iii) 'for the benefit of such registered owners' shall be substituted for 'for the benefit of the registered owner' each place it appears therein."

(3) Coordination with section 409(c).—Section 409(c) is amended by inserting after paragraph (3) the following new paragraph:

"(4) Joint retirement bond.—For purposes of applying this subsection in the case of a joint retirement bond described in section 409(d)—

"(A) paragraph (1) shall not apply after the older registered owner attains age 59½,

"(B) paragraph (1) shall not apply for any taxable year during which the retirement bond is redeemed if such redemption is attributable to disability within the meaning of section 72(m)(7) of either registered owner, and

"(C) paragraph (3) shall be applied by substituting 'either registered owner' for 'the registered owner'."

(d) Amendment of Section 415.—

(1) Section 415(a) (relating to limitations on benefits and contribution under qualified plans) is amended—

(A) by striking out so much of paragraph (2) as precedes subparagraph (A) and inserting in lieu thereof the following:

"(2) Section applies to certain annuities and accounts.—Except as provided in paragraph (3), in the case of—"; and

(B) by adding after paragraph (2) the following new paragraph:

"(3) Accounts, etc. established for non-employed spouse.—

"(A) Paragraph (2) shall not apply for any year to an account, annuity, or bond described in section 408(a), 408(b), or 409, respectively, established in the sole name of the spouse of the individual contributing to such account, or for such annuity or bond, if a deduction is allowable under section 220 or 221 to such individual with respect to such contribution for such year.

"(B) For the year of a contribution in the case of an account, annuity, or bond described in section 408(j), 408(k), or 409(d), the spouse described in such sections shall not be considered a participant."

(2) The first sentence of paragraph (5) of section 415(e) (relating to special rules for sections 403(b) and 408 concerning limitation in case of defined benefit plan and defined contribution plan for same employee) is amended by striking out "For purposes of this subsection," and inserting in lieu thereof "For purposes of this section,".

(e) Conforming and Clerical Amendments.—

(1) Section 408(d)(4) is amended by striking out "219" and inserting in lieu thereof, "219, 220 or 221";

(2) Section 4973(b) is amended by striking out "219" each place it appears therein and inserting in lieu thereof "219, 220 or 221" each place it appears therein; and

(3) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Retirement savings for certain married individuals.
"Sec. 222. Cross references."

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December **31, 1976.**

SEC. 1502. LIMITATION ON CONTRIBUTIONS TO CERTAIN PENSION, ETC. PLANS.

(a) In general.—

(1) Limit on contributions.—Section 415(c) of the Internal Revenue Code of 1954 (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph:

"(5) Application with section 404(e)(4).—In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1), the amount determined under paragraph (1)(B) with respect to any participant shall not be less than the amount deductible under section 404(e) with respect to any individual who is an employee within the meaning of section 401(c)(1).".

(2) Minimum deduction limitation.—Section 404(e)(4) of such Code (relating to minimum deductible amount for pension plan contributions by self-employed individuals) is amended by adding after subparagraph (B) the following: "This paragraph does not apply for any taxable year to any employee whose adjusted gross income for such taxable year (determined without regard to the deduction allowable under subsection (a)) exceeds $15,000".

(b) Effective Date.—The amendment made by subsection (a)(1) shall apply to years beginning after December 31, 1975. The amendment made by subsection (a)(2) shall apply to taxable years beginning after December 31, 1975.

SEC. 1503. PARTICIPATION BY GOVERNMENT EMPLOYEES IN INDIVIDUAL RETIREMENT ACCOUNTS, ETC.

(a) Allowance of Deduction.—

(1) In general.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as 221 and by inserting after section 219 the following new section:

"SEC. 220. PARTICIPATION BY GOVERNMENT EMPLOYEES IN INDIVIDUAL RETIREMENT ACCOUNTS, ETC.

"(a) Deduction Allowed.—

"(1) Contribution on behalf of individual.—In the case of an individual who is an active participant in a defined benefit plan or a defined contribution plan described in section 219(b)(2)(A)(iv), there is allowed as a deduction amounts paid in cash during the contribution period by or on behalf of such individual for his benefit—

"(A) to an individual retirement account described in section 408(a),

"(B) for an individual retirement annuity described in section 408(b), or

"(C) for a retirement bond described in section 409 (but only if such bond is not redeemed within 12 months of its issuance).

"(2) Contribution on behalf of individual and spouse.—In lieu of the deduction allowed by paragraph (1), there is allowed as a deduction to an individual described in paragraph (1) amounts paid in cash during the contribution period by or on behalf of such individual for the benefit of himself and his spouse to an account described in paragraph (1)(A) or for an annuity or bond described in paragraph (1) (B) or (C). No deduction is allowable under this paragraph with respect to a payment made during any taxable year of the individual if the spouse of such individual has any compensation for the taxable year of such spouse (determined without regard to section 911) ending with or within the taxable year of the individual or such spouse is an active participant in a plan or contract described in section 219 (b)(2).

"(3) Payments by employer.—For purposes of this title, any amount paid by an employer to an account, or for an annuity or bond, described in paragraph (1) or (2) constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

"(b) Limitations and Restrictions.—

"(1) Maximum deduction.—

"(A) Contribution on behalf of individual.—The amount allowable as a deduction under subsection (a)(1) to an individual for any taxable year shall not exceed an amount equal to—

"(i) the lesser of 15 percent of the compensation includible in his gross income for such taxable year or $1,500, reduced by

"(ii) the qualifying employer contributions for such taxable year.

"(B) Contribution on behalf of individual and spouse.— The amount allowable as a deduction under subsection (a)(2) to an individual for any taxable year shall not exceed an amount equal to—

"(i) the amount computed under section 221(b)(1), reduced by

"(ii) the qualifying employer contributions for such taxable year.

If for a taxable year of an individual an amount (other than a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C)) is contributed by or on behalf of the individual for the year to an individual retirement account, annuity, or bond described in section 221(b)(1)(A), and such an amount is also contributed by or on behalf of the individual to an individual retirement account, annuity, or bond described in section 221(b)(1)(B), no deduction shall be allowed under subsection (a)(2) for the taxable year with respect to the amount contributed to the individual retirement account, annuity, or bond described in section 221(b)(1)(B).

"(2) Covered by certain other plans.—No deduction is allowed under subsection (a) for an individual for the taxable year if for any part of such year—

"(A) he was an active participant in—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a), or

"(iii) a qualified bond purchase plan described in section 405(a), or

"(B) amounts were contributed by his employer for an annuity contract described in section 403(b) (whether or not his rights in such contract are nonforfeitable).

For purposes of subparagraph (A), there shall be disregarded participation by the individual in a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

"(3) Contributions after age 70½.—No deduction is allowed under subsection (a)(1) with respect to any payment described in subsection (a)(1) which is made for a taxable year of an individual who has attained age 70½ before the close of such taxable year. No deduction is allowed under subsection (a)(2) with respect to any payment described in subsection (a)(2) which is made for a taxable year of an individual if either the individual or his spouse has attained age 70½ before the close of such taxable year.

"(4) Recontributed amounts.—No deduction is allowed under this section with respect to a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C).

"(5) Amounts contributed under endowment contract.—In the case of an endowment contract described in section 408(b), no deduction is allowed under subsection (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(6) Deduction disallowed.—No deduction is allowed under subsection (a) for the taxable year if any amount is allowable as a deduction under section 219 or 221 for such year.

"(7) Certain defined benefit plans.—No deduction is allowed under subsection (a) for the taxable year to an individual who is an active participant in a defined benefit plan unless the method of computing the qualifying employer contributions under the plan for such year is acceptable to the Secretary.

"(c) Definitions and Special Rules.—

"(1) Compensation.—For purposes of this section, the term 'compensation' includes earned income as defined in section 401(c)(2).

"(2) Married individuals.—This section shall be applied without regard to any community property laws. The determination of whether an individual is married for purposes of this section shall be made in accordance with section 143(a).

"(3) Qualifying employer contributions.—For purposes of this section, the term 'qualifying employer contributions' means an amount equal to the sum of—

"(A) in the case of a defined contribution plan, if employer contributions may be made within the discretion of the employer, an amount determined under regulations prescribed by the Secretary,

"(B) in the case of a defined contribution plan not described in subparagraph (A), an amount equal to the amount required to be allocated under the plan for the benefit of the individual for the year ending with or within the individual's taxable year,

"(C) in the case of a defined benefit plan, an amount equal to the cost, computed in accordance with regulations prescribed by the Secretary under the individual level premium funding method (allocable to the plan year ending with or within the taxable year of the individual), of the employer-derived accrued benefit provided for the individual under the plan, and

"(D) in the case of an annuity contract described in section 403(b), the lesser of—

"(i) the amount contributed by the employer for an annuity contract described in section 403(b), or

"(ii) the exclusion allowance for the taxable year determined under section 403(b)(2)(A).

If a defined benefit plan described in section 219(b)(2)(A)(iv) (relating to governmental plans) does not satisfy the requirements of section 411(b) (relating to accrued benefit requirements), then the amount of the qualifying employer contributions shall be determined (in accordance with regulations prescribed by the Secretary) as though the plan had been amended to satisfy the requirements of section 411(b)(1) (without regard to subparagraphs (A) and (B) of section 411(b)(1)).

"(4) Defined benefit plan.—For purposes of this section, the term 'defined benefit plan' means a defined benefit plan within the meaning of section 414(j).

"(5) Defined contribution plan.—For purposes of this section, the term 'defined contribution plan' means a defined contribution plan (within the meaning of section 414(i)).

"(6) Reports.—The employer maintaining a defined contribution plan or a defined benefit plan or the plan administrator of such a plan shall furnish, or cause to be furnished, a report to each active participant who requests such report. The request and the report shall be made at such time and in the manner provided in regulations prescribed by the Secretary. The report shall provide such information as is required by regulations, including the amount of qualifying employer contributions for the taxable year on behalf of such active participant.

"(7) Contribution period.—For purposes of this section, the term 'contribution period' means the period beginning with the first day of a taxable year and ending with the 45th day after the close of such taxable year.

"(8) Employer-derived accrued benefit.—For purposes of this subsection, any ancillary benefit which is not directly related to retirement income benefits shall not be taken into account; and that portion of any joint and survivor annuity which constitutes a qualified joint and survivor annuity (as defined in section 401(a)(11)(G)(iii)) shall not be taken into account."

(2) Deduction allowed in arriving at adjusted gross income.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) Retirement savings by certain government employees.—The deduction allowed by section 220 (relating to participation by government employees in individual retirement accounts, etc."

(b) Conforming Amendments.—

(1) Section 219 is amended by—

(A) striking out "taxable year" in subsection (a) and inserting in lieu thereof "contribution period",

(B) striking out "during" in subsection (a)(3) and inserting in lieu thereof "for", and

(C) adding after paragraph (2) of subsection (c) the following new paragraph:

"(3) Contribution period.—For purposes of this section, the term 'contribution period' means the period beginning with the first day of a taxable year and ending with the 45th day after the close of such taxable year."

(2) Section 408(a)(1) is amended by inserting "or an amount contributed under section 219(c)(3), 220(c)(7), or 221(c)(4)" after "409(c)(3)(C)".

(3) Section 409(d)(4) is amended by inserting "or an amount contributed under section 219(c)(3), 220(c)(7), or 221(c)(4)" after "408(d)(3)".

(c) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 220 and inserting in lieu thereof the following:

"Sec. 220. Participation by Government employees in individual retirement accounts, etc.

"Sec. 221. Cross references."

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976, for which a deduction is allowable to a taxpayer who is a participant in a plan (other than a plan described in section 219(b)(2)(A)(iv) of the Internal Revenue Code of 1954) which meets the requirements of section 401(a), 403(a), or 405(a) of such Code under rules comparable to those set forth in section 219 of such Code.

Sec. 1504. Participation By Members of Reserves or National Guard in Individual Retirement Accounts, Etc.

(a) Section 219(c) of the Internal Revenue Code of 1954 (relating to definitions and special rules for retirement savings deduction) is amended by adding at the end thereof:

"(3) Participation in Government Plans for Reserve Component Members.—A member of a reserve component of the armed forces (as defined in section 261(a) of title 10) is not considered to be an active participant in a plan described in subsection (b)(2)(A)(iv) for a taxable year solely because he is a member of a reserve component unless he has served in excess of 90 days during the taxable year on active duty (other than days on active duty for training).".

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1975.

Sec. 1505. Certain Investments by Annuity Plans.

(a) In General.—Paragraph (7) of section 403(b) (relating to custodial accounts for regulated investment company stock) is amended by striking out ", and which issues only redeemable stock" in subparagraph (C).

(b) Effective Date.—The amendment made by this section applies to taxable years beginning after December 31, 1975.

Sec. 1506. Segregated Asset Accounts.

(a) Segregated Asset Accounts of Life Insurance Companies.—Paragragh (1)(B) of section 801(g) is amended—

(1) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) which is described in subparagraph (A), (B), (C), (D), or (E) of section 805 (d)(1) (other than a life, health or accident, property, casualty, or liability insurance contract) or which provides for the payment of annuities, and", and

(2) by striking out "as annuities" in clause (iii) and inserting in lieu thereof "out".

(b) Conforming Amendment.—Section 401 (relating to qualified pension, etc. plans) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) Certain Custodial Accounts and Contracts.—For purposes of this title, a custodial account, an annuity contract, or a contract described in section 801(g)(1)(B) shall be treated as a qualified trust under this section if—

"(1) the custodial account or contract would, except for the fact that it is not a trust, constitute a qualified trust under this section, and

"(2) in the case of a custodial account the assets thereof are held by a bank (as defined in subsection (d)(1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will hold the assets will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or contract treated as a qualified trust under this section by reason of this subsection, the person holding the assets of such account or holding such contract shall be treated as the trustee thereof."

(c) Effective Date.—The amendments made by this section apply for taxable years beginning after December 31, 1975.

Sec. 1507. Study of Salary Reduction Pension Plans.

Section 2006 of the Employee Retirement Income Security Act of 1974 (relating to salary reduction regulations) is amended by striking out "January 1, 1977" each place it appears and inserting in lieu thereof "January 1, 1979".

Sec. 1508. Consolidated Returns for Life and Other Insurance Companies.

(a) In General.—Section 1504(c) (relating to the definition of includible insurance companies) is amended to read as follows:

"(c) Includible Insurance Companies.—Notwithstanding the provisions of paragraph (2) of subsection (b)—

"(1) Two or more domestic insurance companies each of which is subject to tax under section 802 shall be treated as includible corporations for purposes of applying subsection (a) to such insurance companies alone.

"(2) If an affiliated group (determined without regard to subsection (b)(2)) includes one or more domestic insurance companies taxed under section 802 or 821, the common parent of such group may elect or revoke an election (pursuant to regulations prescribed by the Secretary) to treat all such companies as includible corporations for purposes of applying subsection (a). If an election under this paragraph is in effect for a taxable year—

"(i) section 243(b)(6) and the exception provided under section 243(b)(5) with respect to subsections (b)(2) and (c) of this section,

"(ii) section 542(b)(5), and

"(iii) subsections (a)(4) and (b)(2)(D) of section 1563, and the reference to section 1563(b)(2)(D) contained in section 1563(b)(3)(C), shall not be effective for such taxable year.

(b) Special Rules and Conforming Amendments.—

(1) Section 821 is amended by redesignating subsection (f) as subsection (g), and by adding after subsection (e) the following new subsection:

"(f) Tax Applicable to Member of Group Filing Consolidated Return.—Notwithstanding any other provision of this section, if a mutual insurance company to which this section applies joins in the filing of a consolidated return (or is required to so file), the applicable tax shall consist of a normal tax and a surtax computed as provided in section 11 as though the mutual insurance company taxable income of such company were the taxable income referred to in section 11."

(2) Section 843 is amended by adding the following sentence: "Under regulations prescribed by the Secretary, an insurance company which joins in the filing of a consolidated return (or is required to so file) may adopt the taxable year of the common parent corporation even though such year is not a calendar year."

(3) Section 1503 is amended by adding the following new subsection:

"(c) Special Rule for Application of Certain Losses Against Income of Insurance Companies Taxed Under Section 802 or 821.—If an election under section 1504(c)(2) is in effect for the taxable year and the consolidated taxable income of the members of the group not subject to tax under section 802 or 821 results in a consolidated net operating loss for such taxable year, then under regulations prescribed by the Secretary, the amount of such loss which cannot be absorbed in the applicable carryback periods against the consolidated taxable income of such members not taxed under section 802 or 821 shall be taken into account in determining the consolidated taxable income of the affiliated group for such taxable year to the extent of the lesser 50 percent of such loss or 50 percent of the taxable income of the members taxed under section 802 or 821. The unused portion of such loss shall be available as a carryover, subject to the same limitations (applicable to the sum of the loss for the carryover year and the loss (or losses) carried over to such year), in applicable carryover years. For purposes of this subsection determining the taxable income of each insurance company subject to tax under section 802, section 802(b)(3) shall not be taken into account."

(c) Effective Date and Transitional Rules.—

(1) Effective date.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1977.

(2) Transitional rules with respect to carryovers or carrybacks relating to pre-1978 taxable years and nontermination of group.—

(A) Limitations on carryovers or carrybacks for groups electing under section 1504(c)2.—If an affiliated group elects to file a consolidated return pursuant to section 1504(c)(2) of the Internal Revenue Code of 1954, a carryover of a loss or credit from a preeffective date taxable year, and losses or credits which may be carried back to preeffective date taxable years, shall be taken into account as if this section had not been enacted. For purposes of this subparagraph preeffective date taxable year is a taxable year beginning before January 1, 1978.

(B) Nontermination of affiliated group.—The mere election to file a consolidated return pursuant to such section 1504 (c)(2) shall not cause the termination of an affiliated group filing consolidated returns.

Sec. 1509. Restoration of Certain Amounts Distributed by Insurance Companies.

(a) In General.—Section 815(d) of the Internal Revenue Code of 1954 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(6) Restoration of amounts distributed out of policyholders surplus account.—Notwithstanding any other provision of this subchapter, no amount shall be subtracted from a taxpayer's policyholders surplus account with respect to a distribution made during the last month of the taxable year which, without regard to this paragraph, would be treated in whole or in part as a distribution out of the policyholders surplus account, to the extent that amounts so distributed are returned to the taxpayer no later than the time prescribed by law (including extensions thereof) for filing the taxpayer's return for the taxable year in which the distribution was made. For purposes of this paragraph, amounts returned to a taxpayer with respect to a distribution shall be first applied to the return of amounts which, without regard to this paragraph, would have been treated as distributed out of the policyholders surplus account. This paragraph shall not apply if, at the time such distribution was made, the taxpayer intended to avail itself of the provisions of this paragraph by having its shareholders return all or a part of such distribution. Nothing in this paragraph shall affect the tax treatment of the receipt of the distribution by any shareholder, and the basis to a shareholder of his stock in the taxpayer shall not be increased by reason of amounts returned under this paragraph to the extent that a dividends received deduction or exclusion was allowable in respect of the distribution of such amount under any provision of this title.".

(b) Effective Date.—The amendment made by this subsection applies with respect to taxable years ending after December 31, 1957.

Sec. 1510. Treatment of certain life insurance contracts guaranteed renewable.

(a) In General.—Paragraph (d)(5) of section 809 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following sentence: "For purposes of this paragraph, the period for which any contract is issued or renewed includes the period for which such contract is gauranteed renewable.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1957.

AMENDMENT NO. 2120

Mr. KENNEDY. Mr. President, I call up my amendment No. 2120.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 920, beginning with line 10, delete all through line 9 on page 924.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of 1 hour on the Kennedy amendment, to be equally divided in accordance with the usual form.

Mr. ALLEN. Mr. President, reserving the right to object, what is the Kennedy amendment?

Mr. LONG. The Kennedy amendment strikes from the bill a provision dealing with consolidated returns of insurance companies. The Senator from Connecticut (Mr. RIBICOFF) is very much interested in that matter. He will be speaking for the committee on that, because his view is the committee's view in that area. That may be debated tomorrow, and, of course, we will vote when we get through with the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Title XV deals with retirement savings, contributions under H.R. 10 plans, participation by Government employees in individual retirement accounts, participation by members of Reserves or National Guard in individual retirement accounts, tax-sheltered annuity contracts in closed and mutual funds, investments in segregated asset accounts of life insurance companies, extension of study of deferred profit-sharing plans, consolidated returns for life and mutual insurance companies, and guaranteed renewal life insurance contracts.

Senators should analyze those proposals, and be prepared to consider the amendment tomorrow.

1. RETIREMENT SAVINGS FOR CERTAIN MARRIED INDIVIDUALS

Under current law, the deduction for an individual retirement account or IRA is limited to $1,500 or 15 percent of earned income, whichever is less, so that a person without earned income is not allowed an IRA deduction. The IRA deduction is not allowed to a person for a contribution to the IRA of another person.

The committee amendment provides that an individual with earned income can contribute up to $2,000 to an IRA he and his spouse own jointly or can contribute $1,000 to his own IRA and $1,000 to an IRA separately owned by his spouse. The deduction is limited to 15 percent of earned income. Both spouses must consent to a distribution from a joint IRA. The $2,000 and $1,000 IRA would be alternatives to the $1,500 IRA allowed under present law. Contributions to the $2,000 and $1,000 IRA's would be offset by employer contributions under the rules for limited employee retirement accounts.

2. LIMITATIONS ON CONTRIBUTIONS TO CERTAIN H.R. 10 PLANS

Under present law, a self-employed individual may set aside up to $750 a year of earned income as a deductible contribution to a tax-qualified H.R. 10 plan, even though this amount exceeds 15 percent of his earned income—the regular deduction limit for H.R. 10 plans—because, under present law, a special limitation is provided which permits the deduction unless the contribution exceeds 100 percent of his earned income for the taxable year.

However, a separate code provision limits the amount which may be set aside for the benefit of any participant under all tax-qualified defined contribution plans, including H.R. 10 plans, to no more than 25 percent of earned income. As a result, a self-employed individual earning less than $3,000 a year has been unable to take full advantage of the 100-percent limitation.

The committee amendment provides that a self-employed individual could set aside up to $750 of self-employment income in an H.R. 10 plan without regard to the usual 15-percent limitation. The rule would only apply if the individual's adjusted gross income does not exceed $15,000.

3. PARTICIPATION BY GOVERNMENT EMPLOYEES IN INDIVIDUAL ACCOUNTS

Under current law, an individual who participates in a qualified pension plan, a tax-sheltered annuity, or a Government plan cannot make deductible contributions to an IRA.

The committee amendment allows IRA deductions to a participant in a Government plan—whether or not qualified. The usual IRA limits are reduced on account of employer contributions. The deduction is allowed for IRA contributions, but no deduction is allowed for contributions to a plan by an employee.

The House bill allowed an IRA deduction to a participant in a qualified plan or tax-sheltered annuity, but not to a person who is under a Government plan. The House bill permits a deduction for an employee's plan contributions or IRA contributions under rules that are similar to the Senate amendment.

If the provisions of the House bill for everyone except Government employees are eventually adopted, the committee believes that they should also apply to Government employees. Therefore, the committee has adopted provisions under which a participant in a Government plan would be permitted to make deductible contributions to an IRA if a provision like that in the House bill becomes effective.

4. PARTICIPATION BY MEMBERS OF RESERVES OR NATIONAL GUARD IN INDIVIDUAL RETIREMENT ACCOUNTS

A participant in a governmental plan is not allowed a deduction under present law for an IRA contribution so that the deduction is not allowed to members of the Armed Forces and National Guard covered by the military retirement plan.

The committee amendment provides that a member of the Armed Forces Reserves or National Guard would be allowed an IRA deduction for a year in which he has less than 90 days of active duty, other than for training.

5. TAX-SHELTERED ANNUITY CONTRACTS IN CLOSED-END MUTUAL FUNDS

Under present law, amounts contributed by certain tax-exempt organizations and educational institutions to provide annuities for employees are not included in the employees' income if the contributions are used to purchase annuity contracts or invested in open-end mutual funds.

Under the committee amendment, contributions for tax-sheltered annuities could be made to closed-end investment companies as well as open-end mutual funds and annuity contracts.

6. PENSION FUND INVESTMENTS IN SEGREGATED ASSEST ACCOUNTS OF LIFE INSURANCE COMPANIES

Present law provides that a segregated asset account can serve as the reserve for a variable annuity contract issued by a life insurance company. Income items of the account are not attributed to the insurance company.

Under the committee amendment, a segregated asset account can be used as a reserve for insurance contracts that do not provide annuities. A pension fund can invest assets in such an account in lieu of a trust if the investment is otherwise permitted under law.

7. EXTENSION OF STUDY OF SALARY REDUCTION AND CASH OR DEFERRED PROFIT-SHARING PLANS

Under present law, on December 6, 1972, the IRS issued proposed regulations which would have changed the tax treatment of salary reduction, cafeteria, and cash or deferred profit-sharing plans. In order to allow time for congressional study of these areas, section 2006 of ERISA provided for a temporary freeze of the status quo until December 31, 1976.

Under the committee amendment the temporary freeze of the status quo—under which plans established before June 27, 1974, are governed by the law in effect prior to the 1972 temporary regulations—would be extended until January 1, 1979.

8. CONSOLIDATED RETURNS FOR LIFE AND MUTUAL INSURANCE COMPANIES

Under present law life insurance companies cannot file consolidated returns with nonlife companies. Similarly, mutual casualty insurers cannot file consolidated returns with other types of companies.

Under the committee amendment life companies could file consolidated returns with nonlife companies under rules limiting the amount of nonlife losses applied against life company income to one-half the loss or one-half of life company income, whichever is less. Nonlife losses could not be carried back against life company income.

9. GUARANTEED RENEWAL LIFE INSURANCE CONTRACTS

Under present law, an insurance company can deduct 3 percent of premiums under nonparticipating policies or 10 percent of the addition to its reserve for these policies if the policies are issued or renewed for at least 5 years.

The committee amendment provides that the time for which a policy is issued or renewed includes the period for which it is guaranteed renewable by the policyholder.

UP AMENDMENT NO. 266

Mr. President, prior to the time that the amendment was offered, I should have modified the amendment as spokesman for the committee. I ask unanimous consent, on behalf of the committee, to modify the committee amendment, and I send the modifying language to the desk.

Mr. President, this modification relates to the extension of the study of salary reduction and cash or deferred profit-sharing plans. On December 6, 1972, the IRS issued proposed regulations which would have changed the tax treatment of salary reduction and cash or deferred profit-sharing plans. In order to allow time for congressional study of these areas, section 2006 of ERISA provided for a temporary freeze of the status quo until December 31, 1976. Under the committee amendment as initially reported, the temporary freeze of the status quo would have been extended for 2 years until January 1, 1979.

However, the committee decided, following its supplemental hearings, to limit the extension of the temporary freeze of the status quo to 1 additional year, that is, until January 1, 1979.

The modification also strikes from the bill section 1509, relating to the restoration of certain amounts distributed by insurance companies. This provision passed the Senate a few weeks ago on a separate bill and has already been enacted.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 920, strike out lines 6 through 9 and insert the following:

"Section 2006 of the Employee Retirement Income Security Act of 1974 is amended—

"(1) by striking out 'January 1, 1977' each place it appears and inserting in lieu thereof 'January 1, 1978', and

"(2) by striking out 'December 31, 1976' in subsection (d) and inserting in lieu thereof 'December 31, 1977' ".

Beginning on page 924, strike out line 10 through line 11 on page 926.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

ADDITIONAL STATEMENTS SUBMITTED

WELFARE FRAUD ARRESTS IN NEW YORK CITY

Mr. BUCKLEY. Mr. President, yesterday's arrest of 42 employees of the city and State of New York for welfare fraud is another shocking example of the continuing abuse of the generosity of the American people. We have established programs of public assistance to aid the needy, but the greedy are sucking the blood out of them.

The Bronx district attorney has said that it is hard to get jail terms for welfare chislers. We know that already. The public has already learned from Bernard Bergman and a Federal judge that crime, especially welfare crime, does pay if you handle it right.

I, for one, am fed up, and not only with the despicable persons who were ripping off the poor at the same time they were collecting paychecks as municipal employees. I am also fed up with those public officials—including this Congress—who tolerate their thievery. These crooks had to be uncovered through tipsters, because the city's department of social services would not run its employees' social security numbers through the welfare computer to discover cheaters.

This should teach us all a lesson. When public officials talk about welfare reform, let us find out just what they mean. And if they do not mean to begin by jailing welfare cheats, then they have nothing to say to the exploited taxpayers of this country. I again urge the Senate to consider my proposal—Senate Resolution 438—to establish a Select Committee on Welfare Fraud. It should be enough to say that, even if Government officials are willing to put up with welfare stealing, the public is not going to tolerate it much longer.

NEED FOR WATERWAY USER CHARGES

Mr. President, I wish to call the attention of my colleagues to section 1321 of this legislation. That is a provision that prohibits States and local governments from levying taxes on barges or other commercial vessels used in interstate traffic.

While I recognize that this prohibition does not affect the State where a barge company may be incorporated, or where the barge owner resides, I believe that it is another example of how the Congress is creating imbalances in our national transportation system. In other words, this is a provision that assists one type of commerce at the expense of competing modes of transportation and the general taxpayers of this Nation.

As just one example, the trucking industry pays licensing fees in many States where it may operate, not just in the States of incorporation. Under this amendment, a barge may pay a fee to no more than one State. And it infringes on State ability to raise revenues at a time when States are crying for revenues, and when the Federal Government must return more and more funds to the States.

Mr. President, I do not seek to delay the Senate's consideration of this bill by moving to strike this amendment, but I want to point out that I did submit an amendment—2090—recently to this bill that I intend to bring up in due course. It would impose a Federal user tax on the commercial use of waterways that hitherto have been improved and maintained exclusively by the general taxpayer.

INCOME TAX RETURN PREPARERS

Mr. HASKELL. Mr. President, I ask unanimous consent that a joint statement by myself and the Senator from Kansas (Mr. DOLE) relating to income tax return preparers be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HASKELL AND SENATOR DOLE

As the Chairman and the ranking minority member of the Subcommittee on Administration of the Internal Revenue Code of the Committee on Finance, we are submitting this joint statement to clarify certain language that appears in the section of the Finance Commitee's Report relating to income tax return preparers.

Section 1203(b) of the Bill adds a new section 6694 to the Internal Revenue Code which, inter alia, imposes a penalty for any understatement of tax liability caused by an income tax return preparer due to negligent or intentional disregard of rules and regulations. It is the Committee's intention, as stated in the Committee Report, that this provision be interpreted in a manner similar to existing section 6653(a) of the Code which imposes penalties for disregard of rules and regulations by taxpayers on their own returns. Consistent with section 6653(a), the Committee Report states that an income tax return preparer's good faith dispute about an interpretation of a statute is not considered negligent or intentional disregard of rules and regulations.

However, the Report goes on to state that an income tax return preparer may complete a return relying on case law that conflicts with rulings or regulations, "provided he clearly sets forth in the return the relevant rulings or regulations which he disputes and the judicial decision upon which he relies." Such disclosure is not required to avoid penalties under section 6653(a) of the Code, and the Committee did not intend that more stringent requirements be applied under the new section 6694(a). While there may be instances in which some form of disclosure on a return would be necessary to avoid penalties under section 6694 (a), that would depend on all the relevant facts and circumstances in the particular case, as is true under section 6653(a).

Further, the passage from the Committee Report quoted above, as well as certain other passages, might suggest to some that income tax return preparers are generally bound to adhere to published Revenue Rulings, as if such rulings had the effect of binding rules or regulations. Despite this language, the Committee recognizes that published Revenue Rulings represent the conclusions of the Internal Revenue Service on the application of law to a set of facts, and, while valuable for interpretative purposes, they do not have the force and effect of statutory rules or Treasury Regulations.

CALIFORNIA FOOD STAMP CASHOUT BILL

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message on H.R. 14514.

The PRESIDING OFFICER (Mr. GLENN) laid before the Senate H.R. 14514, an act to permit a State which no longer qualifies for hold-harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits, which was read twice by its title.

Mr. LONG. Mr. President, this bill would take care of a problem in the State of California. It would allow that State to provide higher supplementary payments to its needy aged, blind, and disabled in lieu of making them eligible for food stamps.

An almost identical measure, sponsored by Senator CRANSTON, has passed the Senate twice—once as part of another bill, and a second time as a separate bill.

Mr. President, in view of the importance of timely action on this matter, and since it has already passed the Senate twice, I urge its approval at this time.

Mr. CRANSTON. Mr. President, I am delighted with the action of the House in passing H.R. 14514—in terms of both purpose and substance it is virtually identical to legislation twice passed by the Senate—S. 3656 on July 2 and H.R. 14484 on June 30. This bill will enable the State of California to proceed with the agreement reached between Governor Brown and leaders of the legislature to provide additional cash benefits rather than food stamps to California's needy aged, blind, and disabled persons. As I said when the Senate passed S. 3656, this bill will allow the elected State representatives and the people of California to work their will on this issue involving State funds.

Mr. President, the House has passed its own bill in order to make technical modifications and improvements in the Senate bill. Since H.R. 14514 is virtually identical to the Senate bill, I urge my colleagues to pass this measure expeditiously so that it can be sent to the President for his signature immediately. Since the Congressional Budget Office—CBO—has indicated—in a June 25 letter from the Director of CBO, Alice Rivlin, to Congressman ULLMAN, the chairman of the House Ways and Means Committee—that this bill entails no Federal budgetary costs, I am hopeful that the President will sign this urgently needed measure as soon as possible.

Mr. President, I would again like to thank the chairman of the Senate Finance Committee, my good friend from Louisiana (Mr. LONG), for the tremendous service he has performed for my State in this matter.

The bill (H.R. 14514) was ordered to a third reading, read the third time, and passed.

SENATE JOINT RESOLUTION 208—RECOGNIZING THE CONTRIBUTIONS OF SCHOOL VOLUNTEERS

Mr. STONE. Mr. President, I send to the desk a joint resolution, and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 208) recognizing the contributions of school volunteers.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered to have been read twice, and the Senate will proceed to its consideration.

Mr. STONE. Mr. President, I am today introducing for myself and Senator CHILES a joint resolution to recognize the contributions of school volunteers to our schools and our society. My colleague from Florida, Congressman WILLIAM LEHMAN, is introducing the joint resolution in the House.

School volunteer programs involve a cross-section of American society enriching the lives of both the volunteers and the students participating. The spirit that has sparked Vista, RSVP, Foster Grandparents, and similar programs is manifest in the Americans donating their time and energy to enrich America's future. Volunteers are inovlved in tutoring, personal counseling, and career education, offering students opportunities that they might otherwise be denied.

This joint resolution would recognize the contributions of the volunteers, encourage broader participation, and support and request the President to issue a proclamation recognizing their vital role in shaping our third century.

I urge its passage.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble is as follows:

S.J. RES. 208

Whereas school volunteers contribute significantly to the extension and enrichment of the education of American youth and both utilize and serve a broad spectrum of Americans of all ages, interests and political persuasions;

Whereas there is a need and desire for continued expansion of the school volunteer movement, for continuing nationwide review and assessment of the impact of school volunteer programs, and for further study and analysis of future directions for such programs;

Whereas the recognition of the school volunteer movement would focus attention on the efforts and contributions of school volunteers for millions of Americans of all ages; and

Whereas the recognition of school volunteers would provide a basis for a continuing commitment by all interests in education to increase and protect the utilization of school volunteers in the classrooms of America; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the Congress:

(1) recognizes the worth and contribution of school volunteers;

(2) encourages all Americans to continue and support the nationwide effort toward utilization of school volunteers, to review and assess the impact of school volunteer programs on the quality of education, and to determine further steps required to renew the commitment and dedication of each American to increasing the participation of volunteers in the educational process; and

(3) authorizes and requests the President to issue a proclamation recognizing the contributions made by the millions of Americans who are voluntarily working to improve the quality of education in the United States of America.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow morning, there be a period for the transaction of routine morning business not to extend beyond 9:15 a.m., with statements therein limited to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RESUMPTION OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 9:15 a.m. tomorrow, the Senate resume the consideration of the unfinished business, the tax reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE N, 94TH CONGRESS, 2D SESSION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the treaties with the Union of Soviet Socialist Republics on the limitation of underground nuclear weapon tests and on underground nuclear explosions for peaceful purposes, both with Protocols (Ex. N, 94th Congress, 2d session), transmitted to the Senate today by the President of the United States, and that the treaties with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapon Tests, and the Protocol thereto, referred to as the Threshold Test Ban Treaty (TTB Treaty), and the Treaty between the United States of America and the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes, and the Protocol thereto (PNE Treaty). The TTBT was signed in Moscow on July 3, 1974 and the PNE Treaty was signed in Washington and Moscow on May 28, 1976. For the information of the Senate, I transmit also the detailed report of the Department of State on these Treaties.

These Treaties together establish procedures for the conduct of all underground nuclear explosions by the United States and the Soviet Union. All nuclear explosions other than underground nuclear explosions are prohibited by the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (the Limited Test Ban Treaty) of 1963. The TTB Treaty and PNE Treaty are the first agreements since the Limited Test Ban Treaty to impose direct restraints on nuclear explosions by the Parties and, as such contribute to limiting nuclear arms competition.

These two Treaties represent approximately two years of intensive effort. Negotiation of the TTB Treaty began in the Spring of 1974 and was completed in July of that year. However, the question of the relationship of underground nuclear explosions for peaceful purposes to limitations on nuclear weapon testing was not then resolved. As a result, Article III of the TTB Treaty provided that the Parties would negotiate and conclude an agreement governing underground nuclear explosions for peaceful purposes. Work on the PNE Treaty began in the Fall of 1974 and after six lengthy negotiating sessions was completed in April of 1976.

The TTB Treaty and the PNE Treaty are closely interrelated and complement one another. The TTB Treaty places a limitation of 150 kilotons on all underground nuclear weapon tests carried out by the Parties. The PNE Treaty similarly provides for a limitation of 150 kilotons on all individual underground nuclear explosions for peaceful purposes.

During the negotiation of the PNE Treaty, the Parties investigated whether individual explosions with yields above 150 kilotons could be accommodated consistent with the agreed aim of not providing weapon-related benefits otherwise precluded by the TTB Treaty. The Parties did not develop a basis for such an accommodation, largely because it has not been possible to distinguish between nuclear explosive device technology as applied for weapon-related purposes and as applied for peaceful purposes. The Parties therefore agreed that the yield limitations on individual explosions in the two Treaties would be the same.

The TTB Treaty and the PNE Treaty contain numerous provisions to ensure adequate verification, including some concepts, more far-reaching than those found in previous arms control agreements, which are not only important in themselves but which will have significant precedential value as well. For example, the Limited Test Ban Treaty is verified only by national technical means. The TTB and PNE Treaties add requirements for exchange of specific information in advance to assist verification by national technical means, and the PNE Treaty establishes procedures for on-site observation under certain conditions on the territory of the Party conducting the explosion.

The TTB Treaty provides for an exchange of data on the geography and geology of nuclear weapon test sites as well as the yields of some actual weapons tests conducted at each site. The PNE Treaty requires that the Party conducting any underground nuclear explosion for peaceful purposes provide the other Party in advance with data on the geography and geology of the place where the explosion is to be carried out, its purpose, and specific information on each explosion itself. These requirements are related to the yield of the explosion and become more detailed as the magnitude of the explosions increase.

In addition to the limitation on individual nuclear explosions of 150 kilotons, the PNE Treaty provides for an aggregate yield limitation of 1.5 megatons on group underground nuclear explosions for peaceful purposes. A group explosion consists of substantially simultaneous individual explosions located within a specific geometrical relationship to one another. The Treaty provides for mandatory on-site observer rights for group explosions with an aggregate yield in excess of 150 kilotons in order to determine that the yield of each individual explosion in the group does not exceed 150 kilotons and that the explosions serve the stated peaceful purposes. The Treaty also provides for on-site observers for explosions with an aggregate yield between 100 and 150 kilotons if both Parties agree, on the basis of information provided, that such observers would be appropriate for the confirmation of the yield of the explosion.

The TTB Treaty and the PNE Treaty, taken together as integrated and complementary components of this important limitation on nuclear explosions, provide that very large yield nuclear explosions will no longer be carried out by the Parties. This is one more useful step in our continuing efforts to develop comprehensive and balanced limitations on nuclear weapons. We will continue our efforts to reach an adequately verifiable agreement banning all nuclear weapon testing, but in so doing we must ensure that controls on peaceful nuclear explosions are consistent with such a ban. These Treaties are in the national interest, and I respectfully recommend that the Senate give its advice and consent to ratification.

GERALD R. FORD.

THE WHITE HOUSE, *July 29, 1976.*

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow morning at 9 a.m. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business, with statements limited therein to 3 minutes each, which period will end at the hour of 9:15 a.m., at which time the Senate will resume consideration of the unfinished business, the tax reform bill, at which time the pending question will be on the adoption of the amendment by Mr. KENNEDY to title XV.

There is a 1-hour time limitation on the amendment, and the yeas and nays have been ordered thereon. Hence, a rollcall vote could occur as early as 10:15 a.m., or even before if time were to be yielded back.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 7:20 p.m., the Senate adjourned until tomorrow, Friday, July 30, 1976, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 29, 1976:

DEPARTMENT OF DEFENSE

Robert Nelson Smith, of Ohio, to be an Assistant Secretary of Defense, vice James R. Cowan, resigned.

DEPARTMENT OF DEFENSE

Fred P. Wacker, of Virginia, to be an Assistant Secretary of Defense, vice Terence E. McClary, resigning.

DEPARTMENT OF DEFENSE

M. Alan Woods, of Missouri, to be an Assistant Secretary of Defense, vice William I. Greener, resigning.

IN THE AIR FORCE

The following Air Force officers for appointment in the Regular Air Force in the grade indicated, under the provisions of section 8284, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

DENTAL CORPS

To be captain

Bowman, Larry R., [redacted].
Kucera, Raymond P., [redacted].
Miller, Ronald I., [redacted].
Nielsen, Christen J., [redacted].
Read, Gill, [redacted].

To be first lieutenant

Crichton, David D., III, [redacted].

The following person for appointment as Reserve of the Air Force, in the grade indicated, under the provisions of section 593, title 10, United States Code:

LINE OF THE AIR FORCE

To be colonel

Heiman, Matthew F., [redacted].

The following persons for appointment as Reserve of the Air Force in the grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Astorga, Alex M., [redacted].
Benedict, Roland D., [redacted].
Chobot, Edwin F., Jr., [redacted].
Clemmons, Roy S., [redacted].
Coolbaugh, Carl C., [redacted].
Crane, Roger H., [redacted].
Erd, Quentin L., [redacted].
Farson, Clyde W., [redacted].
Froilan, Jorge T., [redacted].
Gans, Robert H., [redacted].
Greer, Robert C. III, [redacted].
Kaufmann, Robert J. [redacted].
Lehman, Edward D., [redacted].
Longmire, Lemuel T., [redacted].
McGuire, Michael D., [redacted].
Neil, Alexander L., [redacted].
Nitzberg, Benjamin W., [redacted].
Pendell, Paul W., [redacted].
Pratofiorito, Frank N., [redacted].
Rubinstein, Norman E., [redacted].
Wakefield, Charles T., [redacted].
Zeller, Robert W., [redacted].

DENTAL CORPS

To be lieutenant colonel

Fisher, Howard E., [redacted].

The following persons for appointment as temporary officers in the U.S. Air Force, in the grade indicated, under the provisions of sections 8444 and 8447, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Astorga, Alex M., [redacted].
Benedict, Roland D., [redacted].
Buxton, Richard D., [redacted].
Cabebe, Fernando S., [redacted].
Capistrano, Cecil L., [redacted].
Chobot, Edwin F., Jr., [redacted].
Chua, Ernesto L., [redacted].
Clemmons, Roy S., [redacted].
Coolbaugh, Carl C., [redacted].
Cooley, Daniel J., [redacted].
Crane, Roger H., [redacted].
Crawford, Elwyn D., [redacted].
Erd, Quentin L., [redacted].
Farson, Clyde L., [redacted].
Frias, Carlos A., [redacted].
Froilan, Jorge T., [redacted].
Gans, Robert H., [redacted].
Greer, Robert C., [redacted].
Hess, George W., Jr., [redacted].
Holbrook, James M., [redacted].
Kaufmann, Robert J., [redacted].
Kramer, Roy K., [redacted].
Lehman, Edward D., [redacted].
Longmire, Lemuel T., [redacted].
McGuire, Michael D., [redacted].
Nitzberg, Benjamin W., [redacted].
Olesijuk, Andrew, [redacted].
Oliveros, Rene A., [redacted].
Pendell, Paul W., [redacted].
Pratofiorito, Frank N., [redacted].
Prue, Edmund B., [redacted].
Rainess, Alan E., [redacted].
Rodriguez, Teodorico C., [redacted].
Rosero, Marciano A., [redacted].
Rubinstein, Norman E., [redacted].
Suter, Darvin K., [redacted].
Task, Steven A., [redacted].
Verde, Horatio V., [redacted].
Wagner, Vernon P., [redacted].
Wakefield, Charles T., [redacted].
Winer, Bernard A., [redacted].
Wolborsky, Martin, [redacted].
Zeller, Robert W., [redacted].

The following officer for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, title 10, United States Code:

MEDICAL CORPS

Lieutenant colonel to colonel

Thomas, Elias A., Jr., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, title 10, United States Code:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Bergeman, Leroy E., [redacted].
Coady, Thomas J., [redacted].
Gathman, Terry R., [redacted].
Workman, Frederick C., [redacted].

MEDICAL CORPS

Bobbitt, Roy L., [redacted].
Gilman, Robert T., [redacted].
Jones, Al E., [redacted].
Koop, Lamonte P., [redacted].
Pritchett, Paul E., [redacted].
Roldan, Erlinda C., [redacted].
Wise, Jack L., [redacted].

NURSE CORPS

Kuehnast, Elizabeth L., [redacted].
Montanaro, Frank L., [redacted].
Scoggins, Joan I., [redacted].
Williams, Dorothy S., [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate July 29, 1976:

EXPORT-IMPORT BANK OF THE UNITED STATES

Delio E. Gianturco, of Virginia, to be First Vice President of the Export-Import Bank of the United States.

FEDERAL TRADE COMMISSION

David A. Clanton, of Virginia, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1969.

David A. Clanton, of Virginia, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1976.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

MEETING THE CRISIS OF INTERNATIONAL TERRORISM

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. HEINZ. Mr. Speaker, today I am introducing a resolution urging the President to deny or revoke the general system of preferences—GSP—to any country which aids or abets any group or individual committing an act of international terrorism.

For those not familiar with GSP, it was established to give developing nations an advantage over industrialized countries in competing for the U.S. market by eliminating duties on certain products. The rationale behind this preferential treatment was that if countries could build up their own economies through trade they would require less foreign aid from the United States.

Under the Trade Act of 1974, the President was given the authority to grant GSP to any developing country which was not Communist, a member of OPEC, or which had not nationalized American businesses without adequate compensation. Additionally, American businesses and jobs were protected by not extending GSP to "import sensitive" items where domestic industry was already competitive and where preferential treatment would hurt our industries.

Currently, about 90 nations and 2,700 products have been granted GSP.

Mr. Speaker, yesterday I spoke of the need to stem the tide of international terrorism by invoking the necessary sanctions against nations willing to aid or abet terrorists.

We now have a law on the books—section 602A of the amended Foreign Assistance Act—that cuts off American assistance to nations that aid terrorists. My resolution would make it clear that Congress intends sanctions against those countries that may not directly receive U.S. aid but that enjoy the advantages of such special benefits as GSP.

This action would clearly demonstrate to countries like Uganda that we are seriously concerned over nations which, through their collusion with international terrorists, encourage these acts, endanger innocent lives and prevent criminals from being brought to justice.

The text of the resolution follows:

RESOLUTION

Urging the Presiding to deny to any country granting sanctuary to international terrorists the benefits of designation as a beneficiary developing country under the General System of Preferences of the Trade Act of 1974

Resolved, That the President is urged to deny designation as a beneficiary developing country for purposes of title V of the Trade Act of 1974 (relating to the Generalized System of Preferences and providing duty-free treatment for eligible articles) (19 U.S.C. 2461–2465) to any country which the President finds aids or abets, or has aided or abetted, by granting sanctuary from prosecution, any individual or group which has committed an act of international terrorism, and in the case of any such country which has already been so designated, the President is urged to review such designation for purposes of possible termination of such designation.

THE 1976 LEGISLATIVE QUESTIONNAIRE RESULTS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. ARCHER. Mr. Speaker, this year, as has been my custom every year that I have served in Congress, I sent out a questionnaire to all of the homes in the Seventh Congressional District of Texas in order to obtain my constituents' opinions on important national issues.

The questions themselves were selected from those most frequently mentioned in other correspondence I had received from the district prior to the time the questionnaire was published.

Since I know my colleagues in the House will be interested in seeing the results, I am requesting that the following article on the questionnaire from my most recent newsletter be reprinted at this point in the RECORD. The results are also being sent to President Ford so he may have the benefit of my constituents' opinions as well:

1976 LEGISLATIVE QUESTIONNAIRE RESULTS

Nearly 35,000 people responded to this year's Legislative Questionnaire, an indication to me that the stories of apathy among the American people certainly don't fit the 7th Congressional District of Texas.

While this is a very useful method of obtaining the opinions of a large number of the District's residents on a variety of broad issues, the annual survey is by no means designed to take the place of other forms of communication that are open throughout the year. Many thanks to those who took the time to respond (and went to the 13¢ expense that the Postal Service required) and help me better assess the views of the 7th District.

Here are the results of the survey:

1. Should the United States continue its membership in the United Nations? 64 percent yes, 36 percent no.

2. Do you favor the policy of detente that the U.S. has been pursuing with the Soviet Union? 35 percent yes, 65 percent no.

3. Should private organizations be permitted to compete with the Postal Service in the delivery of all mail? 80 percent yes, 20 percent no.

4. Do you feel that communism is a threat to the U.S. today? 85 percent yes, 15 percent no.

5. Should the U.S. conduct active intelligence operations in other countries? 91 percent yes, 9 percent no.

6. Do you approve of the federal government's loan guarantees to New York City? 28 percent yes, 72 percent no.

7. Should Members of Congress be permitted to reveal classified national security information? 7 percent yes, 93 percent no.

8. Do you favor making labor unions subject to anti-trust laws? 92 percent yes, 8 percent no.

9. Should the federal government determine standards of educational quality in Houston area public schools? 10 percent yes, 90 percent no.

10. Do you believe that deficit spending by the federal government is a major cause of inflation? 89 percent yes, 11 percent no.

CHANGE OF COMMAND

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. GOLDWATER. Mr. Speaker, the editorial in the July 26, 1976, issue of U.S. News & World Report, written by Howard Flieger, almost leaps off the page in its thoughtfulness and significance.

I am pleased to share it with my colleagues:

CHANGE OF COMMAND

By Howard Flieger)

Right now, when people's thoughts are on politics, let the record show:

On July 1, 1976, Cdr. John S. McCain III was given command of Attack Squadron 174, Naval Air Station, Jacksonville, Fla.

Chances are you didn't see it on television or in the newspapers. Such changes in military command are small swatches of the total fabric of current events.

But this one deserves special notice.

The ceremony on the above date marked the fact that young John McCain had made it all the way back.

Nine years ago he lay ill and neglected in a filthy prison cell in North Vietnam—with two broken arms and a broken leg. A Navy flier, he had been shot down by enemy rockets and captured by the Communists.

The ordeal of imprisonment, brutality and abuse lasted nearly six years before he made it back to the United States. His first-person account of his experience—typical of many others—was published in this magazine in May, 1973, and attracted nationwide attention.

But there is more to the story than his release, recovery and the return to active duty that has now put him in command of one of the Navy's crack flying outfits.

John is the third generation in a family dedicated to what is known in the military as "career Navy."

His grandfather, the first John S. McCain, was on combat duty in two World Wars. In World War II, he was an admiral in the Pacific. He was on the deck of the battleship *Missouri* in 1945 when Gen. Douglas A. MacArthur accepted the formal Japanese surrender.

Commander McCain's father, the second John S. McCain, was a submarine commander in World War II and stood with *his* father on the *Missouri* to witness the surrender.

In the years that followed, John S. McCain, II, rose to the rank of four-star admiral. At the time of his retirement in 1972, he was commander in chief of all Pacific forces. He served in that post burdened with the knowledge that his own son was a prisoner in the hands of the North Vietnamese.

The man who nursed young John McCain back from the edge of death in Hanoi was a fellow prisoner, Maj. George E. Day. He, too, has made it all the way back—promotion to colonel and to vice commander of the 33rd Tactical Fighter Wing at Eglin Air Force Base in Florida.

Still another former prisoner, R. Adm. James B. Stockdale, is now commander of the Antisubmarine Warfare Wing of the Pacific Fleet. He and Colonel Day received Medals of Honor at the White House March 4.

Of his experience as a prisoner, Admiral Stockdale once said:

"Most men need some kind of personal philosophy to endure what the Vietnam POW's endured. For many it is religion; for many it is patriotic cause; for some it is simply a question of doing their jobs. . . . In our effort to survive and return with honor, we drew on the totality of our American heritage."

Capt. Jeremiah A. Denton—now a rear admiral—put it another way when he and the other POW's came home from Vietnam at the end of the war.

To those who welcomed them, he said:

"We are honored to have the opportunity to serve our country under difficult circumstances. We are profoundly grateful to our Commander in Chief and to our nation for this day. God bless America!"

Many find it difficult to understand those who persist in service to their country despite, in Kipling's words, the taunts of others "makin' mock o' uniforms that guard you while you sleep."

But in a significant way the Days, the Stockdales, the Dentons and three generations of John S. McCains are an important part of what the Bicentennial year is all about.

SECOND BISHOP OF THE DIOCESE OF ROCKVILLE CENTRE INSTALLED

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. WYDLER. Mr. Speaker, the Roman Catholics of my congressional district recently celebrated the installation of the Most Reverend John Raymond McGann as second bishop of the Diocese of Rockville Centre, N.Y. Bishop McGann succeeds the Most Reverend Walter P. Kellenberg, who served the diocese for 19 years and has recently retired.

During his many years of service in the Diocese of Rockville Centre, Bishop McGann has held posts too numerous to mention. The parishioners of the diocese are most fortunate to have a man so familiar with their needs and their beliefs to lead them as bishop.

Bishop McGann was ordained to the priesthood in 1950, after studying at the Immaculate Conception Seminary in Huntington, Long Island. He served in St. Anne's Parish, Brentwood, until 1957, when he was appointed assistant chancellor in the newly formed Diocese of Rockville Centre. In 1959 he became secretary to the bishop, a position he retained until his ordination in 1971 as auxiliary bishop.

In the homily delivered at his installation mass, Bishop McGann had much to say about the Catholic Church and about the future of the United States, and I would like to share some of his words of inspiration with my colleagues in the House of Representatives:

> In this Bicentennial Year, as our Nation rejoices in its richly blessed heritage, our Catholic bishops have issued a new call to liberty and justice for all. The liberty of which they speak is the freedom of the children of God. It is a highly responsible freedom—a freedom that never shirks the grave concern that all men be freed from the burdens of poverty, racial discrimination, injustice and prejudice. This freedom rests upon the knowledge that all men are the children of the same Heavenly Father and all are called to love that Father and to love one another as His children.

Mr. Speaker, I hope you will join me in reflecting upon Bishop McGann's words, and that they will serve to inspire us in our work. I also hope that my colleagues will join me in congratulating Bishop McGann on his appointment, and in wishing him every success in the most demanding job of spiritual leader of the Diocese of Rockville Center.

THE CONFLICT OF INTEREST CASE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. FRENZEL. Mr. Speaker, the following statement would have appeared in the debate on the case of Congressman SIKES today had permission been granted for all Members to insert remarks:

The vote today on this matter of approving the report of the Committee on Standards of Official Conduct may not be historic, but it is an extremely important precedent. The report should be approved. An affirmative vote will confirm the reprimand contained in the committee report. The reprimand is not as strong as a censure, but today's vote will signal a dramatic change in the House's attitude about the conduct of its Members, and about the importance of its own code of ethics.

The House will become, as a result, a less clubby institution. It will shed some of its previously total reliance on any Representative's individual constituency to make ethical judgments on that Representative. For some Members, those are undesirable changes, but almost all Members will say they are necessary and unavoidable.

No Member wishes to sit in judgment of another, nor to "second-guess" the votes of another Member's constituency. Many of us today are casting "aye" votes with twinges of regret.

But, not only do we have a clear constitutional responsibility to make these judgments, but we have an absolute obligation to the people who sent us here to make every reasonable effort to keep this body free of conflicts. This does not necessarily conflict with the ultimate responsibility of the electorate to make judgments on its Representatives.

No witch hunting is required of us. None has been involved here. Our obligation, which I am confident we are going to discharge today, is simply to insure that our code of ethics and our rules are upheld. When they are violated, reprimand, censure, expulsion, or other suitable penalty, should be voted.

An alleged breach of a code or rule is often a matter of opinion subject to different conclusions by different persons. "Conflicts of interest" are even harder to determine precisely. Nowadays conflict of interest is an overused buzz-word. Such allegations have outnumbered the hard evidence presented in their support.

Today's note does not mean that banditry is rampant in the Congress. It does not mean that any other case pending before the committee, or any other allegation, will receive similar treatment. It means only that the House intends to police its own rules and codes. But that is a significant, and welcome, departure from our normal style.

In other words, the Sikes case sets a precedent as to the House attitude, but otherwise, it is a decision based only on this particular case with its own particular set of facts.

One other important aspect of this action today is the new vitality of the Committee on Standards of Official Conduct: Other improvements are needed, but the committee ought to be congratulated for taking that first difficult step.

We need a better procedure for initiation of committee action. A sworn complaint should not be the only basis. We need to take another look at our code of ethics. Either it should be updated, improved, and made more specific, or the committee should give better guidance to the Members through regulations, opinions, guidelines and the like. The committee should also be given permanent subpena power.

But future improvements, however sorely needed, should not obscure the fine work the committee has done here, nor the important precedent it has brought us today.

COMMENTARY ON A MODEL USED OIL RECYCLING ACT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. VANIK. Mr. Speaker, recently, I presented to my colleagues a new initiative to improve State and local efforts at recycling waste lubricating oil. The Environmental Law Institute has recently released a Model Used Oil Recycling Act for use on the State and local level.

Over the years that I have been studying this problem, I have become convinced that the key to successful waste oil recovery programs lies in local citizen action. That is why the ELI's model legislation is so important. It provides a framework for State and local governments to organize community oil recycling programs. In the interests of providing a background to this legislation, I am submitting to the RECORD a background commentary to the legislation.

The FEA has not yet endorsed this legislation. However, after the model bill has been reviewed, the FEA hopes to actively distribute this legislation to State and local governments. A copy of the bill is available by writing Used Oil Recycling Program, Conservation and Environment, Federal Energy Administration, Washington, D.C. 20461.

The commentary follows:

USED OIL RECYCLING ACT

Section 1. Commentary: (a) none.

Section 2. Commentary:

(a) "Used oil" is preferable to "waste oil" since it indicates possibilities for further use rather than readiness for disposal. Used oil includes, but is not limited to, crude oil, fuel oil, lubricating oil, hydraulic oil, electrical oil, refrigeration oil, cutting oil, oil emulsion, kerosene, diesel fuel, and other non-chlorinated industrial oil, that are discarded as waste or recovered from oil separators, oil spills, tank bottoms or other sources. Used oil does not include an insoluble or partially soluble organic chemical or petroleum derivative which requires special handling precautions because of toxicity, composition, or flammability including but not limited to gasoline, a petroleum solvent, a chlorinated solvent or oil, an aromatic, organic pesticide, polychlorinated biphenyl, and a low-boiling ketone, alcohol or ether.

(b) "Recycle" is now a popularly understood word for recovery and reuse of resources. Recycling of used oil is defined as any preparation for reuse or use in place of new oil which is operationally safe (*i.e.*, will not pose risks of fire or explosion), environmentally sound (*i.e.*, will not endanger public health or environmental quality), and complies with all laws and regulations.

The listed means of preparation, *i.e.*, refining, rerefining, reclaiming and reprocessing, have more or less defined vernacular meanings:

The term "refine or rerefine" means to use refining technology in the treatment of used oil to remove physical and chemical contaminants and enhance used oil quality so as to produce lubricating oil or other petroleum products that are similar to new oil intended for the same purpose. The technology includes, but is not limited to, the use of distillation, chemical treatment, oil additives, hydrogen treating, and various physical treatments.

The term "reclaim" means to use physical methods, short of those used in rerefining, to cleanse used oil for further use for its original or similar purpose. The methods include settling, heating, dehydration, filtration and centrifuging and may entail use of oil additives.

The term "reprocess" means to use minimal physical methods to remove water and suspended solids from used oil in preparation for its use primarily as a fuel or fuel supplement. The methods may include settling, chemical pre-treatment, filtration, and dehydration.

(c) The director of an agency responsible for energy conservation or public health could also be named.

Section 3. Commentary: As the following table shows, in all states the amount of industrial and automotive used oils generated exceeded one million gallons in 1971, For local jurisdictions the amounts would depend on population and industrial characteristics.

Although dirty and contaminated, used oil is composed mostly of lube oil fractions, a small but valuable portion of a barrel of crude oil, and has high heating value.[1] Used oil can be rerefined into lubricating oil [2] or used as a feedstock in the manufacture of other petroleum products. It can be reclaimed and used again for its original purpose, can be reprocessed to fuel oil and, under controlled conditions, can be safely burned untreated.[3]

The best estimate of the ultimate fate of the 1.1 billion gallons of used oil generated annually in the United States is: 480 million gallons (43 percent) used as fuel, treated or untreated; 90 million gallons (8 percent) rerefined to lube oil; 200 million gallons (18 percent) used as road oil or in asphalt; and the fate of 340 million gallons (31 percent), including the 30 million gallons of rerefining wastes, is unknown. Better estimates of the ultimate fate of used oil are not possible because of the lack of means of accounting for it across the fragmented collection, rerefining and disposal systems.[4]

Most used oils contain heavy metals and organic compounds which are toxic and, in some instances, carcinogenic, if ingested or inhaled.[5] Disposal on land contributes to water pollution either directly or by leaching, an may make the land unproductive and result in ground water contamination.[6] Incineration or uncontrolled burning releases metallic oxides, principally lead, to the air; the Environmental Protection Agency has determined that concentrations of certain airborne meals, including lead, endanger public health.[7]

Footnotes at end of article.

TABLE I.—USED OIL GENERATION BY STATE (1971 DATA)

[In gallons]

State	Automotive (gallons)	Industrial (gallons)
Alabama	12, 182, 600	4, 719, 116
Alaska	1, 395, 900	190, 920
Arizona	6, 358, 600	1, 279, 087
Arkansas	8, 008, 590	3, 085, 107
California	72, 034, 320	20, 021, 638
Colorado	8, 229, 900	1, 920, 620
Connecticut	6, 743, 700	3, 652, 711
Delaware	1, 624, 800	435, 653
Florida	14, 445, 900	5, 056, 982
Georgia	14, 495, 200	6, 442, 547
Hawaii	1, 857, 600	[1]
Idaho	3, 435, 200	392, 549
Illinois	37, 263, 000	26, 383, 747
Indiana	17, 722, 970	12, 991, 233
Iowa	11, 103, 700	2, 400, 122
Kansas	14, 381, 400	2, 979, 826
Kentucky	14, 075, 600	639, 301
Louisiana	15, 163, 300	12, 070, 643
Maine	3, 399, 070	822, 170
Maryland	7, 286, 100	3, 102, 488
Massachusetts	13, 404, 420	6, 129, 556
Michigan	37, 488, 000	19, 571, 150
Minnesota	14, 533, 400	3, 213, 530
Mississippi	9, 185, 500	2, 707, 690
Missouri	19, 701, 790	4, 283, 712
Montana	4, 191, 070	503, 289
Nebraska	8, 846, 970	1, 633, 035
Nevada	2, 381, 800	257, 644
New Hampshire	1, 680, 430	257, 769
New Jersey	18, 071, 960	18, 459, 034
New Mexico	4, 760, 980	1, 548, 790
New York	32, 016, 880	15, 546, 678
North Carolina	13, 832, 000	4, 585, 158
North Dakota	4, 046, 000	271, 254
Ohio	36, 627, 970	29, 795, 774
Oklahoma	12, 295, 400	4, 249, 737
Oregon	12, 020, 320	2, 977, 082
Pennsylvania	35, 728, 740	27, 823, 461
Rhode Island	1, 912, 560	770, 858
South Carolina	6, 432, 670	1, 678, 776
South Dakota	4, 400, 210	203, 592
Tennessee	12, 665, 700	10, 442, 178
Texas	47, 222, 230	32, 778, 546
Utah	4, 647, 950	1, 062, 643
Vermont	1, 330, 400	190, 565
Virginia	10, 839, 430	3, 017, 776
Washington	11, 047, 210	2, 845, 560
Washington, D.C	1, 638, 780	[1]
West Virginia	6, 530, 830	7, 432, 560
Wisconsin	17, 262, 010	5, 073, 985
Wyoming	2, 563, 700	470, 723

[1] Not available.

Source: GCA Corporation, "Waste Automotive Lubricating Oil Reuse as a Fuel," published report EPA-600/5-74-032, Environmental Protection Agency, September 1974.

Section 4. Commentary:

The statement of policy provides a general purpose and constitutional foundation (protection of public health and welfare), two principal components of that purpose (resource conservation and environmental protection), two means for achieving the purpose (collection and recycling) and two flexible concepts for implementing the means for achieving the purpose (economically feasible and environmentally sound).

Subsequent sections of this Act empower the Director, through a system of rules, licenses, special permits, and prohibitions, to execute this policy.

The implementation of this policy in a particular area will depend on what the environmental constraints and economic markets are. From the viewpoint of environmental soundness, if air pollution standards are stringent and hazardous waste disposal facilities for recycling wastes are available, more used oil may flow to rerefining or reclaiming or both. Conversely, if environmental standards permit, more used oil may flow to other uses.

Economic feasibility is the other key concept. An activity is economically feasible if the revenues from it are at least equal to the costs of doing it, including a competitive return on the investment in the activity.

The amount of used oil collected depends on many factors, including, but not necessarily limited to, the concentration of used oil collection sites within an area, the quantities of used oil available, the type and quality of used oil to be collected, and, most importantly, whether a market exists for the collected oil.

Section 5. Commentary:

The means of disposal named here are those which are most clearly wasteful and harmful to the environment. The general prohibition is intended to cover other uses or means of disposal which endanger public health, such as emissions or residues from recycling and depositing used oil in ones' garbage. Applicable environmental and other laws and regulations are also included.

Section 6. Commentary:

Public education is potentially a very effective component of the Director's used oil program.

Signs posted where those who change their own oil purchase it informing them of the location of the collection facilities established in accordance with section 7 would promote both the establishment of the facilities and public knowledge of why and how they should be used.

Public understanding of the law is important to the acceptance and success of the Director's program and should be a part of his public education efforts. Provisions of federal law, such as EPA rules for labels on oil containers concerning proper disposal of oil after use (when that requirement of section 383 of the Energy Policy and Conservation Act becomes effective) should also be explained.

Public information and education functions—such as telling a member of the public or commercial generator where the nearest used oil deposit facility is or who the collectors in an area are—could best be coordinated and performed by a member of the staff responsible for a used oil information and education center. Some state agencies have such personnel; they are also available from extension services.

Technical assistance for voluntary recycling programs would include providing local groups with materials which contain a how-to-do-it manual for creating community recycling programs, along with a suggested brochure, poster and bumper sticker and case histories of successful local programs, and would stimulate interest and effort which complement the state or municipal regulatory activities.

In addition, brochures could be provided for distribution by all retailers of oil and by the department of motor vehicles in conjunction with drivers' licensing or testing or vehicle registration. Used oil units could be prepared for inclusion in driver or automotive education courses.

Section 7. Commentary:

Within the last ten years, there has been a significant upturn in "do-it-yourself" oil changes. This trend is reflected in the large volume of retail automotive lubricating oil sales in mass-market retail stores. It is estimated that retail sales today of lubricating oils at non-service station outlets constitute between 40 and 60 percent of all automobile lube oil sales, and few provide facilities for return of used oil. For lack of an alternative, individuals who change their oil, in doing so, often discard the used product where they can—in the garbage, down storm sewers, and in vacant lots. Such disposal wastes a valuable resource, and may create a fire hazard or produce water pollution. Many "do-it-yourselfers" interviewed in a recent survey conducted for EPA indicated a willingness to return used oil, provided a convenient mechanism for doing so existed. This section is designed to require the provision of convenient places for the deposit of small quantities of used oil.

Creation and maintenance of collection facilities could be the responsibility of those who retail oil, or of municipal governments (*e.g.*, fire stations, sanitary landfills, etc.) or of state government, or of a combination of any of these. The responsible persons could of course contract for the provision of the facilities.

Collection facilities should be located as conveniently as possible for the benefit of those who change their own oil. Those who change their own oil will probably neither travel far nor pay anything to deposit their used oil. The Director's rules could require that private and public facilities combined be made available on a per capita or per square mile basis.

The limitation on gallons deposited at one time is designed to prevent overloading of facilities. Those who generate larger amounts of used oil should create their own storage facilities and arrange for regular pick-up by collectors licensed in accordance with section 8.

Whoever maintains collection facilities should secure them from theft, tampering or threat of fire and should post a sign at each site stating clearly that they are only for used oil, not for paints, solvents, gasoline, pesticides, or other wastes.

Section 8. Commentary:

A used oil collector is defined to exclude those who transport only on their own property or who transport small amounts. Licensing of collectors should limit the number of unreliable or unscrupulous "gypsy" operations which flourish when used oil is in demand. The 500 gallon threshold permits storage and transport by persons not in business to collect used oil.

Subsections (b), (c) and (d) are designed to permit control of the flow of used oil into approved uses and to provide information which will enable monitoring and eventual management of those flows.

In many metropolitan areas collectors pick up oil in one jurisdiction and deliver it in another. In order that receiving states are notified of the amount and locations of delivery, out-of-state as well as intrastate information should be recorded on the collector's annual report and the Director should send to his counterparts in another state the information contained in the reports pertaining to that state.

Section 9. Commentary: This section authorizes licensing of those who recycle used oil in order to provide outlets for the oil collected and to control potential adverse environmental effects of recycling or its byproducts. In addition, these persons should be identified in conjunction with section 12 dealing with recycled oil products.

The 5,000 gallon threshold could be different, depending on the desired trade-off between scope of coverage and administrative burden.

Subsections (b) and (c) are designed to complement sections 8(c) and 11(e).

Section 10. Commentary:

In certain circumstances, for example, where it would be unreasonably expensive to bring used oil in for recycling, or where the capacity for recycling is not available, other uses or means of disposal may be permitted provided that they are environmentally sound, even though they may involve the loss of resource.

This section provides the Director necessary flexibility in implementing the Act's policy, that is, in determining economic feasibility and environmental soundness.

Use or disposal of less than 55 gallons a year does not require a special permit. This would exempt several uses of used oil on the farm or in small shops, for example.

Subsections (b) and (c) are designed to complement sections 8(c) and 11(e).

Section 11. Commentary:

(a) Adherence to an administrative procedure Act, in addition to ensuring due process, makes administration of this Act consistent with existing statutes.

(b) The extent of information required on an application may vary among states and kinds of activities applied for. The Director's rules could call for name and address; kind and capacity of recycling facilities (or location of site and means of proposed disposal or use under special permits); amounts of used oil to be recycled, used or disposed of; kinds and amounts of wastes generated and waste management practices, etc.

Fees for applications should not be so high as to discourage entering the business; other means of funding this program are available.

Keeping of records enables monitoring and evaluation of practices and programs designed to regulate them.

(c) Whatever the recycling, use, or disposal authorized, the authorization should require compliance with all current laws, regulations and environmental standards. Licenses could prescribe a schedule for achieving compliance by a facility needing time to do so.

(d) The term of a license or permit could be shorter or longer. The relatively short term of a year is suggested as an accommodation between the ease of administration of a longer term and the greater flexibility of control of a shorter term.

Section 12. Commentary:

This section is designed to facilitate the sale of recycled oil products of sufficient quality to meet their intended uses and to proscribe misrepresentation of recycled oil products. There have been numerous alleged instances of selling used oil which has merely been decanted as "home heating oil," burning such oil poses risk of damage to furnaces.

State and local officials should encourage the purchase of recycled oil products by public and private persons in order to provide a market for them and an example of their utility.

Section 13. Commentary:

Enforcement is essential to the credibility of any regulatory system and is therefore required of the Director. A selection of administrative actions and civil enforcement techniques is authorized in order to provide the flexibility needed to tailor an enforcement action to the nature of the violation. Civil administrative penalties, although not so common at the state level as at the federal, have proved effective where states have employed them, *e.g.*, Illinois, Pennsylvania, and Connecticut. Violation of the central provisions of the Act is made a misdemeanor for each day of violation.

Where state law requires, the Director would utilize the authority provided in this section in collaboration with the office of the attorney general.

Section 14. Commentary:

This section enables the continued validity of the remainder of the Act if a part of it is found unconstitutional.

Section 15. Commentary:

Sections of existing law which conflict with provisions of this law should be specifically referred to and expressly repealed in order to avoid questions of interpretation.

Section 16. Commentary:

This section postpones the effective date of this Act 90 days in order to provide the Director time to organize implementation. This section ties in with section 11(f), in which the Director is allowed a maximum period of two years after the effective date to fully implement all provisions.

REFERENCES

[1] Waste Oil Study: Preliminary Report to Congress, U.S. Environmental Protection Agency, April 1973.

[2] Report to Congress: Waste Oil Study, prepared by the Environmental Protection Agency, Washington, D.C. 20460, April 1974, Section VI.

[3] *Id.*, Section VII.

[4] *Id.*, page 25.

[5] *Id.*, Section IV. *See also* Irwin and Liroff, Used Oil Law in the United States and Europe, U.S. Government Printing Office, EPA-600/5-74-025, July 1974, pages 16–20.

[6] *Id.*, p. 33.

[7] *Id.*, pages 66–67. The EPA regulations requiring reduction of lead in gasoline were upheld by the District of Columbia Court of Appeals on March 19, 1976 (*Ethyl Corp. v. EPA*, 6 ELR 20267).

FEARSOME SOVIET AIRCRAFT CARRIER INVADES THE MEDITERRANEAN

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. CARR. Mr. Speaker, during the past week the press has contained numerous accounts of the entrance of the Soviet ship *Kiev* into the Mediterranean Sea. But as the press in most cases did not point out, the *Kiev* may be a giant step forward for the Soviet Navy but it is not much of a ship by U.S. standards.

The *Kiev*, which is not even in the same class as the "midi-carriers" rejected by our Navy as too small and short-legged, now shares the Mediterranean—described by some of our more dramatic military commentators as "a Soviet lake"—with two oil-powered U.S. supercarriers, U.S.S. *Saratoga* and U.S.S. *America*, and with one nuclear-powered supercarrier, the U.S.S. *Nimitz*. All of these ships are equipped with several types of aircraft, all of which are several generations ahead of the best Soviet sea-based counterparts.

An exception to the typically superficial news coverage which prevailed was an excellent and well-researched editorial which appeared in the Norfolk, Va., Virginian-Pilot. This newspaper, which serves a relatively small city but which appears to be written by people with large minds, consistently covers military affairs with a perceptiveness and sophistication which places the majority of our big-city papers in the shade.

I insert the editorial entitled "Red Carrier in the Med," from the Norfolk Virginian-Pilot of July 20, 1976, in the RECORD at this point:

> RED CARRIER IN THE MED
>
> If the Soviet Navy's 45,000-ton Kiev, which sailed into the Mediterranean Sea over the weekend, is not an aircraft carrier by American definition, she is being given the look of one. A sister ship, Minsk, is taking form in a Black Sea shipyard. Work on a third is believed to be in progress in the Leningrad region.
>
> Kiev is twice the size of the Soviet Moskva-class helicopter missile cruisers. She marks "an impressive and logical advance by the Soviet Navy," says the current edition of "Jane's Fighting Ships." NATO intelligence sources reported last month that Kiev would be equipped with the Yak-36, a quick takeoff jet fighter similar to the British Harrier, as well as helicopters. News accounts of her passage through the Bosporus Straits said she carried about 30 of the former and 25 of the latter. Jane's estimated her hangar capacity at close to that.
>
> Despite her relative hugeness, Kiev is reminiscent of the 17,000-ton "sea-control ships" that retired Admiral Elmo R. Zumwalt Jr., one of the few surface-fleet officers to have held the post of Chief of Naval Operations in recent years, tried unsuccessfully to introduce. The Zumwalt ship too would have featured V/STOL (vertical and short takeoff and landing) planes and helicopters. Kiev does not begin to meet the capabilities envisioned by former Secretary of Defense James Schlesinger for U.S. Navy "midi-carriers."
>
> Kiev and Minsk "are not attack carriers," John W. Finney wrote in The New York Times Magazine in January. ". . . Roughly the size of the World War II Essex carriers, the Soviet ships do not have catapults and cannot launch long-range attack planes. Rather, they seem to be primarily defensive ships. . . ."
>
> Nevertheless, Kiev's appearance in the Mediterranean has created a greater splash than most ships manage. "A curious dichotomy develops whenever the U.S. Navy looks at Soviet carriers," Mr. Finney noted, as if anticipating the occasion. "The Soviet program is cited as evidence that the Russians are trying to catch up with the United States in carrier power, thus providing ever more reason why the Navy should build more carriers.
>
> "But the Navy seldom volunteers the information that it is constructing five 40,000-ton carriers that will carry helicopters and V/STOL planes, and that it has six 18,000-ton helicopter carriers in operation. When the Navy builds such ships, they are 'amphibious assault ships' for the Marine Corps. But when the Soviet Union builds similar ships, they suddenly become 'carriers' with an ominous potential."

CONSTITUENT RECOGNIZED FOR OUTSTANDING VALOR

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. WALSH. Mr. Speaker, today it is with high regard that I honor one of my constituents who has performed a valiant feat—one most worthy of notice. With unselfish disregard for his own safety, he prevented a tragedy that was only seconds away for a victim whom, without rescue, undoubtedly would have drowned.

Charles Rogers of Geneva, N.Y., is the 28-year-old son of Mr. Charles Rogers, Sr., Geneva's city Republican committee chairman. An Air Force veteran and student at Central Piedmont Community College, Charles Rogers, Jr., executed an instantaneous heroic act in rescuing a young girl from drowning.

On Tuesday afternoon, June 29, in Charlotte, N.C., Rogers was mowing the lawn when he heard the screams from someone who was evidently drowning. Racing 200 yards to a backyard swimming pool he immediately dove in after the young girl, elevated her from the 9-foot-deep pool and gave her mouth-to-mouth resuscitation. The girl was later treated at a nearby hospital.

Dr. Robert Schwartz credited the saving of the girl's life to Rogers' courage and instant response. He acknowledged that the young girl had been underwater about 4 minutes which is the maximum time physicians say a person can survive.

In admiration and pride I commend Charles Rogers for his courageous deed which has set such a noble example that others might follow.

BLANCHARD ANTIBOYCOTT AMENDMENT

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. BLANCHARD. Mr. Speaker, I am pleased to note the passage today by the House of an antiboycott amendment which I offered to H.R. 13876, the International Banking Act of 1976.

My amendment bans discrimination by foreign banks and bank holding companies, in their operations in the United States, on the basis of "race, color, religion, sex, or national origin." Further, any discriminatory practices which may be discovered will be subject to enforcement under the Federal Deposit Insurance Act.

I believe, however, that the importance of this amendment goes beyond its purely legal scope.

It is intended to clarify the views of Congress toward practices carried on under the boycott—for all of those, both in this country and abroad, who are uncertain about our intentions.

During the last year and a half, since the Arab boycott first made headlines across the country, those of us who have been concerned with this issue have become more and more aware of how necessary such clarification is.

Some Federal agencies, when faced with evidence of discriminatory activities, have taken quick and responsible action to uphold not only the letter, but the spirit of our laws and traditions.

Others, unfortunately, have been found wanting.

Because of this history of inconsistency on the part of bureaucrats in interpreting Federal law in this area, I believe a statement of purpose by Congress is both timely and appropriate.

My amendment will not affect the purely economic forms of boycott activity, such as discrimination against products made in the state of Israel. The limited scope of H.R. 13876 makes that impossible, and it is my understanding that legislation strengthening the Export Administration Act, which will be considered in the near future, will deal with that issue.

My amendment is aimed at a less widespread, but to my mind more ominous, form of boycott—discrimination against persons of Jewish faith or heritage.

On February 24, 1975, the Comptroller of the Currency wrote to all national banks in the United States, saying in part:

> This office has recently learned that some national banks may have been offered large deposits and loans by agents of foreign investors, one of the conditions for which is that no member of the Jewish faith sit on the bank's board of directors or control any significant amount of the bank's outstanding stock.

The Comptroller went on to state that—

> Discrimination based on religious affiliation or racial heritage is incompatible with the public service function of a banking institution in this country.

Mr. Speaker, I believe there is a general understanding among businessmen in this country that such discrimination is wrong, and that it is against the traditional policy and laws of this country.

My amendment clarifies that understanding and draws it to the attention of those from other countries who seek to do business here.

All of us know that these practices have no place in the United States. It is time for us now to write that principle into law so that it cannot be misinterpreted or misunderstood.

FINANCIAL DISCLOSURE—LET THE TRUTH BE KNOWN

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. SANTINI. Mr. Speaker, one of the most important issues pending in the 94th Congress is the Financial Disclosure Act of 1976.

Long before this issue ever received any legislative consideration, I formulated a strong, personal belief that the public should have access to the personal financial statements of Members of Congress and other high Government officials. Upon seeking congressional office, I made personal disclosures of both my financial posture and my income tax returns for the preceding 4 years. These disclosures were made as a result of my personal election rather than by mandate of law. Now, it is my conviction that at least some substantial form of personal disclosure should be implemented by our legislative body.

My advocacy of this issue presses a threshold question: Does the public have a right to have access to information about the financial activities of the Government officials who represent them? If that question is answered in the affirmative, then a second question is suggested: How should that right be statutorily defined and implemented? I believe that H.R. 3249 provides an answer, albeit not perfect, to that question. Our proposed legislative solution requires candidates for Federal office, Members of Congress, high-ranking Federal employees and the President and Vice President to file annual financial statements with the Comptroller General of the United States. The statements would contain the amount and source of all income and gifts valued in excess of $100, as well as all recorded transactions involving securities, commodities, and real property valued in excess of $1,000.

The Financial Disclosure Act does represent a substantial step in the direction of rehabilitating the deteriorating and negative preoccupations of the general public about all political entities. It is not a panacea, but it is a positive attainment. Moreover, the proposed legislation would also aggregate our heretofore piecemeal regulation of financial disclosure into one equitable, effective legislative package.

H.R. 3249 has the support of the Democratic Caucus and is backed by many members of our New Members Caucus. Its concept is also incorporated into the Democratic Party platform and is supported by the Democratic nominee for President, Gov. Jimmy Carter.

This does not mean the Financial Disclosure Act is partisan legislation, however. On the contrary, a wide bipartisan base of support has evolved throughout Congress and within the Government for this bill. President Ford has stated his support for the concept, and the citizen's lobby, Common Cause, has continued to offer its earnest advocacy in support of financial disclosure. The foregoing is truly indicative of the diversified array of substantial backers of this bill.

In summary, Mr. Speaker, the proposed disclosure bill will demonstrate a substantial and sincere intent by this Congress to pursue decisive legislative remedies for some of the inherent inadequacies in the process in which we have toiled. No magic elixir can instantaneously transform public preoccupations, but H.R. 3249 is constructive evidence of our legislative intent.

Certainly, there is an impingement upon our individual privacy. Certainly, this legislation represents an additional sacrifice for those who wish to serve in the Federal legislative process. But, I do believe that in rational balance, the public's entitlement to know and have access to the facts must outweigh our understandable desire to maintain personal privacy.

Mr. Speaker, H.R. 3249 would make a significant contribution toward rebuilding the political and moral character of our national leadership and I urge all of my colleagues to support and to work for its passage.

SANTA MONICA POLICE DEPARTMENT'S INNOVATIVE PHYSICAL FITNESS INCENTIVE PROGRAM

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. BELL. Mr. Speaker, I wish to call to the attention of my colleagues in the Congress a very interesting article appearing in the current issue of the FBI Law Enforcement Bulletin describing an innovative physical fitness incentive program adopted recently by the Santa Monica, Calif., Police Department in my congressional district.

The article was written by George P. Tielsch, chief of police of Santa Monica Police Department.

I recommend it and a related letter from FBI Director Clarence Kelley for the perusal of my colleagues, and I share Director Kelley's confidence that it will prove very informative to members of the law enforcement profession throughout the country.

Director Kelley's letter and Chief Tielsch's article follow:

U.S. Department of Justice,
Federal Bureau of Investigation,
Washington, D.C., July 27, 1976.
Hon. Alphonzo Bell,
House of Representatives,
Washington, D.C.

Dear Congressman Bell: Enclosed are two advance copies of the August, 1976, issue of the FBI Law Enforcement Bulletin. I thought you might like to see the splendid article, beginning on page nine, entitled "Physical Fitness Incentive Program," by Mr. George P. Tielsch, Chief, Police Department, Santa Monica, California. I am confident this report on the work of his agency will be most informative to members of the law enforcement profession.

Sincerely yours,

Clarence M. Kelley,
Director.

Physical Fitness Incentive Program

(By George P. Tielsch)

A physical fitness incentive program was initiated by the Santa Monica, Calif., Police Department on January 6, 1976. The original idea was conceived by two officers in the department. The program was presented on the premise that, while many police departments encourage marksmanship by offering extra pay for marksmanship proficiency, no incentive is offered to police officers to keep themselves in good physical condition—an attribute that is required on a daily basis if an officer is to perform his duties at peak efficiency and best protect himself and the public.

Approval to initiate the program was received from the city manager and the city council.

The program was made voluntary, and participating officers train on their own time. The incentive portion of the program is similar to the marksmanship program in which participants may earn a monthly bonus of $2, $4, 8, or $16, depending on their skill as marksmen. The tests are administered by the Personnel and Training Division on a quarterly basis. Scores recorded at that time determine the incentive pay for the following 3 months. Injuries incurred during the program are handled as industrial injuries and covered by State compensation insurance.

The tests are based on a maximum score of 500 points and include the following five events: situps, squat thrusts, pullups, pushups, and 1-mile run.

The only difference in administering the tests between female and male officers is that female officers are allowed to do pushups and pullups in the style normally recommended for females.

To encourage participation of all sworn personnel regardless of age, the following points were added to each event according to the participant's age:

If the participant is	*Add points per event*
35 to 40 years	15
41 to 45 years	20
46 to 50 years	25

SITUPS (2-MIN TIME LIMIT)

Number	Points	Number	Points	Number	Points	Number	Points
60	100	45	76	30	50	15	25
59	98	44	74	29	48	14	23
58	97	43	72	28	47	13	22
57	95	42	71	27	45	12	20
56	93	41	69	26	43	11	18
55	92	40	67	25	42	10	17
54	90	39	66	24	40	9	15
53	88	38	64	23	38	8	13
52	87	37	62	22	37	7	11
51	85	36	61	21	35	6	10
50	83	35	58	20	33	5	8
49	82	34	56	19	32	4	6
48	80	33	55	18	30	3	5
47	79	32	53	17	28	2	3
46	77	31	52	16	27	1	2

SQUAT THRUST (1½-MIN TIME LIMIT)

Number	Points	Number	Points	Number	Points	Number	Points
35	100	26	74	17	49	8	23
34	97	25	72	16	46	7	20
33	95	24	69	15	43	6	17
32	95	23	66	14	40	5	15
31	89	22	63	13	37	4	12
30	86	21	60	12	34	3	9
29	83	20	57	11	32	2	6
28	80	19	54	10	29	1	3
27	77	18	52	9	26		

PULLUPS

Number	Points	Number	Points	Number	Points	Number	Points
15	100	11	74	7	48	3	22
14	93	10	67	6	41	2	16
13	87	9	60	5	33	1	10
12	80	8	54	4	27		

1-MILE RUN

In the 1-mile run test, 100 points are given for 7 minutes and under. For each second over 7 minutes and up to 7 minutes and 50 seconds, 1 point is deducted. From 7 minutes 51 seconds to 8 minutes 10 seconds, 35 points are accrued; 8 minutes 11 seconds to 8 minutes 45 seconds, 20 points; and 8 minutes 46 seconds to 9 minutes 15 seconds, 10 points.

PUSHUPS

Two points are given for each pushup for a total of 100 points or 50 pushups.

51 to 55 years	35
56 to 60 years	50

The incentive pay was established as follows:

Points:	*Bonus*
300 to 329	$2 per month
330 to 399	$4 per month
400 to 464	$8 per month
465 to 500	$16 per month

Twenty-five police officers, including one female, out of 133 sworn personnel participated in the initial program. The officers were weighed and then taken to a nearby high school facility for testing. Eight of the officers obtained a maximum score of 500, while 15 qualified for top bonus money. A complete breakdown of scores is as follows:

Bonus:	*Number of officers*
$16	15
$8	4
$4	3
$2	2
Failed to qualify	2

The initial high scores were anticipated in that officers who already maintained a high degree of physical fitness were expected to participate and do well in the first tests. The number of participants is expected to increase substantially when officers who did not feel confident of scoring high in the inaugural tests complete a 3-month, self-imposed training program to insure a better performance in the next testing program.

In order to further encourage participation, a perpetual trophy has been established to honor the officer who achieves the highest score each year. A different scoring system or additional tests will possibly have to be evaluated and utilized to separate the officers who achieve a maximum score for all four quarters. Three individual awards will also be presented to the top three officers.

Although this physical fitness incentive program is relatively new to the department, officers already have been encouraged to initiate and expand physical training activities on an individual basis. Hopefully, the program will result in long-term benefits to each officer and the police department by fostering better health and job performances.

JOHN McGUINESS IS RETIRING FROM HIS ASSIGNMENT TO THE OFFICE OF THE ATTENDING PHYSICIAN, U.S. CAPITOL

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. FREY. Mr. Speaker, tomorrow John McGuiness is retiring from his assignment to the Office of the Attending Physician, U.S. Capitol. It has been my privilege to know "Mac" for the past 8 years. He is just a great individual. So many times he has gone way out of his way to help. He takes a personal interest in the people in the office and makes things go.

As someone who has been in the Navy, I learned very early that the people that really ran it are the chiefs. "Mac" is living proof of this. He enlisted in the U.S. Navy in 1942 and advanced through the enlisted rates of the Hospital Corps, attaining the rate of chief hospital corpsman in 1952. During his Navy career, "Mac" was stationed with the 69th Naval Construction Battalion, North Atlantic; the Navy Base, New London, Conn.; the Reserve Fleet, Charleston; U.S.S. *Yellowstone*; Naval Research Institute; Naples, Italy; and Washington, D.C. Since 1954 he has been with us, assigned to the Capitol Physician's Office.

To sum it all up, "Mac" is 4.0, and you just do not get any better. We are going to miss him and wish him the best. Good luck and Godspeed.

JOBS: WE MUST DO BETTER

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. HAWKINS. Mr. Speaker, it pleases me to call the attention of the Members to an editorial appearing in the Philadelphia Daily News, entitled "Jobs: We Must Do Better." In their opinion, the Full Employment and Balanced Growth Act of 1976 (H.R. 50) provides the necessary framework to develop urgently needed jobs at low cost, without inflation. The editorial urges that the full human costs of unemployment not be ignored, for the implications to society's well-being and order are severe.

The editorial, which appeared July 20, 1976, follows:

JOBS: WE MUST DO BETTER

Philadelphia has lost 128,000 jobs since 1969, the year Richard Nixon became President. Last year, 28,000 went, the biggest decrease since the U.S. Labor Department began keeping local records 23 years ago.

More than 8 million Americans want to work and can't. Another 3½ million have part-time jobs and want full-time. This must be a key issue in the upcoming election. Either the federal government lets economic recovery "take its normal course," or it actively fights unemployment. Economist Louis H. Bean says the "normal course" will leave an unemployment rate of 6.5 percent in 1977 (it's 7.5 percent today).

Foes of government intervention say it costs money and causes inflation. The former is true; the latter is denied by many experts.

The Humphrey-Hawkins bill, which aims at "full employment" (no more than 3 percent unemployed) within four years, has a $20–25-billion price tag. But reductions in unemployment compensation and other jobless benefits would reduce that to $12 billion. That's 2 percent of our gross national product. Compare it to today's Viking I landing on Mars, a $1-billion project.

But let economists and statisticians debate unemployment in those terms. The public must consider it on the human level. Being jobless costs more than a diminished savings account, lost home, delayed college education, reduced standard of living.

Tell a person society has no need of him and you have wounded his self-image. Tell him there is no use for his talents and you have crippled his self-image. People break; families crumble.

Among the most recent local individuals to warrant the newspaper headline "Crazed Gunman" were George Geschwendt, Leon Haraismowicz and Richard Kochensky. All were unemployed. Perhaps they were "crazed" before they were jobless. But we will never know whether the stability that comes with regular employment would have made them rational. How much of our crime is linked to joblessness?

To deny people the opportunity to work, the pride of earning their own way, is unconscionable. This country must do better.

NEW PUSH FOR CHILD AND FAMILY SERVICES ACT?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. ASHBROOK. Mr. Speaker, two recent activities show the need for continuing vigilance on the Child and Family Services Act. One is the choice of Senator Mondale for Vice President on the ticket headed by Carter. The other is the choice of words in that party's platform which can be read as a slightly veiled push for the Child and Family Services Act.

As will be remembered, Senator Mondale is the individual who introduced in the Senate the child and family services bill. As the initiator of the legislation in this Congress, his support for it has never wavered.

In the platform that Carter and Mondale are running on is language which can encompass the Child and Family Services Act—the renamed earlier child development bill. There is support for "developmental and educational child care programs."

We must realize that supporters have attempted to portray this legislation as helping the family. But its effect would be quite different. Careful analysis of the legislation shows that it would further involve the Federal Government in the family and it would involve the Government in the lives of children at the most impressionable ages of their preschool years.

Vigilance must be maintained against the Child and Family Services Act. I would remind you that the 1971 child and family development bill was much worse than the 1976 verision. It represents the true goal of the Mondales and the social planners who in their own words want to "zoom in on the family."

IMPORT DUTY RESTRICTIONS

HON. EDWARD MEZVINSKY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. MEZVINSKY. Mr. Speaker, I was recently alerted to a flagrant circumspection of import duty restrictions which cannot and should not be tolerated.

Working through the "free port" of Mayaguez in Puerto Rico, a meat processor is purchasing Australian and New Zealand frozen beef at the 3-cents-per-pound duty rate for fresh and frozen beef. The processor is then preparing the beef and shipping it to U.S. markets, circumventing the 10-percent value duty for processed beef.

Those of us who are keenly aware of the difficulties of U.S. cattlemen today are outraged by this maneuver. I have written to the Secretary of State asking him for an immediate directive putting an end to the free port swindle.

I am also asking for a rejection of the proposal pending before the Foreign Trade Board to allow a processing plant to handle foreign beef in the Foreign Trade Zone of New Orleans.

A copy of my letter to Secretary Kissinger follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., July 26, 1976.

Hon. HENRY KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I hope you are aware of a serious circumvention of trade law which is victimizing American cattlemen and robbing the federal treasury of significant duty revenues. I expect that the matter will receive your immediate attention.

Having learned of the details about Australian and New Zealand beef coming into this country in the "free port" of Mayaguez, Puerto Rico, and then being processed to avoid high duty payments, I am astounded by the failure of the government to nip this swindle in the bud.

I understand that there is a proposal pending before the Foreign Trade Board to allow a processing plant to handle foreign beef in the Foreign Trade Zone of New Orleans. Although I have no doubt that the Administration will not allow the situation in New Orleans to develop as it has in Mayaguez, I urge you to take action at once. I see no reason why the arrangement between Australia and New Zealand and the meat packing plant in Puerto Rico cannot be terminated immediately. This is an administrative decision and one that could be made tomorrow.

The New Orleans proposal resembles the Puerto Rican venture as a blatantly clear attempt to bypass our import laws. I trust that the position of our government will be made clear in that regard as well.

We are all aware of the precarious state of the American cattle industry as it has developed over the past few years. Let us not allow an impression of callous disregard for the legitimate rights and needs of our cattlemen to remain uncorrected.

Sincerely,

EDWARD MEZVINSKY.

ECONOMICS OF ENVIRONMENTAL PROTECTION

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. FINDLEY. Mr. Speaker, late in the 1960's this country embarked on a long-delayed program of environmental protection. We had for too long ignored the limits of our resources, oblivious that our air, water, and land cannot take repeated and unlimited abuse without it eventually costing us dearly.

One of the products of our new environmental sensitivity was the Clean Air Act of 1970, amendments to which we soon will consider on the House floor. And while progress in cleaning up our air has not been as swift as we might have hoped, it has been real. We have seen marked reductions in total emissions of nearly every pollutant for which EPA has established standards.

From time to time in recent years, however, we also have seen environmental zeal prevail over careful, reasoned pursuit of critical environmental goals. The Environmental Protection Agency, like other agencies, has a tendency sometimes to rush to correct a serious pollution problem without carefully evaluating the economic implications of its actions. The EPA's proposal several years ago of 80 to 90 percent gas rationing in Los Angeles and other communities as a means of reducing automobile pollution is an example of such zeal.

Without careful and reasoned study of the potential economic impact of its proposed rules and regulations, EPA simply does not have the information it needs to determine whether a proposed solution is worse than the problem it attempts to solve. Environmental "shooting-from-the-hip" is not only harmful to economic progress, but it also damages the environmental movement itself. Regulatory excesses spark a public backlash which can undermine critical environmental programs.

I wish to commend the committee's efforts in its bill, H.R. 10498, to assure that the Environmental Protection Agency pursues balanced solutions to the problems of air quality.

There is, I believe, one oversight in the committee bill which I propose to rectify by an amendment on the House floor. My amendment would require EPA to prepare an economic impact statement before publishing notice of proposed rulemaking under specified sections of the Clean Air Act. EPA then would be required to make that economic impact statement available to the public together with an explanation of the extent and manner in which the Administrator considered the impact statement in drafting the proposed rule.

I believe my amendment would have two major positive effects. First, by detailing the economic factors which must be analyzed, my amendment will force EPA to be more systematic and thorough in its evaluation of the economic impacts as well as the means of reducing those impacts. Second, by requiring that the economic impact statement be made public, the American people will be fully informed of the economic consequences of EPA's regulatory decisions and, through the comment process, be afforded an opportunity to evaluate and express their views on EPA's economic analysis.

My amendment would require an economic impact statement any time the Administrator issues or revises the following:

(1) any new source standard of performance under section 111(b),

(2) a regulation under section 111(d), concerning the application of new source standards by states to existing sources,

(3) a regulation establishing a schedule of rates of excess emission fees under section 122(b),

(4) a regulation under subtitle B of title I relating to ozone protection,

(5) a regulation under subtitle C of title I relating to prevention of significant deterioration of air quality,

(6) a regulation establishing emission standards under section 202 (automobile truck and other motor vehicle emission standards) and any other regulation promulgated under that section,

(7) a regulation controlling or prohibiting any fuel or fuel additive under section 211(c),

(8) an aircraft emission standard under section 231, and

(9) a railroad emission standard under section 235.

Furthermore, my amendment specifically lists the factors which the EPA would analyze in preparing the economic impact statement. Therefore, this new EcIS would be required to assess the effects of the proposed standard or regulation on the following:

(1) the cost of compliance;

(2) its potential inflationary or recessionary effects;

(3) the availability of capital necessary to comply;

(4) the direct and indirect effects on employment;

(5) the effects on competition of the standard or regulation, particularly effects on small businesses;

(6) the effects on consumer costs;

(7) the effects on energy use of availability;

(8) the impact on the potential for long-term economic growth;

(9) the impact on productivity;

(10) the impact on the Nation's balance of payments;

(11) the economic impact of postponing the standard or regulation or of not promulgating the standard or regulation;

(12) alternative methods for achieving equal or greater protection at lesser economic costs; and

(13) comparative expenditures required to achieve incremental levels of reduction of emissions (or enhancement of health or environmental protection);

(14) any possible alternatives for minimizing or eliminating part or all of any adverse economic impacts of such standard or regulation.

My amendment is drafted carefully to assure that it will have no disruptive impact on the act, promulgation of standards or regulations under it, or their enforcement by the Administrator. With any amendment requiring extensive economic analysis, there is a danger of burdening the Administrator and the Agency to the point where the regulatory process collapses. My amendment guards against such a breakdown in that:

First, it applies only to future regulatory actions by the Agency;

Second, it cannot be used to disrupt or slow actions required by law; and

Third, it will not prevent the Administrator from carrying out his responsibilities to protect public health and the environment.

Mr. Speaker, business firms, farmers, and private citizens alike are being required to comply with regulatory requirements whose economic impacts sometimes are not fully known. It is my hope that my amendment will encourage a more responsible attitude in determining environmental policy. It is incumbent upon us to develop and follow environmental policies which attempt to achieve a reasonable balance between environmental necessity and economic reality, while protecting public health.

I believe my amendment requiring economic impact statements, in conjunction with the provisions the Commerce Committee has included in H.R. 10498, requiring EPA to take economic, energy and other costs into account under the Clean Air Act, will help us achieve that balance. I urge my colleagues to join me in supporting this amendment.

Text of amendment to H.R. 10498 follows:

AMENDMENT TO H.R. 10498, AS REPORTED OFFERED BY MR. FINDLEY

Page 158, after line 17, insert:

ECONOMIC IMPACT STATEMENT

Sec. 102A. Title III of the Clean Air Act, as amended by sections 306, 201, 304, 312, 313, 108, and 211 of this Act, is further amended by adding the following new section at the end thereof:

"ECONOMIC IMPACT STATEMENT

"Sec. 325. (a) This section applies to action of the Administrator in promulgating or revising—

"(1) any new source standard of performance under section 111(b),

"(2) any regulation under section 111(d),

"(3) any regulation establishing a schedule of rates of excess emission fees under section 122(b),

"(4) any regulation under subtitle B of title I (relating to stratosphere protection),

"(5) any regulation under subtitle C of title I (relating to prevention of significant deterioration of air quality),

"(6) any regulation establishing emission standards under section 202 and any other regulation promulgated under that section,

"(7) any regulation controlling or prohibiting any fuel or fuel additive under section 211(c),

"(8) any aircraft emissions standard under section 231, and

"(9) any railroad emission standard under section 235.

Nothing in this section shall apply to any standard or regulation described in paragraphs (1) through (9) of this subsection unless the notice of proposed rulemaking in connection with such standard or regulation is published in the Federal Register 90 days after the date of enactment of this section. In the case of revisions of such standards or regulations, this section shall apply only to revisions which the Administrator determines to be substantial revisions.

"(b) Before publication of notice of proposed rulemaking with respect to any standard or regulation to which this section applies, the Administrator shall prepare an economic impact statement respecting such standard or regulation. Such statement shall be available to the public following such publication and such notice of proposed rulemaking shall include notice of such availability together with an explanation of the extent and manner in which the Administrator has considered the analysis contained in such statement in proposing the action. The Administrator shall also provide such an explanation in his notice of promulgation of any regulation or standard referred to in subsection (a).

"(c) Subject to subsection (d), the statement required under this section with respect to any standard or regulation shall contain an analysis of:

"(1) the costs of compliance with any such standard or regulation, including the extent to which the costs of compliance will vary depending on (A) the effective date of the standard or regulation, and (B) the development of less expensive, more efficient means or methods of compliance with the standard or regulation;

"(2) the potential inflationary or recessionary effects of the standard or regulation;

"(3) the availability of capital to procure the necessary means of compliance with the standard or regulation;

"(4) the direct and indirect effects on employment of the standard or regulation;

"(5) the effects on competition of the standard or regulation, particularly the effects on small business;

"(6) the effects of the standard or regulation on consumer costs, including costs especially affecting economically vulnerable segments of the population;

"(7) the effects of the standard or regulation on energy use or availability;

"(8) the impact of the standard or regulation on the potential for long-term economic growth;

"(9) the impact of the standard or regulation on productivity;

"(10) the impact of the standard or regulation on the Nation's balance of payments;

"(11) the economic impact of postponing the standard or regulation or of not promulgating such standard or regulation;

"(12) alternative methods to such standard or regulation for achieving equal or greater degree of emission reduction (or health or environmental protection) at lesser economic costs; and

"(13) comparative expenditures required to achieve incremental levels of reduction of emissions (or enhancement of health or environmental protection);

"(14) any possible alternatives for minimizing or eliminating part or all of any adverse economic impacts of such standard or regulation.

"(d) The statement required under this section shall be as extensive as is practicable, in the judgment of the Administrator taking into account the time and resources available to the Environmental Protection Agency and other duties and authorities which the Administrator is required to carry out under this Act.

"(e) Nothing in this section shall be construed:

"(1) to alter the basis on which a standard or regulation is promulgated under this Act; or

"(2) to preclude the Administrator from carrying out his responsibility under this Act to protect public health and the environment.

A standard or regulation subject to this section shall be invalid on the basis of a failure to comply with this section only if the Administrator acted arbitrarily and capriciously—

"(A) in failing to prepare and publish an adequate economic impact statement as required by this section, or

"(B) in failing to comply with the procedural requirements of subsection (b)."

WATERGATE REFORM ACT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. OBEY. Mr. Speaker, occasionally because of the emotions and the myths surrounding an issue, it's extremely difficult to get people to do anything but legislate by title. Pulitzer prize-winning columnist David Broder of the Washington Post, Wednesday wrote a very provoking article, inserted for your attention, about the so-called Watergate Reform Act, which would establish a permanent special prosecutor accountable to no one.

I do not yet know how I am going to vote on that bill, but I must say that I am most impressed with the arguments made by Mr. Broder. I probably would not be in the company of Senators CURTIS, FANNIN, HRUSKA, LAXALT, and WILLIAM SCOTT on legislative matters once in a century, but they may be right on this one, and I would hope that we would think through our actions carefully before we take the irrevocable step of passing this legislation.

I am not suggesting that I am prepared to vote "no" at this time. Neither am I yet prepared to vote "yes" without further evidence that the bill will not in fact create the very kind of unaccountable power center which Watergate should have warned us against.

Let us think a little bit more about it as Mr. Broder suggests.

WATERGATE REFORM ACT: DANGEROUS, OFFENSIVE

(By David S. Broder)

Well, the congressional mountain has labored and brought forth a second Watergate mouse. The first landmark piece of legislation that resulted from the great scandal was the Federal Campaign Finance Act of 1974, which provided public financing of presidential campaigns and did other things supposedly guaranteed to cleanse the political process.

It was hailed in Congress and on the nation's editorial pages. But when the Supreme Court got around to examining the law, it decided that several of its key provisions were unconstitutional infringements on the freedom of speech.

A similar caution is in order on the near-unanimous praise being lavished on the Watergate Reorganization and Reform Act of 1976, which passed the Senate last week by a vote of 91–5 and is expected to have equally easy sailing in the House.

The five dissenters in the Senate were five of the more rigid conservatives in that body—Carl Curtis, Paul Fannin, Roman Hruska, Paul Laxalt and William L. Scott. Hardly a commentator to the left of Pat Buchanan would willingly enlist in such company.

But I am going to ignore the proprieties and say plainly what I think—that the main provision of the bill is offensive, deceptive and dangerous, and that, once again, Congress has avoided the opportunity to come to grips with the real problems of Watergate.

That bill creates a permanent Independent Office of Special Prosecutor within the Department of Justice, to be headed for a single three-year term by someone appointed by the President and confirmed by the Senate. The prosecutor will have jurisdiction to investigate and prosecute any possible violations of federal criminal law by the President, Vice President, senior administration officials, members of Congress and the judiciary.

One thing that is offensive about the bill is the proviso that the special prosecutor cannot be anyone who, in the previous five years, held a "high-level position of trust and responsibility" in a political party or the personal organization of any candidate for federal office. (For good measure, Sen. Lloyd Bentsen amended the bill to put the same prohibition on anyone appointed Attorney General or Deputy Attorney General.)

I do not know what word except "contempt" expresses my attitude toward a set of practicing politicians who accept as valid the premise that anyone affiliated with politics is automatically unfit to conduct one of the highest responsibilities of government—the administration of justice.

If politicians can't be trusted to administer justice, then why in the world should we trust them to collect taxes, or provide for the national defense, or decide whether our children fight in a war? Why not be consistent and say that no one connected with politics should serve in public office?

The dangerous notion in the bill is the assumption that the safety of our republic lies in finding non-political "good men," who can be trusted with powers we would not trust to politicians.

That is an absolute perversion of the doctrine of the American Constitution. Such men of perfect virtue are as rare as Plato's "philosopher-kings." In real world terms, a lawyer with a three-year non-renewable charter to investigate anything of importance in the upper levels of all three branches of the American government would be under enormous pressure to find things to prosecute. As Sen. Sam Nunn said, "He wants trophies for his wall when he's through." It is the perfect launching pad for the ruthless demagogue's political career.

Rather than depending on godlike virtue in public servants, the American Constitution protects freedom by holding officials accountable for their actions.

But the special prosecutor, under this law, is accountable to no one. He reports annually to committees of Congress but can be removed by the President only "for extraordinary improprieties, for malfeasance in office or for any conduct constituting a felony." For all practical purposes, he is a free agent, exercising extraordinary power without check. He is, in short, the very kind of official which Watergate should have warned us against.

What is deceptive about this scheme is well-explained by Professor Philip B. Kurland of the University of Chicago, in a letter printed as part of the debate of the bill.

"You have certainly misconstrued history," he wrote the senators, "if the concept of a special prosecutor is based on the notion that the Watergate special prosecutor contributed to the discovery and remedy for the Watergate abuses." The press and two congressional committees did that work of exposure and "the special prosecutor undertook criminal prosecutions of those malefactors."

That is the proper division of labor, Kurland said, but the bill's proposed "utilization of special prosecutors at a stage prior to criminal trial is once again an evasion of congressional responsibility . . . Every time an important governmental problem has arisen in recent decades, Congress has pusillanimously delegated the treatment of the ailment to someone else. Thus, the proposed public prosecutorial scheme . . . is only another symptom of the Watergate syndrome, rather than a contribution toward its elimination."

Instead of passing such showboat legislation, Congress could be employing its constitutional powers to judge and expel those of its own members who have been charged with almost every kind of abuse of power and breach of law. It can also investigate alleged improprieties in the Executive Branch.

But that is the difficult course of political responsibility, so Congress prefers to pass the buck to a non-political special prosecutor. If this scheme comes to pass, we can all recall what the English said at the time of Cromwell: Lord protect us from Protectors.

WAYS AND MEANS OVERSIGHT SUBCOMMITTEE SCHEDULE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. VANIK. Mr. Speaker, following is a summary of planned Ways and Means Oversight hearings between now and the Republican Convention recess:

SUMMARY OF HEARINGS

August 2: 10 a.m., main committee room, Mr. Thomas Tierney, administrator, Bureau of Health Insurance, Social Security; N.Y.U. Law Professor Sylvia A. Law and representatives from GAO and HEW Audit Agency on Administrative Costs in Medicare Claims Processing, Representative STARK chairing.

August 4: 10 a.m., H–208, hearing on HEW Efforts to Reduce Welfare Errors, representatives from HEW, State and Local Governments, and a Presentation of Possible Welfare Savings from Mr. Larry Dooling, A.T.&T.

August 5: 1 to 2:30 p.m., B–316, the Administration of SSI. The View From the States: State Welfare Officials from Texas, Michigan, South Carolina, and Washington.

August 5: 2:30 p.m., H–208, IRS Collection of Delinquent Taxes, Commissioner Alexander, Representative JONES chairing.

In late August, the subcommittee expects to hold additional hearings on the supplemental security income program on I.R.S. collection of delinquent taxes, and on medicare administrative costs. The exact time and place of those hearings will be announced later.

STATEMENT ON HOUSING

HON. MAX S. BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. BAUCUS. Mr. Speaker, I would like today to address a serious problem that has been one of my major concerns since I came to Congress 18 months ago. That is the overwhelming absence of a comprehensive national housing policy for both urban and rural areas. The two Federal agencies responsible for administering national housing programs, the Department of Housing and Urban Affairs—HUD—and the Farmers Home Administration—FmHA—lack an adequate framework to meet our national housing needs.

The housing slump started before the recent recession, went deeper than the economy overall, and is responding more slowly than the recovery. Moreover, inflation in housing and financing costs is such that American families have increasing problems buying—or renting—an adequate house.

Since 1972, total private and public housing starts have declined. Though this trend is reversing itself, housing starts are nowhere near the level they were in late 1972, causing much havoc in the building industry and raising the cost of houses.

Many people, especially young families, find it more and more difficult to purchase a home. In 1972, one-third of the Nation's households could afford to purchase a medium-priced house. In 1975, an income of $20,000 was needed to qualify for a conventional mortgage on a medium-priced house; however, only one-fifth of the families in the country had this much income.

More people, because of their low incomes, must now rent instead of buy. Renting families are finding that the amount of money they spend for rent is constantly increasing. In 1960, according to the Census of Housing, the median portion of income spent on rent was in the 15 to 19 percent range. In 1973, the proportions had risen to 20 to 24 percent.

Spiraling inflation in rental costs is due to increases in the cost of maintenance, construction, and mortgage costs, and most importantly, rising utility charges. The housing prospects of all but the wealthiest Americans have been eroded.

RURAL HOUSING POLICY

Our Nation needs a comprehensive rural housing program. Rural areas have one-third of the Nation's population but nearly two-thirds of its substandard housing. This higher incidence of poor housing can be attributed to lower incomes, less credit, and fewer institutions to deliver housing. There are fewer large builders in rural areas who can lower costs through constructing a high volume of units. Also, it is difficult for HUD and FmHA to administer their programs over the wide distances that must be traveled thus reducing the effectiveness of their programs.

Ever since the 1949 National Housing Act, the Federal Government presumably has been committed to improving the housing situation in the United States. Both HUD and FmHA were set up to assist people in securing homes. Though each of these agencies has rural housing programs, there remains a marked lack of emphasis toward meeting rural housing needs.

A SUMMARY OF FEDERAL HOUSING PROGRAMS

FmHA has several programs that are on their way to meeting rural demands. Section 502 provides loans to purchase a new or existing house, or to build, rehabilitate, or relocate homes.

Section 515 provides direct loans to finance rental or cooperative housing and related facilities for occupancy by low to moderate income rural families. Section 504 provides loans to make houses safer and more viable in rural areas, and section 514/515 provides loans at 1 percent interest for a term of up to 33 years to buy, build or repair housing for domestic farm labor. FmHa, however, now operates piecemeal programs, some of which work well. They have no overall rural housing goals as part of their mandate.

HUD was established to assist communities in housing and community development. There are several programs within HUD that could help improve rural housing needs. Section 8 provides housing assistance payments for low income families to either rent or build homes. Section 235 provides assistance in the form of monthly subsidies and is of great importance to rural areas. Section 202 provides housing for the elderly and handicapped. But HUD's orientation is toward the urban areas and it does not have the personnel or background to adequately deal with rural problems.

NATIONAL HOUSING PRODUCTION

We in Montana have a special interest in sound rural housing programs because of the State's wood products industry. Essential to our economic recovery is a healthy nationwide construction industry which uses our forest products. Yet, the Federal Government's responsibility to accelerate recovery of the housing and construction industry is not yet fulfilled, as many jobless Montanans can attest.

As table I indicates this trend is in part attributable to the fact that the number of total private housing starts in the United States dropped from 2,481,000 units in January of 1973 to 1,415,000 units in May of 1976 causing a lag in the housing construction industry. The number of private one family housing starts also dropped by nearly 400,000 from 1.43 million units in January of 1973 to 1.06 million units in May of 1976.

TABLE I.—TOTAL PRIVATE HOUSING STARTS; HOUSING UNITS, PRIVATE, 1-FAMILY

[In thousands of units]

Date	Total private housing starts	Private single family units
January 1973	2,481	1,431
February 1973	2,289	1,341
March 1973	2,365	1,237
April 1973	2,084	1,216
May 1973	2,266	1,220
June 1973	2,067	1,106
July 1973	2,123	1,178
August 1973	2,051	1,106
September 1973	1,874	1,019
October 1973	1,677	970
November 1973	1,724	960
December 1973	1,526	824
January 1974	1,453	811
February 1974	1,784	1,032
March 1974	1,553	967
April 1974	1,571	983
May 1974	1,415	900
June 1974	1,526	984
July 1974	1,290	903
August 1974	1,145	813
September 1974	1,180	872
October 1974	1,100	793
November 1974	1,028	812
December 1974	940	719
January 1975	1,005	748
February 1975	953	722
March 1975	986	763
April 1975	982	774
May 1975	1,085	853
June 1975	1,080	874
July 1975	1,207	916
August 1975	1,264	979
September 1975	1,304	966
October 1975	1,431	1,093
November 1975	1,381	1,048
December 1975	1,283	962
January 1976	1,236	957
February 1976	1,547	1,295
March 1976	1,417	1,110
April 1976	1,381	1,063
May 1976	1,415	1,057

This problem was exacerbated by a more than 50 percent reduction in federally supported housing production during the 1973 to 1975 period, as evidenced by table II, thus further cutting the chances that the Montana wood products industry would get back on its feet.

TABLE II.—NEW HOUSING ACTIVITY ANNUALLY, 1963–75

[In thousands of units]

Year	New starts under government programs					Total starts
	FHA, all programs					
	Single family	Multi-family	VA total	FmHA subsidized	HUD public housing	
1963	166.2	54.9	71.0	13.7	23.5	329.3
1964	154.0	50.7	59.2	11.6	24.6	300.1
1965	159.9	36.7	49.4	14.4	32.2	306.0
1966	129.1	29.3	36.8	19.9	30.2	245.3
1967	141.9	37.8	52.5	23.5	32.6	288.3
1968	147.8	79.4	56.1	25.2	66.4	374.9
1969	153.6	79.7	52.2	30.4	67.0	382.9
1970	233.5	182.0	61.0	57.1	95.4	629.0
1971	300.9	224.8	94.3	74.7	68.5	762.3
1972	198.5	172.4	104.0	91.4	40.0	606.3
1973	73.4	88.6	86.1	63.3	26.7	338.1
1974	56.7	37.7	72.9	41.2	16.7	225.2
1975	69.7	28.0	77.0	48.6	15.2	238.5

The drop in the total number of housing starts is in part attributable to the increase in the price of new homes. Most families cannot afford to build a house. In table III, we notice that in January of 1973, the average price of a new home was $35,500, a price within the means of most Americans as evidenced by the high number of starts in the same year.

In 1975, the average price of a new home was $44,400, a price beyond the means of low- and middle-income Americans. The buying ability of these families was further eroded by the fact the interest rate for a conventional mortgage was 7.5 percent for a $35,600 home in 1973 compared to a mortgage interest rate of 9.01 percent for a $42,500 home in 1975.

TABLE III.—*Average sale price of new one-family houses for United States—Not seasonally adjusted: Quarterly 1974–76*

	United States
Annual:	
1971	28,300
1972	30,500
1973	35,500
1974	38,900
1975	42,600
Quarterly:	
1974:	
1st quarter	(NA)
2d quarter	(NA)
3d quarter	(NA)
4th quarter	(NA)
1975:	
1st quarter	40,900
2d quarter	42,600
3d quarter	42,200
4th quarter	44,400
1976:	
1st quarter	46,100

The factors of high mortgage rates, high priced houses, and little effort by the Government agencies to build houses have combined to cause a serious crippling of western Montana's saw mills operators and have put many contractors out of business. Many mill owners and housing contractors in my district will never again operate because of the unpredictability of the wood products and housing industries.

THE ECONOMIC SITUATION IN MONTANA

Montana's economic situation, as measured in per capita income, has showed a somewhat faster rate of growth, although still remaining below the national average. The Montana 1974 average, as reported by the U.S. Bureau of Economic Analysis Survey of Current Business—August 1975—of $4,956 was 91 percent of the national $5,443, compared with 88 percent in 1970.

The failure to catch up more quickly may have been a reflection of the greater unemployment Montana suffered in the past 2 years. In January 1974, my State's unemployment rate had already reached an unadjusted rate of 8.5 percent, compared with a national unadjusted rate of 5.2 percent. During 1974, Montana's unemployment continued to increase, reaching 9 percent in January, 1975, when the Nation's rate was 8.2 percent. By June of this year, the last month for which figures are available, Montana's rate had dropped to 8.1 percent, still too high but not much different from the national 8 percent in the same month.

THE WOOD PRODUCTS AND HOUSING CONSTRUCTION INDUSTRIES IN MONTANA

An important part of employment in my State results from both local and national construction. In fact, 43 percent of the total employment in eight Montana counties, which comprises over 40 percent of my district's population, is either directly or indirectly attributable to the woods products industry. That is, close to 43 percent of the people employed in these counties are either hired by the woods products producers or provide goods and services to these industries.[1]

Locally, contract construction employed about 6 percent of all nonagricultural workers in 1973. The lumber and wood product industry, which supplies the Nation's construction industry, employed over 4 percent of Montana's workers in 1973, five times higher than the rest of the Nation. These construction-related industries did not participate in the growth in employment during the 1973 to 1975 period, but rather contributed to the unemployment problem. Lumber and wood products, whose fortunes are tied closely to the depressed national construction industry, lost 1,400 jobs, with employment dropping from 9,700 in 1973 to 8,300 in 1975, decreasing to 3.5 percent of the State's workers. In contract construction, employment dropped from a high of 14,000 workers in 1973 to 12,600 in 1975, falling from 6.1 to 5.3 percent of Montana's workforce. The 10-percent unemployment rate implied by these figures, however, was only half the national rate for construction workers. The 2,800 workers no longer employed in these two industries together make up some 10 percent of the total of 28,000 unemployed workers in the State.

MONTANA HOUSING NEEDS

Montana's housing needs are great. Almost one-fourth of Montana's rural housing is deficient. Of the 240,000 units in 1970, approximately 9 percent lacked some or all plumbing facilities and almost 10 percent housed more than one person per room. There was little overlap between the overcrowded units and those with inadequate plumbing facilities. Some 7 percent did not have complete kitchen facilities, although many of these are probably included in those lacking plumbing. There were 8,000 vacant units with standard plumbing facilities in 1970, and some substandard units may have been rehabilitated, but not all of Montana's housing needs have been met.

Mr. Speaker, that concludes my analysis of the housing situation in the United States, with particular emphasis on my State of Montana. Thus far I have concentrated on the problems of the housing industry. Now I would like to outline possible solutions.

To begin with, FmHA and HUD should expand their focus in the housing problems of rural America. More money needs to be given for subsidies to low and moderate income families in rural areas so that they may buy their own homes. These families are now pushed out of the housing market with little hope of participating unless the Government expands the current subsidy housing programs such as the HUD section 8 and section 235 programs and the FmHA 502 and 515 programs.

Along these lines, more money should be given to the Government National Mortgage Association—GNMA—and the Federal National Mortgage Association—FNMA—so that more people have the opportunity to secure a Government backed mortgage at reasonable interest rates.

HUD and FmHA should take the responsibility of teaching community officials in rural areas the intricacies of preparing housing assistance applications. Many of the smaller communities in my district lack the expertise to put together an acceptable housing proposal. In fact, most towns in western Montana have part-time mayors. In one county in Montana, the county manager is also the county clerk and recorder, treasurer, assessor and clerk of the district court. Its sheriff is also the janitor at the courthouse. Technical assistance from Federal housing agencies could greatly benefit such a county.

In addition, planning and funding services for small, nongrowth communities should be available, especially in rural areas. Many towns are stagnant and miss out on many Federal moneys for which they are eligible.

To administer these services, additional staff members should be moved into rural areas. Housing assistance applications are growing, and the current staff levels cannot handle the increasing load. Also, there is a lack of personnel to inspect onsite development projects, although this seems to be changing somewhat in my district. Many houses are not built according to Federal standards and should be examined more.

Consolidation of rural housing authorities would help smaller towns. HUD and FmHA should fully consolidate the section 8 and FmHA 515 programs whereby the developer need only to apply to FmHA. The separation of these two programs builds unnecessary bureaucracy, wastes taxpayers money, and causes developers to lose enthusiasm for these programs. The establishment of rural housing authorities to carry out the various housing programs would provide a special focus on rural housing problems and should create interest among the developers.

A rural liaison office in HUD should be established. Travel constraints, urban orientation, reliance on the private market, and requirements for larger scale projects now constrain Federal officials from effectively and enthusiastically endorsing rural housing programs. More travel money should be given to the Denver regional HUD office which is responsible for its projects in Montana. The Denver office also serves several of the other large Rocky Mountain States and frequently its staff cannot afford trips to Montana to inspect housing projects.

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[1] On this point, I am most grateful to Maxine Johnson, Director of the Bureau of Business and Economic Research and Professor of Management in the School of Business Administration at the University of Montana for her article entitled Montana's Economy—Where it Has Been and Where it is Going, Montana Business Quarterly, 1976, P. 27.

HUD should develop adequate statistics for long-range rural housing planning and also make comparisons between subsidized housing accomplishments and proposed goals and budgets. This would cut down on duplication and the construction of unnecessary housing projects and would save taxpayer funds. It would also prevent piecemeal, hit-and-miss approaches to rural housing development.

FmHA's research capacity should also be developed to study the impact of its programs, such as water and sewer grants and loans to small communities.

Along with this, technological innovations should be encouraged wherever possible, such as for the use of solar energy. Building regulations should be more flexible to conform to the climatic needs of the northern States and to anticipate future energy uses. Many FmHA homes are built in Montana according to housing standards for the South. In Montana, many homes have single-walled installation in areas with subzero temperatures; some homes have stick-on shingles in areas of high winds; and the plumbing in some homes freezes in the winter making them unlivable.

Mr. Speaker, that concludes my survey of the state of housing industry nationally and its impact on Montana. I hope and trust that my colleagues on the Committee on Banking, Currency and Housing continue to be aware of the housing problems in rural areas and expand their work to solve these problems.

"SUNSHINE"

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. FRENZEL. Mr. Speaker, yesterday I was pleased to vote for the "Government in the sunshine bill," because its worst flaws had been cured by amendment.

The sunshine bill is a logical follow-up to previous actions taken to open up day-to-day Federal operations to public scrutiny. In 1972, we opened up the meetings of executive branch advisory committees. In 1973 House Resolution 259 pried open some of our own processes; 1974 saw significant amendments to the Freedom of Information Act; and 1975 was the year in which Senate committees and conference committees began to open.

The bill passed yesterday was an important reaffirmation of our commitment to the principle of open government.

Three important amendments were adopted to improve the bill yesterday. The amendment deleting the verbatim transcript requirement—a requirement not included in any State's sunshine law, and not included in many of our own committees' rules—was necessary to protect free exchanges of ideas and discussions of national strategies in agencies like the Federal Reserve, the Securities and Exchange Commission, and the Federal Trade Commission.

The amendment redefining a "meeting" will avoid a fuzziness that would invite unnecessary legal action, and make the bill more workable.

In general, the sunshine bill is a useful step forward in opening up the processes of government. There will undoubtedly be some problems which can be resolved by future amendments, but the bill, as it passed the House, is a good one. Hopefully, the Senate will not, in its normally excessive enthusiasm, overdecorate the bill. It is important to bring it into operation as soon as possible, and Senate overexuberance is likely to cause delay.

While we bask in somebody else's sunshine, it is well to remember that the House record for openness is still poor.

We still have no "verbatim record" in the House. Our CONGRESSIONAL RECORD is an exercise in "It might have been." Our committees do not provide public access to verbatim transcripts. Our democrat "King Caucus" has no transcripts at all. A bill to provide TV and radio coverage of House floor proceedings is languishing in the Rules Committee, a victim of leadership pressure. The bill to improve disclosure by lobbyists seems to be making no progress.

While we are patting ourselves on the back for letting sunshine into other folks' business, we ought to try a little of our own.

CONGRESSMAN SYMMS SPEAKS ON MEDICAL FREEDOM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. McDONALD. Mr. Speaker, our colleague from Idaho, STEVE SYMMS, recently introduced legislation which has already received a great deal of attention and support. Aptly titled the "Medical Freedom of Choice Act," the bill would repeal the 1962 amendments to the Food, Drug and Cosmetic Act which require a new drug to be proven not only safe but effective before it may be marketed.

As Congressman SYMMS has pointed out, the efficacy law not only denies American citizens the freedom to choose perfectly safe medical treatments, but has stifled innovation and development of new drugs. Many Americans are now forced to travel to foreign countries to receive safe and effective medical treatment that is not permitted in our country because the FDA spends 7 years or so studying an application to market a new drug.

Clearly the basic premises underlying the FDA drug policy require reexamination. And this is precisely what Congressman SYMMS does in an incisive article titled "Let's Restore Medical Freedom to Doctors and Their Patients" which appears in the July 1976 issue of Private Practive.

As a medical doctor who has directly experienced the harmful effects these policies have on many patients, I enthusiastically call this article to your attention.

LET'S RESTORE MEDICAL FREEDOM TO DOCTORS AND THEIR PATIENTS

(By Congressman STEVE SYMMS—Research Associates: Paula Hawks—Deluca & Larry L. Wasem)

EDITOR'S NOTE.—Since the 1962 Kefauver amendments to the Food, Drug, and Cosmetic Act, the FDA has had authority to regulate the efficacy as well as the safety of drugs. This has led directly to the dramatic decrease in new drugs marketed. We can only guess at the suffering and death thereby caused. Congressman Symms (Republican, Idaho) has introduced legislation, HR 12573, to repeal the 1962 Amendments and thereby expand the medical freedom of choice of doctors and patients. His bill would leave the determination of efficacy where it belongs—in the free marketplace. As was the case before 1962, millions of decisions by practicing physicians and their patients would determine which drugs worked and which didn't.

The Food and Drug Administration, especially since 1962, has embarked upon a campaign of regulatory overkill that has had dire effects upon sick Americans. The result has been therapeutic nihilism.

The story of Floyd Mizell, PhD, of Bogalusa, Louisiana, provides a classic illustration of how the FDA has suppressed drug innovation. Dr. Mizell's dental drug was used and highly valued by a few dentists using it on a trial basis. It enabled them to save even abcessed teeth from extraction. He was encouraged to seek FDA approval of the drug so it could be marketed. He found that such approval would be far too costly, and sought the help of researchers at a dental school in New Orleans. Prior to getting an NDA to market the drug, Dr. Mizell had to have clinical tests. But before he could conduct such tests, with the help of the dental school, he had to secure an IND from the FDA. To get an IND, one must have conducted some prior tests. This "Catch—22" caught Dr. Mizell. His drug will be marketed overseas, as are many products of American innovators. And American patients who might have benefitted from his drug will be deprived of it by government edict. The FDA has become so involved as a drug censor, it has forgotten its affirmative duties to bring new, more effective drugs to market promptly.

FDA PREMISES RE-EXAMINED

Let's look at the five premises upon which the FDA drug policy is based. Dr. William Wardell of the University of Rochester Medical School summarizes them as follows:

1. "Therapeutics drugs should be proven to be safe and effective for their intended uses";

2. "Committees of experts are better able to judge the safety, efficacy, and appropriate usage of drugs than are individual physicians";

3. "Access of a drug to the market is the most crucial and appropriate point at which to exert control over drugs. Strict control over marketing will optimize drug utilization. A regulatory agency is the most appropriate tool to exert such control";

4. "New drug candidates should be exhaustively evaluated, first preclinically, and then clinically, to ensure that they are safe and effective";

5. "No drug shoud be admitted to the market or approved for a new use until the criteria for safety and efficacy have been satisfied."

Dr. Wardell shows these assumptions to be illogical. The first premise would be sound, he points out, were it not for the fact that "safety" and "efficacy" have never been *defined* in operational terms appropriate for a scientific evaluation of drugs. (One of the advocates of more FDA regulation, Senator Gaylord Nelson, recently said, "Drugs are either safe and effective or they aren't. There can be no in-between.") Dr. Wardell asks, what concrete standards exist for a scientist to determine how much "safety" and "efficacy are *enough?* Under the FDA rules, the standards are insufficient at best. A drug which produces a highly desirable effect in a minority of patients will be rated ineffective if that minority is small enough or if it is not properly recognized. As things now stand, FDA's subjective judgments as to efficacy for "society as a whole" will prevail, and the minority of patients who could have benefitted from a drug discovery are ignored.

Underlying this first premise is the FDA's notion that appropriate uses for a drug can be clearly distinguished from inappropriate uses. But this is true only in the context of an individual patient—and even then, this knowledge is established empirically. The trial-and-error nature of a good deal of medical therapy is familiar to all practicing physicians. Dr. Wardell argues, that "as long as there is need for trial-and-error by individual physicians for individual patients, 'appropriate use' must remain an individual concept, not a community concept." Therefore, the evalution of safety and efficacy must remain an individual concept. It, like any therapeutic decision, is a very personal decision which must be made by individual physicians who have special knowledge of their individual patients.

The second premise that "committees of experts" are best qualified to make decisions affecting the whole community is debunked, in large part, by the argument made above. In addition, there is a fundamental conflict in operation here—between the individual and society. The individual physician wants to provide the best possible therapy for his individual patients, but the regulatory agency wants to minimize the incidence of toxicity in the entire community. Thus, regulations designed to protect the majority will often deny great benefits to a minority. This essential conflict is aggravated by the tendency of a regulatory body such as FDA to make excessive allowances for "worst-case" possibilities. The policy is one of too much caution in the approval of new drugs and drug uses, and emphasis upon adverse safety data with inadequate attention to drug benefits.

The third premise is over come by the argument that the true aim of the FDA is not to control the marketing of drugs, but to control the way in which drugs are used. Most effective drugs are hazardous to some degree, and all drugs are hazardous if misused. But for even the most hazardous drugs there are some patients for whom the benefits outweigh the risk. Should our regulatory policy allow the FDA to deny these drugs to the patients who would benefit from them? I think not. By granting vast premarketing controls to the FDA, Congress has missed the whole point. Any prophylactic efforts of the agency—if they are desirable at all—should be limited to requiring safety but not efficacy.

The fourth premise sounds convincing, but it rests on some shaky assumptions about the value of animal toxicity studies, the degree of hazard in early drug tests upon man, and the "exhaustiveness" which can be attained by any premarket clinical testing. Litchfield's 1962 study indicates that the FDA may be way off base when it places great faith in the predictive value of tests upon animals. In this study, it was found that more than half the toxic effects of six drugs upon man were missed by animal screens. And 20% of the toxicity predictions based upon animal studies were incorrect when applied to man. It appears that FDA's assumption that the earliest tests of a drug upon man are the most hazardous is equally illfounded. Indeed, early testing may be the safest. Carr conducted a study at a prison testing unit in Michigan in which 14,000 volunteers had participated in 300 tests over the course of seven years. There was not one incident of serious toxicity. Subjects of such testing were carefully monitored and dosages are carefully controlled. Widespread toxicity can only occur after a drug has been approved for marketing and is used chronically. The third assumption about "exhaustive" premarketing studies ignores the fact that a large number of patients cannot feasibly be studied in an intensive manner. To have a 95% chance of detecting a side effect with a frequency of one in 100, 300 patients would be required. For some drugs, clinical pharmacologists estimate that 15,000 or more patients would be necessary for exhaustive premarketing studies.

The fifth premise, at this point, scarcely deserves rebuttal. There are no objective standards for determining safety and efficacy, nor is there any way that a drug can be exhaustively evaluated before it is introduced in the market.

Important drugs such as penicillin, digitalis, aspirin, and fluroxene might not have received FDA approval if discovered after 1962. Pencillin has a markedly toxic effect upon guinea pigs and the other drugs have appreciable toxic effects upon both animals and humans.

Although the British Health Service is a medical and financial disaster, Britain is way ahead of us in drug regulation. The former chairman of the Safety of Drugs Committee in Britain, Dr. Derrick Dunlop, notes that:

"The main difference between the two systems is that ultimate power to license medicines in the United Kingdom rests with the Licensing Authority acting on the professional advice of the Safety Committees. The decisions of these committees are taken by men whose careers in no way depend upon their membership of the committees on which they serve part-time in a virtually honorary capacity as an altruistic chore. They are assisted, of course, by a small staff of expert professional civil servants . . . but the decisions are taken by the committees. In the US, on the other hand, ultimate power rests with the full-time professional civil servants of the FDA whose careers depend on the correctness of their decisions, and who are subject to formidable grillings by Congressional committees. The FDA has to work under fairly rigid rules by Congress, which seem to rely more upon animal experiments than is usual in the UK."

Dr. Dunlop has stated, on another occasion, that he hoped any new regulation of drugs in England would not follow the US scheme of requiring proof of efficacy. He says, "I believe there is evidence of increasing doubt, even in quarters antagonistic to industry, that these regulatory efforts may not only fall short of their objective but may actually undermine it."

Messrs. Grabowski, Vernon, and Thomas of Duke University commented, in a paper they presented at the 1975 American University Seminar on Public Policy and Drug Innovation, that—

"The greater use of external professional advice in the UK apparently has produced a regulatory incentive structure which is less prone to bias in the direction of caution and delay. This, combined with the greater reliance on medical judgment rather than formal regulatory controls, has meant a system with much shorter time lags in the introduction of new products than has been the case in the US."

WHAT'S THE TAB?

As we examine the profit and loss reports on the 1962 Amendments, it's obvious that there is a net loss. Dr. Francis Davis, PRIVATE PRACTICE's publishers, adds up the expenditures by pharmaceutical companies to prove the efficacy of old drugs which have been placed on the market in the years since 1938, the additional cost to drug companies to secure approval of new drugs because of more strigent regulations, and the government's expenditures to support the administrative operations of the FDA in enforcing the Amendments, and arrives at a total of $12 billion in costs for the first 12 years of the Amendments' existence.

But the Amendments have also delayed the marketing of new, more effective drugs. These delays have meant that illnesses which could have been shortened by an existing new drug have, instead, been prolonged and that some dealths have occurred. Professor Sam Peltzman of the University of Chicago estimates the loss due to missed benefits at $300 to $400 million annually. From this, he subtracts any gains attributed to the law and arrives at a figure of $250 to $350 in net losses for American patients. This is above and beyond the $12 billion cost for administrative and additional testing expenses.

FDA CONTRAINDICATION: DRUG LAG

Everyone (including the FDA) talks about the drug lag, but no one is taking the decisive steps necessary to remedy it. Several experts have conducted comprehensive studies of the drug lag, enumerating specific drugs which were made available in the U.S. only after years of availability overseas. Also included in this listing are drugs which are still unavailable in this country. The β–blockers provide a dramatic illustration of the problem.

Of the β–blockers, only propranolol is available in the U.S. The only approved use for the drug was the treatment of cardiac arrhythmias, until relatively recently. Overseas, two of the major indications for the drug were angina and hypertension. Both the American and British literature were replete with articles advocating the use of this drug for angina. Despite all this, propranolol was not approved for treatment of angina in the U.S. until 1973 and is still not approved for treating hypertension.

A dozen new drugs in the β-blocking family have been introduced overseas that differ from propranolol by demonstrating the following characteristics: cardioselectivity, intrinsic sympathomimetic activity, and less membrane-depressant activity. The newer members of the drug family are still undergoing investigation in the US, and the investigation was halted at one time because of FDA's suspicion that β-blockers might produce tumors in one strain of mouse. Dr. Wardell carefully analyzes the risk-benefit decisions being made by the FDA in the testing of β-blockers and concludes:

The important point is that this type of risk-benefits decision should ultimately be made by single physicians for individual patients, rather than a regulatory agency for society as a whole. There exist identifiable groups of patients who obtain great benefit from certain β-blockers in angina or hypertension, yet who cannot tolerate propranolol. For some of these patients, common sense could clearly indicate use of the newer β-blockers. The need to make decisions of this type has long been commonplace in medicine. The only new element . . . is that the decisions are now being taken by committees on behalf of all physicians and all patients.

Critics of the FDA's rapture with animal toxicity studies point out that the FDA has required additional carcinogenicity studies of β-blockers on animals even though the number of *humans* in other countries currently using the drugs is many times greater than the number of animals that could be realistically contemplated for toxicity tests. The American taxpayers' money might be better spent in sending a crew of FDA investigators overseas to study human patients instead of wasting precious time and dollars to pump animals full of β-blockers.

As compared with other developing nations, our drug lag is blatant. During the years 1965 to 1969, France showed an average lead time of one year in introduction of new drugs. Germany's average lead time as contrasted with the US was 1.6 years, and England's average lead time was 2.1 years. These averages hide even more dramatic drug lag in the case of specific drugs. Co-trimoxazole was introduced in the US five years after becoming available in Britain. The US was the 106th nation to approve the drug. Fenfluramine was approved for use in the US nine years after its introduction in Britain.

Dr. Lewis Sarett in Research Management says that from 1962 until 1972, development costs per New Chemical Entity rose from $1.2 million to $11.5 million. In addition, he suggests that total development time for an NCE was 2.5 years in 1962 as contrasted with 7.5 to 10 years in 1972.

V. A. Mund, in "The Return on Investment of the Innovative Pharmaceutical Firm," has looked at the R&D costs of the drug industry and concludes that whereas it used to take $1.5 million to produce a new single entity, it now takes $15 million.

WHERE FROM HERE?

Several years ago, Dr. Edward Freis, who won the 1971 Lasker Award for his studies of hypertension, was heard to lament that no new anti-hypertensives had been put on the U.S. market since 1963. When I contacted Dr. Freis about my legislation, he exclaimed, "Do you mean commonsense may yet prevail in the Congress?" We can always entertain that hope! I am optimistic that my colleagues in the Congress will react favorably to the repeal of the 1962 law once they are presented with the facts. Doctors and patients alike can be of tremendous help in this legislative effort, by writing their own Congressmen and demanding that individual freedom of choice be restored to physicians and patients.

I believe that far more Americans want to be protected from government officials than want to be protected from their own physicians. Recent opinion polls show politicians as low men on the totem pole of public esteem. Doctors are rated very high, despite the best efforts of the "progressives" in Congress who seek headlines by criticizing the medical profession and by attempting to shackle its members with government regulation. Some say that my legislation is an attempt to "turn back the clock." But what has really turned back the clock on drug development in America? The Congress, the FDA, and the 1962 Amendments.

The garden variety American has common sense. He knows that the most ineffective drug is the one which is not on the market when he needs it!

FOREIGN INTELLIGENCE SURVEILLANCE ACT EXAMINED

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. DRINAN. Mr. Speaker, the Foreign Intelligence Surveillance Act of 1976 (H.R. 12750 and S. 3197) continues to generate extended discussion over the merits of congressional authorization for executive branch surveillance activities. Such debate arises largely because, for the first time in American history, this measure would allow electronic surveillance of conversations unrelated to criminal conduct.

The July 31 issue of the Nation includes a series of articles on this timely subject. The bill is presently pending before a judiciary subcommittee. I am having excerpts from those articles reprinted here so that my colleagues in the House may have the benefit of their analyses. The item entitled "Legitimizing the Buggers," is an editorial:

"LEGAL" BUGGING? PROS AND CONS OF S. 3197

Charles Morgan Jr.:

Attorney General Levi and Senator Kennedy wrote it. Liberals and conservatives co-sponsored and voted for it. President Ford will sign it. With that kind of bipartisan support from the Washington Establishment, there must be something wrong with it.

And there is: "The Foreign Intelligence Surveillance Act" (S. 3197) is a clever deception, another manifestation of Washington's habitual thirst for compromise at all costs and of the liberals' weakness for the illusion of reform at the expense of the substance. Of course, the supporters of this measure will disagree. They will claim that the Senate Judiciary Committee's June 14th approval of the wiretap bill by an overwhelming 11–to–1 vote represents a happy, even "historic," moment—resolving the long-standing stalemate between the executive and legislative branches over the President's "inherent power" to order wiretaps and buggings for "national security" purposes.

To be sure, the bill does provide for minimal judicial supervision over these activities. But this is the quintessence of the deception, for it disguises a host of nasty concessions that go far toward legitimizing a permanent national security state.

Only John Tunney, the Democratic Senator from California and the successor to Sam Ervin as chairman of the Constitutional Rights Subcommittee, cared enough to vote against the consensus.

Senator Tunney's debate with the other members of the Judiciary Committee centered on his objections to the elusiveness of the bill's definitions (what does "clandestine intelligence activity" mean?) and the bill's authorization (for the first time in history) of bugs, wiretaps, and breakins of U.S. citizens who are committing no crime.

On the Senate floor Tunney will emphasize the bill's faults: the bill's silence on National Security Agency taps and bugging of Americans abroad; the disclaimer section that continues to acknowledge the President's "inherent power" to act virtually as he pleases whenever he deems it necessary and thereby vitiates even the minimal protections established in the preceding sections; the bizarre, last-minute inclusion of a moratorium on all controls whenever new and presumably more sophisticated electronic equipment is being "tested"; the ways and means of conducting "pre-tap" investigations to determine whether the target is an agent of a foreign power and to identify the preferred location for the subsequent electronic surveillance; and the circumvention of normal judicial process to allow the Chief Justice secretly to hand-pick seven special judges and to prohibit other federal judges from ruling on warrant applications.

Tunney's lonely courage was obscured by the sound and fury surrounding the Judiciary Committee's approval the same day of the oil divestiture bill. But there is still time to slow the Washington Establishment's rush to judgment—provided, of course, that the two committees that still have jurisdiction over the measure (Sen. Daniel K. Inouye's new standing committee on intelligence and Sen. Birch Bayh's subcommittee of it, and a House subcommittee chaired by Rep. Robert W. Kastenmeier) decide to take the time to study the issues raised by Tunney. It is a thankless task, however: the arrogance of Washington's largest law firm, the Justice Department, was "perfectly clear" when Attorney General Levi refused to answer the thirty-six detailed questions from Tunney, the chairman of the Senate's only Constitutional Rights panel.

Senator Edward M. Kennedy:

For the last five years various Senators, including myself, have labored unsuccessfully in an effort to place some meaningful statutory restrictions on the so-called "inherent power" of the Executive to engage in electronic surveillance for the purpose of obtaining foreign intelligence information. Bills have been introduced only to die a slow death in committee; speeches have been made only to fall on deaf ears; inquiries made of the Nixon administration were ignored or answered in a halfhearted way. The sad fact is that despite five years of effort by a small group of Senators the rule of law simply has not applied to foreign intelligence electronic surveillance.

Until this year. On March 23 I introduced S. 3197, a bill designed to regulate such surveillance. This legislation would require that all such surveillance be subject to a requirement that, before such surveillance could occur, a named executive branch official certify in writing and under oath that such surveillance is necessary to obtain foreign intelligence information. It would, for the first time, expressly limit whatever inherent power the President may have (the Supreme Court has never resolved this issue) to engage in such surveillance in the United States. It would provide civil and criminal sanctions to those who violate its provisions.

Just as important is the fact that, at long last, legislation restricting such surveillance has a better than reasonable chance of Senate passage. It was the first time in more than eight years that any comprehensive electronic surveillance legislation had been reported out of the Senate Judiciary Committee.

Now comes Christopher H. Pyle in the May 29th issue of "The Nation" labeling the legislation "regressive," calling it a "fraud" and urging its defeat. Aware of his well-intentioned concern, nevertheless I believe that the defeat of this bill would be tragic. Legislation can hardly be labeled "regressive" which, for the first time, attempts to place foreign intelligence electronic surveillance under the rule of law. Mr. Pyle's concern over the "funny warrant" requirement ignores the fact that today there is no warrant requirement at all ("funny" or otherwise), and that the courts currently have absolutely no role to play whatsoever in this area.

Nor should he give such short shrift to the certification procedure. This bill requires a named executive branch official to certify in writing that the surveillance is necessary. There can be no "passing the buck" on the issue of responsibility and authorization; in any civil or criminal litigation the executive designee will be called on to justify his actions.

Many of Mr. Pyle's other specific criticisms have been met by amendments to the bill: for example, the Presidential disclaimer has been completely rewritten to clarify the Congressional limitations on the Executive's inherent power; any person aiding a foreign agency who is acting "pursuant to the direction of a foreign power" must be a knowing participant; and the bill has been appreciably altered to provide access by a defendant to materials obtained by means of this surveillance and subsequently used in a criminal proceeding.

The bill is not perfect but I am hopeful that further changes may yet be made in the House and in the Senate-House conference.

This salient point, however, must not be overlooked—for too long the American people have lacked any legal safeguards protecting them against the abuses of foreign intelligence electronic surveillance. Until this year efforts at providing such safeguards were exercises in futility. Mr. Pyle should view this bill for what it is—a major effort by the Congress, long overdue, to place foreign intelligence electronic surveillance under the rule of law. This bill does achieve that goal.

Christopher H. Pyle:

I regret to find myself so profoundly in disagreement with Senator Kennedy and his national security wiretap bill. No one in the Congress has done more than he to bring government eavesdropping under control or has taken more political risks to bridge the ideological gaps that unfortunately separate liberals from conservatives on this issue.

His bill, however, would concede too much. Its "funny warrant" procedure, which would forbid judges to question the government's need for foreign intelligence taps or bugs, would make a mockery of the principles of checks and balances and an independent judiciary. The bill's apparent endorsement of the theory that foreign visitors are not entitled to protection from unreasonable searches and seizures reviews a nativist interpretation of the Fourth Amendment that should remain on the constitutional junk heap, to which it was consigned after the infamous Red raids of 1919 and 1920. Its definition of "foreign agents" vulnerable to surveillance still remains mischievously broad, while the so-called "disclaimer" provision continues to lend credence to the pernicious doctrine that the executive branch has a legislatively uncheckable power to tap and bug at will in the name of foreign intelligence or national security.

These legislative "compromises" are not mere accommodations among constitutionally acceptable means. They would resolve a judicial uncertainty by denying to all people—citizens, resident aliens, and foreign visitors—the promise of the Fourth Amendment.

The chief argument of liberals who support this bill is that it is needed to forestall an even worse Supreme Court decision exempting all foreign intelligence tapping and bugging from Fourth Amendment restraints. While I share that concern, I would prefer to live with such a decision than to see the Kennedy-Levi bill—which would accomplish nearly as much—enacted into law and approved by the Court.

Fortunately, that need not be the choice. There is no reason why the government cannot electronically monitor embassies, diplomats, military attachés, suspected espionage agents, trade negotiators, and other sources of substantial foreign intelligence information under a bona fide warrant procedure that preserves the independence of the judiciary, provides a potential check on overreaching officials, and protects those privacy interests we have come to associate with the Fourth Amendment. To do so, however, requires a coherent theory of what the Fourth Amendment means in the context of national security taps and bugs.

When the nation's spy chiefs seek to conduct surreptitious searches through wiretapping and bugging, they should be required, as a matter of constitutional interpretation, to obtain a warrant first. In rare emergencies, Congress might permit them to spy first and request permission later (hours later), but judicial permission should be required. The principles of limited government, guaranteed liberties, and checks and balances compel this interpretation of the Fourth Amendment's warrant clause; to read it otherwise would leave us without any independent check against the unconstitutional activities of our electronic spies.

The warrant procedure must be the traditional one in which the judge weighs all the competing interests and values in light of the totality of the circumstances. The government must tell him not only who is to be monitored and where the taps or bugs are to be placed, but what kinds of conversation it expects to intercept and what kinds of information it hopes to obtain. It must also explain, in revealing detail, why its need for the information is so great that it should override the individual's constitutional right of privacy. Anything less, such as the Senator's certification procedure, which allows executive officials to decide for themselves whether the surveillance is needed, provides no check or balance against official wrongdoing—the very function that warrants are supposed to serve.

Proposals like the Kennedy-Levi bill continue to be opposed not because judicial resolution would be wiser or more legitimate but because the executive branch continues to demand essentially unlimited surveillance powers and will not explain why those powers are needed or how they would be used. The bill Senator Kennedy supports is not a mere counterespionage measure necessary to our nation's security and unthreatening to our liberties. It is a broad surveillance charter which would allow American intelligence agencies to tap and bug foreign embassies, diplomats, military attachés, members of foreign delegations, visiting employees of foreign governments, and all Americans with whom they communicate, virtually without restraint. It is reasonable to assume that the U.S. Government would use this power not only to gain the advantage in diplomatic and trade negotiations but to spy on Senators who communicate with foreign lobbies, Congressional staff members who draft trade legislation, business executives who trade in strategic commodities, lawyers who represent foreign governments and corporations, and advertising men who dispense foreign propaganda. The CIA and FBI can be expected to use this authority, not only to spy on their foreign counterparts but to discover the weaknesses of people—Americans, resident aliens, and foreigners—whom they would like to blackmail into becoming spies, or "neutralize" through the leakage of embarrassing information. These potential uses of the surveillance power, posing the gravest constitutional and moral questions, remain unmentioned in the public debate over the Senator's bill.

Senator Ervin used to keep a framed quotation on his office wall which warned: "No man's liberty or property is safe when the legislature is in session." That reminder hung there not because Sam Ervin was hostile to Congress or its functions but because he knew its limitations. Most lawmaking involves bargaining in which fundamental principles have to be ignored. Little would get done if everyone involved in the legislative process consistently stood on principle.

Laws affecting fundamental liberties, however, deserve a higher standard of care. The fact that the Fourth Amendment is couched in splendid ambiguities does not mean that legislators should agree upon whatever search and seizure legislation will pass and leave the constitutional considerations to the courts. There are certain constitutional minimums which responsible legislators should never trade away, even if it means living with executive misconduct until the next round of scandals.

Principles bargained away cannot easily be reclaimed. What wiretap legislation Congress passes this year will have a powerful effect on future efforts to curb the use of informants, mail openings and surreptitious entries. A law which creates sham warrants, reads a whole group of people out of the Fourth Amendment, and implies that the executive has a legislatively uncheckable power to spy, will come back to haunt us all.

EDITORIAL—LEGITIMIZING THE BUGGERS

There can be no doubt about the motives of Senator Kennedy (D., Mass.) in attempting "to place foreign intelligence electronic surveillance under the rule of law." It would be "for the first time," as he points out in a communication to this magazine which we publish in this issue, along with an answer from Prof. Christopher Pyle and a comment on this whole question from Charles Morgan. The problem is entirely one of legal constitutional craftsmanship.

As Senator Kennedy writes, the effort to enact the bill labeled S. 3197 arises from the extraordinary fact that, from its primitive technical beginnings right down to the amazingly sophisticated present, "the rule of law has not applied to foreign intelligence electronic surveillance." All tapping and bugging was left to the uninhibited discretion of the agents of the federal government. Normal constitutional protections, especially those against "unreasonable searches and seizures," as the Fourth Amendment puts it, were entirely missing unless, against all odds, the courts somehow managed to intervene.

The trouble is that the protections Kennedy seeks in the measure he, principally, worked out with Attorney General Levi, turn out to amount to what Pyle calls "a broad surveillance charter," despite the good-faith effort to check the abuses of the unrestrained past. The attempts to restrict and codify the pervasive business of spying "go far," in the words of Charles Morgan, "toward legitimizing a permanent national security state."

That is certainly not what Kennedy and his fellow reformers are after. As the Senator's statement shows, he still does not believe that this would be its effect. But Pyle, in his original article in *"The Nation"* (May 29) and in his response to Kennedy in this issue, makes a persuasive case against S. 3197 as it now reads. It seems to us that the codification of the relatively minor reforms in the present dangerous practices of electronic surveillance are more of a threat than a help to the liberties compromised by this activity of the "national security" agents.

Perhaps the present bill is hopelessly warped by traditional wrong assumptions about the true nature of "national security" and of the need for "secrecy" and spying. In any event, here's a classic case of the cure being worse than the disease. Senator Tunney deserves the credit Morgan gives him for his stubborn resistance to S. 3197. And he should be joined by others, including Kennedy, in either changing the bill to meet the strictest constitutional standards, or defeating the measure as it now reads.

IN TRIBUTE TO HERMAN SALOGAR

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. TRAXLER. Mr. Speaker, it is my pleasure today to commend the length and admirable public service record of Mr. Herman Salogar of Bay City, Mich. Mr. Salogar served in the Bay City Fire Department for 25 years, attaining the rank of lieutenant, and has also worked as an officer of the Municipal Credit Union. On July 31, he will be retiring from the credit union. I am pleased to provide you and my colleagues with some information about the accomplishments of Herman Salogar.

Herman was born on July 9, 1911, in Glassbay, Nova Scotia. His parents, Bernadine and John Salogar, raised him in the mining districts of Kentucky, Ohio, West Virginia, Pennsylvania, and Michigan.

Herman married Florence Willette on October 8, 1931, and it has been their very good fortune to have four children, Patricia, Kay, John, and Mike, and to be the proud grandparents of 11 grandchildren.

Mr. Salogar joined the Bay City Fire Department on April 17, 1945, and achieved the rank of lieutenant. He retired from the department on July 3, 1970, after 25 years of service and was greatly respected by the men.

The fire department was not Herman's sole involvement. He was one of the original signers of the Bay City Municipal Credit Union charter, dated December 1950; and he has served on the board of directors for 26 years. During those years he had at various times held the posts of treasurer-manager, vice president, and president of the credit union. Following a position of part-time treasurer-manager, he became the permanent treasurer-manager in 1968. He holds this position until this retirement.

During his years of service to the credit union, he has seen it grow from a $1,284 fund to the $3 million Bay Government Credit Union it is today.

He also held the chairmanship of the Wenonah chapter of the credit union between 1963 and 1975, and served as vice chairman of the chapter executive committee from 1959 until 1976.

Herman Salogar has been especially active in chapter legislative programs, and is currently the legislative forum representative from Wenonah for State chartered unions.

Herman has also been very involved at the Visitation parish in Bay City. His religious convictions have been very important for him, and he has served as president of the Home and School Association, a member of the Usher's Club, and the parish's financial committee. He also belongs to the Elk and Moose fraternal organizations, and the Exchange Club.

The kind of energy that Herman has exhibited for the public benefit in the last 40 years is most commendable. His participation in civic affairs has contributed greatly by helping make Bay City a better place to live. Our Nation needs more men of his character and dedication.

Mr. Speaker, I ask you and all of my colleagues in the House to congratulate Mr. Herman Salogar on an extremely fruitful career, and wish him the best in his well-deserved years of retirement.

ANOTHER PRIVACY PROBLEM

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. GOLDWATER. Mr. Speaker, I read with interest an article that appeared in the Washington Post the other day, written by William Raspberry. The subject of that article was the encounter between his wife and the Division of Motor Vehicles of the District of Columbia over her attempts to get her drivers' license renewed. Of central focus was the adamant refusal of the local bureaucrats to permit renewal unless Mrs. Raspberry produced her social security card. Simply put, the bureaucratic system in the DMV would not function with Mrs. Raspberry producing her standard, universal numeric identification card—her social security card.

If I remember correctly, Mr. Raspberry was commenting more on the nature of a bureaucratic system, its inexibility, obstinacy and blind, unfeeling adherence to procedure, rather than analyzing the personal privacy aspects of his wife's adventure.

Well, in yesterday's Washington Post there appeared another article by Mr. Raspberry entitled "The Instant Dossier." Apparently his wife's experience with the social security number encouraged a wider analysis of the privacy implications the pervasive, mandatory use of numeric identification systems hold.

This article is particularly interesting because it is discussing an attempt in the Senate to undo the Current Privacy Act of 1974 moratorium on the use of the social security number as a standard, universal numeric identifies. The situation in the Senate is a marvel. It was the Senate that added the Privacy Protection Study Commission provisions and its specific tasks to the Privacy Act of 1974. Among many charges, that Commission was directed to study the implications and effects of the use of the social security number as a standard, universal identification number. That act, now Public Law 93–579, required the Commission to report back to the Congress no later than June of 1977.

The situation that Mr. Raspberry addresses himself to is the attempt, currently pending in the Senate, to undo the moratorium through a provision in the Tax Reform Act. I believe that many of the supporters of the Privacy Act of 1974 will find Mr. Raspberry's article most interesting.

THE INSTANT DOSSIER

(By William Raspberry)

"For Social Security and tax purposes—not for identification."

If you haven't noticed that message across the bottom of your Social Security card, no matter. It doesn't mean much. And there is a good chance it will mean even less in the near future.

The Social Security card is well on its way to becoming the universal, mandatory item of identification: for police departments, motor vehicles department, the military, creditors.

It was concern over the increasing use of the Social Security card for identification—no matter what it says across the bottom of the card—that led to the inclusion of this prohibition in the federal Privacy Act of 1974.

"It shall be unlawful for a Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security number."

But having yielded up a good bucket of milk, the legislators then proceeded to kick it over by exempting from the proscription "any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual."

It is this "grandfather clause" that makes it possible for the D.C. Department of Motor Vehicles, for instance, to demand proof of a Social Security number before issuing driver's licenses.

Under terms of the Privacy Act, there was at least protection against additional demands for the Social Security card as ID. Agencies, already requiring it could continue doing so, but no new agencies could start the practice.

Whatever protection that affords would be wiped out in the tax bill now before Congress.

"It is the policy of the United States," says Section 205(C) (i) of that bill, "that any State (or political subdivision thereof) may, in the administration of any law or program within its jurisdiction, utilize the Social Security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law or program, and may require any individual who is or appears to be so affected to furnish . . . (his) Social Security account number."

Whereas the Privacy Act permitted the continued use of Social Security numbers primarily so that government agencies wouldn't have to undergo major overhauls, the proposed tax bill positively encourages the unrestricted use of the numbers as identification.

And what is so bad about the obviously efficient notion of having a single identifying number for each American?

In a way, the question is like asking what is bad about the loss of privacy for people who aren't doing anything they are ashamed of. Protecting privacy may have nothing to do with being found out but only with being left alone.

The U.S. Congress, in the findings on which the 1974 Privacy Act is premised, said that:

"The privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies.

"The increasing use of computers and sophisticated information technology, while essential to the efficient operations of the Government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use or dissemination of personal information.

"The opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems. . . ."

The nightmare is of the instant dossier, the fear that some unknown computer operator will be able to put you together from bits and pieces of information—true and false—stored in data banks from the Internal Revenue Service to the local savings and loan.

Obviously, it would be a lot easier to put you together if you existed in every data bank under the same Social Security number.

Apparently, it's easy enough as it is. Two years ago, NBC's Ford Rowan reported on the secret development of an interface message processor (IMP), a device that permits computers using different language systems to "talk to" each other by translating each computer's language into a common IMP language. Once the translation problem is licked, Rowan pointed out:

"Setting up a computer network involving virtually any computer, government or private, is almost as easy as making a telephone call. Computers can be hooked together by phone. Once you know the codes for the computers involved, it's simply a matter of dialing in and getting the information. . . .

"Computers can be hooked together, your records collected in a matter of minutes, then the system can be disconnected, and there's no evidence left behind of what's happened."

Not having a single identity number might not make it impossible to put together the instant dossier but it would certainly make it more difficult. Which is reason enough to oppose that troublesome provision in the tax bill.

It would seem that those legislators working on the bill could find enough to do by way of honest tax reform without trying to hustle through legislation to reduce us all to numbers in the name of efficiency.

ILLEGAL MOTOR CARRIERS

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. RISENHOOVER. Mr. Speaker, since February, I have pressed the Department of Defense to stop using illegal motor carriers to haul ammunition and firearms.

I have written Secretary Donald Rumsfeld urging the use of regulated, responsible carriers who are efficiently and carefully controlled by the Interstate Commerce Commission—like Congress mandated.

I called his attention to the April 14, 1976, report by the House Armed Services Committee on "thefts and losses of military weapons, ammunition, and explosives." It said:

> It is only a question of time before thieves begin to concentrate their efforts on the most vulnerable points in the Departments' facilities.

I believe that unregulated carriers, traveling the lonely highways with weapons of war, are one of "the most vulnerable points" for hijackers.

The problem has been most lucidly described in the July 1976, issue of Commercial Car Journal, in an article by Jean Strickland. I quote part of that report:

EXCERPT FROM COMMERCIAL CAR JOURNAL

(By Jean Strickland)

> Illegal trucking has been a problem for regulated carriers for as long as there have been laws governing commerce.
>
> The Interstate Commerce Commission has neither strength of authority nor manpower to enforce many of its regulations. Even with an aggressive compliance program, chances of an illegal trucker being apprehended on a given trip are less than three percent.
>
> It is impossible to determine with any degree of accuracy the amount of freight moving illegally . . .
>
> If illegal carriage has merely held steady, that percentage today would represent $1.5 billion in lost revenues. But all indications are that illegal trucking has grown and will continue to grow.
>
> Some experts believe as much as 25% of all trucks on the highway are violating either federal or state laws with respect to the type of freight they are carrying.
>
> There are many kinds of illegal transport: the exempt or private carrier hauling regulated commodities on the backhaul; illegal leasing operations; and regulated carriers hauling outside their authority, to name just a few.
>
> But the most rapidly growing and insidious of all illegal operations is the bogus agricultural cooperative. A recent confidential ICC staff study on the Commission's enforcement and compliance program expressed grave concern over the growth of these so-called "co-ops." In the past 10 years, the report says, co-ops have grown to such an extent that they are handling a "substantial portion of all freight shipped out of the Southwest."
>
> Two major pieces of legislation and a number of precedent-setting court cases affect co-operatives. The first, the Agriculture Marketing Act of 1929 provides for establishment of "co-operative associations" in which farmers may "act together in processing, preparing for market, handling and/or marketing the farm product . . ." of members. It provides that co-operatives must be operated for the mutual benefit of its members.
>
> James C. Johnson, professor of marketing and transportation at the University of Tulsa, writing in the Transportation Law Journal, said: "This point which appeared so patently clear when the Marketing Act was written in 1929 has become the focal point for a very controversial issue during the last decade."
>
> This feeling has been accentuated by the government's own use of co-ops. In 1966, shortly after the Northwest court decision was handed down, the Defense Department announced it would use co-ops whenever they could meet military requirements for safety and reliability and when their use would result in a lower overall cost to the government.
>
> Despite concerted protests from regulated carriers, DOD used co-ops extensively during the Vietnam War. At one time, DOD had more than 20 on its list of approved carriers. And many of these co-ops were used to haul dangerous explosives.
>
> University of Tulsa professor Johnson says he finds the DOD policy towards co-ops "lamentable."
>
> "It is ironic, for DOD, more than any other government agency, should know the value of having a strong common carrier system during a time of national emergency," he said.
>
> Paul Chagnon of the Military Traffic Management Command, said there are only four agricultural co-ops on the current DOD approved list, none of which are approved to carry Class A or B explosives. They are: Big Sky Farmers and Ranchers Cooperative, Midwest Growers, Tillamook Growers Cooperative and United Agricultural Transportation Association.
>
> Big Sky and Tillamook are both under investigation by the ICC. Chagnon said this doesn't make any difference. He said carriers are selected on the basis of the following criteria: ability to provide the service, cost and fuel economy. If all three factors are approximately equal, an effort is made to distribute shipments as equitably as possible among the available carriers.
>
> In the 12-month period ended September 30, 1975, the co-ops hauled the following tonnage for the Defense Department: Big Sky, 2815 short tons; Midwest Growers, 7886 short tons; Tillamook, 1759 short tons; and UATA, 6147 short tons. This accounted for approximately two percent of DOD's freight revenue bill for that period, with a value of $3.16-million.
>
> But the use of co-ops by the government is not limited to just the Defense Department. The traffic manager of a government department that ships millions of tons annually, told CCJ he is under "constant pressure" from superiors to use non-regulated carriers. Fear for his job made him request that his name be withheld. "It really appears that the government is trying to freeze out the regulated carriers," he said.
>
> Is there any solution? A number of states have effective regulatory enforcement programs, but where co-ops are concerned, they too are handicapped by the inability to determine whether a shipment falls within the elusive 15 percent.
>
> Even so, approximately 41 percent of the arrests made in one state's monthly roadcheck alone, according to Lawrence, involved co-op vehicles. The states get co-ops for failure to have a current state registration or for hauling regulated commodities under a trip lease agreement, since the ICC has ruled that trip-leasing regulated commodities by a co-op is illegal because the shipment cannot meet the incidental and necessary test.

I told Secretary Rumsfeld:

> While I know President Ford wants to abolish the Interstate Commerce Commission and create a chaotic condition in the motor freight business, you have the responsibility to enforce the law until it is changed.

Mr. Speaker, I believe the time for action is now—that the DOD should act responsibly and action should be taken to curtail illegal truckers.

CALL FOR ACTION ON HUMPHREY-HAWKINS BILL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. RANGEL. Mr. Speaker, the 94th Congress has been a productive one in many respects. One area in which we have not been particularly successful however, is in solving the unemployment problem which continues to face our country. While our override of the President's veto on S. 3201 has given those of us deeply troubled by the plight of those out of work, cause for hope, much remains to be done.

One of the most crucial pieces of legislation which remains on our agenda is the Humphrey-Hawkins bill. I fear that during the past months as unemployment rates inched downward somewhat, many of my colleagues came to feel that passage of H.R. 50 was unnecessary. Now, however, there is no excuse for inactivity. Unemployment has once again begun to rise and millions are suffering. The most effective way to put people back to work, and in the process, to enliven our sagging economy, is by adopting this legislation.

Critics of Humphrey-Hawkins have argued that the bill is inflationary and will, therefore, do more harm than good. However they have exaggerated the relationship between unemployment and inflation and have seemingly failed to recognize that unemployment is itself inflationary in that we lose the productive power of the idle potential manpower. Thus their position ignores firstly the humanitarian reasons for action, and second, sound economic teaching.

The following editorial by Coretta Scott King speaks eloquently for the passage of H.R. 50. I hope my colleagues will give it their most thoughtful attention:

[From the Consumer Federation of America, Washington, D.C.]

HUMPHREY-HAWKINS OFFERS HOPE TO UNEMPLOYED

(By Coretta Scott King)

> It probably requires someone who is black to fully comprehend the helplessness, loneliness, and anxieties of the unemployed. They are consciously and deliberately ignored as much as possible by the larger society. With the same design, great effort is made to hide the unemployed; to erase them from visibil-

ity and to blank out the constricted lives they live.

A very intense campaign has been underway to establish that no one really cares about unemployment. It is contended that only inflation engenders concern and fear. After all, it is said, 92.5 percent are employed and only 7.5 percent are unemployed. It does sound small put in these bland, cold terms, and there are no cries of anguish to disturb the sleep of the vast majority. But now put it another way: seven million, three thousand people, mostly adults, are without jobs. True, they eat—but not too much; they have some sort of shelter, some even have health care. But many, including children, are in chronic ill health, or are ill nourished; and are living a life of punishment and systematic abuse as if they had done some evil to this nation.

Psychologically, they are mauled even more terribly. Because they are what the English call "redundant", they are struck with the sledge hammer of inferiority. To be deprived is bad, but to be deprived among the secure and privileged is far worse.

The truth is millions of jobless living among us have lives of misery and we have the ability to change it. The truth is, we should change the condition out of our moral concern. But if that be too feeble, there is another reason. The sordid existence they endure today may be ours tomorrow.

Let us put the issue sharply:

We say the unemployed can be provided jobs at productive labor with decent wages. It has been done in other developed countries without curbing profits or liberties. Indeed, where some of the nations have encountered small increments of unemployment lately, it is due to the slowdown of our economy impinging on their's.

We say full employment does not entail galloping inflation. This period has demolished the myth of the "Phillips curve". As jobs moved down and prices went up, exactly the opposite of its predicted motion occurred. The auto industry dramatically threw hundreds of thousands out of work and simultaneously lifted the prices of its cars. The building trades have not seen such unemployment since the depression of the thirties, and yet the prices of houses are so high that home ownerships is once again the American dream for only 15 to 20 percent of the dreamers.

The most appalling waste in times of high unemployment is the human deterioration that idleness induces. The question that should haunt us most is that self-respect and self-confidence are drained away as enforced idleness keeps people from the sense of usefulness a job provides. How haunted are we by the presence of parents without employment who must retain the respect of their children? How haunted are we by the literally millions of young peoplle who are entering adulthood without any work experience or any possibility of finding a job?

Recently, the Humphrey-Hawkins Bill (H.R. 50—S. 50) has been introduced in Congress: my belief is that this wise piece of legislation would go a long way toward making the American dream—of fruitful work and a place in society—a reality. Passage would be in the American tradition that brought about the enactment of Social Security Legislation and Unemployment Compensation Insurance, which over the years has done much to provide dignity and a sense of security to many who would otherwise be leading lives of misery. The Humphrey-Hawkins Bill would place the responsibility on government to plan for jobs for all who are willing to work:

1. The President is directed to shape both short-term and long-term plans for a full employment economy and submit the plan to Congress. The President's budget must be tailored to produce full employment.

2. Most jobs would continue to be provided by private business. But if the economy falters, there would be permanent provision for public service and public works jobs, and special grants to cities and states.

3. The Federal Reserve Board must report to the President and Congress on the plans it will follow in such areas as setting interest rates and the money supply.

4. There would be special programs to help so-called depressed areas, and to assist young people completing school who have to find jobs.

5. The Council of Economic Advisers must keep an eye on the cost of living and be prepared with recommendations to keep prices down if inflation threatens.

For millions of Americans, the current governmental policies have substituted welfare for work. The Humphrey-Hawkins Bill, if enacted, would put the resources of the federal government behind the efforts to reduce unemployment to 3 percent in four years.

Everyone has a sense that the seams of society are under intense strain. The powers that be are engaged in a substantial gamble. They may succeed for a time in diverting attention from unemployment and its solutions. But nothing would so resolve our national strife as the elimination of competition for jobs.

What this country needs, now and permanently, is a change of heart and an iron determination to provide work for all. It is long since due that all Americans, black and white, young and old, men and women, are able to earn an adequate living for themselves and their families.

STRONG OBJECTION TO FPC NATURAL GAS PRICE RISE

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. HEINZ. Mr. Speaker, I object strongly to the decision announced Tuesday by the Federal Power Commission that would result in massive price increases in the price of natural gas from existing wells, and applaud the Federal court panel decision to stay the action until the decision can be fully studied.

The court's decision will save consumers about $4.1 million a day.

Mr. Speaker, I believe the FPC decision to raise prices to be both without justification and without purpose.

If, as the FPC says, it is trying to stimulate production of new natural gas sources, then it should raise only the price of new gas—that is, gas discovered after a date today or in the future.

Instead, the FPC has raised the price of a great amount of gas that has already been discovered and is already being produced. Not only will that do nothing to stimulate discovery, it will serve only to hit the consumer directly in the pocketbook.

Nowhere has the FPC judged the impact of its decision upon the gas user who must live on a fixed income. Nowhere has the FPC judged the indirect impact of its decision—that is, the impact on the price of goods and services that depend upon natural gas for the production proceess.

Mr. Speaker, the FPC has attempted to add at least $1.5 billion to the national fuel bill. It would only mean new prices, not new gas, and it must be stopped.

IRISH AMERICANS WANT PEACE IN NORTHERN IRELAND

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. WOLFF. Mr. Speaker, as one who has been privileged for many years to work with Irish Americans in my home district of Queens and Nassau Counties in New York, as well as leaders of the Irish-American community across our Nation, I feel I can speak for them in this sense—no group in the world more desires peace and justice to be restored to the troubled land of Northern Ireland.

Today I am pleased to present for the Record the words of the Hon. John M. "Jack" Keane, national president of the Ancient Order of Hibernians. President Keane has presented very forcefully and clearly the views of many millions of Irish Americans on the situation in Northern Ireland, and what can be done to alleviate the violence there.

Finally, it gives me great personal pleasure to include in today's Record an account of the appointment of my old and dear friend Martin "Matty" Higgins of Nassau County as national chairman of the Freedom for All Ireland Committee.

I know that the concern for human rights for all Irish men and women will be translated into positive accomplishments in behalf of peace in Ireland by Matty Higgins and Jack Keane.

The articles follow:

[From the National Hibernian Digest, July–August 1976]

National President Renews Peace Initiative In Letter to New British Prime Minister

Rt. Hon. James Callaghan,
Prime Minister, Parliament House, Westminster, London, England

Mr. Prime Minister: Approximately two years ago, and with a feeling of cautious optimism, my predecessor, Hon. Edward J. Fay of Pittsburgh, wrote to your predecessor, Rt. Hon. Harold Wilson, suggesting that the best hope for peace in Ireland lay in the ultimate disengagement of the English presence from Irish affairs. Our optimism was based upon the fact that, whilst leader of Her Majesty's Loyal Opposition, he had suggested a definite 15-year disengagement process.

Unhappily our optimism was short-lived. Mr. Wilson's government fell into the same trap as his Tory predecessor's. Lacking any firm Irish policy, H.M. Government seeks short-term military solutions to what is essentially a political problem.

The recent introduction of more SAS troops into those six of divided Ulster's nine counties known as "Northern Ireland" is an event which the present generation of the Irish people regard as a virtual return of the "Black and Tans." Such terror tactics did not pacify Ireland in the 1920's, nor can they be expected to work today. All that this accomplishes is to violate the truce, aggravate the situation, make England again liable to judgment before the European Commission on Human Rights at Strasbourg, and strengthen the resolve of the nationalist community to be free. We suggest that this policy is unworthy of any government calling itself "civilized."

Rather than piecemeal military responses to the sporadic symptoms, it would be far better to seek to cure the disease itself by removing the ultimate cause of the malady, i.e., remove the presence of a foreign body, English influence, from Ireland. Such removal ought not be precipitous, but rather a responsible, orderly, phased withdrawal, coupled with a general amnesty for all political prisoners. The framework for this activity must be an English declaration of intent to be quit of Ireland by a specific date; only under this condition can we reasonably expect all Irish parties to negotiate for a new Ireland rather than seek to perpetuate the artificial differences which have divided a minority from the majority in the past.

Charging that American support of the "Provisional" IRA is responsible for the current conflict is nothing more than a vain search for a scapegoat (regarding the New York Times article alleging a U.S. Intelligence report claiming such major American arms and financial support for the IRA campaign, a recent letter from the U.S. Deputy Assistant Secretary of Defense (International Affairs) denies the existence "of any U.S. Military Intelligence Report on this subject.") You avoid coming to grips with the real cause of the conflict and you ignore the real reason for the success of the "Provos" of the IRA. The real cause is English mis-government in Ireland and the activity of a politically partisan British Army whose presence is so unnatural as to in itself cause continued conflict. The real reason for the success of the "Provisional" Irish Republican Army is not any amount of American or foreign support, but rather that they have the support of the minds and hearts of the local people in Ireland, particularly in that two-thirds of the Province of Ulster which still feels first-hand the weight of English rule. Until you admit these facts to yourself, you and Ireland will remain trapped in an ever deepening cycle of violence and retribution. You will be able to find no English solution to the Irish problem because England is the problem.

Recent pronouncements against American assistance for the suffering victims of the current troubles merely signals to us that Her Majesty's Government is gearing up for intensified conflict in Ireland and warns us that we must redouble our own efforts if we are to be able to give succor to the innocent victims of such an erroneous policy. Rest assured that Americans generally, and Irish America particularly, recognize that we are our brother's keepers. Our response to the World War II "Blitz" was "Bundles for Britain;" our response to the present suffering is through the Ancient Order of Hibernians' Prisoners' Dependents' Fund and other legitimate relief agencies.

We pray that you will reconsider your Irish policy lest future historians compare your government's handling of the Irish Question with the way Lord North's government handled the American Question for King George III two hundred years ago. It would be much better for all concerned if you were to take as a model the statesmanship of Charles DeGaulle, who both preserved the honor of France and the peace of the Mediterranean whilst disengaging from Algeria. We are enclosing an abstract of the peace plan proposed two years ago for your consideration.

Please believe that we are motivated by a genuine desire to see not only peace and freedom in Ireland, but also the reconciliation of our peoples, which events Partition and foreign occupation prevent.

With a sincere prayer for peace and justice, I am,

Very truly yours,
JOHN M. "JACK" KEANE,
National President.

HIGGINS APPOINTED NATIONAL CHAIRMAN

National President John Keane announces the appointment of Martin Higgins, Nassau County, N.Y., as National Chairman for the Freedom for All Ireland Committee.

Mr. Higgins will be succeeding Mr. Michael Delahunty, who resigned because of business and his newly elected position as Commissioner of Montclair, N.J.

THE SUDAN: A MODEL FOR PEACE AND DEVELOPMENT IN AFRICA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. BONKER. Mr. Speaker, our country has recently been honored with a private visit from President Gaafar Mohamed Nimeiri of the Democratic Republic of the Sudan, a man who has done much to reform his country and to lead it in actively undertaking the role of intermediating for peace within Africa and the Middle East. His visit has given many of us insight into his domestic achievements and his regional and international aspirations for peace and harmony. I believe we will do well to reflect on some of these, to see what meaning they hold for us in the United States, and to ponder over what we can do to assist this man and his nation achieve the human objectives they have set for themselves both in their own interest and in the interest of humanity at large.

President Nimeiri's visit was motivated by the desire to demonstrate good will to the Government and people of the United States, to exchange views on major regional and international issues, and to explore, broaden, and deepen the bases of cooperation, especially in development, for which he emphasizes the role of the private sector. To achieve this objective, President Nimeiri brought with him a rather large delegation compromising ministers from the fields of foreign affairs, finance and national economy, agriculture, education, industry, and transport and communications.

The style adopted by the President and his delegation was unconventional and judging from the reports, most effective. While giving Washington its due priority and emphasis; meeting with President Ford, the Senate Committee on Foreign Relations, the House Committee on International Relations, the Department of State, and a number of other Federal Government institutions, they visited eight States, meeting with State government officials and leaders of the private sector. Both in Washington and throughout the States, the visit is seen as a success not only because of its constructive results, but also because of the reported openness and sincerity with which President Nimeiri and his delegation approached our country and the enthusiastic reception they got everywhere they went. From what we have come to know about President Nimeiri and his country, this positive interaction is in large part due to the message the President brought to the United States about the developments inside his country and his views on various regional and international issues.

Before President Nimeiri took office in 1969, the country was viewed by many as a friend of the West, but domestically, there was a consistent contradiction of the meaning of Western democracy that it was supposedly being crippled. Family identity, tribal affiliation, religious conviction, and fanatic sectarianism determined one's position in the political hierarchy. The non-Arab South was politically economically, and socially subjugated to the Arab-North. The outcome was the southern violent opposition that triggered off a 17-year civil war which caused great social disruption with much damage to life and property and paralyzed economic development throughout the country. President Nimeiri did much to correct these inequities. He gave the rural populace a direct political voice and removed the religious and tribal middlemen who had abused the voice of the people they had purported to represent. The disparity of the southern situation ended with the highly acclaimed Addis Ababa agreement which gave the South regional autonomy within national unity. It is the first and only peaceful settlement of ethnic conflicts in a continent permeated by similar problems. This peace settlement which came after a long indecisive war is a model not only for Africa but indeed for the world.

Having successfully mobilized the rural population and satisfied the regional southern aspirations, the Government was assured of peace, unity, and stability and could then embark on the constructive task of accelerating economic and social development. The Sudan has always been known for its immense natural resources, especially pronounced in agriculture and livestock, but also extending widely into fishery, forestry, wild game, and minerals. The Government wisely decided to give priority to the development of agriculture and agri-industry where the potentials are greatest and the needs urgent in view of the impending world food crisis, and the particular demands of the Middle East. Conservative estimates quantify the amount of arable land in the Sudan at 200 million of which less than 10 percent is being actively utilized.

The country is determined to make a breakthrough in development and has enacted appropriate legislation to create a climate conducive to private investment, both domestic and foreign. The Development and Promotion of Agricultural Investment Act stipulates a number of guarantees, concessions and exemptions for investors in the field of agriculture. Exemption of custom duty is granted for the import of necessary machinery and equipment. Concessions are granted in the form of unrestricted transfer of capital and profits. Business profit tax is exempted for periods varying from 5 years upwards. The Development and Encouragement of Industrial Investment Act provides for tax holidays, protection of sales, and a number of other inducements. It also provides for tax exemption and for the free transfer of capital and profit.

Perhaps the most striking feature of the development capability of the Sudan is that the country has emerged as a model for tripartite cooperation with the the Middle Eastern capital and agriindustrial technology. Oil-rich Middle Eastern countries are contributing generously to the agricultural development of the Sudan and the newly formed Arab Authority for Agricultural Investment and Development has chosen the country as it first model for development cooperation.

An important feature of the development effort in the Sudan is that it aims at adjusting the imbalances existing between the urban centers and the rural areas and between the various regions of the country. Nearly every area and village in the country is reported to be witnessing the profits of development and the process continues to permeate the grass roots.

President Nimeiri's domestic achievements are matched by his moderate and constructive regional and international role. His foreign policy aims at maintaining friendly relations with all nations. He is particularly intent on good relations with his neighbors. Wherever there is conflict, he has first looked to peaceful negotiation. He was the first and has remained the only Arab leader to publicly support the Second Sinai Agreement. Earlier he had invited all Sudanese Jewish citizens who had left in reaction to the Middle East conflict to return with the guarantee of full rights of citizenship. Under his leadership the Sudan has become a country of nondiscrimination on any grounds including race or religion. Sudan was the first Arab country to restore diplomatic relations with the United States after they had been broken, following the 1967 war in the Middle East. His efforts to mediate over the Eritrean conflict in Ethiopia continue. He has many times used his good offices to secure the release of Americans, Canadians and Europeans, detained by the Eritreans.

Despite his achievements at home and efforts on the international level, President Nimeiri has been a target for the forces of extremism, both left and right. In 1971, the Communists, who had infiltrated his system, tried to overthrow the Government of the Sudan. After 3 days of uncertainty, he emerged in control and even more popular with the Sudanese people, whom I understand are by disposition anti-Communist government. The President was subjected to severe attack from the Communist bloc. While relations have significantly improved, they have remained rather reserved and cautious. President Nimeiri has survived at least three major coup attempts which have been engineered singly or jointly by the Communists and/or the fanastic Muslim rightists.

As the recent events in which foreign elements attempted to overthrow the regime have shown, it is no longer easy to topple the system. The defeat of this latest coup attempt should be interpreted by us as a clear indication of the strength of the President's leadership and the country's mature purpose to proceed with its enormous development opportunities that the Sudan has.

The Sudan has joined with Saudi Arabia and Egypt in cooperation not only against the destructive forces in the area but also in united efforts for economic and social development. Prior to his visit to the United States, President Nimeiri met with King Khalid and President Sadat to consolidate this strategic cooperation. This is a constructive alliance to promote the principles which we in the United States share with these three countries.

I believe that many factors continue to make the Sudan a country we ought to look at with favor as our friend. It is the largest country in Africa, an Afro-Arab microcosm of the continent, centrally placed at the borders of eight countries, pursuing a domestic policy of social justice that has brought harmony to many diverse elements in the country, and determined to play a constructive role in promoting peace and understanding in the region and in the world. It has now been over a year since our colleague, Senator PERCY, entered in the CONGRESSIONAL RECORD a positive statement on the opportunities available in the Sudan for international cooperation in development. President Nimeiri's visit should give us renewed incentive. For this fast achieving nation, time is of the essence and I believe it is time to act.

TEN GOVERNORS ASK FOR VETO OVERRIDE ON S. 391—COAL LEASING BILL

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. RONCALIO. Mr. Speaker, it is vitally important, not only for the Rocky Mountain States, but for all the Nation, that the Congress override the President's veto of S. 391, the Federal Coal Leasing Amendments Act of 1975.

I would like to share with my colleagues a letter sent to the President by Montana Gov. Thomas L. Judge, acting in his position as chairman of the Western Governors' Regional Energy Policy Office—WGREPO.

Writing for himself and also on behalf of the Governors of Arizona, Colorado, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Utah, and Wyoming, Governor Judge expresses "extreme concern and dissatisfaction" with the President's veto.

Governor Judge's letter clearly and accurately makes the case for S. 391 and its importance for the entire United States. And he points out that the 10 Governor members of WGREPO unanimously "endorse and fully support affirmative overriding action by Congress."

I also include a letter from New Mexico Gov. Jerry Apodaca expressing his strong support for the overriding of this veto.

The letters follow:

STATE OF MONTANA,
Helena, July 23, 1976.

Hon. GERALD R. FORD,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Your veto of S. 391, the Federal Coal Leasing Amendments Act of 1975, is most disappointing.

The increase in the state share of revenues generated by the leasing and extraction of Federal minerals and the modernization of the Federal coal leasing procedures provided in this legislation would have accomplished two objectives.

First, state and local governments would have received financial assistance to initiate advance planning, the construction and maintenance of public facilities, and the provision of services needed by the influx of people expected to accompany increased Federal coal development. As Senator Lee Metcalf so accurately and eloquently has said (CONGRESSIONAL RECORD, June 21, 1976):

"No other substantial Federal assistance is available to the coal-producing states to deal with predicted population increases triggered by Federal coal development. The new financial resources provided in S. 391 could spell the difference between, on one hand, the chaotic disintegration of a stable life-style dominated by agriculture, together with all the social ills, and on the other hand, an orderly transition to an urban or semi-urban lifestyle.

Your agreement that the Federal government should provide assistance to the states by increasing our share of Federal leasing revenues from 37½ per cent to 50 per cent, as stated in your veto message to Congress, is appreciated.

Second, the Federal Coal Leasing Amendments Act of 1975 has been designed to eliminate the speculative holding of Federal coal leases, assuring development of Federal coal on a timely basis and in a manner beneficial to the public. Nearly sixteen billion tons of federal coal have already been leased in the western states, but only 242 million tons have been developed.

Conservative estimates indicate that the tonnage available under existing leases could support over fifty 2,000 megawatt power generating stations for forty years. Nonetheless, the Department of Interior has renewed coal leasing without establishing the need to do so and without conducting environmental studies to determine which coal reserves already leased are acceptable for mining. By requiring that federal coal leased by the Department of Interior be produced within ten years and the holders of non-produtive leases be ineligible to receive additional leases, S. 391 assures the production of coal to achieve national energy independence.

With all due respect, Mr. President, I submit that the objections in your veto message of S. 391 are unfounded.

In your July 3d statement, you said that S. 391 "would insert so many rigidities, complications, and burdensome regulations into the Federal coal leasing procedures that it would inhibit coal production of Federal lands, probably raise prices for consumers and ultimately delay our achievement of energy independence."

Unnecessary and duplicative regulations at all levels of government clearly should be eliminated. But regulations designed to serve efficiently actual public needs must continue to be established and employed.

You state that a minimum royalty of 12½ per cent based on the value of the coal is more than is necessary in all cases. This rate, however, would eliminate inequities noted by the General Accounting Office in its study of royalties. Increasing the minimum royalty with a concurrent increase in the state share would have more evenly distributed the costs of coal development. The Secretary of Interior would still retain discretionary authority to reduce this royalty to encourage underground mining and the conservation of coal.

Legislation enacted by the State of Montana last year increased severence taxes on coal from 10 to 30 per cent, with production continuing to expand. Outer Continental Shelf oil and gas royalties of 16½ per cent have been established with no indication that leasing and production have been discouraged. A minimum royalty as set forth in S. 391 will not render Federal coal uneconomical to mine, provided that the national need truly exists.

The undisputed environmental value of the western states, recognized by numerous presidents and the Congress for many years, more than justifies the requirement of S. 391 for reclamation planning.

Specific provisions, requiring lease termination when production is not attained within ten years and the submittal of a mining and reclamation plan within three years from issuance of a lease, would not frustrate accelerated Federal coal development. On the contrary, these provisions would insure it. Production requirements in S. 391 are less stringent than Interior's new regulations, but admittedly do not contain language which allows an extension to meet specified production levels. These statutory provisions discourage speculative holding of Federal mineral leases. With the mining industry presently stating that at least four to six years lead time is necessary for the purchase of required equipment associated with site-specific mining plans, the above time sequence does not appear restrictive.

Contrary to another of your objections, the antitrust review requirement and the deferred bonus payment on one-half of the leased acreage would strengthen competitive aspects of the coal industry and hold down consumer prices. Delays caused by the Attorney General's review of proposed lease sales would be minor compared with those caused by lengthy litigation. Smaller companies would be encouraged to participate in the competitive bidding process, knowing that the deferred bonus payment system requires less front-end capital so easily available to the larger coal and muti-national oil companies.

I view the provisions of this legislation allowing the states' review and comment on proposed lease sales within National Forests as essential. The maximum eight month delay resulting from this prerogative is negligible when compared to the potential long range effects on our states' mining of federal minerals in National Forests.

You contend, Mr. President, that the requirement of public hearings is excessive, yet leasing regulations issued in May, 1976, by Interior Secretary Kleppe require the opportunity for the same number.

Comprehensive Federal exploration of Federal coal reserves is necessary to determine the actual value of tracts proposed for lease sale, to estimate the reserves for establishing logical mining units and specifying advanced royalties. It seems logical that the Federal Government should not depend on industry to furnish this data. The U.S. Geological Survey has recognized the need for this program in projecting a three-fold expansion by 1979 of its coal reserve base investigations.

In short, I view S. 391 as constructive, progressive, and fair legislation for the purpose of correcting mismanagement of the coal resources owned by the people of this nation. Recent comments by Secretary Kleppe before the American Coal Association noted, in a manner contradictory to his testimony before Congress and your subsequent veto action, that the Federal Coal Leasing Amendments Act of 1975 would "... not seriously hamper the administration's schedule for coal development.". Denial of desperately needed financial assistance to mitigate the impacts of Federal actions because of an inexplicable administration reversal of this view is a tremendously painful price to ask of the western states and the areas of natural splendor entrusted to our care.

In conclusion, Governors Castro of Arizona, Lamm of Colorado, Exon of Nebraska, O'Callaghan of Nevada, Apodaca of New Mexico, Link of North Dakota, Kneip of South Dakota, Rampton of Utah, and Herschler of Wyoming join me in expressing our extreme concern and dissatisfaction with your veto of S. 391. We endorse and fully support affirmative overriding action by Congress.

Sincerely,

THOMAS L. JUDGE,
Chairman, Western Governors' Regional Energy Policy Office.

STATE OF NEW MEXICO,
Santa Fe, July 20, 1976.

Hon. TENO RONCALIO,
U.S. Representative, State of Wyoming, Longworth House Office Building, Washington, D.C.

DEAR REPRESENTATIVE RONCALIO: As Governor of one of the nation's largest energy producing states, I was greatly distressed to learn of President Ford's recent veto of S. 391, the Amendments to the Mineral Leasing Act.

New Mexico strongly supported the passage of this bill. We particularly favored those provisions which would give increased mineral royalty return to the states, and would allow those revenues to be expended in meeting the energy impact needs of those states.

As you may know, the northwest corner of our state is already experiencing severe impacts from rapid energy developments. The funds, that would be made available through implementation of S. 391, could help finance the planning and construction of public facilities and services that are urgently needed to prevent boom town situations from occurring.

New Mexico is committed to helping the nation meet its energy needs. However, we feel there should be a parallel commitment at the federal level to ensure, that as our mineral development proceeds, we are given adequate financial assistance to deal with the affects of this development. Enactment of S. 391 would be a responsible way of achieving this goal.

I strongly urge you and your colleagues to override the Presidential veto of S. 391 when the issue is brought back before the Congress.

Sincerely,

JERRY APODACA,
Governor.

FINANCIAL DISCLOSURE STATEMENT

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. COHEN. Mr. Speaker, this year, as I have in the past, I am making public a summary of my net worth.

While the figures listed below do not necessarily testify to my financial acumen, they do reflect my belief that the public is entitled to know the financial holdings of those individuals in whom it has invested its trust. This knowledge can help the public determine if that trust has been violated by the voting behavior of the officeholder. In my view, one of the most effective ways to protect the public interest is to make public one's private interests. With that thought in mind, I am inserting in the RECORD the following list of my assets and liabilities:

WILLIAM S. COHEN—JULY 29, 1976

Assets:	
Real estate—Equity	$34, 681
Personal Savings	4, 900
Cash value on life insurance	1, 880
Stocks	none
Bonds	none
Household furnishings	3, 000
Automobiles (2)	6, 500
Total	50, 961
Liabilities:	
Loans outstanding	2, 000
Net worth	48, 961

CONGRESS LOSES A HEALER, FRIEND, AND COUNSELOR

HON. JOSEPH E. KARTH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. KARTH. Mr. Speaker, Congressmen come and go, but Capitol Hill medical men endure.

In fact, I suspect that the Members of Congress who outlast our medical experts do so only as the result of the ministrations, bonesettings, pills, diets, organ transplants, exercise regimens—particularly golf—rejuvenation formulas, psychoanalysis, legislative counsel, and lovelorn advice that we obtain from our naval doctors and medical men assigned to the Capitol.

A man who combined all the aptitudes cited above and many more, one of the most durable and valuable followers of Aesculapius under the Capitol dome, will—we regret to learn—retire from the Office of the Attending Physician at the end of July.

John McGuiness, after 22 years of treating our scrapes and bruises, our fractures of bones and egos, blood and constituent pressures, has decided to seek a less hectic life.

Mr. McGuiness will be deeply missed by the Members of this House; he was virtually an institution when I and other Members made our first tentative entrance on the congressional scene 18 years ago. We are indebted to him in many ways: for his professional skills from which so many of us have benefited, his friendliness, courtesy, patience and interest in the problems we have had; and his medical efficiency in helping to get us back on the floor of Congress in order to discuss the AMA and a national health insurance program.

John McGuiness has served us well, but I also want to note that he has also served with distinction in the U.S. Navy both in wartime and peacetime.

Following his Navy enlistment in August 1942, McGuiness moved upward in rank, achievement and prestige through the hospital corps and became a chief hospital corpsman in December 1952.

McGuiness came to know well my old friends, the rough-and-tough miracle-workers of the Naval Construction Battalion, the famed Sea Bees, having served with them in the North Atlantic. His service has also included tenures at the New London, Conn., Naval Base, the Reserve Fleet, at Charleston; and assignments aboard the U.S.S. *Yellowstone* and at the Naval Research Institute, as well as at posts in Naples, Italy, and Washington, D.C.

Members of Congress who have spent enforced periods, as I did not long ago, at the Bethesda Naval Medical Center have nothing but the highest admiration and esteem for the knowledge, skills and efficiency of naval medicine. Mr. McGuiness, in my opinion, reflects all that is most professional and farsighted in that service's research and practice.

A great many of us who are presently in Congress and a great many who are no longer here share this expression of appreciation and gratitude to John McGuiness and wish him the happiest and most fruitful retirement.

A SIGNIFICANT CHANGE IN POSTAL REGULATIONS GOVERNING BUSINESS REPLY MAIL

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. FREY. Mr. Speaker, business concerns in our districts received a letter in June of this year notifying them of a "significant change" in postal regulations which govern the use of business reply mail.

The Postal Service, for once, was correct. Their sweeping revision of the business reply mail rate schedule is indeed "significant"—especially for the small to medium size business.

The following chart emphasizes the differences between what the Postal Service used to charge for business reply mail and what they will charge when the regulations go into effect September 12. Two examples draw the contrast: a large multi-distribution operation and one of my constituents who brought this ridiculous matter to my attention:

CHART SHOWING NEW BUSINESS REPLY MAIL COSTS

EXAMPLE A: A NATIONWIDE MULTIDISTRIBUTION OPERATION WITH A MONTHLY MAIL OUT OF 200,000 PIECES WITH A 10,000 RETURN (5 PERCENT)

	August	September	October	January
Fee	None	$30.	None	$30.
Initial postage	$26, 000	$26,000	$26,000	$26,000.
Reply pickup:				
System I	500			
System II or III		$25 deposit, $350 or $1,200.	No deposit, $350 or $1,200.	$75 deposit, $350 or $1,200.
Total	26, 500	$26,405 or $27,230.	$26,350 or $27,200.	$26,455 or $27,230.

EXAMPLE B: ONE OF MY CONSTITUENT'S WHO MAILS OUT 100 PIECES A MONTH AND HAS A 10 PERCENT RATE OF RETURN (10 PIECES)

	August	September	October	January
Fee	None	$30	None	$30.
Initial postage	$13.00	$13	$13	$13.
Reply pickup:				
System I	0.50			
System II or III		$25 deposit plus $0.35 or $1.20.	No deposit plus $0.35 or $1.20.	$75 deposit plus $0.35 $1.20.
Total	13.50	$68.35 or $44.20.	$13.35 or $14.20.	$118.35 or $44.20.

NOTES

System I: former schedule which charged $0.05 per returned article.
System II: Sept. 12 regulation permit the user to leave a $75 advance deposit and pay $0.035 per returned article or System III: the user may pay $0.12 per returned article and forgo the deposit.

Let me try to explain the rate changes to you. The Postal Service informs me that the Postal Rate Commission spent 3 years on these regulations and believe me, they look it.

Essentially, the old system required a 13-cent stamp on the initial letter and a nickle to get the reply out of hock. You can see that the old system then cost the large operator $26,500 and our small operator $13.50.

Enter the new regulation: a $30 permit fee for all users big and small and a choice of reply pickup payment systems. The choice breaks down to a $75 "advance deposit" fee and a separate charge of 3.5 cents per letter returned or a straight 12-cent charge per letter returned.

What is interesting is that at first the Postal Service wanted the $30 in September and again in January since it was for a year. And, they wanted the same double payment with the $75 advance deposit—if the user went that route. Recognizing the unfairness of that idea, the Postal Service backed down and revised their decision so that the $75 is still due in January but only $25 is due in September. The $30 double payment stands.

The question in my mind is how they arrived at the magical $75 figure for and then decided to apply it to all users equally. My constituent will take 250 months to use up the deposit at 3.5 cents per letter—yet it is due once a year. The large operation will use the $75 deposit account four times in 1 month—and they pay by the year also.

Also note that the costs to the big operator hover around $26,500 before, after, and during the implementation of the new regulations. The small competitor will jump from a mere $13.50 to a choice of $68.35 or $44.20 to a choice of $13.35 or $14.20 and then back up to a choice of $118.35 or $44.20. That is an even break? That is discriminatory!

To put it another way, it cost the big company $318,000 from September 1975 until August 1976 to mail out their 200,000 pieces of mail per month and get back 10,000 pieces of mail. Keeping the initial letter/reply figures, it will cost them either $316,015 or $326,550 between September 1977 and August 1977.

It cost my constituent $162 from September 1975 through August 1976 to mail out his 100 pieces of mail per month and get back 10 pieces of mail. Assuming his business does not grow, it will cost him either $320.20 or $230.40 between September 1976 and August 1977.

It is incomprehensible to me that the Postal Service did not, during their 3 years of study, examine the impact of these rate schedules on different kinds and sizes of businesses.

But then again, maybe they did. As my constituent said in his letter to me, "A pro-rating of these newly imposed charges for the period of September 12, through December 31, would certainly be a tremendous help to many of us, I am certain, and a narrowing of the charges for service between those who do not use a $75 deposit in 3 years and those who may run that much a month would be appreciated.

I am sure that the Postal Service will go bankrupt no sooner, with this consideration.

THE SIGNIFICANCE OF THE DIVESTITURE ISSUE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. ARCHER. Mr. Speaker, the columnist Patrick Buchanan in the Chicago Tribune of June 22, 1976, wrote a perceptive column on the divestiture movement and the long-range significance of this movement. Mr. Buchanan probes into the economic motivations of some of the proponents of divestiture and relates them to the Sun Belt prosperity.

I wish to commend the article to the attention of my colleagues:

[From the Chicago Trubune, June 22, 1976]

BIG OIL A BURNING ISSUE IN U.S. SUN BELT

(By Patrick Buchanan)

WASHINGTON.—Voting 8–7, the Senate Judiciary Committee has approved legislation dismantling America's 18 largest oil companies. Republican minority leader Hugh Scott of Pennsylvania cast the decisive vote to give the measure a floor hearing.

The obvious question is why. Why chop up the United States companies when the nation is more dependent than ever on foreign oil? Why weaken the capacity of the American firms to negotiate with the oil ministers of the Persian Gulf?

Breaking up the companies would mean duplication of existing management structures. Tens of millions of dollars and years of time would be wasted in lawsuits in federal court. The smaller companies that resulted would never be able to amass the profits or accumulate the investment capital needed to bring the U.S. back toward energy independence.

Again, why? The oil industry is less concentrated, more open, than steel, aluminum, or copper. In autos, the Big Three—GM, Chrysler and Ford—are far more dominant in their market than Exxon, Mobil and Texaco. Not a shred of evidence has been produced to prove that dismantling the oil companies would mean lower fuel costs or reduced prices at the pump. Why, then, single out Big Oil for political assault?

Because, crows Sen. Birch Bayh [D., Id.], "If there's one symbol of the Establishment ripping off the people, it's the oil industry." Smashing the oil companies, then, while it makes no economic sense, does have political appeal. Especially for the national Democrats, who, like their cousins in the British Labor Party, are long on ideology and short on economic literacy.

But within the bosom of Northern liberals, there is another motive for this attack upon Big Oil. This legislation is the first-strike weapon against the heartland of Sun Belt prosperity.

In the mid-May issue of Business Week, there was an insightful piece titled "The Second War Between the States." Details within were statistics of how the nation's lead in population, income, and manufacturing growth has passed, dramatically, out of the North and Northeast into the South and Southwest. Businessmen from the Northern states, fed up with environmental harassment, antibusiness rhetoric, political attacks, regulatory interference and exorbitant taxes, are pulling up stakes and fleeing into the Sun Belt where they are welcomed with brass bands.

Older Americans are picking up their Social Security checks and pensions earned in business and government up North and spending those checks and their retirement years in the warm and air-conditioned communities from south Florida to southern California. Military spending and the federal payroll go disproportionately to the states below the Mason-Dixon line. America's investment capital is following the same trail. The North is now running an annual balance-of-payments deficit with the rest of America.

And while the northern cities decline and decay, oil is the major industry leading the Sun Belt into the new prosperity. Ergo, the attacks, the liberal determination to break up the oil companies.

Nevertheless, this punitive legislation, tinged with malice and envy, singling out one industry, is certain to divide the country and invite retaliation. Texas, Louisiana, and California congressmen, witnessing this Northern assault upon the industry on which their prosperity hangs, are unlikely to view with enthusiasm extension of federal bailout guarantees to the city fathers of New York.

If this legislation is passed by Congress and survives a presidential veto, it would surely be marked as the Battle of Bull Run in an economic War Between the States, a war in which all Americans would suffer.

CARTER WOOS THE ECONOMIC ELITE WHICH HE CRITICIZES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. DERWINSKI. Mr. Speaker, as speculation increases as to what, if anything, Jimmy Carter stands for, the press is methodically attempting to determine the candidate's views on a host of subjects. One such effort by Frank Starr, columnist for the Chicago Tribune and former Tribune bureau chief in Moscow, was included in the July 28 Tribune and dealt with the recent visit by Mr. Carter to a New York City business group:

CARTER WOOS THE ECONOMIC ELITE WHICH HE CRITICIZES

(By Frank Starr)

WASHINGTON.—It seemed a bit strange to those of us who had spent months hearing Jimmy Carter rail against the "economic elite who never stood in line looking for a job."

Here he was, the fellow who had said only a week earlier that "too often, unholy, self-perpetuating alliances have been formed between money and politics," now standing before 50 select business leaders in New York's posh 21 club saying, "I want to be a friend of business."

Now the distinctions are getting finer and more carefully drawn.

The same Jimmy Carter who had been criticizing the export of American jobs abroad was saying, "I would not do anything to subvert or minimize foreign investment. . . . I am basically committed to . . . international trade."

Of course, those two sentiments may not be mutually exclusive. But their mutual accommodation needs clarifying. He conceded to the business men that overseas job losses might be a problem, but added: "In my own mind it might be a tossup; we probably benefit as much as we are damaged." To blue-collar voters it's no tossup, and he never told them it was.

To the business leaders he vowed [or seemed to vow] to help overcome the nasty image problem dogging multinationals and big oil. "This will be an important responsibility of mine, and I won't let you down," he promised.

Certainly some of the business community were pleased by what they heard. Carter's disinclination to abolish the foreign tax credit was reassuring; his doubt about the deferral of taxes on foreign profits pending their repatriation was not especially upsetting.

But there remain plenty of business people who consider Carter a liberal on economic issues, and perhaps with justification. While that generalization may not be enough to sour them, some of the specifics might.

One proposal that would cause a good bit of satisfaction among these international traders calls for having one of their own near the President's ear. And a good case for it can be made.

The idea is for an adviser, a man of stature and experience, on the White House staff to study and shape international trade policy and to bridge the gap between the secretary of state and the secretary of the treasury—both of whom may claim international trade because neither has clear responsibility for it.

The idea is not new. Chicagoan Peter G. Peterson once did the job effectively in the Nixon White House until the palace guard found him too effective. So, with a crack about being unable to click his heels, he went to Lehman Brothers, the New York investment bankers, to make money instead.

But like other positions of authority, this one is only what its holders make of it. Peterson was succeeded by Peter Flanigan, who eventually vanished; the job, chairman of the Council of International Economic Policy, is now vacant and overseen by Presidential adviser William Seidman.

There is currently no one who could have interceded, for example, in the recent dispute between Treasury Secretary William Simon and Secretary of State Henry Kissinger over Kissinger's now-dead proposal for a resources bank to aid Third World countries.

Carter pledges a strong commitment of compassion and realism in sensitive relations with the Third World. He has also pledged a smaller and less powerful White House staff, as well as a better-employed cabinet—a promise Peterson, ironically, said he listened to "with great interest."

At 21 Carter did a lot to assuage business fears, and choosing one of those leaders for that job would do a lot more. Then he can go back again and soothe the labor folks he scared.

OTTINGER AUTHORED AND COSPONSORED LEGISLATION PASSED BY THE HOUSE DURING THE 94TH CONGRESS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. OTTINGER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following list of legislation authored and cosponsored by me which has passed the House during the 94th Congress:

OTTINGER AUTHORED AND COSPONSORED LEGISLATION PASSED BY THE HOUSE OF REPRESENTATIVES, 94TH CONGRESS

H.R. 28. Surface Mining Control and Reclamation Act (strip mining). Similar H.R. 25 passed House March 18, 1975. Vetoed, May 20, 1975. Sustained.

H.R. 47. Youth Camp Safety Act. Similar H.R. 46 passed House April 17, 1975.

H.R. 1768. Suspend oil tariff declared by President. Identical H.R. 1767 passed House February 5, 1975. Vetoed March 4, 1975.

H.R. 2056 (H.R. 9838). Extend U.S. jurisdiction over certain ocean areas and fish (200 Mile Limit Bill). Expanded version H.R. 200, Marine Fisheries Conservation Act, passed House October 9, 1975. Became law April 13, 1976. P.L. 94–265.

H.R. 2067. Tax credits for installation of solar heating and cooling equipment or insulation. Similar provisions included in H.R. 6860, Energy Conservation and Conversion Act, which passed House June 19, 1975.

H.R. 2570. Funds for research into Tay-Sachs Disease. Included in H.R. 7988, Heart, Lung and Blood Research, Research Training, and Genetic Diseases Amendments, which passed House October 20, 1975. Became law, April 22, 1976. P.L. 94–278.

H.R. 2577. Reject proposed cuts in Food Stamp Program. Indentical H.R. 1589 passed House February 4, 1975. Became law without President's approval, February 20, 1975. P.L. 94–4.

H.R. 3344. Extend the Voting Rights Act. Provisions included in a larger version of the bill, H.R. 6219, passed House June 4, 1975. Became law August 6, 1975. P.L. 94–73.

H.R. 3353. Encourage the payment of interest on government deposits in banks. Similar H.R. 3035 passed House December 15, 1975.

H.R. 3873. Repeal those provisions of law requiring community participation in the national flood insurance program as a prerequisite for approval of financial assistance in a flood hazard area. Similar provision applicable to houses existing prior to January 1, 1976, included in S. 3295 which passed House May 26, 1976.

H.R. 3875. Energy Conservation Act of 1975.

Provision similar to section on fuel economy standards for new autos included in H.R. 7014, Energy Conservation and Oil Policy Act of 1975 which passed House September 23, 1975. Became law December 22, 1975. P.L. 94-163.

H.R. 3935. Reform of the Hatch Act. Expanded version, H.R. 8617, Federal Employees Political Activities Act, passed House October 21, 1975. Vetoed April 12, 1976. Sustained.

H.R. 4035. Provide for Congressional review of Presidential decisions removing oil price controls. Passed House June 5, 1975. Vetoed July 21, 1975.

H.R. 4102. Additional Appropriations for school lunch and child nutrition program. Similar provisions included in H.R. 4222, School Lunch and Child Nutrition Act Amendments, which passed House April 28, 1975 and became law over President's veto on October 7, 1975. P.L. 94-105.

H.R. 4680. Require reports to Congress prior to issuance of a license for export of certain arms, ammunition and implements of war. Included in H.R. 13680, International Security Assistance and Arms Export Control Act which passed House June 2, 1976. Became law June 30, 1976. P.L. 94-329.

H.R. 4888. Small Business Administration assistance to small businesses injured due to disruptions in utility service. Passed House June 17, 1975.

H.R. 4955. Prohibit production and procurement of binary chemical warfare systems. Amendment to H.R. 5210, Military Construction Authorization, effectively precluding new production and procurement, passed House July 28, 1975. Became law, October 7, 1975. P.L. 94-107.

H.R. 4996. Authorize medical care to certain veterans of armed forces allied to the U.S. in World War I or World War II. Similar H.R. 71 passed House July 21, 1975.

H.R. 5199. Repeal of Fair Trade Legislation. Similar H.R. 6971 passed House July 21, 1975. Became law December 12, 1975. P.L. 94-145.

H.R. 5234. Criteria for assisting post-secondary education programs. Portions included in H.R. 12851, Higher Education Amendments of 1976, which passed House May 12, 1976.

H.R. 5443. Establish American Folklife Center. Similar H.R. 6673 passed House September 8, 1975. Became law January 2, 1976. P.L. 94-201.

H.R. 5719. Expand family planning service. Included in S. 66, Nurse Training Act, which passed House June 5, 1975. Became law over President's veto on July 29, 1975. P.L. 94-63.

H.R. 6012. Recycling of old oil. Tax provisions of bill included in H.R. 6860, Energy Conservation and Conversion Act of 1975, which passed House June 19, 1975.

H.R. 6113. Increase authorization for Section 8 home subsidy program. Similar provision included in S. 3295, Housing Amendments of 1976, which passed House May 26, 1976.

H.R. 6246. Restrict use of franking privilege by former Members of Congress. Identical H.R. 4865 passed House October 6, 1976. Became law December 23, 1975. P.L. 94-177.

H.R. 6248 (H.R. 7616). Equal treatment of craft and industrial employees. Similar H.R. 5900 passed House July 25, 1975. Vetoed January 2, 1976.

H.R. 6632. Require increased Congressional oversight of foreign military sales and provide for a procedure for Congressional disapproval of such sales. Similar provision included in S. 2662, International Security Assistance and Arms Export Control Act which passed House March 3, 1976. Vetoed May 7, 1976.

H.R. 6833. Impose a moratorium on the repayment of certain Small Business Administration loans by firms that face insolvency. Similar provision included in H.R. 13567, Small Business Act and Small Business Investment Act Amendments, which passed House June 7, 1976.

H.R. 7066 (H.R. 8846). Railroad Right of Way Improvement Act. Similar provision included in H.R. 8672, Emergency Rail Transportation Improvement and Employment Act, which passed House October 23, 1975.

H.R. 7428. Extend investment tax credit to include solar energy equipment and permit alternative rapid amortization of solar equipment. Included in H.R. 6860, Energy Conservation and Conversion Act, which passed House June 19, 1975.

H.R. 7448 (H.R. 7936). Countercyclical assistance for state and local governments. Similar provisions included in H.R. 5247, Local Public Works Capital Development and Investment Act, which passed House May 20, 1975. Vetoed February 13, 1976; and S. 3201, Public Works Employment Act, which passed House May 13, 1976. Vetoed July 6, 1976.

H.R. 7605. Abolish the Federal Metal and Non-Metallic Mine Safety Board of Review. Incuded in H.R. 8773, Interior Appropriation, which passed House July 23, 1975. Became law December 23, 1975. P.L. 94-165.

H.R. 8197. U.S. participation in African Development Fund. Similar provision included in H.R. 9721, Inter-American Developmment Bank Act, which passed House December 9, 1975.

H.R. 8428. Health Maintenance Organization Amendments. Similar H.R. 9019 passed House November 7, 1975.

H.R. 8674 (H.R. 6154). Metric Conversion Act. Passed House September 5, 1975. Became law on December 23, 1975. P.L. 94-168.

H.R. 8779. Assure humane treatment of animals. Similar H.R. 5808 (S. 1941), Animal Welfare Improvement Act, passed House February 9, 1976. Became law April 22, 1976. P.L. 94-279.

H.R. 880. Electric Vehicle Research, Development and Demonstration Act of 1976. Passed House September 5, 1975. Includes 2 provision added in Committee by Ottinger that would insure the participation of small business in the demontration program and would expand the scope of the bill to include not only electric vehicles, but hybrid propulsion systems (e.g. the Sterling engine as well.

H.R. 9013. Permit appointment of women to Coast Guard Academy. Similar H.R. 10192 passed House May 18, 1976.

H.R. 9056. Create a program in Small Business Administration for financing pollution control equipment fo rsmall businesse. Incuded in S. 2498, Small Business Act and Small Business Investment Act Amendments, which passed Houe December 17, 1975. Became law June 4, 1976. P.L. 94-305.

H.R. 9280. Elimination of means tests for provision of services to low-income individuals aged 60 or over; limitation of frequency of recertifications of eligibility of such services. Similar provision included in H.R. 12455, Social Security Act Amendments, which passed House March 16, 1976.

H.R. 9608. Provide constitution for the Virgin Islands. Identical H.R. 9460 passed House October 6, 1975.

H.R. 9909. Construction Industry Collective Bargaining Act. Identical H.R. 9500 passed House October 7, 1975.

H.R. 10230. National Science and Technology Policy and Organization Act. Passed House November 6, 1975. Became law May 11, 1976. P.L. 94-282.

H.R. 10614. Extend D.C. Medical and Dental Manpower Act. Similar H.R. 12132 passed House April 12, 1976. Became law June 4, 1976. P.L. 94-308.

H.R. 10633. Make homebuilders eligible for Small Business Administration assistance. Included in H.R. 13567, Small Business Act and Small Business Investment Act Amendments, which passed House June 7, 1976.

H.R. 10900. Establish Tinicum National Environmental Center. Similar H.R. 5682 passed House May 18, 1976.

H.R. 11456. Expand Indiana Dune National Lakeshore. Identical H.R. 11455 passed House February 17, 1976.

R.R. 11065. Suspend duty on mattress blanks of rubber latex. Passed House May 17, 1976. (Ottinger authored.)

H.R. 12065. Prohibit deprivation of employment because of refusal to make political contribution. Identical H.R. 11722 passed House April 5, 1976.

H.R. 12333. Establish Commission on Security and cooperation in Europe to monitor Helsinki Agreement Similar S. 2679 passed House May 17, 1976. Became law June 3, 1976. P.L. 94-304.

H.R. 12453. NASA Authorization. Passed House March 22, 1976. Became law June 4, 1976. P.L. 94-307.

H.R. 12567. Authorization of Appropriations for Federal Fire Prevention and Control Act. Passed House March 24, 1976. Vetoed July 7, 1976.

H.R. 12704.—Authorize Appropriations for environmental research, development and demonstration. Passed House May 4, 1976.

H.R. 12978.—Increase authorization for long term direct loans for elderly and handicapped housing. Included in S. 3295, Housing Amendments of 1976, which passed House May 26, 1976.

H.R. 13123.—Authorize a local public works capital development and investment program. Identical H.R. 12972 (S. 3201) passed House May 13, 1976. Vetoed July 6, 1976.

H.R. 13449.—Authorization for Federal Energy Administration. Expanded version H.R. 12169 passed House June 1, 1976.

H.R. 13655 (H.R. 6159).—Automotive Transport Research and Development Act (research program for advanced automotive propulsion systems) passed House June 3 1976.

H.R. 13668.—Amend authority of Small Business Administration Administrator to provide disaster loans. Included in H.R. 13567, Small Business Act and Small Business Investment Act Amendments, which passed House June 7, 1976. (Ottinger authored)

H.R. 13669.—Increase maximum Small Business Administration loan from $350,000 to $500,000. Partially included in S. 2498, Small Business Act and Small Business Investment Act Amendments, which passed House December 17, 1975. Became law June 4, 1976. P.L. 94-305. (Ottinger authored)

H. Res. 357.—Select Committee on Missing in Action. Identical H. Res. 335 passed House September 11, 1975. (Ottinger appointed member of committee)

H. Res. 605.—Disapprove the President's proposal to remove oil price controls. Passed House July 22, 1975.

H. Res. 641.—Disapprove the President's proposal to remove oil price controls. Passed House July 30, 1975.

H. Res. 1168.—Express support for Solidarity Sunday. Passed House April 30, 1976.

H. Res. 1239. Sense of House in support of moratorium on closing of small post offices. Identical H. Res. 1216 passed House June 22, 1976.

H.J. Res. 406. Presenting a statue of Abraham Lincoln to Israel. Passed House December 17, 1975. Became law February 4, 1976. P.L. 94-208. (Ottinger authored).

H.J. Res. 585. St. Elizabeth Seton Day. Identical S.J. Res. 125 passed House September 9, 1975. Became law September 11, 1975. P.L. 94-95.

H. Con. Res. 126 Place a bust of Martin Luther King, Jr. in the Capitol. Similar H. Con. Res. 96 passed House January 20, 1976.

H. Con. Res. 302. International Women's Year. Identical H. Con. Res. 309 passed House October 6, 1975.

H. Con. Res. 354. Condemn illegal drug

traffic from Turkey. Similar provision added as amendment to S. 2230, Authorization of Board for International Broadcasting and Improvement of Greek-Turkish relations, which passed House October 2, 1975. Became law October 6, 1975. P.L. 94–104.

H. Con. Res. 486. Recognize the Washington-Rochambeau Historic Route. Identical H. Con. Res. 225 passed House February 17, 1976.

AMENDMENTS

FEA solar: Floor amendment to the Federal Energy Administration Authorization providing for the authorization of a $3 million solar energy commercialization program was defeated in the House. That amendment was later added to the Senate FEA authorization bill (June 15, 1976.) Ottinger subsequently offered the amendment in the conference committee, which adopted the commercialization program authorization in July 1976.

ERDA solar: Authored various ERDA authorization increases in the areas of conservation and solar energy during consideration of the bill by the Science and Technology Committee. He was particularly responsible for increases in the authorizations for the solar, thermal electric, photovoltaic and environmental studies and resource programs. In the conservation field, Ottinger contributed four significant additions to the program—authorizations for 1) electric storage systems, 2) industrial conservation, 3) buildings conservation, and 4) capital equipment funding ($2 million dollars.)

OTTINGER LEGISLATION PENDING

H.R. 8438. Burn Facilities Act. Included in H.R. 12664, Emergency Medical Services Act Amendments. To be considered by the House in August. (Ottinger authored)

H.R. 11226. Dedicated C&O Canal Park to Justice William O. Douglas. Hearings scheduled August 6. (Ottinger authored)

H.R. 11740. Including hearing aid and dentures in Medicare coverage. (Ottinger authored)

H.R. 12161. Setting up a system of regional Presidential primaries. Senate hearings tentatively planned for fall. (Ottinger authored)

H.R. 12461. Utility Rate Reform and Regulatory Improvement. Hearings held. (Partially Ottinger authored)

H.J. Res. 667. Authorizing Secretary of Interior to accept St. Paul's Church for preservation as an historic site. Hearings held, House and Senate action expected by October. (Ottinger authored)

ANGOLA IS STEP AWAY FROM PANAMA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. BOB WILSON. Mr. Speaker, a factor I do not think was considered in the decision to cut American supplies to Angola is the possibility of the Soviet's use of Cuban troops not only in Africa, but also to carry out similar missions in our own hemisphere.

Isaac Don Levine, writing in the "Officer Review" magazine of the Military Order of the World Wars, addresses this most sobering subject and I believe his words are well worth noting.

[From Officer Review, June 1976]

ANGOLA IS STEP AWAY FROM PANAMA

(By Isaac Don Levine)

The paramount issue in the crisis over Angola, overriding all the others raised so far in the great debate on the subject, is: How to get the Cuban Expeditionary Force withdrawn from Africa.

Here there are two novel points which have so far escaped general attention. First, there is the palpable demonstration that a non-African power is carrying on warfare on another continent in the classical imperialist tradition.

Second is the clear precedent set by the Soviet-Cuban intervention in Angola for similar adventures in the Caribbean, from Puerto Rico and Panama to Venezuela.

Yet the Angola crisis may offer the opportune historical hour for the United States to avert the outbreak of World War III over our ramparts in the Caribbean. It is an occasion not unlike the moment early in 1936 when Hitler marched into the Rhineland, presaging the coming of World War II.

Is it necessary to remind our policymakers that Fidel Castro's military force, acting in Angola as a massive unit of the Soviet army, is based at the gateway to the Caribbean where the lifeline of the United States—the Panama Canal—is located?

When the Senate voted to cut off American supplies to the anti-Soviet forces in Angola, it did so in the announced belief that the Soviet intervention there presented no threat to the vital interests of this country.

Curiously, the Senate's severe critic, Secretary of State Henry Kissinger, displayed the same visionless rationale. In a recent news conference, Kissinger declared that the issue in Angola is not whether vital American interests are involved there, but "whether the Soviet Union, backed by a Cuban expeditionary force, can impose on two-thirds of the population its own brand of government."

Kissinger knows only too well that the United States did nothing when imperialist Moscow imposed its brand of totalitarian despotism on Poland, on Hungary, on Czechoslovakia, on East Germany through the erection of the Berlin Wall, and in many other areas.

If that be the issue, how did it come to pass that under detente, carried out with such fanfare by Nixon, Ford and Kissinger, the Soviet tentacles which have been girding the globe and encircling these United States, implant the Kremlin's brand of dictatorship wherever they reach?

The basic issue in Angola is not the rivalry between Soviet Russia and the United States over mineral resources or the control of shipping lanes in the South Atlantic. That rivalry, while important, is on a par with many similar secondary contests between the two superpowers all over the earth. We have learned to live with these frictions since the rise of the Communist challenge to the free world.

Nor is the primary issue in Angola whether detente can be continued to further world peace. The truth is that detente has been a dying swan for some time. Its failure and eventual doom have been indicated by most independent observers in all countries. The astute Washington columnist of the New York Times, William Safire, opened his essay on Dec. 29 with this verdict: "As 1975 draws to an end, detente is dead. The second cold war is underway."

Nor is the crucial issue in Angola whether we should extend aid in the form of supplies and arms to the nationalist elements there, an important subject to be sure, to which most of the pundits of the press and media have devoted millions of words as if it involved the security of the nation.

The paramount pressing issue is the Cuban expeditionary force fighting a skirmish in the Soviet battle for world hegemony.

Castro has openly avowed the aims of the Soviet-Cuban axis in his speech on Dec. 22 at the great Congress of the Cuban Communist Party, in the presence of the Kremlin's ideological mentor, Suslov, and of the Communist delegates from Central and South America.

"We will never renounce our solidarity with Puerto Rico and Angola," Castro declared. "The flags of Cuba and Puerto Rico are one and the same." And he went on: "We will defend Angola and Africa with our blood if it should be necessary."

On Jan. 10 Castro staged a grandiose reception for Panama's dictator, Brig. Gen. Omar Torrijos Herrera, who came to Cuba, escorted by over 200 picked followers, on a state visit. His journey followed a pilgrimage to Havana of a delegation of Puerto Rican Communists carrying on the fight for independence from the United States. The avowed purpose of Torrijos' visit was to secure help for his acquisition of full sovereignty over the Panama Canal.

"To the 1.2 million Panamanians we can add nine million Cubans," Castro assured Torrijos on Jan. 12 before a crowd of several hundred thousand, advising his prospective ally, however, not to force the issue immediately.

"Much more important than a small bit of land," Castro warned his visitor in words which unmistakably echoed the Kremlin's catechism, "is the liberation of a continent . . . the liberation of Vietnam, of Africa, of Angola." How could the ruler of a poverty-ridden inconsiderable island, unless he be a stooge of the Soviet power, brag of the liberation of a continent?

In his interview of Jan. 17, with the correspondent of Corriere della Sera, Castro stressed his determination to fight on in Angola, and rejected demands from Washington that Cuba "should no longer back the movement for independence in Puerto Rico or the government of Panama in the struggle over the Canal."

The reference to the Panama Canal must be judged in conjunction with the threats to seize the canal by force which have been made by Panama's dictator, General Torrijos. Coupled unity with Puerto Rico, this is the kind of handwriting on the wall that leaves no room for dispute.

If any further evidence is needed that Castro was speaking for the Kremlin, it is to be found in a suppressed report by the Committee on Security of the Organization of American States. The report, compiled before Cuban troops were dispatched to Angola, deals with Soviet domination of Cuba's quasi-military secret police, the DGI, and concludes:

"Castroite agents are now infiltrating the structure of Latin American countries and the United States, and are also utilizing Latin and North American agents in their sabotage in full collaboration with agents of the KGB (the Soviet secret police.) The DGI is now an extension of the KGB."

The Cuban military establishment is now nothing but an extension of the Soviet Army. How else is one to characterize the combined Soviet air and sea lift which transported troops from Cuba to Angola, according to Pentagon sources, bringing Castro's expeditionary force up to 10,500 men plus?

Two days after Castro first threw down the gauntlet, the official Soviet mouthpiece, Izvestia, echoed his call that support of national liberation movements is one of the most important principles of Soviet foreign policy. That theme has been stressed again and again in recent weeks in Soviet pronouncements.

What this amounts to is a warning to all that the Brezhnev doctrine, proclaimed at the infamous invasion of Czechoslovakia in 1968, has been applied and tested in Angola with Cuba as the instrument.

The Kremlin has served notice, the way Hitler did in Mein Kampf, that it assumes the right to wage war in any part of the planet where an anti-capitalist revolutionary movement appears. That such movements can and have been engineered by the Kremlin's own underground agencies is clear in Peking, in Belgrade, in Bucharest, in Egypt, but not to the American public which has been befuddled for years by the mythology of detente.

The Brezhnev doctrine is a cloud hanging over the Caribbean in the form of the Cuban expeditionary force in Angola where troops are being trained for further operations inside the vital defense perimeter of the United States.

Even Kissinger admitted it when he declared that if the United States permits the establishment of a Soviet Angola, it will be an invitation to Moscow to engage in similar interventions elsewhere. In his latest hardline declaration before the Senate Foreign Relations subcommittee, following his conference with Brezhnev in Moscow, Kissinger warned Soviet Russia against moving "anywhere it wants without serious risk," involving "a great miscalculation, thereby plunging us into a major confrontation which neither of us wants."

The immediate area of danger is in Panama where Ambassador Ellsworth Bunker, representing the White House and the State Department, negotiated a new treaty with the government of Panama, which is awaiting congressional approval.

According to the drafted agreement, the soverignty over the Canal Zone is to be shared jointly by the United States and Panama. Now we have a living precedent for such a partnership in Berlin, where sovereignty is exercised jointly by the Soviet regime and the Western powers.

Is it necessary to recall to Secretary Kissinger and Ambassador Bunker how it has worked, what with the numerous Soviet harassments, the Berlin blockade and airlift, and the monstrous Berlin Wall still standing there was a monument to diplomatic folly? Joint sovereignty is a guarantee of discord, turmoil, and bellicose ventures.

Such ventures are part and parcel of the Soviet arsenal of planted provocations and frame-ups in the field of international relations, as anyone who would look into the voluminous record can see. For the Kremlin to stage an "appropriate" incident in the Canal Zone would be an elementary exercise.

Under the Brezhnev doctrine, a fraternal alliance between sovereign Panama and Cuba would provide legal cover for a move into the Canal Zone. The Kremlin would simply respond to a call for help from the "socialist camp."

It is no secret that the ruling junta in Moscow has been smarting from the humiliating defeat it suffered in 1962 in Cuba at the hands of President Kennedy, and has been dreaming of retaliation to redeem its impaired prestige among the worldwide Communist parties.

Instead of employing Soviet military and naval personnel, as Khrushchev did in October, 1962, in his move to establish missile bases in Cuba, Brezhnev's politburo would conduct its operation in Panama by making use of Cuban troops bearing Soviet arms.

Since it is generally recognized that the Cuban role in Angola was a provocative adventure, it provides a fitting occasion for Washington to raise the long-delayed issue of American "on-site" inspection, under United Nations auspices, of the naval pens in Cuba where Soviet nuclear submarines are alleged to be sheltered.

Such inspection was provided for in the Khrushchev-Kennedy agreement in 1962. With the enormous expansion since then of Soviet sea power, and what with the frequent sighting of Soviet nuclear submarines off the Atlantic Coast, it is more urgent than ever to have Cuba permit "on-site" inspection of her naval bases.

The United States challenge to Cuba for periodic "on-site" inspection of her submarine harbors is sure to be backed by a majority of the Organization of American States (OAS). This is the moment for diplomacy to resort to plain truth about the menace of the Soviet-Cuban military alliance to this hemisphere and, specifically, to the Panama Canal.

Chairman Mao's admonitions to President Ford against the Soviet drive for world hegemony assures widespread international support for action in the present crisis by the United States under the Monroe Doctrine. A confrontation between the Brezhnev and Monroe doctrines has long been overdue on the issue of "on-site" inspections.

It is urgent that such action take place before the agreement negotiated by Ambassador Bunker with Panama's ruler, General Torrijos, is approved and signed. That is not to say that the original treaty with Panama should not be updated and amended, so long as the sovereignty over the Canal Zone remains undivided and unimpaired in the hands of the United States.

VOLVO BREAKTHROUGH—PART 2

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. MAGUIRE. Mr. Speaker, yesterday I noted the significant breakthrough made by the 1977 California Volvo in reducing auto emissions to the 1978 Federal standards while simultaneously achieving a fuel economy increase of 10 percent—July 28, 1976, E4160–4161.

Today, I am presenting the second letter cited in my remarks, from Mr. Eric Stork, Deputy Assistant Administrator for Mobile Source Control, U.S. Environmental Protection Agency. The testimony of this expert strengthens my conviction that Detroit can make similar progress by 1981, the target date for compliance set forth in an amendment to the Clean Air Act that Representative Henry A. Waxman and myself will be offering next week.

The feasibility of our amendment is obvious in view of the National Academy of Science's finding that no extension of the compliance schedule is necessary to achieve the emmissions reductions now mandated for 1978. The Waxman-Maguire amendment will limit delays to 3 years. In contrast, the Dingell-Broyhill amendment would grant a postponement for 7 years. The Waxman-Maguire amendment maintains incentives to reduce air pollution from auto exhaust as fast as practically possible.

The text of the letter follows:

U.S. Environmental
Protection Agency,
Washington, D.C., July 2, 1976.

Hon. Andrew Maguire
House of Representatives,
Washington, D.C.

Dear Mr. Maguire: Our technical staff has prepared responses to the questions posed in your letter of June 15 on the subject of the three-way catalyst car planned to be sold by the Volvo Motor Company in California during the 1977 model year. Those responses are provided herewith.

Sincerely yours,

Eric O. Stork,
Deputy Assistant Administrator for Mobile Source Air Pollution Control (AW–455).

Enclosure.

Responses to Questions on the Volvo Three-Way Catalyst Car Posed in Congressman Maguire's Letter of June 15, 1976

1. Has any American automobile manufacturer tested this (Volvo's) technology on its cars without fuel injection and/or on cars with six or eight cylinder engines?

All four domestic automobile manufacturers have tested three-way catalysts to some degree, with Ford and General Motors performing the most extensive development work in this area. As indicated in the April 1976 EPA report on "Automobile Emission Control—The Current Status and Development Trends as of March 1976," Ford has conducted extensive development work on three-way catalyst systems on six and eight cylinder carbureted engines. General Motors has also conducted three-way catalyst system development work for application on carbureted eight cylinder engines.

2. Does any American automobile manufacturer plan to implement three-way catalyst technology in its future model year vehicles?

Although Chrysler and American Motors have conducted limited development work on three-way catalyst systems, neither manufacturer has advised EPA that they will implement such technology in future model year vehicles. General Motors, although reporting limited success in developing three-way catalyst technology, has also not stated to EPA that they will market this technology.

Of the American manufacturers, Ford appears to be pursuing the most active three-way catalyst development program. It has been reported in the news media that Ford plans to introduce this type of technology on a limited basis in the 1978 model year. However, EPA has not been formally notified by Ford on this matter, and thus EPA has no information on Ford's plans other than news media reports.

3. Is it feasible to apply three-way catalyst technology to cars without fuel injection and with more than four cylinders?

The need for fuel injection systems for use in conjunction with three-way catalyst systems arises from the need for more precise control of air-fuel mixtures than is used today. Fuel injection systems are currently capable of providing the needed degree of control of air-fuel mixtures. Development work conducted by Ford and others suggests that sophisticated carburetor systems may also be able to provide adequate control of air-fuel mixtures. Current carburetor systems are not adequate to provide this precise control. Thus at this time the feasibility of using three-way catalyst technology without fuel injection has not been demonstrated.

In principle, three-way catalyst systems can be applied to cars with more than four cylinders. The difficulty in applying this technology successfully on cars with more than four cylinders is that it becomes more difficult to assure proper air-fuel mixture distribution to each cylinder on six and eight cylinder cars than on four cylinder cars. Improved fuel distribution systems (either carburetors or fuel injection) should in future development programs allow greater success by the auto industry in applying three-way catalyst systems to larger engines.

Lead time would be significant before the industry could adapt all of its cars to a three-way catalyst system such as Volvo's. Even though Volvo has accomplished an important proof of principle, use of that principle on other engines would require extensive engineering and design work, and of course the testing of such designs. That work would need to be followed by machine tool design and procurement before cars utilizing the system could be built and sold. Thus, if one were to assume that all auto makers were to decide today to adopt the Volvo-type emission control system, it would take at least three years before most cars could be equipped with such a system. Inasmuch as 1978 model year cars will begin their certification testing in a few months, that means that 1981 is the first model year during which it would be feasible to use such systems on a widespread basis. Such lead time requirements are needed whether the fuel induction system used is fuel injection or carburetion, because there is currently inadequate production capacity for fuel injection to use fuel injection on all cars; and because carburetors capable of providing the needed degree of control of air-fuel ratios have not yet been proven. Even if carburetors are proven feasible for this application, they would require a significant period of time for design for all applications, and then for tooling for mass production.

4. Would General Motors exhaust the world's supply of rhodium within a year if it were to use the same technology as the Volvo employs?

To satisfy the demand for additional rhodium required for the annual production of a sufficient amount of Volvo-type three-way catalysts to equip all General Motors cars, world production of rhodium would need to be increased by about 50%. To equip all U.S. cars with such catalysts would require about two times current annual world production of rhodium. At that rate of rhodium consumption, the known world reserves of rhodium capable of being mined economically would be depleted in slightly less than one hundred years. Other resources of rhodium exist, but are not currently considered capable of being produced economically.

The foregoing is based on analysis of data available to EPA technical staff. That analysis also suggests that a major increase in the production of rhodium might involve significant problems, since rhodium is currently mined only as a by-product of platinum and nickel production. Thus the availability of rhodium would appear to be tied to the demand for and production of platinum and nickel. EPA is not in a position to discuss the overall uses of rhodium nor the availability of increased rhodium. It is suggested that the U.S. Bureau of Mines may be in a better position to advise on the potential supply and production of rhodium.

Development work is proceeding on three-way catalysts with lower rhodium content than that of the Volvo catalyst. This development work is targeted towards obtaining a three-way catalyst with a mixture of platinum and rhodium in the same proportion as those two metals are found in nature. Success of this work would make it more feasible to equip all numbers of cars with three-way catalysts.

5. Does the use of three-way catalyst technology result in the emission of dangerous levels of unregulated pollutants?

Inasmuch as the EPA was caught somewhat unaware of the potential of unregulated emissions from oxidation catalysts, it has been most sensitive to this matter in connection with Volvo's expected use of a three-way catalyst system, and has explored emissions from this system to the greatest degree feasible. EPA has tested a car like the Volvo that achieved the remarkable results that were recently publicized; that car was tested both under normal operating and malfunctioning conditions. While operating normally the Volvo three-way catalyst system emitted lower levels of unregulated emissions than did either oxidation catalysts or even non-catalyst cars. Under rich malfunctioning conditions this car did emit some significant levels of unregulated emissions, but it still had lower levels of regulated emissions than are commonly found on cars today. EPA's preliminary estimates suggest that the adverse health effects from carbon monoxide from a malfunctioning car of this type would be many times greater than would be adverse health effects from even the most theoretically troublesome of the unregulated emissions. This means that EPA has not so far identified any reason to have a public health concern about the widespread adoption of the Volvo-type three-way catalyst system. EPA will continue with its investigations of such cars as additional vehicles of this type become available for testing, and will also make further evaluation of the data so as to be able to confirm or revise the preliminary conclusions.

6. What is a fair estimate of the cost of fuel injection systems as applied to American-made cars? What is the cost of applying three-way catalyst technology to American-made cars without fuel injection? How does fuel injection affect fuel economy?

Current projections for the cost of applying three-way catalyst technology range widely, in part due to differences in expected production volumes for this technology. Those estimates suggest that if fuel injection were to be extensively employed, additional costs for applying three-way catalyst technology could range from $50 to $300 per car. High production volumes for fuel injection equipment should result in actual per unit costs around a $50 estimate. If carburetion can be widely used with three-way catalyst systems, additional costs for the entire three-way system could range from $20 to $50. Again, large production volumes would mean lower costs.

As to the question regarding the effect of fuel injection on fuel economy, theoretically there is no reason to expect better fuel economy using fuel injection than using carburetion. While current fuel injection systems do seem to give better fuel economy than current carburetors, the carbureted systems under development for use with future three-way catalyst systems should provide fuel distribution as good as current fuel injection systems. Thus all fuel economy improvements to be realized in the future from improved fuel distribution should be available using carbureted fuel systems.

7. Could the 1977 Volvo equipped with the three-way catalyst pass EPA tests on durability and emissions? Are the EPA tests more stringent than those administered by the California Air Resources Board?

The 1977 Volvo was tested under the certification protocols of the EPA, on both a durability program (50,000 miles) and on a program to determine the car's stabilized emission levels (4,000 miles). The Volvo car handily passed both EPA tests, and almost succeeded in meeting the current 1978 Federal statutory emission standards (.41 HC, 3.4 CO, .4 NO_x). Although all four Volvo cars tested by EPA at 4,000 miles met the statutory standards, the car tested for 50,000 miles did not qualify to generate a valid deterioration factor for CO. However, EPA technical staff believe that the Volvo system has the capability to achieve the current statutory standards given additional development work, and note that Volvo did not need to meet those standards to qualify their vehicle for 1977 sale in California.

The EPA test requirements are slightly more stringent than the California Air Resources Board procedures, in that EPA has a somewhat more stringent set of requirements than does California for qualifying durability vehicles to be eligible to generate valid deterioration factors. California eased these requirements as an accommodation to the industry, to reduce testing requirements for qualifying 1975 and later model year vehicles against the California state standards which are more stringent than Federal emission standards. EPA does not plan to make the same change in its testing protocols.

BEYOND THE BICENTENNIAL

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. JOHNSON of Pennsylvania. Mr. Speaker, July 4, 1976 marked the culmination of this year's Bicentennial celebration. On the eve of that momentous occasion, an editorial appeared in the Lack Haven, Pa. Express which I would like to call to the attention of my colleagues.

Ms. Rebecca Gross, the editor emeritus of the Lock Haven Express, gives us some wise advice to ponder as we begin our third century as a Nation. Although the Bicentennial has marked two centuries of progress and development bought with the courage and determination of our forefathers, our freedoms are still vulnerable to the attacks made by the enemies of democracy. In this sense, the American Revolution continues. We must look forward to the 21st century with the courage that we can preserve the freedoms fought for in 1776—freedoms that have been our hallmark for 200 years.

The fine editorial written by Ms. Gross, entitled "Beyond the Bicentennial," follows:

BEYOND THE BICENTENNIAL

(By Rebecca Gross)

They took great risks, those patriots of 200 years ago, who staked their future and their fortunes on the Declaration of Independence and the chance that a new nation could grow from a union of the 13 British colonies in America. They had faith and they had hope, but they had no promise of success. They did not know, as they signed the Great Declaration, and as they mobilized their puny strength to fight for freedom, whether they would be hung as traitors, hailed as deliverers, or forgotten as failures.

They did know what freedoms they wanted. They could remember from their colonial past, a history of less than 200 years, how repressions had been imposed by religious sanctions; they could vividly recall the limitations of a licensed press controlled by royal governors and agents of the Crown; they had tasted the tyrannies of an arrogant soldiery and high-handed officials; they had paid taxes to meet the costs of imperial wars and royal rivalries in which they had no voice. They knew enough about freedom to know that they wanted it, and they wanted it for a whole new country.

Now that we are celebrating the 200th anniversary of that new nation, which has survived its initial vicissitudes and its later trials to become the world's oldest democracy and its principal bastian of political freedom, we look backward to remind ourselves to the milestones that mark our progress. Oddly enough, among the many demonstrations with which we are dramatizing the great achievements of the first two centuries of the nation, there appears to be no great illuminating portrayal of the vital role of the free press in achieving Independence and in the development of a great free nation. Our Bicentennial celebration has been accompanied in some quarters, too, by ironical expressions of doubt that the spirit which built the nation has survived into 1976 with the strength and patriotism of 1776.

The third century of American democracy will unfold the answers to such skeptics—and the character of those answers may depend upon two factors on which there has been some debate in this Bicentennial period. One of these factors is the quality of the free press of the United States 200 years after 27 little colonial newspapers struggled to speak for a people embroiled in controversy over the great issue of Revolution. The other factor is the capacity of modern-day Americans, living among many distractions and diversions, to absorb the information they need in order to form sound opinions and participate intelligently in the process of self-government.

Who can say which comes first in importance, a free press which informs its readers adequately, or a body of citizens which knows how to apply information effectively to the improvement of government? Neither press nor public can claim to have reached any degree of near-perfection, either in the art of informing completely, or in the citizen's task of assimilating facts with the mind instead of the emotions, and applying them to the rational understanding of public issues.

Yet we must recognize that what we let happen, during the next 100 years, may have a profound effect upon the democratic freedoms extolled in the Declaration of Independence and enunciated in the Constitution. If we have learned anything from our first 200 years, it has to be the knowledge that democratic freedoms are not self-perpetuating merely because they are set forth in our charters of government. These freedoms must be prized, protected and preserved, for all citizens. They are under the same assaults today as were marshalled against them before 1776, and they will always be vulnerable to the attacks of selfish and greedy enemies of true democracy.

Their protection rests now, as it did 200 years ago, upon the courage, persistence and ability of those who can recognize what is at stake, and take the risks of its defense. Our future, beyond the Bicentennial, even more than the great past which lies behind us, may depend upon the truth we draw from our agencies of information, and the ability of our people to use that truth, to separate fact from frenzy, to act in knowledge and reason, for the common good.

The patriots who started our nation did it in defiance of hazards that threatened their lives as well as their freedom. Our future is less perilous, the dangers more subtle.

On those who have assumed the constitutional privilege to disseminate information through a free press rests the responsibility to safeguard the flow of truth from the pollution of self-serving biases, selfish and partisan influences, and crass blunders. On citizens there rests an equal responsibility to keep alert to the events which create new public problems from day to day so their views can be voiced and their votes cast with knowledge.

In our third century, the worst threat to our freedoms is most likely to be our own failure to recognize significant truth and act upon it promptly.

NATIONAL COUNCIL OF JEWISH WOMEN OPPOSES FOREIGN INTELLIGENCE SURVEILLANCE ACT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. DRINAN. Mr. Speaker, the National Council of Jewish Women has for many years advocated securing the right of privacy and has opposed bills which would invade it. At its recent biennial convention, the council approved a resolution reiterating its commitment to that principle.

In the implementation of that resolution, the council has adopted a statement regarding the Foreign Intelligence Surveillance Act of 1976 (H.R. 12750 and S. 3197). After examining carefully its provisions, the council has concluded that this measure "is a blueprint for and legal sanction of heretofore illegal and grievously intrusive governmental activities and an insulation of government from effective scrutiny and challenge."

That conclusion and the accompanying reasons for it are cause for serious concern that this bill should not be enacted. The speed with which it was approved by the Senate Judiciary Committee underscores the need for further examination by all the Members of both bodies. The statement of the National Council will assist those deliberations:

STATEMENT RE: S. 3197/H.R. 12750 FOREIGN INTELLIGENCE SURVEILLANCE ACT JULY 15, 1976

The National Council of Jewish Women, an education, community service and social action organization of 100,000 women in Sections throughout the United States has since its inception 84 years ago been committed to protecting the rights of the individual. At our last Biennial Convention, the following was adopted:

I. INDIVIDUAL RIGHTS AND RESPONSIBILITIES

The National Council of Jewish Women believes that the freedom, dignity and security of the individual are basic to American democracy, that individual liberty and rights guaranteed by the Constituiton are keystones of a free society and that any erosion of these liberties or discrimination against any person undermines that society.

We Therefore Resolve:

1. To work for public understanding and the protection of the civil lilberties guaranteed by the Constitution of the United States, including:

The right to privacy.

The proposed bills S. 3197/H.R. 12750 pose a threat to the individual's right to privacy and represent an unwarranted intrusion upon the individual not engaged in any criminal activity by authorizing electronic surveillance within the United States for foreign intelligence purposes. The widespread illegal activities in intercepting mail, wiretapping and electronic eavesdropping of the F.B.I. and C.I.A. brought to light during the recent hearings of the Senate Select Committee on Intelligence (the Church Committee) underscored the necessity for guidelines to be established governing the activities of governmental intelligence agencies. The intent of such guidelines was to define and limit the scope of such activities, not to enlarge and legalize such intrusive activities. The affect of the proposed bills will legalize the heretofore illegal activities of the governmental intelligence agencies and establish a mechanism to foreclose any effective challenge by the individual under surveillance.

The Church Committee rejected the Administration's contention that some lawful conduct should be the basis for surveillance and concluded that if existing laws were inadequate to protect national security information from foreign agents, then the laws should be amended rather than create a new "dangerous basis for intrusive surveillance."

S. 3197 authorizes in the name of national security the issuance of warrants for electronic surveillance "under circumstances where a person has a constitutionally protected right of privacy" upon a showing that there is probable cause to believe that the target of the electronic surveillance is a foreign power or enterprises controlled by (it) or an agent of a foreign power, i.e. a person engaged in clandestine intelligence or terrorist activities, or who conspires with, or knowingly aids or abets such a person in engaging in such activities. The terms "conspiracy" and "clandestine intelligence activities" are vague, indefinite and imprecise and open the door to interpretations and definitions by the Attorney General which would target citizens in the pursuit of lawful activities and lead to widespread political surveillance.

Under S. 3197 the mechanism for obtaining a warrant authorizing the electronic surveillance is such that the government may twice appeal a denial of such application by the seven district court judges designated by the Chief Justice of the United States to grant such orders. The subject of the warrant, however, has very limited rights only after the fact of surveillance, to challenge the use of the information so acquired. And, inasmuch as the orders are obtained ex parte, i.e. without notice to the other party, there is no mechanism whereby the individual affected will ever become aware that he has been subjected to such surveillance.

The hope or expectation that the courts will be circumspect and zealous of the individual's constitutional rights of privacy is not justified in the light of past experience. During the period of 1969–1975 a total of 4863 applications for orders authorizing or approving the interception of wire or oral communications were granted. Only 13 such applications were denied during the seven year period.

The National Council of Jewish Women views S. 3197 as a negation of the principle that we are a nation of laws not men. To empower government to invade the privacy of citizens engaged in lawful activity is a denial of that principle. S. 3197 is a blueprint for and legal sanction of heretofore illegal and grievously intrusive governmental activities and an insulation of government from effective scrutiny and challenge. It would provide an open door for the repetition and continuation under color of legal right of the unwarranted and illegal mail openings, break-ins, wire-taps and buggings by governmental intelligence agencies recently brought to light and condemned by the Church Committee and the American people.

EVANGELICAL PRESIDENT SEEN INEVITABLE ELECTION RESULT

HON. JOSEPH E. KARTH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. KARTH. Mr. Speaker, unexpectedly the question of religion has been interjected in the hectic Presidential election campaign. This has not occurred on a serious scale since the elections of 1928 and of course the Nation is most fortunate that this is so.

Today's interest in the religous stands and expressions of national candidates appears to be of a different character than in the past. Editorial comment and editorial cartoons have dealt with the subject but not, with rare exceptions, in terms of partisanship, prejudice and bigotry.

Rather the public interest today, as sociologists and political scientists have noted, seems to be generalized and nondenominational. The public appears to be interested because of the intense questions of morality, ethics and religious scruples raised by the behavior and removal of the administration preceding the present one.

Millions of Americans, apparently, are thinking more seriously than ever before about questions of morality, integrity, and honesty in public life and many of them wonder whether those indispensable qualities for political leadership should not be rooted more deeply in religious convictions.

A contribution toward our thinking about this question has been offered by Garry Wills, a syndicated columnist whose writings appear in the Washington Star and other newspapers around the country.

It is Columnist Wills' conclusion, after weighing the words of the major Presidential candidates that "We are going to have an evangelical President inaugurated in 1977 no matter which of the three remaining candidates wins in the November election."

I commend to my colleagues' attention the July 22 column of Gary Wills that appeared in the Washington Star:

THEY'RE ALL EVANGELISTS

(By Garry Wills)

Some people talk a little fearfully about a Carter onslaught of religiosity. They do not hold his beliefs against him. They just wonder if he should talk so freely and often about such intimate things. They do not understand that this "witnessing" style is part of evangelical belief.

I have great sympathy with evangelism. It supplies an element of Christianity clearly present in the Bible and clearly lacking in some churches (including mine)—an element of open and shared spiritual rejoicing. But, even so, I sometimes find myself ill at ease with the simpler proclamations of that joy. Perhaps that is my failing. At any rate, I understand why people think it a little freaky or flaky for a serious politician to go around saying things like this:

"I can't remember a time in my life when I didn't call upon God. . . . In my own experience there came a time when there developed a new relationship with God and it grew out of need. So, yes, I have had an experience that could be described as born again."

Asked whether he prayed over the decision to run for president, the candidate answered: "Yes, I did seek God." Asked whether there were any notable answers to his prayers, he said: "There have been so many, and some momentous ones." He said there was a spiritual revival going on in this land, and quoted the favorite passage of political evangelizers, II Chronicles 7:14, about national repentance and divine healing.

Wouldn't you wonder about such overt piety in a president? Is it any surprise that those less fervid or effusive hang back a little from the Carter candidacy?

Only the words quoted were not Carter's. I have been cheating, been quoting Ronald Reagan, from a talk-show interview with George Otis of Van Nuys, Calif. Not only does Reagan maintain that he is a born-again evangelical; he applies his religion directly to politics, in a way that Carter never does. Saying that he would use his office to promote laws against pornography and abortion, and to maintain laws against homosexuality, Reagan said he would veto measures meant to legalize immorality: "I have always believed that the body of man-made law must be founded upon the higher natural law. You can make immorality legal, but you cannot make it moral."

Nor is Reagan's fervor a new gimmick, picked out to draw votes from Carter. Reagan has an evangelical minister, an ex-All American, who has long vouched for his spiritual aspirations.

President Ford, too, has an evangelical friend and mentor, Billy Zeoli; and Congressman Ford was an active part of the prayer circuit on Capitol Hill, which is evangelical in inspiration. Ford has addressed just about every large evangelical association that was meeting this year, and likes to remind them of his son in divinity school.

So those upset by Carter's religion should steel themselves with this reflection: We are going to have an evangelical president inaugurated in 1977 no matter which of the three remaining candidates wins the November election.